United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE *100th* CONGRESS, FIRST SESSION

SENATE—*Friday, July 17, 1987*

(Legislative day of Tuesday, June 23, 1987)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN BREAUX, a Senator from the State of Louisiana.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

For I know the thoughts that I think toward you, Saith the Lord, thoughts of peace, and not of evil, to give you an expected end.—Jeremiah 29: 11.

Merciful God, yesterday in Philadelphia was an unforgettable experience. Thank you for a glorious history. Forgive us for our failure to live up to the expectations of our fathers as well as our own. As we enter the third century of government under the law, grant to our Republic the continuity which connects the celebration of the past to a firm commitment to the future. "What is past is prologue," spacious Lord, give to the people and their public servants the will, the dedication, the grace and strength, which will guarantee the restoration and perpetuation of the ideals, the values, the priorities of our fathers to the end of a still more perfect union of justice, truth which sets us free. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The **PRESIDING OFFICER**. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 17, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN BREAUX, a Senator from the State of Louisiana, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. BREAUX. thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The **ACTING PRESIDENT** pro tempore. The Chair will recognize the majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the distinguished Republican leader be reserved for his use later in the day.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

THE BICENTENNIAL OF THE CONSTITUTION

Mr. BYRD. Mr. President, the Chaplain has referred to that beautiful ceremony that occurred yesterday in the City of Brotherly Love, Philadelphia, where the signing of that great organic document, the Constitution of the United States, took place 200 years ago.

Yesterday was the 200th anniversary of the Great Compromise which occured on Monday, July 16, 1787.

The Chaplain referred to the rule of law. I think that was very appropriate in the Chaplain's prayer. The Chaplain was there with us in Philadelphia on yesterday and he, I am sure, was inspired, as were the others of us who represented this great body there along with the Representatives of the other House.

As the Constitution was inspirational, so were the events of yesterday. And as that Constitution has been a beacon of hope in the days in which it was written, and when it was ratified, and throughout the days that have ensued to our own time, that Constitution should inspire us today to a new consecration and rededication to the rule of law.

Too often in recent years we have seen that rule of law evaded. We have seen individuals arrogate unto themselves authority which does not derive from the people and which does not derive from that basic organic instrument—the instrument that ensures to all of us—those who would circumvent the law as well as those who would obey the law—the due process of law, and the principles of liberty and freedom and opportunity on which our Republic was founded.

We have a responsibility in our day, Mr. President, to reinvigorate that spirit that moved our forefathers to write the Constitution. Theirs was a vision that we, in our day, should seek to perpetuate for those future generations who are not even yet knocking at the gates. It is a sobering responsibility.

Mr. President, I have said before and I say again that the Senate of the United States was one of the great foundation stones, if not the principal foundation stone, of our constitutional system. As Aaron Burr said when he bade farewell to the U.S. Senate in 1805:

> This House is a sanctuary; a citadel of law, of order, and of liberty. And it is here in this exalted refuge, here, if anywhere, will resistance be made to the storms of political frenzy and the silent arts of corruption; and if the Constitution be destined ever to perish by the sacrilegious hand of the demagogue or the usurper, which God avert, its expiring agonies will be witnessed on this floor.

Mr. President, I hope that those who go to Philadelphia a hundred years from now—when this Constitution will then have held firm and fast for 3 centuries—will be able to look back upon us and our work in our day and speak favorably and as well of us as we ourselves can speak so truthfully, fervently, and admiringly of those who wrote the Constitution 200 years ago. And may we Senators of today keep faith with the Senators who last met at Congress Hall in Philadelphia 137 years ago when they last met before coming to their permanent home on the banks of the Potomac.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Kipling, that great British poet, perhaps grasped it best when he said:

"Our fathers in a wondrous age, ere yet the Earth was small,
Ensured to us a heritage and doubted not at all,
That we the children of their hearts which then did beat so high,
In later time would play like part for our posterity.
Then fretful murmur not they gave
So great a charge to keep,
Nor dreamed that awestruck time shall save
Their labors while we sleep;
Dear bought and clear, a thousand year our fathers' title runs,
Make we likewise their sacrifice,
Defrauding not our sons.

I ask unanimous consent, Mr. President, that I may include in the RECORD the very remarkable speeches made yesterday in Philadelphia by Mr. DOLE, Mr. WRIGHT, Mr. MICHEL, myself, and other Members.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

SPECIAL CEREMONY IN HONOR OF THE BICENTENNIAL OF THE CONSTITUTION AND IN COMMEMORATION OF THE GREAT COMPROMISE OF THE FEDERAL CONVENTION

ASSEMBLY ROOM OF INDEPENDENCE HALL, PHILADELPHIA, PA, JULY 16, 1987, 3 P.M.

The CLERK OF THE HOUSE OF REPRESENTATIVES (MR. DONNALD K. ANDERSON). Pursuant to House Concurrent Resolution 131 of the 100th Congress of the United States, authorizing this Special Ceremony in Honor of the Bicentennial of the Constitution and in Commemoration of the Great Compromise of the Constitutional Convention, this ceremony will now commence.

The names of the official delegates representing the 50 States, together with the leadership of the two Houses of Congress, will be called by the Clerk of the House of Representatives and the Secretary of the Senate in the order in which the States ratified the Constitution or were admitted to the Union. The delegates will please enter the Chamber and take seats as the roll is called.

Delaware, Mr. ROTH.
Pennsylvania, Mr. McDADE.
New Jersey, Mr. RODINO.
Georgia, Mr. FOWLER.
Connecticut, Mrs. KENNELLY.
Massachusetts, Mr. BOLAND.
Maryland, Mr. SARBANES.
South Carolina, Mr. THURMOND.
New Hampshire, Mr. GREGG.
Virginia, Mr. WARNER.
New York, Mr. STRATTON.
North Carolina, Mr. PRICE.
Rhode Island, Mr. ST GERMAIN.
Vermont, Mr. JEFFORDS.
Kentucky, Mr. MAZZOLI.
Tennessee, Mr. DUNCAN.
Ohio, Mr. LATTA.
Louisiana, Mrs. BOGGS.
Indiana, Mr. SHARP.
Mississippi, Mr. MONTGOMERY.
Illinois, Mr. PRICE.
Alabama, Mr. DICKINSON.
Maine, Mr. BRENNAN.
Missouri, Mr. TAYLOR.
Arkansas, Mr. ALEXANDER.

The SECRETARY OF THE SENATE (Mr. WALTER J. STEWART).

Michigan, Mr. BROOMFIELD.
Florida, Mr. BENNETT.
Texas, Mr. BROOKS.
Iowa, Mr. SMITH.
Wisconsin, Mr. OBEY.
California, Mr. EDWARDS.
Minnesota, Mr. OBERSTAR.
Oregon, Mr. BOB SMITH.
Kansas, Mr. GLICKMAN.
West Virginia, Mr. RAHALL.
Nevada, Mr. REID.
Nebraska, Mr. BEREUTER.
Colorado, Mr. SKAGGS.
South Dakota, Mr. PRESSLER.
North Dakota, Mr. DORGAN.
Montana Mr. MELCHER.
Washington, Mr. EVANS.
Idaho, Mr. CRAIG.
Wyoming, Mr. SIMPSON.
Utah, Mr. NIELSON.
Oklahoma, Mr. McCURDY.
New Mexico, Mr. LUJAN.
Arizona, Mr. STUMP.
Alaska, Mr. STEVENS.
Hawaii, Mr. MATSUNAGA.

The CLERK OF THE HOUSE. The Speaker of the House of Representatives, the Honorable JIM WRIGHT, of Texas.

The SECRETARY OF THE SENATE. The majority leader of the Senate, the Honorable ROBERT C. BYRD, of West Virginia.

The CLERK OF THE HOUSE. The Republican leader of the House of Representatives, the Honorable ROBERT H. MICHEL, of Illinois.

The SECRETARY OF THE SENATE. The Republican leader of the Senate, the Honorable ROBERT DOLE, of Kansas.

The CLERK OF THE HOUSE. The majority whip of the House of Representatives, the Honorable TONY COELHO, of California.

The SECRETARY OF THE SENATE. The ceremony will come to order.

(Delegates taking their seats.)

The SECRETARY OF THE SENATE. Nominations are now in order for a Presiding Officer for this joint ceremony.

The majority leader of the Senate, the Honorable ROBERT C. BYRD, is recognized.

Mr. BYRD. Mr. Secretary, it pleases me to place in nomination for the Office of Secretary and President of this distinguished assembly, the name of the very able lady, the gentlelady from the State of Louisiana, Representative LINDY BOGGS. She is the chairman of the Commission on the Bicentennary of the U.S. House of Representatives. She is also a member of the Commission on the Bicentennial of the U.S. Constitution. She is a very, very able person who conducts her duties with skill and dignity. And I consider it a privilege and a great honor to place the name of the gentlelady in nomination before this great body.

The SECRETARY OF THE SENATE. The Honorable JIM WRIGHT, the Speaker of the House, is recognized.

Mr. WRIGHT. I would like to second the nomination of the gentlewoman from Louisiana. Mrs. LINDY BOGGS has had a long and distinguished association with historical commemorations in this country. During the period of the celebration of the Bicentennial of the American Revolution, she was a member of the National Commission and was the chairperson of the Arrangements Committee for the Congress. And for that reason, as well as because of her longstanding interest in history and her distinctive efforts to commemorate American history in the minds of American youth, I take great pleasure in seeking the nomination of the gentlewoman from Louisiana, Mrs. BOGGS.

The SECRETARY OF THE SENATE. The name of the Honorable LINDY BOGGS, a Representative from the State of Louisiana, has been placed in nomination and seconded.

Are there further nominations? There being no further nominations, the question is on the election of the Honorable LINDY BOGGS as Presiding Officer. Those in favor say "aye."

Those opposed, "no."

The ayes have it. The Honorable LINDY BOGGS is elected as Presiding Officer.

[Applause; Representatives and Senators rising.]

The PRESIDING OFFICER. Senator Byrd, Mr. Speaker, all of my fellow delegates, I am deeply grateful to all of you for electing me the Presiding Officer of this historic occasion for the meeting of all the delegates, the House of Representatives, the Senate of the United States, from all of the 50 States. It is a great honor.

Two hundred years ago, when George Washington was elected, in this very room, to preside over the Federal Convention that drafted our Constitution, he took the chair, and, after thanking all of the delegates for electing him, his first words were a statement in the form of an apology. Washington said he hoped he would be forgiven for any errors he may make as a Presiding Officer, and he begged the indulgence of the assembly. I cannot improve on Washington's words nor on his sentiments. And so here we are assembled 200 years later to pay our respects to the framers of the Constitution.

When the delegates assembled 200 years ago, there were no women in this assembly, nor were there members of the press. The Convention was held in strictest secrecy. We are delighted today to have the press with us. And through television and radio, we are able to allow millions of Americans to see and hear inside this historic Chamber in Independence Hall. A modern miracle of communications that certainly would have been applauded by that venerable inventor, Benjamin Franklin.

George Washington's genius as a Presiding Officer was that he said hardly a word during the whole Convention. He let others do the talking. And I plan to follow that excellent precedent. [Laughter.]

The Chair recognizes the majority whip of the House of Representatives, Mr. COELHO, for the purpose of introducing a resolution.

Mr. COELHO. Thank you, Madame President. It is my pleasure to introduce the following resolution for adoption by this assembly.

Whereas 1987 marks the 200th anniversary of the meeting of the Constitutional Convention in the City of Philadelphia, Pennsylvania from May 25 to September 17, 1787;

Whereas on July 16, 1787, the framers of the Constitution agreed to the "Great Compromise," which provided for States to be represented equally in the Senate and in proportion of their populations in the House of Representatives;

Whereas that compromise settled the fundamental division at the Federal Convention and allowed the delegates to unite in the task of drafting a new framework of government;

Whereas it is appropriate for the Congress, as the First Branch of Government under the Constitution, to provide for suitable commemoration of this significant anniversary to focus public attention on the unique role of the national legislature as a coequal branch of the Federal Government: Now, therefore, be it

Resolved That the Congressional delegates assembled in Independence Hall in Philadelphia, Pennsylvania, on July 16, 1987, representing all fifty States and the

House and Senate of the United States, do hereby recognize the bicentennial of the United States Constitution and the enduring contribution of the framers of the Constitution in establishing the governmental structure that has served this Nation for two centuries.

The Presiding Officer. Thank you, Mr. Coelho. We will take a vote on the resolution following the remarks of our speakers.

I will now call on the distinguished Speaker of the U.S. House of Representatives, the Honorable Jim Wright of Texas.

[Applause.]

Mr. Wright. Madame President, in this room exactly 200 years ago today, a compromise was reached. It came to be known as the Great Compromise because it broke a logjam that had floundered the ship of state. On that logjam the Constitutional Convention had run aground. Because of that compromise and the others that flowed therefrom, the 13 weak, endangered little republics were able to bind themselves together and survive as one nation and ultimately, of course, become the strongest, most powerful nation in the world.

In the summer of 1787, the Articles of Confederation, the ultimate expression of States' rights, had broken apart on the rocky shoals of reality. The Nation was deeply in debt and could not maintain an army. The British blockaded our ports. Merchant seamen were frequently kidnapped and sold into slavery by the Barbary pirates. States taxed products from other States. Nobody paid any taxes to the central Government. The Government was utterly powerless.

Obviously, we needed something stronger and more cohesive if this infant experiment in democracy was to endure.

From the very beginning of their deliberations in May, those 55 who had come here to this Chamber as delegates from 12 of the 13 States had seen clearly that the major obstacle to a binding agreement lay in the differing aspirations of the larger and smaller States. That was only one of a variety of conflicting interests that plagued them. There were the problems of the Northern against the Southern interests, the interest of the planters as against those of the manufacturers; the abolitionists against the slave owners and the concerns of those who feared a central power too strong vying with those of one who scorned one too weak. But the major rivalry involved the mutual suspicions that existed between the larger and smaller States.

The delegates had agreed upon a republic with a representative legislature. That much they knew they wanted. But the small States, led by William Paterson of New Jersey, feared being dominated by the population centers and they were insisting upon a representative system in which each State could have exactly the same number of votes regardless of how many people lived in the State.

While the larger States, on the other hand, led by Edmund Randolph of Virginia, wanted the Congress representation based proportionately on population.

Well, that conflict was so heated and the solution to it so elusive, tempers in this Chamber grew so raw that the New York delegation left in disgust and the convention itself was in danger of permanent deadlock. If it broke down, doomed with it would be the hopes of nationhood for all Americans—the New England fishermen, the Virginia planter, the Philadelphia merchant, the Western frontiersman, all alike—their hopes would be doomed.

Confronted with that prospect, Benjamin Franklin pleaded with the delegates to think anew. He said, "When a broad table is to be built and the edges of the adjoining planks do not fit, the artist takes a little from both and makes a good joint. Just so, in like manner here," he said, "both sides must part with some of their demands. They must compromise."

Well, compromise they did. The plan was proposed by the Connecticut delegation. It called for a House of Representatives based on population and the United States Senate with equal representation in each State regardless of its size. Not everybody was pleased. After the debate, a vote was taken and a compromise was adopted by the narrow margin of one vote. Five States supported it, four States opposed it. The Massachusetts delegation was evenly split.

But that compromise saved the Convention from collapse. It made the Constitution, with all of its other delicate balance of compromises, possible. And that was the Great Compromise that we celebrate here today.

It is after that pattern established here 200 years ago that our whole body of law has evolved. It is in that model that our country has flourished. Made up of such a rich diversity of ethnic cultures and economic interests, we have cultivated the art of honorable compromises we have practiced. We have respected one another's rights just as we have learned to respect one another's customs and one another's opinions. Of course, that is the art of civilization. Each of us has been willing to yield from the rigid strictures of ideological absolutism and the temptations to selfish insistance upon having his own way. We have adopted instead the philosophy that each of us is entitled to have his say but no one of us is necessarily entitled to get his way. Laws, hammered out upon the blacksmith's forge of compromise, have commanded observance, even from those who disagreed with the laws. And that, after all, is the essence of democracy and is what real patriotism ultimately comes down to.

In this way, we have protected minorities from the intolerance of majorities and we protected the majority from the enthronement of willful minorities and thus our system evolved as a government of laws not as a government of men.

In the final anaysis, the United States, itself a composite and synthesis of one from many, just may in fact be the greatest compromise in history. In that spirit, may it endure to serve and bless the generations yet to come.

[Applause.]

The Presiding Officer. Thank you, Mr. Speaker.

I now recognize the distinguished majority leader of the Senate, the Honorable Robert C. Byrd of West Virginia.

[Applause.]

Mr. Byrd. Madame President, my colleagues, when our illustrious forebearers met in this chamber in 1787, that long hot summer, there were times when it seemed that their divisiveness would result in the utter failure of the cause for which they gathered.

One day, Franklin, the oldest man at that gathering, stood to his feet and he addressed the Chair in which sat General George Washington.

Now, imagine standing in the midst of that illustrious gathering of great men, perhaps the greatest gathering of illustrious men that ever sat anywhere in the world at any time in the history of mankind for such a purpose. There was Madison, and there was Franklin, and there was Hamilton, and there was Washington, among others.

Franklin addressed the Chair and said, "Sir, I have lived a long time, and the longer I live, the more convincing proof I see that God still governs in the affairs of men. And if a sparrow cannot fall to the ground without our Father's notice, is it possible that we can build an empire without our Father's aid?" He said, "I believe the sacred writings which say except the Lord builds the house they labor in vain that build it. Except the Lord keep the city the watchman waketh but in vain." He said, "I move you, sir, that henceforth we begin our deliberations daily with prayer, else we shall succeed no better than did the builders of Babel."

And so those great men around him followed the advice of this wise man, Benjamin Franklin, and they began having prayer at their daily sessions. And the result was the greatest document of its kind that was ever written.

And when Benjamin Franklin emerged from that meeting, as the mayor earlier today pointed out, the lady approached Franklin and said, "And what have you given us, Dr. Franklin?" He said, "A Republic, Madam if you can keep it." That Republic has been kept from that day unto our day.

Madame President, as we gather here today to reflect back on that Monday, July 16, 200 years ago, in this chamber that has now become a national shrine, the framers reached general agreement, as our illustrious Speaker, Jim Wright, has said, by a one vote margin. Under the "Great Compromise," States were to be represented equally in the Senate and in proportion to their populations in the House. Each State would be allotted two Senators, as three might be too costly and would work against the desired efficiency of a smaller body. There were to vote as individuals, rather than as a State bloc.

The framers intended that the Senate would not be simply another council of States, as was the Confederate Congress, but rather an independent body beholden to no single source of influence or pressure. To ensure that Senators would be more than merely the instructed pawns of State legislatures they, as well as House Members, would be paid by the central government and fortunately, they could not be recalled.

With a 6-year term, Members were thus offered a degree of independence greater than that of any other elected national officeholder.

I believe the Senate is one institution within the Federal Government that the Constitution's framers, after two centuries, would most likely recognize. Although they would wonder why the proceedings have been open to the public, they might wonder about the filibuster and they might wonder why election of Members has been entrusted to the popular vote, and why staff has grown so significantly; but they would understand its passion for deliberation and even its untidiness and its suspicion of the President, which existed from the very beginning.

Now, on this 200th anniversary, it seems most appropriate to take note of the political discourse of our own times. We Americans have become keenly aware of the delicate system of checks and balances that the framers of the Constitution created. Once again we are learning the great lesson of the value of this unique system of governing that we have so often taken for granted. Learning this lesson in the year of the Bicentennial of our Constitution is most fitting. I am sure that the framers would have had it no other way.

But, as it must be clear to all Americans who have followed the course of our Nation in these periods of concern and turbulence, our system of checks and balances still stands but it must never be taken for granted. If our system of government is left unattended, we place it in danger to habits of power that are inherently undemocratic and unconstitutional.

So it is, therefore, most appropriate that here today we reaffirm our commitment to protect this most unique system of governing and, in doing so, keep faith with the spirit of Philadelphia.

Today, the Senate remains true to the framers' declared intentions. And those aspirations were perhaps best captured in the words of a former Presiding Officer over the Senate, a Vice President of the United States. As he bade farewell to the United States Senate in 1805, Aaron Burr said of the Senate:

"This House is a sanctuary; a citadel of law, of order, and of liberty; and it is here in this exalted refuge; here, if anywhere, will resistance be made to the storms of political frenzy and the silent arts of corruption; and if the Constitution be destined ever to perish by the sacrilegious hands of the demagogue or the usurper, which God avert, its expiring agonies will be witnessed on this floor."

My colleagues, as we truly rejoice that God and our forefathers 200 years ago gave us the great organic charter of freedom and liberty that we in our day revere and cherish so deeply, let us realize that we have a duty, both to the dead and to the unborn. We are at once the sons of sires who sleep in calm assurance that we will not betray the trust that they confided to our hands, and we are the sires of sons who wait confidently in the beyond that we will not deprive them of their birthright.

[Applause.]

The Presiding Officer (Mrs. Boggs). Thank you, Senator Byrd.

I now recognize the distinguished Republican leader, of the Senate of the United States, the Honorable Robert Dole of Kansas.

[Applause.]

Mr. Dole. Madame President, distinguished leaders in the House and the Senate, and my colleagues in the House and Senate.

I have been sitting there just wondering what it might have been like a couple hundred years ago around this place. The same kind of people, I guess, to some extent, struggling to find some way to keep everything together.

So here we are 200 years later. I guess I would say that anniversaries are guideposts as well as milestones. How we observe them spells the difference between mere nostalgia for a remote past and true inspiration for the work ahead.

So today we have come to Independence Hall for remembrance and renewal. We celebrate the 200th anniversary of the "Great Compromise" on which the Constitutional Convention pivoted, the crucial decision, as already has been stated, to establish a bicameral legislature—a House based on proportional representation to satisfy the demands of large States, and a Senate in which every State would have two votes.

Now, the world has turned over many, many times since that long-ago, hot summer of 1787. On the way up here this morning, the Secretary of Transportation pointed out one of the most obvious differences between now and then: It took George Washington 10 days to make the journey by carriage from Mount Vernon to Philadelphia. It took us only 1 hour by helicopter to get from Capitol Hill to this 18th-century Capital.

But it is other, more profound changes that we commemorate this afternoon. The 55 framers who assembled in this hall 2 centuries ago were not, at first glance, a very representative group of Americans. What son Jefferson called "an assembly of demigods" contained no women, no black person, no spokesman for the landless or impoverished.

The men of Philadelphia met behind closed doors. Yet, out of their secret deliberations emerged the most open form of government the world has ever known. The paradoxes do not end there. For what they crafted in 87 days of hot temperatures and still hotter debate was nothing less than a birth certificate for a new kind of people. It was a radical solution arrived at through compromise and concession.

His colleagues, wrote James Madison, were well aware of "the necessity of sacrificing private opinions and partial interests to the public good." The result of their very practical politics was a Government as dynamic as the Nation it served. With precise, elegant workmanship, the framers tailored a Constitutional garment fit for 13 States or 50, fit for an infant Republic or a world power of the first rank.

The document they crafted was not the last word in human liberty—but the first. It was an experiment in popular rule, devised by men who saw America as the world's foremost developing Nation.

We are developing still. It took more than 100 years for United States Senators to be elected by direct vote of the people. Not until 1920 could all American women vote for a President. And only in our times have we begun to make good on the other promises we made to one another in the historic State House of Pennsylvania. Only recently have the blessings of liberty been extended to Americans, Hispanic Americans, women, the disabled and many, many others and all those excluded from the Convention but included in the promise of constitutional government.

There was nothing inevitable about "the miracle at Philadelphia," as stated here by my colleagues very well. The Convention nearly broke apart over the issue of congressional representation. It papered over cracks in the moral foundation of the new Nation—equivocating on slavery and leaving it to future Presidents, Congresses and the courts to debate the meaning of a charter that deliberately stressed broad principles over fine details.

But then, that is the genius of Democracy.

The Constitution written here is being written still and we are all framers—all 243 million of us. When power is abused, when liberty is threatened, when rights are denied, when freedom is imperiled, a cry goes forth and we, the people once again are summoned to Philadelphia, not to worship the system of government invented in this Hall, but to make it work.

At the close of a long and exhausting summer, George Washington sat down to assess the Convention and its likely impact on a people as yet unaccustomed of thinking of themselves as citizens of the United States.

The Constitution, Washington wrote to his friend Lafayette, "is now a child of fortune, to be fostered by some and buffeted by others . . . if it be good, I suppose it will work its way good. If bad, it will recoil on the framers."

Washington's modesty exceeded his gift for prophecy. And so we have come to Philadelphia to salute the miracle and the miracle makers, to honor them on this birthday of the American Congress, and to recall the sacred oath that each of us takes on entering office—to support and defend the Constitution of the United States, so help us God.

[Applause.]

The Presiding Officer. Thank you, Senator Dole.

I now have the great pleasure and privilege of presenting to you and recognizing the Republican leader of the House of Representatives, the Honorable Robert Michel.

[Applause.]

Mr. Michel. Thank you, Madame President. My distinguished colleagues in the leadership and my colleagues in Congress.

What a privilege it is for us Members to be here today. I guess my only regret is, that because of the close confinement of the room itself, that some of our colleagues are foreclosed from joining us in this ceremony. And there are certain places I guess in which we feel we are in the presence of something trascendent. The ancients said of such a place that it is "numinous" filled with a miraculous presence, and this is such a place. So I hope I may be forgiven if I say that our first duty is to overcome that feeling and try to see this room as those who worked here in 1787, of how they saw it.

They saw it really not as a room of democracy but as a working place in which "to form a more perfect union," as the words of the preamble put it.

Implicit in those words are two concepts. First, there is a desire for union and, second, that the Union has need of perfecting.

In short, Americans want to be together as a people. We recognize our problems and we want to solve them.

That is as true in 1987 as it was in 1787. And beneath the cool and classic 18th century prose style of the Constitution, we can no longer hear those passionate arguments and the compromises from which a more perfect Union would be formed in this very spot. But without that passion and without those compromises, the Union never would have been perfected. And that I think is a lesson for all those of us who say, "I hate politics. I can't stand all the bickering. Why all the compromises? Why can't you people once in awhile stand for principle?"

But we would not have a more perfect Union if compromise had been ruled out right here in this room.

In politics, the approach to perfection is often along the bumpy road of compromise. You can compromise politically, as the Founders did and as any great American political leader has got to do, and still fight for principle. In fact, sometimes the only way you can fight for principle in a democracy is to compromise. And that is what our Founders did.

They weren't naive utopians. They weren't fatuous optimists. They knew about human frailties. They had no illusions about the attractions and the temptations of power. That is why the Union they sought to perfect would have a Federal system in which the power would be checked and balanced among the various branches of the Federal Government, the States and our people.

And, as we all know, this system does not make legislating any easy task. But then seldom do we find good things coming about easily. Perfecting doesn't mean making things easier. It means making them better. But I would rather legislate through the inefficiency of checks and balances than accept orders in the efficiency of a dictatorship.

Today, 200 years after this great accomplishment, we meet in this room to pay tribute to those who worked here to create a more perfect Union. Whatever else that Union may be, it is foremost an American statement about the nature of community. Our Union is our way of living and working together, not just as one big community but as a Nation of various communities. And the nature of that Union they created is unique because it exists not only in terms of territory, but in terms of time. The founders had in mind not only the interests that bound together Virginians with New Yorkers or North Carolinians with Pennsylvanians of their own time, but the truths that have bound us together through the years, generations of Americans who wish to live in community, in ordered freedom. Interests do change. Truths are eternal. Our Union is based on both of them.

And we are here today representing the people of our State, representing the leadership in the Congress, to honor that concept of Union, one that binds together generations as well as political entities. And unless we believe that with us today in spirit are those who came before us and unless we have in mind those who will carry on after we are gone, we are not worthy of the great vision that inspired and gave form to this Union, this great Nation of communities.

And I guess, as a Member of our own House community, I believe I can speak for all of our Members when I say to the memories of those who met here in 1787: we stand here today because of what you entrusted to us. Your voices that once filled this room have been stilled, but your great vision of a more perfect Union remains. And we, as Members of a branch of Government you formed, continue as best we can in that great work of perfecting our own country. For this opportunity and, yes, for so much more, we have to thank you today.

[Applause.]

The PRESIDING OFFICER. Thank you Mr. MICHEL.

And thank all of you gentlemen for your excellent remarks today.

It is very clear that 200 years after the Constitution was drafted in this very room that we have not forgotten what went on here, we are still inspired by it, and we still have lessons, profound lessons, to learn about how government should work by studying the deeds and the words of the delegates who assembled here in 1787.

We will now have a vote on the resolution introduced by Mr. COELHO. Those in favor of the resolution will signify by saying "aye." Those opposed "nay."

The ayes have it and the resolution is agreed to.

[Applause.]

All of the delegates assembled here today will have an opportunity to sign the resolution later. But at the moment, we would like, please, for the leaders to come forward to sign the resolution, if you can do so at this time.

[The leaders signed the resolution.]

The PRESIDING OFFICER. I would like to inform the delegates that three copies of the resolution will be signed. We will have one for the House, one for the Senate, and one to leave here in Philadelphia for the Independence National Historical Parks, because they have done such a remarkable job in being able to accommodate us today and to put on this magnificent occasion.

I would take the prerogative of being the Presiding Officer and asking the delegates to please show their appreciation.

[Applause.]

The PRESIDING OFFICER. I want to thank all of you very much for being here to pay your respects to the framers of the Constitution and especially to their inclination to arrive at the Great Compromise which marked the very origins of the Federal Congress. In a few minutes we will all proceed into the building adjacent to this Independence Hall, called Congress Hall, where the House and the Senate will hold simultaneous ceremonies in their respective chambers. The room in which we are now assembled is where the Congress was conceived. Where we will move into in the next building we will be in a place where the Congress did its work in the early years of the Republic.

The delegates will please remain seated for an official photograph to be taken. And I now declare this portion of the ceremony to be concluded.

Whereupon, at 3:59 p.m. the Special Ceremony was adjourned.

CEREMONIAL SESSION OF THE SENATE

CONGRESS HALL, PHILADELPHIA, PENNSYLVANIA,
THURSDAY, JULY 16, 1987, 4:40 P.M.

The PRESIDENT pro tempore (Mr. STENNIS). Ladies and gentlemen, if I may have your attention, I have just been advised that it is the wishes of those in charge of the program that we proceed now. So I want to say one personal word, if I may.

I was very favorably impressed with the program that was presented to us here this afternoon. I was not surprised because I have seen the sparkle and the continuity and the strength behind Pennsylvania's influence. It has been demonstrated in many ways. I wish we could carry the message that they carried this afternoon to every household in America.

For my part, I am going to try to reflect the spirit of the meetings when we convene in the House of Representatives and in the Senate.

I know time is short for some of you, so let us proceed now, and if anyone has to leave, that will be understood, too.

I want to emphasize the appreciation that all of us have for those sponsoring the program this afternoon and the things they do to sustain it. I feel a personal thanks for what Pennsylvania contributed to our history, our Constitutional Convention that wrote the Constitution, and many other ways.

Now, we are here, this group in particular, to commemorate and celebrate both the 200th anniversary of the Constitution and the decade during which the Senate met here in Philadelphia, from 1790 to 1800, those years, and this occasion marks the first time that the Senate has returned to this chamber since going to the City of Washington where it now resides and does its work, as it has done over a period of years down to today.

For those early patriots, who provided leadership in the Senate during the crucial formative days of those important weeks and months in the beginning of the United States of America, I think of several names, but I will recall one, Richard Henry Lee, a signer of the Declaration of Independence, and during the Revolutionary War, or war for American independence, I like to call that, in that war the first President pro tempore elected, and that election was here in Philadelphia.

Those courageous, wise statesmen, were supported by some strong hearts and minds in the leaders of the household, too. Those who served during that period gave strength to the United States as an institution which remains as a living symbol of our union of States. The role of this body in building our Nation has been a major one, it is a tribute to those who provided the leadership and the sacrifice necessary in those troublesome times. But they did lay a foundation in such a firm and sound, constructive way that it has lived all these years, met every challenge it had to meet, and is sustaining, is sustaining our fine and truly great Nation, the people and their means of making a living and serving their country and their God. It is something that is extraordinary, it is of the best that history affords, and I feel that in spite of some backsets we are looking into a future where we can meet the problems and I believe that we will beat those problems.

I want to mention one thing that we have on the positive side in an actual political way, one of the wisest things we ever did—and I do not deserve any credit but I did not realize how important it was—when we extended suffrage to women. It is one of the high marks, high marks of our history, with great pride and preparation for a future where courage and determination, character and honor and effort were so necessary and important.

I look with confidence to what we are going to be able to find.

I am going to try to present to you in the spirit in which I know them, those who have worked their way to positions of where they are in a position of contributing more than the average Member of our body. But before we proceed to any of the business, every day that we meet, we have what I call a spiritual hour. We have a very fine minister of the gospel. The Reverend Richard C. Halverson is present at this minute. I am going to call on him to open this session with a prayer.

Let us stand.

Dr. HALVERSON. Let us pray.

Mighty God, Lord of history, Ruler of the nations, from whom cometh all authority, the words of Isaiah, the prophet, come to mind today: "Behold, the nations are as a drop in a bucket and are counted as the small dust of the balance. . . . All nations are before Thee as nothing . . ." (Isaiah 40:15,17)

At this historic moment in this historic place, we recall the words of George Washington, ". . . No people can be bound to acknowledge and adore the Invisible Hand which conducts the affairs of men more than those of the United States." Thank Thee for our national heritage, for the wisdom and dedication of our Founding Fathers. Thank Thee for their priorities as they struggled to bring to birth this Nation: "a more perfect union"—"establish justice"—"insure domestic tranquility"—"promote the general welfare"—"provide for the common defense"—and "secure the blessings of liberty for (themselves) and their posterity."

We praise Thee, Father of our fathers, for their profound conviction that people are created equal—that government is to secure human rights because they are inalienable, having been endowed by the Creator—that government "derives its just powers from the consent of the governed." Thank you, Father, for the unprecedented fulfillment of their dream—the most powerful, wealthiest, freest republic in human history. As we celebrate their momentous achievement, may we rededicate ourselves to their priorities. Save us from allowing the incalculable benefits and blessings of their struggle to divest us of the spiritual and moral values which were their strength and the root of America's greatness. To the glory of the King of Kings and Lord of Lords. Amen.

The PRESIDENT pro tempore. I mentioned awhile ago that we have positions of leadership it is called. It is more positions of hard, extra work, although all of our group have to be hard workers or they do not say around long. But we have what we call elected leaders. Each major group or each party elects someone to be called a floor leader, and this is the very opposite of anything political that I am about to say. I have seen many of them perform—a highly important work and effort and knowledge involved. But we have two men in the Senate now who have the ability, the know-how, the willingness, the energy, the patriotic impulse and inspiration that is just unbeatable. I mention it now just in tribute, by way of saying thank you. They do so much helping the Nation in these times to find its way. I refer to the man who has served a good number of years and is now the present floor leader, the Honorable Robert Byrd, of West Virginia, who has carried that load for many years.

I am going to call on him in his way to respond as he sees fit on this occasion. Robert, I am glad to present you.

Mr. BYRD. Mr. President, it is an honor for me to sit in this illustrious gathering of my very distinguished colleagues, the chosen few, the first to sit here, I suppose, since the Senate left the City of Brotherly Love 187 years ago to come to the banks of the Potomac. And just as that gathering was a select gathering, this, too, is a select gathering. We will never be together again here. And I hope and believe that 100 years from now when those who follow after us have come here again to honor and to respect that great organic document, the Constitution of the United States, and those who wrote it, perhaps they will feel as we do, that they have been fortunate, indeed, that God who rules over the destiny of this Nation has been good to them as he has been good to us and all of our fellow Americans.

We are here today, Mr. President, to celebrate and to honor our Nation's Constitution. It is a very noble and patriotic occasion. We all have a general good feeling of contentment about the Bicentennial of the Constitution—a belief that the Founding Fathers would be, indeed, satisfied that the Republic they bequeathed to us has endured and has prospered.

But contentment and satisfaction should not be the only feelings that we share today. The framers of the Constitution were political leaders who were not satisfied or content with the things as they saw them. They came to Philadelphia for the expressed purpose of bringing about a fundamental reordering of how we govern ourselves. They were men of their times and well should we be of ours.

Today we celebrate the wisdom of Madison and the other writers who gave us the system of government that we Americans accept as a given. Paradoxically, what is most unique about our system of government—our system of checks and balances—is simply accepted as commonplace by the citizens of this country. It is taken for granted, this bedrock of how we govern ourselves. It is this easy assurance and faith in the process of governing that may be the ultimate compliment to the framers of that great Constitution.

Yet, as it must be clear to all Americans, our system of checks and balances can never be taken for granted. If our system of government—of checks and balances—is left unattended, we leave it open to encroachment, to habits of power that are inherently undemocratic and unconstitutional.

This should not surprise us. This was the great concern of the framers of the Constitution. The writers of the Constitution had a profound concern that the republican government they had established could in time naturally decay into tyranny, and yet we are continually amazed by the failing of those in power who, in defense of democracy, ignore its most basic and fundamental tenets.

In recent years there has been a great deal of discussion about the separation of powers, of the proper role of the Congress in the formation of American foreign policy. Yet, seen in the light of public debate, it is clear that a policy without checks and balances is a policy that too often loses its way.

Of all the things that most disturbed Madison and the other framers, it was the threat of power unchecked. In the Federalist Papers Madison warned that the accumulation of power in the same hands, "whether of one, a few, or many, and whether hereditary, self-appointed, or elective," was "the very definition of tyranny."

My point, obviously, is that the constitutional system of checks and balances given to us by the framers must be tended to constantly. The Constitution gives great power to the Federal Government, the power to make war, raise taxes, to regulate commerce. But the Constitution also divides that power in careful and subtle ways.

Power divided and power shared gives us our democracy.

Power unchecked, whether it be in the legislative branch or in the Executive, ultimately is destructive to the Constitution.

The tension between the Congress and the Executive was meant to be. It need not be destructive. It is, in the best sense, a healthy and creative tension inherent in our democratic process.

I have full faith in the restorative powers of our democracy. What is unchecked will be balanced. What is wrong will be righted in time by our open and democratic system of government.

Jefferson, as always, gave us the measure of good government: "I know no safe depository of the ultimate powers of the society but the people themselves; and if we think them not enlightened enough to exercise their control with wholesome discretion, the remedy is not to take it from them, but to inform their discretion."

It is this process, protected by the greatness of the Constitution, that allows those of us here today to rejoice and to reaffirm our commitment to democracy.

In closing, and in keeping with the spirit of this great event, I recall for the guidance of all of us here, the words of the great British poet Rudyard Kipling:

KIPLING'S "HERITAGE"

Our Fathers in a wondrous age,
Ere yet the earth was small,
Ensured to us an heritage
And doubted not at all
That we, the children of their hearts
Which then did beat so high
In later time would play like part
For our posterity.

Then fretful, murmur not they gave
So great a charge to keep,
Nor dream that awestruck time shall save
Their labours while we sleep.
Dear-bought and clear, a thousand year,
Our father's title runs,
Make we likewise their sacrifice,
Defrauding not our sons.

[Applause.]

The PRESIDENT pro tempore. Thank you very much.

Friends, this other leader that I referred to a minute ago, he has proven in many ways his patriotism in times of war. He knows the problems of this country as does the Senator from West Virginia. Each have outstanding records, proven ability of leadership. I know how much we are indebted to them. Senator Robert Dole of Kansas, Republican leader of the Senate, floor leader, chosen by that group. I am glad he is here and I call on him to present certain orders of business.

Mr. DOLE. Thank you, Mr. President. I thank the distinguished majority leader for his excellent remarks.

As history is written and they look back in the next hundred years, certainly the Presiding Officer will stand out as one of the giants of our time. What an honor it is for all of us to be together at one time in the same room with Senator John Stennis of Mississippi.

[Applause.]

Mr. DOLE. As the distinguished majority leader indicated, 187 years is a long time, and I guess we have sort of, as Senator Specter and others indicated this morning, come back home to celebrate our institutional heritage. I mentioned to Senator Grassley I am not certain they debated corn but they did debate whiskey taxes, Spanish control of the Mississippi, and now we argue about excise taxes and international shipping rights in the Persian Gulf. So really not much has changed.

In the beginning Thomas Jefferson questioned the need for a Senate, and George Washington reportedly answered the question with one of his own: "Why do you pour your coffee into your saucer," said Washington. "To cool it," replied Jefferson. "Even so," said Washington, "we pour legislation into the senatorial saucer to cool it."

The Senate that met in this hall in the 1790's had a saucer filled to overflowing. Its Members were busy implementing the new Constitution, putting flesh on the bones of Government as spelled out in the national charter—organizing Cabinets, courts, and Congress itself. The Constitution said nothing about political parties or "factions" as they called them. Yet time would demonstrate that in a system of checks and balances, opposition parties were the most vital check of all. And it was in this very room that the American party system evolved.

There were Federalists, committed to a strong central government and the visionary financial policies of Alexander Hamilton. And there were antifederalists, soon known as Republicans, who rallied around Thomas Jefferson's standard and who pledged themselves to limited powers for the executive and the Government he personified. Here Federalists and Republicans fought pitched battles over Jay's Treaty, the undeclared war with France, the alien and sedition acts. Here they established the rule that principled partisanship is the lifeblood of democracy, and that men of good faith could disagree without resorting to brute force. And that continues to this day. In fact, I guess about 1 o'clock this morning.

It could not have been easy for Jefferson to preside over a Federalist Senate, but the pendulum swings if only you wait long enough. And in 1800 Jeffersonians swept not only Congress but the Presidency. John Adams left office and Jefferson was ushered in to take his place—not at the point of bayonets but through the peaceful balloting of a free and sovereign people.

The Capitol was moved from Philadelphia to the "Great Federal City" that after his death bore Washington's name. Never again would Senators climb the stairs to the second floor of Congress Hall to dispute the issues of the day—never, that is, until today. We meet here as descendents of Adams and Jefferson, carrying on in the tradition of civil and constructive debate that they inspired, making certain that the clash of ideas does not degenerate into personal conflict. As Jefferson said, "We are all Federalists; we are all Republicans." It is a good thing to be reminded.

I thank the Presiding Officer and yield back the balance of my time.

[Applause.]

The PRESIDENT pro tempore. We appreciate very much the fine responses of these two gentlemen. They have done so much over the period of years and still, with a lot of fine service left in them, they are making our system work.

If I may refer to the fact, ladies and gentlemen, as a young fellow in law school I came here in 1926 to your celebration of the sesquicentennial. I never had been to a sesquicentennial. I thought I would sure find out what they were. I came here alone. I did not know anyone. But I found out what the sesquicentennial was. I found a lot of challenging things, a lot of good, solid, strong, thoughtful messages here of various kinds. To that extent you have been a lifelong influence in the illumination that came therefrom and I imagine, I can just see your patriots of pre-Constitution days standing around these buildings. I have come back today. I feel first though an obligation to those whom I have served with from the great States in the Senate. I have served with 402 people, by the way. Yours have been up to par and outstanding in their work and contribution with the purposes, the purposes of the right kind under our Constitution.

We have a number of Members present, and I am going to discipline myself and quit talking so much. May we be a little more informal. The others did not speak too long, but we are going to have to make them a little brief.

Senator THURMOND, may I call on you for such thoughts as you may wish to contribute? You have vast experience.

[Applause.]

The PRESIDENT pro tempore. We will be glad to hear from you.

Senator THURMOND. Mr. President, I am not on the program and did not expect to be called on.

The PRESIDENT pro tempore. No, I know that.

Senator THURMOND. I do not know of any Senator who is not ready to respond at any time with any sentiment.

The greatest document that has ever been penned by the mind of man for the governing of the people is our Constitution. During the Convention, as has been brought out, there was a great difference of opinion on many subjects. But when Benjamin Franklin arose and made the statement he did and prayed, from then on the situation seemed to change.

I believe the delegates to that Convention had in mind establishing a form of government that would do two things mainly. One, they wanted to establish a type of government in which no one would gain too much power. They had suffered tyranny under the King of England. That is the reason they decided to establish a lawmaking body known as the Congress, to make the laws, an executive body headed by the President to administer the laws, and a judicial body headed by the Supreme Court to interpret the laws.

We can pass a law in Congress, and the Supreme Court can declare it invalid. We can pass a law in Congress, and the President can veto it. Therefore, there is a check. For instance, back some years ago when Mr. Truman seized the steel mills, the Supreme Court struck that down and said you cannot seize private property without due process of law. But the President can act. So there is a check and a balance.

No individual in our form of government under our Constitution ever gains too much power. There is somebody somewhere who can place a check on it.

The other great principle they had in mind that has stood Patrick Henry, who visualized that someday this Union would be so strong that the States would be nothing more than territories, therefore a great many of those at the Constitutional Convention had made up their minds not to sign this document until they were convinced that the Bill of Rights would be presented in which the States would be protected. The States had all the power when the Constitutional Convention met. Article I, section 8 gives the States certain powers, and that is all they have today—interstate commerce, foreign affairs, customs duties, and so forth, except the amendments adopted since the adoption of the Constitution.

The fear was that the Union would become too powerful, and that is the reason that some of them took the position they did. And that is the idea we have to watch today, the temptation of the Congress and to other branches of Government. For instance, the Supreme Court several years ago went into the field of insurance. Congress immediately took it out. And there are other examples that could be given. But that is what we have to watch today, is power. There is only so much power. Are we going to leave it with the States and the people where the Constitution put it or are we going to shift it all to Washington?

And so I say to you that those brave and intelligent souls of great vision knew what they were doing when they decided to put a limitation of power at the Federal level. I am very proud that they did that and now it is up to the Congress to obey that. If we do that, I fear no trouble in the future. Thank you.

[Applause.]

The PRESIDENT pro tempore. That was well done. That was well stated.

I want to call on Senator Specter, Senator Arlen Specter, for such contribution as he may wish to make.

You represent fine people. I appreciate them.

Mr. SPECTER. Thank you very much. I am honored to be called upon to follow Senator Byrd, Senator Dole, and Senator Thurmond, and honored to make a presentation about the history of this Senate Chamber and some of the background here.

Mr. President, as the second session of the first Congress ended in August of 1790 and Senators scattered for home and loved ones, the Senate clerks began packing up the documents in New York's Federal Hall. The Senate's records preceded its Members to Philadelphia where, under the terms of the bargain hammered out that June, Congress would meet for the next 10 years while the new capitol was carved out to the south along the Potomac River.

On December 6, 1790, the Senate assembled in William Penn's "City of Brotherly Love" for the third session of the first Congress. The Philadelphia of 1790 was a larger, more sedate city than New York. What Philadelphia lacked in excitement it made up for in sophistication. Philadelphia was no stranger to great deliberations about the Nation's course. The first Continental Congress assembled in Philadelphia's Carpenter Hall, in September of 1774. The following May after the battles of Lexington and Concord, the second Continental Congress met in the Pennsylvania Statehouse which we know today as Independence Hall. There the Declaration of Independence was signed on July 4, 1776. And when the big Liberty Bell in the Statehouse pealed out the glad news, the city of Philadelphia blazed with patriotic bonfires. Several of the first Senators had been members of the Constitutional Convention which met in the Statehouse during the summer of 1787 and had affixed their signatures to the Constitution. Thus, Philadelphia's Statehouse yard already had an illustrious heritage when Congress decided to make Philadelphia its temporary home.

The House of Representatives met in the big room on the first floor just below us. As had been the case in New York, the Senate continued to be the upper Chamber, meeting in this elegantly furnished chamber on the second floor.

A local carpenter, Thomas Affleck, made a mahogany desk and armchair for each of the 26 Senators from 13 States in the first Congress. Affleck's desks were the Senators' first because in New York City the Senators had only chairs.

The Vice President, first John Adams and then Thomas Jefferson, presided over sessions in this chamber from beneath this impressive crimson damask canopy lined with green silk.

Sitting in these red leather armchairs atop their dazzling carpet, the Senators began their 10-year stay in this city. It was a tumultuous decade, which saw the first Senator expelled from this body, the first to be denied his seat, and the Senate's debates finally opened to the public. At one point, war with Great Britain seemed inevitable. Later, war with the Nation's closet ally, France, seemed inevitable. Later, war with the Nation's closest ally, France, seemed almost certain. The ratification of the Jay Treaty gave the Senate the opportunity to exercise one of its most important powers, that of advice and consent. These explosive debates also revealed the birth of political parties as permanent institutions of the new Republic.

The first session of the 7th Congress, which opened on December 2, 1799, was the last during which Senators gathered in Congress Hall, until today. For months, rumors had filtered back to Philadelphia that the new capitol to the south was far from ready. Senators were more than a little reluctant to pull up stakes and leave sophisticated Philadelphia for the wilds of the Potomac shores but a bargain was a bargain.

Mr. President, throughout their 10-year residence in Philadelphia the Senators of those first Congresses were ever mindful of the debt of gratitude they owed this city. They were also keenly aware of all that had gone before them in the rich red brick buildings which surrounded this Hall. The setting constantly invoked memories of the Founding Fathers whose wisdom had infused the debates of those hot revolutionary summers and the Constitution summer here at Philadelphia.

Benjamin Franklin, Philadelphia's most famous citizen, died and was buried nearby in the yard of Christ Church in April 1, 1790 before the Congress he had labored so hard to create moved from his beloved city. But the warmth of Franklin's spirit and the other Founding Fathers still enveloped the State house yard and, Mr. President, that spirit envelops us still. It is a great day for this Hall that we are reassembled here.

Thank you, Mr. President.

[Applause.]

The PRESIDENT pro tempore. We want to give you, John Heinz, an opportunity to use some time. It has been a great day for us and I know it has meant a lot to you, too.

Mr. HEINZ. Mr. President, my colleagues, the constitutional debate, as we all know, as many of you participated in its reenactment, was long, difficult, fractious, came close to failure, but ultimately succeeded. It is a very humbling experience for me, as I suspect it is individually for each of you, to know that each day we relive that same kind of process and ultimately after overcoming our difficulties we succeed and find ourselves, and hopefully just about every time our country, the better for it. So it is a great personal privilege to be able to say a few words to you and with you.

Earlier this afternoon, Mr. President, 55 Members of Congress, representing every State in the Union and symbolizing the Constitution's 55 framers, met in the Assembly Room at Independence Hall and there paid tribute to the Great Compromise that established the basis of representation within the legislative branch.

In moving from that chamber to this one, we symbolically shift our focus from the writing of the Constitution to its implementation. During the remaining years of the 18th century, first in New York City's Federal Hall and then for a decade in this chamber, the Senate was to play a fundamental role in breathing life into this new Chamber of Government.

On December 6, 1790, the Senate met in this very room for the first time. If the 26 Senators of that early Congress could be with us today, they would undoubtedly be astounded at the presence of the media, of Official Reporters of Debate, of spectators—Senators in the 1790's met behind closed doors and they heartily disapproved of applause and catcalls that could be heard in the House gallery. As 16 of these Members had served as delegates of the Constitutional Convention, they were familiar with the notion that the unique value of the Senate, in James Madison's words, was "In proceeding with more coolness, with more system and with more wisdom" than the popularly-elected House. In their view "coolness" and "system," if not "wisdom" could best be achieved behind closed doors.

Certainly, thought the framers, the public would achieve sufficient enlightenment through the pages of a Journal of Senate Proceedings that would be published from time to time.

By the second year of the Senate's residence here, its closed-door policy was causing the public to equate the House of Representatives with the entire Congress. Perhaps that sounds familiar. Out of sight, the Senate was becoming a forgotten body. Soon, ingredients for a change in the situation multiplied.

The antifederalist political faction had gained control of the House—the Republicans. This placed the opposing Federalists, who still held a majority in the Senate, on the defensive. At a time when Federalist policies were coming under heavy fire, the House no longer offered a satisfactory forum for the Federalists to publicize their views and offer their rebuttals. To dispel the growing popular suspicion that the Senate had become a lurking den of conspiracy, Senators began to suggest that the doors of this Chamber be opened on a trial basis. Sound familiar?

The first occasion for such a test involved the dispute over the seating of a new Senator. In 1793, the Pennsylvania Legislature, meeting in the Statehouse next door, elected antifederalist Albert Gallatin to a seat that had been vacant for two years. The Senate's Federalist majority opposed him and raised questions about his meeting constitutional requirements for service. But, sitting within a stone's throw from the legislature that had elected him, the Senate was reluctant to deny Gallatin his seat without a public debate. Accordingly, on February 11, 1794, the Senate agreed to open its doors only until it had disposed of the Gallatin case. Once opened, however, these doors remained open. The Senate quickly adopted a resolution providing that as soon as suitable galleries could be constructed, the public would be admitted.

On December 7, 1795, at the start of the fourth Congress, the galleries that we see here today stood ready to receive the public. But, as one historian has written, "There was absolutely no sustained rush of spectators. Apparently, the sight of two dozen urbane gentlemen discussing in courteous, conversational tones the issues of the day did not have the appeal of the boisterous and vehement partisanship displayed in the larger Chamber on the floor below."

Mr. President, despite this quiet beginning, the Senate has set in motion a process that gained force through succeeding decades. Half a century later, the invention of the telegraph accelerated the speed with which words spoken in the Halls of Congress reached the newspapers of our land. Within another century, radio and television offered the promise of instantaneous communications. The innovations of our own era in cable and satellite technology made it possible on June 2, 1986, just last year, with the inauguration of live regular television coverage of floor proceedings for the Senate to fulfill that promise. That event completed the process begun so significantly in this historic Chamber nearly two centuries ago.

Mr. President, let me say to you and to our leaders and to all our colleagues that the citizens of Philadelphia, indeed all the citizens of Pennsylvania, are very grateful to all of you for returning here for the first time in 187 years to so powerfully remind us of the roots and enduring strength of our constitutional democracy. Thank you very much.

[Applause.]

The PRESIDENT pro tempore. Thank you very much, Senator. We move to the Far West now temporarily and the Senator from Hawaii, Senator Matsunaga.

Mr. MATSUNAGA. Mr. President, it was to "secure the blessings of liberty to ourselves and our posterity" that we the people of Hawaii petitioned the Congress of the United States to admit Hawaii into the Union of States on equal terms with the others. After more than 50 years of knocking, the door was opened and the Paradise Islands became the 50th and youngest State of the Union when President Dwight D. Eisenhower signed the admissions bill into law on August 20, 1959.

The most historic and dramatic nature of the latest admission into the family of States was that it marked the first time that a society, a majority of whom were non-white, Asian, Pacific-descended Americans, was recognized as an equal.

Such is the design called for in the greatest of all governmental blueprints, the American Constitution, that Hawaii, a non-contiguous chain of islands in the middle of the Pacific Ocean, became the latest member of the Union, but by no means its least member. Just as it is deemed under the Declaration of Independence that "All men are created equal," under our Federal Constitution all States are deemed equal and equally represented in the so-called upper body of this Congress.

Our nation was born in revolutionary strife—and, indeed, in revolutionary thought: the belief of our Founding Fathers that "All men are endowed by their Creator with certain inalienable rights." It was a revolutionary idea, even though it had previously found expression in many cultures over the ages. But the most remarkable thing about the founders of our great country was that they succeeded actually in setting up a Government based upon that belief, under which could live in freedom and dignity. They prepared the "political soil" in which ideas that had been in existence for centuries could actually take root and grow.

They did so by the furrows laid out in the document those hot and harried delegates hammered out here in Philadelphia 200 year ago; a government structure wherein the powers of government were circumscribed by the rights of the people, by acquiescing to be ruled by law and not by men, law formulated by the provisions of a written Constitution and subject to its strictures.

One television critic, Mr. President, recently observed that this week's congressional hearings on military assistance to Iran and the Nicaraguan contras "was not an inappropriate way to celebrate the 200th anniversary of the Constitution." I would agree—and pray that it proves to be an instructive way to observe this historic milestone.

In the past 2 centuries, this remarkable doctrine—this blueprint not only for a government but for a political way of life—has guided our Nation's growth as a pluralistic society, a nation of immigrants.

Our Aloha State is unique in that it was first populated by an indigenous people of Polynesian roots who did not choose to emigrate to America but whose land became a territory of the United States by annexation. But they, too, lived by a political credo consonant with the American Constitution. The Native Hawaiian people were also united into a single union late in the 18th century by a young warrior named Kamehameha, a truly remarkable "founding father" whose statue now stands in the Statuary Hall of the Capitol in Washington.

There is a story told of how he led a raiding party in an attack on a fishing village on an island where he was fighting for political supremacy. He was forced to retreat and his foot was caught in a rocky crevice, rendering him immobile. Two fishermen in the village took the opportunity to strike him with a canoe paddle which splintered in the process. Later, when he had established his rule, the two men were brought before him, fearing that their lives would be taken. But King Kamehameha, a fierce warrior but a judicious ruler appreciated the fact that the fishermen were indeed striking him in defense of their own homes and accordingly spared their lives and freedom.

In doing so, he took the occasion to promulgate his kingdom's "Bill of Rights," which has been revered by Hawaiians as the "law of the splintered paddle." In the 50th State, we are this year observing "the year of the Hawaiian," even as we celebrate the 200th anniversary of our American Constitution. Kamehameha the Great is the foremost native Hawaiian in our history, and it is appropriate, I think to recite this law of the splintered paddle, cast in the oral tradition, as we celebrate our written Constitution. He proclaimed, and I quote, "Oh my people, honor this God, respect alike the rights of men great and humble; see to it that our aged, our women and our children lie down to sleep by the roadside without fear of harm."

Mr. President, our great Nation has grown over the last 200 years because of the worldwide attraction of our founding ideals, the fertility of our political soil. We the people will secure the blessings of liberty, for ourselves and our posterity, to the extent that we remain faithful to those ideals by tilling the soil and in so doing helping to ensure tranquility both here at home and abroad.

[Applause.]

The PRESIDENT pro tempore. I thank the Senator. Ladies and gentlemen, we will move right along now. I am going to come back now and get the name here of one of your neighbors from New Jersey, Senator Frank R. Lautenberg. We are happy to be here.

Mr. LAUTENBERG. Thank you, Mr. President.

It is with great pride that I join my colleagues from the Senate today in paying tribute to the Constitution of these United States. We are here to celebrate a moment in American history which all of us treasure. We are here to celebrate a living document which has been both our mooring and our compass, through a bloody civil war, a devastating depression, two world wars, Korea, and Vietnam—a document which has held us together through 200 years, through the pain of Watergate to this very day.

I am honored to be a speaker at this historic session of the Senate. I am honored as an American whose parents were carried off the boat by their parents who came here seeking a better life and freedom from oppression. They came to New Jersey, the first State to ratify the Bill of Rights.

Today, New Jersey is the ninth largest State in the country, but at the time of the Constitutional Convention it was a small State, ravaged by war, without today's bustling ports and centers of research, commerce, and learning.

As a native of the mill town of Paterson, New Jersey, my history teachers often talked about our city's namesake, William Paterson. Paterson was one of New Jersey's delegates to the Constitutional Convention. He was a distinguished lawyer and a staunch defender of property. William Paterson walked these very halls and argued vigorously for his point of view at the Constitutional Convention.

To the dismay of Virginia and the other large States of 1787, Paterson wanted all States to have equal representation in the new congress.

The New Jersey plan was defeated, but Mr. Paterson went on to become one of our State's first United States Senators and later a Justice on the United States Supreme Court.

The first 10 amendments to the Constitution, the Bill of Rights, have served as a beacon of light and inspiration for people around the globe. Simple in conception, they were quite extraordinary for a world still under the sway of monarchs and leaders unfettered by restraint. They call for basic rights that we now consider fundamental to our democracy, a free press, separation of church and state, freedom against unreasonable search and seizure, the right of trial by jury of one's peers, and the reservation of all rights to the people not expressly delegated to the Government by the Constitution.

The original document authored by the Constitutional Convention did not contain the Bill of Rights. This omission was a cause of concern to many of the delegates and especially to two of our most profound thinkers and early leaders, Thomas Jefferson and James Madison.

During the Convention Madison was a delegate from Virginia. Jefferson was serving as America's Ambassador to France, then in the throes of the bloodiest revolution to take place in man's recorded history at that time.

Reviewing a draft of the Constitution, Jefferson wrote to his compatriot and neighbor to share his views. Ever fearful of too much power in a central government, Jefferson praised the division of power provided in the Constitution between the legislative, the executive and the judicial branches of our Government. These checks and balances were, he felt, critical in containing excessive power in any one part of government.

Jefferson with the memory of King George's arbitrary taxes—a driving force behind the American Revolution—still fresh in his mind, also voiced strong support for the fundamental principle that Americans could only be taxed by their Representatives.

Jefferson praised the compromise which gave each State equal representation in the Senate, but to Jefferson the absence of an explicit bill of rights in the Constitution was such a glaring omission that he questioned its adoption without amendment. To Madison he wrote, "A bill of rights is what the people are entitled to against every government on Earth, general or particular, and what no just government should refuse or rest on inference."

Madison fought to have the Constitution adopted but once this was accomplished he worked relentlessly to draft and to refine a series of amendments to it which would permanently enshrine fundamental rights in the supreme law of the land. These rights have become the bedrock of our democracy and the standard to which millions around the world strive.

I am proud that New Jersey was the first State to ratify the Bill of Rights. Our State has continued in this progressive tradition, exhibiting tolerance, a deep respect for civil rights and liberties, and a decency and a civility in public affairs.

The Bill of Rights has served as a bulwark against excessive power and shifting public opinion. The Constitution, as amended by the Bill of Rights, has proved that a free people are capable of governing themselves. The Bill of Rights, the Constitution, and our representative democracy were a brave experiment—a brave experiment that disproved the cynics and aristocrats of Europe and changed the course of world history.

It is a privilege and an honor today to pay tribute to that accomplishment and to urge that we renew our commitment to the values and liberties and faith reflected in this very special document.

[Applause.]

The PRESIDENT pro tempore. Ladies and gentlemen, on the list that was handed to me, we have a few additional speakers. I am going to call now on some of them. Senator William Roth, one of our neighbors. We will be glad to hear from you.

Mr. ROTH. Mr. President, we the people of Delaware are proud of the role our forefathers played in the formation of this great Union. We are proud that we were the very first to ratify the Constitution, hence giving rise to the claim that for a brief, shining moment we were the only State to be the United States. But we take even greater pride in the 49 other States, from Hawaii to Pennsylvania, from Alaska to Texas, who signed with us to make this a more perfect Union.

Our State's role in the Revolution and the creation of a new country is laden with heroes and overflowing with patriots, men and women who acted with uncommon valor and determination in uncommon circumstances. Following the War for Independence, members of the Delaware delegation to the Philadelphia Convention understood the need for a new Nation, a Nation where all States, large or small, urban or rural, powerful or weak, rich or poor, could share equally in the role of government. Today, we celebrate the anniversary of the Great Compromise that made this desire a reality. Today we honor the 55 inspired delegates who met to draft the greatest political document ever written by the hand of man.

In Delaware, we are proud of the five delegates who laid aside their personal interests and fears as the debates over large States versus small States were held in the nearby historic building. We are proud that they held fast to the dream of a national federation, and we are proud that it was our own John Dickerson who, amid the conflict and dissension, clarified for the Convention its ultimate goal. "Let our Government be like that of the solar system," he said. "Let the Federal Government be like the sun and the States like the planets, repelled yet attracted and the whole moving regularly and harmoniously in their several orbits."

The power of Dickerson's words and the spirit of Delaware that called for a republic carried into the ratification process. Back home, the Delaware assembly understood the significance of a new Constitution. At the first session after the Philadelphia Convention the assembly President, Thomas Collins, presented the Constitution with a warning that it was a subject of utmost important consideration involving in its adoption not only our posterity and felicity, but perhaps our national existence.

His plea was supported by four petitions with 171 signatures that called for a Convention to ratify the Constitution.

Within two months from the time the Philadelphia Convention closed, Delaware had passed a resolution to choose 10 delegates from each of our counties to attend the Ratifying Convention. On December 3, 1787, these men met in Dover. President Collins opened the meeting and submitted the Constitution to the delegates. Minutes of the meeting, unfortunately, were not taken. Consequently, of the rhetoric and debate that took place, all that is remembered today is that on December 8, 1787 the Constitution was unanimously ratified and Delaware was the first State to approve the new Government.

With that act a new Nation was launched, a Nation that was to become 50 glorious States, a Nation that would symbolize to all the world a Government where liberty is the clarion call, a Government of the people, by the people, and for the people.

[Applause.]

The PRESIDENT pro tempore. Ladies and gentlemen, it certainly is refreshing and a solid backing of strength to find that the smallest State among the early group was the one that led the way and we have been able to hold on since then. You have contributed to the progress of the Nation. I commend you highly. Fortunately, we have a record that extends across the present list of States where they have done their part in a fine way. We are proud of it.

Ladies and gentlemen, we have quite a few additional Members of the Senate present. There was a list turned in, and all who are on the list have not been called on but it is certainly not a rejection of the others. I commend all of you highly for being here. I know you have been rewarded and knew you would when you came. It is refreshing to see the interest that you have shown.

Mr. BYRD. Mr. President, I ask unanimous consent that the distinguished Senator from Montana may be permitted to address this august assembly.

The PRESIDENT pro tempore. Yes, that will be entirely all right, of course. I was going to read the list and ask Members to stand and we will see if any wish to speak.

Let me read the list now. We have got to move along. The ones who are here, if you will just stand I will read the list and call the State, too. If you will stand and then we will proceed to hear any who wish to be heard.

Senator Dennis DeConcini from Arizona, if you will just stand, please. Mr. Pete Domenici from New Mexico. Stand if you will, please. Mr. Daniel J. Evans of Washington. Is Mr. Evans here?

Mr. EVANS. Right here.

The PRESIDENT pro tempore. Mr. Evans is from the Far West, the great State of Washington. Wyche Fowler of Georgia, Jesse Helms of North Carolina, John Melcher of Montana, Frank Murkowski from Alaska, Larry Pressler from South Dakota, Harry Reid of Nevada. We will hear anyone who has a stong urge to be heard. We will stay and talk to the people afterwards. I know they will be glad to see Senators. I want to speak for all here and those who have already left, if any, and thank the people of this great State, this city here in particular, for their fine expression of hospitality and for the truly great record over a long period of years, for the contribution they have always made for the strength and betterment of our country and its people. I am going to call for the resolution.

Mr. BYRD. Mr. President, the Senator from Montana is prepared to speak at this time.

The PRESIDENT pro tempore. We will be very glad to hear you, Senator.

Mr. MELCHER. Thank you, Mr. President. Today we are really celebrating the 16th day of July, 1987—the 16th day of July in 1787 when the Great Compromise was obtained, which many have called the Connecticut Compromise. And so, Mr. President, it is altogether fitting that I as a Westerner, a Westerner from Montana, would describe that compromise that has meant so much to States like ours, with large area and great resources, but very few people. Let me tell you how it came about.

This compromise was put forward to settle the dispute between the Virginia plan, which would have congressional apportionment just according to a State's population, and the New Jersey plan, which would have all States have the same, equal representation. Without the Great Compromise, the convention may well have ended in a permanent deadlock. Let me tell you a little bit about why it is called the Connecticut Compromise. It is called that because its chief proponents were from Connecticut and the idea appears to have originated with Roger Sherman. He had a distinction. He was the only man to have signed the Declaration of Resolves in 1774, the Declaration of Independence in 1776 and the Articles of Confederation in 1781, and finally the United States Constitution in 1787.

At the Constitutional Convention Sherman spoke more often than any of the rest of the delegates except for James Madison. But the other delegates had a high regard and considerable respect for Roger Sherman. Thomas Jefferson once described him as follows: "That man never said a foolish thing in his life." That is quite a recommendation. As early as 1776 Sherman had promoted the idea that legislation should be decided upon both by the vote of the States, as was then done under the Articles of Confederation, and also by the vote of the people. But it took 11 years for others to see the wisdom of his plan.

On June 11, 1787, as a delegate, Sherman offered to the Constitutional Convention the idea again. He revived the idea on June 11 to be specific. He proposed that States be represented in one House of the new Congress in proportion to their populations and in the other House equally. But the tempers at the Convention at that time were still too hot to accept such a cool, fair, practical solution and the debate continued. The Convention then adopted a motion for the House to be structured in proportion to State population and Sherman rose to call for a vote on the Senate structure declaring that the "smaller States would never agree to the plan on any other principle than equality of suffrage in this branch."

When the larger States rejected Sherman's request, it appeared that the Convention had reached the deadlock that I earlier spoke about. Virginia's James Wilson explained about this impasse and asked whether they were forming a government for men or for the imaginary beings called States. But Connecticut's Oliver Ellsworth objected. He said, "The majority need not worry about the minority, but the few need protection from the many."

James Madison argued that Connecticut had not paid its share of taxes that were required by the Confederation, and that angered Ellsworth, who replied that his State had always done its share.

On June 29, when the delegates from the smaller States seemed on the verge of walking out of the Convention, Oliver Ellsworth introduced a resolution embodying Sherman's compromise. As the Convention prepared to adjourn for the Fourth of July celebrations, it had then referred the matter to a select 11-member committee. When it came back to work on July 5, the committee reported Sherman's compromise—the Senate would have equal representation while the House would have proportional representation and to appease the larger States revenue measures would have to start in the House.

Well, that did not end immediately. There was 2 weeks of debate. But on July 16, just 200 years ago, the delegates adopted the compromise.

Mr. President, it was appropriate that having authorized the compromise which permitted the creation of the House and the Senate as we have it, Roger Sherman went on to serve in both bodies, the House and Senate, and of course Ellsworth also served in the Senate and as Chief Justice of the Supreme Court. Both men served the Nation well and it is my particular pleasure and honor to pay tribute to them today on the Great Connecticut Compromise on this 200th anniversary.

On behalf of Montana and all States like it, with small populations, we thank those Connecticut Yankees for their foresight and their genius; their compromise permitted great States such as Montana and all the rest of the West, so diverse in a land of plains, mountains and rivers, so rich in agriculture and minerals and forests but limited in population, to become partners with other States on a footing of equality in the Senate.

Governments are made up of laws, but laws are made by votes. This Great Compromise gave Montana and the rest of the States of limited populations a stronger voice in the Senate.

Mr. President, that compromise ended the stalemate, permitted the finishing of the writing of the Constitution and cemented together all of the States then and all that have come in since then—cemented us in a very strong, forceful, successful and good country. Let no one, let no one put it asunder.

Thank you, Mr. President.

[Applause.]

The PRESIDENT pro tempore. Thank you, Senator.

All right, ladies and gentlemen, that concludes the use of our time, unless the Senator from West Virginia has something. The Senator from West Virginia.

Mr. BYRD. Thank you, Mr. President, I call attention to two Members on this side of the aisle whose presence has not been announced. And there are some on the other side who will be recognized by the distinguished Republican leader. I call attention to the presence of the distinguished senior Senator from North Dakota, Mr. Quentin Burdick, and the equally distinguished senior Senator from Maryland, Mr. Sarbanes.

[Applause.]

The PRESIDENT pro tempore. I had thought, gentlemen, that I had introduced all those who were present.

Mr. DOLE. Mr. President, some have been coming and going but I wanted to introduce Senator Stevens from Alaska, Senator Warner from Virginia, Senator Grassley from Iowa, Senator McCain from Arizona, and Senator Simpson from Wyoming.

[Applause.]

The PRESIDENT pro tempore. Well, again I regret very much that I did not call the names a while ago.

Mr. BYRD. Mr. President, lamenting the absence of pages, but grateful for the attendance of so many Senators, I send to the desk on behalf of the distinguished Republican leader and myself a resolution, and I ask that it be immediately considered.

The PRESIDENT pro tempore. Mr. Secretary.

The Secretary of the Senate read as follows:

IN THE CHAMBER OF THE UNITED STATES SENATE, CONGRESS HALL, PHILADELPHIA, PA, JULY 16, 1987

Whereas on July 16, 1787 the framers of the Constitution meeting in Philadelphia, Pennsylvania agreed to the "Great Compromise", which provided for States to be represented equally in the Senate and in proportion to their populations in the House of Representatives, and;

Whereas that agreement established the fundamental nature of the Senate and the House of Representatives, and;

Whereas the Congress of the United States has by Concurrent Resolution determined that official delegates will represent the Congress at a special ceremony to be held in Philadelphia on July 16, 1987, and;

Whereas the Study Group on the Commemoration of the United States Senate Bicentenary in 1982 recommended participation in "ceremonies associated with the signing and ratification of the Constitution" in Philadelphia, and;

Whereas the Senate of the United States met during its crucial formative years from 1790 to 1800 at Congress Hall in Philadelphia: Now, therefore, be it

Resolved by the Members of the Senate of the One Hundredth Congress participating in this special commemorative session, That we herewith inaugurate a program of commemorative activities honoring two centuries of the Senate's development under the Constitution, and;

That we express our deepest appreciation to the City of Philadelphia, to the National Park Service, and to We the People 200 for their generous hospitality and support.

The PRESIDENT pro tempore. What is the wish of the Senator from West Virginia? Did you have a motion concerning the resolution?

Mr. BYRD. Yes, Mr. President. I ask that the Senate proceed with its immediate consideration.

The PRESIDENT pro tempore. All right, you have heard the reading of the resolution. The subject matter is clear. Is there any further comment that anyone wishes to make? It seems to me it is a worthy resolution.

Does anyone wish to make further comment pro or con?

Mr. BYRD. Vote.

The PRESIDENT pro tempore. I hear no response. It is worthy of adoption. Without objection, the resolution is approved.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

Mr. President, I wish to announce following this ceremony there will be a reception sponsored by our two Pennsylvania colleagues. Where will that be?

Mr. SPECTER. The Old City Tavern, Second and Walnut. You are all invited.

The PRESIDENT pro tempore. Ladies and gentlemen, I judge this to be a very fine, splendid, patriotic program that will lead to a better understanding of the Constitution. I feel this will give added strength for the Nation and more demonstrations like this. If we could have the people originate and put them on themselves, all the better.

I am going to call on the Chaplain, if he will now come forward, to give the benediction. I want to say God bless you all.

PRAYER

Dr. HALVERSON. Let us pray.

The Lord bless you and keep you. The Lord maketh His face to shine upon you and be gracious to you. The Lord lift up His countenance upon you and give you peace. Amen.

Whereupon, at 5:44 p.m., the Special Commemorative Session was adjourned.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I am privileged to have been on the floor when we had this inspiring prayer by the Chaplain and the brilliant, really brilliant, off-the-cuff summation by the majority leader. He did not have a note. He obviously had not prepared anything, but just from his heart, inspired in part, I am sure, by the Chaplain's prayer, he gave us a marvelous picture of what happened yesterday at Philadelphia.

This Senator was not at Philadelphia. Having heard the majority leader now, I wish I had been. But I think only somebody, not only with a fine mind and with the kind of forceful personality he has, but with a deep patriotic feeling for this country, could have made the fine, impromptu statement which our leader has given us this morning.

Mr. BYRD. Mr. President, would the distinguished Senator yield?

Mr. PROXMIRE. I am happy to yield.

MORNING BUSINESS

Mr. BYRD. Mr. President, I thank my friend and thank him very much. I yield the remainder of my time to him and I ask that there also, then, be a period for morning business in which Senators be permitted to speak not to exceed 5 minutes each, and that that period end at 9:30 a.m.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

SHOULD CONGRESS ENACT LEGISLATION TO REGULATE HOSTILE TAKEOVER?

Mr. PROXMIRE. Mr. President, in a July 9, 1987, article for the New York Times entitled "Putting the Reins on Wall Street," former SEC Commissioner Bevis Longstreth advocated better regulation of the securities markets under existing law rather than new legislation to address recent abusive practices. I could not agree more with Mr. Longstreth's three specific recommendations for improving existing regulatory efforts. However, I disagree with his assertion that no new legislation is called for, particularly in the corporate takeover area, and I find that I am not alone in this disagreement: Ten Senators on the Banking Committee have cosponsored my bill, the Tender Offer Disclosure and Fairness Act of 1987. In addition, several other bills have recently been introduced to address takeover abuses and the House of Representatives has already acted in committee to produce legislation reforming the takeover process. Recent polls indicate that this congressional action reflects the voice of the American people in calling for changes in the securities laws.

As we have made clear, our design in reforming the takeover process is not to inhibit those mergers by acquirors who aim to buy, build, and grow, but to curb manipulators whose purpose is to put companies into play in order to make a fast buck. Raiders devastate healthy companies, loading well-run businesses with huge unproductive debt burdens and putting thousands of loyal employees out of work. Takeovers are absorbing corporate funds which should be flowing into research, quality control, and investment in new plants and equipment—particularly at a time when we are facing stiff competition across the board from foreign firms which have not been subjected to the nonproductive pressures of the fast buck raiders.

It is not altogether coincidential that this country's two most effective competitors, Japan and Germany, have tough laws restricting hostile takeovers. It is also apparent that the employees, unions, communities, and companies who have been ransacked by corporate raiders do not agree with Mr. Longstreth and are calling loud and clear for the type of changes proposed in the Tender Offer Disclosure and Fairness Act.

Still, as I mentioned, Mr. Longstreth and I do have common ground when it comes to his three specific recommendations for better regulation of the securities industry: No. 1, increased funding for the SEC; No. 2, stiffer penalties for violations of the securities laws; and No. 3, a strengthening of the Chinese Walls in multiservice investment firms. Mr. Longstreth's recommendations are well considered and largely parallel the advice reaching Congress from a number of other sources. In responding to these concerns, Congress has already taken these actions:

On June 24, 1987, the Senate Banking Committee approved a budget authorization for 1988 for the SEC which included the entire amount requested by the agency—plus a restoration of the funds cut by the administration from the SEC's proposed budget before the agency was even allowed to send its request to the committee. This will result in an increase of over 30 percent from the 1987 budget level and constitutes a long overdue increase in resources for the agency. The budget level approved will provide significant additional resources to the agency's enforcement and antifraud programs.

This budget authorization was developed under the leadership of Senator DONALD W. RIEGLE, Jr., as chairman of the Securities Subcommittee. Two sets of subcommittee hearings earlier this year on the adequacy of the SEC's resources lead to the conclusion that the growth of the agency has been deliberately restrained by the administration since 1980, while the securities industry experienced a simultaneous period of unprecedented growth in volume and complexity. Mr. Longstreth is quite correct in pointing out that the SEC's resources have, effectively, been held constant for the past several years in the face of an explosion of activity in the regulatory environment. Several witnesses from the securities industry advised the subcommittee this year that they would support increases of up to 100 percent in the agency's budget and they stressed the critical role of the SEC in maintaining investor confidence in market integrity.

This past restraint in funding the SEC is even more curious when viewed with the knowledge that the agency collected fees in an amount exceeding its budget by over 100 percent last year alone. In other words, the SEC is, in effect, a self-funding agency which does not require tax dollars to carry out its functions and which has not been permitted by the administration to use the revenue generated from increased securities activities to fill the expanded regulatory demand. As Mr. Longstreth noted, it is inescapable to conclude that the resource restraints on the SEC probably contributed to the recent scandals in the industry. The budget authorization recently adopted by the Senate Banking Committee is intended to provide overdue assistance in bringing the SEC's resources back into pace with the industry.

Concerning Mr. Longstreth's second recommendation for stiffer penalties for violations of securities laws, I again concur completely. The courts should impose stiffer penalties under available law for these crimes and, in addition, I have introduced legislation providing for tougher statutory penalties. This provision, now under consideration by the Senate Banking Committee, would permit criminal fines of up to $1 million and imprisonment of up to 10 years for any willful insider trading. The bill would also provide for an additional 1 year sentence for intentional obstructions of justice and perjury in connection with any investigation of any alleged insider trading.

Finally, Mr. Longstreth's third recommendation regarding a strengthening of the Chinese Wall concept at multiservice investment firms is also timely and well founded. Proposed legislation now before the Senate Banking Committee on insider trading has been drafted to provide strong incentives to such multiservice firms to reexamine and strengthen their internal procedures to prevent the flow of information between departments.

The provision under consideration would allow an investment firm to present evidence that reasonable Chinese Wall procedures were in place in order to avoid liability for alleged insider trading under appropriate circumstances. By raising the Chinese Wall issue in this context, the proposed legislation provides a strong incentive for all multiservice investment firms to redouble their own internal control efforts as insurance against the potential enormous liability for insider trading violations.

While I agree with Mr. Longstreth's three specific recommendations I think he is overdramatic in his statement about the potential effects of certain legislative initiatives in the securities business. He says that "we do not need new regulations to restrict takeover bids." Sixty-seven percent of the American people, as surveyed in a recent Lou Harris poll disagree.

What are some of the issues that are under consideration?

First, closing the section 13(d) window to prohibit a raider from continuing to acquire stock above a certain threshold without disclosing that fact to the public.

Second, extending and clarifying the definition of a "group" to restrict the type of manipulative practices we are currently witnessing.

Third, increasing the penalties for failing to file, or improperly filing, certain documents which are now required to be filed under law with the Securities and Exchange Commission.

Fourth, requiring that acquisitions of more than a certain percentage of a company's stock be made by tender offer.

Fifth, prohibiting greenmail without prior shareholder approval. Greenmail is that practice whereby a financial entrepreneur can blackmail a corporation into buying him out at an exorbitant price not available to all other shareholders.

Both the investment banking community and the business community agree that each of these issues should be addressed in legislation. Groups which support addressing these issues include the Business Roundtable, the National Association of Manufacturers, Stakeholders, in America, the Securities Industry Association, and the Capital Markets Group which represents First Boston Corp., Goldman Sachs & Morgan Stanley.

I would go farther to provide greater fairness to all shareholders and to increase the disclosure of material information to the marketplace. But I find it peculiar that Mr. Longstreth would not go even this far.

With respect to efforts underway in the Congress to clarify the law on insider trading I plan to reserve judgment until after I have seen the final legislative package that is being developed by the chairman of the Securities Subcommittee, Senator DONALD W. RIEGLE, Jr. But I applaud his efforts in this area. I will support a statutory definition of insider trading provided it does not in any way weaken the enforcement capability of the SEC in the view of the Commission and its Enforcement Division.

Why do we need a definition of insider trading when the law seems to be working perfectly well and so many people are being hauled off to jail for violating it? There are a number of responses. First, the Government has suffered recent setbacks in the Supreme Court and certain of its key prosecutorial theories are currently being challenged. Second, we deserve clarity in our laws, and the law on insider trading is poorly understood. And third, securities industry groups such as the Securities Industry Association and the Capital Markets Group as well as Government prosecutors such as Rudolph Giuliani and former SEC Division of Enforcement Director Judge Stanley Sporkin, have called for a clarification of the laws.

The securities industry itself has argued that—

> The current law of "insider trading" is at best confusing and at worst ineffective in prohibiting the misuse of confidential information in trading in our national securites markets. The "insider trading" law has been developed by the courts under general antifraud provisions. There is currently no statute which deals specifically with the subject of misuse of information in trading.

They recommend that—

> A special statute should be enacted separate and apart from the general antifraud provisions of the Federal securities laws, to deal with the subject of trading on the basis of nonpublic information. The details of the statute should be worked out by securities professionals, who are familiar with the workings of the securities industry and who understand how to craft a statute which will not interfere with healthy and desirable market activity.

That is exactly the approach being taken by the Banking Committee's Securities Subcommittee.

So who recommends putting reins on Wall Street? A whole lot of people including the securities industry. But clearly not Mr. Longstreth.

Mr. BYRD. Mr. President, I ask unanimous consent to be added as a cosponsor to S. 1323, the Tender Offer Disclosure and Fairness Act of 1987. I do this as I applaud the efforts of Senators PROXMIRE, RIEGLE, and other members of the Banking Committee who put this bill together.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. I hope that the Banking Committee can proceed to mark up this legislation as soon as possible. The abuses of insider trading and hostile takeovers have become much worse in the last year.

While we cannot eliminate these abuses altogether, there are ways to reduce the opportunity for abuse. This legislation goes a long way in that direction by requiring public disclosure of takeover activity much sooner than current law, putting restrictions on raiders, and other measures. I look forward to having this legislation as amended by the committee on the floor and enacted into law.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Mr. President, I thank the majority leader. There is nobody whose cosponsorship will advance this legislation more than his. It is an honor that he has decided to join us and I am sure the committee will be very grateful for his distinguished cosponsorship.

The ACTING PRESIDENT pro tempore. The Chair recognizes the Senator from South Dakota.

Mr. PRESSLER. Mr. President, I would like to speak on two subjects this morning.

THE 200TH ANNIVERSARY OF THE CONSTITUTIONAL CONVENTION

Mr. PRESSLER. Mr. President, yesterday I had the privilege of attending the 200th anniversary of the Constitutional Convention. I was 1 of 55 delegates. It was an awesome experience to sit in the same room, in the same place, as the original delegates who signed our Constitution; to be present for a meeting of the U.S. Senate in the old Senate Chamber, the first time the Senate had met there in 200 years, and to receive a book on the U.S. Senate from 1867 to 1901. It was a thrilling experience. I am somewhat jaded after 13 years in Washington, but I must say that this experience moved me.

I hope it will make me work even harder to keep and uphold the principles of our Constitution and of the Nation's traditions.

Mr. President, may I say in conclusion that I see our majority leader. He and our leaders did an excellent job yesterday of representing us in Philadelphia. The majority leader spoke from memory on many of the quotes from our Founding Fathers. Senator DOLE and others did an excellent job. I was proud to be part of that team.

NEED FOR INTERNATIONAL TREATIES FOR AGRICULTURAL TRADE

Mr. PRESSLER. Mr. President, we need an international treaty regarding agricultural trade. Recently, the Christian Science Monitor published my article, "International Action on Agriculture Is Needed."

Mr. President, I ask unanimous consent to place the article from the Christian Science Monitor in the RECORD at this point.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

INTERNATIONAL ACTION ON AGRICULTURE IS NEEDED

(By Larry Pressler)

The resolutions recently adopted at the Venice economic summit and Organization for Economic Coordination and Development meeting in Paris demonstrate the importance and international scope of the current farm problem. All of the developed nations of the world agree that agricultural subsidies encourage surplus production. No agreement can be reached, however, on ways to end the vicious cycle of agricultural subsidies.

Last year more than $100 billion was spent globally to subsidize the production of agricultural commodities. These subsidies have encouraged farmers to plow up millions of acres of highly erodible land. The breaking up of this land has created serious environmental problems. How can these global agricultural and environmental problems be effectively addressed? Negotiation of an international conservation reserve is the answer.

A worldwide production control program could be fashioned after the long-term conservation reserve program authorized in the 1985 U.S. farm bill. This program would return highly erodible cropland to grass or trees for a period of 10 years.

All nations have land under cultivation which never should have been plowed. Erosion may be our most serious environmental problem. Soil erosion forces the abandonment of millions of acres of agricultural land every year. A program for a worldwide conservation reserve could return this vulnerable land to its normal state. This would not only reduce soil erosion but also reduce the threat to native plant and animal species in many parts of the world.

Farming of some of the areas also has potentially devastating effects on the world through changes in weather patterns. For example, the destruction of tropical rain forests may reduce the amount of oxygen produced and change the water cycle. And international conservation reserve would get at these serious problems.

Farmers would benefit. In the United States, the National Wheatgrowers Association and several other farm groups have endorsed the concept of an international conservation reserve. Currently, farmers in Japan receive more than half their income from government payments. Farmers worldwide receive their production signals from government programs rather than the market. A reduction in global production of agricultural commodities would bring supply in line with demand, thus increasing market prices. This would allow governments to phase out government subsidies without bankrupting the world's farmers.

Taxpayers would benefit. Higher market prices would reduce the cost of government farm programs. U.S. taxpayers and other nations' taxpayers cannot afford to continue to subsidize agriculture at the current price.

Finally, consumers would benefit. Many nations tax food products to finance domestic farm programs. For example, Japan taxes food imports so they can subsidize farmers at a 60 percent rate. These ineffective government programs cost consumers more than a balanced supply-and-demand market would cost.

Recent international actions on agriculture have made an international conservation reserve a real possibility. Several European nations indicated support and interest in the concept. The administration will consider inclusion of a conservation reserve as part of the current negotiations under the auspices of the General Agreement on Tariffs and Trade. An international conservation reserve is an idea whose time has come.

Mr. PRESSLER. Mr. President, the point of my article is that if we are to solve the surplus problem—and it is strange that we call it a surplus problem—the Western democracies, Argentina, and Australia must take action soon. We have reached a point where we have large agricultural surpluses, surpluses of butter going to waste in caves, surpluses of wheat which we cannot find a market for, and other agriculture surpluses. It is costing the taxpayers a lot of money to store these surplus commodities.

The same problem exists in Europe, Argentina, Canada, and Australia.

I propose that the administration make it a top priority to negotiate a treaty for a land set-aside, an acreage reserve, which would reduce production in those high-producing nations.

There do not seem to be markets for this food. We cannot even give it away. In Africa, the countries that need the food do not have the transportation infrastructure to take the food and it rots on the docks. There is no way to distribute it. We do have the Food-for-Peace Program, which we should expand upon. We should make sales wherever possible.

The fact of the matter is that all of the developed nations have surpluses of food. Indeed, even India and China are exporting food. Modern technology has provided the means to produce a surplus of food and it is costing literally billions of dollars to store surplus food. There is no prospect of it going anywhere.

I have proposed an amendment to the trade bill, which was sequentially referred to the Foreign Relations Committee. My amendment says the Reagan administration should make it the highest priority to negotiate an international agricultural trade agreement that would provide for a set-aside of farmland. The program would turn highly erodible cropland to grass or trees for a period of 10 years. It would be a worldwide production control program modeled after the long-term conservation program authorized in the 1985 U.S. farm bill.

Mr. President, it is interesting to note that we are the only country in the world whose farm program provides for a set-aside of farmland. The purpose of our farm program, in part, is to reduce production. Unilateral U.S. crop reduction programs do not work. Other nations take advantage of us by increasing their production. An international agreement is the only effective way to reduce commodity surpluses.

The ACTING PRESIDENT pro tempore. The majority leader.

Mr. BYRD. Mr. President, I thank the able Senator for his references to remarks made in Philadelphia by Senator DOLE, others, and myself.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Who seeks recognition?

SENATOR BREAUX—ONE OF THE BEST PRESIDING OFFICERS

Mr. BYRD. Mr. President, while other Senators are arriving, I take this occasion to comment on the excellent service that the junior Senator from Louisiana [Mr. BREAUX] is rendering to the Senate. He is often in the Presiding Officer's chair.

I have been in the Senate now for 29 years and I have seen all of our Senators as they have served in the Senate. When I say all of them, I came here as the 1,579th Senator. There have been 1,782 Senators who have served in this body from 1789 to date. So, over these 29-plus years, I have had a remarkable and unique opportunity to observe Senators, Senators who were here when I came, and there are only three Senators in this Senate—Senator STENNIS, Senator PROXMIRE, and Senator THURMOND—who were here when I came to the Senate. So I have had the opportunity to see some truly fine Senators. I have seen quite an array of good Senators who have passed across the stage in these 29 years, Senators who have come and gone.

There are no others who came in the large class in which I came in 1958. Only I remain. Mr. President, I have had an opportunity to watch scores of Senators as they have managed bills and to watch them as they have presided over the Senate.

I used to take some stints at that post myself. On one occasion, I presided for 22 hours at one sitting. In these days, we give golden gavels to Senators who preside over the Senate for 100 hours. I have no doubt that the Senator from Louisiana [Mr. BREAUX] will probably be the first recipient—he will certainly be one of the early recipients—this year of the golden gavel. It is not actually, lest Senators' hearts leap, a golden gavel, but it is actually a fitting mark of the Senate's respect for, and the Senate's gratitude for, the service of any Senator who sits in that chair for so many, many hours.

The Senator from Louisiana, in my judgment, is one of the best, and I am not given to superlatives unless I really mean them—he is one of the very best Senators whom I have seen sit in the Chair.

Let me say it a little differently. He is one of the very best Presiding Officers, I should say, not one of the very best Senators. He is also one of the very best Senators, but he is one of the very, very best Presiding Officers I have seen in that Chair over these 29 years. He is bright and articulate, he is alert, he is decisive, and he presides with skill and dignity. That gives this body, I am sure, the kind of impression that students, teachers, judges, professors, State legislators ought to receive when they witness, by television, proceedings in the U.S. Senate.

There are a great many thousands of people out there, Mr. President, who have served in State legislatures and who are students, who are political science professors, who are judges, who are lawyers. They have a good grasp of legislative procedures, and the U.S. Senate is supposed to be the best of all. So they expect to see decorum; they expect to see professionalism; they expect to see a Presiding Officer who depicts the Senate at its best.

I hope that those of us who, from time to time, are called upon to sit in the chair—most usually, that assignment goes to the new Members—I hope we will all attempt to emulate that Senator who sits in the chair today, Senator BREAUX, the junior Senator from Louisiana. If we emulate him, I think we will always reflect well upon this great institution. And how else should we want to reflect upon the institution we all love?

TAIWAN

Mr. PELL. Mr. President, in the past year, after four decades of one-party martial rule, Taiwan has begun to move forward on the path toward self-determination. The two most promising developments have been government moves to abolish martial law and the formation of a vibrant new political party, the Progressive Democratic Party, or DPP.

On July 14, the Taiwan Government formally fulfilled an earlier pledge to lift the regime of martial law that for so long suffocated political freedoms on that island. This is a welcome sign—perhaps an historic step—and I commend Taiwan's leaders, particularly President Chiang Ching-kuo, for having the courage and wisdom to remove the most prominent symbol of repression and resistance to reform.

At the same time, we cannot be content with cosmetic changes that put a new face on the same reality. The end of martial law must bring real change. Under the new National Security Act that will replace martial law, military courts and military censors will no longer operate in the public domain. That is good, but the new civilian system must also accord the people of Taiwan greater rights and liberties denied under martial law. It is my hope and expectation that it will, because that is crucial to the future development of United States-Taiwan relations. I and other friends of the Taiwanese people will be following with great interest the further elaboration and implementation of the National Security Act.

Another critical question is political representation. At present, in Taiwan's National Assembly, only one-fifth of the members are elected. Most seats are held by Nationalist stalwarts who were ensconced there 40 years ago for life—and who now have an average age of about 80. Change is clearly imminent, and the best change would be the Government's introduction of truly democratic procedures for the election of Assembly members. This would entail the tolerance of free political activity and free political parties.

The issue of political parties brings me to the second positive development of the past year—the formation of the Progressive Democratic Party. The creation of the DPP last November was an inspiration to all of us who want the Taiwanese people to have a greater voice in their own future. I hope and trust that members of the DPP draw inspiration from the knowledge that many Americans share their vision of a democratic Taiwan.

The Government of Taiwan should be credited for the tolerance it has shown toward the DPP, and Americans will be following events with a powerful conviction that this tolerance must continue if Taiwan is to attain true democracy. The DPP should be recognized as a legitimate political party and accorded full political rights. Such full rights would not be in effect if the DPP were required, as a condition of being allowed to function, to support the concept of eventual reunification with the mainland.

Of Taiwan's 19.5 million people, only about 20 percent are native mainlanders; the remainder are native Taiwanese. The position of the DPP is clear. It calls neither for reunification with the mainland nor for permanent separation; it calls for self-determination. The DPP does not say that Taiwan should declare its independence from the mainland; it declares that the people of Taiwan must be free to determine their own future. It says, if the Taiwanese people freely vote for independence, the world should respect their judgment.

I fully support that position. Because I do, I am proud to serve, with Senator KENNEDY, as an honorary cochairman of the Committee for Democracy on Taiwan, along with Congressmen SOLARZ and LEACH, who serve as operational cochairmen. America was built on the principle that the American people should determine their own destiny. We cannot and should not expect the Taiwanese people to settle for anything less.

Progress is underway on Taiwan. We must urge that it continue.

LAWYERS ALLIANCE FOR NUCLEAR ARMS CONTROL

Mr. LEAHY. Mr. President, from May 25–June 2, 1987, the Lawyers Alliance for Nuclear Arms Control [LANAC] and the Association of Soviet Lawyers [ASL] held their fifth conference on arms control topics in Moscow. This was a continuation of discussions begun in meetings in 1983 in Moscow and held alternatively thereafter in Moscow and Washington, DC.

Ever since President Reagan's inauguration in January 1980, he has often said that he wants to rid the world of nuclear weapons. Yet during his Presidency we have seen a relentless assault on every existing arms control agreement accompanied by a massive nuclear arms buildup. The arms race contiues out of control.

While we wait expectantly for the United States and Soviet Union to sign an agreement limiting intermediate nuclear forces in Europe, the agreement under consideration addresses only a tiny fraction of the nuclear arsenals of the two superpowers. It does not affect the tens of thousands of strategic weapons which are the most dangerous threat to life on Earth.

Many of us have been discouraged by the lack of any progress, indeed by the attempt to turn the clock back on arms control under this administration. However, groups of private citizens in the United States and Soviet Union have continued to work to keep the dialog alive. The Lawyers Alliance for Nuclear Arms Control and the Association of Soviet Lawyers are two such organizations that have prepared several useful papers for improving United States-Soviet relations and stopping the arms race.

At their recent meeting in Moscow, LANAC and ASL discussed several matters of particular concern to the Congress, including the application of the ABM Treaty to new technologies. I ask unanimous consent that the joint papers from the 1987 conference be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

JOINT PAPERS FROM THE 1987 CONFERENCE OF THE LAWYERS ALLIANCE FOR NUCLEAR ARMS CONTROL AND THE ASSOCIATION OF SOVIET LAWYERS CONFERENCE

INTRODUCTION TO THE 1987 JOINT PAPERS

Delegates from the Lawyers Alliance for Nuclear Arms Control and the Association of Soviet Lawyers held their Fifth Conference on arms control topics in Moscow on May 25–June 2, 1987. This conference continued discussions begun at prior meetings in July, 1983, in Moscow; March 1984, in Washington, D.C.; March, 1985 in Moscow and March, 1986, in Washington, D.C., and Airlie, VA.

These papers are the result of the combined efforts of the Lawyers Alliance for Nuclear Arms Control and the Association of Soviet Lawyers. Although each participant does not necessarily agree with everything in them, all are in general agreement with their contents.

APPLYING THE ABM TREATY TO NEW TECHNOLOGIES

The 15th anniversary of the signing of the Anti-Ballistic Missile (ABM) Treaty occurred during the course of our meeting. The preservation and strengthening of this Treaty has been a principal focus of our work since the first meeting between the Lawyers Alliance and the Association in 1983. The ABM Treaty, of unlimited duration, is now the only bilateral arms control agreement ratified and in force between the United States and the Soviet Union. It is based on the principle of an inherent link between the limitation of offensive and defensive strategic weapons. It unequivocally bans the deployment of ABM systems for the defense of the territory of either party. It limits the ballistic missile defenses of each party to one land-based system of strictly limited capability and area. It prohibits development, testing and deployment of ABM systems or components that are sea-based, air-based, space-based or mobile land-based.

For 15 years, the ABM Treaty has effectively limited the competition of the two powers in strategic ballistic missile defenses and it has the potential for restraining an arms race in space. It has enhanced strategic stability and makes possible further efforts to limit offensive strategic arms.

At present, it has been suggested that the development and testing limitations of the Treaty do not apply to systems and components using new technologies which were not available when the Treaty was signed. At a previous meeting between the Lawyers Alliance and the Association we expressed our conclusion that the Treaty does apply to these new technologies. We also believe that if such a difference as to interpretation should arise at the official level, the party proposing such a reinterpretation is under an international legal obligation and is required by the terms of the Treaty itself to consult with the other party with a view to finding an agreed interpretation, before taking unilateral action adverse to the other side. Both parties should exercise restraint in the area of the dispute while consultations are going on.

The emergence of new technologies, such as laser and particle beams, was anticipated by the parties, and the Treaty was drafted to apply to them. Scientific developments over the past 15 years, however, have created an understandable need for guidance as to the precise limitations on activities employing these technologies. At this meeting, we discussed whether this need could be met by agreement on technical parameters to mark the line between permitted and prohibited activities under the Treaty. We invited scientists of both sides to join us in this effort and we are grateful for the indispensable assistance of the American Academy of Arts and Sciences, the Federation of American Scientists, and the Committee of Soviet Scientists Against the Nuclear Threat. With their help we examined such factors as laser brightness and size of power source as possible limits on testing. We also considered a possible prohibition of tests of interceptor missiles exceeding certain limits, such as altitude, approach distance and relative speed.

Although we are not yet in a position to make recommendations as to these or other proposed parameters, we have concluded that this approach to the problems of the application of the ABM Treaty to new technologies holds significant promise and merits further intensive exploration. The parameters chosen must be capable of distinguishing militarily significant activities from permissible scientific research and must be susceptible to verification. Potentially, a large number of criteria might be applicable. The effort would be to reduce them to a manageably small number—probably more than one—of distinct parameters.

The most difficult part of the problem arises in connection with dual- or multi-purpose technologies, i.e., technologies that have potential applications for anti-satellite weapons, anti-tactical ballistic missiles, air defense or civilian purposes, as well as for ABM development. The critical values of the parameters should be set with the overlap in mind. For instance, it appears that anti-satellite weapon (ASAT) development would employ many of the same technologies as ABM in very similar ways, and if left unregulated, might seriously undermine the ABM Treaty. Thus, the parameters may and perhaps should be set so as to prohibit a considerable range of ASAT developments.

The Standing Consultative Commission (SCC) is the institution created by the ABM Treaty itself to deal with such issues of application and interpretation. For many years, it served well as a forum for the resolution of such questions by consultation and negotiation between the parties. In the past we have made recommendations, which we reaffirm, for improving and strengthening the SCC, including the possibility of increasing its stature and making public some of the results reached. Unfortunately, in the present situation, the SCC is not being used as was intended to resolve outstanding issues. As lawyers, we stress again the obligation of the parties to make timely and good faith resort to the SCC in accordance with the terms of the Treaty, to "consider questions concerning compliance with the obligations assumed and related situations which may be considered ambiguous", and to "consider . . . possible proposals for further increasing the viability of the Treaty."

In addition, unofficial meetings of legal and scientific experts of both countries can make an important contribution by exploring in greater detail the scientific and juridical basis for governmental action dealing with the questions of interpretation we have examined. Both the Lawyers Alliance and the Association have agreed to explore with the appropriate scientific institutions in their respective countries the possibility of carrying out parallel and cooperative studies of these matters over the coming years.

Finally, as lawyers and experts in the field of arms control, we call again on both governments to maintain and strengthen the ABM Treaty and prevent the erosion of its wise constraints. The Treaty has met the test of time and must be preserved.

STRATEGIC STABILITY AND STABILITY OF INTERNATIONAL RELATIONS

The concept of "strategic stability" has entered our vocabulary, being used in the practice of international relations and in analyzing existing or potential international situations. Meanwhile, we are not aware of a precise definition of this phrase, agreed to in any document between our two governments.

Our two governments, however, have agreed to pursue "strategic stability" in their negotiations over strategic nuclear weapons. In their "Joint Statement of Principles and Basic Guidelines for Subsequent Negotiations on the Limitation of Strategic Arms" dated June 18, 1979, they stated:

". . . (T)he Parties will continue, for the purpose of reducing and averting the risk of outbreak of nuclear war, to seek measures to strengthen strategic stability by, among other things, limitations on strategic offensive arms most destabilizing to the strategic balance and by measures to reduce and to avert the risk of surprise attack".

By a communique signed by both sides at a meeting of the Foreign Minister and the Secretary of State on January 8, 1985, the production of effective agreements directed to be the strengthening of "strategic stability" was declared to be a goal of the current Soviet-American negotiations on nuclear and space arms in Geneva: "The objective of the negotations will be to work out effective agreements aimed at preventing an arms race in space and terminating it on Earth, at limiting and reducing nuclear arms and at strengthening strategic stability."

The Anti-Ballistic Missile (ABM) Treaty and Strategic Arms Limitation Talks (SALT) agreements of 1972 and 1979 preceded these two agreed statements about "strategic stability" and provided a context for them. The ABM-SALT agreements were based on a concept which later came to be associated with strategic stability. This concept was well expressed in a 1969 statement made by the Chairman of the Soviet SALT delegation which he said had been authorized by the highest political and military leaders in Moscow. This statement, accepted by the American side, was as follows:

"Even in the event that one of the sides were the first to be subjected to attack, it would undoubtedly retain the ability to inflict a retaliatory strike of annihilating power. Thus, evidently, we all agree that war between our two countries would be disastrous for both sides. And it would be tantamount to suicide for the one who decided to start such a war".

This basic idea was repeated in the November 1985 Geneva Summit in which the heads of our two governments agreed that "nuclear war cannot be won and must never be fought." Recognizing that any conflict between the U.S. and the U.S.S.R. could have catastrophic consequences, they emphasised the importance of preventing any war between them, whether nuclear or conventional. They will not seek to achieve military superiority.

The idea that attempts to achieve superiority can threaten the security of both sides was agreed to by the Lawyers Alliance and the Association at our 1984 meeting. Indeed, we went further. We recommended adoption by our government of the following principle:

"Keeping in mind that each side's security depends on the other; a threat by one to the security of the other is a threat to both; the security of both can be improved by cooperative efforts; continuing stockpiling of nuclear arms threatens the security of both".

From these statements, it is clear that our two governments have used "strategic stability" to describe a goal for their future negotiations to limit and reduce nuclear arms, to prevent an arms race in space and to avert the risk of surprise attack. In this context, we believe the idea of strategic stability includes at least:

(A) reducing the risk of war between our two countries;

(B) maintaining a rough balance or parity in military capability between our two sides;

(C) achieving deep reductions in arms while at the same time satisfying paragraphs (A) and (B).

In this context, we now agree on the following statements about "strategic stability":

Strategic stability would be served by reducing incentives to start either nuclear war between us, or a conventional war which could escalate into a nuclear war.

Strategic stability is disserved by an increase in the number of independent powers controlling nuclear weapons, whether these powers are nation-states of subnational groups.

Strategic stability would be served if both sides were confident that their command system and retaliatory forces could survive a nuclear surprise attack.

Strategic stability is disserved when warning of an attack is so short that those responsible for command cannot reach invulnerable command posts in time.

Strategic stability is reduced as each side deploys more accurate MIRVed missiles and it would be served by deep reductions in those strategic forces which can attack the other side's command system or retaliatory forces.

Both sides seek something better than the present "balance of terror" in nuclear arms. An important step would be deep reductions to a minimum deterrent on each side. This step should be taken while at the same time maintaining strategic stability, as that goal is described above.

Strategic stability is also served by the kind of relations in which each side strives to resolve disputes by peaceful means without threat of use of force.

The legal aspect of the concept of strategic stability includes two large categories:

The creation of new and strengthening of existing legal norms, directed at improving stability; and

The actions of the parties within the framework of these norms.

New legal norms in the form of treaties limiting and reducing arms can be created by conducting negotiations in the manner we recommended in prior meetings. Existing legal norms can be strengthened in the same way.

Successful implementation of existing norms requires using established procedures giving the parties confidence that (a) the treaties will be given the same interpretation; (b) ambiguities arising from developing technologies and from other changes will be resolved; and (c) complaints of non-compliance will be resolved whether arising from substantive or procedural provisions of a treaty (including its withdrawal clause).

We make the following recommendations concerning implementation of existing arms limitation treaties:

1. All such treaties to which both our countries are party should be maintained in full force and effect. Of these, the only bilateral arms limitation agreement remaining in legal effect is the ABM Treaty.

2. The numerical limits set by the SALT I and II agreements should be maintained in effect by the mutual restraint of our two governments.

3. Both governments should ratify the Treaty on Limitation of Underground Nuclear Weapon Tests and the Treaty on Underground Nuclear Explosions for Peaceful Purposes.

4. We continue to believe, as we said last year, "that it is the level obligation of the United States and the Soviet Union, pursuant to the Limited Test Ban Treaty and subsequent agreements, to make every reasonable effort toward completion of a Comprehensive Test Ban Treaty". We urge renewed efforts to negotiate such a treaty.

BUILDING TRUST BETWEEN THE U.S. AND THE U.S.S.R.

Suspicion and distrust make it difficult for our two governments to work effectively together. The delegation spent a full day considering the causes of distrust and what might be done to improve reliability and mutual confidence. It was agreed that the goal of "trust" should not be interpreted too broadly. Neither government should expect the other to act contrary to its enlightened self-interest.

On the other hand, efforts could be undertaken to help each government appreciate the extent to which its enlightened self-interest is likely to be served:

By being reliable and predictable;

By behaving in ways that reconcile its national interests with the legitimate interests of other countries;

By making sure that long-term international interests are taken fully into account when weighed against short-term and domestic interests;

By respecting and strengthening the regime of international law which helps provide reliability, balances the interests of different countries, and emphasizes long-term considerations;

By reporting honestly the extent to which the other country has in fact been respecting its international obligations; and

By doing what it can to avoid the perception that the other country is a "permanent enemy".

U.S.-Soviet collaboration on the technical problems of arms control is now more advanced than are comparable efforts on issues of the international negotiation process, the working relationship, mutual confidence, and reliability. Joint work needs to be undertaken in this area—on what one of our participants called "the science of living together."[*]

Biographies of the Delegates

THE LAWYERS ALLIANCE FOR NUCLEAR ARMS CONTROL DELEGATION

Roger Fisher, co-chairman: Williston Professor of Law, Harvard Law School, and Director of the Harvard Negotiation Project. Author of International Conflict for Beginners (1969); Points of Choice: International Crises and the Role of Law (1978); and Getting to Yes: Negotiating Agreement Without Giving In (1981).

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[*] This paper was based upon a discussion paper entitled "Building Trust Between the U.S. and the U.S.S.R." by Roger Fisher. It is available upon request from the Lawyers Alliance for Nuclear Arms Control, 43 Charles Street, Suite 3, Boston, MA 02114.

George Bunn: Visiting Fellow, Center for International Security and Arms Control, Stanford University. Stockton Professor of International Law, Naval War College, 1983-1987; Dean, University of Wisconsin Law School, 1969-1983; General Counsel to the U.S. Arms Control and Disarmament Agency, 1961-1969.

Abram Chayes: Felix Frankfurter Professor of Law, Harvard Law School. Author of The International Legal Process (1961) (with T. Ehrlich and A. Lowenfeld); ABM: An Evaluation of the Decision to Deploy an Anti-Ballistic Missile System (1969) (with J. Wiesner); The Cuban Missile Crisis, International Crisis and the Role of the Law (1974).

Antonia Handler Chayes: Chairman—Endispute, Inc. Director, United Technologies Corporation. Adjunct Lecturer, John F. Kennedy School of Government, Harvard University. Fellow, Center for International Affairs, Harvard University. Partner, Csaplar & Bok, Boston, MA, 1974-1977, 1981-1985. Assistant Secretary, 1977-1979, Undersecretary, 1979-1981, Department of the Air Force.

John C. Culver: Partner—Arent, Fox, Kintner, Plotkin & Kahn, Washington, D.C. United States Senator from Iowa, 1975-1981; U.S. Congressman from the Second District of Iowa, 1965-1975.

Adrian W. DeWind: Partner—Paul, Weiss, Rifkind, Wharton & Garrison, New York, N.Y. President of the Association of the Bar of the City of New York, 1976-1978. Fellow of the American Bar Foundation, New York Bar Foundation, and American College of Tax Counsel.

John H. Downs: Of counsel—Downs, Rachlin & Martin, Burlington, Vermont. President of the Vermont Bar Association, 1974-1975. Chairman of the Vermont House Ways and Means Committee, 1963-1964, and State Representative, 1961-1964.

Ralph Earle II: National Policy Advisor, Lawyers Alliance for Nuclear Arms Control. Partner, Baker & Daniels, Washington, D.C., 1984-1986; Partner, Earle and Green & Co., Stamford, CT, 1982-1983; Director, U.S. Arms Control and Disarmament Agency (ACDA), 1980-1981; ACDA representative, Alternate Chief, and Chief Negotiator (with rank of Ambassador), Strategic Arms Limitation Talks (SALT II), 1973-1980.

Erwin N. Griswold: Partner—Jones, Day, Reavis & Pogue, Washington, D.C. Dean Emeritus and Langdell Professor of Law Emeritus, Harvard Law School, 1967-present. U.S. Solicitor General, 1967-1973. Dean, Harvard Law School, 1946-1967.

Shirley M. Hufstedler: Partner—Hufstedler, Miller, Carlson & Beardsley, Los Angeles, C.A. BU.S. Secretary of Education, 1979-1980. Judge, U.S. Court of Appeals for the Ninth Circuit, 1968-1979. Associate Justice, California Court of Appeals, 1966-1968. Judge, Los Angeles County Superior Court, 1961-1966.

John Pike: Associate Director for Space Policy, Federation of American Scientists. Member, Council on Foereign Relations.

John B. Rhinelander: Partner—Shaw, Pittman, Potts & Trowbridge, Washington, D.C. Legal advisor, U.S. Delegation to Strategic Arms Limitation Talks (SALT I), 1971-1972. Special Civilian Assistant to the Secretary of the Navy, 1966-1968. Deputy Legal Advisor, Department of State, 1969. General Counsel, Department of Health, Education and Welfare, 1973-1975. Under Secretary, Department of Housing and Urban Development, 1975.

Anthony P. Sager: Executive Director, Lawyers Alliance for Nuclear Arms Control. Director, Professionals' Coalition for Nuclear Arms Control. Assistant Attorney General, Massachusetts Department of the Attorney General, 1976-1984.

Alan B. Sherr: President, Lawyers Alliance for Nuclear Arms Control. Director, Professionals' Coalition for Nuclear Arms Control. General Counsel, Massachusetts Executive Office of Human Services, 1981-1982. Assistant Attorney General, Commonwealth of Massachusetts, 1978-1981. Vice-chairman, Committee on Nuclear Arms Control and Disarmament, Individual Rights and Responsibilities Section, American Bar Association, 1982-present. Director, Project on Soviet Foreign Economic Policy and International Security, Brown University.

THE ASSOCIATION OF SOVIET LAWYERS DELEGATION

Vadim K. Sobakin, co-chairman: Professor of International Law, Moscow State Institute of International Relations; consultant to International Department of the Central Committee of the Communist Party of the Soviet Union; former U.S.S.R. Permanent Representative to UNESCO (Paris); co-editor of U.S.S.R. Constitution of 1977; vice-president of Association of Soviet Lawyers.

Aleksei G. Arbatov: Department Director, Institute of International Economics and International Relations of the U.S.S.R. Academy of Sciences.

Igor P. Blishchenko: Head of the Sector of International Law, University of People's Friendship; vice-president, Association of Soviet Lawyers.

Mikhail I. Gerasev: Senior Research Fellow, Institute of U.S.A. and Canada Studies of the U.S.S.R. Academy of Sciences.

E.P. Kamenetzkaya: Senior Research Fellow, Institute of State and Law.

Nikolai S. Kishilov: Head of Section, Institute of International Economics and International Relations of the U.S.S.R. Academy of Sciences.

A.A. Konovalov: Leader of Group, Institute of U.S.A. and Canada Studies, U.S.S.R. Academy of Sciences.

Rein Mullerson: Head of Sector of International Law, Institute of State and Law.

S.K. Oznobishchev: Senior Research Fellow, Institute of U.S.A. and Canada Studies of the U.S.S.R. Academy of Sciences.

Sergei Plekhanov: Head of Department of Political and Social Studies, Institute of U.S.A. and Canada Studies of the U.S.S.R. Academy of Sciences.

O.F. Prilutzky: Head of the Department, Institute for Space Research, U.S.S.R. Academy of Sciences.

B.V. Raushenbakh: Member of the U.S.S.R. Academy of Sciences; Head of Sector, Moscow Physical-Technical Institute.

S.N. Rodionov: Chief of Laboratory, Institute for Space Research, U.S.S.R. Academy of Sciences.

Konstantin F. Shakhmuradov: Executive Secretary, Association of Soviet Lawyers.

Bakht[illegible] R. Tuzmukhamedov: Senior Research Fellow, Scientific Research Department, Diplomatic Academy of the U.S.S.R. Ministry of Foreign Affairs.

Aleksei A. Vasiliyev: Head of Department of Military and Political and Social Studies, Institute of U.S.A. and Canada Studies of the U.S.S.R. Academy of Sciences.

Vladlen C. Vereshchetin: Deputy Director, Institute of State and Law.

S.I. Zimenko: Deputy Director, U.S.A. Department, Union of Friendship Societies.

WELCOMING THE ANNOUNCEMENT OF QUOTAS ON CERTAIN SPECIALTY STEEL PRODUCTS

Mr. ROCKEFELLER. Mr. President, I am very pleased to see that President Reagan has agreed to continue until September 30, 1989, import relief on specialty steel products. This relief, in the form of quotas and tariffs, was due to expire on July 20. Had the President allowed this relief to end next week, American specialty steelmakers would have been vulnerable to a sharp and sudden surge in imports of these products.

This action follows the recommendation by the International Trade Commission that American producers needed further protection from import of specialty steel products, as well as numerous appeals from myself and other Senators for an extension of help for this beleaguered industry.

The steel industry in the United States continues to be the victim of unfair trading practices throughout the world. Governments in both developing and industrialized countries have chosen to subsidize their steel production, and the result has been tremendous damage to our steel industry. We have taken many measures to deal with these unfair actions, including a number of attempts in this year's trade bill to correct this basic inequity and unfairness. This extension is helpful. I only hope that the Reagan administration will listen to the message of concern that we are sending in the trade bill and play a more activist role over the next year and a half in dealing with these improper practices overseas.

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1987

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the pending business, S. 1420, which the clerk will state.

The legislative clerk read as follows:

A bill (S. 1420) to authorize negotiations of reciprocal trade agreements, to strengthen U.S. trade laws, and for other purposes.

The Senate resumed consideration of the bill.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PRESSLER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, as we consider the trade bill, I should like to make a few remarks. First of all, I am glad that this bill includes an amendment I placed in it, when it was sequentially referred to the Foreign Relations Committee, regarding the need to make international agricultural trade agreements our top priority. Indeed, our trade tension with both Europe and Japan has its roots, in a major way, in agricultural trade. This is particularly true of our tensions with Europe.

However, I think that for too long we have gone to GATT agreements in Punta del Este and other places without achieving results. We have sent trade delegations and we have talked about industrial trade and we have reached agreements in those areas, but many agricultural products do not even fall under GATT. Therefore, my resolution would have the administration make the negotiation of a specific treaty a top priority.

For example, I believe strongly in a treaty among the Western nations to reduce agricultural production through a land set-aside program, through a conservation reserve, in which fragile land would be planted to grass and trees. It would preserve the soil for future generations, but it would also reduce production. The taxpayers of the United States and the taxpayers of Europe are spending a great deal on storing these surplus agricultural products.

The resolution I have sponsored in the Senate, and which Representative BEREUTER has sponsored in the House, regarding such an international treaty has been taken to Europe by the U.S. wheat growers as their No. 1 item of discussion. Several European political parties have endorsed the need for an agricultural reserve or set-aside program. So it is an idea whose time is coming. Indeed, this is just the beginning of the type of international treaty we need among countries to reduce agricultural production and to get us to a point where we do not need subsidies of agricultural products but where the world price would be high enough that subsidies would not be required by farmers and the agricultural industries of the various countries.

Recently, President Reagan proposed that by the year 2000, agricultural subsidies be eliminated. That would be almost impossible from a practical and a political point of view, given the current circumstances; but if agricultural production is reduced and if demand expands to a point where farm prices are high enough that we do not need subsidies, it would be a realistic proposal. One way to achieve that is through a series of treaties with other countries, and some of these countries are interested in entering into them, but it will take a lot of work and understanding and support.

The next time we write a farm bill on the Senate floor, which probably will be 1990, I believe, we are going to have a hard time continuing farm program benefits of $25 billion a year.

The farm bill is costing more than anticipated. It is costing, as I understand it, approximately $25 billion a year. We do not know for sure yet, depending on the size of the crops and the deficiency payments. Some of the programs are costing less than anticipated. The marketing loan programs for cotton and rice, as I understand it, are costing less.

So, the point I am making is that I think we must look to the future in agricultural trade. We must think realistically about the world we live in.

I also would predict that the European taxpayers will not stand permanently for allowing such a high level of taxpayers' money to go into farm subsidies.

Mr. President, let me make some other remarks about the trade bill. We always have a problem here on the Senate floor when nongermane items are put into a bill, and I know our constituents have a hard time understanding why there are so many extraneous items put into many bills.

In this particular bill, there is now a plant closing provision. To me, this is an improper place for that piece of legislation. This is a trade bill. The plant closing legislation should not be in there.

However, that is how we operate here, and it is always hard to explain this to constituents, but we have to explain it as best we can, many nongermane amendments are attached to almost every bill.

We heard the discussion of the Boland amendment in the Iran-Contra hearings on television. The Boland amendment actually was included in a huge, continuing appropriations resolution. It is one way to legislate.

Indeed, in 1980 I offered on the floor of this Senate an amendment striking down the Russian grain embargo that was included in an appropriations bill. Although it was taken out in conference, eventually, the President of the United States ended that grain embargo.

So, my point is there is a certain amount of this legislative effort, including these examples, but I am particularly concerned that the plant closing provision in this trade bill takes a step toward further Government regulation of business rather than less.

It is ironic that this bill has been advertised as a competitiveness enhancement bill, although it includes labor provisions which have the opposite effect. These labor issues should be dealt with in separate legislation. I hope this provision can be modified in the conference committee.

It is essential that we recognize that the passage of this bill will not solve all of our trade problems and make our trade deficit disappear overnight.

The trade deficit can be eliminated only through the cooperative efforts of business, labor, Government, and consumers. Labor and business must continue to strive to maximize their competitiveness. Consumers must recognize the value of purchasing U.S. products and make a conscious effort in this area.

Finally, the U.S. Government must aggressively pursue elimination of unfair trade policies.

Mr. President, when we talk about trade and productivity, I have been critical of Government waste. I am a persistent critic of Congress in this area. But I am also a critic of corporate leaders who take advantage of golden parachute agreements which abuse stockholders' rights and make our whole system less competitive. I have been critical of the excessively high salaries paid to certain corporate executives which I think lessens competitiveness and makes labor unions less willing to take lower raises, and I have been critical of labor unions for featherbedding and taking advantage in certain instances, although those have not been so frequent in the last few years.

The point is when we talk about trade, we must think about productivity and competitiveness here at home.

Also, we must consider product liability, reform of our tort system, making our prices lower, making the economy more productive.

These are hard issues. Everybody around this Capitol talks about competitiveness, but some of the hard issues are not talked about, and one of those is tort reform. All of the excessive punitive damages and lawsuits make U.S. products more expensive. We might well emulate what is being done in this area in Japan, for example.

Mr. President, the issue of competitiveness frequently falls upon people who say "Well, our workers cannot compete against workers who get paid only 50 cents an hour in some other country."

That is not true. In the 1950's our workers outproduced them even though our people were paid 10 times more. We were competitive because American technology and know-how were superior, was good management, labor was good, and Government refrained from excessive regulation. That made us competitive—moreso than any trade bill.

Some of our current competitiveness problems result from excessive golden parachute agreements. Some of this problem might be caused by excessive salaries for corporate executives, which set a bad example for everyone, including the labor unions. Some of our problems might be excessive and wasteful government practices or a Congress that does not do its job or a government that does not get things done on time and in an honest and straightforward manner.

Mr. President, all of these circumstances affect our competitiveness. Educational deficiencies also play a part, and I have cosponsored and sponsored legislation to deal with this area. For example, I sponored the Strategic Defense Initiative Education Act to try to encourage more engineering and study of the hard subjects, so to speak, such as physics, so that we would become more competitive in research and development.

My State is one of those seeking the superconducting super collider project which will do experiments in energy and physical matter. Such work could restore America to the forefront of research and development. This is something we need very much.

These are challenges we must face and overcome as a nation if we are to become more competitive. On this trade and imports issue, it is very easy to speak to groups of businessmen or laborers or farmers or students, and support putting up trade barriers to protect our own markets and products. But protectionism will not solve the problem unless we are competitive and productive in Government, business, and labor.

Let me give you an example. A few years ago the Japanese placed a voluntary restraint on the number of automobiles imported into the United States. This resulted in many of the automobile dealers in my State not being able to get enough Japanese cars to fill their customers' orders. I had letters and conversations with secretaries, workers, wage earners, and others who had saved money to buy a new car and wanted to buy a Japanese car because they felt it was a superior-performing car. According to Consumer Reports, in some instances they are right, but people would say to me, "Why do we have to be on a waiting list for a Japanese car?"

There are two sides to this trade bill. A lot of people want a good product. If the foreign product is clearly superior, the American consumer has some rights, and we, in Congress, cannot merely put up trade barriers to keep the product out. For some of these problems, we must find better ways to produce through research and development, more effective Government, more effective business, and more effective labor. It is too easy for us in public life to stand up and say "we will pass tariffs," because tariffs might help for a year or two. But in the long run, they will not help. We must find the product areas where we have a comparative advantage and then produce those products. We are one world in terms of trade. It is irresponsible for us as public officials to take the easy route and to preach protectionism at a time when we should be moving toward trade negotiations that might open up markets.

That being said there are some countries that just do not negotiate very well, and one of those is Japan. You can talk and talk and talk to the Japanese and they smile at you, but they make few reforms, and that has been going on for a number of years.

It is my strongest feeling that there is a case to be made for some retaliation and in this bill we do give the President a basis for retaliation. That is the other side of the coin.

Mr. President, Japan and other nations must be forced to open their markets to U.S. beef, wheat, rice, and other products. Congress also must make the tough decisions necessary to reduce the budget deficit.

Let me say excessive government spending is an important part of our trade situation. Our Federal budget deficit here in the United States makes us less competitive and that is something for which the Congress can be held responsible. I say that as a long-time critic of the way Congress handles its budgetary process.

Mr. President, the trade bill makes many necessary changes in U.S. trade policy. I do not support all of its provisions, such as the plant closing requirement, but it is generally a good bill. However, I want to emphasize that the Senate and the United States in general cannot forget about international trade once the bill is passed. The administration must aggressively negotiate fair trade agreements, Congress must reduce the budget deficit and American industry must strive to become more competitive. Passage of this bill will only be the beginning of our efforts.

(Mr. CONRAD assumed the chair.)

Mr. **PRESSLER**. Mr. President, I frequently have said that I think farm prices over the next 10 years will be affected much more by what is done in international trade and agreements than by domestic programs. It is true that until 1990 we have a farm bill in place which provides a lot of money to farmers, but I predict that in 1990 if the budgetary deficits continue we will not be able to provide that much money. I think that is why people are afraid of opening up the farm bill, very frankly. I think that the current farm bill will remain essentially in place until 1990, with some modifications. I would like to see some modifications. We stand at a time in history when, as perhaps never before, we must understand the intricacies of international trade.

We must have a growing flow of international trade. We must find our comparative advantages. It will not be easy, but it must be done if we wish to maintain our standard of living.

If we do not do those things, our standard of living will decline and that will be a very painful thing. If we do not get rid of our budgetary deficit, at some point an economic catastrophe will occur. Foreign investments will stop coming into the United States and we will find ourselves in a very severe situation. Much of our expansion in recent years has been financed by deficit spending, and by foreign investment in the United States. At some point, if the birds come home to roost, there will be a very painful reconing and it will be a harsh lowering of the standard of living of the American people. That will be a very hard thing to accept.

Also, Mr. President, let me say a word about the work ethic. I believe very strongly in the work ethic, as does probably everybody here. When we talk about the work ethic, we usually talk about workers working very hard, maybe for lower wages than they should. But the work ethic applies in the corporate suite. I do not like to see Congress get involved in how much executives are paid, but I recently read an article about the top executives in corporations and believe they are paid too much. They take too much away from stockholders and from reinvestment of earnings in their corporations. They take too much away from productivity.

Excessive golden parachute agreements are outrageous. They make labor unions less likely to take lower wage increases. That is not a good example of the work ethic. People should be paid well for their efforts, but many golden parachutes abuse the system. If Congress would attack some of those benefits at a higher level, we would be charged with interference; but I call upon business and stockholders at their annual meetings to start demanding more accountability from corporation executives who should be setting a better example for young people.

Mr. BENTSEN addressed the Chair.

The **PRESIDING OFFICER**. The Senator from Texas.

Mr. **BENTSEN**. Mr. President, we have some amendments that will be proposed this morning but let me urge those that might be watching the TV consoles, whether it be Members or Members' staff, do not let yourself get caught Tuesday afternoon at 6 o'clock, not having a chance to debate your amendment. Now is the time to do it.

If you really want a chance to express your views on your amendment, if you think it has merit enough to face the public scrutiny, then get over here and present it. We are going to have a lot of openings early today and you ought to take advantage of it. Otherwise you will get to the very end of this procedure 6 o'clock on Tuesday, and you will not have a chance to bring up your amendment. Then they will all be taken, one right after another. You will get a chance to vote on it but you won't get a chance to present your point of view.

Now is the time to do it. Do not look at it with the idea of, well, we want to count our votes and be sure who is in town today. You do not know any more if they are going to be in town today than you do if they are going to be in town on Tuesday. At some point you have to take your chances and if you have a meritorious amendment and you can get your point of view across and have a chance to discuss it, then I would assume you would have a better chance of passing it. But I would strongly urge those who are watching the consoles in their respective offices, come over early, take advantage of the time that you have allocated to you under the cloture rules. Otherwise you are really going to get caught in the crunch on Tuesday, and you will not have time to get your point of view across.

The PRESIDING OFFICER. The Senator from Florida.

Mr. GRAHAM. Mr. President, I am prepared to send an amendment to the desk. I would like to ask the manager, the distinguished Senator from Texas: I had suggested yesterday a time limitation on this amendment of 10 minutes equally divided. I do not believe action was taken on that. I would be prepared to ask for unanimous consent.

Mr. BENTSEN. The distinguished Senator from Florida, I feel an obligation to the minority to make sure that that is cleared. I see one Member—do we have any comment on that?

Mr. PRESSLER. Mr. President, I am told that 10 minutes on this amendment is agreeable.

Mr. BENTSEN. My understanding is you cleared that with the staff for the minority?

Mr. PRESSLER. That is true.

Mr. BENTSEN. All right. Then, Mr. President, the request has been made. I know of no objection from this side, and we have just been informed by a Senator for the minority that there was no objection on their side.

The PRESIDING OFFICER. Is there objection to the request? Hearing none, that is approved.

AMENDMENT NO. 592

(Purpose: To suspend nondiscriminatory treatment for Angolan products)

Mr. GRAHAM. Mr. President, I thank the distinguished Senators from Texas and from South Dakota. I now send to the desk an amendment and ask it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Florida [Mr. Graham] for himself, Mr. Chiles, Mr. Dole, and Mr. DeConcini proposes an amendment numbered 592.

Mr. GRAHAM. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . SUSPENSION OF NONDISCRIMINATORY TREATMENT FOR ANGOLAN PRODUCTS.

(a) Initial Suspension.—The products of Angola may not receive nondiscriminatory treatment (most-favored-nation treatment and generalized system of preferences treatment) during the 6-month period beginning on the date of the enactment of this Act.

(b) After Initial Suspension.—The products of Angola may receive nondiscriminatory treatment (most-favored-nation treatment and generalized system of preferences treatment) during any rights review period referred to in subsection (d) only if—

(1) no later than the 30th day before the close of the immediately preceding rights review period, the President submits to the House of Representatives and the Senate a document containing a Presidential determination that Angola—

(A) is making a concerted and significant effort to comply with internationally recognized human rights,

(B) has entered into discussions with its non-communist opposition,

(C) has established a body of laws that assures the full national participation of all the people of Angola in the social, political, and economic life in that country,

(D) has held free and fair elections under international supervision, and

(E) all troops from Cuba, the Soviet Union, and any other Communist country have withdrawn from Angola, and

(2) a joint resolution disapproving such application is not enacted, in accordance with the procedures referred to in subsection (c) before the close of the rights review period in which the document referred to in paragraph (1) is submitted.

(c) Contents of Resolution.—

(1) In general.—For purposes of this subsection, the term "joint resolution" means only a jount resolution of the two Houses of Congress the matter after the resolving clause of which is as follows: "That the Congress disapproves the application of nondiscriminatory treatment (most-favored-nation treatment and generalized system of preferences treatment) to the products of Angola that was recommended by the President to the Congress on ", with the blank space being filled with the appropriate date.

(2) Application of procedures under the trade act of 1974.—The provisions of section 152 of the Trade Act of 1974 (relating to concurrent resolutions) apply to joint resolutions except that in applying section 152(c)(1), all calendar days shall be counted and 5 calendar days shall be substituted for 30 calendar days. Section 145(a) of the Trade Act of 1974 applies to documents transmitted by the President under subsection (b)(1).

(d) Rights of Review Period.—The term "rights review period" means—

(1) the 6-month period referred to in subsection (a); and

(2) each successive period of 180 consecutive calendar days occurring after the last day of the 6-month period referred to in paragraph (1).

(e) Inapplicabilty of Certain Title IV Provisions.—On and after the date of enactment of this Act, section 401 and 401 of the Trade Act of 1974 shall not apply with respect to the tariff treatment of the products of Angola.

Mr. GRAHAM. Mr. President, I am offering this amendment on behalf of myself and Senators Chiles, DeConcini, and Dole.

We had extensive discussion on the background of this issue several days ago when a more extensive proposal for embargo against Angola was considered and defeated.

This proposal is a more limited one in that it would remove from Angola the special preferences which are currently granted to that country.

I will discuss in a moment the formulation of the removal of those special preferences but first, briefly, the Angolan policy for the United States represents an embarrassing contradiction. First, the Angolan Government is waging civil war against internal, non-Communist opposition and has refused to enter into agreements leading to a democratically selected government for that country.

Second, that civil war is being financed by the sale of products to the United States.

Third, the funds from those sales are being used to hire foreign mercenaries, particularly from the Soviet Union and Cuba, to wage the war on behalf of the Communist Angolan Government.

Fourth, those 3,500 Cuban troops are being used to support the Cuban economy. The sale of human beings by the Government of Cuba to the Government of Angola represents the second-largest generation of hard currency for the Cuban Government. The Cuban Government is using that, not only to prop up its internal economy but also to export violence throughout the region and the final absurdity in this series of contradictions is the United States is currently running a $642 million trade deficit with Angola.

Mr. President, Angola is the only country in the world with which the United States does not have diplomatic relations to whom we extend the special benefits of a generalized system of preferences and the most-favored-nation status to facilitate that country's ability to sell its products in the United States. This amendment would propose to eliminate those preferences to this country in the same manner in which this body has already twice voted to do so for Romania.

Briefly, that procedure would be that those special preferences would be repealed for a 6-month period, 6 months beginning on the enactment of this legislation. The President, 150 days after the enactment of this legislation, could make a certification to this body that the Government of Angola has met some basic requirements.

What are those requirements? That there has been an effort made to work toward compliance with internationally recognized human rights; that discussions have been entered with non-Communist opposition; that a body of laws, which assures a full, national participation by the Angolan people in the social, political and economic life of that country have been enacted; that fair and free elections have been held; and that Soviet and Cuban troops have been eliminated.

Those are the requirements which would be made necessary, of the Angolan Government, in order for the President to certify that we can restore the special preferences that are currently granted to that nation.

I believe that is the least that this body can do to express our outrage at the circumstances in the country of Angola, the exportation of violence in the continent of Africa, and in our own hemisphere.

Mr. President, I urge the adoption of the amendment.

Mr. DOLE. Mr. President, I am pleased to join as cosponsor of the Graham amendment, suspending MFN for Angola for 6 months.

Earlier in our consideration of the trade bill, the Senate considered an amendment offered by myself, Senator GRAHAM, Senator DECONCINI and a number of other Senators, which would have imposed a trade embargo on Angola.

The amendment offered by Senator GRAHAM—though more limited in scope—grows out of the same basic concern: That the policies of the Marxist MPLA are inimical to American interests in southern Africa—particularly in inviting into Angola more than 40,000 Cuban troops; in refusing negotiations to end a terrible civil war; and in widespread human rights abuses against the Angolan population.

There is no reason that the United States should be extending any trade benefits to such a government. There is no question that the dollars which the MPLA derives from its exports to the United States are used, directly, to pay for the Cuban troops—the troops that prop up the illegal MPLA regime, and carry on the war against the democratic resistance. I don't want American dollars supporting those policies; I certainly don't want to see what amounts to U.S. subsidization of those policies.

We in the Senate have already agreed to suspend MFN to Romania for 6 months. I supported that effort.

The situation in Angola is, if anything, even more serious. The human rights abuses are even more widespread and serious. The war is taking a terrible toll in human life.

At a minimum, the Senate ought to be prepared to take this small but significant step.

Mr. President, I commend Senator GRAHAM for offering this worthwhile amendment; and I encourage all Senators to support it.

The PRESIDING OFFICER. Is there further debate?

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. I believe we should support the amendment. I believe the distinguished Senator from Florida has well addressed the issue of the removal of the most-favored-nation status. Removal of it in this particular instance, I think, is fully justified, and I would urge the adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? Hearing none, the question is on agreeing to the amendment of the Senator from Florida.

The amendment (No. 592) was agreed to.

Mr. BENTSEN. I move to reconsider the vote by which the amendment was agreed to.

Mr. GRAHAM. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 593

(Purpose: To amend the International Air Transportation Fair Competitiveness Practices Act of 1974)

Mr. BENTSEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Texas [Mr. BENTSEN] proposes an amendment numbered 593.

Mr. BENTSEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 954, beginning with line 8, strike out all through line 11 and insert in lieu thereof the following:

SEC. 4502. (a) The third sentence of section 2(b)(2) of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. App. 1159b(b)(2)) is amended by striking out "but in no event may" and all that follows through "180 days" and inserting in lieu thereof "but the aggregate period for taking action under this subsection may not exceed 90 days".

(b) Section 2(b)(2) of such Act is amended by inserting immediately after the third sentence the following new sentence: "However, if on the last day of such 90-day period, the Secretary finds that—

"(A) negotiations with the foreign government have progressed to a point that a satisfactory resolution of the complaint appears imminent;

"(B) no United States air carrier has been subject to economic injury by the foreign government or an instrumentality of the foreign government (including a foreign air carrier) as a result of the filing of the complaint; and

"(C) public interest requires additional time before the taking of action with respect to the complaint;

the Secretary may extend such 90-day period for not to exceed an additional 90 days.".

On page 955, beginning with line 7, strike out all through line 14 and insert in lieu thereof the following:

"(e) Not later than the 30th day after taking action with respect to a complaint under this section, the Secretary of Transportation shall report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on actions that have been taken under this section with respect to such complaint, unless such complaint is withdrawn before such 30th day.".

Mr. BENTSEN. Mr. President, I am pleased to offer an amendment to section 4502 of the Commerce Committee trade bill title. That section of the Commerce Committee bill is designed to improve the ability of the United States to respond to discriminatory actions by foreign governments and airlines against our domestic airlines. It amends the International Air Transportation Fair Competitive Practices Act in three ways:

First, it reduces the time period for the Secretary of Transportation to take action on a complaint under the act from 180 to 90 days; second, it requires the Secretary to solicit the views of the U.S. Trade Representative and the Commerce Department before taking action on a complaint; and third, it would require the Secretary to report to the relevant congressional committees on the action taken on each complaint lodged under the act unless a complaint is withdrawn.

Mr. President, the Senate and House versions of this amendment are almost identical, except that the House has provided for an "escape clause" in the time period in which the Secretary has to take action on a complaint. It provides that in cases of unusual complexity or cases in which negotiations with a foreign government or airline are advancing, but for one reason or another cannot be absolutely completed within 90 days, that the Secretary can take an additional 90 days if needed.

Mr. President, when the Commerce Committee was considering this amendment, we were unaware of the complexity and sensitivity of some of the issues involved in the negotiations. We have since heard from officials at the Department of Transportation and the State Department who actually conduct these kinds of negotiations with foreign governments and airlines. They have made a compelling case that sometimes 90 days is simply not enough time to complete, successfully and amicably, a transaction. It is not our intent to tie the hands of our negotiators or to create an atmosphere of distrust or a climate for retaliatory actions on the part of foreign governments and airlines.

The amendment I am offering will help to make sure that this does not happen. It mirrors the House approach and allows for an "escape clause" in order to ensure that our negotiators are not handicapped, and our airlines are not injured by retaliatory meaures. That is all that it does.

Mr. President, I am pleased that I have received so much cooperation from the chairman of the Commerce Committee, Senator FORD, Chairman of the Aviation Subcommittee, and the ranking member of the committee, Senator DANFORTH, Senator WILSON, and others. They have signed off on the amendment and no rollcall appears necessary. I urge its adoption.

Mr. PRESSLER. Mr. President, there is no objection to the amendment on this side. I ask that I be added as a cosponsor, as a member of the Commerce Committee.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRESSLER. Mr. President, I urge its adoption.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment.

The amendment (No. 593) was agreed to.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, I believe my leader time was reserved. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

BICENTENNIAL MINUTE

JULY 17, 1789: SENATE PASSES JUDICIARY ACT

Mr. DOLE. Mr. President, on July 17, 1789, 198 years ago today, the first Senate passed the Judiciary Act of 1789, which established the Federal judicial system. Although most substantive legislation was initiated on the House side during the first Congress, a Senate committee originated the judiciary bill.

The Senate, reflecting its top priority for the creation of a Federal court system, created a special committee to consider this legislation 1 day after achieving its first quorum. This important committee consisted of eight members, the most active of whom were Oliver Ellsworth of Connecticut, William Paterson of New Jersey, and Caleb Strong of Massachusetts. Because of his extensive legal and political experience, Ellsworth led in drafting the judiciary bill. The other Members did not all approve of their first draft, however, Virginia's Richard Henry Lee and Pennsylvania's William MacLay, the only anti-Federalists on the committee attempted to amend the measure. Lee's motion to limit district courts' jurisdiction to admiralty and maritime issues failed, but MacLay succeeded in persuading the committee to significantly decrease Federal chancery powers from what was proposed originally. After lengthy debate, the Senate adopted the legislation on July 17 and President George Washington signed it into law on September 24, 1789.

The Judiciary Act of 1789 is a landmark in Senate history because it set in motion the Federal court system as we know it today. It created a delicately balanced mechanism including a Supreme Court with a Chief Justice and five Associate Justices, a Federal district court for each of the 13 States and three traveling circuit courts of appeals. With the exception of the 1891 judiciary reform that created a separate level of appellate circuit courts, no extreme departures have been made from the original 1789 system.

CHILES AMENDMENT AND UNANIMOUS-CONSENT AGREEMENT

COMMEND CHILES COOPERATION

Mr. DOLE. Mr. President, I want to repeat my expression of appreciation to Senators on both sides of the aisle for their cooperation in forging the unanimous-consent agreement which will allow us to finish up the trade bill, no later than sometime Tuesday evening, by 6 o'clock, unless there are a lot of amendments piled up. It seemed to me about the only way to get the bill completed, and every Member will be entitled to call up his amendment. There was a general agreement. The Republicans would table what they viewed as nongermane amendments to the bill and the Democrats would table Democratic amendments which they viewed as nongermane.

I know that some may argue germaneness. I think Senators PACKWOOD and BENTSEN for the most part will make that judgment. If not, the leadership has agreed to support the committee chairmen in whatever area it may be.

It is not an effort to eliminate amendments; it is an effort to finish the trade bill. Without it, it would seem to us we could be on this trade bill up until the August recess, and the very Members who are wanting to add a lot of amendments will be complaining about what happened to the August recess.

I would suggest, unless somebody feels compelled to make their point, there will be other vehicles. The Congress is not going to adjourn after we pass the trade bill. We are going to be here next week—I hope not next month—and also in September, and now it looks like all of October. So there will be other opportunities.

I know that many Members feel strongly about their issues. I would certainly not want to be a party to cutting anybody off, but sooner or later we have to do business on the trade bill.

I want to commend particularly Senator CHILES who was a key player in getting this agreement. He had a very good amendment. I think it was germane, not just because I am a cosponsor. He is the original sponsor. He felt very strongly about it. But in an effort to get an agreement, he was willing to set aside his amendment on Cuba and consider it as a freestanding amendment, which I hope we can take up very soon.

Frankly, in my view, it wasn't entirely fair to Senator CHILES that we had to give up the effort to put this amendment on the bill. But it is one of those unfortunate circumstances where—if you are reasonable and want to see the Senate do its work—then you are at a disadvantage. I thought Senator CHILES was most reasonable and I commend him for it.

ISSUE WILL BE PURSUED

Let me say for myself, and I am certain for Senator CHILES and the other cosponsors, that we intend to push this issue vigorously—whether as a freestanding piece of legislation or as an amendment to something else. We deserve to make our case, and get our vote. And we will.

And let me just say one additional word about the substance of the amendment, because there have been some inaccurate charges made about it.

TURNING THE SCREWS ON CASTRO

The sole purpose of the amendment is to turn the economic screws on Fidel

Castro and the tyranny he has established in Cuba. Castro runs a police state—and just last week, Senator DeConcini and I hosted a reception in this building for Armando Valladares, who spent 22 years in Castro's prisons—surviving torture, deprivation and every other police state trick Castro and his goons could concoct.

Right now, Castro has 40,000 troops in Angola—foreign troops; "colonial" troops, by any reasonable definition of that word. They are there to prop up another corrupt, illegal regime. Their presence is the largest single security threat to American interests in southern Africa.

Right now, Cuba is a base for Soviet spying on this country; for Soviet subversion in this hemisphere, and for Soviet efforts to destabilize and overthrow democracies around the world.

We need to keep the heat on Castro. And we will.

SPURIOUS CRITICISM

But the attack made on the amendment ignored all that. It was based on the spurious charge that this amendment would somehow hurt American farmers; that it would somehow hurt American grain exports to the Soviet Union.

That just is not so. Certainly, it would make no sense to do a little damage to Castro, but a lot to ourselves. But enacting this amendment would not damage us economically. We have built in safeguards to prevent that from happening.

There is very little triangular shipping now; and that shipping is not in sectors which would lend themselves to retaliation against us. Future increased shipping growing out of expanded grain sales—something I have been working for years to achieve—that could be easily accommodated by the Soviet fleet, with no reference to Cuba.

JUST TO BE CERTAIN

But it is important to be certain. And, to be certain, I have insisted, and my fellow sponsors have agreed, that we include in the legislation a provision allowing the President to waive any shipping prohibition in effect if it does significant damage to any sector of the U.S. economy. The President can weigh the benefits from increasing pressure on Castro, on one hand; versus any damage to our own economy, on the other—and make an informed judgment on whether to continue the sanctions.

So we have carefully crafted this amendment, to do what we want it to do—and to avoid any adverse impact on our own economy. I—and I am sure Senator Chiles and the others—intend to push forward with it, until the Senate can act.

Again I want to commend the distinguished Senator from Florida, Senator Chiles, for his reason and understanding. Hopefully, as the majority leader has indicated at the earliest possible time, or sometime in the near future, we will have an opportunity to call up this amendment as a freestanding item. The majority leader's word was good enough for me and good enough for Senator Chiles. By Senator Chiles' reasonable attitude, we were able to get the unanimous-consent agreement.

Mr. BYRD. Mr. President, would the distinguished minority leader yield?

Mr. DOLE. I shall be happy to yield to the majority leader.

Mr. BYRD. Mr. President, I wish to associate myself with the remarks of the distinguished Republican leader. Mr. Chiles has been referred to as the author of the amendment. Also, the Republican leader has referred to Mr. Chiles' reasonableness in allowing this particular amendment to be put aside temporarily and be called up as a separate resolution. I am a cosponsor of the amendment, as is the distinguished Republican leader.

I think that what Mr. Chiles did was typify the kind of spirit that the rest of us should attempt to emulate. This action on the part of Mr. Chiles is a demonstration of reasonableness that we too often fail to see here. Mr. Chiles was put into a very difficult position. He was put into the position of having to object to an agreement which had been carefully, meticulously, and laboriously worked out by myself and the Republican leader, the assistant Republican leader, the managers on this side of the aisle, the ranking managers on the other side, the assistant Democratic leader, and other Senators. Mr. Chiles had an amendment that is of vitally important interest to him and to his constituents and he was put into an untenable position. But, rather than endanger this bill which is of immense interest to the Nation, to every State in the Nation, to the industries of this country, to the working people of this country—rather than destroy this agreement on the trade bill, Mr. Chiles elected to wait until another day and press his amendment.

Mr. President, I associate myself with the remarks of the distinguished Republican leader—there will be another day when we will join in the effort to enact this language that is in the Chiles amendment.

I personally, again, express my appreciation to Mr. Chiles. I also express my appreciation to Mr. Weicker for the willingness of both Senators to put this subject aside for the moment and come back to it in a freestanding resolution.

I thank the distinguished Republican leader again, not only for his observation in this regard, but also for his strong statement of support for the subject matter of the Chiles-Dole amendment. I thank him again, too, for the assistance that he gave—without which assistance we would not have been successful—in formulating what I would like to refer to as the "great compromise" that occurred on Wednesday evening here, in the Senate. If it had not been for that agreement, which took well over an hour on this floor to enter as an order, this trade bill would be around here a long, long time. I thank the distinguished Republican leader. Without his aid, it could not have been done, and without the aid of his assistant, my assistant leader and others.

I thank Mr. Dole and I thank the manager of the bill [Mr. Bentsen] who is probably the one who is as indebted to all who participated as is anyone and probably as grateful as anyone else here that the agreement was finally culminated after midnight on Thursday morning. I also thank Mr. Packwood, Mr. Proxmire, Mr. Garn, Mr. Pell, Mr. Helms, and others who were so instrumental and helpful in achieving the agreement.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. DOLE. I am happy to yield to the chairman.

Mr. BENTSEN. I certainly want to associate myself with the remarks of the majority and minority leaders. As to the incredible hours that the majority leader and minority leader put in in trying to work out the differences, and dealing with some pretty big egos in this body, I was very impressed. They are quite right, when it finally got down to the lick log, there we found Senator Chiles as the linchpin. He felt very strongly about the issue, about his amendment. Frankly, I am sympathetic to his objectives in it, but if the whole compromise fell apart, without him, the trade bill would have been for naught. He stepped into that breach and acted with entire responsibility. I am most grateful to him for that and frankly, for the leadership these two gentlemen have shown in keeping the package together.

Mr. BYRD. I thank the Senator

Mr. DOLE. I thank the distinguished majority leader and the chairman of the committee.

One final word, Mr. President: Most of the remaining amendments are on this side of the aisle. It is incumbent for Republican Senators to come to the floor, as Senator McConnell has—for 45 minutes he has been here. I urge Senators on this side of the aisle or their staffs to listen very carefully and watch very carefully, because in accordance with the desire of Senator Bentsen and Senator Packwood, we can move very quickly toward their amendments. Other Senators and I am sure the chairman have the same hope.

There are about 50 amendments on this side. It seems to me, I heard the distinguished chairman indicate earlier that no one should be surprised on Tuesday evening if they have not offered their amendment and the time expires. So they are on notice now that the clock is running, as I understand it, on cloture. The clock is running and will continue to run.

So I urge my colleagues, if they feel strongly about their amendments, to come to the floor. If they prefer not to offer them, that may be better yet, but I urge them to inform the managers that they do not intend to offer their amendments.

OMNIBUS TRADE AND COMPETITIVENESS ACT

The Senate continued with consideration of the bill (S. 1420).

AMENDMENT NO. 594

(Purpose: To express the sense of the Senate that meaningful reform of the Nation's tort and product liability laws should be achieved during the first session of the 100th Congress)

Mr. McCONNELL. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER (Mr. CONRAD). The clerk will state the amendment.

The bill clerk read as follows:

The Senator from Kentucky [Mr. McCONNELL] proposes an amendment numbered 594.

At the end of the pending matter add the following new title:

TITLE —FINDINGS AND SENSE OF THE SENATE REGARDING THE NEED FOR TORT AND PRODUCT LIABILITY REFORM

SEC. . FINDINGS.—The Senate finds that—

(a) the tort and product liability laws of the various States impose added costs and disincentives on American businesses which are not borne by foreign trade rivals;

(b) these laws deter American innovation and risk-taking in critical growth industries;

(c) these laws threaten vital research and development of new technologies at many universities and research institutions throughout the United States;

(d) these laws harm the ability of American businesses to compete with their foreign rivals; and

(e) the harmful and anti-competitive consequences of America's tort and product liability laws caused over 80 percent of the delegates to the White House Conference on Small Business to endorse comprehensive Federal reform of these laws.

SEC. . POLICY.—It is the sense of the Senate that meaningful reform of the country's tort and product liability laws should be achieved during the first session of the 100th Congress.

Mr. McCONNELL. Mr. President, I note the observations of the Republican leadership, regarding the urgency of considering the amendments quicky, since, if they are not completed by Tuesday, time will have run out.

The amendment I sent to the desk today is simply a sense-of-the-Senate resolution stating that the U.S. Senate should, some time during the first session of the 100th Congress, deal with the problem of tort and product liability reform. This is, as most of us know, the single largest problem confronting small business in America today; without exception, the largest problem.

I am now asking the Senate to consider an amendment designed to make America competitive again. Yet the suggestion has been made that somehow, this is not relevant to a trade bill. The Secretary of Commerce, just last May, appeared before the Energy and Commerce Committee in the House of Representatives. I would like to read the first paragraph of his testimony to the House committee.

The Secretary of Commerce said, with regard to the product liability-tort reform problem:

> This problem affects businesses both large and small, as well as consumers. It is a problem which has its roots in our tort system, but has a negative effect on U.S. competitiveness.

Mr. President, I ask unanimous consent that pertinent parts of the statement by the Secretary of Commerce before the House of Representatives Committee appear in the RECORD at this point.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF MALCOLM BALDRIGE, SECRETARY OF COMMERCE

Mr. Chairman, thank you for the opportunity to appear before this subcommittee to discuss the product liability problem. This problem affects businesses both large and small, as well as consumers. It is a problem which has its roots in our tort system, but has a negative effect on U.S. competitiveness. * * *

This problem serves as a disincentive to research and development that is essential to remaining competitive in the international market. It is a problem that cannot continue unchecked. The climbing costs of our product liability system result in higher unit prices. This makes U.S. products less attractive in both domestic and foreign markets.

More and more companies are discontinuing products or refusing to place new products on the market because of costs associated with the liability system. This is particularly true in industries like aerospace, sporting goods and pharmaceuticals. Examples are cropping up in increasing numbers. Several domestic sports equipment manufacturers have ceased doing business, and others have either cut back or withheld product lines as a result of the liability problem. Manufacturers of child car safety seats have refused to place new products on the market. General aviation manufacturers have stopped or suspended production of some items.

As these U.S. manufacturers remove their products from the marketplace, they will be replaced by foreign-made substitutes. Additionally, product liability concerns have chilled research and development by both industry and the academic community.

The manufacturers' decisions to withdraw from certain markets hurt our Nation's overall economic growth. These decisions lead to higher prices and rob us of socially beneficial products. Some manufacturers, mainly small businesses, will shut down, creating a loss of jobs. Small businesses are particularly affected because they have less leverage in negotiating insurance rates and are less able to self-insure or utilize other insurance alternatives. That is why, last year, the business representatives who participated in the White House Conference on Small Business overwhelmingly decided that the number one issue that needed to be addressed was tort reform, particularly in the product liability system.

A number of causes have been suggested for the product liability crisis. A major contributing factor is the excesses that have crept into our legal system. For example, many people, from academics to State legislators, have recognized the potential unfairness and inequity of the doctrine of joint and several liability. That doctrine leads to unfair burdens on defendants with substantial assets. These "deep pockets" are brought into litigation because, all too frequently, an insignificant finding of liability guarantees a 100 percent responsibility for damages. The doctrine increases the unpredictability of tort liability because it exposes insurers to liability for the acts of persons it may not be able to identify, much less take into account.

Our system has moved away from liability based on fault as its basic guiding principle. This movement stems from a belief that businesses can and should be found liable merely because they are "deep pockets" filled with profits which can be drawn on to compensate a person for a product injury. Under our present system, corporate chief executive officers throughout our Nation fear that if they manufacture a product they stand a chance of being found liable for causing an injury, even though their company acts responsibly.

Another reason for the need to reform is the patchwork of different State product liability laws which make it difficult for businesses to determine which legal standard will apply to them or whether a particular standard will remain constant. The Federal Government must take a leadership role in the process of developing a coherent product liability system. The movement of products in interstate commerce is a national problem which requires a national solution. That is one reason why the President has made this issue a part of his overall competitiveness program. . . .

The enormous transaction costs associated with litigation also are out of control and overburden the system. It is difficult to justify extraordinary transactions costs, particularly when they are being borne in large part by the injured party and ultimately by consumers who must pay through higher prices for goods and services. A recent study conducted by the Institute for Civil Justice of the Rand Corp. concluded that $16 billion to $19 billion of total expenditures for the tort system in 1985 was spent for costs of the system. Only $14 billion to $16 billion was paid in net compensation to victims.

Mr. McCONNELL. It is clear from these remarks that the Secretary of Commerce believes that the problem of liability tort reform has an enormous impact on American trade competitiveness. If the liability carrying costs to American business are not a problem, I don't know what is. We have dealt with a lot of amendments here in the course of the last 3 weeks, on foreign policy, on plant closing, and on a variety of other subjects completely unrelated to our worsening trade posture. Now, we are told that it is inappropriate and nongermane to offer an amendment that has a direct bearing on the competitiveness of American businesses.

Mr. President, I had originally planned to offer not a sense-of-the-Senate resolution, but a real, substantive amendment dealing with the lawsuit liability crisis in America. I would like to ask unanimous consent that the amendment I had planned to offer be printed in the RECORD at this point. I will describe what I had planned to do with this original, far-reaching tort reform amendment.

There being no objection, the amendment was ordered to be printed in the RECORD, as follows:

At the end of the pending matter add the following new title:

TITLE ______—TORT REFORM

SHORT TITLE

SEC. ______. This title may be cited as the "Tort Litigation Reform Act of 1987".

FINDINGS AND PURPOSE

SEC. ______. (a) The Congress finds and declares that—

(1) there are serious flaws in the civil justice system under which tort claims are filed and resolved;

(2) the cost of litigation has risen at a dramatic rate over the past 25 years and threatens to continue to rise at a similar rate for the foreseeable future;

(3) the rising cost of litigation has a direct and undesirable effect on interstate commerce and international competitiveness, and decreases the availability of products and services in commerce;

(4) the rising cost of litigation and the lack of predictability of the outcome of suits has greatly contributed to a nationwide crisis in the availability and affordability of insurance;

(5) there is a need for reasonable limits on the potential exposure of individuals and businesses to liability for damages resulting from the sale and use of products, the provision of services, or the ownership and use of property, all of which contribute to the net output of the Nation's economy, and to the general welfare; and

(6) because of the interstate nature of the commerce, the several States are unable to provide and maintain a just system of compensation without threatening to inflict disparate and potentially discriminatory burdens on interstate commerce, thereby diminishing the general welfare of the Nation and of the several States.

(b) It is the purpose of this title to establish uniform rules of tort law, to encourage alternate means of dispute resolution, to provide fair and reasonable compensation for accident or injury, and to promote the free flow of commerce and the availability and affordability of liability insurance.

APPLICABILITY

SEC. ______. (a) Except as provided in subsection (b), (c), or (d), the provisions of this title shall apply to any civil action against any person, in any State or Federal court, based on any cause of action, including, but not limited to, negligence, strict or product liability, breach of implied warranty, or professional malpractice, in which damages are sought for physical injury or for physical or mental pain or suffering or for property damage other than damage to the product itself.

(b) This title shall not apply to—

(1) a civil action for loss or damage to a product itself or for commercial loss which shall be governed by State commercial law; or

(2) a civil action for intentionally committed battery, assault, false imprisonment, trespass, or conversion.

(c) The provisions of this title shall preempt and supersede Federal or State law only to the extent such law is inconsistent with this title. Any issue arising under the provisions of this title that is not governed by the provisions of this title shall be governed by applicable State or Federal law.

(d) Nothing in this title shall be construed to—

(1) waive or affect any defense of sovereign immunity asserted by any State under any provision of law;

(2) waive or affect any defense of sovereign immunity asserted by the United States;

(3) affect the applicability of any provision of chapter 97 of title 28, United States Code, known as the Foreign Sovereign Immunities Act of 1976;

(4) preempt State choice-of-law rules with respect to claims brought by a foreign nation or a citizen of a foreign nation; or

(5) affect the right of any court to transfer venue or to apply the law of a foreign nation or to dismiss a claim of a foreign nation or of a citizen of a foreign nation on the ground of inconvenient forum.

JOINT AND SEVERAL LIABILITY

SEC. ______. (a) Except as provided in subsections (b) and (c), a person found liable for damages in any such action subject to the provisions of this title, shall be liable for damages only to the extent of such person's proportionate responsibility for the injury and shall not be jointly and severally liable.

(b) Notwithstanding the provisions of subsection (a), any person found liable for damages in an action subject to the provisions of this title may be jointly and severally liable therefore if such person's proportionate responsibility for the injury is found by the trier of fact to exceed 50 percent.

(c)(1) This section shall not apply to persons acting in concert where the concerted action caused the injury for which such persons are found liable.

(2) As used in this section, the terms "acting in concert" or "concerted action" shall mean the participation in joint conduct by two or more persons who consciously and deliberately agreed to jointly participate in such conduct.

LIABILITY STANDARDS

SEC. ______. Except as otherwise provided in the next two sections of this title, no person shall be found liable for any damages in any civil action subject to the provisions of this title unless the claimant proves by a preponderance of the evidence that such person was negligent, and such negligence was the proximate cause of the damages sought.

LIABILITY OF PRODUCT MANUFACTURERS

SEC. ______. (a) No manufacturer shall be liable for damages in any civil action subject to the provisions of this title, for harm allegedly caused by a product unless, claimant proves by a preponderance of the evidence that the manufacturer's product was the proximate cause of claimant's harm and was unreasonably dangerous because—

(1) the product deviated in a material way from the manufacturer's own design specifications at the time it left the manufacturer's control, and such deviation was a substantial cause of the harm,

(2) the product would not have been designed or formulated as it was if the manufacturer had been exercising reasonable care for the safety of all foreseeable users,

(3) the manufacturer did not provide warnings or instructions which would have been provided if the manufacturer had been exercising reasonable care for the safety of others, or

(4) the product failed to conform in a material respect to an express warranty of the manufacturer.

(b) A presumption shall arise that a manufacturer exercised reasonable care for the safety of others if the product design, formulation, warning, or instructions conformed, at the time of manufacture, with standards, conditions, or specifications established, adopted, or approved by the Congress or an agency of the Federal Government responsible for the safety of the design, formulation, labeling, or performance of the product.

(c) A manufacturer shall not be liable for damages in a civil action subject to this title for harm allegedly caused by a product if—

(1) in light of existing scientific, technological, or medical information, knowledge of the unsafe aspect of the product was not reasonably available or obtainable, or the ability to eliminate the unsafe aspect of the product was not technologically or practically feasible,

(2) plaintiff's harm would not have occurred but for an unreasonable or unforeseeable use or alteration of the product occurring after it left the manufacturer's control and without the manufacturer's consent, where, for the purposes of this paragraph, unreasonable or unforeseeable use or alteration includes, but is not limited to, any use or alteration of the product which the manufacturer specifically prohibited or warned against, in instructions printed clearly and visibly on the product itself, or on an instruction sheet accompanying the product, or

(3) the unsafe aspect of the product that caused claimant's harm either was an inherent aspect of the product or was necessary to the products' utility: *Provided*, That—

(A) the inherently unsafe aspect of the product was either a matter of common knowledge or the subject of warnings or instructions adequate to permit an informed decision with respect to product use,

(B) the inherently unsafe aspect of the product was not significantly more dangerous than was reasonably to be expected, and

(C) the product resulted in more utility than harm to consumers.

LIABILITY OF PRODUCT SELLERS

SEC. ______. (a) Notwithstanding the provisions of the previous section, in any civil action for harm caused by a product, a product seller other than a manufacturer is liable to a claimant, only if the claimant establishes by a preponderance of the evidence that—

(1)(A) the individual product unit which allegedly caused the harm complained of was sold by the defendant;

(B) the product seller failed to exercise reasonable care with respect to the product; and

(C) such failure to exercise reasonable care was a proximate cause of the claimant's harm; or

(2)(A) the product seller made an express warranty, independent of any express warranty made by a manufacturer as to the same product;

(B) the product failed to conform to the warranty; and

(C) the failure of the product to conform to the warranty caused the claimant's harm.

(b)(1) In determining whether a product seller is subject to liability under subsection (a)(1), the trier of fact may consider how the product seller's conduct affected the safety of the product with respect to the construction, inspection, or condition of the product, and any failure of the product seller to distribute adequate warnings or instructions provided by the product's manufacturer about the dangers and proper use of the product.

(2) A product seller shall not be liable in a civil action subject to this title based upon an alleged failure to provide adequate warnings or instructions unless the claimant establishes that, when the product left the possession and control of the product seller, such seller failed—

(A) to provide to the person to whom the product seller relinquished possession and control of the product, any pamphlets, booklets, labels, inserts, or other written warnings or instructions received while the product was in the product seller's possession and control; or

(B) to make reasonable efforts to provide users with warnings and instructions it received after the product left its possession and control.

(3) A product seller shall not be liable in a civil action subject to this title, except for breach of express warranty by the seller, where there was no reasonable opportunity to inspect the product in a manner which, in the exercise of reasonable care, should have revealed the aspect of the product which allegedly caused the claimant's harm.

(c) A product seller shall be treated as the manufacturer of a product and shall be liable for harm to the claimant caused by a product as if the seller were the manufacturer of the product if—

(1) the manufacturer is not subject to service of process under the laws of any State in which the action might have been brought; or

(2) the court determines that the claimant would be unable to enforce a judgment against the manufacturer.

SANCTIONS

SEC. ______. (a) In any civil action subject to the provisions of this title, in which the court finds that any attorney or other person admitted to practice before the court has engaged in conduct intended to delay the proceedings or to impede the just, speedy, or inexpensive resolution of the action, then such attorney or other person shall be subject to pecuniary sanctions by the court. Such sanctions shall not be less than the total amount of court costs, fees and expenses, including attorney's fees, reasonably attributable to the conduct.

(b) In any civil action subject to the provisions of this title, in which the court finds that the action was initiated without a good faith belief by the attorney initiating the cause of action that a reasonable basis in law and in fact existed for recovery of the relief requested, or that the action was initiated merely for purposes of achieving a monetary settlement where there was no reasonable prospect for an award of damages, then such attorney shall be liable for the total amount of defendant's court costs, fees, and expenses, including double the attorney fees reasonably incurred to respond to or otherwise resist the action.

(c) In any civil action subject to the provisions of this title in which the court finds that the attorney defending the cause of action denied the substantive averments of the complaint without a good faith belief that there was a reasonable basis in law and in fact for the avoidance of liability for the relief requested, or that the actions taken in defense of the action were intended merely to postpone the imposition of a judgment for damages, then such attorney shall be liable for the total amount of court costs, fees, and expenses, including double the attorney fees reasonably incurred to prosecute the action.

UNIFORM STANDARDS FOR OFFSETTING WORKERS' COMPENSATION BENEFITS

SEC. ______. (a) In any civil action subject to the provisions of this title in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation, payments, or benefits under any State or Federal workers' compensation or income disability law, or any other program which provides payments or benefits without cost to claimants, any damages awarded shall be reduced by the sum of the amount paid as benefits for such harm and the present value of all benefits to which the injured person is or would be entitled for such harm. The determination of benefits by the trier of fact in a civil action subject to this title shall have no binding effect on and shall not be used as evidence in any other proceeding.

(b) In any civil action subject to the provisions of this title in which damages are sought for harm for which the person injured is entitled to receive compensation, payments, or benefits under any program as provided in subsection (a), the action shall, on application of the claimant made at claimant's sole discretion, be stayed until such time as the full amount payable as such benefits has been finally determined.

(c) Unless the manufacturer or product seller has expressly agreed to indemnify or hold an employer harmless for harm to an employee caused by a product, neither the employer nor the workers' compensation insurance carrier of the employer shall have a right of subrogation, contribution, or implied indemnity against the manufacturer or product seller, or a lien against the claimant's recovery from the manufacturer or product seller, if the harm is one for which a civil action may be brought pursuant to this title.

(d) In any civil action subject to the provisions of this title in which damages are sought for harm for which the person injured is or would have been entitled to receive compensation under any State or Federal workers' compensation law, no third-party tortfeasor may maintain any action for implied indemnity or contribution against the employer, any coemployee, or the exclusive representative of the person who was injured.

(e) Nothing in this title shall be construed to affect any provision of a State or Federal workers' compensation law which prohibits a person who is or would have been entitled to receive compensation under any such law, or any other person whose claim is or would have been derivative from such a claim, from recovering for harm in any action other than a workers' compensation claim against a present or former employer, the workers' compensation insurer of the employer, a coemployee, or the exclusive representative of the person who was injured. Any action other than such a workers' compensation claim may be prohibited under State or Federal workers' compensation laws, except that nothing in this title shall be construed to affect any State or Federal workers' compensation law which permits recovery based on a claim of an intentional tort by the employer or coemployee, where the claimant's harm was caused by such an intentional tort.

MINIMUM STANDARDS FOR AWARDS OF PUNITIVE DAMAGES

SEC. ______. (a) Punitive damages, to the extent permitted by applicable law, may be awarded in any civil action subject to the provisions of this title to any claimant who at a minimum establishes by clear and convincing evidence that the harm suffered was the result of conduct manifesting a malicious and flagrant disregard for the safety of those persons who might be harmed by that conduct, and constituting an extreme departure from accepted standards. A failure to exercise reasonable care in choosing among alternative product designs, formulations, instructions, or warnings is not of itself such conduct. Except as provided in subsection (b), punitive damages may not be awarded in the absence of a compensatory award for actual damages.

(b) In any civil action in which the alleged harm to the claimant is death and the applicable State law provides, or has been construed to provide, for damages only punitive in nature, a manufacturer or product seller may be liable for any such damages regardless of whether a claim for compensatory damages is asserted. The recovery of any punitive damages shall not bar any other claim under this section.

(c) The trier of fact shall first determine whether compensatory damages are to be awarded. After such determination has been made, the trier of fact shall then determine whether punitive damages are to be awarded. Evidence relating to the manufacturer's or product seller's financial condition is not admissible in such proceeding and may not be considered by the trier of fact in determining whether or not punitive damages are to be awarded. If the trier of fact determines that punitive damages should be awarded, the court, and not the jury, shall separately determine the amount of such damages.

ALTERNATIVE DISPUTE RESOLUTION

SEC. ______. (a) Because the traditional litigation process is not always suited to the timely, efficient, and inexpensive resolution of civil actions, it is the policy of the United States to encourage the creation and use of alternative dispute resolution techniques, and to promote the expeditious resolution of such actions.

(b) In any action in which the provisions of this title apply, each attorney who has made an appearance in the case and who represents one or more of the parties to the action shall, with respect to each party separately represented, advise the party of the existence and availability of alternative dispute resolution options, including extrajudicial proceedings such as minitrials, third-party mediation, court supervised arbitration, and summary jury trial proceedings.

(c) Each such attorney shall, simultaneous with the filing of a complaint or a responsive pleading, file notice with the court certifying that the attorney has so advised his client or clients, and indicating whether such client will agree to one or more of the alternative dispute resolution techniques.

(d) If all parties to an action agree to proceed with one or more alternative dispute resolution proceedings, the court shall issue an appropriate order governing the conduct of such proceedings. The issuance of an order governing such further proceedings shall constitute a waiver, by each party subject to the order, of the right to proceed further in court.

DEFINITIONS

SEC. _____. As used in this title, the term—

(1) "claimant" means any person who brings a civil action pursuant to this title, and any person on whose behalf such an action is brought; if such an action is brought through or on behalf of an estate, the term includes the claimant's decedent, or if it is brought through or on behalf of a minor or incompetent, the term includes the claimant's parent or guardian;

(2) "clear and convincing evidence" is that measure or degree of proof that will produce in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established; the level of proof required to satisfy such standard is more than that required under the standard of a preponderance of the evidence, but less than that required for proof beyond a reasonable doubt;

(3) "commercial loss" means economic injury, whether direct, incidental, or consequential, including property damage and damage to the product itself, incurred by persons regularly engaged in business activities consisting of providing goods or services for compensation;

(4) "exercise of reasonable care" means conduct of a person of ordinary prudence and intelligence using the attention, precaution and judgment that society expects of its members for the protection of their own interests and the interests of others;

(5) "harm" means any harm recognized under the law of the State in which the civil action is maintained, other than loss or damage caused to a product itself, or commercial loss, with respect to which recovery is available under the commercial or contract law of the State;

(6) "manufacturer" means (A) any person who is engaged in a business to produce, create, make, or construct any product (or component part of a product) and who designs or formulates the product (or component part of the product) or has engaged another person to design or formulate the product (or component part of the product); (B) a product seller with respect to all aspects of a product (or component part of a product) which are created or affected when, before placing the product in the stream of commerce, the product seller produces, creates, makes, or constructs and designs or formulates, or has engaged another person to design or formulate, an aspect of a product (or component part of a product) made by another; or (C) any product seller not described in clause (B) which holds itself out as a manufacturer to the user of a product;

(7) "person" means any individual, corporation, company, association, firm, partnership, society, joint stock company, or any other entity (including any governmental entity);

(8) "preponderance of the evidence" is that measure or degree of proof which, by the weight, credit, and value of the aggregate evidence on either side, establishes that it is more probable than not that a fact occurred or did not occur;

(9) "product" means any object, substance, mixture, or raw material in a gaseous, liquid or solid state (A) which is capable of delivery itself or as an assembled whole, in a mixed or combined state or as a component part or ingredient; (B) which is produced for introduction into trade or commerce; (C) which has intrinsic economic value; and (D) which is intended for sale or lease to persons for commercial or personal use; the term does not include human tissue, blood and blood products, or organs unless specifically recognized as a product pursuant to State law;

(10) "product seller" means a person who, in the course of a business conducted for that purpose, sells, distributes, leases, prepares, blends, packages, labels, or otherwise is involved in placing a product in the stream of commerce, or who installs, repairs or maintains the harm-causing aspect of a product; the term does not include—

(A) a seller or lessor of real property;

(B) a provider of professional services in any case in which the sale or use of a product is incidental to the transaction and the essence of the transaction is the furnishing of judgment, skill, or services; or

(C) any person who—

(i) acts in only a financial capacity with respect to the sale of a product; and

(ii) leases a product under a lease arrangement in which the selection, possession, maintenance, and operation of the product are controlled by a person other than the lessor; and

(11) "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States, or any political subdivision thereof.

EFFECTIVE DATE

SEC. _____. (a) This title and the amendments made by this title shall be effective on the date of enactment, and shall apply to all civil actions filed on or after such date, including any civil action in which the harm or the conduct complained of occurred before such effective date.

(b) If any provision of this title would shorten the period during which a person would otherwise be exposed to liability, the plaintiff may, notwithstanding the otherwise applicable time period, bring any civil action pursuant to this title within one year after the effective date of this title.

SEVERABILITY

SEC. _____. If any provision of this title or the application of any such provision to any person or circumstance is held invalid, the remainder of this title and the application of any provision to any other person or circumstance shall not be affected thereby.

Mr. McCONNELL. I had planned to offer a tort reform amendment that was significantly scaled back from the reforms I worked for last year.

Last year, I proposed total reform of our tort system, including a cap on pain and suffering, payment of punitive damages to the court rather than the plaintiff, periodic payments on judgments in excess of $100,000, and a restriction on lawyers' contingency fees. I dropped every one of these controversial proposals between last year and this year.

The amendment I had planned to offer today contains only noncontroversial reforms that are widely supported, that are balanced between plaintiff and defendant and would restore fairness and reason to the crumbling system of lawsuits and civil liability in America.

The amendment I had planned to offer would simply have put the standard of fault back into the system. It would restore the notion that all parties to a civil action are innocent until proven guilty of some wrongful act.

When I was in law school at the University of Kentucky some 20 years ago, we learned that someone had to be at fault in order to recover in a tort case in this country. In fact, I remember that my torts textbook had a whole chapter called "Negligence," or fault. But over the years, the courts have developed the notion that if anyone gets hurt, for any reason, somebody must pay; and society, in effect, has become an insurer against all harm. The amendment I had planned to offer would put the fault standard back into the system. It would say that Americans have a right not to be dragged through the courts and treated like criminals until they've done something wrong. Mr. President, without fault, there can be no justice.

Second, in the area of joint and several liability, the courts have encouraged settlement-hungry trial lawyers to drag in multiple defendants to sue in a case. Under the joint and several liability idea, if a defendant is even marginally involved, he could end up paying 100 percent of the damages. Under the amendment I had intended to offer, a defendant would have to be found at least 50 percent responsible for the harm in order to be at risk for 100 percent of the damages.

Further, Mr. President, I had changed the punitive damages proposals from last year. No longer would the punitive damages be made payable to the court instead of the plaintiff, but punitive damages would be awarded only when there was truly egregious conduct, shown by clear and convincing evidence.

The amendment I had planned to offer would impose penalties on plaintiffs' lawyers for bringing frivolous suits and, yes, on defendants' lawyers for engaging in stalling tactics that merely run up legal bills, clog the courts, and delay a just outcome.

The final provision in this amendment would get this litigation-crazed society thinking about alternative dispute resolution. There is no question that our courts are absolutely clogged with cases. One suggestion which many reasonable people have made is that we should encourage the use of alternative dispute resolution—in other words, some way to solve a case without going to court and waging a paper war of attrition. A provision in this amendment would move us further in the direction of being able to solve our disputes without reverting to America's modern epithet: "I'll sue!".

Some people will argue, as I have heard the Senator from South Carolina argue, the liability crisis is no longer with us. Saying that there is no longer an insurance crisis is like saying there was no energy crisis a few months after the Arab oil embargo of 1973. Though oil slowly became available, this country remained paralyzed for years by staggering prices, a skyrocketing inflation rate, millions on the unemployment lines, and a standard of living which inched downward. The crisis did not subside until realistic legislative action was taken: curbing irresponsible energy use, breaking dependence on foreign oil, and a variety of other measures designed to ease that crisis directly.

This situation is very similar to our liability crisis. We have staggering prices, and the costs still are going up: the country suffered another 20-percent increase in insurance costs in the last 4 months of 1986. This problem is not going away. Lawsuit liability pumps up costs for goods and services, and some vital services are totally unavailable. In Kentucky, four out of five doctors will not deliver babies anymore. Other medical services and treatments are becoming totally unavailable: in Florida, which tried to pass a meaningful tort reform initiative, but saw it dashed to pieces in the State courts and agencies, hospital emergency rooms are on the verge of closing down.

Mr. President, it is patently absurd for anyone to stand up here and say to the American people that they don't have a crisis on their hands, or that even if they do, we don't want to do anything about it. Mr. President, when emergency rooms are closing down, we have an emergency on our hands and we are ignoring our duty to the citizens we represent by stalling on this all-important issue.

Mr. President, I ask those who oppose lawsuit reform to talk to the mayors in their States: last summer, the mayor of a small city in Kentucky said to me: "Senator, I want to tell you that I just got my liability insurance bill, and it's bigger than my budget." What does that mean to our cities? It means poorer social services, scaled back law enforcement, shut-down parks, and abandoned civic centers.

The lawsuit crisis discourages companies from cleaning up our environment. It swallows up jobs as businesses close down. It penalizes research, innovation, and risk-taking, and cuts into our ability to compete with foreign rivals, because their civil justice systems don't try to make the businessman, worker, and consumer insure everyone else's risk. We in America have been forced to live with a very different and twisted system, one that reduces our overall standard of living every year.

Some will claim that the crisis is over, because everyone can get insurance now. But there is a declining quality of insurance coverage, even though insurance prices are the highest in history. Companies are forced to underinsure and run the risk of bankruptcy. Many risks are exempted from coverage. Whole industries are beginning to self-insure, without adequate loss reserves. This instability is a very serious risk of an industry-wide liability meltdown during this decade. Mr. President, the crisis is not over. If anything, this is the calm before the gathering storm.

What is small business saying about the crisis? Last August, a little under a year ago, the White House Conference on Small Business met in Washington. Eighty-three percent of the delegates to this conference called for Federal—I repeat, Federal, not State-by-State—Federal tort reform initiatives, including a fault-based standard for liability, limitation of the joint and several liability doctrine, restriction of punitive damage awards to cases of truly egregious behavior, and alternative dispute resolution—exactly the provisions in the amendment I had intended to offer today. I chose not to bring this amendment up, however, in the spirit of moving the trade bill along.

But again, this is a trade bill, we are concerned about competitiveness, and I hear rumors that some Senators are hoping to table my simple sense-of-the-Senate resolution. All the Senator from Kentucky is offering today is a simple sense-of-the-Senate resolution, stating that, some time during the first session of the 100th Congress, we ought to address the single largest problem of small business in America today. This is not the kind of proposal that ought to be tabled. Even if it were to the trade bill, it would in no way hamper the movement or the passage of this bill; in fact the President's own version of the bill called for comprehensive liability reform, to bolster America's competitive strength.

Now, America's small businesses clearly don't believe that the lawsuit crisis is over. What about the rest of the country: America's workers, consumers, professionals, and—I might add-voters? Last year, Lou Harris, one of the great American pollsters who has been around a long time, did a poll on the liability crisis, in which he asked people in America what they thought about this problem. Harris reported that: Here is what the American people thought.

Seventy percent of those surveyed thought it was too easy to sue for damages.

Sixty-three percent of the American people believed that the size of cash settlements has been excessive.

Sixty-five percent of the American people favor putting a $150,000 cap on tort awards, even though the Senator from Kentucky is not advocating that in his amendment. The people of America, however, are willing to go further.

Eighty percent of the American people—80 percent—believe lawyers' contingency fees are responsible for the lawsuit explosion.

There are a lot of lawyers in the Senate, and I would hate to believe that the reason for our reluctance to deal with tort reform is the number of lawyers in the Senate. Nonetheless, some have suggested that it's become a fraternity issue, and we as members of fraternity are not about to step up to this problem, despite the will of the American people. I hope that is not the case. I would hate to believe it were the case.

Let me say a few words about lawyers. I'm a lawyer. Virtually everyone in Washington is a lawyer. America has 20 times the number of lawyers per capita than in Japan, a country that this bill has especially targeted.

America is a very litigious Nation. Filing lawsuits has replaced baseball as America's favorite pasttime. It's going to replace football too, because football equipment manufacturers can't pay their liability insurance costs. It's a game that anyone can play; all you need is 20 cents to call a lawyer. And yet it's a far more expensive sport than polo; instead, we all share the price, in ballooning insurance premiums.

Seventy-seven percent of all Americans believe that we are just too greedy for big awards, and that is part of the problem. We want the Government, the courts, to protect us from every risk and loss—even if it means digging into the pockets of someone else.

Seventy-one percent of the people believe that our laws and courts make it too easy to sue, compounding the effect of our greed. It's human nature to take everything we can get; somewhere, someone's got to say no, to say it's not right.

That is what the American people think about this problem. Yet, here we sit, inactive, fretting about our colleagues on the trial ban, avoiding at all costs any commitment on this crucial issue. Virtually every committee which is even remotely connected with the issue, in the House or the Senate, has held hearings in the years the Senator from Kentucky has been here. Has it ever been dealt with on the floor? No.

We had a products liability measure come out of Congress last year. We had one, meaningless vote on a motion to proceed, and the majority leader took it down because he knew it was not going anywhere.

In the meantime, lawsuits multiply like a plague upon the land. Let me cite some examples:

Take the so-called suicide suit. In New York City, a man attempted to commit suicide by jumping in front of a train. Fortunately for that man, he survived. Unfortunately for New York City, he sued the city and won a $650,000 judgment, because it had failed to stop the train in time.

There is the case of the thief who tried to rob a junior high school. He fell through the rooftop skylight, sued the school district, and was awarded $250,000—plus $1,500 a month for life—plus a cost-of-living adjustment. That is what I call a novel way to make crime pay.

Then, there is the "hunger pang suit," also in California. A woman is suing a pancake restaurant for $2 billion. Why? Because the pancake house was not participating in an advertised special that the women read about, and the disappointed woman suffered "a burning in the stomach from hunger," plus severe emotional distress and humiliation, hurt feelings, and disappointment.

Then there is the "lethal lawnmower" suit, one that the President has frequently referred to. In Philadelphia, a lawnmower would not start. The man pulled the cord 15 times and suffered a heart attack. The jury awarded the family $1,750,000 against the seller and manufacturer of the lawnmower.

There is the "baseball suit." This is my personal favorite.

It arose in New Jersey: A Little League coach was sued when a player was struck by a fly ball. The player had been moved to the outfield from second base, and the parent contended that the coach should have instructed the boy to shield his eyes from the sun. The coach settled for $25,000.

Less humorous, Mr. President, are suits against those who would deliver our babies. The American College of Obstetrics and Gynecology reported 73 percent of its 24,500 members have been sued for malpractice at least once and that 3,000 OB/GYN's have abandoned their practice altogether. This is particularly common, I might add, in rural areas in Kentucky, and other States where there simply are not any alternatives. When a doctor goes out of business in rural Kentucky, the people are without, and I mean completely without, medical protection.

Let me add one more story, Mr. President, from the horse's mouth. A noted trial lawyer, F. Lee Bailey, tells this story: in the old West, one lawyer in town was doomed to starve. But when a second lawyer arrived, their fortunes were assured.

Mr. President, I am a lawyer; and I am not here to bash the lawyers. I am here to talk about the problem. The lawyers are part of the problem. The litigants are part of the problem. Our desire to get something for nothing is part of the problem. We have met the enemy and it is us, it is us. Our greed, our selfishness, our interest in recovering whether anybody has done anything wrong or not, is part of the problem.

But it should not go on. The classic discussion that we usually end up on is this: Should there be a Federal solution, or a State-by-State, piecemeal approach? And, second, should we just deal with products, or should reform take place across the board?

It is the opinion of the Senator from Kentucky, Mr. President, that the lawsuit crisis is a Federal problem crying out for a Federal solution. And it is not just a product manufacturer's problem, but a universal problem, crying out for a universal solution—one that gives needed relief to America's municipalities, service sector, corporate directors, youth associations, professionals, workers, consumers, and others.

What we should be doing, Mr. President, is passing a tort reform bill, at the Federal level, which provides some parameters beyond which no court can go in awarding damages. It need not supplant the tort law of every State in America. It wouldn't create any new Federal employees or expenses. It does not even give any new jurisdiction to Federal or State courts. It would simply lay out basic parameters in which courts and juries could operate, and beyond which they could not go.

Let us briefly talk about the lawsuit crisis in terms of its cold, hard statistics. Tort lawsuits in State courts have increased nearly 20 percent in 7 years from 1977 to 1984, according to the National Center for State Courts.

In 1961, there were 21,205 tort cases in Federal courts. By 1985, that figure had almost doubled to 41,593.

If we set aside suits involving motor vehicles and property, the figures are even more dramatic.

Without car and property cases, in 1961 there were 10,577 civil actions in Federal court. In 1986, there were 30,784—almost a threefold increase.

As to medical malpractice suits in Federal court, there were 385 in 1978. That went up to 1,079 in 1985, a 425-percent increase in 7 years.

Let us look at it from a different perspective: Medical malpractice lawsuits per 100 physicians. The ratio has more than doubled from 1976 to 1981, and more than tripled for obstetricians during the same period.

Product liability cases in Federal court increased over seven times in 10 years, from 1975 to 1985.

As to Federal court caseloads: In 1967, there were 72,000 civil cases in Federal courts. Ten years later there were 131,000 such cases; 10 years later there were 255,000 cases—a 195-percent increase in 10 years, and a 355-percent increase in 20 years.

Let us look further at medical malpractice statistics: A St. Paul insurance company study found that the average Federal malpractice award in 1976 was $15,000; in 1985, the average award was $40,000—nearly tripling in 10 years.

Regarding frequency of claim filings in medical malpractice: 1.5 claims per occupied hospital bed in 1976; in 1985, 3.5 claims per occupied hospital bed—more than doubling in 10 years.

As to jury verdicts: The average award to plaintiffs doubled during the 1970's. As to litigation costs: For each dollar that goes to plaintiffs, $2.75 goes to lawyers, judges, and other legal fees in most large, complicated lawsuits.

As to million-dollar verdicts: In 1963, there were two, I repeat, two million-dollar verdicts in the entire country. In 1973, 10 years later, there were 18 verdicts above $1 million. In 1983, 10 years later, there were 360 million-dollar verdicts—a 2,000-percent increase in 10 years, and an 18,000-percent increase in 20 years.

A State of Michigan study, of malpractice insurance costs of Michigan State hospitals, showed the following: In 1980, $60 million was spent for malpractice insurance; in 1985, $200 million spent—a 350-percent increase in 5 years.

A health care investment analysis survey of 950 hospitals across the country focused on uninsured malpractice losses: In 1984, $165 per occupied hospital bed; in 1985, 1 year later, $425 in uninsured losses per occupied hospital bed—a 150-percent increase in 1 year, Mr. President, 1 year.

Now let us look at the total uninsured malpractice losses for American hospitals. In 1985, the study showed $130 million in uninsured losses; for 1990, the study made a projection, based on current rates of increase, of $2 billion in total uninsured malpractice losses.

When we are looking square in the eye at $2 billion in uninsured losses at hospitals all over the country, we ought to be moved to action. People throughout the country have strongly urged me to act on this issue, and I am sure that my colleagues have received similar messages. Let me read to you what America is writing to this Senator about:

These people are saying that our justice system has run amok, absolutely run amok.

Let us take, for example, a letter from the chairman of Stamler Corp., in Millersburg, KY. They are manufacturers of mining and minerals handling equipment. Mr. Stamler writes:

> Recently two instances occurred which graphically illustrate this company's predicament. In the first we are being sued in

Ohio because a coal miner was injured when our product malfunctioned. The safety switch which was installed to preclude such an injury had been incorrectly reassembled after maintenance by the employer/customer and did not operate. Our insurance carrier has instituted action to include the employer in the suit against us and the employer has chosen not to purchase further units from us until the suit against him is dropped. Loss of sales to us for this year only: $900,000.

In the second instance, a British insurance company has increased the premium on liability coverage for our U.K. sales and service branch by 430 percent because of their fear of being embroiled in product liability actions filed in this country.

I am sure you are aware of the trend in liability premiums and coverages that have adversely affected our ability to operate and compete. Our policies are currently up for renewal and we are not sure that we can purchase meaningful coverage at a price we can afford. We are not alone.

Industry must be allowed to return to a fault-based tort system with reasonable damage awards relative to the actual injury. In addition, the law must be consistent from State to State.

Let me repeat for the record, Mr. President, the law must be consistent from State to State. The only way we are going to bring sanity to the civil justice system is with action at the Federal level—Federal standards beyond which no court can go in assigning liability and awarding damages.

I have a number of letters here, Mr. President, which I would like to ask unanimous consent that we insert into the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

THE W.R. STAMLER CORP.,
Millersburg, KY, March 17, 1987.
Hon. MITCH MCCONNELL,
U.S. Senate, Russell Senate Office Building, Washington, D.C.

DEAR SENATOR MCCONNELL: The last of reasonable Product Liability Tort Reform Legislation continues in its importance to this company and to all domestic machinery manufacturers. I know that blocks have been placed to make passage of meaningful legislation difficult at this time, but a law must be effected if our industry is to be a viable one.

Recently two instances occurred which graphically illustrate this company's predicament. In the first we are being sued in Ohio because a coal miner was injured when our product malfunctioned. The safety switch which was installed to preclude such an injury had been incorrectly reassembled after maintenance by the employer/customer and did not operate. Our insurance carrier has instituted action to include the employer in the suit against us and the employer has chosen not to purchase further units from us until the suit against him is dropped. Loss of sales to us for this year only: $900,000.

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Industry must be allowed to return to a fault-based tort system with reasonable damage awards relative to the actual injury. In addition, the law must be consistent from state to state.

Relief from the deep pocket image that we in industry have apparently developed is absolutely necessary if we are to compete in international markets. Our company has been an active exporter for fifteen years but we continually see our competitive edge eroded by increases in costs and requirements to fund social programs which must be passed on in the form of price increases in a constantly tightening marketplace. The profit cushion has long since disappeared.

The temporary decrease in value of the Dollar has helped, but if natural resources and manufacturing are to continue to be viable contributors to our domestic economy we must cease to be looked at as a source of wealth and security for one and all.

Most sincerely,
WILLIAM R. STAMLER,
Chairman.

THOMAS A. MOSER & ASSOCIATES,
Covington, KY, May 29, 1987.
Hon. MITCH MCCONNELL,
U.S. Senate, Washington, DC.

DEAR MITCH. Thank you for your letter and data sheet on your proposed Tort Reform Bill. It certainly sounds like it would go a long way toward correcting current problems.

Personally, I have been operating without liability insurance for a couple of years due to the excessive premiums for coverage. Unlike Senator Metzenbaum I cannot be simplistic enough to think that the Insurance Companies are just trying to raise premiums arbitrarily. I would hate to be in their position trying to evaulate the risks in the present judicial atmosphere. Only a fairer and more predictable judicial system can bring sensible fees and logical risk assessment. You will certainly have to fight some rich and powerful legal parasites in order to get a bill of any kind passed. My information has it that Stanley Chesley made contributions to Dick Celeste in the quarter million dollar range and my source for this is very good.

To change the subject, I can scarcely imagine you and Jesse Helms on the same committee with the likes of Claiborne Pell, Alan (Lamont) Cranston and Christopher Dodd (a disgrace to his father). The rest of them Kerry, Biden, Moynihan, Sarbanes are almost as bad, how can you stand it?

Sincerely,
THOMAS A. MOSER,
Thomas A. Moser & Associates.

QUOTE FROM BERNARD DAHLEM LETTER

Our tort laws say that if someone is hurt, on purpose or carelessly, that he is entitled to collect money from those responsible. But isn't it a strange twist when these laws can be manipulated to hurt people who may have been involved, but weren't guilty of careless or purposeful action?

Come on! No wonder our insurance rates have skyrocketed.

THE WILL-BURT CO.,
June 10, 1987.
Subject: Product liability and competitiveness.
U.S. Senate,
Washington, DC.

DEAR SENATOR: I have learned that the California case has been settled that drives U.S.A. Small Business and workers out of jobs. In "Asahi Metals Industry vs. Superior Court of California" the court ruled that a foreign manufacturer cannot be held liable for any injuries or malfunctions caused in the United States by his products unless that manufacturer has a sales force or manufacturing plant within our borders.

Will-Burt Company in the last 2 years has been forced to pay double the past fees to insurance companies for very little coverage due to Joint and Several actions by the Judicial system, and yet you, the very group—our Congress—will not assist in saving jobs and Small Business in the United States. We pay, and our foreign competition does not. Will you please listen to the people in the first line of job defense? Will you try to understand and help us to be competitive.

I am the President of a small manufacturing business with over 300 jobs on the line. A 100 percent ESOP company, very efficient and very responsive to our owners and customers needs, but we will continue to lose until you understand and act. We produce parts to other people's design and specs; yet, under the Joint and Several doctrine, we are liable.

I am willing to travel to meet you and further explain why we need jobs in the U.S.A. and why Small Business needs relief.

Sincerely yours,
HARRY E. FEATHERSTONE,
President and C.E.O.

THE WILLIAMSPORT HOSPITAL
MEDICAL CENTER,
Williamsport, PA., June 3, 1987.
Senator MITCH MCCONNELL,
Senate Office Building
Washington, DC.

DEAR SENATOR MCCONNELL: This is a very brief note to thank you and congratulate you on your superb letter to the Wall Street Journal on 5th of May, 1987. May it be that more people in your position would feel this way. I think you are absolutely right that the tort system is completely destroying all sorts of initiative areas of our country, and in time the tort system, I am sure, will do a far better job than the Russians could ever think of doing.

Again, my thanks and congratulations.

Sincerely yours,
JAMES HARRISON, M.D.

RONALD O. GERMAIN, M.D., INC.,
Infants' and Children's Physician.
Senator MITCH MCCONNELL,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCONNELL: God bless you, God bless you for your great letter to Forbes on Tort Litigation.

I shall write the two Senators from N.H., in your praise.

Sincerely yours,
RONALD GERMAIN, M.D.

THE AMERICAN COLLEGE OF OBSTETRICIANS AND GYNECOLOGISTS,
OFFICE OF THE SECRETARY-TREASURER, KENTUCKY SECTION,
Lexington, KY, June 5, 1987.

Hon. Mitch McConnell,
U.S. Senate,
Washington, DC.

Dear Senator McConnell: I want to thank you and your staff for the appointment on June 2, 1987, during which time we discussed the medical mal-practice liability problem.

I was pleased to hear firsthand of your efforts and views on this matter and hope that you continue to search for a solution to this problem which I am sure is adversely affecting health care in Lexington, Kentucky, as well as the country at large. Not only is health care being adversely affected but the "victims" of mal-practice are not receiving a majority of the enormous cost of our present system of recovery.

If I can be of any assistance please feel free to contact me.

Very truly yours,
Donald E. Edger, M.D.

WINGO (AM)/WXID (FM)
Mayfield, KY.

Senator Mitch McConnell,
Russell Senate Office Building,
Washington, DC.

Senator McConnell: I applaud your efforts in attempting to bring the liability insurance crisis back to "reason". I encourage you to enlist the aid of the broadcasters, small business people, and the local insurance agency's to see this through.

I see problems in every area I am associated with; radio station, chamber of commerce, city government, etc.

The ramifications are that businesses, events, projects, and other "insurance needed" entities might cease to exist.

Please continue your efforts with zeal and concern, and know that you can count on the people of Graves County to fight for you.

Sincerely,
Roth Stratton,
General Manager.

Dear Senator McConnell: Our company insurance rates are increasing over 20% due to the nationwide increase in health care costs. I am wondering why health care costs are 3 to 4 times over the inflation rate and what is being done to put a hold on these costs.

I also would like to know why you compromised on your tort liability reform bill that you sponsored. The $100,000 limit seemed like plenty to be awarded for punitive damages. I would like to commend you on being there for every vote in Congress.

Sincerely,
Greg R. Meyer.

Appalachian Computer Services,
London, KY, June 26, 1987.
Hon. Mitch McConnell,
Russell Senate Office Building,
Washington, DC.

Senator McConnell: I just wanted to express my appreciation for your efforts in reforming the insurance crisis that we have in the nation.

I know you have taken a stand that is not popular with a lot of your colleagues and that is a bold move on your part. I simply wanted to reaffirm our support for your stance and let you know that ACS supports your efforts in this area.

Ken James,
President.

Mr. McCONNELL. Also, Mr. President, I also have an analysis regarding how the product liability crisis is slashing our competitive edge. This deals directly with the trade bill, and the relevance of my sense-of-the-Senate resolution as an amendment to an omnibus trade law.

I would like to ask that it be entered into the Record.

There being no objection, the analysis was ordered to be printed in the Record, as follows:

PRODUCT LIABILITY: SLASHING OUR COMPETITIVE EDGE

America's product liability laws lead the world for creating the highest insurance premiums and court outlays for manufacturers, wholesalers, retailers and franchisers.

Japan and Europe have much different product liability laws, which are intended to only hold companies liable if they are at fault. Judges, not juries, decide the amount of verdicts. Contingency fees are prohibited. The result is much fewer cases and dramatically lower court awards. For example: a recent Texas court returned a $104 million dollar verdict against a U.S. company for the injury of one person. The highest verdict ever awarded in the history of England's product liability laws was $1.2 million, according to England's Consumer Protection Agency head. In Europe and Japan, workers' compensation is considered a truly exclusive remedy. In the U.S., a clever plaintiff can often circumvent the workers' compensation system, resulting in much higher costs for American companies.

Today, U.S. manufacturers rank product liability as one of the top three priorities in moving the U.S. toward a more competitive posture.

THE BOTTOM LINE: LOST JOBS, SHRINKING INDUSTRIES

The machine tool industry is only about three quarters what it was a decade ago. While product liability is not the sole reason for the industry shrinkage, it is a component. Liability costs are estimated to account for about 15% of the average price of machine tools. According to a Department of Commerce study, U.S. machine tool manufacturers pay from 20 to 100 percent more in liability costs than foreign competitors. The situation is so bad about 23% of the industry is without insurance, according to the National Machine Tool Builders Association.

PRODUCERS OF LIFE SAVING DRUGS, DEVICES AND VACCINES DECLINE

Development of new drugs is diminishing as product liability cases grow. In 1986, G.D. Searle & Co. announced it would stop selling its Copper 7 intrauterine contraceptive device, considered safe and approved by the U.S. Food and Drug Administration. The reason for Searle's move: successfully defending four product liability lawsuits amounted to $1.5 million and sales only reached $11 million. Since the product is safe, however, it is still being sold overseas, where laws are different.

Decisions to pull vaccines, drugs and medical equipment abound. Consider Bendectin, the only prescription drug available to help pregnant women suffering from severe nausea. In courtroom after courtroom, the manufacturer (Merrell Dow Pharmaceuticals) never lost a suit, yet the legal bills threatened to exceed the $13 million a year of revenues. As a result, the drug has been voluntarily removed from the market.

Of the companies producing the seven pediatric vaccines that most states require for children entering school, Merck & Co. is the only manufacturer of the combined measles, mumps and rubella vaccine; others have left the field because of product liability costs. Today, only two companies making diphtheria, tetanus, and pertussis (DTP) vaccine remain; and only one company still makes the polio vaccine. And in just one year, the price of those vaccines have doubled in price to pay the lawsuit bills. DTP has gone from $2.80 to $4.29 a dose. Manufacturers say this marginally profitable business may be driven completely out of America, and be left to foreign competitors.

HOSPITAL EQUIPMENT MANUFACTURERS RAISE PRICES, PULL PRODUCTS

Puritan-Bennett, one of the leading U.S. manufacturers of hospital equipment, stopped making anesthesia gas machines in 1984, leaving to two foreign-owned manufacturers a market once dominated by half a dozen companies. They also claim that the price of ventilators they make, which keep some 20,000 people alive, has soared because of the liability crisis. While there are relatively few claims against the company, premiums increase because of the growing size of awards given in product liability cases.

AVIATION INDUSTRY SHRINKS, HUNDREDS LOSE JOBS

Sales of light aircraft dipped to the lowest level since World War II in 1986, with the number of aircraft sold by U.S. industry dropping 26 percent. According to the General Aviation Manufacturers Association, the industry slump has reduced employment by 66 percent since 1980. Just last year, Cessna Aircraft closed two plants in Kansas, laying off 900 people. Says Edward Stimpson, president of the General Aviation Manufacturers Association, "Product liability remains the largest single cost element in light aircraft today. Industry-paid claims rose from $24 million in 1977 to $209 million in 1985." Each individual plane carries about a $70,000 insurance bill, a cost passed on to consumers or causing company doors to close.

SPORTING GOODS MANUFACTURERS THROW IN THE TOWEL

Sporting goods manufacturers also report a declining environment for producing products in the United States because of our lawsuit environment. In the last 10 years more than a dozen manufacturers have given up producing helmets in the United States. Now only two companies remain. Uvex Winter Optical recently decided to no longer manufacture and distribute motorcycle and ski racing helmets because of liability costs.

According to Howard Bruns, president of the Sporting Goods Manufacturers Association, liability insurance costs used to be one-half of one percent of the cost of a product. Today the cost may be as much as half the price of sporting goods.

The overall effect: price increases for consumers. As Time Magazine reported last year, ski lift tickets were rising $2 to $3 each just to cover insurance premiums.

WOODWORKING EQUIPMENT COMPANIES CLOSE DOORS

Bankruptcy and plant closings have ravished the industry which makes saws, lathes and other woodworking equipment. The Wood Machinery Manufacturers of America report that 34 of its 113 members have left the business. In part, it's because of liability for machines 50 or 60 years old.

Small business manufacturers of all types of products face similar bottom line dilemmas. William Parry, a sole owner of Wepco Inc. in Virginia, last year quit manufacturing safe driving aids for the handicapped. Again, because premiums based on today's legal climate made profitability impossible.

SYSTEM TAKES TOLL ON TOYS FOR TOTS

Toy and baby equipment manufacturers report soaring claims and decreasing profits. F.J. Strauss Co., a North Bergen, N.J. manufacturer says their insurance rates have increased 10-fold. As a result, he has had to lay off employees and increase toy prices. He anticipates he will have to shut his doors and lay off an additional 50 employees if something is not done soon. Tailored Baby Inc., a California manufacturer of baby accessories such as crib sheets and car seat covers says, its soaring insurance rates jeopardize the "future and continuance" of its profitability.

RESEARCH AND DEVELOPMENT HAMPERED: UNIVERSITIES CRY HELP

Two of the nation's premiere research institutions made a plea to the Senate Commerce Committee members last year: improve the product liability climate because it is hampering research.

John Preston, director of technology licensing at Massachusetts Institute of Technology, and Niels Reimers, director of technology licensing at Stanford University, testified, "Unfortunately, recent years have seen a dramatic escalation in product liability litigation with university endowments being seen as potential attractive targets of such suits. Thus, legal advisors now are recommending that universities not license any U.S. firm which has limited assets or is unable to provide adequate product liability insurance which covers both the licensee and the licensor." The result, they said, is impeding their ability to work with small companies, who have "been most effective in contributing to technology transfer and job creation."

The MIT's researcher said an example of the problem was highlighted when they were unable to get insurance for life-saving synthetic skin, which researchers were convinced would save hundreds of burn victims. Only when MIT agreed to insure the product itself was the product released for use. It has since saved dozens of lives and insurance for the product is now available.

ENGINEERS SAY LIABILITY INHIBITS INNOVATION

In some instances, American manufacturers are disadvantaged because foreign companies will not sell their goods here. Borg-Warner Corp., sought to buy a pelletizer, a state-of-the-art, high-speed machine used in the plastics industry, from a Dutch company. The company refused to sell to Borg-Warner, citing out liability laws. However, Borg-Warner's foreign competitors in Taiwan and Japan are being sold the machine, a distinct disadvantage for the company.

And finally, more bad news. A recent survey by the American Consulting Engineers Council states that some 63 percent of engineers say liability concerns inhibit their specification of new products.

Mr. McCONNELL. Let me just read the headlines from this analytical report: lost jobs, shrinking industries; producers of lifesaving drugs, devices and vaccines decline; hospital equipment manufacturers raise prices, pull products; aviation industry shrinks, hundreds lost jobs; sporting goods and manufacturers throw in the towel; woodworking equipment companies close doors; research and development hampered: universities cry help; engineers say liability inhibits innovation.

Mr. President, in order that my colleagues feel the pulse of America on this issue, I would like to insert at this point some articles and op-eds from various newspapers across the country, one from the Courier-Journal; one from USA Today, called: "Reform the Laws, End the Legal Rip-off'; a letter I wrote to the Wall Street Journal, a letter to Forbes magazine; and several other articles that I believe shed additional light on America's verdict on the lawsuit explosion.

Mr. President, I ask that these articles be inserted in the Record at this point.

There being no objection, the articles were ordered to be printed in the Record, as follows:

[From the Louisville Courier-Journal, July 13, 1987]

Lawsuits Jamming U.S. Courts

Washington.—The number of lawsuits filed in federal courts has nearly tripled since 1970, with heavier caseloads stemming from contract disputes, personal injuries and complaints from federal prisoners, according to a report issued yesterday.

The number of civil case filings rose from 87,300 in 1970 to 254,800 last year, while criminal cases increased 4 percent in that time—from 40,000 to 41,500, the Bureau of Justice Statistics said.

However courtoom backlogs and bottlenecks were largely attributed to the complexity of a small number of cases with multiple claims and multiple defendants.

Fewer than 5 percent of civil cases reached trial in 1986. Nearly half were settled with no court action, and 47 percent were settled before trial.

The number of private personal-injury lawsuits has risen by more than 45 percent since 1980, to 32,000. The number of complaints filed by federal prisoners rose more than 35 percent, to 33,000, the bureau said.

[From USA Today, Mar. 25, 1987]

Reform the Laws, End the Legal Rip-Off

We're suing ourselves silly. Liability lawsuits and skyrocketing insurance premiums have gotten out of hand.

People are fed up with huge awards, exorbitant legal fees, and insurance costs that force businesses and governments to the brink of bankruptcy.

They're tired of hearing that day-care centers are closing their doors because the operators fear devastating suits or can't afford insurance. That doctors are getting out of the baby business and high-risk surgery. The school districts are discontinuing athletic programs.

Last year, the public put enough pressure on legislators to get laws governing liability suits changed in 25 states. Most of the remaining states are considering similar changes in civil damage suit laws.

Generally, these changes—called "tort reform"—put a cap on damage awards, limited lawyers' fees, and restricted who could be sued in some cases.

Tort reform is a good idea. It is right to put lids on damage awards. It is right to put restrictions on lawyers' contingency fees. It is right to penalize lawyers—and plaintiffs—if they file clearly frivolous suits.

Further, large awards to disabled plaintiffs should be paid in installments in some cases so that benefits will be there when they're needed. Defendants should pay damages based on their degree of responsibility and not their deep pockets. And double compensation should end.

These changes won't deny victims just compensation. They won't deny lawyers fair fees. They won't deny insurors fair profits.

They will end the legal rip-off and deny to the greedy unreasonable profits from the pain and suffering of others.

(Don Bailey, 65, Tour Operator, Middletown, N.Y.)

It all boils down to three things: the new breed of people known as the "sue me" tribe, lawyers, and the insurance companies. The insurance companies have always been winners because they do not play a losing game. They put the squeeze on everyone. The only way you can beat an insurance company is to die.

[From The Washington Times, May 20, 1987]

Product Liability vs. Competitiveness

(By Jeffrey Joseph)

Members of Congress who are genuinely interested in making the United States more competitive in the world marketplace should accord top priority to product liability reform.

Few factors do more to subvert U.S. competitiveness than this nation's absurd liability laws. Because U.S. manufacturers bear a much higher liability risk than foreign competitors, they must pay excessive insurance premiums which, in turn, are reflected in the cost of U.S. products and services.

Not only are U.S. manufacturers forced to charge more for their products, but the threat of liability suits is driving many companies out of basic product lines altogether and discouraging them from launching new ones. Our foreign competitors, who are not subject to U.S. liability laws and enjoy more rational systems in their own countries, are at a distinct advantage.

The field of health care is a prime example. Consider the case of Wepco Inc. of Vienna, Va., a small enterprise that once manufactured hand and foot driving controls for the handicapped. Although Wepco's product was endorsed by the Veteran's Administration and the firm had never been sued successfully, its product liability insurance cost rose so dramatically that it was forced to shut down last September. Its president, William Perry, is now a consultant to other manufacturers, many of whom are foreign.

Lawsuits threaten to choke the computer industry and are already inhibiting innovation. There are inherent risks in the production of any new product, especially those involving high technology. Computer programs used in industries such as health care, transportation and hazardous waste disposal expose their makers to enormous liability should a jury later determine that a software package was defective and could have been made safer.

Too many U.S. firms are simply turning their backs on promising new ideas and products because of the unpredictable liability factor.

Producers of specialized machinery used by the paper industry have been hard hit by this trend. These machines are routinely misused by employees who fail to follow manufacturers' instructions. This leads to injuries and, often, unwarranted lawsuits. Not long ago this industry was a positive contributor to our balance of trade. Today it is losing ground to foreign competitors, even in our domestic market. Because of our liability laws, an industry that enjoyed a $109 million trade surplus in 1982 generated a deficit of $215 million in 1986.

Because they have relatively few older foreign products in the United States, foreign firms have a shorter "liability tail," even when they are subject to our laws and subject to lawsuits, which is not often. It is extremely difficult to sue and enforce judgments against foreign manufacturers doing business in this country. Assets of foreign corporations can seldom be attached if the firms maintain no offices or plants in the United States.

To make matters worse, on Feb. 24, the U.S. Supreme Court refused to allow an indemnity action against a Japanese supplier of tire valves which had given rise to a liability suit (Asahi Metal Industry vs. Solano County Superior Court). The case re-emphasized that unless a foreign manufacturer has a highly visible presence, it is unlikely to be sued in this country. Foreign manufacturers will face product-liability actions only if the case for liability is strong and potential damages are substantial. Unlike suing a U.S. manufacturer, it is highly unlikely that a frivolous suit, or a case with questionable damages, would be initiated.

The upshot is that many foreign producers, virtually immune to this country's legal system, carry little or no liability insurance—giving them a tremendous advantage.

The key difference between the United States and its foreign competitors in liability law comes down to our "pot-of-gold" mentality, in which every citizen regards an injury or loss as an invitation to win the lottery. The root causes of this aberrant mentality are:

1. Our legal system's dependence on contingent fees for attorneys, which often means a "no cost: no risk" funding mechanism for plaintiffs. Such fees are illegal in other industrialized nations and for good reason—they stimulate wasteful and unproductive litigation.

2. Evolving legal standards of strict liability and joint and several liability which disregard fault as a oasis for recovery. It would be difficult to conceive of any concept more at odds with traditional notions of justice and fair play. These doctrines facilitate a shotgun approach—naming as many defendants as possible, expecially one with "deep pockets," who usually get stuck with the bill.

3. Routine pain and suffering awards and punitive damage awards, which are rare in other nations and often prohibited altogether.

4. The use of juries in civil disputes, which routinely grant higher awards than judges would, because juries more easily identify with plaintiffs and often do not perceive the overall cost to society of excessive awards. Juries are not permitted in civil disputes in Europe and Japan.

The effect is to make litigation a national pastime. For many corporations, defending against lawsuits is an everyday business expense, like paying the electric bill. It is a major expense, one that small businesses cannot afford and one our competitors do not have to deal with.

A 1984 study commissioned by the U.S. Department of Commerce found foreign competitors have product liability insurance costs 20 to 50 times lower than their U.S. competitors. And this study was done before the liability insurance crisis erupted in 1986.

Reform of product liability laws and state tort laws lies at the heart of this nation's quest to become more competitive. The Reagan administration recognized this salient fact in its "competitiveness package," which awards a priority to liability reform.

The time has come for Congress to get off the dime and enact meaningful product liability reform. If Congress is truly concerned about this country's competitiveness, this would be an excellent and effective way to demonstrate it. Reform will enable American producers to compete with foreign manufacturers on a more level liability playing field.

[From the Wall Street Journal, Apr. 5, 1987]

Bic Is Tort Plague's Latest Victim

Once again, the tort-litigation juggernaut has claimed another victim: Bic Corp., besieged by hundreds of lawsuits over its popular disposable lighter, was crippled by a 25% devaluation of its stock (news story, April 13).

How many of these lawsuits present legitimate claims? Bic Corp. believes that most of the suits are "wildly exaggerated," while the Consumer Product Safety Commission attributes at least 200 deaths a year to disposable lighters. It's actually a waste of time to debate the merits of each case, because under our current tort system, it really doesn't matter who was wrong or responsible for the injury.

In this society, if someone gets hurt, somebody, anybody must pay—and a line of hungry trial lawyers will be waiting outside the hospital room to get a share of the action. If a defendant is only marginally responsible for the damages, the defendant pays. If the defendant designed the safest product possible, defendant pays again. If the defendant was completely in the right, the plaintiff's lawyer usually will accept a gouging settlement, as a payoff to desist from instituting further costly stalling tactics.

This problem doesn't affect just gigantic corporations, and their investors, employees and customers. The plague of tort litigation harms every business enterprise from Wall Street to Main Street. It forces companies to invest in insurance, rather than retooling or expanding operations. In my home state of Kentucky, spiraling liability costs recently forced a Louisville manufacturer to shift its operations to the Netherlands, eliminating more than 40 jobs.

The specter of liability also pushes qualified people out of the medical professions at a time when better health care has become an urgent national priority. Ultimately, the victims of our irresponsible tort-litigation system are America's workers and consumers, who pay for the system's excesses in higher prices for goods and services, gutted government programs and lost jobs.

That is why tort reform should be at the top of our legislative agenda this year. It is meaningless to talk about improving competitiveness, if we leave untouched the litigation industry that punishes innovation, drains financial and human capital, and imposes costs not shared by our foreign trade rivals. It is absurd to talk about better social programs, when liability costs cut into such basic services as municipal police, ambulance service and public education.

No one should be denied full and fair compensation for an injurious wrong. At the same time, no one should be denied justice because of a system that has lost all sense of what is fair and reasonable. Throughout the illustrious history of Western jurisprudence, liability has always been determined by one homely little rule: If you're at fault, you pay; if not, you don't. It's time to return to this basic rule, before the tort-litigation juggernaut makes victims of us all.

MITCH MCCONNELL (R., Ky.),
U.S. Senate.

Washington.

[From Forbes, June 29, 1987]

Sensible Solution

(By Mitch McConnell)

Sir: Your cover story "Judicial imperialism" (June 1) is a penetrating indictment of what many now consider "the most dangerous branch": an insulated judicial system.

For too long, we have blamed the liability crisis on insurance companies and lawyers. But tort lawyers are merely the carpetbaggers of this judicial Reconstruction, feeding off a lucrative tort recovery system created wholly by judicial fiat. Judges, animated by utopian sentiments and unencumbered by "tiresome democratic details," have grown to believe that law and reason should present no obstacle to dispensing welfare from the courthouse door.

The blind scythe of tort liability forces American companies to invest in insurance and legal fees, while their foreign competitors invest in research and retooling.

This year, I introduced S. 554, the Tort Litigation Reform Act of 1987, in order to return reason, predictability, and fairness to tort adjudication.

[From Forbes, July 13, 1987]

Who Will Protect Us From Our Protectors?

(By Peter Huber)

Burt Rutan, the pioneering designer of the *Voyager*, didn't have the resources to compete with Cessna or Beech. But he had a cheaper way of getting his products to the marketplace. He sold construction plans for novel airplanes to do-it-yourselfers who built the planes in their garages. But two years ago, fearful of the lawsuits that would follow if a homebuilt plane based on his designs crashed, Rutan stopped selling the plans.

Our nation's bloated tort system is tough on small businesses like Rutan's, which can't afford costly lawsuits. What's even worse, the system in conjunction with the bureaucracy, is beginning to strangle development and marketing of new technology. This could well be the greatest of all dangers to American competitiveness and to our standard of living.

I strongly suspect that if Henry Ford had had to bring out his Model T in today's environment, the courts and the regulators would have stopped him. Darn thing was dangerous; why, you could break your arm cranking it. Of course, horses were dangerous, too, but as an established technology, horse transportation would have fared better in the courts and regulatory halls than transportation by newfangled flivver.

Societies that lose their ability and will to innovate are soon superseded by others resilient enough to exploit change. The Inca and Aztec societies of the Western Hempisphere reached a high level of development and then stopped innovating. They fell easy prey to Europeans who had welcomed and absorbed new technology. That is only one dramatic example in history. The technology of stone surrenders to copper, nomadic hunter-gatherers to farmers, the longbow to the crossbow and the crossbow to gunpowder. Social traditions that emphasized horsemanship to the exclusion of artillery and infantry precipitated a rapid demise of Muslim power.

Time and time again the decline of nations originates in an aging society's complacent refusal to innovate and adapt. Government is captured by the forces of reaction, social institutions calcify and the brittle structure eventually collapses through internal erosion or outside pressure.

For much of the past century America was the world's center of technological innovation: first with the telephone, with mass-produced automobiles, with civilian nuclear power, with the microchip and with countless new pesticides, contraceptives and drugs. Measured by patents or Nobel prizes, we are still a technological dynamo.

But increasingly, the marketplace tells a different story. Anguished administrative agencies delay for years the introduction of new technologies. When an innovation does fiunally make it to the market, it is assaulted a second time by a liability system relentlessly hostile to all that is technologically unfamiliar. Bendectin, to take one example, was recently the best drug on the market to combat morning sickness. It survived strict Food & Drug Administration review only to be knocked off the market by a cascade of scientifically meritless lawsuits.

Old technologies bear regulatory and judicial burdens, too, but the newer ones are handicapped. That's because the old is innocent until proven guilty, while the new is guilty until proven innocent. The difference is important when the trial—whether in superior court or at the FDA—costs millions of dollars.

Under the Toxic Substances Control Act, a company must obtain Environmental Protection Agency approval before manufacturing or marketing a new chemical. By contrast, tens of thousands of "old" chemicals—listed in an official register—are regulated only if the agency itself takes the initiative. The same goes for pesticides.

Old coal-fired power plants have grandfather privileges; new ones are subject to stringent environmental controls. Selective breeding of plants and animals is unregulated. But genetic engineering—which achieves identical results far more economically and precisely by using recombinant DNA—is regulated with obsessive zeal by dozens of federal and state agencies.

We—the very society that always wanted the latest—have developed a bias against the new.

The process, as Alfred North Whitehead once observed, quickly becomes the reality. The inertia of government bureaucracy weighs in favor of the old and against the new. Scientific uncertainty about risk used to be resolved in favor of the regulatee. For today's screening agency, it always counts in favor of the regulator. When workplace regulators want to restrict exposure to benzene, they must prove there is "significant risk." But if a chemical company wants approval for a new, bio-engineered pesticide, the burdens are reversed. Here, ignorance about risks translates into the strictest possible regulation by the agency.

Trouble is, the more innovative a new technology really is, the more scientific uncertainty there is about both its risks and benefits. If change is to occur at all, the gatekeeper at the agency insists that it occur incrementally, within the safe boundaries of existing paradigms. Development is preferred over invention. The small step by an established company is favored over a great leap in an altogether new industry. Adding scrubbers to familiar coal-burning plants is easy but expensive. Switching to cleaner nuclear fuel is difficult.

Is it any wonder that the U.S. drug lag has been steadily widening? The well-publicized exceptions to the arduous approval process for experimental AIDS drugs are truly exceptional; the more typical result is the May decision by an FDA panel to keep tissue plasminogen activator away from heart attack victims. Somatotropin to correct pituitary deficiency, disopyramide for abnormal heart rhythm, propranolol for high blood pressure, sodium valproate for epilepsy and bromocryptine for endoctrine disorders—all these were available to Europeans five to ten years before Americans could use them. The injectable contraceptive Depo-Provera, developed by Upjohn in the U.S., is marketed in 90 other countries, but not ours. A once-a-month contraceptive pill has been approved in France; a contraceptive vaccine and effective male chemical contraceptives are under rapid development in a number of other countries. No approval of any of these products in the U.S. is imminent.

What is true at the FDA is true elsewhere in Washington. For six years Chemical Waste Management has been pleading for permission to exploit incineration technology 140 miles off the Atlantic coast, on its Vulcanus II. For six years the Environmental Protection Agency has been stalling on the request. Meanwhile, both Vulcanus I and Vulcanus II have been operating off Europe for 15 years.

The U.S. breeder nuclear reactor program is dead, while Japan, France and much of Western Europe are moving steadily forward. In this country the only future of electric power is the past: coal, the most primitive and environmentally regressive option. Disposal of nuclear wastes in this country is paralyzed by regulatory handwringing, although the technology is well developed. France is at least a decade ahead in its use.

Genetic engineering is fast being tied up in regulatory knots. The development of a gene-modified bacterium to prevent frost damage on crops goes back to 1982, but the technology was finally tested—still under absurdly excessive regulation—only this year. Regulatory inertia has likewise chilled and delayed testing of a gene-altered cutworm pesticide developed by Monsanto, another bacterium that grows symbiotically with alfalfa, several gene-altered animal vaccines and animal tests of enhanced growth hormone genes.

Our legal system aims to prevent a Chernobyl or a thalidomide. It has done that, but it has done so in a way that makes rational risk comparisons impossible. Coal plants probably kill 500 people a year in mining accidents and in acceleration of lung ailments by air pollution, while deaths from nuclear plants in this country are, so far, close to zero. Yet coal power is favored over nuclear. Vaccines may save 1,000 lives for every one they take, but liability for that one death is enough to scare vaccinemakers out of the business.

Saccharin had been on the market for almost a hundred years when the FDA proposed a ban in 1977. Because it was so well entrenched, the saccharin industy had no difficulty getting Congress to overrule the ban. But it took G.D. Searle eight years and an enormous investment to win FDA approval of aspartame, and those eight extra years of heavy saccharin use may have caused several thousand unnecessary cancers.

Manufacturers of small, piston-engine planes have suspended production in the face of escalating liability. One 1978 jury held Piper Aircraft liable for its design "defect" in using a carburetor rather than a fuel injection system. The engine was fully approved by the Federal Aviation Administration, and 90% of the other planes of that size used identical fuel systems. Beech continues to make a full line of planes but isn't making much money on them. Its product liability costs average $105,000 per plane. All this leaves the field to dangerous secondhand planes that were placed on the market at an earlier point in the liability system's spiral.

Irradiation is the best way to kill salmonella bacteria in fresh chicken. It isn't permitted. So we rely instead on an antiquated inspection system, and we get sick. Holland and Japan have rushed ahead of us in commercializing irradiation technology.

Our paralysis in rationally comparing new and old risks, then, has made ours a riskier society. The scene is from the lowest circle of Dante's Inferno. Two great birds flap their wings desperately in a struggle to escape unknown terrors—and the flapping itself keeps their claws frozen solidly in the ice below.

The media must take some of the blame for this state of affairs. Stories about the risks of automobiles or cigarettes are not news, but the story of a Three Mile Island accident that hurts no one is big news. Jeremy Rifkin's Foundation for Economic Trends, which fights biotechnology, and the Union of Concerned Scientists, which fights for nuclear regulation, are taken seriously by reporters, editors and broadcasters out of all proportion to their actual scientific constituencies.

The change-haters also get support from unions. Factory workers fight robots, agricultural workers fight mechanical harvesters, airline pilots fight the shift from three- to two-person cockpits and plumbers fight labor-efficient plastic pipe. Then business chimes in. The antiplastic plumbers for example, are allied with metal-pipe manufacturers. It's domestic protectionism—a reactionary trend that raises the cost and risks of life in the U.S., and all in the name of protecting the public.

The liability system cuts in where the administrative agencies leave off. Until the early 1960s liability in U.S. courts depended on negligence. The negligence standard inquired whether the technologist was careful, prudently trained, properly supervised. The technologists best able to meet this standard were often the ones at the leading edge.

But the liability system's focus shifted profoundly in the 1960s and early 1970s, to "strict" liability. (For more on this arrogation of power by the judiciary see "Judicial Imperialism," FORBES, June 1.) This tells juries to assess technology, not the conduct of those who create and manage it. The good faith, care and training of the technologist is irrelevant. Technology itself stands in the dock.

This seemingly modest change tilts the entire liability system against innovation. Jurors can make reasonably sensible, intuitive judgments about other individuals, even professionals, but they are not experts on technology or its risks. When jurors are asked to categorize technologies (as distinct from their inventors or managers) as good, bad or ugly, the answers follow a predictable pattern. Age, familiarity and ubiquity are the most potent legitimizing forces known to the modern liability system. The inexpert juror is predisposed to spot "defects" in technologies that are unfamiliar or adventuresome.

Appeals court judges announce solemnly that they cannot upset a determination of "fact" by a jury. And so the federal appeals court in Atlanta recently affirmed a $4.7 million verdict against a maker of a widely used spermicide that was accused of causing a birth defect. What kind of "fact" is this? Scientifically, the case is a farce. The likelihood that the spermicide caused the plaintiff's birth defect is close to nil.

Do we get safer birth control this way? Emphatically, no. Makers of oral contraceptives also fight lawsuits, but they have been on the market the longest and have learned to survive the liability sweepstakes, mainly by providing excruciatingly detailed warnings. The art of writing warning labels requires a wealth of market and litigation experience. The warning rules greatly favor old products over new ones.

Innovation germinates in small institutions. But success in the regulatory system requires a large stable of lobbyists and liability lawyers. So technology tends to proceed in small steps from established firms more than huge leaps from innovators. Insurance aggravates the bias against innovators. The availability of affordable insurance depends entirely on the accumulation of actuarial experience—something all established technologies have and no truly innovative one ever does.

U.S. utilities now go abroad to buy back improvements on the technology U.S. firms once sold. Last year the Wistar Institute in Philadelphia arranged research in Argentina to test a bovine rabies vaccine, and Oregon State University researchers chose New Zealand to test another bioengineered vaccine. Regulatory agencies and liability courts send a single, persistent message to scientists, engineers, doctors, pharmaceutical firms, waste handlers, airlines: Don't experiment, don't be venturesome, don't go out on a limb. Play it safe.

Creative destruction—the constant replacement of old social structures and technologies with new ones—is the key to any civilization's survival. In this sense, our enemy is within, not without. We are stifled by our own do-gooders, our law courts, our bureaucrats. Today the Wright brothers could not get off the ground. Could our early railroads have passed an environmental impact or safety test? What would the unions have done to Eli Whitney's cotton gin?

Product Liability and Competitiveness

(By Stanley C. Gault)

In the great buzz surrounding the issue of American competitiveness, one hears a multitude of problems and proposed solutions emanating from all directions. We need to reform our trade laws; protect our intellectual property rights; improve our educational system; and deal with the issue of employee benefits.

It is important that we address all those things—and NAM is working on them as part of our 12-step action plan toward renewed American competitiveness.

However, we must not forget another issue that has tremendous impact on the competitiveness equation, the issue that was named "Number 1" by the small manufacturers at the White House Conference on Small Business this past summer. I refer to the subject of product liability.

If America's lost competitiveness can be categorized as a black wreath hanging on the door of U.S. industry, then the product liability crisis provides many of the somber flowers that make up that wreath. Despite some moves by the American Bar Association and on Capitol Hill, we are still far from an acceptable resolution.

The cost and problems associated with liability insurance continue to drag down American industry. In the last five years alone, the insurance industry has spent more than $93 billion to pay claims and legal costs for business liabilities. Another 25 percent of the nation's businesses are self-insured, bringing the real "business legal defense" bill close to $116 billion. I don't need to tell you who's paying that enormous cost.

A study conducted by the American Textile Machinery Association revealed that American machine tool manufacturers pay 20 to 100 percent more for liability insurance than their European and Japanese competitors. The General Aviation Manufacturers Association report that the number of light aircraft sold by U.S. manufacturers dipped 26 percent last year. The manufacturers simply couldn't compete with their foreign counterparts who don't have to include $70-$100,000 for liability insurance in the price of each small plane sold. Cessna Aircraft Company actually terminated 900 people and stopped production of one type of aircraft in 1986—a direct result of product liability costs.

And we all know you can't compete if you aren't producing. A manufacturer in Massachusetts who makes infant car seats is seriously considering dropping that important and necessary line. And a Virginia manufacturer of driving aids for the handicapped did go out of business because it could not afford to carry the necessary insurance.

U.S. manufacturers have just been dealt another body blow. In Asahi Metals Industry v. Superior Court of California, the court ruled that a foreign manufacturer cannot be held liable for any injuries or malfunctions caused in the United States by his products unless that manufacturer has a sales force or manufacturing plant within our borders. That means that every U.S. manufacturer who uses foreign-made components in a product that may be found responsible for an injury will foot the entire bill—even if the foreign part was to blame. This is another example of how we pay and our foreign competitors do not.

Today, only one domestic maker of vaccines for measles and hepatitis remains. Only two are left making whooping cough vaccine, and the cost has gone from $.50 to $11.00 since 1982. Eight of the $11.00 goes into a liability fund because the companies cannot get insurance.

The fault for this appalling situation lies squarely on our system of law. All 50 states and the District of Columbia have different standards for evaluating product liability. The variety and inconsistency of these laws make it impossible to ensure that a product and its manufacturer won't eventually be dragged into court.

This makes insurance companies so nervous that some manufacturers can't get coverage at any affordable price. For example, 18 U.S. companies used to make football helmets. Only two are left today—and they pay more for liability insurance and legal costs than for material, labor and overhead combined.

These examples are not scare tactics—they are real life stories. Every time a product line is dropped, or every time a company goes out of business, American jobs are lost, and American competitiveness suffers another setback. There are issues of fairness and availability of products to be considered as well, and they are extremely important considerations. But even if we put those aside and focus only on product liability's effect on our ability to compete, the arguments for reform are too compelling to rebut.

We've all heard claims that one faction or another is to blame for our liability crisis: lawyers because they file too many suits; manufacturers because they make shoddy products; insurers because they are playing with prices and profits; consumers because they would rather sue than take any personal responsibility for their actions. Some or all of those contentions may be true. But the real culprit for the crisis is politics and the unwillingness of our political leaders to face an issue that will cause waves.

I urge you to write your congressmen and your senators. Tell them how the cost and availability of product liability insurance affects your business. Ask them to support H.R. 1115, a good starting point for product liability reform.

American industry cannot be competitive unless meaningful product liability reform is enacted. If competitiveness is going to be more than merely a political "buzzword." I challenge our leaders to do something about it now.

[From the Los Angeles Times]

Liability Costs Cut Into Airplane Sales

(By Penny Pagano)

WASHINGTON.—These are hard times for the U.S. general aviation industry, whose production plummeted to 2,029 aircraft last year from 17,811 in 1978.

But industry officials say nothing has hit as hard as soaring product liability costs. Without relief from skyrocketing insurance premiums and runaway jury awards, they say, the United States could permanently lose its historic position as the world leader in general aviation manufacturing.

"We are on the threshold of seeing an entire industry destroyed," said Russell W. Meyer Jr., chairman of Cessna. The Wichita, Kan., company has produced more than 175,000 propeller aircraft, but as Meyer recently told a Capitol Hill hearing, "it is unlikely we will build another piston aircraft if the product liability issue is not resolved in a realistic and reasonable manner."

Last year, product liability insurance costs for general aviation manufacturers totaled $135 million—an average of almost $70,000 per new plane. In 1972, by contrast, the industry spent $20 million, for an average of only $2,111 per new plane.

Piper now pays more for product liability insurance than it does for labor to build its planes.

Cessna's product liability insurance costs have soared from an average of $5,000 per aircraft sold in 1983 to an expected $90,000 in 1986.

Suppliers of aviation components say they are feeling many of the same pressures as the manufacturers of the planes. Frederick B. Sontag, president of Unison Industries, which makes the magnetos that supply airplane engine sparks, has been involved in 15 major product liability lawsuits in the past six years.

In 13 of the 15 lawsuits, Sontag said, his products had nothing to do with the accident. Nevertheless, he said, Unison has made settlements as high as $65,000 in addition to $60,000 in attorney fees "just to buy our way out of a single lawsuit."

R&D IS LAGGING

Several years ago, Sontag said, Unison scrapped an advanced electronic ignition project "because we were afraid to pioneer such a liability risk."

At Piper, Wyma agrees that research and development are lagging. "When you are paying out the kind of money we are [for product liability premiums], you don't have much left over to put into research and design," he said.

There is the added worry that spiraling product liability costs are giving a competitive edge to foreign companies, which have fewer older planes in the United States and are less vulnerable to damage suits under U.S. law.

[From the Washington Post, July 13, 1987]

FLORIDA MALPRACTICE CRISIS DEFIES CURE

(By Michael Specter)

MIAMI.—Omar Bickel forgot to look both ways when crossing the street the other day, and he never saw the van coming. The 6-year-old boy was rushed by ambulance, bleeding and in agony, to the nearest hospital, a block from his house in North Miami Beach.

But when paramedics wheeled the boy into the emergency room, they were turned away—no doctors were there to treat him. The ambulance was forced to travel another 35 minutes—past at least seven other hospitals—to get him to Jackson Memorial Hospital, the only place in Dade County now accepting trauma victims.

"This time the kid is going to live," said Lt. John Romano, one of the paramedics. "But will the next one be as lucky? I don't really know who to blame, but if this crisis doesn't end soon, it's going to start killing people."

Already besieged by malpractice insurance costs that are among the highest in the nation, many doctors in the Miami area have decided they can no longer accept the burden of the insurance premiums or the risk of malpractice suits for performing emergency room surgery. Since July 1 when the St. Paul Fire and Marine Insurance Co., the largest insurer of Florida doctors, raised rates 43 percent in Dade and Broward counties, more than 1,000 specialists have refused to work in emergency rooms in the two counties, according to Richard Glatzer, president of the Dade County Medical Association. The shortage has forced most of the region's 57 hospitals to shut their doors to emergency patients.

As huge jury awards become more frequent and malpractice suits turn into a common part of medical life, soaring malpractice insurance premiums—particularly in high-risk specialties such as obstetrics and neurosurgery—have become a major issue in medicine. Led by California, several states have limited the amount of damages that juries can award.

But in Florida, with a surplus of both doctors and lawyers, the crisis has resisted every attempt at resolution. Last year, the state Supreme Court ruled unconstitutional a law limiting jury awards for pain and suffering to $450,000.

"The lawyers and doctors are out of control, and so is the legislature," said William G. Stafford, executive vice president of the Broward County Medical Association, where only three of 17 emergency rooms are taking all patients. "This is a situation that has been getting worse for years. We have a couple of places serving the needs of 3½ million people. We are in line for some serious trouble."

Few in the Miami area would disagree with his assessment. A growing number of doctors simply "go bare"—they refuse to carry insurance that costs up to $200,000 a year. Public officials have asked that people drive only if they have to. Gov. Bob Martinez has called a special session of the legislature for September. But so far, the rhetoric seems to have drowned out any attempt at a sensible solution.

Doctors blame the problem on greedy lawyers who are "suit happy." Lawyers say they are only after incompetent doctors who destroy lives. And almost everyone blames the insurance companies, who are either pulling out of the state or raising rates to cope with the surge in claims.

"The policies ought to be X-rated, because the premiums are obscene," said state Rep. Art Simon, who has led the search for a legislative solution to Florida's malpractice problems. "But this whole thing is really a bottom-line issue. Everybody tries to cloak their monetary concerns with sanctimonious talk about the public. Well, the public is the biggest loser by far."

Glatzer called the problem "a total catastrophe—and it will get worse. So far, people have been largely inconvenienced, but we have been lucky. The hospitals that are working can't handle their usual loads." During the July 4th weekend, two people died after taking long ambulance trips to hospitals, but state medical officials said the delays in obtaining treatment were not factors in their deaths.

Million-dollar malpractice judgments have become common in southern Florida, and the average jury award in Dade County last year was almost $250,000. According to the Dade County Medical Association, 86 percent of the state's neurosurgeons were sued in 1986. It is difficult to watch television here for more than 30 minutes without seeing at least one lawyer reminding potential customers of their rights to sue doctors.

"There is an element of blackmail with lawyers trying to shake down doctors," said J.B. Spence, a prominent Miami attorney whose walls are covered with newspaper stories about his many million-dollar victories. "But we also have some very bad doctors, and I absolutely love to sue them. They are arrogant and they are selfish."

Fed up with the whole mess, the St. Paul insurance company has announced it will leave Florida completely at the end of the year. Company officials say they are receiving 32 claims for every 100 insured doctors in Dade and Broward counties, nearly twice the national average, and they say they can no longer make money in the market.

Doctors say they do not oppose damages for real malpractice. They add, however, that many physicians are sued for complications over which they had no control and that insurance companies settle rather than risk confronting a jury.

"It's gotten to the point where I get the jitters when I go into surgery, because I know that even if a patient turns out well, there is going to be a lawyer looking at the chart the next day," said Dr. Frederick Gottlieb, a urologist at Broward's Memorial Hospital.

Beyond the hyperbole and fear, many say the crisis has been caused by the changing nature of medicine and the unique demographics of the region.

Many physicians in the area mostly serve Medicare patients, and the federal government strictly regulates what they can charge. Doctors, like others in business, try to pass on increased costs to customers, but in Florida, with so many Medicare patients, they are prohibited from passing on the rising costs of insurance.

"The focus of medical care has moved away from the patient," said Dr. Bernard Elser, director of emergency services at Jackson Memorial Hospital, Dade County's largest hospital and one of the busiest in the country. "They come and they go and nobody knows a thing about them."

He and others suggested it is easier for patients to sue a doctor they don't know than one with which they have an established relationship. And medical technology has raised expectations to heights that some feel are unreasonable.

"It's getting to the point where if you have a baby and he doesn't have an IQ of 140, you want to sue the doctor for malpractice," said Dr. Richard Dellerson, chief of emergency services for southern Broward County. Many officials have suggested that the state force all doctors to carry insurance, thus creating a larger pool. But the Florida Medical Association opposes any pool concept because it would mean that low risk doctors from most of the state's 67 counties would subsidize a minority of surgeons in big cities.

Florida has finally come to the ultimate truth on malpractice," said the legislature's Simon. "Everyone agrees we need to help doctors work without fear of losing their savings. Well, we can do it two ways: We can dramatically limit the cost of damages, or we can share the risk over a much broader pool in society. So far, nobody seems really willing to do either."

[From the Louisville (KY) Courier-Journal, Apr. 26, 1987]

INSURANCE RATES ARE FORCING DOCTORS OUT OF BABY BUSINESS

(By Mike King)

When Dr. Rick Miles opened his family practice in Russell Springs, KY, eight years ago, one of the things he looked forward to was delivering babies.

"Helping a new life come into the world is one of the great joys of family practice," Miles said.

"You have to deal with elderly patients in their 80s and 90s, in their last days of life, and watch them die. It can be very depressing. But when you have the ability to bring a baby into the world and watch the happiness associated with childbirth, it gives you a better perspective on life and death," he said.

In the first seven years of the practice, Miles estimated he delivered 500 babies—most of them at Russell County Hospital. Only two of those babies died, both from complications before birth. None of Miles' patients ever sued him for malpractice.

In recent years Miles had to increase his fee for delivery to cover rising costs and to offset the higher malpractice premiums he was paying. He was charging a flat $750 for the service, and to keep his premiums low, he wouldn't take complicated cases, such as pregnancies involving twins or a diabetic mother.

But late in 1985, the young physician gave up delivering all babies.

Faced with the prospect of $10,000-a-year insurance premiums—as opposed to about $2,500 if he didn't do obstetrics work—Miles began telling his patients that they would have to seek care elsewhere if they became pregnant. Most of his pregnant patients have had to go 30 miles, to Somerset, for their prenatal appointments and to deliver their babies.

Delivering babies simply no longer made financial sense, Miles said. His fees barely covered the cost of providing the service, and he anticipated no end to the rise in malpractice premiums.

He was right. If he had continued the practice, he would be paying about $15,000 a year now in liability insurance premiums.

Miles is one of a growing number of Kentucky family-practice physicians who have stopped delivering babies over the last few years—a trend that could have major implications in many rural areas of the state not served by physicians who specialize in obstetrics and gynecology.

A recent survey by the Kentucky Medical Association showed that over the past eight years, four out of five family-practice doctors in Kentucky have either stopped delivering babies or greatly reduced the amount of obstetrical care they provide. The same survey showed that 20 percent of the state's obstetrician-gynecologists (OB-GYNs) had reduced the obstetrics part of their practice and were concentrating more on gynecological care.

The survey also found that one in eight Kentucky OB-GYNs had given up delivering babies altogether, and many more are considering it.

The reason is the rise in malpractice rates, according to Dr. Richard F. Hench of Lexington, who is president of the KMA. Physicians who do obstetrics work are more likely to be sued for malpractice than those in other specialties, Hench said. And juries are more likely to find them guilty and award large sums of money to plaintiffs, even if the evidence of negligence is inconclusive.

"Everyone expects to have a perfect baby and when they don't, (they believe) someone should pay," Hench said. "Many of the babies who survive childbirth complications have to be cared for for life, and juries believe someone should pay the price for it."

To protect themselves from large jury awards that could ruin them, physicians buy professional liability insurance. And even if they wanted to risk delivering babies without having insurance, they couldn't—because hospitals usually require them to maintain adequate malpractice coverage befored they can get staff privileges.

Based on claims paid in the state—and to some degree on claims awarded elsewhere—underwriters in Kentucky have increased malpractice premiums for obstetric coverage each year. In February, the largest malpractice insurer in the state, the Kentucky Medical Insurance Co., announced its latest increase: a whopping 46 percent rate hike over the previous year's rate.

For $1 million worth of coverage, obstetrician-gynecologists in Kentucky now pay an average of $31,961 in premiums each year, according to the Kentucky Medical Insurance Co. Of those who pay more than $20,000 a year in premiums, more than half surveyed by the medical association said they were considering giving up obstetrics because of rising rates.

For the same $1 million of coverage, family-practice physicians who don't do obstetric work pay $3,936. Those delivering babies pay $15,820, according to KMIC.

If enough family practitioners give up on the baby business, it could have a major effect on Kentucky's Medicaid program, which covers the state's poorest residents. In rural areas of the state, family-practice physicians often provide the bulk of obstetric care for Medicaid recipients, according to Hughes Walker, the program's director.

Already, Walker said, there are some areas of the state where Medicaid recipients are having difficulty finding doctors to care for them while they are pregnant.

One of the regions is in South-central Kentucky, where Miles ended his obstetrics practice. And "the western part of the state could really be hurt badly" if the trend continues, Walker said.

Because Medicaid's reimbursement for obstetric care is so low, many of the state's OB-GYNs have begun dropping out of the program. Medicaid pays a flat, $250 fee for delivery and it averages $14 to $20 for each prenatal and postpartum office visit. Often that doesn't even cover expenses, the physicians say, and when malpractice rates are figured in, it doesn't come close.

The low reimbursement rate from the state, the higher premiums from his insurance company and a growing load of patients who don't comply with basic, good-health recommendations led Dr. William Keller of Frankfort to stop taking Medicaid patients last year. For almost 20 years, Keller and his partners had cared for about 150 Medicaid recipients a year who had babies in Franklin County.

Now those women must go to Louisville or Lexington for care. No family-practice physicians in Franklin County do obstetric work.

Keller said he and his partners considered the Medicaid patients "very high risk" because many of them would miss their appointments, not comply with doctor's orders and have complicated deliveries. That increased the risk of childbirth problems, which in turn increased the group's malpractice premiums.

"We have for several years made diligent efforts to make our concerns known to officials in this state who are in a position to do something about changing the system . . . so someone takes responsibility for the proper care of these patients," Keller said. "We have paid our dues. We decided that for the good of the whole system, something had to be done. So we decided to force the issue."

Without OB-GYNs or family-practice physicians who take Medicaid patients, some county health-department clinics are being forced to take care of Medicaid recipients during their pregnancy, Walker said, even though they don't receive state money specifically for that.

(Health department clinics are primarily for uninsured women, not those who quality for a state medical-assistance card.)

To complicate the matter, hospitals in counties where no prenatal care is available must pay a higher premium for their own liability insurance because the lack of readily available, prenatal care raises the risk of birth complications.

What can be done?

Insurance executives and doctors believe the problem cannot be solved without changing the state's liability laws and amending the Kentucky Constitution—ideas whose time has not yet come, according to most politicians.

The physicians would like to see limits placed on jury awards, especially in the area of pain and suffering. They also believe that lawyers retain too much of jury awards or settlements.

They would like to see Kentucky adopt a system similar to the one that has been in effect in Indiana for more than 10 years. The Hoosier state has a Patient's Compensation fund that in 1986 awarded more than $26.5 million in malpractice claims—all of them outside the court system. Indiana has a maximum $500,000 award for successful malpractice claims—most of which, by law, goes to the plaintiff.

The result is that Hoosier OB-GYNs and family-practice physicians pay significantly less in malpractice premiums than their Kentucky counterparts, giving them less reason to drop obstetrics.

Since the majority of all costs of medical malpractice cases are legal expenses to determine fault, some Kentuckians have suggested an even newer approach toward compensating medical negligence victims, modeled after the Worker's Compensation system.

Carl L. Wedekind, president of the Kentucky Medical Insurance Co. and a member of a state task force on liability and insurance, is among those who support a 15-member Patient's Compensation Board to rule over malpractice claims in Kentucky.

The board would be aided by an advisory panel of medical specialists to help determine whether physicians are at fault in negligence claims. The system could save up to 60 percent of the cost of pursuing a malpractice claim through the courts, Wedekind said.

Most critics believe any approach that restricts the right to pursue claims in court will not pass constitutional muster in Kentucky. They believe the answer lies in stricter regulation of premiums and insurance companies.

But OB-GYNs such as Dr. Larry Griffin, president of the Jefferson County Medical Society, contend that malpractice claims involving birth defects would be the natural place to start such a system to see how it works.

Griffin said Kentucky obstetric specialists will be watching a new law in Virginia that establishes a no fault patient compensation board to rule over claims from parents of brain-damaged infants. The state fund, which is expected to deal with at least 40 cases a year, is collected from a yearly $500 assessment on all physicians.

Voluntary $5,000-a-year fees are asked of OB-GYNs who wish to participate in the program. In return, their malpractice rates are expected to drop dramatically.

Gov. Gerald Baliles, who signed the legislation two weeks ago, said the program is an important first step in deciding whether Virginia should consider a similar approach for all malpractice claims.

"Something like the Virginia approach must be considered." Griffin said. "Kentucky can't attract good people to practice here anymore. We are losing a lot of them in the Louisville area to Indiana. With the present insurance climate, they just don't want to practice here, and I can't say that I blame them."

DOCTORS FOLLOW NATIONAL TREND

Rising malpractice insurance rates and the fear of being sued are causing a growing number of the nation's family practitioners to give up delivering babies.

A survey last year by the American Academy of Family Physicians showed that 23.3 percent of family-practice doctors who were delivering babies eight years ago had stopped offering obstetric care to their patients by the first of 1986.

The survey found that most who had dropped such care worked in rural areas, where specialized obstetric and gynecological care was not available. (Family-practice physicians in large cities and towns are less likely to perform obstetric work, partly because more specialists are available.)

The average malpractice premium for a family-practice physician doing obstetrics in 1985 was $9,400, the academy said. The average premium for those who had given up the practice was $5,300.

A similar survey by the American College of Obstetrics and Gynecology in 1985 showed that 26 percent of the nation's obstretric-gynecological specialists (OB-GYNs) had either stopped doing obstetrical work in the previous two years or significantly reduced the number of deliveries they perform each year.

The OB-GYNs cited malpractice premiums and the increased risk of lawsuits as the main reason.

According to the college. OB-GYNs in Kentucky pay higher malpractice rates than their colleagues in several adjacent states. Kentucky OB-GYNs paid an average of $23,300 in premiums in 1986, compared to $6,700 in Indiana; $15,700 in Ohio, and $18,700 in Tennessee. Premiums in Indiana are much lower because that state has adopted a special compensation fund for successful malpractice claims against physicians, which sets a $500,000 limit on awards.

LIABILITY INSURANCE: CAN HOSPITALS AFFORD A ROLL OF THE DICE?

(By Elizabeth Hill)

The malpractice crisis has affected hospitals with increasing premium costs, shrinking scope and availability of coverage, and climbing out-of-pocket costs. In the last 10 years, the typical hospital malpractice award has nearly tripled, jumping from $15,000 in 1976 to $40,300 in 1985, the last year that complete data is available (see Exhibit 1). Claim frequency during that period more than doubled, from 1.5 claims per occupied bed in 1976 to 3.4 claims per occupied bed in 1985 (Exhibit 2). Partly as a result of this, the cost of malpractice liability insurance has increased dramatically, rising 50 percent between 1980 and 1985 alone. And even that figure is deceptively low when considering that by 1985 hospitals purchased significantly less coverage.

Disproportionately large settlements on insurance reserves have eroded the base of participants willing to insure the risks. As a result, fewer participants are bearing larger risks, contrary to the insurance principle of dispersing the risk associated with a given enterprise among a large number of participants over an extended period of time.

Not only have insurers left the market or required higher deductibles, but they have also shifted from writing "occurrence" policies to "claim-made" policies. Occurrence policies, which predominated prior to 1975, provide coverage for all claims resulting from any incidents of malpractice that occur during the period in which the policy is in force, regardless of when the claim may be filed or settled.

Claims-made policies, on the other hand, which now represent the majority of coverage being written, cover only during the period and are filed during the period the policy is in force. Because 70 percent of all claims are filed after the year of occurrence, changing insurers from one claims-made policy to another could leave the hospital uncovered for incidents that occurred during one coverage period but were not filed during the life of the policy.

The claims-made tail or extended reporting coverage can be purchased under new policies to provide coverage for earlier occurrences for which claims are made during the new policy term period. The cost of tail coverage is high, often one-and-one half times the original outlay.

The increasing direct costs of malpractice liability insurance on the industry were reported in a 1985 study by the Michigan Hospital Association revealing that the State's hospitals spent $60 million in 1980 for premiums and set-asides (those amounts encumbered to pay potential settlements in excess of coverage limits), compared to $199 million in 1985—a 350 percent increase.

Indirect costs to the hospital from the malpractice crisis, also of concern, include:

The loss of physicians and the difficulty in recruitment for certain medical specialties possibly ending in curtailment of services;

The practice of defensive medicine—unnecessary tests, services, and longer patient stays that may not be reimbursed under prospective payment systems; and

The necessity of increased risk management and loss prevention programs.

In some hospitals, knowledge of insurance and risk management is so poor that management believes their broker is providing coverage, when the coverage is instead syndicated to various companies.

To obtain prudent levels of coverage, when it is otherwise unavailable or financially burdensome, hospitals have sought alternatives to the historical insurance market. To date, their risk management alternatives have assumed two distinct forms—captive insurance companies and self-insurance. Both alternatives have been something of a mixed bag in performance terms.

SELF-INSURANCE

Self-insurance is an idea at war with itself, where the notion of distributed risk on which the insurance industry is predicated is severely curtailed. A large claim that may occur, on average, once every 10 years, could happen twice in two months and then not again for 20 years. The 20-year period of remission does a hospital little good if it has gone bankrupt following the initial shock.

In spite of this caveat, self-insurance has been used by individual institutions as well as consortiums or systems of hospitals. Perhaps the most widely known self-insurance fund is the Florida Patients Compensation Fund (FPCF), founded in 1975 by an act of the Florida legislature.

The FPCF was created in response to a critical lack of malpractice insurance in the State of Florida. Over the years, Florida, a litigious State, has developed a well-deserved reputation as a difficult place to practice some types of medicine. In Dade County, where obstetricians are faced with payments in excess of $100,000 annually for insurance, 25 percent of obstetric and gynecology practitioners have stopped delivering babies, according to some estimates.

Unfortunately, the FPCF plan, though well-intentioned, soon found itself in a lot of trouble. Many of the problems that plagued the group virtually since its inception are endemic to the industry and hinge on a lack of underwriting experience.

The FPCF charged fees based on the number of beds at member hospitals, not on the ability of various hospital managers to minimize risk. As a result, the system failed to penalize inefficient operators. The FPCF failed to cap its potential liability, exposing the group, theoretically at least, to openended losses. Although it was not recognized at the time, this policy amounted to a roll of the dice. And the member hospitals lost.

Claims mounted and assessments started to grow. By this time, many administrators became concerned by the extent of their exposure and began to withdraw from the organization, although hospitals still continue to be assessed for liabilities incurred years ago. Credit rating agencies were naturally alarmed by this trend and are reluctant to insure the bond issues of FPCF participants.

Other, more limited forms of self-insurance have also been tried; some have been quite successful and remain in force. While offering a remedy of sorts, these too have their downside. Umbrella coverage is often available in the market and the reserve funds of the self-insurance program are used to cover unrealistically high deductibles. However, these reserves are often insufficient due in part to poor risk management.

Perhaps most problematic is the fact that many hospitals using self-insurance are again unable to provide the proper actuarial analysis. Down the road, these hospitals may encounter many of the same types of problems that beset the FPCF.

CAPTIVE INSURANCE

The second development in the industry is the formation of insurance captives to provide coverage to the sponsoring organization(s). A captive is a wholly owned insurance company generally created to serve the needs of a specific industry such as health care. A captive that is owned by many investors and regulated by state insurance commissioners is often preferable to self-insurance because it requires professional assessment and management of risk.

In addition, hospitals may continue to deduct premiums paid to captives and defer taxes on profits and on investment income. Unfortunately, with captives, as with all insurance vehicles, problems of adequate capital formation remain.

The bond market has responded to the crisis. While self-insurance and captives have allowed greater latitude in obtaining malpractice coverage, the rating agencies and bond insurers have generally demanded evidence of improved risk evaluation and sufficiency of coverage. Bond analysts are generally not yet comfortable with their own analysis of the coverage and financial strength of the self-insurance or captive alternatives. Often insufficient coverage and under-reserved captives and self-insurance funds have caused credit rating agencies to reject certain hospital credits for bond insurance.

THE FUTURE

The healthcare consumer is likely to be the ultimate victim of the crisis. In the worst-case scenarios, malpractice may jeopardize the viability of some hospitals. Because the very availability of malpractice liability is in doubt, some hospitals may operate without adequate coverage. During a time when $1 million plus verdicts are becoming almost routine, the effect of an enormous uninsured loss may be devastating.

In the future, we may see a reversal of the movement to convert from government-controlled hospitals to not-for-profit institutions. "Sovereign immunity" protection offered by the government, which effectively limits the size of claims that can be awarded in a suit, can offer some protection to government-owned hospitals.

In municipalities where sovereign immunity cannot provide adequate protection, the municipalities with government hospitals may be alarmed as the liabilities that were once the function of private insurers became a burden that must be carried by the public. However, many communities faced with the alternative—no hospital—will accept the risks.

The two most promising approaches for dealing with the malpractice crisis would entail encouraging hospitals to implement or strengthen existing risk management programs, and modifying several aspects of tort law. Generally, hospital risk management programs are early detection and warning systems, identifying a variety of adverse occurrences that deviate from optimal outcomes, and thus potential liability.

Such occurrences may not represent the presence of negligence or the provider's breach of standard care but serve as red flags to trigger an investigation of the facts and circumstances surrounding the occurrences that may result in remedial actions. The risk programs' strategies should be oriented toward prevention through early intervention. According to one insurance company,[1] "reducing the incidents of malpractice through risk management programs is undoubtedly the single most effective way to reduce costs to the system."

Only three states (Alaska, Florida, and New York) have enacted hospital risk management statutes that make the establishment and maintenance of onsite programs a prerequisite to hospital licensure. While many hospitals have voluntarily implemented such programs in the past several years, state-level regulation would ensure minimum standards for such key features as patient or physician screening criteria, reporting procedures, assessment and intervention, and follow-up actions. Direct state action would also alleviate many of the antitrust concerns inherent in peer review, physician credentialing, and joint hospital-physician activities.

The three most promising tort-reform proposals are:

Placing a cap on non-economic damages;

Abolishing the rule of joint and several liability; and

Abolishing the collateral source rule.

The portion of total recoveries awarded for non-economic damages is strikingly high; when the non-economic damages award is greater than $100,000, less than 2 percent of all cases account for 40 percent of total malpractice recoveries in terms of dollars.

The doctrine of joint and several liability permits a plaintiff who has successfully sued multiple defendents to collect the full amount of the award from any individual defendent, often forcing defendants who are only slightly negligent to bear a disproportionate share of the loss, especially when they represent the deeper pockets. If the plaintiff were found to be slightly negligent (with comparative negligence) the rule of the joint and several liability should be replaced with comparative or several liability.

Finally, the collateral source rule should be abolished. As a rule of evidence in most states, it renders inadmissible evidence of other amounts to which the plaintiff may be entitled for the same injury, such as medical or disability insurance. In effect, it prevents a reduction of the plaintiff's award of these other amounts and often results in a windfall to the plaintiff. Some estimate that a mandatory reduction of awards by the amount of all collateral benefits could produce savings as high as 30 to 40 percent.

Insurance is a notoriously cyclical industry. While currently low investment rates for reserves will not entice insurers to return to the malpractice liability market in search of increased premiums, the stabilization of claims through improved hospital risk management and through tort reform will allow insurance companies to calculate the risk associated with this coverage, leading to greater predictability. This could eventually bring more insurers into the market. The increased competition could conceivably lead to lower rates, though it is unlikely that the insurance industry will lower its deductible amounts, which have doubled from 1983 to 1985.

UNINSURED MALPRACTICE LOSSES

From data maintained by Health Care Investment Analysts, the value of uninsured malpractice losses per bed (see Exhibit 1) was calculated for several bed size groups for fiscal years ending in 1984 and 1985. Uninsured losses represent those expenses that the hospital has to pay out-of-pocket as their insurance coverage has either expired or was structured under the claims-made method.

The data were for 950 community hospitals that had actual uninsured malpractice losses. The number of hospitals actually incurring these costs totalled approximately 30 percent of the entire database of 3,200 hospitals. Uninsured losses per bed jumped 156 percent between 1984 and 1985 to $425 per bed. Extrapolating these results to the entire universe of 5,700 short-term general hospitals yields an industry-wide exposure to uninsured malpractice losses of about $130 million. At present rates of growth, this figure will be over $2 billion in three years.

EXHIBIT 1.—UNINSURED MALPRACTICE LOSSES PER BED

Bed size	1984	1985	Percentage change
0 to 99 (n=65)	$134	$311	132.09
100 to 249 (n=352)	161	418	159.63
250 to 399 (n=288)	172	447	159.88
400 plus (n=251)	171	429	150.88
All (n=950)	166	425	156.21

Mr. SYMMS. Would the Senator yield when it is convenient?

Mr. McCONNELL. Certainly, in just one moment. Let me say, Mr. President, what I think ought to be done, and what I am suggesting that we do today.

At the Federal level, we ought to achieve tort reform, reasonable tort reform. The reforms that the Senator from Kentucky recommends would simply put fault back in the civil justice system, throughout America, and in both Federal and State courts; modify the concept of joint and several liability, so that it would no longer be possible for a defendant who was minimally involved to be stuck with 100 percent of the damages; put a meaningful limit on frivolous lawsuits and undue delay; encourage alternative dispute resolution, to take the burden off of courts that already are incredibly packed and overloaded.

That is what the Senator from Kentucky had hoped to offer to this trade bill. But, Mr. President, that is not what the Senator from Kentucky asks today. The time for such a measure will come. Today, the Senator from Kentucky has simply offered a sense-of-the-Senate resolution. That is all. A resolution which says that sometime during the course of the first session of the 100th Congress, the Senate ought to do something to deal with the No. 1 problem confronting American small business—they said it at the White House Conference on Small Business just last August, their single biggest problem. They did not say product liability/tort reform. Product liability was Number 11. Tort reform was what they asked for, and they ask that it be accomplished at the Federal level, so there would be uniformity and reason throughout the land.

Today, we are talking about a trade bill, and we are talking about competitiveness, and about putting American business in a position to compete; and yet I hear that there will be a motion to shelve this eminently sensible statement that we ought to do something, sometime, in the course of the 1st session of the 100th Congress, about American business's No. 1 problem.

I hope we will act today, Mr. President. I retain the balance of my time, but I yield to the Senator from Idaho.

Mr. SYMMS. I thank the Senator from Kentucky.

The PRESIDING OFFICER (Mr. GRAHAM). The Senator yields for a question.

Mr. SYMMS. Yes. I thank the Senator for yielding and I compliment him for his amendment. I would ask, if he is looking for cosponsors, if it would be possible that I could cosponsor his amendment?

Mr. McCONNELL. I would be happy to add the Senator from Idaho.

Mr. SYMMS. I thank the Senator and I want to ask him something further. I intend to offer an amendment on regulatory reform later today which fits very nicely with the Senator from Kentucky's amendment. We are talking about competitiveness. I read an article about 2 years ago that was published in the Mountain Bell Telephone newsletter. The article stated that the Japanese were training 10,000 engineers for every 1,000 lawyers, and the United States was training 10,000 lawyers for every 1,000 engineers.

I know the able Senator from Kentucky is a very fine lawyer and I do not say this to be disparaging to the profession, but I would just say: Does the Senator not think that there may be a message there, that we have trained so many attorneys that people have to litigate so the United States citizens are out suing each other while the Japanese are out working to improve the quality of the widgets that they manufacture?

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[1] St. Paul Companies, Inc.

Mr. McCONNELL. My friend is exactly right. He was not on the floor when I mentioned that we have 20 times per capita the number of lawyers they have in Japan. Filing lawsuits is the greatest growth industry in America, and it is a nonproductive industry for everyone but lawyers and the litigants who cash in on the system. Many winning litigants are not even in the right. They file lawsuits because they know there is an overwhelming chance of recovery, simply to make them go away.

Compare the United Kingdom—we patterned our legal system after them, and yet we have three times per capita the number of lawyers they do. I think the Senator from Idaho is right on point when he suggests that the number of lawyers certainly has an impact on the problem. For one, it means a lot more lawyers' mouths to feed. Remember: one lawyer in town is doomed to starve; but two lawyers ensures a shootout that injures everyone but the lawyers.

Another important circumstance here is the bar's decision to allow legal advertising, where lawyers can advertise on television, encouraging people to join in and play the lawsuit lottery. I know why that decision was made, but I think it has compounded the problem, and made us sink deeper into the litigation craze that has spread like cancer across the country.

Mr. SYMMS. I thank the Senator very much and I hope that his amendment, whether it becomes part of this bill or not, will be something that the Congress will address in the very near future very seriously, because I do believe it is going to take a national focus of attention to get common sense back into the problem of litigation in the generalized sense that I am speaking of. Simply, everybody wants to litigate every single thing and, as the Senator points out, it does not increase productivity. Certainly, there are cases where people need to be able to be protected and be able to sue for purposes where someone has been negligent or malfeasance has taken place. I am not opposed to that.

But the overall question—just file a lawsuit and tie everyone up. We cannot sell timber off the national forest. We were forced to put a 15-percent tariff on Canadian timber last year, the United States Government was, so that United States producers could compete with Canadian timber. One of the reasons is you cannot sell the timber off the national forest. One of the reasons for that is that so many laws have been passed that all you have to do is have a penny postcard and—I guess it is a 22-cent postcard—and file a lawsuit for a few dollars, a very few dollars, and tie up a timber sale. It just goes on and on and on. There is no end to where somebody wants to sue somebody and we cannot get anything accomplished.

Mr. McCONNELL. I might say to my friend that one of my great frustrations since coming to the Senate is that every committee even remotely concerned with this issue, and some have really stretched their jurisdiction, have held hearings on the subject, yet there has never been a meaningful vote on the floor of the House or Senate on product liability or tort reform. Last year, we ended up with a meaningless vote on a motion to proceed, in which the majority leader then, Senator DOLE, brought the bill down because it obviously would have started an extensive floor fight.

Sadly, there is no sense of urgency in this body to deal with the crisis that small business in America sees as its No. 1 problem. In fact, as I have said, I hear some Members will move to table the sense-of-the-Senate resolution of the Senator from Kentucky, a resolution that says we are going to do something this year for American competitiveness.

Does that trouble the Senator from Idaho?

Mr. SYMMS. It certainly does. But I am not surprised. You know, there was an election in November 1986, and one association or group that probably felt rather elated was the Trial Lawyers Association because their candidates, by and large, ran very strong across the country.

It is an issue that is kind of on the cutting edge of politics.

I have the highest esteem and regard for the members of that association in my State. But we do have a difference of opinion whether this issue needs to be addressed. I think the Senator from Kentucky should be commended for focusing attention on it. I do not believe it will pass the Congress in the near future, but I do believe if he continues to focus his attention on it, it will gradually bring about a change in our system, though it will come about very slowly. I think he is to be commended for his tenacity and his insight into a problem that lowers America's capability to be competitive in the global economy in which we must trade.

Mr. McCONNELL. I will make one further observation and reserve the remainder of my time.

Mr. President, even if a motion to table is made by the leadership, and I gather it will be made, I hope those Members of the Senate who are listening to this debate will know that there are many, many people in America who support the sense-of-the-Senate resolution of this Senator:

The National Federation of Independent Business; this will be a key vote for them.

The Senator's sense-of-the-Senate resolution also is supported by the AMA, Philip Morris, the Sporting Goods Manufacturers Association, Subaru of America, 3M, TRW, United Technologies, the Boy Scouts, and the General Aviation Manufacturers Association.

Thus, Mr. President, even though there may be a motion to table, there is significant support for this sense-of-the-Senate resolution.

Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator has 19 minutes 30 seconds.

Mr. McCONNELL. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I know this is a controversial amendment, though it is a sense-of-the-Senate resolution. It is nongermane. It is qualified under the cloture motion, but it would be nongermane. Earlier this week, the leadership—Senators DOLE and BYRD and Senator BENTSEN and myself as managers of the bill—agreed that we would move to table nongermane controversial amendments. At an appropriate time I will move to table, and it will be a motion supported by Senators BENTSEN, BYRD, and DOLE. I would prefer that the amendment be withdrawn, but if it is left in place, there will be a motion to table.

The PRESIDING OFFICER. Is there further debate? Are there others who wish to debate?

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, as chairman of the Committee on Commerce, Science, and Transportation we have just about adjourned our hearing because most of us are on the floor now. I apologize for leaving the hearing but I heard this amendment was being called. Instead of making sense, it makes nonsense. I speak very seriously about this particular proposal.

The reason that the distinguished Senator from Kentucky cannot understand it is because I am confident he does not understand fundamental law.

In article X of the Constitution, there was reserved to the States the right to regulate torts or wrongdoings. That has been the habitual practice throughout the land and continues today. The matter of tort and tort liability is a fundamental responsibility handled by the States.

If the Senator from Kentucky cannot understand why there is no zeal and fervor here in the Congress, it's because zeal and fervor has taken place in the proper forums.

We met yesterday in Philadelphia under the Constitution with our Federal responsibilities. The State legislatures were meeting in the 50 several State capitols on their particular interests and responsibilities. They have had their hearings on tort and product liability reform. I know last year some 40 States acted in some way.

The distinguished Presiding Officer's State, he being a former Governor, is totally familiar with this. The State of Florida has acted on tort reform and is presently engaged in malpractice reform. It is a matter of national news now, the difficulty we are having down in the State of Florida with respect to the cancellation of insurance coverage of the medical profession and the hospitals and otherwise in Florida.

That brings me to the point that the States are responding and will continue to respond and continue to provide what is necessary.

What has been provided in the nebulous language of this so-called sense-of-the-Senate amendment is that we enact product liability at the Federal level. This has been a disaster since the word go. It has been proposed for years. The Senator cites associations in support of his amendment, among them the Boy Scouts. I would not expect Boy Scouts to know much about this. I was a Boy Scout. When I was a Boy Scout, if you had asked me about a tort or product liability, I would not have understood that.

The American Bar Association, the plaintiff and defendant lawyers, corporate and insurance lawyers, and claimants' attorneys all met together in open session to discuss this matter and have opposed the Kasten bill, the product liability measure submitted in the National Congress, because they are a contortion, a distortion, and, if anything at all, will produce an increase in cost and in lawyer fees.

People complain about lawyers, both sides.

Well, we have too many lawyers. That's a given. But what happens, really, is that, in order to solve the problem, all the initiatives in the National Congress have said, "Look, we want you to maintain that jurisdiction at the State level but we are going to put in Federal guidelines, with different new phrases and legal terminology. All of this new language is to be reinterpreted by 50 separate State supreme courts."

Ask Chief Justice Howell Heflin, the distinguished Senator from Alabama, how he stands on this bill. He will tell you in a flash.

He can see that. He can see all the cases going up. This is all in the name of saving legal costs and legal fees, getting at the lawyers.

This is a lawyers' holiday if there ever was one.

They come in and say, "We are going to have it all interpreted up to the different States and supreme courts and then come around and say, appeal that to the U.S. Supreme Court."

It sounds to me like the insurance lawyers are after it. I have never heard of trying to bring down the cost, bring down the attorneys' fees, with that discombobulated particular approach. It is constitutionally questionable. We have had that question raised before.

We have been on this for 4 years. That is why you find, Mr. President, 4 or 5 weeks ago in the issue of Business Week dated May 25, 1987, the article, "The Crisis Is Over—But Insurance Will Never Be the Same."

I ask unanimous consent that the article be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

[From Business Week, May 25, 1987]

THE CRISIS IS OVER—BUT INSURANCE WILL NEVER BE THE SAME

Remember the "insurance crisis" of 1986? In one of America's scarier business episodes, companies and cities across the country buzzed angrily with horror stories about price hikes of up to 1,000 percent and abrupt, unprovoked cancellation of policies.

Everyone played the Blame Game: Too many lawsuits and recklessly generous juries. No, it was a price-fixing conspiracy engineered by a greedy insurance industry. No, it was a sign that the American character had deteriorated, with everybody trying to pass risks on to the next guy. But all agreed that the crisis could only deepen.

Wrong, on all counts. The property/casualty insurance crisis is largely over, down to "vestiges," says California Insurance Commissioner Roxani M. Gillespie. Except for a few high-risk sectors such as ski lifts and medical malpractice, few would-be buyers of coverage are having to "go naked," and premium prices are starting to come back down.

This doesn't mean that "the crisis" can be forgotten. On the surface it would appear to be merely part of a "normal" insurance cycle: When premiums and profits are high, the business attracts more entrants, who crowd in by slashing rates—until the financially weaker ones drop out, coverage becomes scarce, and premiums climb again. But calling the recent travail a "normal" insurance cycle is like calling the Great Depression an ordinary business cycle.

LOSS PREVENTION

As the decade began, insurers were underpricing their products to collect premiums to invest at then-high interest rates. But rates fell just as loses from carelessly written policies hit home, and huge asbestos cases loomed. By late 1984, insurers started a panicky retreat from their ruinous price war. When insurance is scarce, "the system can make all kinds of demands" on insurance customers, observes one broker. It did. Insurers jacked prices sharply higher. That began attracting more capital, the seed needed to increase the basic insurance crop. "When capacity is there, it will find a home," adds the broker. So plain vanilla supply-and-demand largely explains the rise and fall of the insurance crisis.

Still, it's becoming clear that last year's crunch is altering the insurance world—perhaps permanently. More customers are taking matters into their own hands. Before the crisis, such "self-insurance" totaled no more than 25 percent of the market. Now it's about 33 percent and growing. "We've learned our lesson," declares Norman B. Chanzis, risk-management director at American Standard Inc. Insurers are "smug in their assumption that we'll all come back. I don't intend to."

Many risk managers are emulating the approach of Hardee's Food Systems Inc. The chain pays for losses of up to $2 million itself "and just buys insurance against catastrophe," says risk manager Susan M. Werner. The key: "We have a good loss-prevention program." Helping make the big deductible practical are measures such as installing nonskid floors to minimize falls.

Other companies took more elaborate steps. Du Pont Co. invested $20 million to help create two companies that now insure it and some 550 others against catastrophic losses. Not all the clients will buy all their coverage from the two, ACE Insurance Co. and XL Insurance Co. But they serve as a source of stable capacity in the high-risk end of the business.

Control Data Corp., one of many companies to have lost liability coverage for its officers and directors, joined last year with 50 other companies to form Corporate Officers & Directors Assurance. Partly in response, at least 10 regular insurance companies are actively competing again to sell such policies.

To the alarm of local officials, countless cities were forced to find insurance alternative. Warwick, R.I., for instance, started pooling funds with other cities in the state to create an insurance "trust" offering liability coverge for municipal services. Dallas is considering a similar arrangement in Texas. "We know with a 100% certainty that we'll have to go through another cycle," says Mark Ferraro, the city's risk manager. "We want a guarantee that there will be some capacity."

Ferraro's attitude is typical of a new credo among corporate chieftains and political leaders: Protection against many risks is too important to be left to traditional insurance companies. Those that do return to them will be armed with a greater sensitivity to risk. In a widely echoed observation, Warwick Mayor Francis X. Flaherty notes: "Now that we are dealing with our own money [we realize], the key to success is loss prevention." To help cut accidents, he says, Warwick is having police cars stick to regular speed limits unless they're rushing to a life-threatening emergency.

PRICE BATTLES

As more erstwhile clients are learning to live without them, insurers are trying to woo them back. With the industry enjoying record profits in 1986, competition is heating up (chart). Sighs Michael G. Fitt, president of Employers Reinsurance Corp., a General Electric Co. Unit: "We have two problems in our business: short memory and and we can't stand prosperity."

Insurance companies are offering customers better policy terms. And after last year's huge rate increases, prices have not only leveled off but are definitely heading lower, says Michael P. Dinstein, vice-president at insurance broker Fred. S. James & Co. Says Fitt of Employers Reinsurance: "There are a number of major companies out there starting to cut rates."

The price battles are fiercest over property insurance, mainly because insurers got through 1986 without paying for any massive natural disasters. Casualty competition is getting strong in most lines of business. Global Marine Inc., partly because it is doing less offshore drilling, saw its liability rates drop 15% to 20% when it renewed its policy in February, says insurance manager James R. Frazier.

Nonetheless, "problem areas still exist," says Robert Clements, president of insurance broker Marsh & McLennan Inc. Few insurers are willing to do business with ski areas. Hidden Valley Resort Community & Conference Center in the mountains of Western Pennsylvania expects to pay an additional 20% premium increase this year—after last year's liability premium jumped from $50,000 to $165,000. For some high-risk lines of insurance, such as pollution policies for chemcial companies and malpractice insurance for doctors, finding coverage is still tough.

Yet even some of these markets could improve. St. Paul Cos., the biggest underwriter of medical malpractice insurance in the country, still has a moratorium on new malpractice policies. However, because physican claims and paid-out losses rose only slightly in 1986, Timothy R. Mores, a senior officer in St. Paul's medical services unit, says there's "some cause for optimism."

Pollution, toxic waste, and chemical exposures will take longer. Insurers still worry that "there is the potential for catastrophic loss," says Du Pont's insurance manager, James A. Mitchell Jr. Insurers recoiled from the potential liability from asbestosis claims, and they aren't about to step back in. The potential losses in such cases may be so huge as to be uninsurable—or only partly insurable. Most of Corporate America is willing to take the risk. Du Pont, for example, insists that last year's "crisis" didn't cause it to stop any product launches.

With more customers bearing their own risks, through pooling or other arrangements, the industry's market has shrunk. That spells trouble. In a fight for slices of a smaller pie, insurers may well slash prices too low, setting off another severe cycle. As Chairman William McCormick of Fireman's Fund Insurance Co. says, property/casualty insurance is "like aluminum. Every time supply and demand shifts, the prices go way up or down."

Insurers' ability to engage in suicidal price behavior will be slightly tempered, though. A number of reinsurance companies, which backstop insurers in exchange for a portion of premium income, have failed already. And more of the smaller, poorly capitalized ones are expected to go under in the next few years as claims pile up. When that happens, the original insurers get stuck, so they'll want to go slow on premium cuts. Also, state insurance commissioners and Congress are considering stronger industry regulation to prevent another wild cycle.

HORROR STORIES

Nevertheless, there's certain to be another insurance shortage. And next time around, insurers are likely to be hard-pressed for excuses when they play the Blame Game. During the 1986 crisis, the industry embarked on a splashy public relations campaign proclaiming that the "insurance crisis" was really a "lawsuit crisis." Some three dozen states did make minor changes in the law. But the insurance crisis has abated without help from an overhaul of the nation's civil justice system.

Cool analysis is discrediting last year's horror stories about an epidemic of multimillion-dollar jury awards for relatively little cause. In a sample of 359 cases in the 1982-85 period, mostly involving product liability, punitive damages were "insignificant," according to a study published by the American Enterprise Institute. "The civil litigation system is stable," says Mark Peterson of the Rand Institute for Civil Justice. Only in mass toxic tort cases, notably those involving asbestos, is potentially enormous cost a real concern.

Even insurance executives are finding it harder to pass on the blame. "If we were an electric company delivering voltage and went from 110 to 220 to 400 to 0, we'd have blown all our customers' appliances," exclaims McCormick of Fireman's Fund. "They'd go to another electric company or get their own generators." That's happening now. The legacy of the insurance crisis is that insurance is becoming everybody's business.

Mr. HOLLINGS. That is why in the finance section of this bill we are talking about the cost of trade, about the cost of business. The articles say the crisis is over, so why join in the lynching of the particular fundamental; of the State responsibilities. Let me mention the Conference Board. They put out their report. They were going to get a wonderful report out about the tremendous cost and how product liability was wrecking business, or as now contended by the Senator from Kentucky, wrecking international trade. It is totally unfounded.

I ask to be submitted for the RECORD at this point a 1987 report published by the Conference Board.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

PRODUCT LIABILITY: THE CORPORATE RESPONSE

(By Nathan Weber)

WHY THIS REPORT

(Charts and graphs mentioned in article, not reproducible in the RECORD).

The current debate about the crucial issues of product liability and tort reform is a heated one. On one side consumer groups, trial attorneys and others argue that insurance companies have created an insurance "crisis" by underpriced premiums when income from investments was high. Now that interest rates have declined, they say, insurers have been forced to increase premiums at a geometric rate—regardless of actual risk. But insurers blame litigious citizenry, lawyers and judges for an irresponsible use of the judicial system, a use that—in their view—results in astronomical and often undeserved, as well as unpredictable, judgments.

Such risks, insurers say, compel them to raise their prices in simple self-defense. Some corporate risk managers, while acknowledging the insurers' explanations, fault them for placing barriers to the development of alternative insuring mechanisms.

In preparing this report, The Conference Board had two aims: First, to permit the contesting parties to state their cases and to examine the evidence supporting these claims; and second, to ascertain how major corporations (which purchase almost half of the commercial liability coverage) deal with the intertwined issues of insurance availability and product liability.

The risk managers of 232 major U.S. corporations were asked to respond to a detailed questionnaire. Their responses not only shed light on their own corporate experience—from litigation and legal cost experience to product safety improvements—but also raised additional questions about the extent and dimensions of the product liability and insurance availability issues themselves.—James T. Mills, *President.*

CHAPTER 1: INTRODUCTION

Horror stories portraying a judicial system run amuck awarding astronomic amounts to countless individuals wrongly suing large corporations and local governments were a media staple during much of 1986. Many of the stories anecdotally depicted a scenario of rapacious trial attorneys urging consumers to sue manufacturers and other businesses for accidents that occurred largely through the consumers' own carelessness. So enormous was the burden on insurance companies to pay high court awards, the stories maintained, and so unpredictable the whims of overly generous judges and juries, that insurers were forced to increase rates drastically, restrict coverage severely, or eliminate completely their provision of liability insurance—with grave consequences for the very viability of business and governments, and therefore for consumers and the economy in general. The malaise would deepen, the articles maintained, until the tort liability system is radically overhauled.

Predictably, no sooner did the stories circulate, than trial attorneys and consumer activists, sensing the advocacy efforts of the insurance industry, reacted with their own accusations, charging insurers with producing a smokescreen to shield themselves from angry customers. The real cause of the liability-insurance crisis was not the tort system, they argued—which at the least provided consumers with some compensation for injuries and deaths caused by unsafe products and services—but the behavior of the insurance companies themselves. The insurers, they charged, were so ambitious for premium dollars to invest that they undercharged corporate and municipal customers and took on marginally insurable risks when interest rates were soaring in the late 1970's and early 1980's. Once interest rates—and therefore investment returns—fell, the insurers no longer chased after premium dollars to invest. Instead, they multiplied by 100 percent or more the prices they charged corporations and governments for liability insurance. Or they abandoned such coverage altogether for safer, and currently more profitable, policies. All the while the insurers—in an alleged conspiracy, according to some—blamed the injured consumers and their legal protectors. Solve the crisis by reforming the insurance industry, argued the attorneys and consumers, not the tort liability system.[1]

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[1] A brief sampling of such articles includes: "Sorry, America, Your Insurance Has Been Cancelled," *Time*, March 24, 1986; "Business Struggling to Adapt As Insurance Crisis Spreads," *Wall Street Journal*, January 21, 1986; "Mass Torts: A National Disaster." *Best's Review*, December 1985; "Liability: Business Dives for Cover," *International Business Week*, February 10, 1986; "Liability Insurance: A Growing Crisis," *New York Times*, February 20, 1986; "Drive to Limit Liability Awards Grows as Consumer Groups Object," *New York Times*, March 2, 1986; "Finger Pointing Distinguishes Attempts to Fix Blame for Liability Crisis," *National Journal*, March 15, 1986; "When Products Turn into Liabilities," *Fortune*, March 3, 1986; "Products Liability: Boon or Bane?," *Road Rider*, April 1986; "The Tort Reform Quagmire," *Forbes*, August 11, 1986.

At this writing (November 1986), partisans of each position have spent the better part of the year strenuously promoting their opposing views in the media, at innumerable public forums, and in state and federal legislatures. Efforts on both sides have met with some success, to date mostly at the state level. Reforms of both the tort system and the insurance industry have been enacted, to one degree or another, by over 40 state legislatures, although many of the changes are themselves facing legal challenges. Even at the federal level, while temporarily sidetracked, reforms appear more likely to be enacted than at any time during the previous decade, according to many Congress watchers.

Notwithstanding the reforms, the accusations and countercharges show little sign of abating. As the controversy swirls, one fundamental set of questions remains unanswered: What, in fact, has been the impact on the liability and/or insurance crisis on the nation's major corporations and, by extension, on the economy? Further, to what extent has product liability insurance truly become unaffordable or unavailable to large U.S. corporations, and how has management responded to this development? How in fact has the corporate world reacted to both current insurance prices and to lawsuits filed by aggrieved consumers?

Some answers to these questions are provided in this report. The information was supplied by risk managers of 232 major U.S. manufacturing, trade and service corporations, excluding financial firms, who responded to a detailed questionnaire. The firms record a minimum of $100 million a year in sales.

Major finding: Minor impact

The most striking finding is that the impact of the liability issue seems far more related to rhetoric than to reality. Given all the media coverage and heated accusations, the so-called twin crises in product liability and insurance availability have left a relatively minor dent on the economics and organization of individual large firms, or on big business as a whole. In the words of one manager: "There may be less here than meets the eye."

Product liability

For the major corporations surveyed, the pressures of product liability have hardly affected larger economic issues, such as revenues, market share, or employee retention. Liability lawsuits, which are indeed numerous, are overwhelmingly settled out of court, and usually for sums that are considered modest by corporate standards. As a management function, product liability remains a part-time responsibility in most of the responding firms. Where product liability has had a notable impact—where it has most significantly affected management decisionmaking—has been in the quality of the products themselves. Managers say products have become safer, manufacturing procedures have been improved, and labels and use instructions have become more explicit.[2]

Insurance availability

For most of the companies surveyed, product liability insurance coverage has remained fairly steady, notwithstanding increases in its cost. Furthermore, the source of the insurance has remained constant: Corporations continue to secure liability insurance primarily from standard commercial insurers, as opposed to "captives" or other source alternatives. (However, a growing number of firms say they either have alternative sources, or will consider alternatives for the near future.) While management has passed along the increased cost of insurance to consumers in the form of higher prices for products and services, the extent of such price rises has been minor.

A careful reading of the insurance press—which, understandably, has taken the lead in trumpeting the crisis—reveals that doubts about the extent or severity of the liability situation had been voiced on different occasions by experts. In May, for instance, a corporate risk manager, speaking at the 50th annual Chicago Insurance Day, announced: "We really don't see this as a crisis. It's just another manageable problem." In June, an advisory committee of the National Association of Insurance Commissioners (NAIC), consisting of representatives of several insurance trade associations, issued a report asserting that the crisis is not anywhere as widespread as generally believed, even for such "high risk" entities as liquor stores, daycare centers and municipalities. (That report was immediately tabled by NAIC, which had not been shown the results prior to its release to the press.[3] And in the area of tort law, a new study of 172 federal cases and 119 state cases—dealing primarily with product liability—found that the awarding of punitive damages was, for the most part, "insignificant." That study was published in a journal of the American Enterprise Institute.[4]

The findings of the present survey also refute the general contention of a severe and deepening crisis in tort liability and insurance availability, at least for the nation's large corporations. The impact on the general economy, likewise, is believed to have been minor.

CHAPTER 2: INSURANCE ISSUES

Amount of coverage remains steady

In spite of legitimate complaints about the rising cost of product and professional liability insurance, the amount of coverage purchased by corporations has remained remarkably constant—and in many cases has actually increased—over the past five years. In 1982, when the insurance market was "soft"—a buyer's market in which premium prices were low and supply or availability (called "capacity" in the insurance industry) was plentiful—52 percent of the firms surveyed were insured for $1 million in primary coverage. By 1986, faced with a "hard" market in which the insurance seller was in command with high prices and restricted supply, 54 percent of those same firms had the same amount of primary liability coverage. The percent of respondents who had no coverage grew by only three points between 1982 and 1986, from 7 percent to 10 percent.

The only place coverage declined was at the low end of the scale: A fifth of the firms had coverage under $1 million five years ago, whereas today almost none (4 percent) of the firms insures for that amount. This probably reflects the standardization of a $1 million primary coverage contract within the insurance industry.

Coverage in all other ranges has remained stable regardless of the amount of insurance held. For example, 9 percent of the firms were covered for $5-$10 million in 1982, and 8 percent in 1986. (See table 1.)

These findings confirm the results of earlier research conducted by the Risk and Insurance Management Society (RIMS), a professional organization whose members are, primarily, corporate risk managers. In a survey of year-end insurance renewals released in February 1986, RIMS reported that for product liability insurance, "limits (i.e., extent of coverage) and deductibles were stable" for 237 respondents.[5]

Declines in excess coverage

Where there is a noticeable difference between 1982 and 1986 is in the area of excess, or surplus, coverage. Excess coverage, with limits well above those of primary coverage, is made available for additional premium payments, and is fairly standard in most commercial liability-insurance policies. In 1982, a quarter of the firms purchased excess or surplus coverage of $100 million or more; at present, only a tenth of the companies could obtain, or were willing to buy, that much. Instead, far more companies have had to accept a much lower amount of excess coverage—usually under $25 million. Today, 41 percent of the firms have that relatively small amount, whereas five years ago only a quarter of the companies had to settle for such low excess coverage.

The explanation for this is that excess coverage is provided mainly by reinsurers—often referred to as "the insurer's insurer." Reinsurers had left the market in droves by 1985, particularly in liability lines. According to the Insurance Services Office, the industry's ratemaking advisory body, since 1984, 90 reinsurers withdrew totally or partially from the U.S. market.[6]

By mid-September 1986, however, the reinsurance industry showed signs of recovery. According to congressional testimony prepared by the Reinsurance Association of America (RAA), first quarter premiums and surplus (net worth) were up, and new reinsurance companies were entering the market. However, this improving position does not mean that reinsurance will now be more available or less costly. "Reinsurers will commit their resources only where they believe the potential for profits is greatest," a spokesperson for the RAA said. "Therefore, they cannot say that there will be increased capacity in certain lines, pollution coverage in particular." [7]

How insurance is obtained

Here again, patterns are remarkably steady, notwithstanding a five-year-old federal law that makes it easier to secure insurance from alternative sources. For primary coverage, corporations chose—by an overwhelming amount: 89 percent in 1982, 86 percent today—to buy their insurance from regular commercial insurance providers, as opposed to, say, industry captives or other arrangements. "Single parent captives," or insurance companies set up by a corporation simply to insure itself, provided coverage for only 6 percent of the firms five years ago, and only 5 percent of the firms today. This pattern is almost identical for excess coverage.

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[2] For a description of the safety program undertaken by Johnson & Johnson in the Tylenol case, see David E. Collins. "Cultural Heritage and Crisis Management," in Melissa A. Berman (ed.), *Corporate Culture and Change.* The Conference Board Report No. 888. 1986. For a broader analysis of product safety, see E. Patrick McGuire. *The Product-Safety Function: Organization and Management*, The Conference Board Report No. 754, 1979; and E. Patrick McGuire, *Managing Product Recall.* The Conference Board Report No. 632, 1974.

[3] Coleen Mulcahy, "Liability Woes Not at 'Crisis' Level, RM Says," *National Underwriter*, May 29, 1986; Lisa S. Howard. "NAIC Tables Report Stating Ins. Crisis is Exaggerated." *National Underwriter, June 20, 1986.*

[4] William M. Landes and Richard A. Posner. "New Light on Punitive Damages," *Regulation*, September/October 1986, p.33 ff.

[5] "Insurance Availability Study: Management Report," New York: Risk and Insurance Management Society, Inc. 1986, p. II-2.

[6] Daniel J. McNamara, "Remarks at the Annual Meeting of Insurance Services Office, Inc." New York: January 14, 1986.

[7] "Reinsurance Industry Resuming Profitability, House Panel Told," *Daily Executive Report*, September 11, 1986, p. A-18.

Increased cost of insurance

The most significant change for corporations since 1982 has been the cost of the premiums. The Board survey reveals that management complaints about the increasing cost of liability insurance premiums are based on fact. In 1982, more than one in four companies paid under $50,000 in premiums for primary coverage. By 1986, only one in ten firms paid that relatively low amount. At the high end of the premium price scale, five years ago only one out of seven corporations spend $500,000 or more on primary premiums. Today, over twice as many—more than one out of three—companies have to spend that much to obtain the same amount of coverage. Even in the middle ranges, the findings reveal that coporations are spending more. Premium costs of between $50,000 and $100,000 were paid by 16 percent of the firms in 1982. Today, only half as many can pay that middle range price. (See table 2.)

TABLE 1.—PRODUCT (OR PROFESSIONAL) LIABILITY INSURANCE (232 CORPORATIONS) [1]

	1986	1985	1984	1983	1982
Primary Coverage:					
Below $1 million	4	13	18	19	20
$1 million	54	56	53	52	52
$1.1 to $2 million	16	7	7	6	5
$2.1 to $4 million	4	2	2	2	1
$5 to $10 million	9	8	8	8	8
$11 million and above	4	7	7	6	6
No coverage	10	7	7	7	7
Excess coverage					
Below $25 million	41	20	19	22	25
$25 to $49.9 million	26	18	16	17	17
$50 to $99.9 million	17	27	26	24	26
$100 million or above	11	29	33	31	26
No coverage	6	4	4	4	5

[1] Details may not add to 100 percent because of rounding.

Primary product liability coverage has remained remarkably constant between 1982 and 1986. However, the amount of excess liability coverage has declined in 1982. 26 percent carried excess coverage of $100 million or more. By 1986, only 11 percent had that amount. The major change occured between 1985 and 1986. Excess coverage is provided by reinsurers, many of whom abandoned the market in 1985.

TABLE 2.—PREMIUM PAYMENTS FOR PRIMARY COVERAGE (232 CORPORATIONS) [1]

	1986	1985	1984	1983	1982
Below $25,000	7	11	15	16	16
$25 to $49,999	4	8	11	12	12
$50 to $99,999	8	15	16	17	16
$100 to $499,999	32	32	31	26	27
$500,000 and above	36	26	18	18	17
No response	13	9	9	11	12

[1] Details may not add to 100 percent because of rounding.

Corporations able to secure insurance with premium payments below $25,000 dropped by over half from 1982 to 1986. During the same period, those having to pay $500,000 and above more than doubled.

THE INSURANCE CYCLE

The theory that current price rises in the cost of commercial liability coverage are due, at least in part, to the built-in cyclical nature of the insurance industry has adherents both within the industry itself and among its critics. Essentially, the theory holds that the industry's underwriting income—the money it takes in through the sale of premiums—as well as the prices it charges for those premiums, move up and down in a fairly regular pattern. The most commonly cited time period for a cycle is six years. Although the last downward movement alone lasted six years, from 1978 to 1984, which means the current cycle could have a duration of at least 12 years.

What causes the cycle? While there is no absolute answer, one actuary at the Insurance Services Office listed the elements that seem to influence most cycles: competition, capability to cover losses, regulation, loss projection techniques, and "exogenous" or outside factors, such as interest rates and increased litigation in society.

How these elements interact to generate a "typical" cycle may be described as follows:

Upswing

The existence of a highly competitive industry, with 3500 property-casualty insurance companies vying for the premium dollar, suggests that there is a great deal of "effective demand," or demand backed up by the ability to pay. Insurers, therefore, feel that they can set premium prices high, increase deductibles, and tighten the limits of the coverage itself. This is the upswing period of a cycle: income and prices are up, and moving higher.

If interest rates are also high, the insurers are doubly fortunate: they receive high premium prices (or underwriting income), and high returns on their investments. The upswing continues. The market is defined as "hard," or a seller's market.

At some point, insurance consumers, especially corporate consumers who pay 47 percent of total premiums, start to become dissatisfied. They feel that they are paying too much for too little coverage. They begin to shop for other insurance companies, or to seek insurance from alternative mechanisms made possible by legislation. Thus they may establish a "captive" (their own insurance company), purchase coverage from an industrywide captive, or actually consider "going bare"—doing without insurance altogether. In any event, effective demands starts to decline.

Because interest rates are high, insurers continue to seek the premium dollars to invest. Faced now with the start of a decline in demand, they stop raising prices. The cycle has peaked: Prices are steady, and underwriting income no longer rises.

Downturn

Demand continues to decrease. Interest rates, however, are soaring. Any insurer that does not take in premium dollars will have that much less to invest, and will fare poorly in a fiercely competitive industry. Thus insurers begin to lower their rates and offer increased coverage. The downswing of the cycle is now on, and the insurance market is defined as "soft," or a buyer's market. Prices get lower, deductibles are reduced, and limits (coverage) are broadened. Some demand may return.

Liability claims against the insured corporations may increase, as consumers and trial lawyers look to litigation to obtain compensation for injuries suffered while using various products. The insurance companies are obliged to pay those claims. But because the litigation process is a slow one, payment is not made immediately. The longer the insurer holds onto the money, of course, the more interest it earns.

Eventually, however, the claims are paid. In fact, because premiums are so low, more money may go out in claims than is covered by the premium income. The longer prices and underwriting income stay low, the more precarious the fortunes of individual insurers. Some insurers, in fact, go out of business. The increasing failure rate sends warning signals throughout the industry.

Upswing

Eventually, perhaps suddenly, interest rates start to decline, which means that investment income no longer compensates for the lack of sufficient underwriting income—at least, according to insurers.[8] Faced with low investment income, low operating income, a decrease in the number of competitors, and a projection of high losses, the remaining insurers decide to curtail their low prices/high limits policies. The cycle has reached bottom. Premium prices start to go up, limits are reduced, or policies cancelled altogether in favor of "safer" risks. The upswing has begun.

Premium payments for excess coverage reveal even more starkly the rise in prices. For example, in 1982, one out of five corporations paid under $25,000 in excess coverage premiums. Today, very few firms—only 3 percent—pay that low amount. At the high end of the scale, the number of firms having to pay a half million dollars or above for excess coverage soared from 8 percent to 48 percent. (See Table 3.)

The increase in premium costs is borne out by the RIMS survey mentioned above. Of the respondents in that survey, more than a third reported that they had to pay premium increases of over 100 percent in order to renew their product-liability policies.

Deductibles have risen

Another measure of insurance cost is the steepness of the "deductible" portion of a policy. The deductible is the amount of a claim that must be paid by the customer before the insurance company begins to pay. In effect, the higher the deductible, the costlier the insurance policy.

For respondents in the survey, deductibles have risen, but not drastically. One in seven of the companies paid no deductible either in 1982 or 1986.

At the low end of the scale, five years ago a little over a third of the firms' policies had deductibles of under $100,000, whereas today only a quarter of the companies are liable for that amount.

Corporations having to pay between $100,000 and $499,000 increased by only five percent points during the past five years.

At the high end of the scale, the number of firms having to pay deductibles of $1 million and above doubled between 1982 and

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[8] Figures released by the insurance industry to substantiate the argument that investment income is too low to sustain claims payment, and therefore premium prices must rise, are often at odds with data released by consumer critics and government agencies. For example. the Insurance Services Office, an industry-established rate setting body, maintains that the drop in investment income in 1984 resulted in a $4 billion operating loss for the industry, which would continue into 1985. But the U.S. General Accounting Office argues that the industry's investment income provided a net gain of $75 billion from 1975 through 1984. And the National Insurance Consumer Organization argues that the industry had a total profit in 1985 alone of $7.4 billion. For the industry's position, see Insurer Profitability: The Facts, New York: Insurance Services Office, February 1986, esp. p. 13. For the GAO's position, see information on How the Property/Casualty Insurance Industry is Taxed, Washington, DC. U.S. General Accounting Office, Report—GGD-86-16FS, October 1985, Chart 2. For the consumer's position, see Robert Hunter, And Now the Real Facts, Arlington, Va: National Insurance Consumer Organization, 1986, page 5.

1986, from 9 percent to 19 percent. (See Table 4.)

Overall, then, the survey findings on deductibles reinforce the RIMS study, which concluded that deductibles for product liability insurance were stable at their latest renewal.

To be sure, those firms that do have to bear the increases are finding it expensive. In some instances, the Board survey shows, the rise has been huge: A producer of industrial chemicals in Mississippi saw its deductible increase 20-fold in the past year, from $5,000 to $100,000, while its coverage dropped from $5 million to $1 million. Nor can it be said that the industry of that firm—chemicals—is the sole cause of the increase. A manufacturer of diesel engines in Indiana had its deductible leap from under $100,000 annually for the previous four years to $1 million in 1986, while the amount of its coverage has remained constant, as it has for most of the firms. A West Coast computer manufacturer went from no deductible in 1984 to $25,000 the following year to $100,000 in 1986—all for the same $1 million in coverage. And a Texas manufacturer of oil field equipment and related services had its 1986 deductibles increase from $100,000 to $250,000 over the previous year, with a sizable increase in its premium cost, for the same $1 million coverage.

Increases in deductibles, plus rising premium costs, are motivating about a quarter of the respondents to consider switching to an alternative insurance supplier within the next two years. The alternative insurer will likely be some form of captive company, established either by the firm itself, or by several allied firms in a joint venture. One example: Eight corporate risk managers recently announced plans to establish the Corporate America's Risk Exchange (CARE). The new agency would provide up to $50 million in excess coverage, with deductibles as low as $1 million.[9]

TABLE 3.—PREMIUM PAYMENTS FOR EXCESS COVERAGE (232 RESPONDENTS) [1]

	1986	1985	1984	1983	1982
Below $25,000	3	10	17	20	20
$25,000 to $49,999	6	9	17	18	18
$50,000 to $99,999	5	15	22	21	18
$100,000 to $499,999	23	34	23	21	22
$500,000 and above	48	20	[illegible]	9	8
No response	15	11	11	12	14

[1] Details may not add to 100 percent because of rounding.

Premium payments for excess liability coverage have gone up for most corporations. In 1982, a fifth of the repondents paid under $25,000 in excess premiums. By 1986, only 3 percent could obtain excess insurance at that rate. At the high end, almost six times as many corporations must pay half a million dollars or more for excess coverage today, compared to 5 years ago.

TABLE 4.—DEDUCTIBLE RETENTION (232 CORPORATIONS) [1]

	1986	1985	1984	1983	1982
No deductible	16	15	16	15	15
Below $100,000	26	32	34	35	38
$100,000 to $499,999	27	34	35	33	32
$500,000 to $999,999	12	8	6	7	6
$1,000,000 and above	19	11	9	9	9

[1] Details may not add to 100 percent because of rounding.

Deductibles, which effectively add to the cost of insurance, have risen, but not drastically for most. Between 1982 and 1986, the number of corporations paying deductibles under $100,000 decreased from a little over a third to a quarter. By contrast, the percent of corporations having to pay $1 million or above doubled between 1982 and 1986.

CHAPTER 3: LEGAL ISSUES

Soaring number of lawsuits

The current findings leave no doubt that a substantial number of lawsuits are filed against companies on product liability charges. Two-thirds of the corporations surveyed have had such suits filed against them within the past five years. While the number of suits varies from one to 1,000 or more per year, most of the companies are defendants in multiple suits. Thus, among these sued, 60 percent face up to 25 lawsuits annually, 20 percent must deal with between 20 and 100 suits each year, and 14 percent are defendants in 101 to 500 suits.

Causes and effects of the lawsuit increase

Consumer groups and trial attorneys maintain that the rising number of lawsuits is a consequence of unsafe products or unclear instructions on using products—or simply growth in the number of product users.[1] Corporate spokespeople reject that argument. They maintain that they are named in so many suits not because they are primarily responsible for injurious use of their products, but because of a shotgun legal tactic favored by plaintiffs' attorneys. This shotgun approach—naming as many defendants in a lawsuit as possible—in facilitated, they insist, by a legal doctrine known as "joint and several liability."

Essentially, the doctrine of joint and several liability holds that all the defendants found culpable in an action are equally—and fully—liable to compensate the plaintiff for damage suffered. If any one of those defendants cannot pay the amount a court awards, the other defendants must make up the difference, regardless of how small a role they may have played in the actual injury. Ultimately, the defendant most able to pay—the defendant with the "deepest pockets," usually a large corporation or a municipality—may be called upon to pay the entire amount. One of the theories behind this doctrine is that compensation for the person suffering a serious or incapacitating accident takes priority, as a matter of justice, over allocating damages according to the degree of a defendant's responsibility. Were if not for the doctrine, say its advocates, injured people who may be effectively unable to earn a living, or maintain a normal life, would have a much more difficult time obtaining compensation for their injures.

Regardless of the merits or defects of the doctrine, facing multiple suits each year may be a daunting task. And indeed it is, for an individual or even a small business, no matter what the number of suits. Time spent in court, as well as pretrial depositions and responses to interrogatories, can detract seriously, if not completely, from the time needed to conduct a business.

But for many major corporations, the task of response to a large number of lawsuits has become a way of business life. For them, defending against legal allegations has become a matter of course, an everyday business expense. The cost and money needed to deal with each and every suit, where certainly steep, are not life threatening in most cases. For a few, of course, such as Johns Manville and A. H. Robins the weight of such litigation has led them to seek refuge in bankruptcy. But the impact on most of the corporations studied has not been that serious.

The risk manager of a food and chemical products manufacturer in Ohio was asked how the 250 lawsuits his firm has faced within the past five years have affected the company's ability to do business. "Not at all," he replied, adding: "It doesn't take much to set up a claims handling operation, even if you don't have insurance." He said that he believes this to be the situation in many major corporations. An exception, he added, might be firms that manufacture a product that has had widespread catastrophic consequences.

The risk manager of an energy company in the Midwest also replied "No" to the question of whether facing 1000 lawsuits adversely affected the company's ability to do business during the past five years. "It's relative to the size of the company," he said. "Obviously, it would bury us if we were a small Ma and Pa operation. But we are a *Fortune* 25 company."

And a manager of a major retailer in the Southwest said that the problem was not in the lawsuits lodged against his firm, but in the fact that some of the medium-sized vendors or manufacturers could not afford product-liability insurance. He said his firm would not sell any product that was not covered by such insurance. To do so in the light of joint and several liability, he continued, would subject his company to paying the full amount of claims for which they were barely responsible.

Thus, the sheer number of suits a corporation faces may not have a significant bearing on its ability to carry on its regular business operations. The impact of the liability lawsuit phenomenon on management decision making may vary greatly among firms in general, but appears to be relatively minor for those surveyed. This conclusion is suggested by two survey findings: Product liability remains a part-time function in most corporations, and most of the cases are settled out of court.

There is no question that, even where corporations are not required to make significant court-awarded payments, they must still bear the ever increasing cost of attorneys and associated fees. (The cost to the public may also be high. A recent study of the cost of litigation to taxpayers—the cost to government, or society in general—estimates that administrative expense, independent of awards, will reach between $16 and $28 billion a year by decade's end.[1]) For this reason, the elimination of joint and several liability—especially in the awarding of punitive damages (as opposed to awards for economic loss, such as wages or medical expense, or for pain and suffering)—is a major priority of corporations active in efforts to reform tort law. See section on "Reforms Sought by Corporations."

Court verdicts: How corporate defendants fare

Corporate and insurance industry spokespeople argue that courts are granting plaintiffs too many awards—and at too high a dollar amount. To explore this issue, this survey asked respondents to indicate which way the judgment went for the latest five cases in which they were defendants. For all the complaints about judges and juries being overly sympathetic to consumers who bring suits, the defendant corporations in the survey did not fare badly in the courts. Out of a total of 659 most current cases, only 6 percent of the final court judgments were against the firms after all appeals were exhausted.

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[9] David Katz, "Risk Managers Plan Their Own Excess Insurer," *National Underwriter*, September 26, 1986.

[1] Robert T. Roper, "A Preliminary Examination of Available Civil and Criminal Trend Data in State Trial Courts for 1978, 1981, and 1984." Williamsburg, VA: National Center for State Courts, April 1986.

[1] Andrew Schotter and Janusz Ordover, *The Costs of the Tort System*, New York: New York University's C.V. Starr Center for Applied Economics, March 1986.

In a quarter of the suits, the cases were either dismissed, or the court ruled in favor of the firm. For the remaining two-thirds, the cases were settled out of court—presumably with the firms' insurers offering plaintiffs a settlement.

Litigation explosion: Fact or myth?

Few issues in the debate over tort reform and liability insurance have generated as much disagreement, buttressed by mountains of statistics, as the so-called litigation explosion. Insurers and corporate risk managers tend to argue that the explosion is real, and is a major—if not the primary—cause of the crisis in insurance cost and availability. Trial attorneys and consumer advocates maintain the explosion is a myth, and that any increase in litigation is merely a reflection of an increase in population, that is, of the increasing number of consumers using products. Following are excepts from position statements issued by contending parties.

Insurance information institute

"Since 1974, the number of product liability filed in U.S. District Courts has increased more than eight-fold, from 1,600 to over 13,5000—a growth rate of 22 percent a year." "Of 10,745 cases filed [in federal district courts] in 1984, about 90 percent involved personal injuries . . . The number of product liability filings was 16.5 percent higher than that recorded in the preceding fiscal year."—Insurer Profitability: The Facts, p.27, and 1985-1986 Property/Casualty Fact Book, p.52.

National center for state courts

"For the entire period 1978-84 total tort filings increased 9%; however, the population also increased by 8% . . . . The often cited litigation explosion thus appears to be exaggerated with respect to the total number of civil filings . . . The source of the perception that there is a litigation explosion may be founded in a changing mix of civil cases, increased complexity of the cases being filed, and widespread media reports of enormous awards in relatively few cases."—A Preliminary Examination of Available Civil and Criminal Trend Data in State Trial Courts for 1978, 1981, and 1984, p.2.

Court Studies, Inc.

Commenting on the National Center for State Courts study: "Civil case loads are very sensitive to economic conditions in prior years, mainly two years earlier . . . A 1-percent increase (or decrease) in the economy leads to a 1-percent to 2-percent increase (or decrease) in civil case loads two years later. The recession in 1981-82, therefore, caused case-load growth to halt in 1982, 1983 and 1984. By mid-1983 the economy began growing rapidly; so case loads rose substantially in 1985. We can expect a very large increase in 1986 . . . . During 1973-83, civil filings in general jurisdiction trial courts grew by 43 percent in the 33 states with statistics, even though many cases went to lower courts when states raised jurisdiction amounts. Trial case loads in federal and state courts have been increasing that fast, and probably faster, after they dropped during the depression and World War II."—Thomas B. Marvell, "There Is a Litigation Explosion," National Law Journal, May 19, 1986.

American Bar Foundation

"There is a certain allure to large numbers, they just seem important. By themselves, however, they are meaningless without some standard by which to judge their meaning. For instance, [one author] claims there were over 360 awards of $1 million or more in 1984. But what makes 360, or even 401 as U.S. News and World Report claims, too high a number or an insignificant number? In the same set of remarks as the 360 figure. [the author] uses a figure of 13 million private law suits filed in 1984. Using this figure, those 360 $1 million awards represent 0.003% (3/1,000's of 1 percent) of the 13 million filings."—Stephen Daniels, Punitive Damages: Storm on the Horizon?, February 1986, p.6.

RELATED READINGS FROM THE CONFERENCE BOARD

Melissa A. Berman (ed.), Corporate Culture and Change, Report No. 888, 1986.

Jeremy Bacon, Liability Insurance for Directors, Perspectives No. 1, 1986.

Nathan Weber (ed.), Insurance Deregulation: Issues and Perspectives, Report No. 824, 1982.

Patrick J. Davey, Managing Risks Through Captive Insurance Companies, Report No. 768, 1982.

E. Patrick McGuire, The Product Safety Function: Organization and Operations, Report No. 754, 1979.

TABLE 5.—OUT-OF-COURT SETTLEMENTS OF 5 LATEST CASES (403 CASES)[1]

[In percent]

	Case 1	Case 2	Case 3	Case 4	Case 5	Average
Below $25,000	51	55	55	60	62	57
$25 to $49,999	16	14	12	13	9	13
$50 to $99,999	10	11	16	17	14	14
$100 to $499,999	15	14	12	7	10	12
$500 to $999,999	2	3	3	1	3	2
$1 million and above	6	3	1	1	3	2
Total cases	96	88	83	70	71	403

[1] Details may not add to 100 percent because of rounding.

OUT-OF-COURT SETTLEMENTS

How high are the out-of-court settlements on average? For the 403 out-of-court settlements for which information was provided, actual financial awards were for amounts below $25,000—a minor sum by corporate standards. This was so in more than 57 percent of the cases. At the high end of the scale, a little over 2 percent of the settlements were for $500,000 or above. Million dollar-plus settlements were awarded only 3 percent of the time.

COURT AWARDS

Very few of the risk managers responded to questions seeking information on the size of awards granted to plaintiffs by the courts. This is understandable in light of the finding that only 6 percent of the court judgments were in favor of the plaintiffs. Nevertheless, of those who did respond, most of the awards for economic loss, pain and suffering, and punitive damages were for amounts under $25,000.

MOST COMMON ALLEGATIONS

Allegations brought in liability actions range from flaws in the design and construction of products to poor or misleading use instructions, to misrepresentation about the product's features in promotional literature, such as advertisement. (See Chart 2.) For the corporations surveyed, the most frequent allegations were as follows:

Defect in product design: The most common allegation according to the survey, is that the design of the product in question is defective. In effect, people who suffer accidents or injury through the use of a product most commonly charge that the mishap was a consequence of the faulty design of the product. This was the allegation in over a third of the latest 659 cases brought against respondents.

Failure to warn: In almost a quarter of the cases, companies are sued on an alleged failure to warn the consumer adequately about potential—foreseeable—hazards associated with use of a product. Examples include drinking or inhaling chemical products, standing on the top step of a ladder, or the use of a chain saw without first clearing away potential obstructions. In a small number of cases, manufacturers are sued on the grounds that they did not foresee a "reasonable" misuse of a product—such as using a screwdriver as a lever, or a hammer to bang objects other than nails—and so did not provide proper warning.

Insufficient or improper labeling: Related to failure to warn is insufficient or incorrect labeling of a product, which plaintiffs allege can cause or contribute to a misuse. A fifth of the cases in the survey included this allegation.

Construction defect: Another fifth of the cases alleged a defect in the construction of a product, as opposed to the actual design. In such cases plaintiffs are charging a lapse in the manufacturer's quality control procedures.

CHAPTER 4.—MANAGEMENT DECISION MAKING IN RESPONSE TO LIABILITY

The primary intent of The Board's research was to weigh the impact that product liability has on management decision making, and, by extension, on the economy in general.

Price increases: The most common decision made by management in light of the product-liability issue has been to raise the cost of products and services. This decision was cited by over two-fifths (43 percent) of the respondents. No other management action was undertaken by as many corporations.

The extent of the increase, however, has been small. In most firms, liability expense consists of three or four major components: the cost of insurance, litigation fees, settlement amounts, and, sometimes, overhead. Only the first component—insurance—can be measured with any degree of accuracy. Therefore, respondents were asked how much of the final prices of their products can be attributed to the cost of liability insurance. For two-thirds of the firms, the answer was one percent or less. For another 11 percent of the companies, liability insurance accounted for only 2 to 3 percent of the final price.

This is the case even for many firms with high liability potential. For example, the risk manager of a corporation that manufacturers aircraft parts and other engineered materials explained: "We sell $150 million a year in aircraft products, and we pay $250,000 in liability premiums. It is a very small amount. Another corporation, a California aerospace manufacturing firm, also indicated its pass-along in prices added only 2 to 3 percent to its price list. (Some firms in the sporting goods industry may be an exception to this rule. See box on this page.)

It is almost impossible, for several reasons, to obtain data on the other components—in particular, litigation expenses and judgments or settlements. First, corporations, particularly publicly held firms, are loath to reveal how much they pay in litigation costs. They are even hesitant to share such information with their own-trade associations, according to officials of those groups. Second, the litigation expenses vary with the number of suits, with the states in which they are sued, and with the amount of time it takes to settle each case. Thus, unlike insurance, litigation expenses are not known at the start of any one year, and cannot easily be computed into the final price of a product. (This is also true, of course, for settlement amounts.) Efforts to obtain data on the portion of prices attributable to litigation expenses in such industries as housewares and appliances, machine tools, and automobiles were not fruitful.

In the processed food industry, however, a trade association official offered a "ballpark estimate" for the price pass-along: "Combining the expense of insurance premiums, legal fees, staff time, plus a huge amount of laboratory work between 6 and 10 percent of the final price reflects these expenses." He added, however, that the amount of the price increase is very small in absolute figures. "Because of the extraordinary high quality control that exists in the processed food industry, our settlement costs are very low compared to most other industries. If you say $25,000 is the average settlement cost in other industries, that is about ten times higher than the standard settlement in the food industry. Even our legal fees are low, because of the extent to which we have refined our claims handling system." (Unlike most other industrial trade groups, the National Food Processors Association handles the liability claims of its members.)

"The only cost that consumers are really paying for," this executive continued, "is quality control." He said that the food industry's "phenomenal safety record" accounts for the "minuscule" loss record in claims handling.

Thus, while it may be true, as noted by a representative of the National Association of Insurance Brokers, that "Anytime a business or organization is faced with substantial new costs of doing business, these costs influence the price structure of goods and services," that influence is not significant with respect to expenses associated with product liability. The major determinants of pricing in large companies remain what they have always been: shifting market tastes, technological innovations, the rise and fall of interest rates, domestic and foreign competition, labor and raw material costs, and so forth. Product liability does not constitute a major cost category, except in a small number of specialized firms such as football helmet manufacturers.

Improved labels: The next most common management decision, taken by over a third of the firms, was to alter the labeling information on product use, making the instructions more explicit and warning against dangers associated with improper use.

Product design: The third most common decision, made by almost a third of firms, was to improve the safety design of the product. (Among the firms that improved their products' design, manufacturing process or labeling, a fifth reported a subsequent decline in product-related accidents.)

Discontinuation of products: One finding here deserves special attention. Almost a quarter of the firms have decided, within the past three years, either to discontinue manufacture of a product for the U.S. market, to rescind provision of a service, or to recall products already on the market, because of product-liability considerations. Theoretically, such decisions can have a considerable impact on the fortunes of the firms themselves and on the overall economy. Curtailment of production may mean foregone revenues, which, in turn, may precipitate layoffs and cause other negative ripples throughout the economy.

To test the theory, the questionnaire asked respondents to estimate how much money they lose annually—how much they forego in net revenues—through liability-related elimination of products or services to the U.S. market. Only one out of eight respondents answered the question, an even smaller percentage than those who ceased production. Of the small remainder—41 corporations with $100 million or more in sales annually—under half estimate foregone revenues of less than $1 million a year, a third estimate losses between $1 and $5 million, and the rest, in decreasing percentages, forego higher amounts.

When placed within the contex of the entire sample of 232 corporations, the above figures suggest, again, that product liability has a minor impact on this group of corporations. For the 25 percent of corporations that have been pressured by liability problems to eliminate products or services, or to recall products from the market, the amount of revenue most of them forego is very small in relation to their annual sales income.

It should follow that few employees are laid off as a consequence of product liability. And that, indeed, is what the survey shows. Of the quarter of respondents who ceased productions on recalled products, 13 firms, or less then 6 percent of the total, laid off employees within the past three years for this reason. (See Chart 3.)

"DEFENSIVE LIABILITY" TECHNIQUES

The spate of media attention given the liability and insurance crisis during 1986 would indicate that product liability is a major concern, and its reform a top political priority, for U.S. corporations. Survey findings present a mixed picture on this assumption. On the one hand, product liability remains only a part-time function for over three-quarters of the respondents. And in only one out of ten companies is the performance rating of a department head dependent, even in part, on product-liability claims brought against the firm. Both these findings suggest that the issue is not a central focus of most corporate decision makers in the conduct of their business.

On the other hand, at least two-thirds of the companies undertake one or more "defensive liability" practices, the two most common being to establish formal safety objectives and to monitor relevant court decisions. (See Chart 4 on page 16.) In addition, over half the companies are active to some degree in efforts to reform product-liability or insurance laws and regulations. For most of the active firms, this involvement takes the form of contributing to a business or industry lobbying group.

REFORMS SOUGHT BY CORPORATIONS

A little over half of the risk managers volunteered information on the type of reforms they advocate. For most of these respondents, it is the tort system they wish to see changed. By contrast, only 6 percent recommend change in the insurance industry.

Tort Reform: The most frequently mentioned reforms sought by respondents in the area of tort law include establishing a cap on court awards, rescinding the doctrine of "joint and several liability," and restricting, or eliminating, the use of contingency fees by plaintiffs' attorneys.

Advocating a cap on court awards may reflect management's concern with the reportedly growing number of multimillion-dollar judgments, particularly as a result of awards for pain and suffering and for punitive damages. According to the survey, however, most liability cases are settled out of court, and for relatively modest sums.

The desire to end the joint and several liability doctrine reflects management's discontent with being targets of a shotgun approach to liability lawsuits. As noted earlier, such an approach names as many defendants as possible in a suit, regardless of the amount of blame any one defendant may bear. Ultimately, the wealthiest defendant becomes the payer of last resort, irrespective of degree of blame. And while the number and amount of court awards has not been steep, at least to most respondents of this survey, the legal expense required to respond to charges is certainly unwanted.

Establishment of a cap on contingency fees—which would limit the percentage of a court award going to the plaintiff's attorney—might serve as a disincentive for lawyers to sue. Over 42 percent of the respondents seek this reform, and another 20 percent seek an end of what they call "frivolous" law suits. Together, almost two-thirds of the corporate respondents seek to limit sharply the number of suits filed against them. (See Chart 5.)

Insurance reform: Reforms of the insurance industry sought by 6 percent of the respondents include: stricter regulation of rates; easing the ability to establish and operate selfinsuring (risk retention) mechanisms; and requiring insurance firms to compile and release more pertinent statistics. Several respondents also recommended improved product safety requirements, which they felt would result in fewer lawsuits.

PRODUCT LIABILITY AND CONSUMER PRICES IN THE SPORTING GOODS INDUSTRY

While it is difficult to ascertain how much of the cost associated with product liability—insurance, litigation expense, settlements—is reflected in the final price of a product, the pass-along may be high among some sporting goods manufacturers. A survey of its members undertaken by the Sporting Goods Manufacturers Association in 1980 revealed that, among a small sample of firms, products with a $45 wholesale price have $11 that can be attributed to insurance and litigation costs.

Another type of cost to the consumer may be hidden. "If a distributer can't get insurance, or if he has to pay too much in litigation costs, he goes out of business," said a spokesperson for the National Sporting Goods Association, a retailers' trade group. "Industry becomes less competitive, so you have fewer choices. For example, today there are only two manufacturers of football helmets. The less competition, the higher the prices."

ATTORNEYS' LIABILITY

Manufacturers and insurers are not the only ones on the receiving and of a significant increase in complaints, litigation and regulatory sanctions. Ironically, the legal profession itself—often cited as one of the principal culprits in the "product liability crisis"—is also the target of complaints, litigation and regulatory activity. In fact, statistics released by the American Bar Association show that, in the 35 states monitored by the ABA, complaints against lawyers rose by 38 percent during 1985. This increase, from 39,356 complaints to 54,152, is said by the ABA to reflect a growing inclination by the public and regulatory agencies to complain about and prosecute attorneys for a variety of missteps.

The number of cases varies widely among states. California leads the list with more than 5,000 cases currently pending, some of them more than a decade old, according to a recent article.[1]

The charges leveled against attorneys cover a broad range of professional misconduct, ranging from falsification of evidence to negligent and willfully misrepresentation. One New Orleans sole practitioner was recently his with a $1.5 million damage award because he urged a real estate client to appeal a case, asked the Louisiana First Circuit Court of Appeals for three extensions on this appeal, but negligently failed to file the appeal.[2] The number of disbarments of attorneys, as sanctions imposed by state courts, rose from 283 in 1981 to 459 in 1985, and the number of attorneys fined for misconduct from 381 in 1981 to 653 five years later.

Certainly, an increase in the number of attorneys contributes to a rise in the number of complaints and disbarments, since there are a greater number of possibilities for misconduct, given a larger population base. In California alone, there are close to 90,000 attorneys, and there is an average of one complaint against attorneys for every ten citizens in that state.

When manufacturers are hit with product-liability awards, one of the most frequent factors involved the producers' alleged failure to design a safe product. The same issue is behind the vast majority of legal malpractice cases, the ABA says. Its studies have shown that "general neglect" cases is the number one factor behind disciplinary actions, that is, fines or disbarments.

CHAPTER 5—LEGISLATIVE ACTIVITY

Partisans of reform of both the tort system and the insurance industry battled ferociously during 1986, both in the national and state arenas. While some federal insurance legislation was amended at this writing (November 1986), reforms—both major and minor—were passed or are likely to be passed in over 40 state legislatures, a reflection of the fierce lobbying efforts by organizations representing the insurance industry, corporate and association risk managers, trial lawyers, and consumer groups.[12] Many of those changes now face court challenges on state constitutional grounds.

STATE LEGISLATION

Concerning tort or liability reform, many states imposed caps on noneconomic and punitive damage awards, limited or rescinded the doctrine of joint and several liablility as applied to punitive damages, and allowed court awards to be paid out in installments—so-called structured payments—rather than in a single lump sum. Some states also reduced court awards by the amount of compensation a plaintiff receives from "collateral sources"—workers compensation, social security payments, and so forth. Predictably, these reforms were hailed by the insurance industry and corporate spokespeople, and condemned by consumer advocates and trial attorneys.

In the area of insurance, one of the most common reforms was the authorization of—or requirement for—joint underwriting associations (JUA's), a process by which all commercial insurance companies in a state take on the liability risks that no one insurer wishes to assume. JUA's constitute, in effect, an alternative market. In some states, such as in Minnesota, the insurance commissioner was given increased leeway to provide state government coverage for a limited period of time. The state of Florida enacted some of the most far reaching changes, mandating a rollback of insurance rates up to 40 percent for 90 days, with a further rollback to 1984 levels unless insurance companies can demonstrate that those levels are unjustified. In protest, several major insurance firms announced a cessation of new liability policies in Florida. In response, the president of the Florida Senate warned that he would seek legislation barring any insurer who withdraws from the state from reentry for the next ten years, with coverage to be provided by newly formed joint underwriting associations.[13] The intensity of the battle in Florida—still heated as of this writing—serves as a barometer for the rest of the nation. In New York, for instance, the state commissioner publicly requested insurers to lower their rates by up to 20 percent, to compensate for the savings they can expect from state tort reforms.[14]

TORT REFORM AND INSURANCE RATES

The relationship between tort reform and insurance rates is at the heart of the liability issue. Insurers maintain that rates are high in large part to compensate for overly generous court awards granted in an unpredictable fashion. Consumer groups argue that tort reforms have no direct or indirect bearing on insurance rates. Following tort reforms enacted in Florida in 1986, Aetna Casualty and Surety Company filed rates with the Florida Insurance Commissioner. According to its filing papers, Aetna indicated that the reforms will have no impact on its costs, and therefore its rates would not decline. (In fact, the insurance company requested an increase in rates, for other reasons.) Aetna's filing in Florida therefore confirmed the absence of a relationship, according to consumers. However, in New York State, Aetna's filing called for a 7 percent decline in rates, owing to the New York tort reforms. According to the Aetna actuary who prepared the filings, the New York case clearly demonstrates a relationship between tort reforms and insurance rates.

FEDERAL LEGISLATION

PRODUCT LIABILITY AND TORT REFORM

On the federal level, the Uniform Product Liability Act (S.2760) was reported out of the Senate Commerce Committee at the end of June, 1986. While it did not pass the entire Senate, the action of the Commerce Committee raised speculation that almost a decade of efforts by the insurance industry and risk managers to secure national tort liability reform would soon reach fruition, perhaps as early as the next session. Introduced by Senator John Danforth (R-Mo), the bill contained most of the elements advocated by corporate risk managers and insurers. Major provisions included:

Expedited settlement procedures: Either party to a dispute can seek to settle the claim quickly, by accepting the following terms: Payment to the claimant of a court-determined economic loss (loss of wages, medical expense, and so forth); plus payment of $100,000 for "dignitary loss." The economic loss is to be paid in installments rather than in a lump sum. The dignitary loss, a substitute for the existing category of "pain and suffering," is intended as compensation for death of a family member, permanent disfigurement, loss of an organ or limb, and so on.

If the defendant rejects the terms, and then loses in court for an amount equal to or greater than those terms, the defendant has to pay the claimant's legal fees, up to $100,000. If the claimant rejects the offer, he or she may only collect a limited amount, set by formula, for both economic loss and punitive damages.

Seller's liability: Sellers of defective products, such as retailers, dealers and the like, would be liable, in most cases, only if their own lack of reasonable care in handling the items was the proximate cause of the injury. In effect, this provision severely modifies the doctrine of joint and several liability.

Multiple defendants: In cases involving more than one defendant, each defendant's liability for noneconomic charges would be limited to that defendant's degree of responsibility for the injury, as determined by the court. This provision would further erode the notion of joint and several liability.

Punitive damages: Punitive damages could be awarded only where it is proven that an injury was the result of "conscious, flagrant indifference" on the part of the manufacturer to the user of a product. Furthermore, no punitive damage at all could be imposed in cases involving over-the-counter drugs, aircraft, or medical devices that have been approved for marketing by a federal agency.

Other provisions included:

A two-year time limit for the filing of complaints, starting from the time a claimant discovers—or "should have discovered"—the injury and the possible cause;

A definable statute of repose, in this case a 25-year time limit in which any complaint can be brought, with the exception of claims against toxic substances. For items not considered "capital goods," the statutory time limit is ten years;

Awards granted in a liability case to be offset by any benefits the claimant obtains under the federal workers compensation law;

A disclosure provision, requiring insurance companies to report to the Secretary of Commerce annual data showing the impact of this law on their business operations. The purpose of this provision is to test whether the absence of tort reforms is the cause of insurance price increases and availability declines, as the insurance industry alleges. Disclosure had been urged by Senator Paul Simon (D-IL) who argued that Congress finds "great difficulty" in securing adequate statistical information about the industry on which to base regulatory policy.[15]

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[1] Alberta I. Cook, "Complaints Rise Against Lawyers," The National Law Journal, October 27, 1986.

[2] Cabot and Forbes Company v. Brian, Simon, Peragine, Smith and Redfern, 80-20 60E.

[12] For a description of state-by-state reforms, see *Resolving the Liability Crisis: State Legislative Activities in 1986*, Denver: National Conference of State Legislatures.

[13] Peter Van Aartrijk, "E & S Carriers Pick Up Slack in Florida Market," *National Underwriter*, September 19, 1986, p. 6.

[14] David Katz, "N.Y., Citing 20 Percent Savings, Asks Cuts to Match Tort Reforms," *National Underwriter*, September 19, 1986, p. 6.

[15] "Senate Judiciary Panel Members Press Justice Department Office on Insurance Data," Daily Executive Report, September 10, 1986, p. A-9

A provision to make it more difficult to sue U.S. firms in U.S. courts for accidents occurring abroad. European courts are said to be more lenient toward manufacturers in liability cases. However, this may change in light of a new statute passed in 1985 by the Common Market. (See box, page 20, column one.)

Some 200 product liability bills were introduced in the House in 1986, but none was reported out of committee. Judiciary Subcommittee Chairman Peter W. Rodino (D-NJ), in a statement released on June 9, 1986, indicated the reasons for his reluctance to accept insurance industry allegations that they are financially ailing due to the tort system: "For product liability, including both bodily injury and property damage, of the premium dollars taken in over the past ten years, less than half have been paid out for claims and allocated adjustment expenses—the companies have paid out just $1.7 billion on a premium volume of $4.3 billion. That's positive cash flow of $2.6 billion, not including investment income." The statement added that these figures were derived from information provided by the Insurance Services Office.

One of the bills presented to Congress was submitted by the Reagan Administration at the end of April 1986. That bill would have limited noneconomic awards to a total of $100,000 for all claims arising out of a single injury or death; would have sharply curtailed contingency fees; and would have released manufacturers from liability in design defect (the most common allegation in liability lawsuits) and failure-to-warn cases, unless it can be proved that the ability to eliminate the defect was technologically "reasonably feasible" at the time the product was manufacturered.[16]

RISK RETENTION

The Product Liability Risk Retention Act of 1986 (PL 99-563), signed by the President on October 27, amends a five year old law by expanding the right of small business and other groups to obtain liability insurance in an alternative market. Essentially, the Risk Retention Act allows corporations and others to insure themselves if they cannot or choose not to purchase insurance on the regular market. Self insurance is obtained through the establishment of a "risk retention" group that writes policies and accepts payments at rates set by the members. The law overrides any state law that prohibits the establishment of either risk retention or insurance purchasing associations.

The amended act eliminates obstacles faced by numerous trade and professional groups to establish captives, allows risk retention groups to establish captives, allows risk retention groups to expand the types of insurance they may provide from product to general liability insurance and authorizes state commissioners to halt a group's operation if the commissioner believes it to be in "hazardous financial condition." The amendment also require the Secretary of Commerce to report on how the Act helps to resolve "problems relating to the unavailability and unaffordability of liability insurance."

Because risk retention groups compete directly with existing private insurance companies, the latter have strenuously opposed both the law itself and any efforts to expand its applicability or the type of insurance it covers. State commissioners, in turn, have pushed for increased state regulation of the groups, warning that the absence of state oversight leaves consumers unprotected in the event of a group's insolvency. On the other hand, corporate risk managers support the Act, which provides them with access to another market, and often ally themselves with other groups seeking to self-insure (for example, midwives). Insurance brokers, who would be able to sell policies for the risk retention groups, also support the Act.

ANTITRUST IMMUNITY

A bill to amend the McCarran-Ferguson Act, which has been shielding insurance companies from the reach of most federal antitrust laws since 1945, was introduced by Senator Simon in 1986, but is not considered likely to be acted on soon. Most insurance industry representatives oppose any weakening of the Act, which allows for collective rate setting and other activities prohibited in other industries. McCarran-Ferguson also provides that the regulation of insurance is fundamentally a state rather than a federal matter.

Repeal of "sunsetting" of the Act is urged primarily by consumer advocates, but for the past several years a number of insurance representatives have also argued that the Act has outlived its usefulness. By repealing the Act, they maintain, insurance companies would be released from state regulation, which they assert has become unnecessary given the competitive structure of the industry.[17]

CONCLUSION

The uproar over the tort liability system and the policies of the insurance industry that filled the pages of the nation's popular and business press during 1986 seem, upon analysis, to reflect more the political muscle of competing groups in society than any actual or impending disaster. At least for major corporations, the so-called twin crises of liability and insurance have had relatively little impact. Since 1982, product-liability coverage has remained steady in most cases, although its cost has risen substantially. While the actual number of lawsuits faced by corporations is high, most tort claims are settled out of court, for relatively modest sums.

Management does pass on the cost of the insurance, and perhaps legal expenses, in consumer prices, but the total amount of the increase for most firms is small. While exerting some negative impact on corporations and on society, product liability has also motivated management to positive actions: for example, improving product safety, product use and warning labels, and manufacturing quality. Nevertheless, legislators in over 40 states have been moved by the uproar to pass, or deliberate on, tort and insurance reform laws. On the federal level, significant tort reform may be nearing enactment after a decade of efforts by the insurance industry and risk managers. It is not inconceivable that these legislative reforms will have more of an impact on corporate behavior, and on consumers, than the supposed crises that gave rise to them.

ACCA ON LIABILITY ISSUES

Following are the positions taken by the American Corporate Counsel Association on tort liability:

Tort System: Due to the continued rapid expansion of product liability litigation, continued inconsistencies in tort law and interpretation among and within the states, and subsequent erosion of liability insurance, tort reform is vital at both the federal and state levels.

Damage Awards: Make the public aware of the cost to all of the ever-expanding sizes of damage awards for injuries, the multiplication of unjustified theories of recovery, and the spiraling costs of litigation. Limit or eliminate punitive damages.

Investigations: Limit discovery abuse (pretrial investigation of the facts.)

Legal Access and Contingency Fees: Diligently explore methods to administer claims efficiently and to deliver quality legal services to parties in civil cases at reasonable cost. Control the use and amount of contingent fees contracts to appropriate limits.

Resolution of Cases: Pursue and encourage the use of Alternative Dispute Resolution techniques as appropriate.

Joint and Several Liability: Limit or eliminate joint and several liability.

Collateral Source: Eliminate the collateral source rule allowing inappropriate double recovery of damages and allow full disclosure of all facts bearing on a plaintiff's financial loss.

Strict Liability: Develop a fair and reasonable standard of liability and proof of causation for cases involving the toxicity of chemicals, including a reasonable state-of-the-art defense.

PRODUCT LIABILITY IN EUROPE

U.S. corporations exporting to any part of the European Economic Community (the Common Market) may be subject to a more stringent product liability doctrine by July 31, 1988 at the latest. On that date, each member state will likely adhere to a new EEC statute passed in 1985 to unify the varying laws of the member states on consumer protection.[1] Most likely to be affected are the drug, chemical, food, tobacco, automotive and aerospace industries. The new statute—already adopted by some states—mandates the application of strict liability, which essentially means that the seller of a defective product is liable for any injury caused by its use. This doctrine, of course, has long been in effect in the United States, having been refined largely through case law during the 1960s and 1970s.

The EEC law, which pertains to components as well as finished products, has been hailed by consumers, who no longer have to sustain the burden of proof that the manufacturer had failed to exercise proper care in the manufacturing process. Business groups in general opposed the law, arguing that it would lead to unacceptably high insurance costs. One provision, however, is supported by business and opposed by consumers. The law specifically excludes "development risks" from manufacturers liability. Development risks pertain to defects that could not be discovered in light of technical and scientific knowledge available at the time the product was put on the market. (In the United States, this is known as a state-of-the-art defense.) Of particular importance to U.S. firms is that the manufacturer's liability can no longer be limited or excluded by clauses to that effect in sales contracts. Such clauses are still allowed under the laws of most individual EEC states, but will have to end completely by July 31, 1988.

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[16] "White House Sends Congress Three Draft Bills to Improve Tort Reform Situation," Daily Executive Report, May 1, 1986, p. A-13.

[17] For a review of the historical setting of the McCarran-Ferguson Act and a discussion on the merits of state versus federal regulation, see Nathan Weber, *Insurance Derregulation: Issues and Perspectives.* Conference Board Report No. 824, 1982.

[1] Council Directive 85/374/EEC. For a commentary on the EEC law, see "Common Market Reports," Commerce Clearing House, 538, October 24, 1985, P. 11.706.

ATLA ON LIABILITY ISSUES

Following are excerpts from position papers prepared by the Association of Trial Lawyers of America.

Tort System: Imperfect though it may be, the system today serves two vital functions: it deters negligence and it fairly compensates victims. The system helps to eliminate wrongs; the so-called reformers want to eliminate rights. As [a Yale professor] said, "Law reform really gets going when the plaintiffs start winning."

Caps on Awards: Caps punish only the worst afflicted—those who are catastrophically injured by the carelessness or unfitness of others. Caps punish those whose quality of life has been destroyed, those who will never be able to work again. Besides, who is fit to put a price tag on a lifetime of pain and suffering; to set up the marketplace where pain is bartered?

Strict Liability: This doctrine holds a manufacturer liable for harm that results from a defective product. No defect, no liability. Reformers would replace this doctrine with a standard that in many cases would require proof of manufacturer negligence. Injured consumers would have to prove not only that a product was defective and caused the injury—no easy task. They would also have to scale nearly insurmountable barriers to recovery, because the negligence standard would require gathering evidence of the manufacturer's state of mind from perhaps the sole and recalcitrant possessor of that evidence—the manufacturer.

Collateral Source: The collateral source rule holds that a wrongdoer should not profit if a plaintiff is protected by insurance that in many cases the plaintiff pays for personally. Why give wrongdoers and their insurance carriers a windfall when the injured victim has paid premiums directly or indirectly to the collateral source?

Structured Settlements: Such settlements may be an excellent device in some cases. But that choice should be left to the plaintiff. Mandating structured settlements permits insurers to continue to earn income on the unpaid portion of the award, instead of giving the victim the chance to earn that income.

Joint and Several Liability: Abolishing this doctrine would not cut insurance rates. It would mean less compensation for innocent victims, higher taxes to pay for assistance programs for those victims, and increased profits for the insurance industry.

Contingency Fees: Limits on such fees discriminate against plaintiffs who can afford only lawyers who are willing to take cases on a contingent basis. There is no limit on the fees of defense lawyers. There is no limit on what a wealthy client can pay a lawyer.

Frivolous Suits: Common sense shows that a lawyer working on a contingent basis is most unlikely to bring such a suit. It's almost a sure loser, and one-third of nothing is nothing.

Mr. HOLLINGS. The Conference Board polled the risk managers of 232 major U.S. corporations, the corporations each having a minimum annual sales revenue of $100 million, representing a range of U.S. manufacturers and nonfinancial firms. Forms provided by the manufacturing managers pertain entirely to product liability.

That is on page 5. I will jump to chapter 4 because my time is limited and I do not want to extend. I will have extended remarks at an appropriate time, but I wanted to try to make some points in this particular debate.

This is under the heading in chapter 4 of the matter of "Price Inceases."

The most common decision made by management in light of product liability issue has been to raise the cost of products and services. This decision was cited by over two-fifths of the respondents. No other management action was undertaken by as many corporations. The extent of the increase, however, has been small. In most firms, liability expense consists of three or four major components: the cost of insurance litigation fees, settlement amounts, and, sometimes, overhead. Only the first component, insurance, can be measured with any degree of accuracy. Therefore, respondents were asked how much of the final prices of their products can be attributed to the cost of liability insurance.

Now, Mr. President, and the Senator from Kentucky in particular.

For two-thirds of the firms, the answer was 1 percent or less.

One percent or less of their manufactured prices. We have the entire report and I will be referring to that in the debate.

This thing started with reinsurance in Europe. I headed up a filing, an S-1, in the Securities and Exchange Commission, the Guaranty Insurance Trust, a reinsurance company, some 20 years ago. I was chairman of a board when this particular problem started, a so-called crisis with reinsurance in Europe.

They came over here and started to panic. There are still a few stragglers who are just catching on thinking this is a good political issue for the chamber of commerce and the Conference Board, the Business Advisory Council, and all the rest. But then they began to sober up, Mr. President.

The reason they are sobering up is because on the day before yesterday in the Washington Post, Wednesday, July 15, there appeared an article entitled "Deformed Boy Awarded $95 Million in Product Liability Case."

In the Federal District Court yesterday, a $95 million verdict.

Let us get to the fundamental involved. The whole idea is if we can get away from the State juries and get into the Federal courts, we will save a lot of money.

I can tell you, having represented the largest corporate firm in my county, and gotten the largest verdict for a personal injury award, if I wanted money, I wanted to get into the Federal court. That is where I was awarded the largest amount.

The banks, the insurance companies, The Business Roundtable, the chamber of commerce—I have told them categorically, and this was an issue in my campaign last year—I had forestalled this nonsense, talking about the sense-of-the-Senate resolution. I had forestalled this nonsense with the American Bar Association, the National Association of Attorneys General and otherwise, the Association of Supreme Court Justices for the several States.

We had forestalled this nonsense because, in certain terms, some groups always thought that Ronald Reagan and a conservative Congress would always live.

I told them, "Look, President Reagan is not going to be there forever and you are not going to have a conservative Congress forever; and even if you ever get a Federal law, you may still get certain liberal State statutes." In my particular State, you can totally knock out punitive damages, you can knock out the actual verdict and give the trial judge an opportunity to act. As a former Governor trying to attract industry to my State, in my arguments, I would always say, look at who has the responsibility of the tort system. There is no tort crisis in the State of South Carolina, and I do not believe my State is particularly peculiar.

In fact, in an embarrassing moment for the U.S. Government, the U.S. Assistant Attorney General came before the Congress and you know what was the basis of his testimony, Mr. President? Newspaper clippings. He had no authentic information. So a study was made at the University of South Carolina to find about the so-called tort crisis and found that the facts about South Carolina, that the average verdict was not $1 million, it was closer to $10,000. So the proponents of product liability reform were totally off in their findings and everything else.

Similarly, we see an article on July 15, in the Washington Times, asking "Should insurers retain antitrust immunity?" I say to the Senator from Ohio, this is his subject. If we are going to legislate on the Federal level on a State responsibility, then we should at least legislate intelligently, legislate decisively, with not some sense of the Senate provision.

We have never been able to get the facts. I am chairman of the Commerce Committee. We have begged the industry, we have asked them. You cannot get good insurance information. As a result, Congress has come back around to this sort of proposal and, you know, necessity is the mother of invention. Though we have previously said, "Federal Trade Commission, stay away from insurance. Get into the other responsibilities that you have. The States are regulating," you know what the Senate said last year? "Federal Trade Commission, get back in insurance and try to find out something for us."

Senator ROCKEFELLER has a bill, Senator SIMON is considering a bill. The distinguished Senator from Ohio has been leading another movement with respect to the McCarran-Ferguson Act.

I would expect this to continue, and I have told this big business community, keep it up and you are going to abolish McCarran-Ferguson and have Federal regulation, because that is the only way we can make any sense out of this.

Mr. President, I hope this is tabled. I reserve the remainder of my time.

Mr. METZENBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. METZENBAUM. Mr. President, this is the litmus test. This is a measure that has nothing at all to do with the trade bill. At 11:44 p.m. on Wednesday night, there was a request made for unanimous consent. The Senator from Ohio—myself—stood here and said, "Well, I have concerns about a number of these nongermane issues coming to the floor. If they were to come to the floor, I would be prepared to discuss the issue at length, because I am totally in disagreement."

I am, first, in disagreement as to whether or not the amendment belongs on the bill at all. What kind of new procedures are we talking about, to have a sense-of-the-Senate resolution saying what the Congress should do? That is the sense of the Senate that meaningful reform of the country's tort and product liability laws should be a concern of the Congress.

Mr. President, there are 100 bills being introduced. Are we going to have a sense-of-the-Senate resolution that my bill on aspertame or McCarran-Ferguson repeal or nuclear waste or a whole host of other subjects, be put on another bill and say it is the sense of the Senate that we should pass the bill?

We make laws. That is our job. Our job is not to pass sense-of-the-Senate resolutions indicating a prayer and a hope. We certainly do not need one having a prayer and a hope with respect to the matter of what kind of law we ought to pass tomorrow or next month or next year.

I indicated that if this measure were going to come to the floor, I would be prepared to discuss the responsibilities of the insurance companies of this country. They are the ones who have failed to give us the information, as the distinguished Senator from South Carolina just pointed out. We do not know whether there ought to be higher rates or not. We do know that the insurance industry made $11 billion last year, while they were crying all the way to the bank.

I do not know what the answer is, but I know you cannot talk that tort reform without finding out the facts. The distinguished Senator from South Carolina said his committee has been trying to find the facts, this Senator has been trying to find the facts, I have been making request after request of the insurance industry: Just let us know, what are the facts? Why did you go up that much on malpractice insurance? Why did you go up that much with respect to liability insurance for day-care centers? Why have you placed such an undue burden on the small business operators of this country? Why? What are the facts?

This one industry, that likes to talk about Federal regulation or State regulation, a subject that the Senator from Ohio has not taken a position on—all I have said is that we ought to repeal the McCarran-Ferguson Act. What an absurdity it is that one industry, the most powerful industry in the entire Nation, controlling more of the wealth and thereby controlling more of the securities than any other industry in America, that one industry is free. They do not have to abide by the antitrust laws. They can combine together and say that business insurance rates will go up so much, the malpractice rates for doctors or for obstetricians or for orthopedists or for any other kind of doctors is going to go up so much and they are not accountable to anybody.

The argument is made, "Oh, Senator, you don't understand. They are subject to State regulation." That is unadulterated hokum. There are very few States in the country that provide adequate State regulation. Notwithstanding that, I have said I am not advocating Federal regulation. I do advocate that the insurance industry no longer retain the right to be exempt from the antitrust laws so that free competition, this great industry that talks so much about the free enterprise system, should be a part of that free enterprise system and be willing to compete one with the other. I do not want State regulation, and I do not want a piece of legislation coming out here to the floor telling us what kind of legislation we should pass next week, next month, or next year. I certainly do not want it on the trade bill.

The other night I was assured, with absolute commitments from the leadership on both the Democratic and Republican side, that measures such as this would be tabled. I believe that is exactly the way it should be. We have given up our right to debate at length. I believe now that the leadership is called upon to follow through and see to it that this measure, if not withdrawn, is tabled.

I yield the floor.

The PRESIDING OFFICER. Are there other Senators requesting recognition to debate this issue?

If not, the question is on agreeing to the amendment.

The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. KASSEBAUM. Mr. President, I rise in support of the amendment by the Senator from Kentucky [Mr. McCONNELL]. I believe it is absolutely vital that we enact tort reform legislation this year. General aviation, in particular, which is a major part of our national air transportation system, is today facing a crisis of unprecedented proportions.

Its very survival is threatened. There are at present no training aircraft being manufactured in the United States. The further production of business aircraft, agricultural aircraft, and aircraft used in a myriad of industries for multiple purposes is threatened.

The manufacturers of systems, parts, and components of aircraft are being affected, thus raising the specter of declining availability of parts necessary for the fleet in existence, as well as a lack of any new technology or advancement.

Unemployment in the general aviation industry is at 50 percent. As manufacturers of aircraft and suppliers of parts leave the industry, we are in a position of seeing our industry, our jobs, and our technology being exported overseas. Precious few single- or twin-engine piston aircraft are being manufactured today. Sales for turbine engine aircraft for the first 5 months of 1986 are down 40 percent from last year; jet sales are down 43 percent for the same period. We are facing the extinction of an industry as we know it. At the present pace, the United States, which has always been preeminent in world general aviation, will be a country consisting of only a handful of manufacturers making only a few business jets.

Product liability costs have played a major role in the decline of this industry. Costs have increased 500 percent in the last 5 years. Without some redress in this area, we may never again see this industry recover.

While I support the current effort for comprehensive tort reform, I have introduced legislation to deal directly with the general aviation industry and the problems unique to it.

A key feature of this legislation is to establish a uniform Federal standard of liability for this industry. I believe that is absolutely essential to an industry which has been, since the days of Kitty Hawk, a vital national concern. The pervasive nature of the Federal regulation of aviation has sprung from our concern with development and safety of air commerce and fulfilling our national defense needs.

General aviation must meet Federal standards from the design stage through production to maintenance and operation. I believe it is appropriate, therefore, for the industry to be judged by a Federal standard on questions of product liability.

I will not go further into the provisions of the legislation, but I want to emphasize the importance of this legislation in helping to save this important industry—and the imminent need for passage of legislation this year.

Mr. McCONNELL. Mr. President, I have been involved in some discussions on this side of the aisle with my colleagues who support products liability legislation. They have told me that, because of the commitment of the leadership to table all further amendments to the trade bill, our chances of our success are limited.

This attitude frustrates me greatly, Mr. President, because it seems that there is never a good time for ending the lawsuit crisis in America. There never was a good time for it during the 99th Congress: we had one meaningless vote on a motion to proceed last fall, and that was for a products liability bill. Most people voted in favor, because it didn't mean anything.

I am sure the chairman of the Commerce Committee will promise to have hearings again. We have had endless hearings in the House and in the Senate. Well, Mr. President, promises of more hearings are just promises of more talk. A lot of people are waiting for us to act.

The Senator from Kentucky, however, cannot proceed if he has neither the support of the leadership nor the support of those on the products liability bill; and it appears that the Senator from Kentucky does not have that support—not because they disfavor this resolution or its purpose, but because they believe the timing is wrong. Once again, we will say to the American people that we don't have time for their No. 1 problem.

There will be another day, Mr. President, and the next time the Senator from Kentucky offers an amendment on tort reform, it will not be a sense-of-the-Senate resolution. It will be the real thing, a real, meaningful tort reform amendment, across the board, for our country. But it is the decision of the Senator from Kentucky to wait for this clear new day to offer a meaningful, comprehensive tort reform proposal. Until that time, I shall wait and prepare. And the country will wait, too. But it cannot wait forever. With those observations, I withdraw my amendment.

The PRESIDING OFFICER. The Senator from Kentucky has withdrawn the amendment.

Mr. METZENBAUM. Mr. President, I thank the Senator from Kentucky for withdrawing the amendment. I think it avoided the necessity of putting Members who perhaps supported his amendment in a position of having to vote to table it.

I also commend the manager of the bill, who indicated that he was prepared to make the motion to lay the amendment on the table, on behalf of himself, Senator BYRD, Senator DOLE, and Senator JOHNSTON.

I am pleased at this first development, and I hope it is a forerunner of others that will occur today and that we will get moving on the trade bill.

Mr. McCONNELL. Mr. President, I enjoy debating this issue with the Senator from Ohio. I think the American people are entitled to hear more about it, not just in committee hearings but before the U.S. Senate. On another day, we will have that debate.

Mr. METZENBAUM. I understand.

Mr. PACKWOOD. Mr. President, I thank the Senator from Kentucky. I know how strongly he feels about this, and in a spirit of senatorial comity, he has withdrawn it.

My prediction is that he will get his vote one day, whether in the committee or an amendment on the floor. Before this Congress is out, there will be a vote on the merits of product liability. I do think the Senator was wise in withdrawing his amendment today, and I appreciate it.

● **Mr. SIMPSON.** Mr. President, my good friend from Kentucky has offered a resolution calling for action in this session of the Congress to bring about a vast and sweeping change in the extensive and time honored system of tort law in this country.

I must strongly oppose this resolution. Supreme among my reasons is that the underlying bill introduced by the Senator from Kentucky once again reaches the long muscular arm of the Federal Government into the province of each of the several States.

The Senator's bill would apply to "any civil action against any person, in any State or Federal court, based on any cause of action, * * * in which damages are sought for physical injury or for pain or suffering or for property damage other than damage to the product itself." That must not be allowed to come to pass.

This stunning array of litigation would be controlled by the proposed Federal legislation and "preempt and supersede" State law where inconsistent with this bill. Amendment 10 to the Constitution reserves to the States all powers not delegated to the United States. Congress seems to be in a habit of carving away States rights on highway issues, trade issues, and a myriad of other issues. All aspects of tort law are best determined by the individual legislatures and remain to be interpreted by the courts in and of those States.

The underlying bill also contains a number of specific provisions on the applicable burden of proof, limitations on joint and several liability, sanctions for delay or frivolous filings, and removal of the assessment of and determination of punitive damages by the jury when it is the trier of fact.

These are all correctly and properly in the authority of the States. I oppose the underlying legislation and the resolution before us.●

AMENDMENT NO. 595

(Purpose: To provide additional authority to the President to provide regulatory relief under chapter 1 of title II of the Trade Act of 1974)

Mr. SYMMS. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

The Senator from Idaho [Mr. SYMMS] proposes an amendment numbered 595:

On page 79 of the printed bill, strike out lines 13 through 18 and insert in lieu thereof the following:

"(iii) notwithstanding any other provision of law, to alter, ease, or eliminate any Federal regulatory requirement imposed by statute or by regulations at it applies to members of the domestic industry determined by the Commission under section 201(b)(1) to have been seriously injured, or to be threatened with serious injury, if the action to alter, ease, or eliminate such federal regulatory requirements is reasonably related to enhancing competition with foreign competitors to whom market share has been lost, and, considering worldwide competition, outweighs any adverse impact from such action;

On page 81, beginning with line 9, strike out all through page 83, line 22.

Mr. SYMMS. Mr. President, this amendment strikes right at the heart of why we seem to have difficulty confronting international competition. It strikes right at the heart of the increased cost of production of American goods and services because of excessive interference through regulation by Government.

This provision would allow the President greater flexibility to alter, to ease, or to eliminate regulations under section 204 of the Trade Act.

This amendment goes in the opposite direction of my good friend from Ohio, Senator METZENBAUM, in his Amendment No. 463. Senator METZENBAUM stated: "It is important to be competitive, but it is also important to protect the lives, environment, and quality of all persons."

I happen to agree with that statement, but I think what we are tallking about are excesses.

This amendment takes into account the concerns Senator METZENBAUM brought up, but it strikes a balance between safety and competition. The waiver is allowed if it is reasonably related to enhancing competition with foreign competitors to whom market share has been lost and, considering worldwide competition, outweighs any adverse impact from such action. This is known as risk assessment and management. There are trade-offs to be made. While racial discrimination would not increase competitiveness, easing OSHA might do so. However, the benefit of jobs must offset the threat of lost safety. I think the correcting amendment that has been included in the bill does not balance out the risk, and that is what we are trying to address.

By loosening the restrictions on the President, we increase the speed of the review. That is really what we are talking about here. The Metzenbaum amendment would require Congress to eliminate statutes that the President, or an agency, did not have the authority to strike. Without the extended authority, an industry that has already been determined to be injured—or threatened by injury—will have to wait in limbo for Congress to take actions that could help to regain market share by reducing costs.

Mr. President, I have in my hands a letter I want to share with my colleagues. It is a letter that comes from a man I have known since 1972. He manages the Asarco mining projects in the northern part of the United States, Montana, principally, in Idaho, and a few other operations, some in Colorado. This letter was dated April 25, 1986. I want to read this letter to my colleagues because it addresses specifically why we have a problem in mining, but it applies to other industries.

> APRIL 25, 1986.
>
> Hon. STEVEN D. SYMMS,
> *U.S. Senate, Senate Hart Office Building, Washington, DC.*
>
> DEAR STEVE: I appreciate your telephone call and your concern with the present problems of the Coeur d'Alene Mining District. We are probably experiencing the worst economic conditions since the "great depression" and maybe even worse. The closure of the Bunker Hill mining and smelting complex and Morning-Star mine were devastating, but the loss of the Sunshine and Lucky Friday mines is near disaster.
>
> The reason for the present situation is very complex and I am sure that numerous experts will come forth with various causes and solutions. As I mentioned to you, I will attempt to identify some of the problems which have created the present situation.

I might just editorialize before I read the next paragraph, Mr. President, that many of the experts did come forth and they called for tariffs, artificial price supports for silver production, all kinds of trade-related protectionist mechanisms to help the industry. Here is an operation and operator, who have been able to keep their mines open, but it has not been easy. They have had a tremendously austere program, which caused reduction in wages in many cases and other cost reduction methodology, such as mining richer ore, and so forth. He said:

> Probably the major contributor to the mining industry's demise has been the Federal Government anti-mining policy. Because of this policy, the industry has been the focal point for restrictive legislation since the National Environmental Policy Act was passed in 1969. Since then, we have had the Clean Air Act, Clean Water Act, MSHA, OSHA, CERCLA, RCRA and Hazardous Waste, Toxic Substance Control Act, Mined Land Reclamation, Endangered Species Act, etc. Each one of these has gone far beyond the original intent of Congress and each one adds an additional increment to our mining cost.
>
> To compound the problem, various state agencies have been formed to regulate the same thing as their federal brethren, but with somewhat different regulations. Not only are the mines faced with additional operating costs from these state regulations, but taxes are increased to fund the state's activities. From 1980 through 1985, our real and personal property taxes have increased 280% for our operations in this area.

This is Idaho where he is referring to.

> The labor unions with their no-compromise position, are also part of the problem. In general, the labor leaders have refused to acknowledge to the poor financial condition the mining industry is experiencing today which in part was brought on by their support of anti-mining legislation in the past. This failure on their part can only lead to major labor confrontations or plant closures as experienced by Phelps-Dodge, Bunker Hill and Sunshine. The silver price today is similar to that in 1978, but our average direct wage rate has increased 186% from 1978 through 1985. The cost of the benefit package has increased 138% on a per hour basis during this period. It is not difficult to see the need for relief from certain provisions of the labor agreements.
>
> Another problem has been the increase in management costs with increased corporated staff (unfortunately, some of the staff has been necessary to counter the growing federal and state bureaucracies), facilities, and questionable projects as a result of high metal prices in the past. Fortunately, a few companies with strong management have recognized the problems and made adjustments accordingly with pay-cuts, and reductions in staff personnel.
>
> Of course, the "financial straw" for many operations is the current low metal prices. Some people ae advocating federal price support for silver. Price support sounds good, but one only has to look at our government's farm subsidy program and the resultant problems to quickly realize that the government support of high-cost producers would be of questionable value. Artificial price support is at best only a short term solution and when the support is removed, generally the whole house collapses as witnessed in the current tin market fiasco.
>
> If the assistance (?) that the government has already provided us with is not enough, we now have acid rain legislation being considered. This could shut down additional U.S. smelters which is exactly what the Canadian lead/zinc industry would appreciate.
>
> Mine waste regulation, which is also being considered, would cause more economic damage to mining than has already been accomplished by the clean air legislation to the smelting industry. We have a chance to overcome this problem though. The industry is shutting down mines so fast that the Federal Government and their bureaucracies will not be able to catch us before the mines are shut down and I doubt if we will be foolish enough to leave a forwarding address.
>
> The "minimum tax" in the tax reform bills will be disastrous to the mining industry in the (all too few) good years, but take no account of our losses in economically depressed years. If this is not enough, our so-called "good friends" in the administration keep attempting to dump more metal from the stockpiles into the current depressed markets.
>
> Everyone talks about free trade, but we in the U.S. are the only ones naive enough to think anybody means it, so our basic industry (all basic industry, not just mining) is being desecrated, destroyed, and annihilated while our exports go begging.
>
> In conclusion, I think the same philosophy applies to basic industry as to farming, as William Jennings Bryan said, 'Burn down your cities and leave our farms, and your cities will spring up as if by magic; but destroy our farms, and the grass will grow in the streets of every city in the country."
>
> Very truly yours,
>
> F.D. OWSLEY.

Mr. President, I only use this letter as a point as we move toward passing legislation addressing the trade problem. One of the things that needs to be done is a very broad-based regulatory review. It got started with a great deal of zeal. The Vice President has headed up the President's Commission on Regulatory Reform, and they have done some very good things. I commend the Vice President for it and I commend the administration for it.

But I am just saying that for those who will say this would give the administration and a President too much authority, we need to ask this question: Why, then, does Congress delegate to the executive branch our constitutional authority "to regulate commerce with foreign nations?" That is directly out of the Constitution.

Under this rationale, section 201 itself is "too much delegation of authority." Senator PACKWOOD's amendment on the national economic interest was similar in centralizing the analysis in the executive branch of the cost and benefit of enacting 201 relief. Although the Packwood amendment failed, similar amendments by Senators BRADLEY and GRAMM at the end of last week gave the President back much of his discretion. This amendment increases the scope of the discretion given to the President in regulatory relief.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Idaho has yielded the floor.

The Senator from Vermont.

Mr. STAFFORD. Mr. President, I have listened to my good friend from Idaho and his description of the amendment that he has proposed. I must reluctantly urge my colleagues to vote against this amendment. In my opinion, it is a dangerous amendment for two reasons:

First, it provides authority to the President unilaterally to repeal acts of Congress. There is no emergency facing the country that could possibly justify such a sweeping abdication of congressional authority and responsibility at this time.

Second, it suggests that regulations to protect the health, safety, environment and other vital interests of the people of this country are responsible for our failure to compete successfully in world markets. While such regulations are regularly cited as causes of our uncompetitiveness, I have yet to see any solid evidence to support such statements.

I think the health, safety, the environment, and other vital interests of the people of this country are extremely important.

Mr. President, finally, the Senate has already adopted an amendment dealing with the issues addressed by the Symms amendment. the earlier modification provides for expedited consideration of regulations that might affect trade adjustment but leaves in place all the requirements and standards of existing laws. That amendment was carefully crafted to satisfy a variety of concerns of many Members of this body.

The amendment already agreed to by the Senate should remain unchanged and the Symms amendment should be defeated.

Mr. President, I yield the floor.

Mr. PACKWOOD. Mr. President, as I indicated earlier when we were talking about the sense-of-the-Senate resolution of the Senator from Kentucky, it would be my intention following the leadership decision made Wednesday—I see Senator **Bentsen** is here now—to move to table this amendment—I am not moving now—on behalf of myself and the leadership and Senator **Bentsen** unless the Senator from Idaho chooses to withdraw it. He may want to pursue it and have a vote. That would be my intention with some degree of embarrassment only in the sense that my good friend from Idaho, when he was on the Finance Committee, was a great help and has been a great help on this bill, but in a spirit of cooperation with the leadership I have and the Democratic change I would move to table.

Mr. BENTSEN. Mr. President, will the Senator yield?

Mr. PACKWOOD. I yield.

Mr. BENTSEN. Mr. President, I concur in the statement on both amendments and join in the process of tabling support.

Mr. SYMMS addressed the Chair.

The PRESIDING OFFICER (Mr. **Shelby**). The Senator from Idaho.

Mr. SYMMS. Mr. President, I have the highest respect for the chairman of this committee and ranking member of the committee and my esteemed former chairman and now ranking member of the Public Works Committee. I appreciate the fact that I have had the opportunity to make this point. I say this again for all my colleagues, that there is a point in time in trade problems that rather than blaming everyone else in the world and saying that our people are in competition with governments instead of companies, we also need to look at ourselves. I have fought for my parochial interests very, very hard, for computer chip manufacturers, mining companies, timber producers, loggers, miners, farmers, and so forth. Sometimes they are being unfairly competed with. However, in addition to possible trade legislation, we need a full-scale regulatory reform in this country. I offer this amendment to make this point. We need amendments in subjects like tort reform, regulatory reform, to lessen the animosity and the adversarial position between the U.S. Government and the producers.

What we need is cooperation from the Government agencies to help. I want to cite one more example and then I will withdraw the amendment, in deference to my leadership.

When I was a Member of the House, we fought long and hard against having mine safety turned over to the Department of Labor. Up until the middle seventies, mine safety was managed by the Bureau of Mines.

The Bureau of Mines by its nature had engineers and miners in it and ran a cooperative safety program. It was not punitive in nature. There were very good rules and regulations. The mining companies in Idaho, in my State, have deep underground mines. I personally have worked at below 7,000 feet and have an understanding of how difficult it is to get that ore out of the ground. There are risks and there are problems that can come about.

They have problems such as rock bursts with the pressure—it is like water pushing into a vacuum. It is like a submarine being down deep when they sink a shaft down 7,000 or 8,000 feet down into the ground. There is a lot of pressure.

In the old days, when they thought they had a safety problem, they would call the Bureau of Mines and ask for the safety engineer to come to our mines. He would come underground and they would show him what the problem was and they worked with the Bureau of Mines to try to correct the safety problem. This was before jurisdiction changed to the Department of Labor.

I fought long and hard as a member of the Mines and Mining Subcommittee in the House, but we finally lost in the middle seventies, after the Watergate fiasco when the liberals took over the House in massive numbers. They managed to get the votes to change mine safety.

In the old days, the mining companies, the mine foremen, the shift bosses, the superintendents were responsible for the safety of the men going underground. They would always go and ask the Bureau of Mines for help and advice because those engineers traveled all over Vermont and Montana, Idaho, Colorado—they were very experienced and they were very helpful.

Today we have filled up one wing of a Federal building with mine safety inspectors. The mine shift bosses dread the day when the mine safety inspector comes because they write them up tickets for things like not having a light bulb in here or there. It is picayunish harassment; adversarial instead of cooperative.

Now we do not feel we get as much help and support from the Government as we used to get. A more cooperative attitude between the Government and producers would help make American mines more competitive. It was my great hope back in 1980 that maybe we would be able to do more to remove the adversarial relationship between Government and the producers of this country than what has been accomplished.

But I would still say to my colleagues that this is the heart and soul of one of our major underlying fundamental trade problems: the adversarial relationship between Government and the producers.

If a mine safety officer who works for the Department of Labor has a reputation that all he will do is come in and write up all these tickets, and if you are the shift boss, say on the 7,300-foot level of the old Morning Star Mine, you will try not to show him anything that you think may be unsafe. It reflects on your record as a superintendent in a mine and the company does not like to pay all the fines and so on and so forth.

What they try to do now is not show the mine safety inspectors from the Department of Labor as much as they used to when they knew they would get help and support.

This is true in many, many cases, whether it be EPA, whether it be the application of the Clean Air Act or the Clean Water Act or RCRA or CERCLA, on down the list of the different laws that we have passed.

I think that is really the point of my amendment and, Mr. President, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

The Senator from Vermont.

Mr. STAFFORD. Mr. President, I would only use 1 minute——

Mr. PACKWOOD. Mr. President, would the Senator from Vermont yield for a moment? We have an informal agreement in which we are going back and forth, Democrat and Republican. I do not think it is for an amendment.

Mr. STAFFORD. I would simply compliment the Senator from Idaho.

Mr. PACKWOOD. That is fine. If I could suggest to the Chair, we do have an informal agreement going back and forth, Republican and Democrat, unless there is nobody on one side or the other to offer an amendment at the time.

Mr. STAFFORD. Mr. President, I do not intend to offer an amendment. I would ask the Senator from Iowa to yield the floor because I simply wanted to point out, as always, he forcefully presents a point of view we need to consider in the future. Having served with him on the same committee for a number of years, I found that he has a most engaging personality, even when we are on opposite sides of an issue. It is always a pleasure to either debate a matter with the Senator or agree with him when I can do it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. BYRD. Mr. President, would the Senator yield to me for some requests without losing the floor or without the RECORD showing an interruption in the Senator's statement?

Mr. HARKIN. I would be happy to yield.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION—EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I have cleared a number of requests on the Executive Calendar with all Senators on my side and with the Republican leader and Senators on his side.

I ask the distinguished acting Republican leader at this time if the following nominations on the Executive Calendar have been cleared.

First of all, Calendar Order 264, T. Allan McArtor, of Tennessee, to be Administrator of the FAA?

Mr. PACKWOOD. Yes.

Mr. BYRD. 263?

Mr. PACKWOOD. Yes.

Mr. BYRD. 262, 261, 260, 259, and 258?

Mr. PACKWOOD. That is correct.

Mr. BYRD. I thank the distinguished acting Republican leader.

DEPARTMENT OF TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider the nomination of T. Allan McArtor, of Tennessee, to be Administrator of the Federal Aviation Administration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill clerk read the nomination of T. Allan McArtor, of Tennessee.

THE NOMINATION OF T. ALLAN MC ARTOR TO BE ADMINISTRATOR OF THE FEDERAL AVIATION ADMINISTRATION

Mr. FORD. Mr. President, yesterday the Commerce Committee reported the nomination of T. Allan McArtor to be Administrator of the Federal Aviation Administration. Hearings were held in the Senate Commerce Committee Subcommittee on Aviation on July 7, 1987, on this nomination. I chaired the hearing and would like to report to my colleagues on the thorough review of this nomination by the subcommittee.

Mr. McArtor comes to the FAA from the Federal Express Corp. He has been nominated to replace Donald Engen, who retired on July 2, 1987, after having served as FAA Administrator since April 1984. As an executive with Federal Express, Mr. McArtor has significant stock holdings with the company, as well as the option to purchase additional common stock. Under section 16(b) of the Security Exchange Act of 1934, Mr. McArtor cannot sell his Federal Express stock until 6 months after the date he exercises the options to purchase it.

During the hearing, Mr. McArtor informed me of the procedure he intends to take to be in compliance with this potential conflict of interest. Specifically, Mr. McArtor will put his holdings into an irrevocable trust. At the completion of the 6-month period required by law, the trustee will sell Mr. McArtor's stock. The sale price of the stock will be based on the market price at the time the trust is established, with any additional income being donated to charity.

Mr. McArtor also assured me that he will disqualify himself from any decisions affecting Federal Express for 2 years following his appointment. I am satisfied with the results of Mr. McArtor's assurance to the Aviation Subcommittee on the disposition of his stock and that he will not participate in decisions affecting Federal Express.

Mr. McArtor was also questioned extensively at the hearing on aviation safety, the adequacy of the air traffic control system, delays, flow control, and the future of the aviation industry.

Mr. President, Mr. McArtor will lead the FAA at a time when the public confidence in our air transportation system, in particular with respect to the margin of safety, has fallen significantly in recent years. Mr. McArtor faces a significant challenge in restoring public confidence in our aviation system.

The aviation background will assist Mr. McArtor in his role as Administrator of the FAA. He is a graduate of the U.S. Air Force Academy. He served with the Thunderbird precision aerial team and flew numerous combat missions in Vietnam. He has been with Federal Express for 8 years and his most recent position was senior vice president for telecommunications.

Mr. President, I had an excellent working relationship with Admiral Engen and I hope to develop a similar relationship with Mr. McArtor. The problems of the aviation industry have reached a critical level and it will take the combined efforts of the Congress and the Administrator of the FAA to find solutions for the problems facing that agency.

Mr. SASSER. Mr. President, I am extremely pleased that the Senate has taken prompt action on the nomination of Allan McArtor to become Administrator of the Federal Aviation Administration.

I say that for a couple of reasons. First of all, we face tremendous problems in the aviation industry. Second, Allan McArtor is a perfect choice to oversee the resolution of those problems.

Mr. McArtor comes to the Federal Aviation Administration at a time of great problems in the aviation industry. The skies are crowded, flights are overbooked, and flights commonly run late. Our air traffic control system is stretched to the limit—and perhaps a bit beyond.

In addition, deregulation has completely changed the rules of the game in the aviation industry. The increased competition has meant price wars and cost-cutting which all too often has resulted in decreased maintenance and decreased safety.

It is clear that the next head of the FAA will face great challenges. Fortunately, Allan McArtor is well qualified to meet those challenges.

He is a graduate of the U.S. Air Force Academy and served 10 years in the Air Force. He spent that time as a fighter pilot—the most difficult and skilled job in any flying service. It is a job that demands courage and judgment on a daily basis.

During service in Vietnam he flew 200 combat missions, and was awarded a Silver Star and the Distinguished Flying Cross. Later, he served with the Air Force Thunderbirds precision flying team. So, he has had a very distinguished military record. He has continued to set and meet those high standards in his civilian career.

Mr. McArtor joined Federal Express in 1979 and has held several positions in the aviation and advanced technology divisions of that corporation—including vice president for systems operations; vice president for advance projects and research; and vice president of the satellite systems division.

He is currently senior vice president for telecommunication. In that job he is responsible for all telecommunications networks, both domestic and international—including satellite, fiber optic, radio, and video systems. Clearly, this is valuable experience for the head of the FAA. He will be making crucial decisions on complex and sophisticated satellite and communications systems as we seek to modernize our air traffic system.

Despite his distinguished career, Mr. McArtor has also found time for community service. He is on the board of trustees of the Youth Services Foundation in Memphis, and the Falcon Foundation of the U.S. Air Force Academy, to name just two.

So, Mr. President, I am pleased at the action we have taken today. I am certain the Senate will find, as I have, that he will bring high standards to the FAA. He has a proven record of accomplishment in the aviation industry. His appointment as Administrator of FAA will be good for the agency and good for the country.

The nomination was considered and confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nomination was confirmed.

Mr. PACKWOOD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed en bloc with the nominations embodied in Calendar Order Nos. 258, 259, 260, 261, 262, 263; that those nominations be confirmed en bloc, motion to reconsider en bloc be laid on the table; the President to immediately be notified of the confirmation of the nominees and the Senate return to the legislative agenda.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

THE JUDICIARY

Larry J. McKinney, of Indiana, to be United States District Judge for the Southern District of Indiana.

DEPARTMENT OF JUSTICE

Charles F. Rule, of the District of Columbia, to be an Assistant Attorney General.

David F. Levi, of California, to be United States Attorney for the Eastern District of California for the term of four years.

DEPARTMENT OF COMMERCE

Gerald J. McKiernan, of Connecticut, to be an Assistant Secretary of Commerce.

DEPARTMENT OF TRANSPORTATION

B. Wayne Vance, of Virginia, to be General Counsel of the Department of Transportation.

Dale A. Petrosky, of Michigan, to be an Assistant Secretary of Transportation.

LEGISLATIVE SESSION

Mr. BYRD. I thank the Senator from Oregon [Mr. PACKWOOD] and the Senator from Iowa [Mr. HARKIN].

OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1987

The Senate continued with the consideration of this bill (S. 1420).

AMENDMENT 596

(Purpose: To provide for the registration of foreign interests in United States property)

Mr. HARKIN. Mr. President, I send an amendment to the desk and ask it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Iowa [Mr. HARKIN] proposes an amendment numbered 596.

Mr. HARKIN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, insert the following:

REGISTRATION OF FOREIGN-HELD INTERESTS IN UNITED STATES PROPERTY

SEC. ____. (a) Any foreign person who, after the effective date of the regulations prescribed pursuant to subsection (j), acquires directly or indirectly—

(1) a significant interest in a United States property, or

(2) a controlling interest in a United States business enterprise;

shall register that interest with the Secretary within 30 days after the acquisition.

(b) Any foreign person who, on the effective date of the regulations prescribed pursuant to subsection (j), holds directly or indirectly—

(1) a significant interest in a United States property, or

(2) a controlling interest in a United States business enterprise,

shall register that interest with the Secretary within 180 days after the effective date of such regulations.

(c) Each registration required under subsection (a) or (b) shall be in such form and in accordance with such procedures as the Secretary may require by regulation and shall contain the following:

(1) The identity, address, legal nature, industry, and nationality of the foreign person.

(2) The date on which the foreign person acquired the interest.

(3) The relation of the foreign person to the United States property.

(4) The name, location, and industry of the United States property.

(5) The market value of (A) the assets of a United States business enterprise or (B) a United States real property.

(6) The percentage size of the interest acquired.

(d) If the interest registered under subsection (a) or (b) is a controlling interest in a United States business enterprise, the foreign person shall, by an amendment to the registration made within 180 days after registering such interest, provide the Secretary with the following additional current information:

(1) With respect to the foreign person, an English translation of so much of the information listed in subparagraphs (A), (B), (C), and (D) of paragraph (2) that is publicly disclosed in the home country of the foreign person.

(2) With respect to the United States business enterprise—

(A) a—

(i) balance sheet and income statement;

(ii) statement of changes in financial condition; and

(iii) statement of sales, assets, operating income, and depreciation by industrial segment,

prepared in accordance with Generally Accepted Accounting Procedures or in accordance with Statutory or Regulatory Accounting Principles and accompanied by explanatory notes and any current auditor's statements and reports;

(B) the location of all facilities within the United States;

(C) the identity and nationality of each director and executive officer, the compensation of each executive officer, and any related business transactions of any director; and

(D) a description of any significant civil litigation in which the business enterprise has been involved within the past year.

(e)(1) Within 90 days after the end of each calendar year, a foreign person who has registered an interest in United States property under this section, and who, at any time during such calendar year, held directly or indirectly—

(A) a significant interest in such property, shall report to the Secretary any changes in the information required under subsection (c) that have occurred since the filing of the registration under subsection (a) or (b) or the most recent report under this subparagraph; or

(B) a controlling interest in such United States business enterprise, shall report to the Secretary any changes in the information required under subsections (c) and (d) that have occurred since the filing of the registration under subsection (a) or (b) or the most recent report under this subparagraph.

(2) Any report filed under this section shall be in such form and in accordance with such procedures as the Secretary may require by regulation.

(f)(1) To the extent a foreign person has prepared other documents which contain information required under this section with respect to an interest required to be registered or reported under this section, the foreign person may provide a copy of such other documents (or the relevant portions thereof) for the purposes of complying with the requirements of this section.

(2) With respect to any interest required to be registered or reported under this section which a foreign person acquires or holds solely through, or by virtue of acquiring or holding a significant or controlling interest in, a United States business enterprise which is an issuer whose securities are registered under the Securities Exchange Act of 1934 and which has filed the material required to be filed by such United States business enterprise pursuant to sections 12, 13, 14, and 15(d) of such Act, the foreign person may, in lieu of providing the information otherwise required under this section, provide the Secretary with a copy of the most recent annual and periodic reports, statements, and notices filed pursuant to such Act.

(g) Any foreign person who is late in registering an interest or reporting changes with respect to an interest in accordance with subsections (a) through (f) shall be subject to a civil penalty of not more than $10,000 for each week the registration or report is late, provided that the total amount of such penalty shall not exceed the market value of the interest with respect to which the penalty is assessed.

(h) Any foreign person who willfully fails to register an interest or submit a report in accordance with subsections (a) and (b), or who willfully submits false or misleading information in the registration or report, shall be fined not more than $10,000, or shall be imprisoned not more than 1 year, or both.

(i) The Secretary may undertake such investigative actions as the Secretary considers necessary to monitor compliance with this section. For the purposes of conducting such investigations the Secretary shall have the same powers and authorities as the Federal Trade Commission under sections 9 and 10 of the Federal Trade Commission Act.

(j) Not later than 90 days after the date of enactment of this Act, the Secretary shall publish for notice and public comment regulations to carry out this section. The final regulations prescribed to carry out this section shall take effect not later than 180 days after such date of enactment. Such regulations shall—

(1) establish forms and procedures for making such disclosures required by this section; and

(2) establish procedures for indexing, and providing public access to, the information disclosed under this section.

(k) The Secretary shall transmit in June of each year, beginning in 1989, a report to the President, the Congress, and the Federal Elections Commission describing—

(1) the extent to which foreign persons hold significant or controlling interests in United States properties, the nationality of those foreign persons, the industries in which those interests are concentrated, and the social, economic, and other effects in the United States of such foreign interests;

(2) the effectiveness and efficiency of the registration and reporting requirements contained in this section in providing the information required under this section and the extent to which the information provides a comprehensive description of the presence of foreign capital in the United States economy;

(3) other Federal data collection activities that overlap with, duplicate, or complement the registration and reporting requirements established under this section and that could be consolidated or eliminated without compromising the quality of data collected; and

(4) in the case of the first annual report, the feasibility of establishing a system to track individual transactions representing other capital flows into the United States.

(l) Not later than 365 days after the effective date of the regulations prescribed pursuant to subsection (j), the Secretary shall compile (and thereafter keep current) an inventory of interests registered or reported under this section and the information contained in such registrations or reports. The inventory shall be made available for public access and shall index the information for retrieval by—

(1) the name and nationality of any foreign person who registers or reports an interest under subsections (a) through (f) and the standard industrial classification number or numbers (as issued by the Director of the Office of Management and Budget) of any such foreign person; and

(2) the name of the United States property in which any interest registered or reported under this section is held, the standard industrial classification number or numbers of any such United States property, and the State in which any such United States property is located.

(m) As used in this section:

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "United States", when used in a geographic sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(3) The term "United States business enterprise" means—

(A) any sole proprietorship, branch, partnership, associated group, association, estate, trust, corporation, or other organization organized under the laws of the United States or of a State or that has its principal place of business in the United States; and

(B) any two or more enterprises described in subparagraph (A) which are acting in concert.

(4) The term "United States property" means—

(A) any United States business enterprise; and

(B) any real property located in the United States, including any minerals therein.

(5) The term "foreign person" means—

(A) any individual who is not a citizen of the United States;

(B) any business enterprise that is organized under the laws of a foreign government or which has its principal place of business outside of the United States;

(C) any foreign government or any agency or instrumentality of a foreign government; and

(D) any two or more persons acting as a group for the purpose of acquiring or holding any interest referred to in subsection (a) or (b) (and each foreign person in such group), if any foreign person or persons described in subparagraph (A), (B), or (C) of this paragraph hold an equity or ownership interest in such group of 25 percent or more, or the equivalent of such an interest.

(6) The term "significant interest" means any equity or ownership interest that exceeds 5 percent of the total equity or ownership interests in—

(A) a United States property that (i) has assets or, in the case of real property, is an asset, in the United States with a market value in excess of $5,000,000; or (ii) had gross sales from the United States in the most recent fiscal year in excess of $10,000,000; or

(B) each of any two or more United States properties if the properties in the aggregate (i) have assets or, in the case of real property, are assets, in the United States with a market value in excess of $20,000,000; or (ii) had gross sales from the United States in the most recent fiscal year in excess of $40,000,000.

(7) The term "controlling interest" means an equity or ownership interest that exceeds 25 percent of the total equity or ownership interests in a business enterprise that—

(A) has assets in the United States with a market value in excess of $20,000,000; or

(B) had gross sales from the United States in the most recent fiscal year in excess of $20,000,000.

(8) The terms "acquire" and "hold", when used with respect to an interest, refer to the acquisition or holding of that interest by the ultimate beneficial owner regardless of whether such interest is held directly or through a nominee or other financial intermediary. Such terms do not refer to the acquisition or holding of that interest by a nominee or other financial intermediary on behalf of the ultimate beneficial owner.

(9) The term "equity or ownership interest" shall not include—

(A) any note, bond, debenture, loan, obligation, or other evidence of indebtedness, any put, call, straddle, option, or privilege on any debt, or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any debt; and

(B) any mineral interest other than an interest in fee simple absolute or a reversionary interest.

(10) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(11) The term "branch" means the operation or activities carried out by a person in a different location in its own name, rather than through a separately incorporated entity.

(n)(1) Subject to paragraph (2) and (3), this section shall take effect 90 days after the date on which regulations are prescribed under subsection (j).

(2) Subsection (j) of this section shall take effect on the date of the enactment of this Act.

(3) Subsection (g) shall take effect 365 days after the date on which regulations are prescribed under subsection (j).

Mr. HARKIN. Mr. President, I rise to offer an amendment which would require all foreign investors who acquire more than 5 percent of a U.S. business enterprise or U.S. real estate to provide basic information about themselves and about their investments to the Department of Commerce if the foreign investor has an interest of 25 percent or more in the U.S. company—what this amendment calls a controlling interest, this amendment would require that an investor disclose the same kind of information already required of U.S. companies whose stocks are traded on U.S. exchanges.

I am going to make it abundantly clear during the time that I have for debate that this amendment will do no more to foreign investors in our country than we already require right now of publicly held corporations in America. This amendment is a very modest proposal. It places no new restrictions, no new limitations, no preconditions, or no preclearance requirements of any kind on any foreign investments in the United States. It simply requires disclosure of significant foreign interests in U.S. businesses and real estate through registration with the Department of Commerce. And for most interests, the registration would answer only the most basic questions: Who are you? Where are you from? What do you have?

The information required by this amendment is not different in kind, as I said, from the information required already in publicly held corporations, nor is it different than that information already required of foreign investors by most industrialized nations of the world.

Mr. President, foreign capital influences in the U.S. economy have doubled in the last 3 years, reaching $1.3 trillion in capital. A quarter of this capital, about $250 billion, has been used to purchase interest in U.S. factories, farmlands, refineries, and other assets.

My amendment requires only disclosure for these types of direct foreign investment. It does not cover Treasury bonds or any other debt investment. It does not cover bank losses. I want to make that clear. I will continue to make that clear, because I believe there has been a misconception going about when people found out I was going to offer this amendment that it would cover such things as Treasury bills, Treasury bonds, bank deposits. It covers none of that. It only covers investment in U.S. businesses or real estate.

Mr. President, this amendment is not designed to discourage foreign investment in the United States. Clearly, foreign-directed investment can bring benefits to our economy by creating employment opportunities for American citizens or providing needed capital infusion for faltering U.S. firms. Some might say that the boom indicated by the current economic statistics has occurred primarily because of increased foreign money.

But the dramatic rise in foreign investment raises as many troubling questions as it does benefits, and under current conditions we do not even have the facts to begin answering those questions.

The short-term advantages of foreign investment should not prevent us from considering the potentially long-term effects on our economy and our national security. Over time, as ownership of our economic assets is transferred overseas, so is the authority to make important business and economic decisions affecting the prosperity and independence of our Nation.

Foreign access to sensitive, high technology and research capabilities narrows our strategic and competitive edge. Foreign influence in vital energy- and defense-related industries may endanger our national security.

Other problems arise because of our current lack of information. We often cannot even determine whether a foreign investor is a legitimate business, a hostile nation like Libya, Iran, or the Soviet Union, or a drug trafficker or a tax evader or a white collar criminal laundering ill-gotten gains.

We do not even know whether they are legitimate or not bcause they do not have to tell us who they are. How much money, I would ask, does the PLO have invested in the United States? No one knows.

There is a recent newspaper article that came out that said, according to a German magazine, Der Spiegel, that the PLO, over the years, has structured a financial empire worth at least $6 billion, and then it goes on to say that the PLO controls 70 percent of Jordan's economy, it owns hotels in the Middle East and a heavy stock portfolio in shares of leading United States and European corporations.

But we do not know. How much money is invested in this country in buying businesses and real estate by drug traffickers? We do not know because no one has to register, no one has to disclose.

That is what this amendment seeks to do. It is just to give us the basic information about who these investors are.

Our disinterest in the interest behind foreign investment has allowed our economy to become a haven for capital flight from Third World counties.

Well, we have evidence of that. For the past year and a half, clear evidence has surfaced in the markets where they have secretly invested billions of dollars here through an elaborate network of dummy corporations. This evidence came to light on these investments not from the Government documents we have but from Marcos' own financial documents confiscated by his successors in the Philippine Government and United States Customs.

Here, again, was someone robbing his own people of millions of dollars from the poorest people and investing it in this country? Yet we do not know how much of this is going on in the world because we do not even require the basic, most fundamental of discloser of these foreign investments.

Mr. President, we are also endangering our national security by not knowing more about the foreign investors operating here.

Let me give you an example of what I am talking about. In the mid-1970's, the Soviet Union secretly attempted to acquire three banks in northern California. The Soviet Government was after sensitive, advanced American technological information concerning the many high technology companies that owed money to these banks. The acquisitions were already well underway, but the Soviets abandoned the attempt as soon as a Hong Kong financial newsletter reported it. We were able to prevent this sophisticated attempt at espionage, but under current laws we may never know how many similar attempts have already succeeded, either by the Soviet Union or by others.

Even when foreign investments in the United States are by legitimate business for legitimate business reasons, the lack of reliable ownership can be detrimental to our national defense. First of all, economists, scholars, and other researchers inside and outside Government are unable to conduct any studies on the effects of foreign investments in our economy.

Second, American workers and communities are unable to deal effectively with foreign-owned companies who demand wage and benefit cuts from the workers and tax breaks and subsidies from communities. The companies often claim that such concessions are necessary because of poor financial conditions of the companies. But because foreign parent companies are not required to disclose the same financial information that U.S. companies have to disclose, the workers and communities are unable to verify those claims.

So, Mr. President, here we have a very inequitable situation. Workers in U.S.-owned companies can deal effectively and so can the local communities in the States if those companies claim that they are impoverished, that they are losing money, that they need certain tax breaks or wage benefits. They can deal effectively with it because those companies have to file disclosures with the Securities and Exchange Commission.

But there is an inequity if the workers work for a foreign company because they do not have to disclose. Why do we not have them disclose so that the communities and States can deal on the same level with foreign-owned companies as with U.S. companies?

Finally, Mr. President, a hodgepodge of Federal agencies right now does collect information on foreign investments. They do it in a hodgepodge and bureaucratic format under the authority of a hodgepodge of uncoordinated laws. We have the Departments of Commerce, Treasury, Agriculture, SEC, Internal Revenue Service, and the Federal Trade Commission. We have laws that provide for the collection of information, the International Investment Survey Act, the Domestic and Foreign Investment Improved Disclosure Act, the Foreign Agriculture Investment Disclosure Act, all fine-sounding laws. But none of these sources provides the comprehensive information we need. In one case, the information is organized only under the name of the foreign-owned U.S. company. In another case, all details are kept confidential. The Bureau of Economic Analysis of the Department of Commerce does indeed collect some information, but it is held confidential. No Senator can get that information. No public official can get it. It is held only in the strictest of confidence from all of us. So we have no disclosure of any of this information. If anyone tells you to go to the Department of Commerce, to the Bureau of Economic Analysis, and get this information, forget it because you cannot get that information. It is held in the strictest of confidence.

Mr. METZENBAUM. Will the Senator yield?

Mr. HARKIN. I am delighted to yield.

Mr. METZENBAUM. I commend the Senator from Iowa for offering this amendment, a subject to which I have addressed myself for many years in this body but I have not been successful. I think the American people are entitled to know who owns what. I do not think there is any reason to have any secretiveness about the facts respecting the matter of ownership.

My question is, Is there still room to join the Senator from Iowa in cosponsoring this amendment?

Mr. HARKIN. I would be honored to have the distinguished Senator as a cosponsor of the amendment.

Mr. President, I ask unanimous consent that Senator Metzenbaum be added as a cosponsor.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Ms. MIKULSKI. While the Senator from Maryland holds the same beliefs as the Senator from Ohio does, I commend the Senator from Iowa for offering this amendment because I think the American people have a right to know about their own country. They have a right to know who owns America. They have a right to know where are the decisions about America being made and by whom. They have a right to know whether our American corporations are becoming hollow corporations. And I think they have a right to know when someone owns a corporation, are they going to be interested in the United Fund in their own community or in profits in international centers elsewhere.

I commend the Senator for doing his job. I know there are objections concerning paperwork, but I am sure the Senator from Iowa would agree that if you are willing to profit off of America you should be willing to do some paperwork to comply with their rules.

I would like to join as a cosponsor.

Mr. HARKIN. I would be honored to have the distinguished Senator from Maryland.

Mr. President, I ask that the distinguished Senator from Maryland [Ms. Mikulski] be added as a cosponsor.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. METZENBAUM. Is it not the fact that in many other countries, if not most all other countries, when American corporations invest they are required to meet the same requirement that the Senator from Iowa is advocating be done here in this country?

Mr. HARKIN. I will respond by saying not only do they require the same kind of information that this amendment encompasses, but even more so. In most of these countries they require not only disclosure but preclearance.

If you want to buy, for example, and I will get to this in a moment in my remarks, if the Senator from Ohio wanted to invest in a business in a real estate asset in Japan, for example, you would have to file with a couple of different ministries and they would have to give you preclearance before you could purchase and would have to approve it.

Mr. METZENBAUM. Is it not the fact that in many countries an American company or American owners cannot invest and own 51 percent of the company but are limited to 49 percent? The Senator from Iowa is not proposing anything of that kind in this amendment.

I remember when I was in the business world and wanted to buy a company in Mexico, I was told that the most I could own was 49 percent of the company. Is that not the case in many other nations around the world as well?

Mr. HARKIN. The Senator is absolutely right. I do not mean to pick on Japan. I will read a list of those companies into the Record pretty soon.

In Japan, by law, no more than 50 percent of energy companies or no more than 25 percent of technologically innovative companies, whatever that may be, can be owned by foreigners.

So the Senator is absolutely right. There are many other countries like this. I will read them later.

Mr. METZENBAUM. I thank the Senator for his leadership in this area.

Mr. HARKIN. Mr. President, as I said, we do collect some information in various departments. As I said, most of it that we really need is held confidential.

I would like to address one. For example, the Foreign Agricultural Investment Disclosure Act requires disclosure to the Department of Agriculture by foreign purchasers of U.S. farm and ranchland.

This information, if correct, is publicly available.

While the law may appear to require confidential public disclosure, any investor who wants to remain anonymous can hide behind the foreign dummy corporation.

These corporations do not have to disclose who owns them and the Foreign Agriculture Investment Disclosure Act does not require them to do so. So, again, we could have a situation of a criminal activity, drug traffickers taking money, buying U.S. farmland through a dummy foreign corporation, and all we would have is that this foreign corporation owned the farmland. We would not know who was behind it. That is what this amendment really seeks to do, to get behind it so we know who the ultimate beneficiaries are of this investment.

The distinguished Senator from Ohio raised the point of what other countries require in terms of disclosure for investments in their country.

In 1980, the House Government Operations Committee did a study. They found with regard to data collection on foreign investments: "Of most major host countries of the world, we, the United States, would be at the bottom. Even among the industrialized countries.

"There are very few major countries in the world today that are as naive and ignorant concerning the size and nature of the foreign investments in their countries as the United States is."

That is from the House Government Operations Committee report of 1980.

Since then, Mr. President, little has changed. Most nations of the world, including the industrialized nations, require disclosure of this information. They also impose preclearance requirements and other restrictions and limitations on foreign investments.

The list is incredible of all of these countries and what they require. I shall give just a partial listing of those countries that require not only the same kind of information that we are asking for in this amendment, but even more in terms of preclearance and restricting how much other investors can own:

Austria, United Kingdom, Japan, New Zealand, Norway, Sweden, Switzerland, Australia, Korea, Kuwait, Mexico, Saudi Arabia.

All of them have some form or another of disclosure or preclearance requirements.

As I mentioned earlier, in the case of Japan, all foreigners acquiring property in Japan must report this acquisition to the competent Government ministry or face a penalty of up to a year in jail or a fine of 10,000 yen. Again, it does not cover the purchase of stocks, but neither do we.

By law, no more than 50 percent of certain companies can be owned by foreigners. I am not even prohibiting that in this amendment.

All major investments in Japan must be joint ventures—must be joint ventures. We do not require that.

I do not want to seem to pick on Japan. New Zealand requires prior approval of all foreign investment greater than $100,000. Norway, disclosure and approval. The rest of them—Sweden, Switzerland, Australia. In Canada, our neighbor to the north, a foreign investment review agency screens all foreign investments to determine if they would provide "significant benefits" to Canada.

Korea, Kuwait, Mexico. Mexico severely restricts foreign ownership. Saudi Arabia.

Listen to this Mr. President: In Saudi Arabia, all foreign investment in real estate is prohibited by the Saudis, as well as all investment by companies doing business with Israel. Those investments which are permitted in Saudi Arabia must include at least 25-percent Saudi involvement.

We are not requiring anything like that. Do we know what the Saudis have invested in this country? Do we know what the oil sheikhs have purchased in terms of real estate and hotels? Do we know how much land they own in this country? No. I am not prohibiting that by this amendment. I do not want to prohibit that. All I want to know is who they are and how much they own. Yet, Saudi Arabia prohibits any foreign ownership of any real estate in that country and, further, prohibits any country from investing in Saudi Arabia at all if they do any business with Israel.

Mr. President, that is just a partial listing of the countries with whom we have significant business dealings, security dealings, on what they require in terms of their disclosure.

We can see that the House Government Operations Committee was right: The United States is at the bottom and is being naive about investment in this country.

Mr. President, we are living through a special time in our country. For the first time since World War I, we have become a net debtor nation. We are experiencing unprecedented inflows of foreign investment in the United States, seeing it double in the last 5 years. This investment, while beneficial in the short term—and I admit that—may raise long-term problems.

For example, right now, 25 percent of our Nation's machine tool industry, which is essential to our defense industrial base, is owned by foreign investors, none of whom have registered under current law. In the next 5 years, will it become 50 percent of our machine tool industry? We do not know, because we do not know what the patterns are. We do not know who is investing and how much they own.

Mr. President, my amendment merely requires basic disclosure to help know the precise levels and source of foreign investment in the United States. It provides for disclosure of business assets and land ownership.

I repeat, it does not cover securities or portfolio investments, nor does it cover bank deposits. It does not cover any debt investments—only disclosure of business assets and land investments.

The amendment does not place any limits on investments. It just allows us to track. America should know who is buying and who has the potential to control our businesses, our industry, and our defense industrial base.

There are those who say that this bill will discourage foreign investments. I take issue with that. Business people bring their money here because it is a good place to invest and because they make money on it in this country.

Who is concerned about anonymity? Drug traffickers, the PLO, other foreign investors who do not want us to know how much they are acquiring of certain sensitive businesses in this country. They want anonymity. I cannot imagine why a Honda or Toyota or other legitimate businesses would be afraid of disclosing this kind of information, which I point out is no more nor less than we require of U.S. publicly owned companies. Who will be opposed to this, and who will really fight to the end this kind of disclosure? It will be those who want to hide behind that anonymity.

I repeat, this does not cover bank deposits or securities. What are we asking from our foreign investors? We are not nationalizing their companies, as many of their countries have done to our companies. We are not telling them that they must have a local partner who has majority control of a joint venture, as many of them require of us. We are not telling them how much they must export or who they must hire, as many nations tell our companies abroad. We are simply asking that as they enter the American marketplace, they sign on the dotted line and tell us who they are and what their investments are in U.S. major businesses.

I want to make it clear that this amendment will not restrict foreign investment. It requires no greater disclosure than that now required of other nations. It will, however, provide policymakers and the American people with the information needed to assess and analyze the impact of foreign capital on our U.S. economy.

Mr. President, I urge the adoption of the amendment.

Mr. PROXMIRE. Mr. President, I will oppose this amendment. I do so reluctantly, because I have great admiration for the Senator from Iowa and because this amendment seems to have a considerable amount of appeal.

It seems to me that an amendment like this, which is opposed by the Federal Reserve Board, opposed by the Department of Commerce, opposed by many others, should have a hearing. We have not had 1 day of hearing in the Banking Committee, and some members of the Banking Committee feel that we have some jurisdiction. The Commerce Committee has had no hearing. There is no record on this.

This is the kind of policy that deserves exploration by a committee, with hearings, and with an understanding of what is going on.

Foreign investment is vital to the U.S. economy. Data show that U.S. affiliates of foreign firms employ nearly 3 million Americans. We talk about jobs and we interested in jobs. They are very important. We should do nothing to discourage investment that provides jobs at a time when we have still nearly 8 million Americans out of work.

These foreign-owned firms paid over $70 billion in payroll and $8.5 billion in U.S. income taxes, plus State and local taxes. They exported over $55 billion in merchandise trade.

Mr. President, the Federal Reserve Board has written about this legislation. They say the following:

> This would subject foreign investors to more onerous disclosure requirements than those for domestic investors.

They also say:

> It adds little information to that currently available for purposes of economic analysis.

They say:

> Potential investors would be deterred by reason of revealing proprietary information and would take their money elsewhere.

I might vote for this legislation anyway, but there should be a hearing on it and a record on it. We ought to permit the Commerce Department, which opposes it, to come and tell us why. We ought to have the Federal Reserve Board tell us why. We should have the basis for a record before we move ahead and do something that affects 3 million jobs and substantial investment.

Saudi Arabia does not need any investment. they have plenty of oil. It is a very rich country. We do need foreign investment. Saudi Arabia can prevent Israeli investment. We do not follow that policy. We invest abroad, and we hope foreigners will invest in this country. Of course, we hope our firms will not invest as much abroad, because we want jobs, which are critical.

For that reason, I regretfully oppose this legislation. I tell the Senator from Iowa that he may be exactly right, but I hope that if he wants to persist in this legislation, he will introduce it as a bill and have the bill go to the Commerce Committee or the Banking Committee, or both, and let us have hearings on it, and let us find out the merits of the legislation and then act on that.

Mr. HARKIN. Mr. President, will the Senator yield?

Mr. PROXMIRE. I yield the floor.

Mr. HOLLINGS. Mr. President, the distinguished Senator from Iowa makes a lot of good sense to this Senator individually, but in my capacity as chairman of the Commerce Committee, let me relate what has occurred.

We had many controversial matters proposed in the original markup, submission by different Senators on our committee. This particular measure was proposed by the Senator from Nebraska [Mr. EXON] and was found to be highly controversial. He got together with the distinguished Senator from Missouri, and they worked out what they could get together on and the other Senators could get together on. Thus, the commerce section, without this particular measure; thus the fact that we did not have hearings and did not go further on this point, because we were limited in time. We have a good bill and we were confident that we could not get the commerce section out with this particular provision.

While I, individually, may want to agree with the Senator from Iowa, politics is a game of horseshoes. While the Senator from Iowa is close to me, my responsibility and my commitment to the Senator from Missouri is even closer. We have an obligation here to the leadership on both sides, and within that obligation, where we have not had hearings and it is highly controversial, this Senator, as chairman of the Commerce Committee, is prepared to move to table the amendment. I am not threatening or otherwise. You folks can talk. I have all day today and all day tomorrow.

The distinguished former chairman of the Commerce Committee, Senator, DANFORTH, is more able than I to bring the issue to the floor and the opposition to the bill, and on that basis I yield the floor. But I want my colleagues to know that I am waiting around; and when they get through with the debate, I will move to table.

Mr. DANFORTH. Mr. President, I appreciate the comments of my chairman of the Commerce Committee, Senator HOLLINGS. I also appreciate the comments of Senator PROXMIRE, the chairman of the Banking Committee. Their view is that on a matter as important as this, the appropriate committee should have hearings.

Also, with respect to the Commerce Committee, we did address some issues that were raised relating to foreign investment—not this kind of reporting requirement but other issues that had been raised by Senator EXON, and we did work out a compromise on it.

Mr. President, very briefly, on the merits of this proposal: In a letter to JOHN DINGELL, chairman of the Energy and Commerce Committee in the House, last April 21, Paul Volcker concluded that this provision would have the effect of deterring potential investment in the United States. In the words of Paul Volcker:

> Legitimate actual and potential investors would be deterred by the risk of revealing proprietary information and would take their money elsewhere.

Mr. President, 1½ years ago, I and other Members of the Senate took a trip to Korea. I can remember during that trip to Korea I had the opportunity to meet with several people in that country. One of the things I was trying to do in Korea was to encourage a Korean company to invest in a noodle factory in Trenton, MO. Trenton, MO, is not that far from Iowa. It is in the northern part of our State. It is in that part of our State which has been most hurt by the crisis in American agriculture.

Sometimes we talk about the problem the farmers have. It is also a problem in smalltown America, particularly in the Midwest. If you drive through Trenton, MO, the first thing you notice is the number of "closed" signs that are on the doors and the number of store windows that have been boarded up.

Also, one of the efforts of the trip to Korea was to try to find foreign investors who would come to the United States and build factories. The State of Missouri—and I am sure other States—maintain offices in Japan for the purpose of trying to attract foreign investment into the United States. When a Japanese auto company considers building a factory somewhere in the United States, a number of States line up to try to encourage that factory to be located in their State. Why? Because it means jobs.

That is what we are talking about with this amendment. We are talking about jobs. We are talking about foreign investment that create jobs, and we are talking about whether that kind of job-creating investment should be encouraged or should be discouraged.

The Senator from Iowa claims that this kind of reporting requirement does not discourage job-producing investment. That is his conclusion. I point out that Paul Volcker has exactly the opposite conclusion. Paul Volcker concludes that this is a deterrent to job-creating investment in the United States.

I think that if there is any doubt at all, we should err in the direction of creating jobs, not in the direction of deterring job-creating investment.

The Senator from Iowa mentions other countries that have various restrictions on foreign investment—Mexico and Saudi Arabia. I am not sure that Mexico and Saudi Arabia should be models for the United States of America in economic policy.

Our approach in this matter, the approach we have taken for some time now, has been to try to eliminate restrictions on investment internationally, not to increase restrictions on investment.

One of the negotiating objectives in the Uruguay round of trade negotiations is to eliminate or reduce investment restrictions.

And this amendment would go exactly contrary to that negotiating objective.

Finally, Mr. President, this provision that is now being offered by the Senator from Iowa is in the House bill. It is the so-called Bryant amendment. I repeat that. This is in the House bill. Therefore, if we went to conference with the House and adopted the same provision, this would be in the final bill. It is strongly opposed by the administration.

It is strongly opposed by the business community which views it probably as second only to the plant closing provision on their list of things that are on the bill that they strongly oppose.

It is probably veto-bait, for those who want to kill the bill entirely. Some people cynically have said let us just load the bill up with a lot of things we do not want. This is one thing we could load it up with. It is clearly veto-bait it was strongly opposed by the administration.

For all those reasons, Mr. President, I urge the Senate to defeat this amendment and to vote for the motion to table.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, the Senator from Iowa has offered a very appealing and persuasive case. However, I must say in listening to the debate as it went back and forth, I think the Senators from Wisconsin and Missouri have also offered a rather persuasive case. I think Paul Volcker's view of its impact on investment philosophy is certainly something that should give us pause, as well as his statement that we have sufficient information.

I wonder, before we see the obvious benefits of being able to determine who owns what land or what parts of companies, whether or not we should think a little bit about the potential costs of this amendment. Can we be sure that it will not scare away needed foreign capital? The Senator talked about Mexico. Investment restrictions throughout Latin America have produced massive capital flight from the area. If there had been no capital flight from Mexico, that country today would not owe $106 billion but would only owe $12 billion to foreigners.

Investment disclosure requirements have a huge impact on capital flows. I think that is precisely what Paul Volcker was saying in his letter to the chairman of the Banking Committee. This amendment could harm U.S. competitiveness, since U.S. firms will have a harder time selling stock in foreign markets, at a time when financial market are beginning to link up globally and firms are increasingly competing on the basis of worldwide financing. The result of this amendment would be that U.S. firms would be the odd man out and would have to deal with higher capital costs, less investment, less productive growth, and eroding market shares.

This amendment could shift foreign capital out of equity in U.S. companies where at least the foreigners are bearing some risk and into U.S. Treasury bills where they get a free ride and do not have to bear any risk. This could distort U.S. financial markets, making the bond market seem more attractive than it is in reality. Instead of making the most productive U.S. investments, foreigners will be making the most convenient investments. Convenience counts for a lot when financial markets are as efficient as they are today. This amendment could very well shift lots of money around within our economy.

This amendment could also create political pressures for United States to pick and choose among foreign investors. We have already started doing that. In the case of Fairchild we decided we preferred its French owner Schlumberger to its prospective Japanese owner Fujitsu. Too bad for Fairchild, which really needed Fujitsu's technology. Frankly, I am skeptical that Government will be able to pick and choose foreign investors in the broader interest of American workers, pension holders, and real estate owners.

Finally, Mr. President, I have some doubt that farm real estate will be insulated from any chilling of the U.S. real estate market that could come from this amendment. Why do I say that? The Farm Credit System sells its bonds in New York and San Francisco. GNMA's are available in Tokyo. More and more banks are wrapping individual mortgages and real estate loans into securities and creating one, unified financial market for real estate.

The result is that if investors pull their money out of one part of the real estate market, the whole market is a little drier and that means one thing: Prices fall. I think that is what Paul Volcker was cautioning in his letter to the distinguished chairman of the Banking Committee, that whether you are a homeowner, home builder, or a farmer, the amendment does indeed threaten land and home prices. If those prices fall again, credit will dry up, interest rates will rise, and we will be back where we were in 1982.

So, Mr. President, I hope that we could at least have a hearing on this amendment, explore all the ramifications that we have talked about here and, who knows, maybe there will be a way to accommodate the Senator from Iowa. I hope that we will not jump in now against the advice of the Chairman of the Federal Reserve and against some of the arguments made on the floor today.

The PRESIDING OFFICER (Mr. REID). The Senator from Iowa.

Mr. HARKIN. Mr. President, I have listened with interest and close attention to the arguments made by my distinguished colleagues from Wisconsin, New Jersey, and Missouri, and the distinguished chairman of the Commerce Committee.

I just want to respond to my friend from South Carolina. In my years I have had other amendments everybody loved but for one reason or another just could not be adopted at that time. I understand that quite well. I assume that perhaps that might be the case here, but I want to raise this issue, and I want to have a full debate on it and if in fact it is defeated here today I can assure my colleagues that it will come up again because I do believe that knowledge is power and we lack the knowledge right now of what is happening to investments in this country.

Mr. President, I am constrained to respond to a few of the arguments made by those who have just spoken.

The Senator from Wisconsin, again for whom I have the highest regard and esteem, mentioned that there had been no hearings on this bill and that accusation was repeated by others. That may be true here in the Senate recently but, Mr. President, I would point out that in 1980 the House Government Operations Committee issued a 200-some page report on this very topic about disclosure of foreign investment in the United States.

It was a very comprehensive report at that time and, as I said, very little has changed since then. There have been some changes, more investment.

But I just want to read for those who say there have not been any hearings the extent to which this issue was studied just a few years ago. The subcommittee of the Committee on Government Operations in the other body held 10 days of hearings in 1978 and in 1979 they held 7 days of hearings. They interviewed numerous officials both in and out of Government. The subcommittee reviewed and evaluated 16 GAO reports, over 150 articles, legislative proposals, hearing transcripts, all dealing with foreign investment. So it was a very, very exhaustive study and report filed at that time.

I point out that the report of that committee pointed out that in 1974 foreign direct investment was reported at $25.1 billion; total assets of all foreign-owned firms were reported at $175.3 billion in 1974. Today, it is over $1.3 trillion, and yet we still go down the path of total ignorance about who owns what and who owns how much of our industrial base and of our real estate in this country.

So, to my good friend from Wisconsin I would just say that there have been a lot of hearings on this, a lot of investigation into this matter, and I think the record is very clear on that.

Now, the Senator from Missouri raised the issue about the letter from Paul Volcker saying that this would create capital flight from the United States, that in fact it would harm investment in the United States.

I have that letter, too, and let me just read from the letter from Paul Volcker dated April 21 of this year. He talked about three different sections of the bill, sections 702, 704, and 907, and he says:

> I am troubled by the prospect that taken together these provisions if enacted could have a seriously adverse effect on foreign investment in the United States at a time when our economy remains highly dependent on the inflow of savings from abroad to finance our budget deficit and to sustain the overall rate of investment in the U.S. economy.

He is concerned about financing the budget deficit.

Again, we have allowed ourselves to be put into this position with this huge budget deficit that we have of closing our eyes and saying, "We do not care who invests here; we do not care how much they own; we do not even want to know. If you are making billions of dollars on the cocaine market and you have a lot of money sitting offshore and you want to come in and buy businesses, stocks, real estate, hotels, do it. We do not care."

We do not even want to know. We may care, but we do not want to know who you are and how much you own. If you are the PLO—as I pointed out there is a lot of evidence flowing around that the PLO has lots of holdings in the United States. We do not know.

How many stocks does the Saudi royal family have in sensitive United States businesses? We do not know that either. I am not saying that it is good or bad, but we do not know. I think we have the right to know.

Now, the Senator from Missouri talked about investment, as did the Senator from Wisconsin, about the number of American jobs and the money that is invested in them. Well, I am concerned about that too, but they assume, somehow, if this amendment passes, that they will withdraw all of this investment. There is no proof of that.

What proof does Paul Volcker have that if we simply have disclosure that somehow Honda will leave America, or Toyota, or anybody else will leave America? There is no proof of that. There is only a supposition of that. Quite frankly, I do not believe it will happen. There are no grounds on which they make this kind of a finding that somehow this money is going to leave.

I would ask the Senate and especially my colleague from Missouri, if disclosure were so onerous and if disclosure would force somehow capital retreat, why do Americans have $82 billion invested in Japan? And, quite frankly, in the last year, direct United States investment in Japan has gone up by $25.7 billion. And not only do they have disclosure, they have preclearance requirements of joint ventures, and everything else. Very onerous. So certainly disclosure has not hurt United States investment in Japan.

If disclosure is so onerous, why do Americans have $281 billion invested in Latin America, most of whose countries require, as I said, not only disclosure, but preclearance and a lot of other conditions. And, I might point out that in the last year American investment in Latin America has gone up by $14.9 billion. Why, since they also require disclosure?

Last and certainly not least, our neighbor to the north, Canada. Americans have $127.4 billion invested in Canada. It went up $8.7 billion last year. And they have disclosure. Why?

The Senator from Missouri seems to say, "If we had disclosure, people wouldn't invest here. They will take their money someplace else."

Well, let me read from the findings of the House Government Operations Committee, the finding that they came up with in 1980 after years of extensive investigation, hearings, reviews and everything. They pointed out that there are seven primary reasons—and I am quoting from the House Government Operations Committee report for 1980. They said there are seven primary reasons for foreign direct investment in the United States. "First, the economic and political stability of the United States."

I will have more to say about that in a minute.

"Second, the large U.S. market necessary for foreign multinational corporations to compete in the world.

"Third, access to U.S. technology and innovation.

"Fourth, the depreciation of the dollar in foreign exchange markets.

"Fifth, closely related to the depressed value of the U.S. stock markets in real estate."

And we have seen that in real estate lately.

"Sixth, the availability of raw materials.

"Seventh, the fear of any trade barriers."

Nothing dealing with disclosure. I submit that people invest in this country for the primary reason that they make a return. Money will be invested where it gets its greatest return. And, second, and very close to that, is stability. Yes, I might want to invest my money somewhere where it will get the greatest rate of return, but if the risk is too high that I may lose it all, I am not going to invest there. I do not care what the rate of return is. So I look also for stability.

The two reasons why foreign direct investment happens in the United States: greater return and political and economic stability. That is why they invest. They do not invest because we do not have disclosure, we have anonymity.

Let me talk for 1 minute about that stability. If you want to see capital flight from the United States and if you want to see foreign investors get their money out of this country and go someplace else, continue the huge budget deficits that we have, continue the huge military spending that is creating those huge budget deficits, continue on the path that we are going down becoming more and more of a debtor nation. Then we will become unstable, then we will become unreliable, and then capital will flow out of this country, not because we have disclosure.

In fact, I would submit, if we have disclosure, the American people will know how much foreign investment is happening in America and it will allay some of the fears and some of the suspicions that the American people rightfully have right now.

Are the American people somewhat suspicious? Are they anxious about the amount of foreign direct investment in America? Yes, they are. And they are because we do not know. If we had that knowledge—if competent research economists from our universities, from Government agencies, private agencies, could have this information, dissect it, look at it, put it out for the American people to see, put it in our free press so we could have a debate on it—then I submit that many of these fears and suspicions of the American people may be allayed on this foreign direct investment.

So, again, I personally believe that this kind of modest disclosure, would do just the opposite of what many of the lobbyists and what many of the foreign companies are saying; that it would be just the opposite, that, in fact, it will enhance and encourage foreign investment in this country because we will have the knowledge of what is indeed happening.

Who it will discourage—and I make no bones about this, the entities that this amendment will discourage are those that are illicitly putting money into our economy. As I pointed out, the drug traffickers, those that have illicitly made capital in other places that are now coming in to buy businesses, real estate, and others. Legitimate business interests, will be hurt not one iota by this amendment.

So I would argue that disclosure would, in fact, help those legitimate businesses and not hurt them.

I would respond to the distinguished Senator from New Jersey, for whom I, again, have the highest esteem and who is in fact one of the more, if not one of the most, intelligent individuals occupying this Senate Chamber. He expressed concern about real estate. He expressed a concern about farmland in which, of course, this Senator has a lot of interest, and that somehow the price would go down and we would have the bottom falling out if foreign investors had to disclose.

I would ask the Senator to please read the amendment. This amendment only covers those who have more than a 5-percent interest in any real estate holding whose assets are more than $5 million. In other words, if a foreign investor wanted to come in and buy a $1 million house in one of the more exclusive sections of Washington, DC, they would not have to disclose anything, or a $3 million house. Or if they wanted to come and buy $4 million of Iowa farmland or New Jersey cranberry farms, they would not have to disclose anything. It is only when they reach that $5 million threshold and they have more than a 5-percent controlling interest do they then have to give out with this basic information.

So it is somewhat spurious to say that those who might buy houses or buildings for real estate will be discouraged by this. Only if it is more than $5 million and only if it is over a 5-percent interest in that business asset or in that real estate.

So I wanted to make these arguments very clear, because I know what has been happening in the last 48 to 72 hours since word out out that I was going to offer this amendment. My phone has been ringing off the hook. I am certain Senate offices have been deluged with——

Mr. CHAFEE. I wonder if the Senator might yield for a question.

Mr. HARKIN. Just let me finish the statement.

Been deluged with comments, with suggestions that somehow if this amendment were to pass, it would be devastating to the U.S. economy and we will have all of this capital flight. I had someone even ask me about financing the deficit, that people would not buy Treasury bills anymore.

That is not in the amendment. It doesn't cover Treasury bills. It doesn't cover bonds. It doesn't cover bank deposits. It only covers direct investment in real estate or in assets and I would be delighted to yield without losing my right to the floor.

Mr. CHAFEE. I just wondered if the Senator had some estimate of how much longer he might be?

Mr. HARKIN. Not much more. Probably 5 minutes.

Mr. CHAFEE. Thank you very much.

Mr. HARKIN. So I think our policy ought to be clear. We do not wish to discourage foreign investment in this country. We wish to encourage legitimate business to investors, because they do provide jobs, they do help our economy. Lord knows, I have been a free trader all my life but I have come to this position somewhat late in life that it is not just free trade, free trade, free trade, but it has to be fair trade. And is not that, really, I would ask the distinguished Senator from South Carolina, is not that really the essence of what we are trying to do here? Fair trade? Fairness? Reciprocity? Put it on a level playing field? Put our workers in this country on an equal footing with those in other countries and our business on an equal footing?

That is why I offer this amendment on this bill, because it has to do with fairness and equity and it has to do with giving us the basic information that we need to determine what our course of action will be.

I find it very disturbing, very disturbing, the number of phone calls and input from foreign-owned entities and businesses that have come into these offices and in these Chambers in the last few days.

I do not mind. I mean it is a free country. People ought to be allowed to do that. But I am concerned that if foreign direct investment totals $1.3 billion right now and we have no knowledge of what is happening, who is investing, who owns what, what is it going to be if we revisit this issue 5 years from now? How much more will it be? How much more pressure will be put upon those who represent our people in this Chamber or in the other body, to not do anything to gain this kind of vital information?

Mr. President, there was a meeting that took place and there was some information that came out of this meeting that the Japanese were conducting a survey of investments in the United States, to determine what areas would be best for their investments? What areas. What congressional districts. What States would be best in order for them to gain more leverage in the political markets here in Washington, DC?

I find that very disturbing.

I ask sort of a rhetorical question. I wonder if, when the Diet of Japan or the Parliament of Canada or any of the other governing bodies of other countries who have these restrictions or who have disclosure—I wonder if, when they debate these issues, do they get the kind of pressure put on them that we get put on us in this country? I submit they do not. I submit that the best way for us to not have an attitude of submitting to this kind of pressure, the best way for us to be able to freely and openly debate these issues and to vote on them is to have this kind of disclosure.

Not preclearance, not restrictions, but at least let us know who.

So, Mr. President, I conclude my remarks on this amendment, again by saying that it is very modest. We only ask those who invest in real estate and who invest in business in this country, that when they come in they sign in, tell us who they are and how much they own. We do not require anything more, nothing more than what is required of publicly held businesses in the United States.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

AMERICAN DEPENDENCE

Mr. BUMPERS. Mr. President, the flood of foreign investments and capital into this country is a direct result of the Reagan administration economic policy.

Our Nation has become dependent on foreign investments and foreign capital and this may well be the principal legacy of the administration's economic recovery plan of 1981.

Not so many years ago, everyone was alarmed that America had become dependent on Middle-East oil. We launched an energy independence program, with mixed results. We pursued some measures to conserve energy—not enough, in my view—and we are still dependent on oil imports.

Well, I predict that our dependence on foreign investments and foreign capital will become just as alarming. I can foresee a time when we have a capital independence program and a time when our foreign creditors and foreign owners will demand concessions from us, just as OPEC has done on several occasions. These concessions will undermine our independence.

The Harkin amendment deals with this issue of dependence. It would require disclosure of some of the foreign investments which are being made in this country. But, this disclosure focuses on the symptom of the problem, rather than its cause.

The cause of our capital dependence is well understood. In 1981 the Reagan administration undertook a riverboat gamble with the economy which has led to the greatest increase in government indebtedness in peacetime in our history.

There has been a great deal of finger-pointing on the deficits, but let me cite an unimpeachable source on its cause. Each year the President's own budget presents figures on the revenue impact of various tax measures. On six occasions, the President has presented his official estimates of the revenue impact of the 1981 tax cut.

According to the President's own figures, the 1981 tax cut reduced government revenue by the following amounts:

Fiscal year 1982: $23.2 billion.
Fiscal year 1983: $91.1 billion.
Fiscal year 1984: $136.8 billion.
Fiscal year 1985: $170.3 billion.
Fiscal year 1986: $209.8 billion.
Fiscal year 1987: $238.5 billion.
Fiscal year 1988: $258.7 billion.
Fiscal year 1989: $282.0 billion.
Fiscal year 1990: $309.4 billion.

Taking this 9-year period, the President's own estimates are that his 1981 tax cut has reduced and will reduce Government revenue by $1.7 trillion—that is trillion. This revenue loss averages nearly $260 billion per year.

If the Government collected no revenue whatever for 2 years—none—it would still not forego this much revenue.

The entire deficit we are running this year can be accounted for by the President's 1981 tax cut.

It is these deficits that are the direct and proximate cause of our dependence on foreign investments and foreign capital.

When we run deficits, we have to finance them with borrowing. There is just not enough savings in the United States to tap for this borrowing. So, our Government has turned to foreign investors to borrow the funds to pay the Government's bills.

When we borrow so much abroad, the value of our currency rises. The value of the dollar rose so much that it made it virtually impossible for our manufacturing and services sector to compete in international markets.

The overvalued dollar gives foreign investors a premium when the invest in our country. First, we give them higher interest rates to attract the investment. Then, when the dollar is appreciating, they receive a bonus which is even larger, a windfall that far exceeds the difference in interest rates.

As our U.S. trade position deteriorated, the amount of investment that our country made in foreign companies and foreign markets deteriorated. The amount of foreign investment in this country increased. The amount we owe to foreigners increased and the amount they owe to us decreased. Indeed, the net investment position of the United States now makes the United States the greatest debtor nation in the world.

Our trade deficit and our net investment position indicate that we are now dangerously dependent on foreign investments and foreign capital.

This dependence is caused by the economic policy of this administration. It is not caused by anything devious or illegal on the part of foreign investors. These foreign investors are simply responding to the incentives we have provided to them.

We are a dependent nation that is beginning to lose control of its fate. We need foreign capital and foreign investments and we have only begun to learn what this means for our standard of living. We can't control the balance in our Nation's checking account. We only have funds to write checks if someone else makes the deposits to cover the checks.

The amendment of my friend from Iowa [Mr. Harkin] seeks to require some disclosure of these investments. I think Americas will be shocked at the information which will be disclosed. This information will show how dependent we have become and I think this is a good result so I will support this amendment.

Mr. LEVIN. Mr. President, this amendment will require foreign investors who acquire 5 percent or more of a U.S. business enterprise or U.S. real estate to provide basic information about themselves and about the investment to the Commerce Department. The amendment does not impose any limitations on foreign investment, nor does it put into place any preclearance or other screening procedure for foreign investment.

Known capital inflows into the U.S. economy have doubled in the last 5 years, reaching $1.3 trillion in value. Probably a quarter of this capital, about $350 billion, has been used to purchase interests in U.S. factories, farmlands, refineries, and other assets. This amendment only requires disclosure for these types of direct foreign investment—it does not cover Treasury bonds or any other debt.

We need to be able to examine fully the connection between this enormous influx of foreign capital and the enormous U.S. trade deficit. Foreigners sell huge quantities of goods here and get dollars in return. They've got to do something with those dollars if they don't buy our goods. They use them to buy American assets. If we can't sell them our beef, because of their quotas, so we end up selling them our beef ranches.

The sharp increase in foreign direct investment in the United States will have far-reaching effects on the economy. Our knowledge about the impact is limited at best. It has implications for technology transfer and implications for net employment and new plant construction. We ought to know more about the effects of foreign direct investment on competition and concentration in specific industrial sectors. And we ought to know whether foreign-owned companies repatriate their profits or put them back into the U.S. economy.

The Harkin amendment will change the current system for collecting and disseminating this data so that we can at least know what's going on in our own economy.

Senator Harkin's amendment just requires disclosure—legitimate investors shouldn't fear that.

It will lend to knowledge—the extent to which we are transferring to others our very infrastructure, and it will help us understand the implications, I think. All of us should welcome that knowledge.

Mr. HOLLINGS addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. The thrust of the argument of the distinguished Senator from Iowa is, that we do not know and the thrust of my motion is exactly that. We do not know. Of 1,501 bills introduced in the U.S. Senate this year, this is not one of them. We have not had this subject introduced by any Senator in any bill and, therefore, that is the reason we have not had a hearing and that is why we are in the unfortunate position on this particular measure of having to make this motion.

Under the circumstances, let me assure when the Senator does introduce his measure he and I are going to sit down, we will immediately set a hearing. Until that time I have to move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second.

Mr. HARKIN. Will the Senator yield for just 1 second?

The PRESIDING OFFICER. There is a sufficient second. Does the Senator withhold?

Mr. HOLLINGS. I withhold.

Mr. HARKIN. I ask that the name of Senator Simon be added.

Mr. HOLLINGS. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate?

There being no further debate, the question is on agreeing to the motion to table the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. Adams], the Senator from Connecticut [Mr. Dodd], the Senator from Tennessee [Mr. Gore], and the Senator from Illinois [Mr. Simon] are necessarily absent.

I further announce that, if present and voting, the Senator from Washington [Mr. Adams] would vote "yea."

Mr. DOLE. I announce that the Senator from Minnesota [Mr. Durenberger], and the Senator from Wyoming [Mr. Simpson] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 83, nays 11, as follows:

[Rollcall Vote No. 201 Leg.]

YEAS—83

Armstrong
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Byrd
Chafee
Cochran
Cohen
Cranston
D'Amato
Danforth
Daschle
Dixon
Dole
Domenici
Evans
Exon
Ford
Fowler
Garn
Graham
Gramm
Grassley
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—11

Bumpers
Burdick
Chiles
Conrad
DeConcini
Glenn
Harkin
Levin
Metzenbaum
Mikulski
Shelby

NOT VOTING—6

Adams
Dodd
Durenberger
Gore
Simon
Simpson

So the motion to lay on the table amendment No. 596 was agreed to.

Mr. HOLLINGS. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. SYMMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader is recognized.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, while there are some Senators still on the floor, I take the occasion to call attention of all Senators and their staffs who may be listening in to the number of amendments that are on the list, some of which are very controversial amendments, I am sure, and will take a little time. I know that there is a natural inclination on the part of Senators at times in a situation like this where the final vote is to occur on another day to delay calling up their amendments preferring to wait until the last day, and the fact that today is Friday it makes it all the more attractive to pursue that course.

I hope that Senators will stay around today and allow us to get a good bit of the work completed. The more action the Senate takes today, the more amendments that are disposed of today, the fewer there will be to be disposed of on Tuesday.

I hope we will also keep in mind that the vote on Tuesday is not at 6 o'clock under the agreement. It is no later than 6 o'clock which means that if we could complete this bill earlier than 6 o'clock on Tuesday, hopefully we could get onto the debt limit extension. If we do not finish this bill before 6 o'clock on Tuesday, it is my intention, at this time at least, to take that matter up on Tuesday. So we may be in late Tuesday. We will be in early on

Tuesday, I should say. I would expect to start having votes on Tuesday as early as 9 o'clock, hopefully, and as late today as the managers can go, to 7, 8, 9 o'clock, whatever, because this is still an important bill.

There are important amendments thereto, and I just want to express this hope that all staffs and all offices and all Senators will know that even though this is Friday we are not expecting to get out at 3 o'clock, and even though there is a time agreement here and even though under cloture, a Senator has an hour under cloture, this does not mean that Senators should take an hour because when they do that, they take it at the expense of other Senators and at the expense of the Senate.

So I hope we will try to restrain ourselves a bit in taking time on the amendments.

I think this vote here also shows that there is a strong inclination now on the part of the Senate to move on with this bill, and I believe that with this kind of vote on a tabling motion Senators who have very controversial amendments, particularly those that are not germane may want to guide themselves accordingly. It may be that they would have second thoughts as to whether they would even want to call up the amendments because I would imagine being crushed by that kind of treadmill is not a very pleasant experience and does not augur well for one's chances in this situation.

I yield the floor.

Mr. BENTSEN. Mr. President, before the majority leader yields the floor, if he could educate us on a parliamentary point, it seems to me that Senators have the chance at this time to address themselves to the merits of their issues if they present it now. But if they wait until Tuesday to try to find an opportune time to do that, they may find themselves caught in the logjam at the end, and if that is the case, as I understand the rules, they will get a vote on their amendment but very possibly have no time allocated to do it, if it is subsequent to 6 o'clock; is that correct?

Mr. BYRD. The Senator is correct. When the hour of 6 arrives, any amendments called up at that time that are on the list will not be debatable.

Mr. BENTSEN. I thank the Senator.

Mr. DANFORTH. Mr. President, I say to the majority leader, a number of amendments on the list are totally noncontroversial; for example, waivers of tariffs. And it strikes me that it might be of benefit to all Senators if they could simply clear those amendments. They may already have cleared them and then maybe almost in wrap-up fashion a whole series of amendments could be considered together and statements could be put in the Record.

The problem now is that with alternating amendments between the Republican and Democratic sides, we are keeping lists on both sides and I think in fairness to people who are on the lists it is a little bit difficult to sandwich in even short 2- or 3-minute amendments.

I was wondering if it would be desirable for Senators to clear noncontroversial amendments so that they could be presented either en bloc or seriatim at a particular time.

Mr. BYRD. I think it would be well for Senators to clear such amendments and attempt to give us time agreements on them.

My hope would be perhaps a little unparalleled to that of the Senator. I would hope that Senators would not take up the best part of this afternoon in dealing with noncontroversial amendments that will be accepted and can be disposed of in 2 or 3 minutes.

I would hope that amendments that are going to require rollcall votes would be called up earlier rather than later. We can dispose of the amendments that are acceptable and will be accepted in the moments when Senators have disposed of the rollcall votes and they are winging their way out of town.

The Senator's suggestion is a good one, but I am hoping that we will get on with some amendments that are more controversial.

May I say to the distinguished Senator, and I will sit down, under the agreement, the Chair is supposed to alternate from side to side. As I indicated the other evening, the evening that the agreement was gotten, the Chair has to still exercise some discretion and if the Senator, a Republican Senator or Democratic Senator, is not available on the floor to call up his amendment and a Senator on the other side is ready to go, I would hope that the Chair would not be delayed simply because a Democrat or a Republican, whoever it may be at the time, had not called up an amendment, thus carrying out the alternating feature of the agreement.

So I would hope that the Chair would be mindful of that and the important thing is to try to utilize our time as best we can. He may at some point in time need to recognize two on the same side of the aisle rather than alternating.

The PRESIDING OFFICER. The Senator from Rhode Island is recognized under the standing rule for alternating.

Mr. CHAFEE. Mr. President, several Senators have asked to put in amendments quickly for 30-second amendments. I do not see the distinguished manager of the bill, but what I would like to do, Mr. President, is let the distinguished Senator from Alaska proceed. He said he has something less than a minute. The Senator from Arkansas has one less than a minute. I am prepared to let those go because they are very anxious and I am anxious, too, and then the Senator from Arkansas has what?

Mr. PRYOR. Mr. President, if the Senator from Rhode Island will yield, I would like to state that I am not going to offer an amendment. There is an amendment listed under my name, a proposal on miscellaneous tariffs; that is the one that I am striking at this point and will not be a part of this discussion. So that amendment, so that both sides will know, will not be offered.

I thank the Chair.

Mr. CHAFEE. There is a time agreement on this, is there not?

The PRESIDING OFFICER. There is no time agreement on the Chafee amendment.

Mr. CHAFEE. We agreed on a time agreement the other night. I would like to reiterate that that is an hour and 20 minutes equally divided. Maybe we might be able to yield some of that time back.

I would ask letting these two Senators go here now will not count against my time if we could get unanimous consent for that.

Mr. CHILES. The Senator better get that time.

Mr. CHAFEE. I would like to get agreement on the time agreement.

The PRESIDING OFFICER. Is there objection to the 1-hour-and-20-minute time limit on the Chafee amendment?

Mr. BREAUX. Mr. President, reserving the right to object, my distinguished senior Senator talked about this with the Senator from Rhode Island. We had an agreement last night of 80 minutes to be divided 40 and 40.

The PRESIDING OFFICER. Is there further objection?

Mr. BYRD. Is it that it be 80 minutes?

No objection on this side.

The PRESIDING OFFICER. Hearing no objection, the agreement is that the Chafee amendment will be 80 minutes divided equally between both sides.

AMENDMENT NO. 597

(Purpose: To eliminate the sugar drawback provision)

Mr. CHAFEE. Mr. President, I send my amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Rhode Island (Mr. Chafee) proposes an amendment numbered 597.

Mr. CHAFEE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with, and that the amendment be set aside so that these two Senators may proceed.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **JOHNSTON**. Mr. President, will the clerk read the amendment?

The **PRESIDING OFFICER**. The clerk will read the amendment.

The bill clerk read as follows:

On page 310 of the printed bill, beginning with line 12, strike out all through page 311, line 10.

Mr. **MURKOWSKI**. Mr. President, I appreciate the Senator from Rhode Island allowing me to submit a technical amendment.

AMENDMENT NO. 598

(Purpose: To provide additional time to initiate an investigation under section 302 of the Trade Act of 1974 with respect to barriers in Japan to United States services)

Mr. **MURKOWSKI**. Mr. President, I send a technical amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The clerk will report.

The bill clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 598.

Mr. **MURKOWSKI**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is is follows:

On page 173 of the printed bill, after line 23, in section 310 (relating to investigations of barriers in Japan to certain United States services), strike out "Trade Representative shall immediately" and insert in lieu thereof "Trade Representative shall, within 90 days after the date of enactment of this Act,".

Mr. **MURKOWSKI**. Mr. President, the amendment has been cleared by both sides. It would provide additional time for the USTR to begin an investigation into barriers to U.S. design, engineering, and construction services in Japan. It would extend the time period by which the investigation must begin from immediately after enactment to 90 days after the enactment of the act. I urge its adoption.

The **PRESIDING OFFICER**. Is there further debate?

Mr. **DANFORTH**. Mr. President, the amendment is acceptable on this side.

Mr. **MATSUNAGA**. Mr. President, there is no objection to the amendment on this side.

The **PRESIDING OFFICER**. The question is on agreeing to the amendment.

The amendment (No. 598) was agreed to.

Mr. **MURKOWSKI**. Mr. President, I thank the Senator from Rhode Island for accommodating me.

AMENDMENT NO. 599

(Purpose: To make technical corrections in section 4102, the clearinghouse on State and local initiatives on productivity, technology, and innovation)

Mr. **BUMPERS**. Mr. President, I ask unanimous consent that I be permitted to send an amendment to the desk without jeopardizing the pending amendment.

The **PRESIDING OFFICER**. Is there objection?

Without objection, it is so ordered.

The clerk will report.

The bill clerk read as follows:

The Senator from Arkansas [Mr. BUMPERS] proposes an amendment numbered 599.

Mr. **BUMPERS**. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

The amendment is as follows:

On page 928, line 9, after "ACTIVITIES" add "AND CLEARINGHOUSE ON STATE AND LOCAL INITIATIVES" and amend the table of contents and table of sections accordingly.

On page 935, line 14, strike "TECHNICAL AMENDMENT" and insert "CLEARINGHOUSE ON STATE AND LOCAL INITIATIVES".

On page 936, line 3, before the period insert "and Federal efforts to assist state and local governments to enhance competitiveness.".

On page 936, line 10, before "Federal" insert "the Congress,".

On page 936, line 11, before "and" insert "regional and multistate organizations of such governments".

On page 936, lines 13-15, strike "to Congress, Federal agencies, State and local government agencies and the public,".

On page 936, line 17, before "(4)" insert "(4) provide technical assistance and advice to such governments with respect to such initiatives, including assistance in determining sources of assistance from Federal agencies which may be available to support such initiatives;"

On page 936, line 17, strike "(4)" and insert "(5)".

On page 936, line 18, before "policies" insert "existing".

On page 936, line 20, before "to" insert "and regional and multistate organizations of such governments".

On page 936, line 22, strike "(5)" and insert "(6)".

On page 936, line 24, after "merce" insert ", and upon request through the Secretary to other Federal agencies,".

On page 937, line 2, strike "technology programs" and insert "governments with initiatives to enhance the competitiveness of American business through the stimulation of productivity, technology and innovation".

On page 937, line 3, strike "(6)" and insert "(7)".

On page 937, line 9, strike "(7)" and insert "(8)".

On page 937, line 11, insert after "Technology" insert "and the Office of Productivity, Technology, and Innovation".

On page 937, line 12, strike "(1)" and insert "(2) and (b)(7)".

On page 937, line 14, before "assisting" insert "collecting information on the nature, extent, and effects of initiatives and".

On page 937, line 14, after "governments" insert "and regional and multistate organizations of such governments".

On page 937, line 15 after the period insert "Any such contract shall provide that a portion of the costs of carrying out such contract will be paid by another Federal agency, a State or local government, or a public or nonprofit private entity, which is a party to such contract.".

On page 937, line 20, before ""(d)" insert the following new subsection (d):

"(d) THE CLEARINGHOUSE SHALL NOT.—

"(1) provide financial assistance to a State or local government to support the implementation of any initiative to enhance the competitiveness of American businesses through the stimulation of productivity, technology, and innovation, other than financial assistance which is necessary for the conduct of an evaluation of such an initiative under subsection (c)(7);

"(2) provide financial assistance to support State and local government initiatives to stimulate economic development through the conduct of public works or the repair or replacement of infrastructure;

"(3) provide any assistance to a State and local government in efforts to encourage a private business to locate any facility in a State or local jurisdiction or to relocate any facility from one State or local jurisdiction to another; and

"(4) consider any issue included in a specific labor-management agreement without the consent and cooperation of all parties to the agreement.".

On page 937, line 20, strike "(d)" and insert "(e)".

On page 937, line 24, insert after the period "The report shall include recommendations to the President, the Congress and Federal agencies on ways the Federal government may improve Federal assistance to state and local governments with respect to such initiatives.".

Mr. **BUMPERS**. Mr. President, the amendment that I have sent to the desk is a technical amendment to section 4102 of S. 1420.

Section 4102 of S. 1420 establishes a clearinghouse in the Department of Commerce on State and local initiatives on productivity, technology, and innovation.

This provision is based on a bill I introduced on April 7, S. 930.

Section 4102 was reported by the Commerce Committee as part of S. 907, the committee's contribution to the omnibus trade and competitiveness bill. When the committee considered S. 907, it did not have an opportunity to include certain technical corrections to the clearinghouse provision which I had suggested. There was no objection to the technical corrections, but there just was not time to include them.

The technical corrections do not change the authorization for the clearinghouse and they do not change its responsibilities.

These technical corrections cover five issues:

First, they add several references to "regional and multistate organizations" of State and local governments to make it clear that the clearinghouse should work closely with organizations such as the National Governors Association and the Southern Growth Policies Board, which are active in promoting State and local competitiveness initiatives.

Second, the clearinghouse is specifically directed to provide technical assistance to State and local government agencies which are undertaking initiatives on productivity, technology, and innovation.

Third, the clearinghouse is directed to work closely with the existing Office of Productivity, Technology, and Innovation in the Commerce Department.

Fourth, the clearinghouse is given authority to award contracts to fulfill its clearinghouse function to supplement its authority in the bill to award contracts to fulfill its evaluation function.

Fifth, and finally, the amendment includes certain prohibitions which were in S. 930 to make it clear that the clearinghouse should play no role in any matter where State and local governments are competing among themselves.

I very much appreciate the assistance which the chairman of the Commerce Committee has provided throughout consideration of this proposal. I also appreciate the professional work of his staff person on this bill, Pat Windham.

I am hopeful that the chairman of the committee can accept the technical amendment.

This amendment has been cleared with Senator HOLLINGS, who just had to leave the floor a few minutes ago, and I think with the distinguished ranking floor manager, also.

The PRESIDING OFFICER. Is there further debate?

Mr. DANFORTH. Mr. President, the amendment is acceptable.

Mr. MATSUNAGA. It is my understanding that it has been cleared on this side.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 599) was agreed to.

Mr. BUMPERS. I thank the Senator from Rhode Island for yielding.

LEARNING FROM THE STATES ON COMPETITIVENESS

Mr. BUMPERS. Mr. President, there is much that we in Washington can learn from State and local governments on the issue of competitiveness. There is no monopoly of wisdom here in Washington on this issue.

This is the point of a proposal of mine to establish in the Commerce Department a clearinghouse on State and local initiatives to stimulate productivity, technology, and innovation.

I am happy to report that the Commerce Committee has included my clearinghouse proposal in the Omnibus Trade and Competitiveness Act, S. 1420.

PROGRESS ON S. 930

On April 7 of this year I introduced my clearinghouse proposal as S. 930. This bill was one of three bills I introduced on April 7 as an "Agenda for Competitiveness." In addition to the clearinghouse proposed in S. 930, I introduced S. 931, a bill to encourage investments in start-up small businesses, and S. 932, a bill to encourage cash profit-sharing plans.

Since I introduced the clearinghouse bill, the response has been immediate and positive both here in the Congress and from leaders in the private sector.

On May 19 the chairman of the Senate Commerce Committee, Senator HOLLINGS, held a hearing in the Commerce Committee on S. 930 and several other bills.

Senator HOLLINGS was kind enough to permit me to testify at the hearing and the clearinghouse proposal was received positively by the committee members at the hearing.

Meanwhile Senator FORD, Senator GORE, and Senator INOUYE, all of whom are members of the Commerce Committee, agreed to cosponsor S. 930 and to press for its inclusion in the committee's title to the Senate trade bill.

With the help of Senator FORD, Senator GORE, and Senator INOUYE and the active cooperation of Senator HOLLINGS, on June 22 the substance of S. 930 was incorporated in S. 907, the committee's contribution to the Senate trade bill. S. 907 appears as titles XL, XLI, XLII, XLIII, XLIV, and XLV of S. 1420, the Omnibus Trade and Competitiveness Act and S. 930 now appears in title XLI as section 4102.

In the House of Representatives, progress on the clearinghouse proposal has been almost as rapid.

The Subcommittee on Science, Research and Technology of the House Committee on Science and Technology held a hearing on the clearinghouse proposal on April 30. This subcommittee has jursidiction over the proposal in the House.

Immediately prior to the hearing, the chairman of the subcommittee, Congressman DOUG WALGREN, and a key Republican member of the subcommittee, Congresswoman CLAUDINE SCHNEIDER, agreed to serve as the lead House sponsors for the clearinghouse bill, which in the House is H.R. 2219.

At the April 30 hearing, the National Governors' Association testified in support of S. 930 and H.R. 2219.

A markup in the Subcommittee on Science, Research and Technology on H.R. 2219 and related bills took place on July 14 and there was unanimous support for H.R. 2219 in the subcommittee and it was favorably reported to the full committee, where a markup is tentatively scheduled for next week.

So, we are having great success in the House as well as in the Senate on the clearinghouse proposal.

STATES ARE SERVING AS LABORATORIES

I have outlined the progress we have made on the clearinghouse proposal for one good reason. This progress shows that there is wide recognition of the fact that we here in Washington do have much to learn from State and local governments on the issue of competitiveness.

Our State and local governments have always served as laboratories on public policy and they are serving this function on the challenge of competitiveness as well.

State and local governments are closer to the problems, so they see the problems sooner and in more depth.

When they see a problem, they go to work to solve it.

They are better able to adjust their programs and policies on the basis of changing circumstances.

They are better able to establish and nurture partnerships among governments, universities, businesses, entrepreneurs, employees, and nonprofit organizations. These partnerships are crucial in stimulating productivity, technology, and innovation and in regaining our competitive edge.

In fashioning their policies and programs, State and local governments are more willing to experiment with programs until they develop programs that work.

Finally, the budgets of State and local governments—as tight as they may be—are better able to absorb some new initiatives than is the Federal Government with its huge deficits.

By way of contrast, here in Washington the current administration tends to view with suspicion almost any proposal which brings Government in as a partner in any economic development effort. The very term "partnership" is viewed as inconsistent with the prevailing ideology. And, even if we could develop a consensus on utilizing Government resources in meeting the competitiveness challenge, we are hamstrung by the huge Federal Government budget deficits from launching new initiatives.

COMMENTS FROM THE GOVERNORS

As a former Governor, I have been especially interested to hear the views of the Nation's Governors about the proposed clearinghouse. After all, it is my intention that the Governors be among the principal beneficiaries of the clearinghouse.

I wanted to hear from the Nation's Governors whether they feel that a clearinghouse could be helpful to them in their efforts to enhance the competitiveness of the businesses in their States. Accordingly, recently I wrote to the Governors of all the 50 States and many of them have submitted their evaluations of the clearinghouse.

I am pleased to say that the first organization to endorse S. 930 was the National Governors' Association, which testified in support of S. 930 before the subcommittee, and that its letter of support came from Arkansas Gov. Bill Clinton, the current chairman of the National Governors' Association.

In its letters, Governor Clinton stated that the clearinghouse would be:

> Important substantively and intergovernmentally * * * the bill is important because it recognizes that: (1) States and localities have the primary responsibility for helping businesses improve their productivity, technology and innovativeness; (2) States and localities need a clearinghouse on state and local initiatives to enhance competitiveness, and it is economical to do this nationally; (3) States and localities need assistance with conducting evaluations, developing evaluation methodologies, and learning of evaluation results; (4) Federal programs and policies need to complement and support State and local initiatives, and there is a role for an independent Federal watchdog to recommend improvements in related Federal programs; and (5) the Federal Government can provide advice and technical assistance to State and local governments on how they can improve their own programs. (Letter of June 24, 1987.)

In addition to the support of the National Governors' Association, I have received positive responses about S. 930 from 16 Governors.

I would like to quote some of the comments they have made on the clearinghouse.

Gov. Carroll A. Campbell of South Carolina:

> I commend you for initiating this legislation on the Federal level, and would like to offer my support at the State level. (Letter of May 22, 1987.)

Gov. Ned McWherter of Tennessee:

> I strongly support the purpose of S. 930. Tennessee is presently leading in a search for approaches to the challenge of our Nation's competitiveness. Through our own Tennessee technology foundation, a private sector, not-for-profit creation of our legislature and executive branch, we have developed several such initiatives which can profit from improved federal partnership assistance in areas of applied research and development. (Letter of June 11, 1987.)

Gov. James R. Thompson of Illinois:

> This concept of creating a clearinghouse to disseminate information on innovative State and local competitiveness initiative is an idea with merit. I agree that this decentralized approach to generating innovative technologies is strongly preferred to those who propose a national industrial policy. (Letter of May 10, 1987.)

Gov. George A. Sinner of North Dakota:

> Please consider this letter a positive endorsement of Senate bill 930 from myself and the State of North Dakota. The establishment of (the clearinghouse) could benefit a state such as North Dakota in several ways: (1) it can save a State like North Dakota a lot of time and resources; (2) there is no need for reinventing the wheel if local development initiatives have already been tried and information is available; (3) it would help us target our limited resources toward initiatives and programs which have a higher chance for success and are most cost effective; and (4) the center would emphasize the need for new development initiatives to stimulate a net increase in the Nation's economic growth and employment opportunities, rather than mainly providing for growth and employment movement from one city or town to another as many State and Federal programs facilitate. (Letter of May 15, 1987.)

Gov. John Waihee of Hawaii:

> I believe the proposal is a good one. I would expect Hawaii to benefit from learning from other States' new programs and, in turn, share our experiences with innovative programs with them. (May 18, 1987.)

Gov. Cecil D. Andrus of Idaho:

> We at the State level are in support of your efforts to make this Nation more competitive in the world marketplace. The legislation you propose appears to be timely. (Letter of June 2, 1987.)

Gov. Arch A. Moore of West Virginia:

> State and local organizations are in the best position to assess local needs and develop appropriate strategies. The Federal Government should not have to shoulder the entire burden. (Letter of June 3, 1987.)

Gov. William Donald Schaefer of Maryland:

> You have an excellent bill—we need a national clearinghouse. (Letter of May 12, 1987.)

Gov. Mike Hayden of Kansas:

> A number of States have already attempted to establish mechanisms for making new technology available to businesses more quickly. It would appear that these programs would dove-tail nicely with your suggested center. In that it would provide a resource to them without becoming directly involved in their activities. (Letter of May 20, 1987.)

Gov. Gerald L. Baliles of Virginia:

> In our Federal system, States are often laboratories for ideas. I am pleased that this idea has been noted in your bill. We here in Virginia have a great many programs we are anxious to share with policy makers around the country. (Letter of May 19, 1987.)

Gov. Michael Dukakis of Massachusetts:

> I would like to express my enthusiastic support for S. 930. There is no question that finding and implementing effective state strategies for enhancing the competitiveness both of traditional and high technology based business is one of the most critical economic challenges we face today. The center—would complement our state initiatives. It would also provide us with the capacity to network with other States that have developed, or are in the process of creating, similar programs. By serving as a clearinghouse for information on State and local programs to enhance productivity, technological development and innovation, the center could play a pivotal role in expediting technology transfer. Such a development would surely benefit all participating States and the Nation as a whole. (Letter of May 1, 1987.)

Gov. Robert P. Casey of Pennsylvania:

> I would be pleased to support your proposal for the (clearinghouse). You have my support for the concept and my encouragement to locate such a facility in Pennsylvania. (Letter of May 1, 1987.)

Gov. Rudy Perpich of Minnesota:

> I find it to be an innovative idea. As a former Governor, you understand the important role States can play regarding economic development issues. (Letter on May 28, 1987.)

Gov. James A. Martin of North Carolina:

> I am writing to offer my support for Senate bill 930. By evaluating and highlighting successful economic development initiatives throughout the country, the center will encourage other States to more rapidly adapt these programs for their own use. This effort will be a part of a broader push in helping our businesses become more competitive in the global economy. (Letter of May 21, 1987.)

Gov. Steve Cowper of Alaska:

> We believe that the creation of a clearinghouse for information on programs initiated at the State level is timely and needed. Given a highly technological global marketplace, timely and efficient transfer of information on new and innovative State programs (as envisioned by S. 930) is essential if we are to maximize use of limited State resources, reduce redundant focus on ineffective strategies, and sharpen our competitive edge so that we may regain our position of strength in the world economy. (Letter of June 23, 1987.)

Finally, Gov. Mike Sullivan of Wyoming:

> I applaud your efforts—and believe that such a center could serve governments at all levels in our quest to improve the competitiveness of American business. While descriptions of (State) initiatives have been compiled by various entities, we have noticed that these compilations are not as comprehensive as they could be, nor is there much in the way of detailed quantitative or qualitative evaluation of program procedures and results. Learning about the success and failures of others should assist State policy makers develop programs to improve competitiveness and economic growth particularlized to their State's needs. (Letter of June 8, 1987.)

I am delighted with these expressions of support and for the detailed comments and suggestions that these Governors have provided. It gives me great confidence in the clearinghouse proposal that it has received such support from the Nation's current Governors.

SUPPORT FROM NATIONAL ORGANIZATIONS

In addition to the fine support we have had for S. 930 from the Nation's Governors, a wide range of national associations and individuals have expressed their support.

Let me quote a few of the comments we have received.

The Urban Institute:

> Such a center would provide information that is not yet collected and analyzed on a systematic and thoughtful basis. Our expe-

> rience has been that many researchers are simultaneously examining the initiatives on a piecemeal basis—either geographically or functionally. This leads to incompleteness, duplication of effort, and a lack of perspective about what is occurring and its value. Your decentralized approach to the problem is practical, will avoid the pitfalls of a centralized, inward-focused bureaucracy, and fits well with current trends towards increased State responsibilities. Our view is that the evaluation activities associated with the center will be the key to its effectiveness. (Letter of May 13, 1987.)

National Center for Municipal Development:

> It is gratifying to see recognition of the fact that cities are the major source of the Nation's ability effectively to engage the rest of the world in economic competition. Your bill does that and is—a worthwhile effort deserving of support. (Letter of May 14, 1987.)

Southern Growth Policies Board:

> To the extent that the Federal Government can systematize and supplement existing information and support evaluations, it would be extremely useful and has my wholehearted support. (Letter of May 15, 1987.)

Mayor John A. Fedo of Duluth:

> A clearinghouse to disseminate innovative ideas from all facets of Government so that we can maintain a competitive edge with foreign competition and glean information without reinventing the wheel is an idea long overdue. (Letter of June 2, 1987.)

National Association of Development Organizations:

> The concept of the bill certainly is worthy, fully within the spirit of American federalism. (Letter of May 21, 1987.)

STATE AGENCIES SUPPORT

I am also pleased that I have received letters of support for S. 930 from the Connecticut Product Development Corp., the Baltimore Economic Development Corp., the Minnesota Consortium for Quality and Productivity, Inc., the Philadelphia Area Council for Excellence, the director of the Materials Processing Center at MIT, and the Council of State Policy and Planning Agencies.

TECHNICAL AMENDMENT

The Senate has just adopted a technical amendment which clarifies certain provisions in section 4102.

Let me emphasize here that these technical changes respond to some valuable suggestions we have received during the past 3 months from the Governors, national associations, and State agencies.

For example, Stuart Rosenfeld of the Southern Growth Policies Board commented that the clearinghouse should utilize and cooperate with national and regional organizations that are already collecting and disseminating information on State initiatives, such as the National Governors' Association, the Council of Governments, the Coalition of Northeastern Governors, and the Southern Growth Policies Board. This comment has led the Commerce Committee to emphasize the clearinghouse must "establish relationships with * * * regional and multistate organizations of (State and local) governments." The technical amendment includes similar references to these regional and multistate organizations in other sections of the bill to emphasize their importance to the clearinghouse.

Some of these private sector clearinghouse functions are supported by grants and contracts from Federal agencies. My understanding is that the Economic Development Administration in the Department of Commerce currently supports clearinghouse activities operated by the National Alliance of Business, the National Council for Urban Economic Development and the National Association of State Development Agencies, among others.

I fully expect that this type of support from Federal agencies other than the new clearinghouse will continue and hope that the new clearinghouse may be able to provide additional support, including financial support as it is empowered to do under section 4102 as modified by the technical amendment.

In addition, the National Governors' Association suggested that the clearinghouse:

> Should be charged with compiling and describing information on Federal programs initiated by other Federal agencies and independent laboratories and disseminate that information to States so Federal and State programs can be coordinated to stimulate productivity, technology and innovation. (Letter of June 24, 1987).

Responding to these suggestions, section 4102—as modified by the technical amendment—specifically directs the clearinghouse to provide "assistance in determining sources of assistance from Federal agencies which may be available to support such initiatives." This support could take the form of direct financial support or technical support of various types.

Finally, Ms. Alice Smith of the Arkansas Science and Technology Authority expressed concern that placing the clearinghouse in the Office of the Secretary of the Department of Commerce, as proposed by the Commerce Committee, might mean that it would not fully use the unique capability and expertise of the Office of Productivity, Technology and Innovation. In S. 930 I had proposed that the clearinghouse be placed in OPTI and it was the suggestion of the Commerce Committee that it be placed in the Office of the Secretary.

As a long-time supporter of OPTI, I have some concern about placing the clearinghouse in the Office of the Secretary. There are some advantages to placing it there. From the Office of the Secretary, the clearinghouse will have a broader perspective on the ways in which the Department can provide assistance to State and local governments and its recommendations for changes in Federal Government policy may carry greater weight.

On the other hand, there is no staff in the Office of the Secretary which has the expertise on productivity, technology and innovation which already exists in OPTI. State and local governments already have a positive relationship with OPTI and OPTI—with its limited staff—already attempts to be helpful to State and local governments with their initiatives.

I have heard expressions of concern that placing the clearinghouse in the Office of the Secretary may be cited by the Department as a rationale for reducing the funding and importance of OPTI. I know that I have fought here in the Senate to preserve the funding for OPTI against proposals by this administration to eliminate the agency.

I will say that the administration seems to have backed off of its opposition to OPTI. OPTI has strong congressional support. This Commerce Committee proposal increases the funding for OPTI. I see strong support for OPTI in the Congress and I cannot imagine that this administration will succeed in its efforts to reduce OPTI's effectiveness.

OPTI has survived and it may well be that the existence of the clearinghouse in the Office of the Secretary will give OPTI a valuable ally there for its efforts to enhance the Federal Government programs on technology, productivity, and innovation.

So, I have somewhat mixed feelings on the committee proposal on placing OPTI in the Office of the Secretary and I hope that this issue will be discussed in detail in the conference on this section of the trade bill. The technical amendment I have proposed does specifically direct the clearinghouse to coordinate its activities with OPTI. And, if the clearinghouse is located in the Office of the Secretary, I will be watching carefully to see that this takes place.

The technical amendment does not move the clearinghouse back into OPTI, but it does specifically direct the Secretary of Commerce to:

> Ensure that the clearinghouse coordinates its activities with activities of the . . . Office of Productivity, Technology and Innovation.

The intent of this provision is to ensure that the clearinghouse and OPTI both thrive in the Department. If the conference committee determines that the clearinghouse should be placed in OPTI, this provision would become unnecessary.

FUNCTIONS OF THE CLEARINGHOUSE

There are a variety of issues about section 4102 with respect to which I would like to comment.

The Commerce Committee's draft incorporates all of the major features of S. 930. It's funding is reduced somewhat but the funding rises over a 3-

year period from $1 million to $2 million. I think this is enough money for the center to fulfill its functions and it's probably better to start the funding at a lower level and to gradually increase the funding as the clearinghouse becomes better established.

In S. 930 I had listed a range of types of initiatives which should be given priority by the clearinghouse and, for the sake of brevity, this list has been deleted in section 4102. But, the intent is the same, specifically, that the clearinghouse work on a wide range of State and local initiatives. It should not concentrate solely on technology transfer or scientific research. It should be just as interested in incubator centers, entreprenurial development, and risk capital funds as it is in technology and scientific research.

The clearinghouse should provide assistance to regional and multistate organizations of State and local governments, particularly when these organizations are attempting to reduce duplication of effort by State and local governments.

I feel very strongly that the clearinghouse will only be effective if it does not seek to impose its priorities on the State and local governments. The purpose of the clearinghouse is for us to learn from the State and local government initiatives. It would be counterproductive for the Federal Government to stifle the variety of the State and local innovations.

To ensure that the clearinghouse does not have the power to impose its priorities, S. 930 and section 4102 do not give the clearinghouse any funds to underwrite the initiatives of the State and local governments. I would oppose any proposal to have the clearinghouse itself provide such funding. If the clearinghouse dispenses such funds, it would certainly attempt to impose its own priorities and this would gradually convert a decentralized and innovative program into a centralized and stale program.

There are 50 States and this ensures that there will always be innovative and interesting experiments being conducted on the issue of competitiveness. We want the States to compete among themselves to establish the most effective program. We don't want them competing to satisfy some Government official here in Washington who is less interested in learning than he or she is in controlling.

EVALUATIONS OF INITIATIVES

The clearinghouse is given limited authority to provide funding for efforts by State and local governments to evaluate the effectiveness of their own initiatives. This funding is provided for in both S. 930 and in section 4102. In both cases the funding for these initiatives must be jointly shared by the clearinghouse, other Federal agencies, State and local governments or private profit or nonprofit entities.

Most important, such evaluations may be undertaken only "when requested" by the State or local government undertaking the initiative. I understand that the issue of these evaluations is a sensitive one and I am happy to see that section 4102 provides that these evaluations may be undertaken only when requested by the State and local governments themselves. My bill contained a similar limitation.

It would be unfair for the Federal Government—which is in many cases unwilling to undertake its own initiatives on competitiveness—to criticize State and local governments which do undertake initiatives.

It would be especially unfair for the Federal Government to criticize State and local government initiatives when the Federal Government is cutting the funding it provides to State and local governments.

And it would not be possible for the Federal Government to fairly evaluate the effectiveness of a State or local initiative if those who are responsible for the initiative do not cooperate with the evaluation.

I am aware that many State and local governments are wary of any evaluations because they suspect that this administration at least would disapprove of many of the initiatives they have undertaken. These initiatives involve Government action, Government expenditures, and Government partnerships with industry.

The reason for evaluations, however, is that both the State and local governments and the Federal Government need to find out what works and what doesn't. It does not make sense for the clearinghouse to disseminate information on State and local initiatives which are not working. There is a need for some editorial judgment here.

Unless the legislation prohibited the clearinghouse from evaluating the State and local initiatives, the legislation is sufficiently broad so that the clearinghouse would have authority to evaluate them. The issue then is whether these evaluations are done with the consent and cooperation of the State or local government agency undertaking the initiative. So, S. 930 and section 4102 both provide protection for State and local governments.

State and local governments have as much or more interest than anyone else in learning which programs are working. Unfortunately, funding for evaluations of current programs often will be far down the list of priorities. This is why the bill gives the clearinghouse authority to award contracts for the conduct of these evaluations.

The type of evaluations we are talking here would not involve any ranking of one State program against another. The evaluations might well take one type of State initiative—say the establishment of business incubator centers—and compare and contrast the various ways in which different States have structured these centers. In such a study, it might not be necessary even to identify the particular State programs. But the evaluation could focus on the different approaches, the arguments and evidence which indicates the relative merits of each approach, and, if appropriate, the recommendations of the clearinghouse or contractor about the most effective ways in which such centers might be structured.

These evaluations are hard to conduct. It is difficult to determine whether a given result in the marketplace results from the initiative of a State or local government or from general economic conditions and just plain good management by a entrepreneur. There may be some special sensitivity about evaluating a controversial program which has some startup problems. But, the clearighouse should work to develop ways to evaluate this type of initiative.

With experimental programs, evaluations are very important. The whole purpose of experiments is to learn.

Of course, there often will be no single best way to approach any given initiative. In many cases, local conditions and local personalities will have much to do with how an initiative is structured. The clearinghouse should constantly be wary of suggestions that there is only one best way to approach any given task. There is always room for refinements, further experiments or totally different approaches to a given problem. The clearinghouse should promote continued experimentation, it should never criticize State and local governments which are willing to experiment, and it should promote diverse and even conflicting approaches.

On the issue of evaluations, we have a balance here. We need to evaluate the initiatives but the Federal Government needs to respect the independence of the State and local governments. The requirement for a request for the evaluations strikes a balance which will improve the flow of information but not sour the relationship between the clearinghouse and the State and local agencies.

In conducting these evaluations, the clearinghouse should be sensitive to potential organizational conflict of interests. An organizational conflict of interest arises when the organization conducting the study has a vested interest in the outcome of the study. The clearinghouse and the State and local governments should attempt to find well qualified and well informed persons to evaluate the initiatives and, if possible, it should ensure that these persons have the independence necessary to undertake a fair and unbiased evaluation.

WHAT FEDERAL GOVERNMENT CAN LEARN

One of the purposes of the clearinghouse is help the Federal Government to learn from the initiatives of State and local government agencies.

The Federal Government could learn how it could be more helpful.

The Federal Government can learn how it can better target its own programs and policies based on the experience of the State and local governments.

I am hopeful, however, that the clearinghouse will be cautious in making any recommendation for the Federal Government itself to copy some of the initiatives of the State and local governments. There will be a temptation when we learn about highly successful State and local initiatives to think that the Federal Government could successfully manage a similar initiative.

That may well not be the case. Providing massive Federal funding and control for some initiative may be the best way to ensure that we lose the advantages of local control and local responsibility and stifle the creativity that led to the initiative in the first place.

The clearinghouse may well conclude that additional Federal funding for the State and local government entities is the most appropriate sort of support which can be provided by the Federal Government.

THE BOTTOMLINE

The bottomline with the clearinghouse is that it must be a champion of the successes and experience of our State and local governments. They are serving as our laboratories and we need to make the best possible use of the lessons they are learning.

The clearinghouse should be the champion for efforts by the Federal Government to provide assistance to State and local governments which are undertaking these initiatives. It should not provide this financial assistance itself, but it should encourage the various Government departments and agencies to do so.

The clearinghouse should help State and local governments in their dealings with Federal Government, in obtaining access to funding, in obtaining other types of assistance and in securing the cooperation of Federal agencies where necessary.

The clearinghouse has an opportunity to be helpful but it all depends on personal chemistry. The center cannot hope to achieve its potential unless it gains the trust of the State and local government agencies which are undertaking initiatives.

If center has its own political agenda which it attempts to impress on the State and local government agencies, the center will be a failure. The whole idea is for the Federal Government to learn, not to lecture.

We don't know enough here in Washington. We should not think that we know it all on the complex issue of competitiveness. The clearinghouse can help us to understand this lesson and help State and local governments continue to take the lead on the crucial issue of competitiveness.

In supporting the clearinghouse, the Senate is saying something important about the challenge of competitiveness—the challenge must be met out in the States on a firm-by-firm basis, not by some monolithic, top-down solution.

With the clearinghouse, the Federal Government is taking an active role in addressing the challenge of competitiveness, but the action it is taking is to decentralize the way Government deals with this challenge of competitiveness. Potentially this is a model for approaches we could take to other pressing problems.

AMENDMENT NO. 597

Mr. CHAFEE. Mr. President, we now turn to the so-called sugar drawback provision.

I am offering an amendment to strike section 897 of the bill. This is, as I say, the so-called sugar drawback provision. This provision would establish a special subsidy for cane sugar that is not allowed to any other commodity. It is not allowed, for example, to beet sugar or any other product. All of this is done at a tremendous cost to the U.S. taxpayer.

Mr. President, a little bit of history of this amendment. It was added to the bill in the Finance Committe at the last minute. It was not the subject of any hearings before the Finance Committee. When it was described in the Finance Committee, I think some of my colleagues may have thought it was merely an extension of existing programs. It is clear that the provision was much more than that. There are facts which were not discussed in the committee which I think my colleagues would be interested in.

Section 897 may not technically be a new program, but it certainly provides for payments that are now permitted.

Let us examine what the current law is. Under the current law—and I might say, my amendment would not change the current law at all. There has been some suggestion that my amendment would repeal the current law, particularly as it regards cane sugar. That is not so.

Under current law, an exporter of a product may obtain a refund, known as a drawback, of any import duties or fees previously paid on that item or a similar item so long as the export occurs within 5 years of the original import. Now this is important. You import the product and you have 5 years to export it. You paid the duties on it when it came in. You have 5 years to export it and then you have an additional 3 years to do the paperwork to file for the refund, for the drawback.

Now that rule applies to all imported products. The sugar drawback provision, which was inserted in the bill and which I am attempting to repeal here, would establish special rules for refunds on cane sugar and exports. These special rules would extend the current 5-year limitation back 10 years, back to November 1, 1977. Furthermore, you would be able to go back to November 1, 1977, way up until October 1, 1991. In other words, the privilege to go back to this date of November 1, 1977, would remain therefor 14 years, up until October 1, 1991, nearly triple the period allowed under the current law.

In other words, under this provision, drawback claims could be made in 1991 based on import duties paid as long ago as 1977. Again, I want to stress this applies only to cane sugar—a little special—not to both sugar or any other products.

Now, what are the principal problems with this sugar drawback provision? First, this provision would permit hundreds of millions of dollars to be removed from the Federal Treasury to benefit a few U.S. cane sugar refiners. That is what it is, Mr. President. The supporters of the bill have stated that the provisions could theoretically be of benefit to food manufacturers as well as the refiners. Technically that is true, but practically the money is going to go to the refiners because they hold the sugar drawback rights.

Indeed, of the estimated $365 million of drawback rights that Customs has estimated are possibly outstanding, over $264 million, that is over a quarter of a billion dollars, would go to just three companies. Who are they? Amstar. Amstar is the 245th largest corporation in the United States, according to the Fortune 500 survey. Amstar had profits of $34 million in 1986. Amstar, under this drawback provision, will be able to receive $135 million. Now, "that ain't sugar," as they say. That is $135 million to Amstar. The Federal Government will have to write out a check to Amstar under these drawback provisions as they provided here. They had profits of $34 million and they get a $135 million check. No wonder they are all over this building.

Imperial Sugar. They have rights to $38 million. Savannah, the 406th largest corporation in the United States, according to Fortune 500. They had profits of $10.4 million in 1986. They are entitled to $91 million under this—$91 million—all of that totals $264 million. And as I say, it is little surprise that all the pressure is on to give this special privilege to these few.

These estimates were provided by these companies to the U.S. Customs

Service and are alleged to be the duties that they paid on sugar imported into the United States between November 1977 and June 1982. In other words, under the laws that currently exist, they are not entitled to this. This is a special privilege.

In truth, we do not know how much this bill would cost because the provision does not establish any ceiling or cap on the total amount that would be paid. There is some suggestion, "Oh, they are not going to come in for this all in 1 year. They would extend it. It would only be paid out over 4 years."

There is no such suggestions of that in the provision. They can come for it all in 1 year. And there is no reason in the world why they would not do so. Why would they wait to file for a $135 million with a check written "Amstar" on it?

At a time when our budget is at an all-time high and this country's deficits are high and we are struggling to meet the Gramm-Rudman targets, it seems imprudent, in the least, Mr. President, to enact legislation that would permit unknown, unlimited payments of millions of dollars to just a few refiners. That is the first big objection.

Mr. President, I ask that I be notified when 15 minutes have gone by. How much time have I used?

The PRESIDING OFFICER (Mr. Wirth). The Senator has used a little more than 7 minutes.

Mr. CHAFEE. I ask that I be notified when I have used 15 minutes.

The PRESIDING OFFICER. The Senator will be notified.

Mr. CHAFEE. The second major objection is that the bulk of the claims made under this provision could not be verified by U.S. Customs. In order to insure against false claims, because Customs' records prior to 8 years back have, under the normal course of procedure, been destroyed—why keep a group of records around when you do not need them? Customs has destroyed the great bulk of these records, as you would expect them to do, as Congress encourages them to do, and now they could not verify these claims made by these big corporations.

I also would say that the whole drawback system has been fraught with fraud; not by the refiners but by others, and the industrywide investigation is now underway by Customs, called Operation Bittersweet: 48 indictments, 40 convictions, over $15 million of fines and negotiated settlements so far.

I am not saying this is the sugar refiners. This is the others involved. But the whole thing is a business that is cloaked with difficulties and possibilities for fraud.

Mr. President, do we really want the customs vice officers to spend their time ferreting out mildewed records going back, by the end of this, some 14 years instead of spending their time out chasing drug smugglers or trying to do something about illegal imports into the United States? I do not think we want to have our customs officials doing that, as they would be required to do if this legislation passed.

The first objection is it is a big sum of money all going to three very profitable refiners; big fellows. The second objection is we do not have the records and even to try to search out the records would be a tremendous draw on the time of the customs officials.

The third objection is this section, as it applies to processed foods, provides export subsidies which are prohibited by GATT, by the General Agreement on Tariffs and Trade.

Now, there is a time permitted under the GATT that allows for drawback, a limited time. Normally, this is conceded to be not to exceed 2 years. Our current program of going back 5 years stretches it to the very limit and clearly expanding this to 10 years, as it would if the total time were consumed, would violate GATT.

At a time when we are trying to strengthen the procedures under GATT, there is no reason in the world to give this special privilege to this group that have had the opportunity to make the claims in the past, which they did not make, and instead violate the General Agreement on Tariffs and Trade.

There is a claim that if we do not give this tremendous subsidy to these refiners that they will go out of business. Maybe that is so. I have never heard it said around this Chamber that if somebody is going out of business we suddenly ladle out over a quarter of a billion dollars to them.

If these refiners are going out of business it is for no reasons associated with this drawback provision. It is associated with the Sugar Program that was enacted several years ago that is on the books.

The combination of the high support price for sugar, the quotas imposed on sugar imports which have resulted in the increased use of corn sweeteners, have all resulted in less raw cane sugar for the refiners.

They may go out of business. They are not all going out of business. We all know that.

If you hear them lament in this Chamber or in these Halls, you would think that catastrophe was going to befall them all, including the ones that had the large profits last year.

It is ironic that the producers are now so concerned about the sugar program itself that is responsible for their problems that they are coming in for a handout.

We are stuck with a bad sugar program. That is on the books. This would create another subsidy, this time for the refiners.

I say let us not throw good money after bad. Let us not create another bad program to make up for an original mistake.

We prop up one part of the sugar industry which means now another part of the industry, the refiners, come in for our support and ask for help. Next it will be the candy companies, the cake mixes. You name them.

This drawback provision, Mr. President, is not going to be a long-term solution for the sugar refiners. It is a one-shot deal. It is a one payment. It would prop them up for a while but it would not solve their overall basic problems.

We will just be writing huge checks to some few refiners with no assurance that the money is going to be used to make the industry more competitive.

We have nothing like that, nothing like what is included, for instance, in this trade bill in section 201 that if you come forward for support, tariff, you have to submit a plan on how you are going to increase your competitiveness. Nothing of that is present in this bill.

There is no oversight, no planning for improvements. The companies will just come in: Uncle Sam, or should we say Uncle Sugar, please write me a check for $146 million.

It only applies to cane sugar. It does not apply to beet sugar much less it does not apply to any other product or commodity. It is purely a Government handout of the most outrageous kind, going to a very few refiners and I urge my colleagues to support the amendment to strike this from the bill.

I reserve the balance of my time.

Mr. JOHNSTON. Mr. President, I yield myself such time as I may require.

Mr. President, I am reminded of the story of the young boy who was sitting with his mother at the funeral of his father, and the preacher went on and on, extolling the great characteristics of the deceased. After a while the mother taps the young boy and says: "Son, go up there and see if that is really your father in the coffin."

So it is when I heard this amendment described by the distinguished Senator from Rhode Island, I wonder if we are talking about the same thing, Mr. President.

Let me begin by confessing a special and a direct interest in this amendment.

My special interest, as a member of the Louisiana delegation, is 1,100 Louisiana employees who are engaged in this activity; 1,100. Two hundred of those are at the Supreme Refinery in Labadieville, LA. That is in Assumption Parish.

For those of you who do not know about Assumption Parish, it is one of the highest parishes, or counties, in the country, for unemployment. In case there are some who do not know, Louisiana has the highest unemployment rate in the Nation. We topped out a few months ago at 14.7 percent unemployment, if I recall correctly.

Another 300 to 400 individuals are employed in the Colonial Refinery in Gramercy. Amstar, that great megacorporation that you have heard described here, happens to employ some 500 individuals in my State. They may be a megacorporation, although they are a long way from the top of that Fortune 500 list, but they employ 500 people in my State.

Do I have a personal interest in this legislation? You bet, Mr. President.

Is it not paradoxical that here we are debating the Omnibus Trade and Competitiveness Act, and this amendment would seek to make us noncompetitive and export American jobs?

If it were not for the technicalities of jurisdiction around this place and the unanimous-consent agreement, I would make objection that this is nongermane because it has nothing to do with American competitiveness.

To the contrary, it has to do with American noncompetitiveness because its effect would be to export American jobs.

You say, now, that cannot be. It cannot be the intention of this administration and of the distinguished Senator from Rhode Island to export American jobs. That cannot be.

Well, I can tell you, Mr. President, that is precisely what the administration has said.

May I quote from a Journal of Commerce article of Wednesday, January 14, 1986, where Clayton Yeutter, our Trade Representative, is quoted as saying as follows:

> The aim of the administration's effort would be the eventual phasing out of sugar production in the United States.

Let me repeat that. Clayton Yeutter, our Trade Representative, says he wants to phase out sugar production in the United States.

Let us be plain. We are not trying to make America more competitive. We are not trying to make American jobs by this amendment. To the contrary, this is step one in closing down American refining and American production of sugar and exporting American jobs. It is admitted on the record. Let us be very plain. If you want to export 1,100 Louisiana jobs, and I do not know how many other jobs in other parts of the country, then be for this amendment. That is precisely and exactly what the amendment will do.

I started off, Mr. President, by saying I did not recognize this amendment form the description by the Senator from Rhode Island. Let me tell you why. There are four basic principles to the amendment. It is very simple.

First of all, this is what we call a drawback, or really a more descriptive word is a refund. The companies, whether they be large companies or small companies, to participate in this program must have paid in tariffs for imported sugar which they would refine and then re-export. They call it a drawback, but it is really a refund program.

It does not cost the Treasury one cent that the Treasury has not received from the company that receives it back. So it is a dollar-for-dollar exchange of that which is paid in. The companies have a certain amount of tariffs paid in under a drawback provision which has been in existence for decades in this country. We are only asking that they be able to receive back that same money.

Let me say, Mr. President, this program involves no new budget outlays. The budget outlays are about the same as they have been. As a matter of fact, there is a positive effect on budget outlays because those who import sugar under this program will be able to export it more quickly; therefore, their CCC payments will be lesser. So it will actually have a positive budget impact.

So principle one, it is a refund program which costs the Federal Treasury zero because that same dollar which is paid out is the same dollar which was paid in by precisely the same company. Principle one, it is a refund program.

Principle two, if we do not refine the sugar, the European Economic Community will do it for us. We have a tiny part of the world market, 3 percent. We are not trying to expand that 3 percent. We are trying to keep what we have.

The European Economic Community, Mr. President, has a massive subsidy program. They do not want 97 percent of the market; they want it all. They want those 1,100 Louisiana jobs and several hundred jobs from elsewhere. I see the Senator from New York on his feet. I am sure there must be New York jobs. They want those jobs.

We have been in this country exporting jobs pellmell, and here we are being asked to do it intentionally.

Here comes the administration and they say in the Journal of Commerce, "We want to shut down the domestic sugar industry and domestic refining industry and we want to export those jobs to the EEC."

It is as plain as the nose on your face. That is not a representation I have made up, Mr. President. That is an admitted policy of this administration.

I might add I do not understand how people down in the sugar country can look at what the administration is trying to do and not rise up in outrage.

Principle two, if we do not do the refining in this country, we will export the jobs to the EEC.

Mr. D'AMATO. Will the Senator yield for a question?

Mr. JOHNSTON. Yes.

Mr. D'AMATO. It appears that 400,000 tons of sugar comes in under this program which allows a 5-percent rebate. Is that correct?

Mr. JOHNSTON. I am not sure about the tons. That sounds about right to me.

Mr. D'AMATO. Does not all the sugar come from the Caribbean nations; so, therefore, as we are concerned with economic stability in that region, it serves as a method by which we can help them, otherwise they cannot even sell that sugar on the world market.

Mr. JOHNSTON. The Senator makes a very good point. The CBI countries strongly support this program because it gives them a place to get their sugar refined at a lesser price. It makes them more competitive. In effect, it helps sugar exports from the Caribbean Basin countries.

Mr. D'AMATO. There are jobs as a result of this, and, otherwise, I am afraid that we would have to be subsidizing with another training program.

Mr. JOHNSTON. The Senator makes an excellent point.

Of the four points, this is a refund program dollar for dollar of that paid in.

Second, if we do not do it, the European Economic Community will.

Third, if we repeal this program, we will not have the business. We cannot do the export business. In other words, it is economically unfeasible. Therefore, we export American jobs.

Principle No. 3, therefore, is that this amendment would clearly and plainly and directly export American jobs.

So, Mr. President, it is very, very plain. We have an amendment here that is consistent with GATT, that is not a protectionist amendment. To the contrary, it makes American refiners competitive with the world.

It does not cost outlays. In fact, it has a positive impact upon outlays.

And it preserves American jobs.

So why, for the life of me, we would even be considering this amendment within the context of a bill whose title says it is a competitiveness bill, I do not know, Mr. President.

Mr. President, I have one more point before I turn it over to my colleagues. That is that there has been circulated—I do not know whether it is rumors or letters—a statement to the effect that the Sugarbeet Growers Association is opposed to the amendment. The fact of the matter is the sugar beet growers are not opposed.

I ask unanimous consent that a letter dated July 16, 1987, from Larry McNamara, president of the American Sugarbeet Growers Association, which states that they are not opposed to this amendment, be printed in the RECORD at this point.

Mr. CHAFEE. Reserving the right to object, is that signed?

Mr. JOHNSTON. No, it is not. It was a letter that was called in.

Mr. CHAFEE. Mr. President, I do object.

I do not believe it should be submitted when in that fashion. It is the same as the Senator saying, "This is what Mr. McNamara said."

Mr. JOHNSTON. Mr. McNamara is the president of the American Sugarbeet Growers Association. He called in and dictated the following letter:

> DEAR SENATOR: The American Sugarbeet Growers Association, representing all U.S. sugarbeet producers has taken a neutral position in which its membership is not in opposition to the sugar drawback proposal. The proposal does not directly affect sugarbeet growers, and Senators from sugarbeet producing states should be advised that their support of this proposal will not hinder their sugarbeet producer constituents.
>
> Sincerely,
>
> LARRY MCNAMARA,
> *President, American Sugarbeet Growers Association.*

I hasten to say I did not talk to Mr. McNamara. He supposedly dictated this to someone who is nameless.

Mr. BREAUX. I am not nameless or faceless. It was I.

Mr. JOHNSTON. It was to the distinguished Senator from Louisiana, JOHN BREAUX, who does not take shorthand and does not type.

Mr. President, there is also a letter from the U.S. Beet Sugar Association. The Senator from Louisiana [Mr. BREAUX] also received this one. It essentially says the same, that they have no position to the drawback provision.

So, Mr. President, it is clear. Let us not export these American jobs. Let us not take step 1 toward shutting down a perfectly valid, competitive American industry, the American sugar refining industry, and the American sugarcane and sugar beet growers. We need those jobs. We especially need those 1,100 jobs in the State of Louisiana, which has the highest unemployment in the country.

Mr. President, how much time did I consume?

The PRESIDING OFFICER. The Senator consumed 14½ minutes.

Mr. JOHNSTON. Mr. President, the Senator from New York has asked for 5 minutes. I yield 5 minutes to the Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

Mr. D'AMATO. Mr. President, first, let me congratulate the distinguished senior Senator from Louisiana for his presentation. I do not think it is necessary or serves any good purpose for me just to repeat them, so I am going to attempt to touch on several areas, some that I think may be important to stress. The fact is that this provision has been characterized as one which presents a subsidy, or somehow is going to affect the deficit.

It is not a subsidy. It is a return of moneys that have been collected by the same people who would like to continue the program and get their money back. It is not as if the American taxpayer is digging down into his pocket. This is someone who said the market conditions fell, we were not able to export as initially intended; give us an opportunity now while there is a window to reclaim these moneys and, by the way, do something for stability in the hemisphere that we are so concerned about, our own and the Caribbean nations; that we import about 400,000 tons of this sugar; we will no longer import this sugar because the refineries, without this 5-cent return, will just not be competitive.

So in addition to the loss of jobs in other areas, there are approximately 1,000 jobs in New York, 800 manufacturing jobs in the refinery in Brooklyn, that will be lost. That plant will close down. It will weaken the Caribbean nations that we are attempting to help. We have put our own workers out of work. And you know what else we have done, Mr. President, because it is great political fodder to talk about the giveaway, illegal programs? I want to say something: I do resent mischaracterizations. I think they are wrong because those of us who have a different opinion should not be placed in a position of having to say we are somehow defending some big monoply that is engaged in illegal activities.

The fact of the matter is, if you look at the district court decision, it is the same refineries who turned in those people in Operation Bittersweet who were attempting and indeed, did defraud the American taxpayers.

So, do not point the finger at those corporations that have done their job and who have brought to the attention of the Justice Department those things that are taking place. I resent it because it puts those of us who have a legitimate difference of opinion in a position of attempting to say, "Well, you are defending those people who have engaged in illegal activity." That is not the case.

If the Senator from Rhode Island would like me to put it into the RECORD, I would be delighted to put into the RECORD the decision of the court, that partial decision of U.S. District Judge Sidney Aronowitz, U.S. District Court for the Southern District, that portion which refers to the fact that these refineries had informed the New Orleans Customs officials that SCC might not be exporting their sugar. They indeed exposed what was taking place.

Second, on the question that it is a reach back. There are no records to prove the taxpayers will lose these dollars. Well, there are no records and if they cannot prove the fact that they are entitled to a return of their moneys, the moneys will not be returned.

This law does not open up that door. It simply says that if you can prove that you have indeed deposited these moneys in escrow, so to speak, you will be entitled to them.

So again, I must say that I take strong exception to the characterizations that have been circulated, either put on this floor or been circulated to our colleagues, characterizations that this was a huge conglomerate owned by Merrill Lynch.

What would be the difference if it were owned by Merrill Lynch, by the way? It is not. Merrill Lynch owns 4 percent, but do we mean to say that if somebody is successful and large, they are not entitled to equal rights on this floor? That is flailing away at the very thing that gives hope for justice to the little guy or the guys who work on the dock, or who work in these refineries and that is where this Senator is coming from.

I certainly hope we will stop this nonsense about claiming these huge losses to the Treasury when that is indeed not the case. I urge the defeat of this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. MELCHER addressed the Chair.

Mr. CHAFEE. I yield 15 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator from Montana is recognized.

Mr. MELCHER. Mr. President, there has been some discussion of what the sugar beet growers' position is on this particular amendment. It is fair to say that the sugar beet growers, in their letters to the Senator from Louisiana, have described their position as neutral. I am from Montana, Mr. President, and that is a sugar beet growing area. They feel that somehow, you can be neutral. But when you have to vote, you cannot be neutral. You have to say yes or no. On this $300 million to be paid to cane sugar refineries under the terms that are listed in this bill, I must vote no. Therefore, I support the amendment of the Senator from Rhode Island [Mr. CHAFEE].

Perhaps that ought to have a little explanation, becuase I have been here now, I think, going on 19 years, House and Senate, and always in the Agriculture Committee of both Houses. I have dealt with the sugar program for all of those years, and I have supported and continue to support the sugar program. Because of the way that the Finance Committee presented the language for this drawback of $300 million, I must vote no.

It is presented in a way, under terms that I cannot support and must support in all good conscience the amendment of the Senator from Rhode Island to strike it from the bill.

Mr. President, due to the unfortunate circumstance of the death of Senator Zorinsky, I became the chairman of the subcommittee dealing with commodities in the Senate Agriculture Committee. This includes the sugar program. The drawbacks are in the law for Customs to handle, very old law, and they are not under our jurisdiction in the Agriculture Committee. They are under the jurisdiction of the Finance Committee. That is why the Finance Committee is handling this section of the bill. But I assure every one of my colleagues that what happens on this amendment has some effect on the sugar program.

We get kicked around quite a bit, those of us who defend a sugar program. We have to stay together. This amendment has nothing to do with beet sugar, has nothing to do with beet refiners or beet farmers. That is why the Sugar Beet Producers Association is neutral. They did not want to say they are against something that the cane refiners have contrived.

The reason we have to stick together is that it is tough to get the votes. But at this point I have to leave them, because this is bad legislation, as it is presented in the bill, and the Senator from Rhode Island [Mr. CHAFEE] is correct to strike it. I must support his amendment.

Within the last 2 or 3 weeks, I was approached twice by the Secretary of Agriculture. He expressed concern about this provision in the bill. So I have discussed it thoroughly with the Department of Agriculture, and with Customs. I have talked to Amstar and to others on their side. I have asked a union involved. They said they have 400 jobs at stake. I cannot just let it go by. I must vote now. I cannot be neutral on it.

Here is what I found to be the facts: First and foremost, the language in the bill as it stands now changes the law to help just a few companies, a few cane refiners. How does it do that? Well, under existing law, if a commodity or a product is imported and in a short period of time it is exported, they are due a drawback if they pay duty on the importation of a commodity. The "drawback" term means that they get the money back after they have exported it.

Since 1956, this has all been done under terms that can be added up to 8 years.

What the amendment does is this: Just for the purpose of sugar refineries, cane sugar refiners, it extends that back 2 years and adds additional time on the other end. So they will have a span of roughly 14 years to get a drawback.

The real problem comes right here: Where are the records? The bill would go back to 1977 and 1978, but those records are gone. Customs does not have them. So they cannot really audit this.

What is this question about the Bittersweet investigation that was just mentioned? That is an investigation of some people who have broken the law in regard to the exporting and importing of sugar. It just does not pertain to what this amendment does, but the fact is that it creates another cloud that those of us who vouch for and defend and vote for the sugar program have to be able to understand, and have to be able to explain.

The long and short of it is this: The timeframe for drawing back the money, up to $300 million—perhaps more, perhaps less; probably less, I hope; but perhaps more than $300 million—is extended by the amendment.

The fact is that customs does not retain their records after 8 years, and they may or may not have all the records that are necessary to audit and to verify the records of the companies involved that make the claim. So the Government cannot be assured that if they allow the drawback, it is proper and correct. Likewise, I am not assured.

I would suggest that the best thing to do would be to strike this provision from the bill now and, then to have a public hearing record of just what the facts are, just how we could get around this, just how we could make sure that the companies involved are adequately taken care of and protected under their rights, and get a procedure to do it. As it stands now, there is no procedure. As it stands now, Customs and the Department of Agriculture will be there for the applications, must pay under the terms of this bill, S. 1420, as it stands.

For that reason, whether or not we adopt this amendment, I can assure my colleagues that in our Subcommittee on Commodities and in the Senate Agriculture Committee, there will be public hearings to put on the public record just what this is all about and just how it could be handled properly, so that the public interest is not violated and the Treasury is not raided.

My responsibility is to vote on this now, and I shall vote for the amendment to strike this from the bill; and I encourage all my colleagues to do the same—strike it from the bill now. Let us proceed thereafter, finding out what the legitimate, proper method will be to make sure that the rights of these companies are not violated.

Mr. President, I retain the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. How much time do I have?

The PRESIDING OFFICER. The Senator has 15 minutes remaining.

Mr. JOHNSTON. I believe I spoke 14½ minutes and yielded 5.

The PRESIDING OFFICER. The Senator has 20 minutes remaining.

Mr. JOHNSTON. I yield 8 minutes to the distinguished Senator from Louisiana.

Mr. BREAUX. I thank the Senator. I probably will not use all that time.

Mr. President, any Senator in this body who has any sort of wheat program or corn program or cotton program or tobacco program or any agricultural program that has any incentives whatsoever to encourage the exports of those products into foreign markets—and there are a number of Senators who fall into that category—I would strongly suggest that they should strongly oppose the Chafee amendment, and strongly support the motion to table and to set it aside.

Mr. President, we used to have 22 refineries in this country that refined sugar. We have lost eight in the last few years. If the Chafee amendment were to become law, we could close the doors on the remaining refineries.

The Senator from Rhode Island, in offering his amendment, spoke to the fact that we are going to be creating some kind of an export subsidy program, establishing an expensive subsidy program. It is like the Finance Committee bill establishes an expensive subsidy program.

Let us set the record straight. We have had import duties and fees on sugar since we have had a country. Since 1789 there has been import duties on imported sugar. We have had the drawback provision since the 1930's. This is not a new program. It has been in existence since 1930.

Let me give you an example of what it does by comparing another type of product. Suppose we had companies in America that imported raw rubber and they brought it in and paid a duty and they took that rubber and turned it into a tire and manufactured a tire and then exported that tire to foreign countries which brought in money to the United States.

Now, would it be proper to say to that company that paid a duty to import the raw rubber and assemble into a tire and export it that they should be penalized by having to pay an import duty on a product that never enters into the commerce of the United States? Of course not.

The same is true for raw sugar. Companies and refineries import raw sugar. They put it in their refinery and they refine it into refined white sugar and when they import that raw product in they pay a duty and when they refine it and send it out they have a drawback. They can get a portion of the import duty that they have paid back. They do not even get it all back. They only get 99 percent of what they paid as an import fee back when they export the product.

Why do we do that? We give it back to them because it has never really been imported. It has only been refined in this country and we let the Government keep 1 percent for handling it. It has been going on since 1930.

The Senator from Rhode Island would seem to suggest that we are somehow creating an expensive subsidy program. Nothing could be further from the truth. We are merely expanding it for 4 years giving them 5 years on the backside extra, to claim the import fee that they have already paid. Under no circumstance would any refinery ever get back 1 penny more than they paid in. Under no circumstance would they get back 1 cent more than they paid in as an import duty.

And what is wrong with that as a minor incentive to encourage exports?

Some have said they cannot prove that they really exported this. The burden of proof, I would say to my colleagues, is on the refinery. If they do not have documents that are accepted by Customs, they cannot prove their case and they do not get a cent. No. 1, they have to pay it.

Someone suggested it only applies to sugarcane refineries. It could work for beet refineries. The simple fact is no beet refinery is importing beets and refining them and exporting them. If they were, they would be in here asking for some kind of a drawback provision. The simple truth is there is not a beet refinery operation in America that is importing beets, refining them, and exporting them back out.

That is why in checking with the various beet sugar refiners around the United States, we have strong support expressed by the Delta Sugar Corp. in California; the Great Lakes Sugar Co. in Saginaw, MI; the Holly Sugar Corp. with plants in Wyoming, California, Montana, another one in Wyoming, California, and Texas. We have a list of the Michigan Sugar Co., Spreckels Sugar Co., the Union Sugar Co., the Western Sugar Co. of Colorado and Nebraska, all of which refine beets, say they support the drawback provision.

So it is very, very clear, Mr. President, that there is no problem with the beet sugar folks with any opposition to this amendment.

So I would say that what we are merely saying is that we are losing the refineries and contrary to the Senator from Rhode Island who says we are only helping three refineries. Who in the world do you think these refineries are doing the work for? They are doing the work for the thousands and thousands of sugar producers in this country that if the refineries close, they are not going to have any place to refine their sugar, and they are going to be out of business. It does not only affect three companies. It affects thousands and thousands of small farmers in America that if they do not have the refinery, they go out of business.

Now, I would suggest that there is some in this city who would like to see that happen. I would suggest that there are some in the Department of Agriculture who would like to see sugar production in this country cease and desist and go out of business.

My senior colleague from Louisiana has pointed out in a statement from Clayton Yeutter, the Special Trade Representative, that suggests that he would like to see no domestic sugar industry, that we should import it all.

We see what happens when we import just a portion of those types of products, like in energy with regard to oil.

So, Mr. President, I would say it is very simple. We are merely allowing companies that pay an import duty on something that they refine here and reexport out to get back a portion of the duty that they paid. They can never get a penny more. They can never get a nickel more. If they cannot prove they exported it and that product was exported in that amount, they could never make the claim for Customs.

There should be absolutely no suggestion of any problems with regard to this program.

So I would say to all my colleagues who are concerned about agricultural programs and all my colleagues who are trying to maximize agricultural exports, and if we accept the Chafee amendment, it is the foot in the door toward any kind of export assistance for agricultural products in America.

We need to stand together on this issue because if they get their foot in the door on this one, every other product will be a potential target using the same type of analogy.

I suggest that when the motion to table the Chafee amendment comes up we give it very strong support

I reserve any remainder of my 8 minutes that I might have.

Mr. CHAFEE. Mr. President, I just want to make a couple corrections, if I might. I do not think anybody in their wildest dreams believes that the United States is in a position to export sugar. The high price supports that we have on sugar make it completely uncontradictory that sugar from the United States and American grown will ever be exported.

I have a couple other corrections that I might make to the distinguished senior Senator from Louisiana who inadvertently made a couple mistakes. First of all, he stated that this has no budgetary effect. The CBO scores this as costing $50 million a year. For 4 years, that is $200 million. And, of course, that could all be in 1 year under the way the bill is currently written. There is nothing in the bill that says they can only draw it back over 4 years.

Second, it is portrayed as a refund of money on deposit as if there is some kind of an escrow account there in the Treasury. That is not accurate. There is no escrow account. There is no more of an escrow account than when income taxes are paid by each of us as citizens. It goes into the General Treasury. When it comes out, it has to come out of the General Treasury. It is not set aside in some little fund. And when the rules are changed as I proposed, under the legislation that we are trying to correct here, and that changes the current law—the current law permits you to go back 5 years—the proposal is that they go back 10 years and be permitted to go back 14 years by the year 1991. So that is changing the rules and that is subsidy. They are getting something out of the General Treasury.

Now there is something odd, Mr. President, about this whole bill. There is something very strange. Why did not these sugar companies apply for the refund when they could have. They are not the kind, they are not the benevolent corporations that just leave $200 million there. I am confident that what happened was they imported the sugar, paid a tariff on it, a price on it, a tariff, and sold that sugar in the domestic market, sold it to Hershey or whoever it might be. Now, that is possible under the CBI, the Caribbean Basin Initiative, to bring in sugar free of tariffs. They will bring in that sugar free of tariffs, have an exporter, refine it and export it, and that will count toward their export total. And they then will be able to go back and collect that tariff that they deposited in from the years 1970 to 1982.

There is no direct tie between the sugar that you pay the tariff on the sugar that you export. It does not have to be the same sugar. You do not have to follow it.

So this proposal, I am sure, has it worked out so this duty-free sugar comes in, is refined and exported, and then they will go back and get these tariffs where they paid where they already made a profit on it. It is the classic double-dipping if there ever was.

I yield 2 minutes to the distinguished Senator from Vermont.

I have how much time remaining, Mr. President?

The PRESIDING OFFICER. The Senator has 11 minutes remaining.

Mr. STAFFORD. Mr. President, I am supporting an amendment to strike out section 897 of S. 1420. This provision would establish special export subsidies to a few U.S. sugar refiners at a great cost to the U.S. Treasury and in contravention of our international obligations under GATT.

Under current law, an exporter of a product may obtain a refund of any import duty or fees previously paid on that item or a similar item so long as the export occurs within 5 years of the original import. This 5-year limitation applies across the board to all products.

Section 897—the sugar drawback provision—would establish special rules for drawback claims on cane-sugar exports. These special rules would extend the current 5-year limitation back to 1977 and forward to 1991 for a total of 14 years, nearly triple the period available under current law. In other words, under this provision drawback claims could be made in 1991 based on import duties paid as long ago as 1977. As I mentioned, this provision applies only to cane sugar, not beet sugar.

There are three major problems with the sugar drawback provision. First, it would provide export subsidies proscribed by the General Agreement on Tariffs and Trade [GATT]. The GATT subsidies code—which was agreed to by the United States and approved by this Congress—specifically lists this type of extended period for drawback claims as a proscribed export subsidy. Because this provision is a clear GATT violation, it could result in retaliation by our trading partners against other U.S. exports. Mr. President, this mammoth trade bill we are debating has many provisions designed to augment the GATT system. It would be both ironic and inappropriate to include in the same bill this sugar drawback provision which clearly would violate our international obligations under the GATT.

The second problem with this bill is that it would permit hundreds of millions of dollars to be removed from the Treasury to benefit a few U.S. cane-sugar refiners. Based on documents submitted by the domestic industry, it is estimated that this bill will cost $365 million, of which $263 million will go to three companies. I believe this Congress cannot justify to the American people giving over a quarter of a billion dollars to three companies, two of which are Fortune 500 companies. Moreover, although claims could be made on exported sugar through 1991 under this sugar drawback provision, nothing in the provision would prevent immediate claims for millions of dollars. At a time when our deficit is at an all time high and this Congress is struggling to meet the Gramm-Rudman targets for reductions in that deficit, it seems impudent—to say the least—to enact legislation that will permit these huge and unlimited payments of hundreds of dollars in the near future to a few U.S. cane-sugar refiners.

Finally, the administration has stated that the bulk of the claims that would be made under this provision could not be verified by U.S. Customs to ensure against false claims because Customs' records for the years 1977 to 1979 have already been destroyed pursuant to normal document destruction procedures. This is a particular concern in this case because Customs has recently discovered what appear to be substanial fraud under the current sugar drawback system. Moreover, U.S. Customs has many other priorities—such as stopping illegal drug smuggling—on which it should be spending its scarce resources rather than administering this subsidy program.

I realize that the proponents of this provision believe U.S. refiners need Government assistance to alleviate their problems. But this proposed remedy is too problematic and should not be enacted. I urge my colleagues to vote in favor of this amendment to strike section 897. Thank you, Mr. President.

I yield back whatever time I have remaining to the manager of the bill.

The PRESIDING OFFICER. The Senator from Rhode Island has 9 minutes remaining and the Senator from Louisiana has 13 minutes remainig.

Mr. JOHNSTON. Mr. President, I see the Senator from New York and the Senator from Maryland on the floor. Does the Senator from New York wish time?

Mr. MOYNIHAN. My friend from Maryland has risen. I am happy to yield to her.

Ms. MIKULSKI. I thank the Senator from New York.

Mr. JOHNSTON. Mr. President, I yield 5 minutes to the distinguished Senator from Maryland.

Ms. MIKULSKI. I thank the Senator from Louisiana for yielding 5 minutes.

Mr. President, I rise in opposition to the proposed amendment which would strike the current sugar drawback provisions in S. 1420. I do it because the Domino sugar bag which I have sitting in my office was manufactured in my own State. Here today, but it might be gone tomorrow. To Marylanders, we have the Domino sugar sign standing in the Baltimore harbor. For the last few months it has served as a picturesque backdrop to the Baltimore harbor for the movie "Tin Men." But behind the logo is 650 jobs just in the Baltimore community—jobs that could go down the drain if this amendment passes.

But it is not only the 650 constituents of my State that I am worried about. I am concerned about the future of America's sugar refining industry as a whole. America has already lost 7,000 jobs and 8 of 22 refineries because refiners have too little sugar to refine. Now, with the proposal to deny the refiners access to Customs drawback, we are in danger of losing even more jobs and perhaps the whole domestic refining industry.

We hear a lot about high tech, but you know we have to pay attention to low tech—those ordinary jobs that provide America's industrial infrastructure. That is what the sugar refining industry does—making products by Americans to be consumed by Americans or exported.

The sugar drawback provisions in this bill will allow U.S. sugar refiners a rebate on the duty they paid on sugar they have imported into the United States, refined in U.S. plants and then exported for sale on the world market.

Without this drawback provision, U.S. sugar refiners will not be able to afford to import sugar and refine it in the United States. This means that we will have less work port cities like Baltimore, New York, New Orleans. This will also further damage an already depressed maritime industry having a negative multiplier effect in our community. If we lost it, it will mean that we will lose more jobs.

Finally, this amendment has foreign policy implications. It will hurt American allies like the Philippines who are struggling to achieve democracy in the Pacific rim. The Philippines has already been damaged by their lack of access to United States refiners as a result of U.S. agricultural policy.

The drawback provision in S. 1420 still guarantees U.S. sugar growers their market in the United States, while at the same time allowing U.S. refiners to export business for the foreign markets.

It is a sensible, cost-effective provision that opens up our refineries to international commerce while not reducing the U.S. market for U.S. producers.

If we pass this amendment, we may force refineries to close in coastal cities throughout the country. Not only will this hurt the refiners, but it will also hurt the U.S. sugar growers who have no place to go to have their products refined.

So, Mr. President, I urge the defeat of this amendment, because it is bad national policy, it is bad economic policy, it is bad foreign policy, and it is bad policy for plain, ordinary Americans.

I yield back such time as I might not have consumed.

The PRESIDING OFFICER. Who yields time?

Mr. JOHNSTON. Mr. President, I yield 5 minutes to the distinguished Senator from New York.

The PRESIDING OFFICER. The Senator from New York is recognized for 5 minutes.

(Mr. DASCHLE assumed the chair.)

Mr. MOYNIHAN. I thank my friend from Louisiana.

Mr. President, I rise not to use the whole of 5 minutes in defense of a matter which seems to me to be self-evident in the interest of the Nation and in the interest of foreign relations with countries such as those the distinguished Senator from Maryland has just been speaking about, in the interest of a specific sector of the economy, and finally in the interest of equity in the aftermath of changes that have been made to the economy by public policy.

I should first, Mr. President, state that I am the author of this amendment as introduced in the Committee of Finance in our consideration of the trade bill. It is a parallel provision to one that exists in H.R. 3 which has already been adopted of course in the House of Representatives. The amendment was approved in the Finance Committee by a 2-to-1 vote, 12-to-7 vote, and I think comes to the floor with that margin of support at the very least.

Mr. President, I would like to make the following point. The first is simply to say that we are dealing here with the aftermath of other measures this Government has taken on behalf of other sectors of the economy. This is the pattern that invariably follows protectionist measures and you can chase yourself around a long way before you finally even things out. But the essential fact is that the European Community began subsidizing the export of their sugar, sugar beet, obviously. The exports were something fierce. There was an internal price of 28 cents a pound in the EC, or EEC, if you like. The world price was 9 cents. So to get any out, there was a 19-cent subsidy, a subsidy of more than twice the world price. That began to produce pressure on imports to this country.

We, in turn, put up quotas on imports into this country. In 1981 we were taking in 5 million tons a year of raw sugar. We have dropped our imports to 1 million tons, in 1987. In establishing these quotas we protected a segment of American agriculture. But, we immediately impacted other American industry—ranging from the shipping that the Senator from Maryland has mentioned, to the refineries. These are refineries up and down the coast of the country. The Senator form New York, my friend Mr. D'AMATO, has mentioned in our city of New York, a port city, there are two major refineries.

The refiners have been able to keep in operation, in the face of the quotas we have imposed on imports, by bringing sugar in, refining it and reexporting it.

This is a common practice in various kinds of processing manufactures in the world, and it is an equally common and commonsensical practice, if you charge tariffs on the product coming in, the raw product, to rebate those tariffs when the finished product is exported.

It is GATT legal, Mr. President. With 25 years of experience negotiating GATT, in one way or another, and 11 years for me in the Finance Committee dealing with trade measures, I say to you this is GATT legal. No, we do not get involved in any problems with our trading partners.

If we pass this measure, we keep 10 percent of the capacity of American refineries in use. Take that 10 percent away and you will take away many of those refiners.

They did no harm to anyone. They have been simply there, refining sugar for a century or more. Let them continue to do so with American jobs and paying American taxes in a perfectly legitimate trade.

Thank you, Mr. President.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. JOHNSTON. I yield 2 minutes to the Senator from Colorado.

Mr. WIRTH. As a Senator from a sugar beet-producing State, wanted to clarify the record with respect to the concerns of the sugar beet industry.

We have had, as the chairman knows, a long history of sugar beet production in the State of Colorado. We had some very significant problems with the closing of the Great Western Sugar Co. recently, but they reopened in terms of Western sugar and we have now resumed in eastern Colorado the production of sugar beets, a very welcome event.

The sugar beet industry is not opposed to the provision, the drawback legislation drafted by the Senator from Louisiana. I can speak on behalf of the Western Sugar Co., the replacement for Great Western and Holly Sugar, both of whom have let us know that they are not opposed to the drawback legislation.

I thought that that was important for those of us who represent sugar beet production areas, just to make sure that the records showed that the industry is not opposed to the drawback legislation and I thank the Senator for yielding.

The PRESIDING OFFICER. The Senator's time has expired. The Senator from Rhode Island?

Mr. CHAFEE. Mr. President, how much time does the other side have?

The PRESIDING OFFICER. The Senator from Rhode Island has 8 minutes and 50 seconds. The Senator from Louisiana has 2 minutes.

Mr. CHAFEE. I yield 4 minutes to the Senator from Montana.

The PRESIDING OFFICER. The Senator is recognized.

Mr. MELCHER. Mr. President, under the sugar program these drawbacks would have expired, but as it stands in the bill not they would be extended—and but for the amendment of the Senator from Rhode Island that extension will take effect—the problem comes in leaving the bill as it is and not adopting Senator CHAFEE's amendment, because we cannot get around the fact that the Government records going back the last 8 years are intact, but they are not intact longer than that 8 years.

Because of a provision for only keeping records on imports that affect this raw cane sugar for just 8 years they are gone. To have the Finance Committee recommend it, and then Congress adopt it, just ignores the fact that—where are those records? Amstar and the other sugar refiners that are involved can properly state: Well, they will supply their records. That will be the evidence and that will be the proof. As I say, they cannot get the drawback unless the Government approves it.

Well, that is the sticker right there. The Government is going to have a hard time.

The sugar program may seem complicated to most persons, but I can vouch for it, that overall it is a good program. It can be justified. But this provision, this section 897 in the bill, I find I have a hard time justifying and cannot support it.

Mr. President, I think we can find a way to meet the needs of these refineries but I do not believe it should be done this way. I do not believe that we should leave $300 million worth of drawbacks just dangling out there with the instruction of section 897 to receive the application from the refiners even though the records of the Government are now incomplete and pay out the drawback.

So, I believe the section should be stricken and the Chafee amendment supported, and I believe that very seriously because I do believe in the sugar program and I do believe that that can be justified. I want to keep it functioning.

I want to keep it available. But I want it to be done in a manner that everything can be verified.

This section of the bill, 897, is drawn in such a way that it will make it extremely difficult for the Government, for the U.S. Government, to verify the drawbacks and pay out the money.

The long and short of it is that I feel we must strike it and must support Senator CHAFEE in his efforts and I advise my colleagues to do likewise—particularly those who understand what the sugar program is for and why we need it and why we must keep it intact.

The PRESIDING OFFICER. The Senator's time has expired. Who yields time?

Mr. CHAFEE. I yield myself 3 minutes.

Mr. President, I want to thank the distinguished Senator from Montana for those excellent remarks.

First, as regards Ambassador Yeutter and the quote, I have a note here that Ambassador Yeutter has just been spoken to. He advises the story in the Journal of Economics was written by a stringer reporter who as far as he knows was not in the room during the Yeutter press conference in Kingston, Jamaica, where Ambassador Yeutter and a congressional delegation were making a CBI tour. The Ambassador says that was pure unadulterated poppycock, written by a reporter who concocted it out of thin air. So that takes care of that.

I would like to make a correction on the suggestion here that this has some effect on the Philippines and foreign policy. That is completely erroneous.

The problems that the sugar exporting nations abroad, the Philippines or wherever it might be, have, are not related to this drawback. It is related to the sugar quotas and the sugar program, which is entirely a separate matter. That has nothing whatsoever to do with what we are discussing today. Nothing whatsoever that we are discussing has anything to do with foreign policy.

I would like to suggest that the distinguished senior Senator from Louisiana as he listed off the folks in his State that might possibly lose their jobs if refiners did not keep going—what he seeks is a jobs bill. I do not think he really wants the Treasury of the United States to write a check for $245 million to—for $135 million to one of the largest corporations in America. Amstar, 245th largest corporation, is going to get a check, a check they are not entitled to.

There is no reason in the world. There is something odd about all this.

Why are they coming back? Why did not they make their drawbacks when they were entitled to them? They would not have left that money lying there, fallow. They would have gone after it and as I say it is clear that there is a double dip here. They took that sugar that they paid the import duties on and sold it at a profit in the United States.

There is more sugar—every bit of sugar that is imported is not exported and that was part of it. They imported it, paid the tariff and sold it in the United States.

Now they are going to bring in duty-free sugar from the CBI, from the Caribbean Basin Initiative countries, which is duty free under the law we passed.

They are going to then refine it and export it and go back and collect the duties that they have already had a profit on before, and we are going to write the check for that. I reserve the remainder of my time. How much time have I remaining?

The PRESIDING OFFICER. The Senator has 1 minute remaining. The Senator from Louisiana has 2 minutes.

Mr. JOHNSON. Mr. President, let me repeat and very briefly sum up. This is an extension of an existing program, the outlays for which do not increase. It is level outlays for what it has been. This has been an ongoing program since 1930. It is not a protectionist measure. It is consistent with GATT.

The three principles, Mr. President: this is a drawback or refund program. If you do not pay in and you are manufacturer or refiner, you do not get out. You cannot have refunded more than you put in. You must prove that you put it in. Indeed, if you prove that you put it in you may get back only 99 percent of that which you put in.

Mr. President, is it a jobs bill? You bet it is a jobs bill, because it preserves that 3 percent of the international market we now have.

I can tell you it is an exportation of jobs amendment if we adopt this amendment. It is very plain and very clear.

I am glad to hear that Clayton Yeutter did not say he wants to abolish the American sugar industry, because, frankly, from his actions I thought it was consistent with what the Journal of Commerce article said. Clearly, this amendment if adopted has that effect in part because you simply shut down the American sugar exportation business.

We cannot compete with the highly subsidized EEC, the European market, which will get all of these American jobs, all of this refining business, unless we continue this existing program.

Mr. President, why under the name of a competitiveness bill we would want to export American jobs, I do not know. I plead with my colleagues to continue this program which has been in effect since the 1930's, allow the money paid in to be refunded to the refiners, if they can export, because it means American jobs. It seems to me that ought to be the first concern of this Senate.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Rhode Island has 1 minute remaining.

Mr. CHAFEE. Mr. President, I am authorized to say that the distinguished Senator from Minnesota, Senator BOSCHWITZ, associates himself with our remarks.

Mr. President, in terms of this legislation, this is one of the most outrageous things to come before this Chamber. What it does is to provide a handout to these big corporations, $135 million to Amstar and $91 million to Savannah. They are not entitled to it under existing law. The existing law said they had their chance and that is over with.

Now they want to go back and get something they are not entitled to. At a time of budgetary crisis in this country, I think it makes no sense whatsoever to ladle out this kind of largess to these big corporations, all of whom had large profits in 1986, I would remind the Chair.

Mr. BRADLEY. Mr. President, I strongly support the amendment of my good friend, the Senator from Rhode Island [Mr. CHAFEE], to strike the sugar drawback provisions. The sugar drawback is a creature of our overall sugar policy. And that policy, to put it bluntly, is a travesty.

This is the second amendment dealing with sugar that was offered on the trade bill. Earlier, Senator LAUTENBERG added an amendment which directed the ITC to study the hemorrhage of imports of bulk chocolate.

Both amendments attempt to prevent further casualties to our protectionist, so-called no-cost, sugar policy. One of the victims of this policy is the domestic sugar refining industry. Our already restrictive quotas have dropped imports from 5 million tons in 1981 to about 1 million tons today. These refiners don't stand a chance. It's no wonder they're out of work, and they'll be even worse off next year.

Who are the other victims? American consumers who pay three times the world price for sugar at a direct cost of $3 to $4 billion a year—$3 to $4 billion. That's real money. It cost a family of four an extra $100 a year. That is a tax on the American family that goes right into the pockets of the producers. Yet the beneficiaries of the sugar quotas will tell you the program doesn't cost a penny.

And what about the candy and chocolate manufacturers who have relocated from New Jersey to Canada. And their employees who have lost their jobs as a result. Tell them the sugar program is costless.

There are other victims, too. In order to preserve huge subsidies for a handful of domestic sugar producers, we have closed our markets to the poorest of the poor. To impoverished workers in the Philippines, El Salvador, Costa Rica, Jamaica, Haiti, Peru, Guatemala, the Dominican Republic and a host of desperate African nations. We say we care about democracy and growth in these nations. But our sugar policy makes liars of us all. It directly contravenes our geopolitical and moral interests in the Third World, and it's time to realize it.

Twenty some years ago, Americans fought for democracy and against communism in the Dominican Republic. Now, our shortsighted sugar policy is pushing that country into Soviet hands as effectively as any revolution. Squeezed out by ever tighter quota limits, the Dominican Republic has signed a 3-year contract to sell sugar directly to the Soviet Union.

And for whom are we taxing the American family and selling out democracy in the Third World. Let me answer that with a quote from a recent editorial in the Wall Street Journal:

> * * * for two small but politically well-connected groups: The 11,400 sugar-beet and sugar-cane growers, and a few firms such as Archer-Daniels-Midland that produce high-fructose corn sweeteners that are competitive only at the subsidy-inflated price of sugar.

Well, Mr. President, it's time to call it quits. I'm even willing to offer these 11,400 growers and Archer-Daniels-Midland a sweet deal. Instead of taxing the American family to the tune of $3 or $4 billion a year—which is what the sugar quotas now cost—I'll settle for taxing them only $600 million a year, less than $5 each. And let me tell you what I'll do with the revenue: I'll pay every one of those growers $50,000 a year to give up the quotas—$50,000 guaranteed income. That's not bad. The median income in the United States is about half that. And I'll be saving the taxpayers as much as $3 billion a year. In fact, here's my $5 right now.

Supporters of this drawback want to keep the sugar refining industry alive. They don't want those jobs to vanish like the 10- or 25-cent candy bar. I also want those jobs to survive. But I'm not willing to support relief which is not sustainable and which costs Americans billions of dollars.

What the refiners need, what the chocolate manufacturers need, what our struggling allies in the Caribbean, Philippines, Africa, and Latin America need, and what the American consumer needs is an end to our offensive sugar policies.

This drawback provision is analogous to offering aspirin to a man you just shot with a machinegun. It's not going to affect the sad outcome. Instead, let's cut off this $3 to $4 billion welfare program designed to support a handful of sugar producers; let's support the American consumer; let's fight unreasonable trade practices through example instead of rhetoric; in short, let's revamp and restructure our sugar program.

Mr. MATSUNAGA. Mr. President, I rise in opposition to the amendment to strike the sugar duty drawback provision in S. 1420. I fully understand the basis for the argument made to strike this provision. However, I believe that the principal proponent of the amendment ignores the fundamental distortion in international sugar trade that for too long has been injurious to the domestic U.S. sugar industry, both growers and refiners. This distortion is the continuing practice of the European Community [EC] to subsidize the production and the export of sugar under its common agricultural policy. The EC has gone from being a net sugar importer in 1975 to the world's largest sugar exporter since 1978. As a result of its extensive production subsidies, the world price of sugar has plummeted from approximately 20 cents per pound in 1981, to 8.5 cents per pound in 1986. While the world sugar price has fallen, EC export refunds in 1986 reached a record high of 19.1 cents a pound. This is 2½ times the price refined sugar could obtain on the open market last year.

Mr. President, it is because of the egregious practices of the European Community that we need this amendment. I do not argue that providing a duty drawback is a right that should be given to any industry with a trading problem. But we should recognize that there comes a point when despite our best efforts at achieving a negotiated solution, we need to defend our industries against unfair foreign trade practices. In this case, a continuation of the status quo could mean the closing of additional domestic refineries, an occurrence which will be injurious to domestic cane growers who depend on a domestic refining capacity for their market.

We have already decided in other areas of agricultural policy, such as the Export Enhancement Program of the Farm Act and in the agricultural provisions of this bill put together by Senator BENTSEN, Senator PRYOR, and Senator DANFORTH, that if need be, the United States will meet foreign agricultural subsidies head-on. I believe that the sugar drawback provision is a smaller scale effort in a similar direction. If the European Community wishes to subsidize the export of its sugar, to the detriment of the sugar industry in the United States and in developing countries then I believe that it is incumbent upon the United States to stand up to such injurious practices until they can be eliminated through bilateral negotiations.

For these reasons, Mr. President, I urge my colleagues to reject the amendment to strike the sugar duty drawback provision in S. 1420.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, I move to table the amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Louisiana to lay on the table amendment No. 597. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. ADAMS], the Senator from Delaware [Mr. BIDEN], the Senator from Connecticut [Mr. DODD], the Senator from Tennessee [Mr. GORE], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I further announce that, if present and voting, the Senator from Washington [Mr. ADAMS] would vote "yea."

Mr. DOLE. I announce that the Senator from Minnesota [Mr. DURENBERGER] and the Senator from Wyoming [Mr. SIMPSON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 44, as follows:

[Rollcall Vote No. 202 Leg.]

YEAS—49

Baucus
Bentsen
Bingaman
Boren
Breaux
Bumpers
Burdick
Byrd
Cochran
Cranston
D'Amato
Daschle
DeConcini
Dixon
Exon
Ford
Garn
Grassley
Harkin
Hatch
Hecht
Heflin
Heinz
Hollings
Inouye
Johnston
Kasten
Lautenberg
Matsunaga
McConnell
Mikulski
Moynihan
Murkowski
Nunn
Pryor
Reid
Riegle
Rockefeller
Sarbanes
Sasser
Shelby
Specter
Stennis
Stevens
Thurmond
Wallop
Warner
Weicker
Wirth

NAYS—44

Armstrong
Bond
Boschwitz
Bradley
Chafee
Chiles
Cohen
Conrad
Danforth
Dole
Domenici
Evans
Fowler
Glenn
Graham
Gramm
Hatfield
Helms
Humphrey
Karnes
Kassebaum
Kennedy
Kerry
Leahy
Levin
Lugar
McCain
McClure
Melcher
Metzenbaum
Mitchell
Nickles
Packwood
Pell
Pressler
Proxmire
Quayle
Roth
Rudman
Sanford
Stafford
Symms
Trible
Wilson

NOT VOTING—7

Adams
Biden
Dodd
Durenberger
Gore
Simon
Simpson

So the motion to lay on the table amendment No. 597 was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Ohio.

AMENDMENT NO. 600

(Purpose: To delay the effective date of the tariff provision regarding certain work gloves)

Mr. GLENN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Ohio [Mr. Glenn] proposes an amendment numbered 600.

Mr. GLENN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 309 of the printed bill, between lines 5 and 6, insert the following:

(d) Certain Work Gloves.—The amendments made by section 806 shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date that is 60 days after the date of enactment of this Act.

Mr. GLENN. Mr. President, I am offering a technical amendment regarding section 806 of the bill which I believe has been cleared by both sides of the Finance Committee. This amendment simply changes the effective date for section 806 from 15 days after enactment to 60 days after enactment.

Section 806 changes the tariff schedules of the United States to clarify the definition of certain work gloves. These work gloves are constructed of textile fabric, rubber, and plastic. The Customs Service has had difficulty in deciding whether the gloves are classified as textile products and thereby subject to higher rates of duty and to quantitative restraints under the multifiber arrangement [MFA]. Section 806, and a similar provision in the House trade bill, explicitly defines these work gloves as articles of textile materials.

The House trade bill has an effective date for this section of 60 days after enactment. Section 806 of the Senate bill is subject to the general effective date for tariff provisions of 15 days after enactment. The 60-day effective date after enactment is necessary in order to allow importers to make the necessary quota arrangements with the exporting country. I have learned from an Ohio glove manufacturer that normal transit time from the exporting countries is approximately 30 days. In addition, it is common that the shipment may be held up by the freight forwarder waiting for a vessel for 2 to 3 weeks. The 15-day effective date could cause hardship, because the goods may be shipped before the quota is required and then arrive after the quota is required; the goods would thus be stopped at the border. Importers cannot begin to make the necessary arrangements because it is uncertain when this bill will be enacted.

Mr. President, I am not objecting to the substantive tariff classification change made by section 806. I just think we should change the effective date of this section so that it can be administered as smoothly as possible.

Mr. President, this is a technical, noncontroversial amendment. It has been cleared by both sides of the Finance Committee, Senator Bentsen and Senator Packwood. It involves extending the time period of section 806 15 days out to 60. It applies particularly to work gloves.

It was agreed to. We just had this time period here. We did not have it set aside, but I agreed we will only take 2 minutes.

I hope the floor managers are willing to accept it.

The PRESIDING OFFICER. The Senator from New York.

Mr. MOYNIHAN. Mr. President, this amendment, which is indeed agreeable to this side, merely extends the period of time in which a noncontroversial provision can take effect.

We urge its adoption.

Mr. PACKWOOD. Mr. President, it has been cleared on this side and we support it.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Ohio.

The amendment (No. 600) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. GLENN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. GLENN. I thank the floor managers of the bill, and I yield the floor.

The PRESIDING OFFICER. Are there further amendments to be proposed?

AMENDMENT NO. 601

(Purpose: To clarify that industrial users of goods involved in investigations under chapter 1 of title III of the Trade Act of 1974 should be included in consultations)

Mr. PACKWOOD. Mr. President, I have an amendment on which there is a 1-minute time limit equally divided. I send it to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Oregon [Mr. Packwood] proposes an amendment numbered 601.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 144 of the printed bill, strike out lines 4 through 10 and insert in lieu thereof the following:

"(2) Consultation.—Before making a determination under paragraph (1), and before making any recommendation under paragraph (4), the Trade Representative, unless expeditious action is required—

"(A) shall provide an opportunity for the presentation of views, including a public hearing if requested by any interested person (including any person who is an industrial user of any goods or services that are involved in the investigation under this chapter or that may be the subject of actions taken under subsection (b)(1)),

Mr. PACKWOOD. Mr. President, this is a very simple amendment which is the 301 provisions will require that the special trade representative include in the definition of "interested parties" those industrial users rather than just those who are participants or petitioners.

It has been cleared on both sides, and I urge its adoption.

Mr. MOYNIHAN. Mr. President, this is indeed a worthy amendment which we support on this side and urge its adoption.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Oregon.

The amendment (No. 601) was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. Who seeks recognition?

AMENDMENT NO. 602

(Purpose: To ensure that no taxpayer's money will be used to fund the international debt management authority)

Mr. GRAMM. Mr. President, I send an amendment to the desk on behalf of myself, Senator Bond, and Senator Lugar.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Texas [Mr. Gramm], for himself, Mr. Bond, and Mr. Lugar, proposes an amendment numbered 602.

Mr. GRAMM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 470, line 4, strike after "This" all through and including page 473, line 26, and insert in lieu thereof the following: "subtitle may be cited as the "International Debt Management Act".

"SEC. 1712. INTERNATIONAL INITIATIVE.

"(a) Directive.—The Secretary of the Treasury shall study the feasibility and advisability of establishing the multilateral financial authority described in this section. If the Secretary of the Treasury determines that initiation of international discussion with regard to such facility would result in (1) material increase in the discount at which sovereign debt is sold, or (2) would materially increase the probability of default on such debt, or (3) would materially enhance the likelihood of debt service failure or disruption, he shall include in his first interim report to the Congress an explanation in detail of the reasons for his determination. Unless such a determination is made, the Secretary of the Treasury shall initiate discussions with such industrialized and developing countries as the Secretary may determine to be appropriate with the intent to negotiate the establishment of a multilateral financial authority, which would undertake to—

"(1) purchase sovereign debt of less developed countries from private creditors at an appropriate discount;

"(2) enter into negotiations with the debtor countries for the purpose of restructuring the debt in order to—

"(A) ease the current debt service burden on the debtor countries; and

"(B) provide additional opportunities for economic growth in both debtor and industrialized countries; and

"(3) assist the creditor banks in the voluntary disposition of their Third World loan portfolio.

"(b) Objectives.—In any discussions initiated under subsection (a), the Secretary should include the following specific proposals:

"(1) That any loan restructuring assistance provided by such an authority to any debtor nation should involve substantial commitments by the debtor to (A) economic policies designed to improve resource utilization and minimize capital flight, and (B) preparation of an economic management plan calculated to provide sustained economic growth and to allow the debtor to meet its restructured debt obligations.

"(2) That support for such an authority should come from industrialized countries, and that greater support should be expected from countries with strong current account surpluses.

"(3) That such an authority should have a clearly defined close working relationship with the International Monetary Fund and the International Bank for Reconstruction and Development, and the various regional development banks.

"(4) That such an authority should be designed to operate as a self-supporting entity, requiring no routine appropriation of resources from any member government, and no funding, appropriations, contributions, callable capital, financial guarantee, or any other financial support or obligation or contingent support or obligation on the part of the United States Government, without the express approval of the Congress through subsequent law, and no costs to or expense by, either directly or indirectly, any United States person without the consent of such person."

"(5) That such an authority should have a defined termination date and a clear proposal for the restoration of creditworthiness to debtor countries within this time-frame.

"(c) Interim Reports.—At the end of the 6-month period beginning on the date of enactment of this Act and 12 months thereafter, the Secretary of the Treasury shall submit a report on the progress being made on the study or in discussions described in subsection (a) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate.

"(d) Final Report.—Upon the conclusion of the study or of discussions described in subsection (a), the Secretary shall transmit a report containing a detailed description thereof to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate, together with such recommendations for legislation which the Secretary may determine to be necessary or appropriate for the establishment of a multilateral financial authority.

"SEC. 1713. ACTIONS TO FACILITATE CREATION OF THE AUTHORITY

"No funds, appropriations, contributions, callable capital, financial guarantee, or any other financial support or obligation or contingent support or obligation on the part of the United States Government may be used for the creation, operation, or support of an international debt management authority described in this Title, without the express approval of the Congress through subsequent law, nor shall any expenses associated with such facility, either directly or indirectly, accrue to any United States person without the consent of such person. Except as restricted in the preceding sentence, the Secretary of the Treasury shall review all potential resources available to the multilateral financial institutions which could be used to support the creation of an international debt management authority. In the course of this review, the Secretary shall direct—

"(1) the United States Executive Director of the International Monetary Fund to determine the amount of, and alternative methods by which, gold stock of the Fund which, subject to action by its Board of Governors, could be pledged as collateral to obtain financing for the activities of the authority described in section 1712; and

"(2) the United States Executive Director to the International Bank for Reconstruction and Development to determine the amount of, and alternative methods by which, liquid assets controlled by such Bank and not currently committed to any loan program which, subject to action by its Board of Governors, could be pledged as collateral for obtaining financing for the activities of the authority described in section 1712.

The Secretary of the Treasury shall include a report on the results of the review in the first report submitted under section 1712(c).".

Mr. GRAMM. Mr. President, this amendment has been worked out on both sides. The amendment has to do with the international debt management provisions of the bill.

As Members will remember, at 1 o'clock in the morning or whenever it was, at a wee hour, we had a 49-to-50 vote on striking House provisions.

We have now worked out a compromise, I am happy to announce, that I think improves the bill. It leaves in the bill the provisions as introduced. It would also instruct the Secretary to study such facility. It leaves all of the legislative language of the Sarbanes proposal, but it imposes two restrictions.

First, it restricts the ability of the Secretary to negotiate any agreement involving taxpayer funding and mandates that the Secretary make it clear during negotiations that whatever facility is set up there will be no U.S. taxpayer funding involved in that facility.

Second, it allows the Secretary of the Treasury in studying such a facility to make a determination as to whether or not such negotiations would, No. 1, increase the discount at which Third World debt trades; No. 2, increase the likelihood of default; or No. 3, disrupt debt service of existing Third World debt.

I think the compromise that is worked out is a good one. It protects the taxpayers. It protects the Secretary of the Treasury by giving him flexibility to examine whether negotiations for such a facility would result in a material increase in the discounting of Third World debt, or a materially increased possibility of fault, or materially increase the likelihood of debt service failure or disruption. In such event, the Secretary must in fact do a study, and justify to the two Banking Committees why he did not enter into negotiations and discussions. That report would be contained in the interim study that is required in the bill. Finally, let me reemphasize that we have in the bill what I perceive to be and believe to be an ironclad protection to assure that none of the taxpayers' funds will be used as part of this procedure and as part of this Third World debt mechanism unless subsequent legislation is enacted into law.

So, I ask my colleagues to support this amendment.

Mr. MOYNIHAN. Mr. President, the distinguished Senator from Wisconsin, the chairman of the Committee on Banking, Housing, and Urban Affairs is on the floor. I would hope we would turn to him and the learned distinguished Senator from Maryland who wishes to say something.

The PRESIDING OFFICER. The Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, this is a matter of modifying an amendment which was in hot dispute and was decided by one vote last Wednesday night with Senator Gramm on one side and Senator Sarbanes and Senator Bradley on the other.

Senator Gramm has worked out what I think is a good compromise amendment of what he argued for the other night.

It is my understanding that Senator Sarbanes, who worked very hard on our committee and is an expert in this area, and Senator Bradley, who is a highly respected expert on this, have agreed this language will be satisfactory.

Therefore, as chairman of the committee I am happy to accept it.

The PRESIDING OFFICER. Does the Senator from New Jersey seek recognition?

Mr. BRADLEY. Mr. President, the compromise as it has been worked out is acceptable to me. We hope that the Secretary will move toward negotiation. If he does not, he is required under this amendment to be extremely detailed in his explanation for why he chose not to and I think that it will be enormously important to take a close look at any such determination.

It is our expectation and our hope that he would move toward negotiation on the creation of a facility and that that facility would be able at least to preempt some of the dangers that lurk out there in the world today connected to international debt. It is our expectation and our hope that savings to the facility from the purchase of discounted loans would be passed along, in the form of lower interest rates, to Third World debtors and this in turn could be the catalyst to generate debtor reforms that would lead to greater growth which could lead to greater purchase of U.S. exports and more U.S. jobs.

We believe that this facility is really the only thing on the horizon that is any different from business as usual. And business as usual has brought us to the brink of what I think could be a catastrophe for the world economy.

So, Mr. President, this is an amendment that makes expressly clear that there are no taxpayers' dollars involved without subsequent congressional approval. I find the amendment acceptable. I would, of course, defer to the distinguished Senator from Maryland who is the leader on this issue in the Senate Banking Committee. It is his language and he will ultimately determine whether it is acceptable.

Mr. SARBANES addressed the Chair.

The PRESIDING OFFICER (Mr. FORD). The Senator from Maryland.

Mr. SARBANES. Mr. President, there has been an effort to try to work out an accommodation on these provisions. Senator GRAMM expressed some concerns the other evening when this matter was considered. At that time, of course, his proposal was to strike the title altogether. The Senate did not accept that.

This amendment seeks to address some of the concerns which he raised the other evening. A number of Senators interested in this issue tried to work something out.

The first part of it is that, if the Secretary determines that initiating discussions will result in certain things happening—material increases in the probability of default or the likelihood of debt service failure or the discount at which sovereign debt is sold, those are material increases—why, then, he will make a determination and report back and explain it in detail to the Congress in the first interim report that is called for in this legislation. It is the view of many of us that these discussions will do just the opposite—they will help us to improve the international debt situation.

Second, there is a provision, some additional language, that no funding appropriations, contributions, callable capital, financial guarantee or other financial support or obligation on the part of the U.S. Government should take place without the express approval of the Congress through subsequent law. It was certainly never the intention to suggest that those kinds of undertakings or commitments could be made without subsequent approval by the Congress. This change makes that clear in two sections of this bill.

Mr. President, I join with my colleagues in regarding the proposal as a constructive resolution of the controversy before us, and join in accepting the amendment.

Mr. BOND addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I rise in support of this amendment. I previously filed amendment No. 551 which sought to promote a compromise on this issue. My distinguished colleague from Texas, with the distinguished Senators from Maryland and New Jersey, has worked out a far better compromise. I will not present my amendment because I believe they have accomplished the purpose very clearly.

This amendment is a fine compromise. It reaffirms the desire of some Members of Congress to see additional work on the International Debt Management Agency.

At the same time, it takes into account the fact that, at present, the Authority's long-term funding mechanisms are totally unclear and, indeed, its effectiveness remains undemonstrated.

The amendment takes these two positions into account. It directs the Treasury Secretary to negotiate the establishment of the Authority unless there is a determination that initiation of such discussions would result:

First, in weakening of values in the existing secondary market for such debt paper or,

Second, in an increase in likelihood of default or disruption in debt service performance.

Mr. President, I find this amendment to be a very solid compromise and worthy of wide-ranging support. It commits the Secretary of the Treasury to study the IDMA concept itself—which has not yet been sufficiently done—and if this study shows no harm to holders of the debt, legally directs the Secretary to initiate negotiations.

The amendment, like the original bill language, requires interim reports, the first one after 6 months, and then annually, on how these studies are proceeding. A final report is also required.

The bill's current language on financing the Authority specifies that "such an Authority should be designed to operate as a self-supporting entity, requiring no routine appropriation of resources from any member government." The amendment simply strengthens this provision.

Except for the foregoing modifications, the amendment is substantively identical to the current bill language. There are no changes in the associated findings, no changes in the IDMA's proposed operations and no change in its objectives. Indeed, in my view, the only change this amendment does make is in putting the horse and cart in their proper positions.

I would take just 1 minute to point out to my colleagues a similar lesson that we learned about 10 years ago when the Nation and the world were faced with the shock of the OPEC oil embargo and we, the United States, at the fourth general meeting of the United Nations Conference on Trade and Development, signed an agreement to join the Common Fund. The purpose of that Common Fund was to finance what was then believed would be broad array of international commodity organizations. It was intended to stabilize prices to the benefit of producer and consumers alike.

The Common Fund was to be capitalized at roughly $500 million, with the United States' share at about 16 percent. However, for very solid substantive reasons, as well as budgetary reasons, the United States never ratified that agreement. And we have not taken the position that we do not intend to ratify it.

However, the fact that we initially negotiated the agreement, signed it, and held out the prospect that we would participate in it has caused us a great deal of grief since that time, as Third World countries have contended that the United States has reneged on an agreement that would significantly assist them. In the views at least of the developing countries, our premature agreement, without thorough study of whether to get into the Common Fund, resulted in the United States once again shooting itself in the foot.

With the compromise language which has been worked out by Senators on both sides today, I believe that we have the opportunity to consider this very important and innovative idea, yet we have built in the necessary flexibility and conditions to assure that we do not make a mistake similar to the one that we made 10 years ago.

I commend the Senators who fashioned the compromise and I urge the adoption of it.

The PRESIDING OFFICER. Is there further debate on the amendment?

The question is on agreeing to the amendment.

The amendment (No. 602) was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 603

(Purpose: To provide a refund of duties on a certain extracorporeal shock wave lithotripter)

Mr. MATSUNAGA. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report.

The bill clerk read as follows:

The Senator from Hawaii [Mr. MATSUNAGA] proposes an amendment numbered 603.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle B of title VIII, add the following:

SEC. . CERTAIN EXTRACORPOREAL SHOCK WAVE LITHOTRIPTER IMPORTED FOR USE IN HAWAII.

Notwithstanding any other provision of law—

(1) the entry, or withdrawal from warehouse, for consumption in October 1986 of any extracorporeal shock wave lithotripter exclusively for use in the State of Hawaii shall be free of duty and, upon a request filed with the appropriate customs officer before the date that is 90 days after the date of enactment of this Act, shall be reliquidated in accordance with the provisions of this section, and

(2) the appropriate refund of any duties paid on such entry or withdrawal shall be made.

Mr. MATSUNAGA. Mr. President, I rise to offer an amendment which would effect a very minor modification to the miscellaneous tariff provisions of the omnibus trade bill as reported by the Senate Finance Committee. The change, although very minor, provide great benefits to the people of Hawaii.

Section 838 of the bill as reported by the Finance Committee allows a retroactive duty suspension for a medical device known as lithotripter, which is a revolutionary device for the nonsurgical treatment of kidney stones by means of shock waves directed from outside the body. The only manufacturer of this device currently approved by the FDA is a German company. Section 838 allows a duty suspension for all lithotripters imported on or before December 31, 1987, and provides that duties paid on previously imported lithotripters may be refunded upon application with the Customs Service. However, section 838 applies only to nonprofit hospitals and research and educational institutions. My amendment would slightly expand the benefit of this duty suspension to cover the case of the Kidney Stone Center of the Pacific in Honolulu, which otherwise would not be eligible for the duty suspension. This center is the only institution in the State of Hawaii which provides lithotripsy services to the people of Hawaii. The Kidney Stone Center is a joint venture between two nonprofit hospitals, Kuakini Medical Center and Queen's Hospital, and one for-profit health institution.

The joint venture was formed partially because of regulatory requirements under the State health planning and development agency certificate of need program, which seeks to avoid duplication of services by limiting the acquisition of high-priced medical equipment within a region. If only one of the hospitals had imported the lithotripter, in all probability it would have led to additional lithotripters being imported, by the others, resulting in little used expensive equipment, increasing health care costs to the people of Hawaii.

Mr. President, it should be noted that although the Kidney Center of the Pacific partnership imported and owned the lithotripter, it is physically located and operated in one of the nonprofit hospitals. Mr. President, I believe the very slight change proposed by my amendment in the miscellaneous tariff section of title VIII of S. 1420 is consistent with the purpose of the duty suspension already in the bill. I therefore move that my amendment to provide for the application of the duty suspension to include the lithotripter imported by the Kidney Center of the Pacific be adopted.

Mr. President, this amendment has been cleared on both sides. It is a very minor amendment which would affect a very minor modification to the miscellaneous tariff provisions of the current omnibus trade bill being considered. Although it is a very minor amendment, it will provide great benefits to Hawaii.

I have discussed this matter with both managers.

I yield the floor to the minority floor manager.

Mr. PACKWOOD. Mr. President, the amendment has been cleared on this side. Initially, it had a slight glitch in it. The Senator from Hawaii has redrafted it and I urge its adoption.

Mr. MOYNIHAN. It has been cleared on this side of the aisle. We urge its adoption.

The **PRESIDING OFFICER.** Do the Senators yield back their time?

Mr. MATSUNAGA. I yield back my time.

Mr. PACKWOOD. I yield back my time.

The **PRESIDING OFFICER.** All time having been yielded back, the question is on agreeing to the amendment.

The amendment (No. 603) was agreed to.

Mr. MATSUNAGA. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 604

(Purpose: To extend the eligibility for trade adjustment assistance to certain workers whose employment was terminated a short time before the time limit)

Mr. PACKWOOD. Mr. President, I send an amendment to the desk on behalf of Senator DOLE and Senator HEINZ and ask it be reported.

The **PRESIDING OFFICER.** The amendment will be stated.

The bill clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD], for Senator DOLE (for himself and Senator HEINZ), proposes an amendment numbered 604).

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Is there objection? Without objection, it is so ordered.

The amendment is as follows:

On page 122 of the printed bill, between lines 11 and 12, insert the following:

(c) WORKERS PRODUCING SURGICAL DEVICES.—Notwithstanding section 223(b) of the Trade Act of 1974 (19 U.S.C. 2273(b)), the certification made under section 223(a) of such Act on August 29, 1986, in response to a petition for trade adjustment assistance filed on April 23, 1986, by a group of workers of a firm that produces cardiopulmonary surgical devices and plastic administration sets shall apply to any worker of such firm whose most recent total or partial separation from such firm occurred on or after March 15, 1985.

On page 122, line 12, strike out "(c)" and insert in lieu thereof "(d)".

On page 122, line 14, strike out "subsection (b)" and insert in lieu thereof "subsection (b) or (c)".

At the end of section 211, add the following new paragraph:

(c) MODIFICATION OF PETITION WHICH RESULTED IN A CERTIFICATION.—The petition TA-W-13654 which resulted in a certification shall be deemed to have expired on August 31, 1987.

Mr. PACKWOOD. Mr. President, this amendment extends the eligibility for trade adjustment assistance to a few workers who did not qualify for the program because they did not meet the specific time limits set forth for the TAA program. This amendment has been cleared on both sides.

Mr. HEINZ. Mr. President, this amendment would simply correct an inequity faced by a handful of older, senior employees of Babcock and Wilcox in Beaver Falls, PA. The B&W plant was covered by a certification which expired over 2 years ago. Unfortunately, the plant died slowly, closing its gate for the last time just this year. Senior employees, who were under contract and had to stay on, thus were not covered when they were finally separated from employment.

I am only talking about a handful of workers who are older, and have spent most of their lives in the mill. By definition, these are the workers who need adjustment assistance the most. Their skills are often outmoded, and because of their age they will have the greatest difficulty in finding a new job.

My amendment would simply extend the B&W petition to cover this small number of workers with the benefits they should be eligible for—job training and assistance.

The cost of the amendment is insignificant. The cost of failing to return skilled workers to productive lives is far higher—it threatens our ability to meet the challenges of the international marketplace. We will not fulfill the goals of this trade bill if we leave behind skilled, effective workers who need assistance to build a new career.

DISPLACED BAXTER-TRAVENOL WORKERS IN HAYS, KS

Mr. DOLE. Mr. President, I am offering an amendment to extend trade adjustment assistance benefits to a large group of workers in Hays, KS, who were displaced in March 1985. The Senate adopted a similar amendment last year on the Labor-HHS appropriations bill. However, this provision was dropped since it was legislating on appropriations and there were objections. This time, the vehicle would seem appropriate and I ask my colleagues to support this amendment again.

This is a desperately needed measure and will work to aid a large number of persons who were affected, but were unable to take part in the Labor Department's Trade Adjustment Assistance Program last year.

The Baxter-Travenol plant in Hays was closed because of import competition from producers in Singapore. One hundred seventy five of these workers who would have been eligible for this type of assistance were denied benefits because they missed the cutoff date by only a few days. At that time I argued that the concept of limiting the eligibility of this trade adjustment assistance remained intact because the entire plant layoff and closing situation was due to one continuing event: the import competition problem from Singapore.

Now it is 1987. The city of Hays had made many good faith efforts to find a purchaser for the facility and time is running out on the lease Baxter-Travenol has to maintain the building. The time is appropriate to consider the negative effects of unfair competition on a small community like Hays, KS. I would urge my colleagues to adopt this amendment to assist these displaced workers who have been treated inequitably.

I ask unanimous consent a copy of the background information from my previous statement be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AMENDMENT NO. 2792

(Purpose: To extend the eligibility for Trade Adjustment Assistance to certain workers whose employment was terminated a short time before the time limit)

Mr. DOLE. I send an amendment to the desk and ask for its immediate consideration.

I ask unanimous consent the committee amendments be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Kansas [Mr. DOLE] proposes an amendment numbered 2792.

Mr. DOLE. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following:

SEC. . Notwithstanding section 223(b) of the Trade Act of 1974 (19 U.S.C. 2273(b)), the certification made under section 223(a) of such Act on August 29, 1986, in response to a petition for trade adjustment assistance filed on April 23, 1986, by a group of workers of a firm that produces cardiopulmonary surgical devices and plastic administration sets shall apply to any worker of such firm whose last total or partial separation from such firm occurred on or after March 15, 1985.

Mr. DOLE. Mr. President, I am offering an amendment to extend Trade Adjustment Assistance [TAA] benefits to a large group of workers in my State who only just missed the time limit on benefits due to a late application.

In March 1985, 100 workers were laid off by a manufacturing plant in Kansas that had announced its decision to completely close down the facility over a period of some months. This plant is located in a small town that lies in the midst of a struggling agriculture and oil economy. There were few jobs to go around for these workers and many were forced to accept unemployment checks as a replacement income for themselves and their families.

About 1 month after those 100 workers lost their jobs, 75 more were laid off on April 19. The layoffs continued in a phasedown of plant operations until the last person walked out the door in December 1985, leaving more than 600 jobless. The State responded with a Dislocated Workers Program in which a majority of former employees participated, seeking new skills and a chance at other employment.

Given the depressed economy that prevailed in this farming community, the Dislocated Workers Program came and went and, still, many were without hope of future employment. A local group of former employees became active in seeking out other means of assistance and seized upon the Trade Adjustment Assistance Program as one more hope for hanging on. They filed a petition with the Department of Labor on April 23, 1986. After 6 months of anxious waiting, that application was approved only days ago.

Unfortunately, those first two groups of employees have been excluded from receiving these benefits—and many of them still need help. The law restricts the reach of TAA to exclude those employees whose employment was terminated more than 1 year before the filing of a petition. The petition was filed on April 23, 1986, so those employees who were laid off only 39 days before—and some who were laid off only 4 days before—the April 23, 1985 cutoff date are out of luck.

I certainly support the concept of limiting TAA eligibility. We cannot offer assistance to employees going back indefinitely. But, in this case, I think it is important that an exception be made. The cause of the plant closing—import competition from producers in Singapore—resulted in a series of layoffs, beginning March 15, 1985. The cutoff date we are dealing with is April 23.

We are not reaching back very far to encompass all affected employees and I would not advocate doing that if it were some distant date that unduly extended the benefit period. We are talking about 39 days to help a good number of people.

This body should be able to make exceptions in such cases as these. We have the authority and, I think, the responsibility, to see that the programs we have established are responsive and fair.

One note of irony that I might mention in this case: One woman who was instrumental from the beginning in seeing this successful petition for TAA to its fruition happened to be in one of these first groups of employees to be laid off. Therefore, she is not eligible.

I hope the Senate can support this amendment.

I understand there is no objection to this amendmemt.

Mr. METZENBAUM. Will the Senator yield for a question?

Mr. DOLE. Yes.

Mr. METZENBAUM. I have generally supported trade adjustment assistance being extended whenever possible. I am concerned about the cost of this amendment. Can the Senator tell me how the costs will be covered?

Mr. DOLE. As I understand, there is no additional cost.

Mr. METZENBAUM. If there is not any cost, where will the money come from? You pay out money to unemployed workers.

Mr. DOLE. It comes from the Kansas allocation, I am advised.

Mr. METZENBAUM. For what group of employees is this trade adjustment assistance being extended, what classification?

Mr. DOLE. Travenol Laboratories had a plant in a small town called Hays, KS, which employed about 600 or 700 people. They closed it with very little notice, I might add, and it resulted in 600 or 700 people losing their jobs. In March 1985, 100 workers were laid off by this plant after announcing they were going to close down over a period of time and then they started laying off 100 and 75 and they were all finally gone, but as I understand—I can double-check—there is no additional cost.

What happened, they filed a petition with the Department of Labor on April 23, 1986. After 6 months of anxiously waiting, the application was approved only days ago. Unfortunately, the first two groups that were laid off, the 100 and then the 75, were excluded from receiving benefits and many of them still need help.

The law restricts the reach of trade adjustment assistance to exclude those employees whose employment was terminated more than 1 year before the filing of the petition. The petition was filed on April 23, 1986, so those employees laid off only 39 days before—and some were laid off only 4 days before the April 23, 1985 cutoff date were just out of luck.

Mr. METZENBAUM. I would say to my colleague from Kansas I think it is fraught with some danger to start making trade adjustment assistance retroactive. I do not intend to stand in the way of his going forward with the amendment, but I think that once we start down that road I am not sure where we will finish. I hope that the matter is not precedent setting.

Mr. WEICKER. Mr. President, the amendment has been cleared both with the majority and minority sides and I urge its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2792) was agreed to.

Mr. WEICKER. Mr. President. I move to reconsider the vote by which the amendment was agreed to.

Mr. DOLE. I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. I thank the Senator from Ohio.

Mr. MOYNIHAN. The amendment is acceptable to this side, Mr. President.

The PRESIDING OFFICER. All time is yielded back. If there be no further debate, the question is on agreeing to the amendment of the Senator from Kansas.

The amendment (No. 604) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 605

Mr. PACKWOOD. Mr. President, I have another amendment I send to the desk and ask it be reported.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Oregon [Mr. PACKWOOD], for Mr. GRASSLEY for himself and Mr. LAUTENBERG, proposes an amendment numbered 605.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in Title VIII, add the following: That each of the following items of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "12/31/87" and inserting "12/31/90":

(1) Item 907.19 (relating to sulfathiazole).

(2) Item 907.33 (relating to acetylsulfaguanidine).

(3) Item 907.36 (relating to sulfamethazine).

(4) Item 907.37 (relating to sulfaguanidine).

(5) Item 907.38 (relating to sulfaquinoxaline and sulfanilamide).

(6) Item 907.79 (relating to iron-dextron complex).

Mr. PACKWOOD. This amendment extends the existing suspensions on certain chemicals until January 1, 1991. It has been agreed to on both sides.

The PRESIDING OFFICER. The Senator from New York is recognized.

Mr. MOYNIHAN. Mr. President, this amendment has been agreed to on this side. I move its adopton.

The PRESIDING OFFICER. Is all time yielded back?

Mr. PACKWOOD. I yield whatever time I have.

The PRESIDING OFFICER. All time has been yielded back. If there be no further debate, the question is on agreeing to the amendment of the Senator from Iowa.

The amendment (No. 605) was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MOYNIHAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MOYNIHAN. Mr. President, I have an amendment which I would offer on behalf of the Senator from Florida [Mr. CHILES], and which I believe to be supported on both sides of the aisle. It makes changes in the trade data bank information system through which we basically understand what is the nature of the international marketplace and the role the United States plays in it.

The trade data bank will allow our businesses to know the market they confront in a timely fashion and the object of this amendment is to increase the number of businesses which will have access to that information.

The PRESIDING OFFICER. Will the Senator send the amendment to the desk?

AMENDMENT NO. 606

(Purpose: To provide that the Trade Data Bank facilitate dissemination of information through nonprofit organizations)

Mr. MOYNIHAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from New York [Mr. MOYNIHAN], for Mr. CHILES, proposes an amendment numbered 606.

Mr. MOYNIHAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 870, line 24, strike out "and".

On page 871, line 3, strike out the period and insert in lieu thereof a semicolon and "and".

On page 871, lines 3 and 4, insert the following:

(4) facilitate dissemination of information through nonprofit organizations with significant outreach programs which complement the regional outreach programs of the foreign commercial services.

Mr. CHILES. The amendment I am offering today will facilitate the dissemination of trade data bank information through nonprofit organizations with significant outreach programs.

I understand this amendment has been cleared with staff on both sides.

Technology advances have brought us to a point where we can receive information about events from all over the world as they happen. This has greatly expanded the international marketplace. It has also placed a premium on learning and acting quickly on market opportunities.

The trade data bank will allow our businesses to know the market they confront in a timely fashion. My amendment should increase the number of businesses with access to this knowledge.

Several nonprofit groups already maintain sophisticated networks for distributing information among international businessmen. This amendment will allow us to take advantage of the networks these groups have set up.

Mr. PACKWOOD. The amendment has been cleared on this side. I urge its adoption.

The PRESIDING OFFICER. All time has been yielded back. If there be no further debate, the question is on agreeing to the amendment of the Senator from Florida.

The amendment (No. 606) was agreed to.

Mr. MOYNIHAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 607

(Purpose: To assist the Department of Commerce Export Promotion Program)

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Missouri [Mr. BOND] proposes an amendment numbered 607.

Mr. BOND. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill, add the following new section:

SEC. 1206. PRINTING AT OVERSEAS LOCATIONS.

(a) PRINTING IN CONJUNCTION WITH EXPORT PROMOTION PROGRAMS.—Section 201 of the Export Administration Amendments

Act of 1985 (15 U.S.C. 4051) is amended by adding at the end the following:

"(e) PRINTING OUTSIDE THE UNITED STATES.—(1) Notwithstanding the provisions of Section 501 of Title 44 United States Code, and consistent with other applicable law, in carrying out any export promotion program, the Secretary of Commerce may authorize—

"(A) the printing, distribution, and sale of documents outside the contiguous United States, if the Secretary finds that the implementation of such export promotion program would be more efficient, and provided that such documents will be distributed primarily and sold exclusively outside the United States; and

"(B) the acceptance of private notices and advertisements in connection with the printing and distribution of such documents.

(2) Any fees received by the Secretary pursuant with paragraph (1) shall be deposited in a separate account or accounts which may be used to defray directly the costs incurred in conducting activities authorized by paragraph (1) or to repay or make advances to appropriations or other funds available for such activities."

Mr. BOND. This amendment is not controversial. I believe we have now cleared it on both sides and I appreciate the assistance.

Its purpose is simply to codify the yearly waiver that we have given to the Commerce Department in the past, allowing them to print publications overseas when the publications are to be used in foreign countries.

Under current law the Government Printing Office is required to print all Government documents unless a specific waiver has been granted.

The United States and foreign commercial service has been given the yearly waiver as we recognize the impracticality of printing brochures and newsletters in the United States and then mailing them overseas.

This amendment would simply make that waiver permanent under certain conditions spelled out and would also allow each of Commerce's overseas posts to accept advertising in their overseas publications. The revenues from the ads would then be available to posts for additional publishing activities. These provisions are in the House bill and are entered into the Commerce Department as well.

Under current law the Government Printing Office is required to print all Government documents unless a specific waiver is granted. The United States and foreign commercial service has been given this yearly waiver as we have recognized the impracticality of printing brochures and newsletters in the United States and then mailing them to an overseas site.

Commerce has operated under a waiver with respect to documents such as brochures, newsletters and the like which are typically prepared in connection with trade promotional events.

My amendment would make this waiver permanent, and would also allow each of Commerce's overseas posts to accept advertising in their overseas publications. The revenues from the ads would then be available to that post for additional publishing activities.

Not only will advertising fill a clear need—since the commerce brochures and other publications are a valuable medium for communications in connection with planned trade promotional events—but retention of the proceeds will enable commerce, United States and FCS, to make better use of its resources while actually upgrading its promotional activities through increased publications. The Department now has the authority legally to accept advertising and use the proceeds for programmatic purposes, however, I believe Commerce would benefit from a clarification of this authority.

These provisions are in the House bill, and are supported by the Commerce Department as well.

The PRESIDING OFFICER. The Senator from Wisconsin?

Mr. PROXMIRE. Mr. President, may I ask the sponsor of the amendment, Senator BOND if this printing would be simply printing that would otherwise be done by the Government Printing Office?

Mr. BOND. In the past, I can tell my good friend from Wisconsin, there has been a waiver given because the Joint Committee on Printing, as I understand, has routinely—has regularly granted waivers because of the difficulty of having the printing done by the Government Printing Office here and sending it abroad.

Mr. PROXMIRE. The reason the Senator from Wisconsin raises that point is before I came to the Senate I was a printer. The business that I was a 50-percent owner in was a printing business. I am sure the printers would be very concerned about our losing business to firms abroad because, like everybody else they would like to get their own business.

The Senator is telling me we are not talking about general printing, we are talking about a very specific limited amount of printing that is being done by the Government Printing Office and not by private printers; is that correct?

Mr. BOND. That is correct.

Mr. PROXMIRE. In section B, it reads, "the acceptance of private notices and advertisements in connection with the printing and distribution of such documents."

What private notices and advertisements are adverted to?

Mr. BOND. These are notices that could be published, be included by business or others who seek to provide information in the export promotion materials that are distributed by our hosts abroad in connection with trade shows and other foreign missions. They have provided information and also have been able to generate revenues by including notices from businesses, American businesses, or others who wish to reach that same audience.

Mr. PROXMIRE. The amendment provides that if the Secretary finds the implementation of such export promotion program would be more efficient and provided such documents would be distributed primarily and sold exclusively outside the United States—that is a good reservation and I am happy to support the amendment and accept it.

Mr. BOND. I thank the Senator.

The PRESIDING OFFICER. Is there further debate?

The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I understand the objectionable features of the amendment have been removed and we raise no objections.

Mr. BOND. I thank the Senator.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. The amendment is cleared on this side.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Missouri.

The amendment (No. 607) was agreed to.

Mr. BOND. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 608

(Purpose: To provide for the U.S. Trade Representative to investigate and report to the Congress with respect to formal and informal barriers which auto producing countries have established toward automobile imports and the impact of such barriers on diverting imports into the United States)

Mr. LEVIN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN] proposes an amendment numbered 608.

Mr. LEVIN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle D of title IX insert the following new section:

"SEC. ( ). INVESTIGATION AND REPORT OF TRADE BARRIERS ESTABLISHED BY AUTO PRODUCING COUNTRIES TO AUTO IMPORTS AND THE IMPACT ON THE U.S. MARKET.

The United States Trade Representative shall investigate and report to the Congress with respect to formal and informal barriers which auto producing countries have established toward automobile imports and the impact of such barriers on diverting automobile imports into the United States. Such report shall consider the impact on automobile imports into the United States of such barriers in the presence and in the absence of voluntary restraint agreements between the United States and Japan."

Mr. LEVIN. Mr. President, this amendment calls for the U.S. Trade Representative to investigate and report to Congress on the formal and informal barriers which auto producing countries have established to limit auto imports, and the impact of these barriers on diverting auto imports into the United States. The report will consider the impact of these barriers on auto imports into the United States both with and without the current voluntary restraint agreement between the United States and Japan.

Mr. President, every auto producing country in the world restricts auto imports through content laws, restraint agreements, tariffs, and other nontariff barriers.

It is also a fact that the United States puts virtually no restraint on auto imports. The administration's position on the VRA was expressed quite clearly in a recent letter to a Member of the House:

> Since March 30, 1985, the (VRA) program has been truly voluntary. The Administration has not sought to have them continued. The level at which the Japanese choose to export is entirely up to them.

While we are pursuing an essentially open door policy, what are other auto producers doing? Every major European country limits Japanese auto imports. England and Germany both impose a 10.8-percent tariff, and have restraint agreements limiting Japanese imports to between 10 and 12 percent of their respective markets. Italy imposes a 10.9-percent tariff and restricts Japanese autos to 2,200 annually, which is less than 1 percent of their market. France imposes a 10.8-percent tariff and restricts Japanese autos, through an informal understanding, to less than 3 percent of the market.

Mexico has a 100-percent tariff on passenger cars, a strict import licensing system and local content requirements. South Korea has an 80-percent tariff on autos and a stringent import licensing system. And so on and so on.

I have long been troubled by the disparity between the policies of other auto-producing countries toward auto imports and those of our own country. It is a situation that seems to guarantee that the United States will be the dumping ground for autos produced all over the world. If foreign auto producers can't sell their cars in Europe, can't sell them in Asia, and can't sell them in Latin America, where else will they sell them but in the wide open United States market?

This is an issue that should be studied more deeply. It raises questions to which we ought to have the answers: Is the disparity in auto import policies causing the artifical diversion of imports into the United States? How does the current VRA with Japan affect the amount of diversion? Should our Government seek to negotiate reductions in other countries' barriers so that we will be on a more nearly equal footing with the other auto producers? It is my hope that the study called for by this amendment will provide us with answers to these questions.

In summary, this amendment calls upon the U.S. Trade Representative—it has been cleared on both sides—to report to the Congress on the impact of foreign barriers to auto imports on the U.S. auto industry. It is simply a report by the U.S. Trade Representative. Other countries, other auto-producing countries, every one of them, have barriers to imports which we believe create the diversion of auto imports to the United States. But that is just our belief.

The question is, What does the U.S. Trade Representative find? This is simply a reporting requirement after review by the Trade Representative, and it has been cleared, as I understand it, by both sides.

Mr. PACKWOOD. The amendment has been cleared on this side. I urge its adoption.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. The amendment has been cleared on this side.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment of the Senator from Michigan.

The amendment (No. 608) was agreed to.

Mr. LEVIN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 609

(Purpose: To facilitate U.S. jewelry trade)

Mr. MATSUNAGA. Mr. President, I send an amendment to the desk on behalf of Senator PELL and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

> The Senator from Hawaii [Mr. MATSUNAGA] for Mr. PELL, proposes an amendment numbered 609.

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

At the appropriate place in title XX, add the following new section:

SEC. . It is the Sense of the Congress that the United States should become a party to the Convention on the Control and Marking of Articles of Precious Metals in order to facilitate the efforts of the U.S. jewelry industry in penetrating foreign markets.

Mr. PELL. Mr. President, this amendment expresses the sense of the Congress on a matter of great importance to my State of Rhode Island. That issue is U.S. competitiveness in the international jewelry market.

Since 1985 following a hearing before the Committee on Foreign Relations, I have been trying to interest the administration in the United States becoming a party to a rather obscure but very important international convention. This convention is very important to the jewelry industry of the United States in its efforts to remain competitive in international markets.

U.S. jewelry exports have been in steady decline over the last several years. The Foreign Relations Committee heard testimony to the effect that this decline could in large part be traced to the confusion and difficulty which results when jewelry articles made in the United States, and subject to our own set of regulations pertaining to purity and permissable deviation, are exported to other nations with different and/or more stringent regulations.

In 1972 several European nations, including Great Britain, Switzerland, Sweden, and Norway, signed the Convention on the Control and Marking of Precious Metals. This convention, which entered into effect in 1975, set uniform standards for carat purity and acceptable deviation in all of the signatory nations. This convention has resulted in the lowering of many nontariff barriers to trade in the jewelry and precious metals industries among its signatories. This has put those same industries in the United States at severe disadvantage, and has been a significant cause of the sharp rise in the trade deficit for this sector, which during the period from 1981 to 1984 more than doubled, from $807.2 million to $1.7 billion.

No one in the administration has pointed to any difficulty with U.S. participation, but there appears to be a state of total inertia when it comes to taking steps to explore the possibility of U.S. participation. Therefore, I believe it is time for the Congress to go on record concerning this matter in order to signal the importance of resolving a rather serious problem confronting our jewelry industry—a problem whose solution is readily and simply within easy grasp. I urge my colleagues to support this amendment.

Mr. MATSUNAGA. Mr. President, this amendment expresses the sense of the Congress on a matter of great importance to the Senator from Rhode Island. I understand it has been cleared on both sides of the aisle. There is no objection.

Mr. PACKWOOD. Mr. President, the amendment is acceptable.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 609) was agreed to.

Mr. MATSUNAGA. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. MATSUNAGA. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 611

(Purpose: To clarify the study of source rules for sales of inventory property and to provide additional time to complete the study)

Mr. BAUCUS. Mr. President, I send an amendment to the desk, on behalf of myself and Senator CHAFEE, and ask for its immediate consideration.

The PRESIDING OFFICER. The bill clerk read as follows:

> The Senator from Montana [Mr. BAUCUS] for himself and Mr. CHAFEE proposes an amendment numbered 611.

Mr. BAUCUS. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> At the end of subtitle D of title IX, add the following new section:
>
> SEC. . STUDY OF SOURCE RULES FOR SALES OF INVENTORY.
>
> The Secretary of the Treasury, or his delegate, shall conduct the study of the source rules for sales of inventory property pursuant to section 1211(d) of the Tax Reform Act of 1986 in conjunction with the Secretary of Commerce and the United States Special Trade Representative or their delegates. In order to provide for the requisite interagency consultation, the report date for such study shall be extended 1 year.

EXPORT SOURCE RULE

Mr. BAUCUS. Mr. President, this amendment is designed to improve the formulation of a study, relating to U.S. exports, required under the 1986 Tax Reform Act.

In that act, Congress wisely decided not to change the major tax rules for U.S. exports. In particular, we decided to retain the rule, called the export source rule, under which companies are permitted to treat a portion of their earnings from U.S. exports as foreign source income. This provision is extremely important to most U.S. exporters. The Senate committee report in retaining the provision specifically stated that any change "would create difficulties for U.S. businesses to compete in international commerce. Moreover, the committee recognizes that with substantial trade deficits in the United States, it does not want to impose any obstacles on U.S. businesses that might exacerbate the problems of U.S. competitiveness abroad."

In the final version of the Tax Reform Act, Congress decided that while the export source rule should be retained, a study of the rule should be undertaken to examine its impact "in light of the [Act's] lower tax rates and in light of congressional trade concerns." The act provides that the Secretary of the Treasury or his delegate should submit its study and any recommendations for change to the Committee on Ways and Means and the Committee on Finance no later than September 30, 1987.

Mr. President, this study involves an important element of our trade policy. At a time when we are searching for ways to reduce our trade deficit and to make our Nation more competitive, we must do everything we reasonably can to encourage U.S. exports. Unfortunately, the Tax Reform Act provision mandating the study provides that it be undertaken solely by the Department of Treasury. It is further my understanding that the study is in fact being conducted principally by the tax policy staff within the Treasury Department. While the economists and lawyers on that staff are excellent tax technicians, they may not have the special expertise to judge the broader impact of the export source rule as a matter of U.S. trade policy or as a part of a U.S. competitiveness policy. Thus, to be most useful, the study must be undertaken not only by the Treasury Department, but by other agencies of the executive branch which are expert in trade and competitiveness.

This amendment intended to accomplish this result. It simply requires that the Treasury Department conduct the source rule study in conjunction with the Secretary of Commerce or his delegate and the U.S. Trade Representative or his delegate. Under the amendment, Commerce and U.S. Trade Representative should be full participants in the study, and any recommendations made in the study should be joint recommendations of all three agencies. Because the deadline for the study is fairly soon and because a study undertaken jointly by three agencies inevitably takes longer than a study by one agency, the amendment also delays the date of the study until September 1988, to provide adequate time for consultation among the three agencies.

Mr. President, Congress is just beginning to understand the full relationship between tax policy and our international competitiveness. By assuring a more thorough review of the trade and competitiveness implications of the export source rule, this amendment will contribute to such understanding.

Mr. President, it is my understanding that this amendment has been agreed to on both sides.

Mr. PACKWOOD. Mr. President, the amendment has been agreed to.

The PRESIDING OFFICER. If there be no further debate, the question is on agreeing to the amendment.

The amendment (No. 611) was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

The PRESIDING OFFICER. As a Senator from Kentucky, I ask unanimous consent that the quorum call be rescinded so the Senate may recognize the visit to the Senate of Senators from France.

Without objection, it is so ordered.

VISIT TO THE SENATE BY SENATORS FROM FRANCE

The PRESIDING OFFICER. As chairman of the Committee on Rules and Administration, I recognize the Senator from Alaska [Mr. STEVENS]. We will have a recess as soon as he is recognized.

Mr. STEVENS. I thank the President.

Mr. President, we have a delegation from the French Senate here today. They are Senators involved in the fields of aeronautics and budget.

We were to have a meeting with them with some of our colleagues, but there was another visitor here today, also, that has attracted many of our colleagues.

RECESS

Mr. STEVENS. Mr. President, I ask unanimous consent that the Senate stand in recess for 2 minutes so Members who are here on the floor may greet our distinguished guests.

There being no objection, the Senate at 4:51 p.m. recessed until 4:53 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. FORD]

The PRESIDING OFFICER. The Chair suggests the absence of a quorum.

The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

AMENDMENT NO. 612

(Purpose: To require the Secretary of Labor to undertake a study of the feasibility of providing portability of pensions)

Mr. BINGAMAN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The amendment will be stated.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 612.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

At the end of title XXII, add the following new section:

SEC. . (1) The Secretary of Labor shall, within 6 months after the date of enactment of this title, commence a study of the feasibility and competitiveness effects of providing portability for pensions for workers. A report on the study conducted under this subsection shall be submitted to the Congress not later than 24 months after such date of enactment.

(2) There are authorized to be appropriated such sums as may be necessary to carry out paragraph (1).

Mr. BINGAMAN. Mr. President, this amendment is a replacement for my earlier amendment No. 348, which I asked to be withdrawn. The amendment simply provides for a study by the Secretary of Labor on the subject of pension portability.

Portability is the worker's ability to retain pension rights when changing jobs. At this time it is one of the important barriers to full labor force mobility. We now have a pension system which is tied to the job rather than to the worker. As a result, our aging work force avoids job changes to protect pension rights, and employers avoid older, more experienced workers to reduce their pension costs. The lack of pension portability can be a major hindrance to our productivity and to individual savings rates. Thirty years ago most workers stayed with one job for their entire career. Today employees frequently change jobs several times. Without the ability to transfer their pensions they can't assume full benefits. Workers over age 25 change jobs about every 6 years according to the National Bureau of Economic Research. Furthermore, only about half of American workers are employed by firms offering pension plans, however, and few of those workers remain with the same firm long enough to qualify for a pension. The widespread lack of pensions for American workers adds to insecurity at a time when turbulent and rapid change must be faced with confidence.

There are a number of ideas as to how to carry out portability of pensions. This amendment mandates a study by the Secretary of Labor to sort through these ideas and to examine the feasibility and the competitive effect of providing portable pensions. Originally part of the recommendations of the Senate Democratic Working Group on Economic Competitiveness, this provision was passed by the Governmental Affairs Committee but was not included in this bill because of jurisdictional questions.

Mr. President, the President's State-of-the-Union Message called for a broad study of the American work force and that the Labor Department's Work Force 2000 study will include a study on barriers to worker mobility due to pensions. This amendment underscores the President's message by requiring, in statute, a study of portable pensions. I have been told that Work Force 2000 study may take 2 years to complete. In 2 years, there will be a new President and new Secretary of Labor. This amendment will guarantee that there will also be a completed study on portability of pensions. The amendment will also improve congressional oversight by requiring the Secretary of Labor to report his findings back to the Congress.

Mr. President, portability of pensions is an important question. On this point, I believe we all agree. To improve our competitiveness we need to improve the mobility of our labor force. And portability of pensions will do exactly that. This amendment puts us on the road to constructively deal with the problem of the lack of portability of pensions, and I thus urge my colleagues to support the amendment.

I believe this amendment has been agreed to by the managers of the bill. I do not know of objections to it by any Members in the Senate at this time.

Mr. BAUCUS. Mr. President, the Senator from New Mexico is correct. The amendment is agreed to by this side.

Mr. PACKWOOD. Mr. President, it is agreed to by this side. I urge its adoption.

The **PRESIDING OFFICER** (Mr. ROCKEFELLER). Is there further debate? If not, the question is on agreeing to the amendment of the Senator from New Mexico.

The amendment (No. 612) was agreed to.

Mr. BINGAMAN. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. PACKWOOD. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 613

(Purpose: To amend title 35, United States Code, to increase the effectiveness of the patent laws, and for other purposes)

Mr. LEAHY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER.** The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Vermont [Mr. LEAHY] proposes an amendment numbered 613.

Mr. LEAHY. Mr. President, I ask unanimous consent to dispense with reading.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

SEC. . INCREASED EFFECTIVENESS OF PATENT LAW.

(a) SHORT TITLE.—This section may be cited as the "Patent Law Foreign Filing Amendments Act of 1987".

(b) FILING OF APPLICATIONS IN FOREIGN COUNTRIES.—(1) Section 184 of title 35, United States Code, is amended—

(A) in the third sentence by—

(i) striking "inadvertently"; and

(ii) inserting "through error and without deceptive intent" after "filed abroad"; and

(B) by adding at the end thereof the following new paragraph:

"The scope of a license shall permit subsequent modifications, amendments, and supplements containing additional subject matter if the application upon which the request for the license is based is not, or was not, required to be made available for inspection under section 181 of this title and if such modifications, amendments, and supplements do not change the general nature of the invention in a manner which would require such application to be made available for inspection under such section 181. In any case in which a license is not, or was not, required in order to file an application in any foreign country, such subsequent modifications, amendments, and supplements may be made, without a license, to the application filed in the foreign country if the United States application was not required to be made available for inspection under section 181 and if such modifications, amendments, and supplements do not, or did not, change the general nature of the invention in a manner which would require the United States application to have been made available for inspection under such section 181.".

(2) Section 185 of title 35, United States Code, is amended by inserting immediately before the period in the last sentence the following: ", unless the failure to procure such license was through error and without deceptive intent, and the patent does not disclose subject matter within the scope of section 181 of this title.".

(3) Section 186 of title 35, United States Code, is amended by inserting "willfully" after "whoever", the second place it appears.

(c) REGULATIONS.—The Commissioner shall prescribe such regulations as may be necessary to implement the provisions of this section.

(d) EFFECTIVE DATE.—(1) Subject to paragraphs (2), (3), and (4) of this subsection, the amendments made by this section shall apply to all United States patents granted before, on, or after the date of enactment of this section, to all applications for United States patents pending on or filed after the date of enactment, and to all licenses under section 184 granted before, on, or after the date of enactment of this section.

(2) The amendments made by this section shall not affect any final decision made by the court or the Patent and Trademark Office before the date of enactment of this section with respect to a patent or application for patent, if no appeal from such decision is pending and the time for filing an appeal has expired.

(3) No United States patent granted before the date of enactment of this section shall abridge or affect the right of any person or his successors in business who made, purchased, or used prior to such effective date, anything protected by the patent, to continue the use of, or to sell to others to be used or sold, the specific thing so made, purchased, or used, if the patent claims were invalid or otherwise unenforceable on a ground obviated by this section and the person made, purchased, or used the specific thing in reasonable reliance on such invalidity or unenforceability. If a person reasonably relied on such invalidity or unenforceability, the court before which such matter is in question may provide for the continued manufacture, use, or sale of the thing made, purchased, or used as specified, or for the manufacture, use, or sale of which substantial preparation was made before the date of enactment of this section, and it may also provide for the continued practice of any process practiced, or for the practice of which substantial preparation was made, prior to the date of enactment, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced before the date of enactment.

(4) The amendments made by this section shall not affect the right of any party in any case pending in court on the date of enactment to have its rights or liabilities—

(A) under any patent before the court, or

(B) under any patent granted after the date of enactment which is related to the patent before the court by deriving priority rights under section 120 or 121 of title 35, United States Code, from a patent or an application for patent common to both patents,

determined on the basis of the substantive law in effect prior to the date of enactment.

Mr. LEAHY. Mr. President, Americans at universities and corporations across the Nation are expending a great many resources in research laboratories. They are using their talents in the hope that they can devise new ways to address the needs of contemporary society. With the appropriate support, the efforts of our most gifted scientists will enhance the standard of living of every American and, indeed, every inhabitant of the globe.

The framers of the Constitution recognized the need to provide incentives to America's inventors. Thus, they included in the Constitution a clause requiring Congress to do what is necessary to ensure that America's innovators enjoy the fruits of their research. While the framers could not have envisioned today's immense international market, they directed Congress to assist American inventors.

The amendment I am introducing will enable American inventors to earn timely and comprehensive patent protection in foreign nations. Our patent law currently states that U.S. inventors may not provide to a foreign patent office any information that is not contained within the inventor's U.S. patent application. It does not matter how inconsequential that information is. If a foreign patent office requires any additional information whatsoever, the patentee must take the time and money to procure a supplemental license. Furthermore, if the patentee provides any information to foreign patent office that was not in his U.S. application without first procuring a supplemental license, the inventor can lose his U.S. patent protection.

Mr. President, this aspect of our patent law imposes a great and unnecessary burden on U.S. inventors. Those of my colleagues who have actually seen a patent application know how long and complex those documents are. When patent counsel in several different countries file several different patent applications, some minor variations are inevitable.

Mr. President, we are all in agreement that when the patent contains information that may have national security implications, a special license should be required. And my amendment would not change the rules that apply to patents of national security interest.

But in the vast number of cases, there is no potential harm to America's security. Indeed, the only harm comes as a result of predatory law suits between competitors.

I should also point out that this bill essentially codifies one of the Patent Office's regulations. It would provide statutory authority for an American inventor to give a foreign patent office additional technical information if the office so requires. The patentee would continue to have to notify the U.S. Patent Office of his foreign application immediately thereafter. However, technical distinctions between a United States and foreign application will no longer subject a patentee to forfeiture. Instead, the inventor may receive a retroactive license if he can show that the premature filing abroad was made "through error and without deceptive intent," a well-established principle of patent law.

In the event that the patentee relinquishes to a foreign patent office information of importance to our national security, the American patent would be revoked. Thus, those who hold patents affecting our national security will still be required to obtain special licenses from the U.S. Patent Office before filing in a foreign patent office.

Finally, I want to point out that this amendment has been crafted carefully so that it will not affect any pending court cases. The amendment is absolutely prospective. It does not apply to Stauffer versus Monsanto, a case pending in the eastern district of Missouri, or to any other pending case.

If a foreign patent application is currently being scrutinized in the courts, it will continue to be subject to the law on the books today. So will any subsequent appeals. However, challenges to foreign patent applications first raised after this amendment is enacted will be governed by the terms of this amendment.

Mr. President, I think this amendment will provide a great service to patent holders who want to compete in foreign markets. At the same time, it demonstrates our respect for American inventors and our desire to see that they get their just rewards.

Mr. DeCONCINI. Mr. President, I am pleased today to join my distinguished colleague from Vermont in cosponsoring the Patent Law Foreign Filing Amendments Act. This act would amend section 184 of the patent code.

Right now, a U.S. inventor wishing to file a foreign patent application must first get permission from the U.S. Patent Office. The reasoning is simple—to assure the patent will not be harmful to our national security interests. However, in some cases, an inventor may inadvertently file for a foreign patent without first filing in the United States. When that happens, the inventor faces the possibility of losing his patent rights at home.

This amendment, proposed today by Senator LEAHY, would allow U.S. inventors to receive a patent license here as long as their premature filing abroad was merely an error. In addition, the patent may be granted as long as the foreign filing did not disclose any national security information.

This act also addresses another problem with the current law. On occasion, foreign patent offices require additional technical data not required by U.S. examiners. If inventors plan to submit the additional information, they must again apply to the U.S. Patent Office for a license to supply the modifications or supplemental material.

The amendment being offered today means an inventor would not have to obtain another license to supply a foreign country with information that merely illustrates or explains the matters discussed in the patent application, as long as it doesn't change the nature of the invention to affect national security. In addition, it would not have any effect on pending litigation, where existing law would continue to apply in those cases.

Mr. President, the Patent Law Foreign Filing Amendment Act has widespread support. Reform of section 184 of the patent code was recommended by witnesses at a general oversight hearing held by the Judiciary Subcommittee on Patents, Copyrights, and Trademarks earlier this year. I am pleased to join Senator LEAHY today as a cosponsor of this act.

Mr. LEAHY. Mr. President, this is a technical amendment regarding patents and the filing of applications, especially in foreign countries. I understand it has been cleared all the way around.

Mr. BAUCUS. Mr. President, the amendment has been cleared on this side.

Mr. PACKWOOD. Mr. President, same on this side.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Vermont.

The amendment (No. 613) was agreed to.

Mr. LEAHY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BAUCUS. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 614

Mr. KERRY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] proposes an amendment numbered 614.

Mr. KERRY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

At the appropriate place in the bill, add the following new section:

That Section 108 of the Foreign Assistance Act of 1961, as amended, is amended by adding at the end the following:

"(i)(1) To carry out the purposes of subsection (a), in addition to the other authorities set forth in this section, the agency primarily responsible for administering this part is authorized to issue guarantees on such terms and conditions as it shall determine assuring against losses incurred in connection with loans made to projects that meet the criteria set forth in subsection (c). The full faith and credit of the United States is hereby pledged for the full payment and performance of such guarantees.

(2) Loans guaranteed under this subsection will be on such terms and conditions as the agency may prescribe, except that:

(A) The agency will issue guarantees only when it is necessary to alleviate a credit market imperfection or to carry out the objectives of this section by providing a financial subsidy, and a financial subsidy is the most efficient way to meet those objectives.

(B) Loans guaranteed will provide for complete amortization within a period not to exceed ten years or, if the principal purpose of the guaranteed loan is to finance the construction or purchase of a physical asset with a useful life of less than ten years, within a period not to exceed such useful life.

(C) No loan guaranteed to any one borrower will exceed fifty percent of the cost of the activity to be financed, or $5,000,000, whichever is less, as determined by the agency.

(D) No loan will be guaranteed unless the agency determines that the lender is responsible and that adequate provision is made for servicing the loan on reasonable terms and protecting the financial interest of the United States.

(E) The fees earned from the loan guarantees issued under this subsection shall be deposited in the Revolving Fund Account as part of the guarantee reserve established under paragraph (5) of this subsection. Fees shall be assessed at a level such that the fees received, plus the funds from the Revolving Fund Account placed in the guarantee reserve, satisfy the requirements of paragraph (5). Fees will be reviewed every twelve (12) months to ensure that the fees assessed on new loan guarantees are at the required level.

(F) Any guarantee will be conclusive evidence that said gurantee has been properly obtained; that the underlying loan qualifies for such guarantee; and that, but for fraud or material misrepresentation by the holder, such guarantee will be presumed to be valid, legal, and enforceable.

(G) The agency shall determine that the standards used by the lender for assessing the credit risk of new and existing guaranteed loans are reasonable. The agency shall require that there be a reasonable assurance of repayment before credit assistance is extended.

(H) Commitments to guarantee loans may be made by the agency only to the extent that the total loan principal, any part of which is guaranteed, will not exceed the amount specified in annual appropriations acts.

(3) To the extent that fees are not sufficient as specified under paragraph (2)(E) to cover expected future liabilities, appropriations are authorized to maintain an appropriate reserve.

(4) The losses guaranteed under this subsection may be in dollars or in other currencies. In the case of loans in currencies other than dollars, the guarantees issued shall be subject to an overall payment limitation expressed in dollars.

(5) The agency shall segregate in the Revolving Fund Account and hold as a reserve an amount estimated to be sufficient to cover the agency's expected net liabilities on the loan guarantees outstanding under this subsection, *Provided*, however, that the amount held in reserve shall not be less than twenty-five percent (25%) of the principal amount of the agency's outstanding contingent liabilities on such guarantees. Any payments made to discharge liabilities arising from the loan guarantees shall be paid first out of the assets in the Revolving Fund Account and next out of other funds made available for this purpose."

Mr. KERRY. Mr. President, I also ask unanimous consent that the following Senators be added as cosponsors: ADAMS, BOND, HELMS, and CRANSTON.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, the amendment I am sending to the desk allows us to help maximize the trade bang for our foreign aid buck.

Before describing the substance of the amendment, I would like to state briefly for my colleagues some background on the often-overlooked connection between trade and foreign aid. During the deliberations of the Foreign Relations Committee on its portion of this trade bill, it became very clear that there are substantial trade benefits of the U.S. foreign aid program. Part of our foreign aid moneys, for example, help finance feasibility studies for projects in foreign countries which would entail purchase of U.S. goods and services. Another program, which is the focus of this amendment, makes loans to stimulate small-scale enterprises in developing countries. The rationale of this program is that private enterprise is vital to economic growth in the Third World, and that an economically healthly Third World is not only crucial to the world economy but is also a key market for American goods and services.

At present, this program to stimulate small-scale private enterprise in the Third World—known as the Private Sector Revolving Fund of the U.S. Agency for International Development [AID]—operates solely through loans to Third World institutions: loans which require appropriation and expenditure of U.S. taxpayer dollars. The purpose of my amendment is to give the Private Sector Revolving Fund an additional tool—that of loan guaranties—which does not require the appropriation and outlay of taxpayer funds.

Before describing the guaranty aspect of my amendment, I think it is important that my colleagues understand the kinds of activities which the Private Sector Revolving Fund helps finance. In a typical revolving fund transaction, AID will enter into an agreement with a local lending bank—for example, the Philippine Farmers Bank—where AID will assume 20-50 percent of the risk of the local bank's loss on loans to small or microbusinesses on the condition that the local bank adjust its lending practices to give this class of private enterprise access to credit. For example, AID requires local lending banks to make intermediate or long-term loans available to farmers who previously were only able to receive short-term loans.

Some representative projects include:

Small-scale private agribusiness projects in Africa, Asia, and Latin America;

The creation in Thailand of that country's first venture capital firm which will be a source of equity financing for newly started enterprises using U.S. technology;

The support of micro enterprise lending programs in Latin America, administered by private voluntary organizations and corporations; and

The capital expansion of a privately-owned children's vaccine producing company.

I should add that the revolving fund has been operating at the modest level of approximately $15 million per year over the past 4 years. Because the loans are constantly repaid and reissued, loss to the fund has been negligible and its assets now total approximately $60 million. The President has indicated that he will propose an increase for the fund to $80 million by 1989.

My amendment would give the revolving fund the authority to guaranty loans, as a supplement to its ability to issue loans directly. The amendment's goal is to significantly increase these private sector development activities without the need for an increase in outlays or appropriations. That expanded role is necessary and beneficial, in my opinion, to offset expected cuts in funding, as well as to provide a sufficient level of activity to ensure that the research, development, and demonstration goals of the revolving fund can be met.

Mr. President, I do not want to take up too much more of the Senate's time so I will focus my discussion upon three aspects of my proposal: its effectiveness, its safety, and its leveraging effect. Regarding effectiveness, experience to date shows that most, but not all, of the activities now financed by direct dollar loans from the revolving fund can be supported as effectively by the issuance of guaranties. The reason for this is that most small-scale enterprises assisted have a need only for local currency—rather than dollars—and that local financial institutions with some encouragement in the form of partial guaranties will be willing to make local currency loans to these enterprises.

Regarding the proposal's safety, past weaknesses and abuses in other guarantee programs—both domestic and international—make it imperative that we ensure a negligible level of risk to the U.S. Government and taxpayers. There are subsidiary factors which help minimize our risk: The Foreign Assistance Act limits AID's exposure on any individual project to 50 percent, and the fact that private bank colenders have an equal or greater risk exposure has caused and will continue to cause them to take collateral to cover the risks. The ultimate assurance of negligible risk, however, is the funds set aside in reserve to cover any claims or losses. The actuaries at OMB recommended a reserve-to-liability ratio of 1 to 8; in other words for every $8 in loans guaranteed, $1 would be held in reserve. That ratio appears more than adequate, since the current rate of loss in the revolving fund—although too new to establish reliable default projections—is 2½ percent, or a ratio of 1 to 40. However, to even further protect against risk, my proposal would require the even more conservative reserve rate of 25 percent, or 1 to 4.

Regarding leveraging effect, it has recently been estimated that each dollar loaned from the revolving fund results in additional Third World lending of $1.60. Thus, at the current operating level of $15 million per year, the revolving fund leads to an additional $24 million in local loans for a total of $39 million per year. Actuaries have estimated that each dollar of guaranty authority would produce an additional $9.33 in Third World lending. Therefore, if this proposal is enacted, $15 million would leverage an additional $140 million, for a total of $155 million. Not only would this level of activity be four times that of the existing program, but because the annual $15 million in seed capital is expected to be taken from reflows within the existing revolving fund, the entire $155 million program would not require any additional outlays of appropriated funds.

Before concluding, Mr. President, I would like to return briefly to the concept of microenterprise. As many of my colleagues are aware—including many not serving on the Foreign Relations Committee, thanks to the efforts and legislation introduced by my colleague from Arizona, Senator DeConcini—stimulation of microenterprises is today one of the favored, hot topics in foreign aid. I would say to my colleagues that if they are serious about stimulating microenterprise in the developing world, then my amendment is an indispensable tool to that end and therefore merits their support.

Mr. President, in these days of budget crisis, this amendment is just the sort of innovative, cost-effective tool which Congress should be employing to enhance the ability of the foreign aid program to serve America's trade interests. I would add that this proposal has the administration's strong support. So I urge my colleagues to join in backing this amendment, which at once enhances America's competitiveness and demonstrates our caring.

Mr. PELL. Mr. President, I commend the sponsors of this amendment for proposing to broaden the authority under section 108 of the Foreign Assistance Act to permit the AID Private Enterprise Revolving Fund to issue guaranties in addition to making direct loans.

For some time now, I have been working with Senator DeConcini, the principal sponsor of S. 998, the Microenterprise Loans for the Poor Act, and members of the Foreign Relations Committee to achieve an amendment to the foreign aid bill to create a new program to make available more credit for private enterprises owned by the poor. I am hopeful that we will be able to reach a consensus on that amendment soon and offer it to the foreign assistance bill pending on the Senate Calendar. In the meantime, I believe the amendment before the Senate is another important step in assuring lines of credit for microenterprises in the developing world.

The fiscal constraints with which we are all confronted challenge our ability to continue to achieve our foreign policy and economic assistance objectives. The challenge is to develop a program which will meet growing demands and new opportunities with very limited resources. This amendment meets that challenge, It will significantly expand opportunity for small-scale private enterprise in developing countries, and it does not require any additional outlays of appropriated funds. The guaranties issued would be backed by a reserve account consisting of fees charged to beneficiaries plus reflows of principal and interest accruing on previous loans made by the existing revolving fund.

I support the amendment and urge my colleagues to do so.

Mr. D'AMATO. Mr. President, my colleague from Massachusetts, Senator Kerry, has done an excellent job of explaining the substance of our amendment.

I want simply to highlight several of the strongest points in favor of this amendment, but before I do that, I want to make a comment of foreign aid generally. During my service on the Appropriations Committee's Foreign Operations Subcommittee, which has jurisdiction over foreign aid, I've learned plenty about both the strengths and shortcomings of America's foreign aid program. As my colleagues on the committee know full well, I have never been one of foreign aid's biggest cheerleaders—in fact, I'm sure we all can cite instances where the money hasn't been particularly well spent. However, I also know that foreign aid makes very good sense in several important ways.

The most obvious strength of this Nation's foreign aid is its humanitarian aspect. I think all of us in this Chamber take great pride in the number of lives saved and people fed through America's actions. Just as important, in my opinion, is that America's foreign aid program makes sense as a long-term investment in the American economy.

Let me cite just one example, which I think will strike a chord with my colleagues from the farm States. It's common knowledge that, throughout the industrialized world, including the

United States, increases in agricultural production are steadily outstripping consumption, and will continue to do so in the foreseeable future. Where are the markets which are and which will continue to be crucial to the well-being of the American farmer? The answer is the developing countries. For example, in 1981 alone, the United States sold 2.1 billion dollars' worth of agricultural products to South Korea, which was more than the total value of food aid which we provided to Korea in the 24 years between 1955 and 1979.

My point, Mr. President, is that foreign aid makes sense not just for the good of others around the world; it makes sense as an investment in the health of the American economy.

That lead into the three points which I want to make briefly in strong support of this amendment—points relating to the benefit to America's trade outlook, to the fact that it makes good budget sense, and to its enhancement of the free market and private enterprise.

My trade point is the simple one I've just outlined: The more we can leverage the Private Sector Revolving Fund into providing more assistance and credit to businesses in the developing world, the more we can foster increased purchases of United States goods and services by Third World business.

The amendment makes good budget sense because, as my colleague from Massachusetts explained, this amendment, through its use of loan guarantees, expands this program without requiring any further appropriations or outlays of American taxpayer funds.

Finally, I want to emphasize that this is a private enterprise, private sector program; it does not involve any handouts or transfers to foreign governments whose commitments to capitalism and the free market are dubious at best. This program, in my opinion, is the best use of American foreign aid because it cuts out the middleman—it bypasses foreign governments and goes straight to the private businesses whose growth we want to encourage and from whose growth we in the United States will benefit.

Mr. President, I think this effort to move foreign aid toward a greater involvement with and support of private enterprise is one of the most positive developments of this decade, and this amendment will further that trend. I would add that the administration strongly supports this amendment, and urge my colleagues to give it their support.

Mr. KERRY. Mr. President, this amendment has been cleared, I believe, by both sides and will be accepted.

Mr. President, we currently have a program known as the private sector revolving fund, a USAID Program which is a means by which to stimulate economic development in other countries. It currently is a program which exclusively makes loans and those loans are U.S. taxpayers' dollars. It is a good program. I am offering this amendment on behalf of the administration in support of the OMB.

This amendment would open up the ability of the program to make loan guarantees in addition to the Loan Program and would do so at a ratio of reserves to loan guarantees that is acceptable to everybody who has looked at it. We believe it will leverage greater development in other countries and open up opportunity for foreign demand of American goods and services as well as provide a sounder economic foundation in many of those countries of concern to the United States. So I hope it is an amendment that will assist our overall Foreign Aid Program and I am glad it is accepted by both sides.

Mr. BAUCUS. Mr. President, the amendment of the Senator from Massachusetts has been agreed to on this side.

Mr. PACKWOOD. Mr. President, the same on this side.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 614) was agreed to.

Mr. KERRY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BAUCUS. Mr. President, I move to lay the motion on the table.

The motion to lay on the table was agreed to.

Mr. KERRY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent to dispense with further proceedings under the call of the quorum.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Just to warn the Members, I am told that Senator WILSON is coming to the floor to offer an amendment, which is controversial and will require a rollcall vote. I expect it to take 1½ to 2 hours if he comes to the floor. Those who are watching and listening can see, but I am led to believe he is on his way. I suggest the absence of a quorum.

The PRESIDING OFFICER. The Clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, Senators should be on notice to expect another rollcall vote within the next 45 minutes or an hour or some such.

Mr. PACKWOOD. Mr. President, let me ask the Senator from California as he is about to present his amendment, could we enter into a formal time agreement of an hour and a half, 45 minutes to each side?

Mr. WILSON. That would be agreeable.

Mr. PACKWOOD. Forty-five minutes under the control of the chairman, and 45 minutes under the control of the Senator from California.

Mr. BYRD. Mr. President, I so ask unanimous consent.

The PRESIDING OFFICER. Is there objection?

Mr. PRYOR. Reserving the right to object, Mr. President.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I do reserve the right to object. It is Friday afternoon at 5:30 p.m. The U.S. Senate has been sitting here for 45 minutes—45 minutes—waiting for another Senator to come to this floor to offer an amendment. Our leader has stood on this floor during this trade bill 11 times in the last 4 weeks begging Senators to come to the floor and offer their amendments. What this demonstrates is that the 20th century has passed this Senate by. We have no order. I am going to propose sometime within the next 10 days a rules change that is going to dramatically affect the manner, the method, the process by which Senators can amend bills on the floor.

What we are doing is absolutely, totally nonsensical, the way we run this place. I think to hold the Senate up for this amount of time on a Friday afternoon at 5:30—and by the way, let me say to my friend from California, I do not mind working Friday. I do not mind working Monday. In fact, I rather like to work Saturdays. It is kind of a nice feeling around here on Saturdays. A lot of the staff is gone, the phones are not ringing, we sort of get down to business, I say to the leader.

But I would say, Mr. President, that I am considering all of this, and several Senators have come to me in the last few weeks and said, "Oh, you have to call the quality of life committee back together again." I have heard that about 65 times lately. But, Mr. President, there is no quality of life committee. The Senate is the quality of life committee, and the only people who are ever going to straighten out the way this place is being run are those 100 people who are elected from the 50 States to represent the 50 States. And whoever named it the quality of life committee named it wrongly. It should be known as the quality of work committee.

We do not mind sitting here and working. The chairman does not mind sitting here and working. But when there is no work and we sit and wait and wait, there is something wrong. There is something basically and inherently wrong with this body when we have to sit here and wait for our colleagues.

Fifteen-minute rollcall votes—that is a laugh. Our rollcall votes are running, on this trade bill, about 27 or 28 minutes. The other night, I went over to the other side to some of my colleagues and said, "Wait a minute; why can't we get this rollcall vote over with? We have sat here for 30 minutes." Thirty minutes, Mr. President. "Whom are we waiting for?"

They said, "Well, one of our Senators is downtown. He is on the way. He will be here shortly."

I said "Well, when?"

They said, "He is right down here at Eighth Street, headed this way."

So I sat and waited another 15 or 20 minutes and then I said, "Where is Senator so and so. Where is he?"

"Well, he is on his way. We just talked to him on the car telephone. He is on 19th Street."

I said, "He is going the wrong way." And, Mr. President, that is what is wrong with us: We are going the wrong way.

Exactly what is happening today in this Chamber is exactly what we have to correct. I am going to be offering a rules change within the next 10 days, and I want all of my colleagues to help me. It is going to be patterned very closely after what the House does.

I know that is a naughty word, but in the House of Representatives, and let us call it the House of Representatives or the other body, whatever is your desire. Over there, when you amend a bill, you amend it as to title or as to section. If that Senator is not on the floor when that section is disposed of, too bad. He has forfeited his opportunity.

I am going to propose that rules change and I hope it will not be a partisan venture. I hope that people from both sides of the aisle will come forward and offer suggestions as to how we do it. But I am going to do it. I hope it will be considered. I hope it will be considered favorably by the Rules Committee.

Mr. President, I have never objected to unanimous-consent requests, but at this point, I object.

The PRESIDING OFFICER. The objection is heard.

Mr. WILSON. Mr. President, will the Senator yield for a question?

The PRESIDING OFFICER. The majority leader has the floor.

Mr. WILSON. Would the majority leader yield so I may ask the Senator from Arkansas a question?

Mr. BYRD. Mr. President, has the Senator offered his amendment?

The PRESIDING OFFICER. The Senator has not offered his amendment.

Mr. BYRD. Will the Senator offer his amendment?

Mr. WILSON. I will be delighted. I would like to offer some help to my friend from Arkansas, and I will be pleased to get to this just as expeditiously as possible.

Mr. BYRD. Mr. President, I will yield the floor, and I hope the Senator will offer his amendment and begin discussing it as quickly as possible. I anticipate that the action on this amendment will probably occur within the next 45 minutes. I think the distinguished Senator indicated that he would be willing to take 45 minutes for himself, if that were agreed to, and that has now been objected to. I hope the Senator will proceed.

There are Senators who have to leave within 1 hour or 1 hour and 15 minutes. I think the manager has to be going by that time. I think it is quite possible that we could have a rollcall vote, if the Senator would proceed.

I yield the floor.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, let me first say to my friend from Arkansas that I am pleased to hear his comment with respect to the rules change he proposes. I do not know precisely what he has in mind, but the spirit of it is clear. I have long advocated such a change, so I can assure him that at least one Senator from this side of the aisle will be very interested in working with him.

I think he is correct in making the observation he has about the quality of the product. I think that if we are to adopt different rules, we can, without doing violence to the great traditions of the Senate, greatly improve our own productivity and be far more considerate of one another. That is not possible under the rules as they exist. He is quite correct in pointing that out; because, as they currently exist, what is true is that in this instance, if a Senator has an obligation that keeps him off the floor, as I have had this afternoon, then he cannot come and offer that amendment—even one that is important to him, important to his constituents. So I look forward to working with my colleague.

I am frank to say that I am sorry that he has objected to the unanimous-consent request propounded by the managers, because I think the amendment under consideration is one that will be of interest to his constituents as well as mine, and I think it is a valuable thing, worth the time that might be required.

I do not know that all the time we are proposing will be required. I hope he might reconsider.

In any case, I will join him at such time as he is prepared to offer rules changes that can make this place a more productive as well as a more considerate body.

(Later the following occurred:)

Mr. BYRD. Mr. President, will the Senator yield?

Mr. WILSON. I yield.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senator's statement not show an interruption.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, would the Senator be willing to enter into a time agreement on this amendment of, say, 50 minutes, with 40 minutes to the Senator and 10 minutes to the two managers?

Mr. WILSON. That would be agreeable.

Mr. BYRD. Is that agreeable to the distinguished Senator from Arkansas?

Mr. PRYOR. Will the Senator repeat that?

Mr. BYRD. I was suggesting a time agreement of not to exceed 50 minutes on the amendment, with 40 minutes to the able Senator from California and 10 minutes equally divided between the two managers.

Mr. BAUCUS. Mr. President, I object. I wonder if the Senator from California could cut that to 20 minutes.

Mr. WILSON. No.

Mr. BAUCUS. How about 30?

It seems to me that if the managers each have 10, 30 is certainly adequate for the Senator from California.

Mr. WILSON. I am pleased by the confidence the Senator has in the ability of the Senator from California. The original agreement proposed was for 45 minutes. I am amenable to the leader's proposal.

Mr. BYRD. I make the request: 40 minutes to the distinguished Senator and 10 minutes to the two managers.

Mr. PRYOR. Mr. President, reserving the right to object—and I shall not object—I am trying to make a point this afternoon and chose this opportunity to do it.

I must say that I suggested to the majority leader about a month ago, when we started on the trade bill—I think on the second or third day, when he was begging Senators to bring amendments to the floor—I urged him to go to third reading at that moment. I think that when it occurs, we are going to get the Senate moving, and not until then.

I also said that when he made the attempt to go to third reading, all we had to do was to look out the door, the east wing of this Capitol, across the plaza, and see, coming from the Russell Building, the Dirksen Building, and the Hart Building, coming toward this Capitol, what would look like the invasion of Normandy, with staff people and Senators bringing their amendments to the floor, to offer them.

It puts any leader in an awful, awkward, terrible, demeaning position to have to sit here and wait and wait and wait and beg and beg and beg for people to bring their amendments to this floor.

Once again I will not object, but I will hope that we can conclude this debate very quickly.

Thank you, Mr. President.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BYRD**. Mr. President, I thank the distinguished Senator from Arkansas and the distinguished Senator from California.

Mr. **WILSON**. Mr. President, I thank the distinguished majority leader.

I also ask unanimous consent that the time consumed in the discussion with the Senator from Montana, the Senator from Arkansas, and the Senator from West Virginia, not be charged against my time.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(Conclusion of later proceedings.)

AMENDMENT NO. 616

Mr. **WILSON**. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The **PRESIDING OFFICER**. The amendment will be stated.

The legislative clerk read as follows:

The Senator from California [Mr. WILSON], for himself and Mr. HOLLINGS, proposes an amendment numbered 616.

Mr. **WILSON**. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The **PRESIDING OFFICER**. Without objection, it is so ordered

The amendment reads as follows:

At the end of section 104, add the following:

(e) Revisions to implementation procedures.

(1) Paragraphs (1) and (2) of subsection (e) of section 151 of the Trade Act of 1974, as amended, (19 U.S.C. 2191), are amended to read as follows:

"(e) PERIOD FOR COMMITTEE CONSIDERATION.—(1) Except as provided in paragraph (2), if the committee or committees of either House to which an implementing bill or approval resolution has been referred have not reported it at the close of the 45th day after its introduction, such committee or committees shall be automatically discharged from further consideration of the bill or resolution and it shall be placed on the appropriate calendar.

"(2) The provisions of paragraph (1) shall not apply in the Senate to an implementing revenue bill. An implementing revenue bill received from the House shall be referred to the appropriate committee or committees of the Senate. If such committee or committees have not reported such bill at the close of the 15th day after its receipt by the Senate (or, later, before the close of the 45th day after the corresponding implementing revenue bill was introduced in the Senate), such committee or committees shall be automatically discharged from further consideration of such bill and it shall be placed on the calendar."

(2) Subsection (g) of section 151 of the Trade Act of 1974, as amended, (19 U.S.C. 2191), is repealed.

Mr. **WILSON**. Mr. President, the amendment I offer today is one that will make a simple change. I think it could have profound impact, were it adopted, under what is currently called the fast-track procedure which was adopted by the Senate some years ago—not really that long ago.

In an act of overresponsiveness to objections by foreign trade negotiators, we have adopted a procedure called fast track which allows no amendments to a trade agreement once it comes to floor, and it limits debate to some 20 hours.

Mr. President, the point of this amendment that I am offering today is to remove that limit on debate. It is not to prevent or to defeat trade agreements. I hope everyone is persuaded, as I am, to increase our exports and imports, because this kind of commercial exchange, if it is permitted to expand, promises nothing but steady job creation to the people of America, certainly to those in my State, which has the seventh largest economy in the world—that is correct, the seventh largest economy in the world. We are an export State and we are an import State. Indeed, the two are inextricably interwoven in many cases. Much of what we import, we subsequently add value to and then export.

So the purpose of this amendment is most definitely not to hamper trade; it is to expand it. It is not to prevent the adoption of trade agreements or legislation necessary to implement those agreements. It is to make the agreements and the legislation to improve them better, more responsive to the real needs of the American people, to ensure that the negotiations that produce those agreements, produce an agreement that is truly worthy of being called a trade agreement, in the interests of the United States, be it a multilateral agreement or a bilateral so-called free trade agreement.

The problem with even an agreement called a free trade agreement is that it can fail to address a situation of marked, acknowledged unfairness, allowing a trading partner of the United States to continue unfair trading practices. U.S. negotiators are human; and in order to get an agreement, one they can argue is in the best interests of the United States, in the big picture—not perfect but one that, in the big picture, is in our national interests—they may turn a blind eye to glaringly unfair practices simply because the price of getting the agreement from those on the other side of the bargaining table is that they ignore and turn a blind eye to those glaringly unfair trade practices.

Mr. President, let us consider the realities of the situation in which our trade negotiators find themselves.

I acknowledge that it is necessary in order for them to have productive talks to have the kind of authority that is necessary to genuinely negotiate. We all know that they have to have the ability to make deals, that without that authority they cannot get other countries' negotiators to enter into necessary concessions. We understand that.

The fact is, Mr. President, they do, as the representatives of our President, have that negotiating authority pursuant to article II of the Constitution.

I will acknowledge, Mr. President, that even Congress may have to give up some of its prerogatives in order to reach a comprehensive and beneficial agreement. While our Constitution places responsibility in the Congress to carefully consider proposals that are offered by the Executive, that same responsibility has been viewed with great alarm, it is true, by foreign negotiators. They see it as an impediment to productive trade talks, and they will argue that it produces uncertainty that their hard work will, in fact, be honored once it reaches the floor of Congress.

Mr. President, according that some weigh as I do, I would have to also say that if the Congress is also to carry out its constitutionally mandated role, we can only give up so much. We can only grant any President so much leeway before we lose sight of the role that Congress must play in any legitimate legislative exercise worthy of the name. We can only give any President so much authority. We can only go so far in limiting our own review before we effectively abdicate—some might even say default—upon the responsibility which the framers of the Constitution saw fit to bestow upon us.

Mr. President, the bill before us simply goes too far. It grants the President, future Presidents, too much leeway and it binds the hands of the Senate too much. It in fact does abrogate the responsibility that we are obliged under the Constitution to discharge and the responsibility that we have to the American people who elected us. That responsibility, Mr. President, is to protect the American people not against fair competition from fair trade, but against unfair trade practices of the kind and specificity that have been argued and recited on this floor for most of the 120 hours that this debate has already consumed.

Mr. President, let me quickly review the history surrounding this issue because I think it is necessary to do so, outlining the impact that the present and proposed limits would have on the Senate's ability to discharge its responsibility consistent with allowing beneficial trade agreements to come before us and to be implemented by the Congress.

Last year, most of the world's trading nations began a new round of trade talks designed to expand international trade in goods and services, the so-called Uruguay round of the GATT negotiation, the negotiation of the General Agreement on Tariff and Trade. And we are hopeful that those will produce perhaps billions of dollars of new economic exchange, new commerce, that they will produce tremendous new jobs.

The interesting thing, of course, Mr. President, is that the administration has requested that it be granted negotiating authority for its participation in these important talks that will be the Uruguay round. What is curious about that, Mr. President, is that the United States has been engaged in that new round since it began last year, having been one of its primary instigators because in fact the President does not need a statutory grant of authority to negotiate trade. He already has something much better. He has a constitutional grant of authority.

Indeed, I would remind one or two occasional senatorial pretenders that it is only the President of the United States who is empowered to negotiate international agreements on behalf of the United States pursuant to the powers set forth in article II of the Constitution.

But what the administration really means when it asks for negotiating authority in the trade area is that it wants Congress to provide the administration with an upfront statutory proxy that we will limit our own review of any limit that the trade negotiations bring to us.

The legislation sought by the administration as a part of this trade bill is actually a renewal of a law that has been on the books since 1974 and which will otherwise expire unless renewed at the start of 1988. To the trade cognoscenti, this otherwise obscure provision of law is known as fast track authority, a procedure that, as the name implies, expedites our consideration of trade agreements.

The fast-track law was created following Congress' rejection of a provision in the multilateral trade agreement negotiated during the so-called Kennedy round of trade talks in the 1960's.

It was created because very significantly, Mr. President, that round, the Kennedy round, produced in the agreement that was brought home by the U.S. negotiators one provision that Congress had earlier told the President explicitly not to negotiate.

After this experience, some of our trading partners contended that they would never again negotiate with the United States if the Congress were free to do anything but simply approve or disapprove what was negotiated.

Because of that complaint and a rash movement of overresponsiveness, of overreaction, Congress enacted a fast-track law which requires an up-down vote within 60 days after a trade agreement is sent to us. Again, no matter what may be in the implementing submission of the administration, be they provisions designed to effect industrial health in the United States, or to change our antitrust laws, our health and safety laws, the Senate of the United States is only able to vote up or down on the entire package. With no chance whatever to consider any alternatives to the Presidential submission, Mr. President, those of us on the floor of the Senate have about as effective a voice as voters in a Soviet election. We have very little choice.

Furthermore, no matter how complex the implementing bill may be, full Senate consideration must begin and end within 15 days after the bill is reported to the floor of the Senate by the Finance Committee, within 15 days.

Once fast-track authority has been granted, the administration is free to submit almost anything that it wants to for fast-track consideration.

The implementing legislation can include, I repeat, any changes to existing law that the administration deems "necessary or appropriate."

That is pretty broad grant of authority to any administration. In fact, the submission of any administration, under fast-track authority, may even contain trade concessions that Congress has specifically stated to be nonnegotiable.

Now, the managers will tell you that this bill seeks to improve that situation, the present law, by requiring consultation with the Finance Committee, and in fact with other committees having jurisdiction in a particular trade area. That is true, but only the Finance Committee, under a fast-track procedure, can withdraw the proposed agreement. Otherwise, the implementing legislation can include all kinds of existing changes to domestic law and specifically those which Congress has specifically stated to be nonnegotiable, not on the table.

Also, conversely, when granting fast-track authority, the Congress could itself seek to mandate that the negotiators engage in certain conduct and secure international protection for a particularly aggrieved industry that is suffering an unfair trade practice. They could say to the U.S. negotiators, "Don't you come back and don't bring us any agreement that does not take care of that problem"—the problem of providing secure international protection for U.S. copyright holders. Or it could require, Congress might seek to require to address transshipment of subsidized steel or it might insist on access to foreign markets for U.S. banks or U.S. insurance brokers.

Yes, Mr. President, Congress can so require but the administration can absolutely ignore these so-called mandates from Congress as, indeed, the Kennedy administration did in the Kennedy round in the 1960's. They can do so, can the administration, and still enjoy the privilege of fast-track authority.

Furthermore, when submitting implementing legislation, the administration can include major amendments to our antitrust laws, our tax and securities laws, even changes to our laws protecting consumers from unsafe food, from chemicals, from unsafe pharmaceuticals, and though these sweeping changes, Mr. President, in domestic law might never have received any hearing by any congressional committee or any administrative committee, they might nonetheless be part of a submission that is fully entitled to fast-track authority.

Now, Mr. President, the only cure for this type of administration overreaching would be rejection of the entire trade agreement, to vote the whole package down, all of the bills implementing that submission. But, Mr. President, is that really wise, that we have so limited a choice that our only option, if aggrieved, is to destroy all that work and say there will be no agreement? It is an overly inclusive cure for what might be an important but only a partial infirmity which should have a different cure.

Mr. President, without even abiding by the prenotification procedures of the fast-track law, an administration can get fast-track treatment for almost anything. For example, with very little notice an amendment to the pending bill would give fast-track treatment to a Presidential submission that totally rewrites our tariff laws, one that would provide that we will consider the harmonized tariff schedule under fast-track authority simply because a provision of the bill deems it a trade agreement. That may be efficient, Mr. President. It is not exactly what the framers of the Constitution had in mind as our responsibility.

Mr. President, I would yield to no one on this floor in my admiration for the current U.S. Trade Representative. Ambassador Clayton Yeutter is an extraordinarily skilled, tough-minded negotiator. He has been particularly responsive to any number of American industries who have suffered unfair trading practices. He has been a very good and effective and faithful advocate for them.

So, I cannot help but pay attention when Ambassador Yeutter claims, as he has, that the amendment of the fast-track law, even the modest amendment that I am proposing, "would be one of the most devastating blows to the world trading community in many years, discouraging our major trading partners from even commencing a comprehensive negotiation with us."

As much as I admire the Ambassador, I have to say he has greatly exaggerated the case. As great as my respect for him and his skill and impressive service to this Nation, that assessment is necessary hyperbole in two ways. First, the United States offers the largest, richest market in the world with no close second. If our trading partners want continued access, the kind of liberal access that we afford to American markets, they will come to the table. And second, the lack of fast-track authority for other types of international agreements has not prevented successful negotiation of both multilateral and bilateral agreements, all kinds of accords including, I might add, the fact that the current bilateral round is underway even though we have expired authority under this very provision.

Mr. President, we have not needed this kind of authority to be successful negotiators for 200 years. Fishing rights treaties, tax treaties, copyright conventions, genocide conventions, arms reduction agreements, all have been fully debated and they have been improved, I might add, by amendment, by reservation, by qualification during congressional consideration of these agreements, but trade agreements may not receive that same consideration. An entirely different treatment is accorded them. If a potential for our after-the-fact meddling were the death knell of effective negotiating by U.S. firms, it is a wonder we have been able to settle any international disputes during our history as a nation. Yet we did so somehow without this fast-track authority until the third century of this Republic. For more than 200 years, we got along without it in respected trade agreements and we continue to this day to negotiate every other kind of international agreement without giving such fast-track assurance to nations with whom we negotiate.

Furthermore, on an issue of checks and balances, consider what it would be like if we had a fast-track rule for defense authorization bills or the farm bill or every appropriations bill. What if every treaty, Mr. President, submitted to the Senate such as the Panama Canal Treaty, such as the SALT II agreements, were unamendable and we were limited to a scant 20 hours of floor debate, as are trade agreements presently.

Mr. President, how much time remains to me?

The ACTING PRESIDENT pro tempore (Mr. BREAUX). The Senator from California has 23 minutes remaining.

Mr. WILSON. Mr. President, actually if the fast-track concept is so attractive, some might argue that it should be granted to the administration across the board. They might say what would be so terrible for the Congress to be required to give the President an up-down vote on any Presidential submission. Just imagine what various Presidents down through history might have been able to accomplish if just for the asking they had been able to get an expedited vote on a nonamendable proposal affecting our laws on welfare, health, labor, crime, the economy, defense. It is staggering how history might have to be revised.

Imagine what type of arms control agreement might be submitted to the Senate by some future President. You can pick your own candidate. Then imagine what it would be like considering the submission of that President under a fast-track gag rule.

Well, you may say, "Nonsense; these issues are too important to grant such unbalanced power to the President. That would be crazy. It would be absurd to give to any President such unlimited, unfettered discretion and have no real opportunity to offer some check upon it."

"Why," you might say, "it flies in the very face of the noble concept of checks and balances and separation of powers."

Yet, Mr. President, that is exactly what we have done to ourselves as it relates to trade policy and to international trade agreements. Now, is not our economic well-being dependent upon the ebbs and flows of international trade and foreign capital?

Of course, it is.

Why, then, are we rushing to renew a law that is so much at odds with the long understood balance between the executive and legislative branches that was struck by the framers of the Constitution in application to all other legislative endeavors in regard to actions of the Executive?

Mr. President, there has not been an American schoolchild for 200 years who has not been instructed proudly by his teacher, his civics teacher, in the wisdom of our constitutional system prescribing checks and balances and a separation of powers.

Make no mistake, the real focus of this free trade discussion should be on the adequacy of remedy to the U.S. citizen who is in fact honestly aggrieved by an unfair practice of a foreign trading partner.

The problem, Mr. President, from the standpoint of that U.S. citizen who is aggrieved by an unfair trading practice, for example dumping as in the recently considered semiconductor case—the problem for that citizen or that industry or that company is one that arises from the failure of the negotiator of such a trading agreement to include in it provisions that deal with and solve, or even address that unfair trade situation.

What happens if, to put it bluntly, some future United States Trade Representative in his eagerness to arrive at a free trade agreement with Japan were simply to turn a blind eye to what is being acknowledged to be an unfair trading practice by the Japanese?

Recently, this Senate adopted a resolution urging the President to retaliate against the Japanese for violation of the semiconductor agreement. It passed 93 to 0.

The Members of the Senate were incensed, outraged by this violation of an agreement that had been occasioned, made necessary by years of unfair trading practices.

What if, in the future, because of some other big picture advantage to the United States, some future U.S. Trade Representative, less responsive than Clayton Yeutter, more eager to get an agreement than to get a good agreement, were to come back and say, "Oh, yes, we tried to get some help for you in that area, but they simply said, 'No, that is not on the table'."

Suppose, for example, that the Japanese negotiator says, "The price for our agreement to this proposed free trade agreement is that it say nothing about semiconductors or what you allege to be our unfair trade practices. That is off the table. Put that in, we have no agreement."

Suppose at some future time the Canadians say, "Yes, we would like a free trade agreement but understand, we will sign no free trade agreement that seeks to regulate us in any way or would in any way diminish our authority in the area of trade in intellectual property rights because we are bound and determined that we are going to protect our cultural sovereignty."

And suppose in his eagerness, the U.S. negotiator says, "OK, we don't think that is fair but we have got to get on with this agreement."

Mr. President, the list of horrible examples of existing unfair trade practices is as long as your legs; as long as the list of real, existing, unfair trading practices that are currently being suffered by American farmers, American manufacturers, American construction companies, American providers of financial advice, bankers, insurance brokers, securities dealers—Mr. President, this is real.

What if our Canadian trading partners were to say to us at the end of a negotiation on a free trade agreement: "Oh, by the way, you do understand that we in the National Government can in no way bind the provincial governments. We have got a deal, but unfortunately we can't get Saskatchewan or Quebec to go along with this. They, we hope, will do so in the fullness of time."

What if the Uruguay round, with all that we hope for it in the way of improving the dispute resolution process so that we have a real one rather than the current imaginary one—what if it does not cure that problem? What if it does not deal with unfair trade practices like a 15-year acknowledged discrimination by the European Economic Community against U.S. citrus producers?

Mr. President, I ask: What if, in all of these many instances of unfair trading practices being suffered by American farmers, bankers, manufacturers, construction workers, shoemakers, insurance brokers, and on and on, what is the remedy for this long list of unfairly treated American commercial interests?

Someone may say: Why, Senator, the answer to that is section 301 of the Trade Act. It says that if an unfair trade practice is found to exist the President has a full arsenal of weapons with which to retaliate.

Mr. President, let us be realistic. Let us be honest. If the negotiators come home with an agreement that has ignored an acknowledged glaring unfair trade practice, then the President will use his discretion in a way that does not hold out much hope for those bringing a 301 petition for cure of their unfair trading practice.

Let us not kid ourselves. The bitter experience of too many petitioners is ample evidence that is a fatuous, fond hope.

Mr. President, the best practical argument for fast track is that we cannot expect good faith negotiations with 90-plus trading partners at the Uruguay round to be successful if that work is subject to rewrite by 51 Senators or 218 Members of the House of Representatives. I acknowledge that. That is why we have not sought to remove the prohibition in the existing law or in the reauthorization against amendments of either the trading agreements or the implementing legislation. We are not removing the existing prohibition.

This amendment is proposed to allow the Senate and the House of Representatives to have adequate debate on measures which can only be voted up or down but not amended.

There is a concern that while individual Members of Congress can justify a vote for a trading agreement that is partially defective because on the whole it is in the national interest, these same individuals could not allow an amendable agreement to pass without trying to improve it.

Granted, we are not doing that. We are simply not offering those amendments. But, even accepting that there is merit to this analysis of multilateral trade agreements, it has no similar application to bilateral trade agreements such as that now being negotiated with Canada. If, for example, the United States-Canada agreement is reached and submitted to the Congress, it would not be an insurmountable logistical burden to address specific congressional concerns contained in agreed amendments by resuming the talks.

But, enough, I bring that up only to emphasize the narrowness of our options because we are not going to be able to amend those agreements or the implementing legislation. We simply vote up or down.

Well, let us at least do so knowing what is in the agreement and knowing what is not in the agreement, what has been omitted; what has been found to be too expensive; what has found to threaten the reaching of an agreement. Let, at least, the people who are going to suffer the burden understand that they are going to suffer it. Let those of us on this floor who have an obligation to our constituents know which of those constituents have come out on the short end of the stick in the national interest.

You cannot do that in 20 hours.

Mr. President, the amendment I am offering would remove only the limits on floor debate and the impact of this change would not be severe. It is rather simple and straightforward. Adequate debate imposes no cost upon us other than the fact that under international rules we would simply be denied the benefits of the proposed agreement until it was ratified by the Congress. Furthermore, if a ratification vote were delayed, the approval vote, additional talks with other countries could still occur, indeed they are occurring right now. The fact that the Senate has never voted on the SALT II agreement has not prevented us from engaging in extensive negotiations with the Soviets on further arms limitation negotiations.

So, Mr. President, my amendment would not remove the present prohibition on amendments. It simply requires adequate debate.

No foreign country, it is said, would be willing to negotiate with us if we were to change the rules. Well, we need only look at history, to the many international agreements, multilateral and bilateral, negotiated by the United States during our 200 years of existence without the promise of fast-track treatment, to see that fast-track has not been needed to persuade other nations to engage in negotiations with us on matters every bit as complex, certainly as far-reaching and as important even as a trade agreement.

But, Mr. President, this amendment does not change the presently existing prohibition on amendments to trade agreements. In its simplest terms the present fast-track law affords trade agreements, negotiated by the executive branch, a status of guaranteed immunity from legislative congressional disagreement. That is what it does. We are not going to change that. We are simply going to say that when confronted with this narrow choice of voting up or down on the whole package, we should have adequate debate to learn what is in the bill, to let those on this floor not members of the Finance Committee understand what is at stake, to know whether or not we should vote up or down.

Mr. President, if we were to decide to extend the fast track as in the pending bill, it is entirely arguable that we might as well adopt an amendment to the Constitution that takes from the Senate our historic ability to add a reservation to a treaty negotiated by the Executive, leaving us with only 20 hours of debate to vote up or down on ratification of that important treaty.

Mr. President, some treaties submitted to the Senate are in need of more than 20 hours of debate before we vote up or down.

We already grant greater deference to the President when considering trade agreements requiring only a majority vote rather than two-thirds, but we will be going much, much further by limiting debate. We will go much too far, Mr. President, if we accord to the vitally important Uruguay round a scant 10 hours per side. That is what we face, 10 hours per side on the Uruguay round. That is what this bill will require unless we cure this terrible mistake by adoption of this amendment.

Mr. President, as a point of reference for purposes of comparison, the Senate has spent more than 120 hours debating this trade bill. That is a point of reference for purposes of comparison, Mr. President. We accord far more time to a budget resolution which is with us for only a single year, not for years and years and years as would be, presumably, the Uruguay round.

As a point of reference, we accord far more time to postcloture debate. Twenty hours?

Mr. President, 20 hours for the Uruguay round is not enough. This may be a convenient arrangement for the President and for members of the Finance Committee. It may even be argued to be terribly efficient, as it was said that Mussolini made the trains run on time. However, it is a total abrogation of our responsibility. Ours is not a parliamentary form of government. It is designed through checks and balances to provide a check upon Executive excess. It is this concept that is at the very foundation of our Government, and it is the very foundation of this debate.

That concept is upset by the fast-track law. The ultimate effect of my amendment would be to partially restore the Senate's ability to adequately consider trade agreements while recognizing that some practical considerations do indeed weigh in favor of retaining some limits so that there will not be a rewriting of the work of trade negotiations.

If it is adopted, my amendment will simply provide that the normal rules of the Senate would apply to debate on a trade agreement. Debate could still be brought to a close under cloture. In other words, all that would be needed to guarantee a vote on a bill implementing a trade agreement is 60 votes, 7 less than required for ratification of a treaty and the same vote that is required on any other bill.

With 60 votes debate is ended and a final vote occurs. We will not filibuster to the point where we kill a bill, or, if that is a real threat, Mr. President, then I submit that if the President of the United States cannot muster 60 votes to end debate on a trade agreement, then it just may not be worth binding ourselves to it.

My amendment is a needed cure to an unjustified abdication of senatorial responsibility in favor of the convenience of trade negotiators, and it is important for the Senate to reassert that traditional constitutional role of helping to shape trade policy as we shape other policy. This amendment will simply permit us to regain the authority required to exercise that responsibility.

Mr. President, my purpose is not to prevent trade agreements. To the contrary, I encourage them. To my knowledge, I am the only Member of the Senate who testified before the Finance Committee in favor of the only free trade agreement that we have yet adopted.

So my purpose is not to prevent them, but it is to improve them. My purpose is not even to make it unduly difficult to pass trade agreements.

My purpose, Mr. President, is, instead, to keep honest future trade negotiators, both ours and those of our foreign trading partners. It is to keep them honest to bring us better, more comprehensive, more fair trade agreements. More comprehensive and more fair than they are likely to bring us, Mr. President, far more likely, than if they face at most 10 hours of scrutiny and debate on the floor of this Senate.

If, instead, we assure our trade negotiators and those of our trading partners seated on the opposite side of the table from them that their handiwork will undergo adequate debate prior to the up-down vote, those negotiators will be much less inclined to risk a "no" vote. They will be far less inclined to yield to the temptation to turn a blind eye to unresolved, unfair trade practices. The irony, Mr. President, is that this may very well, it seems to me, not only improve the trade agreements brought to us but improve their chances for passage. If there is widespread dissatisfaction, who knows, there may never be any free trade agreement.

Mr. President, let me say that the administration, any administration, will, in the future, need leeway in international negotiations, but it makes no sense for us in the Senate to claim any real role in formulating U.S. trade policy and then to abdicate that role, to pass the economic equivalent of a Gulf of Tonkin resolution.

Mr. President, we must not so disable ourselves. We must not prevent full consideration of a trade agreement in a way that we do not disable ourselves on any other piece of legislation or any other treaty. We do not have any other law that allows the Executive to submit a proposal that must be voted on without amendment and with so severely limited debate. Trade is too important a national issue for us to give that much authority to any chief executive at any time.

Mr. President, I reserve the remainder of my time.

The ACTING PRESIDENT pro tempore. The Senator from California reserves 45 seconds.

The Chair recognizes the Senator from Texas.

Mr. BENTSEN. Mr. President, I must oppose the Senator's amendment.

The first thing to understand about our negotiating authority is that it is the heart of this bill. There is no way to accomplish the goals we all seek of expanded world trade unless we include negotiating authority in the bill. At a more practical political level, we have no hope of convincing the President to sign the bill unless it gives him negotiating authority. So this bill must include effective negotiating authority to be successful.

This amendment would virtually revoke negotiating authority. As former Ambassador Bob Strauss told us at our first day of hearings this year, any amendment that kills the "fast track" which this amendment does, kills negotiating authority; and, I might add, that kills the bill.

Let me explain

When it comes to negotiating trade agreements, our form of government is unique in the world. In all other countries, if the Prime Minister signs a trade agreement, the Parliament—which the Prime Minister controls—will approve that agreement. But under our Constitution, with its independently elected legislature, Congress can refuse to implement trade agreements.

We used to implement trade agreements by delegating implementing authority to the President. That kind of authority was appropriate for the days when reducing trade barriers meant lowering duties. Nowadays, trade agreements are mainly about everything but tariffs. Any tariff reduction today in the United States is highly controversial.

What we did—for the first time, in 1979—was to provide expedited procedures for congressional approval of trade agreements, which are collectively known as the "fast track."

Several years ago, I became deeply concerned about the operation of this expedited procedure because the foundation upon which the fast track was built had been seriously undermined in this administration. That foundation was consultation between Congress and the administration. It was obvious by last summer, if not before, that Senators, both on and off the Finance Committee, believed they were not being consulted on trade.

Mr. President, the fast track cannot operate without trust engendered by full two-way consultation. Indeed, we cannot allow a new round of trade negotiations to proceed if we box ourselves out of consultation. For this reason, the bill we have reported to the Senate this year is not a proposal to reenact the old fast track we used in 1979.

The bill we have proposed has altered the fast track in several ways. First, the President cannot even get the benefit of the fast track until he tells Congress what he is doing in these negotiations. Under this bill, the fast track is available if, and only if, the President submits to Congress a trade policy statement that at least gives us a description of his policies with respect to domestic industries affected by imports and domestic industries that have a substantial potential for exporting. We hope he will tell us much more, but that is the minimum he should have to put on record before the negotiation begins.

Second, his authority to use the fast track will expire at the end of 1991 unless, a year before, he can satisfy both Houses of Congress that negotiations are making progress. Any Member of either House can introduce an extension disapproval resolution in the first part of 1991, and if it is reported by the Appropriate Committee of that House and is passed by that House, the fast track dies, even if the other House fails to act.

Third, the President may not enter into trade agreements under this bill unless they accomplish appropriate negotiating objectives set out in the bill; are mutually beneficial agreements; provide a reasonable likelihood the agreement can be enforced; and provide for a means to offset any unfair state trading practices foreign governments engage in.

Fourth, all these requirements apply to all trade agreements, but in addition bilateral trade agreements are subject to disapproval before negotiations even begin by either the Finance Committee or the Ways and Means Committee—the procedure that almost derailed the United States-Canada negotiations now underway because the administration had failed to consult adequately with the Congress.

There are many other significant restrictions on the President's use of the fast track under this bill, but the most important is that after the fast track is enacted, it can be revoked if at any time both Houses pass simple resolutions to revoke the fast track within 60 days of each other. These resolutions are themselves on a fast track.

That change was proposed jointly by Senator ROTH, who has spent a great deal of time thinking about this problem over the years, and this Senator.

Now, I want to assure the Senator from California that we are not only deeply concerned that this administration and the next administration undertake adequate consultations with the Congress. I also want to assure the Senator that in administering the provisions in this bill, the Finance Commitee would intend to follow the practice the committee established in 1979 for obtaining the views of other Senate committees.

Under that practice, if the administration brought back an agreement that would be implemented by legislation that fell within the jurisdiction of another Senate committee, then the Finance Committee would defer to that committee in every way possible.

Let me give the Senator an example how that provision worked in 1979.

When Bob Strauss came back from Geneva in 1979, he had about 10 different trade agreements under his arm. One of those agreements was an agreement to open up government procurement around the world. In order to implement it, the United States had to change U.S. procurement law, which is a matter that is referrable to the Committee of Governmental Affairs under the Senate rules.

What the Finance Committee did was to ask for the advice and counsel of the Governmental Affairs Committee. That committee discussed the matter prior to the submission of Ambassador Strauss' agreements to the Congress for congressional action—prior to the fast track even beginning—which is the procedure provided for under law. The Governmental Affairs Committee, in due course, not only changed the bill proposed by Abassador Strauss; they even found fault with the underlying agreement.

As a result, Ambassador Strauss went back to Geneva and renegotiated the government procurement agreement. But more important for this discussion, the bill that the administration sent up contained the provisions suggested by the Governmental Affairs Committee, which had been routinely endorsed by the Finance Committee.

If, in the future, an administration returns with trade agreements that fall within the jurisdiction of some Senate committee other than the Finance Committee, I would do everything in my power to assure that we sought and followed the recommendations of that other committee. Indeed, I would go so far as to say that I would do everything in my power to assure that the views of all Senators were considered in advising the administration about what bill to submit on the fast track.

Now what is the alternative the Senator suggests? Well, essentially, it aborts the fast track. It allows delay of such legislation.

If this amendment were in effect, the President—and the next President—would be crippled. You know, before we came up with this fast track, Congress used to amend these agreements to death. Back in 1968, Lyndon Johnson sent up an agreement on antidumping. The Senate did not disapprove it. It just added a little amendment which said, essentially, "this agreement is approved except to the extent it changes United States law."

Now, our trading partners have long memories, and they remember that one. Moreover, they know our system of Government well, because they spend a lot of time lobbying in it.

A few months ago, some European officials actually considered negotiating directly with the Congress, which, of course, is not our constitutional function. But they know that if there is no fast track, the President may not be able to deliver. So they are not going to play all their cards, Congress is going to be disappointed, the agreements will be amended to death, and the new round will fizzle. We cannot allow that failure to be blamed on this bill.

Our approach is to insist that Congress is in on the negotiation every step of the way. If the administration is not doing what Congress wants—if it is not consulting, if it is not sensitive to views of Senators with concerns in this matter, both on and off the Finance Committee—then we will initiate a hearing on reporting one of those reverse fast track resolutions I mentioned. Believe you me, that will get the administration up here in a hurry.

So our approach means not only no surprises, not only agreements we can approve; I submit it means the best possible trade agreements, because those foreign governments will know that Congress is in on the deal. They will be forced to go to their bottom line, because they know that if they fail to offer a good deal, then the congressional advisers will give the deal thumbs down.

The President's men have announced they do not like the reverse fast track. But it passed the Finance Committee 19-to-1. However, I believe that if we reject this amendment by a healthy margin, the administration will find a way to work with the reverse fast track. It reinforces negotiations, it assures a better deal for our country.

On the other hand, if we accept the Senator's amendment, the administration can say we gave them nothing. They will argue the bill destroys the hope for the new round and undermines U.S. leadership around the world. And they will be right.

I urge the defeat of the amendment.

Mr. PACKWOOD addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Oregon.

Mr. PACKWOOD. Will the Senator yield me 3 minutes?

Mr. BENTSEN. I would be delighted to yield such time as desired.

Mr. PACKWOOD. I thank the Senator.

I yield myself such time as I need from my time.

Mr. President, here is what we are up against if we adopt the amendment of the Senator from California and in essence eliminate the fast-track authority and hold up the bill in the Senate by filibuster.

When the President negotiates a multilateral agreement, he sits down with the leaders of Germany, France, England, and other countries in the world. The President is dealing with either the heads of usually parliamentary democracies or in some cases dictatorships.

In either event, when an agreement is negotiated, the leaders of the other countries can deliver. When you are the President, you are the majority leader of either party, you can go back and say, "I have my neck on the line with this agreement," and it is passed. With a dictatorship, clearly, the dictatorship can deliver. And inevitably in one of these multinational trade agreements, there is negotiation. We give up a little on textiles, Germany gives up a little bit of protection on textiles, France gives up a little bit of protection on soybeans. And even though the French farmers are mad, the German textile industry is mad, our textile industry is mad, everybody benefits. The trade expands and the countries will indeed be blessed with better prosperity. But the industries in each country that think they are hurt are mad.

Primarily, the German Prime Minister can say, "Here are the agreements," and it is passed. The same thing can happen in France. But the leaders of those countries will not take the political heat on giving up something on soybeans and textiles and causing themselves difficulties in their country if they think that agreement will come here and be turned down. All they have done is lose. We are the only country in the world that really has an independent legislative branch. It is a good system, but to every country in the world who negotiates with us, they are afraid that they will make a political decision that can hurt them and our legislative branch turns it down.

We can still turn it down. The fact that it is on a fast track does not mean that you cannot vote no. But at least when it is on a fast track and the countries with whom we are negotiating know there must be a vote and we must vote up or down—you cannot amend it—they are reasonably convinced that they have a fair shot at getting an agreement that they can negotiate with the President.

Ambassador Strauss, former Special Trade Representative, was right. And every other witness, I think, who testified, said the same thing: If that fast-track authority is gone, forget any serious multilateral or even bilateral trading negotiations that other countries will enter into with us, because they will not know if they can trust that their president's agreement will be carried out.

I strongly urge that we defeat the amendment of the Senator from California.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BENTSEN. I yield 1 minute to the distinguished Senator from Montana.

Mr. BAUCUS. I thank the chairman of the committee.

Mr. President, this is a gutting amendment. It guts the basic provisions we need to negotiate a new trade route with other countries or bilateral agreement with Canada. The effect of this amendment is to give a very narrow sectoral interest veto power over a trade treaty, power that is not given to any other group in any other country.

I repeat that statement: The effect of this amendment is to give a small sectoral—whether it is fishing rights, safflower oil, whatever it is—on a treaty of national interest, give that small sectoral interest veto power over a national treaty, power which is not given to any other similar interest in any other country, because those other countries, as the Senator from Oregon has said, are parliamentary countries. The Government is the same as the chief of state in those countries.

So I repeat, the effect of this amendment is to gut the multilateral provisions we do need if we are going to negotiate a trade treaty with other countries. I strongly urge that this amendment be defeated.

The ACTING PRESIDENT pro tempore. The Senator from Texas is recognized.

Mr. BENSTEN. Mr. President, I strongly urge the defeat of this amendment. I yield back the remainder of my time.

The ACTING PRESIDENT pro tempore. Who seeks time?

The Senator from California.

Mr. WILSON. Mr. President, is there any time remaining?

The ACTING PRESIDENT pro tempore. The Senator has 1 minute.

Mr. WILSON. I thank the Chair.

It is a pity that our former colleague, Russell Long, is not on the floor. After years of chairing and being a member of the Finance Committee, he agreed with me, although he agreed it was much more than this. To say this is a gutting amendment is nonsense. It does not permit amendments. A small sectoral group cannot gain that amount of power. This allows full debate. If an agreement cannot stand debate, Mr. President, something is wrong with the agreement.

Let me just tell my colleagues that full debate on anything as important as the Uruguay round is necessary—20 minutes, 10 to the critics—is an absurdity. I urge this very reasonable provision, because without it, not special interests but all of us will live to regret it.

Mr. BUMPERS. Mr. President, I have some concern about the fast-track procedure.

In previous multilateral trade negotiations, the principal issues were tariffs and definitions of unfair trade practices. But this trade negotiation may lead to agreements to change major Government programs.

For example, this round of trade negotiations may lead to the end of many sources of financial and nonfinancial assistance which our Government currently provides to U.S. businesses.

For example, the administration is calling for the end to all "agriculture subsidies." Could this administration use this fast-track procedure to secure major changes in our Government's current agriculture programs?

Could this administration agree to end various types of Government assistance for applied research or the transfer of technology from government laboratories to private businesses?

There currently is substantial disagreement on what constitutes an unfair government subsidy under the countervailing duty law. Could this administration bring to the Congress an agreement which characterizes as a subsidy the functions of government which we in the United States consider to be routine and noncontroversial.

This administration seems to believe that the Government has no legitimate role to play in promoting business development. It opposes EDA, UDAG, OPTI, UMTA, many education programs, most training programs, and most Federal Government support for State and local governments.

Could this administration agree that some or many of these programs constitute illegal subsidies?

Hopefully, much of the negotiations under the Uruguay round will be undertaken by an administration which has a more even-handed view of the usefulness of government programs.

I trust that the Congress would use the disapproval resolution procedure if the administration is seeking to secure agreement to end many Government programs which are legitimate and appropriate. We cannot allow the executive branch to dictate the terms of amendments to a wide range of well-established and strongly supported Government programs.

I trust that with this disapproval resolution mechanism my concerns about use of the fast-trade procedure will not be realized.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. The Chair recognizes the Senator from Oregon.

Mr. PACKWOOD. Mr. President, I yield back the remainder of my time.

I move to lay on the table the amendment of the Senator from California and I ask for the yeas and nays.

The ACTING PRESIDENT pro tempore. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to table. The yeas and nays have been ordered.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 30 seconds.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the disposition of this amendment will be the last rollcall vote today. I do not know how close it will be and whether it will require a motion to reconsider or not. But I say that on the disposition of this amendment it will be the last rollcall vote today; and the first rollcall vote on Tuesday next will be at 9 a.m.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to table the amendment. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Washington [Mr. ADAMS], the Senator from Delaware [Mr. BIDEN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Florida [Mr. Chiles], the Senator from Connecticut [Mr. Dodd], the Senator from Tennessee [Mr. Gore], the Senator from Massachusetts [Mr. Kennedy], the Senator from Vermont [Mr. Leahy], the Senator from Maryland [Ms. Mikulski], the Senator from Rhode Island [Mr. Pell], the Senator from North Carolina [Mr. Sanford], the Senator from Illinois [Mr. Simon], and the Senator from Colorado [Mr. Wirth] are necessarily absent.

I further announce that, if present and voting, the Senator from Washington [Mr. Adams], the Senator from Tennessee [Mr. Gore], the Senator from Vermont [Mr. Leahy], and the Senator from Rhode Island [Mr. Pell] would each vote "yea."

Mr. DOLE. I announce that the Senator from Colorado [Mr. Armstrong], the Senator from Maine [Mr. Cohen], the Senator from Minnesota [Mr. Durenberger], the Senator from Utah [Mr. Garn], the Senator from Pennsylvania [Mr. Heinz], the Senator from Oklahoma [Mr. Nickles], the Senator from Wyoming [Mr. Simpson], the Senator from Idaho [Mr. Symms], and the Senator from Virginia [Mr. Trible] are necessarily absent.

I further announce that, if present and voting, the Senator from Pennsylvania [Mr. Heinz] would vote "yea."

The PRESIDING OFFICER (Mr. Lautenberg). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 68, nays 9, as follows:

[Rollcall Vote No. 203 Leg.]

YEAS—68

Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Breaux
Bumpers
Burdick
Byrd
Chafee
Cochran
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dole
Domenici
Evans
Exon
Ford
Fowler
Glenn
Graham
Gramm
Grassley
Harkin
Hatfield
Hecht
Heflin
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kerry
Lautenberg
Levin
Lugar
Matsunaga
McCain
McConnell
Melcher
Metzenbaum
Moynihan
Murkowski
Nunn
Packwood
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Rudman
Sarbanes
Sasser
Shelby
Stafford
Stennis
Stevens
Wallop
Warner
Weicker

NAYS—9

Hatch
Helms
Hollings
Humphrey
McClure
Quayle
Specter
Thurmond
Wilson

NOT VOTING—23

Adams
Armstrong
Biden
Bradley
Chiles
Cohen
Dodd
Durenberger
Garn
Gore
Heinz
Kennedy
Leahy
Mikulski
Mitchell
Nickles
Pell
Sanford
Simon
Simpson
Symms
Trible
Wirth

So the motion to table amendment No. 616 was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the motion to lay on the table was agreed to.

Mr. BYRD. I move to lay that motion on the table.

FOREIGN CORRUPT PRACTICES ACT

Mr. WIRTH. Mr. President, I want to take a few minutes to address several provisions in the Banking Committee's title of the trade bill that amend the Foreign Corrupt Practices Act [FCPA]. While these changes were considered by the Banking Committee prior to the time I became a member, this issue is not new to me nor to the other Senators here today. I want to commend the distinguished Senator from Rhode Island [Mr. Chafee] for his work on this legislation—he and the others on the Banking Committee have made a number of positive changes.

For those not familiar with the history of this act, I would like to give a bit of background on the climate that led to its enactment.

The FCPA was passed in 1977 to address problems of large-scale bribery and improper payments to foreign government officials by some of America's biggest corporations. More than 450 companies were involved; friendly governments were undermined; and the scandal left American business with a black eye at home and around the world.

During past Congresses, committees in both the House and the Senate held extensive hearings. In 1976, the committees received from the Securities and Exchange Commission an extensive "report on questionable and illegal corporate payments and practices," which summarized the SEC's enforcement activities and findings at that time. That report traced the history of the SEC's discovery of conduct involving the misuse of corporate funds and the commencement of investigations by the SEC which subsequently revealed that instances of questionable or illegal corporate payment were widespread. These undisclosed payments represented a serious breach in the operation of the SEC's system of corporate disclosure and, correspondingly, in public confidence in the integrity of our system of capital formation. The SEC report also analyzed the public filings of 89 corporations that had disclosed varying types of questionable payments, plus six special reports obtained as the result of SEC cases in which the SEC had obtained some form of judicial relief. Finally, the report contained the SEC's analysis of the degree of disclosure required concerning questionable foreign payments under the existing Federal securities laws and outlined the legislative and other responses which the SEC recommended to remedy these problems.

As a result of this process, the Foreign Corrupt Practices Act was adopted in 1977 as an amendment to the Securities Exchange Act of 1934. The FCPA specifically prohibits the bribing of foreign government officials by U.S. companies and individuals, either directly or through third parties. Civil enforcement of law with respect to publicly held companies rests with the SEC. Criminal enforcement of the act, as well as civil enforcement with respect to companies and individuals not within the jurisdiction of the SEC, rests with the Department of Justice. The SEC also enforces provisions of the act requiring that U.S. public companies develop internal accounting control systems and keep accurate books and records.

It appears that the FCPA has dramatically reduced large-scale bribery of foreign government officials by American companies. It has worked well, largely because the vast majority of honest businesses in the United States have taken steps to comply with the law.

However since that law was enacted, there has been some uncertainty about the law. Indeed, it has been suggested that the restraints of the law may be greatest on the most scrupulous members of the business community.

I want to commend the Senator from Rhode Island and the other members of the Banking Committee for their hard work in trying to craft amendments to alleviate some of the uncertainty about the language of the current law, while attempting to retain the law's prohibition against bribery. I also want to acknowledge the work done by the Senator from Ohio in his efforts on this amendment.

In addition, I greatly appreciate accommodations made by the committee to address concerns I raised about the SEC's authority to bring accounting cases.

Unfortunately, I believe the amendments still lack clarity in certain respects, and provide potential loopholes in others. I recognize that it is not possible at the present time, on the pending legislation, to make a number of changes I believe are necessary in order to make FCPA a tougher, more enforceable law. But I do hope conferees will look to some of the approaches used in the House bill in an effort to further refine these amendments.

I want to commend the Representative from the 26th District of California, Mr. Berman, who in the other body has led an effort to clarify this important law while maintaining its effectiveness. I commend the House provisions to the considertion of my colleagues who will be conferees on the relevant portion of the omnibus trade bill. I hope the final version of this legislation will incorporate many of the provisions as they were passed by the other body.

Mr. INOUYE. Mr. President, earlier this session I supported efforts to include in the trade bill language that would have assured all States at least 0.5 percent of the amounts appropriated under chapter I for programs serving educationally disadvantaged students. The proposed small State minimum has been challenged and the subject of conflicting assertions. Consequently, I now agree that we should not encumber our deliberations on the trade bill with our concerns about the allocation of funds under chapter I.

The small State minimum was designed to offset the difficulties associated with delivering educational services in sparsely populated areas, and to assure that comparable percentages of eligible students would be served in all States, regardless of size. The total funds subject to the small State minimum would amount to about $25 million out of a total authorization of $4.2 billion.

I believe that the small State minimum is completely justified on the basis of fairness. However, variations in the amounts that particular States contribute to chapter I programs, and differences in State educational systems make comparisons difficult.

The conflicting claims that have been made concerning the proposed minimum cannot be resolved within the time constraints that impel us to complete our deliberations on this important legislation. I therefore support withdrawal of the proposed minimum pending clarification of its factual basis and its effect. I look forward to reconsideration of this important issue at a later time and in a different context.

TRIGGERED MARKETING LOAN PROGRAM

Mr. COCHRAN. Mr. President, as the Senate considers this omnibus trade legislation, one imperative is to ensure that U.S. policy is not protectionist. A protectionist stance would spark retaliation by our trading partners, diminishing the chance that the full economic potential available through an open trading environment will accrue to all nations. More particularly, such a stance would deal a crippling blow to the immediate recovery and future well-being of agriculture, since the success of the agricultural sector is heavily dependent on world trade.

Alternatively, the United States should make every effort to obtain a workable protrade agreement under the General Agreement on Tariffs and Trade [GATT] during the Uruguay round of multilateral trade negotiations which are underway. The bill being considered contains several provisions designed to provide the President with effective trade negotiating authority in the GATT Uruguay round.

Important among such provisions is the triggered marketing loan, included by the Agriculture Committee in the agriculture title. This provision gives our U.S. trade negotiators more leverage as they seek to reduce agricultural subsidies and barriers thereby making trade more open. It tells our trading partners that, unless substantial process is made toward an agreement under the GATT concerning agricultural trade by the beginning of the 1990 marketing year for wheat, the U.S. Government will make its exports of wheat, feed grains, and soybeans competitive by implementing a marketing loan program for the 1990 crop of those commodities.

The triggered marketing loan will send the right signals to encourage the trade negotiations to seize the opportunity to obtain a workable agreement under the GATT with respect to agriculture.

We know that the "marketing loan" concept is sound. The marketing loan provision, which was included in the Food Security Act of 1985, has proven to be very effective in competitively pricing the commodities for which it has been implemented—cotton, rice, and honey.

The effectiveness of the marketing loan program for cotton can be demonstrated in a number of ways. Domestic mills will consume nearly 7.3 million bales of cotton during the first full year of the program—up substantially over previous years and 1.6 million bales above the 5-year average. Exports for this crop year are expected to reach 6.8 million bales—an increase of 380 percent over last year. During the current crop year, cotton stocks have declined from near record high levels of 9.3 million bales to a more manageable 5.2 million bales. The combination of increased domestic mill use, strong export demand and the reduction in stocks has resulted in prices recovering from the low 20-cents range to the current level of about 67-cents per pound. These results were possible because U.S. cotton prices became competitive in world trade.

Mr. President, by restoring cotton's competitiveness in domestic and world markets, the program has restored profitability to cotton producers and cut Government costs dramatically. While the first year of the program has been expensive, Government outlays for the cotton program are expected to decline from about $1.4 billion in fiscal year 1987 to below $800 million in fiscal year 1988. If market trends continue, Government outlays in fiscal years 1989 and beyond could be less than $400 million or about 2 percent of total agricultural program costs. This 2-percent value is significantly below the traditional 10 percent cotton has consumed.

In addition to the immediate benefits of increasing domestic and export sales while reducing stocks and Government costs, it is possible that the Marketing Loan Program will, in time, help bring discipline to world markets. The program is designed to more or less automatically respond to foreign subsidies, not stimulate or perpetuate them. The flexibility this program brings to the pricing of U.S. commodities will certainly increase the uncertainty in foreign production decisions. We have already seen evidence that other countries, which were subsidizing production expansion without regard to world demand patterns, have begun to modify their policies. The net result of their action will be to enable cotton producing and exporting nations to compete on a more equal basis which in turn enables U.S. producers to maintain markets they have developed through the years.

Mr. President, U.S. agriculture is technologically very advanced and it is necessary to continue improving its efficiencies in producing, harvesting, processing, transporting, and other related activities in getting commodities to market. However, even the most successful technologies can be inadequate in today's heavily subsidized world agricultural trade environment. Given the importance of exports to the U.S. agricultural economy, markets must be developed and maintained against all types of competition. The Marketing Loan Program has such capability, making it effective trade policy.

The marketing loan provision enacted in 1985 has proven to be the right competitiveness tool for the cotton, rice, and honey industries. Similarly, the triggered marketing loan is one of the competitiveness tools needed in our 1987 trade package. It not only gives our negotiators leverage to obtain a workable agreement, but also shows the world we are ready to meet subsidized competition should the GATT negotiations prove unsuccessful.

ANNUAL REPORT OF THE COUNCIL ON ENVIRONMENTAL QUALITY—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 53

The **PRESIDING OFFICER** laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Environment and Public Works:

To the Congress of the United States:

I am pleased to transmit to the Congress the Sixteenth Annual Report of the Council on Environmental Quality.

Clean air and water, productive and beautiful lands, abundant wildlife, and plentiful energy and natural resources are part of America's heritage. Throughout history Americans have sustained a deep, abiding relationship with their land and a reverence for this natural resource heritage. Prior to colonial settlement, native Americans strongly maintained these attitudes and the vast majority of Americans today hold similar values. My commitment to the conservation and stewardship of this treasured national heritage by the American people is guided by these beliefs.

The United States has by far the most comprehensive legislation of any nation on earth aimed towards environmental protection and natural resource conservation. This legislative umbrella continues to undergo modification in order to refine and redirect the Nation's programs to best serve the American people. These efforts are having an effect. By all accounts our Nation's air and water are getting cleaner. Likewise, our natural resource heritage is generally being preserved adequately and managed well. As this report observes, "Most renewable resources and their outputs appear to be sufficiently abundant to satisfactorily meet the needs of the nation. * * * Generally, the quality of these resources and their outputs is improving." Further, it concludes that "Time has tested our policies and programs and our resource managers, both public and private. They appear to have served Americans well."

However, this report also makes clear that despite these positive trends, programs and policies governing environmental protection and natural resource preservation are in need of change. The potential to devote virtually infinite resources to any of a number of environmental problems with diminishing benefits requires approaches that strike balances. This report suggests mechanisms for better striking those balances.

Also, we are becoming increasingly aware that many environmental problems do not stop at national boundaries and that international and global environmental problems will increasingly require coordinated attention. This report, consequently, provides the first government in-depth review of the international environment as it pertains to the United States since 1981. The conclusion of the first *Environmental Quality Report* in 1970 that "National environmental goals must be developed and pursued in the realization that the human environment is global in nature, and that international cooperation must be a principal ingredient to effective environmental management" is even more pertinent today.

We can be proud of our environmental achievements. Also, we can look forward to a future of an enhanced national environmental heritage combined with economic prosperity if, as a nation, we move forthrightly to deal with complex environmental issues in a thoughtful, analytical manner, striking appropriate balances between competing social values.

RONALD REAGAN.

THE WHITE HOUSE, *July 16, 1987.*

MESSAGES FROM THE HOUSE

At 9:25 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2906. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1988, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 2906. An act making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1988, and for other purposes; to the Committee on Appropriations.

MEASURE PLACED ON THE CALENDAR

The following bill, previously received from the House of Representatives, was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2342. An act to authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes.

ENROLLED JOINT RESOLUTION PRESENTED

The Secretary of the Senate reported that today, July 17, 1987, he had presented to the President of the United States the following enrolled joint resolution:

S.J. Res. 88. Joint resolution to designate the period commencing November 15, 1987, and ending November 21, 1987, as "Geography Awareness Week".

FOREIGN CURRENCY REPORTS

In accordance with the appropriate provisions of law, the Secretary of the Senate herewith submits the following reports of standing committees of the Senate, certain joint committees of the Congress, delegations and groups, and select and special committees of the Senate, relating to expenses incurred in the performance of authorized foreign travel:

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY, FOR TRAVEL FROM JAN. 1 TO MAR 31, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator David Pryor:									
Russia	Dollar		1,350.00		60.00				1,410.00
United States	Dollar				2,282.19				2,282.19
Dan Harrell:									
Russia	Dollar		1,350.00		60.00				1,410.00
United States	Dollar				1,090.00				1,090.00
Frank Thomas:									
Russia	Dollar		1,350.00		60.00				1,410.00
United States	Dollar				2,279.20				2,279.00
Total			4,050.00		5,831.39				9,881.39

PATRICK LEAHY,
Chairman, Committee on Agriculture, Nutrition, and Forestry, Mar. 31, 1986.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS, FOR TRAVEL FROM MAY 22 TO JUNE 2, 1986

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John Heinz:									
People's Republic of China	Yuan	3,254.50	1,020.22					3,254.50	1,020.22
Senator Paul S. Sarbanes:									
People's Republic of China	Yuan	3,314.41	1,039.00					3,314.41	1,039.00
William Reinsch:									
People's Republic of China	Yuan	2,995.41	939.00					2,995.41	939.00
John Walsh:									
People's Republic of China	Yuan	2,995.41	939.00					2,995.41	939.00
Delegation Expenses:									
People's Republic of China							13,650.25		13,650.25
Hong Kong							1,905.68		1,905.68
Total			3,937.22				15,555.93		19,493.15

Note: Delegation expenses include direct payments and reimbursements to the Department of State and the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954 as amended by Sec. 22 of P.L. 95–384, and S. Res. 179, agreed to May 25, 1977. The following individuals traveled with the delegation under authorizations as noted: Senator Bill Bradley, John Despres, Minority Leader; Senator Paul S. Trible, Jr., John Miller, Committee on Foreign Relations; Yvonne Hopkins, Jan Benson, Majority Leader. Reports of their expenditures appear in the report of the authorizing source.

JAKE GARN,
Chairman, Committee on Banking, Housing, and Urban Affairs,
Mar. 18, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1986

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator John Chafee:									
Switzerland	Franc	339.45	196.50	465.50	274.79			804.95	471.29
West Germany	Deutsche mark	270.45	132.00	56	27.33			326.45	159.33
Sweden	Krona	877	126.00					877	126.00
United States	Dollar				2,589.00				2,589.00
Steven J. Shimberg:									
Switzerland	Franc	452.60	262.00					452.60	262.00
West Germany	Deutsche mark	270.45	132.00	56	27.33			326.45	159.33
Sweden	Krona	877	126.00					877	126.00
England	Pound	204.56	294.00					204.56	294.00
United States	Dollar				2,685.00				2,685.00
Curtis A. Moore:									
Switzerland	Franc	452.60	262.00					452.60	262.00
West Germany	Deutsche mark	563.44	275.00					563.44	275.00
England	Pound	204.56	294.00					204.56	294.00
United States	Dollar				2,685.00				2,685.00
Steven J. Shimberg:									
Switzerland	Franc	1,329.35	792.00					1,329.35	792.00
United States	Dollar				1,953.00				1,953.00
Ronald Cooper:									
Switzerland	Franc	1,329.35	792.00					1,329.35	792.00
United States	Dollar				2,018.00				2,018.00
Total			3,683.50		12,259.45				15,942.95

ROBERT T. STAFFORD,
Chairman, Committee on Environment and Public Works, Dec. 31, 1986.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Ronald Cooper:									
Austria	Schilling	9,012.50	700.00					9,012.50	700.00
England	Pound	395.78	608.00					395.78	608.00
United States	Dollar				2,329.00				2,329.00
Curtis Moore:									
Austria	Schilling	9,012.50	700.00					9,012.50	700.00
England	Pound	395.78	608.00					395.78	608.00
United States	Dollar				2,329.00				2,329.00
Steven Shimberg:									
Austria	Schilling	9,012.50	700.00					9,012.50	700.00
England	Pound	395.78	608.00					395.78	608.00
United States	Dollar				2,329.00				2,329.00
Total			3,924.00		6,987.00				10,911.00

QUENTIN BURDICK,
Chairman, Committee on Environment and Public Works, Apr. 1, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), SELECT COMMITTEE ON INTELLIGENCE, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Arlen Specter			312.00		1,226.18				1,538.18
Charles Battaglia			465.00		2,560.00				3,025.00
Senator Bill Bradley			150.00		664.60				814.60
John Despres			150.00		548.60				698.60
David Holliday			694.50		704.00				1,398.50
James Currie			694.50		720.00				1,414.50
Keith Hall			694.50		720.00				1,414.50
John Nelson			694.50		720.00				1,414.50
Total			3,855.00		7,863.38				11,718.38

DAVID L. BOREN,
Chairman, Select Committee on Intelligence, Mar. 27, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), COMMISSION ON SECURITY AND COOPERATION IN EUROPE, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1986

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Samuel G. Wise:									
United States	Dollar				3,065.50				3,065.50
Belgium	Franc	10,867	254.00					10,867	254.00
Switzerland	Franc	414.50	250.00	84	50.66			498.50	300.66
Russia	Dollar		232.00						232.00
Austria	Schilling	36,020.76	2,526.00					36,020.76	2,526.00
Czechoslovakia	Crown	2,022	202.00					2,022	202.00
Romania	Lei			710	67.61			710	67.61
Hungary	Dollar		150.00						150.00
Michael Hathaway:									
United States	Dollar				2,272.00				2,272.00
Sweden	Kronor	4,450.70	644.00					4,450.70	644.00
Austria	Schilling	27,250.86	1,911.00					27,250.86	1,911.00
Deborah Burns:									
United States	Dollar				1,870.00				1,870.00
Austria	Schilling	25,197.42	1,767.00					25,197.42	1,767.00
Catherine Cosman:									
West Germany	Dollar				1,924.00				1,924.00
Deborah Burns:									
United States	Dollar				2,126.00				2,126.00
Austria	Schilling	39,719.68	2,728.00					39,719.68	2,728.00
Lynne Davidson:									
United States	Dollar				2,126.00				2,126.00
Austria	Schilling	88,469.66	6,200.00					88,469.66	6,200.00
Orest Deychakiwsky:									
United States	Dollar				2,126.00				2,126.00
Austria	Schilling	52,357.76	3,596.00					52,357.76	3,596.00
Samuel G. Wise:									
United States	Dollar				2,126.00				2,126.00
Austria	Schilling	43,147.04	2,976.00					43,147.04	2,976.00
Delegation Expense:									
Austria	Schilling					81,600	5,750.53	81,600	5,750.53
Jesse Jacobs:									
United States	Dollar				2,126.00				2,126.00
Austria	Schilling	21,665.28	1,488.00					21,665.28	1,488.00
John Finerty:									
United States	Dollar				1,963.00				1,963.00
Austria	Schilling	45,136	3,100.00					45,136	3,100.00
Barbara Edwards:									
United States	Dollar				2,126.00				2,126.00
Austria	Schilling	51,845.27	3,720.00					51,845.27	3,720.00
Miklos Radvenyi:									
United States	Dollar				2,131.00				2,131.00
Hungary	Forint	37,125	825.00					37,125	825.00
Michael Hathaway:									
United States	Dollar				2,131.00				2,131.00
Austria	Schilling	8,804	620.00					8,804	620.00
Senator Alfonse M. D'Amato									
United States	Dollar				2,131.00				2,131.00
Austria	Schilling	9,167.98	646.00					9,167.98	646.00
Total			33,835.00		30,361.77		5,750.53		69,947.30

ALFONSE M. D'AMATO,
Chairman, Commission on Security and Cooperation in Europe,
Jan. 15, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE DEMOCRATIC LEADER, FOR TRAVEL FROM AUG. 27 TO SEPT. 6, 1985

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Robert C. Byrd:									
England	Pound	70.22	98.75					70.22	98.75
Hungary	Forint	4,855	100.00					4,855	100.00
Russia	Dollar		381.85						381.85
Scotland	Pound	127.15	192.00					127.15	192.00
Senator Strom Thurmond:									
England	Pound	37.81	53.40					37.81	53.40
Hungary	Forint	4,357	88.80					4,357	88.80
Russia	Dollar		395.85						395.85
Scotland	Pound	137.15	192.00					137.15	192.00
Senator Claiborne Pell:									
England	Pound	66.09	93.00					66.09	93.00
Hungary	Forint	7,355	150.00					7,355	150.00
Russia	Dollar		431.85						431.85
Scotland	Pound	137.15	192.00					137.15	192.00
Senator Dennis DeConcini:									
England	Pound	88.22	124.00					88.22	124.00
Hungary	Forint	7,355	150.00					7,355	150.00
Russia	Dollar		631.85						631.85
Scotland	Pound	137.15	192.00					137.15	192.00
Senator Paul S. Sarbanes:									
England	Pound	88.22	124.00					88.22	124.00
Hungary	Forint	7,355	150.00					7,355	150.00
Russia	Dollar		631.85						631.85
Scotland	Pound	137.15	192.00					137.15	192.00
Senator John W. Warner:									
England	Pound	88.22	124.00					88.22	124.00
Hungary	Forint	7,355	150.00					7,355	150.00
Russia	Dollar		631.85						631.85
Scotland	Pound	68.57	96.00					68.57	96.00
Senator George J. Mitchell:									
England	Pound	88.22	124.00					88.22	124.00
Hungary	Forint	7,355	150.00					7,355	150.00
Russia	Dollar		631.85						631.85
Scotland	Pound	137.15	192.00					137.15	192.00
David J. Pratt:									
England	Pound	88.22	124.00					88.22	124.00
Hungary	Forint	7,355	150.00					7,355	150.00
Russia	Dollar		631.85						631.85
Scotland	Pound	137.15	192.00					137.15	192.00
Linda Peek:									
England	Pound	81.08	114.00					81.08	114.00
Hungary	Forint	6,865	140.00					6,865	140.00
Russia	Dollar		611.85						611.85
Scotland	Pound	137.15	192.00					137.15	192.00
C. Richard D'Amato:									
England	Pound	88.22	124.00					88.22	124.00
Hungary	Forint	7,355	150.00					7,355	150.00
Russia	Dollar		631.85						631.85
Scotland	Pound	137.15	192.00					137.15	192.00
Dennis Shedd:									
England	Pound	58.43	82.24					58.43	82.24
Hungary	Forint	5,336	109.00					5,336	109.00
Russia	Dollar		507.71						507.71
Scotland	Pound	137.15	192.00					137.15	192.00
Geryld B. Christianson:									
England	Pound	88.22	124.00					88.22	124.00
Hungary	Forint	7,355	150.00					7,355	150.00
Russia	Dollar		631.85						631.85
Scotland	Pound	137.15	192.00					137.15	192.00
Barbara Videnieks:									
England	Pound	40.22	56.80					40.22	56.80
Hungary	Forint	7,355	150.00					7,355	150.00
Russia	Dollar		631.85						631.85
Scotland	Pound	137.15	192.00					137.15	192.00
Peter D. Lennon:									
England	Pound	88.22	124.00					88.22	124.00
Hungary	Forint	7,355	150.00					7,355	150.00
Russia	Dollar		631,85						631.85
Scotland	Pound	137.15	192.00					137.15	192.00
Kevin Nealer:									
England	Pound	88.22	124.00					88.22	124.00
Hungary	Forint	7,355	150.00					7,355	150.00
Russia	Dollar		631.85						631.85
Scotland	Pound	137.15	192.00					137.15	192.00
Jeanine D. Lowe:									
England	Pound	53.57	75.00					53.57	75.00
Hungary	Forint	7,355	150.00					7,355	150.00
Russia	Dollar		481.85						481.85
Scotland	Pound	137.15	192.00					137.15	192.00
Sandra S. Mason:									
England	Pound	88.22	124.00					88.22	124.00
Hungary	Forint	7,355	150.00					7,355	150.00
Russia	Dollar		531.85						531.85
Scotland	Pound	137.15	192.00					137.15	192.00
Patricia A. Kirschner:									
England	Pound	88.22	124.00					88.22	124.00
Hungary	Forint	7,355	150.00					7,355	150.00
Russia	Dollar		431.85						431.85
Scotland	Pound	137.15	192.00					137.15	192.00
Christina E. Loescher:									
England	Pound	65.57	91.80					65.57	91.80
Hungary	Forint	7,355	150.00					7,355	150.00
Russia	Dollar		581.85						581.85
Scotland	Pound	137.15	192.00					137.15	192.00
Helen H. Johnston:									
England	Pound	58.49	82.33					58.49	82.33
Hungary	Forint	7,355	150.00					7,355	150.00
Russia	Dollar		388.95						388.95

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE DEMOCRATIC LEADER, FOR TRAVEL FROM AUG. 27 TO SEPT. 6, 1985—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Scotland	Pound	137.15	192.00					137.15	192.00
Freeman H. Cary:									
England	Pound	58.54	82.45					58.54	82.45
Hungary	Forint	7,355	150.00					7,355	150.00
Russia	Dollar		481.85						481.85
Scotland	Pound	137.15	192.00					137.15	192.00
Delegation expenses:									
England							4,961.82		4,961.82
Hungary							4,614.97		4,614.97
Russia							8,999.20		8,999.20
Scotland							6,555.42		6,555.42
Total			20,663.38				25,131.41		45,794.79

Note: Delegation expenses include direct payments and reimbursements to the Department of State and to the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95-384, and S. Res. 179, agreed to May 25, 1977.

ROBERT C. BYRD,
Democratic Leader, Mar. 25, 1987.

AMENDED CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE DEMOCRATIC LEADER, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1986

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Frank R. Lautenberg:									
Sweden	Krona	5,658.27	745.00	3,044	399.59	140	18.56	8,842.27	1,163.15
James McQueeny:									
Sweden	Krona	6,790	894.00	3,044	399.59	140	18.56	9,974	1,312.15
United States	Dollar				827.00				827.00
Jeffrey P. Morales:									
Sweden	Krona	5,658.27	745.00	2,962	388.80	140	18.56	8,760.27	1,152.36
United States	Dollar				648.90				648.90
Total			2,384.00		2,663.88		55.68		5,103.56

ROBERT C. BYRD,
Democratic Leader, Apr. 9, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE DEMOCRATIC LEADER, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1986

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Elizabeth Sherwood:									
Honduras	Lempira		416.00						416.00
El Salvador	Colon	660	132.00					660	132.00
Nicaragua	Dollar		180.00						180.00
Costa Rica	Colon	4,177.5	75.00					4,177.5	75.00
Guatemala	Quetzal	464	160.00					464	160.00
United States	Dollar				1,078.00				1,078.00
Senator Frank R. Lautenberg:									
England	Pound	117.46	176.00					117.46	176.00
South Africa	Rand	1,398.60	540.00	230	88.80			1,628.60	628.80
United States	Dollar				1,760.15				1,760.15
James McQueeny:									
England	Pound	117.46	176.00					117.46	176.00
South Africa	Rand	1,131.84	432.00	230	88.80			1,361.84	520.80
United States	Dollar				2,242.62				2,242.62
Charles R. D'Amato:									
Honduras	Lempira		416.00						416.00
El Salvador	Colon	660	132.00					660	132.00
Nicaragua	Dollar		180.00						180.00
Costa Rica	Colon	4,177.5	75.00					4,177.5	75.00
Guatemala	Quetzal	464	160.00					464	160.00
United States	Dollar				1,078.00				1,078.00
Edward L. King:									
Honduras	Lempira		416..00						416.00
El Salvador	Colon	660	132.00					660	132.00
Nicaragua	Dollar		180.00						180.00
Costa Rica	Colon	4,117.5	75.00					4,177.5	75.00
Guatemala	Quetzal	464	160.00					464	160.00
United States	Dollar				1,078.00				1,078.00
Diana Rubin:									
England	Pound	117.46	176.00					117.46	176.00
South Africa	Rand	1,678.32	648.00	230	88.80			1,908.32	736.80
United States	Dollar				2,384.10				2,384.10
Total			5,037.00		9,887.27				14,924.27

ROBERT C. BYRD,
Democratic Leader, Mar. 25, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE DEMOCRATIC LEADER, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1986

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Christopher Doherty:									
Poland	Zloty	82,000	410.00	25,600	128.00	9,206	46.03	116,806	584.03
United States	Dollar				1,280.00				1,280.00
Gregory B. Craig:									
Poland	Zloty	50,000	250.00					50,000	250.00
United States	Dollar				1,280.00				1,280.00
Edward L. King:									
Guatemala	Quetzal	433.68	168.75					433.68	168.75
El Salvador	Colon	750	150.00					750	150.00
Costa Rica	Colon	9,536.6	164.00					9,536.6	164.00
Honduras	Lempira	606	303.00					606	303.00
Nicaragua	Dollar		180.00						180.00
Mexico	Peso	57,785	65.00					57,785	65.00
Total			1,690.75		2,688.00		46.03		4,424.78

ROBERT C. BYRD,
Democratic Leader, Apr. 10, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95–384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE DEMOCRATIC LEADER, FOR TRAVEL FROM NOV. 15–29, 1986

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Ernest F. Hollings:									
South Korea	Won	296,510	342.00					296,510	342.00
People's Republic of China	Yuan	2,651.52	714.00					2,651.52	714.00
Hong Kong	Dollar	2,113.40	272.00					2,113.40	272.00
Singapore	Dollar	486.74	222.00					486.74	222.00
Senator William Cohen:									
South Korea	Won	395,348	456.00					395,348	456.00
People's Republic of China	Yuan	2,651.52	714.00					2,651.52	714.00
Hong Kong	Dollar	2,113.40	272.00					2,113.40	272.00
Singapore	Dollar	486.74	222.00					486.74	222.00
Senator J. James Exon:									
South Korea	Won	296,510	342.00					296,510	342.00
People's Republic of China	Yuan	2,651.52	714.00					2,651.52	714.00
Hong Kong	Dollar	2,113.40	272.00					2,113.40	272.00
Singapore	Dollar	212.43	97.00					212.43	97.00
Mary Winton Hughes:									
South Korea	Won	247,310	285.26					247,310	285.26
People's Republic of China	Yuan	2,651.52	714.00					2,651.52	714.00
Hong Kong	Dollar	2,113.40	272.00					2,113.40	272.00
Singapore	Dollar	486.74	222.00					486.74	222.00
James Dykstra:									
South Korea	Won	296,510	342.00					296,510	342.00
People's Republic of China	Yuan	2,651.52	714.00					2,651.52	714.00
Hong Kong	Dollar	2,113.40	272.00					2,113.40	272.00
Singapore	Dollar	486.74	222.00					486.74	222.00
Bernard Meng:									
South Korea	Won	296,510	342.00					296,510	342.00
People's Republic of China	Yuan	2,651.52	714.00					2,651.52	714.00
Hong Kong	Dollar	2,113.40	272.00					2,113.40	272.00
Singapore	Dollar	486.74	222.00					486.74	222.00
Robert Sneed:									
South Korea	Won	296,510	342.00					296,510	342.00
People's Republic of China	Yuan	2,651.52	714.00					2,651.52	714.00
Hong Kong	Dollar	2,113.40	272.00					2,113.40	272.00
Singapore	Dollar	486.74	222.00					486.74	222.00
Sally Walsh:									
South Korea	Won	296,510	342.00					296,510	342.00
People's Republic of China	Yuan	2,651.52	714.00					2,651.52	714.00
Hong Kong	Dollar	2,113.40	272.00					2,113.40	272.00
Singapore	Dollar	486.74	222.00					486.74	222.00
Delegation expenses:									
South Korea							2,927.53		2,927.53
People's Republic of China							8,167.71		8,167.71
Hong Kong							2,416.61		2,416.61
Singapore							2,600.79		2,600.79
Total			12,332.26				16,112.64		28,444.90

Note: Delegation expenses include direct payments and reimbursements to the Department of State and the Department of Defense under authority of Sec. 502(B) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95–384, and S. Res. 179, agreed to May 25, 1977. The following individuals traveled with the Delegation under authorizations as noted: Tom Daffron and Cindy Waters, Armed Services Committee. Reports of their expenditures appear in the report of the authorizing source.

ROBERT C. BYRD,
Democratic Leader.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER, FOR TRAVEL FROM JULY 1 TO SEPT. 30, 1985

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Sheila Bair:									
Italy	Lire	2,821,816	1,536.00					2,821,816	1,536.00
United States	Dollar				1,054.00				1,054.00
Richard Velde:									
Italy	Lire	2,821,816	1,536.00					2,821,816	1,536.00
United States	Dollar				1,054.00				1,054.00
Total			3,072.00		2,108.00				5,180.00

BOB DOLE,
Republican Leader, Mar. 13, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER, FOR TRAVEL FROM OCT. 1 TO DEC. 31, 1986

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Harry James Towey:									
Thailand	Dollar		744.00						744.00
Vietnam	Dollar		375.00		150.00				525.00
United States	Dollar				2,497.00				2,497.00
Thailand	Baht			4,335	160.00			4,335	160.00
Total			1,119.00		2,807.00				3,926.00

BOB DOLE,
Republican Leader, Mar. 24, 1987.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER, FOR TRAVEL FROM DEC. 27, 1986, TO JAN. 10, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Senator Mark O. Hatfield:									
Hong Kong	Dollar	4,338.5	558.00					4,338.5	558.00
Thailand	Baht	3,725	143.00					3,725	143.00
Vietnam	Dollar		75.00						75.00
Burma	Kyat	1,050	150.00					1,050	150.00
India	Rupee	1,645	125.00					1,645	125.00
Nepal	Rupee	3,285	150.00					3,285	150.00
Egypt	Pound	501.5	264.00					501.5	264.00
Spain	Peseta	9,675	75.00					9,675	75.00
Senator James A. McClure:									
Hong Kong	Dollar	4,338.5	558.00					4,338.5	558.00
Thailand	Baht	3,725	143.00					3,725	143.00
Vietnam	Dollar		75.00						75.00
Burma	Kyat	1,050	150.00					1,050	150.00
India	Rupee	1,645	125.00					1,645	125.00
Nepal	Rupee	3,285	150.00					3,285	150.00
Egypt	Pound	501.5	264.00					501.5	264.00
Spain	Peseta	9,675	75.00					9,675	75.00
Gerald W. Frank:									
Hong Kong	Dollar	4,338.5	558.00					4,338.5	558.00
Thailand	Baht	3,725	143.00					3,725	143.00
Vietnam	Dollar		75.00						75.00
Burma	Kyat	1,050	150.00					1,050	150.00
India	Rupee	1,645	125.00					1,645	125.00
Nepal	Rupee	3,285	150.00					3,285	150.00
Egypt	Pound	501.5	264.00					501.5	264.00
Spain	Peseta	9,675	75.00					9,675	75.00
James Hemphill:									
Hong Kong	Dollar	4,236.5	545.00					4,236.5	545.00
Thailand	Baht	2,185	84.00					2,185	84.00
Vietnam	Dollar		30.00						30.00
Burma	Kyat	1,033	147.50					1,033	147.50
India	Rupee	1,645	125.00					1,645	125.00
Nepal	Rupee	2,168	99.00					2,168	99.00
Egypt	Pound	450.55	237.00					450.55	237.00
Spain	Peseta	7,717	60.00					7,717	60.00
Jan Paulk:									
Hong Kong	Dollar	4,338.5	558.00					4,338.5	558.00
Thailand	Baht	3,725	143.00					3,725	143.00
Vietnam	Dollar		75.00						75.00
Burma	Kyat	1,050	150.00					1,050	150.00
India	Rupee	1,645	125.00					1,645	125.00
Nepal	Rupee	3,285	150.00					3,285	150.00
Egypt	Pound	501.6	264.00					501.6	264.00
Spain	Peseta	9,675	75.00					9,675	75.00
Delegation expenses:									
Hong Kong							4,407.30		4,407.30
Thailand							1,521.57		1,521.57

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE MAJORITY LEADER, FOR TRAVEL FROM DEC. 27, 1986, TO JAN. 10, 1987—Continued

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Vietnam							3,825.57		3,825.57
Burma							1,645.14		1,645.14
India							2,121.58		2,121.58
Nepal							1,591.66		1,591.66
Egypt							953.67		953.67
Spain							771.58		771.58
Total			7,487.50				16,838.07		24,325.57

Note: Delegation expenses include direct payments and reimbursements to the Department of State and the Department of Defense under authority of Sec. 502(b) of the Mutual Security Act of 1954, as amended by Sec. 22 of P.L. 95-384, and S. Res. 179, agreed to May 25, 1977.

BOB DOLE,
Republican Leader.

CONSOLIDATED REPORT OF EXPENDITURE OF FOREIGN CURRENCIES AND APPROPRIATED FUNDS FOR FOREIGN TRAVEL BY MEMBERS AND EMPLOYEES OF THE U.S. SENATE UNDER AUTHORITY OF SEC. 22, P.L. 95-384—22 U.S.C. 1754(b), FOR TRAVEL AUTHORIZED BY THE REPUBLICAN LEADER, FOR TRAVEL FROM JAN. 1 TO MAR. 31, 1987

Name and country	Name of currency	Per diem		Transportation		Miscellaneous		Total	
		Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency	Foreign currency	U.S. dollar equivalent or U.S. currency
Harry James Towey:									
Thailand	Baht	17,500	670.00					17,500	670.00
Vietnam	Dollar		75.00						75.00
United States	Dollar				3,019.00				3,019.00
Burma	Dollar				112.00				112.00
Total			745.00		3,131.00				3,876.00

BOB DOLE,
Republican Leader, Mar. 24, 1987.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1417: A bill to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act (Rept. No. 100-113).

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

S. 1502. An original bill to authorize appropriations for the Public Buildings Service of the General Services Administration for fiscal year 1988.

Mr. BURDICK. Mr. President, the Senate Committee on Environment and Public Works is today reporting to the Senate its annual, omnibus authorization bill for the Public Buildings Service of the General Services Administration for fiscal year 1988. The bill provides an authorization of $2.9 billion in fiscal 1988.

For the past 9 years, the Environment and Public Works Committee has fulfilled its obligation to authorize appropriations for the Public Buildings Service through development and passage of an annual bill, rather than authorizing projects individually.

An item of particular concern to me arose recently. Language in the Treasury, Postal Service and general government appropriations bill of the House Appropriations Committee directed the General Services Administrator to acquire office buildings for EPA and the Department of the Treasury.

The buildings were to be acquired through lease-to-purchase contracts with an estimated 30-year cost of $3 billion. Not only did GSA fail to obtain the consent of the House and Senate authorizing committees before making this request, but also failed even to notify the committees of their intent to seek this language.

I am pleased that the General Services Administration has agreed to be more candid in the future when the GSA seeks authorizations and appropriations for new projects. Mr. President, I am pleased with the measure the committee is reporting today and urge my colleagues to act upon it expeditiously.

Mr. MOYNIHAN. Mr. President, I join the distinguished chairman of the Committee on Environment and Public Works in urging my colleagues to support the measure the committee is reporting today. This bill provides an authorization of $2.9 billion in fiscal year 1988 to fund the public buildings service of the General Services Administration.

For 9 years now, our committee has made a practice of preparing an annual GSA authorization bill. We believe that the GSA program should be considered in its entirety, rather than on a piecemeal, prospectus-by-prospectus basis. The authorizing committee in the House of Representatives, the Committee on Public Works and Transportation, has not agreed to this procedure and continues to authorize projects individually. However, the Appropriations Committee of both bodies traditionally have followed the recommendations of the authorizing committees.

This bill includes funds for construction and acquisition of new Federal office space, repair and alteration of existing space, design and planning, leasing, operation and maintenance, and payment of interest and installments on properties.

Last month the Subcommittee on Water Resources, Transportation, and Infrastructure heard testimony on GSA's public buildings program from agency Administrator Terence C. Golden. I was glad to hear that the agency has chosen to emphasize certain priorities in its budget, such as the health and safety of Federal workers. I commend Administrator Golden's management initiatives at GSA, such as the effort to get the Federal Government out of leased space and into owned facilities. I have said for years that it is silly for the Federal Government to lease space at high rates for 20 to 30 years and have nothing to show when the lease is up for renewal but a handful of rent receipts. Moreover, when these leases do come up for renewal, the Federal Government is facing higher and higher rates for space that I believe is inadequate for our Federal employees. An example of this inadequate space might be that leased right now in southwest District of Columbia for the Environmental Protection Agency.

Another of Mr. Golden's initiatives is the consolidation of Federal agencies into central facilities. Too many of our Federal agencies are scattered throughout the District, Virginia and Maryland, creating inefficiencies of all kinds. We hope that a proposed new building on the Federal Triangle will greatly assist in the effort to consolidate. This committee is working diligently with the House Public Works Committee on legislation to authorize a new building at the Federal Triangle site. We have authorized $800,000 in the fiscal 1988 GSA budget to initiate this project.

During consideration of the General Services Administration's budget request, the committee became aware of a critical problem faced by the judiciary in obtaining space for newly created Federal judgeships. Included in the committee's report on this bill is a provision directing the Administrator of the General Service Administration and the Director of the Administrative Office of the U.S. Courts to explore the desirability of earmarking a line item for the judiciary in GSA's annual budget request for the public buildings service. The committee hopes to hear other recommendations from these organizations on how this problem can be alleviated. From our earliest days as a republic, the courthouse has been the center of American life and the symbol of our constitutional government. We must provide dignified, serviceable courtrooms and chambers for our judges.

During the committee's consideration of GSA's budget request, members were disappointed to learn that the agency requested an unauthorized appropriation for lease-to-purchase contracts that could cost as much as $3 billion over the 30-year lease terms. This request was made to the House Appropriations Committee for possible relocation of the Department of Transportation and the Environmental Protection Agency. Due to House Public Works and Transportation Committee Chairman HOWARD's objection, this request was stricken from the House appropriations bill. We sympathize with GSA's desire to consolidate DOT and to relocate EPA, but the agency must learn to follow the proper procedures.

Accordingly, Senator STAFFORD and I drafted a letter to the General Accounting Office [GAO], requesting a study of GSA's opportunity purchase, lease to purchase, and other creative financing initiatives. This study will assess many aspects of the various programs, including the accuracy of the economic assumptions the agency makes when selecting alternative financing arrangements. We do this in a cooperative spirit with GSA; and, in fact, we know that GSA officials have themselves expressed concern about the proper reporting of these transactions to Congress.

I urge my colleagues to act quickly and favorably on this legislation.

By Mr. BIDEN, from the Committee on the Judiciary:

Report to accompany the bill (S. 104) to grant a Federal charter to the National Academies of Practice (Rept. No. 100-114).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute:

S. 432. A bill to amend the Clayton Act regarding mergers (with additional views) (Rept. No. 100-115).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

S. 1267. A bill to provide authorization of appropriations for the United States Travel and Tourism Administration, and for other purposes (Rept. No. 100-116).

By Mr. NUNN, from the Committee on Armed Services, with an amendment:

S. 1243: A bill to authorize appropriations for fiscal years 1988 and 1989 for intelligence and intelligence-related activities of the U.S. Government, to intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes (Rept. No. 100-117).

By Mr. BIDEN, from the Committee on the Judiciary, with an amendment in the nature of a substitute and an amendment to the title:

S. 548: A bill to amend title 11, United States Code, the Bankruptcy Code, regarding benefits of certain retired employees.

By Mr. BURDICK, from the Committee on Environment and Public Works, without amendment:

S. 1502: An original bill to authorize appropriations for the Public Buildings Service of the General Services Administration for fiscal year 1988.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. BURDICK:

S. 1502. An original bill to authorize appropriations for the Public Buildings Service of the General Services Administration for fiscal year 1988; from the Committee on Environment and Public Works; placed on the calendar.

By Mr. HEFLIN:

S. 1503. A bill to cancel repayment of the community disaster loan made to the city of Prichard, AL; to the Committee on Environment and Public Works.

By Mr. LEVIN (for himself, Mr. COHEN, Mr. GRASSLEY and Mr. RIEGLE):

S. 1504. A bill to provide for an alternative to the present adversarial rulemaking procedure by establishing a process to facilitate the formation of negotiated rulemaking committees; to the Committee on Governmental Affairs.

By Mr. LAUTENBERG (for himself and Mr. WIRTH):

S. 1505. A bill to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. MURKOWSKI (for himself and Mr. CRANSTON):

S. 1506. A bill to amend title 38, United States Code, to authorize the Administrator to provide national recreational activities for the rehabilitation of disabled veterans and to authorize other organizations to support and participate in such activities under certain circumstances; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. SARBANES (for himself, Mr. ADAMS, Mr. BINGAMAN, Mr. CHILES, Mr. CONRAD, Mr. DECONCINI, Mr. DODD, Mr. GORE, Mr. KENNEDY, Mr. KERRY, Mr. LAUTENBERG, Mr. MELCHER, Ms. MIKULSKI, Mr. MOYNIHAN, Mr. NUNN, Mr. PELL, Mr. PROXMIRE, Mr. ROCKEFELLER, Mr. SANFORD, Mr. CRANSTON, Mr. LUGAR, Mr. DOMENICI, Mr. BOSCHWITZ, and Mr. DURENBERGER):

S. Res. 250. A resolution to express the sorrow and regret of the Senate at the death of Walter Wolfgang Heller; ordered held at the desk.

By Mr. DOLE (for himself and Mr. SIMON):

S. Con. Res. 65. A concurrent resolution expressing the concern over the condition of ethnic Albanians living in Yugoslavia; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. HEFLIN:

S. 1503. A bill to cancel repayment of the community disaster loan made to the city of Prichard, AL; to the Committee on Environment and Public Works.

CANCELLATION OF COMMUNITY DISASTER LOAN FOR PRICHARD, AL

Mr. HEFLIN. Mr. President, I rise today to introduce a bill which will permit the city of Prichard in the State of Alabama to put itself on the road to economic recovery.

On September 12, 1979, the city of Prichard, along with other areas in Alabama, was directly hit by one of the most devastating and costly storms ever to strike the coastal United States. Hurricane Frederic caused untold damage to the city of Prichard and at the time the storm struck, the city was already in a state of economic depression. Many areas of the State were able to recover financially from this hurricane. The city of Prichard, however, was not.

Following Hurricane Frederic, the city of Prichard submitted an application for a community disaster loan.

The loan was approved and a promissory note for $1,540,000 was executed on October 15, 1979, for a term of 3 years at an interest rate of 9⅝ percent. Given the inability of the city to meet its operating budget during the 3-year period following this major disaster, some of the loan was canceled, in accordance with FEMA regulations. In January 1985, FEMA advised the city that $1,086,330 in principal plus $529,541 in related interest was eligible for cancellation and that the balance of the loan, $453,670 in principal plus accrued interest must be repaid.

Since that time, city officials have been trying to devise a feasible repayment plan. After consultation with FEMA, the city submitted a plan to repay the outstanding principal plus interest. However, it soon became obvious that the city was unable to meet this commitment.

For the past 7 years, the city of Prichard has given serious attention toward meeting its obligation for the outstanding community disaster loan. The simple reality is that the city lacks the resources with which to repay this loan.

In reality, the city of Prichard could be forced into bankruptcy if it is forced to repay this loan. FEMA officials are acquainted with the city's immediate concerns over paying into its receivership account and avoiding default on its building loan payments. The city has a debt of $325,000 on its building lease. The city is also under a court order to deposit $25,000 to pay off judgments for accounts payable from 1980 to 1984.

In addition to these burdens, the city of Prichard faces declining revenues and inclining inflation. License revenues, once a major source of income for the city, have steadily declined. From 1983 to 1986, the city lost about $16,000. On the other hand, expenditures have risen due to inflation. From 1982 to 1986, expenditures have increased almost $1,000,000.

The people in Prichard feel the city's financial burden. The city has not given cost-of-living adjustments to city employees for 5 years. Not surprisingly, many of the city's trained personnel have been lost. Overall, the unemployment rate in Prichard is 13.2 percent. Ninety percent of available housing is dilapidated and in need of repair.

To compound these problems, recent population changes have resulted in large increases in senior citizens, persons under age 19 and welfare recipients.

I could continue listing the public and private financial woes of this community but every minute that I speak, the interest on that unpaid loan is mounting.

I have spoken with the mayor of Prichard many times about this outstanding loan and the burden which it leaves hanging over the head of this community. The city, its officials, and its residents are eager to resolve this problem so that they may concentrate their efforts on Prichard's overall economic recovery.

This bill will allow the city to get on the path to such a recovery.

By Mr. LEVIN (for himself, Mr. Cohen, Mr. Grassley, and Mr. Riegle):

S. 1504. A bill to provide for an alternative to the present adversarial rule making procedure by establishing a process to facilitate the formation of negotiated rulemaking committees; to the Committee on Governmental Affairs.

NEGOTIATED RULEMAKING ACT

Mr. LEVIN. Mr. President, today I am introducing along with Senator Cohen and Senator Grassley the Negotiated Rulemaking Act of 1987. This is a revised version of a bill that was the subject of joint hearings of the Subcommittee on Oversight of Government Management and the Select Committee on Small Business in the 96th Congress and which was reintroduced in the 97th, 98th, and 99th Congresses. During that time, numerous important negotiated rulemakings have taken place. We have benefited from observing those practices, and we have learned that legislation in this area can be of significant help to encouraging this form of dispute resolution in future rulemakings.

As legislators, we know too well that most Federal requirements and procedures are promulgated not by Congress through our lawmaking authority but by Federal agencies which issue regulations under a delegation of authority from Congress. As productive as we Members of Congress strive to be, we do not have the time and resources—and, oftentimes, the expertise—to cope with all the problems inherent in a dynamic society such as ours. Thus, we have delegated rulemaking authority to Federal agencies with experience and expertise in particular subject areas to deal with these many, varied problems.

Rulemaking by Federal agencies is not new. In fact, agency rulemaking commenced shortly after the Constitution was signed. In July 1789, Congress established the first administrative agency to set the duties payable on imports. In September, Congress established an agency to rule on pensions for disabled veterans of the Revolutionary War. From that day to today, Congress has been grinding out legislation creating new agencies and adding to the powers of those agencies. Today, there are over 100 Federal agencies promulgating rules and regulations.

As agency rulemaking increased over the years, it became evident that a frame work to govern the rulemaking process was needed. After a number of studies and several aborted attempts, Congress enacted the Administrative Procedure Act in 1946. The act prescribed the process agencies must follow in promulgating rules—namely, formal rulemaking, adjudication, and informal rulemaking, notice and comment.

These procedures were designed to provide the parties affected by a rule with the opportunity to comment or challenge the rule. More recently—as the result of court decisions from judicial review of rules—some agencies have created hybrid rulemaking, a mix between informal and formal rulemaking. This new form was to accommodate the courts' insistence that a rule be based on a complete record and that all the affected interests have an opportunity to comment or challenge proposed rules before they are promulgated.

In a sense, the administrative processes have worked rather well over the years—and thousands of rules have been promulgated for the health and welfare of Americans. However, another phenomenon has been happening in recent years. It's a philosophy of "We'd rather fight than switch." Parties who are affected by the rules and don't agree with them are not the least bit hesitant to challenge them in court. As a result, rulemaking frequently is a process of challenge and confrontation. The parties spend large amounts of money and resources in challenging proposed rules and defending their respective positions. In the meantime the proposed rule is not promulgated, and the problem or the reason for the rule is not addressed. Lee Thomas, the administrator of EPA, recently reported that 80 percent of the regulations they have proposed within the last few years have been litigated. This experience is common in other agencies as well.

Mr. President, there is often a better way—and that way is negotiated rulemaking. Negotiated rulemaking is a process where the parties that are most likely to be affected by a rule will sit down together before a proposed rule is issued and negotiate in good faith to draft a rule which they all can, so to speak, "live with." If the parties are successful in reaching agreement on a draft rule, the draft is given to the agency, and the agency will publish it in the Federal Register for public comment. This negotiated process is designed to supplement and enhance the informal rulemaking procedures—not supplant them.

The benefits of negotiated rulemaking are readily apparent. Instead of affected parties expending their time and resources litigating a proposed rule drafted by the agency, the affected parties and the agency devote their time and energies to constructively developing the rule together. Negotiations involve, of course, discussions, arguments, cajoling, give and take, compromise, and, hopefully, consensus. Having invested their time and resources in developing a rule, the parties have ownership in it and are less likely to challenge it when it is published for comment. Likewise, their investment in the process promises greater cooperation and compliance with the rule once it is promulgated as final. Best of all, the rule is likely to be promulgated in final form sooner than it would be otherwise.

Of course, an agency's up-front costs for the conduct of a negotiated rulemaking committee will be more than if it did not use the process. But past experience tells us that the costs for conducting a negotiated rulemaking will be outweighed by the money and resources that are consumed in protracted litigation. Negotiated rulemaking is a good investment.

Mr. President, what this bill does not do is give the agencies the authority to engage in negotiated rulemaking. The agencies already have that authority in connection with their delegated authority to issue rules. Several agencies have already employed negotiated rulemaking with good success. Just several months ago, EPA sponsored a negotiated rulemaking committee to draft a rule on asbestos abatement in schools. By all accounts, the negotiations were termed successful since the affected interests reached consensus on a draft rule to be proposed by EPA. EPA has successfully developed several other rules employing negotiated rulemaking within the last few years. Several other agencies have also successfully employed the process to develop their rules.

Since agencies are already using negotiated rulemaking, one could ask why we need this bill. The answer is, Mr. President, we need to give official recognition to the merits of negotiated rulemaking and to encourage agencies to employ the process whenever feasible. We need to foster a process which will facilitate cooperation among the affected parties of a rule and obtain the fruits of that cooperation. To this end, the bill provides that the Administrative Conference of the United States [ACUS] will act as a clearinghouse for information on negotiated rulemaking and that ACUS will assist agencies in setting up negotiated rulemaking committees and obtaining the services of mediators—(facilitators). The bill provides that negotiated rulemaking committees be established pursuant to the Federal Advisory Committee Act, thereby providing the openness provisions of that act to the negotiated rulemaking process. Most important, the bill authorizes the chairman of ACUS to pay for the expenses of agency negotiated rulemaking proceedings as an inducement for agencies to use the process.

As I said earlier, this is not the first bill introduced fostering negotiated rulemaking. My colleagues and I introduced a bill, S. 3126, in September 1980, encouraging agencies to use the negotiated rulemaking process. Similar bills were introduced by my colleagues and I in 1981, 1983, and 1985. In the meantime, ACUS adopted a recommendation in 1982, recommendation 82-4, encouraging the use of negotiated rulemaking by Federal agencies. ACUS supplemented its 1982 recommendation with a follow-on recommendation in 1985, recommendation 85-5, after several agencies successfully used the process. The second recommendation made reference to those agency experiences as demonstrating negotiated rulemaking as a viable, effective tool. Those experiences show that negotiated rulemaking is no longer theory.

But the most glowing endorsement of the negotiated rulemaking process comes from those persons who have directly participated in the process—agency personnel as well as those participants who woud be affected by the rule. With few exceptions, they express enthusiastic support.

Mr. President, we are aware of the recent movement to deregulate. Regardless of our personal position on that topic, there is no doubt that Federal agencies will continue to issue rules in many areas as new technology and new challenges arise in this period approaching the 21st century. Assuming I am correct, it is incumbent upon the Federal agencies to employ the best and most positive rulemaking process available—negotiated rulemaking. This bill will encourage agencies to use that process. In doing so, Federal agencies will be able to perform their rulemaking functions more effectively and at less overall cost in time and money—facilitating their legislative functions.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill and a copy of the bill be inserted in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1504

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Negotiated Rule Making Act of 1987".

FINDINGS

Sec. 2. The Congress finds that:

(1) Government regulation has increased substantially since the enactment of the Administrative Procedure Act.

(2) Although the purpose of regulation has been to promote the safety and general welfare of the American public, the rule making process tends to discourage parties from meeting and communicating with each other, and this leads to the assumption by parties with different interests of conflicting and antagonistic positions toward agency rules, which may result in expensive and time consuming litigation.

(3) The adversarial nature of rule making deprives the affected parties and the public at large from the benefits of face-to-face negotiations and cooperation in developing and reaching agreement on a rule.

(4) The adversarial nature of rule making also deprives the affected parties and the public from the benefits of shared information, knowledge, expertise, and technical abilities possessed by the affected parties.

(5) A proposed rule developed and negotiated by the parties who are affected by the rule will increase the acceptability and enforceability of the rule by those parties, and affected interests will be less likely to resist enforcement or challenge the rule in court.

(6) Although many agencies already have the authority to establish negotiated rule making committees pursuant to the laws authorizing such agencies and their programs and pursuant to the Federal Advisory Committee Act, and, in fact, several agencies have already successfully engaged in negotiated rule making in connection with informal rule making proceedings, the process has not been widely employed by other agencies, perhaps because such agencies are unfamiliar with the process or uncertain as to their authority. This Act will establish a framework for the conduct of negotiated rule making and will encourage agencies to use the process whenever it will enhance the informal rule making process.

PURPOSE

Sec. 3. The purpose of this Act is to authorize agencies to supplement and enhance the rule making procedures under the Administrative Procedure Act, where appropriate, by establishing a negotiated rule making committee of persons representing interests that will be affected by an agency rule to participate in and negotiate that rule's development.

DEFINITIONS

Sec. 4. For the purpose of this Act:

(1) The term "agency" has the same meaning as in section 551(1) of title 5, United States Code.

(2) The term "person" has the same meaning as in section 551(2) of such title.

(3) The term "party" has the same meaning as in section 551(3) of such title.

(4) The term "rule" has the same meaning as in section 551(4) of such title.

(5) The term "rule making" has the same meaning as in section 551(5) of such title.

(6) The term "convenor" means an individual selected by an agency to assist the agency in determining whether a negotiated rule making procedure is feasible and appropriate.

(7) The term "consensus" means unanimous agreement among the interests represented in the development and negotiation of a proposed rule under this Act, unless a negotiated rule making committee defines such term to mean a general but not unanimous agreement.

(8) The term "interest" means, with respect to an issue or matter, multiple parties which have a similar point of view or which are likely to be affected in a similar manner.

(9) The term "mediator" means a person who aids in the discussions and negotiations among the members of a negotiated rule making committee to develop and negotiate a proposed rule.

(10) The term "negotiated rule making committee" means an advisory committee

established by an agency in accordance with this Act and the Federal Advisory Committee Act to consider and discuss issues for the purpose of reaching a consensus in the development of a proposed rule.

DETERMINATION OF NEED FOR NEGOTIATED RULE MAKING COMMITTEE

SEC. 5. (a) An agency may establish a negotiated rule making committee to develop and negotiate a proposed agency rule whenever the head of the agency determines that the use of the negotiated rule making procedure is in the public interest. In making such a determination, the head of the agency shall consider whether—

(1) there is a need for a rule;

(2) there are a limited number of identifiable interests that will be significantly affected by the rule;

(3) there is a reasonable likelihood that the rule can be developed by a negotiated rule making committee composed of persons who can adequately represent the interests identified pursuant to paragraph (2), and who are willing to negotiate in good faith to reach a consensus on the proposed rule;

(4) there is a reasonable likelihood that the negotiated rule making committee will reach a consensus on the proposed rule within a fixed period of time;

(5) the negotiated rule making procedure will not unreasonably delay the notice of proposed rule making and the issuance of the final rule;

(6) the negotiated rule making procedure will not unreasonably increase agency expenditures to develop the final rule; and

(7) the agency, to the maximum extent possible, will use the consensus of the negotiated rule making committee with respect to the proposed rule as the basis for the rule proposed by the agency for notice and comment.

(b) An agency may use the services of a convenor to assist the agency in (1) identifying parties that may be significantly affected by a proposed rule and (2) conducting discussions with such parties to identify the issues of concern to such parties and to ascertain the feasibility and desirability of the establishment of a negotiated rule making committee by the agency. The convenor shall report its findings and shall make recommendations to the agency for the consideration of the agency. The convenor shall recommend, upon request of the agency, the names of persons who are qualified to represent the significant interests affected by the proposed rule.

PUBLICATION OF NOTICE

SEC. 6. (a) If, after considering a convenor's report or after conducting its own assessment, an agency decides to establish a negotiated rule making committee to develop and negotiate a proposed rule, the agency shall publish in the Federal Register a notice which shall include—

(1) an announcement that the agency intends to establish a negotiated rule making committee to develop and negotiate a proposed rule;

(2) a description of the subject and scope of the rule to be developed, and the issues to be considered;

(3) a list of interests which are likely to be significantly affected by the rule;

(4) a list of persons proposed to represent these interests;

(5) a proposed set of committee procedures for review and adoption by the negotiated rule making committee;

(6) a proposed agenda and schedule for completing the work of the negotiated rule making committee;

(7) a description of administrative and support services for the negotiated rule making committee to be provided by the agency; and

(8) a solicitation for comments on the proposal to establish the negotiated rule making committee and on the proposed membership of the negotiated rule making committee.

(b) Persons who may be affected by a proposed rule and who believe that their interests will not be adequately represented by any person specified in a notice pursuant to paragraph (4) of subsection (a) may apply for, or nominate another person for, membership on the negotiated rule making committee to represent their interests with respect to the proposed rule. Each application or nomination shall include—

(1) the name of the person and a description of the interest such person will represent;

(2) a written commitment that the applicant or nominee will actively participate in good faith in the development of the rule under consideration, and evidence that the applicant is authorized to represent the interest the person proposes to represent; and

(3) an explanation of why the persons specified in the notice pursuant to subsection (a)(4) will not adequately represent the interests of the person submitting the application or nomination.

ESTABLISHMENT OF NEGOTIATED RULE MAKING COMMITTEES

SEC. 7. (a) The agency shall provide at least 30 calendar days for the submission of comments and applications pursuant to section 6.

(b) After considering comments and applications submitted under section 6, if the agency determines that a negotiated rule making committee will represent the interests that will be significantly affected by a proposed rule and the persons representing such interests on such negotiated rule making committee are likely to reach a consensus on a proposed rule, the agency may establish a negotiated rule making committee as an advisory committee pursuant to section 9 of the Federal Advisory Committee Act. If the agency decides not to establish a negotiated rule making committee after considering such comments and applications, the agency shall promptly publish notice of that decision and the reasons therefor in the Federal Register.

(c) The agency shall limit membership on a negotiated rule making committee to 25 members unless the agency head determines that a greater number of members is necessary to the functioning of the negotiated rule making committee or to achieve balanced membership. Each negotiated rule making committee shall include at least one individual representing the agency.

CONSIDERATION OF PROPOSALS AND CONDUCT OF NEGOTIATIONS

SEC. 8. (a) Each negotiated rule making committee established pursuant to this Act shall consider the matter proposed by the agency for consideration and shall attempt to reach a consensus concerning a proposed rule with respect to such matter and concerning any other matter the negotiated rule making committee agrees is relevant to the proposed rule.

(b) The official representing the agency on a negotiated rule making committee shall participate in the deliberations and activities of the negotiated rule making committee with the same rights and responsibilities as other members of the negotiated rule making committee. The agency official shall be authorized to fully represent the agency in the discussions and negotiations of the negotiated rule making committee.

(c) Notwithstanding section 10(e) of the Federal Advisory Committee Act, an agency may nominate either a person from the Federal Government or a person from outside the Federal Government to mediate the negotiations of the committee, subject to the approval by consensus of the negotiated rule making committee. If the negotiated rule making committee does not, for good reason, approve the agency's nominee of a mediator, the agency shall withdraw the nomination and submit a substitute nomination. If a negotiated rule making committee does not approve any nominee of the agency for a mediator, the negotiated rule making committee shall, with the concurrence of the agency, select a person to chair the committee. The agency official designated to represent the agency in substantive issues shall not chair the negotiated rule making committee or serve as mediator.

(d) A mediator approved or selected by a negotiated rule making committee shall—

(1) chair the meetings of the negotiated rule making committee in an impartial manner;

(2) assist the members of the negotiated rule making committee in conducting discussions and deliberations; and

(3) manage the keeping of minutes and records as required by subsections (b) and (c) of section 10 of the Federal Advisory Committee Act, except that any personal notes and materials of the mediator or of the members of a negotiated rule making committee shall not be subject to section 552 of title 5, United States Code.

(e) A mediator of a negotiated rule making committee shall act impartially and shall not vote on any agreement or recommendation made by the negotiated rule making committee.

(f) A negotiated rule making committee established pursuant to this Act shall adopt procedures for the operation of the negotiated rule making committee, including procedures with respect to membership, alternate members, disclosure of negotiation offers and statements, subcommittee and caucus procedures, and minutes and recordkeeping. A negotiated rule making committee may change its membership, rules, or agenda if the interests represented on the negotiated rule making committee reach a consensus on such change. The procedural rules set forth in section 553 of title 5, United States Code, shall not be applicable to a negotiated rule making committee.

(g) At the conclusion of negotiations, a negotiated rule making committee shall prepare and transmit to the agency that established the negotiated rule making committee a final report and documents with respect to the negotiations conducted by the negotiated rule making committee, as may be required by the agency. If the negotiated rule making committee reaches a consensus and develops a proposed rule, the report shall contain the proposed rule and a concise statement of the basis and purpose of that rule. If the negotiated rule making committee does not reach a consensus on a proposed rule, the report shall specify the areas in which the negotiated rule making committee reached a consensus on a proposed rule and the areas of disagreement among the negotiated rule making committee, and shall include such recommendations and background materials as the negotiated rule making committee considers appropriate.

(h) In addition to the report specified by subsection (g), a negotiated rule making committee shall submit to the agency the records required by subsections (b) and (c) of section 10 of the Federal Advisory Committee Act.

TERMINATION OF COMMITTEES

SEC. 9. (a) Except as provided in subsection (b), a negotiated rule making committee shall be terminated upon promulgation of the final rule under consideration, unless the agency specifies an alternate termination date.

(b) An agency may terminate a negotiated rule making committee at any time if the agency determines that the negotiated rule making committee is not making sufficient progress toward reaching a consensus on a proposed rule or if the agency determines there is no further need for the committee.

EMPLOYMENT OF CONVENORS AND MEDIATORS

SEC. 10. (a)(1) An agency may employ or enter into contracts for the services of an individual or organization to serve as a convenor or mediator for a negotiated rule making committee under this Act, or may use the services of a government employee to act as a convenor or a mediator for a negotiated rule making committee.

(2) An agency shall determine whether a person selected to serve as a convenor or mediator of a negotiated rule making committee under paragraph (1) has any financial or employment interest that would preclude such person from serving in an impartial and independent manner.

(b) For purposes of this Act, an agency is authorized to utilize the services and facilities of other Federal agencies and public and private agencies and instrumentalities with the consent of such agencies and instrumentalities and with or without reimbursement to such agencies, and to accept voluntary and uncompensated services without regard to the provisions of section 1342 of title 31, United States Code.

COMPLIANCE WITH FEDERAL ADVISORY COMMITTEE ACT

SEC. 11. (a) Each agency establishing a negotiated rule making committee under this Act shall comply with the provisions of the Federal Advisory Committee Act with respect to such negotiated rule making committee, except that meetings of individuals for the purpose of considering and advising an agency on the feasibility of establishing a negotiated rule making committee shall not be subject to the requirement to charter an advisory committee specified in section 9(c) of the Federal Advisory Committee Act.

(b) Meetings of subgroups or caucuses of a negotiated rule making committee may be in closed session for the purpose of determining negotiating positions or for developing alternative proposals for consideration by the entire negotiated rule making committee in open session.

(c) Members of a negotiated rule making committee shall be responsible for their own expenses of participation in such negotiated rule making committee, except that an agency may agree, pursuant to section 7(d) of the Federal Advisory Committee Act, to pay reasonable travel and per diem expenses, and reasonable compensation, to persons affected by the rule if such persons certify that they do not have adequate financial resources to participate in such negotiated rule making committee and if the agency determines that their membership on the negotiated rule making committee is necessary to assure adequate representation of their interests.

ROLE OF THE ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

SEC. 12. (a) An agency should consult with the Administrative Conference of the United States for information and administrative assistance in forming a negotiated rule making committee, and with the Administrative Conference of the United States and other public or private individuals or organizations for information and assistance relating to negotiation and mediation processes.

(b) The Administrative Conference of the United States, in consultation with the Federal Mediation and Conciliation Service, shall maintain a roster of individuals who are qualified to act as convenors or mediators in negotiated rule making proceedings. The roster shall include individuals both from government agencies and private groups, and shall be made available upon request. Agencies also may utilize rosters maintained by other public or private individuals or organizations.

(c) The Administrative Conference of the United States is authorized to enter into contracts for the services of mediators and convenors which may be used by government agencies, on an elective basis, in negotiated rule making proceedings. Payment for mediation or convenor services obtained pursuant to such a contract shall be made by the agency obtaining the services, unless the Chairman of the Administrative Conference agrees to pay for such services pursuant to subsection (f).

(d) The Administrative Conference of the United States shall compile and maintain data on negotiated rule making proceedings to assist agencies and parties in conducting agency proceedings. Each agency engaged in negotiated rule making shall provide to the Administrative Conference a copy of each report submitted to the agency by a negotiated rule making committee pursuant to section 8 and such additional information as may be required by the Chairman of the Administrative Conference of the United States to enable the Chairman to comply with this subsection. The Administrative Conference of the United States shall review and analyze the reports received under this subsection in each calendar year and shall transmit an annual report to the Congress containing recommendations concerning the use of the negotiated rule making process.

(e) The Administrative Conference of the United States is authorized to provide training in negotiated rule making processes to interested Federal personnel either on a reimbursable or non-reimbursable basis. Such training may be extended to private individuals on a reimbursable basis.

(f) The Chairman of the Administrative Conference of the United States is authorized to pay, upon request of an agency head, all or part of the expenses of convening and conducting a negotiated rule making proceeding. Such expenses may include, but are not limited to, the costs of convenors and mediators, the costs for certain members determined to be eligible for assistance in accordance with section 11(b), administrative costs, and training costs. The determinations with respect to payments under this section shall be at the discretion of such Chairman in furthering the use of negotiated rule making procedures by Federal agencies.

JUDICIAL REVIEW

SEC. 13. Any agency action pertaining to a negotiated rule making procedure shall not be subject to judicial review. Nothing in this section shall bar judicial review of a rule which is otherwise provided by law.

AUTHORIZATION OF APPROPRIATIONS

SEC. 14. To carry out this Act, there are authorized to be appropriated to the Administrative Conference of the United States not in excess of $1,000,000 for each of the fiscal years 1988, 1989, and 1990.

SECTION-BY-SECTION ANALYSIS

Section 1. The title of the bill.

Section 2. Congress' findings as to the need for the bill.

Section 3. Congress' statement of purpose for the bill.

Section 4. Definitions. The section sets forth definitions relating to negotiated rulemaking.

Section 5. Subsection (a) sets out guidelines for agency heads to consider in determining whether to convene a negotiated rulemaking procedure. Basically, there should be a limited number of identifiable interests who are willing to negotiate and develop a proposed rule which they can give to an agency to propose for notice and comment. Subsection (b) describes a procedure to identify parties that may be significantly affected by a proposed rule, and to identify the issues that are involved. This process is referred to as "convening" and the persons who conduct the preliminary inquiry are referred to as "convenors".

Section 6. This section requires an agency to publish a notice in the Federal Register of its intention to form a negotiated rulemaking committee. The notice provides information about the rulemaking and solicits comments on the proposal and applications for membership on the rulemaking committee.

Section 7. This section requires the agency to provide at least thirty days for persons to comment on the proposed rulemaking procedure and to make application for membership on the rulemaking committee. If the agency head determines that a negotiated rulemaking is feasible and desirable, he or she shall establish a rulemaking committee pursuant to the Federal Advisory Committee Act. The bill limits the number of members to twenty-five unless additional members are needed to provide balance to the committee.

Section 8. This section sets forth the procedures to govern the operations of a negotiated rulemaking committee. They include selecting a committee mediator, describing the functions of the mediator, and allowing the committee to adopt its own rules of procedure. At the conclusions of negotiations the committee is required to furnish to the agency a report of the negotiations and, if consensus on a rule was obtained, a copy of the draft rule. The committee is also required to furnish copies of records required by the Federal Advisory Committee Act.

Section 9. This section provides that a negotiated rulemaking committee shall be terminated at the time a final rule is promulgated, at an alternate date, or at any time the agency head determines that the committee is not making adequate progress in negotiating a proposed rule.

Section 10. This section provides that agencies may employ or contract for the services of a convenor or mediator or, alternatively, use a government employee. The agency is required to assure that the person selected to be a convenor or mediator does not have a financial or employment interest that would affect the person's ability to act impartially and independently. For the purposes of this Act, an agency may use the service and facilities of other public and private agencies, and may accept voluntary services.

Section 11. Subsection (a) states that agencies establishing negotiated rulemaking committees must comply with the Federal Advisory Committee Act but exempts from its coverage initial meetings of persons for the limited purpose on advising on whether to establish a negotiated rulemaking committee. Subsection (b) provides that committee subgroup and caucus meetings may be closed to the public for the purpose of developing positions to be discussed in open plenary meetings. Subsection (c) provides that an agency may pay the expenses of committee members whose membership on the committee is necessary to assure representation of their interests and they certify they need financial assistance in order to participate.

Section 12. Subsection (a) encourages agencies to consult with the Administrative Conference of the United States when they are considering establishing a negotiated rulemaking committee, and with the Administrative Conference and other public or private entities when seeking information about negotiation and mediation processes. Subsection (b) requires the Administrative Conference, in conjunction with the Federal Mediation and Conciliation Service, to maintain a roster of qualified persons, including both government and non-government persons, who can act as convenors and mediators. The Administrative Conference is authorized, by subsection (c), to enter into a contract for the services of mediators or convenors at the expense of the using agency or at the expense of the Administrative Conference pursuant to Section 13. The Administrative Conference is also authorized, by subsection (d), to compile and maintain data on negotiated rulemaking and to make that information available to Congress and interested agencies and persons. The Administrative Conference is authorized, under subsection (e), to provide training to both government and non-government persons in the negotiated rulemaking process.

Subsection (f) authorizes the Chairman of the Administrative Conference to fund the expense of negotiated rulemaking proceedings upon the request of an agency head. Such expenses include the costs of the mediators and convenors, administrative expenses, training costs, and the costs for compensation and travel expenses for certain members determined to be eligible for assistance pursuant to section 11(c). The Chairman's funding determinations are discretionary in furtherance of the use of negotiated rulemaking procedures by federal agencies.

Section 13. Agency actions pertaining to negotiated rulemaking proceedings shall not be subject to judicial review. This section does not bar judicial review of a rule which is otherwise provided by law.

Section 14. There are authorized $1,000,000 for each of the fiscal years 1988, 1989, and 1990 to carry out the purposes of the Act.

Mr. GRASSLEY. Mr. President, I am pleased to join the Senator from Michigan, Senator LEVIN, as an original cosponsor of the Negotiated Rulemaking Act of 1987.

Rulemaking is one of the most basic tasks performed by our Federal administrative agencies. Unfortunately, as time has passed since the enactment of the Administrative Procedure Act of 1946, agency rulemaking procedures have changed too. Today, they are highly formalized.

These formal procedures provide some safeguards against arbitrary agency actions, but they do it at great cost. Today's rulemaking process too often encourages interested parties to "dig in" and take extreme positions. The agency's proceedings are delayed by this adversarial relationship. Ultimately, the losing party seeks resort in the Federal courts, causing further delay. As a result, important congressional and public policies are frustrated.

Regulatory negotiation, or "reg neg," is but one of a handful of alternative dispute resolution initiatives we should promote.

Of course, it is difficult to draft legislation which basically seeks to encourage parties to negotiate. Negotiation is a fluid process, which cannot be detailed in advance. What will work in a given rulemaking is dependent on many factors:

The nature of the substantive issue involved; the willingness of the interested groups to be flexible; the skill of the negotiators; and the number and divergence of views participating.

The "reg neg" process allows agencies to organize negotiations, identify, and bring together representatives of affected interests to negotiate the text of proposed rules.

The goal of the negotiation is to reach a consensus on at least the major provisions of the proposed regulation.

"Reg neg" offers the promise of a better reasoned rulemaking, without resort to litigation challenging the final product.

The experience so far with regulatory negotiation shows it can be an effective agency response to complex regulatory issues.

The Environmental Protection Agency and the Federal Aviation Administration report great success with "reg neg" so far. The process has been used to establish rules on flight and rest-time requirement for airline pilots, and for rules involving the environment and the workplace.

There is no reason why other agencies cannot build on these experiences. Hopefully, the Negotiated Rulemaking Act of 1987 will provide sufficient incentives.

Mr. President, I would like to make one final point. As you know, the Administrative Conference of the United States has been a pioneer in the use of negotiated rulemaking procedures.

Through its recommendations 82-4 and 85-5, A.C.U.S. laid the foundation for the agency experiences to date. I wanted to again recognize and commend A.C.U.S. for its leadership role. Accordingly, I would also note my approval to the important functions this bill delegates to the administrative conference.

By Mr. LAUTENBERG (for himself and Mr. WIRTH):

S. 1505. A bill to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience and for other purposes; to the Committee on Commerce, Science, and Transportation.

CHILDREN'S TELEVISION EDUCATION ACT

Mr. LAUTENBERG. Mr. President, I rise to introduce, along with my colleague from Colorado, Senator WIRTH, the Children's Television Education Act of 1987.

Mr. President, broadcasters are failing to serve the needs of children. And the FCC is letting them get away with it. The FCC has been so blinded by its faith in the marketplace, that it can't see the facts: the marketplace alone will not serve our children well.

We have all heard the statistic: by the time the average student graduates from high school, that child has spent more time watching television than in the classroom.

Television can help educate and inform our kids and excite their curiosity about the world around them. Or it can grow for the Nation a crop of couch potatoes.

America's educational system must work harder and harder to prepare our children to compete. Television's potential looms even larger.

Broadcasters should work to fulfill that potential to educate and inform. That is their legal obligation. They get to use the public's airwaves. As public trustees, they should serve the public interest.

Mr. President, commercial television broadcasters have failed the children of this Nation. They air precious little programming directed toward children, even less of some educational or informational value.

When one looks at the market's incentives, their performance is no surprise. Broadcasters sell commercial time to advertisers who want to reach people who spend money. Children simply are not the most valuable audience. Left to their own devices, broadcasters will sell children short. Indeed, broadcasters who want to serve children, do so at their commercial peril.

And when they do program for children, they do it through program length commercials. They come up with new programs that will interact with toys. Their goal is to sell product. As one toy company executive told TV Guide, "The shows are part of the overall marketing effort."

This is a classic case that justifies regulation. For years, under different leadership, the FCC agreed. In 1974, the FCC adopted its children's television policy statement that set out broadcasters' duty to serve the unique needs of children. Broadcasters were required to air a reasonable amount of programming designed for specific child audiences.

However, in 1984, the Commission in its report on "Children's Television Programming and Advertising Practices" let it be known to broadcasters that they need not pay special attention to our Nation's children. The FCC dropped requirement for age-specific programming. It stated that a broadcaster's duty to serve children could be reduced if children were served by other, unrelated media, like cable TV or VCR's.

The Commission has also removed the limits on the amount of time that could be taken by commercial ads during a children's program. The limits are 9½ minutes an hour during Saturday and Sunday and 12 minutes an hour during the week. Thankfully, the U.S. Court of Appeals has told the FCC: "The Commission cannot now cavalierly revoke its special policy for youngsters." It can't brush aside the kids with an incantation of marketplace rhetoric.

It's long past the time that the Congress should step in. The legislation I introduce with Senator WIRTH would set a standard for broadcasters: 7 hours a week of educational and informational programming. Failure to meet the standard would be grounds for a petition to deny. The broadcaster would then have to show that, despite its failure to meet the guideline, it's met its obligation to children.

The bill would also require the Commission to commence inquiries into program length commercials, and interactive programs. The FCC should be looking at this. Interactive programs are those that insert inaudible signals that are designed to trigger a reaction from specially programmed toys or other receivers. The whole purpose is to sell toys. Many children will be unable to afford the toys and will be effectively shut out of the viewing audience. But, that may not matter. While the audience may shrink, toys sales may make it worthwhile.

Mr. President, we should not let the FCC continue to undermine one of the basic goals of our Nation's communications policy: to educate, to inform, and to serve the children of this Nation.

Mr. President, I am pleased to be joined in introducing this legislation by Senator WIRTH. While he served in the House of Representatives, we worked hand in hand in the last two Congresses, trying to improve broadcasters' service to children. He has been a leader in this issue, and I am pleased that we now have been able to collaborate in the Senate on this issue. With our voices joined, I am hopeful that we will achieve some progress in this important area.

Mr. President, I urge my colleagues to support this legislation.

I ask unanimous consent that the full text of the bill, as well as some relevant articles, be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1505

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Children's Television Education Act of 1987."

SEC. 2. FINDINGS.

(1) a series of expert commissions have documented serious shortcomings in our Nation's educational system which will profoundly affect both the opportunities available to our Nation's children, and the ability of the United States to compete effectively in an international economy;

(2) by the time the average student graduates from high school, that child has spent more time watching television than the classroom;

(3) the potential of commercial television programming for making a major positive impact in improving the education of children has been largely unrealized;

(4) it has been clearly demonstrated that television can assist children in learning important information, skills, values, and behavior, while entertaining them and exciting their curiosity to learn about the world around them.

(5) commercial television is the most effective and pervasive mass medium;

(6) as public trustees, commercial television station operators have a legal obligation to serve children, regardless to the contribution that may be made by public television, cable television, video cassettes, or other new or traditional communications media;

(7) commercial television has generally failed to meet its obligation to provide educational and informational programming to children as part of its obligation to serve the public interest; and

(8) the Federal Communications Commission in concluding its proceeding on children's television, has declined to take effective steps to increase educational and informational programming designed for children on commercial television and has instead rendered broadcaster's obligations to serve children vague and unenforceable.

SEC. 3. CHILDREN'S TELEVISION PROGRAMMING.

Part 1 of title III of the Communications Act of 1934 is amended by redesignating the last section as section 333 and by inserting before such section the following:

"CHILDREN'S TELEVISION PROGRAMMING OBLIGATION

"SEC. 332. (a) The purposes of this section are—

"(1) to further use the potential of television for the positive educational and informational benefit of our Nation's children;

"(2) to encourage expanded development of programming specifically designed to meet the educational and informational needs of children;

"(3) to enforce the obligation of broadcasters to meet the educational and informational needs of the child audience; and

"(4) to establish a presumptive quantitative guideline for serving the child audience, which broadcasters must meet or establish good cause for not doing so.

"(b) In exercising its obligation to serve the public interest, convenience, and necessity under this title, each television broadcasting station shall broadcast a substantial amount of programming—

"(1) which serves the educational and informational needs of children who are 12 years of age or younger through programming that is specially designed to meet such needs;

"(2) which is reasonably scheduled throughout the week; and

"(3) Which is directed to specific age groups of children.

"(c) The Commission shall prescribe such regulations as are necessary to carry out the purposes of this section. Such regulations shall be initially prescribed not later than 180 days after the date of the enactment of the Children's Television Education Act of 1985.

"(d)(1) The Commission shall designate for hearing under section 309(e) any application for renewal of a license by a television station, if a petition for denial is filed under section 309(d)(1) that contains specific allegations of fact claiming that the applicant has failed to broadcast a minimum of 7 hours a week, 5 hours of which shall occur Monday through Friday, of programming that is described in subsection (b) (1), (2), and (3).

"(2) In a hearing held pursuant to this subsection, the burden of proceeding with the introduction of evidence and the burden of proof shall be upon the applicant with respect to its fulfillment of its obligation to serve the child audience.

SEC. 4. REPORT.

Section 5(g) of the Communication Act of 1934 is amended—

(1) by striking out "and" at the end of paragraph (3);

(2) by striking out the period at the end of paragraph (4) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following:

"(5) list those television broadcast station licensees whose licenses were renewed, notwithstanding failure to meet the level of programming set forth in section 332(c)(1), and describe in detail the reasons for the renewal; and

"(6) describe the implementation by the Commission of section 332, and its impact on television programming designed to meet the educational and informational needs of children.".

SEC. 5. PROGRAM LENGTH COMMERCIALS AND INTERACTIVE PROGRAMS.

(a) INQUIRY.—The Federal Communications Commission shall conduct an inquiry into program length commercials and interactive programs for which the primary audience is children who are 12 years of age or younger. As part of such inquiry, the Commission shall assess whether and to what extent, the broadcasting of such commercials breaches the obligations of a commercial broadcast station licensee to serve the needs of children.

(b) REPORT.—Within 9 months after the date of the enactment of this Act, the Federal Communications Commission shall complete the inquiry under this section and send a report to the Congress on its findings.

(c) Program Length Commercial.—The term "program length commercial" means programming—

(1) which is intended as the primary element of a program or programming segment of 20 minutes or longer; and

(2) which is designed, in whole or in part, to promote the purchase of one or more specific products by—

(A) the theme of the programming, and

(B)(i) the identification of the product by name in the title of the programming, or

(ii) the reference or display of the product in the content of program in a manner that readily permits the identification of the particular product brand.

(d) Interactive Program.—The term "interactive program" means programming—

(1) which utilizes an inaudible signal that interacts with a toy or other receiver separate from the television; and

(2) which is designed, in whole or in part, to promote the purchase of such toy or receiver.

SEC. 6. EFFECTIVE DATE.

This Act shall take effect 60 days after the date of the enactment of this Act.

[From TV Guide, June 13, 1987]

Creeping Commercialism—Is the Toy Business Taking Over Kids' TV?

(By David Diamond)

Some 40 shows are now linked to toys, and critics worry about the impact of this on young viewers.

These days, when parents and children's advocates complain that TV shows for kids are too commercial, they're not talking about the ads. They're upset about the shows that have almost become commericals themselves—shows created specifically to showcase animated versions of toys. They're concerned because the toy manufacturers may create and pay for the programs. What's worse, your favorite television station may get a piece of the action from the sale of the toys.

It's a technique the toy-manufacturing giant Mattel, Inc., used successfully in 1983. Mattel's He-Man was already a popular toy when he made his syndicated debut in a daily kids' television show, He-Man and the Masters of the Universe. Within a year, He-Man became the second-best-selling toy in the country. The rest, as any second grader knows, is history. Now there are more than 40 television shows linked to toys. And in the few years since He-Man revolutionized children's television, it has become almost unthinkable for a toy company to launch an important line without a tie-in TV show at least in the deal-making stage or—unlikely for a production company to develop a TV show without firm prospects to license the characters as toys.

The implications are many. Kids' shows designed to sell toys may be preventing more innovative programs from being aired. Psychologists say some of the shows may be making children more aggressive—because the toys are readily available and kids see them in violent situations.

Since He-Man first muscled his way into the television screen, critics have charged that toy-lined shows are merely program-length commercials. And the toy companies don't always argue the point. How can they when the programs are sometimes financed, at least in part, out of a toy manufacturer's marketing budget? Hasbro, Inc., for instance, subsidized the cost of producing G.I. Joe, Jem and the Transformers, three of the top kids' syndicated TV shows. The money came from Hasbro's $217-million marketing budget, and Robert Hubbell, Hasbro's vice-president for investor relations, candidly admits that, unlike most TV programs, their toy-based shows themselves aren't expected to make money. "The shows are part of the overall marketing effort," he says. "The point is, they're not designed to produce revenes per se."

And the deals by which some of these animated programs are aired on independent television stations—home of most of product-driven kids' programming today—raise serious ethical questions. For instance, Tribune Entertainment Co. is a 50-per-cent partner in the Ghostbusters program and receives royalties on every Ghostbusters lunch box, comic book or toy sold. When it comes time for program directors at Tribune Broadcasting Co.'s six stations to select kids' programming, it may be difficult for them to overlook Ghostbusters in favor of a show that won't help earn their subsidiary that extra income from spinoff products. (In fact, all six do carry Ghostbusters.)

"The deal puts the broadcaster in the toy business. Instead of choosing a program that will serve the public, he's choosing a program that will serve his bottom line," says Peggy Charren, founder and president of the nonprofit Action for Children's Television (ACT). Donald L. Hacker, executive vice-president of Tribune Entertainment, counters: "The royalties are incidental. The only basis on which we select a program is: will it deliver the best ratings?

When Telepictures (now Lorimar Telepictures) peddled its new program ThunderCats in late 1983, it offered some of the stations that licensed the show a percentage of the profits from the sale of the ThunderCats line of toys. A few stations agreed to the deal. But other program directors questioned the ethics and opted instead for a deal enabling them to share only in the success of the program itself and not the toys. "We were offered a deal on toy sales, but we rejected it." says Vicky Gregorian, program manager at Boston's WLVI-TV. "It bothered us. We thought it was unethical."

In addition, toy-company research-and-development staffers sometimes have a hand in adding new characters to kids' shows that may be introduced as toys. Mattel routinely showed new He-Man and She-Ra: Princess of Power products with character potential to Filmation executives, who sometimes incorporated them and sometimes didn't. That's how Enchanta the Swan, a She-Ra vehicle, was added to the show, according to Arthur Nadel, Filmation's vice-president for creative affairs.

The toy companies counter the 30-minute-commercial charges by explaining that they are providing first-run animation features to replace the tired sitcom reruns that formerly ruled much of afternoon television. True, they agree, they are promoting toys. But they contend that at least it's quality stuff.

Lou Scheimer, president of Filmation, which created He-Man, points to the pair of educational and psychological consultants who have picked over scripts of such action-adventures as Ghostbusters, She-Ra: Princess of Power and He-Man. Involved from the very beginning in all episodes of She-Ra and He-Man now in syndication, one of those academics, Donald F. Roberts, a Stanford University professor of communication, suggested morals that could be presented as 30-second tags. But Ronald G. Slaby, a developmental psychologist and lecturer at Harvard University's Center for Research on Children's Television, says the morals are sometimes simply tacked onto the end of the program and "often bear little relation to what actually happened in the program."

Critics add that despite good intentions, some of the shows are still too violent. Consultant Roberts says his tasks included weeding out excessive violence on SheRa and He-Man. But Slaby contends that the violent themes that survive on product-driven shows, combined with the availability of toys that children see being used in violent settings, may be making kids more aggressive. "It's the unique interaction between television violence and a set of toys that are marketed and readily available to the children for possible aggressive play and outright aggressive behavior," he says.

Another criticism is that the toy-linked shows—brought to air with the tremendous influence of the $12.5-billion toy industry—are shutting out alternative programs. "Robbing children of better programming" is how Slaby puts it. Stanley Moger is president of SFM Entertainment, which distributes a live-action program called Zoobilee Zoo that features actor Ben Vereen and so far has no toy tie-in. He says: "It's not uncommon for a toy company to commit well over a million dollars in the course of a year—most of their advertising budget—if the major-market station will take their show. It's very difficult for anyone not affiliated with a toy company to compete."

For the generation that learned to spell "ENCYCLOPEDIA" from a delightful insect on The Mickey Mouse Club, it's hard to imagine that product-linked programming flourished in the 1950s. But it did. When the long-running and highly acclaimed television program Disneyland premiered on Wednesday night, Oct. 27, 1954, few viewers—young or old—knew that it was in part a marketing tool to promote the theme park of the same name that was being built in Anaheim, Calif. The fledgling American Broadcasting Company helped Walt Disney pay for the park. In exchange, the Disney name was good promotion for the network. One year later, the same ABC-Disney venture brought The Mickey Mouse Club to life.

Among most of the current He-Man type TV shows, it's the toy that comes first and inspires the TV show. Or, à la Disneyland, they are joined at birth. So when a man decked out in foreign-galaxy garb at the American International Toy Fair in New York last February demonstrated to toy buyers a new line of what toy companies call "action figures," he was able to end his sales pitch with the words: "As you know, all of these toys will be backed up with a new half-hour show this fall called The Air Raiders/Visionaries Half Hour."

"It's the tail wagging the dog when the merchandising is put first and the show is designed to sell it," says Judy Price, vice-president of children's programs and daytime specials at CBS. "There's nothing wrong with merchandising. But when merchandising winds up being the primary motivation, the viewer is the loser."

The lion's share of toy-linked children's programming appears in syndication. Among the networks, however, ABC is the most aggressive, with four shows on its fall schedule: The Care Bear Family, All New Pound Puppies, My Pet Monster and The Real Ghostbusters. NBC has Smurfs, which evolved from comic book to toy to TV. At CBS there are no programs that evolved specifically from toys, although Hello Kitty's Furry Tale Theater and Garbage Pail Kids are based on other children's merchandise.

The Federal Communications Commission had put a halt to the practice of marketing toys with TV shows back in 1969. But the winds of deregulation began to change all that in 1981, when Mark Fowler was appointed FCC chairman. The current commission's philosophy is summed up by member James Quello: "Let the people decide whether to tune in or tune out." In 1983 the FCC lifted its children's television-programming guidelines. A year later it cleared the path for many of the current toy-based shows by allowing unlimited commercial time on TV programs.

Pressure from a range of public-interest groups led by Peggy Charren's ACT had little effect on the commission's decision to approve the toy-linked shows. An appeal of the FCC decision is pending in the U.S. Court of Appeals in Washington, DC, on behalf of ACT. And a coalition including the National Parent Teachers Association has asked the FCC to investigate the impact of "program-length commercials" on children and for a hearing to be held on the results of that study. It is part of a revived version of the Children's Television Education Act of 1985, a bill that the Senate and House failed to act upon.

Now the advent of new so-called "interactive" children's programming may force the FCC to take another look at what kids watch. The new fall season is expected to offer programs that employ either high-frequency tones or infrared lights to enable viewers to use their toys to interact with the goings-on on-screen. On Captain Power and the Soldiers of the Future, viewers will be able to aim a $28-$30 Mattel jet at the screen, fire and score points.

Because full enjoyment of these shows will require buying the interactive toys, these programs will hit a new extreme as 30-minute commercials and put children who cannot afford the products at a disadvantage, charges Peggy Charren. Claiming that the interactive shows are mere commercials that violate the public interest, ACT has asked the FCC to intervene, although the commission has already approved the use of the inaudible electronic impulses that the programs employ.

Charren is confident that if the FCC fails to either put a stop to the interactive shows, or at least require labeling the programs as advertisements, Congress will step in to overrule the commission. She has allies in Senators Timothy E. Wirth (D-Colo.) and Frank R. Lautenberg (D-N.J.), both of whom are outspoken on children's television matters. And Rep. Edward J. Markey (D-Mass.), the new chairman of the House Telecommunications and Finance Subcommittee, which oversees the FCC, has made it clear he opposes interactive kids' TV. "It takes the half-hour children's television commercial one step further. I'm deeply concerned about this and I intend to hold hearings on the matter," he says.

Another indication that the interactive shows aren't being taken lightly: at least one network has consulted a psychologist on the potential public reaction to interactive toys before it agrees to air commercials for them.

But it might take something much simpler to end the four-year invasion of toy-driven shows: boredom. Ratings for kids' syndicated shows have plummeted by more than 60 percent during the last year. Among the reasons is the inescapable fact that kids are losing interest in—or getting confused by—the overabundance of superheroes.

Moreover, since last year was a slow one for the toy industry, Douglas Thomson, president of the Toy Manufacturers of America, told reporters that backing toys with TV shows turned out to be "no panacea." For critics of toy-driven television, those were welcome words.

Meanwhile, the new high-tech interactive programs will light up living rooms this fall, and children will angle for the toys. "I don't think it's going to do them any harm," says John Condry, Cornell University professor of Human Development and Family Studies. "But it seems kind of sad that with our vast capability—we lead the world in this medium—the best we can do is use TV to sell toys."

[From the Boston Globe, June 27, 1987]

FCC ORDERED TO REVIEW DEREGULATION OF CHILDREN'S TELEVISION

(By Robert A. McLean)

A federal appeals court yesterday ordered the Federal Communications Commission to review a sweeping 1984 decision deregulating commercial children's television.

The decision prompted praise from Action for Children's Television, the national group pledged to improving children's programming. Congress will review the longstanding issue in hearings scheduled for this fall.

FCC spokesman John Kamp said the agency now will either go back to the commercial limits on children's shows it enforced before 1984 or start anew rulemaking aimed at showing the court the 1984 decision was justified.

The ruling overturned an August 1984 FCC vote to end limitations on the amount of advertising per hour of TV programming, including Saturday and Sunday series targeted to toddlers and youngsters. The three-judge US Circuit Court of Appeals in Washington generally upheld the FCC's deregulation, but said the agency "failed to sufficiently justify its action" regarding children.

The court was harshly critical of the FCC action—which the court said made a bad matter worse—and remanded the case to the federal agency for reconsideration. "The comemission's invocation of the obvious fact that commercials pay the tab for children's programming hardly explains the link to a 'hands-off' commercialization policy," the court wrote.

ACT had taken the FCC to court, citing longstanding agency policy that prevented broadcasters and advertisers from turning weekend shows into commercials for products oriented toward children. Among the products cited were GI Joe dolls and toys such as My Little Pony and Thundercats, all of which are represented by weekend children's series.

"The judgment to reopen the entire issue of over-commercialization will halt a worsening situation, where kids are being set up by advertisers and marketers, who televise sales pitches disguised as animated series.' said ACT president Peggy Charren.

Charren, whose Cambridge-based organization has battled the commercialization of children's TV at every level, called on new FCC chairman Dennis Patrick "to remedy the mistake" of his predecessor, Mark Fowler, and urged the regulatory body to regain control of programming content.

"FCC chairman Patrick and his colleagues now have the opportunity to act on reinstatement of limitations on commercials on all TV shows, particularly those aimed at children, before the Congress takes matters into their own hands," Charren said. "The FCC made a mistake in 1984, reaffirmed it in 1986, and now has the chance to correct that mistake.

"We won so big on this that I think the FCC is going to have to reimpose commercial guidelines on children's television programs that will stop this flood of toy-based shows that are in the editorial control of the toy companies," she said.

But Barry D. Umansky, deputy general counsel of the National Association of Broadcasters, disagreed with Charren's assessment of the opinion. "The FCC, as a legal matter, can go any way it wants," he said. "They can simply provide paragraph after paragraph of "explanation" of why their policy is an adequate one, "or they can take a different course."

September congressional hearings on over-commercialization of children's television were announced here last week by Rep. Edward Markey, chairman of the House telecommunications subcommittee. Markey, a Democrat from Malden, reminded broadcasters of their "obligation to serve children," which will be a major issue raised during the congressional hearings.

"Congress will send a clear signal to broadcasters, cable TV and the FCC that the Congress is back in the business of developing public policy," Markey told the meeting. The conference was sponsored by ACT, the WGBH-TV Foundation and Harvard's Barone Center on the press, politics and public policy.

When the FCC first ended regulation of commercials the decision was questioned by the National Association of Broadcasters, which asked if the deregulation applied to children's programming, like all others. The FCC said it did, prompting ACT to enter the fray.

Markey told the Cambridge conference that there is "a real chance" to impose tighter controls on broadcasters, because "people's batteries are recharged. The energy is there, and younger members of Congress want to do something."

He assailed "the Fowler-Reagan deregulatory policy that has completely undermined the public trust concept" in broadcasting.

"The networks have served the children poorly, if at all," he declared, bemoaning what he called "a disturbing trend toward a proliferation of program-length commercials" that could lead to exploitation of young viewers.

[From the New York Times]

TV TOYS: DEBUT AND DEBATE

(By Sylvia L. Wilson)

A new generation of electronic toys designed to be used by children as they watch specific cartoon shows on television are to be featured this week at the New York Toy Fair.

While industry experts predict these so-called interactive video toys will make the process of watching television more enjoyable, one group that studies how children watch television contends the toys rob children of their imaginations and another says the shows are engaging in deceptive advertising.

A variety of technologies is used in the toys, including the following:

Axlon, a company owned by Nolan K. Bushnell, the founder of Atari, is planning Tech Force—a $250 set of toy robots designed to be placed on the floor in front of a television set, where they move around in imitation of cartoon characters on the screen. The motion of the robots is controlled by computer chips that respond to tones from the program that are inaudible to the human ear. When the program is not on, the robots can be controlled by a computer console that comes with the robots.

Mattel is planning Captain Power and the Soldiers of the Future. The set, which will sell for $30 to $40, contains spaceships that the child can have shoot light beams at the characters on the screen. In turn, the characters will appear to shoot back at the spaceships during a five-minute segment of the "Captain Power" show (to be aired in the fall).

Lewis Galoob Toys will update last year's Baby Talk doll with a new "Video Box." The talking doll, hooked up to a video cassette recorder, will appear to have a conversation with the video's characters and the child. Four video cassettes will be provided with the $50 to $55 Video Box; Baby Talk will sell for $65 to $75.

"Interactive toys are now a buzz-word in the industry," said Thomas R. Kully, a securities analyst at William Blair & Company. "They are innovative products that definitely have the potential to be some of the hot toys of the year."

The toys, said David Liebowitz, a toy expert at the American Securities Corporation, "have gone beyond the typical play environment."

"In a marriage of electronics and the child's imagination," he said, the toys enable children to become more involved with a TV show by actually interacting with the characters.

But there has been plenty of criticism of the concept.

The Academy of Pediatrics' subcommittee on children and television has criticized the interactive toys, suggesting they structure the children's responses rather than encouraging their imaginations. And Action for Children's Television, an advocacy and lobbying group, has complained that by marketing the toys through what children perceive as entertainment programming rather than advertising, the shows will be deceiving their audience.

A LOT OF CONFUSION

"There seems to be a lot of confusion about the toys right now," said Donald Kingsborough, the chairman and chief executive of a competing toy company, Worlds of Wonder, which created Teddy Ruxpin, the talking toy bear, and Lazer Tag, which uses guns that fire light beams. "People are not quite clear what the toy is interacting with—the child or the television. For the interactivity to be meaningful, the child should be able to alter what is happening on the screen. Most of the interactive toys today are actually just advanced remote control vehicles."

Worlds of Wonder, based in Fremont, Calif., is working on an interactive video toy as well, Mr. Kingsborough said, but will not present it at the toy fair, which opens today.

An Axlon spokesman disagreed with the criticism of Tech Force. "We feel that our game enhances the child's imagination," said Phil Quigley, vice president of merchandising. "Strategy and defensive measures to keep an opponent from scoring are necessary. The game definitely requires an inventive streak in the child."

Mr. Leibowitz of American Securities had a wait-and-see attitude. "It is too early to know if there are any negative aspects to these electronic toys," he said. "We will not be able to ascertain that until the second or third generation of the products."

[From the New York Times, June 27, 1987]

Court Orders FCC Review of Policy on Children's TV

WASHINGTON, June 26.—The Federal Communications Commission was ordered by a Federal appeals court today to review its 1984 decision deregulating the content of children's television because it had "failed sufficiently to justify its action."

The United States Circuit Court of Appeals here said the FCC should explain why it had overturned a longstanding policy of regulating programs for young viewers and the accompanying commercials.

"For almost 15 years, the FCC's regulation of children's television was founded on the premise that the television market does not function adequately when children make up the audience," Judge Kenneth Starr said in the unanimous opinion for the three-judge panel.

But Judge Starr said the FCC's conservative majority "without explanation . . . has suddenly embraced what had theretofore been an unthinkable bureaucratic conclusion that the market had, in fact, operated to restrain the commercial content of children's television."

The court made the ruling on a petition challenging the 1984 deregulation rule by Action for Children's Television, a Cambridge, Mass.-based group that has criticized the networks' programming for children.

The group argued that deregulation allowed networks to air shows that are virtually commercials for action figures and other toys that are portrayed in the programs.

The appeals court ruled that the FCC, without adequate explanation, had ignored evidence presented by the children's group that the television marketplace could not be counted on to regulate the quality of children's programs.

"The commission has failed to explain adequately the elimination of its longstanding children's television commercialization guidelines," the court said. "The FCC appears at first to have overlooked entirely the existence of the children's guidelines."

An FCC spokesman, John Kamp, said, "The case overall is a victory for the commission."

"The court merely says that in one small section the commission has not adequately explained its decision," he said. "The court does not say the policy here is irrational necessarily. Instead, it says it is not sufficiently explained for the purposes of the court."

There was no immediate comment from the three major television networks, which had intervened on behalf of the broadcast industry.

[From the Wall Street Journal, June 29, 1987]

FCC Is Ordered To Reconsider Decision To Eliminate Ad Rules for Children's TV

(By Bob Davis)

WASHINGTON.—A federal appeals court reopened the contentious issue of whether the Federal Communications Commission should regulate television programs for children.

Over the past few years, the FCC has largely deregulated children's programming, arguing that the marketplace protects children from commercial exploitation. But a three-judge panel of the U.S. appeals court here ordered the agency to reconsider its 1984 decision eliminating guidelines on the number of advertisements aired on children's shows.

"Without explanation, the commission has suddenly embraced what had theretofore been an unthinkable bureaucratic conclusion that the market did in fact operate to restrain the commercial content of children's television," wrote Judge Kenneth Starr for the unanimous panel.

Before eliminating its advertising guidelines, the FCC effectively limited the number of advertisement on children's shows to 9½ minutes each hour on Saturday and Sunday, and 12 minutes an hour on other days. Strictly speaking, the guidelines weren't mandatory, but if a station violated them it became subject to an FCC review. This prospect made stations follow them.

Judge Starr said the agency changed its policy without providing an adequate rationale.

Peggy Charren, president of Action for Children's Television, the Cambridge, Mass., advocacy group that brought the lawsuit, called the decision "the best thing that has happened to children's television in years." She added: "The message is that children aren't fair game for what (advertisers) throw at them."

Henry Geller, a former FCC general counsel who represented Action for Children's Television, said the federal agency would be hard-pressed to provide a plausible explanation for its change in policy. If more than about 5 percent of television stations violate the old advertising guidelines, he contended, that would demonstrate "significant commercialization," which would warrant reimposing the guidelines.

But Valerie Schuttle, senior associate general counsel at the National Association of Broadcasters, said the court only wanted the FCC to explain its policy better, not reregulate. "The court doesn't want blood; it wants a fuller explanation," she said.

Diane Killory, the FCC's general counsel, said the court's decision was limited to a "procedural defect." If the FCC wants to keep its deregulation policy, she said, it must provide a fuller explanation. But after providing such an explanation, she said, it would be difficult to overturn the decision in court because the appeals court traditionally accords the FCC wide latitude in setting policy.

Mr. WIRTH. Mr. President, today I join with my colleague, Senator FRANK LAUTENBERG, in introducing the "Children's Television Education Act of 1987," which is intended to advance the use of television as a positive educational investment for our future in our most precious national resource—our children.

All television is educational—but the question is, what does it teach? For children, television is a powerful teacher of intellectual and cognitive skills as well as a teacher of social information. It is a young child's window of the world, providing a wealth of information about the world, its people, places, and events.

But television's primary role has evolved as one of entertainer, not educator. Despite television's tremendous educational potential, commercial concerns and appeals to mass audiences have become paramount. It is very important that each child have access to positive, age-appropriate educational programming over the public airwaves. The legislation being introduced today is one way to achieve this goal.

Recent reports, including that of the National Commission on Excellence in Education, have focused attention on some extremely troubling problems facing our educational institutions. These reports have called for a variety of solutions aimed at improving the quality of education, as well as the educational performance of our Nation's children. Certainly much can and should be done to improve education, but we have often overlooked the potential role of television as educator, both by itself and in coordination with our schools.

By the time an average child finishes formal education in this country, he or she has spent an astonishing 15,000 hours in front of the television set—significantly more time than is spent in the classroom. Television has become an integral part of everyday life for our younger generation—almost 4 hours of each waking day is spent learning from the television "curriculum."

Research demonstrates the power of television to teach. Programs such as "Sesame Street" have been instrumental in giving children greater reading and mathematical proficiency at an early age. "3-2-1 Contact" has inspired a better understanding and appreciation of science and scientific concepts in young teenagers. "Freestyle" has taught children that their career choices need not be bounded by stereotypes based on gender. Programs such as "Mister Rogers' Neighborhood" and "Fat Albert and the Cosby Kids" have taught altruism, cooperation, and kindness toward others. "CBS Storybreak" and "Reading Rainbow" have revealed the wonders and treasures that books and the local public libraries hold for us all.

Research also shows that television can motivate children to learn about the world around them. At a very early age, a child's fascination with television can be effectively channeled into positive educational experiences. Yet for the most part, television's potential in this area is unrealized.

The Federal Communications Commission [FCC] has been involved in issues relating to children and television for over two decades, but has accomplished nothing. The FCC's failure to ensure that television broadcasters adequately meet the needs of the child audience is extremely disappointing to me and to all of those interested in the welfare of children.

In 1960, the Commission first determined that one way in which broadcast stations must meet their public interest obligation was to provide programming specifically designed for child audiences. Almost 15 years later, in its 1974 Children's Television Report and Policy Statement, the FCC reaffirmed its conclusion that broadcasters have a special obligation to serve children as a substantial and important community group. The FCC at that time issued a policy statement that instructed television stations to make a "meaningful effort" to increase the amount of programming for children, and to air informational programming for child audiences. However, the implementation of this policy was voluntary, and no specific requirements in terms of amount of programming necessary to achieve this goal were specified.

In 1978, after results of a survey indicated that the television broadcasters were not meeting the needs of children, the FCC initiated a rulemaking procedure to address the dearth of programming for children. Despite the fact that the Commission's staff report on the matter clearly indicated that television broadcasters were not complying with the 1974 Policy Statement, the FCC continued to procrastinate without taking any action that would effectively address this problem. In December of 1983, the rulemaking was finally concluded only because of a court ruling. Unfortunately, its conclusion was all too predictable—again, the FCC did nothing.

A recent decision offers some hope that the FCC may yet have to shoulder its previously embraced policy that broadcasters have a special responsibility to serve the needs of children. A Federal appeals court ruled earlier this spring that the FCC had acted cavalierly and without regard to the impact on children when it lifted the guidelines in 1984 that had limited the amount of commercial time that could be inserted in children's television shows to 16 minutes per hour. While the court's decision is encouraging, I think the broadcasters and the toy industry will need further motivation from the FCC before they are likely to abandon such a lucrative market.

In abrogating its responsibility to protect the public and the public interest, the Commission stated that available alternative programming services in media markets may be taken into account when broadcasters are determining the programming needs of children. This means that broadcasters may further minimize their programming aimed at children by simply pointing to the availability of such programming over nonbroadcast services, such as cable, or even to what is available through videodisks.

This shortsighted ruling ignores the fact that close to half of all American homes still lack access to cable. Some homes will probably never have access to cable television. And the cost involved with cable and other new communication technologies ensures that these sources of programming will be available only to those families who can afford them—not to those who are having difficulty simply putting food on the table each day. Many children—the poor and the culturally disadvantaged, the very population who have least access to alternative sources of information—will never experience the luxury of alternative programming provided by new video sources.

The "Children's Television Education Act of 1987" sets forth a series of findings concerning the tremendous educational potential of television and requires that rules be developed to maximize the use of television in educating children, and to increase the amount of educational programming specifically designed for children. The bill requires that each broadcaster provide a substantial amount of educational programming for children, specifying that amount as a minimum of 7 hours per week, at least 5 of which must air Monday through Friday.

The legislation specifically identifies the "petition to deny" procedure as the appropriate process for ensuring broadcasters' compliance with provisions of the bill. It, therefore, provides a method for local community groups to ensure that their children are being served by their local broadcasters.

The bill also directs the FCC to conduct an inquiry into the implications of programs created to promote toys or other products popular with children—the so-called "program-length commercials." In the past, it was not unusual for toys based on characters featured in children's programs to be developed after a program attained "hit" status. Recently, however, a new trend has evolved in which a television series is released at the same time as a line of toys associated with the program theme or characters. Although these programs are entertaining to children, the program content itself—not just the commercials—is specifically designed to promote products to children. Many believe this trend is the direct result of the FCC's 1984 television deregulation order which freed broadcasters from any limitation on the number of commercial minutes that could be run per hour.

There are several concerns raised by program length commercials. The first is the effect on a child's ability to tell the difference between programs and commercial content. The FCC had for many years held that a clear separation must be maintained between programs and commercials so that children can more easily discriminate between them. In its 1974 policy statement on children's television, the FCC also prohibited broadcasters from engaging in host-selling, whereby popular characters featured in program contents also engage in commercial pitches during program breaks. Both of these requirements are designed to help children recognize the distinction between programs and advertisements, an ability which helps child viewers defend against the persuasive appeals in commercials. Yet many charge that this new type of commercialization of program content further confuses the distinction between programs and advertisement for young children. Only a full inquiry will clarify the extent of the confusion such programming creates in young children, but so far the FCC has refused to conduct such an inquiry.

A second issue raised is the manner in which this trend will affect the future of children's programming in general. When this type of programming is purchased by television stations, an arrangement is typically included which allows the broadcaster to share in the profits generated from the sales of toys and other related products. I am concerned, as are many others, that the financial incentives offered by such programs may override other factors that should be weighed in a broadcaster's decision regarding selection of children's program content. A broadcaster's primary responsibility under the provisions of the Communications Act is to serve the public interest. It is not clear to me how the public interest is served by having such financial incentives weigh so heavily.

The measure also directs the FCC to evaluate the implications of the new "interactive toys." Such toys utilize an inaudible signal that interacts with a toy or other receiver separate from the television and allows the child to "communicate" with the program in much the same way one does with video games. As is the case with many of the program length commercials, one of the primary beneficiaries of this type of programming would appear to be the manufacturer of the separate receivers, which must be purchased before children have the ability to "interact" in this way with television programs.

The effect of these interactive toys on the children who use them must be fully understood so that an informed decision can be reached by parents and the FCC about their continued use. It is clear that only children from wealthier families will have access to these toys. A less obvious concern is to what extent the ability to interact with television will further cloud the child's ability to discern between the program and real life.

For these reasons, and because the use of these toys depends on the broadcast of inaudible signals via the television portion of the spectrum, it is appropriate that the FCC examine this relatively new phenomenon carefully in order to permit itself, the Congress, parents and other concerned citizens to make informed judgments about its use.

The inquiry mandated by this bill will establish a record for assessing these questions and others related to the program-length commercial and interactive toy formats.

All necessary rules must be promulgated by the FCC within 180 days of enactment of the measure. I urge my colleagues to join Senator Lautenberg and me in cosponsoring this important piece of legislation.

By Mr. MURKOWSKI (for himself and Mr. Cranston):

S. 1506. A bill to amend title 38, United States Code, to authorize the Administrator to provide national recreational activities for the rehabilitation of disabled veterans and to authorize other organizations to support and participate in such activities under certain circumstances; to the Committee on Veterans' Affairs.

VETERANS' ADMINISTRATION'S NATIONAL WHEELCHAIR GAMES

Mr. MURKOWSKI. Mr. President, I am today introducing, along with the distinguished chairman of the Senate Veterans' Affairs Committee, Senator Cranston, legislation which will improve the Veterans' Administration's ability to sponsor athletic events for disabled veterans, such as the National Wheelchair Games. These games, almost entirely funded by private contributions, are a major factor in the total rehabilitation of very seriously disabled veterans.

The Congress and the VA have a long history of commitment to providing disabled veterans with the resources needed for their rehabilitation. To be effective, rehabilitation has to be broad based, and it must address all aspects of life, including recreation. For veterans with injuries so severe that they are confined to wheelchairs, the National Wheelchair Games have provided an important means of rehabilitation.

The games began in 1981, when 74 veterans from 14 States gathered in Richmond, VA, in a test of athletic skills; skills appropriate for individuals dependent upon a wheelchair for mobility. This summer over 400 disabled veterans from all over the Nation will gather in Ann Arbor, MI, for the seventh annual Veterans' Administration's National Wheelchair Games. These veterans have trained extensively for a competition which will test their dedication, discipline, and ability. The training and the discipline required to achieve the high level of skill the competition will demand will have an important rehabilitative effect for the veteran athletes involved. Perhaps just as importantly, the competition will demonstrate to the world that these veteran athletes, while dependent upon a wheelchair for mobility, have the discipline, the will, and the ability to perform at the limits of human endurance and skill. Their demonstration of will and ability will do much to disprove the unfortunate misconception carried by many people that disabled individuals are crippled individuals. It is this irrational and unsupported misconception that imposes one of the greatest barriers to a full and productive life by disabled individuals, including veterans.

Mr. President, I believe the importance and effectiveness of these games are beyond question. I believe my colleagues in the Senate should join me in commending the Veterans' Administration; the Paralyzed Veterans of America for their tremendous work in the area of veterans' rehabilitation, the businesses that have contributed the goods and services which make these games possible; and other organizations whose cooperation and assistance have helped make the games a success. I also believe we should enact the legislation I am introducing today which will improve the VA's ability to sponsor the games.

As I have noted, the games are conducted at virtually no cost to the taxpayer. This is largely due to the contribution of goods and services by private sector businesses. Unfortunately, current law prohibits the VA from associating its name or emblem with activities funded by private sector businesses. Thus, the VA is technically prohibited from allowing its name to be used in promoting and publicizing these games.

Mr. President, these games are the product of a unique partnership of public and private organizations. The contributions of private firms do not taint the games with commercialism. These contributions make possible activities which lead to the rehabilitation of severely disabled veterans. If enacted, this legislation will allow the organizations who make these games possible, including the VA, to publicly acknowledge and recognize this unique partnership and cooperation of government, veterans' organizations, and businesses.

I urge my colleagues to join us in supporting this measure. I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1506

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 612 of title 38, United States Code, is amended by adding at the end thereof the following new subsection:

"(l)(1) The Administrator may provide or, in cooperation with any organization named in or approved under section 3402 of this title, assist in providing recreational activities which would further the rehabilitation of disabled veterans if—

"(A) such activities are available to disabled veterans on a national basis, and

"(B) a significant percentage of the individuals participating in such activities are eligible for rehabilitative services under this chapter.

"(2) The Administrator, notwithstanding any other provision of law, may accept contributions of funds and other assistance from any appropriate source for the support of such activities and may permit any individual, organization, or corporation which has made such a contribution, or provided such assistance, to advertise the activity or their participation therein, if—

"(A) the Administrator has approved any such advertisement, and

"(B) such advertisement contains a clear statement that any product, project, or commercial line of endeavor has not been endorsed by the Veterans' Administration.".

ADDITIONAL COSPONSORS

S. 38

At the request of Mr. Moynihan, the name of the Senator from Massachusetts [Mr. Kennedy] was added as a cosponsor of S. 38, a bill to increase the authorization of appropriations for the Magnet School Program for fiscal year 1987 to meet the growing needs of existing Magnet School Programs, and for the establishment of the new Magnet School Programs.

S. 270

At the request of Mr. Humphrey, the name of the Senator from Mississippi [Mr. Stennis] was added as a cosponsor of S. 270, a bill to provide a transition period for the full implementation of the nonrecurring adoption expenses reimbursement program.

S. 347

At the request of Mr. Sasser, the name of the Senator from South Dakota [Mr. Daschle] was added as a cosponsor of S. 347, a bill to amend chapter 171 of title 28, United States Code, to allow members of the Armed Forces to sue the United States for damages for certain injuries caused by improper medical care provided during peacetime.

S. 466

At the request of Mr. Metzenbaum, the name of the Senator from Ohio [Mr. Glenn] was added as a cosponsor of S. 466, a bill to provide for a waiting period before the sale, delivery, or transfer of a handgun.

S. 549

At the request of Mr. Hollings, the name of the Senator from Vermont [Mr. Leahy] was added as a cosponsor of S. 549, a bill to remedy injury to the U.S. textile and apparel industries caused by increased imports.

S. 567

At the request of Mr. DeConcini, the name of the Senator from Texas [Mr. Bentsen] was added as a cosponsor of S. 567, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under antitrust laws.

S. 675

At the request of Mr. Mitchell, the name of the Senator from New Mexico [Mr. Bingaman] was added as a cosponsor of S. 675, a bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992.

S. 845

At the request of Mr. Leahy, the names of the Senator from Georgia [Mr. Fowler], the Senator from North Dakota [Mr. Burdick], the Senator from South Dakota [Mr. Daschle], the Senator from Vermont [Mr. Stafford], the Senator from Tennessee [Mr. Gore], the Senator from Alabama [Mr. Shelby], the Senator from Kentucky [Mr. Ford], the Senator from Tennessee [Mr. Sasser], the Senator from Maine [Mr. Mitchell], the Senator from Illinois [Mr. Dixon], the Senator from Nebraska [Mr. Exon], the Senator from North Dakota [Mr. Conrad], the Senator from Maine [Mr. Cohen], the Senator from Hawaii [Mr. Matsunaga], the Senator from West Virginia [Mr. Rockefeller], the Senator from Maryland [Ms. Mikulski], the Senator from Arkansas [Mr. Bumpers], and the Senator from Arkansas [Mr. Pryor] were added as cosponsors of S. 845, a bill entitled the "Rural Area Revitalization Act of 1987."

S. 924

At the request of Mr. Bentsen, the names of the Senator from Virginia [Mr. Trible], and the Senator from Iowa [Mr. Harkin] were added as cosponsors of S. 924, a bill to revise the allotment formula for the alcohol, drug abuse, and mental health services block grant under part B of title XIX of the Public Health Service Act.

S. 970

At the request of Mr. Harkin, the name of the Senator from Delaware [Mr. Biden] was added as a cosponsor of S. 970, a bill to authorize a research program for the modification of plants focusing on the development and production of new marketable industrial and commercial products, and for other purposes.

S. 998

At the request of Mr. DeConcini, the name of the Senator from Nebraska [Mr. Exon] was added as a cosponsor of S. 998, a bill entitled the "Micro Enterprise Loans for the Poor Act."

S. 1106

At the request of Mr. Hatfield, the name of the Senator from Hawaii [Mr. Inouye] was added as a cosponsor of S. 1106, a bill to provide for simultaneous, mutual, and verifiable moratorium on underground nuclear explosions above low-yield threshold.

S. 1108

At the request of Mr. Mitchell, the name of the Senator from Iowa [Mr. Harkin] was added as a cosponsor of S. 1108, a bill to modify the conditions of participation for skilled nursing facilities and intermediate care facilities under titles XVIII and XIX of the Social Security Act, and for other purposes.

S. 1188

At the request of Mr. Symms, the names of the Senator from Mississippi [Mr. Cochran], the Senator from Washington [Mr. Evans], the Senator from Utah [Mr. Hatch], and the Senator from North Dakota [Mr. Burdick] were added as cosponsors of S. 1188, a bill to amend the Internal Revenue Code of 1986 to allow certain associations of football coaches to have a qualified pension plan which includes cash or deferred arrangement.

S. 1196

At the request of Mr. Hollings, the names of the Senator from Alabama [Mr. Shelby], and the Senator from Connecticut [Mr. Dodd] were added as cosponsors of S. 1196, a bill to provide for the enhanced understanding and wise use of ocean, coastal, and Great Lakes resources by strengthening the National Sea Grant College and by initiating a Strategic Coastal Research Program, and for other purposes.

S. 1220

At the request of Mr. Kennedy, the name of the Senator from Massachusetts [Mr. Kerry] was added as a cosponsor of S. 1220, a bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome.

S. 1270

At the request of Mr. DeConcini, the name of the Senator from Virginia [Mr. Trible] was added as a cosponsor of S. 1270, a bill to improve the Government's debt collection and credit management practices, to implement certain recommendations of the President's Private Sector Survey on Cost Control, and for other purposes.

S. 1323

At the request of Mr. Byrd, his name was added as a consponsor of S. 1323, a bill to amend the Securities Exchange Act of 1934 to provide to shareholders more effective and fuller disclosure and greater fairness with respect to accumulations of stock and the conduct of tender offers.

S. 1366

At the request of Mr. Kennedy, the names of the Senator from California [Mr. Wilson], and the Senator from Delaware [Mr. Biden] were added as cosponsors of S. 1366, a bill to revise and extend the programs of assistance under title X of the Public Health Service Act.

S. 1397

At the request of Mr. CRANSTON, the names of the Senator from Hawaii [Mr. INOUYE], the Senator from Mississippi [Mr. STENNIS], the Senator from Wisconsin [Mr. PROXMIRE], and the Senator from Florida [Mr. CHILES] were added as cosponsors of S. 1397, a bill to recognize the organization known as the Non Commissioned Officers Association of the United States of America.

S. 1408

At the request of Mr. CHAFEE, the name of the Senator from Tennessee [Mr. GORE] was added as a cosponsor of S. 1408, a bill to amend the Immigration and Nationality Act to waive the continuous residence requirement under the legalization program for spouses and children of qualified legalized aliens.

S. 1417

At the request of Mr. HARKIN, the names of the Senator from Connecticut [Mr. DODD], and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 1417, a bill to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act.

S. 1451

At the request of Mr. HEINZ, the names of the Senator from Alaska [Mr. MURKOWSKI], the Senator from Alabama [Mr. HEFLIN], and the Senator from Virginia [Mr. TRIBLE], were added as cosponsors of S. 1451, a bill to amend title 38, United States Code, to improve veterans' benefits for former prisoners of war.

S. 1464

At the request of Mr. CRANSTON, the names of the Senator from Vermont [Mr. LEAHY], the Senator from Washington [Mr. ADAMS], the Senator from Tennessee [Mr. GORE], and the Senator from Virginia [Mr. TRIBLE] were added as cosponsors of S. 1464, a bill to amend title 38, United States Code, to provide eligibility to certain individuals for beneficiary travel payments in connection with travel to and from Veterans' Administration facilities.

S. 1481

At the request of Mr. JOHNSTON, the name of the Senator from Wyoming [Mr. WALLOP] was added as a cosponsor of S. 1481, a bill to redirect the program for the disposal of spent nuclear fuel and high-level radioactive waste under the Nuclear Waste Policy Act of 1982 to achieve budget savings, and for other purposes.

S. 1482

At the request of Mr. HEFLIN, the name of the Senator from Utah [Mr. HATCH] was added as a cosponsor of S. 1482, a bill to amend title 18 and title 28, United States Code, to make certain improvements with respect to the Federal Judiciary, and for other purposes.

S. 1486

At the request of Mr. LUGAR, the names of the Senator from North Dakota [Mr. BURDICK], and the Senator from North Carolina [Mr. HELMS] were added as cosponsors of S. 1486, a bill to amend the Farm Credit Act of 1971 to make the Farm Credit System financially sound and responsive to borrower needs, and for other purposes.

SENATE JOINT RESOLUTION 106

At the request of Mr. BINGAMAN, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of Senate Joint Resolution 106, joint resolution to recognize the Disabled American Veterans Vietnam Veterans National Memorial as a memorial of national significance.

SENATE JOINT RESOLUTION 149

At the request of Mr. HELMS, the name of the Senator from Indiana [Mr. QUAYLE] was added as a cosponsor of Senate Joint Resolution 149, joint resolution to designate the period commencing on June 21, 1989, and ending on June 28, 1989, as "Food Science and Technology Week."

SENATE JOINT RESOLUTION 168

At the request of Mr. MELCHER, the names of the Senator from Arizona [Mr. DECONCINI], and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Joint Resolution 168, joint resolution designating the week beginning October 25, 1987, as "National Adult Immunization Awareness Week."

SENATE JOINT RESOLUTION 171

At the request of Mr. CRANSTON, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from North Dakota [Mr. BURDICK], the Senator from Rhode Island [Mr. PELL], the Senator from Alabama [Mr. SHELBY], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Oklahoma [Mr. NICKLES], the Senator from Tennessee [Mr. GORE], the Senator from Hawaii [Mr. INOUYE], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of Senate Joint Resolution 171, joint resolution designating the week beginning November 8, 1987, as "National Women Veterans Recognition Week."

SENATE CONCURRENT RESOLUTION 23

At the request of Mr. CRANSTON, the names of the Senator from Arizona [Mr. DECONCINI], and the Senator from Utah [Mr. HATCH] were added as cosponsors of Senate Concurrent Resolution 23, concurrent resolution designating jazz as an American national treasure.

SENATE CONCURRENT RESOLUTION 29

At the request of Mr. DECONCINI, the names of the Senator from New Mexico [Mr. BINGAMAN], and the Senator from Connecticut [Mr. WEICKER] were added as cosponsors of Senate Concurrent Resolution 29, concurrent resolution expressing the sense of Congress regarding the inability of American citizens to maintain regular contact with relatives in the Soviet Union.

SENATE CONCURRENT RESOLUTION 32

At the request of Mr. GRASSLEY, the names of the Senator from Connecticut [Mr. DODD] and the Senator from Michigan [Mr. RIEGLE] were added as cosponsors of Senate Concurrent Resolution 32, concurrent resolution to express the sense of Congress that volunteer work should be taken into account by employers in the consideration of applicants for employment and that provision should be made for a listing and description of volunteer work on employment application forms.

SENATE RESOLUTION 31

At the request of Mr. HUMPHREY, the name of the Senator from Nebraska [Mr. KARNES] was withdrawn as a cosponsor of Senate Resolution 31, resolution expressing the sense of the Senate with respect to the situation in Afghanistan.

SENATE RESOLUTION 32

At the request of Mr. HUMPHREY, the name of the Senator from Nebraska [Mr. KARNES] was withdrawn as a cosponsor of Senate Resolution 32, resolution designating Robert B. Dove as a Parliamentarian Emeritus.

SENATE RESOLUTION 176

At the request of Ms. MIKULSKI, the name of the Senator from Maine [Mr. MITCHELL] was added as a cosponsor of Senate Resolution 176, resolution calling for the immediate release of all the children detained under the state of emergency regulations in South Africa.

SENATE RESOLUTION 240

At the request of Mr. KERRY, the names of the Senator from North Dakota [Mr. BURDICK], the Senator from New Mexico [Mr. BINGAMAN], and the Senator from Vermont [Mr. LEAHY] were added as cosponsors of Senate Resolution 240, resolution expressing appreciation for America's Vietnam veterans.

SENATE RESOLUTION 245

At the request of Mr. DOMENICI, the names of the Senator from Nevada [Mr. HECHT], the Senator from Rhode Island [Mr. PELL], the Senator from Indiana [Mr. QUAYLE], the Senator from Maryland [Mr. SARBANES], and the Senator from Alaska [Mr. STEVENS] were added as cosponsors of Senate Resolution 245, resolution to express the profound sorrow and regret of the Senate on the death of Arthur F. Burns.

AMENDMENT NO. 270

At the request of Mr. HUMPHREY, the name of the Senator from Mississippi [Mr. STENNIS] was withdrawn as a cosponsor of amendment No. 270 intended to be proposed to S. 2, a bill to amend the Federal Election Campaign

Act of 1971 to provide for a voluntary system of spending limits and partial public financing of Senate general election campaigns, to limit contributions by multicandidate political committees, and for other purposes.

SENATE CONCURRENT RESOLUTION 65—EXPRESSING CONCERN OVER THE CONDITIONS OF ETHNIC ALBANIANS LIVING IN YUGOSLAVIA

Mr. DOLE (for himself and Mr. SIMON) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 65

Whereas there are more than two million ethnic Albanians living within the borders of the Socialist Federal Republic of Yugoslavia;

Whereas ethnic Albanians constitute one of the largest ethnic groups within Yugoslavia;

Whereas there are reports that several hundred ethnic Albanians have been killed in communal violence and Government efforts to control it;

Whereas there is evidence that several thousand more have been arrested by the Yugoslav Government for expressing their views in a non-violent manner;

Whereas most political prisoners within Yugoslavia are ethnic Albanians;

Whereas many of those arrested have been sentenced to harsh terms of imprisonment ranging from one to fifteen years;

Whereas many ethnic Albanians have been denied access to full economic opportunities because of alleged "Albanian nationalist" activities;

Whereas Amnesty International, a respected international human rights organization, has published allegations of torture and assassination of ethnic Albanians in exile by Yugoslav secret police;

Whereas the Socialist Federal Republic of Albania is a signatory to the Final Act of the Conference on Security and Cooperation in Europe, known as the Helsinki Final Act;

Whereas one of the provisions of the Act states that "the participating States on whose territory national minorities exist will respect the right of persons belonging to such minorities to equality before the law, will afford them full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect the legitimate interests in this sphere;"

Whereas the Government of the Socialist Federal Republic of Yugoslavia has failed to protect fully the rights of ethnic Albanians, in accordance with its obligations under the Act;

Resolved by the Senate (the House of Representatives concurring), that Congress:

(1) Is deeply concerned over the political and economic conditions of ethnic Albanians in Yugoslavia and over the failure of the Yugoslav Government to fully protect their political and economic rights;

(2) Urges the Government of the Socialist Federal Republic of Yugoslavia to act so as to ensure that human rights and fundamental freedoms as expressed in the Helsinki Final Act and the Concluding Document of the Madrid CSCE Follow-Up Meeting are respected in regard to persons from all national and ethnic groups in Yugoslavia;

(3) Calls upon the Government of the Socialist Federal Republic of Yugoslavia to review in a humanitarian spirit the cases of all ethnic Albanians currently imprisioned on political charges and to release all of those who have not used or advocated violence;

(4) Requests the President of the United States to direct the Department of State to convey the contents of this Resolution to the appropriate representatives of the Government of the Socialist Federal Republic of Yugoslavia.

Mr. DOLE. Mr. President, I rise today to offer a concurrent resolution expressing the deep concern of the Congress about the unfair treatment being accorded to many of the 2 million ethnic Albanians who live in Yugoslavia.

I am pleased that the distinguished Senator from Illinois, Senator SIMON, has joined me as cosponsor. And I also want to note that Congressman DIOGUARDI has introduced an identical resolution in the House. Congressman DIOGUARDI has taken the lead on this issue on Capitol Hill over the past several years. I commend him for that, and look forward to working with him to get the resolution considered and passed in both Houses.

ALBANIAN COMMUNITY SINGLED OUT

The ethnic Albanian community, the third largest within Yugoslavia, has suffered from unfair, unequitable treatment by virtually any standard.

The most tragic problem of all, certainly, is the death of hundreds of ethnic Albanians as a result of communal violence and the Government's reaction to it. The Government had used violent means—means which, even if not always entirely unprovoked, have led to unnecessary bloodshed. Indeed, the persistence of the violence used against ethnic Albanians raises serious question whether the intent was truly to maintain law and order, as the Government claims, or to stamp out all signs of Albanian determination to retain some separate ethnic identity and culture.

And, of course, violence is not the only hardship ethnic Albanians face. Many thousands have been arrested over the years for any, even nonviolent expression of political dissent or ethnic self-identification. And they have been sentenced to utterly unjustified sentences—sometimes up to 15 years in jail—for an offense which might have been nothing more than holding up a placard at a public gathering.

They have also suffered what appears to be systematic economic privation. Many have been fired or denied access to jobs, on the sole grounds that they have in some way expressed their Albanian heritage and culture. University professors have been fired, for the "crime"—and that word is in quotes—of teaching courses on Albanian history.

TIME TO BRING ABUSES TO AN END

Mr. President, the record is long and sad. It is time to bring the abuses and unfairness to an end. And that process can only begin if we turn the spotlight of international concern and, yes, outrage on what is happening to ethnic Albanians in Yugoslavia.

Yugoslavia has an obligation under international law; under the United Nations Charter; under the Helsinki Final Act—to grant fair, equal treatment to all its people. It is high time that we let the Government in Belgrade know that the Congress will settle for no less.

Mr. President, I urge all Senators to join as cosponsors; and I further urge prompt committee consideration and eventual adoption of this important resolution.

● Mr. SIMON. Mr. President, I am pleased to sponsor this concurrent resolution expressing the Senate's displeasure with the Government of Yugoslavia over its treatment of ethnic Albanians, along with the distinguished minority leader, Senator DOLE. The poor treatment of ethnic Albanians in Yugoslavia is a problem that must not be ignored.

This is not the first time I've spoken out on Yugoslav Government mistreatment of ethnic Albanians. The Helsinki Final Act was signed by Yugoslavia, and all signatories to that agreement have every right to expect Yugoslavia to live up to its human rights obligations. Beyond treaty commitments, this is a matter of decency and compassion. Albanians living in Yugoslavia simply should not be abused and harassed because of political and ethnic differences.

The Dole-Simon resolution is straightforward: it calls on the Government of Yugoslavia to live up to its human rights obligations to all its citizens, and to review the cases of all ethnic Albanians currently in prison on all political charges and to release those who have not used or advocated violence. I think this approach makes good sense. This is not an attempt to embarrass Yugoslavia; I do not desire bad relations with that country. But I urge Yugoslavia's leaders to take these steps, so we can move our relationship forward and not backward. I urge my colleagues to support this resolution.●

SENATE RESOLUTION 250—TO EXPRESS THE SORROW AND REGRET OF THE SENATE AT THE DEATH OF WALTER WOLFGANG HELLER

Mr. SARBANES submitted the following resolution; which was ordered to be held at the desk:

S. Res. 250

Whereas Walter Wolfgang Heller was born in Buffalo, New York, in 1915, the son of immigrants from Germany;

Whereas Walter W. Heller was graduated Phi Beta Kappa from Oberlin College, and received his M.A. and Ph.D. from the University of Wisconsin;

Whereas Walter W. Heller married the former Emily K. Johnson in 1938 and they had three children, Walter P. Heller, Eric J. Heller, and Kaaren Louise Heller;

Whereas Walter W. Heller was a member of the Economics Department at the University of Minnesota for 40 years, and served as chairman of that department from 1957 through 1961 and as Regents Professor from 1966 to 1986, and was throughout his career a brilliant and lucid educator who inspired generations in the understanding and use of economic analysis and policy making;

Whereas Walter W. Heller was a preeminent exponent and practitioner of what he called "public economics," who used his great talents to transform theory into an effective instrument for promoting economic prosperity and opportunity;

Whereas Walter W. Heller possessed a unique ability to translate complex economic analysis into clear and understandable policy recommendations, and to inspire others to act upon those recommendations;

Whereas Walter W. Heller was an adviser to various Presidents, and served with particular distinction from 1961 to 1964 as Chairman of the President's Council of Economic Advisers, drawing to the Council and its staff a stellar group of economists whose work during that period, and subsequently, has constituted a major contribution to economic analysis and policy in 20th century America;

Whereas Walter W. Heller in his tenure as Chairman of the Council of Economic Advisers developed policies that led the United States into a period of unparalleled economic expansion, characterized by average annual growth rates exceeding 5 percent;

Whereas Walter W. Heller further demonstrated his commitment to public service over the course of his distinguished career by serving in an advisory capacity to the United Nations, the Organization for Economic Cooperation and Development, and the Congressional Budget Office;

Whereas Walter W. Heller generously contributed his time and energies to numerous civic and philanthropic organizations, including the German Marshall Fund and the American Lupus Foundation, and served as a member of the Board of Trustees of his alma mater, Oberlin College; and

Whereas with the death of Walter W. Heller on June 16, 1987, at age 71, the United States lost a distinguished citizen and foremost policy adviser who helped guide the nation into a period of unprecedented prosperity and opportunity, and who remained up to the moment of his untimely death a respected, thoughtful, and articulate adviser on the urgent and complex economic questions facing the nation: Now, therefore, be it

Resolved, That it is the sense of the Senate to express profound sorrow and regret at the death of Walter Wolfgang Heller.

Sec. 2. The Secretary of the Senate shall transmit an enrolled copy of this resolution to the family of Walter W. Heller.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the benefit of my colleagues and the public that S. 574, the Battle Mountain Pasture Restoration Act has been added to the list of bills to be heard before the Subcommittee on Public Lands, National Parks and Forests at its hearing on July 30, 1987.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. GLENN. Mr. President, I would like to announce that the Governmental Affairs Committee will hold a hearing on financial management.

The hearing is scheduled for 9:30 a.m., Thursday, July 23, 1987, in room SD-342, Senate Dirksen Office Building. For further information, please call Len Weiss, staff director, on 224-4751.

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. PRYOR. Mr. President, I would like to announce that the Subcommittee on Federal Services, Post Office, and Civil Service of the Committee on Governmental Affairs, will hold a hearing on Monday, July 20, 1987. The subcommittee will hear testimony on S. 508, the Whistleblowers Protection Act of 1987.

The hearing is scheduled for 10 a.m., in room SD-342, Senate Dirksen Office Building. For further information, please call Ed Gleiman, subcommittee staff director, on 224-2254.

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on Thursday, July 30, 1987 at 10 a.m. in SR-332 to receive testimony on the Federal Insecticide, Fungicide and Rodenticide Act [FIFRA].

For further information, please contact Carolyn Brickey of the committee staff at 224-2035.

Mr. President, I wish to announce that the Committee on Agriculture, Nutrition, and Forestry will hold a field hearing in Vermont to receive testimony on rural agricultural issues. The hearing will take place on Monday, July 27, 1987 at 9 a.m. on the campus of St. Michael's College, Winooski, VT.

For further information, please contact Leslie Dach of the committee staff at 224-2035.

SUBCOMMITTEE ON CONSERVATION AND FORESTRY

Mr. LEAHY. Mr. President, I wish to announce that the Subcommittee on Conservation and Forestry of the Committee on Agriculture, Nutrition, and Forestry will hold a hearing on Tuesday, August 4, 1987 at 9:30 a.m. in SR-332 to receive testimony on the management of inventory properties held by agricultural lenders. Senator Wyche Fowler will preside.

For further information please contact Bob Redding of Senator Fowler's staff at 224-2321 or Cris Coffin of the committee staff at 224-2035.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON COMMUNICATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Communications of the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on July 17, 1987, to hold hearings on S. 1277, the Broadcasting Improvements Act of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Friday, July 17, 1987, to conduct a hearing on "Minimum Wage."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet during the session of the Senate on July 17, 1987, to hold a hearing on the committee's obligation for raising revenues as required under the budget resolution for fiscal year 1988.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Energy Research and Development of the Committee on Energy and Natural Resources be authorized to meeting during the session of the Senate on Friday, July 17, 1987, to receive testimony concerning environmental and safety issues at the Department of Energy's defense material production reactors.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS SUBMITTED

OMNIBUS TRADE AND COMPETITIVENESS ACT

GRAHAM (AND OTHERS) AMENDMENT NO. 592

Mr. GRAHAM (for himself, Mr. Chiles, Mr. Dole, and Mr. DeConcini) proposed an amendment to the bill (S. 1420) to authorize negotiations of reciprocal trade agreements, to strengthen U.S. trade laws, and for other purposes; as follows:

At the appropriate place in the bill, insert the following new section:

SEC. . SUSPENSION OF NONDISCRIMINATORY TREATMENT FOR ANGOLAN PRODUCTS.

(a) Initial Suspension.—The products of Angola may not receive nondiscriminatory treatment (most-favored-nation treatment and generalized system of preferences treatment) during the 6-month period beginning on the date of the enactment of this Act.

(b) After Initial Suspension.—The products of Angola may receive nondiscriminatory treatment (most-favored-nation treatment and generalized system of preferences treatment) during any rights review period referred to in subsection (d) only if——

(1) no later than the 30th day before the close of the immediate preceding rights review period, the President submits to the House of Representatives and the Senate a document containing a Presidential determination that Angola——

(A) is making a concerted and significant effort to comply with internationally recognized human rights,

(B) has entered into discussions with its noncommunist opposition,

(C) has established a body of laws that assures the full national participation of all the people of Angola in the social, political, and economic life in that country,

(D) has held free and fair elections under international supervision, and

(E) all troops from Cuba, the Soviet Union, and any other Communist country have withdrawn from Angola, and

(2) a joint resolution disapproving such application is not enacted, in accordance with the procedures referred to in subsection (c) before the close of the rights review period in which the document referred to in paragraph (1) is submitted.

(c) Contents of Resolution.—

(1) In general.—For purposes of this subsection, the term "joint resolution" means only a joint resolution of the two Houses of Congress the matter after the resolving clause of which is as follows: "That the Congress disapproves the application of nondiscriminatory treatment (most-favored-nation treatment and generalized system of preferences treatment) to the products of Angola that was recommended by the President to the Congress on ", with the blank space being filled with the appropriate date.

(2) Application of procedures under the Trade Act of 1974.—The provisions of section 152 of the Trade Act of 1974 (relating to concurrent resolutions) apply to joint resolutions except that in applying section 152(c)(1), all calendar days shall be counted and 5 calendar days shall be substituted for 30 calendar days. Section 145(a) of the Trade Act of 1974 applies to documents transmitted by the President under subsection (b)(1).

(d) Rights of Review Period.—The term "rights of review period" means—

(1) the 6-month period referred to in subsection (a);

and

(2) each successive period of 180 consecutive calendar days occurring after the last day of the 6-month period referred to in paragraph (1).

(e) Inapplicability of Certain Title IV Provisions.—On and after the date of enactment of this Act, section 401 and 401 of the Trade Act of 1974 shall not apply with respect to the tariff treatment of the products of Angola.

BENTSEN (AND PRESSLER) AMENDMENT NO. 593

Mr. BENTSEN (for himself and Mr. Pressler) proposed an amendment to the bill S. 1420, supra; as follows:

On page 954, beginning with line 8, strike out all through line 11 and insert in lieu thereof the following:

Sec. 4502. (a) The third sentence of section 2(b)(2) of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. App. 1159b(b)(2)) is amended by striking out "but in no event may" and all that follows through "180 days" and inserting in lieu thereof "but the aggregate period for taking action under this subsection may not exceed 90 days".

(b) Section 2(b)(2) of such Act is amended by inserting immediately after the third sentence the following new sentence: "However, if on the last day of such 90-day period, the Secretary finds that—

"(A) negotiations with the foreign government have progressed to a point that a satisfactory resolution of the complaint appears imminent;

"(B) no United States air carrier has been subject to economic injury by the foreign government or an instrumentality of the foreign government (including a foreign air carrier) as a result of the filing of the complaint; and

"(C) public interest requires additional time before the taking of action with respect to the complaint;

the Secretary may extend such 90-day period for not to exceed an additional 90 days.".

On page 955, beginning with line 7, strike out all through line 14 and insert in lieu thereof the following:

"(e) Not later than the 30th day after taking action with respect to a complaint under this section, the Secretary of Transportation shall report to the Committee on Public Works and Transportation of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on actions that have been taken under this section with respect to such complaint, unless such complaint is withdrawn before such 30th day.".

McCONNELL (AND SYMMS) AMENDMENT NO. 594

Mr. McCONNELL (for himself and Mr. Symms) proposed an amendment to the bill S. 1420, supra; as follows:

At the end of the pending matter add the following new title:

TITLE —FINDINGS AND SENSE OF THE SENATE REGARDING THE NEED FOR TORT AND PRODUCT LIABILITY REFORM

Sec. . Findings.—The Senate finds that—

(a) the tort and product liability laws of the various States impose added costs and disincentives on American businesses which are not borne by foreign trade rivals;

(b) these laws deter American innovation and risk-taking in critical growth industries;

(c) these laws threaten vital research and development of new technologies at many universities and research institutions throughout the United States;

(d) these laws harm the ability of American businesses to compete with their foreign rivals; and

(e) the harmful and anti-competitive consequences of America's tort and product liability laws caused over 80 percent of the delegates to the White House Conference on Small Business to endorse comprehensive Federal reform of these laws.

Sec. . Policy.—It is the sense of the Senate that meaningful reform of the country's tort and product liability laws should be achieved during the first session of the 100th Congress.

SYMMS AMENDMENT NO. 595

Mr. SYMMS proposed an amendment to the bill S. 1420, supra; as follows:

On page 79 of the printed bill, strike out lines 13 through 18 and insert in lieu thereof the following:

"(iii) notwithstanding any other provision of law, to alter, ease, or eliminate any Federal regulatory requirement imposed by statute or by regulations as it applies to members of the domestic industry determined by the Commission under section 201(b)(1) to have been seriously injured, or to be threatened with serious injury, if the action to alter, ease, or eliminate such federal regulatory requirements is reasonably related to enhancing competition with foreign competitors to whom market share has been lost, and, considering worldwwide competition, outweighs any adverse impact from such action;

On page 81, begining with line 9, strike out all through page 83, line 22.

HARKIN (AND OTHERS) AMENDMENT NO. 596

Mr. HARKIN (for himself, Mr. Metzenbaum, Ms. Mikulski, and Mr. Simon) proposed on amendment to the bill S. 1420, supra; as follows:

At the appropriate place, insert the following:

REGISTRATION OF FOREIGN-HELD INTERESTS IN UNITED STATES PROPERTY

Sec. ___. (a) Any foreign person who, after the effective date of the regulations prescribed pursuant to subsection (j), acquires directly or indirectly—

(1) a significant interest in a United States property, or

(2) a controlling interest in a United States business enterprise;

shall register that interest with the Secretary within 30 days after the acquisition.

(b) Any foreign person who, on the effective date of the regulations prescribed pursuant to subsection (j), holds directly or indirectly—

(1) a significant interest in a United States property, or

(2) a controlling interest in a United States business enterprise,

shall register that interest with the Secretary within 180 days after the effective date of such regulations.

(c) Each registration required under subsection (a) or (b) shall be in such form and in accordance with such procedures as the Secretary may require by regulation and shall contain the following:

(1) The identity, address, legal nature, industry, and nationality of the foreign person.

(2) The date on which the foreign person acquired the interest.

(3) The relation of the foreign person to the United States property.

(4) The name, location, and industry of the United States property.

(5) The market value of (A) the assets of a United States business enterprise or (B) a United States real property.

(6) The percentage size of the interest acquired.

(d) If the interest registered under subsection (a) or (b) is a controlling interest in a United States business enterprise, the foreign person shall, by an amendment to the registration made within 180 days after registering such interest, provide the Secretary with the following additional current information:

(1) With respect to the foreign person, an English translation of so much of the information listed in subparagraphs (A), (B), (C), and (D) of paragraph (2) that is publicly disclosed in the home country of the foreign person.

(2) With respect to the United States business enterprise—

(A) a—

(i) balance sheet and income statement;

(ii) statement of changes in financial condition; and

(iii) statement of sales, assets, operating income, and depreciation by industrial segment,

prepared in accordance with Generally Accepted Accounting Procedures or in accordance with Statutory or Regulatory Accounting Principles and accompanied by explanatory notes and any current auditor's statements and reports;

(B) the location of all facilities within the United States;

(C) the identity and nationality of each director and executive officer, the compensation of each executive officer, and any related business transactions of any director; and

(D) a description of any significant civil litigation in which the business enterprise has been involved within the past year.

(e)(1) Within 90 days after the end of each calendar year, a foreign person who has registered an interest in United States property under this section, and who, at any time during such calendar year, held directly or indirectly—

(A) a significant interest in such property, shall report to the Secretary any changes in the information required under subsection (c) that have occurred since the filing of the registration under subsection (a) or (b) or the most recent report under this subparagraph; or

(B) a controlling interest in such United States business enterprise, shall report to the Secretary any changes in the information required under subsections (c) and (d) that have occurred since the filing of the registration under subsection (a) or (b) or the most recent report under this subparagraph.

(2) Any report filed under this section shall be in such form and in accordance with such procedures as the Secretary may require by regulation.

(f)(1) To the extent a foreign person has prepared other documents which contain information required under this section with respect to an interest required to be registered or reported under this section, the foreign person may provide a copy of such other documents (or the relevant portions thereof) for the purposes of complying with the requirements of this section.

(2) With respect to any interest required to be registered or reported under this section which a foreign person acquires or holds solely through, or by virtue of acquiring or holding a significant or controlling interest in, a United States business enterprise which is an issuer whose securities are registered under the Securities Exchange Act of 1934 and which has filed the material required to be filed by such United States business enterprise pursuant to sections 12, 13, 14, and 15(d) of such Act, the foreign person may, in lieu of providing the information otherwise required under this section, provide the Secretary with a copy of the most recent annual and periodic reports, statements, and notices filed pursuant to such Act.

(g) Any foreign person who is late in registering an interest or reporting changes with respect to an interest in accordance with subsections (a) through (f) shall be subject to a civil penalty of not more than $10,000 for each week the registration or report is late, provided that the total amount of such penalty shall not exceed the market value of the interest with respect to which the penalty is assessed.

(h) Any foreign person who willfully fails to register an interest or submit a report in accordance with subsections (a) and (b), or who willfully submits false or misleading information in the registration or report, shall be fined not more than $10,000, or shall be imprisoned not more than 1 year, or both.

(i) The Secretary may undertake such investigative actions as the Secretary considers necessary to monitor compliance with this section. For the purposes of conducting such investigations the Secretary shall have the same powers and authorities as the Federal Trade Commission under sections 9 and 10 of the Federal Trade Commission Act.

(j) Not later than 90 days after the date of enactment of this Act, the Secretary shall publish for notice and public comment regulations to carry out this section. The final regulations prescribed to carry out this section shall take effect not later than 180 days after such date of enactment. Such regulations shall—

(1) establish forms and procedures for making such disclosures required by this section; and

(2) establish procedures for indexing, and providing public access to, the information disclosed under this section.

(k) The Secretary shall transmit in June of each year, beginning in 1989, a report to the President, the Congress, and the Federal Elections Commission describing—

(1) the extent to which foreign persons hold significant or controlling interests in United States properties, the nationality of those foreign persons, the industries in which those interests are concentrated, and the social, economic, and other effects in the United States of such foreign interests;

(2) the effectiveness and efficiency of the registration and reporting requirements contained in this section in providing the information required under this section and the extent to which the information provides a comprehensive description of the presence of foreign capital in the United States economy;

(3) other Federal data collection activities that overlap with, duplicate, or complement the registration and reporting requirements established under this section and that could be consolidated or eliminated without compromising the quality of data collected; and

(4) in the case of the first annual report, the feasibility of establishing a system to track individual transactions representing other capital flows into the United States.

(l) Not later than 365 days after the effective date of the regulations prescribed pursuant to subsection (j), the Secretary shall compile (and thereafter keep current) an inventory of interests registered or reported under this section and the information contained in such registrations or reports. The inventory shall be made available for public access and shall index the information for retrieval by—

(1) the name and nationality of any foreign person who registers or reports an interest under subsections (a) through (f) and the standard industrial classification number or numbers (as issued by the Director of the Office of Management and Budget) of any such foreign person; and

(2) the name of the United States property in which any interest registered or reported under this section is held, the standard industrial classification number or numbers of any such United States property, and the State in which any such United States property is located.

(m) As used in this section:

(1) The term "Secretary" means the Secretary of Commerce.

(2) The term "United States", when used in a geographic sense, means the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(3) The term "United States business enterprise" means—

(A) any sole proprietorship, branch, partnership, associated group, association, estate, trust, corporation, or other organization organized under the laws of the United States or of a State or that has its principal place of business in the United States; and

(B) any two or more enterprises described in subparagraph (A) which are acting in concert.

(4) The term "United States property" means—

(A) any United States business enterprise; and

(B) any real property located in the United States, including any minerals therein.

(5) The term "foreign person" means—

(A) any individual who is not a citizen of the United States;

(B) any business enterprise that is organized under the laws of a foreign government or which has its principal place of business outside of the United States;

(C) any foreign government or any agency or instrumentality of a foreign government; and

(D) any two or more persons acting as a group for the purpose of acquiring or holding any interest referred to in subsection (a) or (b) (and each foreign person in such group), if any foreign person or persons described in subparagraph (A), (B), or (C) of this paragraph hold an equity or ownership interest in such group of 25 percent or more, or the equivalent of such an interest.

(6) The term "significant interest" means any equity or ownership interest that exceeds 5 percent of the total equity or ownership interests in—

(A) a United States property that (i) has assets or, in the case of real property, is an asset, in the United States with a market value in excess of $5,000,000; or (ii) had gross sales from the United States in the most recent fiscal year in excess of $10,000,000; or

(B) each of any two or more United States properties if the properties in the aggregate (i) have assets or, in the case of real property, are assets, in the United States with a market value in excess of $20,000,000; or (ii) had gross sales from the United States in the most recent fiscal year in excess of $40,000,000.

(7) The term "controlling interest" means an equity or ownership interest that exceeds 25 percent of the total equity or ownership interests in a business enterprise that—

(A) has assets in the United States with a market value in excess of $20,000,000; or

(B) had gross sales from the United States in the most recent fiscal year in excess of $20,000,000.

(8) The terms "acquire" and "hold", when used with respect to an interest, refer to the acquisition or holding of that interest by the ultimate beneficial owner regardless of whether such interest is held directly or through a nominee or other financial intermediary. Such terms do not refer to the acquisition or holding of that interest by a nominee or other financial intermediary on behalf of the ultimate beneficial owner.

(9) The term "equity or ownership interest" shall not include—

(A) any note, bond, debenture, loan, obligation, or other evidence of indebtedness, any put, call, straddle, option, or privilege on any debt, or any certificate of interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or warrant or right to subscribe to or purchase any debt; and

(B) any mineral interest other than an interest in fee simple absolute or a reversionary interest.

(10) The term "State" means any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, American Samoa, Guam, the Commonwealth of the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands.

(11) The term "branch" means the operation or activities carried out by a person in a different location in its own name, rather than through a separately incorporated entity.

(n)(1) Subject to paragraph (2) and (3), this section shall take effect 90 days after the date on which regulations are prescribed under subsection (j).

(2) Subsection (j) of this section shall take effect on the date of the enactment of this Act.

(3) Subsection (g) shall take effect 365 days after the date on which regulations are prescribed under subsection (j).

CHAFEE AMENDMENT NO. 597

Mr. CHAFEE proposed an amendment to the bill S. 1420, supra; as follows:

On page 310 of the printed bill, beginning with line 12, strike out all through page 311, line 10.

MURKOWSKI AMENDMENT NO. 598

Mr. MURKOWSKI proposed an amendment to the bill S. 1420, supra; as follows:

On page 173 of the printed bill, after line 23, in section 310 (relating to investigations of barriers in Japan to certain United States services), strike out "Trade Representative shall immediately" and insert in lieu thereof "Trade Representative shall, within 90 days after the date of enactment of this Act,".

BUMPERS AMENDMENT NO. 599

Mr. BUMPERS proposed an amendment to the bill S. 1420, supra; as follows:

On page 928, line 9, after "ACTIVITIES" add "AND CLEARINGHOUSE ON STATE AND LOCAL INITIATIVES" and amend the table of contents and table of sections accordingly.

On page 935, line 14, strike "TECHNICAL AMENDMENT" and insert "CLEARINGHOUSE ON STATE AND LOCAL INITIATIVES".

On page 936, line 3, before the period insert "and Federal efforts to assist state and local governments to enhance competitiveness.".

On page 936, line 10, before "Federal" insert "the Congress,".

On page 936, line 11, before "and" insert "regional and multistate organizations of such governments".

On page 936, line 13-15, strike "to Congress, Federal agencies, State and local government agencies and the public,".

On page 936, line 17, before " "(4)" insert " "(4) provide technical assistance and advice to such governments with respect to such initiatives, including assistance in determining sources of assistance from Federal agencies which may be available to support such initiatives;"

On page 936, line 17, strike "(4)" and insert "(5)".

On page 936, line 18, before "policies" insert "existing".

On page 936, line 20, before "to" insert "and regional and multistate organizations of such governments".

On page 936, line 22, strike "(5)" and insert "(6)".

On page 936, line 24, after "merce" insert ", and upon request through the Secretary to other Federal agencies,".

On page 937, line 2, strike "technology programs" and insert "governments with initiatives to enhance the competitiveness of American business through the stimulation of productivity, technology and innovation".

On page 937, line 3, strike "(6)" and insert "(7)".

On page 937, line 9, strike "(7)" and insert "(8)".

On page 937, line 11, insert after "Technology" insert "and the Office of Productivity, Technology and Innovation".

On page 937, line 12, strike "(1)" and insert "(2)" and (b)(7)".

On page 937, line 14, before "assisting" insert "collecting information on the nature, extent, and effects of initiatives and".

On page 937, line 14, after "governments" insert "and regional and multistate organizations of such governments.".

On page 937, line 15 after the period insert "Any such contract shall provide that a portion of the costs of carrying out such contract will be paid by another Federal agency, a State or local government, or a public or nonprofit private entity, which is a party to such contract.".

On page 937, line 20, before "(d)" insert the following new subsection (d):

"(d) The Clearinghouse shall not—

"(1) provide financial assistance to a State or local government to support the implementation of any initiative to enhance the competitiveness of American businesses through the stimulation of productivity, technology, and innovation, other than financial assistance which is necessary for the conduct of an evaluation of such an initiative under subsection (c)(7);

"(2) provide financial assistance to support State and local government initiatives to stimulate economic development through the conduct of public works or the repair or replacement of infrastructure;

"(3) provide any assistance to a State and local government in efforts to encourage a private business to locate any facility in a State or local jurisdiction or to relocate any facility from one State or local jurisdiction to another; and

"(4) consider any issue included in a specific labor-management agreement without the consent and cooperation of all parties to the agreement.".

On page 937, line 20, strike "(d)" and insert "(e)".

On page 937, line 24, insert after the period "The report shall include recommendations to the President, the Congress and Federal agencies on ways the Federal Government may improve Federal assistance to state and local governments with respect to such initiatives.".

GLENN AMENDMENT NO. 600

Mr. GLENN proposed an amendment to the bill S. 1420, supra; as follows:

On page 309 of the printed bill, between lines 5 and 6, insert the following:

(d) CERTAIN WORK GLOVES.—The amendments made by section 806 shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date that is 60 days after the date of enactment of this Act.

PACKWOOD AMENDMENT NO. 601

Mr. PACKWOOD proposed an amendment to the bill S. 1402, supra; as follows:

On page 144 of the printed bill, strike out lines 4 through 10 and insert in lieu thereof the following:

"(2) CONSULTATION.—Before making a determination under paragraph (1), and before making any recommendation under paragraph (4), the Trade Representative, unless expeditious action is required—

"(A) shall provide an opportunity for the presentation of views, including a public hearing if requested by any interested person (including any person who is an industrial user of any goods or services that are involved in the investigation under this chapter or that may be the subject of actions taken under subsection (b)(1)).

GRAMM (AND OTHERS) AMENDMENT NO. 602

Mr. GRAMM (for himself, Mr. BOND, and Mr. LUGAR) proposed an amendment to the bill S. 1420, supra; as follows:

On page 470, line 4, strike after "This" all through and including page 473, line 26, and insert in lieu thereof the following: "subtitle may be cited as the "International Debt Management Act".

"SEC. 1712. INTERNATIONAL INITIATIVE.

"(a) DIRECTIVE.—The Secretary of the Treasury shall study the feasibility and advisability of establishing the multilateral financial authority described in this section.

If the Secretary of the Treasury determines that initiation of international discussions with regard to such facility would result in (1) material increase in the discount at which sovereign debt is sold, or (2) would materially increase the probability of default on such debt, or (3) would materially enhance the likelihood of debt service failure or disruption, he shall include in his first interim report to the Congress an explanation in detail of the reasons for his determination. Unless such a determination is made, the Secretary of the Treasury shall initiate discussions with such industrialized and developing countries as the Secretary may determine to be appropriate with the intent to negotiate the establishment of a multilateral financial authority, which would undertake to—

"(1) purchase sovereign debt of less developed countries from private creditors at an appropriate discount;

"(2) enter into negotiations with the debtor countries for the purpose of restructuring the debt in order to—

"(A) ease the current debt service burden on the debtor countries; and

"(B) provide additional opportunities for economic growth in both debtor and industrialized countries; and

"(3) assist the creditor banks in the voluntary disposition of their Third World loan portfolio.

"(b) Objectives.—In any discussions initiated under subsection (a), the Secretary should include the following specific proposals:

"(1) That any loan restructuring assistance provided by such an authority to any debtor nation should involve substantial commitments by the debtor to (A) economic policies designed to improve resource utilization and minimize capital flight, and (B) preparation of an economic management plan calculated to provide sustained economic growth and to allow the debtor to meet its restructured debt obligations.

"(2) That support for such an authority should come from industrialized countries, and that greater support should be expected from countries with strong current account surpluses.

"(3) That such an authority should have a clearly defined close working relationship with the International Monetary Fund and the International Bank for Reconstruction and Development, and the various regional development banks.

"(4) That such an authority should be designed to operate as a self-supporting entity, requiring no routine appropriation of resources from any member government, and no funding, appropriations, contributions, callable capital, financial guarantee, or any other financial support or obligation or contingent support or obligation on the part of the United States Government, without the express approval of the Congress through subsequent law, and no costs to or expense by, either directly or indirectly, any United States person without the consent of such person.".

"(5) That such an authority should have a defined termination date and a clear proposal for the restoration of creditworthiness to debtor countries within this time-frame.

"(c) Interim Reports.—At the end of the 6-month period beginning on the date of enactment of this Act and 12 months thereafter, the Secretary of the Treasury shall submit a report on the progress being made on the study or in discussions described in subsection (a) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate.

"(d) Final Report.—Upon the conclusion of the study or of discussions described in subsection (a), the Secretary shall transmit a report containing a detailed description thereof to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate, together with such recommendations for legislation which the Secretary may determine to be necessary or appropriate for the establishment of a multilateral financial authority.

"SEC. 1713. ACTIONS TO FACILITATE CREATION OF THE AUTHORITY

"No funds, appropriations, contributions, callable capital, financial guarantee, or any other financial support or obligation or contingent support or obligation on the part of the United States Government may be used for the creation, operation, or support of an international debt management authority described in this Title, without the express approval of the Congress through subsequent law, nor shall any expenses associated with such facility, either directly or indirectly, accrue to any United States person without the consent of such person. Except as restricted in the preceding sentence, the Secretary of the Treasury shall review all potential resources available to the multilateral financial institutions which could be used to support the creation of an international debt management authority. In the course of this review, the Secretary shall direct—

"(1) the United States Executive Director of the International Monetary Fund to determine the amount of, and alternative methods by which, gold stock of the Fund which, subject to action by its Board of Governors, could be pledged as collateral to obtain financing for the activities of the authority described in section 1712; and

"(2) the United States Executive Director to the International Bank for Reconstruction and Development to determine the amount of, and alternative methods by which, liquid assets controlled by such Bank and not currently committed to any loan program which, subject to action by its Board of Governors, could be pledged as collateral for obtaining financing for the activities of the authority described in section 1712.

The Secretary of the Treasury shall include a report on the results of the review in the first report submitted under section 1712(c).".

MATSUNAGA AMENDMENT NO. 603

Mr. MATSUNAGA proposed an amendment to the bill S. 1420, supra; as follows:

At the end of subtitle B of title VIII, add the following:

SEC. . CERTAIN EXTRACORPOREAL SHOCK WAVE LITHOTRIPTER IMPORTED FOR USE IN HAWAII.

Notwithstanding any other provision of law—

(1) the entry, or withdrawal from warehouse, for consumption in October 1986 of any extracorporeal shock wave lithotripter exclusively for use in the State of Hawaii shall be free of duty and, upon a request filed with the appropriate customs officer before the date that is 90 days after the date of enactment of this Act, shall be reliquidated in accordance with the provisions of this section, and

(2) the appropriate refund of any duties paid on such entry or withdrawal shall be made.

DOLE (AND HEINZ) AMENDMENT NO. 604

Mr. PACKWOOD (for Mr. Dole, for himself, and Mr. Heinz) proposed an amendment to the bill S. 1420, supra; as follows:

On page 122 of the printed bill, between lines 11 and 12, insert the following:

(c) Workers Producing Surgical Devices.—Notwithstanding section 223(b) of the Trade Act of 1974 (19 U.S.C. 2273(b)), the certification made under section 223(a) of such Act on August 29, 1986, in response to a petition for trade adjustment assistance filed on April 23, 1986, by a group of workers of a firm that produces cardiopulmonary surgical devices and plastic administration sets shall apply to any worker of such firm whose most recent total or partial separation from such firm occurred on or after March 15, 1985.

On page 122, line 12, strike out "(c)" and insert in lieu thereof "(d)".

On page 122, line 14, strike out "subsection (b)" and insert in lieu thereof "subsection (b) or (c)".

At the end of section 211, add the following new paragraph:

(c) Modification of Petition Which Resulted in a Certification.—The petition TA-W-13,654 which resulted in a certification shall be deemed to have expired on August 31, 1987.

GRASSLEY (AND LAUTENBERG) AMENDMENT NO. 605

Mr. PACKWOOD (for Mr. Grassley, for himself, and Mr. Lautenberg) proposed an amendment to the bill S. 1420, supra; as follows:

At the appropriate place in Title VIII, add the following:

That each of the following items of the Tariff Schedules of the United States (19 U.S.C. 1202) is amended by striking out "12/31/87" and inserting "12/31/90":

(1) Item 907.19 (relating to sulfathiazole).

(2) Item 907.33 (relating to acetylsulfaguanidine).

(3) Item 907.36 (relating to sulfamethazine).

(4) Item 907.37 (relating to sulfaguanidine).

(5) Item 907.38 (relating to sulfaquinoxaline and sulfanilamide).

(6) Item 907.79 (relating to Iron-dextron complex).

CHILES AMENDMENT NO. 606

Mr. MOYNIHAN (for Mr. Chiles) proposed an amendment to the bill S. 1420, supra; as follows:

On page 870, line 24, strike out "and".

On page 871, line 3, strike out the period and insert in lieu thereof a semicolon and "and".

On page 871, between lines 3 and 4, insert the following:

(4) facilitate dissemination of information through nonprofit organizations with signif-

icant outreach programs which complement the regional outreach programs of the foreign commercial services.

BOND AMENDMENT NO. 607

Mr. BOND proposed an amendment to the bill S. 1420, supra; as follows:

At the appropriate place in the bill, add the following new section:

SEC. 1206. PRINTING AT OVERSEAS LOCATIONS.

(a) Printing in Conjunction With Export Promotion Programs.—Section 201 of the Export Administration Amendments Act of 1985 (156 U.S.C. 4051) is amended by adding at the end the following:

"(e) Printing Outside the United States.—(1) Notwithstanding the provisions of Section 501 of Title 44 United States Code, and consistent with other applicable law, in carrying out any export promotion program, the Secretary of Commerce may authorize—

"(A) the printing, distribution, and sale of documents outside the contiguous United States, if the Secretary finds that the implementation of such export promotion program would be more efficient, and provided that such documents will be distributed primarily and sold exclusively outside the United States; and

"(B) the acceptance of private notices and advertisements in connection with the printing and distribution of such documents.

"(2) Any fees received by the Secretary pursuant with paragraph (1) shall be deposited in a separate account or accounts which may be used to defray directly the costs incurred in conducting activities authorized by paragraph (1) or to repay or make advances to appropriations or other funds available for such activities."

LEVIN AMENDMENT NO. 608

Mr. LEVIN proposed an amendment to the bill S. 1420, supra; as follows:

At the end of subtitle D of Title IX, insert the following new section:

"SEC. . INVESTIGATION AND REPORT ON TRADE BARRIERS ESTABLISHED BY AUTO PRODUCING COUNTRIES TO AUTO IMPORTS AND THE IMPACT ON THE U.S. MARKET.

The United States Trade Representative shall investigate and report to the Congress with respect to formal and informal barriers which auto producing countries have established toward automobile imports and the impacts of such barriers on diverting automobile imports into the United States. Such report shall consider the impact on automobile imports into the United States of such barriers in the presence and in the absence of voluntary restraint agreements between the United States and Japan."

PELL AMENDMENT NO. 609

Mr. MATSUNAGA (for Mr. Pell) proposed an amendment to the bill S. 1420, supra; as follows:

At the appropriate place in Title XX, add the following new section:

Section. . It is the Sense of the Congress that the United States should become a party to the Convention on the Control and Marking of Articles of Precious Metals in order to facilitate the efforts of the U.S. jewelry industry in penetrating foreign markets.

CLOSURES OR MOVES OF VETERANS' CENTERS

CRANSTON AMENDMENT NO. 610

(Ordered to lie on the table.)

Mr. CRANSTON submitted an amendment intended to be proposed by him to the bill (S. 1501) to amend title 38, United States Code, to eliminate the requirement that the Administrator of Veterans' Affairs carry out a transition under which community-based Vet Centers would be moved to Veterans' Administration medical facilities and to provide standards and procedures governing any closures or moves of Vet Centers, and for other purposes; as follows:

Amend the material to be inserted by section 3(1) by inserting "who is serving on active duty and" after "person" each time it appears in clauses (A) and (B) of section 612A(a)(1) of the inserted material.

Mr. CRANSTON. Mr. President, as the chairman of the Veterans' Affairs Committee, I am today submitting for printing amendment No. 610, a technical amendment to S. 1501, the proposed "Vietnam Veterans' Readjustment Counseling Program Preservation Act," which I introduced on Wednesday, July 15. As I noted in my introductory statement, which begins on page S 10062 of the daily edition Record, S. 1501 contains several provisions relating to the VA's Readjustment Counseling Program for Vietnam era veterans.

Among the provisions in the legislation are ones that are designed to give entitlement to readjustment counseling to two groups of individuals who are serving now on active duty in the Armed Forces—first, those who served during the Vietnam era who would be entitled to such services but for the fact that they are still on active duty and thus not veterans under the applicable definition in title 38, United States Code; and, second, those who have served since the end of the Vietnam era during periods of time and in specific locations in which U.S. Armed Forces were under hostile fire. This second category is part of a new group—the other part being those who so served who have since left active dity and, therefore, veterans—that would be furnished entitlement for readjustment counseling services under S. 1501.

Mr. President, it has been called to my attention that there is a drafting error in the bill's description of these two new categories of individuals entitled for such services which, if enacted, would result in a totally inadvertent and unintended change in the criteria under which eligibility for readjustment counseling is determined by virtue of an individual's status as a veteran. The amendment that I am submitting today would remedy that drafting error and make it clear that the only change is in the area of those on active duty. This amendment, together with underlying legislation, will be considered by the Veterans' Affairs Committee at our committee's upcoming markup on July 23.

OMNIBUS TRADE AND COMPETITIVENESS ACT

BAUCUS AMENDMENT NO. 611

Mr. BAUCUS (for himself and Mr. Chafee) proposed an amendment to the bill S. 1420, supra; as follows:

At the end of subtitle D of title IX, add the following new section:

SEC. . STUDY OF SOURCE RULES FOR SALES OF INVENTORY

The Secretary of the Treasury, or his delegate, shall conduct the study of the source rules for sales of inventory property pursuant to section 1211(d) of the Tax Reform Act of 1986 inconjunction with the Secretary of Commerce and the United States Special Trade Representative or their delegates. In order to provide for the requisite interagency consultation, the report date for such study shall be extended 1 year.

BINGAMAN AMENDMENT NO. 612

Mr. BINGAMAN proposed an amendment to the bill S. 1420, surpra; as follows:

At the end of Title XXII, add the following new section:

Sec. . (1) The Secretary of Labor shall, within 6 months after the date of enactment of this title, commence a study of the feasibility and competitiveness effects of providing portability for pensions for workers. A report on the study conducted under this subsection shall be submitted to the Congress not later than 24 months after such date of enactment.

(2) There are authorized to be appropriated such sums as may be necessary to carry out paragraph (1).

LEAHY (AND DeCONCINI) AMENDMENT NO. 613

Mr. LEAHY (for himself and Mr. DeConcini) proposed an amendment to the bill S. 1420, supra; as follows:

At the appropriate place, add the following:

SEC. . INCREASED EFFECTIVENESS OF PATENT LAW.

(a) Short Title.—This section may be cited as the "Patent Law Foreign Filing Amendments Act of 1987".

(b) Filing of Applications in Foreign Countries.—(1) Secton 184 of title 35, United States Code, is amended—

(A) in the third sentence by—

(i) striking out "inadvertently"; and

(ii) inserting "through error and without deceptive intent" after "filed abroad"; and

(B) by adding at the end there of the following new paragraph:

"The scope of a license shall permit subsequent modifications, amendments, and supplements containing additional subject matter if the application upon which the request for the license is based is not, or was not, required to be made available for inspection under section 181 of this title and if such modifications, amendments, and supplements do not change the general nature of the invention in a manner which would require such application to be made available for inspection under such section 181. In any case in which a license is not, or was not, required in order to file an application in any foreign country, such subsequent modifications, amendments, and supplements may be made, without a license, to the application filed in the foreign country if the United States application was not required to be made available for inspection under section 181 and if such modifications, amendments, and supplements do not, or did not, change the general nature of the invention in a manner which would require the United States application to have been made available for inspection under such section 181.".

(2) Section 185 of title 35, United States Code, is amended by inserting immediately before the period in the last sentence the following: ", unless the failure to procure such license was through error and without deceptive intent, and the patent does not disclose subject matter within the scope of section 181 of this title.".

(3) Section 186 of title 35, United States Code, is amended by inserting "willfully" after "whoever", the second place it appears.

(c) Regulations.—The Commissioner shall prescribe such regulations as may be necessary to implement the provisions of this section.

(d) Effective Date.—(1) Subject to paragraphs (2), (3), and (4) of this subsection the amendments made by this section shall apply to all United States patents granted before, on, or after the date of enactment of this section, to all applications for United States patents pending on or filed after the date of enactment, and to all licenses under section 184 granted before, on, or after the date of enactment of this section.

(2) The amendments made by this section shall not affect any final decision made by the court or the Patent and Trademark Office before the date of enactment of this section with respect to a patent or application for patent, if no appeal from such decision is pending and the time for filing an appeal has expired.

(3) No United States patent granted before the date of enactment of this section shall abridge or affect the right of any person or his successors in business who made, purchased, or used prior to such effective date, anything protected by the patent, to continue the use of, or to sell to others to be used or sold, the specific thing so made, purchased, or used, if the patent claims were invalid or otherwise unenforceable on a ground obviated by this section and the person made, purchased, or used the specific thing in reasonable reliance on such invalidity or unenforceability. If a person reasonably relied on such invalidity or unenforceability, the court before which such matter is in question may provide for the continued manufacture, use, or sale of the thing made, purchased, or used as specified, or for the manufacture, use, or sale of which substantial preparation was made before the date of enactment of this section, and it may also provide for the continued practice of any process practiced, or for the practice of which substantial preparation was made, prior to the date of enactment, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced before the date of enactment.

(4) The amendments made by this section shall not affect the right of any party in any case pending in court on the date of enactment to have its rights or liabilities—

(A) under any patent before the court, or

(B) under any patent granted after the date of enactment which is related to the patent before the court by deriving priority rights under section 120 or 121 of title 35, United States Code, from a patent or an application for patent common to both patents,

determined on the basis of the substantive law in effect prior to the date of enactment.

KERRY (AND OTHERS) AMENDMENT NO. 614

Mr. KERRY (for himself, Mr. Helms, Mr. D'Amato, Mr. Adams, Mr. Bond, and Mr. Cranston) proposed an amendment to the bill S. 1420, supra; as follows:

At the appropriate place in the bill, add the following new section:

That Section 108 of the Foreign Assistance Act of 1961, as amended, is amended by adding at the end the following:

"(i)(1) To carry out the purposes of subsection (a), in addition to the other authorities set forth in this section, the agency primarily responsible for administering this part is authorized to issue guarantees on such terms and conditions as it shall determine assuring against losses incurred in connection with loans made to projects that meet the criteria set forth in subsection (c). The full faith and credit of the United States is hereby pledged for the full payment and performance of such guarantees.

(2) Loans guaranteed under this subsection will be on such terms and conditions as the agency may prescribe, except that:

(A) The agency will issue guarantees only when it is necessary to alleviate a credit market imperfection or to carry out the objectives of this section by providing a financial subsidy, and a financial subsidy is the most efficient way to meet these objectives.

(B) Loans guaranteed will provide for complete amortization within a period not to exceed ten years or, if the principal purpose of the guaranteed loan is to finance the construction or purchase of a physical asset with a useful life of less than ten years, within a period not to exceed such useful life.

(C) No loan guarantee to any one borrower will exceed fifty percent of the cost of the activity to be financed, or $5,000,000, whichever is less, as determined by the agency.

(D) No loan will be guaranteed unless the agency determines that the lender is responsible and that adequate provision is made for servicing the loan on reasonable terms and protecting the financial interest of the United States.

(E) The fees earned from the loan guarantees issued under this subsection shall be deposited in the Revolving Fund Account as part of the guarantee reserve established under paragraph (5) of this subsection. Fees shall be assessed at a level such that the fees received, plus the funds from the Revolving Fund Account placed in the guarantee reserve, satisfy the requirements of paragraph (5). Fees will be reviewed every twelve (12) months to ensure that the fees assessed on new loan guarantees are at the required level.

(F) Any guarantee will be conclusive evidence that said guarantee has been properly obtained; that the underlying loan qualifies for such guarantee; and that, but for fraud or material misrepresentation by the holder, such guarantee will be presumed to be valid, legal, and enforceable.

(G) The agency shall determine that the standards used by the lender for assessing the credit risk of new and existing guaranteed loans are reasonable. The agency shall require that there be a reasonable assurance of repayment before credit assistance is extended.

(H) Commitments to guarantee loans may be made by the agency only to the extent that the total loan principal, any part of which is guaranteed, will not exceed the amount specified in annual appropriations acts.

(3) To the extent that fees are not sufficient as specified under paragraph (2)(E) to cover expected future liabilities, appropriations are authorized to maintain an appropriate reserve.

(4) The losses guaranteed under this subsection may be in dollars or in other currencies. In the case of loans in currencies other than dollars, the guarantees issued shall be subject to an overall payment limitation expressed in dollars.

(5) The agency shall segregate in the Revolving Fund Account and hold as a reserve an amount estimated to be sufficient to cover the agency's expected net liabilities on the loan guarantees outstanding under this subsection, *Provided, however,* That the amount held in reserve shall not be less than twenty-five percent (25%) of the principal amount of the agency's outstanding contingent liabilities on such guarantees. Any payments made to discharge liabilities arising from the loan guarantees shall be paid first out of the assets in the Revolving Fund Account and next out of other funds made available for this purpose."

DURENBERGER AMENDMENT NO. 615

(Ordered to lie on the table.)

Mr. DURENBERGER submitted an amendment intended to be proposed by him to the bill S. 1420, supra; as follows:

At the end of title I of the bill, add the following:

SEC. . AGREEMENT WITH THE EUROPEAN COMMUNITIES ON SOYBEANS AND CORN GLUTEN FEED.

Notwithstanding any other provision of this Act or of any other law, the President shall not enter into any agreement with the European Communities, or with any member of the European Communities, that would withdraw or modify the obligation of the European Communities, or of any members of the European Communities, existing on the date of enactment of this Act to provide duty-free treatment to soybeans, soybean meal, and corn gluten feed that are products of the United States.

WILSON AMENDMENT NO. 616

Mr. WILSON proposed an amendment to the bill S. 1420, supra; as follows:

At the end of section 104, add the following:

(e) Revisions to implementation procedures.

(1) Paragraphs (1) and (2) of subsection (e) of section 151 of the Trade Act of 1974,

as amended, (19 U.S.C. 2191), are amended to read as follows:

"(e) PERIOD FOR COMMITTEE CONSIDERATION.—

"(1) Except as provided in paragraph (2), if the committee or committees of either House to which an implementing bill or approval resolution has been referred have not reported it at the close of the 45th day after its introduction, such committee or committees shall be automatically discharged from further consideration of the bill or resolution and it shall be placed on the appropriate calendar.

"(2) The provisions of paragraph (1) shall not apply in the Senate to an implementing revenue bill. An implementing revenue bill received from the House shall be referred to the appropriate committee or committees of the Senate. If such committee or committees have not reported such bill at the close of the 15th day after its receipt by the Senate (or, later, before the close of the 45th day after the corresponding implementing revenue bill was introduced in the Senate), such committee or committees shall be automatically discharged from further consideration of such bill and it shall be placed on the calendar."

(2) Subsection (g) of section 151 of the Trade Act of 1974, as amended, (19 U.S.C. 2191), is repealed.

ADDITIONAL STATEMENTS

CHILDREN ARE DYING FOR LACK OF ADEQUATE CHILD CARE

● Mr. RIEGLE. Mr. President, at a time when we are studying ways to help families achieve and maintain self-sufficiency, it is important to focus attention on the needs of the children of working parents. This morning's Washington Post article, "The Child Care Tragedy," by Judy Mann, documents the cruel consequences of this Nation's failure to make adequate child care available to working parents. This failure results in deaths and injuries to children and represents, as Judy Mann asserts, a national tragedy.

I ask that this article be reprinted in the RECORD to call attention to the urgent need for affordable, high-quality child care.

The article follows:

[From the Washington Post, July 17, 1987]

THE CHILD CARE TRAGEDY

(By Judy Mann)

On Nov. 6, four detectives from the Miami Police Department went to a low-income housing complex where two children, a 3-year-old and a 4-year-old, were found dead in a clothes dryer. The children's mother had left them alone. She had already missed one day of work because her child care arrangements had temporarily fallen apart and she was afraid she would lose her job as a cafeteria worker if she did not go to work that day.

Marva Preston, one of the detectives who investigated the deaths, recently told a Senate subcommittee that her supervisors sent her to Washington "to express our concern for the urgent need of child care for working parents * * * This investigation brought us face to face with a tragic reality, things some of us had only heard of."

The tragic reality is that children are dying because their parents cannot find adequate child care. A month later, in Brooklyn, fire broke out in an unlicensed family day care center. The provider was looking after more children than state standards allowed and could not get them all to safety. A 2-year-old and a 4-year-old were killed.

We can now add two more names from this area to the list of children who are dead because of inadequate child care.

On July 2, 20-month-old Antonio Simms of Bowie was found floating in a swimming pool at his baby sitter's home. Police said the pool had a fence around it, and it wasn't clear how the toddler had gotten into the water.

The baby sitter, according to police, was not licensed. Both of Antonio's parents were working. The sitter was watching a total of 12 children, ranging from infants to toddlers. A county ordinance requires people who care for five or more children at least twice a week to be licensed.

The child died at Children's Hospital.

In March, a 2-year-old boy was killed and a 2-year-old girl was injured when their baby sitter, a New Carrollton woman, allegedly beat them after they had wet their clothing. The baby sitter has been charged with first-degree murder. The baby sitter was unlicensed. The parents of both children were working, according to police.

The death of one child was an accident, while the death of the other has resulted in the filing of a criminal charge. What both cases tragically demonstrate is the country's failure to produce a system of good, affordable, monitored day care in which children are flourishing, instead of perishing. In both cases, licensing requirements were not enforced. In the case of Antonio Simms, one person was responsible for caring for 12 children—a task that boggles the mind.

The move of parents, particularly mothers, out of the home and into the work force has been steadily increasing, and with it, so has the need for child care. Since 1981, however, the limited public funding available for child care has been drastically reduced. Helen Blank, director of child care for the Children's Defense Fund, recently testified about the severity of the situation for low-income parents before the Senate Subcommittee on Children, Family, Drugs and Alcoholism. States with weakened economies, she said, have been hardest hit.

Georgia provides child care for only 8,000 out of 76,000 eligible children. It reduced its child care budget by 37 percent last year by lowering minimal standards for care and reducing the salaries of child care workers. Louisiana is cutting child care funding by 20 percent and already has 9,000 children on waiting lists. States are not enforcing health and safety protections. North Carolina, Blank said, allows one person to care for seven infants. Is there anyone who thinks he or she could give adequate care to seven infants at the same time?

What is happening is a national tragedy. Parents have to work to support their children. Single mothers, particularly, have almost no choice. In 1984, two-thirds of the single mothers and one-fifth of husbands in two-parent families could not earn enough to meet the yearly poverty income level for a family of four, according to Blank. With child care costs averaging $3,000 a year, these families desperately need subsidized care, but most can't get it.

To make matters worse, in 1984, 90 percent of private household child care workers and 58 percent of all other child care workers earned less than poverty-level wages. The children of many of America's working parents are being left alone, or they are being entrusted to a child care system that is subsidized by low wages, overcrowding, understaffing, lack of health and safety standards, and nonenforcement of licensing standards.

And they are dying.●

PAN AMERICAN ECONOMIC LEADERSHIP CONFERENCE

● Mr. LUGAR. Mr. President, recently my State of Indiana hosted one of the first events organized to celebrate the Year of the Americans. The Pan American Economic Conference brought economic and regional experts from throughout this hemisphere to discuss common problems and search for common solutions.

I have proposed that these vital issues—of debt, development, and interdependency—must be discussed in an atmosphere which stresses workable solutions. To this end, I have called for a multinational summit to continue the work of the Conference.

Another speaker at the Pan American Economic Conference was Antonio Ortiz Mena, President of the Inter-American Development Bank, an institution which has been a vital source of investment financing to the countries of Latin America for the past 27 years. In his speech, he raised the crucial questions regarding postponement of development in Latin America to service interest payments, and what this means to the democratic governments of the region. I think his observations were very important and I ask that a copy of his remarks be inserted in the CONGRESSIONAL RECORD.

The remarks follow:

REMARKS BY ANTONIO ORTIZ MENA, PRESIDENT OF THE INTER-AMERICAN DEVELOPMENT BANK, PAN AMERICAN ECONOMIC LEADERSHIP CONFERENCE—INDIANAPOLIS, IN, JUNE 14, 1987

I am honored to have been asked to participate in this Pan American Economic Leadership Conference. I can think of no undertaking that is more timely—or more needed. For that reason, I want to pay special tribute to Senator Richard Lugar who, as Chairman of the Senate Foreign Relations Committee, lent his considerable prestige and support to the planning of this Conference. His foresight and efforts, as well as those of Congressman Lee Hamilton and the many other Conference supporters, here in Indiana and elsewhere, deserve our praise and appreciation.

I said that this Conference could not be more timely and many of you, I am certain, will concur with that assessment. For nearly five years, economic relations in our Hemisphere have been poised delicately between the return to progress in development and a wholesale wreckage of the social and economic gains achieved through the effort of an entire generation. The liquidity crisis highlighted in 1982 by Mexico's difficulties in servicing its external debt has, with the passage of time, gathered the force of a major international storm which threatens the survival of our basic institutions and modes of life. It is important, therefore, that the nature of that threat, and its ramifications, receive our close attention. Even more so, it is imperative that we attempt to chart a course of action which would take us away from the brink and make it possible for Latin America and the United States to regain the steady pace of economic growth and social progress that characterized the decades of the 1960s and the 1970s.

That, in essence, is the challenging before the distinguished participants who will address this Conference during the next two days. As your keynote speaker, it is incumbent upon me that I encourage them to be bold and imaginative in tackling their assigned chores—which task is hereby discharged—and share with you one man's observations about the issue—social, political, and economic—which are likely to shape the outlook for our Hemisphere.

The sum total of worldly experience, represented here tonight, makes me approach this second task with considerable humility. But since it is too late for you to take back your kind invitation, and inasmuch as the heartland of America has a long tradition of forebearing and generous hospitality, I shall proceed with my task. I may even take this occasion to repay you in part for the advice about the duties of a republican President which the first governor of the Indian Territory, the honorable William Henry Harrison, used to shower upon our Latin American hero and liberator, Simón Bolívar. I hope, however, that by the time the evening is over, our relationship will be in a somewhat better shape than the feelings which at times flowed between our two illustrious predecessors.

Permit me to begin by drawing some parallels—and pointing to some contrasts—between the land and the history of the Hoosiers, and our countries in Latin America.

The parallels are particularly interesting. When you look back at the period following the War of 1812, you will find there the beginnings of what became the great State of Indiana.

There was conflicts in this land, led by the wresting of the terrority from Tecumseh and the Creek Nation.

There were waves of immigrants flowing from the East, exploiting the richness of the land, making it serve man's needs, and widening the frontiers of the new nation.

And there was something called "internal improvements"—a phrase used in those days to describe various public works built at federal expense, including roads, canals and, finally, the railways.

This physical infrastructure, including the famous Erie Canal, combined with abundant natural resources and advancing agricultural and industrial technology, made it possible for the people of Indiana to fashion one of the most developed, bountiful and civilized states of the Union.

During the past 30 years, Latin America has been living through an experience similar to what Indiana and most of the United States went through during the 19th Century: one perhaps more intensive and complex, but nonetheless focused on the process of development. Beginning with Operation Panamerica, and continuing through the Alliance for Progress and other development programs, our countries have been pushing back their frontiers, building market roads and highways, turning fallow land to agricultural production, creating cities out of towns, and constructing an industrial environment appropriate to the second half of the 20th century.

The generous support which the United States provided for those efforts, particularly the Alliance for Progress in the 1960s, will always be remembered and appreciated in our countries.

Several features of Latin America's development drive deserve our special attention:

While it came late in comparison with Europe and the United States, it came very fast. In a scant quarter of a century, our region took a giant step and moved into the modern era. With an investment estimated at two trillion dollars, it acquired a respectable physical infrastructure, a technologically very adequate industrial base—as well as urban congestion, environmental degradation, noise pollution, and the kind of visible, large-scale poverty associated with the early stages of industrialization in Europe and, then, the United States.

There were, of course, many other positive developments as well.

In education, primary and secondary enrollment registered a near seven-fold increase—while post-secondary school enrollment rose from one-quarter of a million in 1950 to over 5.5 million in 1985. At the same time, hundreds of universities and colleges abandoned the narrow focus on law and philosophy, turning out competent engineers, architects, economists, doctors, educators, business administrators and economic planners.

The role of women underwent a profound revolution. For example, their participation in post-secondary education increased from less than one-fourth of total enrollment in 1950 to 45 percent in 1983; and they have become an important factor in every field of our endeavor.

Another interesting development relates to population growth which has slowed down considerably. The average annual growth rate of the number of children under ten years of age in the 1950s was 3.5 percent; it fell to 1.6 percent in the 1970s. Future projections indicate that this rate will decline to less than 1 percent in the 1990s.

In economic terms, the majority of the Latin American population came to share in GDP growth which averaged about 6 percent a year for two decades. Most of them became consumers in the sense that the word is understood in this country.

Perhaps most relevant to the central theme of this Conference—the future of inter-American relations—is the fact that Latin America, endowed with a very different cultural heritage, has been evolving in ways parallel to the mainstream of life in the United States.

While public institutions and public investments have played a key role in our region's development during the 1960s and 1970s—as they did during the 19th century here in Indiana—we have market-oriented economies, an energetic private business sector and legal systems consonant with United States and European systems.

Our values are also similar. Latin America's emphasis on education and opportunities for our youth, the ascendency of women in our societies, our awakening concern about preservation of our environment, our respect for basic human rights and sensitivity to basic human needs—all of them mirror your own values and should help to make us good neighbors.

In this connection, I believe that it is especially noteworthy that during the past half a dozen years, while our region was plunged into the deepest economic recession in its history, the majority of the Latin American people shed dictatorial governments and came to be governed by democratically elected authorities.

We have, then, a very broad and solid base on which to build a network of ever closer, mutually beneficial relations between the countries of our Hemisphere.

Alas, these similarities alone are no guarantee that we will pursue courses of action that will strengthen and improve our relations.

To make the latter happen, we need to identify targets of opportunity which are in our mutual interest, agree jointly on how to reach them, and then put our shoulder to the wheel and make it turn.

If you will forgive me for saying so, with some notable exceptions, this approach has not been characteristic of United States' actions with respect to our countries. The "take it, or leave it" attitude has been all too often in evidence. In fairness to your country, all of us realize that the foremost power in the world bears awesome responsibilities for the preservation of peace—and the prevention of a holocaust—in other parts of the world. Nevertheless, as your next-door neighbors, we would like you to consider two factors:

First, that we have grown considerably while your attention has been focused on other areas of the world, and we do not deserve to be treated as clients or adolescents. This year we will be 400 million strong: as populous as Western Europe; with an economy that reached 843 billion dollars last year: providing one of the fastest-growing, and potentially one of the largest, markets for United States exports; and

Second, for the past six years, we have done our best to play the game according to your rules while the world economic conditions continued to be stacked against us—forcing our people to bear the brunt of servicing foreign debts tied to skyrocketing interest rates. We are, as much as we hate to admit it, reaching the end of our endurance. And we need your understanding and help to put an end to that situation.

In this connection: Did you know that Latin America's foreign debt more than doubled—rising from 160 to 390 billion dollars—between 1978 and 1986, nearly all of it due to rising interest rates and new loans contracted to service the old ones?

Did you know that the cost of servicing Latin America's external debt rose from 10 billion to more than 40 billion dollars a year, converting our developing region—against all economic logic—into a new exporter of financial resources to the tune of 113 billion dollars during the past four years?

And did you know that the burden of foreign debt borne by Latin America has been twice the burden of World War One German reparations which—as Lord Keynes predicted in 1919—caused a world-wide upheaval, the loss of a generation and a century of dislocation which is still affecting our lives?

These interesting statistics bear some relation to Latin America's current plight and are likely to impact on the future course of inter-American relations. Please consider them—and if you have the chance to do so, pursue them with the experts over the next few days.

To sum up: The condition of our region is very mixed today: there is progress, and there is backsliding; there's hope, but also much despair. The future could bring the resumption of our past progress, or continued erosion of painfully won social and economic advances. It would be a tragedy, indeed, if the lofty aspirations which the United States helped to ignite in the 1960s—and the progress which we have made to bring them into reality—were to be dashed at this juncture of our history!

Yet this is what has been happening in recent years. The world-wide economic slowdown, deteriorating terms of trade, fluctuating interest rates, shrinking of investment and drying up of financial flows, have already deprived our region of a large measure of what it had achieved during the previous ten years.

Of equal concern is the fact that the new and fragile democratic governments which came into power recently, are all seriously threatened by the economic developments which have hit the lower income sectors of our societies the hardest.

What, then, are the choices that confront us today?

The past, I regret to say, provides us with limited guidelines for the present and the future. In the last 30 years, the Latin American countries have tested numerous economic theories developed in the industrialized world. In the process, we have learned that we may borrow from the technologically advanced systems but that we cannot always transplant that knowledge successfully. And so the new strategies of development which are likely to be tried in our countries will probably draw heavily upon both local needs and experience—as well as innovation.

The current theory of economic growth could become one of the casualties of the passage of time. Not that Latin America does not need growth—we need it and we must have it in order to finish the job of development which we started in the late 1950s. But some elements of the original theory no longer seem to apply. The economies of the industralized countries, once the engine which pulled the rest of the world forward, are today in idle gear. They are not doing the job expected of them—and they may never regain their capacity to propel the economies of the rest of the world into high gear. So while the world economy grows increasingly inter-dependent, we may have to devise some new substitutes for the old engines of growth.

Investment is likely to continue to be the key to a more bountiful future. But how do we recapture the magic which makes it flow? One widely-heralded plan has kept everyone in suspense for nearly 20 months, waiting for international commercial banks to resume their traditional role as suppliers of trade credit and investment capital. But the banks have been rather weary—and leary. So we need to usher in a new era of confidence by freeing up some resources and improving the investment environment.

Greater reliance on domestic savings—which, by the way, paid for 85 per cent of Latin America's investment in development during the 1960s and 1970s—is certainly a must. But other approaches need to be explored also. More rapid development of our national capital markets and exchanges would certainly help in this regard.

Which brings me to another topic: the frequently cited Marshall Plan which celebrates its 40th anniversary this year. Some people have suggested the relevance of that model to today's situation in our Hemisphere. A commission headed by Henry Kissinger went so far as to recommend a similar approach to the development of Central America.

I have some serious doubts whether anything on that scale is feasible today. The conditions in Latin America are very different from those in post-World War II Europe, and the developmental undertakings which face our countries will take some time to reach fruition. In the meantime, development fatigue seems to have overtaken the industrialized countries. As Senator Lugar and his colleagues from the Congress of the United States can attest, funding for foreign operations meets with very stiff competition from priority domestic requirements. Even such multilateral undertakings as the Inter-American Development Bank, which provides up to 60 dollars of development financing for each dollar appropriated by the United States Congress, today find very few vocal supporters in that august body.

Permit me to digress briefly and tell you how important it is that a change occur in the perceptions of those who put United States subscriptions to our Bank, the World Bank, and other multilateral institutions, in the category of what you call "foreign aid." First, it should be pointed out that the loans which we make are financed largely with private funds which we borrow in the capital markets of the world and repayments on earlier loans. In addition, it might be more appropriate to classify these modest subscriptions as "export promotion", because a substantial portion of our financings goes to pay United States firms—in Indiana and elsewhere—for the goods and services which they furnish for our development projects in Latin America.

We hope, therefore, that one day the label of "foreign aid" will be taken off the subscriptions which the United States Congress approves for organizations like the Inter-American Development Bank, so that they will not have to run that difficult gauntlet each and every year.

The support of the United States and of our other non-borrowing member countries—Canada, the Europeans, Israel and Japan—is vital to the fulfillment of our Bank's mission, as it is to the World Bank, the Asian and the African Development Banks. Now, especially, when the developing world is so urgently in need of investment capital, multilateral development lending should be raised above politics and given full support.

Having said that, I must caution our Latin American countries to lay aside the expectation of and imminent massive infusion of external capital. In their dealings with the United States, in particular, our countries must focus on combating protectionist trends, opening up new markets and devising more effective ways of utilizing our respective relative advantages. In the final analysis, trade and investment will produce more long-lasting gains than any attempt to quickly fix developmental problems by throwing money at them.

There is nothing very dramatic in what I have told you but the resolution of great problems is not always accompanied by a loud fanfare. Sometimes it simply requires time, patience, good will, and a lot of hard effort.

Let us hope that in our future relations, these qualities will abound.

ADVANCE NOTIFICATION

PROPOSED ARMS SALE

● Mr. PELL. Mr. President, as the result of a 1976 agreement, the executive branch provides Congress with advance notification of proposed arms sales under the Arms Export Control Act in excess of $50 million or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon such notification, the Congress has no less than 20 calendar days for informal review and consultation with the administration on the proposed sale. If the excecutive branch wishes to proceed with the sales proposal following the informal review period, section 36(b)(1) requires that the Executive branch submit a formal notification to Congress of the proposed arms sale. Upon such notification, the Congress has 30 calendar days to review the sale. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with the committee's intention to see that such information is available to the full Senate, I ask to have printed in the RECORD a notification which has been received. Portions of the notification which are classified have been deleted for publication, but are available to Senators at the Foreign Relations Committee.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, July 7, 1987.

Mr. GERYLD B. CHRISTIANSON,
Staff Director, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHRISTIANSON: By letter dated February 18, 1976, the Director, Defense Security Assistance Agency, indicated that you would be advised of possible transmittals to Congress of information as required by Section 36(b)(1) of the Arms Export Control Act. At the instruction of the Department of State, I wish to provide the following advance notification.

The Department of State is considering an offer to a North African country tentatively estimated to cost $50 million or more.

Sincerely,

PHILIP C. GAST, *Director.*●

J. MARK TRICE

● Mr. HATFIELD. Mr. President, while issues have come and gone throughout the 200 years of history of the Senate, the individuals who have made up the character of the institution have had a more enduring legacy. For over a quarter of its life a man by the name of J. Mark Trice was a part of the Senate and came to know this institution inside and out. He served the Senate with devotion from 1916 to 1973, from the Presidency of Woodrow Wilson through the Presidency of Richard Nixon.

Mark's career in the Senate spanned a diverse set of jobs. He came here first as a Senate page in 1916, when his father died and he was forced to become the "man" of the family and support his mother and his siblings. He moved from page service to serving as secretary to the Sergeant at Arms while attending Georgetown University Law School. Upon graduation he spent 3 years in private practice. But Mark could not stay away from the Senate for long, and he returned in 1932 to take the position of Deputy Sergeant at Arms. In 1933, following the unexpected removal of the Sergeant at Arms, Mr. Trice served as Acting Sergeant at Arms for the year. He next served as the Republican Party secretary until 1953 when he was elected as Secretary of the Senate for the 80th Congress. After the return of the Republicans to the minority he returned to his post as Secretary of the Republicans in the Senate, where he completed his career.

When Mark Trice retired in 1973, the Senate lost a valuable public servant. Nevertheless, he kept in contact with his beloved institution, returning frequently to his old stomping grounds to see his friends, old and new.

Mr. President, when J. Mark Trice died on July 3, 1987, the Senate lost a longtime friend, and his friends here will miss him greatly.

As a history buff I become excited contemplating the history that Mark saw through the years: the personalities, the battles, the behind-the-scenes negotiations that filled this institution as the Nation faced two World Wars, the Depression, the New Deal, the Cold War, the Korean war, the Vietnam war, the upheaval of the sixties and civil rights legislation. His story is one that, in being told, would bring to life the dry, academic description of the Senate found in civics books.

I am sorry to note the passing of this dear friend of the Senate. His family has our sympathy and prayers.●

FORMAL NOTIFICATION

PROPOSED ARMS SALE

Mr. PELL. Mr. President, section 36(b)(1) of the Arms Export Control Act requires that Congress receive formal notification of proposed arms sales under the act in excess of $50 million, or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD the notification I have received. The classified annex referred to in the notification is available to Senators at the Foreign Relations Committee.

The notification follows:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, July 14, 1987.
In reply refer to: I-02632/87ct.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 87-31 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Air Force's proposed Letter(s) of Offer to Thailand for defense articles and services estimated to cost $115 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
Director.

[TRANSMITTAL NO. 87-31]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Propsective purchaser: Thailand.

(ii) Total estimated value:

	Millions
Major defense equipment [1]	100
Other	15
Total	115

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Six F-16A/B aircraft.

(iv) Military department: Air Force (SMC).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See Annex under separate cover.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: July 14, 1987.

POLICY JUSTIFICATION

THAILAND—F-16A/B AIRCRAFT

The Government of Thailand has requested the purchase of six F-16A/B aircraft. The estimated cost is $115 million.

This sale will contribute to the foreign policy and national security of the United States by helping to improve the security of a friendly country which has been and continues to be an important force for stability and economic progress in Southeast Asia.

Sale of these aircraft to Thailand will strengthen its air defense and reduce the possibility of armed aggression against that country. Thailand is scheduled for delivery of 12 F-16A/B aircraft beginning in June 1988; it will have no difficulty absorbing these additional aircraft into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be General Dynamics Corporation of Fort Worth, Texas.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to Thailand.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

SPEECH OF AURELIO BARRIA

● **Mr. SYMMS.** Mr. President, 2 weeks ago Mr. Aurelio Barria, President of the Chamber of Commerce of Panama City, was arrested at gun point by the forces of General Noriega while driving an automobile in Panama City. He was taken to an isolated barracks, blindfolded, and stripped of his clothing. He was then harassed, verbally abused and threatened with molestation.

Upon his release, Mr. Barria went into hiding. The following is a speech Mr. Barria planned for delivery at a peaceful demonstration at the El Carmen Church in Panama City, last Friday, July 10. The demonstration was interrupted by brutal acts of violence by the military forces, resulting in more than 300 wounded and hundreds jailed. The speech was not delivered. Mr. Barria is a patriotic and courageous man who I believe to be typical of the freedom loving people of Panama. I would like to take this opportunity to have the speech entered into the RECORD.

The speech follows:

SPEECH OF AURELIO BARRIA

NATIONAL MOVEMENT

We are meeting as participating members of the National Civilian Crusade, a democratic movement initiated and led by civilian men and women who represent all groups, including professionals, business people, educators, students, civil associations, workers, doctors, and our own Catholic Church. This is a national movement of the capital and the interior, the poorer neighorhoods and sectors, and the metropolitan and farming areas.

THE WILL OF THE PANAMANIANS

The Civilian Crusade emerged spontaneously 30 days ago at the initiative of the organization which comprise its membership, and it does not follow outside the guidelines; nor does it respond to national or foreign political parties or institutions. It is the will of many Panamanian nationalists and patriots to defend our true sovereignty rather than use it for illegitimate purposes. We are all Panamanians, and we respect and harbor all ethnic and religious groups, all within a fundamentally Catholic majority. An enthusiastic youth participates in the crusade, the same one that has been frustrated and oppressed since 1968, and which confirms the deceit that they have suffered as children, whereas not long ago they were dubbed the favorite children of the revolution.

WE REJECT VIOLENCE AND ATTACK TERRORISM

Today we carry out another important action of civic and peaceful resistance as is this concentration on the rescue of justice and democracy in Panama.

The Civilian Crusade rejects acts of violence, whatever their source, and denounces state terrorism and the use of paramilitary elements that intimidate the population.

We consider dangerous and inconvenient the means employed by official sectors which promote social conflict and a class struggle. They only exist in the minds of "revolutionaries" comfortably esconced in the official bureaucracy, under the tutelage of some military, who, wrapped in the mantle of the institution, have caused so much harm to the country, to the Panama defense forces, and to the professional military man who leaves an organization that operates within the established constitutional boundary.

ENOUGH ALREADY

Our presence of active participation constitutes a recognition of the men and women of our country, our children, brethren, and parents. United, we engage once more in this voluntary and peaceful demonstration of the fact that we want to live in peace and dignity; that we also want respect for our principles, the moral values, and the condition of free men who aspire to live decently and honestly in this beautiful and holy land of our birth.

Let us today write a historic page in our republican life. The youth, with the support of other generations, has decided to lift our brow, and with great courage and dignity has said "ENOUGH ALREADY!"

DEMOCRATIC RESCUE AND RECONSTRUCTION

We can no longer stand to live under a corrupt, inefficient, immoral regime, one without principles or values, one which is based solely on the strength of arms, intimidation, oppression, and the attempt to bend the spirit of a noble, peaceful, and even tolerant people. We have shown firm and irreversible determination to contribute to the rescue and reconstruction of our democratic institutions.

LET THE TRUTH BE KNOWN

We have from the outset demanded that it is imperative and necessary that the investigation of the grave facts confessed by Colonel Roberto Diaz Herrera will only have the faith and credibility of the Panamanian people if this investigation is carried out by an independent commission made up of impeccable citizens, capable men of public faith who enjoy the trust and respect of Panamanians. We do not accept the participation of the present officials of the Public Ministry because it is tainted by the calculated indolence of so many other widely known investigations, cases and experiences.

THE FOX IN THE HEN HOUSE

It has been well said that to accept President Delvalle's position would be like accepting the fox as the guardian of the hen house.

Mr. President, could it be that you are not listening to the clamor and the feeling of the people's claim for justice, a clamor which has transpired to the international scene as evidenced by the mass media in the free world?

FOR PRESIDENTIAL DIGNITY

We are not enemies of the military, for they too are Panamanians. But they must recognize that they have a role as a military institution, and it is not to govern. The national constitution says that the military organization must be subordinate to the civilian government and must not interfere in such public affairs not pertaining to their functions.

WE REJECT COSMETIC SCHEMES

To those who think dialogue is an end and not a means, we must reiterate that our objectives are based on unobjectionable moral values, not subject to negotiations with cosmetic schemes and promises the very proponents of which do not intend to or care to even keep.

PANAMANIANS WANT FREEDOM

We appreciate the sympathy and support given to us by foreign entities. Far from constituting intervention in our internal affairs, we interpret them as a reaffirmation of democratic solidarity. Let us hope that hemispheric governments, which profess so much identification with freedom, justice, democracy and human rights, will be consequent with those principles and cease their support of and cooperation with rulers who deny those principles and accept the continuity of a repressive and corrupt military system. To the governments of these brethren countries who enjoy freedom, we must indicate that we Panamanians also have a right to live in peace and freedom with a government legitimately elected by the people.

FACE THE DIALOGUE

As all Panamanians, we will not say no to a true dialogue, so long as it is sincere and not just a ploy to deceive and intimidate, and does not constitute an intervention of our equivocal interest, without discussing the real cause of the protests and national indignation. Let's raise our heads, let's blow horns and bang the pots and pans. Let's wave our white handkerchiefs as the spontaneous symbols of our civic struggle.

A CLEAR AND FIRM STRUGGLE

The word of God guides us when it says to us in Psalms 28: "Do not drag me away with the wicked, and with those who work in iniquity; who speak peace with their neighbors, while evil is in their hearts."

Our struggle is clear, firm and continues stronger than ever.

Our commitment with the future that we build today is the reflection and feeling of our patriotic conscience and our active participation for freedom, justice, and democracy in Panama.●

A FLINT MUSICAL PIONEER

● Mr. RIEGLE. Mr. President, I rise today to pay tribute to Mr. Wade E. Mainer, of Flint, MI, for his remarkable achievements in Appalachian music. Mr. Mainer will be honored on Saturday, August 1, 1987, by the Flint community.

Mr. Mainer's acknowledgments include: performing at the White House for President Franklin D. Roosevelt in the 1940's, numerous appearances on the Grand Ole Opry, appearances with Woody Guthrie and Burl Ives, and appearances coast to coast.

Considered a pioneer on the banjo, Mr. Mainer has been instrumental in the continuation of this music form today. A heritage that began in North Carolina, Mr. Mainer was always attracted to music and the sense of community associated with it.

When he entered adulthood, Mr. Mainer joined with family and friends in a band called the Mainer Mountaineers which soon became a major influence of string band music in the 1930's. Mr. Mainer came to Michigan in 1953 to work for General Motors. It was here that Mr. Mainer, along with his wife Julia, raised their five children and continued to perform locally in religious services.

Upon his retirement in 1973 from General Motors, Mr. Mainer returned to his career in music. During the last 14 years, Mr. Mainer has performed on tours in England, Japan, Germany, and Italy. Most recently, Mr. Mainer was named a recipient of the National Heritage Award given by the National Endowment for the Arts.

As a distinguished member of the Flint community for the past 34 years, Mr. Mainer at age 80, continues to play his music with the same intensity and energy as he did the first time he picked up the strings. It is indeed a privilege to enter into the RECORD today my sincerest thanks for Mr. Wade for his invaluable contributions to Appalachian music.●

THE GREAT COMPROMISE OF 1787—AND THE DIFFERENCE ONE MAN CAN MAKE

● Mr. ARMSTRONG. Mr. President, this week marks the 200th anniversary of the "Great Compromise" of the Constitutional Convention. On that day in Philadelphia, the Founders resolved that "in the second branch of the legislature * * * each State shall have an equal vote." That single decision broke the impasse between the small States and the large, and it surmounted the greatest obstacle to the Convention's success. The creation of the U.S. Senate, where each State is guaranteed "equal suffrage," was the key to the Constitution.

The critical vote on the 16th was preceded by 2 weeks of controversy. On June 29, by a vote of 6 to 4, with one State divided, the Convention agreed that representation in the first house of the legislature would not be according to the rule of the Articles of Confederation "but according to some equitable ratio." Oliver Ellsworth of Connecticut then moved that in the second house each State would be represented equally. "I confess," he said, "that the effect of this motion is to make the general government partly federal and partly national. This will secure tranquility, and still make it efficient; and it will meet the objections of the larger states."

On Monday morning, July 2, Ellsworth's motion was put to the Convention, shall each State have an equal vote in the second house? The question failed on a tie vote. Connecticut, New York, New Jersey, Delaware, and Maryland voted aye; Massachusetts, Pennsylvania, Virginia, and the Carolinas voted no; Georgia was divided. The Convention was at a standstill.

In an effort to break the impasse, one member from each State was appointed to a committee to find a compromise. So that the committee could meet, and to allow the delegates to celebrate the anniversary of their independence, the Convention adjourned until the 5th.

Back in Convention on the 5th, Elbridge Gerry of Massachusetts presented the committee report. It proposed that the first branch of the legislature should have one representative for every 40,000 inhabitants and the power to originate all bills for raising or appropriating money, and that the second branch should provide each State with an equal vote but not have power to amend those measures that must originate in the first house. This compromise was suggested in committee by Benjamin Franklin.

Large-State delegates promptly criticized the report because the plan for equal representation in the second house was inequitable. For 10 days the debate raged. Was the plan fair? How many members would each State have? (A question twice referred to a special committee.) Who would determine population, and when? Would slaves be counted?

Then, on the morning of July 16, the Convention adopted the compromise, agreeing to equal representation in the second branch. This was the Great Compromise of the Convention. It was the watershed of federalism, and of American constitutionalism, and it passed by the narrowest margin possible: Connecticut, New Jersey, Delaware, Maryland, and North Carolina voted for it. Pennsylvania, Virginia, South Carolina, and Georgia voted against it. Massachusetts, a large State that often voted with Pennsylvania and Virginia, was divided. New York's quorum had left the Convention. Had the Great Compromise not been adopted, the small States might have left, too.

In the Massachusetts delegation, Elbridge Gerry and Caleb Strong voted for the compromise; Rufus King and Nathaniel Gorham voted against it. If either Gerry or Strong had voted against the resolution the Massachusetts vote would have been cast with the large States and the resolution would have failed for want of a majority. The Convention would have been deadlocked again.

In one of those ironies of history, 2 months later both King and Gorham signed the Constititution while Gerry refused. Caleb Strong did not sign. He had returned home a few weeks earlier because of illness in his family.

In the Massachusetts ratifying convention, however, Strong joined King and Gorham to win adoption of the Constitution. The opposition was led by Gerry.

Caleb Strong served in the U.S. Senate and was Governor of Massachusetts, being first elected in 1800 when he defeated Elbridge Gerry. He served as Governor for many years, defeating Gerry again in 1801, 1802, 1803, and 1812. He achieved some notoriety over his dispute with the National Government on the use of the State militia during the War of 1812. He died in 1819.

Mr. President, Caleb Strong's name does not appear on the Constitution of the United States. He was not in Philadelphia for the signing because he had returned to Massachusetts to care for his family. He is not found on most lists of our honored framers. But on July 16, 1787, while seeming to vote against the interests of his large State, Caleb Strong cast a vote that made the Constitution possible.

Caleb Strong answered "aye" on a critical day in American history. He and other patriots—both the unknown and the honored—made possible our great American experiment in liberty.●

TRIBUTE TO THE WEST VIRGINIA ACADEMY OF OPHTHALMOLOGY AND THE NATIONAL EYE CARE PROJECT IN WEST VIRGINIA

● Mr. ROCKEFELLER. Mr. President, it is with great pride that I rise today to commend the West Virginia Academy of Ophthalmology for their contributions to the senior citizens of my home State. The academy, in conjunction with the Foundation of the American Academy of Ophthalmology, is sponsoring the "National Eye Care Project," a generous effort to provide free examinations and treatment, to those over the age of 65.

Since many elderly cannot afford the high costs of eye care, and more than 55 percent of all new cases of blindness occur in people 65 and over, this program is a source of vitally needed treatment for senior West Virginians. Under this special program, Medicare or personal health insurance copayments are waived; patients are not even screened for ability to pay. Indeed, the only existing eligibility requirement is that the recipient be a legal U.S. resident over the age of 65 and not currently under an ophthalmologist's care.

The physicians involved in this project volunteer their time and skill in providing the eye care to senior citizens. If continued treatment is necessary, a participating physician administers the care as long as it is required—again, at no cost.

With the States of Washington and Michigan, West Virginia was selected in 1983 to be a trial State for this eye care program. The program has since been expanded to all 50 States.

An impressive 80 percent of West Virginia's eye care physicians, along with 7,200 nationwide, volunteer their services to administer free eye care to the elderly. Considering the high cost of today's health care, this project provides a measure of relief and security for this Nation's elderly poor and near poor. These fine medical professionals are making an inspiring effort to help those in need. I know I join all West Virginians in thanking the Academy of Ophthalmology and all of the dedicated citizens involved in the "Eye Care Project" for their vital public service to the elderly of our State.●

LIONEL HAMPTON HONORED

● Mr. McCLURE. Mr. President, on February 28 of this year, something wonderful happened at the University of Idaho that I would like to share with my Senate colleagues. On that date, the university's school of music was renamed to honor a national treasure, a man who is a giant in the world of jazz, Lionel Hampton.

Some people may thing that the connection between Mr. Hampton and the University of Idaho makes for a strange alliance. But it isn't a strange alliance at all for the simple reason that Lionel Hampton knows excellence when he sees it. When he saw the excellent music program at the University of Idaho, he wanted to get involved—and involved in a big way!

For 20 years, the University of Idaho has hosted a jazz festival. What started as a small, local effort has turned into an event with performances of major jazz artists. In 1985, with the help of Lionel Hampton and Chevron USA, an endowment was started for the festival. Since Mr. Hampton's involvement in the festival, some of the greatest jazz artists have participated—Lionel Hampton and his orchestra, Stan Getz, Freddie Hubbard, Hank Jones, Anita O'Day, the Ray Brown Trio, Slide Hampton, Dianne Reeves, Gene Harris, Michey Roker, Illinois Jacquet, Buddy Childers, Pete and Conte Candoli, to name just a few.

In addition to the performances of the renowned jazz artists, the festival serves as a workshop and clinic for approximately 6,000 high school students. The growth of this program has been absolutely unbelievable. In 1984, there were 150 entries. Two years later, that figure had nearly doubled.

Aside from his tremendous contribution to the jazz festival, Lionel Hampton has become personally involved with the welfare and continued excellence of the university's music school. Mr. Hampton visits the university several times a year, teaching, encouraging, writing or just plain visiting. His presence and interest has given the school new energy and direction. The Lionel Hampton School blends a well rounded academic program of music theory, music history, and music education into performance groups of concert bands, concert choirs, symphony orchestra, jazz bands, jazz choirs and a variety of instrumental and vocal chamber ensembles.

Many would say that the University of Idaho honored Lionel Hampton. But in the words of the director of the school of music, Robert Miller, "We in the Lionel Hampton School of Music are proud to be named in honor of a great musician and humanitarian and with the naming comes a rededication of excellence—to be the best we can."

Mr. President, I'm very proud of the music program at the University of Idaho and I'm even more proud of the honor Lionel Hampton has bestowed on the university by his active interest and participation in the program there.●

THE BICENTENNIAL OF THE CONSTITUTION

● **Mr. ROCKEFELLER.** Mr. President, this year marks the 200th anniversary of the U.S. Constitution. There is no doubt that it is truly one of the most important and extraordinary documents ever written. History has offered powerful testimony to this conclusion, and today, evidence of its greatness continues to pour in.

It is important for us to remember why this document is great and why we continue to defend and uphold the theory and ideals upon which it is based, even 200 years after its writing. First, our Founding Fathers wisely feared the concentration of power in the hands of the few. For this reason, they adopted a philosophy of separation of powers to assure that no person or group is able to abuse the power of the Government at the expense of the governed. Under this scheme, three branches of Government, each with certain checks and balances, share the power given by and for the people. Each has a role that the other branches must honor in respect to the mandate of our Constitution.

Second, the Constitution has guaranteed certain fundamental rights to the citizens of our great Nation. These rights are intended to apply equally to all—the minority as well as the majority, the poor as well as the rich, and the unpopular as well as the popular. Their incorporation into the Constitution sought to fulfill our Nation's commitment to freedom, liberty, and opportunity first set forth by Thomas Jefferson in another great document 11 years before the writing of the Constitution.

> We hold these truths to be self-evident, that all men are created equal, that they are endowed by their creator with certain inalienable rights, that among them are life, liberty, and the pursuit of happiness.

We must remember that the effort to fulfill this commitment was not perfect at the time of the Constitution's writing and remains imperfect today despite a number of amendments which have brought us closer to our ideal. Our Nation's history is one of unprecedented freedom and liberty of which we have every reason to be proud, but the hope expressed by Jefferson and James Madison remains unfulfilled and calls us to continue our effort.

The Founding Fathers set forth a framework of Government that has endured for two centuries. Its durability is no doubt due to its great flexibility. The principles imbedded within its text remain constant, but their application to a changing world, where situations unforeseen by our Founding Fathers arise daily, must be guided by the wisdom and compassion that inspired the original authors of our Constitution.

Today, as hearings are held on a basic question of separation of powers, as a Presidential nominee for the Supreme Court prepares to meet the next "check and balance" in our scheme of government, I think it is important for us to step back from the controversy surrounding these issues and give thanks for a document that will, as it always has, resolve such conflicts in a just and peaceful fashion, leaving those who make the decisions accountable to the ultimate judges in our system—the people.●

CHILDREN WITH AIDS

● **Mr. MOYNIHAN.** Mr. President, on the first day of the 100th Congress, I introduced S. 24, a comprehensive bill on AIDS. One of the provisions of this bill asks the Secretary of Health and Human Services to conduct a study of children with AIDS. This study would address the numbers of children abandoned in hospitals, the cost of care for these children, and alternative types of care that are currently available to children with AIDS. The purpose of this study is to better inform the Congress on what would be the most appropriate Federal response to this crisis—one which does not appear will be alleviated in the near future.

On April 10, 1987, I came before this body to speak again about AIDS, in particular, the incidence of AIDS among children. I said then, and I maintain today, that we will have to learn to live with this ever-growing trauma and take effective action to deal with it. It involves not only these children, but their entire families as well. We must address the underlying causes of the spread of AIDS and provide the resources to stop that spread.

An article in today's New York Times, written by Jane Gross, gives a most telling picture of the condition of children with AIDS and the great toll it takes on them and the dedicated individuals who care for them. I ask that this article be inserted in the RECORD.

The article follows:

[From the New York Times, July 17, 1987]

THE MOST TRAGIC VICTIMS OF AIDS, THOUSANDS OF YOUNGSTERS

(By Jane Gross)

In a sunny corner of a day-care center, the teachers gathered the children together, made sure everyone had a lap to sit on and told them that Carlos had died. The boys and girls looked at pictures of their 2-year-old classmate, talked of how they would miss him and asked whether the same thing would happen to them.

A few days later, the same playroom in the Bronx was the scene of a fifth-birthday party for Angela, who was far too excited to sit still for cake and ice cream. In a starched white dress and a glittery crown, she distributed party favors and opened construction-paper cards, including one that said, in crayon, "I love you so much cute little thing."

Carlos had AIDS. So does Angela.

They are two of the growing number of youngsters across the country with acquired immune deficiency syndrome. By and large, the children are dead by the age of 3. But as treatment and diagnosis have improved, many fragile lives are being extended longer than anyone thought possible when AIDS was first identified six years ago.

OMINOUS QUESTIONS

These older children present the people who care for them with increasingly complex problems and questions, both social and medical. Who will care for them if they are abandoned by drug-disabled parents or orphaned as AIDS destroys their families? Can they be educated along with healthy children? Will they be told what is wrong with them when they begin asking?

A recent report by the Citizens' Committee for Children, an advocacy group, warned of an "ominously rising tide" of AIDS and AIDS-related illness in children. The report urged that the children not be written off because they are dying, but be offered a life "as close to normal as possible" for the time they have left.

"These children are alive and as well as the medical people can make them," said Anita Septimus, the social worker in the pediatric AIDS unit at the Albert Einstein College of Medicine in the Bronx. "Now we must see to it that they have a full life, a good life, for as long as God lets us have them."

Nationwide, more than 2,000 children are thought to have either AIDS or AIDS-related illnesses, with 40 percent of them in New York City. These children, most of them infected before birth, are usually born to the poorest and most disordered families, where more and more women, because of drug abuse or sexual activity with drug abusers, carry the virus. In New York, 8 of 10 children with AIDS have drug-abusing parents, and 9 of 10 are black or Hispanic.

Very few of the youngsters remain with their own troubled families. The most fortunate among them wind up in loving foster homes. The least fortunate live out their days as hospital boarder children.

ONE WOMAN AND COURAGE

The day that Grace Tillman found out her 18-month-old foster child had AIDS, her caseworker offered to take back the baby girl.

But Mrs. Tillman had taken the child into her home as an infant, had nursed her through various illnesses and did not take kindly to the suggestion.

"What I said is not printable," Mrs. Tillman said. "There was no way I'd leave her. With me, first came love and then came the disease. So damn the disease."

The little girl recently turned 5, and in the intervening years Mrs. Tillman opened her home to two other AIDS children, choosing them because they had the disease and needed her.

Mrs. Tillman, a widow, is in many ways typical of the small group of foster parents who have taken these dying children. She is black, of working-class background and the mother of several other children, some her own and others adopted or in foster care.

NEW AIDS POLICY

Mrs. Tillman's name has been changed to protect her identity because, as with many natural and foster parents of AIDS children, she has told none of her relatives or friends what is wrong with the three youngsters.

In recent years, the city has unwittingly placed a number of children with AIDS in foster care. In many cases, the foster parents have left the children in hospitals once the diagnosis was made, unwilling or unprepared to deal with the physical, emotional and financial burdens.

Under a new city policy, approved but not yet in effect, prospective foster parents will be able to request blood tests for children they are considering taking. The test indicates the presence of the antibody to the AIDS virus.

Half the infants who test positive are actually infected, according to the City Health Commissioner, Dr. Stephen C. Joseph. The other half are passively carrying their mother's antibodies, which will clear from their system in about nine months.

The new policy is a double-edged sword, according to Dr. Joseph, because it will offer parents information they are unquestionably entitled to, while creating a group of babies who are virtually impossible to place.

If Mrs. Tillman had her way, that would not be the case. "If I had my wish, my deepest wish," she said, "I'd get me a big house and take them all."

Dr. Joseph said, "There are some saintly souls, but far too few."

Mrs. Tillman knew very little about AIDS at the time of her child's diagnosis, but has since become an expert in matters of infection control—"My kids know not to kiss anybody on the mouth or to drink behind anybody"—and in matters of secrecy.

Mrs. Tillman's relatives have been told a variety of stories: that one child has cancer, another asthma and the third "lung problems."

"I'm always thinking," Mrs. Tillman said. "Whatever question I'm asked, I know how to get around it."

Mrs. Tillman said she has never mentioned her children's ailment to anyone, except at the Einstein clinic, where they are treated, and a nearby day-care center, in a wing of the Bronx Municipal Hospital complex.

"These are the only places we can use that word or talk about what's really going on," she said. "Before I met these people, it was like I was on a mountaintop, high as can be. It was lonely and it was terrifying."

Mrs. Septimus, the social worker at Einstein, said the parents would "explode if they didn't have a place to share what was going on in their lives."

Mrs. Tillman said she thought some of her relatives had guessed, but that she would not risk telling them.

WAITING AND WORRYING

"My big kids take them out," she said. "My nieces bring their kids over. They get invited to the neighborhood wading pool. I don't want that to stop. I don't want them to suffer."

Only one of the three AIDS children has been seriously ill, but Mrs. Tillman knows that their good days are numbered.

"I worry about losing them every day," she said. "But I try to throw it the furthest back in my mind I can and tell myself, 'Today they're happy, today they smiled, today there was no pain.' I don't have time to say I'm living with the living dead."

Instead, in a sense, she makes bargains.

Once, she heard about a child with AIDs who was 8, so her prayers went this way: "Eight years. If you give me eight years, I'll let them see everything and do everything."

Then, the 8-year-old turned 9, and Mrs. Tillman upped the ante: "I tried to let Him know I wasn't greedy, but if that child is 8, I want 9, too."

Mrs. Tillman's courage was recently tested at the funeral of the 2-year-old from the day-care center, a sweet-faced child who was severely disabled. Mrs. Tillman talked to him as he lay in his tiny coffin.

"Now you'll be able to walk," she said. "Now you don't have to get no more needles. Now your eyes won't be crossed."

She fought back tears as she continued the story.

"Then I asked Him to wait for my babies," Mrs. Tillman said, "And when they get there to look after them."

FOR ONE GIRL, WARD IS HOME

A 9-year-old girl with AIDS has lived the last two years of her life in a hospital room banked with stuffed animals.

The toys were purchased by nurses and doctors, by social workers and volunteers who visit the child and do their best to substitute for her parents, both drug abusers, who abandoned her after she was diagnosed two years ago.

According to recent city calculations, the girl is one of at least 30 children with AIDS who are boarding in hospitals, orphaned or abandoned and waiting for foster families. Most of the other boarder children are younger, more likely to be placed eventually, and far less aware of their homelessness.

This 9-year-old's story was pieced together from interviews with a half-dozen social workers and doctors throughout the city who work with AIDS children and are familiar with her case.

None of them was willing to be identified by name, because the child's history is supposed to be kept confidential. To this end, they declined to provide certain details. Other details have been omitted to protect the girl's identity further.

LIFE OF ISOLATION

Aside from ordinary sore throats and colds, the girl is healthy at the moment, and has been for most of the time since a severe case of pneumonia brought her to the hospital emergency room, where a lung biopsy led to her diagnosis.

She is allowed to attend public school, with the approval of a city screening panel that governs the admission of AIDS children.

But ordinary school friendships are not possible. She cannot bring children "home" to play and is not permitted to visit classmates. As a ward of the city, her movement outside the hospital poses problems of liability. On fair days, the nurses take her to the roof of the hospital to play.

She is bright child, according to those who know here. She receives help with her homework from a series of volunteers from the Gay Men's Health Crisis, a social-service organization that pairs AIDS victims, including 30 children, with "buddies," most of them homosexual.

One open question among the professionals familiar with the case is how the girl contracted AIDS. She apparently was healthy until the age of 7, long after AIDS symptoms usually appear if a child was infected in the womb. The speculation is that she played with contaminated needles left around the house by her parents.

It is also possible, experts said, she had been sexually molested by an infected adult. Several of the doctors and social workers interviewed said they had treated a very small number of children who, they believed, contracted AIDS as a result of sexual abuse.

A COMPLICATED HISTORY

Finding a home for the child has been complicated, because she once bit a nurse, which frightens prospective foster parents. According to the experts familiar with the case, biting is not typical of the girl's behavior.

The incident happened early in her hospitalization, when her mother was still making rare visits. The child was angered by something the mother said or did and bit a nurse who tried to console her.

There are no known cases of AIDS transmission through biting, but traces of the virus have been found in saliva.

If the child were placed in a home, her foster parents would receive $800 a month from the city, more than double the reimbursement for a healthy child

One city foster-care agency, Leake & Watts in Yonkers, has a special program to find homes for AIDS children and has placed 21. With a grant from the New York State AIDS Institute, Leake & Watts offers parents additional assistance, including reimbursement for baby sitters and equipment such as washing machines.

"You can't deal with these kids without extra help," said Phyllis Gurdin, who runs the Leake & Watts program.

THE VICTIMS: LIVES OF TRIAL

Among the doctors and social workers who care for children with AIDS, the survivors, including these, are famous:

There is Cissy (all the childrens' names have been changed to protect their identities), who is 9½ and one of the first children ever diagnosed. She is the size of a 6-year-old and walks and talks haltingly, because the AIDS virus routinely attacks the brain.

There is Jimmy, 7, with a face round from steroids and a platelet count so low that his hands swell and discolor if he punches a rubber ball. His teachers agonize about how to balance protecting him and letting him play.

There is Peter, 6½, who spent his first five years in a hospital, abandoned by parents who were drug abusers. He is making a ragged adjustment to foster care and seems more like an emotionally disturbed boy than a sick one, often separated from other children because of his unruly behavior.

There is Monica, a feisty 6-year-old, who struggles to breathe because of damaged lungs and sometimes must stop playing to rest in a wheelchair. As with many of the children with AIDS, her neck is thick with chronically swollen lymph glands and her fingers are clubbed.

SUPPORT AND STIMULATION

There is Molly, a 5-year-old with limbs as thin as twigs, who pores over a picture book about death, illustrated with photographs of a wounded bird. Sometimes Molly asks why she is always sick and whether she is going to die. Her teachers reply that they hope not, at least not in the near future.

These children all attend the daycare center in the Bronx, the home borough to 35 percent of the pediatric AIDS cases in the city. In all, 20 boys and girls attend the city-financed center, which provides the children with regular companionship and stimulation and the parents with several hours of relief each day from the daunting task of caring for them.

The social workers who seek homes for AIDS children said they made more placements in the Bronx than in other boroughs, in part because of the center, which offers a weekly support group for mothers. There is another mothers' group nearby at Einstein, where 200 AIDS children have been treated, the most in the country, at a comprehensive clinic run by Dr. Ayre Rubenstein. The children at Einstein are treated with gamma globulin, to prevent infections, and with aggressive doses of antibiotics, when they are ill—a course of treatment that has steadily become more sophisticated and effective.

Based on the recommendations of the Federal Centers For Disease Control, children with AIDS are barred from regular day-care centers and nursery schools. They are permitted in the city public schools from kindergarten onward, if they are determined to be well enough by a panel of experts from the Board of Education and the Health Department.

Of 26 children referred to the panel last year, half either died or deteriorated before they could start school, according to Dr. Polly Thomas, a pediatrician and epidemiologist at the Health Department. A half-dozen attended school regularly, with their condition not revealed to teachers or principals, according to Dr. Thomas.

Some parents decided not to apply to public school and, instead, keep their children at home or in the day-care center, where their condition is known and they are not ostracized.

"I don't want to worry about some mother saying, 'Your daughter coughed on my daughter,'" Mrs. Tillman, the foster parent, said. "She's healthy enough to be mainsteamed, but I'm not going to do it. The teachers aren't educated enough, and she wouldn't get the proper attention."

MENTAL SCARS ARE PROFOUND

Children with AIDS suffer the pain, fear and isolation common to all terminally or chronically ill youngsters. But many of them are also psychologically scarred because they were abandoned in hospitals.

According to several experts in early childhood development, these children are often emotionally disturbed and developmentally delayed because of the absence of consistent one-on-one care.

There are also more mundane problems when a child leaves a hospital for a home. One foster mother reported that her 3-year-old kept throwing away the silverware because she was used to disposable utensils.

Another mother said that she had told her toddler to go into the living room, but that the child did not know what that meant. A third said her child often asked, "Is it time to eat?" but did not seem to understand she could request food if she was hungry.

The director of the day-care center, Terry Weissman, said such boarder children did not understand the difference between day and night or between friends and strangers.

"They have no sense of cause and response, no sense of what a day is or when you do this or that," she said. "They also find transitions of any kind difficult, because any change symbolizes all the other comings and goings."

STARTLING WISDOM

At the same time, these children are startlingly wise about medical matters. They talk about intravenous tubes and blood gasses and know which of their classmates goes to Einstein and which to Jacobi Hospital, called "Cobi" by the children.

They mention slight fluctuations of temperature to their doctors and nurses and expertly push one another's wheelchairs through crowded corridors.

And, after learning of Carlos' death at the day-care center, they recalled others they knew who had died—mothers, fathers, siblings or hospital roommates.

At some point, these children ask questions about the illness that dominates their lives but is rarely discussed truthfully by families who guard their stigmatizing secret. Should the children survive to adolescence, when sexual activity might spread the virus that causes AIDS, their need for information and their problems will multiply.

"The whole issue of what you tell a kid is beginning to plague me," Mrs. Gurdin said at Leake & Watts. "I wish there was a great big psychological authority who could tell us what to do."

FEAR OF THE TRUTH

Doctors and social workers worry that AIDS children will eventually figure out what is wrong with them and then might tell the wrong people, such as landlords, who could evict their families.

Children would normally ask for and obtain information about their condition at a certain age, experts said.

"Ordinarily, with a sick child of 6 or 7 or 8, you would say, 'You have an earache, or a sore throat or measles,'" Ms. Weissman said. "But we will not use the word AIDS, unless the parents use it first."

Mrs. Septimus said that "the public is at fault" for discriminating against people with AIDS and frightening parents into silence.

"The public has not allowed these poor people to come out," she said. "All the doors would close for them."

Mrs. Septimus has a 5-year-old child of her own, who summons her to the television set every time there is a program about AIDS, so she assumes her patients may know more than they reveal.

"They may be aware of what they have," she said. "But they may also be aware that they can't talk about it, because this is the implicit secret of their family life. I can't tell these children that their families are all telling them stories.

"I have to go along with this horrendous situation because it's not my struggle. It's theirs. And I know in all humility that I don't have the answer."●

INFORMED CONSENT

● Mr. HUMPHREY. Mr. President, today I resume placing letters into the CONGRESSIONAL RECORD, letters which have been sent to my office in support of my informed consent legislation, S. 272 and S. 273. These letters are from women around the Nation, representing each of the States, and a wide variety of backgrounds and lifestyles. But each speaks poignantly to the pain and emotional distress caused as a result of an abortion—an abortion that was not fully explained to the woman; an abortion that was presented as the only option.

I ask that a letter from a woman in Alabama be printed in the RECORD.

The letter follows:

MOBILE, AL,
September 1, 1986.

Sen. GORDON J. HUMPHREY,
Senate Office Bldg.,
Washington, DC.

DEAR SENATOR HUMPHREY: Thank you so much for speaking out on behalf of women like myself who are indeed abortion's second victims. I have had three abortions, all performed by the same "doctor" in Northern Virginia. All three times the "doctor" said it was not a baby "yet", the heart was not beating "yet", and "it" would not feel any pain because "it" was not yet alive. He lied to me and coerced me into a decision I will never get over. The resulting emotion explosion had an effect on my life equal to that of an A-Bomb explosion.

My first abortion was at 16 years of age. It was my boyfriend's idea that I get pregnant and when I did, his friends got him to believing that I should have an abortion. I did not want to have an abortion. I went to my mother who took me to her OB/GYN who convinced me it was the only answer to my "problem". No one offered me any alternatives nor offered to help me. I agreed only because I did not know what else to do. I cried almost nonstop for several weeks afterwards. At 12 to 13 weeks, my first child was denied the right to be born. My bent on self-destruction had just begun, escalating to the point of attempted suicide.

At the age of eighteen I married a man who was later to become very abusive to me. I remained in this abusive relationship for a period of five years. Out of this relationship I bore two sons. My first son, born when I was nineteen, was a very emotional and sensitive child. At the age of twenty I had my second son who was born with a birth defect that required much surgery and many long hours of personal attention from me. I was physically, mentally, and emotionally exhausted to the point where I became abusive to my children.

At the age of twenty-one I became pregnant again. Because of the instability in my life I felt I could not face having another child. My doctor again had reassured me "it" was not alive and "it" would feel no pain. Because of my depressed mental state, I had my second abortion in my eighth week of pregnancy. While still twenty-one I became pregnant again while taking birth control pills. The birth control pills had failed. At six weeks of pregnancy, receiving the same advise and reassurance, I had my third abortion.

My first marriage ended in divorce. I was now into my second marriage which was shaky. I thought I was mentally ill. I would try to plan what to do with my children while I checked myself into a mental institution, I felt like I was a terrible mother.

At the age of twenty-three I gave birth to a healthy daughter. Following this I had an I.U.D. inserted and again became pregnant. Soon thereafter the I.U.D. caused the fourth termination of life.

The sadness and emptiness has tormented me now for nine years and is continuing. I was suicidal (with one attempt), anorexic, guilt ridden, with recurring nightmares, regret, remorse, feelings of dehumanization, despair, helplessness, inability to make decisions, filled with anger and rage (often times coming out in screaming and cursing), low self esteem crying and depressed. I was pre-occupied with the (3) aborted babies (never understanding why), I was hostile toward all men, frigid, while at the same time the desire to get pregnant again and replace those (3) children was driving me up a wall. I could not forgive myself and became an alcoholic and a drug abuser. My maternal instinct was definitely thwarted and for three years I had been abusing my children.

One year ago I met a woman, Eleanor Ramsey, from Life Enterprise Unlimited, who assured me I was not loosing my mind and that my symptoms matched many other women she had been working with. We all had one thing in common—one or more abortions. Through the extensive counseling efforts from people who understand the word empathy I am on the road to total healing. I have asked for and accepted the forgiveness of Christ Jesus. I am now learning to forgive myself. My family is now establishing a strong foundation based on my new relationship with Christ Jesus.

My HELL isn't over yet! What do you think my three beautiful children will feel when they find out that I allowed three of their sisters and brothers to be torn apart, dismembered, disaticulated, crushed, destroyed and thrown out with the trash? When they look at my life and see that I am now doing everything in my power to avenage those deaths by speaking out about what has happened, helping to educate others, saving the lives of some babies and rescuing some women from this HELL on earth, I pray they will forgive me and understand that I did not know the truth about abortion.

Senator Humphrey, I will never again fully trust a "medical professional" because I now know that for many of them money is more important than the well being of their patient. I am not alone. When the masses of women who, like myself, were lied to and coerced into killing their children realize why they are going through such an emotional HELL and seek to avenge the death of their children; America had better watch out for the ensuing tide. We are waking up! We are mad as HELL over what society has encouraged to happen to us. Our children will not have died in vain because we refuse to remain silent.

Why has the Supreme Court of America permitted exploitation of women during a time when they are in a state of extremely high hormonal fluctuation leaving them so emotionally vulnerable? This condition is well known within families and is an established and acknowledged medical occurrence.

If I knew then what I know now it never would have happened—I would have my other three beautiful children with me to treasure and would have been spared a lifetime of agony and regret.

Your efforts are greatly appreciated, Senator Humphrey. Thank you again for taking time to hear from me—another one of abortion's second victims.

Sincerely,

Carol Sue Carter Miller de Fleron.[1]

MEASURE HELD AT DESK

Mr. BYRD. I ask unanimous consent that Senate Resolution 250 commemorating the death of Walter Heller submitted earlier today by Mr. Sarbanes be held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 8:15 A.M. ON TUESDAY, JULY 21

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 8:15 a.m. on Tuesday next. I understand I said Monday. I meant Tuesday.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent on Tuesday next following the recognition of the distinguished Republican leader that he have 5 minutes and that Mr. Domenici and Mr. Chiles be recognized for not to exceed 15 minutes on the resolution on Arthur Burns; and upon the disposition of that resolution, the distinguished Senator from Maryland, Mr. Sarbanes, be recognized on a resolution which expresses the sorrow and regret of the Senate at the death of the late Walter Heller and that there be 10 minutes under the control of Mr. Sarbanes on that resolution; and that at 8:45 the Senate proceed to the consideration of the Byrd-Danforth amendment on which there is a 10-minute time limitation.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order to order the yeas and nays on the Byrd-Danforth amendment.

The PRESIDING OFFICER. Is there objection.

Mr. HECHT. This consent has been cleared on the Republican side of the aisle.

Mr. BYRD. Mr. President, I ask for the yeas and nays on the Byrd-Danforth amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. BYRD. Mr. President, I ask unanimous consent that on the disposition of H.R. 3 on next Tuesday, the majority leader be authorized to proceed to the consideration of the debt limit extension at any time following the consultation with the minority leader.

Mr. DOMENICI. Reserving the right to object, Mr. President, and I do not intend to object, I have told the distinguished majority leader that I would like to report.

Obviously, those of us who have been working in an effort to come up with a bipartisan amendment with reference to the Gramm-Rudman-Hollings sequester budget amendment, and other budget reform proposals, are fully aware that Secretary of the Treasury Baker has advised the Senate of the situation and a letter reflecting his views is in the Record.

We are fully aware that we do not have a lot of time before matters could become very difficult for the U.S. Treasury with reference to its ability to pay the bills and to honor some of the obligations of the Federal Government.

We have been working as hard as we can. I wish I could report to the Senate that Senator Chiles with the Democratic ad hoc group and myself with the Republican group had reached accord. We have not. In spite of our hard work we still have a number of items which we do not agree on.

We have not yet reached a Gramm-Rudman-Hollings sequester fix which we are in total agreement on, much less the remainder of the package.

While I have hope that in the next 72 hours we may do that, I did want the Senate to know that we have not yet reached that accord and, as a matter of fact, we may not be able to. Nonetheless, we will continue to work. I wanted Senators to know that and the Record to reflect that.

I have no objection to the majority leader's unanimous-consent request with reference to bringing the debt extension bill up. Obviously, we must sooner or later bite that bullet one way or another and I have no objection thereto.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Senator, a very able member of the Budget Committee, the ranking member and former chairman.

I would say on behalf of Mr. Chiles that we are all very conscious of the fact that the debt limit expires at the close of this day but, as Mr. Domenici has stated, Senators on both sides of the aisle are working assiduously and are trying to reach agreements, understandings, and accommodations. I look forward with optimism to a favorable culmination of their efforts.

AUTHORITY FOR COMMITTEES TO FILE BILLS AND REPORTS ON MONDAY

Mr. BYRD. Mr. President, I ask unanimous consent that committees have permission to report bills and reports between the hours of 10 a.m. and 3 p.m. on Monday.

Mr. HECHT. There is no objection on this side of the aisle.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the Senate has, I think, done a good bit of work today. Twenty-seven amendments, to my count, have been disposed of and are no longer on the list that was on the desk of each Senator this morning.

Also, according to my count, there remains 36 amendments on that list to be disposed of on Tuesday. Some of those amendments undoubtedly will not be called up, but we are left with a very full calendar for Tuesday.

Mr. President, there will be a number of rollcall votes on Tuesday, the first to occur at the hour of 9 o'clock.

Mr. President, I ask unanimous consent that on Tuesday no quorum call be in order prior to the vote which is to occur at 9 a.m. under the order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, the Senate will convene at 8:15 a.m. on Tuesday next. Leader time will consist of 5 minutes, and all of that will be for the Republican leader.

The Domenici-Chiles resolution, Senate Resolution 245, will be taken up at around 8:20 a.m. The time on that resolution is not to exceed 15 minutes. That will be followed by 10 minutes under the control of Mr. SARBANES on Senate Resolution 250 having to do with the death of Walter Heller.

At 8:45 a.m., or thereabouts, the Senate will proceed to consideration of the Byrd-Danforth amendment under which there is a time limitation of 10 minutes to be equally divided. That amendment has to do with the Japanese purchase of United States planes. A rollcall vote has been ordered thereon with no quorum call in order prior to the beginning of the rollcall vote. So all Senators are on notice that there definitely will be a rollcall vote on Tuesday at 9 a.m. I hope that Senators can be prepared for that rollcall vote to be here early so as to avoid taking more than 15 minutes hopefully on the vote.

RECESS UNTIL 8:15 A.M. TUESDAY, JULY 21, 1987

Mr. BYRD. Mr. President, I inquire of the able acting Republican leader, Mr. HECHT, if he has any further statement today or any further business he wishes to transact.

Mr. HECHT. I thank the majority leader. There is no further business.

Mr. BYRD. I thank the Senator.

Mr. President, if there be no further business to come before the Senate—and I thank my good friend, the Presiding Officer, Mr. LAUTENBERG, for his patience and equanimity, and understanding, for the service he is rendering but particularly for his diligence at this late hour and also compliment him on the manner of his presiding over the Senate with a degree of skill and dignity and great aplomb—I move in accordance with the order previously entered that the Senate stand in recess until 8:15 a.m. on Tuesday next.

The motion was agreed to and the Senate, at 7:22 p.m., recessed until Tuesday, July 21, at 8:15 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 17, 1987:

DEPARTMENT OF COMMERCE

Gerald J. McKiernan, of Connecticut, to be an Assistant Secretary of Commerce.

DEPARTMENT OF TRANSPORTATION

B. Wayne Vance, of Virginia, to be general counsel of the Department of Transportation.

Dale A. Petroskey, of Michigan, to be an Assistant Secretary of Transportation.

T. Allan McArtor, of Tennessee, to be Administrator of the Federal Aviation Administration.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

THE JUDICIARY

Larry J. McKinney, of Indiana, to be U.S. district judge for the southern district of Indiana.

DEPARTMENT OF JUSTICE

Charles F. Rule, of the District of Columbia, to be an assistant attorney general.

David F. Levi, of California, to be U.S. attorney for the eastern district of California for the term of 4 years.

HOUSE OF REPRESENTATIVES—*Monday, July 20, 1987*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Gracious God, just as we express our thanksgiving for all Your gifts to us, we place before You our petitions and pray that You will minister to us in the depths of our being. If our petition is for health, so grant us wholesomeness and strength for the day; if our petition is for courage, enable us to stand for truth and speak with an honest heart; if our petition is for comfort, grant us Your peace. Hear us, gracious God, we pray. Amen.

THE JOURNAL.

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

EGYPT'S STUDIED INSULT

(Mr. LANTOS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LANTOS. Mr. Speaker, as a long-time friend and supporter of Egypt, I was appalled to learn that the Government of Egypt has just issued a formal invitation to the discredited Nazi, Kurt Waldheim, to make an official visit to Egypt.

If Egypt is interested in substantive discussions with Austria, it could invite Austria's distinguished head of government, Chancellor Vranitzky, who just concluded a most successful visit to the United States. The invitation to Waldheim—who is a figurehead and plays no substantive role in the Austrian Government—is a studied insult to the United States and to all who abhor the despicable Nazi regime.

The climate for an international conference on the Middle East at this time was gloomy and doubtful at best. This deliberate gesture of calculated hostility can only serve to sour relations all around.

I am writing to Secretary of State Shultz urging that our Ambassador to Cairo be recalled for consultations. I invite all of my colleagues in the Congress to join me in expressing our dismay and disappointment in this gratuitous insult by Egypt.

LEGISLATIVE AND EXECUTIVE COOPERATION

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, this past weekend, the headlines screamed, "Republican Senator Favors Pardon for North and Poindexter: President May Seek More Contra Aid: North Testimony Helps Raise Public Support for Contras."

On the pardon issue, it is flatout inappropriate for any politician to inject himself and influence judicial proceedings before they are concluded. The criminal inquiry has to be played out. Members of both parties would do well to do the following: To keep quiet.

On the Contra aid issue, it appears that the President has decided not only to again propose Contra aid, but to increase the request after Colonel North's testimony. In justifying the aid the President also tells us that the Contras have finally gotten their act together and that they are making some military headway.

The point of all of this exercise is that Ronald Reagan has made a decision. That decision is to come out swinging at the Congress just as if we were all Sandinistas. On the budget, on military spending, on revenues, on the Persian Gulf, and now again on the Contras, goodbye to negotiations and cooperation.

At a time when our Nation desperately needs healing and unity and bipartisan cooperation between the President and Congress, Ronald Reagan has chosen to be Rambo instead of a leader and peacemaker.

SUNDRY MESSAGES FROM THE PRESIDENT

Sundry messages in writing from the President of the United States were communicated to the House by Mr. Saunders, one of his secretaries, who also informed the House that on the following dates the President approved and signed bills and joint resolutions of the House of the following titles:

On June 3, 1987:

H.R. 1846. An act to make certain technical and conforming amendments in the Higher Education Act of 1965, and for other purposes.

On June 16, 1987:

H.J. Res. 280. Joint resolution to observe the 300th Commencement exercise at the Ohio State University on June 12, 1987.

On June 18, 1987:

H.J. Res. 283. Joint resolution recognizing the service and contributions of the Honorable Wilbur J. Cohen; and

H.R. 1947. An act to amend title 5, United States Code, to provide enhanced retirement credit for U.S. magistrates.

On June 23, 1987:

H.J. Res. 106. Joint resolution to designate June 19, 1987, as "American Gospel Arts Day."

On June 25, 1987:

H.J. Res. 17. Joint resolution to designate the third week in June 1987 as "National Dairy Goat Awareness Week"; and

H.J. Res. 178. Joint resolution designating June 25, 1987, as "National Catfish Day."

On June 29, 1987:

H.J. Res. 284. Joint resolution designating the week beginning June 21, 1987, as "National Outward Bound Week";

H.R. 2100. An act to designate the border station at 9931 Guide Meridian Road, Lynden, WA, as the "Kenneth G. Ward Border Station"; and

H.R. 2243. An act to designate the Federal Building located at 10 Causeway Street, Boston, MA, as the "Thomas P. O'Neill, Jr., Federal Building."

On June 30, 1987:

H.R. 191. An act to authorize the establishment of a Peace Garden on a site to be selected by the Secretary of the Interior.

On July 10, 1987:

H.J. Res. 181. Joint resolution commemorating the bicentennial of the Northwest Ordinance of 1787;

H.R. 626. An act to provide for the conveyance of certain public lands in Cherokee, De Kalb, and Etowah Counties, AL, and for other purposes; and

H.R. 2480. An act to extend temporarily the governing international fishery agreement between the United States and the Republic of Korea, and for other purposes.

On July 11, 1987:

H.R. 1827. An act making supplemental appropriations for the fiscal year ending September 30, 1987, and for other purposes; and

H.R. 2166. An act to amend the Small Business Act and the Small Business Investment Act of 1958.

On July 17, 1987:

H.R. 436. An act to designate the Federal Building and U.S. Courthouse at 316 North Robert Street, St. Paul, MN, as the "Warren E. Burger Federal Building and United States Courthouse."

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

The SPEAKER pro tempore (Mr. LANTOS) laid before the House the following communication from the chairman of the Committee on Public Works and Transportation; which was read and without objection, referred to the Committee on Appropriations:

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Committee on Public Works
and Transportation,
Washington, DC, July 8, 1987.

Hon. Jim Wright,
The Speaker, House of Representatives, Washington, DC.

Dear Mr. Speaker: Enclosed are corrected copies of two Committee Resolutions that were originally forwarded to you as part of the packet of resolutions by the Public Works and Transportation Committee on June 12, 1987. Please note the correct funding authorization approved by the Committee and make the appropriate substitution.

Every best wish,

Sincerely,

James J. Howard,
Chairman.

There was no objection.

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

Washington, DC,
July 16, 1987.

Hon. Jim Wright,
The Speaker, House of Representatives, Washington, DC.

Dear Mr. Speaker: Pursuant to the permission granted in Clause 5 of Rule III of the Rules of the U.S. House of Representatives, I have the honor to transmit a sealed envelope received from the White House at 3:30 p.m. on Thursday, July 16, 1987 and said to contain a message from the President whereby he transmits the Sixteenth Annual Report of the Council on Environmental Quality.

With great respect, I am,

Sincerely yours,

Donnald K. Anderson,
Clerk, House of Representatives.

ANNUAL REPORT OF THE COUNCIL ON ENVIRONMENTAL QUALITY—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Merchant Marine and Fisheries:

(For message, see proceedings of the Senate of Friday, July 17, 1987, at page S10200.)

ANNUAL REPORT RELATING TO DEVELOPMENTS DURING 1984 PURSUANT TO AUTOMOTIVE PRODUCTS TRADE ACT OF 1965—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means:

To the Congress of the United States:

In accordance with the Automotive Products Trade Act of 1965 (Public Law 89-283), I transmit herewith the nineteenth annual report relating to developments during 1984.

Ronald Reagan.

The White House, *July 20, 1987.*

ANNUAL REPORT OF NATIONAL SCIENCE FOUNDATION—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Science, Space, and Technology.

To the Congress of the United States:

I am pleased to send to you the annual report of the National Science Foundation (NSF) for Fiscal Year 1986. This report describes research supported by the Foundation in the mathematical, physical, biological, social, behavioral, and information sciences, in engineering, and in education in those fields.

Achievements such as the ones described in this report are the basis for much of our Nation's strength—its economic growth, military security, and the overall well-being of our people.

We face international challenges in science, engineering, and technology, but I am confident about our ability to meet those challenges. NSF has been and will remain a key part of the national effort to keep vital our great capabilities in research and productivity and to stay ahead of world competition through innovation and new discoveries.

I commend the Foundation's work to you and hope you share my enthusiasm for the outstanding work it describes.

Ronald Reagan.

The White House, *July 20, 1987.*

THE U.S. DEFENSE ESTABLISHMENT: TIME FOR CHANGE?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Missouri [Mr. Skelton] is recognized for 30 minutes.

Mr. SKELTON. Mr. Speaker, last week I was asked to attend a conference here in Washington and discuss whether the time for change within the U.S. Defense Establishment had arrived. The topic is somewhat out of date, because much change has already taken place over the past 5 years. The Goldwater-Nichols Department of Defense Reorganization Act of 1986 and the President's Blue Ribbon Commission on Defense Management, better known as the Packard Commission, have signaled such change.

Today, I will describe the truly significant modifications that have taken place over the past 5 years with respect to the U.S. Defense Establishment. I will also try to give an idea of what changes can be expected as we look to the future.

Defense reorganization as an issue goes back over 40 years, to the McNarney plan of 1944 and the subsequent integration of the services in the Department of Defense as part of the National Security Act of 1947.

The genesis of the Goldwater-Nichols Act of 1986 can be directly traced to calls for fundamental change issued in 1982 by Gen. David Jones, Chairman of the Joint Chiefs of Staff and Gen. Edward "Shy" Meyer, Army Chief of Staff. Both these articulate men called for fundamental changes in the operation of the Joint Chiefs of Staff [JCS] while still on active duty.

Soon thereafter, hearings began in the spring and summer of 1982 by the Investigations Subcommittee of the House Armed Services Committee. It was to become a long laborious process that soon looked at more than simply changes in the operation of the JCS.

□ 1215

Reorganization of the military became such an important matter that it could not be left to the generals. I introduced my own bill in 1983 after a close consultation with a number of experts, including Gen. Maxwell Taylor who went over the bill I introduced line by line.

The Senate was slow to deal with the issue until Barry Goldwater became chairman of the Senate Committee on Armed Services in January 1985. He and the ranking minority member at the time finally gave the issue the attention in the Senate that it had lacked. The changes brought about by the Goldwater-Nichols Act, 4 years after the call for change by Generals Jones and Meyer were the most significant changes in defense organization since the creation of the Department of Defense by way of the National Security Act of 1947. Our whole effort can be summarized by wanting to insure that the services think "jointly," plan "jointly," train "jointly" so they can fight "jointly" and win. Let me now go through a description of the significant changes enacted last year that are now being put into effect. First, the Chairman of the Joint Chiefs of Staff was designated the President's principal military adviser. Previously, the title of principal military adviser was held collectively by the Joint Chiefs of Staff and as such any advice given the President reflected the compromised views of the Chairman and the four military service chiefs. The four services, in effect, wrote the plans and budgets, after logrolling that led to the lowest-common-denominator positions. Now the Chairman, the only member of the Joint Chiefs with no service responsibilities who by the nature of his position reflects the joint multiservice perspective, is able to give the independent military advice and planning that cuts across service lines. The greater role envisioned for the Chairman now includes giving him specifically the responsibility for developing strategic and contingency plans and budget proposals. This responsibility was formerly held by the corporate body of the Joint Chiefs of Staff.

Second, to help the Chairman of the Joint Chiefs carry out his new duties, the Goldwater-Nichols Act gave him control over the Joint Staff, the group of about 400 staff officers that had previously assisted the Chiefs as a body. Today the staff helps him in much the same way that each service chief has the resources of his own service staff. Make no mistake about this, it is a significant increase in the authority, in the power of the Chairman to do the job that he has been given. Third, the act also created the new position of Vice Chairman of the Joint Chiefs of Staff. The Vice Chairman and today that is General Herres, serves as Acting Chairman in Admiral Crowe's absence and carries out whatever duties the Chairman assigns him. Once again, just as each service chief has a vice chief, a trusted No. 2 he can rely on, so too the Chairman needs such a partner. And now he has him.

Equally as important as the changes increasing the authority of the Chairman were those measures that increased the authority of the 10 unified and specified commanders. The National Security Act of 1947 led to the creation of a series of commands, for example, the European Command, the Atlantic Command, the Pacific Command and the Strategic Air Command, that would actually do the fighting in any future war. The services were to recruit, train and arm the troops and then turn them over to the commanders in chief, the CINC's of the unified commands who would direct the actual combat operations.

Prior to the enactment of the Goldwater-Nichols Act, the service chiefs determined the heads of each service component under a commander in chief. This meant that the component commanders, the Army, Navy, and Air Force commanders working for the CINC were subordinate to the CINC only in a nominal sense. The actual lines of authority ran back to the service chief back in Washington who controlled their rewards and punishments, including promotions.

Today this is no longer true as a result of the changes signed into law last year. Now each unified commander has veto power over his subordinates for the first time. He also has control over all aspects of military operations, interservice training and supplies. As in the case of the Chairman of the Joint Chiefs of Staff, more authority, more power was given to the CINC's in order to let them do the job originally envisioned for them.

Possibly the most significant and definitely the most contentious changes found in the Goldwater-Nichols Act were those in title IV. They required the Secretary of Defense to establish an occupational category for officers involved in joint operations. In the past, officers detailed to joint duty, for example those working on the Joint Staff at the Pentagon, or working on the staff of a unified commander, were subject to pressures from their services to conform to service policy. Promotions, future duty assignments and other rewards were all controlled by the services. An officer serving in the joint arena promoting a policy at variance with his own service's interests ran the risk of putting himself in jeopardy at promotion time. As a result, it was not hard to understand why bright, ambitious officers sought duty on their own service staffs rather than on the Joint Staff, serving in a joint billet could prove hazardous to their careers.

To break that reality, the Goldwater-Nichols Act included a number of provisions designed to strengthen the appeal of serving in the joint arena. It created a group of joint specialists whose primary duty will be joint operations. To protect their promotions, the service boards considering these officers must include at least one officer with a joint speciality who will be named by the Chairman of the Joint Chiefs of Staff. Even more important, the Chairman will review all promotion board actions involving joint officers and will have the power to change the lists if he believes a service is seeking to punish an officer serving in a joint duty assignment.

The act also calls for the Secretary of Defense to designate at least 1,000 critical joint duty assignments that must always be filled by joint speciality officers. The act requires that an officer may not be selected for the joint specialty until he completes a joint education program and a full joint tour. These and other provisions in title IV show the importance given by Congress to improving the "joint," multiservice perspective.

It is not hard to understand why the services fought this provision so strenuously. The viewpoint of the "joint" perspective has been strengthened at the expense of the powerful service role. And this is the portion of the Goldwater-Nichols Act that does the most to tilt the balance of power from the uniservice perspective to the joint, multiservice perspective.

DOD REORGANIZATION 9 MONTHS LATER—A PRELIMINARY EVALUATION

So how do things stand 9 months after the Goldwater-Nichols Reorganization Act became law? First of all, it's too early to come up with a real evaluation, a real verdict on whether or not the reorganization effort symbolized by the Goldwater-Nichols Act has succeeded. We probably won't really be able to tell for another 5 to 10 years, until some of those wedded to the old system, the generals and admirals of today, are gone. It is today's majors, lieutenant colonels, and colonels—maybe even more so the lieutenant commanders, commanders, and captains—who will ultimately determine the success of the reorganization.

PERSONAL OBSERVATIONS

But let me give you some personal observations.

There are already some indications that things are working out well, maybe better than expected. Over the past 9 months I have taken a number of trips to a variety of military installations and have received positive comments.

DEFENSE DEPARTMENT CONCERNS

On a more formal level, the Investigations Subcommittee of the House Armed Services Committee has been holding a series of hearings this spring on the implementation of the DOD organization act by the Defense Department. We have taken testimony from Secretaries Marsh, Aldridge, and Webb; Admiral Crowe, the current Chairman of the JCS; the four service chiefs, and others.

I would like to summarize the main concerns of those who have come before the Investigations Subcommittee, and those concerns focus on title IV, the title of Reorganization Act dealing with joint officer personnel policy. The five concerns of the services as voiced by Admiral Crowe include:

First, shortening joint duty tour lengths;

Second, allowing the Secretary of Defense to waive the present sequence of having joint schooling first to be followed by joint duty assignment;

Third, loosening the requirements to track promotion rates of officers who have served in joint duty assignments;

Fourth, permitting approximately 250 billets in the four armed services headquarters to be included as joint duty assignments; and

Fifth, giving special consideration to career management problems of officers with critical combat operations skills, such as Navy nuclear officers.

As you can imagine, the Defense Department has already drafted legislation to rectify these problems. If truth be told, there is merit to some of their concerns. I firmly believe, as I know some of my colleagues do, that those officers who planned their careers under one set of rules must be grandfathered so they are not unfairly disadvantaged under a new set of rules.

The next few years will be a transition period. And in the legislation we crafted last year, we put in a provision, a waiver, for the Secretary of Defense to use over this period. It allows him to exempt officers with critical combat skills, such as Navy nuclear officers, from the school sequencing requirement. Before we go about changing last year's legislation those of us who championed the issue of reorganization want to see full implementation of the Reorganization Act. If after it is put into effect, and problems can be documented, I am fairly confident that we would be more amenable to making changes. After all it is only 9 months since the bill became law.

LOOKING TO THE FUTURE

Looking to the future, I think I can make the following predictions with a fair amount of confidence. Congress will continue to monitor the efforts at implementing both the Goldwater-Nichols Reorganization Act and the recommendations of the Packard Commission. This oversight role is probably the most effective role played by Congress. Having key administration officials come over to Capitol Hill and testify is one way to get them to pay attention to an issue, any issue, be it toxic waste or defense organization.

On other defense matters, I think it can be accurately stated that the national consensus on defense that Ronald Reagan rode to power in 1980 has now disintegrated, the victim of annual $200 billion budget deficits over the past 6 years.

The truth of the matter is that the Reagan defense buildup is over. It has been for 2 years now.

□ 1230

The administration requested a reasonable level of growth for defense this year, 3 percent after inflation. While the defense needs of the Nation call for such an increase, the current budget crisis we face simply will not permit it. We will be doing well just to maintain current spending levels after inflation.

As a result, in an era of tight budgets, Department of Defense priorities will have to be rearranged. Those priorities of the past few years, research and development and procurement, will give way to the readiness accounts, personnel, and operations and maintenance. And this will be the pattern followed over the next few years. The two Armed Services Committees are quite aware of the conditions that led to the "hollow" army of the late 1970's. That is why we are determined to protect personnel and operation and maintenance accounts.

I think we should be aware of some other changes taking place today. Today, in the 1980's, there are three key actors in the defense drama: the Pentagon, the defense industry, and Congress. From a passive role 25 years ago, Congress has now embarked upon a quite active one. This is the result of two traumatic events in recent American history, Vietnam and Watergate.

Over the past two decades Congress has become more involved in scrutinizing defense budget requests. Congress has an important role to play in helping to resolve some of the more difficult problems in the area of defense. However, those of us in Congress have to be honest with ourselves in admitting that Congress contributes to serious problems in defense matters. There is a greater realization on the part of many of us that we in Congress have to clean up our own act. While the tendency to point fingers at the Pentagon and at defense contractors has its benefits, the credibility of Congress is undermined when Members appear unwilling to admit that they contribute to the problem, too.

One of the most important struggles going on now is the effort on the part of the Armed Services Committees of the House and Senate to reestablish their primacy in the area of defense. It will be a long effort to convince other Members and other committees that the Armed Services Committees are serious about overseeing the Department of Defense. Many of the senior members of the two Armed Services Committees came on the committees in the era of strong committee chairmen, when the committtees were much less disposed to question the executive branch and the Department of Defense.

However, a new generation of Members is coming into its own, and they are quite eager to come to grips with the many issues that are involved in defense. Congress would do itself well to allow its own experts, those Members who devote the greater portion of their duties to defense, to take the lead in overseeing the workings of the Defense Department. This would be the middle course to take: neither excessive reliance on the executive branch nor excessive congressional interference that has been the norm since Vietnam.

We in the Congress have our challenges set out for us. Because of Congress, much has been done to reorganize the Department of Defense, but we should not stop there. We must make sure that what we have done works, and we must reaffirm our own role in the scheme of things.

Mr. Speaker, I yield back the balance of my time.

IN DEFENSE OF MY HONOR, INTEGRITY, AND COMPETENCY

The SPEAKER pro tempore (Mr. OLIN). Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, I rise to continue what I call "in defense of my honor, integrity, and competency" as a Member of U.S. House of Representatives representing the 20th Congressional District of the State of Texas, which today consists of most, but not all, of the city of San Antonio, TX, but which for the first 8 years of my almost 26 years of service here consisted of the entire country. In fact, I had the honor of representing the second largest or the most numerous district in those 7½ or 8 years in the Congress before the implementation of the Supreme Court decision of 1962 of one man-one vote, the phrase that popularly designated that great decision of the Supreme Court. And I am certainly one of those that welcomed it, because I had the second largest number of citizens in any given congressional district to represent, but I was given the same budget as my next-door neighbor who had less than 300,000 to represent.

So I for one was grateful for that decision because it has at least partially enabled those of us attempting to fulfill this role of representation to carry out our duties, which is a tough role, especially if one really seeks to be worthy of that descriptive honor, "Representative," particularly in districts such as mine that have all of the social, ethnic, racial, and economic complexities on a microscopic scale that you find on a larger scale in the Nation or in the State of Texas as a whole.

So I have, through the course of my stewardship granted by these great citizens every 2 years, endeavored to first of all predicate my role on the basis of absolute, total, and complete honesty and candor, both as to the discharge of the public duty and to the personal discharge of this duty in association with this name and title of "Representative"; second, on another basis of efficiency to the best of my God-given endowment as a human being; and, third, with dignity and with respect. I think that begins with self-respect, and that is why I put those first two categories in first.

These are the three fundamental premises that, once I found myself involved in seeking public elective trust, I decided would be the only tenets upon which I would base my role, and none other. As I have said on previous occasions, I had never intended or planned or ambitioned to be in politics or to seek political office. And that, of course, goes back to the world in which I grew up and into which I was born at that time in San Antonio's development, which has yet to be written historically, for it was at that time a country in exile within a city, and I was born into a family of what today would be called refugees but in that day and time were just called hordes of "Meskans" coming in to eat up the substance of the country. So in that context I grew up, and naturally it was expected that it was a question of time and process that one would try to identify and discover wherein one belonged. And that was a very, very long sojourn. Were it not for the intervention of the war, tragic as it was and costly as it was, but it did tumble barriers so that my emergence into politics was in that vein of one of the first bearing a name such as mine to break through the then tightly controlled and still to a certain degree tightly controlled political, social, and economic curtain that existed in our home society.

So I have reported that as a Member of this body and, therefore, am charged with the responsibility of not only defending my own honor and integrity but that of the body to which I belong, because under the Constitution the only privileges and immunities existing in the Constitution are reserved for those members of the representative branch of the Government. They are provided for in the Constitution, and it was provided for in the tradition of the Mother Parliament, the English or the British Parliament. Through experience, it was known that the executive and the king would try to intimidate members by arrest, false and otherwise, or by threat and coercion of the economic type, so they learned that one of the basic constitutional provisions in that form of English constitution was that no member would be arrested elsewhere for anything said in the course of debate or proceedings of that great Mother Parliament.

We have that in our Constitution, and in Article I, section 6, there is a very short phrase. Nevertheless, earlier this year, to be exact, on May 4, the local State district attorney saw fit, after 5 months of what apparently, from his description of it, were agonizing considerations, to file a charge of simple assault, and as classified in, Texas jurisprudence, criminal jurisprudence, a simple assault, class A, resulting from an encounter that was widely publicized that occurred last December 4, 1986, at a restaurant that I had been using or attending as a guest for almost 40 years and which I have used considerably in last few years.

In fact, on December 4, I was there hosting two very great and honorable constituents. One was a retired sergeant major who had served in the Army for 30 years and 7 months with great honor and heroism, both in Korea and Vietnam, and whose retirement ceremony I could not attend, though invited, at Fort Sam Houston, which is located in the very center of my district, on October 17 last, because we were in session here. When the House is in session, for the past 25½ years I have made it a point to be here. So my record of attendance is 99.9 percent. That one-tenth of 1 percent occurred when my mother was dying and in a coma, and certainly no power on Earth would have kept me from her bedside.

I say that because, given the years that I have served, 3 years on the city council level in a public elective capacity, 5 years on the State senatorial level—and each one of these was considered a breakthrough at the time—and actually going back to my first public job, in fact I accepted it on the basis that it would be nonpolitical, and that was as assistant and eventually chief juvenile probation officer for Bexar County Juvenile Court. That occurred at a time during which I was so pleased and so satisfied, because in all of the nearly 35 years in public elective office I consider those 4 years, serving in juvenile court, as the most satisfying and most inspiring years and the ones that educated me, because those years were the equivalent of three or four college degrees.

But it also revealed to me the nature of the world into which I had been born, and actually before that I had not much realized certain things. So when the district attorney filed these charges, he in effect did so only because 2 days prior to that I had called him a despicable moral and political coward, because when the record is established—and it will be soon—it will show that the filing was made in a court presided over by a judge who has a history of great political animosity toward me and who has revealed through actions and words that that process to this date is still there. So that the filing and the setting of the hearings were made for preliminary hearing next month, the so-called trial or hearing on August 24.

Now, here is a district attorney in a judicial system known as the Bexar County judiciary on the State level, besieged by clogged court proceedings. And every single judge on the county level, on the district level, and on the appellate level constantly complains about the clogged agendas and how the county is beset by crimes, many of which have to this day have not even clarified or cleared or even the culprit found for capital cases, including murder.

☐ 1245

There are now pending in the records of Bexar County over 15 yet to be solved homicides, murders, young women disappearing totally, obviously murdered, and others whose bodies have been found, but whose murderers have not.

Yet, here is a district attorney taking a case which there is no record in the annuals of Bexar County jurisdiction, or I doubt anywhere in Texas, where a simple assault case of this nature would be filed on a district or county level.

If so, every single barroom fight, every single brawl, every single street encounter would be clogging beyond repair the agendas and the dockets of these courts, so that usually these are police court matters, municipal court matters, or the justice of the peace court, so the district attorney kept complaining to all who would listen that it would have been no problem for him, even in the beginning, except for the fact that he was under great pressure from the newspapers.

The newspapers in San Antonio are something else. They are both absentee-owned. One is a Rupert Murdoch publication now; the other is a Hearst publication.

Also, to complicate those of us serving strictly on a local level, and being really the only local voices over which the people have any control, every single means, whether it is radio or television are all absentee-owned in San Antonio, so that plus the fact that we still have the last vestiges, the only city I know in the entire United States, or for that matter, I guess in the English-speaking world, that still has in its most intimate and important activity such as the utility, the old rotten borough system where the people do not have any direct control of this great monopoly, the monopolies that have the power to ration the water, the light, the gas which in today's context of urban living is as necessary as the oxygen we must have to live with; and yet, those lone voices such as mine that I raised on the city council for the first time, and after 3 years of bitter struggle in which attempts were made to frame me, scare me off the city council, physical assaults and threats such as a car coming up as I was parking my car in the back alley of my house at that time.

Somebody fired three .38 shots into the garage door. I mean, it was impossible to have missed me, so obviously the intention was to frighten and to scare me, and I guess this is where those who bemoan the fact, and there are still those that, from the beginning, think that I served too long from the very day I got elected, and unfortunately for me, those are powerful forces in my community.

They have great control over the opinion-molding processes. They have total control of the economic life of San Antonio.

While all these entities talk about the progress of San Antonio, and actually look to me as one of those that first broke through, my county was considered the most conservative county in the whole English-speaking world, not the United States only. It was my county that gave the State delegation that went to the State capital of Austin, TX, and formulated the 17 different acts that were the most militant against organized labor in the history of any English-speaking-world legislature.

Fortunately, it took some years, but at least even the Texas Supreme Court declared most of those acts unconstitutional, though some are still on the books. They came from my county.

One bill would punish by death anybody proclaiming to call himself a Communist. Fortunately, that did not get enacted, because they had enough common sense over in the State senate; but I am giving this as an example of what has come out of my county, so that when I won election to the State senate in 1956, which was totally unexpected—I did not expect to win, and nobody else expected me to win with no organized support—the reason I was able to win against the man that was considered unbeatable, and this is why I tell all and sundry, there is no such thing in our country as an unbeatable incumbent, thank God for that, because I would not be here if the people had not freely chosen me, and at that time those who still today interpret that victory as having been because of the minorities overlook the fact that in Bexar County, and in San Antonio, our Texans and fellow Americans of black descent have never constituted much over 7½ percent of the total.

The so-called Hispanic now, but which has been called variously Latin American, this is what it was 30 years ago, and now it is Hispanic, anything to keep it from being called Mexican, which it really is, Mexican-American, although I abhor hyphenated Americanisms, and I have abhorred this all along.

I have never traded on racism or ethnicity. I am the only one with a name such as mine that has stood up and fought against what I have called reverse discrimination.

At a time when it certainly was not any more popular to say that in 1970, 1971 and for which I almost got killed, of all places in Boulder, CO, and I did not see any civil liberties people. I did not see any of the ethinic or racial minority civil rights groups protesting that, and it did not make any difference, because here I am still elected a public official in a free, open election as to the dictates of those citizens who take their duties seriously.

Fortunately, those are the overwhelming majority around so that I rise because when the case was filed, the first thing that this county judge did was to issue a gag order prohibiting any discussion, so I took to the House floor, because yes indeed, the newspapers had indeed reported the whole thing in such a way that my side of it, and the incidents leading to the exact point of violence were never detailed, because the question was not asked of me by the reporters.

At least when I answered, they did not print it. For example, "Why were you motivated? Were you incensed because of not only an insult but something else?" No, all they wanted to know was, "Is it true you struck the man?" So they never once explained the reason; and who, reading the papers would know that what they were reading was a result of this other individual having gone to the press?

I did not go to the press; he did.

It was his version and what he said was not true. That is after 1 week when he changed his story. His first expressions were, well, that old man cannot hit. Why, he hit like a women slapping.

Lo and behold he said 10 days later, no, I suffered injury to my left eye, when I never hit him on the left eye.

So it has been interesting because what I decided in my own mind and heart and soul was, well, let us see where this goes, just like in 1954 when the attempt was made to try to frame me and scare me off the council.

Incidentally, this effort was done in cahoots with one of the members at that time. It took the other paper to actually follow this up, because I did not have the means. I was all alone. The reason was that there has been a tremendous rivalry, in fact hatred between the two newspapers all along, all through history. Both of these papers had the nerve and the unmitigated gall, just last year, and 2 years ago, to say there was a division among the delegation now sharing the representation of the county.

As I said earlier, for the first 8 years I had totally that responsibility myself. In the State senate I was representing the State Senatorial District 26. The district was the whole county at the time. It takes three of them now to look after that county.

On the city council I had to run citywide. Today you do not. You have districts. I ran citywide however.

Yet the people with no particular source of supply, and I ran with a total expenditure of $750 of which $250 I borrowed in 1955 and the only member of that city council who got reelected and the first member of the city council under this form of government who was elected as an independent in 1955, and in 1956 I resigned and announced to run for the Senate.

What was the picture? The picture was that you had less than 113,000 qualified electors. Of that number, if you put both the racial as well as the ethnic minority together and the qualified electors from those two groups they would not have constituted 10 percent. So how could I have been elected after three recounts, three recounts, by 309 votes?

Well, it was because who ought to know better, but really are not in contact with the people. Every one of them I know do not go out and report anymore, they sit in their offices and pick up the phone and use their computers and form the copy. It used to be the reporter would go out, come back and henpeck or make his report. Not now.

So they get up in the morning in their nice affluent neighborhoods, get in their cars, come to their office and at 5 p.m. they go back home. If they were just to take a little detour and go over to the less affluent areas, and talk to some of those people, they might have found out what is going on in their own backyards which is not good in the long run for them.

Just like nationally today; it is not good for the future well-being of our society. That is why I was entitling this special order today, continued or sustained defense of my honor as a Member of Congress and my free advice to the privileged orators which I have labeled in prior discussions, includes Members of the Congress because today Members of the Congress are an elite. Economically we are in the upper 9 or 9½ percent. Then 400, and now 535 out of 242 million Americans; that makes us an elite. We are charged with what is, especially in the House of Representatives, charged with 2-year terms. We are charged with being as close to the constituents as this office was intended to be because this is the only office of constitutional prime importance over which the people have or should have a direct sense of control, or at least access, but the name of the game today is preferential access to this office. This is why we have million dollar campaigns for this office. If that had been demanded of me I would not be here today. If the American people were as racist as these false leaders like to picture them I would not be here today.

That is why I rise and defend, because to me the visit this last weekend to Philadelphia which, let me say to my colleagues, and I always address my colleagues, and I have been using special orders since the first week I came to the Congress and was sworn in in January 1962. Sure, they are televised now but I address for the Record in this case for those interested who want to read it, and in this case today of television, to those that are in closed circuit offices watching and listening in their offices. A survey shows that some 60 to 70 percent do that faithfully in their offices. So that to them and to you, my colleagues, I address the remarks because as I said in my last speech we are involved. I am not out here alone and I would not dare take the time anymore than I did for 2 years take this House floor and talk about the assassination of the Federal Judge John Wood who incidentally was the first and the sole Republican appointed during the Nixon administration, but who gave a hoot.

I did not see the newspapers editorializing about solving that murder or even starting to. I did not hear them editorialize before that about the attempted assassination of the assistant district attorney for the western district, James Kerr.

I did. I spoke for 5-6 months on the necessity for the Federal officials to control what I called King Crime because it was organized crime at the basis of those murders. That was the real cause and the real culprits behind the scenes who have yet to be caught up with our country.

King Crime remains supreme and naturally I spoke for 2 years, but I was apprehensive; that is why I spoke for 6 months in the case of the Assistant District Attorney James Kerr.

Oh, yes, he called me privately, but back home there was not anybody. In fact, I got criticized and laughed at. That is exactly what I am talking about today.

In the San Antonio Light last week a columnist, Susan Jerkey, Yerkes, I would say it rhymes with "turkey," has something that I think is very important because it quotes this judge, this overreaching judicial power who wants to gag but who wants to have his right to discuss the case over which he is supposed to be presiding next month.

I am going to read for the benefit of those of you hearing me, what that says:

> Good ol' Henry B. still is making his "special orders" speeches on C-Span T.V., and Judge Tim Johnson is scheduled to preside over Gonzalez's day in court next month, checks in on the broadcasts from time to time.

I am pleased, after I have been ridiculed by editorials, by columnists, and I said 2 weeks ago here and placed them in the RECORD for your own examination, that they are admitting that they take the time to listen to this. So, Judge Johnson, I hope, sir, that just like it took you 2 weeks to read the Constitution and find out you could not gag me, I hope you realize that by you conceding this interview, you have revealed your massive, massive prejudice and bias.

I continue:

> Johnson reports that he was amused recently when during one of his speeches—

That is the last one—

> Gonzalez requested an entire copy of The Nation magazine be entered into the RECORD along with his speech.

Now let me say by way of parenthesis, no such thing has ever happened. I did enter an article appearing in the Nation because of its relevance to the subject matter I was discussing.

Then, notes Johnson, I continue reading and I quote, because this is the exact quote attributed to this rather twopence county judge:

> The clerk looked around at the empty House and said if there were no objections, it would be entered.

Here is a county judge presumably a graduate of a law school and one whom I presume, but I found out had not bothered to read the Constitution, saying that it was the Clerk of the House, whereas it was the President pro tempore, the Speaker pro tempore, the presiding officer at this moment is a Speaker pro tempore or pro tem. So that county judge is that ignorant. What does that reveal? What is the tone, the insinuation here?

Then the last sentence:

> We wonder if The Nation got any new subscribers out of that.

Well let me say to Mrs. Yerkes, and County Judge Johnson, I do not know whether they will or they will not, and I could care less, but the reason I entered that article is because it is the only one that has had the courage to print an article about the fundamental prime issue confronting us today. It is ironic that the fates would decree that almost 200 years later, because we have not lived under this system yet 200 years. We have had a celebration about this being the year of the Constitution, but we did not have our first Congress until March 4, 1789. I say to you, my colleagues, there is nothing that says that God has vouchsafed, that we will last until 1989 under this form as we know it and as we have it today, for we have a President that if he could and as he has tried in some cases through his Executive orders would be doing the same thing against Members of Congress as penny ante County Judge Tim Johnson would have done against me as one solitary Member of this Congress.

Of course, under the precedents and traditions, when the privileges and immunities of the House, not of me as an individual Member, but of the House are involved, then each one of us has the responsibility to address that issue in response not only to his own personal case, but to that involving the privileges and immunities of the House.

Now, why would the newspapers be so interested after looking for 30 years to see what they could hang on me? They looked high and low. I have had editors, I have had former mayors hire a total of seven different detective agencies trying to see what they could get on me and it was so stupid because I am not the one who has traveled around. I was born in San Antonio at 217 Upson Street and had it not been for World War II probably would not have gone much beyond Bexar County.

I have never been arrested for anything, including a traffic violation. As I said in the beginning, I have never had any confusion as to what is mine and what is the people's or somebody elses.

As the Latins used to say, I mean the real Latins, the Romans, the difference between the meum and the tuum, and I have never had any confusion as to that and this is why after 35 years in public elective office I can say with great pride and satisfaction, even though according to our standards of ethics in America, I am not much of one because of the size or lack of size of my bank account, but I am not either any richer and I am not any poorer than when I first got into politics.

☐ 1310

I could have had a choice of being an engineer because I studied engineering first, or an attorney, because I got my law degree, but chose not to practice law. And the reason was that my experience in the juvenile court forever, forever, made up my mind in that respect.

So where are we here today? It is intimately connected with this great visit we were privileged to make to Philadelphia this last weekend to commemorate the Constitutional Convention. So many newspapers reported the first Congress because this is the 100th Congress, but at the end of this Congress and the beginning of the next one will be the real commemoration of the 200th anniversary of the First Congress, and that will be March 4, 1989.

Where are we in America today? That is the issue. Will we at this critical juncture, will we reaffirm these basic principles or will we not?

I have been speaking out in the case of the assassination of the Federal district judge, John Wood, because it was the first crime of its kind in the history of the Federal judiciary. So I had criticism of what are you talking about. But what was my greatest satisfaction is when 2 years later in May at home I had a call, and it was from the Director then of the FBI, Judge Webster, who said, Congressman, I am calling you exactly 3 hours in advance before we announce the first four indictments in the case of Judge Wood. And the reason I am calling you is because you are the one that deserves the credit for having enabled us to have finally received the resources, and for having kept the case and the attention on the case alive over this difficult 2-year period.

What is my experience with the FBI? Very questionable, because in 1976 the FBI reported on October 30 that they had information of a $35,000 contract on my life. And then they would not give me any information, so it took 3 years and going through the Freedom of Information Act, and also the advent of Judge Webster, because his predecessor, Director Kelly, had refused. But Judge Webster said, yes, if you want to go through the Freedom of Information Act, we will be glad, and all you have to do is pay for the cost of the copying, which was $26.75. And lo and behold, here comes this massive document that shows that the FBI had a dossier on me since I was in the State Senate and was sharing the platform with then U.S. Senator Ralph Yarborough at what, the State convention of the AFL-CIO.

Then a note from the agent in charge in San Antonio to the Director, J. Edgar himself, stating Senator HENRY B. GONZALEZ, liberal Democrat, just elected yesterday to the Congress with Communist help. I could not believe it. If anybody has known of or has pointed out a live and kicking Commie in San Antonio, I have yet to know about it, or for that matter anybody else.

My campaign for the Congress had the same limitation of resources. In fact, the national Democrats could have cared less until 12 days before the election the Republicans announced they were sending ex-President Eisenhower to campaign for my opponent 3 days in a row, and both of my newspapers were against me. They supported my Republican opponent. And there he was, General Ike, in a military town, really, certainly a military retiree's town, on the front page in color with my opponent, because the Republicans thought that they could prove that the New Frontier was not taking, and since my race for Congress in 1961, a special election, was the first congressional race during the first year of John Kennedy's term, they were out to show that. Unwittingly, they made it a national issue. Like so many things that happen today, with all of these proceedings, Tim Johnson, Susan Jerkey, the editors of and the managers and business or publishers or whatever you want to call them, who would like nothing better than to prove that I am irrational, because I would dare introduce the lone impeachment resolution on March 5, would dare have introduced a resolution alleging in the case of the Persian Gulf the President's ongoing violation of the War Powers Limitation Act.

All I can say to you, dear judge and editors and publishers and everybody else in San Antonio, I hope you will read those resolutions and then find out what it is that I am enclosing and incorporating in those resolutions. I was here. I was one of the coauthors of the War Powers Limitation Act. Remember when we wanted to do something about twilight or Presidential wars, undeclared by Congress?

What do the American people think we have now? What do the American people think? That the Lord on high will forgive us our collective guilt for the murders and assassinations going on of innocent children, old men, women, in El Salvador, in Guatemala, in Nicaragua where the World Court of Justice has condemned us, convicted us, fined us? For what? For acts of terrorism against Nicaragua, mining their harbors, blowing up their public facilities, killing innocent peasants and women that would not know the difference between a typewriter and a Marxist-Leninist.

And I rose and spoke from the beginning when General Haig drew the line in January 1981 and revealed his abysmal ignorance, his misperceptions that the President reflects and so many, I hate so say this, of my colleagues in the Congress, and for which they are proscripting our generations to come, our grandchildren, our great grandchildren to an eternal hatred in the New World that I believe firmly God himself had different intentions for our discovering it, and to make it truly that place in which through example, and all we have to do in my book is just proclaim the American virtues. We have not been. We have been acting more like the tyrannical and authoritative dictatorships that we have reviled than we have in the American tradition.

But our record and particularly in Nicaragua is very, very abysmal, to say the least, for we have invaded that country nine times in all in 100 years. In just this century seven times. We have invaded Mexico just in the 20th century three times. And it is incredible that a President such as Ronald Reagan would throw us back to 1929 and Calvin Coolidge, who was the one that ordered the Marines into Nicaragua, and we occupied Nicaragua for 13 years until we established the National Guard and the Somoza regime and we held it up.

Who among my colleagues, who among the administration, spoke out during these years of the worst tyrannies, tortures, murders, homicides of this tyrant? Who was talking about freedom of the press then, freedom of religion? So to the world, I hate to say this to my colleagues, but the truth is that we are pictured in the literature and the press, that means the minds to those literate human beings that fate has said will share the New World with us, whether we like it or not we are a laughing stock, for while we mobilize millions of dollars in both wealth and armaments so where for the first time in this part of the world we have sown dragons' teeth, why we will sow and we will reap the whirlwind of consequent destruction sooner or later. It is inevitable.

We must regain our senses, but individually in the case of our leaders in the executive branch, and in the Congress as well as collectively, for I know that if the American people collectively knew all of the facts, all of the details, they would rise as one and say cease and desist. But that is not going to happen. We are on the verge, and this is my advice to the privileged orders, including my colleagues, we are on the verge of intervention in Nicaragua. The weather is becoming favorable to that kind of an excursion. The month of August is traditionally that one operational month, and we are beginning to see in the newspapers about the beginning of increased activities.

But all the time we say that we do not like that regime, that it is a Communist, a Marxist-Leninist regime. But we have an ambassador there proclaiming to the civilized world that we recognize it as the legitimate government. What folly. What contradiction. Why should we not be saved from being the laughing stock?

Then one of the first speakers today during 1-minute speeches addressed the question of growing hostilities in Egypt. That has been growing for some time. But my colleagues, you have 2,000 American warriors in the Sinai right now. I have been speaking out for 2 years about the peril they are in. They are hostages. They are hostages, yet how many of our fellow Americans know that?

Let me say, my colleagues, if what I fear easily can happen in that Sinai with almost 2,000 of our men there, vulnerable, exposed, and really hostages, happens, then it will be you, the Congress, not the Commander in Chief, because for the first time in the history of the House of Representatives and the Senate we mandated a military deployment.

This is why I rose to protest it in December 1982, when that resolution was approved. But who cares about those men? The only time you heard about such an operation was when the 248 soldiers that were being flown back in these makeshift, incredibly worthless craft for economy reasons, they tell us, crashed at Gander in Newfoundland. These were the men that were coming over for a Christmas vacation and died because we continued to subvert all but the best of intentions, economy, balanced budget, so-called, a practice that I have reviled since Vietnam since our soldiers were being transported in these private craft, and the armament was being transported in our military, safer craft. And the only way a soldier could ride in a military craft was in a body bag coming back dead from Vietnam, just like it is today. And I rose and spoke then. And it was not a Republican President, those who accuse me of partisanship. It was a great friend and neighbor, Lyndon Johnson, and I got the same reply when I made the inquiry of the Defense Department as I received just 2 years ago from the Assistant Secretary of State who said why, oh yes, even in time of war we will utilize 90 percent private craft, unregulated, just like such lines as the Southern Airline, the Aero Airline, because those are CIA operations. Yet they hold our regular Department of the Air Force hostage because, as in the case of the accident last October 7 at Kelly Air Force Base, which is in my district, the Air Force personnel have no control over the airworthiness of that craft.

☐ 1325

It has no control over the crew because it is private and the FAA is supposed to be but the FAA testified before our committees after the Gander disaster that they themselves were not equipped to regulate. So what it means is that the Congress continues to abdicate its constitutional responsibility. This is what we are supposed to be celebrating the 200th anniversary of Friday and this is why I say that God does not vouchsafe that we will preserve it until 1989. Only we, by working at it—and we are not because either through fear or though favor we do not want to exert the constitutional responsibility of hemming in, reigning in an unrestrained President whose own folly is unbelievable, as is the case of the 241 marines in Beirut.

I took this podium for 14 months to ask the President, "Mr. President, what is the mission of the Marines in Beirut?" Of course, this is the first President of the six I have worked with who does not answer a Congressman's letter. I first wrote him a letter and when he did not answer I then took to the floor.

I know that the Joint Chiefs of Staff, our prime, top military experts, had advised unanimously against the deployment of the Marines in Beirut under those circumstances. And yet the Commander in Chief willfully, calculatingly ignored it. Do you think I trust that judgment anymore?

Well, the polls say that maybe the American people do. I do not know. All I know is that I would never.

All history shows that this leadership, false as it is dangerous in dangerous moments to our country; what is he prepared to do now against the obvious overwhelming opinion of not only the Congress but the public? To put our whole flag and its might behind Kuwaiti oil tankers. Now what is a Kuwaiti oil tanker? Well, Kuwaiti has nationalized its oil industry. But the ones who market it are the British Petroleum Corp. and our own Chevron, or what is really Standard Oil of California. Those are the ones that our sailors will be exposing their lives for when even the British, themselves, the French themselves, they have not wanted to join nor volunteered to do so, nor exerted pressure on our national leaders to do so in a multinational venture which it ought to be since we are talking about the protection of international waters for all mankind. But actually what it means is that our boys will be dying on the high seas or at least in the Persian Gulf for Standard Oil of California and British Petroleum.

You do not see any British warships being shot down. You do not see any British soldiers dying in the Persian Gulf. Because the American people and our leaders do not have the concept and the perception that that part of the world has about us. That is that we have stepped into the colonial shoes of Britain and France.

France could not handle Lebanon for 50 years. So that in the middle of World War II, in 1943, it took advantage and tried to disown it and we ended up trying to replace that.

When have the American people seen that interpretation?

What about Latin America? We are preparing to send our boys, as sure as I am and as positive as I am standing here, before too long into Nicaragua and thereby forever, forever destroying the one great hope for this brotherhood. And, if you please, with only the moral leadership of America being asked for; not the bomb, not the B-1, not the—even any of the bombers. The world clamors, particularly Latin America, for what they identify with us. And what they identified under the great leadership of Franklin Roosevelt who reserved the Calvin Coolidge policy with his "good neighbor" policy. What was the result of that? That seed he planted ended up in allies in World War II, instead of enemies. So we had Mexico joining us, even giving us soldiers. If you want to see the casualties, just go into Nuevo Laredo Cemetery and you will see, even on July 4 that we no longer celebrate here, you will see little American flags on some of the ground there where Mexican soldiers died in the Pacific. They had a whole squadron they called Escuadron dos Cientos, in other words, squadron 200 that fought with our airplanes in the Pacific. We made friends out of enemies. Why? Because we truly joined in what Franklin Roosevelt proclaimed "a good neighbor." It was John Kennedy—because between Roosevelt and Kennedy there was a vacuum—this is reflected in a more important way because the current administration is really being influenced and controlled in its judgment decisions in Central America by these powerful, powerful, powerful wealthy plutocrats like J. Peter Grace who now owns the billion dollar conglomerate that owns United Fruit. United Fruit for years has owned and dominated and run Honduras. That is why we are occupying Honduras today.

But even their newspapers will tell you we have lost everything, including honor. And honor, believe it or not, like to me personally, is a great thing, even to the most impoverished of the peasants south of the border.

So I say to my colleagues perhaps it is too late. I can say truly I was very hopeful 6 years ago, 5 years ago, even 4 years ago, but not after the tragedy in Beirut because the American people and this Congress did not call to account the Commander in Chief who was faithless, who has at all times, as it is said "For if the trumpet give an uncertain sound, who then shall prepare for battle?"

Who then shall prepare for battle?

Certainly our President's trumpet has been more than uncertain; it has been cracked and thereby not only uncertain but devious in its sound.

Domestically, these same forces that are listened to that defined who is a Communist in Central America, if you ask Mr. J. Peter Grace, who by his own admission has very, very strong authoritarian tendencies and outlooks, any labor group who protests labor conditions is a Communist.

DEMOCRACY AND THE ECONOMY IN CHILE

The SPEAKER pro tempore (Mr. Olin). Under a previous order of the House, the gentleman from Nebraska [Mr. Bereuter] is recognized for 30 minutes.

Mr. BEREUTER. Mr. Speaker, this Member wishes to respond this afternoon to an article by David Gallagher entitled "The Complex—and Little Understood—Challenge of Chile," that appeared in the June 12, 1987, issue of the Wall Street Journal. The likely but unfortunate impact of Mr. Gallagher's comments is to undermine those efforts in Chile and abroad that seek to restore democracy to that country.

Because the Wall Street Journal has been unwilling to print by prepared response of June 25, 1987, in the length of an article or letter necessary to respond adequately to his views on the economic and military situation in Chile, I am required to use this forum—the floor of the U.S. House of Representatives—to address important issues related to a restoration of democracy in Chile.

DEMOCRACY AND THE ECONOMY IN CHILE

In a Wall Street Journal article published June 12, David Gallagher asserts that the popular understanding among journalists, academics, and politicians in the United States concerning contemporary Chile is largely based on myth, Mr. Gallagher contends that Chilean opposition leaders emphasize only the Pinochet regime's human rights abuses and neglect its economic successes. Furthermore, he suggests that many in the United States are too quick to oppose the Pinochet government because they hear only the opposition's side of the story.

Mr. Gallagher argues that the deregulation of the economy achieved under General Pinochet has set the country "on course to break the mold of underdevelopment," and has thus made him "less unpopular" with the Chilean people than United States and Chilean politicians like to admit. Finally, he stresses the opposition's failure to produce a workable economic alternative.

THE STATE OF THE CHILEAN ECONOMY

Mr. Gallagher is correct in noting that the Pinochet government's privatization policies have been beneficial to the Chilean economy.

However, the government's economic management has been only a qualified success, according to a great many observers, including the prominent MIT economist Rudiger Dornbusch, Dr. Dornbusch asserts that the Pinochet government was largely responsible for Chile's huge external debt, and the same policies that have enabled Chile to make prompt payments on this debt have resulted in high unemployment, low wage rates, and low investment.

In a paper presented at a Washington Office on Latin America Conference last September, Dr. Dornbusch writes:

> The remarkable fact is that per capita consumption in Chile today is where it was in 1960.

Chile's large external debt was incurred during the period immediately after 1979, when the Pinochet government fixed the exchange rate in an effort to bring down inflation. Because inflation in Chile remained high relative to world standards, the real exchange rate appreciated and Chile lost competitiveness in world markets.

As this appreciation continued, Chileans substituted relatively cheaper imports for domestic products. In many cases, the country's traditional exports were no longer competitive, Deindustrialization occurred, as previously competitive firms in the export sector closed due to the appreciated exchange rate.

The Pinochet government borrowed heavily on the world financial market in order to finance the increased imports, giving Chile one of the highest per capita international debts in the world, a per capita debt higher than per capita GNP. This debt requires servicing, but deindustrialization has weakened the country's ability to provide this debt service through economic expansion.

Mr. Gallagher's praise for the Pinochet government's economic policies is ironic in light of that government's responsibility for the debt and subsequent lowered standard of living, and in light of the fact that General Pinchet is shielded from popular accountability by repressive political controls.

In addition, Mr. Gallagher gives too little weight or at least recognition, to the importance of accompanying even successful economic policies with democratic processes and freedoms. Economic factors alone, no matter how favorable, are not an acceptable substitute for democracy. The U.S.S.R.'s extremely low unemployment rate, for example, does not indicate that the Soviet Union is similar to a democracy. While Chile's free-market economy is more appealing to Americans since it is more similar to our own, this economy should be a complement to democracy, not a substitute for democracy.

THE PINOCHET DICTATORSHIP

Prior to the arrival of Gen. Augusto Pinochet nearly 14 years ago, Chile enjoyed a century-and-a-half of democracy. Free elections, robust political debate, and the contributions of a loyal opposition were once as common in Chile as in the United States. Since the accession of General Pinochet, the nation has enjoyed none of these democratic benefits.

Chile is now struggling to return to democracy. Until the Pinochet government, the Chilean military had been a pillar which contributed its support to democratic governments. The military was pushed into intervention in 1973, however, by the excesses of the government of that time and by the distortions of the economy that resulted from these excesses.

The true extent of General Pinochet's present popularity is difficult to determine, since the polls taken by the government and the opposition give differing results and the junta will not permit free elections.

Instead of democracy in Chile, General Pinochet has proclaimed "protected democracy," an ideological approach which indicates that democratic institutions will eventually be restored to Chile not through democratic processes such as elections, but only under the guidance of the military.

Under the current provisions of "protected democracy," the chiefs of the three branches of the armed forces and the head of the national police will select a single candidate for a plebiscite in 1989. If approved by what appears will be a largely preselected electorate, this candidate will serve until 1997.

There is substantial evidence that General Pinochet intends this candidate to be himself. For example, he has promised to do "whatever is necessary to prevent a clique of irresponsible politicians from taking over the country," and has begun his campaign by increasing his travels and publicity, according to an article in the June 22, 1987, issue of the New York Times.

Continued military rule will strengthen the Communists, who use military rule as an excuse to remain a viable option on the political spectrum. Such a bolstering of the Communist position is, of course, contrary to the intentions of the military; thus it is no surprise that three of Chile's top military leaders have expressed doubts that a military figure is the ideal candidate for the plebiscite.

THE STATUS OF THE DEMOCRATIC OPPOSITION

The moderate, democratic opposition parties in Chile have no opportunity to engage in democratic debate or to build consensus through a democratic process. Expecting these parties to have one candidate or one economic or political plan for Chile is similar to assuming that the democrat and Republican parties in the United States could agree, absent a nominating and electoral process upon the next President and a single platform.

The opposition needs a reactivation of the democratic process, so that it can publicly debate the economic problems facing the country and arrive at a solution acceptable to the majority of Chileans.

The most urgent task of the democratic opposition is to present clearly to the Chilean public their alternative to the present government. They must come forth with specific proposals on such issues as property rights, the legal status of antidemocratic forces, and human rights abuses in order to show the more conservative members of Chilean society that they would be an effective partner in building democracy.

CALL FOR U.S. ACTIONS

In the absence of any tangible movement on the announcement of a consensus plebiscite candidate acceptable to broad segments of the democratic opposition, the hour is drawing near when the United States must put its full support behind the call for free elections in Chile.

The relationship between the United States and Chile over a century and a half has been a relationship between two friendly democracies, with the unfortunate exception of the past 14 years. Except for this relatively brief period, the two nations have shared common values and interests. The United States aspires to relate to Chile in the coming centuries in the traditional manner, as two friendly democracies with common values.

Thank you, Mr. Speaker. I yield back the balance of my time.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Combest) to revise and extend their remarks and include extraneous material:)

Mr. DANNEMEYER, for 60 minutes, July 28, 29, and 30.

Mr. INHOFE, for 60 minutes, on July 21.

Mr. SHUMWAY, for 60 minutes, on July 27, 29, and 30, and for 60 minutes, on August 4 and 6.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BONIOR of Michigan, for 60 minutes, on July 21.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. PEASE.

Mr. ANDERSON in two instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Ms. BOXER.

Mr. TORRICELLI.

Mr. RODINO.

Mr. FLORIO.

Mr. STARK in two instances.

Mr. LEVINE of California.

Mr. LANTOS.

Mr. EDWARDS of California.

JOINT RESOLUTION PRESENTED TO THE PRESIDENT

Mr. ANNUNZIO, from the Committee on House Administration, reported that that committee did July 16, 1987 present to the President, for his approval a joint resolution of the House of the following title:

H.J. Res. 122. Joint resolution to designate the week beginning July 16, 1987, as "Snow White Week."

ADJOURNMENT

Mr. BEREUTER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 1 o'clock and 45 minutes p.m.), the House adjourned until tomorrow, Tuesday, July 21, 1987, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1773. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Navy's proposed letter(s) of offer to Sweden for defense articles estimated to cost $50 million or more (Transmittal No. 87-29), pursuant to 22 U.S.C. 2776(b); to the Committee on Armed Services.

1774. A letter from the Secretary of Education, transmitting copies of Final Regulations—Drug-Free Schools and Communities—Hawaiian Natives Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1775. A letter from the Secretary of Education, transmitting copies of Final Regulations—Drug-Free Schools and Communities—Regional Centers Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1776. A letter from the Secretary of Education, transmitting copies of Final Regulations: Clearinghouses for the Handicapped Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1777. A letter from the Secretary of Labor, transmitting a copy of the initial report on mass layoffs and plant closings prepared by the Bureau of Labor Statistics, pursuant to Public Law 97-300, section 462(e); to the Committee on Education and Labor.

1778. A letter from the Director, Defense Security Assistance Agency, transmitting notice that the Department of Defense has provided defense articles and services to the Philippines under the authority of P.D. 86-13, pursuant to 22 U.S.C. 2318(b)(2); to the Committee on Foreign Affairs.

1779. A letter from the Director, Defense Security Assistance Agency, tramsmitting notice of the Department of the Navy's proposed letter(s) of offer to Sweden for defense articles and services estimated to cost $14 million or more (Transmittal No. 87-29), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1780. A communication from the President of the United States, transmitting the President's bimonthly report on progress toward a negotiated solution of the Cyprus problem, including any relevant reports from the Secretary General of the United Nations, pursuant to 22 U.S.C. 2373(c); to the Committee on Foreign Affairs.

1781. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

1782. A letter from the Assistant Secretary for Health, Department of Health and Human Services, transmitting the Department's notice of an altered Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1783. A letter from the Chairman, Board of Governors, Federal Reserve System, transmitting the Board's report on an amended system of records, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1784. A letter from the Comptroller General, General Accounting Office, transmitting a report on the inventory of accounts with spending authority and permanent appropriations (GAO/AFMID-87-44A, June 1987); to the Committee on Government Operations.

1785. A letter from the Comptroller General, General Accounting Office, transmitting a report on budget issues: "Inventory of Accounts with Spending Authority and Permanent Appropriation, 1987" (GA/AFMD-87-44A, July 1987); to the Committee on Government Operations.

1786. A letter from the Secretary of the Interior, transmitting a report on salinity control on public lands administered by the Bureau of Land Management [BLM] in the Colorado River Basin, pursuant to 43 U.S.C. 1593(b)(3); to the Committee on Interior and Insular Affairs.

1787. A letter from the Assistant Secretary of Interior, transmitting a draft of proposed legislation to amend the Second Supplemental Appropriation Act, 1961, relating to the lease of certain lands from the Isleta Indian Tribe for a seismological laboratory; to the Committee on Interior and Insular Affairs.

1788. A letter from the Commissioner, Bureau of Reclamation, Department of the Interior, transmitting a copy of the proposed revision to the acreage limitation rules and regulations (43 CFR 426) that was published in the Federal Register on June 26, 1987; to the Committee on Interior and Insular Affairs.

1789. A letter from the Administrator, National Oceanic and Atmospheric Administration, Department of Commerce, transmitting the Administration's fiscal year 1986 report on ocean thermal energy conversion, pursuant to 42 U.S.C. 9002(d); to the Committee on Merchant Marine and Fisheries.

1790. A letter from the Director, Office of Management and Budget, transmitting a draft of proposed legislation to eliminate Postal Service borrowing from the Federal financing bank, and for other purposes; to the Committee on Post Office and Civil Service.

1791. A letter from the Secretary of Transportation, transmitting a biennial report, "The Status of the Nation's Local Mass Transportation: Performance and Conditions," pursuant to 49 U.S.C. 308(e)(1) (98 Stat. 4); to the Committee on Public Works and Transportation.

1792. A letter from the Executive Secretary, Department of Defense, transmitting the Department's report on procurement from small and other business firms for October 1986 through April 1987, pursuant to 15 U.S.C. 639(d); to the Committee on Small Business.

1793. A letter from the Chairman, U.S. Trade Representative, transmitting the Commission's 50th quarterly report on trade between the United States and the nonmarket economy countries, pursuant to 19 U.S.C. 2432(b); to the Committee on Ways and Means.

1794. A letter from the Secretary of State, transmitting notification that the President, pursuant to section 652 of the Foreign Assistance Act of 1961, as amended and section 514 of the Foreign Assistance and Related Programs Appropriations Act, 1987, proposes to use the authority of section 610(a) of the act to transfer funds available under section 219 of the act (Israel prototype desalting plant) to the economic support funds account for Jordan's West Bank/Gaza program, (Presidential Determination No. 87-18); jointly, to the Committees on Appropriations and Foreign Affairs.

1795. A letter from the Principal Deputy Assistant Secretary for Water and Science, Department of the Interior, transmitting notification that the Department of the Interior proposes to cosign with the Departments of Agriculture, Army, and the Tennessee Valley Authority a letter announcing adoption of a new policy on computing benefits of agricultural water projects, which policy will address the double subsidy issue directly and will improve the credibility of Reclamation projects; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 1983. A bill authorizing the Secretary of the Interior to preserve certain wetlands and historic and prehistoric sites in the St. Johns River Valley, FL, and for other purposes; with amendments (Rept. No. 100-224). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2121. A bill to authorize and direct the National Park Service to assist the State of Georgia in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia; with an amendment (Rept. No. 100-225). Referred to the Committee on the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

[Omitted From the Record of July 15, 1987]

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2683. A bill to amend the Atomic Energy Act of 1954 to improve security procedures, and for other purposes; with amendments, referred to the Committee on Energy and Commerce and the Judiciary for a period ending not later than October 16, 1987 for consideration of such provisions of the bill and amendments as fall within the jurisdictions of those committees pursuant to clause 1(h) and (m), rule X, respectively (Rept. No. 100-223, Pt. 1). Ordered to be printed.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

[Submitted July 20, 1987]

Under clause 5 of rule X, the following action was taken by the Speaker:

H.R. 1414. Referral to the Committees on Energy and Commerce and Science, Space and Technology extended for a period ending not later than July 22, 1987.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. RODINO:

H.R. 2969. A bill to amend chapter 11 of title 11 of the United States Code to improve the treatment of claims for certain retiree benefits of former employees; to the Committee on the Juduciary.

By Mr. MICHEL:

H.R. 2970. A bill to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the Medicare Program, and for other purposes; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. HUCKABY:

H.R. 2971. A bill to provide continuing authority to the Secretary of Agriculture for recovering costs associated with cotton classing services, and for other purposes; to the Committee on Agriculture.

By Mr. RICHARDSON (for himself, Mr. Hoyer, Mr. Dellums, Mr. DioGuardi, Mr. Lewis of California, Mr. Matsui, and Mr. Torres):

H.R. 2972. A bill to provide for a 10-year fixed term participation period for socially and economically disadvantaged small business concerns under the Small Business Act, to provide for expedited certification of such concerns, and for other purposes; jointly, to the Committees on Small Business and Armed Services.

MEMORIALS

Under clause 4 of rule XXII,

165. The SPEAKER presented a memorial of the Legislature of the State of Maine, relative to an increase in the minimum wage; to the Committee on Education and Labor.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. MATSUI introduced a bill (H.R. 2973) for the relief of Junior Achievement of Sacramento, Inc.; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

July 20, 1987

H.R. 136: Mr. Kolbe, Mr. Boulter, and Mr. Robert F. Smith.

H.R. 192: Mr. Martinez, Mr. Gilman, Mr. Fauntroy, and Mr. Jontz.

H.R. 378: Mr. Hochbrueckner.

H.R. 618: Mr. Mollohan.

H.R. 762: Mr. Owens of New York and Mr. Torricelli.

H.R. 933: Ms. Slaughter of New York and Mr. Lantos.

H.R. 958: Mr. Towns, Mr. Volkmer, Mr. Murphy, Mr. Stokes, Mr. Bevill, Mr. Horton, Mr. Oberstar, Mr. Roe, Mr. Buechner, Mr. Kolbe, and Mr. Richardson.

H.R. 1104: Mrs. Boxer.

H.R. 1115: Mr. Mavroules, Mr. Mollohan, and Mrs. Meyers of Kansas.

H.R. 1349: Mrs. Martin of Illinois, Mr. DeLay, Mr. Edwards of Oklahoma, Mr. Hunter, Mr. Beilenson, Mr. Wortley, and Mr. Staggers.

H.R. 1711: Mr. Gejdenson.

H.R. 1729: Mr. McDade, Mr. Donnelly, Mr. Skelton, and Mr. Baker.

H.R. 1782: Mrs. Byron.

H.R. 1832: Mr. Hutto, Mr. Ireland, and Mr. Price of Illinois.

H.R. 1987: Mr. Kolter, Mr. Coelho, Mr. Espy, Mr. Rowland of Connecticut, Mr. Harris, Mr. Coleman of Missouri, Mr. Gray of Pennsylvania, Mrs. Patterson, Mr. Penny, and Mr. Martin of New York.

H.R. 2138: Mr. Frank and Mr. Hughes.

H.R. 2343: Mr. Edwards of Oklahoma.

H.R. 2662: Mr. Stenholm.

H.R. 2692: Mr. Crane, Mr. Udall, Mr. Howard, Ms. Slaughter of New York, Mr. Gilman, Mr. Solarz, Mr. Gallo, Mr. Cardin, and Mr. Fawell.

H.R. 2844: Mr. Florio, Mr. Biaggi, Mr. Wortley, Mr. Mrazek, Mr. Porter, Mr. Towns, and Mr. Udall.

H.R. 2881: Mr. Darden, Mr. Tallon, Mr. Buechner, Mr. Grant, Mr. Ray, Mr. Martin of New York, Mr. Valentine, Mr. MacKay, Mr. Murphy, Mr. Kennedy, Mr. Tauke, Mr. Wortley, and Mr. Lancaster.

H.R. 2911: Mr. Owens of Utah.

H.J. Res. 50: Ms. Oakar, Mr. Lagomarsino, Mr. Schuette, Mr. Scheuer, Mr. Weiss, Mr. Aspin, Mr. Wolpe, Mr. Neal, Mr. Buechner, Mr. Owens of Utah, Mr. Bustamante, Mr. Kostmayer, Mr. Weldon, and Mr. Waxman.

H.J. Res. 130: Mr. Ackerman, Mr. Dowdy of Mississippi, Mr. Duncan, Mr. Fauntroy, Mr. Hertel, Mrs. Lloyd, Mr. Murphy, Mr. Savage, Mr. Kemp, Mr. Morrison of Connecticut, Mr. Moakley, Mr. Emerson, Mr. Harris, Mr. Porter, Mrs. Morella, Mr. Coelho, Mr. Sawyer, Mr. Barnard, Mr. Sundquist, Mr. Chapman, Mr. Garcia, Mr. Burton of Indiana, Mr. Wyden, Mr. Dellums, Mr. Bilbray, Ms. Pelosi, Mr. Hayes of Louisiana, Mr. Coleman of Texas, Mr. Bennett, Mr. Applegate, Mr. Bosco, Mr. Chappell, Mr. Frank, Ms. Slaughter of New York, Mr. Buechner, Mr. Foglietta, and Mr. Florio.

H.J. Res. 132: Ms. Pelosi, Mr. Thomas of California, and Mr. Savage.

H.J. Res. 213: Mr. Dornan of California, Mr. Miller of Washington, Mr. Smith of Florida, Mr. Gordon, Mr. Hutto, Mr. Matsui, Mr. Shumway, Mr. Spratt, Mr. Weiss, Mr. Nielson of Utah, Mr. Donald E. Lukens, Mr. Wilson, Mr. Guarini, Mr. Carper, Mr. Torricelli, Mr. Gray of Pennsylvania, Mr. Wolf, Mr. Wortley, Mr. Lewis of Florida, Mr. Traficant, Mr. Brooks, Mr. Nowak, Mr. Erdreich, Mr. Wolpe, Mr. Perkins, Mr. Dannemeyer, Mr. Lantos, Mr. Inhofe, Mr. Bateman, Mr. Bennett, Mr. McGrath, Mr. Brown of California, Mr. Lipinski, Mr. Horton, Mr. Scheuer, Mr. Dwyer of New Jersey, Mr. Fawell, Mr. Frost, Mr. Chapman, Mr. Hughes, Mr. Lagomarsino, and Mr. Henry.

H.J. Res. 307: Mr. Dyson, Mr. Gilman, Mr. Stallings, Mrs. Meyers of Kansas.

H.J. Res. 336: Mr. Ireland, Mr. Berman, Mr. Miller of Washington, Mr. Akaka, Mr. Lewis of California, Mr. Gray of Illinois, Mr. Kostmayer, Mr. de Lugo, Mr. Fuster, Mr. Lehman of Florida, and Mr. Flake.

H. Con. Res. 5: Mr. Dorgan of North Dakota and Mr. Barnard.

H. Con. Res. 143: Mr. Towns, Mr. Brown of California, Mr. Espy, Mr. Foglietta, Mr. Gray of Pennsylvania, Mr. Kildee, Mr. Atkins, Mr. Evans, Mr. Fauntroy, and Mr. Frost.

H. Res. 141: Mrs. Boggs.

H. Res. 205: Mr. Roe.

H. Res. 210: Mr. Russo, Mr. Emerson, Mr. Henry, Mrs. Meyers of Kansas, Mr. Parris, Mr. Neal, Mr. Schaefer, Mr. Bartlett, Mr. Dannemeyer, and Mr. Upton.

H. Res. 213: Mr. Archer, Mr. DioGuardi, Mr. Dornan of California, Mr. Hayes of Illinois, Mr. Howard, Mr. Hughes, Mr. LaFalce, Mr. Lantos, Mr. Sikorski, Mr. Torricelli, and Mr. Towns.

EXTENSIONS OF REMARKS

REMARKS OF RICHARD W. POGUE AT THE HARVARD COMMUNITY SERVICES CENTER SECOND ANNUAL LUNCHEON

HON. LOUIS STOKES

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1987

Mr. STOKES. Mr. Speaker, on June 27, 1987, I attended a luncheon in Cleveland, OH, sponsored by the Harvard Community Services Center. This was the second annual luncheon sponsored by one of Cleveland's most dedicated social services agencies. The center itself is located in the Lee-Harvard section of Cleveland which is an important and integral part of Cleveland proper.

The center is fortunate to have had for many years the outstanding service of one of the most competent, efficient and dedicated leaders in our community. That person is Mrs. Rubie McCullough, who serves as the vibrant and dynamic executive director of this institution.

On this occasion we were privileged to hear an outstanding address by a leader in Cleveland's business community. The speaker was Mr. Richard W. Pogue, managing partner at the firm of Jones, Day, Reavis & Pogue. Mr. Pogue also serves as a member of the board of directors of the growth association and on the association's executive committee. I felt that his speech deserved broader attention and I would like to bring it to the attention of my colleagues in the Congress. I think that my colleagues will have a much richer insight into Cleveland, one of America's great cities after they have read Mr. Pogue's speech.

REMARKS OF RICHARD W. POGUE

I am greatly honored to have been asked to address this assembly of 550 members of Cleveland leadership at the Harvard Community Services Center Second Annual Meeting. Rubie McCullough and the Board members, administration, staff and volunteers of the Harvard Community Services Center are representative of leadership both in Harvard community and the Greater Cleveland community.

I would like to comment on four subjects. The four subjects are:

(1) Leadership
(2) Progress
(3) Instruments of change
(4) Neighborhood centers

First, leadership. This is a nebulous, intangible concept which is nonetheless critical to any enlightened, forward-moving society. Leadership requires intelligence, planning, and a willingness to take risks, to subject oneself to the possibility of the embarrassment of defeat. Leadership in our community involves three basic components—an ability to *initiate* ideas and programs, a willingness to *contribute* time, energy and/or money to those ideas and programs, and a desire to *provide direction and guidance* to others on now to bring these ideas and programs into fruition.

I understand that many of you here today are staff, volunteers, and Board members of Harvard Community Services Center. As participating actors in community activities, each of you is a leader in your own right. Any leader knows that time and effort spent in developing the strengths of his or her associates will make that leader stronger, make the constituency stronger and build a stronger future. Leadership, as it is evidenced in this room, is a grass-roots movement, which can help immeasurably to lead Cleveland into a brighter future.

My second subject is progress. We all seek it; we all want it. But it comes hard at times. Someone once said that "Everyone is in favor of Progress, but no one likes Change." There is a lot of truth in that statement. Progress is almost always slow, but when men and women of good will are involved, progress is inexporable and inevitable.

I would like to mention three areas in which I believe important progress is being made at the local level.

No. 1 is progress in Cleveland. I remember in December 1978 I arrived downtown early one morning on the rapid transit, and began to walk from the Terminal Tower to my office at 9th and Euclid. The night before the City had defaulted on its debt obligations—we soon were to receive national opprobrium as the first city since the Depression of the 1930s to go into default. As I walked down Euclid Avenue that bleak December morning the trash was swirling around on the sidewalks in the cold wind. Many retail storefronts on Euclid Avenue were boarded up. The newspaper headlines told of fights between the Mayor and the Council, between the Mayor and the business community, and on and on. It was very depressing. It was the only time in my 30 years in Cleveland that I really wondered whether I should stay in Cleveland.

But fortunately several groups of Clevelanders decided that enough was enough. The community closed ranks. Some of the groups persuaded George Voinovich, who was then comfortably ensconced in Columbus as Lieutenant Governor, to run for Mayor. Others commissioned the Rand Study, which analyzed Cleveland's economic options, and the McKinsey Report, which led to the creation of Cleveland Tomorrow, a potent organization of the chief executive officers of the 40 largest Cleveland businesses. Still others—including Carole Hoover, George Forbes, W. O. Walker, Del de Windt, Stan Pace, and others—expressed concern about the need for better communication between the leadership of the black community and the rest of Cleveland, a concern that led to the creation in 1981 of the Greater Cleveland Roundtable, an urban coalition of leaders from the business community as well as various other key components of the Greater Cleveland community with a goal of improved communication among—and I quote: "white, black, and other community leaders" (end quote). In 1979 and subsequently the City Council President exhibited a desire to work with the Mayor on many important issues. And the Clevelanders of 1979 and ensuing years forced progress in many other areas as well.

Today Cleveland is the comeback city of the nation. Is it perfect? Of course not. There are tremendous challenges ahead. But the progress that we have seen since that miserable day in December 1978 is remarkable. And the dedication of a great number of individual citizens like you and others is responsible in great measure for that progress.

A second category in which I sense progress is race relations. I suspect, from conversations with many of my friends in the black community, that many may not agree with what I am about to say; indeed, I think that Carole Hoover believes that I need additional sensitivity training. But I think that I should be honest in stating my views.

As I think back over the 30 years since I moved to the Cleveland area in 1957, I believe that much progress has been made in combatting both overt and covert racial discrimination and racial hostility. In the professions, in the arts, in sports, and more and more in the corporate community, merit and performance are what counts. In the case of my own profession, the major law firms compete vigorously with each other to attract good young black lawyers.

Perhaps more importantly, I feel that today the black leadership has a voice in matters of moment in the Cleveland area. The Greater Cleveland Roundtable itself has been a very worthwhile innovation in providing an open forum for the concerns of the black community, as well as other minority groups, to be discussed and addressed. Communication—open and honest—is a prerequisite for problem solving. Working together, we can develop and implement a series of action agendas—various strategies to achieve our collective vision.

On the national level, The New York Times reported recently that blacks have been scoring remarkable successes in the performing and dramatic arts. A black professor of psychiatry at Harvard Medical School has said that "in the white American public's mind there is much more readiness to accept black ability and talent" than in the past. Of course the arts is only one small part of improving economic opportunities for our black populace, but it is important because of its high visibility.

At the local level here in Cleveland there is of course a mountainous challenge ahead of us in improving race relations. Two quotes from a draft report by an important group called the Race Relations Forum, a loose-knit federation of agencies involved in improving race relations which was recently formed with assistance from the Greater Cleveland Roundtable, demonstrate both the progress which has been made thus far, as well as the challenges which lie ahead. First, "Great strides have been made by the Cleveland Police Department in recent years, in terms of minority hiring, reduction of police brutality and new racial violence reporting systems * * * diffusing sensitive racial disputes before they erupt into violence is our goal." Second, "area residents

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● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

report that slow police response time and an inadequate level of intervention in racial disputes have aggravated racial tensions in our city for decades."

We suffer setbacks from time to time, and on some occasions the media fans the flames of racism. We must constantly recommit ourselves to closing the differentials in racial conditions and the quality of life gap between central city and suburban communities.

But all in all, I believe that we have made progress, and that in general attitudes on race issues in Greater Cleveland are far more commendable than they were 30 years ago when I came to Cleveland. I base this judgment on my own experience, particularly in evaluating the attitudes of our key Cleveland business leaders. Many corporate leaders seem to be willing to address the issue of upward mobility with affirmative action and commitment. To the extent that progress has been made, I believe that it is attributable to the dedication and fairmindedness of many individuals like those of you in this room.

A third area in which I believe we are about to make some progress is the public schools. The real hope for the future of tens of thousands of children in the inner city is education. If we can collectively figure out how to motivate our young people to seek the education which is critical to their economic survival and relative peace of mind, we will have accomplished a tremendous good for our area.

A recent article in the Wall Street Journal commented on a questionnaire that was passed out recently in an inner-city junior school in Detroit which revealed that a third of the children had been offered drugs and two-thirds of them knew someone their age who was selling them. "But the answers to other questions uncovered a resilience of spirit and a determination to enter the mainstream that offer Detroit (or Cleveland) some hope for its future. Asked if they expect to graduate from high school, a surprising number of the children are positive: They write that they want to be nurses, doctors, computer programmers, soldiers."

"Whom do they admire? Martin Luther King, many answer. One writes: 'My mother, because she is tough under pressure.' These are the kinds of answers that could come from children in any school in any stable, decent community, and for a moment it is possible to forget that the moral and physical blight of the ghetto is just outside."

Here in Cleveland I sense that we are on the threshold of some real progress in the public school situation. The Greater Cleveland Roundtable has declared improvement in the Cleveland public schools to be its No. 1 priority issue, and will probably soon announce a $10 million innovative program called Scholarship-in-Escrow designed to motivate kids to stay in school and become interested in post-high school education. The Cleveland Foundation has announced a special initiative pursuant to which it will set aside $5 million for improvements in the Cleveland Public Schools. Of course, throwing money at the problem is not enough; but without money there is no chance. The Cleveland Board of Education is quite; commendably, its members are not sparring publicly or interfering with the Superintendent's efforts to improve the Cleveland Public Schools. This is the progress—again, fueled by cooperation and dedication of many public spirited individuals like all of us.

Of course we all know that the environment in which many of these youngsters live is a potent force against the hopes that organizations like the Roundtable, the foundations such as Cleveland, Gund, Standard Oil, TRW, and others, have for public education. At the end of the day, many of our problems are economic. If the business, political, and community leadership here in Cleveland can develop jobs here in the area, then families will stay together, hope will return, and motivation will be easier. At that point, our youth will grasp more readily the importance of a good education. But let's be realistic—economic development is not easy. Much of what has happened to Cleveland, particularly in the manufacturing sector, is completely outside the control or even influence of any of us. But many other opportunities in economic recovery can be stimulated by local leadership. I think it is important for all of us to recognize that Cleveland's business leaders today understand the relation between inner-city ills and economic development. Believe me, they care. We are all working at it—but it is not a simple task.

Getting back to public education, we don't need to ask ourselves whether all the major problems of the Cleveland schools have been addressed. The answer is clear: they have not. But I believe that considerable progress is being made, step by steady step.

I am an optimist by nature. (I even believe in the Cleveland Indians.) And I see great progress being made in a number of important areas—in the quality of life in Cleveland, in race relations, in the Cleveland Public Schools. We all know that much, much, more needs to be done in all these areas—but I earnestly urge you to concur with me that great progress is being made.

My third point deals with instruments of change. In the social and human service area there are many forces at work which can influence progress or regression.

For example, the federal government. I am a lifelong Republican, because in the economic arena I believe in the free market. I believe that in the long run the free market system will produce the most and the best jobs. But I can tell you that I am disappointed in some of the present Administration's positions in the important area of race relations.

The State government can be a positive instrument of progress, as can municipal government. Of course we can never underestimate the role of the media, both printed and electronic, in effecting change for the better. And another strong force for good, particularly in the black community, are our churches and the leadership of the clergy, whose energy and dedication cannot be adequately compensated.

But the most important instruments of change, I believe, are attitudes and actions at the local level—again, people like you and me. You are the most important leaders in shaping attitudes and spurring actions for the good of the community. I think that we saw an example of the goodness of local citizens surfacing last year in the West 88th incident, when a great many neighborhood citizens were ashamed and embarrassed in the aftermath of a sorry racial incident, and tried in their own way to make amends.

So I believe that in these important areas of human relations and the betterment of our community, the most potent and effective instruments of change are the local leadership—people like you and me, who wouldn't be here today at this annual meeting if we didn't have do-gooder instincts flowing through our veins.

The fourth and final point I would like to make is to toast the neighborhood center movement, of which the Harvard Community Services Center is such an exemplary model.

I think I know whereof I speak on this subject, because I have had a strong interest in neighborhood centers for more than a quarter of a century. In 1961, when I was a young lawyer who had recently moved here from Washington, I had an attack of guilty conscience one day, for reasons which I most assuredly will not reveal to you. I was working hard, for paying clients, but I felt a strong urge to try to do something, however feeble and miniscule, for the betterment of the community. And so I became a volunteer at Goodrich Social Settlement, an agency which today we would call a neighborhood center, which was then located on East 31st Street. They assigned me to a group of about 15 teenage boys, who all had problems in school and in many cases with the law. I was to be the advisor to a club, which the boys decided, after a spirited debate, to call the Impalas. We played basketball, had rap sessions, sponsored a dance, and even raised money to buy jackets with the Impala name imprinted on them. We spent an overnight at Mather Camp on the West Side of Cleveland. While I have had many all-nighters as a lawyer during my career, none was as traumatic as my overnight with the Impalas. Probably as a result of their consuming every drop of the oversupply of cokes which I had brought, they became so wound up that neither they nor I got a wink of sleep that night. But we had fun—sort of.

I tried, in my brief two years with the Impalas before I became involved in the management of Goodrich and its companion house called Bell Neighborhood Center, to communicate to them the importance of education, the importance of racical tolerance and harmony, the importance of obedience to the rule of law, the importance of understanding the problems and motivations of fellow citizens. Did I accomplish anything? I believe that I did, but in truth I will never know.

The important point is that all of you, and thousands like you, are impelled by the same compulsions of conscience which got me out of my comfortable office chair in 1961 to try to help people who for one reason or another are less well situated, for one reason or another are disadvantaged. Thank the Lord for this compulsion, which all of you must surely share to one degree or another. The value, in human terms, is incalcuable.

Many of you are aware that the forerunner of the neighborhood centers was the so-called settlement house movement, which began in England in the 1860s. In those days urban life was plagued by problems such as smallpox, typhus, lack of sanitary facilities, and overcrowding in homes. The settlement house movement was founded on the theory of volunteerism and self help, to combat these societal ills.

Goodrich Social Settlement was founded in 1896. But the tradition of community self-help in the area of child care is recorded in Cleveland as early as 1895. During that year a house and a 38 acre farm located in South Euclid at Warrensville Center Road were organized as an orphanage for black children. Not long thereafter, the first home for black seniors opened on the corner of East 71st and Lexington Avenue.

In 1905 the Chamber of Commerce endorsed a plan for a settlement house on

Central Avenue. The Phyllis Wheatley Association was founded in 1911, and under the direction of Jane Edna Hunter, this association quickly grew to become a major force in the areas of recreational and social services in Cleveland—a model for other community centers.

The Harvard Community Services Center opened in September 1968 and provided day care services for 30 children, after-school activities and a teen program. In 1986 the Center provided services for 3,500 children, teens, adults and seniors in a wide variety of programs. Next year will mark the 20th anniversary of the dedication of the Center's volunteers and staff to the community.

In 1974 very few people believed that there were hungry people in Cleveland. In Biafra, yes, but right here in America? Community centers and churches spoke up: Yes, there was hunger in America. There was hunger in Cleveland. Today the emergency food program has a $2.5 million dollar budget, and the Harvard Community Services Center is instrumental in referring the needy to one of the 21 hunger centers in Cleveland.

I have not been close to Harvard Community Services Center in the past. I have long admired its heroic Executive Director Rubie McCullough, one of the soundest minds in the community field I have ever had the pleasure of working with. You never have any doubt where Rubie stands on any important community issue.

A month or so ago I eagerly accepted Rubie's invitation to visit Harvard Community Services Center. It was a wonderful experience for me. I learned a lot about the outstanding social work that is going on there. But the most moving part of my visit was when I toured the facility and witnessed seven or eight one-on-one tutoring sessions that were in process. The tutors were earnest and serious; the little kids who were being tutored were eager and absorbing everything that was being taught. Those individual sessions, in which progress was being made, step by steady step, captured the very best of the neighborhood center movement. The volunteers and staff can be justly proud.

This little vignette about the tutoring sessions concludes my remarks. Again let me say how honored I am to have been invited to speak today. I hope you agree with my four points—that leadership at the local level is paramount, that we are making considerable progress in Cleveland, that each of us can be an important instrument of change for the better, and that the neighborhood centers such as Harvard Community Services Center are vital and deserve our wholehearted support.

I would like to close with a quote from my good friend, the late W. O. Walker. He said once: Quote—"there's no such thing as the phrase 'you can't make it.' The only reason you don't make it is because you quit. You don't fail if you keep at it." End Quote.

W. O. was right—we are not about to fail in Cleveland because, as community leaders, I know that we're all going to keep at it.

Thank you.

THE RETIREE BENEFITS PROTECTION ACT OF 1987

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1987

Mr. RODINO. Mr. Speaker, I am introducing the Retiree Benefits Protection Act of 1987 to protect the health, disability, and life insurance benefits of retired workers whose former employers file chapter 11 bankruptcy. This bill will prohibit companies from suddenly and unilaterally cutting off these vital benefits. It will ensure that our Nation's retirees never again go through the suffering and anxiety experienced last summer by retirees of the LTV Corp.

This bill goes beyond H.R. 5490, which I introduced last year and which passed the House of Representatives in late September. H.R. 5490 was not intended to change the law but rather to clarify existing law. Its purpose was to emphasize that the Bankruptcy Code means what it says. As it plainly states in section 1113(f), a company in chapter 11 may not unilaterally terminate or alter any provisions of a collective bargaining agreement—it makes no difference whether a provision sets forth benefits for active or retired workers. Thus, under current law, union retiree benefits are protected against unilateral and precipitous cancellation.

The bill that I am introducing today, however, creates a new section in the Bankruptcy Code—section 1114—to protect essential health, life, and disability benefits for all retirees. Benefits promised to former salaried workers are protected equally with those guaranteed under a union labor contract.

The aim of this bill is to strike a workable balance between the needs of retirees for continuous health care and the need of the company to conserve assets in order to reorganize. This bill recognizes that while retirees are unsecured creditors of their former employer, they have special needs that set them apart—particularly from commercial creditors. Commercial creditors often have other resources to fall back on and can hang on until the debtor's reorganization or receive some payment on their claims. But retirees are in no position to wait—medical problems must be addressed when they arise. In many cases, retirees will have no recourse to alternative health insurance while waiting for reorganization because of high cost or lack of insurability.

At the same time, this bill attempts to preserve the company's prospects for reorganization. An underlying principle of U.S. bankruptcy law is to encourage businesses to reorganize rather than liquidate. Obviously, keeping the debtor in business is in the best interests of all parties involved—shareholders, creditors, suppliers, and perhaps most of all, employees and retirees. If their former employer shuts down, retirees are far less likely to receive an adequate level of health care benefits in the future.

The main provisions of this bill are as follows:

The bill requires companies to continue paying retiree benefits after filing bankruptcy—and forbids unilateral termination. It amends the Bankruptcy Code to permit companies to advance to retirees a portion of the payment that they would be likely to receive in the plan of reorganization. Thus, even though retirees are unsecured creditors, they will not be required to wait until the effective date of the reorganization plan to receive benefits.

The bill does, however, permit these retiree benefits to be reduced or even terminated while the chapter 11 is pending if the circumstances of the bankruptcy so require. The company must show that the modifications are necessary to permit the company to reorganize. And it must follow strict procedures, including negotiating with representatives of the retirees, making full financial disclosures, and obtaining court permission. These requirements are closely modeled after requirements in existing section 1113 governing modification or termination of collective bargaining agreements.

The bill not only gives retirees an advance on their claims but also provides them with a $1,500 priority. This priority is stated in the aggregate—retiree benefit claims as a whole have a priority to a pool of assets calculated at $1,500 times the number of retirees. Only claims for retiree benefits beyond this aggregate amount will be treated as general unsecured claims. The priority is pooled, rather than stated on an invidividual basis, because the benefits paid to each retiree will vary widely, depending on each retiree's health claims experience.

Finally, the bill makes a number of amendments to Bankruptcy Code sections dealing with the plan of reorganization in order to accommodate practical requirements of retiree benefit claims. The bill permits, but does not mandate, placement of retiree benefits claims in one or more separate classes. The bill also provides for the consideration of retiree benefit claims on a group basis—much the way the priority is structured. This is necessary because of the virtual impossibility of using actuarial principles to compute the future benefit claims of each individual retiree—particularly in cases involving large industrial firms with tens of thousands of retirees. Voting by a class of retiree claimants to accept or reject a proposed plan will proceed on a one-person-one-vote basis and not be weighted by value of individual claims. Determination of whether the plan is fair to retiree benefit claimants under "cram down" provisions can be made by looking at the treatment of the class as a whole.

The amendments made to the Bankruptcy Code under this bill will apply only to chapter 11 cases filed after the bill's effective date. No pending cases will be affected.

To protect retirees of companies already in bankruptcy, this bill extends the requirements in section 608(a) of the joint resolution—Public Law 99-591—enacted last Congress and amended this Congress by S. 903—Public Law 100-41. This bill removes the September 15, 1987, deadline and requires chapter 11 companies to pay retiree benefits indefinitely. These benefits may be modified only through a negotiated agreement with representatives of retirees. Retirees are required to negotiate in good faith with the company on any proposed modifications. To comport with constitutional requirements, this bill makes clear that companies need not pay full benefits if such payment were to impair secured claims.

Mr. Speaker, I believe that this bill goes a considerable way in protecting our retirees from the severe dislocation caused by bankruptcy. However, this bill, like other bills amending the bankruptcy law introduced during this Congress, looks only to the assets of bankrupt companies to take care of retirees' needs for health and other critical benefits. In some recent bankruptcy cases, cashflow does not appear to be a problem, and the companies involved seem to have the means to continue to provide an adequate level of health benefits to retirees. But we must not be misled by these cases. In many, many other bankruptcies, the money simply will not be there to provide adequate benefits. Put bluntly, we can't get blood out of a turnip.

Amendments to the Bankruptcy Code, of course, cannot provide real health care security for our retired workers. If we want to ensure that retirees have adequate health care whatever the financial future of their former employers, we must enact legislation outside the Bankruptcy Code, such as through prefunding of retiree health plans or broadening Medicare coverage.

In sum, Mr. Speaker, I believe this bill strikes a careful balance between the critical health care needs of retirees and the needs of financially troubled companies to emerge from bankruptcy and contribute again to the economy of the community and the Nation. It is a good first step. But more must be done in other areas to ensure the health care needs of retirees.

SECTION-BY-SECTION ANALYSIS

Sec. 1 sets forth the title of the bill—"Retiree Benefits Protection Act of 1987."

Sec. 2 Provides the definition of "retiree benefits" covered by the bill. These include benefits provided by a company to a retiree and his or her dependents for medical and hospitalization insurance, life insurance, and disability payments. Covered equally are benefits that the company provides through the purchase of insurance from a third party or benefits that the company, as a self-insurer, pays directly. Covered life insurance benefits are capped at $50,000 and exclude whole life insurance or any other life insurance with a cash value payable during life.

The intent here is to protect only the most vital retiree benefits—benefits necessary to the health and well-being of retirees and their families. Excluded are any "perks," such as large life insurance policies, that retirees, particularly retired executives, may receive from their former employers.

Sec. 3 amends section 503(b)(3) of the Bankruptcy Code to add a new subparagraph (f) to include as allowed administrative expenses the expenses of committees serving as the authorized representatives of retirees pursuant to new section 1114(g)(2). Subparagraph (f) does not include the expenses of a labor union that serves in section 1114 proceedings as the representative of retirees whose benefits are set forth in a collective bargaining agreement.

Sec. 4(a) provides that claims for retiree benefits will receive a fifth priority under section 507(a). This priority is stated in the aggregate and computed as $1500 times the total the number of retirees. Thus, each individual retiree does not have a $1500 priority in the same manner that each individual employee has a $2000 priority for unsecured claims for wages, salaries or commissions under section 507(a)(3). Under this aggregation or pooling arrangement, the benefits payable to an individual retiree, either under the priority or as a general unsecured claim, will depend on that individual's health, disability or death claim experience. Obviously, some retirees could have very small or no claims at all, while others will be paid benefits in excess not only of the $1500 priority but also of their percapita share of the total payment for all retiree benefit claims.

Sec. 4(b) makes conforming amendments to allow for the new numbering of paragraphs under section 507(a).

Sec. 5 makes purely technical or conforming amendments to section 1113, as follows:

Par. 1. Subsection (a) of section 1113 is amended to remove reference to the debtor-in-possession to conform the language of section 1113 to that of the rest of the Bankruptcy Code. In other sections of the Code, reference is made only to the trustee. This is because under section 1107(a), the debtor-in-possession in a Chapter 11 case is given all the rights and powers (except the right of compensation) of a trustee.

This change is in no way intended to remove any rights or powers for the debtor-in-possession. The debtor-in-possession will still have all the rights and responsibilities provided to the trustee under Section 1113.

Subsection (a) of section 1113 is further amended to make clear that it no longer governs treatment of all provisions in a collective bargaining agreement, as was previously the law. Any modification or termination of retiree benefits included in a collective bargaining agreement will not be covered by new section 1114.

Par. 2. The reference to the debtor-in-possession in subsection (b) of section 1113 is deleted for the same reason as in subsection (a) merely to conform the language to the rest of the Code.

The word "necessary" in subparagraph (a) is struck as redundant.

The word "authorized" is added in order to make consistent reference throughout section 1113 to the "authorized representative" (and not just the "representative") of employees and others holding rights under a collective bargaining agreement.

Par. 3 similarly adds the word "authorized" to "representative" for consistency.

Par. 4 strikes the word "if" from subsection (e) as unnecessary. It also corrects the reference to a "paragraph" in subsection (c) to change it to a "subsection."

Par. 5 makes conforming changes to allow for the new section 1114. It addes a parenthetical to subsection (f) to qualify the statement therein that section 113 is the exclusive provision governing modifications or alterations of any provisions under a collective bargaining agreement. Section 1114 will now govern modification or termination of retiree benefits, even though such benefits may be included in a collective bargaining agreement.

This represents a change to existing law to accommodate the new section 1114. Currently, by its terms, section 1113 covers all provisions of a collective bargaining agreement, whether the provisions set forth for retirees or for active workers, and prohibits a trustees unilaterally altering or terminating any such provision.

SEC. 6 sets forth the text of the new section 1114, which will govern the payments of retiree benefits in a Chapter 11 case. Section 1114 tracks section 1113 closely, providing for many of the same procedures and standards for negotiating a modification or termination of these benefits.

There are differences between the two sections, however, primarily because of the different nature of the payments involved. These differences are noted below.

Subsection (a) of section 1114 provides that the trustee (or debtor-in-possession) must continue to pay retiree benefits during a Chapter 11 case and allows retirees to receive an advance on their claims for benefits. Thus, the trustee may not discontinue payment on the ground that these benefits are prepetition claims. Any modification or termination of these retiree benefits may be made only by following the strict terms in section 1114.

Subsection (b) sets forth both the procedure a trustee must follow and the standards to be satisfied in order to modify or terminate retiree benefits.

Under the required procedure, the trustee must (1) make a proposal to the authorized representative of retirees (or their dependents) who are entitled to receive benefits, (2) provide the authorized representative with the information necessary to evaluate the proposal, (3) meet with authorized representative at reasonable times, and (4) negotiate in good faith in an attempt to reach an agreement to modify retiree benefits.

The trustee's proposal must meet the following standards:

(1) It must be necessary to permit the debtor to reorganize. In most cases, this will mean the modifications are necessary to permit the debtor to remain in business.

(2) It must ensure that all parties are treated fairly and equitably.

(3) It must not provide for payments for retiree benefits during the Chapter 11 case that exceed what retirees are likely to receive for their claims in distributions under the plan of reorganization. Any determination of what retirees are likely to receive must take into consideration the priority of $1500 times the total number of retirees.

The third condition is a departure from section 1113 and reflects the status of retiree benefits as prepetition claims. Active workers' benefits and wages are part of an ongoing contract, for which services have not been fully performed at the time of filing. These services can continue indefinitely—beyond the effective date of the plan. Thus the final amount owed to active workers cannot be computed. By contrast, retirees' claims are based on services fully performed. Through the use of actuarial calculations, the final amount of these claims, computed from the date of the Chapter 11 filing through the life expectancy of the group of retirees, can be determined.

For most prepetition debts, no payment is made to claimants until the effective date of the plan. Recognizing that retirees have critical medical needs that cannot wait until the effective date of a plan, this bill provides an exception and permits payments to be advanced. This third condition ensures, however, that retirees do not receive as an advance more than the amount to which they will ultimately be entitled.

Subsection (c) sets forth the standards and procedures governing a court order to implement the trustee's proposal to modify or terminate retiree benefits. The trustee would apply for a court order in the event the trustee was unable to negotiate an agreement with the authorized representative. The court must approve the trustee's application only if (1) the trustee's proposal meets the standards in subsection (B) described above, (2) the authorized representative refused the proposal without good cause, and (3) the balance of the equities clearly favors the modifications.

Subsection (d) tracks subsection (D) of section 1113 virtually word for word. It sets forth the court's time schedule and procedure in ruling upon the trustee's application to modify or terminate retiree benefits. A hearing must be held not later than 14 days after the trustee files the application, with notice given to all parties at least 10 days before the hearing. The date of the hearing may be extended to whatever time that for such an agreement, for up to 7 additional days if the interests of justice so require.

The court must rule on the application within 30 days after the commencement of the hearing or within a longer period, if both the trustee and authorized representative agree. If the court does not rule within 30 days or the agreed-upon extended period, then the trustee may proceed to modify the benefits pursuant to the trustee's proposal. Once the court rules, however, that ruling will prevail.

Paragraph (3) of subsection (D) provides that the court may enter protective orders to cover disclosure of any information provided by the trustee to the authorized representative pursuant to this section.

Subsection (e) provides that the court may make emergency interim changes to the benefits if necessary to continue the business and to avoid irreparable damage to the estate. If these standards are met, these changes to retiree benefits may be made even though the trustee may not have completed negotiations with the authorized representative pursuant to subsection (B).

Subsection (f) of section 1114 is a departure from the close tracking of section 1113. This section makes clear that any party—including the authorized representative, the debtor, or a creditor—may seek a modification of an order of the court modifying or terminating retiree benefits if there is a change in condition or if new information becomes available.

This modification to the court order may be for either the purpose of increasing or lowering the level of retiree benefits. The standards set forth in (b)(1)(a) will govern this new modification. Before the trustee requests any such re-modification, the trustee again must follow the procedures set forth in subsection (b) for negotiating with the authorized representative.

Section 1113 includes no provision expressly permitting modification of a collective bargaining agreement more than once during a Chapter 11, but no provision precludes further modifications. In section 1114(f), this ability to modify more than once is made express. Also, section 1114(f) specifies that any party-in-interest, including retirees, may apply to the court for further modification. It is important to make clear the right of retirees to petition the court in order to increase their leverage. Unlike active workers, retirees cannot enforce their rights through strikes or other industrial actions.

Subsection (g) governs selection of the authorized representative for retiree benefit claimants. In the usual case, the union that is party to the collective bargaining agreement setting forth the benefits will act as the authorized representative for the retirees. In those cases where the union elects not to act as the authorized representative or where the court, after notice and hearing, determines that representation by the union is inappropriate, a committee of retirees (appointed by the United States Trustee) will serve as the authorized representative. Any party-in-interest or the United States Trustee may request a hearing on the issue of union representation of retirees. It is expected that in most cases, disqualification of the union would be on the ground that there is a conflict between the interests of active workers and retirees. Union disqualification, however, is not limited to that ground.

Retirees whose benefits are not set forth in a collective bargaining agreement will be represented in every case by one or more committees of retirees.

Sec. 7 of the bill amends section 1122(b) to permit but not mandate the placement of retiree benefit claims in one or more separate classes in the plan of organization. Classes could be established in a number of different ways—health claims could be separated from life insurance claims, or claims under a collective bargaining agreement could be separated from all other claims for retiree benefits.

Sec. 8 amends section 1123(a) dealing with the contents of a plan to add a new paragraph (6). This new paragraph provides that the plan must provide for the aggregate, or group, treatment of retiree benefit claims rather than specify treatment on an individual basis. Group treatment is necessary because it would be virtually impossible, particularly in the largest Chapter 11 cases, to determine claims for each individual on an actuarial basis. Group treatment permits a more manageable actuarial determination of the claim for the entire group. The retirees' recovery on the group claim could then be used for the purchase of insurance for the entire group or otherwise to make individual distributions.

Sec. 9 amends section 1126(c) dealing with acceptance of a plan to provide special provisions for retiree benefit claims. A new paragraph (2) is added to deal with classes of unsecured claims composed entirely of retiree benefits. Because of the difficulty of determining the dollar amount of each individual retiree's claim, voting on the plan will not be based on the amount of individual claims. Instead, voting shall be done entirely on a one-person, one-vote basis. The plan will be accepted only if two-thirds in number of the total number of retiree claimants in the class have voted in favor of it.

A new subsection (h) is added to section 1126 to deal with cases where retiree benefit claims are not placed in a separate class but are lumped with other unsecured claims and voting takes place under subsection (c)(1). In those cases, a value must be placed on each retiree's claim to give it the appropriate weight when it is voted along with other unsecured claims. The value for each retiree benefit claim will be the pro-rata share of the aggregate amount of all retiree benefit claims included in the class.

Sec. 10 adds a new subsection (e) to section 1129.

Paragraph (1) provides that any payments made during the Chapter 11 case under section 1114 shall be credited against the amount to be provided for retiree benefits under the plan. The amount to be paid for retiree benefit claims under the plan, just as for all other creditors' claims, is computed from the date of filing the petition. But, unlike other creditors, retiree benefit claimants already will have been paid some of that amount. This paragraph ensures that those payments advanced to retirees are taken into account.

Paragraph (2) of subsection (e) concerns the treatment of retiree benefit claims under the "best interests" tests of subsection (a)(7) and the "cram down" provisions of subsection (b)(2)(B)(i). To avoid actuarial determinations of the value of each individual retiree's claim, it permits the tests in (a)(7) and (b)(2)(B)(i) to be satisfied by assessing the plan's treatment of retiree benefit plans in the aggregate. To do so, it creates a legal fiction that each holder of a retiree benefit claim holds a claim for the aggregate amount of all such claims and receives the aggregate amount of all property to be paid toward all such claims.

Sec. 11 is a transition provision to provide that the court will perform the functions assigned to the U.S. Trustee where a U.S. Trustee is not yet authorized to serve. This provision is necessary because, under the terms of Pub. L. 99-554, the U.S. Trustee may not be in every judicial district until 1992.

Sec. 12(a) sets forth amendments to section 608(a) of the Joint Resolution for FY 1987, Pub. L. 99-591. That law, as amended, will govern payment of retiree benefits in those Chapter 11 cases filed before the effective date of this bill that were (A) filed after October 2, 1986 or (B) filed before October 2, 1986 but where retiree benefits were being paid on October 2, 1986. New section 1114 and other amendments made to the Bankruptcy Code by this bill will apply only to cases filed after the effective date of this bill.

Pub. L. 99-591 is amended by striking the September 15, 1987 deadline now included in order to make this law continue to apply to the covered cases so long as they are in Chapter 11 proceedings. This means that retiree benefits must continue to be paid in these cases at the full level, without modification, except in two situations: (1) If full payment of retiree benefits will impair a secured claim, the trustee is not required to pay them. This exception is added to comply with Constitutional requirements. (2) The trustee need not pay the full level of benefits if the retirees, through an authorized representative, agree to a modification of such benefits and such modification is necessary to permit the debtor's reorganization. The retirees are required to negotiate in good faith if the trustee proposes modifications.

Sec. 12(b) repeals those provisions in the amendments to the Declaration of Takings Act, Pub. L. 99-656, that concern payment of retiree benefits.

Sec. 13 provides that the effective date of the bill is the date of enactment. The amendments made to the Bankruptcy Code, which are those amendments in sections 2 through 11, shall apply only to Chapter 11 cases filed after the date of enactment of this bill. This means that the new section 1114 will not apply to any pending bankruptcy cases.

CALL TO CONTROL AIRPORT NOISE GROWS LOUDER AND LOUDER

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1987

Mr. FLORIO. Mr. Speaker, across the Nation, our communities are being beset by airport noise. There are studies that can be performed to determine if the noise is excessive, and if the noise is excessive, there are methods to reduce that noise.

The Environmental Protection Agency and the Federal Aviation Administration have the power to protect our communities from the persistent drone of airport noise.

Back in 1979, the Aviation Safety and Noise Reduction Act authorized airports to undertake studies evaluating the noise levels generated by planes flying in and out.

The noise that an airplane makes is not restricted to just the runway and the hangar. The communities surrounding hundreds of local, national, and international airports are subjected to a form of pollution—noise pollution—every day, day and night.

I urge my colleagues to listen to the need for airport noise reduction. Some airports have participated in noise reduction studies. But the 100 that have so far cooperated in these efforts to ameliorate the impact of airports on the surrounding communities is a far cry from the many other airports that have not done so.

In my own State, several of the busiest airports in the country daily create noise levels that disturb the many residential communities.

As a result of the implementation of the FAA's expanded east coast plan earlier this year, many communities that had previously escaped the insistent noise generated by Newark and La Guardia Airports now find themselves in the direct plan of hundreds of airplanes flying overhead.

In legislation introduced by our colleague from California, NORMAN MINETA, and that I support, there is a provision that would put pressure on airports to conduct studies of noise levels. If an airport authority chose not to participate in the FAA studies, then 10 percent of the airport's entitlement funds from the Federal Government would be redirected to the local communities for noise abatement projects.

The irony of the entire situation is that an airport noise study is a remedy to airport noise. It is part of a remedy to a problem that will only continue to grow as we work on how to improve our transportation network.

Federal funds do exist for the studies and for the remedies to excessive airport noise levels. The airports can get assistance from the FAA in changing scheduling and traffic patterns into and out of the airport, and actions on the ground such as soundproofing.

As an example of the range of the problem, I am including an article from the Associated Press appearing recently in the New Jersey Courier-Post:

FLORIO, OTHER LEADERS SOUND OFF ABOUT AIRPORT NOISE IN NORTH JERSEY

KEARNY.—About 10 planes crisscrossed the sky, interrupting a 30-minute news conference at a Kearny park on the problems of noise at Newark International Airport.

Rep. James J. Florio, Democrat from Pine Hill, couldn't have planned a better setting yesterday to demonstrate that new flight patterns instituted in February by the Federal Aviation Administration (FAA) have disturbed the tranquility of 27 New Jersey communities.

"It seems that some people in Washington don't want the EPA (federal Enviromental Protection Agency) involved in noise pollution. It's time to start thinking about it and doing it," Florio said.

The Port Authority of New York and New Jersey, Florio said, should conduct a study assessing the noise problem at Newark International and New York City's LaGuardia Airport.

A rise in helicopter traffic at Teterboro Airport also has contributed to the problem, the congressman said.

Surrounded by local officials, including state Sen. Thomas F. Cowan, D-Hudson, and Kearny Mayor Henry Hill, Florio accused the EPA and FAA of being lax in their enforcement of noise pollution laws.

He suggested that the state attorney general should consider suing the EPA if conditions do not improve soon.

Florio attributed the rise in complaints about air traffic to the FAA's new system of routing planes into the area's major airports; an increased volume of flights spurred by deregulation; and overworked air traffic controllers "who are not cushioning the impact of higher levels of traffic."

Air safety is foremost at airports, Florio said, but high levels of noise can contribute to health problems. He chided the EPA for "opting out of its responsibility" and said the EPA and FAA have not coordinated efforts on that front.

The FAA's decision to alter traffic routes from Florida to Boston was part of a plan to relieve congestion and improve safety in regions such as the New York metropolitan area.

Under the Expanded East Coast Plan, planes flying south and southwest out of the two local airports were routed over the New Jersey communities of Tewksbury, Long Valley and Hackettstown. Before the plan, the flights went over Readington in Hunterdon County.

Legislation passed in 1979 by Congress lets airports petition the FAA for a study to monitor noise levels.

FAA acceptance of the study permits federal funding for programs such as soundproofing homes, changing traffic patterns, designating preferential runways, limiting nighttime operations and enforcing minimum noise standards, Florio said.

Only about 100 airports in the country have conducted the studies, Florio said. He has sponsored a provision to a bill soon to be considered by the House that would give local governments 10 percent of an airport's entitlement funds should the facility fail to address noise control.

HONORING RAUL R. NUNEZ

HON. ESTEBAN EDWARD TORRES

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1987

Mr. TORRES. Mr. Speaker, I ask my colleagues to join with me today in saluting Mr. Raul R. Nunez who will be honored on Friday, July 24, 1987 by the United Hispanic Scholarship Foundation and members of the Hispanic community for his dedication and service to local government employees and to young people in Los Angeles County.

Mr. Nunez was a founding member of the Los Angeles County Chicano Employees Association who has served unselfishly and with total commitment as a member of the board of directors and as president of this association. Through his leadership the Los Angeles County Chicano Employees Association [LACCEA] has grown into one of the highly regarded and respected employee advocacy organizations in Los Angeles County. The association is a defender of employee rights in the areas of employment discrimination and affirmative action.

As President of LACCEA, Mr. Nunez provided the leadership and assistance in the development of the United Hispanic Scholarship Foundation. This foundation assists Hispanic youth to pursue their education so that they may reach their goals in becoming leaders in business, education, government and the community.

It is important to note that Mr. Nunez brings prestige, respect and special meaning to the association through his unselfish dedication to its goals and objectives.

Mr. Speaker, I ask my colleagues in the House of Representatives to join me in honoring Mr. Raul R. Nunez, a special leader in the community who continues to give of himself, not only to his fellow employees in county government, but to his community.

THE PUERTO RICANS WANT JOBS, NOT WELFARE

HON. JAIME B. FUSTER

OF PUERTO RICO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1987

Mr. FUSTER. Mr. Speaker, I would like to share with my colleagues a remarkable story about Puerto Ricans who want to work rather than remain on the welfare rolls. It is a significant story to be told, especially to a national audience that may have some misconceptions about Puerto Ricans on welfare. "Puerto Ricans want to work, and it is our duty to provide them with job opportunities," said our Governor, the Honorable Rafael Hernández Colón.

The Governor made these remarks after noting the extraordinary success of a Government initiative to take Nutritional Assistance Program [NAP] enrollees off welfare and into productive employment by offering them minimum wage jobs.

When the opportunity was announced, 900 NAP participants applied for the 200 available positions—at a time when many people say that able-bodied Puerto Ricans would rather live off Government assistance than work. The amazing turnout, I think, want to work but the Government has to provide the jobs. The newspaper El Mundo, one of the largest on the island, ran an editorial that I think my colleagues will find of interest. What follows is a translation of that editorial as published by El Mundo on Friday July 3, 1987.

EDITORIAL

If what happened in the case of a soon-to-be-opened factory in Orocovis is an indication of the general attitude of the island among those who receive welfare assistance, Governor Rafael Hernández Colón was certainly on target when he praised the desire of the Puerto Ricans to work.

According to a news release, participants in the Nutritional Assistance Program (NAP) were given the opportunity to work at that factory with a minimum wage salary. Nine hundred beneficiaries applied for the 200 positions to be created when the factory opens.

This is then the first such factory whose entire personnel, except for administrative and executive positions, is staffed exclusively with Puerto Ricans who came off the welfare rolls of NAP.

To give up welfare benefits for a regular job, as 900 individuals were eager to do, demonstrates the falsity of weidely held impressions in some circles.

The impression is that of welfare recipients, able to work, but who prefer to stay on the welfare rolls rather than working for their own sustenance.

Private enterprise and the Government should step up their efforts to create new jobs on the island. Jobs that will make productive workers out of these welfare recipients, so willing to honor themselves, by working at any dignified job available.

WHY THE USE OF GENERIC DRUGS WILL HELP SENIORS, MEDICARE, AND TAXPAYERS

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1987

Mr. STARK. Mr. Speaker, there will be an amendment to the Medicare Catastrophic Protection Act which would make it harder to prescribe generic drugs.

The cost of the amendment is estimated by CBO at around $650 million over the next 4 years—and it is easy to see why.

The August, 1987 Consumer Reports contains an excellent article on why generics offer a high quality, low-cost alternative to brand names. The following table from their article explains it all:

"Many of the best-selling prescription drugs are now available in generic form. Below are recent retail prices for brand-name and generic versions of 11 of the most frequently prescribed drugs, as posted by a major national pharmacy chain. Overall, the brand names cost 70 percent more than the generics. In the case of Valium, the difference is 223 percent.

Brand name	Generic name	Dosage	Retail price [1]	
			Brand	Generic
Amoxil	amoxicillin	[2] 250	$21.46	$15.29
Ativan	lorazepam	1	31.99	17.99
Darvocet-N 100	propoxyphene	100	28.01	17.89
	acetaminophen	650		
Dilantin	phenytoin	100	7.49	5.79
EES 400	erythromycin ES	400	17.99	14.97
Inderal	propranolol HCL	40	19.56	10.49
Keflex	cephalexin	250	77.34	48.99
Lasix	furosemide	40	10.74	5.89
Motrin	ibuprofen	600	18.23	9.93
Tylenol No. 3	acetaminophen	300	14.89	6.88
	codeine	30		
Valium	diazepam	5	27.47	8.49

[1] For 100 tablets or capsules.

[2] Milligrams.

For the sake of our Nation's seniors, I urge you to oppose the amendment to H.R. 2470 which would weaken the generic prescription language.

ST. MICHAEL'S BAND BLOWS ITS HORN

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1987

Mr. FLORIO. Mr. Speaker, hailing from the town of Gibbstown in Gloucester County, NJ, is a band of 30 individuals from all walks of life. And when they get together to practice or to perform, the music that they make makes the effort all worthwhile.

Apparently, many other members of the audience also feel that the effort is worthwhile. This year, the St. Michael's Band is celebrating its 50th anniversary and the band is in demand.

From the once-a-year performance on St. Michael's feast day back in its origins, the band is now asked to perform from Philadelphia to the boardwalks of New Jersey's beaches.

In those 50 years, the band members have grown. For some, the experience has meant learning how to play an instrument in the first place. For others, the lessons learned in the band have become the basis of careers. For all, the St. Michael's Band has become a part of their lives.

This coming October, the band will be celebrating with a banquet to mark the end of the first 50 years and the start of the next 50.

For the music that the St. Michael's Band has brought to the communities of New Jersey, I am including an article written recently by the New Jersey Courier-Post marking that milestone in music for the community:

[From the New Jersey Courier-Post, July 5, 1987]

AFTER 50 YEARS, LOCAL MUSICIANS STILL STRIKING UP THEIR BAND

(By Cece Lentini)

GIBBSTOWN.—Although it's been 50 years, John Grelli remembers clearly the pain involved in learning to play the trombone.

"My father made me practice an hour every day after school," said Grelli, 63. "That was besides our lessons and rehearsals twice a week. I wanted to play football. But my father said I had to practice first."

But Grelli is quick to acknowledge that those painful practice sessions paid off in a very big way for him, his brother Mario, and about 50 other Italian youngsters who grew up in this small working community in the late 1930s.

Forced to take music lessons by their immigrant parents, who hoped music would help make their children more cultured, the kids formed a band.

And today, as St. Michael's Band, many of them are still together, practicing every Friday night and playing for parades, religious feast days and other celebrations throughout the Delaware Valley.

The 30-member band is no longer all Italian. Nor do they play only Italian symphonic melodies, although this is an important part of their repertoire.

But as they celebrate their 50th anniversary this year with plans for a banquet in October, some of the older band members are looking back nostalgically.

Underlying those memories is an appreciation for their parents, who paid Camden music professor Francesco Scicchitano $1 a week for two lessons per child. Scicchitano, who eventually became superintendent of music for the Camden schools, started with the band in 1937 and stayed until the late 1940s.

"A dollar a week was a lot of money in those days," said Rudy Marcucci, 60. "It was quite a gift."

Scicchitano, they recalled, was very strict. He made the children spend six months learning rhythm and how to read music before allowing them to touch an instrument, and then he decided which instruments they would play.

"When he came down to give us our lessons, he could tell right away if we hadn't practiced," said Mario Grelli 61. "And then he told our parents, and they got after us."

During World War II some members found themselves playing with service bands, and at least one of them made a career of it. Another went on to play for the Ice Capades.

In the early 1950s, after the band had been inactive for a few years, some members started playing together again. At first they planned only to play once a year for St. Michael's feast day at the local Catholic church.

But they quickly found themselves invited to play all over the Delaware Valley.

And since then, at least to hear them talk, it has been a rollicking good time.

They have played from the boardwalk in Wildwood to parades in southwest Philadelphia, where they once stopped in the middle of the street and serenaded a bride coming out of a church.

On a 1976 Caribbean cruise together, they entertained other passengers for seven days.

And there is the tradition they call "hideho." After each performance band members head for the nearest bar and start to play.

"We play tunes like "When the Saints Go Marching In,' " said band president Dominick Merino, 50. "We want people to be dancing in the streets."

Although the band used to be booked nearly every weekend, in recent years, as members have gotten older, they have cut back to 10 or 12 performances a year.

But they still practice every Friday night at the St. Michael's Mutual Club here.

"This band is our childhood," said Nippy DeMarco, nodding a gray head at his friends. "This is all ours. It's a chance to get together, play, have a good time, and be with friends."

CHAIRMAN HAMILTON'S ELOQUENT CLOSING REMARKS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1987

Mr. MILLER of California. Mr. Speaker, for the past several weeks, the Congress and the Nation have witnessed one of the most profoundly distressing episodes in modern American history.

The hearings of the committees on the Iran-Contra scandal have revealed a level of dishonesty and contempt for our constitutional system which few could have imagined when President Reagan first admitted last year to selling arms to Iran.

Over the past 2 weeks, the severity of that lesson and the seriousness of the abuses have been camouflaged to some extent by the articulate and emotional presentation of Lt. Col. Oliver North. It was evident from his testimony that Colonel North fervently believed in what he did. But it was just as clear that the goals he sought are goals unshared by a majority of the American people or their elected representatives in the Congress of the United States.

Unable to persuade, Colonel North, Admiral Poindexter, and other high-ranking members of the Reagan administration chose instead to pervert the very democratic ideals for which they allegedly acted. And when we strip away the rhetoric about patriotism and honor, and we look beyond the pained looks of sincerity and concern, we see a very troubling picture: Men who were willing to lie to Congress, lie to the American people, and by their own words, deceive the President they supposedly served.

Contrary to Colonel North's conclusions, extremism in the defense of liberty is no virtue. It is still extremism, and it has no place in the halls of government or the hearts of the American people. And when that extremism is employed on behalf of undemocratic terrorists who are killing innocent people in Nicaragua and undermining a government with which we have full diplomatic relations, it is extremism unbridled.

There will be many words written on the Iran-Contra investigation, but none will be more eloquent or to the point than the summation by the Chairman LEE HAMILTON at the conclusion of Colonel North's testimony. In his statement, Congressman HAMILTON captured the essence of the wrongs perpetrated by Colonel North and his cohorts who placed their personal goals above the best interests, and the laws, of the American people and the United States.

I urge all my colleagues to read this thought-ful statement. The statement follows:

REPRESENTATIVE HAMILTON: CLOSING REMARKS

(Following is a transcript of remarks by Rep. Lee H. Hamilton (D-Ind.), at the close of testimony by Lt. Col. Oliver L. North. Hamilton is chairman of the House select committee investigating the Iran-contra affair.)

Mr. Chairman, may I express to you my personal appreciation for the manner in which you have presided over these committees these last several days. You've had rather difficult moments. I think you have been firm and fair, and you have kept these proceedings moving along, and all of us are most grateful to you. Now Col. North, let me join with others in expressing my appreciation to you for your testimony. And as the chairman has indicated, I will use my time just to give you some of my impressions.

I recognize that a president and those carrying out his policies sometimes face agonizing choices, and you've had more than your share of them. I've never for a moment, over the years that I have known you, doubted your good intentions to free hostages, to seek democracy in Nicaragua, to fight communism and to advance the best interests of the nation. And for many in this country, I think the pursuit of such worthy objectives is enough in itself, or in themselves, and exonerate you and any others from all mistakes. Yet what strikes me is that despite your very good intentions, you were a participant in actions which catapulted a president into the most serious crisis of his presidency, drove the Congress of the United States to launch an unprecedented investigation, and I think probably damaged the cause, or the causes that you sought to promote. It is not my task, and it is not the task of these committees, to judge you. As others have said, we're here to learn what went wrong, what caused the mistakes, and what we can do to correct them. And the appropriate standard for these committees is whether we understand the facts better because of your testimony, and I think we do, and we're grateful to you.

In your opening statement you said that these hearings have caused serious damage to our national interests. But I wonder whether the damage has been caused by these hearings or by the acts which prompted these hearings. I wonder whether you would have the Congress do nothing after it has been lied to and misled and ignored. Would we in the Congress then be true to our constitutional responsibilities? Is it better under our system to ignore misdeeds or to investigate them behind closed doors, as some have suggested? Or is it better to bring them into the open and try to learn from them? I submit that we are truer to our Constitution if we choose the latter course.

These committees, of course, build on the work of other committees, and I think that work is part of our constitutional system of checks and balances. There are many parts of your testimony that I agree with. I agree with you that these committees must be careful not to cripple the president. I agree with you that our government needs the capability to carry out covert actions.

During my six years on the Intelligence Committee, over 90 percent of the covert actions that were recommended to us by the president were supported and approved. And only the large-scale paramilitary operations, which really could not be kept secret, were challenged. I agree with you, when you said in your opening statement, that you're caught in a struggle between the Congress and the president over the direction of American foreign policy, and that most certainly is not your fault. And I agree with you, that the Congress, whose record in all of this is certainly not unblemished, also must be accountable for its actions.

Now let me tell you what bothers me. I want to talk about two things, first policy, and then process. Chairman Inouye has correctly said that the business of these Select Committees is not policy, and I agree with him, but you made such an eloquent and impassioned statement about policy, that I wanted to comment. I am very troubled by your defense of secret arms sales to Iran. There's no disagreement about the strategic importance of Iran or the desirability of an opening to Iran. My concern is with the means employed to achieve those objectives.

The president has acknowledged that his policy, as implemented, was an arms-for-hostage policy. And selling arms to Iran in secret was, to put it simply, bad policy. The policy contradicted and undermined long-held, often articulated, widely supported public policies in the United States. It repudiated U.S. policy to make no concessions to terrorists, to remain in the [Persian] Gulf war, and to stop arms sales to Iran. We sold arms to a nation officially designated by our government as a terrorist state. This secret policy of selling arms to Iran damaged U.S. credibility.

A great power cannot base its policy on an untruth without a loss of credibility. Friendly governments were deceived about what we were doing. You spoke about the credibility of U.S. policy in Central America, and you were right about that, but in the Middle East, mutual trust with some friends was damaged, even shattered.

The policy of arms for hostages sent a clear message to the states of the Persian Gulf, and that message was that the United States is helping Iran in its war effort, and making an accommodation with the Iranian revolution, and Iran's neighbors should do the same. The policy provided the Soviets an opportunity they have now grasped, with which we are struggling to deal. The policy achieved none of the goals it sought. The ayatollah [Ruhollah Khomeini] got his arms, more Americans are held hostage today than when this policy began, subversion of U.S. interests throughout the region by Iran continues. Moderates in Iran, if any there were, did not come forward. . . . Today, those moderates are showing fidelity to the Iranian revolution by leading the charge against the United States in the Persian Gulf. In brief, the policy of selling arms to Iran, in my view at least, simply cannot be defended as in the interests of the United States. There were and there are other means to achieve that opening which should have been used.

Now let me comment on process as well, first with regard to covert actions. You and I agree that covert actions pose very special problems for a democracy. It is, as you said, a dangerous world, and we must be able to conduct covert actions, as every member of this panel has said. But it is contrary to all that we know about democracy to have no checks and balances on them. We've established a lawful procedure to handle covert actions. It's not perfect by any means, but it works reasonably well. In this instance, those procedures were ignored.There was no presidential finding in one case, and a retroactive finding in another. The intelligence committees of the Congress were not informed, and they were lied to. Foreign policies were created and carried out by a tiny circle of persons, apparently without the involvement of even some of the highest officials of our government.

The administration tried to do secretly what the Congress sought to prevent it from doing. The administration did secretly what it claimed to all the world it was not doing. Covert action should always be used to supplement, not to contradict, our foreign policy. It should be consistent with our public policies. It should not be used to impose a foreign policy on the American people which they do not support.

Mr. McFarlane was right. He told these committees it was clearly unwise to rely on covert action as the core of our policy. And as you noted in your testimony, and I agree with you, it would have been a better course to continue to seek contra funding through open debate. You have spoken with compelling eloquence about the Reagan Doctrine. And laudable as that doctrine may be, it will not succeed unless it has the support of the Congress and the American people.

Secondly, with regard to process, let me talk about accountability. What I find lacking about the events as you have described them is accountability. Who was responsible for these policies, for beginning them, for controlling them, for terminating them? You have said that you assumed you were acting on the authority of the president. I don't doubt your word, sir. But we have no evidence of his approval. The president says he did not know that the National Security Council staff was helping the contras. You thought he knew. And you engaged in such activities with extraordinary energy.

You do not recall what happened to the five documents on the diversion of funds to the contras. Those documents radically changed American policy. They are probably, I would think, the most important documents you have written. Yet you don't recall whether they were returned to you, and you don't recall whether they were destroyed, as I recall your testimony.

There's no accountability for an $8 million account earned from the sale of U.S. government property. There is no accountability for a quarter of a million dollars available to you. You say you never took a penny. I believe you. But we have no records to support or to contradict what you say. Indeed, most of the important records concerning these events have been destroyed.

Your testimony points up confusion throughout the foreign policymaking process. You've testified that [the late CIA] Director [William J.] Casey sought to create an on-the-shelf, self-sustaining, stand-alone entity to carry out covert actions—apparently without the knowledge of other high officials in government. You've testified there was an unclear commitment to Israel concerning replenishment of missiles to Iran. You've testified that it's never been U.S policy not to negotiate with terrorists. Yet the president has said the opposite—that we will never negotiate with terrorists. You have testified that a lot of people were willing to go along with what we were doing, hoping against hope that it would succeed and willing to walk away when it failed. Now my guess is, that's a pretty accurate description of what happened. But it's not the way to run a government. Secret operations should pass a sufficient test of accountability. And these secret operations did not pass that test. There was a lack of accountability for funds and for policy, and responsibility rests with the president. If he did not know of your highly significant activities done in his name, then he should have, and we'll obviously have to ask [former national security adviser] Adm. [John M.] Poindexter some questions.

Now the next point with regard to process relates to your attitude toward the Congress. As you would expect, I'm bothered by your comments about the Congress. You show very little appreciation for its role in the foreign policy process. You acknowledge that you were "erroneous, misleading, evasive and wrong" in your testimony to the Congress. I appreciate, sir, that honesty can be hard in the conduct of government. But I am impressed that policy was driven by a series of lies—lies to the Iranians, lies to the Central Intelligence Agency, lies to the attorney general, lies to our friends and allies, lies to the Congress, and lies to the American people. So often during these hearings—not just during your testimony, but others' as well, I have been reminded of President Thomas Jefferson's statement: "The whole art of government consists in the art of being honest."

Your experience has been in the executive branch, and mine has been in the Congress. Inevitably our perspectives will differ . . . You said on the first day of your testimony, and I quote, "I didn't want to show Congress a single word on this whole thing." I do not see how your attitude can be reconciled with the Constitution of the United States. I often find in the executive branch in this administration as well as in others, a view that the Congress is not a partner, but an adversary. The Constitution grants foreign policy making powers to both the president and the Congress, and our foreign policy cannot succeed unless they work together. You blame the Congress as if the restrictions it approved were the cause of mistakes by the administration, yet congressional restrictions in the case of Nicaragua, if the polls are accurate, reflected the majority of the American people. In any case, I think you and I would agree that there is insufficient consensus on policy in Nicaragua. Public opinion is deeply divided. And the task of leadership, it seems to me, is to build public support for policy. If that burden of leadership is not met, secret policies cannot succeed over the long term.

The fourth point with regard to process relates to means and ends. As I understand your testimony, you did what you did because those were your orders and because you believed it was for a good cause . . . . The means employed were a profound threat to the democratic process. A democratic government, as I understand it, is not a solution, but it's a way of seeking solutions. It's not a government devoted to a particular objective, but a form of government which specifies means and methods of achieving objectives. Methods and means are what this country are all about. We subvert our democratic process to bring about a desired end, no matter how strongly we may believe in that end. We've weakened our country and we have not strengthened it.

A few do not know what is better for Americans than Americans know themselves. If I understand our government correctly, no small group of people, no matter how important, no matter how well-intentioned they may be, should be trusted to determine policy. As President [James] Madison said, "Trust should be placed not in a few, but in a number of hands."

Let me conclude. Your opening statement made the analogy to a baseball game. You said the playing field here was uneven and the Congress would declare itself the winner. I understand your sentiments, but may I suggest that we are not engaged in a game with winners and losers. That approach, if I may say so, is self-serving and ultimately self-defeating. We all lost. The interests of the United States have been damaged by what happened. This country cannot be run effectively [when] . . . major foreign policies are formulated by only a few and are made and carried out in secret, and when public officials lie to other nations and to each other. One purpose of these hearings is to change that. The self-cleansing process, the Tower commission and these joint hearings and the report which will follow, are all part, we hope, of a process to reinvigorate and restore our system of government.

I don't have any doubt at all, Col. North, that you are a patriot. There are many patriots, fortunately, and many forms of patriotism. For you, perhaps, patriotism rested in the conduct of deeds, some requiring great personal courage, to free hostages and fight communism. And those of us who pursue public service with less risk to our physical well-being admire such courage. But there's another form of patriotism, which is unique to democracy. It resides in those who have a deep respect for the rule of law and faith in America's democratic traditions. To uphold our Constitution requires not the exceptional efforts of the few, but the confidence and the trust and the work of the many. Democracy has its frustrations. You've experienced some of them, but we, you and I, know of no better system of government. And when that democratic process is subverted, we risk all that we cherish. I thank you, sir, for your testimony, and I wish you and I wish your family well.

A TRIBUTE TO THE JEWEL OF THE SOUTH BAY

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1987

Mr. LEVINE of California. Mr. Speaker, I rise today to pay tribute to a special place in my 27th Congressional District in California. That place is Manhattan Beach. Residents are currently celebrating the 75th anniversary of the incorporation of Manhattan Beach, the "Jewel of the South Bay." I would like to share some of the highlights of life in Manhattan Beach with my colleagues.

Manhattan Beach has changed dramatically during the first 75 years of existence. Once a rural town of less than 600 residents, the city now is almost completely developed and has a population of over 33,000. One characteristic which has been preserved, however, is the strong community spirit which makes Manhattan Beach such a fun place to live.

Following incorporation in 1912, the city concentrated on creating an environment suitable for all year living rather than just a summer retreat. Initial actions were geared toward paving streets and installing water and sewer lines to open more areas of the town for homes. The pier and other public improvements were instrumental in attracting more people to the area. The city's land area is approximately 2,300 acres, with a 2.1 mile beachfront.

A five-member city council, elected at-large, sets the policy for the city. Under the council-manager form of government, the city manager, David Thompson, carries out policies by the city council and manages the daily operations.

Manhattan Beach offers beautiful residential areas which have developed from tiny beach cottages used primarily as summer homes to an almost fully developed residential community. The characteristics of each of these areas combine to give Manhattan Beach its top notch residential reputation. Residents contribute by taking great pride in the appearance of their homes, making Manhattan Beach one of the finest places to live in California.

As Manhattan Beach has grown over the past 75 years, the business community has kept pace with the changing needs of an increasing population. The downtown area of the city, which is located in the general vicinity, of the pier, has provided desired services and products to residents of the city since its beginning. Local businesses have made great efforts to meet the community's changing needs while maintaining the personalized service residents appreciate.

Many organizations and events in Manhattan Beach enhance the community spirit and add to the quality of life in this city. The city's 75th anniversary year is packed with events for the entire family, and residents are encouraged to participate in as many as desired to make this a truly magnificent year of celebration.

With summer here, the city's parks and recreation department is well prepared to serve the recreational needs of residents. There are six parks and two community centers in addition to the city's beautiful 2.1 miles of wide, sandy beach.

The fire department now serves the citizens of Manhattan Beach from two fire stations and is staffed by 30 full-time firefighting professionals, many also trained as paramedics. The Manhattan Beach Police Department currently has 58 sworn police officers, and has been very successful in lowering the local crime rate over the past few years. The police department also is striving to involve the business community in development of additional prevention programs to address their special needs, while continuing to provide the high level of service residents enjoy.

To keep pace with the growing needs of the community, the city of Manhattan Beach has instituted numerous special services for residents during the past several years. Of special importance are transportation, animal aid, and an increased flow of information to residents.

I ask my colleagues in the U.S. House of Representatives to join me in extending my best wishes to the residents of Manhattan Beach, to Mayor C.R. "Bob" Holmes, and members of the city council, Jan Dennis, Gil Archuletta, Larry Dougharty and Connie Sieber, on the occasion of this joyous celebration, especially on the weekend of July 25–26, when everyone in the community will participate in the city-sponsored parade and picnic.

CREATION OF A FEDERAL COUNCIL ON WOMEN

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1987

Mrs. BOXER. Mr. Speaker, I would like to share with my colleagues the remarks of Annette Klang Smail of Novato, CA, regarding H.R. 1636, a bill which I, along with Representative DON EDWARDS, have introduced to establish a Federal Council on Women. This Council would study the unique economic problems of women, especially women in poverty.

CREATION OF A FEDERAL COUNCIL ON WOMEN

My remarks here refer to H.R. 1636, your bill that would establish a Federal Council on Women (FCW) as an advisory body to the Congress. The FCW would help to address the severe social problem called the feminization of poverty and would, at the same time, help advance the general status of all women and the children they care for. Clearly, solutions to problems facing children in poverty are inseparable from women's issues.

The major fact that the FCW bill addresses is that our government has failed to develop a comprehensive and coherent domestic policy dealing with homemakers, working women and older retired women. These three female groups, in themselves, constitute a disproportionate percentage of the nation's adult poor. And when the numbers of children in poverty are added, then we see a clearly-defined focus of one of the major causes of poverty in America and how it has been—and is being—spawned cyclically to become a greater and greater burden. The burden falls not only on the deprived of both genders, but is a burden that affects the general public good and the federal budget as well.

This social problem is surely not an isolated one since it effectively penetrates the quality of life of all our citizens. Yet what has been sorely lacking at the federal level is a tool, like the proposed FCW, that could help remedy a situation that has been suffering from national policy neglect. Such a policy of neglect by the highest levels of government needs, at long last, to be substituted with a full-drawn effort. The seeds of that full-drawn effort are contained in the idea of a FCW, which in itself could help to assist in defining and constructing a policy seeking solutions.

The administration's failure to come up with such a policy has left us, as time goes on, with more and more complex and challenging social problems, only a fraction of which have ever been fully acknowledged or addressed. Most often proposed reforms have been dealt with only in bits and pieces of fragmented legislation—legislation that has no foundation in a clearly defined national policy or commitment.

A good example of this lack of legislative development devoid of a national policy is reflected in the track record of the Economic Equity Act, which was first introduced in 1981. Since that time that Act, which proposes significant reforms for women in the workplace, in the home, in the family and in their older years, has, not surprisingly, made little headway. The Act's progress has been minimal basically because no federal policy in those areas has ever been laid out.

Another reason why our progress toward advancing women's economic and social status has been so slow is because of the under-representation of women in Congress. Since women constitute only 2 per cent of the Senate and a little over 5 per cent in the House, such a representational discrepancy has served both to narrow the legislative agenda and inhibit needed policy development for 51 per cent of the population.

To help remedy this gender imbalance in our representational system, the creation of a vehicle to provide women with more say and input into the political agenda is needed. Such an opportunity for female participation would be opened up by the very existence of the FCW. At the present time, because women's voices do not have such an outlet, or conduit, many now feel we are unable to effectively influence the political agenda. Actually, many feel alienated from the political system itself.

It is no wonder so many of us feel this way. For too many years there has been this vacuum in fair representation—and never more so than now under the current administration. Few people realize that President Reagan is the first president since 1961 never to have issued an executive order to create a women's advisory body with the goal of enhancing the quality of women's lives. Therefore, it is now up to Congress to fill this leadership gap by now establishing an advisory body on a permanent basis until equality of political representation has been achieved by both genders.

Simply put, the FCW is seen as a tool to help rectify women's unequal status in the political arena. We view it as giving our concerns more legislative access and attention to what we feel are legitimate rights-based issues. Further, compared to most men, women have a far greater economic and social investment in children. The fact that there are so many female single parents has not received sufficient attention in the legislative arena.

Our lack of a refined public policy—beyond traditional welfare programs—dealing with women's day-to-day responsibilities, obligations and needs in the areas of child care, parental leave, health care and pensions have gone largely unattended. At long last, these fundamental issues must be confronted honestly and head-on—or our future will be imperiled.

As an advisory arm of the Congress and as an instrument to stimulate needed reforms for today's world, an FCW would attempt to bring the female poverty issue to its rightful high-priority rank on the national agenda. It would do this by helping to define a public policy consistent with the present reality of women's lives—not yesterday's. In this way, the FCW would also function as a think tank whose informed and highly qualified participants would be people who will be dealing with issues they are already so familiar with. It is expected that think tank people will be genuine experts because they will have had life experiences in dealing with the very issues for which they seel solutions.

Having led the drive to get the FCW bill introduced, I am very much in touch with the grass roots support of this measure and I have been heartened by the enthusiastic bipartisan response received wherever this proposal has been explained. It has been endorsed by numerous groups, including the California legislature, in addition to many grass roots constituents, both men and women who have been signing petitions nationwide. Our growing number of backers look forward to similar enthusiastic support from the U.S. Congress because the time was never sooner for action to be taken to create a FCW. Its very existence would help to acknowledge women's presence to a far greater extent than it is now in the political process.

DISTURBING INDICATIONS OF ANTI-SEMITISM IN JAPAN

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1987

Mr. LANTOS. Mr. Speaker, a column by Hobart Rowen in the Washington Post last Thursday deals with what he calls the "astonishing spread of anti-Jewish literature in Japan." Despite the fact that there are virtually no Jews in Japan and that there is no traditional anti-Semitism, Mr. Rowen writes that crude anti-Semitic lies—which I find reminiscent of the worst the Nazis and czarist Russia had to offer—are being published in Japan: The Jews caused the Great Depression; the Rockefellers are Jews and, along with other Jews, run IBM and General Motors; the Jews control the media; the U.S. Cabinet is run by Jews like Weinberger and Shultz.

I find it mind-boggling that today—40 years after the Holocaust in Europe—the worst forms of anti-Semitic slander still find currency in a country which is one of our closest allies, to which we were magnanimous in victory, and in which we helped plant the seeds of democracy.

Mr. Speaker, it does not surprise me that such slander is possible, but I am surprised and very disturbed that responsible leaders of Japanese public opinion—the Prime Minister, leaders of the political parties, business leaders, scholars, and intellectuals—have not spoken out forcefully against the publication of such shocking and disgusting anti-Semitic materials.

Mr. Speaker, I ask that Mr. Rowen's timely and disturbing column be placed in the RECORD.

[From the Washington Post, July 16, 1987]

"AN ASTONISHING SPREAD OF ANTI-JEWISH LITERATURE IN JAPAN"

(By Hobart Rowen)

NEW YORK—Over the ages, Jews have been cast in the role of scapegoat for the ills in many a nation's society. In the latest variation of this tired theme, there has been an astonishing spread of anti-Jewish literature in Japan. It blames Japan's current economic problems—including the high yen—on Jews working behind the scenes to control world events.

In this replay of the Jewish-conspiracy theory, American Jews are also responsible for the Reagan administration's recent trade sanctions growing out of a dispute over semiconductors.

"Japan is in a rage, strongly believing that it is being bashed by America on trade issues," says Herbert Passin, the distinguished anthropologist and scholar who has worked and taught in Japan for the past 40 years. "They say, 'How can you do anything like this to us?' So what you have [in the anti-Jewish books] is a proxy for anti-American feeling."

Jews and Judaism are almost unknown to Japanese citizens. In Japan, a country with a population of 120 million, there are no more than 150 Western Jewish families, according to the Anti-Defamation League of B'nai B'rith.

Yet books elaborating the Jewish-conspiracy theory are almost-certain best-sellers, some attaining a sale in excess of 1 million copies. The most provacative tract is called "If You Can Understand the Jews, You Can Understand the World; and If You Understand the Jews, You Can Understand Japan," by Masami Uno.

Uno's central theme is that the Jews caused the economic depression in the 1930s, have now orchestrated the rise of the yen and decline of the dollar to "hollow out" Japanese industry and are arranging to have another depression take place in 1990, for which Japan will be made the scapegoat.

According to the Yomiuri Shimbun, a leading Japanese newspaper, Uno's books are given respectful attention within the Bank of Japan, the country's equivalent of the Federal Reserve Board.

Bookstore chains such as Kinokuniya, including its New York branch in Rockefeller Center, respond to the demand with special displays called "Jewish corners." Ironically, one of Uno's primary targets is the Rockefeller family, which he alleges is one of the many Jewish families that run multinational companies such as IBM and General Motors, major American newspapers, including The Washington Post and The New York Times, and key news agencies.

Not all Japanese believe this nonsense, but Passin told me in an interview in New York that 90 percent of the Japanese people really believe the Rockefellers are Jewish. Some Japanese authors, tapping into the same rich sales vein, say that although Ronald Reagan can't be proven Jewish, he is pretty well controlled by two powerful Cabinet members, Caspar Weinberger and George Shultz, both falsely identified as Jewish.

Japanese government officials, responding to complaints from American congressmen, point out that there is freedom of the press in Japan; hence, there is nothing they can do about it. They cite evidence of past goodwill and humanity toward Jews, especially just prior to World War II, when Japan aided Jews to escape from Europe and began a project—the Fugu Plan—to develop a Jewish community in Manchuria.

But why do highly educated Japanese fall for a mix of slander and fiction, including the discredited "Protocols of the Elders of Zion," a forgery and hoax going back more than 80 years, alleging a secret plot among Jewish leaders to dominate the world?

I am indebted to Passin for an account of some of the historical antecedents to the current wave of Japanese anti-Jewish books. Passin says that "the structure of thought is there": a complex and ambivalent Japanese feeling about Jews.

Negative feelings were stirred up at the end of the Meiji period, a century ago, when the first Christian missionaries to Japan portrayed Jews as anti-Christ. Then, when Japan ran out of money in 1904-05 at the time of the Russo-Japanese war, it was rescued by Jacob Schiff, a leading American banker who happened to be Jewish. Schiff sold $200 million worth of bonds for Japan—a huge sum at that time—when all others said it couldn't be done.

The Japanese of that period were impressed and grateful, but "there was an obverse side," Passin recalled. "The Japanese said to themselves, 'Why did Schiff do that for us? It must have been to hurt the anti-Semitic Russians.' Their conclusion was that there must be a worldwide network of Jewish financiers."

For a period of time, Japanese military officials wondered how to tap into that mythical network, perhaps through an alliance with persecuted but wealthy European Jews. But once the Axis Alliance with Germany became a formality, such notions were put aside and Japan adopted the Nazis' propaganda line.

Now, latent negative feelings have been rekindled, the excuse being Japan's economic problems. But Jews, having survived worse, will outlive a book barrage by Uno and others. The Japanese government need not stoop to censorship. It should recognize, however, that the current anti-Semitic campaign is, in reality, an attack on America that puts at risk the vaunted "special" relationship between Japan and the United States.

TRIBUTE IN MEMORY OF RONALD S. KELSO

HON. ROBERT G. TORRICELLI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1987

Mr. TORRICELLI. Mr. Speaker, I rise today to pay tribute to a very special person, Ronald S. Kelso. Ron was a generous member of his community and someone I am proud to have called my friend. His untimely death has been felt deeply by all who knew him.

Ron had the rare qualities of warmth, generosity, intelligence and humor. His love for his family and friends was overwhelming. His caring and devotion for the youth of our country was legendary.

Ron was born on July 23, 1948, in St. Louis, MO. He attended college in his home State and soon became involved with a youth organization designed to help disadvantaged teens. As a teen organizer, Ron began teaching young people about self-respect, responsibility and salesmanship. While helping them to become important members of their community, Ron also gave them the opportunity to learn a successful trade.

From Missouri, Ron traveled across the Nation with his friend, Jerry Winters, to set up other teen groups and train local leaders to support their important work. After establishing many of these youth groups, Ron came to Bergen County, NJ, to continue and expand his efforts. From his new home, Ron was able to work with and help thousands of teenagers to have a more rewarding and productive life.

Ron's love for children will not end with him. His friends and family have set in motion the Ronald S. Kelso Foundation. This foundation will establish a permanent fund to provide college scholarships to economically disadvantaged young people.

While missed by his mother Edith, his sister Cheryl, his brother Jerry, his nieces, Stephanie and Kristen, and his many friends, the memories of Ron's special qualities will live on for many years to come.

HOUSE REPUBLICAN TASK FORCE PROPOSES BUDGET PROCESS REFORMS

HON. TRENT LOTT

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1987

Mr. LOTT. Mr. Speaker, today our House Republican Leadership Task Force on Budget Process Reform, chaired by our distinguished Republican leader, Mr. MICHEL, unveiled a series of reform proposals designed to make our budget process work as intended.

It's ironic that in this bicentennial of our Constitution, we in Congress are increasingly losing control of our most important constitutional prerogative—the power of the purse. Our budgetary purse strings are tangled, tattered, and slack.

The evidence of this is all around us: Mounting deficits, missed deadlines; repeated Budget Act waivers and violations; spending increases in deficit reduction bills; authorization squeeze-outs and appropriation bogdowns; and the inevitable bloated omnibus money bill, or BOMB, each fall.

It is true that our fiscal mess is due in part to a lack of will and consensus on deficit reduction. But, it's also true that it involves a failure of process: If your machinery is broken your efforts are token.

Our House Republican task force has recognized that, unless our current hollow and impotent budget process is given new life and teeth, it might as well be abandoned. And, rather than recommend that it be junked, we have opted instead for a strong, constructive, and comprehensive package for restoring that process to full vigor.

And there is strong feeling among House and Senate Republicans, and, I might add, a substantial number of Democrats, that the process should be fixed in connection with any further increase in the debt limit. These are interrelated issues, and there should be a legislative linkage between the two. It should also be emphasized that there is widespread agreement on most of these reforms between House and Senate Republicans and the White House. Consultation and cooperation between these three have been ongoing throughout this development of this package.

While some might focus on the Gramm-Rudman sequestration process, and we do support a trigger fix, we strongly believe that fixing the regular budget process is more important. Only by making that regular process work properly can we avoid sequestration which was intended, after all, as an incentive for orderly deficit reductions.

I just want to highlight three of our reform proposals that I consider to be especially important given our current mess:

First, we want to permit points of order against bills which exceed the outlay ceiling in the budget resolution as well as the subcommittee outlay allocations. At present we only enforce the budget authority ceilings, even though it is outlays that drive the deficit we are trying to get a handle on;

Second, we want to confine reconciliation bills to deficit reduction provisions only and prohibit spending add-ons and other extraneous matters. These extraneous items only prolong and jeopardize our deficit reduction efforts, and, in the case of spending add-ons, actually work at cross-purposes with the aim of reconciliation.

Third, we would prefer an outright ban on the BOMB we call bloated omnibus money bills, or long-term continuing appropriations bills. But, recognizing that the Democrat majority will continue to resort to the BOMB we at least want to establish rules for its deployment and give the President a defense against its impact. We have proposed giving the President enhanced rescission authority over such omnibus money bills so that any item could be rescinded subject to congressional disapproval rather than approval as is now the case.

We have also proposed that these omnibus bills be subject to the same rules as regular appropriations bills, barring legislative and unauthorized provisions and requiring cost estimates. And we propose that the full texts of matters be included rather than mere references to other bills. As things now stand, nobody knows what they're voting for in the waning hours of a Congress, even though we're talking about a bill that provides funds for the operation of the entire Government.

We also propose that any short-term continuing appropriations measures, those effective for 30 days or less, must only contain the lower of the House or Senate spending levels for the current year, or that enacted for the previous year. It's time we get back to these so-called lean and clean CR's while we work on permanent funding for the Government.

In conclusion, we are rapidly approaching the drop-dead date for the debt limit. We Republicans have long warned that any further increase must include meaningful budget reforms, and we have been pressing many of these since the first day of this historic 100th Congress.

We have been repeatedly rebuffed by the Rules Committee in requesting hearings on these reforms so that we are not forced at the last minute to simply react to what the Senate might throw in our lap. We will not be bought off by a mere Gramm-Rudman trigger fix. We need a much bigger fix of the regular budget process if we are to avoid the mindless sequestration that will be triggered if we don't mend our purse strings and pull them responsibly.

At this point in the RECORD, Mr. Speaker, I include a summary of our task force proposals. The materials follow:

REFORMS TO MAKE THE BUDGET PROCESS WORK

INCREASED PARTICIPATION OF THE PRESIDENT

Ban the B.O.M.B. (Bloated Omnibus Money Bills).

Enhanced rescission/omnibus appropriations

Discourage omnibus money bills by giving the President enhanced rescission authority. The President could rescind funds provided in any multiple bill appropriations measure. Total rescissions would be limited to ten percent of the most recently calculated deficit. Rescissions would also be limited to five percent of the funds available for any Department, and ten percent of any line item, except for items not previously authorized or appropriated. President would have five days after signing the appropriations measure in which to submit rescission messages to Congress. Congress would have 20 days in which to disapprove rescissions by joint resolution. Rescissions would go into effect unless joint disapproval resolution is enacted.

Presidential signature on budget resolution

Encourage timely agreement on budget issues by requiring that the President sign the budget resolution.

CONSIDERATION OF APPROPRIATION BILLS

Revise House procedures governing consideration of appropriations bills to require that the full text of appropriations bills be included in continuing resolutions (CRs) rather than just references.

Require that short term (30 days or less) CRs must be at the lowest levels and most restrictive provisions (House reported, House passed, Senate passed, conference agreement or previous year).

Apply House rules regarding regular appropriations bills to CRs (prohibiting unauthorized or legislative provisions and requiring costs estimates), and repeal the current restrictions on limitations amendments.

ENFORCEMENT OF BUDGET RESOLUTIONS

Uniform economic assumptions and scorekeeping

Require that budget resolutions and enforcement points of order be based on only one set of economic assumptions, and develop a consistent set of House/Senate scorekeeping procedures for the purposes of estimating the cost of legislation, including converting the Commodity Credit Corporation spending authority to permanent authority.

Outlay enforcement

Enforce outlay ceilings in the House by repeal of the so-called "Fazio exception" and establishment of a point of order against bills which exceed 302(b) outlay allocations.

Extraneous matter in reconciliation

Confine reconciliation to deficit reduction—no add ons or extraneous matter. Prohibit inclusion of provisions which increase out-year deficits, new starts and reauthorizations.

Credit reform

Institute the Administration's proposed credit reform legislation that would require agencies to receive an appropriation for the subsidy value of loans they expect to make in a year.

Defense/non-defense allocations

Provide additional enforceable section 302 allocations for defense and non-defense spending, under the Appropriations Committee's jurisdiction.

GRAMM-RUDMAN-HOLLINGS

Reinstatement of automatic constitutional sequester "trigger"

Final responsibility for certifying the deficit (as estimated jointly by OMB and CBO and as reviewed by GAO) would be given to the Office of Management and Budget. The President could propose alternatives to the sequester that would be considered by the Congress under the expedited procedures.

Avoiding economic "zugzwang"[1]

Sequestration would be capped at $18 billion in order to preserve sequestration as a credible deterrent to the failure of Congress to reduce the deficit through the normal budget process.

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[1] Zugzwang—(tsoo̅k tsfang), n., a situation in a game of chess where all the moves open to one player will cause damage to his position.

NONAPPROPRIATED DEFENSE-RELATED ASSISTANCE TO TURKEY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1987

Mr. HAMILTON. Mr. Speaker, as part of the United States' military relationship with Turkey, Turkey has received significant amounts of defense-related help over and above assistance appropriated by the Congress through foreign assistance legislation. State Department estimates have suggested a figure substantially in excess of $1 billion for such non-appropriated assistance over the course of the last 5-year base agreement.

On March 3, 1987, the Subcommittee on Europe and the Middle East heard testimony from the Honorable Richard N. Perle, then Assistant Secretary of Defense, concerning the value of non appropriated defense-related assistance to Turkey over the last several years. Mr. Perle's initial testimony was that such assistance was in the tens of millions of dollars, an estimate totally at variance with State Department estimates.

On April 2, 1987, following Mr. Perle's testimony, and two amended inserts in the record of his testimony, I initiated correspondence with the Department of Defense requesting clarification between the figures provided by the Department of Defense in public testimony, and those provided, on a classified basis, by the Department of State. I received a classified reply from DOD on May 5, 1987. A followup letter was sent on May 15, 1987, requesting further clarification of the continuing discrepancies between the figures provided by the State Department and those provided by the Department of Defense in hearings and in a second classified reply received on June 16, 1987. The correspondence was subsequently partially declassified by the Department of Defense of June 24, 1987.

As a result of this correspondence, some of the discrepancies over these figures between the Department of State and Department of Defense have been resolved and both departments now agree on estimates on the order of $1 billion for nonappropriated assistance to Turkey over the period of the last Defense and Economic Cooperation Agreement [DECA] from 1980 to 1985. This assistance, which is in addition to appropriated assistance, constitutes a fair measure of the best efforts to help Turkey that the United States made a commitment to in the 1980 DECA agreement.

The correspondence is attached for our colleagues' attention.

House of Representatives,
Washington, DC, April 2, 1987.

Hon. Richard N. Perle,
Assistant Secretary for International Security Policy, Department of Defense, the Pentagon, Washington, DC.

Dear Mr. Perle: During your testimony March 3, 1987 before the Subcommittee on Europe and the Middle East, you were questioned regarding the value of non-appropriated defense-related assistance to Turkey over the last several years.

Your answer for the record was that an amount of approximately $211 million had been provided outside the security assistance programs. The subcommittee, however, has classified information from the Department of State suggesting that, during the last five year DECA agreement with Turkey, the level of non-appropriated defense-related assistance to Turkey totalled some [security deletion]. This aid included, I gather, assistance in such categories as: FMS waivers, Rapier Program; Defense Industrial Cooperation leases; no-cost equipment leases; technical date packages; third country excess MAP transfers; coproduction program; Turkish shipping; U.S. military expenditures in Turkey, not including military construction funds; a 1984 purchase by Turkey in a reduced level of F-4 aircraft previously in the U.S. inventory; and FMS loans at concessional rates.

Given the enormous disparities in your reply and the evidence the subcommittee has, I would appreciate a prompt, more thorough, declassified reply as well as permission to declassify this letter so that it can be made part of the record along with your reply.

Thank you for your prompt consideration of this matter.

With best regards,
Sincerely yours,
Lee H. Hamilton,
Chairman, Subcommittee on Europe and the Middle East.

Assistant Secretary of Defense,
Washington, DC, May 5, 1987.

Hon. Lee H. Hamilton,
Chairman, Subcommittee on Europe and the Middle East, Committee on Foreign Affairs, House of Representatives, Washington, DC.

Dear Mr. Chairman: (U) Thank you for your letter of 2 April 1987.

(C) It is apparent that the Department of State information noted in your letter was a paper prepared to demonstrate to the Turks the value of our relationship during the runup to negotiations on an extension of our base agreement. As the paper had a specific purpose, it attempted to maximize the effect of our relationship and mixes both appropriated and nonappropriated categories of funds. For example, the State paper includes [security deletion] Rapier and [security deletion] US military expenditures in Turkey, which clearly was appropriated funds and spent for the protection and benefit of the US forces in Turkey. We have recomputed the totals of nonappropriated funds to be $360M for 1981-1986 of which [security deletion] is the value of waiver of sunk costs already reported. The [security deletion] remainder is distributed as shown at the attachment. The bulk [security deletion] is a value assigned to MAP aircraft reported excess by our Allies and provided to Turkey.

(C) I am prepared to discuss the details of these accountings at your convenience. Because of the sensitivity of our relationship with Turkey at this time, I must ask that our correspondence remain confidential.

Sincerely,
Richard Perle.

House of Representatives,
Washington, DC, May 15, 1987.

Hon. Richard N. Perle,
Assistant Secretary for International Security Policy, Department of Defense, the Pentagon, Washington, DC.

Dear Mr. Perle: Thank you for your letter of May 5 in response to my letter of April 2 concerning the level of non-FMS and non-appropriated defense-related assistance to Turkey. I read your letter with interest, but find that your answer still leave discrepancies in figures unexplained.

First, in testimony before the subcommittee, you originally stated that non-appropriated assistance for Turkey during the last five year DECA agreement was in "the tens of millions of dollars." Your first answer for the record of the hearing revised that statement to a figure of roughly $258 million and your second answer for the record revised that figure upwards to $360 million, although these two figures refer to somewhat different time periods. But the disparity between that new figure and the [security deletion] figure mentioned by the State Department is still huge even when you allow the [security deletion] Rapier deal and [security deletion] U.S. military expenditures in Turkey during that period, figures included in the State Department figure but not your own. There is still a [security deletion] disparity before your figures and those of the State Department and I want to know what that represents.

Second, I want to know your estimate of all non-FMS forms of assistance for Turkey during this period as well as all non-appropriated forms of assistance, if that is an important distinction. Are there other non-FMS forms of assistance for Turkey during this period which were appropriated other than the Rapier program, military expenditures and ESF assistance? And are there additional non-appropriated forms of assistance which will narrow this gap between the State Department and the Defense Department estimates? I also want to know from which budget account the [security deletion] Rapiers and the [security deletion] in military expenditures were taken.

Finally, I desire to know why you want this correspondence to be treated as confidential and why there is an effort to blow up these figures before negotiations with the Turks and to minimize them in the aftermath of negotiations. You mention the "sensitivity" of U.S. Turkish relations. I fully appreciate the sensitivity of U.S. relations with Turkey, particularly since Turkey's decision to suspend ratification of the recent signed DECA. However, I believe that the discrepancies over these figures and the lack of consistency in our approach create questions about motives and about the terms and levels of assistance promised to Turkey in order to obtain its agreement to the new DECA.

I appreciate your consideration of these questions, and I look forward to receiving your response soon.

With best regards,
Sincerely yours,
Lee H. Hamilton,
Chairman, Subcommittee on Europe and the Middle East.

OFFICE OF THE ASSISTANT
SECRETARY OF DEFENSE,
Washington, DC, June 16, 1987.

Hon. LEE H. HAMILTON,
Chairman, Subcommittee on Europe and the Middle East, Committee on Foreign Affairs, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: This responds to your 15 May 1987 letter to Mr. Perle, who as you know, has left government service.

I can understand your concerns regarding possible discrepancies in figures previously provided to you on assistance to Turkey. This letter is an attempt to explain these to you, to your satisfaction.

The disparities referred to in your first point can be explained by the fact that nonappropriated funds can fall within a number of categories which may or may not be counted, depending on definitions of terms. We believe the $360M figure quoted in Mr. Perle's 5 May 1987 letter is the most appropriate in this case, since that sum most clearly represents direct costs, or foregone revenues that can be considered as direct costs.

In further response to this first point and to your second, in which you ask for an accounting of all forms of non-FMS or non-appropriated assistance to Turkey, I have enclosed an inventory of the various categories of assistance that we have been able to quantify. The total is about $947M, including the $360M mentioned above. If we were to assign a dollar value to the other categories listed in the State Department paper, such as savings on FMS loans at concessional rates, the total value of the assistance under consideration would amount to a figure substantially in excess of $1B. We do not, however, believe it is appropriate to include some of the items in the State Department paper as assistance, and believe it would be difficult to attach a precise dollar value to others. For example, the F-4E aircraft listed in the State paper were valued at $63M; there was no savings to the Turks in this transaction.

With regard to your third and final point, this letter may be considered unclassified. However, given the specifics in the attached documents, and their relationship to ongoing and future negotiations, I must ask that they remain classified as confidential.

I can assure you that we do not deliberately try to "blow up" figures before negotiations and then "minimize" them later. It is simply that there is a valid difference between the real cost to the US of some categories of assistance and the actual benefit that accrues to Turkey. For example, excess plant equipment or military material that has no value to US forces can still be most useful and valuable to Turkish forces. For purposes of explaining our program to the Turkish public, we think we can, and should, legitimately emphasize the total value of the benefits of US support. For internal USG purposes, we are concerned with actual outlays. We do not consider this dual approach to be inconsistent, but rather that it represents an examination of the program from different, equally valid viewpoints. I do not believe that my colleagues in the Department of State and the Defense Security Assistance Agency would disagree with this categorization.

I hope the foregoing is responsive to your concerns.

Sincerely,

JOHN J. MARESCA,
Deputy Assistant Secretary of Defense, European and NATO Policy.

TOTAL ASSISTANCE TO TURKEY

Q. Please provide the subcommittee with your estimates for the last several years on total assistance to Turkey, both appropriated with and nonappropriated; and also your judgement as to what that will be in the next fiscal year as well, 1988. Requested from Department of Defense. Revised 3/25/87.

A. A total of $2.93B in appropriated FMSCR, MAP and IMET funds were provided Turkey in the last five years (1983-1987). Outside the Security Assistance program, we calculate that about $211M of assistance has been provided to Turkey over this 5-year period. This consists of waivers of sunk costs under the provisions of the Arms Export Control Act. The main waiver was $137.7M of NRC and asset use charges for the 10-year duration of the F-16 program. The authority to extend this waiver is to promote NATO standardization and interoperability and this is such an example.

Q. In discussing earlier appropriated and nonappropriated funds for Turkey, the subcommittee has information from the administration that would suggest that figure is almost $1.5 billion over a five year period. Would you please work that out and let the subcommittee know that the amounts to?

Requested from the Department of Defense. Revised 3/25/87.

A. Since 1982 Turkey has been granted approximately $211M in waivers under provisions of the Armed Export Control Act. ($137.7M of this amount was for the 10-year F-16 program.) Thus, the average annual amount over the 5-year period is $42.2M.

Q. In discussing earlier appropriated and nonappropriated funds for Turkey, the subcommittee has information from the administration that would sugget that figure is almost $1.5 billion over a five year period. Would you please work that out and let the subcommittee know that the amounts to?

Requested from the Department of Defense. Revised 3/27/87.

A. Since 1983 Turkey has been granted approximately $258M in waivers under provisions of the Armed Export Control Act. ($137.7M of this amount was for the 10-year F-16 program.) Thus, the average annual amount over the 5-year period is $51.6M.

IN RELIEF OF THE JUNIOR ACHIEVEMENT OF SACRAMENTO, INC.

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1987

Mr. MATSUI. Mr. Speaker, the Junior Achievement has long been recognized as an outstanding organization dedicated toward the education of our youth. Teenagers, through the firsthand experience of operating their own business, gain practical knowledge in such areas as business basics, economic management, and applied management. Such training provides our youth with important skills to assist them in embarking on future careers.

The Junior Achievement of Sacramento, Inc., was established to provide teenagers with practical experience in how American business operates. The program, funded through charitable donations and supervised by adult volunteers from the business community, has greatly enriched the educational experience of our youth. Indeed, the Sacramento program has been recognized for its outstanding achievements and contributions to my community.

As a nonprofit, volunteer organization, the Junior Achievement of Sacramento, Inc., qualifies as an organization exempt from taxation. The Junior Achievement of Sacramento, Inc., established and maintained this status with the Internal Revenue Service since its inception. Unfortunately, due to an inadvertent error by a volunteer to the organization, the exempt status of this nonprofit organization has been jeopardized.

Today, Mr. Speaker, I rise to reintroduce legislation on behalf of this commendable organization seeking resolution of this matter. This bill provides that services performed after June 30, 1977, and before January 1, 1984, in the employ of Junior Achievement of Sacramento, Inc., shall not be treated as employment for the purposes of Charter 21 of the Internal Revenue Code of 1951 and Title II of the Social Security Act. Furthermore, services shall not be treated as performed after June 30, 1977, to the extent that remuneration for such services is paid after such date. I believe that Junior Achievement of Sacramento, Inc., deserves this extraordinary relief granted by this legislation based upon the following factual information.

The secretary to the volunteer treasurer of this organization inadvertently filed a Form 941 for the quarters ending December 31, 1975, March 31, 1976, and June 30, 1976, and erroneously withheld and remitted FICA taxes with those returns. Upon discovery of these filings, the organization immediately filed Form 941C requesting a refund of the taxes paid. The request for the refund was denied in January 1977. After that denial, the organization continued to correspond with the Internal Revenue Service regarding the matter, and, upon the advise of their attorney, filed Form 941 and paid FICA taxes for two quarters in 1977 under protest. The Service then refunded the taxes paid for the quarter ended December 31, 1975. The organization immediately wrote to the Service stating that apparently their claim for a refund had been reconsidered and granted. Accordingly, the organization filed Form 941 and 941C for the quarter ended December 31, 1977, and applied for and received a refund of the taxes paid in the earlier quarters of 1977.

Consequently, the Junior Achievement had every reason to believe that the Service had recognized the organization's exempt status and that the refund for the quarters ended March 31, 1976, and June 30, 1976, would soon be forthcoming. In addition, the FICA taxes originally withheld from the employee in 1976 and 1977 were refunded to the employee. Subsequent to that time, the organization did not withhold any FICA taxes from its employees and filed its quarterly payroll tax returns as an exempt organization. Unfortunately, however, the Service has continued to demand repayment of these taxes.

It is apparent from the chronology of events that upon the discovery of the error in filing taxes, the organization made every attempt to clarify the situation and make amends with the

Service. Indeed, the refund of the taxes paid for the quarter ending December 31, 1975, and the quarters in 1977, would indicate that the Service recognized the error and granted the organization's request for a refund due to their exempt status. Furthermore, the organization has continued to file its quarterly payroll tax returns as an exempt organization and has not withheld any FICA taxes from its employees since 1977; yet the Service refuses to recognize the previous error and still demands repayment.

To persist in collecting these taxes is not only unjustifiable but inequitable. To allow a nonprofit organization such as the Junior Achievement to suffer this burden is inexcusable. In addition, it would seriously impair the organization's ability to continue within the community. Therefore, I urge my colleagues to support this legislation and I respectfully request that the committee grant the immediate consideration of this urgent matter in order that this inequity may be resolved in the near future.

TRIBUTE TO JAMES B. MURRAY

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 20, 1987

Mr. EDWARDS of California. Mr. Speaker, I would like to share with my colleagues the news of the retirement of my friend, James B. Murray, as chief of police of Milpitas, CA.

Since 1957, Milpitas has been fortunate to have a fine public servant as their chief of police. Chief Murray has seen Milpitas grow from a small rural Santa Clara County town into a major city of the South Bay, with a population of over 42,000. He has witnessed the growth from an agricultural base to a community which is a leader in high-technology industry. Throughout these monumental changes, Chief Murray has provided quality public safety services.

The chief has served the citizens of Milpitas not only in their police department, but also as acting city manager and as public safety manager. His awards and commendations are many and attest to his wide ranging expertise: City Council Commendation, Law Enforcement Executive of the Year [PORAC], California State Assembly Commendation, Santa Clara County Board of Supervisors' Commendation, and the California State Senate Commendation.

When Chief Murray was appointed to the position from which he now retires, he was the youngest police chief in the State of California. When he retires, he will be the most tenured chief in the State with over 30 years of service as chief of police.

As a native of the Santa Clara Valley, and proudly the Congressman representing Milpitas for 25 years, I join all of its residents in extending heartfelt thanks to Chief Murray for a job well done.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, July 21, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 22

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
SR-325

9:30 a.m.

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Water Resources, Transportation, and Infrastructure Subcommittee
To hold hearings to review infrastructure issues.
SD-406

Finance
Taxation and Debt Management Subcommittee
To hold hearings on S. 1350, to make technical corrections to the Tax Reform Act of 1986, and other related issues.
SD-215

10:00 a.m.

Agriculture, Nutrition, and Forestry
Business meeting, to consider pending calendar business.
SR-332

Banking, Housing, and Urban Affairs
To hold hearings on the nominations of David S. Ruder, of Illinois, to be a Member of the Securities and Exchange Commission, Charles E. Cobb, Jr., of Florida, to be an Assistant Secretary of Commerce, and Roger F. Martin, of Wisconsin, to be a Member of the Federal Home Loan Bank Board.
SD-538

Labor and Human Resources
Business meeting, to consider pending calendar business.
SD-430

10:30 a.m.

Governmental Affairs
Government Efficiency, Federalism, and the District of Columbia Subcommittee
To hold hearings on S. 1381, to improve cash management by executive agencies.
SD-342

2:00 p.m.

Commerce, Science, and Transportation
To hold hearings on the nominations of Darrell M. Trent, of Kansas, Robert D. Orr, of Indiana, and Charles Luna, of Texas, each to be a Member of the Board of Directors of the National Railroad Passenger Corporation.
SR-253

Energy and Natural Resources
To resume hearings on the Administration's proposed oil and gas leasing in the coastal plain of the Arctic National Wildlife Refuge in Alaska.
SD-366

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
SR-325

6:00 p.m.

Environment and Public Works
Environmental Protection Subcommittee
To resume hearings on proposed legislation to provide limited extensions in Clean Air Act deadlines for areas that violate the health-protective national air quality standards.
SD-406

JULY 23

9:00 a.m.

Rules and Administration
Business meeting, to consider the nominations of James H. Billington, of the District of Columbia, to be Librarian of Congress, and Lee Ann Elliott, of Illinois, and Danny Lee McDonald, of Oklahoma, each to be a Member of the Federal Election Commission, and pending legislative and administrative business.
SR-301

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition
To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.
SR-325

9:30 a.m.

Commerce, Science, and Transportation
Business meeting, to consider pending calendar business.
SR-253

Energy and Natural Resources
Business meeting, to consider pending calendar business.
SD-366

Environment and Public Works
Superfund and Environmental Oversight Subcommittee
To hold hearings to review manpower and time frames issues.
SD-406

Governmental Affairs
To hold hearings on proposed legislation relating to financial management issues.
SD-342

Veterans' Affairs

Business meeting, to mark up S. 6, Veterans' Health Care Improvement Act, S. 9, Service-Disabled Veterans' Benefits Improvement Act, S. 1443, VA Medical Inspector General Act, S. 1444, VA Assistant Inspector General for Health Care Quality Assurance Review Act, S. 1464, Veterans' Beneficiary Travel Reimbursement Restoration Act, proposed Veterans' Readjustment Counseling Preservation Act, proposed legislation providing for disability payments based on nuclear-detonation radiation exposure, and other related measures.

SR-418

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold hearings on the Federal Reserve's second monetary policy report for 1987.

SD-538

Judiciary

Business meeting, to consider pending calendar business.

SD-226

Labor and Human Resources

Labor Subcommittee

Business meeting, to mark up S. 492, to increase the stability of collective bargaining in the building and construction industry.

SD-430

1:00 p.m.

Labor and Human Resources

To resume hearings on S. 837, to provide for specified annual increases in the minimum wage and for annual indexing of the minimum wage.

SD-430

2:00 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To resume hearings on S. 7, to provide for protection of the public lands in the California desert.

SD-366

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

SR-325

2:30 p.m.

Foreign Relations

Western Hemisphere and Peace Corps Affairs Subcommittee

To hold hearings on S. Res. 248, supporting the people of Haiti in their efforts to obtain respect for human rights and the holding of free and fair elections in Haiti.

SD-419

6:00 p.m.

Environment and Public Works

Environmental Protection Subcommittee

To continue hearings on proposed legislation to provide limited extensions in Clean Air Act deadlines for areas that violate the health-protective national air quality standards.

SD-406

JULY 24

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

SR-325

9:30 a.m.

*Environment and Public Works

Nuclear Regulation Subcommittee

Business meeting, to mark up S. 843, to extend and improve the procedures for the protection of the public from nuclear incidents.

SD-406

10:00 a.m.

Foreign Relations

To hold hearings on the nominations of Nicholas Platt, of the District of Columbia, to be Ambassador to the Republic of the Philippines, and Michael G. Wygant, of Massachusetts, to be the United States Representative to the Federated States of Micronesia.

SD-419

Governmental Affairs

Business meeting, to consider pending calendar business.

SD-342

Labor and Human Resources

Business meeting, to consider pending calendar business.

SD-430

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

SR-325

JULY 27

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To resume joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

JULY 28

9:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1988 for export financing programs.

S-126, Capitol

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings on proposed legislation to create an independent Federal Aviation Administration.

SR-253

Small Business

Government Contracting and Paperwork Reduction Subcommittee

To hold hearings to examine the impact of a series of amendments to the Small Business Act as contained in the Department of Defense Authorization Act, 1987 (P.L. 99-661).

SR-428A

10:00 a.m.

Foreign Relations

Business meeting, to consider pending nominations.

SD-419

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

JULY 29

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

9:30 a.m.

Commerce, Science, and Transportation

To hold oversight hearings in conjunction with the National Ocean Policy Study to examine plastic pollution in the marine environment.

SR-253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

6:00 p.m.

Environment and Public Works

Environmental Protection Subcommittee

Business meeting, to resume markup of proposed legislation to provide limited extensions in Clean Air Act deadlines for areas that violate the health-protective national air quality standards.

SD-406

9:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1988 for foreign assistance programs.

S-126, Capitol

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

9:30 a.m.

Commerce, Science, and Transportation
Aviation Subcommittee

To hold hearings on S. 582 and S. 876, bills to provide for improved air transportation to small communities.

SR-253

10:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on proposed legislation authorizing funds for the Federal Insecticide, Fungicide and Rodenticide Act.

SR-332

Energy and Natural Resources
Energy Regulation and Conservation Subcommittee

To hold hearings on S. 1382, to improve the Federal Energy Management program.

SD-366

2:00 p.m.

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee

To hold hearings on miscellaneous proposals.

SD-366

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

6:00 p.m.

Environmental and Public Works
Environmental Protection Subcommittee

Business meeting, to continue markup of proposed legislation to provide limited extensions in Clean Air Act deadlines for areas that violate the health-protective national air quality standards.

SD-406

JULY 31

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

9:30 a.m.

Commerce, Science, and Transportation
Communications Subcommittee

To hold hearings on S. 889, to provide for fair marketing practices for certain encrypted satellite communications.

SR-253

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

AUGUST 3

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To resume joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

AUGUST 4

9:00 a.m.

Agriculture, Nutrition, and Forestry
Conservation and Forestry Subcommittee

To hold hearings on the management of inventory properties held by agricultural lenders.

SR-332

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

10:00 a.m.

Energy and Natural Resources
Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1138, to designate certain lands in Nevada as wilderness.

SD-366

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

AUGUST 5

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

10:00 a.m.

Small Business

To hold hearings on the impact of section 1706 of the Tax Reform Act of 1986 (P.L. 99-514) relating to technical service workers as independent businesses.

SR-428A

2:00 p.m.

Energy and Natural Resources
Water and Power Subcommittee

To hold hearings on S. 641, to provide for the relief of the city of Minot, North Dakota from liability for repayment of a specified sum associated with excess capacity of the Minot Pipeline resulting from enactment of the Garrison Diversion Unit Reformulation Act (P.L. 99-294), and S. 649, to provide for an increase in authorized funds for construction at the Oroville-Tonasket Unit, Washington irrigation project.

SD-366

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

AUGUST 6

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

2:00 p.m.

Energy and Natural Resources
Research and Development Subcommittee

To hold hearings on S. 1320, Solar Development Initiative Act, and related proposals.

SD-366

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

AUGUST 7

9:00 a.m.

Appropriations
Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1988 for foreign assistance programs.

SD-192

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

HOUSE OF REPRESENTATIVES—*Tuesday, July 21, 1987*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

O God, as You have created us at birth with the gift of life, so we thank You that Your spirit nurtures our spirits each day. We are grateful for the beauty of nature and the fruits of the land, for music and art, for the confidence of family and friend, for opportunities to labor and to serve others, to inspire and to be inspired. For these and all Your many gifts, O God, we offer this word of prayer. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PRIVATE CALENDAR

The SPEAKER. This is the day for the call of the Private Calendar. The Clerk will call the bill on the Private Calendar.

RICK HANGARTNER, RUSSELL STEWART, AND DAVID WALDEN

The Clerk called the bill (H.R. 1418) for the relief of Rick Hangartner, Russell Stewart, and David Walden.

Mr. INHOFE. Mr. Speaker, I ask unanimous consent that the bill be passed over without prejudice.

The SPEAKER. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

AMERICA'S TRADE PROBLEMS ARE WORSENING

(Ms. KAPTUR asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. KAPTUR. Mr. Speaker, no sooner had the President of our country told us that our Nation's trade problems were behind us then the Commerce Department released its most recent devastating monthly figures on the U.S. foreign trade deficit—$14.4 billion more in the red, an all-time record. The President has criticized Congress for being "behind the curve" with our trade legislation. The facts tell the truth. America's trade problems are far from over. In certain areas they are worsening.

Imports for the month of May posted a record, eclipsing the previous record set in March. Leading the import surge once again were foreign cars and apparel as well as imported oil.

Mr. President, Congress is not "behind the curve" on trade. Your failed trade policy has been ignoring American workers and businesses for the past 6 years. The House passed an effective trade package months ago. The Senate is well on its way to doing the same. Together, the two Houses will set a course for economic growth at home and abroad. Over the long term, the key to closing the trade gap lies in regaining the American advantage in manufacturing, particularly in selling more capital goods, autos, industrial supplies and consumer products abroad, and importing less of each.

Mr. President, you would be better advised to listen to the voices of America's factory workers, farmers, and business leaders. They want a fair shot at competing in the world marketplace. Mr. President, America can't do it without you.

STOP THE PROLIFERATION OF CHEMICAL AND BIOLOGICAL WEAPONS

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, West German assistance in helping Iraq develop mustard gas is only the most well known example of the dangerous proliferation of chemical and biological weapons. We now learn that Syria is producing these weapons with chemicals initially from the United States.

Already over 15 nations have chemical weapons, including Libya, Iraq, Syria, and the Soviet Union. Many of these countries received help from the West by importing "pesticide production plants" that were eventually converted to other, more lethal, uses.

Ike Skelton and I, along with a bipartisan group of 42 original cosponsors, have introduced H.R. 2880, the Chemical and Biological Non-Proliferation Act of 1987. The act requires an annual report by the Secretary of State on the risk of chemical and biological weapons proliferation. These reports will lead to regulations governing the export of equipment and substances which are likely to be converted into chemical and/or biological weapons.

These weapons have the potential to kill as many people as nuclear weapons. They are the ultimate terrorist threat facing the world today, and have been rightly called the poor man's atomic bomb. I urge my colleagues to cosponsor H.R. 2880 which will help put a stop to the proliferation of chemical and biological weapons.

NATIONAL SKIING DAY

(Mr. CAMPBELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAMPBELL. Mr. Speaker, today in the 95 and 100 degree temperatures, it may be difficult for many of my colleagues to imagine ourselves skiing through fresh snow; nevertheless, I am happy to be introducing National Skiing Day.

This commemorative will promote skiing as a great form of exercise. With over 21 million Americans spending almost 52 million days each year on the slopes, skiing has proven to be a popular winter activity. Nordic and alpine skiing also provide a wonderful opportunity to enjoy the magnificence of America's beautiful mountain country.

Many of the 115 original cosponsors realize that the importance of skiing is not limited to communities with ski resorts. The skiing industry consists of manufacturers of skiing equipment, ports along the coasts that transfer skiing goods worldwide, and tourists from within and without our country.

The ski industry, with sales of over $3.5 billion last year, makes a major economic contribution to my district, and home State of Colorado and to many other districts throughout the United States, providing much-needed jobs in every State and to communities where other segments of the economy are lagging.

This resolution also commemorates the long and friendly relationship that many resorts, communities and the U.S. Forest Service have shared for over 50 years. This relationship is an example of public and private sector cooperation, providing more recreation on less public land than any other type of recreation.

January 8, 1988, kicks off a month of events to encourage people to experience this wonderful sport for the first

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

time. To this end, many ski areas will be providing free skiing to beginners on Friday, January 8.

I hope that all of you will give careful consideration to this commemorative that would recognize a very important industry and relationship between government and the ski industry. When you step out into today's heat, think skiing and join me on the slopes January 8.

THE LAST IRAN-CONTRA WITNESS

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. Mr. Speaker, some people think the Iran-Contra hearings have gone on too long. These folks have heard enough. They think we are wasting our time here in Washington and ought to close up shop.

But I would like to suggest that before the Iran-Contra Committee goes out of business, they have one final hearing—not in Washington, DC. I think this hearing should be in the dusty, isolated Nicaraguan village of San Jose de Bocay, and as the first witness I would like the committee to call Domingo Martinez Vivas.

You have never heard of Mr. Vivas. You have not seen his picture on the cover of any news magazine; but you see, while Admiral Poindexter was extolling the virtues of Contras and while Colonel North was swooning over these so-called freedom fighters, Mr. Vivas and his family were seeing these heroes of democracy in action.

Last Thursday while America was swept with Olliemania, Domingo Martinez Vivas in this tiny Nicaraguan village saw his pregnant wife and 3-year-old son brutally murdered by the Contras. Then he watched as the Contras burned a dozen homes in his village and stole his livestock.

His neighbor, 12-year-old Maria Cecelia Fonseca, has shrapnel lodged in her throat from the Contras' vicious 8-hour attack on their village. Her 13-year-old sister, Maria Basilia, may have been more fortunate. The Contras sprayed her hut with machinegun fire, and she died instantly.

Mr. Vivas may not be as photogenic or eloquent as the apologists for this administration's Contra policy, but his devastating experience with the Contra atrocities should cause all Americans to ask one basic question: How many more women and children have to be slaughtered in this senseless conflict before the United States comes to its senses?

PRESIDENTIAL ACCOUNTABILITY

(Mr. DELLUMS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELLUMS. Mr. Speaker, as the Iran-Contra hearings have unfolded, there has been a great deal of talk about protecting the Presidency, as if the Presidency operates in some vacuum and has some intrinsic value unto itself.

The Presidency only is significant and important within the context of our democratic form of government, our commitment to the rule of law and our commitment to a constitutional form of government.

Mr. Speaker, the issue is not protecting the Presidency, as I see it. The issue is protecting our democratic way of life, our commitment to the rule of law and our commitment to the Constitution. If there is no accountability, where are the prophylactic remedies?

If there is no accountability, what about a commitment to law?

If there is no accountability, what about a commitment to a constitutional form of government? If the Congress of the United States is to be rendered null and void and impotent in the context of our form of government, what about a commitment to a constitutional form of government?

Mr. Speaker, again if this 200 years is not to be a sham celebration on the issue of a commitment to a constitutional form of government, then I would suggest that we turn our concern away from simply the question of protecting the Presidency and begin to protect our democratic way of life.

□ 1215

Finally, I would say are we witnessing a period, a moment, in our history when we have to begin to redefine the notion of accountability, redefine the issue of check and balance, redefine what we mean by perjury, and finally redefine what we mean by Presidential pardon. Does that mean that the courts of the United States are not significant and important? Does that mean that the Congress of the United States is not a relevant branch of Government? Does that mean that all one has to do is be the President and be the king of the United States?

I suggest that is an absurdity, Mr. Speaker. We must protect and defend our democratic commitment to our way of life.

LUNCH WITH DR. MOHAMMED YUNUS, FOUNDER AND MANAGING DIRECTOR OF GRAMEEN BANK IN BANGLADESH

(Mr. FEIGHAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FEIGHAN. Mr. Speaker, I would like to take this opportunity to invite all Members of this House to join me at lunch this Thursday with a remarkable man—Dr. Mohammed Yunus, founder and managing director of the Grameen Bank in Bangladesh.

Some of you may have seen the recent New York Times on the Grameen Bank. It has made loans averaging $60 to over 300,000 poor people, with a startling repayment rate of over 98 percent. No single development project has done more to promote self-sufficiency and break the cycle of poverty in Bangladesh.

Mr. Yunus is demonstrating that providing credit to the very poorest people is the wave of the future in development. And his model has prompted the Foreign Affairs Committee to increase funding for microenterprise.

I know you will be impressed by Dr. Yunus. So please join us for lunch at noon Thursday in room B-369 of the Rayburn Building. It promises to be an interesting and inspiring hour.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. DELLUMS). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which a vote is objected to under clause 4 of rule XV.

Such rollcall votes if postponed, will be taken after debate has been concluded on all motions to suspend the rules.

CIVIC ACHIEVEMENT AWARDS PROGRAM

Ms. OAKAR. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 309) to establish the Speaker's Civic Achievement Awards Program to be administered under the Librarian of Congress to recognize achievement in civic literacy by students, classes, and schools throughout the Nation in grades five through eight, and for other purposes, as amended.

The Clerk read as follows:

H.J. RES. 309

Whereas the continuing strength and vitality of American democratic traditions depend on the civic awareness of future generations;

Whereas there is a need to improve the level of civic literacy of American elementary school students and to better their understanding of American history, government, geography, economics, and current events;

Whereas students in the fifth grade through the eighth grade are at a critical stage for development of values, character, and attitudes;

Whereas school libraries and local libraries, as repositories of the record of American history and democratic traditions, are appropriate focal points for civil literacy education;

Whereas in view of the central role of the House of Representatives in our system of government, it is appropriate, in conjunction with the Bicentennial of the House of Representatives and in honor of the office of Speaker of the House of Representatives, to support a national civic achievement award program for students, classes, and schools;

Whereas the Library of Congress, as a national symbol of learning, literacy, and culture, is an appropriate institution to assist in this endeavor; and

Whereas the Close Up Foundation, a nonpartisan, nonprofit, educational organization for citizen involvement in government, is an appropriate organization to conduct such a program; Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SUPPORT FOR THE CIVIC ACHIEVEMENT AWARD PROGRAM IN HONOR OF THE OFFICE OF SPEAKER OF THE HOUSE OF REPRESENTATIVES.

The Librarian of Congress is authorized to make disbursements to the Close Up Foundation, a nonpartisan, nonprofit organization incorporated under the laws of the District of Columbia. Such disbursements—

(1) shall be made upon application by the Foundation and in such form and manner as the Librarian may prescribe by regulation; and

(2) shall be solely for the purpose of assisting the Foundation in conducting the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives described in section 2.

SEC. 2. DESCRIPTION OF THE PROGRAM.

(a) IN GENERAL.—The Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives shall be conducted by the Close Up Foundation, in cooperation with the National Association of Elementary School Principals. The program—

(1) shall be designed to inspire learning of American history, government, geography, economics and current events in the fifth, sixth, seventh, and eighth grades;

(2) shall recognize achievement in civic literacy by students, classes, and schools throughout the Nation;

(3) shall be based upon a specially designed set of learning materials and activities that will allow students to develop and demonstrate civic knowledge and skills; and

(4) may include such program elements as individual and group projects, mastery of academic materials, development of library skills, and community service.

(b) AWARDS.—The Close Up Foundation shall provide annual awards for the program. The awards, in the form of certificates signed by the Speaker of the House of Representatives and other persons designated by the Speaker, shall be presented in the following categories:

(1) Individual students who satisfy award standards.

(2) Classes with a specified percentage of students who satisfy award standards.

(3) Schools with a specified percentage of students who satisfy award standards.

(c) NATIONAL ADVISORY COMMITTEE.—

(1) IN GENERAL.—The Speaker of the House of Representatives (in consultation with the minority leader of the House of Representatives) shall appoint 11 persons who, together with the Librarian of Congress, one representative of the Close Up Foundation, and one representative of the National Association of Elementary School Principals, shall constitute a national committee to advise the Close Up Foundation on the structure and administration of the program. The 11 persons appointed under the preceding sentence shall serve at the pleasure of the Speaker.

(2) EXPENSES.—Members of the committee shall serve without compensation, except that, while away form their homes or regular places of business in the performance of services for the committee, members shall be allowed expenses in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(d) PARTICIPATION BY LIBRARIES.—School libraries and local libraries shall, to the extent practicable, serve as the primary centers for the distribution of materials and the coordination of testing and evaluation for the program.

SEC. 3. AUDITS AND REPORTS.

(a) AUDITS.—The Comptroller General shall conduct annual and other necessary audits of the program and shall submit reports of such audits to the House of Representatives and to the Librarian of Congress.

(b) REPORTS.—The Close Up Foundation shall submit to the House of Representatives and to the Librarian of Congress semiannual reports of the activities of the program as follows: (1) not later than July 31 of each year, a report relating to the 6-month period ending on the preceding June 30; and (2) not later than Janaury 31 of each year, a report relating to the 6-month period ending on the preceding December 31.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this joint resolution not more than $680,000 for the fiscal year ending September 30, 1988 (of which not more than $100,000 shall be available for reimbursement of expenses of the program incurred during the period beginning on July 1, 1987, and ending on September 30, 1987), and such sums as may be necessary for each of the five succeeding fiscal years.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentlewoman from Ohio [Ms. OAKAR] will be recognized for 20 minutes and the gentleman from Minnesota [Mr. FRENZEL] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today along with several of my distinguished colleagues in support of House Joint Resolution 309, legislation providing support for the Civic Achievement Award Program in honor of the Office of Speaker of the House of Representatives.

The establishment of the civic awards program is very fitting on this year of the bicentennial of our Constitution of the United States. It seeks to inspire our Nation's youth, those from ages 11 to 14, who are considered by many educators to be at the gateway of their development and understanding. The values of their civic heritage formed during these years will remain throughout their lifetime.

The awards program will serve to encourage students of all academic achievement levels to participate in the unique program. The award would combine practitioner experience with voter education or community service projects. The participant would thus have an invaluable means of learning the history and traditions of our American Government.

The program will provide a means for those young students who are not as academically gifted as some who are higher achievers. Those students can attempt to qualify for the award through the skills which they have developed in conjunction with civic projects.

The program's additional awards for classes and schools encourage students to work together to achieve a collective award for their school. This will serve to be a source of pride not only to the students, but their parents and community as well.

Mr. Speaker, literacy tests demonstrate a lack of knowledge of civic heritage and American history in our country's youth. I feel that in order to change that, we must give our youth a challenge. I believe this program will create the challenge needed. And it is up to us, as elected officials, to provide the means with which to implement a successful national program.

I urge my fellow colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield myself 5 minutes.

Mr. Speaker, the distinguished chairwoman of the Subcommittee on Libraries and Memorials has correctly described the bill that is before the Congress. Members will recall that when the legislative appropriation was pending in the House there was included in it an appropriation for $680,000 for this Speaker's award. At the time, any Member could have removed that appropriation by raising a simple point of order, but because Members who were curious about it had been reassured of the merit of the program, there was no point raised.

What we have before the House today is simply an authorization of an appropriation that has already been ratified by this House and is likely to appear in future appropriations, whatever form they may take, that include the legislative appropriation.

Nevertheless, the subcommittee took great pains to try to react to some criticisms of the original resolution. We changed the name of the program to make it one identified with the Office of the Speaker of the House rather than with any individual. We changed the appointment power of the advisory committee to include minority input. Finally, we tried to strengthen the audit procedures provided in the Journal. As a result, I believe we have a good resolution which will unleash the creative energies of the Close-Up organization which we all think is doing a marvelous job already on Capitol Hill, and allow it through us to be able to reach these hundreds of thousands or millions of elementary school youngsters who have much to learn about the genesis of our country and the way that it operates.

Mr. Speaker, I congratulate the gentlewoman from Ohio [Ms. OAKAR], the chief sponsor, and the majority whip, the gentleman from California [Mr. COELHO], and urge that the joint resolution be promptly adopted.

Mr. Speaker, I yield back all of my time.

Ms. OAKAR. Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Speaker, I join with my colleagues on the floor today in saying that this is indeed a historic moment. As my colleagues know, one of the things that we pride ourselves in, in having accepted this choice in our careers, is that we believe Government has a role in all of our lives.

Regrettably, over the last 10 or 20 years many of our citizens, and particularly our young people, have forgotten the importance that Government can play in their lives. As I travel through the schools in my own district and throughout this country, I am constantly amazed at the interest, but also constantly amazed at the lack of interest many of our youngsters have.

Today we have an opportunity to remedy that. We have an opportunity like we did in the 1960's with the physical fitness program to go right into our schools and give youngsters the opportunity at their own pace, within that classroom, with an individual and also as a class and also as a school to improve their knowledge of this Government.

Who benefits from that? Obviously, the young people who will participate in this program will benefit greatly from it because they will become more keenly aware of the problems that our Government faces and how they can make a contribution.

Second, our local and State governments and our Federal Government will benefit because with more informed citizens we will have better citizens to participate. But in the long run our country and our world benefit because if we can spark the interest of our young people at this very tender age we are guaranteed that we will have active, productive citizens that will make a contribution to our country and our world the rest of their lives.

As we pass this torch to the next generation, it will be a great comfort to all of us to know that they will enter this challenge with better information. So today's program and what we do today will give us that opportunity which all of us seek to do by our own careers.

I commend the gentlewoman from Ohio [Ms. OAKAR] and the gentleman from Wisconsin [Mr. FRENZEL] and others who have been so actively involved.

Let me say in closing all dreams begin with one thought, and this thought was nourished by an Oklahoman, a young man I have gotten to know over the years known is Steve Janger, who started Close-Up almost 15 years ago, and during those 15 years plus he has built an organization which he is not only proud of but this country has seen the benefits from. Today is the final icing on the cake for that program which will take this program and hopefully the program of the Speaker's Award into every school in our country. I commend him and I commend his staff and I commend his vision and his dream. It shows that one person still can make a difference in this country.

Mr. Speaker, I thank the gentlewoman for yielding me this time.

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume to conclude by thanking the Speaker for being so concerned with the education of our young people, and the minority leader, who pledged his full cooperation for what I think in its own way is a historical piece of legislation, because we have not focused in on elementary school level children in this country in terms of a program that connects them with our Government in a very direct way.

I also compliment the gentleman from California [Mr. COELHO], who originated the legislation, along with my minority leader, the gentleman from Minnesota [Mr. FRENZEL], who was extremely cooperative so that we could get this legislation passed in a bipartisan way, because that is the spirit of the legislation.

Mr. COELHO. Mr. Speaker, when my fellow colleagues and I speak before high schools in our districts, we always stress how important a good education in social studies is for our system of Government. Images of "forgotten history that is repeated" and "democratic cornerstones of informed electorates" are always invoked to stress how important a strong civics background is to this country. Yet, in this Nation where only half the registered voters actually go to the polls, the average high school graduates are startlingly deficient in their understanding of basic government, geography, economics, and current events.

That is why it is imperative that this body act to encourage a solid civics education in our Nation's schools. House Joint Resolution 309 would be a tremendous step in the right direction. Our legislation would set up the Civic Achievement Award Program in the name of the Office of the Speaker of the House. The program would send award certificates to students, classes, and schools whom have demonstrated excellence in the field of social studies.

House Joint Resolution 309 would authorize that the Speaker of the House and the minority leader appoint an 11-member panel that would exist under the auspices of the Close-Up Foundation. The panel would oversee the operation of the program, design standards and skill tests for the awards, and distribute information about the program to schools and libraries.

Our Government currently runs the Presidential Physical Fitness Awards Program in our schools because it puts great stock in the physical health of our young Americans. This program has proved to be very successful. Just as this Government should encourage our youngsters to get in good physical shape, we should also physically act to get our youngsters in good governmental shape. House Joint Resolution 309 is an excellent tool to tone our youngsters' civic muscles.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio [Ms. OAKAR] that the House suspend the rules and pass the joint resolution, H.J. Res. 309, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the joint resolution, as amended, was passed.

The title of the joint resolution was amended so as to read: "Joint resolution providing support for the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives."

A motion to reconsider was laid on the table.

LIBRARY OF CONGRESS POLICE

Ms. OAKAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2249) to change the title of employees designated by the Librarian of Congress for police duty and to make the rank structure and pay for such employees the same as the rank structure and pay for the Capitol Police, as amended.

The Clerk read as follows:

H.R. 2249

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TITLE, RANK STRUCTURE, AND PAY OF EMPLOYEES DESIGNATED BY THE LIBRARIAN OF CONGRESS FOR POLICE DUTY.

(a) IN GENERAL.—The first section of the Act entitled "An Act relating to the policing of the buildings and grounds of the Library of Congress", approved August 4, 1950 (2 U.S.C. 167), is amended to read as follows: "That the Librarian of Congress may designate employees of the Library of Congress as police for duty with respect to the Library of Congress buildings and adjacent streets. The rank structure and pay for employees so designated shall be the same as the rank structure and pay for the Capitol Police".

(b) Conforming Amendments.—

(1) Section 9 of the Act entitled "An Act relating to the policing of the buildings and grounds of the Library of Congress", approved August 4, 1950 (2 U.S.C. 167h), is amended by striking out "special".

(2) Section 5102(c)(27) of title 5, United States Code is amended by striking out "special police force" and inserting in lieu thereof "police".

SEC. 2. TRANSITION RULE FOR CERTAIN EMPLOYEES.

(a) In General.—Notwithstanding the amendments made by section 1, each identified employee shall be paid in accordance with prior law until the earliest of—

(1) the first pay period during which the employee does not perform Sunday work or night work;

(2) the first pay period for which the pay of the employee, computed in accordance with the amendments made by section 1 and without regard to this section, exceeds the pay computed under prior law; or

(3) the first pay period beginning after September 30, 1989.

(b) Definitions.—As used in this section—

(1) the term "identified employee" means an employee identified by the Librarian of Congress as an employee who (with respect to each of the 13 pay periods immediately before the first pay period to which the amendments made by section 1 apply) is designated by the Librarian for police duty, at the rank of private, and receives additional pay for Sunday work or night work under section 5544 or section 5545 of title 5, United States Code; and

(2) the term "prior law" means the first section of the Act entitled "An Act relating to the policing of the buildings and grounds of the Library of Congress", approved August 4, 1950 (2 U.S.C. 167), as in effect immediately before the first pay period to which the amendments made by section 1 apply.

SEC. 3. EFFECTIVE DATE.

The amendments made by section 1 shall apply with respect to pay periods beginning after September 30, 1987, except that any pay increase for employees of the Library of Congress, pursuant to the amendments made by such section, shall be subject to appropriation and shall be implemented in four approximately equal annual increments, so that pay parity with the Capitol Police occurs beginning with the first pay period beginning after September 30, 1990.

The SPEAKER pro tempore. Is a second demanded?

Mr. FRENZEL. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentlewoman from Ohio [Ms. Oakar] will be recognized for 20 minutes and the gentleman from Minnesota [Mr. Frenzel] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. Oakar].

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on April 30, 1987, I introduced H.R. 2249, a bill which authorizes the Librarian of Congress to designate employees to serve as police for the Library and to perform police duties with respect to the Library building and adjacent streets. The bill would make the rank and pay structure used by the Librarian identical to that used by the Capitol Police.

The bill, as amended, creates a 4-year phase-in period and assumes constant annual pay increases until the rank and pay structure for the Library of Congress Police is identical to that of the Capitol Police, beginning with the first pay period after September 30, 1990.

On May 28, 1987, the Subcommittee on Libraries and Memorials, by unanimous voice vote, reported H.R. 2249 favorably to the Committee on House Administration with an amendment. On June 24, 1987, the Committee on House Administration, by unanimous voice vote, ordered H.R. 2249 favorably reported.

The Library of Congress Police provide an invaluable service to Capitol Hill. As the national library, the Library of Congress contains thousands of priceless collections and documents which, if stolen, could not be replaced. Since 1950, the Library Police have conducted 24-hour physical inspections of the Library areas which presently include over 500 miles of shelves and several acres of land. Library Police protect more than 5,000 employees occupying a number of different buildings as well as thousands of students, readers, and tourists who visit the Library on a daily basis.

The salary schedules for Library of Congress Police were established by statute in 1968. In 1973, an amendment to this statute established an equivalency between Library of Congress special police ranks and the general schedule as follows: privates, GS-7, steps 1-5; sergeants, GS-8, steps 1-5; lieutenants GS-9, steps 1-5; senior lieutenants GS-10, steps 1-5; and captains GS-11, steps 1-7. At that time the GS rates provided compensation to the Library of Congress Police at a pay rate close to that paid to the Capitol Police.

However, since 1973, inequities have resulted from a step 5 pay cap in each grade level. The Library of Congress Police Force has substantially increased in size, professional skills and responsibilities since 1973. A 1981 Office of Personnel Management study of Federal police and guard occupations found the job requirements for Supreme Court Police, Capitol Police and Library of Congress Police essentially similar. The Supreme Court Police have been traditionally paid at the rate paid to Capitol Police.

The police force of the Library of Congress have not received a salary adjustment in 14 years—besides mandated COLA's. As of January 1, 1987, the Capitol and Supreme Court Police privates start at a salary of $21,733, and as of January 5, 1987, a Library of Congress Police private starts at a salary of $18,358. Under the present salary structure, the maximum a Library of Congress Police private can earn is a salary of $20,806—less than the starting salary of the Capitol and Supreme Court Police.

I have incorporated a further perfecting amendment to H.R. 2249. This amendment would ensure that those privates who have earned additional compensation for Sunday or night work, under the provisions of 5 U.S. Code 5544 and 5545, will be compensated at a rate of pay at least equal to their pay prior to the effective date of this act.

The rank and pay structure established in H.R. 2249 would result in an equitable pay system for the Library of Congress Police essentially equivalent to that of the Capitol and Supreme Court Police, and would eliminate the need for periodic amendments to statute.

□ 1230

Mr. Speaker, I reserve the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2249, a bill introduced and described by the distinguished gentlewoman from Ohio [Ms. Oakar]. She and I had slightly differing versions of truth on this matter. Suffice it to say that her argumentation was so compelling and so persuasive that I was forced to yield to her dominant will.

Mr. Speaker, I do support the bill and hope that it is passed, because if it pends much longer, she will get more out of me.

Mr. Speaker, I yield back the balance of my time.

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I want to thank my friend and distinguished minority leader of our full committee and indeed the subcommittee for again being persuaded. You know, I think in this case we really have to compliment our staffs as well. My former staff director and current staff first called this to my attention and I am sort of known sometimes as being an advocate for equal pay and comparable pay for women. In this case most of these individuals happen to be men who I feel were undervalued and underpaid. I think with the work that our staffs were able to do to assist in allaying some of the problems about the bill, I think we were able to come up with a way to do it in such a way that it would assist these people.

Mr. Speaker, I think that they are terrific as they are, but I will bet they will be more productive and their morale will be increased tremendously by the manner in which we have been able to work this compromise out.

So I want to really thank my distinguished cochair, in many ways, of the committee and really compliment him and his staff and my own staff for their fine work. I know a lot of people will be very happy when we get this passed.

Mr. Speaker, I yield back the balance of my time.

PARLIAMENTARY INQUIRY

Mr. FRENZEL. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore (Mr. Dellums). The gentleman will state it.

Mr. FRENZEL. Mr. Speaker, does the bill on which we are about to vote include the Oakar amendment as described earlier?

The SPEAKER pro tempore. As the Chair understands it, it is as amended, that is correct.

The question is on the motion offered by the gentlewoman from Ohio [Ms. Oakar] that the House suspend the rules and pass the bill, H.R. 2249, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

CONFERRING HONORARY STATUS OF LIBRARIAN OF CONGRESS EMERITUS ON DANIEL J. BOORSTIN

Ms. OAKAR. Mr. Speaker, I move to suspend the rules and pass the joint resolution (H.J. Res. 291) conferring the honorary status of Librarian of Congress Emeritus on Daniel J. Boorstin.

The Clerk read as follows:

H.J. Res. 291

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That upon retirement from service as the Librarian of Congress, Daniel J. Boorstin, who has held that position since November 12, 1975, may be known as the Librarian of Congress Emeritus. Such honorary designation shall not constitute an appointment in the civil service, as defined in section 2101 of title 5, United States Code.

Sec. 2. In connection with his activities as Librarian of Congress Emeritus, Daniel J. Boorstin may receive incidental administrative and clerical support through the Library of Congress.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentlewoman from Ohio [Ms. Oakar] will be recognized for 20 minutes and the gentleman from Minnesota [Mr. Frenzel] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. Oakar].

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, today, the House will consider House Joint Resolution 291, legislation to confer the honorary status of Librarian Emeritus on Daniel J. Boorstin.

Dr. Boorstin, an historian, educator, and author, was sworn in as the 12th Librarian of Congress on November 12, 1975. He had previously been the Director of the National Museum of History and Technology, and Senior Historian of the Smithsonian Institution in Washington, DC. And, prior to both these prestigious positions, Dr. Boorstin was the Preston & Sterling Morton Distinguished Service Professor of History at the University of Chicago where he taught for 25 years.

Dr. Boorstin's tenure as Librarian, which he sees more as a cultural post than as a technical job, has been marked by several departures. He has made an effort to make the Library more inviting to the public and counteract the image of stuffiness by opening the long-locked doors to the entrance of the Library's main building, by promoting lunchtime concerts on the Library's plazas, and by putting on exhibits about everything from the Apollo Moon mission to a retrospective on Disney animation.

Dr. Boorstin has set up many special programs, including a Council of Scholars to help the Library spot weaknesses in its collections, and a Center for the Book to promote reading among the general public.

The position of Librarian of Congress is one of distinction; one that requires the highest leadership and political insights. As the Nation's ambassador of culture, the Librarian must also have strong diplomatic skills. Dr. Boorstin is a man of many talents, along with the above mentioned he has also been a dynamic and charismatic leader, one who has inspired knowledge, as well as given of his own. He has provided intellectual stamina to the Library that will carry on for generations to come.

Dr. Boorstin will be missed indeed when he retires. But, by making him Librarian of Congress Emeritus, we can minimize the loss. Passage of this simple and straight-forward resolution will provide Dr. Boorstin with the much needed access to resources that will allow him to continue his outstanding work as a historian and an author. The bill simply creates the position—no salary or additional funds are required. This is a well-merited reward, allowing the Congress to thank Dr. Boorstin for his outstanding accomplishments to the Library and consequently to the Nation and the world of literary sciences.

Dr. Boorstin once said:

> You hope to grow and develop as long as you're alive. You can't fondle your past. The best book is always the next book.

With these words in mind, I am certain that the next Librarian of Congress will fill the position with the same professionalism as the present. And that Dr. Boorstin will move on, gracefully into the future, onto the next book.

I urge my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, had the Committee on House Administration circularized this particular resolution to all of the Members of Congress, I suspect that we would have had 439 or 440 Members as sponsors of this bill. So great is the reputation and the respect which Members have for Daniel Boorstin that I am sure all would want to have joined us in this particular applause or means of giving applause to the Librarian.

Dr. Boorstin has served with distinction and with great achievement over the past 12 years as the Librarian of Congress. He will move on to new duties, to other interests but we are very fortunate in being able to induce him to become Librarian Emeritus. With that formal title it is hoped the Library will still be able to achieve some good services from Dr. Boorstin in the manner in which the gentlewoman from Ohio has already described.

Mr. Boorstin has had I think an extremely successful career with the Library of Congress. It has not been without incident. I myself have disagreed with him on management and policy toward Members many times. Yet I yield to no one in my respect and affection for him, nor my estimate of the great work he has done for the Library of Congress. We are lucky to have had him. We are even luckier to be able to have him at least on a reduced basis in the future.

I say parenthetically, Mr. Speaker, that the House will welcome his successor, Mr. Bellington.

Because it is a senatorial confirmation, we have not held hearings on the successor. Most of us on the committee have met him and expect similarly great achievements from him and wish him great success in his new job.

Mr. Speaker, I yield back all of the remainder of my time.

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I just want to say that I concur with my distinguished minority leader in his remarks and in particular in welcoming the new Librarian of Congress as well.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Ohio [Ms. Oakar] that the House suspend the rules and pass the joint resolution, H.J. Res. 291.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the joint resolution was passed.

A motion to reconsider was laid on the table.

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that the Committee on House Administration be discharged from further consideration of the Senate bill (S. 1020) to create the office of Librarian of Congress Emeritus and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1020

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That each Librarian of Congress appointed by authority of the first undesignated paragraph under the center heading "Library of Congress" in the first section of the Act entitled "An Act making appropriations for the legislative, executive, and judicial expenses of the Government for the fiscal year ending June thirtieth, eighteen hundred and ninety-eight, and for other purposes", approved February 19, 1897 (29 Stat. 546; 2 U.S.C. 136) shall upon retirement be designated Librarian of Congress Emeritus. The Librarian of Congress is authorized to make necessary administrative arrangements for any individual who holds the Office of Librarian of Congress Emeritus.

MOTION OFFERED BY MS. OAKAR

Ms. OAKAR. Mr. Speaker, I offer a motion.

The Clerk read as follows:

Ms. Oakar moves to strike all after the enacting clause of the Senate bill (S. 1020) and insert in lieu thereof the provisions of House Joint Resolution 291 as passed by the House.

The motion was agreed to.

The Senate bill was ordered to be read a third time, was read the third time and passed.

The title of the Senate bill was amended so as to read "A bill to confer the honorary status of Librarian of Congress Emeritus on Daniel J. Boorstin."

A motion to reconsider was laid on the table.

A similar House joint resolution (H.J. Res. 291) was laid on the table.

AUTHORIZING ARCHITECT OF THE CAPITOL TO ACCEPT GIFTS AND BEQUESTS OF PERSONAL PROPERTY AND MONEY FOR THE BENEFIT OF THE CAPITOL BUILDINGS ART COLLECTION

Ms. OAKAR. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 60) to authorize the Architect of the Capitol to accept gifts and bequests of personal property and money for the benefit of the Capitol Buildings Art Collection, as amended.

The Clerk read as follows:

H.R. 60

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ACCEPTANCE OF GIFTS OF MONEY FOR PURCHASE OF WORKS OF FINE ART FOR THE CAPITOL.

The Architect of the Capitol is authorized to accept, on behalf of the Congress and with prior approval of the Joint Committee on the Library, gifts of money for the purchase of works of fine art for the Capitol. Any gift so accepted shall be in the form of a check or similar instrument made payable to the Treasurer of the United States. Such acceptance shall be carried out in the manner prescribed by the Joint Committee on the Library, which shall supervise the works of fine art in accordance with section 1831 of the Revised Statutes of the United States (40 U.S.C. 188).

SEC. 2. ESTABLISHMENT OF FUND FOR WORKS OF FINE ART FOR THE CAPITOL.

There is established in the Treasury a fund for purchase of works of fine art for the Capitol. Amounts accepted under section 1 shall be deposited in the fund, which, subject to appropriation, shall be available to the Architect of the Capitol for such purchases as may be approved by the Joint Committee on the Library, the Speaker and the minority leader of the House of Representatives, and the majority leader and the minority leader of the Senate.

SEC. 3. DISBURSEMENTS FROM THE FUND.

Disbursements from the fund shall be made on vouchers signed by the Architect of the Capitol and approved by the Joint Committee on the Library, the Speaker and the minority leader of the House of Representatives, and the majority leader and the minority leader of the Senate.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentlewoman from Ohio [Ms. Oakar] will be recognized for 20 minutes and the gentleman from Minnesota [Mr. Frenzel] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Ohio [Ms. Oakar].

Ms. OAKAR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, with amendments, authorizes the Architect of the Capitol with prior approval of the Joint Committee on the Library to accept monetary donations for the purchases of works of art for display in the Capitol.

The measure requires that such donations be in the form of check or similar instrument which is payable to the U.S. Treasury. It specifies that the expenditure of such funds is subject to approval by the House Speaker and minority leader and the majority and minority leaders of the Senate. The Congressional Budget Office estimates that there will be no net cost to the Federal Government as a result of this bill's passage.

Mr. Speaker, I want to pay special tribute to my colleague from Florida, Congressman Charles Bennett, who has worked for many years on this legislation. I think it is a tribute to him who, himself, has donated really gifts, significant gifts to our country in monetary terms as well as personally, that we are able to hopefully pass this legislation today.

Mr. Speaker, I reserve the balance of my time.

Mr. FRENZEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 60, a bill authored by our friend and collleague from Florida, Mr. Bennett, from whom the body will shortly be hearing, and urge that it be promptly adopted.

This is not a new bill, having been around some sessions back. However, due to the diligence of the distinguished chairwoman of the Library and Memorials Subcommittee, the gentlewoman from Ohio, the bill has moved forward this year. It is not as originally introduced.

The committee, in order to protect the House and the Capitol, made some amendments in the bill. In the first place, we did not give the Architect the authority to accept works of art but only to accept money.

The bill also says that the Architect may purchase from these gifts only such works as have been approved by the Joint Committee on the Library, the Speaker and minority leader in the House, the majority and minority leaders in the Senate.

The reasons for that, I think, are self-evident. There are a number of groups providing artwork and aesthetics for the U.S. Capitol.

The Senate has its Committee on Arts and Antiquities; The U.S. Capitol Historical Society has been involved in much Capitol artwork and of course the Joint Committee on the Libraries also involved. We want to be certain that what we do in the Capitol is first quality and is absolutely authentic and for that reason we have put these several safeguards into the bill.

As amended I think it is a very worthwhile bill. There will be several avenues for people who wish to make contributions to the Capitol. But each of them will have checks and safeguards so that we will not be obliged to accept an undistinguished artwork or material that is clearly not significant to the Capitol.

□ 1245

Mr. Speaker, I congratulate my colleagues, the gentleman from Florida [Mr. Bennett] and the gentlewoman from Ohio [Ms. Oakar].

Mr. Speaker, I reserve the balance of my time.

Ms. OAKAR. Mr. Speaker, I yield 2 minutes to the gentleman from Michigan [Mr. Carr].

Mr. CARR. Mr. Speaker, I thank the gentlewoman from Ohio [Ms. Oakar] and I want to thank and commend our colleague, the gentleman from Florida [Mr. Bennett], for this piece of legislation. It is important.

The U.S. Capitol is not only the place where we work from day to day, it is not only an historical monument, it is indeed a monument of great proportions. It is a museum. It is a tourist attraction. We write laws here which we hope will have a long shelf life or at least the wisdom behind those laws will have a long shelf life.

But it is clear that the people who really write the history of our culture are the artists. They, too, ought to be here. This bill is an enabling bill. I wholeheartedly endorse it and hope that the House will pass it unanimously on a voice vote.

I did have one question that I wish to propound to the gentlewoman from Ohio [Ms. Oakar], and that is this: When you say that the Architect of the Capitol will be able to accept donations for the purpose of artwork for the Capitol, does that also imply that the Rayburn Building, the Longworth Building, the Cannon Building are included as well?

Ms. OAKAR. Mr. Speaker, will the gentleman yield?

Mr CARR. I yield to the gentlewoman from Ohio.

Ms. OAKAR. Mr. Speaker, in answer to the gentleman's question, no, it does not at this time.

Mr. CARR. Mr. Speaker, I would in no way speak in derogation of this particular piece of legislation, but I would hope that the committee would in fact consider broadening the scope. In fact, we have quite a bit of art hanging in the Capitol, but as we walk the halls of the Rayburn, Longworth, and Cannon Buildings, we note that it is very sparse indeed. There is a great need for more because the people of this country come through those halls to see their Representatives as well, and I hope that in the future we might have an amendment to this bill which will become law enlarging that authority.

Ms. OAKAR. Mr. Speaker, I thank the gentleman from Michigan [Mr. Carr], the chairman of our Arts Caucus, for his thoughtful remarks and his suggestions as well.

Mr. Speaker, I yield such time as he may consume to the gentleman from Florida [Mr. Bennett], who is the chief sponsor of the legislation.

Mr. BENNETT. Mr. Speaker, I want to thank the committee, the staff, and all those who made this legislation possible. It has been a long time in the making, but that is not the fault of the present committee.

Some years ago—I suspect it is now 15 years ago—I learned that a chandelier in a house in Baltimore was available. I believe it was a 1795 chandelier, something about that period. I asked the Architect of the Capitol if he would buy it if I gave him the money. He told me that he could not do it. I have tried since that time to get legislation to do that.

At the present time you can make gifts of all kinds to the State Department, the Department of the Interior, the Library of Congress, and almost every agency I know of throughout the Capital area, but you cannot make them to the Capitol itself. That is the reason I did this.

There would be nothing that would be put in the Capitol that does not meet the criteria of the committee. Just the fact that you have some art you would like to put here would not mean you could put it here; it is going to have to be passed upon by the board that is set up. That is a fine idea.

I also think it is a good idea to extend it to other buildings, but having taken 15 years to get to this bill, I am not sure I want to get on that other one, too, although conceivably the Senate might add that as an amendment and it might not be too difficult to handle it in that way.

In any event, I want to thank the committee very, very thoroughly for what they did. There are a lot of things on the committee's table that are important, and I appreciate their getting this little thing done, with all the important things they have to do. I am very grateful that they gave it the attention they did. I am delighted that the bill is going to pass, and I thank the Members for passing it.

Mr. FRENZEL. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

Ms. OAKAR. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. Dellums). The question is on the motion offered by the gentlewoman from Ohio [Ms. Oakar] that the House suspend the rules and pass the bill, H.R. 60, as amended.

The question was taken; and (two-thirds having voted in favor thereof), the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to permit the Architect of the Capitol, under the direction of the Joint Committee on the Library, to accept gifts of money for the purchase of works of fine art for the Capitol, and for other purposes."

A motion to reconsider was laid on the table.

GENERAL LEAVE

Ms. OAKAR. Mr. President, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the several bills just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

JOINT REFERRAL OF H.R. 2815 TO COMMITTEE ON HOUSE ADMINISTRATION AND COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION

Ms. OAKAR. Mr. Speaker, I ask unanimous consent that H.R. 2815 be referred jointly to the Committee on House Administration and the Committee on Public Works and Transportation.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Ohio?

There was no objection.

AUTHORIZING PRESERVATION OF CERTAIN WETLANDS AND HISTORIC AND PREHISTORIC SITES IN THE ST. JOHNS RIVER VALLEY, FL

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1983) authorizing the Secretary of the Interior to preserve certain wetlands and historic and prehistoric sites in the St. Johns River Valley, FL, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1983

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—FORT CAROLINE NATIONAL MEMORIAL

SECTION 101. AMENDMENTS OF 1950 ACT.

The Act entitled "An Act to provide for the acquisition, investigation, and preservation of lands to commemorate the historic Fort Caroline settlement, Saint Johns Bluff, Florida", approved September 21, 1950 (64 Stat. 897), is amended as follows:

(1) Section 2 is amended by adding the following after the final period: "Such historical park shall serve as the principal interpretive center and administrative facility for the ecological, historic, and prehistoric resources made available under this legislation. In furtherance of the interpretive and administrative functions referred to in the preceding sentence, the Secretary shall construct and maintain appropriate museum facilities for the display of important artifacts and materials that illustrate the history and prehistory of the region.".

(2) Section 3 is repealed, and sections 4 and 5 are redesignated as sections 3 and 4, respectively.

(3) Section 4, as so redesignated, is amended by striking out the phrase ", not to exceed $40,000,".

TITLE II—PRESERVATION OF ST. JOHNS RIVER VALLEY ECOLOGICAL AREA AND PROTECTION OF SIGNIFICANT HISTORIC ASSETS

SEC. 201. TIMUCUAN ECOLOGICAL AND HISTORIC PRESERVE.

(a) Establishment.—There is hereby established in the St. Johns River Valley, Florida, where the Timucuan Indians lived in prehistoric and historic times, the Timucuan Ecological and Historic Preserve (hereafter in this Act referred to as the "Preserve"). The Preserve shall comprise the lands, waters, and interests therein within the boundaries generally depicted on a map of Duval County, Florida, entitled "Timucuan Ecological and Historic Preserve" numbered NA-TEHP 80,003-A and dated July 1987. The map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary of the Interior may make minor revisions in the boundary of the Preserve in accordance with section 7(c) of the Land and Water Conservation Fund Act of 1965. The Preserve shall also include within its boundaries all that land consisting of approximately 500 acres adjacent to Fort Caroline National Memorial and known as the Theodore Roosevelt Preserve, being land formerly owned by one Willie Brown and donated by him to The Nature Conservancy.

(b) LAND ACQUISITION.—The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to acquire lands and interests therein within the Preserve by donation, purchase with donated or appropriated funds, or exchange, but no lands other than wetlands or interests therein may be acquired without the consent of the owner. For purposes of this subsection, the term "wetlands" has the same meaning as provided by section 3 of the Emergency Wetlands Resources Act of 1986. Lands, interests in lands, and improvements thereon within the boundaries of the Preserve which are owned by the State of Florida or any political subdivision thereof may be acquired only by donation or exchange.

(c) ADMINISTRATION.—The Secretary shall administer the Preserve in such a manner as to protect the natural ecology of its land and water areas in accordance with this Act and the provisions of law generally applicable to units of the national park system, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4). The Secretary shall permit boating, boating-related activities, hunting, and fishing within the Preserve in accordance with applicable Federal and State laws. The Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety.

SEC. 202. PROTECTION OF SIGNIFICANT HISTORIC ASSETS.

The Secretary, with the consent of the owners thereof, may acquire by donation or purchase with donated funds the following properties or sites of significant historic interest in Duval County, Florida:

(1) Spanish sixteenth century forts San Gabriel and San Estaban.

(2) Spanish eighteenth century fort Dos Hermanas.

(3) English eighteenth century forts at Saint Johns Bluff and Fort George Island.

(4) Spanish sixteenth and seventeenth century mission San Juan del Puerto.

(5) Site of the American Revolutionary War battle of Thomas Creek.

(6) The Zephaniah Kingsley plantation, with its eighteenth and nineteenth century buildings.

(7) The Spanish American War fortification on Saint Johns Bluff.

(8) The confederate fort known as the Yellow Bluff Fort State Historic Site.

SEC. 203. INTEGRATED ADMINISTRATION AND INTERPRETATION.

Any properties of historic interest acquired under section 202 shall become part of the Preserve established under section 201. The Secretary shall administer such properties in accordance with a plan that integrates the administration and interpretation of the ecological values of the Preserve and the historical values of the sites so acquired and the historical features of Fort Carolina. Such administration and interpretation shall be conducted through the facilities and staff of Fort Caroline National Memorial consistent with section 2 of the Act of September 21, 1950 (64 Stat. 897).

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the measure presently before us.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, this measure, H.R. 1983, was introduced by our colleague, the gentleman from Florida [Mr. BENNETT]. I would protect the historic and wetland areas of the Nassau and St. Johns Rivers in northeast Florida.

These estuarine areas included in the bill are considered by many biologists to be among the richest and most productive marshes in the United States. They provide the rich food source for feeding and nursery areas used by numerous species of fish and shellfish, particularly shrimp. The impairment or loss of these marshes could cause dramatic losses to the marine fisheries of northern Florida.

In addition, the marshes provide essential, even critical, habitat for many species of resident and migratory birds. The area also provides critical habitat for the endangered manatee.

This region of northern Florida also provides a remarkably rich tapestry of the history of European settlement of North America. Fort Caroline, on the southern boundary of the proposed unit, established by the French in 1564, is a unit of the National Park System already.

Mr. Speaker, H.R. 1983 would establish the Timucuan Ecological and Historic Preserve of about 35,000 acres, most of which is wetland and includes some of the most productive marshlands, as I have said. About half the land is owned by the State of Florida.

The bill would also authorize the acquisition of 10 historic properties covering various periods of Florida history from 16th-century Spanish settlement to the 19th-century plantation life. Ironically, Mr. Speaker, it includes the earliest Spanish presence in Florida and the latest Spanish presence in the latter part of the 19th century, so it runs the gamut.

These historic sites, whether within the main boundary of the preserve or outside, will all be considered as part of the preserve.

Mr. Speaker, I want to commend the author, the gentleman from Florida [Mr. BENNETT], for his continued active support and interest in this bill. He is one of the acknowledged experts on the history of this area. He has provided assistance to the Park Service at Fort Caroline. In fact, the gentleman from Florida [Mr. BENNETT] has authored several short essays and done research work on this history of this area which he shared with the committee during the hearing process. He has, in fact, been very generous in donating both time and artifacts and other materials to enhance the quality of the Fort Caroline visitors center. This really represents in a real sense a lifetime for interest and work, both academically and from the standpoint of material support for this area.

Mr. Speaker, this measure will provide valuable wetlands and a variety of historic sites, as I have indicated, in northern Florida. I certainly think it is worthy of our adoption and establishment as an expanded unit of the National Park System.

Mr. Speaker, I reserve the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1983, to establish the 35,000-acre Timucuan Ecological and Historic Preserve encompassing the St. Johns River Valley in northeastern Florida. The preserve would conserve local estuarine areas and protect and interpret several historic and prehistoric sites including Spanish, English, and American fortifications dating back to the 16th century, the Zephaniah Kingsley Plantation and an American Revolutionary War site. During comittee consideration of H.R. 1983, an amendment was approved to also include the Confederate fort known as the Yellow Bluff Fort State Historic Site within the preserve. The historic properties may only be acquired with the owner's consent and by donation or with donated funds.

The preserve is to be administered through the facilities and staff of the nearby Fort Caroline National Memorial. A museum is planned to be constructed to house local artifacts. The bill provides that private lands within the preserve, other than wetlands, may only be acquired with the consent of the owner and State-owned parcels, which total about 25,000 acres, may only be acquired through donation and exchange. Hunting, fishing, and boating will continue to be allowed in this area.

Mr. Speaker, during committee consideration of H.R. 1983, the sponsor of the bill, Mr. BENNETT, recommended that Fort George Island be included within the preserve. While testimony at the subcommittee hearing certainly supported this position, I expressed concern due to the fact that a large, multiunit residential/resort project is currently proposed for the island. The developer has already invested several years of work and committed substantial financial resources for the project. Therefore, I felt it was very important that the committee, through inclusion of the island in the preserve, not halt, or in any way affect, the proposed project. I want to thank Mr. BENNETT and the subcommittee chairman, Mr. VENTO, for working with me to address my concern and develop appropriate language for the committee report which establishes that it is not congressional intent to interfere with the proposed residential project on Fort George Island.

Mr. Speaker, I believe H.R. 1983 is a good bill to protect the wetlands areas of the St. Johns River which provide important habitat for numerous fish, shellfish, and resident and migratory birds, including the endangered manatee. It will also preserve the history of European settlement of North America through protection and interpretation of the numerous historic sites in this area. In addition, cost estimates indicate that inclusion of this area within the National Park System would not require large Federal expenditures. Also, the House unanimously passed similar legislation last year that was more than double in size.

In closing, I would like to commend the gentleman from Florida [Mr. BENNETT] for the time, efforts, and finances he has personally invested in an attempt to protect the unique St. Johns River Valley area. He is a foremost authority on this area and has written several interesting books on its history, which I urge my colleagues to read. He has been most cooperative and helpful to the committee and has, in my opinion, done an outstanding job on this legislation.

For all of these reasons, I urge my colleagues to approve H.R. 1983.

Mr. VENTO. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, I will yield time very shortly to the gentleman from Florida [Mr. BENNETT], but first, as I said, this is a very important measure in the sense that north of Jacksonville there is a significant development that is taking place in this wonderful natural area, and this is in the path of that development. These lowland areas, which are marshlands, have all the characteristics that have been attributed to them by myself and the ranking member, the gentleman from California [Mr. LAGOMARSINO], whom I would like to thank for his cooperation on this measure.

It is very essential that this be preserved. As I said, the gentleman from Florida [Mr. BENNETT] has spent a lifetime working and writing about this particular issue and the history of this area. As we pointed out, these are very rich and historic remnants of our past that I think are essential, especially in a State that is new and developing, as Florida. So it is important that we make a special effort to try to preserve these marshlands and these historic sites.

Mr. Speaker, I yield such time as he may consume to the principal advocate and champion of this legislation, the gentleman from Florida [Mr. BENNETT].

Mr. BENNETT. Mr. Speaker, I thank the gentleman very much. I appreciate the tremendous work on this issue by the subcommittee chairman and the ranking minority member and all of the committee. They not only studied this in thorough detail but they also came down and looked at the premises. They flew over it in a helicopter and came to a consensus to arrive at the best thing to do.

Mr. Speaker, I rise in support of H.R. 1983, authorizing the Secretary of the Interior to preserve certain wetlands and historic and prehistoric sites in the St. Johns River Valley, FL, and for other purposes.

My bill, which would establish the Timucuan Ecological and Historic Preserve, named after the Timucuan Indians who inhabited the area in historic and prehistoric times, has three main parts. I will discuss them in the reverse order of their importance.

First, the bill modifies the existing Fort Caroline National Memorial. It authorizes construction of an appropriate additional museum facility for the display of important artifacts and materials, which will be of particular importance when this bill becomes a law. I am confident this museum can be built through private donations. Second, H.R. 1983 authorizes the acquisition of several important historical sites. They are:

First, Spanish 16th-century forts San Gabriel and San Estaban. These guarded the mouth of the St. James River and saw French/Spanish combat in 1566; both are on public lands.

Second, Spanish 18th-century Fort Dos Hermanas. This guarded the entrance to the Nassau River in the 1700's to protect against British intrusion.

Third, English 18th-century forts at Saint Johns Bluff and Fort St. George. Fort St. George on Fort George Island was built by Oglethorpe in the 1730-40 decade to wrest Florida from Spain.

Fourth, Spanish 16th- and 17th-century mission, San Juan del Puerto. This 16th century mission was the capital site of the Catholic Church in what is now the United States. It is on the National Register of Historic Places.

Fifth, site of the American Revolutionary War battle of Thomas Creek. The 1777 Thomas Creek battle was the most southernly battle of the American Revolution.

Sixth, the 18th- and 19th-century buildings on the Zephaniah Kingsley plantation. This complex, in excellent condition, includes a 1791 tabby plantation and other extensive plantation buildings of the early 1800's—presently a State park. The State has indicated its interest in turning this over to the Federal Government upon enactment of H.R. 1983. The Kingsley Plantation, I must say, is a more imposing asset than many in existing national parks. It would be a real jewel for the National Park Service. It is on the National Register of Historic Places.

Seventh, The Spanish American War fortification on Saint Johns Bluff. (This is a substantial concrete gun emplacement owned by a trust that seeks its preservation.)

Eighth, the Confederate fort on Yellow Bluff.

The third, and most important part of the bill, is its preservation of wetlands and marshes.

The Florida Department of Natural Resources last year said of these natural assets: "This part of Florida is perhaps best known for its fine beaches, dunes, and mature maritime forests than for the virtually untouched network of salt marshes and tidal creeks. However, it is the contribution of these wetlands to estuarine productivity that makes this area an important candidate for preservation.

> In addition to their importance as a feeding and nursery area for sport and commercial fisheries species, the marshes function as a wildlife sanctuary in an otherwise urbanized area. Migratory and resident birds, including endangered and threatened species such as the brown pelican and wood stork, depend on the area for feeding and/or breeding habitats. The endangered manatee seasonally feeds in the marshes and tidal creeks, and many upland wildlife species come to the marshes to feed.

Wetlands constitute only a small percentage of the land area of the United States, and are estimated to have been reduced by half in the contiguous States since the founding of our country. With H.R. 1983, we have a chance to do something tangible in the effort to put last year's Wetlands

Act into action, and move toward the protection of valuable U.S. wetlands.

Jacksonville's new Napoleon Bonaparte Broward Bridge, now being built in the northern area of the city (near the boundary of the proposed preserve) will increase land development in the area and put additional pressures on the wetlands unless they are protected.

H.R. 1983 is a good package. It combines wetland preservation, use of and improvement of existing facilities, and protection and interpretation of important historic sites. While this legislation is important for the reasons outlined, it should be noted that, considering what the National Park Service would be acquiring and the value to the public, the expenses would not be very great. A good part of the land is now owned by the State, which has indicated its willingness to part with the land upon enactment of the bill. The preserve would contain the 500-acre Theodore Roosevelt Preserve immediately adjacent to the Fort Caroline National Memorial. The Roosevelt Preserve was listed in a National Park Service Landmark Study as being nationally significant, so it is an important part of the Timucuan Preserve. An additional benefit in having the Roosevelt Preserve incorporated into the National Preserve is that it would allow for more public access to the area so that more people can visit and appreciate its significance as a home to several Yellow-crowned Night Heron rookeries, the endangered American Alligator, and many other species.

There already exists an office at Fort Caroline National Memorial, which could administer the Timucuan Preserve, and the museum authorized by this bill could also interpret the history and ecologial aspects of the area.

There are 12 national preserves now in existence, and 7 of them border existing national park facilities. The proposed Timucuan Preserve, bordering Fort Caroline National Memorial, clearly fits the criteria for a national preserve. House Report 93-502 defined national preserves as "areas of land and/or water which may vary in size, but which possess within their boundaries exceptional values or qualities illustrating the natural heritage of the Nation. Such areas would often be characterized by significant scientific values, including, but not limited to, ecological communities illustrating the process of succession, natural phenomena or climax communities. In addition they could be characterized by a habitat supporting a vanishing, rare or restricted species, a relict flora or fauna persisting from an earlier period; or large concentrations of wildlife species. * * * Areas where historical events took place would contribute to the values of the preserve and should be managed in a manner which will maximize both the natural and historical values."

Obviously, H.R. 1983 fits that description. A smiliar bill passed the House last year, but due to some difficulty, stalled in the Senate. The bill has been modified, and I am extremely optimistic. Senators CHILES and GRAHAM have introduced a companion bill in the Senate, which should expedite Senate passage. Now is the time to do something about these valuable wetlands and important historic sites.

I would like to thank the distinguished gentleman from Minnesota, Chairman BRUCE VENTO, for his help in this legislation. Chairman VENTO and I were able to fly over the area contained in this bill. His interest and concern were central to bringing this legislation about.

□ 1300

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. BENNETT. I yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, as it happens, today I am going to be welcoming to Washington a group of exchange students from Spain and from the Spanish culture from the old world. It has always struck me that one of the things we can brag about to visitors from the Spanish culture is that in Florida and in California and elsewhere there are remnants of the original settlers of the original Spanish explorers.

I noted that in this bill, and the gentleman has enumerated them, we have examples of that, so it is coincident with my welcoming them today that I can speak about the bill, that an important part of their heritage and culture in the new world has been and will be preserved.

Mr. Speaker, I just wanted to add that personal observation to the RECORD.

Mr. BENNETT. Mr. Speaker, I thank the gentleman for his contribution.

Mr. ROBINSON. Mr. Speaker, I rise today to thank Chairman UDALL, Congressmen VENTO, LAGOMARSINO, RHODES, and other members of the Interior and Insular Affairs Committee, as well as Congressman BENNETT and the committee staff for including report language in this bill which protects the interests on one of my constituents, Fairfield Communities of Little Rock. Even though the proposed Timucuan Preserve is about 1,000 miles away from my district in Little Rock, the legislation could have had an enormous impact on Fairfield Communities, an employer in my district.

Fairfield Communities owns approximately 70 percent of the property located on Fort George Island, and has nearly completed the process of securing all the necessary permits to begin construction of a residential/resort community on the Island. During the past 6 years, Fairfield has invested nearly $14 million on this project, including the purchase of land and their activities associated with acquiring the necessary permits to proceed with the development. These activities include the preparation of volumes of studies on the ecological, cultural and historical value of the island.

Fairfield is committed to developing Fort George Island in the right way, with special sensitivity and consideration to environmental protection and historical preservation. Members of the subcommittee heard testimony from Fairfield about their plans to maintain the environmental integrity of the island.

Fort George Island has not been included in previous attempts to pass this legislation. It was added for the first time this year as an amendment to the bill. In many cases, where private property is included in or surrounded by a national park or preserve, certain land use controls may be imposed on future development by the Department of the Interior. Fairfield has relied on the fact that this area had not been included in the previous legislation. To now impose the strict land use controls that this legislation could include, would have been enormously unfair and inequitable.

Through Chairman VENTO'S and Congressman LAGOMARSINO'S leadership, the committee has graciously agreed to include report language in the bill which would allow this project to continue. Recognizing the investment and efforts undertaken by Fairfield, the committee has agreed to include report language stating that this legislation does not intend to affect in any way the development of Fort George Island. This project will mean hundreds of jobs for the area and substantial economic growth.

Thank you very much for your assistance in this regard.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill (H.R. 1983) as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

RELOCATING HIGHWAY AFFECTING CHICKAMAUGA AND CHATTANOOGA NATIONAL MILITARY PARK IN GEORGIA

Mr. VENTO. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2121) to authorize and direct the National Park Service to assist the State of Georgia in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia as amended.

The Clerk read as follows:

H.R. 2121

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ASSISTANCE FOR HIGHWAY RELOCATION.

(a) ASSISTANCE FROM DEPARTMENT OF THE INTERIOR.—For purposes of reducing damage to natural and historic resources from highway traffic within the Chickamauga and Chattanooga National Park and for purposes of improving highway safety within the park, the Secretary of the Interior shall provide a grant to the State of Georgia to assist the State in relocating a 3.7 mile section of Highway 27 which passes through the park. The assistance shall be provided upon application of the State if the Secretary of the Interior, acting through the Director of the National Park Service, approves the design and siting of the highway at a location generally outside the western boundary of the park.

(b) FEDERAL SHARE.—The assistance provided by the Secretary of the Interior under subsection (a) shall not exceed 75 percent of the total costs of relocating the 3.7 mile section of highway referred to in subsection (a).

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated not more than $30,000,000 for assistance under subsection (a). Such funds shall remain available until expended.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Minnesota [Mr. VENTO] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Minnesota [Mr. VENTO].

GENERAL LEAVE

Mr. VENTO. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2121, the bill now under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, our colleague on the committee, BUDDY DARDEN, introduced H.R. 2121, a bill to authorize and direct the National Park Service to assist the State of Georgia by relocating a highway affecting the Chickamauga and Chattanooga National Military Park. This bill would protect the Lafayette Road, the very reason for the 1863 battle. Now Highway 27, the road goes through the center of the Chickamauga Battlefield. Highway 27 has very heavy commuter and commercial traffic traveling on it daily through the park and is also a bottleneck for nonpark traffic. The highway—a key historic resource of the park—has also become a major intrusion through it. H.R. 2121 provides for the construction of a bypass around the park, so that the park, its resources and its visitors will be protected.

Mr. Speaker, I want to thank both the sponsor of the bill and the minority for their assistance on H.R. 2121. Together, several changes have been made that strengthen it, particularly by deleting the controversial alternative that called for widening the road to four lanes through the battlefield. Witnesses testified that such widening would devastate the battlefield and the public's ability to understand this part of our history. As amended, the bill also changes the Federal-State funding formula to 75-25 which is standard for roads such as the proposed bypass, and authorizes appropriations at $30 million. These changes are realistic, and, I believe, appropriate.

The detrimental effects of this traffic on the park, its resources and its visitors have been well known for many years. H.R. 2121 offers us an opportunity to solve these problems so that the park and its resources will be preserved so that future generations can learn about the Civil War and the battle fought at Chickamauga.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I might consume.

Mr. Speaker, I rise in support of H.R. 2121 to direct the National Park Service to assist the State of Georgia in relocating a 3.7-mile segment of Highway 27 which bisects the Chickamauga and Chattanooga National Military Park. The bill provides that the assistance will not exceed 75 percent of the costs of the relocation.

As introduced, H.R. 2121 also allowed, as an alternative to the relocation, an enlargement of the current highway from two lanes to four lanes at the expense of the State. However, testimony at the subcommittee hearing, particularly from the U.S. Department of the Interior, convinced the committee that an expansion of the highway was not an appropriate solution to the problem, since it would only serve to significantly increase the adverse impacts on the park's resources and values. Therefore, the bill was amended in subcommittee to delete this section and to reduce the Federal Government's funding share for the relocation from 90 to 75 percent.

H.R. 2121 as amended will assist in protecting the resources of the Chickamauga and Chattanooga National Military Park while solving a major traffic problem for the State of Georgia, since the majority of the traffic through the park is commercial and commuter in nature. Therefore, I believe this bill is a good solid compromise on this difficult issue.

In closing, I want to commend the bill's sponsor, my colleague from Georgia, Mr. DARDEN, and the subcommittee chairman, Mr. VENTO, for working with Members on this side of the aisle in developing this compromise. I believe H.R. 2121 is a good bill which will solve a very serious problem and I urge all of my colleagues to approve it.

At this time, I would like to enter into a colloquy with the subcommittee chairman for the purpose of clarifying congressional intent with regard to H.R. 2121.

Mr. VENTO. Mr. Speaker, if the gentleman will yield, I would be happy to enter into a colloquy with the gentleman with respect to this issue.

Mr. LAGOMARSINO. Would the gentleman agree that the problem we are attempting to address in H.R. 2121 is a unique situation?

Mr. VENTO. The gentleman from California is correct. There are various roads through national park units that are used for commercial and commuter traffic as well as by visitors to the parks. But the road through the Chickamauga and Chattanooga National Military Park was the cause for the 1863 battle there and crucial to our understanding of this part of the Civil War. It became a major commercial and commuter road quite apart from its historical significance.

Mr. LAGOMARSINO. Would the gentleman agree, then, that the road is a key historical resource of the park?

Mr. VENTO. I would agree with the gentleman.

Mr. LAGOMARSINO. Would the gentleman further agree that the only reason for requiring the relocation of the road and directing the Federal Government—National Park Service—to assume 75 percent of the costs of relocation is because the road is such a major resource of the park and that increased traffic has severely impacted the park's resources and visitors?

Mr. VENTO. The gentleman is correct.

Mr. LAGOMARSINO. To further clarify congressional intent with regard to H.R. 2121, as amended, would the gentleman agree that it is not congressional intent to establish, through passage of H.R. 2121, any precedent to relocate other roads affecting national park units that are used for commuter and commercial traffic by use of Federal funds appropriated to the National Park Service?

Mr. VENTO. Yes, that is a correct interpretation. I would like to reiterate that this is quite a unique situation.

Mr. LAGOMARSINO. I thank the gentleman for his cooperation and responses to my questions.

□ 1315

Mr. Speaker, I yield back the balance of my time.

Mr. VENTO. Mr. Speaker, I yield such time as he may consume to the gentleman from Georgia [Mr. DARDEN], the author of this measure.

Mr. DARDEN. Mr. Speaker, I want to commend the distinguished chairman of the National Parks and Public Lands Subcommittee for his efforts in bringing this legislation to the floor. I also appreciate the support of the members of the minority on the committee who have been very cooperative in the consideration of this bill.

Mr. Speaker, the Chickamauga and Chattanooga National Military Park in my district in northwest Georgia is the oldest and largest military park in the Nation. It is the site of a major civil war battle of 1863 that involved almost 35,000 casualties. This battle was fought primarily over the Lafayette Road which is not the site of U.S. Highway 27.

When the park was established in 1890, there had been few changes in the fields, houses, and roads at Chickamauga since the battle. In fact, many veterans of the battle planned and placed the historical markers and monuments in the park. So, today, the park is as close to its 1863 appearance as possible. The park offers unparalleled opportunities for military and historical study, and is used by the U.S. Army as a training site for officers.

A 3.7-mile, two-lane section of Highway 27 passes through the park and is the source of tremendous traffic congestion, primarily due to the large number of commuters who travel the road. Highway 27 is the primary north-south route linking Chattanooga, TN with communities in north Georgia such as Rossville, Fort Oglethorpe, Chickamauga, and Lafayette. Only 10 percent of the exceptionally heavy traffic that passes through the park can be attributed to park visitors.

The traffic bottleneck in the park detracts from the historical integrity of the battlefield and poses an increased risk to the safety of park visitors. Not only does the park suffer from this situation, but the growth of the communities adjacent to the park in Walker and Catoosa Counties is severely hampered by the frustrating traffic-flow problem.

This particular situation is very unique. The road itself was the object of the battle of Chickamauga, thus making it an integral part of the historical interpretation of the park today. There is no other park in the Nation facing such a conflict between the transportation needs of neighboring communities and the need to preserve a primary transportation route as a historical part of the park.

Since 1934, State, Federal, and local officials have recognized the need for improvements to this portion of Highway 27. For years, the Georgia Department of Transportation had sought permission to widen the existing road through the park to four lanes. The highway has already been widened both north and south of the park, and the bottleneck through the park is becoming more of a critical situation every day.

In 1985 I invited the Director of the National Park Service, Mr. William Penn Mott, to visit the Chickamauga Battlefield to determine the best solution to the traffic problem in the park. After making a very thorough examination of the area, Director Mott determined that the widening of the road would be detrimental to the historical integrity of the park, and his decision prohibited any possible widening of the existing road.

The State had been willing to bear the full cost of widening the road. However, the bypass of the park suggested by the National Park Service is estimated to cost almost $30 million—or 10 times the amount it would cost to widen the existing road. This is a tremendous amount to expect the local communities or the State to bear alone; the annual budget of Walker County south of the park is only $8½ million.

On April 8, 1987, I met with Senators SAM NUNN and WYCHE FOWLER of Georgia, Director Mott, representatives of the Federal Highway Administration, the Georgia transportation commissioner, and State and local elected officials to discuss the action necessary to resolve this problem. At that meeting, I suggested the introduction of the legislation the House is now considering. All those present at the meeting—Federal, State, and local officials—agreed that this bill is the most acceptable solution.

H.R. 2121 as amended authorizes the Department of the Interior to provide 75 percent of the funds necessary to relocate Highway 27 around the park, with the State of Georgia providing the remainder of the funds. The exact location of the bypass is to be determined by the Georgia Department of Transportation with the approval of the National Park Service.

My original proposal, however, would have authorized the Department of the Interior to provide 90 percent of the cost of the bypass. There was some opposition to this figure in the subcommittee, and the bill was amended by reducing the Federal share of the cost to 75 percent. The amended bill was favorably reported by the subcommittee and the full Interior and Insular Affairs Committee.

It is appropriate that the Department of the Interior should bear a major portion of the cost of this project since its purpose is the protection of a unit of the National Park System.

The bill has the support of conservation groups, military historians, and all the State and local officials who have been involved in this situation.

Let me again emphasize that this bill does not mandate a specific location for the bypass.

Mr. Speaker, taking no action would only allow the Nation's oldest and largest military park to continue to deteriorate due to the increasing amount of traffic that passes through it each day. H.R. 2121 will help protect one of our Nation's most important historic treasures, and I urge the Members of the House of Representatives to pass this measure.

Mr. Speaker, this legislation is also supported by the gentlewoman from Tennessee, Mrs. LLOYD, my neighbor to the north, and also by the gentleman from Atlanta, GA, Mr. LEWIS, my colleague to the south.

Mr. VENTO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I commend the gentleman from Georgia for his leadership. He really has been out front working very hard on this bill to build a solid consensus agreement with regards to this issue. It has been very difficult for the gentleman because this is something that deeply affects his area.

I also commend the other gentleman from Georgia, Mr. LEWIS, who also serves with us on the committee, for working out this consensus, something that is agreeable, and I think can stand out as a unique example of public policy based on the needs of this park.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Speaker, I thank my colleague for yielding me this time.

Mr. Speaker, I thank the gentleman from Minnesota, Mr. VENTO, for his leadership and also express my appreciation to my colleague, the gentleman from Georgia, BUDDY DARDEN, for bringing this much needed legislation to this body today.

Mr. Speaker, I have lived most of my life in the northwest Georgia and southeast Tennessee areas and I have traveled this route many times in my life. I can attest not only to the sense of history and the beauty of our beloved Chickamauga National Park, but also the need as commerce dictates to provide for greater movement of transportation through this area. This is much needed, not only to preserve the sense of history in our park with its historical beauty, but also the need to make sure that we remain an economically viable area.

Many of my constituents travel this route regularly.

Again, I express my appreciation for the great leadership of the gentleman from Georgia, **BUDDY DARDEN**, in bringing this measure to the floor today.

I do applaud Mr. DARDEN for bringing to us H.R. 2121, legislation authorizing the National Park Service to provide funding necessary to relocate the portion of Highway 27 that passes through the Chickamauga and Chattanooga National Military Park.

Maintaining the historic value of this park is of particular interest. As a memorial to many thousands of brave men who dedicated their lives to this great country, the historic character of this park must be preserved.

For years now U.S. Highway 27 has been plagued by rapidly increasing traffic problems generating numerous complaints from residents along both sides of the Chickamauga and Chattanooga National Military Park. This issue has become especially critical to commuters who frequently travel this road to and from the Chattanooga area who have called for the need for improvement in the traffic flow. As a representative of metropolitan Hamilton County, I share my colleague's concern to secure a highway bypass around the Chickamauga battlefield as a solution to this problem.

Although this bill is designed not only to alleviate the existing congestion and danger to park visitors and regular commuters by affording more efficient travel, it further addresses the importance of preserving the environmental integrity of the park.

Commuters from my district, Third District, Tennessee, have contacted my office expressing support of this measure. This is an opportunity to provide a long-awaited solution to the transportation difficulties being experienced by commuters and visitors.

It is my pleasure to join with my colleague in supporting this measure.

Mr. VENTO. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota [Mr. VENTO] that the House suspend the rules and pass the bill, H.R. 2121, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

MENTAL ILLNESS AWARENESS WEEK

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J. Res. 76) to designate the week of October 4, 1987, through October 10, 1987, as "Mental Illness Awareness Week," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, I do not object, but simply would like the body to know that the minority has no objection.

Mr. Speaker, I rise in support of Senate Joint Resolution 76, to designate the week of October 4, 1987, through October 10, 1987, as "Mental Illness Awareness Week."

American society is becoming more complex; and the consequence of this complexity is creating more stress and mental disorders. Fortunately, we have come a long way since the witch burnings in Salem, but many people are still fearful and nonaccepting of mental illness. Families still suffer from guilt, shame, ignorance, anger, stigma, and abandonment of the patient when dealing with these problems.

Research and education have surged. Recent developments in technology and treatment will make mental disease controllable and help in recovery. In spite of these great strides in treatment, it is not fast enough for those 31 to 41 million Americans who suffer annually from diagnosable mental disorders. This is not counting the millions who are disabled by long-term disorders, elderly who are vulnerable to mental illness, children with developmental and maturational disorders and drug and alcohol abuse.

Between 30 and 40 percent of the Nation's homeless suffer from serious and chronic forms of mental illness and suicides are increasing, both for youths and adults. The dollar amount for direct treatment and support for mental illness is a staggering $106,200,000,000.

Because of increased awareness, research, self-help groups and national support mental disease will be controlled.

Mr. Speaker, I personally believe that designating "Mental Awareness Week" is one of the most sensitizing and important commemoratives that this body can issue and I urge our colleagues to support Senate Joint Resolution 76 (H.J. Res. 144).

Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. RES. 76

Whereas mental illness is a problem of grave concern and consequence in American society, though one widely but unnecessarily feared and misunderstood;

Whereas thirty-one to forty-one million Americans annually suffer from clearly diagnosable mental disorders involving significant disability with respect to employment, attendance at school, or independent living;

Whereas more than ten million Americans are disabled for long periods of time by schizophrenia, manic depressive disorder, and major depression;

Whereas between 30 and 50 per centum of the homeless suffer serious, chronic forms of mental illness;

Whereas alcohol, drug, and mental disorders affect almost 19 per centum of American adults in any six-month period;

Whereas mental illness in at least twelve million children interferes with vital development and maturational processes;

Whereas mental disorder-related deaths are estimated to be thirty-three thousand, with suicide accounting for at least twenty-nine thousand, although the real number is thought to be at least three times higher;

Whereas our growing population of the elderly is particularly vulnerable to mental illness;

Whereas mental disorders result in staggering costs to society, totalling an estimated $106,200,000,000 in direct treatment and support and indirect costs to society, including lost productivity;

Whereas mental illness is increasingly a treatable disability with excellent prospects for amelioration and recovery when properly recognized;

Whereas families of mentally ill citizens and those persons themselves have begun to join self-help groups seeking to combat the unfair stigma of the diseases, to support greater national investment in research, and to advocate for an adequate continuum of care from hospital to community;

Whereas in recent years there have been unprecedented major research developments bringing new methods and technology to the sophisticated and objective study of the functioning of the brain and its linkages to both normal and abnormal behavior;

Whereas research in recent decades has led to a wide array of new and more effective modalities of treatment (both somatic and psychosocial) for some of the most incapacitating forms of mental illness (including schizophrenia, major affective disorders, phobias, and phobic disorders);

Whereas appropriate treatment of mental illness has been demonstrated to be cost effective in terms of restored productivity, reduced utilization of other health services, and lessened social dependence; and

Whereas recent and unparalleled growth in scientific knowledge about mental illness has generated the current emergence of a new threshold of opportunity for future research advances and fruitful application to specific clinical problems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on October 4, 1987, is designated as "Mental Illness Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

CLEAN WATER DAY

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that the Committee on Post Office and Civil Service be discharged from further consideration of the Senate joint resolution (S.J.

Res. 160) to designate July 25, 1987, as "Clean Water Day," and ask for its immediate consideration.

The Clerk read the title of the Senate joint resolution.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mrs. MORELLA. Mr. Speaker, reserving the right to object, as one of the original cosponsors of House Joint Resolution 307, I rise in support of Senate Joint Resolution 160, the corresponding legislation we are considering today to designate July 25, 1987, as "Clean Water Day."

Clean water is essential to our very existence. When our forefathers came to this country centuries ago, they were blessed with fresh, pure water in our streams, lakes, rivers, and underground water supplies.

With the industrial revolution came negligent pollution of our waterways. In recent decades we have again recognized the need to respect our waters and clean them up.

We are dependent on water for recreation, commerce, transportation, power, and jobs.

Mr. Speaker, I represent a part of the great State of Maryland that prides itself on 1,726 square miles on Chesapeake Bay waters—deep enough to be navigable for ocean-going ships, our beautiful rivers—the Potomac, Wye, Patuxent, Susquehanna, Choptank, Magothy, Patapsco, South, Severn, Wicomico, and Pocomoke, just to name a few of the 23 rivers. Our boating waters include more than 400 miles of water tributary to the Chesapeake Bay and the beautiful Chincoteague Bay—35 miles of accessible water way to and from the Atlantic Ocean. Sixteen of our twenty-three counties border on tidal water—water is a part of our life, a way of living.

Mr. Speaker, I am proud of what my State has done in the cleanup effort of the Chesapeake Bay, and I take pride in supporting Senate Joint Resolution 160, observing "Clean Water Day" on July 25, 1987. I urge unanimous support and commend the gentleman from Michigan and the Senator from New Jersey for this resolution.

□ 1330

Mr. Speaker, I yield to the chairman of our subcommittee, the gentleman from California [Mr. Dymally].

Mr. DYMALLY. I thank the gentlewoman from Maryland for yielding.

Mr. Speaker, our colleague, Dave Bonior, has had a very keen interest in this resolution. I am very pleased to rise in support of the measure. We take water for granted. We do not put the kind of importance upon it that it really deserves. But it is essential for industry, it is essential for recreation and it is most essential for our personal livelihood.

So, Mr. Speaker, I am very pleased to join with the gentlewoman from Maryland and the Members of the other House in supporting this resolution for clear water.

Mr. BONIOR of Michigan. Mr. Speaker. I rise today to call your attention to House Joint Resolution 307, which declares July 25, 1987, "Clean Water Day." This resolution sets aside one summer day to promote one of our Nation's most precious gifts—our Nation's water supply.

Clean water is an essential part of our lives. Water nourishes our bodies and our environment. Water provides endless hours of recreation—swimming, skiing, motorboating, sailing, and windsurfing. Water provides jobs through commerce and trade. The abundance of water in North America enabled our farmers to turn this continent into the breadbasket of the world.

As an original sponsor of this resolution, I felt it was particularly important to recognize the value of clean water in light of the problems of modern-day pollution. The establishment of a national "Clean Water Day" reflects the growing commitment of many Americans to their environment. It reflects the commitment that Congress demonstrated when it reauthorized the most important clean water legislation to date—the 1987 Clean Water Act.

The bipartisan nature of the resolution's 225 cosponsors demonstrates that the need to preserve clean water is not an issue that runs along party lines, but a fact that affects all of us. "Clean Water Day" is a symbol of the commitment that the country must have to preserve our precious clean water supply and our beautiful lakes and rivers for future generations.

Mrs. MORELLA. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore (Mr. Dellums). Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate joint resolution, as follows:

S.J. Res. 160

Whereas fresh, pure water is inextricably linked to our Nation's culture and heritage and is an invaluable resource to be cherished and protected;

Whereas every American should be able to draw upon the abundant resources of our rivers, lakes, streams, and underground water supplies to enjoy clean and safe drinking water;

Whereas our coastal waters produce a rich bounty of fish and seafood without equal, and our inland waters nourish an agricultural system that feeds the world;

Whereas millions of Americans and visitors to our Nation enjoy our rivers, lakes, streams, and oceans for fishing, swimming, boating, and other recreation each year;

Whereas the Nation's trade and commerce were built upon our waterways, and water related jobs bring continued vitality to our economy; and

Whereas it is important to recognize and appreciate the natural beauty and wealth that our waterways have to offer us: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 25, 1987, is designated as "Clean Water Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

The Senate joint resolution was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DYMALLY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Joint Resolution 76 and Senate Joint Resolution 160.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 2470, MEDICARE CATASTROPHIC PROTECTION ACT OF 1987

Mr. GORDON, from the Committee on Rules, submitted a privileged report (Rept. No. 100-226) on the resolution (H. Res. 227) providing for the consideration of the bill (H.R. 2470) to amendment title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the Medicare Program, and for other purposes, which was referred to the House Calendar and ordered to be printed.

SPECIAL REPORT ON THE MOSCOW COMPLEX PROBLEMS

(Mr. SMITH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. SMITH of Iowa. Mr. Speaker, a delegation of House Members recently went to Moscow to make an on-the-site inspection of the controversial chancery building which was compromised during the construction process by the Soviets. We met with officials and had an opportunity to evaluate various proposals and possible options concerning our course of action relative to our presence in the Soviet Union. A number of Members have asked me for my opinions since returning and for the use of those Members and others who may be interested, I am inserting in the Record today a copy of a special report on this situation.

It is as follows:

SPECIAL REPORT ON THE MOSCOW COMPLEX PROBLEMS

It would be inadvisable and premature to make a final judgment as to the course of action which should be taken relative to the construction problems in the new chancery building in Moscow before some additional technical information has been determined. Also, the problem is not merely a construction problem anyway. It also involves the attitudes of the U.S. and the Soviet Union toward one another and whether internationally accepted conduct in a host country will be observed in the future. Understandings and guarantees concerning these relationships directly affect which option should be selected relative to the construction problems at the new chancery.

There is a ceiling of 225 U.S. personnel for all purposes and all Departments in Moscow, imposed in retaliation for the ceiling we imposed upon the Soviets in the U.S., and they do not permit Soviet citizens to work at maintenance, secretarial or any other jobs at the U.S. complex. It is not possible for a total of 225 personnel to fulfill normal diplomatic, consular, support, export and other responsibilities and at the same time perform the necessary services to handle a substantial deconstruction and reconstruction project for a new chancery, provide support services for 200 or 300 U.S. construction workers, manage and guard a supply center for new construction materials, and the repair and maintenance of the old office complex. If the new chancery building can be neutralized and sufficiently secured, most of the problems can be handled. Otherwise, unless there is a new agreement increasing U.S. personnel ceilings in Moscow, a substantial reduction either in the number of people available for normal functions or abandoning the goal of a new chancery building is imperative. Therefore, as the Schlesinger Report indicated, any acceptable solution depends upon cooperation by the Soviets.

As a highest priority, U.S. negotiators should insist upon meaningful cooperation not only in any reconstruction undertaking but also in locating, neutralizing and removing surveillance devices. Although we would not depend upon a bare promise, we should also insist upon an agreement at the highest level that such conduct will not be repeated. While it is understandable up to a point, escalating reciprocity in like kind on both sides is a poor substitute for basic civility. When it reaches a point of harassment, it is time for either mutual withdrawal of personnel or to agree to some new rules which display greater respect for one another or for both. If Glasnost is in fact a reality and if policies have really changed, this is an opportunity to demonstrate it.

While it would be premature to make a final determination at this time as to the option to be selected relative to the new chancery and the disposition of the Mt. Alto complex, time is very important and both the Administration and Congress need to be examining the ramifications of several possibilities. Our Moscow complex consists of eight buildings of which seven have been completed at a cost of more than $120 million and are now being occupied. While some obvious mistakes were made in architectural design, these buildings are far superior to those which were being used prior to their completion. The remaining functions to be moved to the new site are those which are performed in the old chancery building.

The existing old chancery building is not only compromised but also is a dilapidated fire trap which is impossible to maintain in a condition meeting minimum standards for offices in the U.S. and would be condemned under the ordinances in most any U.S. city. Repairing it to the extent necessary to meet reasonable standards would involve an unacceptably high cost estimated at a minimum of $10 million and it could be two or three times that amount and we still would not own the building. If the new chancery can be debugged and secured, it would eliminate the extremely high cost and the loss of valuable time which would be consumed in repairing the old complex and deconstructing and reconstructing the new one; however, in the event it is determined the new chancery cannot be secured with sufficient certainty, all other possible options need to be considered.

PROPOSED OPTIONS

While the final judgment as to the course of action to be taken relative to the new chancery should be reserved until the above considerations have been explored and determined, it is apparent from what we already know that we must develop a more viable option than either one of the two most recently discussed. *Option I:* One option suggested would be to completely demolish the new chancery building with American workers and build a new one on the same site while simultaneously renovating the old chancery building. The construction costs alone are estimated at $109 million and by the time it would be completed, the total cost could easily reach $200 million. This is not a viable option for the following reasons:

A. The old building is not only compromised but also is a fire trap. It would cost $10 million or considerably more to renovate the old building and it would still be a compromised structure. Spending $10 or $20 million on a structure before turning it back to the Soviets would not only be a waste but would also greatly tax our ability to work on the new chancery building since both should proceed at the same time. The ability of the staff in Moscow, which has been limited to a total of 225 by the Soviets, is not sufficient to handle such an undertaking and normal responsibilities simultaneously.

Some have suggested that the investment in renovating the old building would not be lost if we could keep it after it is renovated; but even if the Soviets would agree to that, it would permanently require a considerable amount of additional upkeep and maintenance and the personnel ceiling will not accommodate diverting additional personnel for that purpose. Permanently diverting more personnel resources to maintenance functions would reduce the ability of the Embassy to handle the diplomatic, consular and other services which are the whole reason for being in Moscow.

Also, facilities in the basement and lower levels of the new chancery building, including an electric generation system, service the entire new complex of eight buildings and tearing the chancery building down would mean that such services would not be available to the other buildings during the deconstruction and reconstruction period of several years, even though the other buildings are now occupied.

Most of the floors in the new building will not be used for the handling of business which needs to be classified anyway, and even if those floors were rebuilt, they could soon be compromised even though any information the Soviets should be able to garner would be of no value.

In two recent votes in Congress, the majority have indicated they will not even support continuing the present level of State Department expenditures, let alone increasing appropriations to cover the cost of this option and many of those who have most vigorously supported this option were the same ones who voted to substantially reduce appropriations for the State Department. *Option II:* Another option being discussed is the plan suggested by the Schlesinger report. It would include deconstructing and reconstructing the top three floors of the new building, adding a new annex consisting of 27,000 to 38,000 square feet of floor space, and remodeling the old or existing facilities. There are some very serious negative aspects in this option.

It also would require an introduction into Moscow of several hundred U.S. workers and create a major logistical problem which could not be handled under the limitations on personnel unless most of the ongoing functions of the Embassy were terminated during the deconstruction and reconstruction period; and that certainly would not be advisable when arms control, trade negotiations and other emerging relationships show more promise than usual.

In addition to many of the reasons why Option I is not viable, this Option would also propose to construct and reconstruct space containing 38,000 square feet more than was planned in the present structure. The additional space after remodeling is not necessary and would require more maintenance and upkeep for which additional personnel are not available under the personnel ceiling and could not be accommodated logistically.

CONSIDERATION COMMON TO ALL OPTIONS

While it is apparent from the above discussion that a satisfactory proposal has not yet been developed and presented to the Congress and that the Administration needs to make an immediate determination as to the degree of cooperation which will be forthcoming from the Soviets, the following facts need to be considered with regard to all alternatives which will be considered:

(a) U.S. personnel assigned to Moscow by all Departments should be reduced to the absolute minimum. Functions now being performed by the Agriculture Department, Commerce Department and others should be reviewed to determine how much they can be reduced or performed elsewhere or even eliminated. The personnel ceiling imposed by the Soviets, following the imposition of a ceiling on the Soviets in the U.S., will not accommodate providing the present level of support services by the State Department for other agencies or the current level of consular and reporting services while concurrently managing the support services required as a result of any major deconstruction and construction activity.

(b) Regardless of which option is followed, a new complete blueprint for operating in Eastern Bloc countries should be developed which is based solely upon what is in our best interest rather than reacting to their course of conduct. Such a blueprint must consider budget limitations which will be present for the next several years. In spite of the need for increased security, the fact that arms control negotiations are going forward, the additional requirements for new trade negotiations and other international problems which we did not have a few years ago, the appropriations bill which included these functions was reduced June 30th by a majority in the House by $280 million even though the loss in purchasing power at overseas posts due to the devaluation of the dollar in the past year for items in this bill cost these agencies an additional $240 million. Also, an amendment to the 1987 supplemental reduced funds available for such purposes by 21%. It is clear from the adoption of those amendments that congressional support does not exist for the increased costs which would be associated with most of the proposals which have recently been made, such as a major deconstruction and reconstruction project, increasing the space to be operated and maintained in Moscow, replacing foreign nationals one for one with Americans (which on an average cost 19 times as much per person), keeping all consulates open, and increasing non-State Department personnel which must be provided support services. In other words, pragmatic plans need to be developed which reduce the cost of overseas personnel and facilities at the very time that increased expenditures could be justified.

SUMMARY

For all of the above reasons and others which should not be discussed in this report, it would be premature and inadvisable to make a final judgment as to the course of action to be taken relative to the new chancery building until additional information is developed and the degree of cooperation or lack of cooperation in the future is determined.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

[Mr. DORNAN of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

HEALTH AND THE ENVIRONMENT SUBCOMMITTEE HEARING ON H.R. 954, THE EXCELLENCE IN MINORITY HEALTH EDUCATION AND CARE ACT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee [Mr. BONER] is recognized for 5 minutes.

Mr. BONER of Tennessee. Mr. Speaker, the Health and the Environment Subcommittee of Energy and Commerce held a hearing yesterday on H.R. 954, the Excellence in Minority Health Education and Care Act. I would like to thank subcommittee Chairman HENRY WAXMAN for holding this hearing and allowing Congresswoman LINDY BOGGS and me to testify in support of this important measure.

I introduced H.R. 954 on February 1, 1987, along with the entire Tennessee and Louisiana delegations and a majority of the Alabama delegation. As of today, the bill has 105 cosponsors.

I am including a copy of the testimony I presented at yesterday's subcommittee hearing. I hope more of my colleagues will join in support of H.R. 954.

CONGRESSMAN BILL BONER—STATEMENT BEFORE THE SUBCOMMITTEE ON HEALTH AND THE ENVIRONMENT, JULY 20, 1987

Mr. Chairman, thank you very much for holding this hearing on H.R. 954, the "Excellence in Minority Health Education and Care Act."

Several weeks ago I read an article in Newsweek Magazine entitled "A Black Health Crisis." The article stated that these days a baby born in Cuba faces better odds of reaching the age of one than a black newborn in Washington, DC. It also stated that the life expectancy of American blacks is not only shorter than that of whites but shorter than the average life span in dozens of developed countries. Also, if you are black and live in the United States, you are more likely to die of a major disease than the whites around you. These statements are astonishing to me as this is 1987 and not 1887.

To add to this discouraging news, a recent report by the Robert Wood Johnson Foundation stated that the percentage of blacks admitted to medical school peaked at 7.5% in 1975, dropping to 6.8% in 1984-85. The report also indicated that during the past 12 years, the acceptance rates for minorities, especially blacks, declined while the acceptance rates for white students rose from 35 to 55%.

There are no clear cut reasons why this situation has come about but one suggestion is that minority students lack role models, appropriate guidance counselors, and proper educational financing. These factors, if remedied, could expand the pool of qualified candidates. The Johnson Foundation report further stated that "the government has moved away from the era of expanding social programs for minority groups and is no longer fostering an expansion in the training of health professionals."

By the year 2000 it is predicted that minorities will make up 35% of the U.S. population. If the current trend of minority health problems continues, and if the current enrollment numbers of minority health professionals does not significantly increase, it does not take an expert in health care matters to see that we are going to have a mismatch of health care resources in this country. Unless we increase the number of minority health providers, blacks and other minorities will continue to be underserved.

Mrs. Boggs will discuss the merits of Xavier University and Mr. Nichols can tell you about the mission of Tuskegee University, but I can tell you that I am very pleased to speak about Meharry Medical and Dental Schools. We in Nashville are proud of these institutions.

Meharry Medical College was founded in 1876 by the Freedmens' Bureau of the Methodist Episcopal Church. Since the beginning, Meharry Medical College has operated with a very clear mission. Meharry has worked to provide health professional education to disadvantaged students. And, Meharry has provided access to health care for underserved populations and communities. This continuing role to serve the disadvantaged and the underserved represents Meharry's historic mission.

According to a 1980 report by the Robert Wood Johnson Foundation, Meharry Medical College had educated more than 50% of the nation's black physicians, and the Dental School had graduated 40% of the nation's black dentists. The same report pointed out that 75% of Meharry's graduates practiced in underserved rural and innercity communities. This contrasts starkly with the fact that an average of 15% of graduates of all medical and dental schools in this country serve these communities. Other studies, including a recent one done by the Rand Corporation, further document the trend of Meharry Medical College graduates to serve the poor and underserved.

In addition to the work of Meharry alumni, Meharry Medical College as an institution has contributed significantly to the care of the poor and the underserved. The George W. Hubbard Hospital, founded in 1910, has served as a hospital whose majority of its patients have been poor. Today approximately 70% of the patients of Hubbard Hospital are either Medicaid, Medicaid/Medicare or are indigent patients with no way to provide for their care. Additionally, Meharry as an institution provided care in areas like Mound Bayou, Mississippi, Tuskegee, Alabama, and other places in the South long before there was an Office of Economic Opportunity funded project. The Matthew Walker Health Center, a community health center in North Nashville, was founded by Meharry Medical College in 1966 as one of the first such community centers.

As Meharry Medical College has served the community, it has struggled financially throughout its entire existence. However, Meharry's financial struggle has made it more dedicated in its mission to provide access to health care for the poor and access to health professional careers for disadvantaged students. But, as you know, this has proved costly. While the nation has been willing to fund basic and clinical research at very high levels for institutions through the country, there has been no comparable commitment to fund the components of Meharry's mission.

Our legislation, H.R. 954, the "Excellence in Minority Health Education and Care Act," is designed to address the problems I have just described. The bill would designate four historically black medical schools: Meharry Medical and Dental Schools, Tuskegee University School of Veterinary Medicine, and Xavier University College of Pharmacy, as Centers of Excellence in Minority Education. It would also authorize $10 million per year for 1988, and such amounts as needed for 1989, 1990, and 1991 to expand and carry out their mission to close the discrepant health gap between whites and minorities by encouraging the increase in the number of minority health providers.

Mr. Chairman, I appreciate very much your interest in this legislation and the time you have taken in your busy schedule to hold this hearing. The small amount of funding that will asist these schools in continuing their fine historical missions will be greatly utilized in addressing the minority health situation which is a disgrace to the most technologically advanced country in the world.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 5 minutes.

[Mr. BURTON of Indiana addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order on the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

[Mr. ANNUNZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

REPORT ON PROCEEDINGS OF CONSTITUTIONAL CONVENTION IN PHILADELPHIA, JULY 21, 1787

Mr. GEKAS. Mr. Speaker, today is July 27, 1787. I am reporting to you from the floor of the Convention in Philadelphia, PA. Benjamin Franklin has just been brought in; he is too weak to walk himself but he is being assisted and he has taken his place and already has began to cajole his fellow delegates to continue with the work of the convention.

James Madison is furiously taking notes. The debate that is taking place right now at this very moment is whether or not the Supreme Court that they have created for this new Government of the United States, whether the Supreme Court should also have veto power as does the Executive under their plan on actions by the legislative branch. And that debate is being fostered by James Wilson of Pennsylvania and James Madison of Virginia.

They are going to be taking a vote and if you will wait just a moment I will report to you on the final outcome of that vote. But this is a curious thing, because they all believe in the separation of powers and now they are taking a vote to see whether the President, who has the right of veto under their scheme of things, should also have to have the Supreme Court to join in that veto of anything that the House of Representatives or the Congress does. This is a strange development.

Well, they are taking the vote. It seems like they have defeated that motion. Madison and Wilson have failed in that. So it is left now for true separation of powers, for further debate, that the question of veto shall only obtain on the part of the President against some acts of the legislature.

What they are talking about now is whether or not there ought to be more participation by the Senate in the confirmation process of appointments to the Supreme Court and other positions by the President of the United States.

Some of the delegates feel that the President should have supreme power to appoint and whoever he should appoint should just take his place in the Supreme Court or other positions. But others are arguing that the Senate ought to have the right and the duty to confirm what the President does in the appointment and that is what they are debating now.

They have gotten over some great hurdles all of a sudden because they have agreed on a Great Compromise, that the Senate should be made up of two individuals from each State so that the smaller States will have equal representation with the larger States. They have also decided that all the States should have Members of the House of Representatives proportionate to their population, thus pleasing the larger States so that they would have greater numbers of representatives than the smaller States.

So that Great Compromise has spurred them on to this moment on July 21, 1787, where the Convention in Philadelphia on a hot day, almost 100 degrees here in Philadelphia, and Ben Franklin does not know whether to close the windows to prevent the flys from coming in or to raise the windows to let whatever semblance of breeze is available to come in. But that decision is left to Ben Franklin alone.

The delegates are proceeding to deliberate on these questions on the separation of powers. One thing I can predict as a commentator that having gotten over that Great Compromise of just last week, this Convention appears to be on the verge of a complete breakthrough and that they will predictably form a new country, a new form of government that will take its place in history.

This is your local Congressman reporting to you 200 years ago today on July 21, 1787, from the floor of the Convention in Philadelphia, PA, during a long hot summer in that city.

Mr. Speaker, I yield back the balance of my time.

WHEN WILL WE AMERICANS LEARN?

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 5 minutes.

Mrs. BENTLEY. Mr. Speaker, yesterday the Toshiba Corp. ran a 1-page advertisement in 83 newspapers around the country. This ad refers to a fine, upstanding honorable company. After reading this ad I did not know if this was the same company that sold super secret submarine technology to the Soviets, nor did I know if this was the same company that along with the Japanese Government did nothing for 19 months after they were made aware about the sale to the Soviet secret police, the KGB.

Japan does not have an espionage law and representatives of the Japanese Government are over here right now negotiating with our administration officials saying, "You know, don't be too hard on us, we are good people."

Yet when our people said to Hajime Tamura, Japan's Minister of International Trade and Industry, that Japan should strengthen its export screening bureaucracy, expand its contributions to a Paris-based international organization that coordinates multilateral export controls, and toughen its laws against diversion of militarily sensitive technologies to the Soviet bloc, they said this United States wish list would be politically difficult.

Now that just makes us feel that the apologies in the newspapers simply are not enough.

Let us talk about something else that happened. In today's newspapers, there is a division manager of Tokyo Aircraft who has been selling United States aircraft secrets to the Soviets.

And now, and this is where we are wrong, the United States today is planning to sign the SDI technology memorandum of understanding with the Japanese on the sharing of information of research and development in the star wars game.

Under no circumstances should this MO be signed unless there is some kind of accountability either by the Japanese Government or its companies for the sale of secrets to the enemy. What do Americans get for their largesse? Jobs? No. Those will stay overseas.

Security? No. That is being sold on a regular basis by these Japanese companies to the Soviets.

Americans get ads. Advertisements. Ads that will eventually help the sales of the very company that perpetrated this crime against the American people, ads that are an accountant's expenses, thereby tax deductible.

When will we learn?

Mr. Speaker, I yield back the balance of my time.

IRAN-CONTRA HEARINGS: A VIEW OF THE PRESIDENCY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DELLUMS] is recognized for 5 minutes.

Mr. DELLUMS. Mr. Speaker, earlier today I addressed the House under the 1-minute provision trying to address myself to one aspect of the Iran-Contra hearings. I would like to take this opportunity to slow it down and try to expand upon the point this gentleman from California chooses to make.

I have joined with millions of American people in trying to focus my attention upon the Iran-Contra hearings. What I have heard, Mr. Speaker, is a great deal of assertions that there was need to protect and defend the Presidency, as if in some way the Presidency has some intrinsic value in and of itself and can function in isolation.

Mr. Speaker, I would suggest that the Presidency is only relevant and significant within the context of our democratic form of government, our commitment to the rule of law and our commitment to a constitutional form of government.

The question that I would ask, Mr. Speaker, If there are no sanctions, then what are the prophylactic remedies? If there are no sanctions, Mr.

Speaker, what about our magnificent commitment to the rule of law? Mr. Speaker, if there is no accountability what about the notion of a commitment to a constitutional form of government that embraces the fragile and delicate notion of checks and balances, the notion of accountability?

Mr. Speaker, if there is no accountability what about a commitment to a constitutional form of government, I reassert for purposes of emphasis?

Mr. Speaker, if there is not commitment to the concept of checks and balances, where is the commitment to a constitutional form of government? If this great body, the Congress of the United States, is to be ignored, lied to and rendered impotent in the context of our Government, where is the commitment to a constitutional form of government?

Mr. Speaker, are we at this very moment embarking upon an unprecedented journey into darkness that will challenge the very notion of the fabric of our democracy, of our democratic way of life? Are we at this moment on the verge of redefining what we mean by accountability? Are we on the verge of redefining what we mean about checks and balances? Are we on the verge of changing the nature of what we mean by the notion of perjury? Are we about the business of changing the notion of a Presidential pardon?

□ 1345

Are we about to move into an era where the President can use pardon arbitrarily and capriciously and arrogantly? Are we suggesting that the Congress of the United States, a legitimate branch of Government in the context of our form of government, is to be rendered moot? Are we suggesting that the courts of this land are insignificant, that all you have to do is be in the executive branch or all you have to do is be the President of the United States and you can willy-nilly, if you have a vision of where the country ought to go, what our foreign policy ought to be, or what our role ought to be in the world, dismiss the other two branches of government.

Mr. Speaker, I would suggest that in this year, the 200th year of our Constitution, when we indeed are celebrating our commitment to the rule of law and a constitutional form of government, that magnificent celebration is nothing but a sham until and unless we refocus America's attention not upon protecting the Presidency but protecting the fragile and delicate nature of our commitment to the democratic way of life.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. DELLUMS. I am pleased to yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding.

The gentleman is exquisite in his emotional concern.

Mr. DELLUMS. Mr. Speaker, if I may reclaim my time, the gentleman is not attempting to be emotional here. I am attempting to also be cerebral and intellectual.

Mr. GEKAS. The gentleman is striking an emotional note, and that is praiseworthy. What I say, though, is that the gentleman from California is begging the question, because these hearings are specifically for the purpose of seeing if the rule of law has been circumvented. That has not been fully determined. It has not been determined what the purpose of all these acts were.

We do know one thing, though. We know that the men involved in these hearings were driven by the intent to further a foreign policy. Now, whether that foreign policy, by virtue of the rule of law that we have with respect to the question of findings and Presidential prerogatives was followed remains to be seen. It may be premature to judge whether or not the rule of law has been circumvented. It may be too soon to determine, as the gentleman has already pointed out, that the Presidency was attempted to be shielded. It may be an aberration of personalities that we have here and not a sweeping denunciation of the checks and balances which we all cherish.

Mr. DELLUMS. Mr. Speaker, I appreciate the comments of my colleague.

This gentleman is not trying to prejudge. What I simply say is that I am hearing too much about preserving the Presidency. What we ought to hear much more loudly and unequivocally is a discusssion of the preservation of the Constitution of the United States and the preservation of our commitment to a rule of law and our commitment to democratic principles.

Mr. Speaker, let me just make one last comment. This gentleman served on the Special Select Committee on Intelligence during the 1970's when we were about the business of looking at the allegations of abuses on the part of our intelligence community. On the last day when that committee gaveled out of existence, this gentleman made the following statement: that the 6 months of involvement in those hearings were simultaneously the most exciting and the most frightening time of my adult life, frightening because this gentleman learned two things. I learned that we have the technological capability of penetrating any American's personal privacy any time, any place, anywhere, under any circumstances, and that had a frightening and chilling effect upon this gentleman.

The second frightening thing that this gentleman learned was that we carry out covert operations more often than not, in direct contravention of our publicly stated policy, outside the concept of the rule of law, outside the parameters of the Constitution, outside the framework of public debate, and outside the notion of accountability.

Mr. Speaker, at some point America is going to have to come to grips with the notion that covert operations are antithetical to the high principles of what a democratic society is built upon.

CYPRUS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. BILIRAKIS] is recognized for 60 minutes.

GENERAL LEAVE

Mr. BILIRAKIS. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and to include extraneous material, on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

Mr. BILIRAKIS. Mr. Speaker, I would like to quote a few lines from something I recently became aware of. It goes something like this: "I'll crush with a stone the heads of 10,000 of them. I'll pull out the teeth of 20,000 of them with my bare hands. I'll throw the corpses of 30,000 of them into the water * * *."

What, you no doubt ask, do these barbaric terms refer to? What, you wonder, could possibly be so bad that it could make anyone express such words of hatred?

The shameful answer, Mr. Speaker, becomes evident as I quote further from the same source: "As long as the word Greek exists in dictionaries, By Allah this hate will not leave me. A thousand heads of the Greeks will not wash away this hate * * *."

Yes, Mr. Speaker, these words are, astoundingly enough, sentiments used to refer to Greeks in a song entitled "Kin," K-i-n, translated as "Hate," H-a-t-e, which Turkish and Turkish Cypriot soldiers sang on July 20, 1975, at a victory parade to mark the 1-year anniversary of the Turkish invasion of the independent Republic of Cyprus.

Mr. GEKAS. Mr. Speaker, will the gentleman yield?

Mr. BILIRAKIS. I am pleased to yield to the gentleman from Pennsylvania.

Mr. GEKAS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, right from the outset I want to associate myself with the remarks of the gentleman from Florida [Mr. BILIRAKIS], because I know the tone and the content of what he is about to express. I, too, feel very strongly that there can be no lasting prospects of peace in the Mediterranean or in the Middle East or in the NATO-delegate, NATO-partnership we enjoy, nor really in the entire community of the world in the Middle East until the day that the Turkish occupation of Cyprus ends.

With that, Mr. Speaker, I will say to the gentleman from Florida that I appreciate a great deal that he has chosen to take this time in special orders to emphasize this expression of indignation that many people across the globe who love freedom feel.

Mr. PASHAYAN. Mr. Speaker, will the gentleman yield?

Mr. BILIRAKIS. I yield to the gentelman from California.

Mr. PASHAYAN. Mr. Speaker, it is with frustration and sadness that we mark the 13th anniversary of the invasion of the Republic of Cyprus by Turkey. We are sad for the people of Cyprus, the Greek Cypriot, the Armenian Cypriots and the Turkish Cypriot, who have suffered through these last 13 years, and angry at Turkey for refusing to allow for the resolution of this crisis. I should like to commend my colleague from Florida, MICHAEL BILIRAKIS, for coordinating this effort.

Despite the efforts of United Nations Secretary-General Javier Perez de Cuellar and many of us here in the Congress, Turkey has taken steps in the last year to consolidate their illegal occupation of Cyprus, including an unprecedented reinforcement and rearmament of its forces on the island. Turkey's blatant violation of international law and rights of an independent Nation places a great burden on the United States and its representatives in this body. While we look to Turkey as an important member of the North Atlantic Treaty Alliance [NATO] and a close ally, we cannot abdicate our role in the world as defender of freedom and justice. We cannot stand idly by when a nation, whether friend or foe, violates the sovereignty of another nation and deprives its citizens of a peaceful existence.

In the case of Cyprus, our role as watchdog for freedom is put to the ultimate test. Reports this year indicate that Turkey is using U.S. military equipment on Cyprus to reinforce their illegal occupation forces. Clearly U.S. military assistance is not intended to be used to violate the rights of a sovereign nation. This is particularly true when, like Cyprus, the nation in question is a good friend of the United States. I am pleased that the Foreign Affairs Committee this year adopted language that would prevent any further direct or indirect support by the United States for the illegal actions by Turkey in Cyprus. I urge the full House to pass this measure as a sign of our continued support for the people of Cyprus as they try to rid themselves and rid their homeland of Turkey's illegal presence.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman from California [Mr. PASHAYAN] for his eloquence.

Mrs. BENTLEY. Mr. Speaker, will the gentleman yield?

Mr. BILIRAKIS. I yield to the gentlewoman from Maryland.

Mrs. BENTLEY. Mr. Speaker, I want to join my three colleagues in their remarks in connection with the domination of Cyprus or the occupation of Cyprus illegally by the Turks, and at this time I want to particularly commend the gentleman from Florida [Mr. BILIRAKIS] for taking this time so that we can observe this very sad anniversary.

Last Friday night in Baltimore, a group of young students who are mostly of Greek Cypriot heritage, some who were born over there, gathered in Baltimore, and they were on their trek; they were walking from New York to Washington to inform the people, to let the people know about this outrageous occupation of this country. I joined them and, along with Senator PAUL SARBANES, commended them, and I noted in my discussion with them that as a first-generation Serbian I understood their concern and frustration and their real sadness over the takeover of a part of Cyprus by the Turks 13 years ago.

My parents' nation of Serbia was crushed by the Turks in the 14th century; it was lost in the battle of Kosovo, and for 5 centuries Serbia and Greece were under the domination of the Turks. So we were together in that. That occupation finally ended, only to be repeated by the Turks 13 years ago when they illegally seized part of Cyprus.

I was surprised to learn that at least a quarter of our aid package to Turkey is used in its domination of Cyprus. Mr. Speaker, that is wrong, and that should be stopped.

Today, ironically, Kosovo, which is a very sacred land in Yugoslavia, is also under siege, this time by the Albanians, who are moving the Serbs out.

So I have a great deal of understanding and a feeling of deep sadness over the Cypriot Greeks who feel that today, here we are, 200,000 of us who have been pushed out, and I say, Mr. Speaker, that we must do everything we can in this country to let the people know we are with them and to take steps by this government to free Cyprus, and then later on we will go after Kosovo.

Mr. Speaker, I thank the gentleman from Florida [Mr. BILIRAKIS] for taking this time and pointing out this wrong that should be righted to the people of America.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentlewoman from Maryland [Mrs. BENTLEY] for her very warm remarks, which quite obviously come right from the heart.

The gentlewoman spoke with us about a walk which took place in Baltimore and in this area over the weekend. So, Mr. Speaker, let me talk about another walk, if I may.

On this past Sunday, June 14, the latest attempt of many to return peace and unity to the Republic of Cyprus was made, and this is something that the American people basically are not aware of. This time the attempt came in the guise of several hundred unarmed peaceful women, who attempted to return to their homes in occupied Cyprus by crossing the so-called green line.

□ 1400

These women, while joined by participants from around the world, and many from the United States, I might add, were primarily some of the 200,000 Greek Cypriot refugees who were forced to leave their homes in the north by the Turkish invaders.

They sought no trouble. They wanted no more than one of humankind's most basic rights, the right to live peacefully in their own land.

Their attempt was, of course, unsuccessful; but they did serve to show the world once more who the real aggressor in the current Cypriot stalemate is.

Mr. Speaker, there should be no dividing line, no green line, if you will, on Cyprus. No one should have to take part in a demonstration to show the world that he or she is prevented from returning to his homeland.

Mr. Speaker, I yield to the gentleman from Ohio [Mr. FEIGHAN].

Mr. FEIGHAN. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I particularly would like to commend the gentleman from Florida [Mr. BILIRAKIS] for bringing this special order to the floor today on Cyprus. The gentleman from Florida has been one of the most important figures in the Congress in raising the consciousness of this Congress, in raising the consciousness of the American people about the terrible tragedy that continues to play itself out in the land of Cyprus today.

Thirteen years ago this week, Turkey invaded the island nation of Cyprus. Thirteen years later, there are still 30,000 Turkish troops on Cyprus, separated by a U.N. Force deployed along the green line. Last month, President Reagan gave a speech in another divided land—at the Berlin Wall in Germany. But he could have just as easily been standing in Nicosia.

> * * * Those barriers cut across * * * in a gash of barbed wire, concrete, dog runs, and guard towers. Farther south there may be no visible, no obvious wall. But there remain armed guards and checkpoints all the same—still a restriction on the right to travel, still an instrument to impose upon

ordinary men and women the will of a totalitarian state.

But unlike Berlin, there has been no similar call to erase the green line and allow for the reunification of the Republic of Cyprus. In Berlin, we raise high the banner of freedom and human rights. In Nicosia, we fold the flag and succumb to the machinations of realpolitick.

The tragedy of this double standard is lived out by the people of Cyprus who endure with 40 percent of the island occupied by a foreign power. Since the invasion, Turkey has sent not only troops, but settlers in a blatant effort to change the demographic character of the island. They have succeeded in reaching a point where roughly every other person on the street in Northern Cyprus is not a Turkish Cypriot—but a soldier or settler from mainland Turkey. This process can only have a chilling effect on the political expression of the Turkish Cypriot community on Cyprus.

Today, we see two general views emerging on the future of the conflict on Cyprus. One is the traditional view that the Cyprus struggle has been with us for a long time and the two parties will simply continue to muddle through. The second, and more troubling view is that we can expect a further escalation of the conflict. The chances of escalation grow out of fear and frustration that all other avenues have stalled.

The U.S. policy is to support the efforts of the U.N. Secretary-General. But what does this support entail? When the Secretary-General write in his midyear report of his repeated appeals to the Government of Turkey to reduce the number of Turkish troops on Cyprus, does the United States echo this demand? When the Secretary-General finds that despite repeated calls for their removal, Turkish students continue to occupy hotels in the city of Famagusta, does the United States also ask that these students be relocated? When the Secretary-General of the United Nations states "that nothing should be done to change the demographic composition of the island", does the United States make clear its position that Turkish settlers should not be welcomed to Cyprus?

I do not think this is the case at all. I think much more of our time is spent soothing and reassuring our friends in Ankara that, despite congressional rhetoric, they can continue to count on millions of dollars in United States foreign aid. While we continue to vote these millions to modernize Turkish forces for use in NATO, new tanks are shipped to Cyprus to enforce the illegal occupation. This is the disgrace of our policy toward Cyprus. We simply should not continue to use taxpayers money to assist in this unwarranted and illegal occupation. It violates our own law regarding the use of our military assistance and renders meaningless our efforts to pursue a "balanced" approach to the region.

In closing, I would say that there may be a way to change the prevailing views on the future course of the Cyprus struggle. But, it will require leadership. And it will require the recognition that the continued division of Cyprus is no one's interest. The struggle and its spillover effects on broader Greece-Turkish relations threaten to unhinge the southeastern flank of NATO. This is a security concern for the United States and it can best be addressed by a clear and direct signal to our Turkish ally—end this occupation, pull out your forces and let us work together for a unified Cyprus that protects the right of each and every Cypriot, north and south, Greek and Turkish. This should be our policy.

I would like to salute the gentleman from Florida for the gentleman's leadership, not just today but over the entire tenure in the Congress in bringing to the Members on a consistent basis the urgency of the Cyprus struggle, and the urgency of fashioning a responsible and balanced American foreign policy that will ensure the opportunity for the people of this beleaguered island country to live in harmony for generations to come.

Mr. BILIRAKIS. Mr. Speaker, I thank the gentleman in the well, the gentleman from Ohio [Mr. FEIGHAN] for his eloquent remarks and for the leadership that the gentleman has shown over the years in this issue.

Yes, Mr. Speaker, as we all can see, if we will allow our eyes and ears and our minds to see, another year has come and gone; and the Cypriot problem persists with no solution to be had.

It was the early morning hours of July 20, 1974, that Turkish paratroopers began descending on the island Republic on the pretext that they were undertaking a "peace operation" intended to protect the Turkish Cypriot minority in the wake of the political turmoil then enveloping the country. This so-called peace operation, however, was code-named—"Attila" and was, effectively, an unlawful invasion and occupation of an independent country in violation of every tenet of international law, custom, and behavior.

The fact, Mr. Speaker, is that Attila was not a peace operation at all. It was an operation undertaken in order to achieve the partitionist plans of the Turkish and Turkish-Cypriot people. It was, indeed, successful in meeting that goal, for Attila and Attila II, on August 14, 1974, effectively took over almost 40 percent of the territory of the Republic, while killing thousands of Greek Cypriots, raping others, uprooting 200,000 of them from their homes, and looting and stealing from the homes and churches that they were forced to leave behind.

To make matters worse, not only were these atrocities carried out, but they were carried out with the use of supplies and equipment provided Turkey by the United States—in violation of the U.S. Foreign Assistance Act of 1962 which authorizes the use of American aid solely for defensive purposes.

Thirteen years have passed since that time and the years have seen several initiatives undertaken toward a solution. A solution, however, has not been attained. The reason is not that one is unattainable. Rather, the sad reason for the stalemate is that Turkey and the Turkish Cypriots have not negotiated toward a solution in good faith and have, in fact, taken a series of steps intended to achieve the permanent portion of the Republic of Cyprus.

Turkey and the Turkish-Cypriot leadership, in direct violation of relevant U.N. resolutions, have, indeed, taken a series of actions, subsequent to the 1974 invasion, which are aimed at consolidating the occupation and division of the small Mediterranean Republic. Facts speak louder than words, Mr. Speaker, so I will cite the evidence:

First and foremost, Turkey refused, and, to date, still refuses to comply with international requests and pertinent U.N. resolutions to remove its occupation troops from the Republic of Cyprus. To add insult to injury, not only do they refuse to withdraw their troops, but Turkey has recently begun a military buildup on Cyprus, in both manpower and equipment, to where, today, there are an estimated 34,000 to 35,000 Turkish troops on Cyprus with the number of tanks having more than doubled for a total of over 300.

Furthermore, in an effort to further consolidate their illegal presence on the island, Turkey has moved in more than 60,000 mainland settlers, who are threatening to turn the Turkish Cypriots themselves into a minority, while occupying the homes and properties that the Greek-Cypriots were forced to leave behind when they were turned into refugees in their own land.

In addition, Turkey and the Turkish Cypriot leadership is subjecting the Greek Cypriots to further indignity by systematically and intentionally destroying the Christian and Hellenic cultural heritage in the Turkish occupied part of the island.

Yes, Mr. Speaker, the Greek Cypriots have, since the landing of the mainland troops and to this day, been subjected to the pillaging, theft, and destruction of the artifacts and works of art that tell the story of their identity. Mr. Speaker, they have seen their ancient churches used as stables and warehouses, they have seen their icons and other works of religious art stolen, and they have seen their Hellenic antiquities sold to private collectors throughout the world in order, no doubt, to systematically remove any trace of the cultural heritage which represents the national identity of the occupied areas.

As if these facts were not enough, Mr. Speaker, the partitionist aims of the Turkish and Turkish-Cypriot leadership were made crystal clear to the world when, as recently as November 15, 1983, they undertook an attempt to create a new Turkish political entity in occupied Cyprus. Yes, Mr. Speaker, they declared the northern occupied part of Cyprus to be an independent country and called this pseudo-state the "Turkish Republic of Northern Cyprus." Fortunately, law and logic prevailed and the international community almost unanimously withheld their recognition of the pseudo-state and criticized the action.

□ 1415

I say almost unanimously withheld, for the one exception, Mr. Speaker, and I underline, one exception was Turkey, for Turkey was the only country in the world community to grant its recognition to this illegal entity.

How, I ask, Mr. Speaker, can Turkey possibly pretend that they want and work toward the return of peace and unity to the Republic of Cyprus when they are a party to such destructive actions to the process?

How can they pretend to want to work with the U.N. Secretary-General to find a workable solution to the situation when they ignore his expressions of concern, as well as those of the United States, over the military buildup on Cyprus that Turkey is engaging in by replying, as Turkish Foreign Minister Halefoglu did on June 6, 1987, that the evidence is "ridiculous and untrue" and that Turkey "does not have to answer to anyone" on the number of troops and military equipment it has on Cyprus.

Mr. Speaker, I declare that Turkey does have to answer for its actions and, further, I maintain that they should answer to the people of the United States. It is the United States, after all, as I said earlier, that supplies and equips Turkey with hundreds of millions of dollars' worth of foreign aid each year, and it is the United States that they are giving a slap in the face to when they knowingly and intentionally fail to comply with the restrictions we place on that assistance.

Mr. Speaker, the U.S. Congress is on record with its sound conviction that there can be no resolution of the Cyprus conflict unless and until the Turkish troops are removed from the island. Rather than comply, however, Turkey laughs in our faces and increases its military presence there and does so with no less than United States origin equipment even while both the House Foreign Affairs Committee and the Senate Foreign Relations Committee report out legislation prohibiting the continued use of United States origin military equipment by the 35,000 illegal Turkish occupation forces on Cyprus.

Mr. Speaker, Congress' position on the Cyprus issue is clear. Both the House Foreign Affairs Committee and the Senate Foreign Relations Committee have reported out legislation that would prohibit the continued use of United States origin military equipment by the 35,000 illegal Turkish occupation forces on Cyprus.

In the Senate, the foreign aid authorization bill contains the Pell amendment prohibiting the transshipment of United States-supplied military equipment from Turkey to Cyprus. In the House, the foreign aid bill contains language (Broomfield-Yatron-Snowe amendment) prohibiting the transshipment of United States-supplied arms from either Turkey or Greece to Cyprus.

Both bills also maintain the traditional 7:10 funding ratio between Greece and Turkey.

Mr. Speaker, this legislation is anything but a radical approach to this critical problem. Instead, it merely clarifies the intent of Congress as expressed in the Foreign Assistance Act.

I strongly support this legislation because I believe it would be repugnant to the rule of law that we talked about here earlier when the gentleman from California had his special order, which is recognized in our Constitution for the United States to support, in a direct or indirect way, this illegal occupation and division of Cyprus.

I take this opportunity to ask my colleagues to likewise support this necessary legislation.

To make matters worse, Turkey has the unmitigated gall to inform the State Department that it is reconsidering implementing the already-agreed to extension of our base rights agreement because, of all things, Congress' attitude on the Cyprus issue. Heaven help us.

Mr. Speaker, I think that the United States and we, as legislators, have been more than patient and have tolerated an intolerable situation more than long enough. I believe that it is now time to implement action in order to force Turkey to cease the actions that are preventing an appropriate resolution to the Cypriot problem.

Despite our security interests in a strong security interest in a strong relationship with Turkey, and God knows they are there, and those of us who care about America are concerned with the fact that Turkey is in a very strategic position, as is the country of Greece and as is the Independent Republic of Cyprus, we must no longer tolerate such intransigence by the leadership in Ankara. Without strong united opposition by the United States to Turkish efforts to ensure the permanent partition of Cyprus, we cannot expect peace to be achieved in that country in the near future.

Mr. Speaker, Cyprus has always been a good friend to the United States and we should do whatever we can to help bring about a just solution.

Cyprus is, after all, not only strategically important to the peace of the region, but it has proven itself, time and again, to be a good friend and ally of the United States.

It was, for example, Cyprus, not Turkey, that allowed the United States the use of its facilities to carry supplies to our dying marines in Lebanon—Turkey refused. It has, furthermore, offered us its unrestrictive assistance after the bombing of the Marine Barracks in Beirut in 1983, the bombing of our Embassy in Beirut in 1984, and during the highjacking of TWA Flight 847 in 1985.

And while we are at it, Mr. Speaker, it was the Greeks who fought and died heroically in World War II, while Turkey chose neutrality, and, though it is little known, it was 38 Greeks who joined 6 U.S. Marines to win a military victory in 1805 on the shores of Tripoli [Libya today]. The same victory, I might add, that is immortalized in the Marine Hymn ["From The Halls Of Montezuma To The Shores Of Tripoli."]

And I ask, what has Turkey contributed to the security of the West? That, Mr. Speaker, is an open question. Turkey, for example, during the 1973 Middle East War, granted Moscow overflight rights and overland passage rights to resupply Syria and Egypt while refusing United States overflights rights to resupply Israel; and, among other questionable acts, allowed Soviet aircraft carriers passage through the Dardanelles in violation of the Montreux Convention of 1936 and over NATO objections.

We, as legislators, and we, as Americans, must, therefore, do all in our power to bring about a just and lasting solution to the Cypriot issue. We must condition aid to Turkey on her genuine efforts to reach just such a solution and we must push to see that this solution meets certain minimum conditions of acceptability, including:

First, the immediate withdrawal of all Turkish occupation forces and colonists from Cyprus.

Second, the immediate return of all occupied areas to the Republic of Cyprus under U.N. auspices for the immediate resettlement of the 200,000 Greek Cypriot refugees.

Third, an agreement by Turkey and the Turkish-Cypriots to a constitutional arrangement based on the universally accepted Democratic principle of majority rule with full minority rights guaranteed as well as freedom of movement, settlement, and ownership anywhere in Cyprus.

After all, should there be a green line there? I think not.

Fourth, an agreement by Turkey to full cooperation with the International Red Cross regarding investigation of the five abducted Americans and the 1,614 missing Greek Cypriots. I might add, Mr. Speaker, that this factor in the Cypriot issue has, unfortunately, not received as much international attention and concern as it might have and rightfully deserves. The fact is that, much like the Americans missing in Vietnam, 1,619 individuals, including 5 Americans, have been missing since the Turkish invasion of Cyprus. Clearly, any fair and appropriate resolution of the issue must fully and adequately address the fate of these unfortunate victims and their families.

And so in closing, Mr. Speaker, I say on behalf of all three nations over there, on behalf of American security and American interests in that entire area, let us all work in earnest to return peace and unity to the Republic of Cyprus. The cards are, after all, largely in our hands. Let us deal a fair and appropriate hand!

Mr. BONIOR of Michigan. Mr. Speaker, will the gentleman yield?

Mr. BILIRAKIS. I am glad to yield to the gentleman from Michigan.

Mr. BONIOR of Michigan. Mr. Speaker, I would like to speak to the issue and I would like to thank my colleague for raising this issue today. He has done an excellent job I think in outlining to my colleagues the special problem that exists in the Republic of Cyprus.

Mr. Speaker, I am very pleased tht the gentleman from Florida, [Mr. BILIRAKIS] has called this special order on the unfortunate situation in the Republic of Cyprus. It is very important that we in this body continue to express our concern, as the gentleman has so eloquently done, over the division of this Mediterranean nation, and the lack of progress toward a negotiated settlement of this 13-year-old stalemate.

The Turkish Government must know that continued intevention in the affairs of the independent Republic of Cyprus cannot be tolerated by the United States. Without some concerted effort to resolve this crisis in the near future, I am fearful that the 27-year-old Republic will remain partitioned, its people artificially divided; and, its sovereignty forever violated by Turkey.

The presence of Turkish troops in Cyprus is a constant reminder of the intercommunal strife that has plagued this small island nation since it first gained independence in 1960. The armed forces constitute the greatest impediment to a peaceful solution.

While none of the parties to the Cyprus dispute is blameless, I firmly believe that Turkey bears a particular responsibility since the presence of these armed forces precludes free and open negotiations from taking place. Instead of taking steps toward peace by withdrawing some of the Turkish troops occupying the northern part of Cyprus, Turkey has spent the last year reinforcing her presence on Cyprus. One alarming feature of this buildup is that some of it is being undertaken with U.S.-supplied military equipment.

In 1982, I spoke before this body on this very same issue. At that time I asked the question:

> How can a truly fair and peaceful settlement be reached when the talks are held under the shadow of the guns and soldiers of the negotiators?

It is important that the same question be asked today—5 years later. As the party with an overwhelming military superiority in Cyprus, the burden of leadership is on Ankara. It must demonstrate that it is serious about pursuing a negotiated solution to the Cyprus problem.

The policy of the Turkish Government is that its security concerns prevent withdrawal of all of their 35,000 troops from Cyprus. The Government of Turkey should realize, however, that it is these very troops that stand in the way of peace. If Turkey is serious about peace, we in Congress must demand that Turkey demonstrate that seriousness.

One step that Turkey could take is to evacuate the Cypriot resort city of Famagusta and turn its administration over to the United Nations forces in Cyprus. This small concession, which would pose no security difficulties for Turkey, would go a long way toward relaxing tensions between all parties involved. This small concession also holds the promise of breathing new life into the U.N. Secretary General's now dormant Cyprus peace initiative.

The injustices suffered by Greek Cypriots because of the Turkish occupation of northern Cyprus must be remembered. This violation of human rights of the Greek Cypriot people must be a motivating force in all efforts to find a peaceful solution to this problem.

The United States has close relations with all parties to the Cyprus dispute. We must put the force of our commitment to human rights behind our efforts.

This commitment, and our recognized role as promoter of freedom throughout the world, makes it incumbent upon us to use our influence to bring about a settlement.

By doing so we would be helping to restore the sovereignty of the people of Cyprus. Thirteen years of crisis is 13 years too long. Both Greek Cypriots and Turkish Cypriots have suffered through the unrest and uncertainty stemming from the presence of a foreign government in their country.

We must renew our commitment in this body to ending a situation which blots the record of cooperation between our Nation and our allies in the Mediterranean. I look forward to working with my colleagues to do everything we can to achieve the important task of peace for Cyprus.

□ 1430

I thank my colleague for bearing with me and giving me the time to express myself on an issue that is not only of importance to me and my colleagues but I think generally to the people not only of the Mediterranean but of this country who cherish human rights and who cherish peace.

Mr. BILIRAKIS. And I thank the gentleman from Michigan for his very eloquent statement, and I know that many of his constituents are very appreciative. I certainly am.

Is it not interesting that even through there has been a change in governments in Turkey, and I understand the current government has intended to at least reflect a more democratic air, if you will, that this so-called peace operation has evolved into what it is and there is so much at stake here? You mentioned it. There is so very much at stake here. It is not just basically Cyprus, Greece, and Turkey, but we are talking about possibly the entire free world because of the strategicness of the area and the great need for unity and peace in that area.

So if in fact they were intending a peace operation back in 1974, God knows they have an opportunity to reflect that now, do they not?

Mr. BONIOR of Michigan. The gentleman is absolutely correct. We have enough hot spots in the world today, certainly in the Mideast and of course now as we hold our breath to see what happens in the gulf, and what troubles that we have in this body and what we have faced in Central America, and another one which I think we can reasonably come to some agreement on if people would put their minds to it and frankly our State Department would put its effort a little more into could help move the parties involved in this dispute in Cyprus to a more reasonable solution to the problem.

We hold a considerable amount of purse strings, as my friend knows, in terms of the aid that we provide the Turkish Government. It seems to me we ought to be using the leverage that we can to get them to talk peace rather than to strengthen the military position that they already have on Cyprus. They are going in the wrong direction and we need to promote the other direction.

Mr. BILIRAKIS. That certainly is true and I would further add even though I personally have not visited the country of Turkey, many of my friends and relatives have, and they come back telling me stories of how wonderful the people are and how friendly they are and courteous, and that sort of thing, and I firmly believe that. I have talked to Turkish Cypriots and I have talked to Greek Cypriots and they tell me they always get along. The difficulty is when the outside interests, the mainlanders, get involved that bring on all the turmoil. I just cannot for one moment believe that the Turkish Cypriots in effect are better off today than they were 13 or 14 years ago before that invasion took place.

Again, I thank the gentleman so very much, and I yield at this time, if I may continue to retain my time, Mr. Speaker, to the gentleman from North Carolina [Mr. LANCASTER].

Mr. LANCASTER. Mr. Speaker, today we mark the 13th year of the division of the Republic of Cyprus resulting from the occupation of the northern third of that island nation by Turkish troops.

It is appropriate for the U.S. Congress to recognize this tragic event for a number of reasons:

First, the continued occupation of Cyprus directly effects our vital security interests by driving a wedge between two of our closest allies in the critical eastern Mediterranean region.

Second, the people of Cyprus see the United States as the only hope for reconciliation and relief. Ours is the only democracy with enough global influence to bring about a lasting resolution to this conflict.

Finally, the friendship the Government of Cyprus has shown toward the United States makes it a matter of honor that we in the Congress renew our determination to do everything we can to permit the people of Cyprus to live in peace once again.

I do not believe that simply putting the blame on the Greeks or the Turks for the continued stalemate in Cyprus is even sensible, much less the best means available to encourage a resolution. At the same time, I cannot speak on this subject without noting my personal dismay over action by settlers and occupying military troops in the north that are having the effect of wiping out the cultural heritage of the Cypriot people. We have it on good authority that along with colonization of the northern third of the island by Turkish immigrants, the priceless artifacts and symbols of an ancient heritage are being desecrated, systematically erased and removed from Cyprus and sold abroad. The obliteration of the Greek Cyprus heritage in the north could ensure that Cyprus remain artificially partitioned forever.

The Government of Turkey has made no secret, during the past several years, of the colonization of the occupied zone. So far, we are told, some 65,000 Turkish citizens have been brought to Cyprus to occupy land owned and formerly occupied by Greek Cypriots. The result of this is that almost every other person now in the occupied zone is either a Turkish settler or a Turkish soldier. It is very disturbing also to contemplate news reports that nearly 20,000 ethnic Turkish Cypriots—the original Turkish Cypriots—have emigrated from the occupied zone and from their homeland under pressure from these settlers.

I believe it is safe to say that the great majority of both Turkish and Greek Cypriots is opposed to this tragic armed camp at the "green line" which separates the nation as effectively as the Berlin Wall separates that city. It is a shameful status quo.

Mr. Speaker, the Cypriots, Greek and Turkish, are peaceful, productive and enterprising. They do not make war; they do not throw bombs * * * they work, they grow, they hope for a better life. In these respects, they are much like Americans.

On this, the 13th anniversary of the sad and unfortunate division of a peaceful people, both Turk and Greek, I urge the United States Congress to use its influence to forestall an ugly future for this lovely sovereign island nation.

Mr. BILIRAKIS. I thank the gentleman from North Carolina for his direct involvement on this issue and involvement in this special order.

Mr. MAVROULES. Mr. Speaker, I address my colleagues today with heart-felt concern over the continued Turkish occupation of the Republic of Cyprus. For this week marks the 13th anniversary of the invasion of the Island. Over the course of these years, the conflict between the Cypriots and the Turkish mainland has remained largely unresolved. Turkish troops remain on the northern section of the island, and the tragedy of an occupied Cyprus lingers on. There is no better way to describe this—it is truly a national tragedy.

What we have witnessed in northern Cyprus over the past 13 years, as Michael Jansen most appropriately puts it, is "the loss of a culture and heritage." Cypriot culture, in every facet, has been subject to Turkey's expansionist foreign policy. The rights and freedoms of individuals and of sovereign nations, which we so highly value in this country, have similarly been thrown by the wayside. It is for this reason that I address you today, in hope that we will never cease in our efforts to end the injustice on the island of Cyprus.

As we all know, on July 20, 1974, Turkish troops invaded the Republic of Cyprus. This resulted in a complete geographic separation of the island, a situation which the Turkish Government has exploited to this day. Instead of reducing the military presence over time, a massive buildup and concentration of troops in the northern area of the island commenced. As has been evidenced over the years, and more dramatically now, this was to be the Turkish mainland's stronghold in Cyprus, from where a Turkification campaign waged against the Greek majority could operate.

The Turkish Army proceeded to occupy some 37 percent of the land, and took control of 70 percent of its productive economic base. Recently, there has been a a buildup of approximately 35,000 Turkish troops and a 50-percent increase of heavy tanks to 300 centered near or along the Turkish-Greek Cypriot border.

Equally as disturbing as the hardware and troops is Turkey's publicly declared attitude toward the situation in Cyprus. On June 6, 1987, Turkish Foreign Minister Halefogulu announced that, and I quote, "Turkey does not have to answer to anyone on the number of troops and military equipment it has on Cyprus." This to me, Mr. Speaker, is a clear indication of Turkey's desire to remain in Cyprus, illegally occupying the land and continuing with the desecration of Cypriot culture.

I would like to spend a moment discussing this tragic desecration of a heritage and culture. The results of the Turkish occupation range from the actual, physical displacement of nearly 200,000 Greek Cypriots from their homeland, to something as subtle as the renaming of towns and districts in the northern territory in an effort to erase all remnants and memory of the previous culture and heritage. Moreover, in addition to the refugee crisis and the propaganda campaign waged on the Cypriot conscious, we have the human suffering involved with the families of the over 1,500 missing since 1974.

You see, Turkey does not only occupy the northern section of the island—it has literally attempted to claim it. Indeed, the Turks intend to claim northern Cyprus by rewriting a history rich with hundreds of years of Cypriot culture, and by substituting it with their own.

Let there be no question that the Turkification of northern Cyprus is the ultimate goal of Ankara. In an effort to change the demographic character of the island, the Turkish Government has promoted the influx of nearly 64,000 illegal settlers from mainland Turkey.

In addition to forcefully removing and replacing the people that have for years lived and breathed the Cypriot culture, Turkey has also set out to destroy those inanimate, yet nonetheless powerful and important reminders of the past. Historical sites and churches in the northern territory have been left largely unattended, and have been subject to both deterioration by natural causes as well as to neglect by human vices. For example, two cities of great historical and cultural importance, Nicosia and Famagusta, were flourishing, colorful reminders of Cypriot culture before the invasion in 1974. They are now, however, only ghostly reminders of the failure to deal with basic maintenance of the cities, a failure I believe substantiating evidence proves largely intentional, or at least stemming from an attitude of indifference and contempt for Cypriot culture.

Finally, there is the complex network, of controllers, sellers, and buyers of Cypriot archeological and religious antiquities, that, along with illegal and casual digs, have scarred the landscape and allowed for the looting and exportation of the cultural treasures unique to the Cypriot hereitage.

Much of this is old news to many of us. My purpose for addressing you today has been to remind us all that we must work to end this unacceptable situation. It is my sincere hope that today, upon the 13th anniversary of the invasion of Cyprus, we can revive our efforts to bring about a peaceful and just resolution to the crisis.

I believe it is imperative, in the name of humanity, in the hope of international peace, and for all those who have suffered in the struggle, that the Turkish occupation of Cyprus receive our full consideration and attention. It is critical that we realize the gravity of this situation—critical to the people of Cyprus, to the viability of their culture, and to the destructive repercussions an unstable Cyprus has in the Mediterranean. We must do everything that we can to once again bring liberty, stability and unity to the Republic of Cyprus.

Mr. COELHO. Mr. Speaker, 13 years ago, July 20, 1974, Turkey's forces invaded the independent island Republic of Cyprus, dividing and occupying it. Over the course of those 13 years, Turkey has made clear its mission of transforming the occupied zone into a de facto Turkish colony, by bringing in some 62,000 Turkish settlers, by desecrating churches and changing the names of occupied areas, by continuing to illegally occupy Greek Cypriot hotels in the city of Famagusta, and by increasing by 50 percent the number of Turkish tanks on Cyprus.

In defiance of the efforts of the United States and of the Secretary General of the United Nations, Turkish Foreign Minister Halefoglu announced last month that Turkey will ignore international efforts to bring peace to Cyprus and will answer to no one as to the numbers of troops and military equipment it has on the island.

Turkey continues to ignore the United States on the Cyprus issue and on the Armenian Genocide, yet the we continue to support Turkey.

I voice again my support for a negotiated peace on Cyprus and for the reunification of this Mediterranean nation which has been our faithful ally over the course of its history. And I join with my colleagues here in the Congress to call for stronger measures as proposed in the Broomfield-Yatron-Snowe and Pell bills recently reported by both the House Foreign Affairs Committee and the Senate Foreign Relations Committee which would prohibit the use of military equipment of U.S. origin by the Turkish occupation forces.

The time has come for the United States to make clear to Turkey that our alliance must be one based on mutual respect and understanding, and on adherence to the basic tenets of international law and human rights.

Mr. GEKAS. Mr. Speaker, I would like to take this time to express my deep concern for the continued occupation of the island of Cyprus by Turkish troops.

Thirteen years ago the island of Cyprus was invaded by troops from Turkey. Since that time, Turkey has continued to have a military presence on the island, and has refused to heed the requests of the United Nations to remove these troops.

This occupation greatly troubles me. The continued occupation of these troops has suppressed the rights of the thousands of Greek-Cypriots on the island, has threatened the continued peace between Greece and Turkey, and has threatened the fragile stability of the Middle East.

I take the sad occasion of this 13th anniversary to urge the withdrawal of the Turkish troops and the return of the island of Cyprus to the people of Cyprus. This return to normalization is essential to continued peace in the Mediterranean and the Middle East.

Mr. FAZIO. Mr. Speaker, I would like to commend my friend and colleague, Mr. BILIRAKIS, for holding this special order to focus congressional attention on the continued plight of the people of Cyprus as they mark the anniversary of the Turkish invasion of their homeland. For 13 years, the people of Cyprus have been forced to live in a divided state. The invasion of Cyprus, which has been internationally condemned, has resulted in an occupation and a military buildup which demands our attention.

The Turkish occupation troops have in the past been armed through American military assistance. This use of weapons for aggressive purposes is contrary to the American principles and civilized conduct among nations. Turkey has used United States military assistance that is given to that country for their defense against the Warsaw Pact to upgrade its occupation forces in Cyprus. American military assistance to Turkey must not be abused. Moreover, Turkey continues to reinforce its troops on occupied Cyprus territory, multiply its firepower, and bring in thousands of settlers. Furthermore, Turkey has failed to make a good-faith effort at negotiations. On the contrary, they have gone to the extreme position of declaring the occupied part of Cyprus to be an "independent republic," a pseudo state that is recognized only by Turkey.

The present impasse on Cyprus is a threat to United States interests in the eastern Mediterranean, not only because of Cyprus' proximity to the Middle East, but also because the conflict is destabilizing to two key NATO allies—Greece and Turkey.

The demographic and cultural characteristics of the island have been affected drastically by the occupation, as well. There has been an influx of approximately 65,000 settlers from Turkey. Cyprus is losing the extensive cultural, historic, and social identity as a result of the siege that is being waged by Turkey. Some of the Cypriot treasures have been smuggled out of Cyprus and have appeared in the art markets throughout Europe. This vandalism and desecration threatens not only the unity and integrity of a modern nation/state, but also cultural continuity of an island that has been the crossroads of eastern Mediterranean civilization.

The hope of a unified Cyprus seems to grow ever fainter. Turkey's intent on continuing its occupation of Cyprus is clear, but this should not be tolerated. It is time to reach a settlement to this problem. A lasting and fair agreement must involve withdrawal of all occupation troops and removal of all illegal colonists in accordance with U.N. resolutions to this effect. A solution to the Cyprus problem would not only be helpful for the people of Cyprus, but also would help in the relations between Turkey and Greece, thus allowing the southern flank of NATO to function more efficiently. It is in the interest of the United States to take a leadership role in resolving this tragedy.

Mr. Speaker, 13 years after the invasion, thousands of Greek Cypriots remain refugees in their own homeland, separated from their property by the presence of 35,000 troops, and still seeking information on the whereabouts and condition of 2,000 of their friends and relatives missing since the invasion occurred. This figure includes eight American citizens.

The people of Cyprus must be freed of outside influence. As defenders of freedom and democracy throughout the world, we as Americans are obligated to use the influence we have to convince Turkey to remove its troops from Cyprus and restore fully the sovereignty of that island nation. On this anniversary of the tragic invasion of Cyprus, I urge all of my colleagues to join me in rededicating ourselves to achieve this important goal.

Ms. SNOWE. Mr. Speaker, let me first commend my colleague from Florida, Mr. BILIRAKIS, for calling this special order to commemorate the 13th anniversary of the brutal Turkish invasion of Cyprus.

Mr. Speaker, the subject of this special order is depressingly familiar to the Members of this House. Twenty-seven years ago, the island of Cyprus became an independent state. But for 13 of those years, the northern part of that island has been under the grip of foreign occupation. When Turkish troops invaded, 13 years ago yesterday, 200,000 Cypriots were driven from their homes, deprived of their possessions, and reduced to refugees in their own land. Since that time, the Turkish Government has imported 60,000 settlers from mainland Turkey to turn its occupation zone into a Turkish colony.

Thirteen years of occupation have also seen the looting and destruction of the ancient Greek cultural heritage in Turkish-held Cyprus, including the vandalizing of churches and the theft of precious artifacts for sale abroad. Today, despite the intensive and ongoing efforts of the United Nations and especially Secretary-General Perez de Cuellar, we are scarcely any closer to a solution.

In fact, I regret to say that in the last 2 years, the grip of the Turkish military occupation has been tightened by a troop buildup and by the modernization of the equipment of the Turkish occupation army. I also regret that recent statements from Ankara demonstrate a total lack of good faith on the Turkish side, both toward a reduction in the Turkish occupation force, and by extension toward a just political settlement of the tragedy of Cyprus.

Mr. Speaker, last summer, the Economist magazine reported that Turkey had increased its occupation forces by 25 percent. That brought Turkish forces to a level of around 35,000, almost as many as first invaded the island in 1974. There has also been a qualitative improvement in the Turkish military presence. According to the State Department, the Turkish occupation forces have upgraded their entire tank force with more modern tanks having greater firepower and mobility. In the course of this modernization, more tanks appear to be arriving on Cyprus than are being transferred back to the Turkish mainland. The U.N. Secretary-General, in his latest report to the Security Council, reported "a substantial increase in the number of tanks" on the island.

As a result of this military buildup, I joined with the gentleman from Pennsylvania, Mr. YATRON, and the distinguished ranking Republican on the House Foreign Affairs Committee, Mr. BROOMFIELD, in offering an amendment to the fiscal 1988-89 foreign aid bill to ban the transfer or use of U.S.-supplied arms on Cyprus by both Turkish and Greek forces. This amendment, which was adopted by a vote of 20 to 8, would also require the State Department to include information on the activities of Greek and Turkish forces on Cyprus in its reports to Congress on the Cyprus situation. A similar provision was included in the Senate Foreign Relations Committee's foreign aid bill, and Secretary-General Perez de Cuellar has also expressed his concern at the Turkish military buildup and urged the Turkish Government to reduce its forces on Cyprus.

In light of this clear display of congressional concern, I am shocked at recent statements by the Turkish Foreign Minister, Mr. Halefoglu, that demonstrate Turkey's repudiation of the United States Congress and the United Nations, as well as a distortion of the purpose of the United States' alliance with Turkey and the purpose of the substantial military aid we provide to that country.

On June 6, Foreign Minister Halefoglu claimed that Turkey "does not have to answer to anyone on the number of troops and military equipment [Turkey] has on Cyprus." The Turkish Government ignores the fact that United States aid to that country is provided for self-defense and to assist Turkey in carrying out its NATO reponsibilities, not to be used to strengthen the grip of occupation forces on Cyprus. And I think that the United States Congress, which will provide hundreds of millions of dollars of military aid for Turkey this year, has a right to know what is being done with this aid and to ensure that it is not being used for purposes which the Congress never intended.

Mr. Speaker, despite the lack of progress over the past 13 years, I continue to hope that the people of Cyprus, Greek and Turkish Cypriots, will find a way to live in peace and justice together. However, as we all know, the biggest obstacle is the continued presence of a Turkish army of occupation. The statements of the Turkish foreign minister make it difficult to believe that we will achieve a solution as long as this attitude prevails in the Turkish Government.

Once again, I commend the gentleman from Florida for calling this special order, and I thank my other colleagues for their participation.

Mr. SOLOMON. Mr. Speaker, I would like to preface my remarks today by commending the distinguished gentleman from Florida, my dear friend and colleague, the Honorable MICHAEL BILIRAKIS, for requesting this special order to discuss the unfortunate stalemate in reaching a fair and just agreement on the reunification of Cyprus 13 long years after the island's invasion and occupation by Turkey on July 20, 1974.

As the ranking Republican member of the House Veterans' Affairs Committee, I have the privilege of working closely with Mr. BILIRAKIS, who is also a panel member, in maintaining the special status of the word "veteran" in the eyes of Congress and the Nation.

This effort extends beyond our legitimate task of preserving well-earned veterans' benefits and services to include also our responsibility to preserve those ideals and values for which our veterans served, fought, and oftentimes died. This task is ever before us, but no more so than this year, the bicentennial year for the U.S. Constitution. This is the time when "We the People" renew our commitment to the oath of Thomas Jefferson, the oath to resist every form of tyranny known to the mind of man.

In addition to maintaining eternal vigilence at home, part of the task of preserving this sacred heritage includes speaking out and standing up for these values in the world today, indeed, by exporting these values as our most precious commodity. I believe that if we are to maintain our freedoms, principles, and liberties, we cannot covet them, but advocate them vigorously we when we see them violated in other lands.

This tenet must apply whether in the case of totalitarian injustice, territorial aggression, or, the case of Cyprus, when a sovereign nation is invaded, partitioned, and continuously occupied in contravention of international standards and at a great price to the human rights of its citizens.

Speaking as a member of the House Foreign Affairs Committee, I am also deeply disturbed that Turkey has not only refused to remove its occupation forces, but has actually begun a military buildup on Cyprus. Worst of all, military aid from this country has been diverted to support this buildup.

These actions give the distinct impression that the Republic of Turkey has misunderstood our sentiments on Cyprus and our priorities in the eastern Mediterranean.

We do not countenance the continued occupation of a sovereign nation. And we will not tolerate the use of American taxpayer funds, appropriated for the common defense of the Atlantic Alliance, to buttress an act that violates the principles of human rights and territorial sovereignty that are very justification for that alliance.

Mr. Speaker, I speak these words of protest and admonishment with great sorrow. Over the years, my esteem for the Republic of Turkey has steadily grown. The Turkish republic is working to overcome great economic and social challenges in pursuit of a free market economy and a Western orientation that are fundamental cornerstones for the establishment of Western democratic values and outlook.

Likewise, the Turkish republic has been a reliable NATO ally. The geopolitical significance of Turkey is clear from any glance at the map, and the Turkish Government's sober understanding of that significance and the burdens it imposes is likewise clear from their steadfast and staunch defense of their borders.

These commitments by our Turkish allies makes it even more painful to witness the way they are putting their prestige and their Western orientation on the line through their continued occupation of Cyprus. I join Mr. BILIRAKIS and my colleagues and urge the Republic of Turkey to be more forthcoming in seeking a fair and just reunification of the island.

One last point, Mr. Speaker. My good friend, Mr. BILIRAKIS, has organized this special order not only in his role as a Member of Congress and a loyal American, but also as a distinguished and concerned member of the Greek-American community, which has protested vociferously that such an important part of the Hellenic diaspora should be suffering under the boot of tyranny.

Let me just say that while not all of us are Greek in ethnic origin, each of us is Hellenic in spirit. We share the fervor of the ancient Greeks for democracy, for freedom, and for the resistance of tyranny.

In harmony with that spirit, there can be no justification for the destruction of tokens and relics of this majestic civilization, whether it be the looting of Cypriot antiquities or the desecration of Orthodox Christian icons that commemorate the island's Byzantine past and its present spiritual life.

This wanton destruction must be stopped immediately, and followed by a political solution that is consistent with the spirit of justice, freedom, and human rights. Such a resolution is equally inconsistent with the intellectual heritage of Hellas.

Mr. BIAGGI. Mr. Speaker, it is with great sorrow that we must rise today on the 13th anniversary of the Turkish invasion of the island of Cyprus. Today, we call upon Turkey, as we have for the past 13 years, to move toward reunification and to return Cyprus to independence.

I am especially disturbed by the use of U.S. funds to further this effort. Currently there are over 35,000 Turkish troops stationed on the island of Cyprus. These troops use United States supplied equipment—through NATO—to advance the Turkish occupation. Also U.S. funding is used to renovate and modernize equipment. As we are calling for reduced Turkish presence on Cyprus, we must refrain from hyprocrisy by assuring that United States funds are not used by troops in Turkey. That is why I have proudly cosponsored H.R. 957, which would prohibit the use of United States funds for the Turkish occupying forces in Cyprus.

During Turkish occupation of Cyprus, many of the cultural and historical artifacts of Western civilization are being destroyed. Cyprus is an inextricable part of the history of Western civilization. Because of its central location, Cyprus holds a wealth of information about our past. Cyprian artifacts are vital to the understanding of the trade routes of the eastern Mediterranean from 2000-1600 B.C. During Grecian times, the port of Salamis in Northern Cyprus is thought to be the refuge for Greek heroes during the Trojan War. Cyprus holds icons and relics of both the Christian and Muslem religions. I am concerned that this rich cultural heritage is being destroyed by the Turkish-occupying forces, both by destroying valuable artifacts and ruins and by removing other treasures from Cyprus, to be sold for profit or to be housed in Turkish museums.

I commend my distinguished colleague, Mr. BILIRAKIS, for calling this special order today. It is crucial that the United States take a leadership position in resolving the Turkish occupation of Cyprus, and move toward a reduction of Turkish military forces on Cyprus. We must work toward the restoration of peace and unity to the Republic of Cyprus.

Mr. YATRON. Mr. Speaker, I rise in support of the gentleman from Florida's special order on Cyprus. This is a timely initiative, and I commend Mr. BILIRAKIS for his leadership on this very important matter.

As a number of our colleagues have eloquently noted, this order marks the 13th anniversary of the Turkish invasion and occupation of the Republic of Cyprus. After 13 years, the dispute has not been resolved and the results of this illegal invasion have had profound and negative implications for U.S. strategic interests in the eastern Mediterranean.

Mr. Speaker, the United States has a humanitarian obligation to resolve the dispute on Cyprus by virtue of the fact that the invasion by Turkish forces was undertaken with U.S. arms. As a consequence, the United States is perceived as indirectly supporting an act of aggression against a sovereign nation. Further, this invasion has escalated tensions between two allies, Greece and Turkey, to the extent that cooperation between these two nations on NATO matters has been seriously compromised. I make reference to these facts simply to underscore that U.S. interests have been undermined, as a direct result of the misuse of U.S. defense articles.

Congress has been told repeatedly by successive administrations that new security assistance destined for Turkey was not being used on Cyprus. However, congressional inquiries over the last six months have revealed that new U.S. military equipment has, in fact, been used by Turkish forces on the occupied side of Cyprus. Confirmed by the administration, this revelation represents a radical shift in the U.S. position on Cyprus. Our policy toward Cyprus has degenerated from one of benign neglect to indirect support of Turkish aggression.

In an effort to remedy the problems which have arisen as a result of the misuse of U.S. military equipment, I, along with my colleagues Congressman BROOMFIELD and Congresswoman SNOWE, offered an amendment to the foreign aid bill which expressly prohibits the use of future deliveries of new U.S. equipment to Turkey from being used by Ankara's forces on Cyprus. The amendment, which passed overwhelmingly in the House Foreign Affairs Committee as well as the Senate Foreign Relations Committee, sends a clear message to Ankara that the United States does not condone Turkey's continued occupation of Cyprus. This amendment reconciles our humanitarian obligations with our security interests. Therefore, I would strongly urge my colleagues to support the foreign aid bill when considered on the House floor in the near future.

Mr. Speaker, I once again commend the gentleman from Florida, Mr. BILIRAKIS, for his leadership in Congress on U.S. policy toward Greece, Cyprus, and Turkey.

Mr. HOWARD. Mr. Speaker, recently, the Government of Turkey has begun a high-intensity public relations campaign to repaint Turkey as a peace-loving, Western-style democracy. However, its occupation of Cyprus and continuing human rights violations mar this image and overshadow any public relations efforts.

In 1974, Turkish forces invaded the independent Republic of Cyprus, dividing the island in half and displacing 200,000 Greek Cypriots who yet remain refugees. To this day, nearly 2,000 Cypriot refugees, including 8 Americans, are missing.

This illegal action has brought Turkey criticisms from much of the world community including Secretary-General Cuellar of the United Nations. However, rather than taking steps to alleviate the situation, Turkey has increased the size of its occupation troops to 35,000 and the influx of Turkish settlers to 62,000. Also, U.N. peacekeeping forces have noted a 50-percent increase in the number of heavy tanks used by the Turkish troops on Cyprus. When Secretary-General Cuellar offered his good offices for talks between the two sides, the Turkish-Cypriots refused to participate. Such actions point to an intent by Turkey to maintain its presence in Cyprus and eventually establish it as a Turkish colony.

In protest of the invasion, Congress, in 1975, imposed an arms embargo on Turkey. With rising hopes of initiating negotiations, this embargo was removed in 1978. Today, however, Turkish troops remain on Cyprus destroying much of the Cypriot culture. Since the damage wrought by the initial invasion, Turkish troops have been responsible for the destruction of ancient Orthodox churches in occupied-Cyprus, the theft and sale of numerous valuable icons, antiquities, and other works of religious art, and the changing of place names.

Disturbingly, U.S. taxpayer dollars are being used to carry out this destruction and illegal occupation. Recent State Department reports reveal that Turkish occupation forces on Cyprus are being equipped similarly to units of the Turkish Armed Forces elsewhere. We should not tolerate our foreign assistance funds to be used in such a manner. These weapons and aid were allocated to Turkey explicitly for legitmate self-defense purposes or for fulfilling its vital NATO defense obligations. Since Cyprus poses no threat to Turkey or NATO, it is clearly contrary to United States interests for United States arms to be used in Cyprus. Moreover, the continued Turkish occupation causes tensions with another U.S. ally, Greece, and thus destabilizes and weakens NATO's southern flank.

In response to this reprehensible situation, I have cosponsored H.R. 957, which is currently pending in the House Foreign Affairs Committee. This legislation prohibits the diversion of United States military assistance to the Turkish forces on Cyprus and requires periodic reports on the activities of these troops. Passage of the bill will send a firm message that the United States will not stand for its foreign assistance dollars to be misused for the occupation and intimidation of a peaceful island-nation.

This abuse and misuse of United States arms places a moral obligation upon the United States to press Ankara for the complete withdrawal of all Turkish occupation troops from Cyprus and for the return of the entire island to its legitimate representatives. The Government of Turkey must understand that dumping money into public relations firms does not erase a miserable human rights record. Only firm actions toward peace and reconciliation can begin to atone for the sufferings inflicted upon the Cypriots by the Turkish occupation forces. For these reasons, it is of utmost importance that we continue to remember the violent invasion of July 20, 1974, and remember the people who remain homeless or missing as a result of that event. This situation must be rectified and a just solution reached.

Mr. BROOMFIELD. Mr. Speaker, today, we mark the anniversary of a tragedy. It is a tragedy for the people of Cyprus. It is also a tragedy for the interests of the free world in that vital part of the Mediterranean.

All parties to the conflict must again try to break the current impasse in the peace efforts concerning that island. I call upon the Turkish Government to extend its hand in a gesture of peace. Now is the time to begin withdrawing Turkish troops from that island.

Nearly 13 years ago today, Turkish forces invaded Cyprus. Thousands of the island's inhabitants died in the fighting. Over 1,500 Greek Cypriots are still unaccounted for.

Andrew Kassapis, a young Michigan boy, is still missing. Thousands of Greek Cypriots became refugees in their own land. Turkish settlers now occupy land that was formerly owned by Greek Cypriots.

That once united island has been cruelly divided. The Greek Cypriots still fear further encroachment by the large number of Turkish occupation troops in the northern part of Cyprus.

There is no reason why Turkey maintains 35,000 well-armed troops on that island. There is also no reason why U.S.-supplied military equipment, intended for defensive NATO purposes, should be used by Turkey on Cyprus.

While our Government has tried to convince the Turks to reduce their troops presence there, little progress has been made.

The Turkish Foreign Minister recently said that "Turkey does not have to answer to anyone on the number of troops and military equipment is has on Cyprus."

The Cyprus tragedy has also worsened relations between our two NATO allies, Greece and Turkey. Those two countries occupy critical locations in NATO's southern flank. Conflicts between those two nations can only serve to undermine the security of the alliance.

This ongoing Cyprus problem has clearly hurt America's interests in that region. This long-lasting problem has weakened a vital link in the defense of the free world.

Now is the time to again work for a negotiated solution to the Cyprus problem. I urge the two parties to recommit themselves to finding a just solution to that tragedy. I call upon the Turkish Government to break this stalemate by reducing the level of its troops in northern Cyprus.

Mr. ANNUNZIO. Mr. Speaker, I rise to join with my colleagues in the House of Representatives in expressing my deep concern about the failure to achieve a just and peaceful settlement of the conflict in Cyprus.

It has been 13 years since the brutal invasion of Cyprus by Turkish Armed Forces who occupied nearly 40 percent of the island on July 20, 1974, and forced about 200,000 Greek Cypriots to flee south from their homes on the northern part of the island. The Turkish invasion was in direct violation of the U.N. Charter, the Charter of the North Atlantic Treaty Organization, and the European Convention on Human Rights. It resulted in the censorship of the press, the imprisonment of innocent individuals, torture, rape, murder, and an immense loss of property and lives. Hundreds of thousands of Cypriots were forced to abandon their businesses and homes in the north and flee south in order to escape Turkish aggression.

Extensive documented evidence details the atrocities against humanity committed by the Turks during and after the initial invasion. There has been destruction and desecration of ancient Orthodox churches in the occupied part of Cyprus, as well as theft of numerous works of religious art. At present, the Turkish Government has begun an unprecedented military buildup on the island of Cyprus which is most disturbing.

Mr. Speaker, it is time to stand behind our trusted Greek and Greek Cypriot friends in the NATO alliance, and put pressure on Turkey to reach a peaceful and immediate resolution to this ongoing conflict. We should utilize all available means to hold Turkey accountable for its illegal actions, to call for the withdrawal of Turkish forces currently occupying Northern Cyprus, and to demand retribution for the crimes committed against the Greek Cypriots. Peace and justice must be goals to which our Nation remains forever committed, in both words and action, and the human rights and peace of Cyprus must become vital parts of our foreign policy as it affects Turkey if we are to achieve the restoration of unity for the Republic of Cyprus.

Mr. TORRICELLI. Mr. Speaker, I would like to call the attention of my colleagues to the unsettled state of affairs in Cyprus. Since 1974, military forces, supported by weapons purchased in part with aid from the United States, have occupied parts of Cyprus. This continuing military presence is disruptive and divisive to the cultural, political and social affairs of Cyprus.

For 13 years, the United States has urged Turkey to withdraw its military forces from Cyprus. American aid to Turkey and Greece is meant to strengthen NATO, not to contribute to divisive political interests.

Because of my concerns that the United States has been supporting the current division of Cyprus, I voted last April to attach the Broomfield-Yatron-Snowe amendment to the 1988 foreign authorization bill. As passed by the House Foreign Affairs Committee, this amendment would prohibit the transfer or use of United States military equipment by other countries on Cyprus.

In addition, I personally introduced two amendments that are addressed to a number of unresolved issues in Cyprus that concern the United States. Both amendments, passed by the Foreign Affairs Committee, require that certain conditions be met before further U.S. foreign aid can be released.

First, the President must confirm to Congress that the Turkish Government has provided an accounting of the five American citizens who have been missing since 1974. Second, Congress must receive a report on efforts to have Famagusta/Varosha returned to the legitimate government of Cyprus for resettlement of refugees under U.N. auspices. Recent movements of personnel into this area threatens to change the demographic composition of the island and potentially delay the prospects for the eventual peaceful resolution of the Cyprus situation.

I urge my colleagues to join in efforts to bring peace to Cyprus and self-determination for the citizens of that island nation. America should be helping to unify Cyprus, not aiding in its division.

Mr. MARTINEZ. Mr. Speaker, cultural preservation, political equanimity, and societal harmony are common themes through the history of the United States. We, as Americans, bristle at the thought of dereliction from these principles. The offense is similarly egregious whether it transpires in the United States or in another part of the world. As the Rev. Martin Luther King, Jr. once observed, injustice against anyone is injustice against everyone. These precepts move me today to address the situation on the island of Cyprus.

Cyprus has a long history, replete with noteworthy events and accomplishments. But more recently, it has become almost synomymous with the travails of cultural and political noncompatibility. For years now, the factions on Cyprus have struggled against each other, generating increased tension and dimishing common ground. Periodic advancements have been made. But Cypriots have become so accustomed to conflict that temporary suspensions of hostility are construed as major advances. This is far from optimal.

The Greek and the Turkish peoples are both blessed with tremendously resplendent cultures and character. Both are recognized as great contributors to world civilization and both continue these long-standing traditions in today's world. Both peoples are naturally very prideful of their respective heritages.

In Cyprus, however, the two peoples coincide. This has fostered animosity and much unhealthy competition. It is certainly difficult to estimate the needs for overcoming such circumstances, but one point is manifestly certain: both are there, and both must participate with great efforts toward accommodation and conciliation toward the other in order to attain an acceptable degree of harmony. Harmonious cohabitation is not easily accomplished when dealing with two peoples so firmly established. Each is well aware of its rights and its claims. But each must also take further steps to recognize the others rights and claims. Until they do, the calamity on Cyprus will continue. Such calamity aids no one. Calamity impedes progress. Calamity diverts efforts away from more worthy endeavors. It is therefore high time for Cypriots of all national heritages to put their differences behind them and look to the future with unity. The reality of today's Cyprus must be recognized and actions must comport to that reality.

Mr. GILMAN. Mr. Speaker, I rise to join in the special order organized today by the gentleman from Florida [Mr. BILIRAKIS] and I thank him for taking the time and effort to organize today's special order.

Today we pause to remember the 13th anniversary of the beginning of the forced partition of Cyprus. The two communities of Cyprus are now separated by an ugly "green line" and by the troops of the United Nations Forces on Cyprus.

The tragedy of Cyprus began, of course, long before the events of July 20, 1974. Excesses in both communities led them to drift apart and, over time, have less and less to do with one another.

Today, the chances for a peaceful resolution of the problem of Cyprus seem more and more remote. The forced separation of the two communities means that fewer and fewer Greek Cypriots speak Turkish, and fewer and fewer Turkish Cypriots speak Greek.

Of course, the unilateral declaration of independence by the "Turkish Republic of Northern Cyprus" has done nothing to help the chances for the reunification of the island.

Today, the tragedy of Cyprus is that the world community pays less and less attention to its problems. The United Nations Secretary-General has worked ceaselessly to try to find a formula that the two sides can accept. However, he has not found a formula acceptable to both sides, and there are precious few new initiatives being suggested which show any promise.

The Subcommittee on Europe and the Middle East of the Committee on Foreign Affairs, on which I am privileged to sit as ranking Republican, has suggested funneling more of the assistance which the United States provides to Cyprus for bicommunal projects. That recommendation, which was accepted by the full committee, would direct the administration to fund activities, such as educational and sports activities, exchange programs, joint economic projects and development projects in the divided city of Nicosia, so that the two communities would have contact once again.

In my opinion, legislation such as this provision will have as much impact on the future of Cyprus as legislation—which I also support—to bring pressure on Turkey to remove its troops from that island.

Mr. Speaker, this is a day to think about the future as well as the past. On this day of painful memories, we both yearn for a united, peaceful island, and at the same time rededicate ourselves to finding a way to overcome the problems that have divided the Cypriot people.

Mr. STARK. Mr. Speaker, I would like to commend the gentleman from Florida for taking this special order and for trying again to raise the consciousness of all of us for the need to intensify efforts for peace in the Eastern Mediterranean.

Wars between Greece, the Islands of the Aegean, and mainland Turkey go back to at least the Trojan War, and it would be the ultimate form of hubris for me to suggest comprehensive solutions.

I do think that 13 years of separation and tension on Cyprus are 13 years too many, and I hope that the Department of State and the entire administration will note the concern of the Members and press for a solution to the problem. "Blessed are the peacemakers * * *," and I hope that all of us can pay more attention to the agony of Cyprus and to solutions to the crisis.

Ms. PELOSI. Mr. Speaker, for the past 13 years, the people of occupied Cyprus have been living under a shadow of uncertainty with regard to their future and their right to self determination. Negotiations have now reached a stalemate without a resumption of talks in sight.

This tense situation has caused great loss and suffering to Greek Cypriots, including the possible extinction of a rich and accomplished cultural heritage. Acts of destruction and vandalism by Turkish troops, aimed at historic properties and religious sites, have been documented.

Greek Cypriots have lost not only their land, but are now threatened with the loss of the very history that created the Greek spirit of Cyprus.

I join the Secretary-General of the United Nations in urging the Government of Turkey to resume talks with the Government of Nicosia to withdraw the occupation forces.

Mr. MATSUI. Mr. Speaker, I rise to address an issue that is of vital importance to United States interests and to international peace as a whole: the situation in Cyprus.

Since 1974, Turkish troops have illegally occupied a portion of the sovereign nation of Cyprus. Regardless of United States and United Nations efforts, Turkey has shown little indication of willingness to withdraw from the island. Considering the circumstances, the United States must send a strong and clear message to the Government of Turkey that meaningful negotiations must begin immediately.

In an effort to provide adequate pressure, I believe the United States must inform Turkey that future aid will specifically depend on Turkey's willingness to begin negotiating a peaceful resolution to the Cyprus problems. Aid should be conditioned on the resumption of the U.N. negotiations and progress in settling the conflict based on democratic principles of majority rule with full minority rights. In addition, it should be stressed that all Turkish military forces in excess of those permitted by the 1956 treaty of alliance should be withdrawn from Cyprus and necessary steps taken to reverse the declaration of an independent state in Northern Cyprus.

While these steps are justifiable solely on the basis of human and civil rights for the people of Cyprus, it is also important to remember that Cyprus is of significant strategic importance to the Western nations. It is part of the southeastern flank of NATO, and there are two British bases and a U.S. radar base on the island. These bases provide important assistance to NATO and Western interests in the area, including the operation of surveillance flights and "over the horizon" monitoring of Soviet nuclear launches.

Considering the gravity of the circumstances, the United States must strongly express its dissatisfaction over the current situation. It is my hope that by specific and emphatic action, we can convince the Turkish Government to reconsider its precipitous and unwise actions.

Mr. Speaker, I believe that the United States, as well as the international community, has tolerated this situation for too long. We can, together, begin to make the difference that will result in the restoration of peace and unity to the Republic of Cyprus.

Mr. FLORIO. Mr. Speaker, on July 20, the Republic of Cyprus marked yet another anniversary in the long occupation of the island nation by the soldiers of Turkey. Thirteen years ago, an invasion force from Turkey descended upon the island and divided the island.

That invasion caused too much suffering. And that occupation has gone on too long.

In 1974, Turkey claimed that it was coming to the "rescue" of the Turkish Cypriots on the island. In the 13 long years since, those motives have been revealed as tainted, not pure.

When the island of Cyprus was given its freedom and sovereignty from the British Empire, the community of nations joined together to guarantee that freedom. The United States Government has announced its verbal opposition to the invastion of Cyprus.

Yet the words that all the nations have uttered has had no impact. Indeed, the situation in Cyprus has deteriorated.

When Turkish soldiers invaded the island, many citizens were killed in the fight to protect the territorial integrity of that nation. Thousands more people disappeared from their families.

And the invasion created a large pool of refugees. Over 200,000 men, women, and children were forced to leave behind their homes.

The property damage done to the island republic does not even begin to attest to the suffering of the Greek Cypriots forced out of their homes.

A wall tearing through the heart of the island divided the nation in half, with Turkey in charge of one half and the natives squeezed into the other. On the border side of that Cyprus Wall lie the homes and the hopes of the Greek Cypriots who were forced out.

The Government of Turkey justified the action as self-defense. Yet today, thousands of Turks from the mainland are leaving Turkey to colonize Cyprus under the Turkish flag. Self-defense and annexation are two different things.

And annexation and destruction of the Greek Cypriot heritage is what the Turkish soldiers and Turkish Government have done.

I have visited Cyprus and seen the damage that was done to the island nation. The Cyprus Wall stands as a testament to the invasion and the continuation of the suffering of Greek Cypriots.

I urge my colleagues to join the call of the Cypriot people, to restore freedom and sovereignty to the Cypriot nation. On the one hand, we can continue to condemn the actions of Turkey in the strongest of tones. On the other hand, we continue to provide aid to Turkey, aid which has been used in the invasion and continues to be used in the occupation of Cyprus.

Marchers from across the Nation, including my home State of New Jersey, have come to Washington to voice their pleas for a resolution to the conflict.

Representatives of the Greek Cypriots have repeatedly voiced their willingness to negotiate a settlement with Turkey on the condition that Turkish soldiers leave the island.

The ingredients for a resolution are there, but Turkey has not taken any steps to promote peace on the island and to restore security and freedom to the native Greek Cypriots.

The only response from Turkey is an escalation of the conflict with more soldiers and more settlers who day by day prolong the suffering of the Greek Cypriot population.

Thirteen years is thirteen years too long. Cyprus is threatened with a 14th year if we do not support peace.

Mr. MANTON. I would like to thank my friend and colleague, Mr. BILIRAKIS, for organizing today's special order on Cyprus. Thirteen years ago, on July 20, 1974, Turkey invaded the independent republic of Cyprus, 4,000 Greek-Cypriots lost their lives and 200,000 Greek-Cypriots lost their homes, their land, and became refugees during this illegal invasion. The whereabouts of over 1,600 Greek-Cypriots are still unknown.

Today, 13 years later, Turkish occupation troops remain on Cyprus. In fact, Turkey has recently begun a military buildup on the island and continues to refuse to participate in negotiations in any meaningful way to resolve this situation. In spite of a direct appeal by the Secretary-General of the United Nations, Turkey continues to increase both its military strength in northern Cyprus and the number of Turkish settlers.

During the Turkish invasion, a number of historic buildings, religious properties, and museums containing antiquities were damaged. Since the Turkish occupation, many archaeological sites and museums have been looted and many articles of archaeological value have been destroyed or exported. Not only have a large number of Cypriots lost their right of self-determination, but their very cultural heritage is being sold off or destroyed.

Mr. Speaker, 13 years is far too long for Cyprus to be a divided, occupied nation. Thirteen years is far too long for families to be ignorant of the whereabouts of their loved ones. The irresponsible destruction and export of a people's heritage must not be allowed to continue. The time has come for Turkish troops to leave Cyprus. The United States must work diligently to bring a peaceful and prompt solution to the Cyprus crisis.

Mr. Speaker, Congress can take a clear and vital step by prohibiting the use of United States origin military equipment by Turkish occupation forces on Cyprus. This would be an effective way to convince Turkey of the need to withdraw their troops and to seriously engage in negotiations. As we mark the 13th anniversary of the invasion, I urge my colleagues to join me in supporting this measure and to continue to work toward the creation of a fair government on Cyprus where the rights of all Cypriots are protected and guaranteed.

Mrs. BOXER. Mr. Speaker, 2 years ago, I used this occasion to speak of the hope for a peaceful solution between the Greek and Turkish occupants of Cyprus. Thanks to the efforts of the U.N. Secretary-General, Mr.

Perez de Cuellar, an initiative was drafted to reunite the island as a federation through U.N.-mediated negotiations. My hopes, however, proved ill-founded. In his latest report on the condition of Cyprus, the Secretary-General reports among other things a 50-percent increase in the number of heavy tanks used by the 35,000 Turkish troops on Cyprus, as well as an influx of approximately 62,000 settlers from Turkey.

Despite repeated pleas from her allies and in the face of numerous U.N. resolutions, Turkey has maintained its illegal occupation of almost half of the most productive territory of Cyprus for 13 years. I believe that the United States, as well as the international community in general, has tolerated this situation for too long. We cannot stand by idly while Turkey denies thousands of Greek Cypriots their basic human rights. We cannot allow Turkish troops to wipe out every trace of Cypriot history and culture. We cannot passively accept Turkey's flagrant violation of international law.

As a major supplier of arms and technical support for the Turkish military, we must share responsibility for its actions. Indeed, it is an appalling fact that United States military assistance to Turkey is being used to strengthen the Turkish presence on Cyprus. This is in direct conflict with section 620 of the Foreign Assistance Act, which stipulates that U.S. military aid to Turkey shall be used only for defensive purposes. This is why I support H.R. 957, a bill which clarifies section 620 and would thus bring the United States to define its policy with respect to Greece and Turkey, both NATO allies.

We have waited 13 years: The time to act is now. If the United States wishes to maintain its traditional role of defender of freedom and justice throughout the world, then we cannot permit any country, either friend or foe, to violate the sovereignty of another country or the rights of that country's citizens.

Mr. CARPER. Mr. Speaker, today, we stand to commemorate that fateful day—13 years ago—when Turkish troops illegally occupied northern Cyprus.

The tragedy inflicted by that occupation is one of continuing strained relations between Greece and Turkey, increasing polarization in Cyprus, growing threats to peace and security in the Aegean, a paralyzed United States policy regarding Cyprus, and most of all—a tragedy of people. 150,000 Greek Cypriots are refugees in their own country, denied the right to return to their ancestral lands.

Cyprus also faces the importation of tens of thousands of Turkish settlers, an attempt to erase Hellenic and Christian influence in the north, vandalism of churches, plundering of historic and cultural sites, all in an effort to "Turkify" the occupied territory. In essence, one writer states, "Cyprus is being estranged from itself; the historic, environmental, communal, cultural structure is being spoiled."

With this human and cultural tragedy in mind, I encouraged many of my House colleagues to support the "Women Walk Home" march last month in Cyprus. A letter expressing our support traveled with my fellow Delawarean, Georgiean Tarabicos, who joined the march with a delegation of other Greek-American women from across the country.

The solidarity of Greek-Americans with the plight of the Cypriots is an inspiration. And this commemoration serves to deliver an important message to the people of this country and their elected officials, including the President and Members of Congress, about the tragedy that is Cyprus.

There are those in the administration and in Congress who would argue that our relations with Turkey are too important to jeopardize for the sake of Cyprus. More appropriately, we should ask ourselves whether we—as Americans—can deny the right of Greek Cypriots to return home. It is our obligation to explore all avenues at our disposal to restore this basic human right to those who have been victims for 13 long years.

I commend all who have cared enough to remember that fateful day 13 years ago. May God bless you and your efforts to ensure that justice is done.

Mr. BLILEY. Mr. Speaker, 13 years ago yesterday, 20,000 Turkish troops invaded the independent Republic of Cyprus. The Turkish Army easily defeated the brave yet ill-equipped, outnumbered Cypriot forces.

Today, in violation of international law, condemned by the United Nations, the Turks remain in Cyprus. They occupy over 40 percent of the country and their presence protects the rump government of the Turkish Republic of Northern Cyprus.

United States policy has been aimed at preserving an autonomous, united and sovereign Cypriot Republic. At the time of the invasion the United States imposed on Turkey an arms embargo and participated in numerous attempts to mediate the dispute, all without success.

At President Carter's request, Congress lifted the arms embargo to "encourage" Turkey to negotiate a solution. Since that time, I have watched with alarm as aid to the Turks has increased; yet, they remain intractable on the Cyprus situation. Any United States attempt to pressure a settlement is met by dire threats of an exposed, southern flank of NATO.

Mr. Speaker, I am the first to recognize that Turkey is an important member of NATO. As such, Turkey needs to be helped and supported in its ability to resist any military or political moves by the Soviet Union; however, there is more to the NATO alliance than pure geopolitics. We are bound together by a genuine desire to promote a more peaceful, more civilized world. Turkey's continued occupation of Cyprus breaks the spirit of the NATO alliance as well as heighten tensions with our other NATO ally, Greece.

Today, as we mark the 13th anniversary of the Turkish invasion of Cyprus I pledge to promote United States policy that honors the both letter and the spirit of the NATO alliance. I also resolve to continue the efforts to bring freedom and autonomy to the Cypriot people and to prevent naked aggression throughout the world.

Mr. DYSON. Mr. Speaker, I rise today to express my outrage over the continued occupation and looting of Cyprus. In 1974 a U.N. resolution called for the withdrawal of Turkish troops from the island, yet Turkish troops have continued and, indeed, increased their illegal and destructive occupation of the northern half of the island. Cyprus is an island whose natives are of Greek origin. However, the origin of the natives is not the issue here, Mr. Speaker. Rather, it is the continuing illegal and injurious presence of Turkish occupation forces on Cyprus.

Turkey maintains some 35,000 troops in the northern, occupied half of the island. Certainly these troops are not there at the bequest of the residents of the island. Along with the illegal occupation has come the widespread looting and destruction of the historic cultural artifacts of Cyprus. The invaluable ancient Mycenean, Greek, and Roman remains in the Turkish-controlled area have been systematically destroyed, pilfered, and sold to various collectors around the world. These remains constitute our record of the birth of Western civilization and, as such, are of value to all in the Western World.

Mr. Speaker, the outlawed occupation and pernicious treatment of Cyprus by the Turkish occupation forces must no longer be tolerated. Cyprus belongs to the Cypriots, and the time is now to act against this wholesale illegal occupation.

Mr. DELLUMS. Mr. Speaker, I am pleased to join my colleagues to discuss the very unfortunate situation that exists in the Republic of Cyprus. The Island nation remains divided and the illegal occupation by Turkey of part of the island continues.

The Turkish forces on the island have recently been strengthened. As the U.N. Secretary-General has observed, "the Greek Cypriot side feels threatened and in these circumstances feels obliged to strengthen its own defenses." This escalation by Turkey precludes meaningful talks between the communities. Relations between Greece and Turkey are also further exacerbated, thereby weakening NATO.

The Turkish invasion of the Republic of Cyprus was in clear violation of international law. Their continued occupation is an affront to the world.

Turkey is an important ally of the United States, but we cannot support their policies in Cyprus. The United States must take a strong position that Turkey must withdraw their forces from Cyprus and actively seek the prompt resolution of the dispute.

It has been a guiding principle of my political philosophy that every nation, friend and foe, must respect the sovereignty of another country. It is imperative that we demand the same for Cyprus.

Mr. KILDEE. Mr. Speaker, I rise today to associate myself with my colleagues who have taken this opportunity to speak out against the continuing strife dividing the people and land of the Republic of Cyprus. Since 1974, the people of Cyprus have had to suffer the humiliation and indignity of having one-third of their beautiful island occupied by soldiers of the Republic of Turkey. Thirteen years of suffering are too much. I strongly believe that it is time for the Cypriot people of both Greek and Turkish descent to be allowed and encouraged to settle their differences through peaceful means, without the interference of outside forces.

The presence of the 35,000 Turkish troops occupying the northern third of the island has served to solidify the conflict, rather than aiding in the resolution of the strife. U.N. Secretary-General Javier Perez de Cuellar has stated in his biannual report to the Security Council that, "Distrust in recent months has in particular been heightened by the strengthening of the Turkish forces in the northern part of the island. On this issue, I have repeatedly explained to the Government of Turkey that the Greek Cypriot side feels threatened and in these circumstances feels obliged to strengthen its own defenses. I have, therefore, urged Turkey to make a start by reducing its forces on the island. I take this opportunity to renew that appeal."

Mr. Speaker, Congress should add its voice of support to the Secretary-General's call for the reduction and eventual total withdrawal of all Turkish troops from Cyprus. The suffering of the Cypriot people must be brought to a quick and peaceful resolution. Only negotiations between the Greek and Turkish Cypriot communities can lead to the reunification of their lovely capitol city, Nicosia, and the island of Cyprus.

Mr. HUGHES. Mr. Speaker, I would like to thank the gentleman from Florida [Mr. BILIRAKIS] for his initiative in coordinating today's special order on the Cyprus situation. Today's special order, just 1 day after the 13th anniversary of the Turkish invasion on the Republic of Cyprus, stands as a necessary reminder of a truly intolerable situation. The continued division in that Republic certainly justifies this urgent call for action.

As my respected colleagues may note, there have been a number of attempts by U.N. Secretary-General Javier Perez de Cueller to bring forth a peace settlement in Cyprus. The Secretary General initiated negotiations between Cyprus President Kyprianou and Mr. Denktash, but these meetings, unfortunately, did not bear fruit. Our cooperation, participation, and support for a peace initiative by the United Nations will be needed if our efforts for restored independence to the Republic of Cyprus are to be promptly realized.

The focus of this situation, however, should include not only our immediate concerns on Cyprus, but also the interests centered on our NATO alliance. The conflict between Greece and Turkey, both NATO allies, weakens NATO stability in that region. Furthermore, United States support for a timely resolution will allow Turkey to use the resources it now expends to confront Greece for more constructive purposes, including the discharge of their NATO obligations. Indeed, a proper balance must be sought in our consideration of those nations as NATO allies and players in the turmoil in Cyprus.

The constitutional ceremony in Philadelphia last week served as a reminder of the freedom which has reigned over the past 200 years in our country. Now 13 years after the Turkish invasion, Cyprus still remains a divided nation. It would be repugnant to our traditional notions of self-determination for the United States to support, in a direct or indirect form, this illegal occupation in Cyprus. Furthermore, the United States must maintain its historic role as a defender of freedom throughout the world.

I believe, Mr. Speaker, that the United States should not stand idle when a country violates the tenets of international law, practice, and behavior. The continued occupation of Cyprus by Turkish troops is tragic and unacceptable, and our Government should make every effort to resolve the present impasse through the use of diplomatic as well as economic incentives. The need for reevaluation concerning the Cyprus situation remains, and a supportive role by Congress is needed to create the changes that will bring peace and unity to a nation striving for an independence government.

Mr. BILIRAKIS. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. JONTZ). Under a previous order of the House, the gentleman from California [Mr. ROYBAL] is recognized for 60 minutes.

[Mr. ROYBAL addressed the House. His remarks will appear hereafter in the Extensions of remarks.]

GEN. P.X. KELLEY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. MOLINARI] is recognized for 60 minutes.

Mr. MOLINARI. Mr. Speaker, one of the joys of public service is the wonderful men and women that you meet on a day-to-day basis. Every once in a while you meet somebody who stands head and shoulders over the rest of mankind. There were always those few special people that leave their mark in this country, and I am here today with some of my colleagues to talk about one such person, the former Commandant of the Marine Corps, Paul X. Kelley, more affectionately known as P.X. Kelley.

Those of us that served in the Marine Corps got to know P.X. Kelley rather well. We saw him during good times and we saw him during times when he went through some awful traumas, but at all times that man maintained the dignity of the office, was always concerned for the welfare of everybody that served underneath him, and when a marine lost his life I personally saw him cry.

At this point in time, Mr. Speaker, I yield to a friend of mine and another man who served in the Marine Corps, as a matter of fact only recently, the gentleman from Pennsylvania [Mr. COUGHLIN], I learned not only served in the Marine Corps but occupied a very unique position as aide-de-camp to one of our most famous marines of all time, Chesty Puller.

Mr. COUGHLIN. Mr. Speaker, I want to thank Mr. MOLINARI for arranging this special order and rise to join my colleagues in saluting an especially distinguished American, outgoing Marine Corps Commandant Paul X. Kelley.

General Kelley, who retired from the Marine Corps this past June 28, has had an exemplary career in service to our Nation. In his early years in the Marine Corps, General Kelley served in the Mediterranean, the Central Pacific, and Northeast Asia. Later, as the U.S. Marine Corps exchange officer with the British Royal Marines, he served in Malaya, Singapore, and Borneo, assisting in efforts to control the insurgency there. He departed for the first of two tours of duty in Vietnam in 1965. Subsequently, he served as the Executive Assistant to the Director of the Joint Staff and as Commander of the Rapid Deployment Joint Task Force, among other positions. He became the Marine Corps Assistant Commandant in 1981, and was named the Commandant in 1983.

I first met General Kelley in 1970. In the second year of my first term as a Congressman, I visited Vietnam to learn firsthand about America's involvement in the war there and to observe the South Vietnamese elections held in June of that year. General Kelley was then Colonel Kelley, and he had just begun his second tour in Vietnam as the commanding officer of the 1st Marine Regiment, 1st Marine Division. Even then, he impressed me with his intellect, his determination, his dedication, and his hands-on style. It was clear from our first meeting that P.X. Kelley was a marine's marine.

As we toured the corps' facilities in Vietnam we found that we had much in common. Both of us had become Marine officers as the Korean war was getting underway, and both of us later served as Aides-de-Camp to Marine generals. General Kelley earned his bachelor's degree in economics from Villanova University, which lies in my congressional district. Upon my return to the States, I received a photograph from then-Colonel Kelley, showing the two of us discussing the situation in Southeast Asia. I value that photo and the general's inscription highly; today it hangs in the reception area of my office, alongside pictures of the President and Vice President.

Among General Kelley's decorations and awards are the Silver Star, the Legion of Merit with Combat "V" and two gold stars in lieu of second and third awards, the Bronze Star with Combat "V" and a gold star in lieu of a second award, the Joint Service Commendation Medal, the Navy Commendation Medal, and the Army Commendation Medal.

It is clear to all who know him that Gen. P.X. Kelley has served our country with distinction and has had a positive and lasting impact on the Marine Corps and the national security of the United States. As he turns over the leadership of the Marine Corps to his successor, he turns over as well a robust and high-spirited Corps. On behalf of our Nation, I would like to extend to General Kelley

America's sincere thanks. On behalf of America's Marines, past and present, I would like to say simply, "Semper Fi."

Mr. MOLINARI. I thank the gentleman from Pennsylvania [Mr. Coughlin] for his very generous remarks, and I am sure that the Commandant, Commandant P.X. Kelley, will appreciate reading this in the Congressional Record.

I yield to the gentleman from Kansas [Mr. Roberts], who served for 4 years in the U.S. Marine Corps.

Mr. ROBERTS. I thank my colleague and friend, the gentleman from New York [Mr. Molinari] for yielding. I especially want to thank him for having this special order for an outstanding Commandant, P.X. Kelley.

I could go into the biography, as my friend and colleague from Pennsylvania [Mr. Coughlin] has done, and go down the laundry list of things that really add up to a fabulous career for P.X. I remember a conversation with Bob Barrow, whom I served with and his predecessor when P.X. was coming on board and he simply said to me, "Pat, do not worry about P.X., the corps is in outstanding and capable hands," and indeed it was.

□ 1445

I think history will record P.X. as a very tough and capable Commandant who served under very, very difficult times. I could go down his contributions at the education center, and in the development center where I served in Quantico back when I had the privilege of serving active duty. Obviously, he is a highly decorated combat veteran and as my colleague indicated, he earned the Silver Star, the Bronze Star, the Legion of Merit twice.

I could even go back in his earlier career when he showed the Royal Marines "how it is done" in terms of the obstacle courses and combat training. He went over there as a special emissary. He was the first commander of the Rapid Deployment Force which is now the U.S. Central Command. His is the outfit which stands by to help in terms of a national emergency, in terms of responding. I think as Commandant perhaps some of his toughest duty, I would say to my colleague, has been before the House Committee on Armed Services with some of our colleagues when indeed he went through some very, very trying times. And as the gentleman indicated, quite an emotional time for him and for all marines.

In essence, he has done well. I think former Commandant "Lew" Walt described it best perhaps when he described P.X. as the best Marine he ever commanded.

So P.X. will go down with a special chapter in the history of our Marine Corps Commandants.

Now even from this body, this Hall, this Chamber, a great American by the name of Douglas MacArthur said something about "old soldiers never die, they just fade away"; that is not in the style of the Marine Corps. That is not in P.X.'s style. He was not content with his career and his contributions in the Marine Corps. So upon his retirement speech at Fort Myer during the ceremonies when the troops were standing in the sun and he chose not to deliver the speech out of respect for his troops, but if you read the remarks he had some things to say.

I think that that speech should be required reading for all Members of Congress.

Not content to simply sit back or fade away, P.X. decided he would take on, No. 1, a very sacred establishment around here, and that is congressional staff who are very important to all of us but sometimes in the thick of things, why perhaps a little bit too important in their own mind.

P.X. made the comment that perhaps time had come that the Armed Services Committee or some, at least, were putting more credence in the advice and counsel of congressional staff than the service chiefs. Just a warning. Something that should have been said a long time ago. But he said it.

Not content with that, he decided to take another stone and pick it up and see what he could find underneath it. He took on a great number of Members of this body. He said, "You know, there are some people in the Congress who think that you can buy the defense of this country on the cheap." That is a quote. His remarks are certainly true and should be required reading. Now he was not even content with that. After he took on congressional staff and took on the Congress, he decided to take on the press.

I am a former newspaper man and I can tell you right away that that is a no-win situation.

He jumped on that sword and he said to the press that unfortunately in too many cases and too many times that they had a lynch-mob mentality. I would call it a crest of the wave mentality, being in the business. But P.X. had a right to say what he did and he said it. He said it is helping to discredit, if you will, a national institution and he was talking about the military services.

Well, he was not done yet.

In further remarks he took on several special interest groups. He did not mean to. It was not intentional. But some interest groups felt very aggrieved because of his comments. And what were these terrible comments that he pointed out, or these things that he said that evidently got to some thin skins around this town? He pointed out that the youth of America in his personal view, after giving his entire career to the service of our country, that it might be better if the youth of America had full-time parents.

Now sometimes that is not possible, sometimes that is not even desirable. But he made that observation. He said also, you know, we are lacking a little bit in moral values in this country and he also said that we ought to start to really look on how we can reinstitute or improve our patriotism in this country. That stirred up a storm. I would imagine he got some incoming fire even hotter than he had anticipated during his combat days.

So he came back and pointed here just recently in an article in the Washington Post and hopefully reprinted around the country, some facts and figures about youth, drug abuse, crime, moral values and strength of character. He suggested that with all the commissions and all the task forces and all the institutes around this town and all the studies that maybe we ought to convene one on what we can do in regard to patriotic values in this country. I think it is an outstanding idea.

I will tell you P.X., "Hey, don't stay retired."

He is a two up, one back, and feed them hot chow kind of combat officers.

You keep talking, P.X., that is what this country needs.

So, like my colleague from Pennsylvania to PX, "A job well done, sir, and semper fi."

Mr. MOLINARI. I thank the gentleman from Kansas for a very fine statement and I am sure one that will be fully appreciated by PX.

I yield to the gentleman from California, Mr. Hunter.

Mr. HUNTER. I thank the gentleman for yielding.

As an Army veteran who nonetheless is the son of a marine, I want to add my commendations and congratulations to P.X. Kelley. I think he had a great perception about what really made the Marine Corps work and what makes America work. I, too, was taken with the comments of Mr. Roberts, the gentleman from Kansas. I think the press was waiting in this farewell announcement for P.X. Kelley to talk about what weapons systems he needed, maybe we needed more ammunition, higher state of readiness, maybe more troop strength. Yet when they asked P.X. Kelley what the country needed, instead of referring to weapons systems he said, "We need to have maybe less working mothers and more full-time parents."

In making that statement, he revealed I think to all of us that he understood better than anybody that the Marine Corps is built on character and by the same token this Nation is built on character. Patriotism, commitment to excellence and all of the disciplines that you need to be not only a good marine but a good American come from your family.

P.X. Kelley, I think, and I agree with the gentleman from Kansas [Mr. Roberts] I think he could provide just as great a service out of the Marine Corps now in making public commentary and being an opinion leader in this nation as he did as Commandant of the Marine Corps.

I appreciate the gentleman letting an Army veteran break into this special order.

Mr. MOLINARI. I thank the gentleman who served in the Army, for his contribution and will excuse him for his branch of the service but by virtue of the fact that his father served in the Marine Corps, I am sure that has something to do with the stature that the gentleman enjoys in this House.

At this point, one of the closest friends in Congress of our former Commandant P.X. Kelley is the gentleman from New York [Mr. Solomon], who I had the pleasure of serving with in the New York State Legislature. For the Members of Congress who might be watching, you should know that during his days in the State legislature, he wore a crewcut then and it was obvious that the man served in the Marine Corps.

I am glad to yield to my very dear friend and colleague, the gentleman from New York [Mr. Solomon].

Mr. SOLOMON. I thank my colleague from New York for yielding.

My former Marine Corps buddy, yes, I wear my hair longer now but not much longer than Ollie North's.

I wear it this way for protection from the heat here in Washington.

It is a little warmer out there. I am out of breath, because I was not aware that the gentleman was going to hold this special order so early in the afternoon. Evidently, the regular congressional business was over early.

Let me just say I really do respect the gentleman for bringing this special order, because I do not think of all of the people that I have known throughout my lifetime that there is anyone I admire and respect more than P.X. Kelley.

You know, some of us are hero worshipers, I guess. I lost my dad when I was very young, I think 2 years old. I probably worshiped more heroes than anyone else around, because I never had a father to look up to. I can recall in the early days of being 5- and 6-years-old that we worshiped people like Hopalong Cassidy, the Lone Ranger, Roy Rogers. Later on we grew a little older and I guess we worshiped people like John Wayne and Jimmy Stewart.

As we got into athletics later on in life, there was Ted Williams, Jackie Robinson. Then when you and I went into the Marine Corps back during the beginning of the Korean war, we looked up to I guess military heroes, people like Douglas MacArthur, "Chesty" Puller whom I heard you mention earlier, a good marine, Gen. George S. Patton and Mark Clark.

Later on, when coming to Congress, the gentleman and I had an opportunity to meet many men who have served in the military, people like P.X. Kelley.

God knows there are hundreds and hundreds of them out there that are real heroes.

I used to enjoy calling up P.X. Kelley sometime when we were kind of down, we had lost a fight on the floor trying to pass a defense budget in this House. Or we would have lost this battle or that. P.X. always had a smile on his face and that little quirk in his voice where he kind of set you at ease.

I am often reminded of people who like to poke fun at him. Just for example, I had one of his former marines, fellow marines tell me the other day that "You ought to mention in the special order that P.X. Kelley was never wounded in combat, despite two combat tours in Vietnam."

Yet during his efforts to complete the National Park Service Police riding course, he suffered a broken leg and a broken rib in two different accidents, mind you. I do not know why President Reagan ever let him ride his horse, but he let him do that quite often, too. That is the kind of guy that P.X. Kelley was. I guess when it boils right down, I would like to submit for the Record a speech that was never given. This is a speech that P.X. Kelley was going to give before the Vice President, Secretary Weinberger, Secretary Marsh, Secretary Aldridge and Secretary Webb, Admiral Crowe at his retirement. I would submit this for the Record.

The text of the speech is as follows:

REMARKS BY GEN. P.X. KELLEY, USMC, JUNE 15, 1987

Mr. Vice President, Secretary Weinberger, Secretary Marsh, Secretary Aldridge, Secretary Webb, Admiral Crowe, my colleagues on the Joint Chiefs of Staff and distinguished guests.

First, let me say what a deep honor it is to share this parade with General John Wickham. John and I were commissioned as officers in our chosen service over 37 years ago, and we have served together off and on for over 16 of those years. He is truly a valued friend and a great Soldier. Your many admirers in the Marine Corps salute you, John. God Bless!

I realize that there is always a danger in singling out one person for special recognition at events such as this—a danger that others may feel slighted that they, too, were not equally recognized. But, such is not the case when you talk about our Secretary of Defense, for every Soldier, Sailor, Airman, and Marine recognizes the fact that the combat capabilities of our four services are "light years" ahead of where they were six years ago due, primarily, to the extraordinary efforts of Secretary Weinberger in carrying out the essential military revitalization program put into motion by our Commander-in-Chief. Our Country is blessed, Mr. Secretary, in having you at the helm of the Department of Defense.

I know that it is customary at retirement ceremonies to say—I have mixed emotions—but frankly I do—so I'll say it—I have mixed emotions!

I love my Country and I love my Corps, and I have willingly given all of my adult life to both—but I also love my wife of 36 years with all my heart, and she has received precious little recognition for all she has given to Country and Corps. So, I will take my first step into retirement with a hope that together we can take a little time to "smell the flowers" in our remaining years as "senior citizens."

When I take off the uniform of a Marine for the last time later this month, I will do so with some haunting concerns.

My first concern is with a growing attitude in the Congress which places more credence in the views of staff members on matters dealing with national security than in the views of the Service Chiefs. This attitude is driving a wedge between the members of Congress and the nation's principal military advisors. We must reverse this trend, and make a conscious effort to restore cordial and substantive relationships between members of the Congress and the Service Chiefs—relationships which in the past have been so essential for the proper addressal of defense.

My next concern is with a feeling among some members of our Congress that you can buy the defense of our Country "on the cheap." I pray that my granddaughter's inalienable rights under the Constitution will be preserved in the future—just as much as mine have been preserved for the past 58 years—and the preservation of these rights is not cheap. The requirements for the defense of the Republic are dictated by external threats, and the satisfaction of these requirements should not be emasculated by some arbitrary and capricious budgetary "meat axe." The question all Americans must continue to ask is: "What price freedom?"

My final concern is with the unbalanced treatment of our armed forces by many, not all, but many members of our "fourth estate." For one who has spent the past 37 years in building an institution, it is particularly difficult for me to understand a "lynch mob" mentality—one which appears devoted to destroying the public image of our most precious institutions. One can only ask the question: "Is this what our forefathers envisioned by the First Amendment to our Constitution?" I think not. I ask responsible members of the media to strive for balance and objectivity as they discharge their obligations to the American people. Irresponsible sensationalism has no place among men of honor and integrity!

On a positive note, I believe that today the health and vitality of our four services are the finest I have seen in almost four decades. Our young men and women on active duty today are the very best—and they deserve the very best. Our Nation cannot afford less!

My special thanks to you, Mr. Vice President. During the past four years you have always been there when the armed forces needed you. You know us, you understand us, and you support us! Speaking for all Marines, you have our deep and abiding respect and admiration.

To the Soldiers, Sailors, Airmen, Marines, and Coastguardsmen in this memorable review—God bless you—and God bless

America—the land of the free because it remains the home of the brave!

There are two items that I would like to read from that speech. One here where P.X. Kelley says, "I love my country and I love my corps," and the gentleman in the well and I know what he meant by that, "and I have willingly given all of my adult life to both, but I also love my wife of 36 years with all of my heart, and she has received precious little recognition for all she has given to the country and the corps. So, I will take my first step into retirement with a hope that together we can take a little time to smell the flowers in our remaining years as senior citizens."

We all wish P.X. Kelley and his wife well.

Let me just finish by saying General Kelley's philosophy I think was best expressed to all of these young marines, both enlisted men, regulars, reserves, marine officers-to-come, when he said on New Year's Eve in 1971 back in Vietnam as a regimental commander in the field that night: "If you always work hard to gain the respect and admiration of those beneath you, you will never have to worry about gaining the respect and admiration of those above you."

I can just tell you, P.X., you have gained the admiration and respect of all Americans from all walks of life. We love you. God bless you and God bless America.

Thank you.

Mr. MOLINARI. I thank the gentleman from New York for a very fine statement. I would like to just end with a couple of stories involving this man, P.X. Kelley. We all can recall with horror the tragedy of that incident in Beirut when a terrorist bomb blew up the barracks building. I was at a wedding in New York City. There was a terrible downpour. I just felt that I had to get down to Washington and find out what was happening. The weather was awful. We finally got a plane.

When I arrived in Washington, we could not get much information on what happened over there, how many casualties and how many lives were lost. I learned that P.X. Kelley was going to go to Beirut the next morning and I called him in the midst of all this turmoil. He called me back at my apartment.

I told him I wanted to go with him the next morning. The trip was a White House trip sanctioned and ordered by the President. So he did not have the authority.

□ 1500

He certainly welcomed me. I tried desperately to be able to get the necessary consents. But it was an unbelievable evening, and I was unable to do so.

A couple of days later, though, I did manage to go with the Veterans' Affairs Committee, and some of you out there may recall an incident that sticks in my mind, and probably always will, because when we and our group from the Veterans' Affairs Committee arrived at Beirut, we went to the hospital, and there was a marine laying in bed who was so badly wounded that he could not see and he could not speak. His whole head was swathed with bandages. P.X. stood at his side for some time, and another marine, I believe a corporal, said, "Corporal, the Commandant is here." The wounded Marine turned his head, and P.X. leaned down and said, "Hi. I am P.X. Kelley. I am here to tell you that we are concerned about you, we are proud of you, and we wish you a speedy recovery."

The marine could not speak. He motioned, and obviously he wanted to write something. You may recall that he was handed a pad and a pen, and he simply wrote down: "Semper Fi," which is short for the Marine Corps motto, "Semper Fidelis."

That incident in Beirut, the loss of 241 lives, is something that will never be forgotten by P.X. Kelley. Unfortunately, there were many in this country who tried to point the finger of blame at him, and the day after that incident he said, "I have been a marine for all my adult life, and yesterday I have to say to you in all sincerity and honesty was the hardest day of my life." And then he said, "I am going to Beirut to do what any commander would do as a marine. That is to go and pay my personal respects to our dead, to visit with some of those who have been seriously injured, and also to visit with those who will remain."

And he added: "I would simply ask that all Americans this evening with bended knee thank God that this country of ours can still produce young Americans who are willing to lay down their lives for free men everywhere."

Mr. Speaker, I will not read all the statements that were made at this time, but I will, under leave to include extraneous matter, enter the official biography of General Kelley in the Record, as follows:

Gen. Paul X. Kelley, USMC

General Paul X. Kelley is the Commandant of the Marine Corps, Headquarters Marine Corps, Washington, D.C.

General Kelley was born on November 11, 1928, in Boston, Mass. He graduated from Villanova University with a B.S. degree in Economics and was commissioned a Marine second lieutenant in June 1950.

In March 1951, after completing instruction at The Basic School, Quantico, Va., he served consecutively as a platoon leader, assistant battalion operations officer and assistant division training officer with the 2d Marine Division, Camp Lejeune, N.C. He was transferred to the USS SALEM, Flagship of the 6th Fleet, during September 1952, serving as the Executive Officer and then the Commanding Officer of the Marine Detachment for a period of 20 months. He was promoted to captain on Dec. 16, 1953.

He was ordered to Camp Pendleton, Calif., in July 1954, where he served as a battalion executive officer with the 1st Infantry Training Regiment. Transferred to Japan in February 1955, he served as the Division Training Officer, 3d Marine Division. From August 1955 to June 1956, he served as the Aide-de-Camp to the Deputy Commanding General, and then as Assistant Force Training Officer, Fleet Marine Force, Pacific, in Hawaii.

Returning to the U.S. in July 1956, General Kelley became the Special Assistant to the Director of Personnel at Headquarters Marine Corps, Washington, D.C., until December 1957. Following his assignment in Washington, he completed the Airborne Pathfinder School at Ft. Benning, Ga. In February 1958, he was assigned to the newly activated 2d Force Reconnaissance Company, Force Troops, Fleet Marine Force, Atlantic, Camp Lejeune, where he served as the Executive Officer and then Commanding Officer.

Form September 1960 to May 1961, he was the U.S. Marine Corps Exchange Officer with the British Royal Marines. During this tour he attended the Commando Course in England, served as Assistant Operations Officer with 45 Commando in Aden, and as Commander "C" Troop, 42 Commando in Singapore, Malaya and Borneo. On March 1, 1961, he was promoted to major.

He was assigned to Marine Corps Schools, Quantico, in July 1961, and served there as a tactics phase chief at The Basic School; and then Reconnaissance and Surveillance Officer at the Marine Corps Landing Force Development Center.

In June 1964, he assumed duties as Commanding Officer, Marine Barracks, Newport, R.I. He remained at that post until August 1965, when he was transferred to Vietnam and reported to the 3d Marine Amphibious Force, FMF, Pacific, as the Combat Intelligence Officer. Following this assignment, he served as the Commanding Officer, 2d Battalion, 4th Marine Regiment in Vietnam. He was promoted to lieutenant colonel on January 20, 1966. During this tour as battalion commander, he earned the Silver Star Medal, the Legion of Merit with Combat "V" and two awards of the Bronze Star Medal with Combat "V".

From Vietnam, he proceeded to the U.S. Army Infantry School at Ft. Benning, where he served from August 1966 to July 1968, as the Senior Marine Corps Representative of the Commandant of the Marine Corps. He then attended the Air War College, Maxwell Air Force Base, Ala., graduating as a "Distinguished Graduate" in May 1969. For his excellence in politico-military strategy while a student at the Air War College, the Board of Trustees of the National Geographic Society elected him a life member.

He returned to Headquarters Marine Corps in June 1969, as the Military Assistant to the Assistant Commandant. He was promoted to colonel on April 1, 1970, and in June 1970 was reassigned to Vietnam where he commanded the 1st Marine Regiment, 1st Marine Division. General Kelley redeployed the regiment, the last Marine ground combat unit to leave Vietnam, to Camp Pendleton, Calif., in May 1971. During his second tour in Vietnam, he was awarded a second Legion of Merit with Combat "V".

Reassigned to the Washington area in July 1971, General Kelley served as the Chief, Southeast Asia Branch, Plans and Policy Directorate, Organization of the Joint Chiefs of Staff, where he remained until November 1973, when he was assigned as the Executive Assistant to the Director, Joint Staff. Upon completion of this tour he was awarded a third Legion of Merit.

Following his promotion to brigadier general on August 6, 1974, he was assigned as the Commanding General, 4th Marine Division.

In June 1975, General Kelley was ordered to the Marine Corps Development and Education Command, at Quantico, where he assumed the duties as Director, Development Center. He assumed duties as Director, Education Center and was advanced to the grade of major general on June 29, 1976.

In May 1978, General Kelley was ordered to Headquarters Marine Corps, where he became Deputy Chief of Staff for Requirements and Programs.

On February 4, 1980, General Kelley was promoted to lieutenant general and appointed by the President as the first Commander of the Rapid Deployment Joint Task Force, (renamed the United States Central Command (USCENTCOM) in January 1983), a four service force with headquarters at MacDill AFB, Tampa, Florida.

General Kelley was promoted to the rank of general and assumed duties as Assistant Commandant of the Marine Corps and Chief of Staff on July 1, 1981. He assumed his present office as Commandant of the Marine Corps on July 1, 1983.

General Kelley's personal decorations and awards include: the Silver Star Medal; Legion of Merit with Combat "V" and two gold stars in lieu of second and third awards; the Bronze Star Medal with Combat "V" and a gold star in lieu of the second award; the Joint Service Commendation Medal; Navy Commendation Medal; and the Army Commendation Medal. He is a Marine Corps Parachutist and U.S. Army Master Parachutist.

General Kelley and his wife, the former Barbara Adams of Fall River, Mass., have a daughter, Mrs. John Cimko.

The gentleman from New York [Mr. SOLOMON] and I were privileged a couple of weeks back to be present when there was a change of command ceremony, when P.X. Kelley turned the leadership of the Marine Corps over to the new Commandant, Al Gray.

The Vice President was there that day, and the Vice President spoke about P.X. Kelley. He told a story about P.X., and I think it was General Gray who told a story about having served with him in Vietnam when he was given the mission to lead a charge to a fortified position that was well defended by the best troops the enemy had. Many thought it was a suicide mission, but after 3½ hours of sustained bitter fighting, he finally obtained his objective, and in his own inimitable style he called in and said, "Objective secured."

The commandant, Lew Walt, had said at that time that P.X. Kelley was the finest marine he had ever met. So 2 weeks ago, the gentleman from New York, Mr. GERRY SOLOMON, and myself and others watched in awe as this fine American stood there at attention and passed the symbol of leadership on to somebody else. But it was rather remarkable in that the crowning point of the evening was not his speech, it was not General Gray's speech, which was profound, and it was not the speech of the Vice President of the United States, but, as an element of surprise, the presentation of a medal that was given to P.X. Kelley's lovely wife, Barbara, who has served this country as the wife of the Commandant of our Marine Corps. She was given that medal that night by the new Secretary of the Navy, Mr. Webb, and I can attest to the fact that it was one of the proudest moments in P.X. Kelley's life.

So those of us who have known him know that he has been a person who has given so much to this country, and I think we can perhaps understand a little better why we are such a nation of giving and such a nation of strength and a nation that spreads its arms out to protect the free nations of the world and help the democracies that are struggling to survive and fight communisim wherever it is a threat to the free nations of the world. It is people in leadership positions like this extraordinary man, P.X. Kelley, who have enabled us to reach the very great achievements that we have.

So, Mr. Speaker, let me say that I know there are other Members of Congress who wanted to participate in this special order today, but it did come up at an unusually early hour.

Mr. Speaker, I would simply close by saying for the RECORD to this civilian—and this sounds strange—to civilian Paul X. Kelley, "A job well done. Good luck to you."

Mr. Speaker, I stand here today to pay tribute to an exemplary marine, an extraordinary leader, and an outstanding individual—Gen. P.X. Kelley, the outgoing Commandant of the Marine Corps.

From the time he was commissioned a second lieutenant in 1950 and through his just-completed tenure as Commandant of the Marines, P.X. Kelley has served our Nation with loyalty, dedication, and distinction. For over three decades, he has shown that he is the type of professional military officer that our Nation depends on to safeguard our freedom. I would like to point out some of the highlights of his remarkable military career.

From August 1965 to August 1966, General Kelley served in Vietnam as a battalion commander. During this tour, he was promoted from major to lieutenant colonel and won four combat decorations: a Silver Star, a Legion of Merit, and two Bronze Stars. In 1970 and 1971, P.X. Kelley commanded a regiment in Vietnam and won his second Legion of Merit.

Vice President BUSH put it well at the recent Change of Command Ceremony when he said this about General Kelley's service in Vietnam:

> Your distinguished and unique record, commanding first a battalion in combat and returning for a second tour as a regimental commander in Vietnam, speaks eloquently of your courage and dedication. The combat awards you've won frame a career characterized by gallantry, intelligence, and unselfish service.
>
> In 1980, General Kelley was given the challenging and sensitive task of commanding the Rapid Deployment Force, since renamed the U.S. Central Command. He was the first individual to hold this position. The Central Command includes, Army, Navy, Air Force and Marine Corps personnel and is intended to defend U.S. interests around the Persian Gulf. In July, 1981, P.X. Kelley became Assistant Commandant of the Marine Corps.
>
> General Kelley compiled a truly illustrious record after his appointment by the President to be Commandant of the Marines. During his tenure, the Marine Corps achieved its highest level of combat readiness in our nation's history. He supervised a comprehensive program of weapons, equipment, and facilities modernization and played a key role in the development of several new weapons systems that have enhanced the combat capabilities of the Marines. Largely because of the efforts of General Kelley, the Marines stand ready to defend freedom wherever it is threatened.

The Vice President spoke for many Members of Congress and, indeed, many Americans when he said to General Kelley, "You can take great satisfaction in the work you've done. The Corps you * * * leave to the nation is a living monument to your success."

We are all familiar with some of the traumas that the Marine Corps has had to contend with during the last few years. While these events were beyond his immediate control, P.X. Kelley responded to each of these challenges with courage and grace. Simply stated, he was a tough man for tough times. His actions in these situations serve as an example to people who may find themselves in similarly trying circumstances.

I believe it is important for us to focus a while on P.X. Kelley the man. General Kelley is a man of immense personal warmth. And, as I alluded to before, he has always shown genuine concern for young enlisted marines. To paraphrase Secretary of Defense Weinberger, P.X. realized the pivotal importance of the individual marine to America's security.

A marine general who knew P.X. Kelley when he was Commandant described how General Kelley would often travel to marine bases around the country. During these trips, P.X. would always be assigned a young marine from the base who would photograph the general as he toured the facility. At the end of the day, General Kelley would always have a picture taken of himself and the marine who had served as his photographer so that the young marine would have a memento of the Commandant's visit.

In Vietnam, General Kelley dramatically displayed his concern for his fighting men. P.X. led a battalion of marines into an area heavily fortified with North Vietnamese troops. Kelley's battalion was charged with securing a landing area so the marines who would follow could land safely. After General Kelley's battalion landed, he personally led the fight to expand the landing area against intense North Vietnamese resistance. The battle raged for 3 hours and the marines were ultimately successful. P.X. was awarded the Silver Star for his exploits in this battle.

These excerpts from the 1966 citation that accompanied General Kelley's Silver Star say volumes about P.X.'s courage:

> Debarking from the helicopter into accurate, intense enemy fire, Lt. Colonel Kelley realized that the landing zone must be enlarged to bring in the balance of the battalion safely. With great professional competence and composure, he maneuvered his companies into position to attack the enemy * * * (His) personal example and bold leadership were a source of inspiration to all who were engaged in the operation.

Mr. Speaker, before concluding tonight, I would like to recall a particularly moving incident from the time of the Beirut bombing that I am sure most of us remember. While visiting marine survivors in the intensive care ward of a hospital in Frankfurt, West Germany, General Kelley came upon LCPL Jeffrey Lee Nashton. Nashton was in critical condition and lay temporarily blinded by concrete debris and splinters in his eyes. When Nashton heard P.X. identify himself, he grabbed the Commandant's camouflage coat, went up to the collar and counted the stars. He squeezed Kelley's hand and then wrote "Semper Fi," short for the Marine Corps motto "Semper Fidelis."

"Semper Fi" appropriately summarizes the Marine career of P.X. Kelley. He was always faithful to the Marine Corps and to his Nation. General Kelley, in the words of Secretary Weinberger, "You leave behind a host of enduring achievements and a generation of leaders inspired by your example. Your legacy will endure." I hope that in the future this Nation will be fortunate enough to have military leaders as gifted and distinguished as you.

[From the New York Times, Oct. 25, 1983]

MARINE OF A NEW ERA—GEN. PAUL XAVIER KELLEY

WASHINGTON, Oct. 24.—Gen. Paul Xavier Kelley, Commandant of the United States Marine Corps, is known as a committed officer who genuinely cares for his troops.

He has a flair for language and is never afraid to say what he feels. General Kelley displayed both of these qualities in remarks to reporters before taking off for Beirut from Andrews Air Force Base outside Washington this morning.

"I've been a marine for all of my adult life," General Kelley said. "And, yesterday, I have to say to you in all sincerity and honesty, was the hardest day of my life."

"PAY RESPECTS TO OUR DEAD"

General Kelley, sent by President Reagan to Lebanon after the suicide terrorist attack on the United States Marine base in Beirut, defined his mission as "what any commander would do as a marine, that's to go and pay my personal respects to our dead, to visit with some of those who have been seriously injured, and also to visit with those that will remain."

He added, "I would simply ask that all Americans this evening, with bended knee, thank God that this country of ours can still produce young Americans who are willing to lay down their lives for free men everywhere."

General Kelley, a 54-year-old Bostonian, is a tall, barrel-chested man with thinning reddish hair closely cropped up the sides of his head and a gravelly voice that can usually be heard without benefit of microphone. He is known throughout the military service as "P.X.," a play on the military jargon for post exchange.

He is married to the former Barbara Adams and they have a married daughter.

PRODUCT OF KOREA AND VIETNAM

The general, who became Commandant of the Marine Corps on July 1, represents a new era in the nation's top military leadership, an officer who is a product of the Korean and Vietnam wars. Unlike his predecessor, Gen. Robert H. Barrow, General Kelley did not serve in World War II.

He was commissioned a second lieutenant in June 1950, just as the Korean War broke out. He did not see action in Korea as he was assigned to the Second Marine Division at Camp Lejeune, N.C.

From August 1965 to August 1966, General Kelley fought as a battalion commander in Vietnam, earning promotion from major to lieutenant colonel and winning four combat decorations, including a Silver Star, a Legion of Merit and two Bronze Stars. In 1970 and 1971, as a colonel, he commanded a regiment in Vietnam and won his second Legion of Merit.

General Kelley also has wide experience in other branches of the military service.

As an exchange officer he served with British commandos in Aden, Singapore, Malaysia and Borneo in 1960 and 1961. He was the senior Marine Corps representative in the Army's Infantry School at Fort Benning, Ga., from 1966 to 1968, and was a "Distinguished Graduate," the military equivalent of high academic honors, of the Air War College at Maxwell Air Force, Ala., in 1969.

In 1980, as a lieutenant general, he was named the first commander of the Rapid Deployment Force, since renamed the United States Central Command, at MacDill Air Force Base, Fla. The new force, which includes Army, Navy, Air Force and Marine Corps personnel, is intended to defend United States interests around the Persian Gulf if military force is needed in that region.

He was promoted to general and became Assistant Commandant of the Marine Corps in July 1981.

Among the new Commandant's first actions was to visit the marines in Lebanon, where he warned the militant Lebanese factions "not to twist the United States' tail too hard" and thus force the marines to retaliate.

GENERAL LEAVE

Mr. MOLINARI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on the subject of my special order today.

The SPEAKER pro tempore (Mr. JONTZ). Is there objection to the request of the gentleman from New York?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Mrs. BOXER] is recognized for 30 minutes.

[Mrs. BOXER addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska [Mr. BEREUTER] is recognized for 30 minutes.

[Mr. BEREUTER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

DEFICITS AND PRIORITIES: THE REAL ECONOMIC ISSUES FACING THE UNITED STATES

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. PANETTA] is recognized for 60 minutes.

Mr. PANETTA. Mr. Speaker, the purpose of this special order today is to begin a series of special orders focusing on the real economic issues that are facing the American people, the hard choices, the priorities that have to be discussed if we are to deal with the challenge of our economy, the real economic issues as opposed to the illusory ones. We are hearing a great deal about the illustory ones, whether it is the Economic Bill of Rights, whether it is budgetary reform, whether it is balanced-budget amendments, or whether it is other approaches that are the subject of political addresses by both this President and other candidates for the office of President.

In the next few days others will follow who will direct themselves to specific themes relating to the budget issues I will discuss today.

There is a great deal that has been said over the last few weeks and much will be said, I am sure, over the next few weeks about the 200th anniversary of the Constitution of this country. What that Constitution established was not only a free government but also a framework for resolving issues within our society. The heart and soul of that Constitution lies in the ability of the President and Congress to work together toward final solutions to the challenges that face this country and to develop those solutions not in secret, not in isolation, not in confrontation, not in double talk, but in a spirit of mutual trust, working together and providing leadership for the country in finding answers to the crises we face.

Over the last few years that leadership has been eroding, and it culminates obviously in the hearings that we are witness to day in and day out that deal with the aura of distrust and confrontation that now consumes both the legislative and executive branches.

So what is the result? The result is that the challenges we face, whether they are economic or defense or foreign policy or agriculture or health care or homelessness or housing or education or energy, are not being dealt with in the spirit of cooperation but in crisis, with the elixir of rhetoric to try to hide the hard choices in the hope that these challenges will pass from us to others in the future. Nowhere is this truer than when it comes to economic issues and priorities. Surely the American people are seeking solutions and want us to face up to the hard choices on national priorities. Families are concerned about education for their children, jobs, and housing. That is the Bill of Rights that we ought to be discussing, because that is the Bill of Rights that concerns American families.

When it comes to our economy, the depth of the crisis we face is real.

I have directed to my colleagues an article by Felix Rohatyn called "On the Brink," which states essentially that when it comes to our own economy, we are no longer an independent country. We depend of foreign capital today to operate the Federal Government. Over one-half of the deficit is financed by foreign purchases of Treasury securities. From a financial point of view, we are being colonized. Our foreign debt today is $263.6 billion. That is more than the foreign debt of Mexico, Brazil, and Argentina combined. It is clearly having an impact on the value of the American dollar, as reflected in the trade deficit that now exceeds $160 billion a year. Even if we were to reduce that trade deficit by $20 billion a year, by 1995 our external debt would be $1.5 trillion.

The interest alone on that size external debt is $120 billion annually. On the domestic debt, it has doubled in the last 5 years to the point that this week or perhaps next we will be debating the issue of increasing the debt ceiling to somewhere between $2.3 and $2.5 trillion. The interest on that debt alone is now somewhere between $130 billion and $140 billion, or $3,200 per family per annum, as compared to 1981 when it was about $1,200 per family per annum. We add to that portrait of debt in our society the fact that personal debt is now $2.6 trillion, and corporate debt, which is the highest it has been in 25 years, is at $1.7 billion, and farm debt is at $170 billion, and small business at $836 billion. So the picture we have is of a country in hock to the world and to ourselves.

The result is that we are facing major economic problems that could result in the kind of economic shock that no one would wish on our society or on the world. And beyond that, we are eroding the resources we need to deal with our priorities. Regardless of your priorities, whether they be defense or housing or programs unrelated to children or nutrition, whatever those priorities are, $130 billion to $140 billion a year is going for just interest on that debt, and we are eroding our resources to deal with the priorities of this Nation.

□ 1515

The question then is, is there a coherent economic and budget strategy to deal with these problems.

I recognize that there cannot be just an American solution when you deal with these worldwide problems, and indeed there are strategies that other countries must join in to deal with these larger problems.

Let us just deal with one issue, which is domestic priorities and the domestic deficit.

The nature of our budget is such that the solutions to this problem are limited. With 30 percent of the budget now going to defense, 40 percent to entitlements, and interest now constituting about 15 percent of the Federal budget, that is some 85 percent of the Federal budget in three areas.

About 10 percent is left for operations of government, money for education, for health research. Take that away and we still run deficits in the vicinity of some $100 billion a year.

To resolve this issue, we must deal with defense. We must deal with domestic spending, and we must raise revenues in order to pay the bills.

In the best tradition of our constitutional system, the President and the Congress should be sitting down to work out that kind of approach. The President should be placing defense and taxes on the table, and Congress should be willing to discuss domestic spending, as well as budget reforms.

Working together, we can develop the kind of compromise that can deal with this issue. That has not happened, and so we are locked in confrontation, a confrontation that fails to focus on the substance and the hard choices that we have to face. So therefore, it is important that the public understand the differences between the position of the Congress and that of the President when it comes to deficits and priorities.

To do that, let us look at those hard choices, not the Economic Bill of Rights that the President has presented which discusses freedom of work and fruits of labor, the ability to own property and participate in a free market. Nobody objects to those kinds of broad goals, but that does not get to the core of the issue.

Nor does the balanced-budget amendment, when the President has failed to offer a balanced budget in the entire period of time that he has been in office. It is worth discussing, it is nice, but it does not get to the core of the issue in terms of the hard choices that have to be made.

Finally the line-item veto is also worth discussing, but even if enacted, it could be used only on 12 to 15 percent of the Federal budget. In terms the deficit, it would have little impact.

I found an interesting article by Mortimer Zuckerman in U.S. News and World Report recently. He defines the economic crisis that is facing the country and writes: "What is Reagan's response? His latest ploy is to call for an Economic Bill of Rights, the main elements of which are a balanced-budget amendment, a line-item veto, a supermajority approval required for tax bills, and more deregulation. These items, unfortunately, are irrelevant. Reagan's rhetoric is a political strategy, not a governing strategy. Even worse, such politicking creates an atmosphere in which any agreement with Congress is improbable. The President has to recognize that Congress is entitled to a legitimate role in the formulation of the budget, and that means some higher taxes. To imply that the budget can be reduced, much less balanced, without increasing revenue is nothing but demagoguery. It is time for the President and Congress to provide the leadership that will put public interest before public relations and help this country face the inevitable pain of austerity."

The focus then has to be on those choices. Let us discuss the difference between what was presented by the President in his budget and what the Congress enacted in its budget with regard to two very important items: deficits and priorities.

The budget that was submitted by the President, which was rejected overwhelmingly in the House, receiving only 27 votes, and overwhelmingly in the other body as well, where it received about 18 votes, presented the following priorities.

Defense would be increased by $19 billion for fiscal year 1988. Domestic cuts would be approximately $18.7 billion, largely from Medicare, Medicaid, Federal retirement, and student loan programs.

Essentially, you had a transfer of spending from domestic programs to defense. How would the deficit be reduced? Through new revenues.

Interestingly enough, this is not debated that much, but the President's budget would raise an additional $22.4 billion in revenues. How? About $7.5 billion from taxes and fees.

Taxes and mandatory fees would be $4.3 billion and user fees would be $3.2 billion.

Tax enforcement and compliance would result in $2.4 billion, and asset sales would bring in $12.5 billion. So new revenues would be about $22.4 billion.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, I thank the gentleman for yielding.

I admire the services the gentleman is performing now. At this point we ought to underline this, because one of the things which many of the Members in politics envy Ronald Reagan for, he has an ability to say things with a straight face which most of us would not be able to do.

He continues to argue that he is against any new taxes, and that somehow the notion of increasing public money in the budget is an invention of someone else; and I just want to call attention to what the gentleman said, that in the President's budget as he submitted it to Congress, because of increased fees that the public would pay, increased taxes and increased tax collections, there would be a $10 billion increase.

We have been talking about something a little bit more, but in order of magnitude not all that different, but people ought to understand the point you just raised.

Ronald Reagan in his budget, he asks the public pay $10 billion more, among other things, so we are not disagreeing with the President over whether or not there have to be additional taxes, both levied and collected.

We are differing with the President over exactly what the level and what the composition of those new taxes ought to be.

Mr. PANETTA. I thank the gentleman.

The gentleman is correct. The President is acknowledging, in order to deal with the deficit, we need more revenues.

Mr. FRANK. There is one other possibility.

Is it possible that Mr. Miller of the Office of Management and Budget has emulated Admiral Poindexter, and that they have given the President plausible deniability, so maybe he does not know in the budget he is sending us that he is asking for new taxes?

Mr. PANETTA. It would be interesting then for the President, as well as Mr. Miller, to look at the budget which just in taxes alone raises an additional $1.6 billion through extension of Mediciare coverage to State and local government employees. That is a tax on State and local employees.

In addition the President's budget repeals gasoline and other highway exemptions, thus increasing the taxes people would pay, and increases contributions to the rail industry pension plan, another tax to those individuals, and also affects the employer tax on tips.

It increases the tax on coal production, and increases the payroll tax coverage on certain earnings, plus a Customs fee, small tax and fee increases, and a whole set of user fees.

While some might argue that a user fee is not a tax, all you have to do is ask the individual paying it out of his pocket whether or not it is a tax.

Clearly, the President wants to raise additional revenues through taxes imposed on individuals.

The point is that if you look at these overall priorities—defense, domestic, as well as revenues—that it clearly is not balanced when it comes to defense and domestic spending.

You have literally a transfer from the domestic area to defense. It falls far short of the deficit goal, putting all of this together, because even by their own estimates revealed in the letter last week from Mr. Miller, they are falling some $15 billion short of the goals under Gramm-Rudman.

If we look at the estimates by the Committee on the Budget in the House, they are falling in excess of $20 billion short of the goal. Congress, on the other hand, in trying to make its effort, trying to establish balance, we initially established in the House version approximately $9 billion that would be taken out of defense, $9 billion out of domestic, and then an $18 billion revenue increase.

There was symmetry there in that both defense and domestic spending would bear the same burden, and we would then raise an equivalent amount through revenues. The final result in the budget resolution adopted by both the House and the other body basically reflects those priorities.

In defense, $8.1 billion, in the domestic area, approximately $8 billion with interest savings, and revenues of approximately $19 billion.

The point is that there is balance here. There are problems, and we understand the disagreements with regards to various points contained in the budget.

I respect those who disagree with those priorities. But the budget adopted by Congress reflects a balance between defense and domestic spending, and reduces the deficit by $36.8 billion, so that it makes the hard choices on defense and domestic spending, as well as revenues.

In evaluating a budget, we look at not just the question of how effectively and fairly does it reduce deficits, but also the issue of priorities, because budgets are not just a matter of deficits and numbers and assumptions.

Priorities affect the American people on a day-to-day basis. National security is not just a matter of the weapons and technology we provide for defense. It is also a matter of the quality of life that we provide for our people.

I was interested in comments made by Senator DOLE before the Young Republicans recently, and I want to quote from his speech to the Young Republicans:

"I would like to see 50 wheelchairs in this audience," he said. "I would like to see 50 black faces, 50 Hispanics, 50 Asian-Americans. We get a rap that we don't care about people who have real problems. We turn our back on the disabled. We don't like low-income Americans. We don't like old people. We don't care much for black people or brown people or Asian-Americans or white people. We're sort of a hardhearted party, the upper crust. You don't want to be the upper crust, you can't be a Republican. The bottom line is how you treat others, and we have an obligation and a responsibility and above all an opportunity to open up the doors of this party."

The reason for Mr. DOLE's comments, and the reason that we are concerned about the priorities that have been reflected in the administration's budgets, is that the people understand the difference between rhetoric, between proclaiming a bill of rights, and truly addressing the priorities that have a direct impact on the American people.

The message that has been sent by the President's budget is clear, and it will be more fully explored by others who follow me in the days ahead.

Let me give you a few examples. With regard to the elderly, there are 29 million Americans who are at least 65 years of age in this country, 12 percent of our population.

There are growing pockets of poverty among the elderly within this country. Black elderly Americans, now constitute about 31.5 percent of those below the poverty level in this country, elderly women about 15.6 percent.

Add to that the cost of health care which is three times the cost for other families, and you begin to understand the challenges, the concerns that face elderly Americans in our society.

But let's look at the message to elderly Americans contained in the administration's budget: $4.7 billion to be cut from the Medicare Program, a premium increase of $500 million, and a termination of the 202 Housing Program for the elderly and the handicapped.

Medicaid was to be cut $1.4 billion, and 15 percent of those served by the Medicaid Program are the aged.

Employment and retirement programs were to be cut by $1.5 billion. That sends a very clear message on priorities to the elderly in this country.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. Mr. Speaker, I yield to the gentleman.

Mr. FRANK. Mr. Speaker, I thank the gentleman for yielding.

Again, I think some of the points should be underscored that were made by the gentleman, and one that I was not aware of, and I want to allude back earlier for a brief point to the deficit issue.

The gentleman mentioned a letter from the Director of OMB in which the White House now conceded that the budget that the President sent the Congress, if we enacted it exactly as he asked, and as the gentleman has pointed out, only 27 Members of the Republican Party in this House were prepared, out of 170, and only 18 of the Senators out of 45 were prepared to vote.

□ 1530

It was overwhelmingly repudiated by his own party; but even if we had adopted that, it would be some $15 billion short of the Gramm-Rudman targets. Do I understand that correctly?

Mr. PANETTA. That is correct.

Mr. FRANK. We ought to make that clear, because the President goes on television and says, "Why can't they comply with Gramm-Rudman?"

Ronald Reagan cannot comply with the Gramm-Rudman target. He sends us a budget and the budget is subjected to the kind of criticism the gentleman is legitimately making; but even if we do what Ronald Reagan wants to do, if you end all housing for the elderly and you cut Medicare and you do all these other things, he still shows up $15 billion short.

The second point I would make is to thank the gentleman for those points again about medical care. It is ironic that at a time when the President is proposing a new catastrophic health program he is giving us cuts in Medicare.

Frankly, I think if you ask most of the old people I know who follow this, "What is Ronald Reagan's catastrophic health program?" They would say it is what he has done to Medicare, because he has converted Medicare into something of a catastrophe for old people.

Every year that Ronald Reagan has been in office, every single year, he has proposed that old people who are sick pay more and receive less in services. Apparently he is continuing that in this current budget.

Mr. PANETTA. Another example, Mr. Speaker, of this administration's priorities is how we help minorities in our society, the concerns raised by Senator DOLE in his comments.

Well, the message to minorities was also very clear in the President's budget. There was $1.25 billion cut from the elementary, secondary, and vocational education programs; $3.9 billion was cut from higher education programs; a 31-percent reduction was provided in Pell grants which directly target largely minority students seeking to get into higher education; 66 percent was cut from support of black colleges.

Elimination of the Work Incentive Program, the Work Training Program, was recommended, as was the termination of the Urban Development Action grants, the Economic Development Administration, and the Small Business Administration, all agencies targeted at trying to assist minorities in our society. That is the message that was delivered in the President's budget.

Another example is children and youth. Children now constitute one out of four of those living in poverty. When it comes to minorities, it is two out of four, and yet in the budget there were cuts recommended in health services, housing, food stamps for families, the WIC Program, which is the Women, Infants, and Children Feeding Program, the AFDC Program, as well as child support enforcement.

The point is this, whether it was in the medical care area, education, the elderly, children, the environment, veterans, drug enforcement, housing, transportation, or agriculture, the administration basically said that these are not important national priorities.

What we are asking people to do is not look at the rhetoric, but look at the action that has been recommended in the budget.

The Congress has adopted a resolution which tries to reduce the deficit through hard choices, admittedly very hard choices, but it also tries to recognize the priorities that are important to the American people. It provides that balance.

What we are asking for is the cooperation of all Members in the effort to implement those priorities.

Today the challenge that is presented by the Constitution is whether the Congress and the President can govern this Nation. To govern, we have to meet these challenges, but to meet these challenges you have to make tough, hard choices.

Congress, I believe, is prepared to make those choices. But the President has to join with us in that effort. If he does not, very little can be achieved to deal with the problems we face. If we fail to do this, then not only do we jeopardize our economic future, but more importantly, we undermine the essence of our democratic process.

The choice is a simple one. It is the question of whether we are serious about trying to reduce the deficit while maintaining the priorities that are important to our society, and whether we are most serious about preserving a Government of, for, and by all the people. That is the real challenge that faces the American people today.

Mr. DURBIN. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Speaker, I would like to commend my colleague from California for this special order. I think the gentleman has raised some very important points about the budget process. As a member of both the Budget Committee and the Appropriations Committee, I understand how difficult it would be for us to hit our budget reduction targets this year.

It is also my understanding that our goal of reducing the budget deficit by $36 billion this fiscal year is the most ambitious budget deficit reduction in the history of the United States. I think that it will be very difficult for us to do this; but it will be impossible for us to do it without the cooperation of both the President of the United States and the minority party. In this Chamber the minority party has not been a full player in this process to date. This year our Republican colleagues have not offered a budget resolution. They have not come out in very strong support of their own President's offering, and the same thing holds true in the U.S. Senate.

If we are going to resolve our problems and come to some sort of an equitable resolution, it clearly will take a bipartisan effort. All of us can take the shots that are available through the media. The President in his travels across the country has attempted to suggest that the real problem is in the Constitution, not frankly in the constituencies in Congress where I think my colleagues would agree that it definitely does reside.

I would like to touch one point if I can, because I think the gentleman from California has made a very excellent comment about the net impact of the budget decisions over the last 6 years. Under the Reagan administration, we have made choices over these years based on the budget deficit and on the priorities identified by the Congress and by the President. I disagreed with many of those choices and voted against them, but I did not prevail.

The one area I have major concern on is relative to families and children. As a member of the Select Committee on Children, Youth, and Families, with our colleague, the gentleman from California [Mr. MILLER], we have seen graphic evidence and heard testimony of the impact of our budget decision, not only on the children of America today, but for generations to come. Once specific and graphic example is a nationwide problem which we face in America that has really come to light over the past several years. Back in the mid-1950's the United States enjoyed the reputation of being in the upper half of civilized nations in terms of infant mortality. We were proud of the fact that we had the wherewithal, the commitment and the resources, to make certain that children had an opportunity to grow and to have a productive and fruitful life; but the most recent survey 2-years ago shows that the United States has slipped to dead last among industrialized countries in terms of infant mortality. There are more children dying per capita in the United States than in any other industrialized country in the world, based on 1984 statistics.

You say, "Isn't that unfortunate?" Well, it is more than unfortunate. It really reflects the fact that we have not dedicated resources that we should be dedicating to this problem. There are examples across the country. In my part of the country in the Midwest, we have welfare mothers and working poor mothers who have no access whatsoever to prenatal care. Many of these women see a doctor for the first time when they go into labor. It is not surprising that many of the children who are born to them have very serious medical problems.

In my own hometown of Springfield, IL, we have a neonatal care center and it draws children from all around down-State Illinois, a span of 200 or 300 miles in every direction. Sixty percent of these tiny infants that are in the incubators and under the watchful eyes of the doctors are the children of welfare mothers.

I can tell the gentleman from California and all who are listening to this program and this proceeding before the House of Representatives that 60 percent of the children born in this area are not from welfare mothers. In fact, what we have is a very serious problem that is not being addressed. We have a false economy when we cut back on health care for the children of welfare families, for the children of the working poor. It is a false economy, because the child in the neonatal care center costs taxpayers $1,000 a day, not to mention the human tragedy for that child and the family. It is no economy for us to cut back on health care programs if that child as a result of being born prematurely with a problem is mentally retarded and requires special education teachers for a lifetime and is underemployed and cannot contribute to America.

So the budget choices which we have made over the last 6 years, while we have cut back in spending on domestic discretionary programs by over 20 percent and increased military spending by over 40 percent, are going to be with us for generations to come.

I commend my colleague from California for bringing this special order this afternoon. We have a tough task ahead of us. I hope the decisions which we reach, the hard choices which we make, are with a watchful eye, not only to today's problems, but to the problems we are creating for generations to come if we are not mindful of the need to be attentive to the very real human needs in America.

Mr. PANETTA. Mr. Speaker, I thank the gentleman from Illinois.

Mr. RICHARDSON. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from New Mexico.

Mr. RICHARDSON. Mr. Speaker, I, too, wish to commend the gentleman from California for his unceasing leadership over the years, not just in the reform of the budget process, but also to construct humane, compassionate, but fiscally tight budgets and there is probably nobody in this body, with the exception of a few, who have succeeded as much as has the gentleman from California.

Mr. Speaker, I wish to state just one point, and that is the fact that in the budget that the House passed, the very strong positive emphasis on education, education really has become the critical issue facing this country.

In particular, I would like to pay special attention to the education of minorities. In that connection, I wish to remind this body and the Nation that by the year 2000, one out of three workers in this country will be a minority, either an Hispanic or black, or an Asian-American or Central American or whatever denomination, and in order to be competitive with our colleagues and our allies from Germany and Japan, we have got to do a better job in education and better in training.

In this connection, I know the gentleman from California has a very strong record. I wish to commend him. I commend him for taking this special order out. I urge this body to support this bipartisan effort in which the gentleman from California has tried to lead the House of Representatives in achieving a compassionate, a positive, a humane budget, and I urge the gentleman to continue this effort. I am not optimistic, regrettably, because on the other side of the aisle and in the White House there seems to be a very strong interest in achieving political gain, rather than the success the American people want us to have and expect in this vital area.

Mr. WISE. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I yield to the gentleman from West Virginia.

Mr. WISE. Mr. Speaker, I appreciate the gentleman yielding.

Let me just say, continuing along the line of education, serving on the Education and Labor Committee, I watched with some interest the State of the Union Message just a few months ago in this Hall. As we remember, the President came out and he spoke about the need for greater education, read some very stirring remarks. So I turned to the back of the State of the Union Message which had been supplied to Members of Congress and in which they had the budgetary statements, exactly what it is the President is going to be seeking specifically. I wanted to see what new initiatives there were. Well, besides con words and a lot of euphemisms about education, the result was that the President was not proposing any ventures, really. What he was proposing was a $5 billion cut in the overall education programs for this country, $5 billion, most of it out of the programs for higher education, Pell grants, guaranteed student loans and so on.

I was quite dismayed. Well, happily, of course, the budget that was put forth in the House and the authorizing legislation from the Education and Labor Committee, not only restores that cut but puts $1 billion back in.

Education is an infrastructure.

I would like to add my disappointment over where are our colleagues from the other side of the aisle? I understand the President's budget is politically unpalatable. Three years ago, as I recall, it got one vote on the floor of the House of Representatives. That was a real hard core vote.

I understand the year before and the year after that, I think it got 12 votes. I believe I heard the gentleman in the well say this time it was 27 votes. I think they received 27 votes out of 435; so almost unanimously it was rejected by both the House and the Senate and almost unanimously, not quite, but almost by members of the Republican Party, as well as the Democratic Party.

Now, we have got a problem. The process stopped there. So it is getting real easy now to cheap shot the Democrats and say, "Well, by golly, you guys are for taxes," because that is the House budget that passed and does have $19 billion of new revenue in it.

The problem is that we have not seen an alternative. I keep looking.

If I may say to the gentleman from California, I do not know whether in California you get cable TV live from the Omni Arena, that is the Omni in Atlanta. The gentleman probably gets it from San Diego; but anyway, from the Omni, wrestling. There is Hulk Hogan and all the other greats, the Masked Marvel, but if you ever watch that wrestling very much, there is a problem. The problem is that you get them in the ring, but you cannot keep them in the ring. They are always bouncing in and out. Somebody jumps up to do an interview. Somebody else gets thown out. The Hulk is bouncing around on one of the newcomers. The result is that you do not get as much wrestling as you would like.

□ 1545

That is a lot like the budget problem. We cannot get anyone in the ring.

Just when you think you have everyone of one group in the ring somebody is bouncing out.

The President does not like to step into the ring at all, he kind of comes in, roams around the ring at the beginning of the year, holds his hands up, takes a little applause and out he goes and he is gone for the rest of the match.

Now at least we count on the Republican Party to excercise the responsibility to get in the ring with us because if you do not like the budget you have to come up with an alternative, but you cannot come in here and say we are against the President's budget because that cuts domestic programs and it cuts defense programs, and yet at the same time takes the position that we are against taxes, but you then do not offer an alternative. That is not fair.

We want everybody in the ring. That is the only way this will be solved.

Mr. SOLOMON. Mr. Speaker, will somebody yield and let me jump into the ring?

Mr. PANETTA. Mr. Speaker, if the gentleman from West Virginia [Mr. WISE] could finish his comment.

Mr. SOLOMON. I am here and ready to fight.

Mr. WISE. When you come into the ring come with a budget. Do not come with a lot of rhetoric about those high-spending Democrats. We want you to come down here and if you do not like $19 billion worth of taxes, just tell us where it is going to come from, because I think it is fair and the gentleman that wants to get into the ring has always been one who enjoys getting in the ring on top of that, but he has always been one who comes prepared with an alternative at least. In past years, I might add there has always been a Republican alternative to the budget. This year of course the Republicans, for whatever reason, chose not to offer an alternative. So if you do not like the present situation, we want to hear some ideas.

I thank the gentleman very much and I look forward to seeing if we can get everybody in the ring now.

Mr. SOLOMON. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. Mr. Speaker, I am pleased to yield to the gentleman from New York.

Mr. SOLOMON. Mr. Speaker, let me just say first of all that the gentleman has been here quite a while now and he is one of the respected Members of this House and I admire and respect both of these two Democrats on that side of the aisle. Let me just say in recent years it has been a habit of Democrats to bring the President's budget onto the floor and get an up and down vote on it.

Now that is all well and good but as you gentlemen know, you have a fractionalized party on your side of the aisle, we have a fractionalized party on our side of the aisle, and certainly when you bring a budget to the floor you know there is no such thing as party unity. Tip O'Neil never had it, JIM WRIGHT does not have it, and thank God he does not, because this is a House where we sit down and we work out and we compromise and we come to an agreement. Let me just go back to what the gentleman was saying when he said what are our alternatives?

Let me tell my colleagues a story about 1981 before the gentleman from West Virginia [Mr. WISE] got here. I was campaigning with the Governor of California, he was the Governor from California, and he had just lost the Iowa primary out there. I was flying back on a plane up to New Hampshire and I was dejected because here was this young energetic Congressman, who really was down in the mouth because Ronald Reagan had lost that primary in Iowa, and I thought everything was going down the drain. That man came over to me and put his hand on my shoulder and said:

> JERRY, don't worry. We are going on to New Hampshire, we are going to win that primary, we are going to win the Republican nomination, we are going to become President of the United States, and we are going to do all the things you and I believe in.

Lo and behold, that happened. In 1981, as the gentleman from California knows, we passed a thing called Reaganomics that Sam Donaldson and Dan Rather and all the press were saying was a dirty word, was hurting Americans, and lo and behold it brought about the greatest economic recovery in the history of this entire country.

The reason I mention all this is because the moral of the story is that in 1982 the liberal Democrats on that side of the aisle, not the two gentlemen here, but the far left wing of your party came to the President and came to this Member and said, look, if you will just raise taxes by about $20 billion we will cut spending by $2 for every $1 that that new tax increase brings in.

The President of the United States, and I do not think he was gullible, but he was a little naive because he was sort of a new kid on the block, he had not been here as long a time like the gentleman from California and I, but you people sold him a bill of goods.

He took JERRY SOLOMON up to Camp David.

Mr. PANETTA. Mr. Speaker, let me just interrupt on this point. This is a very important point because the President continues to make it.

I have yet to find somebody who is part of that deal, and if that was the case why would he sign a revenue bill unless he had some kind of firm commitment from the leadership?

I do not know where that agreement came from. It is another one of the fixed ideas that are generated in his mind as to why he did certain things.

There is no one in this body who will say that that kind of commitment was made.

Mr. SOLOMON. The gentleman is absolutely correct and they are ashamed to do that and I do not blame them. I would be ashamed to do it, too, because if I may finish my story, Ronald Reagan took people like me who were his strongest supporters, and adamant about voting for any tax increase, took me up to Camp David, took me out in the back of the woodshed and sat me on a fence and said, do you remember the story on the plane from Iowa to New Hampshire where you said you would follow me to the ends of the Earth, and I said, "Yes, Mr. President, and this is the end of the Earth, because I ain't voting for that tax package because you are not going to get the spending cuts like they are telling you."

Lo and behold what happened, the next year we brought in $20 billion in new taxes and if we had cut spending by $40 billion, that is 2 to 1, we would have almost balanced the budget that year. But what did we do? We spent the $20 billion and 14 cents more on each dollar thereafter. That is what happened.

So you are going to have a tough time selling me on voting for any new kind of tax increase until we get the spending cuts in line. I am the ranking Republican on the Veterans' Affairs Committee. We have done our share in the past. We have cut. We have lived up to our bargain. Just the other day I came in with a $50 billion cut in the overall budget to meet the Democratic budget proposals but what happened? Do the rest of the committees do this? No. All of the other committees come in and they are a billion here over and a billion there over, so we must get serious and we must work together and get the deficit down. Then I, even me, would vote for a tax increase.

Mr. PANETTA. If the gentleman is saying that he is willing to put taxes on the table along with everything else, then I suggest that that is exactly what the President and the Republicans and the Democrats ought to do if we are serious about getting the deficit down. It really does not serve much purpose for each of us to get in our trenches and cast stones at the other when all of those pieces have to be part of the answer to the problems we are facing.

Mr. INHOFE. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman from Oklahoma.

Mr. INHOFE. Mr. Speaker, this has been one of the more educational moments of my very brief service in the U.S. House of Representatives, having come here only in January. This is the first time that I realize that we have had a formal invitation to participate in the budget process. I have watched the budget bills. I have watched the appropriation bills come through. I have watched the special appropriations. I have seen all types of projects on these bills. I have voted against them, but they keep on passing over and over again.

There are solutions to the problem and I guess the question I would want to ask is in light of the fact that there are a number of budget balancing amendments that are before the House at this time, there seems to be one that has almost 240 coauthors, many fine Democrats, and I think including the gentleman from Texas [Mr. STENHOLM], who is a Democrat and is also the primary author of this budget balancing amendment to our Constitution.

I would first ask if you are both on that as coauthors?

Mr. WISE. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. I am pleased to yield to the gentleman from West Virginia.

Mr. WISE. Mr. Speaker, I am not on it, because I am tired of smoke and mirrors. That is a very fine amendment, I suppose, and it makes for great rhetoric, but there ought not to be a balanced budget amendment. There ought to be a balanced rhetoric amendment in which we have to balance the budget rhetoric. What that permits anyone to do is to go home and say, "I support the balanced budget amendment."

It will not take effect for 7 years, it will probably be 2 or 3 years more before it will be passed, so we are 10 years down the road.

As the gentleman well knows, and he has voted consistently on budget cutting amendments, as the gentleman knows it is a problem that must be dealt with today rather than dealing with the illusory, and the future, and perhaps that is worthwhile when you look at budget reform. I would rather deal with the problems of today, such as necessitated by Gramm-Rudman, which I did support because that forced the Congress to deal in a way that was actually like the gentleman from New York and I were alluding to, in the wrestling ring. That put concrete walls around the ring. Now we have to put more concrete and mortar into this because it is getting easier to slip through. That is the deal. We have to deal with that today and not tomorrow.

Mr. PANETTA. I think the gentleman is absolutely correct. The problem is everybody likes to talk about process but process is not going to solve the problem of the budget deficit. The question is what kinds of hard choices are we going to make on defense, on domestic spending, and on taxes?

That is where the answer is. If you enact a balanced budget amendment, that doesn't solve the problem. You have to deal with the hard choices. That is what we are asking now, let us face those choices now.

Mr. INHOFE. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. Mr. Speaker, I am pleased to yield to the gentleman from Oklahoma.

Mr. INHOFE. Mr. Speaker, as I think it was stated by our existing President back in 1965 in a speech that he made, and this is a quote, he said, "There is nothing closer to immortality on the face of this Earth than a government agency once formed."

The reason for that is it is very difficult for people in elected positions to stand up and vote against things when there are a handful of people out there wielding that pressure to try to get these things passed.

I am glad to know that the gentleman from California was supportive of the Gramm-Rudman approach. I think that had something very good in it, and that was an automatic cutting so that, yes, it cut across the board, including national defense, in the event that we submitted a budget that would be out of the target of Gramm-Rudman and its 4-year targets.

If you go back to the budget balancing amendment, the amendment from the State of Oklahoma where I served in the legislature over 20 years ago for a long period of time, they have a budget balancing amendment in the State of Oklahoma and in 43 other States here in America and it works. Local legislators do not like it, they try to circumvent it, try to pass tax increases, but it does work because it forces them to constitutionally within the State the same as would be true on the national scene to act more responsibly. I want responsibility and the gentleman wants responsibility. The gentleman is on that side of the aisle and I am on this side of the aisle and I think that we can do it once we get in some type of a vehicle to use to balance our budget.

Right now the most viable vehicle seems to be the budget balancing amendment.

That is H.R. 321.

Mr. PANETTA. Mr. Speaker, I thank the gentleman for his comments. Having worked on the Gramm-Rudman law, let me indicate to the gentleman my feeling that what that reflected was the failure of both the Congress and the President to face the hard choices that I have talked about.

To have to implement an automatic cutting mechanism that does not require a vote of this body or the other body or the signature of the President is not the kind of responsibility that the American people and the Constitution handed to us in this institution. The responsibility we have is to look at each of these functions, to look at where we ought to spend and where we ought to cut, not just implement some kind of blind approach to dealing with budget deficits. That is the problem with the balanced budget amendment, with all due respect.

If we are serious about dealing with hard choices we can do it now. If you apply a balanced budget amendment, I will tell you what will happen. There will be efforts to take elements off-budget. We are already seeing that. Social Security, off-budget. Some are suggesting defense, off-budget. Some are suggesting other trust funds, off-budget. By the time you take these off-budget there is not much left to balance. Those are the games Members can play and that the administration can play. That is why I think that telling the American people we are going to solve this problem simply by passing a balanced budget amendment is a fraud on the American people.

Mr. INHOFE. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. Mr. Speaker, I am pleased to yield to the gentleman from Oklahoma.

Mr. INHOFE. Mr. Speaker, I partially agree with the gentleman from California because the people have said we sent you there to act responsibly, but has Congress acted responsibly? The answer is a resounding "No." Those people out there who are watching us recognize if we are going to act responsibly, why not have some type of a vehicle that would do that for us in the event that we are not responsible?

I think we have demonstrated for decades now that we are not as a unit going to be responsible enough to balance the budget. I think it is going to take some type of device or vehicle to force us to do it.

Mr. PANETTA. Mr. Speaker, I understand what the gentleman is saying, but I think it is a terrible commentary on our system of government if we are saying that because we cannot do something responsibly we ought to do something irresponsibly.

I think we have a mandate from the American people with the President to try to make the hard choices that I talked about.

Under our system of government, we get things done in two ways, through leadership or through crisis. Unfortunately, leadership at the present time is not there. The President is going off on his own trip and won't negotiate, and Congress will not negotiate certain items. So what are we doing? We are turning to crisis. We have economic crisis by virtue of the size of the debt we are running, with the impact it is having on the dollar, on interest rates, and on our trade balance. We know that is a crisis, and now we are talking about creating institutional crisis. That is what Gramm-Rudman was all about, creating an institutional crisis to force Congress and the President to act.

It seems to me our responsibility is to try to sit down with the President at the same table with all of the issues on the table to try to come to some kind of solution. Until we do that, we can play partisanship, we can play confrontation, we can accuse, we can hide behind all kinds of budget process reforms, but the job is not going to get done. I guess that is what I am calling for today, the opportunity to work together to try to find those solutions.

Mr. WISE. Mr. Speaker, will the gentleman yield?

Mr. PANETTA. Mr. Speaker, I am pleased to yield to the gentleman from West Virginia.

Mr. WISE. Mr. Speaker, I want to agree wholeheartedly with the comments of the gentleman from California [Mr. PANETTA].

I voted for Gramm-Rudman, but it was not under the philosophy of Jack the Ripper, "Stop me before I kill again."

I voted for Gramm-Rudman for just the reasons that the gentleman said. I thought it was a way to build the wrestling ring in such a way that the President would have to come and get into it.

The gentleman is absolutely correct, I think that is exactly what we are all saying here. This can only be done, if we get together, whether you want to call it a budget summit or whatever, where everybody gets together, the Republican Party, the Democratic Party, the House and the Senate, and the President, who is a central party in this, and puts everything on the table.

□ 1600

Spending cuts, entitlements, tax increases, asset sales if you want to indulge in that kind of thing, whatever it is, ought to be on the table. Unfortunately right now that is not the situation. All we are going to see I'm afraid is long-term bickering until that occurs. I want to thank the gentleman for making this special order possible.

Mr. PANETTA. I yield to the gentlewoman from Ohio.

Ms. OAKAR. I want to compliment the gentleman for this discussion. I was not prepared to speak and to talk to the gentleman on the floor about this, but I could not help overhearing his comments. I want to say to the gentleman that I do not know anyone who has tried to bring people together, having fiscal stability for our country, than the gentleman from California, Congressman PANETTA. He has been a student of the budget. I do not think anyone knows more about the process than he does. I am very, very proud of the work he has done.

I also wanted to ask the gentleman, and I guess that is one of the reasons I am not for a national constitutional amendment, but I do believe the States should have a balanced budget kind of procedure. My own State of Ohio does.

But is it not a fact that if we had a constitutional amendment, in times of national emergency where we might need more funds for certain areas, that we would be prohibited from breaking that balance and spending more money in that kind of a situation.

Mr. PANETTA. It depends on the framework of the various constitutional amendments. There are some which allow for an exemption if there is a national emergency declared by the President.

Ms. OAKAR. But even if there were—and I am aware of the fact that there are some so-called amendments with that exception—the process very often in times of national emergency, in a crisis you do not really have time for the entire process. I guess one of my really huge concerns about this whole issue of constitutional amendment would be the concern of a national emergency. I think that is reason enough to put the onus on Members of Congress and the administration who indeed begins the process of the budget by introducing their own budget.

I want to thank the gentleman for all of his excellent work in this area.

Mr. PANETTA. I thank the gentlewoman from Ohio for her comments.

I yield to the gentleman from Oklahoma.

Mr. INHOFE. I thank the gentleman for yielding.

Yes, I would agree with that. I think any type of a budget balancing amendment should have that type of amendment in it.

Ms. OAKAR. I do not agree with that.

Mr. INHOFE. The one to which I refer does specifically have a provision to provide that in the case of a national emergency the provisions would not apply. It also has—it is also a more moderate one that I would prefer having quite frankly because it has an escape clause provision so that three-fifths of the membership for any reason could vote to come out from under the guidelines of the budget balancing amendment.

Mr. PANETTA. My concern on this issue is that if you want to balance the budget this year, for example, you have to either cut or raise somewhere between $170 to $180 billion. That is the bottom line. That means you either have to go to defense or you have to go to entitlements or other areas of domestic spending or you have to raise revenues or all three.

Now I guess the question is do we need a balanced budget amendment to beat us over the head to help us make those hard choices? Or are we responsible enough to try to make those choices on our own? That is really the issue. The whole point, frankly, of Gramm-Rudman and the whole point of the mechanism we are talking about now to be added to the debt ceiling increase is to put a gun to the President's head to say, "If you don't do it we are going to cut everything across-the-board, defense and domestic spending." So you have got to come to the table and negotiate or else we are going to have to face this horrendous cut across-the-board.

My point is that is not a very responsible way to do business.

I yield to the gentleman from New York [Mr. SOLOMON].

Mr. SOLOMON. I thank the gentleman for yielding.

I would just say if the gentleman would ask the rhetorical question. "Are we responsible?", the answer is no we are not, absolutely not. We are not responsible because we have not come anywhere close to presenting a balancing budget. You know, to use this excuse that for a national emergency or a threat to our national security—my balanced budget concept is a very simple one, that everybody can understand. It simply says that the norm is a balanced budget and if "you, Congress, want to be responsible, if there is a national emergency created by God, if there is a threat to our national security then two-thirds of you will have to vote to go away from the norm to unbalance the budget." Well, I do not know of anyone on that side of the aisle or this side of the aisle, that would not vote to unbalance the budget if there was a national emergency of some kind.

Mr. PANETTA. I assume the gentleman would agree, stating as he does that the Congress is not responsible for providing a balanced budget, that indeed the President is not responsible either.

Mr. SOLOMON. I would go that far.

Mr. PANETTA. Because he has never offered a balanced budget.

Mr. SOLOMON. I would go that far and say that too.

Mr. PANETTA. I yield to the gentleman from Oklahoma.

Mr. INHOFE. I would go alone with this budget balancing amendment or anyone else that came up. I only refer to one that is more moderate than his because it has a lot of bipartisan support and bipartisan sponsorship.

The answer to the question is we have not been responsible. It is necessary to have some type of a vehicle to make us accountable.

The coward's way out is to vote a greater deficit every time or to go into voluntary inflation. That is a very cruel tax, but it is one that we can hide from the constituency.

To have to stand up and say, "yes, if we want to spend more money we have to vote for more taxes, get on the line and make that vote," then I say that is the responsible thing and that is what we should have to do.

Mr. PANETTA. With all due respect, I think the coward's way out is not to face these hard choices without some kind of club over your head. We have the opportunity to cast those votes. I am not prepared to say we are not responsible enough to try to deal with these issues, because I have seen the House, the Senate and the President come together to find solutions. That is the way we resolved the Social Security issue a few years ago. Facing a crisis, there was a willingness to come together to find a joint solution. We did not say we were going to let Social Security go broke. We did not say we wanted chaos. We did not say we needed to pass a law to force us to find a solution. We just got together and found a solution.

I think the present situation demands the same kind of responsibility on the part of both the Congress and the President. We can find the solution if we have the will and the courage. You cannot hide that issue from the American people.

Mr. Speaker, I yield back the balance of my time.

COMMUNICATION FROM CHAIRMAN OF SUBCOMMITTEE ON OVERSIGHT AND INVESTIGATIONS, COMMITTEE ON ENERGY AND COMMERCE

The **SPEAKER** pro tempore (Mr. JONTZ) laid before the House the following communication from the Chairman of the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce:

SUBCOMMITTEE ON OVERSIGHT
AND INVESTIGATIONS,
Washington, DC, July 14, 1987.

Hon. JIM WRIGHT,
Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: This is to notify you, pursuant to Rule L(50) of the Rules of the House of Representatives, that David B. Finnegan, Counsel to the Committee on Energy and Commerce, has been served with a subpoena issued by the United States District Court for the District of Columbia. After consultation with the General Counsel to the Clerk, I will notify you of my determinations as required by the House Rule.

JOHN D. DINGELL,
Chairman, Subcommittee on Oversight and Investigations.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Saunders, one of his secretaries.

GENERAL LEAVE

Mr. INHOFE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order today.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Oklahoma?

There was no objection.

IRAN-CONTRA HEARINGS—A SECOND OPINION

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Oklahoma [Mr. INHOFE] is recognized for 60 minutes.

Mr. INHOFE. Mr. Speaker, I rise today on the subject of a couple of great patriots and for the purpose of perhaps giving a second opinion.

You know, when a doctor diagnoses a dread disease it is very rare that we will not go to seek a second opinion.

I think the American people have been listening for some 3 months now through the interrogation of a number of individuals, including Lt. Col. Oliver North, particularly over the last 2 weeks. They have heard people, very fine gifted attorneys flanked by some 200 attorneys, flanked by a joint committee of the House and Senate, chastise Lt. Col. Oliver North for hour upon hour. I think it is important, Mr. Speaker, that the American people know that there are a handful of people in Congress who do not agree, No. 1, that that is a fair fight; and No. 2, that a man who is standing up for what he believes to be his patriotic duty should be chastised publicly.

A few comments should be made in that regard. First, I would like to identify a couple of people, not only Lt. Col. Oliver North, but also another individual by the name of Armando Valladares. I bring him into the picture to talk to him in concert with our discussion on Oliver North, because he was just here at the Capitol in Washington in the last few days. We had an opportunity to talk to him, to hear his story and I believe that you cannot really segregate the two issues when you talk about the testimony of Lt. Col. Oliver North and that of Armando Valladares.

I would like to make a couple of comments about Oliver North. He was born in San Antonio. I think if you could draw a picture of an all-American boy it would be our own patriot, Lt. Col. Oliver North. He was born there. He went through the academy, was able to, while going through, to express and demonstrate his prowess. He was a middleweight boxing champ.

One of the interesting things is that the fight for the championship in the finals he there beat James Webb who is now Secretary of the Navy.

He graduated in 1968, then got married.

The day following his wedding he left for Vietnam for 11 months. During the time that he was in Vietnam he commanded a patrol platoon.

He won the Silver Star, the Bronze Star with a V for valor, the Nation's third and fourth highest honors. He also earned two Purple Hearts. His Silver Star was a result of leading an assult against the North Vietnamese.

He was cited for "calmly braving the intense fire of the tenacious hostile soldiers."

I wonder if maybe that is where he got his training for the way he performed when he braved, calmly braved the intense fire of the tenacious hostility of the committee over the past 2 weeks.

We have a number of people, such as the gentleman before me—it is unfortunate by the fact that our last consideration was over early today a lot of the people are not here who otherwise enthusiastically would like to participate in this. We have a lot of people who join me in my feelings concerning Col. Oliver North.

I yield at this point to one of my colleagues, the gentleman from Missouri [Mr. BUECHNER].

Mr. BUECHNER. I thank the gentleman from Oklahoma for yielding to me and for organizing this special order.

I do not have the same acquaintanceship with Colonel North that some Members of the House do, especially some of the senior Members.

When we talk about patriotism I think we sometimes think about a field of battle. Sometimes we think about heroics in terms of facing adversity, an accident, going and saving someone's life, a child being snatched before a moving vehicle. But I think as we listened to those hearings, we heard about the rule of law to a great degree. Frequently, heroics in a courtroom setting or inquisitorial setting do not bring to mind the scene of a battle or the scene of an accident or an emergency.

So maybe we use a different standard of what heroism is to be defined as. The thing that amazed me the most during those hearings was that this young man who by this Congress, by Members of this Congress and by the press, had already been tried and convicted of crimes yet to be determined, not even named, not even enumerated, never brought forth. That once was a statute laid before us. There were no real specifics for a criminal indictment. Yet if you listen to the press, if you listen to speeches from this floor, if you listen to people give the interviews, leaders in this Congress, they said that Colonel North was a pariah, Colonel North was the type of thing you found underneath a stone. And in the courtroom of the great television, in the public spectacle that would be brought forth before the United States, Colonel North along with all the people in the administration who would topple forth, no one would ever have thought the word "heroic" would be applicable, no one would ever have thought the word "heroism" would fit into that context.

Colonel North stepped before the strobe lights, wore a uniform which John Chancellor referred to as his costume and he answered the questions. All the protestations by Members of Congress who had castigated him beforehand, convicted him beforehand, fell on him the same way that arrows, bullets, shrapnel fall upon heroes in battle.

Some do not survive. Colonel North survived.

Who was wounded in that battle in front of those lights, in front of those cameras?

□ 1615

Those people who had prejudged Oliver North were the ones who were wounded, and when their constituents back home began to ask, "What are you doing, and why are you doing it?" they retreated, not as heroes but in many cases as cowards.

On the last day of Colonel North's testimony, Members who, in press conference after press conference and in interview after interview, had said they would have their day and Colonel North would be skewered began their final interrogations with these statements: "Colonel North, we know you are a fine American, you are a fine father, you love your wife, and you are dedicated. It is too bad things happened."

Now, I think that that is what caused the American public the most concern, that if they were so right the week before, why had they become so wrong the week following? The answer to that question is something that you and I will not know for sure. But Oliver North knows. Oliver North knows that what he did was in his heart correct, and Oliver North knows that what he will always do for this country is give it his best.

We can agree or disagree with covert actions, we can agree or disagree with the idea that there must be certain things done in a very difficult society, in a world at risk, you can disagree with that all you want, but remember this when we talk about Colonel North: That Colonel North was not what he was portrayed to be by Members and by the press before the interrogation.

One of the toughest things for anyone to do is to not have a public forum when the public forum has already said that you were wrong, that you are despicable, that you are a liar, that you ar a cheat, and most of all, in Oliver North's case, to say that you were unpatriotic.

We as Members can come here on the floor and we can have time to say these things to one another, and with the public, those who deign to listen, and we can talk about things like this, and we can be interviewed. Oliver North was a hero because he chose not to take the public venue. He chose to exercise his heroism by being silent and waiting, waiting for the day when the battle would be joined.

When that battle was joined, the arrows were shot, the stones were slung, the bullets were fired, the words that have been cascading him stopped, and Oliver North stood tall. And as John Chancellor said, there was his costume—his costume of heroism, honor, faith, trust, patriotism—and he survived. And after all that discussion they followed up about the rule of law and the Constitution and its protections and the belief, and the one thing that strikes clear is that Oliver North never said, "I demand you apologize to me for what you said."

And on that final day, when those Members tried to appeal to the people back home whose letters had been inundating them, 100 to 1, 600 to 0, 325 to 1, they were the ones who had been giving the press releases, the ones who had been interrogated, and the members of the press were now changing their stories because what they said was wrong because what they were told was wrong. Those Members who had done a 180-degree turn and left the field of battle know in their hearts that they have prejudged Oliver North.

Time will tell who the hero is. But the American public has said time and again that they like Oliver North, and in a day when there are so few heroes, they have found one.

Mr. Speaker, I thank the gentleman from Oklahoma for yielding.

Mr. INHOFE. Mr. Speaker, I thank the gentleman from Missouri [Mr. BUECHNER].

In the proper context of the meaning of what we are talking about, the gentleman certainly articulated well the fact that there are many of us here in Congress who do not agree with some of the methods by which the interrogation has taken place, and certainly with the content of the comments.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. INHOFE. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I thought that one of the most important things that Oliver North did on the stand was to frame the real issues that the public should be concerned about and that the Congress should be concerned about with regard to Central America. He threw the ball back to Congress because, conceding that he had not informed Congress fully about what he was doing—an omission for which I can forgive him in light of the disclosures that have been made concerning classified information—he said the real issue is, What are we going to do about Central America? What are we going to do about the $600 million worth of equipment that the Soviet Union has put into Nicaragua in the last 12 months? What are we going to do about the attack helicopters, the HIND's, and the tanks? What are we going to do about Corinto, which is a naval port being built on the Pacific side, a port being built for the first time in the American hemisphere that will allow Soviet attack boats, if they follow the pattern of Cuba, to be based only a few hundred miles from the Panama Canal?

What are we going to do about Punta Huete, the bomber base that Soviet engineers and Cuban engineers are building right now north of Managua? What are we going to do about the air bases or the naval bases being built at El Bluff?

Oliver North challenged the Congress to scrutinize their own omissions, and their own omissions have consisted of a failure—and I am talking about the Democrat majority that has been blocking substantial Contra aid and threatens to block it again this time—to address the issue. They have completely failed to address the Soviet Union and their efforts to establish a beachhead in the Americas, to establish attack submarine bases within a few miles of the lifeline that goes through the Panama Canal, to establish attack bases or bomber bases at Punta Huete that will allow Backfire bombers to attack strategically or conventionally any city in the United States save a few in the Northwest portion of the United States.

Mr. INHOFE. Mr. Speaker, if the gentleman from California would allow me to expand on that point, I would like to ask him a question.

It is my own feeling, after the testimony of Colonel North, that the vast majority of the people of this country realized for the first time that the incontrovertible fact is that the Soviet bloc has been making those contributions to the Nicaraguan military buildup, and the figures I have before me start in 1979 with none and come up to the major shipment that was just announced the other day of $600 million, for a total of $2 billion worth of fortifications which have been contributed by the Soviet bloc to Nicaragua.

Would the gentleman not agree that it took someone like Oliver North to make people realize that that is nothing but an arm of the Soviet Union right across our border to the south?

Mr. HUNTER. Mr. Speaker, if the gentleman from Oklahoma will yield, the gentleman is absolutely correct, and he is correct with regard to what Oliver North's testimony did for the American people. Before Oliver North took the stand, the American people were taking their kids out to Little League games and catching a flash of the television and maybe hearing a little radio on their way to work, and maybe on Saturday night, going to the bowling alley, they would catch a little flash on the electronic media.

The point is that Central America is complicated. Most Congressmen, until the Central American situation arose, knew little about Central America. We knew more about Europe than we did about our own hemisphere. The American people were busy. They work. They have not had as much time as we do to scrutinize the situation and get the facts.

About half of the American people did not know what side we were on. About half of them thought that we were on the side of the Communist Sandinistas. They confused the Sandinistas with EL Salvador, and in El Salvador it is a democratic government with Communist guerrillas. In Nicaragua it is a Communist government and the freedom fighters are guerrillas.

What North did was to elevate the debate and take the shroud off this debate that liberal Democrats have liked and have worked to append to this entire issue. The point is that it is much easier, if you are a Liberal in America, to talk about Ollie North's life and times and ask why he got the snow tires, or whatever, than it is to explain to the American people what we are going to do about the Soviets' building bomber bases in our own hemisphere or what we are going to do about the Soviets building naval ports that can accommodate attack submarines a few hundred miles from the Panama Canal.

That was, I think, the great genius of Oliver North's testimony, that he raised the visibility of this issue and he framed the real issue. And the real issue is, Are we going to let the Russians establish this beachhead?

Now, we have debated and we have tortured ourselves over this issue, and we finally decided to spend $100 million for the resistance fighters. I just got back from visiting them with the gentleman from California [Mr. Dornan], the gentleman from California [Mr. Dreier], and the gentleman from Utah [Mr. Nielson] in Honduras. We are spending $100 million to liberate Nicaragua. The Soviets responded by saying that in the same period of time they are going to spend $600 million to enslave Nicaragua. In fact, they have put in $600 million in the last 12 months in tanks, helicopters, guns, and bullets, everything that the Communists who are in charge of Nicaragua asked for in order to keep their control over that unfortunate country.

That is the point, that is the issue, and that is what raises a question that cannot be answered by the Liberals in this House: what are you going to do about the Russians?

Mr. INHOFE. Mr. Speaker, if I may proceed for just a moment, so there may be no one who would question what the gentleman from California is saying, let me read from a report, a declassified report from the State Department. This was just dated a couple of weeks ago. They talk about the Soviet weapons delivered to Nicaragua: "The Augustino NATO, one of the Soviet Union's largest cargo ships, arrived at the port of Corinto to deliver the largest amount of military equipment to the Sandinistas. This is the first major shipment of Soviet weaponry to Nicaragua this year directly from the U.S.S.R. and it will keep pace with the overall Soviet bloc military deliveries to Nicaragua ahead of last year's record of $600 million."

So it even exceeds that amount.

Mr. HUNTER. That is right. In fact, it even exceeds that, and I will explain why. We voted to give $100 million to the Contras, but the $100 million has to include administrative costs, the expenses of our paperwork and our auditors and all the people that handle the equipment and transportation. So if we are talking about $100 million worth of ammunition, we have to vote for $200 million because 50 percent of our costs are administrative costs and transportation costs.

So with that $100 million we are really only going to deliver $50 million worth of ammunition to the freedom fighters, whereas the Soviets have actually delivered $600 million worth of heavy weapons to the Communists.

So the point is that they really did not beat us in the way of aid to our respective allies by 6 to 1, they beat us this year by 12 to 1. It is 12 times as important to the Soviet Union to maintain the beachhead in the Americas than it is to this country, and particularly to the Democrat majority, to free the people of Nicaragua and disestablish that Soviet beachhead.

Mr. INHOFE. As the gentleman would, I think, agree, even worse was the fact that we had a debate over whether or not to send $100 million for support of the freedom fighters in Nicaragua and the fact was that we had agreed to do it and came within a very few votes of reneging on that agreement. And I would ask the gentleman, what kind of a message would that give to freedom fighters—I do not care if it is in Nicaragua, Afghanistan, Angola, or Ethiopia—around the world?

Mr. HUNTER. Mr. Speaker, the message that has been sent repeatedly by this Congress, by the abandonment on the part of the Congress of freedom fighters over the last 20 years, has been a message that we are going to be uncertain, we are not going to be faithful to our allies, and we are not going to follow through on our commitments.

Let me digress for just few seconds, if I may, to underscore that point for my friend, the gentleman from Oklahoma.

□ 1630

If you read the book by Victor Kulak about our Vietnam experience, one of the high-ranking Marine leaders, one of the most poignant episodes is where he was talking with a village chief where we had built dispensaries, hospitals, were educating people, trying to give them better sanitary conditions, help the people of Vietnam.

After the war was over, half the nation tried to swim after us, because we were good people. He talked to this village chief and said,

"How do you like this, chief? Pretty good, isn't it?"

The chief looked him right in the eye and said, "General, none of this means anything, unless you are here to stay with us, unless you have a commitment."

The point is that we had abandoned the Cuban freedom fighters at the Bay of Pigs, and they got cut to pieces by machine guns.

We abandoned those in Cambodia, and we now have unearthed mountains of skulls that together could probably fill this room to overflowing of Cambodians lined up and executed after we abandoned the resistance at Phnom Penh and the Communists took over.

We opened the door to mass genocide that was unprecedented since Hitler's slaughter of the Jews in World War II, absolutely a genocide that occurred, partly as a result of this Congress abandoned the people of Cambodia.

We abandoned the people of South Vietnam. We essentially left in early 1970, took our military forces out of Vietnam.

The Communists invaded Vietnam in 1973, and the Vietnamese by themselves, with our air support, threw them back. They were not successful.

After the President was paralyzed by Watergate in 1974, Congress cut off funding to the Vietnamese in the South, and the Communists saw this funding by Russia double, and the Communists walked right down Highway No. 1 and took the country in a very short period of time, so the message that we have sent out over the last 15 years has not been a good message, a message that we will not be as committed as the Soviets are.

The Soviets have said, "We are committed. We will stay with you in Nicaragua to the end."

I talked with a foreign minister of Honduras yesterday, with my colleagues, the gentlemen from California [Mr. DORNAN and Mr. DREIER], and the gentleman from Utah [Mr. NIELSON]. It became clear in the conversation with the various diplomats, Honduras is very worried about the Communists across the border from them. If we abandon the freedom fighters in Nicaragua, and we let the Communists solidify their position, the surrounding countries that are little fragile democracies like Honduras are going to have to do the best they can to make a deal with the Communists in Nicaragua.

They have a military that is very much inferior to the Communist military that essentially has been built with Russian money, and Russian weapons; and they are going to see this democracy attacked and done away with, many of them feel, if we abandon the freedom fighters in Nicaragua.

Mr. INHOFE. What other choices would they have? Certainly I appreciate the expertise of the gentleman from California, who has been to Central America and seen these things, and I have not been down there since all of this came about.

It is my understanding that the total military force of the Sandinistas is now somewhere in excess of 100,000 strong; and you are talking about the Hondurans. They have somewhere in the neighborhood of 10,000, and on the south, Costa Rica, that does not even have a military.

The point the gentleman is making, they would have no choice but to join with the Soviets. We are their last choice.

Mr. HUNTER. Mr. Speaker, if the gentleman will continue to yield, they will have to at least accommodate the Soviets. The alternative is to start seeing their Cabinet ministers executed. They walk out of their house, and they are knocked over by a bullet.

Then the Soviets thought they could win in El Salvador.

When we took Grenada, we took 26,000 pounds of documents. Remember, the 10,000-foot runway at Grenada. Maurice Bishop, the former Communist leader of Grenada, later assassinated by his own comrades, he told the Members on the Committee on Armed Services, "I am not using that 10,000-foot runway for military, only for commercial, trade."

We unearthed the 26,000 pounds of documents; and they had one Central Committee meeting, one minute in which it was recorded, "The runway, of course, will be used by the Soviet and Cuban military," so Maurice Bishop had no problem in coming to us and lying to us.

Beyond that, we saw a statement that was recorded regarding Mr. Ogarkov.

When the Defense Minister from Grenada went to the Soviet Union for some training to meet with the Soviet military leaders, he talked to the top leader in the Soviet military at that time, Ogarkov. Ogarkov said, "We have Cuba, we have Nicaragua; and we are winning in El Salvador," so the point is for Americans up here, this is not a bunch of farmers out there with pitchforks who are trying to undo rightwing oppression. This is a carefully orchestrated long-range plan by the Soviet Union to cripple the United States by establishing a beachhead in our own hemisphere that will always cause us problems and be a base for terrorist operations. It is a long-range plan.

Mr. INHOFE. I appreciate very much the gentleman's comments.

I am very much concerned when I hear people say that they do not believe that the Sandinistas are in fact Communists and Communist sympathizers; and I would like to read something that came out of the State Department, and it was an announcement of a major award.

Nicaraguan Foreign Minister Miguel D'Escoto being awarded the Soviet International Lenin Prize, and this is a direct quote:

> This prize makes us Nicaraguans come into even closer contact with Lenin, that great personality of your state and of all mankind who was the passionate champion of peace. I believe that the Soviet Union is a great torch which emits hope for the preservation of peace on our planet. I admire the revolutionary principles and consistency of the foreign policy of the Communist Party of the fraternal Soviet Union.

This is something that is current and just happened, and yet until Lt. Col. Oliver North was able to articulate what we have failed to be able to articulate, there are still a lot of people in this country who did not believe that is an arm of the Communist Party located across our borders in Nicaragua.

Mr. HUNTER. One other thing I wish Ollie North had told the American people.

He quoted a lot of Communist leaders. I wish he would have recited the quote by Lenin, who was the father of modern Soviet communism, when Lenin said, "The way to the United States is through Mexico."

What our people do not realize is that there are war colleges in the Soviet Union. There are staff schools, planning schools, and planning sessions in which the leaders are attempting to follow Mr. Lenin's philosophy.

The road to the United States is through Mexico, not by assault, not through Canada or through a beachhead. It is through Mexico, which he always regarded as the appropriate avenue of approach to the United States.

We have a few weak governments, fragile democracies between my border and California, and I have the whole California-Mexican border, Arizona, and New Mexico and Texas.

We have really a fairly fragile fabric of democracy between Russian tanks; and not to digress, but I saw a businessman in Salvador, and we had been down to Panama.

He said he was going back and forth from my area in San Diego to Panama doing a lot of business. We have an economy that is very much interwoven with Central America. He mentioned that he has to fly now over Communist areas, over Russian tanks to go from my district in San Diego to his business place in Panama.

He now has to fly over Russian tanks; and that made me remember that when I am on the Honduran border next to Nicaragua, I am closer to my district than I am right now in Washington, DC.

Mr. INHOFE. It makes you wonder if there was something provincial when you realize that perhaps the testimony of Colonel North came just at about the right time.

You talk about the road from the Communist Nicaragua coming through Mexico, yes, that is where it has to come; but there has never been a time when the economy and the government stability in Mexico has been as volatile as it is today.

They have had a devaluation that they do not seem to be able to see any stop to it, and it was not long ago, I was leading a group of people to San Luis Potosi.

There the Soviets have an extensive scholarship program where they offer free education in the communities throughout Mexico, and to send these people, primarily the leaders that they can get their hands on, to the Soviet Union to be brainwashed, sent back there; and I would have no doubt in my own mind, with that volatile situation in place, that it would happen, and with the road coming through there, that is turning out to be not much of a barrier to protect us as it was at one time.

Mr. HUNTER. There are 500,000 Salvadorans now in the United States, and a lot of them walk.

The borders that we see on a map are in fact not present in reality on the ground.

Movement from those countries, and that is another aspect of what will happen if we abandon the freedom fighters in Central Ameria. We are going to see a lot of foot people.

I was in a refugee camp 2 days ago, and those refugees are going to go to two places, and they are great people; and they told me, the U.N. refugee camp because of oppression in Nicaragua, they are going to go to two places.

Honduras cannot take care of them. They are either going to go back in their own country, because we made it free and safe, or they are going to come to the United States.

Mr. INHOFE. It was worth a long trip to most of them to come to the United States.

The gentleman brought up something, the Bay of Pigs. It seems as if we do not learn too well from our history, and there are many people, and I can remember back when Castro did take over.

What people were saying at that time, they said, "Don't worry about it. It is not going to be any great foothold," and there are still people in this country, and Members on this floor, that make you wonder whose side people are on from time to time.

Just last week we had a visit from another patriot, Armando Valladares; and he is the one who spent half of his life until just last year in a Castro-Communist Cuban prison camp, La Cabana.

During that time, and I thought of this last week when I saw for the second time one of the real great Broadway plays that is going on in this country, Les Miserables, that old Victor Hugo play and story that has been around for well over 100 years.

If you remember the story, as all of us did when we went through school, the thing that was attractive about that that captured our imaginations was the atrocities of the old prison system of the pre-French Revolutionary days in that Gothic environment that caused such incredible medieval punishment to those individuals and how inhumane it was.

Last week I saw that for the second time, and last week Armando Valladares visited.

These are quotes out of his book talking about his life in Cuba, a Communist Cuban prison, La Cabana, talking about people committing suicide to try to escape the tortures.

A direct quote from an individual who was there and lived through this for 22 years:

> Suddenly from above something bulky dropped in front of us. It landed on the ground in the prison yard with a heavy sodden crunching sound. I will never forget the sound made by the man's head as it burst against the ground. The mass of his brains was seeping out through his nose. Jesus Lopez Cuevas had committed suicide by jumping off the fourth floor.

Talking about the excrement torture; and if you can think of anything more that Victor Hugo could have thought about worse than this?

> The scene was indescribable. If you didn't plunge in deep enough, you'd be pulled out onto the bank and beaten. As long as we were out in the middle of the ditch, it wasn't so easy to hit us with their bayonets, so some of the soldiers found long sticks to hit us with at a greater distance. Other guards, wanting to join in the fun of the punishment, threw rocks at us. Every time we submerged, we had to push aside the excrement so we could get our heads above water. Our hair was full of it. Our ears and the wounds on our feet and those caused by the garrison's bayonets were open doors to infection and contamination.

The last one I will share with you is some of the lengths that they went to to avoid the torture.

☐ 1645

Now, I want you to keep in mind that we are not quoting from Victor Hugo a century and a half ago. We are quoting from a gentleman who lived through this and is in America today in Washington right now, Armando Valladares. He said that on the floor there was a prisoner who [illegible] men who wanted to break their [illegible] arms. The arm would be wrapped very tightly in towels and placed between two pieces of wood. The bone breaker would raise a wood club and hit the arm. The bone would break with a muffled deadening snap without breaking the skin, although sometimes it was necessary to hit the arm several times before it would break.

As I say, I cannot think of anything more barbarian.

Mr. HUNTER. Mr. Speaker, if I could ask the gentleman, why would they break the arm?

Mr. INHOFE. They would break their arms so that they would not be subjected to the hard labor. That was one of the things that excluded them from that. Obviously, if your arm is broken, you cannot physically do the things that they were making you do.

Now, the question that follows is, all right, so those are the atrocities that we understand in a prison camp in Cuba. What relationship is that?

I will quote now from a contemporary historian:

> There are thousands of Cuban advisors currently in Nicaragua. These advisors are relaying the techniques of psychological and biological torture learned from Russian, East German and Czechoslovakian advisors in the 1960's. Recently a Cuban defector, previously a high ranking state security official, testified that there are several very high ranking Cuban prison officials in Nicaragua arranging Nicaragua's political prison system. He testified that the former director of La Cabana—that is the prison that Armando Valladares was subjected to all these atrocities in Havana, one of the most brutal political prisons in the location of political executions, Emelio Fuentes Vasco, and the former director of psychological experimentation in the political prison, Dr. Jesus Regados, are now in Nicaragua directing the extensive psychological torture program.

I think it has to be brought out that there is conclusive documentation that the prison officials that subjected Armando Valladares to 22 years of torture are now in Nicaragua teaching the Communist Sandinistas how to torture political prisoners.

Mr. HUNTER. Mr. Speaker, will the gentleman yield on that point?

Mr. INHOFE. I yield to the gentleman from California.

Mr. HUNTER. It is unusual, Mr. Speaker, that the gentleman has come across something that I had some physical evidence from just the other day. Two days ago I was in Honduras at the United Nations refugee camp. As we walked in unannounced, without any former contacts being made, the people gathered around us. I was with my colleague, the gentleman from Utah [Mr. NIELSON]. We started asking people, "Why are you here? Why did you come?"

I think it was the second or third man who said, after others had related torture and oppression by the Sandinistas, he was a man with a little, as I recall, straw hat. In fact, I have got videos of his testimony; in fact, all their testimony, that I am going to play for our colleagues.

He said, "They took me and they laid me on the ground, the Sandinistas did. They asked me why I was helping the Contras."

I said, "I am not helping the Contras. They laid me down on the ground and they took electrodes and they attached one electrode to my head and the other electrode to my leg and then they turned on the electricity, and it hurt very, very much."

Now, using electrodes for torture is not, as I understand, something that a lot of people in Central America engage in. It is a fairly new measure of torture and the Sandinistas probably got it from the East Germans, the Russians, the Cubans, and these other masters of torture, and here I saw the other day a gentleman who was still there for anybody to talk to who wants to go to that refugee camp, a victim of that new torture technology that the gentleman from Oklahoma is talking about.

Mr. INHOFE. The individual who is down there teaching this right now, Jesus Regados, has been positively identified as the individual who is bringing these new scientific, biological and psychological tortures, to the otherwise primative types of tortures they had been using up to this time.

It is a science with them. I think the point that has to be brought out by people like Armando Valladares and people like Lt. Col. Oliver North is that there is a very direct relationship between the Cuban prison camps in prisons like La Cabana and those who are in Nicaragua now, that kind of reminds me maybe we are losing the overall picture.

I can remember back in 1965 when one of I think the truly great political speeches was made, the first one that our President Ronald Reagan had made, it was called, "A Rendezvous With Destiny." In this speech he told a very moving true story about some of the Cubans who were escaping from Communist Cuba at that time and how one of them had floated up on the shore and there was a lady on the Florida coast who talked to him. He was talking about the atrocities that he had been suffering through in Cuba, in Communist Cuba.

Her comment was, "I guess we in this country don't know how lucky we are."

And his response was, "How lucky you are? We are the ones who are lucky because we had someplace to escape to."

I tell the gentleman from California, that was over 20 years go, and a lesson that maybe we have not learned yet. If we lose it here, it is lost. We are the last bastion of freedom. Those people the gentleman deals with and has talked to in Central America are fully aware of what maybe we in this country are not so much aware of.

I believe that Lt. Col. Oliver North did call that very graphically to the attention of the emotions of the American people.

Mr. HUNTER. Mr. Speaker, if the gentleman will yield further, I thank the gentleman for his comments.

With regard to Valladares, before we leave him, one thing that I saw in our Southcom briefing was a picture of a man who Valladares, who was very much an enemy of, and that Rene Rodriquez Cruz, who was one of Fidel Castro's close confidants and is the leader and the head of the Cuban Friendship League. One thing that Valladares showed to the Brazilian press that resulted in Fidel Castro withdrawing Rene Rodriquez Cruz from consideration for a cabinet post was a picture of Rene Rodriquez Cruz, the head of the Cuban Friendship League, executing a prisoner with a .45. The prisoner was slumped to the ground and Rene Rodriquez Cruz was standing there with his cocked .45, apparently ready to give him the coup de grace.

Now, we compared our two systems and we saw people on this floor and other places, some opinion leaders in America, villifying Ollie North. Here is a guy who went off, served his country, decorated in Vietnam, came back with Purple Hearts, nice wife and family, darn good guy, the kind of guy that you would like to have for a next door neighbor, a good person, fairly smart person, intellectual, but with some compassion, with some heart.

You have on the other side a guy who I guess would be the Ollie North of Cuba, in other words, in that position, at least fairly close to the President, a person who is in charge of one of their security operations.

Incidentally, it was Rene Rodriquez Cruz who sent about 300 Cuban agents in with the boat people to establish a drug trade in the United States, according to our Intelligence sources.

But here is Rene Rodriquez Cruz executing people with a .45 and, when they fall from the wall, he walks up to them and shoots them again to make sure they are dead.

I think that represents the difference between our systems. We have a system of compassion, of democracy, and a system in which there are enormous numbers of checks and balances. Only democracies—I guess what I am saying is, only democracies develop good people like Ronald Reagan and Oliver North and Jose Duarte. That is the only way you can get those people, is to have a democracy. Jose Duarte, the new leader of El Salvador, is a good man. Even TEDDY KENNEDY agrees, liberals and conservatives agree, he is a good person. He has got compassion. He held fair elections. He was a product of democracy, and yet it is inevitable that if you have a totalitarian system, a Communist system, you will never have anything better than the Ortega brothers. You will never have anything better than Rene Rodriquez Cruz, who specializes in .45 automatic executions.

Mr. INHOFE. The gentleman used the term checks and balances. I would suggest that in this country we have a system of checks and balances that sometimes does not seem to work too well, so they have to add a new more subliminal check and balance. That is what the ingredient was during the testimony of Oliver North, because it was apparent that the checks and balances in this country were lopsided, when you had one American patriot pitted against some of the highest paid attorneys, flanked by 200 other attorneys, flanked by Members of Congress, who were trying to villify him, using the gentleman's terms. That is exactly what happened, but the check and balance that came into play was not one we normally consider when we are assessing the structure of our Government. It was that check and balance of the American people and the emotion of the people back home who realized that there are few American patriots left who are willing to say, "Yes, I made a mistake. Yes, I did something. I had two choices that were not too desirable. I did the one that I thought was best. I was protecting my family."

When he got to the portion of protecting his family, I think that did bring in that check and balance that is there in a subliminal way in our system that people are not going to forget for a long time. He has done us a great service.

I would suggest to the gentleman, who I know agrees with me very much, to America, to patriotism and to our way of life, and to some values that many of the American people thought were disappearing, he has done that.

Mr. HUNTER. Mr. Speaker, the gentleman is absolutely right. Oliver North has maybe saved Central America. The battle is not over. It is about 50-50 in the polls. I think the average American still has problems placing all the players, where are the Sandinistas, where are the Salvadorans?

I think most Americans do not realize how much armament the Soviet Union is stuffing into Nicaragua in an attempt to hold that ground that they think they have right now. I think we have a big job to follow up on what Oliver North has done.

Maybe it is appropriate to say that Oliver North has gotten the attention of the American people and we have to help educate our people. The common sense of the American people is much greater than I think most politicians, most opinion leaders, give them. If we tell our people the facts and let them make the decisions, I think they are going to make the right ones, and that is to save the freedom fighters in Nicaragua and thereby to save all of Central America.

Mr. INHOFE. And the Freedom Fighters who are depending on us around the world.

Since we are running just about to the end of our time, I cannot thank the gentleman from California enough, and I think it should be evident to the American people that there are some of us who did not fall into the mode.

Mr. Speaker, I would like to read something. I was coming back from our 200th celebration in Philadelphia and in the Philadelphia Inquirer 2 days ago, I am going to quote a couple paragraphs that I think sum it up pretty well. They are talking about why was all this done. They say:

> The answer is simple. What the American people saw was genuine drama: a patriotic son of the republic who, confronted with a grave moral dilemma—whether to betray his comrades and cause, or to deceive members of Congress—chose the lesser of two evils, the path of honor. It was magnificent. The American people watched daily the anguish and pain of a genuinely moral man,

They go on to say:

> He deceived Congress, to save his friends on a field of battle. That is what the American people, deeply moved, were applauding. That is why American people laughed out loud when North volunteered that even as Justice Department lawyers were seizing documents in one room, he was shredding documents in the next.

I think it should be very clear and has become very clear to the people of America that there are a lot of patriots who perhaps do not get a fair shake in the national press and have to come out on their own, and maybe the gentleman and I can help them do that.

Mr. HUNTER. Mr. Speaker, I thank the gentleman. I would like to compliment the gentleman for taking out this special order time and talking a little bit about Ollie North and the issue, the way the gentleman has defined the issue of Central America for the American people. I agree with the gentleman that it has been a job well done.

The other day when he brought out that fact that Congress is not reliable, I was reminded of a time when we made the Libyan air strike with F-111's against Libya. The President briefed certain Members of this body and the Senate and the White House and while those planes were still in midair, we had a U.S. Senator going out to the press saying that at 9 o'clock the President is going to make a remarkable statement about Libya. In this day of the electronic media, that statement was carried instantaneously to Libya. Who knows how many defenders in Libya realized they were on the verge of being attacked and upgraded their air systems. We did lose a plane in that strike. It was something that would not necessarily give a military man like Oliver North much faith in the ability of Congress to keep a secret.

Mr. INHOFE. We have talked about a number of good things that came from the suffering which Colonel North should not have had to submit to. Certainly one of those things is to remind the people of this country that the President does have a constitutional responsibility to protect our Nation's security. Perhaps as it is clearly demonstrated, it is very unfortunate, but what Congress knows, the enemy knows.

☐ 1700

I have had this vision all during the testimony that has taken place of all of our enemies over there in the Soviet Union, in Cuba, throughout the world watching, taking notes, and replaying over and over and over again so that they will know just how our system works and how to circumvent it and to build their own causes.

Mr. DORNAN of California. Mr. Speaker, will the gentleman yield?

Mr. INHOFE. I yield for a few moments to another fine gentleman from California.

Mr. DORNAN of California. I thank the gentleman for yielding. I, too, have that same mental picture that I know is correct. Shakespeare called it our mind's eye. I can see in my mind's eye a people not known for their mirth, the geriatric set in the Kremlin with its youngest member being Mr. Gorbachev, rolling on the floor with laughter, or certainly slapping their knees, saying, comrade, pass the vodka around, and doing just what the gentleman said. After all, they buy VCR's from Japan just as we do, and their embassy records most of this, and they send all of it over there and ship it over. I can see them saying, comrade, hit the replay button, roll that segment back, including some of the statements our colleagues make at this what sometimes is a circus, sometimes is very serious, and at the hearings ricocheting back and forth between our Rayburn Building and the Senate Caucus Room.

I think we have laid ourselves naked in front of the enemy. But I will tell my colleagues that when they stopped laughing, when they got quite in the Politburo room where they were watching was when Ollie North came on, and there were a few moments before that that gave them pause. I think they recognize heroism. They knew Secord flew over 250 missions in Vietnam before Americans even knew where it was in 1962 and 1963 with little T-28 trainers that I flew 30 years ago for pilot training, and he puts bombs on there and is supporting the Vietnamese troops before we were aware how serious that conflict was of Communist aggression. So they probably paused a bit during Secord. Jake Singlaub got their attention. Their surrogates in North Korea were up against him as the Chief of Staff of the 8th Army for 3 years. But they all stopped laughing when North began his magnificent 6 days.

I do not know whether my dear friend and colleague from southern California, Mr. HUNTER, has talked about the fact that we have just come back from 4 days. Did my colleague mention that?

Mr. HUNTER. If the gentleman will yield, I mentioned that we came back from 4 days, and that the magnificent gentleman from California, BOB DORNAN, was our Codel leader for those days, and that we had a trip to Panama, El Salvador, and Honduras.

Mr. DORNAN of California. It was truly a small "d" democratic Codel because the gentleman went off to the refugee camps, and HOWARD NIELSON, our good friend from Utah, the grandfather of 22, went off to talk to little grandchildren and children of other people who want freedom in Central America, and the gentleman from southern California, DAVE DREIER, our colleague, went up to LaCeiba to see the aging, corrosion ridden French-built super Mysteres that are also some 30 years old that we would like to replace with F-5's, which interestingly were first called freedom fighters. That is the name of that airplane.

We covered the turf pretty good, starting off with all day in Panama, at Southcom getting a briefing about the tremendous human rights violations of the Guardia General who dominates that country, Noriega, our excellent new general down there, General Warner, and then we met with Duarte at 11 o'clock at night in his home coming back from all day with President Cerezo of Guatemala. We have two of the best ambassadors in Honduras and El Salvador I have ever seen.

How else could you describe Ed Corr rather than he is a regular guy, an all American.

Mr. HUNTER. He is a native Oklahoman, which I am sure makes him okay with our colleague from Oklahoma, Mr. INHOFE. But he is tough minded, compassionate, a commonsense guy, and absolutely does not look like my idea of some of the ambassadors that I have seen, particularly in Europe. He is a hands on guy. He took us down to the ruins at the school. His wife is helping to rebuild that school and the churches. He got the tin for the families that were displaced by the earthquake to build their homes, and he was particularly proud of the fact that of all of the nations in the world, after that earthquake, that 6 seconds that Mr. Duarte said cost him more than all of the guerrilla activity for 6 years, only America sent assistance, only American people sent help.

Mr. DORNAN of California. That is right, nobody else in the world. Big show. We are the world, we are the people. Not in this hemisphere, no rock stars performing as they used to for Ethiopia, even though more people are dying there now.

But remember what his staff told us, and we kind of gouged it out of him. When all of the communications were destroyed in the capital city of El Salvador there were two people that were running the rescue operation and pulling dying and dead people out of the rubble. Ed Corr had one radio right to a helicopter in the air, one clear radio talking to the chief of staff of their Army, and Mr. Duarte could not do much as the President because he was out in the countryside and walking precincts, and he was coming back in the city. And our Ambassador was literally putting his radio down and pulling people out from under the rubble.

What did he tell us? He did not sleep at all the first night, 2 hours the second night after the earthquake, 2 hours the third night, and 4 hours each of the next 2 nights. That is the kind of ambassador that our President can be proud of, and that is truly his representative.

And Ken Briggs, the Ambassador in Honduras. We went in for a country team briefing, and if there is anything indicative of an ambassador who is hands on, as Duncan said, it is when the country team does not have to brief you because he gives you the economic picture, the military picture, and the political picture. He was 3 years in Panama before he came to Honduras.

I just got off the phone with the President of the United States of America, the leader of the free world, and I told him we want to go and see him, Duncan, and he said come on down, and bring Dave Dreier, and Howard. He called me because he just saw Hanoi Hilton at Camp David over the weekend, and he wants to know why every American has not seen this film. He said I want a full report, and I said, Mr. President, I want to see you when Duncan Hunter tells you what 100 wounded young Contra freedom fighters did when we told them that until January 1989, God willing, that you are in their corner, and you will never stop supporting them and being behind them. It was a moving scene to see those young people, some of them standing up on one leg, tears running down their faces, applauding and cheering Ronald Reagan.

Mr. HUNTER. The young men were saluting from their bedsides.

Mr. DORNAN of California. Saluting the President because we said you are freedom fighters, you have four votes here and we are going to try to go home and convince our fellow colleagues on both sides of the aisle that this is a worthy fight. And I said, the doctor yelling out the translation as fast as I could talk, we are all north Americans, and you are dying for us, and the least that we can do is to wage some tough political battles for you up in the capital of the free world, which also happens to be the Capital of the United States.

Mr. INHOFE. The two gentlemen from California have had an experience I have not had, and I am very envious because everyone I have talked to and who has been there has seen what is going on, and those of us who have read it, and those of us in the past who know something about the culture from our personal experiences down there, everyone who comes back who has seen it recognizes that we have got to do all we can to keep our commitment to the freedom fighters there and elsewhere in the world.

I think this gets right back to the subject we are talking about, because it is impossible for all of the American people, for the millions of people in America who do not really known and cannot go down there and see firsthand why our presence is absolutely necessary for the protection of our freedom in this country. And that is what Lt. Col. Oliver North did. He communicated to those individuals, millions of Americans who were not real sure, who had some doubts, who have been reading and watching the liberal media, the national media, that perhaps we were not doing the right thing down there, now they know that we are. It is the second best thing to being there, as you gentlemen were.

Mr. DORNAN of California. Will the gentleman yield for a second? It is like during civil war. Codel Dreier, which will be going down at some point in the next 2 months, is forming right now. The gentleman's name is on the short list to be asked to go down there again with David Dreier, who was with us on this Codel, and I hope we set a precedent with our meeting this week in the Oval Office with the President, that every Codel that goes down there, at least those that are supportive of his policy, will meet and report to the Commander-in-Chief about our experiences down there. I told him, I said, Mr. President, your policy in Central America is working. It is fragile, it could unravel quickly, but it is working, and we want to tell you why it is working and give you a firsthand report. And I said do you want to call Howard Baker. And he said why don't I call him, Bob, and set up the appointment, and I said, sir, if you do that, the appointment is on. So we will see him later in the week, and I want you to go down there. I am going to tell him about this special order for Ollie North, and you will come back and give him a report when you get back of first impressions. First impressions are valuable anywhere sometimes, not always the best, but my first impression down there has sustained me through my 11th trip that I returned from last night. And this is a worthy cause for us, and all this fighting and bloodshedding is taking place north of the Panama Canal. This is not South America; this is North America, and the Soviet, Cuban axis is trying to plant a Soviet colony on that land bridge, as the gentleman from Illinois, Henry Hyde, our colleague, said it in those hearings today, on the land bridge. We are now looking at Soviet gunships helicopters tearing up teenagers who are fighting in our name.

Mr. INHOFE. I thank the gentleman very much for his comments, as well as the other gentleman from California, and I am grateful for the opportunity to take this special order. I hope people realize there are some patriots here in Congress who disagree with those atrocities suffered by our American patriot, Oliver North.

Mr. DONALD E. LUKENS. Mr. Speaker, I rise today to comment on the Iran-Contra hearings and the liberal left's obsession with trying to destroy President Reagan, and in the process, abandon the freedom fighters in Central America and destroy American security.

The Iran-Contra Committee's action this past week has revealed the liberal left's intention to get Reagan and therein allow the Communists to consolidate power in Nicaragua by abandoning the freedom fighters. This scheme was revealed when members of the committee successfully blocked Lieutenant Colonel North's slide show on Central America and the Soviet beachhead being established there.

For 6 months Members of Congress have taken potshots at Lieutenant Colonel North. Why won't he talk? Why won't he tell the complete story? Why won't he tell the complete story so the American people can learn all the facts?

But what happened when Lieutenant Colonel North offered to show his now famous slide show on the Communist takeover and buildup in Nicaragua? The liberal left did not want them shown. Why? What were they afraid of? Where were all the liberals that have been demanding that the American people need to learn all the facts?

What the liberal left did not want America to see was the billions of dollars of Soviet and Cuban military supplies in Nicaragua—the Soviet helicopters, guns, and ammunition and the thousands of Soviet, Cuban, Bulgarian, and East German Communist military advisers. What has been revealed is the liberal left's attempt to keep the buildup of Soviet military power in Central America from being shown to the American people, and they don't like it. The liberal left has been exposed this past week and the American public is awakening to the threat of communism in Central America and the liberal left's attempt to abandon the freedom fighters.

It is unfortunate that the left would allow communism to consolidate its power in Central America in an effort to tear down President Reagan, but that is what it is trying to do. Why are they doing this? It's politics, plain and simple. They want to destroy President Reagan and gain a political advantage and an upper hand in the 1988 elections. However, this effort by the liberals is not without precedence. Former White House speechwriter, Ray Price, has written an article which outlines the left's efforts in recent history to attempt to tear down a President, and therein threaten national security, in an attempt to gain political advantage. The article, which I am submitting for the Record, appeared in the New York Times on Sunday, July 12. This article goes to the heart of the Iran-Contra hearings and the liberals efforts to undermine our national security.

The Iran-Contra Hearings: Needless Muck

(By Raymond Price)

A visitor from Mars—or from Europe—who tuned in the Iran-contra hearings might well wonder what on earth is going on here. What's the purpose? Why is the nation being put through this particular ringer by all these sanctimonious and solemn members of the House and Senate, with their hundreds of staff aides and lawyers and investigators and press-release writers, not to mention the armies of jostling reporters and cameramen and technicians and producers?

Is it really to find out what went wrong in the botched Iran initiative and in the use of funds from it to keep Nicaragua's democratic resistance alive? If anyone really believes that, I'll quote him a terrific price on the Brooklyn Bridge.

If Congress's real concern were to learn the facts, it would have had the inquiry conducted behind closed doors by a subcommittee. That's what you do if you're serious about substance. But if your aim is political theater and you think you may have the makings of a hit daytime soap opera, then you stage a TV spectacular.

There are two answers to the question of why opportunism and fear. Opportunism by the President's opponents in Congress, who see a vulnerability and are out to exploit it to the hilt; fear by the Administration itself and its Congressional supporters that if they show any less public enthusiasm than the Democrats for "getting at the truth," whatever the cost, they will be pilloried by the heavy-breathing news media and die the political death of a thousand cameras.

The business of Congress is politics. In a television age, politics is public theater, and anything that can lure the cameras of every network to a Congressional hearing room, pre-empt regular programming and dominate the evening news is box office boffo. Anyone who forgets these propositions risks missing the essence of the Iran-contra hearings.

Setting aside the entertainment value, what are we as a nation getting out if it?

We're getting the compromise of intelligence sources and methods. We're getting an international spectacle of America's characteristically obsessive capacity for self-immolation. We're getting dismay among friends and allies, and an object lesson for anyone who might be tempted to cooperate with us on sensitive matters on why it's lethally hazardous even to consider doing so. We're getting the distraction of already overburdened policy makers from their primary duties for months on end.

We're also getting a sapping of the President's—and therefore the nation's—ability to deal with real and immediate crises from the Persian Gulf to the trade wars, and with issues as crucial to the long-term future of the West as the defense of Europe and arms negotiations with the Soviet Union.

And if the left succeeds in torpedoing the Administration's efforts to keep the democratic resistance in Nicaragua alive, we risk the loss of Central America and an aggressively expanding Soviet foothold on the mainland of the Western Hemisphere.

It's no coincidence that the Iran-contra issue became a Congressional obsession almost the moment the Democrats regained control of the Senate in last year's elections.

Theatrical hearings designed to lay bare the sins of the executive branch occur when, and only when, one party controls Congress and another holds the White House. In recent decades, Congress has been essentially a Democratic fiefdom.

Thus, we have had such hearings in the Nixon and Ford Administrations (in the Ford years, a grandstanding Senate committee virtually destroyed the Central Intelligence Agency as an effective instrument of United States policy), and in the last two years of the Reagan Administration, but not in the Kennedy, Johnson or Carter Administrations.

Nor did we have them in the six Reagan years when the Democrats controlled only one house of Congress and still feared his political clout.

The purpose of the present exercise is to damage, and if possible destroy, another Republican President on the eve of a Presidential election. If this undermines the nation as well, that's the way the cookie crumbles. After all, politics is hardball.

However, as Lieut. Col. Oliver I. North correctly put it. Ours is a nation at risk in a dangerous world. "Our adversaries do not play by Marquis of Queensberry rules, nor do they routinely have their guts ripped open and spilled out on the table by Congressional committees determined that nothing shall ever be done in secret, or in private—except of course by Congress, which allows no intrusion on its own privacy except by its own consent.

In his statement summing up the first phase of the hearings, the chairman of the House Select Committee, Lee Hamilton, put as the first of his several questions and concerns that "our Government cannot function cloaked in secrecy."

Wrong, and if the chairman of a committee dealing with covert activities really believes this, we're in deep trouble.

In sensitive foreign policy matters, secrecy—another word for privacy—is the first essential. And unless covert actions can be carried on covertly, the United States will have one arm tied behind its back in a deadly serious struggle in that, no-man's-land between peace and war.

With Congress behaving the way it does, we need more shredders, not fewer. It's not just a matter of preventing "disclosure" of sensitive information. It's also a matter of preventing abuse and distortion—with armloads of documents whooshed up to Capitol Hill, sifted, sorted and then those tidbits that might be perfectly innocent in context but look appalling out of context selectively leaked to an eagerly waiting press. The process not only produces the intended political embarrassment; it also chills discussion, erodes trust, works immense personal hardship on innocent individuals and causes diplomatic havoc.

The rape of privacy serves the interests of the news media and titillates the curious, but it cripples even the most upright government.

The United States has got to learn to act like a great power. The world's future depends on it. The nation's safety depends on it. We cannot do this as a house divided and at war with itself.

As long as Congress keeps dragging us down into the muck of its own petti-fogging quest for political advantage, we cannot and will not be able to act as the times require. It's as simple as that, and as serious as that.

ANNUAL REPORT ON FEDERAL ADVISORY COMMITTEES—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Government Operations:

(For message, see proceedings of the Senate of today, July 21, 1987.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. Miller] is recognized for 60 minutes.

[Mr. MILLER of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. Frank] is recognized for 60 minutes.

[Mr. FRANK addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

JAPANESE AMERICAN REDRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. Dymally] is recognized for 60 minutes.

Mr. DYMALLY. Mr. Speaker, tonight I have reserved time to speak on an issue which I consider to be of extreme importance.

Mr. Speaker, 1987 has been an extremely eventful year bringing with it many occurrences which have brought a special focus onto our Constitution, and the very laws upon which our Nation was founded. And how fitting. For 1987 is the bicentennial celebration of our Constitution, that venerable document which embodies those very special principles of American democracy. And yet, amidst all the fanfare and bicentennial celebrations, 45 years later, an entire American ethnic nationality is still seeking justice.

We are talking about 120,000 Americans of Japanese ancestry—some of whom were given 48 hours to pack 48 years of their lives—only what they could carry—and herded at gunpoint into awaiting tarpaper shack camps.

We are talking about 120,000 American citizens and legal resident aliens who were barred from citizenship by discriminatory laws. American citizens who were denied legal counsel, charged with a crime they did not commit, and denied due process of law.

American citizens who volunteered to serve in the U.S. Army, while their own families and loved ones were deprived of liberty and imprisoned in these barbed wire camps. Young Japanese Americans who fought in the 100th 442d Battalion, rescued the Texas Lost Battalion, and were named honorary citizens of that State, and suffered the most casualties of any American battalion which saw action in the European theatre during World War II.

Americans of Japanese ancestry who turned desert wastelands into fertile, productive farmland, who helped develop the fishing, cannery, and agriculture industries.

PRESIDENTIAL COMMISSION

In 1981, a Presidential Commission on Wartime Relocation and Internment of Civilians [CWRIC] heard testimony from 750 witnesses in public sessions across the country. These witnesses included survivors and their former wardens. An exhaustive review took place of thousands of government documents, many never before examined, including records of the War Department, FBI, and Naval Intelligence.

The result was a 467-page document entitled "Personal Justice Denied," produced by the Commission—CWRIC—which unanimously declared that Japanese Americans had been victims of a grave injustice which was caused by "race prejudice, war hysteria, and a failure of political leadership."

The report indicted Assistant Secretary of War, John J. McCloy, who directed the internment program and who had, during his testimony, blurted out that he considered the internment a justified "retribution" for the attack on Pearl Harbor, showing his continued inability to recognize Americans of Japanese ancestry as bona fide American citizens. Also criticized were Secretary of War Henry L. Stimson, President Franklin Delano Roosevelt, General DeWitt and the system of civilian control of the military.

The Commission—CWRIC—report provided a renewed impetus and an authority to the redress effort in Congress.

I continue with the words of Peter Irons, professor of political science and director of the Law and Societies Program at University of California, San Diego, and counsel to Fred Korematsu in his successful Supreme Court case, in the winter/spring, 1986 issue of New Perspectives magazine:

> Recent judicial decisions have also strengthened the compelling moral case for redress. They have revealed a shameful record of misconduct and deceit by those wartime officials who ordered and defended the internment program. They have exposed a shocking disregard for the constitutional protections that stand between American citizens and military fiat. No amount of deference to authority, civil or military, can excuse the fraud of "military necessity" that rested on nothing more substantial than the phantom fears and prejudices of General DeWitt. The internment of an entire ethnic minority on the basis of such deceit, disregard, and fraud requires more than apology. What is required is adequate redress to those who lost their liberty.
>
> Why should redress be awarded as monetary compensation? Why should not a sincere national apology, offered by the Congress and the President, suffice to salve the wounds of internment? Why should the present generation of Americans, most of whom bear no personal responsibility for the internment, pay for injuries that were inflicted by an earlier generation? Why should Japanese Americans, who exceed the average in education and income, seek a "windfall" at the expense of the public? Why should we risk the aggravation of public hostility toward Japanese Americans by creating an atmosphere of "Japan-bashing"? Those who reject the case for redress, and others who are not yet convinced, have raised such questions and deserve answers.
>
> The case for monetary compensation rests on the legal and moral principle that we "make whole" the victims of injury in a meaningful way, and at the cost of those who inflicted the injury or bear its responsibility. Let me turn the question on the reader: how much would you feel entitled to for the loss of three years of your freedom, if you were held unlawfully? Simply an apology? Should the Soviet government pay redress to Anatoly Shcharansky, or simply offer him an apology? If the principle of redress is not universal, it is empty. If compensation is due, how much is enough? The figure of $20,000 for each internment survivor, proposed in the pending bills, is hardly excessive as compensation for three years of unlawful detention. In 1971, some 1,200 peaceful demonstrators gathered on the U.S. Capitol steps to listen to Members of Congress who opposed the Vietnam War. The domonstrators were unlawfully arrested and held without charges for one or two days; in 1975, each person received a $10,000 award for violation of constitutional rights and unlawful detention. An award of roughly $20 per day to Japanese Americans is modest indeed.
>
> Why should the present generation pay this overdue bill? The people of Germany continue to pay compensation to the Holocaust survivors, who suffered at the hands of an earlier generation. Should present-day Germans shirk their responsibility? Japanese Americans suffered through almost 40 silent years before Congress and the courts recognized the injustice inflicted on them. To blame the victims of this trauma for their long silence would ignore the painful time they needed to find their collective voice.
>
> The case for redress is a case for national fairness and repentance. The evidence is clear that Americans inflicted a grave injustice on an entire group of fellow Americans, whose only "crime" was their ancestry. Gordon Hirabayashi, when his criminal record was erased after 40 years, offered the most compelling argument for redress: "Ancestry is not a crime."
>
> At the end of this month, about 120 delegates of the National Coalition for Redress/Reparations [NCRR] are coming to Washington, DC, from across the United States to put in a personal appeal to their legislators to support passage of H.R. 442, the Civil Liberties Act of 1987. It has been inspiring for me to witness the commitment and dedication of the Japanese American community and their supporters who have saved their hard-earned money and vacation time to visit us in Washington on behalf of redress.
>
> Of the original 120,000 internees there are only 60,000 survivors today. For these survivors and supporters of redress, 1987 would be a significant year to win passage of H.R. 442 and S. 1009 its companion bill in the Senate, which now has 76 cosponsors.
>
> In this year of the bicentennial of the United States Constitution, it would indeed be sweet for the Japanese American community to realize this long-awaited and long hoped for aspiration toward justice.
>
> This is also the 100th session of Congress and, as such, one which will be looked back upon as a landmark in congressional history. And what better opportunity to have recorded a piece of landmark legislation bringing restitution to an entire ethnic nationality who were terribly wronged during a time of war and unchecked prejudice. And what better time to bring to a closure a most unhappy and unfortunate chapter in American history with a strong epilogue of justice and redress and hope.
>
> I would like to close by offering a deep and heartfelt commendation for the hard work and commitment shown by the Japanese American community on this issue of justice. And for the active leadership on this legislation shown by my colleagues, the gentlemen from California, Mr. MINETA and Mr. MATSUI; the gentlewoman from Hawaii, Ms. SAIKI; our majority leader, Mr. FOLEY, who introduced H.R. 442; and our colleagues in the Senate, Mr. MATSUNAGA, and Mr. INOUYE.

Mr. Speaker, I am happy to yield to my good friend from Michigan [Mr. BONIOR].

Mr. BONIOR of Michigan. I would just like to commend my friend from California for raising a very important issue in this 100th Congress, that is the legislation that concerns restitution for a part of American society that I think has been terribly wronged. I just wanted to thank the gentleman and commend him for his eloquent statement.

Mr. DYMALLY. I thank the gentleman from Michigan for his kind words. I know he is deeply committed to this redress issue as are other Members of Congress.

Mr. Speaker, I yield back the balance of my time.

WHO ARE THE CONTRAS? WHAT ARE THEIR METHODS? WHAT ARE THEIR CHANCES OF WINNING A WAR IN NICARAGUA?

The SPEAKER pro tempore (Mr. JONTZ). Under a previous order of the House, the gentleman from Michigan, [Mr. BONIOR] is recognized for 60 minutes.

Mr. BONIOR of Michigan. Mr. Speaker, 2 weeks ago we heard a lot about the Contras from Colonel North during his testimony before the Iran-Contra committees. But I think it is time now to remind the American people just who are the Contras and to examine the record on who the Contras are, what are their methods and what are their chances of winning a war that has lasted 6 years without any significant military victory?

Most importantly, what are the Contras' chances of winning the hearts and minds of the Nicaraguan people?

It will quickly become clear that nothing could be further from the truth than President Reagan's claim that the Contras are the equivalent of our Founding Fathers.

A February 1987 report by America's Watch, one of the most respected human rights organizations, states that the Contras still engage in selective but systematic killing of persons they perceive as representing the government, engage in indiscriminate attacks against civilians, engage in outrages against the personal dignity of prisoners and kidnaping of prisoners for the purpose of recruitment as well as intimidation.

According to America's Watch, a significant number of kidnap victims are children. Mr. Speaker, the problem of the Contras human rights abuse is not new. Last year charges of human rights abuses by the Contras were so prevalent that the Congress appropriated $3 million to set up a special office to give human rights training to rebel combatants and to monitor their progress.

How has that human rights office faired? Well, according to a June 2, 1987, New York Times report 1½ months ago, Contra human rights officials have charged that military commanders have hampered, hampered their investigations. Contra commanders have barred human rights monitors from entering border camps because they tended to interfere with the military chain of command. In addition, human rights monitors have been blocked from visiting prisoners in rebel jails and discouraged from investigating past charges of beating and rape of female prisoners.

Mr. Speaker, before the next vote on Contra aid we are going to hear a lot about Contra reforms and the new civilian leadership. The current reorganization of the Contras as announced in May of 1987 is the ninth attempt at reform, the ninth attempt at reform. But it is nothing more than a facelift. The Contras will have to change more than their name to change their identity. In spite of the many attempts at reform over the past 6 years, the military leadership of the Contras has remained virtually unchanged. Political moderates have been unable to control military operations, corruption is rife and numerous allegations persist of Contra drug smuggling. Hearings persist at this very time in this Capitol on those Contra drug smuggling charges. The continuing problems of Contra leadership led to the resignation this spring of Arturo Cruz, the best known political moderate and democratic supporter in the leadership of the Contras.

He is the fellow that people on this side of the aisle got up time after time, year after year and praised as the person who would lead the Contras to a more democratic, a more open and more humane organization.

Mr. Cruz now has gone, he has left and for good reason.

The overwhelming majority of the Contra high command are still former officials of Somoza's hated national guard. Twelve of the 13 of the high command of the Contras are from the national guard. Unless and until that figure changes, there can be no talk of Contra reform. Unless and until the basic military command and tactics of the Contras change, the Contras will be unable to win the support of the Nicaraguan people.

□ 1730

The America's Watch report summed the problem up very well and I quote:

> The escalating brutality of Contra practices combined with the human rights office's failure to carry out adequate investigations leads America's Watch to conclude that disregard for the human rights of civilians has become a de facto policy of the Contra forces. Contra violence against civilians has indeed been so systematic as to alter public feeling toward rebel forces in some areas formerly sympathetic to them.
>
> Many Miskitos (Indians) on the Rio Coco (River) now consider Kisan (the Miskito Contra force), not the Nicaraguan Government, to be the greater threat to their safety and livelihoods.

And who are the victims of the Contras? Too often they are noncombatants, including women and children. They are people like:

This 5-year-old boy whose leg was fractured by a Contra bullet on February 15, 1987.

This 7-year-old victim of a Contra road mine that exploded last October.

This 22-month-old girl who lost her arm in a Contra attack in December. Her father was killed and her mother was wounded.

On December 9, 1986, in a small Nicaraguan farming village, six civilians were killed in a Contra attack. In separate interviews, observers gave nearly identical accounts of what happened: A 9-month-old infant was bayoneted to death; two elderly women were executed lying on the bare dirt floor of their home; a pregnant woman was shot in the stomach.

After seeing these pictures and hearing accounts such as these, is it any wonder that the Contras lack popular support among the Nicaraguan people,

The Nicaraguan people have suffered enormously from the Contra war.

War is brutal and noncombatants often are killed. But the numbers of civilians killed by the Contras have greatly hindered their cause.

And what are the targets of Contra attacks? They are: tractors, grain silos, buses, health clinics, and power lines.

In 6 years of combat, the Contras have not yet taken a significant piece of Nicaraguan territory.

We will hear a lot about Contra military success between now and September. We will be told that with just one more installment of $100 million plus, the Contras will be able to win.

If, after 5 years of brutal war and countless millions of dollars if, with the full support of the U.S. Government, both officially and unofficially if, after all this, Mr. Speaker, the Contras have not been successful, how can we expect things to change now?

The Contras remain a guerrilla force relying on hit and run attacks against soft economic targets. They have captured no military bases, they have not taken any Nicaraguan territory.

They terrorize the people they are trying to save from the throes of communism. They use landmines which indiscriminately kill more civilians than soldiers. They kidnap teenagers to fill their ranks. They stand accused of running drugs to fund their cause.

In the June 1 issue of Newsweek, reporter Rod Nordland wrote about the time that he spent with the Contras this spring when they were staying with the family of a Campesino named Obediente.

> Consider what our group of Contras did, then, to cement Obediente's loyalty. We ate his chickens, beans, tortillas, bananas, plantains, cassava, grapefruits, and agreed with him that it was a pity other Contras had already eaten the eligible pigs. We slept in his yard, despite standing orders to camp away from homes lest civilians are killed in an attack. We sent him out to scout the hills for Sandanistas at night, and before dawn we walked him on the point.

For those unfamiliar with the term, "walking on point" means offering oneself as the sacrificial lamb in the group in case of ambush or the explosion of landmines. This poor Campesino will never forget the night he was visited by the Contras.

Mr. Speaker, the Contras are not freedom fighters. They are not the moral equivalent of the Founding Fathers.

The sooner this message gets out to the American people, the more certain will be their decision not to allow U.S. tax dollars to flow in support of the Contras.

The Nicaraguan people have suffered enough. The Reagan administration has tried its strategy and failed. Now it is time we tried ours.

It would be immoral for Congress to continue funding the Contras any longer—when they have no hope of success. It would be immoral to send precious tax dollars to Central America to kill innocent victims, when our own people need so much.

Mr. Speaker, I call upon my colleagues to end Contra aid once and for all this fall, and begin down a path toward peace in Central America.

Mrs. BOXER. Mr. Speaker, will the gentleman yield?

Mr. BONIOR of Michigan. I yield to the gentlewoman from California.

Mr. BOXER. Mr. Speaker, I would first like to thank the gentleman from Michigan [Mr. BONIOR], who has been such an inspiring leader on this issue. His has been a voice for reason and sanity that we value very much here in the Congress.

I think it's important that we talk about the Contras—tell the American people what we know, on the record, about the Contras—and then let the American people have the facts when they are asked by the President to spend 140 million of their hard earned dollars for this group. We've heard a lot about the Sandinistas but let's be clear—we're not funding the Sandinistas, we are funding the Contras—without us, they are nothing. So we are responsible for what they do. So let's see what they do.

Our President has characterized the insurgent rebel force in Nicaragua as freedom fighters, like our Founding Fathers committed to democracy. However, nothing that the President can say and no report from the State Department can deny the fact that UNO, the civilian umbrella organization for the Contras, has been an unqualified failure. In fact they have been characterized as "liars and greed-and-power motivated and not the people to rebuild a new Nicaragua." This characterization comes from none other than "The Courier," Ollie North's right hand man Robert Owen. Who knows the Contras better than Mr. Owen?

The Contra leaders are overwhelmingly former Somocistas who do not have any experience with or respect for democracy. Many learned their tactics in Somoza's national guard. The evidence can be seen in their tactics. They place land mines on roads that Nicaragua civilians must travel resulting in numerous deaths and crippling injuries, they are kidnaping civilians for their armies and they are keeping in their ranks men with odious reputations to the people of Nicaragua.

Let us talk for a moment about land mines, one of the most devastating weapons currently being used by the Contras in Nicaragua. A report by the respected group America's Watch from December 1986 concludes, "there is no real debate as to who is laying the mines that are killing and injuring civilians in Nicaragua: It is the anti-Sandinista rebel forces or Contras." The report goes on to say that the Contras have made no effort to warn the civilian population of the placement of mines. The mines often strike civilian targets because they are placed on main highways that serve as essential routes for civilians. The mines are contact mines and explode when hit by a vehicle.

Now I ask my colleagues, when an organization such as the Contras takes no account of civilian casualties, casualties that could easily be avoided, what implications does this have for the people of Nicaragua should the Contras actually come to power? I would say it is rather ominous. Here is a group seeking to run the country—bring their gift of governance to the people of Nicaragua and what do they do on a regular basis? Inflict civilian casualties.

Let us talk for a moment about forced recruitment. One of the administation's frequent assertions is that the Contras have achieved popularity evidenced by their large numbers. This provides the image of oppressed Campesinos happily throwing down their plows and rushing to sign up with the freedom fighting Contras. But this is not really the case. Frequently, Contra numbers are swelled by the forced recruitment of civilians.

In a June 22 New York Times article, James LeMoyne provides a vivid example of how the Contras flagged down a bus, separated out the male passengers, and forced them to walk to a Contra camp. Although many of the men were fortunate enough to escape, LeMoyne spoke with a young man who simply wanted to go home. The man has a wife and two young daughters and parents still in Nicaragua. From forced marches his feet have swollen up to twice their normal size and he cannot walk. But still the Contras force him to stay among their ranks. LeMoyne says this is only one of several reports of forced recruitment.

Let us talk for a moment about the so-called leadership of the Contras. A report prepared last year by the bipartisan Arms Control and Foreign Policy Caucus identified such inspiring leaders as Capt. Justiciano "Pino" Perez who serves as the FDN liaison to various Indian forces.

□ 1745

According to the U.S. Defense Intelligence Agency, Perez began his freedom fighting career with the precursor of the FDN, the 15th of September Legion. In 1981 and 1982, Perez led a small group of former guardsmen on such noble missions as bombing a Nicaraguan civilian airliner in Mexico City, hijacking a Costa Rican airliner in San Jose, and sending a suitcase bomb on a Honduran civilian airliner that exploded in the civilian area of Sandino airport in Nicaragua. Do the ends justify the means? Not in our civilized society.

Before summing up, I would like to take a moment to read several cases that have been documented by Witness for Peace, a grassroots, faith-based movement which has maintained a continuous presence of United States citizens in the war zones of Nicaragua since 1983.

Here is one:

Six Civilians Killed, 43 Injured When Public Transport Hits Contra Mine

A civilian transport truck carrying 51 civilian passengers ran over a contra land mine one half-mile south of Pantasma, Jinotega, on October 20, 1986, killing six and wounding 43 people. Among the dead and wounded were many women and children. Witness for Peace investigator Patricia Manning was at the scene within three hours of the explosion.

A couple more examples:

One Killed in Attack in War-Torn Panali Area

On June 14, 1987 at 12 A.M., about 80 contras attacked the resettlement community of Panali, 3.5 miles east of Quilali, killing one militia member and injuring at least seven people. Three large caterpillar tractors were destroyed along with a seed corn storehouse.

Contras Kill 5-Year-Old Girl, Injure Three

A group of 20-30 contras attacked a private home in the community of Yerbabuena, two miles south of Waslala, Northern Zelaya on June 2, 1987. They killed five-year-old Carmela Centeno with a grenade and wounded her adoptive mother. Two members of the community militia were also wounded.

All of these incidents describe loss of lives, including those of women and children, and destruction of buildings and equipment necessary for farmers' livelihoods. There is nothing strategic about killing civilians, or destroying their farms and homes. If these actions are strategic, it is not a strategy I want my country to support.

It is no wonder that the Contras cannot hold any ground in Nicaragua and are forced to conduct hit and run terrorist raids. For an army to capture the imagination and support of the people, the army must show that it is a force for progress and can help to make life better than the government in power. Now I do not suggest that the Sandinista government is a model government. But the issue for us is: Are we really helping the people of Nicaragua by funding the Contras? I say an emphatic no. In the name of decency and life and liberty, let us abandon this failing and immoral policy and work with the countries in the region to bring peace and democracy to Nicaragua.

Mr. BONIOR of Michigan. Mr. Speaker, I thank the gentlewoman from California for the fine remarks, and for the gentlewoman's concern and interest and help on this issue.

I just want to say how difficult it is for me to understand how others cannot understand why the Contras have not been successful.

It should not take much to figure out that a country that comes to power, that establishes literacy for the people who could not read for ages, establishes health clinics, that grants landless people land, 5 to 10 acres in title plots, this is what the Sandinista government did the first 2 years.

They are continuing to do this to the extent that they can, given their economic situation. This is what they did after they came to power.

They made that their top priority, health care and education and land for the landless.

We come in, and we build up this army of Contra forces controlled by the demons of the former government, these butchers that were part of Somoza's National Guard funded with CIA money. We build up this force to come into the country to destroy the health clinics, to burn the land; and then people wonder, well, why are they not embraced?

Why have they not had any military success? It is because of that basic dichotomy, and it has taken 6 years, and

I hope Members of this body will start to focus in on the fact that they will never be successful in their country. They do not have the formula. They do not have the values.

They do not have the strategy, the confidence of the people of Nicaragua. As bad as things may be ministerially, and certainly economically within the existing government in Nicaragua, the peasants, the average Nicaraguan is not going to want to go back to a landless existence, to an existence where his children grew up without any hope of a future of not being able to read or write, to an existence where kids under the age of 6 routinely die because of poor health care.

They do not want that; and when we hear about Nicaraguans who are living in Miami and who come here and lobby for the Contra cause, we are hearing basically from the upper class, and what is a small middle class in Nicaragua.

The fact of the matter is, and the reason that the existing Government got 67 percent of the votes, and the election that was held was as fair as any vote in Central America in a long time, certainly as far as the Salvadoran vote, and the reason they got two-thirds of the vote was because of some of the things that we have talked about here today.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. BONIOR of Michigan. Mr. Speaker, I yield to the gentleman from California.

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding.

I also want to thank the gentleman from Michigan for taking the time to discuss this issue. The gentleman has made an important point.

Let us remember that many of the actions of the Sandinista government—actions that are now lamented by those people who support the Contras—took place after the creation of the Contras; prior to the creation of the Contras, as the gentleman from Michigan pointed out, the current government won a revolution, as did our own Government. It then decided that it would carry out the goals of that revolution, which included the return of lands to people who had had it taken away. For those who could not share in the bounty because of the oppressive oligarchy of Mr. Somoza, it meant health care, it meant literacy.

I remember one of my first visits to Nicaragua, when I talked to people in our Embassy at an evening party, and asked them, "What is it the Sandinistas are doing right?"

They said they have done an amazing job of improving literacy in this country. They said they have done an amazing job of bringing health care to the rural population. In fact, they said they are far ahead of what we are supporting in El Salvador, in terms of returning land to campesinos, so they could participate in the bounty of their country, all of which they were not able to do under Somoza.

When this President says that the Contras are freedom fighters, and we say that they are not, maybe we should recall where this President has stood with the leaders of other countries.

President Pinochet was supported by Ronald Reagan up until just recently, when he realized that Pinochet could not carry out the desires of the Chilean people. Roberto D'Aubuisson, the butcher of the right in El Salvador, was the candidate of this administration in the 1984 Salvadoran election, but Duarte won. The President was with Marcos. Mr. Reagan found cheating on both sides in the Marcos election; and after the Philippine people had spoken in that election, only then did Ronald Reagan change horses to support Mrs. Aquino.

In South Korea, he has praised the Government up until just recently when, once again, the people of South Korea have spoken out and said, "This government is intolerable, and the support of the United States must cease."

The Sandinistas, unlike many other governments, have a civilian population that is rather well armed, and they armed the population themselves.

If the Sandinistas are so worried about their peasants rising up against them, why have they handed out arms to this population? Because, rightfully so, they are much more worried about aggression from the United States. It did not come in the form of the Marines, as they had predicted. It has come in the form of mercenaries paid by the CIA, by the U.S. Government, and by our allies abroad, as we have learned in the Iran/Contra hearings.

What have been the tactics of the Contras? They have no political program. They espouse no economic policy.

They espouse no program of social reform, of economic justice, of democracy.

What the Contras espouse is overthrowing the Sandinistas, because these Contra leaders were the very people who were losers when the Sandinistas won the popular revolution.

The Contras carried out that policy, as the gentlewoman from California has pointed out, by using land mines, kidnaping civilians, pressing people into service, killing noncombatants, and doing all of the things that this administration says it abhors and opposes and works against when it opposes the rebels in El Salvador.

You cannot support it in one country and oppose it next door in the other country. These actions against civilians are intolerable in both countries, but this is the policy of the Contras, because the leadership of the Contras was trained in the school of terrorism.

When they were first created by the U.S. Government, this Government paid individuals to come from Argentina to train the Contras in the art of terrorism.

Mr. BONIOR of Michigan. What the gentleman is talking about, for those who are not aware of how the Contras began, they were trained by terrorists, people expert in terrorism in Argentina, the same people that were responsible for tens of thousands of missing people, torture, and murder in Argentina.

Those were the people that this administration turned to to establish this mercenary army in Nicaragua.

Mr. MILLER of California. We know one of the trademarks of these terrorists. When we ask people in the intelligence community how we know they are from Argentina and have been trained by the Argentinians, they say "Because their victims have both hands cutoff." That is the way they did it in Argentina for almost a decade.

What we have created is an army of terrorists, not freedom fighters. They have assumed that any civilian that works on a state farm, that works for the local or federal government, is an agent of the Nicaraguan Government, and they have a right to kill that individual, armed or not. Or if a father works on a state farm, they have a right to kill the infant or the spouse of that worker, or any other children of that person.

What have we seen? What we have seen is that the forces of Enrique Bermudez have far more courage in attacking schoolteachers, newborn infants, coffee pickers, and cotton pickers, than they do in fighting the Sandinistas.

This is not a program that can succeed. We can put $150 more million into Contra aid and more money after that, but it will never win the hearts and minds of the Nicaraguan people.

We have now put ourselves in the same position that we were in in Vietnam, where we have to destroy the society to save it. A decision has been made in the White House, a decision has been made in the Pentagon, and in the CIA, that in fact what we must do is destroy the Nicaraguan economy. We must destroy Nicaraguan civilians, and then we can save Nicaragua in the name of democracy.

The Contras did not bring democracy to those health care workers that the gentlewoman from California talked about. They did not bring democracy to the children that were killed, that the gentleman from Michigan talked about.

In fact, they brought terror, and they can only bring more terror as long as they are financed by the United States of America. As long as we continue to use overtly or covertly moneys generated by American tax dollars, they can continue the reign of terror that they now exercise in northern Nicaragua.

Our Nation cannot stand for that. This country, which this year rededicates itself to the Constitution, cannot stand for that. This country that dedicates itself to the idea of a democracy cannot stand for that.

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We must understand that the Contras simply cannot prevail; nor should they prevail, given their ideology and the terror that they are bringing their country.

Time and again this Congress has been presented with a single individual—at times it was Arturo Cruz, at times it was Commander Zero——

Mr. BONIOR of Michigan. Pastora.

Mr. MILLER of California. Eden Pastora, presented as a hero as he sat in the balcony. Later we found out that he might have been on the CIA payroll. Calero, too, was among the individuals who were going to reform the Contras. The reason they can never reform the Contras is because they have no power in that organization outside of Enrique Bermudez. He knows what his mission is. His mission is to search and destroy the civilian support for the Sandinista Government, no matter how many human rights organizations we create. Enrique Bermudez has refused to have a human rights organization with any kind of power as part of his organization. He has drummed out of the Contra force those people who have criticized his human rights policy, the documented atrocities. That ought to send a message to this Congress: They are simply being dupes, because the administration will simply parade one more of its heroes up here—their definition of a hero—and say that they are going to bring democratic principles to Nicaragua. It is just a farce.

In our interview, when we asked Enrique Bermudez a few months ago about the atrocities that his troops had committed, about the widespread documentation of those atrocities by foreign correspondents and press and by individual human rights organizations, his only response was one of immediate anger. Then he said to us, "Well, all those were created by Sandinistas who dressed up as Contras."

I dare say that the Congress must now understand that it is a full partner in this terror which is being carried out by the Contras. Members of Congress are going to have an opportunity in the next 2 months or so, to decide whether or not they want to go home and tell their constituents that they are engaged in funding these actions by the Contras.

I hope that the decision will be that the time has come for America to rededicate itself to its principles and be a beacon for freedom and democracy, rather than to impose terrorism on our neighboring countries in Central America.

I again thank the gentleman for taking this time.

Mr. BONIOR of Michigan. Mr. Speaker, I thank my colleague.

When the gentleman speaks of our colleagues having a chance to go home and explain this policy, they indeed are going to have a chance to go home and explain why, if they do, they embark upon spending the second billion dollars of this war, when their farmers do not have money to plow and to seed, when our cities are falling apart, when we do not have basic funds for our infrastructure across this country, when we do not have decent funding for our women's, infants and children programs. Go back and tell your constituents that you supported another billion dollars for a war that did this to a 7-year-old boy and did that to a 7-year-old girl and did that to a 22-month-old girl.

The President ought to know that he may have had a good couple weeks with Colonel North in the chair, and he has argued, the President, that is, vigorously for 6 years on this issue. He has given five State of the Union Messages right up there, with Nicaragua being one of the feature parts of that speech. He has given 6 major speeches across the country on this issue, 2 televised nationally, 17 press conferences in which he raised this issue to a major level. He has come before this Congress and spoke in a joint session up there and through 6 years he was unable to get more than 25 percent of the American people to agree with his policy.

Now, Colonel North may have had a good day. He may have gotten that figure up to 35 percent, as indicated in the CBS New York Times poll and the Harris poll, but I am here to tell Colonel North and President Reagan that we have battled them toe to toe for 6 years on this issue and we are going to battle them for the next 18 months. There are people committed in this Congress to the values of this institution and the values of this society who are not going to allow this country to spend more money to do this to 22-month-old girls, to 7-year-old boys and to this 7-year-old girl and their family.

It is an outrageous policy that has no success, has no future. All it can do is bring shame upon this Government, this society, and for all we stand for in this very special year in the celebration of our Constitution.

So I want to thank my two friends who have been staunch allies in this battle. I look forward to working with them and my other colleagues on both sides of the aisle as we expose to the American people the bottomless pit that this policy represents, and the total lack of value of its implementation over the last 6 years.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. ROWLAND of Connecticut) to revise and extend their remarks and include extraneous material:)

Mr. GREGG, for 60 minutes, on July 22.

Mr. DORNAN of California, for 5 minutes, today.

Mr. BURTON of Indiana, for 5 minutes, today.

Mrs. BENTLEY, for 5 minutes, today.

Mr. GEKAS, for 5 minutes, today.

(The following Members (at the request of Mr. GRAY of Illinois) and to include extraneous matter:)

Mr. BONER of Tennessee, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BONIOR of Michigan, for 60 minutes, on July 23.

Mr. ROYBAL, for 60 minutes, on July 28 and 29.

Mr. FEIGHAN, for 30 minutes, on July 29.

(The following Member (at his own request) to revise and extend their remarks and include extraneous material:)

Mr. DELLUMS, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. ROWLAND of Connecticut) and to include extraneous matter:)

Mr. GINGRICH.

Mr. SHUMWAY.

Ms. SNOWE.

Mr. DORNAN of California in two instances.

Mr. LENT.

Mr. GEKAS.

(The following Members (at the request of Mr. GRAY of Illinois) and to include extraneous matter:)

Mr. MONTGOMERY.

Mr. MILLER of California.

Mr. CLAY in two instances.

Mr. FLORIO in three instances.

Mr. SMITH of Iowa.

Mr. EDWARDS of California in two instances.

Mr. RODINO.

Mr. CARR.

Mr. HOYER in two instances.

Mr. FLIPPO.

Mr. DORGAN of North Dakota.

Mr. Darden.
Mrs. Byron.
Mr. Lehman of Florida.

ADJOURNMENT

Mrs. BOXER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 6 minutes p.m.), the House adjourned until tomorrow, Wednesday, July 22, 1987, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1796. A letter from the Secretary of the Navy, transmitting the Secretary's determination that it is in the public interest to use other than competitive procedures for the medical facilities at Clark Air Base, Philippines, pursuant to 10 U.S.C. 2304(c)(7); to the Committee on Armed Services.

1797. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-48, "Water and Sewer Services Rates Amendment Act of 1987," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1798. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-47, "Gross Receipts Tax Amendment Act of 1987," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1799. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-49, "D.C. Government Comprehensive Merit Personnel Act of 1978 Employee Benefits Amendment Act of 1987," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1800. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-50, "Real Property Tax Rates for Tax Year 1988 Amendment Act of 1987," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1801. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-51, "D.C. Income and Franchise Tax Conformity and Revision Amendment Act of 1987," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1802. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-56, "Prison Overcrowding Emergency Powers Act of 1987," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1803. A letter from the Secretary of Education, transmitting copies of Final Regulations—Innovative Projects for Student Community Service Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1804. A letter from the Executive Director/Secretary General, U.S. Olympic Committee, transmitting a copy of the committee's financial statement and a report on its activities for calendar year 1986, pursuant to 36 U.S.C. 1101(46), 1103; to the Committee on the Judiciary.

1805. A letter from the Chairman, Federal Labor Relations Authority, transmitting a draft of proposed legislation to provide for a pay adjustment for the Chairman, Members, and General Counsel of the Federal Labor Relations Authority; to the Committee on Post Office and Civil Service.

1806. A letter from the Director, Office of Personnel Management, transmitting notification of a proposed Department of the Air Force demonstration project which addresses how the productivity of a Federal military installation can be improved by implementing a more flexible personnel system and by providing incentives to employees through productivity gainsharing, pursuant to 5 U.S.C. 4703(b)(4)(B), (6); to the Committee on Post Office and Civil Service.

1807. A letter from the Secretary of Health and Human Services, transmitting a report concerning the design and implementation of a prospective payment system for radiology, anesthesia, and pathology services furnished to hospital inpatients, pursuant to Public Law 99-509, section 934(c); to the Committee on Ways and Means.

1808. A letter from the Chairman, Federal Reserve System, transmitting the monetary policy report of the Board of Governors, pursuant to 12 U.S.C. 225a; jointly, to the Committees on Education and Labor and Banking, Finance and Urban Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. Pepper: Committee on Rules. House Resolution 227. Resolution providing for the consideration of H.R. 2470, a bill to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the Medicare Program, and for other purposes (Rept. 100-226). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mrs. BYRON (for herself and Mr. Bateman):

H.R. 2974. A bill to amend title 10, United States Code, to make technical corrections in provisions of law enacted by the Military Retirement Reform Act of 1986; to the Committee on Armed Services.

By Mr. TORRICELLI (for himself, Mr. Pepper, Mr. Montgomery, Mr. Guarini, Mr. Archer, and Mr. Smith of Florida):

H.R. 2975. A bill to amend the Internal Revenue Code of 1986 to provide that the interest on certain obligations issued by an issuer who is in arrears with respect to another obligation issued or guaranteed by the issuer, or guaranteed by a guarantor who is in arrears with respect to another obligation issued or guaranteed by the guarantor, is not exempt from tax; to the Committee on Ways and Means.

By Mr. EDWARDS of Oklahoma:

H.R. 2976. A bill to amend title 5, United States Code, to improve and reform the administrative procedures of Federal agencies, and for other purposes; jointly, to the Committees on the Judiciary and Government Operations.

By Mr. FLIPPO (for himself, Mr. Schulze, Mr. McGrath, Mr. Brown of Colorado, Mr. Matsui, Mr. Dorgan of North Dakota, Mr. Daub, Mr. Chandler, Mr. Gregg, Mr. Frenzel, Mr. Anthony, Mr. Crane, Mr. Gekas, Mrs. Lloyd, Mr. Weldon, Mr. Porter, Mr. Johnson of South Dakota, Mr. Petri, Mr. Barnard, Mr. MacKay, Mr. Bevill, Mr. Shaw, Mr. Vander Jagt, Mr. DioGuardi, Mr. Daniel, Mr. Gunderson, Mr. Skaggs, Mr. Pickett, Mr. Coyne, Mr. Frank, and Mr. Duncan):

H.R. 2977. A bill to amend the Internal Revenue Code of 1986 to allow certain entities to elect not to make changes in their taxable years required by the Tax Reform Act of 1986, and for other purposes; to the Committee on Ways and Means.

By Ms. SNOWE:

H.R. 2978. A bill to amend title 38, United States Code, to provide that per diem subsidies paid by Veterans' Administration for the care of veterans in State homes shall not be used to offset payments that are made under the Medicaid Program for the purpose of assisting eligible veterans; to the Committee on Veterans' Affairs.

By Ms. SNOWE (for herself, Mr. Wolf, Mr. Dornan of California, Mr. Lewis of Florida, Mr. Biaggi, Mr. Ray, Mr. Miller of California, Mr. LaFalce, Mr. Frost, Mr. Roe, Mrs. Bentley, Mr. Boehlert, Mr. Scheuer, Mr. Young of Alaska, Mrs. Martin of Illinois, Mr. Stangeland, Mr. Owens of New York, Mr. Darden, Mr. Kastenmeier, Mr. Kolter, Mr. Wortley, Mr. Gilman, Mr. Conyers, and Mr. Hatcher):

H.R. 2979. A bill to amend the Internal Revenue Code of 1986 to allow a deduction from gross income for home care and adult day and respite care expenses of individual taxpayers with respect to a dependent of the taxpayer who suffers from Alzheimer's disease or related organic brain disorders; to the Committee on Ways and Means.

By Mr. WALGREN:

H.R. 2980. A bill to amend the Federal Railroad Safety Act of 1970 to improve the safety of rail transportation, and for other purposes; to the Committee on Energy and Commerce.

By Mr. CAMPBELL (for himself, Mr. Akaka, Mr. Anderson, Mr. Aspin, Mr. Atkins, Mr. Badham, Mr. Barnard, Mrs. Bentley, Mr. Bevill, Mr. Bilbray, Mr. Boner of Tennessee, Mr. Brown of Colorado, Mr. Brennan, Mr. Bunning, Mr. Cardin, Mr. Carper, Mr. Clarke, Mr. Coelho, Mr. Conyers, Mr. Craig, Mr. Daniel, Mr. DeFazio, Mr. Dellums, Mr. de la Garza, Mr. de Lugo, Mr. Dicks, Mr. Dornan of California, Mr. Duncan, Mr. Dymally, Mr. Espy, Mr. Fazio, Mr. Foley, Mr. Frenzel, Mr. Frost, Mr. Fuster, Mr. Garcia, Mr. Gephardt, Mr. Grant, Mr. Gray of Illinois, Mr. Green, Mr. Hansen, Mr. Hefley, Mr. Hochbrueckner, Mr. Horton, Mr. Huckaby, Mr. Hughes, Mr. Jeffords, Mr. Johnson of South Dakota, Mr. Jones of Tennessee, Mr. Jones of North Carolina, Mr. Jontz, Mr. Kemp, Mr. Kennedy, Mr. Kleczka, Mr. Kolter, Mr. Kostmayer, Mr. LaFalce, Mr. Lancaster, Mr. Lantos, Mr. Lehman of California, Mr.

Leland, Mr. Lagomarsino, Mr. Livingston, Mr. Lowry of Washington, Mrs. Lloyd, Mr. Manton, Mr. Martinez, Mr. McDade, Mr. McMillen of Maryland, Mr. Miller of California, Mr. Miller of Washington, Mr. Mfume, Mr. Moakley, Mr. Montgomery, Mr. Murphy, Mr. Nelson of Florida, Mr. Nielson of Utah, Mr. Oberstar, Mr. Owens of Utah, Mr. Oxley, Mr. Pashayan, Mrs. Patterson, Mr. Pickett, Mr. Price of North Carolina, Mr. Rahall, Mr. Rangel, Mr. Richardson, Mr. Roe, Mr. Roth, Mr. Sawyer, Mr. Savage, Mr. Schaefer, Mr. Scheuer, Mrs. Schroeder, Mr. Schuette, Mr. Skaggs, Mr. Skelton, Mr. Robert F. Smith, Ms. Snowe, Mr. Staggers, Mr. Stallings, Mr. Stark, Mr. Stenholm, Mr. Sunia, Mr. Tallon, Mr. Tauke, Mr. Torres, Mr. Towns, Mr. Udall, Mr. Valentine, Mr. Vander Jagt, Mr. Wheat, Mr. Wise, Mr. Wolf, Mr. Wortley, and Mr. Young of Florida):

H.J. Res. 337. Joint resolution designating January 8, 1988, as "National Skiing Day"; to the Committee on Post Office and Civil Service.

By Mr. DINGELL (for himself and Mr. Shuster):

H.J. Res. 338. Joint resolution designating October 15, 1987, as "National Safety Belt Use Day"; to the Committee on Post Office and Civil Service.

By Mr. ROSE:

H.J. Res. 339. Joint resolution designating the week beginning April 3, 1988, as "National School Psychologist Week"; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

166. By the SPEAKER: Memorial of the Legislature of the State of Louisiana, relative to housing projects in the city of New Orleans; to the Committee on Banking, Finance and Urban Affairs.

167. Also, memorial of the Legislature of the State of Louisiana, relative to the interstate phase-out of pollution in the Mississippi River; to the Committee on the Judiciary.

168. Also, memorial of the Legislature of the State of Louisiana, relative to the Comprehensive Environmental Response, Compensation, and Liability Act; jointly, to the Committees on Energy and Commerce, Ways and Means, and Public Works and Transportation.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. GUARINI introduced a bill (H.R. 2981) for the relief of Princeton University, Princeton, NJ, which was referred to the Committee on Ways and Means.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII. sponsors were added to public bills and resolutions as follows:

H.R. 338: Mr. Nielson of Utah.

H.R. 361: Ms. Pelosi.

H.R. 457: Mr. Flake.

H.R. 458: Mr. Neal and Mr. Carper.

H.R. 637: Mr. Fawell, Mr. Burton of Indiana, Mr. Gilman, and Mr. Sunia.

H.R. 640: Mr. Lewis of Georgia, Mr. Garcia, Mr. Ford of Tennessee, Mr. Boner of Tennessee, Mr. Williams, Mr. McMillen of Maryland, Mr. Feighan, Mr. Mineta, Mr. Dixon, Mr. Kildee, and Mr. Frost.

H.R. 778: Mr. Sunia.

H.R. 779: Mr. Flake and Mr. English.

H.R. 782: Mr. Jones of Tennessee.

H.R. 810: Ms. Snowe.

H.R. 975: Mr. Ford of Tennessee, Ms. Pelosi, and Mr. Flake.

H.R. 1154: Mr. Bilbray, Mr. Lehman of California, Mr. McGrath, Mr. Sharp, Mr. Denny Smith, and Mr. Weldon.

H.R. 1170: Mr. Chandler.

H.R. 1242: Mr. Johnson of South Dakota.

H.R. 1259: Mr. Foglietta.

H.R. 1396: Mr. Marlenee.

H.R. 1452: Mr. Torricelli.

H.R. 1604: Mr. Davis of Michigan and Mr. Solarz.

H.R. 1782: Mr. Armey and Mr. Gray of Illinois.

H.R. 1873: Mr. Livingston, Mr. Davis of Illinois, and Mr. Fish.

H.R. 1874: Mr. Livingston, Mr. Davis of Illinois, and Mr. Fish.

H.R. 1917: Mr. Johnson of South Dakota and Mr. Valentine.

H.R. 1971: Mr. Fields.

H.R. 1974: Mrs. Martin of Illinois.

H.R. 1992: Mr. Visclosky.

H.R. 2035: Mr. Conte, Mr. Donnelly, Mr. Frank, Mr. Kennedy, Mr. Markey, Mr. Mavroules, Mr. Moakley, and Mr. Studds.

H.R. 2036: Mr. Tallon, Mr. Fawell, and Mr. Fauntroy.

H.R. 2045: Mr. Walgren and Mr. Murphy.

H.R. 2183: Mr. Martin of New York, Mr. Bruce, Mr. Gordon, Mr. Roemer, Mr. Kildee, Ms. Slaughter of New York, Mr. Markey, Mr. Chappell, Mr. Jeffords, and Mr. Marlenee.

H.R. 2214: Mr. Gilman and Mr. Pepper.

H.R. 2335: Mr. Daniel, Mr. Hayes of Illinois, Mr. Wortley, Mr. Bryant, Mr. Swindall, Mr. Kleczka, Mr. DeLay, Mr. Gilman, Mr. Rangel, Mr. Lancaster, Mr. Stokes, Mr. Bilirakis, Mr. Atkins, Mr. Skelton, Mr. Martinez, and Mr. Hawkins.

H.R. 2404: Mr. Eckart, Mr. Gordon, Mrs. Bentley, Mr. Bevill, Mr. Bonior of Michigan, Ms. Kaptur, Mr. Campbell, Mr. Kolter, Mr. Badham, Mr. Martinez, and Mr. Roe.

H.R. 2556: Mr. Spratt.

H.R. 2584: Mr. Roybal, Mr. Mavroules, Mr. Weiss, and Mr. Sunia.

H.R. 2609: Mr. Anderson, Mr. Bunning, Mr. Badham, and Mr. Kolbe.

H.R. 2611: Mr. Courter, Mr. Ackerman, Mr. Fish, Mr. Lipinski, Mr. McEwen, Ms. Slaughter of New York, Mr. Kyl, Mr. Jacobs, Mr. Mollohan, and Mr. Solarz.

H.R. 2631: Ms. Pelosi.

H.R. 2649: Mr. Conyers, Mr. Biaggi, Mr. Buechner, Mr. Craig, and Mr. Clarke.

H.R. 2670: Mr. Hughes, Mr. Carr, Mr. Gilman, and Mr. McHugh.

H.R. 2672: Mr. Burton of Indiana, Mr. Rowland of Georgia, Mr. Rowland of Connecticut, Mr. Harris, Mr. Smith of New Hampshire, Mrs. Patterson, and Mr. Davis of Illinois.

H.R. 2694: Mr. Towns.

H.R. 2709: Mr. Bustamante, Mr. Hayes of Illinois, Mr. LeLand, Mr. Towns, Mr. Grant, Mr. Solarz, Mr. Ford of Michigan, Mr. Edwards of California, Mr. Skaggs, Mr. Feighan, Mr. Martinez, Mr. Garcia, Mr. Owens of New York, Mr. Eckart, Mr. Levin of Michigan, Mr. Espy, Mrs. Schroeder, and Mr. Gilman.

H.R. 2727: Ms. Slaughter of New York and Mr. Mfume.

H.R. 2750: Mr. Wolpe, Mr. Owens of New York, Mr. Bryant, Mr. Dellums, Mr. Dymally, Mr. Pease, Mr. Studds, Mr. McHugh, and Mr. Fauntroy.

H.R. 2759: Mr. Lagomarsino and Mr. Smith of New Hampshire.

H.R. 2792: Mr. Berman, Mr. Matsui, Mr. Richardson, and Mr. Ford of Tennessee.

H.R. 2794: Mrs. Vucanovich, Mr. Towns, Mr. Horton, Mr. Dellums, Mr. Bilbray, Mr. Edwards of Oklahoma, Mr. Bustamante, Mr. Bosco, Mr. Gilman, and Mr. Sunia.

H.R. 2801: Mr. Weldon.

H.R. 2832: Mr. AuCoin, Mr. Daub, Mr. Schuette, Mr. Dwyer of New Jersey, Mr. Skaggs, Mr. de la Garza, Mr. Horton, Mr. Edwards of Oklahoma, Mr. Aspin, Mr. Swift, Mr. Atkins, Mr. Smith of New Hampshire, and Mr. Fazio.

H.R. 2866: Mr. Kolter, Mr. Bates, Mr. Swift, Mr. Atkins, Mr. Sunia, and Ms. Kaptur.

H.R. 2895: Mr. Combest, Mr. Hammerscmidt, Mr. Ray, and Mr. Young of Florida.

H.R. 2940: Mr. Jenkins, Mr. Gibbons, Mr. Guarini, Mr. Duncan, Mr. Archer, Mr. Gradison, Mr. Daub, Mr. Vander Jagt, Mr. Brown of Colorado, Mr. Chandler, Mr. Wolf, Mr. Boulter, and Mr. Mica.

H.R. 2970: Mr. Craig.

H.J. Res. 16: Mr. Marlenee.

H.J. Res. 55: Mr. Frenzel and Mr. Bustamante.

H.J. Res. 58: Mr. Smith of New Hampshire, Mr. Sunia, Mr. Gregg, Mr. Kemp, and Mr. Morrison of Connecticut.

H.J. Res. 83: Mr. Bliley, Mr. Miller of Ohio, and Mr. Boulter.

H.J. Res. 100: Mr. Bennett, Mr. Barnard, Mr. DeLay, Mr. Dannemeyer, Mr. Lewis of Georgia, Mr. Barton of Texas, Mr. Burton of Indiana, Mr. Kemp, Mrs. Johnson of Connecticut, Mr. Andrews, Mr. Mazzoli, Mr. Johnson of South Dakota, Mr. Gingrich, and Mr. Leland.

H.J. Res. 144: Mr. Sawyer, Mr. Sundquist, Mr. Porter, Mr. Fields, and Mr. Hiler.

H.J. Res. 148: Mr. Jontz and Mr. Waxman.

H.J. Res. 192: Mr. Beilenson, Mr. Buechner, Mr. Carper, Mr. Coelho, Mr. Chappell, Mr. Hertel, Mr. Hyde, Mr. Lehman of Florida, Mr. Pease, Mr. Price of North Carolina, Mr. Sharp, Mr. Solarz, Mr. Vander Jagt, and Mr. Flake.

H.J. Res. 206: Mr. Hutto, Mr. Hochbrueckner, Mr. Hoyer, Mr. Coelho, Mr. Tallon, Mr. Lehman of California, Mr. Chapman, Mr. Wilson, Mr. Spence, Mr. Scheuer, and Mr. Howard.

H.J. Res. 213: Mr. Kasich and Mr. Lungren.

H.J. Res. 240: Mr. Coleman of Missouri, Mr. Bryant, Mr. Hughes, Mr. Kildee, Mr. Fauntroy, Mr. Wortley, Mr. DeFazio, Mr. Bevill, Mr. Neal, Mr. Henry, Mr. Levin of Michigan, Mr. Conyers, and Mr. Frost.

H.J. Res. 242: Mr. Hefner, Mr. Flippo, Mr. Walgren, Mr. Bustamante, Mr. Gordon, Mr. Wilson, Mr. Leland, and Mr. Montgomery.

H.J. Res. 255: Mrs. Morella and Mr. Waxman.

H.J. Res. 271: Mr. Nielson of Utah.

H.J. Res. 282: Mr. Owens of Utah, Mr. McMillen of Maryland, Mr. Ritter, Mr. Hochbrueckner, Mr. Lent, Mr. Mfume, Mr. Kildee, Mr. Smith of New Hamsphire, Mr. Kyl, Mr. Bryant, Mr. Kostmayer, Mr. Biaggi, Mr. Howard, Mr. Dymally, Mr. Kastenmeier, Mr. Coleman of Missouri, Mr. Gray of Pennsylvania, Mr. Sabo, Mr. Sawyer, Mr. Sharp, Mr. Sunia, Mr. Owens of New York, Mr. PEASE, Mr. LEWIS of Georgia, Mrs. LLOYD, Mr. MCCLOSKEY, Mr. MOAKLEY, Mr. MORRISON of Washington, Mr. BROOMFIELD, Mr. JEFFORDS, Mr. RANGEL, Mr. WEISS, Mr. TAUKE, Mr. VALENTINE, Mr. HYDE, Mr. HUNTER, Mr. ASPIN, Mr. MAVROULES, Mr. MOLINARI, Mr. WOLPE, Mr. FISH, Mr. MONTGOMERY, Mr. OBEY, and Mr. MARTIN of New York.

H.J. Res. 287: Mr. BERMAN and Mr. COURTER.

H.J. Res. 336: Mr. MANTON, Mr. WAXMAN, Mr. MRAZEK, Mr. GORDON, Mr. HARRIS, Mr. BEVILL, Mr. BLAZ, Mr. CONYERS, Mr. BLILEY, Mr. DORNAN of California, Ms. OAKAR, Mr. KILDEE, Mr. HOCHBRUECKNER, Mr. TRAXLER, Mr. BATEMAN, Mr. DORGAN of North Dakota, Mr. BRYANT, Mr. HAYES of Illinois, Mr. HORTON, Mr. MACKAY, Mr. CHANDLER, Mr. COLEMAN of Texas, Mr. HOYER, Mr. KASICH, Ms. KAPTUR, Mr. RAHALL, Mr. FAZIO, Mr. MURPHY, Mr. ROE, Mr. HATCHER, Mr. MORRISON of Connecticut, and Mr. MOODY.

H. Con. Res. 14: Mr. BARNARD, Mr. LOWERY of California, Mr. LAGOMARSINO, Mr. LANTOS, Mr. HERTEL, Mr. HORTON, Mr. DORNAN of California, Mr. MORRISON of Connecticut, Mr. OWENS of New York, Mr. BONIOR of Michigan, Mr. OWENS of Utah, Mr. HAYES of Illinois, Mr. RANGEL, Mr. GRAY of Pennsylvania, Mr. RINALDO, Mr. WOLPE, Mr. SKAGGS, Mr. KOLBE, Mr. BEREUTER, Mr. STARK, Mr. COUGHLIN, Mr. STOKES, Mr. CONYERS, Mr. WOLF, Mr. BLAZ, Mr. KOSTMAYER, Mr. FRENZEL, Mr. NEAL, Mr. AUCOIN, Ms. PELOSI, Mr. BERMAN, Mr. FAWELL, Mr. COOPER, Mr. BILIRAKIS, Mr. RICHARDSON, Ms. SLAUGHTER of New York, Mr. BROWN of California, and Mr. KILDEE.

H. Con. Res. 28: Mrs. JOHNSON of Connecticut and Mr. BARTLETT.

H. Con. Res. 47: Mr. SCHUETTE.

H. Con. Res. 68: Mr. ANNUNZIO, Mr. BALLENGER, Mr. BEVILL, Mrs. BYRON, Mr. ESPY, Mr. GLICKMAN, Mr. GOODLING, Mr. GRANDY, Mr. HOWARD, Mr. KILDEE, Mrs. MARTIN of Illinois, Mr. OWENS of Utah, Mr. RINALDO, Mrs. ROUKEMA, Mr. SABO, Mr. SCHULZE, Mr. SMITH of New Hampshire, Mr. SOLOMON, Mr. WAXMAN, and Mr. YATES.

H. Con. Res. 124: Mr. JONES of North Carolina and Mr. AKAKA.

H. Con. Res. 129: Mr. EDWARDS of Oklahoma.

H. Con. Res. 138: Mr. GILMAN, Mr. NEAL, Mr. HUGHES, and Mr. ROSE.

H. Con. Res. 158: Mr. STARK, Mr. MRAZEK, Mr. DELLUMS, Mr. FUSTER, Mr. CONYERS, Mr. HAYES of Illinois, Mr. MARKEY, Mr. GRAY of Pennsylvania, Mr. HOWARD, Mr. DEFAZIO, and Ms. KAPTUR.

H. Res. 168: Mr. CRAIG, Mr. EDWARDS of Oklahoma, Mr. JOHNSON of South Dakota, Mr. KOLBE, Mr. MCMILLAN of North Carolina, Mr. RANGEL, Mr. ROWLAND of Connecticut, Mr. DENNY SMITH, and Mr. SWEENEY.

H. Res. 194: Mr. WOLPE, Mr. BENNETT, and Mr. HENRY.

SENATE—*Tuesday, July 21, 1987*

(Legislative day of Tuesday, June 23, 1987)

The Senate met at 8:15 a.m., on the expiration of the recess, and was called to order by the Honorable Terry Sanford, a Senator from the State of North Carolina.

PRAYER

The PRESIDING OFFICER. The prayer will be offered by Father Arthur Jakobiak of New Mexico, the national chaplain of the American Legion. He is sponsored by Senator Pete Domenici.

Father Arthur Jakobiak, national chaplain of the American Legion, Santa Fe, NM, offered the following prayer:

Let us pray:

O God, You have said in the Scriptures: "Behold, I come to make all things new." And You have put into the hearts of all men and women a desire to begin anew, to put off the burden of sins and mistakes and misunderstandings and to be given another chance to begin, a fresh opportunity to be what You created us to be and to do, to reflect the image of Your goodness to all around us.

Now we stand at the beginning of a new day, looking at familiar faces, confronted with another challenge for the future and a fresh opportunity to glorify You, O God, in the service of our country.

Through the centuries, history makes manifest that patriotism and godliness are bonded into one.

And the love of that eternal country to which we are called in one universal family, is reflected in our love for our earthly country.

Give us then, O God, the help we need to begin anew.

For it is only in renewing ourselves that we are enabled by You to renew the face of the Earth. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. Stennis].

The assistant legislative clerk read the following letter:

U.S. Senate,
President pro tempore,
Washington, DC, July 21, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable Terry Sanford, a Senator from the State of North Carolina, to perform the duties of the Chair.

John C. Stennis,
President pro tempore.

Mr. SANFORD thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Republican leader is recognized for not to exceed 5 minutes.

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the Republican leader be reserved for his use later in the day.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, will the Senator yield to me very briefly?

Mr. BYRD. I yield.

REV. ARTHUR JAKOBIAK

Mr. DOMENICI. Mr. President, I ask unanimous consent that a brief background on our chaplain for today, our guest chaplain from New Mexico, be printed in the Record.

There being no objection, the background material was ordered to be printed in the Record, as follows:

Rev. Arthur Jakobiak

(National chaplain, American Legion, 1986-87)

Rev. Arthur J. Jakobiak of Albuquerque, N.M. was appointed National Chaplain of the American Legion during the 68th annual National Convention in Cincinnati, Ohio, Sept. 4, 1986.

Father Jakobiak is a member of Montoya Y Montoya Post 1 in Santa Fe, New Mexico. He is a veteran of World War II and the Vietnam era having served with the U.S. Army, 1945-1946 and the U.S. Air Force, 1958-1977.

He attended the University of Detroit and was ordained from St. Thomas Seminary, Denver, Colo. He obtained his masters degree from the University of Louvain, Leuven, Belgium.

Father Jakobiak has served as the Post and Department Chaplain and is a member of the National Association of Catholic Hospital Chaplains.

1987 MIDYEAR REPORT

Mr. BYRD. Mr. President, the mailing and filing date for the 1987 midyear report required by the Federal Election Campaign Act, as amended, is Friday, July 31, 1987. Principal campaign committees supporting Senate candidates in a nonelection year file semiannual reports with the Senate Office of Public Records, 232 Hart Building, Washington, DC 20510-7116.

The Public Records Office will be open from 8 a.m. until 9 p.m. on the filing date for the purpose of accepting these filings. In general, reports will be available to the public 24 hours after receipt. For further information, please contact the Public Records Office on (202) 224-0322.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, how much time does the Senator from Wisconsin desire?

Mr. PROXMIRE. Five minutes.

Mr. BYRD. I ask unanimous consent that the Senator from Wisconsin be recognized for not to exceed 5 minutes at this time.

The ACTING PRESIDENT pro tempore. Without objection, the Senator from Wisconsin is recognized.

SHOULD CONGRESS SUPPORT MORE CONTRA KILLING WITH NO MILITARY GAIN?

Mr. PROXMIRE. Mr. President, how can anyone in this great, powerful, rich country support aid to the Contras in Nicaragua? Can we support such aid in the name of freedom? Can we support military assistance to the Nicaraguan Contras in the name of democracy? Mr. President, after years of assistance to the Nicaraguan Contras what is the result? The Contras have not seized a single settlement anywhere in Nicaragua. They have achieved exactly nothing of military value. Zilch.

Take the latest Contra killing spree. In a report to the New York Times on Sunday, July 19, Stephen Kinzer wrote that U.S.-backed Nicaraguan guerrillas killed nine Sandinista soldiers, three children, and a pregnant woman in a remote village in northern Nicaragua. Twenty-one of the Contra rebels were killed. But the New York Times reported that there was no damage to the town's military facilities. The town's dirt air strip remained intact. The collection of local shacks that serve as headquarters for the Sandinista army were not damaged. On the other hand, 18 civilians were wounded, including one 12-year-old girl, with shrapnel lodged in her throat. Of the 50 little houses occupied by workers at a grain cooperative, only a few were left habitable. One woman, 5 months pregnant, and her 3-

year-old son were killed. One civilian told the New York Times reporter:

> A bunch of Contras just shot machineguns into my house as they ran by. My little 13-year-old girl was hit and died right away.

Another civilian whose house was burned to the ground, "was especially distraught at the loss of the family cow she said provided milk for her seven children. 'We came down here from the mountains to escape the Contras. We can't go back because they'll kill us. But here we have no food, no clothes, absolutely nothing.'

Mr. President, this recent raid shows vividly what the so-called freedom fighters, hailed by the administration as bringing freedom and democracy to Nicaragua, are really bringing. They are bringing death. They are also bringing grinding, hopeless hunger and poverty. They are bringing lifelong pain and disfigurement to innocent people whose wounds will persist in agony many years after the ideological debate has been forgotten.

Mr. President, American hearts thrill at the magic words "freedom and democracy." We love those words. We should. We rally to the cause when an eloquent Marine hero calls on us to show how we love our country by supporting the freedom fighters in Nicaragua. Sounds great. How can any patriotic, liberty-loving American respond with anything but "Right on"? Democrat or Republican, all of us love this country. All of us believe in freedom. All of us will fight for democracy. But, Mr. President, this isn't what is really happening in Nicaragua. We aren't freeing Nicaragua. We're bringing death. We are not fostering democracy in Nicaragua; we're pushing that little nation into the deepest kind of poverty. Communism breeds on exactly the kind of poverty and bitterness our Contra aid is forcing on Nicaragua.

To imagine the effect of U.S.-backed Contras shooting their way into San Jose de Bocay on Thursday, July 16, suppose a group of armed men came up the street where you and your family live, firing machineguns into houses. Suppose they killed your 12-year-old daughter. Suppose they shot and killed your pregnant wife. Then they burned your house to the ground. Would you cheer them on as freedom fighters? Would you raise your head to the heavens and shout, "Hooray for democracy"?

Mr. President, we're talking here about something even deeper than freedom and democracy. We're talking human life. We're talking about the reaction of people who lose something even more precious than their own life—the life of their little child.

Mr. President, what this great, rich powerful country we love is doing in Nicaragua is cruel and brutal. A few days ago, I met with a group of high-school-age students from Central America. These young people had left their homes in Costa Rica, Belize, El Salvador, Panama, Nicaragua, Honduras to spend 2 years in Waukesha, WI. They will return to their Central American homes next month. They had come from the small, mostly democratic countries of Central America. They had found much to admire in our democratic country. But, Mr. President, every one of these students voiced opposition to our aid to the Contras in Nicaragua. They want freedom. They want democracy. But they also want to live. I repeat, they want to live. Live, Mr. President. They want to live in peace. They don't want the abject poverty as well as the ruin and destruction that war brings.

Mr. President, this brings us to the one argument that the Contra supporters make that has even superficial logic. They argue we are not supporting the Contras primarily to bring democracy and freedom to Nicaragua. We are supporting the Contras to keep the Nicaragua Sandinistas from exporting their Communist system to other Central American countries. How about that argument? Mr. President, the fact is that most of the Central American countries are democracies right now. The popularly elected leaders of those democracies as with one voice urge us to stop the military assistance to the Contras and help negotiate a settlement in Nicaragua. If Nicaragua poses such a threat to them, why aren't they supporting our aid to the Contras? In fact why aren't they providing some aid to the Contras themselves? Obvious answer: They don't believe the Sandinistas in Nicaragua represent a threat to them. But suppose they're wrong. What happens then? What happens then is that, under the Rio Treaty, if Nicaragua should invade any of its neighbors, the invaded country could call on the United States for help. We would then not simply have a right but would have a duty to respond to repel such an invasion.

Mr. President, this Senate will be making a tragic mistake, if we respond to the appeal of President Reagan and Colonel North with more funds to support more of the kind of Contra killings of civilians in Nicaragua that the New York Times recently reported with no military objectives achieved.

U.S. BREAKOUT OF SALT II SUBLIMITS CONTINUES

Mr. PROXMIRE. Mr. President, tomorrow, July 22, 1987, the United States will place two more B-52's equipped with cruise missiles into operation. This action continues the pattern of breaches of the numerical sublimits under SALT II for MIRV'd systems.

Why should we be concerned about breaching the never ratified agreement given that its own time provisions have run out.

The answer involves the only good reason for observing any strategic arms control treaty—naked self-interest. And what is our self-interest in this case?

First, SALT II, if observed by both parties, gives the United States certain strategic advantages. The Soviets would have to dismantle silo-based ICBM's in compensation for the introduction of additional submarines equipped with MIRV'd missiles. These silo-based missiles are precisely the kind of weapon the Reagan administration has labeled the most dangerous.

The United States could comply with the SALT II MIRV'd sublimits by only dismantling 25 land-based missiles this year. The corresponding number of the U.S.S.R. is 100. Now that is a pretty good exchange. Who would not like to see a 4-to-1 exchange of missile reductions with the U.S.S.R.—with the Russians on the short end of the stick.

What if both parties decide to abandon SALT II altogether, and follow-on negotiations go nowhere? Then the United States will have to respond to new Russian deployments with an aggressive program of our own.

According to one study, the additional costs of a new modernization program to meet Soviet expansion without SALT II restraints could be an expenditure of $128 billion by the end of 1996. The United States would likely extend or accelerate construction of the MX missile, the B-1B bomber, the Trident submarine and its Trident II missile. We could also decide not to retire our older Poseidon submarines on the current schedule. According to the defense budget project of the Center on Budget and Policy Priorities, this new strategic program could cost $128 billion, as I mentioned.

So, Mr. President, there are real costs to this continuing breach of the SALT II sublimits. The costs are in some cases quantifiable as in the need for an expansion of the U.S. deterrent given the abandonment of SALT II and no new agreements. In other ways the costs may be less subject to quantification, but the damage to the arms-control process may be no less important.

Mr. President, I thank my good friend, the majority leader, and I yield the floor.

ORDER OF PROCEDURE

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from New Mexico [Mr. DOMENICI] and the Senator from Florida [Mr. CHILES] are recognized to call up Senate Resolution 245, on which there shall be not to exceed 15 minutes' debate.

The Senator from New Mexico is recognized.

EXPRESSING SORROW AND REGRET OF THE SENATE ON THE DEATH OF ARTHUR F. BURNS

Mr. DOMENICI. Mr. President, I ask that the resolution be made the pending business.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

A resolution (S. Res. 245) to express the profound sorrow and regret of the Senate on the death of Arthur F. Burns.

The ACTING PRESIDENT pro tempore. Is there objection to the present consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the following Senators contained on the list which I send to the desk be made cosponsors of the legislation regarding Arthur Burns.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The cosponsors of the resolution are: Senators DOMENICI, CHILES, HATFIELD, NUNN, BINGAMAN, COCHRAN, D'AMATO, DECONCINI, DOLE, DURENBERGER, FORD, GARN, GRAHAM, HEINZ, HELMS, HOLLINGS, KARNES, KASSEBAUM, KENNEDY, KERRY, LAUTENBERG, MOYNIHAN, PRESSLER, ROCKEFELLER, ROTH, SANFORD, STENNIS, SYMMS, THURMOND, WILSON, WIRTH, BUMPERS, CRANSTON, CHAFEE, COHEN, EVANS, MCCAIN, PACKWOOD, SIMON, PROXMIRE, SARBANES, ADAMS, BENTSEN, CONRAD, GRAMM, GRASSLEY, HATCH, HECHT, QUAYLE, PELL, REID, STEVENS, and METZENBAUM.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the text of Senate Resolution 245 be printed in the RECORD at this point.

There being no objection, the resolution was ordered to be printed in the RECORD, as follows:

S. RES. 245

Whereas Arthur F. Burns was born in Austria in 1904, emigrated to the United States at the age of ten, worked his way through school, and eventually graduated Phi Beta Kappa and received his master's and doctorate degrees from Columbia University;

Whereas Arthur F. Burns married the former Helen Bernstein in 1930 and they had two sons, David S. Burns and Joseph M. Burns;

Whereas Arthur F. Burns was a pioneer in the theory and study of business cycles and made major contributions to the field of economics as a professor at Rutgers and Columbia Universities, president of the National Bureau of Economic Research, and distinguished scholar in residence at the American Enterprise Institute;

Whereas Arthur F. Burns dedicated over thirty years of his life to public service, serving as economic advisor to five Presidents, Chairman of the Federal Reserve Board, Ambassador to West Germany, and in numerous other public positions;

Whereas Arthur F. Burns served as Chairman of the President's Council of Economic Advisers from 1953 to 1956 and established the council as a nonpolitical agency that gives economic advice and information to the President;

Whereas during his two terms as Chairman of the Board of Governors of the Federal Reserve from 1970 to 1978, Arthur F. Burns strongly protected the independence of the Federal Reserve and championed fiscal stability, the need to hold down Federal budget deficits and inflation, and the necessity of curbing Government spending while promoting the view that the Federal Government can play a positive role in achieving economic prosperity;

Whereas Arthur F. Burns established himself as a wise and skillful diplomat dedicated to promoting democratic values and free market principles and became a symbol of German-American friendship in the course of his service as Ambassador to West Germany from 1981 to 1985; and

Whereas with the death of Arthur F. Burns June 26 at the age of eighty-three the United States lost a gifted economist, a trusted adviser to Presidents, and a respected diplomat who distinguished himself by his intelligence, hard work, personal integrity, and unfailingly courteous manner: Now, therefore, be it

Resolved, That the Senate of the United States expresses its profound sorrow and regret at the death of Arthur F. Burns.

SEC. 2. That the Secretary of the Senate transmit an enrolled copy of this resolution to the family of Arthur F. Burns.

Mr. DOMENICI. Mr. President, I understand that my good friend, Senator NUNN, and perhaps my good friend, Senator CHILES, will find time either now or during the day to make remarks regarding Arthur Burns and if there are others who desire to do so we have a few minutes here this morning.

Mr. President, the Senate should know that tomorrow at 11:30 a.m. there will be an official memorial ceremony for the late Arthur Burns at a synagogue in Washington and that many distinguished Americans, including two former Presidents, will be in attendance along with many other friends, relatives, and admirers of Arthur Burns.

We very much would like to present this Senate resolution to his family at that occasion and that is the reason for asking the Senate to consider it and hopefully pass it at this early hour this morning.

When Arthur Burns died last month at the age of 83, the United States of America lost one of its most gifted and respected economists, a scholar, a trusted adviser to Presidents, and a distinguished diplomat.

Arthur Burns worked for the people of the United States and he did that in many capacities. He served, Mr. President, believe it or not, seven Presidents, both Republican and Democratic, from Eisenhower to Reagan. In my 20 years of political life, I do not believe that I have ever met a man for whom I had more respect. He was a wonderful man, a generous man, who in his last 18 months after he had laid aside the mantle of high office spent a great deal of time here on Capitol Hill meeting informally with Members of Congress, sharing his views, sharing his faith, and sharing his experience.

I was one of the Senators privileged to be part of that group that regularly shared fellowship in faith with Arthur Burns.

Arthur Burns leaves behind his wife of 57 years, Helen, a truly marvelous woman, and two sons. He also left behind a life of great accomplishment. His achievements were truly extraordinary.

As most of us know, Arthur Frank Burns was not born an American citizen. He actually was born in Stanislau, Austria, on April 27, 1904. His parents brought him to this country when he was 10, and they settled in Bayonne, NJ. He won a scholarship to Columbia University and worked his way through college as a postal clerk, waiter, theater usher, dishwasher, oil tanker mess boy, and salesman. He graduated Phi Beta Kappa from Columbia in 1925 and received a master's degree from the University the same year. In 1934, he earned his doctorate from Columbia.

Arthur Burns taught economics at Rutgers University from 1927 to 1944. In 1945, he became a professor at Columbia. He also was associated with the National Bureau of Economic Research from 1933 to 1969, where he helped pioneer the study of business cycles in the American economy.

In 1953, President Eisenhower appointed Arthur Burns Chairman of the President's Council of Economic Advisers, and he served in that position until 1956. He is credited with transforming the Council into a kind of economic general staff for the President. The Council had fallen out of favor with Congress in previous years because of the political acitvity of some of its members. Arthur Burns took the Council out of politics and concentrated on giving technical advice and information to the President.

In 1956, Arthur Burns went back to what he dearly loved, teaching at Columbia and was elected president of the National Bureau of Economic Research. He was called upon by the Kennedy and Johnson administrations for economic advice. It mattered not what the political party, so long as he was asked to do something for his beloved country, the United States of America.

In 1970, President Nixon appointed Arthur Burns Chairman of the Board of Governors of the Federal Reserve.

It was in this capacity that he reached his greatest influence. He fought to protect the independence of the Federal Reserve, struggled to bring inflation under control, and was an early advocate of the need to hold down the Federal budget deficit. His views sometimes put him at odds with Presidents, but in the process, he became a symbol of fiscal stability in an era of unstable economies.

After Burns left the Federal Reserve in 1978 after two terms as Chairman, he became a distinguished scholar in residence at the American Enterprise Institute. In 1981, President Reagan called upon him to serve as Ambassador to West Germany, a position in which he served with distinction for 4 years. He especially attempted to reach out to young Germans to reforge the links between our nations.

A recent article on his passing remarked that "to all his jobs, he brought a capacity for hard work, an unfailingly courteous manner, a rarely questioned sense of integrity, and a mind acknowledged even by his critics to be extraordinary."

The image of Arthur Burns that shall remain with me is him testifying before a congressional committee. Inevitably, he would be asked a difficult question. Before answering, he would pause and place his pipe in his mouth. Gently clenching his pipe, he would puff on it for several seconds while the implications of the question swirled in his mind. Then his eyes would twinkle behind his wire-rimmed glasses, and the smoke would gently flow from his lips, to be followed by puffs of wisdom from the mind of this great man.

I will always think of Arthur Burns as an economic Solomon. I do not know what Solomon looked like, but if I had to draw a caricature of Solomon, I would draw Arthur Burns. He had a great deal of knowledge, and he used his knowledge wisely in pursuit of the common good. He was guided by a firmly held set of basic principles, but he did not close his mind to new ideas. When historians write about the truly agreat Americans of the latter half of the 20th century, they will be hard pressed not to include a chapter on my idea of Solomon, Arthur F. Burns.

Mr. President, obviously I could go on and on about this very distinguished man. Suffice it to say that it has been my privilege to know him. It has been my privilege to call him my friend. He will truly be missed.

I am delighted today that the Senate, just before the official memorial to him, will consider a resolution indicating that this U.S. Senate thanks him for the work he did for Congress, for the work he did for Presidents, for the work he did for our young people as a teacher, and last, but not least, for his character as a human being.

Mr. PROXMIRE. Mr. President, I am delighted the distinguished Senator from New Mexico has pointed out what a remarkable man Arthur Burns was. Arthur Burns did indeed bring an enormous brilliance, understanding, character, prestige to the Council of Economic Advisers as its Chairman. I dealt closely with him because I was on the Joint Economic Committee during that time and of course we worked very closely with the Council of Economic Advisers; and on the Banking Committee, and we also worked in that connection with the Council.

Here was a man who was a very, very fine economist. He was a conservative in his instincts, but, as the distinguished Senator from New Mexico has pointed out, he was independent. He did not hesitate to say no to the people who had appointed him to the office, the Presidents who had appointed him to office.

Economics is a very controversial field and a very uncertain field. Arthur Burns knew that. He recognized that. He brought to it a tremendous intellectual capacity to analyze and understand and explain the data and also a conviction that there is no way you can predict what is going to happen in this very complex economy of ours. He was, as the distinguished Senator from New Mexico has pointed out so well, an outstanding chairman of the Federal Reserve Board. That position is a very powerful position. According to polls of the business community, he was thought to be the second most powerful man in the country. But, as I said, although he was appointed by President Nixon in one capacity and by President Eisenhower in another, he did not hesitate one minute to differ with them when he felt they were wrong, no matter how important the stakes were. We will miss him very, very much. He is a man who brought great wisdom, understanding, and character to our Government.

Mr. President, I yield the floor.

Mr. DOMENICI. Mr. President, I note the presence of my friend from Georgia, Senator NUNN. Does he desire to speak?

Mr. NUNN. How much time remains?

The ACTING PRESIDENT pro tempore. The Senator from New Mexico has 4 minutes remaining.

Mr. DOMENICI. I yield all the remainder of my time to the distinguished Senator from Georgia.

The ACTING PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. NUNN. I thank the Chair. I thank my colleague from New Mexico.

Mr. President, I am delighted to have a chance to be on the floor this morning for a few moments to talk about a great man, a man that I knew well, a man that we have already heard of his virtues from the Senator from New Mexico and the Senator from Wisconsin.

Arthur Burns began his career in economics teaching at Rutgers in 1927. That was just in time for him to observe the last heady years before the trauma of the Great Depression, the failure to prevent or to curb it early on, and the difficult climb back for the American economy. As a result, he rejected the ideologue's automatic answer to all questions. Dr. Burns believed instead that the place of government in economics was to moderate the wild swings from boom to bust. A conservative to the last, he fought inflation all his life, but also believed the Federal Government should be the employer of last resort. Arthur Burns public service stretched from the early 1950's through 1985, and he was a major player in shaping the economy under five Presidents, from his days as Chairman of the President's Council on Economic Advisers under President Eisenhower through his years as Chairman of the Federal Reserve Board. Even when he was out of office, his ideas continued to influence the Nation's—and the world's—economic policy.

Dr. Burns knew economics was an inexact science. He was aware, as few who have not tried to fine-tune the economy can be, that most of the instruments at his command were blunt instruments.

His judgment calls were not unfailingly correct, but they were unfailingly honest and honorable. He accepted the duty of leaders to take stands and make decisions without the luxury of certainty, and he realized as well the need to respond to political realities if theories and ideas were to be turned into working programs. Arthur Burns could be rigorously intellectual without being rigid.

If he practiced the so-called dismal science, it was never with a dismal outlook. He was sometimes criticized for the long hours he worked and expected others to follow, but at an age that for most would have been long past retirement, he enjoyed hard work and new challenges. When he became an ambassador at age 77, Dr. Burns quipped that it was his fifth career and quote," a new career makes the juices flow."

Arthur Burns could be uncompromisingly stern with Presidents, Members of the Congress, and other economists, but he was unfailingly gentle and compassionate in his private life.

The public facets of his life were well-known, but it was in the private aspects that I believe his greatness was best revealed. He had a capacity to relate across cultural and ideological lines that so often divide the people of the world. It was no surprise to those who knew him well when he took conservatives who had appointed him to task for their failure to consider the needs of such varied groups as socialists and antinuclear protesters. He did not have to share a person's condition or beliefs to understand their importance, or to care about the person.

Dr. Burns has been described as tough, cunning, the slowest talker, and fastest thinker in Washington. But I think any final summation of the man would have to weigh heavily the words of his wife, Helen, who—after 57 years of marriage—said she was not sure whether "I loved him more, or admired him more."

He was born in a town in the Austrian-Hungarian empire which is part of the Ukrainian Soviet Socialist Republic. He came to the United States at the age of 10. His father was a house painter in Bayonne, NJ, and he himself worked as a waiter, shoe salesman, postal clerk, and seaman to pay his room and board at Columbia University in the early 1920's. He believed the ideal society required physical as well as moral effort.

He longed for the time when the Old Testament prophets'—Isaiah and Micah—vision of a time when swords would be beaten into plowshares would be fulfilled. That was his dream. But, lest we think such peace would mean we could get lazy, Dr. Burns pointed out that the quote "swords and spears are beaten into instruments of production, not into contrivances of indolence or consumption." He never lost his respect for honest labor, or for the worker who did it.

This ability to bridge differences with compassion and a sense of common purpose was especially evident across religious lines. He attributed his life-long study of the Scriptures to his earliest training from his mother. No matter where he was, no matter how tired, he read the Bible every night before he slept. He learned passages of the Torah and the Prophets by heart, as we used to say in Sunday school. In his case, they truly were committed, not just to memory, but to the heart of the man. They were part of his daily life and thought. But Dr. Burns did not confine his religious and philosophical studies to the Jewish Scripture. He studied the rabbinical teachings through the ages. He organized a small private prayer group of government leaders, and over the years shared them, and occasional public prayer groups, his profound belief in prayer.

Arthur Burns loved the teachings of Isaiah and often quoted from them. In 1977 he told a prayer group that from his study of Isaiah and the other prophets he had concluded that, "The essence of prayer or communication with God was * * * honest conduct, compassion for the poor, help for the needy. This is what God expects of man; this is what He values in man; this is what He expects from each of us."

He added that prayer was also the, "recognition of God's kingdom on earth and the seeking of God's help to achieve right conduct, to achieve justice, and to avoid evil." To him that was embodied in King Solomon's earnest prayer for, "an understanding mind to govern Thy people, that I may discern between good and evil. * * *"

This he sought to do as a public servant and as a private man. But Arthur Burns went further. As he said at the National Prayer Breakfast in 1973:

> The prophets of the Old Testament also understood the need of love in a righteous world. "You shall love your neighbor as yourself," was already part of the Mosaic Code.
>
> It was left, however, to Jesus of Nazareth, the transcendant prophet of the New Testament, to refine and broaden this Mosaic commandment, and to reveal the profoundest of all moral truth: that neither understanding nor justice, nor righteousness can achieve full expression without the cleansing power of love. To Jesus, the commandment "Love your neighbor" embraced kinsman and stranger, saint and sinner, friend and foe.

He said then that if they could speak to modern American leaders at that time, the prophets would have said:

> You are leaders, and you therefore have the responsibility of leading. Devote your energy to creating a social order based on justice of righteousness. Respect the role and dignity of honest work. Love your neighbor. And remember to pray for divine guidance in your quest for human betterment.

I think, if he were with us today, that what he thought the ancient prophets would have said to American leaders in 1973 would still be the message Arthur Burns would want to leave with us. I think he would be confident that, whatever our ideological labels and positions, if we had the stamina and the courage and commitment to follow this message, the country would be safe in our hands.

ARTHUR F. BURNS

Mr. CHILES. Mr. President, with the passing of Arthur Burns last month, America lost a brilliant and dedicated public servant. Arthur Burns brought conviction and clarity of thought to each of his varied public roles—respected researcher and teacher, economic counselor to Presidents, Chairman of the Federal Reserve Board, United States Ambassador to Germany.

Arthur Burns had the rare ability to see all sides of an economic problem. His work on the theory of business cycles added depth to his monetary policymaking. He was alert to the dangers of inflation without being blinded to the need for social spending. He often pointed out the link between excessive Federal budget deficits and the reduced reliability of monetary policy. In general, he could be relied on for balanced, well-considered, economic leadership.

As Chairman of the Federal Reserve from 1970 to 1978, Arthur Burns used his leadership to steer the Fed and the Nation through troubled times. His job was not an easy one; detractors labeled his monetary policy both too tight and too loose. Yet through the years of difficult economic conditions, Arthur Burns built the Fed into an institution known and respected for its freedom from political pressures.

Between 1981 and 1985, at the age when most men are comfortably retired, Arthur Burns took on another challenging public service position—United States Ambassador to Germany. There, his acute economic sense won him the trust and respect of the German people, especially Chancellor Helmut Schmidt. Arthur Burns is one of the reasons we today enjoy a close relationship with West Germany.

We were fortunate that Arthur Burns chose to put his understanding of economic complexities to work for the public good and to have had his services for so many years and in so many capacities. His dedication, intelligence and versatility will be remembered by all of us who knew his fine work.

Mr. President, people could go on for a long time about all of Arthur Burns' accomplishments in the public service and economic fields. I want to mention something though about Arthur Burns the person and his dealings with his fellow man. I had what I consider a great and rare privilege, a friendship with Arthur Burns. It was one based on first coming into contact with him as a member of the Budget Committee, trying to pin him down on questions, which I never could do. He would light that pipe up and chew on it a little while and never be pinned down. But it built into a closer relationship, and I had a chance to enjoy Arthur Burns the man. He was a very, very kind and thoughtful person. He loved young people, and he wanted continually to see us challenge young people and to educate them. He wanted to see us do more to educate foreign students in the United States and to show them the blessings of the United States.

He was a wonderful husband and had a lovely, most devoted wife in Helen. Their relationship was a very, very wonderful thing to see, the ability they had to comfort each other and to support each other and to participate in friendships together.

Arthur Burns was a very strong spiritual man. He had a spiritual undergirding and a strength, the likes of which I do not know that I have seen in too many men. I enjoyed so much my relationship with him. He leaves this world a much better place.

IN MEMORY OF ARTHUR F. BURNS

Mr. LEAHY. Mr. President, I rise today to pay tribute to Arthur F. Burns, the distinguished economist, who passed away on June 26, 1987. Tomorrow a memorial service will be held to celebrate the life and many contributions of this truly great American.

All Vermonters join me in remembering Dr. Burns, who spent his final years and countless summers thinking, relaxing, writing, and painting in our special State.

To Democrats and Republicans alike Arthur Burns embodied integrity, wisdom, and service. He served five Presidents and his country for more than 30 years.

Dr. Burns first entered Government in 1953, when President Eisenhower named him Chairman of the Council on Economic Advisers. President Eisenhower met Dr. Burns at Columbia University, where he studied as an undergraduate and earned his masters degree and Ph.D. in economics. Dr. Burns, who was born in Austria, won a scholarship to Columbia and worked his way through school at various times as a house painter, postal clerk, and a waiter. Dr. Burns would later become a professor at his alma mater. He distinguished himself among economists by his analysis of the business cycle and its role in macroeconomics. His work at Columbia University brought him to the attention of Dwight D. Eisenhower, who served as Columbia's president.

Dr. Burns is credited with transforming the President's Council of Economic Advisers into a well-respected and lasting institution—an institution known for its objective analysis of the economy. Dr. Burns initiated many of the comprehensive economic reports which Members of Congress and the public rely on to this day to learn more about how our country's economy is faring.

President Kennedy called on Dr. Burns as an adviser and he served on the President's Advisory Committee on Labor Management Policy. He also served as an adviser to President Johnson. In 1967, Dr. Burns was elected Chairman of the distinguished National Bureau of Economic Research, where earlier he began his pioneering research on the business cycle.

Perhaps Dr. Burns' most difficult assignment was that of Chairman of the Federal Board from 1970 to 1978. These were difficult economic times for the United States. Inflation threatened to get the better of us. Many economists argued that only traditional objections, including drastic cuts in Government spending on special programs, could offer relief. Dr. Burns exhibited his characteristic independence during these difficult times. He rejected the old saws. Instead, he proposed controversial wage restraints and rejected cutting programs that help the needy. An avid foe of inflation, Dr. Burns, said:

> The only responsible course open to us is to fight inflation tenaciously. There is no way to turn back the clock and restore the environment of a bygone era. We can no longer cope with inflation by letting recessions run their course or by cutting programs that help the sick, the aged or the poor.

Dr. Burns asserted his independent spirit throughout his distingiushed career. He criticized President Nixon, the man who appointed him to the powerful position of Federal Reserve Chairman, for his administration's failure to address growing international trade problems, long before international competitiveness became popular. As Chairman of the Fed, Dr. Burns did away with the past practice of permitting the Board of Directors to vote on controversial economic issues, before the Chairman cast his important vote. The Fed Chairman, Dr. Burns believed, should lead, rather than follow the Federal Reserve institution.

In 1981, President Reagan appointed Dr. Burns as Ambassador to West Germany, where he served with distinction until 1985. Dr. Burns was so widely regarded as an economist and public servant that West German Chancellor Helmut Schmidt thanked President Reagan for naming him Ambassador to Bonn. I cannot recall the last time a head of State made such an extraordinary gesture.

Yet, this was the sort of thing we came to expect of Arthur Burns—a man who was honored throughout his career for his hard work, dedication and, most of all, his integrity. Whether you agreed with Dr. Burns or not, one never doubted his honesty or his commitment to serving this country. Dr. Burns was an economist's economist and the portrait of a public servant.

Dr. Burns loved our special corner of the country, just as Vermont was distinguished by his presence. All Vermonters join me in expressing our condolences to Dr. Burns' wife Helen and all the members of the Burns family.

TRIBUTE TO ARTHUR F. BURNS

Mr. HATFIELD. Mr. President, I want to join my colleagues, Senators Domenici, Nunn, and Chiles, not only in expressing my deep sorrow at the passing of my dear friend Arthur Burns, but also in paying tribute to the character of the man and the qualities that marked his life. I first met Arthur Burns during his tenure as Chairman of the Council of Economic Advisers under President Eisenhower and was blessed with a friendship that spanned over 30 years.

Many knew of Arthur Burns the scholar, economist, Presidential Counselor and Federal Reserve Board Chairman. His influence and leadership in shaping monetary policy during the economic turbulence of the 1970's was well known and widely hailed. This country has benefited greatly from his years of dedicated public service.

But less well known to the public was Arthur Burns the man of deep faith and great compassion. In the course of our friendship I came to know Arthur Burns as a man possessed with the voice and spiritual wisdom of the Biblical prophet Isaiah.

Of the many addresses Arthur Burns delivered during his life, none is more memorable than his comments on "the Eight Steps of Charity," delivered to the National Prayer Breakfast in 1978. Not only did his words touch me deeply but they found expression in his life. Let me share his thoughts:

> There are eight degrees or steps in the duty of Charity. The first and lowest degree is to give, but with reluctance or regret. This is the gift of the hand, but not of the heart.
>
> The second is to give cheerfully, but not proportionately to the distress of the sufferer.
>
> The third is to give cheerfully and proportionately, but not until solicited.
>
> The fourth is to give cheerfully, proportionately and even unsolicited: but to put it in the poor man's hand, thereby exciting him in the painful emotion of shame.
>
> The fifth is to give charity in such a way that the distressed may receive the bounty and know their benefactor without their being known to him. Such was the conduct of some of our ancestors, who used to tie up money in the corners of their cloaks, so that the poor might take it unperceived.
>
> The sixth, which arises still higher, is to know the objects of our bounty, but remain unknown to them. Such was the conduct of those of our ancestors, who used to convey their charitable gifts into poor people's dwellings: taking care that their own persons and names should remain unknown.
>
> The seventh is still more meritorious, namely to bestow charity in such a way that the benefactor may not know the relieved persons, or they the name of their benefactors, as was done by our charitable forefathers during the existence of the temple.
>
> For there was in that holy building a place called the chamber of the silent, wherein the good deposited secretly whatever their generous hearts suggested, and from which the poor were maintained with equal secrecy.
>
> Lastly, the eighth, and the most meritorious of all is to anticipate charity, by preventing poverty; namely to assist the reduced fellowman, either by a considerable gift, or a loan of money, or by teaching him a trade, or by putting him in the way of business, so that he may earn an honest livelihood; and not be forced to the dreadful alternative of holding out his hand for charity. To this the scripture alludes when it says:
>
> And if thy brother be waxen poor, and fallen in decay with thee, then though shalt relieve him: Yea, though he be a stranger or a sojourner: that he may live with thee.

> This is the highest step and the summit of charity's golden ladder.

Over the years I came to cherish not only the heart and faith of Arthur Burns but also the vitality of his life. He never complained, even during his time of failing health, and was always more attentive to others. On Wednesday noon, a number of us in the Senate meet during lunch for a time of fellowship and renewal. Arthur Burns was an integral part of that group and a constant source of inspiration. On the last Wednesday before his hospitalization and surgery, from which he would not recover, he again joined us.

During that time, I asked him how he was doing, how he felt. In his characteristic manner, he lit his pipe and was briefly silent. "The short version of my answer is 'fine,'" he responded. When we learned that Arthur entered the hospital less than a week later I was reminded of this thought from George Bernard Shaw:

> This is the true joy in life, the being used for a purpose recognized by yourself as a mighty one; the being thoroughly worn out before you are thrown on the scrap heap; the being a force of nature instead of a feverish, selfish little clod of ailments and grievances complaining that the world will not devote itself to making you happy.

Mr. President, Arthur Burns possessed this joy of life and all who knew him sensed his strength of outlook and force of character. At his passing, our sorrow at having lost a friend, and the Nation's sorrow at having lost a dedicated public servant, is equaled only by the joy of knowing that he is now with God.

The ACTING PRESIDENT pro tempore. Is there further debate on the resolution?

All time has expired. The question is on agreeing to the resolution.

The resolution (S. Res. 245) was agreed to.

The preamble was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. SARBANES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EXPRESSING THE SORROW AND REGRET OF THE SENATE AT THE DEATH OF WALTER WOLFGANG HELLER

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Maryland is recognized to call up Senate Resolution 250, on which there will be 10 minutes of debate.

Mr. SARBANES. Mr. President, I call up Senate Resolution 250.

The ACTING PRESIDENT pro tempore. The clerk will report.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 250) to express the sorrow and regret of the Senate at the death of Walter Wolfgang Heller.

The Senate proceeded to consider the resolution.

The cosponsors of the resolution are: Mr. Sarbanes, Mr. Adams, Mr. Bingaman, Mr. Chiles, Mr. Conrad, Mr. DeConcini, Mr. Dodd, Mr. Gore, Mr. Kennedy, Mr. Kerry, Mr. Lautenberg, Mr. Melcher, Ms. Mikulski, Mr. Moynihan, Mr. Nunn, Mr. Pell, Mr. Proxmire, Mr. Rockefeller, Mr. Sanford, Mr. Cranston, Mr. Lugar, Mr. Domenici, Mr. Boschwitz, and Mr. Durenberger.

TRIBUTE TO THE LATE WALTER W. HELLER

Mr. SARBANES. Mr. President, this resolution, Senate Resolution 250, reflects the sorrow and regret of the Senate at the death of Walter Heller, and pays tribute to Dr. Heller's outstanding contributions to the prosperity and well-being of our Nation as Chairman of the President's Council of Economic Advisers and over the course of his long and distinguished career.

Walter Wolfgang Heller was an extraordinary citizen. He was an able and farsighted economic policy adviser who shaped policies which led this Nation into a period of unparalleled economic prosperity. He was a teacher who throughout his brilliant career inspired generations of students, demonstrating that economic theory could be transformed into an effective tool for promoting the public well-being. He was also a public servant, who generously contributed his time and energies to numerous civic and philanthropic organizations and who continued to participate in and advance the public dialog until the moment of his death.

For Walter Heller, economics was more like a calling than a career. In fact, he once said, "The Depression attracted some of the best young minds into economics. Those of us who were growing up back then saw the economy flat on its back. To explain why, and to try to do something about it, seemed a high calling." His skill, vision and dedication enabled him to bring complex and difficult policy questions to unprecedented public awareness, and this was one reason that his counsel was so often sought in Washington during his impressive career. He could translate an intricate economic exposition into language that made it interesting and understandable to the layman. In fact, it has been said that Walter Heller made economic policy moves look as easy as a Joe DiMaggio catch.

In Washington, Dr. Heller did more than make economics understandable; he made it work. he possessed a unique ability to translate complex economic analysis into clear and understandable policy recommendations, and to inspire others to act upon those recommendations.

Dr. Heller is perhaps best remembered for his tenure as Chairman of the Council of Economic Advisers, from 1961 to 1964. He came to Washington, he said, when President Kennedy asked him to help the President make good his campaign promise of 5 percent GNP growth. Under Walter Heller's leadership the stellar group of economists he assembled at the Council developed policies which led the country into a period of prosperity that not only met but exceeded the President's commitment.

Walter Heller further demonstrated his dedication to public service as an adviser to the United Nations on the economics of developing countries, the Organization for Economic Cooperation and Development, and the Congressional Budget Office. His testimony on the urgent and complex economic matters facing the Nation was frequently requested by Congress.

Above all, however, Dr. Heller was a teacher. He was a member of the Economics Department at the University of Minnesota for 40 years. He served as chairman of the department from 1957 through 1961, and as regents professor from 1966 to 1986. He retired officially last year, but was quickly summoned back by the chairman of the department and had planned to continue teaching this fall.

His teaching was not confined to the classroom. He was an educator to the Nation. He was concerned to raise the level of public debate on economic issues and he contributed to this end with his writings and through his television commentary. Government official, teacher, writer, adviser, and observer, Walter Heller was a public servant in the truest, broadest, and noblest meaning of that term.

I would like to add, Mr. President, that Walter Heller and Arthur Burns shared an abiding commitment to public service. Dr. Burns, served as Chairman of the President's Council of Economic Advisers, and later as Chairman of the Federal Reserve Board and Ambassador to the German Federal Republic.

Drs. Heller and Burns were persons of rigorous integrity, intelligence, and professional competence. They were of opposite political persuasions, but the debate and the dialog between the two represented the best of American democracy and reflected the ideal way to practice our politics. While these two distinguished economists differed in their perceptions, and in how they weighed the complex economic questions facing our Nation, they were always reasonable. They understood that reasonable people could differ, with tolerance and respect, and by there own example, they elevated the national dialog on economic policy and made major contributions to our Nation.

WALTER W. HELLER

Mr. **CHILES**. Mr. President, last month saw the death of one of the most important men in U.S. economic history—Walter W. Heller. As economic adviser to Presidents Kennedy and Johnson, Walter Heller introduced Keynesian economics to the policymakers of this country. His contribution in this regard was more than theoretical. The economic policies he advocated ushered in one of the longest periods of prosperity this country has ever experienced.

During his public service in the early 1960's, Walter Heller rewrote Keynesian economics to fit the American economy. With other liberal luminaries like Arthur Okun, Otto Eckstein, and James Robin, Heller led the fight for the 1964 tax cut that initiated an unprecedented period of inflation-free growth.

Walter Heller did not, even with this great success, rest on his laurels. He had too deep an understanding of economics to believe he had found a surefire policy in the tax cut. During the Vietnam war, Heller argued forcefully for a tax rise to offset the inflationary pressures of defense spending. As Alan Greenspan said: "If Walter said something was black, it was black. If it turned to white, he'd spot it first."

During his years as a Presidential adviser and later as a public commentator, Walter Heller always maintained this acute sensitivity to conditions in the economy. In times of growth, he advocated increased spending on human capital—investment in education, training, the future. When the economy was overheating, he argued for long-run stability over short-run—but inflationary—growth.

In short, Walter Heller had a rare understanding of the complex economic conditions in the American economy. This, combined with his impressive grasp of economic principles, allowed him to offer advice that was unfailingly brilliant and sound. Walter Heller's death is a sobering loss to all of us responsible in some way for the economy in this country.

Mr. **KENNEDY**. Mr. President, it is a privilege to join in support of this memorial resolution honoring one of American's greatest economists, Walter Heller.

President Kennedy is remembered for many things, but one in which he took special pride was his gift of Walter Heller to the country. Hubert Humphrey had called him to Jack's attention in 1960, and the young economist and young President hit it off at once.

The reason was obvious. Whenever you were in a room with Walter Heller, economics was never the dismal science, but a fascinating public discipline alive with possibilities for hope and progress.

He understood that a sound economy is the greatest social program that America can ever have. His "new economics" of the 1960's was the cornerstone of President Kennedy's hopes for the future, and it launched the longest period of uninterrupted growth and price stability in our history. And in the quarter century since then, Walter Heller was a constant source of inspiration and advice to succesive Congresses and Presidents.

Through my role on the Health Subcommittee, I also had the privilege of working with Walter Heller in another area that was close to his heart, his activities with the Lupus Foundation. Through his dedication and commitment, he brought hope and help to many families with loved ones suffering from this disease, and I was always very impressed by his leadership in this cause.

America has lost a great economist and a great human being, and all of us have lost a great friend. President Kennedy could not have had the New Frontier without him.

Mr. **PROXMIRE**. Mr. President, Walter Heller was a remarkable economist and a great teacher. During his chairmanship of President Kennedy's Council of Economic Advisers, the country was more prosperous than it ever was before and than it has been since. But his impact on economic policymaking goes far beyond the years of his tenure on the council.

While Walter Heller was making economic history, he was also making economics interesting and provocative. With the eloquence of a poet, he turned dull economic theory into clear and convincing policy arguments. He showed all of us that scholarly analysis could be transformed into a tool with which we could improve our standard of living. Walter Heller believed in working harder and working smarter. All of us who have served in the Federal Government for the last 30 or 40 years are deeply in his debt.

Walter Heller was a liberal, but he was also a pragmatist. He taught us that the economics of freedom depends on a willingness to learn from experience, whether that experience confirms a liberal or a conservative theory. He was a gracious man with a reputation for fairness and he won the respect and admiration of people throughout the political spectrum. Walter Heller lectured to a national classroom, and his lectures will never go out of style.

Mr. **BOSCHWITZ**. Mr. President, I rise today in support of the resolution expressing sorrow at the death of Walter Heller. It is with sadness that I join in remembering this fellow Minnesotan who passed away only last month. Walter Heller was well known for decades as an educator, economist, communicator and pragmatist.

Walter Heller was an astute economist and a great communicator who lead a dual life as an educator and governmental adviser. After gaining his Ph.D. in economics from the University of Wisconsin, Dr. Heller worked for the U.S. Treasury for several years and helped set up the income tax withholding system. He accepted a faculty position at the University of Minnesota in 1946, and continued to be active in the economics department at the university throughout his life. Even after retiring as chairman of the department last year, Dr. Heller continued to remain active. He was planning to teach introductory economics this fall, and was continuing to write and make consulting trips to Washington.

Dr. Heller is best known for his role as chairman of President Kennedy's Council of Economic Advisers. Heller remained in that position until late in 1964, as President Johnson's chairman. He was a close adviser to both, unlike many of his predecessors, and he called himself an "educator of Presidents." Heller was a member of a group of liberal economists who advocated the economic principles of the British economic philosopher, John Maynard Keynes. Dr. Heller's 1962 proposal to cut taxes to stimulate economic growth in the face of a budget deficit—which went against the popular wisdom of the times—resulted in a continuous period of economic growth since WW II rivaled only by the economic growth we have been experiencing for the last 5 years.

Yet besides Dr. Heller's willingness to try out new principles, it is perhaps equally important to point out another of his characteristics. He demonstrated that economic rhetoric is essential to transforming economic analysis into policy formation. As it is frequently pointed out, economic formulas are of little use unless they can be translated into layman's terms. Dr. Heller was able, through his determination and good humor, to communicate his economic ideas in a very persuasive manner.

Above all this, Dr. Heller was a man who was the product of experience. Although he was an early advocate of Keynesian principles, Heller was ultimately a pragmatist who recognized that the answers for economic progress were not the province of one economic leaning or another. He demonstrated that sound economic policy is the product of constant experience and experimentation as the facts of economic life change. Alan Greenspan, who has been appointed to head the Federal Reserve Board, said of Dr. Heller—"If ideas Walter held were contradicted by evolving evidence, he was quick to change. If Walter said something was black, it was black. If it turned out to be White, he'd spot it first."

Walter Heller's enthusiasm, wisdom, and pragmatic vision will be sorely missed by those who knew him at the University of Minnesota, throughout our State, and throughout America.

Mr. SARBANES. Mr. President, I yield back the remainder of my time and move the adoption of the resolution.

The ACTING PRESIDENT pro tempore. All time has expired.

There being no further debate, the question is on agreeing to the resolution of Mr. SARBANES and others.

The resolution (S. Res. 250) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 250

Whereas Walter Wolfgang Heller was born in Buffalo, New York, in 1915, the son of immigrants from Germany;

Whereas Walter W. Heller was graduated Phi Beta Kappa from Oberlin College, and received his M.A. and Ph.D. from the University of Wisconsin;

Whereas Walter W. Heller married the former Emily K. Johnson in 1938 and they had three children, Walter P. Heller, Eric J. Heller, and Kaaren Louise Heller;

Whereas Walter W. Heller was a member of the Economics Department at the University of Minnesota for 40 years, and served as chairman of that department from 1957 through 1961 and as Regents Professor from 1966 to 1986, and was throughout his career a brilliant and lucid educator who inspired generations in the understanding and use of economic analysis and policy making;

Whereas Walter W. Heller was a preeminent exponent and practitioner of what he called "public economics," who used his great talents to transform theory into an effective instrument for promoting economic prosperity and opportunity;

Whereas Walter W. Heller possessed a unique ability to translate complex economic analysis into clear and understandable policy recommendations, and to inspire others to act upon those recommendations;

Whereas Walter W. Heller was an adviser to various Presidents, and served with particular distinction from 1961 to 1964 as Chairman of the President's Council of Economic Advisers, drawing to the Council and its staff a stellar group of economists whose work during that period, and subsequently, has constituted a major contribution to economic analysis and policy in 20th century America;

Whereas Walter W. Heller in his tenure as Chairman of the Council of Economic Advisers developed policies that led the United States into a period of unparalleled economic expansion, characterized by average annual growth rates exceeding 5 percent;

Whereas Walter W. Heller further demonstrated his commitment to public service over the course of his distinguished career by serving in an advisory capacity to the United Nations, the Organization for Economic Cooperation and Development, and the Congressional Budget Office;

Whereas Walter W. Heller generously contributed his time and energies to numerous civic and philanthropic organizations, including the German Marshall Fund and the American Lupus Foundation, and served as a member of the Board of Trustees of his alma mater, Oberlin College; and

Whereas with the death of Walter W. Heller on June 16, 1987, at age 71, the United States lost a distinguished citizen and foremost policy adviser who helped guide the nation into a period of unprecedented prosperity and opportunity, and who remained up to the moment of his untimely death a respected, thoughtful, and articulate adviser on the urgent and complex economic questions facing the nation: Now, therefore, be it

Resolved, That it is the sense of the Senate to express profound sorrow and regret at the death of Walter Wolfgang Heller.

SEC. 2. The Secretary of the Senate shall transmit an enrolled copy of this resolution to the family of Walter W. Heller.

Mr. SARBANES. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1987

The ACTING PRESIDENT pro tempore. The Senate will now resume consideration of the pending business, which the clerk will state.

The assistant legislative clerk read as follows:

A bill (S. 1420) to authorize negotiations of reciprocal trade agreements, to strengthan U.S. trade laws, and for other purposes.

The Senate resumed consideration of the bill.

The ACTING PRESIDENT pro tempore. The Senate will now proceed to consideration of the Byrd-Danforth amendment, on which there shall be 10 minutes of debate.

AMENDMENT NO. 566

(Purpose: To express the Sense of the Senate regarding the prospective purchase by Japan of a new fighter aircraft)

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of myself, Mr. DANFORTH, Mr. DOLE, and Mr. BINGAMAN, and ask for its immediate consideration.

The ACTING PRESIDENT pro tempore. The clerk will state the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], on behalf of himself, Mr. DANFORTH, Mr. DOLE, and Mr. BINGAMAN, proposes an amendment numbered 566.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill, add the following new section

SEC. . SENSE OF THE SENATE REGARDING JAPANESE PURCHASE OF NEW FIGHTER AIRCRAFT

(a) FINDINGS.—The Senate finds that—

(1) the Government of Japan is currently considering proposals for the next generation of fighter aircraft to be procured by Japan;

(2) the Secretary of Defense recently discussed this matter with Japanese government officials during this visit to Japan, and pointed out the advantage of Japanese procurement of a United States aircraft; and

(3) the United States currently produces several aircraft which could adequately fulfil the requirements for the next generation Japanese fighter support aircraft.

(b) POLICY. It is the sense of the Senate that the Secretary of Defense should—

(1) report to Congress as early as possible, but not more than 30 days after the date of the enactment of this bill, on the results of his recent discussions in Japan; and

(2) continue to engage in discussions with Japanese officials and to press for a commitment for procurement by Japan of a United States fighter aircraft to fulfill Japan's requirement for a new generation of such aircraft; and

(3) transmit to Congress recommendations regarding any action that Congress might take that would increase the likelihood of Japan procuring such aircraft from the United States.

DEFENSE BURDENSHARING WITH JAPAN

Mr. BYRD. Mr. President, the amendment which the senior Senator from Missouri [Mr. DANFORTH], Mr. DOLE, Mr. BINGAMAN, and I propose today urges the Secretary of Defense to continue to engage in discussions with officials of the Japanese Government concerning the procurement of a United States fighter aircraft by Japan.

Japan is currently considering options for the development of its next generation of fighter support aircraft. Some in Japan, apparently, favor domestic development of the new aircraft. Other options include purchase of an American aircraft or joint development by United States and Japanese firms of the new plane.

The Secretary of Defense, Mr. Weinberger, was in Tokyo in late June for discussions of this issue. He stated publicly that he expects the Japanese to give serious consideration to the option of purchasing a U.S. fighter aircraft as the next-generation aircraft for Japan. He also stated that any jointly developed plane should be based on existing U.S. aircraft.

Mr. President, I agree with the position of the Secretary of Defense on this matter. This amendment calls for the Senate to express its will and to send that message to Japan.

News reports indicate that some Japanese companies and Government officials believe that Japan should develop its own fighter aircraft rather than purchase one from the United States. To adopt such a course, Mr. President, would add to the tensions in the relationship of the United States and Japan and would send the wrong signal, on the part of the Japanese, concerning their professed willingness to make progress on the outstanding differences between us.

Mr. President, during Mr. Nakasone's visit here earlier this year I mentioned this issue to him. He promised that his government would take a serious look at the option of purchasing a U.S. aircraft, and that the importance of compatibility between the Japanese Armed Forces and the American Armed Forces would be kept in mind. To me, these considerations should lead the Japanese to select a U.S. fighter for their next generation aircraft.

Japan is an important ally of the United States. We have many common security interests in Asia, and our two governments have important security cooperation arrangements.

The Japanese Government has announced that it will conclude an examination of this issue by September. I hope it will at that time make a firm and final decision, and that the decision will be to purchase a U.S. plane. This decision should be made soon, and should not be the subject of endless study and stalling.

The production of high technology aircraft is one area where U.S. industry is not only competitive; it is also the world leader in technology and quality. Purchase by Japan of a U.S. aircraft would not only be the best buy for Japanese security and defense needs; it would also demonstrate Japanese commitment to opening their markets and to rectifying the existing trade imbalance.

This amendment calls on the Secretary of Defense to continue his discussions with Japanese officials and to seek a commitment from them for purchase of a U.S. plane. It also asks him to transmit any recommendations he might have for further actions Congress could take to encourage the Japanese to make a decision to purchase a U.S. plane.

Mr. President, I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. DANFORTH. Mr. President, as principal cosponsor of the majority leader's amendment on Japan's new jet fighter, the FSX, I strongly commend him for bringing this matter to the attention of the full Senate.

Whether Japan purchases a modified U.S. plane or opts for indigenous production may well be the single most important trade issue facing United States-Japan relations today and in the decade to come. How this matter is resolved will be the ultimate test of the credibility of the Japanese Government, of our own administration, and of the willingness of Congress to address the trade problem. Let me put it quite simply. If the Japanese proceed to develop and build their own jet fighter plane—the FSX—it will belie all Japanese claims that they wish to rectify the current trade imbalance.

Now some may claim that this is a defense issue and should not be handled on a trade bill. I strongly dispute that claim. The FSX issue is both a trade and a defense issue. It represents the nexus between two issues that many of us had hoped would remain separate. Moreover, the FSX issue, and the Senate's vote on it, offer a tangible example of a new phenomenon in United States-Japan relations—namely, the recognition that there is more at stake in our bilateral trade relations than a trade imbalance.

If we consider recent bilateral flare-ups, we discover that the United States-Japan trade problem has moved into a new dimension: Semiconductor access. Semiconductor dumping. Supercomputer access. Telecommunications. Machine tools. The transfer of sensitive military technology to the Soviets. U.S. protection of Japanese oil supplies in the Persian Gulf. These are not the traditional sources of trade friction. These issues have implications for U.S. economic health and security that go far beyond the textile, steel, or auto debates with which we have become familiar.

And then there is the FSX.

Mr. President, the Japanese cite a number of reasons why they do not buy more U.S. products. They claim their own products are technically superior, are of better quality, better meet their required specifications, and are more price competitive. They claim they cannot boost their internal demand because of their budget deficit. And they claim that aggressive opening of their market to U.S. exports would only produce de minimus results in the context of our bilateral trade imbalance. Their intention to build the FSX makes a mockery of every one of these claims.

In this case, the technically superior argument has no basis in experience, fact, or common sense. The Japanese have never developed a viable commercial aircraft, let alone a sophisticated jet figther. In fact, the only one they have developed is in reality a modified jet trainer. Yet, now they claim they can do a better job than we can despite our years of experience at producing the world's best and most sophisticated planes.

The Japanese claim our quality is not good enough. Mr. President, our planes are the best in the world. They are cheaper to maintain and require fewer man hours of servicing than any other planes in the world. Our designs are well-tested and have a proven track record. Yet the Japanese who have never built such a plane claim they can do it better. I find it hard to give such claims credence.

The Japanese claim that aggressive market-opening on their part would have a de minimus impact on U.S. exports. Mr. President, Japanese procurement of a U.S.-produced FSX would be worth over $4 billion in increased U.S. sales—close to 7 percent of our bilateral trade deficit with Japan. That is hardly a de minimus amount for a single procurement transaction.

Mr. President, one of the Japanese's explanations is that our products cannot meet their specifications. I think everyone remembers that they would not import our skis because their snow was "different." The FSX debate has its own version of "different snow." U.S. manufacturers have clearly stated their willingness and ability to meet the Japanese criteria, but one has to wonder about specifications that require a fully-loaded plane be able to takeoff on a 3,000-foot runway in 104-degree temperature. Most military airfields in Japan are 6,000 to 10,000 feet, and there is no record of 104-degree temperature in Japan in the last 30 years.

The Japanese claim our defense treaty is essential to their defense. Yet they seek a plane that can operate at nonexistent temperatures while simply paying lipservice to the more basic issue of interoperability. If they develop their own plane, United States and Japanese aircraft will be unable to share parts and possibly even weapons systems. Even when their officials hint at "joint development" or "coproduction" options to meet interoperability needs, they appear to imply a massive one-way technology and design transfer.

Finally, I want to talk about cost. The Japanese often argue that they cannot stimulate their economy because of their large budget deficit. Such an argument makes no sense at all in this case. Japan's experience in coproducing military aircraft with U.S. firms has cost them two or three times what it would have cost to buy directly. There can be no doubt that the cost of domestic Japanese development and production of the FSX will far exceed the purchase price of U.S. aircraft—by one estimate, upward of $6 billion.

Mr. President, neither the administration nor the Japanese should be surprised by the Byrd-Danforth FSX amendment. We have spoken at length to Japanese officials about the issue. The majority leader and I have both met with Prime Minister Nakasone about it and, along with the Republican leader, Mr. DOLE, and Senator BENTSEN, have written to him of our concerns. I have talked to both Secretary Weinberger and Undersecretary Armitage about the FSX and have written Secretaries Weinberger, Shultz, and Baker, as well as National Security Advisor Carlucci. Each time I have tried to convince them of the seriousness of the issue. I have stressed that a $60-billion trade deficit means there can be no business as usual. I have stressed this is a classic example of comparative advantage. We have it. The Japanese do not, and it should be honored. Japan's tradition of infant industry protection can no longer be allowed to extend into this, or indeed, any other sector.

So far the Japanese do not seem to have heard the message. They are now talking about delaying their decision for several years while they engage in joint development with a U.S. firm. That, of course, is just a stall. They hope we will forget about the issue. Joint development is in any event a dubious concept. It will unnecessarily raise costs by several billion dollars. What it really means is that they will use a few U.S. parts, and we wil transfer to them crucial avionics and other technology. Given the Toshiba incident, that alone should be a sobering thought. And, once again, we can expect to find ourselves competing in years to come with Japanese products derived from United States technologies.

As it now stands, the administration appears to be taking this matter seriously. I was pleased that Secretary Weinberger put it on the top of his agenda—along with the Toshiba case—during his recent meetings with Prime Minister Nakasone and others in Japan. At the same time, I remain somewhat disturbed by the administration's basic attitude toward this issue. It is clear to me that they may be willing to accept half a loaf. While they make statements in support of purchase of a modified American plane off the assembly line, they seem to be willing to accept the assembly of a modified American plane in Japan. That would represent a direct transfer of American jobs with no conceivable economic justification.

The Japanese currently build the F-15 under license. It costs them more than twice as much to build as it would to buy from the United States, and there is no reason to expect the production of a new plane will be any different.

Mr. President, this is both a trade and a security issue. For the sake of the vital relationship between the United States and Japan, this matter must be resolved, and resolved in a satisfactory manner. This is a clear case where American workers have a comparative advantage. They are more efficient. They can product a better product and can do it at a lower cost. If the administration is to be credible in its defense of free trade then they should be pushing for the Japanese purchase of an American-built plane.

The Byrd-Danforth amendment anticipates administration acknowledgement of this fact and provides the Secretary of Defense the opportunity to report on his progress in convincing the Japanese. I urge my colleagues to vote in support of the amendment.

Mr. President, I ask unanimous consent that a number of articles that have appeared in the United States and international press on the FSX issue be included in the Record at this point.

There being no objection, the articles were order to be printed in the Record, as follows:

[From The Chicago Tribune, May 17, 1987]

UNITED STATES, JAPAN WRESTLE OVER WHO WILL BUILD JET

(By Ronald E. Yates)

TOKYO.—While Japan and the United States struggle to resolve trade disputes, a less-publicized conflict over who will develop and supply this nation's next generation of fighter planes has reached the boiling point.

At the center of the controversy are 100 FSX, or fighter support planes that Japan's Defense Agency wants to put into operation by the mid- to late 1990s to replace its aging fleet of F-1s.

The defense industry, led by a five-corporation consortium, is demanding that the government produce the FSX in Japan rather than purchase the $10 billion fleet from American manufacturers, as the Reagan administration is insisting.

The corporations—Mitsubishi Heavy Industries, Fuji Heavy Industries, Mitsubishi Electric Corp., Kawasaki Heavy Industries and Ishikawajima-Harima Heavy Industries—argue that economic policies adopted at Washington's urging have helped destroy Japan's steel and shipbuilding industries.

To allow U.S. contractors such as McDonnell Douglas and General Dynamics (the two leading foreign contenders) to build the FSX not only would be a slap in the face to Japan's economically strapped heavy industries, but would effectively put this nation's budding defense industry 20 years behind America's, they say.

"We need to build a new airplane from the beginning, not from licensed production," Yoshio Sasaki, managing director of Mitsubishi Heavy Industries, told reporters recently, "Without FSX, we cannot develop the skill of our engineers and, under those circumstances, the aircraft industry in Japan will not fly."

Many people in America's defense industry and in Congress would like nothing better than to keep Japan's defense industry grounded as long as possible.

Last March, during testimony before the procurement subcommittee of the House Armed Services Committee, Assistant Secretary of Defense Donald Latham issued the first U.S. warning against Japan entering the military equipment business.

"They [the Japanese] are clearly, in my judgment, going to be in the defense electronics business in a big way in a very few years," Latham said. "Once established, the Japanese would be willing and able to export to the Third World and to anybody else very sophisticated military equipment."

Latham also said licensing of sophisticated U.S. weapons technology to a potential competitor such as Japan is a "policy aspect that needs to be addressed in the near term and long term."

Japan currently is building 174 F-15J Eagle fighters under license from McDonnell Douglas, and the firm has been pushing Japan to buy a modified version of its F-18 Super Hornet rather than produce its own plane from scratch.

"When you design a plane from scratch, no matter if you build 10, 100 or 1,000, you have fixed costs" said James T. Burton, president of McDonnell Douglas Japan.

"We figure it takes about $2 billion to get a plane off the drawing board in the United States. They [the Japanese] say they can develop the airframe, weapons systems and electronics for $1.4 billion. But there would have to be some very creative bookkeeping in order to do that."

Both Burton and representatives of General Dynamics, which is offering a modified version of its F-16 Fighting Falcon, insist they can deliver a plane to fit Japan's specifications cheaper than the domestic consortium can.

Late last month, members of the consortium met for three days with Japan's Defense Agency and urged it to ignore those arguments and allow the Japanese defense industry to produce the FSX.

A decision on the FSX is expected late this summer.

It is no secret that both the Defense Agency and Japan's powerful Ministry of International Trade and Industry favor domestic production of the new plane.

But with 100 percent tariffs on some $300 million in Japanese electronic products already in place and House passage last month of what is viewed here as a blatantly anti-Japanese trade bill, the Ministries of Finance and Foreign Affairs are advising that the FSX be bought from America to deflect some of the heat from Washington.

Other government leaders, including Prime Minister Yasuhiro Nakasone, are leaning toward some kind of joint Japanese-U.S. effort on the FSX.

But that attitude is setting off angry denunciations within Japan's powerful business community, in its vast bureaucracy and among the more hawkish members of the ruling Liberal Democratic Party.

They argue that given Washington's recent punitive behavior on bilateral trade issues, Japan no longer should depend totally on the U.S. for much of its sophisticated military hardware.

"We refuse to be dependent on the United States for rice by not allowing American rice imports, yet when it comes to such an area as national security, we place our head on the chopping block," an angry LDP member of parliament said during a recent background session with reporters on the FSX and defense industry issues.

Japan's defense industry has kept a relatively low profile since the end of World War II. Until recently, government policy had been to discourage Japan's heavy industries from channeling much money and effort into military hardware.

But the industry suddenly has taken on new importance. There are two reasons: Japan's export-oriented industries have seen foreign markets dry up because rapid appreciation of the yen has made its products less competitive abroad; and the government is making a concerted effort to turn the economy from one fed by exports to one led by domestic demand.

The defense industry is seen by some as a way for Japan to replace collapsing foreign markets for such big-ticket items as steel and ships. As a result, Japanese corporations are pressuring the government to relax policies dating back to 1949 that restrict arms exports.

Under those policies and others adopted in 1967 and 1976, Japan's defense industry may not export military equipment to countries involved in or threatening to become involved in conflicts.

However, there are plenty of loopholes in those guidelines.

For example, a few years ago Ishikawajima-Harima Heavy Industries exported a floating dry dock facility to the Soviet Union to service the Soviet Pacific Fleet. Kawasaki has sold its KV-107 helicopters to the Saudi Arabia, and other Japanese companies have sold jeeps to Nicaragua, high-speed patrol boats to Israel and Burma, and heavy military trucks to China.

U.S. URGES JAPAN TO IMPORT JET FIGHTER RATHER THAN DEVELOP ONE DOMESTICALLY

(By Eduardo Lachica)

WASHINGTON.—A Japanese proposal to develop a new jet fighter with homegrown technology instead of importing one from U.S. threatens to blow up into another emotional trade issue.

The Reagan administration is trying to stave off the explosion by urging Japan to consider buying an off-the-shelf U.S. fighter or developing a new plane with McDonnell Douglas Corp. or General Dynamics Corp. "Obviously, this a decision that Japan has to make by itself but we believe we have the products that can meet Japan's needs in a cost-effective manner," argues Thomas Hubbard, director of the State Department's Office of Japanese Affairs.

Though a decision won't be made until this summer, the Japan Defense Agency leans toward handing the Fighter Support Experimental, or FSX, project entirely to a domestic group headed by Mitsubishi Heavy Industries Ltd., Japanese officals says. National pride as well as the promise of major economic spinoffs from the feat of catching up with the best in U.S. aerospace design make the build-in-Japan option attractive to policy makers in the Japanese defense establishment.

CONGRESS'S FRUSTRATIONS

That decision could coincide with a debate over a trade bill that reflects Congress's frustration over the persistently large U.S. trade deficit with Japan. A rebuff of the U.S. offer would be "like throwing large amounts of gasoline on the already raging fire of protectionism," warns Sen. John Danforth (R., Mo.) of the Senate trade subcommittee.

"There's no excuse of Japan producing the airplane all by itself, not with a $60 billion trade surplus over the U.S., he adds.

Sen. Danforth has a special interest in the FSX project. The two U.S. bidders are headquartered in his state. But he predicts that the FSX issue could incite other congressmen who would see it as an example of how Japan flaunts even the rules of comparative advantage.

"The Japanese don't make planes as good as the FSX. We have the state of the art," Sen. Danforth says. "This is one time the Japanese can't tell us that our products aren't good enough, or that they don't need what we make.

Sen. Danforth estimates that the project would cost Japan $4 billion if the Japan Defense Agency buys its 100 FSX off U.S. assembly lines, but as much as $10 billion if it builds the plane itself. "If the Japanese have a budget problem as they claim they do, why should they want to spend 2½ times more for their planes than they have to?" Sen. Danforth asks. U.S. officials couldn't confirm this cost comparison, acknowledging only that the Mitsubishi group's claim that it can develop the FSX for only $1 billion is far too optimistic.

Mitsubishi Heavy Industries has a long history of co-producing McDonnell Douglas fighters—F-4 Phantoms in the 1960s and now F-15s—and has independently built the older F-1 fighter, which the FSX is to replace. But its ability to go it alone on the FSX is debatable. U.S. officials who have seen the Defense Agency's classified specifications say the agency is looking for a "superplane."

The new fighter has to have enough firepower to sink Soviet ships crossing the strategic Tsugaru and Soya straits in the event of a superpower conflict. At the same time, Japan wants the FSX to be nimble enough to help the U.S. Air Force clear Japanese skies of intruding Soviet fighters of mid-1990s quality.

Many U.S. defense planners agree that the most sensible Japanese choice is to improve on an established U.S. model like McDonnell Douglas's F/A-18 Hornet or General Dynamics's F-16. Trying to reinvent these American planes would just be a "waste of money," Donald Hicks told Japanese defense officials last year, just before he resigned as undersecretary of defense for research and engineering.

A spokesman for the Japanese Defense Agency said it would weigh arguments that Japan buy the plane from the U.S. against those for developing the aircraft domestically, but added that Japan is "determined to choose the plane necessary for our country's defense." A Mitsubishi spokesman added that while he couldn't comment on the political aspects of the FSX controversy his company has the technological know-how to produce the FSX without foreign assistance. He said that, if Japan continued to rely on foreign technology, its defense capability would be diminished.

SOME U.S. BUSINESS

Japan wants to firm up the FSX program in time for initial funding in its fiscal year starting April 1988. Pentagon aides say that, whatever Japan decides, the U.S. will gain some FSX business in the form of jet engines and navigation and armament-control electronics. But whether the airframe order will be awarded exclusively to Japanese companies or shared with a U.S. partner is still a matter of speculation.

General Dynamics and McDonnell Douglas say they are resubmitting their proposals for modifications of proven fighters in late March or early April. The Japan Defense Agency all but dismissed their first presentations last year.

Left to themselves, the Defense Agency and the Japanese air force would probably opt for self-development. But the Reagan administration is hoping that the decision will be kicked up to the cabinet, where national pride can be balanced against diplomatic and trade concerns.

JAPAN REMAINS HOPEFUL IT CAN BUILD FSX FIGHTER

(By Daniel Sneider)

TOKYO.—After two weeks of presentations by U.S. aerospace firms, the Japan Defense Agency (JDA) shows no sign of altering plans to build a new fighter domestically, according to participants in those meetings.

"We're still very pessimistic about the chances of them doing anything with an imported fighter," says an American industry official. McDonnell Douglas Aircraft and General Dynamics proposed variations of their fighters, the F/A-18 Hornet and the F-16 Fighting Falcon, respectively, for Japan's Support Fighter Experimental (FSX) project. Compared to earlier meetings here last October, one participant said, the atmosphere was "much more polite" but there was no indication of increased interest in an American aircraft, sources say.

This week the JDA will hear presentations from two other groups. A five-company consortium of leading Japanese aerospace and defense contractors will present its plans for FSX and the European consortium Panavia will pitch a variant of the Tornado strike fighter.

The Japanese manufacturers, led by Mitsubishi Heavy Industries, have been pushing strongly for domestic development.

U.S. government and congressional officials have called on Japan to develop an aircraft in concert with the United States.

Several weeks ago JDA Director General Yuko Kurihara raised hopes that the co-development option would be chosen. Kurihara told reporters the JDA would base the decision solely on defense requirements and he referred to the need for interoperability with U.S. forces. Those remarks were interpreted by many as a nod toward an American plane.

According to an official of the Japanese Ministry of Foreign Affairs, this is an incorrect reading "Using the same fuel," he says, "could meet the requirements for interoperability."

A Pentagon team on FSX visited Japan last week, following up the presentations by the American firms. The team held talks with Japanese defense officials on the possibility of cooperation on the aircraft.

The Pentagon approach is to use the F-16 or F/A-18 as a baseline for the FSX, with cooperation in areas such as use of composite materials, where Japanese technology is more advanced, and in new avionics systems.

The Japanese industry proposal, according to informed sources, claims it could produce 170 aircraft, the stated requirement, for $6.5 billion, or about $38 million per plane.

The United States says the cost would be nearly double—$12.5 billion—for domestic development, sources say. The Pentagon says research costs alone could exceed $3 billion.

If the Japanese cost figure is accepted, sources say, the forces favoring a homegrown aircraft will be able to argue that their plane is comparable or superior in cost to the American options.

General Dynamics, considered the least likely of the two bidders, presented three possible variants of the F-16, sources say. One was a straight buy of the existing F-16 C/D, either as an interim aircraft pending delivery of a more advanced version or for the full buy. The second, dubbed SX-2, has a new enlarged wing, enabling it to carry the ordnance load required: four Japanese ASM-1 (antiship, air-to-surface) missiles.

General Dynamics also presented design proposals for a new twin-engine variant of the Falcon, the SX-4.

McDonnell Douglas came in with two options. The main candidate is an enhanced Hornet, called a Super Hornet, which has been modified to meet Japanese requirements. The JDA had stated in meetings with Pentagon officials last December that the previous presentation of this plane in October had failed to meet the requirements.

McDonnell Douglas also presented plans for a development option called the Super Hornet Plus. This plane would have new wings, tail section, engine and avionics and would be equipped with canards. This option would allow Japanese industry to participate in development.

The decision on FSX, according to current plans, will be made this summer.

Fight Over Fighters?

Tokyo.—Japan and the United States are flying on a collision course over the next generation of fighter aircraft for Japan's defense forces. The next big trade row between the two countries may be about who will develop it. At stake is a Y1 trillion ($6.5 billion) contract to replace Japan's aging F-1 fighter in the 1990s.

The F-1 is based on American technology but designed and built in Japan by Mitsubishi Heavy Industries. Four candidates exist to build its replacement (code-named the FSX): two American aircraft—versions of McDonnell Douglas's F-18 and of General Dynamics's F-16, especially developed for Japan; an aircraft based on the Anglo-German-Italian Tornado; and a Japanese aircraft. A choice needs to be made by August, in time for the necessary funds to be written into the following fiscal year's budget. At the moment, the Japanese candidate is the front-runner.

Within the next few days, a consortium of five Japanese defense contractors will submit its plan for developing the FSAX to the Japanese Defense Agency. The consortium's members are Mitsubishi Heavy Industries, Mitsubishi Electric, Fuji Heavy Industries, Kawasaki Heavy Industries and Ishikawajima-Harima Heavy Industries. It will get sympathetic consideration. The Defense Agency's director-general of research and development, Mr. Ryozo Tsutsui, is a keen supporter.

The cards have looked stacked against the American firms ever since last october. When General Dynamics and McDonnell Douglas then came to Tokyo to make presentations based on the original brief supplied to them the previous May, they were handed an additional list of detailed specifications. American officials were subsequently told by the Japanese that the American aircraft did not meet these, although the Japanese did say they would allow the two companies to resubmit their case. A joint team from General Dynamics, McDonnell Douglas and America's Defense Department will return to Tokyo at the end of this month.

The Japanese government has tagged aerospace as one of the country's key industries for the 1990s. Some foreign taxpayers believe this could keep down the soaring cost of defense equipment as Japanese competition has kept down the cost of cars. Japan now has some of the avionics technology and most of the materials to build aircraft. What it lacks is the really advanced defense technology and the human skills. Building the FSX from scratch is a better way to train aerospace engineers than having them work on licensed foreign know-how. Everybody agrees that initially it will cost more to develop the FSX in Japan than to buy it from abroad. The Japanese justify that as the cost of education.

That might fly if Japan did not have such a chronic trade surplus. As it has, the plea will enrage the Reagan administration. What is now being discussed in the Japanese government is how little foreign involvement in the fighter Japan can get away with without risking a new trade row with the United States.

Nakasone Rules Out Quick Decision on FSX

(By David Silverberg)

Washington.—Japan will not be pressured by any party and will make its own decision on its acquisition of the FSX, Japan's fighter plane for the 1990s and beyond, Japanese Prime Minister Yasuhiro Nakasone said Friday at the National Press Club.

"Needless to say, this is a matter on which, at the end of the day, Japan should be on its own initiative and hand down its judgment," said Nakasone through an interpreter.

Nakasone also stated that the issue remains at the technical expert level and has not yet reached the policy levels of the Japanese government where a decision will be made.

This appeared to rule out a decision any time soon on whether Japan will produce an indigenous fighter or buy one from the United States or Europe. The issue long has been debated within the Japanese government and is increasingly becoming entangled in the trade conflict between the two countries.

Nakasone's appearance at the Press Club was part of a four-day visit aimed at reducing trade tensions between the two countries.

The Prime Minister said that he supported three conditions for making a decision on the FSX that have been formulated by Tadashi Kuranari, Japan's minister of foreign affairs, and by the director of the Japan Defense Agency.

The first is that a decision on "the end-product" must be made on the basis of an objective assessment of Japan's defense needs as well as its cost-effectiveness. This appears to rule out cost-effectiveness arguments made by American and European manufacturers and their supporters.

The second is that the decision also will be made on what will be the most useful plane to ensure the smooth operation of the Japanese-U.S. mutual security pact.

The third is that the decision will not be affected by the military industries of the countries involved—a rebuff to all parties that are lobbying hard for a decision.

The European Tornado tactical aircraft and two American planes, the F-16 and the F-18, are vying for the aircraft contract.

Nakasone said that he wanted further discussions on the matter to take place between Kuranari and U.S. Secretary of Defense Caspar Weinberger. (Weinberger was scheduled to meet with Nakasone late last Friday.)

Nakasone's remarks appeared to uphold the long-standing Defense Department policy that trade and defense issues remain entirely separate.

That policy, however, came under increasing strain in the days leading up to Nakasone's visit.

One missive linking defense and trade was a letter from four senators to Nakasone arguing that Japanese purchase of an American plane would greatly improve U.S.-Japanese relations. The letter was given to Shintaro Abe, former foreign minister, on April 22 during a trip to the U.S. in preparation for the Nakasone visit.

Signers were Sens. Robert Dole, R-Kan., Senate minority leader; John Danforth, R-Mo., former chairman of the Senate Commerce, Science and Transportation Committee; William Byrd, D-W.Va., Senate majority leader; and Lloyd Bentsen, D-Texas, chairman of the Finance Committee.

In the course of a lengthy view of U.S.-Japanese trade, the senators told Nakasone that purchasing an American plane would give Japan "very substantial savings" along with other positive benefits.

"The decision to purchase your new aircraft from the U.S. would be taken, in particular, as a sign of good will by Japan and as a tangible guarantor of a continuation of our close security relationship. Given the many mutual benefits of such a development, we urge an early favorable decision along these lines by your government."

A letter with a quite different tone was sent the same day by Rep. John Dingell, D-Mich., chairman of the powerful Committee on Energy and Commerce to the president calling his imposition of sanctions on April 17 "far too little and far too late."

"One area completely unexplored by your administration is our sale of defense weapons to Japan," said Dingell, noting that while the Japanese purchase a wide range of U.S. weapons, they require sellers to agree to their manufacture in Japan. While Nakasone argues that he cannot control Japanese consumer preferences, "in the case of defense sales, Mr. Nakasone *is* the customer. His argument that he is doing all he can falls apart. He could take a major step toward his commitment by buying U.S. equipment 'off the shelves' of U.S. manufacturers rather than coproducing them in Japan."

Dingell complained that Japanese coproduction cost the U.S. jobs, added to the trade deficit and transferred valuable technology that ultimately would hurt the United States. While spending only 1 percent of its gross national product on defense, Japan's insistence on coproduction "squandered" its limited defense funds since outright purchases would be more cost effective. Citing a study by the Program Analysis and Evaluation Office of the Defense Department, Dingell charged that coproduction cost the Japanese an average of 2.2 times more than an outright purchase.

"The current battle over the FSX is indicative, not only of things to come, but of the failed policies of the past," wrote Dingell. "Overseas defense sales fit into the overall trade picture and, therefore, must include the United States Trade Representative, and the Departments of Commerce, Labor and the Treasury."

Another complaint came in a letter to the president from 18 senators. The letter urged the president to raise the question of Japan's defense commitment in the northwest Pacific and noted Soviet activity in the area.

Among the steps necessary for Japan to meet the challenge is acquisition of an early airborne warning capability, said the senators, and while they applauded Japan's acquisition of additional P-3C airborne early warning aircraft, they said more was needed.

"The United States produces aircraft which are ideally suited to the mission of long-range airborne early warning," said the senators. "While it is expected that Japan will provide for acquisition of such aircraft in its next Mid-Term Defense Program Estimate, deferring serious consideration of improving surveillance capabilities until then would mean that actual capabilities would not be upgraded until the mid-1990's."

The senators urged the president to urge Nakasone to speed up the purchase of such an airborne early warning system and while not mentioning any particular system, they seemed to indicate Airborne Warning and Control Systems (AWACS).

"Prompt purchase and deployment of these planes will serve the security interests of both the United States and Japan, make international commerce in the region more secure and reduce our bilateral trade deficit with Japan."

Urges Purchase of U.S. Planes, to Fill the Gap; Even in Case of Centering on Autonomous Development of "FSX"; "F-1's Are Weak"; U.S. Points out for First Time

JDA Defense Bureau Director General Nishihiro, who has been visiting the U.S. for preliminary co-ordination for the Japan-U.S. top-level defense consultations between JDA Director General Kurihara and U.S. Secretary of Defense Weinberger (to arrive in Japan on the 27th), returned home on the 19th, and toward the evening of the 20th, reported to Director General Kurihara on the contents of his talks with Assistant Secretary of Defense Armitage and others. It is viewed that Bureau Director General Nishihiro sounded out the U.S. side on Japan-U.S. joint development, centering on autonomous development, in regard to the ASDF's next-term fighter support plane (FSX), which is now the biggest focal point in Japan-U.S. defense co-operation. It seems, however, that the U.S. side's response was extremely severe, and that it showed the view that, even in the case of centering on the autonomous development of the FSX, U.S. planes should be imported "to fill the gap" between the F-1 fighter support, now in use, and the FSX.

Defense Bureau Director General Nishihiro left Narita on the 14th, and stayed in the U.S. up to the 18th. During this time, he held talks with Assistant Secretary of Defense Armitage, Special Assistant to the President for National Security Affairs Kelly, Defense Security Assistance Agency Director Gast and others, in Washington. To judge from what JDA sources and diplomatic sources in Washington say, it seems that the U.S. side pointed out the following three points in regard to the FSX problem: (1) To cope with the threat of the powerful Far East Soviet forces, the F-1's support combat capability is much too weak, and the idea of using them for another ten years or more is in itself not understandable; (2) autonomous development will require tremendous expenditures, and it is lacking in rationality; and (3) there is anxiety over Japan's developing an FSX with high performance.

The FSX will gradually start replacing the F-1's, starting from about ten years from now as the general target data. The U.S. side's pointing out the weakness of the F-1 as a fighter support plane for the first time is being taken as an indirect expressing of the view, with the plan for U.S.-Japan joint development, based on autonomous development, which plan the JDA is coming to firm up as its basic policy, in mind, that, even in such a case, General Dynamic's (GD) F-16 or McDonnell Douglas' (MD) F-18 should be imported "to fill the gap" between the F-1 and the FSX. Still further, the expressing of anxiety over autonomous development itself is based on the same way of thinking as Assistant Secretary of Defense Armitage's expressing anxiety, from the standpoint of friendly relations with neighboring Asian nations, to LDP Lower House Member Shinya Totsuka, who was visiting the U.S., on the 15th, to the effect that "If Japan acquires the ability to produce the FSX by itself, China's sense of guardedness will become stronger."

Defense Bureau Director General Nishihiro seems to have sounded out the U.S. side on the so-called "two-stage formula for the selection of the plane type," under which joint development, centering on autonomous development, will be started from fiscal 1988, and under which the final plane type will be re-selected, including the importing of U.S. planes, at the stage where a test-manufactured prototype plane is completed, seven or eight years from now. However, according to the information of Washington sources, it is said that the U.S. side's response was extremely severe, and a JDA source also said that "In the case of centering on autonomous development, there will probably be considerable resistance (of the U.S. side)."

Secretary of Defense Weinberger and JDA Director General Kurihara will meet four times, that is, at the dinner party to be hosted by Director General Kurihara on the 27th, the dinner party [TN: sic] to be held by U.S. Ambassador to Japan Mansfield and the dinner party to be given by Secretary of Defense Weinberger on the 28th, and the formal consultations to be held at the JDA on the 29th. Talks with Prime Minister Nakasone and Foreign Minister Kuranari are also scheduled for the 29th.

FSX Problem; Big Gaps Between Japan's and US Side's Plans for "Joint Development", Even Though Same Terminology Used

(Commentary) It is the first time for JDA Director General Hurihara to have made a statement placing emphasis on the plan for Japan-US joint development of the FSX at his talks with US Secretary of Defense Weinberger on the 28th. In view of the fact that Kurihara did not at all mention a plan for Japan's carrying out independent development at the talks, it can be said that this implies that the Japanese Government, on its part, has no intention of carrying out purely independent development.

Leaders of the FSX Private Joint Research Council of Japan (five companies including Mitsubishi Heavy Industries) are showing the view recently of making a concession, says, "We will accept Japan-US joint development." It can be said that the Government's attitude is in line with this.

However, the Japan-US joint development plan, as so termed by the enterprises on the Japanese side, is a completely new development plan, to the last, for the Japanese side to design and manufacture the fuselage. Even in the case of independent development, Japan cannot but depend on imports from foreign countries, to start with, as to several major parts, such as the engine, and there are no big changes in the actual situation as long as Japan takes the leadership, even if the name of the plan changes from "independent development" to "Japan-US joint development."

On the other hand, the "plan for Japan-US joint development," one of the plans proposed by Secretary Weinberger, is a plan for "improving" some parts, with an already-existing US plane as the basis, and therefore, this plan also does not go beyond the extent of merely introducing an already-existing plane. This plan is different by far from the Japanese defense production industry's "desire" aiming at "fostering technological power for developing the next-generation new aircraft in the 21st century." In this sense, there are still big gaps in views between Japan and the US. It is predicted that the work of selection and coordination between Japan and the US henceforth will have hard sailing.

[From the Washington Post, July 16, 1987]

Japan Worries That Scandal Has Hurt Relations With United States

(By John Burgess)

TOKYO, July 15.—A Japanese company's illegal sale of advanced technology to the Soviet Union and the angry reaction to it in Washington have rocked Japan's staid corporate world with a force rarely found in the postwar period.

Four top executives have quit and two executives have been arrested. Prime Minister Yasuhiro Nakasone has denounced the exporter, Toshiba Machine Co., for "betrayal," and a revamping of the export-control system is under way.

Yet none of the steps taken seems to have come close to defusing U.S. anger. Japanese officials view the case as unresolved and as one of the most serious threats to the U.S.-Japanese relationship in years, potentially damaging everything from trade to military cooperation.

It was on May 15 that Japanese investigators publicly confirmed what newspapers here had been reporting for days: that Toshiba Machine, a subsidiary of the giant electronics concern Toshiba Corp., had sold advanced computer-controlled machine tools to Moscow in violation of an international agreement restricting high-technology exports to the Soviet bloc.

A Norwegian company, Kongsberg Vaapenfabrik, also was involved, illegally providing advanced computer software to run the machines.

U.S. officials say the Japanese equipment has enabled the Soviets to make submarine propellers that generate much less noise than those produced by conventional equipment, sharply reducing the U.S. Navy's ability to track Soviet submarine fleet. They say restoring tracking abilities to the previous levels could cost U.S. taxpayers billions of dollars.

Toshiba Machine's president admitted the sale and resigned, and police later arrested two of the company's executives. The Japanese government banned all exports by Toshiba Machine to the Soviet bloc for one year and disciplined two trading companies allegedly involved in the sale. The president of one of the trading houses resigned.

Nonetheless, anger in Washington began to mount quickly. To many American lawmakers, the case confirmed old feelings that the Japanese cynically profit from trade while relying heavily on U.S. taxpayers for military protection.

Early this month, television viewers here were shocked to see American legislators demolishing a Toshiba radio with sledgehammers outside the Capitol. The U.S. Senate, voting 92 to 5, passed a measure that would ban all exports by Toshiba Corp. and Kongsberg Vaapenfabrik to the United States for two to five years.

That vote prompted the resignations of the chairman and president of Toshiba Corp., though they denied that their company knew what its subsidiary was doing. The government, meanwhile, has pressed ahead with a program to tighten export controls.

Newspapers chastised the country's exporters, "If they . . . adopt the position that they will sell to anyone as long as they can make money, they must expect to anger other countries, to be made scapegoats of and to have their products shut out of foreign markets," the nationally circulated Asahi Shimbun said in an editorial.

Many Japanese see U.S. anger as understandable, but feel nonetheless that their country is being singled out for irrational retribution due to general frustration in the United States over the trade deficit with Japan, which totaled almost $60 billion in 1986.

A columnist in the Japan Economic Journal, the leading financial newspaper, noted a widespread view that "the U.S. is overplaying the Toshiba case with the intention to weaken this major high-tech company."

Some Japanese also are questioning whether the evidence is firm that submarines are quieter due to the Toshiba machinery.

"I don't think it's possible that Soviet submarine noise is down solely because they used a milling machine to make the propellers neat and beautiful," said Masanobu Ohtsuka, a spokesman for the Maritime Self-Defense Force, as the Japanese navy is known.

In parliament, opposition lawmakers this week repeatedly pressed Nakasone on this point. They drew the response from him that while Japan has no direct evidence of such a link, the government believes there was one and, in any case, the exporters broke the law.

"A Japanese company has not only damaged national defense," Nakasone told parliament in his strongest statement yet against Toshiba Machine, "but has also committed a crime of betrayal against the Japanese people."

When word reached here of U.S. talk of a ban on Toshiba exports the Foreign Ministry took the unusual step of saying that it would not try to protect the company. Japanese officials have said, however, that they feel it is unfair to punish Toshiba Corp. for the actions of an independently managed subsidiary.

In general, the tone of the debate has once again underlined that Japan, one of the world's prime economic powers, continues to view itself as a ward of the United States in military matters.

Much of this country's $23 billion-a-year defense budget goes to antisubmarine warfare. Yet hardly anyone has mentioned that Toshiba's sale may have undermined Japan's own forces, which are reported to be having the same difficulties in tracking Soviet submarines as the U.S. Navy is having.

"There is no sense of a security violation in the minds of many people on the street," said a Japanese official. The only concern, he said, is that the Americans have been angered.

For now, the Japanese have brushed aside as impractical U.S. suggestions that Japan should pay some form of compensation for damaging U.S. security. However, U.S. Defense Secretary Caspar W. Weinberger, after meetings in Tokyo this month, said that the United States and Japan have agreed to step up cooperation in antisubmarine warfare. Officials here say this will consist of research and presumably involve some Japanese money.

Japanese officials have long fought to keep the defense relationship with the United States separate from the economic one. While tempers soared over the trade deficit, military cooperation was better than ever. In January, U.S. and Japanese defense officials meeting in Hawaii even toasted this paradox with champagne.

But this spring the relations began deteriorating, first over a still-unresolved dispute concerning Japan's next-generation fighter jet, known as the FSX. Japan wants to build it largely on its own, while the United States is pressing it to rely heavily on U.S. technology.

Now the Toshiba uproar has further soured the mood. In many Japanese officials' eyes, it will make Japanese companies wary of getting involved in research into the Strategic Defense Initiative, the United States' proposed antimissile system. The two countries are expected to sign a formal agreement for such cooperation in Washington next week.

But Japanese corporations fear controversy and public criticism. What if a Japanese SDI contractor were to be accused of leaking findings to the Soviets? One Japanese official said executives here may conclude it is better to stick to conventional business.

The trouble could not have come at a worse time for Toshiba Corp., which—with sales of nearly $19 billion in the fiscal year ending March 31, 1986—ranked as Japan's third-largest electronics producer.

It had already been buffeted by the quick rise of the yen's value and slack exports to the United States and China. In the fiscal year, it profits fell 42.5 percent and it experienced its first drop in sales in 21 years as measured in yen. Losing all U.S. sales would be a tremendous blow.

Toshiba's newly appointed president, Joichi Aoi, told reporters this week that the company still hopes to take part in U.S. defense contracting. "We're determined to make every effort to restore the relationship of trust between Japan and the U.S. that was damaged by this case," he said.

Mr. DANFORTH. Mr. President, in summary, let me express my appreciation to the majority leader for his characteristic leadership on this issue. He has focused attention on one of the largest single trade issues that we have with Japan, if not the largest single trade issue, and that is the proposed acquisition by Japan of the so-called FSX. It is an attack fighter airplane.

The FSX, or its counterpart, is presently manufactured in the United States. It is manufactured by two companies, General Dynamics and McDonnell Douglas. It is manufactured under the names F-16 and F-18. It is the state-of-the-art equipment, the best possible, the best in the world. No other country has an aircraft comparable to the two that are made in the United States.

We talk about comparative advantage, Mr. President. We talk about those products where the United States does have the best available product and this is one of those cases. Sometimes people say that the United States does not try hard in international trade. Sometimes the Japanese tell us that they would be happy to buy our products if only we had products that were good enough to meet their quality standards.

Well, here we do have the best and they have nothing comparable. They do not have an aircraft like our F-16 or F-18. They do not develop such a thing.

They insist on coproducing the F-15. They could buy the F-15 off the shelf from the United States for a price half of what it costs them to produce it in Japan but, of course, the strategy of Japan is always to do what creates the most number of jobs for Japanese and, therefore, they are willing to pay for the F-15 twice as much as it would cost off the shelf in the United States.

The ACTING PRESIDENT pro tempore. The Senator's time has expired. The time of the proponents has expired.

The Senator from Oregon, Mr. Packwood, has 5 minutes under his control.

Mr. PACKWOOD. I would be happy, Mr. President, to yield such time as the Senator from Missouri would need.

Mr. DANFORTH. Mr. President, I thank the Senator from Oregon and I would conclude very quickly.

It would cost the Japanese about $10 billion to produce their own aircraft, their own FSX. They could buy this aircraft off the shelf in the United States for $4 billion. The Japanese gave as an excuse for failure to stimulate their own domestic economy, budget deficit problems.

One might ask why would they not, then, purchase a plane for $4 billion when it would cost them $10 billion to make their own?

They say that they are restricted in what they can spend under their Defense budget. Here is an opportunity for them to spend less than half of what it would cost to produce the plane themselves.

Mr. President, this is an important issue, a very big issue, between the United States and Japan. Our attention is going to be focused on their FSX decision. If they decide to produce it themselves, then I think it is fair to say that there would be a firestorm of reaction in the Congress of the United States.

Again I thank the majority leader for his insight in bringing this before the Senate and for his characteristic leadership.

The ACTING PRESIDENT pro tempore. The Senator from Oregon has 3 minutes remaining.

A FORWARD LOOKING SOLUTION TO OUR TRADE PROBLEMS

Mr. BYRD. Mr. President, we have now been working on the omnibus trade and competitiveness bill for a total of 13 long days and have adopted more than 100 amendments. At this point, it is easy to get bogged down in the details of the amendments and to lose sight of the larger project.

For 6 years, this administration has neglected our trade problems and succeeded in preventing Senate passage of major trade legislation. All the while, our trade deficit and foreign indebtedness were becoming worse. Last year we registered a trade deficit of $170 billion and foreign indebtedness of $263 billion. Just a few years ago, no one thought that such an extreme situation would be possible. Unfortunately, the situation is not improving. The trade statistics for May released last week show a deficit running at an annual rate of $173 billion.

Our trade problems reach almost every sector of the economy. We were exporting twice as many high-technology products as we were importing in 1980. Yet, last year we ran a deficit in high-technology trade. In overall trade in manufacturing, export volume fell by 20 percent between 1980 and 1986 while import volume doubled. The trends were similar for agriculture and mining.

Early this year, the House and Senate leadership put trade and competitiveness legislation on the priority list. Since then, a bipartisan consensus in favor of strong, effective legislation has emerged. All the bills from the nine committees enjoyed broad, bipartisan support, and a majority were reported by unanimous votes.

Despite the support that this legislation enjoyed in the committees, the administration's Cabinet sent me a list of more than 100 complaints about the bill. I replied that to amend the bill to satisfy all of their concerns would simply provide this administration with carte blanche to continue its present policy of do nothing.

It is worth noting that, since that exchange of letters, the Senate has changed several of the most controversial provisions in the direction the administration sought. We eliminated trade reorganization, the energy security trigger point, and the Foreign Acquisition Review Board. In addition, we moderated the provision on plant closings notice, substantially, and—to a lesser extent—section 201.

Mr. President, we have three important themes running through the legislation before us: Making our trade remedy laws more predictable; assisting our exports; and making our human and capital resources more competitive.

The Finance Committee bill was designed to enhance the predictability of our trade remedy laws. For example, petitioners filing cases alleging unfair foreign trade practices or a threat to national security would no longer have to fear that their cases may drag on endlessly for years. The bill sets reasonable time limits for final decisions on their petitions. Likewise, under the bill, when foreign governments violate their trade agreements with us, they must expect to suffer almost certain sanctions from the United States. Finally, when an import-battered industry proves that a period of import relief will make it more competitive, it would have greater assurance that relief will be granted.

The bill before us also includes a number of steps to boost U.S. exports. Several industries in my own State of West Virginia—such as coal and chemicals—depend very heavily on exports. In the urgent situation of mercantilist countries with very large surpluses, we adopted an alternative to the Gephardt amendment. It would put prompt and concentrated pressure on those countries to open their markets to our exports. For the longer term, the bill renews the authorities necessary to launch a new round of multilateral trade negotiations to bring down foreign trade barriers.

The Banking Committee bill includes a number of changes that should boost exports. It streamlines the licensing procedures for high-technology exports, and devotes more resources to export promotion. It attempts to keep our exchange rate in line to improve the price competitiveness of our exports. It provides an approach to reduce the debt burden of Third World countries so that they can buy more of our exports. Finally, it improves U.S. leverage to open foreign financial markets.

The third key feature of this bill is the effort to make our human and capital resources more competitive in world markets. To educate our young people to compete in the future, we have authorized several programs to strengthen instruction in mathematics and science. To assist workers displaced from their jobs, we reform and expand retraining programs. So that workers and their communities can better adjust to dislocations, we require major employers to provide a minimum of 60 days notice in advance of plant closings and mass layoffs.

To make our businesses more competitive, this bill assists the development of commercial technology. It focuses efforts and directs more resources to Federal technology-related agencies. To encourage greater manufacturing innovation, the bill would create a new patent protection for U.S. companies when they develop new production processes. Likewise, the bill strengthens U.S. laws to prevent foreign piracy of U.S. patents and copyrights.

In summary, Mr. President, this omnibus bill presents a wide-ranging and forward-looking program to address our international economic problems. I have touched on only a few of the highlights of this bill. But these highlights explain why so much of the business and labor community is supportive. I hope that we pass this legislation by a wide margin.

Mr. President, I compliment the manager [Mr. BENTSEN], the ranking manager of the bill [Mr. PACKWOOD], and the chairmen and ranking members of the several committees involved on the good work that has been done throughout the hearings, the markup processes, and throughout the debate and the floor action on the bill.

Mr. President, I yield the floor.

Mr. ROCKEFELLER. Mr. President, I totally support this amendment. It would be a tragedy if Japan chose to produce its own aircraft for the next generation of Japanese fighters.

Our product is clearly the best in the world. Our product is clearly the cheapest. There is no comparable product being produced in Japan. For the Japanese to purchase an indigenous aircraft, they would, first, have to develop such a plane. This would have to be done at a cost that would probably be at least double the cost of purchasing fighter aircraft in the United States.

We all know that the defense budget in Japan, although growing annually at a healthy rate, is still very limited. To spend double what is necessary on the next generation of fighter aircraft would mean taking these funds away from other aspects of Japan's defense efforts. This would not be helpful to the allied defense effort.

I hope the Japanese Government will make the proper decision and purchase American aircraft. I commend the majority leader and Senator DANFORTH for bringing this matter to the attention of the Senate.

Mr. BINGAMAN. Mr. President, I rise in support of the pending amendment and I want to commend the Senator from West Virginia and the Senator from Missouri for raising the issue of Japanese plans for their follow-on fighter aircraft before the Senate today. I am pleased to be a cosponsor of their amendment.

Mr. President, I have watched with growing concern the Japanese Government's attempts to justify domestic development of their follow-on fighter aircraft, the FSX. We should be very clear about what we are potentially dealing with here. That is defense industry protectionism of the worst sort. The Government of Japan spends only 1 percent of its gross national product on defense. There is almost no area in which the Japanese defense industry enjoys a comparative advantage over our own defense industry. And yet, the Japanese defense industry and obviously some elements of the Government of Japan want to utilize their very limited defense budget to help build a domestic aerospace industry.

This is both an alliance burden-sharing issue and a trade issue. And, of course, burden sharing and trade are inextricably linked. The Japanese derive economic and trade advantages from devoting only one-sixth as much of their resources per capita to defense as we do. For example, literally their entire research effort can be devoted to projects with commercial potential. They do not have to bear the cost of a large fully equipped active duty military force. The extra 5 percent of their GNP which the Japanese can devote to productive economic activity is certainly an important element of the comparative advantage which the Japanese enjoy in trade in commercial products with us.

When Japan spends so little of its resources for defense and relies so heavily on us to provide for the common defense of our two nations, it is hard to understand why the Japanese would not make the best possible use of the limited resources they are willing to put into defense.

Clearly, the most cost-effective approach for the Japanese to acquire a follow-on fighter would be to buy that fighter aircraft from the United States, just as it is all too often most cost effective for American consumers to buy Japanese products. The Japanese are simply not talking about a large enough FSX program to reasonably amortize the costs of developing a new aircraft. They are talking about buying on the order of 200 FSX aircraft in the 1990's. Thus, they will literally spend billions of dollars more on a domestic development and production program than they would if they bought American aircraft.

There is also no question that American aircraft can meet the legitimate requirements of the Japanese defense agency for a follow-on fighter. I say legitimate requirements because we all know that the Japanese defense agency can cook the requirements for the FSX aircraft so as to eliminate all alternatives to its preferred option of domestic development.

The second most cost-effective approach to purchasing the FSX would be coproduction of an American aircraft as the Japanese already do in the case of the F-15, the P-3, and other weapon systems. This is clearly a distant second choice in my view because it will take jobs away from Americans and because it will cost the Japanese Government significantly more than outright purchase of American aircraft, thereby wasting resources that could go to other Japanese defense programs. Of course, it is easy to understand a Japanese preference for this approach because it provides to the Japanese defense industry a host of jobs and some technology transfer from the more advanced United States manufacturers.

According to press reports, the Japanese defense agency vigorously recommended third option, codevelopment of the FSX, as the proper course to pursue during Secretary Weinberger's recent visit to Japan. This is clearly yet again a worse option for the American Government, for the American taxpayer and for our common defense. It is really an admission by the Japanese that their domestic development option is not a viable one and that they will need a great deal of technology transfer from the United States defense industry in order to make a domestic FSX development option viable. And of course, it will mean yet fewer jobs for American workers and yet higher costs for the Japanese Government than either outright purchase of American aircraft or coproduction of American aircraft.

As I said earlier, what we are potentially dealing with here is government protectionism pure and simple. The Japanese defense industry and the elements of the Japanese Government who are advocating domestic development or codevelopment of the FSX are advocating in essence a protectionist Japanese defense industrial policy. Despite the tremendous comparative advantage which our $35 to $40 billion a year investment in defense research gives to our domestic defense industry, the Japanese do not want to buy American in the defense sector. And yet they want us to continue to buy their commercial products. They want access to our defense acquisition system. They want us to use our much larger investment in defense to purchase Japanese products and Japanese services.

If Japan were devoting a larger fraction of its resources to defense and if Japan were not running a huge trade surplus with the United States, perhaps such defense protectionism would be more acceptable. But when the Japanese devote 1 percent of their gross national product to defense as opposed to over 6 percent by this country, I simply don't see how one can justify using that small budget as yet another instrument of protectionist Japanese industrial policy. This is clearly one area where the Japanese Government is the ultimate purchaser. If the Japanese Government chooses protectionism in this instance, they cannot avoid responsibility for their actions. Such a decision later this year would undoubtedly provoke a sharply negative response in this country.

Mr. President, I hope that this amendment will be overwhelmingly supported by the Senate today. We clearly need to send a message to the Government of Japan that we are watching their actions on this issue, and that we regard it in essence as a litmus test of whether they are serious about reducing their trade surplus with the United States and whether they are serious about making the best use of the limited resources they are willing to allocate to the alliance defense effort. I hope that the Senate's action today will help prevent a potentially serious miscalculation by the Japanese Government. I hope that it will lead the Japanese Government to reject the protectionist options for the FSX fighter and instead to choose outright purchase of an American aircraft to meet their needs for a follow-on fighter.

Mr. President, let me conclude by commending once again Senator BYRD and Senator DANFORTH for their leadership on this issue. I urge my colleagues to support their amendment.

The ACTING PRESIDENT pro tempore. All time on the Byrd-Danforth amendment has expired. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessary absent.

Mr. SIMPSON. I announce that the Senator from Kansas [Mrs. KASSEBAUM] is necessarily absent.

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 96, nays 0, as follows:

[Rollcall Vote No. 204 Leg.]

YEAS—96

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NOT VOTING—4

Biden
Gore
Kassebaum
Simon

So the amendment (No. 566) was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. DANFORTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, I would like to yield to the Senator from Wisconsin without losing my right to the floor.

The PRESIDING OFFICER. Is there objection? Without objection, the Senator from Pennsylvania yields to the Senator from Wisconsin without losing his right to the floor.

Mr. BYRD. Mr. President, will the distinguished Senator yield to me for a unanimous-consent request without losing his right to the floor?

Mr. KASTEN. I yield to the majority leader.

Mr. BYRD. I thank the Senator.

ORDER FOR RECESS FROM 12:45 P.M. TO 2 P.M.

Mr. BYRD. Mr. President, I have discussed this request with the able Republican leader.

I ask unanimous consent that the Senate stand in recess today from the hour of 12:45 p.m. to the hour of 2 p.m. to accommodate the two party conferences.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. BYRD. I thank the distinguished Senator from Wisconsin.

AMENDMENT NO. 617

(Purpose: To temporarily suspend the duty on frozen cranberries)

Mr. KASTEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Wisconsin [Mr. KASTEN] proposes an amendment numbered 617.

Mr. KASTEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of part II of subtitle A of title VIII, add the following:

SEC. . FROZEN CRANBERRIES.

Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States is amended by inserting in numerical sequence the following new item:

"903.63	Cranberries, frozen (provided for in item 146.71).	Free	No change	On or before 12/31/90."

Mr. KASTEN. Mr. President, this is a simple amendment. It would suspend for 3 years the existing duty on imported frozen cranberries. This amendment will eliminate the discrepancy in current tariff rates which presently assess no duty on imported fresh cranberries, but impose a 6-percent duty on the same frozen cranberries.

The existing duty on imported frozen cranberries creates a logistical problem for producers on both sides of the United States-Canadian border. Presently growers must immediately ship their fresh cranberries over the border or be subject to the increased duties. The industry could make more logical decisions as to where freezers could be constructed if they did not have to concern themselves with financial penalties. For instance, freezers could be constructed in closer proximity to growing areas rather than shipping a delicate fresh fruit across the border for freezing. Additionally, once a decision has been made to ship fresh cranberries across the border to be placed into freezers for storage, a financial penalty is imposed on the shipper if he desires to send the product back across the border for further processing. This decision has to be made prior to or at the time of harvesting in that fruit must be frozen as soon as possible once it is picked.

Mr. President, U.S. consumers will benefit from lower costs if this duty is suspended. This amendment is supported by the cranberry growers and processors. The Department of Agriculture has indicated there is no problem with this amendment. It is my hope and that of the administration that if the United States suspends its duty on frozen cranberries that the Canadians will do the same—and we have every reason to believe Canada will follow suit. If both the United States and Canada suspend these tariffs, it will facilitate trade in this commodity between our two countries.

Mr. President, it is my understanding that this amendment has been cleared on both sides.

Mr. BENTSEN. Mr. President, as manager for the majority on the bill, we have examined the amendment and see no objection to it. In turn, we have checked with the administration and find no objection there, so we are pleased to support the amendment.

Mr. PACKWOOD. Mr. President, I support Senator KASTEN's amendment which would remove the 6-percent tariff on frozen cranberries.

Oregon grows a lot of cranberries and it is an extremely important product to the State. I hope that this amendment will be the first step in resolving the ongoing tariff dispute with the Canadians. I hope that, based on our action, Canada will eliminate their tariffs on cranberries.

Mr. DANFORTH. Mr. President, we have no knowledge of any opposition to this amendment and it is acceptable.

The PRESIDING OFFICER. Is there any further debate?

Mr. KASTEN. I move the adoption of the amendment.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 617) was agreed to.

Mr. KASTEN. I move to reconsider the vote by which the amendment was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 618

(Purpose: To eliminate the administrative procedures for non-controversial tariff suspensions)

Mr. HEINZ. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Pennsylvania [Mr. HEINZ] proposes an amendment numbered 618.

Strike out subtitle C of title IX of the bill.

Mr. HEINZ. Mr. President, the entire amendment has been read. As is apparent, it is an amendment that would strike the provision from the trade bill which permits duty suspensions to be made by the President of the United States without any action by Congress. This technical provision was inserted in the trade bill on a voice vote in the Finance Committee.

The way the provision, that I seek to strike, works is this: A private person or the Government would file with the International Trade Commission a petition to suspend a specific duty. The International Trade Commission would have 15 days to decide whether or not to accept that petition. If it did accept it, it would have a 75-day period in which to investigate that petition, the idea being to discover whether or not there was any genuine opposition to the suspension of that tariff. At the end of that 75 days, the petition would then go to the President of the United States, and the President would make a decision whether or not to suspend the duty. If he found that it was going to adversely impact a domestic producer and if the revenue loss, as I calculate it, was less than $100 million a year, he would be allowed to suspend the duty.

If, on the other hand, he was not aware of any opposition to the proposal, he would be entitled to suspend the duty, as I have just mentioned. If he was aware of opposition, he would not be authorized under the law to suspend the duty and if the cost was, as I said, over $100 million, he would not be allowed to.

The provision in the bill is meant to permit so-called noncontroversial duty suspensions to be examined and acted upon by the executive branch. I think there are three major problems with that.

First, I think it is a suspect principle to give to the executive branch, no matter how carefully constructed and worded the procedure, the duty suspension authority that the Constitution gives to us. I do not claim, since I am not a lawyer that this is an unconstitutional delegation of authority, but it is certainly a delegation of authority that the Constitution gives to us. And so, on principle, I think it is a bad idea.

Second, I also think that in practice the procedure, while the author has attempted to draw it very carefully, is inherently flawed. There are, for the most part, very obscure and in some cases unpronounceable duty suspensions having to do with the importation of chemicals or very unusual, often rare, raw materials or other products.

And, as we have gone through the process of their consideration in the Finance Committee, first, in hearings in the Trade Subcommittee, then in the full committee markup, we have frequently discovered that adversely affected parties do not know that the legislation has been introduced, that it has been put into the RECORD, and that there have been hearings held on it. Because of the relatively obscure nature of many of these items, the adversely affected parties just do not know about it until the bill is just about ready for final action.

So, the question I would raise with our colleagues, Mr. President, is whether this procedure is going to provide more or less visibility than the procedure that we now have in the Congress? At present the bill is introduced, it is put in the CONGRESSIONAL RECORD, it is circulated broadly and we go through the rest of the legislative process up to and including the conference committee between the House and the Senate.

That is a process that can involve up to 535 Members of Congress, ourselves included, all of whom are enormously vigilant on behalf of our constituents and any interest of theirs that might be affected.

That is the way the system works now to guard against somebody being adversely affected. How would it work under the provisions in the bill? The Government itself can come to the International Trade Commission and the International Trade Commission has, as I indicated, this 75-day period to look it over.

It is really a question of how much workload the ITC has, how aware people are of the International Trade Commission, and how public they want their consideration to be.

Even in the most controversial decisions that the ITC is involved with, which are determinations of injury under section 201, the ITC holds at least one public hearing. Under the provisions of the bill, no public hearings at all are required. So it is quite possible—notwithstanding the direction given to the ITC—that a piece of paper will be filed there, it will be nominally circulated, nobody much will pay attention to it, and you could have that piece of paper going to the White House for a duty suspension action by the President without the people who are adversely affected knowing about it. And then, of course, the President is only going to be able to make an intelligent decision if he has good information.

Frankly, if he does not get it from the International Trade Commission, it is highly unlikely he is going to get it from anyplace else, and if there is one lesson we ought to learn from the Iran-Contra hearings, it is that it is possible for the President not to know about a lot of important things that are going on, let alone unimportant things.

Mr. President, this amendment in my judgment is bad on principle because it transfers what is constitutionally given legislative authority to the Congress to the President.

Second, in terms of practice and procedure, this procedure is not going to work well, and, in spite of the intention of the authors, is going to result in people being hurt by suspensions of supposedly noncontroversial duties simply because the process in the executive branch is much less transparent and open, almost necessarily so, than the one that we have here in the Congress.

Third, we all on occasion have introduced what we call private bills for the relief of individuals usually having to deal with immigration cases. They are submitted to the Judiciary Committee, and some of those bills are the result of years of conflict within the executive branch involving an individual whose citizenship or whose reasons for being in the United States was being questioned, being litigated, and Congress has properly been the court of last resort to determine whether those kinds of cases should be settled politically, by ourselves, or through the often complex and administrative procedures in the executive branch.

I urge Members to think very carefully about the question: If we yield this kind of congressional authority to the executive branch on tariffs, how different is that from deciding to yield, as we might if we set this precedent, the same kind of authority to an Executive procedure for determining the disposition of the kinds of private bills that frequently we all decide to introduce and on which we seek action?

In the past, it has been my experience that Congress, both with respect to duty suspensions and with respect to private bills, has done on balance a good job of meeting its responsibilities in a timely fashion.

There are times when the legislative process drags on, as, indeed, some people may think on this trade bill it has dragged on. But I do not think that even if there is some concern on the part of Members that we are sometimes overly deliberative in our way of handling these measures, that the solution is to surrender our responsibility to the executive branch.

I would, finally, note that our committees that deal with trade in the Senate and the House are often required to report legislation that does not please everybody on a wide variety of trade matters. Sometimes it is necessary to create a package of legislation which would contain some of these noncontroversial miscellaneous tariff provisions that are important to their particular advocates.

I would be less than candid, Mr. President, with my colleagues, if I said that I worry that this provision, if left in the bill, would undermine the Senate's ability to pass necessary legislation.

I think we have before us here in the trade bill a pretty good example. If you want to strip out of this trade bill everything that the executive branch does not want, I suppose what you would be left with is authority to negotiate a new multilateral trade agreement.

I doubt very much, Mr. President, if that negotiating authority, if brought to the Senate floor, would pass. Yet most of us agree that it is on balance important for the administration to have that negotiating authority. That is because in any negotiating session there are going to be winners and losers. The winners always try to take their good fortune for granted. The losers do not take things for granted. They take it hard when they lose.

So in a bill like this, even if it were a slimmer bill, we would need the kinds of noncontroversial—but to the people who benefit from them important—tariff suspensions that are here. On pages 6 and 7 of the bill there is a list of 50 or 60 of these noncontroversial suspensions. The point I am trying to make here—is that it sometimes is a very good idea to be able to give the Members of this body a package of legislation that on balance they can support but which, if separated indvidually, one or another piece of those packages might not be acceptable.

I would hope, Mr. President, that my colleagues would join in striking this provision of the trade bill.

The PRESIDING OFFICER. Does the Senator from Pennsylvania yield the floor?

Mr. HEINZ. I do.

The PRESIDING OFFICER. Who seeks recognition?

The Senator from Delaware.

Mr. ROTH. Mr. President, I rise in strong opposition to the amendment. The purpose of the provision that the distinguished Senator from Pennsylvania would strike is to help make American industry more competitive.

What we are doing is setting up an administrative procedure for noncontroversial suspensions of tariffs. What we are concerned about is that there are situations, important situations, where a manufacturer needs a particular material that is not available within the United States. In any event, despite the fact we do not produce either that material or any alternative, he has to import it from abroad and pay a duty, which makes us less competitive.

We are in no way preventing Congress to continue to take action as it now does. But, as I said, what we are providing here is an administrative procedure for noncontroversial—and I want to underscore that word, noncontroversial—suspension of tariffs. The process is intended to be a supplement to the current congressional system of granting duty suspensions. This process is intended only to be used to approved duty suspension applications that are clearly noncontroversial. That is, where granting the petition could in no way adversely affect a U.S. firm.

I would point out, Mr. President, that obtaining the suspension of duties on articles not manufactured in the United States is increasingly important to domestic industries.

When a domestic manufacturer finds that there is no domestic production of a component that is used in its manufacturing process, it is forced to import the necessary raw material or component and, as I said earlier, pay the import duty. That increases the cost of manufacturing and lessens the competitiveness of U.S. industry. Other companies seek duty suspensions in order to import products not manufactured in the United States to supplement their product line. Obtaining duty suspensions is extremely important for these domestic industries to maintain their competitive position internationally.

Congress has periodically passed legislation temporarily suspending duties on such products. Congress generally does so only when the suspensions are regarded as noncontroversial. That is, when neither the administration nor a domestic industry opposes the request. However, the legislative calendar has become increasingly clogged and uncertain, making it difficult to ensure timely passage of duty suspension legislation.

The new process will provide for more expedited treatment and greater certainty for industries with noncontroversial duty suspension requests. The process will take a maximum of 150 days from the initial petition to the final determination by the President.

The process is intended to be similar to the GSP Program in that it provides for a report by the ITC, and a review and recommendation to the President by the Trade Policy Staff Committee chaired by the Office of the U.S. Trade Representative. The agencies that now review and comment on legislation will continue to do so through the TPSC process.

Three separate opportunities are provided for public comment.

First, the ITC will hold public hearings as part of the review.

Second, the ITC preliminary report will be subject to 30 days' public review and comment.

Third, the Trade Policy Staff Committee will seek public comment and may hold hearings.

The process is much more transparent and open. The President will only be authorized to grant duty suspensions if no domestic industry would be adversely affected.

The authority delegated, I would point out, is limited by an explicit procedure to be followed and by a set of standards which limits the President's discretion in granting duty suspensions. The existence of these standards and procedures refute the argument that Congress would be delegating legislative duties by establishing an administrative procedure in the executive branch for handling noncontroversial duty suspension requests. The Executive will be implementing congressional intent by granting those duty suspension requests which the Executive finds to be noncontroversial.

The executive branch currently exercises its delegated authority to regulate international economic transactions under a series of statutes. Many of these statutes can be viewed as precedents for this type of limited delegation.

Mr. President, one clear precedent is the U.S. Generalized System of Preferences. Under the GSP Program, the President is authorized to suspend duties on imports from developing countries. The GSP Program has been in place since the Trade Act of 1974 and, of course, has been held to be a constitutional delegation of authority. Mr. President, the standards we have setup for this duty suspension process give the President significantly less discretion than the GSP. Although the President is to consider foreign policy, the state of trade negotiations, and any other factors he considers relevant, he is limited by the requirement that no U.S. person is adversely affected by this suspension. For that reason, Mr. President, I urge defeat of the amendment of the Senator from Pennsylvania.

Mr. HEINZ. Will the Senator yield for a couple of questions?

Mr. ROTH. I will be happy to.

Mr. HEINZ. I thank the Senator for yielding. My friend from Delaware and I have probably a philosophical difference on this as to whether there should be a delegation of this authority, but I wanted to be clear with him on what is in and what is not in his provision as I read it. I have a few questions I would appreciate his clarifying for me.

In his statement at the beginning, the Senator said that this provision would apply only if the item in question was not available in the United States and must be imported into the United States. It would only apply in those circumstances.

I listened very carefully to what he said, Mr. President, and that was what he said. I am not sure he meant to say that because I do not believe that is what the provision does.

The provision would apply whether something was manufactured in the United States or not. There would be a determination later as to whether or not a U.S. producer was adversely affected or not. That would of course ultimately be a subjective determination by the President; is that not correct?

Mr. ROTH. The intent of the language contained in the bill is to only grant a suspension when the material is not available within the United States.

Mr. HEINZ. Mr. President, I thank my friend from Delaware. His provision does not say that. I am perfectly willing to read into the Record, but it is already in the Record, what the Senator's provision is. What it says on page 363 and 364 of the bill—and I will paraphrase it—is that the President looks to find out if the article is produced in the United States or there is a similar article produced in the United States, and then he also determines if that person is going to be adversely affected by the suspension.

I would simply ask my friend from Delaware, if the amendment only applies to things that are not produced in the United States, why does the President have to determine whether a U.S. producer is adversely affected? I would think it is pretty clear that the Senator's provision applies whether or not an item is produced.

Now, the intent of the provision of the Senator from Delaware is to determine whether or not the domestic producer is adversely affected. I think the Senator from Delaware would agree with me that I have stated the case accurately.

Mr. ROTH. I would have to disagree with the distinguished Senator from Pennsylvania. We would, of course, be happy to strengthen the language if he finds that desirable.

What the language is intended to provide and does provide is that the President will only issue a suspension if the President determines that no person produces in the United States such article, or any other article like or directly competitive with such article.

Really, what we are trying to do is provide a means of helping American industry to be competitive. It is a well-known fact that many of these suspensions—and I realize that there are some Members of Congress who like to keep this authority within the legislative branch, but it seems to me that the primary purpose of this trade legislation is to try to help this country become more competitive and better able to sell American-made goods both domestically and abroad.

What we are trying to provide in this particular legislation is that if an American manufacturer needs a raw material or component that is not manufactured here, is not available here at home, he can import it without paying a duty. That will help make his line of goods or his product more competitive.

Now, if the Senator feels that he can improve on the language, we have no objection to that. But the important thing that we are considering is whether or not there is going to be a procedure which will enable American manufacturers to seek relief on a reliable basis and not rely on, frankly, what can be the whim of Congress—not that Congress may not want to act, but because of the burden of other duties, it sometimes takes months and even longer. Here we have a procedure for 150 days which takes care of the situation. We do not intend it to in any way hurt an American manufacturer. If there is an American product available that can be used, then the President is not intended to make the suspension.

Mr. HEINZ. Mr. President, I thank the Senator from Delaware for yielding. I ask unanimous consent to put in the RECORD at this point section 943(1)(A), the portion on page 363 and 364, through subsection (B), so people can refer to that specific language in our debate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SEC. 943. ACTION BY THE PRESIDENT.

(a) SUSPENSION OF DUTIES.—

(1) During the 30-day period beginning on the date on which the Commission submits to the President under section 942(c)(2) a final report on an investigation concerning the suspension of duties on an article, the President may issue a proclamation that suspends all duties imposed by Federal law on such article if the President determines that—

(A) no person who—

(i) produces in the United States—

(I) such article,

(II) any other article like, or directly competitive with, such article, or

(III) any other article which is like, or directly competitive with, a product that is produced in the United States by means of a process which uses (or could use) such article as a significant raw material or component, or

(ii) has—

(I) the capacity, and

(II) the bona fide intent,

to produce such article, or any other article like, or directly competitive with, such article, in the United States in significant quantities,

would be adversely affected by such a suspension . . .

Mr. HEINZ. Let me ask the Senator from Delaware, if he will yield, one other question.

Does the section of the bill that I seek to strike require the International Trade Commission to hold a public hearing as he indicated it did?

Mr. ROTH. I would point out to the distinguished Senator from Pennsylvania in answer to his question, under public comments on page 361, it says:

> During the course of any investigation conducted under this section, the Commission shall provide an opportunity for any person to submit written statements regarding the subject of the investigation and, upon request and after reasonable public notice, shall hold a hearing for the oral presentation of views on the subject of the investigation.

In closing, let me say, Mr. President, that Congress has not granted any duty suspensions since 1984. I think that shows a failure of the present system.

Let me point out that Congress can continue to act in those situations where it so deems it is appropriate. My proposal does not preclude Members of Congress from introducing duty suspension bills. Rather, the legislation sets up an alternative track for noncontroversial duty suspension requests. What we are trying to set up is a procedure which will provide some reliability to American industry as a means of helping it to become more competitive. I yield the floor.

Mr. HEINZ. Mr. President, I have one last question for the Senator from Delaware. I thank him for his response to my previous question because I think he, by quoting, has stated it accurately. This section does not require a public hearing unless someone requests it. Of course, that is the problem. The problem is if you do not know, you are not going to be able to request. And if you do not know very early on in the process, at a minimum within the first 60 days and probably a good deal sooner than that, it is going to be very difficult to get that hearing held on a timely basis, simply because of the workload of the International Trade Commission.

One last question for the Senator from Delaware. In the section of the bill which he offered in committee, there is a provision starting on line 8 of page 364, which runs through line 15 on page 365. The intent of that section, as I understand it, is to put a dollar limit, a sliding dollar limit, as the economy grows, on the amount of revenue lost on any such duty suspension.

As I have tried to work through the way this operates, it is my understanding that this would permit the President to suspend duty on anything up to around $100 million a year, $100 million of duty a year.

Quite apart from whether that is a good principle or bad principle—I do not agree with it obviously—I would just like to ask the Senator from Delaware if that is about the right mathematics on what he has proposed.

Mr. ROTH. Yes, the Senator is correct.

Mr. HEINZ. Mr. President, I thank the Senator from Delaware for his responses.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. HEINZ. Mr. President, will the Senator yield, so that I may request the yeas and nays on the amendment?

Mr. BENTSEN. Some of the Members are at the White House, and I suggest that we defer the vote until they have an opportunity to return.

Does the Senator know what time they are due back?

Mr. HEINZ. I cannot answer the Senator from Texas. I do not know what the agreement is.

I would like to get the yeas and nays on the amendment, but I am certainly agreeable we should stack the votes.

Mr. BENTSEN. I am supportive of obtaining the yeas and nays, and I think that is fine.

Mr. HEINZ. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. BENTSEN. Mr. President, what the Senator from Pennsylvania is trying to do here is to strike the amendment of the Senator from Delaware insofar as the temporary suspension of the duty on noncontroversial items is concerned.

Congress periodically has passed that kind of legislation, and we have done it after we have determined that it is not controversial, that neither the administration nor the domestic industry opposes that kind of suspension. While the legislative action of Congress is somewhat minimal, those duty suspensions are very important to the U.S. manufacturers. They involve, in many instances, the importation of products that are not available to the manufacturing process within the United States.

The problem is that Congress is not always efficient in handling those temporary suspensions, and we need to find a better way to accomplish that. I think that became dramatically clear at the end of the last session, when we were not able to get a temporary suspension of these tariffs, and some manufacturers in this country suffered some very grievous economic losses, and that is all we are trying to avoid.

I know there is a great deal of satisfaction in responding to a constituent's request on a temporary suspension and that when we take that action, the Senator gets credit for that. But in this kind of situation, I think it is important that we have a more orderly manner of doing it, particularly where there is no controversy.

The administration procedure set up by this bill allows the President to suspend those duties when it has been determined, through a substantive investigation of the International Trade Commission, that the suspension is not controversial. The controversial ones will comes to Congress.

So I support the administrative process that has been set forth in the bill, and I urge my colleagues to defeat the amendment.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. DANFORTH. Mr. President, I support the Heinz amendment.

This was a matter that was controversial within the Finance Committee and, as I recall, it was a reasonably close vote.

I do support the Heinz amendment for two reasons:

The first reason is that the tariff bills are in essence tax bills. I do not think that the executive branch of the Federal Government should be given in these cases unilateral authority to write what amounts to tax legislation. Therefore, I view it as a basic question of where power resides in the Federal Government, even though these are obviously small items.

Second, just as a practical question—and having now served in the Senate for three major trade bills—I cannot say that the presence of these miscellaneous tariff bills is a part of the moving force toward getting a trade bill passed.

The interest of Members in miscellaneous tariff bills is one of a number of things that move the bill forward. For that reason, I would not like Congress to give up its traditional authority with respect to tariff bills. So I support the Heinz amendment, and I therefore think that the position the committee took in adopting the Roth amendment is mistaken.

Mr. DURENBERGER. Mr. President, I rise to support the amendment offered by my distinguished colleague from Pennsylvania and am pleased to cosponsor the amendment. It is a fundamental principal of constitutional law that the Congress has exclusive power over tariffs and taxes. Thus I believe it is fundamentally wrong for Congress to delegate any of its authority with regard to tariffs.

Mr. President, tariffs, whether controversial or noncontroversial, involve revenue for the Federal Government. I do not believe that any of my colleagues would be willing to delegate to the administration the authority to change tax rates; nor do I think it wise to grant the administration the authority to change tariffs.

All of us have heard from constituents who seek changes in tariff schedules. As part of our job as policymakers, we often seek to have these changes incorporated into a trade bill. The bill we are considering on the floor today contains more than 60 pages of language relating to tariff matters. We did not ask our constituents to hire a lawyer and submit a voluminous legal brief in support of their request. In some cases, all they had to do was make a telephone call and get the ball rolling in many of our offices.

I can assure my colleagues that if we do not support the amendment of the Senator from Pennsylvania, we will create a new tariff bureaucracy that will require each of our constituents to spend thousands of dollars in legal fees on noncontroversial tariff matters. I think it would be a disservice to our constituents to create a new mechanism for tariff changes. The Constitution had it right; let us not tamper with the wisdom of the Founding Fathers.

Mr. HEINZ. Mr. President, I ask unanimous consent that the name of the Senator from Minnesota be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who seeks recognition?

The Senator from Ohio.

Mr. GLENN. Mr. President, I rise in opposition to the amendment which would eliminate the administrative procedure for noncontroversial duty suspensions. I stress "noncontroversial." It seems to me that this procedure is really a commonsense solution to the problems faced by companies trying to obtain such duty suspensions, and I believe that this procedure would be constitutional and should be adopted by the Senate.

Obtaining the temporary suspension of duties on products not manufactured in the United States is increasingly important to many domestic industries. Say, a company finds that there is no domestic production of a component or of a material it needs to manufacture whatever it is it is manufacturing, and, it is forced to import the necessary raw material or component, and pay the import duty, even though it is not interfering with any American company it does not protect a U.S. interest at all, for there is no American product, there is no American product that they could buy and so they buy abroad and they pay the duty on that. That duty increases the cost of American manufacturing and decreases the competitiveness of U.S. goods. Other companies seek duty suspensions because they need to import products as supplements to their product line. In these cases, duty suspensions allow American companies to remain internationally competitive.

How do we do this at present? At present, it is up to Congress to pass legislation that temporarily suspends duties on such products. We know what happens there. While Congress has done so on occasion, this process is, at best, a hit or miss proposition. The legislative calendar has become increasingly clogged, making it difficult to ensure, and that is important, timely passage of duty suspension legislation. For example, last year duty suspensions expired for many items, including items manufactured back home in my home State of Ohio. That is how I ran into this and thought it was so important because we had some of our manufacturers calling in wanting to know what the situation was, how they could get relief. It was not they did not want to buy American. The American company could not deliver on some of the products or some of the materials that they needed to manufacture their particular product. Although renewal of these duty suspensions was noncontroversial—nobody has argued that it should not be done—it was noncontroversial because the legislation did not pass before adjournment of the 99th Congress just due to all the pressures around here that we are aware of, the time pressures and the failure to pass a trade reform bill.

I hope we will be able to pass duty suspensions this year. However, what happens in the meantime? In the meantime the Customs Service has no leeway in this. In the meantime the Customs Service must collect the duties or require a bond for the duty liability.

Now, I ask you if you are a manufacturer or you are trying to keep some people employed, you have a small plant, you have a couple hundred people employed perhaps, and you do not know whether you are going to have a duty suspension or not and that may be the margin of your profit, as to whether you have that duty suspension or do not have the duty suspension.

In the meantime customs has no option, they have to collect the duty; require a bond for duty liability and you as a manufacturer are less competitive in the marketplace than your foreign competition.

So this very uncertain legislative process does not allow businesses to reliably anticipate their future expenses and to develop growth strategies. In short, Mr. President, it impedes their ability to compete at home and abroad.

The new administrative procedure would provide more expedited treatment and greater certainty for industries with noncontroversial duty suspension requests, and I repeat that word noncontroversial duty suspension requests again. That is all this applies to. The procedure would take a maximum of 150 days, which I think quite frankly is too long because to ask a manufacturer or businessman to wait for 150 days on items that may be seasonal in nature is quite a long time, but it is 150 days. It would be similar to the Generalized System of Preferences [GSP] Program in that it would provide for a report by the ITC and a review and recommendation to the President by the Trade Policy Staff Committee, chaired by the Office of the U.S. Trade Representative.

This is not some small ad hoc group that does not take the big picture on what our relations are with nations and the world. This is the USTR that would have their Trade Policy Staff Committee, would be operating to review these things and make the recommendation. They would guarantee that they are in fact noncontroversial. Agencies that now review and comment on duty legislation would continue to do so, while three opportunities would be provided for public comment. Certainly that is more than enough protection.

Let me emphasize once again that this procedure is designed to benefit companies seeking duty suspensions which are truly noncontroversial. The President would be authorized to grant duty suspensions only if no domestic industry would be adversely affected. I repeat that. The President would be authorized to grant duty suspensions only if no domestic industry would be adversely affected.

Further, this procedure is intended to supplement the current congressional system, and is not a substitute for it. Any Member of the House of Representatives or any U.S. Senator would still be able to introduce and pass duty suspension legislation.

The President's authority in this process would be limited by explicit rules to be followed and by a set of standards which must be met. These standards mean that the President would only be implementing congressional intent by suspending tariffs. The executive branch currently exercises similar delegated authority to regulate international economic transactions under a series of statutes. So this would not be anything that new.

One such statute, the GSP, authorizes the President to suspend tariffs on imports from developing countries. He has that authority now. The GSP has been in place since 1974, and has been held to be a constitutional delegation of authority. It has already been tested.

So, my colleagues should note that the standards we have set in this duty suspension procedure give the President significantly less discretion than he already has in the GSP. The President would be required to consider a variety of factors similar to those considered in the GSP, but he would be restricted by the requirement that no one is to be adversely affected by the suspension, and that the revenue loss would not exceed $100 million annually.

Mr. President, the administrative procedure for noncontroversial duty suspensions is I believe responsible legislation. It would provide considerable relief for many American companies and allow them to be more competitive and what we are trying to do with this whole trade bill is make American business more competitive.

So, Mr. President, I urge my colleagues to reject the amendment before them and keep this procedure in the omnibus trade bill.

I want to compliment my colleague, Senator ROTH, for his efforts on this. I was glad to join him in this effort and urge my colleagues to reject the amendment before them and keep this procedure in the omnibus trade bill.

Mr. President, I yield the floor.

Mr. BENTSEN. Mr. President, I ask unanimous consent that we temporarily lay aside this amendment in order that we may consider others that might be offered at this time and that we have our vote on the return of the leadership from the White House.

The PRESIDING OFFICER. Is there objection?

Mr. HEINZ. Mr. President, reserving the right to object, and I shall not object, it might even be preferable if the Senator also added to his request that further debate on the amendment be limited to 1 minute on a side.

Mr. BENTSEN. Without objection, I will add that to my request for the unanimous consent and urge adoption.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 619

(Purpose: Relating to United States Policy in the Persian Gulf)

Mr. MURKOWSKI. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The bill clerk read as follows:

The Senator from Alaska [Mr. MURKOWSKI] proposes an amendment numbered 619.

Mr. MURKOWSKI. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place in the bill insert the following:

It is the sense of the Senate that the President should pursue alternatives to the reflagging of Kuwaiti vessels, including the leasing or chartering to Kuwait of vessels of the United States domestic tanker fleet, as a means of accomplishing United States objectives in the Persian Gulf.

Mr. MURKOWSKI. It is apparent that the administration is moving forward with its plan to reflagging of some 11 Kuwaiti vessels at this time.

But I would like to state very clearly the purpose of the amendment. The purpose of the amendment is to express the sense of the Senate that the administration should pursue alternatives to reflagging Kuwaiti vessels, including the lease or charter of vessels of the United States domestic tanker fleet, as means of accomplishing United States objectives in the Persian Gulf.

It would be my hope that the bill managers would review and look favorably on the amendment because it does not mandate more than the consideration of alternatives to reflagging.

I refer a copy of the amendment to my colleague from Texas and ask that he consider it.

The concern that I have here, Mr. President, is that there has been a good deal of concern expressed over the merits of reflagging.

It has been stated that our flag is being used as a matter of commercial convenience to Kuwait. And I do not for 1 moment belittle the importance of maintaining the free flow of navigation in the Persian Gulf. The administration has taken a very decisive stand to keep the Persian Gulf open. I support that stand. But my concern is that we are overlooking a basic opportunity to involve our own vessels in a manner that I think supports the contention that America's interest should be first.

Let me reflect a moment on that, Mr. President, because I think if we go back to the early negotiations involving the reflagging issue, there was discussion held by representatives of the administration and the Kuwaiti Government. It was apparent that Kuwaiti vessels were being singled out in the Persian Gulf by Iran and that indeed there was a very severe threat to the movement of those vessels in the international waters of the gulf. So, after a long period of negotiations, during which we expressed some concern over the merits of reflagging, we proceeded to indicate that we would proceed with reflagging.

It is interesting to note, in facing this issue the position the Soviets took. The Soviets also were approached by Kuwait. The Soviets indicated they were willing to participate but that they were not willing to reflag Kuwaiti ships. Instead, they have chartered three Soviet merchant ships to the Kuwaiti Government at a rate of about $15,000 per day per ship. The termination date of this arrangement is something we do not know. However, they are being leased on a day-to-day basis. The British have also taken similar steps by chartering two British merchant ships to Kuwait. Yet, Mr. President, the United States has some 40-plus ships that are available in our American merchant marine. And I have a list of those ships, Mr. President, provided by the Seafarers' International Union.

It is interesting to note that most of these ships were built in U.S. construction subsidies. These are ships that are laid up. They are crude oil tankers. One can quicky view the list and come to the conclusion that many of these ships could do the job of reflagging Kuwaiti vessels. We have liquid petroleum gas [LPG] carriers that are laid up. One wonders why it is not in the interest of the U.S. merchant fleet to involve itself in the activities in the Persian Gulf. As I said, there are three Soviet and there are two British ships. We have unemployed sailors. We have unemployed ships.

The American Navy is going to be responsible for escorting tankers in the Persian Gulf. One has to ask why is it not in our best interest that United States merchant ships have some involvement in the carriage of Kuwaitis crude oil and LPG? I think the administration moved rather rapidly on this issue, and I understand that. But I think that there was a lack of recognition of the potential role of the U.S. merchant marine interest in carrying the crude oil.

Quite naturally, the Kuwaitis have the best of both worlds. They have their own ships under lease, if you will, to various routes and they are utilizing those ships, they are amortizing the investment. The American Navy is providing escort.

So we have two points here, Mr. President. The first, as I have indicated, is why not involve U.S. ships since we have our Navy out there accompanying those ships; in effect, an escort, a convoy type of arrangement?

The second issue that I think bears some examination is the subterfuge associated with reflagging. The reflagging requirements, Mr. President, are rather simple. They mandate that a U.S.-flag vessel have a U.S. captain and a U.S. radio operator; 75 percent U.S. crew. On foreign voyages, U.S. crew requirements are waived until the vessel hits a U.S. port. Then it must be crewed by American crews. The subterfuge, Mr. President, is very clear. There is no intention that these ships will ever hit U.S. ports. They will be used in foreign trade, in foreign commerce for an indefinite period of time.

So the situation we have, Mr. President, is a clear one. Why not support American interests? Why not support the contention that the American unions can crew up to 15 vessels within 48 hours and the requirement currently is for only 11 ships. A number of ships that I have on this list are in an active status and could be put in use in a very short period of time.

One other interesting observation that bears some examination is that the Kuwaitis have approached us within the last 3 or 4 days, the State Department, on the merits of leasing two ships.

So, again, Mr. President, I think in the amendment the President should consider alternatives to reflagging of Kuwaiti vessels and specifically the utilization of United States vessels which are available that could be manned by United States crews, to move this commercial traffic.

On the question of danger to American seamen, I have checked with the various unions. They have assured me that American seamen have sailed for generations under duress from time to time. It is part of their job and they stand ready, willing and able to go. The arrangements for sailing in the Persian Gulf under current circumstances do not mandate that there should be any preference given in the regular wage of seamen. It is a standard wage.

Another factor which merits examination as we consider the significance of America's role in the Persian Gulf is that we are the recipients of only about 6 percent of the crude oil involved. About 35 percent goes to Western Europe and the balance to Japan. So we are certainly playing the major role as far as making a contribution to ensure the sea lanes of the gulf remain open.

The element that is lacking and the basis for my amendment is the fact that we are not utilizing the leverage we have—and that leverage is the presence of the United States Navy in escorting reflagged Kuwaiti vessels—why are we not using that leverage to involve some of our own merchant ships and some of our own merchant seamen that are available to be employed? After all, it seems realistic, Mr. President, that this should be a major concern, inasmuch as it is with the British Government in allowing their merchant ships in there, it is with the Soviet Union's allowing their merchant ships in. The only one notably lacking is the presence of the U.S. merchant fleet.

Mr. President, I ask unanimous consent to have printed in the Record a list of American vessels, the owner companies, and the dead weight tonnages supplied. This indicates the status of those vessels, where they are laid up and some other substantiating information on the reflagged vessels that are proposed to be reflagged.

There being no objection, the list was ordered to be printed in the Record, as follows:

Vessel	Company	Dead weight tonnage
Atlantic	Shell	404,531
Pacific	Shell	404,531
Williamsburg	American Petrofina	225,100
Texaco Maryland	Texaco	25,400
Pride	American Heavylift	29,200
Jacksonville	Hess	48,000
Charlestown	Hess	39,400
New York	Hess	268,310
Maryland	Maritime Administration	264,100
Massachusetts	Maritime Administration	264,100
Falcon Countess	Falcon	37,300
Fredericksburg	Hess	39,000
Golden Monarch	Hess	91,400
Carole Ingram	Norshipco	36,600
Martha Ingram	Norshipco	36,600
New York	Maritime Administration	47,247
Exxon Gettysburg	Exxon	38,000
Mt. Washington	Victory	50,265
Bennington	Keystone	50,800
Chablis	Apex	29,200
Omi Leader	Omi	37,800
Spirit of Liberty	Keystone	38,200
Williamette	Omi	37,900
Concho	Davis International	32,700
St. Emilion	Apex	32,800
Chesapeake	Hess	50,000
Sealift Arabian Sea	MSC	27,300
Samuel L. Cobb	MSC	30,200
Copper Mountain	Apex	86,900
Chesapeake Trader	American Trading Transportation	50,100
Falcon Princess	Falcon	37,300
Manhattan	Sea Train	113,900
Baltimore	Hess	48,000
Paul Buck	MSC	29,500
Montrachet	Apex	30,800
Cove Trader	Cove	46,400
Delaware Trader	American Trading Transportation	50,100
Bayridge	Sea Train	225,000
Omi Charger	Omi	37,800
Potomac Trader	Ameican Trading Transportation	50,100
Prince William Sound	Sun Oil	123,400
Petersburg	Keystone	50,100
Cove Liberty	Cove	69,300
Cove Leader	Cove	67,400
Overseas Natalie	OSG	67,200
P.T. Alaska	Shell	
P.T. San Diego	Shell	

Vessel	DWT	Location
Alanta	4,900	Yokohama, Japan.
American Explorer	22,900	Beaumont, TX.
American Osprey	33,100	Beaumont, TX.
Chattahoochee	4,900	Yokohama, Japan.
Falcon Lady	37,300	To be delivered.
Nodaway	4,000	Honolulu, HI.
Potomac	27,476	Beaumont, TX.
Shoshone	25,100	San Francisco, CA.
Spirit of Liberty	38,200	To be delivered.

Mr. MURKOWSKI. Mr. President, I think it is interesting to note,also for the Record, the realization that of the 11 vessels to be reflagged, they are not all crude oil carriers. Seven are crude oil carriers and four are LPG tankers.

In other words, the value of the commodity per Btu is much higher moving LPG than crude oil.

If we note the second vessel to be reflagged is not a crude oil tanker, it is an LPG tanker, as evidenced on the front page of the Washington Post this morning.

As we reflect on what we are doing for Kuwait, we are guaranteeing the free flow of commerce from Kuwait to the markets of the world and it is interesting to note that the LPG is under long-term contract to Turkey and Japan, so it is the free flow of commerce out to the world in their ships, and I simply feel that we should have an opportunity to participate in this carriage as well.

I would be happy to discuss with my colleague from Texas his attitude toward the intent of the amendment. I wonder if, during my discussion, he has had an opportunity to reflect on whether or not he feels that such an amendment might be acceptable?

Mr. BENTSEN. I would say to my distinguished friend from Alaska as I read the amendment it is somewhat different than what I heard you speak. In this instance, it says, "should pursue alternatives."

You kept saying in your verbal statement that we "should consider."

To me there is a difference in emphasis there that has some importance to it.

I would also say to the distinguished Senator that the leadership from the minority side is in a meeting at the White House at the present time. I am now told that that meeting has ended and they are on the way back and I think any action should be deferred until the leadership from your side of the aisle has returned and that the manager for the minority has a chance to express his point of view.

Mr. DURENBERGER addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DURENBERGER. Mr. President, the Senator from Texas has stated a bit of a predicament that we are temporarily in on the minority side and that is that my colleague from Alaska has either presented us with a dilemma or an opportunity. Without the benefit of our leader, who is not here right now, we are not capable of making that decision.

It is our understanding, though, that the Republican leader and others will return to the floor within the next 10 minutes and I would ask my colleague from Alaska, if he has more to say on the subject, he might avail himself of this opportunity. Otherwise, it would be helpful to us if he would defer his amendment or further debate on his amendment, perhaps until we have had a chance to act on the Heinz amendment.

Mr. MURKOWSKI. Mr. President, first of all, in responding to my friend from Texas, I would defer specifically to the wording of the amendment. My comments are based on my strong feeling that the administration should be more sensitive to our own opportunities for employment and carriage by utilizing our own vessels but I do apologize if I, by any means, misled in my supporting statement the true intent of the amendment. It is "pursue alternatives to reflagging." It does not mandate the leasing or chartering of U.S. domestic tankers.

So, I would hope to make this very clear. I hope that I have given my friend from Texas some comfort.

I would be happy to set aside the amendment so that others may offer their amendments, pending the notification and clearance with both the majority and the minority as to the acceptability of this.

I would reserve the right to call it up for a vote if it is not accepted and also reserve the right to speak on it further. I believe there was a general understanding of an hour on this amendment. But I recognize that you have got a 6 o'clock cutoff and many, many amendments yet to be brought to the floor. But I think we were encouraged by the leadership to come over here and bring up our amendments and I have obviously responded in the spirit of that. If necessary, I ask some consideration be given, if it is not acceptable, for me to speak further on the amendment.

Mr. BUMPERS subsequently said, Mr. President, just a few minutes ago we debated an amendment by the Senator from Alaska which urged the President of the United States to consider alternatives to reflagging Kuwaiti ships. We have debated this considerably in the last week, and I do not want to beat a dead horse and continue that debate, but I do want to point out to my colleagues, to point out and suggest that they read the front page of the New York Times today just to dramatize further the craziness of this policy, of putting our flag on Kuwaiti ships. The Prime Minister of Kuwait said this morning that, No. 1, if American's ships are attacked it is obviously America's responsibility to do whatever they are going to do and not involve the Kuwaitis in any way in anything that would cause them any problems in the Middle East among their neighbors.

No. 2, it has been made crystal clear time and time again by the Kuwaitis and restated in the Times this morning by the Prime Minister of Kuwait, that American planes will not have landing rights in Kuwait and American warships will not have port or berthing rights in Kuwait.

So I ask my colleagues what kind of a policy is it, ask yourself, what kind of a policy is it when we put our flag on 11 Kuwaiti ships to guarantee the free flow of Kuwaiti oil out of the Persian Gulf, send 12 warships in the Persian Gulf to escort those tankers while Kuwait says "You may not land your planes in our country and you may not berth your ships in our country."

I yield the floor.

AMENDMENT NO. 618

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. I will note the return of the manager for the minority from a meeting at the White House. We had deferred action on the Heinz amendment until that time and I would ask unanimous consent that we now set aside the amendment of the Senator from Alaska and that we proceed under the previous agreement with a limitation of time of 1 minute to the side for the presentation of the Heinz amendment and proceed on to the record vote at that time.

The PRESIDING OFFICER. Is there an objection? Hearing none——

Mr. MURKOWSKI. I reserve the right to object. What I understand is you have moved to the Heinz amendment, 1 minute either side, and then the Murkowski amendment?

Mr. BENTSEN. Rollcall vote and I would further amend to say that we would then return to the amendment of the Senator from Alaska, if there is no objection.

Mr. MURKOWSKI. That would probably be after a vote; is that correct?

Mr. BENTSEN. That is correct.

Mr. MURKOWSKI. Thank you.

The PRESIDING OFFICER. Is there objection? Without objection, the unanimous consent is agreed to. The Senator from Texas has 1 minute. The Senator from Oregon has 1 minute.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. I will yield the minute to the Senator from Pennsylvania if he would like it. I was going to move to table his amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HEINZ. I am prepared to yield back the time if the Senator from Texas is prepared to yield it back.

Mr. BENTSEN. Mr. President, I am prepared to yield back the time.

The PRESIDING OFFICER. All time is yielded back.

The question is now on agreeing to the amendment of the Senator from Pennsylvania.

The clerk will call the roll.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I move to lay on the table the amendment of the Senator from Pennsylvania, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Mr. BENTSEN. Mr. President, I ask the RECORD to show that I joined the distinguished manager for the minority in the tabling motion.

The PRESIDING OFFICER. The RECORD will so state.

The question now is on the motion to table offered by the Senator from Oregon.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

The PRESIDING OFFICER (Ms. Mikulski). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 88, nays 9, as follows:

[Rollcall Vote No. 205 Leg.]

YEAS—88

Adams
Armstrong
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Dole
Domenici
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Harkin
Hatch
Hatfield
Hecht
Heflin
Helms
Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Lugar
Matsunaga
McCain
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Shelby
Simpson
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—9

D'Amato
Danforth
Durenberger
Grassley
Heinz
McClure
Murkowski
Specter
Stafford

NOT VOTING—3

Biden
Gore
Simon

So the motion to lay on the table amendment No. 618 was agreed to.

Mr. ROTH. Madam President, I move to reconsider the vote by which the motion was agreed to.

Mr. HEINZ. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 619

The PRESIDING OFFICER. The question recurs on the amendment of the Senator from Alaska.

The Senator from Alaska.

Mr. BENTSEN. Madam President, will the Senator yield?

Mr. MURKOWSKI. I yield.

Mr. BENTSEN. Madam President, may we have order in the Senate?

The PRESIDING OFFICER. The Senator is correct. If we can have order in the Senate and if Senators who do not wish to debate the bill will take their seats, it will make easier the recognition of those who do wish to speak. Will the Senators who do not wish to speak please take their seats?

The Senator from Texas.

Mr. BENTSEN. Madam President, I ask unanimous consent, on a personal point, that at this time the Senator from North Dakota, who is prepared to yield me 30 minutes of his time on the cloture matter, be given recognition for that purpose.

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. BURDICK. I yield 30 minutes of my time to the senior Senator from Texas.

The PRESIDING OFFICER. The Senator has that right.

The Senator from Texas.

Mr. BENTSEN. Madam President, I state to the distinguished Senator from Alaska that I have had time to consider his amendment and have studied it. We put out a hotline on this side. I know of no objection to it. As manager for the majority on the bill, I am prepared to accept the amendment, with the understanding that the manager for the minority concurs in that point of view.

Mr. PACKWOOD. Madam President, I suggest the absence of a quorum. I want to check with one Member.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MURKOWSKI. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MURKOWSKI. I have met with the Senator from Texas and the Senator from Virginia concerning the pending amendment. The Senator from Virginia, the Senator from Texas, and I have discussed a rewording of the pending amendment. I defer to the Senator from Virginia with regard to the word change, to which I have agreed.

Mr. WARNER. Madam President, I thank the distinguished Senator from Alaska for accepting a suggestion I have, which, in the judgment of this Senator, would clarify the meaning of the amendment, and it is to add the word "additional" in the first line, between "pursue" and alternatives." The amendment would read: "The President should pursue additional alternatives to the reflagging of Kuwaiti vessels," and so forth.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. BENTSEN. Madam President, as manager for the majority, I have conferred on the addition, and I see no objection to it.

Mr. MURKOWSKI. Madam President, I thank my colleagues, the Senator from Texas, the Senator from Oregon, and the Senator from Virginia.

In view of the action in the Foreign Relations Committee, where the vote was 11 to 8 on the question of no reflagging but to use other alternatives, I think this action taken is most appropriate today.

Let me conclude by saying one other thing. This is a statement of representatives of our maritime unions: "Reflagging could undermine much of the U.S. flag fleet by setting precedent to be exploited by others."

As we reflect on the fact that ultimately there will be as many as 350 U.S. jobs potentially available to us by using some U.S. ships, I think the merits of the amendment speak for themselves, in that we should consider utilizing our own vessels when applicable.

I thank my colleagues.

Mr. PACKWOOD. Madam President, with the addition of the word "additional," the amendment is satisfactory to the minority, and we recommend that it be adopted.

The PRESIDING OFFICER. Is there further debate?

Mr. BUMPERS. Madam President, is there a time agreement on this amendment?

The PRESIDING OFFICER. There is no time agreement on the amendment.

Mr. BUMPERS. I did not ask that to suggest that I was going to take a lot of time. I want to inquire of the Senator from Virginia: As I understand it, the modification has not yet been adopted—the word "additional." Is that correct?

The PRESIDING OFFICER. Is there objection to the modification?

Mr. BUMPERS. There is objection. I want to pursue that for a moment.

By adding the word "additional," it seems to me—and I await the comments of the Senator from Virginia—that what he is saying is that what we are doing is OK, but we should look at some other things to do as well as reflagging Kuwaiti ships.

Is that the Senator's intention?

Mr. WARNER. That is expressly the intention of the Senator from Virginia, and the amendment so reads.

Mr. BUMPERS. I had intended to vote for the amendment of the Senator from Alaska, simply because I think this is one of the craziest ideas this Government has ever embarked on. I think that if we are going to do it—which obviously they are going to do; we are not going to be able to stop the President from proceeding with it—we should get some economic benefit out of it. I presume that that is exactly the thrust of the amendment of the Senator from Alaska.

However, when you say that the President should pursue "additional alternatives," rather than just "alternatives," you are saying that what he is doing is OK; and it seems to me that this makes the amendment of the Senator from Alaska a nullity, because Kuwait does not need any more ships than those they have now. They have about 22 ships in their fleet and we are reflagging 11 of them; and to add the word "additional" suggests that the President should use American ships to haul the oil, and the Kuwaitis have no need for American ships.

So how does the Senator make those two compatible?

Mr. WARNER. Madam President, as I read the amendment in its original form, it seemed to me that it could be interpreted in several ways. It is for the purpose of clarification that I suggested the addition of the word "additional." That indicates that the program now under way is an alternative that has been accepted, and at the present time it is going forward. But I join with the Senator from Alaska and others in suggesting to the President that other alternatives should be considered, perhaps to lessen the commitment we now have. Perhaps some of the 11 tankers could be shifted in the near future and substituted with American tankers. Clearly, as Members from both Houses have pointed out, Senator MURKOWSKI here, and Congressman BATEMAN from the House, for example, we should vigorously pursue alternatives that would call for added U.S. manning on the reflagged vessels. At an absolute minimum, we should strive for at least enough U.S. officers to man each of three daily watches, instead of the single captain as now is the case. Far more preferable would be consideration of full U.S. crews.

Further, any alternatives should assure that any waivers of U.S. safety and inspection requirements are not renewed indefinitely. These ships should be made to meet U.S. standards. Any necessary improvements to meet these standards should be done, whenever possible, in U.S. shipyards.

Assuredly, additional alternatives should be considered that would call for existing U.S. flag ships to be placed in service before more foreign ships are reflagged. There are nearly 40 U.S. tankers now laid-up. Future use of these assets is a necessary alternative.

To reiterate, however, the decision to reflag is under way. Congressional leadership just met with the President. I was present at the White House in the Oval Room. It was clearly indicated that this decision will shortly be implemented and that United States warships will be convoying tankers once flying the Kuwaiti flag but now flying the United States flag through the Strait of Hormuz and other areas to the Persian Gulf. That decision is behind us. It is being implemented. It is under way.

Again, I join with my distinguished colleague from Alaska in saying that we should urge our President to consider alternatives, in addition to the one now being implemented, and perhaps in a manner at some future time this number of 11 could be lessened with the substitution of tankers which are clearly owned by U.S. interests in their entirety.

I think the Senator from Alaska is to be congratulated. He is speaking not only here today, but has many times on behalf of the U.S. merchant marine. This industry has a legitimate concern about this reflagging decision from the standpoint of the survivability of our dwindling U.S. merchant marine.

I can only contest one statement by the Senator from Arkansas and that is that the word "additional" renders less important the other parts of the amendment. I think they stand on their own merits just as soundly as before the word "additional" hopefully will be added.

Mr. BUMPERS. If I could pursue that further, I did not really get an answer to my question. My question is this: The modification assumes that we are going to go ahead and reflag 11 Kuwaiti tankers, which is all they have asked us to reflag and which is all they need to get their oil out of the gulf. When you put the word "additional" in there, you are saying the President should explore negotiating with the Kuwaitis to use our ships in addition to their own. I do not see why Kuwait would ever suggest doing that because they do not need our ships. If you said, as the Senator from Alaska said in his original amendment, that the President should consider alternatives and one of those alternatives should be negotiating for the use of American ships, that would make a little sense. But in my opinion, when you add the word "additional" you just render the amendment of the Senator from Alaska a nullity because there is going to be no negotiation, there is going to be need for American ships. They have plenty now.

Mr. MURKOWSKI. Madam President, this is a sense-of-the-Senate resolution.

Mr. BUMPERS. That is another objection I have to it, incidentally.

The PRESIDING OFFICER. The Chair would like to clarify the parliamentary situation. There has been a unanimous-consent request to modify the amendment of the Senator from Alaska. Is there objection?

Mr. BUMPERS. Have the yeas and nays been ordered on this?

The PRESIDING OFFICER. They have not.

Mr. MURKOWSKI. They have not.

Mr. BUMPERS. Is that a perfecting amendment that the Senator from Virginia is suggesting?

The PRESIDING OFFICER. There is no perfecting amendment.

Mr. MURKOWSKI. I wonder if I might clarify due to the fact that I authored the amendment. I think in response to the Senator from Arkansas it is evident that my frustration and his are shared in the fact that the administration has moved hellbent to reflag these vessels. What I feel we are telling the administration, it came initially out of the Foreign Relations Committee when the vote was 11 to 8, to consider other alternatives rather than mandate a reflagging, that it is a sense of the Senate that we have grave concern about the merits of this, not only to the health and welfare of our merchant marine but the realization that we are using our flag in some sense as a matter of convenience and our flag is not a piece of cloth available for transfer for the benefit of others.

We are concerned about the subterfuge of the reflagging and the administration should be aware of this frustration that is evident here, but the facts are, I would tell my colleague from Arkansas, that they have gone ahead and initiated reflagging on two vessels. So my interpretation of my amendment is that "additional" does not mean acceptance or approval of reflagging of all 11 tankers.

I understand the point of the Senator from Arkansas, but recognition is that it is going forward and we cannot stop it at this point. That is a realization.

I think what we are attempting to convey, and I would appeal to my friend from Arkansas, is a strong message to pursue something else for the remaining eight or nine tankers and the facts that the Kuwait Government has come to the State Department indicated an interest in leasing two United States tankers is something that we should hold up on.

Our State Department unfortunately does not understand the premise of leverage and I feel very frustrated because the Kuwaits should not be dictating to us the terms and conditions that we put our fleet in the Persian Gulf. We should be telling the Kuwaits that we will put our fleet in the Persian Gulf, maintain the seaways and we want some United Sttes-flag merchant tankers participating in the carriage of their oil. There are 350 jobs here potentially on those 11 vessels. Why should not some of them be U.S. jobs?

The PRESIDING OFFICER. The question before the Senate continues to be the unanimous-consent request of the Senator from Virginia to modify the amendment of the Senator from Alaska. Is there objection?

Mr. BUMPERS. Mr. President, I object, and I suggest the absence of a quorum.

The PRESIDING OFFICER. Objection is heard.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BUMPERS. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BUMPERS. Madam President, I want to say that with the word "additional" not added in it, I intend to support the Senator from Alaska and I commend him for his efforts on this.

As I said a moment ago, I think this is a crazy policy. The Senate expressed its opposition to it twice. Because of the Senate rules on filibusters, we cannot break a filibuster so we are not going to get a chance to vote on binding legislation. I have expressed my strenuous feelings about these nonbinding resolutions, but at least in this case the Senator is calling for alternatives and I think the Senate has an obligation to do that.

So, with the word "additional" removed from it, I will certainly support the Senator from Alaska.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. WARNER. Madam President, a parliamentary inquiry.

The PRESIDING OFFICER. Yes.

Mr. WARNER. It is this Senator's understanding that the question before the Senate now is this Senator's request that the word "additional" be made a part of the amendment.

The PRESIDING OFFICER. That has been objected to. Therefore, the modification was not agreed to. It had been objected to by the Senator from Arkansas.

Mr. WARNER. Madam President, at this time I will have to enter into extended debate on this question to determine the nature of the objection. If I understand my distinguished colleague from Arkansas, the basis for his objection is that by adding the word "additional" an interpretation could be applied to the amendment which, in effect, would say that it is the sense of this body that the President's decision to permit the reflagging of 11 tankers, originally owned entirely by Kuwaiti interests, now owned in such a manner as to comply with all our laws and regulations regarding the reflagging, is inconsistent with the Senator's philosophy on this question. Is that correct?

Mr. BENTSEN. If I might interject for just a moment, I say to the Senator that I noted his comment that he is prepared to enter into extended debate. I would remind him of the 1-hour limitation on debate that he has allotted. I also recall that he has two amendments to offer. So I would keep that in mind as I extended my debate.

Mr. WARNER. Madam President, I think I receive a very subtle message from the distinguished manager and others present. My amendments do not relate to reflagging but, nevertheless, to the economic interests of the Commonweath of Virginia.

Madam President, I suggest the absence of a quorum.

Mr. MURKOWSKI. Madam President, will the Senator from Virginia withhold while I pose a question to the Senator from Arkansas?

Mr. WARNER. Yes.

Mr. MURKOWSKI. Madam President, I wonder of there is any language that the Senator from Arkansas might suggest that would resolve this dilemma. The word "additional" is one that he has objected to. I assume I have the right to modify my own amendment, Madam President, but I would assume that if I put in the word "additional" the Senator from Arkansas would perhaps object. That is a question to the Senator from Arkansas.

Mr. BUMPERS. The Senator is correct.

If I may, Madam President, I would just make a parliamentary inquiry. It is my understanding that, under the agreement entered here, a modification, even by the Senator from Alaska is not in order except by unanimous consent.

The PRESIDING OFFICER. The Senator is correct. It would take unanimous consent.

Mr. MURKOWSKI. Madam President, I would defer, then, to my friend from Arkansas to ask if he had any alternative language that might address the concern of the Senator from Virginia. It is my understanding, Madam President, that there was a maximum of an hour available on this particular amendment. When the list of pending amendments was put together, I was asked how much time and I said I would like to have the availability of an hour, not intending to use it. I would like a clarification on that currently to determine if my interpretation is correct.

The PRESIDING OFFICER. There is no time limitation on the amendment of the Senator from Alaska.

Mr. WARNER. Will the Senator yield? I think I might have a solution to this problem.

The PRESIDING OFFICER. Does the Senator from Alaska yield.

Mr. MURKOWSKI. I yield without losing my right to the floor.

Mr. WARNER. Madam President, the majority and minority leaders and the two managers of this bill, recognize that there is an honest division of opinion on the issue of reflagging in this body and recognize that we have had several good-faith attempts to try and resolve this issue. These have not ended in any decision on either side, so to speak, in view of the cloture. I wonder if we could view this amendment as looking to the future without resolving in any way our feelings as to what has transpired in the past? In other words, this amendment is simply to look to the future and indicate to the President that it is the sense of the Senate that, in future actions in connection with this necessity to protect the flow of oil through the Persian Gulf, that in every instance, as the amendment says, we look to the interests of the U.S. merchant marine and perhaps incorporate ships that are owned by U.S. interests and which are now idle because of the inability economically to use them.

Supposing we were to add these words: "The President, in the future, should pursue alternatives" and then the amendment reads on? I would interpret that as saying that this body does not condone or object to what decisions have been made in the past and the amendment strictly looks to the future and gives the President, I think, some very valid sense of what this body is concerned about in the days to come. Remove the word "additional" and just put this in.

Mr. MURKOWSKI. I would ask, if I may interrupt, was it the Senator's understanding that that would apply to the remaining nine in the future?

Mr. WARNER. Remaining nine? I am not certain I understand.

Mr. MURKOWSKI. Let us assume there are 11 to be reflagged. That leaves 9, 2 having already been reflagged. It would be the intention of the Senator from Alaska to propose in the amendment that in the future we consider the nine remaining because I have been told by the U.S. Maritime Administration that they have been urging for 2 months that the administration use U.S.-leased tankers and they have not been able to get anywhere.

Mr. WARNER. Madam President, I would say to my distinguished colleague that I think we should view the decision to reflag 11 tankers as behind us and that this amendment does not focus on that decision, other than to say that perhaps in the future the President might wish to, if given the option, delete several of those 11 tankers and replace them with U.S. ships.

I am trying to let the amendment go forward because it does express, I think, a very important concern on behalf of the U.S. merchant marine. But I think it is wise that this body not go back and revisit the earlier discussions on reflagging.

In other words, the purpose of adding the words "in the future" is not to resolve in any way the validity of what is taking place, but to just look to the future and have this amendment speak to the future. Should there come a point in time when in that mix of 11 there is the option perhaps to substitute our United States merchant marine, that is a United States-owned ship, wholly owned, then I would certainly urge the President to try and delete one of the Kuwaitis and consider addition of ours.

Mr. MURKOWSKI. Well, Madam President, the understanding of the Senator from Alaska is the Senator from Virginia would omit "additional" and add "in the future." "The President in the future * * *".

But I think it is a legitimate question here and I am sure my friend from Arkansas would agree that it is the interpretation of this Senator that "in the future" means "as the process goes on." If there is an opportunity tomorrow to lease a United States-flag vessel as opposed to reflagging the fifth or sixth Kuwaiti tanker, that the administration pursue it.

Mr. BUMPERS addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. BUMPERS. Madam President, so we do not prolong the agony here, I must respectfully say that I cannot agree with that language.

There, again, it accepts what has already transpired and what is about to transpire as a fait accompli. I like the amendment of the Senator from Alaska. I am willing to vote for it right now. All of these suggestions are designed to say that what has happened so far is OK, but in the future do not do it. Or at least consider some other alternatives, if you do it. That has never been the thrust of my arguments here.

My argument here is this is bad policy. A majority of the Senate has indicated they think it is a bad policy. Putting in words like "additional" or "in the future," all of those things lend some, what shall I say, approval, sort of voice of approval to what has happened in the past; but in the future do not do it anymore.

If you were watching the "Today Show" this morning, you saw that two ships have American flags on them right now. I said in my argument the other day and I will repeat it today, I think this is the worst, demeaning, belittling of the American flag I have ever seen. If I know anything about history, it is the worst in the history of the country.

The thing I like about Senator MURKOWSKI's amendment is that it says if we are going to help Kuwait with their oil shipments, let us at least fly the American flag on American ships and not treat it as a piece of cloth, as somebody has suggested, by passing it off to every Tom, Dick, and Harry who wants the protection of the United States.

So I cannot accept words like "in the future" or any other language which indicates or suggests that what has happened in the past was either laudable or acceptable or that we have approved it or any other language like that.

The Senator is saying very clearly in his amendment that the President should seek alternatives. What is wrong with that? Why is there all this sophistry and Socratic debate here about adding a word here or there to take somebody off the hook?

His amendment is very plain. It is very clear. It says the President should consider alternatives and among the alternatives we want him to consider is negotiating with the Kuwaitis for the use of American ships.

Our foreign policy, it seems to me, is always based on whatever the Soviets do. One of the reasons we are there is because three Soviet ships are being leased to the Kuwaits. The Soviets at least had enough respect for their flag to say, "We are not going to put our flags on your ships. We will put them on ours and you can lease ours."

That is exactly what Senator MURKOWSKI is trying to suggest here, so what is wrong with that?

The PRESIDING OFFICER. The Senator from Alaska.

Mr. MURKOWSKI. Madam President, I have a difficult time accepting the language proposed by my colleague from Virginia the words "in the future."

I think what we are accomplishing here by this dialog is to establish clearly, in the colloquy, a legislative intent and obviously it is not my purpose to embarrass the President or the administration but, as has been pointed out time and time again, we are playing with a very dangerous precedent here.

The matter of reflagging was addressed by the Soviets. Kuwait asked the Soviets to reflag Kuwaiti ships. It did not work out. It was flatly turned down.

The Soviets said, "No, we will lease you three ships."

The intricacies of the negotiations between the British and the Kuwaiti Government we do not have privy to, but it is apparent that Great Britain did not reflag ships under the British flag.

So the precedent is one that could affect, again, the employment, the utilization of our merchant fleet. I have indicated already the reference by our unions that reflagging could undermine much of the U.S. fleet. Because once we have established the precedent, where does it go on from there?

We have already been assured that American crews would go into the gulf. They can be there in 48 hours ready to go, according to the Seafarer's Union, and MEBA. [Maritime Engineers Benevolent Association].

We should have been given the first right of refusal. We should have negotiated that. We should not have been dictated to by Kuwait with the excuse that: If the United States does not allow reflagging of Kuwaiti ships, they will simply go to the Russians.

I do not buy that. That is our fleet out there. It is our fleet that is going to keep the sea-lanes of the Persian Gulf open for the benefit of all the free nations, primarily Japan which gets about 60 percent of their oil from the Persian Gulf; 35 percent by Western Europe; and only 60 percent by the United States.

What the administration, I think, has failed to do is look out for the interests of the commercial fleet in the United States, ships, 48 ships, some—most, as a matter of fact which were built with U.S. construction subsidies. The other nations of the world, particularly the Soviets and the British—their governments have said, "No, you can lease our ships."

Obviously, it is distressing to me that we have not done so.

I guess, Madam President, my bottom line is I agree to accept the word "additional" because I indicated to the Senator from Arkansas that my interpretation is a little different from his and, as a consequence, I can accept the word "additional." But I cannot accept the words "in the future" because, in deference to my friend from Virginia, I feel that the administration should pursue with all vigor all alternatives to try and induce Kuwait that they should, indeed, as a consequence of the concern expressed by the Congress of the United States, consider leasing some U.S. ships. It would seem to me that the fact that our fleet is out there, we are going to be convoying some vessels, that we ought to be convoying some of our own U.S.-flag vessels ourselves.

Since we have had objection from the Senator from Arkansas——

Mr. WARNER. Madam President, would the Senator yield?

Madam President, the manager of the bill and leadership have been more than generous to allow us to reopen, here, somewhat indirectly, the issues that the Senate has addressed for some time on reflagging. I myself, on a number of occasions on this floor, have expressed my concerns over the basic decision to reflag. But once made, it is being implemented. Today we see a remarkable cooperative spirit among the Gulf States to join in the U.S. effort. We see added steps taken by the French and the British to try and make the gulf a more secure area.

I think each Senator can apply his own interpretation to this amendment. I have clearly expressed what mine is. I would suggest, if it is agreeable to the Senator from Alaska, we voice vote this and allow this bill to proceed.

At this time I shall not pursue further amendment.

The PRESIDING OFFICER. The Senator from Alaska has the floor.

Mr. MURKOWSKI. It is my understanding, then, that the Senator from Virginia would not include "in the future"?

Mr. WARNER. Madam President, I have indicated that each Senator can draw his own conclusion. It is a sense-of-the-Senate resolution. In view of the urgency that we go forward with this bill, I would suggest this matter be voice voted—in its original form.

Mr. MURKOWSKI. In its original form prior to the word "additional"?

Mr. WARNER. Its original form.

Mr. MURKOWSKI. Which would be including the word "original?" I would not object.

Mr. WARNER. My understanding is——

The PRESIDING OFFICER. If the Senators would withhold. What is before the Senate is the original amendment by the Senator from Alaska. The word "additional" proposed by the Senator from Virginia, with a unanimous-consent request, was not agreed to. Then the Senator from Virginia proposed an "additional" concept. But as the Chair recalls the debate, no unanimous-consent request was ever made on the language related "to the future." It was for subject of discussion but, as I recall, the Senator had not made that unanimous consent. So pending before the Senate now is the original amendment of the Senator from Alaska, without any modification.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. Does the Senator from Alaska retain the floor?

Mr. MURKOWSKI. I retain the floor and without losing my right I yield to the Senator from Virginia.

Mr. WARNER. I express complete concurrence with the interpretation given by the Chair and I compliment the Chair. I agree.

My statement was that the original amendment as pending at the desk can now be voted upon, hopefully by voice vote.

Mr. BENTSEN. Madam President, as manager on the majority side, and after consulting with Members on this side, I find no objection to the amendment in its original form.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Alaska.

The amendment (No. 619) was agreed to.

Mr. MURKOWSKI. Madam President, I thank my colleagues.

Mr. BRADLEY. Madam President, if the distinguished manager of the bill would approve, I will now make the statement that I discussed with him earlier.

LAMB IMPORT QUOTAS

Mr. BRADLEY. Madam President, when we began debate on the trade bill I stated that in order to serve the broad national interest, there were four tests to which we should put all amendments before us. These tests are: No quack solutions. No cures that kill the patient. No hidden special interest bailouts and no fighting last year's wars.

There is a provision that concerns me in the trade bill which fails several of those tests. This provision is a quota on imports of lamb into the United States. How does the lamb import quota fail these tests? Let me explain.

First, no quack solution. The issue, in this case, might well be that this is a solution in search of a problem. There is no demonstrated evidence that a need for a quota exists. Lamb prices in the United States are high, but domestic production has been declining. In fact, U.S. production levels fell from 593 million pounds in 1967 to a low of 265 million pounds in 1979, according to the USDA. 1986 levels remained at a low of 312 million pounds. Sheep flocks in the United States have dropped from 20.4 million sheep in 1970 to a current level of 10.4 million—a decline of almost 50 percent. Imports have fluctuated over time and have risen recently because American lamb producers have not been able to keep up with growing demand. Why in fact, would domestic producers cut back on production when the American public wants more lamb and presumably would buy more domestic lamb if it were available?

The answer, I submit, Madam President, is that the domestic lamb industry has not responded to market forces. One would presume that if demand were there—as it clearly is—U.S. production would grow. Instead, domestic production has shrunk over the last 40 years, and as a result, the imports have increased to accommodate growing demand. In fact, the reason that the percentage of imports has fluctuated is simply that the major suppliers—Australia and New Zealand—have responded to United States demand for lamb while United States producers have produced less lamb.

It has been alleged, Madam President, that lamb was not included in the Meat Import Act, both in 1964 and when it was amended in 1979, because imports represented only 1.5 percent of the domestic market. Madam President, that was not the case. In fact, imports represented about 11 percent of domestic production in 1964, using U.S. Customs and USDA statistics; in 1979, according to USDA, imports accounted for about 14 percent of domestic production. So there has been no giant leap in the percentage of imports—the claim used to justify this provision. Import consumption has fluctuated with changes in demand and dollar valuation, and the year the Meat Import Act was amended—1979—was the year that the percentage of import consumption reached its highest level.

Quotas are never a good answer to a trade problem. They increase prices, hurt competition, and create tension and disruption with our trading partners. In this particular case, quotas provide exactly the wrong incentive. They reward declining productivity just as demand has grown. One measure of that demand is that consumers are willing to pay more for imported lamb—$4.29 per pound for imported rack of lamb compared to $4.10 to $4.15 for the same cut of domestic lamb. What kind of perverse incentive does that provide, and what guarantee is there that production would not continue to decrease or stagnate while consumer prices rise?

In addition, establishing a quota on foreign lamb runs counter to the position the United States has taken in agricultural trade negotiations in the Uruguay round. Not only is this bad economics, but it is also inconsistent with article XI of GATT which bars quotas—except under certain circumstances not applicable here. In fact, a lamb quota might well precipitate a challenge to the GATT consistency of the Meat Import Act, which does not include lamb, but which imposes restrictions on red meat imports. So far those restrictions have been met through use of voluntary restraints, but use of a quota might open that law to challenge.

GATT consistency aside, it is ironic for the United States to seek reductions of Japanese and European trade barriers in agriculture even as we impose similar barriers on nations that not only support our free trade efforts but are also key partners and important allies. Australia and New Zealand both have a positive balance of trade with the United States. In fact, each Australian buys $350 per year of United States goods while each American buys $11 per year of Australian goods. This amendment punishes our friends as it punishes the American consumer.

It also fails the second test; it is a cure that might kill the patient. In this case, the patient—be it the U.S. consumer or the domestic lamb industry—would be hurt. The obvious loser is the U.S. consumer, who would be hit with rising prices for lamb.

Given the demonstrated inability of the U.S. lamb industry to respond to market forces, there seems to be no reason to expect that domestic production would increase. Thus, consumers would be taxed with skyrocketing prices in the supermarket with no boost in domestic supply.

But another loser, Madam President, would be the U.S. lamb industry. Protection from competition will not help this industry become more competitive. Protection keeps an industry uncompetitive and merely puts off the day of reckoning.

Our consumers could also be subject to retaliation by our trading partners because of the unilateral imposition of a nontariff barrier. This kind of retaliation could limit our agricultural exports and would violate the recent agreement of OECD Ministers and the agreement reached at the Venice Economic Summit. Do we really want to risk retaliation against other U.S. agricultural exports for this unnecessary provision?

Finally, this amendment fails one more test: It is clearly a bailout for a narrow interest. On its face this is the most obvious failure. The lamb import quota is the only direct quota in this legislation. As I have pointed out, the domestic lamb industry actually cut production in recent years as lamb prices have soared. We are being asked in this legislation to reward that behavior by restricting imports of lamb from our trading partners who have been responsive to growing demand in the United States. That is not the message we should be sending to our allies and trading partners. The lamb quota is a blatant bailout of one industry to the detriment of everyone else. It is offered to an industry that does not have a problem finding markets, and it is inconsistent with the larger purpose of a general trade law, which must have respectability in order to have credibility.

Madam President, I hope that though this provision is in the bill, it will not last too long in conference.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Madam President, I would like to bring to the attention of the Senate, as my friend from New Jersey has already, a little noticed but potentially dangerous provision in the Finance Committee-approved portion of S. 1420.

Section 951 of the bill contains a countercyclical import quota on lamb. This action in my judgment is ill advised. I say that, Madam President, even though I am from a farm State, a State, indeed, where many lambs and sheep are slaughtered and where we have a number of people in that business.

Not one committee of either House has had a hearing on the issue. To proceed with a restrictive import quota on a freely traded product without examining the issue at a time when the United States is proposing to phase back all agriculture subsidies seems potentially counterproductive.

Madam President, I feel that the proposals that were made recently by the Trade Ambassador and the Secretary of Agriculture in behalf of the administration saying that over a 10-year period we would phase out all agricultural subsidies—and that is a very broad "all"—is a very constructive approach and indeed I think will inure to the benefit of American agriculture in a very large way.

The quantitative restrictions necessary to enforce this provision would be in direct conflict with a commitment recently made by the President at the Venice summit. The President, to enhance prospects for progress on agriculture in the Uruguay round negotiations, agreed and called upon other nations to agree:

> * * * to refrain from actions which, by further stimulating production of agricultural commodities in surplus, increasing protection or destabilizing world markets, would worsen the negotiating climate, and more generally, damage trade relations.

Certainly, this amendment, Madam President, would do just that; at a time when we are moving away from trade restrictions, this would be moving toward them. At the time we say we want to abolish them over a 10-year period, this, indeed, would be imposing yet a new restriction that is not on the books.

The proposed legislation clearly runds counter to the position the United States has taken in Uruguay Round discussions on agriculture; the passage of which would raise serious doubts about the United States commitment to a freer and more open international agricultural trading system and undermine the effectiveness of United States efforts to gain an international agreement to eliminate market access restrictions and all other government-sponsored practices which distort trade in agricultural products.

The unilateral imposition of a nontariff barrier by the United States could result in retaliatory action by our trading partners which could limit our agricultural exports. It would be a violation of agreement made at Punte del Este. Furthermore, it also violates the recent agreement of OECD Ministers.

This amendment could directly restrict our trade with New Zealand and Australia, two agricultural free-trade allies whose support we seek during the Uruguay Round of Multilateral Trade Negotiations [MTN's].

There is no question that Australian lamb is and has been freely traded. However, there has been some confusion about whether or not New Zealand lamb exports are subsidized.

New Zealand terminated its major subsidizing program, the Supplementary Minimum Prices Program, in September 1985, and is phasing out the minor subsidizing programs.

In 1985 when New Zealand was unfairly subsidizing its lamb exports, the International Trade Administration of the Department of Commerce instituted a countervailing duty [CVD] of N.Z. $0.3602—U.S. $0.21—per pound on imports of New Zealand lamb to guard domestic producers against the effects of those subsidies. The International Trade Administration is carefully reviewing the situation, and will modify the U.S. countervailing duty rate to ensure that all trade in lamb meat is on a fair and equitable basis.

The U.S. duty clearly indicates that U.S. lamb producers are protected from all unfair trade practices, such as export subsidizes, by the import relief statutory provisions used by the International Trade Commission and the International Trade Administration.

In addition to the general confusion about the need for import restrictions at all, the Senate Committee report contains two critical errors. On page 248 of the report the committee states that lamb imports have gone from 1.5 percent of domestic sales to 10 percent. In fact, they have gone from 15 percent of domestic sales to 10 percent. A significant increase is actually claimed in the report while the reverse is actually the fact.

In addition, on the same page, the report states that New Zealand lamb exports are subsidized. This is no longer true and the record should make this point clear.

Madam President, we should not be mislead by the claim that this provision is consistent with the international trade law. Some have claimed this consistency on the grounds that the United States would never actually trigger a quota. Implicit in this assumption is the belief that exporting nations would voluntarily comply with the quota and therefore not be forced to limit exports. Such arguments may be correct from a legal point of view but they certainly are not from a practical point of view.

The other body saw the need to look at these and other issues more closely and decided to delete this restrictive quota and replace it with a study of the lamb situation. I would support a study despite the fact that I think, by and large, we make too many studies.

Sadly, the U.S. lamb industry is in a state of decline and has been for 40 years. Americans have simply lost their taste for lamb. As processors close their doors it becomes less and less economical to haul lambs to further slaughter points and ranchers simply stop raising them.

Both New Zealand and Australian producers have offered to work with our producers to promote their common product with American consumers. I certainly think that is a constructive idea. Instead, the domestic industry seems intent on capturing a certain portion of a shrinking pie.

Instead of dying a somewhat slower death through these quotas the U.S. lamb industry ought to think about ways to work with their foreign counterparts to increase the size of the pie. I hope the conferees will see fit to adopt the House language and study the situation before we act.

I yield the floor.

Mr. DIXON. Mr. President, my understanding is that the next amendment we will take up will be the last amendment pertaining to the banking section of the bill.

I believe the distinguished senior Senator from Virginia is close to the floor and will come to the Chamber shortly. It is further my understanding that that matter can be dealt with in short order and before we recess at 12:45 for the conferences of the two parties.

So, in view of the fact that the Senator is close at hand, and the staff people are here, and he will get to the floor soon—he is in the reception room—I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. REID). Will the Senator withhold that request?

Mr. DIXON. The Senator is delighted to withhold the request.

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Nevada, yields 30 minutes of the time under his control to the control of the majority leader.

Mr. BOSCHWITZ. Mr. President, will the Chair repeat that?

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from Nevada, yields 30 minutes of the time under his control to the control of the majority leader. This is with respect to the time for cloture.

Mr. DIXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 620

(Purpose: To Provide the Secretary of Defense and the Director of Central Intelligence an opportunity to provide comments to Congress on regulations issued by the Secretary of Commerce under the Export Administration Act of 1979)

Mr. WARNER. Mr. President, I understand from the manager of the bill that this is a convenient opportunity for me to send to the desk an amendment which is on the majority leader's list, and I do so at this time, and I ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated. The bill clerk read as follows:

The Senator from Virginia (Mr. WARNER) proposes an amendment numbered 620.

Mr. WARNER. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered. The amendment is as follows:

At the end of title X, insert the following:

SEC. . NATIONAL SECURITY IMPACT REPORTS.

Section 15 of the Export Administration Act of 1979 (50 U.S.C. App. 2414) is amended by adding at the end the following:

“(d)(1) Not later than sixty days prior to the effective date of a final regulations issued under subsection (b) or of any amendments issued under subsection (c), the Secretary shall transmit to the Secretary of Defense and the Director of Central Intelligence such proposed regulations or amendments.

“(2) The Secretary of Defense, prior to the effective date of any final regulation or amendment referred to in paragraph (1), may transmit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the Secretary's analysis of the effects of the proposed regulation or amendment on the national security of the United States. The Secretary of Defense shall transmit a copy of such report to the Secretary of Commerce.

“(3) The Director of Central Intelligence, prior to the effective date of any final regulation or amendment referred to in paragraph (1), may transmit to the Select Committee on Intelligence of the Senate and the Permanent Committee on Intelligence of the House of Representatives a report containing the Director's analysis of the effects of the proposed regulation or amendment on the capability of the United States to collect foreign intelligence information. The Director shall transmit a copy of such report to the Secretary of Commerce.

“(4) The transmission of a report to a committee of Congress under paragraph (2) or (3) shall have no effect on the effective date of the final regulation or amendment covered by the report.”.

Mr. WARNER. Mr. President, I wish to inform my colleagues, particularly the managers of this legislation, that it is my intention to ask that the amendment be withdrawn. However, it reflects a matter which is of vital concern to me and, I think, to other Members of this body.

However, after extensive consultation with the managers of the bill and several members of the President's Cabinet and the President's National Security Adviser, it is my judgment that perhaps my concerns at this particular time are cared for within the process. But I wish to indicate that this Senator will keep a watchful eye on this process in the future.

As to the nature of the amendment, it was not designed in any way to delay the revising of the regulatory procedures, which revisions were needed, quite candidly. Certain departments, principally the Department of Defense, I think, had in the past perhaps delayed decisions relative to certain items that the Department of Commerce was of the judgment should be exported or made available for export.

That delay resulted in other nations and other competitors being successful in selling their products and holding back U.S. products.

Now that the regulatory process presumably has been and will be further streamlined by virtue of the pending legislation, it is only my concern that the interagency process of determining which U.S. products should not be exported for reasons of national security and national intelligence, work in such a manner as to give adequate protection against any diminution or degradation of our national security overall.

My amendment would seek to safeguard, not delay, many of the changes we are making in this trade bill to the Export Administration Act.

While the trade bill does a great deal to expedite the export control process—and this was needed—I believe that we must also continue to remain watchful of our Nation's technological security. In my judgment, governmental review and control, from a national security perspective, of what is being exported will become more difficult to monitor and enforce under this legislation because of the relaxation of licensing designations.

My amendment would statutorily give the option to the Secretary of Defense and the Director of Central Intelligence to send a report to Congress commenting on export control regulations issued by the Commerce Department during the 90-day public comment period or thereafter, if either determines that those regulations would have an adverse impact on our Nation's security or intelligence gathering capabilities.

I do not anticipate that the Secretary of Commerce would issue a regulation without adequate consideration of its effects on our Nation's security and intelligence capability. However, in the event that either the Secretary of Defense or the Director of Central Intelligence have differing views as to the impact on the security or intelligence impact of a regulation, they will have the statutory authority to make known their views to the Congress.

Unlike other types of regulatory challenges, where the need is often to balance off two or more competing interests, this area is different. With export control regulations, we can't afford to make mistakes! As the recent Toshiba-Kongsberg case demonstrated, in the case of our security, the sale of $17-million worth of equipment from Norway and Japan has damaged our submarine detection capabilities substantially, some estimate to the tune of $10 billion. These serious errors were made by other nations, not the United States. In fact, the U.S. record of recent has been most protective of our security interests. But we must be ever on guard for the future.

Mr. President, it only takes the export of one piece of equipment—the right piece of equipment—and our Nation's security can be irreparably harmed. While I sympathize with the need to allow our exporters a more expeditious regulatory export environment, as this bill admirably seeks to do, I believe that creating general licensing categories must require closer scrutiny.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter addressed to me signed by the Honorable Frank Carluccci and James C. Miller.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE WHITE HOUSE,
Washington, DC, July 20, 1987.

Hon. JOHN W. WARNER,
U.S. Senate,
Washington, DC.

DEAR JOHN: We are writing to express the Administration's opposition to your amendment to require Department of Defense and intelligence community reports to congressional committees on export control regulations.

Under existing law and administrative procedure, all export control regulations are provided in draft form to the Department of Defense and pertinent national security agencies. Their role is to assess the national security impact of the proposed regulations, and to provide the analysis to the administering agency, the Department of Commerce. The final regulations, when issued, represent a balance of economic and national security considerations mandated by law.

The Administration has the authority to adjust the current procedures if any problems arise. This authority has been, as a matter of tradition and law, a fundamental aspect of the role of the Executive branch in implementing law and policy. Your amendment would undermine that authority.

Export control regulations fulfill the objectives of the Export Administration Act (EAA) and guide the export of billions of dollars of American products. Your amendment invites specific Departments to offer dissenting opinions on pending regulations directly to Congress while the Department responsible for the EAA is fulfilling its legal obligations to promulgate those regulations. This procedure, which has no precedent, will cause bureaucratic confusion and delays.

We respectfully request that you not offer your proposed amendment.

Sincerely yours,

FRANK C. CARLUCCI,
National Security Advisor.
JAMES C. MILLER III,
Director.

Mr. WARNER. Mr. President, this letter reflects quite clearly the administration's concern with the amendment. I respect the views of those who at this time are of the opinion that the process will work to adequately protect the interests of the United States.

Again, I reiterate my pledge that I will continue in years to come to watch this process, and I may at some appropriate time deem it necessary to pursue legislatively some corrections of reporting under this regulatory system which would protect our U.S. intelligence and national security interests.

Mr. President, I thank the Chair.

Mr. DIXON. Mr. President, I thank the distinguished Senator from Virginia for his statement in support of his amendment and his gracious indication that he will withdraw the amendment.

I will not make a lengthy statement in opposition to it. I ask unanimous consent that my statement in opposition to the distinguished Senator's amendment be printed in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF SENATOR ALAN DIXON OPPOSING THE WARNER AMENDMENT

Mr. President, I understand the concerns that motivate the distinguished Senator from Virginia. One of the fundamental purposes of our whole export control system is to help protect our national security—that is why we have section 5 national security controls. That is also why the Defense Department and the intelligence agencies already play a strong role in the construction of the control list, licensing decisions, and enforcement.

In fact, the real problem is not that the Defense Department is not sufficiently consulted, but that the Defense Department plays too strong a role when the harm to American business is great, and the risk to our national security low.

Under current law, for example, if the President of the United States, Ronald Reagan, wants to permit an export license to be issued for the export of an item not to the Soviet Union, but even perhaps to a business in Europe, and Secretary of Defense Weinberger disagrees, the President must report to the Congress on the reasons for his decision. Now if I am not mistaken, Mr. President, Cap Weinberger works for Ronald Reagan; it is not the other way 'round.

The report of the National Academy of Sciences issued last January entitled "Balancing the National Interest: U.S. National Security Export Controls and Global Economic Competition" concludes that:

"The U.S. policy process for national security export controls lacks proper direction and affirmative leadership at the highest levels of Government. The result is a complex and confusing control system that unnecessarily impedes U.S. high technology exports to other countries of the free world and directly affects relations with the COCOM allies."

The study goes on to point out that the problems in our licensing and control system may have cost the U.S. economy over 180,000 jobs and foreign sales of over $9 billion annually.

This study was not conducted by a bunch of ivory tower academics. It was directed by people whose national security credentials are impeccable, including Lew Allen, former Chief of Staff of the U.S. Air Force, former member of the Joint Chiefs of Staff, and former Director of the National Security Agency, former Secretary of Defense Melvin Laird, and former Deputy Director of the Central Intelligence Agency B.R. Inman.

We control too much. We hurt our own business without helping our national security and one of the reasons is that our export control system is too tilted toward Defense Department concerns and not enough concerned with the need to maintain our manufacturing base.

I am a member of the Senate Armed Services Committee, Mr. President, as well as the Banking Committee. I see the problem from both perspectives. After careful review, I concluded that Lew Allen, Bobby Inman, and Mel Laird are correct. Our export system is out of balance. The bill reported by the Banking Committee, which I was pleased to help craft, is an attempt to restore some balance.

Our bill reduces licensing strictures on low technology. It reduces the licensing burden on our businesses and on the Department of Commerce so that we can concentrate on enforcing controls on the real high technology items that need to be controlled.

Importantly, however, we made only one change as regards the role of the Defense Department; our bill permits the President to make decisions involving export controls without reporting to Congress, even when the Secretary of Defense disagrees. That means that under the Banking Committee bill, the Defense Department continues to play a key role in developing the list of items subject to controls, it continues to play a key role in determining whether export licenses should be issued to Eastern bloc destinations, and even that it continues to play a role in determining whether export licenses should be issued to at least some free world destinations.

I think the bill as it came out of the committee struck the proper degree of balance between our national security concerns and the need to improve our international competitiveness. Since we started consideration of the trade bill, however, we have taken a number of additional steps to further ensure that enforcement of export controls is beefed up and that there is no doubt at all that our national security is adequately protected.

First, we adopted the so-called "managers amendment" which I played a key role in negotiating. That amendment helps make it less likely that items shipped to COCOM destinations will be diverted to the Soviet Union or its allies. Second, we adopted the "Toshiba" amendment, which I was pleased to cosponsor. It is important to remember that that amendment is not limited to the "Toshiba" case. The amendment is generic in nature and will help us get the international cooperation we need to make export controls effective. Third, we adopted the Wallop amendment, which provides additional enforcement tools to prevent diversion of American products to the Soviets.

That brings us to the pending amendment. This amendment gives the Secretary of Defense and the Director of the CIA 60 days to report to the Armed Services Committee and the Intelligence Committee, respectively, on the national security implications of any proposed Export Administration Act regulations. The proposal modifies section 15 of the Export Administration Act.

Now, section 15 already requires any regulations relating to section 5 national security controls to be submitted to the Secretary of Defense for review before they can be issued. Other sections of the law also guarantee, as I stated earlier, DOD's role in the creation of the control list, the issuance of export licenses to Eastern bloc destinations, and the issuance of licenses to some free world destinations. Further, the OMB review process assures no regulations can be issued at all without all appropriate interagency discussion and review.

This amendment, therefore, is unnecessary, and goes back in the direction of giving the Defense Department the kind of role that the National Academy of Sciences report says is misguided and unwarranted. That is why national security advisor Frank Carlucci, speaking for the administration, opposes this amendment.

This amendment is a signal, Mr. President. It is a signal that we want continued interagency guerrilla warfare. It is a signal that we do not want the President to resolve interagency disputes but that we want to create continuous uncertainty over our export control policy. I have to say to the Senate that it is the wrong signal. It flies in the face of the sensible and moderate reforms contained in the Banking Committee-reported bill. I urge my colleagues to send the right signal by defeating this amendment.

Mr. DIXON. Mr. President, this is the last amendment pending to the banking section of this bill. I want to express the view of the Banking Committee that we feel that the Export Administration Act as written by the committee adequately treats our national security interests while expressing our concern about our competitiveness in foreign marketplaces.

I thank my warm friend who has made so many great contributions for his willingness to withdraw this amendment.

Mr. WARNER. Mr. President, momentarily I will yield the floor again and move to withdraw the amendment. I wonder if my distinguished colleague, who is on the Armed Services Committee, although his statement is going in the RECORD, for the purposes of those listening, and I do not see any other matter rushing to be considered here, might elaborate on where he finds fault in this amendment, some of the specifics?

Mr. DIXON. I think I will not, if my friend does not mind, because any elaboration would require my making a complete statement.

Mr. WARNER. I wonder if the Senator might use his microphone if I might suggest?

Mr. DIXON. I say to my friend, I would be glad to read the entire statement. However, I would rather not take up the time of the Senate.

Mr. WARNER. I do not suggest that. I invited the participation of the Senator from Illinois.

Mr. President, I yield the floor.

Mr. CRANSTON. Mr. President, I rise in opposition to the amendment offered by my colleague from Virginia. I oppose it as a Senator from the Nation's leading high-technology State, as a member of the Banking Committee and as a member of the Intelligence Committee.

This amendment does two things: It increases the paperwork burden on Government agencies and it spreads jurisdiction of the Export Administration Act oversight responsibilities to four additional committees in Congress. All told, we would have six congressional committees reviewing export control regulations.

Specifically, this amendment requires the Secretary of Commerce to submit, 60 days prior to the effective date, every regulation or amendment to a regulation to the Secretary of Defense and the Director of Central Intelligence. They may then submit an impact statement on the regulations to the Senate and House Armed Services and Intelligence Committees.

In practical terms, what does this mean? Last year, Commerce issued hundreds of regulations. Under this amendment, Commerce would be required to send these hundreds of regulations to defense and intelligence agencies for their review 2 months prior to implementation. These agencies, in turn, would prepare impact statements for submission to some or all of six congressional committees. The sheer coordination and paperwork that would be generated should make us pause long enough to weigh the alleged benefits of the proposal.

Under current law, Commerce already submits to DOD regulations that have a significant policy impact on national security export controls. And the Department of Defense readily gives its advice. I have never known DOD to be reticent about giving advice. I do not know of instances in which DOD has not been consulted consistently and regularly on major policy questions affecting national security.

The regulation process is an open process. Commerce routinely seeks the advice of Defense and other appropriate agencies when making a significant policy change by regulation. It must also keep the Senate Banking and House Foreign Affairs Committees fully informed of its every move.

The Senate Banking Committee is the eyes and ears of the Senate on export control matters. It should remain the main repository for information; it should remain the oversight committee. I believe this committee would welcome input from other interested committees and members on this subject, but to have six committees with oversight responsibilities is sheer lunacy.

Mr. President, there is yet another aspect to this amendment that I would like to flag for my colleagues. This amendment has quietly created a new role for the Director of Central Intelligence in carrying out the Export Administration Act. It effectively creates a separate category of "intelligence" technology—items that heretofore have been analyzed and handled in the name of national security through the Department of Defense. In my view, this is a significant change in policy.

I do not know to what extent the DCI should become a major policy player in the issuance of export licenses and analysis of regulations. But I do know the Banking and Intelligence Committees have not given it any serious consideration or analysis. I also know that the administration is formally opposed to this amendment. Frankly, I am not convinced the system is bankrupt, and I certainly do not think hasty legislation is wise.

Mr. President, although I would have liked to see additional reforms made, I think the Banking Committee reported a good bill. In fact, I think the export control sections are among the most positive provisions in this trade bill. A great deal of time and energy was expended to come up with a bill which recognized the divergent views of Committee Members. Central to our efforts was an attempt to restore a sense of balance to the system which was lacking. In my opinion, this amendment undermines the balance we sought to achieve.

This Congress has a fundamental question to answer: Who is in charge of our export control system? It has always been my understanding that the Department of Commerce is the lead agency on export controls. The Banking Committee has gone to great lengths to reiterate that fact in this bill. We must not now take a step in the opposite direction.

In sum, I believe this amendment will add further delay and confusion, and exacerbate interagency tension in the administration of the export control system. While I believe the amendment is well intentioned, I do not believe it is well thought out and I urge my colleagues to vote against it.

The PRESIDING OFFICER. We still have this amendment. Is the Senator requesting that the amendment be withdrawn?

Mr. WARNER. Mr. President, I do not at this time seek recognition for the purpose of withdrawing the amendment. I see my distinguished colleague. I assume the purpose of his arising is to address the amendment.

Mr. HUMPHREY. No.

Mr. WARNER. I am mistaken.

Should I inquire of the Senator from Arkansas, does he wish to address the amendment?

Mr. BUMPERS. The Senator from Arkansas wishes to give a 2-minute speech on one item that does not relate to the amendment.

Mr. WARNER. Seeing no Senator who wishes to address the pending amendment at this time, I ask unanimous consent that the amendment be withdrawn.

The PRESIDING OFFICER. Hearing no objection, the amendment will be withdrawn.

Mr. HUMPHREY. Mr. President, am I correct that the Senate is recessing at 12:30?

The PRESIDING OFFICER. 12:45.

Mr. HUMPHREY. Mr. President, for the last several weeks, the Senate has been debating the omnibus trade bill, the Omnibus Trade and Competitiveness Act of 1987, the so-called stated goal of which is to reduce the Nation's large trade deficit.

I seriously doubt that it will have that effect, and that is why I intend to vote against it. It is plain old-fashioned protectionism. The bill is just plain old-fashioned protectionism, and unfortunately it is likely to have the same old-fashioned effect that protectionism always has, that is to say, the shrinking of world trade or at least the reduction in the growth of world trade and that will have the effect to some degree or other reducing the competitiveness of the United States and the efficiency of our industry and productivity of our industry and ultimately the standard of living of many of our people.

It seems to me that the unstated goal on the part of many in Congress, not just this House but others as well, is to bash our Asian trade partners, Japan, Korea, Hong Kong, and the Republic of China, all of which have trade surpluses with us. Many Members have engaged in outright Japan-bashing while others have been more subtle in their criticism of Japan and other Asian nations.

While it is true that many Asian nations engage in unfair trade practices which contribute to our trade deficit, at least one of those nations is making very great efforts to improve the trade relations with the United States, and that is the Republic of China.

If the fact is that while some, such as Japan, have been dragging their feet, the Republic of China has taken several very important and substantive steps. One of the most important initiatives has been the Republic of China's "buy American campaign." Since this program was instituted in 1978, the Republic of China has dispatched 12 special procurement missions to the United States to purchase more than $8 billion in agricultural and industrial products from United States suppliers.

The ROC is also the seventh largest overseas market for U.S. agricultural products. Just recently, the United States and the Republic of China renewed a long-term grain agreement under which the ROC is committed to purchase more than 18 million tons of American grain over the next 5 years. In addition, the Republic of China has agreed to restrict exports of rice to Third World nations so that American rice markets in the Third World are not affected.

Other major exports from the Republic of China, that include textiles, machine tools, and steel, are the subject of additional agreements between our two nations. For example, the U.S. Trade Representative concluded a new bilateral agreement on textiles last July in which the Republic of China agreed to a low 0.5 percent annual growth rate for exports of textiles into the United States. This growth rate is the lowest among the so-called big three. A voluntary restraint agreement [VRA] has been reached on machine tools, and an agreement limiting monthly exports of steel to only 20,000 short tons precluded the need to enter into a VRA for steel.

Progress on the part of the Republic of China is not limited solely to exports. Several important market-opening initiatives have been advanced as well. Last December, the ROC agreed to break its 50-year monopoly on cigarettes, beer, and wine and to open its market to U.S. products. In the area of services, U.S. banks will now be allowed to join the united debit credit system of the ROC and to issue credit cards there. In addition, several types of insurance business have been opened to U.S. insurance companies, and consultations aimed at securing full access to the insurance market are continuing.

Furthermore, while many nations tie their currency to the dollar, thereby insulating them from the positive trade effects of the falling dollar, the ROC has taken steps to revalue their currency. Since early 1986, the new Taiwan dollars have appreciated by 12.5 percent. And the new Taiwan dollars continue to rise at the rate of a few cents per day.

Mr. President, one of the most important developments in trade relations with the Republic of China occurred in 1971. In that year, the ROC was expelled from the GATT for political reasons. However, in 1979, the ROC reached an agreement with the United States to apply most of the GATT rules to U.S.-ROC trade. Under this agreement, there has been significant reduction in tariffs with an average effective tariff rate of 7.64 percent, which will be reduced to 5 percent by 1990.

It is important to note that these developments have occurred after the United States broke official ties with the Republic of China as a precondition for establishing diplomatic relations with mainland China in 1979. Other progress is also being made in the ROC. Last week, President Chiang Ching-Kuo decreed an end to the martial law which had been imposed by Chiang Kai-Shek in 1949. This is a historic first step toward democracy which was helped along by the ROC's relations especially trade relations with the United States.

Mr. President, at a time when the Republic of China is making such a concerted effort to improve relations both within and without the island nation, we in the U.S. Senate should make a concerted effort to help the ROC along the way. Engaging in generic Asian-bashing on this trade bill can only be counterproductive. I urge my colleagues to keep these thoughts in mind.

NOMINATION OF ROBERT BORK TO BE SUPREME COURT JUSTICE

Mr. HUMPHREY. Mr. President, there has been, in my view, a wave of hysterical reaction in certain quarters to the President's nomination of Robert Bork to the Supreme Court. I think it is time for this hysteria to give way to reasoned examination of the facts and the issues.

Last year several Senators sharply criticized some of President Reagan's lower court nominations based on challenges to their qualifications. Many of these same Senators stressed that they would have no qualms confirming even highly conservative nominees. The prototypical example of such a clearly qualified conservative was none other than Judge Robert Bork.

For example, the syndicated Evans and Novak column report in May of 1986 that the junior Senator from Illinois referred to Judge Bork in the following vein:

> Disavowing an ideological test, the Senator told us he would confirm Appeals Court Judge Robert Bork for the Supreme Court despite his conservative views.

The words of the junior Senator from Illinois as quoted by Evans and Novak.

Mr. President, the chairman of the Judiciary Committee later echoed this same fair-minded sentiment. Last November he acknowledged that if the President nominated Judge Bork for the Supreme Court and if Bork proved to be similar to Justice Scalia, the chair said, "I'd have to vote for him and if the groups"—speaking of special interest groups—"and if the groups tear me apart, that's the medicine I'll have to take." The statement of the chairman of the Senate Judiciary Committee last November.

These forthright statements are not surprising. They merely acknowledged the judgment the Senate had already made when it confirmed Judge Bork to the powerful D.C. Circuit Court of Appeals without a single dissenting vote in 1982, 5 years ago. Most law authorities regard the Circuit Court for the District of Columbia as being the most powerful court, the most important court, in any event, in the Nation, with the exception of the Supreme Court itself. Is it not striking that with respect to the nomination of a person to that court only 5 years ago, not one Senator, not one either in committee or on the floor, expressed an objection or raised a single negative note in connection with that nomination.

If Mr. Bork were the racist that many Senators seem to suggest; if he were some sort of Neandethal as some Senators seem to suggest; then I believe that one of two things happened in 1982. Either Senators were terribly negligent in their duties in confirming to the court which is second only to the Supreme Court, Judge Bork, in that year; or there is an awful lot of hypocrisy and double standard in this body in 1987.

One of those two things must obtain. You cannot have it both ways. Senators who are now vitriolic opponents, whose opposition is vitriolic and bitter, in 1987 who, as Members of this body, confirmed Judge Bork to the D.C. Superior Court of Appeals, cannot have it both ways. They cannot be opposed today so bitterly and vehemently and have us believe they were doing an adequate job in 1982 when Judge Bork was confirmed without a single word of objection.

Indeed, his nomination, again, to this important court, D.C. Circuit Court of Appeals was so routine, was regarded by Members as so routine, that not one Senator on that side of the aisle or this, asked for a rollcall vote either in committee or on the floor. That says something about how well regarded Judge Bork, Robert Bork, was in 1982.

But, today, thanks to Presidential politics and other considerations, some Senators are finding they have to flip-flop on this issue and are doing so in a most disgraceful manner.

To cite another Senator who was here in 1982, on the subject of Robert Bork's qualifications to serve on the Federal bench, the Senator who is now the junior Senator from Montana had this to say at the confirmation hearings before the Judiciary Committee:

> I want to congratulate the President on his nomination of you. I think there is no doubt that you are eminently qualified to serve in the position to which you have been nominated. There is no doubt in my mind that you will be confirmed, and I hope very quickly and expeditiously.

Given these accolades and endorsements from Senators on the other side of the aisle, one would think that the President's subsequent nomination of Judge Bork to the Supreme Court would have been warmly received on a bipartisan basis. What selection could be more logical than an experienced, highly-qualified member of the second highest court in the land who had received unanimous Senate approval and high bipartisan praise for that lofty post?

Moreover, Judge Bork's performance on the D.C. circuit has been entirely consistent with the principles of conscientious judicial restraint which he expounded before the Judiciary Committee in 1982. He has performed exactly as he said he would when he earned our unanimous confirmation at that time.

How can it be, then, that some Members of this body are now prepared to disavow their prior endorsements of Judge Bork and declare that he is suddenly unfit for appointment to the Supreme Court even in advance of a hearing?

Many Members of this body are lawyers. While to be certain the legislative hearings are not judicial hearings, one would expect that lawyers—at least, lawyers—would remember the canons of ethics and at least give the appearance of objectivity and fair-mindedness and open-mindedness, at least until the defendant, if you will, has had a chance to answer the indictment that has been made against him, irresponsibly, outrageously, in the press in these last few weeks by Members of this body and many in our society, principally from groups that are decidedly to the left of the middle of the political spectrum.

The verbal and rhetorical gymnastics employed to evade that question have been remarkable for their creativity, but rather deficient in their logic.

We are mainly told that this appointment must be treated differently because it will shift something called the "ideological balance" of the Court. And the ideological balance, it turns out, is a state of affairs which preserves all decisions favorable to liberal interest groups as sacred precedent, while leaving decisions favored by conservatives open to "prudent reconsideration."

Of course, all Supreme Court appointments shift the ideological balance of the Court, and rightly so. That is one of the things that Presidential elections are all about—as candidate Walter Mondale and his supporters repeatedly stressed in the 1984 campaign that the election is about who will appoint members of the Supreme Court. Mr. Mondale warned the electorate that President Reagan's reelection would enable him to put his stamp on the Supreme Court. And the voters in 49 States responded by making it clear that that was just what the doctor ordered!

Mr. President, I do not suggest that the election turned exclusively on that issue, but it was a prominent issue made prominent by the Democratic candidate. Now we see some Senators would like to deprive President Reagan and the American people what the President proposed in this realm, namely, to nominate to the Federal bench at all levels persons who would exercise judicial restraint.

But, now that President Reagan is on the verge, so it seems, of adding a judicial conservative who will make a difference, certain Senators are retracting their earlier statements—or hoping the public has forgotten about them. I assure them the public has not forgotten. These erstwhile Bork supporters now insist that only a nominee who satisfies the Mondale litmus tests should be confirmed. They wish to abrogate, for this President, a President's established historical prerogative to appoint nominees who reflect his judicial philosophy. A more crudely anti-democratic policy would be difficult to imagine.

A brief reflection on a strikingly similar precedent reveals the hypocrisy of the anti-Bork hysteria.

At the end of the 1967 Supreme Court term, Justice Tom Clark resigned, just as Justice Powell resigned. President Johnson promptly nominated a replacement, Thurgood Marshall.

It was immediately clear to everyone on both sides of the aisle that Mr. Marshall would decidely, decisively, and extraordinarily shift the Court's philosophical balance toward a more liberal position.

Although a small coalition of Southern Democrats raised their concerns about Marshall's positions on criminal law issues, there was no genuine threat to his confirmation—and certainly not from the Republican Members.

The Senate recognized that Thurgood Marshall's established qualifications and integrity as a court of appeals judge, like that of Judge Bork, and as Solicitor General, likewise the experience of Judge Bork—an interesting parallel, is it not, both in terms of circumstances and the experience and qualifications—were beyond genuine dispute.

Even though many disagreed with his decidedly liberal judicial philosophy, which he has practiced, as expected, they recognized that President Johnson was well within his prerogative in selecting such a nominee. And so before Labor Day arrived, Marshall had been confirmed by a vote of 69 to 11.

Mr. President, with respect to Judge Bork, we are not even going to begin hearings until September 15. This will be the longest elapsed time between the submission of a nomination and the beginning of hearings in the last quarter century.

The harsh and uncompromising ideological standards being used in opposing the Bork nomination stand in marked contrast to the confirmation of Justice Marshall 20 years ago. Unless the Bork opponents wish to introduce an unprecedented element of crass partisan obstructionism into the Supreme Court appointment process, they should follow that historical example and give Judge Bork the fair and reasoned consideration he so clearly deserves.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the hour of 12:45 having arrived, the Senate will stand in recess until 2 p.m. today.

Thereupon, at 12:45 p.m., the Senate recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. Breaux].

OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1987

The PRESIDING OFFICER. The Senator from New York [Mr. Moynihan] is recognized.

AMENDMENT NO. 621

(Purpose: To express the sense of the Senate that the amount of coal a country purchases from the United States should be taken into account in any agreement to permit importation of that country's steel products to the United States)

Mr. MOYNIHAN. Mr. President, seeing no other Senator seeking recognition, I suggest the absence of a quorum.

Mr. WARNER. Mr. President, will the Senator kindly withhold the request of a quorum call?

Mr. MOYNIHAN. I am happy to do so.

Mr. WARNER. Mr. President, may I gain recognition.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. I thank the Chair.

Mr. President, I have an amendment which is on the list and many Members are fully aware of it. I am hopeful that it will be acceptable on both sides. I thought I would talk about it for a brief period in the hopes that the managers can determine its acceptability.

Mr. President, I rise to offer a sense-of-the-Senate amendment calling on the U.S. Trade Representative and the Secretary of Commerce to recognize the valuable contribution exports of domestic coal bring to our balance of trade. In 1986, the value of our coal exports was $3.9 billion. Coal has proven to be a valuable commodity in improving our balance of trade, but our export markets have been shrinking. My amendment specifically recognizes that the November 1983 Joint Policy Statement on Energy Cooperation between Japan and the United States on U.S. exports of coal to Japan have not been achieved.

Mr. President, I would even say it has been a failure. Japan is the largest single steel exporter to the United States, accounting for about 21 percent of U.S. steel imports in 1986. This level has been sustained since the signing of the 1983 joint policy statement. However, Japan's commitment in the agreement to purchase U.S. coal remains on the decline. In 1981, 33 percent of total coal imports into Japan came from the United States. At the same time, 1.7 percent of their coal came from the Soviet Union. Now, in 1986, only 12 percent of U.S. coal went to Japan while the Soviet share has increased to 6.5 percent.

Mr. President, Japan, which enjoyed a $93 billion trade surplus with the United States, last year, is expected to increase its coal consumption by more than 50 percent by the end of this century. My amendment expresses the sense of the Senate that the U.S. Trade Representative and the Secretary of Commerce should encourage the purchase of U.S. steam and metallurgical coal.

Further, the President should report to Congress on results of any of the negotiations that begin in response to this amendment.

Mr. President, my amendment would simply serve as guidance for the U.S. Trade Representative and the Secretary of Commerce, and I urge my colleagues to support it.

Mr. PACKWOOD. Mr. President, I know the amendment has been cleared on our side, but I do not think it has yet been cleared on the Democratic side. On amendments of this type, unless they are cleared mutually, I am reluctant to go ahead. I do not know what the Senator from New York may have to add, other than what I have said.

Mr. MOYNIHAN. Mr. President, I am sure this will be arranged presently. I wonder if the distinguished Senator from Virginia might simply bide his time for a bit.

If there are no other Senators immediately seeking to offer an amendment, perhaps I might suggest the absence of a quorum——

Mr. WARNER. Mr. President, if the distinguished Senator from New York might withhold that for a moment.

Mr. MOYNIHAN. Of course.

Mr. WARNER. I would just like to talk a little further——

Mr. MOYNIHAN. Please do.

Mr. WARNER [continuing]. Until any other Senator seeks recognition.

Mr. MOYNIHAN. I thought we wanted to keep the Senator's amendment before the body. I am sure we can dispose of it.

Mr. WARNER. I will withhold sending it to the desk at this time until it may be convenient to the managers. But, in addition to my statement, I would like to make a part of the record the Congressional Record of April 29, 1987 which contains recitation of the trade bill in the House. Section 196, entitled "Coal Exports to Japan," introduced by Congressman Rahall of West Virginia, reads:

> It is the sense of Congress that the objectives of the November, 1983 Joint Policy Statement on Energy Cooperation as relates to the United States exports of coal to Japan have not been achieved. Second. The President should seek to establish reciprocity with Japan with respect to metallurgical coal exports and steel product imports and should encourage increased purchases by Japan of United States steel and coal.

Now, Mr. President, paragraph 3 of section 196 would, by my amendment, be replaced with other language but generally is the main thrust of this amendment which is now in the House bill.

So at this point, Mr. President, I yield the floor and at a convenient time for the managers I will return to this amendment and perhaps ask unanimous consent at that time that all of my remarks and the amendment be put together in one place in the Record.

I thank the managers, and I thank the Chair.

Mr. MOYNIHAN. With that in mind, I suggest the absence of a quorum, and I will suggest that there be no interruption in this discussion unless the Senator from Oregon wishes to speak.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PACKWOOD. Mr. President, I believe that the amendment of the Senator from Virginia [Mr. Warner] has now been cleared on both sides; and, on behalf of the minority, I am prepared to accept it.

The PRESIDING OFFICER. The Chair states that the Senator from Virginia has not formally offered his amendment. He discussed it.

Mr. BENTSEN. Mr. President, I offer this amendment on behalf of the Senator from Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment will be stated.

The bill clerk read as follows:

> The Senator from Texas [Mr. Bentsen], for Mr. Warner, proposes an amendment numbered 621.

Mr. BENTSEN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Withoug objection, it is so ordered.

The amendment is as follows:

> At the appropriate place in Title IX, insert the following new section:
>
> SEC. . COAL EXPORTS TO JAPAN.
>
> It is the sense of the Senate that—
>
> (1) the objectives of the November 1983 Joint Policy Statement on Energy Cooperation, as it relates to United States exports of coal to Japan, have not been achieved;
>
> (2) the President should seek to establish reciprocity with Japan with respect to metallurgical coal exports and steel product imports and should encourage increased purchases by Japan of United States steam coal;
>
> (3) the President should direct the United States Trade Representative and the Secretary of the Department of Commerce, in negotiaing a Steel Trade Arrangement with Japan to take into consideration, consistent with the President's steel program, the amount of coal that Japan purchases from the United States in determining the level of steel, semi-finished steel and fabricated structured steel products that can be imported into the United States.

(4) the President should report to the Congress by November 1, 1988 regarding the results of the outcome of any negotiation undertaken in response to this section.

Mr. BENTSEN. Mr. President, I have heard the comments of the distinguished manager for the minority on this piece of legislation, and I concur with those comments. I find no objection on this side of the aisle.

Mr. PACKWOOD. I thank the majority manager of the bill.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the amendment of the Senator from Virginia.

The amendment (No. 621) was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. EVANS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 622

(Purpose: To modify the Council on Economic Competitiveness)

Mr. EVANS. Mr. President, I send an amendment to the desk on behalf of myself, Mr. BRADLEY, Mrs. KASSEBAUM, Mr. SYMMS, Mr. MURKOWSKI, Mr. DANFORTH, and Mr. ROTH, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from Washington [Mr. EVANS], for himself, Mr. BRADLEY, Mrs. KASSEBAUM, Mr. SYMMS, Mr. MURKOWSKI, Mr. DANFORTH, and Mr. ROTH, proposes an amendment numbered 622.

Mr. EVANS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(1) The superior heading of Part I, subtitle A, Title XXXVIII is stricken.

(2) Section 3801 is amended to read follows:

SEC. 3801. ESTABLISHMENT.

"The President shall establish, within 90 days of the date of enactment of this Act, the Council on Economic Competitiveness, an advisory committee under the provisions of the Federal Advisory Committee Act (5 U.S.C. App.)."

(3) Section 3802 is amended by—

(a) inserting "and" at the end of subsection (9);

(b) striking the semicolon at the end of subsection (10) and inserting in lieu thereof a period; and

(c) striking paragraphs (11) and (12).

(4) Section 3803 is amended by—

(a) striking subsections (c) and (d) and redesignating subsections (e) through (o) as subsections (c) through (m);

(b) amending subsection (i), as redesignated, by striking all after the word "members" and inserting in lieu thereof a period; and

(c) amending subsection (k), as redesignated, by striking "(i)" in paragraph (1), and inserting in lieu thereof "(g)".

(5) Section 3804 is amended by—

(a) in subsection (b), striking the word "The" where it first appears and inserting in lieu thereof "Within the limitations of the Council's appropriations, the"; and

(b) striking subsection (c).

(6) Section 3805 is amended by—

(a) adding at the end of subsection (d) the following: "Before commencing its activities, the Council shall prepare and submit to the President a plan that explains the type and scope of activities it plans to undertake within its budget. In order to maximize the effectiveness of the Council's activities, the plan shall seek to coordinate the activities of the Council with those of existing advisory committees relating to trade and competitiveness issues. The President may, within 30 days of its receipt, return to the Council his recommendations as to how the plan may be modified. The Council shall consider the President's recommendations before proceeding with its activities pursuant to the plan.";

(b) striking the period at the end of subsection (f) and inserting in lieu thereof "; and"; and

(c) striking subsections (h) and (i).

(7) Section 3808 is amended to read as follows:

"SEC. 3808. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for fiscal year 1988 not to exceed $1,000,000 to carry out the provisions of this subtitle."

(8) Part II of subtitle A is striken.

The PRESIDING OFFICER. The Chair recognizes the Senator from Washington.

Mr. EVANS. Mr. President, this amendment would modify a proposal which is now in the bill to establish a Council on Economic Competitiveness.

I do not think there is anyone in this Chamber who does not wish us to become more competitive economically. I do not think there is anyone who would deny the potential effectiveness of a group of people gathered together to advise the administration and the President on how we might be more competitive.

The question is really how best we do it. I suggest this is no time nor is it prudent either in this trade bill or during a time of extraordinary fiscal problems for us to embark on an independent agency in the executive branch, establish a brand-new mechanism of this type, to give it a budget that is virtually the equal of the budget of the United States Trade Representative as it exists today.

Therefore, this amendment would modify the proposal in the current bill by making this competitiveness council in essence an independent advisory council under the well known and, I think, appropriate Federal Advisory Committee Act. It would reduce the funding level from $15 to $1 million for next year. It would give us a chance to get started to provide information to do the job that may well be useful but which does not require, in this Senator's view, a full blown $14 million equivalent to the U.S. Trade Representative, an independent agency in the executive branch which by its very nature makes it not as independent as if it were under the Federal Advisory Committee Act.

Mr. President, I find most difficult one of the elements in here.

Mr. President, by establishing the council as an independent agency in the executive branch, we find that already trade functions as we have found out so well in the implementation of this bill are too scattered within the executive branch. To build another executive agency separate from and not directly advisory to the President merely scatters functions even further and does not attempt to consolidate them as I believe we need to consolidate these functions.

An advisory council, some would suggest, guts this proposal, that it no longer is useful, that it no longer can carry on an appropriate function.

In fact, I do not change the makeup of the committee, do not change the appropriateness of the areas into which it can look or examine. I think that it is inaccurate to say that an advisory committee, which I believe is appropriate, is necessarily a committee of no clout, a committee of no consequence, a committee that cannot provide some extraordinary advice to the executive branch and for that matter to the Congress.

Let me read to you a few of the more recent committees which have been established under the Federal Advisory Committee Act: The Kissinger Commission on Central American Policy, hardly a minor committee; the Committee for Reform of Social Security Laws, which came forward with probably the most dramatic and important changes in the Social Security laws we have had in the last 50 years; the Committee to Determine Sites for the Basing of MX Missiles, again one of the extraordinarily important decisions to make and the advisory committee reflected that importance; and finally and most recently the Tower Commission to investigate the sale of arms to Iran. We are all familiar with that committee. It did a fine job. It did it in an appropriate way. It gave its recommendations to the President and through the President to the Congress and to the American people.

I think that is precisely the way we should start in a committee on competitiveness and not allow ourselves to be dissuaded by embarking on a totally new, independent agency with a huge budget without having some experience first in seeing how well it might work.

Mr. President, there are currently 17 industry sector advisory committees to the Government operating on an average annual cost to the Government of no more than $500,000 for all 17 committees. They are providing good material, good advice; they are doing their job and they have plenty of people willing to serve and willing to provide that advice at a cost significantly less and I think far more appropriate than the kind of competitiveness council suggested by this legislation.

Mr. President, with that, let me yield the floor, and I may return to speak at some additional length on the particular program set forth by this council, what the council would be doing and how in my view that would allow them to investigate virtually at will and thread through virtually every department of government and comment on virtually every action of almost any kind that would or could come before them.

I think that represents one of the more dangerous aspects of this committee and its potential activity.

The PRESIDING OFFICER. The Senator from Washington yields the floor. The Senator from New Mexico [Mr. BINGAMAN] is recognized.

Mr. BINGAMAN. Mr. President, I rise to oppose the amendment that the Senator from Washington has offered. I want to get, first, a little background on this Council on Economic Competitiveness and describe the purpose that we intend for it and then indicate the reasons that I think the amendment should be defeated.

The Council on Economic Competitiveness is a step toward institutionalizing at least for the near term, the next few years, a concentration on this problem of how we act and how it impacts on the competitive posture of this country. We need an external forum for the discussion of the problems related to the competitiveness posture of our country in world trade. We need a mechanism for suggesting solutions to those problems, and we need ways to pull together business, labor, Government, and the academic world to work on those kinds of solutions.

Proposal for a Council on Economic Competitiveness is a proposal to establish an independent agency for review of the policies of the Federal Government that are proposed to the Congress. You are right. It would have broad-ranging authority to look at the areas of Federal Government activity or proposed Federal Government activity and make suggestions with regard to the impact it would have. The proposal is to set up a commission or council, a nine-member council, three of them appointed by the President, three by the leadership of the House, and three by the leadership of the Senate.

Clearly the idea here would be to have a bipartisan group.

We have provided that not more than five of the nine members would be from any one political party. They could make a series of reports to the Congress, an annual report, and then such other reports as they felt appropriate on the competitive impact of different proposals that are being discussed here in Washington.

It is advisory in nature, but I think it would have a very important effect of providing independent analysis of Government Policy, and that is something we have sorely needed in this area of competitiveness up until now.

The amendment that the Senator from Washington is proposing, in my view, drastically undercuts what we are trying to accomplish. It would reduce this council to an advisory committee status under the control of the President and, as the Senator from Washington has said, make it subject to the Federal Advisory Committee Act.

I would just point out, Mr. President, that the whole idea of the Federal Advisory Committee Act is to bring advisory committees and councils under the thumb of the President, and that is what that act has done very effectively.

I would also point out that by making this a Federal advisory committee under the terms of that act the Senator from Washington would have us give the President complete discretion to terminate the existence of the council at will, at the end of 2 years according to section 14 of this Federal Advisory Committee Act. At the end of a 2-year period, each advisory committee established shall terminate unless the President determines to renew it.

We established a council by the Congress, a council which would give advice to the President, give advice to the Congress, give advice to various people in policymaking positions in the Federal Government. That has changed significantly in the proposal by the Senator from Washington.

He would say the President establishes this council and with the power to establish goes the power to terminate and clearly that is provided for in the law, that he would have control in this case.

He would delete the requirement that the council meet at least every 2 months. We have provided in here that the council can get its own schedule, but that at least every 2 months they should be required to get together and meet.

That requirement, of course, is dropped in the amendment that is before the Senate for consideration at this time.

He would require in his amendment that the council submit a work plan to the President. It is not our thought that the council would work for the President. It is our thought that the council would advise the President and equally would advise the Congress.

He would suggest that the council not have the ability to create subcouncils. I think it is clear from the language of the trade bill before us today, we are not mandating that subcouncils be created here. We are merely giving the discretion to this Council on Economic Competitiveness to do so if they felt it appropriate; and he is suggesting that we reduce the funding to the level of $1 million per year.

I would point out that the $1 million figure he is suggesting is clearly inadequate to perform the important work that we contemplate for this council.

The Prospective Payment Assessment Commission, which we have established to advise HHS and the Congress on Medicare and Medicaid has a budget of $3.7 million per year; the Physician Payment Review Commission has a budget annually of $3.3 per year; and the White Conference on Drug Abuse has a $5 million budget per year.

Mr. President, we are merely trying to get an adequate amount of resources in this council so that it can do its work effectively. The House has agreed to put $5 million into the budget of the council. We are proposing $15 million.

I am sure that out of conference will come some compromise between those two.

Mr. President, I think that it is clear to anyone who has followed the debate on this issue that there has been a basic disagreement between this administration and many in the private sector and many of us here in Congress about the seriousness of this problem of economic competitiveness.

The administration got a report from the Young Commission over 2 years ago, which it chose to, essentially, ignore for a great length of time. It was my view at the time, it was the view of many of my colleagues here, it was the view of many in U.S. industry, that the recommendations of that commission, that Young Commission, needed a great deal more attention than they got.

Mr. President, the kind of council we are establishing here would demand this kind of attention and would see to it that the issues we are concerned about here were front stage center issues for this country's agenda in the coming years: to set up an advisory committee to the President and relegate these important matters to that committee, clearly would go in the exact opposite direction and I think would significantly undercut the long-term ability to deal with these problems.

Mr. President, I see some of my colleagues are anxious to speak on this and I, therefore, yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico yields the floor. The Senator from Delaware.

Mr. ROTH. Mr. President, I rise in support of the amendment offered by the Senator from Washington to modify the Council on Economic Competitiveness called for in S. 1420.

Part 1 of title 38 of S. 1420 would create a Council on Economic Competitiveness as a new permanent independent agency of the Federal Government. The Council would be funded at a level of $15 million in its first year of operation.

To be quite frank, Mr. President, I do not think that we need a new council on competitiveness in any form. If created the new agency will result in insupportable new Federal expenditures, will duplicate activities already carried out by other Federal agencies and will inject itself into areas appropriately the domain of the private sector.

As currently proposed at a $15 million annual level, the cost of this new agency will exceed the appropriation for the entire operation of the office of the U.S. Trade Representative for the current fiscal year. Here then we would have a new permanent agency, with what I believe to be a questionable mandate, funded at a level higher than that of the USTR, our principal policymaker and negotiator in the field of international trade. Of course, if this new agency is created we can expect appropriations of $15 million or so in each succeeding fiscal year. Mr. President, we simply do not have that sort of money to spend on new agencies with our current Federal deficit levels.

Moreover, Mr. President, the Council proposed in S. 1420 would duplicate information already collected and available to the Congress, the President, and others interested in competitiveness issues. For example, the administration has at its direct disposal information from groups such as the President's Export Council and the Industry, Agriculture, and Labor Advisory Committees created by the Trade Act of 1974. The Young Commission on Global Competitiveness and the White House Conference on Small Business have completed their work and have placed before us a broad-ranging set of recommendations to improve our ability to compete internationally.

There exist also literally dozens of nationally based trade groups and associations representing every sector of our economy, that on a regular basis convey to the Congress and the administration their views on a host of economic concerns. If, indeed, we need additional analysis or research on economic competitiveness issues, surely one or more of the many existing governmental agencies or private associations with expertise in this area can supply the desired information.

Beyond these issues of cost and duplication, however, Mr. President, the mission assigned to this new permanent Council raises troubling questions about the appropriate role of Government agencies in developing policies affecting private enterprises. My concern on this point is best reflected in the stated mandate of the Council to "develop and promote a national vision and specific policies which enhance the productivity and international competitiveness of United States industries."

I do not think that any governmental unit can adequately produce a vision of what course private-sector interests should take to remain competitive or to restore their position internationally. In my view this assignment moves the proposed Council foursquare into issues that are the domain of private sector decisionmakers, not that of a governmental bureaucracy.

If, however, the Council provision is not to be removed from the trade bill, I believe the amendment offered by Senator Evans makes a constructive improvement to the proposal. It increases the independence of the body by making it a private-sector advisory committee and it limits its duties to those not already carried out by existing agencies and committees. The proposed amendment seeks to strengthen the consensus-building ability of the Council and sets a funding level that is in line with advisory bodies of the recent past that have had a similar mandate.

In each of these ways, Mr. President, the amendment proposed by the Senator from Washington tailors the proposed Council to make it more appropriate for current needs and existing resources. It is a moderate approach to improving the Council proposal now in the trade bill. I strongly urge each of my colleagues to support the amendment offered by Senator Evans.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

The Senator from West Virginia seeks recognition.

Mr. ROCKEFELLER. Mr. President, I rise in very strong opposition to the Evans amendment, which would radically weaken and fundamentally transform the proposed Council on Economic Competitiveness. I want to talk, Mr. President, a bit philosophically about this.

Very few Members of the Senate doubt that we face a serious and unprecedented competitiveness challenge. This legislation represents a far-ranging response to many aspects of that competitiveness challenge. It is more than an effort to break down foreign trade barriers and unfair trade practices; it is also an attempt to deal with those parts of the competitiveness problem "made in America." If this legislation is enacted, it will strengthen our commitment to an educated and skilled work force, and our desire to be at the cutting edge of science and technology. The reform of trade adjustment assistance; the strengthening of the National Bureau of Standards; the inclusion of the technology extension legislation put forth by Senator McCain and myself—all these and many other provisions are important positive steps.

But as we face our competitive problems honestly, we must recognize that our Federal Government's policymaking process is fundamentally flawed. We all know that our system checks, balances, decentralizes and divides Government power so that paralysis and stalemate result far more regularly than effective and timely policy. We diffuse power throughout the executive; separate the executive and legislative branches, unlike a parliamentary system; disperse power between the Federal Government and the 50 States; and leave a great many policy questions—sometimes intentionally, sometimes inadvertently—to be resolved through litigation in the courts.

On top of those checks, balances, and divisions, we superimpose an unhealthy dose of adversarialism at almost all points between government and the private sector. What results is a system which minimizes the chances that government will intrude on individual freedom—an aspect of our system which we chersh. But what also results is a system where policy cannot often be made in a timely way; where consensus needed to support action emerges slowly, torturously, and frequently too late—and sometimes not at all.

We all know this is true. We have seen it repeatedly in recent years: In our ability to come to grips with inflation or the energy crisis; to our current inability to face up to our competitiveness problems. It mattered less when we were economically dominant; it matters a great deal now when we are not. We are competing economically with, and losing ground rapidly to, Japan—a nation with a parliamentary system; traditions and institutions which foster consensus-building; and a fundamentally different orientation toward collaboration: between businesses, who compete fiercely at certain levels while cooperating at others; and between business and government.

If you believe, as I do, that we face a serious competitiveness challenge: It is simply not a response to say that we are a much different society than Japan. The response must be to create institutions which improve our ability to build consensus and improve our ability to make policy—within our system, consistent with the kind of society we are.

The Council on Economic Competitiveness as proposed in S. 1420 is such an institution. Because of its independence within the executive branch, prestige of the membership, its permanent staff, and its mission, it would become the forum for seriously debating and building consensus on our country's competitive strategy. In contrast, the Evans amendment, and the administration's position, would significantly reduce the Council, sacrificing its potential and importance.

Let us look more specifically at what the Council is designed to do.

We simply have to create institutions which act as early warning systems: Alerting us to potential problems and to potential opportunities. Time and again, our Government has confronted the problems of our industries only after they were in deep trouble. By the time the Government and the industry started talking about the problem, it was very late in the day for designing a competitive response. This has been true for steel; it has been true for machine tools; and it is very nearly true for our semiconductors industry as well.

We need to become more anticipatory, rather than reactive. This is particularly true given the pace of technological change, where in some industries, a year or two delay can be an insurmountable obstacle.

It is not easy to accelerate the process of facing problems. We are not very good at it in this country. The division between business and government in America makes it very difficult to come together to discuss problems. Industries often prefer to stay away from government until the last minute, and then come in for trade relief. The Council—and its various working groups or subcouncils—represents one way to change our approach. Because it is advisory, and does not have coercive power, it can provide a forum in which business can feel more comfortable beginning to discuss problems which they have and which they clearly know that they have.

It is an institution designed to be a forum for debate on our competitive strategy and to build consensus behind the policies that need to be adopted. The Council would work, basically, for the same reason that we have frequently resorted to blue-ribbon commissions in recent years to handle politically difficult issues. If you bring together prestigious Americans representing different walks of life, and different viewpoints, and give them the requisite independence, it can result in a valuable contribution toward consensus building. And, later on, policymaking. This President has reported to blue-ribbon commissions with impressive success: Most notably the Greenspan Commission which forged the compomise needed to rescue the Social Security system in 1983. Our proposal is really an attempt to institutionalize some of the benefits inherent in the blue-ribbon commission approach.

We need institutions that can help the President and Congress define a broad vision of where our country is going economically. Japan has excelled at doing this, through the Industrial Structure Council of Miti, and other institutions. They have rallied the Nation behind policies to build basic industries; to move into high-technology areas; to build the information industries that are critical to the 21st century.

There is nothing much secret about what Japan is doing. They build consensus by talking about their problems and their goals. And then enlisting the support of their people. They do not assume consensus, even though it is far easier to get there than here. And the more diverse a country, the more contentious the society, the more critical it is to have institutions which allow consensus to gradually be formed, and to put forth a vision that enlists the support of the people of the country as well as the decision makers.

The administration opposes the proposal for an effective, independent Council. The administration suggests that it is unnecessary because the President is already advised by dozens of advisory committees. They say it is too costly and its work would be redundant.

In fact, those who want to create a meaningful council are not looking for another unit to advise the President. We are looking for a mechanism that will help face problems and crystallize solutions for the President, the Congress and the country. We think the report of the Young Commission, and the public understanding it fostered, illustrates what can be accomplished by such a council. The administration may not have liked the results of the Young Commission, whose grim diagnosis contrasted sharply from the President's "morning in America" theme. But the hard truth, and the willingness to state it, are precisely the reasons why the Council needs independence from the President.

Those who oppose this Council are saying either: First, we do not have a competitiveness problem, or second, we have a problem, but we can solve it with the existing government institutions. Those people are saying we do not need a new way of facing our problems; we do not need a new way of building consensus; or a new way of defining a national strategy. They are saying in effect, that business as usual will suffice.

I do not believe that, and I do not think very many of us do. Let me quote from Ezra Vogel, who is perhaps our leading student of Japan, and the author of "Comeback", in which he outlines a strategy for building the resurgence of American business:

> History is filled with stories of successful people who become self-satisfied and were then pushed aside by others with greater ambition. It is not hard to imagine that a nation of (homogeneous) highly-disciplined people with a sense of urgency and a well-honed competitive strategy may displace a nation of individualists reluctant to acknowledge the need for national cooperation.

Dr. Vogel goes on to quote a 1984 Public Policy Analysis poll which showed that three-fourths of those polled believe that more cooperation between government, business, and labor was needed to deal with America's economic problems. More than two-thirds of the respondents then favored a National Economic Cooperation Council with representatives from government, business, and labor to establish national goals and work out strategies to achieve them.

Since that time, our trade problems have hardly improved. They have worsened significantly. Even our high-technology sectors have been under competitive siege. We need to do a great many things in response to our competitiveness problem. But one important step is an effective Council on Economic Competitiveness, and cooperation. Repeatedly, respected individuals and groups who have studied our competitive situation have recommended the establishment of such a body: the NAM, the AFL-CIO, the Business Higher Education Forum, and many others. It is not a panacea, but it is a significant step.

It is time to stop debating this Council, and get on with creating it. If we had acted in 1983, when the idea first surfaced we might be well along in building the consensus and policies needed to meet the competitiveness challenge. As it is, these have been wasted years—with respect to the Council, and many other issues where our nation's competitiveness is concerned.

I hope the amendment of the Senator from Washington will be rejected.

Mr. DANFORTH. Mr. President, I will support the Evans amendment.

I have to say that I am not a great enthusiast for the concept of industrial policy. I feel that the council called for in the bill does come very close to industrial policy.

It is also appropriate to note that the funding level for this council would be $15 million, which would be the same as the level of the U.S. Trade Representative's Office. So this would be a significant office, a significant bureaucracy, created for the purpose of planning.

We already have in the Federal Government a somewhat comparable effort that exists in the Commerce Department. It is the Office of Productivity, Technology, and Innovation.

I think that to create a new, separate agency which could compete with other agencies, which could create policies that are contrary to those that have already been established by the executive branch, would be confusing at best, expensive and duplicative at worse. The Evans amendment should be agreed to.

Mr. LEVIN. Mr. President, we need to be competitive. That is why this language, which Senator BINGAMAN and others have worked to insert into this bill, was approved by the Governmental Affairs Committee. We have to work together more and we have to fight each other less. We have to do this all voluntarily, not because Government compels us but because history and common sense require us to do so. That is why the language which is in this bill is so important and so useful. It is not industrial policy. It does not bring the compulsion of Government on those who would not follow the recommendations. It is aimed at producing recommendations based on a consensus, on a voluntary consensus of business, labor, and Government coming together to meet common problems. It is based on the assumption that we are in the same boat together and that if any part of us fails, all of us fail.

That is the assumption behind the language that is in the bill and that is why we should try to retain that language in the bill and to defeat the Evans amendment.

This language in the bill carries out the spirit of the Young Commission of just a few years ago. This was a bipartisan Commission, representing a broad cross-section of labor, business, and Government. They asked themselves, "What is Government's role?" And the answer that the Young Commission gave us—this was a Commission created by the President—was that "Government should take the lead in highlighting the importance of competitiveness and should nurture an effective consensus-building dialog among leaders in business, industry, Government, and academia." The Young Commission said that "one way to strengthen such a dialog is to improve the consensus-building capabilities of existing Federal advisory committees." They also wrote that "Government decisionmaking can be strengthened significantly by providing a forum in which consensus can be reached on the facts of an issue and in which the implicit tradeoff among policy options can be made implicit."

The Young Commission also wrote that "One of the principal handicaps faced by the United States in striving to address our human resources and other competitiveness problems is the absence of effective mechanisms for dialog among the key economic actors affected by and who influence competitiveness." And they also wrote, did the Young Commission, that "Consensus building mechanisms can minimize this counterproductive conflict by focusing on factfinding and the development of a shared understanding of a problem before policy options are considered. By emphasizing factfinding and limiting the dialog to concerns that the parties have in common, these consensus structures can contribute greatly to the resolution of issues, moderating extreme positions and focusing issues on which consensus can be reached. The evidence suggests that this dialog is not occurring," they wrote, "and that consensus within the business community as well as among business and other key sectors rarely occurs."

The final quote from the Young Commission that I would like to provide seems to me to speak most eloquently about why this language in the bill is so essential and why I hope we will defeat the Evans amendment. This is what the commission wrote:

> The commission believes that effective mechanisms for developing consensus among key sectors of society are necessary if the United States is to respond expeditiously to the competitive challenges confronting it. As currently constituted the advisory committees are ill suited to their task of bringing together the disparate segments of the business community and other interested sectors—labor, academia, citizen groups—to discuss and resolve their policy differences. The committees' effectiveness is also impeded by a legal framework that discourages open discussion among the interested and often competing private parties. Among the major statutes governing the committee activities are the Federal Advisory Committee Acts, Government and Sunshine Act, Freedom of Information Act, etc.

Mr. President, the language in this bill is a modest attempt to provide the forum, the mechanism where the parties involved can come together and try to reach a voluntary consensus on issues that divide them. The enemy is no longer here. Our sectors sometimes go at each other and act as though the competition is between ourselves, between management and labor, between Government and management, between Government and labor. That is not the world anymore.

Our competitors are abroad and we have to learn to work together freely, voluntarily, because it is so obviously in our interests to do so. Government can produce that kind of harmony if it will create the forum and the mechanism where these voluntary arrangements can be encouraged. That is what this language promotes.

There is not any industrial policy in this language. It does not mandate solutions. It does not pick winners and losers. It provides the forum at long last where the sectors involved in each of these areas that are so critically important to us can come together voluntarily to seek a consensus.

I thank the Chair and I yield the floor.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, later on the distinguished Senator from Montana, Senator BAUCUS, cochairman of our Senatorial Competitiveness Caucus, will address what the caucus has done in connection with what you might call the caucus view. I am cochairman with him and I am delighted that he will address those issues.

Mr. President, many of the issues that the competitiveness caucus has sponsored are already in this trade bill, so it is not as though the competitiveness aspect is being totally overlooked. Not by a long shot.

Mr. President, I rise in support of the Evans amendment for the following reasons. I just do not think we want to set up one more permanent executive agency in this Government. What we should be doing around here is trying to cut back on the number of agencies, not add to them. I think it is unfortunate that this provision has in it a permanent agency, and I praise the Senator from Washington [Mr. EVANS] because he would remove that aspect of it and make it an advisory group.

Second is the cost. Is it not ironic that the cost of this group, which is solely to address competitiveness aspects, is more than the special trade representative who negotiates all our international agreements—all the intricacies that this group has to deal with, the multilateral agreements with many, many nations. All are covered by a budget of $15 million. This competitiveness advisory group, permanent executive group, would have $15 million alone. So, Mr. President, I think the amendment that the distinguished Senator from Washington has provided is an excellent one. The advisory capacity of the competitiveness aspects can still be heard, but without all the drawbacks that I think exist under the existing language. For those reasons, I do support the amendment. I thank the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, while he is on the floor, I thank the Senator from Rhode Island for cochairing the Competitiveness Caucus. It was not too long ago that the Senator from Rhode Island and I tried to put together and have now organized a caucus on competitiveness, which includes Members from the House of Representatives. Congresswoman CLAUDINE SCHNEIDER from Rhode Island and Congressman BUDDY MACKAY from Florida have helped organize the same organization in the House. We are an organization of about 200 Members of the House and Senate trying to help encourage the

Congress, whenever a bill or an amendment comes up, to ask does this hurt or does this help America's competitive position. We have made some progress. We have a long way to go. But it is due in large part to the efforts of the Senator from Rhode Island that we have made some progress.

Mr. President, when we began this year's trade debate there was a lot of talk about competitiveness. We all felt that the trade debate had moved beyond pure trade law to the issue of what America needs to do at home to be more competitive. We agreed that this year's trade bill should address not only trade; we all know that we have to address the usual garden variety of provisions of trade law. More important, we recognize we must address the larger issue of competitiveness.

Later today we will take a final vote on this bill. But before we do that, it is worth taking stock of how well this bill addresses some of the basic competitiveness problems that our country faces. I would like to give a very short status report on where I think we stand.

Our Congressional Competitiveness Caucus is devoted exclusively to promoting American competitiveness. We now number about 200 members, as I mentioned, and we are making a conscious effort to be sure our group includes both Democrats and Republicans, both Senators and Representatives.

Shortly after the group was formed, we prepared a list of 100 recommendations to address the competitiveness problem in the short term. These recommendations included all the provisions that we felt should be and could be enacted this year. It touched on many areas of competitiveness policy, namely education, technology transfer, taxes, budget policy, trade policy, capital markets and worker retraining. Many of the members of the caucus worked hard to ensure that these provisions were included in the Senate trade bill. By any measure, they have been successful. Some of our recommendations, such as those dealing with tax policy, are not included in the trade bill. It is our hope that some of those will be enacted at a future date. However, I am pleased to report that over 80 percent of the other recommendations are included in this trade bill. That is a good record. It demonstrates how serious we are as a Senate in trying to address competitiveness.

Let me give an example of what some of them are:

On export controls. Except in situations where there is a high risk of a serious deversion of technology vital to our national security, the bill in practice eliminates export licensing requirements to: Cocom countries, countries that are part of an agreement similar to Cocom, and to the free world for low technology items. The trade bill contains no less than seven other caucus recommendations on export controls.

These are not unimportant provisions. They make major adjustments in our export control laws, and those changes can make a significant difference in our international competitiveness.

The National Academy of Sciences recently estimated that unnecessary export controls cost us $9 billion in exports and 188,000 jobs annually. This bill restore that loss.

The trade bill includes a number of caucus recommendations on worker retraining. It would establish rapid response teams to quickly meet the needs of workers who need retraining because of large scale permanent layoffs and plant closings.

It would ensure that the Labor Department works more closely with states to facilitate worker adjustment at the local level—or, more appropriately put, at the human level.

Each year in this country, 2 million workers are laid off. That is like laying off the entire city of Philadelphia. This bill makes a stronger effort to help those people lead productive lives and contribute to our economy.

On intellectual property, this bill effects some long overdue changes. It would eliminate the injury requirement in section 337 cases, and authorize the ITC to issue cease and desist orders against violating companies.

Now, none of these changes may seem like blockbuster reforms. And they are not.

But we are not going to solve our competitiveness problem by enacting one blockbuster provision. We are going to solve our competitiveness problem one step at a time. Collectively, our efforts will begin to yield results.

That is what the Competitiveness Caucus recommendations were intended to do. And that is what the Competitiveness Caucus provisions in this bill will do.

CONCLUSION

These recommendations are only the short-term agenda of the caucus. They were not intended to be a solution to the competitiveness problem. They were intended to be a start; a good beginning.

As a result, this is the first bill in the history of this Congress specifically directed toward improving America's competitiveness. And that is a benchmark.

America is at a turning point. As a nation, we are finally—albeit slowly and albeit only a step at a time—beginning to recognize the importance of American competitiveness. We have moved it off the back pages and onto the front pages as a political issue, and it will help restore the upward trend in our living standards. I think we should be proud of those provisions in this bill.

That brings me to the amendment offered by the Senator from Washington. It is with very deep reluctance that I do have some problems with the provisions in the bill that establish a Council on Competitiveness.

Mr. President, we all know that a Government agency is not going to make America more competitive. On the other hand, we do know that Government is part of the solution. It is easy for some to say that Government is the problem, but it is a judgment call as to the degree to which Government is part of the solution.

I think the degree to which a Presidential Advisory Council on Competitiveness works or does not work depends primarily upon the personnel, primarily upon the people whom the President would or would not appoint to either of the two agencies.

It is my opinion that, in all probability, the President is more likely to attract higher quality people the more this advisory council is part of the executive branch than would be the case if we established a separate agency.

These councils generally last a couple of years. We have had the Warren Commission, the Space Shuttle Challenger Commission, the Iran-Contra Commission, and these tend to be higher level organizations, with high-level personnel, people of stature and competence, who are thoughtful, who address these issues and come up with certain recommendations. It is my feeling that if we have not an advisory council but a Government agency, it will tend to get lost in the shuffle.

Some have suggested that a potential problem with the provision of the bill is its cost, and I agree that is a problem.

The budget for the USTR is $14 million, an agency that is pressed, works very hard, and in many respects is lean and mean. It seems unusual to set up a separate organization, a council to address the competitiveness profile, in a sort of academic way, with the same budget of a similar size. Perhaps we should have a Council on Competitiveness but with a lower budget, a significantly lower budget. Given the cost of the agency and its potential not to attract quality personnel, I wonder if it is a good idea to establish a competitiveness council in this bill.

I say that with deep reluctance, because I know how strongly the Senators on the Governmental Affairs Committee have worked to set up this organization. I think there is a lot of merit in it, but when you combine some of the features it has, I tend to think that, on balance, probably this is not the time to set up that kind of council.

Calling it as I see it, I think that the Evans amendment does make sense, and I urge its adoption.

Mr. ROCKEFELLER. Mr. President, Senator EVANS takes the position that there are many other agencies, or advisory committees, in the Government doing this work. Obviously, it is true that our competitiveness problems cut across virtually every agency of the Government.

But that is an argument for an independent, effective Council—not against it. That fragmentation of responsibility underscores the need for an entity which can have an overview of our whole competitiveness situation. None of the other agencies have the mandate to do it.

And fragmentation is only half the problem. The other half is the ability to lift our vision a little and take more of a long-term vantage point—rather than just deal with day-to-day problems. We all know that government today does not engage in enough long-term thinking: The pressures are all the other way, reacting to the crisis of the moment; struggling to preserve next year's budget; in essence, firefighting. And we certainly cannot get long-term thinking or planning from our corporate sector, either, given the pressure there to produce quarterly results.

For example, the question of whether to break up AT&T was debated within the Government—one would suppose—for years. It represented a decision of enormous impact on every consumer, on the telecommunications industry, on the computer industry, and our Nation's competitiveness.

Yet, almost incredibly, it appears that the trade implications of breaking up AT&T, of deregulating the industry, of opening our telecommunications market were not considered at all. We did it unilaterally. We threw open the world's largest telecommunications market for foreign competition, without taking a step to ensure that we would have equivalent access to the telecommunications markets of other countries.

As a result, foreign-made telecommunications poured in, and we actually ran a trade deficit in telecommunications, where we led the world. By not thinking through the implications of the policy, this country added to its trade deficit; and eroded the competitive edge of our industry.

This example is too big to be ignored. And it is too typical to be ignored. We still think about our problems in too compartmentalized a fashion: the litigators thought about their litigation; the regulators about their regulation; trade people about their problems.

If this Council had been in effect, a group would have been thinking about the future of the telecommunications industry. This group's mandate would have been to consider all aspects of the industry's competitive situation, and its ability to compete here at home and in international markets. With such a group operating, I do not think we would have missed the enormous implications of throwing our market open unilaterally, in a world where other countries protect, nurture, and monopolize their telecommunications industries.

I suggest that this is a very important council; and that if the problem is one of lowering the amount of spending for it, we can do that.

If $15 million appears to be excessive, that can be changed. But we still need to enact legislation creating this council. If we do not, we will be losing the chance to engage in collaborative, useful, long-term thinking in this country. Instead, we will continue to engage in that frustrating, compartmentalized thinking which has helped take us down the path to a very, very substantial competitiveness disadvantage.

The PRESIDING OFFICER. The Senator yields the floor.

The Chair has reviewed the amendment of the Senator from Washington and observes that the amendment of the Senator from Washington seeks to amend sections of the bill to which amendments have already been offered and agreed to. Therefore, the amendment of the Senator from Washington is not in order.

Mr. EVANS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. EVANS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EVANS. Mr. President, I ask unanimous consent that the ruling of the Chair just stated be stayed and that this amendment be laid aside for half an hour.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment of the Senator from Washington is set aside.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LAMB SURGE CONTROL AMENDMENT

Mr. BAUCUS. Mr. President, this morning, I was very displeased to hear two of my colleagues speak in opposition to the provision of the trade bill that controls lamb imports.

Apparently, instead of seeking a full-fledged debate on this issue these Senators were satisfied to make a few disparaging comments.

I originally offered this provision in committee, and I think it is a very important section of the bill.

I have provided each office with a detailed refutation of the arguments that were raised here this morning, but allow me to reiterate.

This provision would not impede the normal flow of lamb imports. It would prevent a sharp surge of imports from destroying the domestic lamb industry.

I know that some of you are understandably concerned about any legislation that limits imports. But I believe that there are a few points that you should consider before you dismiss this amendment as protectionst.

First, lamb growers are only asking for the same protection given to all other red meat producers.

The Meat Import Act currently sets quotas for virtually all red meats.

Lamb was included under the Senate version of the Meat Import Act in 1963. But lamb was dropped in conference because, at the time, imports did not threaten the domestic lamb industry.

In 1963, beef imports controlled just over 10 percent of the domestic market, and lamb imports controlled only about 1.5 percent.

Now, the situation has reversed entirely. Beef imports are down to less than 8 percent of the domestic market, but lamb imports have risen to almost 10 percent.

If current import patterns hold, lamb imports may control 18 percent of the domestic market by the end of 1987.

There were colloquies in 1979 and in 1963, when the Meat Import Act originally passed Congress, indicating that lamb would be included in the Meat Import Act if it ever faced the same import threat that faced the other red meats.

Clearly, lamb is now faced with an import threat greater than that faced by any other red meat.

It is time for Congress to keep its word to lamb producers. To do otherwise would be to penalize them for being able to fend off imports longer than any other red meat.

Second, this amendment does not interfere with the normal flow of lamb imports.

My amendment guarantees that imports will never be limited to less than 28.5 million pounds.

The actual level of imports in 1986 was 27.8 million pounds.

Clearly, this amendment only prevents a dramatic surge in lamb imports.

Given its nonrestrictive nature, it is impossible for the provision to raise consumer costs in any way.

Further, if domestic production of lamb falls off, the provision would allow increased numbers of imports.

In short, the argument that this provision would cause consumer costs to sky-rocket is manufactured out of whole cloth.

Finally, I think that the experience of beef under the Meat Import Act of 1979 demonstrates that this type of import control benefits all parties.

The Meat Import Act has held beef prices steady, and still allowed imports to enter the U.S. market. A stable market benefits cattlemen, consumers, and importers.

The act has also never once been challenged under GATT in the 23 years that it has operated.

I think that the experience with beef proves that red meat imports can be controlled through the Meat Import Act to the benefit of all parties.

There were veiled threats at each time that the United States considered strengthening the Meat Import Act that any changes would result in trade retaliation or disrupt the GATT.

None of these dire predictions ever materialized.

These are tired old arguments, it is time that we put them to rest.

Many of you from cattle States may be concerned by the statement made this morning that giving lamb the same treatment as other red meats would result in a challenge to the entire Meat Import Act.

Let me point out that I have provided each office with a letter from the National Cattlemen's Association that succinctly states that the NCA in no way opposes this provision.

It is time that we stem the flood of lamb imports, and prevent domestic growers from being driven out of business.

The Finance Committee saw fit to include this provision, and I am confident that if it came to a vote the full Senate would as well.

I hope that this provision can be preserved in conference.

LAMB IMPORT AMENDMENT TO THE OMNIBUS TRADE AND COMPETITIVENESS ACT

Mr. WALLOP. Mr. President, I rise today to oppose the effort to remove from the Omnibus Trade and Competitiveness Act of 1987 a provision to prevent surges of lamb imports from disrupting the U.S. lamb market.

I joined with Senator Baucus to add lamb to the Meat Import Act because I thought it important to put American sheep producers on an equal footing with those raising beef, veal, mutton and goat. This provision does not provide special treatment for sheep producers but merely recognizes that the countercyclical approach that works so well for beef is readily adaptable to lamb. America's lamb industry has faced some very tough economic times, largely as the result of imports as well as congressional actions. If we cannot prevent sudden surges U.S. lamb producers could be wiped out. In 1964, when Congress established import quotas for most meat products—beef, veal, mutton and goat—lamb was not included because the level of imports was not viewed as significant in relation to domestic production. Today, however, the situation has changed drastically. Not only have lamb imports risen constantly since 1964—reaching 36 million pounds in 1986, the decade's highest level—but United States producers face an extremely aggressive lamb marketing program by New Zealand. New Zealand exports account for 75 percent of the total lamb imports and the U.S. Department of Commerce has determined that those imports are subsidized by 20 cents a pound. If the pattern set in January holds, there could be a 66-percent increase in lamb imports. It is this threat of sharp increase which could wipe out the domestic industry.

Let me emphasize that this legislation only prevents a sudden surge of imported lamb. It does not seek to eliminate, nor would it impede the normal flow of imports. There is a provision which ensures that at least 28.5 million pounds of lamb will always be allowed to enter the United States. The average level of imports over the last 6 years has been around 24 million pounds. In point of fact, if this legislation had been in place in 1986 it would have set the quota level at 29.1 million pounds while only 27.8 million pounds were actually imported.

This measure establishes a separate import control for lamb that directly parallels the import control on beef in the Meat Import Act. The Meat Import Act has worked for 23 years and has never been challenged under GATT. Under this system our trading partners are encouraged to negotiate voluntary restraint agreements on meat instead of forcing the United States to actually trigger a quota. Several years ago, when cattle exports edged up against the trigger our trading partners did initiate voluntary restraints. Lamb producers are only seeking the same level of protection that other meat producers already have.

It may have been understandable to leave lamb out of the 1964 act. However, current conditions require that lamb producers be permitted equal footing with beef and other red meat producers.

I urge my colleagues to oppose any effort to strip lamb import controls from the Omnibus Trade Act.

Mr. PRESIDENT, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Dodd). The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. ROTH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Delaware.

Mr. ROTH. Mr. President, I will cast my vote today in favor of this Senate trade bill, reserving my right to vote against the conference report.

I commend the managers of this bill, the members of the Finance Committee and my colleagues in the Senate for producing a trade bill which is largely constructive and balanced. There are, however, provisions to which I take exception.

Nevertheless, I will vote "aye" on this legislation while reserving the right to vote "nay" in the event the conference report should be unacceptable.

I am pleased that the core of this Senate bill contains a series of legislative proposals on trade which I have been pressing.

These changes to our trade laws will promote the competitiveness of U.S. industry, encourage decisive action against unfair trade, provide meaningful assistance for those workers hurt by trade and, at the same time, help secure the benefits that trade brings to most Americans.

Specifically, this legislation incorporates, in whole or in roughly similar language, six of my major legislative initiatives on trade:

First, my reforms to the Trade Adjustment Assistance Program, which provide new opportunities for workers hurt by trade to retrain and to rejoin the work force;

Second, my proposals to strengthen U.S. trade laws against unfair trade, particularly to improve the protection of American patents, copyrights, and trademarks against imports which infringe these intellectual property rights;

Third, my legislation to tighten current law which permits the President to restrict imports, if those imports are threatening an industry critical to U.S. national security;

Fourth, my proposals to improve the law to make sure management and labor use import relief granted by the Government to make the industry more competitive;

Fifth, the provisions I proposed in committee, with my distinguished colleague Senator Bentsen, to get new trade negotiations quickly underway, while at the same time maximizing pressure on our trading partners to open markets and eliminate unfair trade practices in these negotiations;

And finally a resolution, I offered on the Senate floor, urging a joint executive/parliamentary trade summit to address trade tensions between the United States and Japan.

On this latter point, let me emphasize that I strongly believe that a mutually beneficial resolution of the inequities in the trading relations of the United States and Japan is critical not only for the economic and political future of our two countries. The prospects for the international trading system as a whole also depend on whether and how the current trade problems between the United States and Japan are resolved.

I supported, and this bill now includes, a bipartisan proposal to require action by the President against countries which maintain a consistent pattern of trade barriers, such as Japan.

My proposal for an emergency trade summit, to bring together the political leadership of both our countries, reinforces this market-opening effort. This trade summit would be convened by President Reagan and Prime Minister Nakasone and would include Members of the Congress and all factions of the liberal democratic party in Japan's Diet, as well as the United States executive branch and Japan's key ministries.

I believe a major summit could help put more political might behind the effort to increase United States exports to Japan, ensure fair trade and promote economic growth in our two countries and around the world. It would provide an opportunity to take the United States and Japan off the collision course they are now on and put our two countries on a new path to mutual prosperity.

Mr. President, as is clear from even this brief review of its key provisions, in my opinion this legislation merits an affirmative vote at this stage. I have exercised the caution of reserving my right to vote against the final conference report, however, because the final trade legislation this session will be written in the trade conference that will follow passage of this bill in the Senate.

Mr. President, this trade bill is like a long-distance race. There have been a few detours and numerous hurdles to clear and we have not yet reached the finish line. We have not yet won the race. We await the outcome of the conference, the hurdles that must be surmounted in that conference, before we can declare victory in this marathon.

I expect to be a conferee on this bill and I must say that I am hopeful that the conference will produce a strong trade bill and one which the President can sign with a clear conscience. This will take a lot of political cooperation and hard work. The House and Senate trade bills are each about 1,000 pages long and there are many, many differences between them which must be satisfactorily resolved.

My hope is that we will work together expeditiously and carefully to weave the best of each of our trade bills into a final product that will be worthy of the President's signature.

In closing, I want to reiterate the point I made in my opening statement for the Senate's consideration of this bill.

The central question today is not whether the $170 billion trade deficit will be reduced. One way or another the U.S. trade deficit will be reduced substantially. A $170 billion trade deficit by one country, even a country as big as ours, is both economically and politically unsustainable. The central question today is whether the trade deficit will be reduced in a responsible way which will build on our current overall economic success, bringing even stronger growth and a higher standard of living or whether it will be reduced in a drastic way, for example by trade protectionism, that will surely doom our economic future.

Trade legislation is not the answer to the trade deficit. Actions by the Congress to reduce the budget deficit, by our trading partners to buy American goods, agricultural products and services, and by U.S. management and labor to make our industries more competitive are all of critical importance. Good trade legislation, however, can help us build on the recent economic success of our economy through a stronger U.S. trade performance.

I will cast my vote for this legislation and look forward to the House/Senate conference with the hope that there will be a bipartisan spirit that will enable us to forge a bill that provides constructive trade legislation for this Nation.

Mr. President, I yield the floor.

Mr. STEVENS addressed the Chair.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I will not take much of the Senate's time. I do, however, want to briefly explain why I will not vote for this bill. I agree with my distinguished colleague from Washington, with respect to the Council of Economic Competitiveness, that such a costly council will not enhance this bill's prospects for becoming law.

Mr. President, just before I went home for the July recess I noticed a nice little vine in the backyard of the home we live in now in Washington. It was a different kind of vine, going along the top of the fence. I thought it was going to improve the appearance of our backyard. By the time I got back that little vine had jumped over to a series of bushes and even to a little apple tree that I have become quite attached to, and it had competely strangled that little apple tree. It was necessary for me to cut out the whole vine to protect that apple tree.

I view this legislation in much the same way. The bill that went into the Finance Committee; a bill that enjoyed bipartisan support, had great promise. It is now before us as a bill consisting of eight or nine pieces of legislation intertwined with one another by the concept of restriction of trade rather than expansion of trade—this protectionist concept being the same as that little vine. This bill has been strangled by people who are too anxious to try to legislate an expansion of trade.

I come from an area of the country that now is primarily a free trade area. Is it not strange that the country has swung so dramatically? The area of the country that previously was protectionist now overwhelmingly favors free trade, whereas the eastern seaboard and the Midwest that previously opposed protectionism is now basically protectionist.

It is time the country looked at this bill and realized that this is a time when we should be expanding our trade, not contracting it because of legislation coming out of Congress. In my judgment, this is the wrong approach to take.

This bill would create, I am told—I have not examined all 1,100 pages myself—81 new entities in the Federal Government. It mandates 165 new studies—studies that, in and of themselves, will come back to us and spawn new legislation.

This is the time to take the fetters off of our trade, not to put more on.

My State has the capability, I think, of substantial trade expansion into the Pacific rim. Alaska has a great deal to offer to the Pacific rim, as does the whole northwestern part of our country. And yet the estimated cost of this bill over the next 5 years is $12 billion. That price tag, in and of itself, is going to stifle trade. The entities created by this bill, that do not get the money to function properly, will have a dampening effect upon our ability to expand our trade into the area which will offer the most opportunity for growth in the 21st century. In my judgment, that area, and the great future of this country's trade is in the Pacific rim.

I would like to vote for this bill if for no other reason than for the second time the Senate is on record to repeal the windfall profit tax, which would mean a great deal to Alaska's future. But that, by itself, does not make this bill acceptable to me.

Many people view the plant closure amendment as being a significant problem in this bill. It is not for me. I voted for it and support it. Having come out of the depression days—days when I can remember my grandfather and father and uncles coming home and saying, "We have just been laid off." There was no concept of notice involved during the Depression days. When there is a sudden restriction in the economy notice can help families take actions to offset the disruption and hardship caused by the loss of jobs. I think that notice is a basic concept that has to be worked out—although I do say for the record that the plant closure amendment in this bill needs a lot of work in conference.

What I am basically doing, Mr. President, is trying to add my voice to those who say to the managers of this bill, my two good friends on the floor now, the Senator from Texas and the Senator from Oregon—who I think will dominate the conference—that I think this bill could be improved in conference so that I could vote for it. But right now there is not enough in this bill to offset the problems that I see. Basically, it is the new bureaucracies created by this bill. I see no reason for one bill to mandate 165 new studies or to create 81 new bureaucratic entities.

If we are trying to expand trade and trying to take off some of the burdens on our industry as it tries to become a better competitor on the world scene, such actions are counterproductive.

I urge my friends to bring back a bill that we can vote for. It would be a great symbol to the country and the world that the diverging opinions of the Congress can get together and take action which we, and the President, agree would expand the trade parameters of our industry and give us the opportunity to sell more and more of our products abroad.

Mr. President, to bring back such a bill is going to require someone to do what I did to that vine that I thought was so pretty. They are going to have to cut out by the roots some of the excess baggage that has been added to the Finance Committee bill. I hope that my good friends from Texas and Oregon are capable of doing just that.

I believe the President would like to sign, and I know that those of us in the Pacific Northwest, who are basically going to be the people voting against this bill today, would like to support a trade bill. I urge you to improve this bill—reduce it in size and make it affordable. Make the many commitments to the various sectors of our economy something we can finance for the coming 5 years.

The PRESIDING OFFICER. Under the previous order, the question recurs on the amendment of the Senator from Washington. The Chair will restate that in the absence of a unanimous-consent request, the amendment offered by the Senator from Washington would be held out of order because such amendment amends language that has already been agreed to in the bill.

The Senator from Washington.

Mr. EVANS. Mr. President, I ask unanimous consent that the ruling of the Chair be stayed for an additional half hour.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. SPECTER addressed the Chair.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 480

(Purpose: Declaring that the President should seek to strengthen existing remedies for unfair dumping and subsidization and customs fraud in the Uruguay Round of multilateral trade negotiations)

Mr. SPECTER. Mr. President, I ask that amendment No. 480 be called up for consideration of the Senate at this time.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Pennsylvania [Mr. SPECTER] proposes an amendment numbered 480.

Mr. SPECTER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Insert at the appropriate section the following:

Since, the United States is a contracting party to the General Agreement on Tariffs and Trade and a signatory to the Tokyo Round Antidumping and Subsidies Codes;

Since, many industries in the United States have suffered injury by reason of the unfair dumping and subsidization of goods imported into the United States;

Since, the existing remedies provided in the General Agreement on Tariffs and Trade and the Antidumping and Subsidies Codes have not deterred predatory foreign dumping and subsidization;

Since, a private damages remedy would effectively compensate U.S. industries for past harm and serve as a deterrent to predatory dumping;

Since, many exporters and importers have attempted to circumvent U.S. import laws and regulations through fraudulent actions designed to facilitate the entry of goods in violation of U.S. tariffs, import restraints, agreed quantitative limits, quotas, and antidumping and countervailing duty orders;

Since, on September 25, 1986, in Punta Del Este, the Trade Ministers of the Contracting Parties to the General Agreement on Tariffs and Trade launched the Uruguay Round of multilateral trade negotiations;

Since, the Uruguay Round offers an opportunity to strengthen the GATT rules and remedies against unfair dumping, subsidization, and customs fraud;

Now, therefore be it declared by the Senate that:

(1) the President should direct the United States Trade Representative to place the highest priority on negotiations to strengthen existing remedies against unfair dumping, subsidization, and customs fraud in the Uruguay Round of multilateral trade negotiations;

(2) the President should direct the United States Trade Representative to adopt as U.S. objectives the negotiation of international rules authorizing a private right of action against unfair dumping and customs fraud.

SEC. 2. The Secretary of the Senate will transmit copies of this amendment to the President, the United States Trade Representative, the Secretary of Commerce, and the U.S. International Trade Commission.

Mr. SPECTER. Mr. President, today I am offering an amendment to S. 1420, the omnibus trade bill, which declares that the President should seek to strengthen existing remedies for unfair dumping, subsidies, and customs fraud in the current multilateral trade negotiations. This amendment, No. 480, was filed on July 10, 1987.

Specifically, this amendment would express the sense of the Senate that the President should direct the U.S. Trade Representative in his negotiations among parties to the General Agreement on Tariffs and Trade [GATT] to place high priority on strengthening existing remedies against unfair foreign trade practices. Under the amendment, the President also should direct the U.S. Trade Representative to adopt, as a principal U.S. objective, the negotiation of international rules authorizing a private right of action against unfair dumping and customs fraud.

Mr. President, I long have been an avid supporter of an effective private right of action to enforce the trade laws. It has been my view that domestic companies that have been injured by unfair trade practices should be compensated for their losses. In addition, a viable damages remedy would provide an effective deterrent to foreign producers who contemplate such activity and thus hopefully obviate the need for actual litigation.

The amendment I offer today is based on my legislative proposal, the Unfair Foreign Competition Act, which would give American industries direct access to the Federal courts to halt promptly the injurious import of products which are dumped, subsidized, or in violation of our customs laws, and to recover monetary damages for such abuses.

The Unfair Foreign Competition Act has benefited from thorough consideration by the Senate. On March 4, 1982, I introduced S. 2167 to provide a private right of action in Federal court to enforce existing laws prohibiting illegal dumping or subsidizing of foreign imports. Hearings were held on the bill in Pittsburgh, PA, on April 7, 1982, and before the Judiciary Committee on May 24 and June 24, 1982. I offered this provision as an amendment to the Environmental Quality Improvement Act on June 14, 1982; the amendment was subsequently withdrawn. On December 15, 1982, I offered the text of S. 2167 on the Senate floor as a perfecting amendment to a "Buy America" amendment which was tabled by the slim margin of 51 to 47.

During the 98th Congress, I reintroduced private right legislation as S. 418 on February 3, 1983. The Judiciary Committee held a hearing on that bill on March 21, 1983. I offered the text of S. 418 as an amendment to the International Trade and Investment Act on April 21, 1983, and as an amendment to the omnibus tariff bill on September 19, 1984; both amendments were tabled.

During the 99th Congress, I reintroduced private right legislation as S. 236 on January 22, 1985. After the scope of the legislation was expanded to include customs fraud violations, I reintroduced it as S. 1655 on September 18, 1985. The Judiciary Committee held a hearing on S. 1655 on November 20, 1985, and favorably reported the bill by unanimous voice vote on March 20, 1986.

The Finance Subcommittee on International Trade also held a hearing on S. 1655 pursuant to a sequential referral agreement. Significant progress was made toward reaching a unanimous consent agreement for full Senate consideration of S. 1655 prior to adjournment of the 99th Congress, but the press of other business prevented its coming to the floor for action.

I reintroduced the Unfair Foreign Competition Act in the 100th Congress as S. 361 on January 21, 1987. I also introduced S. 1104 on April 28, 1987, which would amend the Antidumping Act of 1916 to enhance the act's private right of action provision by changing the "intent to injure" standard to a knowledge requirement—a claim would be established by showing that the defendant knew or had reason to know he was engaged in substantial dumping.

On June 19, 1987, I introduced S. 1396 to expand the subsidy provision of S. 361 to include a private right of action for injured American parties to sue in Federal court for injunctive relief against, and monetary damages from, foreign manufacturers and exporters who receive subsidies. Also on June 19, I filed the text of this bill as amendment No. 315 to the Omnibus Trade and Competitiveness Act of 1987. On June 25, 1987, this amendment was the first to be offered to the trade bill, S. 1420, but was tabled.

A recurring issue during Senate debate on the Unfair Foreign Competition Act's private right provision has been the bill's consistency with the General Agreement on Tariffs and Trade. This issue has been extensively considered in hearings before the Senate Judiciary Committee and was the subject of a legal opinion submitted to Senator Ribicoff, when he was chairman of the Finance Subcommittee on International Trade on March 13, 1980, by the distinguished Washington, DC, lawyer Peter Ehrenhaft.

Mr. President, I ask unanimous consent that Mr. Ehrenhaft's opinion dated March 13, 1980, a supplemental opinion dated August 24, 1982, and a supplemental letter dated June 19, 1987, reaffirming and updating those opinions be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

HUGHES, HUBBARD & REED,
Washington, DC, March 13, 1980.

Re Amendments to the Antidumping Act of 1916.

Hon. ABRAHAM A. RIBICOFF,
Chairman, Subcommittee on International Trade, Committee on Finance, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I appreciated the opportunity to appear before your Subcommittee on March 11 and share with you and your colleagues some of the impressions gained from my experience in the administration of the Antidumping Act of 1921 while serving as the Deputy Assistant Secretary and Special Counsel for Tariff Affairs at the Treasury through the end of 1979. One issue that was raised at the hearing, however, that I did not have time to address concerned your question about the compatibility of a statute authorizing a private cause of action to recover damages caused by dumping with the newly negotiated Code on Antidumping Measures to which the United States has now adhered. It is a very good question. I cannot provide you with a legal opinion as a reply. But I can indicate my views, based on more than 22 years of study and experience with antidumping laws and my particular recent responsibility both in connection with the negotiation of the Antidumping Code in the MTN and leading the U.S. delegation to the 1977 through 1979 meetings of the GATT Antidumping Committee.

In my judgment, a statute, permitting the recovery of compensatory—particularly "single," as opposed to "treble"—damages for injury caused by tortious business behavior could not be regarded as a breach of the Antidumping Code.

First, the Antidumping Code is an agreement on the "Implementation of Article VI of the GATT." Article VI of the GATT does not prescribe the only method for dealing with the problem of dumping. Section 1 defines the concept of dumping—injurious price discrimination between national markets—and Section 2 states that:

"In order to offset or prevent dumping, a contacting party may levy an antidumping duty not greater in amount than the margin of dumping. . . ."

The GATT, itself, thus does not suggest, much less state expressly, that antidumping duties are the exclusive method by which the problem of dumping may be addressed. It simply indicates that if the problem is attacked through the imposition of an "antidumping duty," that duty may not exceed the margin of dumping.

Second, the Code, itself, is concerned only with the implementation of the cited Article of the GATT. That is clear from Article I of the Code, taken almost verbatim from the 1967 Code. The Code speaks about the "imposition of an antidumping duty . . . to be taken only under the circumstances provided for . . . and pursuant to . . . this Code." (Emphasis added.) Thus, the Code also does not affect other actions that are not in the nature of "duties," that may affect goods that are "dumped."

Third, both when the 1967 Code was negotiated and throughout the MTN, our trading partners (not to speak of the U.S. negotiators) knew about the existence of the U.S. 1916 Antidumping Act providing criminal penalties and treble damages for acts that are comparable to those at which antidumping "duties" are aimed. Nevertheless, as far as I know, no claim was ever made by any foreign government or any U.S. agency that the existing 1916 law contravenes the Code. It may be argued that the existing law, with its requirement for "intentional injury" defines offensive behavior different in kind from that addressed by the GATT or the Code. However, that argument supports the view that the Code does not exhaust all possible remedies that a government may adopt to combat or remedy practices analogous to the "strict liability" dumping defined by the Code (i.e., "dumping" without any "intent to injure" element).

A statute that provides compensatory damages recoverable through a private action in a court of law for market behavior that has unjustifiably caused injury should not be read to be—and, in my view, is not—inconsistent with the Code. It supplements the Code-envisaged remedy. Even retention of treble damages and criminal penalties for intentional injurious behavior should not be regarded as Code inconsistent. However, as a number of witnesses at the hearing indicated, the existing antitrust laws would seem adequate to cope with intentionally harmful pricing and no further civil remedy is needed to deal with it.

A slightly more troublesome issue was raised by some witnesses concerning the possible incompatibility of a statute permitting a cause of action affecting only imported goods with the "national treatment" provisions of Article III of the GATT. However, we presently have domestic laws—primarily the Robinson-Patman Act—that contemplate remedies against sellers who discriminate between markets to the detriment of the seller's competitors. (Representatives of the American Importers Association discussed at the hearing the wholly separate—and admittedly inapplicable—remedy of the Robinson-Patman Act available to competitors of a favored customer.) The creation of a remedy addressed to imported goods causing injury to competition at the seller's level should not breach Article III to the extent that it parallels comparable domestic law. Mere extension of the Robinson-Patman Act to international trade would be one way to achieve that result. But it may not be the best method, in part because it may be desirable for some of the reasons indicated in my oral testimony to vest trial jurisdiction over the international remedy in the Customs Court that will otherwise be interpreting the language of the antidumping laws.

In any event, before any action is taken to create a new cause of action. I would urge the Subcommittee to commission some further serious factual studies of the existence of "dumping" as a real phenomenon in U.S. trade and the extent to which our existing laws have affected both trade in particular and the economy of the Nation in general. I believe such a study would support my impression that a private remedy of the type being proposed might make good sense for many of the smaller cases that make up the bulk of the work of the "Administering Authority," while the law is not well suited to cope realistically with the big cases. For those problems—steel, textiles, automobiles—alternative, more macro-economic responses are required outside either the private suits contemplated by the bill you are considering or the procedures now authorized by the Trade Agreements Act.

Respectfully submitted,

PETER D. EHRENHAFT.

INTERNATIONAL ANTIDUMPING AGREEMENTS

One final question must be addressed. Would amending the 1916 Antidumping Act as proposed herein violate any of the international obligations of the United States assumed as a signatory to the General Agreement on Tariffs and Trade (GATT) or the International Antidumping Code of 1979 formulated during the Tokyo Round of the Multilateral Trade Negotiations?

Article VI of the GATT and the International Antidumping Code of 1979 do not by their own terms prohibit national legislation, such as the 1916 Antidumping Act from providing remedial relief against dumping. When the GATT and the antidumping code were negotiated, one may rightfully argue that the United States' trading partners knew of the existence of U.S. legislation that provided for judicial remedial relief in the form of treble damages upon a finding of international price discrimination. Nevertheless, no claim was or has ever been made that any of the provisions of the 1916 Antidumping Act contravened either the GATT or the antidumping code. Even assuming arguendo that remedial relief statutes such as the 1916 Act would be inconsistent with article VI of the GATT, the United States is not necessarily bound by that article due to a provision exempting countries with conflicting preexisting legislation from compliance.

The International Antidumping Code of 1979 sought to establish uniformity among signatories in implementing the GATT antidumping provisions. The Code is thus merely an agreement among signatories for the implementation of article VI of the GATT. Neither the GATT nor the Code mandates or even suggests that imposition of dumping duties is the exclusive form of relief sanctioned against dumping. Section 2 of article VI of the GATT merely provides that if a signatory wishes to attack an antidumping practice, by levying a antidumping duty, then the duty cannot exceed the margin of dumping. Finally, since the amended 1916 Act would provide relief when there is injury to an industry as defined in the Antidumping Act of 1921, as amended, and the 1921 Act was amended to conform to the 1979 Code, the terms of the amended 1916 Act would comply with the implementing Code.

One other argument which may be raised is the notion that amendments to the 1916 Act may contravene the "national treatment" article of the GATT. Article III provides that "(t)he products of the territory of any contracting party imported into the territory of any other contracting party shall be accorded treatment no less favorable than that accorded to like products of national origin . . ." Neither the 1916 Antidumpng Act nor the amendments proposed herein favor domestically produced articles over imported articles, since the former are subject to a comparable price discrimination law, the Robinson-Patman Act. In conclusion, neither the 1916 Antidumping Act nor the amendments proposed here are contrary to the obligations undertaken by the United States as a signatory to the GATT.

CONCLUSION

The 1916 Antidumping Act has not proved to be an effective means of redress for private parties injured by the pricing practices of U.S. importers or foreign manufacturers. Because the Antidumping Act of 1921 provides only prospective relief after a complex administrative determination, the ability of a U.S. industry to obtain treble damages for harm actually inflicted by dumping practices would further the policy of prohibiting international price discrimination much in the same manner as the ability of antitrust plaintiffs to obtain treble damages furthers the policies underlying the Sherman Act. The question that ultimately must be addressed is whether Congress is sufficiently committed to the policy of preventing harm to U.S. industries from the deleterious pricing practices of foreign manufacturers that it will coordinate the antidumping legislation to best achieve its underlying policies.

HUGHES HUBBARD AND REED,
Washington, DC, August 24, 1982.

Re S. 2167.

Hon. ARLEN SPECTER,
U.S. Senate, Washington, DC.

DEAR SENATOR SPECTER: Thank you for your letter inviting me to provide you with an opinion concerning the consistency of S. 2167 with the GATT and the Antidumping Code. I am sorry I have been unable to respond earlier, but I have been out of my office for a number of weeks since I spoke with Mr. Finkel.

My views on this subject remain consistent with those expressed in the enclosed copy of a letter submitted to Senator Ribicoff when the latter chaired the Trade Subcommittee of the Senate Finance Committee during the last Congress. It is, in brief, my opinion that:

1. The GATT and Code do not preempt a private remedy.

A "single damage" statute, such as the one you are now proposing, cannot be "preempted by," nor be regarded as violative of, either the GATT or the Antidumping Code. On the issue of dumping, the GATT refers solely to the actions of governments imposing "antidumping duties." The Code provides procedures and certain substantive rules for the invocation of this governmental action. But neither the GATT nor the Code deals with private remedies, pursued in ordinary law courts, seeking redress for past injuries caused by other private parties through behavior that may also be "dumping" at which duties may be aimed in the future. This judgment is, by the way, echoed in a recent article by Senator Danforth's former Trade Counsel, Kermit Almstedt. See, "International Price Discrimination and the 1916 Antidumping Act—Are Amendments in Order," 13 Law & Pol. Int. Bus. 747, 779 (1981). (I am also enclosing the last four pages of that article in which this issue is discussed.)

2. Article 16 of the Code is irrelevant.

The Administration has recently pointed specifically to Article 16, § 1 of the Antidumping Code as precluding a measure such as S. 2167. That section provides:

"No specific action against dumping of exports from another party can be taken except in accordance with the provisions of the General Agreement, as interpreted by this Agreement."

However, this section does not bar private damage actions. Its purpose is to prevent other governmental action against dumped imports—such as cease and desist orders—and to assure that investigations and actions are taken with the requisite "transparency" and "due process." See, e.g., S. Rep. 96-249, 96th Cong., 1st Sess. 41 (1979).

The mere enactment of a law creating (or amending) a possible private damage remedy is surely not a "specific action against dumping of exports" within the meaning of Article 16 of the Code. Thus, the passage of a bill such as S. 2167 is not covered by this provision. And the implementation of a measure such as would be authorized by S. 2167 should also not be seen as a "specific action against the dumping of exports"; It is only the invocation of a traditional legal remedy by one "person" for economic harm knowingly done by another. As already noted, the addressees of the cited provision—as all other provisions in the GATT—are governments and not private parties.

3. Damages are not "duties."

The Administration has reiterated suggestions that the GATT and Code permit the imposition of antidumping duties only after governmental findings of dumping margins and material injury to a domestic industry caused thereby. These observations are accurate—but beside the point. The compensation to be collected by a damaged domestic producer from a foreign seller (or its U.S. importer) under the proposed statute would not involve the imposition of an "antidumping duty" as that term has been historically understood or is commonly used today. The term has a precise meaning. It means a certain type of customs duty collected on the importation of merchandise from its importer and then depositied in a government treasury. It does not include the type of damages collectible by private parties that S. 2167 would authorize.

In that connection, I might add that it is undeniable that S. 2167 or a similar law may constitute an additional "non-tariff barrier" (NTB) to imports. And it is also true that it was one of the aims of the Multilateral Trade Negotiations (MTN) out of which the current antidumping Code emerged, to reduce NTB's. But many existing or imaginable NTB's were unaffected by what occurred in the MTN, including most notably the rules concerning "safeguards" (in our parlance "escape clause" actions). The subject of private remedies to counter "unfair trade practices" was simply not discussed and no agreement concerning their use was even tabled for consideration.

4. The 1916 Act is "grandfathered" under the Protocol.

Even if the 1916 Act were in some way inconsistent with the GATT and Code, these international agreements apply only to the extent they are not "inconsistent with existing legislation" under the Protocol of Provisional Application by which the United States adhered to the General Agreement. The 1916 Act antedates both the GATT and Code by many years. The amendments now proposed—particularly to the extent they eliminate the risks of treble damages or criminal penalties—cannot be regarded as new law not embraced by the Protocol. They are a continuation of that statute.

In the Trade Act of 1974 Congress extended the countervailing duty law to products not otherwise subject to ordinary customs duties. In that context, Congress felt that the GATT obligated the United States to apply an "injury test" to such imports before applying CVD's. The Protocol did hot shield that new, substantive—and more onerous—obligation on foreign exporters. See S. Rep. 93-1298, 93d Cong. 2d Sess. 185 (1974); S. Rep. 96-249, 96th Cong. 1st Sess. 39 (1979). However, that is not an apt analogy to the present situation. While the amendments proposed in S. 2167 are intended to revive what is universally regarded as a "dead letter" of our law through certain procedural (e.g., allowing use of administrative determinations as prima facie evidence in court proceedings), the substantive aspects of the law should be less onerous to companies in the countries that are our trading partners. Such a relaxation of existing law (from the foreigners' vantage point) should, therefore, still be shielded from claims of GATT inconsistency by the Protocol.

I hope that the foregoing is useful. At the same time, permit me both to thank you for this additional opportunity to present my views and to express my satisfaction that your amended bill has taken account of many of the points I made when I testified on May 24. To that I might just add for your information that a new complaint under the existing 1916 Act has recently been filed in the U.S. District Court in Denver by CF&I Steel Corp. of Pueblo, claiming Mitsui & Co. sold a variety of imported steel products in violation of the Act. *CF&I Steel Corp.* v. *Mitsui & Co. (USA), Inc.*, Civ. Action No. 82-Z-1269 (D. Col. 1982). However, expeditious action seems unlikely. See, for example, the ongoing case of *Outboard Marine Corp.* v. *Pezetel*, in which the most recent opinion of the District Court permitting the plaintiff to amend its complaint was recently published. 3 ITRD 1917 (D. Del. 1982). The case was also initially brought, *inter alia*, under the 1916 Act but is now being prosecuted solely as a straight antitrust suit claiming predatory pricing. The original complaint was filed in February 1977; the recent amendment was allowed more than five years later, still well before trial and before the defendants have been permitted even to initiate discovery on their antitrust counterclaims. I think the case illustrates why I do not think your bill, although a useful addition to our trade laws, will provide the speedy action your statements at the hearing in May indicated you were seeking.

Sincerely,

PETER D. EHRENHAFT.

BRYAN, CAVE, MCPHEETERS & MCROBERTS,
Washington, DC, June 19, 1987.

Hon. ARLEN SPECTER,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR SPECTER: You have asked me to review letters that I sent to Senator Abraham Ribicoff on March 13, 1980, and to you on August 24, 1982, that you inserted in the CONGRESSIONAL RECORD in connection with your proposal to revise the Antidumping Act of 1916. For ease of reference, I am enclosing the relevant pages of the CONGRESSIONAL RECORD for January 22, 1985, at which my prior letters appear.

After having reviewed these letters, as well as commentary published since those letters were prepared, I am pleased to confirm to you that I remain convinced that my analysis in those letters was correct. Neither the GATT nor the Antidumping Code preempt all private remedies. Private remedies, if fashioned on similar remedies available in domestic law, do not violate the "national treatment" provisions of the GATT nor the alleged "exclusivity" provisions of the Code. The damages that would be recoverable for the commercial tort of "dumping," are not "duties," and therefore are not covered by the international agreements now in being.

From a policy point of view, I believe a private cause of action is a desirable direction for U.S. trade law. Far too many dumping cases involve disputes between private parties that should be resolved by impartial tribunals, such as courts, without the intervention of their governments. Both our Administration and foreign governments have more important matters to which they should attend than squabbling about dumping margins on often obscure products. Of course, the United States faces a risk that other countries may adopt mirror image legislation. I believe this is not a risk that has previously deterred the Congress in adopting rules it thought were appropriate. It should not deter you now.

Sincerely,

PETER D. EHRENHAFT.

Mr. SPECTER. In addition to Mr. Ehrenhaft's legal opinion, international trade lawyers testified during hearings on the Unfair Foreign Competition Act that the damages provision for injury sustained from illegal dumped or subsidized imports or customs fraud violations would be consistent with the GATT. Other opinions, however, expressed during debate on the Unfair Foreign Competition Act suggest that a private right of action may violate the GATT.

Accordingly, I offer this amendment today to resolve this fundamental issue by urging the trade representatives to negotiate a private right of action within the framework of the GATT.

Mr. President, we now have a unique opportunity to strengthen existing remedies against unfair trade practices, as well as to negotiate inclusion of a private right of action within the framework of GATT. The new Uruguay round of multilateral trade negotiations began in September 1986 and will be concluded in 1990. The contracting parties meeting at the ministerial level decided to enter into multilateral trade negotiations on trade in goods within the framework and under the aegis of the GATT.

I am pleased that the subjects for the multilateral negotiations include "improving GATT disciplines relating to all subsidies and countervailing measures that affect international trade," integrating the area of textiles and clothing into GATT based on strengthened GATT rules and disciplines, and developing "a multilateral framework of principles, rules and disciplines dealing with international trade in counterfeit goods." Other subjects for negotiations include tariffs, nontariff measures, tropical products, natural resource-based products, agriculture, dispute settlement, and trade-related investment.

Mr. President, the contracting parties have adopted an ambitious agenda for the latest round of multilateral trade negotiations. I believe, however, that in light of the decreasing effectiveness of the GATT and the increasing harm caused to U.S. industries from unfair foreign competition, specific direction should be given to our trade negotiators to address the most egregious problems facing American businesses and workers today.

The amendment I offer recognizes that many industries in the United States have suffered injury from unfair foreign competition and that the existing remedies provided in the General Agreement on Tariffs and Trade and the Antidumping and Subsidies Codes have not deterred predatory foreign dumping and subsidization. The amendment also recognizes that the Uruguay round offers an opportunity to strengthen the GATT rules and remedies against unfair dumping, subsidization, and customs fraud.

The unlawful dumping of foreign goods, which involves sales in the United States at artificially low prices, has become a serious threat to American industries. Enormous quantities of dumped and subsidized products, and articles which violate the customs laws, enter the United States each year. Existing laws prohibiting such illegal imports are not being adequately enforced, and do not provide remedies sufficient to compensate injured parties or deter future unlawful conduct. As a result, domestic companies are suffering increasing injury, and thousands of American jobs are lost to illegal imports each year.

The current regulatory scheme rarely imposes retroactive duties; it merely restricts future dumping. A private remedy would allow domestic companies to recover damages for injuries sustained when injunctive relief cannot be timely provided or is otherwise inadequate.

We desperately need the vigorous private enforcement a private right of action would spur if we are to successfully chart a course between the grave dangers of increased protectionism and the certain peril which would result from unabated illegal foreign imports. Accordingly, I urge my colleagues to support this amendment which would encourage our multilateral trade negotiators to work toward strengthening existing remedies for unfair foreign competition and toward negotiating the right of countries to adopt a private right of action within the framework of GATT.

Mr. President, by way of relatively brief explanation, this amendment calls for the President to direct the U.S. Trade Representative to seek rules authorizing a private right of action against unfair dumping, against subsidies and against customs fraud. This amendment seeks to take an intermediate step to an earlier amendment which I had offered—the first amendment considered in the trade bill—calling for a private right of action where injured parties could go into the Federal courts to seek injunctions or damages against dumping, against subsidies, or against customs fraud. That amendment was tabled, as I say, as the first amendment to be considered by the Senate.

Since that time, my distinguished colleague, Senator HEINZ, has offered an amendment for a private right of action as to customs fraud which was accepted and has been adopted as an amendment to the trade bill.

During the course of the discussion on the amendment calling for a private right of action in the Federal courts, there was considerable discussion as to whether that amendment violated the rules of GATT. I submit, Mr. President, that it did not, but I think it would be a useful step at this stage to have our trading partners consider the concept of a private right of action to get concurrence that it does not violate GATT or if there is a concern as to the legality under GATT then to have an appropriate amendment to the GATT provisions made. I do not think that amendment will be necessary but let it be taken up at that stage.

I ask, Mr. President, through this amendment, which of course is in no way binding in terms of compelling any result, that the President proceed to have the concept of a private right of action as to dumping and subsidies considered with our GATT trading partners.

This country and perhaps other countries are injured, Mr. President, very materially by dumping and by subsidies. Dumping and subsidy are against the law, but there is no private right of action to enforce it. The remedies which are currently in existence I submit are substantially ineffective. This amendment will at least bring the concept of private right of action consideration to the international level.

Mr. President, I believe this is only one of many, many chapters in our international trading laws and that we are in a learning process. This entire trade bill may or may not pass. There will be other trade bills after this one, whether it does or does not pass. This Senator has a firm conviction that if we are really serious about stopping bad practices like dumping and like subsidies, ultimately the concept of a private right of action ought to be adopted.

There is no help like self-help and there is no party as interested as the injured party—much more so than the bureaucracy which has to enforce the trade laws of the United States. However effective and however diligent those public representatives may be, there is no interest like the individual interest of the injured party.

This Senator believes, Mr. President, that one day there will be a private right of action and there will be a private right of action in the Federal courts of the United States because these practices have a very sustaining life. Subsidies are unfair and dumping is unfair. They are contrary to the principles of free trade. Free trade means the cost of production and a reasonable profit and it does not justify Great Britain, for example, subsidizing steel $150 a ton and making the American steel industry compete with the Government of Great Britain. Nor does it justify Brazil's subsidizing steel which it does by way of contributions in effect from the unemployed steelworker paying taxes into the U.S. Treasury. The U.S. Treasury advances funds to the International Monetary Fund which loans money to Brazil, and Brazil in turn subsidizes the steel industry. That steel comes back to the United States and hurts the taxpaying Pennsylvania steelworker or the taxpaying steelworker from other States, taxpayers in many lines of work who have paid these taxes, and then the circuities of the law result in that they are being deprived of their jobs by unfair practices.

So I say, Mr. President, that the day will come where these private rights of action will be recognized. I could give assurances that, so far as this Senator is concerned, I will pursue this matter because I am convinced that it is correct. I think one day it will carry the day.

As I say, this amendment does not really bind the President or our trading partners, but I think it advances the concept and would be very, very useful.

I thank the Chair, and I yield the floor.

Mr. PACKWOOD. Mr. President, I move to lay on the table the amendment of the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore] and the Senator from Illinois [Mr. Simon] are necessarily absent.

I also announce that the Senator from Hawaii [Mr. Inouye] is absent because of questioning witnesses at the Iran Contra hearing.

Mr. SIMPSON. I announce that the Senator from New Hampshire [Mr. Rudman] is necessarily absent.

The PRESIDING OFFICER (Mr. Conrad). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 65, nays 31, as follows:

[Rollcall Vote No. 206 Leg.]

YEAS—65

Adams
Armstrong
Bentsen
Biden
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Chafee
Chiles
Cochran
Conrad
Cranston
Danforth
Daschle
Dodd
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Graham
Gramm
Grassley
Harkin
Hatfield
Hecht
Hollings
Humphrey
Johnston
Karnes
Kassebaum
Kennedy
Kerry
Lautenberg
Leahy
Lugar
Matsunaga
McCain
Metzenbaum
Mitchell
Nickles
Nunn
Packwood
Pell
Proxmire
Pryor
Quayle
Roth
Sanford
Sasser
Simpson
Stafford
Stennis
Stevens
Trible
Wallop
Warner
Weicker
Wirth

NAYS—31

Baucus
Bingaman
Byrd
Cohen
D'Amato
DeConcini
Dixon
Dole
Garn
Hatch
Heflin
Heinz
Helms
Kasten
Levin
McClure
McConnell
Melcher
Mikulski
Moynihan
Murkowski
Pressler
Reid
Riegle
Rockefeller
Sarbanes
Shelby
Specter
Symms
Thurmond
Wilson

NOT VOTING—4

Gore
Inouye
Rudman
Simon

So the motion to lay on the table, amendment No. 480 was agreed to.

Mr. PACKWOOD. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question recurs on the Evans amendment and the ruling of the Chair that the amendment is not in order.

Mr. PACKWOOD. Mr. President, I ask unanimous consent that the ruling of the Chair be stayed for 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 623

(Purpose: To ensure that the antitrust laws apply to plans and commitments made by the domestic industry under chapter 1 of title II of the Trade Act of 1974)

Mr. BIDEN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. Biden] proposes an amendment numbered 623.

Mr. BIDEN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment reads as follows:

On page 62, between lines 10 and 11, insert the following:

"(C) Nothing in this section shall be construed to provide immunity under the antitrust laws for any price-fixing agreement, horizontal restraints of trade or group boycotts if such agreement, restraints, or boycotts would otherwise be unlawful.

"(D) For purposes of this paragraph, the term 'antitrust laws' has the meaning given such term in the first section of the Clayton Act and the Federal Trade Commission Act.

Mr. BIDEN. Mr. President, I ask unanimous consent that Senators THURMOND and METZENBAUM be added as cosponsors to this amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BIDEN. Mr. President, there is little question that America's preeminent competitive position is under serious challenge, both from our industrialized trading partners and other developing nations. The statistics speak for themselves. Despite 4 years of seemingly economic expansion the Nation's gross national product has grown at less than 2.5 percent per year since 1980. As recently as 1981 the United States had a surplus in traded goods and services. Every other year since then, there has been a negative balance of trade, reaching a record $125 billion in 1986.

These cold facts, however, barely tell the story. How much hardship and suffering underlie the statistic that 5.1 million workers were permanently displaced from their jobs between 1979 and 1983? How much of our competitive edge are we losing by allowing other countries to commercialize the technology we invent? How will our future be mortgaged if America owes more than $500 billion to foreign creditors by 1990?

The right trade policy for the United States is one which is tough, yet balanced, fair and workable. We must strengthen existing laws—and create new ones—to force our trading partners to drop their barriers to American products.

This omnibus trade bill, with all its various components, is a strong start in the right direction. This legislation allows us to retool our enforcement machinery—to put some real muscle into the remedies that are available when our domestic industries are threatened by foreign imports. If import relief is justified, the new provisions of the trade act will assure that American industries which have been injured will be granted temporary import relief more quickly and easily. The International Trade Commission will be better able to measure the impact various remedies will have on the competitiveness of an industry applying for relief. Although sound trade legislation will not in itself guarantee a brighter economic future, this bill improves the rules of the game and allows the United States to at least stand on an equal footing with our trading rivals.

Although there is much to commend in this legislation, one critical component of national economic policy was not adequately addressed. That is the relationship between trade law and antitrust law. Sound antitrust policy is critical to maintaining the health of the American economy and the welfare of American consumers. Firms that do not have to compete have little incentive to innovate or to deliver quality goods and services at the lowest cost. The antitrust laws are designed to preserve domestic competition; enhanced American competitiveness in world markets ultimately rests on the same foundation.

Both the Senate and the House have considered trade bills that would require industries petitioning for temporary trade relief to submit adjustment plans to the International Trade Commission, and, if granted relief, to adhere to those plans. The particular bill before us requires such adjustment plans to be submitted by any entity, including a trade association, firm, or union, as a precedent to and as part of the petition for temporary import relief.

The legislative language set forth in the proposed section 201 does not spell out what these plans are to contain, but the accompanying report is far more specific. Those who drafted this provision intend these plans to set forth objectives and specific steps that members of the industry, both firms and workers, would undertake to improve the ability of the industry to compete with imports after relief is terminated. Factors to take into consideration include research and development or marketing strategies, productivity improvements, diversification, capitalization and labor-management relations. In other words, the full range of competitive options available to either an individual business or an entire industry are to be part of what is labeled the interactive process of developing industry adjustment measures.

This concept, as intriguing as it might seem, raises important and largely unrecognized antitrust issues. The kind of joint discussions and planning which would, by the very nature of the process, take place among direct competitors, is violative of the letter and intent of our most basic antitrust laws. Although the intention of these provisions is to improve the competitiveness of American firms in the face of unfair foreign trade practices, the inevitable effect would be to curtail competition at home. Put another way, Do we wish to sanction domestic cartels in the name of international competitiveness? I, for one, cannot imagine a more unfortunate or unwise result.

The Judiciary Committee convened 2 days of hearings in May 1987 to examine what part, if any, revisions in antitrust policy could play in assisting American industry to meet its competitive challenge. The witnesses, all well-known experts in the area, were asked to consider questions relating to antitrust policy and competitiveness for two kinds of industries—basic industries that have been battered by imports and high-technology industries that are seeking to maintain, if not improve, their competitive advantage.

Although the witnesses differed on specific aspects of these issues, they generally agreed that modifications in antitrust policy, at best, would have a limited impact on the competitiveness of U.S. firms. Except for representatives of the steel industry, there was also concurrence that industrywide adjustment plans would encourage efforts by the firms involved to cartelize their domestic industries. The committee failed to hear evidence indicating that any benefits from such industrywide planning would outweigh the antitrust and other economic dangers these collective efforts might entail.

For these reasons, I wrote to the distinguished chairman of the Finance Committee seeking his assistance in developing an amendment to modify the provisions relating to the submission of adjustment plans. I was gratified to be joined in this effort by the distinguished ranking member of the Judiciary Committee. I can now report that our negotiations have been successful, resulting in the amendment which I am offering today.

This amendment adds to section 201 of the Trade Act of 1974 the proviso that nothing required by that section shall be construed to provide immunity under the antitrust laws for any price-fixing agreement, horizontal restraints of trade or group boycotts if such agreements, restraints or boycotts would otherwise be unlawful. The term "antitrust laws" is defined as the Sherman Act, the first section of the Clayton Act and the Federal Trade Commission Act, except for the Webb-Pomerene Act.

The meaning of this language is clear—the antitrust laws must be observed and respected in the process of developing competitive adjustment plans. Direct competitors should be on notice that a petition for temporary import relief will not be a license to violate the antitrust laws. Only those joint activities which would otherwise be permitted under current law will be allowed. Firms may not attempt to monopolize an industry, fix prices, divide markets, boycott retailers or distributors or engage in any other activity which would otherwise be deemed a violation of the antitrust laws.

This amendment also applies to those firms or entities making commitments to improve their competitive position as part of the process of obtaining temporary import relief. Section 201(c)(2)(A) of the Finance Committee bill provides that any time after a plan "promoting the positive adjustment of the domestic industry to import competition" is submitted a firm, union, local community, trade association or "any other person or group of persons" may submit to the International

Trade Commission a specific commitment as to how their competitive position will be improved. The ITC is required to seek commitments from those individual members of an industry it deems appropriate in the event that a finding in favor of import relief is made. Again, it is intended that such commitments encompass as wide a range of competitive options as the positive adjustment plans, including strategies to enhance research and development or marketing, long-term employment opportunities in the industry, modernization, and improved productivity.

This amendment assures that the antitrust laws will equally apply to the commitment phase of the process of applying for temporary import relief. Nothing could be more disastrous for American consumers than to have direct competitors, supposedly in the name of competitiveness, carving up markets, fixing prices or collectively disposing of excess productive capacity. It is preferable that companies enter into these commitments individually, rather than through trade associations or groups, as the best means of avoiding potential anticompetitive behavior.

As I have worked with the managers of this bill to develop this amendment, they have assured me that the kinds of collective commitments which would be considered appropriate would be educational or promotional in nature. For example, a trade association could undertake a program to educate its members about the complexities of financing export sales. However, it would be a violation of the antitrust laws for the members of such an association to collectively agree, for example, to domestic marketing strategies or to the consolidation of industry capacity.

Last week, the distinguished Senator from Ohio proposed another amendment to these same provisions which I also strongly endorse. This legislation, as reported by the Finance Committee, contained a provision expanding the import relief remedies available under section 204 to include broad and ill-defined antitrust law exemptions. Senator METZENBAUM offered an amendment to delete those provisions and substitute a proposal that would, first, permit the International Trade Commission to submit to the President any findings relevant to whether a merger in the petitioning industry would make a positive competitive impact, and, second, allow the President to request that the Attorney General or the Federal Trade Commission consider those findings if a merger is proposed.

The letter the distinguished ranking member and I wrote to the chairman of the Finance objected to the original language of the bill on this issue. Testimony at the Judiciary Committee hearings revealed that few mergers are blocked if international competition in domestic markets is strong. The 1984 merger guidelines promulgated by the Department of Justice, as well as current case law, take international competition into account in determining whether a proposed merger would be anticompetitive. I personally believe that the relaxation of antitrust enforcement toward mergers has already gone too far and that there is little justification for special exemptions in the name of international competitiveness. I support the amendment which was proposed by the distinguished chairman of the Antitrust and Monopolies Subcommittee and I am pleased that it was accepted by the managers of the bill.

Although, without question, this omnibus trade legislation is a welcome and necessary step forward, our national economic fate depends on much more. It has not been that long ago that foreign markets and foreign countries were an afterthought in our economic thinking. What went on over there was largely an economic sideshow from our perspective. Now, all of that has changed. It seems that just yesterday the world was clamoring for our goods, our know-how. Now, on our TV screens each night—almost all of which have been manufactured overseas—we are subjected to the spectacle of our governmental representatives scrambling about in faraway lands, begging foreign powers to purchase our products.

Many of the changes we need to make in our economy—management, labor, education—are beyond the reach of the Government. Instead, broad social action—not just Government policies or legislation—is needed to reclaim our economic leadership. This is the hard truth about our economic position that is too often ignored. Even if a sound legislative agenda is passed by Congress and even if the President sets a solid course in world trade negotiations, the American people must understand that the fate of our economy rests in their hands. Other significant decisions—to improve product quality, to excel in education and technical training, to pay greater attention to the needs and preferences of foreign consumers—these are the things that will improve our balance of trade far more than any bill passed in Washington.

What will we consider success in the international trade arena? To be competitive is not good enough. To say we want to compete means we are already losing. America can win—our products can be the best, our workers can be the best educated and most productive, our economy can be the strongest. That will take leadership and commitment—from Government, from management, and from each of us who goes to work every day. We cannot afford to wait—because the competition is not waiting. A strong trade bill is a good start; we have a long way to go.

Mr. President, the distinguished chairman of the committee and the ranking member and their staffs are fully aware of this amendment. I understand that they are prepared to accept it.

Mr. THURMOND. Mr. President, I am happy to cosponsor with Senator BIDEN an amendment to S. 1420 and I commend him, as chairman of the Judiciary Committee, for proposing this amendment to section 201 of the Trade Act of 1974. I think it is especially good that the Judiciary Committee has reviewed section 201 and has identified those areas that raise antitrust concerns. The amendment, as I understand it, is an attempt to address and solve one of those problems.

As Senator BIDEN has already noted, this amendment would make clear that the antitrust laws will apply to those activities concerning the development or formulation of a positive adjustment plan. Since such plans, by their very nature, require the collaboration of various members of an industry, I believe it is important to insure that the antitrust laws are still applicable to any such discussions. Without such action on our part, the development of positive adjustment plans by competitors in an industry may be an invitation to ignore the Sherman Act and all other antitrust laws, all for the purpose of improving the competitiveness of American firms in the face of foreign competition. The obvious loser would be the American consumer.

Mr. President, I again commend Senator BIDEN and his staff for their efforts, and I urge all my colleagues to support this amendment.

Mr. GLENN. Mr. President, I want to reaffirm my strong support for the Council on Economic Competitiveness and I urge my colleagues to oppose this amendment.

One of the areas the hearings of the Governmental Affairs Committee focused on in this Congress has been the lack of consistency and coherence in our Government's competitiveness policy. Today, the formulation of this policy is hampered by the existence of a multitude of various programs which are not coordinated with one another and quite frankly often work at cross-purposes. It is my firm belief that one of the reasons why effective competition by the United States in the global economy has been constrained is because we simply lack an integrated institutional framework to systematically identify the sources of our competitiveness problems and to reach a consensus on how to go about finding solutions to them. In order to build such a consensus it is imperative that we create a vehicle where leaders from

Government, industry, labor, academia, and public interest groups can come together on a regular basis and discuss in a dispassionate manner how the U.S. economy can regain its competitive preeminence and maintain it. The Council on Economic Competitiveness provides such a vehicle.

Very simply, the council is intended to serve as an external, high-level forum for developing a national consensus on U.S. competitiveness policy and to provide advice to both the President and the Congress about how we can get our competitiveness house in order. One of its functions, for example, would be to provide annually an independent review of the Federal budget, including how the size of our fiscal deficit relates to our trade balance deficit. Importantly, the council would be an independent body, neither within the Executive Office of the President nor an arm of the Congress. It is the proposed elimination of this independent status that troubles me most about this amendment.

If we are truly serious about developing a national consensus on competitiveness policy, it is imperative that this council be a bona fide independent focal point, unencumbered by an allegiance to any particular group or interest, within Government or outside it.

Finally, let me note that the committee's language on the creation of the council was strongly endorsed in our hearings by both business and labor. Indeed, I recall rather vividly both Sandy Trowbridge, president of the National Association of Manufacturers, and Howard Samuel, president of the Industrial Department of the AFL-CIO, sitting together on a panel before the committee both testifying in strong agreement that the council was an excellent proposal.

Mr. President, I urge my colleagues to defeat this amendment.

Mr. BENTSEN. Mr. President, as the manager of the bill, on behalf of the majority I think it is a worthwhile amendment and find no objection to it.

Mr. PACKWOOD. Mr. President, this side of the aisle finds the amendment acceptable and suggests its adoption.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Delaware [Mr. BIDEN].

The amendment (No. 623) was agreed to.

Mr. COCHRAN. Mr. President, it had been my intention to offer as an amendment the Merger Modernization Act of 1987. It had been my further hope that the Judiciary Committee would have included in its package of proposals that became a part of this bill a provision that would have brought up to date the provisions of section 7 of the Clayton Act. I have discussed this amendment with Senators on both sides of the aisle and regret to advise that it just does not seem possible to get that amendment included in the bill at this late stage in the proceedings.

So with a great deal of regret, Mr. President, I announce to the Senate and to the managers of the bill that I will not be offering the Merger Modernization Act as an amendment to the bill, but I do hope that at some point this year the Judiciary Committee can carefully review the suggestions contained in that administration proposal. It simply codifies some of the regulations that have been issued by the Department of Justice in the merger area.

This does not apply to conglomerate mergers but rather to mergers and joint ventures between and among companies that are involved in the same or similar businesses. What has happened is that in some of the circuit court jurisdictions, Federal judges have continued to apply the old law, the old law as promulgated and administered under out-of-date regulations. Because of that, there is a disparity throughout the country as to how businesses should proceed when they are acquiring other businesses that are engaged in the same or similar activities.

There are examples, Mr. President, where foreign competition and the effect of influencing market share in behalf of foreign competitors have been ignored when determinations have been made as to whether or not an acquisition or a merger would be violative of section 7 of our Clayton Act.

So, what I am hoping is that we will continue to examine our own laws and our own rules that are now on the books to determine whether some of them are in effect harming the ability of American businesses to compete with foreign business concerns.

Some are saying American business is getting too big and that there is a merger mania sweeping the country and that all of this is evil and a threat to the well-being and health of not only America's economy but consumers here in America. But the fact is, Mr. President, that in 1960, of the 30 largest industrial concerns in the world, 28 of them were American. But, by 1985, only 11 were.

Our share of the big business in the world has gone from something like 93 percent to about 30 percent in that 25-year period of time.

So, my suggestion is, I respectfully make it to the leaders of the committee that has jurisdiction over the antitrust laws, to take a careful look, another look at some of the suggestions being made today by those who are experts in this field to see whether or not we cannot make American business more competitive again by permitting them to become more efficient and where it is consistent with the interests of U.S. consumers and America's economy to permit mergers and acquisitions where it serves our interests.

I thank the Chair and I yield the floor.

Mr. RIEGLE addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. RIEGLE. Mr. President, a little later this afternoon we are going to be voting final passage on the trade bill. This is a very important moment in terms of the record of action in the U.S. Senate this year.

This trade bill marks a beginning of a new policy on trade in this country. It will be a statement by the U.S. Senate, following earlier action in the House, that the trade problem cannot be allowed to continue in its present form.

Last year's trade deficit of $170 billion is damaging this country, costing us tens of billions of dollars of scarce capital and, of course, millions of jobs at the same time.

So the bill that we have developed here over a period of many months I think is a substantial breakthrough. It means that this country will begin to move aggressively to solve this problem.

I want to again draw attention to the amendment that Senator DANFORTH and I developed with the help of others and the support of the leaders of both parties which was put into the bill by a vote of 87 to 7, and which put real teeth into this trade bill. That is the provision that will force barriers to U.S. products in foreign markets to have to come down.

Nations like Japan and Korea and Taiwan that are cheating us day after day in the trading relationship will find that they will no longer be able to do that and get away with it, that there is a mandated procedure by which that problem has to be addressed and over a period of time solved.

So I think this is a day in which American workers and American companies can feel as if they are finally seeing the kind of strong action by our Government that has been needed for a long time.

This trade bill will make a significant difference. It is important that it be passed today with the strongest possible vote and signed into law at the earliest moment.

Mr. DANFORTH. Mr. President, today the Senate completes action on the Omnibus Trade and Competitiveness Act of 1987, the most significant piece of trade legislation before Congress since the Trade Act of 1974. The bill represents a massive legislative endeavor for those who seek to fashion a more aggressive and coherent U.S.

trade policy. The document before us contains some remarkably good provisions, and more than a few bad ones. The Omnibus Trade Act is, on balance, good legislation. It is better than its House counterpart and deserves our support.

My vote for final passage is, in fact, a "yes, but * * *" vote. I suspect the same is true for many of my colleagues. In voting "yes," we state our desire to see the House and Senate conferees fashion this measure into a sound, sensible bill of which we can all be proud.

"Yes, but * * *" is for the opportunity to retain the good provisions in each bill and to drop the bad.

"Yes, but * * *" is for the President to join with us to develop a final product that can be signed into law.

"Yes, but * * *" is to acknowledge that if the conferees and the President fail, I too will walk away from the table and will vote "no" on the conference report.

But this is legislation worth saving. Since June 25, we have clocked 13 days—over a 4-week period—debating legislation that has been 2 years in the making. We have considered close to 150 amendments to this mammoth, 1,000-page bill. The final product, a complex package combining the work of nine Senate committees, reflects our underlying commitment to a fair and open global trading system. It truly embodies the concept of reciprocity. This bill says that trade is a two-way street and that foreign countries must recognize that shutting out competitive American goods and services carries a cost which can only be avoided by opening up their markets. In so doing, the bill creates a middle road between outright protectionism and free trade dogmatism: It says America can compete in the international trading system—and win.

The Omnibus Trade Act contains several important provisions which, if their basic integrity is retained through the conference process, will have a significant impact on U.S. trade policy for years to come. For example, the bill grants this administration and its successor fast-track legislative authority to implement a new round of multilateral trade negotiations [MTN]. For more than 50 years, Congress has delegated to the executive branch the authority to administer trade laws and to engage periodically in trade-liberalizing negotiations. This delegation of authority has been premised on regular and meaningful consultations with Congress on trade matters and effective enforcement of our trade laws by executive branch administrators. By requiring a mid-term check on the progress of the MTN and by introducing the reverse fast-track concept, we ensure that Congress retains its rightful role in trade policy formulation and implementation. In this regard, I am pleased that we defeated an amendment that would have undermined the fast-track procedure and upset the careful balance contained in the bill.

The legislation also contains important provisions to ensure aggressive and consistent use of section 301 of the 1974 Trade Act against unfair foreign trade practices and market distortions. By retaining the Finance Committee's requirements for timely and effective Presidential action, we have demonstrated to our trading partners that we will respond forcefully to those identifiable practices that violate our international rights.

In light of this commitment to respond aggressively to unfair foreign trade practices, the Senate overwhelmingly endorsed an amendment to the bill which focuses on countries that maintain a consistent pattern of unfair barriers and distortions. This measure, introduced by Senators **Byrd**, **Dole**, **Riegle**, and myself, was adopted by a vote of 87 to 7. It builds on the section 301 provisions already in the bill and is perhaps the single most important reciprocity initiative in the bill. The measure requires the administration to pursue a dual track of negotiations and section 301 cases to eliminate major foreign barriers to competitive U.S. exports. Too often we find ourselves working to eliminate this or that barrier, only to discover that once we have knocked it down, another barrier appears behind it. This provision is, therefore, not a one-shot deal: It is an ongoing process which quantifies the value of the barriers and demands concrete evidence—in the form of increased U.S. exports—of their elimination. Finally, lest anyone did not hear me on the day we debated this amendment, this is not the Gephardt amendment, or even son-of-Gephardt for that matter. It is a barrier-based, results-oriented measure which uses a powerful trade tool to tackle unfair foreign trade practices on the part of countries such as Japan, Taiwan, and South Korea, that wish to export freely without opening their markets to foreign competition. This market-opening initiative is based on reciprocity legislation introduced in early 1982 and enacted in the Trade and Tariff Act of 1984. It belongs in U.S. law.

The provisions in the Omnibus Trade Act involving section 201 of the Trade Act of 1974—the escape clause—and trade adjustment assistance remain substantially the same as those reported by the Finance Committee. The importance of a GATT-consistent escape clause cannot be overstated. The Finance Committee worked hard to reform section 201 into a true adjustment statute that would provide temporary relief to a domestic industry seriously injured by imports. By stressing positive adjustment, the bill makes it harder for industries to qualify for relief. However, once they meet the requirements, they have a greater assurance that relief will ultimately be granted. After intensive debate, we rejected an amendment that would have upset this careful balance by giving the President virtually unlimited discretion to deny relief. Three other amendments, narrower in scope, were added to expand the President's discretion to deny relief. They will clearly require reexamination in conference to ensure that the basic integrity of the provision remains intact.

The Omnibus Trade Act makes significant changes to improve the enforcement of our laws against dumped and subsidized imports. I am pleased that very few amendments to these provisions were added on the Senate floor, and I hope we may prevail on the House to drop some of their GATT-illegal provisions in conference. Provisions which deal with protection of intellectual property rights, rapid commercialization of technological advances, improvements in the Foreign Corrupt Practices Act, and disciplines in agricultural trade remain in the bill. In addition, we have adopted a number of key export promotion amendments, such as the measure offered by the majority leader on Japanese procurement of fighter planes from the United States. Amendments to the Banking Committee's portion of the trade bill—concerning the Export Trading Company Act and the application of our export control laws—were more controversial, but for the most part, they go a long way toward removing significant disincentives to U.S. exports.

Some amendments were offered during the floor debate that could well have underminded the entire bill. Provisions that would have established onerous reporting requirements for foreign investors or that would have created a private right of action in antidumping cases surely would have jeopardized the future of this bill, and I am pleased they were defeated.

We were also able to strike certain provisions in the bill which would have seriously jeopardized its future. My distinguished colleague from South Carolina, Senator **Hollings**, for example, is to be commended for his efforts to pare back the trade reorganization provisions so that we could avoid useless box shuffling on the trade agency organizational chart.

My optimism about the trade bill, however, is not a blanket endorsement of every provision. Indeed, some aspects of the bill trouble me greatly and have been tagged "veto bait" by the administration. For example, the provisions on mandatory notification of plant closings is the single largest red flag in the Senate bill. A great improvement over the original Senate

Labor Committee language, it should still not be allowed to sink the entire bill. Our failure to eliminate the outrageously expensive sugar drawback provisions was also unfortunate. I sincerely hope that these and other troublesome issues in both the House and Senate bills will be revisited during the conference so that we can come out with a product that offers the best of both.

We also spent a lot of time on this trade bill debating issues that were of limited or no relevance to trade. We were bogged down on more than one occasion by lengthy debates on foreign policy, budget and tax issues, and I commend the leadership on both sides of the aisle for crafting an agreement that finally enabled us to move the bill to final passage.

I have said before that omnibus trade legislation cannot be considered a single answer to all our trade problems. In addition to efforts to strengthen the GATT system and to revitalize our domestic trade laws, we must strive for a sustained reduction in the Federal budget deficit and enact tax policies that encourage investment and savings, rather than consumption. Foreign countries that rely on export-led growth and maintain a persistent anti-import bias must undertake measures to boost demand and encourage imports from the U.S. and other countries. Finally, multilateral efforts are needed to stabilize exchange rates at or near a level which reflects underlying economic fundamentals, and to deal with the world debt crisis. Together with initiatives in these areas, I believe that the Omnibus Trade and Competitiveness Act would—with appropriate modifications—better enable us to compete in the rapidly changing international environment.

I said at the outset of Senate floor debate that I thought the chances of passing a bill which the President could sign were slightly better than 50-50. I expressed the hope that we not load up the bill with excess baggage that would make enactment impossible, and, with certain key exceptions, I have been pleasantly surprised by the outcome. I would say that the odds of passage are about the same, perhaps slightly better, than when we started 4 weeks ago. We have made great strides to reach this point, though a great deal of work remains ahead of us in conference. I hope that we can work with our House counterparts and the administration to reach a consensus on this important piece of trade legislation. It is certainly worth the effort.

Mr. President, I believe there are one or two other Senators who want to speak or offer amendments. I will only say that in my judgment this bill is a mixed bag and that is to be expected of any bill this long. A lot of us worked very hard to fashion a bill which we believed to be responsible trade policy. I know some Senators will vote for the bill, such as myself, reserving the option of voting against the conference report should the conference report produce a bill that does not serve the best interests of this country.

At the same time, I know that from talking to a number of Senators who have said that they will vote against the bill as it is now on the floor of the Senate will do so, I think, more to take the position with respect to the conference and to create a stronger negotiating position in the conference than to voice a final disapproval of the bill.

I think that that, in fact, has been the strategy of this administration. The administration has urged Republican Senators to vote against the bill on the floor of the Senate, but Ambassador Yeutter has assured us that this is not veto strategy on the part of the administration but, rather, is a strategy designed to send a message to the conferees to put us in the strongest position in the conference.

I would say that whether the Senators vote for or against the bill on final passage, all Senators have reserved their options on how to vote on the conference report, and I think that obviously even those who voted for the bill reserved the possibility of walking away from the conference report in the end.

It is my hope that a number of Senators on my side will vote for the bill. I think that it is important to retain the bipartisan nature of the bill which has been there from the very start, certainly an emphasis that has been encouraged by our chairman, Senator BENTSEN, who has done an absolutely magnificent job in managing this bill from the very start.

Mr. President, I yield the floor.

The PRESIDING OFFICER. If all Senators will suspend, the question again recurs on the Evans amendment and the ruling of the Chair that the amendment is out of order.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The minority leader.

Mr. DOLE. Mr. President, I ask unanimous consent that the pending amendment be temporarily laid aside.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, 2 months ago, I voted in the Finance Committee to send a trade bill to the Senate floor. I did so in the hope that the bill could be improved as the legislative process continued.

Something happened on the way to final passage. That trade bill became an omnibus bill, with dozens of addons. We have now finished nearly 5 weeks of debate on the trade bill, and the bill has not been improved.

As a result, I have decided to vote against it. In its present form, I believe the President would be justified in vetoing the bill.

Now, it may be that the President will not have to veto the bill. It is my hope that an acceptable piece of legislation can be crafted in conference.

But my vote today is meant to underscore my commitment to oppose the bill unless it is changed. It is meant to send the message to conference that major improvements are expected.

Let me stress that I do not oppose a trade bill. I am today voting in favor of getting a better trade bill. A "no" vote will strengthen our conferees in their efforts to produce that better bill.

This bill is not all bad. Some improvements have been made on the floor.

In particular, we owe Senator DANFORTH and others a debt of gratitude for strengthening the procedures having to do with the opening of foreign markets to U.S. exports.

I was pleased to be a part of this important effort. There is no question we have to do more about those nations that abuse international trading privileges, and I believe we did it under this bill. Moreover, we did it without invoking the irresponsible principles of the Gephardt amendment.

In addition, we have repealed the windfall profits tax, provided new trade negotiating authority for the President, improved intellectual property protections, and restored a degree of Presidential discretion under section 201.

But these are limited gains, and they are not worth the high price of the numerous other provisions that come with them.

I am concerned first by the overall character of the bill. We talk a lot about our trade problems, but then we pass provisions that are really band-aids.

The bill is full of new rules and regulations, such as the plant closing provisions, which will burden business and inhibit economic growth.

It mandates Presidential actions, such as negotiations on an expensive new international debt facility, without allowing him to consider alternative approaches.

It awards special benefits to particular sectors of the economy, such as securities dealers and makers of certain steel products and sugar refiners, and slights others.

Basically the philosophy seems to be to placate whichever special interests plead the loudest.

This is an outworn approach to national problems: throw money and regulations at them.

The main source of our trade problems is the Federal budget deficit.

Yet this bill will only make it worse.

The administration estimates that we've added $7 billion in new authorizations. We've authorized a "sematech" program for $500 million, a new trade adjustment assistance program for $1 billion, a sugar drawback scheme for $365 million, and much more. Many of the new expenditures were not even debated.

Even provisions that don't cost money are a product of this same mentality: When in doubt, regulate.

The classic example of this in the bill is the plant closing provisions. These are the sort of rigid ideas which have been the cause of Europe's employment problems during the last decade, and which have caused countries there to look to our free market system for inspiration.

The bill authorizes an inflationary fee on all imports to finance the Trade Adjustment Program, and expands the program to cover new categories of workers.

It engages in petty harrassment of the ITC by prohibiting those commissioners who vote against relief from making recommendations as to the form of that relief.

It relaxes standards for import relief petitions in numerous ways and permits protective arrangements for excessive periods of time.

It broadens definitions of subsidies and dumping in ways that may violate our international obligations and provoke retaliation.

It mandates scores of new studies, offices, programs, and other bureaucratic ideas.

It gives the President unprecedented power to act against foreign investment which provides an important source of financing for our economic growth.

These provisions go too far—and they go in the wrong direction.

We criticize the President for a "do-nothing" policy, and then we go to the other extreme and try to fix it up by a "do-anything" policy, whether it's good or not.

So I would urge my colleagues to vote against the bill and send a strong message to both the conference, and the public: we can do better than this.

Let me just add, I think the distinguished Senator from Missouri has put his finger on it. I do not know how many votes will be for or against the bill. Obviously, the bill is going to pass. I think in many respects if we were voting on the Finance Committee bill it would be almost unanimous, but we are not. There are eight other committees that have jurisdiction.

I certainly want to congratulate the distinguished Senator from Texas, the chairman of the Finance Committee, and Senator PACKWOOD, the ranking member of the Finance Committee, for their diligence, as well as other Senators who have worked long and hard to come to this hour.

In the next hour, we are going to be voting on this bill. I think it is fair to say the administration could probably get along without any bill. The administration is not pressuring for much in this bill. The administration would like to have a substantial no vote against the bill, not because it has any quarrel with the Senate conferees but because the House bill is in pretty bad shape. It contains a lot of provisions that I am certain House Members are going to insist upon.

I believe in the final analysis most every Senator would like to vote for a trade bill, if not now then in the conference report.

It may be the wrong strategy. There may be a better strategy, but not much of a strategy. I think a rather healthy no vote would indicate to our conferees that there are some concerns even about the Senate bill, let alone the House bill, which we know is in many respects not acceptable.

Many things happen in conference and sometimes they are for the good, and many things can be left out of this bill that, I think, would make it better.

So I would guess that we hope that there will be a negative vote. Some are just flat against a trade bill. I can tell the managers that many of us who will vote are not against a trade bill. We want it understood there are many things that could be done, though the administration may not agree.

So I would urge my colleagues—this is an important bill, and it is landmark legislation to the extent that there have been nine different committee jurisdictions working on the bill, but that in itself does not mean very much if the end product is not meritorious, and in this case I would hope that there would be a substantial "no" vote. That is notwithstanding all the effort that many Members have put into this bill. But I must say on balance I would hope that—and I will probably be a conferee so I may be the only conferee voting against the bill.

As I look at the potential conferees, I see, depending on how many there are, probably seven or eight who are for the bill, and maybe it is good to have just one member of the conference on the Senate side who is opposed to the bill. I am certain our conferees will do the very best they can to modify some of the provisions and not accept many of the onerous House provisions. It is our hope that by a number, a substantial number, of "no" votes, we will strengthen the hand of the Senate conferees in the coming weeks and months.

AMENDMENT NO. 624

(Purpose: To express the sense of the Senate that the existing agreement of the European Communities to provide duty-free treatment for United States soybeans, soybean meal, and corn gluten feed should not be changed)

Mr. DURENBERGER. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Minnesota [Mr. DURENBERGER] proposes an amendment numbered 624.

Mr. DURENBERGER. Mr. President, I ask unanimous consent to dispense with reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of Title I of the bill, add the following:

SEC. . AGREEMENT WITH THE EUROPEAN COMMUNITIES ON SOYBEANS AND CORN GLUTEN FEED.

It is the sense of the Senate that the Administration should not enter into any agreement with the European Community which would enable the European Community to withdraw or modify the obligation of the European Community to provide duty-free treatment to soybeans, soybean meal or corn gluten feed.

Mr. DURENBERGER. Mr. President, the amendment I send to the desk is similar to several others which the Senate has approved over the last few years. Specifically, the amendment expresses the sense of the Senate that the administration should not enter into any agreement with the European Economic Community which would withdraw or modify the duty-free bindings which soybeans, soybean meal, and corn gluten currently enjoy.

It seems to me that, as the administration prepares for the Uruguay round, it would be helpful to have a strong statement of congressional intent on the treatment of soybeans, soybean meal, and corn gluten. As my colleagues should know, the European Community is currently obliged to provide duty-free treatment to U.S. exports of soybeans, soybean meal, and corn gluten. If the purpose of the Uruguay round is to advance the cause of free trade, I can't imagine why any Member of the Senate would object to language which would preserve the duty-free treatment of soybeans and corn gluten.

By way of explanation, in 1962, as part of the Dillon Round of Multilateral Trade Negotiations, the United States negotiated duty-free bindings for soybeans, soybean meal, and corn gluten feed in the European Community.

The European Community is our most important market for soybeans, soybean meal, and corn gluten feed and represents over 45 percent of total U.S. soybean and soybean meal exports with a value of over $2.4 billion.

In February 1987 as part of the article XXIV:6 negotiations under the General Agreement on Tariffs and Trade, the European Community agreed to reaffirm the duty-free bindings for soybeans, soybean meal, and corn gluten and extend them to Spain and Portugal.

Many in the European Community view the duty-free bindings on soybeans, soybean meal, and corn gluten to be an unjustified loophole in the European Community's import-restrictive common agricultural policy and would like to close the loophole by the establishment of import levies on imported soybeans, soybean meal, and corn gluten.

The EEC has illustrated its desire to restrict imports of U.S. soybeans by proposing the establishment of a $375 per metric ton tax on all vegetable and marine oils consumed within the European Community.

The Community is currently attempting to reduce its imports of soybeans, soybean meal, and corn gluten feed by guaranteeing lucrative prices to its producers for soybeans, rapeseed, sunflowerseed, and other protection crops and then subsidizing the purchase of those commodities by EC processors and feed compounders.

The European Community may attempt to use the Uruguay Round of Multilateral Trade Negotiations as a means of reaching an agreement with the United States that involves the European Community withdrawing its duty-free bindings on soybeans, soybean meal, and corn gluten.

Any withdrawal or impairment of the European Community's duty-free bindings on soybeans, soybean meal, and corn gluten would result in a substantial loss of U.S. exports of those commodities to the European Community and a loss in income to U.S. soybean and corn farmers and processors.

Mr. President, in closing, this amendment is needed. While it is not as strong as I, or my farmers, would like, it tells the Community that this institution would not view favorably any attempt to modify the obligation of the European Community to provide duty-free treatment to U.S. soybeans, soybean meal and corn gluten. I urge its adoption.

I move the adoption of the amendment.

Mr. BENTSEN. Mr. President, I have examined the amendment as offered by the distinguished Senator from Minnesota and have no objection to it and know of no objection on this side.

Mr. PACKWOOD. Mr. President, the amendment is acceptable.

The PRESIDING OFFICER. The question is then on agreeing to the amendment.

The amendment (No. 624) was agreed to.

Mr. DURENBERGER. I move to reconsider the vote by which the amendment was agreed to.

Mr. BENTSEN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BENTSEN. Mr. President, I would like to make a statement on the bill, unless some of my colleagues are here prepared to offer an amendment.

The PRESIDING OFFICER. The Senator may proceed.

Mr. BENTSEN. Mr. President, in December of last year I went over to visit the President about the trade bill. I said, "Mr. President, we are not seeking confrontation. What we are seeking is cooperation in trying to pass some trade legislation to turn this trade deficit around. We would like your help on it." The administration in effect had stiffed the Senate for 2 years. The President said, "Well, let us have a go at it."

I came back to the Senate, and worked with my colleagues on both sides of the aisle, Senator DANFORTH, of Missouri, became the principal cosponsor of it. We introduced a piece of legislation with 56 cosponsors, 25 of them Republican, just about the same ratio as Democrats to Republicans in the Senate. And then as the process developed, time and time again we consulted with Ambassador Yeutter or he would call us to tell us of one of his concerns and we would try to take care of it in many, many instances. The Secretary of Commerce, Mr. Baldrige, told us of his concerns on a number of provisions and on many of those we were able to resolve them and take care of them to his satisfaction.

That is the kind of effort that has been made. The President is not going to be allowed to write this bill. But neither is the chairman of the finance Committee or the chairman of any one of the other committees or any of the ranking members by themselves. It is a consensus we arrive at in a democratic process. The Congress has a shared responsibility on trade. It is not for us to negotiate, but it is for us to be a part of setting the policy. That is what this piece of legislation calls for. It calls for that kind of consultation with the President. We have reworked 201. We have given the President greater discretion than was originally drafted. They did not get everything they wanted on 301 but quite a bit of it. I hear comments about this provision being bad or that provision being bad. We have a bill here of almost 1,000 pages. There are a few provisions in it that do not suit me, but you have to look at the composite and the overall piece of legislation.

This is a good trade bill. It ought to be supported. It gives this President and the next President the kinds of tools they need to improve the competitiveness of our country and the fairness of the international trading system. This does not mandate reductions in the trade deficit. That is impossible. But it does give the President and the next President the tools to start digging our way out of the kind of international debt that we are incurring with this deficit in trade. It does mandate close consultation with the Congress. It does mandate tough enforcement of trade agreements, and why not. If we make a deal we expect to live up to it and we expect our trading partners to do so. It does mandate a vigorous attack on those countries that have a consistent pattern of trade barriers. It does mandate Government efforts to improve competitiveness when the private sector pitches in to pull itself up by its own bootstraps.

We have had almost 4 weeks of discussing the concerns of the Senate and we are going to do everything we can to reflect those concerns in the conference.

But I do not think it bolsters our hands to have a "no" vote. What bolsters our hands in the conference is to show that we have confidence in what we have wrought in the Senate, that the Senate backs up the actions that have been taken in bringing about this bill.

Now, let me say, Mr. President, as I look around this Chamber and as I think of the hours and hours of work that has been done, it would be impossible for me to express my gratitude to all of those who have been a part of this complex process. Senator DANFORTH, my partner and principal cosponsor of the Bentsen-Danforth bill, the Finance Committee contribution to this bill, has been a tireless advocate of a growing, more open trade system. I commend him for his work, not just for this year but for many other years when he was chairman of the Trade Subcommittee.

Senator MATSUNAGA, chairman of the International Trade Subcommittee and the main sponsor of the negotiating provisions in this bill, has added important provisions, particularly those regarding the process for implementing the harmonized system of tariff nomenclature, an amendment which was accepted on the floor of the Senate.

The majority leader, Mr. BYRD: When I think of the tireless efforts he has made to resolve some of the problems and the gridlocks we have had during this debate, he has been a critical figure in bringing it to this successful point. I am most appreciative of his enduring patience.

Senator DOLE, the minority leader, is a senior member of the Finance Committee. I am obviously disappointed that he has chosen to vote against that bill, but he has been a critical figure in building this piece of legislation, not only in negotiating the section 301 process that was accepted by an overwhelming vote 2 weeks ago, but also has made an imprint on many other parts of that bill, and I am appreciative of his contribution.

Senator MOYNIHAN, a principal cosponsor of the section 301 provision of the bill, made significant contributions in many areas.

The ranking member, my good friend, Senator PACKWOOD, sometimes a critic, but a constructive critic, has left his imprint on this bill and made a major contribution, particularly in the area of section 301.

Senator ROTH, the ranking member of the Governmental Affairs Committee, senior member of the Finance Committee, made important contributions to the provisions on negotiating authority.

Senator HEINZ, the leading expert on trade in the Senate, made invaluable contributions to section 201, dumping and countervailing, and many other parts of the bill.

My friend, Senator RIEGLE, has worked long and hard on the adversarial trade provision, to improve on what had happened with what we saw in the Gephardt amendment, and he has made an outstanding contribution.

I can think of a whole list of Senators who have made outstanding contributions.

I think of the incredible amount of time that has been put in by the staffs on both sides of the aisle.

Mr. President, I congratulate all these Senators and the staffs on a job well done. But if you want to help us in conference, show that you support the product, what we have done and what we have wrought. We urge a strong endorsement of the bill; and when we get to the conference, we will do our best to reflect the will of the majority of the Senate.

The PRESIDING OFFICER (Mr. DIXON). The Senator from Pennsylvania.

Mr. HEINZ. Mr. President, a lot has been said about this bill today, and probably a lot more is going to be said about it here on the floor and in the media.

I intend to vote for it. It is not perfect. There are parts of it where I think we go too far. There are parts of it where I think we do not go far enough.

I am aware that a number of my colleagues have significant reservations. Some are going to cast their votes accordingly. I would agree that there are many controversial elements, but I think that controversy reflects the basic lack of consensus both in the country and in Congress over the nature of our economic problems and over what solutions are appropriate.

I spoke at some length on the floor of the Senate about what I believe to be the problems this country faces and how we should address them. I will not do so again at this time, but I remind my colleagues that this is 1987; it is not 1977, 1967, or 1947. The world has changed dramatically in that 40-year period.

In 1947, this country alone accounted for 60 percent of the free world's gross national product. Now we account for about 20 percent of the free world's gross national product, and our role has changed just as much.

The Vietnam war demonstrated the very real limits of our ability to project our military and political power to the far corners of the globe.

The continuing—and, I might add, increasing—trade deficit over the last decade ought to teach us the limits of our economic power. Those limits, just like the Vietnam war, are painful, and so are some of the lessons.

Today, we do depend on foreign trade, and we ignore it at our peril. Thirty years ago, exports and imports made very little difference to this country and to the average American's life. Our trade and budget deficits are being financed not by Americans; they are being financed by foreign investment. The fact is that our children will be working for years at probably a lower standard of living to pay off those debts.

Today, the GATT system, strengthened by the Toyko round, has helped us to identify and quantify barriers to trade around the world. Thirty years ago, we could afford to ignore those barriers, even if we could identify them. But today we cannot ignore them. We cannot avoid an attack on those barriers which harm us, and we cannot postpone our adjustment to changed economic circumstances. I will take, as one example, section 301 and the adversarial trade provisions of this bill.

I heard earlier today that there are some Senators, and particularly some people in the administration, who do not like those provisions. They think we are going to get too tough, I guess, on Japan, although I think the Senator from Missouri [Mr. DANFORTH], Senator BENTSEN, Senator PACKWOOD, and others have done a very sound job on those provisions. But there are still some people, and I guess some of them are downtown, who believe that free trade means accepting imports without restraint. They are not interested in other people's barriers to trade, only in our own, and they seek to eliminate our own rather enthusiastically, almost like the Grand Inquisitor going after heretics in the 16th century.

What they fail to understand is that the market system cannot operate on a one-way basis. If we are to have a market system, if prices are to reflect true costs, if comparative advantage is to operate, then it must operate everywhere, and not just in the United States. Our experience with Japan has vividly demonstrated the dangers to us of the mercantilist policies pursued by others. Those of us who favor doing something about those policies—and Japan is not the only country—do not advocate our adoption of the same policies. Rather, we advocate nothing more than a more aggressive use of our own leverage—in our own national economic interest—to attack those policies.

Mr. President, this bill will take some important steps in that direction.

The section 301 provisions, including the leadership amendment adopted 2 weeks ago, which I supported, will give us better tools to fight the battle against mercantilism, and they will help make it clear when the administration—any administration—chooses to surrender in those battles. In those cases, the opportunity will exist for Congress to seize the initiative, if necessary, and take action.

The title VII provisions, along with my amendment on customs fraud, will provide some important new tools in battling unfair trade practices. The amendment by Senator HOLLINGS, in particular, will put our dumping practices in conformance with those of our trading partners. I continue to regret the absence of sufficiently tough provisions on anticircumvention and diversionary dumping, but I hope that the conferees in that latter area in particular, will accept the House language.

The section 201 provisions, which grew out of a bill I introduced in 1983, will help facilitate industry adjustment to the realities of international competition. It is ironic that those who complained the most about the bill's limitations on the President's action are the ones who ought to be most interested in the President taking action, since that would forestall the likely alternative of congressionally mandated long-term protection. Even so, we have, in my judgment, given the President more discretion than he needs in this area, and I hope the conferees will address that error as well. If they do not, we have a provision that could be arguably more burdensome on industry than current law.

The bill also takes a great many steps in the direction of greater export competitiveness, which others have commented on at various points in this debate at some length. From my perspective as ranking minority member of the Subcommittee on International Finance of the Banking Committee, the amendments to the Export Administration Act, many of which came from legislation Senator DIXON and I introduced in February, and my amendment to the Export Trading

Company Act which the Senate adopted last Wednesday, will be particularly helpful in expanding exports. Similarly, Senator CHAFEE's work on amending the Foreign Corrupt Practices Act will also make a significant difference to exporters trying to sell in various key parts of the world.

I could spend some time on the provisions in this bill that disturb me, Mr. President, but there are more than enough of my colleagues who want to do that. On balance, I believe the bill meets the test I set out for it at the beginning of this debate. It does change the status quo, and it changes it for the better. It will force an administration that wants to continue business as usual to do some things differently. And for that reason it is worthy of support.

I would also remind, Senators, however, of the dangers of the conference eliminating many of our hard-won gains. I have no doubt that many of those here who oppose this bill or who are voting for it with reservations the opposite of mine, are hoping that the conference will repeat the result of 1984 and remove from the bill everything of any controversy or significance so the President will sign it. While there are many obviously extraneous items that do not belong on a trade bill and should be removed, on the whole I hope the kind of gutting of the legislation that occurred in 1984 will not happen this year. While that might appeal to some, there are just as many of us here who would have to switch to opposing the conference report in that case.

Mr. President, Senators have been virtually unanimous throughout this debate in indicating we are in serious trade trouble. The country has elected us to lead and to find a way out of that trouble. To settle for the status quo would be to ignore the mandate the citizens have given us and to fail in our duty. By passing this bill we fulfill our responsibility to the public, and we do our duty. I hope the conferees will act with the same sense of responsibility and recognition of the kind of economic future we face if we cannot solve these problems.

Mr. President, I have indicated my support for specific provisions that I like. I am concerned that this legislation pass and have a strong enough vote that the people understand that, although there are going to be some legitimate objections to parts of the bill, simply because there is an objection downtown in the administration or at the White House, every single administration objection does not have to be accommodated.

That is what happened to the 1984 trade bill. That bill started as an effort to implement a reciprocal market access policy, one based on a very reasonable standard, and ended up a vague shadow of its former self. It started out as strong, good, and necessary legislation—much like what is in this bill. It is strong, necessary, and good. But the 1984 Trade Act was gutted because the managers decided at that point to accommodate every concern of the administration.

I am not here to say that every concern of the administration is wrong, but I am here to say that they are wrong on some of their concerns, and it would be, I think, a mistake to simply create a situation where we would cave in in conference to all of those concerns.

Now, there are some specific items in this bill that I have to say make this a relatively more unattractive piece of legislation than it ought to be. There are aspects of the plant closing legislation, the coverage of layoffs and the vagueness of the standards and safe harbors that I think are deeply troubling. There is an expansion of the Emergency Port Program by about a billion dollars a year from $1 billion to $2 billion. At $1 billion that is a good program. It is a targeted program to make the point to other people, that we are not going to lay down if they are subsidizing.

It is a good war chest program, but nobody knows how to spend that extra billion dollars, and that, I think, is fiscally irresponsible.

This legislation has a provision withdrawing most favored nation treatment from Romania, which we debated at length here. I think that is a mistake.

The amendment that requires the United States to reduce its replenishment to multilateral institutions if they make loans to support projects on commodities in oversupply after we have voted against them, is a violation of our agreements, and that is a mistake.

I guess the point I would like to make, Mr. President, is that, yes, there are some problems with this legislation. I have touched on a few of them. There are too many studies, too many commissions; too much new bureaucracy will be created by it. But I will also say that on balance there is much good, and it is my hope that our colleagues vote for this bill.

It is also my hope that the conferees will improve it significantly. I want to urge them to listen to the criticisms, not just mine, of this legislation and to accommodate those legitimate criticisms. Maybe not all of mine are valid just as those of others are not 100 percent valid either, but there are improvements that need to be made, and I trust and hope that the conferees will make them.

Mr. President, I thank my colleagues.

I yield the floor.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I was somewhat puzzled and certainly disappointed in listening to the distinguished Republican leader urge that there be a substantial vote against this bill. He stated that a substantial number of "no" votes will strengthen the hands of the conferees. I think that is a pretty accurate quite.

Mr. President, with all deference to the distinguished Republican leader, I do not follow that logic—that a substantial number of "no" votes would strengthen the hands of conferees. The way to strengthen the hands of the Senate conferees is to get a solid vote in support of this bill. The stronger the support as evidenced by the vote here, the stronger the position of the Senate conferees as they deal with the House conferees.

Mr. President, this bill is the product of the membership of nine Senate committees, and the bills that came out of those nine committees came out after careful scrutiny, adequate hearings, markups, and due diligence.

The distinguished chairman of the Finance Committee has stated that the bill that came out of his committee was supported 19 to 1 when it came out of that committee. The bill that came out of Banking was reported out by voice vote. Two bills out of Labor had the following votes: 11 to 5 and 12 to 3.

The bills out of the Committees on Agriculture, Commerce, Foreign Relations, Government Affairs, Small Business, and Judiciary, were reported out unanimously—unanimously out of six committees.

So, there was strong bipartisan support in all of the nine committees. The overall bill has undergone further work on the floor and, we would like to say improvement, and, while I have not agreed with every amendment that was adopted, I do think the bill has been improved because it is the result of the composite efforts and talents of 100 Senators, working on both sides of the aisle. The product that we soon will vote on is the result of the laborious efforts on the part of the managers, Mr. BENTSEN and Mr. PACKWOOD, and the managers from the other eight committees and the members of all those committees.

The Senate has spent a total of 13 days on this bill, over 128 hours, there have been 43 rollcall votes, and there have been 165 amendments and motions considered, all of which, Mr. President, would indicate clearly that this Senate has worked its will, has spent ample time, and the several votes reflect the judgments of Senators on the amendments and the motions that have been offered.

Now, to come into this Chamber and say that a strong "no" vote will strengthen the hands of our conferees, Mr. President, is beyond the uttermost limits of logic insofar as I can determine.

Mr. President, I think that what we are hearing is the voice of Jacob but it is the hairy hand of Esau. The hand and the voice do not match. What we are really hearing is the voice from downtown saying: "Give us a strong "no" vote. It will strengthen the White House's hand in conference and it will strengthen the President's hands when it comes to a veto of this bill."

I received a letter written a month ago tomorrow and signed by all of the departmental heads of the administration, and they all indicated that they will not be able to recommend—I quote:

> We will not be able to recommend that the President sign the pending legislation unless extensive improvements are made on the Senate floor and in conference.

Well, my response was, in part, as follows to those Department heads:

> For 6 years this administration had carried out a policy of neglect as exports foundered; imports soared; Federal programs in support of education, training, and technology shrank; our industrial base shriveled; and the U.S. plummeted from the world's largest creditor to its largest debtor. If we followed the recommendations of your 35-page letter of June 22 on the pending trade and competitiveness legislation, we would be giving the administration cart blanche to continue this failed policy.

Mr. President, I ask unanimous consent that there appear in the RECORD a letter dated June 22, 1987, written on the stationery of the U.S. Trade Representative, Executive Office of the President, and signed by the various department heads, together with my response thereto dated June 27, 1987, together with a statement of administration policy dated today, July 21, 1987.

The PRESIDING OFFICER. Without objection it is so ordered.

There being no objection, the material ordered to be printed in the RECORD, as follows:

U.S. TRADE REPRESENTATIVE
EXECUTIVE OFFICE OF THE PRESIDENT,
Washington, DC, June 22, 1987.

Hon. ROBERT C. BYRD,
Majority Leader, U.S. Senate,
Washington, DC.

DEAR MR. MAJORITY LEADER: On February 19, 1987, President Reagan proposed comprehensive legislation (S. 539) to improve America's competitiveness. Since then, we have worked diligently with nine Senate committees to achieve this goal. We are pleased that some of the President's proposals have provided a basis for Senate action. We are deeply concerned, however, that many Senate proposals pose grave dangers to our economic health and national security.

The authors of the pending trade and related legislation have said that they do not want a protectionist bill, but the consequences of this legislation are clear. Like the tariffs of an earlier era, it would provoke foreign retaliation, increase prices to U.S. businesses and consumers, cost more jobs than it would save, and threaten the continued existence of a growth-oriented trading system. This is a high price to pay for exhibiting frustration with our trade deficit—a price that would make us less competitive, not more. Our Nation's business leaders, economists, and newspapers are asking: Do we really want the history books to identify the 1987 trade bill as the cause of a recession—or worse?

The overall problem is that each committee involved with the bill has proposed independently significant provisions to address perceived problems. Together, these provisions will have a severe cumulative impact on U.S. trade and the economy. We urge you to consider their effects: (1) sweeping procedural changes that would repress trade and investment; (2) violations of our international obligations that would trigger a downward spiral of retaliation; (3) constraints (some, we believe, unconstitutional) on the discretion of this and future Presidents to formulate international economic policy and conduct negotiations; (4) potential disruptions to financial and labor markets; (5) special benefits to powerful industries; and (6) significant additions to the budget deficit. More detailed objections to and comments on the pending legislation are attached.

We continue to pledge our best efforts to work with you to produce legislation that will promote America's competitiveness. However, we will not be able to recommend that the President sign the pending legislation unless extensive improvements are made on the Senate floor and in conference.

We all want to see the trade deficit come down. Exchange rate adjustments, aggressive actions to open foreign markets, and fiscal discipline are starting to produce the right results. In volume terms, our net export deficit on goods and services has declined at an annual rate of about $15 billion during the last two quarters. The trade deficit is starting to shrink in dollar terms as well, and should continue to do so. Especially encouraging is the fact that exports of goods and services have grown in volume terms at an annual rate of 14 percent since the second quarter of 1986.

Legislation can be useful if it strengthens our competitiveness. The President's proposals would do so by increasing investment in human and intellectual capital; promoting science and technology; protecting intellectual property; making legal and regulatory reforms; and improving the international economic environment. Conversely, legislation can create new problems that could reverse the economic growth we have enjoyed for four and one-half years. Now that American industry is starting to reap the gains of more competitive exchange rates, it would be self-destructive to trigger unnecessary trade conflicts.

Sincerely,

James A. Baker III, Secretary of the Treasury; —— ——, Acting Secretary of State; Richard E. Lyng, Secretary of Agriculture; Caspar W. Weinberger, Secretary of Defense; Elizabeth H. Dole, Secretary of Transportation; William J. Bennett, Secretary of Education; James C. Miller III, Director, Office of Management and Budget; Clayton Yeutter, U.S. Trade Representative; Malcolm Baldrige, Secretary of Commerce; Bill Brock, Secretary of Labor; —— ——, Acting Attorney General; John S. Herrington, Secretary of Energy; Donald Paul Hodel, Secretary of the Interior; Beryl W. Sprinkel, Chairman, Council of Economic Advisers.

ADMINISTRATION OBJECTIONS TO AND COMMENTS ON SENATE TRADE AND RELATED LEGISLATION [1]

Provision	Reason for objection
I. Finance Committee (S. 490)	
A. *Trade Agreements Authority*	
1. Absence of *tariff proclamation authority,* traditionally granted to successive administrations since 1934. Instead, Congressional approval of tariff cuts under fast track process is required.	Significantly reduces our leverage in trade negotiations and unnecessarily complicates implementation of trade agreements.
2. *Revocation of "fast track" procedures* by concurrent resolution at any time ("reverse fast track") on grounds of inadequate consultations.	This veto-proof procedure could impair our leverage in trade negotiations.

ADMINISTRATION OBJECTIONS TO AND COMMENTS ON SENATE TRADE AND RELATED LEGISLATION [1]—Continued

Provision	Reason for objection
B. *Amendments to Section 301 of the Trade Act of 1974 (unfair trade practices of foreign governments)*	
1. *Mandatory retaliation* within 19 months in all cases. Waivers are provided for: adverse GATT rulings; national security; and negotiated settlements approved by industry or providing compensation. In cases not involving "unjustifiable" practices (defined as violations of U.S. international rights, most-favored nation treatment, right of establishment, or protection of intellectual property rights), provides an additional exception if President certifies that removal of the unfair practice is impossible and retaliation would not be in the national economic interest.	In many cases, mandatory retaliation on a strict schedule would reduce a foreign government's political flexibility to accommodate our concerns, frustrate our ability to negotiate settlements, and thus provoke counter-retaliation and close rather than open markets. Waivers do not cure our objection—their exercise could destroy opportunities for negotiated settlements. Allowing industry veto of negotiated settlements in the same sector unacceptably places trade policy in private hands.
2. *Mandatory self-initiation* (i.e., initiation of the government's own motion, not on the basis of an industry petition) of an unspecified number of cases each year.	Self-initiation requirement could make it harder to resolve both the cases self-initiated (because self-initiation is confrontational) and all other trade problems (because, by implication, they are less important). A self-initiated Sec. 301 investigation is a blunt instrument. Forcing the President to effectively accuse foreign governments of unfair trade practices as a matter of routine would, in many cases, make trade disputes counterproductively confrontational. Industries are free to file Sec. 301 petitions at any time.
3. *Transfer of Presidential authority* to USTR to determine whether foreign governments' practices are unfair.	The determination as to unfairness of a foreign government's practices is the heart of a 301 case, and triggers mandatory retaliation under S. 490. It must often be made in an environment of ambiguous U.S. and international standards of "fairness." Like all fundamental trade policy powers, it should be reserved to the President, with input from all his economic advisors. Transfer of decisionmaking powers to USTR is inconsistent with USTR's role as coordinator of advice to the President.
4. *Mandatory quantification of the impact of foreign trade barriers* identified in the annual trade estimates report.	It is generally impossible to meaningfully measure trade that would occur in the absence of a trade barrier.
5. Designation as an unreasonable practice of pattern of denial of *worker rights.*	This provision would either seriously disrupt trade with communist countries, or require routine use of the national economic interest exemption. In the latter event, imposition of penalties against non-communist countries would raise serious equity questions. Could be counterproductive to efforts to improve worker rights.
6. Designation as an unreasonable practice of *export targeting* (defined as government measures having the effect of making exports of a firm or industry more competitive, including home market protection).	By this standard, many U.S. industries would be subject to mirror actions because USG could be perceived as favoring certain industries through federally funded research (e.g., computers) or procurement policy (e.g., SDI impact on lasers, aerospace technology). Would raise significant problems with developing countries, including many of the poorest ones.
7. In export targeting cases, requirement to *study and propose alternative measures* to improve a targeted industry's competitiveness if President invokes "national economic interest" waiver.	Back-door, ad hoc industrial policy and unwarranted governmental interference in business decisions.
8. Designation as a discriminatory (and therefore unfair) practice of *state trading.*	Could expand definition of state trading and encourage petitions involving trade with non-market *and* numerous other developed and developing countries. Could disrupt ongoing GATT negotiations on state trading and spark retaliation against U.S. agricultural exports. Any violation of GATT Article XVII (on state trading) is already actionable under Sec. 301.
9. Limitation of GATT exception to action by contracting parties.	This exception should also be available if a GATT panel report is adverse to the U.S.
10. *Pasta retaliation.* (Increased variable duties on pasta imports if no agreement is reached with the EC by July 1.)	Could undermine our negotiations with the EC and provoke unnecessary counterretaliation.
11. *Designation of "adversarial trade" countries,* including Japan.	Formally stigmatizing a country as an "adversarial trader" needlessly politicizes trade negotiations and will make it harder, not easier, to negotiate market-opening agreements. Mandatory negotiation requirement inappropriately constrains executive discretion.
12. *Limitations on modification and termination* of action.	President should continue to have authority to modify and terminate action under Sec. 301 whenever modification or termination is in the national economic interest. Such authority should not be artificially constrained.
13. Designation as an unreasonable practice any requirement for *technical information as a condition for importation.*	USG (e.g. FDA, EPA) often requires extensive technical information as a condition for importing products. Therefore, not necessarily unreasonable practice by U.S. competitors.
14. *Evidentiary rule* that existence of an unfair trade concession may be inferred from existing circumstances.	Invites domestic pressure to act based on insufficient evidence.

ADMINISTRATION OBJECTIONS TO AND COMMENTS ON SENATE TRADE AND RELATED LEGISLATION [1]—Continued

Provision	Reason for objection
C. *Amendments to Section 201 of the Trade Act of 1974 (relief from fairly traded imports that injure domestic industries)*	
1. *Elimination of Presidential authority to deny or reduce on "national economic interest" grounds import relief* recommended by the International Trade Commission.	Forces President to restrict imports even when contrary to national economic interest. Implies interests of a single industry outweigh those of Nation. Requiring President to take specified action upon the finding of an independent commission would substantially undercut the President's authority to supervise and direct Executive Branch agencies and thereby to "execute the laws." Likely to result in retaliation against U.S. exports, compensation requirements, and harm to other U.S. industries, including users of the products subject to import restraints.
2. *Increase in maximum relief period* from 8 to 10 years.	Undercuts theory that Sec. 201 relief is temporary, and drives up costs to consumers and U.S. exporters and consuming industries.
3. *Anti-circumvention provision*, authorizing President to expand relief.	Invites pressure to provide relief for products on which the ITC has not made an affirmative injury determination, which would violate GATT.
4. *Exclusion from remedy vote* of ITC commissioners who find no injury.	Denies President useful advice of all ITC commissioners.
5. *Fast-track relief for perishables* not subject to ITC injury finding.	GATT-illegal and unworkable. Administration and House proposals are preferable.
6. *Provisional import relief* not subject to ITC injury finding.	GATT-illegal. House proposal preferable.
7. *Mandatory adjustment plans/commitments* from petitioners.	Such plans/commitments should be voluntary.
8. *Trial auctioning of import quotas.* Mandates auctioning in next three Sec. 201 cases involving quotas, with exceptions.	USG already has ample discretionary authority.
D. *Trade Adjustment Assistance*	
1. *Continues, expands, and extends TAA for workers and firms.*	TAA should be repealed, not expanded. The Administration has proposed (and the Senate is considering) a $980 million *replacement* worker readjustment program (WRAP) which is almost triple current worker adjustment resources. (See item IV.B below.) TAA deters and delays adjustment by emphasizing longer periods of income support rather than early adjustment. WRAP will provide more timely and effective relief; triple the amount of funds currently available for worker adjustment programs; and serve at least six times as many workers. By expanding TAA rather than repealing it, perpetuates current program duplication. Adjustment assistance to firms should also be repealed because of its questionable effectiveness and track record of defaults on taxpayer-supported loans and loan guarantees.
2. *Mandates imposition of fee on imports,* not to exeed 1% of value. Mandates negotiations to secure GATT approval of such a fee, but requires implementation by 1990 in any event.	Negotiations are unlikely to succeed; therefore, the fee will be GATT-inconsistent and expose U.S. exports to retaliation or mirror legislation. Creates new tax and new trade barrier. Eliminates incentive for budgetary discipline.
3. Extension of TAA benefits to *secondary suppliers* and oil and gas workers.	Significantly increases cost of TAA by extending entitlement to benefits to workers well beyond the primary impact of imports. Reduces America's competitiveness by deterring and delaying adjustment by even more workers than present program.
4. Defining all TAA benefits as *entitlements,* removing TAA from the *appropriations process,* creating TAA *trust fund,* and authorizing *borrowing authority.*	Removes an important Congressional check on a program whose costs can escalate rapidly and dramatically (e.g., $1.6 billion in 1980 vs. $0.4 billion in 1979). Gives TAA a tap on the Treasury without further Congressional review of costs.
5. *New entitlement to TAA training* each time a worker is laid off; restarting (or tolling) the 104-week TAA limitation with each layoff.	Establishes a new, uncontrollable program that will increase spending without any assurance of greater effectiveness. Extends period of unemployment.
6. *Requirement that workers enroll in training* after collecting their unemployment insurance (UI) in order to collect TAA cash benefits, except in specified cases.	Workers should be encouraged to undertake training *early on,* to speed adjustment. Administration WRAP proposal would require workers to enroll in training by their tenth week of UI to be eligible for cash benefits while in WRAP training after UI benefits run out. S. 490 would *prolong unemployment* by delaying requirement that worker undertake training until after 26 weeks of UI benefits.
7. *Automatic entitlement* of all workers and firms in an industry to TAA once ITC finds injury to the industry under Section 201.	Presumes that *all* unemployment in the industry is caused by imports; would entitle all such workers and firms to TAA benefits whether their job loss was related to trade or not. Gives independent commission power to grant access to an entitlement program.
8. Prohibits Secretary of Labor from limiting TAA training to 104 weeks.	Extends workers' period of unemployment.
E. *Amendments to antidumping and countervailing (AD/CVD) duty law*	
1. *Non-market economy dumping.* Imposes offsetting duties on nonmarket economy imports priced below weighted average price of largest volume eligible market economy country.	Administration-proposed standard of lowest of eligible country average prices is preferable because it takes into account the fact that products from NME countries usually command a lower price than products from market economy countries due to quality and supply problems. Therefore, it is a more reasonable standard and would preserve fair competition in NME products.

ADMINISTRATION OBJECTIONS TO AND COMMENTS ON SENATE TRADE AND RELATED LEGISLATION [1]—Continued

Provision	Reason for objection
2. *Anti-circumvention provisions.* (a) One aspect of provision goes beyond circumvention to allow AD/CVD order on parts to cover finished products as long as the finished products remain within the scope of the "class or kind" of the merchandise covered by the order on parts. (b) Apparently covers instances where parts are imported by unrelated parties or from more than one country.	(a) Subject overly broad interpretation. May not be GATT-consistent because finished product and parts are unlikely to be considered as "like products" as required by the GATT. Could increase prices to U.S. consumers of fairly-traded goods. (b) Unrelated parties should not be penalized for actions they cannot know. Should be limited to situations where substantially all of the imports are from the same source.
3. *Monitoring of limited downstream dumping.* Requires Commerce to monitor imports of downstream products in order to identify diversionary practices resulting from significant antidumping and countervailing duties on component parts.	Expensive and burdensome. Would not provide sufficient information for initiation of new investigations.
4. *Monitoring, self-initiation, and acceleration of investigations involving multiple offenders.* Requires the ITC to create a product monitoring category for repeat dumpers and Commerce to monitor imports. Under certain conditions, Commerce would have to initiate an AD investigation, unless a substantial proportion of domestic producers of the product asked that an investigation not be initiated.	Diverts scarce resources from cases with clear industry injury. Could invite "mirror" legislation by foreign governments.
5. *Domestic subsidies.* Clarifies that in determining the existence of a domestic subsidy, Commerce must consider the actual, as opposed to merely the nominal benefit of the program.	As worded, may be unadministrable and inconsistent with international consensus on definition of subsidies.
F. *Telecommunications.* Mandates retaliation (subject to fast-track legislative approval), against any country that does not provide "substantially equivalent competitive opportunities" for U.S. telecommunications products and services within 18 months. Mandates USTR-determined retaliation within six months against any trade agreement violations, with a violation presumed if actual trade is not as "reasonably anticipated."	Mandatory retaliation on a strict schedule and subject to a sectoral reciprocity standard is likely to impair negotiations and result in counter-retaliation. Mandatory retaliation by USTR on trade agreement matters inappropriately transfers this power from the President to a subordinate.
G. *National Oil Import Ceiling.* If oil imports are projected to exceed 50 percent of domestic consumption in next three years, President is required to submit a plan, to be considered by Congress on fast track, to prevent foreign oil dependence from exceeding 50 percent. Plan takes effect automatically in 90 days unless rejected by joint resolution.	There is no analytic basis for limiting U.S. petroleum imports at the 50 percent level. Arbitrarily setting this level and requiring the President to propose action to meet it could result in actions with greater costs than benefits. For example, DOE estimates that a $10 per barrel oil import fee could result in a real net loss to the economy of *$150 to $200 billion* over eight years. Would set precedent for arbitrary market share ceilings for other products. Use of projections as basis for automatic triggering is inappropriate. There are serious legal questions as to the adequacy of standards for, and the scope of powers delegated. (Sponsor reportedly contemplates amendment to attempt to resolve legal issues.)
H. *Miscellaneous Trade Law Amendments*	
1. *Intellectual property.* Mandates self-initiation of expedited Sec. 301 cases on intellectual property. Mandates retaliation, with national economic interest exception. Mandates designation of Foreign Commercial Service officers to follow intellectual property issues. Mandates monitoring and reports by USTR and National Science Foundation.	A form of sectoral reciprocity that inappropriately constrains Executive discretion. Self-initiation objectionable for reasons described above. Special (expedited) deadlines for intellectual property cases not justified. Mandatory designation of FCS officers limits ambassadors' flexibility to assign responsibility within embassies and ignores countries without FCS officers. Monitoring and reporting requirements may be duplicative and wasteful.
2. *National security (Sec. 232) cases.* Establishes 90-day deadline for Presidential decisions and shortens deadline for Commerce reports from 1 year to six months.	Strict deadlines inappropriately constrains President's flexibility; could complicate negotiations and impair quality of analysis.
3. *Trade impact statements* would be required for any major federal action that could affect international trade.	New paperwork requirement creates an unnecessary administrative and regulatory burden and could delay major Federal actions through resulting litigation.
4. *National Trade Council.* Interagency group and membership established in statute. USTR to chair in President's absence.	Organization of interagency policy councils should be left to the discretion of each President.
5. *National Trade Data Bank.* Establishes ITC-chaired interagency committee and requires collection and publication of extensive economic and trade data on all countries.	Data collection requirements are too broad and costly. Export data bank proposed by administration is more cost-effective and achievable in near term. Would compete directly with several private sector services.
6. Extension of *sugar duty drawback* (refund period to 14 years.	Would result in *$200-250 million revenue loss;* in many cases would be inconsistent with our international obligations; could provoke retaliation against U.S. exports; and would create a substantial administrative burden for Customs.
7. *Lamb import quotas.* Requires a system parallel to that for beef under the Meat Import Act.	Would be GATT-illegal and costly to consumers. Likely to lead to retaliation or compensation requirement.
8. *Currency negotiations.* Requires President to initiate negotiations with countries that peg their currencies to the dollar to achieve exchange rate change.	Contains an arbitrary and inappropriate standard for initiating negotiations that would affect a wide range of countries that link their currencies to the dollar for legitimate reasons and in compliance with IMF rules. Focuses narrowly on exchange rates as sole means of adjusting imbalances, thus ignoring the wide range of other considerations (e.g., monetary, fiscal, tax, savings/investment policies) that have an important bearing on a country's economic performance and external position. Mandatory negotiations intrude upon the President's exercise of foreign affairs powers committed to him under Article II of the Constitution.

ADMINISTRATION OBJECTIONS TO AND COMMENTS ON SENATE TRADE AND RELATED LEGISLATION [1]—Continued

Provision	Reason for objection
9. *Steel "voluntary export restraint" agreements.* (a) Requires inclusion of farm fence panels and other products; absent foreign compliance, forbids granting of flexibilities provided for in the agreements. (b) President may consider steel melted and poured in a country subject to a steel arrangement, which is further manufactured in a non-arrangement country, as subject to the quotas of the arrangement country.	(a) Would force USG to violate agreements already negotiated under the President's steel program, and hurt U.S. industries that benefit from flexibility provided by swing/shift provisions in those agreements. Likely to result in collapse of bilateral agreements. (b) Could require USG to renegotiate bilateral agreements depending on how it was implemented. Current AD/CVD laws can deal with this problem.
10. *Nairobi Protocol/Florence Agreement.* Administration-supported provision improving implementation of the Florence Agreement with respect to scientific instruments.	No provision. Absence of this provision will aggravate non-reciprocal treatment of scientific instruments under the Florence Agreement.
II. Banking Committee (S.)	
A. Requires *exchange rate* negotiations with countries that manipulate their currencies to gain an unfair trade advantage.	Mandatory negotiations are unnecessary and could prove counterproductive to our efforts to obtain exchange rates that reflect economic fundamentals. Moreover, mandatory negotiations intrude upon the President's exercise of foreign affairs powers committed to him by Article II of the Constitution.
B. Requires Treasury to initiate discussions to propose establishment of an *international debt facility,* with financial backing by industrial countries (particularly surplus countries) and possibly IMF gold stocks.	Would fundamentally weaken debt strategy. Could have costly tax revenue and expenditure impacts (as much as $2 billion annually); impair their ability to get new loans; and create unrealistic expectations that their loans will be forgiven, thus undermining their incentive to undertake needed economic/monetary reforms. Negotiating with foreign governments is a function that the Constitution commits to the executive's discretion, and Congress cannot direct the President in the exercise of that discretion.
C. Export Controls	
1. *Exports to Members of Coordinating Committee on Multilateral Export Controls (COCOM).* No licensing required for any export to COCOM countries or non-COCOM countries that agree to abide by COCOM policies (5(k) countries) of "PRC green line" items (i.e., items exportable to China with notification to COCOM).	Raising the level of decontrol to the "PRC green line" is an unacceptably high level of decontrol. Without the audit trail licensing provides, we invite diversions through the weakest links in the COCOM/5(k) chain. USG is in process of identifying items for decontrol, to be specified in advisory notes to the Commodity Control List (CCL).
2. *Reexports.* No reexport authorization is required to COCOM/5(k) countries, or for any shipment of a foreign product that contains 20% or less U.S. content.	Allowing reexports without authorization to COCOM/5(k) countries, like the PRC green line provision, would break the control trail and expose technology to diversion from a weak line in the West. Does not provide flexibility needed, at 20% of value, to control sophisticated items like supercomputers.
3. *Foreign availability.* Unilateral national security controls shall be removed each year unless foreign availability does not exist or active negotiations are underway to eliminate the availability.	Oppose this approach to list reduction. Agree that the list should be reduced; however, decontrol should be based on a careful review of the controlled items.
4. *West-West foreign availability.* Once foreign availability of an item is determined to exist, no license can be required for exports of the item to a country, other than a controlled country, on which the source country does not place export controls. Provides Presidential override, subject to mandatory negotiations to eliminate the availability. If such negotiations fail within six months (12-month extension possible), license can no longer be required.	Ignores the very real problem of diversions to controlled countries. Licensing requirements are currently the only mechanism and lever available to provide an audit trail to such diversions. Administration's fast track licensing proposal is safer and more effective.
5. *Parts/components.* Export controls cannot be maintained on an item solely on the basis that it contains controlled parts/components if the parts/components are essential to the functioning of the item and comprise less than 20% of value. Licenses cannot be required for export of one-for-one replacement parts for items subject to foreign policy controls unless separate controls imposed.	Percentage value is too high for components controlled for national security purposes for certain destinations. Requirement that separate foreign policy controls be imposed on one-for-one replacement parts ignores reality that such parts replacements are usually part of the original contract.
6. *General license for reliable end users.* Establishes a general license for reliable end-users in COCOM/5(k) countries with all commodities eligible for the license without regard to product parameters.	The general license that has been established by regulations is adequate.
7. *Commerce lead in COCOM list review.* Provides that Commerce, in consultation with other agencies, shall be responsible for, inter alia, formulating the U.S. proposal for COCOM list review.	Present interagency process is necessary to ensure adequate review of foreign policy and national security considerations. State's lead role in this process enhances State's ability to successfully negotiate agreements in COCOM and with other cooperating countries.
8. *License fees* prohibited.	Fees are included in President's budget and are consistent with Administration goal of collecting for services.
9. *Under Secretary for Export Administration.* Office authorized at $45.2 million.	Unnecessary duplication and adds additional layer of government control. Significantly undermines management of Export Administration program.
10. *Trade shows.* Requires license be issued for any item going to a trade show in China, if product remains in control of exporter and is removed at conclusion of trade show.	Unfair and misleading to would-be exporter and to Chinese, since there is no guarantee or reasonable expectation that the good is actually exportable. Such details can and should be handled through implementing regulations.

ADMINISTRATION OBJECTIONS TO AND COMMENTS ON SENATE TRADE AND RELATED LEGISLATION[1]—Continued

Provision	Reason for objection
11. *Judicial review.* Subjects civil penalties and temporary denial orders (TDO's) to judicial review.	Courts already guard against denial of due process, and have found no such denial in this program. Would hamper use of TDO's as a key diversion prevention measure which is usually directed at foreign operators. Export controls involve delicate national security and foreign policy decisions. The conduct of foreign affairs is the province of the Executive Branch, and members of the Judiciary lack the expertise to decide sensitive international relations questions.
D. *Export Trading Companies (ETC's).*	
1. *Fees from third country trade.* Counts as export related if remitted to U.S., does not exceed 20 percent of all export revenue, and is derived from arranging but not providing, export trade services.	Should go further and count all such fees as export related without conditions. Bank ETC's need third country networks and profit opportunities.
2. *Leverage ratio.* Increased to 15:1.	Should go to 25:1 in order to match foreign competition.
3. *Export Management.* Requires Commerce to encourage and assist export management companies (EMC's); requires report to Congress.	Commerce presently encourages and assists EMC's. Reporting requirement unnecessary and costly.
4. *Export of bank's services.* (No Senate provision.)	Should add provision specifically to allow a bank ETC to export its own services. Bank ETC's should not be limited to providing only trade facilitation services.
E. Embassy management.	
1. Instructs Secretary of Commerce to designate eight Foreign Commercial Service officers as Ministers-Counselor.	Would undercut statutory authority of Chiefs of Mission and Secretary of State to manage overpass posts.
2. Confers upon Secretary of Commerce a share of the Secretary of State's authority to review staffing at U.S. diplomatic posts abroad.	Could undercut the Secretary of State's authority under Sec. 103 of the Omnibus Diplomatic Security and Antiterrorism Act of 1986.
3. Directs both Secretaries, whenever they determine the number of commercial personnel to be insufficient, to increase that number by adjustment of resources and personnel and other appropriate measures.	Could be interpreted to establish priority for commercial work over all other functions of embassies, and could undermine the Secretary of State's authority in allocating embassy resources.
F. *Primary Dealers.* Requires Federal Reserve to deny primary dealer status to firms from countries that do not provide equivalent access to U.S. companies in acquiring that country's government debt instruments.	Reciprocity in U.S. financial markets will impede foreign investment and is contrary to U.S. national investment policy. In addition, the retalitory, nondiscretionary nature of the provision could be counter-productive against U.S. firms operating in foreign financial markets that are more liberal in particular areas than the U.S., i.e., not subject to Glass Steagall or interstate banking-type restrictions.
III. Agriculture Committee (S. 512)	
A. *Export Enhancement Program (EEP).* Extends program through 1990 and raises authorized ceiling from $1.5 billion to $2.5 billion. Program is revised such that it would limit USDA's discretion in targeting subsidies for wheat and feedgrains and it weakens the additionality requirement.	USDA's ability to target the EEP has been a critical factor in its success. Displacing unsubsidized commercial sales with EEP would waste resources of the program, and of the Commodity Credit Corporation (CCC). Would conflict with Presidential policy and Venice Summit agreement to increase discipline over agricultural subsidies.
B. *Establishes triggered marketing loan program* for the 1990 crop of wheat, feed grains, and soybeans if Congress has not approved a multilateral trade agreement for agriculture. President may waive implementation by certifying that trade negotiations are in sensitive stage. Waiver shall not apply if joint resolution of disapproval is enacted.	USDA already has authority to implement marketing loans for these commodities. Would create billions of dollars of budget and consumer costs. Could violate GATT "standstill and rollback" commitments. Would make no distinction among commodities or markets in which competing countries do not subsidize.
C. Requires USDA to *assist victims of unfair foreign trade practices,* both in filing before other agencies and the courts, and recommending trade actions to federal agencies.	Costly and precedent-setting. Pits one Executive Branch agency against another in quasi-judicial proceedings. Participation by USDA in court proceedings against other Federal agencies contradicts the Constitution's concept of the unitary executive and thereby presents standing unjusticiability problems under Article III of the Constitution.
D. Losses on USDA promoted *tobacco* exports shall not count against the "no net cost" requirements of the tobacco program.	Could have significant impact on realized losses of CCC. Tobacco program would no longer be "no net cost."
E. *Targeted Export Assistance* (TEA) may be used to compensate organizations for expenses incurred defending countervailing duty actions in other countries, and increases 1988 funding to $215 million.	Exceeds intent, and interferes with effective use of TEA program as a market development tool countering unfair foreign trade practices. Use of TEA as presented in this provision could likely increase foreign countervailing duties on U.S. exports.
F. *Agricultural Export Development Activities.* Reenacts and makes permanent current statutory prohibition on use of development assistance funds for agricultural export activities in developing countries that would compete with and have a significant impact on U.S. agricultural exports.	Imposes further administrative burdens on U.S. food assistance programs. Given current surpluses in world food supplies, would reduce food aid recipient countries' interest in U.S. programs. Foreign aid program guidelines already aim to avoid injury to U.S. agriculture.
G. *Agricultural aid and trade missions.* Mandates short-term government/private sector missions to promote U.S. agricultural aid and trade programs. Minimum of 15 countries to be visited in first year.	Unnecessarily duplicates current AID and USDA efforts to assist potential importers of U.S. farm exports. Further expands number of activities funded through CCC rather than through more appropriate direct appropriations.
H. *Reciprocal meat inspection* requirement on imported meat when unsubstantiated meat inspection requirements are imposed on U.S. exports.	Unnecessary because imported meat products must already meet the standards imposed on domestic products.

ADMINISTRATION OBJECTIONS TO AND COMMENTS ON SENATE TRADE AND RELATED LEGISLATION [1]—Continued

Provision	Reason for objection
I. *Multiyear agreements* under the Food for Progress (FFP) program and Section 416 shall be approved if the agreements meet requirements.	Removes administrative discretion. Multiyear commitments for Sec. 416 are ill-advised because of the considerable uncertainty as to future availability of CCC stocks. Multiyear authority already exists for FFP and mandating approvals could obligate the U.S. to purchase more commodities when this is unnecessary or inappropriate.
J. Requires price support for 1990 *sunflower* crop if a marketing loan is initiated for soybeans.	P.L. 100-45 already provides this authority for sunflowers. This is a mandated expansion of costly agricultural support programs.
K. Administrator shall to extent practicable *emphasize market development of meat products to achieve world market share* equivalent to U.S. share of world meat production.	Could imply earmarking of funds irrespective of their potential for accomplishing stated goal. Provides special treatment for one commodity to detriment of others. Besides being costly, could be viewed at GATT violation. No analytic justification for market share goal.
L. Increases *trade show funding* by $5.7 million.	Objectionable on fiscal discipline grounds; no offset for lower-priority programs.
M. Requires *reporting on all agricultural imports* and their level of penetration in the U.S. market.	Would require radical restructuring of USDA statistical operations. Likely to cost several million dollars.
N. Establishes Cooperative National *Forest Products* Marketing Program.	Forest Service already has adequate authority to undertake such a program.
O. Makes commodities with 75% U.S. origin content eligible for *Export Credit Guarantee* coverage of the U.S. portion.	CCC already has this authority.
P. *Wood products.* Instructs USDA to actively use commercial and concessional export credit programs (P.L. 480, GSM-102, and GSM-103) for the export of wood and processed wood products.	U.S. action to erode international discipline over trade distorting financing practice would encourage other OECD countries to retaliate in other export sectors and markets. No evidence that other wood/wood product exporters are offering extended repayment terms such as those under GSM-103. Product-specific mandate to use export credit programs is inappropriate and could open concessional food assistance program to any product suffering reduced export sales.
Q. *PVO/coop participation in food export programs.* For P.L. 480 Title II and Sec. 416 programs, increases from 5 to 10 percent the minimum percentage of monetization by private voluntary organizations and cooperatives. Requires final action within 45 days on PVO or coop proposals. Requires 30 days public notice before issuing final implementation guidelines.	Monetization earmarks and proposal review deadlines restrict administrative discretion. Public notice requirement an unwarranted exception to the foreign affairs exemption under Administrative Procedures Act rulemaking procedures. Imposes further administrative burdens on U.S. food assistance programs.
R. *Expansion and reorganization of USDA international programs.* Increase in budget authorizations totals $17 million in 1988 and authorizes increased staffing levels for Foreign Agricultural Service.	Objectionable on fiscal responsibility grounds; staffing levels are currently adequate to meet program needs.
IV. Labor and Human Resources Committee (S. 538 and S. 406)	
A. *Plant closings.* Mandates advance notice and information disclosure for any business with 50 or more employees closing an operation.	Could severely limit employer ability to negotiate alternatives to closing with banks, creditors, and suppliers, thereby leading to closings that might have been avoided.
B. *Worker Readjustment Program (WRAP).* Authorizes $980 million for an amended training and job search assistance program under the Job Training Partnership Act. Also mandates several demonstration programs.	Provisions similar to Administration proposal (S. 539), but Administration would prefer a stronger role for the private sector, a greater proportion allocated to substate level, fewer funds for demonstrations and more flexibility in framing them, and services to dislocated homemakers under Title II-A of JTPA rather than WRAP. The Administration bill included repeal of TAA (see item I.D.1 above.)
C. *Education grants.* Authorizes almost $1 billion in 1988 ($3.6 billion for 1988-1993) to continue or expand a variety of current programs, including teacher training, postsecondary, and vocational programs, and to establish new elementary and secondary programs for dropouts, gifted and talented students, basic skills instruction, foreign language instruction, educational technology, and adult literacy.	Creates costly new programs, many of whose objectives can be served already through existing programs and resources. Any new elementary and secondary initiatives should be considered in the context of the reauthorization of elementary and secondary programs, now in progress.
V. *Foreign Relations Committee* (S.)	
A. *Multilateral Investment Guaranty Agency.* Authorizes U.S. participation, but conditions it on renegotiation of MIGA rules and procedures, such that no MIGA investments or guarantees would: (1) result in a reduction in U.S. employees; (2) result in exports to U.S. that compete with domestically-produced goods; (3) be subject to performance requirements; or (4) involve countries that do not implement internationally recognized worker rights.	Would effectively preclude U.S. membership in MIGA.
B. *International Debt Facility.* Requires Treasury Secretary to initiate negotiations to propose establishment of a debt management facility to purchase and restructure private bank loans to developing nations.	Would fundamentally weaken debt strategy. Could have costly tax revenue and expenditure impacts (as much as $2 billion annually); undermine negotiations with debtors; impair their ability to get new loans; and create unrealistic expectations that their loans will be forgiven, thus undermining their incentive to undertake needed economic/monetary reforms. Negotiating with foreign countries is a function that the Constitution commits to the executive's discretion, and Congress cannot direct the executive in the execution of that discretion.
C. *Multilateral Development Bank Procurement.* Requires Treasury to establish a separate office to monitor MDB procurement.	Unnecessary, given activity already being performed at Commerce and other agencies.

ADMINISTRATION OBJECTIONS TO AND COMMENTS ON SENATE TRADE AND RELATED LEGISLATION [1]—Continued

Provision	Reason for objection
D. *Tied Aid Credits.* Eliminates requirement for unanimous consent of National Advisory Council (NAC) on tied aid credits; provides for decisionmaking by majority vote of NAC.	Undermines procedures designed to avoid creating an expensive entitlement program. Existing consensus procedure has successfully identified the best cases, thereby maximizing our impact in international negotiations.
E. *Capital flight.* Sense of the Congress supporting additional reporting requirements.	Contrary to current U.S. policy and practice regarding confidentiality of financial information to provide detailed information on individual financial transactions to foreign governments. Accurate measurements would be extremely difficult.
F. *Trade and Development Program (TDP).*	
1. Transfers programmatic authority over *tied aid credits* from AID to TDP; makes Economic Support Fund (ESF) available at discretion of TDP Director with "concurrence" of Secretary of State, who is to "cooperate" with AID Administrator.	AID has the experience and the staff to handle tied aid credits; TDP does not. Decisions on allocations of ESF, a principal source of funding for the U.S. foreign assistance program, require careful balancing of economic, security, and political considerations. Inappropriate to fragment decisionmaking process.
2. Authorizes an additional $25 million (total $45 million) for 1988 for the specific purpose of education and training programs with emphasis on China and Taiwan.	No specific offsets identified for increased TDP authorization. Development assistance funds, already constrained by budget cuts, should not be used for this purpose.
VI. Governmental Affairs Committee (S. 1233)	
A. *Trade/Commerce Reorganization; New R&D Grant Program*	
1. Creates an independent Executive Branch agency, the U.S. Trade Administration (USTA), to be headed by the USTR. The USTR would also head an Office of Trade Policy Coordination (OTPC) within the Executive Office of the President, and the USTR's role as principal trade advisor to the President would be codified. The USTA would consist of the existing Offices of the Assistant Secretaries of Commerce for International Economic Policy (GATT/regional specialists) and for Trade Administration (import/export controls); and a portion of the existing USTR. The role of OTPC would consist solely of the coordination responsibilities conferred under Sec. 242 of the 1962 Trade Expansion Act; USTA would take over all other current USTR functions, including negotiations.	Removal of negotiating responsibility from Executive Office could suggest less Presidential interest/involvement in trade negotiations. Placement of negotiating and enforcement responsibilities in same agency could politicize AD/CVD cases and create bureaucratic incentives for greater reliance on voluntary restraint agreements. Fragmentation of International Trade Administration would impair existing level of coordination among ITA units, and have adverse impact on administration of key trade programs and negotiations in GATT and with Canada. Would separate trade functions from statistical and economic support which reside elsewhere in Commerce. Timing questionable in light of current heavy demands on trade agencies and hurried review of this proposal.
2. Renames and reorganizes remainder of Commerce into a Department of Industry and Technology (DIT). Remaining international trade functions would include the U.S. and Foreign Commercial Services and the Office of the Assistant Secretary for Trade Development (export promotion/industry specialists). Additional future transfers to USTA would be studied.	(See above.) Remainder of reorganization is unnecessary and would erode effectiveness of existing ITA functions by separating closely related units. Object to separating closely related units. Object to separating Census from other economic analysis units; diminishes statistical support for the Department and the USG.
3. Creates within DIT a new R&D grant-making agency, the Advanced Civilian Technology Agency, authorized at $80 million in 1988, $160 million in 1989, and $240 million in 1990.	Industrial policy scheme where Government, not the marketplace, determines winners and losers in new technological areas. Excessive funding.
4. Establishes within DIT a new Small Business Trade Remedy Assistance Office to assist petitioners and subsidize legal expenses. Authorized at $3.3 million.	Requires one Executive agency to be an advocate in proceedings in another, raising constitutional issue similar to item III.C above. Subsidy of legal fees inappropriate; sets precedent.
B. *Statutory establishment of Economic Policy Council.* Provides that when trade issues are considered, USTR shall chair in President's absence.	Presidents should be free to structure Cabinet policymaking forums as they see fit.
C. *Council on Economic Competitiveness.* Creates independent agency authorized at $15 million. To be "source of external review and comment on policies of the Federal Government." Subcouncils required for certain industries. Also establishes a Commission on U.S. Trade in the 1990's, and mandates four competitiveness studies.	New entity would duplicate policy review functions that can be (and are) performed by existing agencies. Appointment procedure (six of nine members appointed by Legislative Branch) appears unconstitutional. New Commission and studies would duplicate ongoing activities.
D. *Sematech.* For 1988–1992, authorizes $125 million each year as USG commitment to proposed private-public research consortium. Allocation of funding by agency to be decided; interagency group established to coordinate Federal participation.	The concept of the semiconductor industry cooperating to meet competitive challenges is sound. However, the Administration opposes any federal subsidy for such an organization because the matter is presently under review. A number of policy issues must be resolved before the appropriate extent and form of government participation, if any, can be determined.
E. *Financial Acquisitions Review Board.* Establishes interagency board to review proposed foreign acquisitions of U.S. financial institutions (banks, thrifts, securities dealers, etc.) and requires 30-day period during which board must consider reciprocal treatment in foreign countries. No final action permitting an acquisition may be taken unless the board has no objection.	Cumbersome and contrary to open investment policy. Applies a reciprocity standard other than national treatment. Could be counter-productive against U.S. firms operating in foreign financial markets that are more liberal in particular areas than the U.S., i.e., not subject to Glass Steagall or interstate banking-type restrictions.
F. *State Job Bank Systems.* Requires Secretary of Labor to develop and implement new computerized listings of jobs and job seekers in each State according to certain specifications. Authorized at $50 million. Also requires study on portable pensions and health benefits for displaced workers.	Unnecessary. Every State already has a computerized (or microfiched) job bank. Counter to thrust of 1982 changes to Employment Service authorizing legislation which provides formula grants to States so that they may decide how to allocate resources among job bank, staff. etc. Pension portability study already ordered by President, and is being carried out by Labor as part of Workforce 2000 effort.

ADMINISTRATION OBJECTIONS TO AND COMMENTS ON SENATE TRADE AND RELATED LEGISLATION [1]—Continued

Provision	Reason for objection
G. *National Trade Data Bank.* Creates interagency committee, chaired by Commerce, and mandates collection of a broad range of data.	Commerce is already improving trade statistics for negotiations and is nearing implementation of Commercial Information Management system that will assist U.S. export marketing efforts. Administration has proposed Export Promotion Data System that can be accomplished within existing resources and will not compete with private sector. Inconsistent with Administration policy of paperwork reduction.
H. *Symmetrical Access to Technological Research.* Requires interagency committee to define symmetry and to recommend negotiating goals to USTR; establishes within DIT an Office of International Technology Monitoring.	Symmetrical access has already been addressed in recent Executive Order 12591. Would duplicate current activities of OSTP, NSF, Commerce, and private sector.
VII. Small Business Committee (S. 1344)	
A. *Small business export promotion programs.* Adds an unrequested $5 million in 1988 and $10 million in 1989 and 1990 for Small Business Export Assistance Centers. Increases loan guarantee limits from $500,000 to $750,000.	Additional funding for these activities has not been offset with reductions in lower priority programs. Increases in loan guarantee limits are not justified by the bill and will not necessarily assist small business exporters.
VIII. Judiciary Committee (S. 1200)	
A. *Process patents.* Use or sale in the U.S., or importation into the U.S., of products made by patented processes would constitute infringement, regardless of where these products were made. However, proposal allows "innocent" infringers a limited period to dispose of inventory.	"Innocent" infringers should not be permitted to continue selling inventory in the U.S. This effectively gives them a compulsory license and diminishes the value of the patent.
IX. Commerce Committee (S. 907) (May not fully reflect outcome of June 16 markup.)	
A. *Screening of foreign investments. (Exon amendment.)* Gives Secretary of Commerce power to screen and the President to block foreign investments. Presidential action subject to joint resolution of Congress.	Duplicates investigatory actions of Committee on Foreign Investment in the U.S. Criteria for determinations are inconsistent with sound investment and economic policies and could scare away needed foreign capital. Could undermine our investment initiatives in the GATT and elsewhere, and cause violations of treaty obligations.
B. *Reorganization/expansion of Commerce science programs.* Establishes Commerce Under Secretary for Technology and authorizes substantially greater funding for Commerce science programs than requested by President. Authorizes $15 million in 1988 for new R&D grant program (Advanced Technology Program).	Under Secretary unnecessary. Broad mandate of R&D grant program could duplicate other federal programs.
C. *Aviation.* Reduces time for DOT action on carrier compliants from 180 to 90 days.	Proposed deadline too short due to often differing views of U.S. carriers and need to consult with foreign governments. Could provoke unnecessary retaliation instead of solving problems.

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[1] This listing was prepared before most statutory and report language was available. Provision descriptions are based on agencies' understandings of markup results. This listing does not reflect any changes that may be made between committee and floor action, e.g., to reconcile conflicting provisions offered by different committees.

U.S. SENATE,
OFFICE OF THE MAJORITY LEADER,
Washington, DC, June 27, 1987.

DEAR SIR: For six years, this Administration had carried out a policy of neglect as exports foundered, imports soared, federal programs in support of education, training, and technology development shrank, our industrial base shriveled, and the U.S. plummeted from the world's largest creditor to its largest debtor. If we followed the recommendations of your 35 page letter of June 22 on the pending trade and competitiveness legislation we would be giving the Administration carte blanche to continue this failed policy.

Last November 4, the American people voted to throw out this policy of neglect. At the start of this Congress, we decided to develop comprehensive trade and competitiveness legislation and nine committees have responded. Six committees voted unanimously to report out their contributions and the bills from the other three committees also obtained strong bipartisan support.

We will change and improve this package on the Senate floor and in conference. In the end, I am confident that the Congress will send a strong, effective, forward-looking, pro-competitive piece of legislation to the President's desk. The American people will expect him to sign it. For the good of the country, it is my sincere hope that he will.

Thank you for your letter. I welcome the cooperation of the Administration as we try to deal with this serious problem affecting our nation's future.

Sincerely,

ROBERT C. BYRD.

STATEMENT OF ADMINISTRATION POLICY

S. 1420—OMNIBUS TRADE AND COMPETITIVENESS ACT OF 1987

If S. 1420 is presented to the President in its current form, the President's senior advisers will recommend veto.

The administration objects to the bill because it would create: (1) sweeping procedural changes that would repress trade and investment; (2) violations of our international obligations that would trigger a downward spiral of retaliation; (3) constraints on the discretion of this and future Presidents to formulate international economic policy and conduct negotiations; (4) potential disruptions to financial and labor markets; (5) special benefits to powerful industries; and (6) significant additions to the budget deficit. The net effect of this bill would be to move U.S. trade law in a more protectionist direction.

Although some improvements have been made during floor consideration, many of our fundamental objections to S. 1420 have not been cured.

The President is prepared to work with Congress to develop responsible trade legislation; however, extensive changes would be required to transform this unacceptable bill into an acceptance conference product.

Mr. BYRD. Mr. President, we are hearing the voice from down at the other end of Pennsylvania Avenue saying vote "no," but we heard a different voice last November. On last November 4, we heard the voice of the steelworkers, the textile workers, coal miners, the farmers; we heard the voice of the American working men and women throughout this Nation. We heard the voices of those who had already received job layoffs, and others who are concerned about the day when they, too, will receive pink slips. The American people wanted a change. This administration for 6 years did not want a trade bill and made sure it didn't get one.

For 6 years our pleas on behalf of the industries of this country, the manufacturers of this country, the working people of this Nation, fell on deaf ears down at the other end of Pennsylvania Avenue.

So now that the administration cannot write this bill, now that the administration cannot call the tune here in the Senate, now that the administration can no longer turn the deaf ear, now that the President is being confronted with his own statement that "you can run but you can't hide," now the administration is using another ploy—vote "no."

They say vote against the bill—vote against the bill—and that will strengthen the hand of the President when it comes to a veto.

Mr. President, this bill will carry a House number, and if it is vetoed, the House would vote first to override. I hope the President will not veto the bill. It will be his decision to make, and perhaps he personally will not have to answer to the American people for the decision if he vetos it, but somebody else will. And that is too bad. The people who are going to suffer are the people out there whose jobs are going to continue to be lost, our exports are going to continue to suffer, and the American working people, the men and women of this country and American industries are going to continue to take the shaft from Japan and some other countries.

Mr. President, in closing, we have changed this bill in several respects in accordance with what the administration desired in the letter to me. But let the record show on this vote which Members are serious about American jobs and American competitiveness and which Members are not serious. Do not go out there and say to the steelworkers and the mineworkers and the farmers and the textile workers and the people who work in the glass factories and the chemical plants, plastics industries, do not go out there and say, "Well, I voted against it so as to put our conferees in a stronger position." That will not wash, because the American people are going to be looking at their paychecks and their pink slips.

Mr. President, the Senate is about to vote on a bill. This is a bill for a better economic future, a vote for a better economic future for the American people. I hope that Senators will give it a strong vote. If we really want to strengthen the hand of our conferees, Mr. President, let this Senate give it a resounding vote of support. Let the message be heard down at the other end of Pennsylvania Avenue. And let it be heard from the Atlantic to the Pacific, and from the Canadian border to the Gulf of Mexico, that this Senate is standing up for America, is standing up for American products, is standing up for the American people. That is what a strong vote will tell the American people and that is what it will tell the Senate conferees.

Mr. BENTSEN. Mr. President, I think I am understanding better a remark that was made about a year ago by the Secretary of Labor, Bill Brock, when he spoke about the legislative effort to bring about trade legislation. And I quote:

> Hopefully we can screw it up in the parliamentary process so they get so confused they don't know where they are going and we don't get it out of Congress. The Senate is a wonderful place that can really mess things up, and that is what we have to do.

Now, that is his quote. So it is not surprising that as little as 6 months ago there were a lot of people in this country, in the administration and in the Congress itself, that began to question whether we would ever reach the point of passing a trade bill and one that would help competitiveness in our country.

I must admit, when we started the hearings in January and as I listened to all the statements from members of the Finance Committee, I began to have some doubts myself. But this bill that is coming before us today is going to pass. It is not going to be any accident that it passes. And the reason it is going to pass is that because we sought bipartisanship in the very first instance.

I must state, in trying to work with the administration, they make it pretty difficult, when we tried to change provisions of this bill to accommodate them and then they come down and ask every Member of the minority party to vote against it. What is supposed to be the benefit of trying to work out things with them if that is the result? But this one is going to work because we went to Members on that side of the aisle and this side of the aisle and got the very best minds, Democrats and Republicans working together here in the Senate, to bring about a trade bill that we thought would open up barriers to trade; that would encourage worldwide trade; that would expedite the resolution of differences between trading partners; that would enforce trade agreements and retaliate against those who violated trade agreements.

It is a good trade bill and one that is going to help the people of this country, and is going to help to keep jobs in this country. I urge its adoption.

Mr. CHAFEE addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, first of all, I do not think we ought to get carried away with the trade bill and with the suggestion that it is going to correct our trade deficit. I think everyone knows that the trade deficit is due to a whole host of things other than unfair trading practices by our trading partners and competitors. This bill will have some effect, hopefully. If the best of it survives the conference and the best of the House bill survives, it will have some effect, but surely it is no panacea.

It is my intention, Mr. President, to vote for final passage of this trade bill, but I must say I have really serious reservations about this bill. If the bill is not substantially improved in the conference with the House of Representatives, then I will not vote for the conference report and, if vetoed, would support the President's veto.

I would like to point out some of the positive parts of the bill. First, there is the extension of the negotiating authority of the President to enter into multilateral trade agreements, the so-called fast track procedure. Fortunately, that is retained in this legislation.

Second, the bill provides numerous improvements to section 301 designed to provide tougher response to unfair trade practices. That is good. It not only strengthens 301 generally, but it contains specific reciprocity provisions, for instance, on telecommunications. And that sends a strong message to our trading partners that if they are not gong to let us sell telecommunications to them in their markets, we are not going to let them sell them here.

Third, I am pleased that the bill contains provisions to enhance the protection of intellectual property rights and to prevent the uncontrolled transfer of technology overseas.

Fourth, the extension of the Trade Adjustment Assistance Program for workers who have lost their jobs due to competition from abroad. That is a fair provisions and a good one.

Finally, the bill contains provisions from the banking section, which the Presiding Officer is familiar with, relating to export control laws, relaxing those, making it quicker to obtain permission to sell our computer or high technology abroad, with adequate protection for the Defense Department. And also it contains great clarifications in a law that has has a chilling effect on our sales abroad, namely the Foreign Corrupt Practices Act.

Unfortunately, the list of those items that I have reservations about, and I think many here have reservations about, is almost as long as the good side.

Section 201 has been improved by the amendment from the floor. It was a bad provisions when brought out of committee, but still it does not have those existing provisions that are now in the law. This cancels the President's right to consider the economic best interests of the country and of the consumers when he deals with the 201 provisions, namely fair imports into the United States. He cannot consider the interests of the consumers in preventing retaliation against those quotas, levies, tariffs, whatever they might be, against those fair imports.

Now, what about some of the favored industries? We have a long list of favored industries: sugar, lamb, tobacco, fence panels— on it goes. These are protectionist measures that have no place in this bill.

Also, I regret they have even injected foreign policy into this. We have repealed the most-favored-nation status of Romania. That does not belong in this bill any more than the attempt to legislate tax policy, such as the repeal of the windfall profits tax. That is in this bill. That should be in the tax bill.

Of course, the mandatory notification for plant closings; that has nothing to do with trade policy. Why it is here, nobody knows.

These provisions detract from the important purposes of the trade bill. We should be sending a strong message in this bill that the United States supports an open trading system in the world and that is what we have stood for ever since World War II, and that we are prepared to get tough on unfair trade practices. We are sending that message in some parts of the bill. In other parts, we have got our own special interests. We are going to take care of lamb; we are going to take care of sugar. We are going to take care of these little sectors, specific sectors, that denigrate the principles of fair and open trade.

I will vote in favor of this bill but do so without great enthusiasm, with the high hope that it will be substantially improved in the conference with the House of Representatives.

I thank the Chair.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, we are 100 Senators attempting to solve a problem we are facing, which is a new problem for America, namely, how to increase our standard of living. We all know that in the last decade, approximately, some of the economic policies or lack of economic policies that we put or did not put in place in our country, began to take their toll.

We Americans began to find that since World War II we were resting a bit on our laurels; perhaps we were not working as hard as we should; we were not sticking to our knitting as much as we should. In the meantime, Asian countries like Japan and Korea, some European countries like West Germany, some South American countries began to be more competitive. They began to catch up with us.

This is a new problem for America. We have not faced this problem before. Here we are today trying to decide this question: Is this bill before us a step in the right direction? Does it begin to help solve this problem, or does it not?

I think there is no question about it. This bill as the first step is on track. It is a major step in a series of steps, of many additional steps that we have to take in this country if we are to assure for our people a continued increase in our standard of living.

Part of the solution is making sure other countries do not take advantage of us.

We Americans do not wear a white hat. We are not Simon pure when it comes to international trade. We have our trade barriers. Other countries do not wear all black hats. They are not only the bad guys.

The fact is that the shade of color to our hats is probably a shade of gray and the shade of the other countries' hats is probably also a shade of gray. And if we are honest with ourselves we will agree that probably the shade of gray of a lot of other countries' hats is a little darker than the shade of gray of ours, but basically we all have to work hard to open up and not let other countries take advantage of us.

This bill has a good number of provisions that help our President knock down more unfair foreign trade practices, so that we can make the hat color of the other countries a little lighter shade of gray. That is good.

In addition, in this bill there are provisions which, for the first time, begin to attempt to address some local problems in our country. That is, worker retraining and relaxing the Export Control Act. These reforms fit under the general rubric of competitiveness.

My point is that if we are going to redress the trade deficit, if we are going to export more products overseas, we should not only worry about other countries' unfair trade practices but also our problems here at home where the lion's share of the problem probably resides. We just have to be more competitive.

This is the first major effort by this Congress to help make America more internally competitive.

I grant you this is not a perfect bill. By definition, there cannot be a perfect bill because 100 Senators are going to form a composite, a melange, a mixture of ideas as we try to put together the best effort that 100 Senators probably could.

It reminds me of a statement that is attributed to Winston Churchill. Winston Churchill said in effect that democracy for all its fits, starts, delays, and frustrations is a terrible form of government. But there is none better. That is where we are here today.

This trade bill, for all of its inconsistencies and fits and starts, is, I submit, a major step in the right direction because it is the best effort and a good faith effort of 100 Senators to pass a major bill to help reduce the trade deficit.

This bill, I think, therefore, should pass overwhelmingly. It is not perfect, but it is only the first step of many steps we have to take.

I submit this bill is on the right track. There are other stations we are going to pass through. There is a conference and there are subsequent bills we are going to attempt to pass to help us be even more competitive.

So I want to compliment the chairman of the Finance Committee. I think he has done a tremendous job helping fashion the first major effort of this Congress to address the trade deficit. I want to urge the passage of the bill by an overwhelming margin.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I understand Senator Evans has an amendment. I have no amendment. I will inform the Senate the amendments I have pending I will withdraw so—how much time would you need? I want 2 or 3 minutes to speak.

Mr. EVANS. I think the amendment is acceptable to those—as well as the sponsors of it—on both sides, so it should not take more than a minute or two.

Mr. DOMENICI. I yield the floor subject to my right to get the floor back for a 5-minute discussion when they are finished.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. I thank the Chair.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Washington.

AMENDMENT NO. 622 (AS MODIFIED)

(Purpose: To modify the Council on Economic Competitiveness)

Mr. EVANS. Mr. President, on behalf of myself, Mr. Bingaman, Mr. Rockefeller, and Mr. Levin, I send a modified amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment, as modified, will be stated.

The legislative clerk read as follows:

The Senator from Washington (Mr. Evans), for himself and others, proposes a modified amendment numbered 622.

Mr. EVANS. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment as modified is as follows:

(1) The superior heading to Part I, subtitle A, Title XXXVIII is stricken.

(2) Section 3801 is amended to read as follows:

"SEC. 3801. ESTABLISHMENT.

"The President shall establish, within 90 days of the date of enactment of this Act, the Council on Economic Competitiveness, and advisory committee under the provisions of the Federal Advisory Committee Act (5 U.S.C. App.). Notwithstanding the provisions of Section 14 of the Federal Advisory Committee Act, the Council shall exist for four years, unless extended by law."

(3) Section 3802 is amended by—

(a) inserting "and" at the end of subsection (10);

(b) striking subsection (11) and inserting in lieu thereof—

"(11) evaluate and comment upon existing and future Federal policies and regulations, and the budget of the United States Government with respect to their impact on competitiveness."

(c) striking subsection (12).

(4) Section 3803 is amended by—

(a) striking subsections (c) and (d) and redesignating subsections (e) through (o) as subsections (c) through (m);

(b) amending subsection (i), as redesignated, by striking all after the word "members" and inserting in lieu thereof a period; and

(c) amending subsection (k), as redesignated, by striking "(i)" in paragraph (1), and inserting in lieu thereof "(g)".

(5) Section 3804 is amended by—

(a) in subsection (b), striking the word "The" where it first appears and inserting in lieu thereof "Within the limitations of the Council's appropriations, the"; and

(b) striking subsection (c).

(6) Section 3805 is amended by—

(a) adding at the end of subsection (d) the following:

"Before commencing its activities, the Council shall prepare and submit to the President and each House of the Congress a plan that explains the type and scope of activities it plans to undertake within its budget. In order to maximize the effectiveness of the Council's activities, the plan shall seek to coordinate the activities of the Council with those of existing advisory committees relating to trade and competitiveness issues. The President may, within 30 days of its receipt, return to the Council his recommendations as to how the plan may be modified. The Council shall consider the President's recommendations before proceeding with its activities pursuant to the plan."

(b) striking the word "shall" in subsection (h)(1) and insrting in lieu thereof "may".

(c) striking the words "section 14, and of" in subsection (i).

(7) Section 3808 is amended to read as follows:

"SEC. 3808. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for each of the fiscal years 1988 and 1989 such sums as may be necessary not to exceed $5,000,000 to carry out the provisions of this subtitle."

(8) Part II of subtitle A is stricken.

Mr. EVANS. Mr. President, I am pleased that we were able to get together on this proposal for a Council on Economic Competitiveness. We have taken what I think are appropriate and good parts from both the amendment that I had proposed earlier and the proposal which was in the bill authored by Senator BINGAMAN.

I think that what we done is to start with an advisory committee, give it the life of 4 years, give it appropriate authorization for funding and allow it to get out and do the job that its advocates hope that it will be able to do. I am satisfied with the modified amendment we have come up with and I certainly urge its passage.

Mr. BINGAMAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. I want to commend the Senator from Washington on his comments on the Council For Economic Competitiveness. I support the amendent and urge my colleagues to support it as well.

Mr. BENTSEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. As the manager for the majority on the piece of legislation I know of no further objection on our side of the aisle.

The PRESIDING OFFICER. The Senator from Oregon.

Mr. PACKWOOD. The amendment is acceptable.

The PRESIDING OFFICER. The question is on agreeing to the amendment as modified of the Senator from Washington.

The amendment (No. 622), as modified, was agreed to.

Mr. EVANS. I move to reconsider the vote by which the amendment was agreed to.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me first indicate to the Chair and the managers that any of the Domenici amendments I had pending I withdraw. My condition was that they be acceptable to all respective chairmen and I have not been able to be accommodated. So I will not offer them.

Mr. President, let me suggest from my own standpoint that while there are two ways to look at this bill with reference to how one would vote, I hope no one assumes that anyone has talked me into voting one way or another. I have come to my own conclusion.

Frankly, I look at it this way: There is no question that the bill is going to pass, from what I understand. But from my standpoint, there are two bills: There is a House bill and there is no doubt whatsoever that the Senator from New Mexico could not vote for that bill.

There is a Senate bill. In spite of all the diligent effort, I could not, in a final conference report, support that bill. If this bill before us was vetoed by the President, I would vote to sustain that veto in a minute.

Clearly, the Senator from New Mexico is saying to those who are going to conference: Yes, I think we need some major changes in the institutions by virtue of which we control our trade relationships with other countries. And if we had before us that kind of bill, a bill that addressed the trade legislation that is on the books of the United States, the Senator from New Mexico would be taking a real good look at the accomplishments that have taken place here.

But, Mr. President, we started off on the wrong foot on this bill. We started off with nine bills and put them together. There were then 1,126 pages containing some new jobs, all right. The rough estimate was 1,100 new Federal jobs. We took out a portion of that which I cannot quite account for when we stripped the Government Affairs Committee's part. But clearly, there are somewhere between 800 and 1,200 new Federal jobs described. There are about 165 mandated studies and/or evaluations. There are somewhere between 65 and 85 new agencies or subagencies of Government within what is now probably 1,150 pages in the legislation which are supposed to address our competitiveness.

It is with regret that the Senator from New Mexico has to send his signal. I cannot hope that maybe the conference report will be good. I have to vote on the basis of what I see before me, and frankly, I am hopeful that what the conferees produce I will be able to vote for. I say that message very loud, very clear, and with all of the constructiveness that I can contribute to this institution. And I think I do a little bit of that from time to time.

I want to add one closing remark, Mr. President. We are not going to solve our trade deficit with legislation of this type or any other type. But there is one thing we better start thinking about, and it does have to do with applied science.

As I look at this bill, if there is one big vacuum it is that we have not made any real strides in helping America's scientists and those who are developing new ideas. We have made no institutional changes that will help business, academia, and the laboratories of our country move knowledge to applications, and that is a shortcoming of the United States right now. If we do not bridge that gap, we are not going to be competitive during the next 25 years because knowledge is America's future, not the kinds of things that produced jobs in the past.

It is with real regret that I say that a bill as big as this one, covering as many jurisdictions, does little or nothing in that area of endeavor which I believe is the real cornerstone of keeping us competitive. It is with hope that in the next few months we can do something in the area of technology transfer that is meaningful, in the area of helping science institutionally to move its ideas by enabling research into actions. Without that, I can assure the U.S. Senate that this bill three times over, three times the size, will not do the job. I thank the Chair.

Mr. MATSUNAGA addressed the Chair.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I believe that the legislation which has emerged after several weeks of floor debate will help our country deal more effectively with its trading partners. By and large, the legislation builds constructively on the work of the Finance Committee. The legislation avoids an inward looking protectionism but contains tough provisions designed to press foreign countries toward elimination of unfair trade practices.

There can be no doubt that our trade legislation should seek to discipline neomercantilistic policies pursued by some of our trading partners. In an increasingly interdependent global economy, the consistent pursuit of such policies has caused material injury to other countries, including ours, in the form of lost sales and reduced employment.

Regarding such merchantile policies, much attention has been focused on Japan; this is understandable, given the sheer size of the United States-Japan trade deficit. But at the same time, we also should focus on some of our other trading partners, such as Taiwan and South Korea, that are very rapidly becoming world-class competitiors. These countries, which are in the vanguard of the newly industrialized nations, enjoy huge trade surpluses with the United States, yet continue to rely on a myriad of practices that deny American firms equivalent market access. The results are clear in the trade statistics. Taiwan, for example, is running a larger trade surplus in 1987 than in 1986 when its surplus with the United States totaled nearly $16 billion.

I am gratified in this regard that the Senate adopted an alternative to the House Gephardt amendment. The Senate provision, like the Gephardt amendment, is permised on the necessity of reducing barriers to access in foreign markets. But the Senate provision avoids mandating any fixed rate of reduction in trade imbalances with specific countries. It thus decreases the danger of foreign retaliation that could result in the loss of American jobs.

I am also pleased that the Senate adopted Senator BRADLEY's amendment relating to Presidential discretion under section 201. The Bradley amendment, which I cosponsored, preserves a reasonable measure of Presidential discretion by allowing the President to consider the economic impact of import protection on the poor. As we all know, import protection almost always results in higher consumer prices, and higher consumer prices have a particularly adverse effect on the poor.

Of course, we must not delude ourselves into thinking that the Senate trade bill approaches perfection. We all know that the bill contains a number of provisions that could lead to a veto. There are other provisions which may well be counterproductive to our overall national interest. I am confident, however, that with a reasonable degree of give-and-take, we in Congress can work with the administration to refine these provisions during the House-Senate conference committee in the weeks ahead.

In closing, Mr. President, I wish to urge a "yea" vote on final passage of S. 1420. I wish to congratulate the distinguished chairman of the Finance Committee, Senator BENTSEN, for the yeoman job in Shepherding the bill to final passage, and, of course, with the assistance of the ranking minority member, Senator PACKWOOD, of the Finance Committee. I commend and congratulate them both.

Mr. BRADLEY. Mr. President, as I understand the procedure, there will be a vote at 6 o'clock and any amendment which is pending will be brought to a vote. It is my understanding that the distinguished Senator from South Dakota will bring an amendment to the floor which will be voted on without debate.

I wanted the opportunity to alert the Senate. I hope that we will reject the amendment of the distinguished Senator from South Dakota. There is a one-tenth of 1 percent import fee in this bill. His amendment would exempt newsprint from the one-tenth of 1 percent import fee. I believe that that is the opening for a whole series of revisitations to this import fee and making special exemptions to various sectors and various industries. I think it would be a significant mistake and an erosion.

I yield to the distinguished Senator from West Virginia.

Mr. ROCKEFELLER. I thank the Senator from New Jersey. If the amendment by the Senator from South Dakota is offered, it will open up, should it pass, a floodgate of abuse of the 1 percent fee for a national responsibility that we have to retain our workers who have been dislocated by virtue of injury because of trade. I would hope that the amendment, should it be offered, would fail. It is in the national interest that it do fail.

Mr. HEINZ. Will the Senator yield? Mr. President, I just want to associate myself with the comments of the Senator from New Jersey. I oppose the amendment of the Senator from South Dakota for all the reasons that the Senator stated.

Mr. DASCHLE addressed the Chair.

The PRESIDING OFFICER. The hour of 6 o'clock has arrived but the Senator from South Dakota could ask unanimous consent for a brief moment, I believe.

Mr. DASCHLE. Mr. President, I ask unanimous consent to address the Senate for 30 seconds.

The PRESIDING OFFICER. Is there any objection? Without objection, the Senator from South Dakota is recognized.

AMENDMENT NO. 625

(Purpose: To exclude newsprint paper from the additional duty that is imposed to fund the trade adjustment assistance program)

Mr. DASCHLE. I would only say in defense of the amendment, Mr. President, that there has never been a duty on newsprint coming into this country. Since 1913, newsprint has been duty free. To impose a duty at this time would be a terrible precedent. It would be a very damaging thing to have happened to the newsprint industry. They are dependent upon foreign sources for two-thirds of the newsprint utilized today. They have no recourse but to depend upon the importation of a significant amount of newsprint. The amount of newsprint utilized is a significant portion of their overall budget. Some 30 percent of the budget utilized by newspapers today is related directly to newsprint. So it would have a devastating effect and I would certainly urge adoption of the amendment. I would like to offer it at this time, if it is within the order.

The PRESIDING OFFICER. The hour of 6 p.m. having arrived, if there are no further amendments——

Mr. DASCHLE. I have an amendment. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment of the Senator from South Dakota.

The assistant legislative clerk read as follows:

The Senator from South Dakota (Mr. DASCHLE) proposes an amendment numbered 625:

On page 131 of the printed bill, insert "item 252.65 or" after "under".

Mr. HEINZ, Mr. President, I ask unanimous consent to insert into the RECORD at this point some specific responses to arguments made by the sponsors of the amendment which would exempt newsprint from the up to 1 percent fee on imports to pay for the expanded TAA Program.

There being no objection, the arguments and responses were ordered to be printed in the RECORD, as follows:

ARGUMENTS AND RESPONSES

(1) Newsprint is duty-free and should remain so.

Response: Unemployment, dislocated workers and company bankruptcies are societal costs. Protection, the alternative to adjustment, would certainly impose a cost on society. The soundest policy for avoiding protection is to promote adjustment, and to pay for it by spreading the cost as broadly as possible.

The amendment provides special treatment to a single industry and allows them to avoid responsibility for adjustment—ironically at the same time most of the print media is advocating for the economy precisely what they don't want to pay for.

(2) The 1% fee will cost the industry $40 million per year.

Response: That figure is based on the assumption that the full 1% will be assessed. The provision requires the assessment of a fee up to 1% to pay for the program. If the full 1% were assessed, we would take in $4 billion—far more than the estimated $400 million cost of the program. A more realistic fee would be 0.1%, which, using the publishers' figures, would cost them collectively only $4 million.

(3) Newsprint demand exceeds domestic supply, so the industry has no choice but to import.

Response: True but irrelevant. The fee is not intended to have a trade effect—to get people to stop importing. It is intended to raise money.

(4) Newsprint accounts for approximately 25% of a newspaper's publishing costs.

Response: So what? There are many industries where raw materials costs are higher than that. In the chocolate candy industry, for example, it could be as high as 85%. You don't see them complaining about this fee. Indeed, a number of retailers that import merchandise have endorsed it, even though they would have to pay, precisely because they understand that if there is no adjustment there is likely to be protection, which would be much worse for them.

(5) The newspaper industry isn't dislocating any workers.

Response: This also misses the point. Just as we don't allow only those who support defense to pay for the Pentagon's budget with their taxes, or only those with children to pay taxes to support public schools, neither do we require an importimpacted industry to foot the entire bill for its adjustment. You can be very sure, if there is no adjustment, everybody, including those in the newspaper business, will be paying for the unemployment that results.

Mr. HEINZ. Mr. President, I believe this is clearly a special interest amendment seeking a special exemption for one industry—whose case for such an exemption is no better than anyone else's. They have no unique justification for it and no unique hardship to demonstrate. If we approve this one, there will be hundreds of requests in conference, and the fee will have to be that much higher for those that remain. If we exempt the publishers other industries will have to make up that lost revenue. I urge the defeat of the amendment.

Mr. PACKWOOD addressed the Chair.

The PRESIDING OFFICER (Mr. Adams). The Senator from Oregon.

Mr. PACKWOOD. Mr. President, I move to lay on the table the amendment of the Senator from South Dakota.

The PRESIDING OFFICER. A motion has been made to lay on the table the amendment of the Senator from South Dakota.

Mr. DASCHLE. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been requested. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. BYRD. Mr. President, what is the question now?

The PRESIDING OFFICER. The question is on a motion to table the amendment of the Senator from South Dakota.

Mr. BYRD. I thank the Chair.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Tennessee [Mr. Gore] and the Senator from Illinois [Mr. Simon] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 69, nays 29, as follows:

[Rollcall Vote No. 207 Leg.]

YEAS—69

Adams
Armstrong
Baucus
Biden
Bingaman
Bond
Boschwitz
Bradley
Burdick
Byrd
Chafee
Cochran
Cohen
Cranston
D'Amato
Danforth
Dodd
Dole
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Garn
Glenn
Graham
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heinz
Helms
Hollings
Humphrey
Karnes
Kasten
Kennedy
Lautenberg
Levin
Lugar
McCain
McClure
McConnell
Metzenbaum
Mikulski
Mitchell
Murkowski
Nunn
Packwood
Proxmire
Reid
Riegle
Rockefeller
Rudman
Shelby
Simpson
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NAYS—29

Bentsen
Boren
Breaux
Bumpers
Chiles
Conrad
Daschle
DeConcini
Dixon
Heflin
Inouye
Johnston
Kassebaum
Kerry
Leahy
Matsunaga
Melcher
Moynihan
Nickles
Pell
Pressler
Pryor
Quayle
Roth
Sanford
Sarbanes
Sasser
Specter
Stennis

NOT VOTING—2

Gore
Simon

So the motion to table the amendment No. 625 was agreed to.

Mr. DANFORTH. Mr. President, I ask unanimous consent that a statement signed by 16 Republican Senators be printed in the Record at this point.

There being no objection, the statement was ordered to be printed in the Record, as follows:

> We are voting in favor of the Omnibus Trade Act, but with profound reservations. The bill contains a great many good provisions and some remarkably bad ones.
>
> Ours is a "yes, but * * *" vote. We wish to see the conferees develop a sound final product that can be signed into law. Failing that, we reserve our rights to vote against the conference report when it comes before the Senate later this year.
>
> John H. Chafee, William V. Roth, Jr., Arlen Specter, Robert W. Kasten, Jr., Alfonse M. D'Amato, Strom Thurmond, John C. Danforth, John Heinz, Christopher S. Bond, Larry Pressler, Frank H. Murkowski, Don Nickles, Charles E. Grassley, Paul S. Trible, Jr., David Karnes, John W. Warner.

Mr. METZENBAUM. Mr. President, I would like to take this opportunity to detail my position on an issue that has been debated at length during consideration of this bill. The issue is that of suspending most-favored-nation status for Romania.

I am deeply concerned about human rights abuses by the Romanian Government against its people, and I am particularly concerned about reports of the Ceausescu government persecuting Hungarians, razing synagogues, denying free religious practice, and beating and torturing its citizens.

Amnesty International recently issued a report, outlining Romanian human rights violations in the eighties. This report is deeply disturbing. The text of the report appears in the Record of July 15, but I would like to take this opportunity to briefly outline some of its findings.

First and foremost, the report states that the 1980's in Romania have been "a period in which the authorities have imprisoned their critics and jailed hundreds of other men and women for wanting to exercise their right to leave the country." The report cites several case histories of people who have been denied the right to emigrate, of freedom of speech, and to religious freedom.

The report contains specifics on: prisoners of conscience, freedom of expression, imprisonment, freedom of religion and conscience, freedom of movement, torture, ill-treatment and deaths in custody, and house arrest, harassment, and forced emigration. Each section outlines abuses in these areas and succinctly states the extent of such human rights abuses in Romania. The underlying message of the report is stated as follows:

> The Romanian authorities have violated internationally recognized human rights, in particular the right to freedom of expression, the right to leave one's country, the right to fair trial and the right not to be subjected to torture or other cruel, inhuman or degrading treatment or punishment.

This report underscores the fact that the Romanian Government is perhaps the most despotic and despicable in the world today. It is a powerful report, and I urge my colleagues to read it. Beyond that, I strongly urge my colleagues to act forcibly to bring these abuses to a halt.

That brings me to our action on the trade bill. I applaud the action taken by Senators Dodd and Armstrong to suspend most-favored-nation status from Romania for 6 months. This will send a clear signal to the Romanian Government that we cannot and will not tolerate their record on human rights issues, and that we expect to see some positive change. I voted in favor of this amendment, because I firmly believe that we cannot tacitly condone these human rights abuses. I believe that we should suspend MFN status now, and I hope this amendment survives in conference.

Recently, Senator DANFORTH proposed an amendment to ensure that we can use the carrot of MFN status to affect positive change in the Romanian human rights record. I cosponsored this amendment because I was concerned that we not make it virtually impossible for the Romanians to return to MFN status, should they substantially improve their human rights record. I want the possibility of a return to MFN status to serve to pressure the Romanian Government to imprvove its human rights record.

The Danforth amendment would have clarified the Armstrong-Dodd amendment to give the President greater authority and discretion to suspend or reinstate MFN status. In no way would I support a move to negate the Armstrong-Dodd amendment; I only want to make it more effective.

Although this effort was tabled, we took an important first step by voting to suspend MFN status and send a clear message to Ceausescu. That message is that we can in no way tolerate or tacitly condone the flagrant human rights violations being perpetrated against Baptists, Hungarians, Jews, and other ethnic minorities in Romania. I hope this message is met with a positive response in Romania. If not, we will certainly explore further ways to bring pressure on the Ceausescu regime.

(By request of Mr. BYRD, the following statement was ordered to be printed in the RECORD:)

● Mr. SIMON. Mr. President, I would like to take this opportunity to express my views on the omnibus trade bill scheduled to be voted upon tonight. I strongly support it, and were I here, would vote for passage.

I deeply regret that I must miss this vote. I share the sense of most of my colleagues that it is time to overhaul our trade policies. This bill makes giant strides toward the building of a national trade policy that strikes the right balance between treating our trading partners with respect and fairness and offering necessary protection to our industries and our working men and women.

Several provisions are particularly good. Restrictions on Presidential leeway in section 201 cases, the World Markets Opening Initiative, strengthening of intellectual property rights—all these make our existing trade policy stronger and will form the backbone of a tougher U.S. trade policy.

I voted for the inclusion of mandatory plant-closing notification in the bill. It should be common sense and common decency for companies to give workers 60 days notification before layoff, but sadly, that is not presently the case.

This bill has had a long and torturous passage through the Senate, and I commend its managers, Senator BENTSEN and Senator PACKWOOD, for their diligence and leadership. I think that they should be extremely proud of their accomplishment.

I believe that under their direction, the conference package will combine the best of the House and Senate bills I hope that such a package, which has received broad, bipartisan support in both Houses, will be viewed favorably by the President.

Again, I applaud my colleagues for sticking to their guns and passing a trade bill that will put some teeth back into our relations with our trading partners.●

Mr. KASTEN. Mr. President, today the Senate will vote on final passage of the Omnibus Trade Act of 1987. It was a Herculean effort by committees to put this massive piece of legislation together, as well as a 4-week effort by the entire Senate to debate and perfect this bill.

The bill, as introduced, was almost 1,000 pages long, with 45 titles. After all of these amendments, it is no doubt closer to 1,200 pages long. There is much in this bill to commend it, and overall I believe this bill will help the United States become more competitive.

Of utmost importance is the renewal of the President's authority to enter into international trade agreements, with so-called fast track authority—the commitment that Congress will act quickly on trade agreements.

Additionally, I believe the worker adjustment assistance—$980 million—is vital to keep our work force trained and competitive. There are thousands of men and women in my State of Wisconsin who have lost their jobs and who want to work, who have proven to be productive members of society. All they want is a chance, and this assistance will help get them back to work.

I have serious concerns about the potential House-Senate compromise. I am especially concerned about provisions in the House bill and their impact on U.S. competitiveness. Of special concern is the Gephardt amendment. I believe the Senate's bipartisan super 301 amendment is the way to go—not a Gephardt-like amendment which would mandate retaliation against fairly, as well as unfairly traded goods.

If a Gephardt-like amendment becomes part of the final conference agreement, I will not support it. I believe that arbitrary numerical reductions in the trade deficit will close international markets to U.S. goods, not open them. I am convinced that if we were to enact this provision into law, that there would be retaliation against U.S. goods. I also believe the goods most vulnerable to retaliation would be U.S. agricultural products. I don't want that to happen, nor do I believe the Congress wants that to happen.

Under the super 301 provision the President would identify those countries that have a consistent pattern of unfair trade practices. The President would then seek negotiated agreements with those countries to lower those barriers to U.S. trade. If an agreement is not reached, then the President may use section 301 sanctions against those countries. This is a reasonable, GATT-legal route, and one that I believe will lead to breaking down those unfair barriers without threatening U.S. exports.

I hope that the conference committee will report back a bill that contains the super 301 provision—not Gephardt. However, if the conference agrees to a provision that erects barriers to U.S. exports instead of opening up markets, I will vote against the conference report.

Additionally, I believe the House provision requiring registration and disclosure of foreign investments in the United States is unwise. Foreign investments that could be damaging to U.S. security interests are already covered under existing laws. Further stringent requirements would discourage needed foreign capital essential to U.S. economic growth.

The Secretary of Labor has made it very clear that he will recommend the President veto this bill if it contains any mandatory plant closing language in it. I do not want to see this body's hard work on a tough but reasonable bill fail because of the plant closing provisions. I will not support a conference report that includes unacceptable plant closing language.

Mr. President, I believe this is basically a good bill. I have high hopes that it will come out of conference even better. It is in this country's interests to come up with a reasonable compromise. I will watch with interest how the conference proceeds.

Mr. QUAYLE. Mr. President, I plan to vote against final passage of S. 1420, the Omnibus Trade and Competitiveness Act. Because this is not an easy vote for me to cast, I want to outline some of the reasons I am opposing this bill.

First, as my colleagues know, I fought very hard to remove the section of this bill requiring mandatory notice of layoffs or plant closings. This provision represents an unwarranted intrusion by the Federal Government into the private affairs between employers and employees.

As I have said repeatedly, companies should provide advance notice to their workers of plant closings or layoffs—but on a voluntary basis. I strongly oppose the Federal Government mandating the actions of private enterprise and this provision is certainly the beginning of a dangerous and unnecessary role for the Government.

Second, while making needed improvements in certain areas of our trade law, this bill also contains several potentially harmful—and unnecessary—provisions that would invite retaliation, reverse our traditional commitment to opening markets and eventually result in a reduction in world trade.

One of the worst provisions would require the President to initiate section 301 cases against countries involved in grossly unfair trading practices. These cases would be based on an estimate of lost sales that result from such trading practices.

While mandatory administrative action in unfair trade cases does have a certain political appeal, it simply ignores disputes over the definition of unfair trade and the difficulty of objectively measuring lost sales opportunities.

In addition, this section 301 provision would severely limit the President's flexibility in negotiating agreements with our trading partners and result in massive disruption in international trade.

This bill also makes significant changes in section 201, the so-called escape clause for domestic industries damaged by imports. These changes would make it easier to grant industries protection from fairly traded goods without providing the President enough discretion to weigh the effects of such protection on the consumer, the national economy and the international trading system.

Another disturbing part of this bill is the section authorizing the expansion of the Trade Adjustment Assistance Program, which would be financed by a 1-percent fee on all imports. This new program is a perfect example of why this bill shouldn't pass.

First, the fee would raise an estimated $4 billion annually, while the adjustment assistance would cost only $300 million. This type of open-ended funding only invites an expansion of the program.

Second, the 1-percent fee is probably illegal under the provisions of the General Agreement on Trade and Tariffs [GATT], inviting retaliation against our exports.

And finally, providing special job assistance to individuals who have lost their jobs to foreign competition without providing the same to other dislocated workers is simply inequitable.

We already have a comprehensive retraining program in the Job Training Partnership Act, and we should encourage its use. The effect of such imprudent and politically motivated provisions will mean just one thing—wasteful duplication and expansion of Federal programs.

In addition, this bill now includes any number of special interest, budget-busting projects. Senator DOMENICI, the ranking member of the Budget Committee, has estimated that it would create 570 new Government jobs as well as 81 Federal and State agencies, offices, advisory panels, and commissions. In order to promote international trade, we need to cut Government redtape—not expand it.

Mr. President, the reason this vote is such a difficult one is that the bill does, in fact, contain several important provisions that my constituents—and this country—sorely need.

For instance, the bill includes improved tools with which to fight dumping and unfair trade, expanded authority to help our trade negotiators in their efforts to formulate new GATT rules, $980 million in worker readjustment assistance—a provision I helped craft in the Labor and Human Resources Committee—and important sections that would increase access for our farm products abroad and protect intellectual property rights.

It also includes an amendment I offered that would increase the sale of United States-made auto parts and accessories in Japanese markets. This provision—which would serve the interest of one of our country's largest manufacturing sectors, employing over 370,000 nationwide—is a good example of what this bill could do in a positive, protrade manner to address our $170 billion annual trade deficit.

Indiana is one of the most trade-sensitive and export-dependent States in the Nation. Few in this country would be better served by sound trade legislation than the people of Indiana; yet none stand to be more harmed by ill-conceived protectionism than the Hoosiers I am proud to represent.

Indiana ranks 10th among States in total exports, employing 90,000 workers in export-related jobs. In 1985, Hoosiers exported more than $9 billion in goods and services, $1 billion of which represented the work of Indiana's agricultural sector, which employs more than 120,000 farmers, agribusinessmen, and workers.

Mr. President, there are simply too many provisions included in this bill that are unacceptable and counterproductive. That's why I oppose it. I am hopeful, however, that after this bill passes the Senate—and I finally expect it to pass—the managers will find a way to drop these destructive provisions in conference and put a trade bill on the President's desk that will truly serve the public interest.

OPPOSITION TO THE WILSON AMENDMENT

Mr. HEINZ. Mr. President, I believe that the Wilson Amendment, which the Senate recently passed, requiring the ITC to submit an annual report to Congress on the negative economic impacts of import restraint programs, is objectionable for two reasons.

First, the amendment is one sided. It asks the Commission to report only on the negative effects of any import restrictions. Those may well exist in any given case, but it is hardly fair to report on only one side. There is no doubt that these are positive effects as well which should also be studied and reported. How can we expect to make an impartial and intelligent analysis of trade restraints, if only one side of the argument is considered?

Yet even if the study in question was more comprehensive, I would still have a problem with the amendment. The cornerstone of the Wilson proposal is the presumed infallible nature of studies. Too many times in the past I have watched trade policy decisions hinge on the conclusions of studies which turned out to be inaccurate or unrealistic. I do not dispute the need for studies. They are an integral element of the decisionmaking process. But every study is not necessarily a valid study. Too many reports use assumptions which reflect the authors' preconceptions rather than the real world.

On a number of occasions in the past, I have addressed this Chamber about the divergence between the real world and the world of economic textbooks. I have sought to show how a fundamental assumption of economics, that a cheaper dollar will result in a favorable trade balance, is not playing out in the realities of world trade. I have shown that the J-curve, the much referred to line that reflects an adjustment process between currency and the trade balance, may actually work in reverse. I have looked at industries as diverse as color televisions and carbon steel plate imports to prove that in the real world a cheaper dollar has not translated into higher prices for imports of those goods into the United States.

The point of all these various statements is that we should scrutinize hypothetical foundations upon which studies are built. Just as a perfectly constructed building cannot stand on a faulty foundation, studies whose logic is internally consistent are still useless if their premises are flawed. In almost all of the reports which we consult the economic analysis and methods employed to arrive at the conclusion are impeccable. Yet the study is still suspect because its foundation has cracks.

While I could go through many industries, discussing the divergence between academic assumptions and real world facts, I have chosen to concentrate on the steel industry, both because I am very familiar with it and because recent empirical data has disproven the predicated drastic effects of import quotas.

Mr. President, I am not attacking all academic studies today. That would be ludicrous. It is essential that we continue to evaluate the implications and repercussions of various proposals. I rely on those analyses and I am sure that my colleagues also rely on them. But that does not mean that we should take them for granted. Just because something is submitted in writing does not mean that its conclusions are etched in stone. We cannot take every report for granted, assuming that its academic seal makes it infallible. Instead, we must look at the foundation of the report. We must examine these assumptions in order to insure that they conform to reality. Trade policy decisions are already confusing and controversial. We do not need to make them more confusing by blind reliance on studies which do not have a foundation to stand on.

I ask unanimous consent that a report by David Cantor be printed in the RECORD. In a well written analysis, Mr. Cantor compares the divergence between steel industry assumptions and real world facts. He concludes that higher steel prices, which were predicted by two earlier studies, have not materialized because the assumptions were not realistic. I urge all my colleagues to learn from Mr. Cantor's conclusions.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL RESEARCH SERVICE,
THE LIBRARY OF CONGRESS,
Washington, DC, July 17, 1987.

To: Honorable John Heinz. Attention: William Reinsch.

From: David J. Cantor, Specialist in Industry Economics, Economics Division.

Subject: Comments on Recent Economic Analyses of Effects of Steel Import Voluntary Restraint Agreements (VRAs).

This memorandum responds to your request for comments on recent studies of the effects of steel VRAs. In particular, you asked for comments on studies by Professor Arthur T. Denzau of Washington University and David Tarr of the Federal Trade Commission.[1]

Both studies come to the conclusion that quotas—whether imposed unilaterally or negotiated in a VRA—on steel imports would result in increases in both domestic and imported steel prices. This was, indeed, the thrust of Tarr's analysis that was based on accepted precepts of conventional welfare economic theory. These price increases would result in higher costs of production of steel-using commodities, and, ultimately, in higher prices to consumers.

The Denzau study concludes also that total manufacturing employment would decline by about 35,000 jobs; jobs in the steel industry would rise by 17,000, but other manufacturing employment would fall by 52,000.[2] Denzau comes to this conclusion on the basis of the effect of higher steel prices on the demand for steel-using products; that is, the demand for downstream manufactures would decline owing to their higher costs of production.[3]

If the assumptions on which these studies are based are valid, then the results arrived at must be accepted as valid. Both researchers apply economic theory and analytical and analytical methods in an appropriate way.

The issue is, however: do the researchers make correct assumptions at the outset? In at least one important respect, they do not—namely, they assume that a consequence of the imposition of a quota would invariably result in higher domestic and imported steel prices. Such an assumption would require that the domestic industry, in order to satisfy demand for steel, would be effectively operating at full capacity after the imposition of the quota. In such a situation, the domestic industry would experience increases in both average and marginal costs, and would offer to the market increased quantities of steel only at higher prices. Neither Tarr nor Denzau acknowledge that the domestic steel industry could have excess capacity even with the quota-induced reduction in imports.[4]

If there were excess capacity in the domestic steel industry after the imposition of an import quota, however, domestic prices would not rise, and, indeed, could fall. If the supply of steel were, in the jargon of economics, perfectly elastic; that is, an indefinitely large amount of the product would be offered for sale at a fixed price. (Please note that shifts in demand for domestic steel to replace the foreign steel barred by the quota are taken into account by our statement that excess capacity would exist after the imposition of the quota.) Prices would rise only after the excess capacity were eliminated.

If there were both excess capacity and multiple sellers in the domestic industry after the imposition of the quota, domestic prices could fall. The multiple sellers would be competing among themselves for market share to utilize as much as possible their firm's capacities in order to achieve the lowest cost of production possible per unit of output.

This is especially true in an industry, like steel, that is characterized by large scale and "lumpy" processes; once in place, such processes, when not utilized at relatively optimal (or least cost) levels of output, tend to exhibit disproportionately large increases in average cost of production. Furthermore, owing to the physical size of the plant or component thereof, it is not possible to substitute readily one type of equipment for another. For example, unless they are in place, electric steelmaking furnaces that use scrap metal as raw material cannot be substituted for blast furnaces and basic oxygen furnaces that produce pig iron and molten steel, respectively. To prevent or avoid large increases in costs of production, it is not unreasonable that large steel companies would lower their prices in order to more efficiently utilize their capacity. Economic theory suggests that, in the near term, firms could lower their prices to levels that would result in losses, so long as they were at least covering their variable costs of production.

In fact, at least since the implementation of the steel import VRAs,[5] domestic steel companies have generally been operating at considerably less than their capability. In 1984, the industry utilized about 68 percent of its capacity; capacity utilization fell in 1985 to about 66 percent, and again, in 1986, to about 63 percent.[6] In the first four months of 1987, industry use of its steelmaking capability rose to about 73 percent; but at least one forecast of the industry's operating rate indicates that capacity utilization will be about 69 percent in 1987.[7]

Perhaps as a result of its relatively low operating rates since the steel VRA program began, industry prices have fallen, and the industry as a whole has incurred losses in it steel operations. From September 1984 through December 1986, domestic steel prices as measured by the Producer Price Index fell by nearly 5.0 percent.[8] Other estimates of market prices indicate a greater decline in the price in this period. Data Resources, Incorporated estimated that domestic market price of steel mill products fell by about 5.1 percent; Paine Webber estimated that domestic steel prices fell by about 7.4 percent from 1984 to 1986.[9] In addition, the industry as a whole experienced increasing financial losses in this period: in 1984, the industry lost about $30.5 million; in 1985, its losses amounted to about $1.7 billion; and, in 1986, the industry lost over $4.2 billion.[10]

These facts lend support to the hypothesis that the steel VRAs did not permit the domestic steel industry to operate at or near full capacity, and, therefore, that a consequence of the import restrictions would not induce an increase in prices. In addition, they support the view that competitive pressures within the domestic industry could result in falling prices and increasing financial, losses. Neither Denzau nor Tarr chose to perform their analyses based on this alternative scenario, a scenario that in fact was representative of reality.

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[1] Denzau, Arthur T. How Import Restraints Reduce Employment. St. Louis, Center for the Study of American Business, 1987. 19 p. (Hereafter cited as Denzau. How import Restraints Reduce Employment); and, Tarr, David G. Quotas on Steel. In Tarr, David G., and Morris E. Morkre. Aggregate Costs to the United States of Tariffs and Quotas on Imports: General Tariff Cuts and Removal of Quotas on Automobiles, Steel, Sugar, and Textiles. Washington, Federal Trade Commission, 1984. p. 126–148. (Hereafter cited as Tarr. Quotas on Steel.)

[2] Denzau. How Import Restraints Reduce Employment. p. 11f.

[3] Ibid., p. 3.

[4] Tarr does acknowledge that there are factors not explicitly considered in his model that could affect his estimates of the values of prices and quantities. He does not specify what these factors could be, and subsumes their effects ". . . in the specified constants of the equations." Tarr. Quotas on Steel. p. 135.

[5] U.S. Library of Congress. Congressional Research Service. The President's Steel Program: Background and Implementation. Report No. 86-658 E, by David J. Cantor, April 1, 1986. Washington, 1986. 10 p.

[6] American Iron and Steel Institute. Statistical Highlights. U.S. Iron and Steel Industry. Washington, 1987. 1 p.

[7] DRI Steel Service. Monthly Industry Monitor. June 1987. Lexington, Data Resources, Incorporated. p. 4; and, Data Resources, Incorporated. Steel Industry Review. Second Quarter 1987. Lexington, 1987. p. iii.

[8] Calculated by CRS, using as sources: U.S. Dept. of Labor. Bureau of Labor Statistics. Producer Prices and Price Indexes Data for October 1984. Washington, 1984; and, U.S. Dept. of Labor. Bureau of Labor Statistics, by telephone, March 10, 1987.

[9] Data Resources, Incorporated. Realized Steel Prices: Estimation, Analysis, Forecast. Lexington, 1985; Data Resources, Incorporated. DRI Steel Price Report. Third-Quarter 1986. Lexington, 1986; and, Paine Webber. World Steel Dynamics. Steel Strategist #13, March 30, 1987. New York, 1987.

[10] American Iron and Steel Institute. 1985 Annual Statistical Report. Washington, 1986, p. 13; and, American Iron and Steel Institute. Steel Industry Lost $4.2 Billion in 1986, Worst Financial Year in its History. Steel News. Washington, June 2, 1987, p. 1.

Was it reasonable for Tarr and Denzau to assume that the industry would be operating at high rates of capacity utilization when they undertook their studies? In the case of Tarr, the answer is affirmative. Estimates of capacity utilization made in 1984 indicated that the domestic steel industry would be utilizing from 80 to 85 percent of its capacity from 1985 to 1989.[11]

In the case of Denzau, it is not as reasonable to assume high industry operating rates. Denzau undertook his study after the steel VRA program went into effect; in his introduction, he refers to 1986 data.[12] Moreover, he accepts Tarr's premise that import restrictions would result in higher prices for the protected industry, prices that would be borne by consumers.[13] Nonetheless, the fact remains that, at the time he undertook his effort, there was considerable evidence that the domestic steel industry had too much capacity relative to its market, even with protection from imports.

In summary, one cannot fault the analysis of Tarr or Denzau based on their assumptions. As stated previously, both applied economic theory and analytical methodology in appropriate ways to their efforts. Their conclusions follow logically from their analyses. What can be faulted is the assumption that both made explicitly or implicitly about capacity utilization after the implementation of the VRAs. It might have been useful for each to have revisited their work, and assess the effects of protecting the steel industry in view of actual conditions under the VRA program.

If you have other questions, please call me at 287-7740.

Mr. BUMPERS. Mr. President, I am pleased to be a cosponsor of this legislation, formerly the Small Business International Trade and Competition Enhancement Act as introduced by my colleague, Senator SASSER. The ability of small business to expand and realize its potential in international markets is of the utmost importance in coming to grips with our overwhelming deficit in trade. We, both in the legislative branch as well as in the executive branch, need to do all we can to facilitate this process and encourage small business to become more involved in marketing their products overseas.

SMALL BUSINESS TRADE ISSUES

Small businesses in particular have concentrated on the domestic market, and most have not as yet taken advantage of the opportunities offered as exporters. The strength of small businesses in generating employment and innovation, however, indicates that small businesses can become successful competitors in the international marketplace if and when they shift their focus.

In absolute numbers, many small businesses are exporters but their exports are not large in quantity. According to the U.S. Department of Commerce, only an estimated 30,000 out of a total of 376,000 manufacturing companies—8 percent—were exporting their products in 1983. Of these 30,000 exporters, 70 percent were small- or medium-sized firms with fewer than 500 employees, but the bulk of the goods exported—fully 70 percent—came from 1,000 larger sized firms. The remaining 92 percent of the manufacturing firms did not export to any significant extent.

Clearly there are many other small firms which are capable of exporting. Indeed, in 1978 the Department of Commerce estimated that an additional 18,000 firms, most of them small businesses, were capable of exporting. In 1983, the General Accounting Office estimated that firms with 250 or fewer employees which did not export could generate exports of $4.2 billion annually. There is a great potential for small businesses to close the trade deficit gap for their own benefit and that of the Nation as a whole.

There are, however, many good reasons why small businesses have been slow to enter the export market. Becoming an exporter involves costs and risks which can be borne more easily by a larger business. Small firms must set priorities and, as with most larger businesses, the U.S. domestic market has in the past offered enough opportunities and challenges. It is difficult enough for a firm to succeed in a domestic market, and even more difficult to do so in a distant foreign market.

Small firms should be encouraged by Federal policy to explore export markets. The strengths of small businesses in the domestic market—flexibility, innovation, quality and adaptability—are also strengths in the international marketplace. The Small Business Administration has found that "the resilience and diversity of the Nation's small businesses can make an important contribution to the growth of the U.S. share of world trade," and the committee agrees with this assessment. However, the committee believes that the Small Business Administration needs both additional resources and direction from Congress to assist small businesses in reaching their potential as exporters. S. 1344 was drafted and reported by the committee with the affirmative goal of broadening opportunities for small business exporting by sensible and affordable Federal policies to assist those businesses in finding foreign markets.

PROVISIONS OF TITLE XXXIX

I think it is fair to say that there are already many programs to help the small business man get into exporting at both the State and Federal level. The problem lies in, one, getting the information to the small businessman and, two, coordinating the activities of the relevant Federal agencies. The small business title to the House trade bill takes steps in the right direction to address both of these problems. Still, there is room for improvement. I feel that the bill we are considering today makes positive modifications to the House proposal, as well as incorporating many suggestions by the administration, and is a necessary step in improving the export potential of small business.

The current trade situation demands action. Our bill incorporates a number of positive measures to more effectively use existing structures and programs. This bill is based on the two hearings held in our Subcommittee on Export Expansion, which is chaired by Senator SASSER, as well as the House-passed small business title to the trade bill, H.R. 3, and many hours of negotiations and discussions among the staff of the Small Business Committee, both majority and minority, and Senator SASSER's staff. The report to accompany S. 1344, Senate Report 100-84, analyzes this bill in detail.

The bill authorizes the Office of International Trade within SBA to become more involved in export promotion activities, and authorizes $5 million in fiscal year 1988 and $10 million in 1989 and 1990 for a trade education initiative through small business export assistance centers. The $5 million is included as an assumption in the Senate budget resolution recently passed by this body, as is $3.5 million for the trade initiative within SBA.

The basic idea of this proposal is, generally, to get SBA more involved in export promotion and, specifically, to use the existing SBDC network, or other similar structure, as a "one stop shop" to disseminate information about exporting and existing programs to small businesses; in other words, an information center for small businesses on how they can get service from the Eximbank, the Department of Commerce, SBA or OPIC. We do not intend for SBA to displace the Department of Commerce, but rather SBA's extensive public network of district and regional offices as well as small business development centers would serve as information resources and delivery vehicles for other Government programs.

The bill also increases the maximum amount of a 7(a) guaranteed bank loan from $500,000 under existing law to $750,000, and it makes a similar increase in the section 504 economic development program. The House has proposed increasing this loan limit to $1,000,000, through the creation of a new type of guaranteed loan but does not increase the total guarantee authority. We felt that there would be some hazard of crowding out smaller borrowers, and thus limited the increase to $750,000. There has been no adjustment in the loan limit in over a decade for either of these two loan programs.

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[11] Data Resources, Incorporated. Steel Industry Review. Third Quarter 1984. Lexington, 1984. p. iii.

[12] Denzau. How Import Restraints Reduce Employment. p. 1.

[13] Ibid., p. 3.

Among other things, the act will also manate that SBA conduct a National Conference on Small Business Exporting in 1988, require a report by the SBA on possibilities for simplified export licensing and trade remedy procedures for small business, and also look into the prospect of expanding the scope of the small business innovation and research [SBIR] program.

The legislation has been a bipartisan effort from the beginning and I would like to express my appreciation for the cooperation and input from the administration in developing this bill. I would also like to acknowledge the time and effort put into this proposal by Senator SASSER's and Senator WEICKER's staffs.

As I said before, this legislation incorporates many positive ideas for improving the export potential of small business and is a positive addition to the omnibus trade bill. I am pleased to be an original cosponsor of this bill. Mr. President, I yield the floor.

Mr. SASSER. Mr. President, many of my colleagues are perhaps surprised to discover that this omnibus trade package contains a small business title. And I would agree that in terms of sweeping scope, or number of pages, the small business provisions of this bill are not that great. But, the small business title of this bill is very significant, indeed, when we are looking at what it can accomplish.

This title stems from legislation I introduced earlier this year. My bill, S. 1344, recognized that export led growth would be necessary in our efforts to curb our trade deficit. A trade deficit, which I might add, has totaled more than a staggering $550 billion over the last 5 years. Serious efforts to stimulate export led growth must make use of a virtually untapped American resource in international markets—small business.

We don't normally associate small business with exports or international trade. And with good cause. The Commerce Department estimates that less than 10 percent of the manufacturing firms in this country export their products. Of those firms which do export, big business dominates the market. Some 250 large companies account for 80 percent of the dollar volume of U.S. exports.

Despite these numbers, there are literally thousands of small firms which are capable of competing in world markets. In 1978, the Commerce Department estimated that some 18,000 firms, most of them small business, were capable of exporting. The National Commission on Jobs and Small Business reports that some 30,000 small businesses in America produce exportable goods or services, but export nothing at all. And the Small Business Administration's files suggest that there are nearly 60,000 small firms interested in exporting.

As I have stated before, Mr. President, we are paying dearly for our failure to bring more small firms into the world of international trade. In 1983, the General Accounting Office estimated that that firms with 250 or fewer employees which did not export could generate exports worth $4.2 billion annually. The Commerce Department estimates that every $1 billion in American exports supports nearly 25,000 domestic jobs.

Think of the job growth which we could stimulate if we brought more small firms into export markets. Using the figures I just cited, we could add more than 100,000 jobs through greater small business exports.

That small business could serve as such an economic catalyst should come as no surprise. After all, small business continues to lead the Nation in job generation and technological innovation. It was small business which actually added jobs during the recession of the early 1980's.

It was to make greater use of this economic dynamo that I called for 2 days of hearings of the Small Business Committee's Subcommittee on Export Expansion. Those hearings pointed out a number of obstacles which are presently stopping small business from exporting.

Perhaps the greatest of these obstacles is a fear of the unknown. Small business people have traditionally stayed away from international markets. They have been able to rely on domestic markets, and felt little need to compete abroad. They sense that competing abroad may involve something more than they can cope with.

Mr. President, we need to educate small business to the possibilities of international trade. We cannot concede international markets to our foreign trading partners. In today's world economy, small- and medium-size firms can become major exporting forces. And we need to get this message acrosss to small business.

This process of education on small business exports is a two-way street. As much as small business needs to be made aware of the possibilities of exporting, Government officials need to become more aware of the unique nature of the small business community. Government officials often know little of the special needs of small business. They tend to treat small and large business alike. As many of my colleagues well know, when Government bureaucrats treat lare and small businesses the same, small business inevitably suffers. A vivid example of this situation was presented in the first day of hearings before our subcommittee.

We invited the Office of the United States Trade Representative to testify, we were very interested in learning how small business is represented in U.S. trade negotiations. The Office of the Trade Representative elected not to attend the hearing. Part of the rationale given for not testifying was that the U.S. Trade Representative makes no distinction between large and small business. They treat all businesses the same.

This attitude has led many small persons to believe that their interests are going unnoticed in a very vital trade realm—trade negotiations. And I believe there is a firm basis for such fears.

Sadly, this attitude shows up again and again in Government agencies. Small business is either ignored or lumped together with all other business. We simply afford to continue this type of shortsighted policy. We need to educate Government officials at all levels of the important contributions small business can make in the world of international trade.

This is not to say that we don't have Federal agencies ostensibly concerned with small business exports or trade concerns. Indeed, some seven Federal agencies either operate small business export programs or otherwise are involved in small business trade matters. Yet, even here we have problems.

Witnesses at our Export Expansion Subcommittee hearings made it quite clear that existing small business export programs are not working very well. Most small businesses which use these offices end up frustrated by their experience. They are bounced from agency to agency, or end up wandering through a maze of redtape. As a result, very little gets done for small business interested in international trade. In fact, the Small Business Administration reported that less then 1 percent of its loan portfolio went to export loans between 1983 and 1985.

I don't want to paint an entirely bleak picture. Mr. President. The new Administrator of the SBA, our former colleague Jim Abdnor, has indicated that improving the SBA's track record in the area of international trade will be a top priority. And Administrator Abdnor has already taken such steps to begin to deliver on this promise.

But it is clear that Administrator Abdnor can't achieve the results we want in this area on his own. Now can the SBA singlehandedly promote small business export activity. Rather, we need to provide the SBA with both the tools and the direction to achieve a series of specific goals—greater promotion of international trade possibilities for small business—greater cooperation between Federal agencies which deal with small business trade programs—greater use of those organizations and networks which have the best chance of reaching small firms interested in exporting.

The small business title of this package goes far in achieving these goals. And we do so without creating elaborate new government programs. We rely on many existing structures and programs to promote small business participation in export markets. What we seek to do is provide clearer direction and additional resources necessary to stimulate greater small business participation in the world of international trade.

Let me hasten to add that we have taken great lengths to avoid program conflicts between the Department of Commerce and the SBA. Our title acknowledges the lead role of the Department of Commerce in international trade matters. However, we also recognize that the SBA stands in a better position to deliver the goods, so to speak, in many of these programs.

At this point, Mr. President, I would like to go over some of the major provisions of this title.

Administrator Abdnor asked that SBA be given a chance to tackle the problem of increasing small business participation in world markets. The SBA does have an Office of International Trade which is supposed to handle international trade concerns. That office presently has some 10 employees to service the trade needs of small business across the Nation. These 10 people are supposed to prepare information about trade programs operated by the Federal Government, conduct trade seminars, provide counseling and perform other trade tasks for more than 14 million small businesses nationwide.

Clearly, SBA's Office of International Trade is going to need some help. This title authorizes $3.5 million for the office of International Trade. Furthermore, it increases the Offices authority and provides greater direction to the Office in providing technical expertise and information on export programs. The increased funding level should allow for the hiring of some 30 to 40 new employees in the Office of International Trade.

These new employees will be charged with a number of tasks. Among those called for in this small business title are identifying small businesses with strong export potential; identifying areas of demand overseas for U.S. products; and increasing international marketing opportunities for small business. I should add, Mr. President, that in carrying out these various tasks, the Office of International Trade at the SBA is directed to work in cooperation with relevant Federal agencies.

This title also directs the Office of International Trade to actively assist small businesses in establishing export trading companies and research and development pools. We direct the office to work with the Department of Commerce and other agencies to improve access by small firms to data collection programs, export promotion programs and other programs designed to promote international trade.

We also require the Office of International Trade to work with the Eximbank in developing a program to actively promote export financing programs. Mr. President, financing plays a critical role in export capabilities. And it is clear that a major source of such financing, the Eximbank, is underutilized by small business. It is hoped that this provision and others in this title will lead to even greater small business activity on the part of Exim.

This legislation also requires the Office of International Trade to report to the House and Senate Small Business Committees on several key issues. First, we request a study of new export incentive program for small business. The idea for this study stems from a recommendation of the 1986 White House Conference on Small Business. Delegates to that conference recommended the creation of export incentive program patterned after the successful small business innovation and research program. The basic premise here is to go to the small business community to find out what working men and women think would stimulate greater small business exports. This idea of turning to the business community for innovative approaches is very appealing to me, Mr. President. I expect that we will be revisiting this idea with legislative language later in this session.

The second and third reports that we request focus on problems facing small business in trade remedy and export licensing procedures. We will be looking at means of expediting both the export licensing process and making trade remedies more accessible to small business.

We also make several changes in SBA's existing financing programs. First, we provide the Administrator with discretion to allow extensions and revolving lines of credit for export purposes. A key change in the capital formation area is the increase we allow in several loan guarantee programs. For both the section 7(a) program and economic development loans made by certified development companies, we increase the guarantee limit from the present $500,000 to $750,000. We further clarify an ambiguity in existing law by explicitly stating that a single firm can receive funding under both of these programs.

The one new program contained in this title is in direct response to testimony received by both the House and Senate Small Business Committees. A series of witnesses bemoaned the fact that small business presently has no one, central office to which they can turn with their trade questions and concerns. Basically, these witnesses were asking us for a "one stop shop" or a small business trade ombudsman to help them make their way through the maze of trade programs.

In response to the lack of such a central office, or resource center, this title creates small business export assistance centers. These centers will help small businesses with all facets of international trade. For example, such centers can direct to the finance or promotion programs operated by the Department of Commerce, the Eximbank, SBA and others.

Now, we don't simply want these centers to act as handholders for small firms. While we expect center personnel to stick with a small business trade problem until resolved, we anticipate a variety of other activity to be pursued as well. We expect the centers to establish effective outreach programs of their own to encourage small business to enter international markets. As I have noted, this educational aspect is critical. We must show small firms that they can effectively compete abroad. Aggressive outreach programs operated by these centers can spread this message.

It is also contemplated that these centers will work to make small businesses more competitive in today's economy. Reliance on antiquated technology or methods of production are holding back many small firms. Technology transfer programs can help increase the efficiency of many small firms, thereby increasing their likelihood of success in the world market.

In addition, these centers should deal with the final leg of a small business person's journey into the world of exporting—marketing. As these centers develop, small businesses should be able to come to them and receive assistance in developing both marketing strategies and potential contacts in foreign markets.

Mr. President, these centers do not represent mere wishful thinking. They are patterned after very successful international trade programs operated by a number of small business development centers across the country. SBDC's in several States are presently providing the type of education, technology transfer and marketing assistance that are helping more firms to export. It is anticipated that these existing SBDC's and other SBDC's will continue to play a lead role in these small business export assistance centers. In many States, SBDC's have the delivery network necessary to effectively implement this program.

However, we do not restrict participants in this program to SBDC's. While I expect SBDC's will be given great weight, there will be instances where an SBDC is either unwilling or unable to establish this type of program. Here, other applicants should be evaluated by the SBA. And the Administrator should select the applicant for a particular State which offers the greatest likelihood of meeting the objectives of this legislation.

Our legislation also establishes a series of timetables and guidelines to assist the SBA in making such determinations. Given the success of SBDC's in operating this type of program, they are provided a central role in establishing such guidelines.

Mr. President, we authorize $5 million in fiscal year 1988 and $10 million in fiscal years 1989 and 1990 for applicants under this program. We require applicants to produce a 25-percent match for the first year of this program, 40 percent in the second year and 50 percent in the third and each following year. This requirement ensures that successful applicants under this program will enjoy strong local support.

There is one final section of this title that I wish to address today, Mr. President. And that deals with trade negotiations. I agree with those in the small business community who believe their interests have been overlooked by our trade negotiators. There is no one in the Trade Representative's Office who deals exclusively with small business concerns. The Small Business Administration's Office of Advocacy is not routinely invited to join in discussions surrounding trade negotiations.

Mr. President, as the debate on this legislation has made plain, trade negotiations are at the very heart of efforts to improve our standing in the world market. If small business is kept away from the negotiating table, how can we expect to increase the role of small business in international trade?

Our title contains two sense of the Congress provisions which speak directly to this shortcoming.

First, we express the sense of the Congress that the Administrator of the SBA be appointed as a member of the Trade Policy Committee and that the Trade Representative should consult with the SBA and the Office of Advocacy on Trade Policy Formation and Negotiation. We also state the sense of the Congress that the Trade Representative should appoint a Special Trade Assistant for Small Business.

These are sense of the Congress provisions, Mr. President. However, it is clear that the small business community would be well served by these changes. The needs of small business must be given greater weight by our trade negotiators. Therefore, we will closely observe the administration's response to these provisions.

There are a series of other significant provisions in this title, Mr. President, but in the interest of time, I will withhold further comment.

I would conclude by emphasizing what I stated at the outset of my remarks. Small business can play a major role in our efforts to reduce our trade deficit. However, we need to make a greater effort at all levels of Government to stimulate this type of activity. The small business title in this trade bill starts us down this path.

DEBT-EQUITY CONVERSIONS

Mr. HEINZ. Mr. President, the trade bill that we have been debating has a title devoted entirely to the LDC debt problem. Title XVIII represents extensive work by both the Banking and Foreign Relations Committees on this issue and makes a strong statement about the need for additional actions by debtors, creditors, governments and official agencies to resolve the debt problem. Unfortunately, however, it takes no practical steps toward a solution in the near term.

I have been pursuing a practical approach to this problem in the form of amendment 533 relating to conversion of LDC debt on the books of U.S. banks to equity in LDC companies. Debt-equity conversions, or "swaps," are not an overall solution to the problem. Instead, they are a means by which the relevant parties, debtors and creditors, can settle individual loans at a discount to the benefit of both. This approach could actually make a sizable contribution to the resolution of the debt problem if we let it work.

While I feel strongly that such conversions must be encouraged, a number of members of the Banking Committee have expressed concern about going too far, too fast, in promoting swaps without consideration of all their implications. I believe their concerns are overstated and prompt action is essential if we are to get U.S. banks involved in this process. However, I have decided to withdraw my debt-equity amendment in return for a pledge from the committee leadership to pursue the issue aggressively in the context of banking legislation to be prepared this fall.

Senators PROXMIRE, GARN, and SARBANES have agreed to join me in pressing the Federal Reserve Board to complete its long promised review of this issue. We are asking the Fed to report back to the committee by September 14 on the outcome of the Board's deliberations on this issue, any changes in regulation adopted, and the Board's detailed comments on my proposed debt-equity amendment. We have a letter prepared and will be forwarding it to the Federal Reserve Board in the near future.

I would like to thank Senators GARN, SIMON, HECHT, and LUGAR for their cosponsorship of my amendment and others on and off the Banking Committee who have indicated their support. Since this is an issue that may well come to the attention of the Senate again in months to come, I would also like to review the reasons that I believe specific action to promote debt-equity swaps is needed and will contribute to resolution of the debt problem.

BACKGROUND

In its hearings on the debt issue, the Banking Committee found that the cooperative spirit that has kept the debtors and bank creditors at the bargaining table for nearly 5 years is under stress. Negotiations over rescheduling debt and arranging new money have become increasingly difficult and protracted. If cooperation is to continue, the range of options for creditor support must be broadened and, in particular, must include debt relief in some cases. No one wants simply to pile debt on debt where repayment is impossible. Both debtors and banks are looking for ways to diversify exposure, and to reduce debt and debt service.

The "grand solutions" put forward to provide a structure for debt relief, such as the debt management authority in title XVII, are likely to be costly, unwieldy, unattractive to the governments and bankers asked to participate in them, and seen by debtors as a way to avoid essential economic restructuring. The ultimate resolution of the debt problem will require a broader range of options for providing both reductions in debt service and new money where appropriate.

I believe that debt-equity conversions hold great promise as a debt relief option. Swaps are not "the answer" to the debt problem. They do not involve massive restructuring of debt for one country or all countries. Swaps hold great promise because they provide debt relief one loan at a time through head-to-head negotiations involving the debtors and creditors. They reduce debt; expand the private sector and capital markets in LDC's; diversify exposure of banks and improve bank safety; and are recognized by almost everyone involved in the problem as a basically good idea.

THE MECHANISM

Debt-equity swaps involve conversion of a fixed or floating-rate loan made to an LDC government or company into an equity position in the company or country involved. A typical transaction starts with an investor acquiring a loan to the country in which investment is desired. The investor may be the bank holding the loan, or a company that buys a loan from a bank at a discount. The investor then sells that loan to the central bank of the host country for local currency which it uses to make its investment. The central bank typically pays a price for the loan in local currency at or below the loan's face value and charges various fees that reduce the effective purchase price.

The financial result of such a transaction for the bank holding a loan is recognition of a loss equal to the discount arising from the bank's sale or swap. Once the loss is recognized, the bank's remaining portfolio improves as loans restructured over 20 or 25 years are replaced by new loans made with proceeds of sale or by equity shares. In the case of the growing number of banks setting aside large reserves for LDC debt, recognition of losses through the swap mechanism permits the bank to take tax benefits that are not available simply for reserving against loans.

The investor, who may be a foreigner or a national using foreign exchange held abroad, receives a modest subsidy consisting of the difference between the purchase or market price of the loan swapped and the rate of conversion by the central bank.

The host country also derives substantial benefits. Its level of indebtedness is reduced and private investment increased, in some cases using flight capital. The economy benefits from increased private investment but because the investment is funded with debt, there is no additional capital flow into the country unless there are followon funds to support the basic investment. The substitution of an investment for a loan shifts the country's debt burden from fixed principal and interest payments to dividened payments based on economic performance. Under the typical debt-equity program set up by LDC governments, there is a 3- to 5-year grace period for repatriation of dividends relieving the country of any debt service burden for that period.

While the benefits of debt-equity swaps are substantial, there are also problems. The issuance of local currency in exchange for the canceled external debt may, if not properly managed, result in monetary expansion and inflation. Domestic borrowing to offset the inflationary impact of swaps shifts its cost to the domestic economy, putting upward pressure on domestic interest rates. If foreign investors would have invested even without a debt-equity program, then the country forgoes a net infusion of new money and provides an investment subsidy in return for cancellation of debt that might well be rescheduled ad infinitum. Finally, if care is not exercised, debt-equity may itself be used as mechanism for "creditor flight," with loans converted to equity, the equity quickly sold, and the creditor relieved of any responsibility for future new financing in the debtor country.

Despite these drawbacks, there is broad agreement that properly structured debt-equity programs are of benefit to debtors and investors alike and should be encouraged. The perception that encouragement is needed arises from direct complaints about regulations and accounting rules by U.S. banks, and clear evidence that U.S. banks are not making swaps.

CONSTRAINTS

Despite LDC exposure of $108 billion, U.S. banks have consummated few debt conversions. Their low level of participation is attributable in part of a limited supply of attractive swaps, but billions of dollars of deals have been put together in the last 2 years without substantial U.S. participation. There are potential constraints to swaps on both the demand and supply sides of the equation.

On the demand side, bankers have cited accounting and regulatory constraints to their participation in swaps. In the accounting area, they have expressed concern over improper valuation of swaps that could lead to excessive losses for banks. Unclear accounting standards could require large discounts based on values established in the present "thin" secondary market rather than value of equity purchased. In addition to valuation of individual swaps, bankers are concerned over the effect of substantial swapping on the value of their remaining portfolio of LDC loans.

Bankers are also concerned that attractive deals would be blocked by U.S. regulations that place tight size and share participation limits on activities outside banking, and limit the length of time equity can be held. My amendment would relax the current $15 million and 20 percent of equity limits on non-banking activity and extend holding periods for equity acquired from the present 2 to 5 years to the longer timeframes—10 years or more—in LDC conversion programs.

The major "supply"constraints identified were not U.S. laws or regulations but policy limitations imposed by the host countries themselves. Many LDC governments directly limit foreign control over domestic firms, especially firms in important sectors like banking, to minority positions. In addition, powerful investment disincentives are created in many developing countries by economic policies that discourage capital formation and capital market development and by capital controls that limit investors' control over their money.

Such policies limit the role of the private sector and foreign investors in LDC economies and contribute to the problems of bloated government budgets and excessive foreign borrowing. The problem for the major debtors is clear from data compilied by the International Finance Corporation on relative capital market size. That data indicates that while United States and Japanese equity markets represents 60 to 65 percent of GNP, Brazil and Chile, with the best developed markets among major details, are at 15 to 20 percent of GNP, and Mexico and Argentina have markets equal to only 2 to 3 percent of GNP. While there is little reason to expect that domestic policy changes will quickly bring these markets up to the standards of developed countries or advanced LDC's, there is considerable scope for capital market expansion and debt-equity conversions.

THE NEED FOR ACTION

While U.S. banks have been on the sidelines, many banks have recently taken a step that drastically alter the landscape for swaps. In recent weeks, most major and many smaller U.S. banks have set aside substantial reserves against LDC loans—the list includes Citicorp, Bank of America, Chase, First National, Continental, Mellon, Norwest, and many more. These banks have put the problem of loss recognition behind them in one bold move. This is not to say that the banks are looking for losses or writeoffs. Indeed, their shareholders would rightly "string them up" if they cavalierly took losses on loans.

But the banks have built a "war chest" to go out and deal with the debt problem. Where good deals can be found that preserve asset value but involve modest losses, the banks can act without further damage to their income or balance sheets. Indeed, under the 1986 tax law, they must recognize losses if they are to get any tax benefits of their bold reserving decision.

Based on my dealings with U.S. bankers, I believe U.S. banks are ready to move aggressively to maximize value of their assets and minimize losses. They will be looking for the very best debt-equity swaps they can find—trying to swap moribund 25-year restructured loans for productive equity investments. They must move quickly if they are to stop foreign banks from capturing all the investments in Latin America that are worth having.

While the banks have changed their perspective, the regulators unfortunately have not. At a time when banks need modest leeway to sell off troubled debt, the Federal Reserve is dragging its feet. Title XVII asks the Federal Reserve to study the issue and report back next year, but early action on this matter is essential.

My proposed amendment to the Bank Holding Company Act would permit a broader range of debt-equity conversions by banks holding debt that has been subject to restructuring. Banks can currently sell their loans to other investors and can take equity positions in financial services enterprises. But the institutions responsible to their shareholders for maximizing asset value are barred from taking controlling interests in nonbanking activities, even for limited periods of time.

The Federal Reserve raises the specter of a threat to bank safety as a result of my amendment, but I believe this bank safety argument is totally misplaced. The banking laws already provide exceptions to permit debt-equity conversions into nonbanking areas in domestic debt settlements. Swaps are recognized as an appropriate means to protect bank interests and asset value in domestic insolvency proceedings, voluntary reorganizations, et cetera. However, such conversions have not been much used with problem foreign loans.

My amendment would direct the Federal Reserve to consider a broad range of possible swap transactions—including controlling interests in activities outside the financial services area—but only in the case of swaps of restructured debt. It would also permit banks to hold the equity for 10 years or more in keeping with requirements of debt-equity programs that LDC's have established.

It would leave full discretion with the Fed regarding bank safety and soundness, and all deals would have to pass through the Federal Reserve. Deals above $50 million could not proceed without specific approval with the Fed. In fact, the soundness of a commercial bank's LDC portfolio should be greatly enhanced by exchanging restructured financial assets—which begin to take on the character of equity holdings in any case—for equity holdings in local companies directly.

There is general agreement that debt-equity swaps should be promoted. Martin Feldstein hailed their contribution to resolution of the debt problem in a June 27 article in the Economist. The American Bankers Association endorsed my proposal in a June 25 letter. Secretary Baker acknowledged the importance of promoting debt-equity conversions in an April 24 letter to Senator GARN, which stated that "a message from the Congress extolling the advantages of debt conversions and stressing the need to enact swap programs could reinforce our efforts and be very beneficial." I ask unanimous consent that an excerpt from the Economist article and the texts of those letters be printed in the RECORD.

In his April 7 testimony before the committee and again in a May 18 letter, Paul Volcker told the committee that he intended to examine liberalization of regulations related to debt-equity, and that we might see some changes. Unfortunately, his pledges have yet to yield action. The Fed staff has prepared a staff paper on the issue which seems never to move to the Board for action.

The reluctance of some on the committee and of the administration to support my amendment is driven by their concern that the Fed has this issue under review, has the statutory authority to make changes, and may do so after considering all the implications of this issue. I am not interested in regulating by legislation either and would welcome action by the Fed to solve this problem directly. My decision to withdraw my amendment is intended to give the Federal Reserve Board time to do so.

My amendment represents a practical approach to debt relief. I look forward to action by the Federal Reserve to promote more swaps by U.S. banks and, failing that, further action by the Congress.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Economist, June 27, 1987]

LATIN AMERICA'S DEBT—MUDDLING THROUGH CAN BE JUST FINE

(By Martin Feldstein)

Recent decisions by big banks to make provisions for part of their loans to developing countries are a milestone on the tortuous road from over-exposure to stability. Mr. Martin Feldstein, former chairman of President Reagan's Council of Economic Advisers and now professor of economics at Harvard, argues that the moves will prove part of a gradual, market solution to Latin America's debt burden.

The world has been muddling through the Latin American debt problem with reasonable success for nearly five yeras now. The frequently predicted crisis, in which debtor countries repudiate their debts and big banks are no longer able to attract deposits, has not occurred.

Heavily indebted countries have suffered four painful years of economic decline that have pushed real incomes down to the level of a decade ago (see charts on next page). But their growth has now resumed, and is expected to continue. Although banks still find their loans to these countries uncomfortably large in relation to their capital, the loan-to-capital ratios have been gradually improving and are now, in some cases, down to half what they were in 1982.

Citibank's recent decision to write down the value of its $14 billion portfolio of developing-country loans by about 20% is likely to be an important step in the evolution of this market-oriented muddling-through. The significance of Citibank's action did not lie in the accounting gesture that explicitly recognized what everyone had long known to be true. Loans to the big debtor countries sell at discounts ranging from 30% to 40% in the secondary market, and the share prices of big American banks have been depressed in direct relation to their volumes of developing-country debt. Moreover, Citibank's act of increasing reserves by writing down assets did nothing to raise the bank's total capital or its financial strength.

The real significance of Citibank's move was that it was part of a plan to divest about $5 billion of loans to developing countries by selling them to other investors, and by swapping them for equity stakes in the industries of the debtor countries. Although a secondary market already exists in such loans, it has been limited in volume and used primarily by smaller banks seeking to reduce or eliminate their lending to developing countries. Sales of such debt by Citibank would create a more active secondary market in which securitised loans are more readily tradable than they are today. With yields of approximately 15%, such loan-backed securities would be attractive to institutional and individual investors who currently have no exposure to these countries. The market in such discounted loans will also be underpinned by the borrowers themselves: they will be tempted to use foreign currency to buy in their own debt at the market's discount and thus, in effect, repay it cheaply.

The volume of debt-equity swaps has also been small until now. It has typically involved a bank selling a loan to a company that wants to make an equity investment in the debtor country. The company exchanges the loan at the central bank for the local currency that it needs to buy the equity. In contract, Citibank wants to buy equity investments for its own portfolio and to hold them for quite a time. By increasing the demand for equitity in the debtor countries, and by negotiating a trade-off between the discount at which debt is paid off by the debtor and an attractive price for the equity paid by the bank, Citibank's new approach can substantially increase the scale of debt-equity swaps.

How does all of this fit into the long-term process of resolving the third-world debt problem? The pessimists, who have seen disaster at every turn over the past five years, were quick to interpret Citibank's announced write-down as a harbinger of a complete collapse of the debt-rescheduling process. Once again they called for government bail-outs, or government-imposed debt forgiveness by the banks, or unilateral repudiation by the debtors.

The reality is likely to be far more sanguine, especially since other banks will almost certainly follow Citibank in seeking debt-equity swaps and in securitising loans. The greatly enlarged volume of such swaps will boost the flow of new equity investment to debt-laden countries. The growth of an active secondary market in third-world debt should stimulate the creation of a primary bond market that will raise more money from non-banking investors. And the banks' reduced exposure to debtor countries should make them less reluctant to accept additional debt: even if the interest rate on new loans remains unattractive, the risk to the bank is inherently less if its debt portfolio has earlier been reduced.

The Citibank strategy thus helps the third-world debt problem in two crucial ways: it provides more finance to the debtor countries, and it limits the share of this finance provided by banks. Best of all, it does so by harnessing decentralised market forces, rather than government compulsion or cartels of debtors and creditors.

That is why these developments have increased my own basic optimism on the long-term chances of dealing successfully with Latin American debtors. I have been watching the debt problem closely since I joined the Reagan administration in 1982, at almost exactly the same time that Mexico announced its inability to service its debt.

After nearly five years of watching, I am convinced that it is possible to restore satisfactory rates of economic growth in the major Latin American countries—and in a way that will allow the debtor governments and creditor banks to continue to work together. Moreover, achieving those rates of growth will not require explicit forgiveness of debt by banks, nor any other radical change in the way these debts are handled.

AMERICAN BANKERS ASSOCIATION,
Washington, DC, June 25, 1987.
Hon. JOHN HEINZ,
U.S. Senate, Washington, DC.

DEAR SENATOR HEINZ: As the Senate moves to consideration of the Trade Bill, I wish to inform you of my strong support of the American Bankers Association for the amendment which you plan to offer to facilitate the utilization of debt equity swaps by debtors and creditors seeking a greater range of cooperative solutions in dealing with international loans.

Your amendment would raise the control percentage and dollar value of shares which may be acquired in a foreign enterprise through such a swap and increase the permissible holding period for equity obtained in this manner. These modifications of existing law would substantially ease the ability of bank holding companies to engage in such swaps, thereby providing a needed means of safeguarding their own international credit extensions while simultaneously granting relief to overseas debtors.

Debt-equity conversions, long utilized in connection with domestic transactions, are increasingly being encouraged by LDC debtor nations as a means for reducing the absolute level of external debt and associated debt service, increasing equity investment, improving national creditworthiness, and stimulating a repatriation of flight capital. Unfortunately, U.S. banking organizations are hampered in their ability to respond to these initiatives because existing legal constraints bar them from taking an ownership position sufficient for the exercise of prudent control over their investment or to obtain the advantages of equity accounting treatment. Current legal constraints also conflict with the rules of LDC nations relating to minimum holding periods for legal repatriation of investment. Your amendment removes these obstacles while retaining sufficient regulatory supervision to insure safety and soundness of the U.S. banking system.

Without relief of the type proposed in your amendment, U.S. banks will be unable to engage in successful negotiations with LDC nations desiring to utilize this option for debt relief and equity investment. Foreign banking organizations, unencumbered by such constraints, will meanwhile obtain equity positions in the most promising LDC enterprises. While neither debt-equity swaps or any other single option can be a panacea for the international debt situation, Senate adoption of your amendment would be one step toward the prudent broadening of options for both lenders and borrowers.

The American Bankers Association thanks you for your efforts in this matter.

Sincerely,

EDWARD L. YINGLING.

THE SECRETARY OF THE TREASURY,
Washington, DC, April 24, 1987.
Hon. JAKE GARN,
Ranking Republican Member, Committee on Banking, Housing, and Urban Affairs, U.S. Senate, Washington, DC.

DEAR JAKE: I fully concur with you on the importance of debt-equity swaps and with the suggestions offered in your thoughtful letter of April 6. Let me bring you up to date on recent developments, many of which are not well known.

I have been stressing the advantages of equity investment, both direct and portfolio, ever since I became Secretary. More recently, I have stressed the need to securitize some of the outstanding LDC debt, especially through debt-equity swaps. Chile, with its relatively open investment climate, has been particularly successful in converting debt into equity. It has reduced outstanding debt by about 10% and recapitalized both domestic industries and the banking system, with most of the conversions done by residents and with a minimum of government interference. I have discussed debt conversion personally with numerous foreign visitors and we have encouraged it in the MDBs and the IMF. Last month, three senior Treasury officials were major speakers before Euromoney's Debt/Equity Swaps Conference.

I consider debt conversions, whether into equity or other types of transferable instruments, as an integral aspect of capital market development in the borrowing countries. They need to mobilize more domestic savings to meet their needs, and financial returns must be adequate to keep the savings at home, attract flight capital back and entice foreign investors. Trends in the international capital markets are clear; bank loans represented less than one-fifth of total funds raised last year. Therefore, LDCs increasingly will need to issue credit market instruments if they wish to borrow internationally, and to do that they must strengthen their own domestic financial markets.

I am encouraged that with our strong support, the World Bank, and particularly the IFC, is moving ahead with some highly innovative programs. While the amounts involved are not yet large by comparison to outstanding debt or new borrowing, they have all been successful despite the difficult times for LDCs. The IFC Board recently approved IFC's participation as investor and as special limited partner in the First Philippine Capital Fund, which is being organized by Shearson Lehman Brothers. I hope this will be the first of many similar mutual funds established to convert bank-held debt into highly diversified, equity portfolios managed by professional fund managers. I supported a recent OPIC Board decision to proivde political risk insurance on some of the assets to be acquired by this new $125-250 million Philippine Fund. The U.S. banks will be major participants in the fund, which will purchase shares in govenment-owned enterprises being put up for sale.

The IFC is also trying to establish mutual funds for debt instruments of individual countries and a multi-country fund that would be attractive to institutional investors with a longer investment horizon than banks. These funds would purchase outstanding debt at a discount from banks as well as new market issues. In addition, the IFC continues to help establish new mutual funds to purchase outstanding equities in developing countries, such as the Emerging Markets Growth Fund, the Malaysia Fund and the Thailand Fund.

As you rightly point out, countries must be willing to open themselves up and offer foreign investors a wide range of opportunities than they now do, if conversions are to be successful in providing at least some relief to the debt problem. A move toward market-oriented policies, including national treatment for foreigners, can be more easily fostered in countries that appreciate the advantages of debt-equity swaps. A more open financial system may be a major factor in the return of flight capital, which could do much to ease the debt problem. Citizens of a debtor country are in the best positon to spot profitable investment opportunities, are not restricted in what they can buy, are less likely to be scared awary by uncertainties in the political climate, and, most important of all, should increase their personal stake in the economic and political future of their country.

At present, only Chile and Mexico have active swap programs in place. The Philippine program began last August, but so far only 58 transactions amounting to $83 million have taken place according to Finance Minister Jaime Ongpin. Ecuador has put a program in place, but in Argentina implementing regulations have not yet been issued. Several other countries are showing interest, including Bolivia, Costa Rica, the Dominican Republic, Jamaica, Nigeria, and Venezuela. I am heartened by this interest and I hope that the benefits will become more widely recognized. Unfortunately, none of them are likely to be as unrestricted as in Chile.

I would very much welcome your support in promoting the benefits of debt conversions and in strengthening LDC capital markets. While I persistently stress this to finance ministers, a message from the Congress extolling the advantages of debt conversion and stressing the need to enact swap programs could reinforce our efforts and be very beneficial all around.

We should recognize, however, that debt conversions aren't a panacea for debt problems. Economic reform is the only way debtor countries will achieve faster, growth and rising living standards. If they reach that goal, they should be able to restore their creditworthiness in international financial markets.

Sincerely,

JAMES A. BAKER III.

A KONGSBERG FACTORY IN LENINGRAD

Mr. HELMS. Mr. President, this legislation before the Senate, S. 1420, has a way to go before it becomes law. It is not a good trade bill but it is already having positive results.

In late March, even as the Norwegian police were investigating its activities in what is now known as the Toshiba-Kongsberg diversion case, the Norwegian Government owned arms producer, Kongsberg, was holding talks with the Soviets on delivery to Leningrad of a complete plant for computer aided production of machine tools.

It is worth noting that Leningrad is the home of the Baltic Naval Shipyard where the nine axes and five axes Toshiba milling machines, with their Kongsberg computer brains, were delivered. In fact, this factory would have produced the very same equipment which was illegally sold to the Soviets.

Mr. President, I can report that because of public exposure of this case, that plant in Leningrad will not be built, or at least it will not be built by Kongsberg. The Norwegian Government has ordered Kongsberg to cease all dealings with the Soviet bloc.

Mr. President, this was a close one. The Leningrad plant almost slipped by. With a modern Western built plant in Leningrad churning out computer numerical controllers, the Soviets could have completely revamped their industrial war machine. The results would have been devastating for the United States, the NATO alliance, Japan and the free world generally. The Soviets would have had a significant boost in their efforts to add quality to their numerical advantage. Reportedly, the plant would have been worth between one hundred and fifty and a billion dollars.

Unfortunately, one Kongsberg plant did slip by. Being completed in the Ukraine today is a Kongsberg built plant which will be equipped with a computer installation for steering the cutting of steel plates.

Mr. President, the lesson we must learn from all this is fairly simple: Without the export control legislation passed by the Senate on June 30, unscrupulous businessmen will continue to do business as usual to the detriment of the free world alliance. We need this provision. I urge the Senate's conferees to remember the Leningrad plant and insist back upon provisions at least as strong as adopted by the Senate on June 30.

Mr. President, I ask unanimous consent that a March 31 release by Norinform, the Norwegian counterpart of the U.S. Information Agency, be printed in the Record at the conclusion of my remarks.

There being no objection, the release was ordered to be printed in the Record, as follows:

Kongsberg Will Sell Computer Automation to the Soviets

After Norway's state-owned concern Kongsberg Vapenfabrikk (engineering, data, armaments) opened its branch office, Kongsberg Trade, in Moscow, the Russians have shown keen interest in purchasing the Norwegian firm's products. Talks are at persent under way on the delivery to Leningrad of a complete plant for computer-aided production of machine tools. Kongsberg is also the main entrepreneur for a turn-key plant at present being completed in the Ukraine. This plant will be equipped with a computer installation for steering the cutting of steel plates.

With the exception of the limitations imposed by Norway's NATO membership, we are offering the Russians the entire spectrum of products, says director Jan W. Riser in Kongsberg Trade. In addition to computer automation the Russians are also interested in Kongsberg's technology within the offshore and maritime sectors. The Norwegian company has supplied dynamic positioning equipment to six Soviet drilling and research vessels.

Kongsberg Trade was established in 1985 for the purpose of trading with the East bloc countries. In January 1986 the new branch office was accredited as the first wholly Norwegian industrial representative in Moscow. Jan W. Riser says that since the erly 1970s Kongsberg has acquired a good reputation in the USSR. The Russians also lay emphasis on the fact that the Norwegian company is state owned.

Mr. HEINZ. Mr. President, last Wednesday July 15, the Senate adopted vitally needed changes I proposed to title II the Export Trading Company Act of 1982. These changes had the strong support of the administration and the business community, and have now been ratified by the Senate. During our debate, I entered into the Record letters from the Secretary of Commerce in support of my amendment and from the Chairman of the Federal Reserve setting out his concerns. I ask unanimous consent to include in the Record a letter from the Chairman of the Industry Sector Advisory Committee for Services in support of changes proposed in my amendment.

This Advisory Committee operates under a joint program of the Commerce Department and USTR and provides valuable input from U.S. industry on regulatory and legislative issues related to U.S. trade. The Committee's support is one more indication of the importance the business community attaches to fully effective bank ETC's. With the changes we have made in the ETC Act of 1982, we can look forward to more aggressive support of U.S. exports by our banks in the years ahead.

There being no objection, the letter was ordered to be printed in the Record, as follows:

December 20, 1985.

Hon. Clayton P. Yeutter,
U.S. Trade Representative,
Washington, DC.

Dear Ambassador Yeutter: The Industry Sector Advisory Committee for Services (ISAC-13) has reviewed the regulations of the Federal Reserve Board (FRB) (12 CFR Part 211, Subpart (c) concerning bank-affiliated export trading companies. We believe that the regulations are inconsistent with the statute (Title II of the Export Trading Company Act of 1982), and that the regulations have hindered the successful development of bank-affiliated ETCs. The clear legislative mandate of Congress to the FRB was to encourage and assist in the growth of ETCs. We believe that FRB has ignored its directive to pursue regulatory policies that "provide for the establishment of export trading companies with powers sufficiently broad to enable them to compete with similar foreign-owned institutions in the United States and abroad." (Section 202(1) of the Export Trading Company Act of 1982.) Instead the FRB has presented major obstacles to the ETC concept. The following are some of the specific regulatory and policy positions that have hindered the growth of bank-affiliated ETCs:

1. The FRB generally limits to $2 million the value of goods which the ETC can take title without a firm order for resale (Final Rule, December 27, 1983, 48 Fed. Reg. 56938). This artificial and arbitrary limit reduces the ETC's trading flexiblity and substitutes the FRB's judgment on appropriate inventory levels for the more experienced judgment of ETC management. In practice ETCs can be expected to operate prudently with respect to inventory policy. If the FRB determines that a specific ETC's inventory policies pose a threat to the safety and soundness of the affiliated bank, it might then be reasonable to limit the ETC's operations. But a $2 million limit for all ETCs is arbitrary and not required by the statute. The statute does have prudential limits on the amount of capital and financing that a bank holding company or affiliated bank can make available to an ETC. In addition, the FRB has the authority to examine ETCs. We believe that these prudential limits and the examination authority provide the FRB with sufficient means to ensure the safety and soundness of the affiliated banks.

2. The FRB generally limits a bank-affiliated ETC to debt-to-capital ratio of not more than 10 to 1. (Final Rule, December 27, 1983, 48 Fed. Reg. 56938.) This arbitrary figure bears no relation to the leverage customary with trading companies not affiliated with banks. Foreign trading companies frequently have ratios in excess of 20 to 1. Again, if the FRB believed that if a specific ETC's leverage had an adverse impact on an affiliated bank, the FRB could limit that ETC's leverage. As with inventory, the FRB has arbitrarily substituted its judgment for the more informed judgment of ETC management on the proper leverage needed to make the ETC competitive and profitable. As indicated above, the statute does provide prudential limits and the FRB has examination authority.

3. *Application of Section 23A.* In direct conflict with the intent of Congress, the FRB is imposing collateral requirements and other conditions on the borrowings of ETCs from affiliated banks. A major premise behind allowing bank holding companies to invest in export trading companies was to utilize the bank's financial resources and know-how to stimulate export transactions. The collateral requirements severely limit the ability of a bank to bring its full financial resources to the assistance of the ETC. The FRB should substantially broaden the limited exemption from the collateral requirements in 12 CFR 211.33(b)(3) or support a total exemption from Section 23A.

4. *Counting revenue under the 50 percent rule.* The FRB regulations require a bank-affiliated ETC to derive more than 50 percent of its revenue from U.S. exports or from the facilitiation of U.S. exports in any two-year period (12 CFR 211.32(a). This requirement is not in itself unreasonable. However, the manner in which revenue is counted as U.S. export-related fails to accord with the reality of current international trade practices. Countertrade arrangements have grown increasingly important in the conduct of international trade and *often provide the only mechanism whereby a U.S. exporter can gain access to many overseas markets.* For example, assume that a bank-affiliated ETC facilitates the export of a U.S. product, takes goods in countertrade as payment, and earns a fee for the entire transaction. Although the FRB regulations are unclear, it appears that the fee would have to be allocated between the export part of the transaction and the countertrade part of the transaction. An allocation of more than half the fee to the countertrade part would actually hinder the ETC from meeting the 50 percent revenue test, even though the countertrade allowed an export transaction to go forward which otherwise might not have occurred at all. The entire fee in such a transaction should be considered as export-related revenue. At the very least, the FRB should not penalize the ETC by a *negative* treatment of the countertrade part of the transaction. We recommend that the FRB adopt a rule that only requires U.S. export revenue to exceed U.S. import revenue.

5. *Export of services.* In a manner completely unsupported by the statute or the legislative history, the FRB regulations prohibit a bank-affiliated ETC from exporting its own services (12 CFR 211.32(a)). Con-

gress clearly intended to empower bank-affiliated ETC's to export goods and *services* or facilitate the export of goods and *services*. Congress did not want bank-affiliated ETCs to engage in manufacturing or in agriculture, and said so clearly in the statute. But it had no intent to limit the services offered by bank-affiliated ETCs. Bank-affiliated ETCs possess distinct comparative advantages in dealing in services, and trade in services is as important to our future balance of trade position as trade in goods. Although you have called this matter to Chairman Volcker's attention, the FRB's response to your letters has not been adequate. In essence the FRB requires a bank-affiliated ETC to enter into a joint venture with an unaffiliated service company in order to export services. The joint venture often proves a very difficult and inefficient way to conduct international trade. The effect again is to reduce the effectiveness of ETCs, not encourage or promote them.

ISAC-13 submits that the FRB should amend its regulations to reduce these regulatory burdens on bank-affilitated ETCs. Instead of placing obstacles in the path of this new industry the FRB should be doing more to encourage ETC development. We request that you bring our recommendations to the attention of the President and Chairman Volcker, and will support whatever action you can take to foster progress on these points.

Sincerely,

Peter J. Finnerty,
Chairman, ISAC-13.

THE NAIROBI PROTOCOL

Mr. BENTSEN. Mr. President, I yield 1 minute to the Senator from Alabama.

Mr. HEFLIN. Mr. President, section 950 of S. 1420 implements the Nairobi protocol to the Florence agreement. The intent of both of these international agreements is to remove tariffs on certain educational, scientific, and cultural materials. It is my understanding that the provisions of the bill would implement the Nairobi protocol in a manner that would provide duty-free treatment to such educational, scientific, or cultural materials which are imported by or certified by the importer to be for the use of public or private institutions approved as a scientific, educational, or cultural institution. Would the distinguished chairman of the Finance Committee concur that the implementation of the Nairobi protocol by this bill would not allow the duty-free importation of items such as sound recordings imported solely for commercial purposes?

Mr. BENTSEN. The Senator from Alabama is correct that the current language does not allow free importation of items such as sound recordings imported solely for commercial purposes.

Mr. HEFLIN. I thank the Senator.

WHY "I'LL JUST SAY NO" TO TRADE BILL

Mr. EVANS. Mr. President, there is an old adage that was amply demonstrated during debate on the trade bill during the last 3 weeks on the floor of the Senate. According to the adage you can prove almost any point you want to make if you can simply manufacture the appropriate statistic. And how true that seems to be.

We have heard on the floor of the Senate every conceivable statistic trotted out to prove or disapprove different points of view. We have heard statistics that show that the United States has a highly productive, investment oriented economy. We have heard others which show that we are becoming a nation that is devoted almost exclusively to service and not traditional manufacturing.

Without taking time to go back and verify all that we have heard, I am nonetheless certain of at least one thing; that is, even if the numbers are correct, they are not the appropriate focus. It is not the numbers themselves that are important, it is how you interpret them and how they apply to your world view.

And that is really what this whole debate on trade policy is about: world view. With the patchwork bill we have cobbled together in the Senate we are clearly articulating that America is afraid. We are saying that we cannot compete, that we are simply not equal to the task of meeting the competitive challenge of today and tomorrow.

If we are interested in statistics, we should briefly recall some of the more important ones. On one hand, nationwide unemployment is at its lowest level in a decade and inflation has been reined back. On the other hand, we have in the last few years been creating near legendary budget deficits. Among the people in my State—and I suspect throughout much of the Nation—this mixed picture has resulted in a shallow veneer of well-being which masks a profound sense of concern about the future.

At the top of the list of items that the people of the State of Washington feel is a necessary component of a fruitful future is expanded world trade. Being in that part of the Nation that is closest to the economic dynamism of Asia, the people in my State recognize that in the coming decades huge new markets will be developing throughout the Pacific rim to supplement the already substantial markets of today.

But the real question is what course we will commit ourselves to through the policy choices we make. I see two available paths. We can follow those who believe Congress and the Federal Government generally should get involved to an even greater extent in managing our trade relationships around the world. Or, we can follow those who believe that in many respects we have more than enough tools to do the job and that it is time to go out and do it.

I will vote against the trade bill now pending before the Senate because it is clear that the congressional trade managers are carrying the day. I will not vote against it because it is all bad, because it is not. However, on balance, this bill will do very little to address the true sources of what is called our competitiveness crisis and could potentially do long-term damage to many important trading relationships.

Although limited, there are indeed some positive provisions within the 1,000 pages of the bill. I am pleased that the bill incorporates many of the ideas which Senator Cranston and I set forth in our own legislation designed to streamline our Export Control Program. By focusing more of our resources on controlling a smaller number of high technology items, we would allow U.S. corporations to compete more effectively in areas where they truly are competitive and demonstrate to our allies that we are realistic about technology control and that we want to work with them to strengthen existing multilateral export control programs.

Positive too are the provisions relating broadly to improving education and training of the Nation's work force and which are intended to help workers get back on their feet quickly when they are knocked down by the sometimes cruel operation of market forces. Other steps which we should take and which are provided for in this legislation include the provision I sponsored which will give us more accurate trade statistics and the necessary authority for the President to engage in the upcoming GATT negotiations.

So the question is whether the positive elements outweigh the negative ones. I have concluded that they most certainly do not.

During the past several months we have finally begun to see some positive change in our trade picture. While the change admittedly has not been as rapid as strict adherents to "J curve" theory might have predicted, there are economic forces at play beyond our control which don't allow us to improve our overall performance as quickly as we might like.

Economic growth has been sluggish at best in Latin America and many other countries which are traditional U.S. markets. Selective trade barriers do exist. There has been uneven performance of the dollar against different currencies. And there continues to be significant overcapacity in several important industrial sectors.

Still, our exports to Japan have increased during the last year even as their economy grew sluggish. While exports of some key agricultural commodities have fallen, we have seen increases in our exports of logs, lumber, paper and paper products, aircraft, meat and meat products, fish and fish products, and fruits and vegetables.

Overall, though, improvement has lagged. And as George Shultz said when he was Treasury Secretary:

"The economist's lag can be a politician's nightmare. He's right. This bill is a very bad dream indeed.

After the House produced what I thought to be an overwhelmingly bad piece of trade legislation, I hoped that the Senate would be able to respond in a much more responsible—and positive—manner. An editorial which appeared after the House acted but before we did concluded optimistically that:

> The Senate is no less concerned than the House about the trade deficit. It is, though, far more alert to the dangers of trying to mandate an illusory quick fix to a complex problem.

But that optimism was clearly misplaced. We have devised a bill that is the wrong weapon, aimed at the wrong target, at the wrong time. We should be working overtime to expand opportunities for trade and forge closer economic and foreign policy ties with our friends and allies. Yet, with this bill we pit U.S. company against U.S. company, U.S. union against U.S. union, U.S. region against U.S. region, U.S. worker against U.S. worker, and America against the world. That's what happens when you build walls, not bridges because instead of trying to make a bigger pie, the focus is on competing for shares of a pie that will not grow.

Why now? Have the trading practices of Japan, South Korea, Taiwan, and other nations become suddenly more restrictive? Can we honestly lay the entire blame for our trade deficit at the feet of our trading partners?

An assessment by the U.S. Council on Economic Advisers belies the claim that the world has become more hostile to international commerce.

> The massive deterioration of the U.S. trade balance clearly has not occurred primarily because foreign trade practices have become vastly more unfair. * * * The deterioration is too pervasive to be explained by analyses focused on a product-by-product, country-by-country basis.

As I have said time and again here on the floor of the Senate, the real problem is right here at home. If we want to take some action that will help us restore balance in our trade accounts, we should spend a little extra time during the next few weeks as we are considering the debt limit and other budget bills and adopt some budget reform measures that will help restore some sense of rationality to the budget process.

Mr. President, despite all the rhetoric about the positive approach we are taking, it is pretty clear that, fundamentally, this bill is a protectionist measure. It is a response to the cynical demagoguery of those who pursue the fair trade holy grail.

I want to know what is fair about a bill that calls for protecting patently uncompetitive firms and industries largely at the expense of those in this country who can least afford it? I want to know what is fair about a bill that completely ignores the budgetary problems that have the greatest impact on our trade balance. I want to know what is fair about a bill that focuses not on those countries which maintain the most egregious import restrictions, but on those with whom we have a trade imbalance but whose overall trade posture might be relatively open.

In some respects, this bill shows us at our worst. I suggest that it is the height of arrogance to tell other countries that we will retaliate against them if they do not provide protections for workers and adopt other policies identical to those we choose for ourselves here in America. I suggest that it is just as arrogant to tell 56 other countries with whom we have negotiated an investment guarantee agreement that we will not sign it until the agreement is changed to meet every U.S. demand.

With this bill we are being defeatist and jingoistic while engaging in a magnificent exercise in self-deception. If we think that holding a gun to the head of our friends and allies is the way to a more free, open, and cooperative international trading system then it will be a very long time indeed before we can expect to make any inroads in overseas markets.

Who pays the price of protectionism? U.S. consumers definitely. U.S. exporters probably. The world economy potentially. Just as Japan is experiencing declining economic growth, we are saying that we have to retaliate for the huge surpluses which they have run up against us because Americans want to buy Japanese products. How will they respond? Will they begin to divert capital to other, more hospitable nations? Will they reverse the current trend toward trade liberalization and build more walls to match ours? Do we care?

We most definitely should care. Because while consumers generally are hit hard by protectionism, it is the poor, and those on fixed incomes, who pay the highest price. Japan doesn't really suffer from voluntary export restraints on cars. They simply are able to capture cartel profits. But American consumers do pay. They pay in the form of both reduced selection and higher prices.

We also should care because in our rush to show who can be toughest on trade, we may well knock back to the mat U.S. corporations who are finally recognizing that they bear some of the responsibility for their failure to sell overseas. Just when these corporations are beginning to get the message and are working to open the door to new overseas markets, we are taking steps in Congress that could easily inspire foreign nations to slam the door on their hands. Just as our troops are ready to go to battle, we are pulling up the drawbridge.

And for whom? Who really benefits from trade restrictions? Every restriction is a special preference for some small segment of the U.S. economy. With the tax bill, we swept the special interests out of the way. But lest anyone is concerned, they are alive and well in the trade bill,

Those who believe that protectionism will help save jobs and will benefit the American worker are sadly mistaken. Certainly protectionism may delay economic adjustments, but over the long haul we will have far fewer jobs to go around if we build walls around the United States than if we seek to build bridges to newly emerging markets throughout the world. It is far better to help directly those who are hurt by economic change in an expanding economy than to forgo opportunities for growth because we are afraid of change.

If we are concerned about jobs, we should take steps to make sure we will create more. An expanding economy is the surest route I know to expanded opportunities for American workers. The new world development report of the World Bank demonstrates clearly that those countries which maintain outward or free-trade oriented economic policies consistently outperform those who choose to be inward or protectionist in their orientation. Commenting on the report, an editorial in the Economist noted that:

> It shows that the countries which have seen the world economy as opportunity rather than threat, and have accepted rather than cushioned the effect of international market forces within their economies, have enjoyed the fastest growth rates.

Although I am voting against this bill now, I still retain a thread of hope that a miracle will occur during the conference negotiations with the House and that out of two bad bills will emerge a good one. To be good the bill must promote competition. But the competition that is promoted should not be an adversarial dance of tit-for-tat protectionism but an aggressive, cooperative effort among free nations to battle poverty, hunger, and despair though economic growth combined with humanitarian social policy. All will benefit from a bill that seeks not to insure that we preserve a limited status quo, but which lays the foundation for a limitless future.

Mr. RIEGLE. Mr. President, the Senate has finally completed work on the trade bill. The bill has gone through many positive changes since its introduction on February 5 of this year and I strongly support S. 1420, and urge all of my colleagues to support this important legislation.

Last February I indicated my intention to strengthen this trade legislation. My main concern was to address the unfairness in our trading system with countries such as Japan, Taiwan, and Korea. These nation have gained tremendous unfair trade surpluses with the United States, and have built those surpluses as mercantilist nations which are export driven while simultaneously closing their markets to competitive American products.

I raised this issue when the trade bill was first introduced, and indicated that I planned to develop a provision similar to the Gephardt amendment in the House bill.

In pursuing that objective I worked with the Senator from Missouri, Mr. DANFORTH, in drafting a response to this unfair trade practice and was pleased that we eventually were able to earn the support of the majority and minority leaders, who joined in offering our amendment. This truly bipartisan legislation was passed overwhelmingly—87 to 7—and I have every confidence that it will become law.

The Riegle/Danforth amendment was developed over a several month period and makes a significant change in current law. It will enable the United States to negotiate with our trading partners to eliminate unfair barriers that block the sale of U.S. products in foreign countries. It will create more American jobs, and will help eliminate the need for U.S. companies to locate overseas in order to sell to foreign markets. Further, it will provide important new incentives for U.S. industries to develop aggressive strategies to export more U.S. products, once they know that foreign markets will be open to them.

Finally, by increasing the ability of American companies to export, our trade deficit will come down. Although the amendment does not specifically provide for a mandated amount of deficit reduction, if our plan of action is implemented in good faith, and U.S. industries use this change in the law to export more goods and services, the trade deficit will come down.

A second issue which I raised last February was the necessity for including a strong provision in the Senate bill addressing the violation of internationally recognized worker rights. Basic worker rights are violated every day in many countries which produce products made for sale in the United States, competing against U.S. goods produced by our workers who have fought for and secured these fundamental rights. Foreign products made under deplorable, inhuman conditions by workers who are being abused will be considered to be unfairly traded. It is vital to the continued expansion of the world trading system that all workers be granted these basic rights. My amendment makes the systematic denial of these rights an unreasonable trade practice which can be actionable under section 301 of the trade act.

My amendment was adopted by the Senate Finance Committee, and incorporated in the legislation now before us. It sends a strong message that American workers should not and will not have to compete with child labor or slave labor; with workers forced to work in unsafe conditions, without the right to organize and bargain collectively or even assemble in an effort to bargain for decent wages and working conditions.

This amendment will prevent our trading partners from deriving an unfair competitive advantage from denying these basic rights to workers. By raising the standards of workers in foreign countries which have been flooding the United States with their goods, their workers will be able to buy more of their own products and U.S. products as well.

In addition to these two amendments, three other strengthening amendments I offered were adopted during committee deliberations, and are now part of this bill.

One such amendment makes it an unfair trade practice for a foreign government to tolerate closed procurement practices by private companies or groups of companies in those foreign countries. Currently, these powerful private concerns are not accountable under our trade laws. When foreign governments express an interest in addressing the trade problem saying they would like to increase the purchase of U.S. goods, but then assert that they have no control over their private industries, they are, in a sense, off the hook. This amendment puts them back on the hook by making it an unfair trade practice for a government to tolerate these closed procurement practices in their nations.

Second, under current law, if a foreign company is found to be selling its products below fair market value in another country, a practice called dumping, the U.S. International Trade Commission is not mandated to consider such practices as evidence in a dumping case occurring in the U.S. market. My amendment requires such information to be examined. A U.S. producer of outboard motors raised the issue with me. Their competitors—companies such as Yamaha, Suzuki and Honda—not only make outboard motors, but are huge manufacturing conglomerates. They have sold outboard motors below cost in other countries. With the enactment of this provision, if the U.S. company were to bring a dumping action to the ITC, the ITC will be required to consider past findings in ruling on material injury to the U.S. industry. This will help American workers and the companies they work for.

During the Banking Committee markup, I sponsored another amendment to bring some equity into the international trading system for one U.S. securities industry. My amendment said to the Japanese: "You have Japanese primary dealers now operating in the United States securities industry, yet United States firms do not have the same access in the Japanese financial system. Either you open up, or we'll take away your privilege of being primary dealers in our market. This approach has worked already. Since the amendment was adopted in the Banking Committee, the Japanese announced that access will be granted in the Japanese market to four United States bank holding companies and six other foreign institutions. This is an important response and clearly indicates that strong action by the United States will yield positive results. We have important leverage with Japan and other countries which are export dependent, and that is continued access to the United States market, and we must use that leverage appropriately.

For these reasons and others I believe the Senate omnibus trade bill is an important step in addressing the inequities of current law and the lack of a cohesive trade policy in the United States. It is breakthrough legislation that will greatly strengthen the U.S. economy—and in turn, U.S. workers and their companies.

The bill isn't perfect, but it does reflect the major concerns of Members of the Senate who have very diverse philosophical points of view. It is vital legislation which is precedent setting, fair, and will give our negotiators the tools needed to make sure the United States gets as much as it gives in international negotiations. Further, it will help make Congress an active partner in trade policy, reversing the inertia which has prevailed for most of the past 6 years as we have watched the unprecedented deterioration of our international trading position.

I commend the majority leader [Mr. BYRD] for his coordination and leadership in what is certainly one of the most complicated pieces of legislation we have seen move through the Senate in many years. With his able direction we have been able to pass legislation which will have a positive impact on U.S. trade policy for many years to come.

Also, I want to commend the distinguished chairman of the Finance Committee [Mr. BENTSEN] and his staff for the strong leadership in conducting trade hearings in the first month of the 100th Congress, and in bringing this bill before the Senate. It is long overdue, and the priority this issue was given by the chairman has served as a strong message to this administration that our current trade position is damaging America and must be changed. This trade bill will make that change and is an important victory for American workers and companies.

Mr. HEFLIN. Mr. President. For some time now, the United States of America has been in the throes of the worst trade crisis in the history of this great Nation. While this Chamber has heard much rhetoric about our trade problems, I hope my colleagues will take one moment to listen to this vitally important statistic. Our Nation's trade deficit for 1986 reached the unprecedented level of $169.8 billion. Mr. President, in 1 month alone of that year, the consumers of this country purchased nearly $20 billion more in products than our U.S. industries sold during that same period of time.

Not long ago, an annual trade deficit of $20 billion was cause for serious alarm. For too long, the seriousness of our trade problems has been overlooked and ignored. This omnibus bill, with its broad, bipartisan support, reveals congressional attention to this important problem and congressional determination to find some solutions.

The simple fact that we have forfeited our position as the world's largest creditor nation and now bear the dubious destinction as the world's largest debtor nation should spur every Member of Congress to vote for this bill.

While I do not believe that this legislation will be an overnight cure for the trade ills from which our Nation is suffering, I do believe that this bill will set us on the right path.

This bill contains many worthy provisions. However, I believe that some of the most important provisions are those designed to preserve American jobs. In particular, I am pleased to see sections which encourage the survival and success of our domestic industries by addressing the unfair foreign trade practices of our competitors.

Our trade deficit is sending far too many of our workers to the unemployment lines. This deficit is leaving too many of our factories, plants, and mills standing dark and dormant.

It is simply wrong to force our American companies to compete with foreign companies and foreign governments. When our companies are competing against subsidized industries, dumped products, and the use of fraudulent methods to circumvent U.S. customs law, it is no wonder that the Nation's industrial competitiveness declines. I believe that this bill addresses those unfair practices and will encourage their elimination.

Also of tremendous importance are the provisions which demonstrate our commitment, as a nation, to the education and retraining of our industrial work force. Retraining of workers displaced by imports must be a priority. We cannot let huge segments of our workplace disappear due to a lack of training. Other nations have been allowed to gain a slight advantage over our industries due to their spending and efforts in this area.

As we all know, the information age has placed a great demand on our educational system—a system which is critical to our economic future and our national security. We cannot let our science and math programs in the United States lag behind those of Japan, West Germany, and the Soviet Union. Computer, math, and science literacy must be achieved by all of our students if our future position in the international marketplace is to be a strong one. This is an investment in our future.

In reviewing this bill, I note that, by and large, this is a generic bill which will overhaul trade laws affecting many of our injured American industries. I also note that some sector-specific provisions are included in the bill. However, one injured industry is conspicuously absent. That industry is the textile and apparel industry.

Despite its absence from the list of industries which are specifically addressed in the omnibus bill, the textile and apparel industry is one of our Nation's most competitive industries. A recent report by the Office of Technology Assessment [OTA] found that U.S. textile and apparel firms are spending $1.5 billion a year on new plants and equipment. This industry is competitive, productive, and efficient. Plant closings and job layoffs in this industry should not be attributed to a lack of competitiveness. These lost jobs are, plain and simple, the result of imports.

Since 1980, more than 300,000 textile and apparel workers have lost their jobs, their means of providing for themselves and their families, and their very livelihoods. Twelve thousand of those workers now stand in the unemployment lines in my home State of Alabama where 15 textile plants have been forced to close their doors since 1980.

This bill lets our foreign competitors know that the United States will no longer sit idly by while they sell products at prices lower than the cost of production and use illegal and unfair subsidies to put our American workers on the unemployment rolls.

Although this bill will go a long way toward improving our Nation's trading position, other legislation may be needed to ensure that industries which are extremely hard hit by imports, such as the textile and apparel industry, have an opportunity to compete.

In addition to the enactment of this legislation, there are also some nonlegislative actions which must be taken if we are to remain competitive in the world marketplace.

Fortunately, we are beginning to see some positive results from the decline in the value of the dollar. These efforts to coordinate our economic policies with the policies of our competitors must be continued if we are to see American and world trade expand and prosper.

Also, if we are serious about dealing with our trade problems and the issue of our Nation's competitiveness, we must balance our Federal budget.

I know that there are those who feel that our Gramm-Rudman-Hollings law, enacted by the 99th Congress, is sufficient to address our fiscal concerns. Although Gramm-Rudman-Hollings is a worthy piece of legislation which expresses a laudable goal, it is a statutory response to a crisis that demands constitutional resolve.

We should all remember that this law is only an act of Congress which can be changed at any time by Congress. In order to put a final stop to our helter-skelter fiscal policy, I believe that we should adopt a constitutional amendment to balance the Federal budget. A constitutional amendment, once enacted, could only be changed by another constitutional amendment and not at the whim of some future Congress. A constitutional amendment will help us put our fiscal house in order and it will boost our international trading position as well.

There is no quick fix to our trade problems. Hopefully, the provisions of this bill will help reverse some of the devastating trends which have inhibited America's ability to succeed as a world trader. While I would prefer a stronger bill, I have hopes that this bill will bring improvement.

Mr. BINGAMAN. Mr. President, I wish to call my colleagues' attention to a topic that has not received much attention in connection with this important legislation, and that is the link between trade policy and the Senate's decisive action against illicit drug traffic. We have enacted laws providing sanctions against those nations which do not attempt to curb the drug trade within their borders. That is a correct step to take. But we also ought to acknowledge those who are making significant efforts to fight the drug war, such as Colombia. At the least, we ought not to stymie their effort to substitute a viable economic alternative to the drug crop.

I hope that our conferees keep in mind the connection between our antidrug policy and this trade legislation—especially as it concerns the fast track procedure under section 202. In particular, I would hope that our conferees will use the precedent of the Caribbean Basin Initiative and the Israel Free Trade Agreement to establish a cap on duties which can be imposed on an emergency basis, and that such duties do not exceed the level collected during the emergency period. These changes would in no way undermine the important domestic agricultural interests which the fast track procedure protects, and which I support.

Mr. DECONCINI. Mr. President, will the Senator yield for a question?

Mr. BINGAMAN. I would be pleased to yield for a question from my distinguished colleague from Arizona.

Mr. DECONCINI. I thank the Senator. Let me begin by commending Senator BINGAMAN for his leadership on this issue.

Mr. BINGAMAN. I thank the Senator for his kind words and would like to commend him for his leadership and expertise on the drug issue. I know he was a leading voice on the Omnibus Anti-Drug Abuse Act of 1986, particularly on the interdiction provision incorporated in that measure, and we all benefit from his continued involvement in this issue.

Mr. DECONCINI. Does the Senator agree that the war against drugs cannot be won unless we provide alternatives in the countries where the drug crops originate?

Mr. BINGAMAN. That is exactly my premise in expressing these concerns. We cannot spend millions on eradication and interdiction, and support crop substitution efforts in these countries, and then turn around and threaten the infant industries we have promoted with extraordinary new risks as part of our trade legislation.

Mr. DECONCINI. I share this sentiment, and that is why I have introduced S. 998, the Micro-Enterprise Loans for the Poor Act. That important bill which would direct AID moneys to provide credit for some of the world's poorest farmers has more than 35 cosponsors, including my friend from New Mexico. The objective of that legislation is, in part, to encourage realistic alternatives to drug production in some of the world's poorest economies. When I introduced that legislation in April of this year, I noted that a loan of as little as $50 can be enough to create alternatives to drug production. Small efforts at the margins can be extremely important to the success or failure of eradication efforts. We have to view with suspicion any U.S. policy that jeopardizes alternative crop production in these economies.

My colleague from New Mexico has mentioned the need to protect diversification efforts in countries such as Colombia. I wholeheartedly, agree, but I must add that I was terribly disappointed by the recent Colombian Supreme Court decision overturning one of that nation's extradition treaties with the United States-Colombian cooperation in the extradition of drug criminals to the United States for trial remains a prerequisite for our support for economic diversification. Just as we must be mindful of the connection between drug policy and trade policy, the Colombian Government should recognize the linkage between economic cooperation and drug eradication.

Mr. BINGAMAN. The Senator's leadership on this issue has been appreciated by all of his colleagues. I am pleased to say that I am a cosponsor of S. 998. He is very correct in warning of the dangers of disruption in the tentative efforts these countries are making to find options to the tyranny of the drug economy. I hope and trust that my colleagues who will be conferees on the Finance Committee portions of S. 1420 will take note of these dangers as they undertake the challenge of reconciling House and Senate bill language. This Senator and many of his colleagues are concerned about any provisions that would undermine costly U.S. programs geared to encouraging economic alternatives to drug crops.

Mr. DECONCINI. I agree, and I share the Senator from New Mexico's hope that our conferees will work with Members of the House in reaching a responsible solution.

Mr. GRASSLEY. Mr. President, this body has spent many days and long tedious hours on the Senate floor debating S. 1420, the Omnibus Trade Bill of 1987. As the lights burned into the late evenings, Members from time to time grew weary, tempers at times grew short, and fatigue set in.

For a time, it was not certain that we would ever get back on track, let alone pass a bill that would put teeth back into our trade laws, while at the same time be fair to the world trading community.

With 9 committee titles and over 100 amendments to this bill debated in the 13 days since we began, I believe we have come a long way. The bill has had a truly bipartisan effort, and we have crafted what I believe to be a very comprehensive piece of legislation.

I am pleased to vote for this legislation, although there are some sections of the bill with which I am not fully in accord—as is true as well with the House version of the bill. I would hope some of this may be taken care of in the conference committee. Of particular concern to me is the plant closing provision. I, therefore, reserve my options as to whether or not I can support the conference report when it returns to the Senate for a final vote.

Nevertheless, I believe we have accomplished what we set out to do when the bill was first introduced: Break down foreign barriers; increase American competitiveness; strengthen trade law enforcement against unfair trade practices; and make trade policy a number one priority in this country as it is for our competitors.

With a few exceptions, this legislation has put the broader national interest ahead of special interest.

Mr. President, I would like to extend my deep appreciation to Senators BENTSEN and PACKWOOD for their role in steering this legislation through rough waters from time to time. Truly, these two men had to carry the faith of the trade bill on their shoulders—a job which they have done in yeoman fashion.

Because of this bipartisan effort, each of us can take pride in the fact that, while some have started down the road to making this legislation a political issue, this body has, for the most part, put what was best for our trade and economic future over political concerns.

Since we have spent a fair amount of time in crafting this legislation, I would hope each of our conferees would go into the conference with the same bipartisan approach to arrive at a bill that can be passed by the Congress and signed into law by the President. We don't need a bill that is doomed to be veto-bait—that is then sustained by the Congress—so that we end up going through the same process again next year.

But more importantly, we should not let this opportunity to reduce our trade deficit slip through our hands, only to be faced with a larger deficit and an even more serious impact on our industries.

So, it is with hope and cautious optimism that I vote for this piece of legislation.

Mr. THURMOND. Mr. President, there are many provisions in this major legislation which I believe are worthwhile. Several sections of this bill adopt legislation I introduced in the 100th Congress. However, there are several provisions in this bill that cause me grave concern. I am optimistic that many of the provisions I oppose will be deleted at conference. For these reasons, I will vote in favor of this bill. But, I will reserve final judgment on this legislation until the conference committee has had the opportunity to make important revisions to it.

Mr. HATFIELD. Mr. President, I congratulate the two leaders and the several managers on bringing this comprehensive legislation to third reading. I fully appreciate the work done by the various committees and realize that countless hours have been spent by Senators and staff in its preparation. All this considered, however, I cannot support S. 1420 because of onerous provisions which will do little to improve our trade position. While there are sections of S. 1420, including the sections dealing with education, export licenses and competitiveness, which have my total support, the bill contains other language which would harm our trade capabilities.

For example, of primary importance to my constituents is promotion of American exports. In discussing trade policy with my constituents I assured them that I would support a trade bill which promotes American exports. Unfortunately, this bill does not do that. Instead, the bill seeks to protect American industry from fair competition. It is true that there are nations which engage in unfair trade, but as has been said many times in recent weeks: If unfair trade barriers were eliminated, the United States still would have a significant trade deficit.

Furthermore, there are burdensome sections in the bill which reduce Presidential discretion in settling trade disputes. I was pleased that the Senate did not adopt a carbon copy of the House-passed Gephardt amendment, but the language we did pass in this area is still too restrictive to satisfy this Senator. All Americans have concerns about the slow pace followed by the Reagan administration in addressing the trade problem, but that does not mean that we should endorse the removal of these powers from the trade strategies considered by future Presidents.

In a related area. I am concerned that the Senate did not pass the amendment offered by Senator PACKWOOD dealing with section 201 reform. I applaud the managers for accepting subsequent section 201 amendments offered by Senators BRADLEY and GRAMM and hope that conferees will adopt language similar to those two amendments allowing Presidential discretion to protect the interests of the poor and farmers.

As I mentioned earlier, I am pleased with the export license reforms contained in S. 1420. These reforms are threatened, however, by our haste to react to the despicable and treacherous act perpetrated by the Norwegian firm Kongsberg Vaapenfabrikk and a subsidiary of Japan's Toshiba Corp. In recent days, several of my constituents have contacted me concerning the negative economic impact a 2- to 5-year ban on Toshiba products would have upon their businesses. There is no question that Toshiba and Kongsberg should be dealt with severely, but I do not believe that those sanctions should be imposed by Congress in an emotionally charged political forum. Instead, those sanctions should be initiated by the administration after consultation with the Japanese and Norwegian Governments. I urge the conferees to reflect upon the wisdom of the sanctions we passed recently. We do need to penalize those who betray the Western alliance in the name of greed, I only question how we arrive at that penalty.

There also are two provisions of the bill dealing with agricultural commodities which I cannot support. By subsidizing the export of tobacco, we are, in effect, altering a previous law which assured American taxpayers that any tobacco subsidy program would operate at no net cost to the Government. But this new tobacco subsidy has little cost when compared to the sugar drawback provision contained in the bill. By allowing sugar refiners to draw back Customs duties, we will be taking over $350 million out of the Treasury and distributing over $250 million of that to just three companies. These two provisions alone are nearly enough to bring a negative vote from me.

My final concern, Mr. President, is the noncontroversial amendment adopted last week allowing private right of action against importers suspected in fraud cases. In cases where the Customs Service finds clear fraud, I encourage swift and tough retribution. But the amendment is the wrong approach at the wrong time.

In spite of assurances of procedural protection put forward by the amendment's supporters, importers will face harassment by domestic competitors who see this private right as a chance to get a Federal judge to do what Customs may have seen as a groundless claim. I am concerned that the amendment's broad terms will give a hunting license for more and more litigation spawned by those in this country who see themselves threatened by imports of a specific product. This amendment will create more problems than it will cure. Instead, we should examine ways to encourage appropriate Customs response to fraud claims, not create a new breed of lawsuits to cope with the very real problem of Customs fraud.

In closing, I want to congratulate my colleague from Oregon. Senator PACKWOOD has done a marvelous job in leading the minority party through the maze of S. 1420. It is my hope that he will carry the concerns of those Senators who oppose this bill into conference. It is my hope that the conferees can combine the best sections of H.R. 3 and S. 1420 in such a way as to make the resulting compromise bill acceptable to all Senators. It is my hope that the conferees will write a final bill which is acceptable to the President. It is my hope that a new nonprotectionist trade law will enable this Nation to emerge from its huge trade deficit, prosper in the rest of the century and provide hope to the next generation of Americans that their standard of living will be better than that of their parents.

Mr. MURKOWSKI. Mr. President, after 4 long weeks of debate, today we will vote on final passage of this omnibus trade legislation. I commend the bill managers for the leadership they have displayed throughout our consideration of this legislation. When we began debate 4 weeks ago, I expressed my feeling that on the whole, the bill had many positive features to fine tune existing trade law, and enhance American competitiveness.

During the course of debate we have added provisions which go even further in promoting improved American competitiveness. I am pleased that the bill includes two amendments I introduced: One which encourages the President to negotiate with our trading partners to remove barriers to United States participation in the shipment of automobiles to the United States. The other which directs the USTR to investigate barriers to the participation of United States design engineering, construction, and architectural firms in the construction of Kansai Airport and other major projects in Japan.

I strongly support other provisions to repeal the windfall profits tax, and restore the President's ability to consider the effect of import relief on the poor, and on U.S. agriculture exports.

However, I must express my deep concern over provisions which have been added during the course of debate which I feel run counter to our goals of improving U.S. competitiveness.

The Senate has wisely kept out provisions included in the House bill such as the Gephardt amendment, reporting requirements for foreign investment, and an expansion of export controls for crude oil and refined petroleum products.

Mr. President, I want to go on record right now, if these onerous provisions appear in the report that comes out of the conference, I will have no choice but to vote against the conference report.

In concluding, I encourage the Senate conferees to work with our colleagues in the House to remove the most objectionable provisions in both bills so that we can present the President with a responsible trade package he can sign.

PASSAGE OF THE TRADE BILL: AN ECONOMIC WATERSHED

Mr. PELL. Mr. President, the passage of the ominbus trade bill marks a true watershed in our economic history. The overall effect of the bill is to readjust policies and relationships which have characterized U.S. trade activities for nearly half a century, and to redress economic legacies which date back to World War II.

Behind us lies nearly a half century of virtually unilateral free trade on the part of the United States of America. While our policies over this period were often magnanimous in spirit and motivation, they proved to be enormously rewarding in substance for much of the world, including ourselves until recently. We participated in three decades of unparalleled growth, during which we made astonishing strides in science and technology and achieved substantial gains in the well-being of most of our population.

But while all this was going on, gradual but powerful changes took place in the world balance of economic power. Our trading partners, often in reaction to American dominance, erected new tariff barriers, subsidized domestic production, and intervened aggressively in the free play of the international marketplace.

World wide, the alarming bottom line to this 40-year period of increasing nonreciprocity is that the United States runs an overall trade deficit of over $170 billion, and in less than a decade has sunk to the position of being the largest debtor in the world. While economists have argued that trade deficits can be a sign of economic strength, I think everyone agrees that a deficit of the present magnitude is injurious and cannot be sustained.

From that perspective, the Omnibus Trade Act does represent a watershed of change. While many of the remedies we have considered are not perfect, I believe we have, for the most part, been pragmatic about our own national interests, and avoided extreme solutions.

The task which faced us was to take corrective action without letting the pendulum swing too much further in the direction of protection. I think we have struck that balance. The omnibus trade bill will continue the tradition of internationalism that has characterized the U.S. policy since World War II, while asserting a new expression of U.S. interests appropriate to the times.

I believe the bill deals realistically with the problem of foreign import barriers without resorting to the draconian extremes of the House bill. The important policy objective which should prevail is that retaliatory practices should be invoked, not for the sake of permanently sheltering U.S. industries, but for temporary leverage in negotiating the reduction of barriers abroad and securing a level playing field for American business throughout the world.

The most conspicuously positive provisions of the bill are those dealing with the concept of competitiveness. I am aware that this notion has become somewhat discounted recently and dismissed as a "buzzword" without substance. But to my mind, there is much to be gained from a positive effort to restore American enterprise, as opposed to concentrating on the more restrictive aspects of trade legislation.

It was from this perspective that I introduced early in this session the Education for a Competitive America Act, to be a part of the comprehensive trade bill. My bill sprang from a conviction that our productive capacity can only be as strong as the skills of the men and women who make up the work force. The Education for a Competitive America Act provides for increased funding for instruction in math, science, foreign languages, and computer skills, for training dislocated workers and expanding adult education and literacy training. It provides a new program for the transfer of federally developed computer programs to train dislocated workers.

Another amendment I introduced, which is smaller in scope but just as closely related to the competitiveness theme, would promote conversion to the metric system of measurement in the United States. It is based on my conviction that a changeover to the metric system would improve our ability to export and compete more favorably in world markets and thus substantially reduce our trade deficit. Over half of our exports are affected in some way by measurement requirements, so it stands to reason that we can only benefit from a coordinated national policy of conversion.

The bill contains important provisions to facilitate the settlement of debts owed by the poorest nations, and it authorizes U.S. participation in the Multilateral Investment Guarantee Agency. I am particularly pleased that the Senate accepted my amendment expressing the sense of Congress that the United States become a signatory to the Convention on the Control and Marking of Precious Metals, a step which would enhance the export business of the jewelry industry in my State.

Mr. President, looking back over the panorama of world trade since World War II, we see that our present dilemma results from a combination of several interrelated problems: Foreign barriers to our products, aggressive marketing by our trading partners, diminished competitiveness at home, and finally our own fiscal disorder and resulting monetary imbalance. The omnibus trade bill addresses many aspects of those interrelated problems, and it should become law. If it does, the end result will be not a reversion to protectionism but a restoration of reciprocity. We should keep in mind Benjamin Franklin's wise prescription that, "No nation was ever ruined by trade," and always remember that our interests in the long run are best served by lowering barriers and opening doors.

CHILD LABOR TRAGEDIES

Mr. CRANSTON. Mr. President, before debate ends on the Omnibus Trade and Competitiveness Act of 1987, I want to address one provision of the bill which is contained in section 306. This provision amends section 301(e) of the 1974 Trade Act to include within the definition of "unreasonable" practices actionable under section 301 a persistent pattern of acts, policies, or practices that deny certain internationally recognized worker rights. Among the practices specifically listed are those which fail to provide a minimum age for the employment of children.

I applaud the Senate Finance Committee for including this provision in the trade bill, and for addressing this very difficult and troubling issue.

Mr. President, on July 12, 1987, an article appeared in the Washington Post, "Child Labor: The Profits of Shame," outlining the worldwide exploitation of young children in sweatshops and factories.

This article, based upon a 9-month investigation by two Cox Newspapers reporters, Joseph Albright and Marcia Kunstel, found that literally millions of children, some as young as 4 years of age, were providing a source of cheap labor in impoverished nations. They interviewed more than 200 people in 11 countries on 5 continents, documenting this story of exploitation and abuse which initially ran as a six-part series. The individual stories of children working in squalid factories and sweatshops are heartbreaking to read.

I ask unanimous consent that the text of the article which appeared in the Washington Post be printed in the RECORD at the conclusion of my remarks.

In many of the countries visited, child labor laws already exist, prohibiting these young children from being used in the work force. Yet in most, government officials look the other way while children work long hours for little pay.

THE MYTH OF NECESSITY

Mr. President, many individuals deplore this form of child abuse, which exploits youngsters as a source of cheap labor, but contend that it is a necessary evil in the developing world. Some have suggested that seeking to end these practices would result in greater hardships for impoverished families who depend upon the income generated by these children for basic survival.

Yet, Albright and Kunstel found that child workers are often concentrated in countries where masses of adults, including their parents, cannot find jobs. Without the availability of an exploitable, low-paid force of child workers, businesses in these countries would be forced to employ adults, at better wages. Many families would come out ahead.

The history of abolition of child labor in this country is instructive. Although the fight to eliminate child labor from the mills and factories in the United States began in 1870, it was not until 1938 when the first provisions limiting child labor were adopted as part of the Fair Labor Standards Act. Like today's legislation attached to the omnibus trade bill, the 1938 child labor law was tied to a ban on the sale of goods produced by child labor. It prohibited shipment in interstate commerce of such products. Many who fought against the 1938 legislation contended that the economic well-being of families would suffer if child labor was prohibited.

Of course, we know that has not been the case. Indeed, as the availability of cheap child labor ended, the welfare of adult workers increased and family income grew.

Even today, exploitation of child labor is not a necessary evil in some developing countries where child labor laws are enforced. South Korea and Kenya are two examples cited as nations where violations of child labor laws are virtually nonexistent because of government commitment to enforcement. Similarly, Morocco and Jordan are two Arab countries with roughly similar economic profiles. Children work in the factories of Morocco, but they attend school in Jordan.

OTHER STEPS NECESSARY TO END CHILD EXPLOITATION

Mr. President, I fully support the provision in the omnibus trade bill which addresses the problem of exploitation of child labor as part of a response to unfair trade practices. It is fully consistent with the path taken in this country to abolish child labor by making it illegal to purchase goods produced by exploited children. A similar provision was included in the House-passed trade measure, and I hope, once enacted, that this provision will become an effective tool to pressure business enterprises worldwide to bring an end to this child abuse.

However, Mr. President, there are other steps outside of the trade area which can and should be explored as a means to bring about an end to child labor abuses worldwide.

First, I concur with the recommendations made by Albright and Kunstel that the State Department should include detailed descriptions of child labor problems in its human-rights reports. I intend to push the State Department to begin paying more attention to this international problem.

Second, I share their concern about the failure of UNICEF, the world agency devoted to protecting the welfare of children, to "put the issue of exploited working children back on the world's agenda." I have written to James Grant, Executive Director of UNICEF, to urge greater attention to the plight of the estimated 88 million children between the ages of 11 and 15 who are in the world's workforce and an unknown number under the age of 11.

Third, I think a great deal more needs to be done to educate the American people as to the plight of children in the factories and sweatshops around the world. I intend to urge a number of private organizations interested in the well-being of children to take a closer look at what we, as Americans can do, to help better these young lives.

CONCLUSION

Mr. President, we cannot continue to ignore the worldwide scandal of child labor abuses. In recent years, there has been a bipartisan effort to help enhance the welfare of children throughout the developing world, through immunization and child health programs. It would be a cruel irony for us to help these children survive, only leave them facing desolate lives toiling for long hours in dark factories and sweatshops.

There being no objection, the article was ordered to be printed in the Record, as follows:

[From the Washington Post, July 12, 1987]

CHILD LABOR: THE PROFITS OF SHAME

(By Joseph Albright and Marcia Kunstel)

Rabat.—Perched on a low wooden bench in front of a loom, cutting knife at her side, Hiyat is an automaton with whirring hands.

At the age of 11, Hiyat knots rugs six days a week in a concrete box where 200 weavers hunch elbow to elbow at hand looms. Forty years ago carpet weaving was a handicraft that little Moroccan girls learned at home from their mothers. Now it is big business and little girls as young as 4 work in factories.

Loop, wrap, pull, slice. Loop, wrap, pull, slice. Hiyat would have to tie one strand of woolen pile into the loom every 2.43 seconds to keep up with what her supervisor says is the factory's pace of knotting. The monotony tears on her. "I wanted to stay in school," she said, "not work here."

The factory that hired her, Mocary SA, is part of a global shame. Tens of thousands of well-to-do employers throughout the Third World work children for pennies an hour in mind-blunting or dangerous jobs. Others make money by maneuvering children into criminal work, turning homeless boys into street thieves or 13-year-old girls into prostitutes.

At 11 carpet factories in Morocco, reporters found weavers on the looms who looked unmistakably under Morocco's minimum legal work age of 12. The conditions in all the factories were similar: fat wool fuzz balls skittering across the floors, the dank odor of wool dust and dye, areas too dimly lighted to work without strain.

"We prefer to get them when they are about seven," said Nasser Yebbous, the overseer of one plant in Marrakesh. Children's hands are nimbler, he said. "And their eyes are better, too. They are faster when they are small."

Laws in nearly every nation ban such practices. Yet in many countries, the laws to protect children aren't working. Throughout a nine-month inquiry by the Cox Newspapers, the same rancid scenes repeated from Morocco to India to the Philippines to Brazil to Thailand: children sweating while labor inspectors, police and export-promotion bureaus look the other way.

In 1979, the International Labor Organization estimated that 56 million children between 11 and 15 served in the world's work force. Last year, the ILO raised that estimate to 88 million. The ILO figure doesn't include many forms of chidren's work, such as piecework in the home or street peddling. Nor does it count any children under 11. If "informal" child labor were counted, "the estimate would run into the hundreds of million," a UNICEF staff paper reported last year.

Little wonder. Since 1950, the world's pool of potential child workers has nearly doubled until now there are 1.1 billion children between 5 and 14 years. Cheap health techniques, including mass vaccinations and oral rehydration for diarrhea, are keeping multitudes alive who would have died in their first year a generation ago. New schools are not being built fast enough to stay ahead of the tide of 15 million extra school-age chidren every year.

And for what sort of life are these millions being saved?

They are growing up as the race for development propels more and more of the Third World into the sweatshop manufacturing era from which western countries have emerged during this century.

Under piecework rates, Hiyat earns at most 15 cents an hour in Morocco. Halfway around the world, Eliza Lualhati, 15, says she earns about 13 cents an hour for piecework at a high-speed sewing machine in a live-in garment factory in a suburb of Manila. Eliza doesn't complain about working 90 to 110 hours a week. But she said she wishes the boss wouldn't make her pay for the thread.

Eliza's routine six days a week at the War Win's Style shirt factory goes like this: Wake up at 6 a.m. on a pile of cloth scraps beside her sewing machine. Make breakfast. Sweep the sewing room floor. Then:

"We start sewing exactly at 7 a.m. We usually get a break around noon. It lasts maybe two hours, but only half an hour if we are on a rush. We start up again for the afternoon and work until about 7 p.m. We stop for about half an hour for dinner.

"Then we start sewing again. Usually until midnight. Sometimes it is until 3 a.m. In December, we go right on through, just taking a catnap."

The factory owner, Josie Cruz, sounded compassionate. "Sometimes they get ill," she said. "Some of them have suffered anemia from lack of sleep."

But Cruz said if she wants to succeed in the garment business, she has no choice. "We have a strict shipping schedule," she said. "If we fail to deliver, there will be no work to be done for the next two weeks. So whenever there is a rush order, they know they have to finish, even if they have to work 23 hours a day.

Wages are even lower in Thailand, where thousands of young peasant girls work seven days a week inside hole-in-the-wall Bangkok factories called "shophouses" for less than seven cents an hour. That comes to about one-fifth of Thailand's minimum wage, itself among the lowest in the world.

"Sometimes I don't get a day off for weeks," said Sarapa Nasap, who wraps toy Uzi machine guns in a plastics factory in Bangkok.

Sarapa, 15, said she is paid a monthly salary of $20, plus a bonus of 20 cents for each night she works later than 10 p.m. Spread out over the 70 to 90 hours a week she says she works, her pay would average six cents an hour.

Among nine Bangkok sweatshop children whom reporters succeeded in interviewing away from their bosses, the pay ranged from three to 16 cents an hour.

Siraporn Chookaew, 14, earns 16 cents an hour running a sewing machine in a skirt factory, often working 15 hours a day, seven days a week. Boon Mee Norakot, 13, pulls in about four cents an hour whittling rattan in a furniture factory 85 hours a week.

The live-in factory system is such an accepted part of Thailand's labor patterns that it didn't embarrass one of Sarapa's bosses to talk about the arrangements.

"If we give them meals, then we can control them very easily," said Komol Trairattanapa, export manager of Siam Asian Enterprises Ltd. He said his company pays the minimum wage, about 35 cents an hour.

In Firozabad, India, work injuries are just as much a part of growing up as low pay. An estimated 50,000 children under the legal work age of 14 work in glass factories that look like tintypes from a Moscow museum of capitalist horrors.

These ragged children trot like driven animals around dark factories, carrying long pipes that drip molten glass heated to 1,500 degrees Fahrenheit.

Most commonly, the job of a young Indian glass worker is carrying a six-foot-long metal pole that has been dipped into a furnace to retrieve a gob of the molten glass. The carriers run the hollow poles to an older glass blower who shapes such products as beakers for laboratories, coffee jars and drinking glasses for some of India's five-star hotels.

Then, to speed the process, the glass blower throws the pole javelin-style to a child several feet below him. The boy has to catch the pole with its shaped glass—at this stage glowing dull orange from its temperature of 950 degrees—and spin it and drizzle it with water to tame its fiery heat.

Of more than 500 child workers whom reporters saw in the five largest glass factories in Firozabad, not one wore protective glasses, shoes or gloves. At every factory, glass shards littered grimy floors where workers of all ages walked either barefooted or in rubber thongs.

As might be expected, visitors at Firozabad's OM Glass Works saw one boy with a bandaged ear, another with a scarred, unfocused eye and a third who had a section of hair burned off his scalp. At Advanced Glass, a worker propped himself against a doorway while another employee tried to staunch the blood spilling from his foot.

Mohammed Batsin, 12, said he did not mind working with hot glass and furnaces. "No, no. I don't have any fear," said Mohammed, a slight boy in shorts who had worked for Emkay Glass Works for about a year, "At first I got hurt, but now I don't anymore."

Mohammed said he makes 11 rupees a day, which comes to about 86 cents.

And who are the ultimate beneficiaries of children working in sweatshops? The vast majority of products are sold for local consumption. Eliza's shirts, for instance, are sold in a street market 10 miles from her factory.

But tons of goods are made specifically for export to the West. In some cases children not only yield cheap labor for the employer but also produce merchandise bargains for bluechip foreign companies that wouldn't conceive of keeping children on their own payrolls.

Macy's department stores, for instance, but hand-made rugs in Morocco from Hiyat's employer, Mocary SA. The economics of Moroccan carpets works like this: Moroccan weavers earn about $19.34 for weaving one five-square-yard carpet under piecework rates that the government says are standard throughout the industry.

Judging from Macy's inventory documents found attached to carpets on sale in Manhattan two months ago, Macy's bought five-square-yard carpets from Mocary for $166.40 each. After paying $50.84 for freight, insurance and customs duty, Macy's added a $281.76 markup and offered the carpets to the public for $499. Other department stores carry similar Moroccan rugs, and Macy's markup may well be typical for American retailers. But by the time the rug reaches an American consumer, Macy's will have collected roughly 15 times as much in markup as the weavers earned for knotting it. Macy's decline to comment on its Moroccan carpets, which bear the label "Made in Morocco exclusively for R.H. Macy's."

The president of a Manhattan importing firm that has served as Macy's importing agent for many of its Moroccan rugs, said that he was familiar with child labor in the Third World. But he expressed surprise when told that the Mocary factory employed children.

Is child labor some natural Darwinian stage that all countries must endure for a few centuries before they can hope to take off as "newly industrialized countries?" It doesn't have to be. South Korea and Kenya—separated by wealth, continents and cultures—have shown over the last two decades how it is possible to combat the worst forms of child exploitation, at least within factories, without waiting for poverty to wither away. Mass education is what took children out of the textile mills in Britain and the United States a century ago, and it is keeping most of them out of sweatshops in South Korea and Kenya today.

Some educational systems are much more efficient than others in spreading literacy. Witness the differences between Morocco and Jordan, two Arab countries with roughly similar economic profiles, both ruled by monarchies, neither enriched by oil. Morocco's educational system has been geared for three decades primarily to educating an elite. The result is that only 70 percent of school-age boys and 46 percent of school-age girls go to primary schools, according to United Nations statistics.

King Hussein of Jordan set out on another path, that of delivering mass education to his desert kingdom swollen by Palestinian refugees. As a consequence, 91 percent of Jordanian boys and 88 percent of Jordanian girls are enrolled in primary schools.

It is no surprise that Morocco's little girls work in factories and Jordan's little girls do not. The surprise is that Morocco has spent a higher fraction of its gross national product on education than Jordan, partly to pay for Morocco's expensive universities and partly because of the tradition of relating Moroccan public school teachers' pay to teachers' salaries in France.

The law of supply and demand also provides another solution for the short run: Honest enforcement of existing factory laws can dampen some of the demand for child labor. In Kenya, for instance, sociologist Philista Onyango says, "You won't find a Kenyan child in a factory. The labor inspectors are very straight."

Child workers are often concentrated in countries where masses of adults, including their parents, cannot find jobs. If enforcement of child labor and overtime laws makes it bothersome to hire children, employers will have more incentive to hire adults.

Some families will suffer from loss of children's income, but others will come out ahead. As Indian social reformer Swami Agnivesh put it, "In the long run, if children are thrown out of jobs, the business will have to continue by employing adults at better wages."

A PLAN TO CURB CHILD LABOR

What, if anything, can the West do to help? The answer from the gut is to stop buying products of child labor. But humanitarian trade boycotts have seldom worked. Moreover, it is hard to argue that child labor in foreign countries is putting thousands of Americans out of work. Betamax VCRs from Japan, Hyundai cars from South Korea and other big-ticket contributors to the U.S. trade deficit are made by adults and robots, not children.

A better answer is to elevate the child-labor issue into a first-rank human-rights issue, on a par with torture of prisoners in South American jails. Congress, pushed by the AFL-CIO and led by Rep. Donald Pease (D-Ohio), has moved in that direction as a byproduct of a campaign to spotlight harsh labor conditions abroad. The trade bill now before the Senate contains a Pease amendment which would let U.S. companies file "unfair trade practice" cases if they believe they are harmed by competition from foreign countries that don't observe specified "workers rights." But the Pease amendment only calls for countries to have minimum-age laws, without defining what age is acceptable. Almost every country in the world already has such a law.

Exploitation on the job should be treated as an issue of children's protection instead of trade protectionism. Once that is accepted, it is not hard to find ways to apply leverage:

Western department stores and multinationals could adopt principles aimed at discouraging child labor, in the same way U.S. companies adopted the "Sullivan Principles" a decade ago in an attempt to better conditions for South African blacks. Stores could, for instance, require that garments from Thailand or glass beakers from India be made in the same factory from which they are purchased, not "sourced out" to unknown contractors that may use child labor. Western companies also could ask for manufacturers' certificates that products are not made in violation of local child-labor laws.

Congress could insist on accurate descriptions of child labor in foreign countries in the human-rights reports it already requires annually from the State Department. The skimpiness of the labor sections contrasts with the department's franker, more effective reporting on political human-rights issues.

Above all, UNICEF, the world agency devoted to protecting children's rights, could put the issue of exploited working children back on the world's agenda. Kenyan sociologist Philista Onyango says, "The International Monetary Fund does it, the World Bank does it, why not UNICEF? If I could influence a situation, I would try to do it. I would tell Morocco to clean up its act [in the carpet factories] or else. We should not treat these people gently."

UNICEF decisionmakers disagree. They prefer to direct UNICEF's efforts toward less controversial health projects that aim to keep children alive. This spring UNICEF published a glossy, self-congratulatory book entitled "The State of the World's Children, 1987." The book contained not a single reference to the predicament of the more than 88 million children around the world who work for a living.—Joseph Albright and Marcia Kunstel.

Mr. KERRY. Mr. President, I am pleased to support the omnibus trade and competitiveness bill, S. 1420. This legislation is one of the most important pieces of economic legislation this Congress will enact, and represents a

turning point in the way in which Congress responds to the demands of a global competitive economy in transition, and the role that government, business and labor can play in bringing about a more competitive American economy. The long decline in American productivity growth and standard of living can be reversed, and we can once again be confident that our country is prepared and equipped to play a continued leadership role in world economic affairs.

These issues bear special importance to the people of Massachusetts, because when we confront these issues we do so with a somewhat unique perspective. In 1974 Massachusetts—or Taxachusetts, as it was called—was on the skids. Our unemployment was among the highest in the Nation. The traditional manufacturing employers in textiles, footwear, and apparel had been decimated by low-wage competitors first in the American South, and later by those overseas. Public spending and taxes were growing at unsustainable rates, yet our infrastructure was crumbling, our inner cities—even choice blocks bordering Boston's Public Garden—were blighted. We had our strengths—to be sure—but the trend were not good, and we knew it. When the energy crisis hit, it looked like the last straw.

But we came back. Today we have the lowest unemployment of any industrial State, and for the last several years personal income in Massachusetts has grown faster than anywhere else—and its a good thing too, because our housing and real estate prices in Boston are now the highest of any city, including New York. A dubious distinction, indeed, but one that speaks multitudes of the changes we have seen.

How did it happen? We didn't restore our economy by playing by the old rules, we did it by looking toward the future, anticipating its demands, and rushing to meet them. Those demands, in the simplest terms, are these:

The need for constant innovation, in products, processes, services, and even government programs and regulation.

The need for a highly trained and flexible work force, capable of responding to the transitions of a competitive world and the demands of a technology-based economy.

The need for adequate capital resources to support growth and investment throughout the State, particularly in blighted areas, and labor surplus areas that can fuel tomorrow's growth.

The need to develop an international position that views that increasing internationalization of the economy as an opportunity, not a constraint.

And finally, the need to develop new mechanisms for public-private cooperation and an appropriate sharing of responsibility, resources, and information among the business community and government to promote the above goals.

What we have accomplished in Massachusetts is relevant, because there is a growing consensus that this Nation is facing a crisis of economic competitiveness. This view is no longer limited to Democrats, as it was at the beginning of this decade, but is now shared by the President's Commission on Industrial Competitiveness, which was headed by John Young, CEO of Hewlett-Packard, and by a host of blue-ribbon commissions, panels, and study groups.

When economists review the history of the decade that began in about 1976, one of the remarkable characteristics they will note is the sudden decline in American investment, productivity growth and the appearance in 1982 of a massive and sustained trade deficit. It will be seen as the period when America nearly lost its economic lead—as evidenced by its emergence as a debtor nation in 1985.

As others have noted throughout the debate on this measure, the causes of the trade deficit are complex and many—that factors ranging from the unfair trade practices of other nations to the overvalued dollar caused by a budget deficit, to the failings of American management and industry to make the changes and investments needed to keep America competitive.

The omnibus bill we are approving today is a truly comprehensive approach to the trade deficit—the remedies it contains are as diverse as the causes of recent declines.

It is a bill which reforms our critical trade laws to allow us to more effectively respond to unfair trade practices, and to adjust to the surges and temporary disequilibriums that accompany fair trade. The Senate version of the trade bill sets strong standards for U.S. trade policy in this regard, and sends clear signals to the administration and to our trading partners that the U.S. Congress will not shirk from the enforcement of international trade agreements. Yet the Senate trade bill does not, in my view, resort to protectionism; on the contrary it seeks expanded trade and increased U.S. exports.

These accomplishments in the area of trade law reform are important, but in many ways they are overshadowed in importance by other measures contained in titles of the bill contributed by committees other than Finance. These committees have contributed some of the most innovative and important sections of the entire bill, sections which seek to expand U.S. exports, improve the Nation's technical and educational resources, promote and encourage public-private partnerships in a variety of fields, and establishes new institutions for addressing U.S. competitiveness at all levels of society. In fact, some of the most important provisions of this bill have been nearly invisible during the debate of the past 2 weeks because the need for such steps is so generally agreed to.

For example, in the area of science and technology, the Commerce Committee has contributed legislation which makes significant improvements in our Nation's capacity to play a leadership role and remain internationally competitive. Included in this section is a proposal which I coauthored which established a new program in the Commerce Department to support Center's for Excellence in Manufacturing Technology.

The Foreign Relations Committee has addressed a host of critical problems including procurement opportunities for U.S. firms on projects supported by multilateral development banks, the creation of secondary markets for Third World debt instruments, and the problem of capital flights from developing countries. As the chairman of the Foreign Relations Subcommittee in international economic policy during the period when this legislation was developed, I am pleased that it has been incorporated into the Senate bill. But I am particularly pleased that the bill includes language taken from a bill which I filed in the past two Congresses, and establishes a tied-aid program at the Trade and Development Program which will improve United States exports of high technology and other products to east Asia, particularly the People's Republic of China and Taiwan.

Although I do not serve on the Banking Committee, in February I joined Senator CRANSTON in introducing S. 652, a bill which follows the recommendations of the National Academy of Sciences in proposing critically overdue reforms to the Nation's system of high technology export controls. While I support the more ambitious and fully justified reforms made in the House trade bill (H.R. 4800) on this subject, I am pleased that the Banking Committee acknowledge that this area deserves attention in this trade bill, and I hope that the House provisions prevail in conference.

I also serve on the Small Business Committee, and I was an original cosponsor of S. 1344, I am pleased that S. 1420 contains this legislation, which includes steps designed to generally expand small business exports and make the export promotion assistance programs of the SBA more effective.

I'd like to discuss each of these areas in greater detail.

SCIENCE AND TECHNOLOGY COMPETITIVENESS

Central to our ability in Massachusetts to recover from the economic stagnation of the midseventies has been our great fortune in having educational institutions and industrial companies with a strong technology base. Working in partnership, along with the public sector, from this base was built the engine of the Commonwealth's growth which has come to be symbolized by route 128, America's technology highway.

Just as Massachusetts had a long history of technological excellence upon which to build the foundations of a competitive global economy, so to does the United States as a whole.

Although the United States continues to lead the world in basic science, many observers have concluded that in recent years the U.S. has begun to slip in two specialized areas of technology critical for success in the international economy—those two areas are the application of advanced technology and management skills to manufacturing, and the transformation of new scientific discoveries into successful commercial products.

Both of these problems are reflected in sluggish USD productivity growth. For example, in the period between 1982 and 1985, productivity growth was 3.05 percent in Japan, 2.10 percent in West Germany, 2.8 percent in Britain, and only 0.86 percent in the United States.

As a result, despite a host of tax incentives, and the necessity for retooling as a result of technological changes, American manufacturers are investing less in new equipment than ever before.

Real productive investment in the United States had declined from an average annual growth rate of 8.4 percent in the 1960's to barely 4 percent in the 1970's to only 2.2 percent in the 1980's. It is estimated that if military-related investments were excluded, these data would show an absolute decline in commercial investment; and, in any event, investment in the first half of 1986 on an annualized basis is less than last year.

And not surprisingly, when compared to our trading partners, the level of the United States investment in plant, equipment, and inventories and housing as a percent of GNP is significantly lower than in West Germany, Japan, Italy, and other industrial countries.

One of the key dimensions of manufacturing competitiveness is use of new technologies and processes. American business is very weak in that respect. For example Japan, which has a population of 116 million people and has 64,000 industrial robots in use is far ahead of the United States, which has a population of 230 million and has only 11,000 robots in use. The shortcomings of U.S. manufacturers were highlighted in a recent Harvard Business Review study which found that:

In the past 5 years, Japan has outspent the United States by 2 to 1 in automation.

Systems development in Japan is accomplished in 1.25 to 1.75 years, but more than twice as long, 2.5 to 3 years, in the United States.

Fifty-five percent of the machine tools introduced in Japan in the last 5 years were computer numerically controlled, compared to only 18 percent of those installed in the United States.

These shortcomings were further highlighted by a recent study by the Digital Equipment Corp., which disclosed that significant progress toward automation has occurred within only a very narrow top layer of U.S. manufacturing industry: Over 70 percent of the total investment in industrial automation has occurred within about 2,000 companies, or less than 1 percent of the U.S. industrial base.

U.S. companies are getting fewer patents then they did 15 years ago while patents issued to foreigners are steadily increasing.

In 1985, foreigners got 45 percent of United States patents; 6 of 10 companies receiving the most patents were controlled by foreign corporations; and patents issued to the Japanese rose by 15 percent while patents issued to United States residents rose by only 3 percent.

Civilian R&D expenditures in the United States as a percentage of GNP lag far behind Japan and West Germany.

Government-sponsored R&D historically has been an important source of U.S. commercial innovation, but, increasingly, U.S. Government research funds are being channeled to military needs that are remote from commercial and industrial applications.

In 1980, U.S. funds for military and nonmilitary R&D were split 50/50. Today, the military consumes 72 percent of the total Federal research dollar, leaving just 28 percent for all other research.

According to the National Science Foundation, West Germany devotes 14 percent of its government research budget to activities directly promoting industrial growth. In Japan, it's 13 percent; France, 8 percent; and Great Britain, 4 percent. In the United States, the figure is less than 1 percent.

The Commerce Committee's contribution to the omnibus trade bill, S. 907, the Technology Competitiveness Act of 1987, instituted a number of important new programs to address these problems. First, it upgrades the existing National Bureau of Standards and explicitly instills the agency with a new mission for promoting industrial competitiveness and technology development as the National Institute of Technology. Its budget is increased by $44 million in fiscal year 1988, almost a third.

The bill creates new technology extension programs, including a National Clearinghouse on State and Local Initiatives on Productivity, Technology, and Innovation; a Pilot State Technology Extension Program, and a number of regional Centers for the Transfer of Manufacturing Technology. These programs are based fundamentally on public-private cooperation, and are modeled at least in part of many of the successful initiatives we have funded at the State level in Massachusetts over the past decade, such as the Massachusetts Technology Development Corp.—a partnership between the Commonwealth and some of the Nation's leading venture capital funds.

TRAINING FOR TRADE

In October 10, 1986, and again in March 1987 I offered legislation directed toward assisting American firms in opening new markets on the People's Republic of China. This legislation was expanded and included in the Senate Foreign Relations Committee's contribution to S. 1420. The People's Republic of China is obviously a major, long-term market for the export of United States goods and services. This legislation is an effort to make America more competitive in the largest and most important trade market to emerge in more than 40 years.

Training for trade is the idea behind this proposal. It is not a new idea. It is already being used effectively in the People's Republic of China by nearly a dozen of our trade competitors. Japan, for example, has a $37 million a year training for trade program with the People's Republic. The Japanese Government realizes that if Chinese managers are trained on Japanese equipment in Japan, it is more likely that it will be Japanese equipment that the Chinese will import for use in their industrial modernization programs.

Other countries with similar programs include West Germany, which allocates $18 million a year; Australia, which allocates $13 million a year; and Italy, which has allocated $100 million since 1983 for such purposes. Canada has made available $20 million a year in training for trade programs, and Prime Minister Brian Mulroney recently pledged to double that amount during 1987.

Belgium, Norway, Denmark, and Sweden have funded training programs for China as a means of penetrating Chinese export markets. The United States has not.

Under the provisions of this legislation, the United States would make available $25 million a year for training programs with U.S. companies who want to compete in the Asian market. The money would stay in the United States and be administered by the Trade and Development Program, a United States Government agency with several years of experience working successfully with the Chinese.

The Chinese market already is growing rapidly. Before 1979, China, for all intents and purposes, was a closed market. By 1985, China's foreign trade amounted to nearly $170 billion. And with China's latest 5-year plan calling for a doubling of foreign trade, there will be new opportunities for those countries who want to take advantage of them.

Training for trade is one of the best ways to help American businesses compete fairly with China. One reason this proposal provides the best option for increasing trade with China is the fact that it includes a provision to allocate half the training funds to small businesses as defined by the Small Business Administration.

One of the most economically advantageous ways to reduce our trade deficit is to get more companies to export. Until now, all but a few small firms have refrained from attempting to do business in China because of the significant expenses of training and marketing products in a country as vast and as distant as the People's Republic. Yet, small businesses are particularly well suited to trade with China. The Chinese like to be able to negotiate deals quickly. Small businesses are oftentimes more flexible in their ability to consummate contracts quickly. By providing small business with a $12.5 million incentive, more of them will be persuaded to take advantage of the window of opportunity that is open to them through potential exports to China.

Many people seem willing to leave the China market to our competitors in Japan, Europe, and Canada. In light of the massive trade deficits we have incurred in recent years and the trade deficits we can expect in the coming years, we would be foolish not to begin rectifying the situation if the opportunity presents itself.

Based upon the track record, it is only natural that this initiative should be administered by the Trade and Development Program. TDP already has an impressive presence in the People's Republic of China and has been instrumental in opening up significant markets for United States companies. TDP's activities are not limited just to the People's Republic of China. Since 1980, TDP has obligated $75 million for feasibility studies and other planning services which have been designed to create major export markets for U.S. goods in the developing world. According to independent evaluations of the TDP Program, this $75 million has been responsibile for actual and estimated future exports of $13.9 billion which are readily identifiable. This is an impressive accomplishment on the part of an agency which has only 16 employees and an operating expense budget which amounts to only about 10 percent of the total program.

Mr. President, I believe the U.S. Government has a special responsibility to facilitate the export of goods and services produced in this country. The trade deficit problem is too serious for us to ignore potential opportunities to correct this imbalance. Therefore, I am most pleased that this proposal has been included in S. 1420 and I hope that it will be retained by the conference committee.

EXPORT CONTROLS

Mr. President, I would like to congratulate my colleagues who serve on the Banking Committee for their contributions to S. 1409, and especially for their incorporation of measures to reform the American export control system. Nevertheless, I want to express my concerns that their Trade Enhancement Act fails to include several important features of the current House bill and of the High Technology Trade Enhancement Act, S. 652, of which I am an original cosponsor.

Today our Nation faces an international market in which our trade dominance has been slowly weathered away. The trade deficit is continuously expanding, and unless this Congress takes steps to reverse this trend in the current trade bill, the task faced by our successors will be even more momentous.

The omnibus trade bill must address the regulations on our exports and imports which are unnecessarily undermining our position in the world market, and producing a trade deficit. The high technology market is one of the most crucial sectors of the U.S. economy, and our exports of electronics, computers, and aerospace materials are a central feature of this market. Existing American policy, despite sincere efforts by previous sessions of Congress, including the admirable provisions of the Export Administration Act, does not allow for high technology products to flow to our allies abroad as freely as common sense would dictate. Thus, the restrictions on U.S. exports serve to hamper our long-run national security interests by limiting our export capacity without adequately responding to our present national security demands.

At the present time, export controls impose an unnecessary burden on American manufacturers of high technology products in an already competitive market. First, the extent of these controls supports a preception among our foreign trade partners that the United States is not a dependable source of goods, particularly those which require a continuing flow of service and replacement parts on a specific timetable. In addition, reexport regulations further impair customer relations, thus decreasing the demand for American products. Finally, the expenses incurred in the complex and lengthy licensing process result in increased nonproductive overhead costs which discourage many American companies, large and small, from entering the export market.

Anecdotes abound relating the unfortunate consequences of these misguided features of American trade policy. In 1985, British Aerospace advised its suppliers to avoid utilizing American parts in order to circumvent procedural difficulties inherent in obtaining United States technological exports. A similar story is told in relation to the multibillion dollar Dutch electronics company Philips. In my home State, Teradyne, and electronics firm, was deprived of one-third of its overseas trade when the West German Siemens Corp. decided to produce its own array processors to escape from the web of American export controls.

In March of this year, I cosponsored a bill introduced by my distinguished colleague from California which would amend the Export Administration Act to address the most serious problems in the export control process. S. 652 was designed to simplify the application process through delicensing and decontrol of certain American exports to our foreign allies.

The first major area of reform contained in S. 652 involves the role of the Department of Defense in the export control system. The DOD is understandably concerned that there must be strict guidelines in place in order to insure that Soviet bloc access to sensitive Western technology is as limited as possible. This concern has led to tension between the DOD and the Department of Commerce over the classification of our exports and our trading partners. The export of high technology items of dual use—both military and commercial—by U.S. firms is currently subject to the de facto veto of the DOD, and to extensive delays even in the case of approved trade.

S. 652 does not eliminate the Department of Defense's right to review the issuance of trade licenses, but instead enables a speedier review process. First, the DOD review period for licensing applications is set at 10 days. At that time, the Department must make its recommendation, otherwise, full authority resides in the Secretary of Commerce. If the DOD recommends denial of the application and the Secretary of Commerce does not concur, the decision is referred to the President. If he does not take any action within 10 days, the approval of the Commerce Department stands. Additional features of the bill promote the sharing of information by Commerce and Defense through combination of their data bases and eliminate Presidential notification of the Congress in the event of a disagreement between the White House and the Department of Defense.

The second area of reform included in S. 652 changes the guidelines which determine whether an export or reexport license is required. The bill proposes the elimination of certain licensing requirements on exports and reexports to member nations of Cocom, the Coordinating Committee on Multilateral Export Controls. In those cases in which there already exist distribution licenses within Cocom for the product in question, no additional American licensing would be required. It is estimated that this proposal would eliminate the licensing procedure for over 80 percent of our exports to Cocom nations. In addition, goods which fall below the AEN [administrative exception level] and are currently available on the world market will no longer be required to obtain U.S. export licensing.

Finally, S. 652 seeks to promote a more efficient and more considered method by which the Department of Commerce identifies products that are to be export controlled. The foreign availability exclusion, which has not been utilized as fully as was originally envisioned, has been amended. Processing schedules have been established in order to speed up the determination of foreign availability, and a special Presidential extension has been included to allow the White House to negotiate multilateral controls on the item to remove its foreign availability. In addition, all products which are unilaterally controlled by the United States will be reviewed by the Secretary of Commerce on an annual basis, and must be excluded from licensing requirement except when we are the sole-source manufacturer.

I am pleased to see that many of the provisions of S. 652 were included in the trade bill reported by the Banking Committee. There are, however, several amendments to the existing legislation which I would propose. The role of the Department of Defense must be thoroughly evaluated, and its issuance of conditional licensing approval should be seen as advisory rather than mandatory. Commerce must remain the leading department in the development of export controls if we are to produce a coherent U.S. export policy.

Mr. President, it has become increasingly evident in recent months that, despite the well-intentioned efforts of previous congressional legislation, there is a definitive need for a reform of the American export control system. I commend my colleagues on the Banking Committee for their achievements in incorporating such reforms into S. 1409, but wish to express my hope that further measures can be adopted as the omnibus trade bill undergoes amendment on the floor. This Congress must continue to work for the maintenance of competitiveness of U.S. industry, and to overcome existing regulation which serves only to undermine our national security and economic interests.

WORKER NOTIFICATION PROVISIONS

Mr. President, the Committee on Labor and Human Resources should be commended for skillfully meshing a program to retrain dislocated workers with a program of advance notification that will make the retraining program more effective. Although I am no longer a member of the Committee on Labor and Human Resources, I was pleased to become an early cosponsor of this legislation, and I am pleased that it was included in the omnibus trade bill.

At the heart of this legislation is the recognition that in a dynamic world economy with immense and rapid technological changes workers will be displaced from their jobs. Indeed, in the 1981-86 period the Bureau of Labor Statistics estimates that 11 million workers lost their jobs under circumstances suggesting that they would not get them back.

Mr. President the solution to this massive dislocation of workers is not to erect trade barriers or retard technological change. Such actions would in the long run reduce our standard of living.

But, Mr. President, neither is assuming the problem in a way as an answer to the needs of dislocated workers. Such inaction only breeds resistance to change and innovation.

Instead the solution can be found in the tightly crafted legislation formulated by my distinguished colleague and the chairman of the Committee on Labor and Human Resources, Senator EDWARD KENNEDY. Their legislation provides $980 million annually to retrain and provides related services to dislocated workers as part of the Job Training Partnership Act [JTPA].

Under this program funds will be provided to States that develop comprehensive worker adjustment programs that have been approved by the Secretary of Labor. In addition, the Secretary of Labor will have funds available for demonstration programs and other discretionary purposes related to the problems of dislocated workers.

But all of these programs designed to ease the transition from one job to another will be much more successful if there is advance notification of plant closings or massive layoffs.

The Office of Technology Assessment [OTA] and a panel from the National Academy of Sciences have both indicated that advance warnings about plant closings—or layoffs—enables workers to plan career changes and to put adjustment assistance to better use.

Mr. President, that is exactly what this legislation accomplishes. It combines assistance to dislocated workers with a requirement for advance notification. The legislation before us has been rewritten and perfected. The length of the notification period has been reduced to 60 days—providing the minimum suggested by OTA but also recognizing that a longer notification period might impose unreasonable costs on business firms.

Firms with less than 100 full-time employees are exempted from the notification procedures and other exemptions are provided. The legislation does not require consultation or disclosure of information.

In conclusion, Mr. President, this legislation belongs in an omnibus trade bill. It will make us more competitive by insuring that dislocated workers are adequately retrained and quickly reemployed in our changing work force.

ENERGY SECURITY PROVISIONS

Mr. President, I would also like to briefly address the issue of the oil import tax. I am pleased that early in the debate on this bill, the Senate accepted the Packwood-Bradley amendment to strike from the bill the provisions relating to energy security.

In its March 1987 report "Energy Security," the U.S. Department of Energy concluded:

> The challenge for policymakers is to find the proper balance between relying on free and competitive markets, where they can exist, and taking appropriate, cost effective action to ensure the Nation's economic health and national security.

This challenge must be met as we develop, debate and refine a national energy policy which is long overdue.

The challenge cannot and must not be made by delegating authority to a President whereby the Congress must react within a specified time period or see the President's policy implemented. And the challenge cannot and must not be met as a side-issue in an omnibus trade bill that deals with an enormous array of issues.

Instead the challenge of forging a national energy policy must be met through a process in which the Congress evaluates all possible energy security scenarios, considers the probabilities of each, formulates a set of options, and explicitly approves a set of energy emergency contingency plans.

Under existing law—section 232 of the Trade Expansion Act of 1974—the President is authorized to take such action, and for such time, as he deems necessary to adjust imports of crude oil or its derivatives so that such imports will not threaten to impair the national security. Under this authority the President can take actions ranging from an oil import fee, to a gasoline tax or even the use of quotas or domestic rationing. To use this authority the President needs to demonstrate that these actions are necessary to protect our national security.

The measure that was contained in the Finance Committee's bill—and which I voted to remove—would have substituted an arbitrary standard of the percentage of oil imported for the clear demonstration of a national security need. Energy security experts, even those like Prof. William Hogan at the John F. Kennedy School of Government, who support an oil import fee—have argued against the use of such arbitrary triggers. The problem with such triggers, they explain, is they oversimplify the problem and confuse dependency with vulnerability. Is our national security equally threatened if 50 percent of our oil comes from Venezuela, Mexico, Canada, and the UK as it would be if 50 percent of our oil comes from the Persian Gulf? Of course not. The fact is that energy security policy requires careful analysis, not simple triggers.

If we are to undertake major policy changes, and require the President to take this route, the issues must be debated in accordance with the process I discussed earlier. Mr. President, this Senator does not want to make such a broad delegation of authority while debating the omnibus trade bill. In fact, I find it particularly ironic that we are talking about the possibility of the trade and competitiveness bill being used to make our economy less competitive. The measure would raise the cost of energy and make it more difficult for our businesses and workers to compete in world markets.

We may ultimately decide that reduced competitiveness, due to higher energy costs, is the price we must pay for national security. But that decision should be made in the context of debate on energy security policy, not in the context of a debate on increasing our competitiveness.

SECTION 201 ADJUSTMENT RELIEF

I would also like to take this opportunity to discuss my vote in support of the amendment offered by Senator PACKWOOD restoring the President's discretion in responding to import relief cases brought before the U.S. International Trade Commission.

Under current law the President may offer temporary tariff or quota relief to a domestic industry that the ITC has found to suffer from injury or threat of injury if imports are a substantial cause. The President may agree to the ITC recommendations, deny the relief altogether, or grant relief of a different nature, term, or scope than that suggested by the ITC. Under current law, the ITC is supposed to determine if the industry has been injured and if imports were a substantial cause. The President in response to the ITC's findings, is basically free to determine if—in his judgment—it is in the national economic interest to grant the relief.

If relief is granted, the United States is required to "compensate" exporting nations for the lost U.S. sales, since the action involves "fairly traded" goods.

Since 1980, there have been six cases where the ITC has recommended relief; motorcycles, cedar shakes and shingles, specialty steel, carbon steel, footwear, and copper refining. In only two cases, footwear and copper did the President reject the decision.

The Senate Finance Committee bill would make it harder for a domestic industry to obtain a relief recommendation from the ITC by requiring the industry to submit a detailed adjustment plan along with their request for relief, and it would give the President new discretion to halt the relief after 3 years if the industry is not implementing its plan, or taking other steps to become more competitive or provide other job opportunities to its employees.

To compensate for these greater burdens and risks upon the domestic industry, the Senate Finance Committee believes that there should be some assurance that the President will accept the ITC's advice. Thus, the committee bill greatly limits Presidential discretion. In fact, the President would only be allowed to refuse the ITC recommendation if he determine it to be harmful to the national security, or if the cost of the relief to "downstream industries" was greater than the benefit to the injured industry.

Although I generally support trade remedies taken under the escape clause of GATT, and believe that the Nation's economic interest is served by carefully crafted adjustment plans, I cannot support such a significant narrowing of Presidential discretion. I believe that ultimately, it is the President—and not the unelected members of the International Trade Commission—who must render judgments of national economic interest. Thus, I voted to support Senator PACKWOOD's amendment. Although I was disappointed that the amendment was not approved, it is significant that the Senate subsequently approved by voice votes three amendments by Senators BRADLEY and GRAMM which have the effect of restoring the President's discretion to reject the ITC's relief recommendation.

UNWARRANTED TRADE SURPLUSES

I am pleased that the Senate bill includes a provision which addresses the problem of unwarranted trade surpluses, and that this amendment was included in the bill based on a strong bipartisan vote of support.

The basis of this support is the fact that the revised version of the Riegle amendment is very different in approach from the Gephardt amendment, although it addresses the same problem, and will be just as effective. The amendment was cosponsored by Senators BYRD, DOLE, BENTSEN, RIEGLE, DANFORTH, CHILES, SIMON, STEVENS, and others.

Under the provisions of the amendment, the USTR is required to identify countries with a "consistent pattern of trade barriers and market distorting practices." In this way the focus is on unfair trade practices as defined in section 301 rather than on the identification of countries with trade surpluses which may or may not be related to unfair trade practices. It also strengthens section 301 by requiring the USTR to self-initiate cases against barriers of the countries it has identified.

I believe that this approach is far more appropriate than the approach contained in the House bill in that it recognizes that a large bilateral trade deficit with a country is not necessarily evidence of unfair trade practices. Instead the Riegle approach relates the actions to unfair trade barriers rather than to trade surpluses which could be unrelated to unfair trade practices.

In conclusion, I am extremely pleased with the product of so much hard work. I believe this bill is firm, without being overzealous or protectionist. It is comprehensive. It addresses the scope of problems beyond pure trade law that give rise to our competitive problems.

Being competitive in today's world means being able to earn—not borrow—a rising standard of living for all of our citizens. New technologies and successful economic development strategies abroad have created a fundamentally new and highly competitive challenge for the United States.

We can do that—and this bill is a start. But it will take more than just the Congress. The innovation America needs will come from the ingenuity, talents, brains, and brawn of each individual citizen and firm. It will come from all across this Nation. Together, we will rebuild America's economic competitiveness, and make our economy, and our Nation, the world's leader once again.

Mr. ROTH. Mr. President, this bill contains a number of provisions intended to promote increased exports. Some of these provisions, we all hope, will prove especially helpful for smaller exporters. In particular, title XI, dealing principally with export trading company amendments, provides in section 1104 that the Office of Export Trade in the Department of Commerce "shall establish a program to encourage and assist the operation of other export intermediaries including existing and newly formed export management companies." I would like it clarified that this language includes shared foreign sales corporations, such as, those being sponsored by the State of Delaware.

Foreign sales corporations are made possible by provisions enacted as part of the Tax Reform Act of 1984. They are foreign corporations organized in one of four eligible U.S. possessions or a qualifying foreign jurisdiction. When used to export goods—including manufactured items, related services, agricultural products, software, and certain "hard minerals"—they result in a partial tax exemption for profits. A shared FSC is a FSC "shared" by 25 or fewer unrelated exporters so as to reduce costs and increase the tax benefit. The idea is to help exporters, encourage increased exports, and try to increase the number of exporters—and thus the constituency for exporting—in this country.

The State of Delaware is in the forefront of sponsoring shared FSC's for medium size and smaller exporters. Four other States—Illinois, Michigan, New York, and Virginia—are also proceeding with shared FSC's. Other States, like Texas, Oregon, New Jersey, and perhaps up to 12 to 15 additional States may follow suit.

The shared FSC program is an important one for the State of Delaware and, I think, for a number of other States and a large number of exporters. The Commerce Department was mandated by the conference report on the 1984 Tax Act to encourage the use of FSC's by smaller exporters. Some work was done, but a good deal remains to be done.

I suggest that we make clear that the Commerce Department should aggressively encourage the development of shared FSC's. To this end, I would ask the manager whether the words "other export intermediaries" includes shared foreign sales corporations as well as export management companies.

Mr. HEINZ. I thank Senator ROTH for bringing this subject to our attention. This language is intended to broaden the scope of work performed by the Office of Export Trade, and shared foreign sales corporations are included. It is not limited to export trading companies and export management companies.

Mr. WARNER. Mr. President, for the past several weeks the Senate has been considering the omnibus trade bill. In the past I have voiced my concerns over protectionist legislation, and its harmful impact on our economy.

International trade and investment is vital to the Commonwealth of Virginia. In fact, to help promote further exports, Gov. Gerald Baliles has designated 1987 as the "Year of Trade." I feel it would be misguided of us in Congress to harm or hamper through this legislation the ability of Virginia, or any State, to export.

An article, pertaining to the House trade bill and its possible adverse effects to Virginians, appeared in the June 21 Hampton Roads' Daily Press. While I do not endorse every comment the writer makes, I believe this article makes a valuable contribution to our continuing debate.

Mr. President, I ask that the full text of this article be inserted in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

VIRGINIA TRADE UNDERMINED BY HOUSE BILL

(By Mary Alexander)

WASHINGTON.—Virginia Gov. Gerald L. Baliles has designated 1987 as the "Year of Trade." The governor is heavily promoting exports of Virginia products in his goal to make Virginia a leading international trade state. Baliles recognizes that all Virginians will benefit from the additional jobs, economic stimulation and opportunity that increased exports provide.

Unfortunately, some of Virginia's congressmen may be bushwhacking the governor's efforts. The U.S. House of Representatives recently passed the most anti-foreign trade bill since the Great Depression. And five of Virginia's 10 congressmen voted for the bill, which threatens to reduce significantly traffic at Hampton Roads and other American ports.

Few Virginians realize how trade-dependent the state has become. Almost 35,000 manufacturing jobs in Virginia depend on exports, including 24 percent of its chemical production, 11 percent of its electronic equipment production and 23 percent of its tobacco products. Tobacco exports alone injected $273 million last year into the state's economy. Virginia is also a major exporter of poultry, pork and peanuts. The governor's aim is to increase the scope and number of exports.

The U.S. House of Representatives, however, seemingly was not concerned about Virginia's stake in international trade when it decided to pass its trade bill. The bill is one of the most potentially damaging and irresponsible concoctions to come off of Capitol Hill in many years.

For instance, the House trade bill requires a foreign country with an "excessive" trade surplus with the United States to reduce that surplus 10 percent each year or face import restrictions. This is based on the misguided notion that any country that exports more to the United States than it imports from the United States hurts Americans and deserves to be punished.

The entire doctrine of a "balance of trade" between two countries is a relic of the past. Like trade between Virginia and California, two different nations will naturally have different levels of imports and exports. Virginians buy far more goods from California than California buy from Virginia, but Virginia isn't trying to limit California products from coming into the state. Similarly, the United States buys far more oil from Saudi Arabia than the Saudis buy American products. But does that mean that we should slash our oil consumption to "punish" the Saudis?

Congress seems to think the only reason a country could have a trade surplus with the United States is because of "unfair trading practices." Yet the House bill's definition of "unfair" is so vague and expansive that almost every country in the world could be condemned as unfair, including our own. Virginia's subsidies for port development, its creation of an export promotion program, government subsidy programs for tobacco and any Virginia laws that have a "buy America" provision could be termed "unfair" by the rest of the world, if other countries were to adopt the House's definition of the word.

Equally as threatening, the House trade bill would require the U.S. government to violate many international trade laws. It is certain that if the U.S. bans or heavily taxes other nation's products, those countries will retaliate against U.S. exports. The result will be a beggar-thy-neighbor struggle, with nosediving trade, skyrocketing unemployment and a much lower standard of living. Over 3 million Americans work in export manufacturing industries, and almost half of all American cropland produces food for foreign tables. If our manufacturing and agricultural industries are crippled in a trade war, we will all lose.

Virginia particularly risks losing substantial exports if a trade war of "retaliation and counter-retaliation" is ignited. Virginia currently exports 17 percent of all agricultural products, primarily tobacco, soybeans, peanuts and wheat, and in 1985, 23 percent of its tobacco products were exported at a value of $273 million. In fact, Virginia is the second largest exporter of tobacco and tobacco products, having exported $95 million worth in 1986, and if Baliles has it his way this number might double. But retaliation can be indiscriminate and hit almost any industry. Virginia cannot take such a risk.

Finally, Virginia greatly benefits from foreign investment. Direct foreign investment in the state amounts to $5 billion and accounts for 67,000 jobs. The House bill has a provision that explicitly discourages such foreign investment in the United States and could in turn destroy thousands of Virginians' jobs.

If the House trade bill becomes law, it could be the worst economic blow to Virginia since Gen. Sheridan torched the Shenandoah Valley. Virginia has everything to gain and nothing to lose from free trade. Baliles should be commended for his dedication to improving international commerce.

TELECOMMUNICATIONS PORTIONS OF S. 1420

Mr. PACKWOOD. Mr. President, in my opening statement on this bill, I spoke of the positive, market-opening features of the bill. I also alluded to other provisions of the bill whose common feature was that they dealt with a particular interest separately—though the bill primarily takes the approach of dealing with trade issues generically.

I believe that the generic approach overall is a wise one. Multilateral trade negotiations have served the United States and the world well over the last half century. The most positive feature of the pending bill is its authorization for continuing this process under the Uruguay round of trade negotiations.

Nevertheless, it is natural for us to concentrate our attention on one sector or area where the United States is not enjoying as favorable a balance of trade as we would like, or where foreign markets are not as open as we would like.

In the pending bill, Mr. President, we have a title that deals with telecommunications. Its purpose is to achieve substantially equivalent competitive opportunities for U.S. telecommunications exporters in those markets in which barriers exist to free international trade. To this end, the United States is to enter into bilateral negotiations on this subject with the various countries involved. The other countries will be encouraged to enter into these negotiations because they are under the threat that we will retaliate against their telecommunications exports or other exports to the United States.

This is one area where I support sector-specific treatment. In the telecommunications area, U.S. companies are generally trying to sell equipment and services to Government-owned telecommunications systems while the United States has an open market. This differs from the competitive situation usually encountered in other industries.

I hope that we can achieve our purpose here of opening foreign markets to our telecommunications products. But I am concerned about what might happen if our negotiators do not succeed. What if one or more of the foreign countries with barriers do not remove those barriers? How will businesses in the United States be affected?

They will be affected in two ways, Mr. President. First, if the United States keeps out foreign telecommunications equipment, our own domestic users of those products might find themselves a captive market of one domestic producer. Second, if the United States takes unilateral action against the telecommunications products of another country, we might find ourselves in a position of compensating that country for the loss in trade that results. Section 909 of the pending bill specifically allows for such a contingency. If this occurs, some other industry in the United States will suddenly find itself paying the price for another country's desire to continue protecting its telecommunications industry.

I hope that the scenario does not come to pass. I understand and support the basic premise of having a separate title on telecommunications. However, the sectoral approach to trade legislation does have potential dangers and we must proceed with caution.

Mr. WARNER. Mr. President, with some reservations, I rise in support of S. 1420 the omnibus trade and competitiveness bill. While there are provisions in the bill which give me substantial concern, overall I feel the bill makes an effort to address trade problems, without being overly protectionist.

When the trade bill first came to the floor there were many provisions which I found troubling. Although many of my concerns were addressed and favorably resolved on the Senate floor during the 4 weeks of Senate debate, others, such as the plant closing legislation, which should never have been in this legislation in the first place and serves only to make the United States less competitive in world markets remain a part of the bill. Overall, however, I believe this Senate bill will deliver a strong message to our trading partners that we are serious about resolving our trade deficit and we would rather do so with their help than without.

I want to see U.S. industry and business prosper, and they are beginning to make progress in world markets. For example, export related manufacturing in Virginia increased 179 percent between 1977 and 1983. In March, the trade deficit narrowed from $15.1 billion in February to $13.6 billion. Although the gain seems small, it's magnitude has been hidden by the depreciation of the dollar, and the deficit should narrow even more in the months to come.

I hope that the Senate conferees in the coming weeks will work with their House counterparts to develop a sound final product that can be signed into law. If this bill cannot be substantially improved in conference I will be unable to support the conference report when it comes before this body.

Mr. PACKWOOD. Mr. President, I intend to vote for this bill. It is not a bill I believe the President could or should sign, but it is worth sending to conference.

The bill we really should be sending to conference would do only three simple things:

First, give the President a strong mandate to pursue multilateral trade talks.

Second, increase leverage to pry open foreign markets and otherwise expand U.S. export opportunities.

Third, provide an adequate cushion for dislocated workers in uncompetitive industries.

This bill does—albeit imperfectly—address those three goals:

First, on trade talks: The bill gives the President most of what he needs in the form of fast-track treatment for legislation implementing trade agreements.

Second, on expanding U.S. export opportunities: We have strengthened section 301, so that vigorous U.S. action against unfair foreign trade barriers is more certain; and we have modified our export control laws to give U.S. exporters a fairer chance to compete.

Third, on dislocated workers: We have adopted most of the administration's proposal to reform worker dislocation programs.

If that were all the bill did, I would probably be voting for it without hesitation. But I have had to think long and hard about this vote because, somewhere along the way, this bill has attracted literally hundreds of pages of additional material—much of which is extraneous, and some of which is profoundly counterproductive to strong U.S. trade leadership and performance.

Let me mention a few of the significant errors buried in this thousand-page document:

We propose to fund trade adjustment assistance—a worthy program in itself—with a trade-impending fee on all imports; and we have rejected efforts to cap the revenues raised by the fee—a step which might at least prevent its growth into a major trade restriction.

Repealing the windfall profits tax is not only bad policy but entirely extraneous to this bill.

As if that were not enough for oil, we left in the bill special oil and gas TAA benefits not available to any other industry.

There's a special sweetener in there for sugar refiners too, allowing them to collect perhaps hundreds of millions of dollars in duty refunds; three big companies alone are lined up at the trough to collect one-quarter billion dollars.

The tobacco industry would for the first time become eligible for export subsidies—at taxpayers' expense. There's even a little something in the bill for the steel fence panel industry.

I was saddened that the Senate voted for suspension of Romania's most-favored-nation trading status, because I think that may lead to less emigration and more human rights abuses.

Although the damage was not nearly as great as it might have been, we have tinkered further with our dumping and countervailing duty laws in ways unfair to imports—for example in the exporter's sales price [ESP] offset provision. Such actions can only work to the detriment of the many U.S. exporters subject to other countries' similar laws.

That's only a sampling of notable errors implanted in the hundreds of aimless pages in this bill. And interspersed among the many extraneous and counterproductive provisions are dozens upon dozens of new commissions, offices, studies, and reports. Even Senator DOMENICI has probably lost track at this point of the budget and administrative burdens imposed by this bill.

But recognizing these many flaws in the bill, I also recognize that, in some important respects, this bill has been improved on the floor:

Section 201: Although the Senate rejected my amendment to restore the President's discretion to consider the national economic interest in deciding on relief against fairly traded imports, most of the substance of that amendment was subsequently adopted in Bradley and Gramm amendments. It would certainly have made a lot more sense to restore the President's 201 discretion fully and directly, rather than restoring piecemeal some individual elements of the national interest. I hope we will follow the House and do that in conference.

But, at a minimum, I am voting for this bill with the expectation that there will be no attempt in conference to revert to a severe limitation on presidential discretion in Section 201. Any such change in conference would, I am confident, guarantee not only my opposition but that of many others who are voting now to send this bill to conference.

Oil security: The Senate wisely stripped from the bill a backdoor effort to impose an oil import fee.

Reorganization: We also wisely stripped a cumbersome and expensive reconfiguration of trade agencies.

I have been heartened not only by these improvements but by the knowledge that many of the errors in this bill can be corrected. The list of significant mistakes in the House bill is every bit as long as ours; but their list is, for the most part, different from ours. So I am cautiously optimistic about the prospects for whipping this bill into better shape in conference.

It is with those hopes in mind that I vote today to send this bill to conference. I do so mindful of the fact that trade legislation can, in the real world, do little to ameliorate America's trade problems. It is our responsibility, at a minimum, to ensure that legislation does not make the problems worse.

I look forward to working with the chairman in conference. A few weeks down the line, I hope to be congratulating him on having engineered a good trade bill the President can sign.

Mr. DURENBERGER. Mr. President, we will shortly cast our votes on the most important trade bill that we have considered in 57 years. And I have no doubts that this bill will be adopted, for it has always been more popular and politically safer to vote for protectionist legislation, than to cast a vote to preserve the free trading system.

Yet, I must vote against this bill. I believe it will increase worldwide trade tensions, and endanger the stability of the post World War II international trading system which has brought about the greatest increase in well being in history. Moreover, as the marketplace has become truly global in 1987, I believe this legislation will threaten many more domestic jobs than it will save, and will cost American consumers billions in additional costs.

Mr. President, since Ronald Reagan entered the White House in 1981, the world economic order has undergone fundamental, and what some might call revolutionary change. And I attribute this transformation of the world economy to the unalterable conviction and confidence of President Reagan in the virtues of the market economy. The more than 13 million new jobs created during the President's tenure reflects the success of the President's vision.

President Reagan has reinvigorated our domestic economy by rejecting the outmoded view that Government can resolve all economic ills. Through his leadership, American entrepreneurship and risk-taking have enjoyed a renaissance which has become a model for the rest of the world. Barely 10 years ago, so-called Eurocommunism was sweeping the Continent. Leftists in Europe won office advocating state ownership of major industries including steel, automobiles, telecommunications, and banking.

The predictable end result of this wave of European government ownership and regulation was the new European disease—"Eurosclerosis." Double-digit unemployment, economic stagnation and recession plagued our European trading partners. The only thing that enabled the Europeans to begin to pull their economies out of the doldrums was their ability to export their goods to the dynamic economy that Ronald Reagan reinvigorated.

And today, all over the world, we see every nation, including the developing countries of Africa and even the Soviet Union and the People's Republic of China, shedding the paralytic hammerlock of state economic control and moving to gain the benefits of the market economy. The British have privatized telecommunications; the Japanese have been begun to privatize telecommunications and railways; the French have been seeking to undo the state-ownership policies that brought President Mitterand to office.

The rebirth of the worldwide market economy that Ronald Reagan began will carry forward into the 21st century. And with it will come a higher standard of living for all peoples of the world, including citizens of the United States.

Mr. President, the transformation of the world economy into a global marketplace has not been without its problems. To wrench inflation out of the American economy, we endured a prolonged economic recession in 1982. And since ours was the first economy to spring back to life in 1983, imports poured into the United States at unprecedented rates. At the same time, the American dollar began an upward rise that debilitated the ability of many of our domestic industries to remain competitive in the new global market.

Although we have not had the luxury to slowly adapt and adjust to the changes in the world economy, I believe that we have now turned an important corner in our international trading relations and will begin to see a fundamental improvement in our trade balance. The dollar has come down to a more competitive level and has begun to stabilize. While the dollar value of our trade imports has remained high, the volume of imports has declined, and our exports have beens steadily rising.

Today, when American industry has regained much of its competitiveness, the biggest mistake we could make is to adopt legislation that would encourage our trading partners to raise barriers to imports. Free trade will benefit all of our citizens, and will give American business the opportunity to expand production and increase employment in this country and build markets for exports abroad.

Mr. President, there are many positive features of this bill that, standing alone, I could strongly support. I especially want to commend the distinguished chairman of the Senate Finance Committee, Senator BENTSEN, and the distinguished senior Senator from Missouri, Senator DANFORTH, for their tireless efforts in seeking to develop a bipartisan trade bill. And my compliments to my colleague BOB PACKWOOD, the ranking member of the Finance Committee.

The most important feature of this bill is the new round negotiating authority provided the administration. This grant of authority provides this administration and the next with the tools necessary to enter into bilateral and multilateral negotiations aimed at improving the world's trading system. And it sends a message to our trading partners that trade negotiations must lead to a more open and free world trading system which permits American agriculture, mining, manufacturing, and service industries fairer access to world markets.

One of the principal objectives of the new GATT round is the revision of the GATT with regard to agricultural trade. Such revisions will increase U.S. agricultural exports by eliminating barriers to trade and clarifying GATT rules for agriculture. At the same time, our negotiators must resolve questions under the GATT pertaining to export subsidies, market pricing, and market access.

The Senate bill also strengthens the President's hand to fight unfair agricultural export subsidies by requiring the U.S. Trade Representative to use surplus commodities under the Export Enhancement Program to offset and nullify the effects of the foreign government subsidy.

This legislation also brings needed relief to our high technology companies that have faced unfair competition from foreign companies that have infringed their patents and copyrights. It strengthens the effectiveness of section 337 by eliminating the requirement to show that patent or trademark infringement injures a domestic industry and broadens its scope to include universities and other intellectual property owners who engage in extensive licensing of their rights to manufacturers in the United States and abroad.

Mr. President, despite the positive elements of the bill, I believe this legislation and much of the bill passed by the House of Representatives will encourage other countries to close their markets to our goods and it will threaten the economic prosperity that we have worked so hard to preserve. All of us must face the fact that we do not rewrite our trade laws in isolation from the realities of the global marketplace. How we define "unfair trade practices;" what conditions we allow for invocation of the "escape clause," and how we define "countervailable subsidies," will affect our domestic prosperity and relations with our major trading partners for the remainder of this century, and into the 21st century.

Make no mistake, when our trading partners review our legislative work, they will surely respond with mirror legislation designed to protect their domestic economies. The history of the world trading system in the 20th century is littered with the remains of protectionist measures followed by countermeasures, followed by further retaliation, until the entire trading system falls into an abyss.

At the time the United States adopted the misguided Smott-Hawley tariffs of 1930, this country ran a trade surplus. Yes, a trade surplus, not a trade deficit. But in our effort to further protect domestic industries and jobs from foreign competition, we laid the foundation for a worldwide depression.

All of our trading partners responded to Smott-Hawley by imposing similar retaliatory tariffs. The results were a devastating stagnation in world trade. For the United States, imports dropped from $4.4 billion in 1929 to $1.45 billion in 1933; exports plunged even more: from $5.15 billion to $1.6 billion. Our economic depression deepened and became truly global. Indeed, Smoot-Hawley played the same role for economic affairs that Munich later played for military affairs.

Mr. President, this is not just a trade bill; it is a bill that covers a multiplicity of issues ranging from foreign policy to vocational education. At last count, this bill contained 973 pages, to which we have added 123 amendments. In the process we have found a way to authorize more than $7 billion in additional spending at a time when we are trying to rein in Federal spending and reduce the deficit. Indeed, this bill establishes 81 new Federal entities and commissions and calls for the preparation of more than 160 reports. Mr. President, since this bill left the Finance Committee where I participated in its markup, it has picked up enough branches to make it increasingly difficult to see the trade policy forest for the trees.

And despite the fact that our budget deficit contributes to our trade deficit, this bill makes it more difficult to close the deficit because it repeals the windfall profits tax just at the time that the tax is likely to bring in revenue. This unjustifiable action will clearly make it even more difficult for Congress to take responsible action this year and next year to address the budget deficit problem.

Moreover, Mr. President, there are two great dangers this legislation poses to the vitality of the international trading system and our domestic economy. First, it will insulate our domestic industries from the vigor of international competition, and will encourage risk-averse industries to shield themselves behind the protections afforded by the section 201 escape clause provisions. Second, this legislation arbitrarily redefines the scope of unfair foreign trade practices and lays down the gauntlet of immediate retaliation unless our trading partners accede to our demands.

Under the section 201 amendments contained in this bill, the President must grant import protection for a petitioning industry, even if such protection will make it more difficult for other industries to compete in the global marketplace. Nor can the President deny import protection if he determines that the costs to the overall economy outweigh the benefits gained from import protection. Nor can he consider how such protection will affect all American consumers or the retailers and importers who serve those consumers.

During markup of this bill in the Finance Committee I supported an amendment that would have retained broad Presidential discretion in section 201 cases. I also offered an amendment to allow the President to deny import relief if he determines that such relief will be a substantial cause of injury to another domestic industry. Both of these amendments were defeated in committee and similar amendments were rejected on the Senate floor.

I want to express my concern that the section 201 provisions we have adopted may guarantee lost sales and profits for some of our most competitive export industries. For example, when the United States imposed tariffs on shakes and shingles last year, the Canadians immediately retaliated against our book publishers and computer manufacturers. When the United States levied tariffs on Canadian timber last year, Minnesota corn growers found it impossible to export to Canada.

Mr. President, some of the industries that will find it attractive to seek import protection under the Senate version of section 201 have only themselves to blame for their inability to compete against foreign competition. Their failure to invest in new plant and equipment, and worker retraining, and their failure to take advantage of new technology has reduced their ability to compete against world competition.

Many other industries object to the fact that they are denied access to the same markets from whence comes their domestic competition. This is a serious and legitimate complaint. For example, I know of a Minnesota company that sells hides to a foreign country where the hides are turned into shoes and exported back to the United States. But that Minnesota company cannot sell its shoes in that foreign country. And we all know that Japan has made it nearly impossible for Cray and Control Data to sell their supercomputers in Japan, while Japanese companies face no barriers to selling their supercomputers in the United States.

But how can our competitiveness substantially improve if we are going to provide a protective umbrella for every industry that finds it rough going in the competitive environment of the late 1980's? I would suggest to my colleagues that we will see an ever-increasing number of section 201 petitions filed as a result of the changes contained in this bill, and an ever-decreasing ability to compete in the world market as a result of this legislation.

Another aspect of this bill that I find most troubling is the provision reshaping section 301, the unfair trade practice law. Not only does this legislation unilaterally set forth the American Government's view of which foreign government practices we deem unfair, but it mandates that the U.S. Trade Representative [USTR] annually initiate a series of section 301 cases aimed at eliminating foreign trade barriers. And if the foreign government refuses to eliminate what we deem unfair trade practices, the President will be required to retaliate against that country.

Mr. President, the first order of diplomacy with sovereign governments is negotiation, not retaliation. Yet this legislation puts the retaliation gun to our trading partners' heads and substantially limits the President's flexibility to negotiate true market-opening initiatives.

Mr. President, retaliation is a two-way street. Our trading partners will not take our threats of retaliation lying down. Some may choose not to show up at our weekly Treasury bill auctions, with the inevitable result that our interest rates will rise. Others may choose to further close their markets to our agricultural and high-tech exports. We live in an interdependent world where our retaliatory threats do not carry the weight that some of us would like to believe they hold.

Moreover, by unilaterally expanding the definition of actionable practices under section 301 to include, inter alia, targeting, and unfair trade concession requirements, we raise the real possibility that our trading partners will adopt mirror legislation that will make many of our own domestic policies actionable under their equivalent of section 301.

Under this bill, we are committing $500 million for the development of a semiconductor research and production consortium. We are directing the National Academy of Sciences and the National Academy of Engineering to perform a study of how the U.S. Government can better assist industry in developing high temperature superconductors. I support both of these measures. Yet, I can assure you that our trading partners will surely have the right to challenge these activities as targeting practices actionable under their 301 statutes.

Mr. President, every nation chooses to close its market to certain imports for political and economic policy reasons. We have our "Buy America" program; a multifiber agreement that restricts textile and apparel imports; a steel import restriction program; a machine tool import restriction program; import restrictions on firearms, and a variety of barriers to agricultural imports.

Many of our trading partners deem these restrictions unfair. Should they adopt mirror legislation, especially with mandatory retaliation provisions, we will surely face a world of trade warfare and tit-for-tat retaliation. The result can only be reduced international trade and potential international recession.

Moreover, adoption of this legislation will surely establish an unfavorable climate for international trade negotiations. The United States will soon join the major trading countries of the world in the Uruguay round of the GATT negotiations. These negotiations hold great promise for improving the international economic environment for American business and American agriculture.

Should we adopt this legislation and begin a series of unfair trade practice cases against our most important trading partners, I can assure you that we could not only scuttle the Uruguay round, but will make it extremely difficult, if not impossible, to make headway in further opening up the world's trading system.

When all the risks are weighed against the potential benefits that could flow from this legislation, I must come down on the side of those who believe that negotiations leading to freer international trade are more important than demonstrating false American economic "macho" against our trading partners and greater protectionist barriers for our uncompetitive American industries.

Mr. President, it is my hope that the conferees will be able to reshape this legislation to recognize the paramount importance of serving the national economic interest in expanding America's international trade opportunity. But this is not the legislation that will achieve that purpose.

Mr. SASSER. Mr. President, today the Senate has taken a historic step with the passage of this trade bill.

This is the first major revision of our trade laws in almost 15 years. During that time the world economy has changed profoundly. Countries that were merely on the horizon of industrialized nations are now world economic powers.

This bill recognizes that changed world economy. It offers a realistic view of a world where markets are internationalized, where technology and technological advantage changes almost daily, and where workers must be continually prepared to train for new jobs to compete in the changing marketplace.

My own State of Tennessee is a perfect example of just how the trade issue cuts both ways. Just as we have been severely affected by imports, so are exports critical to our future prosperity.

Tennessee ranks 15th among the States in exports of manufactured products. We rank fourth in tobacco exports, fifth in food, sixth in apparel and textiles, and seventh in chemicals. Our exports of manufactured goods total $5.6 billion annually. Among the wide number of Tennessee exports are chemicals, nonelectric machinery, and food—making up three-fourths of the State's manufactured exports.

According to U.S. Census Bureau figures, exports account for 13.4 percent of Tennessee's manufactures—about one dollar in four of all manufacturing. And that figure is growing all the time.

So that is what we are doing in this bill. We are recognizing that we have industries that have suffered from imports and we are also recognizing that we need to put programs in place now to enable our industries and our workers to compete in the world marketplace.

Now, some have called this bill protectionist, including the President, who threatens a veto over every provision that offers some leverage over the unfair trade practices of other countries. Well, I think the President is sadly mistaken.

It is time we got beyond the simplistic catchwords that have immobilized us for so long. "Free trade" really does not exist in the modern market. The "protectionist" label is a red herring when virtually every government in the world seeks to assist its domestic industries with subsidies, with trade barriers, with currency manipulation, or with quotas.

The belief that there is no mobile ground between absolute free trade and absolute protectionism is largely responsible for the trade crisis we face today, a crisis that has put literally millions of working Americans on the unemployment rolls and has thrown our agricultural sector into its sharpest nosedive since the Great Depression.

What this bill does is strike a balance, a balance between the need to attack unfair trade practices and the need to open foreign markets for our exports.

The titles of the bill reported from the Finance Committee reflect this balance. For instance, the amendments to section 201 provide that an industry which has proven its case must be given assistance. On the other hand, the President is provided with an increased range of options in constructing a relief package.

In a similar way, the sections dealing with unfair trade practices revise the list of unfair trade practices to recognize the mechanisms our trading partners have developed in recent years to bar U.S. exports. It puts a priority on identifying those countries which do not treat our industries on the same basis as their industries are treated in our market.

Again, the aim is to strike a balance. We are not out to merely erect barriers to trading in the U.S. market. The ultimate goal is to assure equal treatment. That's all we're looking for—a fair chance to complete. But, and this is a big but, we're also telling our trading partners don't erect trade barriers in your market and expect us to sit by and do nothing. The free ride is over.

But, again, the bill is not one-sided. Large portions of the bill are devoted to increasing the ability of U.S. companies to develop markets abroad and equipping our workers to take advantage of those opportunities.

For instance, it directs that foreign commercial attachés be added to the offices of U.S. representatives to the Multilateral Development Banks. This will increase the ability of U.S. companies to compete in procurement opportunities available through the loans made by those agencies.

We will also establish regional centers to increase the transfer of manufacturing technology. Industrial competitiveness depends more and more on the ability to remain on the cutting edge of technological development. These centers will enable companies to incorporate the latest technology into their manufacturing operations.

I am pleased that the bill also incorporates provisions of legislation that I introduced to assist small businesses in expanding their export potential.

Many of the new and innovative technologies and products entering the market are being developed by small businesses.

First, we increase SBA's Office on International Trade authority and direction to offer technical expertise and information on export programs and to actively assist small businesses develop and expand their export potential.

Second, we require SBA to promote export sales opportunities for small business goods and services.

Third, we allow the use of SBA 7(a) loans for export purposes and for preexport financing to small business trading and management companies.

Fourth, we create Small Business Export Assistance Centers to develop and implement export promotion and technology transfer programs.

These provisions will afford small businesses the opportunity to compete for their fair share of the export market.

But it will do us little good to assist our industries in developing export markets if our management and workers do not have the skills to enable them to take advantage of those opportunities.

This bill recognizes the importance of a well-educated work force. It provides funding for education programs to improve American competitiveness, including teacher training programs in mathematics, science, computers, and foreign languages. It also includes funding for basic skills improvement for secondary school students so that when they graduate they will have the tools to obtain a good job, and a job with a future. We also provide for adult training and retraining programs so that current workers may acquire the skills they will need now and in the future.

One frequently heard business complaint is that prospective employees lack the job skills needed by business—knowledge of foreign languages, a knowledge of international culture, and computer training. That is the aim of these education programs—to enable our companies to go into foreign markets with the tools to compete and to win.

I am pleased that the education section includes a provision that I have been interested in for some time—that of forging greater links between education and the private sector. I believe that increased cooperation between the two will enhance quality of education for the future. To that end the bill provides for educational partnerships between public school and the private sector to encourage excellence in education. The private sector knows the job skills that are needed and the schools know how to teach them. This program will improve the ability of the two to work together.

So, Mr. President, this is a balanced and comprehensive bill. It addresses both imports and exports. It recognizes the problems we have in the present and those we will face in the future. I believe this is a good piece of legislation and I am hopeful that a conference committee will reach agreement on a final version soon.

Mr. BUMPERS. Mr. President, I will vote for the Omnibus Trade and Competitiveness Act, but I do not have much confidence that it will have a significant impact on the trade deficit or the competitiveness of our Nation.

I have sensed throughout the 13 days the Senate has been debating this bill that few of my colleagues have much enthusiasm for this bill. This lack of enthusiasm may explain why the debate has proceeded at such a desultory pace.

This trade bill could have had a decidedly negative impact on the trade deficit. Indeed, I am surprised that the bill is not laden with many specific import-relief provisions. Largely the bill has retained its generic form and deals with trade issues by changing the process rather than the results in specific cases.

Given how many businesses have been injured by the flood of imports over the past 6 years, there is a strong natural instinct to lash back in anger. This same instinct would be understandable on the part of the thousands of workers who have lost their jobs due to import competition.

Instead, this bill has been considered in an atmosphere of calm and reason.

This has been true because my colleagues and I understand that simply shutting the door on imports would be quite counterproductive for our Nation. We need and enjoy imports and the competition that imports provide. It prods American businesses to remain competitive.

This bill does not shut the door on imports.

The bill does give American companies some additional rights in protecting themselves against unfair foreign competitors. But, this is not protectionist. If some foreign producer is receiving a government subsidy that gives it a price advantage, it is not protectionist to take action to offset the unfair advantage conferred by the subsidy.

If America does not take action against unfair trade practices, who will take action? If America is the world's strongest supporter of free-trade system, it needs to be the most vigorous nation in ensuring that the competition in international markets is fair. Nothing will bring down the international trading system faster than if the United States and other countries do not take action against those who abuse this system and seek to obtain an unfair competitive advantage.

So, this bill largely avoids the temptation of protectionism.

At the same time, I doubt if this bill will have much of a positive impact on the trade deficit.

It is widely understood in the Senate that our trade deficits are largely caused by the ill-conceived economic policies of this administration. I spoke on this subject in my comments on the Harkin amendment—amendment No. 596, July 15 RECORD at S 10160. This bill does not change the economic policy of this administration and it cannot undo the damage which this policy has caused in the past 6 years.

It is also widely understood in this body that this administration has been very reluctant to take action—either in trade remedy proceedings or in bilateral negotiations—against the unfair trading practices of our competitors.

The Senate bill does contain some strict language on both section 201 and section 301 cases, but in both cases the bill gives the President ample discretion to continue his current policy of inaction and passivity.

As I said in my statement on the section 301 amendment—amendment 465, July 10 RECORD at S 9668—the amendment will have no impact on the administration's willingness to take action. Indeed, the Gephardt amendment in the House bill contains enough cuts so that the President could refuse to comply with the deficit reduction goals it contains.

It is futile to try to use procedures to force a President to reach results which he strongly opposes. That is true with the procedures in this bill and it is even true of the procedures imposed by the House bill.

Finally, this bill does very little to stimulate the competitiveness of our Nation's businesses, which is the third major curse of the trade deficits.

The bill contains some marginally helpful provisions, particularly in the Commerce Committee titles. I do believe that the Government should make some investments in science and technology to stimulate our business sector and the Commerce Committee title provides some additional funding for science and technology.

I am especially proud that the bill contains a proposal I advanced in April to establish a clearinghouse on State and local initiatives on productivity, technology, and innovation. This proposal is contained in section 4102 of the bill. I spoke at length about it when I offered a technical amendment to clarify and correct certain issues in the proposal as it was reported by the Commerce Committee—amendment No. 599, July 17 RECORD at S. 10164.

The bill does not aggravate the deficit enough to have an adverse impact on the trade deficit. The bill does cost some money but it is well within the limits set in the budget.

The fact is that the economic policies of this administration have not only had a direct and negative impact on the trade deficit, but they have left us with little in public resources to invest in worthwhile programs to promote science, technology, and education.

I did not seek to offer two proposals of mine as amendments to this trade bill precisely because we cannot afford them at this time. On the same day that I introduced the clearinghouse proposal—S. 930—I introduced two other bills to enhance the competitiveness of our Nation. These two bills are S. 931, which provides a modest tax incentive in favor of direct investments in start-up small businesses, and S. 932, which provides a similar tax incentive in favor of cash profit-sharing plans.

Both of these bills hold more promise than anything I see in this trade bill to enhance the competitiveness of our Nation, but I could not offer them due to their revenue impact. We simply cannot afford to make the investments we need to make to regain our competitive edge.

All told, the bill does contain some useful proposals. None of them is earth-shattering. The bill could have contained many ill-conceived proposals and it doesn't. The bill does not aggravate the budget deficit, which is the root cause of much of the trade deficit.

Happily, we are not overpromising with this bill. I do not hear my colleagues claiming that this bill will cut our trade deficit by any specific amount. I do not even hear that it will have a major impact on the trade deficit. We are realistic about what this bill can do when it does not reverse the current economic policy, does not force this administration to enforce the trade laws, and does not undertake significant new initiatives to stimulate the competitiveness of our businesses.

The bill is a modest effort. Its passage shows that the Senate understands the importance of the trade deficit. It shows that we understand the limits of what this body can do to reduce the trade deficit. It shows that we can avoid taking action which will aggravate the situation.

I will vote for this bill. I am not excited about it. I have modest hopes for it. I hope it will help a little to deal with a complex and threatening problem.

I do fear that the American people will think that in passing this bill that the trade deficit problem is now behind us. It isn't. It will be with us for years to come. This bill is not the answer and no legislation can address the whole problem.

We need to work for fundamental change in our economic policy, in the ways we deal with our trading partners, and in the way we conduct our business. This is the unfinished agenda.

Mr. PACKWOOD. Mr. President, I rise to express my concern that the fast track relief language for perishable products contained in S. 1420 may prove to be unworkable when applied to real cases. The administration feels that the current language could be GATT illegal, and I share their concern.

As it currently stands, the committee's language amending section 201 of the Trade Act of 1974 says that any person filing a 201 petition for import relief for a perishable product may also file at the same time a petition for emergency relief. The U.S. Department of Agriculture has 14 days to investigate whether or not to recommend to the President that emergency relief—in the form of new tariffs, a tariff-rate quota, any quantitative restriction on imports or a combination of the three—be granted. The President then has 7 days in which to issue his relief proclamation.

My concern lies not with the principle of emergency relief, but with the manner in which this bill creates the mechanism to impose it.

First, 14 days is too short a timeframe. The investigating agency needs to gather data from a variety of sources, analyze it, and present the information to the President. Because it is likely that some of the information could come from the affected industry filing the petition, there could well be an inherent protectionist bias to the provision unintended by the statute itself.

Second, the Department of Agriculture is the wrong agency to undertake the investigation. It has no historical experience in section 201 matters. The International Trade Commission, which decides the overall section 201 relief issue, and has been the fact finding body for import relief since its inception, should retain decisionmaking rights. I believe we might consider the language in the House bill which provides for a 90-day monitoring period and a decision by the ITC to offer a more workable procedure.

Finally, while the current cap of 50 percent ad valorem on duties imposed under section 201 may be appropriate in the context of the full 8-month review process, it is unworkable under the fast-track procedures in S. 1420. There are two problems. First, because of the ad valorem basis of the current duty cap, the emergency duties could be triple, quadruple or even quintuple the existing duty level. Effectively, this undercuts any cap. Such massive duty increases would be an unfair burden, imposing penalties far harsher than I believe the law intends.

Second, because the ultimate duty may not be settled until 7 months after the emergency relief is imposed, and could well be even higher than the initial emergency duty level, importing U.S. companies would be subject to enormous uncertainties and potentially ruinous retroactive penalties.

To address the first of these concerns, I recommend that we look to the examples in the Caribbean Basin Intiative and the United States-Israel Free Trade Agreement and establish a cap—perhaps at twice the existing duty's level—on the duties that can be imposed on an emergency basis.

To correct the problem of unfair retroactive applications of duties, I believe that we need to ensure that the duties ultimately imposed and collected for the emergency relief period in a section 201 case cannot exceed the level of cash deposits collected during the period of emergency relief. Such a limitation would be consistent with our countervailing duty and antidumping laws.

Neither of these operating procedures would in any way undermine the legitimate domestic interests the statute is meant to protect. In particular, the retroactive application of duties cannot serve to stem the flow of imports that have already entered the United States in a previous period or to raise the price of those imports because they will have already been sold. The only effects of the provision as it now stands are to introduce uncertainties into the market that benefit no one and to create severe hardship for the American companies that import these products.

Before I close, Mr. President, I think it is important to note that the harm imposed by the current formulation of the fast track relief mechanism for perishable products falls on three separate groups—foreign producers, U.S. importers, and the American consumer. We certainly should look closely at any law which could bring about greater harm to our economy and our people than to those who trade with the United States.

I hope that our conferees keep this in mind as they move into conference with the House on this important legislation.

Mr. SASSER. Mr. President, I am pleased that the miscellaneous tariff section of this bill includes the provisions of a measure I introduced earlier this year.

My legislation reduces the tariff on imported hatters' rabbit fur, correcting an inequity in present law. Currently, the tariff on imported rabbit fur used in producing hats is 15 percent. In comparison, about 40 percent of the finished and semifinished hats, known in the trade as hoods, enter the United States duty free. The remainder come in at about 3 percent. This differential puts domestic manufacturers of hoods at a competitive disadvantage.

These are U.S. manufacturers who are producing these products here in the United States, and providing jobs here in the United States, and they are being penalized for doing so. The change we are making ensures that we will treat those that produce their hoods domestically and those that import them equally.

This measure has no effect on the U.S. fur industry. The breeds of rabbits used in hat manufacturing are simply not grown in the United States. So, this amendment would have no effect on the domestic fur industry.

The tariff change, does, however, allow those hatters who manufacture their entire product domestically to compete on an equal basis with importers. It is a perfect example of the way these miscellaneous tariff changes can have a positive effect on American businesses. Let me give my colleagues an example.

There is a company in my State of Tennessee, in Winchester, which manufactures semifinished hats—the hoods. Some of them are sold to other hatmakers and the rest are used in their Winchester facility to make finished hats. The company provides employment for about 45 people. That is not an inconsiderable number in a community of about 5,500.

Like many towns in Tennessee, Winchester is located in a rural area. Like rural communities everywhere, it can ill afford to lose jobs. There are a few comparable jobs to which workers may transfer their skills. Many of these workers are prevented by family obligations from moving to a new area.

This is the type of change we can make in our tariff laws which does not harm other U.S. industries yet allows us to preserve jobs in our rural communities. I am pleased that we were able to include this measure in the miscellaneous tariff provisions, and I want to thank the Finance Committee for their cooperation.

SECTION 844

Mr. WEICKER. Mr. President, I would like to state my concerns about the probable adverse effects of section 844 of the bill on a competitive U.S. industry, including our constituent, Uniroyal Chemical Co. Section 844 would suspend for 3 years the import duty on NDI, a polyurethane elastomer chemical. The Finance Committee report correctly noted that this chemical does not compete directly with other basic isocyanates manufactured in the United States. However, it does compete directly with the prepolymer intermediate chemical systems produced in the United States which are based upon other isocyanates, such as TDI and MDI.

Mr. DODD. I agree Mr. President. These chemicals are produced by U.S. workers at domestic facilities such as Uniroyal's Naugatuck, CT, plant. In fact, since the proposal was first introduced during the 99th Congress, NDI marketing efforts have been expanded into additional areas directly competitive with Uniroyal's and other U.S. producers' prepolymer chemicals. Although NDI is more expensive than other isocyanates on a volume basis, at the actual point of competition—the prepolymer—the price of NDI—without the duty—would be highly competitive with the domestic chemicals, since a much smaller volume is required, due to technical differences, that perform the same functions as those chemicals.

Mr. WEICKER. I and my colleague are especially concerned that the duty would be suspended on an imported chemical, which competes directly with a U.S. substitute, immediately prior to a GATT tariff negotiating round, where the tariff could provide leverage to negotiate concessions on U.S. exports.

Mr. DODD. Mr. President, notwithstanding the conclusions of the Finance Committee on this provision, both Senators from the State of Connecticut wish to direct our colleagues' attention to the likely adverse effects of a duty suspension for a competitive product, where no unique demand has been identified and no concession on U.S. exports has been granted. It is our belief that section 844 should be considered carefully in conference and, hopefully, deleted.

Mr. DURENBERGER. Mr. President, in recent days I have had several discussions with representatives of the United States Trade Representative [USTR] concerning the ability of foreign companies to gain access to U.S. Government-sponsored research. As the U.S. Government begins to perform more sophisticated scientific and industrial process technology research, I have become concerned that foreign companies may be able to use the Freedom of Information Act [FOIA] to gain access to the results of this research, and use this information to enhance their competitiveness vis-a-vis American competitors.

It seems to me that foreign competitors should not be major beneficiaries of commercial and scientific research performed by the U.S. Government at taxpayer expense. One example of this problem that I am aware of involved a Japanese request for critical design and testing data involving the American space shuttle. NASA turned over this information to the Japanese and I understand this data will save them several years in developing their version of the shuttle and hundreds of millions of dollars in advanced R&D.

But at the same time, I am very reluctant to tamper with FOIA because in nearly all instances, the benefits of full and complete disclosure outweigh the costs of releasing such information. It can be, however, a delicate line to balance.

I intended to offer an amendment to the trade bill that would have limited the ability of foreign companies to gain access to commercially valuable research information generated by the U.S. Government. However, after discussions with the distinguished chairman of the Senate Judiciary Subcommittee on Technology and the Law, I have decided to withdraw the amendment and await the completion of hearings scheduled by his subcommittee for this fall.

Mr. LEAHY. Mr. President, I thank the distinguished Senator from Minnesota.

The Judiciary Committee's new Subcommittee on Technology and the Law has jurisdiction, not only over the Freedom of Information Act [FOIA], but generally over Federal policies dealing with information. One of the most important items on the subcommittee's agenda for this year is to conduct a very thorough and careful study of Government information policy.

Mr. President, the Senator from Minnesota has raised a valid issue.

I, too, am concerned about the transfer of technology from our Federal labs to foreign countries and its effect on America's competitiveness. But there are better ways to give U.S. companies the edge on foreign competitors in making the most of U.S.-developed R&D without chipping away at FOIA. As I have indicated to the Senator from Minnesota, the Subcommittee on Technology and the Law will address these questions during its upcoming hearings on Government information policy.

I look forward to working with the office of the U.S. Trade Representative to find trade solutions that promote American competitiveness, while maintaining the fundamental American principles of open government embodied in the Freedom of Information Act.

Mr. DURENBERGER. I thank the distinguished chairman.

DUMPING OF HIGH CAPACITY DISK SUBSYSTEMS

Mr. WIRTH. Mr. President, the Senate has spent a great deal of time considering international trade issues over the past several months, and properly so. The difficulties faced by many American industries, particularly as they confront unfair foreign competition, demand our attention and as many constructive solutions as we can provide.

I rise today to call the Senate's attention to yet another example of Japanese penetration of a United States market by unfair means. The product I speak of is the high capacity disk subsystem, which is linked with large computers to store the vast quantities of information essential to effective utilization of these computers. The disk drives and controllers that make up these subsystems are incredibly sophisticated devices which, together with computers, today are vital to the functioning of American business, industry, and government.

The U.S. market for this product was, until fairly recently, almost solely the province of U.S. producers. Today, however, the Japanese have gained a significant share of United States sales, and their share is growing rapidly. While I am certain that Japanese disk subsystems are fine products technologically, it appears that, to a considerable degree, their growing success in the United States is the result of unfair pricing—of dumping. Experts within the industry have told me that the dumping margins on these Japanese products are as high as 80 percent. That is, after making all the adjustments required by the United States antidumping law, Japanese subsystems are being sold in America at only a fraction of the price charged in Japan.

Mr. President, free trade is a goal we should continue to pursue—and my votes thus far on this trade legislation have reflected this belief. But let there be no misunderstanding: the U.S. Senate cannot and will not permit foreign manufacturers to capture American market share by dumping their products at prices as much as 80 percent below fair value. We have a law to deal with this type of illegal predatory trade practices—the antidumping law—and it will be used if Japanese dumping persists.

The Japanese companies involved here are large and sophisticated. They are well acquainted with U.S. laws, and if the dumping margins are anywhere near what we are told, these firms are well aware that they are practicing illegal trade. The U.S. industry can, and may well, seek and obtain relief under the antidumping law. Seeking that relief, unfortunately, is an expensive and time-consuming process for all concerned—the United States industry, the Japanese exporters, and the United States Government. If the Japanese can compete fairly, and they certainly know how to do that, they should not wait for compulsion under United States law to do so. If they cannot price fairly and still compete they should abandon the U.S. market to more efficient producers. The choice, for the moment, is theirs. Soon, it will not be.

Mr. ARMSTRONG. Mr. President, I associate myself with the remarks of my colleague from Colorado. One of the major producers of high capacity disk subsystems is Storagetek, a major employer in Colorado.

Storagetek and the other United States manufacturers compete against Japanese producers of these computer systems. Of course, these foreign firms are free to compete for sales in the U.S. on the basis of quality and value. But concerns have been raised that the foreign firms may be dumping these products into American markets at prices significantly below fair value.

If such dumping is occurring, it may be in violation of U.S. law. Under U.S. antidumping law, duties can be imposed when foreign merchandise is being dumped in the U.S. market and is injuring a U.S. industry. Dumping is a term that generally refers to a form of international price discrimination in which goods are sold in an export market—in this case, the United States—at prices which are lower than the prices at which comparable goods are sold in the home market of the exporter or in other export markets.

The U.S. industry can, and may well, seek and obtain relief under the antidumping law. Seeking that relief, unfortunately, is an expensive and time-consuming process for all concerned—the U.S. industry, the Japanese exporters, and the United States Government. Without question, the best solution to this problem would be a careful review by Japanese companies at the possible consequences of their actions if the United States industry is forced to seek relief. A decision to halt dumping would be in the best interests of all concerned.

Mr. President, the trade bill we have been debating here for several weeks now clearly indicates that unfair trade practices such as dumping are of deep concern to Congress and U.S. industries. However, much of the furor could be alleviated by a willingness by foreign interests to abide by U.S. laws. The good will that is sure to result can provide a trading arena in which all nations will benefit.

Mr. BENTSEN. I would like to thank the Senators from Colorado for bringing this matter to the attention of the Senate. For the past 3 weeks we have been considering major changes in U.S. trade laws to address unfair trade practices such as the dumping you describe. It is my hope that Japanese companies will take to heart the message of this year's congressional trade debate, and demonstrate that they are willing to abide by international and United States trade law.

U.S. ADHERENCE TO THE BERNE COPYRIGHT CONVENTION

Mr. LEAHY. Mr. President, before this body completes action on the trade bill, I would like to call the Senate's attention to a measure pending in the Judiciary Committee that will be of long-lasting value to American competitiveness in world markets of the future. That measure is S. 1301, the Berne Convention Implemetation Act. It would make the changes needed in American copyright law to permit the United States to join the oldest, strongest, and best established international copyright agreement: the Berne Convention.

All of us recognize that a key factor in American competitiveness is the inventiveness and creativity of our people. Increasingly, world markets value our ideas and information, as well as our crops, raw materials and industrial products. In particular, the world's appetite for American books, sound recordings, motion pictures, computer software, and other copyrighted works appears insatiable. American primacy in the trade in copyrighted works gives us a vital stake in strengthening the world system for protection of intellectual property. Unfortunately, when the nations of the world sit down to discuss the protection of works of authorship, the United States is too often not at the table.

Perhaps in the past it was enough for the United States to observe developments in international copyright protection from a distance, or to participate in them only through the medium of the Universal Copyright Convention, with its lower standards of copyright protection. But in today's world economy, that will no longer do. In its 101-year history, the Berne Convention has proven to be a dynamic agreement, capable of adapting to a dramatically changing economic and technological environment. At the same time, it is faithful to established principles that ensure high levels of copyright protection. Nearly 80 nations, including all our most important trading partners, adhere to Berne. It is long past time that we joined them, to advance our common interests in strong protection for this vital form of intellectual property.

This perspective is shared by many of the major American businesses that depend on strong copyright protection. Indeed, Senate hearings on this issue during the 99th Congress revealed a broad consensus among industry, Government, and the creative community in support of U.S. adherence to the Berne Convention.

The distinguished chairman of the Finance Committee has a comprehensive perspective on the world trade situation. Would he agree with me that strengthening American competitiveness in the critical arena of trade in copyrighted goods is an important element in an overall trade strategy?

Mr. BENTSEN. Mr. President, I commend my colleague from Vermont for raising this important issue. I believe his point is well taken. American ideas and information, embodied in copyrighted works of all kinds, are a crucial element in our international trade position.

The United States is the world's largest exporter of copyrighted works. In today's information age, this commerce has mushroomed, and with adequate legal protection we can be sure that it will continue to grow, with beneficial effects on American jobs and our overall trade position. If the United States is to maintain its competitive edge in this field, we must be in a position to work effectively for strong copyright protection throughout the world, and to confront the new issues which are certain to arise in the future.

Intellectual property issues, including strengthening copyright protection worldwide, already occupy a prominent place on the U.S. trade agenda, and their importance will doubtless grow. For example, the Uruguay Round of the General Agreement on Tariffs and Trade [GATT] will soon provide a major forum for strengthening protection of intellectual property around the world. Among the items under discussion will be the adoption of codes or standards of conduct relating to the protection of intellectual property. Furthermore, important bilateral negotiations are now underway between the United States and countries that do not now exhibit adequate respect for intellectual property rights. In this context of increased recognition of inadequate copyright protection as an unwarranted barrier to trade in copyrighted materials, the Senator's initiative is timely.

The legislative issue before the Congress concerns the changes that are needed in U.S. copyright laws in order to bring them up to Berne standards. Would the Senator from Vermont comment on that issue specifically?

Mr. LEAHY. The Senator from Texas has correctly identified the issue addressed by this legislation. Most of the major discrepancies between U.S. copyright law and the standards of Berne were eliminated in the overall copyright revision effort that culminated in enactment of the 1976 Copyright Act. S. 1301 is designed to make the mininum changes necessary to bridge that narrow gap.

Although there is a broad consensus on the desirability of U.S. adherence to Berne, there is not unanimity on the precise details of implementing legislation. My bill is similar to the measure introduced in the other body by Representative Robert Kastenmeier. It is also similar to legislation proposed by the administration on this topic. Some of the differences among the bills touch on issues of importance to different members of the copyright community, such as moral rights, the system of copyright registration, and the jukebox compulsory license. But I am optimistic that if we can all keep our eyes on the ultimate goal of U.S. adherence to the Berne Convention, we can arrive at a consensus that achieves the goal without disrupting the smooth operation of domestic copyright law.

Mr. BENTSEN. I am pleased to hear the Senator's remarks. I believe that we need a thoughtful and balanced approach that takes into account the needs of authors, copyright proprietors, and users. Any legislation in this field should also be sensitive to the link between intellectual property and international trade. I look forward to working with the Senator from Vermont, and with the chairman of the Subcommittee on Patents, Copyrights, and Trademarks, Senator DeConcini, to bring a trade perspective to bear on consideration of this legislation. I will follow the progress of this legislation with interest, and I commend the Senator from Vermont for bringing it before the Senate.

Mr. LEAHY. I thank the chairman of the Finance Committee for his generous remarks. I concur with the observation that legislation addressing adherence to the Berne Convention should take into account the important trade initiatives he has mentioned, including bilateral negotiations and the upcoming Uruguay Round of the GATT. With regard to the question of a GATT code on intellectual property matters, it is worth noting that the most complete and widely accepted existing standard can be found in the minimum economic rights established in the Berne Convention. U.S. adherence to Berne would undoubtedly strengthen our position in these GATT negotiations on intellectual property, which are an important element of U.S. trade strategy.

I look forward to working with the Senator from Texas, and with Senator DeConcini, on legislation to implement U.S. adherence to the Berne Convention. I also note that Representative Kastenmeier, the principal architect of the 1976 copyright revision and much other important copyright legislation, has initiated an ambitious schedule of hearings on U.S. adherence to Berne, and I look forward to a fruitful collaboration with him on this important issue.

Mr. DeCONCINI. I thank my colleagues for their articulate discussion of the Berne Convention and its importance to our ability to protect our copyrighted intellectual property. While I agree with them that it would be in our interest to be able to attend and fully participate in Berne Convention meetings, we must look very carefully at the implications of membership. I intend to schedule hearings in the Subcommittee on Patents, Copyrights, and Trademarks which will thoroughly review the issue of how extensive changes in our domestic copyright laws would have to be in order for our laws to comply with the Berne Convention. I understand that there is some disagreement in the copyright community as to what extent it would be necessary to make such conforming changes.

I congratulate Senator Leahy for his efforts in this regard. He has introduced a bill, S. 1301, which represents the minimum changes that might be necessary in order to conform to Berne. I believe that S. 1301 is a very good starting point for our deliberations.

Mr. LEVIN. Mr. President, I had intended to offer an amendment expressing the sense of the Senate that Japan is circumventing her own voluntary restraint agreement on automobiles [VRA] by a number of devises. Time does not allow adequate debate on the issue so I proposed to the leaders and the chairman and ranking member of the trade subcommittee that they express the feelings that so many of us share in a letter to the Prime Minister of Japan. They have done so and I ask unanimous consent that the letter be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, DC, July 22, 1987.

His Excellency Yasuhiro Nakasone,
Prime Minister of Japan, Chiyoda-Ku, Tokyo, Japan.

Dear Mr. Prime Minister: The United States Senate has passed a comprehensive trade bill with many provisions which will affect Japan. We write to you today about one critical area of our bilateral trading relationship which the bill does not address, and that is the area of automotive trade.

The Senate bill does not deal with this issue in part because of the voluntary restraint agreement (VRA) on Japanese automotive exports which has been in effect for several years. The VRA was designed to lessen the major effect automotive products have had on the trade deficit between our two countries. As you know, automotive products accounted for $34 billion of that trade deficit, or 58 percent, in 1986.

When the current VRA limits were adopted, Japanese manufacturers assembled 240,000 passenger vehicles in the U.S. primarily from knock-down kits with virtually all components made in Japan. Approximately 460,000 Japanese knock-down kits were exported to the U.S. in 1986, representing a 92 percent increase over the previous year, and Japanese manufacturers will have the capacity to assemble 1,210,000 vehicles using such kits in the U.S. by 1990. None of these knock-down kits are taken into account under the VRA, thereby allowing continued growth in Japanese automotive exports despite the limits. Many of us assumed that as Japanese companies increased their automobile production capacity in the U.S., exports from Japan would decline in some corresponding way. Instead, total automotive exports are continuing to increase at a rapid pace.

Japanese manufacturers are apparently further undercutting the VRA by exporting multi-purpose passenger vehicles without rear seats, classifying them as trucks which are not subject to the limits, and installing rear seats in the United States. Approximately 275,000 multi-purpose vehicles were imported from Japan in the last year, representing about 150 percent more units in this classification than authorized by the VRA.

Knock-down kits and multi-purpose vehicles exported to the United States outside the limits established by your government totalled over 622,000 units last year, with an estimated value in excess of $5 billion, or about 15 percent of the automotive products deficit. We are writing to you to indicate our concern about these matters and our hope that we can work towards a mutually satisfactory resolution of them in the near future.

Sincerely,

ROBERT DOLE.
JOHN C. DANFORTH.
ROBERT C. BYRD.
LLOYD BENTSEN.

JUDICIARY COMMITTEE TITLES XXXIII-XXXVI

Mr. DECONCINI. Mr. President, I call the Senate's attention to Judiciary Committee titles XXXIII-XXXVI of S. 1420. Omnibus Trade and Competitiveness Act of 1987. I am the sponsor of titles XXXIII-XXXVI which I introduced earlier this Congress as S. 1200, along with my colleagues Senator HATCH and Senator LAUTENBERG. I will take a moment to explain the provisions of these titles and refer my colleagues to Committee Report 100-83 which accompany S. 1200 for a more complete analysis of this significant piece of legislation.

Mr. President, we are concerned about America's competitiveness in world markets. By enhancing patent protection, we can protect American technology and encourage investment in innovation. In that way, we can help America compete. To win the race for innovation, and to enjoy the fruits of American ingenuity, we need to protect intellectual property like patents. These four patent titles in the omnibus trade bill are a significant step in the right direction because they greatly enhance American intellectual property rights and contribute to the overall effort of improving America's trade and competitive position.

Title XXXIII, Process Patent Amendments Act of 1987, promotes American competitiveness by preventing foreign companies from pirating America's innovative ways of making products and then importing into and selling these products in the United States. Title XXXIII, which passed the Judiciary Committee unanimously as title I of S. 1200, makes it a violation of U.S. patent law to import a product into the United States without authorization, or sell or use a product in the United States without authorization, if that product was made by a process patented in the United States. The legislation would give patent owners the new right to seek damages and injunctions in Federal district court when this violation occurs. Under our current patent laws, a patent on the process gives the patent holder the right to exclude others from using that process in the United States without authorization from the patent holder. Title XXXIII would also cover the importation use or sale in the United States of the products resulting from the process.

America's leading position in technology innovation throughout the world is credited in large part to the stimulus of its patent system, which has been given protection since the birth of our Nation under Article I, section 8 of the United States Constitution. In the past two decades, however, it has become necessaary to modernize our patent laws. As compared with those of our major partners, the inadequate protection contained in U.S. patent law has emerged as a major factor in the dynamics of global innovation and economic competition. In contrast to Japan and nearly all of the Western European nations, the United States does not provide patent protection against the importation, and subsequent use or sale, of products made abroad without authorization using a process patented in the United States. Instead, a limited, nonpatent form of protection is afforded under the trade laws (19 U.S.C. 1337a) enforced by the International Trade Commission.

In process patent cases brought before the ITC, the available remedies under section 337a are exclusion of the goods from entry, and if the goods have already entered, cease and desist orders against particular companies that have received them. The ITC, unlike a Federal court in a patent infringement suit, cannot award damages. Payment of damages to the patentholder has the effect of compensating inventors for the economic injury due to the infringement, and also acts as a deterrent against future infringements. The two forums will supplement each other because the ITC can provide speedy and comprehensive injunctive relief, covering many ports of entry in a single proceeding, while the patent holder awaits the outcome of the trial in the Federal court to obtain damages.

The new remedy for patent holders in title XXXIII represents the culmination of 3 years of work leading to a delicate compromise. The legislation greatly strengthens the rights of process patent holders without unfairly impeding the business of innocent American importers and retailers. The legislation is sensitive to the special difficulties that may accompany a charge of process patent infringement for persons who import, use or sell the products but do not themselves practice the process. We note the concern that the legislation might be abused for aggressive business purposes to harass U.S. competitors whose operations depend on importing goods from overseas. This process patent reform is intended to be a strong disincentive to the importation, use or sale of products that are made by an infringing process, but it should not simply be a weapon for patent holders to use indiscriminately to try and stop all entry of products that compete with products made by their patented process.

In an effort to address these concerns regarding potential abuse by patentholders, and undue burdens on defendants in actions brought under title XXXIII, the committee devised a system of damage limitations for innocent infringers, incorporated a new procedure encouraging advance communications between process patent owners and purchasers or importers of goods in order to avert infringing activity beforehand, and established a notice requirement structured to ensure that the alleged infringer receives enough information to allow a reasonable assessment of whether the goods are being manufactured by a process patented in the United States.

Consequently, there is no remedy for infringement with respect to any product in the possession of, in transit to, or which the party has made a binding commitment to purchase and which has been partially or wholly manufactured before the party had notice of infringement. Section 3303 defines notice as information sufficient to persuade a reasonable person that it is likely that a product was made by a patented process. The section describes the information that should be contained in the patentholder's written notification and outlines certain activities which will be deemed to give notice. The remedy limitation here is not to be construed as a compulsory license, nor as a precedent for other areas of patent law. The committee finds the grace period policy to be justified only in the context of a bill intended to strengthen process patent protection. It is justified because of the elusive character of process inventions, from the standpoint of innocent infringers who are involved only with the resulting products and not with the use of the process itself and who did not have knowledge that the products were made by the patented process.

Section 3303 also includes a "request for disclosure" mechanism under which both parties may take certain advance measures to avoid process patent infringement and receive the full benefits of the bill. Using this mechanism, the importer asks the patentholder to list all his patented processes that the patentholder then reasonably believes could be asserted to be infringed with regard to production of a specified product that the importer is considering purchasing. The importer will then use this information to advise his supplier of the processes to avoid using.

Title XXXIII contains two other significant provisions. First, there is a rebuttable presumption that a patented process has been used to make a product if the court finds that the claimant has made a reasonable effort to determine the actual process used and that there is evidence establishing a substantial likelihood that the product was made by the patented process. Second, there is a grandfather clause to allow parties to continue to use, sell, or import products already in substantial and continuous sale or use by May 15, 1987. However, the provision bars the application of the grandfather clause to companies whose products involve a process that is the subject of process patent enforcement action commenced before the ITC before January 1, 1987.

Mr. President, process patent reform is long overdue. We can and must move quickly to correct the existing inequity in process patent law. America's innovators, America's patent owers, and America's competitive future cannot wait. As I mentioned earlier, the compromise provisions of title XXXIII are the result of 3 years of careful negotiations. I am gratified that my colleagues have been so willing to work together to reach a consensus. In addition, I would like to thank Abby Kuzma of Senator HATCH's staff, Mitchell Ostrer of Senator LAUTENBERG's staff and Tara McMahon of my staff for all their efforts on behalf of this legislation.

Title XXXIV, Patent Misuse Doctrine Reform, clarifies and reforms the doctrine of patent misuse. It provides that a patent owner's licensing practices cannot be found to constitute patent misuse unless such practices violate antitrust laws.

Mr. President, patent misuse is a judicially created doctrine. In the past, it has been used to attack patent licensing practices that are alleged to be undersirable from a public policy standpoint. Courts have found misuse where patent owners have not violated antitrust laws, have not demonstrated anticompetitive effect, and have not even injured the infringing party that raised the misuse defense. Thus, many patent owners have become reluctant to enter into a licensing agreement in fear of placing the entire patent at risk.

Title XXXIV clarifies the confusion created by the various court decisions on the misuse doctrine. It is needed to promote and encourage the development and licensing of new technology. It accomplishes this by assuring that the doctrine will not be used to restrict the rights of patent owners when the licensing practices labeled "misuse" do not violate the antitrust laws.

It is my feeling that title XXXIV puts intellectual property rights on an equal footing with other property with respect to license, sale and other agreements concerning the distribution of property rights. This title was unanimously approved as title II of S. 1200 and has the support of the Justice Department which included misuse reform in it's trade and competitive package. I would like to thank the many individuals and groups, including Digital Equipment Corp., for their commitment to improving the rights of intellectual property owners and for their efforts to assist Congress in its consideration of misuse reform.

Title XXXV, Licensee Challenges to Patent Validity, provides that a licensee cannot be stopped from challenging the validity of a patent to which it is licensed. It further provides that the parties to a licensing contract may define their respective rights regarding termination of a license and payment of royalties if the validity of the licensed patent is challenged.

Mr. President, title XXXV addresses some of the questions raised in Lear versus Adkins. In this case, the Supreme Court allowed a patent licensee to challenge the validity of a patent without giving up any benefits of the license. Thus, under the current case law, the following hypothetical could occur. The licensee may negotiate for the right to practice the patented invention. A royalty is agreed upon. The licensee then brings a declaratory judgment against the patent owner to have the patent declared invalid. The royalty is paid into an escrow pending the outcome of the action. If the patent is declared invalid, the licensee continues to use the invention and retains the escrow. If the patent is declared valid, the licensee keeps using the patent, and the licensor gets the escrow funds. The licensee has taken no risks, while the patent owner is deprived of all royalty income during the period. The patent owner is in a no-win situation. The licensee loses nothing, except legal fees.

Title XXXV clarifies the confusion raised by this decision. It provides for a licensee to challenge the validity of a patent, while allowing the parties involved to outline provisions in case a challenge to the patent is mounted. In this way, patent licensors can bargain for provisions they feel are necessary to realize their rights in an invention. And, licensees can protect their interests if they challenge the patent validity.

Title XXXVI, Pharmaceutical Patent Term Restoration Act Amendments, deals with the patent on a drug called Lopid. The unique circumstances surrounding the development of Lopid clearly illustrate the need for this legislation.

The drug Lopid was developed and patented by Warner-Lambert which began its work in this area in the 1950's. Its patent on the drug will expire in the middle of 1989. In late 1981, the Food and Drug Administration granted limited and conditional approval for the sale and use of Lopid. FDA's approval was extremely limited in that it only approved Lopid's use in the treatment of triglycerides among adult patients with a risk of pancratitis. Further, the FDA'a approval was conditioned on an agreement by Warner-Lambert to undertake and complete a very special phase IV or postmarketing study to determine the effectiveness and long-term health and safety of the use of Lopid.

In addition to demonstrating the long term safety of Lopid, this phase IV study should also prove whether Lopid's effect on the various types of cholesterol in the bloodstream will be to reduce the number of heart attacks among high risk individuals. This represents basic and expensive medical research of a type not usually conducted in the context of a phase IV FDA study.

Mr. President, the Judiciary Committee has acted to redress this extremely unique situation that has arisen in relation to the available patent term on Lopid should it be approved for this additional and extremely important medical use.

Specifically, as a result of passage of the Drug Price Competition and Patent Term Restoration Act of 1984, the period of postpatent market exclusivity was eliminated. In this situation, and assuming a second indication were approved for Lopid, the patent protection would expire in July 1989.

The practical effect of this situation, if not redressed, is to frustrate the significant and fundamental heart research that has been conducted by the manufacturers of Lopid—research which will hopefully prove a basic medical hypothesis relative to cholesterol.

The patent restoration provision in title XXXVI are carefully and narrowly drawn. They grant a 5-year patent extension to any "new drug" if and only if five conditions are met—specific only to Lopid.

Mr. President, the impact of the 1984 act on the patent term for Lopid was an unforeseeable event when the phase IV study was initiated. The phase IV study undertaken was a long-term and comprehensive heart study in Helsinki. The results of this undertaking may prove a new and basic medical hypothesis concerning cholesterol. The drug Lopid may be proven to reduce the rate of heart attacks among high risk individuals. But because of the unique nature of this undertaking, and the impact of the provisions of the 1984 act, there will be extremely limited opportunity for the developer of Lopid to recoup its significant investment.

The case for this situation to be redressed has been made. The provisions in the bill before the Senate are narrowly drawn and capture this one unique factual situation I have outlined. I believe this was very appropriate and fair action for the committee to take and I urge the support of my colleagues today.

In summary Mr. President, titles XXXIII-XXXVI of S. 1420 will make important reforms of our patent laws. It is critical if we are to promote innovation and if we are to protect the fruits of American innovation, that Congress act quickly to correct the existing inequities in our laws. I urge the support of my colleagues for these important patent provisions in the omnibus trade bill.

Mr. RUDMAN. Senator DeConcini, it is my understanding that title XXXIII of the trade bill does nothing to change current law or practice regarding parallel imports, sometimes known as gray market goods.

Mr. DECONCINI. That is correct. This legislation is not intended to address the issue of gray market goods or parallel importation.

Mr. RUDMAN. Thank you, Senator, for clarifying this matter.

PROCESS PATENT AMENDMENTS ACT OF 1987—TITLE 33

Mr. HATCH. Mr. President, today I rise in support of title 33, legislation that is much needed to strengthen process patent protection. This legislation passed the Judiciary Committee unanimously as title I of S. 1200 and I urge my colleagues to join me in supporting this title, without amendment. This legislation represents the culmination of 3 years of work leading to a delicate compromise between Senators Hatch, DeConcini, Thurmond, Lautenberg and a wide variety of parties interested in process patent legislation.

Title 33 significantly promotes American competitiveness by preventing foreign companies from pirating American process patents and then selling the products in the United States. Enhancing process patent protection means protecing American technology, spurring investment and innovation, and stimulating domestic employment.

Title 33 provides that the importation into, or use or sale within, the United States of a product resulting from a process patented in the United States is an infringement of the patent. Further, the legislation provides process patent owners a forum in the Federal courts for recouping damages due to such infringing activities.

Current patent law does not reach the foreign pirating of American innovations when the products are manufactured abroad and then shipped back to the United States. As compared with those of our major trading partners, the inadequate protection contained in U.S. patent law has emerged as a major factor in the dynamics of global innovation and economic competition. In contrast to Japan and nearly all of the Western European nations, the United States does not provide patent protection against the importation, and subsequent use or sale, of products made abroad without authorization using a process patented in the United States. Instead, a limited, nonpatent form of protection is afforded under the trade laws (19 U.S.C. 1337a) enforced by the International Trade Commission.

The priority of correcting this problem was first recognized in 1966 by President Johnson's Commission on the Patent System. The need for modernization of the patent law was also raised in 1979 by President Carter's Domestic Policy Review on Industrial Innovation, and again in 1985 by President Reagan's Commission on Industrial Competitiveness. More recently, it was included in President Reagan's competitiveness initiative of 1987 as well as being strongly endorsed by the President's Commission on Industrial Competitiveness in 1984.

America's leading position in technological innovation throughout the world is credited in large part to the stimulus of its patent system, which has been given protection since the birth of our Nation under article 1, section 8, of the United States Constitution which states,

> The Congress shall have power * * * to promote the Progress of Science and useful Arts, by securing for limited Times to Authors and Inventors the exclusive Right to their respective Writings and Discoveries * * *.

Currently, the U.S. patent laws recognize three basic types of inventions for which patents may be obtained: products, methods of use, and methods of manufacture. Patents on the last are also known as process patents, that is, patents on process inventions. A process patent covers a process for making a product, which may or may not be patented itself. Process patents promise to be increasingly important to a number of industries in the coming years, especially in the areas of industrial and pharmaceutical chemicals, optical fibers, and in the fields of biotechnology and bioengineering research.

An integral part of the debate on strengthening U.S. process patent protection has been the nonpatent alternative remedy under the trade laws against importation of products made abroad using a process patented in the United States (section 337a of the Tariff Act of 1930, 19 U.S.C. 1337a). Section 337a originated in 1922 as an antidote to a range of unfair methods of competition in import trade. It was not widely used until the 1974 strengthening amendments providing for more timely and effective remedies, the principal change being that the ITC was given full authority to order remedies, subject only to veto by the President for policy reasons. In process patent cases brought before the ITC, the available remedies under section 337a are exclusion of the goods from entry, and, if the goods have already entered, cease and desist orders against particular firms that have received them.

The ITC, unlike a Federal court in a patent infringement suit, can award no damages. Payment of damages to the patentholder has the effect of compensating inventors for the economic injury due to the infringement, and also acts as a deterrent against future infringements. Furthermore, the tests that must be met to win an ITC order excluding the infringing products are more elaborate than in a Federal court action where all that is necessary is to show infringement. In contrast, even in the best of circumstances, where the full ITC remedy is obtained, the patentholder is saddled with an expensive and burdensome proceeding, with no prospect of having his injury compensated, only brought to a halt prospectively. By the same token, the ITC remedy has little deterrent value. Foreign manufacturers are not punished for simply infringing U.S. process patents by importing their products into the country until they are enjoined, with no further penalty. Still, the ITC forum will remain a useful supplement in process patent infringement situations after title 33 is enacted. The ITC can provide speedy and comprehensive injunctive relief—covering many ports of entry in a single proceeding—while the patentholder awaits the outcome of the trial in the Federal court to obtain damages.

Also under consideration in the Senate trade bill are measures to lower some of the standards that must be met in an ITC process patent infringement investigation, such as eliminating the injury requirement. However, none of these proposals are conceived by their advocates as being a substitute for achieving the needed modernization of the patent laws themselves that allows infringement by importation of goods made abroad using a patented process.

Upon passage of title 33, the committee rejected the view that the U.S. purchaser from an overseas manufacturer who makes goods using a process patented in the United States has no responsibility for the patent infringement involved. Absent mitigating circumstances, it should be the burden of business entrepreneurs who purchase goods to check beforehand for possible infringement, whether of product or process patents. They do so, now in the case of product patents, and title 33 will encourage them to do so with respect to process patents. It is reasonable to expect that the more conscientious and legitimate importers will indeed concern themselves to a greater degree with the question of whether the goods they are importing infringe a U.S. patent, if this reform is enacted, because such importers may find themselves otherwise emmeshed in litigation that may be more expensive than the importation is worth to them.

The first target the U.S. process patentholder will pursue is the overseas manufacturer itself, who is practicing the process and importing the resulting goods here. If that manufacturer is subject to the jurisdiction of the U.S. courts because of its business contacts with this country, then that foreign manufacturer would be the preferred defendant in the suit by the U.S. patentholder. But since the manufacturer is in many cases not accessible in this way, title 33 also allows the patentholder an action against the persons receiving the goods in this country from the manufacturer, who are also responsible and in the best position apart from the manufacturer to determine how the goods were made.

Title 33 is sensitive to the special difficulties that may attend a charge of process patent infringement for persons who import, use, or sell the products but do not themselves practice the process. We note the concern that the bill might be abused for aggressive business purposes to harass U.S. competitors whose operations depend on importing goods from overseas. This reform is intended to be a strong disincentive to the importation, use, or sale of products that are made by an infringing process, but it should not simply be a weapon for patentholders to use indiscriminately to try to stop all entry of products that compete with products made by their patented process.

In an effort to address these concerns regarding potential abuse by patentholders, and undue burdens on defendants in actions brought under title 33, the committee devised a system of damage limitations for innocent infringers, incorporated a new procedure encouraging advance communications between process patent owners and purchasers or importers of goods in order to avert infringing activity beforehand, and established a notice requirement structured to ensure that the alleged infringer receives enough information to allow a reasonable assessment of whether the goods are being manufactured by a process patented in the United States.

There is no liability for damages for any infringing activities—that is, any importations, uses, or sales of the product—prior to the time of notice, defined as either actual knowledge on the part of the infringer or notification in writing to the infringer or a combination of information sufficient to persuade a reasonable person that it is likely that the product was made by a patented process.

Under title 33, an innocent infringer may limit his liability by making a "request for disclosure" to a process patentholder—or licensee—before purchasing goods that may have been made without authorization by his patented process. This request asks the patentholder to list all his patented processes that the patentholder then reasonably believes would be asserted to be infringed with regard to the production of a specified product that the potential infringer is considering purchasing. In the normal case, the patentholder will respond to the request with a full list of process patent numbers, and the potential infringer will use this information to advise his supplier of what processes to avoid using. Failure to present the information received from a request for disclosure to the supplier will result in a finding that the potential infringer had notice of infringement, such that remedies for infringement will be available with respect to any goods imported beyond that time. If the patentholder later brings a suit and shows that the products were made with his process, the infringer may sell or use prenotice inventory, so long as that inventory does not exceed an amount that can reasonably be sold within 18 or 6 months, respectively, given the infringer's usual business practices. Full damages and injunctive relief are available to the patentholder after the applicable amount of inventory is sold.

Defending against patent infringement charges is a normal burden of doing business in America and around the world in the technologically sophisticated commercial conditions of the 1980's. The limitations on damages in title 33, combined with the advance disclosure procedure, should eliminate the possibility of aggressive use of process patent infringement charges to harass innocent purchasers—whether in fact infringing or not. The remedy limitation here is not to be construed as a compulsory license, nor as a precedent for other areas of patent law or types of patent infringement. The committee finds that the policy of permitting disposal of prenotice inventory to be jusitifed only in the context of a bill intended to strengthen process patent protection. It is justified because of the elusive character of process inventions, from the standpoint of infringers who are involved only with the resulting products and not with the use of the process itself.

From the beginning of congressional consideration of process patent reform in 1983 all proponents of the legislation have accepted the restriction of the scope of the bill to exclude infringing activity—other than the use of the process—that occurs before the infringer has notice of infringement. The remedy limitations are simply a mechanism for realizing this principle in practice by allowing the unknowing infringers, once notice is established, to sell a reasonable amount of inventory accumulated prior to notice with limitations on their exposure to damages. This remedy limitation has as its sole purpose to allow the infringer to rid himself of products he had purchased and fulfill business commitments made prior to the time he was made aware of the infringement of a U.S. process patent, and to either close down his business in this time or to find an alternative source of supply that does not infringe the patent. Of course, the importer or retailer must be an innocent infringer; that is, not have knowledge that the products were made by the patented process, to be eligible for the remedy limitation.

An additional safeguard against abuse of title 33 is the requirement that the notification from the patentholder charging the party with infringement provide a specificity of information that will permit the accused party to make a reasonable business decision as to whether to continue his activities or seek a new source for the product. Notice of infringement occurs when the alleged infringer has a combination of information sufficient to persuade a reasonable person that it is likely that a product was made by a patented process. This combination of information will include actual knowledge on the part of the accused acquired from the request for disclosure and the supplier's response to the information disclosed, the information contained in the notification from the patentholder and any other information known to the accused relevant to the issue of infringement. In issuing a notification, the patentholder must specify the patent alleged to have been used and the reasons for a good faith belief that such process was used. Neither a vague unspecified claim of infringement, nor even a lawsuit embodying such a claim would suffice for notice of infringement; only a specific claim articulating the reasons for believing the patented process has been used, would expose the defendant to damage liability. The level of information required to make this kind of showing will tend to discourage use of the new cause of action for the purpose of business aggression.

Once the recipient of notice knows the exact patent or patents in question, and the reasons indicating that the process they cover was used in manufacturing the goods, he will be able to evaluate the claim, confer with the foreign manufacturer—or other supplier—and decide whether to defend the goods in court or stop acquiring them. The proposed notice requirement goes far beyond the norm for product patent cases—or for that matter process patent infringement cases under existing law—but the higher threshold is justified here because of the special difficulties that may arise from the fact that the process was used by a party other than the defendant.

In addition to the extended notice requirement and damages limitations, title 33 includes two further protections for potential defendants: A grandfather clause stating that the bill shall not abridge or affect the right of any person to continue to use, sell, or import products already in substantial and continuous sale or use in the United States on May 15, 1987, and a provision calling on the Department of Commerce to report annually to Congress during the first 5 years after enactment on the effect of title 33 on any domestic industries that submit formal complaints about interruption of legitimate sources of supply.

The compromise provisions of title 33 are the culmination of 3 years of careful negotiations. When enacted, the measure will greatly strengthen intellectual property rights. We must act quickly to correct the existing inequity in process patent law and thereby protect the interests of American inventors and the ability of American business to remain competitive in highly technological markets. As one of the sponsors of this important patent law reform, I urge your support of title 33 of the Omnibus Trade Act, without amendment.

TRADE BILL—TITLE 34

Mr. HATCH. Mr. President, I am also pleased that the Senate will have the opportunity in the context of this legislation, to clarify and reform the law of patent misuse as provided in title XXXIV. This provision will enhance the rights of patent owners and thereby encourage the kind of innovation needed to keep our Nation competitive internationally.

Title XXXIV would mandate that a patent owner's licensing practices cannot be found to constitute patent misuse unless those practices also violate the antitrust laws. The objectives of this title are to resolve a lack of clarity among the cases addressing patent misuse and to bring to patent enforcement litigation a greater predictability and conformity with sound economic analysis. No longer will the length of the chancellor's hand determine the validity of patents—that is, courts will not be able to call generally upon amorphous equitable principles in determining whether a patent owner has gone beyond the scope of his or her patent right in such a way as to offend public policy. Where there has been a fraud on the patent office, then this bill does not affect the ability of judges to refuse to enforce patent rights. But where the offense is that the patent owner has acted in an anticompetitive manner, then that offense is to be judged by standards established by Congress and the courts for condemning anticompetitive behavior: the Federal antitrust laws.

This bill also quite soundly sets a course for further congressional action to enhance the rights of owners of intellectual property. Title XXXIV provides that the "licencing practices or action or inactions relating to" a patent cannot give rise to a misuse defense "unless such practices or actions or inactions, in view of the circumstances in which such practices or actions or inactions are employed, violated the antitrust laws." The requirement that the patent owner's conduct be judged "in view of the circumstances in which it is employed" imposes a requirement that the challenged conduct be judged on the basis of its actual impact on competition in the relevant market, according to traditional rule of reason antitrust analysis.

The Senator from Vermont and I are also sponsors of complementary legislation to require that licensing of not just patents, but other forms of intellectual property rights, be judged under antitrust standards requiring an actual inquiry into anticompetitive effect in the relevant market, and not by the per se rule. Our legislation, S. 438, will be the subject of hearings later this month, and I hope that the Congress will move rapidly to put in place that much needed clarification and reform of this other area of law where intellectual property rights and antitrust proscriptions interface.

I commend Chairman DECONCINI for his efforts that went in to bringing title XXXIV before the Senate, and I strongly support this important provision.

I did want to raise with the Senator from Arizona a few questions relating to copyright misuse, to establish that through our approval of title XXXIV we are not sending any kind of positive message to courts who will be considering this related doctrine.

Legislation introduced in the 98th Congress would have addressed copyright misuse as well as patent misuse. In contrast, title XXIV of the trade bill only involves reform of the patent misuse doctrine. Is that correct?

Mr. DECONCINI. Title XXIV deals only with patent law—not copyrights or trademarks or other intellectual property issues. Moreover, the Judiciary Committee has not had before it any proposal relating to copyright misuse in the 100th Congress, and therefore we had no pending proposal to address.

Mr. HATCH. I want to be assured that no one draws any negative implication from the fact that we have not restricted the application of the so-called copyright misuse doctrine in the same way we limit patent misuse. We do not want anyone to conclude that by not dealing with copyright misuse Congress has somehow, first, recognized the validity of this little known doctrine, or second, given it an expanded application of meaning. Is my understanding correct?

Mr. DECONCINI. You are absolutely correct. Our decision not to address copyright misuse should not be interpreted as even tacit approval of that doctrine, as it now exists, if it now exists. The so-called copyright misuse doctrine is vague and tenuous; unlike the doctrine of patent misuse, copyright misuse has little or no support in case law and probably should be eliminated completely. We certainly would not want to give any increased vitality to it through our action today on the very different topic of patent misuse.

LOPID

Mr. HATCH. Mr. President, I would like to briefly mention title XXXVI of the trade bill.

This provision seeks to alleviate a disadvantage to a pharmaceutical product inadvertently created by the passage of the Drug Price Competition and Patent Term Restoration Act in 1984.

The case for Lopid is unique one. It is the only drug so disadvantaged by the 1984 legislation and no precedent will be created by the passage of title XXXVI.

Let me briefly mention some aspects of the unique circumstances of Lopid and of the fairness of title XXXVI to Warner-Lambert, the company which discovered Lopid and the outstanding medical science which Lopid represents.

Lopid was developed from a research program started in the 1950's. In 1981, Lopid was approved by the Federal Food and Drug Administration but the approval was limited to a very narrow indication and even this limited approval was made contingent upon the longest phase IV study in history. This phase IV study, the Helsinki heart study, was directed toward both safety and efficacy and is the largest privately funded medical study. The study is on a par with the Government funded Framingham, WHO, and NIH cardiovascular studies.

The Helsinki heart study has many aspects of basic science and will prove the medical hypothesis that lowering cholesterol and lowering triglycerides and raising HDL cholesterol, the so called friendly cholesterol, in the blood helps protect against heart disease and heart attacks. This will be a true medical scientific breakthrough that will change medical practice for years to come.

The Helsinki heart study began several years before the introduction of the 1984 legislation and the results will not be known until several years after passage of the 1984 legislation.

The postpatent expiration exclusive marketing expectations that Warner-Lambert had when it entered into the 5-year Helsinki heart study were destroyed by the 1984 legislation. In effect, the rules were changed in the middle of the game on this product.

Should we not act to alleviate the unfair situation which has been created, the developer of Lopid will have, at most, 1 year of patent protection for the major claim on this drug. For such an outstanding drug as Lopid and for pursuing this long term research, it would be most unfortunate if there were no economic rewards.

I would urge passage of the trade bill with title XXXVI included. It is an appropriate and fair action to take.

THE DEFINITION OF "SECONDARY WORKERS" ELIGIBLE FOR "TRADE COMPETITIVENESS ASSISTANCE"

Mr. ROCKEFELLER. Mr. President, I would like to engage the distinguished chairman of the Senate Finance Committee, Senator BENTSEN, in a brief colloquy about provisions of S. 1420 concerning the Trade Adjustment Assistance Program.

One of my major objectives in the deliberations on this trade and competitiveness legislation has been to expand eligibility for TAA benefits to the so-called secondary workers. As the chairman is well aware, the Senate Finance Committee included a measure to extend eligibility to workers who provide essential goods or services to firms directly affected by imports. These new criteria appear in section 222, as part of the trade competitiveness assistance provisions of this legislation.

I wish to clarify the intent of this provision. Is it the intent of section 222 to cover workers who are employed by independent contractors which provide various essential services to a plant that is adversely impacted by imports? Such workers might include plant guards, plumbers, pipe fitters, electricians, carpenters, and other general maintenance personnel who are hired by a plant, but who are legally employed by an independent contractor.

Mr. ROTH. Yes, that is an accurate description of the secondary worker provision. In other words, if a worker is employed by a private contractor that provides essential services to a firm or plant producing articles directly competitive with imports, he or she would be eligible for TAA. As the Senator points out, when a plant closes because of increases in imports, then these workers, who have been supplying essential services to that plant, are likely to lose their jobs as well as a direct result of the increased imports.

Mr. BENTSEN. It is our intent under this legislation to enable the secondary workers of independent contractors, who lose their jobs when the service is no longer required because of import-related injury to the industry, to receive the same protections afforded to employees working directly for the firm or plant producing the product or articles adversely affected by the imports.

In summary, section 222 of this legislation considers workers providing essential services to be secondary workers and therefore eligible for TAA benefits.

TITLE XLI (TECHNOLOGY EXTENSION ACTIVITIES)

Mr. DOMENICI. Mr. President, I would appreciate the opportunity to discuss two aspects of title XLI with the distinguished chairman of the Commerce Committee. Title XLI deals with technology extension activities of the Department of Commerce.

One issue concerns the Centers for the Transfer of Manufacturing Technology, a set of regional centers that would be administered by the National Institute of Technology. The bill, among other things, encourages "the utilization, when appropriate, of the expertise and capability that exists in Federal laboratories other than the Institute * * * and the development of continuing financial support from other Federal mission agencies. * * *" The legislation also speaks of "the participation of individuals from * * * other Federal agencies * * * in cooperative technology transfer activities * * *."

I interpret this language as meaning that other Federal laboratories, other Federal mission agencies, and individuals from other Federal agencies could provide technical, financial, or other assistance to centers established under this program, but that there is no obligation on their part to do so. Nor does this language give the National Institute of Technology the power or authority to direct any other Federal laboratory or agency to participate in a center.

Mr. HOLLINGS. Mr. President, the Senator from New Mexico is entirely correct. We on the Commerce Committee recognize that other Federal laboratories, such as those in the Energy Department, may have very useful manufacturing expertise or capabilities which they may wish to share with these new centers for the transfer of manufacturing technology. They might also choose to provide some financial assistance. We would encourage them to contribute both expertise and, if appropriate, funds. But that certainly is their decision; nothing in this title is intended to force such participation. We do not intend to limit the ability of the Institute to raise these possibilities with other Federal laboratories and agencies, but, again, nothing in this title is intended to make such participation mandatory.

Mr. DOMENICI. I thank the chairman.

The second issue deals with the proposed Pilot State Technology Extension Program. Under that program, the Secretary of Commerce is directed to establish a 3-year program to provide financial assistance to State-operated activities which demonstrate innovative methods by which the Federal Government and the States can work together to help improve the technology and competitiveness of American business.

While only a State agency may apply for a grant under this title, I interpret this section as allowing a State agency which wins such an award considerable freedom in how it administers the program. For example, it appears that the State agency could contract with a nonprofit entity in that State for the actual administration of the State's pilot technology extension program. I just want to be clear that nonprofit organizations, such as the Rio Grande Technology Center in my own State, would be eligible to participate in such an effort.

Mr. HOLLINGS. Again, the Senator is entirely correct. We on the Commerce Committee intend that only an official State agency be eligible to apply for a grant under this program. But how a State agency proposes to administer any grant it might win under this program is its decision. The program is designed to encourage innovative new ways in which unclassified Federal technology can be made more useful to American businesses. We would hope that States applying for the grants would consider ways to involve all sorts of organizations, particularly small businesses and nonprofit development groups, in this effort.

Mr. KARNES. Mr. President, as the Senate prepares to take final action on the Omnibus Trade and Competitiveness Act of 1987, I would like to make several observations about this legislation. It is obvious by virtue of the volume of the bill before the Senate, if nothing else, that it is an enormously complex and varied bill. As with all such omnibus bills, there are many provisions that are both good and bad. Senators will make their final determinations about the merits of the bill by weighing good provisions against bad provisions and determining if the overall bill, on balance, is supportable. It is in recognition of this process of balancing the relative merits and demerits of the bill before us that I rise to speak. While there are many things about this bill that I strongly support, there are also provisions that I strongly oppose. I wish to discuss many of these aspects of the bill before us so that my colleagues will fully understand my views about this legislation and my upcoming vote.

First, let me address those aspects of the Omnibus Trade and Competitiveness Act of 1987 that I support. There are many aspects of the bill that I find meritorious and I want to take this opportunity to commend the Senator from Texas [Mr. BENTSEN] and the Senator from Oregon [Mr. PACKWOOD] for their hard work in managing this complex legislation. The first provision of the bill grants the President the authority to negotiate multilateral and bilateral trade agreements through early 1994. Further, that fast-track legislative procedures will be used to enact implementing legislation of such agreements. The negotiating authority and the fast-track procedures are subject to future congressional review. I support this granting of authority to the President and encourage the administration to negotiate aggressively to remove barriers to trade and investment in multilateral and bilateral forums. It is through such negotiations that we can best achieve a world economy based on free and fair trade. Thus, I am glad that this critical granting of negotiating authority is included in the bill.

Mr. President, the Senator from Nebraska voted to eliminate the provision in the Senate Finance Committee's version of the bill to delegate broad authority to the President to implement a program to keep oil imports below 50 percent of domestic consumption. This Senator was not convinced that such a program would provide a greater measure of security against a future oil shock and would unduly limit the ability of Congress to participate in the formulation of energy policy. Thus, I am glad that the Senate voted to strip this provision from the bill.

As a member of the Senate Banking Committee, I support many of the provisions included in the bill concerning international banking and finance issues. The bill streamlines export licensing procedures to allow domestic producers to move into the international marketplace more efficiently. While we should take great care to ensure sensitive technologies are not transferred to the Soviet Union, we should not unduly hamper the activities of exporters. The Banking Committee provision strikes a careful balance in this area. The bill eases restrictions on export trading companies in order to strengthen their role in promoting American exports around the world. The activities of the Foreign Commercial Services are strengthened, as well. The Banking Committee's proposals take tentative steps toward stabilizing fluctuating currency rates and resolving the international debt crisis, which threaten to undermine the world trading system. Finally, the Banking Committee took action to clarify the Foreign Corrupt Practices Act to free American exporters from the fear of being penalized for inadvertent errors or standard practices.

Mr. President, as a member of the Senate Agriculture Committee, I am extremely proud of the contributions that committee has made to this bill. It is a forward-looking, export-oriented proposal. American agriculture can compete with anyone in the world and the Agriculture Committee makes sure that we are going to market our agricultural products aggressively and effectively. The provisions include a strengthening of the Foreign Agricultural Service, an expansion of the Export Enhancement Program, increased funding for the Targeted Export Assistance Program, the establishment of a triggered marketing loan program designed to enhance our negotiating position at the new GATT round, and a more flexible agricultural trade and aid program to promote exports. Also, I am happy to say that the Senate approved two amendments that I cosponsored to improve U.S. export of wheat glutens and to modify congressional procedures for funding the Commodity Credit Corporation. This Senator is particularly concerned about the procedure for funding the Commodity Credit Corporation. The delays in CCC payments this year should never occur in the future. This amendment will ensure that such delays will not occur again. In sum, the agriculture provisions in this trade bill deserve the strong support of all Members of this body. They make it much easier for this Senator to vote in favor of this bill.

The Senate Small Business Commitee, of which I am also a member, has made important contributions to this bill by ensuring that small businesses are included in export markets. Small businesses are often intimidated by the complexities of exporting. Small businesses are to be provided with specialized services to make the export market more accessible to them. I support these provisions to assist small businesses and am glad that they are in the bill.

In sum, Mr. President, the above provisions I consider to be real contributions to the effort to improve our trade position. They promote the freeing up of the international trading system through multilateral and bilateral negotiations, the elimination of unfair foreign trade practices, the rationalization of the international monetary system, and the expansion of U.S. exports. They address the specific problems facing the United States in the international trading system without resorting to protectionism or solutions that will prove more costly to the United States than the problems they are attempting to address. While the above proposals will not eliminate our current trade deficits, because they are caused in large part by the shortcomings of our own domestic economic policies, they will reduce that share of the trade deficit due to deficiencies in our trade laws.

Mr. President, while there are many good things about this bill, as I stated, there are also things that are either inappropriate or wrong-headed. The fact is that there are many things that should not be in this bill. They should not be in it because either they do not concern trade matters or they move our trade policy in the wrong direction. These provisions, in many cases, seriously weaken the bill. Clearly, the bill would be better without them. Unfortunately, Mr. President, I also believe these provisions increase the likelihood of a presidential veto of this legislation. I would hope we could avoid a veto of this bill because the many good things that have been included in it, such as the proposals to improve agricultural exports. Having said all this, let me discuss the provisions in the bill that I think are of dubious merit.

First, the bill severely limits the discretion of the President in determining appeals for relief under section 201 of the Trade Act. The original Finance Committee version of the bill allowed the President to decided against relief on the basis of just two determinations, national security and undue injury to downstream industries. I believe this provision unduly restricts the President and I voted for the amendment offered by Senator PACKWOOD to allow the President to deny relief on the basis of the national economic interest. Unfortunately, the Packwood amendment failed. Subsequent to that action, the Senate did adopt several narrower options that the President could consider when deciding section 201 cases. These options included taking into account effects on the poor, agriculture, and overall employment levels. These are improvements over the original Finance Committee's provision, but I would still prefer to leave to the President the broader discretion provided under the Packwood amendment.

Mr. President, during floor consideration of this bill the Senate failed to strike a provision in the Labor Committee's proposal to require employers to provide advanced notification of layoffs or plant closings. I fail to understand why this provision is in this bill. The proponents of this requirement seem to be under the false impression that the American business community can absorb an endless number of Government-mandated requirements without losing its competitive edge or ability to adjust to rapidly changing market conditions. It cannot, and it is naive to believe, that this type of government interference into business decisionmaking does anything but discourage entrepreneurial enterprise and increase overall business risk. The governments of Western

Europe have tried this approach and it has not worked. They are now attempting to move away from such requirements in order to make their industries more competitive. Mr. President, I am surprised and disheartened that the Senate seems determined to copy the mistakes of the Western Europeans.

The bill contains a provision requiring the Secretary of the Treasury to enter negotiations to establish a multilateral debt management facility. This facility is to ease the international debt crisis in unspecified ways. Given the obtuse nature of this proposal, along with the fact that it could prove to be very expensive, I voted for an amendment to strike this provision in the bill. Unfortunately, this amendment failed on a very close vote. While the international debt crisis needs to be addressed, I do not feel that this provision is the solution.

Thus, Mr. President, there is much in this trade bill that gives this Senator considerable pause, including provisions I have not discussed above of a more specific nature. Obviously, this trade bill is not a perfect bill. It was very difficult for me to make a determination about whether the good outweighed the bad and whether the bill deserved my support. There are contributions that I have made to this legislation that I would loath to see lost, particularly in the area of agriculture. Mr. President, after considerable reflection, I have decided to cast my vote in favor of this trade bill. My vote, however, is more a reflection of my optimism about the process than the specifics of the final product before us. Despite my feeling of very real dissatisfaction about various portions of what is in this bill, I remain optimistic that the final bill that will emerge from the conference with the House will be a good bill. I believe that our trade problems are very serious and need to be addressed. But I am also determined to see that the legislation that will be presented to the President will make a contribution to resolving the problems that do exist, and not exacerbate other problems. Also, I hope that a product will emerge that will serve to form a consensus between the Congress, the administration, business, and labor or trade, a consensus not currently present. Thus, while I will vote for this legislation today, I must tell my colleagues that I will follow the actions of the upcoming conference closely. I am optimistic that a good bill will emerge, but I must also make it clear that I will stand against a bill that resorts to protectionist measures, promotes the specific interests of some sectors at the expense of others, or perpetuates the existing condition of divisiveness among the involved parties over trade issues. We can and must do better. I hope all of my colleagues who are conferees on the trade bill take heed of my aye vote with reservations and my statement of reservations inserted into the RECORD by the distinguished Senator from Missouri, Senator DANFORTH.

COMMERCE COMMITTEE TECHNOLOGY PROVISIONS

Mr. HOLLINGS. Mr. President, the last portion of S. 1420 contains the language of S. 907, the Technology Competitiveness Act. It is that bill I wish to discuss now.

S. 907 would strengthen existing technology programs at the Department of Commerce. At a time when American manufacturing often lags behind Japan, and when other countries often turn our scientific discoveries into new products before we do, the purpose of this bill are straightforward: First, to conduct badly needed research that will help American industry improve manufacturing and the rapid commercialization of new discoveries, and second, to transfer the results of that research to those businesses which need them.

HISTORY OF THE BILL

Senator RIEGLE and I introduced S. 907 on April 3, Senators KERRY, INOUYE, ROCKEFELLER, ADAMS, BENTSEN, and SHELBY were cosponsors.

The Commerce Committee held three major hearings on issues of technology and competitiveness before S. 907 was introduced, and we held two additional hearings after introduction. Several Senators made valuable contributions toward improving the bill, and I want to say now how much I appreciate their help. We had frank and constructive discussions with the Department of Commerce; and while we and they do not agree at this time on all points, I believe that we have made progress toward a bill that is both strong and workable.

On June 16 the Commerce Committee approved a revised version of S. 907 by a unanimous vote of 20 to 0.

THE PROBLEM

Mr. President, in the words of the President's Commission on Industries Competitiveness, technology is this Nation's "strongest competitive advantage." "Innovation has created whole new industries and the renewal of existing ones. . . . America owes much of its standard of living to U.S. preeminence in technology."

But, Mr. President, the United States now faces serious deficiencies in its technology efforts. We still lead the world in scientific discoveries and new inventions. But, all too often, other countries are better at manufacturing and faster at getting new discoveries to market. We get the Nobel prizes, and the Japanese get the profits.

These problems in manufacturing and commercialization grow more serious each month, affecting not only traditional industries such as steel and autos, but also high-technology sectors such as semiconductors. Now, we also run the risk of losing our best new industries, including biotechnology, advanced ceramics, and fiber optics.

These problems are widely recognized. Again, let me quote the President's Commission on Industrial Competitiveness on the subject of manufacturing:

> Manufacturing technology needs more emphasis. Perhaps the most glaring deficiency in America's technological capabilities has been our failure to devote enough attention to manufacturing or process technology. It does us little good to design state-of-the-art products, if within a short time our foreign competitors can manufacture them more cheaply.

At a time when Federal civilian agencies spend some $15 billion a year on research, they spend less than $50 million per year on research to improve basic technology in manufacturing. We need carefully targeted improvements in our research programs, and we need to ensure that the results of that research are well transferred.

Small American manufacturers would benefit greatly from the transfer of Federal expertise. According to Business Week, 100,000 small job shops—machine tool shops—form the backbone of American manufacturing. They supply 75 percent of all the machined metal parts used in products made by their bigger brethren. They employ the bulk of all blue-collar workers. Yet according to testimony the committee received, less than 10 percent of these small manufacturers have begun to automate. They are interested in automation, but often lack credible objective information and help.

The challenge we face in commercializing new discoveries and inventions is also well-known. Here, too, research to develop the basic tools needed to make products has been neglected. The Japanese, on the other hand, have started 25 new joint government-industry research projects in such fields as advanced materials, fiber optics, computers, and biotechnology. An Office of Technology Assessment report entitled "Commercial Biotechnology" contrasts low United States investment in what we call generic research versus the high priority the Japanese put on efforts to aid commercialization.

> The relatively low level of U.S. Government funding for generic applied research in biotechnology may cause a bottleneck in this country's biotechnology commercialization. . . . [Japan's] strategy worked well in the semiconductor industry, and Japan may very well attain a larger market share for biotechnology products than the United States because of its ability to rapidly apply results for basic research available from other countries.

Recently we have seen a startling example of how quickly the Japanese can organize to exploit a new scientific discovery. American researchers in Houston and Alabama have discovered an entirely new kind of superconducting material. Because superconductors transmit electricity with no resistance or energy loss, they potentially have applications in everything from magnets to computers.

My point is that 4 days after University of Houston researchers announced their dramatic progress, the Japanese Government announced its intention to form a research consortium of Japanese companies, universities, and Government laboratories to exploit the discovery. A Japanese newspaper article, quoted in the Wall Street Journal, sums up their intent:

> The objective is to organize industry to get the jump on the West in applications and commercialization for a huge new market.

American industry can and will do more fundamental research in both manufacturing and product commercialization. Companies have formed research consortia in a range of areas, and a new $10 million per year consortium for research in manufacturing may soon form. I applaud these initiatives. But by themselves, they are not enough. No one company or group of companies has the incentive or the means to fund the needed level of long-term basic engineering research, particularly in this new era of government to government economic competition.

Federal efforts in research, new manufacturing technologies, and the transfer Federal technology to business can all help address these problems.

They are not a panacea, of course. This country also needs better corporate management. We need changes in fiscal and trade policy, starting with lower Federal deficits and stronger enforcement of our trade rules. But a vigorous technology policy is vital.

S. 907

S. 907 is a carefully designed proposal to address these problems by building upon existing Commerce Department technology programs.

At the core of current Commerce Department efforts is the National Bureau of Standards [NBS], the one Federal laboratory with an explicit mission to assist industry. NBS helps industry in two ways: First, providing precise measurements and quality control techniques which help industry make products reliably and cost-effectively, both traditional products and new high-technology ones, and second, working with industry to make components from different companies work together, such as making robots and computers as easy to connect as stereo components. While university research produces new discoveries and inventions, NBS research gives American industry the tools and basic technologies it needs to actually make quality products out of these discoveries and inventions.

NBS is now a small agency, operating under an old charter. By updating its mission statement, moderizning its name, and giving it selected new research and technology transfer authorities, it and associated Commerce Department programs can do much to ensure that American industry has the tools it needs to improve manufacturing and speed the commercialization of new discoveries.

SPECIFIC PROVISIONS OF S. 907

S. 907 has four main technology titles. Each addresses a specific, critical need in U.S. technology policy.

First, to provide the research and technical data that industry needs to improve manufacturing, quality control, and product commercialization, title I of the bill upgrades the existing National Bureau of Standards into a full-fledged National Institute of Technology, with an updated statement of mission and targeted funding increases for research in both manufacturing and important new technologies.

I'm not talking about a huge new bureaucracy or Government subsidies. I'm talking about well-targeted generic research—that is, research to develop basic new techniques and technologies that can be used by all American companies. The aim is to help American industry as a whole perform better. These are research projects and services that all companies need but which no one company or group has an incentive to provide. They help industry solve the technical problems—technical barriers—associated with designing and making products.

We need a National Institute of Technology to help industry, just as we need the National Institutes of Health to provide the research and information needed to turn biomedical discoveries into usable medical therapies.

The bill authorizes $166 million in fiscal year 1988 for the Institute, $44 million above the fiscal year 1987 appropriation and $27.4 million above the President's fiscal year 1988 request. The bill also authorizes an additional $4 million for pay raises and related adjustments. I want to emphasize that every one of the program increases in the bill was included in the Bureau of Standards own fiscal year 1988 request to the Commerce Department or similar requests. The only exception is $6 million in authorization that I included to provide techniques to help the semiconductor industry manufacture very small chips.

Second, to transfer research in manufacturing to the American companies who need it, title II of the bill—Technology Extension Activities—provides for four important activities. One is an Office of Extension Services at the Institute of Technology, to serve as a single point of contact for companies and State agencies who wish to work with the Institute.

Another is Commerce Department support for regional Government-industry Centers for the Transfer of Manufacturing Technology to transfer Institute expertise to small-and medium-sized manufacturers facing stiff foreign competition. The bill envisions 12 centers eventually around the country, each jointly funded by the Institute and the applicant. Any nonprofit organization may apply, including a not-for-profit foundation established by industry. These centers will serve as demonstration and training facilities, where small- and medium-sized manufacturers can get hands-on experience with actual automated manufacturing systems.

I emphasize that these are technology transfer centers, not research centers such as the engineering research centers operated by the National Science Foundation [NSF]. The main mission of the Commerce centers is to give the best information possible to business people and to suggest to them ways in which they can use modern equipment to improve their productivity and competitiveness.

Next, the bill would create a 3-year Pilot State Technology Extension Program to support innovative State projects to improve the transfer of Federal technology to business. The Federal Government spends $60 billion a year on research and development, and recent laws such as the Federal Technology Transfer Act of 1986 allow Federal agencies to make their unclassified technology more widely available to State and companies. This 3-year pilot program would help both States and Federal agencies develop new ways to take advantage of these new opportunities. The Office of Extension Services and the Pilot Program are drawn from S. 1319, introduced by Senators ROCKEFELLER and MCCAIN.

Title II also creates a new Commerce Department Clearinghouse on State and Local Initiatives on Productivity, Technology, and Innovation, to provide a central source of information on these programs for use by both Federal officials and others. The Clearinghouse is drawn from S. 930, a bill introduced by Senator BUMPERS and cosponsored by Senators FORD and GORE.

Title III of the bill creates an Advanced Technology Program in the Commerce Department to help ensure that the Nation has the basic new technology it needs. The title provides authority for the Secretary of Commerce to encourage private sector efforts in generic research, particularly joint research and development ventures, and, in certain carefully defined cases, authority to provide financial assistance to research ventures and small businesses.

More and more industries are forming various kinds of organizations in which companies pool together their research efforts. They are a valuable way to improve the technological competitiveness of hard-pressed U.S. industries. In my region of the country, for example, we have developed the Textile and Apparel Machinery Modernization Foundation in response to the need to foster more research and development. Such ventures are important to the country's economic future, and it is appropriate that the Department of Commerce encourage their formation.

The idea of allowing the Secretary of Commerce to encourage joint research ventures aimed at providing additional generic technology is not controversial, and in fact the Commerce Department already plays such an active role in this area. To date, American companies have formed some 60 joint research ventures under the provisions of the National Cooperative Research Act of 1984.

The bill also would allow the Secretary, under carefully defined conditions, to provide seed money to encourage new multicompany research ventures or to assist selected small businesses with important innovations. The Commerce Department and I have worked closely to define the purposes and limitations of this section. And, in fact, President Reagan has used a similar approach in the case of the hard-pressed U.S. machine tool industry. In his December 1986 trade decision on machine tools, the President offered up to $5 million a year in Federal money for 3 years if the industry could raise $10 million a year. This is the very approach taken in title III.

We must keep two points in mind here. One is that the Federal Government cannot force-feed technology or research projects down an industry's throat. That is why my bill emphasizes the word "encourage." By the same token, we should not pretend that no industry needs help to get organized or that our Japanese competitors are not finding ways to help all major industries improve their technology.

I also want to emphasize that we are talking here about research to create generic technology. We are not talking about Federal money to help with product development. The National Cooperative Research Act of 1984, the legal authority for multicompany research ventures, only grants antitrust immunity for research on basic engineering techniques, models, prototypes, and the like—that is, for research on generic as opposed to product-specific technology.

I don't want a large, expensive, or unfocused program. I opposed the Advanced Civilian Technology Agency [ACTA] in the Governmental Affairs Committee part of the trade bill because I believed it was too unfocused and too expensive. But the United States needs a program that will help struggling older industries and new emerging industries organize the generic research efforts necessary to make them internationally competitive. That is what my Advanced Technology Program would do. In this era of intense government-to-government competition, we can afford to do no less.

Title IV of S. 907 requires several three reports, in order to provide Congress with the information it needs to make future decisions on Federal technology policy. The President is directed to submit a report summarizing his policies and budget proposals regarding four important areas of technology—semiconductors, fiber optics, superconducting materials, and advanced manufacturing technology. We need to know what the Federal Government spends in these areas and what the administration proposes to spend. In addition, the Secretary of Commerce is asked to contract with the National Academies of Engineering and Sciences for two policy reviews, one on semiconductor research issues and one on superconducting materials issues. Congress will be asked to make major investments in these areas, and needs objective information on them. The semiconductor review provision is drawn from Senator Sanford's S. 1275. The superconductor review is drawn from S. 880, introduced by Senators Durenburger, Danforth, and Gore.

OTHER TRADE-RELATED PROVISIONS

The Commerce Committee portion of S. 1420 also contains two trade-related amendments. One, sponsored by Senator Exon, establishes a Commerce Department Office of Barter and Countertrade. The second amends the International Air Transportation Fair Competitive Practices Act to speed up Transportation Department reviews of complaints by U.S. carriers.

A third amendment, also sponsored by Senator Exon, was approved without objection by the Commerce Committees but is now, by mutual agreement with the Banking Committee, included within Banking's portion of S. 1420. This amendment would provide the Secretary of Commerce and the President with the authority to investigate and respond to proposed foreign acquisitions of U.S. companies.

PROGRAM INCREASES

My bill would authorize $82 million in new fiscal year 1988 money to help carry out the purposes of the act.

As I mentioned earlier, the bill would authorize National Institute of Technology programs at $166 million. The increases would go to areas critical to U.S. competitiveness, including quality control, manufacturing, biotechnology, fiber optics, and semiconductor technology (including the use of new superconducting materials).

The manufacturing centers program would cost $18 million in fiscal year 1988, $30 million in fiscal year 1989, and $42 million in fiscal year 1990. This assumes 12 centers in total, with four added each of the first three years.

The Pilot State Technology Extension Program would be authorized at $2 million for fiscal year 1988. The fiscal year 1988 authorization for the Clearinghouse on State and Local Initiatives in Productivity, Technology, and Innovation would be $1 million.

Finally, my bill reauthorizes three existing Commerce Department technology programs: the Office of Productivity, Technology and Innovation—freeze level of $2.4 million; the patent licensing program of the National Technical Information Service—freeze level of $500,000; and the Japanese Technical Literature Program—$2 million.

CONCLUSION: GOVERNMENT-INDUSTRY-STATE COOPERATION TO CREATE A NEW ERA IN AMERICAN MANUFACTURING

Mr. President, as I said when I introduced S. 907 in April, we are at an historic juncture in the history of our Nation and our economy.

We have become part of an international economy, and a highly competitive one. Our manufacturing industries face stiff foreign competition. Yet Americans, both in Government and in industry, have neglected basic manufacturing and the development of new processes to commercialize and produce new kinds of products. We do so at our peril. The Japanese have worked hard, developed superb manufacturing technology, and applied it brilliantly.

Basic university research to produce new scientific discoveries and inventions is vital. But by itself, university research is not enough. Unless we also perform generic research to provide the tools American industry needs to make actual products, and then transfer those tools to companies which need them, then we will continue to lose one important industry after another to our foreign competitors. That would be a sad fate for a country with the greatest scientific and technological resources in history.

For all of these reasons, I introduced the Technology Competitiveness Act. For all of these reasons, I now urge my colleagues to support it.

SEC. 301 COLLOQUY RELATING TO SODA ASH

Mr. WALLOP. Mr. President, I rise today to express my concern over Japanese market barriers to American exports of soda ash. While the Japanese may have out performed us in other economic sectors, the United States holds a worldwide competitive edge in the production of soda ash, which comes from my home State of Wyoming.

However, United States sales in Japan do not reflect this United States comparative advantage. In fact, anticompetitive activities by Japanese soda ash producers have prevented the United States industry from increasing its sales significantly in the Japanese market. In 1983, the Japan Fair Trade Commission [JFTC] found that an illegal cartel of Japanese soda ash producers was restricting imports of United States soda ash. The JFTC ordered this activity to stop but imposed no fines or other sanctions. Since the 1983 decision, I have received repeated reports that anticompetitive activities in Japan continue to restrict United States soda ash sales.

The Cabinet noted recently that exports of goods and services have grown significantly since the second quarter on 1986—at an annual rate of 14 percent. In fact, United States soda ash exports have also increased worldwide—in every country except Japan, despite United States price discounting and a major commitment by the United States industry to the Japanese market. United States sales in Japan have in fact been consistently flat for the last few years, and there is no indication that this trend will change in spite of recent exchange rate adjustments. Needless to say, United States industry continues to encounter difficulties in marketing soda ash in Japan.

Mr. President, for many months I have been attempting to seek a negotiated solution to this problem. I have traveled to Japan two times in the last year on behalf of Wyoming soda ash. We continue to be frustrated by a Japanese Government that has consistently failed to allow fair market access to its markets for competitively priced United States soda ash exports. United States trade officials have raised the soda ash problem with the Japanese Government in a number of bilateral discussions, yet the Japanese seem unwilling to budge, though this meets the Nakasone criteria of environmentally clean, energy independent, and supply guaranteed.

One additional way the Congress has sought to address this problem is through a market opening mechanism which would clarify and strengthen the definition of "unreasonable" trade practices outlined under section 301(e) of the Trade Act of 1974. Section 301 is the primary tool used by the President under U.S. trade law that authorizes the Government to act against unfair foreign trade practices. This provision would make absolutely clear that tolerance by foreign governments of illegal cartels and other restrictive business practices of the sort encountered by the U.S. soda ash industry is actionable under section 301.

It sends s signal to governments such as Japan which tolerate practices that are in violation of their own antitrust laws as well as their international obligations under trade agreements.

The Senate Finance Committee has endorsed this provision, under section 306(c) which provides a new section 301(e)(3)(B)(i)(I). The Finance Committee noted that this "change reflects the growing conviction on the part of the committee that anticompetitive, market-restrictive behavior on the part of private firms, when coupled with the failure of a foreign government to intervene to eliminate such behavior, can act as a barrier to market access which is as great as any formal government act, policy, or practice alone." The committee agreed that such activities to the extent such behavior acts as a burden or restriction on U.S. commerce would be regarded as an unfair practice actionable under section 301. Mr. President, this legislation will in fact strengthen our international competitiveness.

Mr. SIMPSON. Mr. President, today I join again with my good friend and colleague, Senator MALCOLM WALLOP, in expressing my continuing concern over Japanese unfair trade practices that prevent full market access for United States soda ash exports—so critical to the economy of my home State of Wyoming.

Mr. President, today we do not have and have not had a free market in soda ash in Japan. The United States soda ash industry enjoys an enormous natural resource advantage that permits it to be able to produce soda ash by means not available to Japan. American manufacturers are so efficient that United States producers can produce, ship and pay Japanese duties and still be competitive with Japanese soda ash producers in quality, service, and price. In fact, those Japanese producers must import most of the raw materials and energy needed to make soda ash.

The commitment of United States soda ash producers is extensive and substantial—including the establishment of several distribution and marketing channels in Japan; the establishment of seven bulk warehouses in the cities of Osaka, Kawasaki, Tachibana, Yokkaichi, and Chiba; the maintenance in Japan of inventories of United States soda ash in excess of $5 million; and extensive United States industry export promotion efforts.

There is very clear evidence that the continued stagnation of United States soda ash sales reflects the continuing restrictive and anticompetitive activities of Japanese soda ash producers and their affiliated trading companies.

Mr. President, I believe very strongly in the concept of free trade and comparative advantage. However, to date, Japan has failed to live up to its obligations under international agreements with regard to opening its market to United States soda ash. This failure to come to some agreement on the continuing soda ash trade problem after so many years of negotiations deeply concerns me.

We are on the threshold of a new round of multilateral trade negotiations. Mr. President, I challenge the Japanese Government to demonstrate its good will and cooperative intentions toward this new international round by opening its doors to trade in Wyoming soda ash. We simply request basic cooperation and fairness in adhering to the principles set forth in international agreements governing the free exchange of goods—aspirations we all hold for a free and open international trading system.

Mr. BENTSEN. Mr. President, I would like to commend my distinguished colleagues from Wyoming [Messrs. WALLOP and SIMPSON] in bringing to the attention of the Senate the serious market access problem Wyoming soda ash producers face in Japan.

I would like to point out that S. 1420 would provide that Government toleration of certain anticompetitive private activities of the sort that has been particularly evident in the soda ash sector would be actionable under section 301 of the Trade Act of 1974. This provision is a significant improvement and clarification of section 301 on this issue.

Mr. WALLOP. Mr. President, I thank the distinguished Senator for his kind comments.

Mr. DURENBERGER. Mr. President, I want to take this opportunity to commend the distinguished chairman of the Committee on Commerce for including in the bill a directive to the Commerce Department to enter into contracts with the National Academies of Engineering and Sciences for a thorough review of all major policy issues relating to U.S. commercial and national defense applications of superconductors.

The advances in superconductor technology that have occurred in our Nation's laboratories in recent months hold the promise for extraordinary changes in a multitude of products ranging from electric power generation to ultra high-speed supercomputers. Whether the United States can transform its lead in the research laboratories into leadership in the development of commercial products containing high-temperature superconductors is a formidable challenge.

Three months ago, Japan's Ministry of International Trade and Industry [MITI] decided to make a concerted effort to coordinate the development of commercial products containing high temperature superconductors. Japan has established two new national organizations consisting of top Japanese scientists and industrial leaders devoted to superconductivity. One of these organizations, the new superconducting materials forum, includes more than 100 industrial firms.

All of us should take MITI's decision as a challenge that Japan wants to take the lead the world in this important new technology. And the U.S. Government should not ignore this challenge. Instead, we should make a concerted effort to better coordinate access to new superconductor developments and possibly provide incentives for industry to develop products based on these high-temperature superconductors.

I believe the analyses prepared by the National Academies of Science and Engineering will serve as an important tool in helping Congress develop policies that will enhance the development of a national strategy for developing commercial and national security applications for high-temperature superconductors.

It is my hope that the Academies will make preparation of these reports a top priority activity, and that the Academies will be able to submit their reports before the Congress begins its work on the fiscal year 1989 budget. Futhermore, I believe the Academies will be able to provide a full and complete analysis if they seek assistance and input from a variety of Federal agencies including the Justice Department, the Treasury Department, the U.S. Trade Representative, the Energy Department, NASA, and the Tennessee Valley Authority.

Mr. HOLLINGS. I thank the distinguished Senator from Minnesota for his leadership in this important area and in helping to develop this important provision of the bill. He, Senator DANFORTH, and others have made major contributions in this field. I believe that the emerging superconductor technology will provide enormous benefits to our economic development into the 21st century, and that we as a nation must make a concerted effort to maintain world leadership in bringing this technology out of the laboratories and onto the world market.

I know the National Academies of Science and Engineering will make every effort to complete their reports as soon as possible. I think we should not lock the Academies into a strict deadline for completing these reports since they must have broad flexibility in using their resources to achieve a thorough and complete analysis. I agree that Congress would be best served, however, if these reports are completed by early next year.

Mr. DURENBERGER. I thank the distinguished chairman of the committee. I know our goals are identical and I would hope that we will be able to work together in the future in developing legislation that will facilitate our common goals.

Mr. DeCONCINI. Mr. Chairman, I want to take this opportunity to express my personal appreciation for your efforts in the development of the domestic subsidy definition contained in the Finance Committee trade bill. The natural resource language contained in the statute and the language in the committee report is a tribute to your negotiating skills, and I thank you for recognizing the special trade relationship between the United States and other interested countries, such as Mexico. As I understand the provision passed by the committee, Mexico's natural resource pricing policies would not be considered counteravailable if they were in fact generally available.

Mr. BENTSEN. I thank the distinguished Senator from Arizona for his remarks. The domestic subsidy provision contained in S. 1420, the Omnibus Trade and Competitiveness Act of 1987, is fair to both Mexico and the United States. Under the Finance Committee provision, Mexico's pricing policies for natural gas and other fuels would be judged not by the nominal general availability of any bounty, grant, or subsidy provided, but rather by whether such bounty, grant, or subsidy was generally available in fact.

FOREIGN TECHNOLOGICAL INFORMATION (COMMERCE COMMITTEE TITLES OF S. 1420)

Mr. BINGAMAN. Mr. President, I would like to ask the distinguished chairman of the Commerce Committee a question. The U.S. Government collects a great deal of information on technology in other nations. I have been told that there are over 200 offices which collect foreign technological information. However, I am deeply concerned that there is a lack of coordination of the collection activities and the lack of policy with respect to the dissemination of that information. The resulting lack of availability of such information was a major concern last year of the Senate Democratic Working Group on Economic Competitiveness. I would like to ask the Senator from South Carolina whether he shares this concern?

Mr. HOLLINGS. I thank the Senator for raising this concern, and I would like to commend him for his leadership on this issue as chairman of the Working Group.

For the past several years, the Commerce Committee has examined the availability of foreign technical information and the flows of technical information between the United States and other nations. We strongly believe that information exchange should be a two-way street. In part that means persuading other countries to be more open with their information; in part it means strengthening the ability of Americans to use the foreign information that already is available.

The Commerce Department's National Technical Information Service [NTIS] has long acquired and, in selective cases, translated important foreign technical reports. NTIS specializes in unpublished documents from government laboratories, the type often unavailable to private American publishers. At the same time, the National Bureau of Standards also has undertaken limited but valuable translations of other foreign materials.

However, the Commerce Committee has been concerned that more needs to be done to improve the acquisition, translation, and dissemination of foreign technical documents, particularly in difficult languages such as Japanese. Last year, the committee reported legislation to improve United States access to Japanese technical information. That bill, introduced by Senators BAUCUS and ROCKEFELLER, became the Japanese Technical Literature Act of 1986—Public Law 99-382. At Senator ROCKEFELLER's request, the committee also included a provision in the Federal Technology Transfer Act of 1986—Public Law 99-502—which allows U.S. Federal laboratory directors, when reviewing foreign company applications for joint research, to consider whether that company's government allows American companies access to its government laboratories.

Since the passage of these two acts, the administration has stepped up its review of foreign technology issues. On April 10 the President issued Executive Order 12591, "Facilitating Access to Science and Technology." Among other provisions, the Executive order directs that:

> The Secretaries of State and Commerce and the Director of the National Science Foundation shall develop a central mechanism for the prompt and efficient dissemination of science and technology information developed abroad to users in Federal laboratories, academic institutions, and the private sector on a fee-for-service basis.

I know that a number of my colleagues, including the distinguished Senator from New Mexico, share our concern about this issue and have introduced valuable proposals. I know that Senator CHILES and Senator DODD also have submitted proposals. I want to compliment all of them for their interest in this important subject and assure them that the chairman of the Commerce Committee shares their concerns.

Mr. BINGAMAN. I thank the Senator for his kind words. I would like to ask a further question. The portion of this bill as reported by the Governmental Affairs Committee contained a provision creating an Office of International Technology Monitoring which would have established this coordination function in statute. This provision was dropped as part of the motion to strike the reorganization sections of the bill. It is my understanding that the administration opposes the reintroduction of this provision. Because of this opposition, I will not attempt to reinstate this provision. However, I am concerned that the new Executive order that the Senator mentioned does not go far enough in correcting the problem. I would hope that the Senate, in the near future, will take a hard look at the actions taken under this Executive order and its effects. I also hope that we will hold hearings on this issue in the near future in the Governmental Affairs Committee. I would like to ask the distinguished chairman whether he also plans future hearings on this subject in the Commerce Committee?

Mr. HOLLINGS. I would like to answer my good friend that yes, indeed, I hope that the Commerce Committee will conduct hearings on this subject in the future and would welcome the opportunity to work with him on this issue.

Mr. BINGAMAN. I thank the distinguished chairman and look forward to working with him on this issue.

Mr. ROCKEFELLER. Mr. President, I want to say to the Senator from New Mexico, as well as to other Members interested in the issue of technical information, that I share Chairman **Hollings**' interest in hearings on this subject.

I personally believe that a Commerce Committee hearing this fall could help us review two important issues: First, how technical information in general flows between the United States and other countries; and second, what progress has been made under last year's Japanese Technical Literature Act, a piece of legislation that Senator **Baucus** and I authored. I will discuss this possibility with Chairman **Hollings** and with Senator **Riegle**, chairman of our Science Subcommittee.

Mr. President, we all benefit from international cooperation in science and engineering. Technology remains a vital factor in international economic competition, and we must ensure that reciprocity exists in international exchange of technical information. We must also ensure that our scientists get technical information in a timely way.

These are important issues, Mr. President, and I look forward to working with Chairman **Hollings** and other Senators to explore them further.

SECTION 201 "DOWNSTREAM INDUSTRY" EXCEPTION

Mr. HEINZ. The amendments to section 201 in the committee bill give the President two bases for declining to provide import relief: national security and serious injury to an industry that uses the product. Unfortunately, the committee report does not provide much elaboration on these concepts, and I would like to ask the chairman, the Senator from Texas, for some further clarification.

First, I understand the term "national security" is intended to be construed narrowly, referring to circumstances that would impact adversely on our national defense. Is that correct?

Mr. BENTSEN. That is correct.

Mr. HEINZ. With respect to the second exception, I understand the intent of the committee was to cover situations involving a "downstream" industry; that is, a manufacturing industry that uses the material receiving the import relief in the production of its product. More often than not that would mean a raw material which was involved in the manufacture of a more sophisticated product. Is that correct?

Mr. BENTSEN. The Senator is correct. The committee's intent was to restrict the applicability of the exception in the way the Senator from Pennsylvania described. The provision is not intended to include as an industry that uses the product either consumers or retailers or others purely in the distribution process, as they would not be an industry in the way the committee intended.

Mr. President, on July 8, the Senate adopted an amendment, No. 444, to the omnibus trade bill, which made two minor changes in the customs merchandise processing user fee. I am rising to clarify the intentions of the Congress in this connection.

Although the amendments made July 8, were made in the context of compliance with the Budget Act, it should be clear that the basic framework—in which fee receipts flow to an earmarked fund receipt account in the Treasury—remains unchanged. This fee is not, and was not intended to be, a taxation on imports for fiscal purposes. The intention of Congress was to recover the costs of Customs commercial processing in a manner consistent with article VIII of the GATT.

Mr. PACKWOOD. I wish to confirm that the Senator's statement accurately represents the intentions of those who were and are involved in enactment of the customs merchandise processing user fee. It is and always has been our intention to enact a fee that would be fully defensible in the GATT, and take maximum advantage of our rights under GATT article VIII.

Mr. LEAHY. Mr. President, I rise in support of the agriculture title of the omnibus trade bill. The provisions reported overwhelmingly by the Agriculture Committee are a vital part of this larger effort to restore American competitiveness and open markets abroad for U.S. products and commodities.

Mr. President, agricultural issues are at the top of the international trade agenda. Last year the 92 signatory nations to the General Agreement on Tariffs and Trade agreed to place the agriculture negotiations on a fast track in the Uruguay round of trade talks. Growing agricultural trade barriers and ever increasing export subsidies threaten the entire world trading system. Earlier this year, the United States moved to the brink of a trade war with our European allies over the European Community's protectionist agricultural policies—policies that cost United States farmers dearly.

Every American has a vital interest in resolving the growing tensions in world agricultural trade. These issues, if not managed responsibly, could prompt retaliation against important sectors of the U.S. economy, including manufacturing and high technology.

The agriculture title of the trade bill recognizes the central importance of agricultural trade issues in the entire trade picture. The provisions approved by the committee also take specific steps to restore the balance of farm trade in this country and the overall trade imbalance.

For years, consistently high agricultural trade surpluses helped balance our overall trade account. Farm trade surpluses have been on the decline, however, adding fuel to our Nation's growing trade deficit. The agriculture title will help turn this decline around and improve the overall competitiveness of the United States.

The bill is a marriage of provisions that reflect this Nation's resolve to increase agricultural exports and provisions that recognize the interdependence of all agricultural exporting nations and the importance of effective rules to govern international agricultural trade.

This bill has a long history. The forerunner to this bill, S. 512, was originally introduced by myself, Senators **Pryor**, **Cochran**, **Melcher**, and **Grassley** in cooperation with certain members of the Finance Committee. The Subcommittee on Domestic and Foreign Marketing, chaired by Senator **Pryor**, held hearings on this bill and other bills concerning agricultural trade on March 10 and 12, 1987.

The full committee met on May 6, 7, and 14 and marked up a substitute for S. 512 that was offered by myself, Senator **Pryor**, and Senator **Cochran**, but which reflected the work of many Senators. A number of amendments were adopted during markup, and the bill, as amended, was unanimously adopted by the committee on May 14, 1987. The full legislative history of the bill is contained in the committee report, No. 100-77.

The bill was then incorporated into the Omnibus Trade Act of 1987 by the distinguished majority leader. The bill is primarily included in title 21 of the Omnibus Trade Act, but there are several provisions included in title 6. I would also note that section 1808 of the omnibus trade bill was originally a part of the agricultural trade bill. This provision, sponsored by Senator **Heflin**, provides for a prohibition on funding through the Foreign Assistance Act to countries if such funds would be used to aid in the research or production of commodities for export directly in competition with U.S. exports.

Although the agriculture provisions have been the subject of several minor amendments during our consideration of the omnibus trade bill, the agriculture title remains substantially intact as we prepare for a final vote. One of those amendments, sponsored by myself and Senators Lugar, Chiles, and Domenici, actually lowered the cost of the bill without limiting the bill's effectiveness. The result is an agriculture trade title that I am proud of, and that will help U.S. farmers regain some of their lost export markets.

Mr. President, there has been a dramatic decline in U.S. agricultural exports since 1981 which has helped create a crisis atmosphere among U.S. farmers, processors, and exporters. As markets have disappeared, so have revenue, jobs, land value, investments, and viable farm operations. Dwindling agricultural exports have had adverse effects on the Nation's overall trade balance. The U.S. farmer has few places to turn as markets dry up, stocks rise, and prices fall.

Since 1980, U.S. agricultural exports have declined by more than 37 percent. Our market share for agricultural commodities and products dropped worldwide by 28 percent during this same time period. Even with an expected rise in exports during 1987, the value of agricultural exports would still be 30 percent below the level of fiscal year 1982.

There have even been cases where, despite a comparative advantage with its competitors, the U.S. market share has declined.

The bottom line in the crisis is that lower world prices and reduced demand have caused decreased farm revenues. Although domestic farm policies and programs also affect the health of the farm sector, the loss of agricultural exports has been particularly devastating. The share of farm production used for exports fell to 14 percent in fiscal year 1986, the lowest level in 14 years. It has been estimated that the loss of $1 billion in agricultural exports causes the loss of 35,000 agricultural jobs and the loss of 60,000 nonagricultural jobs.

This crisis atmosphere exists because of, among other things, the efforts of our competitors through subsidization, trade barriers, marketing boards, state trading organizations, and other mechanisms to buy agricultural export success.

It is obvious that two decades of subsidization have done little but worsen world agricultural trade. Only by reducing or eliminating these trade distorting practices can governments hope to have a long-term positive impact on world agricultural trade.

The EC presents a graphic example of an importer turned exporter through the use of such trade distorting mechanisms. It maintains high price supports for its farmers, encouraging surplus production. It then disposed of the surplus with widespread use of export subsidies. Before many of its farm support programs went into effect, the EC was a net importer of grains, beef, poultry, and sugar. Largely because of its farm programs, it is currently among the world's leading exporters of grain and is the world's largest exporter of sugar, poultry, bee, and dairy products. Such a turnaround in world market share would not be possible for the EC without its extensive use of export subsidies and other support mechanisms.

The General Agreement on Tariffs and Trade, in place to provide rules that are applicable to the imposition of trade barriers and the use of subsidies, has been largely ineffectual. Aggrieved exporting nations have scarcely any meaningful rules or viable remedies available to them under the GATT. Reactions of governments to unfair trading practices have become more bilateral as opposed to multilateral.

This is a no win situation. International agriculture trade is in a freefall toward chaos.

In crafting the bill we have before this body today, the committee has attempted to take a step-by-step approach to fashioning solutions to our trade problems.

The bill contains provisions designed specifically to meet our most immediate need—that of increasing our exports. This step will help U.S. farmers stay in business in the short term and will prevent further erosion of our markets.

The bill increases the funding levels of the Foreign Agricultural Service, primarily to increase the staff of the Service so that it may more effectively administer the many export promotion and market development programs under its responsibility. Means are provided for a more effective use of FAS agricultural attachés and other staff, with emphasis on the creation of new markets for U.S. agricultural exports, the conduct of trade shows, and the promotion of high value-added agricultural exports.

The Export Enhancement Program [EEP] is expanded to make U.S. agricultural exports more competitive on the world market and to combat unfair foreign trade practices.

This program was designed to encourage the development, maintenance, and expansion of export markets for U.S. agricultural commodities and products by providing a bonus, in the form of CCC-owned commodities, to exporters, processors, or foreign purchasers. The program was targeted primarily at countering subsidies and other unfair trade practices being implemented by foreign countries.

However, the implementation of EEP has been adversely affected by other considerations, most notably unrelated U.S. foreign policy concerns.

Therefore, to ensure that the Export Enhancement Program is used for the purposes stated in the authorizing legislation and to successfully offset the adverse impact on U.S. exports of unfair trading practices, the bill amends the authorizing statute to make EEP more readily available with respect to exports of wheat and feed grains.

Where there can be shown an adverse impact on the export of U.S. wheat or feed grains that has resulted from our competitors' subsidies or other unfair trade practices, the Secretary of Agriculture must use EEP to counter such practices to the extent necessary to offset the adverse impact and make our agricultural commodities and products competitive. Other agricultural commodities may receive treatment similar to that afforded wheat and feed grains upon petition to the Secretary of Agriculture.

The bill further amends EEP to provide that the Secretary should not use the possibility of market displacement as an unreasonable barrier to the use of EEP. In addition, the bill increases the authorized amount of bonus commodities to be used through 1990.

In order to further combat unfair trade practices, authorized funding for the Targeted Export Assistance Program [TEA] is increased to $215 million for 1988—over the current $110 million—but this increase must be appropriated in advance. Current law provides for the TEA Program to be funded at $325 million for the 1989 and 1990 fiscal years.

The bill also contains the provisions of S. 659, sponsored by Senator Melcher, which provides for the establishment of small missions composed of representatives of the executive branch, market development cooperators, private voluntary organizations, and cooperatives to go to eligible developing countries with a potential for agricultural market development to promote to the host county officials and private organizations the array of U.S. food aid and trade programs, and to seek commitments for firm proposals or agreements to implement such programs.

The bill establishes a program for the promotion of exports of wood and wood products. The bill also contains provisions designed to improve the implementation of the export credit guarantee programs conducted by the Department of Agriculture.

The second step in improving U.S. agricultural trade centers on the conduct of multilateral negotiations with the goal of reducing or eliminating export subsidization and unreasonable barriers to trade. This will hopefully improve the chaos that currently exists in international agricultural trade and pave the way to freer markets and fairer competition.

In preparing the omnibus trade bill for the floor, certain sections of the various committees' bills have been moved. Title 6 of the omnibus bill contains the Agriculture Committee's policy statement and negotiating objectives for the upcoming multilateral trade negotiations concerning the General Agreement on Tariffs and Trade.

The importance of the GATT negotiations concerning trade in agricultural commodities cannot be stressed enough. In the current environment of international trade—an environment fraught with subsidization, trade barriers, fluctuating currencies, debt problems, and depressed prices—the GATT negotiations offer countries the opportunity to do something now to improve agricultural trade.

Section 601 of the omnibus trade bill provides that it is a negotiating objective of the United States to eliminate barriers to trade, to reduce or eliminate government subsidization of agriculture, to clarify the GATT rules pertaining to agricultural trade, and to make that body a more useful tool for resolving agricultural trade disputes.

Achievement of these objectives will be difficult. Cooperation is essential. Not just between this country and our trading partners, but also between the Congress and the executive branch. Both international and domestic agricultural policy will be on the negotiating table in Geneva, where the GATT negotiations will be conducted. The Congress must be informed as to the progress of those negotiations; we must be thoroughly familiar with the proposals set forth by the administration; and the administration must be willing to listen to our concerns, for any agreement that is reached must be approved by this body.

In this regard, title VI of the omnibus trade bill provides for the appointment of advisors from both Houses of Congress to the negotiations concerning agricultural trade. These advisors would be members of the agriculture committees of Congress. They will serve an invaluable role as the eyes, ears, and voice of the agriculture committees.

These advisors will help the Congress forge a working partnership with the executive branch during these negotiations. If the road toward worldwide reform of agricultural trade is half as rough as I think it is going to be, the executive branch and the Congress, at the very least, had better be driving on the same side.

Mr. President, as I have stated, the committee is deeply committed to the successful conclusion of these negotiations. However, countries that have used export subsidization to increase their market share and those countries that depend on trade barriers to exclude competitive products may not be willing to make the concessions necessary to reach an agreement.

U.S. farmers cannot afford to wait an indeterminate length of time for a successful conclusion to these negotiations only to have their hopes dashed by countries that decide that subsidization is too beneficial to their interests to be compromised.

Therefore, to increase the likelihood that successful multilateral negotiations will be completed quickly, the agriculture provisions of the bill establish a triggered marketing loan that would be instituted for the 1990 crop year for certain commodities. The marketing loan will trigger if an agreement under the GATT concerning agricultural trade has not been reached.

The provision is not inflexible. The President may waive the trigger if the President certifies to Congress that significant progress has been made toward an agreement and that implementation of the marketing loan program might impair the successful conclusion of an agreement. The provision also provides for an expedited procedure whereby the President's waiver can be overridden upon enactment of a joint resolution disapproving of the waiver.

This is a rather simple statement to our trading partners: If an agreement under the GATT concerning agricultural trade is not reached by 1990, the U.S. Government will make its exports of wheat, feed grains, and soybeans competitive through the use of a marketing loan program for the 1990 crop of those commodities. The triggered marketing loan gives our negotiators leverage and proves to other nations that the United States is serious about meeting subsidized competition in the event the GATT negotiations prove unsuccessful.

Finally, the bill contains provisions requiring studies to be conducted that will provide us with needed information about trade distorting practices being employed by other countries and ways in which the Department of Agriculture can better organize itself to present a coordinated trade policy.

The strongest statement that could be made about this bill is the vote of the committee itself. Nineteen Senators, all deeply concerned about the future of U.S. agricultural trade, voted in favor of this bill. No member of the committee was opposed.

Mr. President, these Senators, through this vote, were saying several things to our trading partners and to countries that purchase our agricultural products.

First, the decline in U.S. agricultural exports must be stopped. The United States will act to win back market share and to tear down barriers to trade.

Second, all available means to enhance the exports and revenue from exports of agricultural commodities and products will be employed.

Third, the United States is committed to the GATT negotiations. Through these negotiations, we have a chance to end the debilitating escalation of export subsidization, to end the harmful trade distortions caused by unreasonable trade barriers, and to restore some degree of sanity in the international marketplace.

In conclusion Mr. President, I want to offer my sincere thanks to my good friend, Senator LUGAR. Senator LUGAR and his very fine staff at all times worked with us to develop this bill. Their suggestions and willingness to compromise are evidenced in the broad support behind this bill from most agricultural sectors and from both sides of the aisle. I want to thank him for that.

I would also like to thank the chairman of the Finance Committee, Senator BENTSEN, and several other Senators, particularly Senators PRYOR, BAUCUS, and DANFORTH. These Senators and their staff contributed much to the formulation of certain of these provisions.

Finally, I wish to thank the staff of the Senate Agriculture Committee, especially John Podesta, chief counsel, Chuck Riemenschneider, staff director, Bill Gillon, trade counsel, Janet Pietrovito, trade specialist, Chuck Conner, minority staff director, John Ziolkowski, minority trade specialist, as well as Mike Sher of my staff, Dennis Robertson of Senator PRYOR's staff, David Graves of Senator COCHRAN's staff, Marty Clayton of Senator BENTSEN's staff and Gerg Mastel of Senator BAUCUS' staff. The strong agricultural title of the omnibus trade bill which the Senate is about to approve is a product of their diligence and hard work.

I urge my colleagues to adopt this onmibus trade bill and to send a message to the U.S. farmer that the U.S. Senate is aware of the farmer's export problems and is determined to do whatever is necessary to begin to improve our exports.

Mr. LAUTENBERG. Mr. President, I rise in support of final passage of the Omnibus Trade Act of 1987, which contains many provisions to help address our Nation's trade deficit.

I believe we must face the truth about our trade deficit. It is time Uncle Sam stopped playing Uncle Sap when it comes to trade. For too long, America's trade policy has meant the export of American jobs, not the export of American goods. The toleration of unfair trading practices instead of their destruction.

We have the numbers to show it. Our trade deficit for 1986 was $170 billion. Roughly $50 billion of last year's deficit was in cars, trucks, and other automotive products. For 1987, most experts predict that deficit will be between $140 and $160 million. America's economic base is eroding. We're losing markets abroad and jobs at home. Some of those markets will be lost forever if we don't act now.

Although total jobs have grown by 10 percent since 1980, manufacturing jobs fell by more than 1 million in the same period. While service sector jobs have made up for some lost ground, often, they do so at a significantly lower salary.

We have seen the damage of the $170 billion trade deficits. From basic manufacturing to high technology, the cost has been enormous. No one has paid more of that cost than American workers. And rightly, they have asked their elected representatives what they intend to do about the problem.

Because while industry and workers confront unfairness in foreign trade, they confront indifference in their own government. The administration first denied that we had a trade problem; then resisted solutions that would make an impact.

With this bill, I think we have started down the right path. I have already addressed the important intellectual property provisions included in the bill. Congress will do away with ritual incantations about free trade and focus on making our trade fair. Although the elimination of unfair trading practices will not, by itself, eliminate our trade deficit, it will help.

The Senate bill takes aim at unfair trading practices. And then makes sure our laws help us hit the bullseye.

First, the bill gives the President a 6-year grant of authority to negotiate with our trading partners for more open, fair, and equitable market access for U.S. exporters. It gives him authority to negotiate the reduction or elimination of barriers to U.S. trade. It also sets up a fast track procedure for the approval of any trade agreements.

For more than 50 years, the President's authority to negotiate trade agreements has been acknowledged to be the foundation of an effective trade policy. These multilateral talks may provide a way to reestablish discipline in the international trading system and open up foreign markets to U.S. goods and services. Finally, the fast track procedure assures that when a multilateral trading agreement is reached, it is assured of quick consideration by the Senate.

Second, this bill reforms section 301, which provides authority for the President to enforce U.S. rights under trade agreements and to obtain the elimination of unfair trade practices by foreign governments that burden or restrict U.S. commerce. Section 301 is in large part a negotiating tool to make sure foreign countries live up to their agreements and to obtain the elimination of other unjustifiable, unreasonable, or discriminatory foreign practices. Section 301 authorizes the President to take a range of actions as negotiating leverage or, if all else fails, as a last resort in retaliating to enforce U.S. rights.

But if section 301 is to pack any punch against unfair trading practices, we must do more than launch investigations. We must be ready to retaliate. Because if a referee blows his whistle and never walks off the yardage, pretty soon the game deteriorates. That is what's happening now in trade.

So this bill contains provisions to ensure aggressive, systematic enforcement of section 301. These provisions serve notice on our trading partners that unless trade becomes a two-way street, we are going to barricade the block. The bill provides that unfair foreign barriers to U.S. exports will be met with certain retaliation if they are not eliminated.

But for some industries, scrapping foreign trade barriers is too late. They need help now. Once an industry is hurt, we need to give them help to get back on their feet. The Senate bill does this by breathing new life into section 201 of the Trade Act. Section 201 authorizes relief to industries injured by imports.

What is wrong with the old section 201? Only our unwillingness to use it. The administration's denial of relief to industries like footwear, which proved serious import damage within the terms of section 201, raises doubts about our willingness to grant relief. Not all import-sensitive industries need it. But if we are to help industries and workers adjust to new competitive conditions, we must be willing to use section 201 when it is warranted.

The Senate bill increases the President's options for granting trade relief, and limits his discretion to deny relief under section 201 when an industry and its workers have clearly been injured by imports. So, it encourages and directs the President to use section 201 if justified. At the same time, while making it more certain that damaged industries can get relief, it also makes more demands on those industries to prove they will put that relief to good use. Under this bill, industries that seek section 201 relief must for the first time submit a plan to the ITC showing how that industry will adjust to import competition. The ITC must also seek confidential commitments on the steps that they intend to take to promote a positive adjustment.

However, section 201 has also been changed to make sure that if import relief would have a disproportionate effect on the poor, the President could refuse to grant it. With these modifications, section 201 has been changed in a way that provides the greatest assurance that injured industries get relief, without jeopardizing the poorest segments of our economy. Section 201 has been modified in a balanced, fair way.

Mr. President, this bill is more than a trade bill—it is a bill to enhance U.S. competitiveness. It includes provisions for new programs to improve the transfer and commercialization of technology; to enhance the training and adjustment by workers to new circumstances; and to improve education in science and foreign languages.

For all of these reasons, I support the Senate bill, and urge my colleagues to adopt it.

Mr. LEVIN. By passing the trade bill today, the Senate will be sending a message to our competitors in the international marketplace—the United States is discarding a "hands off" approach to trade. Those who have urged a do-nothing trade policy in this country, who have argued that the huge trade deficits of recent years will take care of themselves, are ignoring a basic reality of international trade: None of our major trading partners practices free trade. We cannot continue to act as if the trade imbalances that have cost us millions of jobs will go away by themselves or that if we only repeat the word "free trade" often enough that the other nations of the world will begin to practice what we preach.

This trade bill begins this process of recognizing the tough reality of international trade. It toughens up our trade laws in many respects, making it more likely that we will retaliate against those countries that put up barriers to our products.

The legislation the Senate will pass later today represents the first comprehensive overhaul of our Nation's trade laws in 13 years. Not surprisingly with a bill of this magnitude—a bill that is the product of negotiation and compromise among 100 Senators with divergent interests, it has some good features and some disappointing features. For example, we adopted an amendment to the bill that will require the President to use his authority under existing trade laws to act against countries who maintain a consistent pattern of unfair trade practices against us. The final version of this amendment, which passed the Senate by a vote of 87 to 7, did not go as far as I would have liked in terms of mandating tough action against unfair trade practices, but it was a step in the right direction.

The Senate also adopted a provision which I participated in drafting which establishes Competitiveness Councils to bring together representatives from business, labor, and government to analyze the competitive problems of specific sectors of our economy and recommend solutions.

But the Senate also voted to strike from the bill positive provisions to reorganize the many agencies in the Federal Government with responsibility for carrying out trade policy. I have long supported consolidating the various trade agencies into one Department of Trade and Industry, and I am disappointed that this proposal is not included in the final bill.

Finally, the Senate adopted my amendment which provides for a study of auto-producing countries' barriers to auto imports, and the effect these barriers have in terms of diverting foreign autos into the United States.

On the whole, the provisions in this trade bill move us in the right direction. America's workers, farmers, and businesses expect Congress to produce legislation that will enhance America's competitiveness in the international marketplace, and reduce the enormous trade deficits that are costing us jobs and profits. This bill will not solve all of our trade problems but it does give us some of the important tools to solving them.

Mr. STENNIS. Mr. President, I rise to speak today on a very important subject to the people of this country and to the citizens of my home State of Mississippi. I am referring, Mr. President, to our current international trade deficit.

As we all know too well, the foreign trade picture for the United States is unsettling to say the least. Our international trade deficit has increased each year since 1980. In 1986, the U.S. trade deficit reached an astounding $148 billion.

These statistics are bad enough. But, the real tragedy is the toll these figures have taken on the ability of individual American men and women to earn a decent standard of living. Our American history of vibrant international trade has been responsible in large measure for creating the highest standard of living the world has ever seen. Our dismal performance in that field this decade has resulted in an erosion of that position.

The trade deficit has had a particularly devastating effect in agricultural States such as Mississippi. Total U.S. agricultural exports have dropped from $40 billion in 1980 to only an estimated $25 billion in 1987. This dramatic drop in export markets has added to the woes of the already strapped American farmer and in many cases hastened bankruptcy and foreclosure.

In addition, over the past several years, thousands of workers in the textile and apparel industry have lost jobs due to the high volume of imports from other countries. Factories and manufacturing plants have been forced to close their doors because they could not compete with imported products, often unfairly subsidized and cheaply produced.

In Mississippi, a number of communities have been adversely affected by the closings of textile and apparel facilities from Tunica County in the north to Jackson County in the south. Approximately 130,000 Mississippians depend on the textile and apparel industries for their livelihood.

I have long been an advocate of free trade but, our country now faces an overwhelming situation. I believe, Mr. President, that we must act swiftly to meet the challenge of reversing this deteriorating trade situation. But, we must take measured steps to avoid making the cure worse than the disease.

Many segments of the U.S. economy—such as agriculture—are extremely import sensitive. We must fashion a resolution to our trade problems which will invite reciprocity, not retaliation. If we attempt to protect one segment of the American economy by inviting the creation of trade barriers for another, we have accomplished nothing more than a shifting of the burden of the trade deficit from one group of American workers to another.

Last week, the State of Mississippi announced a multi-million-dollar sale of agricultural products to the Republic of China. As you know, Mr. President, the Republic of China is running a trade surplus with the United States. I believe positive steps can be taken to reduce that surplus. But, those steps should concentrate on increasing U.S. exports. Draconian measures to reduce imports to the United States could have the unintended impact of reducing American agricultural exports and restricting overall international trade.

I use Mississippi agricultural exports to the Republic of China only as an example. Many other segments of the American economy are import sensitive and could be harmed if we had chosen an irrational response to this problem.

I applaud the work of the committees which has resulted in the Omnibus Trade Act of 1987. And I believe that as we have debated the various amendments to this bill, we have found that fine line between fair trade and protectionism—between reciprocity and retaliation.

So, Mr. President, I favor this strong trade bill. For the sake of the farmers and the factory workers we must pull together and support this workable solution to our common problem.

SECTION 337 TEMPORARY EXCLUSION ORDERS

Mr. LAUTENBERG. Mr. President, a number of questions have been raised regarding the provisions governing the temporary exclusion orders and the posting of bonds by petitioners, under section 337 of the Trade Act of 1930, as we amend it in this bill.

As the sponsor of subtitle A of title IV of the bill, I would like to discuss these issues with my colleague from Delaware, the other principal sponsor.

First, questions have been raised about the deadline by which the ITC must act on a request for a temporary exclusion order. Under current law, there is no deadline. Under the legislation, the Commission is required to rule on petitions for a teo within 90 days after the commencement of the investigation, with an extension of an additional 60 days for complicated cases.

I recognize that the new deadline is a tight one and that the issue of infringement of intellectual property rights can be a complicated matter. I want to make it clear, the ITC can utilize the 60 day extension in complicated cases when necessary to assure adequate presentation of evidence by all parties on whether a teo should or should not be issued.

While I can imagine patent or other intellectual property cases that would warrant the extra 60 days, I am aware of cases that would not, such as a case involving the piracy of a copyrighted character depiction like Gremlins or Mickey Mouse or a relatively straightforward patent case.

Another issue pertains to when a bond should be required of a petitioner. The bill provides the ITC with discretion to require a petitioner to post a bond as a condition for the temporary exclusion order. Under current law, no such bond can be required of the petitioner, while a respondent may post a bond in order to continue to ship product to the United States, notwithstanding the temporary exclusion order.

By allowing the ITC to require a bond from the petitioner we give the ITC a tool to overcome hesitation to grant TEO's. On the other hand, we give it a tool to weed out unjustified requests for TEO's. The ITC should require the complainant to post a bond where it is necessary to prevent harm to the respondent. The ITC should consider a number of factors: How much will the respondent be harmed? How strong is the petitioner's case? Would posting a bond impost an undue hardship on the petitioner? Has the respondent failed to answer the motion for temporary relief? These, of course, are not the only factors. The Commission may determine, in light of all the legal and equitable considerations in a case, that the requirement to post a bond is or is not warranted.

Bonds posted by petitioners, if forfeited, would revert to the Treasury in the same way as bonds now posted by respondents.

Third, Mr. President, questions have been raised about the standard the ITC should apply in determining whether to grant temporary exclusion orders. While I think the bill itself is fairly clear on this point, I am happy to amplify our intent. The bill states that the ITC may grant TEO's to the same extent as preliminary injunctions and temporary restraining orders may be granted under the Federal Rules of Civil Procedure.

The Commission should look to the standards and procedures employed by the Federal district courts when they decide whether to issue preliminary injunctions.

So that there is no misunderstanding, in order to obtain a preliminary injunction in Federal court, a plaintiff must make a number of showing. He must demonstrate a substantial likelihood of success on the merits of his complaint; that he will suffer irreparable injury in the absence of the requested preliminary injunction; that the plaintiff's injury outweighs any injury to the defendant caused by the award of preliminary relief; and that the public interest does not militate against issuance of preliminary relief.

These established criteria were set forth by the United States Court of Appeals for the District of Columbia Circuit in *Washington Metropolitan Area Transit Authority* v. *Holiday Tours, Inc.*, 559 F. 2d 841 (D.C. Cir. 1977), and are routinely followed in all cases in which preliminary relief or a temporary restraining order is sought. Their application in the intellectual property right context was set forth by the Court of Appeals for the Federal Circuit in *Smith International* v. *Hughes Tool Co.*, 718 F. 2d 1573 (Fed. Cir. 1983), which is cited with approval on page 131 in the Senate Finance Committee report accompanying this omnibus trade bill.

I understand that by rule the Commission follows this standard in reviewing motions for temporary exclusion orders. Our intent is that the Commission would continue to use the same criteria that it uses now. Except, of course, the Commission would no longer assess injury to a domestic industry. Instead, it should be looking at injury to the petitioner, in reviewing a request for temporary relief.

Mr. President, I hope I have resolved these questions. I hope my colleagues concur in my description of the intent and meaning of these provisions.

Mr. ROTH. I concur with the remarks of my distinguished colleague from New Jersey [Mr. LAUTENBERG].

Mr. PACKWOOD. Mr. President, the Senator from New Jersey has accurately reflected the Senate's intent.

Mr. BENTSEN. Mr. President, I concur as well.

THE HARMONIZED SYSTEM

Mr. MOYNIHAN. Mr. President, the Senate has approved amendment No. 336 offered by my colleague, Senator MATSUNAGA, to provide for expedited consideration of a bill to implement the harmonized commodity description and coding system for a new Tariff Schedule. I share Senator MATSUNAGA's desire to have the United States in a position to implement the harmonized system along with the more than 40 other participating countries by the January 1, 1988, target date.

Senator MATSUNAGA said he was comfortable with the fast-track approach because of the extensive consultations that the U.S. Trade Representative has conducted with the private sector during the harmonized system negotiations. Additionally, he noted that in his capacity as chairman of the International Trade Subcommittee he had conducted a hearing on the harmonized system where support for speedy implementation was virtually unanimous.

These two factors, coupled with the administration's desire to have conversion to the harmonized system be as trade neutral as possible has led to the assumption that there are no latent problems with the conversion to the new system. However, one rather obscure and obviously unintended problem has recently been brought to my attention. Conversion to the harmonized system will result in a change in the current exempt status of electricity. On its face, this is of no consequence particularly since the Government's intent in altering the status of electricity was first, to accommodate our European trading partners and second, to collect statistics on electricity imports. Consistent with this intent, the Government has gone to some length to insure a special status for electricity. I believe, however, that it will be up to the Congress to restate its intention regarding the treatment of electricity under U.S. trade laws in order to fully insure that the status of electricity as a result of adoption of the harmonized system will truly be unchanged save for the record keeping envisioned by the Government.

Mr. President, I hope that we can proceed expeditiously with the adoption of the harmonized system and I believe that clarification of congressional intent during the conference on this legislation will enhance the likelihood that the United States will, in fact, be able to meet the January 1, 1988 implementation date for the harmonized system.

Mr. CHAFEE. Mr. President, I share the concerns of my distinguished colleague from New York [Senator MOYNIHAN]. The traditional treatment of electricity under the U.S. trade laws needs to be restated and clarified in order to insure that changes in law necessitated by the adoption of the harmonized system are, in fact, trade neutral.

Although January 1, 1988 is several months away, given the nature of the process there is not much time left if the United States is going to meet the target date.

Mr. BENTSEN. Mr. President, I appreciate the views of my colleagues and you can rest assured that I will be mindful of them during the conference. I believe that a clarification of the intent consistent with the traditional treatment of electricity under U.S. trade laws is a necessary step toward implementation of the harmonized system regardless of the procedural approach for implementation finally agreed upon by the conference.

Mr. PACKWOOD. Mr. President, I would like to join with the chairman of the Senate Finance Committee, Senator BENTSEN, in assuring my colleagues that I too will be mindful of their views during the conference.

INTENT BEHIND SECTION 304

Mr. ROTH. Mr. President, I would like to pose a question to the chairman of the Senate Finance Committee with respect to section 304(b) of the Trade Act of 1979. Under section 304 certain actions are required to be taken by the United States in response to the unfair trading practices of our trading partners. Section 304(b)(3) of the bill lists certain exceptional cases under which the President is not required to take action. The first exception listed under section 304(b)(3) is where the decision made by the U.S. Trade Representative conflicts with a ruling issued by the General Agreement on Tariffs and Trade or under the formal dispute settlement procedures provided under any international trade agreement other than the GATT.

As I am sure the chairman is aware, the United States has a bilateral trade agreement with at least one major trading partner whereby both parties essentially agree to follow GATT rules on tariff and nontariff matters. This parallel GATT-like agreement is required because at least one of our trading partners is prohibited for political reasons from joining the GATT.

I would like to obtain the assurance from the chairman that the intent of section 304(b)(3) is to treat all similarly situated trading partners alike with respect to the mandatory retaliation that may be required to be taken under section 304. All other things being equal, the United States should not retaliate first against a non-GATT trading partner if we have a trading agreement with that country whereby both sides are bound by GATT rules and procedures. Is my understanding of section 304(b)(3) correct?

Mr. BENTSEN. Yes; that is my understanding of the intent behind section 304.

Mr. LEAHY. Mr. President, I rise today to urge the Senate to adopt S. 1420, the Omnibus Trade Bill.

While there are many provisions of this bill with which I do not agree and which need improvement, this legislation is vital to restoring American competitiveness and reversing our record $170 billion trade deficit.

Only recently we learned that our trade balance was again taking a turn for the worse. The monthly trade deficit for May broke a new record. All of us agree that the situation is critical.

The survival of basic American manufacturing industries is at stake. Jobs and livelihoods are held in limbo. Every $1 billion increase in our trade deficit costs more than 30,000 Americans their jobs. Democrats and Republicans agree that something must be done.

The first step toward restoring America's competitiveness is reopening markets abroad for U.S. products. Unfair foreign trade barriers cost U.S. workers, farmers, and businesses more than $20 billion a year. Japan's unfair trade barriers conservatively cost the United States more than $1 billion annually, according to the Joint Economic Committee.

This bill tackles unfair foreign trade barriers with great determination. The process by which the Government responds to unfair trade barriers is streamlined and our negotiators at the upcoming round of GATT negotiations are provided the leverage they need to tear down illegal barriers to U.S. products and commodities.

In general, the bill shuns protectionism and instead beefs up our own trade laws to ensure that U.S. businesses, workers, and farmers can compete fairly in international markets. I am concerned, however, that the bill does not grant the President adequate flexibility in enforcing the new, tough trade laws created in it.

While I voted against the Packwood amendment to permit the President to deny import relief to American industries if it threatened the so-called national economic interest, I supported the efforts of Senator **Bradley** and others to grant the President some measure of flexibility in these cases. I was pleased that the Senate approved an amendment to permit the President to deny import relief to an industry, if imposing such tariffs or quotas might hurt consumers, especially poor consumers. The Packwood amendment gave the President too much discretion and granted industries too little comfort that relief would be granted if they can convince the ITC to recommend relief. I urge the conferees on this important measure to work toward a compromise on a new import relief procedure, which better serves injured industries without completely denying the President needed flexibility.

One provision of this bill, in particular, merits the support of the Senate. That is the requirement that firms must submit adjustment plans in order to gain import relief. Import relief must only be granted in extraordinary cases, where temporary protection will enable American firms to retool, reinvest, and make an economic comeback. This process is sanctioned by the GATT. The trade bill will ensure that U.S. industries develop workable plans to become competitive following a temporary period of import relief.

Mr. President, I am concerned that a number of extraneous provisions were added to this measure which have little to do with U.S. competitiveness or our trade balance. In particular, I voted against repealing the windfall profits tax, which protects Vermonters and all Americans from artificially high oil and gasoline prices. Energy costs are the No. 1 household expense in my State. The windfall profits tax is the last line of defense against even higher home heating oil prices for Vermonters. I hope the conferees will drop this extraneous, ill-conceived provision.

I was proud also to cosponsor a successful amendment to strike the provisions of the trade bill which may have given the President authority to unilaterally impose an oil import fee. That new tax would cost Vermonters and all New Englanders dearly. It is bad energy policy, bad trade policy, and bad fiscal policy. I am pleased that we were successful in eliminating this troublesome proposal.

The Senate trade bill also goes a long way toward improving science education and research and improving the education of working Americans. Basic research and an educated work force are crucial to competing in the international marketplace.

The trade bill also makes major improvements in the trade adjustment assistance programs which provides extended unemployment compensation to workers who have lost their jobs due to unfair trade practices and increased imports. Most notably, the bill extends the weeks for which workers are eligible for assistance and, in return, requires workers to participate in job retraining programs—improved programs which will truly help workers adjust to changes in the international economy.

I am very concerned, however, about the method used to finance this new, improved TAA Program. The Senate trade bill calls for an across-the-board import fee to finance the TAA Program, if the administration can gain approval from the GATT to implement the fee. I believe an import fee should be a financing scheme of last resort. I urge the conferees on the trade bill to find a more appropriate means to finance this program. The TAA Program should be adequately funded, but should not be a blank check. An amendment was offered to cap the TAA Program at $400 million. I joined a majority of the Senate in voting against this amendment, not because I believe in limitless spending, but because the Senate needs time to study how much should be invested in this program before deciding to establish a set limit on spending.

I have similar concerns about those provisions of the bill which authorize talks to create an international institution to address the growing problem of Third World indebtedness. We must act swiftly and judiciously to break the cycle of debt in the developing world. I question, however, whether a new international bureaucracy is the answer. I also have grave doubts about whether taxpayer dollars should be used to fund this new institution.

In all, however, Mr. President, the Senate trade bill deserves our support. It will be especially effective in reducing and eliminating unfair barriers to U.S. trade. This measure, alone, however, will not right our current trade imbalance. We must make a concerted effort to reduce the Federal deficit and stabilize the dollar, and work hard to create growth and new markets for U.S. products by finding an equitable solution to the Third World debt crisis. Indebtedness has forced some of our best customers to cut off imports. This bill is an important component of what must be a multifaceted effort to make the United States more competitive.

Finally, Mr. President, I wish to congratulate the chairman of the Finance Committee, Senator **Bentsen**, and all those involved in developing this important legislation. This measure enjoys bipartisan support and, above all else, will help create new jobs in this country. I urge the adoption of the bill.

DIVERSIONARY DUMPING

Mr. HEINZ. As I said in my opening statement, Mr. President, the bill reported by the committee misses an opportunity to attack unfair trade practices more aggressively through reform of our antidumping and countervailing duty laws. We should not forget the purpose of these laws. They address unfair trade—market-distorting practices nations have committed not to engage in through their signing of the GATT codes.

These laws are not punitive. The duties imposed are compensatory, designed to offset the effect of the market-distorting practice. Thus these laws are ultimately market-reinforcing because they encourage nations not to subsidize and companies not to dump. Tightening these laws tightens market discipline without punitive action against the offenders.

Moreover, these statutes require an injury test. In other words, a finding of dumping or subsidy by itself is not sufficient to permit any action—except in the relatively infrequent case of a subsidy complaint against a country that has not signed the subsidies code. The ITC must also determine that a domestic industry has been materially injured or threatened with injury.

The antidumping and countervailing duty laws were last rewritten 8 years ago. Since then there has been a growing number of cases, and the system has become routinized as a growing body of lawyers become familiar with it and learn how to use it to their clients' advantage. In other words, people are learning how to evade these laws—the practice of diversionary dumping is an excellent example. This is neither an unusual nor unexpected development; what would be unusual would be our failure to respond to it. We need to plug loopholes and unintended consequences in the law that have been discovered and exploited over the past 8 years.

A particularly important part of the evasion problem is diversionary dumping. It occurs when products that are sold at dumped prices are further processed or are used as components in downstream products. Diversion is likely to be a growing problem as the value of the dollar declines, since more and more foreign producers will be tempted to dump in order to maintain their market share. For example, let me cite a few areas where diversion is already a serious problem:

Japanese fiber producers have sought to avoid dumping duties on spun acrylic yarn of between 18 and 29 percent by shipping raw fiber to less developed Southeast Asian countries for processing into yarn. The yarn was then exported to the United States as a product of the LDC, eligible for duty-free treatment;

Imports of screw machine products, which are made from hot-rolled and cold-finished steel bar which has been subject to a number of antidumping cases, including cases on imports from Spain, Brazil, and South Africa, have increased about 50 percent since 1979;

The European Community more than doubled its shipments of cold-finished bar when restraints were placed on that product's raw material, hot-rolled bar, following an affirmative subsidy finding;

A number of schemes have surfaced recently in which steel from countries under quota agreements is to be diverted for processing in nonagreement countries, including for example, a proposal to ship steel sheet from Brazil, which had been subject to a dumping finding prior to the imposition of restraints, to Panama for transformation into oil-country goods;

A 1983 dumping duty of 9.79 percent on carbon steel wire rod from Trinidad and Tobago was evaded by shipping the wire rod to the Bahamas for processing into wire;

Korean producers of photo albums are attempting to avoid paying dumping duties of over 60 percent by, among other things, shipping components to other countries for assembly.

More generally in the steel industry there have been a number of changes in the market which lead analysts to believe diversion is occurring, although no recent dumping complaints have been brought due to the existence of the President's Steel Program:

Imports of nine key categories of forgings have increased by almost 75 percent since 1981;

Imports of ball and roller bearings have increased by over 25 percent above the 1978–83 average; and

Overall, the steel content of U.S. imports increased 135 percent from 1977 to 1984.

Mr. BENTSEN. The Senator from Pennsylvania is quite right in his description of this problem and its serious nature. The Congress attempted to address diversionary dumping in the Trade and Tariff Act of 1984 when both House and Senate adopted provisions on the subject, but both were dropped in conference. We did, however, enact language covering subsidized inputs, which, of course, addresses only part of the problem.

The Europeans have also begun to encounter diversionary dumping and have recently adopted anticircumvention provisions of their own.

During markup of the trade bill, the Finance Committee adopted a program of measures intended to attack some aspects of circumvention and diversion. I note that the House has also adopted a provision on diversionary dumping which is similar to the one that was contained in S. 490 as introduced. Thus we will have an opportunity to address this problem in conference, and I can tell the Senator from Pennsylvania that the conferees will do their best to fashion a provision that will effectively attack diversionary dumping.

Mr. HEINZ. I appreciate that response both with respect to the importance of the problem and your willingness to find a solution to it. Although it is not unique to this sector, the problem is particularly serious in steel and downstream products. Castings, forgings, metalworking, and hand tool industries, among others, have been shown to be especially vulnerable since the President's Steel Program has imposed limits on many imports of basic steel products. I hope the Senator from Texas will focus his efforts on this sector in particular.

Mr. BENTSEN. I am well aware of the diversionary dumping problem because of some experiences Texas steel companies have had, and I think it makes sense that whatever we do in conference should address those areas where the problem is the most serious.

Mr. HEINZ. Much of the discussion about the proposal in the House bill has focused on its GATT consistency. The Senator from Texas has been kind enough to review a recent legal opinion by a noted international legal scholar, Andreas Lowenfeld, that concludes not only that my proposal has no GATT problems, but that in fact there is precedent for it, both in European Community and U.S. law and practice. I wonder if the Senator would care to comment on this report, and, Mr. President, I ask that the text of it be printed in the RECORD at the conclusion of our colloquy.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BENTSEN. Professor Lowenfeld is a respected legal scholar, and he makes a good case for the provision's GATT consistency. As the Senator from Pennsylvania knows, of course, this is not a matter where there is consensus, but I can assure him we will continue to study the Lowenfeld document carefully and will not simply accept unfounded assertions—from either side—on this subject.

Mr. HEINZ. Another argument made against the House proposal relates to its administrability. The original provision in S. 490 would have allowed the use of the Commerce Department's standard constructed value analysis in diversionary dumping cases.

Obviously, this is not a routine dumping investigation, but I believe it is well within the current capacity and experience of the Commerce Department to administer. They may not want to administer it or do the work required, but that by itself is not a comment on whether or not the provision can be administered. Several ways to handle the administrability problems are:

First, defining carefully the situations in which the provision can be applied, by restricting its use to cases where the input has already been dumped in the United States and where there is some evidence that diversion is occurring, as manifested by reduced shipments of the input to the United States and increased shipments of it to the end product manufacturing country;

Second, making clear that it applies in cases where the input product is a significant part of the end product in terms of value or content;

Third, providing that the administering authority is not restricted to relying on the dumping margin previously found in the U.S. case but can instead use the best available evidence for determining it, including information supplied by the respondents.

Would the Senator agree that these limitations would improve the provision's administrability?

Mr. BENTSEN. I appreciate the efforts by the Senator from Pennsylvania to formulate an administrable provision to address diversionary dumping. The limitations he refers to improve the provision's administrability as compared to earlier proposals. Let me assure him that the conferees will keep in mind those aspects of the provision that specifically address the administrability question.

Mr. HEINZ. I appreciate the Senator's comments, his recognition of the seriousness of the problem, and his willingness to be helpful in conference on this matter.

EXHIBIT 1

NEW YORK UNIVERSITY,
SCHOOL OF LAW,
New York, NY, June 19, 1987

Re: Diversionary input dumping proposal and GATT.

Hon. LLOYD M. BENTSEN,
Chairman, Committee on Finance, Senate, Washington, DC.

DEAR MR. CHAIRMAN: At the request of the Trade Reform Action Coalition, I have prepared a legal analysis of the proposed Diversionary Input Dumping amendment, as adopted by the House of Representatives in § 156 of H.R. 3, the proposed Trade and International Economic Policy Reform Act of 1987, and as set forth in of S. 490 as originally introduced.

As you will see, my conclusion is that the proposal does not offend against either the GATT or the International Anti-Dumping Code. While the proposal is in some ways novel, there are precedents both in exiting U.S. law and in the practice of other states, notably the European Community. For these reasons, I do not believe there is an impediment to its passage under international law.

Sincerely,
ANDREAS F. LOWENFELD,
Charles L. Denison,
Professor of Law.

NEW YORK UNIVERSITY,
SCHOOL OF LAW,
New York, NY, June 22, 1987

Re: Diversionary input dumping proposal and GATT.

Hon. LLOYD M. BENTSEN,
Chairman, Committee on Finance, Senate, Washington, DC.

DEAR MR. CHAIRMAN: I write at the request of the Trade Reform Action Coalition to give you my views on the legality under the General Agreement on Tariffs and Trade and the GATT Anti-Dumping Code of 1979 of proposed § 156 on Diversionary Input Dumping, as passed by the House of Representatives as part of H.R. 3, the proposed Trade and International Economic Policy Reform Act of 1987, and as set forth in § 314 of S. 490 as originally introduced. This letter is addressed solely to the compatibility of the proposal with the GATT and other international obligations of the United States.

1. QUALIFICATIONS

I am the Charles L. Denison, Professor of Law at New York University School of law, specializing in International Law, International Economic Transactions, and Conflict of Laws. I am the author of a six-volume series of books on International Economic Law (Matthew Bender 1975–79, 2d ed. 1981–84), including *Public Controls on International Trade* (1979, 2d ed. 1983), devoted principally to the GATT and United States trade law, as well as of numerous articles dealing with international trade law. I have served for the past eight years as Associate Reporter of the American Law Institute's *Restatement (Third) of the Foreign Relations Law of the United States,* with particular responsibility inter alia, for Part VIII, Selected Law of International Economic Relations. Prior to joining the faculty of law at New York University School of Law, I served in the U.S. Department of State as Special Assistant to the Legal Adviser, Assistant Legal Adviser for Economic Affairs, and Deputy Legal Adviser (1961–66). I would add that I am not one of those who regards the GATT as "irrelevant," "passé", or "merely a forum for debate." My books, articles, lectures, and participation in various committees—for instance at the Council on Foreign Relations and the American Society of International Law—all demonstrate my serious commitment to the GATT as the legal framework for the greatest growth in prosperity over four decades (1947–87) that the world has known. I believe the GATT is an important, and binding set of obligations; like the U.S. Constitution, however, the GATT is not enhanced when its provisions are sought to be stretched to restrain actions of states not covered in the document.

The Proposal

As I understand the proposal, it is an effort to plug a hole in the United States' defense against dumping, by treating as dumped merchandise products containing major components that were sold to the manufacturer of the finished product at less than fair value. Specifically, a product imported from country *B* would be subject to an antidumping duty if it were shown that that product contains a major component imported from country *A* into *B* at less than fair value (when that component has been previously subject to a dumping finding under § 731 of the Trade Agreements Act of 1979, 19 U.S.C. § 1673), even though the first test of sale at less than fair value—sales of the finished product for export at less than the home market price in *B*—has not been met.[1]

Postponing for the moment the technical analysis of the proposal, in concept the object is to preclude evasion of a duty that has been imposed on direct imports after procedures not subject to challenge. The proposal is thus analogous to antidiversion notices (and punishment for violation thereof) in export controls. The United States may permit export of strategic commodities (or technology) to say, firms established in the member states of the European Community but not to the Eastern bloc; if a firm in Europe, having imported the controlled product from the United States exported it to say, the Soviet Union, that would be an unlawful diversion, and would subject the firm to having its export privileges in whole or part suspended, i.e., to being restrained as to the products it could purchase from the United States for use abroad. The device to which the proposal here under discussion is directed in the reverse: an import forbidden to be made directly (or to be more precise, permitted only subject to a special antidumping duty) is sought to be made indirectly through use of an intermediary in a third country. If the item were simply re-exported by a firm in Country *B* without change, there is no doubt under existing law and international rules that the antidumping duty previously imposed could continue to apply;[2] the proposal seeks to ensure that, just as in the field of export control, using a controlled component in an assembled product does not avoid a prohibition against re-export,[3] so in the field of import controls using as a major material or component a product determined to be unfairly traded would not avoid the remedies imposed against unfair trade.

Legal Challenges to the Proposal

As I understand it, the legal challenge to the proposal has two aspects. On the one hand, the argument is made that antidumping duties, though permitted in Article VI of the GATT, are an exception to the general rule of bound duties and most-favored-nation treatment of imports, and thus may not be extended to situations not expressly provided for in Article VI, or in the Agreement in Implementation of Article VI, i.e., the Anti-Dumping Code of 1979 adopted in the Tokyo Round of Trade Negotiations, 31 U.S.T. 4919, TIAS 9650. If duties to protect against diversionary import dumping are not expressly authorized, the argument runs, they must be prohibited.

On the other hand, the argument is made that antidumping duties are authorized only to protect "like products" in the country of importation against unfair competition, and thus that unfair trade in a component cannot justify imposition of an antidumping remedy against the finished product.

I shall address each of these arguments in turn.

1. THE "NEW REMEDY" ARGUMENT

There is no doubt that the GATT was intended to restrain member states in the measures they could take to inhibit trade, or to discriminate among trading partners.[4] But even as it was designed to strengthen the role of market forces in international trade, so it was designed to prevent unfair trade from distorting these market prices. One of the ways that the framers of the GATT sought to distinguish fair from unfair trade, following the example of the United States Antidumping Act of 1921,[5] was to authorize importing states to impose antidumping duties on sales at less than fair value, i.e., sales at less than the normal value in the home market, provided such sales could be shown to be a causing or threatening material injury to an established domestic industry. GATT Article VI.[6]

It was realized from the beginning that comparison between home market and the export price would be extremely difficult. Not only did exchange rate fluctuations, transport charges, packing and handling charges, commissions and discounts, and differences in accounting practice and tax regimes make the required price comparisons problematical, calling, in the words of GATT Article VI(1) for "due allowance." Moreover, it was understood from the beginning that the difficulty of comparing the relevant prices could be used both to justify protection where remedial action would not be justified, and to avoid remedial action where such action was justified.

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[1] For purposes of clarity, I have described the proposal as involving re-export from country *B*, i.e., a country other than Country *A*, the country of origin of the unfairly traded product or component. The argument is unchanged if an unrelated firm in country *A* purchases the unfairly traded product for resale to the United States.

[2] See International Anti-Dumping Code, 1979, Article 2(3), discussed below; U.S. Commerce Department Regulations, 19 C.F.R. § 353.21.

[3] See, e.g., *Raytheon Manufacturing Co. et al.,* 24 Fed. Reg. 2626 (1959), reproduced and discussed in A. Lowenfeld, *Trade Controls for Political Ends* 30–34, 66–67 (2d. Ed. 1983).

[4] See generally G. Curzon, *Multilateral Commercial Diplomacy, The General Agreement on Tariffs and Trade and Its Impact on National Commercial Policies and Techniques* (1965).

[5] Which was in turn modeled on Canada's Anti-dumping Law.

[6] I abbreviate the injury test somewhat in order not to be diverted from the principal discussion; material retardation of a new domestic industry is also within the definition of injury in Article VI(6)(a).

Accordingly, the GATT provided for three alternative definitions of the "normal value" against which the challenged export price would be measured: (i) the home market price, if that was meaningful and reliable; (ii) the price of sales to third countries in the ordinary course of trade; and (iii) constructed value based on the cost of production plus a reasonable addition for selling cost and profit (Article VI(1)). In addition, an Interpretive Note prepared at the time of drafting the General Agreement took up the subject of "hidden dumping," i.e., the sale by an exporter in country *A* to an importer in Country *C* associated with the exporter in some way, whether by common ownership, by some arrangement for compensatory payments, or otherwise. The idea was that the first importer might purchase the product at a price that was not below the normal market value, and then resell it at a lower price. The drafters of the GATT recorded their understanding that though the literal definition of dumping might not be satisfied in such cases, because the product had not, in the words of Article VI(1), been "introduced into the commerce of another country" at less than normal value, the economic harm to which Article VI is addressed would have occurred and (assuming the injury requirement were satisfied) remedial action would be justified. GATT Annex I, Interpretive Note ad Article VI, para. 1.[7] The understanding was confirmed in the authoritative Report of the Group of Experts on Anti-Dumping and Countervailing Duties adopted by the GATT Contracting Parties in 1959,[8] and incorporated in expanded form into the International Antidumping Code adopted in 1967 and revised (but not in this respect) in the Tokyo Round as the Anti-Dumping Code of 1979. (1967 Code, Article 2(e); 1979 Code, Article 2(5).

The Group of Experts who reviewed the functioning of Article VI of the GATT saw that there were other routes to evade the antidumping rules, such as "indirect dumping," where a product originating in Country *A* is shipped to country *B*, and then from *B* to *C*.[9] If Article VI(1) of the GATT were read literally as a limitation on *C*'s remedies, *C* would have to compare the export price to the normal value in *B*. The Group of Experts, however, "were generally of the opinion that it was reasonable for countries to have the right to protect themselves against indirect dumping. . . ."[10] When the Anti-Dumping Code came to be drafted a few years later, that conclusion was written into law.

The 1967 Code provided in Article 2(c) that the price at which the products are sold from the country of export to the country of import shall *normally* be compared with the comparable price in the country of export. "However, comparison may be made with the price in the country of origin if, *for example*, the products are merely transshipped through the country of export, or such products are not produced in the country of export, or there is no comparable price for them in the country of export." (Emphasis supplied). Again, the provision in the 1967 Code was incorporated verbatim into the 1979 Code. I believe the words "for example" are significant. The authors of the Anti-Dumping Code, and the states that adhered to it—twice, twelve years apart—understood that hidden dumping and indirect dumping were not closed categories capable of all-inclusive definitions, but were concepts that could be communicated by way of illustrations. The concepts are clear: There is to be a comparison between normal value and the price at which a product is introduced into the importing country. Whatever distorts that comparison—whether sales between affiliated enterprises, or sales via third countries, or some other form of distortion—is to be recognized, with a view to making an appropriate adjustment. In my judgment, "diversionary input dumping," properly defined and limited, is another "example," fitting within the general, internationally agreed, effort to combat dumping, whatever form it may take.

The use of the phrase "merely transshipped" in the quoted excerpt from the Anti-Dumping Code reflects, of course, a preoccupation that the concern to flush out examples of disguised dumping not be used as a general warrant for extra protection or discriminatory application of import laws. An independent producer in country *B*[11] is entitled to procure components for his product at the best prices available, without going through the often laborious exercise of comparing the price of each of his inputs with "normal value" according to data assembled in Country *C*. As I understand the proposed legislation, three safeguards against abuse of the concept of diversionary input dumping are built into the amendment.[12] First, the component must be a *major* component; I have not seen a precise figure attached to the legislation, but I would understand that the term to mean at least "having greater value than any other," or possibly "having greater value than all other inputs in the aggregate." Thus, for example, the picture tube in a television set, but not the dials, or the motor but not the airbag in a vacuum cleaner would qualify.[13]

Second, there must have been a prior finding that within a recent period the component product had been sold at less than fair value in the United States, or in certain cases, than an antidumping proceeding had been terminated by agreement following a preliminary affirmative determination.

Third, here must be solid evidence that diversion has actually taken place, i.e., that imports of the major material or component have declined while imports of the finished product have increased.

In my view, these three safeguards are necessary to make the proposal consistent with the GATT and the International Antidumping Code. With these three safeguards, *I do not believe the Diversionary Input Dumping proposal offends either against the GATT or against the International Anti-Dumping Code.*

2. THE "LIKE PRODUCT" ARGUMENT

As I understand it, this objection to the Diversionary Input Dumping proposal is that it would impose antidumping duties on a finished product on the basis of a sale at less than fair value of a component. The argument is that the proposed legislation would offend against the text of Article VI(1) of the GATT, which calls in the first instance for a comparison between the price of the product exported from country *A* to country *C* with "the comparable price in the ordinary course of trade for the *like product* when destined for consumption in the exporting country . . ."

I believe this criticism is a play on words without significance in international trade law.

The term "like product" appears in many provisions of the GATT, including most prominently Article I (1), which calls for most-favored-nation tariff treatment.[14] A country is not supposed to create a preference or deny a benefit by making invidious distinctions.[15] In dumping context, the concept of "like product" appears twice, once in describing the required price comparison between home market sales and the challenged sales in the country of import (GATT Article VI (1); Anti-Dumping Code Article 2), the other time in defining the industry in the importing country asserted to be materially injured or threatened with injury (Anti-Dumping Code Article 3). Plainly if home market sales or third country sales are of a different product from that challenged in an antidumping proceeding, the price comparison becomes meaningless; on the other hand, small differences, not affecting costs or market, should not be permitted to lead to evasion of dumping rules. For instance, if English and Japanese automobiles sold for home consumption have the steering wheel and driver's controls on the right side while automobiles exported to the United States and continental Europe have the steering wheel and the driver's controls on the left side, a comparison between home market and export prices would not be meaningless and would clearly be subject to the GATT rules. The Anti-Dumping Code recognizes this, by interpreting the term "like product" as a product which is identical . . . to the product under consideration or in the absence of such a product, another product which although not alike in all respects, has characteristics closely resembling those of the product under consideration." (Anti-Dumping Code Article. 2(2))[16] On the other hand, if the steering wheels on the English and Japanese automobiles were alleged to have been purchased in the country of manufacture for less than fair value, inclusion of such a minor component, even if unfairly traded, would not subject the automobiles in question to anti-dumping duties in the country of import.[17]

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[7] For discussion of the authoritative value of Interpretive Notes to the GATT, see J. Jackson, *World Trade and the Law of GATT*, p. 20 (1969).

[8] GATT Doc. L/978, repr. in GATT, Basic Instruments and Selected Documents (BISD) 8th Supp. p. 145 (1960) esp. para. 6.

[9] See Report of Group of Experts, note 8 supra para 11.

[10] Ibid.

[11] Or indeed in Country *A*, see note 1 supra.

[12] See *Trade and International Economic Policy Reform Act of 1987*, Report of the House Comm. on Ways and Means to Accompany H.R. 3, H.R. Rep. No. 100-40, Pt. I, 100th Cong. 1st Sess. pp. 135-38 (April 6, 1987.)

[13] Possibly a clarification of the term "major material or component" would be useful as part of the legislative history.

[14] See also, inter alia, Articles II(2)(a) (internal taxes); III(2) and (4) (national treatment); IX(1) (marks of origin); XI(2)(c) (quotes on agricultural products); XIII(1) (nondiscrimination in implementing import quotas); XVI(4) (prohibition on export subsidies). See generally, J. Jackson, *World Trade and the Law of GATT* 259-64 (1969).

[15] To take a famous illustration from an earlier day, Germany entered into a treaty with Switzerland that reduced its tariff on cattle reared at least 300 meters above sea level and having at least one month's grazing each year above 800 meters, qualifications beyond the capacity of cattle in Denmark and the Netherlands. Under the "like product clause in Article I of the GATT, Danish and Dutch cattle would be entitled to the benefits of the concession given by Germany to Switzerland.

[16] Compare the definitions in the U.S. law, 19 U.S.C. 1677 (10), and in the EEC Regulations, Council Regulations (EEC) No. 2176/84 of 23 July

Section 576 H.R. 3, as I understand it, is directed to a quite different set of facts. The gravamen of a complaint under that section would be that the finished product was being sold at less than fair value, and that such sales were causing injury to the producers of the same finished product in the United States. When the major component of the finished product has been subject of a prior dumping proceeding and there is evidence of diversion, the law would say that there is evidence that the required comparison in country B between home market and export price would not yield a reliable indication of whether the product—the finished product—was being fairly traded. At that point, the law—international as well as domestic—calls for using constructed value, i.e., the sum of the cost of materials, of fabrication, and of general expenses and profit. (GATT Article 1(b)(iii), Antidumping Code Article 2(4).) What the proposal would do is to say in the stated circumstances, the calculation of constructed value is itself not reliable, and must be subjected to scrutiny and adjustment. When the adjustment is completed, in case of an affirmative determination by raising the cost of materials ingredient in the constructed value of the finished product, that figure would be compared with the United States price—i.e., finished product compared with finished product. *My conclusion is clear that* while at an intermediate stage there would be focus on inputs, *at the stage of making the crucial comparison between fair value and U.S. sales, there would be no departure from the "like product" standard in the GATT and the Anti-Dumping Code.*

3. PRECEDENTS FOR A DIVERSIONARY IMPORT DUMPING LAW

(a) The Related Parties Clause

A step toward the proposal reviewed here was taken in adoption of § 773(e) (2) and (3) of the Trade Agreements Act of 1979, 19 U.S.C., § 1677b(e) (2) and (3), which provides that in the calculation of constructed value, transactions between related parties may be disregarded, "if, in the case of any element of value required to be considered, the amount representing that element does not fairly reflect the amount usually reflected in the market under consideration." Thus suppose a challenged product manufactured in country B is subjected to a constructed value test because there is no meaningful home market and third country sales are insignificant. The product uses components m, n, o, and p, but component n is purchased from a related party. The actual cost of component n may be disregarded, and the cost of goods element of constructed value would consist of the cost of m, o, p, and a constructed subvalue calculated "on the best evidence available as to what the amount (paid for n) would have been if the transaction had occurred between [unrelated parties]."[18] Though there is no corresponding provision in Article 2(4) of the International Anti-Dumping Code, which spells out the authorization for use of constructed value contained in Article VI(1)(b) of the GATT, there has been no challenge, so far as I know, to the "related parties" provision in the Trade Agreements Act of 1979.

What the proposal here under review would do is to use a constructed subvalue in calculating constructed value not just in the case of inputs whose costs are unreliable because they were furnished by related parties, but also in the case of inputs furnished by unrelated parties where the costs were unreliable for other reasons—i.e., a prior dumping finding and evidence of diversion.

(b) Adjustments in the Trigger Price Mechanism

The Trigger Price Mechanism used to moderate the import of steel products in the period 1978-80 was founded—both under U.S. law and under international law—on the concept of dumping.[19] The U.S. Department of the Treasury, which was then the administering authority, regularly determined and published costs of production (including general expenses and profit) of the most efficient producers for a series of steel products. Any firm exporting steel to the United States at less than these "trigger prices" would be presumed to be selling at less than fair value, subject to establishing that its costs were actually lower; any firm exporting steel to the United States at or above the published prices would be presumed to be selling at fair value, and thus shielded (as long as the system held up) from antidumping actions.

The initial data on which the trigger prices were based were furnished to the Treasury Department by the government of Japan on the basis of submissions by the six largest Japanese steel companies. Shortly after the initial regulations were promulgated in December 1977, the Treasury Department appointed a Steel Trigger Price Task Force to review the data, and to consider "possible adjustments to the average costs as well as individual product cost relationships and 'gaps' and 'anomalies' in product coverage."[20] One of the anomalies pointed out was that the price of hot rolled steel bars, as reflected in the trigger price, appeared to be substantially higher than the cost figure for these hot rolled bars reflected in the data on the basis of which the trigger price had been set for cold finished bars, which were made by processing special quality hot rolled bars and wire rods. Representatives of the American steel industry therefore challenged the trigger price of cold finished bars as understating the cost of the major component, and the Treasury Department agreed. The trigger price of the major component was used as the raw material cost in calculating cold finished bar production costs, resulting in a base price increase of 15.2 percent.[21] The parallel is exact. Fair value was calculated not just on the basis of the actual out-of-pocket cost of materials of the producer of the end-product, but on the basis of a constructed value of the major component, which in the case of the trigger price mechanism and hot and cold steel bars happened to be easily obtainable.

(c) The European Community and Input Dumping

In *Polyester Yarn Originating in the United States,* EC Council Reg. No. 3439/80, Off. J. L. 358/91 (Dec. 22, 1980),[22] the trade association representing almost all of the production in the European Community of polyester yarn, brought a dumping complaint against nine major exporters of polyester yarn from the United States. The complaint alleged that as to textured yarn the texturers were producing or procuring nontextured yarn (the major component) at a loss, then were texturing it and exporting the finished product to the community, taking market share away from the complainants. The Commission divided the case in two: as to *integrated producers,* it calculated the cost of untextured yarn (the input) on the basis of sales by independent producers, and concluded that the integrated producers were indeed selling untextured yarn to themselves at a loss in the period under investigation; accordingly the Commission established a constructed value for the input, which in turn yielded a constructed value for the finished product (textured yarn) which turned out to be substantially higher than the export price to the Community, and resulted in a substantial finding of dumping. The non-integrated texturers, who had purchased untextured yarn in the market, were found not to be dumping, because "they were not selling textured yarn at less than all costs, both fixed and variable, incurred by them in its production."

I am not certain on the basis of the report in the Official Journal of the European Community whether the independent texturers paid more for the input than the integrated producers, or whether the Commission was not prepared to look behind the costs of the independents.[23] In any event antidumping duties on account of input dumping were imposed for the integrated producers, and were at least considered for the independent producers of the finished product as well. The Decision makes no reference to the GATT or the International Anti-Dumping Code.[24]

I am not an expert on the European Community's antidumping laws, nor do I mean to suggest that everything the Community does in the field of international trade is consistent with the GATT. The *Polyester Yarn* case does suggest, however, that the proposal here under discussion is within the range of antidumping enforcement currently being considered in other countries and not regarded as illegal under GATT.

CONCLUSION

The Preamble to both the 1967 and the 1979 International Anti-Dumping Code recognizes "anti-dumping practices should not

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1984, Off. J. No. L 201/1 (July 30, 1984) Article 2 (12).

[17] See, for discussion of this quite different issue, Langer, "The Concepts of Like Product and Domestic Industry under the United States Trade Agreements Act of 1979" 17 Geo. Wash. J. Int'l L. & Econ. 495 (1983).

[18] Accord 19 C.F.R. § 535.6(b) of the Commerce Department Regulations.

[19] See, generally, the present writer's book, *Public Controls on International Trade* pp. 253-275 (2d ed. 1983).

[20] See Dept. of the Treasury, Revisions by Treasury Steel Trigger Price Task Force. 43 Fed. Reg. 32710 (July 27, 1978), in part reproduced in Lowenfeld, note 20 supra at DS-593-606.

[21] 43 Fed. Reg. at 32716—Table, Category 12, (July 27, 1978; 43 Fed. Reg. 33993 at 33994-95 Table I, Category 12 and footnote (d) (Aug. 2, 1978); see also 43 Fed. Reg. 38155 (Aug. 25, 1978).

[22] See also EC Off. J.C. 129/2 (May 30, 1980) (Opening of proceeding; L 231/5 (Aug. 29, 1980) (imposition of provisional anti-dumping duty.

[23] For the latter view, see Bourgeois, "EC Antidumping Enforcement—Selected Second Generation Issues," in 1985 Fordham Corporate Law Institute Proceedings 563 at 580-82 (Hawk ed. 1986).

[24] Note also that the safeguards contained in the amendment under discussion concerning prior dumping findings and evidence of diversion were apparently not present in the *Polyester Yarn* case.

constitute an unjustifiable impediment to international trade. . . ." I believe that § 156 of H.R. 3 as passed by the House of Representatives and § 314 of S. 490 as orginially introduced, meet the standards set by the Preamble and reflected in Article VI of the GATT and in the Anti-Dumping Code. Whatever other considerations go into a decision whether to adopt the proposal, I do not believe that there is an impediment to its passage under international law.

Respectfully submitted,

Andreas F. Lowenfeld,
Charles L. Denison,
Professor of Law.

MELTED-AND-POURED PROVISION

Mr. PACKWOOD. I understand that section 323(b) of the committee bill—the melted-and-poured provision—is drafted so that its enforcement by the administration is discretionary. Am I correct?

Mr. BENTSEN. The Senator is correct. The use of the word "may" makes enforcement discretionary.

Mr. PACKWOOD. While the President's steel program should be carried out fully, I and others are concerned that U.S. companies that import and use foreign steel could face commercial uncertainty because of the way section 323(b) could be enforced. Some importers may not know the melted-and-poured origin of further processed steel products that they import. The latter situation could put them and their customers at risk regarding steel products from non-VRA countries.

Is it correct to state that the committee did not intend to put U.S. importers and U.S. users of imported steel that does not circumvent VRA's at commercial risk?

Mr. BENTSEN. That is correct. At the same time, U.S. users and importers of steel should recognize that this provision imposes some responsibility on them to ascertain the melted-and-poured origin of their steel.

Mr. PACKWOOD. Subsection (d)(2) of the melted-and-poured provision and language in the report of the Committee on Finance state that the President has discretion to—and I now quote from page 102 of the report—"direct the Secretary of the Treasury to implement such procedure as necessary to carry out the purpose of this subsection."

Would this language allow the administration to implement this provision in a way that alleviates some of the commercial uncertainty the melted-and-poured provision creates for those importing steel that does not circumvent VRA's? For example, a simple way to alleviate the uncertainty the importers may have with this provision would be to publish a notice in the Federal Register after a determination that there had been increases in the imports of a steel product from non-VRA countries using steel melted and poured in VRA countries.

This Federal Register notice would indicate that the Customs Service will require an export license 30 days from the publication of the notice. This will give the steel importers adequate notification to comply with the melted-and-poured provision. Of course, there may be circumstances where enforcement would be appropriate without such notice requiring export licenses, such as situations where there is reason to believe imports are entering or have entered the United States in circumvention of the VRA program at a rate that threatens the integrity of the program.

Mr. BENTSEN. Yes; that is correct.

Mr. HEINZ. Section 323(b) of the committee bill is designed to prevent circumvention of VRA's and thereby assist the President toward the attainment of the steel program's objectives. This can only occur if this provision is fully and aggressively implemented. Steel imports covered by VRA's have declined from over 80 percent to less than 66 percent of total imports. To me it is obvious that some of this decline has occurred because countries with steel mills that have not agreed to VRA's with our country, and which have refused to control their exports to the United States, have thereby increased their U.S. sales.

The Senate on Friday, June 26, adopted my amendment numbered 342. That amendment provides authority to restrain these increases, and we expect the administration to move promptly to restrain imports from those countries. Some of this decline, which I previously referred to, however, is because circumvention of VRA's is occurring as non-VRA countries, both with and without basic steel mills, seek to take advantage of the situation by providing a way for producers in VRA countries to evade their VRA limits. Through enforcement of the melted-and-poured provision, and my amendment numbered 342, the administration can crack down on this circumvention and get back on track in meeting the goals of the President's steel restraint program.

Mr. President, as the author of section 323(b) of the committee's bill, I would agree with Senators Bentsen and Packwood that it is not the intent of section 323(b) to put at risk normal, commercial transactions of a long-standing nature, such as those that predate the announcement of the President's steel program in September 1984.

To the extent certainty can be provided to legitimate foreign producers, processors, and U.S. importers who are not trying to circumvent VRA's, I would favor providing such authority as we have discussed. One means I would suggest of providing additional clarity to the system is to have the SSSI's or export certificates from third countries designate the melted-and-poured origin of the steel. This provision would permit that.

Mr. TRIBLE. Mr. President, I rise in support of S. 1420, the trade bill.

Trade legislation cannot cure our trade imbalance. Only a fundamental change in our Nation's fiscal policy, to reduce the Federal budget deficit and encourage greater saving in the United States, can do that.

However, trade legislation can make a significant contribution by opening foreign markets; by combating foreign subsidies, export targeting, and dumping; and by eliminating self-imposed barriers to U.S. exports and competitiveness. Most important, trade legislation can help expand trade and raise living standards by moving us toward a freer and fairer trading environment.

S. 1420 does all these things and deserves the Senate's support. Most important, this bill gives U.S. businesses and workers a chance to compete in world markets. Given such an opportunity, I have absolutely no doubt that we can compete successfully with any country and with any company in the world.

This bill authorizes the President to conduct multilateral and bilateral negotiations to eliminate tariff and nontariff barriers to trade and, by providing "fast track" consideration of trade agreements, makes successful negotiation and implementation of such market-opening agreements far more likely. This authority will help to bring the current Uruguay Round multilateral negotiations and the United States-Canada free trade area negotiations to successful conclusions.

The bill strengthens section 301 of the Trade Act to combat an expanded list of unfair foreign trade practices. It makes section 301 an even more powerful lever for the President to use in opening foreign markets through negotiation.

The bill significantly relaxes U.S. export controls without compromising our national security. This is a constructive and long-overdue step.

The bill promotes a more flexible, responsive economy by encouraging protected industries to adjust to changing world market conditions, and by encouraging workers dislocated by imports to retrain for better future jobs.

The bill will encourage invention and innovation in the United States by significantly improving protection for U.S. intellectual property rights, including patents.

The bill updates and strengthens our countervailing duty laws to combat foreign subsidies.

It calls for bilateral negotiations to eliminate currency manipulation, which can be a potent source of unfair competitive advantage. These are all positive features which I support.

During consideration of this bill, the Senate adopted several amendments which greatly improved the bill.

I am very pleased that the Senate rejected the bill's "energy security" provisions. Those provisions would have resulted in tight import quotas and new oil tariffs which would have saddled American consumers with multibillion-dollar fuel, transportation, and clothing bills, and would have harmed some of America's most competitive industries.

I am also pleased that in adopting the Bradley and Gramm amendments, the Senate allowed the President to consider the impact on the poor, and on jobs and U.S. agriculture, of imposing ITC recommended import relief. The President should have the authority to take a broader view before imposing tariffs or quotas.

Fortunately, the plant closing notification and disclosure provisions reported by the Labor Committee were significantly modified on the Senate floor. However, the remaining 60-day notification requirement should be dropped altogether.

The Senate has also taken a constructive step by again voting to repeal the windfall profits tax. This tax raises no revenue, and is not expected to raise any revenue; it is burdensome to comply with; and it discourages domestic energy exploration and development. I strongly believe this tax should be repealed.

To summarize, Mr. President, I support this bill. For the most part, it seeks to open markets, not close them; it seeks opportunities to compete, not assured sales; it combats unfair and anticompetitive subsidies; it recognizes that we will be better off if we adapt to change rather than cling to the past; it offers meaningful adjustment and retraining assistance; and it removes several self-inflicted wounds which restrain U.S. exports. It is good legislation, and I urge Senate passage.

However, this bill does contain a number of questionable features and I would like to outline them in the hope they could be corrected in conference.

First, I have already mentioned the bill's "plant closing notification" requirements. Such requirements are likely to reduce competitiveness by discouraging plant closings which are economically justified and, by saddling marginal businesses with additional costs, they may actually decrease employment. Such requirements should not be included in the conference report.

Second, the bill does not allow the President to consider the "national economic interest" before granting ITC-recommended import relief. True, the President may consider impacts on "downstream industries," on the poor, on agriculture, on jobs, and on the national security. But what about impacts on manufacturing and services industries, on middle-income Americans, on exports—through retaliation—and on our foreign policy? Surely, the President should be allowed to weigh such interests before granting import relief.

Third, provisions requiring mandatory retaliation against unfair trade practices may backfire and saddle the world with more trade barriers, leading us farther away from free and fair trade and making us all poorer.

Fourth, it is a mistake to extend the maximum possible period of import relief, if the purpose of the bill is to encourage import-impacted industries to become more competitive.

Fifth, I oppose the GATT-illegal increase in import taxes to fund an expanded Trade Adjustment Assistance [TAA] Program. These import taxes will raise consumer prices and harm U.S. exports by inviting retaliation. And we should not be raising taxes to fund a new training entitlement, as the bill does.

Sixth, the bill creates numerous new advisory panels and mandates 165 reports and studies.

Finally, making violations of workers' rights actionable under section 301 of the Trade Act will involve this country in innumerable trade disputes and could well lead to more trade barriers, not fewer.

In conclusion, Mr. President, while I support the trade bill generally, I believe it can be and must be substantially improved in conference. I am voting for the bill at this time in the hope that the conference will make the needed improvements, but will vote against the conference report if these improvements are not made.

The **PRESIDING OFFICER.** If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The **PRESIDING OFFICER.** Under the previous order, the Senate will now proceed to the consideration of H.R. 3. All after the enacting clause of that bill is stricken and the text of S. 1420, as amended, is inserted in lieu thereof.

The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The **PRESIDING OFFICER.** The majority leader.

Mr. **BYRD.** Mr. President, this is the last rollcall vote today.

The **PRESIDING OFFICER.** The question is on the passage of H.R. 3, as amended.

Mr. **PACKWOOD.** Mr. President, the yeas and nays.

The **PRESIDING OFFICER.** Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The **PRESIDING OFFICER.** The bill having been read the third time, the question is, Shall it pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. **CRANSTON.** I announce that the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] and are necessarily absent.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] would each vote "yea."

The **PRESIDING OFFICER.** Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 71, nays 27, as follows:

[Rollcall Vote No. 208 Leg.]

YEAS—71

Adams
Baucus
Bentsen
Biden
Bingaman
Bond
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kasten
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
Pressler
Proxmire
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Shelby
Specter
Stennis
Thurmond
Trible
Warner
Weicker
Wirth

NAYS—27

Armstrong
Boschwitz
Cochran
Dole
Domenici
Durenberger
Evans
Garn
Gramm
Hatch
Hatfield
Hecht
Helms
Humphrey
Kassebaum
Lugar
McCain
McClure
McConnell
Quayle
Rudman
Simpson
Stafford
Stevens
Symms
Wallop
Wilson

NOT VOTING—2

Gore
Simon

So, the bill (H.R. 3), as amended, was passed.

Mr. **BYRD.** Mr. President, I move to reconsider the vote by which the bill was passed and, Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Senate amendment to H.R. 3 as passed be printed as a document, but not in the RECORD.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. BYRD. Mr. President, I wish to congratulate the Senate and the managers of the bill on a good vote, a good supporting vote, that should carry with it a message across the country, a message to the administration, and a message to our trading partners. It is a bipartisan message, Mr. President. All 52 Democrats voted in support of the bill, 2 Democrats were absent; 19 Republicans voted in support of the bill. It is a good vote, a good bipartisan vote, which I think augurs well for the bill and for the conference work that will begin.

Mr. President, I hope that the American people will take heart. The Senate has done its duty.

Mr. President, I take this occasion now to thank Mr. BENTSEN and Mr. PACKWOOD for their labors, their work over a period of several months, in committee and on the floor, and I thank also the other members of that Finance Committee on both sides of the aisle.

I thank in particular the distinguished Senator from Missouri [Mr. DANFORTH]. Without Mr. DANFORTH, this legislation would not have been passed, in my judgment. He has made signal contributions to the legislation both in and during the committee deliberations and also during the debate on the Senate floor. His leadership was invaluable. At all times, Mr. President, his strong support of the bill was indicated by his words and his actions. He helped lead the fight to strengthen the bill on the floor, and he helped also to lead the fight against amendments that would have weakened the bill. I particularly am grateful for his joining in the amendment which was cosponsored by the distinguished Republican leader, Mr. DOLE, and Senator RIEGLE and myself. Again, without Mr. DANFORTH's support, that amendment would not have been adopted. That amendment greatly strengthens the legislation, and I hope the amendment will be supported in conference.

Mr. President, I also thank the managers and ranking members of the various other committees who played such an important part in the development of this legislation, in the debate on the legislation, and in its enactment in the Senate. This was a massive bill, as has been said upon several occasions. The bill was the work of nine committees. Mr. President, those several bills that came out of the committees are still on the calendar. Had the Senate taken up those bills one by one, I do not know how long the Senate would have been in passing the bills if it had ever gotten around to acting upon all of them. And so while it has taken a long time, relatively speaking, and well over 100 hours to debate and pass this legislation once it was put together and entered as an omnibus package and called up, it would have taken much longer for the various components to have been taken up singly and acted upon by the Senate. This is a milestone piece of legislation.

Now, before I close, I thank the Republican leader, Mr. DOLE, Mr. President, for the help that he gave in getting the time agreement which made it possible for the culmination of the effort on the floor this afternoon. Without the help of the Republican leader in putting that time agreement together, the Senate would have been on this bill a great many more days. I personally deeply appreciate the support that he gave to the agreement, and the efforts he gave to putting it together.

I also thank the assistant Republican leader and the assistant Democratic leader; Senators CRANSTON and SIMPSON did yeomen's work. They and the whip organizations were of tremendous assistance in getting the amendments enumerated for the agreement, helping to get time agreements on many of those amendments, helping to expedite the calling up of the amendments. It was a remarkable piece of teamwork that we saw as Senator CRANSTON, Senator SIMPSON, and their respective whip organizations worked together to keep the amendments flowing.

I would be recreant if I did not call attention to the good work that has been done by the staffs on both sides of the aisle. The Democratic policy staff and the Republican policy staff have been indefatigable in their work with Senators behind the scenes, in keeping tab on the amendments, and helping to get the time agreements. I particularly thank Elizabeth Greene, Abby Saffold, Charles Kinney, and Marty Paone. These staff people and others have been the epitome of diligence and dedication in their efforts. This is a massive bill. It is a milestone in trade legislation, and they played important parts.

Early this year, the Speaker and I indicated that it was our intention to pass legislation, so we passed it.

It goes to conference, of course, and I look forward to the day when the conferenced report can be brought back and we can send the legislation to the President.

With the help of all these wonderful people and others whose names I have not stated—through inadvertence, of course—for the efforts of all these and others, I am grateful. I think the American people will applaud their efforts and can rest in the knowledge that when the time comes to get down to the clinches and clutches, the Senate will always come through.

Mr. President, I yield the floor.

Mr. DOLE. Mr. President, let me congratulate again the distinguished chairman of the Finance Committee, Mr. BENTSEN and the ranking member, Mr. PACKWOOD for their outstanding job, and thank all the other Senators that have been involved on a day-to-day basis on this landmark legislation.

As I indicated earlier, the trade bill would pass and the trade bill did pass. I certainly congratulate the Democratic leadership and the majority leader for his efforts in putting this package together.

I would repeat also what I indicated earlier. That is, that it is the hope of many of us who voted in the negative, and there were 27, that there would be improvements on this bill in the conference, that it would be a big conference, with a lot of conferees, taking a lot of time.

I understand in addition to the 27 who voted against the bill, there are another 16 on this side who voted for it with reservations. That adds up to 43, which would seem to me to be hopefully a signal to the conference and the conferees that many of those who voted for the bill would probably vote to sustain a veto or vote against the conference report, which would then indicate how many votes there might be for a veto.

But we do not want a veto. We want a trade bill. It was reaffirmed this morning by the President. This is not a veto strategy. I think he is trying to determine what is the best strategy to make certain we get a bill, a bill that Republicans and Democrats can be proud of and one that we probably need.

So again I commend the Democratic leadership, particularly the distinguished majority leader, Senator BYRD, and also, as I have indicated, Senator BENTSEN and Senator PACKWOOD.

Also, on this side of the aisle, in particular, Senator DANFORTH, who has led the effort to pile up a pretty impressive number of affirmative votes on this side but beyond that he has been working on trade legislation for a number of years, and who I believe, again working with the majority leader, the distinguished Senator from Michigan, and the Republican leader, put together a pretty good amendment that I think properly belongs in the bill. I hope it is there when the bill comes back from conference.

INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT

Mr. BYRD. Mr. President, exercising the authority that the Senate ordered recently, and after consultation with the distinguished Republican leader in accordance with that order, I now ask the Chair to lay before the Senate the debt ceiling measure.

The PRESIDING OFFICER. The clerk will report the debt ceiling measure pursuant to the unanimous-consent order.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 324) increasing the statutory limit on the public debt.

The Senate proceeded to consider the joint resolution.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business and that Senators may speak therein up to 10 minutes each, and that the period not extend beyond 7:30 p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MOYNIHAN addressed the Chair.

The PRESIDING OFFICER. The Senator from New York.

FAMILY SECURITY ACT—S. 1511

Mr. MOYNIHAN [subsequently said]. Mr. President, earlier today the Family Security Act was introduced. On that occasion, I asked that the bill be held at the desk and be open for Senators who might wish to be listed as original cosponsors before the end of the day.

I am happy to report that Senator FOWLER of Georgia, Senator GRAHAM of Florida, and Senator SANFORD of North Carolina asked that they be recorded as original cosponsors of the legislation. That is Senators FOWLER of Georgia, GRAHAM of Florida, and SANFORD of North Carolina.

Mr. President, may I just note that on this first day of introduction, although no effort was made to obtain cosponsors other than from members of the Finance Committee, to the very, very pleasant surprise of those who have worked in the Finance Committee on the legislation, there are now 26 cosponsors, and I look for the day, as do the others, when there is a clear majority for this legislation in the body.

Mr. President, Mr. BINGAMAN also asks that he be included as a cosponsor as well. Mr. BINGAMAN will now bring the number to 27.

ORDER OF PROCEDURE

Mr. HUMPHREY. Mr. President, how much time remains for morning business?

The PRESIDING OFFICER. Morning business may not run beyond 7:30 p.m. Senators may speak for up to 10 minutes each.

Mr. HUMPHREY. I thank the Chair.

NOMINATION OF JUDGE ROBERT BORK TO BE A JUSTICE OF THE SUPREME COURT

Mr. HUMPHREY. Mr. President, since the nomination by President Reagan of Robert Bork to fill the vacancy on the Supreme Court, there have been a number of emotional statements made, including statements by Members of this body, I regret to say. Some of those statements were so emotional, so utterly devoid of fact, so utterly devoid of responsibility, that they constitute demagoguery, pure and simple.

I cite, as an example, the remarks delivered on the floor on the day of the nomination by a Senator who has been in this body for a good many years and who ought to know better. He said with respect to the nominee—to quote the Senator—that the nominee's America is a land in which women would be forced into back-alley abortions; blacks would sit at segregated lunch counters; rogue police could break down citizens' doors in midnight raids; schoolchildren could not be taught about evolution; writers and artists could be censored at the whim of Government.

It is astonishing to believe that a U.S. Senator—indeed, one who is a lawyer and one of great experience—could utter such contemptible rubbish in public, much less within the confines of this Hall.

This Senator who is speaking is not a lawyer, but it seems to him, nonetheless, that at least in the case of nominations to the Supreme Court, a certain amount of due process and fairness is in order, a certain level of ethical standard, a higher standard than we ordinarily expect in this body. We expect, after all, as realists, that there is going to be a certain amount of hyperbole in our debates; but statements of the kind I have cited go far beyond hyperbole and in fact below the ethical standards, it seems to me, of a Member of this body.

Mr. President, I am not a lawyer, but I have consulted one of the modern law school texts on legal ethics and with respect to due process, I cite some of the passages. This, by the way, is the text called "Modern Legal Ethics," by Charles Wolfram, published by West Publishing Co., 1986.

Chapter 17, section 5.5:

> A fundamental principle of due process is that a judge—

I am implying here that we are judges. After all, we will be passing judgment on the suitability of Judge Bork to serve on the Supreme Court.

> A fundamental principle of due process is that a judge who is otherwise qualified to preside at a trial or other proceeding must be sufficiently neutral and free of predisposition to be able to render a fair decision.

From page 993 of the same text:

> But if the circumstances or contents of a judge's statements indicate that the judge's mind is made up on the factual or legal merits of a reasonably litigated issue and this has occurred before the judge has heard the evidence and arguments of the litigants, then the judge should not sit.

There are a number of like passages in this and, I suspect, many other texts on legal ethics.

With regard to the remarks to which I alluded earlier, I suggest that there is within them a gratuitous insult to black Americans. Irrespective of who is sitting on the Court, no black is going to sit behind a segregated lunch counter or move to the back of a bus or subject himself to segregation. Such a charge on its face is preposterous.

To suggest that any American, a sitting judge on a circuit court of appeals, would advocate a return to discrimination and segregation is just plain preposterous. It is hard to think of words sufficient to censure these kinds of remarks: that rogue police could break down citizens' doors; that writers and artists could be censored at the whim of government.

Mr. President, let us recall, in the context of the remarks I have cited, that in 1982 Robert Bork was nominated to the Circuit Court of Appeals for the District of Columbia, regarded by most legal authorities as the second most important court in the Nation—in the entire Nation—second only in importance to the Supreme Court itself.

When Robert Bork came before the Senate Judiciary Committee 5 years ago, his nomination was carefully considered and was reported out, without dissent, to the floor, where again, I presume, most Senators would agree that it was carefully considered on the floor and regarded as so noncontroversial that not one Senator from this side of the aisle or that side of the aisle—from which, may I observe, many of these caustic remarks are emanating—without one Senator asking for a rollcall vote.

Judge Bork, at the time his nomination was submitted, was rated by the American Bar Association as exceptionally well qualified—the highest rating the ABA gives ever to a judge.

Yet we have remarks that indicate Judge Bork is somehow the world's worst scoundrel. I suggest to this body that either Senators who make such remarks or remarks similar to them were extraordinarily derelict in their duty 5 years ago and confirmed to the second most important court in the Nation a racist, a bigot, a nincompoop, and a scoundrel, either they were grossly deficient in the performance of their duties when they were called upon to pass in judgment of Judge Bork 5 years ago, or else they are today guilty of the most transparent and disgusting hypocrisy.

I think which of those two it is is apparent to everyone, including the Washington Post, may I say, with which newspaper's editorials I do not often agree, but I most certainly do in this case.

Mr. President, on this same score recently a retired judge from the New Hampshire bench wrote about another matter, but in the same vein about the demeanor expected of participants in a hearing. Let me cite the words of Judge George Grinnell, who is a retired district court judge from Derry, and he says, in part, "Specifically, the prime rule for a fair hearing"—fair, that is a word we ought to be hearing a lot about in connection with this nomination, fairness, ethics, decency—"the prime rule for a fair hearing before a judge, referee, investigating board, jury or just a plain political panel is that those conducting the affairs have an open mind, listen to all of the evidence, refrain from expressing opinion before and during the hearing, refrain from characterizing the witnesses as liars, good, bad or otherwise, before and during the hearings, and lastly to bend over backward, so to speak, to conduct a fair and impartial investigation so that justice will be done."

I suggest by these standards, and again recognizing in the political realm we do not expect exactly the same standards as we expect and insist upon in the court of law, but nonetheless we should have a right to expect something approaching these standards when we are dealing with a nomination to the Supreme Court, that by these standards outlined by Judge Grinnell, a number of the Members of this body have fallen far, far short from what can be reasonably expected.

Mr. President, I make one other point. The chairman of the Judiciary Committee has stipulated and stated that the hearings on the Bork nomination will not begin until September 15, some 70 days after the nomination was officially received by the Senate.

Mr. President, in the last quarter century; that is, during the modern times of computers and easy access to information, in the last 25 years, the last quarter century, the lag time between official receipt of the nomination to the beginning of a hearing in the Judiciary Committee for a Supreme Court nominee has been 18 days versus 70 days. The average has been 18 versus 70. If you look at individual cases, the maximum I think was about 40 days. So we will exceed by almost twice the factor of two the previous longest delay between the receipt of the nomination and the beginning of a hearing, once again, in my opinion, further evidence of a lack of fairness and a lack of decency and ethics.

I would hope that Senators, and particularly those on the Judiciary Committee, would reconsider the remarks that some of them have made, some—I emphasize "some"—and see if we cannot muster a sense of fairness about this and fair play, because I would hate to see a bad precedent set.

I can assure the Members on the other side of the aisle if this is the kind of game they want to play with Supreme Court nominations, then turn about is fair play on the next nomination coming from a Democratic President.

Mr. President, if the majority leader will just forbear one moment further, I ask unanimous consent that a report done by the Congressional Research Service showing the number of days that have been consumed in the various segments of the nomination process over the last 25 years be printed in the RECORD.

There being no objection, the report was ordered to be printed in the RECORD, as follows:

THE SPEED WITH WHICH ACTION HAS BEEN TAKEN ON SUPREME COURT NOMINATIONS IN THE LAST 25 YEARS

SUMMARY

During the past 25 years, the Senate has received 17 Supreme Court nominations. Of these 17 nominations, 12 were confirmed by the Senate, two were rejected, two were withdrawn by the President, and one is pending.

The first public step taken in the process of nominating a Supreme Court Justice is the President's announcement of an intention to nominate a specified person to the Court, with the Senate's last step typically being either a vote confirming or rejecting the nominee. Time intervals between particular steps in the nominating process shed light on how promptly the President, the Senate Judiciary Committee or the full Senate acted at that stage on any given nomination. Examination of these time intervals reveals, among other things, the following:

Typically, in the last 25 years, Presidents have sent Supreme Court nominations to the Senate quickly after announcing them. A deviation from this pattern was the Senate's receipt of the nomination of Sandra Day O'Connor 43 days after President Reagan announced he would nominate Judge O'Connor.

In the majority of instances during the last quarter century the Senate Judiciary Committee has held hearings on Supreme Court nominations within 15 days of their receipt by the Senate. The longest periods of time to elapse between Senate receipt of nomination and start of hearings were for the 1986 nominations of William H. Rehnquist and Antonin Scalia—39 and 42 days respectively.

The time which elapsed between start of confirmation hearings by the Judiciary Committee and the Committee's eventual approval also varied considerably—from a few instances in which the Committee began hearings and voted its approval on the same day, to the 1968 nomination of Abe Fortas to be Chief Justice, which received Committee approval 68 days after the start of hearings.

The Judiciary Committee typically has reported Supreme Court nominations to the Senate almost immediately after approving them. Exceptions to this rule, however, were Committee reports on the nominations of Thurgood Marshall in 1967 and Clement Haynsworth in 1969—which respectively reached the Senate 18 and 34 days after Committee approval.

Senate debate on Supreme Court nominations ordinarily has commenced within ten days of a favorable report by the Judiciary Committee. Most out of the ordinary in this respect were the 1986 Rehnquist and Scalia nominations, on which the Senate began 28 and 34 days respectively after receiving favorable Committee reports.

The time interval between start of Senate debate and final Senate action either approving or rejecting a Court nomination also has differed greatly. At one extreme were seven nominations on which the Senate began debate and voted for confirmation on the same day; at the other extreme was the 26-day period between the start and conclusion of Senate debate over the Carswell nomination in 1970.

During the 1962-87 period, the most expedited of all nominations was the 1962 nomination of Byron R. White, which was confirmed by the Senate 12 days after President Kennedy announced his choice of Mr. White. The most protracted process leading to confirmation involved the 1986 Rehnquist and Scalia nominations, which were confirmed by the Senate 92 days after being announced by President Reagan.

ABSTRACT

This report examines how quickly nominations to the Supreme Court in the last quarter century have moved through various stages in the nomination and confirmation process. It finds that some nominations sped through the entire process, while others took months before finally being confirmed or rejected. In other cases, nominations moved through certain stages of the process quickly, only to be held up at another stage.

THE SPEED WITH WHICH ACTION HAS BEEN TAKEN ON SUPREME COURT NOMINATIONS IN THE LAST 25 YEARS

When President Ronald Reagan on July 1, 1987 announced his intention to nominate U.S. Court of Appeals Judge Robert H. Bork to the Supreme Court, controversy arose immediately over the President's choice as well as over how quickly the Senate should act on the nomination. President Reagan urged the Senate to expedite confirmation hearings so that the recent vacancy created by the retirement of Justice Lewis F. Powell would be filled when the Supreme Court's new term begins on October 5.[1] Although legislative strategists at the White House were said to hope for a Senate vote on the Bork nomination no later than September, some members of the Senate's Democratic majority predicted that the confirmation process would extend well past the opening of the Supreme Court's Fall term.[2]

If past experience were used as a guide, the Judiciary Committee and the Senate would have ample precedent to act either quickly or slowly on the Bork nomination. The history of the last quarter century shows that nominations to the Supreme Court have been reviewed and acted on with widely varying degrees of speed.

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[1] Boyd, Gerald M. Bork Picked for High Court; Reagan Cites His 'Restraint'; Confirmation Fight Looms. New York Times, July 2, 1987. p. A1.

[2] Greenhouse, Linda. Senators' Remarks Portend a Bitter Debate over Bork. New York Times, July 2, 1987. p. A22. One Democratic Member of the Judiciary Committee said the Senate was unlikely to act on the Bork nomination before November, and he predicted the Committee's investigation of the nominee would be "the most complete and exhaustive investigation of anyone ever nominated for the Supreme Court." Ibid.

In the last 25 years, beginning with President Kennedy's nomination of Byron R. White in 1962, the Senate altogether has received 17 Supreme Court nominations. Of those 17 nominations, twelve were confirmed by the Senate, two were rejected, two were withdrawn by the President, and one (the Bork nomination) is pending. A listing of the 17 nominations, and the chronology of actions taken on them, appear below as Table 1. For each nomination, the table shows the dates on which the following steps occurred: the President announced the nomination; the President sent the nomination to the Senate; the Committee on the Judiciary held hearings on the nomination; the Committee voted its approval of the nominee; the Committee submitted its favorable report of the nomination to the Senate; the Senate debated and took final action on the nomination.

The first public step taken in the process of nominating a Supreme Court justice is the President's announcement of an intention to nominate a specified person to the Court, with the Senate's last step being either a vote confirming or rejecting the nominee. Some nominations, one sees from Table 1, sped through the entire confirmation process, while others took months before finally being confirmed or rejected.[3] The process usually was more drawn out when controversy arose over a nomination; conversely, it usually was more expeditious when there was little opposition to the nominee. Some nominations moved through certain stages of the confirmation process quickly, only to be held up at another stage. Time intervals between particular steps in the nominating process shed light on how promptly the President, the Senate Judiciary Committee or the Full Senate acted at that stage on any given nomination.

INTERVAL BETWEEN PRESIDENTIAL ANNOUNCEMENT AND SENATE'S RECEIPT OF NOMINATION

A President officially nominates a person to the Supreme Court when he sends to the Senate a formal communication with his signature declaring the nomination. Typically in the last 25 years Presidents have sent Supreme Court nominations to the Senate quickly after announcing them.

Most prompt in this respect was Lyndon B. Johnson. All four of President Johnson's nominations—those of Abe Fortas in 1965, Thurgood Marshall in 1967, Mr. Fortas again in 1968 (this time to be Chief Justice), and Homer Thornberry in 1968—were sent to the Senate on the day of their announcement. During the 1962—87 period, the only other Court nomination to be sent to the Senate on the same day of its announcement was that of G. Harrold Carswell; it was announced and transmitted by President Richard Nixon on January 19, 1970.

The names of President Nixon's other Supreme Court nominees—Harry A. Blackmun in 1970, Lewis F. Powell in 1971, and William H. Rehnquist in 1971 (to be Associate Justice)—were sent to the Senate the day after their announcement.

For all but one of the other Court nominations during the 1962-87 period, the interval between Presidential announcement and Senate receipt ranged from 2 to 7 days. This was the case with the nominations of Byron R. White and Arthur J. Goldberg in 1962, Warren E. Burger in 1969, Clement Haynsworth in 1969, John Paul Stevens in 1974, William H. Rehnquist (to be Chief Justice) and Antonin Scalia in 1986, and Robert H. Bork in 1987.

The only Supreme Court nomination for this period to have been received by the Senate more than a week after it was announced was that of Sandra Day O'Connor; the interval between announcement and Senate receipt was an out of the ordinary 43 days. In announcing the O'Connor nomination on July 7, 1981, President Reagan said he would send it to the Senate "upon completion of all the necessary checks by the Federal Bureau of Investigation . . ."[4] The nomination was submitted to the Senate on August 19, 1981. The six-week delay was noted in one wire service story, which reported that while President Reagan has announced the nomination July 7, "details making it formal were not completed until this week."[5] Although during this period no Senator expressed opposition to the O'Connor nomination (foreshadowing a 99-0 confirmation vote by the full Senate on September 21), the Reagan Administration was engaged in addressing criticisms of the nominee made by anti-abortion groups.[6]

INTERVAL BETWEEN SENATE RECEIPT OF NOMINATION AND START OF COMMITTEE HEARINGS

During the past 25 years, the Senate Judiciary Committee in the majority of instances has held hearings on Supreme Court nominations within 15 days of their receipt by the Senate. Coming within this 15-day interval were the White, Goldberg, Fortas (1965), Fortas (1968), Thornberry, Burger, Carswell, Blackmun, Powell, Rehnquist (1971) and Stevens nominations. The nomination on which the Judiciary Committee held hearings most promptly was that of John Paul Stevens; committee hearings on Mr. Stevens were held on December 8, 1975, seven days after the nomination had been received by the Senate.

More time elapsed before the start of Judiciary Committee hearings on three Court nominees—O'Conner (21 days), Haynsworth (26), and Marshall (31).

Of all the nominations in the 1962-87 period, however, the Rehnquist and Scalia nominations in 1986 saw the longest periods of time elapse between receipt by the Senate and start of committee hearings—39 and 42 days respectively.[7]

INTERVAL BETWEEN START OF COMMITTEE HEARINGS AND COMMITTEE APPROVAL

A usually reliable indication of whether difficulties or "smooth sailing" lay ahead in the confirmation process for a nomination to the Court was the time which elapsed between the start of Judiciary Committee hearings on the nomination and the Committee's eventual approval.

At one extreme were a few occasions on which the Committee began hearings and approved a Supreme Court nomination on the same day—those involving the White nomination in 1962 and the Burger nomination in 1969. At the other extreme was the nomination of Justice Abe Fortas in 1968 to be Chief Justice, which received Committee approval 68 days after the start of hearings. During this interval, the Committee held 10 days of hearings on the Fortas nomination.

Other nominations for which the interval between start of Committee hearings and Committee approval was relatively short were these: Stevens—3 days, Fortas (1965)—5, Blackmun and O'Connor—6, and Scalia—9. On the other hand, nominations for which this interval was relatively long were: Goldberg—14, Rehnquist (1986)—16, Powell—19, Rehnquist (1971)—20, Carswell—20, Marshall—21, and Haynsworth—23.

In all of the above-noted cases where Committee approval of a nomination came relatively soon after the start of hearings, the eventual vote by the full Senate in favor of confirmation was unanimous or almost unanimous. By contrast, in all but two of the cases where Committee approval came after more protracted hearings, the eventual decisive vote by the full Senate found at least 11 Senators opposed to confirmation.[8]

INTERVAL BETWEEN COMMITTEE APPROVAL AND SUBMISSION OF REPORT TO SENATE

After a Judiciary Committee vote approving a Court nomination, the next step in the confirmation process is the Committee's submission of a favorable report to the Senate. This report is a simple one-page document containing the name of the nominee and the Committee Chairman's signature.

During the 1962-87 period, the Senate Judiciary Committee typically has reported Supreme Court nominations to the Senate almost immediately after approving them. Indeed, in ten instances, the Committee's favorable report of a nomination was submitted in the Senate on the same day of Committee action approving the nominee,[9] and in an eleventh instance, on the day after.[10]

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[3] The most expedited of all nominations during this period was the 1962 nomination of Byron R. White, which was confirmed by the Senate 12 days after President Kennedy announced his choice of Mr. White. The most protracted process leading to confirmation involved the 1986 nominations of William H. Rehnquist and Antonin Scalia, which were confirmed by the Senate 92 days after being announced by President Reagan.

[4] U.S. President, 1981- (Reagan). Supreme Court of the United States, July 7, 1981. Weekly Compilation of Presidential Documents, v. 17, July 13, 1981. p. 729.

[5] United Press International. O'Connor Hearings Scheduled. Washington Post, Aug. 21, 1981. p. A12.

[6] See, for example: Peterson, Bill: For Reagan and the New Right, the Honeymoon is Over. Washington Post, July 21, 1981: A2; Hilts, Philip J. White House Sets up "Pipeline" for Disgruntled Conservatives, July 27, 1981. p. A8; Barbash, Fred. "Vindictive" Person Opposing O'Connor, President Asserts. Washington Post, Aug. 15, 1981. p. A2.

[7] Expedited hearings, favored by majority Republicans on the Judiciary Committee, were resisted by some Committee Democrats, who wanted more time to study the records on the two nominees. Kurtz, Howard, Rehnquist, Scalia Hearings Set This Month. Washington Post, July 10, 1986. p. A14.

Eventually, on July 18, 1986, a written agreement was reached between Committee Republicans and Democrats. Under the compromise, the beginning of the Rehnquist and Scalia confirmation hearings was delayed until July 29 and August 5 respectively (to afford Democrats more time to study the nominees' records). In return (in response to Republican concerns that there be no further delay), Committee votes on the two nominations were tentatively set for August 14 and full Senate consideration planned for the first week after the summer recess. Kurtz, Howard. Democrats Get Week's Delay on Hearings for High Court. Washington Post, July 19, 1986. p. A2.

[8] The two exceptions were the Goldberg nomination in 1962 (which the Senate approved by voice vote) and the Powell nomination in 1971 (approved by the Senate in an 89-1 vote). Accounting in part for the length of the hearings on the relatively uncontroversial Powell nomination, it should be noted, was that they were held jointly with hearings on the more controversial Rehnquist nomination.

[9] Receiving Committee approval and reported to the Senate on the same day were the White, Goldberg, Fortas (1965), Burger, Powell, Rehnquist (1971), Stevens, O'Connor, Rehnquist (1986) and Scalia nominations.

Four nominations, however, were reported less expeditiously. A favorable committee report of the 1968 Fortas nomination came 6 days after committee approval, and in the case of the Carswell, Marshall, and Haynsworth nominations, 11, 18 and 34 days afterwards, respectively. Of these four, only the Marshall nomination eventually received Senate confirmation.[11]

Besides reporting a nomination favorably to the Senate, the Committee on ten occasions filed a longer report—known as a "written report"—explaining in some detail the rationale for the Committee's action.[12] In all but two instances, the "written report" was filed within a week of the Committee's reporting favorably to the Senate. Much more than a week—25 days—elapsed between reporting and filing "written reports" on the 1986 Rehnquist and Scalia nominations.[13]

INTERVAL BETWEEN COMMITTEE REPORT AND START OF SENATE DEBATE

Senate debate on Supreme Court nominations in the last quarter century typically has commenced within ten days of a favorable report by the Judiciary Committee. The shortest such interval involved the Senate's receipt of a favorable report on the 1962 White nomination and its consideration and confirmation of the nomination on the same day. Considered by the Senate almost as promptly—one day after being reported by the Judiciary Committee—were the Goldberg, Fortas (1965) and Haynsworth nominations. The Senate took somewhat longer to begin debate on ten nominations: Fortas (1968), 3 days; Blackmun, 5 days; Berger, Stevens and O'Connnor, each 6 days; Marshall, 8 days; Powell, 10 days.

Four nominations reported from the Judiciary Committee awaited Senate consideration for more than ten days—Rehnquist in 1971 (13), Carswell (14), Rehnquist in 1986 (28), and Scalia (34). In 1986 the Senate's Summer recess of 23 days fell between the Committee's reporting of the Rehnquist and Scalia nominations and the start of Senate debate.

Promptness by the Senate in beginning its deliberations has not always been indicative of future success for the nomination involved. Two nominations which the Senate considered relatively promptly eventually failed of confirmation (the Haynsworth and 1968 Fortas nominations, on which debate began one and three days respectively after being reported). On the other hand, three nominations which took longer than most to reach the Senate floor after being reported (Rehnquist in 1971, and Rehnquist and Scalia in 1986) eventually were confirmed.

INTERVAL BETWEEN START OF SENATE DEBATE AND FINAL SENATE ACTION

The Senate's promptness in determining whether to confirm or reject a Supreme Court nomination also can be measured by the time interval between the start of floor debate and the final Senate action taken on the nomination. In the last 25 years, this interval in some cases has been extremely short—measurable by minutes or hours, not days—where the Senate began debate and confirmed the nominee the same day. At the other extreme were Senate deliberations spanning almost four weeks where the nomination was particularly controversial and the subject of protracted debate.

The shortest intervals involved seven nominations on which the beginning of Senate debate and confirmation occurred the same day. These were the White, Goldberg and Fortas (1965) nominations, each of which the Senate approved by voice vote,[14] and the Burger, Stevens, O'Connor and Scalia nominations. The longest interval was the 26-day period between the start and conclusion of Senate debate over the Carswell nomination.

For other nominations the corresponding interval in days was Marshall—1, Blackmun—1, Powell—3, Rehnquist (1971)—4, Fortas (1968)—5, Rehnquist (1986)—6, and Haynsworth—8. Where this interval was relatively long, it was because the Senate had engaged in extended debate over the nominee in question. The usual pattern was that extended debate was followed by a relatively high number of Senators voting against the nomination.[15]

INTERVAL BETWEEN PRESIDENTIAL ANNOUNCEMENT AND FINAL ACTION

As noted, the nomination process begins with the President's announcement of a Supreme Court nomination and ordinarily ends with the full Senate's confirmation or rejection of the nominee. The time interval between the Presidential announcement and final Senate action is a measure of the over-all speed of a process in which three different entities—the President, the Senate Judiciary Committee and the full Senate—play a part.

During the 1962-87 period, the shortest interval between a President's announcement of a Supreme Court nomination and Senate confirmation was 12 days, for Byron R. White in 1962.[16] The next shortest interval—14 days—was for the 1965 Fortas nomination, followed by 19 days, both for the 1969 Burger and the 1975 Stevens nominations.[17]

Of those nominees confirmed, the longest intervals between the Presidential announcement and Senate confirmation were 76 days for Sandra Day O'Connor in 1981, 78 days for Thurgood Marshall in 1967, and 92 days for William H. Rehnquist and Antonin Scalia in 1986. Preceding Justice Marshall's confirmation was a one-month hiatus between the Senate's receipt of his nomination and the start of Judiciary Committee confirmation hearings.[18] Holding up the O'Connor confirmation process was a six-week wait by the White House before sending the announced nomination to the Senate (discussed above). The O'Connor nomination was further delayed when it reached the Senate on August 19, 1981, just as the Senate was to begin a 19-day recess. (On September 9, 1981, the day of the Senate's reconvening, the Judiciary Committee immediately started hearings on the O'Connor nomination, with a Senate confirmation vote coming 12 days later.)

Noteworthy in contributing to the over-all length of time between announcement and confirmation of the Rehnquist and Scalia nominations were two unusually long time intervals. The first interval was the 39 and 42 days which elapsed between the Senate's receipt of the respective nominations and the start of hearings; the second interval of note was the lapse of a month between the reporting of the nominations and the start of Senate debate, due primarily (as noted above) to the Senate's 1986 recess.

For four other nominees, the time elapsing between nomination announcement and Senate confirmation fell between the relatively long and short intervals noted above. The period of time for these nominees was 28 days for both Arthur J. Goldberg in 1962 and Henry Blackmun in 1970, and 46 and 50 days respectively for Lewis F. Powell and William H. Rehnquist in 1971.

In the four instances in which a nomination failed to be confirmed, the over-all time between the President's announcement and the Senate's final action was prolonged by extended committee hearings and Senate floor debate. Senate rejection of Clement Haynsworth in 1969 and G. Harrold Carswell in 1970 came 79 and 95 days respectively after President Nixon had announced their nominations. The 1968 nomination of Justice Abe Fortas to be Chief Justice was decisively blocked in the Senate on the 97th day after President Johnson's nomination announcement when a cloture motion to cut off debate on the nomination failed; on the 101st day, the President withdrew the Fortas nomination, as well as the nomination of Homer Thornberry, who had been nominated to take Mr. Fortas's place as an Associate Justice. Like the Fortas nomination, the Thornberry nomination had been announced by President Johnson 101 days earlier.

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[10] The Committee's report of the nomination of Harry A. Blackmun was submitted to the Senate the day following Committee approval.

[11] Although, as Table 1 shows, hearings were held on the 1968 Thornberry nomination, the Judiciary Committee took no further action on it.

[12] "Written reports" were filed on the Marshall, Fortas (1968), Haynsworth, Carswell, Blackmun, Powell, Rehnquist (1971), O'Connor, Rehnquist (1986), and Scalia nominations.

[13] Subsequent to submitting favorable reports on the Rehnquist and Scalia nominations on August 14, 1986, the Judiciary Committee filed "written reports" with the Senate on September 8, 1986. Accounting in large part for the delay in filing was the Senate's being in adjournment, for its Summer recess, from August 16 until September 8.

[14] The 1965 confirmation of Justice Fortas was the last Supreme Court nomination to be confirmed by the Senate by voice vote. Since then every Senate confirmation of a nominee to the Court has been accomplished by roll call vote.

[15] Of the nominations on which Senate debate occurred on at least three days, these, in descending order, were the number of votes against confirmation: Haynsworth—55, Carswell—51, Fortas (1968)—43 (voting against cloture motion), Rehnquist (1986)—33, Rehnquist (1971)—26, and Powell—1.

[16] The expedited nature of the Senate's consideration of the White nomination was not discussed in the brief discussion on the Senate floor leading to Mr. White's confirmation. Noted, however, by Senator John A. Carroll, D-Colo. (a Judiciary Committee member and one of five Senators to make floor remarks on the nomination), was that the hearing earlier that day "was a remarkable one" in that "No one appeared there in opposition to the nomination." Carroll, John A. Associate Justice of U.S. Supreme Court. Remarks in the Senate. Congressional Record, v. 108, April 11, 1962. p. 6331.

[17] The speed with which the Burger nomination came to the Senate floor concerned one Member, Senator Milton R. Young, R-N. Dak. At the start of floor debate on the nomination, Senator Young suggested that the Senate consider deferring the matter "a few days." He noted that the one hearing on the Burger nomination, which had been conducted on June 3, had lasted less than two hours, and he offered the view that another hearing should be held to permit testimony of witnesses opposed to the Burger nomination. Young, Milton R. The Supreme Court of the United States. Remarks in the Senate. Congressional Record, v. 115, June 9, 1969. p. 15174.

The Senate, however, proceeded with the nomination, confirming Chief Justice Burger by a roll call vote of 74-3. The Supreme Court of the United States. Congressional Record, v. 115, June 9, 1969. p. 15195-96.

[18] Reporting on the start of the Judiciary Committee's hearings on the Marshall nomination, one journal noted that in 1961 and 1962, "the Committee held up Marshall's confirmation as judge of the 2nd Circuit Court of Appeals for a year before approving the nomination. In 1965, the Committee approved his confirmation as Solicitor General in less than a month." Marshall Nomination. Congressional Quarterly Weekly Report, v. 25, July 28, 1967. p. 1301.

TABLE 1.—CHRONOLOGY OF ACTIONS TAKEN ON SUPREME COURT NOMINATIONS, 1962–87 [1]

Nominee	Presidential announcement	Senate received nomination	Committee hearings	Committee approval	Report submitted	Senate debate; confirmation or other final action
Byron R. White	Mar. 30, 1962	Apr. 3, 1962	Apr. 11, 1962	Apr. 11, 1962	Apr. 11, 1962	Apr. 11, 1962; voice vote.
Arthur J. Goldberg	Aug. 29, 1962	Aug. 31, 1962	Sept. 11, 13, 19, 1962	Sept. 25, 1962	Sept. 25, 1962	Sept. 26, 1962; voice vote.
Abe Fortas	July 28, 1965	July 28, 1965	Aug. 5, 1965	Aug. 10, 1965	Aug. 10, 1965	Aug. 11, 1965; voice vote.
Thurgood Marshall	June 13, 1967	June 13, 1967	July 13, 14, 18, 19, 24, 1967	Aug. 3, 1967	Aug. 21, 1967	Aug. 29, 30, 1967; 69–11 vote.
Abe Fortas (to be Chief Justice)	June 26, 1968	June 26, 1969	July 11, 12, 16, 18, 19, 20, 22, 23, 1968; Sept. 13, 16, 1968.	Sept. 17, 1968	Sept. 23, 1968	Sept. 26, 27, 30, 1968; motion to close debate fails, 45–43 vote, Oct. 1, 1968; nomination withdrawn by President Oct. 4, 1968.
Homer Thornberry	June 26, 1968	June 26, 1968	July 11, 12, 16, 18, 19, 20, 22, 23, 1968; Sept. 13, 16, 1968.			No action; nomination withdrawn by President, Oct. 4, 1968.
Warren E. Burger	May 21, 1969	May 23, 1969	June 3, 1969	June 3, 1969	June 3, 1969	June 9, 1969; 74–3 vote.
Clement Haynsworth	Aug. 18, 1969	Aug. 21, 1969	Sept. 16, 17, 18, 19, 23, 24, 25, 26, 1969.	Oct. 9, 1969	Nov. 12, 1970	Nov. 13, 14, 17, 18, 19, 20, 21, 1969; rejected, 45–55 vote.
G. Harrold Carswell	Jan. 19, 1970	Jan 19, 1970	Jan. 27, 28, 29, 1970; Feb. 2, 3, 1970.	Feb. 16, 1970	Feb. 27, 1970	Mar. 13, 16, 18, 19, 20, 23, 24, 25, 26, 31, 1970; Apr. 3, 6, 7, 8, 1970; rejected, 45–51 vote.
Harry A. Blackmun	Apr. 14, 1970	Apr. 15, 1970	Apr. 29, 1970	May 5, 1970	May 6, 1970	May 11, 12, 1970; 94–0 vote.
Lewis F. Powell, Jr.	Oct. 21, 1971	Oct. 22, 1971	Nov. 4, 8, 9, 10, 1971	Nov. 23, 1971	Nov. 23, 1971	Dec. 3, 4, 6, 1971; 89–1 vote.
William H. Rehnquist	Oct. 21, 1971	Oct. 22, 1971	Nov. 3, 4, 9, 10, 1971	Nov. 23, 1971	Nov. 23, 1971	Dec. 6, 7, 8, 9, 10, 1971; 68–26 vote.
John Paul Stevens	Nov. 28, 1975	Dec. 1, 1975	Dec. 8, 9, 10, 1975	Dec. 11, 1975	Dec. 11, 1975	Dec. 17, 19, 1975; 98–0 vote.
Sandra Day O'Connor	July 7, 1981	Aug. 19, 1981	Sept. 9, 10, 11, 1981	Sept. 15, 1981	Sept. 15, 1981	Sept. 21, 1981; 99–0 vote.
William H. Rehnquist (to be Chief Justice).	June 17, 1986	June 20, 1986	July 29, 30, 31, 1986; Aug. 1, 1986.	Aug. 14, 1986	Aug. 14, 1986	Sept. 11, 15, 1986; motion to close debate passes, 68–31 vote, Sept. 17, 1986; confirmed, 65–33 vote.
Antonin Scalia	June 17, 1986	June 24, 1986	Aug. 5, 6, 19, 1986	Aug. 14, 1986	Aug. 14, 1986	Sept. 17, 1986; 98–0 vote.
Robert H. Bork	July 1, 1987	July 7, 1987				

[1] The actions listed are current as of July 7, 1987.

Sources: Relevant volumes of the Journal of the Executive Proceedings of the Senate, Congressional Record, Legislative and Executive Calendar of Senate Committee on the Judiciary, Weekly Compilation of Presidential Documents, Public Papers of the Presidents, and New York Times annual indices.

TABLE 2.—NUMBER OF DAYS BETWEEN ACTIONS TAKEN ON SUPREME COURT NOMINATIONS, 1962–87

[As of July 7, 1987]

Nominee	Presidential announcement and Senate receipt of nomination	Senate receipt of nomination and start of hearings	Start of hearings and committee approval	Committee approval and submission of report	Submission of report and start of Senate debate	Start of Senate debate and final Senate action	Presidential announcement and final Senate action
Byron R. White	4	8	0	0	0	0	12
Arthur J. Goldberg	2	11	14	0	1	0	28
Abe Fortas (1965)	0	8	5	0	1	0	14
Thurgood Marshall	0	31	21	18	8	1	78
Abe Fortas (1968)	0	15	68	6	3	5	97
Homer Thornberry	0	15					
Warren E. Burger	2	11	0	0	6	0	19
Clement Haynsworth	3	26	23	34	1	8	95
G. Harrold Carswell	0	8	20	11	14	26	79
Henry A. Blackmun	1	14	6	1	5	1	28
Lewis F. Powell, Jr.	1	13	19	0	10	3	46
Wm. H. Rehnquist (1971)	1	12	20	0	13	4	50
John Paul Stevens	3	7	3	0	6	0	19
Sandra Day O'Connor	43	21	6	0	6	0	76
Wm. H. Rehnquist (1986)	3	39	16	0	28	6	92
Antonin Scalia	7	42	9	0	34	0	92
Robert H. Bork	6						

SEQUENTIAL REFERRAL—S. 887

Mr. BYRD. Mr. President, I ask unanimous consent that when the Labor and Human Resources Committee reports S. 887, it be sequentially referred for not more than 30 days to the Select Committee on Indian Affairs for the purpose of adding language regarding the Native American Programs Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished acting Republican leader if the following calendar order numbers have been cleared on his side of the aisle: Calendar Order No. 239, Calendar Order No. 241, and Calendar Order No. 244?

Mr. KARNES. Mr. President, they have been cleared.

Mr. BYRD. Mr. President, I ask unanimous consent that Calendar Order Nos. 239, 241, and 244 be considered en bloc; that the amendments, where shown, be adopted; that where preambles and amendments to the titles are shown; that they be adopted; that the colloquies and statements by Senators be printed in the RECORD at the appropriate places; that the bills be passed, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

EXCELLENCE IN MINORITY HEALTH EDUCATION AND CARE ACT

The Senate proceeded to consider the bill (S. 769) to amend the Public Health Service Act to authorize assistance for centers for minority medical education, minority pharmacy education, minority veterinary medical and education, and minority dentistry education, which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That this Act may be cited as the "Excellence in Minority Health Education and Care Act".

FINDINGS AND PURPOSES

SEC. 2. (a) The Congress makes the following findings:

(1) Minority health care needs are currently greater than the health care needs of the general population.

(2) While the number of health professionals has increased, there are still shortages of health professionals from minority groups and there has been a drop in the enrollment of minority individuals in some health professions education programs.

(3) Health professionals from minority groups have critical roles in serving low-income minority populations, particularly in inner-city areas and rural areas.

(4) Historically, minority schools have developed a special capacity to conduct activities to prepare health professionals to serve minority populations.

(5) Health professions schools which train a disproportionate number of minority students also provide a disproportionate amount of health care services to minority populations.

(6) A disproportionate number of minority students trained at the schools described in paragraph (5) choose to practice underserved areas.

(7) In the United States—

(A) there are only 4 schools of medicine, 2 schools of dentistry, and 4 schools of pharmacy which focus predominantly on minority health professions education, and 40 percent of black physicians, 50 percent of all black dentists, and 25 percent of all black pharmacists have trained at one of those schools; and

(B) there is only 1 school of veterinary medicine which focuses predominantly on the training of minority students, and that school has trained 75 percent of all black veterinarians.

(b) The purposes of this Act are to—

(1) strengthen the national capacity to train minority students in the health professions; and

(2) support the health professions schools which have trained a significant number of the Nation's minority health professionals and enable those schools to supply health professionals to serve minority populations in underserved areas.

ASSISTANCE

SEC. 3. Part F of title VII of the Public Health Service Act is amended by inserting before section 788B the following new section:

"GRANTS FOR MINORITY EDUCATION

"SEC. 788A. (a) The Secretary shall make grants to health professions schools to assist such schools in supporting programs of excellence in health professions education for minority individuals. A grant under this section shall be used by a health professions school to—

"(1) develop a plan to achieve institutional improvements, including financial independence, to enable such school to support programs of excellence in health professions education for minority individuals;

"(2) improve the capacity of such school to recruit and retain faculty;

"(3) provide improved access to the library and information resources of such school;

"(4) establish, strengthen, or expand programs to enhance the academic performance of students in such school;

"(5) establish, strengthen, or expand programs to increase the number and quality of applicants for admission to such school; and

"(6) develop curricula and carry out faculty training programs in order to enable such school to become, for the Nation's health care providers, a resource with respect to the health problems of minority communities, such as higher infant mortality rates and higher incidences of acquired immunodeficiency syndrome.

"(b) No grant may be made under this section unless an application therefor has been submitted to the Secretary at such time, in such form, and containing such information, as the Secretary may by regulation prescribe.

"(c) In order to be eligible for a grant under this section, a health professions school must—

"(1) be a school described in section 701(4); and

"(2) have received a contract under section 788B for fiscal year 1987.

"(d) To carry out this section, there are authorized to be appropriated $10,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991."

Mr. KENNEDY. Mr. President, as reported by the Committee on Labor and Human Resources, S. 769 amends title VII of the Public Health Service [PHS] Act to authorize grants to health professions schools to assist them in supporting programs of excellence in health professions education for minority individuals. Grants will be available to schools which received contracts for advanced financial distress assistance under section 788B of the PHS Act in fiscal year 1987. Funds will be used to develop greater financial independence, improve the schools' ability to recruit and retain high quality faculty provide improved library and information resources, strengthen programs to enhance student academic performance, stengthen programs to increase the number and quality applicants for admission, and to develop curricula and conduct faculty training programs. Because of their significant historical role in training minority health care providers, these institutions have been recognized as national resources.

A 1985 report from the Secretary of the Department of Health and Human Resources documented continuing health status disparities among minority citizens of the United States as compared to the total population. A critical component of efforts to reduce these disparities is the training and provision of adequate numbers of minority health care professionals. Federal support for those health professions institutions that have historically played a significant role in training minority health care providers is consistent and in the best interest of the Nation as a whole.

This legislation will provide much needed assistance to these institutions to assure their long-term survival. In future years we in Congress must consider further measures to increase the number of minority health care professionals. We must assure to all Americans access to compassionate and sensitive health care.

I would like to thank Senator JOHNSTON who sponsored the original bill, and the members of the Committee on Labor and Human Resources. I urge the House of Representatives to hasten their consideration of this measure.

Mr. WILSON. The Excellence in Minority Health Education Care Act will provide support to health professions schools to facilitate their training of minority health care providers. The schools to which funds would be directed are historically black colleges and universities. But we must as well be concerned for Hispanic students. The Hispanic population is the fastest growing minority group in the United States, and we need to provide resources to facilitate the education of greater numbers of Hispanic health care providers. Further, Hispanics are just as much underrepresented in the health professions as blacks. Can future consideration be given to providing funds to schools that serve a large proportion of Hispanic students?

Mr. KENNEDY. The Senator's point is well taken. This bill is designed to provide support to health professions schools which have previously received funding under section 788B of the Public Health Service Act, the Advanced Financial Distress Assistance Program. All of these institutions happen to have predominantly black student populations. I am very much aware of the needs of the Hispanic population for health care providers, and the significant underrepresentation of Hispanics in the health professions. This legislation amends title VII of the Public Health Service Act. The remainder of the title VII programs will be reauthorized next year. During the consideration of all the programs under title VII, we will make every attempt to direct attention and resources toward increasing the representation of Hispanics in the health professions. I am very aware of and senstive to the health care needs of Mexican-Americans in California, Puerto Ricans in the Commonwealth of Puerto Rico, and Hispanics across the United States. Resources need to be directed toward improving the representation of Hispanics in the health professions, and aiding those health professions schools that are training significant proportions of Hispanic students. Such efforts are appropriately channeled through title VII programs, and I will make every effort to see this is done.

The **PRESIDING OFFICER.** The question is on agreeing to the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

The title was amended so as to read: "A bill to provide grants to support excellence in minority health professions education".

DEVELOPMENTAL DISABILITIES ASSISTANCE AND BILL OF RIGHTS AMENDMENTS ACT

The Senate proceeded to consider the bill (S. 1417) to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act, which had been reported from the Committee on Labor and Human Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That this Act may be cited as the "Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987".

REFERENCE

SEC. 2. Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Developmental Disabilities Assistance and Bill of Rights Act.

TITLE I—GENERAL PROVISIONS

FINDINGS AND PURPOSES

SEC. 101. Section 101 is amended to read as follows:

"FINDINGS AND PURPOSES

"SEC. 101. (a) The Congress finds that—

"(1) there are more than two million persons with developmental disabilities in the United States;

"(2) persons whose disabilities occur during their developmental period frequently have severe disabilities which are likely to continue indefinitely;

"(3) notwithstanding their severe disabilities, these persons have capabilities, competencies, and personal needs and preferences;

"(4) family and members of the community can play a central role in enhancing the lives of persons with developmental disabilities, especially when the family is provided with necessary support services;

"(5) persons with developmental disabilities and their families often require specialized lifelong assistance to be provided in a coordinated manner by many agencies and others in order to eliminate barriers for such persons and to meet the needs of such persons;

"(6) generic service agencies and agencies providing specialized services to persons with disabilities sometimes overlook, inappropriately meet the needs of, or exclude persons with developmental disabilities in their planning and delivery of services;

"(7) public and private employers tend to be unaware of the capability of persons with developmental disabilities to be engaged in competitive work in integrated settings; and

"(8) it is in the national interest to offer persons with developmental disabilities the opportunity, to the maximum extent feasible, to make decisions for themselves and to live in typical homes and communities where they can exercise their full rights and responsibilities as citizens.

"(b) The purposes of this title are—

"(1) to provide assistance to States and public and private nonprofit agencies and organizations to assure that all persons with developmental disabilities receive the services and other assistance and opportunities necessary to enable such persons to achieve their maximum potential through increased independence, productivity, and integration into the community;

"(2) to enhance the role of the family in assisting persons with developmental disabilities to achieve their maximum potential; and

"(3) to ensure the protection of the legal and human rights of persons with developmental disabilities.".

DEFINITIONS

SEC. 102. Section 102 is amended—

(1) by striking out paragraphs (2) and (3) and inserting in lieu thereof the following:

"(2) The term 'nonprofit' has the same meaning as in section 102(4) of the Older Americans Act of 1965.";

(2) by redesignating paragraph (4) as paragraph (3);

(3) by striking out paragraph (5);

(4) by redesignating paragraphs (6), (7), (8), and (9) as paragraphs (4), (5), (6), and (7), respectively;

(5) by redesignating paragraph (10) as paragraph (8), and in such paragraph, by striking out "nonhandicapped" each place it appears and inserting in lieu thereof "nondisabled";

(6) by striking out paragraph (11);

(7) by redesignating paragraphs (12), (13), (14), and (15) as paragraphs (18), (19), (20), and (21), respectively;

(8) by inserting after paragraph (8) (as redesignated by clause (5) of this section) the following new paragraphs:

"(9)(A) The term 'specialized services or special adaptations of generic services' has the meaning described in subparagraphs (B), (C), (D), (E), and (F) with respect to the activities described in each such subparagraph.

"(B) With respect to case management activities, the term 'specialized services or special adaptations of generic services' includes—

"(i) participation in the development of a comprehensive individualized habilitation plan under section 123;

"(ii) referral to, and coordination of, social, health, educational, support, and other services as identified in such individualized habilitation plan;

"(iii) monitoring to ensure the access, by the person with developmental disabilities and the family of such person, to appropriate services and to determine progress in meeting goals and objectives specified in such individualized habilitation plan; and

"(iv) the provision of assistance to a person with developmental disabilities to enable such person to obtain access to all services to which such person is entitled, and to effect changes in the service delivery system that will result in increased access to services for such person.

"(C) With respect to child development activities, the term 'specialized services or special adaptations of generic services' includes early intervention services.

"(D) With respect to community living activities, the term 'specialized services or special adaptations of generic services' includes—

"(i) in-home services, such as personal aides and attendants and other domestic assistance and supportive services;

"(ii) special living arrangements;

"(iii) group living services;

"(iv) recreation, socialization, and leisure time services;

"(v) nonvocational social development services; and

"(vi) placement and continuing support services.

"(E) With respect to employment activities, the term 'specialized services or special adaptations of generic services' includes—

"(i) services such as employment preparation and training leading to supported employment;

"(ii) follow-along services;

"(iii) incentive programs for employers who hire persons with developmental disabilities;

"(iv) services to assist transition from special education to employment;

"(v) services to assist transition from sheltered work settings to supported employment and nonsupported employment in integrated work settings; and

"(vi) job placement services.

"(F) With respect to activities which are within two or more Federal priority areas or activities which are within a State priority area, the term 'specialized services or special adaptations of generic services' includes—

"(i) outreach and identification activities;

"(ii) diagnosis, assessment, and periodic reassessment to determine each person's goals, strengths, functional limitations, and needs for specific services and other assistance;

"(iii) information and referral services;

"(iv) treatment;

"(v) family support services;

"(vi) respite care;

"(vii) foster care;

"(viii) day care;

"(ix) assistive technology;

"(x) counseling of a person with developmental disabilities and the family of such person;

"(xi) transportation services necessary to assure access to services for persons with developmental disabilities;

"(xii) protective and other social and sociolegal services;

"(xiii) education and training of personnel, persons with developmental disabilities, and family members of such persons; and

"(xiv) services to promote and coordinate activities to prevent developmental disabilities.

"(10) The term 'priority area activities' includes, with respect to Federal priority areas or a State priority area—

"(A) activities to increase the capacities and resources of public and private nonprofit entities and others to develop a system for providing specialized services or special adaptations of generic services or other assistance which responds to the needs and capabilities of persons with developmental disabilities and their families and to enhance coordination among entities;

"(B) the—

"(i) conduct of studies and analyses;

"(ii) gathering of information;

"(iii) development of model policies, and procedures; and

"(iv) presentation of information, models, findings, conclusions, and recommendations to policymakers,

in order to enhance opportunities for persons with developmental disabilities, including the enhancement of a system for providing or making available specialized services or special adaptations of generic services for persons with developmental disabilities;

"(C) the demonstration of new ways to enhance the independence, productivity, and integration into the community of persons with developmental disabilities, such as model demonstrations which, if successful, will be made generally applicable through sources of funding other than funding under this title, including new ways to enhance specialized services or special adaptations of generic services for persons with developmental disabilities;

"(D) outreach activities for persons with developmental disabilities to enable such persons to obtain assistance in the area, including access to specialized services or spe-

cial adaptations of generic services for persons with developmental disabilities;

"(E) the training of persons with developmental disabilities, family members of such persons, and personnel, including professionals, paraprofessionals, students, and volunteers, to obtain access to, or to provide, services and other assistance in the area, including specialized services or special adaptations of generic services for persons with developmental disabilities; and

"(F) similar activities designed to prevent developmental disabilities from occurring or to expand and enhance the independence, productivity and integration into the community of persons with developmental disabilities through the State on a comprehensive basis.

"(11) The term 'Federal priority areas' means community living activities, employment activities, child development activities, and case management activities.

"(12) The term 'State priority area' includes, at the discretion of the State Planning Council, priority area activities in two or more Federal priority areas or priority area activities in an area in the State considered essential by the State Planning Council.

"(13) The term 'community living activities' means such priority area activities as will assist persons with developmental disabilities in developing or maintaining suitable residential arrangements and supports in the community (including nonfinancial supports).

"(14) The term 'employment activities' means such priority area activities as will increase the independence, productivity, or integration of a person with developmental disabilities in work settings.

"(15) The term 'supported employment' means competitive work in integrated work settings—

"(A) for persons with developmental disabilities for whom competitive employment has not traditionally occurred; or

"(B) for persons for whom competitive employment has been interrupted or intermittent as a result of a developmental disability, and who because of their disability need on-going support services to perform such work.

"(16) The term 'child development activities' means such priority area activities as will assist in the prevention, identification, and alleviation of developmental disabilities in children, including early intervention services.

"(17) The term 'case management activities' means priority area activities to establish a potentially life-long, goal-oriented process for coordinating the range of assistance needed by persons with developmental disabilities and their families, which is designed to ensure accessibility, continuity of supports and services, and accountability and to ensure that the maximum potential of persons with developmental disabilities for independence, productivity, and integration into the community is attained.";

(9) by striking out "facility or facilities" in subparagraph (A)(ii) of paragraph (18) (as redesignated by clause (7) of this section) and inserting in lieu thereof "program or programs";

(10) by striking out "facilities" each place it appears in such paragraph and inserting in lieu thereof "programs";

(11) by striking out "facility" the first place it appears in paragraph (19) (as redesignated by clause (7) of this section) and inserting in lieu thereof "program";

(12) by striking out "public or nonprofit facility" in such paragraph and inserting in lieu thereof "program operated by a public or nonprofit private entity";

(13) by inserting ", including parents of persons with developmental disabilities, professionals, paraprofessionals, students, and volunteers," before "which is" in subparagraph (A) of such paragraph;

(14) by striking out "the facility" in such subparagraph and inserting in lieu thereof "a facility"; and

(15) by adding at the end thereof the following new paragraphs:

"(22) The term 'family support services' means services designed to—

"(A) strengthen the family's role as primary caregivers (including the role of the elderly parent);

"(B) prevent inappropriate out of the home placement and maintain family unity; and

"(C) reunite families with members who have been placed out of the home.

Such term includes respite care, personal care, parent training and counseling, and other individualized services.

"(23) The term 'assistive technology' means the systematic application of technology, engineering methodologies, or scientific principles to meet the needs of, and address the barriers confronted by, persons with developmental disabilities in areas including education, employment, supported employment, transportation, and independent living and other community living arrangements.

"(24) The term 'early intervention services' has the meaning given to such term by section 672(2) of the Education of the Handicapped Act.".

REPORTS

SEC. 103. (a) Section 107(a) is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new paragraphs:

"(4) a review and description of any action taken by the State with respect to each annual survey report and plan of corrections for cited deficiencies prepared pursuant to section 1902(a)(31)(B) of the Social Security Act with respect to any intermediate care facility for the mentally retarded in such State and a description of the State Planning Council's response to such actions, reports, and plans; and

"(5) a description of the progress made in the State in, and any identifiable trends concerning, the setting of priorities for, policy reform concerning, and advocacy for, persons with developmental disabilities which are attributable to physical impairment, mental impairment, or a combination of physical and mental impairments, including any other subpopulation of persons with developmental disabilities (including minorities) that the State Planning Council may identify under sections 122(b)(3) and 122(f).".

(b) Section 107(c)(1) is amended—

(1) by striking out "and" at the end of subparagraph (A);

(2) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a semicolon; and

(3) by adding at the end thereof the following new subparagraphs:

"(C) the progress made by States in, and any identifiable trends concerning, the setting of priorities for, policy reform concerning, and advocacy for, persons with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments, including any other subpopulation of persons with developmental disabilities (including minorities) that the State Planning Council may identify under sections 122(b)(3) and 122(f);

"(D) the Federal fiscal and policy barriers to addressing the needs of persons with developmental disabilities attributable to physical impairments, mental impairments, or a combination of mental and physical impairments; and

"(E) the number of meetings held by the interagency committee established under section 108(b) during the period for which the report is made, which agencies were represented at each such meeting, the name and title of each individual attending such meeting, and the accomplishments of the interagency committee in comparison to the goals and objectives of such committee.".

TITLE II—STATE ASSISTANCE PROGRAM

PURPOSE

SEC. 201. (a) Section 121 is amended to read as follows:

"PURPOSE

"SEC. 121. The purpose of this part is to provide payments to States to assist in the development of a comprehensive system and a coordinated array of services and other assistance for persons with developmental disabilities through the conduct of, and appropriate planning and coordination of, administrative activities, Federal priority activities, and a State priority activity, in order to support persons with developmental disabilities to achieve their maximum potential through increased independence, productivity, and integration into the community.".

(b) The heading for part B is amended by striking out "AND SERVICE" and inserting in lieu thereof "PRIORITY AREA".

STATE PLAN REQUIREMENTS

SEC. 202. (a) Section 122(b) is amended by striking out "for the provision of services for persons with developmental disabilities" in the matter preceding paragraph (1).

(b)(1)(A) Section 122(b)(1) is amended—

(i) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) The plan must provide for the establishment of a State Planning Council in accordance with section 124.";

(ii) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) The plan must designate the State agency which shall administer or supervise the administration of the State plan (hereafter in this part referred to as the 'designated State agency'). Except as provided in subsection (e), the designated State agency may be—

"(i) the State Planning Council required under subparagraph (A) if such Council may be the designated State agency under the laws of the State;

"(ii) a State agency that does not provide or pay for services made available to persons with developmental disabilities; or

"(iii) a State office, including the immediate office of the Governor of the State or a State planning office."; and

(iii) by striking out "each" in subparagraph (C) and inserting in lieu thereof "the".

(B) Section 122 is amended by adding at the end thereof the following new subsection:

"(e)(1) If a State agency that provides or pays for services for persons with developmental disabilities was the designated State agency for purposes of this part on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987 and the Governor of the State determines, before June 30, 1988, not to change the designation of such agency, such agency may continue to be a designated State agency for purposes of this part.

"(2) The determination of the Governor of a State under paragraph (1) shall be at the discretion of the Governor and shall be made by the Governor after the Governor has considered the comments of the general public and the nonagency members of the State Planning Council with respect to the designation of such State agency and after the Governor has made an independent assessment of the impact the designation of such agency has on the ability of the State Planning Council to serve as an advocate for persons with developmental disabilities.

"(3) If the Governor of a State determines not to retain the designation of a designated State agency in effect on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, the Governor shall, by October 1, 1990, redesignate such agency in accordance with the requirements of subsection (b)(1)(B).

"(4) After the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, any redesignation of a designated State agency shall be made in accordance with the requirements of subsection (b)(1)(B)."

(2) Section 122(b)(2) is amended—

(A) by inserting a comma and "activities," after "programs" in subparagraph (A);

(B) by striking out clause (i) of subparagraph (C) and inserting in lieu thereof "(i) the extent and scope of services being provided, or to be provided, to persons with developmental disabilities under such other State plans for federally assisted State programs as the State conducts and for which persons with developmental disabilities are eligible to participate, including programs relating to education, job training, public assistance, medical assistance, social services, maternal and child health, aging, programs for children with special health care needs, housing, and comprehensive health and mental health, and other such other plans as the Secretary may specify, and"; and

(C) by striking out "priority services being or to be provided" in subparagraph (D) and inserting in lieu thereof "Federal and State priority areas which are addressed or which will be addressed".

(3) Section 122 (as amended by paragraph (1)(B) of this subsection) is further amended—

(A) by redesignating paragraphs (3) through (7) of subsection (b) as paragraphs (4) through (8), respectively;

(B) by inserting after paragraph (2) of such subsection the following new paragraph:

"(3) The plan must describe a process and timetable for the completion, by April 1, 1990, by the State Planning Council in the State, of the reviews, analyses, and final report described in subsection (f)."; and

(C) by adding at the end thereof the following new subsection:

"(f)(1) Each State Planning Council shall conduct a comprehensive review and analysis of the eligibility for services provided, and the extent, scope, and effectiveness of, services provided and functions performed by, all State agencies (including agencies which provide public assistance) which impact or which potentially impact on the ability of persons with developmental disabilities to achieve the goals of independence, productivity, and integration into the community, including persons with developmental disabilities attributable to physical impairment, mental impairment, or a combination of physical and mental impairments.

"(2) Each State Planning Council shall conduct a review and analysis of the effectiveness of, and consumer satisfaction with, the functions performed by, and services provided or paid for from Federal and State funds by, each of the State agencies (including agencies providing public assistance) responsible for performing functions for, and providing services to, all persons with developmental disabilities in the State. Such review and analysis shall be based upon a survey of a representative sample of persons with developmental disabilities receiving services from each such agency and their families, if appropriate.

"(3) Each State Planning Council shall convene public forums, after the provision of notice within the State, in order to—

"(A) present the findings of the reviews and analyses prepared under paragraphs (1) and (2);

"(B) obtain comments from all interested persons in the State regarding the unserved and underserved populations of persons with developmental disabilities which result from physical impairment, mental impairment, or a combination of physical and mental impairments; and

"(C) prepare recommendations on how to remove barriers to services for persons with developmental disabilities and to connect such services to existing State agencies by recommending the designation of one or more State agencies, as appropriate, to be responsible for the provision and coordination of such services.

"(4) By April 1, 1990, each State Planning Council shall prepare and transmit to the Governor of the State and the legislature of the State a final written report concerning the review and analyses conducted under paragraphs (1) and (2). The report shall contain recommendations by the State Planning Council concerning—

"(A) the most appropriate agency or agencies of the State to be designated as responsible for the provision and coordination of services for persons with developmental disabilities who are traditionally underserved, such as persons with developmental disabilities attributable to physical impairment, persons with developmental disabilities attributable to dual mental impairments, and persons with developmental disabilities attributable to a combination of physical and mental impairments, and such other subpopulations of persons with developmental disabilities (including minorities) as the State Planning Council may identify; and

"(B) the steps to be taken to include the data and recommendations obtained, through the conduct of the reviews and analyses under paragraphs (1) and (2) and the preparation of the report required by this paragraph, in the State Planning Council's ongoing advocacy, public policy, and model service demonstration activities.

"(5) By April 15, 1990, the Governor of each State shall submit to the Secretary a copy of the report required by paragraph (4). By September 30, 1990, the Secretary shall transmit a summary of such reports to the appropriate committees of the Congress.".

(4) Section 122(b)(4) (as redesignated by paragraph (3)(A) of this subsection) is amended—

(A) by striking out "strengthening services for" in subparagraph (A) and inserting in lieu thereof "enhancing the independence, productivity, and integration into the community of"; and

(B) by striking out "or agencies" each place it appears in subparagraph (C).

(5) Section 122(b)(5) (as redesignated by paragraph (3)(A) of this subsection) is amended—

(A) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) The plan must provide for the examination, not less often than once every three years, of the provision, and the need for the provision, in the State of the four Federal priority areas and the State priority area. Such examination shall take into account the reviews and analyses conducted, and the report prepared, under subsection (f), and shall, at a minimum, include—

"(i) an analysis of such priority areas in relation to limited support or lack of support for persons with developmental disabilities attributable to physical impairment, persons with developmental disabilities attributable to mental impairment, and persons with developmental disabilities attributable to a combination of physical and mental impairments;

"(ii) an analysis of criteria for eligibility for services that may be causing persons with developmental disabilities to be excluded from receiving such services;

"(iii) an analysis of services, technology, or knowledge which may be unavailable to assist persons with developmental disabilities;

"(iv) an analysis of existing and projected fiscal resources;

"(v) an analysis of any other issues identified by the State Planning Council; and

"(vi) the formulation of objectives in both policy reform and service demonstration to address the issues described in clauses (i) through (v) for all subpopulations of persons with developmental disabilities which may be identified by the State Planning Council.";

(B) by striking out subparagraphs (B), (C), and (D);

(C) by redesignating subparagraphs (E) and (F) as subparagraphs (B) and (C), respectively;

(D) by striking out "service activities in the priority services" in clause (i) of subparagraph (B) (as redesignated by clause (C) of this paragraph) and inserting in lieu thereof "activities in the Federal priority area of employment activities, and, at the discretion of the State, activities in the three other Federal priority areas and a State priority area, the conduct of the analyses specified in clauses (i) through (v) of subparagraph (A), and the implementation of paragraph (3) and subsection (f)";

(E) by striking out "service activities for persons with developmental disabilities, and" in clause (ii) of such subparagraph;

(F) by inserting "priority area activities for" after "administration of" in such clause; and

(G) by striking out "the provision of such services" in such clause and inserting in lieu thereof "persons with developmental disabilities".

(5) Section 122(b)(6) (as redesignated by paragraph (3)(A) of this subsection) is amended—

(A) by striking out "services furnished" in clause (i) of subparagraph (A) and inserting in lieu thereof "programs";

(B) by striking out "furnished" in such clause and inserting in lieu thereof "operated"; and

(C) by striking out "delivery of services" in clause (ii) of such subparagraph and inserting in lieu thereof "programs".

HABILITATION PLANS

SEC. 203. (a) Section 123(b) is amended—

(1) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) The plan shall be developed jointly by (A) the person for whom the plan is established, (B) where appropriate, such person's parent or guardian or other representative, and (C) a representative or representatives of the program primarily responsible for delivering or coordinating the delivery of services to the person for whom the plan is established."; and

(2) by striking out "program coordinator who will be responsible for" in paragraph (3)(C) and inserting in lieu thereof "case manager who will be responsible for coordinating".

(b) Section 123(c) is amended to read as follows:

"(c) Each habilitation plan shall be reviewed, and where necessary, revised, at least annually by the person for whom the plan is established and the person's parents or guardian or other representative and the agency primarily responsible for the delivery of services to the person for whom the plan was established or each agency responsible for the coordination of the delivery of services to such person.".

STATE PLANNING COUNCILS

SEC. 204. Section 124 is amended—

(1) by redesignating subsection (b) as subsection (d) and, in paragraph (1) of such subsection—

(A) by striking out "or agencies"; and

(B) by striking out ", including the specification of services under section 122(b)(4)(B)"; and

(2) by striking out subsection (a) and inserting in lieu thereof the following:

"(a) Each State which receives assistance under this part shall establish a State Planning Council which will serve as an advocate for all persons with developmental disabilities.

"(b)(1) The members of the State Planning Council of a State shall be appointed by the Governor of the State from among the residents of that State.

"(2) The Governor of each State shall make appropriate provisions for the rotation of membership on the State Planning Council.

"(3) Each State Planning Council shall at all times include in its membership representatives of the principal State agencies (including the State agency that administers funds provided under the Rehabilitation Act of 1973, the State agency that administers funds provided under the Education of the Handicapped Act, the State agency that administers funds provided under the Older Americans Act of 1965, and the State agency that administers funds provided under title XIX of the Social Security Act for persons with developmental disabilities), higher education training facilities, each university affiliated program or satellite center in the State, the State protection and advocacy system established under section 142, local agencies, and nongovernmental agencies and private nonprofit groups concerned with services for persons with developmental disabilities in that State.

"(4) At least one-half of the membership of each State Planning Council shall consist of persons who—

"(A) are persons with developmental disabilities;

"(B) are parents or guardians of such persons; or

"(C) are immediate relatives or guardians of persons with mentally impairing developmental disabilities,

and who are not employees of a State agency which receives funds or provides services under this part, who are not managing employees (as defined in section 1126(b) of the Social Security Act) of any other entity which receives funds or provides services under this part, and who are not persons with an ownership or control interest (within the meaning of section 1124(a)(3) of the Social Security Act) with respect to such an entity.

"(5) Of the members of the State Planning Council described in paragraph (4)—

"(A) at least one-third shall be persons with developmental disabilities; and

"(B)(i) at least one-third shall be individuals described in subparagraph (C) of paragraph (4), and (ii) at least one of such individuals shall be an immediate relative or guardian of an institutionalized or previously institutionalized person with a developmental disability.

"(c)(1) Each State Planning Council may prepare and approve a budget using amounts paid to the State under this part to hire such staff and obtain the services of such professional, technical, and clerical personnel consistent with State law as the State Planning Council determines to be necessary to carry out its functions under this part.

"(2) The staff and other personnel of a State Planning Council, while working for the State Planning Council, shall be responsible solely for assisting the State Planning Council in carrying out its duties under this part and shall not be assigned duties by the designated State agency or any other agency or office of the State.".

STATE ALLOTMENTS

SEC. 205. (a) Section 125(a) is amended—

(1) by striking out "$100,000" in clause (i) of paragraph (3)(A) and inserting in lieu thereof "$160,000";

(2) by striking out "$250,000" in clause (ii) of such paragraph and inserting in lieu thereof "$300,000";

(3) by striking out "$47,000,000" in paragraph (4) and inserting in lieu thereof "$60,000,000";

(4) by striking out "$160,000" in subparagraph (A) of such paragraph and inserting in lieu thereof "$200,000";

(5) by striking out "$300,000" in subparagraph (B) of such paragraph and inserting in lieu thereof "$350,000"; and

(6) by adding at the end thereof the following new paragraph:

"(6) In any case in which the total amount appropriated under section 130 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary may increase each of the minimum allotments under paragraphs (3) and (4) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 130 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 130 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 130 for such preceding fiscal year.".

(b) Section 125(b) is amended to read as follows:

"(b) In any case in which a State does not expend by the end of a fiscal year the total amount of its allotment under this section for such fiscal year, the State may expend not more than 20 percent of such total amount during the fiscal year immediately succeeding such fiscal year. Any amounts expended from such allotment during such succeeding fiscal year shall be expended in accordance with the requirements of this part and the State plan submitted under this part.".

WITHHOLDING

SEC. 207. Section 127 is amended—

(1) by striking out "or" at the end of clause (1);

(2) by striking out the comma at the end of clause (2) and inserting in lieu thereof a semicolon and "or";

(3) by inserting after clause (2) the following new clause:

"(3) there is a failure to implement the State plan or the regulations of the Secretary which are applicable to this part,";

(4) by inserting ", with respect to a violation of clause (1) or clause (2) of this section," before "further payments" the first place it appears; and

(5) by striking out "such failure" the first place it appears and inserting in lieu thereof "a failure to comply with clause (3) of this section".

AUTHORIZATION OF APPROPRIATIONS

SEC. 208. Section 130 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 130. For allotments under section 125, there are authorized to be appropriated $62,200,000 for fiscal year 1988, $69,900,000 for fiscal year 1989, and $77,400,000 for fiscal year 1990.".

TITLE III—PROTECTION AND ADVOCACY

REQUIREMENTS FOR SYSTEM

SEC. 301. (a) Section 142(a)(2) is amended—

(1) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (E), (F), and (G), respectively;

(2) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) have the authority to—

"(i) pursue legal, administrative, and other appropriate remedies or approaches to ensure the protection of, and advocacy for, the rights of such persons within the State who are or who may be eligible for treatment, services, or habilitation, or who are being considered for a change in living arrangements, with particular attention to members of minority groups; and

"(ii) provide information on and referral to programs and services addressing the needs of persons with developmental disabilities;

"(B) have the authority to investigate incidents of abuse and neglect of persons with developmental disabilities if the incidents are reported to the system or if there is prob-

able cause to believe that the incidents occurred;

"(C) on an annual basis, provide the public with an opportunity to comment on priorities established by, and activities of, the system;

"(D) establish a grievance procedure for clients or prospective clients of the system to assure that persons with developmental disabilities have full access to services of the system;"; and

(3) by striking out subparagraph (G) (as redesignated by clause (1) of this subsection) and inserting in lieu thereof the following:

"(G) have access to all records of—

"(i) any person with developmental disabilities who is a client of the system if such person, or the legal guardian, conservator, or other legal representative of such person, has authorized the system to have such access; and

"(ii) any person with developmental disabilities—

"(I) who, by reason of the mental or physical condition of such person, is unable to authorize the system to have such access;

"(II) who does not have a legal guardian, conservator, or other legal representative, or for whom the legal guardian is the State; and

"(III) with respect to whom a complaint has been received by the system or with respect to whom there is probable cause to believe that such person has been subject to abuse or neglect;".

(b) Section 142(c) is amended—

(1) by striking out "$11,000,000" in subparagraph (A) of paragraph (1) and inserting in lieu thereof "$20,000,000";

(2) by striking out "$80,000" in clause (i) of such subparagraph and inserting in lieu thereof "$107,000";

(3) by striking out "$150,000" in clause (ii) of such subparagraph and inserting in lieu thereof "$200,000";

(4) by striking out "$11,000,000" in subparagraph (B) of such paragraph and inserting in lieu thereof "$20,000,000";

(5) by striking out "$50,000" in such subparagraph and inserting in lieu thereof "$150,000, and the allotment of each of American Samoa, Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands for such fiscal year shall not be less than $80,000";

(6) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(7) by inserting after paragraph (1) the following new paragraph:

"(2) In any case in which the total amount appropriated under section 143 for a fiscal year exceeds the total amount appropriated under such section for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary may increase each of the minimum allotments under subparagraphs (A) and (B) of paragraph (1) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 143 for the fiscal year for which the increase in minimum allotment is being made, minus

"(B) the total amount appropriated under section 143 for the immediately preceding fiscal year, bears to the total amount appropriated under section 143 for such preceding fiscal year.".

(c) Section 142 is further amended—

(1) by striking out subsection (b);

(2) by redesignating subsection (c) (as amended by subsection (b) of this section) as subsection (b); and

(3) by adding at the end thereof the following new subsection:

"(c) If, for any fiscal year, the total amount of a State's allotment under this section exceeds the total amount of the State's allotment under this section for the fiscal year preceding such fiscal year by an amount equal to or in excess of 20 percent of the State's allotment under this section for such preceding fiscal year, the State may use not more than 10 percent of its allotment under this section for such fiscal year for activities under this section in the fiscal year succeeding such fiscal year.".

AUTHORIZATION OF APPROPRIATIONS

SEC. 302. Section 143 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 143. For allotments under section 142, there are authorized to be appropriated $20,000,000 for fiscal year 1988, $22,000,000 for fiscal year 1989, and $24,200,000 for fiscal year 1990.".

TITLE IV—UNIVERSITY AFFILIATED PROGRAMS

PURPOSE

SEC. 401. (a) Section 151 is amended—

(1) by striking out "facilities" and inserting in lieu thereof "programs"; and

(2) by striking out "the conduct of service demonstration programs" and inserting in lieu thereof "the demonstration of exemplary services and technical assistance".

(b) The heading for part D is amended by striking out "FACILITIES" and inserting in lieu thereof "PROGRAMS".

GRANT AUTHORITY

SEC. 402. (a) Section 152(a) is amended—

(1) by striking out "section 154" and inserting in lieu thereof "section 154(a)";

(2) by striking out "facilities" and inserting in lieu thereof "programs"; and

(3) by striking out "section 102(13)" and inserting in lieu thereof "section 102(19)".

(b) Section 152 is further amended—

(1) by striking out subsections (b) and (d);

(2) by redesignating subsection (c) as subsection (d) and (in such subsection)—

(A) by inserting "and may compete for grants under subsections (b) and (c)" before the period; and

(B) by striking out "section 102(13)" and inserting in lieu thereof "section 102(19)";

(3) by inserting after subsection (a) the following new subsections:

"(b)(1)(A) From amounts appropriated under section 154(b), the Secretary shall make grants of sufficient size and scope to university affiliated programs receiving grants under subsection (a) to support training projects to train personnel to address the needs of persons with developmental disabilities in areas of emerging national significance, particularly projects to train personnel in the areas of early intervention programs (as defined in paragraph (2)), programs for elderly persons with developmental disabilities (as defined in paragraph (3)), and community-based service programs (as defined in paragraph (4)).

"(B) The Secretary shall make determinations with respect to grants under this subsection based on information relating to present and projected needs for the training of personnel based on identified State, regional, or national shortages of personnel, the capacity of the university affiliated programs to train personnel, and such other information as may be determined necessary and appropriate by the Secretary.

"(C) Grants under this subsection may be used by university affiliated programs to (i) assist in paying the costs of courses of training or study for personnel to provide services for persons with developmental disabilities and (ii) establish fellowships or traineeships providing such stipends and allowances as may be determined by the Secretary.

"(2) Grants under this subsection for training projects with respect to early intervention programs shall be for the purpose of assisting university affiliated programs in providing training to allied health personnel and other personnel who provide, or who will provide, interdisciplinary intervention to infants, toddlers, and preschool age children with developmental disabilities. Such training projects shall include instruction on methods of working and collaborating with professionals and families of persons with developmental disabilities.

"(3) Grants under this subsection for training projects with respect to programs for elderly persons with developmental disabilities shall be for the purpose of supporting the planning, design, and implementation of coordinated interdisciplinary training programs between existing aging or gerontological programs and university affiliated programs in order to prepare professional staff to provide services for elderly persons with developmental disabilities.

"(4) Grants under this subsection for training projects with respect to community-based programs shall be for the purpose of providing interdisciplinary training to personnel who will provide direct supports and services for persons with developmental disabilities, including paraprofessionals who are employed or are preparing to be employed in community-based day programs or residential programs for persons with developmental disabilities. The Secretary shall ensure that all grants under this paragraph are made only to university affiliated programs that involve local community-level direct care programs and paraprofessional training programs in the preparation of the application for such grant and shall assure that any training under the university affiliated program will be coordinated with local programs.

"(c) From amounts appropriated under section 154(b), the Secretary may make grants to university affiliated programs receiving grants under subsection (a) to support one or more of the following activities:

"(1) The provision of service-related training to persons with developmental disabilities, family members of such persons, professionals, volunteers, or other personnel to enable such persons, family members, professionals, volunteers, or personnel to provide services to increase or maintain the independence, productivity, and integration into the community of persons with developmental disabilities.

"(2) The conduct of an applied research program designed to produce more efficient and effective methods for (A) the delivery of services to persons with developmental disabilities, and (B) the training of professionals, paraprofessionals, and parents who provide such services."; and

(4) by adding at the end thereof the following new subsection:

"(e) From amounts appropriated under section 154(a), the Secretary may make a

grant to a university to study the feasibility of establishing a university affiliated program or a satellite center. Such study shall include an assessment of the needs of the area in which the university is located for such a program or center. The amount of a grant under this subsection may not exceed $35,000 for any fiscal year. A grant under this subsection may only be made in a State in which there is no university affiliated program or satellite center.”.

APPLICATIONS

SEC. 403. (a) Section 153(a) is amended—

(1) by striking out “facilities” in the first sentence and inserting in lieu thereof “programs”;

(2) by inserting “all” before “persons with developmental disabilities” in the second sentence; and

(3) by striking out “section 102(13)” in the second sentence and inserting in lieu thereof “section 102(19)”.

(b) Section 153(b) is amended—

(1) by striking out “section 152” in the matter preceding paragraph (1) and inserting in lieu thereof “section 152(a)”;

(2) by striking out “facility” each place it appears in paragraph (2) and inserting in lieu thereof “program”;

(3) by striking out “is making” in clause (i) of subparagraph (B) of such paragraph and inserting in lieu thereof “will make”;

(4) by striking out “and” at the end of such subparagraph;

(5) by striking out the period at the end of paragraph (3) and inserting in lieu thereof a semicolon; and

(6) by adding at the end thereof the following new paragraphs:

“(4) the activities conducted under this part are consistent with, and to the extent feasible, complement and further, the objectives contained in the State plan required under section 122; and

“(5) before the submission of such application, an opportunity for comment has been provided to the general public and the State Planning Council of the State in which the program will be conducted or the satellite center is or will be located.”.

(c) Section 153(c) is amended—

(1) by striking out “facility” and inserting in lieu thereof “program”; and

(2) by striking out “section 152” and inserting in lieu thereof “section 152(a)”.

(d) Section 153(d) is amended—

(1) by striking out “facility” each place it appears and inserting in lieu thereof “program”;

(2) by striking out “section 154” each place it appears and inserting in lieu thereof “section 154(a)”;

(3) by striking out “$175,000” in paragraph (1) and inserting in lieu thereof “$200,000”;

(4) by striking out “$75,000” in paragraph (1) and inserting in lieu thereof “$150,000”; and

(5) by adding at the end thereof the following new paragraph:

“(3) For purposes of making grants under section 152(a), the Secretary shall consider applications for grants for four university affiliated programs or satellite centers for each of the fiscal years 1988, 1989, and 1990 which are in addition to the total number of university affiliated programs and satellite centers receiving grants under such section for the preceding fiscal year. Such programs and centers shall, to the extent feasible, be geographically distributed for the purpose of serving States that are unserved by university affiliated programs and satellite centers under this part on the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987.”.

AUTHORIZATION OF APPROPRIATIONS

SEC. 404. Section 154 is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 154. (a) For the purpose of grants under section 152(a), there are authorized to be appropriated $9,400,000 for fiscal year 1988, $10,200,000 for fiscal year 1989, and $11,000,000 for fiscal year 1990. Amounts appropriated under this section for a fiscal year shall remain available for obligation and expenditure until the end of the succeeding fiscal year.

“(b) For the purpose of grants under sections 152(b) and 152(c), there are authorized to be appropriated $4,500,000 for fiscal year 1988, $5,000,000 for fiscal year 1989, and $5,500,000 for fiscal year 1990.

“(c) The Secretary may use funds appropriated under subsection (a) for the purposes described in subsection (b).

“(d) Of the amounts appropriated under subsection (b), at least 75 percent shall be used for grants under section 152(b) and the remainder shall be used for grants under section 152(c).”.

TITLE V—PROJECTS OF NATIONAL SIGNIFICANCE

PURPOSE

SEC. 501. (a) Section 161 is amended by striking out “for demonstration projects” and inserting in lieu thereof “and contracts for projects of national significance”.

(b) The heading for part E is amended to read as follows:

“PART E—PROJECTS OF NATIONAL SIGNIFICANCE”.

GRANT AUTHORITY

SEC. 502. Section 162(a) is amended—

(1) by inserting “and enter into contracts with” after “make grants to” in the matter preceding paragraph (1);

(2) by striking out paragraph (1) and inserting in lieu thereof the following:

“(1) projects of national significance relating to persons with developmental disabilities, including projects to educate policymakers, develop an ongoing data collection system, determine the feasibility and desirability of developing a nationwide information and referral system, and pursue Federal interagency initiatives, and other projects of sufficient size and scope and which hold promise of expanding or otherwise improving opportunities for persons with developmental disabilities (especially those who are multihandicapped or disadvantaged, including minority groups, Native Americans, Native Hawaiians, and other underserved groups); and”; and

(3) by inserting “the advocacy functions of the State Planning Council, the functions performed by university affiliated programs and satellite centers under part D, and” after “otherwise improving” in paragraph (2).

(b) The last sentence of section 162(b) is amended—

(1) by striking out “for each” and inserting in lieu thereof “in such”; and

(2) by striking out “in which an applicant's project will be conducted”.

(c) Section 162 is further amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

“(c) Not later than January 1 of each year, the Secretary shall publish in the Federal Register proposed priorities for grants and contracts under this part and shall allow a period of 60 days for public comments and suggestions concerning such proposed priorities. After analyzing and considering such comments, the Secretary shall publish final priorities for such grants and contracts in the Federal Register not less than 30 days after the close of the comment period.”.

AUTHORIZATION OF APPROPRIATIONS

SEC. 503. Section 163 is amended to read as follows:

“AUTHORIZATION OF APPROPRIATIONS

“SEC. 163. (a) To carry out this part, there are authorized to be appropriated $3,650,000 for fiscal year 1988, $3,650,000 for fiscal year 1989, and $3,650,000 for fiscal year 1990.

“(b) Of the amounts appropriated under subsection (a) for any fiscal year, $600,000 shall be available for grants and contracts under section 162(a)(1) for not more than three projects to determine the feasibility and desirability of developing a nationwide information and referral system for persons with developmental disabilities. The Secretary shall award grants and contracts under section 162(a)(1) for such projects within 6 months after the date of enactment of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987.”.

Mr. HARKIN. Mr. President, I rise today to urge the passage of S. 1417, the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987. This bill, which amends and extends for 3 years the Developmental Disabilities Assistance and Bill of Rights Act, was unanimously ordered reported by the Committee on Labor and Human Resources on July 1, 1987, with an amendment in the nature of a substitute.

This is the first bill concerning programs for persons with disabilities that I've had the privilege of reauthorizing since I assumed the chairmanship of the Subcommittee on the Handicapped at the beginning of the 100th Congress. I believe that this bill will enhance opportunities for persons with developmental disabilities to make decisions for themselves about their futures, to be engaged in competitive work in integrated settings, and to live in typical homes and communities where they can exercise their full rights and responsibilities as citizens.

I would like to thank Senator WEICKER for all his help and guidance in crafting this legislation. This bill builds on the restructuring of the legislation made during his tenure as chair of the subcommittee. I would also like to thank Senator HATCH for his contribution to the bill, particularly those sections dealing with the university affiliated programs. I would also like to thank Senator THURMOND for his work on ensuring that we pursue the development of a national information and referral system which will provide important assistance to parents and others requiring information for meeting the special needs of children and adults with disabilities. Thanks also to senator KENNEDY for his contributions to the bill, particularly to the sections enhancing opportunities for elderly persons with developmental disabilities. Special thanks to Senators STAFFORD, SIMON, METZENBAUM, COCHRAN, and ADAMS for their support for all components of the program.

Special thanks to Bobby, Lynne, Katy, and Patty of my staff and Terry and Chris of Senator WEICKER's staff, Chris of Senator HATCH's staff, Sue Ellen of Senator STAFFORD's staff, Kerk of Senator THURMOND's staff, Robin of Senator KENNEDY's staff, Judy of Senator SIMON's staff, Evelyn of Senator METZENBAUM's staff, Jackie of Senator COCHRAN's staff, John of Senator ADAM's staff, and the other staffers who worked hard to make this a bipartisan consensus bill. Special thanks to Sue Ellen for her work on the cordon print.

Finally, I would like to thank the Consortium for Citizens with Developmental Disabilities, Dr. Al Healy, director of Iowa University Affiliated Facilities, and the other witnesses who testified at the April 1987 hearing. Their testimony provided the impetus for many of the provisions included in the bill.

The Developmental Disabilities Assistance and Bill of Rights Act has four components: The basic State grant program; the protection and advocacy systems; the university affiliated programs; and special projects.

The bill reaffirms the thrust of the basic State grant program and includes several amendments that clarify and strengthen the program. The findings section of the bill docuses on the capabilities, competencies, and preferences as well as the needs of persons with developmental disabilities and emphasizes the important role the family and members of the community can play in enhancing the lives of persons with developmental disabilities, especially when necessary support services are provided.

The bill also clarified and strengthens the independence of the State planning councils to carry out their advocacy role under the act and refocuses the activities the councils may fund to include policy analyses and other activities that are most likely to have a positive impact on the greatest numbers of persons with developmental disabilities. The bill also amends the State plan to require States to take a hard look at how they are meeting the needs of persons with developmental disabilities attributable to a physical impairment, a mental impairment, or a combination of physical and mental impairments. The bill also increases State flexibility in selecting priority areas in which to focus their efforts.

The bill increases the minimum State allotment under the basic State grant to $350,000. It authorizes to be appropriated $62,200,000 for fiscal year 1988, $69,900,000 for fiscal year 1989, and $77,400,000 for fiscal year 1990.

With respect to protection and advocacy systems, the bill provides that such systems have the authority to pursue legal, administrative, and other appropriate remedies—current law—or approaches—added—to ensure the protection and advocacy for persons with developmental disabilities. By adding "or approaches" Congress intends that such systems may appear before all appropriate governmental entities, such as boards, commissioners, city and county councils and State legislatures to educate policymakers about the rights of persons with developmental disabilities.

Further, I share Senator WEICKER's view that the existing language authorizing protection and advocacy systems to pursue "other appropriate remedies" should be interpreted to permit their participation in negotiations between Federal and State officials with respect to an investigation conducted, or a civil action initiated or intervened in, by the United States under the Civil Rights of Institutionalized Persons Act to the extent that such investigation relates to the rights, privileges, or immunities of persons with developmental disabilities. The authority shall also be interpreted to permit review and comment by the appropriate protection and advocacy system on any proposed consent agreement resulting from any such investigation or action.

The bill adds several provisions designed to enhance the accountability of the protection and advocacy system by: ensuring particular attention to be paid to the needs of members of racial and ethnic minorities who are developmentally disabled; requiring the establishment of a grievance procedure; and providing the public with an opportunity to make public comment on the priorities established by the system.

The bill clarifies that access to the records of a person with developmental disabilities applies to a person who resides or was abused or neglected while residing in a facility for persons with developmental disabilities. The bill also clarifies the authority of the protection and advocacy system to investigate incidences of abuse and neglect reported to the system if there is probable cause to believe that the incidents occurred. These changes are consistent with comparable authority set out in the Protection and Advocacy for Mentaly Ill Individuals Act of 1986, Public Law 99-319.

The bill increases the minimum State allotment for protection and advocacy systems to $200,000. The bill authorizes to be appropriated $20,000,000 for fiscal year 1988; $22,000,000 for fiscal year 1989; and $24,200,000 for fiscal year 1990.

The bill retains the current focus of the part of the legislation establishing university affiliated programs [UAP's], which are designed to assist in the provision of interdisciplinary training, the demonstration of exemplary services and technical assistance and the dissemination of information which will increase and support the independence, productivity, and integration into the community of persons with developmental disabilities.

The bill permits universities to apply for funds to study the feasibility of establishing new UAP's and satellite centers and directs the Secretary of Health and Human Services to consider expanding the number of UAP's and centers into unserved States. In addition, the bill increases the amount of core funding for existing UAP's. The bill requires in the application that the UAP demonstrate coordination between its activities and the activities conducted by the State under the State plan.

Separate line-items are established for core funding and for the funding of grants. The bill authorizes to be appropriated for core funding $9,400,000 for fiscal year 1988, $10,200,000 for fiscal year 1989, and $11,000,000 for fiscal year 1990. For grants to university affiliated programs, the bill authorizes to be appropriated $4,500,000 in fiscal year 1988, $5,000,000 in fiscal year 1989, and $5,500,000 in fiscal year 1990.

Finally, the bill renames the special projects part of the bill to read "projects of national significance." The Secretary is authorized to make grants to, or enter into contracts with, agencies and nonprofit entities for projects of national significance relating to persons with developmental disabilities to educate policymakers, develop an ongoing data collection system, determine the feasibility and desirability of developing a nationwide information and referral system, pursuing interagency initiatives and other projects of sufficient size and scope which hold promise of expanding opportunities for persons with developmental disabilities. The bill authorizes to be appropriated $3,650,000 for each of the fiscal years 1988-90.

I urge the adoption of this bill.

Mr. WEICKER. Mr. President, I rise today in support of S. 1417, the Developmental Disabilities Act Amendments of 1987. In am proud to be an original cosponsor of this legislation, which will reauthorize the Developmental Disabilities Assistance and Bill of Rights Act for 3 years, and continue to strengthen the Federal mandate for increasing the independence, productivity, and integration of individuals with developmental disabilities in our Nation.

S. 1417 contains numerous provisions to strengthen and refine each of the programs authorized under the Developmental Disabilities Act, including the basic State Grant Program, protection and advocacy systems, universtity affiliated programs, and projects of national significance. Each of these activities has contributed to our knowledge of new developments in the disability field. Indeed, one of the important goals of the act has been to keep Federal disability policy current with our expanding knowledge regarding how to best assist individuals with developmental disabilities help themselves. S. 1417 will continue to strengthen and refine programs authorized under the act so that such a goal can be achieved.

S. 1417 contains numerous amendments which update and refine the terminology used throughout the act. Several of these amendments might at first seem insignificant because they are a rewording of current statute to focus on the competence and preferences rather than the limitations of people with developmental disabilities. The Subcommittee on the Handicapped received substantial testimony indicating the need to emphasize in the act that people with developmental disabilities are able to and should have control over their own lives, including what supports and services they desire to receive. Empowering people with disabilities to make decisions that will meet their needs and enhance the quality of their lives is an important recognition that disability does not mean inability.

S. 1417 also emphasizes the important role that family and members of the community can play in assisting people with developmental disabilities to lead dignified and fulfilling lives.

In addition, S. 1417 revises and updates the definitions contained in the act. For example, the term "supported employment" is revised to be consistent with the definition of this term included in the Rehabilitation Act Amendments of 1986 (Public Law 99-506). Consistent with the intent of Public Law 99-506, the committee report specifies that supported employment as defined under the Developmental Disabilities Assistance and Bill of Rights Act is not intended to be limited to any one model of service provision or used exclusively with one group of disabled individuals. Just as Public Law 99-506 recognizes that transitional employment programs are in appropriate form of supported employment for individuals with severe mental health problems, the committee recognizes that other forms of support, such as worksite modification, assistive technology or attendant services, may be required for individuals with severe physical disabilities. The committee clearly recognizes the individualized and evolving nature of supported employment as a potential employment outcome for all individuals with severe physical or mental impairments, or a combination of such impairments.

S. 1417 makes numerous amendments affecting the role and responsibilities of the State Planning Councils under the basic State Grant Program. Several amendments are added to ensure that State Planning Councils are able to address the needs of all individuals who meet the definition of developmental disability. Specifically, the bill requires State Planning Councils to do a policy analysis to determine the extent and scope of services available to all people who are developmentally disabled within the State. This provision was added based on testimony indicating that many people, particularly individuals with a severe physical disability but no mental disability, are not able to access services, either through State agencies, or, in some cases, through programs and services generated through the Developmental Disabilities Act. The current definition of developmental disability is a functional definition which eliminates categories and is intended to make eligibility for services based on the interaction between a person and his or her environment, rather than on a specific diagnostic label. The required policy analysis will include an analysis of eligibility criteria that may, albeit unintentionally, serve to exclude some groups of individuals with disabilities from service. It will also include an analysis of services, technology or knowledge which may be unavailable to assist people with developmental disabilities. The analysis will provide State planning councils the comprehensive information they need to better advocate for all eligible individuals under the act. And, it will provide the accountability necessary to ensure that a full range of support and services is available for all people with developmental disabilities, regardless of their categories label.

S. 1417 also clarifies and strengthens the independence of State Planning Councils to carry out their advocacy role and responsibilities under the act. At present, most councils are unable to administer State Grant Funds, and must have some other State entity administer these funds. This can create an inherent conflict of interest, when the administration agency does not share the same goals and responsibilities as the State Planning Council. S. 1417 remedies this situation by creating a mechanism to allow the councils to administer the State Grant Funds. This determination is made at the Governor's discretion after consideration of the comments of the general public and the nonagency members of the State Planning Council on the ability of the council to serve as an advocate for all people with developmental disabilities.

S. 1417 amends part C of the act, relating to protection and advocacy systems, to ensure the accountability of these systems, including requiring the establishment of a grievance procedure, the opportunity for public comment on priorities established, and special attention to minorities and other underserved groups. In addition, the authority of the protection and advocacy system is expanded to include the ability to investigate incidents of abuse and neglect where there is probable cause to believe that such incidents have occurred. This change is consistent with the authority provided to protection and advocacy systems by the Protection and Advocacy for Mentally Ill Individuals Act passed last year (Public Law 99-319). Further, I share Senator HARKIN's view that the existing language authorizing protection and advocacy systems to pursue other appropriate remedies, in addition to pursuing legal and administrative remedies, should be interpreted to permit their participation in negotiations between Federal and State officials with respect to an investigation conducted, or a civil action initiated or intervened in, by the United States under the Civil Rights of Institutionalized Persons Act, to the extent that such investigation or action relates to the rights, privileges, or immunities of persons with developmental disabilities. The authority shall also be interpreted to permit review and comment by the appropriate protection and advocacy system on any proposed consent agreement resulting from any such investigation or action.

Protection and advocacy systems were mandated by Congress 10 years ago to alleviate the abuse and neglect to which individuals with disabilities were frequently subjected. These systems served approximately 85,000 people in 1986, and have successfully resolved 97 percent of their cases without resort to litigation. In addition to their advocacy on behalf of specific individuals, many more people with disabilities have benefited through the information and referral services which they provide. Indeed, in the 10 years since they were established, protection and advocacy systems have long since proved their benefit to those individuals in need of their service. S. 1417 will enable them to continue their important work, and ensure that the goals of the act—independence, productivity, and integration—are achieved.

Part D of the act provides grants to support a national network of university affiliated programs and satellite centers. These programs provide a variety of services, including interdisciplinary training, exemplary services, technical assistance, and information dissemination. S. 1417 directs the Secretary to consider expanding this system of university affiliated programs and satellite centers into unserved States. The bill also establishes a new grant program for university affiliated programs and satellite centers for grants to address the needs of people with developmental disabilities in areas of emerging national significance, such as in the areas of early intervention, community-based services and programs, and programs for the elderly disabled.

Finally, S. 1417 amends part E of the act to change the title of this section for "special projects" to "projects of national significance." This change reflects the overall movement in the bill away from provision of direct service toward supporting projects which will ultimately benefit all people with developmental disabilities. The bill requires that the Secretary consider public comment the setting priorities established for use of funds under this part. In addition, the Secretary is authorized to award grants or contracts for not more than three projects to determine the feasibility and desirability of developing a nationwide information and referral system for people with developmental disabilities.

The Developmental Disabilities Program is one of the wisest investments this Nation makes in human potential. Testimony was provided during the hearings that in the first 2 years after the employment priority was added to this act, approximately 87,000 workers with developmental disabilities were employed in private sector jobs, earning approximately $400 million in annual taxable wages, and saving an additional $400 million in public support costs. Clearly, the dollars provided for the programs and services under this act are a worthwhile investment, and more than justify the modest increase in the authorization levels provided for in the bill.

I urge my colleagues to support the Developmental Disabilities Act Amendments of 1987, and I would particularly like to thank Senator Tom Harkin, chairman of the Subcommittee on the Handicapped, for his able leadership in developing a thoughtful and well-crafted reauthorization that enjoys strong bipartisan support.

Mr. KENNEDY. Mr. President. I am pleased that my colleagues in the U.S. Senate have unanimously approved a 3-year reauthorization of S. 1417, the Developmental Disabilities Assistance and Bill of Rights Act.

In 1963, President Kennedy was instrumental in taking the first step in recognizing the very special needs of the mentally retarded. The legislation was entitled the Mental Retardation Facilities and Community Health Centers Construction of 1963, and served as the cornerstone of the continuing efforts to assist physically and mentally challenged individuals in their pursuit of fulfilling lives.

In 1970 the U.S. Congress strengthened and expanded the Mental Retardation Facilities and Community Health Centers Construction Act of 1963 to include the developmentally disabled. The legislation was appropriately renamed the Developmental Disabilities Services and Facilities Construction Amendments of 1970.

Realizing the lack of protections for the developmentally disabled in many areas, Congress once again amended the 1970 legislation and passed the Developmentally Disabled Assistance and Bill of Rights Act. Protection and advocacy systems were established in the legislation which provided for a system by which the developmentally disabled would be allowed to pursue legal, administrative and other remedies to ensure the protection of their rights.

The progress that has been made on behalf of our Nation's mentally retarded and developmentally disabled citizens since 1963 has been tremendous. In the past quarter of a century, the handicapped have found new and expanded opportunities in the areas of education, employment and integration into society as a whole. The contributions made by the physically and mentally challenged individuals is one of great pride to their families, themselves, and is a tribute to the Nation in recognizing the very special contribution these citizens can make to our society.

But while much has been done to encourage full integration of the developmentally disabled, there is much more that can be done and should be done. This legislation serves as a prime example of the Federal Government's continuing commitment to the handicapped. We are building on past successes, and attempting to correct existing inequities in the system.

I am very pleased with the steps that this reauthorization takes by strengthening the authorization levels of all four components of the act. I would also like to commend the chairman of the Handicapped Subcommittee, Senator Harkin, and the ranking minority member, Senator Weicker, for their tireless efforts on behalf of America's disabled population.

Mr. HATCH. Mr. President, today, we are considering S. 1417, a bill to reauthorize the Developmental Disabilities Assistance and Bill of Rights Act. In concert with disability groups and service providers, the Subcommittee on the Handicapped has diligently worked for several months on revisions to improve the act. I would like to commend Senator Harkin, chairman of the Subcommittee on the Handicapped, and his staff for developing a bill that is endorsed by both the disability community and the public agencies charged with implementing the new provisions.

S. 1417 ensures that provision of services will continue for persons with developmental disabilities, their family members, volunteers and professional personnel which will help increase independence, productivity, and integration into the community. This bill changes the statute to reflect a focus on people's capacities as well as their needs. It expands the planning and priority setting responsibilities of the State Planning Councils so that the system can be modified to include services on a noncategories basis. Thus all persons with developmental disabilities will be eligible for services regardless of the type of disability.

In Utah, we are fortunate to have a university affiliated facility and two satellite centers of which I am proud. Because of their exemplary service, I have been a strong advocate of the UAF system. S. 1417 proposes to expand and improve the UAF Program in several distinct ways.

First of all, the bill proposes to change the university affiliated facilities [UAF] designation to University Affiliated Programs [UAP]. The section dealing with UAP's has been revised to reflect the current state of the art and the need for new initiatives in the field of early intervention, geriatrics, and community-based service programs. This was accomplished by establishing two separate grant authorities: One for existing UAPs receiving core funding in sufficient size and scope to address the needs of persons with developmental disabilities and for expansion into unserved geographical areas; and, the other to allow the Secretary to make training grants available in the areas of emerging national significance.

Although the total authorization level has been increased to accommodate the additional responsibilities mandated by the bill, the percentages are not any higher than when I was chairman of the Labor and Human Resources Committee. In addition, the increases are more than offset by savings generated through decreases in maintenance payments and increases in productivity levels of people with developmental disabilities. According to the administration, approximately 87,000 persons with developmental disabilities found employment through the act during the last 2 years. These individuals will generate $400 million in gross annual taxable wages with another $400 million in combined savings from previous public support costs and services.

Again, I wish to commend the Subcommittee on the Handicapped for their efforts in producing this legislation and encourage my colleagues to expedite its passage. Our Nation's 3.9 million persons with developmental disabilities need this bill in order to become more independent, productive, and integrated members of society.

Mr. DOLE. Mr. President, I rise today to speak in support of the "Developmental Disabilities Assistance and Bill of Rights Act, Amendments of 1987."

I trust that we can all agree that this is a worthy and important piece of legislation. There are over 10 million individuals in our Nation who are developmentally disabled and they need our continued assistance. They are persons whose physical and mental impairments are chronic and severe and had their onset during the developmental years.

I want to commend my colleagues on the Subcommittee on the Handicapped for working so hard to produce legislation that reflects the needs of the Nation's developmentally disabled population. This bill has four components: Basic State Grant Program, protection and advocacy systems, university affiliated programs, and projects of national significance.

This bill reaffirms the thrust of the basic State programs and includes several amendments that clarify and strengthen these programs. It also strengthens the independence of the State Planning Councils to carry out their role. States are required to assess how they are meeting the needs of the developmentally disabled population in their State. They are also given more flexibility in selecting priorities on which to focus their attentions.

The protection and advocacy systems are made more accountable and the focus of the university affiliated programs are maintained. These university programs are designed to assist in the demonstration of exemplary services and technical assistance and the dissemination of information to increase the total integration of developmentally disabled individuals into the community. I am proud of the achievements of the affiliated programs and, in particular, the accomplishments of the programs in Kansas.

The projects of national significance will offer us an ongoing data collection system, and the potential for the development of an information network for developmentally disabled individuals and the parents of developmentally disabled children.

It is my hope that my colleagues in the Senate will reaffirm their commitment to the developmentally disabled citizens of America through passage of S. 1417.

Mr. STAFFORD. Mr. President, I rise to give my support to the passage of the Developmental Disabilities Assistance and Bill of Rights Act Amendments of 1987, S. 1417. Seventeen years ago the first congressional effort to address the needs of developmentally disabled persons was signed into law. Since that time significant strides have been made to enhance the lives of persons with developmental disabilities by maintaining a mechanism to plan and coordinate services and to advocate for and protect their rights as citizens of this Nation.

Some of the new provisions incorporated into this legislation are of particular interest to Vermont. Three of these are: The changes in the State planning councils; the training grants and the increase in the State minimum for the State Grant Program and for the protection and advocacy system.

The changes in the State planning councils will allow them greater independence from the administering agency. The key purpose of the State developmental disability councils is to advocate for individuals with developmental disabilities and to devise activities which are designed to enhance opportunities for their integration and productivity in the community.

This legislation also establishes a new grant program for University Affiliated Program for training personnel in order to better address the needs of persons with developmental disabilities. The areas of early intervention, elderly persons with developmental disabilities and community-based service programs have been targeted. The focus on elderly persons with developmental disabilities ties in with some of the amendments to the Older Americans Act which also addresses the needs of this group of individuals.

Of particular interest to Vermont and other small States is the increase in the minimum allotment for the State Grant Program from $300,000 to $350,000. The State Grant Program is the foundation by which the planning of and services to persons with developmental disabilities is carried forth. The protection and advocacy system's minimum allotment is also increased from $150,000 to $200,000. Protection and advocacy systems are the primary entities which are out in front ensuring the protection of and advocacy for the rights of persons with developmental disabilities, thereby fulfilling a critical role in the lives of these individuals.

Mr. President, I urge my colleagues to support this important piece of legislation.

Mr. THURMOND. Mr. President, I am pleased to be a cosponsor of this legislation amending and extending for 3 years programs authorized under the Developmental Disabilities Assistance and Bill of Rights Act.

Since its creation 17 years ago, this act has provided the major Federal support for programs creating opportunities enabling those with developmental disabilities to live in communities and not institutions, to participate in competitive employment, and to develop greater self-respect and dignity.

The Developmental Disabilities Assistance and Bill of Rights Act has four components: The basic State Grant Program; the protection and advocacy systems; the university affiliated programs; and special projects.

This measure reaffirms the thrust of the basic State Grant Program. The basic State Grant Program provides payments to States to plan and conduct activities to increase and support the independence, productivity, and integration into the community of persons with developmental disabilities.

Another major component of the Developmental Disabilities Act is the protection and advocacy system, which has been critical, in protecting and advocating the rights of individuals with disabilities. These protection and advocacy sytems were mandated by Congress in response to public outcry against the abuse and neglect to which disabled persons were subjected.

The bill retains the current focus of the university affiliated programs, which are designed to assist in the provision of interdisciplinary training, the demonstration of exemplary services and technical assistance and the dissemination of information to help persons with developmental disabilities become more self-reliant.

Finally, the special projects section of the act has been changed to projects of national significance, again reflecting the role of the Developmental Disabilities Act in supporting projects which will ultimately benefit all individuals with disabilities.

I am particularly pleased that this section authorizes $600,000 to study the feasibility of establising a nationwide information and referral system. Earlier this year, I appeared before the Subcommittee on the Handicapped and testified that the technology existed whereby we could establish a central computer data bank containing a broad inventory of service providers in this area.

As I envisioned it, families needing assistance in finding services available to those with developmental disabilities could access this system from anyplace in the Nation and work with a trained counselor in locating the closest and most appropriate service provider to assist them.

In South Carolina, under the leadership of Dr. Richard R. Ferrante, impressive work in this area has progressed. The South Carolina Information and Referral System now operates a southeastern data bank accesible through a toll-free number. Families needing assistance in the Southeast should take advantage of this impressive system.

It is my hope that a national system along these lines could eventually be established. The authorization of this feasibility study will lay important groundwork toward this end.

Mr. President, I would also like to commend Senator HARKIN, chairman of the Subcommittee on the Handicapped and Senator WEICKER, the ranking member, for their outstanding leadership in this area.

I urge my colleagues to support this measure.

(At the request of Mr. BYRD, the following statement was ordered to be printed in the RECORD):

● Mr. SIMON. Mr. President, I am pleased to give my support to my colleague, Senator HARKIN, the chairman of the Subcommittee on the Handicapped, for his bill to reauthorize the Developmental Disabilities and Bill of Rights Act. This is the first bill to come out of the subcommittee during his chairmanship, and it is a fine beginning—one that I know he will take pride in having accomplished. The Senator has always been a champion for those in our society, and for those in all nations of the world, who need our special attention and concern. He has the opportunity with this subcommittee to really make a difference in the lives of people with disabilities, and he has begun his legislative responsibilities in the subcommittee with the conscientious attention that will serve this special constituency well.

I would like to add that he has put together a fine staff, and their hard work is also evident in the bill before us.

Reauthorizing the Developmental Disabilities Act is primarily a matter of making a good piece of legislation better—of fine tuning the legislation and changing it to reflect current policies and thinking in the area of maximizing the potential of developmentally disabled individuals. The evolution of the Developmental Disabilities Act is an example of learning from best practices in the field and providing leadership on the basis of that knowledge.

The bill retains an emphasis on assuring that persons with developmental disabilities achieve their maximum potential through increased independence, productivity, and integration into the community. It adds new and important emphasis to the role that families and members of the community, including friends and neighbors, can play in enhancing the lives of persons with developmental disabilities, and recognizes that social relationships beyond the family are important. It also affirms that it is in the national interest to offer persons with developmental disabilities the opportunity, to the maximum extent feasible, to make decisions for themselves and to live in typical homes and communities where they can exercise their full rights and responsibilities as citizens.

The bill also makes fine tuning changes in the structure and role of State planning councils and authority of protection and advocacy systems that should improve their ability to serve the interests of all individuals with developmental disabilities—including minority populations.

I am particularly pleased with this bill's amendments to part D of the act, which provides grants to support a national network of university affiliated programs [UAP's] and satellite centers. These programs provide interdisciplinary training, exemplary services, technical assistance, and information dissemination to ensure that there is a professional and paraprofessional work force prepared to meet the service needs of persons with developmental disabilities. There was testimony during the subcommittee hearings that the "core funding" for these UAP's had not kept up with inflation and that UAP's were in jeopardy of losing their focus on developmental disabilities.

In addition, there are currently 15 States, including the State of Illinois, which do not have a UAP. States without a UAP have no organized, federally sponsored program for providing exemplary services and interdisciplinary training for allied health professionals, parents, and physicians who provide services to persons with developmental disabilities. We were told that shortages of properly trained personnel and appropriate services are greater in States which do not have UAP's, and that they suffer from lack of technical assistance that a UAP typically provides, as well as from the lack of screening programs that can prevent or reduce the severity of many developmental disabilities.

The amendments in S. 1417 increase the minimum for core funding for UAP's and direct the Secretary to consider applications for four new UAP's in each of the next 3 fiscal years. I am aware of university programs in Illinois which are prepared to apply for UAP funding, and I look forward to the additional attention this funding will bring to the needs of persons with developmental disabilities and their families in Illinois.

As Dr. Elizabeth Boggs, one of our witnesses during the hearings on this bill, stated, "One of the strengths of the Developmental Disabilities Act has always been that it has stayed ahead of the times, it expressed new trends and pointed the way to emerging issues, staying on the cutting edge and in the vanguard of consumerism in the DD field." This is a strength far easier to express, however, than to accomplish. And we owe our colleague, the chairman of the subcommittee, our admiration for the ability to give this law a new focus that will carry it well into the next decade. I urge my colleagues to join in support of this bill.●

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment was agreed to.

The bill was ordered to be engrossed for a third reading, read the third time, and passed.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION AUTHORIZATION ACT

The bill (S. 1267) to provide authorization of appropriations for the United States Travel and Tourism Administration, and for other purposes, was considered.

Mr. HOLLINGS. Mr. President, I am pleased to join the chairman of our Subcommittee on Foreign Commerce and Tourism, Senator ROCKEFELLER, in calling on the Senate to pass S. 1267, a bill to authorize appropriations for 3 years for the United States Travel and Tourism Administration.

USTTA represents our Government's modest investment toward helping our travel and tourism industry capture its fair share of an expanding world market. At a time when dozens of other nations are spending vast sums of public funds to this end, our demonstration of support for USTTA is more important than ever. This agency has developed a laudable track record of attracting foreign tourists through joint venture marketing programs with the private sector.

As we've learned in recent decades, marketing and promotion is crucial to the development of a strong tourism industry—one that provides jobs, economic development, and a strong tax base.

We learned this lesson more than 25 years ago in South Carolina, when I was Governor of that State. It was a lesson which was to forever change the face of our State's economy. We realized then that many communities across South Carolina—a State so rich in history and natural beauty—could profit from a statewide effort to promote tourism. So we established a legislative committee on tourism, which led to the 1965 Governor's Conference on Tourism and Trade and ultimately the establishment of the Department of Parks, Recreation, and Tourism.

Today, tourism has become South Carolina's No. 1 industry, providing jobs for nearly 100,000 of our citizens and adding more than $3 billion to the State's economy. We've certainly come a long way on a relatively small investment of public funds.

We took our success story to the Federal level and achieved similar results there. When North Carolina Governor Luther Hodges went to Washington to become Secretary of Commerce under President Kennedy, he established, with my encouragement, the U.S. Travel Service to promote the United States as an international travel destination. In 1981, legislation which had its roots in the Commerce Committee became the National Tourism Policy Act of 1981. The act elevated the importance of tourism policy at the Department of Commerce and created the U.S. Travel and Tourism Administration.

Americans have every reason to expect that our tourist industry can maintain and perhaps increase its share of the ever-expanding world travel market. But if we are to win the world competition, our Government must compete. Twenty-three nations of the world—nearly all of them less populated than the United States—spend more public funds on travel and tourism promotion. We have to do better.

Unfortunately, the administration has failed to see the wisdom of our investment in tourism development and has annually tried to terminate all funding for USTTA. This is yet another example of how the folks at the Office of Management and Budget seem to know the cost of everything and the value of nothing. In each of the past several years, the Commerce Committee has rejected this shortsighted approach to tourism policy and has reported multiyear authorizations for USTTA. S. 1267 represents our continued support. The bill is a straight 3-year authorization at $14 million for fiscal year 1988, $15 million in fiscal year 1989, and $16 million in fiscal year 1990.

The agency deserves more. Tourism is now one of the largest industries in the country, as it is in a majority of the States. It is a growth industry, and USTTA will be playing a crucial role in its continued development.

I wholeheartedly support this legislation, and I urge my colleagues to join in ensuring its passage.

Mr. ROCKEFELLER. Mr. President, as the sponsor of S. 1267, and as chairman of the Subcommittee on Foreign Commerce and Tourism, I rise in support of the measure and to urge my colleagues to ensure its swift approval.

S. 1267 would authorize appropriations for 3 years for the United States Travel and Tourism Administration [USTTA]. Located in the Department of Commerce, USTTA is our lead Federal agency in travel and tourism. Its primary mission is to promote the United States as an international travel destination. More precisely, this agency's job is to lure foreign tourists and foreign exchange into this country.

It is vitally important that the United States maintain, and perhaps even increase, its share of a rapidly expanding world travel market. Our ability to do so will bring millions upon millions of dollars worth of development and thousands of new jobs into our economy.

Indeed, the travel and tourism industry is one of America's most dynamic. It has become our second largest private employer and our third largest retail industry, at nearly $270 billion a year in receipts and more than 5½ million jobs. More than 360,000 of those jobs were created just last year.

The vast majority of these travel dollars are generated by Americans. However, foreign travel to the United States is also showing steady growth. Last year, more than 22 million foreign visitors spent some $16 billion in the U.S. market. The experts had been predicting those numbers to grow by about 5 percent in each of the next few years. However, with the dollar much lower this year on foreign markets than in years past, more and more foreigners are finding that the United States is one of the world's best travel bargains. Thus, those increases could be even higher than expected.

At a time our trade imbalance has soared to an unprecedented level, tourism takes on added importance as one of this country's top export items. In fact, it is our second largest export. We even have a $1 billion trade surplus with Japan. World economic development and advancements in technology are sure to bring about even greater expansion in the world travel market, which in turn means tremendous opportunities to increase foreign travel to the United States.

But it won't happen automatically. There are literally scores of nations out there fighting for their share of this expanding market. Twenty-four nations spend more government funds than we do promoting themselves as international travel destinations. That's our competition.

If there's one thing I learned about tourism from my experience as Governor of West Virginia, it is this: If you want to be a successful travel destination you have to actively promote—you have to get the word out.

So we promoted ourselves. We advertised. We made sure everyone within a half-day's drive from our State knew about what a great vacation spot West Virginia is. We made sure people were aware of West Virginia's renowned natural beauty, our white water rivers, our ski slopes, and our rich history.

It was a tremendous success. In 10 years we tripled the size of West Virginia's tourism industry. We created jobs and boosted our tax base. Tourism is now the third largest employer in the State, providing paychecks for nearly 28,000 West Virginians.

Various States and regions around the country have their own success stories to tell. In fact, tourism ranks among the top three industries in more than 40 States.

The lesson to be learned from all of this is simple: advertising works. It has worked for cities, it has worked for States, it has worked for regions, and it can work for the country in the world marketplace.

That's why Congress, in 1981, created the U.S. Travel and Tourism Administration in the Department of Commerce and gave it the mission of promoting the United States as an international travel destination.

Through a program called "cooperative advertising," USTTA is able to transform minimal budgetary resources into a significant overseas marketing program. The lion's share of the funds to pay for this advertising actually comes from the private sector. USTTA provides the marketing expertise, and then coordinates various private businesses and State or local governments into promotional packages. In its most recent venture, USTTA is sponsoring a television advertising campaign in Great Britain aimed at luring travelers from that country to our New England States. This campaign represents USTTA's first attempt at television advertising, and it certainly is an exciting development.

The U.S. tourism industry is highly diverse. It includes a number of large corporations, but the vast majority of it is comprised of small businesses—businesses which simply do not have the resources to reach out and attract foreign travelers. USTTA not only provides them access to foreign advertising markets, but it lends "official status" to these businesses when they advertise. That's very important, because travelers in other nations want to know that the U.S. Government stands behind its tourism industry before they'll make the decision to vacation here.

While the cooperative advertising program is central to USTTA's mission, the agency performs numerous other important functions. It collects and analyzes data on travel and tourism trends. It has coordinated the gathering and dissemination of information on safety conditions at overseas destinations. And USTTA acts as the American tourism industry's liaison to the many Federal and international agencies whose decisions affect the industry.

For these reasons, USTTA enjoys resounding support from the U.S. travel and tourism industry—support which was demonstrated 2½ months ago at our subcommittee hearing on reauthorization for the agency.

The Commerce Committee and the entire U.S. Senate also have a strong record of support—bipartisan support—for USTTA. The vast majority of us recognize that this is an agency which brings billions in foreign travel dollars into this country—and all on a relatively minuscule budget. The small Federal investment—less than $12 million in each of the last few years—has paid for itself many times over in the taxes we collect on these foreign travel expenditures.

In each of the past several years, Congress has been unable to pass a bill reauthorizing USTTA. The Office of Management and Budget has annually opposed such legislation. The House of Representatives has failed to produce a bill. And the agency has been kept alive from year to year through the appropriations process.

This is indeed unfortunate. In order to successfully initiate and carry out long range marketing strategies and programs, USTTA needs to get a message from the Congress that they're going to be around for a few years to come. There's no better way to send that message than to enact a multiyear authorization bill. S. 1267 would authorize appropriations for USTTA for 3 years at $14 million in fiscal year 1988, $15 million in fiscal year 1989, and $16 million in fiscal year 1990.

I think I express the sentiment of a great number of my colleagues here in the Senate in hoping that this will finally be the year that a multiyear authorization bill for USTTA will clear both Houses and end up on the President's desk. Travel and tourism has come a long way in the past two decades. Authorization of USTTA is one way this Congress can show its support for an industry which already employs more than 5½ million people in this country, and which shows great promise for further growth and development. I look forward to working with my colleagues to ensure its swift passage by this body and its eventual enactment.

Mr. PRESSLER. Mr. President, I rise today in support of S. 1267, the reauthorization bill for the U.S. Travel and Tourism Administration. As an original cosponsor of this reauthorization legislation, I want to stress the importance of USTTA to the promotion of U.S. tourism.

Travel and tourism plays a very crucial role in our Nation's economy and its significance cannot be overemphasized. In fact, it is the first, second, or third largest employer in 39 States.

USTTA has been very successful in helping States reap the benefits of international tourism. For example, in June, the Old West Trail Foundation, which includes the States of South Dakota, Nebraska, North Dakota, Montana, and Wyoming, held two FAM tours for international journalists. These groups traveled throughout the States of the Old West Trail Foundation and had the opportunity to experience what each of these areas has to offer. Upon returning home, the journalists will be sharing their many travel adventures through articles for the consumer press.

USTTA is necessary for the promotion of international tourism. The ever-increasing international tourism business resulting from USTTA's efforts truly benefit all Americans. Increased international tourism helps to reduce our budget deficits, creates many new jobs and narrows our ever-widening trade deficit. I strongly encourage your favorable consideration of this legislation which will ensure that USTTA is able to continue to carry out its good works.

Mr. TRIBLE. Mr. President, I rise in support of S. 1267, a bill to reauthorize the U.S. Travel and Tourism Administration. Tourism constitutes a major source of employment and revenue for every State in this country. Overall tourism is the second largest employer in the country.

In Virginia, we recognize the importance of travel and tourism. America's history began with our first international traveler's arrival in Virginia. We have preserved our heritage for all to see. Today people travel thousands of miles to see Mount Vernon, George Washington's home and Monticello, that architectural landmark to the genius of Thomas Jefferson. Similarly, the beauty of the restored colonial capital of Williamsburg attracts thousands each year. Modern Virginia has lively theme parks as well as serene ocean beaches and breathtaking mountain splendor.

In practical terms, tourism produces 94,000 jobs in Virginia every year. Each year, tourists spend over $4.5 billion in my State and generate over $450 million in tax revenue. In fact the Commonwealth of Virginia receives $28.45 in taxes for every dollar it spends on tourism promotion, an excellent return on investment! If we figure the contribution of foreign tourists in those figures, we find that international visitors spend $100 million annually, generate almost $10 million in tax revenues and 2,100 jobs annually.

International tourism in the United States represents a substantial economic export. The U.S. balance of trade improves every time a foreigner vacations in this country. The USTTA provides the catalyst necessary to market the entire United States. The private sector along with the State and local governments rightly spend the lion's share of advertising dollars promoting various destinations. However, that effort is usually narrowly focused on a single destination, means of travel or place of lodging in the domestic marketplace. The USTTA brings together all parties to make the rest of the world aware of America, its regions and its diverse travel opportunities, as a whole. The USTTA is one agency that costs very little and reaps significant benefits. This agency deserves our wholehearted support.

Finally, I would like to recognize the chairman of the Foreign Commerce and Tourism subcommittee. Senator ROCKEFELLER, for his hard work on behalf of the tourism industry. The USTTA and the industry are fortunate to have an advocate in the Senate who really understands their needs and concerns.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading, read the third time, and passed, as follows:

S. 1267

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress finds and declares that—

(1) the travel and tourism industry in the United States is vital to the economy of the Nation, accounts for more than $260,000,000,000 in annual revenues, and employs more than five million five hundred thousand persons;

(2) tourism is an essential American export, as twenty-two million foreign travelers spend approximately $16,000,000,000 annually in the United States; and

(3) the United States Travel and Tourism Administration serves a unique and vital role in the promotion of the United States as an international travel destination, by—

(A) coordination travel and tourism promotional activities of the Federal Government, State and local governments, and the private sector in order to optimize their contributions to economic prosperity, employment, and the international balance of payments;

(B) ensuring the compatibility of travel and tourism with other national interests, including historical and cultural preservation, energy development and conservation, environmental protection and the judicious use of natural resources;

(C) eliminating unnecessary trade barriers to international operations of the United States travel and tourism industry;

(D) encouraging the free entry of individuals traveling to the United States in order to enhance international understanding and good will, consistent with immigration laws, laws protecting the public health, and laws governing the importation of goods into the United States;

(E) assisting in the collection, analysis, and dissemination of data which accurately measure the economic and social impacts of travel and tourism to and within the United States, in order to maximize the efficacy of planning in, and cooperative activities between, the public and private sectors; and

(F) harmonizing, to the maximum extent possible, all Federal activities in support of travel and tourism with the needs of the general public, the States, territories, local governments, and the travel and tourism industry, and providing leadership in the areas of travel, tourism, and national heritage preservation within the United States.

(b) It is therefore the purpose of this Act to provide authorization of appropriations for the United States Travel and Tourism Administration, in order that it may continue its activities to promote travel and tourism in and to the United States.

SEC. 2. Section 304 of the International Travel Act of 1961 (22 U.S.C. 2126), is amended by inserting immediately after "1982" the following: ", not to exceed $14,000,000 for the fiscal year ending September 30, 1988, not to exceed $15,000,000 for the fiscal year ending September 30, 1989, and not to exceed $16,000,000 for the fiscal year ending September 30, 1990".

ORDER TO PLACE S. 1420 BACK ON THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent to place S. 1420 back on the calendar.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

SUPPORTING A CEASE-FIRE IN THE IRAN-IRAQ WAR AND A NEGOTIATED SOLUTION TO THE CONFLICT

Mr. BYRD. Mr. President, I ask that the message at the desk on House Joint Resolution 216 be read the first time.

The PRESIDING OFFICER. The clerk will read the joint resolution.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 216) to support a cease-fire in the Iran-Iraq war and a negotiated solution to the conflict.

Mr. BYRD. Mr. President, I ask that the joint resolution be read a second time.

The PRESIDING OFFICER. Is there objection?

Mr. KARNES. I object.

The PRESIDING OFFICER. Objection is heard. The joint resolution will be held at the desk pending its second reading on the next legislative day.

PERSIAN GULF PERILS

Mr. PELL. Mr. President, American foreign policy is at a fateful crossroads in the Persian Gulf. Now that we have reflagged the first two Kuwaiti oil tankers, our ships and men are on the line. I need not repeat the serious misgivings I and others have voiced about this dubious policy. Given the decision to go forward, I recall the sage advice of Teddy Roosevelt, now is the time to speak softly while carrying a big stick. I hope that the administration will recall that advice as they contemplate the dangers inherent in our involvement in the Persian Gulf.

It is particularly unfortunate that this escalation is occurring just as the United Nation's Security Council is moving to take meaningful action to try to end the Iran-Iraq war. Yesterday the Security Council adopted a resolution, under procedures that involve mandatory enforcement actions, calling for a cease-fire on land, in the air, and on the high seas, and a return by all forces to internationally recognized boundaries. The next step will be mandatory sanctions against the the country that does not abide by the resolution. For the record, I note that Iraq has accepted the resolution, while Iran has said it will not.

Yesterday's United Nation's vote is a positive step forward which can serve as the cornerstone of a new American approach to the problem in the gulf. We can and should build upon this first step toward ending the Iran-Iraq conflict by working with the international community, and by asserting our leadership as a peacemaker. And I compliment the administration in taking the lead at the United Nations in this way.

REMEMBERING THE TRAGIC DIVISION OF CYPRUS

Mr. PELL. Mr. President, 13 years ago yesterday Turkish troops invaded Cyprus. And those troops remain on the island today, severing the island in two and dividing Cypriot from Cypriot.

Last week Cypriot and Greek students marched from New York to Washington, DC, to remind America of the tragic division of Cyprus. And on Sunday the marchers arrived in Washington, where they were greeted by throngs of Americans from around the country who turned out to demonstrate their support for the reunification of Cyprus.

I would like to submit for the RECORD a copy of my message to those who gathered on the Ellipse in front of the White House to meet the marchers and remind the world of the plight of the Cypriot people.

There being no objection, the remarks were ordered to be printed in the RECORD, as follows:

MESSAGE FROM SENATOR PELL TO MARCHERS PROTESTING THE DIVISION OF CYPRUS

We cannot allow the world to forget the tragic and unnatural division of Cyprus—a division perpetuated by the Turkish military occupation of the northern part of the island.

The Green Line runs like a wound across that beautiful island, dividing Cypriot from Cypriot. Just 5 weeks ago several Greek-Cypriot women tried to cross that Green line, only to be forced back by fear of land mines planted on the other side. We must all look to the day when that line disappears and Cypriots can move freely throughout their country. And the world must know that you will continue to march until the wound is healed and the land of Aphrodite is once again whole.

Just 3 days ago, in Philadelphia, Americans gathered to celebrate the making of the Constitution—an achievement that allowed the separate States to come together under one roof in a single federated state, the United States of America. We must work together to build a similar union in Cyprus. Greek-Cypriots and Turkish-Cypriots must join together as one under a common roof and a common Constitution.

But such a union cannot be achieved while foreign troops occupy the island; it can only be won upon the withdrawal of those troops. And for that reason it is fitting that the March began at the United Nations—where on numerous occasions the nations of the world have called for the withdrawal of Turkish troops from Cyprus. And in his most recent report the Secretary General of the United Nations appealed to the Turkish government to cut its troops levels on Cyprus. I join the Secretary General in that appeal and hope it will be heard.

Only then will all Cypriots be able to march from Kyrenia in the north to Limassol in the south as freely as many of you have marched from New York to Washington. So, as Martin Luther King, Jr. once said, "March on, march on, march on."

Thank you.

INTERLOCHEN CENTER FOR THE ARTS CELEBRATES ANNIVERSARIES

Mr. LEVIN. Mr. President, my home State of Michigan is indeed a treasure. It offers such diversity and opportunity. One of the gems in our bounty is the Interlochen Center for the Arts which includes the National Music Camp and the Interlochen Arts Academy.

The Interlochen Arts Academy is an arts-oriented, college preparatory, coeducational boarding school founded in 1962 and celebrating its 25th anniversary this year. It is the sister facility of the National Music Camp founded in 1927 and celebrating its 60th season. These two institutions which comprise the Interlochen Center for the Arts share a beautiful 1,200-acre wooded lakeside campus, designed to offer intensive training in the fine arts fields of dance, drama, design and production, music, writing, and the visual arts, together with a superior academic curriculum.

If you are fortunate enough, as I have been, to visit this outstanding facility you will be struck with the overwhelming essence of creative juices flowing. Interlochen was designed for the highly motivated student and allows each one to find their own niche in the school. Many graduates have entered college with advanced standing in one or more fields.

Eminent guest conductors, lecturers, and master teachers in all fields enrich the experience of these gifted and creative young people.

Further, a strong program in Ecology and other sciences also encourages many outdoor learning experiences such as winter camping, backpacking and wilderness field trips. Situated in the heart of Michigan's vacation land, outdoor sports of skiing, skating, sailing, canoeing, and swimming are available. Interlochen appeals to the whole person and nourishes body and soul.

I applaud the Interlochen Center for the Arts as they celebrate these two momentous anniversaries and I'm confident that we will all have the opportunity to applaud the graduates of this remarkable institution for many years to come.

BICENTENNIAL MINUTE

JULY 21, 1861: FIRST BATTLE OF BULL RUN

Mr. DOLE. Mr. President, on July 21, 1861, 126 years ago today, the first battle of the Civil War took place in Virginia. Members of Congress expected a quick and decisive Union victory, but instead, several Senators were caught up in the disorderly retreat from the Union debacle at the Battle of Bull Run.

Patriotic excitement about the impending confrontation built to fever pitch in Washington in the days before the battle. In a festive mood, Senators and private citizens hurried to obtain passes to view the battle and every carriage in town was hired for the Sunday excursion to Manassas. On the morning of the 21st a jolly caravan, including Senators Henry Wilson, Ben Wade, Lyman Trumball, Ambrose Burnside, and Zach Chandler, rolled across the long bridges into Virginia. Their carriages were laden down with spyglasses, rifles, revolvers, and huge picnic lunches, and bottles of wine.

By the afternoon, the carriages were "drawn up like those of spectators at a country race," on a hill overlooking Bull Run. As the first cannon roared, the confident spectators entertained thoughts of seeing the rebels "run to Richmond." However, their pleasant Sunday excursion quickly turned sour as it became clear that the Union forces had been routed and were making a panic-stricken retreat to Washington.

In the confusion, most of the chastened Senators made equally ignominious retreats to the Capital. Senator Wilson returned to Washington riding a stray Army mule. Near Fairfax, Senators Wade and Chandler had halted some fleeing soldiers and Wade, brandishing a rifle unsuccessfully tried to convince them to turn back. Senator Burnside rode back to town with "disaster written on his eyes," and missing his hat. Senator James Grimes, who came within a minute of being captured by the Confederates, perhaps best summed up the effect of the disastrous retreat when he resolved that this was, "the last battlefield he would ever visit voluntarily!"

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on July 20, 1987, during the recess of the Senate, received a message from the President of the United States submitting sundry nominations; which were referred to the appropriate committees.

(The nominations received on July 20, 1987 are printed at the end of the Senate proceedings.)

DEVELOPMENTS UNDER THE AUTOMOTIVE PRODUCTS TRADE ACT—MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 54

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on July 20, 1987, during the recess of the Senate, received the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

In accordance with the Automotive Products Trade Act of 1965 (Public Law 89-283), I transmit herewith the nineteenth annual report relating to developments during 1984.

RONALD REAGAN.

THE WHITE HOUSE, *July 20, 1987.*

ANNUAL REPORT OF THE NATIONAL SCIENCE FOUNDATION MESSAGE FROM THE PRESIDENT RECEIVED DURING RECESS—PM 55

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on July 20, 1987, during the recess of the Senate, received a message from the President of the United States, together with an accompanying report; which was referred to the Committee on Labor and Human Resources:

To the Congress of the United States:

I am pleased to send to you the annual report of the National Science Foundation (NSF) for Fiscal Year 1986. This report describes research supported by the Foundation in the mathematical, physical, biological, social, behavioral, and information sciences, in engineering, and in education in those fields.

Achievements such as the ones described in this report are the basis for much of our Nation's strength—its economic growth, military security, and the overall well-being of our people.

We face international challenges in science, engineering, and technology, but I am confident about our ability to meet those challenges. NSF has been and will remain a key part of the national effort to keep vital our great capabilities in research and productivity and to stay ahead of world competition through innovation and new discoveries.

I commend the Foundation's work to you and hope you share my enthusiasm for the outstanding work it describes.

RONALD REAGAN.

THE WHITE HOUSE, *July 20, 1987.*

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

ANNUAL REPORT ON FEDERAL ADVISORY COMMITTEES—MESSAGE FROM THE PRESIDENT—PM 56

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Governmental Affairs:

To the Congress of the United States:

In accordance with the requirements of Section 6(c) of the Federal Advisory Committee Act, as amended (Public Law 92-463, 5 U.S.C., App.), I hereby transmit the Fifteenth Annual Report on Federal Advisory Committees for Fiscal Year 1986.

RONALD REAGAN.

THE WHITE HOUSE, *July 21, 1987.*

MESSAGES FROM THE HOUSE

At 10:09 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2907. An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1988, and for other purposes.

MEASURES REFERRED

The following bill was read the first and second times by unanimous consent, and referred as indicated:

H.R. 2907. An act making appropriations for the Treasury Department, the U.S. Postal Service, the Executive Office of the President, and certain independent agencies for the fiscal year ending September 30, 1988, and for other purposes; to the Committee on Appropriations.

MEASURES READ THE FIRST TIME

The following joint resolution, previously received from the House of Representatives for concurrence, was read the first time:

H.J. Res. 216. Joint resolution to support a ceasefire in the Iran-Iraq war and a negotiated solution to the conflict.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

EC-1560. A communication from the Secretary of Agriculture, transmitting, pursuant to law, the second annual report on agricultural trade consultations; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1561. A communication from the Acting Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Secretary of Agriculture to recover costs of carrying out certain animal and plant health inspection programs; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1562. A communication from the Acting Secretary of Agriculture, transmitting a draft of proposed legislation to authorize the Secretary of Agriculture, under certain conditions, to release the public purpose reversionary clause contained in deeds for land conveyances made under the provisions of the Bankhead-Jones Farm Tenant Act; to the Committee on Agriculture, Nutrition, and Forestry.

EC-1563. A communication from the Director of the Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a cumulative report on budget rescissions and deferrals dated July 1, 1987; pursuant to the order of January 30, 1975, referred jointly to the Committee on Appropriations and the Committee on the Budget.

EC-1564. A communication from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend Chapter 157 of title 10, United States Code, to authorize the Secretary of Defense to provide transportation for next of kin of certain persons who are unaccounted for, to attend annual national meetings sponsored by the National League of Families of American Prisoners and Missing in southeast Asia; to the Committee on Armed Services.

EC-1565. A communication from the Secretary of Defense, transmitting, pursuant to law, a report on a review of the measures being taken to protect the Department of Defense overseas bases and installations (including family housing and support activities) from acts of terrorism; to the Committee on Armed Services.

EC-1566. A communication from the Secretary of Transportation, transmitting, pursuant to law, the annual report on the National Airway System for fiscal year 1986; to the Committee on Commerce, Science, and Transportation.

EC-1567. A communication from the Director of the Office of Civilian Radioactive Waste Management, Department of Energy, transmitting, pursuant to law, the fifth annual report on fee adequacy entitled "Nuclear Waste Fund Fee Adequacy: An Assessment"; to the Committee on Energy and Natural Resources.

EC-1568. A communication from the Assistant Secretary of the Interior (Land and Minerals Management), transmitting, pursuant to law, the annual report on royalty management and collection activities for 1986; to the Committee on Energy and Natural Resources.

EC-1569. A communication from the Administrator of General Services, transmitting, pursuant to law, informational copies of proposed lease prospectuses; to the Committee on Environment and Public Works.

EC-1570. A communication from the Assistant Secretary of the Treasury (Tax Policy), transmitting a draft of proposed legislation to amend the Internal Revenue Code of 1986 to provide an exemption from withholding tax for certain interest payments to Netherlands Antilles companies and their creditors and thereby to protect investor confidence in international bonds of United States issuers and for other purposes; to the Committee on Finance.

EC-1571. A communication from the Assistant Secretary of the Treasury, transmitting, pursuant to law, notification that the Treasury will be unable to invest or roll over maturing investments of trust funds and other Government accounts, including the Civil Service Retirement and Disability Fund and the Government Securities Investment Fund of the Federal Employees Retirement System after July 17, 1987 unless there is an extension of the debt limit by that time; to the Committee on Finance.

EC-1572. A communication from the Secretary of Health and Human Services, transmitting a draft of proposed legislation to provide for expanded voluntary private alternative coverage for Medicare beneficiaries, and for other purposes; to the Committee on Finance.

EC-1573. A communication from the Chairman of the United States International Trade Commission, transmitting, pursuant to law, the fiftieth quarterly report on trade between the United States and the nonmarket economy countries; to the Committee on Finance.

EC-1574. A communication from the Assistant Secretary of State (Legislative and Intergovernmental Affairs), transmitting, pursuant to law, travel advisories recently issued by the Department for South Africa and Haiti; to the Committee on Foreign Relations.

EC-1575. A communication from the Director of the Peace Corps, transmitting, pursuant to law, the annual report of the Peace Corps for fiscal year 1986; to the Committee on the Foreign Relations.

EC-1576. A communication from the Director of the Office of Personnel Management, transmitting, pursuant to law, notice of the approval, subject to modification of a proposed National Bureau of Standards demonstration project; to the Committee on the Governmental Affairs.

EC-1577. A communication from the Chairman of the Council of the District of Columbia, transmitting, pursuant to law, copies of D.C. Act 7-45 adopted by the Council on June 30, 1987; to the Committee on Governmental Affairs.

EC-1578. A communication from the Acting Assistant Administrator for Administration and Resources Management, Environmental Protection Agency, transmitting, pursuant to law, notice of a proposed Privacy Act system of records; to the Committee on Governmental Affairs.

EC-1579. A communication from the Chairperson of the Martin Luther King, Jr. Federal Holiday Commission, transmitting, pursuant to law, a report on the results of of the Second National Holiday in honor of Martin Luther King, Jr., January 19, 1987; to the Committee on Governmental Affairs.

EC-1580. A communication from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports issued by the General Accounting Office during June 1987; to the Committee on Governmental Affairs.

EC-1581. A communication from the Chairman of the Federal Energy Regulatory Commission, transmitting, pursuant to law, the annual report of the Commission under the Government in the Sunshine Act for calendar year 1986; to the Committee on Governmental Affairs.

EC-1582. A communication from the Chairman of the Board of Governors of the Federal Reserve System, transmitting, pursuant to law, notice of changes to an existing Privacy Act system of records; to the Committee on Governmental Affairs.

EC-1583. A communication from the General Counsel of the Legal Services Corporation, transmitting, pursuant to law, the annual report of the Corporation under the Freedom of Information Act for calendar year 1986; to the Committee on the Judiciary.

EC-1584. A communication from the Secretary of Commerce transmitting a draft of proposed legislation to amend title 17 of the United States Code to implement the Berne Convention for the Protection of Literary and Artistic Works, as revised at Paris on July 24, 1971, and for other purposes; to the Committee on the Judiciary.

EC-1585. A communication from the Secretary of Education transmitting a draft of proposed legislation to amend the Rehabilitation Act of 1973, to make technical corrections and program improvements, and for other purposes; to the Committee on Labor and Human Resources.

EC-1586. A communication from the Secretary of Education transmitting, pursuant to law, notice of final annual funding priority for Production, Distribution, and Training Program; to the Committee on Labor and Human Resources.

EC-1587. A communication from the Secretary of Education transmitting, pursuant to law, notice of final annual funding priority for the Research in Education of the Handicapped Program—Early Childhood Research Institute—Policy; to the Committee on Labor and Human Resources.

EC-1588. A communication from the Secretary of Education transmitting, pursuant to law, notice of final funding priorities—Special Projects and Demonstrations for Providing Vocational Rehabilitation Services to Severely Disabled Individuals Program; to the Committee on Labor and Human Resources.

EC-1589. A communication from the Secretary of Education transmitting, pursuant to law, notice of final annual funding priority—Research in Education of the Handicapped Program: Research Institute on Placement of Severely Handicapped Children; to the Committee on Labor and Human Resources.

EC-1590. A communication from the Secretary of Education transmitting, pursuant to law, final regulations for the Christa McAuliffe Fellowship Program; to the Committee on Labor and Human Resources.

REPORTS OF COMMITTEES SUBMITTED DURING RECESS

Under the authority of the order of the Senate of July 17, 1987, the following reports of committees were submitted on July 20, 1987, during the recess of the Senate:

By Mr. BURDICK, from the Committee on Environment and Public Works:

Report to accompany the bill (S. 1502) to authorize appropriations for the Public Buildings Service of the General Services Administration for fiscal year 1988 (Rept. No. 100-118).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PROXMIRE (for himself, Mr. Dodd, and Mr. Heinz):

S. 1507. A bill to provide for the uniform disclosure of the rates of interest which are payable on savings accounts, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. JOHNSTON (by request):

S. 1508. A bill to withdraw and reserve for the Department of the Air Force certain Federal lands within Lincoln County, Nevada, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. BINGAMAN:

S. 1509. A bill to provide health promotion and disease prevention services to Indians, and for other purposes; to the Select Committee on Indian Affairs.

By Mr. KERRY (for himself and Mr. Cranston):

S. 1510. A bill to require the Administrator of Veterans' Affairs to arrange for the review by the National Academy of Sciences of scientific evidence, studies, and literature pertaining to the human health effects of exposure to Agent Orange and its component compounds and the issuance of a report on the Academy's conclusions as to the weight of the evidence regarding the health effects in humans of exposure to Agent Orange, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. MOYNIHAN (for himself, Mr. Matsunaga, Mr. Bradley, Mr. Mitchell, Mr. Pryor, Mr. Rockefeller, Mr. Daschle, Mr. Adams, Mr. Kennedy, Mr. Kerry, Mr. Simon, Mr. Durenberger, Mr. Danforth, Mr. Chafee, Mr. Evans, Mr. Riegle, Mr. Biden, Mr. Wirth, Mr. Bumpers, Mr. Pell, Mr. Gore, Ms. Mikulski, Mr. Cochran, Mr. Bingaman, Mr. Fowler, Mr. Graham, and Mr. Sanford):

S. 1511. A bill to amend title IV of the Social Security Act to replace the AFDC program with a comprehensive program of mandatory child support and work training which provides for transitional child care and medical assistance, benefits improvement, and mandatory extension of coverage to two-parent families, and which reflects a general emphasis on shared and reciprocal obligation, program innovation, and organizational renewal; to the Committee on Finance.

By Mr. HATCH (for himself, Mr. Thurmond, and Mr. Heflin):

S. 1512. A bill to provide that in judicial actions against State judges, such judges shall not be held liable for attorney fees; to the Committee on the Judiciary.

By Mr. HEINZ:

S. 1513. A bill to provide for the inclusion of the Washington Square area within Independence National Park, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HEINZ:

S. 1514. A bill to amend the Internal Revenue Code of 1986 to treat similarly all tier 1 railroad retirement benefits for income tax purposes; to the Committee on Finance.

By Mr. HELFIN (for himself and Mr. Hatch):

S. 1515. A bill to prohibit injunctive relief, or an award of damages, against a judicial officer for action taken in an official capacity; to the Committee on the Judiciary.

By Mr. LEAHY (for himself, Mr. Lugar, Mr. Proxmire, and Mr. DeConcini):

S. 1516. A bill to amend the Federal Insecticide, Fungicide and Rodenticide Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. MITCHELL (for himself and Mr. Cohen):

S. 1517. A bill to amend title 38, United States Code, to provide that per diem subsidies paid by the Veteran's Administration for the care of veterans in State homes shall not be used to offset payments that are made under the Medicaid Program for the purpose of assisting eligible veterans; to the Committee on Veterans' Affairs.

By Mr. ROCKEFELLER (for himself, Mr. Danforth, Mr. Wilson, Mr. Wirth, Mr. Cranston, Mr. Byrd, Mr. Johnston, Mr. Daschle, Mr. Kasten, Mr. Lugar, Mr. McCain, Mr. Bingaman, Mr. Exon, Mr. Dixon, and Mr. Moynihan):

S. 1518. A bill to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. LAUTENBERG (for himself, Mr. Bradley, Mr. Sasser, Mr. Dixon, Mr. Fowler, Mr. Biden, Mr. Simon, Mr. Graham, Mr. Dodd, Mr. Danforth, Mr. Moynihan, Mr. Specter, Mr. DeConcini, Mr. Shelby, Mr. Kennedy, Mr. Metzenbaum, Mr. D'Amato, Mr. Hatch, Mr. Sanford, Mr. Inouye, Mr. Boren, Mr. Levin, and Mr. Wilson):

S. 1519. A bill to authorize the President of the United States to award congressional gold medals to Lawrence Doby and posthumously to Jack Roosevelt Robinson in recognition of their accomplishments in sport and in the advancement of civil rights, and to authorize the Secretary of the Treasury to sell bronze duplicates of those medals; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BAUCUS (for himself, Mr. Heinz, Mr. Armstrong, Mr. Chafee, Mr. Daschle, Mr. Matsunaga, Mr. Moynihan, Mr. Riegle, Mr. Roth, Mr. Kerry, and Mr. Lautenberg):

S. 1520. A bill to amend the Internal Revenue Code of 1986 to allow certain entities to elect not to make changes in their taxable years required by the Tax Reform Act of 1986, and for other purposes; to the Committee on Finance.

By Mr. TRIBLE (for himself, Mr. Adams, and Mr. McCain):

S.J. Res. 175. Joint resolution to recognize the efforts of the United States Soccer Federation in bringing the World Cup to the United States in 1994; to the Committee on Commerce, Science, and Transportation.

By Mr. HEINZ:

S.J. 176. Joint resolution honoring the International Brotherhood of Painters and Allied Trades; to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. PROXMIRE (for himself, Mr. Dodd, and Mr. Heinz):

S. 1507. A bill to provide for the uniform disclosure of the rates of interest which are payable on savings accounts, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

TRUTH IN SAVINGS ACT

Mr. PROXMIRE. Mr President, Senator Dodd, Senator Heinz, and I are introducing the Truth in Savings Act, legislation designed to provide for the clear and uniform disclosure of the rates of interest paid on savings accounts as well as all other significant terms and conditions relevant to such accounts.

The deregulation of the early 1980's brought with it a proliferation of financial institutions competing for consumer deposits and a wide variety of interest bearing accounts. As a result of this process the consumer has lost the ability to discern for his' or herself which accounts would be most suitable.

In part, this is because the average consumer has no way to adequately compare the variety of possibilities. Even when consumers can compare rates, sometimes they may be earning less than they think on interest bearing account. For example, some banks without telling the consumer don't pay interest on 3 to 12 percent of the balance before figuring the interest, on the grounds that the banks themselves can't invest these funds because they are legally required to keep them as reserves. The banks refer to this practice as "investable balance" or the "reserve adjusted balance." I call such a practice a fraud on the consumer.

As I said, this bill requires the clear and uniform disclosure of the rates of interest payable on deposit accounts by depository institutions, and the fees assessable against deposit accounts so that customers can make meaningful comparisons among competing institutions. This bill will require that each "advertisement, announcement, or solicitation relating to any demand or interest bearing account which includes any reference to a specific rate of interest payable on amounts deposited in such accounts, or to a specific yield or rate of earnings on accounts so deposited," shall state the following information in a clear and conspicuous manner:

The annual percentage yield, in greater prominence than any other State rate.

The period during which such annual percentage yield is in effect.

All minimum balance and time requirements which must be met in order to earn the advertised yield.

The minimum amount of the initial deposit which is required to open the account in order to obtain the yield advertised if such minimum amount is greater than the minimum balance necessary to earn the advertised yield.

The annual rates of simple interest.

A statement that regular fees or other conditions could reduce yield.

A statement that an interest penalty is required for early withdrawal.

In the case of a certificate of deposit or other account for which the stated date of maturity is less than 1 year, a statement of the effective percentage yield on the date of maturity.

This bill will also put a stop to misleading advertising by prohibiting any depository institution from referring to any account as "cost free" if, in fact, there are minimum balance requirements, or other related requirements.

Finally, the bill requires each depository institution to maintain a schedule of fees, charges, interest rates, and terms and conditions applicable to each class of accounts offered by the depository institution.

Mr. President, I should note that the bill that we are introducing today passed the House by voice vote on the 29th of June. Because the House of Representatives has jurisdictional limitations, the House-passed bill does not apply to mutual funds. I anticipate that the Senate Banking Committee will remedy this defect in an otherwise admirable bill. I look forward to speedy consideration of the bill in Senator Dodd's Consumer Affairs Subcommittee, and thereafter by the full Banking Committee. Hopefully, by the end of this session, consumers will understand the exact nature of the bargain with banks. Then, all sides to the deal will be able to enjoy the full fruits of interest rate deregulation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1507

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Truth in Savings Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) Findings.—The Congress hereby finds that economic stability would be enhanced, competition between depository institutions would be improved, and the ability of the consumer to make informed decisions regarding deposit accounts would be strengthened if there was uniformity in the disclosure of terms and conditions on which interest is paid and fees are assessed in connection with such accounts.

(b) Purpose.—It is the purpose of this Act to require the clear and uniform disclosure of—

(1) the rates of interest which are payable on deposit accounts by depository institutions; and

(2) the fees that are assessable against deposit accounts,

so that consumers can make a meaningful comparison between the competing claims of depository institutions with regard to deposit accounts.

SEC. 3. DISCLOSURE OF INTEREST RATES AND TERMS OF ACCOUNTS.

(a) In General.—Except as provided in subsection (b), each advertisement, announcement, or solicitation initiated by any depository institution relating to any demand or interest-bearing account which includes any reference to a specific rate of interest payable on amounts deposited in such account, or to a specific yield or rate of earnings on amounts so deposited, shall state the following information, to the extent applicable, in a clear and conspicuous manner:

(1) The annual percentage yield (which shall be noted in greater prominence than any other stated rate).

(2) The period during which such annual percentage yield is in effect.

(3) All minimum account balance and time requirements which must be met in order to earn the advertised yield (and, in the case of accounts for which more than 1 yield is stated, each annual percentage yield and the account minimum balance requirement associated with each such yield shall be in close proximity and have equal prominence).

(4) The minimum amount of the initial deposit which is required to open the account in order to obtain the yield advertised, if such minimum amount is greater than the minimum balance necessary to earn the advertised yield.

(5) The annual rates of simple interest.

(6) A statement that regular fees or other conditions could reduce the yield.

(7) A statement that an interest penalty is required for early withdrawal.

(8) In the case of a certificate of deposit or other account for which the stated date of maturity is less than 1 year, a statement of the effective percentage yield on the date of maturity.

(b) Broadcast and Electronic Media and Outdoor Advertising Exception.—The Board may, by regulation, exempt advertisements, announcements, or solicitations made by any broadcast or electronic medium or outdoor advertising display not on the premises of the depository institution from any disclosure requirements described in paragraph (4), (5), or (6) of subsection (a) if the Board finds that any such disclosure would be unnecessarily burdensome.

(c) Misleading Descriptions of Free or No-Cost Accounts Prohibited.—No advertisement, announcement, or solicitation made by any depository institution may refer to or describe an account as a free or no-cost account if—

(1) in order to avoid fees or service charges for any period—

(A) a minimum balance must be maintained in the account during such period; or

(B) the number of transactions during such period may not exceed a maximum number; or

(2) any regular service or transaction fee is imposed.

(d) Misleading or Inaccurate Advertisements, Etc., Prohibited.—No depository institution shall make any advertisement, announcement, or solicitation relating to a deposit account that is inaccurate or misleading or that misrepresents its deposit contracts.

SEC. 4. ACCOUNT SCHEDULE.

(a) In General.—Each depository institution shall maintain a schedule of fees, charges, interest rates, and terms and conditions applicable to each class of accounts offered by the depository institution, in accordance with the requirements of this section and regulations which the Board shall prescribe. The Board shall specify, in regulations, which fees, charges, penalties, terms, conditions, and account restrictions must be included in a schedule required under this subsection. A depository institution need not include in such schedule any information not specified in such regulation.

(b) Information on Fees and Charges.—The schedule required under subsection (a) with respect to any account shall contain the following information:

(1) A description of all fees, periodic service charges, and penalties which may be charged or assessed against the account (or against the account holder in connection with such account), the amount of any such fees, charge, or penalty (or the method by which such amount will be calculated), and the conditions under which any such amount will be assessed.

(2) All minimum balance requirements that affect fees, charges, and penalties, including a clear description of how each such minimum balance is calculated.

(3) Any minimum amount required with respect to the initial deposit in order to open the account.

(c) Information on Interest Rates.—The schedule required under subsection (a) with respect to any account shall include the following information:

(1) Any annual percentage yield.

(2) The period during which any such annual percentage yield will be in effect.

(3) Any annual rate of simple interest.

(4) The frequency with which interest will be compounded and credited.

(5) A clear description of the method used to determine the balance on which interest is paid.

(6) In the case of a certificate of deposit or other account for which the stated date of maturity is less than 1 year, a statement of the effective percentage yield on the date of maturity.

(7) The information described in paragraphs (1) through (4) with respect to any period after the end of the period referred to in paragraph (2) (or the method for computing any information described in any such paragraph), if applicable.

(8) Any minimum balance which must be maintained to earn the rates and obtain the yields disclosed pursuant to this subsection and a clear description of how any such minimum balance is calculated.

(9) A clear description of any minimum time requirement which must be met in order to obtain the yields disclosed pursuant to this subsection and any information described in paragraph (1), (2), (3), or (4) that will apply if any time requirement is not met.

(10) A statement, if applicable, that any interest which has accrued but has not been credited to an account at the time of a withdrawal from the account will not be paid by the depository institution or credited to the account by reason of such withdrawal.

(11) Any provision or requirement relating to nonpayment of interest, including any charge or penalty for early withdrawal, and the conditions under which any such charge or penalty may be assessed.

(d) Other Information.—The schedule required under subsection (a) shall include such other disclosures as the Board may determine to be necessary to allow consumers to understand and compare accounts, including frequency of interest rate adjustments, account restrictions, and renewal policies for time accounts.

(e) Style and Format.—Schedules required under subsection (a) shall be written in clear and plain language and be presented in a format designed to allow consumers to readily understand the terms of the accounts offered.

SEC. 5. DISCLOSURE REQUIREMENTS FOR CERTAIN ACCOUNTS.

The Board shall require, in regulations which the Board shall prescribe, such modification in the disclosure requirements under this Act relating to annual percentage yield as may be necessary to carry out the purposes of this Act in the case of—

(1) accounts with respect to which determination of annual percentage yield is based on an annual rate of interest that is guaranteed for a period of less than 1 year;

(2) variable rate accounts;

(3) accounts which, pursuant to law, do not guarantee payment of a stated rate; and

(4) multiple rate accounts.

SEC. 6. DISTRIBUTION OF SCHEDULES.

(a) In General.—A schedule required under section 4 for an appropriate account shall be—

(1) included in any regularly scheduled mailing to holders of that account which occurs not more than 90 days after the effective date of the initial regulations prescribed by the Board under this Act, unless the depository institution has provided, before such effective date, a disclosure which meets the requirements of section 4;

(2) made available to any person upon request; and

(3) provided to any potential customer before an account is opened or a service is rendered.

(b) Distribution in Case of Certain Initial Deposits.—If—

(1) a depositor is not physically present at an office of a depository institution at the time an initial deposit is accepted with respect to an account established by or for such person; and

(2) the schedule required under section (4)(a) has not been furnished previously to such depositor,

the depositor institution shall mail the schedule to the depositor at the address shown on the records of the depository institution for such account no later than 10 days after the date of the initial deposit.

(c) Distribution of Notice of Certain Changes.—If—

(1) any change is made in any term or condition which is required to be disclosed in the schedule required under section 4(a) with respect to any account; and

(2) the change may reduce the yield or adversely affect any holder of the account, all account holders who may be affected by such change shall be notified and provided with a description of the change by mail at least 30 days before the change takes effect.

(d) Distribution in Case of Accounts Established by More Than 1 Individual or by a Group.—If an account is established by more than 1 individual or for a person other than an individual, any distribution described in this section with respect to such account meets the requirements of this section if the distribution is made to 1 of the individual who established the account or 1 individual representative of the person on whose behalf such account was established.

SEC. 7. PAYMENT OF INTEREST.

(a) Calculated on Full Amount of Principal.—The amount of interest accruing on an interest-bearing account at any depository institution shall be calculated by such institution on the full amount of principal in the account for the stated calculation period at the rate or rates of interest disclosed pursuant to this Act.

(b) No Particular Method of Compounding Interest Required.—Subsection (a) shall not be construed as prohibiting or requiring the use of any particular method of compounding or crediting of interest.

SEC. 8. REGULATIONS.

(a) In General.—Not later than 1 year after the date of the enactment of this Act, the Board, after consultation with each agency referred to in section 9(a) and public notice and opportunity for comment, shall prescribe regulations to carry out the purpose and provisions of this Act. The regulations so prescribed may contain such classifications, differentiations, or other provisions, and may provide for such adjustments and exceptions for any class of accounts as, in the judgment of the Board, are necessary or proper to carry out the purposes of this Act, to prevent circumvention or evasion of the requirements of this Act, or to facilitate compliance with the requirements of this Act.

(b) Model Forms and Clauses.—

(1) In general.—The Board shall publish model forms and clauses for common disclosures to facilitate compliance with this Act. In devising such forms, the Board shall consider the use by depository institutions of data processing or similar automated machines.

(2) Use of forms and clauses deemed in compliance.—Nothing in this Act may be construed to require a depository institution to use any such model form or clause prescribed by the Board under this subsection. A depository institution shall be deemed to be in compliance with the disclosure provisions of this Act if the depository institution—

(A) uses any appropriate model form or clause as published by the Board; or

(B) uses any such model form or clause and changes it by—

(i) deleting any information which is not required by this Act; or

(ii) rearranging the format,

if in making such deletion or rearranging the format, the depository institution does not affect the substance, clarity, or meaningful sequence of the disclosure.

(3) Public notice and opportunity for comment.—Model disclosure forms and clauses shall be adopted by the Board after duly given notice in the Federal Register and an opportunity for public comment in accordance with section 553 of title 5, United States Code.

SEC. 9. ADMINISTRATIVE ENFORCEMENT.

(a) In General.—Compliance with the requirements imposed under this Act shall be enforced under—

(1) section 8 of the Federal Deposit Insurance Act, in the case of—

(A) national banks, by the Comptroller of the Currency;

(B) member banks of the Federal Reserve System (other than national banks), by the Board; and

(C) depository institutions described in clause (i), (ii), or (iii) of section 19(b)(1)(A) of the Federal Reserve Act (other than member banks of the Federal Reserve System) by the Board of Directors of the Federal Deposit Insurance Corporation;

(2) section 5(d) of the Home Owners' Loan Act of 1933, section 407 of the National Housing Act, and sections 6(i) and 17 of the Federal Home Loan Bank Act, by the Federal Home Loan Bank Board (acting directly or through the Federal Savings and Loan Insurance Corporation) in the case of depository institutions described in clause (v) or (vi) of section 19(b)(1)(A) of the Federal Reserve Act; and

(3) the Federal Credit Union Act, by the National Credit Union Administration Board in the case of depository institutions described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(b) Additional Enforcement Powers.—

(1) Violation of this act treated as violation of other acts.—For purposes of the exercise by any agency referred to in subsection (a) of such agency's powers under any Act referred to in such subsection, a violation of a requirement imposed under this Act shall be deemed to be a violation of a requirement imposed under that Act.

(2) Enforcement authority under other acts.—In addition to the powers of any agency referred to in subsection (a) under any provision of law specifically referred to in such subsection, each such agency may exercise, for purposes of enforcing compliance with any requirement imposed under this Act, any other authority conferred on such agency by law.

(c) Regulations by Agencies Other Than the Board.—The authority of the Board to issue regulations under this Act does not impair the authority of any other agency referred to in subsection (a) to make rules regarding its own procedures in enforcing compliance with the requirements imposed under this Act.

SEC. 10. CIVIL LIABILITY.

(a) Civil Liability.—Except as otherwise provided in this section, any depository institution which fails to comply with any requirement imposed under this Act or any regulation prescribed under this Act with respect to any person is liable to such person in an amount equal to the sum of—

(1) any actual damage sustained by such person as a result of the failure;

(2)(A) in the case of an individual action, such additional amount as the court may allow, except that the liability under this subparagraph shall not be less than $100 nor greater than $1,000; or

(B) in the case of a class action, such amount as the court may allow, except that—

(i) as to each member of the class, no minimum recovery shall be applicable; and

(ii) the total recovery under this subparagraph in any class action or series of class actions arising out of the same failure to comply by the same depository institution shall not be more than the lesser of $500,000 or 1 percent of the net worth of the depository institution involved; and

(3) in the case of any successful action to enforce any liability under paragraph (1) or (2), the costs of the action, together with a reasonable attorney's fee as determined by the court.

(b) Class Action Awards.—In determining the amount of any award in any class action, the court shall consider, among other relevant factors—

(1) the amount of any actual damages awarded;

(2) the frequency and persistence of failures of compliance;

(3) the resources of the depository institution;

(4) the number of persons adversely affected; and

(5) the extent to which the failure of compliance was intentional.

(c) Bona Fide Errors.—

(1) GENERAL RULE.—A depository institution may not be held liable in any action brought under this section for a violation of this Act if the depository institution demonstrates by a preponderance of the evidence that the violation was not intentional and resulted from a bona fide error, notwithstanding the maintenance of procedures reasonably adapted to avoid any such error.

(2) EXAMPLES.—Examples of a bona fide error include clerical, calculation, computer malfunction and programming, and printing errors, except that an error of legal judgment with respect to a depository institution's obligation under this Act is not a bona fide error.

(d) JURISDICTION.—Any action under this section may be brought in any United States district court, or in any other court of competent jurisdiction, within one year after the date of the occurrence of the violation involved.

(e) RELIANCE ON BOARD RULINGS.—No provision of this section imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule, regulation, or interpretation thereof by the Board, notwithstanding the fact that after such act or omission has occurred, such rule, regulation, or interpretation is amended, rescinded, or determined by judicial or other authority to be invalid for any reason.

(f) NOTIFICATION OF AND ADJUSTMENT FOR ERRORS.—A depository institution shall not be liable under this section or section 9 for any failure to comply with any requirement imposed under this Act with respect to any account if—

(1) before—

(A) the end of the 60-day period beginning on the date on which the depository institution discovered the failure to comply;

(B) any action is instituted against the depository institution by the account holder under this section with respect to such failure to comply; and

(C) any written notice of such failure to comply is received by the depository institution from the account holder,

the depository institution notifies the account holder of the failure of such institution to comply with such requirement; and

(2) the depository institution makes such adjustments as may be necessary with respect to such account to ensure that—

(A) the account holder will not be liable for any amount in excess of the amount actually disclosed with respect to any fee or charge;

(B) the account holder will not be liable for any fee or charge imposed under any condition not actually disclosed; and

(C) interest on amounts in such account will accrue at the annual percentage yield, and under the conditions, actually disclosed (and credit will be provided for interest already accrued at a different annual percentage yield and under different conditions than the yield or conditions disclosed).

(g) MULTIPLE INTERESTS IN 1 ACCOUNT.—If more than 1 person holds an interest in any account—

(1) the minimum and maximum amounts of liability under subsection (a)(2)(A) for any failure to comply with the requirements of this Act shall apply with respect to such account; and

(2) the court shall determine the manner in which the amount of any such liability with respect to such account shall be distributed among such persons.

(h) CONTINUING FAILURE TO DISCLOSE.—

(1) CERTAIN CONTINUING FAILURES TREATED AS 1 VIOLATION.—Except as provided in paragraph (2), the continuing failure of any depository institute to disclose any particular term required to be disclosed under this Act with respect to a particular account shall be treated as a single violation for purposes of determining the amount of any liability of such institution under subsection (a) for such failure to disclose.

(2) SUBSEQUENT FAILURE TO DISCLOSE.—The continuing failure of any depository institution to disclose any particular term required to be disclosed under this Act with respect to a particular account after judgment has been rendered in favor of the account holder in connection with a prior failure to disclose such term with respect to such account shall be treated as a subsequent violation for purposes of determining liability under subsection (a).

(3) COORDINATION WITH SECTION 9.—This subsection shall not limit or otherwise affect the enforcement power under section 9 of any agency referred to in subsection (a) of such section.

SEC. 11. CREDIT UNIONS.

(a) IN GENERAL.—No regulation prescribed by the Board under this Act shall apply directly with respect to any depository institution described in clause (iv) of section 19(b)(1)(A) of the Federal Reserve Act.

(b) REGULATIONS PRESCRIBED BY THE NCUA.—Within 90 days of the effective date of any regulation prescribed by the Board under this Act, the National Credit Union Administration Board shall prescribe a regulation substantially similar to the regulation prescribed by the Board taking into account the unique nature of credit unions and the limitations under which they may pay dividends on member accounts.

SEC. 12. EFFECT ON STATE LAW.

This Act does not annul, alter, or affect the laws of any State relating to the disclosure of information in connection with terms of deposit accounts, except to the extent that those laws are inconsistent with the provisions of this Act, and then only to the extent of the inconsistency.

SEC. 13. DEFINITIONS

For the purposes of this Act—

(1) DEPOSITORY INSTITUTION.—The term "depository institution" has the meaning given such term in clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act.

(2) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

(3) ACCOUNT.—The term "account" means any account offered to 1 or more individuals or an unincorporated nonbusiness association of individuals by a depository institution into which a customer deposits funds, including demand accounts, time accounts, negotiable order of withdrawal accounts, and share draft accounts.

(4) INTEREST.—The term "interest" includes dividends paid with respect to share draft accounts which are accounts within the meaning of paragraph (3).

(5) MULTIPLE RATE ACCOUNT.—The term "multiple rate accounts" means any account that has 2 or more annual rates of simple interest which take effect in succeeding periods and which are known at the time of disclosure.

(6) ANNUAL PERCENTAGE YIELD.—The term "annual percentage yield" shall be equal to the total amount of interest that would be received on a $100 deposit under the terms described in paragraphs (3) and (4) of section 4(c) over a year, expressed as a percentage calculated by a method which shall be prescribed by the Board in regulations.

By Mr. JOHNSTON (by request):

S. 1508. A bill to withdraw and reserve for the Department of the Air Force certain Federal lands within Lincoln County, NV, and for other purposes; to the Committee on Energy and Natural Resources.

TRANSFER AND RESERVATION OF CERTAIN FEDERAL LANDS

● Mr. JOHNSTON. Mr. President, pursuant to an executive communication referred to the Committee on Energy and Natural Resources, at the request of the Department of the Interior, I send to the desk a bill to withdraw and reserve for the Department of the Air Force certain Federal lands within Lincoln County, NV, and for other purposes.

Mr. President, this draft legislation was submitted and recommended by the Department of the Interior, and I ask unanimous consent that the bill, and the executive communication which accompanied the proposal from the Assistant Secretary be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1508

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act of November 6, 1986 (100 Stat. 3457) is amended by—

(1) striking out the period at the end of section 1(b)(2) of the Act and insert in lieu thereof "and lands comprising approximately 89,600 acres of land in Lincoln County, Nevada, as generally depicted on the map entitled 'Groom Mountain Addition to Nellis Air Force Range', dated September 1984 and filed in accordance with section 2."; and

(2) striking out section 5(b)(2)(B) of the Act.

U.S. DEPARTMENT OF THE INTERIOR,
Washington, DC, June 29, 1987.

Hon. GEORGE BUSH,
President of the Senate,
Washington, DC.

DEAR MR. PRESIDENT: Enclosed is a draft bill, "To withdraw and reserve for the Department of the Air Force certain Federal lands within Lincoln County, Nevada, and for other purposes."

We urge that the draft bill be introduced, referred to the appropriate committee for consideration, and that it be enacted.

This legislative proposal would amend the Military Lands Withdrawal Act of November 6, 1986, Public Law 99-606 (100 Stat. 3457), to add the Groom Mountain Addition to the areas withdrawn by that Act. The withdrawal would continue until November 7, 2001, which is the date of expiration of the withdrawals established by the Military Lands Withdrawal Act of 1986. All provisions of that Act would apply to this area.

This proposal would withdraw approximately 89,600 acres located adjacent to the boundary of the Nellis Air Force Range in Lincoln County, Nevada. The lands to be withdrawn for the Groom Mountain Addition are depicted on a map entitled, "Groom Mountain Addition to Nellis Air Force Range" dated September 1984. The Act of

October 17, 1984, Public Law 98-485 (98 Stat. 2261), withdrew the public lands in the Groom Mountain Addition from operation of the public land laws, including the mining laws, but not the mineral leasing and geothermal leasing laws, pending completion of an environmental impact statement (EIS). It was for this reason that the lands were not included in the Military Lands Withdrawal Act of 1986.

As required by the Act of October 17, 1984, the Air Force in cooperation with BLM issued a final EIS in November 1986 with respect to the Groom Mountain Addition. Copies of that statement along with copies of the draft EIS, mineral, and archeological reviews were transmitted previously to the Chairman of the House Committee on Interior and Insular Affairs and to the ranking minority member of that Committee.

The Groom Mountain Addition is used by the Air Force to provide a public safety and security protective zone for national defense programs carried out on the adjacent Nellis Air Force Range. Because of the nature of the activities conducted on Nellis Air Force Range and the relationship of those activities to the Groom Mountain Addition, it is essential that the lands covered by the draft bill not be open to unauthorized access or use.

We also recommend a technical change in the Military Lands Withdrawal Act of 1986. Section 5(b)(2)(B) of that Act makes the Groom Mountain withdrawal lands separately subject to the EIS requirements in that Act. Since this draft bill will make the Groom Mountain Addition a part of the Nellis withdrawal area for all purposes including the EIS requirements, this language would no longer be needed and should be stricken.

Legislation is required for the proposed withdrawal because the Act of February 28, 1958, Public Law 85-337 (72 Stat. 17; 43 U.S.C. 155-158), requires that withdrawals of more than 5,000 acres of public land for any one project or facility of the Department of Defense be accomplished only by an Act of Congress. Expeditious enactment of this proposed legislation is essential because the withdrawal under the Act of October 17, 1984, terminates on December 31, 1987. National defense and national security require that the withdrawal continue without a break.

The Office of Management and Budget has advised that there is no objection to this legislative proposal from the standpoint of the Administration's program.

Sincerely,

J. STEVEN GRILES,
Assistant Secretary.●

By Mr. BINGAMAN:

S. 1509. A bill to provide health promotion and disease prevention services to Indians, and for other purposes; to the Select Committee on Indian Affairs.

INDIAN HEALTH PROMOTION AND DISEASE PREVENTION ACT

● Mr. BINGAMAN. Mr. President, in the last Congress I introduced or supported several legislative items designed to help Americans lead healthier lifestyles. The bill I am introducing today is in line with those efforts and, I hope, will complement broader Federal health promotion and disease prevention strategies. My legislation is the Indian Health Promotion and Disease Prevention Act of 1987. It focuses on an obvious but neglected aspect of Indian health care delivery—preventative services.

This legislation is similar to legislation introduced last Congress both as an independent bill, S. 400, and as part of the larger Indian Health Care Amendments of 1986, S. 277, which were reported by the Senate Select Committee on Indian Affairs but never fully considered by the Senate. Companion legislation, H.R. 1426, which also contained the provisions of S. 400, was passed by the House on September 18, 1986, and by the Senate with amendments. However, the House and Senate never resolved the differences between the two versions and as a result neither the larger Indian health care amendments nor the Indian health promotion amendments became law.

My legislation will accomplish a number of things. It will create new health promotion and disease prevention services for Indians within the Indian Health Service of the Department of Health and Human Services. It will provide for the establishment of at least one demonstration project to find the most effective and cost-efficient means of promoting good health programs for Indians. The bill also calls for the continuation and improvement of the Community Health Representative Program as a vehicle to carry our health promotion activities. The bill also requires the Secretaries of the Interior and Health and Human Services to establish health education programs for Indian youth. Most importantly, the legislation also creates a health promotion and disease prevention Indian health policy.

A field hearing by the Indian Affairs Committee chaired by my colleague from Arizona, Mr. DECONCINI, was held on these proposals in Gallup, NM. The testimony from Indian leaders, health care professionals, health educators, local and State providers, all voiced support for a prevention activity to combat contagious diseases and chronic, degenerative disease. Many of our most serious health problems are directly related to unhealthy behavior—smoking, overeating, lack of exercise, and abuse of alcohol and drugs—prompting the U.S. Surgeon General, in his 1979 report Healthy People, to call for a renewed national commitment to disease prevention and health promotion.

The best community intervention depends on local outreach. Community health representatives are health educators and promoters. My bill continues the program of quality training and rigorous curriculum for these paraprofessionals. Continuing education, evaluation, and incorporation of traditional health care practices and cultural values are also added. I believe the community health representative's role in health promotion and disease prevention is reinforced under this bill.

The establishment of a health promotion and disease prevention service within the Indian Health Service would require that the IHS develop a comprehensive plan and outlines how and when those goals will be reached. I view this plan as extremely beneficial, for it would be a benchmark to measure IHS progress against the goals it would establish in the comprehensive plan. I envision it similar to Objectives of the Nation, except, in this instance, it would be Objectives for the American Indian.

The legislation also establishes a community-wide health promotion project. The purpose of this demonstration project is to determine the most effective and cost-efficient means of providing health promotion services. According to IHS, the leading causes of hospital admissions are injuries and poisonings, digestive and respiratory system diseases, and pregnancy complications. It is my hope that this project will be a model that will be replicated in other Indian communities as a way to promote community health.

Additionally, the Secretary of Health and Human Services and the Secretary of the Interior are directed to enter into an agreement to coordinate health promotion, disease prevention, and health education among Indian youth. The Indian Alcohol and Substance Abuse Prevention and Treatment Act was incorporated into the recently passed antidrug bill. This mandates health education in the Bureau of Indian Affairs and community-controlled schools. Health education includes alcohol and drug abuse. I understand that these Departments have entered into some type of cooperative arrangement on alcohol and drug abuse, but that it is not broad enough to include health education. Therefore, this measure assures the broadest prevention possible.

I believe this bill is long overdue. I urge the quickest action possible.●

By Mr. KERRY (for himself and Mr. CRANSTON):

S. 1510. A bill to require the Administrator of Veterans' Affairs to arrange for the review by the National Academy of Sciences of scientific evidence, studies, and literature pertaining to the human health effects of exposure to agent orange and its components compounds and the issuance of a report on the Academy's conclusions as to the weight of the evidence regarding the health effects in humans of exposure to agent orange, and for other purposes; to the Committee on Veterans' Affairs.

COMPREHENSIVE AGENT ORANGE SCIENTIFIC EVIDENCE REVIEW ACT

● Mr. KERRY. Mr. President, last night many Americans watched a gripping film on television called "Unnatural Causes," the true story of one veteran's tragedy caused by agent orange exposure in Vietnam. Unfortunately, as the film graphically depicted, nothing has yet been done by the U.S. Government to help the victims of agent orange. I believe that Vietnam veterans have waited long enough.

I am today introducing the "Comprehensive Agent Orange Scientific Evidence Review Act of 1987." I am very pleased that Senator Alan Cranston, the chairman of the Committee on Veterans' Affairs, is joining me as an original cosponsor of this legislation.

Several months ago, I asked Senator Cranston to join with me in an effort to achieve closure and consensus on the issue of agent orange, and bring an end to the continuing debate. I asked him to join with me in requesting that the National Academy of Sciences conduct a review of all of the studies and all of the evidence on agent orange, and issue a report within 1 year, to state with authority their conclusions as to the health effects of agent orange.

According to figures compiled by Vietnam Veterans of America, there are now over 1,000 available studies pertaining to agent orange. This issue has literally been studied to death.

What is needed is one authoritative report which would examine the results of all of these studies, and reach a conclusion with regard to the health effects of agent orange on Vietnam veterans. This will enable the Congress to have a solid basis and foundation upon which to make policy.

I am very grateful to Senator Cranston for responding positively to this initiative, and for agreeing to join with me in cosponsoring legislation to call for a comprehensive and authoritative report by the National Academy of Sciences on agent orange.

This is a major step forward, toward putting an end to the debate and the divisions over agent orange, and completing the homecoming process for Vietnam veterans. For far too many of our Nation's veterans have yet to come home.

The great Irish poet, William Butler Yeats, wrote: "Too long a sacrifice can make a stone of the heart." Many Vietnam veterans know the truth of those words all too well. They know the bitterness which comes of feeling that one's sacrifices have not been recognized or rewarded. All of us know that there was a reason for that feeling of bitterness. But we also know that during the past 5 years, since the establishment of the Vietnam Veterans' Memorial in Washington, and other milestones for Vietnam veterans, that the healing process has brought many of us home again.

But there are some for whom a feeling of bitterness remains. There are those for whom the sacrifices continue, and are not yet recognized or rewarded. I am referring to the victims of agent orange.

Elmo Zumwalt III, the son of Adm. Elmo Zumwalt, has written and spoken eloquently about the subject of agent orange. Let me quote briefly from his words, expressed in the book which he wrote about agent orange, entitled "My Father, My Son."

Elmo Zumwalt III, who served as I did as a swift-boat officer in Vietnam, wrote:

> I had seen agent orange defoliation nearly everywhere I had patrolled, but from the air the extent of it was dramatic—trees were stripped of leaves, thick jungle growth was reduced to twigs, the ground was barren of grass. In the 11 months I was in Vietnam, I had often washed in the waters into which agent orange had drained, and had eaten local produce which I suspect had been doused with the chemical. I remember developing a skin rash while in the Sea Float area. I have since learned that one of the effects of agent orange exposure is a skin rash. But at the time, I was thankful for the defoliation. It meant the enemy could not attack Sea Float without great cost to itself.

And these are the words of Elmo Zumwalt III today, knowing that he is the victim of Hodgkin's disease, a severe form of cancer, and that his son Russell is the victim of a learning disability, both probably caused by agent orange. He writes:

> I am a lawyer, and I don't think I could prove in court, by the weight of the existing scientific evidence, that agent orange is the cause of all the medical problems—nervous disorders, cancer and skin problems—reported by Vietnam veterans, or of their children's serious birth defects. But I am convinced that it is.

I agree with Elmo Zumwalt. I am not here to criticize the use of agent orange in Vietnam, or to second-guess that decision. But I am here to suggest that the time has come to bring to a close the debate over agent orange, and to begin to provide compensation to the victims of agent orange. This Nation needs to take that further step in the healing process, in the process of closing the lingering wounds from the Vietnam war. And the Congress needs to be a part of that process.

I have been deeply dismayed by the continuing efforts of the administration to deny, delay, and even impede studies on agent orange. This administration appears to be placing politics ahead of the health of this Nation's veterans.

A study released in September by the Harvard School of Public Health and the Mount Sinai School of Medicine, and commissioned by the House Energy and Commerce Committee, stated that the Office of Management and Budget "has delayed, impeded, and thwarted governmental research efforts designed to answer public demands for information on serious public health questions" relating to dioxins and agent orange.

At a time when veterans are still waiting to receive any compensation for injuries and diseases caused by exposure to agent orange in Vietnam, this foot-dragging by the OMB is intolerable.

Meanwhile, the VA regulations on agent orange continue to be totally inadequate to the needs of veterans. The VA regulations recognize only chloracne, a severe form of acne, as being related to agent orange exposure. They continue to deny the existence of all other diseases, including soft-tissue cancers, as being related to agent orange. They continue to state the totally unreasonable requirement that the disease must have occurred within 1 year of service in Vietnam, in contradiction of all the facts which show that such diseases may not show up for 15 years, or 20 years, or longer.

The result of those VA regulations is that not one Vietnam veteran has received compensation for diseases which were caused by agent orange. Not one. That is no longer acceptable in 1987.

Today, let us as a society make a decision that the time is now to heal the final wounds of Vietnam, to recognize the final sacrifices, and to make the final amends. And let us begin that process by finally, belatedly recognizing the tragedies that we have visited upon ourselves and our children through agent orange. Recognizing the pain and the wounds of agent orange, and resolving the lingering divisions between us, is an important part of the healing process. It is my hope that this legislation will help in that process.●

By Mr. MOYNIHAN (for himself, Mr. Matsunaga, Mr. Bradley, Mr. Mitchell, Mr. Pryor, Mr. Rockefeller, Mr. Daschle, Mr. Adams, Mr. Kennedy, Mr. Kerry, Mr. Simon, Mr. Durenberger, Mr. Danforth, Mr. Chafee, Mr. Evans, Mr. Riegle, Mr. Biden, Mr. Wirth, Mr. Bumpers, Mr. Pell, Mr. Gore, Ms. Mikulski, Mr. Cochran, and Mr. Bingaman):

S. 1511. A bill to amend title IV of the Social Security Act to replace the AFDC Program with a comprehensive program of mandatory child support and work training which provides for transitional child care and medical assistance, benefit improvement, and mandatory extension of coverage to two-parent families, and which reflects a general emphasis on shared and reciprocal obligation, program innovation, and organizational renewal; to the Committee on Finance.

FAMILY SECURITY ACT

Mr. MOYNIHAN. Mr. President, today I am introducing the Family Security Act of 1987. The Family Security Act will replace our principal welfare program, Aid to Families with Dependent Children [AFDC] with a new national system of child support.

The Family Security Act stresses family responsibility and community obligation in the context of the vastly changed family arrangements of the last 50 years.

The Family Security Act enforces the principle that child support must in the first instance come from parents, and only thereafter from the community, which however has the deepest obligation to enable parents to fulfill their responsibilities through expanded opportunities in education and training.

The Family Security Act reflects the need for benefit improvement, program innovation, and organizational renewal at every level in the Federal system.

WINDOW OF OPPORTUNITY

Opportunities to improve our welfare system are infrequent. In the course of my public career, we have come tantalizingly close to reforming AFDC, but each time we have come up short. Cumulative disappointment makes us pessimistic and often deters us from further effort.

Thus, some say this is not a promising time to attempt another overhaul of the welfare system. It is too complex, they tell us, too difficult to reach a consensus about what should be done. I recall hearing similar remarks in the last Congress when we tackled tax reform. And the problems associated with welfare reform are hardly more daunting than those that plagued tax reform, problems which we overcame.

SYZYGY

In his State of the Union Address in February, President Reagan pledged his support for "a new national welfare strategy." Democrats and Republicans in Congress also seem intent on improving the lot of children and their families. We have a window of opportunity to redefine our welfare system—to replace the half-century old AFDC Program with a program that is designed for the social realities of the 1980's.

Toward this end, the Subcommittee on Social Security and Family Policy, which I chair, and the full Finance Committee held numerous hearings earlier this year. We heard from dozens of witnesses, including the Nation's Governors and State and local program administrators. They know better than anyone, except perhaps for program recipients, that the AFDC Program does not now work and cannot be made to work.

THE GOVERNORS' BILL

We listened closely. After all, the States are leading the way: Massachusetts, California, New Jersey, Michigan, and New York, among others, have launched promising new programs to encourage self-sufficiency.

Now we are responding. Our objective is to put in law the key components of the proposal presented to us by the National Governors Association [NGA]. Indeed, if this legislation belongs to anyone, it is the Governors'.

Governor Clinton, chairman of the NGA, and Governor Castle, chairman of the Welfare Prevention Task Force, summarized the Governors' principal concerns: Improve enforcement of parental child support obligations; permit flexible State-designed employment programs—including remedial education, training, and work experience; mandate participation in such programs for parents with children over age 3; and create a "social contract" that obligates State agencies to provide opportunities to become self-sufficient and obligates recipients to take advantage of such opportunities.

THE FAMILY SECURITY ACT OF 1987

This bill, which adopts the NGA's key positions and which has bipartisan support on the Finance Committee, turns the present family welfare system in its head. Rather than beginning with a public assistance payment that is supplemented with sporadic child support payments and occasional earned income, the Family Security Act [FSA] places the responsibility for supporting children where it belongs: With parents. Both parents.

ABSENT FATHERS AND CHILD SUPPORT

Recent Census Bureau calculations indicate that 61 percent of children born today will live in a single-parent family before reaching age 18. Worse, if things continue as they are, roughly half these children will become welfare recipients.

Growing up in a single-parent family, a family five times more likely to be poor than a two-parent family, is not a problem limited to some minority of children; we are speaking of the average child. And these children will require support.

Unfortunately, such support is not always forthcoming.

According to the most recent data available from the Federal Office of Child Support Enforcement, in 1983, there were 8.7 million women raising children—under age 21—without fathers at home. Of these female-headed families, 58 percent had court orders for child support and 42 percent did not. Of those with court orders, only half received the full amount due them; a quarter received partial payment; the rest received nothing.

If one assumes that the 42 percent of the single mothers without court orders received no child support from the absent father, the statistics are even more horrifying: 29 percent of all single mothers received full payment, 14 percent got partial payment, and 56 percent got nothing.

These figures are bleak enough. But consider the child-support track record where welfare families are concerned: Nationwide, in 1986, child support collections were made in 16.3 percent of AFDC cases; 8.6 percent of AFDC payments were recovered through child support collections; and 6.6 percent of AFDC families were able to leave the rolls because of increased child support collections.

Surely we can do better.

Absent parents, fathers 90 percent of the time, must provide financial support for their children. Even a young man, who may not be earning much income, must understand that his obligation to support any child he fathers endures for at least 18 years. Such a young man may have little or no income at the beginning; but over time he is likely to increase his earnings.

Recent research conducted by Prof. Robert Lerman of Brandeis University sheds some light on the ability of young—aged 19 to 26—unwed fathers to pay child support. In 1984, 58 percent of these nonpoor fathers reported paying child support—the average payment amounting to $2,492. On average, that sum equals more than half the average annual AFDC payment for a family with children. The problem is that 42 percent of such fathers, even though they are not themselves poor, reported paying no child support.

And it is not true that poor young fathers are wholly incapable of paying child support. Lerman's data indicate that even those young fathers with incomes below the poverty line can afford to pay a little. In 1984, nearly 26 percent of these poor young fathers reported paying an average $925 in child support. While not a princely sum, such a payment represents roughly 20 percent of the average annual AFDC payment. Again, the problem is that three-quarters of these fathers contributed nothing.

The legislation I introduce today will insure that absent fathers share a portion of their income with their children.

ESTABLISHING PATERNITY

Key to the success of collecting child support payments is the timely establishment of paternity. States are not doing an adequate job. Complicating their task is the fact that we do not now collect the data necessary to know how many cases require paternity determinations.

Still, we do know that of the 8.7 million women raising children alone, only 58 percent have court orders for child support. Forty-two percent do not and many of those require paternity determinations before court orders can be established.

In order to improve child support collections, we must increase paternity determinations. Toward this end, our legislation will require States to collect Social Security numbers from both parents at the time of a child's birth.

COLLECTING SOCIAL SECURITY NUMBERS

At present, only five States—New York, Connecticut, Georgia, Kentucky, and Michigan—collect Social Security numbers from both parents at the time of a child's birth. In my State, New York City is exempt from this requirement. However, in the balance of the State, in 1986, 97 percent of all mothers' numbers and 84 percent of all fathers' numbers were successfully collected. Michigan officials estimate that they collect 90 to 95 percent of all mothers' numbers and 72 to 76 percent of all fathers' numbers. Similarly, Kentucky reports that it collects 98 percent of all mothers' numbers and 88 percent of all fathers' numbers.

Federal, State, and local officials agree that a Social Security number is the single most effective tool for enforcing child support orders. Collecting the number from the father at the time of birth is a presumptive determination of paternity. Should the child require child support in the future, the Social Security number will assist in locating the absent parent in order to enforce the child support collection.

STATE PERFORMANCE STANDARDS

There is no immediate consequence if a State fails to collect Social Security numbers from a parent at the time of childbirth. However, our bill also establishes, for the first time, State performance standards for paternity determinations. States failing to improve their paternity determinations for households requiring child support enforcement services will face Federal financial penalties.

At the same time, the FSA will provide additional Federal financial support to States for the costs associated with laboratory tests used for establishing paternity.

STATE GUIDELINES FOR CHILD SUPPORT AWARDS

Aside from doing a better job with paternity determinations, we must also improve the methods by which we set and collect child support awards. The Family Security Act will require States to use State-developed guidelines, in the form of rebuttable presumptions, for setting child support awards. Both the States' guidelines and the awards will have to be periodically reviewed and adjusted.

AUTOMATIC WAGE WITHHOLDING

At the same time, States will be required to implement automatic wage withholding. Generally, as soon as the child support award is determined, the State agency or the court will notify the employer of the child support owed and that amount will be routinely withheld from the absent parent's salary. As under current law, employers will forward the funds to the State agency for distribution to families.

Just as we withhold Federal and State income taxes and Social Security payroll taxes, we will now withhold parental support obligations. Automatic wage withholding will help prevent many single-parent families from becoming public assistance recipients, as well as reduce welfare payments for others.

As with all such systems, there will be exceptions. Both parents can agree to rely on an alternative arrangement and States may use their discretion in exempting families from automatic wage withholding when necessary.

Cases with existing orders will not be subjected to automatic wage withholding unless a parent requests that the case be brought into the new system. Just as under current law, however, if a parent with an existing order falls into arrears by more than 30 days, the case will become subject to automatic withholding.

IMPROVING INTERSTATE ADMINISTRATION

Because as many as 30 percent of a State's absent fathers may live across State borders, interstate cooperation in enforcing child support collections is critical.

The FSA proposes a number of administrative improvements that will enable States to work better with each other in establishing child support orders, locating absent parents, and enforcing the collection of awards.

Through these provisions, the FSA will foster increased parental responsibility by sending a clear message to an absent parent, usually a father: If you are man enough to father a child, you had best be man enough to provide for that child for at least the next 18 years.

Yet, absent parents are only half the story. The FSA also sends a message to custodial parents, who must share in the financial support of children.

UNEMPLOYED MOTHERS

Mothers, the custodial parents in most single-parent families, must try to earn income, at least part time, to help support their children. The statistics are a stark testament to the need: 72 percent of all mothers with children between the ages of 6 and 18 are in the labor force. Over half of all mothers with children under age 3 are in the labor force.

This marks a great change in the position of women in American life. The only women who have not participated in this change are the heads of AFDC families, of whom fewer than 5 percent work part time or full time.

As a nation, we find a 7 percent unemployment rate barely tolerable. What then are we to think of a system that keeps 95 percent of poor mothers unemployed and out of the labor force?

Our legislation reinforces the notion of a "social contract," provides States with a stable funding source, and permits States the flexibility to design programs to promote independence through work, training, and schooling for these parents.

In addition, the bill provides Federal funds to assist States in providing health care and child care for a temporary period of time after recipients make the transition from welfare rolls to payrolls.

STATE FLEXIBILITY

The Nation's Governors have asked for flexibility in designing State programs to help poor parents overcome their dependence on public assistance programs. Our legislation gives the Governors precisely what they are seeking.

The FSA will create the Job Opportunities and Basic Skills [JOBS] Program. States will be free to offer a variety of education, training, and work activities—including high school or equivalent education, remedial education and English literacy, on-the-job and skills training, job search activities, community work experience programs [CWEP], and work supplementation programs.

The FSA directs States to involve the private sector in designing their JOBS programs and to coordinate with other work-related programs, such as those operating under the Job Training Partnership Act.

NEEDS ASSESSMENTS, CONTRACTS, AND CASE MANAGEMENT

The JOBS Program will require States to conduct initial assessments of the educational and employment skills of program participants.

Based on these initial reviews, States may develop employability plans and may require participants to enter into written contracts spelling out the mutual obligations of both the State agency and the JOBS participant.

States are also free to rely on case-management services in the administration of their JOBS programs.

JOBS PARTICIPATION REQUIREMENTS

States will control the size of the JOBS Program and the number of participants. All nonexempt recipients will be required to participate, at State direction, in all localities where the programs are offered.

Participation requirements are waived when the individual's youngest child is under 3 years of age—with a State option to lower the age to 1; when child care is needed and not provided; when the recipient is ill, needed in the home to care for an incapacitated family member, in the third trimester of pregnancy; or when the recipient works more than 30 hours a week.

Custodial parents under age 22 who have not completed high school and who are not otherwise exempt are required to participate in high school or remedial literacy training.

LONG-TERM RECIPIENTS TARGETED

While States are given great flexibility in structuring their JOBS programs, the FSA will require States to concentrate their efforts on certain "priority" recipients. This will be accomplished by requiring States to spend 60 percent of their JOBS funds on those parents who are likely to be dependent on public assistance for a long period of time or who are part of a two-parent family.

Long-term dependents include: First, persons who have received welfare payments for more than 2½ years, second, "recidivists"—persons who have received welfare for any 30 of the previous 60 months—and third, recipients aged 21 or under who lack a high school diploma.

At least one parent in a two-parent family would also be considered a priority recipient.

PARTICIPANT PROTECTIONS AND SANCTIONS

Under the FSA, a State may not require a participant in the JOBS Program to accept a salaried position if it would result in a net loss of income to the family—including the value of any food stamp benefits and health insurance—unless the State makes a supplementary cash payment to the participant that will maintain the family's income at a level no less than what the family would receive in the absence of earnings.

States must assure child care and assist with transportation to the extent either is necessary for an individual's participation in the JOBS Program.

Individuals who are required to participate in the JOBS Program, and who fail to do so without good cause, will be subject to fiscal sanctions.

JOBS FUNDING

The FSA will set up a stable Federal funding source to help States finance their JOBS programs. Federal funding will be available in two tiers: The first will authorize $140 million for allocation among States—as under current law—with a Federal matching rate of 90 percent. The second will provide an open-ended Federal matching rate of 60 percent that will be allocated for approved JOBS expenditures by States that spend beyond their first-tier allocations. Federal funds under both tiers will reimburse States for their expenditures on education and training, as well as work-related activities.

This two-tier approach accomplishes several objectives: It maintains Federal expenditures for State work-training programs at a level no less than that provided under current law. By capping the first tier of funding, a "run-away" cost program is prevented. By allowing the second tier of funding to remain open-ended, albeit with a modest Federal matching rate, States are assured of a stable Federal funding source as they design their programs.

CHILD CARE AND HEALTH CARE

If recipients are to undertake work, training, or schooling, they will need child care services. The FSA will assist States in financing child care for JOBS participants.

In addition, the FSA will provide Federal funds to assist States in providing Medicaid coverage and child care for a period of 9 months after recipients leave the welfare rolls for jobs.

We have heard too often from Governors and State and local officials that a welfare recipient's inability to afford health care insurance and child care prevent such individuals from accepting low-wage jobs.

The FSA will not, by itself, solve the problem of insufficient affordable child care. Nor will it provide health care coverage to the 30 million Americans now left uninsured. Nevertheless, the bill would provide some much needed assistance. We should do more and one day, budget willing, we will.

CHILD SUPPORT SUPPLEMENTS

When parental income—from child support payments and earnings—still fails to meet a family's essential needs, a publicly funded Child Support Supplement [CSS] will provide additional assistance to all poor children, whether they live with one or both parents, so long as the families meet the State-determined income and eligibility standards. The CSS program will replace the AFDC program.

Twenty-six States currently provide aid to two-parent families with dependent children when the family is poor and the primary earner is unemployed [AFDC-UP]. In 1987, the AFDC-UP program will serve under a quarter of a million families, compared to nearly 3.8 million single-parent AFDC families.

Even if the two-parent program were to double, it would hardly constitute a mammoth program. But it won't double because the 26 States now providing the program account for about 61 percent of the Nation's AFDC population.

As for the new CSS benefits we would extend to the families not now covered, well, they are hardly luxurious. The FSA will merely provide the same minimal assistance to poor children in two-parent families that is provided to poor children in single-parent families.

This is hardly a new idea. In March of 1978, a Republican welfare reform initiative spearheaded by Senators Howard Baker, Henry Bellmon, and JOHN DANFORTH mandated extension of the two-parent program to all States as a matter of routine.

If those of us who speak so passionately about strengthening two-parent families are sincere, we should stop discriminating against poor children simply because they live with both their parents.

DEMONSTRATION PROJECTS AND WAIVER AUTHORITY

The FSA will permit a number of small demonstration projects, ranging from innovative programs to improve child support, to programs to expand the availability of child care, to programs to expand foster care for infants abandoned to the care of hospitals.

Finally, our bill will permit States to apply for waiver authority to experiment with new and potentially more effective methods of delivering benefits to low-income families. In the last 7 years, a number of States have moved ahead on their own. The creativity and success thus far documented are heartening.

The FSA will allow the Secretary of Health and Human Services to approve up to 10 waiver projects for operation at any one time. Recipients who are included in waiver programs may not have their benefits reduced from what they would have been in the absence of the waiver. Experiments conducted under these waivers will be rigorously evaluated.

The programs subject to waiver under the FSA include the Child Support Supplement and JOBS Programs, the Emergency Assistance Program, and the Social Services Block Grant. Programs not within the jurisdiction of the Senate Finance Committee are not included.

A NOTE ON COSTS AND EFFECTS

Mr. President, I might briefly note that the Family Security Act is fiscally responsible legislation. According to preliminary estimates by the Congressional Budget Office [CBO], the bill is not nearly as costly as past welfare reform proposals and is not even as costly as the legislation now under consideration in the House of Representatives.

Specifically, the CBO estimates that the 5-year cumulative net new Federal cost for the FSA is $2.335 billion. This amounts to less than one-half the cost of the $5.3 billion bill (H.R. 1720) reported by the House Ways and Means Committee in June.

Just 10 years ago, the Carter administration was seeking a welfare reform bill estimated to cost over $20 billion in new Federal spending. Even the Republican Baker-Bellmon-Danforth bill was estimated by its sponsors to cost about $8 billion.

Admittedly, economic conditions have changed, requiring more modest initiatives. Still, we are not so bereft of resources that we can do nothing to address the problems of child poverty and dependency.

By any objective standard, the FSA stands out as a reasonable and affordable bill. For those who will complain that any cost is too much, I ask how much greater the cost of failing to care for the Nation's children?

And for those who will complain that a bill that spends so little can hardly be worthwhile, I offer evidence to the contrary. To wit: The FSA will extend benefits to poor children in two-parent families in all States. The FSA will provide additional spending for transitional Medicaid and child care.

The FSA will significantly improve child support collections, with the CBO estimating program savings of $374 million over 5 years, with savings likely to increase over time.

CBO also estimates that JOBS program costs will peak in fiscal year 1991 and begin to decline in fiscal year 1992. As more people make the transition from welfare to work, the accumulated savings will increase. Within 10 to 15 years, it is possible that JOBS Program savings will equal program expenditures. In other words, the program will pay for itself.

Such estimates are reinforced by the rigorous social research conducted during the last several years by the Manpower Demonstration Research Corporation [MDRC]. In its evaluations of the 1981 work incentive [WIN] demonstration projects, MDRC learned that such programs produce modest, but measurable gains in employment and earnings. Moreover, the effects were generally larger for more dependent individuals.

When you come to think of it, this is not all that surprising. A mature, educated woman who has some trouble come into her life—a traumatic divorce, for example—doesn't need much in the way of education or training. She may need some temporary assistance, much as any unemployed worker needs some help until he finds his next job.

By contrast, the adolescent child who bears a child and leaves school is in serious trouble. She will need lots of help. If such help is provided, there will be something to show for it: A more productive, less dependent young adult.

Because the JOBS Program will target recipients likely to be dependent on public assistance for long periods of time, it will help reduce dependency and produce savings.

AFDC MUST BE REPLACED, NOT REFORMED

Mr. President, the Family Security Act of 1981 seeks to replace the AFDC Program, not reform it. The reason is simple: The program, little changed over the last half century, does not and cannot work in today's social environment.

The Aid to Dependent Children [ADC] Program was created in 1935, as title IV of the Social Security Act, to replace the widows' pension programs then operating in all but two States.

Just as old age assistance was meant to serve as a temporary bridge until the Old Age Insurance Program matured, ADC was meant to tide over poor widows and orphans who were not yet entitled to receive survivors insurance benefits, added to the Social Security Act in 1939.

In the 1930's, it was assumed that children lived in two-parent families, that one parent worked, and the other kept house. It was further assumed that things would remain so.

So long as and to the extent that the assumption was true, the transition from ADC to Survivors Insurance worked smoothly. In 1986, a fully mature Survivors Insurance Program paid benefits to 3.3 million children.

But the program for dependent children, by now renamed Aid to Families with Dependent Children [AFDC], did not wither away as expected. Rather, it grew and grew. The program now supports some 7 million children, twice the number of children receiving insured benefits.

CHANGING FAMILY STRUCTURE

The reason for this is well known. As Dr. Samuel H. Preston noted in 1984: An earthquake shuddered through the American family.

Only a minority of American children will reach age 18 having lived continuously with their natural parents.

Sixty-one percent of children born in 1987 will spend some part of their childhoods in single-parent families. Nine in ten of such families are headed by women.

Divorce accounts for some 62 percent of such families, out-of-wedlock births 25 percent, long-term separation of parents 8 percent, and death of a spouse a mere 5 percent.

Unless something dramatic is done to improve the situation, some one-third of children being born today will become welfare recipients before reaching maturity.

WOMEN IN THE WORKFORCE

There have been other changes in the last half century. In the 1930's, married women did not work outside the home. They kept house and looked after the children while their husbands earned the family income. The ADC Program, like the widows' pensions before it, provided income assistance to widowed mothers so they could stay at home and raise their children.

Times have changed. Women with children have entered the labor force in record numbers. In 1986, 72 percent of mothers with children aged 6 through 17 were in the labor force, up from 55 percent in 1975. In 1986, 54 percent of mothers with children under the age of 6 were in the labor force, up from 39 percent in 1975. Although most of these mothers do not work full time, year round, the essential point is that a majority of all mothers, whether single or married, work at least part time.

It is now the normal experience of mothers to work. Yet fewer than 5 percent of AFDC mothers work full or part time.

WE ARE FAILING OUR CHILDREN

These wholly new conditions of social distress require a wholly new social response. The AFDC Program was never intended to respond to the social conditions of the 1980's. Neither the dramatic increase in female-headed families, not the expectation that women would work outside the home, was anticipated 52 years ago.

This mismatch between the social expectations of a bygone era and today's social realities helps explain the precipitous decline in the value of the benefits we pay to needy children: Between 1970 and 1987, the purchasing power of AFDC benefits in the median state—in constant dollars—declined by one-third.

Children are now the poorest group of citizens in the Nation. In 1985, one in four children was born in poverty and one in five children under the age of 18 lived in poverty. Counting all cash and in-kind benefits, the 1984 poverty rate for children under age 6 was 17.5 percent, compared to 2.6 percent for persons over age 65. What sort of society have we, Mr. President, when the very young are nearly seven times as likely to be poor as the aged?

This is a sure sign that the AFDC Program is unable to command political support. A program designed for poor widows will not be supported in a world where mothers are poor because they are unsupported by their divorced husbands or because they are unwed. A program that was designed to pay mothers to stay at home with their children cannot succeed when we now observe most mothers going out to work.

WE HAVE NO CHILDREN TO WASTE

A child should never be neglected, Mr. President, even in a society brimming with children. How much more careful we ought to be then, as children become a scarce resource.

The American birthrate dropped below the replacement level 15 years ago. As a result, the number of young adults—aged 18 to 24—as a percentage of the population will decline 23 percent by the year 2000. As this age group shrinks, there will be fewer adolsecent mothers, fewer such mothers seeking public assistance and work training, and perhaps most important, fewer young adults entering the labor force.

The plain fact is, Mr. President, that America has no children to waste. Yet, at present, we suffer the impoverishment of 20 percent of our children. Do we expect children growing up in misery to mature into adults capable of maintaining, much less improving, American society? Do we expect poor, ill-educated children to manage the American economy?

It ought not be left to chance.

Still, the conditions that have developed over a generation will not change overnight. It is possible, however, to change directions. We can and we must set a new trend in place.

The Family Security Act of 1987 seeks to do just this by creating a new system of child support which, without abandoning ultimate security, puts its first emphasis on earned income and which, without giving up on the problems of deeply dependent families, extends coverage to all needful ones.

I urge my colleagues to join me in supporting this legislation.

As the Washington Post observed recently,

> We are uncomfortably close to being a nation of rich adults and poor children, and selfishness as well as compassion should lead us to do something about it.

Surely we can try this much at least.

Mr. President, I ask unanimous consent that the section-by-section summary of the Family Security Act of 1987, the CBO estimates, and the text of the bill be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Section-by-section summary]

FAMILY SECURITY ACT OF 1987

Sec. 1: Short Title.

This Act is entitled the Family Security Act of 1987.

Sec. 2: Table of Contents.

Sec. 3: Statement of Purpose.

It is the purpose of this Act to replace the original AFDC program with new provisions for child support:

That stress family responsibility and community obligation in the context of the vastly changed family arrangements of the intervening half century;

That enforce the principle that child support must in the first instance come from parents, and only thereafter from the community, which however, has the deepest obligation to enable parents to fulfill their responsibilities through expanded opportunities in education and training; and

That reflect the need for benefit improvement, program innovation, and organizational renewal at every level in the federal system.

Sec. 4: AFDC Replaced by the Child Support Supplement Program.

The Aid to Families with Dependent Children (AFDC) program, in Title IV-A of the Social Security Act, shall be replaced with a program entitled the Child Support Supplement (CSS) program.

Sec. 5: Reorganization and Redesignation of Title IV.

Title IV of the Social Security Act, as amended by titles I through VIII of the Family Security Act, shall be reorganized and redesignated in title IX of this Act to emphasize child support enforcement and job training as the primary means of avoiding long-term dependence on public assistance.

TITLE I: CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

Subtitle A—Child Support

Sec. 101: Mandatory Income Withholding.

Absent parents required to pay court-ordered or state-determined child support awards in new cases (and existing cases that are newly modified after date of implementation) shall have the sums owed automatically withheld from their pay by their employers. As under current law, employers will be informed by the state agency how much is owed and will forward the sums withheld to the state agency for distribution to families.

Child support cases with existing court orders will not be subject to automatic wage withholding unless a parent requests that the order be reviewed and modified. However, such cases will continue to be subject to automatic wage withholding if the absent parent falls into arrears by 30 days or longer.

The requirement to immediately withhold child support from wages may be waived when both parents agree to an alternative arrangement or when states find good cause to rely on an alternative arrangement.

The provisions of Section 101 shall take effect upon date of enactment, and states must implement these provisions within two years from date of enactment.

Sec. 102: Child Support Disregard.

This section clarifies current law by specifing that states shall disregard, for purposes of determining a family's Child Support Supplement, the first $50 from any child support payment received by a family, so long as the absent parent made the payment on time.

This provision shall become effective upon date of enactment.

Sec. 103: State Guidelines for Child Support Awards.

This section requires states to review their state-set child-support guidelines at least once every five years and requires that these guidelines be binding upon judges or other state officials unless the state finds (on a case-by-case basis) good cause not to use the guidelines.

This section also requires that child-support awards established under these guidelines be reviewed and adjusted at least once every two years.

Existing child support awards that were not established under these guidelines may be reviewed and modified according to the guidelines if either parent requests a review and the state determines such a review to be reasonable.

In all cases, whether new or existing, both parents must be notified of a pending review of a child support award not less than 30 days before the review; both parents must be notified of a proposed adjustment in the child support award amount; and both parents must have at least 30 days after such notification to initiate proceedings to challenge any adjustment to the award.

The provisions of Section 103 shall become effective upon date of enactment. States shall implement the review of state child-support award guidelines and the requirement that courts and state officials use the state-set guidelines for determining awards within one year from date of enactment. States shall implement the review and adjustment of child support awards within two and one-half years from date of enactment.

Subtitle B—Establishment of Paternity.

Sec. 111: State Performance Standards for Establishing Paternity

This section introduces state performance standards for establishing paternity. States failing to meet these standards without good cause will be found to be out of compliance with statutory requirements and subject to current-law fiscal penalties. Such penalties will reduce a state's federal reimbursement for the CSS program from between one and five percent.

The Secretary of Health and Human Services (HSS) is instructed to determine, in each state, for CSS cases and non-CSS cases requiring child support enforcement services, the number of paternities that the state establishes as a percentage of the number of unknown paternities (net of cases eligible by reason of the death of a parent and of cases in which the state has made a good-cause determination not to pursue paternity).

This paternity establishment percentage will be calculated for the last quarter of FY 87 and for every fiscal year thereafter. A national average paternity establishment percentage will be calculated for all states.

A state will not be subject to a fiscal penalty if its paternity establishment percentage for a fiscal year is 50% or greater, the state's paternity establishment percentage is above the national average for all states, or the state increases its FY 87 paternity establishment percentage by three percentage points per year (beginning in FY 90). [For example, if a state's paternity establishment percentage in FY 87 was 12% and the national average was 18%, that state would have to increase its percentage to 15% by the end of FY 90, and to 18% by the end of FY 91 in order to avoid a fiscal penalty.]

The Secretary is authorized to modify the requirements of this section to take into account additional variables (such as the number of out-of-wedlock births as a percentage of all births) that may affect a state's ability to meet these requirements.

The Secretary shall submit an annual report to the Congress regarding state performance with respect to establishing paternities.

The provisions of Section 111 shall become effective upon date of enactment.

Sec. 112: Increased Federal Assistance for Paternity Establishment.

This section raises the federal matching rate to 90% (from 68% in FY 88) for state costs for laboratory tests used to determine paternity.

This provision shall become effective October 1, 1987.

Subtitle C—Improved Administrative Procedures

Sec. 121: Requirement for Prompt State Response.

The Secretary of HHS is required to establish standard time limits in which a state must accept and respond to requests (from individuals, other states, or local jurisdictions thereof) for assistance in establishing and enforcing child support orders—including requests to locate absent parents, requests to establish paternity, or requests to establish and collect child support awards.

Within 30 days from date of enactment, the Secretary shall establish an advisory committee which includes representatives of organizations of governors, state welfare administrators, and other state officials involved in the administration of the Child Support Enforcement program.

The Secretary shall consult with the advisory committee before issuing any regulations to implement this provision.

The Secretary shall issue a Notice of Proposed Rule-Making within 90 days of enactment and, after allowing 60 days for public comment, shall issue final regulations within six months after date of enactment.

Sec. 122: Mandatory Automated Tracking and Monitoring Systems.

This section requires states to develop statewide automatic data processing and information retrieval (ADP) systems to assist in the administration of the Child Support Enforcement program.

A state shall have two years from date of enactment to submit to the Secretary for approval its advance planning document. In that document, the state shall specify the number of years it requires to fully implement its ADP system. In no event may the time specified exceed 10 years.

For the number of years specified in the advance planning document, or 10 years, whichever is less, the state shall be reimbursed by the federal government for its approved costs at the rate of 90%. States not in compliance with ADP requirements or states which exceed the specified time limits will have their federal matching rates reduced to the normal program rate of reimbursement (68% in FY 88 and 89, and 66% in FY 90 and subsequent fiscal years).

Requirements for approving advance planning documents may be waived if a state demonstrates to the Secretary's satisfaction that the state has an alternative system that enables the state to substantially comply with the requirements of the Child Support Enforcement program.

The provisions of Section 122 shall become effective upon date of enactment.

Sec. 123: Additional Information Source for Parent Locator Service.

The Secretary of Labor shall, for purposes of administering the Child Support Enforcement program, allow the Secretary of HHS prompt access to wage and unemployment compensation claims information and data maintained by the Department of Labor and state employment security agencies (the INTERNET system).

This provision shall become effective upon date of enactment.

Sec. 124: Use of Social Security Numbers to Identify Parents.

This section amends Title II of the Social Security Act to require states to collect Social Security Numbers from both parents at the time of a child's birth.

The state shall record these numbers and make them available to state agencies administering the Child Support Enforcement program. (The Social Security Numbers need not appear on the birth certificate.) In all other instances, Social Security Numbers collected in this fashion shall be subject to federal or state law and regulation.

Pursuant to regulations prescribed by the Secretary, the state may waive this requirement for good cause.

This provision shall become effective two years from date of enactment.

Sec. 125: Commission on Interstate Child Support.

This section establishes a Commission on Interstate Child Support to be composed of 15 members, four to be appointed jointly by Senate leaders, four to be appointed jointly by House leaders, and seven members to be appointed by the Secretary of HHS.

Not later than October 1, 1988, the Commission shall hold one or more national conferences on reform of interstate child support procedures.

Not later than October 1, 1989, the Commission shall submit to the Congress a report that makes recommendations for improving the interstate establishment and enforcement of child support and recommendations for revising the Uniform Reciprocal Enforcement of Support Act.

The first meeting of the Commission shall be held not later than 60 days from date of enactment and the Commission shall terminate on October 1, 1989.

TITLE II: JOB OPPORTUNITIES AND BASIC SKILLS (JOBS) PROGRAM

Sec. 201: Establishment of the JOBS program.

This section requires that states operate a JOBS program that will assure that parents with dependent children eligible for CSS payments receive the education, training, and employment that will help them avoid long-term dependence on public assistance programs. Such programs must be approved by the Secretary and must meet the following requirements:

(1) Each state shall make its JOBS program available in each political subdivision of the state unless it is not economically feasible to do so because of the needs and circumstances of local economies, the number of prospective participants, and other relevant variables.

The state shall have up to three years from date of enactment to fully implement the JOBS program.

The state shall submit a state plan to the Secretary for approval and shall periodically review and update its plan as appropriate.

(2) Each state shall involve the private sector in JOBS planning and program design to assure that participants are trained for jobs that will be available in the community.

(3) The JOBS program shall be administered by the same state agency with responsibility for administering or supervising the administration of the CSS program.

(4) States are required to maintain their spending for education, training, and employment activities at no less than what the state paid for these activities in federal fiscal year 1986. Federal JOBS funds may not be used to replace such state expenditures.

(5) To the extent that state resources permit, every non-exempt recipient living in a political subdivision where a JOBS program is being operated shall be required to participate. The requirement to participate is waived when child care is needed and not provided.

Applicants and recipients not required to participate shall be permitted to participate on a voluntary basis.

A state may require or allow absent fathers who are unemployed and unable to meet their child support obligations to participate in the JOBS program.

(6) A recipient is exempt from JOBS participation if the individual:

Is ill, incapacitated, or of advanced age;

Is needed in the home because of the illness or incapacity of another member of the household;

Is the parent or other relative of a child under the age of three or, at the option of the state, a younger age than three, but not under the age of one;

Works 30 hours or more per week;

Is a child who is under age 16 or attending elementary, secondary, or vocational (or technical) school full time;

A woman who is in the third trimester of pregnancy; or

Resides in an area of the state where the program is not available.

(7) A state has the option of requiring both parents in a two-parent family to participate in the JOBS program, but only if child care is assured.

(8) The parent in a single-parent family and the non-principal earner in a two-parent family, where the youngest child is under the age of six, shall be encouraged but may not be required to participate in the JOBS program for more than 24 hours per week.

(9) An individual required to participate in the JOBS program who is already attending an approved school or training program may continue in such program, except that the expenses for such schooling or training cannot be federally reimbursed under the JOBS program. However, the JOBS program will reimburse the costs of child care necessary for the continued participation of these individuals in such approved courses of study.

(10) A State agency is required to make an initial assessment of the education and employment skills of each participant in the JOBS program and a review of the family's circumstances. On the basis of this assessment and review, the state may develop an employability plan for each participant. To the maximum extent possible, the employability plan shall reflect the preferences of the participant.

(11) The state may require each participant in the JOBS program to negotiate a contract with the state agency that specifies the participant's and state's obligations under the program. If a state exercises this option, it shall assist the participant in reviewing and understanding the contract. In addition, the participant shall be granted an opportunity for a fair hearing in the event of a dispute involving the contract requirements.

(12) The state agency may assign a case manager to each family participating in the JOBS program.

(13) A state may make a broad range of education, training, and employment services available to JOBS participants, including:

High school or equivalent education (combined with training when appropriate);

Remedial education to achieve basic literacy and instruction in English as a second language;

Post-secondary education as appropriate;

On-the-job training;

Skills training;

Work supplementation programs;

Community work experience programs;

Group and individual job search;

Job readiness activities to help prepare participants for work;

Job development, job placement, and follow-up services to assist participants in securing and retaining employment and advancement as needed; and

Other employment, education, and training activities as determined by the state and allowed by the Secretary's regulations.

(14) Regardless of the age of the youngest child, a custodial parent who is age 21 or younger and who has not completed high school, and who is not otherwise exempt, shall (if required to participate in the JOBS program) be required to participate in high school training, remedial literacy training, or instruction in English as a second language. If needed, child care must be provided.

States may assign such individuals to alternative JOBS assignments if, at the time of the initial assessment, such schooling is found to be inappropriate for the individual or, after being enrolled in such schooling, the individual fails to make good progress.

(15) In assigning participants to JOBS program activities, a state shall assure that:

The assignment takes into account the physical capacity, skills, experience, health and safety, family responsibilities, and place of residence of the participant; and

The participant will not be required to travel an unreasonable distance from his or her home or be required to remain away from home overnight;

(16) Each state shall, in accordance with regulations prescribed by the Secretary, provide a participant with an opportunity for a fair hearing in the event of a dispute over the nature of a JOBS assignment.

(17) Wage rates, where applicable, shall be set at the greater of the federal or state minimum wage. When assigned to public agencies for employment, JOBS participants shall receive worker's compensation and tort claims protections on the same basis as other individuals employed by the state.

(18) Work assignments made under the JOBS program shall not displace any currently employed worker or position, or impair any existing contracts for services or collective bargaining agreements.

(19) A state may not require a participant in the JOBS program to accept a salaried position if it would result in a net loss of income to the family (including the value of any food stamp benefits and health insurance), unless the state makes a supplementary cash payment to the participant that will maintain the family's income at a level no less than what the family would receive in the absence of earnings.

This supplementary cash payment will be treated the same as a CSS payment for purposes of receiving Medicaid benefits and for purposes of federal reimbursement of state expenditures.

(20) Each Governor shall assure that JOBS program activities are coordinated with state programs operating under the Job Training Partnership Act and any other relevant employment, training, and education programs available in the state.

(21) In carrying out the JOBS program, a state may enter into contracts with public and private agencies and organizations.

(22) A state may, as under current law, conduct a work supplementation program.

(23) A state may, as under current law, conduct a community work experience program (CWEP). Unlike current law, however, a state shall not consider that portion of the CSS grant that is reimbursed by an absent parent's child support payment when calculating the number of hours that a participant must work in a given month.

(24) A state may, as under current law, conduct a job search program.

(25) Individuals who are required to participate in the JOBS program, and who fail to do so without good cause, shall be subject to fiscal sanctions:

In single-parent families, the individual's needs shall not be taken into account in calculating the CSS grant and the remainder of the grant shall, where feasible, be paid to a substitute payee.

In the first instance of non-cooperation, the penalty shall be imposed until such time as the individual cooperates.

In the second instance, the penalty shall be imposed until the individual cooperates or for three months, whichever is longer.

In subsequent instances, the penalty shall be imposed until the individual cooperates or for six months, whichever is longer.

In two-parent families, when the principal earner fails to cooperate, the entire family will become ineligible for the CSS payment.

In the first instance of non-cooperation, the penalty shall be imposed until such time as the principal earner cooperates.

In the second instance, the penalty shall be imposed until the principal earner cooperates or for three months, whichever is longer.

In subsequent instances, the penalty shall be imposed until the principal earner cooperates or for six months, whichever is longer.

The state agency shall notify a JOBS participant of any failure to comply with program requirements and shall explain, in the notification, what action(s) the participant must take in order to terminate the sanction.

Sec. 202: Related Substantive Amendments.

(1) Except as otherwise noted, there will be two tiers of federal funding for the JOBS program:

First, a sum of $140 million will be authorized for allocation among states (as under current law) with a federal matching rate of 90%.

Second, for states that spend beyond their first-tier allocations, an open-ended federal matching rate of 60% will be provided for approved JOBS expenditures.

Both tiers of federal funding will match approved state expenditures for education, training, and employment activities.

Administrative costs (the costs associated with needs assessments, case management services, and agency-client contracts) shall be funded by the federal government at the rate of 50%.

Child care costs for JOBS participants shall be funded by the federal government at the state's regular Medicaid matching rate up to a limit of $160 per month per child (consistent with the current-law earned income disregard for child care).

(2) The rate of federal reimbursement for non-administrative JOBS expenditures (90% in the first tier and 60% in the second tier) will be reduced to 50% in two instances:

First, if a state contributes more than 40% of its share of JOBS expenditures in kind, and

Second, if expenditures are not targeted to certain recipients, many of whom are likely to be dependent for long periods of time. For purposes of targeting, at least 60% of all non-administrative JOBS expenditures (both federal and non-federal) must be spent on four groups of CSS recipients. These target groups include CSS recipients who:

(a) have received CSS payments for 30 consecutive months or longer and whose youngest child is age three or older (with a state option to drop the age of the child to one),

(b) have received CSS payments for any 30 months of the 60 months preceding the most recent date of application for CSS benefits and whose youngest child is age three or older (with a state option to drop the age of the child to one),

(c) at the time of application, are custodial parents age 21 or younger, who have dropped out of school prior to graduating from high school (regardless of the age of the youngest child and regardless of the length of time on the rolls), or

(d) are parents in two-parent families eligible by reason of the unemployment of the principal earner.

(3) A state shall assure child care (or day care for an incapacitated individual living in the home of the dependent child) to the extent that it is necessary to an individual's participation in approved work, education, and training.

A state may provide such child care itself, arrange the care through providers with purchasers of service contracts or vouchers, provide cash or vouchers in advance to the caretaker relative, reimburse the caretaker relative, or adopt other appropriate arrangements.

The federal government will reimburse the state for child care only if the care provided meets applicable standards of state and local law.

(4) A state shall also provide assistance (directly or through reimbursement, up to current-law limits) to individuals for transportation and other work-related expenses necessary for participation in the JOBS program.

Sec. 203: Repeal of Certain Provisions.

Consistent with the provisions of the new JOBS program, the Work Incentive Program and other duplicative sections of existing law are repealed.

Sec. 204: Regulations; Performance Standards; Studies.

(1) The Secretary shall issue proposed regulations for the purpose of implementing the JOBS program within six months from date of enactment. Final regulations shall be published within one year from date of enactment.

(2) The Secretary shall develop state performance standards for the JOBS program within five years from date of enactment of this Act. In developing these standards, the Secretary shall consult with organizations representing Governors, state and local program administrators, and other interested parties. The Secretary shall also be guided by any relevant findings stemming from the JOBS evaluation research. The Secretary shall submit his recommendations to the Congress.

(3) The Secretary shall conduct a study of state implementation of the JOBS program in fiscal years 1988–1990 and shall conduct a study of the relative cost-effectiveness of different approaches for assisting long-term CSS recipients under the JOBS program. Five states will be selected by the Secretary, from among state applications, to participate in the cost-effectiveness study. Cost-effectiveness studies (using experimental design) shall be conducted for at least three years.

Sec. 205: Effective Date.

(1) Generally, the amendments made by title II of the Family Security Act shall become effective on October 1, 1989.

(2) States may implement the JOBS program earlier—on the first day of any calendar quarter after the date on which the Secretary is required to publish proposed regulations for the JOBS.

TITLE III: TRANSITIONAL ASSISTANCE

Sec. 301: Extended Eligibility for Child Care.

(1) A family that loses CSS eligibility because of an increase in earned income shall receive nine months of transitional child care assistance (when such child care is determined by the state agency to be necessary for continuing employment).

(2) A family shall receive transitional child care only if the family was receiving CSS payments for at least three of the six months preceding the month in which the family lost CSS eligibility.

(3) A family may receive such child care for a total of nine months in a 36-month period.

(4) A family (with a dependent child) shall not be eligible to receive transitional child care if the caretaker-relative in the family: has submitted false or misleading information in order to obtain CSS payments; has been sanctioned while receiving CSS payments; has terminated, refused, or reduced hours of employment without good cause; has failed to cooperate with the state agency in establishing and collecting child support payments; or has failed to cooperate with the state agency in identifying and pursuing any third-party payments for health insurance.

(5) A family shall contribute to the costs of transitional child care in accordance with a sliding-scale fee (based on ability to pay) developed by the state and approved by the Secretary.

Sec. 302: Extended Eligibility for Medical Assistance.

(1) A family that loses CSS eligibility because of increased earnings shall remain eligible for at least four months, and not more than nine months of medical assistance. In order to receive the first four months of transitional medical assistance, a family must have received CSS payments for at least three of the six months preceding the month in which the family loses CSS eligibility.

(2) When a state notifies a family that it is losing CSS eligibility, it shall inform the family of the right (without having to reapply) to four months of extended medical assistance and include a card or other evidence of the family's entitlement to such assistance.

(3) A family (with a dependent child) may be denied extended medical assistance if the caretaker-relative in the family: has submitted false or misleading information in order to obtain CSS payments; has been sanctioned while receiving CSS payments; has terminated, refused, or reduced hours of employment without good cause; has failed to cooperate with the state agency in establishing and collecting child support payments; or has failed to cooperate with the state agency in identifying and pursuing any third-party payments for health insurance.

No denial of assistance shall become effective until the state has informed the family of the grounds for denial and an explanation of how the family may reestablish eligibility for transitional medical assistance.

(4) A family may receive such transitional medical assistance for a total of nine months in a 36-month period.

(5) During the four-month extension period, the amount, duration, and scope of medical assistance must be the same as the Medicaid coverage provided to a family still receiving CSS payments.

(6) A state, at its option, may provide the four months of transitional medical assistance by paying a family's expenses (premiums, deductibles, coinsurance, etc.) for health insurance offered by the caretaker-relative's employer (or, if more cost-effective, by the employer of the absent parent who is paying child support).

Should the state exercise this option, it may require the caretaker-relative to apply for the employer-provided plan, but only if the state pays the related costs. The state shall treat the coverage under an employer plan as a third-party liability. If the employer-provided plan provides less in the way of coverage than the state's Medicaid coverage for CSS recipients, then the state must make up the gaps in coverage with regular Medicaid assistance.

(7) A state shall offer to each family that receives the entire four months of transitional medical assistance the option of extending coverage for another five months.

The state shall notify families of this option in the second and fourth months of the initial extension. Each notice shall describe the monthly reporting requirements, the premiums, and other relevant procedures. The notice provided in the fourth month shall describe the terms of any monthly premium.

Each family receiving this additional five-month extension shall report to the state its gross monthly earnings (so long as the family was properly notified of this reporting requirement).

(8) A family (with a dependent child) may be denied this five-month extension of medical assistance if the caretaker-relative in the family: has submitted false or misleading information in order to obtain CSS payments; has been sanctioned while receiving CSS payments; has terminated, refused, or reduced hours of employment without good cause; has failed to cooperate with the state agency in establishing and collecting child support payments; has failed to cooperate with the state agency in identifying and pursuing any third-party payments for health insurance; fails (without good cause) to pay a monthly premium; or fails (without good cause) to report to the state the family's gross monthly earnings and the family's monthly costs for child care.

A family shall be denied this five-month extension of medical assistance if the family's gross monthly earnings (less the costs of child care necessary for the employment of the caretaker-relative) exceeds 185 percent of the poverty line (adjusted by family size).

A state may, at its option, temporarily suspend, rather than terminate, the five-month extension, when the family is late in reporting its earnings and child-care costs.

No denial of assistance shall become effective until the state has notified the family, explained the grounds for denial, and described how the family may reestablish eligibility.

(9) During the five-month extension period, the amount, duration, and scope of medical assistance must be the same as the Medicaid coverage provided to a family still receiving CSS payments (except that the state may choose not to provide certain acute care, long-term care, psychiatric, and hospice services); or the state may offer alternative coverage:

A state, at its option, may pay a family's expenses (premiums, deductibles, coinsurance, etc.) for health insurance offered by the caretaker-relative's employer (or, if more cost-effective, by the employer of the absent parent who is paying child support).

A state may offer eligible families enrollment in: a group health plan offered to the caretaker-relative, a group health plan offered by the state to its employees, or a health maintenance organization (in which less than 50 percent of the membership is enrolled as a result of this provision).

Should an individual elect to receive alternative coverage, the state must pay any premiums, deductibles, coinsurance, or other charges for the family.

(10) A state must impose a premium for a family receiving medical assistance during this five-month extension, but the level of such premium may vary according to the option offered. In no case, however, may the premium for any month exceed 10 percent of the difference between the family's gross monthly earnings (less the costs of child care) and $581 (as adjusted to reflect changes in the cost-of-living).

Sec. 303: Effective Date.

The amendments made by title III of the Family Security Act shall become effective on October 1, 1988.

TITLE IV: FAMILY LIVING ARRANGEMENTS

Sec. 401: Households Headed by Minor Parents.

A minor parent (under age 18) who has never married and who is eligible for CSS payments may receive such payments only when living with a parent, legal guardian, other adult relative, or when living in a foster home, maternity home, or other adult-supervised supportive living arrangement. Where feasible, the CSS benefits shall be paid to the parent or legal guardian on behalf of the minor parent and child.

A minor parent shall be exempt from this requirement when:

Such individual has no living parent or legal guardian;

The parent or legal guardian will not allow the minor parent to live in the parent's or guardian's home;

The state agency determines that the minor parent's or child's physical or emotional health and safety will be jeopardized if required to live in the parent's or guardian's home;

The minor parent lived apart from his or her parent or guardian for at least one year prior to the birth of the dependent child or before the minor parent applied for CSS benefits; or

The state agency otherwise determines (in accordance with regulations issued by the Secretary) that there is good cause for waiving this requirement.

In the case of a minor parent who has not graduated from high school, the state may further require, as a condition of CSS benefits, that the minor parent attend school (and parent-training classes when available) on at least a part-time basis. This requirement must be waived if child care is not available.

These provisions shall become effective on the first day of the first quarter one year from date of enactment.

Sec. 402: CSS Program in Two-Parent Families.

The current-law definition of "dependent child" is amended to include a child who is poor because of the unemployment of the principal earner in the family.

Current-law definitions of "principal earner" (whichever parent earned more in the two years preceding the application for CSS benefits) and "unemployment" (working fewer than 100 hours per month) remain unchanged, except that a state may opt to waive the "100 hour" requirement entirely or to increase the number of hours that may be worked. The state may exercise this option only with respect to recipients (not new applicants). A state opting to waive the "100 hour" requirement may do so in one or more political subdivisions (the waiver need not be statewide).

The current-law "workforce connection" requirement (an unemployed parent must have worked for at least six out of thirteen calendar quarters prior to applying for CSS benefits) remains unchanged, except that a state may opt to substitute approved education or training for four of the six quarters. A state may exercise this option in one or more political subdivisions (the waiver need not be statewide.)

The Unemployed Parent program is repealed.

These provisions shall become effective on October 1, 1989.

TITLE V: BENEFIT STRUCTURE IMPROVEMENTS

Sec. 501: Periodic Reevaluation of Need and Payment Standards.

Each state shall reevaluate its need and payment standards for CSS benefits at least once every five years and report the results to the Secretary. (This reevaluation does not require the state to adjust its payment standard.)

The state's report shall describe the manner in which it determines its CSS need standard, the relationship between the need and payment standards, and any adjustments the state has made in the two standards since the last review.

The Secretary shall establish a schedule for state reevaluations and report the results of the reevaluations to the Congress.

These provisions shall become effective upon date of enactment.

TITLE VI: DEMONSTRATION PROJECTS

Sec. 601: New York State Child Assistance Payment Demonstration.

Subject to the Secretary's approval, the State of New York may test a "Child Assistance Payment Demonstration Program" as an alternative to the CSS program. Federal costs for this demonstration shall not exceed federal CSS payments in the absence of the demonstration. Unless the Secretary or the Governor choose to terminate the project sooner, the demonstration project shall be conducted for a period not to exceed five years.

Sec. 602: Washington State Family Independence Program.

Upon approval by the Secretary, the State of Washington may conduct a demonstration project to test whether the operation of its Family Independence Program would more effectively break the cycle of poverty and provide families with opportunities for economic independence and strengthened family functioning.

Sec. 603: Evaluating Procedures for Reviewing Child Support Awards.

By April 1, 1988, the Secretary shall enter into an agreement with four states to test and evaluate model procedures for reviewing child support award amounts. Projects under this section shall be conducted for a two-year period.

Sec. 604: Grants to Provide Permanent Housing for Families That Would Otherwise Require Emergency Assistance.

The Secretary shall select up to two states (from among those making application) that incur high costs by providing emergency assistance (EA) for temporary housing for homeless CSS families. These states shall be permitted to use EA funds to rehabilitate or construct permanent housing for homeless CSS families. The states must demonstrate that by participating in this demonstration project they will achieve significant cost savings. The state share of costs under this demonstration shall equal the state's contribution to the CSS program, increased by ten percentage points. Projects under this section shall be conducted for five years.

Sec. 605: Innovative Education and Training for CSS Children.

A state may develop demonstration projects for children receiving CSS benefits that will test financial incentives and other approaches for keeping such children in school, for encouraging skills development, and for preventing future dependence on public assistance benefits.

Sec. 606: Demonstration Projects to Address Access Problems.

Subject to the Secretary's approval, any state may conduct demonstration projects to increase compliance with child access (visitation) provisions of court orders. The Secretary shall report to the Congress how effective such projects are: in resolving disputes over visitation rights, in reducing litigation related to such disputes, and in improving compliance with court-ordered child support payments. Projects under this section may operate for two years.

Sec. 607: Innovative Methods for Providing Suitable Foster Care.

The Secretary shall enter into agreements with states (from among those submitting applications) to test innovative methods for providing suitable foster care arrangements and other necessary social and medical services for infants abandoned by their parents or removed from their parents' custody and placed in the care of a hospital. Such demonstrations need not be conducted on a statewide basis. Demonstrations shall be evaluated according to criteria specified by the Secretary. Projects under this section shall be conducted during the period beginning October 1, 1987 and ending September 30, 1990.

Sec. 608: Expand the Availability of Child Care.

The Secretary shall enter into agreements with between five and ten states, with an emphasis on rural areas, to increase the number of child care facilities and the availability of child care. States shall contract with non-profit organizations to conduct such demonstration projects. The Secretary shall report to the Congress the results of these projects and such recommendations as he deems appropriate. Projects under this section shall begin not later than September 30, 1988 and shall be conducted for three years.

Sec. 609: Demonstration to Employ CSS Mothers as Day Care Providers.

The Secretary may approve up to five demonstration projects in which states will employ or arrange for the employment of CSS parents as child care providers.

TITLE VII: PAYMENTS TO AMERICAN SAMOA, THE COMMONWEALTH OF PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Sec. 701: American Samoa.

American Samoa shall be considered a state for purposes of Title IV of the Social Security Act, except that federal payments to American Samoa for the CSS program and Foster Care and Adoption Assistance shall not exceed $1 million. The amendments made by this section shall become effective on October 1, 1987.

Sec. 702: Increase Federal Payments to Puerto Rico, the Virgin Islands, and Guam.

Limits on federal payments for fiscal year 1988 and each fiscal year thereafter shall be increased as follows:

Puerto Rico, $81,270,000.
Virgin Islands, $2,709,000.
Guam, $3,725,000.

The amendments of this section shall become effective on October 1, 1987.

TITLE VIII: WAIVER AUTHORITY

Sec. 801: Waiver Authority.

Title IV of the Social Security Act is amended by adding a new "Part F" that permits states to apply to the Secretary to waive existing federal statutory and regulatory requirements for several income maintenance and social service programs in order that states may experiment with methods to more effectively and efficiently assist low-income households.

There are authorized to be appropriated for fiscal year 1988 and each fiscal year thereafter such sums as may be necessary to carry out the provisions of this part.

States shall submit applications for approval to the Secretary. The Secretary shall assure that not more than ten demonstrations are conducted under this part at any one time. The Secretary is responsible for evaluating (in accordance with the principles of experimental design) each demonstration conducted under this part.

The Child Support Supplement program;
The JOBS program;
Child Welfare Services;
The Child Support Enforcement program;
Foster Care and Adoption Assistance;
Emergency Assistance;
The Social Services Block Grant; and
Any non-federal public program to alleviate poverty operated within a state.

Families included in a waiver project shall not have their benefits reduced below what they would have been in the absence of the waiver.

Recipients required to participate in work, training, or education programs must be provided with child care.

Work assignments may not displace current employees or impair existing contracts or collective bargaining agreements.

Waiver projects may be funded either as block grants or, in certain circumstances as entitlements. A state electing to receive federal funds under the waiver as a block grant shall have that grant reviewed and revised annually.

Alternatively, states may request that current-law entitlement programs be replaced with new programs, under the waiver, also funded as entitlements. The Secretary shall reject any waiver request for a new entitlement program that would result in federal expenditures significantly different from what would have been paid in the absence of the waiver.

The Secretary shall notify a state of his decision to approve or disapprove a waiver request within four months of the date the state submitted the waiver application.

Within one year of a waiver project's termination, the Secretary shall submit to the Congress a final report on the evaluation of that project. The Secretary shall also submit annual progress reports to the Congress.

Waiver experiments shall terminate after five years have elapsed unless the Governor of the state or the Secretary elects to terminate the project sooner.

The amendments made by title VIII of the Family Security Act shall become effective on October 1, 1987.

TITLE IX: REORGANIZATION AND REDESIGNATION OF TITLE IV; TECHNICAL AND CONFIRMING AMENDMENTS

Title IV of the Social Security Act shall be reorganized to read as follows:

Part A—Child Support Enforcement.

Part B—Job Opportunities and Basic Skills Program.

Part C—Child Support Supplement Program.

Part D—Child Welfare Services.

Part E—Foster Care and Adoption Assistance.

Part F—Waiver Authority.

CBO ESTIMATED COST TO THE FEDERAL GOVERNMENT OF MOYNIHAN BILL

[Outlays, by fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992	Total 1988–90	Total 1988–92
TITLE I							
Mandate income withholding: AFDC			−30	−35	−40		
Alter $50 disregard for months due: AFDC	5	5	5	5	5		
Mandate child support guidelines:							
AFDC		−25	−65	−105	−138		
Food stamps		−3	−10	−15	−20		
Medicaid		−2	−5	−10	−17		
Total		−30	−80	−130	−175		
Mandate increases in paternity establishment: AFDC	35	25	10		−5		
Reimburse laboratory costs at 90 percent: AFDC	3	3	4	4	4		
Establish standards for response time: AFDC							
Mandate ADP for most States: AFDC	3	3	10	10	10		
Permit access to DOL INTERNET System: AFDC							
Require disclosure of social security numbers: AFDC							
Establish Commission on Interstate Enforcement: AFDC	1	1					
Subtotal title I:							
AFDC	47	12	−66	−121	−164	−7	−292
Food stamps		−3	−10	−15	−20	−13	−48
Medicaid		−2	−5	−10	−17	−7	−34
Total	47	7	−81	−146	−201	−27	−374
TITLE II							
Establish JOBS: [1]							
AFDC	15	115	315	310	300		
Food stamps		−2	−10	−20	−30		
Medicaid		−1	−5	−15	−25		
WIN	−10	−50	−135	−105	−85		
Total	5	62	165	170	160		
Study implementation: AFDC		1	1				
Study cost effectiveness: AFDC	5	10	11	12	12		
Subtotal title II:							
AFDC	20	126	327	322	312	473	1,107
Food stamps		−2	−10	−20	−30	−12	−62
Medicaid		−1	−5	−15	−25	−6	−46
WIN	−10	−50	−135	−105	−85	−195	−385
Total	10	73	177	182	172	260	614
TITLE III							
Reimburse child care for 9 months after leave AFDC: AFDC		75	115	115	115		
Provide Medicaid for 9 months to persons who leave AFDC due to increased earnings: [2] Medicaid		35	80	85	95		
Subtotal title III:							
AFDC		75	115	115	115	190	420
Medicaid		35	80	85	95	115	295
Total		110	195	200	210	305	715
TITLE IV							
Mandate Unemployed Parent Program:							
AFDC			160	225	240		
Food stamps			−55	−75	−80		
Medicaid			185	270	300		
Total			290	420	460		
Require minor parents to live with parents:							
AFDC		−20	−20	−20	−20		
Food stamps							
Medicaid		−8	−8	−9	−9		
Total		−28	−28	−29	−29		
Allow States to abolish 100-hour rule or increase hours:							
AFDC			15	35	50		
Food stamps			−5	−15	−20		
Medicaid			10	30	45		
Total			20	50	75		
Subtotal title IV:							
AFDC		−20	155	240	270	135	645
Food stamps			−60	−90	−100	−60	−250
Medicaid		−8	187	291	336	179	806
Total		−28	282	441	506	254	1,201
TITLE V							
Require evaluation of need and payment standards at least every 5 years: AFDC							
Subtotal title V: AFDC							
TITLE VI							
Authorize New York State Demonstration: AFDC							
Authorize Demonstrations on Model Procedures for Reviewing Child Support Awards: AFDC		1	1				
Authorize Demonstrations on Shelter for Homeless: AFDC	8	15	6	8	9		
Authorize Demonstrations on Education and Training for Children: AFDC	6	12	12	12	12		
Authorize Demonstrations on Visitation: AFDC	3	5	2				
Authorize Demonstrations on Foster Care: AFDC	2	4	5	1			
Subtotal title VI AFDC	19	37	26	21	21	82	124
TITLE VII							
Include American Samoa in AFDC: AFDC	1	1	1	1	1		
Increase AFDC Caps for Territories: AFDC	10	10	10	10	10		

CBO ESTIMATED COST TO THE FEDERAL GOVERNMENT OF MOYNIHAN BILL—Continued

[Outlays, by fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992	Total 1988–90	Total 1988–92
Subtotal Title VII: AFDC	11	11	11	11	11	33	55
TITLE VIII							
Authorize demonstration projects with waivers							
Subtotal title VIII: AFDC							
Total:							
AFDC	97	241	568	588	565	906	2,059
Food stamps		−5	−80	−125	−150	−85	−360
Medicaid		24	257	351	389	281	1,021
WIN	−10	−50	−135	−105	−85	−195	−385
Total	87	210	610	709	719	907	2,335

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[1] The JOBS program has a capped entitlement of $140 million with a 90-percent Federal match rate and an open-ended entitlement with a Federal match rate of 60 percent on program services and 50 percent on administration of the program. The numbers shown in the table are off of CBO's baseline, which includes WIN funding. CBO's official estimate will exclude the savings from the repeal of WIN because the WIN authorization runs out this year.

[2] This Medicaid estimate is preliminary and will be reduced somewhat when account has been taken of the effects of the premiums that would be collected during the fifth through the ninth month of Medicaid receipt.

S. 1511

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family Security Act of 1987".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Section 1. Short title; table of contents.
Sec. 2. Statement of purpose.
Sec. 3. AFDC replaced by the child support supplement program.
Sec. 4. Reorganization and redesignation of title IV.

TITLE I—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

SUBTITLE A—CHILD SUPPORT

Sec. 101. Mandatory income withholding.
Sec. 102. Disregarding portion of certain child support payments received during a month in determining need for child support supplements.
Sec. 103. State guidelines for child support award amounts.

SUBTITLE B—ESTABLISHMENT OF PATERNITY

Sec. 111. Standards for measuring the performance of State paternity establishment programs.
Sec. 112. Increased Federal assistance for paternity establishment.

SUBTITLE C—IMPROVED PROCEDURES FOR CHILD SUPPORT ENFORCEMENT AND ESTABLISHMENT OF PATERNITY

Sec. 121. Requirement of prompt State response to requests for child support assistance.
Sec. 122. Automated tracking and monitoring systems made mandatory.
Sec. 123. Additional information source for parent locator service.
Sec. 124. Use of social security number to establish identity of parents.
Sec. 125. Commission on interstate child support.

TITLE II—JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM

Sec. 201. Establishment of program.
Sec. 202. Related substantive amendments.
Sec. 203. Technical and conforming amendments.
Sec. 204. Regulations; performance standards; studies.
Sec. 205. Effective date.

TITLE III—TRANSITIONAL ASSISTANCE FOR FAMILIES AFTER LOSS OF CSS ELIGIBILITY

Sec. 301. Extended eligibility for child care after loss of CSS eligibility.
Sec. 302. Extended eligibility for medical assistance after loss of CSS eligibility.
Sec. 303. Effective date.

TITLE IV—FAMILY LIVING ARRANGEMENTS

Sec. 401. Households headed by minor parents.
Sec. 402. CSS program in two-parent families.

TITLE V—BENEFIT STRUCTURE IMPROVEMENTS

Sec. 501. Periodic reevaluation of need and payment standards.

TITLE VI—DEMONSTRATION PROJECTS

Sec. 601. Child support demonstration program in New York State.
Sec. 602. Demonstration of Family Independence Program.
Sec. 603. Demonstration projects for evaluating model procedures for reviewing child support awards.
Sec. 604. Demonstration program of grants to provide permanent housing for families that would otherwise require emergency assistance.
Sec. 605. Demonstration projects for developing innovative education and training programs for children receiving child support supplements.
Sec. 606. Demonstration projects to address access problems.
Sec. 607. Demonstration projects to test innovative methods for providing suitable foster care environments.
Sec. 608. Demonstration projects to expand the number of child care facilities and the availability of child care, with emphasis on increasing child care in rural areas.
Sec. 609. Demonstration projects to encourage States to employ CSS mothers as paid day care providers.

TITLE VII—PAYMENTS TO AMERICAN SAMOA, THE COMMONWEALTH OF PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

Sec. 701. Inclusion of American Samoa as a State under title IV.
Sec. 702. Increase in the amount available for payment to Puerto Rico, the Virgin Islands, and Guam.

TITLE VIII—WAIVER AUTHORITY

Sec. 801. Waiver authority under part F of title IV.

TITLE IX—TECHNICAL AND CONFORMING AMENDMENTS RELATING TO REPLACEMENT OF AFDC PROGRAM BY CHILD SUPPORT SUPPLEMENT PROGRAM

Sec. 901. Amendment to heading of title IV.
Sec. 902. Amendments to part A of title IV.
Sec. 903. Amendments to other provisions of the Social Security Act.
Sec. 904. General conforming amendment.

TITLE X—REORGANIZATION AND REDESIGNATION OF TITLE IV; GENERAL CONFORMING AMENDMENT RELATING TO SUCH REORGANIZATION AND REDESIGNATION

Sec. 1001. Table of contents in title IV.
Sec. 1002. Reorganization of parts.
Sec. 1003. Redesignation of sections.
Sec. 1004. General conforming amendment.

SEC. 2. STATEMENT OF PURPOSE.

It is the purpose of this Act to replace the original AFDC program with new provisions for child support that—

(1) stress family responsibility and community obligation in the context of the vastly changed family arrangements of the intervening half century;

(2) enforce the principle that child support must in the first instance come from parents, and only thereafter from the community, which however has the deepest obligation to enable parents to fulfill their responsibilities through expanded opportunities in education and training; and

(3) reflect the need for benefit improvement, program innovation, and organizational renewal at every level in the Federal system.

SEC. 3. AFDC REPLACED BY THE CHILD SUPPORT SUPPLEMENT PROGRAM.

The program under part A of title IV of the Social Security Act, heretofore known as the program of aid to families with dependent children, shall hereinafter be known as the child support supplement program, and the aid paid to needy families with dependent children in accordance with State plans approved under part A of title IV of such Act shall hereafter be called child support supplements, as more specifically provided in the amendments made by this Act.

SEC. 4. REORGANIZATION AND REDESIGNATION OF TITLE IV.

Title IV of the Social Security Act, as amended by titles I through IX of this Act, is reorganized and redesignated in title X of this Act to conform with the purpose of this Act to emphasize child support enforcement and job training as the primary means of avoiding long-term welfare dependence.

TITLE I—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

SUBTITLE A—CHILD SUPPORT

SEC. 101. MANDATORY INCOME WITHHOLDING.

(a) IN GENERAL.—Section 466(b) of the Social Security Act (42 U.S.C. 666(b)) is amended—

(1) in paragraph (2)—

(A) by inserting "(A)" after "(2)",

(B) by striking "Such" and inserting in lieu thereof "In the case of a support order with respect to which this subparagraph applies (as determined under subsection (c)), such", and

(C) by adding at the end thereof the following new subparagraph:

"(B) In the case of a support order with respect to which this subparagraph applies (as determined under subsection (c)), such withholding must be provided without the necessity of any application thereof and must occur without the need for any amendment to the support order involved or for any further action (other than those actions required under this part) by the court or other entity which issued such order."; and

(2) in paragraph (3)—

(A) by inserting "(A)" after "(3)",

(B) by striking "An" and inserting in lieu thereof "In the case of a support order with respect to which this subparagraph applies (as determined under subsection (c)), an", and

(C) by adding at the end thereof the following new subparagraph:

"(B) In the case of a support order with respect to which this subparagraph applies (as determined under subsection (c)), such withholding shall apply without regard to whether an arrearage of such payments is involved and without regard to whether the obligation involved is one which has been assigned to the State under section 402(a)(26) or which has been (or could upon application have been) undertaken to be collected by the State under section 454(6).".

(b) APPLICATION.—Section 466(c) of such Act (42 U.S.C. 666(c)) is amended to read as follows:

"(c)(1) Subject to paragraph (2)—

"(A) a support order with respect to which subparagraph (A) of subsection (b)(2) or (b)(3) applies is any support order that is issued or modified prior to the first day of the twenty-fifth month to begin after the date of enactment of the Family Security Act of 1987; and

"(B) a support order with respect to which subparagraph (B) of subsection (b)(2) or (b)(3) applies is any support order that is issued or modified on or after such day.

"(2) A support order that is issued or modified prior to the first day of the twenty-fifth month to begin after the date of enactment of the Family Security Act of 1987 shall be an order with respect to which subparagraph (B) of subsection (b)(2) or (b)(3) applies if either parent requests to have such subparagraph apply and the State determines (in accordance with such procedures and standards as the State may establish) that it is appropriate to grant the request. A support order that is issued or modified on or after such day shall be an order with respect to which subparagraph (A) of subsection (b)(2) or (b)(3) applies if both parents agree to have such subparagraph apply or the State finds good cause for having the subparagraph apply.".

(c) CONFORMING CHANGE.—Section 466(a)(8) of such Act (42 U.S.C. 666(a)(8)) is amended by striking "if arrearages occur" and inserting in lieu thereof "in accordance with subsection (b)".

(d) EFFECTIVE DATE.—

(1) Subject to paragraph (2), the amendments made by this section shall become effective on the date of enactment of this Act.

(2) A State shall implement the amendments made by this section not later than two years after the date of enactment of this Act.

SEC. 102. DISREGARDING PORTION OF CERTAIN CHILD SUPPORT PAYMENTS RECEIVED DURING A MONTH IN DETERMINING NEED FOR CHILD SUPPORT SUPPLEMENTS.

(a) IN GENERAL.—Section 402(a)(8)(A)(vi) of the Social Security Act (42 U.S.C. 602(a)(8)(A)(vi)) is amended by striking "of any child support payments received in such month" and inserting in lieu thereof "of any child support payment received in such month which was due for that month, and the first $50 of any child support payment received in such month which was due for a prior month if such payment was timely made when due by the absent parent,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of enactment of this Act.

SEC. 103. STATE GUIDELINES FOR CHILD SUPPORT AWARD AMOUNTS.

(a) PERIODIC REVIEW OF GUIDELINES.—Section 467(a) of the Social Security Act (42 U.S.C. 667(a)) is amended by inserting ", and shall be reviewed at least once every five years to ensure that their application results in the determination of appropriate child support award amounts" after "action".

(b) APPLICATION OF GUIDELINES.—Section 467(b) of such Act (42 U.S.C. 667(b)) is amended by striking ", but need not be binding upon such judges or other officials" and inserting in lieu thereof "and shall be applied by such judges and other officials in determining the amount of any such award unless the judge or official, pursuant to criteria established by the State, makes a finding that there is good cause for not applying the guidelines".

(c) PERIODIC REVIEW AND ADJUSTMENT OF AWARD AMOUNTS.—Section 466(a) of such Act (42 U.S.C. 666(a)) is amended by inserting immediately after paragraph (9) the following new paragraph:

"(10) Procedures to ensure that—

"(A) any child support award in effect in the State that was established under the guidelines described in section 467(b) is reviewed at least every 24 months;

"(B) any child support award in effect in the State that was not established under such guidelines is reviewed as provided under subparagraph (A) if—

"(i) either parent requests such review; and

"(ii) the State determines, in accordance with such criteria as it may establish for purposes of this subparagraph, that the child support award with respect to which the request is made should be so reviewed;

"(C) any child support award that is reviewed under subparagraph (A) or (B) is adjusted (as appropriate) in accordance with such guidelines; and

"(D) both parents are notified of a pending review of the child support award not less than 30 days prior to such review being commenced, are notified of a proposed adjustment in the child support award amount, and are afforded not less than 30 days after notification of such adjustment to initiate proceedings to challenge the adjustment.".

(d) EFFECTIVE DATE.—

(1) Subject to paragraph (2), the amendments made by this section shall become effective on the date of enactment of this Act.

(2) A State shall implement the amendments made by—

(A) subsections (a) and (b) not later than the first day of the thirteenth month to begin on or after the date of enactment of this Act; and

(B) subsection (c) not later than the first day of the thirtieth month to begin on or after such date.

SUBTITLE B—ESTABLISHMENT OF PATERNITY

SEC. 111. STANDARDS FOR MEASURING THE PERFORMANCE OF STATE PATERNITY ESTABLISHMENT PROGRAMS.

(a) DUTIES OF THE SECRETARY.—Section 452(a) of the Social Security Act (42 U.S.C. 652(a)) is amended—

(1) by redesignating paragraph (10) as paragraph (11), and

(2) by inserting after paragraph (9) the following:

"(10) determine, for purposes of the penalty provision of section 403(h), whether the State's paternity establishment program meets the requirements of subsection (g); and".

(b) STANDARDS FOR STATE PROGRAMS.—Section 452 of the Social Security Act (42 U.S.C. 652) is further amended by adding at the end thereof the following new subsection:

"(g)(1) The paternity establishment program of a State meets the requirements of this subsection for a fiscal year if its paternity establishment percentage for the fiscal year is—

"(A) 50 percent or greater, or

"(B) the paternity establishment percentage of the State for fiscal year 1987, increased (if appropriate) by the applicable number of percentage points.

"(2) If—

"(A) a State's paternity establishment percentage for the fiscal year is less than the paternity establishment percentage determined with respect to all States for such fiscal year, and

"(B) a State's paternity establishment program fails to meet the requirements of this subsection for a fiscal year beginning after September 30, 1990,

the State's program operated under this part shall be treated, for purposes of section 403(h), as not complying substantially with the requirements of this part for such fiscal year.

"(3) For purposes of this section—

"(A) the term 'paternity establishment percentage' means, with respect to a State (or all States, as the case may be) for a fiscal year, the ratio (expressed as a percentage) that the total number of children—

"(i) who have been born out of wedlock,

"(ii)(I) except as provided in the last sentence of this paragraph, with respect to whom child support supplements are being paid under the State's plan approved under part A (or under all such plans) for such fiscal year or (II) with respect to whom services are being provided under this part for the fiscal year pursuant to an application submitted under section 454(6), and

"(iii) the paternity of whom has been established,

bears to the total number of children who have been born out of wedlock and (except as provided in such last sentence) with respect to whom child support supplements are being paid under the State's plan approved under part A (or under all such plans) for such fiscal year or with respect to whom services are being provided under this part for the fiscal year pursuant to an application submitted under section 454(6); and

"(B) the applicable number of percentage points means, with respect to a fiscal year (beginning with fiscal year 1990), 3 percentage points multiplied by the number of fiscal years after fiscal year 1988 and before the beginning of such fiscal year.

For purposes of subparagraph (A), the total number of children shall not include any child who is a dependent child by reason of the death of a parent or any child with respect to whom an applicant or recipient is found to have good cause for refusing to cooperate under section 402(a)(26).

"(4)(A) The Secretary may modify the requirements of this subsection to take into account such additional variables as the Secretary identifies (including the percentage of children born out-of-wedlock in a State) that affect the ability of a State to meet the requirements of this subsection.

"(B) The Secretary shall submit an annual report to the Congress that sets forth the data upon which the paternity establishment percentage for States for a fiscal year is based, lists any additional variables the Secretary has identified under subparagraph (A), and describes State performance in establishing paternity.".

(c) EFFECTIVE DATE; IMPLEMENTATION.—

(1) The amendments made by this section shall become effective on the date of enactment of this Act.

(2) The Secretary of Health and Human Services shall collect the data necessary to implement the requirements of subsection (g) of section 452 (as added by this section) and may, in carrying out the requirement of determining a State's paternity establishment percentage for fiscal year 1987, compute such percentage on the basis of data collected with respect to the last quarter of such fiscal year.

SEC. 112. INCREASED FEDERAL ASSISTANCE FOR PATERNITY ESTABLISHMENT.

(a) INCREASED PAYMENTS TO STATES.—Section 455(a)(1) of such Act (42 U.S.C. 655(a)(1)) is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the semicolon at the end of subparagraph (B) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph:

"(C) equal to 90 percent (rather than the percent specified in subparagraph (A)) of so much of the sums expended during such quarter as are attributable to laboratory costs incurred in determining paternity;".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on October 1, 1987.

SUBTITLE C—IMPROVED PROCEDURES FOR CHILD SUPPORT ENFORCEMENT AND ESTABLISHMENT OF PATERNITY

SEC. 121. REQUIREMENT OF PROMPT STATE RESPONSE TO REQUESTS FOR CHILD SUPPORT ASSISTANCE.

(a) IN GENERAL.—Section 452 of the Social Security Act, as amended by section 111 of this Act, is further amended by adding at the end thereof the following new subsection:

"(h) The standards required by subsection (a)(1) shall include standards establishing time limits governing the period or periods within which a State must accept and respond to requests (from States, jurisdictions thereof, or individuals) for assistance in establishing and enforcing support orders, including requests to locate absent parents, requests to establish paternity, and requests to initiate proceedings to establish and collect child support awards.".

(b) ADVISORY COUNCIL; REGULATIONS.—

(1) Not later than 30 days after the date of enactment of this Act, the Secretary of Health and Human Services shall establish an advisory committee. The committee shall include representatives of organizations representing State governors, State welfare administrators, and State officials involved in the administration of programs under part D of title IV of the Social Security Act. The Secretary shall consult with the advisory committee before issuing any regulations with respect to the standards required by the amendment made by subsection (a) (including regulations regarding what constitutes an adequate response on the part of a State to the request of an individual, State, or jurisdiction).

(2) Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue a notice of proposed rulemaking with respect to the standards required by the amendment made by subsection (a), and after allowing not less than 60 days for public comment, shall issue final regulations not later than the first day of the seventh month to begin after such date of enactment.

SEC. 122. AUTOMATED TRACKING AND MONITORING SYSTEMS MADE MANDATORY.

(a) STATE REQUIREMENT.—Section 454(16) of the Social Security Act (42 U.S.C. 654(16)) is amended—

(1) by striking ", at the option of the State,"; and

(2) by striking "an automatic" and inserting in lieu thereof "a statewide automatic".

(b) APPROVAL OF ADVANCE AUTOMATIC DATA PROCESSING PLANNING DOCUMENT.—Section 452(d) of such Act (42 U.S.C. 652(d)) is amended—

(1) by striking "The" in paragraph (1) and inserting in lieu thereof "Except as provided in paragraph (3), the"; and

(2) by adding at the end thereof the following new paragraph:

"(3) The Secretary may waive any requirement of paragraph (1) or any condition specified under section 454(16) if a State demonstrates to the satisfaction of the Secretary that the State has an alternative system that enables the State, for purposes of section 403(h), to be in substantial compliance with the requirements of this part.".

(c) IMPLEMENTATION.—Section 454 of such Act, as amended by subsection (a), is further amended—

(1) in paragraph (16), by inserting "(subject to the last sentence of this section)" after "provide" the first place it appears; and

(2) by adding at the end thereof the following new sentence: "A State shall be required to provide the automatic data processing and information retrieval system required under paragraph (16) not later than a date specified in the initial advance automatic data processing planning document submitted under such paragraph (but in no event later than 10 years after the date such document is submitted to the Secretary).".

(d) PAYMENT TO STATES FOR ESTABLISHMENT OF SYSTEM.—Section 455(a)(1)(B) of such Act (42 U.S.C. 655(a)(1)(B)) is amended to read as follows:

"(B) in the case of a State that submits the initial advance automatic data processing planning document required under section 454(16) not later than October 1, 1989, equal to 90 percent (rather than the percent specified in subparagraph (A)) of so much of the sums expended during any quarter beginning after the date in which such document is submitted and before the date in which the State is required (in accordance with the last sentence of section 454) to provide the automatic data processing and information retrieval system as are attributable to the planning, design, development, and installation of such system (including in such sums the full cost of the hardware components of such system) if the Secretary finds that the system meets the requirements specified in section 454(16);".

(e) CONFORMING CHANGES.—Section 452(d)(2) of such Act (42 U.S.C. 652(d)(2)) is amended—

(1) in subparagraph (A), by striking "(A)"; and

(2) by striking subparagraph (B).

(f) EFFECTIVE DATE.—The amendments made by this section shall become effective on the date of enactment of this Act.

SEC. 123. ADDITIONAL INFORMATION SOURCE FOR PARENT LOCATOR SERVICE.

(a) IN GENERAL.—Section 453(e) of the Social Security Act (42 U.S.C. 653(e)) is amended by adding at the end thereof the following new paragraph:

"(3) The Secretary of Labor shall enter into an agreement with the Secretary to provide prompt access for the Secretary (in accordance with this subsection) to the wage and unemployment compensation claims information and data maintained by the Department of Labor and State employment security agencies.".

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective on the date of enactment of this Act.

SEC. 124. USE OF SOCIAL SECURITY NUMBER TO ESTABLISH IDENTITY OF PARENTS.

(a) DISCLOSURE OF SOCIAL SECURITY NUMBER AT TIME OF CHILD'S BIRTH.—Section 205(c)(2)(C) of the Social Security Act (42 U.S.C. 405(c)(2)(C)) is amended—

(1) in clause (i)—

(A) by inserting "(I)" after "(i)"; and

(B) by adding at the end thereof the following new subclause:

"(II) In the administration of any law involving the issuance of a birth certificate, each State shall, for the purpose of establishing the identity of the parents of the child for which a certificate is issued, require each such parent to furnish to such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if the parent has more than one such number) issued to the parent unless the State (in accordance with regulations prescribed by the Secretary) finds good cause for not requiring the furnishing of such number. The State shall make numbers furnished under this subclause available to the agency administering the State's plan under part D of title IV in accordance with federal or state law and regulation. Such numbers need not be recorded on the birth certificate."; and

(2) in clause (ii)—

(A) by striking "clause (i) of this subparagraph" and inserting in lieu thereof "clause (i)(I)", and

(B) by adding at the end thereof the following new sentence: "If and to the extent that any such provision is inconsistent with the requirement set forth in clause (i)(II), such provision shall, on and after the date of the enactment of such clause, be null, void, and of no effect.".

(b) Effective Date.—The amendment made by subsection (a) shall become effective on the first day of the twenty-fifth month to begin on or after the date of enactment of this Act.

SEC. 125. COMMISSION ON INTERSTATE CHILD SUPPORT.

(a) Establishment of Commission.—There is hereby established a Commission to be known as the Commission on Interstate Child Support (in this section referred to as the "Commission") to be composed of 15 members appointed in accordance with subsection (b)(1).

(b) Appointment and Term of Members; Vacancies; Transaction of Business.—

(1) Members of the Commission shall be appointed as follows from among individuals knowledgeable in matters involving interstate child support:

(A) Four members shall be appointed jointly by the Majority and Minority Leaders of the Senate, in consultation with the chairman and ranking minority member of the Committee on Finance of the Senate.

(B) Four members shall be appointed jointly by the Speaker of the House and the Minority Leader of the House, in consultation with the chairman and ranking minority member of the Committee on Ways and Means of the House of Representatives.

(C) Seven members shall be appointed by the Secretary of Health and Human Services (in this section referred to as the "Secretary").

(2) Members of the Commission shall serve for the life of the Commission. A vacancy on the Commission shall be filled in the manner in which the original appointment was made and shall not affect the powers or duties of the Commission.

(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business. Decisions of the Commission shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

(4) The first meeting of the Commission shall be called by the Secretary and shall be held not later than 60 days after the date of enactment of this Act. At such meeting, the members of the Commission shall select a chairman from among such members and shall meet thereafter at the call of the chairman or of a majority of the members.

(c) Basic Pay.—

(1) Members of the Commission shall serve without pay.

(2) Members of the Commission shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons serving intermittently in the government service are allowed travel expenses under section 5703 of title 5 of the United States Code.

(d) Duties of the Commission.—

(1) Not later than October 1, 1988, the Commission shall hold one or more national conferences on interstate child support reform for the purpose of assisting the Commission in preparing the report required under paragraph (2).

(2) Not later than October 1, 1989, the Commission shall submit a report to the Congress that contains recommendations for—

(A) improving the interstate establishment and enforcement of child support awards, and

(B) revising the Uniform Reciprocal Enforcement of Support Act.

(e) Powers of the Commission.—

(1) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States Government.

(2) The Commission may accept, use, and dispose of donations of money and property and may accept such volunteer services of individuals as it deems appropriate.

(3) The Commission may procure supplies, services, and property, and make contracts.

(4) For purposes of carrying out its duties under subsection (d), the Commission may adopt such rules for its organization and procedures as it deems appropriate.

(f) Termination of the Commission.—

(1) The Commission shall terminate on October 2, 1989.

(2) Any funds held by the Commission on the date of termination of the commission shall be deposited in the general fund of the Treasury of the United States and credited as miscellaneous receipts. Any property (other than funds) held by the Commission on such date shall be disposed of as excess or surplus property.

(g) Authorization of Appropriations.—For the purpose of carrying out this section, there are authorized to be appropriated $2,000,000.

TITLE II—JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM

SEC. 201. ESTABLISHMENT OF PROGRAM.

(a) State Plan Requirement.—Section 402(a)(19) of the Social Security Act (42 U.S.C. 602(a)(19)) is amended to read as follows:

"(19) provide that the State has in effect and operation a job opportunities and basic skills training program that is approved by the Secretary and meets the requirements of section 416;".

(b) Establishment and Operation of State Programs.—Part A of title IV of such Act is amended by adding at the end thereof the following new section:

"JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM

"Sec. 416. (a) It is the purpose of this section to assure that needy children and parents obtain the education, training, and employment that will help them avoid long-term welfare dependence.

"(b)(1) As a condition of its participation in the Child Support Supplement Program under this part, each State shall establish and operate a job opportunities and basic skills training program that has been approved by the Secretary as meeting all of the requirements of this section and (not later than three years after the date of enactment of this section) shall make the program available in each political subdivision of the State (unless the State determines, subject to the approval of the Secretary, that it is not feasible to make the program available in each such subdivision because of the needs and circumstances of local economies, the number of prospective participants, and other relevant variables). The State shall submit a plan (that is periodically reviewed and updated) that sets forth and describes the program in accordance with regulations prescribed by the Secretary.

"(2) Each State program under this section shall include private sector involvement in planning and program design to assure that participants are trained for jobs that will actually be available in the community.

"(3) The State agency that administers or supervises the administration of the State's plan approved under section 402 shall be responsible for the administration and supervision of the State's program under this section.

"(4) Federal funds made available to a State for purposes of the program under this section shall not be used to supplant non-Federal funds for existing services and activities which promote the purposes of this section. State or local funds expended for such purposes shall be maintained at least at the level of such expenditures for fiscal year 1986.

"(c)(1)(A) Except as provided in subparagraph (C), each State shall—

"(i) to the extent that the program under this section is available in the political subdivision where such recipient resides and State resources otherwise permit, require every recipient of child support supplements in the State who is not exempt under paragraph (2) (and with respect to whom the State assures child care in accordance with section 402(g)) to participate in such program; and

"(ii) allow applicants and recipients of child support supplements under this part who are not required under clause (i) to participate in the program under this section to participate in such program on a voluntary basis.

"(B) Subject to section 403(k)(2)(B), a State may require or allow absent fathers who are unemployed and unable to meet their child support obligations to participate in the program under this section.

"(C) No State shall be required to require or allow participation of an individual in the program under this section if as a result of such participation the amount payable to the State for quarters in a fiscal year with respect to the program under this section would be reduced pursuant to section 403(k)(2)(B).

"(2)(A) A recipient is exempt from being required to participate in the program under this section if such individual—

"(i) is ill, incapacitated, or of advanced age;

"(ii) is needed in the home because of the illness or incapacity of another member of the household;

"(iii) subject to subparagraph (B) and subsection (e)(1)(B), is the parent or other relative of a child under the age of three (or, at the option of the State, any age that is less than three but not less than one), who is personally providing care for the child with only very brief and infrequent absences from the child;

"(iv) works 30 or more hours a week;

"(v) is a child who is under age 16 or attends, full-time, an elementary, secondary, or vocational (or technical) school;

"(vi) is pregnant if it has been medically verified that the child is expected to be born in the month in which such registration would otherwise be required or within the three-month period immediately following such month; or

"(vii) resides in an area of the State where the program is not available.

"(B) In the case of a two-parent family, the exemption under subparagraph (A)(iii) shall apply only to one parent or relative; except that, in the case of such family, the State may at its option make such exemption inapplicable to both of the parents or relatives involved (and require their participation in the program) if child care is assured with respect to the family.

"(3) Any individual who is required or allowed to participate in the program under this section and who is—

"(A) the parent or relative of a child who is under the age of six, and

"(B) not the principal earner (in the case of a family that is eligible for child support supplements by reason of the unemployment of the parent who is the principal earner);

shall not be required (but may be encouraged) to participate in the program under this section for more than a total of 24 hours a week.

"(4) If an individual who is required or allowed to participate in the program under this section is already attending (in good standing) a school or a course of vocational or technical training designed to lead to employment at the time he or she would otherwise commence participation in the program under this section, such attendance may constitute satisfactory participation in the program so long as such individual continues to participate in good standing. The costs of such school or course of training shall not be paid under the program or constitute federally reimbursable expenses for purposes of section 403 (but nothing in this sentence shall be construed to prevent a State from providing, or making reimbursement for the cost of, such child care as is necessary for attending such school or course of training).

"(d)(1) The State agency shall make an initial assessment of the education and employment skills of each participant in the program under this section and shall conduct a review of such individual's family circumstances. On the basis of such assessment and review, such agency may develop an employability plan for each such participant which, to the maximum extent possible, reflects the preferences of the participant.

"(2) Following the initial assessment and review and the development of the employability plan with respect to any participant in the program under this section, the State may require each participant (or the adult caretaker in the family of which the participant is a member) to negotiate and enter into a contract with the State agency that specifies such matters as the participant's obligations, the duration of participation in the program under this section, and the activities the State will conduct and the services it will provide in the course of such participation. If a State exercises the option under the preceding sentence, each participant shall be given such assistance as he or she may require in reviewing and understanding the contract and shall be granted an opportunity for a fair hearing before the State agency in the event of a dispute involving the signing of the contract or the nature or extent of his or her participation in the program as specified therein.

"(3) The State agency may assign to each participating family a member of the agency staff to provide case management services to the family. The case manager so assigned shall be responsible for obtaining or brokering, on behalf of the family, any other services which may be needed to assure the family's effective participation.

"(e)(1)(A) In carrying out the program under this section, each State may make available a broad range of services and activities calculated to aid in carrying out the purpose of this section. Such services and activities may include—

"(i) high school or equivalent education (combined with training when appropriate);

"(ii) remedial education to achieve a basic literacy level, instruction in English as a second language;

"(iii) post-secondary education (as appropriate);

"(iv) on-the-job training;

"(v) skills training;

"(vi work supplementation programs as provided in subsection (f);

"(vii) community work experience programs as provided in subsection (g);

"(viii group and individual job search as described in subsection (h);

"(ix) job readiness activities to help prepare participants for work;

"(x) job development, job placement, and follow-up services to assist participants in securing and retaining employment and advancement as needed; and

"(xi) other employment, education, and training activities as determined by the State and allowed by regulations of the Secretary.

"(B)(i) Subject to subsection (c)(3) and clause (ii), in the case of a custodial parent who has not attained 22 years of age, has not successfully completed a high-school education (or its equivalent), and is not exempt from participation in the program under this section (or who is exempt under such program solely by reason of subsection (c)(2)(A)(iii)), the State shall require such parent to participate in the activities described in clause (i) or (where appropriate) clause (ii) of subparagraph (A).

"(ii) A State may require a custodial parent described in clause (i) to participate in training or work activities (in lieu of the activities under such clause) if such parent fails to make good progress in successfully completing the activities under the clause or if it is determined (prior to any assignment of the individual to such activities) pursuant to an educational assessment that participation in the activities under such clause is inappropriate for such parent.

"(2)(A) In assigning participants to any program activity under this section, the State shall assure that—

"(i) the assignment takes into account the physical capacity, skills, experience, health and safety, family responsibilities, and place of residence of such participant; and

"(ii) the participant will not be required, without his or her consent, to travel an unreasonable distance from his or her home or remain away from such home overnight.

"(B) Each State shall, in accordance with regulations issued by the Secretary, provide a participant with an opportunity for a fair hearing in the event of a dispute involving the assignment of such participant to a program activity under this section.

"(3) Wage rates for jobs to which participants are assigned under this section shall be not less than the greater of the Federal minimum wage or applicable State minimum wage and appropriate worker's compensation and tort claims protection shall be provided to all participants on the same basis as such compensation and protection are provided to other employed individuals in the State.

"(4) No work assignment under this section (including any assignment made under subsection (f) or (g)) shall result in the displacement of any currently employed worker or position (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits), or result in the impairment of existing contracts for services or collective bargaining agreements. No participant shall be employed to fill a job opening under this section when (i) any individual is on layoff from the same or any substantially equivalent job, or (ii) the employer has terminated the employment of any regular employee in the same or any substantially equivalent job.

"(5)(A) Except as provided in subparagraph (B), the State may not require a participant in the program to accept a job under the program (as work supplementation or otherwise) if accepting the job would result in a net loss of income (including the value of any food stamp benefits and the insurance value of any health benefits) to the family of the participant.

"(B) The State may require a participant to accept a job described in subparagraph (A) if the State makes a supplementary payment in an amount that is sufficient to maintain the income of the family at a level no less than what would be the level of income in the absence of earnings received from such job. For purposes of sections 403 and 1902(a)(10)(A)(i)(I), a supplementary payment made under this subparagraph shall be treated as a child support supplement.

"(6) The Governor shall assure that program activities under this part are coordinated in each State with programs operated under the Job Training Partnership Act and with any other relevant employment, training, and education programs available in the State.

"(7) In carrying out the program under this section, the State may enter into appropriate contracts and other arrangements with public and private agencies and organizations for the provision or conduct of any services or activities made available under the program.

"(f)(1) Any State may institute a work supplementation program under which such State, to the extent it considers appropriate, may reserve the sums that would otherwise be payable to participants in the program under this section as child support supplements under the State plan approved under this part and use such sums instead for the purpose of providing and subsidizing jobs for such participants (as described in paragraph (3)(C)(i) and (ii)), as an alternative to the supplements which would otherwise be so payable to them under such plan.

"(2)(A) Notwithstanding the provisions of section 406 or any other provision of law, Federal funds may be paid to a State under this part, subject to the provisions of this section, with respect to expenditures incurred in operating a work supplementation program under this subsection.

"(B) Nothing in this part, or in any State plan approved under this part, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate) a work supplementation program in accordance with this subsection and subsection (e).

"(C) Notwithstanding section 402(a)(23) or any other provision of law, a State may adjust the levels of the standards of need under the State plan as the State determines to be necessary and appropriate for carrying out a work supplementation program under this subsection.

"(D) Notwithstanding section 402(a)(1) or any other provision of law, a State operating a work supplementation program under this subsection may provide that the need standards in effect in those areas of the State in which such program is in operation may be different from the need standards in effect in the areas in which such program is not in operation, and such State may provide that the need standards for categories of recipients may vary among such categories to the extent the State determines to be appropriate on the basis of ability to participate in the work supplementation program.

"(E) Notwithstanding any other provision of law, a State may make such further adjustments in the amounts of the child support supplements paid under the plan to different categories of recipients (as determined under subparagraph (D)) in order to offset increases in benefits from needs-related programs (other than the State plan approved under this part) as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

"(F) In determining the amounts to be reserved and used for providing and subsidizing jobs under this subsection as described in paragraph (1), the State may use a sampling methodology.

"(G) Notwithstanding section 402(a)(8) or any other provision of law, a State operating a work supplementation program under this subsection may reduce or eliminate the amount of earned income to be disregarded under the State plan as the State determines to be necessary and appropriate to further the purposes of the work supplementation program, and (B) during one or more of the first nine months of an individual's employment pursuant to a program under this section, may apply to the wages of the individual the provisions of section 402(a)(8)(A)(iv) without regard to the provisions of (B)(ii)(II) of such section.

"(3)(A) A work supplementation program operated by a State under this subsection may provide that any individual who is an eligible individual (as determined under subparagraph (B)) shall take a supplemented job (as defined in subparagraph (C)) to the extent that supplemented jobs are available under the program (subject to paragraph (2)(D)). Payments by the State to individuals or to employers under the program shall be treated as expenditures incurred by the State for child support supplements except as limited by paragraph (4).

"(B) For purposes of this subsection, an eligible individual is an individual who is in a category which the State determines should be eligible to participate in the work supplementation program, and who would, at the time of his placement in the job involved, be eligible for child support supplements under the State plan if such State did not have a work supplementation program in effect.

"(C) For purposes of this section, a supplemented job is—

"(i) a job provided to an eligible individual by the State or local agency administering the State plan under this part; or

"(ii) a job provided to an eligible individual by any other employer for which all or part of the wages are paid by such State or local agency.

A State may provide or subsidize any job under the program which such State determines to be appropriate.

"(4) The amount of the Federal payment to a State under section 403 for expenditures incurred in making payments to individuals and employers under a work supplementation program under this subsection shall not exceed an amount equal to the amount which would otherwise be payable under such section if the family of each individual employed in the program established in such State under this subsection had received the maximum amount of child support supplements payable under the State plan to such a family with no income (without regard to adjustments under paragraph (2) of this subsection) for a period of months equal to the lesser of (A) nine months, or (B) the number of months in which such individual was employed in such program.

"(5)(A) Nothing in this subsection shall be construed as requiring the State or local agency administering the State plan to provide employee status to an eligible individual to whom it provides a job under the work supplementation program (or with respect to whom it provides all or part of the wages paid to the individual by another entity under such program), or as requiring any State or local agency to provide that an eligible individual filling a job position provided by another entity under such program be provided employee status by such entity during the first 13 weeks such individual fills that position.

"(B) Wages paid under a work supplementation program shall be considered to be earned income for purposes of any provision of law.

"(6) Any State that chooses to operate a work supplementation program under this subsection shall provide that any individual who participates in such program, and any child or relative of such individual (or other individual living in the same household as such individual) who would be eligible for child support supplements under the State plan approved under this part if such State did not have a work supplementation program, shall be considered individuals receiving child support supplements under the State plan approved under this part for purposes of eligibility for medical assistance under the State plan approved under title XIX.

"(7) No individual receiving child support supplements under the State plan shall be excused by reason of the fact that such State has a work supplementation program from any requirement of this part relating to work requirements, except during periods in which such individual is employed under such work supplementation program.

"(g)(1)(A) Any State may establish a community work experience program in accordance with this subsection. The purpose of the community work experience program is to provide experience and training for individuals not otherwise able to obtain employment, in order to assist them to move into regular employment. Community work experience programs shall be designed to improve the employability of participants through actual work experience and training and to enable individuals employed under community work experience programs to move promptly into regular public or private employment. The facilities of the State public employment offices may be utilized to find employment opportunities for recipients under this program. Community work experience programs shall be limited to projects which serve a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care. To the extent possible, the prior training, experience, and skills of a recipient shall be used in making appropriate work experience assignments.

"(B) A State that elects to establish a community work experience program under this subsection shall operate such program so that each participant (as determined by the State) either works or undergoes training (or both) with the maximum number of hours that any such individual may be required to work in any month being a number equal to the amount of the child support supplements payable with respect to the family of which such individual is a member under the State plan approved under this part, divided by the greater of the Federal minimum wage or the applicable State minimum wage (and the portion of a recipient's benefit for which the State is reimbursed by a child support payment shall not be taken into account in determining the number of hours that such individual may be required to work).

"(C) Nothing contained in this subsection shall be construed as authorizing the payment of child support supplements under this part as compensation for work performed, nor shall a participant be entitled to a salary or to any other work or training expense provided under any other provision of law by reason of his participation in a program under this subsection.

"(D) Nothing in this part or in any State plan approved under this part shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate) a community work experience program in accordance with this subsection and subsection (e).

"(E) Participants in community work experience programs under this subsection may, subject to subsection (e)(3), perform work in the public interest (which otherwise meets the requirements of this section) for a Federal office or agency with its consent, and, notwithstanding section 1342 of title 31, United States Code, or any other provision of law, such agency may accept such services, but such participants shall not be considered to be Federal employees for any purpose.

"(2) The State shall provide coordination among a community work experience program operated pursuant to this subsection, any program of job search under subsection (h), and the other work-related activities under the program established by this section so as to insure that job placement will have priority over participation in the community work experience program, and that individuals eligible to participate in more than one such program are not denied assistance under the State plan on the grounds of failure to participate in one such program if they are actively and satisfactorily participating in another. The chief executive officer of the State may provide that part-time participation in more than one such program may be required where appropriate.

"(3) In the case of any State that makes expenditures in the form described in paragraph (1) under its State plan approved under section 402, expenditures for the operation and administration of the program under this section, for purposes of section 403(k), may not include the cost of making or acquiring materials or equipment in connection with the work performed under a program referred to in paragraph (1) or the cost of supervision of work under such program, and may include only such other costs attributable to such programs as are permitted by the Secretary.

"(h)(1) The State agency may establish and carry out a program of job search for individuals participating in the program under this section.

"(2) Job search by a participant may be required—

"(A) beginning at the time such participant applies for child support supplements and continuing for a period (prescribed by the State) of not more than eight weeks (but this requirement may not be used as a reason for any delay in making a determination of a participant's eligibility for such supplements or in issuing a payment to or on behalf of any participant who is otherwise eligible for such supplements); and

"(B) at such time or times after the close of the period prescribed under subparagraph (B) as the State agency may determine but not to exceed a total of eight weeks in any 12 consecutive months.

"(i)(1) Subject to paragraph (2), if any recipient required to participate in the program under this section fails without good cause to comply with any requirement imposed with respect to his or her participation in such program (or, subject to the last sentence of this paragraph, refuses without good cause to accept employment in which such recipient is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined after notification by him, to be a bona fide offer of employment)—

"(A) in the case of a relative who so fails (or refuses), such relative's needs shall not be taken into account in making the determination under section 402(a)(7), and assistance for any dependent child in the family in the form of payments of the type described in section 406(b)(2) (which in such a case shall be without regard to clauses (A) and (D) thereof) or section 472 will be made unless the State agency, after making reasonable efforts, is unable to locate an appropriate individual to whom such payments can be made;

"(B) in the case of an individual who is the principal earner in a family that is eligible for child support supplements by reason of the unemployment of such principal earner who so fails (or refuses), child support supplements shall be denied to all members of the family;

"(C) in the case of a child who is the only child in the family receiving child support supplements who so fails (or refuses), child support supplements with respect to such family shall be denied;

"(D) in the case of a child who is not the only child in the family receiving child support supplements who so fails (or refuses), child support supplements with respect to such child shall be denied and (such child's needs shall not be taken into account in making the determination under section 402(a)(7)); and

"(E) in the case of an individual (living in the same household as a child or relative) who so fails (or refuses), such individual's needs shall not be taken into account in making the determination under section 402(a)(7)).

In the case of an individual described in subsection (c)(3), no sanction shall be imposed under this section on the basis of refusal to accept employment to the extent that the employment would require such individual to work more than 24 hours a week.

"(2)(A) The sanction described in subparagraph (A), (B), (C), or (D) shall continue—

"(i) in the case of the recipient's first failure to comply, until the failure to comply ceases;

"(ii) in the case of the recipient's second failure to comply, until the failure to comply ceases or three months (whichever is longer); and

"(iii) in the case of any subsequent failure to comply, until the failure to comply ceases or six months (whichever is longer).

"(B) The State agency shall notify a recipient of any failure to comply under this subsection and shall indicate (as part of such notification) what action or actions must be taken to terminate the sanction.".

SEC. 202. RELATED SUBSTANTIVE AMENDMENTS.

(a) Federal Matching Rate.—Section 403 of the Social Security Act (42 U.S.C. 603) is amended by adding at the end thereof the following new subsection:

"(k)(1) Notwithstanding any other provision of subsection (a), subject to paragraph (2), the amount payable to any State under this part for quarters in a fiscal year shall be in the case of any State with respect to the program under section 416 (except for expenditures under section 402(g))—

"(A)(i) of the amounts appropriated for such fiscal year for payment under such program (which shall in no event exceed $140,000,000), an amount equal to 90 percent of the total amount expended during such quarter for the operation and administration of such program (that are not expenditures described in subparagraph (B)), and

"(ii) of the amounts expended by a State in such fiscal year that exceed the State's share of any appropriated amounts, an amount equal to 60 percent of the total amount expended during such quarter for the operation and administration of such program (that are not expenditures described in subparagraph (B)); and

"(B) an amount equal to 50 percent of so much of the sums expended for the costs associated with assessments and reviews (conducted under paragraph (1) of section 416(d)), case management services (provided under paragraph (3) of such section), and developing and administering the contract described in paragraph (2) of such section.

"(2) For purposes of this subsection, the expenditures described in clause (i) or (ii) subparagraph (A) of paragraph (1) shall be treated as expenditures described in subparagraph (B) of such paragraph rather than as expenditures to which either such clause applies if—

"(A) more than 40 percent of the non-Federal share of such expenditures is contributed in-kind, or

"(B) more than 40 percent of such expenditures is expended with respect to individuals who are not an individual described in paragraph (3).

"(3) An individual described in this paragraph is an individual who—

"(A)(i) is receiving child support supplements, and

"(ii) has received such supplements for any 30 of the preceding 60 months;

"(B)(i) makes application for child support supplements, and

"(ii) has received such supplements for any 30 of the 60 months immediately preceding the most recent month for which application has been made;

"(C) is a custodial parent under the age of 22 who has not completed a high school education and who, at the time of application for child support supplements, is not enrolled in high school (or a high school equivalency course of instruction); or

"(D) is a parent in a family that is eligible for child support supplements by reason of the unemployment of the parent who is the principal earner.".

(b) Payment of Child Care, Transportation, and Other Work-Related Expenses.—Section 402 of such Act (42 U.S.C. 602) is amended by adding at the end thereof the following new subsection:

"(g)(1)(A) Each State shall, for each family, assure child care in accordance with subparagraph (B) for each dependent child requiring such care, to the extent that such care is determined by the State agency to be necessary for an individual's participation in work, education, and training activities (including any such activity under the program under section 416). For purposes of this subsection, the term 'child care' shall be deemed to include day care for each incapacitated individual living in the same home as a dependent child.

"(B) A State may assure adequate child care by—

"(i) providing such care itself,

"(ii) arranging the care through providers by use of purchase of service contracts, or vouchers,

"(iii) providing cash or vouchers in advance to the caretaker relative in the family,

"(iv) reimbursing the caretaker relative in the family, or

"(v) adopting such other arrangements as the State deems appropriate.

"(C) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for the care) under this paragraph—

"(i) shall not be treated as income for purposes of any other Federal or federally-supported program that bases eligibility for or the amount of benefits upon need, and

"(ii) may not be claimed as an employment-related expense for purposes of the credit under section 21 of the Internal Revenue Code of 1986.

"(2) In the case of any individual participating in the program under section 416, each State (in addition to assuring child care under paragraph (1)) shall provide payment or reimbursement for such transportation and other work-related supportive services as are necessary to enable such individual to participate in such program. In the case of reimbursement for such transportation and services, the amount of such reimbursement shall not exceed the dollar amount then in effect under subsection (a)(8)(A)(ii).

"(3)(A) Except as provided in subparagraph (B), any amounts expended under this section for child care, transportation, or work-related supportive services shall be considered to be necessary amounts expended for the proper and efficient administration of the State plan with respect to which section 403(a)(3)(C) applies.

"(B) In the case of any amounts expended for child care under this section—

"(i) the Federal share of such amounts shall be the Federal medical assistance percentage (as defined in 1905(b)) rather than the percentage provided under section 403(a)(3)(C); and

"(ii) no such amounts shall be treated as amounts to which any provision of section 403(a) applies to the extent that—

"(I) such amounts exceed the dollar amount per month for a child then in effect under subsection (a)(8)(A)(iii), or

"(II) the child care involved does not meet applicable standards of State and local law.".

SEC. 203. TECHNICAL AND CONFORMING AMENDMENTS.

(a) In Part A of Title IV.—

(1) Section 402(a)(8)(A)(iv) of the Social Security Act (42 U.S.C. 602(a)(8)(A)(iv)) is amended by striking "(but excluding" and all that follows and inserting in lieu thereof a semicolon.

(2) Section 402(a)(9)(A) of such Act (42 U.S.C. 602(a)(9)(A)) is amended by striking "B, C, or D" and inserting in lieu thereof "B or D".

(3) Section 402(a)(35) of such Act (42 U.S.C. 602(a)(35)) is repealed.

(4) Section 403(a)(3) of such Act (42 U.S.C. 603(a)(3)) is amended—

(A) by striking all of subparagraph (C) that follows "such expenditures" and inserting in lieu thereof "; and"; and

(B) by striking all that follows subparagraph (C).

(5) Section 403(c) of such Act (42 U.S.C. 603(c)) is repealed.

(6) Section 403(d) of such Act (42 U.S.C. 603(d)) is repealed.

(7) Section 409 of such Act (42 U.S.C. 609) is repealed.

(8) Section 414 of such Act (42 U.S.C. 614) is repealed.

(b) In Other Provisions.—

(1) Part C of title IV of such Act is repealed.

(2) Section 471(a)(8)(A) of such Act (42 U.S.C. 671(a)(8)(A)) is amended by striking "A, B, C, or D" and inserting in lieu thereof "A, B, or D".

(3) Section 1108(b) of such Act (42 U.S.C. 1308(b)) is amended by striking "provided under section 402(a)(19)".

(4) Section 1902(a)(10)(A)(i)(I) of such Act (42 U.S.C. 1396a(a)(10)(A)(i)(I)) is amended by striking "414(g)" and inserting in lieu thereof "416(f)(7)".

(5) Section 1921(a)(1)(D) of such Act (42 U.S.C. 1396s(a)(1)(D)) is amended by striking "414(g)" and inserting in lieu thereof "416(f)(7)".

SEC. 204. REGULATIONS; PERFORMANCE STANDARDS; STUDIES.

(a) Regulations.—Not later than six months after the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall issue proposed regulations for the purpose of implementing the amendments made by this title, including regulations establishing uniform data collection requirements. The Secretary shall publish final regulations for such purpose not later than one year after the date of enactment of this Act.

(b) Performance Standards.—Not later than five years after the date of enactment of this Act, the Secretary shall—

(1) in consultation with representatives of organizations representing Governors, State and local program administrators, educators, and other interested persons, develop performance standards with respect to the programs established pursuant to section 416 of the Social Security Act that are based, in part, on the results of the studies conducted under subsection (c); and

(2) submit his recommendations for performance standards developed under paragraph (1) to the Congress.

(c) Implementation and Cost-Effectiveness Studies.—

(1)(A) The Secretary shall conduct an implementation study in accordance with subparagraph (B).

(B) The implementation study conducted under subparagraph (A) shall be based on a representative sample of States and localities and shall document with respect to the programs established pursuant to section 416 of the Social Security Act—

(i) the types, mix, and costs of services offered,

(ii) participation rates or activity levels,

(iii) the characteristics of the individuals in the different type of activities,

(iv) the provisions made for child and day care and the extent to which limitations exist with respect to the availability of such care,

(v) the institutional arrangements and operating procedures under which activities are offered in the different locations, and

(vi) such other variables as the Secretary deems appropriate.

(C) There are authorized to be appropriated $500,000 for each of the fiscal years 1988, 1989, and 1990 for the purpose of conducting the implementation study under this paragraph.

(2)(A) The Secretary shall conduct a cost-effectiveness study in accordance with this paragraph to determine the relative effectiveness of the different approaches for assisting long-term recipients developed by States pursuant to the program established under section 416 of the Social Security Act.

(B)(i) The cost-effectiveness study required under subparagraph (A) shall be based on data gathered from cost-effectiveness demonstration projects conducted in 5 States chosen by the Secretary from among applications submitted by interested States. Such projects shall be conducted for a period of not less than 3 years upon such terms and conditions (including those involving payments to the participating States) as the Secretary may provide.

(ii) A cost-effectiveness demonstration project conducted under this subparagraph shall use specific outcome measures to test the effectiveness of particular programs. Such measures shall include educational status, employment status, earnings, receipt of child support supplements, receipt of other transfer payments, and to the extent possible, poverty status of participating families.

(iii) A State shall conduct a cost-effectiveness evaluation project under this subparagraph by use of experimental and control groups that are composed of a random sample of participants in the program established under section 416 of the Social Security Act. The Secretary shall assure that the experimental design is comparable among localities.

(C) Participating States shall provide to the Secretary in such form and with such frequency as he requires interim data from the cost-effectiveness demonstration projects conducted under this paragraph. The Secretary shall report to the Congress annually on the progress of such projects and shall, not later than one year after the date of final data collection, submit to the Congress the cost-effectiveness study required under subparagraph (A).

(D) There are authorized to be appropriated $10,000,000 for each of the fiscal years 1988 through 1992 for the purpose of making payments to States conducting cost-effectiveness demonstration projects under this section.

(3) The Secretary shall establish such uniform reporting requirements as the Secretary determines are appropriate for the purpose of conducting the demonstration projects required under this section.

SEC. 205. EFFECTIVE DATE.

(a) In General.—Except as provided in subsection (b), the amendments made by this title shall become effective on October 1, 1989.

(b) State Option for Earlier Effective Date.—If any State makes the changes in its State plan approved under section 402 of the Social Security Act that are required in order to carry out the amendments made by this title and formally notifies the Secretary of Health and Human Services of its desire to become subject to such amendments as of the first day of any calendar quarter beginning on or after the date on which the proposed regulations of the Secretary of Health and Human Services are published under section 204(a) (or, if earlier, the date on which such regulations are required to be published under such section) and before October 1, 1989, such amendments shall become effective with respect to that State as of such first day.

TITLE III—TRANSITIONAL ASSISTANCE FOR FAMILIES AFTER LOSS OF CSS ELIGIBILITY

SEC. 301. EXTENDED ELIGIBILITY FOR CHILD CARE AFTER LOSS OF CSS ELIGIBILITY.

(a) In General.—Section 402(g)(1)(A) of such Act (as added by section 202(b)) is amended—

(1) by inserting "(I)" before "to the extent"; and

(2) by inserting before the period the following: ", or (II) subject to the limitations described in section 417, to the extent that such care is determined by the State agency to be necessary for an individual's employment in any case where a family has ceased to receive child support supplements under this part as a result of increased hours of, or increased income from, such employment or as a result of subsection (a)(8)(B)(ii)(II)".

(b) Limitations on Continued Eligibility.—Part A of title IV of the Social Security Act, as amended by section 201(b) of this Act, is further amended by inserting after section 416 the following new section:

"LIMITATIONS ON CHILD CARE FOR FAMILIES AFTER LOSS OF CSS ELIGIBILITY.

"Sec. 417. The limitations described in this section with respect to child care provided under section 402(g)(1)(A)(II) are as follows:

"(1) A family shall only be eligible for such care—

"(A) if such family was receiving child support supplements under this part in at least three of the six months immediately preceding the month in which the family becomes ineligible for such supplements;

"(B) for a period—

"(i) of nine months after the last month for which the family actually received child support supplements under this part, and

"(ii) of a total of nine months out of the preceding 36 months; and

"(C) for a month in which the family includes a child who is (or would if needy be) a dependent child.

"(2) A family shall not be eligible for such care for any month beginning after the caretaker relative of the family has—

"(A) submitted false or misleading information in order to obtain child support supplements under this part;

"(B) been subject to a sanction under section 416(i) (but only if the caretaker relative has been subject to the sanction in the preceding 12 months);

"(C) without good cause, terminated his or her employment, refused to accept employment, or reduced his or her hours of employment; or

"(D) failed to cooperate with the State as required under subparagraph (B) or (C) of section 402(a)(26).

"(3) A family shall contribute to the costs of such care in accordance with a sliding scale based on ability to pay that is established by the State and approved by the Secretary.".

SEC. 302. EXTENDED ELIGIBILITY FOR MEDICAL ASSISTANCE AFTER LOSS OF CSS ELIGIBILITY.

(a) In General.—Title XIX of the Social Security Act is amended by redesignating section 1921 as section 1922 and by inserting after section 1920 the following new section:

"EXTENDED ELIGIBILITY FOR MEDICAL ASSISTANCE

"SEC. 1921. (a)(1) Notwithstanding any other provision of this title, each State plan approved under this title must provide that each family which was receiving child support supplements pursuant to the plan of the State approved under part A of title IV in at least three of the six months immediately preceding the month in which such family becomes ineligible for such supplements because of increased hours of, or increased income from employment of the caretaker relative (as defined in subsection (c)), shall, subject to paragraph (3), and without any reapplication for benefits under the plan, remain eligible for assistance under the plan approved under this title during the immediately succeeding four-month period in accordance with this subsection.

"(2) Each State, in the notice of termination of supplements under part A of title IV sent to a family meeting the requirements of paragraph (1)—

"(A) shall notify the family of its right to extended medical assistance under this subsection and include in the notice a description of the circumstances (described in paragraph (3)) under which such extension may be terminated; and

"(B) shall include a card or other evidence of the family's entitlement to assistance under this title for the period provided in this subsection.

"(3)(A) Subject to subparagraph (B), extension of assistance for the four-month period described in paragraph (1) shall be denied to a family for any month—

"(i) in which the family does not include a child who is (or would if needy be) a dependent child under part of title IV (except that, with respect to a child who is an individual described in clause (i) or (v) of section 1905(a), who would cease to receive medical assistance because of clause (i) of this subparagraph, but who may be eligible for assistance under the State plan because of section 1902(a)(10)(A)(ii), the State may not discontinue such assistance under this subparagraph until the State has determined that the child is not eligible for assistance under the plan);

"(ii) beginning after a month during which the caretaker relative has—

"(I) submitted false or misleading information in order to obtain child support supplements under part A of title IV,

"(II) been subject to a sanction under section 416(i) (but only if the caretaker relative has been subject to the sanction in the preceding 12 months),

"(III) without good cause, terminated his or her employment, refused to accept employment, or reduced his or her hours of employment, or

"(IV) failed to cooperate with the State as required under subparagraph (B) or (C) of section 402(a)(26); and

"(iii) beginning after the ninth month out of the preceding 36 months for which the individual has received assistance under this subsection or subsection (b).

"(B) No denial of assistance shall become effective under subparagraph (A) until the State has provided the family with notice of the grounds for the denial, which notice shall include, in the case of denial under subparagraph (A)(ii)(III), a description of how the family may reestablish eligibility for medical assistance under the State plan.

"(4)(A) Subject to subparagraph (B), during the four-month extension period under this subsection, the amount, duration, and scope of medical assistance made available with respect to a family shall be the same as if the family were still receiving child support supplements under the plan approved under part A of title IV.

"(B) A State, at its option, may pay a family's expenses for premiums, deductibles, coinsurance, or similar costs for health insurance or other health coverage offered by an employer of the caretaker relative (and, if the health insurance or coverage provides more cost-effective coverage, by an employer of the absent parent who is paying child support for a dependent child). In the case of such coverage offered by an employer of the caretaker relative—

"(i) the State may require the caretaker relative, as a condition of extension of coverage under this subsection, to make application for such employer coverage (but only if the State provides, directly or otherwise, for payment of any of the premium amount, deductible, coinsurance, or similar expense that the caretaker relative is otherwise required to pay); and

"(ii) the State shall treat the coverage under such an employer plan as a third party liability (under section 1902(a)(25)).

Payments for coverage under this subparagraph shall be considered, for purposes of section 1903(a), to be payments for medical assistance.

"(b)(1) Notwithstanding any other provision of this title, each State plan approved under this title shall provide that the State shall offer to each family, which has received assistance during the entire four-month period under subsection (a) and which meets the requirement of paragraph (2)(B), in the last month of the period, the option of extending coverage under this subsection for the succeeding five-month period.

"(2)(A) Each State, during the second and fourth month of any extended assistance furnished to a family under subsection (a), shall notify the family of the family's option for subsequent extended assistance under this subsection. Each such notice shall include (i) a statement of monthly reporting requirements, (ii) a statement as to the premiums required for such extended assistance, and (iii) a description of other out-of-pocket expenses, benefits, reporting and payment procedures, and any pre-existing condition limitations, waiting periods, or other coverage limitations imposed under any alternative coverage options offered under paragraph (4)(D).

"(B)(i) Except as provided in clause (ii), each State shall require that a family receiving extended assistance under subsection (a) report the family's gross monthly earnings (and monthly costs of child care incurred by reason of the employment of the caretaker relative) to the State on such date or dates (as chosen by the State) after the second month of extended assistance under subsection (a).

"(ii) The requirement under clause (i) shall not apply if the notice under subparagraph (A) during the second month of assistance does not describe the requirement of such clause.

"(C) The notice under subparagraph (A), furnished during the fourth month of assistance under subsection (a), shall describe the terms of any monthly premium required under this subsection.

"(3)(A) Subject to subparagraph (B), extension of assistance for the five-month period described in paragraph (1) shall be denied to a family for any month—

"(i) in which the family does not include a child who is (or would if needy be) a dependent child under part of title IV (except that, with respect to a child who is an individual described in clause (i) or (v) of section 1905(a), who would cease to receive medical assistance because of clause (i) of this subparagraph, but who may be eligible for assistance under the State plan because of section 1902(a)(10)(A)(ii), the State may not discontinue such assistance under this subparagraph until the State has determined that the child is not eligible for assistance under the plan);

"(ii) beginning after a month during which the caretaker relative has—

"(I) submitted false or misleading information in order to obtain child support supplements under part A of title IV,

"(II) been subject to a sanction under section 416(i), (but only if the caretaker relative has been subject to the sanction in the preceding 12 months),

"(III) without good cause, terminated his or her employment, refused to accept employment, or reduced his or her hours of employment, or

"(IV) failed to cooperate with the State as required under subparagraph (B) or (C) of section 402(a)(26);

"(iii) beginning after the ninth month out of the preceding 36 months for which the individual has received assistance under this section or subsection (a);

"(iv) beginning after a month with respect to which the family fails to pay any monthly premium required under this subsection in accordance with regulations prescribed by the Secretary (unless the individual establishes, to the satisfaction of the State, good cause for the failure to pay such premium on a timely basis); or

"(v) beginning after a month with respect to which—

"(I) subject to the last sentence of this subparagraph, the family fails to meet the reporting requirement of paragraph (2)(B) (unless the family establishes, to the satisfaction of the State, good cause for such failure), or

"(II) the State determines that the family's average gross monthly earnings (less the costs of such child care as is necessary for the employment of the caretaker relative) during the preceding month exceeds 185 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

Information described in clause (v)(I) shall be subject to the restrictions on use and disclosure of information provided under section 402(a)(9). The State shall make determinations under clause (v)(II) for a family each time a report described in clause (v)(I) for the family is received. Instead of terminating a family's extension under clause (v)(I), a State, at its option, may provide for suspension of the extension until the month after the month in which the family's extension would otherwise be terminated to allow the family additional time to meet the reporting requirement of paragraph (2)(B) (but only if the family's extension has not otherwise been terminated under clause (v)(II)).

"(B) No denial of assistance shall become effective under subparagraph (A) until the State has provided the family with notice of the grounds for the denial, which notice shall include, in the case of denial under subparagraph (A)(ii)(III), a description of how the family may reestablish eligibility for medical assistance under the State plan.

"(4)(A) During the extension period under this subsection—

"(i) the State plan shall offer to each family medical assistance which (subject to subparagraphs (B) and (C)) is the same amount, duration, and scope as would be made available to the family if it were still receiving aid under the plan approved under part A of title IV; and

"(ii) the State plan may offer alternative coverage described in subparagraph (D).

"(B) At a State's option, notwithstanding any other provision of this title, a State may choose not to provide medical assistance under this subsection with respect to any (or all) of the items and services described in paragraphs (4)(A), (6), (7), (8), (11), (13), (14), (15), (16), (18), (20), and (21) of section 1905(a).

"(C) At a State's option, the State may elect to apply the option described in subsection (a)(4)(B) for families electing medical assistance under this subsection in the same manner as such option applies to families provided extended medical assistance under subsection (a).

"(D) At a State's option, instead of the medical assistance otherwise made available under this subsection, the State may offer families a choice of health care coverage under one or more of the following:

"(i) Enrollment of the caretaker relative and dependent child in a family option of the group health plan offered to the caretaker relative.

"(ii) Enrollment of the caretaker relative and dependent children in a family option within the options of the group health plan or plans offered by the State to State employees.

"(iii) Enrollment of the caretaker relative and dependent children in a basic State health plan offered by the State to individuals in the State (or areas of the State) otherwise unable to obtain health insurance coverage.

"(iv) Enrollment of the caretaker relative and dependent children in a health maintenance organization (as defined in section 1903(m)(1)(A)) less than 50 percent of the membership (enrolled in a prepaid basis) of which consists of individuals who are eligible to receive benefits under this title (other than because of the option offered under this clause).

If a State elects to offer under an option to enroll a family under this subparagraph, the State shall pay any premiums, deductibles, coinsurance, and other costs for such enrollment imposed on the family. A State's payment of premiums for the enrollment of families under this subparagraph (not including any premiums otherwise payable by an employer and less the amount of premiums collected from such families under paragraph (5)) shall be considered, for purposes of section 1903(a)(1), to be payments for medical assistance.

"(5)(A) Notwithstanding any other provision of this title (including section 1916), a State shall impose a premium for a family for extended coverage under this subsection.

"(B) The level of such premium may vary, for the same family, for each option offered by a State under paragraph (4).

"(C) In no case may the amount of any premium under this paragraph for a family for any month exceed 10 percent of the amount by which—

"(i) the family's gross monthly earnings (less the monthly costs for such child care as is necessary for the employment of the caretaker relative), exceeds

"(ii) $581 (as adjusted to reflect cost-of-living adjustments in the same manner as the contribution and benefit base is adjusted under section 230 to reflect such adjustments).

"(c) In this section, the term 'caretaker relative' has the meaning of such term as used in part A of title IV.".

(b) CONFORMING CHANGES.—

(1) Section 1902(e)(1) of such Act (42 U.S.C. 1396a(e)(1)) is amended by striking "Notwithstanding" and all that follows through the period and inserting in lieu thereof the following: "For provisions relating to extension of coverage for certain families which have received child support supplements pursuant to a State plan approved under part A of title IV and which have earned income, see section 1921".

(2) Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended by striking "or" at the end of clause (vii), by inserting "or" at the end of clause (viii), and by inserting after clause (viii) the following new clause:

"(ix) individuals provided extended benefits under section 1921,".

SEC. 303. EFFECTIVE DATE.

The amendments made by this title shall become effective on October 1, 1988.

TITLE IV—FAMILY LIVING ARRANGEMENTS

SEC. 401. HOUSEHOLDS HEADED BY MINOR PARENTS.

(a) IN GENERAL.—Section 402(a) of the Social Security Act (42 U.S.C. 602(a)) is amended—

(1) by striking "and" at the end of paragraph (38);

(2) by striking the period at the end of paragraph (39) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (39) the following new paragraph:

"(40) provide that—

"(A) subject to subparagraph (B), in the case of any individual who is under the age of 18 and has never married, and who has a dependent child in his or her care (or is pregnant and is eligible for child support supplements under the State plan)—

"(i)(I) such individual may receive child support supplements under the plan for the individual and such child (or for herself in the case of a pregnant woman) only if such individual and child (or such pregnant woman) reside in a place of residence maintained by a parent, legal guardian, or other adult relative of such individual as such parent's, guardian's, or adult relative's own home, or reside in a foster home, maternity home, or other adult-supervised supportive living arrangement, and (II) such supplements (where possible) shall be paid to the parent or legal guardian on behalf of such individual and child; and

"(ii) at the option of the State, such individual may only receive such supplements if in the case of an individual who has not graduated from high school, the individual attends school on at least a part-time basis (or attends both school and parenting or family-skills training classes if such training classes are reasonably available to such individual); and

"(B)(i) clause (i) of subparagraph (A) does not apply in the case where—

"(I) such individual has no parent or legal guardian of his or her own who is living and whose whereabouts are known;

"(II) no living parent or legal guardian of such individual allows the individual to live in the home of such parent or guardian;

"(III) the State agency determines that the physical or emotional health and safety of such individual or such dependent child would be jeopardized if such individual and such dependent child lived in the same residence with such individual's own parent or legal guardian;

"(IV) such individual lived apart from his or her own parent or legal guardian for a period of at least one year prior to either the birth of any such dependent child or the individual having made application for child support supplements under the plan; or

"(V) the State agency otherwise determines (in accordance with regulations issued by the Secretary) there is good cause for waiving the clause; and

"(ii) clause (ii) of subparagraph (A) does not apply in the case where child care for a dependent child is not available (or made available) to such individual.".

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on the first day of the first quarter to begin one year after the date of enactment of this Act.

SEC. 402. CSS PROGRAM IN TWO-PARENT FAMILIES.

(a) MANDATORY EXPANSION OF COVERAGE.—

(1) Section 406(a) of the Social Security Act (42 U.S.C. 606(a)) is amended by inserting "or by reason of the unemployment of the parent who is the principal earner" after "parent,".

(2) Section 406 of such Act (42 U.S.C. 606) is amended by adding at the end thereof the following new subsection:

"(i)(1) A child shall be considered a dependent child 'by reason of the unemployment of the parent who is the principal earner' within the meaning of subsection (a) if—

"(A) whichever of such child's parents is the principal earner has not been employed (as determined in accordance with standards prescribed by the Secretary) for at least 30 days prior to the receipt of such aid,

"(B) such parent has not without good cause, within such period (of not less than 30 days) as may be prescribed by the Secretary, refused a bona fide offer of employment or training for employment, and

"(C)(i) such parent has six or more quarters of work (as defined in subsection (2)(A)) in any 13-calendar-quarter period ending within one year prior to the application for such aid or (ii) such parent received unemployment compensation under an unemployment compensation law of a State or of the United States, or such parent was qualified (within the meaning of paragraph (2)(C)) for unemployment compensation under the unemployment compensation law of the State, within one year prior to the application for such aid.

"(2) For purposes of paragraph (1)—

"(A) the term 'quarter of work' with respect to any individual means a calendar quarter in which such individual received earned income of not less than $50 (or which is a 'quarter of coverage' as defined in section 213(a)(2)), or in which such individual participated in a community work experience program under section 416(g);

"(B) the term 'calendar quarter' means a period of three consecutive calendar months ending on March 31, June 30, September 30, or December 31;

"(C) an individual shall, for purposes of paragraph (1)(C), be deemed qualified for unemployment compensation under the State's unemployment compensation law if—

"(i) such individual would have been eligible to receive such unemployment compensation upon filing application, or

"(ii) the individual performed work not covered under such law and such work, if it had been covered, would (together with any covered work he performed) have made him eligible to receive such unemployment compensation upon filing application; and

"(D) the phrase 'whichever of such child's parents is the principal earner', in the case of any child, means whichever parent, in a home in which both parents of such child are living, earned the greater amount of income in the 24-month period the last month of which immediately precedes the month in which an application is filed for assistance under this part on the basis of the unemployment of a parent, for each consecutive month for which the family receives such assistance on that basis.

"(3)(A) Subject to subparagraph (B), the standards prescribed by the Secretary under subparagraph (A) of paragraph (1) for the purpose of determining whether a principal earner meets the requirements of such subparagraph, may include a test under which an individual is determined to meet such requirements if such individual, during the period of 30 days prior to receipt of such supplements, performed less than a specific number of hours of work designated by the Secretary (which in no event may be a number less than 100 hours for such period).

"(B)(i) For purposes of determining the eligibility for child support supplements of an individual who received such supplements in the preceding month, a State may, at its option, establish a limitation on the number of hours worked in a 30-day period that is greater than the number designated by the Secretary pursuant to subparagraph (A).

"(ii) Notwithstanding section 402(a)(1), a State that chooses to exercise the option provided under this subparagraph may provide that its standard applies in one or more political subdivisions of the State.".

(b) STATE PLAN REQUIREMENT.—Section 402 of such Act, as amended by section 202(b) of this Act, is further amended by adding at the end thereof the following new subsection:

"(h) Notwithstanding any other provision of this part, each State plan shall provide with respect to any needy child who is a dependent child (as defined under section 406(a)) by reason of the unemployment of the parent who is the principal earner—

"(1) for the denial of child support supplements with respect to such child with respect to any week for which the parent who is the principal earner qualifies for unemployment compensation under an unemployment compensation law of a State or of the United States, but refuses to apply for or accept such unemployment compensation;

"(2) for the reduction of such supplements otherwise payable with respect to such child by the amount of any unemployment compensation that such parent receives under an unemployment compensation law of a State or of the United States; and

"(3) for the exclusion from the child support supplement program of expenditures that are made under the plan with respect to such child for any part of the 30-day period referred to in subsection (i)(1)(A) of section 406 or for any period prior to the time when the parent satisfies subsection (i)(1)(B) of such section and if, and for as long as, no action is taken to enroll the parent who is the principal earner in the program under section 416.".

(c) PARTICIPATION IN TRAINING AND EDUCATION PROGRAMS AS A QUARTER OF WORK.—Section 406(i) of such Act, as added by subsection (a) of this section, is amended—

(1) in paragraph (1)(C)(i), by inserting ", no more than four of which may be quarters of work defined in subsection (2)(A)(ii)," after "(2)(A))"; and

(2) in paragraph (2)—

(A) by inserting "(i)" before "a calendar quarter" in subparagraph (A),

(B) by striking the semicolon at the end of subparagraph (A) and inserting in lieu thereof ", or (ii) at the option of the State, a calendar quarter in which such individual attended, full-time, an elementary school, a secondary school, or a vocational or technical training course (approved by the Secretary) that is designed to prepare the individual for gainful employment, or in which such individual participated in an education or training program established under the Job Training Partnership Act;", and

(C) by adding at the end thereof the following:

"Notwithstanding section 402(a)(1), a State that chooses to exercise the option provided under subparagraph (A)(ii) may provide that the definition of calendar quarter under such option apply in one or more political subdivisions of the State.".

(d) CONFORMING CHANGES.—

(1) Section 407 of the Social Security Act (42 U.S.C. 607) is repealed.

(2)(A) Section 406(b)(1) of such Act (42 U.S.C. 606(b)(1)) is amended by striking "under section 407" and inserting in lieu thereof "by reason of the unemployment of the parent who is the principal earner".

(B) Section 472(a) of such Act (42 U.S.C. 672(a)) is amended in the matter preceding paragraph (1) by striking "or of section 407".

(C) Section 473(a)(2)(A)(i) of such Act (42 U.S.C. 673(a)(2)(A)(i)) is amended by striking "or section 407".

(D) Section 1115(b)(5) of such Act (42 U.S.C. 1315(b)(5)) is amended by striking "407" and inserting in lieu thereof "406(i)".

(E) Section 1905(n)(1) of such Act (42 U.S.C. 1396d(n)(1)) is amended—

(1) in subparagraph (A)—

(A) by striking "(or" and all that follows through "407)", and

(B) by inserting "or" after the semicolon; and

(2) by striking subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(e) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1989.

TITLE V—BENEFIT STRUCTURE IMPROVEMENTS

SEC. 501. PERIODIC REEVALUATION OF NEED AND PAYMENT STANDARDS.

(a) IN GENERAL.—Section 402 of the Social Security Act, as amended by sections 202(b) and 402(b) of this Act, is further amended by adding at the end thereof the following new subsection:

"(i)(1) Each State shall reevaluate the need standard and payment standard under its plan at least once every 5 years, in accordance with a schedule established by the Secretary under paragraph (3), and report the results of the reevaluation to the Secretary at such time and in such form and manner as the Secretary may require.

"(2) The report required by paragraph (1) shall include a statement of—

"(A) the manner in which the need standard of the State is determined,

"(B) the relationship between the need standard and the payment standard (expressed as a percentage or in any other manner determined by the Secretary to be appropriate), and

"(C) any change in the need standard and the payment standard in the preceding 5-year period.

"(3) The Secretary shall establish a schedule under which each State with a plan approved under this part conducts the reevaluation required by paragraph (1) once every 5 years.

"(4) The Secretary shall report promptly to the Congress the results of the reevaluations required by paragraph (1).".

(b) EFFECTIVE DATE.—The amendment made by this section shall become effective on the date of enactment of this Act.

TITLE VI—DEMONSTRATION PROJECTS

SEC. 601. CHILD SUPPORT DEMONSTRATION PROGRAM IN NEW YORK STATE.

(a) IN GENERAL.—Upon application by the State of New York and approval by the Secretary of Health and Human Services (in this section referred to as the "Secretary"), the State of New York (in this section referred to as the "State") may conduct a demonstration program in accordance with this section for the purpose of testing a State program as an alternative to the child support supplement program under title IV of the Social Security Act.

(b) NATURE OF PROGRAM.—Under the demonstration program conducted under this section—

(1) all custodial parents of dependent children who are eligible for supplements under the State plan approved under section 402(a) of the Social Security Act (and such other types or classes of such parents as the State may specify) may elect to receive benefits under the State's Child Support Supplement Program in lieu of supplements under such plan; and

(2) the Federal government will pay to the State with respect to families receiving benefits under the State's child support supplement program the same amounts as would have been payable with respect to such families under sections 403 and 1903 of the Social Security Act as if the families were receiving supplements and medical assistance under the State plans in effect with respect to such sections.

(c) WAIVERS.—The Secretary shall (with respect to the program under this section) waive compliance with any requirements contained in title IV of the Social Security Act which (if applied) would prevent the State from carrying out the program or effectively achieving its purpose.

(d) CONDITIONS OF APPROVAL.—As a condition of approval of the program under this section, the State shall—

(1) provide assurances satisfactory to the Secretary that the State—

(A) will continue to make assistance available to all eligible children in the State who are in need of financial support, and

(B) will continue to operate an effective child support enforcement program;

(2) agree—

(A) to have the program evaluated, and

(B) to report interim findings to the Secretary at such times as the Secretary shall provide; and

(3) satisfy the Secretary that the program will be evaluated using a reasonable methodology that can determine whether changes in work behavior and changes in earnings are attributable to participation in the program.

(e) Application Process.—In order to participate in the program under this section, the State must submit an application under this section not later than two years after the date of enactment of this Act. The Secretary shall approve or disapprove the application of the State not later than 90 days after the date of its submission. If the application is disapproved, the Secretary shall provide to the State a statement of the reasons for such disapproval, of the changes needed to obtain approval, and of the date by which the State may resubmit the application.

(f) Effective Date.—The program under this section shall commence not later than the first day of the third calendar quarter beginning on or after the date on which the application of the State is approved in accordance with subsection (e).

(g) Duration of Program.—

(1) Except as provided in paragraph (2), if the Secretary approves the application of the State, the demonstration program under this section shall be conducted for a period not to exceed five years.

(2)(A) The Governor of the State may before the end of the period described in paragraph (1) terminate the demonstration program under this section if the Governor finds that the program is not successful in testing the State's child support supplement program as an alternative to the program under title IV of the Social Security Act. The Governor shall notify the Secretary of the decision to terminate the program not less than three months prior to the date of such termination.

(B) The Secretary may terminate the program before the end of such period if the Secretary finds that the program is not in compliance with the terms of the application. The Secretary shall notify the Governor of the decision to terminate the program not less than three months prior to the date of such termination.

SEC. 602. DEMONSTRATION OF FAMILY INDEPENDENCE PROGRAM.

(a) In General.—Upon application of the State of Washington and approval by the Secretary of Health and Human Services, the State of Washington (in this section referred to as the "State") may conduct a demonstration project in accordance with this section for the purpose of testing whether the operation of its Family Independence Program enacted in May, 1987 (in this section referred to as the "Program"), as an alternative to the child support supplement program under title IV of the Social Security Act, would more effectively break the cycle of poverty and provide families with opportunities for economic independence and strengthened family functioning.

(b) Nature of Project.—Under the demonstration project conducted under this section—

(1) every individual eligible for child support supplements under the State plan approved under section 402(a) of the Social Security Act shall be eligible to enroll in the Program, which shall operate simultaneously with the child support supplement program so long as there are individuals who qualify for the latter;

(2) cash assistance shall be furnished in a timely manner to all eligible individuals under the Program (and the State may not make expenditures for services under the Program until it has paid all necessary cash assistance), with no family receiving less in cash benefits than it would have received under the child support supplement program;

(3) individuals may be required to register, undergo assessment, and participate in work, education, or training under the Program, except that—

(A) work or training may not be required in the case of—

(i) a single parent of a child under six months of age, or more than one parent of such a child in a two-parent family,

(ii) a single parent with a child of any age who has received assistance for less than six months,

(iii) a single parent with a child under three years of age who has received assistance for less than three years,

(iv) an individual under 16 years of age or over 64 years of age,

(v) an individual who is incapacitated, temporarily ill, or needed at home to care for an impaired person, or

(vi) an individual who has not yet been individually notified in writing of such requirement or of the expiration of his or her exempt status under this subparagraph;

(B) participation in work or training shall in any case be voluntary during the first two years of the Program, and may thereafter be made mandatory only in counties where more than 50 percent of the enrollees can be placed in employment within three months after they are job-ready;

(C) in no case shall the work and training aspect of the Program be mandated in any county where the unemployment level is at least twice the State average; and

(D) mandated work shall not include work in any position created by a reduction in the work force, a bona fide labor dispute, the decertification of a bargaining unit, or a new job classification which subverts the intention of the Program;

(4) there shall be no change in existing State law which would eliminate guaranteed benefits or reduce the rights of applicants or enrollees; and

(5) the Program shall include due process guarantees and procedures no less than those which are available to participants in the child support supplement program under Federal law and regulation and under State law.

(c) Waivers.—The Secretary shall (with respect to the project under this section) waive compliance with any requirements contained in title IV of the Social Security Act which (if applied) would prevent the State from carrying out the project or effectively achieving its purpose.

(d) Funding.—

(1) The Secretary shall reimburse the State for its expenditures under the Program—

(A) at a rate equal to the Federal matching rate applicable to the State under section 403(a)(1) (or 1118) of the Social Security Act, for cash assistance and child care provided to enrollees;

(B) at a rate equal to the applicable Federal matching rate under section 403(a)(3) of such Act, for administrative expenses; and

(C) at the rate of 75 percent for an evaluation plan approved by the Secretary.

The State shall be required to pay the same portion of all expenditures made for cash assistance and services under the Program as it would be required to pay if such expenditures were made under its State plan approved under section 402(a) of the Social Security Act.

(2) As a condition of approval of the project under this section, the State must provide assurances satisfactory to the Secretary that the total amount of Federal reimbursement over the period of the project will not exceed the anticipated Federal reimbursements (over that period) under the child support supplement program; but this paragraph shall not prevent the State from claiming reimbursement for additional persons who would qualify for assistance under the child support supplement program, for costs attributable to increases in the State's payment standard, or for any other federally-matched benefits or services.

(e) Duration of Project.—

(1) The project under this section shall begin on the date on which the first individual is enrolled in the Program and (subject to paragraph (2)) shall end five years after that date.

(2) The project may be terminated at any time, on six months written notice, by the State or (upon a finding that the State has materially failed to comply with this section) by the Secretary.

SEC. 603. DEMONSTRATION PROJECTS FOR EVALUATING MODEL PROCEDURES FOR REVIEWING CHILD SUPPORT AWARDS.

(a) In General.—Not later than April 1, 1988, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into an agreement with each of four States submitting applications under this section for the purpose of conducting a demonstration project under part D of title IV of the Social Security Act in the State to test and evaluate model procedures for reviewing child support award amounts.

(b) Inapplicability of Requirement of Statewideness.—Notwithstanding section 454(1) of the Social Security Act, a demonstration project conducted under this section may be conducted in one or more political subdivisions of the State.

(c) Payments.—An agreement under this section shall be entered into between the Secretary and the State agency designated by the Governor of the State involved. Under such agreement, the Secretary shall pay to the State, as an additional payment under part D of title IV of the Social Security Act, an amount equal to 90 percent of the reasonable costs incurred by the State in conducting a demonstration project under this section. Such costs shall not be taken into account for purposes of computing the incentive payment under section 458 of the Social Security Act.

(d) Duration.—A demonstration project under this section shall be commenced not later than September 30, 1988, and shall be conducted for a two-year period unless the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the agreement entered into with the State under subsection (a).

(e) Information and Reports.—

(1) Any State with an agreement under this section shall furnish the Secretary with such information as the Secretary determines to be necessary to evaluate the results of the project conducted by the State.

(2) The Secretary shall report the results of the demonstration projects conducted under this section to Congress not later than 6 months after all such projects are completed.

SEC. 604. DEMONSTRATION PROGRAM OF GRANTS TO PROVIDE PERMANENT HOUSING FOR FAMILIES THAT WOULD OTHERWISE REQUIRE EMERGENCY ASSISTANCE.

(a) IN GENERAL.—Part A of title IV of the Social Security Act, as amended by sections 201(b) and 301(b) of this Act, is further amended by adding at the end thereof the following new section:

"DEMONSTRATION PROGRAM OF GRANTS TO PROVIDE PERMANENT HOUSING FOR FAMILIES THAT WOULD OTHERWISE REQUIRE EMERGENCY ASSISTANCE

"SEC. 418. (a) In order to ensure that States which incur particularly high costs in providing emergency assistance for temporary housing to homeless CSS families may have an adequate opportunity to test whether such costs could be effectively reduced by the construction or rehabilitation of permanent housing that such families can afford with their regular CSS payments, there is hereby established a demonstration program under which the Secretary shall make grants to those States, selected in accordance with subsection (b), which conduct demonstration projects in accordance with this section.

"(b)(1) Any State which desires to participate in the demonstration program established by subsection (a) may submit an application therefor to the Secretary.

"(2) To be eligible for selection to conduct a demonstration project under such program, a State—

"(A) must be currently providing emergency assistance (as defined in subsection (f)(1)) in the form of housing, including transitional housing;

"(B) must have a particularly acute need for assistance in dealing with the problems of homeless CSS families by virtue of the large number of such families and the existence of shortages in the supply of low-income housing in the political subdivision or subdivisions where such project would be conducted; and

"(C) must submit a plan to achieve significant cost savings over a 10-year period through the conduct of such project with assistance under this section.

"(3) The Secretary shall select up to two States, from among those which submit applications under paragraph (1), and are determined to be eligible under paragraph (2), to conduct demonstration projects in accordance with this section. In the event that more than three States are determined to be eligible, the three States selected shall be those with respect to which cost savings (as described in subparagraph (C) of such paragraph) will be the greatest.

"(4) Grants for each demonstration project under this section shall be awarded within six months after the date of the appropriation of funds (pursuant to subsection (h)) for the purposes prescribed in this section.

"(c) For each year during which a State is conducting a demonstration project under this section, the Secretary shall make a grant to such State, in an amount determined under subsection (h)(2), for the construction or rehabilitation of permanent housing to serve families who would otherwise require emergency assistance in the form of temporary housing.

"(d) A grant may be made to a State under subsection (b) only if such State (along with or as a part of its application) furnishes the Secretary with satisfactory assurances that—

"(1) the proceeds of the grant will be used exclusively for the construction or rehabilitation of permanent housing to be owned by the State, a political subdivision of the State, an agency or instrumentality of the State or of a political subdivision of the State, or a nonprofit organization;

"(2) all units assisted with funds from the proceeds of the grant will be used exclusively for rental to families which—

"(A) are eligible, at the time of the rental, for assistance under the State's plan approved under section 402 (and a family with one or more members who meet this requirement shall not be deemed ineligible because one or more other members receive benefits under title XVI),

"(B) have been unable to obtain non-emergency housing at rents that can be paid with the portion of such assistance allocated for shelter, and

"(C) if such units were not available to them, would be compelled to live in a shelter for the homeless or in a hotel or motel, or other temporary accommodations, paid for with emergency assistance, or would be homeless;

"(3) the local jurisdiction in which such housing will be located is experiencing a critical shortage of housing units that are available to families eligible for assistance under the State plan at rents that can be paid with the amount of such assistance allocated for shelter; and

"(4) whenever units assisted with grants under the project become available for occupancy, the State will discontinue the use of an equivalent number of units of the most costly accommodations it has been using as temporary housing paid for with emergency assistance, except to the extent that such accommodations are demonstrably needed—

"(A) in addition to the units so assisted, to take account of the emergency assistance caseload, or

"(B) because, due to the condition or location of such accommodations, or other factors, discontinuing the use of such units would not be in the best interests of needy families, provided that the State discontinues the use of an equivalent number of other units it has been using as temporary housing paid for with emergency assistance.

"(e)(1) The average cost to the Federal government per unit of housing constructed or rehabilitated with a grant under a project under this section shall be an amount no greater than the yearly Federal payment of emergency assistance that would be required to provide housing for a family in a shelter for the homeless, a hotel or motel, or other temporary quarters for one year, in the jurisdiction or jurisdictions where the project is located.

"(2) The total amount of Federal payments to a State under this part over the 10-year period beginning at the time construction or rehabilitation commences under the State's project under this section, with respect to the families who will live in housing assisted by a grant under such project (the 'total grant cost' as more particularly defined in subsection (f)(3)), must be lower as a result of the construction or rehabilitation of permanent housing with the grant than the total amount of Federal payments under this part that would have been made if the State made emergency assistance payments with respect to the families involved at the level of the standard yearly payment (as defined in subsection (f)(2)) during such 10-year period. If the 'total grant cost' is not lower than such total amount of Federal payments, the State shall be responsible for paying the difference between such cost and such total amount.

"(3) Any grant to a State under subsection (a) shall be made only on condition (A) that the non-Federal share of the total cost of the construction or rehabilitation of the housing involved is equal to at least the percentage of the current non-Federal share of assistance under the State's plan approved under section 402 (as determined under section 403(a) or 1118), increased by 10 percentage points, and (B) that such State not require any of its political subdivisions to pay a higher percentage of the total costs of the construction or rehabilitation of such housing than it would pay with respect to assistance pursuant to such State plan.

"(f) For purposes of this section—

"(1) the term 'emergency assistance' means emergency assistance to needy families with children as described in section 406(e), and regular payments for the costs of temporary housing authorized as a special needs item under the State plan;

"(2) the term 'standard yearly payment', with respect to emergency assistance used to provide housing for a family in a shelter for the homeless, a hotel or motel, or other temporary quarters during any year in any jurisdiction, means an amount equal to the total amount of such assistance which was needed to provide all housing in temporary accommodations in that jurisdiction (with emergency assistance), in the most recently completed calendar year, at the 75th percentile in the range of all payments of emergency assistance for temporary accommodations, based on the State's actual experience with emergency assistance in such jurisdiction; and

"(3) the term 'total grant cost', with respect to housing constructed or rehabilitated under a demonstration project under this section, means the sum of (A) the Federal share of payments attributable to the construction or rehabilitation of such housing during the 10-year period beginning on the date on which its construction or rehabilitation begins, (B) the Federal share of payments of emergency assistance for temporary housing to the families involved during that part of the 10-year period in which such housing is undergoing construction or rehabilitation (at a level equal to the standard yearly payment), and (C) the Federal share of regular payments of child support supplements under the State plan to such families during the remainder of such 10-year period.

"(g) Whenever a grant is made to a State under this section, the assurances required of the State under paragraphs (1) through (4) of subsection (d) and any other requirements imposed by the Secretary as a condition of such grant shall be considered, for purposes of section 404, as requirements imposed by or in the administration of the State's plan approved under section 402.

"(h)(1) There are authorized to be appropriated for grants under this section the sum of $8,000,000 for each of the first 5 fiscal years beginning on or after October 1, 1987.

"(2)(A) The amount appropriated for any fiscal year pursuant to paragraph (1) shall be divided among the States conducting demonstration projects under this section according to their respective need for assistance of the type involved and their respective numbers of homeless CSS families, as determined by the Secretary.

"(B) If any State to which a grant is made under this paragraph finds that it does not require the full amount of such grant to conduct its demonstration project under this section in the fiscal year involved, the unused portion of such grant shall be reallocated to the other States conducting such projects in amounts based on need for assistance of the type involved, as determined by the Secretary.

"(C) Amounts appropriated pursuant to paragraph (1), and grants made from such amounts, shall remain available until expended.

"(i) The Secretary shall prescribe and publish regulations (including such requirements for date and documentation as he may find necessary) to implement the provisions of this section no later than six months after the date of its enactment.".

(b) Effective Date.—The amendment made by subsection (a) shall become effective on October 1, 1987.

SEC. 605. DEMONSTRATION PROJECTS FOR DEVELOPING INNOVATIVE EDUCATION AND TRAINING PROGRAMS FOR CHILDREN RECEIVING CHILD SUPPORT SUPPLEMENTS.

(a) In General.—Section 1115 of the Social Security Act (42 U.S.C. 1315) is amended by adding at the end thereof the following new subsection:

"(d)(1) In order to encourage States to develop innovative education and training programs for children receiving child support supplements under State plans approved under section 402(a), any State may establish and conduct one or more demonstration projects, targeted to such children, designed to test financial incentives and alternative approaches to reducing school dropouts, encouraging skill development, and avoiding welfare dependence.

"(2) The Secretary may make grants to States to assist in financing demonstration programs under this subsection.

"(3) Demonstration programs under this subsection shall meet such conditions and requirements as the Secretary shall prescribe, and each such program shall be conducted for at least one year but for no longer than 5 years.".

(b) Effective Date.—The amendment by subsection (a) shall become effective on October 1, 1987.

SEC. 606. DEMONSTRATION PROJECTS TO ADDRESS ACCESS PROBLEMS.

(a) In General.—Any State may establish and conduct one or more demonstration projects (in accordance with such terms, conditions, and requirements as the Secretary shall prescribe) to develop, improve, or expand activities designed to increase compliance with child access provisions of court orders.

(b) Activities Under Project.—Activities that may be funded by a grant under this section include (whether conducted through the executive, legislative, or judicial branches of the State) the development of systematic procedures for enforcing access provisions of court orders, the creation of special staffs to deal with and mediate disputes involving access privileges (both before and after a court order has been issued), and the dissemination of information to parents.

(c) Authorization of Appropriations.—There are authorized to be appropriated $5,000,000 for each of the fiscal years 1988 and 1989 for the purpose of making grants to States to assist in financing the project or projects established under this section.

(d) Report.—Not later than July, 1990, the Secretary of Health and Human Services shall submit to the Congress a report on the effectiveness of the demonstration projects established under this section in—

(1) decreasing the time required for the resolution of disputes related to child access,

(2) reducing litigation relating to access disputes, and

(3) improving compliance with court-ordered child support payments.

SEC. 607. DEMONSTRATION PROJECTS TO TEST INNOVATIVE METHODS FOR PROVIDING SUITABLE FOSTER CARE ENVIRONMENTS.

(a) In General.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into agreements with States submitting applications under this section for the purpose of conducting demonstration projects to test innovative methods for providing suitable foster care arrangements and other necessary social and medical services for infants abandoned by their parents or removed from their parents' custody and placed in the care of a hospital.

(b) Inapplicability of Requirement of Statewideness.—Notwithstanding any other provision of law, a demonstration project conducted under this section may be conducted in one or more political subdivisions of the State.

(c) Selection of States.—In evaluating applications from States desiring to conduct a demonstration project under this section, the Secretary shall select States that—

(1) demonstrate an acute need for assistance in providing adequate out-of-hospital foster care for infants described in subsection (a);

(2) submit a proposal that meets such requirements as the Secretary shall prescribe in regulations; and

(3) provide for an evaluation of the project's effectiveness as measured by such data as the Secretary shall require.

(d) Duration of Project.—A demonstration project under this section shall be conducted during the period beginning October 1, 1987, and ending September 30, 1990.

(e) Authorization of Appropriations.—There are authorized to be appropriated $4,000,000 for each of the fiscal years 1988, 1989, and 1990 for the purpose of making grants to States to conduct demonstration projects under this section.

SEC. 608. DEMONSTRATION PROJECTS TO EXPAND THE NUMBER OF CHILD CARE FACILITIES AND THE AVAILABILITY OF CHILD CARE, WITH EMPHASIS ON INCREASING CHILD CARE IN RURAL AREAS.

(a) In General.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into agreements with not less than 5 nor more than 10 States submitting applications under this section for the purpose of conducting demonstration projects in accordance with subsection (b) to increase opportunities for child care for those eligible for child support supplements under title IV of the Social Security Act.

(b) Manner of Conducting Project.—

(1) Each State conducting a demonstration project under this section shall contract with one or more nonprofit organizations to carry out such project. A nonprofit organization contracting with a State shall furnish technical and financial assistance to child care providers which meet applicable State or local standards to assist such providers in increasing the availability of child care in a community through such methods as the acquisition, expansion, or rehabilitation of child care facilities and (if the contract with the State provides) through the provision of transportation to assure access to such facilities.

(2) For purposes of paragraph (1), a nonprofit organization is any organization described in paragraph (3) or (4) of section 501(c) of the Internal Revenue Code of 1986.

(c) Content of Applications; Selection Criteria.—

(1) Each State submitting an application under this section shall, as part of such application, describe—

(A) the technical and financial assistance that will be made available under the project conducted under this section;

(B) the geographic area that will be primarily served by such project; and

(C) with respect to such area, the number of households receiving public assistance, the number of children eligible for child support supplements under title IV of the Social Security Act, and existing child care opportunities (including the number of available positions for children and the average monthly cost per child).

(2) In selecting States to conduct demonstration projects under this section, the Secretary shall give priority to States—

(A) that propose to conduct the project primarily in communities with a population of less than 50,000; and

(B) with the severest shortage of affordable child care for children eligible for child support supplements under title IV of the Social Security Act.

(d) Duration.—A demonstration project conducted under this section shall be commenced not later than September 30, 1988, and shall be conducted for a three-year period unless the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the agreement entered into with the State under subsection (a).

(e) Information and Report.—

(1) Each State with an agreement under this section shall furnish the Secretary with such information as the Secretary determines to be necessary to evaluate the results of the demonstration project conducted by the State.

(2) Not later than October 1, 1991, the Secretary shall submit a report to Congress that describes the results of the demonstration projects conducted under this section and contains such recommendations as the Secretary determines are appropriate.

(f) Authorization of Appropriations.—There are authorized to be appropriated $5,000,000 for each of the fiscal years 1989, 1990, and 1991 for the purpose of making grants to States to conduct demonstration projects under this section.

SEC. 609. DEMONSTRATION PROJECTS TO ENCOURAGE STATES TO EMPLOY CSS MOTHERS AS PAID DAY CARE PROVIDERS.

(a) In General.—Section 1115 of the Social Security Act, as amended by section 605 of this Act, is further amended by adding at the end thereof the following new subsection:

"(e)(1) In order to encourage States to employ or arrange for the employment of parents of dependent children receiving child support supplements under State plans approved under section 402(a) as providers of day care for other children receiving such supplements, up to five States may undertake and carry out demonstration projects designed to test whether such employment will effectively facilitate the conduct of the education, training, and work program under section 416 by making additional day care services available to meet the requirements of section 402(g)(1)(A) while affording significant numbers of families receiving such supplements a realistic opportunity to avoid welfare dependence.

"(2) The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this subsection, shall approve up to five applications involving projects which appear likely to contribute significantly to the achievement of the purpose of this subsection, and shall make grants to those States the applications of which are approved to assist them in carrying out such projects. Each project conducted under this subsection shall meet such conditions and requirements as the Secretary shall prescribe.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1987.

TITLE VII—PAYMENTS TO AMERICAN SAMOA, THE COMMONWEALTH OF PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

SEC. 701. INCLUSION OF AMERICAN SAMOA AS A STATE UNDER TITLE IV.

(a) IN GENERAL.—Section 1101(a)(1) of the Social Security Act (42 U.S.C. 1301(a)(1)) is amended by adding at the end thereof the following new sentence: "Such term when used in title IV also includes American Samoa.".

(b) LIMITATION ON PAYMENTS TO AMERICAN SAMOA.—Section 1108 of such Act (42 U.S.C. 1308) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) The total amount certified by the Secretary under parts A and E of title IV with respect to a fiscal year for payment to American Samoa shall not exceed $1,000,000.".

(c) CONFORMING CHANGES.—

(1) Section 403 of such Act (42 U.S.C. 603) is amended—

(A) in paragraphs (1) and (2) of subsection (a) by striking "and Guam," each place it appears and inserting in lieu thereof "Guam, and American Samoa,"; and

(B) in subsections (i)(4) and (j) by striking "or the Virgin Islands" each place it appears and inserting in lieu thereof "the Virgin Islands, or American Samoa".

(2) Section 421(b) of such Act (42 U.S.C. 621(b)) is amended by striking "and Guam" and inserting in lieu thereof "Guam, and American Samoa".

(3) The last sentence of section 1118 of such Act (42 U.S.C. 1318) is amended by adding before the period the following: "and shall, in the case of American Samoa, mean 75 percentum with respect to part A of title IV".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1987.

SEC. 702. INCREASE IN THE AMOUNT AVAILABLE FOR PAYMENT TO PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM.

(a) IN GENERAL.—Section 1108(a) of the Social Security Act (42 U.S.C. 1308(a)) is amended—

(1) in paragraph (1)—

(A) by striking "or" at the end of subparagraph (E); and

(B) by striking subparagraph (F) and inserting in lieu thereof the following:

"(F) $72,000,000 with respect to each of the fiscal years 1979 through 1987, or

"(G) $81,270,000 with respect to fiscal year 1988 and each fiscal year thereafter;";

(2) in paragraph (2)—

(A) by striking "or" at the end of subparagraph (E); and

(B) by striking subparagraph (F) and inserting in lieu thereof the following:

"(F) $2,400,000 with respect to each of the fiscal years 1979 through 1987, or

"(G) $2,709,000 with respect to fiscal year 1988 and each fiscal year thereafter;"; and

(3) in paragraph (3)—

(A) by striking "or" at the end of subparagraph (E); and

(B) by striking subparagraph (F) and inserting in lieu thereof the following:

"(F) $3,300,000 with respect to each of the fiscal years 1979 through 1987, or

"(G) $3,725,000 with respect to fiscal year 1988 and each fiscal year thereafter.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on October 1, 1987.

TITLE VIII—WAIVER AUTHORITY

SEC. 801. WAIVER AUTHORITY UNDER PART F OF TITLE IV.

(a) IN GENERAL.—Title IV of the Social Security Act is amended by adding at the end thereof the following new part:

"PART F—WAIVER AUTHORITY

"PURPOSE

"SEC. 491. The purpose of this part is—

"(1) to find and test new ways to use Federal and State funds to assist families and individuals in achieving financial independence through education, training, and work experience; and

"(2) to allow States maximum flexibility in using funds that now support low-income families and individuals in order to relieve poverty and its effects.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 492. There are authorized to be appropriated for fiscal year 1988 and each fiscal year thereafter such sums as may be necessary to carry out the provisions of this part.

"SUBMISSION OF APPLICATIONS

"SEC. 493. (a) In order to conduct a demonstration in accordance with the provisions of this part, a State shall submit an application for approval, consistent with the requirements of this part, to the Secretary.

"(b) The Secretary shall have continuing responsibility for the approval of each application submitted by a State under this part and for conducting evaluations (in accordance with the principles of experimental design) of each demonstration conducted under this part. In exercising his responsibility to approve applications under this part, the Secretary shall assure that not more than 10 demonstrations are conducted under this part at any one time.

"(c)(1) The Secretary, in exercising his responsibility with respect to the approval of each application submitted by a State under this part, shall consider the following general policy goals:

"(A) To insure that public assistance is an adequate supplement for other resources in meeting essential needs.

"(B) To focus public assistance resources on efforts to reduce future dependency on public assistance.

"(C) To insure that adequate support is provided for children.

"(D) To make work more rewarding than welfare.

"(E) To place greater emphasis on education, training, and work-related activities as an integral part of public assistance programs.

"(F) To encourage the formation and maintenance of economically self-reliant families.

"(G) To encourage public assistance recipients to assume greater responsibility for managing their resources.

"(H) To create opportunities for self-reliance through education and enterprise.

"(I) To promote the most efficient and effective operation of public assistance programs.

"(2) Demonstrations conducted under this part may address any of the general policy goals specified in paragraph (1), but the Secretary shall give special consideration to demonstrations designed—

"(A) to provide effective means for assisting the Nation's citizens to avoid poverty;

"(B) to improve methods of helping public assistance recipients achieve economic independence;

"(C) to improve methods of providing more adequate support for low-income children;

"(D) to provide coordination of employment and training programs currently supported by Federal or State funds, including programs under the Job Training Partnership Act, United States Employment Service programs, adult education programs, vocational education programs, and the various employment, training, and work programs established under title IV;

"(E) to provide transitional assistance (including health-care coverage and child care) to individuals who become ineligible for child support supplements under part A of title IV as a result (wholly or partly) of the collection or increased collection of child or spousal support under part D of such title, or, as a result of increased hours of, or increased income from, employment;

"(F) to increase the number of determinations of paternity and improve the collection of child support awards for individuals with respect to whom child support supplements are paid under the State's plan approved under part A of title IV;

"(G) to provide child care to the children of participants in work, training, or education programs; and

"(H) to increase efforts by nongovernmental organizations to help public assistance recipients achieve economic independence.

"(d)(1) An application to conduct a demonstration under this part may include (as a program to be included in the demonstration)—

"(A) the child support supplement program under part A of title IV;

"(B) the job opportunities and basic skills training program under part A of title IV;

"(C) child welfare services under part B of title IV;

"(D) the child support enforcement program under part D of title IV;

"(E) foster care and adoption assistance under part E of title IV;

"(F) emergency assistance to needy families under part A of title IV;

"(G) social services block grant under title XX; and

"(H) any non-Federal public program operated within the State which is designed to alleviate poverty.

"(2) An application under this part shall be submitted by the Governor or his designee to the Secretary and shall describe in detail the demonstration to be conducted with particular reference to—

"(A) the program or programs to be included in the demonstration;

"(B) the classes of individuals and families who will be eligible to participate;

"(C)(i) the principles for determining eligibility for and maximum total benefits under the programs included in the demonstration, including income and asset limits to be applied, the form or forms in which benefits are to be provided (such as cash, in kind, vouchers, insurance, or services), and the dollar value to be assigned to benefits to be provided in a form other than cash, and

"(ii) information sufficient to demonstrate that (I) except in accordance with paragraph (4)(C), benefit levels (including the value of in-kind benefits) with respect to any individual and family are not reduced as a result of participation in the demonstration below the level at which such benefits would be in the absence of such demonstration, or (II) if such benefits are reduced, the State makes payments to the individual or family in an amount sufficient to maintain benefits at such level; and

"(D) the way in which the demonstration is expected to improve (i) the opportunities and abilities of low-income individuals and families to achieve economic independence through employment, (ii) the functioning of low-income communities in support of the efforts of such individuals and families to attain independence, and (iii) the efficiency and effectiveness of the programs included in the demonstration.

"(3) The application shall specify the employment-related activities, such as job search, education, and work and training activities designed to improve directly employability, that will be required of individuals receiving assistance under the demonstration, and the circumstances in which such individuals will not be required to participate in such activities.

"(4) The application shall, with respect to any demonstration that includes a work, education, or training activity—

"(A) describe plans for providing child care for individuals required to participate in such activity;

"(B) contain assurances that—

"(i) no individual shall be required to participate in any such activity if such individual does not have child care,

"(ii) work assignments performed for benefits shall be assigned an hourly value of not less than the applicable Federal or State minimum wage,

"(iii) participants shall not be required to accept work assignments that pose health or safety hazards, require the participant to travel an unreasonable distance from home, or require the participant to spend the night away from home,

"(iv) work assignments shall not be used to displace current employees or result in the impairment of existing contracts for services or collective bargaining agreements,

"(v) appropriate worker's compensation shall be provided to all participants on the same basis as such compensation is provided to other employed individuals in the State, and

"(vi) participants shall be provided with an opportunity for a fair hearing in the event of a dispute involving an assignment to any such activity;

"(C) describe what (if any) sanctions will be employed if a participant fails, without good cause, to cooperate with work-related provisions in the demonstration and what provision shall be made to care for dependent children in the event such sanctions are imposed; and

"(D) describe the circumstances under which individuals will not be required to participate in any such activity.

"(5) The application shall also—

"(A) specify the geographic area or the political subdivisions within which the demonstration will be conducted and designate the agency responsible for the day-to-day conduct of the demonstration;

"(B) describe steps that will be taken to make the information required by paragraphs (2) and (3) readily available to the public in the geographic areas or political subdivisions affected;

"(C) specify the time period during which the demonstration will be conducted and the reasons that such period was selected;

"(D) specify the laws or parts thereof, and the regulations thereunder or parts thereof, applicable to any Federal or federally assisted program to be included in the demonstration, for which waiver is requested;

"(E) contain a budget setting forth the amounts and sources of funding for the demonstration (derived in accordance with section 494(a));

"(F) provide for the conduct of audits in accordance with the provisions of chapter 75 of title 31, United States Code; and

"(G) contain an agreement to submit an annual report and such interim data and reports as are considered necessary by the Secretary.

The agency designated in subparagraph (A) may conduct the demonstration directly, or may do so, in whole or in part, through grants to or contracts with public or private agencies, or individuals, but the Governor must in any case retain final responsibilities for compliance with all requirements imposed by or pursuant to this title, and with actions agreed to by the State in its approved application.

"(6)(A) The application shall describe the procedures for determining the initial and continuing eligibility of, and benefits for, individuals and families, and all administrative and fiscal procedures to be applied in the conduct of the demonstration. Such procedures must insure that all eligibility and benefit amount standards will be accurately applied and that funds under the demonstration will be expended consistent with principles of sound fiscal management. Such procedures shall provide the same safeguards to which individuals and families would be entitled in the absence of the demonstration.

"(B)(i) The procedures described under subparagraph (A) must provide that benefits from any cash or in-kind program that are excluded under Federal law from being regarded as income or resources with respect to determining eligibility under any other Federal, State, or local program shall continue to be so excluded under a demonstration conducted under this part.

"(ii) For purposes of determining the amount to be excluded under clause (i), the Secretary may allow States operating demonstrations under this part to specify average amounts (reflecting various categories of households) with respect to the value of any benefits to be paid under such demonstrations. Such amounts shall be readily accessible to any governmental agency that administers programs with respect to which clause (i) applies.

"FUNDING AND BUDGET

"SEC. 494. (a)(1) Subject to subsection (i), prior to approval by the Secretary of an application under this part, the head of each Federal department or agency with responsibility for a program to be included in the demonstration shall, with respect to each such program (or part of a program), estimate the amount of Federal funds that would, but for the demonstration, be provided to the State, or an entity within the State eligible to receive such funds, to operate such program (or part of a program) during each fiscal year that the demonstration is in effect and the amount of non-Federal funds that would be required in order that the State be eligible for such Federal funds. Each Federal department or agency head shall provide a statement of the principles and assumptions to be employed in making such estimates, including, in the case of any program with respect to which the department or agency head has discretion in the provision of funds, the recent experience of such State (or grantees or contractors within the State) with respect to fund awards under such program. The principles and assumptions shall be consistent with all Federal laws and regulations applicable to the program, and the funding of the program, as in effect at the time the estimates are made.

"(2) A State shall provide the Secretary with a statement of the principles and assumptions it employed in developing its funding levels and budget (as set forth in its application pursuant to section 493(d)(5)(e)).

"(b) The Secretary shall determine whether the funding determined by the Federal agency heads referred to in subsection (a)(1), and the budget and underlying principles and assumptions described in subsection (a)(2) as submitted by the State, are consistent and are adequate to carry out the demonstration.

"(c) If, during any fiscal year that the demonstration is in operation, the Federal laws or regulations under which such funding is authorized or provided are amended, or new Federal law applicable to any such program is enacted (or new regulations adopted), the Secretary shall adjust the amounts reflected in the budget set forth in the application under this part in accordance with applicable Federal law and regulations and the principles and assumptions referred to in subsection (a). In any event such budget shall be reviewed and revised, in accordance with such principles and assumptions and all currently applicable Federal law and regulations, not less frequently than annually.

"(d) The amount determined pursuant to subsection (b), or the adjusted amount adopted pursuant to subsection (c), shall be the amount of Federal funds available for carrying out the demonstration in any fiscal year.

"(e) The Secretary shall establish a schedule pursuant to which payments will be made by each agency responsible for the administration of a program included in the demonstration from the funds appropriated to carry out such program.

"(f) Notwithstanding the preceding provisions of this section, if it is determined at any time that the State received, prior to the commencement of the demonstration, an amount of Federal funds under any program included in the demonstration in excess of the amount to which it was entitled, or which it should have received, by reason of the application of any provision regarding erroneous expenditures under the program or because of overpayment by the Federal government to the State for any other reason, the amount which the State would otherwise receive to carry out the demonstration shall be reduced (subject to any moratorium in effect with respect to adjustments for such expenditures or overpayment) to the same extent and in accordance with the same procedures (including any administrative or judicial appeals) as would have been applied had the State continued to operate, apart from the demonstration, the program in which the overpayment is determined to have been made.

"(g)(1) The Secretary shall establish a single non-Federal share requirement for each year. Under such requirement, the percentage of non-Federal funds expended under the demonstration shall be no less than the percentage of non-Federal funds that would have been expended in the absence of the demonstration under the programs (or parts of programs) included in the demonstration.

"(2) The Secretary shall establish a single set of technical grant or contract requirements applicable to the conduct of the demonstration.

"(h) Notwithstanding any other provision of law, to the extent that the amount of Federal funds necessary to carry out the demonstration, either for assistance to individuals or families or for the costs of administration, is less than the amount contained in the budget set forth in the application under this part by reason of the effectiveness of the demonstration in achieving the objectives of this title, no adjustment shall be made in amounts payable to the State for such demonstration, and the State may treat such Federal funds as reimbursement for expenditures properly made by the State under the programs concerned, to the extent that such funds are used by the State to improve the demonstration or otherwise benefit individuals and families included in the demonstration.

"(i)(1) Notwithstanding any other provision of this section, with respect to any program included in the application for which benefits are provided on an entitlement basis, a State may propose in its application that expenditures under such program (including the Federal and non-Federal shares of such expenditures) be continued as an entitlement in accordance with such terms and conditions as the State proposes in the application. In the event a State makes such proposal, the head of each Federal department or agency with responsibility for the program with respect to which the proposal is made shall estimate the amount of funds that would be expended under the proposed demonstration and the difference between such amount and the amount of funds that would, but for the demonstration, be expended. Such department or agency head shall report the results of such estimate to the Secretary along with a statement of the principles and assumptions it employed in making such estimate, including, in the case of any program with respect to which the department or agency head has discretion in the provision of funds, the recent experience of such State (or grantees or contractors within the State) with respect to fund awards under such program. The principles and assumptions shall be consistent with all Federal laws and regulations applicable to the program, and the funding of the program, as in effect at the time the estimates are made.

"(2) The Secretary shall reject any proposal made under paragraph (1) that, as estimated under such paragraph, would result in a large decrease or increase in the amount of Federal funds expended for the program with respect to which the proposal is made. If the Secretary approves the proposal, such program shall not be treated as part of the application for purposes of subsection (a) and the amount of Federal funds available for carrying out such program shall be the amount determined in accordance with this subsection.

"APPROVAL OF APPLICATION

"SEC. 495. (a)(1) The Secretary shall only approve an application under this part if—

"(A) the rights of individuals and families under title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1973, title IX of the Education Amendments of 1972, title VIII of the Civil Rights Act of 1968, and all other applicable law prohibiting discrimination are protected; and

"(B) all requirements of this part, including the budget, are met.

"(2) The Secretary shall not approve an application under this part if approving such application would result in more than 10 demonstrations being conducted under this part at any one time.

"(b)(1) The Secretary shall notify a State of his decision whether to approve an application submitted under this part not later than four months after the date such application is submitted.

"(2)(A) If an application is approved under this part, the Secretary shall promptly notify the Governor of the provisions of law and regulation that are waived for the period of the demonstration, the amount of federal funding that will be available for all programs included in the application, and the schedule of payments.

"(B) If the Secretary decides not to approve an application under this part, the Secretary shall promptly notify the Governor of the basis for such decision.

"(c) In the case of an application that meets the requirements of this part, the Secretary may, at the request of the State, waive any provision of law or regulation applicable to a demonstration included in an application under this part to the extent the Secretary determines that such waiver is appropriate.

"EXCLUSIVITY OF ELIGIBILITY UNDER DEMONSTRATION

"SEC. 496. (a) Notwithstanding any other provision of law, once an application has been approved by the Secretary, if an individual or family is within a class eligible to participate in a demonstration under such application, then such individual or family shall only be eligible for benefits (whether provided in cash, in kind, in the form of services, or in any other form or manner) under a program included in the demonstration under the terms and as part of the demonstration (including individuals or families who are ineligible for benefits under the demonstration solely by reason of their income or assets of their failure to comply with a condition of eligibility for benefits under the demonstration).

"(b) An individual or family participating in a demonstration under this part shall be eligible for any program that is not included in the demonstration if such individual or family would be eligible for the program in the absence of the demonstration.

"REPORTS TO THE CONGRESS; CHANGES IN DEMONSTRATION.

"SEC. 497. (a)(1) Not later than one year after the date on which a demonstration is terminated in accordance with section 498, the Secretary shall submit to Congress a final report regarding the evaluations conducted under this part.

"(2) The Secretary shall submit an annual progress report to Congress describing the demonstrations being conducted during a year and their effectiveness in achieving the objectives of this title. Such report shall be based on the interim reports submitted by States pursuant to section 493(d)(5)(G).

"(b)(1) If a State determines that an amendment to the demonstration, as described in its application as originally submitted, would improve the likelihood of its accomplishing the objectives of this title, the State may submit such amendment to the Secretary.

"(2) The Secretary shall approve the amendment submitted under paragraph (1) if—

"(A) the amendment meets all the requirements for submission under this part that applied to the application as originally submitted to and approved by the Secretary, and

"(B) the cash, in-kind benefits, and services to which individuals are entitled under the demonstration are not substantially altered.

"(3) The Secretary shall notify the Governor of the effective date of the amendment, the increased Federal and non-Federal funding (if any) that will be made available, and any other matters necessary to implement the amendment without adversely affecting the conduct of the demonstration.

"TERMINATION OF PROJECTS

"SEC. 498. (a) Except as provided in subsection (b), a demonstration under this part shall be conducted for a period of not more than five years.

"(b)(1)(A) If the Governor of a State conducting a demonstration under this part determines that the demonstration is not (or is not likely to be) effective and that the interests of the Federal government, the State, or the participating individuals and families would be better served by returning to the separate conduct of the demonstrations included in the application, the Governor may terminate the demonstration in accordance with subparagraph (B).

"(B) The Governor shall notify the Secretary of his decision to terminate the demonstration under subparagraph (A) not later than three months before the date of termination (or not later than such other date as the Governor and Secretary may select).

"(2) If the Secretary determines that a demonstration is not meeting any condition of approval described in section 495, the Secretary may terminate the demonstration in accordance with the schedule of termination described in paragraph (1)(B).".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on October 1, 1987.

TITLE IX—TECHNICAL AND CONFORMING AMENDMENTS RELATING TO REPLACEMENT OF AFDC PROGRAM BY CHILD SUPPORT SUPPLEMENT PROGRAM

SEC. 901. AMENDMENT TO HEADING OF TITLE IV.

The heading of title IV of the Social Security Act is amended by striking "AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN" and inserting in lieu thereof "AID AND SERVICES UNDER THE CHILD SUPPORT SUPPLEMENT PROGRAM".

SEC. 902. AMENDMENTS TO PART A OF TITLE IV.

Part A of title IV of the Social Security Act is amended—

(1) by striking "AID TO FAMILIES WITH DEPENDENT CHILDREN" and inserting in lieu thereof "CHILD SUPPORT SUPPLEMENT PROGRAM";

(2) in section 401, by striking "State plans for aid and services to needy families with children" and inserting in lieu thereof "State child support supplement plans";

(3) in section 402, by striking "STATE PLANS FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN" and inserting in lieu thereof "STATE CHILD SUPPORT SUPPLEMENT PLANS";

(4) in section 406(b), by striking "aid to families with dependent children" the first place it appears and inserting in lieu thereof "child support supplements";

(5) in paragraphs (4), (7), (10), (11), (14), (17), and (21), of section 402(a), subsections (a), (b) (the second place it appears), and (f) of section 403, section 405, and subsections (b), (f), and (g) of section 406, by striking "aid to families with dependent children" wherever it appears and inserting in lieu thereof "aid in the form of child support supplements"; and

(6) in section 402(a) (in the matter preceding paragraph (1)), paragraph (30) of section 402(a), section 403(a) (in the matter preceding paragraph (1)), section 404(a), section 410(a), and section 412, by striking "plan for aid and services to needy families with children" wherever it appears and inserting in lieu thereof "child support supplement plan".

SEC. 903. AMENDMENTS TO OTHER PROVISIONS OF THE SOCIAL SECURITY ACT.

The Social Security Act is amended—

(1) in sections 452(a)(10), 454(4), 457(d)(3), 472(h), 473(b), and 1115(b) by striking "aid to families with dependent children" wherever it appears and inserting in lieu thereof "aid in the form of child support supplements";

(2) in section 454(16), by striking "aid to families with dependent children program" and inserting in lieu thereof "child support supplement program"; and

(3) in subsections (b) and (c) of section 458, by striking "AFDC" and "non-AFDC" wherever those terms appear and inserting in lieu thereof "CSS" and "non-CSS", respectively.

SEC. 904. GENERAL CONFORMING AMENDMENT.

Any reference to aid to families with dependent children in any provision of law other than those specified in the preceding provisions of this section shall be deemed to be a reference to child support supplements, or to aid in the form of child support supplements, consistent with the amendments made by the preceding provisions of this Act.

TITLE X—REORGANIZATION AND REDESIGNATION OF TITLE IV; GENERAL CONFORMING AMENDMENT RELATING TO SUCH REORGANIZATION AND REDESIGNATION

SEC. 1001. TABLE OF CONTENTS IN TITLE IV.

Title IV of the Social Security Act is amended by inserting after the heading of such title and before the heading of Part A of the title the following table of contents:

"TABLE OF CONTENTS OF TITLE

"PART A—CHILD SUPPORT ENFORCEMENT

"Sec. 401. Appropriation.
"Sec. 402. Duties of the Secretary.
"Sec. 403. Parent Locator Service.
"Sec. 404. State plan for child and spousal support.
"Sec. 405. Payments to States.
"Sec. 406. Support Obligations.
"Sec. 407. Distribution of proceeds.
"Sec. 408. Incentive payments to States.
"Sec. 409. Consent by the United States to garnishment and similar proceedings for enforcement of child support and alimony obligations.
"Sec. 410. Civil actions to enforce support obligations.
"Sec. 411. Regulations pertaining to garnishments.
"Sec. 412. Definitions.
"Sec. 413. Use of Federal Parent Locator Service in connection with the enforcement or determination of child custody and in cases of parental kidnapping of a child.
"Sec. 414. Collection of past-due support from Federal tax funds.
"Sec. 415. Allotments from pay for child and spousal support owed by members of the uniformed services on active duty.
"Sec. 416. Requirement of statutorily prescribed procedures to improve effectiveness of child support enforcement.
"Sec. 417. State guidelines for child support awards.

"PART B—JOB OPPORTUNITIES AND BASIC SKILLS PROGRAM

"Sec. 421. Job opportunities and basic skills program.

"PART C—CHILD SUPPORT SUPPLEMENT PROGRAM

"Sec. 431. Appropriation.
"Sec. 432. State child support supplement plans.
"Sec. 433. Payment to States.
"Sec. 434. Operation of State plans.
"Sec. 435. Use of payments for benefit of child.
"Sec. 436. Definitions.
"Sec. 437. Food stamp distribution.
"Sec. 438. Prorating shelter allowance of CSS family living with another household.
"Sec. 439. Technical assistance for developing management information systems.
"Sec. 440. Attribution of sponsor's income and resources to alien.
"Sec. 441. Limitations on child care and medical assistance for families after loss of CSS eligibility.
"Sec. 442. Demonstration program of grants to provide permanent housing for families that would otherwise require emergency assistance.

"PART D—CHILD WELFARE SERVICES

"Sec. 450. Appropriation.
"Sec. 451. Allotments to States.
"Sec. 452. State plans for child welfare services.
"Sec. 453. Payment to States.
"Sec. 454. Reallotment.
"Sec. 455. Definitions.
"Sec. 456. Research, training, or demonstration projects.
"Sec. 457. Foster care protection required for additional Federal payments.
"Sec. 458. Payments to Indian tribal organizations.

"PART E—FOSTER CARE AND ADOPTION ASSISTANCE

"Sec. 470. Purpose: appropriation.
"Sec. 471. State plan for foster care and adoption assistance.
"Sec. 472. Foster care maintenance payments program.
"Sec. 473. Adoption assistance program.
"Sec. 474. Payments to States; allotments to States.
"Sec. 475. Definitions.
"Sec. 476. Technical assistance; data collection and evaluation.
"Sec. 477. Independent living initiatives.
"Sec. 478. Exclusion from CSS unit of child for whom foster maintenance payments are made.
"Sec. 479. Collection of data relating to adoption and foster care.

"PART F—WAIVER AUTHORITY

"Sec. 491. Purpose.
"Sec. 492. Authorization of appropriations.
"Sec. 493. Submission of applications.
"Sec. 494. Funding and budget.
"Sec. 495. Approval of application.
"Sec. 496. Exclusivity of eligibility under demonstration.
"Sec. 497. Reports to the Congress; changes in demonstration.
"Sec. 498. Termination of projects.

SEC. 1002. REORGANIZATION OF PARTS.

(1) The heading of part A of title IV of the Social Security Act is amended to read as follows:

"PART A—CHILD SUPPORT ENFORCEMENT".

(2) The heading of part B of such title is amended to read as follows:

"PART B—JOB OPPORTUNITIES AND BASIC SKILLS PROGRAM".

(3) The heading of part C of such title is amended to read as follows:

"PART C—CHILD SUPPORT SUPPLEMENT PROGRAM".

(4) The heading of part D of such title is amended to read as follows:

"PART D—CHILD WELFARE SERVICES".

(5) The heading of part E of such title is amended to read as follows:

"PART E—FOSTER CARE AND ADOPTION ASSISTANCE".

SEC. 1003. REDESIGNATION OF SECTIONS.

(1) Sections 451 through 467 of title IV of the Social Security Act are redesignated as sections 401 through 417 respectively and are transferred and inserted in part A of such Act.

(2) Section 416 of such Act, as added by section 201(b) of this Act, is redesignated as section 421 and is transferred and inserted in part B of the Act.

(3)(A) Sections 401 through 406, 410, 412, 413, and 415 of such Act are redesignated as sections 431 through 440 respectively and are transferred and inserted in part C of the Act.

(B) Section 417 of such Act, as added by section 301(b) of this Act, is redesignated as section 441 and is transferred and inserted in part C of the Act.

(C) Section 418 of such Act, as added by section 604(a) of this Act, is redesignated as section 442 and is transferred and inserted in part C of the Act.

(4) Sections 420 through 428 of such Act are redesignated as sections 450 through 458 respectively and are transferred and inserted in part D of the Act.

SEC. 1004. GENERAL CONFORMING AMENDMENT.

Any reference in title IV of the Social Security Act (as amended by this Act) or any other provision of law to any provision of such title shall be deemed to be a reference to such title as redesignated and reorganized by sections 1001, 1002, and 1003 of this Act.

Mr. BRADLEY. Mr. President, I am pleased to join my colleague from New York, Senator MOYNIHAN, in introducing the Family Security Act of 1987. This bill is aimed at helping welfare recipients achieve self-sufficiency.

Currently, we provide the poor with cash benefits and health care but we do little to help welfare recipients climb out of poverty. This bill enables

States to provide more of a focus on job training and child care to help the AFDC recipient climb out of poverty.

The overwhelming majority of Americans believe that the poor who are able to work should do so rather than simply receiving a handout. I agree. But we must also provide the training, the access to child care and health care, and the access to jobs that make work a reality as well as a requirement. Americans want to be self-reliant, independent individuals, and I believe that it is our responsibility to give everyone an opportunity to achieve these goals.

Under this bill, States would provide education, training, child care, and jobs for welfare recipients, thus trading in years of future welfare costs for an investment now in training. In the process people get back their self-respect and control of their own lives. The bill consolidates existing work-related programs, reducing the fragmentation of services that are so frustrating to recipients and providers alike; this builds upon the success of several effective and innovative work training programs already in operation in many States. Since local conditions vary, States will determine how programs are to be administered to fit local conditions. This bill is designed to encourage flexibility, and as such, will help my own State of New Jersey in its efforts to help welfare recipients through the New Jersey REACH Program.

Still, Mr. President, we should have no illusions. This bill will not eliminate poverty; nor will it eliminate welfare. I am particularly concerned that we need better ways to ensure that States will, in fact, provide sufficient child care, basic education, and training for welfare recipients. In addition, I am concerned that the bill does not allow States, at their option, to pay for the full Medicaid premiums of AFDC recipients who are working their way off of welfare. I hope, as this bill moves through the legislative process, that we will find a way to allay both of these concerns.

Mr. President, I am particularly pleased that this bill incorporates several proposals I have made to improve the Child Support Enforcement Program. The terrible record of enforcement in this area has been a national shame and correcting this problem has been a longstanding concern of mine.

In 1984, Congress enacted major legislative changes to significantly improve the collection of child support. I was pleased to sponsor those changes in an attempt to break the shocking spiral of poverty for women and children who were not receiving the support payments to which they were legally entitled. The 1984 Child Support Amendments mandated several steps, including wage withholding if a parent is one month in arrears and the establishment of Federal and State income tax refund offsets to collect overdue child support. In addition, last year Congress adopted a bill I introduced that prohibited the courts from wiping out child support arrearages.

The changes we enacted in the Child Support Enforcement Amendments of 1984 and 1986 have yielded significant results. Since 1978, total child support collections have tripled and twice as many children have their fathers legally established and their child support obligations entered into. That is good news.

But there is still a lot of room for improvement. Despite improved child support efforts, most noncustodial parents fall far behind in their obligations to their children. The statistics, Mr. President, are still shocking.

Currently, only 7 percent of AFDC payments are ever recovered by child support.

The average amount of child support actually received by families—less than $200 a month—is very low and has not increased in real terms.

Only one-third of children born out of wedlock have paternities established.

Currently, almost 15 million children under the age of 18 live in a household where only one parent is present—almost double the 1970 level—and half of those live below the poverty level.

And currently, of the 9 million single parent mothers, over 40 percent receive no child support awards; of the mothers who are legally entitled to child support, 24 percent never get the money and 26 percent consistently received less than the amount awarded by the court. Despite improved collections, the overall record is still abysmal.

Mr. President, my home State of New Jersey has been a leader in child support enforcement. The State's efforts to standardize awards through guidelines and to review child support cases have improved the financial status of thousands of children. Yet even in New Jersey, only about 11 percent of welfare payments are recouped through child support payments from noncustodial parents. And there are thousands of New Jersey families not on welfare who do not receive the support to which they are entitled. There is clearly room for improvement, even among the States with the best performance.

Mr. President, during Senate consideration of the 1984 child support amendments, I indicated that the 1984 legislative changes might not be enough to correct the abuse and neglect in the system. I warned that further steps would probably be necessary to improve the system. That time has come. In April, I introduced the Child Support Improvement Act of 1987. The six key provisions of my bill have been incorporated into Senator MOYNIHAN's legislation:

One, immediate wage withholding of new child support awards unless good cause can be shown for an alternative arrangement;

Two, standardized child support awards through the development and use of uniform guidelines;

Three, automatic review of the size of the child support awards to determine if increases or decreases are warranted;

Four, expanded paternity enforcement activities to identify fathers;

Five, expanded efforts to find noncustodial parents who fail to live up to their obligations; and

Six, the establishment of a commission to propose improvements in interstate child support cases.

Mr. President, the Federal Government clearly has a major role in helping families escape poverty, but Federal help must supplement the primary responsibilities of families to help themselves. Parents have a responsibility to care for their children, and sadly, too often, noncustodial parents do not fulfill their responsibility. We, as a nation, have a moral obligation to provide assistance to poor families and their children—but only after parents shoulder their own responsibilities. I am pleased that the bill being introduced today recognizes that improvements should be part and parcel—indeed central—to any welfare reform initiative enacted by the Congress.

Mr. President, we must ask what we, as individuals and as a nation, owe to another human being. At the very least, we owe our fellow citizens the opportunity to become the best that they can be by providing them with the tools to participate fully as functioning members of our society. I know that the Family Security Act of 1987 is no panacea. Even when it is enacted, many poor individuals and families will still cling to a "safety net"—a net they too often fall through. But I believe this legislation will help enable some of America's "have-nots" to become "haves," and will, I hope, put a lasting crack in the endless cycle of poverty.

Mr. MITCHELL. Mr. President, I am pleased to join my distinguished colleague from New York in introducing the Family Security Act of 1987.

PAT MOYNIHAN has spent the last three decades studying and working with welfare reform in a number of capacities. There is no one currently in the Congress who has been more involved with examining the welfare system than the Senator from New York.

The bill we are introducing today is a carefully balanced effort that will address the problems with our current welfare system in an effective manner while incurring only modest expenses.

Since 1935, when President Roosevelt succeeded in obtaining congressional approval of the Aid to Dependent Children Program, renamed to Aid to Families with Dependent Children, AFDC, in 1962, the Nation has debated the issue of how best to aid families below the poverty level.

Every President since Dwight Eisenhower has made welfare reform a major domestic priority. But eliminating poverty in the United States has proved an elusive goal and welfare caseloads and costs have risen steadily.

Changes enacted during the last 50 years have represented a piecemeal approach at best. Legislation approved in 1956, 1961, 1962, 1967, 1974, 1981, 1982, and 1984 all have one concept in common: the desire to reduce poverty, but not necessarily the resources for which to accomplish that objective.

Despite increases in Federal expenditures to fight poverty since the 1960's, 33 million Americans, roughly the same number as in 1965, are still poor. The percentage of Americans who are poor is somewhat smaller, due to population growth, but most of the gains took place in the 1960's and 1970's. In fact, this decade has the highest average for any consecutive 6 year period since 1960 with an average 33 million Americans beneath the poverty threshold each year.

Often it is asked, how is it that despite substantial public expenditures, we still have so many poor? In a February 1986 Saturday Radio Address, President Reagan commented that "in 1964 the famous war on poverty was declared and a funny thing happened. Poverty as measured by dependency, stopped shrinking and then actually began to grow. I guess you could say that poverty won the war."

Actually, this is far from true. When all programs transferring income from one group to another are taken into account, there has been a substantial difference for one major group of poor—the elderly. The poverty rate for those over 65 dropped from 25 percent in 1970 to 12.6 percent in 1985. Why? Because Congress has taken a stance to ensure that the elderly receive a decent income. In the 1970's Congress increased Social Security benefits by 20 percent and then indexed those benefits to inflation. Medicare legislation enacted in 1966 and Supplemental Security Income benefits established in 1974 have combined to substantially reduce the percentage of our Nation's elderly living in poverty.

However, the vast majority of the poor have not done as well. The number of families living in poverty has substantially increased since the 1970's. In fact, between 1970 and 1985, the number of families living below the poverty line increased by 27 percent. The Census Bureau has estimated that some 7.2 million families lived below the poverty level in 1985.

Today, children are more likely than any other group to be living in poverty. The poverty rate for children has escalated from 14.9 percent in 1970 to over 20 percent in 1985. While children comprise about 26 percent of the U.S. population, as a group they comprise 40 percent of the poverty population. Today, one out of every five children lives in poverty.

The situation is worse for children living with single parents. In 1985, 53.6 percent of the children living with single mothers lived in poverty.

Some blame poverty on failings of the economy or the educational system. Others blame poverty on deficient values or lack of effort. These disagreements have fueled arguments about what the Government should and should not do to reduce poverty, what the relative roles of Federal and State governments should be in implementing antipoverty policy, and what should be expected of welfare recipients.

Welfare reform is not a new objective. It has frustrated both Congress and the White House for decades. The players are different now, but the issue remains the same. What's wrong is not that we have too many benefits or not enough variation among States, but that we've failed to offer a genuine way to become self-supporting.

Statistics on family life strongly back the idea it is time for action. In 1960, 7.4 percent of families with children under 18 were headed by women without a husband present; now the figure is 19 percent overall and 49 percent for black families. On average, 10.8 million people depend monthly on Aid to Families with Dependent Children [AFDC]—the Nation's largest cash welfare program for families with children.

Since the majority of Americans never receive welfare benefits, it is easy for misconceptions about welfare to thrive. I have heard many stories, which undoubtedly people believe are true, but are nonetheless false. I have heard that people on welfare get increases in benefits in step with inflation when working people are lucky if they get any increase at all. This is false. AFDC benefits are not indexed to inflation, and in fact in this decade alone have declined over 30 percent in value. In constant 1984 dollars, the average four person family received $376 in 1984 compared to $591 in 1970.

I have heard that mostly minorities are poor and it's an inner city problem. This is false. In 1985, 23 million Americans who were white lived below the poverty level, compared to 8.9 million blacks and 4.8 million persons of Spanish origin. Minorities living in the poorest neighborhoods—those with a poverty rate of 40 percent or more—in the top 100 central cities constitute only 7 percent of the poor.

Most Americans assume that welfare benefits are at least generous enough to rescue from poverty people who are too young, too old, or too sick to work. This is false. Few States have ever provided benefits generous enough to remove families from poverty, even when the value of food stamps and subsidized housing are taken into consideration.

So who are the poor and who receives AFDC? Again, there are 33 million Americans living below the poverty line which, for a family of three is $8,738 per year. Aside from Suffolk County, NY and Alaska, even when the maximum AFDC grant is combined with the maximum food stamp allotment, no State lifts any family above the poverty line. In 1985, about 11 million people, or 3.7 million families, received AFDC. About 10 million recipients lived in families where there was only one parent—usually a woman. The rest, about 1 million people, lived in families receiving AFDC-UP—AFDC for families where the principal wage earner is unemployed. Essentially this means that about 22 million individuals living below the poverty line earned too much to receive welfare.

We have learned much about the dynamics and characteristics of AFDC recipients from a study conducted by David Ellwood, associate professor of public policy at Harvard University's John F. Kennedy School of Government, and Mary Joe Bane, executive deputy commissioner of the New York State Department of Social Services.

That study found that about 70 percent of those who receive AFDC do so for less than 3 years. These people are in transition.

About 25 or 30 percent of those who receive AFDC do so for a decade or more. These long term users account for almost 60 percent of AFDC recipients at any one time. They use a larger proportion of the total resources and are the most difficult to help. These individuals have some of the following characteristics: They have never been married when they begin receiving AFDC; they have dropped out of high school; they have no recent work experience; and they begin receiving AFDC when they are very young or their youngest child is less than 3 years of age.

The Ellwood and Bane study is significant because it identifies two very different groups of AFDC recipients and two entirely different sets of needs to aid them in attaining self-sufficiency. In the past, it is fair to say that Congress has done very little to address the long-term dependent group.

Since I have been in the Senate, I have heard many criticisms of the

WIN Program, the Work Incentive Program designed to help AFDC recipients with education—either reading, math or skills; job training; job search; or work experience. My own State of Maine has a WIN demonstration program called WEET—the Welfare Employment, Education, and Training Program, that has been highly effective for the participants it serves. Unfortunately, that is one of the biggest problems with the WIN Program—the relatively small number of people that it serves compared to the large number of AFDC recipients. WIN and IV-A programs like CWEP—the community work experience program—a job search and work supplementation or grant diversion programs served 714,000 participants or about a fifth of the eligible adult AFDC population in 1985.

To a large extent this is a result of the fact that, under current law, over 50 percent of adult AFDC recipients are exempt from work requirements or education and job training requirement because they have children under 6 years old. But of the remaining population, program funding has been a large problem. Beginning in fiscal year 1983, the administration has recommended termination of the WIN Program each year. While Congress has rejected that request, the funds for WIN have been reduced each year. WIN funding has been reduced from $365 million in 1980 to about $140 million this year.

In response to the decline in family status and the marginal effects that WIN and other programs have had in removing large numbers of AFDC recipients from the welfare rolls, the welfare reform debate has been renewed. The President called for welfare reform in his 1986 State of the Union Address. The National Governors Association, the American Public Welfare Assocation, and others—both Democrats and Republicans—have now put forth welfare reform legislation.

For the first time, we are seeing Democrats advocating work requirements for welfare recipients, and Republicans are starting to endorse Federal funds for child care and transportation allowances. With the wealth of information available from recent studies and the bipartisan support apparent for welfare reform, this Congress may actually achieve true reform.

The legislation we are introducing today, the Family Security Act, replaces the AFDC Program with new provisions for child support. The JOBS component of the act wholly replaces the WIN Program and is based on proposals made by the National Governors Association. Transitional services in both Medicaid and child care are drafted to aid more families in attaining self-sufficiency in an effort to avoid the current system that penalizes welfare recipients who obtain employment. And, finally, the measure will stop the current practice of discrimination against two-parent families where the principal wage earner is unemployed.

Absent parents required to pay court-ordered child support will have their child support payments automatically withheld from their paychecks by employers. If both parents can agree to an alternative arrangement regarding child support payments, the requirement for automatic withholding can be waived.

This is an important provision because only a third of all female family heads of households with children report receiving any child support payments at all. Among poor female heads of households, the figure is about 20 percent. The Family Security Act emphasizes that parents should help in supporting their children, prior to calculating welfare benefits.

In order to help States, the Federal Government will pay 90 percent of the costs of laboratory tests performed to establish paternity.

The Child Support Supplement [CSS] Program wholly replaces the AFDC Program. The current law definition of "dependent child" is amended to include a child who is poor because of the unemployment of the principal wage earner in the family.

The Job Opportunities and Basic Skills [JOBS] Program replaces WIN. The JOBS Program will be created and operated by States to provide eligible recipients with education, training, job search, and employment that will help avoid the long-term dependence on public assistance programs.

States are required to maintain their spending for education, training, and employment activities at no less than what the State paid for these activities in fiscal year 1986. Applicants and recipients not required to participate shall be permitted on a voluntary basis. And, a State may require or allow absent fathers who are unemployed and unable to meet their child support obligations to participate in the JOBS Program.

The requirement to participate in JOBS is waived when the individual's youngest child is under 3 years of age (except a State may lower the age to 1); when child care is needed and not provided; when the recipient is ill, in the third trimester of pregnancy; or when the recipient works more than 30 hours per week.

Regardless of the age of the youngest child, a custodial parent who is age 21 or younger and who has not completed high school, and who is not otherwise exempt, shall be required to participate in high school or remedial literacy training. If needed, child care must be provided.

While States are given great flexibility in structuring their JOBS Programs, they are required to direct 60 percent of JOBS funds to priority recipients. These are defined as individuals who have received welfare payments for more than 2½ years; recidivists—individuals who have received welfare for any 30 months of the previous 60 months; recipients age 21 or under who lack a high school diploma; and at least one parent of a two-parent eligible family.

Generally, a single parent will not be required to participate in the JOBS Program if her youngest child is under 3 (or at State option age 1). However, very young parents who have dropped out of school will be required to return to school, regardless of the age of the child or the length of time spent on welfare.

These changes in the JOBS Program will address the potential group that represents those most likely to become long-term dependents as identified in the Ellwood and Bane study. In the past, many of these individuals have been exempt from program participation.

To provide encouragement for those who are attempting to move off of public assistance, transitional child care and Medicaid eligibility are extended for up to 9 months to families that lose CSS eligibility.

Based on their ability to pay, families will contribute to the cost of the transitional child and health care.

While the Family Security Act does not require States to adjust their payment standards, the act does require States to reevaluate their need and payment standards at least once every 5 years.

In addition, the act includes a section requested originally by the administration that allows States to apply for broad waiver authority to experiment with more effective and efficient methods of delivering benefits and services. The Family Security Act allows for up to 10 waiver projects for operation at any one time. Recipients who are included in State waiver programs may not have their benefits reduced.

In the past, parents were required to engage in job search programs, educational programs, or job training programs when their children turned 6 years of age. However, the vast majority of welfare recipients remained exempt from program participation.

Two central factors are responsible for the exemption. The first is the availability of child care. As more and more women enter the workforce, the demand for child care far exceeds the supply. The second issue is the affordability of child care. When the cost of child care per month exceeds the average family's rent payment, child care is simply not affordable for low income families.

And, when the cost of child care increases as the age of the child declines, common sense will tell you that a single parent with a very young child will receive welfare for years before obtaining the skills or education necessary to become self-sufficient.

In view of the increasing number of children living in poverty, and the largest exemption holding parents back from gaining employment and securing a better life for their families, I have written a pilot program into the Family Security Act to increase the availability of child care for welfare recipients. As the welfare reform debate continues in the Senate, I will look for ways to make the available child care affordable.

The pilot program I have designed establishes a $5 million fund within the Department of Health and Human Services [HHS] to be used for the acquisition, expansion, or rehabilitation of child care facilities, with emphasis on providing child care in areas with less than 50,000 people. Under the pilot program, the Secretary of HHS will choose between 5 and 10 States that will contract with nonprofit organizations to increase the availability of child care.

Earlier this month, the Marine Office of Child Care Coordination estimated that the title XX Social Services Block Grant Program, the largest direct source of Federal support for child care, reaches less than 5 percent of the eligible low-income population in Maine.

In 1986, nearly 19,000 Maine families, including 43,000 children, received AFDC benefits. Under current law, nearly half of those children live in families that are eligible for job training or education. Yet only 2,400 families, or 12.5 percent, were engaged in the State's Welfare Employment, Education, and Training [WEET] Program.

For Maine, the Family Security Act will mean that parents of 75 percent of the children receiving AFDC will be required to seek skill training or education if they can secure adequate child care.

I firmly believe that an increased supply of child care targeted to AFDC recipients will have two important effects: It will provide children with the foundation needed to do well in school and become productive adults, and it will provide parents with the flexibility to take advantage of job training programs or education programs.

Congress has debated welfare reform for half a century. Most of the rhetoric has involved job training, workfare, education, or job search techniques. These concepts may have merit, but they have one factor in common. The adult welfare recipient must be able to obtain child care to engage in any of these activities.

This time, I believe the evidence is overwhelming. If more child care opportunities are not made available for welfare recipients, we will continue to see a large number of welfare recipients exempt from activities which are designed to make them self-sufficient.

We cannot talk our way out of poverty. As history has indicated, we cannot legislate our way out of poverty. But, we can work our way out of poverty.

However, we cannot work our way out of poverty without child care. And, to ignore the role that child care plays in welfare reform will ensure that no welfare takes place.

If our objective is to seriously address the needs of children and their parents to ultimately move families off welfare and above the poverty threshold, we cannot ignore the largest factors inhibiting education and skill training or employment—the availability and affordability of child care.

I believe the pilot program I wrote will show that by increasing child care opportunities for CSS recipients, more familites will obtain the skills and training necessary to become self-sufficient. The priority should be to care for our Nation's children first so that the parents of these children will have a greater opportunity to escape dependency.

The Family Security Act redefines the problems inherent in the welfare system and addresses those problems in a comprehensive and practical manner. The legislation is well within our budgetary constraints and redirects welfare efforts to address individuals who have been viewed as potential long-term dependents.

But, best of all, those individuals most likely to reap the benefits of this legislation are the 40 percent of the poverty population whose dreams and future should know no limit. These are the children, who by no fault of their own happen to be in the families living in poverty. It is for these children that the legislation was designed and certainly will help the most.

Mr. ADAMS. Mr. President, I rise as a cosponsor of this legislation. I would first like to commend my distinguished colleague Senator MOYNIHAN, not only for this bill, but for the leadership and vision he has shown on this issue for so long. I am proud to join him in this effort.

This legislation is the product of many months of effort by Senator MOYNIHAN and his staff, other senatorial offices, and public interest groups. It certainly isn't a final product—there's lots of refining and perfecting to do. I look forward to working with everyone in the months ahead to strengthen and improve the legislation introduced today.

This legislation is designed to reform our welfare system. The current system is vast, confusing and self-perpetuating. It is commonly thought of as a failure. I prefer to think of it as a first step in assisting the disadvantaged. Without those meager welfare checks, families would be starving in the streets. To the extent that the current program has enabled women and children to stabilize their standard of living somewhere just above the survival line, it has been a success. However, this program has gone on far too long without development of the crucial second step: Methods for helping the disadvantaged make the transition from dependency to independence.

This legislation provides that long-delayed second step. With its inclusion of a major job training and education program, and its temporary extension of child care and Medicare benefits once a family gets off welfare, it asserts that a successful transition to independence requires access to a broad range of services. With its beefed-up child support enforcement provisions, and changes in policies that encourage families to split up, it asserts that Government assistance should function to preserve the integrity of the family unit, and not tear it apart.

This legislation also authorizes a demonstration project for Washington State to run its innovative Family Independence Program as a substitute for the Federal welfare system. The Family Independence Program is a creative, compassionate attempt to better the lives of people, especially children, living in poverty. I am proud that Washington State has played a leadership role in this issue of welfare reform, and I am pleased that a demonstration program authorizing the State to implement this exciting new program is part of the legislation before us today.

Mr. CHAFEE. Mr. President, I am proud today to join in introducing the Family Security Act of 1987. An ancient Chinese proverb says, "Give a man a fish and you feed him for a day. Teach a man to fish and you feed him for a lifetime." Lifetimes are what this legislation is all about.

This past year we have been barraged with studies on welfare—all analyzing is negative effects, its inadequate provisions, its propensity to divide families, and its capacity to self-perpetuate. What every study had in common was an urgent request that we take a good look at what we're doing, and start doing it right. This bill will reshape our welfare system in three ways. It will place new emphasis on family responsibility, it will provide programs for education and jobs so that futures can be made as well as days survived, and it will provide States with the necessary flexibility to innovate and improve the delivery of benefits and services.

Rates of welfare dependency in our Nation remain unacceptably high. And even with a Federal expenditure of over $8.6 billion in AFDC alone a year, matched by the States, we are not adequately feeding and caring for the millions of poor children and their families in this country. One child in four is born into poverty. We have an infant mortality rate that seems more attuned to a Third World country, than to an industrialized nation. Obviously, it is time we started finding a solution—instead of more excuses.

In order to begin to discuss a long-term plan to reform welfare, we need the spirit and dedication of the Republicans and Democrats, liberals and conservatives, Congress and the administration. It is in this spirit that I cosponsor this legislation, joining Senator MOYNIHAN to communicate this committee's determination to address this situation with a serious commitment to reform.

Planning for a lifetime means a new focus. Welfare isn't a program that should just throw money at a problem without looking at the cause of the problem. Persons with long-term dependency on welfare need their problems addressed, as well as their symptoms treated. This measure addresses causes in some very basic ways.

First, the bill stresses that the family has the first responsibility for the care and support of children. Thus title I of the bill institutes mandatory wage withholding for new child support orders. The measure goes on to place new emphasis on establishing paternity, improving tracking systems for delinquent child support payments, and laying new ground to improve interstate cooperation in collecting child support. No longer should one lone parent bare the burden that a family together should share.

Second, the measure recognizes that the community has indeed a deep obligation to those children—not to replace the parental role—but to help parents to fulfill that role. Title II of this bill creates a new Job Opportunities and Basic Skills [JOBS] Program. When people are poor they more often than not need a job, stability, income, dignity. We know that some individuals aren't ready to "go out there" in today's job market and perform. Some need basic skills, others need specific job training. It is an "up-front" investment for a long-term gain. This measure will provide both funding and the framework for States to create and operate their own programs of education, training and employment. These programs will be coordinated with the private sector, and will be focused on those individuals who need them the most—those who are most likely to be long term dependent, young mothers without an education, and those with a history of recidivism.

Third, "reforming" welfare means ridding it of counterproductive disincentives. Instead of punishing those who manage to move off public assistance through increased earnings by immediately cutting off their Medicaid and child care assistance, title III provides for transitional child care and Medicaid eligibility for up to 9 months. Families will contribute to the cost based on their ability to pay; and the disincentive to "go to work" has been reworked into an encouraging and supportive hand up—not out.

There has been a lot of talk lately about the importance of the family as an American institution. It is my believe that this measure includes one of the most profamily initiatives of this session. Currently 24 States deny assistance to any poor child solely on the basis that the child's parents live together. This measure allows poor children to be eligible for benefits regardless of the presence of both parents. Furthermore, this measure provides for at least one of the two parents to participate in the JOBS Program—so that that child can only keep his family, but the family can start on the road to self-sufficiency.

Titles IV, V, VI, and VII address a myriad of reform initiatives including a requirement that all single parents under age 18 who receive public assistance must live at home with their parents, or in an adult-supervised living arrangement. A requirement that States reevaluate their need and payment standards at least once every 5 years will aid keeping our system responsive and efficient. Demonstration projects to use emergency funds for the construction of housing for homeless welfare families is a crucial element not only in our fight to reform welfare, but also to meet the needs of the homeless in this country.

Last, title VIII is an attempt to provide flexibility to the States so that they many try innovative methods of delivering benefits and services more effectively. Programs such as ET in Massachusetts and GAIN in California and Learnfare in Missouri must be enabled to thrive and flourish and expand. Through these programs we have learned much, and have managed to put our cynicism about welfare reform aside, and reach a new consensus. Title VIII provides the waiver authority for other States to operate new programs such as these and to try to find even more efficient and effective methods of delivering benefits and services to low-income families.

Mr. President, I am pleased that there is such bipartisan support for this crucial measure. So much has been written about welfare reform, so much has been studied, analyzed, criticized. Well it's time to stop researching and to start acting. We've got a lot of people who need to be taught "to fish"—if you will.

Mr. President, I am pleased to join my distinguished colleague from New York, Senator MOYNIHAN, in cosponsoring "the Family Security Act of 1987." I compliment him on developing a set of proposals that mend many of the enormous tears in our Nation's basic safety net programs.

I particularly wish to note the inclusion of necessary Federal waivers for the implementation of Washington State's Family Independence Program [FIP]. These waivers are a good indication of Washington's innovative and progressive leadership in reforming our system of welfare. FIP will allow us to do a more effective job of moving our State's poverty population into jobs.

Welfare programs nationwide are failing to help many who desperately need it. Hard-core poverty and long-term unemployment persist. Too many of our children confront a world of limited hope and opportunity. Millions of our citizens are functionally illiterate. A government that cares about equity and fairness and ensuring that all its citizens share in our Nation's prosperity cannot allow the present system to remain unchanged.

Many of the principles embodied in the emerging reform consensus are not new. That does not mean they are not sound. The poor are not different from the rest of us. They simply have less. If we can come together on a program designed to replace welfare checks with paychecks we will do much to help the least fortunate among us.

Our welfare system is ripe for change. And Senator MOYNIHAN deserves much of the credit for placing this debate back on the front burner.

Mr. President, I agree with and heartily endorse the major elements of this legislation, many of which are similar to the provisions included in legislation I introduced last year. It emphasizes helping children living in poverty; creating in them a renewed sense of hope and opportunity; and breaking the generational reliance on public assistance. Achieving these goals must be our first priority. I am particularly pleased with a number of the provisions included:

Providing the necessary Federal waivers to allow the implementation of Washington State's Family Independence Program.

Requiring all States to join the 26 States that already participate in the AFDC-Unemployed Parent Program. Without the AFDC-UP Program, the current AFDC system encourages the separation of parents in order to qualify for benefits—a policy that is anti-family and must be changed.

Strengthening the child support enforcement laws that currently strand many single parents on public assistance programs.

Enhancing work and training opportunities for AFDC recipients and targeted efforts to place those with a history of long-term reliance of welfare. In addition, necessary support services such as child care and assistance with transportation costs are provided to those participating.

Providing sufficient support services will help solve the cruel dilemma faced by single parents living in poverty—accepting placement in a job or training program at the expense of leaving a small child at home or under improper supervision.

Providing transitional Medicaid and child support coverage for those attempting to move off of public assistance. A continuing roadblock to many who are attempting to move to independence are the staggering costs of medical coverage and child care. Many need a temporary boost to help ensure continued independence.

Requiring a periodic review and evaluation of each State's benefit levels.

There are other provisions that I would have liked to see included, such as nationwide minimum benefit levels and more uniformity in Medicaid eligibility standards especially for children living in poverty. Even with the adoption of the Family Security Act, 2.3 million poor children under the age of 9 will continue to be ineligible for medical coverage. However, I clearly understand the bounds which the Senator was operating within as he worked to create a compromise, bipartisan proposal.

Mr. President, this proposal is an important first step in building a strong and secure safety net for all our citizens. It does a good job in proposing what we need to do. Now we should look to the second and third steps in determining how the Federal Government finances its increased role in providing a more secure safety net and begin sorting out and returning to State and local governments programs which they can operate more efficiently and effectively.

The legislation I introduced earlier this year, S. 862—the Partnership Act of 1987, offers such a concept. A more secure safety net program can be achieved by gradually terminating federal responsibility for a variety of intergovernmental programs that can be operated better by State or local governments.

For those State and local governments too poor to fund Federal program terminations, targeted general assistance grants would be created to help. In total, the cost of the new safety net benefits conferred would equal the cost of the old programs terminated and the new general assistance grants created. Fiscal neutrality—the key to the success of tax reform—could help ensure the adoption of major welfare reform.

As a nation, we cannot afford to continue proposing reform and falling short. The mood in Congress, and throughout the Nation, is receptive to change. If we are clever and prudent we can make the necessary changes proposed by Senator MOYNIHAN and others without spending much more money.

Mr. DANFORTH. Mr. President, I am very pleased to be an original cosponsor of the Family Security Act of 1987. It is an honor to have the opportunity to work with Senator MOYNIHAN on this issue as he is a distinguished scholar on the subject of welfare and has devoted much of his time and energy to trying to improve the system.

During the last year and a half, there has been an increased interest in reforming our welfare system. A number of States, including my own State of Missouri, have been developing plans that would help the poor escape out of poverty. The governors have announced that welfare reform is their No. 1 priority for 1987. The White House has studied the issue and the President, in his State of the Union Address, expressed his commitment to helping the poor end the cycle of dependency that entraps them. Finally, numerous organizations have produced reports on the welfare system and suggested possible ways to reform it.

While there is still a great deal of disagreement among these various groups over the problems with the system, the causes of these problems, and the possible solutions, a general agreement has developed on certain issues. It is now recognized by liberals and conservatives alike that the current system is outdated and does not respond to the needs that exist. Aid to Families with Dependent Children, the largest welfare program in the United States, was developed in the 1930's as a temporary program to assist women who had lost their husbands. It was developed at a time when women were not expected to work and when single parent families were the exception, not the rule. Our society has changed a great deal in the last 50 years, but the AFDC Program has remained essentially the same. The system now permits the expansion of a growing single parent culture by not encouraging family formation and by rewarding young women who have children without demanding responsibility from either of the young parents. It is a system that pays people for doing nothing and one that provided no incentives for them to get off of the welfare rolls. When an individual decides to work, the Government drastically and immediately reduces the person's assistance payment. It now makes more sense economically for a welfare recipient to continue receiving Government payments than to accept a low-paying job that may not provide health insurance. This system allows complacency and erodes the hopes and aspirations of children in welfare families. It does not encourage the values we cherish in this society.

Most people would also agree that changing demographics and economics means that we can no longer tolerate a system that does not help those on welfare gain the skills and attitudes necessary to move into the work force. The changing economy suggests that between now and the year 2000, jobs will decline in manufacturing, mining, and other industries; all areas that, in the past, have allowed self-sufficiency for the unskilled. At the same time, demographic projections indicate a national labor shortage by the year 2000. In my own State of Missouri, 10-year growth rates in the labor supply are expected to fall to 13 percent during the 1980's and to 9 percent during the 1990's. Most of the available jobs will require the mastery of reading, writing, and computation skills. We simply cannot afford a system of welfare that does not encourage people to prepare themselves to enter a work force where they will be needed.

This piece of legislation that we are introducing today would build on this consensus by shifting the welfare system from a simple payment system to one of mutual obligation, where recipients are expected to move off of the rolls into work. It would ensure that the system encourages parental support of children, rather than presenting obstacles to independence and trapping people in a web of long-term dependency.

This proposal ensures that society is first looking to parents to provide for their children. It makes collections of child support payments more routine by requiring States to develop child-support guidelines that would in most cases be binding on judges and by requiring employers to withhold automatically child support payments from paychecks. These provisions are intended to take the payments of child support awards out of the courts and make supporting one's child as natural for absent parents as it is for those who are living with their children.

The bill would require States to make a greater effort to establish children's paternity. States would be forced to meet new performance standards or face a reduction in their Federal funding. In order to help States meet these new standards, the Federal Government would pay 90 percent of the costs of laboratory tests performed to establish paternity. While young fathers may not initially be able to provide financial help to their children, they should be expected to help support them in the event that they do become financially able. Missouri's State government supports these child support enforcement provisions. In fact, it feels that the paternity establishment provisions may, in fact, be too lenient. Missouri continues to make a deep commitment to improving their child support enforcement program; an effort that should be highly commended.

If a family is forced to turn to welfare, this legislation insists that it be used as a temporary support system to help put people back into the work force. For the first time, every State would be required to develop and implement some type of program to place welfare recipients in work, training programs, or education. Depending on the availability of child care, all parents with children age 3 or over would be required to participate in the State programs. However, States would have the flexibility to exempt people if it did not make sense to mandate every recipient's participation. For the first time, these programs would target long-term welfare dependents rather than encourage States to spend money on welfare recipients who do not need help moving off the rolls. Again, I would like to point to the leadership that the State of Missouri has displayed in this area. Governor Ashcroft, in his state of the State address this January, announced an aggressive and creative plan to move long-term dependents off of the AFDC Program. The focus of his proposal is on education as the critical link for moving people off of welfare. It is this commitment to productivity that we are hoping to encourage through the bill we are introducing today.

Our bill would also make moving off the welfare rolls less punitive. It would provide transitional Medicaid and child care benefits for those leaving the AFDC Program so that finding a job would not mean a dramatic and immediate loss of health insurance and child care. These provisions add additional encouragement to welfare recipients to end their welfare payments and enter the work force.

Finally, this bill would correct the antifamily bias which presently exists in our welfare system. By mandating welfare coverage for families irrespective of the presence of two parents, the bill reduces the incentive for poor families either to separate or to engage in legal deception.

Most importantly, this bill does not try to "solve the welfare problem." It builds on what we have learned and recognizes that there is still a great deal that we do not know. Rather than discarding the system or making numerous requirements for the States, it makes incremental changes and encourages experimentation. It is our hope that each State will be creative and develop its own system for moving people off of the welfare rolls.

The Family Security Act of 1987 takes one step in the right direction. It is a modest proposal that should not create false hopes for a "solution." However, if passed, it would enable a fundamental shift in our welfare system and would begin to encourage the values that we cherish in this country. I urge my colleagues to look closely at this proposal as it is well worth each Senator's attention.

Mr. DURENBERGER. Mr. President, it is a great pleasure to join with my distinguished colleague from New York and my other colleagues on the Finance Committee in sponsoring the Family Security Act of 1987. The Family Security Act of 1987 reflects Senator MOYNIHAN's well-known expertise and lifelong commitment to welfare reform. It also combines the wisdom of our Nation's Governors, the experiences of the States, the analytical perspectives of leading researchers, and the views of advocates for children. In signing onto this bill today, I want to recognize all of those involved who share the common goal of strengthening our Nation's poorest families and opening up the future to their children.

The legislation we are introducing today is about responsibility, the responsibility of parents for their children and the responsibility of society as a whole to those families most in need.

The Family Security Act reaffirms the fundamental responsibility of parents to take care of their own children. By strengthening child support enforcement programs, the bill ensures that absent parents will fulfill their financial obligation to their children. By expanding and improving employment and training programs, parents will be able to develop their capacities to provide for their children and make the transition from welfare to economic self-sufficiency.

But responsibility is not just directed at the parents. This legislation recognizes that society as a whole—through its Federal and State governments—also has a responsibility to families seeking to make this transition so that parents who are able to work are given a fighting chance. Thus, not only must there be well-designed job training programs but the barriers to participating in these programs such as inadequate child care and limited transportation must be removed. And in order for families to stay off the welfare rolls, we must help them stretch their earnings by providing continued access to health care coverage and child care at a cost low-income families can afford.

This legislation comes at a time when society has placed a declining value on children and families and on the well-being of future generations. Just in this decade, we have more than doubled the obligation on future generations represented by our unconscionable Federal debt. We have neglected the savings and investment needed to sustain jobs and quality education and a clean and healthy environment. We have placed a higher priority on consuming today's wealth than on creating tomorrow's opportunities. And while we have spent billions of dollars on assisting poor children and their families we have only been half-hearted in our attempt because we have not recognized that our future is in the lives of our children. We have failed to design programs that offered opportunity and hope. Instead, we have offered stop-gap solutions and despair.

We have failed Thomas Jefferson's first test of citizenship—to leave each generation, our children, with opportunities and choices no less than our own.

The consequence of this approach is reflected in the crisis of the American family. Today, almost one American child in five is born out of wedlock. And of those born to married parents, 43 percent will experience parental separation before the age of 16. Fewer than half of these children are supported in any way by their fathers. Thus, it's not surprising that the rate of poverty among female heads of households is 34 percent. And this situation is getting worse. In 1978, the official poverty rate was 11.5 percent. Today it is 14 percent and one out of five children lives in poverty.

The bill that we are offering today takes an important step toward restoring the value society places on children and the responsibility which society as a whole has to future generations. As we introduce the Family Security Act today, we must recognize that it does not stand in isolation as society meets its responsibility to assist families in this country gain greater economic independence. Last year in the Tax Reform Act of 1986, we removed some 6 million low-income Americans from the tax rolls entirely. We have taken a number of steps—through the Economic Equity Act—to grant women and children in this country fairer access to the workplace and to the benefits of child care and pensions and insurance.

And many States, including my own State of Minnesota, are already expanding their commitment to employment and training services for AFDC families, to child care for the poor, and to access to quality health services, particularly those services which prevent illnesses among newborns and very young children.

All of these steps, and particularly the legislation we are introducing today, recognize society's obligation to this Nation's poorest families and to the future as represented by this Nation's children. This bill moves us toward an income security system that is measured, not in the size of welfare checks, but in the size of paychecks; not in dependency, but in the dignity of self-sufficiency; not in the level of entitlement, but in the extent of opportunity. I look forward to working closely with Senator MOYNIHAN and our colleagues represented here today as we make our common goal a reality.

● Mr. BIDEN. Mr. President, I am happy to join my colleagues in cosponsoring Senator MOYNIHAN's Family Security Act of 1987.

Senator MOYNIHAN's compassion, expertise, and insight into the Nation's poverty problems are nationally recognized. So it comes as no surprise that the Family Security Act has drawn praise from both ends of the ideological spectrum. This bill is a product of years of work and represents the most sweeping improvement of our welfare system in decades.

The Family Security Act of 1987 will go a long way toward helping families achieve independence. But the real beneficiaries of the bill will be children in poverty.

I don't believe any of us would disagree that the responsibility for the health and well-being of children rests first upon the shoulders of parents. And for those parents unable to meet that obligation, it should be the role of Government to shield children from the ravages of poverty and the trap of dependency that may result.

However, in 1983, the last year statistics were available, the Children's Defense Fund reported that parents failed to pay $3 billion in child support payments. In fiscal year 1985, child support collections were made for only 10.9 percent of the national AFDC caseload.

The child support enforcement provisions of the bill will provide desperately needed help to the millions of women and children thrown into poverty by fathers who refuse to meet their obligations to their children. Parents, not Government, must be the first source of support for their children.

Senator MOYNIHAN's bill also removes the antifamily provisions of today's welfare system. Although AFDC was originally adopted to help orphaned children, fewer than 2 percent of today's recipients are orphans. Yet in approximately half of the States we still have a system which insists that fathers leave their families in order for children to become eligible for Government assistance. The Family Security Act of 1987 will extend benefits to all eligible children whether they live with one or both parents.

Finally, Senator MOYNIHAN's bill establishes the principle that public assistance must be a two-way street. It requires recipients of aid to participate in training and education programs and then search for a job. And Senator MOYNIHAN recognizes that as new workers enter the work force, they need critical services like day care, health care, and transportation to ease the transition into the workplace.

The Family Security Act acknowledges that Americans living in poverty don't just need a handout. They need real opportunities to lift themselves out of poverty.

We cannot move into the next generation with so many of our workers sitting idle and unskilled on the sidelines. And most importantly, we cannot fail to meet our obligation to our children.●

Mr. KERRY. Mr. President, I am pleased to join my distinguished colleague from New York in introducing an important piece of legislation that has the capacity to change the way this Nation deals with welfare dependency.

This legislation, the Family Security Act of 1987, is an important step in the attempt to reform and to restructure the oldest welfare program in the United States, the Aid to Families with Dependent Children [AFDC] program. The bill replaces the AFDC Program with a new Child Support Supplement Program that stresses family responsibility and community obligation within the context of the vastly changed family arrangements of the last half century.

The Family Security Act seeks to accomplish this objective in a number of important ways, including increased child support; education, training and employment for welfare parents; benefits for two-parent families and transitional child and health care.

The bill requires the automatic withholding of court-established child support payments from the absent parent's paycheck and intensifies the efforts that States employ in establishing paternity.

A very significant element of the legislation introduced today is the creating of the Job Opportunities and Basic Skills Program [JOBS]. This program requires States to create and operate individual programs of education, training and employment in an effort to get welfare recipients off the welfare roles and into productive and self-sufficient employment. The idea of providing welfare recipients with genuine employment opportunities along with the necessary training and support services is one that has proven successful in a number of States, including my home State of Massachusetts.

The Massachusetts Employment and Training Choices [ET] Program, initiated in 1983 has been successful in reducing welfare dependency in the State by more than 25 percent. In fact, since the inception of ET, the States's welfare caseload has declined nearly 5 percent, from 88,500 in 1983 to 84,300 in 1987.

This is reduction in caseload is in spite of the fact that welfare benefits have been increased by 32 percent since 1983. In stark contrast, welfare caseloads in the nation's 12 largest welfare States have an average of 6 percent.

The success of the Massachusetts experience is a working example of the fact that we can crack the cycle of welfare dependency if we provide individuals with genuine employment opportunities, counseling, education, training and extended health care and day care benefits. In short, by offering people a hand up and a way out. We can certainly expect to translate that experience to commensurate savings for the U.S. Treasury and in all of our States.

Another significant element of the bill is the requirement that States extend welfare benefits to all eligible families, including those in which there is one unemployed adult, the two-parent families. At present, almost half the States currently deny benefits to children in two-parent families.

Although I support this legislation, I do have reservations about certain provisions of the bill, including those allowing States to apply to waive existing Federal statutory and regulatory requirements for several income maintenance and social services programs, including AFDC, WIN, and the Social Services Block Grant. I also have reservations regarding the appropriate age limit of dependent children in exempting mothers from the mandatory training and employment requirements of the bill.

Nevertheless, the Family Security Act represents a sound basis on which to begin the process of reforming welfare and I am prepared to work with my colleagues in a bipartisan attempt to see that goal to fruition. I commend my colleague from New York for his continued leadership on this issue and I look forward to working with him and my other colleagues to achieve comprehensive welfare reform during this Congress and to provide real employment opportunities for our neediest citizens.

By Mr. HATCH:

S. 1512. A bill to provide that in judicial actions against State judges, such judges shall not be held liable for attorney fees; to the Committee on the Judiciary.

STATE JUDGES' LIABILITY FOR ATTORNEY FEES

Mr. HATCH. Mr. President, I am pleased today to join with my colleagues, Mr. THURMOND and Mr. HEFLIN in introducing this bill at the request of the Conference of State Chief Justices which addresses the recent erosion of judicial immunity.

This legislation was passed by the Constitution Subcommittee during the 99th Congress.

In the recent case of *Pulliam* v. *Allen*, 104 S. Ct. 1970 (1984), the Supreme Court held, by the narrow margin of 5 to 4, that judicial immunity is not a bar to injunctive relief against a judge acting in his judicial capacity, nor is it a bar to the award of attorney fees against a judge against whom an injunction to request the introduction of a bill addressing the implications of Pulliam with relation to judicial independence. This bill should serve as a vehicle to illuminate the critical questions posed by the Pulliam case. For the benefit of those unfamilliar with the Pulliam decision, I will recount some of the background giving rise to this opinion.'

In January 1980, the respondent, Allen, was arrested for using abusive and insulting language, a class 3 misdemeanor. The petitioner, Judge Pulliam, set a bond of $250. Respondent Allen was unable to post the bond and was thus jailed until his trial day, a period of 14 days. Allen was subsequently tried, found guilty, fined, and released. The trial judge reopened the case and reversed the conviction. Allen then filed a claim in accordance to section 1983 of title 42 of the United States Code, seeking relief against the petitioner's practice of incarcerating persons waiting trial for nonincarcerable offenses. The district court found Judge Pulliam to have acted improperly and enjoined her actions. The court also found that the respondent was entitled to costs, including attorney's fees, in accordance with section 1988 of title 42 of the United States Code.

Pulliam petitioned the court to reduce the attorney's fees on the grounds of judicial immunity. The court upheld its original decision. Pulliam then brought her case before the court of appeals arguing that as a judicial officer, she was immune from injunctive relief and attorney's fees. The court upheld the district court's decision against Pulliam. Certiorari was granted by the Supreme Court in November 1983. It markeed the first time the Supreme Court ever decided a case on whether or not a judge could be held personally liable for attorney fees. In May 1984, the Court reached a 5-to-4 decision. Judicial immunity is no bar to the award of attorney's fees.

This precedent-setting decision placed limitations on the doctrine of the judiciary's common-law immunity, limitations that were for centuries unnecessary, due to the nature of common law. In 1868, one of the judges of the court of exchequer explained judicial immunity in language close to our contemporary understanding of the doctrine:

> It is essential in all courts that the judges who are appointed to administer the law should be permitted to administer it under the protection of the law, independently and freely, without favor and without fear. This provision of the law is not for the protection or benefit of a malicious or corrupt judge, but for the benefit of the public, whose interest it is that the judges should be at liberty to exercise their functions with independence, and without fear of consequences.

Hence, to protect the independence of a judge neither a suit nor damages can be brought against him.

In the Pulliam case, the Supreme Court reasoned that "for the most part, injunctive relief against a judge raises concerns different from those addressed by the protection of judges from damages awards." Yet, four of the nine Supreme Court Justices, dissenting, argued otherwise. They noted that the court, in effect, awarded a $7,691 money judgment against a State magistrate on the determination that she made erroneous judicial decisions with respect to bail and pretrial detentions. Such a judgement poses the same threat to independent judicial decisionmaking whether it be labeled "damages" of $7,691 or "attorney fees" in that amount. Moreover, as the court had stated a century and a half ago, and "action before one judge for what is done by another * * * is a case * * * against the independence of the judges." The burdens of having to defend such a suit are identical in character and degree, whether the suit be for damages or prospective relief. The dissenters maintained that the holding of the court subordinates realities to labels, that this new precedent eviscerates the doctrine of judicial immunity.

In 1895, the Supreme Court concluded:

> The public are deeply interested in the rule of judicial immunity, which * * * was established in order to secure the independence of the judges, and prevent them being harassed by vexatious action; * * *

This simple statement of 92 years ago accepts as self-evident the relationship between judicial immunity and judicial independence. In that context, it is imperative that Congress examine the implications of Pulliam.

By Mr. HEINZ:

S. 1513. A bill to provide for the inclusion of the Washington Square area within Independence National Park, and for other purposes; to the Committee on Energy and Natural Resources.

INCLUSION OF WASHINGTON SQUARE WITHIN INDEPENDENCE NATIONAL PARK

● Mr. HEINZ. Mr. President, I rise today to introduce legislation that will allow the National Park Service to acquire Washington Square and include this historic square within the Independence National Historic Park in Philadelphia, PA.

The Secretary of Interior would be authorized to enter into a cooperative agreement with the city of Philadelphia to provide technical assistance in the preservation and interpretation of Washington Square.

Washington Square was planned in 1683 by William Penn as one of the four squares around which Philadelphia would be built, and is one of the first examples of renaissance city planning in America.

More importantly, Washington Square served as a burial ground for battle fatalities during the Revolutionary War. Many of these soldiers died in nearby Independence Hall, which was a hospital at the time. The exact number of soldiers who are buried in Washington Square has not been documented, but it is thought that at least 2,000 war dead rest below Washington Square. This compares with 50 Revolutionary War dead buried at Valley Forge, which has been designated as a national memorial by the Park Service.

The Tomb of the Unknown Revolutionary War Soldier is located in Washington Square as a tribute to those soldiers who fought the war for independence.

The attention of the Nation is focused on the celebration of the birth of the Constitution which guides our system of government. I think it equally important that we also recognize and celebrate the sites where the battles were fought and the dead buried defending those ideas of freedom and self-determination.

I ask that my colleagues join me on this legislation.●

By Mr. HEINZ:

S. 1514. A bill to amend the Internal Revenue Code of 1986 to treat similarly all tier 1 railroad retirement benefits for income tax purposes; to the Committee on Finance.

TAX TREATMENT OF RAILROAD RETIREMENT BENEFITS

● Mr. HEINZ. Mr. President, in the past few months I have heard from hundreds of railroad retirees who are having difficulties shouldering the burden of increased tax liabilities imposed under the Consolidated Omnibus Budget Reconciliation Act [COBRA]. I previously introduced a bill, S. 1155, to prospectively repeal the COBRA provision which weighs so heavily on this relatively small group. That legislation will reduce the tax burden for retirees in the years to come, but it did not address the payments required in 1986.

I continue to hear from retirees who still feel that economic pinch from last year's unexpected tax obligations. The legislation I am introducing today is intended to redress the hardships experienced by those hardest hit by the COBRA tax increase which changed the rules in the middle of the game. My bill would enable railroad retirees to regain the additional taxes paid since the COBRA effective date by filing amended tax returns.

Briefly, COBRA compares the tier 1 benefit of the Railroad Retirement Program to the benefit that would have been received had the retiree been covered under Social Security. Any portion of the tier 1 benefit which is greater than the Social Security equivalent is taxed as regular income.

The Railroad Retirement System, which predates the creation of the Social Security system, has a few unique features intended to meet the special needs of the rail industry. One of these features—for which railroad employees agree to pay higher payroll taxes during their working years—is the ability to retire at age 60 with 30 years of service. Another special feature is that a railroad worker is eligible for disability benefits when he or she can no longer perform the duties of a railroad employee. Under Social Security, a worker is considered disabled when impairments preclude employment of any kind.

The effect of COBRA, however, has been to turn these positive features into negative ones. Those retiring with 30 years of service at age 60 are fully taxed until they reach age 62—the Social Security retirement age. Disabled railroad workers who do not meet the more stringent Social Security definition of disabled are also fully taxed until they reach age 62.

To change the rules for these individuals—the retired and disabled who are least prepared to handle this financial burden—is unfair. I addressed the problem of this wrongly placed tax in the legislation I introduced in April. S. 1155 repeals the COBRA provision which redefines tier 1 benefits for tax purposes. The most urgent problem for many of these retirees, however, has been finding a way to make ends meet after paying the additional taxes which they became liable for last year.

The increased taxation imposed by COBRA became effective in April 1986. Due to administrative problems, no additional taxes were withheld from railroad retirees' benefits check until January 1987. This resulted in some of these retirees owing the IRS hundreds of dollars more than they had expected at the end of last year. For a disabled railroad worker who has an average benefit of $693 a month, or a retiree on a fixed income, scraping together those additional dollars has been a struggle.

The modest budget savings achieved by this new tax do not justify the burden it places on this group of railroad retirees who have already had to bear the brunt of benefit cuts over the past few years. I urge my colleagues to join me in easing the struggle for the railroad annuitants across the country who are affected by these new taxes.●

By Mr. HEFLIN (for himself and Mr. Hatch):

S. 1515. A bill to prohibit injunctive relief, or an award of damages against a judicial officer for action taken in an official capacity; to the Committee on the Judiciary.

JUDICIAL IMMUNITY

● Mr. HEFLIN. Mr. President, I am introducing legislation at the request of the American Bar Association to modify greatly the 1984 Supreme Court decision in Pulliam versus Allen where the Court held, in spite of four centuries of unbroken precedent, that the doctrine of judicial immunity does not prevent injunctive relief in Federal civil rights actions challenging decisions of a State judge, or bar attorney fee awards against the judge.

Understandably, this decision has caused a tremendous amount of concern among our Nation's judicial officers. Indeed, the Conference of Chief Justices said of the decision: "No development in recent times has aroused greater concern on the part of State judges." They fear that this decision will have a chilling effect on judicial independence in both State and Federal courts, and I agree with them.

The ability of a judge to decide a case without fear is of paramount importance to judicial effectiveness. It is a cornerstone of our judicial system. Harassing litigation brought by disappointed parties against judicial officers can only result in increasing timidity and a tendency to avoid close and controversial decision whenever possible. This inevitably produces a syndrome of responses that ill befits our judicial system.

Should you think that this fear is ill-founded or illogical, litigation filed against State judges under 42 U.S.C. 1983 steadily increased from 1982 to 1984 with the total number of reported filings increasing from 177 to 382. During the first quarter of 1985, approximately 134 were filed. I do not know how many in total were ultimately filed in 1985 or 1986, but based upon this trend, I would hazard to guess that the number continued to increase over previous years.

In addition to the chilling effect of Pullium on judicial independence, my colleagues in the judicial branch are concerned that this decision will create a new class of Federal litigation against State decisions. State court plaintiffs are placed, in effect, in a position of appealing to the Federal courts to enjoin State court action when they should be in State courts appealing through the State judicial system. This encroachment on the doctrine of federalism and exhaustion of State remedies destroys comity between the two separate but equal judicial systems.

Mr. President, the court in Pullium challenged us to remedy this situation by stating, "that it is for Congress, not this court, to determine whether and to what extend to abrogate the judiciary's common-law immunity." Congress must accept this challenge. I look forward to working with my colleagues on this bill and other similar but different proposals that have been introduced or will be introduced on this same subject. I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1515

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 722 of the Revised Statutes (42 U.S.C. 1988) is amended by inserting before the period at the end thereof ", except that in any action brought against a judicial officer for an act committed in such officer's official capacity—

"(1) such officer shall not be liable for costs, including attorney's fees, unless such action was clearly in excess of his or her jurisdiction; and

"(2) injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable".

Sec. 2. Section 1979 of the Revised Statutes (42 U.S.C. 1983) is amended by adding before the period at the end of the first sentence: ", except that in any action brought against a judicial officer for an act committed in such officer's official capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable".●

By Mr. LEAHY (for himself, Mr. Lugar, Mr. Proxmire, and Mr. DeConcini):

S. 1516. A bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT REFORM

● Mr. LEAHY. Mr. President, today I am joined by Senators Lugar, Proxmire, and DeConcini in introducing the Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA] Amendments of 1987.

Our bill is based on the measure that passed the House of Representatives in the final days of the 99th Congress, with some exceptions. That bill, passed on October 16, 1986, is the basis for an extraordinary agreement among a host of environmental, consumer, and labor groups, the American Farm Bureau Federation, and the chemical industry.

Three controversial provisions of concern to other committees—uniform tolerances for pesticide residues in food, farmer liability for pesticide use, and ground water protection—have been removed. These issues may be considered during committee markup and floor debate. Senator Lugar and I have agreed to jointly oppose uniform tolerance provisions in order to get

FIFRA reform moving and to get it done. I am committed to consideration of ground water protection in my committee; ground water protection is integral to FIFRA reform.

Our bill also includes a provision extending patent term protection to pesticides manufacturers, similar to protection granted to pharmaceutical manufacturers several years ago. This provision links environmental reform in FIFRA to additional benefits for those in the industry who are conducting research and development on new products. This link was established in last year's historic agreement.

The bill does contain two significant revisions requested by the Environmental Protection Agency. First, fees for reregistration would be higher than those proposed last year. This change is critical. The Agency must have sufficient resources to complete the reregistration process within 9 years as the bill mandates, and last year's fee schedule would have left the Agency with a substantial shortfall.

Our proposal would use two criteria to determine the fee, the date of initial registration and the gross annual revenue that a pesticide active ingredient generates for its registrants. Fees for active ingredients contained in a pesticide registered before 1978 would be higher than those registered after 1978. The scientific data bases for chemicals registered in the last 10 years are more complete and are based on contemporary scientific standards, and thus are less costly and less time consuming for the Agency to review. The cost to companies would be taken into account as well. If an active ingredient generates less than $10 million in annual gross revenue collectively for its registrants, the reregistration fee would be lower than the fee for chemicals with larger revenues.

The schedule would be as follows. For an active ingredient contained in pesticides that generate annual gross revenue in excess of $10 million and was initially registered before 1978, the fee would be $150,000 a year for 5 years. For an active ingredient that generates revenue in excess of $10 million and was initially registered after 1978, the fee would be $75,000. Fees would be lower for active ingredients with an annual gross revenue under $10 million. For each registered before 1978 the annual fee would be $20,000, and for each registered after 1978 the fee would be $10,000. All fees would be assessed annually for 5 years, raising total program revenues by $113 million.

Mr. President, I do not believe these fees represent an unreasonable burden on the chemical industry. The maximum fee for old chemicals—$750,000 over 5 years—may sound high, but on the average would be shared by five registrants. This group of chemicals represents the core of the problem we are trying to solve.

Second, the provision for indemnifying registrants for the cost of unused stocks of suspended and cancelled pesticides has been revised to reflect the language that passed the Senate last year. My bill would require a separate appropriation for indemnification so that the Agency's already limited resources are not depleted by paying for banned pesticides. EPA would no longer be required to pay pesticide companies for canceled products. If we do not change current law, the Agency could be forced to spend as much as $65 million out of its operating budget of $70 million to indemnify the registrants of Dinoseb, a pesticide suspended and canceled this year. EPA has indicated additional future costs for other pesticides up to a staggering $800 million if this change in the law is not made.

Mr. President, I ask unanimous consent that an explanation of the bill be printed in the RECORD following my remarks.

Although there are other improvements that could be made in last year's bill, I will withhold offering other changes until committee markup. In particular, Senator LUGAR and I plan to offer new language on storage and disposal in order to solve another problem currently left on EPA's doorstep with insufficient resources.

Mr. President, FIFRA reform is at the top of my agenda in this Congress. It's been 10 years since we amended the act; reforms are long overdue. I appreciate the support and cooperation of my good friend and colleague, the Senator from Indiana, in this effort. I plant to schedule hearings before the August recess, and I intend to send FIFRA reform legislation to the President this year.

There being no objection, the explanation was ordered to be printed in the RECORD, as follows:

FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT REFORM OF 1987

(Explanation of major provisions)

REGISTRATION OF PESTICIDES

Data compensation.—The bill would establish a new procedure for fixing the amount of compensation to be paid for the use of another registrant's health and safety data for pesticides with expired patents. Before the filing of an application for registration citing another registrant's data, compensation could be fixed by arbitration. The arbitration would be binding on the original data submitter and binding on the person seeking to use the data only after the application is submitted. Each party to the first arbitration would share equally in the payment of the fees and expenses of the arbitration and pay its own attorney's fees. In subsequent arbitrations, the party seeking to use the data would pay all fees, including attorney's fees.

Additional data.—Two or more registrants could agree to develop jointly or to share development costs of data to maintain a registration. An offer to enter into such an agreement could be accepted at any time but could not be withdrawn without the consent of the person to whom the offer was made. Registrants making joint data development or cost sharing agreements would be entitled to examine and rely on the data to maintain or obtain registrations under federal or state law. If 60 days after entering into a joint data agreement the registrants have not further agreed to the terms of the agreement, then any of the registrants could move to fix the terms by initiating arbitration proceedings.

Conditional registrations.—The bill would prohibit conditional registration amendments of a pesticide for additional uses unless the additional use was in the public interest. A conditional amendment to add a use would not be granted if data concerning chronic health effects had not been submitted, and the registrant had a reasonable time to submit the data, unless the amendment was to add a minor use.

Public interim administrative review.—The bill would codify existing procedure and policies regarding reviews. It would require that a public interim administrative review initiated after January 1, 1988, on whether the use of a currently registered pesticide or category of pesticides posed unreasonable adverse effects on the environment be conducted as follows:

First, the Administrator would be required to publish criteria for initiating a review. The criteria would be based on levels of risk and could include consideration of currently available exposure data. Absence of exposure data would not delay initiation of a review.

Second, as under current law, the Administrator could not initiate a review unless the review was based on a validated test or other significant evidence raising prudent concerns of unreasonable adverse risk to man or to the environment.

Third, on receipt of information demonstrating that the criteria for initiating a review have been met, the Administrator would be required to notify all registrants of the pesticide and provide them with appropriate information.

Fourth, if the Administrator intended to initiate a review of a pesticide registered for agricultural uses, the Administrator would be required to notify the Secretary of Agriculture.

Fifth, any review would be conducted in accordance with published regulations. Such regulations would require the Administrator to publish a notice of initiation of the review and a notice of preliminary determination for public comments. The Administrator would also be required to provide notification of final determination

Sixth, the notice of initiation or the notice of preliminary determination would have to state the basis for the review or determination and include a request for any additional data needed, and a bibliography of all scientific data, studies, and expert analysis concerning the risks or benefits of the pesticide under review. Persons would be required to submit comments within 90 days and disclose all scientific data, studies, and expert analyses in the person's possession about the pesticide not included in the bibliography.

Seventh, within 18 months after initiating a review, the Administrator would be required to decide what further regulatory action, if any, to take.

Preregistration access to data.—The bill would provide for public access to health and safety data submitted to support an application for the registration of a new pesticide containing a new active ingredient, or to register the initial food use of a pesticide active ingredient. Public access would only be granted for the purpose of allowing public comment on the application. A person seeking access to data supporting an application for registration would be required to affirm that the person is not directly or indirectly acting on behalf of someone in the pesticide business. Under current law, such data cannot be examined by the public until 30 days after a registration is granted.

Inert ingredients.—The bill would require EPA to evaluate the safety of inert pesticide ingredients, making mandatory an authority that is currently discretionary. EPA would establish a list of between 50 and 75 pesticide ingredients, and ask producers for any additional health and safety data needed to evaluate the safety of the chemicals. Producers would have four years to submit the data, after which EPA would have one year to evaluate the data and take appropriate steps to prevent unreasonable adverse effects on the environment. The priority list, which could not exceed 75 items at a time, would be revised annually, allowing chemicals to be taken off or added to the list.

Antimicrobial standards.—The bill would require the Administrator to establish efficacy standards for antimicrobial control agents, including disinfectants, used to control organisms that pose a threat to human health, including standards for disinfectants used in hospitals and other health care facilities. The Administrator also would be required to (1) conduct representative monitoring, including testing, regarding compliance of antimicrobial control agents with the standards; and (2) implement an enforcement program.

Neurotoxic and behavioral effects testing.—The bill would require the Administrator to develop methods for testing to accurately detect neurotoxic and behavioral effects of pesticides and pesticide ingredients, and as such methods are developed, provide that testing data be submitted by persons seeking to obtain or maintain registrations.

REREGISTRATION OF PESTICIDES

The bill would require the Administrator to reregister approximately 600 pesticide active ingredients that were approved for use before November 1, 1984, to determine whether the ingredients meet current health and safety requirements. Current law requires that pesticides be reregistered, but provides no deadline for EPA to finish the process. Under this bill, reregistration would be completed in five phases over nine years:

First, EPA would publish a priority list of the active ingredients contained in pesticides that must be reregistered. Priority would be given to active ingredients that have not already been assigned reregistration requirements, and that are in use on or in food or feed and (1) could result in postharvest residues or residues of potential toxicological concern in potable ground water, edible fish or shellfish; (2) have significant outstanding data requirements; or (3) are used where worker exposure is most likely.

Second, registrants would be required to notify the Administrator whether the registrant intends to seek reregistration of a listed pesticide, and to identify and agree to replace missing and inadequate data for the pesticide.

Third, registrants would be required to summarize studies previously submitted in support of reregistration, reformat certain data in the studies according to EPA guidelines, and promise to fill outstanding data requirements.

Fourth, the Administrator would be required to review submissions to determine if all missing or inadequate data were identified and to publish outstanding data requirements. Registrants would be required to submit outstanding data within four years.

Fifth, EPA would be required to conduct a thorough examination of all data, and to determine if the pesticide is eligible for reregistration. Applicants for reregistration of the pesticide would then be required to supply supplemental product-specific data. The Administrator would be obligated to make a final decision on reregistration not later than 1 year after the submission of all required data.

The bill would require the payment of annual reregistration fees based on active ingredients. Fees would be based on whether the chemical was initially registered before or after 1978, and on the annual revenue it generates.

$150,000 for each pesticide active ingredient that generates revenue in excess of $10 million, and that was contained in any pesticide registered before 1978.

$75,000 for each pesticide active ingredient that generates revenue in excess of $10 million, and that was contained in any pesticide not registered before 1978.

$20,000 for each pesticide active ingredient that generates revenue in excess of $10 million, and that was not contained in any pesticide registered before 1978.

$10,000 for each pesticide active ingredient that generates revenue in excess of $10 million, and that was not contained in any pesticide registered before 1978.

Fees would be assessed annually for five years. In the case of more than one registrant per active ingredient, fees would be apportioned according to domestic market share among registrants.

CERTIFICATION, TRAINING, AND RECORDKEEPING

The bill would make it a violation of the act of any person to use any pesticides as a commercial applicator unless the person is a certified commercial applicator, or a registered commercial applicator under the direct supervision of a certified commerical applicator. To be considered a certified commercial applicator or a registered commercial applicator, a person would be required to meet certain requirements and standards.

The bill would provide that a restricted use pesticide can only be applied by a person who is either a certified private applicator, or a supervised private applicator who uses the pesticide under the direct supervision of a certified private applicator. To be considered to be a certified private applicator or supervised private applicator a person would have to meet certain minimum requirements and standards.

The bill would impose a requirement that certified applicators and registered commercial applicators undergo refresher training within a period established by the State agency but not to exceed 5 years.

The bill would require the Administrator to develop certain training material about the use of appropriate procedures for the application of pesticides, including clothing and protective equipment for pesticide application, means of obtaining emergency medical treatment, and hazards posed by pesticides to workers. The bill would also require the Administrator to establish minimum standards of competency, and experience or expertise, for trainers and minimum standards for training programs.

A State agency could approve any privately administered training program that it determines meets the requirements established under the act, or requirements established by the State agency, whichever are more stringent.

The bill would also clarify that the Administrator would be obligated to establish separate standards for commercial applicators and private applicators.

Records.—Each commercial applicator would be required to maintain records of pesticide applications, including the identity and amount of the pesticides applied and the date and location of the applications, for a period of 2 years. No regulation could require any private applicator to maintain any records or file any reports or other documents.

Each pesticide dealer would have to maintain certain records of each sale or distribution of a pesticide classified for restricted use. A pesticide dealer would be required to maintain the records for 3 years.

A pesticide dealer or commercial applicator would be obligated to allow an employee or customer access to records required to be kept that directly relate to the employee's employment duties or the customer's purchase or application.

An employer who uses or supervises the use of a pesticide would be required to know or have access to the brand name and common or medical name of the pesticide, know or have access to the safety and first aid information listed on the labeling, and make the information available on request to any employee exposed to a pesticide and to treating medical personnel.

Records obtained under these provisions of the bill that are used for commercial purposes would be a violation of the act.

ADMINISTRATIVE REVIEW

Cancellation and change in classification on labels.—The bill would add a new provision to current law to require that any request for a hearing on cancellation must identify the findings and conclusions of the Administrator that are disputed, and include a complete statement of the reasons and factual basis that support the request for a hearing. Any party would be allowed to identify findings and conclusions in dispute. Before convening a hearing on the request of a person without an economic interest in the pesticide, the Administrator would be required to determine that the request presents a substantial issue of fact pertaining to whether the pesticide poses an unreasonable risk to man or the environment.

The bill would also authorize pesticide label changes through informal rulemaking as follows:

First, the Administrator could not require label changes that are equivalent to a cancellation of a use, render the product unmarketable, or otherwise have a major economic effect on persons affected by the changes.

Second, once a regulation is promulgated, the Administrator would be required to notify each registrant or user of the pesticide of the label change required by the regulation. Registrants would be given thirty days to apply for amendments to registrations to comply with the regulation.

Third, at a hearing requested by a registrant or user of a pesticide subject to the regulation, the scope of the hearing would be limited to whether, first, the pesticide complies with the regulation; second, the regulation by its terms is applicable to the pesticide; and third, because of significant new information it would be unreasonable to require compliance with the regulation.

Fourth, in an action for review of a label regulation, on request the court would be obligated to stay the regulation if the petitioner shows a likelihod of success on the merits, that the implementation of the regulation would cause a risk or substantial harm to the petitioner. The court could not stay the regulation if the Administrator shows that failure to implement of the regulation would cause a risk of substantial harm to health or the environment.

Public hearings and scientific review.—As soon as practicable after completion of a hearing on the cancellation of a pesticide regulation, but not later than 18 months after the issuance of the cancellation notice that gave rise to the hearing, the Administrator would be required to take appropriate regulatory action. This time period could be extended by the Administrator under extraordinary circumstances for not more than one year.

Public hearings resulting from a public interim administrative review.—The bill would establish faster procedures for cancellation hearings that follow a Special Review. The following rules would govern hearings that result from the final decision of the Administrator in a public interim administrative review initiated after January 1, 1988:

First any person who is adversely affected by a decision of the Administrator, including a person without an economic interest in the pesticide, could request a hearing within 30 days of the decision. A person could request a hearing, or intervene in a hearing, only if that person submitted comments during the review.

Second, at the request of a party to the hearing, the administrative law judge (ALJ) could receive into evidence portions of the review record and other evidence if the party demonstrates the evidence is relevant and material to the disputed issues, is not unduly repetitious, and a competent witness is made available to be cross-examined about the evidence. Direct testimony of witnesses concerning scientific data or studies that were not, but could have been, obtained and submitted during the review would not be admissible at the hearing. The right of parties to confront and cross-examine witnesses would be preserved on material issues of adjudicative facts.

Third, prehearing matters would be completed and the hearing begun not later than 120 days after the ALJ is appointed. The ALJ could establish a schedule for prehearing matters, and would ensure that the hearing schedule is met.

Fourth, any challenge to the notice of intent to cancel or change classification stemming from the review, or to any request for a hearing or motion to intervene, would be required to be filed with the ALJ before the evidentiary phase of the hearing. Not later than 30 days before the hearing begins, the parties would be required to exchange witness lists, a summary of testimony, and a list of all documents and exhibits to be introduced at the hearing. The presentation of evidence would be completed within 60 days after commencement of the hearing. The person who requested a hearing on an issue would have the burden of going forward to present an affirmative case and have the burden of proof on that issue.

Fifth, a hearing would be completed and the Administrator would make a final decision within 300 days of the issuance of the final review notice that gave rise to the hearing.

Administrative review.—The bill would allow a pesticide registrant at any time to request that any of its registrations be canceled or amended to delete one or more uses. Before acting upon the request, the Administrator would be required to publish a notice of the receipt of the request.

The bill would specify that notices of certain regulatory action under the act must be published in the Federal Register and sent by certified mail to the registrant's or applicant's address of record.

The bill would restate and clarify existing law to require that if, at any time after registration a registrant has additional information regarding unreasonable adverse effects of a pesticide on the environment, the registrant would be required to submit the information to the Administrator. Information would include factual information and expert opinion regarding risks or benefits.

If the Administrator issued a notice of denial of registration, a request for a hearing under the act would be made within 30 days after receipt of the notification. The Administrator could issue regulations governing the right to a hearing on denial with respect to a product containing an ingredient that already has been cancelled under the act. The regulation could give due weight to the desirability of finality of prior proceedings and the extent the applicant had an opportunity to participate in earlier proceedings.

Cancellation of registration based on false or invalid data.—The bill would require the Administrator to suspend or cancel a registration based on false or invalid data. False or invalid data discovered through the industrial biotest validation process would have to be replaced by April 1, 1988, if material to the registration or the Administrator would have to suspend such products.

Notice for stored pesticides.—The bill would require any producer or marketer of pesticides, pesticide registrant, or applicant under the act who has in his possession a pesticide with a canceled or suspended registration to notify the Administrator and appropriate State and local officials of such possession the quantity of the pesticide involved, and the place it is being stored. Copies of each such notice would be submitted to the EPA regional office that has jurisdiction over the place where the pesticide is stored. Failure of a person to submit notice to the authorities would be a violation of the act.

REGISTRATION OF ESTABLISHMENTS

Fact sheets and reports.—The bill would require that any producer operating a pesticide production establishment to prepare or obtain a fact sheet, summarizing relevant health, safety, and environmental data for each active ingredient manufactured or used at the establishment. The producer would be obligated to furnish a copy of the fact sheet to any person on request. Producers would be required to furnish to EPA annual reports that include the name of each ingredient for which a fact sheet is required, the location of the establishment, and a copy of the most current fact sheet. Fact sheets and annual reports would be made available to the public.

Information requested.—The bill would require that Administrator to catalog and retrieve data under the act in a manner to eliminate or reduce burdensome requests to registrants for submission of information, particularly those requests that require the submission of duplicate confidential data.

INSPECTION OF ESTABLISHMENTS

Inspections.—The bill would clarify existing law to authorize officers or employees of the United States or of any State to obtain and execute warrants to enter and conduct inspections at pesticide distribution, sales, and testing facilities.

PROTECTION OF TRADE SECRETS AND OTHER INFORMATION

Date disclosure to States.—The bill would require the Administrator to disclose to a State data or information acquired under the act if the State provided at least the same protections as the act with respect to the disclosure and use of the data or information and State law allows the data submitter to recover just compensation for losses that result from wrongful disclosure, as provided by the act.

PENALTIES

Penalties and subpoenas.—The bill would increase civil and criminal penalties for violation of the law by registrants, applicators, dealers, retailers, testing laboratories and others. It would authorize the Administrator to issue subpoenas compelling the attendance and testimony of witnesses, and production of documents.

INDEMNITIES

The bill would require a specific line item appropriation of funds in advance before the Administrator could take action requiring a payment of indemnification.

ADMINISTRATIVE PROCEDURE

Reiew of regulations.—The bill would allow any person to obtain judicial review of a regulation promulgated by the Administrator, or the refusal by the Administrator or a petition to modify or rescind a regulation, by filing a petition for review in the U.S. Court of Appeals within 120 days after the date of promulgation or refusal.

A regulation issued by the Administrator of a refusal by the Administrator of a petition to modify or rescind a regulation issued under the act would not be subject to judicial review in, first, any suspension, cancellation, or denial proceeding, or in any appeal therefrom, or second, certain enforcement proceedings under the act or in any appeal therefrom except on request of an agricultural producer adversely affected by the action. If a person petitioned the Administrator to modify or rescind a regulation in the enforcement proceeding, the application of the regulation would be stayed until the Administrator issued a final decision on the petition.

EXPORT OF PESTICIDES

The bill would restrict the export of a pesticide that is classified for restricted use, canceled, suspended, or not registered for any use. Exports of such pesticides would require prior notification of the first shipment to the person importing the product and an appropriate regulatory official in that country. The Administrator also would be obligated to participate in international efforts to develop and improve pesticide research and regulatory programs, provide technical assistance to foreign countries, and survey countries that import pesticides from or export treated foods to the United States in order to ascertain the status of pesticide use and regulation in foreign countries.

PESTICIDE CONTAINERS

The bill would require the Administrator, within 3 years after the effective date of the bill, to promulgate regulations for the design of pesticide containers that promote the safe storage and disposal of pesticides and regulations prescribing procedures and standards for the removal of pesticides from containers prior to disposal. The Administrator would ensure compliance with the regulations not later than 5 years after the effective date. The bill also would require the Administrator to conduct a study of the options concerning pesticide containers and report to Congress the results of the study not later than 2 years after the effective date.

DELEGATION AND COOPERATION

The bill would establish that regulatory actions of the Administrator would not preempt the Secretary of Labor from acting under the Occupational Safety and Health Act to prescribe or enforce standards or regulations to the extent that the Administrator and the Secretary of Labor so agree. To ensure the safety and health of workers, the Administrator and the Secretary of Labor would seek to reach agreements and to coordinate the exercise of their statutory authority.

AUTHORITY OF STATES

State regulation, household antimicrobial pesticides.—For a period of 5 years, the bill would restrict the authority of a State to prohibit any sale or use of certain household antimicrobial pesticides, otherwise allowed under the act, for which an application for a State registration is pending unless and until the State makes a final determination on the application. The bill would specify that when a state provides a registration for additional uses of a federally registered pesticide to meet special local needs, the registration would expire at the end of the period, if any, provided by the state, or 10 days after the date the Administrator published a notice that the State no longer desires the registration to continue in effect.

The Administrator would be required to establish criteria that define the conditions under which special local needs registration may be disapproved by the Administrator, taking into account geographic patterns of use.

AUTHORITY OF ADMINISTRATOR

Congressional review.—The bill would repeal current congressional veto provisions applicable to regulations under the act. The Administrator, upon promulgation of any rule or regulation, would transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. The rule or regulation would not become effective until 60 calendar days after the rule or regulation is transmitted.

Scientific advisory panel.—The bill would make the scientific advisory panel under the act permanent and expand the panel from seven members to nine members.

Worker health and safety.—The Administrator would be required to promulgate regulations for the (1) protection of employees who mix, load, or apply pesticides and agricultural employees who work in pesticide-treated areas; and (2) training of employees who mix, load, or apply pesticides.

STATE PRIMARY ENFORCEMENT RESPONSIBILITY

The primary enforcement responsibility of a State with respect to pesticide use violations would expire on September 1, 1990, unless the Administrator determines that the State has the authority to impose civil and criminal penalties at least equal to those provided in the act.

FAILURE BY STATE TO ASSURE ENFORCEMENT OF STATE REGULATIONS

The Administrator could act on complaints or information regarding a pesticide use violation, if a State did not promptly initiate appropriate investigative action after receiving a referral from the Administrator, or did not initiate appropriate enforcement action within 90 days of receipt of the referral.

AUTHORIZATION FOR APPROPRIATIONS

The bill would authorize appropriations of $103,363,500 for FY 1988; $112,414,200 for FY 1989; $116,673,400 for FY 1990; $123,305,800 for FY 1991; and $131,808,700 for FY 1992 to carry out the act.

PATENT TERM RESTORATION

The bill would grant patent extensions to certain pesticide, chemical, and plant products that undergo regulatory review prior to commercial marketing. A patent could be extended for up to five years based on the period that the patented product was subject to a statutorily mandated review period prior to commercial marketing or use. Patent extension would not be available if the patent had already expired. If a regulatory review period began before the date of enactment of the bill, the period of patent extension could not exceed two years.

The bill also would provide that, with certain exceptions, during the last two years of a patent relating to a registered pesticide, it would not be an act of patent infringement to make, use, or sell the pesticide solely for testing reasonably related to the development or submission of data to meet certain regulatory requirements.

REVOCATION OF TOLERANCES

The bill would require that when a pesticide registration is cancelled, withdrawn, or suspended, due to dietary risks to humans, the Administrator would have to withdraw within 60 days tolerances for residues of the pesticide, or any exemption from the need for a tolerance. The effective date of withdrawal could be delayed under limited circumstances. The bill would provide that when a pesticide was reviewed under phase 5 of reregistration, any tolerance for residues of the pesticide or any exemption for the need for a tolerance must be reassessed and may be amended or revoked as necessary.

The bill would authorize the Administrator to reasonably limit the application of a withdrawal of a tolerance or exemption to prevent the imposition of restrictions on the imports of a particular agricultural commodity from a particular country. The preceding would apply only if the tolerance or exemption met the other criteria of the Federal Food, Drug, and Cosmetic Act and there was no effective alternative pesticide available in the other country.

REREGISTRATION FEE STRUCTURE AND PROJECTED REVENUES

Annual revenue per active ingredient (millions)	Pre-1978 or post-1978	Number of active ingredients	Annual fee (thousands)	Total fee revenue over 5 years (millions)
Greater than $10	Pre-1978	67	$150	$50.25
Greater than $10	Post-1978.	18	75	6.75
Less than $10	Pre-1978	528	20	52.80
Less than $10	Post-1978.	73	10	3.65
Total		686		$113.45

Assumptions: All fees would be assessed annually for a period of 5 years. Total annual industry revenues are $3.8 billion for active ingredients with greater than $10 million in annual gross revenues per active ingredient. Total annual industry revenues are $2.2 billion for active ingredients with less than $10 million in annual gross revenue per active ingredient.

Distributional effects: The average number of registrants per active ingredient is 5.

Source: Environmental Protection Agency.●

● Mr. PROXMIRE. Mr. President, I am pleased to join Senators PATRICK LEAHY, RICHARD LUGAR, and DENNIS DECONCINI in introducing a new pesticide reform bill. This bill is the fifth effort on the subject that we have introduced in the last 3 years and follows up on the bill passed unanimously last fall.

Like those earlier efforts, the bill targets the biggest problem for pesticide regulation—inadequate health and safety data on pesticides currently in use. It's outrageous that 15 years after the passage of the Federal Insecticide, Fungicide and Rodenticide Act amendments, the vast percentage of all active ingredients are still missing vital tests for cancer, mutations, and birth defects.

Under existing law EPA has no deadline by which this data is required. As a result, a 1984 House committee report found that 85 percent of all pesticides on the market had been inadequately tested. Last year, a GAO report confirmed the House finding and lack of progress since the original report.

Even worse, without our new bill EPA lacks effective measures for dealing with pesticides whose active ingredients were registered for use with fraudulent or invalid data.

The bill also sets out new standards for: pesticide exports, inert ingredients, data disclosure, registration fees, worker protection, and closing of regulatory loopholes.

In addition, it provides that no indemnification will be paid for pesticides taken off the market unless Congress specifically appropriates the funds. When EPA came before my Appropriations Subcommittee in March they stated for the record that indemnification for several of the pesticides under special review would cost more than their entire pesticides budget.

The bill is very close to the consensus draft which enjoyed broad support from both industry and citizen's groups in the last Congress. Enactment will increase confidence in the American food supply and protect the public health.●

● Mr. DECONCINI. Mr. President, I am pleased today to join my distinguished colleague from Vermont in cosponsoring the Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1987.

As chairman of the Senate Judiciary Subcommittee on Patents, Copyrights and Trademarks, one of my goals is to assure full and fair patent protection for patent owners. The patent term restoration section of this bill is needed to give full protection to inventors of certain agricultural products that require regulatory review by Government agencies. It is similar to a bill enacted in the 98th Congress (Public Law 98-417) that allowed for a limited extension of patent time for human pharmaceutical drugs requiring substantial Federal testing. As a cosponsor of that legislation, my goal was to restore research incentive by protecting the rights of the inventor. I have a similar aim here.

Today, when certain pesticides, chemical, and plant products are introduced, they are required to undergo extensive regulatory review prior to their commercial marketing. However, this sometimes lengthy analysis may affect the patent life and limit the time manufacturers have to recover their research and development costs. Section 2401 of title XXIV of this legislation is designed to extend the patent life for a term equal to the regulatory review period that occurred after such patent was granted, up to a 5-year maximum extension. By offering this patent term restoration, we can assure those involved in this kind of research and development the same competitive environment as the inventor or a product that doesn't require extensive regulatory review.

I have requested a sequential referral from Senator LEAHY and his Agriculture Committee so that my subcommittee may hold a hearing on the agricultural patent term restoration section. While my primary interest in the FIFRA bill is with the section regarding patent term restoration, the bill as a whole demands our attention as well. This legislation would reauthorize FIFRA for a period of 5 years, and along with the basic reauthorization, would provide new standards for reregistration, indemnification, certification, and training along with a host of other provisions.

I am not a member of the Agriculture Committee, and I am certainly no expert on the FIFRA bill, but I do know that a reauthorization is necessary. I look forward to reviewing the final product produced by the Agriculture Committee. While no bill is perfect, I believe that Chairman LEAHY has worked hard to reach reasonable compromises where possible and I am certain that this process will continue through markup. I look forward to working with Senator LEAHY and his staff to report both sections of this bill to the full Senate.●

● Mr. LUGAR. Mr. President, I am pleased to be joined by the distinguished chairman of the Senate Agriculture Committee in introducing legislation to amend the Federal Insecticide, Fungicide, and Rodenticide Act. This legislation is virtually identical to broadly supported legislation that passed both bodies of Congress last year, but failed to secure final approval by the Senate on the final day of the session.

This is historic legislation that represents over 2 years of negotiations and compromise among competing interests in the pesticide area. This omnibus bill was endorsed last year by the National Agricultural Chemicals Association, a coalition of 41 environmental and labor groups, and the American Farm Bureau Federation.

Without question the most significant aspect of this legislation is the reregistration of older pesticides. Prior to the creation of the Environmental Protection Agency in the early 1970's, pesticides were regulated by the Department of Agriculture using standards that were far less stringent than today's requirements for registration. Despite two mandates by Congress in 1972 and again in 1978 to review and reregister some 600 active ingredients, the EPA has reregistered less than 1 percent of these products. These active ingredients continue to be registered and marketed today despite the fact that adequate health and safety data may not be available to support such a registration.

The bill establishes a five-phase plan with strict deadlines for the reregistration process. The process will require about 10 years to complete action on all 600 active ingredients. This compares to an expected completion date beyond the year 2005 under current procedures.

Last year's legislation improved upon previous reregistration mandates because it authorized the EPA to require registrants to pay a one-time user fee of $150,000 for each reregistered active ingredient. The reregistration fee generated approximately $44 million in additional revenue to help the EPA complete this process within the mandated time deadlines.

The Senate last year took special care to ensure that small business would not be adversely affected by this fee. They were required to pay a proportionately lower fee based upon historical sales volume of the active ingredients.

Since this time, the EPA has made the case that the registration fee remains inadequate to fund the programs within the time periods mandated in this bill. The total cost of the reregistration program is estimated at $260 million. The current EPA budget has devoted $45 million to this program. When combined with the $44 million in reregistration fees, last year's bill still has a shortfall of about $170 million over the course of 9 years.

We have therefore rewritten the reregistration fee section in an attempt to generate more revenues for the EPA on an annual basis. The EPA now estimates fees of about $113 million over a 9-year period. We continue to authorize the EPA to reduce this fee for small businesses.

The legislation resolves other issues that in the past have bitterly divided environmentalists and the pesticide manufacturing industry. The bill establishes a system whereby the public may review health and safety data used to support an EPA pesticide registration. This issue has sharply divided the pesticide industry and environmentalists in the past. The Senate Agriculture Committee's unsuccessful attempt to reauthorize FIFRA in 1982 came almost exclusively as a result of this issue. Environmentalists believe that health and safety data submitted to support an EPA pesticide registration should be available to the public for review of any potential hazards to public health and the environment. The pesticide registrants, on the other hand, believe that health and safety data is proprietary information which cannot be allowed to reach competitors. This is particularly the case with overseas competitors who are not governed by U.S. patent laws.

The October 16 bill struck a reasonable accord between these competing interests. It required registrants to prepare summaries of the health and safety data that would be disclosed to the general public. The registrant could prepare the summaries in a way that protects proprietary data—and yet, the general public will be able to review the results of the health and safety studies.

The bill also directs the EPA to regulate inert ingredients in pesticides. Inert ingredients are additives that are inactive within that particular pesticide formula. They are added simply as a carrier of the active ingredients. It is estimated that some 2,000 inert ingredients have little, if any, effect upon public health and the environment. The EPA, however, has identified approximately 55 inert ingredients known to cause adverse health and environmental effects. Another group of 51 are suspected to have such effects.

The October 16 bill required the EPA to establish a priority list of not less than 50 and no greater than 75 inert ingredients to review. Within 1 year, the EPA must determine whether or not additional health and safety data is needed for a listed inert. If a potential risk to human health and the environment exists, the EPA may require the registrants to generate health and safety studies for such inert ingredients. Registrants would have 4 years to generate these studies.

The October 16 bill established a new program for the regulation of pesticides in ground water. The EPA, in consultation with the Secretary Agriculture and the Governors of each State, would be required to implement a ground water monitoring program in representative geographical areas. Based upon its monitoring program the EPA was authorized to require registration amendments as a preventative tool to keep pesticides from exceeding tolerable levels in drinking water wells and potential water wells.

I would simply note that Senator LEAHY and Senator DURENBERGER recently introduced separate ground water legislation that proposes much stricter standards for ground water pesticide residue than was contained in the October 16 bill. For this reason, Senator LEAHY and I agreed to delete all reference to ground water from the new bill. We remain hopeful that this issue can be resolved prior to the committee's markup in order that strong ground water protections can be added back to the bill.

In addition, the bill enacts time deadlines for administrative review of registered pesticides suspected of causing adverse effects upon public health and the environment. The FIFRA statute has been sharply criticized for the time required to cancel pesticides with proven toxic effect. The bill prevents excessive delays due to lack of action by EPA.

The legislation also addressed many business concerns of pesticide manufacturers. The committee bill addresses complaints received from the secondary registrants who market follow-on pesticides after the expiration of the original registrants' 17-year patent. Under current law, the secondary registrants may obtain an EPA registration by either generating their own health and safety data or by citing the original registrants' data. The secondary registrants must offer to pay compensation for the use of original registrants' data.

In the mid 1970's, the EPA was responsible for determining the appropriate level of compensation. This placed EPA in an impossible position of having to arbitrate between two competing segments of the pesticide industry. At EPA's request, the Congress voted to have a nonpartisan arbitration panel determine the level of data compensation. The decision of arbitration panel is binding to both parties and is not subject to appeal in a U.S. Court of Appeals.

The secondary registrants testified that the arbitration panel has issued only one decision thus far and it heavily favored the interests of the original registrant. In response to these concerns, the Senate approved an amendment whereby the arbitration panel's decision would be nonbinding to the secondary registrant. They would no longer be bound by an arbitrator's decision they believe to be excessive. In addition, either party involved in arbitration could seek judicial review of any arbitrator's decision.

Finally, the bill contains the so-called patent-term restoration provisions that enable the original registrants to obtain a patent extension for the period of time necessary for the Environmental Protection Agency to review and approve the pesticide registration. Such a provision will encourage the pesticide manufacturers to invest in costly research programs to develop safer and more effective pesticides. The incentive for research commitments are greatly reduced under current law where 5 to 7 years of the patent life expires prior to the EPA's registration approval.

Mr. President, I summarize this bill by simply stating that it was a carefully crafted piece of work that balanced the interests of farmers, pesticide manufacturers, and the general public. I remain hopeful that the Senate can move expeditiously to approve this piece of unfinished business from the 99th Congress.

Mr. President, as is the case with any compromise of difficult issues, the bond between the various groups has weakened since last fall. Although the vast majority of last year's coalition remains intact, some interested groups are actively soliciting additional modifications. I remain hopeful that we can approve this historic agreement during this session of the 100th Congress in order to reduce the desire to reintroduce every special interest amendment that was rejected during the 2 years of arduous negotiations that ultimately led the widely supported October 16 bill.●

By Mr. MITCHELL (for himself and Mr. COHEN):

S. 1517. A bill to amend title 38, United States Code, to provide that per diem subsidies paid by the Veterans' Administration for the care of veterans in State homes shall not be used to offset payments that are made under the Medicaid Program for the purpose of assisting eligible veterans; to the Committee on Veterans' Affairs.

VETERANS' ADMINISTRATION PER DIEM PAYMENTS TO STATE VETERANS HOMES

● Mr. MITCHELL. Mr. President, today I am introducing with my colleague, Senator COHEN, legislation to change the present treatment of Veterans' Administration per diem payments to State veterans' homes under Medicaid.

The VA promotes the care and treatment of veterans in State veterans' homes as one means of developing and maintaining the highest possible quality of care for this Nation's elderly veterans. The term means a home established by a State for veterans disabled by age, disease, or otherwise, who by reason of such disability are incapable of earning a living.

The term also includes facilities which furnish nursing home care for veterans. The establishment, control, and administration of a home is the responsibility of the State which it serves.

Congress has established two programs under which the VA provides assistance to State homes.

The first is a grant program authorized by title 38, U.S.C. 5031-5037. Grants are made to construct new homes or to expand, remodel, or alter existing facilities and may not exceed 65 percent of the cost of construction.

The second is a per diem payment program authorized by title 38, U.S.C. 641-643. Under this program, the VA contributes funds directly to recognized State homes to help meet the cost of care for eligible veterans in the homes.

Per diem payments under this program are made for domiciliary care, nursing home, and hospital care at set rates, but may not exceed one-half the cost of the veterans' care in the home.

State homes are established through legislation enacted by the State legislature, which also determines how the State will fund its share of the home's operation.

Generally, that support is a direct appropriation from the State. Under such an arrangement, the home's revenues consist of State appropriations and the VA per diem payments.

But a small number of States, including my State of Maine, have chosen to fund the home's operation through the Medicaid Program. Under such an arrangement, the home's revenues consist of Medicaid and VA per diem payments.

As my colleagues know, the Federal and participating State governments share the cost of Medicaid by means of a variable matching formula. States with Medicaid veterans' homes then do not directly support their homes with State revenue, except for the funds allocated to cover the State's share of the Medicaid payments to the homes.

In determining the extent of medical assistance Medicaid may provide for an individual applicant or recipient, States must consider whether there exists any third party liability for the individual's care and services that arises out of injury, disease, or disability.

If a State discovers that a third party is in fact liable for some portion of a Medicaid applicant's or recipient's care, the State must reduce its Medicaid payments to the extent of such third-party liability.

The Office of General Counsel in the Department of Health and Human Services has ruled that VA per diem payments to State homes must be treated as a third-party liability for purposes of Medicaid.

Because of this ruling, State agencies which are entrusted with the responsibility of administering Medicaid, in the case of my State, the Maine Department of Human Services, are forced to reduce the Medicaid payments by an amount equal to the VA per diem payments made on behalf of the Medicaid-eligible veterans residing in the home.

Veterans in my State have repeatedly and strongly voiced their objection to the present arrangement. They argue that it makes no sense for the Congress to authorize the Veterans' Administration to make payments to State homes on behalf of veterans only to have those funds used by State agencies to replace State and Federal Medicaid dollars, with no benefit to the veteran. I agree.

The legislation I am introducing today with Senator COHEN is simple and straightforward. It says that payments made to State veteran homes under section 641 of title 38 shall not be considered to be a third-party liability under Medicaid.

I think the provisions of this legislation will go a great way to strengthening the finances and improving the health-care services provided to veterans in this country's State veterans homes.

This bill is identical to one Senator COHEN and I introduced last Congress, S. 1536. The provisions of S. 1536 were included in the Omnibus Veterans' Benefits Improvement and Health Care Authorization Act of 1986, S. 2422, which was approved by the Senate last year. Unfortunately, the provisions were dropped in conference.

I'm pleased that similar legislation is going to be introduced in the House today by Representative OLYMPIA SNOWE.

Mr. President, I strongly support the State veterans' home concept and the programs in place to aid the homes.

Earlier this year, I introduced legislation, S. 216, which would increase the per diem rates paid to States for providing care to veterans in State homes. I also joined my colleagues on the Veterans' Affairs Committee in recommending an increase in the funding for the VA's construction grant program.

I urge my colleagues to join Senator COHEN and me in sponsoring this legislation.

At this point in the RECORD, I ask unanimous consent that the text of the bill be printed in full.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1517

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 641 of title 38, United States Code, is amended by adding at the end of the following new subsection:

"(d) Payments made to States pursuant to this section—

"(1) shall not be considered to be a third-party liability for any purpose under section 1902(a)(25) of title XIX of the Social Security Act; and

"(2) shall, for purposes of determining under title XIX of the Social Security Act the reasonable costs of services provided by a State home, not be deducted directly or indirectly from the operating or other costs of such State home."●

● Mr. COHEN. Mr. President, for some 6 years, the Maine Veterans Home has provided essential care to older veterans in Maine. Founded through the cooperative efforts of the Maine veterans community, Maine State officials, the Veterans' Administration, and the Maine congressional delegation, the home has earned much respect for the quality services it provides. A series of legal rulings in recent years have impaired the future ability of the home to offer its veteran residents the high quality of care to which the home is committed. The Maine Veterans Home is not unique in this regard. Four other States provide Medicaid financing to their veterans' nursing homes, and the veterans receiving care in those nursing homes are also being penalized.

The Maine Veterans Home is an intermediate-care facility licensed by the State of Maine and provides services to Medicaid-eligible individuals under the Maine Medical Assistance Program. The home is certified by the Veterans' Administration to provide intermediate care to veterans and, as such, receives a per diem subsidy from the VA for each day of care provided to each veteran patient. The subsidy is authorized by 38 U.S.C. section 641.

The State of Maine Department of Human Services is the sole agency in the State of Maine authorized to administer the Medicaid Program. In 1984, the department ruled that the portion of the VA subsidy received by the home based on care provided to its Medicaid patients constitutes a third-party liability as defined in 42 U.S.C., section 1396a(25) and 42 CFR, sections 433.135 through 433.154. Because the department views the VA subsidy as a third-party liability, it has offset Medicaid payments otherwise due the home by the amount of the VA subsidy.

The Maine Veterans Home questioned this offset practice on two grounds. First, the Maine Department of Human Services' ruling was based on a 1979 Federal decision whose legality the home questioned. That decision was made by the U.S. Department of Health and Human Services' Audit Office with regards to the Wisconsin Veterans Home. Second, the home argued that the offset practice was not in consonance with the intent of Congress with regards to the VA subsidy program.

To ensure a full hearing on the first of these questions raised by the Maine Veterans Home, the Maine congressional delegation asked the Secretary of Health and Human Services to review whether the VA subsidy should be considered a third-party liability which must be offset. In 1985, the Secretary affirmed the consistency of the offset practice with HHS's interpretation of the applicable law and regulations.

This leaves the question of whether this interpretation is consistent with the intent of Congress. In my view, and that of other Members of the Maine congressional delegation, Congress established the per diem payment program so the Veterans' Administration could contribute directly to State homes to help meet the cost of care for veterans in the homes. Medicaid eligibility is determined separately. Therefore, there is no reason to limit payments which are made on the basis of a veteran's status simply because the veteran also happens to be eligible for Medicaid.

Accordingly, Senator MITCHELL and I are introducing legislation today which would provide that VA per diem subsidies authorized under 38 U.S.C., section 641 not be considered a third-party liability under section 1902(a)(26) of title XIX of the Social Security Act. This legislation further states that such VA subsidies shall not be deducted directly or indirectly from the operating or other costs of a State home when determining, under title XIX of the Social Security Act, the reasonable costs of services provided by a State home.

Our colleague in the House, Representative SNOWE, is introducing identical legislation today regarding this matter.

In our view, approval of this legislation will help to ensure that the State veterans' nursing homes which are in this unusual situation are able to provide the level of care to veterans that the Congress intended when it wrote the relevant laws.

I urge my colleagues to join us in cosponsoring this legislation.●

By Mr. ROCKEFELLER (for himself, Mr. DANFORTH, Mr. WILSON, Mr. WIRTH, Mr. CRANSTON, Mr. BYRD, Mr. JOHNSTON, Mr. DASCHLE, Mr. KASTEN, Mr. LUGAR, Mr. MCCAIN, Mr. BINGAMAN, Mr. EXON, Mr. DIXON, and Mr. MOYNIHAN):

S. 1518. A bill to amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol, and for other purposes; to the Committee on Commerce, Science, and Transportation.

METHANOL AND ALTERNATIVE FUELS PROMOTION ACT

Mr. ROCKEFELLER. Mr. President, I am today introducing, along with Senators Danforth, Wilson, Wirth, Cranston, Byrd, Johnston, Daschle, Kasten, Lugar, McCain, Bingaman, Exon, Moynihan, and Dixon, the Methanol and Alternative Fuels Promotion Act of 1987. This bill is intended to foster and accelerate the manufacture of alternative fuel vehicles, specifically those that run on methanol, ethanol, and natural gas.

Mr. President, although several of the provisions of this bill are exceedingly complex in order to weave it into the current fuel economy law without significant disruption, the basic thrust is straightforward and practical. By calculating the fuel efficiency of automobiles that run on alternative fuels in a favorable way, we will encourage the major automakers to make early commercial introduction of these vehicles a priority. In turn, the preparation for commercial production of alternative fuel vehicles will stimulate the development of an essential refueling infrastructure.

Mr. President, for years we have talked about the need for alternative fuels, and the need to displace some of the 100 billion gallons of gasoline used in the transportation sector each year. Our sense of urgency in this regard was aided by the OPEC oil embargo nearly 15 years ago and by an overnight doubling in the price of oil some 8 years ago. Congress initiated programs, spend billions of dollars on reports and studies, provided subsidies for the development of some fuels, and funded demonstrations of many technologies. Ultimately, however, the opportunity to switch away from gasoline eluded us.

Today, we once again see oil imports on the rise. Tensions in the war-torn Persian Gulf region are increasing and the specter of United States warships at full alert and escorting Kuwaiti oil tankers illustrate how our involvement in the region is set at a hair trigger.

Back at home, tough choices face us concerning the further development of domestic oil resources, especially in environmentally sensitive areas. And even if we develop all of those areas that show promise, we will still be running to catch up. With the exception of the Strategic Petroleum Reserve, this country is no more energy secure today than we were 8 or 15 years ago, and our petroleum diet is just as large. This country must accelerate the development of alternatives to gasoline or suffer the economic and military consequencies of its dependence on this unstable fuel supply.

Mr. President, there is another very important reason to push the development of alternative fuel vehicles, those that can operate on methanol, ethanol, and natural gas. Because of their clean-burning characteristics, these fuels can make an exceedingly important contribution to the reduction of air pollution from automobiles. As many of the Nation's largest cities struggle to comply with the health standard for ozone pollution—caused largely by reactive hydrocarbons from autos—the use of methanol, ethanol, and natural gas vehicles grows in importance. One need only visit Los Angeles or Denver to visually experience the need for a more clean-burning alternative to gasoline. Just this summer alone, out Nation's capital has to date experienced four periods during which the atmospheric ozone level exceeded the current health standard set by the Environmental Protection Agency.

I am confident, Mr. President, that our abundant supplies of coal will be the source of methanol in years to come. If we were to convert, for example, 10 percent of U.S. automobiles to using methanol, the demand for methanol could put over 20,000 coal miners back to work.

We also have vast untapped supplies of natural gas in Alaska that could be used both as a source for methanol development and natural gas vehicles. In fact, because of market conditions today, this natural gas—associated with the production of oil—is reinjected into the well, with 25 percent of the volume being used to run the reinjection machinery.

Mr. President, we also have plentiful supplies of grain in the United States that in many years get plowed under for lack of a market. These fields of plenty could be converted into ethanol, another alcohol fuel, to be used to address our motor fuel needs.

I have focused my efforts on methanol, Mr. President, largely because the ability to make it from two plentiful West Virginia resources—coal and natural gas. But in this proposal, I have also included those fuels which show the most near-term promise of providing the transportation market with an alternative to gasoline.

Mr. President, the major auto companies consider methanol the most likely replacement fuel of the future. An alcohol, methanol can be made from natural gas, coal, wood, and even garbage. Its high performance and safety related characteristics make methanol an ideal fuel to power the Indy race cars. Likewise, from the standpoint of cost and fuel distribution, methanol is a fuel to which an easy transition can be made.

Nevertheless, there is a capital investment required to begin production of these vehicles and a substantial risk for the automaker to take. Because methanol is an alcohol, with more corrosive properties than gasoline, an automobile must be designed to accommodate its use. The technology to do this has been demonstrated, as has the technology to build a so-called dual-fuel car that can use both methanol and gasoline, and any blend of the two.

Mr. President, to move beyond mere demonstration of this alternative fuel technology, we must break the chicken and egg cycle that prevents mass production of methanol vehicles. Manufacturers will not make a commitment to full-scale production of methanol cars until consumers will buy them. Consumers won't buy them until mass production makes the price competitive and there are conveniently located service stations to serve them. And service stations won't sell methanol fuel—and refiners provide it—until Detroit puts cars on the road ready to use it.

Mr. President, the challenge is to escape from this cycle and to begin the transition to methanol now. The best and most effective way to do that is to hold out a reasonable incentive to automakers to pursue innovative options.

Mr. President, about 2 years ago, under the able leadership and authorship of then Chairman Danforth, the Senate Commerce Committee reported a bill that provided a significant incentive, similar in design to that which is included in the bill today. I am very pleased to have the Senator from Missouri as a principal sponsor of the legislation today.

Mr. President, the Methanol and Alternative Fuel Promotion Act of 1987 updates and refines the concept which the Commerce Committee considered in 1985. I will place in the Record, along with the bill, a factsheet that describes much of the detail of my proposal, and I will briefly describe its contents.

Mr. President, the basic incentive to the manufacturer will calculate the fuel efficiency of a completely methanol—or alternative fuel—car on the basis of its gasoline content. This so-called dedicated vehicle would get a sixfold increase in its fuel economy rating.

But there is also the very exciting technology of so-called dual-fuel vehicles—those that can operate totally on gasoline and totally on methanol, or any blend of fuels in between. The bill would give these vehicles an increased fuel economy rating that assumes they use gasoline 50 percent of the time and methanol—or alternative fuel—the remainder.

Mr. President, much of the complexity of this legislation is associated with how these attractive incentives can be used by the automakers. My purpose has been to strike a balance, to creatively use the Nation's fuel economy law to give us options—energy security

options, clean air options—in short, policy options that don't exist today.

My bill, while holding out a powerful and practical incentive to encourage the development of alternative fuels, puts a limit—a cap—on the size of the credits available for the production of dual-fuel vehicles. In this manner, we will preserve the integrity of the fuel economy law and at the same time take the first step to break the dependency we have on the gasoline engine.

Mr. President, I will have more to say about this legislation in weeks to come. And because it is forward looking and makes plans for the mid-1990's and beyond, it may be hard to keep people focused on its importance and impact.

If this country is serious about achieving a stable energy future, if we are serious about breaking the West's addiction to Middle Eastern oil, and if we are going to find a solution to our urban smog problems, we must turn to alternative fuels. A good place to begin this process is with the Methanol and Alternative Fuels Promotion Act of 1987.

Mr. President, I ask unanimous consent that a detailed fact sheet on the bill be printed in the RECORD at this point, along with a copy of the bill.

Mr. President, I yield the floor.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1518

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Methanol and Alternative Fuels Promotion Act of 1987".

FINDINGS

SEC. 2. The Congress finds that—

(1) transportation uses account for more than 60 percent of the oil consumption of the Nation;

(2) continued reliance on imported oil is detrimental to the economy and security of the United States;

(3) methanol, ethanol, and natural gas are proven transportation fuels that burn more cleanly and efficiently than gasoline; and

(4) conversion of a portion of the transportation fleet of the Nation to methanol and alternative fuels would stimulate development of a domestic coal-to-methanol and methane industry, create jobs, reduce air pollution, and enhance national security.

PURPOSES

SEC. 3. The purposes of this Act are to—

(1) provide for appropriate application of fuel economy standards to methanol, ethanol, and natural gas powered passenger automobiles and dual passenger automobiles; and

(2) increase the use of methanol, ethanol, and natural gas by consumers and the production of methanol, ethanol, and natural gas powered passenger automobiles.

MANUFACTURING INCENTIVES FOR AUTOMOBILES

SEC. 4. (a) Section 501 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001) is amended—

(1) in paragraph (1), by inserting immediately after "fuel" the first time it appears the following: ", methanol mixture, ethanol mixture, or natural gas"; and

(2) by adding at the end thereof the following new paragraphs:

"(15) The term 'methanol mixture' means the mixture of methanol with other fuel, if any, used to operate a methanol powered passenger automobile.

"(16) The term 'methanol powered passenger automobile' means an automobile designed to operate on not less than 85 percent methanol.

"(17) The term 'ethanol mixture' means the mixture of ethanol with other fuel, if any, used to operate an ethanol powered passenger automobile.

"(18) The term 'ethanol powered passenger automobile' means an automobile designed to operate on not less than 85 percent ethanol.

"(19) The term 'natural gas' means either natural gas unmixed, or any mixture of natural and artificial gas.

"(20) The term 'natural gas powered automobile' means an automobile designed to operate on natural gas.

"(21) The term 'dual fuel passenger automobile' means an automobile which—

"(A) is capable of operating on methanol or ethanol and which is designed to make instantaneous adjustments to the air-fuel ratio for the entire range of mixtures (from 0.0 percent methanol or ethanol to at least 85 percent methanol or ethanol, as appropriate) of gasoline and methanol or ethanol, or is capable of operating on natural gas or gasoline;

"(B) achieves a driving range of at least 250 miles, based upon the combined EPA city/highway fuel economy, as determined for average fuel economy purposes for such automobile when operating on an 85 percent methanol mixture; and

"(C) achieves a driving range of at least 250 miles, based upon the combined EPA city/highway fuel economy, as determined for average fuel economy purposes for such automobile when operating on an 85 percent ethanol mixture.

The driving range for dual fuel passenger automobiles operating on such methanol mixture or ethanol mixture specified in this paragraph may be lowered by the Secretary after a rulemaking proceeding, if the Secretary determines, as a result of such proceeding, that such dual fuel passenger automobiles cannot be redesigned to achieve such driving range, considering economic feasibility, safety, and other factors determined by the Secretary to be relevant, but in no event shall the Secretary lower such requirement below 200 miles, based upon the combined EPA city/highway fuel economy.".

(b) Section 502(l)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(l)(1)) is amended—

(1) by redesignating subparagraph (E) as subparagraph (H); and

(2) by inserting immediately after subparagraph (D) the following new subparagraphs:

"(E) As specified in this subparagraph, for any 10 consecutive model years between 1993 and 2005, a manufacturer of dual fuel passenger automobiles shall receive an average fuel economy increase in accordance with section 503(d)(4)—

"(i) for the initial five model years, up to 1.2 miles-per-gallon or an average fuel economy increase based on 200,000 dual fuel passenger automobiles, whichever is higher, but in no event shall such average fuel economy increase be greater than 1.5 miles-per-gallon; and

"(ii) for the period of five years after the initial five model years, up to 0.9 miles-per-gallon or an average fuel economy increase based on 200,000 dual fuel passenger automobiles, whichever is higher, but in no event shall such average fuel economy increase be greater than 1.1 miles-per-gallon.

Not later than January 15, 2000, the Secretary shall, in consultation with the Secretary of Energy and the EPA Administrator, complete a study with respect to whether the increases specified in this subparagraph should be extended for not to exceed five model years. The Secretary shall include in such study recommendations regarding such increases, and shall transmit to the Congress the results of such study. If the Secretary determines that such increases should be extended, the Secretary shall, within 60 days after the completion of such study, promulgate a rule providing for such increases. No such rule shall take effect for a period of 90 days after the study is transmitted to the Congress under this subparagraph.

"(F) Notwithstanding the provisions of subparagraph (E) of this paragraph, if the Secretary reduces the average fuel economy standard for any model year below 27.5 miles per gallon, the average fuel economy increase to which any manufacturer of dual fuel passenger automobiles would otherwise be entitled under this subsection in any model year shall be reduced by the amount of the reduction in the average fuel economy standard, except that any manufacturer of dual fuel passenger automobiles which qualifies for a credit under subparagraph (E) shall receive an average fuel economy increase of at least 0.7 miles-per-gallon. No such credit earned under subparagraph (E) may be used under subparagraph (C) unless the manufacturer of such dual fuel passenger automobiles has achieved a minimum average fuel economy in such year no lower than the minimum level specified in subsection (a)(4). In determining a manufacturer's minimum average fuel economy, dual fuel passenger automobiles manufactured by a manufacturer shall be determined as if such automobiles were operated exclusively on gasoline.

"(G) Notwithstanding any other provision of this paragraph, a manufacturer of natural gas powered automobiles or dual fuel passenger automobiles when operated on natural gas specified in section 501(21)(A) shall not be entitled in any particular model year to earn a credit under this subsection if the Secretary of Energy determines, and notifies the Secretary, that entitling such manufacturer to earn such a credit is likely to result in a significant increase in the average price to gas consumers of natural gas.".

(c) Section 503(d) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2003(d)) is amended by adding at the end thereof the following new paragraphs:

"(4)(A) If a manufacturer manufactures methanol or ethanol powered passenger automobiles or dual fuel passenger automobiles, the fuel economy of an automobile shall be based on the fuel content of the methanol or ethanol mixture used to operate such automobiles. For purposes of this section, a gallon of the methanol or ethanol mixture used to operate such automobiles shall be considered to contain 15 one-hundredths of a gallon of fuel.

"(B) If a manufacturer manufactures dual fuel passenger automobiles, the fuel economy of an automobile shall be based on the fuel content of the methanol or ethanol mixture used to operate such automobiles. For purposes of this section, a gallon of the methanol or ethanol mixture used to operate such automobiles shall be considered to contain 15 one-hundredths of a gallon of fuel. The fuel economy of a dual fuel passenger automobile shall be determined by harmonically averaging (and equally weighting) the fuel economy when operated on fuel and when operated on a methanol or ethanol mixture.

"(C) If a manufacturer manufactures natural gas powered automobiles or dual fuel passenger automobiles when operated on natural gas specified in section 501(21)(A), the fuel economy shall be based on the fuel content of the natural gas. For purposes of this section, 100 cubic feet of the natural gas used to operate such automobiles shall be considered to contain 0.823 gallons equivalent of natural gas. A gallon equivalent of natural gas shall be considered to contain 15 one-hundredths of a gallon of fuel.".

AUTOMOBILE LABELING

SEC. 5. Section 506(a)(1)(A) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(a)(1)(A)) is amended—

(1) by striking "and" in clause (ii); and

(2) by inserting immediately after clause (iii) the following:

"(iv) in the case of a methanol, ethanol, or natural gas powered passenger automobile, the fuel economy of such automobile when operated on the methanol or ethanol mixture, or natural gas, as the case may be, calculated under section 503(d)(4), multiplied by 15 percent, and

"(v) in the case of a dual fuel passenger automobile, the fuel economy of such automobile calculated under section 503(d)(4), multiplied by 15 percent, as well as the fuel economy of such automobile when operated on gasoline,".

REPORT

SEC. 6. Section 512 of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2012) is amended by adding at the end thereof the following:

"(d)(1) Beginning in January 1993 and annually thereafter, the Secretary, after consultation with the Secretary of Energy, shall submit to the Congress a report which contains the information specified in paragraph (2) of this subsection, together with such other information and recommendations as the Secretary considers necessary or appropriate to carry out the purposes of the Methanol and Ethanol Promotion Act of 1987.

"(2) As part of such report, the Secretary shall—

"(A) include information regarding the effects, if any, of the amendments made by such Act on the consumption of methanol, ethanol, natural gas and gasoline on an industrywide and manufacturer-specific basis;

"(B) in consultation with the EPA Administrator, include information regarding the effects, if any, of the amendments made by such Act on the achievement of fuel economy standards specified in section 502 on an industrywide and manufacturer-specific basis; and

"(C) in consultation with the EPA Administrator, recommend changes in the definition of 'dual fuel passenger automobile' in section 501(21) as technological developments warrant, in order to promote the actual use of methanol and ethanol, and to further the purposes of the Methanol and Ethanol Promotion Act of 1987.".

CONFORMING AMENDMENT TO THE INTERNAL REVENUE CODE OF 1986

SEC. 7. Section 4064(b) of the Internal Revenue Code of 1986 (26 U.S.C. 4064(b)) is amended by adding at the end thereof the following new subparagraph:

"(8) EXCEPTION FOR ALTERNATIVE FUELS.—The determination of the tax to be imposed with respect to a methanol, ethanol, or natural gas powered passenger automobile or dual fuel automobile shall be based on the fuel economy rating established under section 503(d)(4) of the Motor Vehicle Information and Cost Savings Act.".

CONFORMING AMENDMENT TO THE MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT

SEC. 8. (a) The Congress finds that, in order to promote fully the development of methanol, ethanol and natural gas powered passenger automobiles, the technology feasibility requirements of section 502(e) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(e)) should reflect the experimental nature of such development.

(b) Section 502(e) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(e)) is amended by adding at the end the following: "For purposes of this subsection, the Secretary shall not consider the fuel economy of ethanol, methanol or natural gas powered passenger automobiles, and the Secretary shall consider dual fuel passenger automobiles to be operated exclusively on gasoline.".

FACT SHEET: METHANOL AND ALTERNATIVE FUELS PROMOTION ACT OF 1987 SENATOR ROCKEFELLER, ET. AL.

PURPOSE

Intended to provide an incentive to auto manufacturers to develop alternative fuels vehicles. Such vehicles address energy security concerns and provide clean air benefits.

COVERAGE

Applies to methanol, ethanol, and natural gas vehicles. Covers vehicles designed to operate exclusively on these fuels or dual-fuel vehicles. At this time, the bill applies just to passenger automobiles; work is continuing to develop some type of incentive program for light-duty trucks.

BASIC APPROACH

The bill amends the Motor Vehicle Cost Savings Act (the "CAFE" law) to provide for an appropriate application of the fuel economy standards to methanol, ethanol, and natural gas powered passenger automobiles. The total miles per gallon of the vehicle would be averaged over a smaller amount of fuel (gasoline). Thus, the MPG rating would be higher for the automobile. Since the "CAFE" law assesses a monetary penalty when a manufacturer fails to meet the statutory fuel economy standard, the increased CAFE for alternative fuel vehicles would provide encouragement to a manufacturer to develop the automobile.

The bill divides treatment of vehicles into two categories—

(1) Those that will be "dedicated," using at least 85% of the alternative fuel at all times; and

(2) Those that will be "dual fuel," capable of operating on a range of mixtures of methanol and gasoline or ethanol and gasoline (up to at least 85% alternative fuel)—or capable of operating on natural gas or gasoline. [Note: Natural gas vehicles that alternate between gasoline and natural gas are defined as dual fuel, even though they would not operate on a fuel mixture.]

TIME PERIOD

The bill allows a manufacturer to receive 10 consecutive model years of special treatment for alternative fuels vehicles between model years 1993 and 2005. The program would sunset at that time unless the Secretary (DOT) extends the program for up to 5 years, with a 90 day period for Congressional review and disapproval.

THE INCENTIVE

"Dedicated" vehicles will receive a fuel economy rating based on the 15% gasoline content of the fuel. No limitations apply.

"Dual Fuel" vehicles will be calculated for CAFE purposes on a 50% gasoline alternative fuel (e.g., a 85% methanol, 15% gasoline mixture). However, limits apply to the amount of CAFE increase allowed from dual fuel vehicles (see below).

LIMITS ON THE INCENTIVE FOR DUAL FUEL VEHICLES

The purpose of this bill is to encourage and provide an incentive to produce methanol and alternative fuel vehicles. To avoid any fundamental change to the purpose of the CAFE law, however, certain limitations on the alternative fuel incentives are necessary, as follows:

(1) For the first 5 model years (e.g., MY'93 to MY'98), the manufacturer could raise its CAFE rating by production of the dual fuel vehicles by the higher of: 1.2 miles per gallon (MPG), or the increase that occurs from 200,000 dual fuel vehicles; but if 200,000 vehicle production provides the higher CAFE increase, it is capped at a maximum of 1.5 MPG.

(2) For the second 5 model years (e.g., MY'99 to MY'03), the manufacturer could raise its CAFE rating by production of the vehicles to the higher of: 0.9 MPG, or the increase that occurs from 200,000 dual fuel vehicles; but if the 200,000 vehicle production provides the higher amount, it is capped at 1.1 MPG.

(3) If the Secretary lowers the existing statutory fuel economy standard below 27.5 MPG, the CAFE increase available by the production of dual fuel vehicles would be 'ratchetted'-back accordingly, by each tenth of an MPG. However, the manufacturer can still earn up to a 0.7 MPG increase regardless of the Secretary's action, but specific limitations apply concerning the use of this increase toward past or future model years (the carry-back/carry-forward provisions of the CAFE law).

OTHER FEATURES

Dual fuel vehicles are required to have a minimum driving range of at least 250 miles when operating on methanol or ethanol as an encouragement to consumer acceptability of the fuel. The Secretary is given rulemaking flexibility with this requirement should the cost of redesign be prohibitive for certain automobile lines, but can not be set below 200 miles.

The bill makes clear that the lower energy content of the alternative fuel would not trigger the so-called 'gas-guzzler' tax provisions on these alternative fuel vehicles.

The bill requires the Secretary to make an annual report to the Congress concerning the development and impact of alternative fuel vehicles.

Any questions can be addressed to Bill Ichord of Senator Rockefeller's office, 224-6472.

Mr. BYRD. Mr. President, I am pleased to join my colleague from West Virginia, Senator ROCKEFELLER, as a cosponsor of the "Methanol and Alternative Fuels Promotion Act of 1987." I commend Senator Rockefeller for his leadership in promoting legislation that is so vital to our energy security.

In an era of relatively stable oil prices, it is easy to become complacent about meeting our energy needs. The Reagan administration's energy nonpolicy is evidence of such complacency. Domestic oil production continues to decline, oil imports continue to increase, and inventories of crude oil and petroleum products are at their lowest point since the Arab oil embargo of 1973.

We should not forget that just a few years ago we spent hours in gas lines as we watched gasoline prices skyrocket. Recent events in the Persian Gulf should serve to remind us that we are still very vulnerable to supply disruptions that could occur at any moment in a very unstable part of the world.

Obviously we need to reduce our dependence on oil imports as much as possible. While policies encouraging conservation as well as additional domestic production can help a great deal, eventually we must fundamentally alter our energy consumption patterns. This does not mean that we have to stop driving. Rather it means that we must make the transition to automobiles that can run on fuels other than oil—fuels such as methanol and ethanol that can be produced from our abundant domestic resources of coal and corn.

If we begin to take action now, rather than in the midst of the next energy crisis, this transition can occur gradually, in an orderly fashion, without economic disruption. This bill creates incentives for auto manufacturers to start building alcohol-fueled vehicles. It is a modest but important beginning to a better future for all of us.

Alternative fuels are important for environmental as well as energy security reasons. Recently I joined several of my colleagues in suggesting to Vice President Bush that his task force on regulatory reform encourage the use of alternative fuels as a way of improving air quality. The Vice President has assured us that the administration is aware of the environmental advantages of alcohol fuels and will use its regulatory authority to promote them. The combination of the "Methanol and Alternative Fuels Promotion Act of 1987" with regulatory incentives should take us a long way toward meeting our environmental goals.

Mr. DANFORTH. Mr. President, last week the average price of a gallon of gasoline climbed over $1 for the first time in 16 months. This price rise is a reminder that in many ways the Nation remains as vulnerable to an oil shortage as it was 12 years ago. This vulnerability stems from the fact that our domestic oil reserves are in permanent decline.

Our need for imported oil remains so great that our economic well-being and national security have become linked to the stability of the Persian Gulf. This has been called an energy crisis. But we do not face a shortage of energy; our ability to produce electricity domestically has virtually no long-term limits. Instead, we face a shortage of liquid fuels, primarily for transportation. Transportation uses consume more than 60 percent of the oil used in this country.

FUELS THAT CAN REDUCE OUR DEPENDENCY ON FOREIGN OIL

Mr. President, there are a variety of fuels whose use may help reduce this dangerous dependency on foreign oil while maintaining the quality of the environment. The most promising of these fuels is methanol. It is currently available in excess supply and could be produced domestically in nearly inexhaustible quantities from natural gas, coal or biomass. It is a proven transportation fuel, that can be used in ordinary automobiles, and that can be delivered through our existing distribution network with only minor modifications.

Methanol can be used as an octane enhancer—90-percent gasoline and 10-percent methanol—to form gasahol or as a replacement fuel for gasoline—100-percent methanol or a 85-percent methanol/15-percent gasoline blend. Methanol burns so efficiently that race cars use it at the Indianapolis 500. Methanol burns more cleanly than gasoline, producing lower emissions of nitrogen oxide and hydrocarbons, and methanol can be delivered at a price that is competitive with gasoline.

Mr. President, methanol is the most promising alternative fuel and my comments will focus on its development. It should be noted, however, that there are other alternative fuels that might be used for transportation including ethanol and compressed natural gas. Ethanol is made from corn or agricultural wastes and, like methanol, has been used as an octane enhancer.

In my judgment, we need to begin an effort to convert a portion of our automotive fleet to methanol and other alternative fuels. Such an effort would have positive consequences for our national security, our domestic economy, and for the environment. It is for these reasons that I am joining Senators ROCKEFELLER, WILSON, and KASTEN in introducing the Methanol and Alternative Fuels Promotion Act of 1987.

The intent of the bill is simple. We intend to encourage the production and sale of cars that can run on methanol and other alternative fuels by providing an appropriate treatment for such cars under the corporate average fuel economy [CAFE] standards.

TAPPING OUR METHANOL PRODUCTION POTENTIAL

Mr. President, we need to tap our Nation's almost unlimited methanol production potential. At the present time, methanol is primarily used as a chemical feedstock; it is an important source of formaldehyde for use in plywood and other building materials. Virtually all of it is produced from natural gas, with one notable exception—the output of a coal-to-methanol plant opened in 1983 by Tennessee Eastman.

Natural gas is likely to meet the demand for methanol for the foreseeable future. Indeed, an enormous amount of excess capacity for producing methanol from natural gas exists in the world today. Broad adoption of methanol by the immense American auto market, however, would eventually exhaust excess natural gas supplies and require conversion of coal, at a slightly higher cost—the energy equivalent of less than $2 a gallon of gasoline. Domestic coal supplies would be sufficient to meet the demand for centuries. High-sulfur coal could be used without damage to the environment because the coal must be gasified and the sulfur removed in the conversion process.

METHANOL—A PRACTICAL TRANSPORTATION FUEL WITH POSITIVE ENVIRONMENTAL CONSEQUENCES

As a transportation fuel, methanol has only about half the energy per gallon of gasoline, but burns more efficiently. As a result, cars designed to run on methanol are expected to go about 60 to 80 percent as far per gallon as comparable gasoline-powered cars. This is a bargain when the price of methanol is considered. According to an April 1987 study commissioned by the Environmental Protection Agency, the wholesale price of methanol ranges from 19 to 36 cents a gallon. Even if one adds another 20 cents a gallon to cover State and Federal taxes, transportation costs and retain markup, methanol is only 40 to 55 cents a gallon, which is considerably cheaper than 1 gallon of gasoline.

The California Energy Commission and the Bank of America each have conducted major fleet tests of methanol cars, with excellent results. The Federal Government's faith in methanol vehicles was affirmed by its announcement last week of its plan to purchase 5,000 methanol fueled cars by 1990.

Methanol-powered cars have been shown to operate significantly more cleanly than gasoline-powered cars. Emissions of nitrogen oxides and hydrocarbons are reduced substantially. Emissions of formaldehyde would increase but can be controlled by a catalytic converter or similar device. Controlling emissions through use of alternative fuels is particularly important for States with areas—for example, Los Angeles, St. Louis, Kansas City—that are in noncompliance with the Clean Air Act's air quality standards. A number of jurisdictions face a variety of sanctions—limits on construction of stationary pollution sources, reduction of highway and sewer construction funds—unless they come into compliance with the act beginning on December 31, 1987. In future years when these jurisdictions are attempting to come into compliance, the availability of alternative fuel vehicles will be particularly important. For example, computer modeling has projected reductions of harmful pollutants by 15 to 25 percent in Los Angeles if methanol were substituted for gasoline and diesel fuels.

Mass production of methanol vehicles would not pose significant problems for American automakers. Some rubber parts and metal coatings must be replaced, the carburetor must be adjusted, and larger gas tanks may be desirable. However, the cost impact would be minor to nonexistent.

PROVIDING NECESSARY INCENTIVES FOR METHANOL USE

Given all of methanol's advantages, what, then, is prevening more widespread use of methanol? Inertia. For very good reason, auto makers are unwilling to produce cars for which there is no current demand. Consumers are unwilling to purchase cars for which there is no readily available fuel supply, and service stations are unwilling to provide fuel for cars that are not on the road. This extremely difficult marketing problem could be overcome by the introduction of a flexible fuel vehicle, which could run on any combination of methanol and gasoline. Ford has an operating prototype of such a car.

Fuel economy standards were enacted to reduce our dependence on petroleum, not on fuel generally, and should encourage, not discourage, the use of methanol. The Methanol and Alternative Fuels Promotion Act would offer an incentive to auto manufacturers to produce methanol-powered cars by the simple device of basing fuel economy ratings on the amount of gasoline consumed. Vehicles would be divided into two categories for determining the amount of incentive:

First. Dedicated vehicles—those using at least 85 percent of the alternative fuel at all times would be rated based on 15 percent gasoline content.

Second. Dual fuel vehicles—those capable of operating on a range of fuel mixes with up to 85 percent of the alternative fuel will be rated on a 50-percent gasoline and 50-percent alternative fuel basis.

To illustrate, suppose a particular gasoline-powered car gets 25 miles a gallon. When converted to run on a blend of 85 percent methanol and 15 percent gasoline, it might get only 15 miles per gallon, but for every gallon of gasoline in the blend, the car would travel 100 miles. The last figure is the significant one for CAFE purposes and that is how the car would be rated. Consumer labels would continue to show the actual fuel economy of the vehicle.

Such a change would allow Detroit to product big cars and high-performance cars—its historic niche of dominance, but one that has been eroded by the need to meet fuel economy standards.

INSURANCE AGAINST OPEC

OPEC could deliberately underprice methanol and try to force it out of the market. This is unlikely, however, because of the inherent price advantage of methanol on a per gallon basis, and also because OPEC itself is likely to become a major producer of methanol. But the cost of producing methanol from coal means that the real price of transportation fuel will be stabilized at a price below $2 a gallon. Conversion to methanol, in short, means that the energy crisis would be over for generations.

STIMULATING THE DOMESTIC ECONOMY

Mr. President, development of a major automotive market for methanol would stimulate the Nation's coal industry in an environmentally acceptable way. In my own State of Missouri, we have an abundance of coal. But much of it has such a high-sulfur content, it is undesirable for utility use. Since sulfur extraction is a necessary part of the coal-to-methanol process, such coal could be used to meet our energy needs without contributing to excess sulfur loading in the atmosphere.

CONCLUSION

Mr. President, methanol can be produced inexpensively and burned efficiently. It can reduce our dependence on foreign suppliers of oil with important economic and strategic consequences. It can reduce the pollution of our skies and stimulate our domestic economy. I believe we should move forward quickly to stimulate the development and growth of an automotive market for methanol. I urge my colleagues to support this important legislation.

Mr. BINGAMAN. Mr. President, I am pleased to join my colleague from West Virginia in introducing the Methanol and Alternative Fuels Promotion Act of 1987. This legislation will stimulate the production of methanol, ethanol, and natural gas vehicles. Specifically, the bill would provide for an appropriate application of the fuel economy standards to passenger vehicles powered by methanol, ethanol, or natural gas. The total miles per gallon of the vehicle would be averaged over a smaller amount of fuel-gasoline. Thus, the miles-per-gallon rating would be higher for the automobile. Since the law assesses a monetary penalty when a manufacturer fails to meet the statutory fuel economy standard, the increased mile-per-gallon rating for alternative fuel vehicles would provide encouragement to a manufacturer to develop this type of automobile.

The increased use of alternative fuels clearly helps us meet the energy security challenges facing this country from oil imports dependency—now at nearly 40 percent. The development of alternative fuels allows us to extend the useful life of our fossil fuels and reduce this dependency. New Mexico has certainly suffered from the nationwide decline of our oil and gas industry. Employment in the industry dropped 35 percent, the number of well completions declined 39 percent last year, the value of oil and gas produced during 1986 dropped 45 percent, the number of active drilling rigs dropped 59 percent, the average price for crude oil decreased 44 and 28 percent for natural gas. The industry will certainly benefit from this legislation.

AGRICULTURAL AND ENVIRONMENTAL BENEFITS

The future of ethanol is very important to my constituents in New Mexico. Ethanol provides a much needed market for the large amounts of surplus grain available from the eastern side of my State. Thus, this bill will serve as an important incentive for agricultural production. Ethanol also has been demonstrated to have a number of air quality benefits. These include being an effective octane additive, allowing refiners to block out environmentally harmful additives, such as lead and benzenes. Ethanol has proven effective in reducing harmful carbon monoxide and exhaust hydrocarbon emission; and because it contains oxygen, ethanol burns cleaner than gasoline.

I am pleased that this legislation serves so many useful purposes and I urge my colleagues to support this legislation. Thank you Mr. President.

By Mr. LAUTENBERG (for himself, Mr. Bradley, Mr. Sasser, Mr. Dixon, Mr. Fowler, Mr. Biden, Mr. Simon, Mr. Graham, Mr. Dodd, Mr. Danforth, Mr. Moynihan, Mr. Specter, Mr. DeConcini, Mr. Shelby, Mr. Kennedy, Mr. Metzenbaum, Mr. D'Amato, Mr. Hatch, Mr. Sanford, Mr. Inouye, Mr. Boren, Mr. Levin, and Mr. Wilson):

S. 1519. A bill to authorize the President of the United States to award congressional gold medals to Lawrence Eugene Doby and posthumously to Jack Roosevelt Robinson in recognition of their accomplishments in sport and in the advancement of civil rights, and to authorize the Secretary of the Treasury to sell bronze duplicates of those medals; to the Committee on Banking, Housing, and Urban Affairs.

CONGRESSIONAL GOLD MEDALS TO LAWRENCE EUGENE DOBY AND JACK ROOSEVELT ROBINSON

● Mr. LAUTENBERG. Mr. President, last week major league baseball showcased the sport's greatest talents in its all-star game in Oakland, CA. I was very pleased to note that the ceremonial first pitch at the game was thrown out by a good friend and a leader of New Jersey's black community, Larry Doby.

Larry, a native of Paterson, NJ, was the second black to join the major leagues, only a short time after Jackie Robinson became a member of the National League Brooklyn Dodgers. Larry Doby, as a member of the Cleveland Indians, was the first black in the American League.

This year, baseball is celebrating the 40th anniversary of Jackie Robinson breaking the color line. That event changed not only the game of baseball, but our society, for the better. Jackie Robinson is rightly remembered not only as a great athlete, but as a courageous advocate of civil rights.

Jackie Robinson will long be remembered for the role he played. But we should not lose sight of the important position occupied by Larry Doby. His courage should be recalled as well. His leadership should not be forgotten.

And it's in this vein that it was so appropriate to honor Larry Doby at the all-star game. Along with Jackie Robinson, Larry opened the doors of the major leagues to blacks. In the 40 years since then, the game has changed greatly. Blacks and other minorities now compose a major percentage of players, and have produced some of the game's greatest heroes. I hope that players and fans alike will come to more fully recognize the accomplishments of Larry Doby, and appreciate the courage and conviction he showed 40 years ago.

As a player, Larry Doby was with the Newark Eagles until 1947 when Bill Veeck, owner of the Cleveland Indians, recognized Larry's potential for the major leagues and signed him as an infielder and pinch hitter. In 1948, Larry led the Indians to the American League pennant, with a .301 average in 121 games. He continued to play well during the World Series. Cleveland fans still remember the tremendous home run that he hit to help win the series. In the following seasons, Larry Doby built a reputation as a fine outfielder and long-ball hitter.

In 1952 and again in 1954, Larry Doby was first in the American League in home runs. He also led the league in runs batted in, in 1954 with 126, to go along with 32 home runs. Larry played for the American League in six consecutive all-star games from 1949–1954, where he batted .300.

Larry went on to coach several major league teams. He became one of the first black managers when he took over the Chicago White Sox in 1978. Since leaving baseball, he has served as an executive with the New Jersey Nets basketball team.

Today, there is serious concern about the lack of blacks in managerial and front office positions in baseball. I share this concern. Recent attention to the issue by Commissioner Ueberroth raises hopes for the future. By bringing in players such as Robinson and Doby, baseball has in the past helped pave the way for enhanced racial relations. I hope that the sport will not delay further in promoting able blacks to leadership positions. Perhaps Larry Doby will be among them.

I am proud to be able to call Larry Doby a friend. Our long-lasting friendship dates back to our high school days in Paterson. Larry is a valued and respected member of the New Jersey community.

Along with Jackie Robinson, Larry Doby opened up new doors and new opportunities for black youth. And he helped open our eyes to a new era of racial understanding. For that, we should all be grateful.

Larry Doby left his mark on baseball like few others. He showed greatness, not only in his play, but also in character. Unfortunately, he has not yet taken his place among those honored in baseball's Hall of Fame. I hope the selection committee will correct this egregious oversight, and I look forward to the day when Larry joins baseball's other greats in Cooperstown.

Mr. President, today I am introducing legislation to authorize the awarding of the Congressional Gold Medal to Larry Doby, and posthumously to Jackie Robinson. I am pleased to be joined in introducing this bill by Senators Bradley, Sasser, Dixon, Fowler, Biden, Simon, Graham, Dodd, Danforth, Moynihan, Specter, DeConcini, Shelby, Kennedy, Metzenbaum, D'Amato, Hatch, Sanford, Inouye, Boren, Levin, and Wilson. I urge my colleagues to join in honoring these two great men, and support this legislation.

I ask unanimous consent that the text of the bill I am introducing today be included in the Record at the conclusion of my remarks. I also ask unanimous consent that a statement by Senator Metzenbaum be included in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1519

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, To authorize the President of the United States to award congressional gold medals to Lawrence Eugene Doby and posthumously to Jack Roosevelt Robinson in recognition of their accomplishments in sport and in the advancement of civil rights, and to authorize the Secretary of the Treasury to sell bronze duplicates of those medals.

Be it authorized by the Congress assembled,

SECTION 1. FINDINGS.

The Senate finds that—

(1) Lawrence Eugene (Larry) Doby and Jack Roosevelt (Jackie) Robinson broke baseball's color line, being the first black players in the American and National Leagues, respectively;

(2) Their entrance into the major leagues opened the doors of opportunity in sports for blacks and other minorities;

(3) Their entrance into the major leagues helped raise public consciousness, and helped to promote civil rights;

(4) Their play was exemplary, earning each numerous all-star awards, and election to the Hall of Fame for Jackie Robinson;

(5) Jackie Robinson, despite his death, and Larry Doby have continued to serve as role models for youth throughout the country;

(6) Larry Doby continued to play a role in baseball, and was one of the first black managers in the major leagues;

(7) Jackie Robinson had a successful business career, and was a spokesman for the civil rights movement;

(8) Larry Doby continues to be involved in community and civic affairs;

(9) Larry Doby and Jackie Robinson demonstrated the ideals of equal opportunity and racial understanding that are a cornerstone of our nation;

(10) Major League Baseball is this year celebrating the 40th anniversary of Larry Doby's and Jackie Robinson's entrance into the major leagues; and

(11) Major League Baseball should continue to expand its efforts to promote the role of blacks and other minorities in management and leadership roles, and fulfill the goals set by Jackie Robinson and Larry Doby.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

(a) Award.—The President of the United States is authorized and requested to present, on behalf of the Congress, a gold medal to Lawrence Eugene Doby in recognition of his achievements in baseball and contribution to the advancement of civil rights in this country, and to the wife of Jack Roosevelt Robinson in recognition of Jackie Robinson's achievements in baseball and his contribution to the advancement of civil rights in this country.

(b) Design and Construction.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury (hereinafter in this bill referred to as the "Secretary") shall cause to be struck two gold medals with suitable emblems, devices, and inscriptions, to be determined by the Secretary.

(c) Authorization of Appropriations.—There are authorized to be appropriated not to exceed $30,000 to carry out the provisions of this section.

SEC. 3. DUPLICATE MEDALS.

(a) Construction and Sale.—The Secretary may cause duplicates in bronze of the gold medals provided for in section 2 to be coined and sold under regulations prescribed by the Secretary, at a price sufficient to cover the cost of such duplicates and such gold medals, including labor, material, dies, use of machinery, and overhead expenses.

(b) REIMBURSEMENT OF APPROPRIATIONS.—Any appropriation made under section 2 shall be reimbursed out of the proceeds of the sales referred to in subsection (a).

SEC. 4. NATIONAL MEDALS.

The medals provided for in this bill shall be considered to be national medals for purposes of section 5111 of title 31, United States Code.●

● Mr. METZENBAUM. Mr. President, I rise in support of Senator LAUTENBERG's legislation to authorize the awarding of the Congressional Gold Medal to Larry Doby and to Jackie Robinson.

This year attention has focused on the 40th anniversary of Jackie Robinson's breaking the color barrier in baseball. The significance of Robinson's achievements cannot be underestimated. His courage and his accomplishments on the field showed all of America that blacks could succeed at a profession previously reserved for whites only. Breaking this barrier changed the attitudes of countless Amercians and helped pave the way for the civil rights gains of the 1960's.

At the same time that we honor Jackie Robinson, we must also remember someone who followed close behind him. Those who blaze the trail always hold a special place in the public's mind. Yet the legacy of these pioneers would be short-lived without those who follow in the path. Such is the case with Larry Doby. Larry was signed in 1947 by the Cleveland Indians, becoming the first black in the American League, integrating ballparks in American cities that would not have had a chance to see Jackie Robinson. Larry's talents, combined with the achievements of Robinson, helped to insure that the black ballplayer was in the major leagues to stay.

Larry followed his distinguished playing career with a career in coaching and went on to become the manager of the Chicago White Sox. Once again, Larry was not first, that title went to Frank Robinson, but again Larry's role was important in showing that a black manager was not mere novelty. Unfortunately, the pace of process in the hiring of black managers has been slow. This scarcity of blacks in managerial or front office positions has been the subject of debate recently. In baseball today, Hank Aaron, who is the vice president for player development for the Atlanta Braves, is the only black executive. Clearly we need to accelerate the pace in this important area if we are to continue the legacy of Jackie Robinson and Larry Doby. Not surprisingly, Larry Doby is also a pioneer in this stage of the fight as well, working in the front office of the New Jersey Nets basketball team as the director of community affairs.

The fight to integrate all levels of baseball still has a long way to go. But as we work to make progress, we must remember those who led the way, those who made progress possible. Therefore I ask that we award the Congressional Gold Medal to two courageous leaders, Jackie Robinson and Larry Doby.●

By Mr. BAUCUS (for himself, Mr. HEINZ, Mr. ARMSTRONG, Mr. CHAFEE, Mr. DASCHLE, Mr. MATSUNAGA, Mr. MOYNIHAN, Mr. RIEGLE, Mr. ROTH, Mr. KERRY, and Mr. LAUTENBERG):

S. 1520. A bill to amend the Internal Revenue Code of 1986 to allow certain entities to elect not to make changes in their taxable years required by the Tax Reform Act of 1986, and for other purposes; to the Committee on Finance.

TAX YEAR CONFORMITY RULES

● Mr. BAUCUS. Mr. President, today I am introducing legislation, with Senator HEINZ, to amend section 806 of the Tax Reform Act of 1986, which mandated that most partnerships, S corporations and personal services corporations [PSC's] conform their taxable years to those of their owners. This legislation is needed to correct a stringent, unnecessary and burdensome provision included in the TRA of 1986. Joining us in introducing this bill are our Finance Committee colleagues Senators ARMSTRONG, CHAFEE, DASCHLE, MATSUNAGA, MOYNIHAN, RIEGLE, and ROTH, as well as Senator KERRY.

Section 806 of the TRA was intended to prevent the improper deferral of income for certain partners, shareholders in subchapter S corporations, and owners of personal service corporations. In general, it requires that all partnerships, S corporations, and personal service corporations conform their taxable years to the taxable years of their owners.

Inadvertently, this provision created a burdensome requirement for small business and for tax return preparers.

Mr. President, let me describe several reasons section 806 must be amended.

First, section 806 will make it difficult, and in many cases impossible, for taxpayers and return preparers to complete partnership and S corporation returns in sufficient time to allow partners and shareholders to file individual income tax returns by the original due date. This will necessitate costly and inconvenient extensions of the time to file returns. Encouraging the filing of extended tax returns is inconsistent with the best interests of our self-assessment system.

Second, under the TRA of 1986, all affected entities would be required to incur the costs of closing their books two times and filing two sets of tax returns—both Federal and State—for each of the two periods ending in calendar 1987. This cost and administrative burden should not be imposed on the affected entities, many of which are engaged in small business.

Third, it is in the public interest to encourage staggered tax return filing dates through the use of fiscal years. The IRS, taxpayers, and tax practitioners can better meet tax filing requirements if the demands are spread throughout the year. Tax compliance will not be enhanced by compressing tax filing requirements into a short-time period, as required by this provision.

Fourth, the change required by section 806 will be disruptive and counterproductive to the economy. Because section 806 applies to existing as well as newly formed entities, businesses which have used a fiscal year for many years will now have to amend contracts, compensation arrangements, and retirement and employee benefit plans.

Fifth, section 806 will present significant scheduling problems for CPA firms, which will be required to compress tax return preparation, financial reporting, and auditing work into a short time period. In this regard, the provision will overturn past IRS actions in promulgating flexible and reasonable rules which allow the selection of a fiscal year other than the calendar year to "even out" both professional workloads and IRS processing requirements.

Sixth, there are many legitimate business reasons for selecting a fiscal year rather than a calendar year that the limited exception contained in section 806 fails to recognize. Often, fiscal years are chosen to coincide with the "natural business year" of an entity. This provision will cause tax requirements to interfere improperly with business operations.

In summary, not only will section 806 create significant hardship for small business owners and place great burdens on our tax self-assessment system, it will create mayhem in CPA firms during the January through April tax season and it will also place an unreasonable burden on the IRS.

Mr. President, the TRA was intended to improve the tax code, not further complicate it. Despite our best intentions, section 806 was enacted. Now, after learning of the many problems that have been created, Senator HEINZ and I are introducing corrective, essentially revenue-neutral legislation.

Our bill will permit most partnerships and S corporations to retain their fiscal years, as long as the owners make enhanced estimated tax payments to offset any tax deferral that results from the mismatch between the entities' and owners' tax years. Thus, the legislation would permit these entities to retain a tax year that suits their business needs, while eliminating any resulting tax deferral.

Our proposal is an optional one. An entity may choose whether it wants to retain its fiscal year or switch to the calendar year under the current section 806 rules. The election would be made by the entity and not by the individual owners.

Owners of partnerships and S corporations that elect to remain on a fiscal year would make enhanced estimated tax payments. This would be accomplished by increasing each of the two safe-harbors—100 percent of prior year's tax or 90 percent of current year's tax—by a percentage of the prior year's deferred income. It is proposed that this will be 35 percent for 1987 and 28 percent in the following years with a phase-in over 4 years, based on the owners' tax rate schedule.

For personal service corporations, our approach is to postpone the deduction at the corporate level if ratable payments to owners have not been made prior to December 31. Ratable payments can be based upon experience from the prior corporate year in order to avoid the necessity of predicting income or payments for the remainder of the current year.

Mr. President, some additional key points concerning this legislation are:

First, one of the purposes of the section 806 conformity requirements is to eliminate the benefits of tax deferral and to collect the taxes close to the time the income is earned. Our proposal reduces the deferral significantly and requires tax dollars to be paid earlier. However, the total taxes paid will be no greater than would have been paid under prior law or with the section 806 switch to the calendar year.

Second, there is a 4-year phase-in of the enhanced estimated tax payments which corresponds to the 4-year income spread in section 806.

Third, those entities which would be allowed to remain on or to adopt a natural business year under TRA of 1986 can still do so without being subjected to the above requirements.

Fourth, any entity which comes under this proposal and which newly elects or changes a fiscal year must select a year ending no earlier than September 30. Included in this option are C corporations which elect S corporation status and change to a calendar year.

Fifth, taxpayers with aggregate deferred tax of $200 or less with respect to electing partnerships and S corporations are exempt from the estimated tax requirements.

Sixth, we do not allow the retention of a fiscal year by a "tiered structure," for example a partnership, S corporation or PSC which receives a major part of its gross income from a partnership or S corporation and which has a different tax year from the related entity. In considering treatment of tiered structures, we wished to prevent certain potentially abusive situations, such as a calendar year partnership with PSC owners on a November 30 fiscal year. If the PSC was allowed to retain its fiscal year, there could be a continuous 11 month deferral of income. It is not intended that he tiered structure provision should apply to the nonabusive situations such as where the entity has an equity interest in another entity which is not substantial in relation to the entire activity.

Mr. President, this legislation was developed after 6 months of exhaustive study during which we worked closely with the accounting profession to find a solution that results in no loss of revenue to the government yet addresses the problems of compressed filing requirements. Senator HEINZ and I are grateful for the hundreds of hours members and staff of the American Institute of Certified Public Accountants have devoted to assisting us in ensuring this legislation is responsible and effective. This legislation has the full support of the AICPA.

In addition, our legislation has been endorsed by the Chamber of Commerce of the United States of America and the National Federation of Independent Business. Both the Chamber of Commerce and the NFIB recognize the significant problems failing to address this problem will present to the small businessmen and businesswomen of this country.

I want to congratulate the leadership of the accounting profession for making a significant contribution to solving this very real and serious problem. It merits the careful consideration of all who are interested in fair and sound tax policy, given the ground rules of revenue neutrality for changes in the TRA of 1986.

I ask unanimous consent that the bill be printed in the RECORD at this point.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1520

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENTITIES MAY ELECT TAXABLE YEAR OTHER THAN REQUIRED TAXABLE YEAR.

(a) IN GENERAL.—Part I of subchapter E of chapter 1 of the Internal Revenue Code of 1986 (relating to accounting periods) is amended by adding at the end thereof the following new section:

"SEC. 444. ELECTION OF TAXABLE YEAR OTHER THAN REQUIRED TAXABLE YEAR.

"(a) GENERAL RULE.—Except as provided in subsections (b) and (c), a partnership, S corporation, or personal service corporation may elect to have a taxable year other than the required taxable year.

"(b) LIMITATIONS ON TAXABLE YEARS WHICH MAY BE ELECTED.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), an election may be made under subsection (a) only if the deferral period of the taxable year elected is not longer than 3 months.

"(2) CHANGES IN TAXABLE YEAR.—Except as provided in paragraph (3), in the case of an entity changing a taxable year, an election may be made under subsection (a) only if the deferral period of the taxable year elected is not longer than the shorter of—

"(A) 3 months, or

"(B) the deferral period of the taxable year which is being changed.

"(3) SPECIAL RULE FOR ENTITIES RETAINING 1986 TAXABLE YEARS.—In the case of an entity's 1st taxable year beginning after December 31, 1986, an entity may elect a taxable year under subsection (a) which is the same as the entity's last taxable year beginning in 1986.

"(4) DEFERRAL PERIOD.—For purposes of this subsection, the term 'deferral period' means the number of months between the close of the taxable year elected under subsection (a) and the close of the 1st required taxable year ending after the elected year.

"(c) EFFECT OF ELECTION.—If an entity makes an election under subsection (a), then—

"(1) in the case of a partnership or S corporation, the partners or shareholders of such entity shall be subject to the additional estimated tax requirements of section 6655A, or

"(2) in the case of a personal service corporation, such corporation shall be subject to the deduction limitations of section 280H.

"(d) ELECTIONS.—

"(1) PERSON MAKING ELECTION.—An election under subsection (a) shall be made by the partnership, S corporation, or personal service corporation and shall be binding on the partners and shareholders.

"(2) PERIOD OF ELECTION.—

"(A) IN GENERAL.—Any election under subsection (a) shall remain in effect until the partnership, S corporation, or personal service corporation changes its taxable year. Any change to a required taxable year may be made without the consent of the Secretary.

"(B) NO FURTHER ELECTION.—If an election is terminated under subparagraph (A), the partnership, S corporation, or personal service corporation may not make another election under subsection (a).

"(3) TIERED STRUCTURES, ETC.—Except as provided in regulations, no election may be made under subsection (a) with respect to an entity which is part of a tiered structure.

"(e) REQUIRED TAXABLE YEAR.—For purposes of this section, the term 'required taxable year' means the taxable year determined under section 706(b), 1378, or 461(i) without taking into account any taxable year which is allowable by reason of a business purpose.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations to prevent the avoidance of subsection (b)(2)(B) or (d)(2)(B) through the change in form of an entity."

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter E of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 444. Election of taxable year other than required taxable year."

SEC. 2. ENHANCED ESTIMATED TAX REQUIREMENTS.

(a) In General.—Subchapter A of chapter 68 of the Internal Revenue Code of 1986 (relating to additions to tax) is amended by adding after section 6655 the following new section:

"SEC. 6655A. ADDITIONAL ESTIMATED TAX REQUIREMENTS FOR PARTNERS AND SHAREHOLDERS OF ENTITIES ELECTING NOT TO HAVE REQUIRED TAXABLE YEAR.

"(a) General Rule.—If this section applies to a taxpayer for any taxable year, then there shall be added to the tax under chapter 1 for such taxable year the amount determined by applying—

"(1) the underpayment rate established under section 6621,

"(2) to the amount of the underpayment,

"(3) for the period of the underpayment.

"(b) Taxpayers to Whom Section Applies.—This section shall apply to any taxpayer for a taxable year if—

"(1) such taxpayer is a partner or shareholder in 1 or more partnerships or S corporations during any applicable election years of such partnerships or S corporations which end within the taxpayer's taxable year, and

"(2) the aggregate deferred tax amounts of the taxpayer with respect to such partnerships or S corporations is greater than $200.

"(c) Amount of Underpayment, Period of Underpayment.—For purposes of this section—

"(1) Amount.—The amount of the underpayment shall be the excess of—

"(A) the required installment, over

"(B) the amount (if any) of the installment paid on or before the due date for the installment.

"(2) Period of underpayment.—The period of the underpayment shall run from the due date for the installment to the earlier of—

"(A) the 15th day of the 4th month following the close of the taxpayer's taxable year, or

"(B) with respect to any portion of the underpayment, the date on which such portion is made.

"(3) Number of required installments; due date.—

"(A) Number.—There shall be 4 required installments for each taxable year to which this section applies.

"(B) Due dates.—The due date for any required installment shall be determined under section 6654(c)(2) or the 1st item in the table under section 6154(b), whichever is appropriate.

"(d) Required Installments.—

"(1) Amount of installments.—The amount of any required installment for a taxable year shall be equal to 25 percent of the aggregate deferred tax amounts of the taxpayer for applicable election years ending within the taxable year.

"(2) Treatment of payment.—For purposes of this title, any payment of any portion of a required installment—

"(A) shall be designated as such by the taxpayer and shall be treated as the payment of tax imposed by chapter 1, and

"(B) shall not be taken into account for purposes of section 6654 or 6655.

"(3) Deferred tax amount.—For purposes of this section, the term 'deferred tax amount' means, with respect to any applicable election year of a partnership or S corporation, an amount equal to the product of—

"(A) the highest rate of tax imposed by section 1 (35 percent for taxable years beginning in 1987), multiplied by

"(B) the amount which bears the same ratio to the net base year income of the taxpayer as—

"(i) the number of months in the deferral period, bears to

"(ii) the number of months in the partner's or shareholder's taxable year.

"(e) Net Base Year Income.—For purposes of this section—

"(1) In general.—A taxpayer's net base year income with respect to any partnership or S corporation shall be equal to the sum of—

"(A) the applicable percentage of the taxpayer's distributive share of the entity's net income for the base year, plus

"(B) the aggregate amount of applicable payments made by the entity to the taxpayer during the base year.

"(2) Distributive share.—

"(A) Partnerships.—In the case of a partnership, a taxpayer's distributive share of partnership net income shall be the amount (not below zero) determined by taking into account the taxpayer's distributive share of items described in sections 702(a) and 704 (other than credits).

"(B) S corporation.—In the case of an S corporation, a taxpayer's distributive share of the corporation's net income shall be the amount (not below zero) determined by taking into account the taxpayer's pro rata share of items described in section 1366(a) (other than credits).

"(C) Certain limitations disregarded.—For purposes of subparagraph (A) or (B), any limitation on the amount of any item described in either such subparagraph which may be taken into account for purposes of computing the taxable income of the taxpayer shall be disregarded.

"(3) Applicable payments.—

"(A) In general.—The term 'applicable payment' means any amount paid or incurred (other than ratably) by a partnership or S corporation which—

"(i) is includible in gross income of the taxpayer, and

"(ii) is not taken into account in computing the distributive share of the taxpayer under paragraph (2).

"(B) Exceptions.—The term 'applicable payment' shall not include any—

"(i) gain from the sale or exchange of property between the taxpayer and the partnership or S corporation, and

"(ii) dividend.

"(C) Reduction for payments during deferral period.—The amount of applicable payments shall be reduced by the amount of such payments made during the deferral period of the applicable election year.

"(4) Applicable percentage.—The applicable percentage is the percentage determined in accordance with the following table:

"If the applicable election year of the partnership or S corporation begins during:	The applicable percentage is:
1987	25
1988	50
1989	75
1990 or thereafter	100.

"(f) Other Definitions and Special Rules.—For purposes of this section—

"(1) Deferral period.—The term 'deferral period' means the portion of the applicable election year of the partnership or S corporation which occurs before the 1st day of the calendar year in which such applicable election year ends.

"(2) Years.—

"(A) Base year.—The term 'base year' means, with respect to any applicable election year, the taxable year of the partnership or S corporation preceding such applicable election year.

"(B) Applicable election year.—The term 'applicable election year' means any taxable year of a partnership or S corporation with respect to which an election is in effect under section 444.

"(3) Requirement of reporting.—Each partnership or S corporation which makes an election under section 444 shall include on any return or statement required under section 6031 or 6037, whichever is applicable, the following information:

"(A) the deferred tax amount for any applicable election year, and

"(B) such other information as the Secretary may prescribe as is necessary to carry out the provisions of this section."

(b) Conforming Amendments.—

(1) Sections 6201(b)(1), 6601(h), and 6651(e) of such Code are each amended by striking out "or 6654" and inserting in lieu thereof ", 6654, or 6655A".

(2) Sections 6622(b), 6662(b)(2), and 7203 of such Code are each amended by striking out "or 6655" and inserting in lieu thereof ", 6655, or 6655A".

(3) Sections 6658(a) and 6662(b) of such Code are each amended by striking out "or 6655" and inserting in lieu thereof "6655, or 6655A".

(4) The table of sections for subchapter A of chapter 68 of such Code is amended by inserting after the item relating to section 6655 the following new item:

"Sec. 6655A. Additional estimated tax requirements for partners and shareholders of entities electing not to have required taxable year."

SEC. 3. LIMITATION ON DEDUCTIONS OF PERSONAL SERVICE CORPORATIONS ELECTING ALTERNATIVE TAXABLE YEARS.

(a) In General.—Part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280H. LIMITATION ON CERTAIN AMOUNTS PAID TO OWNER-EMPLOYEES BY PERSONAL SERVICE CORPORATIONS ELECTING ALTERNATIVE TAXABLE YEARS.

"(a) General Rule.—If—

"(1) an election by a personal service corporation under section 444 is in effect for a taxable year, and

"(2) such corporation does not meet the minimum distribution requirements of subsection (c) for such taxable year,

then the deduction otherwise allowed under this chapter for applicable amounts paid or incurred by such corporation to employee-owners shall not exceed the maximum deferral amount.

"(b) Carryover of Nondeductible Amounts.—If any amount is not allowed as a deduction for a taxable year under subsection (a), such amount shall be treated as paid or incurred in the succeeding taxable year.

"(c) Minimum Distribution Requirement.—For purposes of this section—

"(1) In general.—A personal service corporation meets the minimum distribution requirements of this subsection if the applicable amounts paid or incurred during the nondeferral period of the taxable year equal or exceed the lesser of—

"(A) the product of—

"(i) the applicable amounts paid or incurred during the preceding taxable year, divided by the number of months in such taxable year, multiplied by

"(ii) the number of months in the nondeferral period, or

"(B) the applicable percentage of an amount which bears the same ratio to the adjusted taxable income of the corporation for the taxable year as—

"(i) the number of months in the nondeferral period, bears to

"(ii) the number of months in the taxable year.

"(2) Applicable percentage.—The term 'applicable percentage' means the percentage (not in excess of 95 percent) determined by dividing—

"(A) the applicable amounts paid or incurred during the 3 taxable years immediately preceding the taxable year, by

"(B) the adjusted taxable income of such corporation for such 3 taxable years.

"(d) Maximum Deferral Amount.—For purposes of this section, the term 'maximum deferral amount' means the sum of—

"(1) the applicable amounts paid or incurred during the nondeferral period, plus

"(2) an amount equal to the product of—

"(A) the amount determined under paragraph (1), divided by the number of months in the nondeferral period, multiplied by

"(B) the number of months in the deferral period.

"(e) Other Definitions and Special Rules.—For purposes of this section—

"(1) Applicable amount.—The term 'applicable amount' means any amount paid to an employee-owner which is includible in the gross income of such employee, other than—

"(A) any gain from the sale or exchange of property between the owner-employee and the corporation, or

"(B) any dividend.

"(2) Employee-owner.—The term 'employee-owner' has the meaning given such term by section 269A(b)(2), as modified by section 441(i)(2).

"(3) Nondeferral and deferral periods.—

"(A) Nondeferral period.—The term 'nondeferral period' means that portion of a taxable year of the personal service corporation which occurs in the calendar year in which such taxable year begins.

"(B) Deferral period.—The term 'deferral period' means the portion of the taxable year of the personal service corporation which occurs after the close of the calendar year in which such taxable year begins.

"(4) Adjusted taxable income.—The term 'adjusted taxable income' means taxable income—

"(A) reduced by the amount of any Federal income taxes, and

"(B) increased by any amount paid or incurred to an employee-owner which was taken into account in computing taxable income."

(b) Conforming Amendment.—The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 280H. Limitation on certain amounts
paid to owner-employees by
personal service corporations
electing alternative taxable
years."

SEC. 4. EFFECTIVE DATES.

(a) In General.—Except as provided in this section, the amendments made by this Act shall apply to taxable years beginning after December 31, 1986.

(b) Estimated Tax.—The amendments made by section 2 shall apply to taxable years beginning after December 31, 1987, with respect to applicable election years beginning after December 31, 1986.

(c) Elections.—Any election under section 444 of the Internal Revenue Code of 1986 (as added by section 1) for an entity's 1st taxable year beginning after December 31, 1986, shall not be required to be made before the 90th day after the date of the enactment of this Act.

(d) Special Rule for Existing Entities Electing S Corporation Status.—If a C corporation (within the meaning of section 1361(a)(2) of the Internal Revenue Code of 1986) with a taxable year other than the calendar year—

(1) made an election after September 18, 1986, and before January 1, 1987, under section 1362 of such Code to be treated as an S corporation, and

(2) elected to have the calendar year as the taxable year of the S corporation,

then section 444(b)(2)(B) of such Code shall be applied by taking into account the deferral period of the last taxable year of the C corporation rather than the deferral period of the taxable year being changed.●

By Mr. TRIBLE (for himself, Mr. Adams, and Mr. McCain):

S.J. Res. 175. Joint resolution to recognize the efforts of the United States Soccer Federation in bringing the World Cup to the United States in 1994; to the Committee on Commerce, Science, and Transportation.

1994 WORLD CUP SOCCER IN UNITED STATES?

Mr. TRIBLE. Mr. President, sports, travel, and tourism go together. Today I am introducing a resolution in support of the United States Soccer Federation's effort to bring the World Cup soccer tournament to America in 1994. The World Cup is the single largest sporting event in the world.

The attendance at the 1986 World Cup was 2.4 million with a television audience of 12.8 billion. Hosting the World Cup would be an outstanding opportunity to invite these millions to travel to the United States to watch the games, meet our citizens, and visit our thousands of recreational and historic sites.

We acquired the experience of hosting a multiple location sporting event when the United States hosted the Olympics in 1984. An integral part of the games was the Olympic soccer matches held all over the country. The public responded with sellout crowds and strong support for the games. That experience will be helpful in planning for the 1994 World Cup.

This resolution will not cost the Government money but will authorize the Secretary of Commerce to represent our country in all negotiations with the International Soccer Federation. It is vitally important for the Government to show support for this event if the United States Soccer Federation is to bring the games to this country.

I am grateful to my colleagues Senator Adams and Senator McCain for joining me as original cosponsors of this resolution. I ask that this resolution be printed in the Congressional Record and invite all my colleagues to join as cosponsors of this resolution.

There being no objection, the resolution was ordered to be printed in the Record, as follows:

S.J. Res. 175

Whereas soccer is one of the world's most popular sports and the World Cup is the single most important event in that sport;

Whereas the 1986 World Cup games had a television audience of 12.8 billion with a live attendance of over 2.4 million;

Whereas the United States Soccer Federation is seeking to bring the World Cup games to the United States in 1994;

Whereas the United States is capable of meeting all of the requirements of a host country including financing, transportation, security, communications, and physical accommodations; and

Whereas the World Cup would serve as a tremendous impetus to national and international tourism, because the games would bring people from all nations together in friendly competition and permit these people to experience, first hand, the American way of life: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That Congress recognizes the efforts of the United States Soccer Federation to bring the World Cup to the United States in 1994, and the President of the United States is authorized and requested to designate the Secretary of Commerce as the official representative of the United States Government in any discussions with the Federation Internationale de Football Association.

By Mr. HEINZ:

S.J. Res. 176. Joint resolution honoring the International Brotherhood of Painters and Allied Trades; to the Committee on the Judiciary.

HONORING THE INTERNATIONAL BROTHERHOOD OF PAINTERS AND ALLIED TRADES

● Mr. HEINZ. Mr. President, as Americans celebrate the bicentennial of our Constitution, it is fitting to remember those institutions that have flourished under the principles of liberty and justice set forth in that revered document.

This year also marks the 100th anniversary of one of those institutions—one of the great unions in this country, the International Brotherhood of Painters and Allied Trades. The organization that a group of brave unionists founded 100 years ago has accomplished much for the men and women who help to make our man-made environment more attractive.

From the painters in the crisp whites and bow ties who marched in early Labor Day parades to the men and women in a wide variety of trades today, the International Brotherhood has been a consistent and effective voice for its membership. And the union's apprenticeship and training programs help to ensure that a steady flow of skilled craftsmen and women into the trades will keep the name of the Brotherhood synonymous with quality.

Today, the Brotherhood represents men and women in the United States and Canada in a variety of trades. Painters, glaziers, paint makers, glass workers, artists, scenery designers, tapers, carpet and linoleum workers, and many others are under the union's banner. Their work has graced mighty bridges and small structures; they have turned the outside and inside of some of our finest buildings into works of art. Throughout Pennsylvania and all of North America, their work has made our lives brighter.

To general president William Duval, general secretary-treasurer A.L. "Mike" Monroe and the 165,000 men and women of the International Brotherhood of Painters and Allied Trades, I say: Congratulations on your centennial celebration, thank you for your excellent work, and may you continue to be a powerful and progressive voice for working people.●

ADDITIONAL COSPONSORS

S. 123

At the request of Mr. Inouye, the name of the Senator from West Virginia [Mr. Rockefeller] was added as a cosponsor of S. 123, a bill to amend title XVIII of the Social Security Act to provide that psychologist services are covered under part B of Medicare.

S. 303

At the request of Mr. Bradley, the name of the Senator from Michigan [Mr. Levin] was added as a cosponsor of S. 303, a bill to establish a Federal program to strengthen and improve the capability of State and local educational agencies and private nonprofit schools to identify gifted and talented children and youth and to provide those children and youth with appropriate educational opportunities, and for other purposes.

S. 450

At the request of Mr. Armstrong, the name of the Senator from Missouri [Mr. Danforth] was added as a cosponsor of S. 450, a bill to recognize the organization known as the National Mining Hall of Fame and Museum.

S. 508

At the request of Mr. Levin, the name of the Senator from Georgia [Mr. Nunn] was added as a cosponsor of S. 508, a bill to amend title 5, United States Code, to strengthen the protections available to Federal employees against prohibited personnel practices, and for other purposes.

S. 567

At the request of Mr. DeConcini, the name of the Senator from Wyoming [Mr. Wallop] was added as a cosponsor of S. 567, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws.

S. 724

At the request of Mr. Ford, the name of the Senator from Florida [Mr. Graham] was added as a cosponsor of S. 724, a bill to amend the Federal Aviation Act of 1958 to advance the scheduled termination date of the Essential Air Service Program, and for other purposes.

S. 756

At the request of Mr. Lautenberg, the names of the Senator from Michigan [Mr. Riegle] and the Senator from South Dakota [Mr. Daschle] were added as cosponsors of S. 756, a bill to ensure the amounts paid for home improvements to mitigate indoor air contaminants such as radon gas qualify for the tax deduction for medical care expenses.

S. 840

At the request of Mr. Thurmond, the name of the Senator from South Dakota [Mr. Daschle] was added as a cosponsor of S. 840, a bill to recognize the organization known as the 82d Airborne Division Association, Incorporated.

S. 889

At the request of Mr. Gore, the name of the Senator from North Dakota [Mr. Burdick] was added as a cosponsor of S. 889, a bill to amend the Communications Act of 1934 to provide for fair marketing practices for certain encrypted satellite communications.

S. 936

At the request of Mr. Durenberger, the names of the Senator from Montana [Mr. Melcher] and the Senator from Colorado [Mr. Wirth] were added as cosponsors of S. 936, a bill to amend title XVIII of the Social Security Act to permit certain individuals with physical or mental impairments to continue medicare coverage at their own expense.

S. 1002

At the request of Mr. Cranston, the name of the Senator from Massachusetts [Mr. Kerry] was added as a cosponsor of S. 1002, a bill to amend title 38, United States Code, to provide disability and death benefits to veterans (and survivors of such veterans) exposed to ionizing radiation during the detonation of a nuclear device in connection with the U.S. nuclear weapons testing program or the American occupation of Hiroshima or Nagasaki, Japan; and for other purposes.

S. 1156

At the request of Mr. Fowler, the names of the Senator from North Dakota [Mr. Conrad] and the Senator from Hawaii [Mr. Matsunaga] were added as cosponsors of S. 1156, a bill to amend the Farm Credit Act of 1971 to provide Farm Credit System stockholder/borrowers with a multipoint program of relief and reform, and to assure the long-term health and stability of Farm Credit banks and associations through local control.

S. 1179

At the request of Mr. Conrad, the name of the Senator from North Carolina [Mr. Sanford] was added as a cosponsor of S. 1179, a bill to amend the Consolidated Farm and Rural Development Act to improve the administration of Farmers Home Administration loans, and for other purposes.

S. 1203

At the request of Mr. Grassley, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of S. 1203, a bill to amend title 22, United States Code, to make unlawful the establishment or maintenance within the United States of an office of the Palestine Liberation Organization, and for other purposes.

S. 1247

At the request of Mr. McCain, the name of the Senator from New Mexico [Mr. Bingaman] and the Senator from South Dakota [Mr. Daschle] were added as cosponsors of S. 1247, a bill to designate the area of Arlington National Cemetery where the remains of four unknown service members are interred as the "Tomb of the Unknowns."

S. 1333

At the request of Mr. McConnell, the name of the Senator from Indiana [Mr. Quayle] was added as a cosponsor of S. 1333, a bill to allow the 65 miles per hour speed limit on highways that meet interstate standards and are not currently on the National System of Interstate and Defense Highways.

S. 1393

At the request of Mr. Heinz, the name of the Senator from Virginia [Mr. Trible] was added as a cosponsor of S. 1393, a bill to amend title 39, United States Code, to designate as nonmailable matter any private solicitation which is offered in terms expressing or implying that the offeror of the solicitation is, or is affiliated with, certain Federal agencies, unless such solicitation contains conspicuous notice that the Government is not making such solicitation, and for other purposes.

S. 1397

At the request of Mr. Cranston, the name of the Senator from Utah [Mr. Hatch] was added as a cosponsor of S. 1397, a bill to recognize the organization known as the Non Commissioned Officers Association of the United States of America.

S. 1424

At the request of Mr. Dodd, his name was added as a cosponsor of S. 1424, a bill to amend title 8, United States Code, to provide for adjustment of status of certain Polish nationals who arrived in the United States before July 21, 1984, and who have continuously resided in the United States since that date.

S. 1448

At the request of Mr. Pell, the name of the Senator from Colorado [Mr. Wirth] was added as a cosponsor of S. 1448, a bill to provide a clarification in the insurance premium rule for the Guaranteed Student Loan Program under part B of title IV of the Higher Education Act of 1965.

S. 1464

At the request of Mr. Cranston, the name of the Senator from Montana [Mr. Melcher] was added as a cosponsor of S. 1464, a bill to amend title 38, United States Code, to provide eligibility to certain individuals for beneficiary travel payments in connection with travel to and from Veterans' Administration facilities.

S. 1504

At the request of Mr. Levin, the name of the Senator from Arizona [Mr. DeConcini] was added as a cosponsor of S. 1504, a bill to provide for an alternative to the present adversarial rulemaking procedure by establishing a process to facilitate the formation of negotiated rulemaking committees.

SENATE JOINT RESOLUTION 26

At the request of Mr. Pell, the name of the Senator from Arizona [Mr. DeConcini] was added as a cosponsor of Senate Joint Resolution 26, joint resolution to authorize and request the President to call a White House Conference on Library and Information Services to be held not later than 1989, and for other purposes.

SENATE JOINT RESOLUTION 106

At the request of Mr. Bingaman, the name of the Senator from Massachusetts [Mr. Kerry], and the Senator from Kansas [Mr. Dole] were added as cosponsors of Senate Joint Resolution 106, joint resolution to recognize the Disabled American Veterans Vietnam Veterans National Memorial as a memorial of national significance.

SENATE JOINT RESOLUTION 108

At the request of Mr. Lugar, the names of the Senator from New York [Mr. Moynihan], and the Senator from Pennsylvania [Mr. Specter] were added as cosponsors of Senate Joint Resolution to designate October 6, 1987, as "German-American Day".

SENATE JOINT RESOLUTION 155

At the request of Mr. McCain, the name of the Senator from Wyoming [Mr. Simpson] was added as a cosponsor of Senate Joint Resolution 155, joint resolution to designate the period commencing on September 13, 1987, and ending on September 19, 1987, as "National Reye's Syndrome Week."

SENATE JOINT RESOLUTION 168

At the request of Mr. Melcher, the names of the Senator from Hawaii [Mr. Inouye], and the Senator from Virginia [Mr. Trible] were added as cosponsors of Senate Joint Resolution 168, joint resolution designating the week beginning October 25, 1987, as "National Adult Immunization Awareness Week."

SENATE JOINT RESOLUTION 171

At the request of Mr. Cranston, the names of the Senator from New York [Mr. Moynihan], the Senator from Florida [Mr. Chiles], and the Senator from Delaware [Mr. Roth] were added as cosponsors of Senate Joint Resolution 171, joint resolution designating the week beginning November 8, 1987, as "National Women Veterans Recognition Week."

At the request of Mr. Chiles, the name of the Senator from Illinois [Mr. Dixon] was added as a cosponsor of Senate Joint Resolution 171, supra.

SENATE CONCURRENT RESOLUTION 29

At the request of Mr. DeConcini, the name of the Senator from Delaware [Mr. Biden] was added as a cosponsor of Senate Concurrent Resolution 29, a concurrent resolution expressing the sense of Congress regarding the inability of American citizens to maintain regular contact with relatives in the Soviet Union.

SENATE RESOLUTION 219

At the request of Mr. Daschle, the names of the Senator from Georgia [Mr. Fowler], the Senator from Nebraska [Mr. Exon], the Senator from Arkansas [Mr. Bumpers], and the Senator from Montana [Mr. Baucus] were added as cosponsors of Senate Resolution 219, a resolution expressing the sense of the Senate with respect to the use of ethanol, methanol, and other oxygenated fuels as an accepted air pollution control strategy in nonattainment areas designated by the Environmental Protection Agency.

SENATE RESOLUTION 245

At the request of Mr. Domenici, the names of the Senator from Rhode Island [Mr. Chafee], the Senator from Maine [Mr. Cohen], the Senator from Washington [Mr. Evans], the Senator from Arizona [Mr. McCain], the Senator from Oregon [Mr. Packwood], the Senator from Illinois [Mr. Simon], the Senator from Wisconsin [Mr. Proxmire], the Senator from Indiana [Mr. Lugar], and the Senator from Alaska [Mr. Murkowski] were added as cosponsors of Senate Resolution 245, a resolution to express the profound sorrow and regret of the Senate on the death of Arthur F. Burns.

At the request of Mr. Metzenbaum, his name was added as a cosponsor of Senate Resolution 245, supra.

SENATE RESOLUTION 246

At the request of Mr. Moynihan, the names of the Senator from Oklahoma [Mr. Boren], the Senator from North Dakota [Mr. Burdick], the Senator from Utah [Mr. Hatch], the Senator from Michigan [Mr. Levin], and the Senator from Hawaii [Mr. Inouye] were added as cosponsors of Senate Resolution 246, a resolution to honor Irving Berlin for the pleasure he has given to the American people through almost a century of his music.

SENATE RESOLUTION 250

At the request of Mr. Sarbanes, the names of the Senator from Ohio [Mr. Glenn], the Senator from California [Mr. Wilson], the Senator from Indiana [Mr. Quayle], the Senator from Nebraska [Mr. Exon], the Senator from Hawaii [Mr. Inouye], the Senator from New York [Mr. D'Amato], and the Senator from Idaho [Mr. Symms] were added as cosponsors of Senate Resolution 250, a resolution to express the sorrow and regret of the Senate at the death of Walter Wolfgang Heller.

At the request of Mr. Metzenbaum, his name was added as a cosponsor of Senate Resolution 250, supra.

AMENDMENT NO. 566

At the request of Mr. Byrd, the names of the Senator from Kansas [Mr. Dole] and the Senator from New Mexico [Mr. Bingaman] were added as cosponsors of amendment No. 566 proposed to S. 1420, a bill to authorize negotiations of reciprocal trade agreements, to strengthen U.S. trade laws, and for other purposes.

AMENDMENT NO. 591

At the request of Mr. Danforth, the name of the Senator from Nebraska [Mr. Exon] was added as a cosponsor of amendment No. 591 intended to be proposed to S. 328, a bill to amend chapter 39, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

AMENDMENTS SUBMITTED

OMNIBUS TRADE AND COMPETITIVENESS ACT

KASTEN AMENDMENT NO. 617

Mr. KASTEN proposed an amendment to the bill (S. 1420) to authorize negotiations of reciprocal trade agreements, to strengthen United States trade laws, and for other purposes; as follows:

At the end of part II of subtitle A of title VIII, add the following:

SEC. . FROZEN CRANBERRIES.

Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States is amended by inserting in numerical sequence the following new item:

"903.63	Cranberries, frozen (provided for in item 146.71).	Free	No change ...	On or before 11/31/90."

HEINZ (AND DURENBERGER) AMENDMENT NO. 618

Mr. HEINZ (for himself and Mr. DURENBERGER) proposed an amendment to the bill (S. 1420) supra; as follows:

Strike out subtitle C of title IX of the bill.

MURKOWSKI AMENDMENT NO. 619

Mr. MURKOWSKI proposed an amendment to the bill (S. 1420) supra; as follows:

At the appropriate place in the bill insert the following:

It is the sense of the Senate that the President should pursue alternatives to the reflagging of Kuwaiti vessels, including the leasing or chartering to Kuwait of vessels of the United States domestic tanker fleet, as a means of accomplishing United States objectives in the Persian Gulf.

WARNER AMENDMENT NO. 620

Mr. WARNER proposed an amendment to the bill (S. 1420) supra; as follows:

At the end of title X, insert the following:

SEC. . NATIONAL SECURITY IMPACT REPORTS.

Section 15 of the Export Administration Act of 1979 (50 U.S.C. App. 2414) is amended by adding at the end the following:

"(d)(1) Not later than sixty days prior to the effective date of a final regulations issued under subsection (b) or of any amendments issued under subsection (c), the Secretary shall transmit to the Secretary of Defense and the Director of Central Intelligence such proposed regulations or amendments.

"(2) The Secretary of Defense, prior to the effective date of any final regulation or amendment referred to in paragraph (1), may transmit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the Secretary's analysis of the effects of the proposed regulation or amendment on the national security of the United States. The Secretary of Defense shall transmit a copy of such report to the Secretary of Commerce.

"(3) The Director of Central Intelligence, prior to the effective date of any final regulation or amendment referred to in paragraph (1), may transmit to the Select Committee on Intelligence of the Senate and the Permanent Committee on Intelligence of the House of Representatives a report containing the Director's analysis of the effects of the proposed regulation or amendment on the capability of the United States to collect foreign intelligence information. The Director shall transmit a copy of such report to the Secretary of Commerce.

"(4) The transmission of a report to a committee of Congress under paragraph (2) or (3) shall have no effect on the effective date of the final regulation or amendment covered by the report.".

WARNER AMENDMENT NO. 621

Mr. BENTSEN (for Mr. WARNER) proposed an amendment to the bill S. 1420, supra; as follows:

At the appropriate place in Title IX, insert the following new section:

SEC. . COAL EXPORTS TO JAPAN.

It is the sense of the Senate that—

(1) the objectives of the November 1983 Joint Policy Statement on Energy Cooperation, as it relates to United States exports of coal to Japan, have not been achieved;

(2) the President should seek to establish reciprocity with Japan with respect to metallurgical coal exports and steel product imports and should encourage increased purchases by Japan of United States steam coal;

(3) the President should direct the United States Trade Representative and the Secretary of the Department of Commerce, in negotiating a Steel Trade Arrangement with Japan to take into consideration, consistent with the President's steel program, the amount of coal that Japan purchases from the United States in determining the level of steel, semi-finished steel and fabricated structured steel products that can be imported into the United States.

(4) the President should report to the Congress by November 1, 1988 regarding the results of the outcome of any negotiation undertaken in response to this section.

EVANS (AND OTHERS) AMENDMENT NO. 622

Mr. EVANS (for himself, Mr. BRADLEY, Mrs. KASSEBAUM, Mr. SYMMS, Mr. MURKOWSKI, Mr. DANFORTH, Mr. ROTH, Mr. BINGAMAN, Mr. ROCKEFELLER, and Mr. LEVIN) proposed an amendment to the bill S. 1420, supra; as follows:

(1) The superior heading to Part I, subtitle A, Title XXXVIII is stricken.

(2) Section 3801 is amended to read follows:

"Sec. 3801. ESTABLISHMENT.

"The President shall establish, within 90 days of the date of enactment of this Act, the Council on Economic Competitiveness, an advisory committee under the provisions of the Federal Advisory Committee Act (5 U.S.C. App.). Notwithstanding the provisions of Section 14 of the Federal Advisory Committee Act, the Council shall exist for four years, unless extended by law."

(3) Section 3802 is amended by—

(a) inserting "and" at the end of subsection (10);

(b) striking subsection (11) and inserting in lieu thereof—

"(11) evaluate and comment upon existing and future Federal policies and regulations, and the budget of the United States Government with respect to their impact on competitiveness."

(c) striking subsection (12).

(4) Section 3803 is amended by—

(a) striking subsections (c) and (d) and redesignating subsections (e) through (o) as subsections (c) through (m);

(b) amending subsection (i), as redesignated, by striking all after the word "members" and inserting in lieu thereof a period; and

(c) amending subsection (k), as redesignated, by striking "(i)" in paragraph (1), and inserting in lieu thereof "(g)",

(5) Section 3804 is amended by—

(a) in subsection (b), striking the word "The" where it first appears and inserting in lieu thereof "Within the limitations of the Council's appropriations, the"; and

(b) striking subsection (c).

(6) Section 3805 is amended by—

(a) adding at the end of subsection (d) the following: "Before commencing its activities, the Council shall prepare and submit to the President and each House of the Congress a plan that explains the type and scope of activities it plans to undertake within its budget. In order to maximize the effectiveness of the Council's activities, the plan shall seek to coordinate the activities of the Council with those of existing advisory committees relating to trade and competitiveness issues. The President may, within 30 days of its receipt, return to the Council his recommendations as to how the plan may be modified. The Council shall consider the President's recommendations before proceeding with its activities pursuant to the plan.",

(b) striking the word "shall" in subsection (h)(1) and inserting in lieu thereof "may",

(c) striking the words "section 14, and of" in subsection (i).

(7) Section 3808 is amended to read as follows:

"SEC. 3808. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for each of the fiscal years 1988 and 1989 such sums as may be necessary not to exceed $5,000,000 to carry out the provisions of this subtitle."

(8) Part II of subtitle A is stricken.

BIDEN (AND OTHERS) AMENDMENT NO. 623

Mr. BIDEN (for himself, Mr. THURMOND, and Mr. METZENBAUM) proposed an amendment to the bill (S. 1420) supra; as follows:

On page 62, between lines 10 and 11, insert the following:

"(C) Nothing in this section shall be construed to provide immunity under the antitrust laws for any price-fixing agreement, horizontal restraints of trade or group boycotts if such agreement, restraints, or boycotts would otherwise be unlawful.

"(D) For purposes of this paragraph, the term 'antitrust laws' has the meaning given such term in the first section of the Clayton Act and the Federal Trade Commission Act.

DURENBERGER (AND PRYOR) AMENDMENT NO. 624

Mr. DURENBERGER (for himself and Mr. PRYOR) proposed an amendment to the bill (S. 1420) supra; as follows:

At the end to Title I of the bill, add the following:

SEC. . AGREEMENT WITH THE EUROPEAN COMMUNITIES ON SOYBEANS AND CORN GLUTEN FEED

It is the Sense of the Senate that the Administration should not enter into any agreement with the European Community which would enable the European Community to withdraw or modify the obligation of the European Community to provide duty-free treatment to soybeans, soybean meal or corn gluten feed.

DASCHLE AMENDMENT NO. 625

Mr. DASCHLE proposed an amendment to the bill (S. 1420) supra; as follows:

On page 131 of the printed bill, insert "item 252.65 or" after "under".

NOTICES OF HEARINGS

SPECIAL COMMITTEE ON AGING

Mr. MELCHER. Mr. President, I would like to announce for the public that the Special Committee on Aging has scheduled a field hearing on Home Health Care for the Elderly.

The hearing will take place on Monday, August 3, 1987, at 9 a.m. at the Elanor Levovitz Senior Citizens Apartment, 500 Clifton Avenue, Lakewood, NJ. Committee member, Senator BILL BRADLEY will chair this hearing.

For further information, please contact Ken Apfel at (202) 224-3224.

Mr. President, I would like to announce for the public that the Special Committee on Aging has scheduled field hearings to address the national problem of low- and moderate-income housing for the elderly.

These hearings will take place on Monday, August 17, 1987, at the Washoe County Senior Center, Ninth and Sutro Streets, Reno, NV, at 1 p.m., and Tuesday, August 18, 1987, at the Las Vegas Senior Citizens Center at 450 East Bonanza Road, Las Vegas, NV, at 1:30 p.m. Committee member, Senator HARRY REID, will chair these hearings.

For further information, please contact Rachelle DesVaux at (202) 224-3542 or Holly Bode at (202) 224-5364.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON FEDERAL SPENDING, BUDGET, AND ACCOUNTING

Mr. BYRD. Mr. President, I ask unanimous consent that the Governmental Affairs Subcommittee on Federal Spending, Budget and Accounting be authorized to meet on July 21, 1987, at 2 p.m. for the purpose of holding a hearing on the implications of Federal Budgetary Cost in our Prison System.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 21, 1987, at 2 p.m. to hold a briefing on recent developments regarding Pakistan Nuclear Program.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Taxation and Debt Management of the Committee on Finance be authorized to meet during the session of the Senate on July 21, 1987, to hold a hearing on the taxation of widely held limited partnerships, also known as master limited partnerships.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Tuesday, July 21, 1987, to conduct hearings on the nomination of Alan Greenspan, of New York, to be a member of the Board of Governors of the Federal Reserve System for unexpired term of 14 years from February 1, 1978, vice Paul A. Volcker, resigned; and, to be Chairman of the Board of Governors for a term of 4 years, vice Paul A. Volcker, resigned.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NUTRITION AND INVESTIGATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Nutrition and Investigations of the Committee on Agriculture, Nutrition, and Forestry, be authorized to meet during the session of the Senate on Tuesday, July 21, 1987, to receive testimony on the limitation on direct price support payments that may be made annually to one person.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet during the session of the Senate on July 21, 1987, to hold a hearing on judicial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, July 21, 1987, at 2 p.m. to receive testimony concerning S. 7, a bill to provide for the protection of the public lands in the California desert.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

A TRIBUTE TO DR. HATTIE BESSENT FOR 10 YEARS OF PLACING MINORITY NURSE INTERNS ON CAPITOL HILL

● Mr. INOUYE. Mr. President, I rise in tribute today to Hattie Bessent, Ed.D., R.N., deputy executive director of the Ethnic/Racial Minority Fellowship Programs at the American Nurses' Association [ANA].

Dr. Bessent is the director of the ANA minority fellowship programs which assist nurses working on their doctorates in mental health disciplines, and their baccalaureate and master degrees in a variety of nursing specialties. Dr. Bessent's accomplishments to date have been most impressive. She began her position with two federally funded grants in 1977, and since then has successfully negotiated approximately $1.56 million from the National Institute of Mental Health for renewals of the two fellowship programs.

In late 1983, the ANA Baccalaureate Completion Scholarship Fund was established and placed under the aegis of the minority fellowship programs. Dr. Bessent continues to direct this particular 5-year grant initiative.

Hattie has also successfully obtained support for her fellowship programs from the private sector. For example, in 1985, the W.K. Kellogg Foundation approved a 3-year grant for leadership training for minority women in mental health-related fields. And, that same year Hattie assumed directorship of the Allstate Nursing Scholarship for American Indian/Alaska Natives, which had been previously administered by the American Indian/Alaska Native Nurses' Association. The Allstate Foundation has been funding this program since 1975.

In all, Dr. Bessent is currently administering a total of six grants, funded by both the private and public sectors, all of which support and further the educational advancement of our Nation's minority nurses.

Mr. President, since 1975, 137 nurses representing the minority groups including blacks, American Indians, Asians, Hispanics, and native Hawaiians, have received fellowship support for their doctoral training in the behavioral sciences and clinical psychiatric nursing programs through the American Nurses' Association programs. These individuals have matriculated at nearly 50 institutions of higher learning across our Nation, including schools in Hawaii and Puerto Rico. At the present time, approximately half of these individuals, or 52 of these nurses have earned doctorates and are actively teaching, conducting research, and providing clinical services for our Nation's minority population.

One of Dr. Bessent's finest accomplishments has been the development of the Minority Nursing Legislative Fellowship Program on Capitol Hill. The Legislative Internship Program was started by Dr. Bessent in 1977 to give minority nurses a firsthand experience in understanding the relationship between our Federal health care policies and the political process. This unique program provides minority nurses with the opportunity to participate in the legislative process by monitoring health care legislation on Capitol Hill. This experience further prepares them to actively participate in the legislative process when they return home, throughout various nursing organizations, and at the Federal level.

I have been selected to have a minority nurse intern in my Washington, DC, office during each year that this program has been in existence. From my experience, I can attest that the individuals whom Dr. Bessent has selected have consistently demonstrated enthusiasm, professionalism, and outstanding leadership capabilities. They have been able to bring home the importance of our Nation's Federal health policies to those who are "most in need." Dr. Bessent's cadre of students are a tribute to her own compassion and dedication. As many of us know, Dr. Bessent works tirelessly to secure placements for her students both on Capitol Hill and throughout the Federal agencies to provide her interns with an indepth appreciation for the legislative and administrative process.

Hattie's activities are not limited to Capitol Hill, nor to the Federal bureaucracy. She also participates in numerous site visits to nearly 50 universities across the Nation where her nurse fellows have been enrolled. These visits serve as recruiting trips for new applicants and provide her with an opportunity to consult on such diverse topics as minority content in nursing curricula, administration and management curricula, assertiveness training, and the importance of networking and mentoring. She also provides an important job placement service providing a wide range of accredited schools of nursing and the 50 State nurses' associations with the names and resumes of the graduates of the fellowship programs. Dr. Bessent has directed the publication of four monographs and a newsletter publicizing the successes of the Minority Fellowship Program, which are sent to all accredited schools of nursing throughout the country.

Dr. Bessent is a well-respected leader in the fields of psychiatric nursing and educational psychology. As an educator, she has lectured on cultural aspects of the delivery of mental health services, conducted research in the mental health aspects of the development of young children in longitudinal studies and taught diverse courses in the mental health of the young, personality development, approaches to mental health therapy, curiculum development and nursing research. She has actively participated in conferences addressing the delivery of mental health services to minority patients and on nursing and minority cultures.

Further, Dr. Bessent has accomplished a series of firsts for herself, her race, and her profession: she was the first black nurse to head a hospital psychiatric unit in her hometown; the first black to work at Vero Beach Hospital as laboratory and x ray technician; the first black person in the South to receive a Federal career teachers grant; the first black nurse in Florida to receive a doctorate; the first black person to receive a diploma as a mental health consultant from Tulane University; and the first black nurse in the South to receive a fellowship from the American Council on Education for an administrative internship.

Dr. Bessent was the first black nurse in the South to be inducted in the following honorary organizations: Phi Delta Kappa, Sigma Theta Tau, for nurses; Pi Lambda Theta, for educators, and Phi Delta Kappa. Dr. Bessent is also a member of Delta Sigma Theta. She was the first black women and nurse to become a faculty member of the University of Florida at Gainesville; the first black women to receive tenure in the Florida State University system; and the first black to become dean of the Graduate School of Nursing at Vanderbilt University.

She was appointed by President Carter as the only black member of the Presidential Task Force for Friendship Treaty to China, appointed by President Carter; the only black nurse on the Presidential Commission on Mental Health; and the only black on the Presidential Task Force for free travel to New Zealand and Australia. Today she is the only black professional nurse deputy executive director on the staff of the American Nurses' Association.

Among her other honors are the meritorious Distinguished Alumna Award, the highest award given an alumni, from Florida A&M University in 1980; and being listed in "Who's Who Among Black Americans" and "Contemporary Minority Leaders in Nursing." Her latest article "Minority Fellowship Programs," will be published in the September-October, 1987 issue of the "Journal of Professional Nursing."

Mr. President I am pleased today to honor Dr. Hattie Bessent and her minority fellowship recipients. Dr. Bessents's sincere efforts on behalf of our Nation's professional nurses and minorities has made a major contribution to the quality of life of our Nation's citizens. She has been an outstanding role model for both her professional colleagues and for the future generation of minority students. She has demonstrated outstanding expertise and knowledge of the legislative process and the long-term consequences of being actively involved in the political process. Her legislative internships have enabled these leaders of tomorrow to actively assist in bettering the health care of our citizens. Very few can match her accomplishments and dedication.●

A FEDERAL CHARTER FOR THE NON COMMISSIONED OFFICERS ASSOCIATION

● Mr. MURKOWSKI. Mr. President, I rise today to speak in support of legislation to grant a Federal charter to the Non Commissioned Officers Association of the U.S.A. [NCOA]. I was pleased to join with my colleague, the distinguished Senator from California, Mr. CRANSTON, as an original cosponsor on this important legislation. The Non Commissioned Officers Association is truly unique as a veterans' organization. Composed of more than 180,000 people, NCOA's members are the professional enlisted community of the Armed Forces. In fact, about 10 percent of eligible active duty noncommissioned and petty officers belong to NCOA. While the association has a high concentration of active duty people, it is important to remember that they are veterans, too. And NCOA is deeply involved in supporting benefit programs and service to veterans.

The association has one of the largest volunteer veterans' service programs in the Nation. It certainly has the largest privately operated veterans' jobs programs. And, it works closely with the Veterans' Administration and other Federal agencies to monitor services to veterans. At present, various NCOA staff members serve on the VA Advisory Committee on Women Veterans; the newly established Commission on Veterans' Education Policy; the VA Council of Natural Resource Organizations; and, the President's Committee on Employment of the Handicapped.

Over the past few years, NCOA has undertaken many new initiatives, most notably its voter registration and military absentee voter drives. During the last Presidential election, NCOA was credited with registering nearly 200,000 military personnel and family members. Concurrently, NCOA has been active in seeking changes in Federal and State laws to make absentee voting more viable for military and civilian personnel stationed overseas or away from home.

Mr. President, I could continue to cite various programs and initiatives of NCOA for some time, but I believe many of my colleagues already know of this organization and the fine work it does. The NCOA has, in the past, done a fine job representing the professional enlisted community. I believe that the future looks to be just as promising. I urge my colleagues to join me in consponsoring this worthwhile legislation.●

SUCCESSFUL AMERICAN INDIAN FIRMS IN OKLAHOMA

● Mr. BOREN. Mr. President, I would like to call the attention of my fellow colleagues to a success story of the Federal Government in conjunction with the private sector. Too often, we are confronted with stories of Government mismanagement and it is a pleasure for me to ask that the article that appeared in the Dallas Morning News on June 21, 1987, be included in the CONGRESSIONAL RECORD.

The article describes two American Indian firms in Oklahoma who are presently operating several successful contracts with various defense contractors.

Cherokee Nation Industries, located in Stilwell, OK, and 89 percent owned by the Cherokee Nation of Oklahoma, has grown from 60 employees in 1978 to 300 today. For the same period, annual sales have risen from $1.8 million to a projected $20 million this year. CNI ranks second in a total of 280 minority contractors with the LTV aerospace and defense operation in Dallas, TX. CNI contracts with several other defense contractors and was named small disadvantaged business supplier of the year in June by Boeing.

The president of the other firm, Redwing Products, Inc., is a woman who is part Creek Indian. Katie Jones moved to Kellyville, OK, in 1975, establishing Redwing with two coworkers. Redwing has 62 employees and will ship $27 million in products this year. Redwing also contracts with several other defense contractors. The Small Business Administration named Ms. Jones the small businessperson of the year in 1984. Ms. Jones expects that Redwing will graduate from the SBA's 8a Small Business Development Program in 1989. Only a fifth of the contracts at this time are won under the 8a Program; the rest are won competitively.

I am proud of Cherokee Nation Industries and Redwing Products, Inc., and wish them continued success in their endeavors to find economic independence and jobs for Oklahoma Indians. I also salute the defense contractors for supporting these initiatives and hope this subcontracting will continue to flourish bringing jobs to depressed sectors of our Nation.

The article follows:

[From the Dallas Morning News, June 21, 1987]

DEFENSE PAYS OFF FOR NATIVE AMERICANS

(By Kathryn Jones)

STILWELL, OKLA.—In the green foothills of the Ozark Mountains, near the heart of Oklahoma's Cherokee country, the Cherokee Indians are practicing a new native American craft.

In addition to weaving honeysuckle vines into baskets and painting scenes from their vivid history, some of the Cherokees are learning the art of assembling printed circuit boards.

Others are building cables, electrical wire harnesses and electronic "black boxes." Their handiwork eventually will become key parts of rocket systems made by Dallas-based LTV Corp., as well as missiles, missile silos, tanks and other weapons systems.

The Stilwell company owned by the Cherokees—Cherokee Nation Industries Inc. or CNI—is one of a handful of small Indian-owned businesses in the United States that look to the Pentagon for their survival. So is Redwing Products Inc. in Kellyville, southwest of Tulsa. Redwing's president, Katie Jones, is part Creek Indian.

The two companies and other minority-owned businesses are likely to become more attractive as subcontractors in the next several years. The Pentagon and its major suppliers are under increasing pressure to funnel contracts to minority-owned businesses because of a new interim rule that became effective June 1.

That directive requires that 5 percent of total combined Defense Department contracts and subcontracts awarded in fiscal years 1987 through 1989 be given to "small disadvantaged businesses," a classification that includes minority-owned companies. The new rule also would allow the Pentagon to award such contracts to small disadvantaged businesses using "less than full and open competition," provided contract prices don't exceed fair market prices by more than 10 percent.

While many prime contractors already are subcontracting work to minority companies, the new directive will add teeth to what previously were only guidelines for setting aside contracts for minority businesses, company officials said.

"The primes are faced with an obligation and a burden," said Phillip D. Wiltfong, CNI's vice president of marketing. "They have an obligation to look at small and minority companies. They are faced with exploring a cave with a little candle, trying to find a minority company that's a good one.

"They will see more minority businesses coming to them and saying. 'I'm a minority company. Here's the law. Give me business,'" he said. "The primes will have a harder time with compliance than ever before."

Small companies such as CNI and Redwing hope the rule will cause some contractors to rethink their "make-or-buy" decisions—to make much of the products themselves or to buy parts from subcontractors.

LTV is one company that has decided it can't do everything itself. CNI and Redwing are among the top minority subcontractors to LTV's Dallas-area aerospace and defense operations.

The Cherokee business ranks second in total contracts out of 280 minority suppliers to LTV's Dallas-based Aircraft Products Group and Missiles Division, and Redwing ranks sixth. Both companies assemble key parts of LTV's multiple-launch rocket system, or MLRS, a mobile artillery system that can launch 12 rockets.

Redwing's other Dallas-area customers include Texas Instruments Inc. and Varo Inc., and CNI also has received contracts from TI.

"Large companies are finally realizing that some of the smaller companies can do the job," Jones said.

Redwing and CNI took different paths into the defense business.

When CNI started in 1969, it built parts for commercial products such as color television sets. When much of that business moved offshore, the company diversified into defense. Today, it does very little commercial business. CNI president Cary Wyatt said.

Wyatt, who is not of Cherokee origin, joined the company in 1978 at a time when CNI was financially ailing. The business was losing money and didn't have a strong management structure in place.

Ross Swimmer, currently assistant secretary of the Interior for Indian affairs, was then the principal chief of the Cherokees and on the company's board. He hired Wyatt and a new management team to turn things around.

Since then, the company has grown from 60 to more than 300 employees, about 65 percent of whom are Cherokee. Annual sales have risen from $1.8 million to a projected $20 million for the fiscal year that ends June 30.

The business is back in the black. And because of the nature of its work, Wyatt sees good potential for continued growth.

"What's happening is the defense budget is dropping in magnitude," he said. "It really is going to increase our work, because large programs are becoming more complicated and companies are looking for more efficient ways to handle their business."

The Cherokee Nation owns about 89 percent of the company and has members on the board, but the tribal headquarters in nearby Tablequah doesn't run its day-to-day operations. The company does pay dividends to the tribe, which last year received about $600,000 from its stake.

In addition to its work on the MLRS, CNI makes surge arresters—which are used in missile silos to absorb electrical shock and keep the silo's electrical systems functioning in case of attack—and a variety of missile parts for Boeing. It also assembles cables for General Dynamics Corp.'s MI tank and performs work for Hughes Aircraft Co., FMC Corp., Honeywell Inc. and others.

Redwing has its roots in the defense business, having started as a sort of spinoff from Varo.

During the early 1970s, Katie Jones was working in the East Texas town of Rusk for Varo, which had set up a facility to modify mobile military shelters into electronic workshops that could repair military electronic equipment. When the project moved back to the Dallas area, Jones and two coworkers decided to start their own defense company.

They founded Redwing in 1975 and three years later moved the headquarters to Kellyville to be near a major customer that made bomb racks. One of the co-founders, Marlon Watson, is still with the company as executive vice president. The other cofounder decided he didn't want to leave Texas.

Redwing now has 62 employees and about two dozen active customers, and it expects to ship about $4 million worth of products this year. Its 30,000-square-foot facility is off the main highway into Kellyville, a rural town in the rolling countryside a half-hour's drive from Tulsa.

Almost all of its work is military-oriented. Redwing does a lot of work directly for the military services. Its largest contract is with the U.S. Air Force to build ammunition boxes for the B-52 bomber.

Redwing makes power distribution boxes and battery boxes for LTV's MLRS that bring power into the system and distribute it much like a breaker box in a house. The company has been working on the MLRS program for five years and estimates its value at about $500,000 a year.

Redwing also is assembling parts of night-vision goggles for ITT Corp., which has a joint venture with Varo to produce more than 100,000 night-vision systems for the U.S. Army. The goggles are used by soldiers to help them see in the dark and through smoke.

Redwing participates in the Small Business Administration's "8(a)" small business development program—named after a section of the Small Business Act. The program, which has come under criticism recently, was designed to nurture minority businesses with set-aside contracts until they are able to compete on their own.

Jones said Redwing expects to graduate from the program in 1989. She also said that competitive sales outweigh the company's 8(a) business, with only about a fifth of its total contracts won under the SBA program.

CNI and Redwing are the types of successful small enterprises that Indian officials would like to see more of, particularly in rural areas where many native Americans live and where unemployment often is high.

The Stillwell company is the largest enterprise owned by the Cherokees, which have set up a business development office to further develop the tribal economy. Their other operations include a hotel, gift shops, horticultural company and a wood-bundling operation. The tribe also is in the process of developing a hydro-electric project on the Arkansas River.

CNI, in rural Adair County, is in an area where unemployment is well above the state average. As of April, the county unemployment rate was 9.2 percent, compared with 7.8 percent statewide. Adair County also is on the federal government's list of "distressed" areas because of its poverty and unemployment.

"There hasn't been a sustained industrial development in those areas," said Larry Wise, executive director of business enterprises for the Cherokee Nation. "They're somewhat isolated."

Economic development for Indian communities has been the cornerstone of Ross Swimmer's office in the Interior Department. Although the SBA, in testimony before Congress earlier this year, said that $262.7 million was awarded to Indian enterprises in 1986 under an agreement with the Defense Department, Swimmer believes more can be done to increase defense contracting with Indian-owned enterprises.

Governmental guidelines for subcontracting work to small businesses have put some defense contractors in a quandary.

Some industry officials have expressed dissatisfaction with the policy, saying that they can't find enough good small companies that are set up to work on increasingly complex systems, not to mention handling the volume of paperwork, stiff procedures and government auditing that comes into play in the defense business.

Others want to keep as much work as possible in-house, where they can have more control.

"The hardest decision is to make or buy," Wiltfong said. "They perceive it as a risk."

But minority contractors such as CNI and Redwing say they can build parts of systems at a lower cost than prime contractors because they have lower overhead. Labor costs in rural areas also are lower and the work ethic is often stronger, they say.

"One of the biggest advantages is there's a good work ethic of the employees in this area," Wiltfong said. "I'm not sure it's because of the rural community or because a good many of our employees are Cherokees. They have emotional ties to this company."

Both companies have received numerous awards for their quality from prime contractors as well as business groups. Jones' awards include being named SBA's small businessperson of the year in 1984. Boeing this month named CNI its small disadvantaged business supplier of the year.

Whether the new defense directive will result in new business for minority companies remains to be seen. But it will likely make some contractors take a new look at minority contractors, and Wiltfong hopes they will see beyond the label of "minority-owned."

"There are some companies that exist because they are minority companies," he said. "We got that behind us and have attempted to stand on our two feet. from our standpoint, the fact that we're a minority business is just the icing on the cake." ●

S. 1427 BANS CHLORDANE

● Mr. BOSCHWITZ. Mr. President, recently, I introduced a measure, S. 1427, that would cancel the registration of a family of chemicals known as the cyclodienes. These chemicals—which include chlordane, heptachlor, aldrin, and dieldrin—are used in over 90 percent of all termite control treatments. Ninety percent of all termite treatments means that millions of Americans are being put at risk.

Conclusive evidence exists that each of these termiticides are harmful to human health, and are likely to present a substantial carcinogenic risk. A study conducted by the New York State Department of Health—New York is among the States that has banned these chemicals—demonstrated that the risk of developing cancer from inhaling 5 ug/m, the National Academy of Sciences guideline, is 5,000 times the level considered acceptable by the Environmental Protection Agency.

We know that acute and chronic exposures to these termiticides, which by the way have such staying power that they persist in the environment for as long as 2 years, are the direct cause of headaches, blurred vision, seizures, and involuntary muscle movements. Why then are these chemicals still registered by the EPA and used so widely by the pest-control industry?

Both the EPA and the pest-control industry claim that there are no alternatives available that are as effective or economical. The industry also claims that if applied correctly, the cyclodienes present no great health risk. I really must question the validity of such a claim. First of all, when they talk about the cost-effectiveness of these chemicals they forget about the costs of environmental damage, the medical costs due to contamination, and the economic costs to individuals forced out of their homes that they are unable to sell. Second, the EPA's own indoor air-monitoring study revealed that even when properly applied chlordane can contaminate the air.

As far as there being no reasonable alternatives, that also seems doubtful. One termiticide, Dursban—a product of the Dow Chemical Co.—is among the best tested and is becoming the treatment of choice. No evidence exists that even suggests that Dursban is either a carcinogen, mutagen, or teratogen—birth defects. As a matter of fact, the worst thing that could happen is an error in the chemical's application that results in illness. I might also add that, in the event of illness, there are antidotes for Dursban and none for the cyclodienes.

There is no doubt in my mind that something must be done to stop the use of these dangerous and deadly pesticides. My bill will, upon passage, immediately cancel the registration of the cyclodienes and ban their use. If left to the EPA the cancellation of these termiticides could take up to 5 years and that would result in millions of illnesses and thousands of preventable deaths. I usually do not advocate going outside the system, but in this case I feel that the EPA's system of review and implementation is too slow and cumbersome to deal with this very serious problem.●

COST ESTIMATE—H.R. 921

● Mr. JOHNSTON. Mr. President, on July 1, 1987, the Committee on Energy and Natural Resources filed the report to accompany H.R. 921, a bill to require the Secretary of the Interior to conduct a study to determine the appropriate minimum altitude for aircraft flying over National Park System units.

At the time the report was filed, the committee had not received an estimate of cost from the Congressional Budget Office. The committee has now received that report, and I ask that it be included in the Record, for the use and information of the public and my colleagues of the Senate.

The cost estimate follows:

U.S. Congress,
Congressional Budget Office,
Washington, D.C., July 16, 1987.

Hon. J. Bennett Johnston, Jr.,
Chairman, Committee on Energy and Natural Resources, U.S. Senate, Washington, DC.

Dear Mr. Chairman: The Congressional Budget Office has prepared the attached cost estimate for H.R. 921, a bill to require the Secretary of the Interior to conduct a study to determine the appropriate minimum altitude for aircraft flying over National Park System units.

If you wish further details on this estimate, we will be pleased to provide them.

With best wishes,
Sincerely,

Edward M. Gramlich,
Acting Director.

Congressional Budget Office

COST ESTIMATE

1. Bill Number: H.R. 921.

2. Bill Title: A bill to require the Secretary of the Interior to conduct a study to determine the appropriate minimum altitude for

aircraft flying over National Park System units.

3. Bill Status: As reported by the Senate Committee on Energy and Natural Resoures on July 1, 1987.

4. Bill Purpose: Section 1 of H.R. 921 would require the National Park Service (NPS) to conduct a study of the proper minimum flying altitude for aircraft flying over units of the National Park System and to make recommendations for legislative and regulatory action. The study would include research at a minmum of ten national parks, six of which are specified in the bill. The Federal Aviation Administration (FAA) would be required to provide technical assistance for this study, review its findings and recommendations, and review the adequacy of current rules and regulations pertaining to flights over NPS units where research for the study is to be conducted. Section 2 would specify minmum flying altitudes for aircraft flying over Yosemite and Haleakala national parks and would require the FAA to enforce and publish public notices of these restrictions.

Section 3 of the bill would require the FAA to submit and implement a final management plan for air traffic above Grand Canyon National Park. Section 4 would require NPS surveillance of flights over the Boundary Waters Canoe Area.

Section 5 would require the Forest Service to conduct an assessment of the adverse impacts of overfights in National Forest System wilderness areas excluding those in Alaska. The FAA would provide technical assistance to the Forest Service in carrying out the assessment. Within two years of the bill's enactment, the Forest Service would submit a report of the assessment to Congress.

Section 6 would require the NPS and the Forest Service to consult with federal agencies engaged in analyzing the impacts of aircraft overflights over federally owned land in conducting the study and assessment of Sections 1 and 5. The bill would authorize the appropriation of such sums as are necessary to carry out the NPS overflight study and the Forest Service wilderness area assessment, as specified in Sections 1 and 5, beginning in fiscal year 1988.

5. Estimated cost to the Federal Government:

The estimated cost of implementing the provisions of this legislation is shown in the following table:

[By fiscal year, in millions of dollars]

	1988	1989	1990	1991	1992
Estimated authorization level	4.8				
Estimated outlays	1.8	1.5	1.5		

The costs of this bill fall primarily within budget function 300.

Basis of Estimate: For the purpose of this estimate, CBO has assumed that H.R. 921 will be enacted during fiscal year 1987 and that the necessary sums will be appropriated for fiscal year 1988. Authorization levels and outlays have been estimated on the basis of information obtained from the NPS, FAA, and Forest Service.

CBO estimates that the NPS would incur costs of approximately $3 million to conduct and submit to the Congress the study of overflights at 10 park units, as specified in Section 1. (If the study covers more than 10 units, costs would be greater.) We estimate that the Forest Service would incur costs of approximately $1.5 million to carry out its assessment of overflight impacts on wilderness areas as specified in Section 5.

According to the NPS, a Grand Canyon air traffic management plan, as mandated in Section 3, is being prepared under existing authority, is nearly finished, and would not result in additional costs. However, the FAA has indicated that the NPS plan may be insufficient for its requirements. Consequently, the FAA would probably incur costs of approximately $300,000 to prepare and issue an alternative or revised management plan.

Additionally, the FAA would incur costs of less than $50,000 to provide technical assistance to the NPS and the Forest Service, and to perform other activities required by the bill.

Other provisions of the bill are not expected to result in significant additional costs.

6. Estimated cost to State and local Governments: None.

7. Estimate Comparison: None.

8. Previous CBO Estimate:

On April 22, 1987, CBO prepared a cost estimate for H.R. 921, as ordered reported by the House Committee on Interior and Insular Affairs on April 8, 1987. This estimate shows costs, because the bill would require the Forest Service to conduct a wilderness overflight assessment and would require the FAA to produce a Grand Canyon air traffic management plan.

9. Estimate prepared by: David Artadi and Deb Reis (226-2860)

10. Estimate approved by:

JAMES L. BLUM,
Assistant Director
for Budget Analysis.

ST. PAUL'S NEW HIGH BRIDGE

● **Mr. DURENBERGER.** Mr. President, on Saturday, July 25, I will have the pleasure of participating in the dedication ceremonies marking completion of construction of the newly constructed "High Bridge" in St. Paul.

This important event will occur 3 years to the day since the former 95-year-old bridge was closed due to significant structural problems which threatened the safety of traffic crossing the bridge. The closing of the bridge came abruptly, some 3 years prior to its anticipated closing.

As one might imagine, the abrupt closing of this bridge left the businesses, residents, and institutions on both sides of the Mississippi River without a reasonably convenient crossing point. Within days of the closing, I was contacted by numerous concerned individuals and asked to do whatever I could to expedite replacement of this important transportation link between the St. Paul's West Side, west St. Paul, Mendota Heights and other adjoining suburbs, and downtown St. Paul.

The absence of this link was particularly critical for the residents of both sides of the river who must cross the Mississippi River every day on their way to work. And, of course, those businesses closest to the river on both sides were dramatically affected by the increased inconvenience the bridge's closing placed on their customers.

One particularly critical factor necessitating quick action involved the location of two major hospitals—United and St. Paul Children's—which are located in downtown St. Paul but used extensively by residents of the city's West Side. The closing of this bridge added a time consuming detour which particularly jeopardized the lives of emergency patients being rushed from the West Side to one of these important health care facilities.

As I examined how construction of a new bridge could be expedited, it quickly became clear that the Federal Government's requirement that alternative bridge designs and bids be considered had the potential for causing unnecessary delay. Normally, bridges of this type receiving Federal funding must have two alternative designs prepared and compared, one with metal construction, the other using concrete.

Normally, that competitive design and bidding process is an important safeguard to protect the public interest and a process I strongly support.

In this case, however, several factors argued in favor of waiving the process and proceeding immediately to design, bidding and construction of a steel bridge. First, the steel arch option would be more consistent with the design of the original St. Paul High Bridge which has stood as a landmark in the area for almost a century. Second, preliminary estimates concluded that the steel bridge option would cost $1.8 million less than the concrete option. Third, it was estimated that the steel option would take as much as a year less to construct than the concrete option. And, finally, by waiving the alternative design process, it was estimated that another three-quarters of a million dollars in design costs would be saved, money which was very likely to be wasted since it was already quite clear which design was going to result in the lowest cost bridge.

Although a waiver of the alternative design process had never been granted, I introduced an amendment to the Highway Act of 1984 to waive the requirement in this one case on September 27, 1984 in the Senate Environment and Public Works Committee. The committee approved the amendment. On October 3, the Durenberger amendment was approved unanimously by the full U.S. Senate as an amendment to a continuing resolution. One week later, on October 10, the Senate/House Conference Committee on this legislation agreed to include the Durenberger amendment and the next day, on October 11, both Houses gave their final approval to the conference committee report, in effect completing action on this important piece of legislation.

Mr. President, when this important transportation link in St. Paul is reopened, there will be well-justified rejoicing on both sides of the Mississippi River. Among those cheering the loudest will be the neighborhood organizations and business groups on both sides who were so instrumental in bringing this matter to my attention and who had so much to lose by unnecessary delays in constructing a new bridge.

It's extraordinary, in this time of construction delays and cost overruns that this project has been completed ahead of schedule—only 3 years after the bridge was unexpectedly closed. Meeting this difficult timetable is a real credit to the State and Federal transportation officials who oversaw the project, to the architectural and construction firms who participated in its design and construction, and to the highly skilled and extremely productive workers who each gave a little extra of themselves to this project, knowing how important it was to the people and businesses who depend on this link in the Twin Cities' transportation system.

At Saturday's dedication, all of those who played such an important part in this project will be rightfully saluted, knowing that the bridge is opening at least a year sooner than it would have under "normal" procedures. It will be a red letter day on both sides of this historic St. Paul landmark.●

Mr. BINGAMAN. Mr. President, when Nancy Lopez last night was inducted into the Ladies Professional Golf Association Hall of Fame, it was a moment of special pride for New Mexico.

My State claims this young champion as its own. She was raised in Roswell, where she learned to play the game that has won her such worldwide esteem. Her father, Domingo Lopez, still lives on East First Street in Roswell. And New Mexico is equally proud of him, for he taught his daughter to play and to love the game in which she excells as few ever have.

Nancy entered the LPGA's Hall of Fame last night at age 30, one of the youngest ever inducted into the exclusive circle. She joins a select group indeed. Only 10 other golfers have been able to meet the high standards required by this honor: 35 tournament wins on the pro circuit, at least one major championship, and prize money topping $1 million. She was inducted in her first year of eligibility after only 10 years as a pro.

Nancy Lopez has been responsible for some of her sport's most memorable moments. Her nine tournament wins in her first full year on the circuit, including five in a row, are unequalled in the LPGA.

Roswell remembers her as the young teenager with the unique talent who picked up the game from her father and was the star of the boy's golf team at Goddard High School, there being no girl's team. The team won the State championship two years in a row with her on it.

Roswell also remembers Nancy as a person of friendliness, grace, and charm, characteristics which, together with her enormous talent, she has taken with her into the world of golf. And she has given that world more than just a champion. She is widely credited with having done more than most others to promote her sport.

And somehow in her impressive career, she and her husband, Ray Knight, the star third baseman of the Baltimore Orioles, have found time to make Domingo Lopez a grandfather twice over. Nancy's mother, Marina, died in 1977, before Nancy won her first professional tournament.

You can tell Domingo is a father who is very proud of his daughter. And New Mexico is proud of them both.

PENNSYLVANIA FINALISTS IN 38TH INTERNATIONAL SCIENCE AND ENGINEERING FAIR

● Mr. HEINZ. Mr. President, I wish to congratulate 14 outstanding young Pennsylvanians who recently were named finalists in the 38th International Science and Engineering Fair.

In an increasingly technological age, our ability to maintain global competitiveness depends at least partly upon our ability to train and employ talented engineers and scientists. These high school students have a good start in that direction and we should do all we can to encourage their career development.

Each of the students listed below received an invitation to attend the ISEF after an outstanding performance at one of the nine regional fairs in Pennsylvania.

Mr. President, I ask that the names and the award-winning projects of the finalists from Pennsylvania be printed in the RECORD at this time:

Brian Reed from Bethel Park won a third prize in chemistry from General Motors and the ISEF; Jason Patrick Sheehan from Carlisle won a third prize in chemistry from General Motors and the ISEF: Sharon Belfer from Cheltenham won a third prize in medicine and health from General Motors and the ISEF; Nathan Motich from Dillsburg won a third prize in behavioral and social sciences from General Motors and the ISEF and honorable mention from the American Psychological Association; Alison Frand from Dresher won a first prize from the U.S. Air Force and an honorable mention from the National Aeronautics and Space Administration; David Goncalves from Elkins Park won a third prize in chemistry from General Motors and the ISEF.

Sonia Altizer from Jacobus won a third prize in zoology from General Motors and the ISEF; Jason Spillerman from Philadelphia won a third prize in botany from General Motors and the ISEF; Maria Theodorides from Philadelphia won a third prize in zoology from General Motors and the ISEF; Peter Bruns from Pittsburgh won a third prize from the Society of Photographic Scientists and Engineers and an honorable mention from the Eastman Kodak Co.; David Haile from Reading won two first prizes from the Entomological Society of America, and General Motors and the ISEF in zoology, in addition to receiving a scholarship from the U.S Navy; Kimberly Sweigart from Willow Street won a fourth prize from General Motors and the ISEF in the field of environmental sciences; Steven Litvin from Wyomissing won a first prize from General Motors and the ISEF in physics, a second prize from the American Association of Physics Teachers, a second prize from BDM Corp., and honorable mention from both the Eastman Kodak Co., and the Optical Society of America, a scholarship from the University of Alabama in Huntsville, and was named an alternate to scholarship from the Ohio State University; and Kyle Lebouitz from York won a fourth prize in engineering from General Motors and the ISEF and was named an alternate from the U.S. Department of Energy.

On behalf of all of my constituents from the Commonwealth of Pennsylvania, I offer my most sincere congratulations and warmest wishes to these 14 young men and women, their families, and the schools they represent.

The names and projects follow:

PENNSYLVANIA

Project No. 420: Brian C. Reed, 1082 Glen Oak Dr., Bethel Park, PA 15102. *Awards:* Third Award, General Motors ISEF/Chemistry.

Project No. 410: Jason Patrick Sheehan, 123 Wilson St., Carlisle PA 17013. *Awards:* Third Award, General Motors ISEF/Chemistry.

Project No. 1067: Sharon Belfer, 7810 Haines Rd., Cheltenham, PA 19102. *Awards:* Third Award, General Motors ISEF/Medicine and Health.

Project No. 114: Nathan M. Motich, 47 Dogwood Ln. Dillsburg, PA 17019. *Awards:* Third Award, General Motors ISEF/Behavioral and Social Sciences; Honorable Mention, American Psychological Association.

Project No. 1357: Alison Frand, 3123 Burn Brae Br., Dresher, PA 19025. *Awards:* First Award, U.S. Air Force; Honorable Mention, National Aeronautics and Space Administration.

Project No. 427: David M. Goncalves, 7909 Anselm Rd., Elkins Park, PA 19117. *Awards:* Third Award, General Motors ISEF/Chemistry.

Project No. 1311: Sonia Marie Altizer, 142 Ensminger La., Jacobus, PA 17407. *Awards:* Third Award, General Motors ISEF/Zoology.

Project No. 346: Jason I. Spillerman, 1935 Witler St., Philadelphia, PA 19115. *Awards:* Third Award, General Motors ISEF/Botany.

Project No. 1353: Maria L. Theodorides, 6424 Roosevelt Blvd. Philadelphia, PA 19149. *Awards:* Third Award, General Motors ISEF/Zoology.

Project No. 1228: Peter Bruns, 53 Sunnyhill Dr., Pittsburgh, PA 15228. *Awards:* Third Award-Society of Photographic Scientists and Engineers; Honorable Mention-Eastman Kodak Company.

Project No. 1306: David L. Haile, 612 Museum Rd., Reading, PA 19611. *Awards:* First Award, Entomological Society of America; First Award, General Motors ISEF/Zoology; Scholarship, U.S. Navy.

Project No. 836: Kimberly Noel Sweigart, 304 Wynwood Dr., Willow Street, PA 17584. *Awards:* Fourth Award, General Motors ISEF/Environmental Sciences.

Project No. 1202: Steven Y. Litvin, 1701 Bern Rd., Apt. B2, Wyomissing, PA 19610. *Awards:* First Award, General Motors ISEF/Physcis; Scholarship, The University of Alabama in Huntsville; Second Award, American Association of Physics Teachers; Second Award, BDM Corporation; Honorable Mention, Eastman Kodak Company; Honorable Mention, Optical Society of America; Alternate to Scholarship, The Ohio State University.

Project No. 706: Kyle Stanton Lebouitz, 303 Brookwood Dr. York, PA 17403. *Awards:* Fourth Award, General Motors ISEF/Engineering; Alternate, U.S. Department of Energy.●

U.S. INTERESTS IN THE ASIA-PACIFIC REGION

● Mr. ROCKEFELLER. Mr. President, I had the honor to participate on Monday, July 20, in a conference entitled "Global Community Forum '87" held in Western Samoa. Although I was in Washington, by using an incredible new technology that transmits both voice and video images over a single phone line, I was able to take part in this conference as if I were in the South Pacific.

Mr. President, in this vein, I want to mention that I have recently joined the U.S. National Committee for Pacific Economic Cooperation. This is a group of business, Government, and academic leaders founded in 1984 to encourage constructive discussion of the complex policy issues surrounding the growth in United States-Pacific trade, to provide an active United States link to the regional organization of the Pacific Economic Cooperation Conference [PECC], and to promote United States participation in regional economic initiatives. I am very excited by my membership and look forward to working closely with this committee.

Economically, as well as politically, strategically, and demographically, the Pacific region is crucial to America's present and to America's future. United States trade with the Pacific rim region surpassed that with the Atlantic in 1975, and the gap continues to grow every year. We must be ready to take advantage of the mounting opportunities with this part of the world and act decisively to forge a healthy partnership with the Asian-Pacific region.

Mr. President, I ask the full text of the statement which I gave to "Global Community Forum '87," be entered in the RECORD.

The statement follows:

STATEMENT BY SENATOR JOHN D. ROCKEFELLER IV AT "GLOBAL COMMUNITY FORUM '87" JULY 20, 1987

I appreciate the opoportunity to speak to you today via the incredible technology of this LUMA Phone. I only wish I could be with you physically, as well, to share the beauty of Western Samoa and the Samoan people, and to enjoy what I am confident will be an engrossing and successful first meeting of the Global Community Forum. I would now like to share with you a few of my views on the current shape of U.S.-Pacific relations and my hopes for the future.

My family has had a deep reverence for the Asian peoples and their cultures for decades. The three years I spent as a young man in Japan were among the most satisfying and stimulating in my life. That was the beginning of a lifelong interest in Asia.

At the start of this century, U.S. Secretary of State John Hay spoke at the ceremony to open the Panama Canal: "The Mediterranean," he said, "is the ocean of the past; the Atlantic the ocean of the present and the Pacific the ocean of the future." Today, nearly 90 years later, we can appreciate his remarkable prescience. The future has indeed arrived.

In economic development, in the emergence of democratic political institutions, and in global influence, the Asian-Pacific region has established itself as a world leader. "Pacific awareness" is gaining momentum in the United States—not only on our West Coast, but in many areas, and particularly in our nation's capital. Economically, as well as politically, strategically, and demographically, the Pacific region is crucial to America's present and to America's future. And our future will be equally crucial for the Pacific. Interdependence is not simply a cliche. It is a fact of life.

The destinies of the developing nations in East Asia and the Pacific rely on healthy market interaction and long-term domestic and regional stability. Economic prosperity and political stability are fundamentally intertwined and interdependent—the decline of one unavoidably leads to the weakening of another.

Looking at the likely development of the Asian-Pacific region over the coming decades, it is evident that the stakes are high and the prospects exciting. All of you are quite familiar with the phenomenal economic success of the Pacific region during the past 15 years. The newly industrializing countries (NICS) of Asia plus the six members of ASEAN have outperformed all other developing nations in real growth per capita, growth of exports, control of inflation, and expansion of savings and investment. With few available natural resources, governments in Singapore, Taiwan, South Korea and Japan, among others, bet on human resources as the key to economic success. Through education and training, they have made truly impressive progress.

U.S. trade with the Pacific rim region surpassed that with the Atlantic as early as 1975, and the gap continues to grow every year. In 1981, America's trade with East Asia was $15 billion larger than its trade with Europe. By 1986, the difference had grown to $61 billion. And the flow of trade is not one way. Although we are experiencing some serious bilateral trade deficits at present, the Pacific continues to be a strong market for American goods. Japan, Korea, Australia and Taiwan are among America's 10 largest customers, and we sell more to ASEAN nations than we do to all of South America.

The countries of Asia and the Pacific have, historically, been divided by differences in ethnic, religious, and cultural values. Suspicious of each other and harboring long memories of exploitation, they have been slow to build cooperative institutions. But the region is becoming increasingly interdependent. With the exception of the United States and Canada, each nation in the region conducts more than half its trade with other countries in the region.

Right now, the main source of tension between the Pacific area and the rest of the extended Western alliance is economic—protectionist temptations in Europe and the United States on the one hand, and the protection of domestic markets throughout much of the Asia-Pacific region on the other.

If the United States is able to gain control of its trade and budget deficits, if Japan makes its market more accessible to imports, if Korea and Taiwan keep on their current path toward trade and investment liberalization, and if all markets strive to keep their markets open, the region will continue to realize a high growth rate. Conversely, if the U.S. response to the trade challenge is protectionism, if Japan's market remains import-resistant, and if restricted financial markets, closed import regimes and managed export policies prevail, economic vitality in the region will undoubtedly decline.

It is a time for adjustment—economic adjustment as well as political. The reasons are obvious. In order to sustain and improve conditions necessary for high levels of growth and prosperity, we must strive to open up markets and ward off protectionism. And in order to promote political stability, we must support the further growth of democracy and freedom among the diverse and unique societies of the region.

The trend of several emerging democracies in the region towards political stability is quite encouraging, even exciting. In the Philippines we have witnessed the strength of "people power," the revitalization of democracy and significant constitutional reform. In Korea, where steps have been taken towards popular participation in a truly representative government, there is great hope for future stability. In Taiwan, martial law has ended after four decades, and the opposition, although small, has been granted legal status. We are pleased to see democratic processes taking root and are confident they will facilitate stability and prosperity throughout the entire region.

The United States is serious in its commitment to assist the independent, democratic island nations of the South Pacific.

After lengthy negotiations, a regional fisheries treaty between the United States and the 16 member nations of the Forum Fisheries Agency was concluded. Since our differences with the region over this issue have been exploited by our adversaries, the treaty addresses national security concerns as well as our economic relationships in the area. The treaty is intended to resolve a serious dispute between the United States and the nations of the region, and also to assist in the development of an indigenous fishing industry and more vigorous local economies.

We have witnessed great progress in the region towards political and social development in countries that share our democratic values and commitment to human rights. Since the enactment of the compact legislation for freely associated states in 1986, the Marshall Islands and the Federated States of Micronesia have made a remarkably smooth transition to independence. There is great hope that Palau will follow suit by meeting its constitutional requirements for approval of the Compact of Free Association.

While the United States maintains a formal commitment to regional security in the Asian-Pacific region, we by no means seek a position of dominance there. We do, however, seek to ensure that no other state or combination of states achieves such dominance. Our military relationships are based on mutual benefits—the U.S.-Japanese Security Treaty, the integrated United Nation Command in Korea, our security agreement with Thailand, and our base agreements with the Philippines are all manifestitations of the same spirit. Although we are presently going through serious problems with New Zealand, our ANZUS relationship with Australia is unshakable. We are confident that the fundamental strength of our relations with the South Pacific region will lead to a resolution of the issues that separate us.

Along those lines, I must mention that the most notable, and unfortunate, recent development in the Pacific region has been increased attention from the Soviet Union. General Secretary Gorbachev's Vladivostok address of July, 1986, suggested that Moscow's Asia policy has assumed a position of increased importance over the past few years. Gorbachev spoke of nurturing political and economic ties with the small island states of the South Pacific, of supporting New Zealand's antinuclear policies, and of promoting the cause of a South Pacific nuclear-free zone. He suggested to the new Philippine government that an end to U.S. access to military bases there would not go "unanswered" and he proposed various so-called "confidence-building" measures.

In late November, 1985, the Soviet Union added the first nuclear-powered cruiser to its forces in Asia. From a defensive fleet of 200 warships in 1960, the Soviet force has grown to more than 800 vessels world-wide with virtually all the capabilities of a modern "blue-water" navy. And the Soviet's Pacific Fleet is now its largest. In an area that has been remarkably free of great power rivalry, we are watching closely to see whether this new Soviet power will translate into efforts at destabilization.

East Asia and the Pacific is a tremendously fertile and dynamic region. It possesses great potential, not only for its own development, but also for the promotion of global prosperity and security as a whole. Our goals and the goals of the entire Asian-Pacific community have become increasingly interdependent. The United States is as much a Pacific nation as it is an Atlantic nation, and we are determined to work together—to consult, to combine our resources efficiently, and to form a strong regional partnership. Together we must rise to the challenges ahead.

Ambassador Mike Mansfield has said many times that America's future is in Asia. I think we can all agree with him. The American people must prepare to take advantage of the mounting opportunities to forge a healthy partnership with the Asian-Pacific region. We must shape policies with an eye to the future—by learning Asian languages and history, and by identifying common interests, challenges and responsibilities. Only through frequent consultation can we facilitate mutual understanding and secure enduring peace and prosperity.●

ACCESS TO HEALTH CARE

● Mr. **DURENBERGER.** Mr. President, we are all concerned about access to quality health care for all Americans. Congress is particularly concerned about improving health benefits for the Nation's 28 million elderly and 3 million disabled Americans who are covered by Medicare and 22 million covered by Medicaid. Congress is also about to add protection for beneficiaries from catastrophic health care costs, a significant improvement in Medicare. Even as we expand access, we must continue to pursue cost containment strategies that will not compromise the quality of health care. Given the limits of our budget resources, we must carefully rethink and continually reexamine what we want from the health care dollar.

The prospective payment system has considerably reduced growth in Medicare costs since hospitals are paid the same amount for each diagnosis-related group [DRG] regardless of the length of stay or ancillary services provided. Before the use of prospective payment, Medicare admission rates differed geographically by as much as 22 percent and lengths of stay differed by up to 45 percent. There is no evidence that citizens in areas with higher use of health care are healthier than those with lower rates. But even as we encourage hospitals to operate more efficiently, safeguards must be built in to ensure that efficiency goals are not met at the expense of quality. Improving health care within reasonable cost growth must involve the active participation of physicians. In an excellent article recently published in the New England Journal of Medicine, Dr. Otis R. Bowen, Secretary of the Department of Health and Human Services said we must initiate studies that will provide practicing physicians with objective data for making clinical decisions, such as, whether to hospitalize or not, or use a particular test or not. His proposal should not be construed as a threat to the medical profession but as a way to create a data base to broaden the profession's perspective and its understanding of physician practices, as well as the appropriateness and effectiveness of different kinds of medical care. The support and cooperation of physicians is an indispensable component of any cost-effective effort to control costs that will not sacrifice the quality of health care.

Mr. President, I would ask to have reprinted in full Dr. Bowen's remarks before the annual meeting of the Massachusetts Medical Society on May 9, 1987, on the need for research on alternative approaches and physicians' practice-style variations to ensure greater cost effectiveness in providing quality health care to all Americans.

The remarks follow:

[From the New England Journal of Medicine, June 18, 1987]

SHATTUCK LECTURE—WHAT IS QUALITY CARE?

(By Otis R. Bowen)

My theme today relates to an ageless question in medicine: Just what is quality care? That question has been with us since the Code of Hammurabi was set down. And right here in Boston at the turn of the century, a surgeon named Codman came to grips with it. He said that the way to measure quality is to look at what happens to the patient after treatment.

My approach to quality is much like his; when you ask me what quality care is all about, my first instinct is to reply that it is about people. But when you enter public life as I have done, quite another dimension enters into your thinking. You must constantly weigh two matters. One is the enduring concern for patients as people that you bring with you as a physician, and the other, more public, is a recognition that your desire to extend the physician's healing touch must be tempered by the limits of society's resources. The truth of the matter is that in a world of limited resources, every dollar that society decides to spend in one area of human concern is a dollar that it will not spend in another. So we must make every dollar spent on the public behalf count.

We who practice medicine have not until recently had to consider the public perspective. For us, it has always been the patient first, regardless of cost. Open-ended payment systems have further encouraged that outlook. But now, almost suddenly it seems, events force a different and wider perspective on every practicing physician. Health care costs have spiraled higher and higher, far outdistancing normal inflation rates.

This development has made health care costs a primary issue of public policy. To understand that issue, we must consider that the cost spiral was stimulated in large part by the advent of Medicare and Medicaid in 1965. These programs were aimed at providing better access to care for the nation's older people and those in needy circumstances, and they have largely done that. They have also led to an era of great medical progress that has lengthened people's lives and improved their quality. All this has come at a great cost that most people would agree serves worthy human ends. Health is, after all, fundamental to the pursuit of happiness, and it is basic to the strength and vitality of a nation. Nonetheless, the cost of all this progress has necessarily come into question. It is a question that no public person, from the President on down, can ignore in this era of growing public deficits.

In this world of competing human needs, it is indeed possible to price health care out of people's reach. Publicly assumed health costs are circumscribed by the willingness of the taxpayer to be taxed, and privately assumed costs are limited by people's ability to pay for their other needs, such as food, shelter, clothing, and education. So it is quite possible for health care to become so expensive that once again people's access to it is threatened. Were that to occur, we should be headed right back where we began in 1965.

The supreme challenge today is to contain costs without lowering the quality of care. Some say this can't be done, that one factor must give way to the other. But much of what we have already learned in recent years tells us that, within limits, this tradeoff need not exist. And in fact, the lower-cost way is sometimes the high-quality way. A high volume of a procedure in a hospital not only yields economies of scale; it results in lower rates of postsurgical mortality and complications.

The amount spent per case on a given condition often bears no relation to the outcome for the patient. This is a powerful message that no right-thinking practitioner would wish to ignore, because if health costs continue their spiral, there will be overwhelming pressure to control them by limiting payments to providers of care.

Limiting payments to providers has its place in a cost-containment strategy, but the ultimate purpose of any sensible strategy must be to improve incentives for productivity. Quality health care is a cause to which we can all rally. Practicing physicians want it, patients have a right to it, and we in government must ensure if we are to fulfill our responsibilities as prudent purchasers of care.

To measure quality, we must first be able to recognize it when we see it. Much hard work lies ahead before we can really come to grips with the question, What is quality care? We are getting closer to answers through a variety of investigations that are beginning to shed light on this question. There is a vast body of missing knowledge that we are just beginning to acquire. Its pursuit constitutes a developing field that often makes use of a new approach called the epidemiology of medical care.

The results of some of the seminal studies in this new field of epidemiology have already been published. For a decade, we have been studying and documenting variations in health care under the Medicare program according to geographic area. We have found wide disparities in admission rates, average lengths of say, and costs per admission. Before prospective payment began, Medicare admission rates differed according to region by as much as 22 percent, and lengths of stay differed by up to 45 percent. These differences remain even after accounting for such factors as the patients' age, sex, and race.

Medicare propsective payment for hospitals may narrow the wide regional variations in average length of stay considerably, because when it is fully phased in, this system will pay every hospital the same for each diagnosis-related group (DRG) regardless of the length of stay or the number of ancillary services provided. Eventually, a hospital in San Francisco will be paid the same for a given DRG as one in Boston.

All of this is creating a powerful incentive for hospitals to manage more efficiently, and that is what we want. At the same time, it may be giving them an incentive to overeconomize at the expense of quality. We try to guard against this by continuing to monitor hospital discharges and other utilization data.

But such monitoring cannot take the place of quality-conscious physicians. Increasingly, practitioners will come under pressure to justify clinical decisions; to hospitalize or not, to conduct a test or not, to provide an ancillary service or not. As they come up against these pressures, they ought to be equipped with as many objective data as they can bring to bear on the decisions at hand. Such information will give physicians perspectives they can use in practicing sound, high-quality medicine.

In many areas, however, physicians cannot be certain about the efficacy of alternative approaches. There is no research base to guide them. Our research is working to fill in these blanks. This summer we expect to see the results of a Rand Corporation study that is investigating why there are such large geographic variations in the use of three common procedures: carotid endarterectomy, coronary angiography, and upper gastrointestinal endoscopy.

The study's authors believe that areas with a high rate of use are overusing these procedure. To decide whether that is true, they assembled panels of physicians expert in each of the three procedures. These panels first decide which set of patients' signs and symptoms constitutes a reasonable basis for recommending that the procedure be performed. Using this as a guide, they then looked at the medical records of the physicians who made the actual decisions, and judged whether the recommendation to perform the procedure was based on appropriate indications. These are blinded studies; no physicians is identified. The findings of studies like this will be of enormous help to every practicing physician.

As we conduct more of these procedures-specific studies, I think we will find that practice styles in a number of areas do matter in terms of cost effectiveness. They matter when the issue is whether many common conditions can be treated in or our of the hospital—conditions such as mild angina, gastroenteritis, bronchitis, and a host of others. And they matter when the issue is whether a number of common procedures are done in the hospital or not—procedures such as cystoscopy, breast biopsies, and sterilizations.

The Mayo Clinic hospitalizes its patients 40 percent less often than the national average, and the caliber of its care is widely acknowledged to be extremely high. But if we are to reduce the national rate of hospitalization, physicians are going to need more specific guidelines on which to base their decisions. A Special Article in the New England Journal of Medicine last year underscored the need for this. It reported on a study of 123 procedures performed on Medicare patients in 13 large areas of the nation. In 67 of these procedures, there were threefold differences between the highest and lowest rates of use. That is a startling finding, and it poses two important questions: Were the physicians in the areas of high use performing too many procedures? Or were those in the low-use areas performing too few?

Lacking reliable guidelines for so many procedures, practicing physicians have little to go on when they have to decide whether surgery is best for their patient. Now, however, we are beginning to obtain results that shed light on such questions. One study that examined postoperative mortality rates found an association between high-volume surgery rates and low mortality in four of eight kinds of procedures.

We need more studies like this. They will allow physicians to make clinical decisions more in keeping with the scientific basis of medicine. Data-collection efforts are gaining momentum on all fronts. Early in this decade, employers began a quest for hard data, spurred on by the rapid growth in employee health insurance premiums and claims. Organizations are now obtaining these facts for employers and analyzing them. Insurance carriers are also working to improve the quality of their data.

Medicare is part of this effort, too. Its 30 million beneficiaries are a rich source of data. Furthermore, the advent of prospective payment and computerized payments of claims makes it easier for researchers to merge cost and clinical data. This lets them compare different treatment approaches with their costs to determine which is most cost effective.

But all of this will prove ultimately useful only as long as it is done constructively and is not perceived as a threat by practicing physicians. Research in practice-style variations should be seen as an educational tool for physicians, to be used by them to broaden their perspective. A good way to ensure this is for state medical societies to conduct their own medical-assessment studies, as some have done already. The medical society in Maine has been doing this since 1981. It reviews hospital discharge data and identifies variations in specific medical and surgical procedures among the state's 31 hospital market areas. Medical-specialty groups also study data of concern to their own specialty. Medical societies in other states have done similar work—my own state of Indiana, Iowa, and Massachusetts, to name a few.

Some physicians worry that the outcome of studies like this will lead us into an era of "cookbook medicine." Having been a practicing physician, I understand and appreciate physicians' apprehensions. I fully agree that we must never eliminate the bedside judgment of the physician. Studies of practice styles should have but one purpose: to help doctors become better doctors.

I perceive among physicians a gradual and growing acceptance of the view that all of this is not only necessary but in their ultimate best interest, as well. As a physician, I know that physicians want to do what is right for their patients. We worry about missing a diagnosis, electing a treatment that fails to work, or doing anything that could be detrimental to a patient. From medical school onward, we are driven by these concerns, and they are not bad concerns to have, because they impel physicians to do their best at all times.

But something else needs to be said here: Someone once said that variation in practice style is simply the evidence that good medical practice does not mean the same thing to different doctors. Nor, I would add, to different patients. And this is one very important reason that patients try to find a doctor who suits their own needs and style. Any system that truly aspires to high quality must accommodate personal preferences. They lie at the very heart of the doctor-patient relationship in an open society like ours. A purely data-driven approach to treatment that would take no account of patients' needs and wishes would indeed amount to cookbook medicine, and we would be right to reject it. Furthermore, we should put more, not less, emphasis on what patients expect as the outcome of their treatment.

If you believe, as I do, in a more competitive health care system, you must believe in providing better information to the public so that people can make informed choices for themselves about their health care. This is a basic tenet of successful competition in any industry.

As medicine gets better at what it does, the quality of patients' lives after treatment will become of more consuming importance to people. We have become quite good at the short-term heroic measures. Now we need to look at long-term measures and their effect on the quality of people's lives.

I have only this to say before closing: Some see only threat in this era of cost containment. I see challenge and opportunity. Out of the dialogues inspired by cost concerns, new insights will emerge that will give us deeper answers to the riddle of quality. Practicing physicians are at the very center of this issue. What you decide to do will be the decisive element in the quest for quality.●

CYPRUS

● Mr. ROTH. Mr. President, large parts of the Republic of Cyprus have been living under Turkish occupation for 13 years. This is 13 years too long for any nation. The occupation of the Republic of Cyprus constitutes an affront to the people of Cyprus and to free people everywhere.

An occupied nation is always an unhappy nation, with potential riot and revolt never far below the surface of everyday life. Consequently, it is in the interests of all Americans and all Europeans to facilitate the peaceful resolution of the troubled situation in Cyprus. Failure to settle this potentially inflammatory situation leaves the Mediterranean open to the risk of a new outbreak of violence in the region, a development which none of us desire to witness.

The Secretary-General of the United Nations, Mr. Perez De Cuellar, has been hard at work seeking a peaceful resolution to the Cyprus situation. He has talked extensively with the Turkish Government and vigorously protested against Turkey's military build up on the Island. He has likewise protested the recent movement of Turkish nationals into the Famagusta/Varosha area, which has to be left unoccupied until the settlement of the Cyprus problem. Turkey cannot be allowed to alter the demography of Cyprus at will while the world waits for an acceptable settlement.

The Secretary-General has proposed that Greek-Cypriot Representatives commence nonbinding talks with him and his aides. To its credit, the Greek-Cypriot side has accepted this proposal. To its discredit, the Turkish-Cypriot side has rejected this sensible suggestion.

This type of obdurate Turkish-Cyprist behavior cannot be allowed to continue. I call upon the President to raise the Cyprus question at the next economic summit of Western leaders, so that the United States and the Government of the European Community can move forward united to bring pressure to bear to remove occupying Turkish forces from Cyprus.●

A TRIBUTE TO THE CITY OF NEW BRUNSWICK

● Mr. BRADLEY. Mr. President, I am proud to congratulate the city of New Brunswick, NJ, upon receiving the 1986 Best Overall Program Award for cities under 50,000 population in the Annual Sister Cities International Awards Recognition Program.

The Sister Cities International Program is designed to promote understanding, friendship and reciprocity between United States and foreign cities with the involvement of the entire community—citizens, students, universities, and businesses. The program award, sponsored by Reader's Digest Foundation, is given annually in four population categories to cities that have excelled in implementing the program.

During 1986 New Brunswick and its two Sister Cities, Fukui and Tsuruoka, Japan developed a program that involved several educational/cultural youth exchanges between New Brunswick and Japan residents, a "Celebrate Japan" week that focused on the century-long relationship between New Brunswick and its Sister Cities, and a visit to New Brunswick by the Fukui City Economic Development Committee.

Its commitment to further international understanding through education, exchanges, exhibits, business delegations and friendship has made New Brunswick's program an outstanding model for the entire country. I ask my colleagues to join me in commending the city for a well-deserved award.●

NATIONAL HISPANIC HERITAGE OBSERVANCES

● Mr. BRADLEY. Mr. President, America's Hispanic community is one of the largest ethnic groups in the Nation, with nearly 20 million people and projected to reach nearly 27 million by the end of this century. Their colorful traditions and proud heritage have enriched this country in many ways.

Hispanic heritage festivities will be observed through a variety of scheduled events across the country during September and October. It will be a time for all Americans to reflect on the talent, hard work, dedication, pride, and professionalism that encompasses the Hispanic community. New Jersey has a large and vibrant Hispanic population. I will be joining my constituents in commemorating the 1987 National Hispanic Heritage Observance this fall, and I urge my colleagues to do the same.●

TAKE PRIDE IN AMERICA

● Mr. PRYOR. Mr. President, today in ceremonies here in Washington, award winners in the "Take Pride in America" campaign are being honored.

This awards program, established to identify and encourage outstanding stewardship activities by individuals, businesses, and groups on behalf of America's cultural resources, was launched by President Reagan in his 1986 State of the Union message.

I am proud to recognize three winners from my State. They are Dr. F. Hampton Roy of Little Rock, AR; the Texarkana City of Pride Wide Program directed by Dixie Horning; and the Pine Bluff/Jefferson County Clean and Beautiful Commission, coordinated by Peggy Harris.

I applaud the efforts of these individuals and groups in Arkansas to promote positive action in the thoughtful use of our land and water resources.●

BUDGET SCOREKEEPING REPORT

● Mr. CHILES. Mr. President, I hereby submit to the Senate the budget scorekeeping report for this week, prepared by the Congressional Budget Office in response to section 308(b) of the Congressional Budget Act of 1974, as amended. This report was prepared consistent with standard scorekeeping conventions. This report also serves as the scorekeeping report for the purposes of section 311 of the Budget Act.

This report shows that current level spending is under the budget resolution by $0.3 billion in budget authority, but over in outlays by $15.9 billion.

I ask that the report be printed in the Record.

The report follows:

U.S. Congress,
Congressional Budget Office,
Washington, DC, July 20, 1987.

Hon. Lawton Chiles
Chairman, Committee on the Budget,
U.S. Senate, Washingon, DC.

Dear Mr. Chairman: The attached report shows the effects of Congressional action on the budget for fiscal year 1987. The estimated totals of budget authority, outlays, and revenues are compared to the appropriate or recommended levels contained in the most recent budget resolution, Senate Concurrent Resolution 120. This report meets the requirements for Senate scorekeeping of Section 5 of Senate Concurrent Resolution 32 and is current through July 17, 1987. The report is submitted under section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended. At your request this report incorporates the CBO economic and technical estimating assumptions issued on January 2, 1987.

No changes have occurred since my last report.

With best wishes,
Sincerely,

Edward M. Gramlich,
Acting Director.

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 100TH CONGRESS, 1ST SESSION, AS OF JULY 17, 1987

[Fiscal year 1987—In billions of dollars]

	Current level [1]	Budget resolution (S. Con. Res. 120)	Current (level +/ − resolution)
Budget authority	1,093.0	1,093.4	−.3
Outlays	1,010.9	995.0	15.9
Revenues	833.9	852.4	−18.5

CBO WEEKLY SCOREKEEPING REPORT FOR THE U.S. SENATE, 100TH CONGRESS, 1ST SESSION, AS OF JULY 17, 1987—Continued

[Fiscal year 1987—In billions of dollars]

	Current level [1]	Budget resolution (S. Con. Res. 120)	Current (level +/ − resolution)
Debt subject to limit	2,303.9	[2] 2,322.8	−18.9
Direct loan obligations	42.2	34.6	7.7
Guaranteed loan commitments	140.6	100.8	39.8

[1] The current level represents the estimated revenue and direct spending effects (budget authority and outlays) of all legislation that Congress has enacted in this or previous sessions or sent to the President for his approval. In addition, estimates are included of the direct spending effects for all entitlement or other programs requiring annual appropriations under current law even though the appropriations have not been made. The current level of debt subject to limit reflects the latest U.S. Treasury information on pulbic debt transactions.

[2] The current statutory debt limit is $2,320 billion.

FISCAL YEAR 1987, SUPPORTING DETAIL FOR CBO WEEKLY SCOREKEEPING REPORT, U.S. SENATE, 100TH CONGRESS, 1ST SESSION, AS OF JULY 17, 1987

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			833,855
Permanent appropriations and trust funds	720,451	638,771	
Other appropriations	542,890	554,239	
Offsetting receipts	−185,071	−185,071	
Total enacted in previous sessions	1,078,269	1,007,938	833,855
II. Enacted this session:			
Water Quality Act of 1987 (Public Law 100–4)	−4	−4	
Emergency Supplemental for the Homeless (Public Law 100–6)	−7	−1	
Surface Transportation and Relocation Act (Public Law 100–17)	10,466	−80	2
Technical Corrections to FERS Act (Public Law 100–20)	1	1	
Prohibit entrance fees at the Statue of Liberty Monument (Public Law 100–55)	1	1	
SBA program and authorization amendments (Public Law 100–72)	−43		
Supplemental appropriations, 1987 (Public Law 100–71)	4,212	3,018	
Total	14,625	2,935	2
III. Continuing resolution authority			
IV. Conference agreements ratified by both Houses			
V. Entitlement authority and other mandatory items requiring further appropriation action:			
Special milk	2		
Veterans compensation	93		
Readjustment benefits	9		
Federal unemployment benefits and allowances	33	33	
Advances to the unemployment trust funds [1]	(3)	(3)	
Payments to health care trust funds [1]	(224)	(224)	
Medical facilities guarantee and loan fund	5	4	
Payment to civil service retirement and disability fund [1]	(33)	(33)	
Coast Guard retired pay	3	3	
Total entitlements	145	40	
Total current level as of July 17, 1987	1,093,039	1,010,913	833,857
1987 budget resolution (S. Con. Res. 120)	1,093,350	995,000	852,400
Amount remaining:			
Over budget resolution		15,913	
Under budget resolution	311		18,543

[1] Interfund transactions do not add to budget totals.

Note: Numbers may not add due to rounding.

LLOYD CUTLER ON ROBERT BORK

● Mr. HUMPHREY. Mr. President, I wish to insert in the RECORD a most interesting article endorsing the nomination of Judge Robert Bork to the Supreme Court. The author, Lloyd Cutler, is, of course, one of the most distinguished members of the bar. He served as counsel to President Carter and was a founder of the Lawyer's Committee for Civil Rights Under Law. And he describes himself as a liberal Democrat.

Here is one such man who has the integrity to stand up and praise Judge Bork's qualifications and endorse his nomination to our High Court.

Given Judge Bork's eminent qualifications, which were praised when the Senate unanimously confirmed him only 5 years ago as a judge of the District of Columbia Circuit Court of Appeals, the record delay in the planned start of the new confirmation hearings is unconscionable. Seventy days will pass from the July 7 official submission of the nomination to the Senate, to Chairman BIDEN's announced starting date of September 15. As documented in a new study by the Congressional Research Service, the average interval in start of confirmation hearings for the previous 16 Supreme Court nominations of the past 25 years has been 17.6 days, and the longest has been 42 days.

This delay is grossly unfair. It likely will force the Court to open its October term one justice short, thus depriving litigants who have fought long and hard to get to the Court of a full panel. As the Washington Post wrote in an editorial on July 10, "If minds are already made up, why wait? * * * If there is a strong, serious case to be argued against Judge Bork, why do so many Democrats seem unwilling to make it and afraid to listen to the other side?"

Why indeed. Elemental fairness demands that the hearings begin as soon as possible.

I ask that the article be printed in the RECORD.

The article follows:

[From the New York Times, July 16, 1987]

SAVING BORK FROM BOTH FRIENDS AND ENEMIES

(By Lloyd N. Cutler) [1]

WASHINGTON.—The nomination of Judge Robert H. Bork to the United States Supreme Court has drawn predictable reactions from both extremes of the political spectrum. One can fairly say that the confirmation is as much endangered by one extreme as the other.

The liberal left's characterization of Judge Bork as a right-wing ideologue is being reinforced by the enthusiastic embrace of his neo-conservative supporters. His confirmation may well depend on whether he can persuade the Senate that this characterization is a false one.

In my view, Judge Bork is neither an ideologue nor an extreme right-winger, either in his judicial philosophy or in his personal position on current social issues. I base this assessment on a post-nomination review of Judge Bork's published articles and opinions, and on 20 years of personal association as a professional colleague or adversary. I make it as a liberal Democrat and as an advocate of civil rights before the Supreme Court. Let's look at several categories of concern.

Judicial philosophy. The essence of Judge Bork's judicial philosophy is self-restraint. He believes that judges should interpret the Constitution and the laws according to neutral principles, without reference to their personal views as to desirable social or legislative policy, insofar as this is humanly practicable.

All Justices subscribe at least nominally to this philosophy, but few rigorously observe it. Justices Oliver Wendell Holmes, Louis D. Brandeis, Felix Frankfurter, Potter Stewart and Lewis F. Powell Jr. were among those few, and Judge Bork's articles and opinions confirm that he would be another. He has criticized the rightwing activism of the pre-1937 court majorities that struck down social legislation on due process and equal protection grounds. He is likely to be a strong vote against any similar tendencies that might arise during his own tenure.

Freedom of speech. As a judge, Judge Bork has supported broad constitutional protection for political speech but has questioned whether the First Amendment also protects literary and scientific speech. However, he has since agreed that these forms of speech are also covered by the amendment. And as a judge, he has voted to extend the constitutional protection of the press against libel judgments well beyond the previous state of the law. In his view, "It is the task of the judge in this generation to discern how the Framers' values, defined in the context of the world they knew, apply to the world we know." Over Justice (then Judge) Antonin Scalia's objections, he was willing to apply "the First Amendment's guarantee . . . to frame new doctrine to cope with changes in libel law [huge damage awards] that threaten the functions of a free press."

Civil rights. While Judge Bork adheres to the "original intent" school of constitutional interpretation, he plainly includes the intent of the Framers of the post-Civil War amendments outlawing slavery and racial discrimination. In this spirit, he welcomed the 1955 decision in *Brown* v. *Board of Education* proclaiming public school segregation unconstitutional as "surely correct," and as one of "the Court's most splendid vindications of human freedom."

In 1963, he did in fact oppose the public accommodations title of the Civil Rights Act as an undesirable legislative interfence with private business behavior. But in his 1973 confirmation hearing as Solicitor General he acknowledged he had been wrong and agreed that the statute "has worked very well." At least when compared to the Reagan Justice Department, Judge Bork as Solicitor General was almost a paragon of civil rights advocacy.

Judge Bork was later a severe critic of Justice Powell's decisive concurring opinion in the *University of California* v. *Bakke* case, leaving state universities free to take racial diversity into account in their admissions policies, so long as they did not employ numerical quotas. But this criticism was limited to the constitutional theory of the opinion. Judge Bork expressly conceded that the limited degree of affirmative action it permitted might well be a desirable social policy.

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[1] Lloyd N. Cutler, a lawyer, who was counsel to President Jimmy Carter, was a founder of the lawyers Committee for Civil Rights Under Law.

Abortion. Judge Bork has been a leading critic of *Roe* v. *Wade,* particularly its holding that the Bill of Rights implies a constitutional right of privacy that some state abortion laws insure but this does not mean that he is a sure vote to overrule *Roe* v. *Wade;* his writings reflect a respect for precedent that would require him to weigh the cost as well as the benefits of reversing a decision deeply imbedded in our legal and social systems. (Justice Stewart, who had dissented from the 1965 decision in *Griswold* v. *Connecticut,* on which *Roe* v. *Wade* is based, accepted Griswold as binding in 1973 and joined the *Roe* v. *Wade* majority.)

Judge Bork has also testified against legislative efforts to reverse the court by defining life to begin at conception or by removing abortion cases from Federal court jurisdiction. If the extreme right is embracing him as a convinced right-to-lifer who would strike down the many state laws now permitting abortions, it is probably mistaken.

Presidential powers. I thought in October 1973 that Judge Bork should have resigned along with Elliot L. Richardson and William S. Ruckelshaus rather than carry out President Richard M. Nixon's instruction to fire Archibald Cox as Watergate special prosecutor.

But, as Mr. Richardson has recently observed, it was inevitable that the President would eventually find someone in the Justice Department to fire Mr. Cox, and, if all three top officers resigned, the department's morale and the pursuit of the Watergate investigation might have been irreparably crippled.

Mr. Bork allowed the Cox staff to carry on and continue pressing for the President's tapes—the very issue over which Mr. Cox had been fired. He appointed Leon Jaworski as the new special prosecutor, and the investigations continued to their successful conclusion. Indeed, it is my understanding that Mr. Nixon later asked, "Why did I go to the trouble of firing Cox?"

I do not share Judge Bork's constitutional and policy doubts about the statute institutionalizing the special prosecutor function. But if the constitutional issue reaches the Supreme Court, he will most likely recuse himself, as he has apparently already done in withdrawing from a motions panel about to consider this issue in the Court of Appeals. Moreover, as he testified in 1973, he accepts the need for independent special prosecutors in cases involving the President and his close associates.

Balance-the-budget amendment. While this proposed amendment is not a near-term Supreme Court issue, Judge Bork's position on it is significant because support for that amendment is a litmus test of right-wing ideology. He has publicly opposed the amendment on several grounds, including its unenforceability except by judges who are singularly ill-equipped to weigh the economic policy considerations that judicial enforcement would entail. This reasoning is far from the ritual cant of a right-wing ideologue.

Experience shows that it is risky to pinpoint Supreme Court Justices along the ideological spectrum, and in the great majority of cases that reach the Court ideology has little effect on the outcome.

The conventional wisdom today places two Justices on the liberal side, three in the middle and three on the conservative side. I predict that if Judge Bork is confirmed, the conventional wisdom of 1993 will place him closer to the middle than to the right, and not far from the Justice whose chair he has been nominated to fill.

Every new appointment creates some changes in the "balance" of the Court, but of those on the list the President reportedly considered, Judge Bork is one of the least to create a decisive one.●

SOUTH AFRICAN POLITICS

● Mr. KERRY. Mr. President, the recent meeting of 61 white Afrikaners from South Africa with members of the African National Congress in Dakar, Senegal was a historic event of major importance. It proved that whites can talk to blacks even in the polarized context of South African politics. It also proved that the Congress, by passing a strong sanctions bill last year, sent the right message, and has had an effect in moving the dialog forward in South Africa.

During the debate on the sanctions bill, there were those who said that the ANC was a terrorist organization, that it engaged in practices such as "necklacing," and that meaningful negotiations with the ANC were impossible. The events of the past week have proven them wrong.

The meeting in Dakar has proven that meaningful negotiations are possible, and that the ANC is willing to enter into discussions with the white Afrikaner power structure in South Africa. Unfortunately, the Botha regime has not shown a comparable willingness to enter into negotiations with the ANC. Such negotiations are the only alternative to increasing violence and an eventual bloodbath in South Africa.

A recent article in the Washington Post of July 20 describes the meetings in Dakar, and subsequent meetings in Burkina Faso and Ghana between the Afrikaners and the ANC. The article quotes one leading member of the Afrikaner group as saying: "It has been an overwhelming experience and I think it is going to take a long time for us to absorb it all. For many, our whole conceptual framework has been shattered."

The article also states that many of the Afrikaners came to accept the fact that the ANC's commitment to multiracialism is genuine, and "at least some began to express an understanding that far from being expedient, the commitment to multiracialism was a political liability held out of conviction in the face of considerable extremist pressure both inside and outside of South Africa."

The meeting of leading Afrikaners with members of the ANC, and the warm reception accorded to the Afrikaner delegation in three black African countries, is a hopeful and positive development for all those who believe that a peaceful solution is still possible in South Africa. For those of us who worked on the sanctions bill last year, it is gratifying to see that at least some of the Afrikaners in South Africa have now accepted the necessity of face-to-face talks with the ANC. I hope that these talks will lead to further talks, and eventually to direct negotiations between the leadership of the ANC and the Botha regime. There is no other way to bring an end to the apartheid system, short of an all-out civil war in South Africa.

I ask that the Washington Post article, entitled "Afrikaners Given Warm Welcome in Black Africa," be printed in the RECORD.

The article follows:

[From the Washington Post, July 20, 1987]

AFRIKANERS GIVEN WARM WELCOME IN BLACK AFRICA—"OUR WHOLE CONCEPTUAL FRAMEWORK HAS BEEN SHATTERED," GROUP MEMBER SAYS

(By Allister Sparks)

ACCRA, GHANA.—For 61 white South Africans, most of them dissident Afrikaners, it was a journey from pariah status to acceptability.

The group of academics and business and professional people who held talks last week with the African National Congress (ANC) in Dakar, Senegal, were accorded the status of visiting dignitaries as they journeyed to two more West African countries, Burkina Faso and Ghana.

Group members said the tour, sharply criticized by the South African government and extreme right-wing whites at home, demonstrated Africa's readiness to accept even that sector of South Africa most closely identified with the apartheid policy of white domination, provided they are prepared to renounce it.

In what for most was their first venture into black Africa, the Afrikaners were first astonished, then delighted at the warmth of their reception in countries that have barred entry to white South Africans and sought to isolate South Africa internationally.

As the 10-day tour progressed, their reserve and skepticism gave way to embraces for their black hosts and the ANC leaders who accompanied them on the tour as they left Ghana on Friday.

It was a personal triumph for the former leader of South Africa's liberal Progressive Federal Party, Frederik van Zyl Slabbert, who resigned from the white-controlled Parliament last year to found an institute for promoting interracial contract.

Slabbert handpicked the group to participate in the sessions, the largest ever between white South Africans and exiled leaders of the outlawed ANC, which opinion polls show has the strongest support of any black movement in the country.

Slabbert chose mainly influential Afrikaners who had reached various stages of doubts about the morality and viability of the apartheid policy, but were uncertain what sort of future they would have under black majority rule.

As the tour drew to its close, most said it has been a profound personal experience that had destroyed many deeply ingrained preconceptions.

As one leading member of the group put it, "It has been an overwhelming experience and I think it is going to take a long time for us to absorb it all. For many, our whole conceptual framework has been shattered."

Moving on from Senegal, one of Africa's few multiparty democracies, the Afrikaners' reception in the revolutionary republic of Burkina Faso, formerly Upper Volta, was tumultuous. Thousands of cheering people lined the streets as the visitors were driven through the mud-brick capital of Ouagadougu in a cavalcade.

The South Africans attended a State House banquet where President Thomas Sankara held a two-hour discussion with them, sitting under the stars in his palace garden. They also were driven into the countryside to plant trees to help halt the encroaching desert and to commemorate what Sankara called an historic visit.

In Ghana, the welcome was less spectacular but equally warm and, for the Afrikaners, even more meaningful. This is the spiritual birthplace of African nationalism, whose founding leader, Kwame Nkrumah—now being resurrected as a hero after 20 years of obloquy—launched a pan-African campaign against apartheid and was the key figure in getting South Africa expelled from the Commonwealth in 1961.

The group was taken to the W.E.B. DuBois memorial, where they heard speeches praising the founder of the American black civil rights movement and Nkrumah, who was described as "the relay runner who took the torch of black liberation from DuBois and ran the next stretch."

On Thursday evening, Afrikaners and members of the ANC, friends by now after a week of traveling together, mingled in the hot tropical night with members of the Ghanaian government in the conference complex where 22 years ago the Organization of African Unity discussed the launching of a war of liberation against apartheid South Africa.

The head of Ghana's military regime, Flight Lt. Jerry Rawlings, did not attend the gathering, but met privately for two hours with Slabbert and the leader of the ANC delegation, Thabo Mbeki.

A complementary relationship developed during the tour between Slabbert and Mbeki, who is the ANC's information director and a rising star in its leadership.

In public forums and press conferences the two repeatedly found themselves on the same side of the argument, defending a shared commitment to nonracism against criticism from radical black nationalists.

This was strikingly illustrated at a joint press conference when the group arrived in Accra. After questioning Slabbert about his motives for meeting with the ANC, implying it might be a white attempt to blunt the black organization's revolutionary commitment, a young Ghanaian journalist turned sharply to Mbeki and demanded: "Do you really trust these whites?"

"Yes," came the instant reply. "There is nothing in a person's color that defines his politics."

Until then, many of the whites had remained skeptical of the ANC's repeated declarations at the conference of commitment to the principle of multiracialism and their assurances that they harbored no dark thoughts of racial revenge.

In private conversations, many indicated that they thought this was a matter of political expediency. As one skeptic remarked, "It pays them to say things like that, but I wonder how far it really goes?"

However, the skepticism seemed to dissolve as the whites heard the ANC delegates defend the same position again and again before critical black audiences.

At least some began to express an understanding that far from being expedient, the commitment to multiracialism was a political liability held out of conviction in the face of considerable extremist pressure both inside and outside South Africa.●

THE HUMANITARIAN FAMILY UNITY ACT OF 1987

● Mr. CHAFEE. Mr. President, there is a page-one story in today's Washington Post, decribing the special plight of Salvadorans living in the United States who are affected by the Immigration Reform and Control Act of 1987. The article, which states that illegal aliens are finding "the new immigration law is both a blessing and a bane," underscores the need for swift consideration and passage of the Humanitarian Family Unity Act, which I introduced on June 23, 1987, and which is cosponsored by Senators Pell, Mikulski, Stafford, Moynihan, Heinz, and Gore.

Of particular interest in this article is the case of Carlos Rey, who recently went to Dulles International Airport to send his three daughters, ages 15, 13 and 10, back to El Salvador because they do not qualify for amnesty under the new immigration law. Mr. Rey, who is eligible for legalization under the new law, feared that school officials would discover his children were undocumented. He has made the painful decision to remain in this country to take advantage of the opportunity for citizenship, at the expense of the integrity of his family.

In my view, no one should be placed in the excruciating position in which Carlos Rey finds himself. It is my firm belief that no law or Federal program should threaten the integrity of the family, which is the foundation of American society. My legislation is based on this principle, and I urge all Senators who believe in the importance of family unity to support it.

The Humanitarian Family Unity Act addresses the failure of the new immigration law to provide for families in which one spouse qualifies for amnesty, while the other or the children do not. S. 1408 would extend amnesty to the spouse and children of eligible aliens, if they were already in the United States by the date of the new immigration law's enactment.

My legislation will eliminate the fear among immigrant families that they will be forced apart because of what was intended to be a generous and compassionate program. It will allow qualified aliens to remain here with their families intact, thus strengthening the fabric of American society.

Mr. President, I ask that the article from the Washington Post be printed in the Record.

The article follows:

[From the Washington Post, July 21, 1987]

Many Area Salvadorans Going Home—Immigrants Fear Unemployment, Deportation If They remain

(By James Munoz)

Jaime Sanchez stood at the edge of a crowd that poured into the lobby of the Salvadoran Embassy when it opened one recent morning. The 17-year-old restaurant worker was among many who had come for documents letting them return to the homeland they had fled just a few years earlier.

Like an increasing number of immigrants from El Salvador living in the Washington area, Sanchez had made a cold-eyed calculation: "Being here and back home is almost the same."

Officials have estimated that of the approximately 60,000 Salvadoran immigrants living in the Washington area, most are here illegally and do not qualify for the limited amnesty granted by the new federal immigration law.

Since the new law took effect there have been reports of Salvadorans losing jobs and having trouble finding housing. Social service agencies report seeing more Salvadorans who need food and other assistance.

As a result, some Salvadorans have apparently decided that life here is not materially better than in their homeland, despite the civil war that has claimed tens of thousands of lives. The trend is reflected in applications for documents that would allow reentry into El Salvador, as well as a reported sharp increase in sales of one-way airline tickets to El Salvador.

The returnees, particularly those who fled for political reasons, face an uncertain future. The U.S. State Department and some human rights groups have reported that the political killings that caused so many to leave El Salvador have abated somewhat, but extensive civil strife continues.

The new immigration law offers amnesty only for those who have been in the country since January 1, 1982. Most Salvadoran immigrants in the Washington area, as well as most nationwide, arrived after that date and do not qualify, according to experts.

Officials at the Salvadoran Embassy estimated they have received three times as many applications for passports this year as they received in 1986. Since January, an average of 700 Salvadorans a month have come to consulates around the country to get provisional passports, the permission slips needed to get back into El Salvador.

July 13, nearly a dozen Salvadorans were waiting to apply for provisional passports when the embassy, located on California Street NW in the Kalorama neighborhood, opened at 9:30 a.m.

There are mixed feelings. some of them are very glad to go back," said Salvadoran Ambassador Ernesto Rivas-Gallont. "They came to the U.S. thinking it was something next to heaven—that jobs were so abundant that all you had to do was to stretch out your hand to get a job."

For Jose Carranza, the new immigration law is both a blessing and a bane. He said he qualified for amnesty under the new law and came to the embassy to get a permanent passport to prove he is eligible to stay in this country under the new law. He said his brother, who has been here three months and does not qualify, must return to El Salvador.

"For the ones who qualify for amnesty, the new immigration law is good," Carranza said. "But for those who do not qualify, the new law is bad because that means that they have to return home.

Airline company officials in Washington said they have seen a dramatic increase in the number of one-way tickets being purchased to El Salvador. Jeanette Rivera, assistant manager at Twentieth Century Travel, a firm specializing in Central American trips, said sales of one-way tickets used to be rare, but since April she has sold $60,000 more in one-way business to El Salvador than during the same period last year.

At TACA Airlines, one of two airlines in Washington that offer flights to El Salvador, ticket sales for trips there have doubled over last year. "People are scared," said Gloria Granilla, a Washington district sales manager for TACA. "They are losing their jobs, that is what it is."

Granilla said that since March her company has sold between 100 and 200 one-way tickets a month at TACA's ticket office here, which serves clients from as far as Baltimore and Philadelphia. The company decided to add a new flight to meet the increased demand, she said.

The impetus for the decision to return home is seen through local social service agencies, which report an increase in the number of Salvadorans needing assistance. Agency officials say they are seeing increasing numbers of Salvadorans who have lost their jobs, as employers become nervous about provisions of the new law calling for sanctions against those who hire undocumented aliens.

Employers do not face any sanctions for illegal immigrants already on the payroll, but confusion over the law's provisions has nevertheless led to dismissals, service agencies report.

"I think it is a crisis situation," said John Curry, director of Casa De Maryland in Takoma Park. Curry operates one of a handful of centers that offer food assistance to Salvadorans. The center already has experienced an 800 percent increase in the number of families who have come in for food donations.

"A lot of people who have lost their jobs are having difficulty finding new jobs, and a lot of people are just scared. They don't know how long they are going to make it," Curry said.

At Dulles International Airport, Carlos Rey sent off his three daughters, ages 15, 13 and 10, to El Salvador because they do not qualify for amnesty under the new law. He said he was afraid school officials would ask for social security numbers or other documents and discover his children are undocumented.

But Rey said he qualifies for amnesty, and hopes to bring the girls back into the country "when I fix my papers."

Jaime Sanchez said he came here three years ago wanting to become a building engineer, and ended up getting a job in a local restaurant. His family wants him to stay in the United States to avoid being pressed into military service back home, he said. "The situation there was bad, and I would have probably ended up going to war if I had stayed," he said. Nevertheless, he was at the embassy getting his papers to go back home.

He said he believes that unemployment, and eventual deportation, are inevitable.●

GRANTING PERMANENT RESIDENT STATUS TO POLISH REFUGEES

● Mr. DODD. Mr. President, today I join several of my colleagues as a cosponsor of S. 1424, the Polish Permanent Resident Adjustment Act of 1987.

This bill should finally settle the status of about 7,000 Polish refugees in this country who arrived to the United States before or during the reign of martial law in Poland and who were kept in a status of uncertainty ever since. I have become aware of their plight through my own Polish-American constituents as approximately 300 of the these people reside in my State of Connecticut. While exempted from immediate deportation, these Polish nationals were given extended voluntary departure [EVD] status renewed every 6 months. What this status conveyed to these individuals was that they were tolerated but not welcomed here, and that ultimately they were expected to leave, the sooner the better. This message was brought home to them with particular clarity at the last renewal when the State Department recommended against renewing EVD, which recommendation, if implemented, would have exposed these Polish refugees to deportation proceedings.

I certainly would not stand for such a treatment of these people and I doubt that most of the American people would. Mr. President, I visited Poland just as martial law was ended, experienced the bleakness of the existence for the Polish people under it, saw the ever-present troops of jackboots who tried to extinguish every last flicker of the Polish quest for freedom. I could very well envision how different that country was from the one these Polish visitors left before martial law. I could also understand anyone who left after martial law with the intention of not returning to Poland for the foreseeable future.

Five and a half years have passed since the crackdown on Solidarity and although some improvements are noticeable, it would be plainly absurd and unjust even to consider now the deportation of these refugees from our country. Most of them are working, or in schools, they started productive new lives in this country, some of them have children born here. To uproot them at this point and ship them back to Poland is something that is not likely to happen. There are over 8 million Americans of Polish origin and they would prevent it if no one else would. That being the case, it makes no sense at all to continue to keep these people in a limbo. The bill that I join as a cosponsor today provides an orderly way for this group to become permanent residents and eventually U.S. citizens if they so desire.

One last point I would like to make is that these people are not illegal aliens. They have already been lawfully cleared to enter the United States either because of family relationships or based on other criteria. Ever since their arrival they maintained a lawful, if temporary, status in this country. They will not be exempt from the usual requirements of admissibility.

Mr. President, these people are not to be blamed for the tragic turn of events in Poland over 5 years ago. They are victims of those events. The passing of this legislation would only legally affirm what is already a fact for many of them, full integration into American society. My State, Connecticut, continues to benefit immensely from its vital, productive Polish-American community. I am convinced that this bill will provide our Nation with similar benefits in the loyalty and dedication of these future citizens.●

KIM DAE JUNG AND THE KOREAN MILITARY

● Mr. CRANSTON. Mr. President, I have been greatly disturbed by recent press reports from South Korea indicating that the Korean military is threatening action if Kim Dae Jung is nominated to run as the opposition party's candidate. Sunday's New York Times reported:

> In the strongest indication yet that military intervention is at least possible, the Chief of Staff, Gen. Park Hee Do, has reportedly said that "something unhappy" might happen if the opposition leader, Kim Dae Jung, ran for President.

The Korean people have made tremendous strides in recent weeks to bring domocracy to their country. Developments have been faster and more far-reaching than any of us had anticipated. Nevertheless, all the efforts undertaken by the people of Korea may prove to be for naught, and all their hopes for a democratic future will be dashed, if the military intervenes in the political process taking place right now.

Kim Dae Jung's civil rights were fully restored on July 9, after years of imprisonment, exile, house arrest, and severe restrictions on his political participation. With the restoration of his rights, Mr. Kim is now finally allowed to return to politics, and to run for President. It is the choice of Mr. Kim's fellow party members whether he should be a candidate, and it is the choice of the Korean people whether he should be President. The Korean army has no role in making these choices for the Korean people.

While it is not appropriate for the United States to favor one candidate over another in the upcoming elections, our military alliance with the Republic of Korea obliges us to warn the armed forces of the Republic of Korea: Their interference in the democratic process could have serious repercussions for the future of United States-Korean relations. The 40,000 United States troops stationed in Korea are there to defend democracy, not military dictatorship.

Korea is ready for a civilian government. The people have demanded a civilian government. There is no more important condition for democracy in Korea now than for the Korean people peacefully to decide the political future of their country.●

INFORMED CONSENT: ARIZONA

● Mr. HUMPHREY. Mr. President, today I would like to insert into the Congressional Record, two letters sent to my office in support of my informed consent legislation, S. 272 and S. 273. Today's letters come from the State of Arizona. Both speak of the emotional trauma caused when a woman aborts her unborn child without being fully informed about the procedure and its consequences.

I ask that two letters from women in Arizona be printed in the Record.

The letters follow:

Phoenix, AZ,
February 16, 1987.

Dear Senator Humphrey: I read an article about you and the "Informed Consent Bill" in the Feb. issue of Concerned Women for America.

I am a 33 year old mother of 2 beautiful healthy boys, a blessing from the Lord.

When I was 16 or 17 I had an abortion in Pittsburgh, PA. It was done in a hospital with my parents consent but I know now we didn't realize what we were doing. I remember having to write a letter stating why I wanted the abortion and talking with a counselor once or twice.

I can't remember what we said but I was not totally informed. I actually believed the little one couldn't feel or know what was happening.

I've since come to know different. I became a born again believer in Jesus not long afterward.

With all of the television specials on now about what actually takes place during an abortion, I have become well informed. . . . . I listen but I can't watch it because my heart hurts too much. This will always be a very delicate matter to me. Even though the Lord has cleansed me, I still feel a sorrow when I see this on TV.

If I'd have known what happens and that these tiny little creations are living and feeling made by God's hand with a spirit from God, I never could have gone through with the abortion.

My prayer is that these young girls and women be told all of the truth and shown exactly what happens to that little baby during the process.

God lead and bless you,
In Christ's Love,
Mrs. Barb Winzel.

May 29, 1986.

Dear Senator Humphrey: As a woman who has had an abortion without the benefit of adequate counseling, information and clarification of alternatives, I highly commend you for introducing the "Informed Consent Act."

When I found out I was pregnant, the extent of my "counseling" was, "Is this good news or bad news?" I had no idea that I would even now regret a decision I made thirteen years ago. If only someone had taken a few moments to explain the excruciatingly painful procedure to me in simple, understandable terms! If only someone had cared enough about me and my baby to share the facts of fetal development with me! (I found out later by looking through a book on fetal development at a time when I wanted to become pregnant. I was shocked and horrified by what I had been led to believe was just "a blob of tissue.") If only someone had taken the time to explore and clarify all options available to me! If only someone had told me of the painful psychological after effects I would suffer as a result of my abortion! Every year I become "mysteriously" ill on the date that corresponds to the date of my abortion. I never anticipated these side effects, nor was I ever alerted to the possibility that they would even occur.

Mr. Humphrey, it's too late for me! I must learn to live with and accept the pain that is inevitable in abortion's wake. But maybe it isn't too late for someone else. Maybe through your dedication and concern for women and their babies, other lives can be spared the pain of abortion.

Thank you for caring,
Mrs. Pam Laub.●

THE COMMITMENT TO A FREE AND UNIFIED CYPRUS

● Mr. BIDEN. Mr. President, 27 years ago, after many years of struggle for their independence, the Cypriot people succeeded in establishing the free and independent Republic of Cyprus. Unfortunately, the Cypriot people were not to be left free in their homeland to work out their own solutions to their own problems. On July 20, 1974, Turkey made good on longstanding threats to intervene, and it did so with a massive military assault by some 40,000 troops.

It has been 13 years since those Turkish troops invaded and brutally partitioned the Republic of Cyprus; 13 years since 200,000 Greek Cypriots were driven from their homes; 13 years since 10,000 Cypriots, both Greek and Turkish, died in the invasion; and 13 years since 2,000 Greek Cypriots "disappeared," unaccounted for, but believed taken prisoner. The memory is a bitter one.

We in the U.S. Congress must dedicate ourselves to the cause of Cypriot freedom, to rid Cyprus of its Turkish occupiers and return the beautiful island to the control of the people who built it and nurtured its way of life. We will insist that no armaments provided by the United States to Turkey for NATO use are used instead by the Turkish military to sustain its illegal occupation of almost half the island. We will oppose any efforts to legitimize any Turkish Cypriot Government on occupied territory. We will protest any proposal that prejudices the rights of Greek Cypriots, who make up 80 percent of Cyprus's population, and compromises their claims to ancestral land and property seized during the invasion.

As I have in the past, I will continue in the future to work with my colleagues for a unified, independent Cyprus. At stake are the fundamental issues of morality and international law—a series of U.N. resolutions have underlined the point. At stake is a small country's right to govern itself—free from outside threats and internal occupation. At stake is the strength of NATO's southern flank—the tensions between Greece and Turkey undermine the NATO alliance. The interests, values, and principles of the United States and the mutual security of the NATO nations are inextricably tied to a resolution of the Cyprus problem that allows the Cypriot people to live in tranquility and freedom. That has been my goal for the past 13 years in the Senate, and it should remain the goal of the U.S. Government until the last Turkish soldier has left the island and the Republic of Cyprus is at peace.●

THE CRUEL KINDNESS OF THE MINIMUM WAGE

● Mr. BOSCHWITZ. Mr. President, I rise today to call attention to the important issue of the minimum wage. While $3.35 certainly isn't much for an hour's work, the alternatives may be worse. This concern was the topic of a recent column by James J. Kilpatrick, titled "The Cruel Kindness of the Minimum Wage." Mr. Kilpatrick has accurately described the very real and negative affects of raising the minimum wage. He points out that the best intentions of the minimum wage legislation, which are to reduce welfare costs and lower the number of families below the so-called poverty level, would not be achieved. Mr. Kilpatrick goes on to point out that for every increase of 10 percent in the minimum wage, we may anticipate a loss of 80,000 to 240,000 jobs for teenagers.

Mr. President, I would urge all my colleagues to read this enlightening column and I ask that Mr. Kilpatrick's column on "The Cruel Kindness of the Minimum Wage", be inserted in the Record.

The column follows:

The Cruel Kindness of the Minimum Wage

(By James J. Kilpatrick)

Joann Peters, 18, is an attractive young woman, not overly endowed in the brains department, who was graduated a few weeks ago from her smalltown high school. She has no great interest in college and no funds for tuition. She is living at home with her mother and a younger brother. Her mother earns $9,360 a year as an ironer in a local laundry.

James Kennon, 41, is manager of the Steamboat restaurant at 23rd and Main streets. His franchised fast-food operations is in heavy competition with the Sizzlin' Steak and the Happy Crab. Kennon works seven days a week, but his food costs are rising and his rent just went up. In slow weeks he has a tough time meeting his payroll.

The Steamboat now employs 10 persons per shift at the minimum wage of $3.35 an hour and two others at $4 an hour. This figures out to labor costs of $41.50 an hour or $332 for an eight-hour shift. He really could use an 11th worker to clear tables and wash dishes, but he hesitates to add to his payroll when his margin of profit is so small.

Very well. Joann Peters and James Kennon, meet Sen. Edward Kennedy.

The gentleman from Massachusetts is about to complicate your lives. He and Rep. Augustus Hawkins (D-Calif,) are pushing hard for a bill to increase the minimum hourly wage in 1988 from $3.35 to $3.85. It would mandate a minimum of $4.65 in 1990.

Joann would like to work at the Steamboat. Jim Kennon would like to hire Joann. This would be her first job, and there's an opening on the floor. She's good-hearted but a little careless; she needs the experience of holding a job and showing up on time. All of us know such Joanns.

But this is how Jim Kennon looks at it: the Kennedy-Hawkins bill would require him to pay his 10 lowest-level employees $3.85 an hour, or $38.50 per hour. The two cooks would have to be raised to $4.50 an hour to preserve a reasonable differential. If he keeps everyone employed, he is now looking at labor costs of $380 a shift, two shifts a day, compared with his present $332 a shift. He is looking at added labor costs of $35,000 a year, with no increase in productivity or service.

Goodbye, Joann, and tough luck, kid. Instead of 10 full-time hired hands at $3.35, Kennon will hire eight persons full-time and one to work six hours a shift at the required $3.85. Assuming the raise of 50 cents an hour for the cooks, the Steamboat will now have labor costs of $341.50 per shift. The manager will be spending roughly $7,000 more a year for labor; he will have nothing to show for it, and Joann will be just kind of, you know, hanging around home.

The example is hypothetical, of course, but this is how the real world works. In the idealistic world of Kennedy and Hawkins, an increase in the statutory minimum wage is a great thing for the poor folks. Don't you believe it. Every study that has been made of the economic "benefits" of a higher minimum wage demonstrates that an increase harms the very class of unskilled workers it is intended to help.

Who are these workers on minimum wage? The Department of Labor says there are about 5 million of them, of whom 3 million are in the 16-to-24 age bracket. Nearly 40 percent are teen-agers. Two-thirds are women. Only about 1.7 million work full-time; the rest work part-time.

For the great majority, a minimum-wage job is their first job. It's the bottom rung for persons who lack higher education and sophisticated skills. Clearing tables at the Steamboat may not sound like much, but it marks the beginning of real-world responsibility. Here the willing Joanns have an opportunity to earn an honest wage, to acquire experience, and to demonstrate to the Jim Kennons that they have the ambition and the personality to move up.

Kennedy and Hawkins, with the very best intentions, suppose that a higher minimum wage will reduce welfare costs and lower the number of families at the so-called poverty level. No evidence supports this surmise. On the contrary, for every increase of 10 percent in the minimum wage, we may anticipate a loss of 80,000 to 240,000 jobs for teenagers.

Grammarians define an "oxymoron" as a combination of contradictory words. The example usually given is "cruel kindness." That says all that needs to be said of the Kennedy-Hawkins bill.

THE HIDDEN COSTS OF FAILED MERGERS

● Mr. METZENBAUM. Mr. President, I would like to share with my colleagues an article about the exorbitant costs of attempted mergers. The authors are Walter Adams, a distinguished university professor at Michigan State University, and James W. Brock, associate professor of economics at Miami University of Ohio. The article titled "The Hidden Costs of Failed Mergers," describes the case of the Allegis merger and finally its "demerger." I found the article very informative. I ask that the article be printed in the Congressional Record.

The article follows:

[From the New York Times, June 21, 1987]

The Hidden Costs of Failed Mergers

(By Walter Adams and James W. Brock)

The Allegis affair provides a fitting parable for a business era of merger, consolidation and restructuring. The moral is that there is no salvation through acquisition, that the dream of assembling a corporate empire by shuffling and leveraging assets is an empty one.

Not so long ago, in 1979, United Airlines was already a colossus. By any measure, it was the largest investor-owned airline in the world. In addition, it owned and operated the Westin Hotel chain, which managed 61 hotels here and overseas. It owned such real estate landmarks as the Plaza Hotel.

In 1979, Richard Ferris, who had risen through the ranks of United's hotel and food service system, became chief executive. His grand design was to convert United Airlines into a one-stop, full-service travel center. He was prepared to foresake short-term profits to pursue his vision of market dominance and big returns.

Mr. Ferris proceeded to build a travel conglomerate. In June 1985, he bought Hertz for $587 million. Four months later, he paid $750 million for the Pacific routes of Pan American World Airways. Just last year, he bought the Hilton International Company for $980 million. Finally, the emerging empire was given a new name; after a year's deliberation and the expenditure of more than $7 million, United Airlines became the Allegis Corporation.

But alas, there was unrest in the empire and grumbling on Wall Street. Passengers complained about deteriorating service. Hotel and airline bookings became confused as the reservations system, an important competitive weapon for United, began to deteriorate. And, most threatening, both the airline's pilots and the Conniston Partners offered to buy Allegis and dismantle it. Their contention was that the breakup value of the parts was greater than the corporation as a whole—synergism-in-reverse.

In his scramble to fend off the Conniston Partners as well as the pilots, Mr. Ferris proposed to take on $3 billion in new debt to finance a $60-a-share payout to stockholders—a debt burden that flabbergasted stockholders and Wall Street.

The denouement came suddenly—at midnight on June 9, when the Allegis board unceremoniously relieved Mr. Ferris of his command and replaced him with Frank A. Olson. Mr. Olson promptly announced his intention to de-merge the travel conglomerate by selling off the Westin and Hilton International chain, for an estimated $2.2 billion, and the Hertz subsidiary, for an estimated $850 million. Finally, Mr. Olson proposed to scrap the six-week-old Allegis logo and to ask shareholders to approve a new name—United Airlines. The corporation had come full circle.

The Allegis imbroglio is more than an isolated case study. It is a poignant reminder that "restructuring" is not a magic elixir for enhancing corporate performance. Moreover, it warns us that much of the money lavished on the huge corporate consolidation movement of the last two decades may have been squandered.

The value of mergers and acquisitions reached an all-time high of $82.6 billion in 1982. New records have been set every year since then: $122.2 billion in 1984, $179.6 billion in 1985 and $190 billion in 1986. The number of takeovers valued at $1 billion or more quintupled between 1983 and 1986. All told, 75 of the 100 largest mergers in our history have occurred since 1981.

The economic consequences of this merger mania are in dispute. Critics contend that it undermines efficiency, retards technical advance and creates cumbersome bureaucracies. Proponents say it substitutes good management for bad and unleashes economies of scale and scope as well as synergies.

Amidst the claims and counter-claims, we tend to lose sight of perhaps the most crucial aspect of merger mania, one that figures prominently in the Allegis case—namely the "opportunity cost" of this dubious activity.

In economic parlance, "opportunity cost" refers to the inescapable fact that every choice necessarily entails sacrifice, that choosing one course of action necessarily means forgoing other alternatives (or opportunities).

Thus, two decades of managerial energies devoted to playing the merger game are, at the same time, two decades during which management has been diverted from the critically important job of building new plants, bringing out new products, investing in new production techniques and creating jobs. The billions spent on shuffling paper ownership shares are, at the same time, billions not spent on productivity-enhancing investments.

What we might call the "Allegis syndrome," the high post-merger divorce and failure rate, further attests to the wasteful opportunity cost burden of corporate consolidation. According to Business Week, "A half to two-thirds of all mergers don't work; one in three is later undone. In 1985, for every seven acquisitions, there were three divestitures."

So, too, the billions absorbed in the legal fees and investment banking commissions—expenses incurred at the initial corporate nuptials, as well as the subsequent divorce proceedings—represent funds not plowed into the industrial base. According to some estimates, for example, the three leading M.&A. houses on Wall Street each generated more than $200 million in merger commissions in 1985. These fees, say Forbes magazine, "may do more to explain current merger mania than all the blather about synergy and diversification."

From the perspective of opportunity cost, America's merger mania represents a possibly unprecedented degree of diversion, dissipation and misallocation of resources. It exemplifies what John Stuart Mill would have called "unproductive labor" and what Thorstein Veblen once described as games of chicane and financial intrigue: intricate arrangements for doing the things that ought not to be done, while ignoring the things we need to do. It bodes ill for a nation struggling to reindustrialize and regain global competitiveness.

Inspired by the Beatitudes in the Sermon on the Mount, Representative Silvio Conte, a Massachusetts Republican, summed up the issue in a homily he delivered on the House floor:

"Joyous are the large corporations, for they shall benefit from the deduction value of the 46 percent corporate tax rate in their mergers and acquisitions.

"Joyous are the stock speculators, for they shall inherit tremendous dividends.

"Joyous are the corporate raiders, for they shall reap the profits of liquidation.

"Joyous are the corporate lawyers, for wealthy salaries shall be theirs.

"And blessed are the working people of thy country for it is they who subsidize these takeovers."●

JENNIE DUDLEY

● Mr. HATCH. Mr. President, every so often you hear a heart-warming story of someone who has made a difference in this country. Recently, the July 6, 1987, edition of Newsweek magazine featured 51 of this country's unsung heroes who are making a difference. I would like to call to the attention of my colleagues in the Senate one such unsung hero who is making a difference in my home State of Utah. Her name is Jennie Dudley.

Every Sunday morning, despite the rain, snow, sleet, or heat, Jennie can be found cooking up a breakfast for the hungry and homeless. Sometimes she feeds as few as 50 or as many as several hundred people who are down on their luck and have no place else to go. Breakfast consists of whatever food has been donated that week. Her equipment is basic: a camp stove and a faith that God will provide. Jennie has trusted in the Lord and in the goodness of others to supply her each week with the food and resources necessary to feed those who have nowhere else to turn.

Jennie's Sunday morning ritual, which began in October 1985, has become a way of coping with a problem that extends far beyond her and the viaduct at 4th South in Salt Lake City.

I am proud that the State of Utah has Jennie Dudley—and other heroes like her—whose examples teach us that one person can make a difference in this world.●

AWARD TO DR. JAMES N. MOORE

● Mr. PRYOR. Mr. President, recently, Dr. James N. Moore of the University of Arkansas State Agricultural Experiment Station was awarded the Richard E. Lyng's Distinguished Service Award.

The award, named for Agriculture Secretary Lyng, was given to Dr. Moore for his scientific research in fruit breeding.

Dr. Moore, a native of Plumerville, is a professor of horticulture and forestry at the University of Arkansas. He is credited with developing several varieties of blueberries and is largely responsible for promoting the blueberry industry in Arkansas, which last year yielded some 200 producers sales of $2 million.

I want to have printed in the RECORD at this point the text of the program notes citing Dr. Moore's work and add my congratulations to those he has already received for his tireless contributions and professional leadership in fruit crops and horticulture.

The material follows:

[From the USDA Awards Ceremony Program, June 10, 1987]

DISTINGUISHED SERVICE AWARD FOR JAMES N. MOORE

Dr. Moore has had great success in cultivar development with a number of fruit crops by careful marshalling and effective use of resources. In 1974 he released Cardinal strawberry and Cherokee and Comanche blackberries.

Cardinal strawberry has been highly successful and is widely grown in Arkansas and surrounding states. It is still the dominant variety for commercial, pick-your-own enterprises and home garden use. High yields, leaf-spot resistance and outstanding quality for fresh and processed fruit account for the continued high popularity of Cardinal. In 1981 ArKing a late-season, disease-resistant cultivar developed by Moore was released, and it is steadily gaining in popularity.

Cherokee and Comanche blackberries were developed by Moore as part of a mechanization system in cooperation with agricultural engineers and food scientists at the Arkansas Agricultural Experiment Station. An upright growing cane and fruit with good processing qualities were required for the system. Cherokee and Comanche met these needs and were grown successfully on a commercial basis in a multiharvest mechanical-harvesting system. In 1976 Cheyenne, which has better processing characteristics than Cherokee or Comanche, was released. Moore is now close to meeting another goal—an upright, high-quality, thornless blackberry.

Dr. Moore has demonstrated remarkable ability and vision in his work with the grape. He recognized a potential market for high-quality table grapes, and he realized that suitable terrain and soils were present in Arkansas. He began to collect grape genetic material at the Fruit Substation, Clarksville, and the first crosses were made in 1964. The first cultivar, Venus, and early maturing seedless grape, was released in 1977. Reliance, a seedless grape with superb table quality, was named in 1983, and in 1984, Mars, another seedless grape with high disease resistance, was released. The latter varieties have been patented. Plantings of these varieties has resulted in the establishment of an Arkansas table-grape industry, and a growers co-op has been formed.

"Allgold" and "Goldilocks" cling peach varieties, developed by Moore and R. C. Rom were released in 1984 after 20 years of breeding work. Over 200 acres of these varieties are in production in Arkansas.

The story of the blueberry industry in Arkansas is a model of how to develop the commercial potential of research findings. Dr. Moore was a leader in every step of the industry's development. Recognizing a potential for growing and marketing blueberries in Arkansas, Dr. Moore began to screen available cultivars and to develop cultural modifications for blueberries. Enough adapted highbush varieties were identified to allow a sufficient harvest period for labor management and market development. New techniques for soil acidification, mulching and drip irrigation were developed. By 1969, with six production seasons of research completed, Moore was convinced that the crop could be grown in Arkansas and recognized that a national market niche existed. Dr. Moore convinced a grower to make a commercial planting, which was highly successful. Additional plantings were soon made. With the urging and cooperation of Dr. Moore, a grower's co-op was formed to market the berries nationally through a local broker. More than 200 growers currently belong on the co-op. Sales exceeded $1 million in 1984 and 1985, and nearly $2 million in 1986. Sales of $3 to $4 million are projected for 1988 when 100 acres are expected to be in production. Potential sales will reach $10 million when all the projected acreage is in full production.●

RECOGNIZING THE EMANUEL PIETERSON HISTORICAL SOCIETY

● Mr. D'AMATO. Mr. President, I rise today to call the attention of my colleagues to the Emanuel Pieterson Historical Society. This organization's service to the Afro-American community in New York State deserves recognition.

The society was established in August of 1975 to preserve the history of Afro-American culture, encourage understanding and appreciation of Afro-American life, and promote the stability and preservation of historical Harlem-like communities.

Since its founding, the Society has been instrumental in gaining national landmark designation of various Harlem sites, including the Harlem River Houses, our Nation's first federally funded housing projects.

The society also hosts functions that honor a broad range of distinguished Afro-Americans, tennis great Arthur Ashe, entertainer Eartha Kitt, and physician Dr. John Holmes, just to name a few.

I am certain that my colleagues will join with me in commending this historical society for its outstanding accomplishments and commitment to preserving American culture.●

ORDERS FOR WEDNESDAY

RECESS UNTIL 9:30 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PERIOD FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that, following the two leaders under the standing order on tomorrow, there be a period for the transaction of morning business, not to extend beyond the hour of 10 o'clock, and that Senators be permitted to speak for not to exceed 5 minutes each.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

RESUME CONSIDERATION OF H.J. RES. 324

Mr. BYRD. Mr. President, I ask unanimous consent that at the hour of 10 o'clock tomorrow morning, the Senate resume its consideration of the debt limit extension measure.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, the Senate will convene at 9:30 tomorrow morning. After the two leaders or their designees have been recognized under the standing order there will be a period for the transaction of morning business not to extend beyond the hour of 10 a.m.; Senators will be permitted to speak during that period for not to exceed 5 minutes each.

At 10 o'clock the Senate will resume consideration of the debt limit measure, House Joint Resolution 324.

I anticipate rollcall votes tomorrow.

RECESS UNTIL WEDNESDAY, JULY 22, 1987 AT 9:30 AM

Mr. BYRD. Mr. President, if the distinguished acting Republican leader has nothing further, I move that the Senate stand in recess under the order previously entered until the hour of 9:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, the motion is agreed to. The Senate stands in recess until 9:30 a.m. tomorrow.

The motion was agreed to; and at 7:30 p.m., the Senate recessed until Wednesday, July 22, 1987, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate July 20, 1987, under authority of the order of the Senate of February 3, 1987:

DEPARTMENT OF JUSTICE

Robert J. Wortham, of Texas, to be U.S. attorney for the eastern district of Texas for the term of 4 years, reappointment.

IN THE ARMY

The following-named officer for appointment to the grade indicated, under the provisions of title 10, United States Code, section 601(a), in conjunction with assignment to a position of importance and responsibility designated by the President under title 10, United States Code, Section 601(a):

To be lieutenant general

Maj. Gen. James E. Thompson, 252-50-6760, U.S. Army.

The following-named officers for appointment in the Regular Army of the United States in the grade indicated under the provisions of title 10, United States Code, sections 611(a) and 624:

To be brigadier general

Col. Richard A. Behrenhausen, 159-32-9677, U.S. Army.

Col. Jack A. Pellicci, 123-28-2818, U.S. Army.

Col. Marvin L. Covault, 479-44-6364, U.S. Army.

Col. William M. Boice, 467-60-9579, U.S. Army.

Col. Robert C. Lee, 047-28-4365, U.S. Army.

Col. Steven L. Arnold, 329-34-5146, U.S. Army.

Col. Dennis P. Malcor, 494-42-4238, U.S. Army.

Col. John R. Landry, 262-58-5034, U.S. Army.

Col. Fred N. Halley, Sr., 425-60-7471, U.S. Army.

Col. John A. Leide, 115-28-8625, U.S. Army.

Col. Robert S. Frix, 457-60-7231, U.S. Army.

Col. Robert D. Orton, 460-62-1769, U.S. Army.

Col. Robert B. Rosenkranz, 155-28-5852, U.S. Army.

Col. Thomas C. Jones, 026-30-7697, U.S. Army.

Col. William M. Matz, 156-28-9594, U.S. Army.

Col. Dennis L. Benchoff, 199-30-6683, U.S. Army.

Col. Nicholas R. Hurst, 577-52-3238, U.S. Army.

Col. John F. Stewart, Jr., 565-52-1992, U.S. Army.

Col. William Fedorochko, Jr., 148-32-9736, U.S. Army.

Col. Richard S. Siegfried, 290-32-5151, U.S. Army.

Col. David E. Cooper, 576-38-2993, U.S. Army.

Col. William W. Hartzog, 238-66-2179, U.S. Army.

Col. David J. Baratto, 555-52-4047, U.S. Army.

Col. Floyd J. Walters, Jr., 248-60-9856, U.S. Army.

Col. Frederick E. Vollrath, 267-58-4896, U.S. Army.

Col. James R. Harding, 368-42-7678, U.S. Army.

Col. Gary L. Brown, 551-56-2981, U.S. Army.

Col. James M. Jellett, 560-52-7097, U.S. Army.

Col. John A. Hedrick, 456-60-5903, U.S. Army.

Col. Anson W. Schulz, 305-38-9264, U.S. Army.

Col. Richard F. Keller, 516-40-2935, U.S. Army.

Col. Dennis A. Leach, 472-40-5902, U.S. Army.

Col. John D. Howard, 215-38-2458, U.S. Army.

Col. Robert G. Sausser, 186-32-6036, U.S. Army.

Col. Robert L. Stephens, Jr., 235-62-9984, U.S. Army.

Col. Larry G. Lehowicz, 064-34-8096, U.S. Army.

Col. John C. Ellerson, 192-30-0292, U.S. Army.

Col. Kenneth R. Wykle, 233-64-1910, U.S. Army.

Col. David C. Meade, 218-38-6126, U.S. Army.

Col. Ronald V. Hite, 411-72-8071, U.S. Army.

Col. Robert A. Goodbary, 443-44-8893, U.S. Army.

Col. Thomas M. Montgomery, 311-38-3708, U.S. Army.

Col. Daniel W. Christman, 302-36-9745, U.S. Army.

Col. Robert J. Jellison, 310-30-5854, U.S. Army.

Col. Richard E. Davis, 401-54-1547, U.S. Army.

Col. William J. Schumacher, 196-32-4930, U.S. Army.

Col. Carl R. Morin, Jr., 267-54-9502, U.S. Army.

Col. James M. Lyle, 036-26-1464, U.S. Army.

Col. William H. Campbell, 389-38-8819, U.S. Army.

Col. Robert T. Howard, 022-30-3274, U.S. Army.

Col. Julius F. Johnson, 511-40-1491, U.S. Army.

Col. Marvin E. Mitchiner, Jr., 254-60-8859, U.S. Army.

Col. Richard G. Larson, 517-46-5496, U.S. Army.

Col. Johnnie E. Wilson, 289-38-8869, U.S. Army.

Col. Sam A. Gray, 445-38-7533, U.S. Army.

Col. William F. Garrison, 466-64-9939, U.S. Army.

EXTENSIONS OF REMARKS

TAX REFORM ACT OF 1986

HON. RONNIE G. FLIPPO

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. FLIPPO. Mr. Speaker, I am pleased to introduce today on behalf of myself and a distinguished group of my colleagues a bill to amend section 806 of the Tax Reform Act of 1986.

This legislation is necessary to correct a stringent, unnecessary, and burdensome provision included in the tax reform measure enacted last year.

Section 806 of the Tax Reform Act of 1986 mandated that most partnerships, S corporations, and personal service corporations conform their taxable years to those of their owners. This provision was enacted to limit the ability of certain partners, shareholders in S corporations, and owners of personal service corporations to defer income to a taxable year later than that in which it was earned. There is no doubt that this provision will work to eliminate deferrals and increase tax revenues.

Unfortunately, Mr. Speaker, the cost of this provision of the Tax Code far exceeds the potential benefits. Let me review for the benefit of my colleagues some of the costs this provision will impose on the small business community and the administration of the Federal tax laws.

Section 806 will make it difficult, and in many cases impossible, for taxpayers and return preparers to complete cases impossible, for taxpayers and returns in sufficient time to allow partners and shareholders to file individual income tax returns by the original due date. This will necessitate costly and inconvenient extensions of time to file returns. Encouraging the filing of extended tax returns is inconsistent with the best interests of our self-assessment system.

Under this provision, all affected entities would be required to incur the costs of closing their books two times and filing two sets of tax returns (both Federal and State) for each of the two periods ending in calendar year 1987. This cost and administrative burden should not be imposed on the affected entities, many of which are engaged in small business.

It is in the public interest to encourage staggered tax return filing dates through the use of fiscal years. The IRS, taxpayers, and tax practitioners can better meet tax filing requirements if the demands are spread throughout the year. Tax compliance will not be enhanced by compressing tax filing requirements into a short time period, as required by this provision.

The mandatory calendar year reporting of income will be disruptive and counterproductive to the economy. Because the provision of the TRA 1986 applies to existing as well as newly formed entities, businesses which have used a fiscal year for many years will now have to amend contracts, compensation arrangements, and retirement and employee benefit plans.

Section 806 will present significant scheduling problems for CPA firms which will be required to compress tax return preparation, financial reporting, and auditing work into a short time period. In this regard, the provision will overturn past IRS actions in promulgating flexible and reasonable rules which allowed the selection of a fiscal year other than the calendar year to "even out" both professional workloads and IRS processing requirements.

This provision fails to recognize that there are many legitimate business reasons for selecting a fiscal year rather than a calendar year. Often, fiscal years are chosen to coincide with the "natural business year" of an entity. This provision will cause tax requirements to interfere improperly with business operations.

There is no doubt that this provision will increase the annual return processing costs for the IRS by increasing certain peak points in the filing cycle. This is inconsistent with congressional and other recommendations to stagger return filing to alleviate the heavy workload that has precipitated processing problems in recent years.

In summary, not only will this requirement of the TRA 1986 create significant hardships for small business owners and place great burdens on our tax self-assessment system, it will create mayhem in CPA firms during the January through April tax season and it will also place an unreasonable burden on the IRS.

Mr. Speaker, the Tax Reform Act of 1986 was intended to improve the Tax Code, not add further complications. There is no doubt that the implementation of the mandatory calendar year provision will produce disastrous results. Representatives of the small business community and the accounting profession have carefully documented their criticism of this provision. They have made a clear and convincing case for changing this provision. And, they have devoted countless hours to the effort to draft the bill we are introducing here today.

This bill would permit most partnerships and S corporations to retain their fiscal years, as long as the owners make enhanced estimated tax payments to offset any tax deferral that results from the mismatch between the entities, and owners' tax years. The legislation would permit these entities to retain a tax year that suits their business needs while eliminating any resulting tax deferral.

This bill provides an option to the small businessman. An entity may choose whether it wants to retain its fiscal year or switch to the calendar year under the TRA 1986 rules. The election would be made by the entity and not by the individual owners.

Owners of partnerships and S corporations who elect to remain on a fiscal year would make enhanced estimated tax payments. This would be accomplished by increasing each of the two safe-harbors (100 percent of prior year's tax or 90 percent of current year's tax) by a percentage of the prior year's deferred income. It is proposed that this will be 35 percent for 1987 and 28 percent in the following years with a phase-in over 4 years, based on the owners' tax rate schedule.

For personal service corporations, our solution is to postpone the deduction at the corporate level if ratable payments to owners have not been made prior to December 31. Ratable payments can be based upon experience from the prior corporate year in order to avoid the necessity of predicting income or payments for the remainder of the current year.

Mr. Speaker, there are some additional points about this legislation that are worth noting:

First, one of the purposes of TRA 1986 conformity requirements is to eliminate the benefits of tax deferral and to collect the taxes closer to the time the income is earned. Our proposal reduces the deferral significantly and requires tax dollars to be paid earlier. However, the total taxes paid will be no greater than would have been paid under prior law or with the TRA 1986 switch to the calendar year.

Second, there is a 4-year phase-in of the enhanced estimated tax payments which corresponds to the 4-year income spread in TRA 1986.

Third, those entities which would be allowed to remain on or to adopt a natural business year under TRA 1986 can still do so without being subjected to the above requirements.

Fourth, any entity which comes under this proposal and which newly elects or changes a fiscal year must select a year ending no earlier than September 30. Included in this option are C corporations which elected S corporation status and changed to a calendar year.

Fifth, taxpayers with aggregate deferred tax of $200 or less with respect to electing partnerships and S corporations are exempt from the enhanced estimated tax requirement.

Sixth, we do not allow the retention of a fiscal year by a tiered structure, for example a partnership, S corporation or PSC which receives a major part of its gross income from a partnership of S corporation and which has a different tax year from the related entity. In considering treatment of tiered structures, we wished to prevent certain potentially abusive situations such as a calendar year partnerships with PSC owners on a November 30 fiscal year. If the PSC was allowed to retain its fiscal year, there could be a continuous 11-month deferral of income. It is not intended that the tiered structure provision should apply to the nonabusive situations such as where the entity has an equity interest in another

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

entity which is not substantial in relation to the owning entity's entire activity.

Mr. Speaker, this legislation was developed after 6 months of exhaustive study during which we worked closely with the accounting profession to find a solution that minimizes the loss of revenue to the Government yet addresses the problems of compressed filing requirements. I, along with the other cosponsors of this bill, are grateful for the hundreds of hours members and staff of the American Institute of Certified Public Accountants have devoted to assisting us in ensuring this legislation is responsible and effective. This legislation has the full support of the AICPA.

I want to congratulate the leadership of the accounting profession for making a significant contribution to solving this very real and serious problem. It merits the careful consideration of all who are interested in fair and sound tax policy, given the ground rules of revenue neutrality for changes in the TRA 1986.

Mr. Speaker, I urge my colleagues to support this bill. I include the bill in the RECORD at this point:

H.R. 2977

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ENTITIES MAY ELECT TAXABLE YEAR OTHER THAN REQUIRED TAXABLE YEAR.

(a) In General.—Part I of subchapter E of chapter 1 of the Internal Revenue Code of 1986 (relating to accounting periods) is amended by adding at the end thereof the following new section:

"SEC. 444. ELECTION OF TAXABLE YEAR OTHER THAN REQUIRED TAXABLE YEAR.

"(a) General Rule.—Except as provided in subsections (b) and (c), a partnership, S corporation, or personal service corporation may elect to have a taxable year other than the required taxable year.

"(b) Limitations on Taxable Years Which May Be Elected.—

"(1) In general.—Except as provided in paragraphs (2) and (3), an election may be made under subsection (a) only if the deferral period of the taxable year elected is not longer than 3 months.

"(2) Changes in taxable year.—Except as provided in paragraph (3), in the case of an entity changing a taxable year, an election may be made under subsection (a) only if the deferral period of the taxable year elected is not longer than the shorter of—

"(A) 3 months, or

"(B) the deferral period of the taxable year which is being changed.

"(3) Special rule for entities retaining 1986 taxable years.—In the case of an entity's 1st taxable year beginning after December 31, 1986, an entity may elect a taxable year under subsection (a) which is the same as the entity's last taxable year beginning in 1986.

"(4) Deferral period.—For purposes of this subsection, the term 'deferral period' means the number of months between the close of the taxable year elected under subsection (a) and the close of the 1st required taxable year ending after the elected year.

"(c) Effect of Election.—If an entity makes an election under subsection (a), then—

"(1) in the case of a partnership or S corporation, the partners or shareholders of such entity shall be subject to the additional estimated tax requirements of section 6655A, or

"(2) in the case of a personal service corporation, such corporation shall be subject to the deduction limitations of section 280H.

"(d) Elections.—

"(1) Person making election.—An election under subsection (a) shall be made by the partnership, S corporation, or personal service corporation and shall be binding on the partners and shareholders.

"(2) Period of election.—

"(A) In general.—Any election under subsection (a) shall remain in effect until the partnership, S corporation, or personal service corporation changes its taxable year. Any change to a required taxable year may be made without the consent of the Secretary.

"(B) No further election.—If an election is terminated under subparagraph (A), the partnership, S corporation, or personal service corporation may not make another election under subsection (a).

"(3) Tiered structures, etc.—Except as provided in regulations, no election may be made under subsection (a) with respect to an entity which is part of a tiered structure.

"(e) Required Taxable Year.—For purposes of this section, the term 'required taxable year' means the taxable year determined under section 706(b), 1378, or 461(i) without taking into account any taxable year which is allowable by reason of a business purpose.

"(f) Regulations.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section, including regulations to prevent the avoidance of subsection (b)(2)(B) or (d)(2)(B) through the change in form of an entity."

(b) Conforming Amendment.—The table of sections for part I of subchapter E of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 444. Election of taxable year other than required taxable year."

SEC. 2. ENHANCED ESTIMATED TAX REQUIREMENTS.

(a) In General.—Subchapter A of chapter 68 of the Internal Revenue Code of 1986 (relating to additions to tax) is amended by adding after section 6655 the following new section:

"SEC. 6655A. ADDITIONAL ESTIMATED TAX REQUIREMENTS FOR PARTNERS AND SHAREHOLDERS OF ENTITIES ELECTING NOT TO HAVE REQUIRED TAXABLE YEAR.

"(a) General Rule.—If this section applies to a taxpayer for any taxable year, then there shall be added to the tax under chapter 1 for such taxable year the amount determined by applying—

"(1) the underpayment rate established under section 6621,

"(2) to the amount of the underpayment,

"(3) for the period of the underpayment.

"(b) Taxpayers to Whom Section Applies.—This section shall apply to any taxpayer for a taxable year if—

"(1) such taxpayer is a partner or shareholder in 1 or more partnerships or S corporations during any applicable election years of such partnerships or S corporations which end within the taxpayer's taxable year, and

"(2) the aggregate deferred tax amounts of the taxpayer with respect to such partnerships or S corporations is greater than $200.

"(c) Amount of Underpayment, Period of Underpayment.—For purposes of this section—

"(1) Amount.—The amount of the underpayment shall be the excess of—

"(A) the required installment, over

"(B) the amount (if any) of the installment paid on or before the due date for the installment.

"(2) Period of underpayment.—The period of the underpayment shall run from the due date for the installment to the earlier of—

"(A) the 15th day of the 4th month following the close of the taxpayer's taxable year, or

"(B) with respect to any portion of the underpayment, the date on which such portion is made.

"(3) Number of required installments; due date.—

"(A) Number.—There shall be 4 required installments for each taxable year to which this section applies.

"(B) Due dates.—The due date for any required installment shall be determined under section 6654(c)(2) or the 1st item in the table under section 6154(b), whichever is appropriate.

"(d) Required Installments.—

"(1) Amount of installments.—The amount of any required installment for a taxable year shall be equal to 25 percent of the aggregate deferred tax amounts of the taxpayer for applicable election years ending within the taxable year.

"(2) Treatment of payment.—For purposes of this title, any payment of any portion of a required installment—

"(A) shall be designated as such by the taxpayer and shall be treated as the payment of tax imposed by chapter 1, and

"(B) shall not be taken into account for purposes of section 6654 or 6655.

"(3) Deferred tax amount.—For purposes of this section, the term 'deferred tax amount' means, with respect to any applicable election year of a partnership or S corporation, an amount equal to the product of—

"(A) the highest rate of tax imposed by section 1 (35 percent for taxable years beginning in 1987), multiplied by

"(B) the amount which bears the same ratio to the net base year income of the taxpayer as—

"(i) the number of months in the deferral period, bears to

"(ii) the number of months in the partner's or shareholder's taxable year.

"(e) Net Base Year Income.—For purposes of this section—

"(1) In general.—A taxpayer's net base year income with respect to any partnership or S corporation shall be equal to the sum of—

"(A) the applicable percentage of the taxpayer's distributive share of the entity's net income for the base year, plus

"(B) the aggregate amount of applicable payments made by the entity to the taxpayer during the base year.

"(2) Distributive share.—

"(A) Partnerships.—In the case of a partnership, a taxpayer's distributive share of partnership net income shall be the amount (not below zero) determined by taking into account the taxpayer's distributive share of items described in sections 702(a) and 704 (other than credits).

"(B) S corporation.—In the case of an S corporation, a taxpayer's distributive share of the corporation's net income shall be the amount (not below zero) determined by taking into account the taxpayer's pro rata share of items described in section 1366(a) (other than credits).

"(C) CERTAIN LIMITATIONS DISREGARDED.—For purposes of subparagraph (A) or (B), any limitation on the amount of any item described in either such subparagraph which may be taken into account for purposes of computing the taxable income of the taxpayer shall be disregarded.

"(3) APPLICABLE PAYMENTS.—

"(A) IN GENERAL.—The term 'applicable payment' means any amount paid or incurred (other than ratably) by a partnership or S corporation which—

"(i) is includible in gross income of the taxpayer, and

"(ii) is not taken into account in computing the distributive share of the taxpayer under paragraph (2).

"(B) EXCEPTIONS.—The term 'applicable payment' shall not include any—

"(i) gain from the sale or exchange of property between the taxpayer and the partnership or S corporation, and

"(ii) dividend.

"(C) REDUCTION FOR PAYMENTS DURING DEFERRAL PERIOD.—The amount of applicable payments shall be reduced by the amount of such payments made during the deferral period of the applicable election year.

"(4) APPLICABLE PERCENTAGE.—The applicable percentage is the percentage determined in accordance with the following table:

"If the applicable election year of the partnership or S corporation begins during:	The applicable percentage is:
1987	25
1988	50
1989	75
1990 or thereafter	100.

"(f) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) DEFERRAL PERIOD.—The term 'deferral period' means the portion of the applicable election year of the partnership or S corporation which occurs before the 1st day of the calendar year in which such applicable election year ends.

"(2) YEARS.—

"(A) BASE YEAR.—The term 'base year' means, with respect to any applicable election year, the taxable year of the partnership or S corporation preceding such applicable election year.

"(B) APPLICABLE ELECTION YEAR.—The term 'applicable election year' means any taxable year of a partnership or S corporation with respect to which an election is in effect under section 444.

"(3) REQUIREMENT OF REPORTING.—Each partnership or S corporation which makes an election under section 444 shall include on any return or statement required under section 6031 or 6037, whichever is applicable, the following information:

"(A) the deferred tax amount for any applicable election year, and

"(B) such other information as the Secretary may prescribe as is necessary to carry out the provisions of this section."

(b) CONFORMING AMENDMENTS.—

(1) Sections 6201(b)(1), 6601(h), and 6651(e) of such Code are each amended by striking out "or 6654" and inserting in lieu thereof ", 6654, or 6655A".

(2) Sections 6622(b), 6662(b)(2), and 7203 of such Code are each amended by striking out "or 6655" and inserting in lieu thereof ", 6655, or 6655A".

(3) Sections 6658(a) and 6662(b) of such Code are each amended by striking out "or 6655" and inserting in lieu thereof "6655, or 6655A".

(4) The table of sections for subchapter A of chapter 68 of such Code is amended by inserting after the item relating to section 6655 the following new item:

"Sec. 6655A. Additional estimated tax requirements for partners and shareholders of entities electing not to have required taxable year."

SEC. 3. LIMITATION ON DEDUCTIONS OF PERSONAL SERVICE CORPORATIONS ELECTING ALTERNATIVE TAXABLE YEARS.

(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280H. LIMITATION ON CERTAIN AMOUNTS PAID TO OWNER-EMPLOYEES BY PERSONAL SERVICE CORPORATIONS ELECTING ALTERNATIVE TAXABLE YEARS.

"(a) GENERAL RULE.—If—

"(1) an election by a personal service corporation under section 444 is in effect for a taxable year, and

"(2) such corporation does not meet the minimum distribution requirements of subsection (c) for such taxable year,

then the deduction otherwise allowed under this chapter for applicable amounts paid or incurred by such corporation to employee-owners shall not exceed the maximum deferral amount.

"(b) CARRYOVER OF NONDEDUCTIBLE AMOUNTS.—If any amount is not allowed as a deduction for a taxable year under subsection (a), such amount shall be treated as paid or incurred in the succeeding taxable year.

"(c) MINIMUM DISTRIBUTION REQUIREMENT.—For purposes of this section—

"(1) IN GENERAL.—A personal service corporation meets the minimum distribution requirements of this subsection if the applicable amounts paid or incurred during the nondeferral period of the taxable year equal or exceed the lesser of—

"(A) the product of—

"(i) the applicable amounts paid or incurred during the preceding taxable year, divided by the number of months in such taxable year, multiplied by

"(ii) the number of months in the nondeferral period, or

"(B) the applicable percentage of an amount which bears the same ratio to the adjusted taxable income of the corporation for the taxable year as—

"(i) the number of months in the nondeferral period, bears to

"(ii) the number of months in the taxable year.

"(2) APPLICABLE PERCENTAGE.—The term 'applicable percentage' means the percentage (not in excess of 95 percent) determined by dividing—

"(A) the applicable amounts paid or incurred during the 3 taxable years immediately preceding the taxable year, by

"(B) the adjusted taxable income of such corporation for such 3 taxable years.

"(d) MAXIMUM DEFERRAL AMOUNT.—For purposes of this section, the term 'maximum deferral amount' means the sum of—

"(1) the applicable amounts paid or incurred during the nondeferral period, plus

"(2) an amount equal to the product of—

"(A) the amount determined under paragraph (1), divided by the number of months in the nondeferral period, multiplied by

"(B) the number of months in the deferral period.

"(e) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) APPLICABLE AMOUNT.—The term 'applicable amount' means any amount paid to an employee-owner which is includible in the gross income of such employee, other than—

"(A) any gain from the sale or exchange of property between the owner-employee and the corporation, or

"(B) any dividend.

"(2) EMPLOYEE-OWNER.—The term 'employee-owner' has the meaning given such term by section 269A(b)(2), as modified by section 441(i)(2).

"(3) NONDEFERRAL AND DEFERRAL PERIODS.—

"(A) NONDEFERRAL PERIOD.—The term 'nondeferral period' means that portion of a taxable year of the personal service corporation which occurs in the calendar year in which such taxable year begins.

"(B) DEFERRAL PERIOD.—The term 'deferral period' means the portion of the taxable year of the personal service corporation which occurs after the close of the calendar year in which such taxable year begins.

"(4) ADJUSTED TAXABLE INCOME.—The term 'adjusted taxable income' means taxable income—

"(A) reduced by the amount of any Federal income taxes, and

"(B) increased by any amount paid or incurred to an employee-owner which was taken into account in computing taxable income."

(b) CONFORMING AMENDMENT.—The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Sec. 280H. Limitation on certain amounts paid to owner-employees by personal service corporations electing alternative taxable years."

SEC. 4. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in this section, the amendments made by this Act shall apply to taxable years beginning after December 31, 1986.

(b) ESTIMATED TAX.—The amendments made by section 2 shall apply to taxable years beginning after December 31, 1987, with respect to applicable election years beginning after December 31, 1986.

(c) ELECTIONS.—Any election under section 444 of the Internal Revenue Code of 1986 (as added by section 1) for an entity's 1st taxable year beginning after December 31, 1986, shall not be required to be made before the 90th day after the date of the enactment of this Act.

(d) SPECIAL RULE FOR EXISTING ENTITIES ELECTING S CORPORATION STATUS.—If a C corporation (within the meaning of section 1361(a)(2) of the Internal Revenue Code of 1986) with a taxable year other than the calendar year—

(1) made an election after September 18, 1986, and before January 1, 1987, under section 1362 of such Code to be treated as an S corporation, and

(2) elected to have the calendar year as the taxable year of the S corporation,

then section 444(b)(2)(B) of such Code shall be applied by taking into account the deferral period of the last taxable year of the C corporation rather than the deferral period of the taxable year being changed.

TAX DEDUCTIONS FOR HOME HEALTH CARE, ADULT DAY CARE AND RESPITE CARE FOR FAMILIES OF ALZHEIMER'S DISEASE VICTIMS

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Ms. SNOWE. Mr. Speaker, today, I am reintroducing legislation which gained broad support in the last Congress. This bill would provide tax deductions from gross income for individual taxpayers who maintain a household which includes a dependent who has Alzheimer's disease or a related disorder. This measure would allow deductions of expenses, other than medical, which are related to the home health care, adult day care and respite care of an Alzheimer's victim.

Since the first Alzheimer's bills were introduced in the 97th Congress, we have all grown more aware and knowledgeable about this disease and the impact it has on both the individual and the family. Indeed, in a recent report published by the Subcommittee on Human Services of the Select Committee on Aging, of which I am the ranking minority member, we discovered the extent of which families remain involved in the care of family members who suffer from Alzheimer's and other such diseases. Family care remains one of the most critical factors in preventing or delaying nursing homes utilization. As discussed in a recent report published by the Office of Technology Assessment, caregivers of dementia victims spend more than 40 hours a week in direct personal care.

In the face of the continued and intense involvement of the family caregiver, services that provide respite from the ongoing pressures of care become essential in the caregiver's ability to support the Alzheimer's victim at home. Home health care, adult day care, and long-term respite care all provide opportunities to free caregivers from their caregiving responsibilities. Most caregivers willingly provide care for dependent and frail elderly family members. Even so, the presence of these supportive services can be a crucial factor in continued caregiving activities.

Many families are trying to cope with the needs of a dependent older Alzheimer's victim with no financial or professional help. While we seek to provide government programs for such victims, we should also provide some tax relief for those expenses related to their continued care in the home. Perhaps, by such action we can delay the institutionalization of dementia victims. Surely we can provide financial relief to their caregivers. I enlist the support of all my colleagues who share my admiration and concern for family caregivers and who wish to encourage their efforts to keep victims of Alzheimer's disease at home.

AMENDED WELCOME

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. EDWARDS of California. Mr. Speaker, on the bicentennial anniversary of our Constitution I bring to your attention this "Amended Welcome," an editorial of the Philadelphia Daily News.

This is a timely editorial that reminds Congress to review the celebrated document. It calls to mind that our Government is made up of laws, not of autonomous individuals. As the article points out, Congress "makes the laws; it doesn't merely roll over in the imperial presence and ratify them."

The editorial urges Congress to live up to its constitutionally mandated responsibilities.

Take him on, ladies and gentleman. Challenge the President it may be uncomfortable at times, but it is in your job description.

AMENDED WELCOME

A sincere and hearty welcome to the Members of Congress who join us today to celebrate the Constitution on its 200th anniversary.

In addition to the many wonderful attractions of Philadelphia that we hope the Honorables will take the trouble to fight through their own security to find, there is one activity that can be recommended enthusiastically.

Read the wonderful document we all honor. Read it closely and understand the powers of the Congress fully it is no accident that the powers of the Congress are enumerated in the first article.

For more than a generation, Congress has deferred on many issues to whoever is president at the time. That brought us such wonderful initiatives as the Vietnam war and the Iran-Contra deadly stillness.

Congress is not required to back any damfool thing a president deems to be a matter of national defense or the national security. It makes the laws; it doesn't merely roll over in the imperial presence and ratify them.

Periodically, Congress seems to bestir itself, and runs hearings like the current ones on the president's designated crazies, the ones who deliberately lied to Congress, misled Congress and deliberately violated the rules Congress set down by law.

This is not a phenomenon that began with Ronald Reagan. Congress played dead (except for two brave men) for Lyndon Johnson when he presented it with the Gulf of Tonkin Resolution, a lie big enough and transparent enough to gag Jo Isuzu.

Winning an election—or even a "mandate"—does not confer wisdom much less infallibility.

The delegates to the Constitutional Convention deliberately chose not to have this nation ruled by a king. In their wisdom, they decided that a group of representatives of the people should continuously keep an eye on the guy at the top, and have a way to overrule his most egregiously stupid decisions. In extreme cases, Congress can fire the president.

The founders were smart enough to know that nobody's right all the time. A more cynical view would suggest that they knew nobody should be entrusted with absolute power.

The most troubling part of the Iran-Contra mess is that it is not unique, nor is it new. This kind of semi-crazed cowboy crap has taken place under presidents described as liberal, conservative, Republican or Democarat. Especially in these TV-oriented days, our representatives seem to be overly spooked by the "bully pulpit" of the presidency.

Take him on, ladies and gentlemen. Challenge the president. It may be uncomfortable at times, but it is in your job description.

COLONEL NORTH'S CLANDESTINE PLOT

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. CLAY. Mr. Speaker, it has been revealed that Lt. Col. Ollie North has such a compelling propensity for secrecy that he has a limited ability to discern the meaning and the value of our Government's constitutional separation of powers.

Somewhere, in the dark recesses of the inner chambers of his mind, North saw the Office of the President as endowed with a supreme authority irrespective of the Congress, the courts, and the laws of our country. This denial of the American tradition of a government of laws and not a government of people, allowed him to devise a secret plan for circumventing all constitutional requirements and in their place adhering to an executive order imposing martial law. The following article, "North Worked on Plan for Martial Law" appeared in the St. Louis Post-Dispatch on July 5, 1987.

[From the St. Louis Post-Dispatch, July 5, 1987]

NORTH WORKED ON PLAN FOR MARTIAL LAW

WASHINGTON.—Marine Lt. Col. Oliver North helped draft a plan in 1984 to impose martial law in the United States in case of an emergency, inspiring a sharp protest by then-Attorney General William French Smith, according to government officials.

The secret plan called for the suspension of the Constitution, the transfer of governmental control to the little-known Federal Emergency Management Agency and the appointment of military commanders to run state and local governments. It also called for the declaration of martial law in the event of a crisis, such as a nuclear war, violent and widespread internal dissent, or national opposition to a U.S. military invasion abroad.

North's involvement in a proposal to make radical changes in American government by executive order in a time of turmoil shows that he was involved in a wide range of secret activities, foreign and domestic, that went far beyond the Iran-Contra affair, officials say.

The chief counsel of the Senate Iran-Contra committee has declared in a confidential memo that North was at the center of what amounted to a "secret government-within-a-government."

North was a staff member of President Ronald Reagan's National Security Council until his dismissal last November. He will begin his long-awaited testimony Tuesday before the Senate and House Iran-Contra committees.

Arthur Liman, the Senate committee's counsel, wrote before the current hearings began that he expected to show that "a policy decision was made at the highest levels" to transfer responsibility for U.S. support for the Nicaraguan rebels, called Contras, to the National Security Council, where North operated. Then, Liman wrote, "we favor examining how that decision was implemented."

"This is the part of the story that reveals the whole secret government-within-a-government, operated from the (Executive Office Building) by a Lt. Col., with its own army, air force, diplomatic agents, intelligence operatives and appropriations capacity," Liman wrote.

North helped draft the plan to impose martial law while serving as the National Security Council's liasion to the Federal Emergency Management Agency, an executive agency with responsibility for the government's management of national crises.

Alarmed at the plan, Attorney General Smith dispatched a letter to Robert C. McFarlane, who was the national security adviser, and North's boss, at the time. The letter, dated Aug. 2, 1984, expressed the fear that the Federal Emergency Management Agency was establishing itself as an "emergency czar."

"I believe that the role assigned to the Federal Emergency Management Agency in the revised Executive Order exceeds its proper function as a coordinating agency for emergency preparedness," Smith said in the letter to McFarlane. "This department and others have repeatedly raised serious policy and legal objections to the creation of an "emergency czar" role for FEMA.

The contingency plan was being written as part of an executive order or legislative package that Reagan would sign and hold within the National Security Council until such time as a severe crisis arose, an administration official said. Whether Reagan signed the plan is unclear.

Investigators say they believe that from 1983 to last year, North's office in the Old Executive Office Building, adjacent to the White House, was the heart of an informal secret structure involved in far more than the sale of arms to Iran and the financing of the undercover war in Nicaragua.

North's influence within the secret structure was so great, the sources say, that he was able to have the orbits of sophisticated surveillance satellites altered to follow Soviet ships around the world, to call for the launching of high-flying spy aircraft to conduct secret missions over Cuba and Nicaragua, and to become involved in sensitive domestic activities.

Some of Reagan's closest friends and advisers—including former national security adviser William Clark, CIA Director William J. Casey, now deceased, and Attorney General Edwin Meese—were part of that informal secret structure, according to several congressional investigators and government officials.

Congressional investigators and the current and former officials consulted for this article—members of the CIA, State Department and Pentagon—said that they had yet to get a full record, from beginning to end, of the "secret government."

The White House flatly rejects Liman's notion of a "secret government."

"The president has constantly expressed his foreign policy positions to the public and has consulted with the Congress," a White House official said.

According to the sources, the administration's propensity for secret activities may have had its beginnings in a decision in October 1980 by Casey, then Reagan's campaign manager, to set up a so-called October Surprise Group to monitor President Jimmy Carter's feverish negotiations with Iran for the release of 52 American hostages.

That group was led by the campaign's foreign policy adviser, Richard Allen. It was founded out of concern that Carter might pull off an "October surprise," such as a last-minute deal for release of the hostages, before the election Nov. 4. One of the group's first acts was a meeting with a man who claimed to represent Iran and who offered to release the hostages to Reagan.

Allen and another campaign aide, Laurence Silberman, told the Miami Herald in April of the meeting and said that Robert McFarlane, then an aide to the Senate Armed Services Committee, had arranged and attended it. McFarlane later became Reagan's national security adviser; last year, he played a key role in the Iran-Contra affair. Allen and Silberman said the offer had been aimed at ensuring Reagan's victory. They said it had been rejected.

Congressional investigators now link another well-known campaign incident—the theft of confidential briefing material from Carter's campaign before Carter debated Reagan on Oct. 28, 1980—to the same secret group.

The investigators now say that Casey somehow got the material, used to brief Reagan on what Carter was likely to say, and passed them to James A. Baker III, another top aide in Reagan's campaign. In Reagan's first term, Baker served as White House chief of staff, and he is the current Treasury secretary.

Shortly after Reagan's inauguration, the secret campaign group became a secret administration group. It clashed with the government bureaucracy, the sources say.

Six weeks after Reagan was sworn in—and apparently over the State Department's objections—Casey, the new CIA director, proposed covert support for anti-government groups that had fled Nicaragua after the Sandinista revolution in 1979.

Whether Casey cleared the plan with Reagan is still unclear. But in November 1981, the CIA flew an Argentine military leader, Gen. Leopoldo Galtieri, to Washington to devise a secret agreement calling for Argentine military officers to train Nicaraguan rebels, according to an administration official familiar with the accord.

About this time, North completed his transfer to the National Security Council from the Marine Corps. Those who worked with North at the security council in 1981 remember his assignments as routine, though important. He quickly moved into his liaison role with the emergency management agency, ultimately producing the controversial plan calling for the imposition of martial law.

About the time the plan was generating fireworks within the administration, McFarlane and Casey reassigned North from national crisis planning to international covert management of the Contras.

The transfer came after North took a personal interest in Nicaragua. When it became clear early in 1984 that Congress was moving to bar official aid to the Nicaraguan rebels, North realized that neither the State Department nor any other government agency wanted to handle the issue.

In addition to his now well-known role as Contra-aid commander and fund-raiser, North also became the secret overseer of the State Department's Office of Public Diplomacy. Through that office, Reagan's administration disseminated information that cast Nicaragua as a threat to its neighbors and the United States.

An intelligence source familiar with North's relationship with that office said North had been directly involved in many of the most publicized leaks, including the election night announcement on Nov. 4, 1984, that Soviet-made MiG fighter planes were on their way to Nicaragua.

McFarlane is believed to be the senior administration official who told reporters that a Soviet cargo ship, the Bakuriani, was on its way to Nicaragua from a Soviet Black Sea port and was probably carrying MiGs. The intelligence official said that North had been the source of the information.

The leak led to a new clash between the bureaucracy and the administration's inner group. While the official State Department spokesman, John Hughes, tried hard to play down the report, employees of the State Department's Office of Public Diplomacy, acting under North's direction, insisted that the crates were still inside the ship and that MiGs might be the cargo.

To take a closer look, the source said, North requested the launching of a high-flying SR-71 Blackbird spy aircraft from Beale Air Force Base, near Sacramento. The pictures it returned showed that the Bakuriani had unloaded helicopters rather than MiGs.

AIRPORT NOISE UNNERVES COMMUNITIES

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. FLORIO. Mr. Speaker, across the Nation there are hundreds of airports affecting millions of individuals in their homes with the roaring noise of airplanes overhead.

Five million people wake up in the morning not to an alarm clock but to the din of airplanes coasting into a runway landing.

There are corrective measures that, when applied, can reduce the airport noise problem. However, the key words are "when applied."

Since Federal funding became available in 1979 to conduct studies of airport noise and to recommend how the noise can be reduced, only 100 airports have voluntarily participated in the program.

At many of the remaining airports, the problem of airport noise is an ongoing one.

I have requested that such studies be performed at several airports affecting thousands in New Jersey, Pennsylvania, and New York.

At the same time, our colleague from California, NORMAN MINETA, has introduced legislation in the Airport and Airway Improvement Amendments of 1987 that would increase the pressure on airports to perform such studies on the noise levels at their airports.

When the Federal Aviation Administration adopted earlier this year its expanded east coast plan addressing the flight delays and airplane traffic, airplane routes were changed, redirecting much of the traffic over communities that had previously been able to get a good night's sleep without aircraft roaring in the skies overhead.

Mr. MINETA's legislation would redirect 10 percent of an airport's Federal funding to community noise abatement projects if the airport authority chose not to undertake a study of the airport noise problem in its jurisdiction.

As our communities and our transportation system have evolved and grown, it has become increasingly necessary to make the airports more compatible with the surrounding communities. The Federal funds to help out these communities do exist. it is just a matter of getting the airports to participate in the programs.

In the meantime, the airport noise problem continues and this disturbing side effect of commuter traffic is being rerouted into our bedroom communities.

I am including a copy of an article recently published by a newspaper from one of the areas in New Jersey affected by airport noise, the Newark Star-Ledger:

[From the Newark Star-Ledger, July 8, 1987]

LAWMAKERS PRESS P.A. ON NOISE AT NEWARK, LAGUARDIA AIRPORTS

(By David Schwab)

Two members of New Jersey's congressional delegation have urged the agency that operates Newark International Airport to conduct a formal study of noise problems affecting dozens of communities both near and far from the airport.

Standing in a park in Kearny as airplanes occasionally roared overhead, Rep. James Florio (D-1st Dist.) said it was "unfortunate" the Port Authority of New York and New Jersey, like many other airport operators, had not taken advantage of federal funds to pay for a rigorous noise study.

Florio was joined by several other elected officials, including Sen. Thomas Cowan (D-Hudson) and Kearny Mayor, Henry Hill, and about a dozen concerned citizens from throughout the state.

In a letter to the Port Authority, Florio and Rep. Frank Guarini (D-14th Dist.) urged the Port Authority to conduct a study aimed at reducing noise produced by airplanes using Newark and LaGuardia airports. This noise "has become not only a distorting problem for New Jersey residents, but also a potential hazard to their health," the congressman said.

James Muldoon, the Port Authority's manager of aviation technical services, said the authority has not conducted the studies mentioned by Florio.

But he said the authority has a "comprehensive" noise abatement program and conducted a study of its own in 1980 that was approved by the Federal Aviation Administration (FAA). This enabled the authority to receive federal funding for soundproofing projects in Newark and Elizabeth. The agency is now updating this study, he said.

Any additional studies would not likely provide significant new information, according to Muldoon.

Florio said he was concerned about the noise problems that have been reported for years by residents in communities, like Kearny, that surround the airport. The number and intensity of these complaints have risen along with traffic at the airport.

In addition, Florio cited recent noise complaints from residents in portions of central and western New Jersey. These recent complaints followed changes in air routes made earlier this year by the FAA in an attempt to reduce persistent delays at Newark and LaGuardia.

According to Florio, the Port Authority could obtain federal funding to conduct what is called a "Part 150" study.

Such a study would identify areas most affected by aircraft noise. The FAA would pay for the study and provide up to 10 percent of the cost of making changes that could include changing traffic patterns, designating special runway use, or limiting night-time traffic, Florio said.

In most cases, these studies are conducted by experts other than the airport operators, according to Florio.

A similar study was conducted by a private engineering firm for the operator of Philadelphia International Airport following noise complaints from communities in southern New Jersey.

According to Florio, many airport operators have chosen not to participate in this program.

As a result, he and other congressmen are considering legislation that would require airport operators to conduct these studies, or face the loss of up to 10 percent of the federal funds they receive for airport improvements. These funds would go instead to local governments for use in noise reduction efforts.

Florio said the problem of airplane noise is one that affects an estimated 7 million persons nationwide.

The audible effects of increasing air traffic have been compounded by several factors, according to Florio. These include the demise of some federal noise pollutioin programs and the overloading of the air traffic control system. This has forced controllers to concentrate strictly on safety matters rather than on established noise reduction programs.

Florio, a member of a House committee that oversees the Environmental Protection Agency, said the agency has not been enforcing noise pollution regulations. He urged New Jersey to speed efforts to the suit against the KPA in order to force it to remedy the airplane noise problem.

RESPONSE TO PRESIDENT'S STATEMENT UPON SIGNING H.R. 1827

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. CARR. Mr. Speaker, as we know, the President has signed H.R. 1827, the fiscal year 1987 supplemental appropriations bill. Section 505 of that bill is a provision I authored. It blocks the Secretary of Transportation's efforts to permit the repayment of construction differential subsidy [CDS] by three tankers seeking to enter the Alaska oil trade.

On three previous occasions effective during 1983, 1984, and 1985, the Secretary also was blocked from issuing a CDS payback rule. She finally was able to exploit a short time gap in the prohibition and issued a rule in 1985. But last January, the court of appeals vacated that rule as arbitrary and capricious.

When the Secretary indicated in February that she would try to issue the rule once again, we set out to prohibit the rule once again. The Committee on Appropriations approved the blocking provision on March 25, and it was ultimately accepted by the conferees on H.R. 1827 and signed into law this past Saturday.

The Secretary sought to out race Congress by issuing a new CDS payback rule on June 22, even as the H.R. 1827 conference met. But our legislative history both before and after that issuance has made it completely clear that section 505 is intended to prohibit that rule, and in fact does so.

It therefore was with some combination of surprise, disappointment and irritation that I read the President's statement of July 11 in which he sought to nullify the impact of section 505 even as he signed it into law.

The President claims he signed H.R. 1827 into law "based on the understanding" that the provision is not retroactive and would not effect CDS repayments made pursuant to the June 22 rule.

I don't know where he got that understanding. It certainly could not have come from the Congress that passed this law, and it certainly did not come from me, who initiated the provision.

Most likely, of course, it came from the Department of Transportation, reaching for any straw of hope that would enable it to hang onto a bad rule that Congress has told it not to issue.

That kind of advice would be typical of how the Department has consistently thumbed its nose at Congress on this issue. Remember, of course, that the Department was under no compulsion to issue its rule by June 22. The court of appeals, in throwing out the Department's 1985 CDS payback attempt, gave it until July 16 to try again if it wished. The Department, of course, knew this issue was pending in H.R. 1827. With a show of any good faith, the Department could have waited for final action on that bill, which came well before July 16. At a minimum, the Department, even in issuing a rule on June 22, could have given it a July 16 effective date. But no, the Department continues to be intransigent on this issue. And so, we may have to wait for the courts, as they have done before, to inform the agency that where congressional intent is clear as here, it doesn't do any good just to win a foot race.

Regrettably, the President's statement is in a broader sense just one more illustration of his administration's arrogant disregard for the will of Congress.

This time, he complains about Congress using "a spending limitation as an indirect means of regulating the Executive's interpretation and enforcement of the law," and he asserts that Congress "may not indirectly interpret and implement existing laws."

Does the President think that appropriations bills are just advisory? They are laws just as much as any other laws. Congress implements existing laws every year by providing the money to operate those laws' programs and functions.

The President acknowledges that Congress can amend a statute if it disagrees with a statutory interpretation made by the executive branch. Whether he likes it or not, Congress also can control the administration of the programs Congress has enacted by passing appropriations laws that reduce or withhold funds to operate those programs. That's part of what the budget and spending process is all about.

Three years ago in a very similar situation, the court of appeals threw out an administration rule on a different subject that had been published during another foot race against a congressional prohibition contained in an appropriations bill. Two of the three judges who joined in that unanimous opinion were Antonin Scalia and Robert Bork.

If the President doesn't want to pay any attention to Congress, perhaps he'll at least heed the views of his two most recent nominees to the Supreme Court.

If it comforts the President politically to reiterate his frustration with the laws and process of our shared powers under the Constitution, so be it. If on the other hand he is trying to rewrite law with press statements, he is way off base and his statements ought to be rejected. The fact that he doesn't like prohibition or its being likened to things he prefers is immaterial, the prohibition is now law. The intent of Congress is clear, the prohibition stands.

I've included the complete Presidential statement hereafter:

STATEMENT BY THE PRESIDENT

I have signed into law H.R. 1827, which provides supplemental appropriations for Fiscal Year 1987. It includes essential funding for assistance to the Central American democracies, for high-priority defense requirements, and for military assistance to the Philippines. It also provides needed funding for the Commodity Credit Corporation, the Internal Revenue Service, the Immigration and Naturalization Service, veterans' benefits, and a number of other domestic programs.

Before presenting this bill for my signature, the Congress deleted restrictive language that would have limited my authority to test and deploy nuclear weapons and would have required mandatory compliance with the unratified SALT II agreement. These provisions would have undercut our national security and our negotiating leverage with the Soviets. Had they remained, the bill would have been vetoed.

While I am pleased that this bill includes funding for essential programs and that certain objectionable provisions affecting our national security were deleted, several other aspects of H.R. 1827 require comment.

Section 505 of this bill contains a restriction on the use of funds that is designed to prevent the Secretary of Transportation and the Maritime Administration from adopting rules on the subject of Construction Differential Subsidy (CDS) repayment. I have signed this bill into law based on the understanding that because this restriction on their authority is not retroactive, it will have no effect on vessel owners who previously repaid their subsidies pursuant to a CDS repayment rule published in the Federal Register on June 22, 1987. Instead, this provision of Section 505 will affect only further repayments by vessel owners. Were it otherwise, a restriction on rule-making in this area could cost the taxpayers more than $100 million in payments to vessel owners who have previously repaid their subsidies.

Another restriction on the use of funds in Section 505 raises serious constitutional questions. It is designed to prevent the Secretary of Transportation and the Maritime Administrator from participating "in any judicial action with respect to the repayment of construction differential subsidy for the permanent release of vessels from the restriction in section 506 of the Merchant Marine Act, 1936, as amended." The prohibition is subject to the proviso that "funds may be used to the extent such expenditure relates to a rule which conforms to statutory standards hereafter enacted by Congress."

As is clear from the proviso lifting the restriction if and when the Congress alters the existing statutory scheme, this portion of Section 505 represents an attempt by the Congress to use a spending limitation as an indirect means of regulating the Executive's interpretation and enforcement of the law, while leaving the law itself substantively unchanged.

Article II of the Constitution assigns responsibility for executing the law to the President. While the Congress is empowered to enact new or different laws, it may not indirectly interpret and implement existing laws, which is an essential function allocated by the Constitution to the Executive branch. If the Congress disagrees with a statutory interpretation advanced by the Executive branch—or with the efforts of the Executive branch to defend or prosecute judicial action based on that interpretation—the Congress may, of course, amend the underlying statute. The use of an appropriations bill for this purpose, however, is inconsistent with the constitutional scheme of separation of powers.

Accordingly, I believe it is my constitutional responsibility to interpret this spending restriction in Section 505 consistently with the President's and duty to take care that the laws be faithfully executed—a power and duty that of necessity include responding to any judicial challenge to past or future actions of the Department of Transportation.

This bill also includes a provisions that could permit Rural Electrification Administration borrowers to prepay outstanding Federal Financing Bank loans without paying the premium due under their loan agreement. This could result in a loss of about $2 billion in forgiven premiums. This new subsidy must be considered in light of the more than $50 billion in life-of-loan subsidies that Rural Electrification Administration borrowers will receive on loan advances made since 1973. This provision could have serious adverse effects on the operation of the Federal Financing Bank. As a result, this provision must be interpreted consistently with other provisions of law requiring the Secretary of the Treasury to protect the integrity of the Federal Financing Bank.

H.R. 1827 is a prime example of how not to legislate on budgetary matters. As has been the case with other omnibus appropriations bills that have been presented for my signature, H.R. 1827 presented a choice between many expensive, undesirable, and unnecessary provisions on the one hand, or a shutdown of important government programs on the other. For example, without this bill, funding for loans to farmers would be cut off just as it is needed for summer crops. Yet, to avoid a critical disruption in this program, I must sign away $1.7 billion in unrequested funding for other entirely unrelated programs.

In accordance with my commitment to reduce spending to meet Gramm-Rudman-Hollings deficit reduction targets, I submitted to the Congress a request for supplemental appropriations that were more than offset by proposed spending reductions. The Congress, however, rejected virtually all of these proposed spending reductions, and as a result H.R. 1827 provides $6.67 billion more budget authority than I requested. It misses the goal of deficit-neutrality by more than $6.4 billion.

REPRESENTATIVE HAMILTON'S CLOSING REMARKS

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. DORGAN of North Dakota. Mr. Speaker, our colleague, LEE HAMILTON of Indiana, made a statement the other day before the closing of Lt. Col. Oliver North's testimony at the Iran/Contra hearings.

I found Mr. HAMILTON'S statement to be an extraordinary one and I wanted to present it to my colleagues.

Chairman HAMILTON. Mr. Chairman, may I express to you my personal appreciation for the manner in which you have presided over these committees these last several days. You have had some rather difficult moments. I think you have been firm and fair, and you have kept these proceedings moving along, and all of us are most grateful to you.

Colonel North, let me join with others in expressing my appreciation to you for your testimony and, as the Chairman has indicated, I will use my time just to give you some of my impressions.

I recognize that a President and those carrying out his policies sometimes face agonizing choices, and you have had more than your share of them. I have never for a moment over the years that I have known you doubted your good intentions to free hostages, to seek democracy in Nicaragua, to fight communism, and to advance the best interests of the nation. And for many in this country, I think the pursuit of such worthy objectives is enough in itself or in themselves to exonerate you and any others from all mistakes.

Yet, what strikes me is that despite your very good intentions, you were a participant in actions which catapulated a President into the most serious crisis of his Presidency, drove the Congress of the United States to launch an unprecedented investigation, and I think probably damaged the cause or the causes that you sought to promote.

It is not my task, and it is not the task of these committees, to judge you. As others have said, we are here to learn what went wrong, what caused the mistakes and what we can do to correct them. And the appropriate standard for these committees is whether we understand the facts better because of your testimony, and I think we do, and we are grateful to you.

In your opening statement you said that these hearings have caused serious damage to our national interest. But I wonder whether the damage has been caused by these hearings or by the acts which prompted these hearings. I wonder whether you would have the Congress do nothing after it has been lied to and misled and ignored.

Would we in the Congress then be true to our constitutional responsibilities? Is it better under our system to ignore misdeeds, or to investigate them behind closed doors as some have suggested, or is it better to bring them into the open and try to learn from them:

I submit that we are truer to our Constitution if we choose the latter course.

These committees, of course, build on the work of other committees and I think that work is part of our constitutional system of checks and balances.

There are many parts of your testimony that I agree with. I agree with you that these committees must be careful not to cripple the President. I agree with you that our Government needs the capability to carry out covert actions.

During my six years on the Intelligence Committee, over 90 percent of the covert actions that were recommended to us by the President were supported and approved, and only the large-scale paramilitary operations, which really could not be kept secret, were challenged.

I agree with you when you said in your opening statement that you were caught in a struggle between the Congress and the President over the direction of American foreign policy, and that most certainly is not your fault. And I agree with you that the Congress, whose record in all of this is certainly not unblemished, also must be accountable for its actions.

Now, let me tell you what bothers me. I want to talk about two things: first policy, and then process.

Chairman Inouye correctly said that the business of these select committees is not policy, and I agree with him. But you made such an eloquent and impassioned statement about policy that I wanted to comment.

I am very troubled by your defense of secret arms sales to Iran. There is no disagreement about the strategic importance of Iran or the desirability of an opening to Iran. My concern is with the means employed to achive those objectives.

The President has acknowledged that his policy as implemented was an arms-for-hostage policy, and selling arms to Iran in secret was, to put it simply, bad policy. The policy contradicted and undermined long-held, often articulated, widely supported public policies in the United States. It repudiated U.S. policy to make no concessions to terrorists, to remain neutral in the Gulf war, and to stop arms sales to Iran.

We sold arms to a nation officially designated by our government as a terrorist state. This secret policy of selling arms to Iran damaged U.S. credibility. A great power cannot base its policy on an un-truth without a loss of credibility. Friendly governments were deceived about what we were doing. You spoke about credibility of U.S. policy in Central America. You were right about that. But in the Middle East, mutual trust with some friends was damaged, even shattered. The policy of arms for hostages sent a clear message to the states of the Persian Gulf, and that message was that the United States is helping Iran in its war effort and making an accommodation with the Iranian Revolution and Iran's neighbors should do the same.

The policy provided the Soviets an opportunity they have now grasped and with which we are struggling to deal. The policy achieved none of the goals it sought. The Ayatollah got his arms, more Americans are held hostage today then when this policy began, subversion of U.S. interests throughout the region by Iran continues, moderates in Iran—if any there were—did not come forward, and today those moderates are showing fidelity to the Iran Revolution by leading the charge against the United States in the Persian Gulf.

In brief, the policy of selling arms to Iran, in my view at least, simply cannot be defended as in the interests of the United States. There were and there are other means to achieve that opening which should have been used.

Now, let me comment on process as well. First, with regard to the covert actions, you and I agree that covert actions pose very special problems for a democracy. It is, as you said, a dangerous world, and we must be able to conduct covet actions, as every member of this panel has said, but it is contrary to all that we know about democracy to have no checks and balances on them. We established a lawful procedure to handle covert actions. It is not perfect by any means, but it works reasonably well.

In this instance, those procedures were ignored. There was no Presidential finding in one case and a retroactive finding in another. The Intelligence Committees of the Congress were not informed, and they were lied to. Foreign policies were created and carried out by a tiny circle of persons, apparently without the involvement of even some of the highest officials of our government. The administration tried to do secretly what the Congress sought to prevent it from doing. The administration did secretly what it claimed to all the world it was not doing. Covert action should always be used to supplement, not to contradict, our foreign policy. It should be consistent with our public policies. It should not be used to impose a foreign policy on the American people which they do not support.

Mr. McFarlane was right. He told these committees it was clearly unwise to rely on covert action as the core of our policy; and, as you noted in your testimony, and I agree with you, it would have been a better course to continue to seek contra funding through open debate. You have spoken with compelling eloquence about the Reagan Doctrine. Laudable as that doctrine may be, it will not succeed unless it has the support of the Congress and the American people.

Secondly, with regard to process, let me talk about accountability. What I find lacking about the events, as you have described them, is accountability. Who was responsible for these policies? For beginning them? For controlling them? For terminating them? You have said that you assumed you were acting on the authority of the President. I don't doubt your word, sir, but we have no evidence of his approval. The President says he did not know that the National Security Council staff was helping the contras. You thought he knew, and you engaged in such activities with extraordinary energy.

You do not recall what happened to the five documents on the diversion of funds to the contras. Those documents radically changed American policy. They are probably, I would think, the most important documents you have written. Yet you don't recall whether they were returned to you, and you don't recall whether they were destroyed, as I recall your testimony.

There is no accountability for an $8 million account earned from the sale of U.S. Government property. There is no accountability for a quarter of a million dollar account available to you. You say you never took a penny. I believe you. But we have no records to support or to contradict what you say. Indeed, most of the important records concerning these events have been destroyed. Your testimony points up confusion throughout the foreign policy making process. You have testified that Director Casey sought to create an on-the-shelf, self-sustaining, stand-alone entity to carry out covert actions apparently without the knowledge of other high officials in the government.

You have testified there was an unclear commitment to Israel concerning replenishment of missiles to Iran. You have testified that it has never been U.S. policy not to negotiate with terrorists; yet the President has said the opposite, that we will never negotiate with terrorists. You have testified that a lot of people were willing to go along with what we were doing, hoping against hope that it would succeed, and willing to walk away when it failed.

My guess is that is a pretty accurate description of what happened, but it is not the way to run a government. Secret operations should pass a sufficient test of accountability, and these secret operations did not pass the test. There was a lack of accountability for funds and for policy, and responsibility rests with the President. If he did not know of your highly significant activities done in his name, then he should have, and we will obviously have to ask Admiral Poindexter some questions.

The next point, with regard to process, relates to your attitude toward the Congress. As you would expect, I am bothered by your comments about the Congress. You show very little appreciation for its role in the foreign policy process. You acknowledge that you were "erroneous, misleading, evasive, and wrong" in your testimony to the Congress. I appreciate, sir, that honesty can be hard in the conduct of government, but I am impressed that policy was driven by a series of lies: lies to the Iranians, lies to the Central Intelligence Agency, lies to the Attorney General, lies to our friends and allies, lies to the Congress, and lies to the American people.

So often during these hearings, not just during your testimony, but others as well, I have been reminded of President Thomas Jefferson's statement: "The whole art of government consists in the art of being honest."

Your experience has been in the Executive Branch, and mine has been in the Congress. Inevitably our perspectives will differ. Nonetheless, if I may say so, you have an extraordinarily expansive view of Presidential power. You would give the President free rein in foreign affairs. You said on the first day of your testimony, and I quote, "I didn't want to show Congress a single word on this whole thing."

I do not see how your attitude can be reconciled with the Constitution of the United States. I often find in the Executive Branch, in this administration, as well as others, a view that the Congress is not a partner but an adversary. The Constitution grants foreign policy making powers to both the President and the Congress and our foreign policy cannot succeed unless they work together. You blame the Congress as if the restrictions it approved were the cause of mistakes by the administration; yet Congressional restrictions in the case of Nicaragua—if the polls are accurate—reflected the majority view of the American people.

In any case, I think you and I would agree that there is insufficient consensus on policy in Nicaragua. Public opinion is deeply divided, and the task of leadership, it seems to me, is to build public support for policy. If that burden of leadership is not met, secret policies cannot succeed over the long term.

The fourth point with regard to process relates to means and ends. As I understand your testimony, you did what you did because those were your orders and because you believed it was for a good cause. I cannot agree that the ends justified these means, that the threat in Central America was so great that we had to do something, even if it meant disregarding constitutional processes, deceiving the Congress and the American people. The means employed were a profound threat to the democratic process.

A democratic government, as I understand it, is not a solution, but it is a way of seeking solutions. It is not a government devoted to a particular objective, but a form of government which specifies means and methods of achieving objectives. Methods and means are what this country is all about. If we subvert our democratic process to bring about a desired end, no matter how strongly we may believe in that end, we have weakened our country, and we have not strengthened it.

The few do not know what is better for Americans than Americans know themselves. If I understand our government correctly, no small group of people, no matter how important, no matter how well intentioned they may be, should be trusted to determine policy. As President Madison said, "Trust should be placed not in a few but in a number of hands."

Let me conclude. Your opening statement made the analogy to a baseball game. You said the playing field here was uneven and the Congress would declare itself the winner. I understand your sentiments, but may I suggest that we are not engaged in a game with winners and losers. That approach, if I may say so, is self-serving and ultimately self-defeating. We all lost.

The interests of the United States have been damaged by what happened. This country cannot be run effectively when major foreign policies are formulated by only a few, and are made and carried out in secret, and when public officials lie to other nations and to each other.

One purpose of these hearings is to change that. The self-cleansing process, the Tower Commission, and these joint hearings, and the report which will follow, are all part, we hope, of a process to reinvigorate and restore our system of government.

I don't have any doubt at all, Colonel North, that you are a patriot. There are many patriots in this country, fortunately, and many forms of patriotism. For you perhaps patriotism rested in the conduct of deeds, some requiring great personal courage, to free hostages and fight communism. And those of us who pursue public service with less risk to our physical well-being admire such courage.

But there's another form of patriotism which is unique to democracy. It resides in those who have a deep respect for the rule of law and faith in America's democratic traditions. To uphold our Constitution requires not the exceptional efforts of the few but the confidence and the trust and the work of the many.

Democracy has its frustrations. You've experienced some of them, but we—you and I—know of no better system of government; and when that democratic process is subverted, we risk all that we cherish.

I thank you, sir, for your testimony. And I wish you and I wish your family well.

Thank you, Mr. Chairman.

SENATE—*Wednesday, July 22, 1987*

(Legislative day of Tuesday, June 23, 1987)

The Senate met at 9:30 a.m., on the expiration of the recess, and was called to order by the Acting President pro tempore [Mr. SANFORD].

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

* * * *for the Lord seeth not as man seeth; for man looketh on the outward appearance but the Lord looketh on the heart.*—I Samuel 16: 7.

God of Abraham, Isaac and Israel, this morning the life and memory of a great American, Arthur Burns, will be celebrated at a memorial service. With boundless praise to You, we express our gratitude for the life and service of this uncommon man: scholar, teacher, economist, servant of Presidents, ambassador, citizen of the world, statesman, friend. We thank You for his incalculable service to our Nation—his integrity, his courage, his fierce honesty, his profound understanding of human nature and its foibles, his humility, his deep love for God, the Bible, and people. May Your gracious blessing and peace attend his lovely lady, his partner for more than half a century, his family, and his multitude of friends. For this "man after God's own heart" we praise You, Lord, to Whom belongs the kingdom and the glory and the honor forever. Amen.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

THE RULE OF LAW

Mr. BYRD. Mr. President, the Iran-Contra joint investigating committee is working very hard to unravel the full truth about the secret provision of lethal weapons to Iran in an attempt to win the release of American hostages, and the provision of proceeds from that enterprise to fund military assistance to the Contras at a time when such assistance was prohibited by the Congress. It is a difficult task to sort out the real truth when there has apparently been an epidemic of amnesia in the executive branch over crucial events, when testimony is contradictory on many of these events, and when the witnesses seem intent on attacking the committee for pursuing what they did and why they did it. Nevertheless, the continuous stream of revelations about these questionable, and ill-considered activities, shrouded in secrecy so as to keep Congress in the dark, is focusing more and more on the central question—the rule of law as the critical principle governing the day-to-day operation of the American form of government.

Indeed, the statements of the esteemed cochairmen of the investigating committee, Mr. INOUYE and Mr. HAMILTON, as well as the statement by Mr. MITCHELL, who was the assigned questioner of Lieutenant Colonel North, are eloquent reassertions of this fundamental, cardinal tenet which distinguishes our system from those of totalitarian adversaries and from sheer chaos. Those statements are a rich primer on the absolutely essential nature of the operation of the rule of law and its corollaries—the need for openness, for informed debate, for the development of consensus, and for a dynamic partner with the oversight committees of the Congress. I emphasize that, even in those exceptional circumstances where the national interest requires a restricted debate, and restrictions on openness, there is all the more reason to conform closely to the legal requirements governing covert actions. Those are precisely the circumstances in which the checks and balances of the American system are most vulnerable and in need of the most protection, the system that we only last week met in Philadelphia to commemorate, the system in which we all rejoice.

I recommend a close reading of those statements, as well as others made by both Republican and Democratic Members of the panel, since we must constantly refresh our understanding of the tenets of our system, principles which can only be made to live by the concerted attention and actions of the elected officials of this Government, and those subordinates over whom those elected officials have responsibility, and the American people at large. Lipservice to those principles will not suffice. Good intentions in fighting communism, in seeking democracy in Nicaragua, goals which are shared by all of us, will not excuse circumvention of the law, will not explain the subversion of the methods by which our democracy arrives at decisions and by which it implements decisions.

I congratulate the chairmen and members of the committee for their tremendous efforts in this investigation. It is clear the American people are watching, that they are intensely interested, and that the proceedings are addressing the issues in a workmanlike, and comprehensive, thorough fashion. It has been and is an arduous, grueling task. The Senate and the Nation are indebted to members and staff of the committee for their efforts. The committee has bent over backward to be fair, realizing that it could be charged with unfairness all too easily.

I believe it has been fair. It has been sober and mature and deliberate, and has resisted the pressures for cutting corners. Doing the right thing is not the same thing as exhibiting for a beauty contest. Doing the right thing is not the same thing as acting with the applause meter in mind.

The statements by the members of the panel reaffirm the basic need for these open hearings, for the full airing of the facts, for a sober cleansing. The Senate investigating body is mandated by Senate Resolution 23, to make recommendations for new legislation and amendments to existing laws, as well as other things, to help correct the abuses that are already apparent. Clearly, the ultimate bulwark of our democracy is men of good faith and high character who play by the rules of our game, and who win the approval of their policy recommendations the hard way, by winning the approval of a majority of our colleagues, representing a consensus to move in one direction or another by the American people. No one can write laws which create a completely adequate substitute for integrity and good character.

Nevertheless, a clear need for improvements in the laws which govern these covert operations has already been demonstrated by the hearings to date. They include the requirement for clearing up any loopholes regarding the requirement for written findings by the President as a condition for the conduct of covert operations. The whole idea of "oral findings" should be debunked. Second, they include more precise notification requirements by the executive branch of those covert actions which must be undertaken in emergency situations when prior notice for good reason cannot be given to the oversight committees—such notification should be given within 2 or 3 days after the President approves, in any case. In those very unusual cases, notification should be given to a small consultative

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

group consisting of the leadership of both Houses and the leadership of the oversight committees. Third, no agency of the Government should be exempt from the rules governing covert actions, including, of course, the National Security Council. Mr. North and others have argued that the National Security Council has been so exempt, and exempt from the restrictions of the Boland amendment which prohibited direct or indirect military aid to the Contras. He is disputed in this assertion by other formal officials, such as Mr. McFarlane. That loophole, arguable as it might be, should be slammed shut for good. Fourth, the law needs to be precise in its definition of what constitutes a covert action, since it is nowhere defined today except in an Executive Order. Informal or gentlemanly arrangements between the two branches on these matters have proven completely insufficient, and where flexibility is granted to the executive it seems to have simply been taken advantage of, a mechanism for the executive, or others acting in his behalf, purportedly, believing that he would give approval, if asked, to evade the spirit of the law, and avoid the need to build a consensus with the Congress. Fifth, the privatization of these policy actions cannot be used again so as to circumvent the laws passed by the United States Congress.

Mr. President, the Iran-Contra investigation final report is now due at the end of October, but in those areas in which legislative action could be taken by the Intelligence Committee, at the recommendation of the investigating committee, an interim package of legislative proposals might be considered. Indeed, Senate Resolution 23, which created the Iran-Contra Investigating Committee this past January, does provide for such interim reports to the Senate as are considered appropriate. The working relationship between the Intelligence Committee and the Iran-Contra Investigating Committee has been excellent, and is assisted by considerable overlap in the Membership of those two bodies. I look forward to the remainder of the investigation and to the recommendations and report of the committee. I applaud the Members of both Houses who sit on the investigating body. I believe the serious and careful approach they have taken to this difficult task will, in years to come, serve as a model and a reminder to future administrations of the unnecessary and corrosive damage that an over-reliance on secrecy and deception and lying brings to our great system of government.

Mr. President, I ask unanimous consent that statements by Chairman INOUYE, dated July 15, 1987; Chairman HAMILTON, dated July 15, 1987; and Senator MITCHELL, dated July 14, 1987 be printed in the RECORD.

There being no objection, the statements were ordered to be printed in the RECORD, as follows:

STATEMENT BY CHAIRMAN DANIEL INOUYE JULY 15, 1987

Chairman INOUYE. Thank you very much.

Colonel North, Mr. Sullivan, I think we are now at the end of a long six days. The questions I had cannot be answered because some of those who could have answered these questions are not here with us and, furthermore, I am certain you will agree with me, that we have had enough questions here.

I'd like to first, before proceeding with my statement, because of the call of fairness, clarify the record. Much has been said about fairness to witness, fairness to the President, fairness to the Government.

In response to a question of two of my fellow panel members relating to the bombing of Libya, you said, for example, today, "When the briefing conducted by the President concluded at about 5:00 or 5:30, two Members of Congress"—and you meant two Members of the Senate—"proceeded immediately to waiting microphones" and noted that the President was going to make a heretofore unannounced address to the Nation on Libya.

"I would tell you that the volume of fire over the Libyan capital was immense that evening. Two American airmen died as a consequence of that antiaircraft fire, as best we can determine. They alerted our adversaries."

When the response was first made a few days ago, I checked with senior officials of the Senate and looked into the record.

First, these two Members did not stop at the bank of microphones near the White House. They immediately left and returned to the Senate. There they were confronted by members of the press. One leader responded, "No comment." The other said, "You should ask the President the question. He might have something to say tonight at 9:00."

The 18 U.S. F-111s left Britain on Monday, April 14 at 12:13 p.m. The briefing began at 4:00 and the bombs fell at 7:00. However, a week before the bombing, CBS Evening News had this to say: "Top U.S. officials acknowledge that detailed military contingency plans for retaliation already exist. Said one source, 'They involve five targets in Libya.' "

On the same day, the Wall Street Journal had this to say: "U.S. officials are putting out the word that they are laying the groundwork for possible retailiatory actions against Libya for a suspected involvement in the bombing of a West Berlin discotheque."

Then the next day, Tuesday, April 8, the Wall Street Journal, again: " 'Reagan and his advisers are united in wanting to respond militarily against Qadhafi but haven't agreed on a time or place to strike back,' a senior administration official said."

On the same day, CBS Evening News: "Forty-eight hours after the bombing in West Berlin, the Reagan Administration has reached a consensus for military retaliation against Libya."

On Wednesday, April 9, CBS Evening News: "According to a highly-placed source, President Reagan has approved another possible military strike against Libya. The White House denied rumors today that a military response was already underway, but a well-placed intelligence source said that a military response has been approved."

That same evening, ABC World News Tonight: "The understanding now is that a strike against Libya is in the works. If it comes to that, seldom will U.S. military action have been so widely and publicly advertised in advance."

Thursday, April 10th, we are getting closer to the day, NBC Today Show: "Administration officials say that intense planning is underway for retaliation against Libya."

On the same day, the New York Times: "Administration officials said that Libyan military sites were the prime options under consideration for retaliation and that among the key possibilities are Libyan air bases near the coast, the official said that coastal electronic listening posts, including early warning radar sites, as well as units that pick up airplane and ship traffic, are also key targets." And as we know, they were the targets.

On Friday, April 11, NBC Today Show: "The goal is to strike as many targets as possible, as close to the coast to reduce the danger to American aircraft."

Saturday, April 12, New York Times: "Administration officials speculated that the water strip placed in abeyance, at least for the moment, a retaliatory strike against Libya, but officials declined to rule out a raid, even in the next 48 hours."

Associated Press: "The British Mail on Sunday said Mrs. Thatcher had 'cleared the way for President Reagan to use British bases to launch a massive new air attack on Libya.' "

Another AP: "Italian Premier Bettino Craxi told reporters Saturday, April 12 in Milan, 'I don't believe there will be a military intervention there before Monday.' "

The same evening, NBC Nightly News: "By Monday, the diplomatic lobbying will be completed, and Administration sources indicate that means a strike could come as early as Tuesday."

Washington Post: "After consulting conservative Prime Minister Jacques Charac by telephone, Mitterand decided to reject the U.S. request for overflight rights, and the French refusal was communicated to Washington the following morning, Saturday, April 12."

And the day before the bombing, NBC Nightly News: "Administration officials say the President moving towards a decision about whether to make a retaliatory strike against Libya, and White House officials confirm the President will have a special national security meeting tomorrow to evaluate the situation. Today, the President conferred with Vice President Bush and Secretary of State Shultz, both of whom are believed to favor a military strike. Notably absent from the Camp David meeting was Defense Secretary Weinberger, who is believed to oppose such action."

I think it is grossly unfair to suggest that two American lives were lost because one leader said, "No comment," and the other said, "I believe you should ask the President. He may have something to say tonight at 9."

From the beginning of the history of mankind, organized societies, whether they be tribes or clans or nations, have nurtured and created heroes, because heroes are necessary to serve as a cement to unite people, to bring unity in that nation.

It provides glory to their history. It provides legends. We have many heroes. This hearing is being held in Washington, the city of heroes, the city of monuments. We have hundreds of monuments in this city.

In the Capitol, in Statuary Hall, each State has honored two of their heroes or heroines. The State of Hawaii honors King Kamehameha, the Warrior King, and Father Damien, who is soon to become a saint.

And if you step on the west steps of the Mall and look down the majestic Mall, you will see the Monument of George Washington, very majestic. I remember as a child, long before I heard of the Revolutionary War, that one day George Washington was confronted by his father, who asked, "Who cut the cherry tree?" And little George answered, "Father, I cannot lie. I cut the cherry tree." It was an important lesson to all little children, and I believe it still is a very important lesson.

Then, if you go further down, you will see the Lincoln Memorial, where we honor a great President for the courage he demonstrated in upholding the brotherhood of man. It wasn't easy during those days.

Then you have Arlington, a sacred place. Men you served with and men I served with use that as their final resting place, all heroes.

Then you have Lee's Mansion. This was the home of the great gentleman from Virginia. We honor him today for his great demonstration of loyalty and patriotism.

And as we get back to the Lincoln Memorial and nearby, we see this new and exciting monument, one to your fellow combat men, the Vietnam Memorial.

I believe during the past week, we have participated in creating and developing very likely a new American hero.

Like you, who has felt the burning sting of bullet and shrapnel and heard the unforgettable and frightening sounds of incoming shells, I salute you, sir, as a fellow combat man; and the rows of ribbons that you have on your chest forever remind us of the courageous service and your willingness, your patriotic willingness to risk your life and you limb.

I am certain the life and burdens of a hero will be difficult and heavy; and so, with all sincerity, I wish you well as you begin your journey into a new life.

However, as an interested observer, and as one who has participated in the making of this new American hero, I found certain aspects of your testimony to be most troubling. Chairman Hamilton has eloquently discussed them.

Because, as a result of your very gallant presence, and your articulate statements, your life, I am certain, will be emulated by many, many young Americans. I am certain we will, all of us, receive an abundance of requests from young citizens throughout the land for entrance into the privileged ranks of cadets of the Military Services.

These young citizens, having been imbued with the passion of patriotism, will do so; and to these young men and women, I wish to address a few words:

In 1964, when Colonel North was a cadet, he took an oath of office like all hundreds throughout the service academies. And he also said that he will abide with the regulations which set forth the cadet honor concept.

The first honor concept, first because it is so important, over and above all others, is a very simple one: A member of the brigade does not lie, cheat, or steal. And in this regulation of 1964, the word "lie" was defined as follows:

"A deliberate oral or written untruth; it may be an oral or written statement which is known to be false or simple response to a question in which the answer is known to be false."

The words "mislead" or "deceive" were defined as follows: "A deliberate misrepresentation of a true situation by being untruthful or withholding or subtly wording information in such a way as to leave an erroneous or false impression of a known true situation."

And when the colonel put on his uniform and the bars of a second lieutenant, he was well aware that he was subject to the Uniform Code of Military Justice. It is a special code of laws that apply to our men and women in uniform.

It is a code that has been applicable to the conduct and activities of Colonel North throughout his military career, and even at this moment. And that code makes it abundantly clear that orders of a superior officer must be obeyed by subordinate members. But it is lawful orders.

The uniform code makes it abundantly clear that it must be the lawful orders of a superior officer.

In fact, it says, "Members of the military have an obligation to disobey unlawful orders."

This principle was considered so important that we, we the Government of the United States, proposed that it be internationally applied in the Nuremberg trials and so in the Nuremberg trials, we said that the fact that the defendant——

Chairman INOUYE. Colonel North, I am certain it must have been painful for you as you stated to testify that you lied to senior officials of our Government, that you lied and misled our Congress and believe me it was painful for all of us to sit here and listen to that testimony. It was painful.

It was equally painful to learn from your testimony that you lied and misled because of what you believed to be a just cause, supporters of Nicaraguan freedom fighters, the contras.

You have eloquently articulated your opposition to Marxism and communism and I believe that all of us, I am certain all of us on this panel, are equally opposed to Marxixm and communism.

But should we in the defense of democracy adopt and embrace one of the most important tenets of communism and Marxism, the ends justify the means?

This is not one of the commanders of democracy. Our Government is not a Government of men, it is still a Government of laws.

And finally, to those thousands upon thousands of citizens who have called, sent telegrams, and written letters, I wish to thank all of you most sincerely and commend you for your demonstrated interest in the well being of our Government, of our freedoms and our democracy.

Your support or opposition of what is happening in this room is important, important because it dramatically demonstrates the strength of this democracy.We Americans are confident in our strength to openly and without fear put into action one of the important teachings of our greatest Founding Father, Thomas Jefferson, who spoke of the right to dissent, the right to criticize the leaders of this Government and he said, "The spirit of resistance to Government is so valuable on certain occasions that I wish it to be always kept alive. It will often be exercised when wrong, but better so than not to be exercised at all."

Unlike communism, in a democracy such as ours we are not afraid to wash our dirty linen in public. We are not afraid to let the world know that we do have failure and we do have shortcomings.

I think all of us will recall the open invitation that we sent to the press of the world to view the space flights, to record our successes and record our failures.

We permit all to film and record our space flights. We don't after the fact let the world know only of our successes. And I think we should recall that we did not prohibit any member of the world press to film and record one of the bloodiest chapters of our domestic history, the demonstration and riots in the civil rights period.

This was not easy, to let the world know that we had police dogs and police officers with whips and clubs denying fellow citizens their rights, but I have always felt that as long as we daily reaffirm our belief in and support of our Constitution and the great principles of freedom, that was long ago enunciated by our Founding Fathers, we will continue to prevail and flourish.

I would like to make one more closing remark. Throughout the past ten days, many of my colleagues on this panel in opening their questions to the Colonel, prefaced their marks by saying, "Colonel, I am certain you know that I voted for aid to the contras."

Ladies and gentlemen and Colonel North, I voted against aid to the contras. I did so not as a communist. I did so not as an agent of the KGB. I did so upon information that I gathered as a member of the bipartisan Commission on Central America based upon information that I gathered as Chairman of the Foreign Operations Committee, based upon information that I gathered as a senior member of the Defense Subcommittee, and based upon information that I gathered as Chairman and a Member of the Senate Intelligence Committee.

I voted against aid to the contras. It wasn't easy to vote against your Commanding Chief. It is not easy to stand before my colleagues and find yourself in disagreement, but that is the nature of democracy.

I did so because I was firmly convinced that to follow the path or the course that was laid down by the Reagan proposal would certainly and inevitably lead to a point where young men and women of the United States would have to be sent into the conflict, and Colonel, I am certain, having experienced warfare, that is not what we want our young people to go through again.

You have lost many friends and their names now are engraved on the black marble. I have lost many friends who are buried throughout this land. I know that the path of diplomacy is frustrating, at times angering, but I would think that we should give it a chance if it means that with some patience we would save even one life, and so that is why I wish my colleagues to know that I voted against aid to the Nicaraguan freedom fighters.

This has been a long day. I know that all of us are desirous of a rest.

Colonel North, with all sincerity, I thank you for your assistance these past six days. You have been most cordial, and your presence here should make your fellow officers very proud of the way you have presented yourself.

And to your lady, I wish her the best. She has sat there throughout these days with patience and grace. You have a fine lady.

STATEMENT BY CHAIRMAN, LEE HAMILTON, JULY 15, 1987

Chairman HAMILTON. Mr. Chairman, may I express to you my personal appreciation for the manner in which you have presided over these committees these last several days. You have had some rather difficult moments. I think you have been firm and fair, and you have kept these proceedings moving along, and all of us are more grateful to you.

Colonel North, let me join with others in expressing my appreciation to you for your testimony and, as the Chairman has indicated, I will use my time just to give you some of my impressions.

I recognize that a President and those carrying out his policies sometimes face agonizing choices, and you have had more than your share of them. I have never for a moment over the years that I have known you doubted your good intentions to free hostages, to seek democracy in Nicaragua, to fight communism, and to advance the best interests of the nation. And for many in this country, I think the pursuit of such worthy objectives is enough in itself or in themselves to exonerate you and any others from all mistakes.

Yet, what strikes me in that despite your very good intentions, you were a participant in actions which catapulted a President into the most serious crisis of his Presidency, drove the Congress of the United States to launch an unprecedented investigation, and I think probably damaged the cause or the causes that you sought to promote.

It is not my task, and it is not the task of these committees, to judge you. As others have said, we are here to learn what went wrong, what caused the mistakes and what we can do to correct them. And the appropriate standard for these committees is whether we understand the facts better because of your testimony, and I think we do, and we are grateful to you.

In your opening statement you said that these hearings have caused serious damage to our national interest. But I wonder whether the damage has been caused by these hearings or by the acts which prompted these hearings. I wonder whether you would have the Congress do nothing after it has been lied to and misled and ignored.

Would we in the Congress then be true to our constitutional responsibilities? Is it better under our system to ignore misdeeds, or to investigate them behind closed doors as some have suggested, or is it better to bring them into the open and try to learn from them?

I submit that we are truer to our Constitution if we chose the latter course.

These commiittees, of course, build on the work of other committees and I think that work is part of our constitutional system of checks and balances.

There are many parts of your testimony that I agree with. I agree with you that these committees must be careful not to cripple the President. I agree with you that our Government needs the capability to carry out covert actions.

During my six years on the Intelligence Committee, over 90 percent of the covert actions that were recommended to us by the President were supported and approved, and only the large-scale paramilitary operations, which really could not be kept secret, were challenged.

I agree with you when you said in your opening statement that you were caught in a struggle between the Congress and the President over the direction of American foreign policy, and that most certainly is not your fault. And I agree with you that the Congress, whose record in all of this is certainly not unblemished, also must be accountable for its actions.

Now, let me tell you what bothers me. I want to talk about two things; first policy, and then process.

Chairman Inouye correctly said that the business of these select committees is not policy, and I agree with him. But you made such an eloquent and impassioned statement about policy that I wanted to comment.

I am very troubled by your defense of secret arms sales to Iran. There is no disagreement about the strategic importance of Iran or the desirability of an opening to Iran. My concern is with the means employed to achieve those objectives.

The President has acknowledged that his policy as implemented was an arms-for-hostage policy, and selling arms to Iran in secret was, to put it simply, bad policy. The policy contradicted and undermined longheld, often articulated, widely supported public policies in the United States. It repudiated U.S. policy to make no concessions to terrorists, to remain neutral in the Gulf war, and to stop arms sales to Iran.

We sold arms to a nation officially designated by our government as a terrorist state. This secret policy of selling arms to Iran damaged U.S. credibility. A great power cannot base its policy on an un-truth without a loss of credibility. Friendly governments were deceived about what we were doing. You spoke about credibility of U.S. policy in Central America. You were right about that. But in the Middle East, mutual trust with some friends was damaged, even shattered. The policy of arms for hostages sent a clear message to the states of the Persian Gulf, and that message was that the United States is helping Iran in its war effort and making an accommodation with the Iranian Revolution and Iran's neighbors should do the same.

The policy provided the Soviets an opportunity they have now grasped and with which we are struggling to deal. The policy achieved none of the goals it sought. The Ayatollah got his arms, more Americans are held hostage today than when this policy began, subversion of U.S. interests throughout the region by Iran continues, moderates in Iran—if any there were—did not come forward, and today those moderates are showing fidelity to the Iran Revolution by leading the charge against the United States in the Persian Gulf.

In brief, the policy of selling arms to Iran, in my view at least, simply cannot be defended as in the interests of the United States. There were and there are other means to achieve that opening which should have been used.

Now, let me comment on process as well. First, with regard to the covert actions, you and I agree that covert actions pose very special problems for a democracy. It is, as you said, a dangerous world, and we must be able to conduct covert actions, as every member of this panel has said, but it is contrary to all that we know about democracy to have no checks and balances on them. We established a lawful procedure to handle covert actions. It is not perfect by any means, but it works reasonably well.

In this instance, those procedures were ignored. There was no Presidential finding in one case and a retroactive finding in another. The Intelligence Committees of the Congress were not informed, and they were lied to. Foreign policies were created and carried out by a tiny circle of persons, apparently without the involvement of even some of the highest officials of our government. The administration tried to do secretly what the Congress sought to prevent it from doing. The administration did secretly what it claimed to all the world it was not doing. Covert action should always be used to supplement, not to contradict, our foreign policy. It should be consistent with our public policies. It should not be used to impose a foreign policy on the American people which they do not support.

Mr. McFarlane was right. He told these committees it was clearly unwise to rely on covert action as the core of our policy; and, as you noted in your testimony, and I agree with you, it would have been a better course to continue to seek contra funding through open debate. You have spoken with compelling eloquence about the Reagan Doctrine. Laudable as that doctrine may be, it will not succeed unless it has the support of the Congress and the American people.

Secondly, with regard to process, let me talk about accountability. What I find lacking about the events, as you have described them, is accountability. Who was responsible for these policies? For beginning them? For controlling them? For terminating them? You have said that you assumed you were acting on the authority of the President. I don't doubt your word, sir, but we have no evidence of his approval. The President says he did not know that the National Security Council staff was helping the contras. You thought he knew, and you engaged in such activities with extraordinary energy.

You do not recall what happened to the five documents on the diversion of funds to the contras. Those documents radically changed American policy. They are probably, I would think, the most important documents you have written. Yet you don't recall whether they were returned to you, and you don't recall whether they were destroyed, as I recall your testimony.

There is no accountability for an $8 million account earned from the sale of U.S. Government property. There is no accountability for a quarter of a million dollar account available to you. You say you never took a penny. I believe you. But we have no records to support or to contradict what you say. Indeed, most of the important records concerning these events have been destroyed. Your testimony points up confusion throughout the foreign policy making process. You have testified that Director Casey sought to create an on-the-shelf, self-sustaining, stand-alone entity to carry out covert actions apparently without the knowledge of other high officials in the government.

You have testified there was an unclear commitment to Israel concerning replenishment of missiles to Iran. You have testified that it has never been U.S. policy not to negotiate with terrorists; yet the President has said the opposite, that we will never negotiate with terrorists. You have testified that a lot of people were willing to go along with what we were doing, hoping against hope that it would succeed, and willing to walk away when it failed.

My guess is that is a pretty accurate description of what happened, but it is not the way to run a government. Secret operations should pass a sufficient test of accountability, and these secret operations did not pass that test. There was a lack of accountability for funds and for policy, and responsibility rests with the President. If he did not know of your highly significant activities done in his name, then he should have, and we will obviously have to ask Admiral Poindexter some questions.

The next point, with regard to process, relates to your attitude toward the Congress. As you would expect, I am bothered by your comments about the Congress. You show very little appreciation for its role in the foreign policy process. You acknowledge that you were "erroneous, misleading, evasive, and wrong" in your testimony to the Congress. I appreciate, sir, that honesty can be hard in the conduct of government, but I am impressed that policy was driven by a series of lies: lies to the Iranians, lies to the Central Intelligence Agency, lies to the Attorney General, lies to our friends and allies, lies to the Congress, and lies to the American people.

So often during these hearings, not just during your testimony, but others as well, I have been reminded of President Thomas Jefferson's statement: "The whole art of government consists in the art of being honest."

Your experience has been in the Executive Branch, and mine has been in the Congress. Inevitably our perspectives will differ. Nonetheless, if I may say so, you have an extraordinarily expansive view of Presidential power. You would give the President free rein in foreign affairs. You said on the first day of your testimony, and I quote, "I didn't want to show Congress a single word on this whole thing."

I do not see how your attitude can be reconciled with the Constitution of the United States. I often find in the Executive Branch, in this administration, as well as others, a view that the Congress is not a partner but an adversary. The Constitution grants foreign policy making powers to both the President and the Congress and our foreign policy cannot succeed unless they work together. You blame the Congress as if the restrictions it approved were the cause of mistakes by the administration; yet Congressional restrictions in the case of Nicaragua—if the polls are accurate—reflected the majority view of the American people.

In any case, I think you and I would agree that there is insufficient consensus on policy in Nicaragua. Public opinion is deeply divided, and the task of leadership, it seems to me, is to build public support for policy. If that burden of leadership is not met, secret policies cannot succeed over the long term.

The fourth point with regard to process relates to means and ends. As I understand your testimony, you did what you did because those were your orders and because you believed it was for a good cause. I cannot agree that the ends justified these means, that the threat in Central America was so great that we had to do something, even if it meant disregarding constitutional processes, deceiving the Congress and the American people. The means employed were a profound threat to the democratic process.

A democratic government, as I understand it, is not a solution, but it is a way of seeking solutions. It is not a government devoted to a particular objective, but a form of government which specifies means and methods of achieving objectives. Methods and means are what this country is all about. If we subvert our democratic process to bring about a desired end, no matter how strongly we may believe in that end, we have weakened our country, and we have not strengthened it.

The few do not know what is better for Americans than Americans know themselves. If I understand our government correctly, no small group of people, no matter how important, no matter how well intentioned they may be, should be trusted to determine policy. As President Madison said, "Trust should be placed not in a few but in a number of hands."

Let me conclude. Your opening statement made the analogy to a baseball game. You said the playing field here was uneven and the Congress would declare itself the winner. I understand your sentiments, but may I suggest that we are not engaged in a game with winners and losers. That approach, if I may say so, is self-serving and ultimately self-defeating. We all lost.

The interests of the United States have been damaged by what happened. This country cannot be run effectively when major foreign policies are formulated by only a few, and are made and carried out in secret, and when public officials lie to other nations and to each other.

One purpose of these hearings is to change that. The self-cleansing process, the Tower Commission, and these joint hearings, and the report which will follow, are all part, we hope, of a process to reinvigorate and restore our system of government.

I don't have any doubt at all, Colonel North, that you are a patriot. There are many patriots in this country, fortunately, and many forms of patriotism. For you, perhaps patriotism rested in the conduct of deeds, some requiring great personal courage, to free hostages and fight communism. And those of us who pursue public service with less risk to our physical well-being admire such courage.

But there's another form of patriotism which is unique to democracy. It resides in those who have a deep respect for the rule of law and faith in America's democratic traditions. To uphold our Constitution requires not the exceptional efforts of the few but the confidence and the trust and the work of the many.

Democracy has its frustrations. You've experienced some of them, but we—you and I—know of no better system of government; and when that democratic process is subverted, we risk all that we cherish.

I thank you, sir, for your testimony, and I wish you and I wish your family well.

STATEMENT OF SENATOR MITCHELL, JULY 14, 1987

You have talked here often eloquently about the need for a democratic outcome in Nicaragua. There's no disagreement on that. There's disagreement as how best to achieve that objective. Many Americans agree with the President's policy; many do not. Many patriotic Americans, strongly anti-communist, believe there's a better way to contain the Sandinistas, to bring about a democratic outcome in Nicaragua and to bring peace to Central America.

Many patriotic Americans are concerned in the pursuit of democracy abroad we cannot compromise it in any way here at home. You and others have urged consistency in our policies, you have said repeatedly that if we are not consistent our allies and other nations will question our reliability. That is a real concern. But if it's bad to change policies, it's worse to have two different policies at the same time; one public policy and an opposite policy in private. It's difficult to conceive of a greater inconsistency than that. It's hard to imagine anything that would give our allies more cause to consider us unrealiable than that we say one thing in public and secretly do the opposite. And that's exactly what was done when arms were sold to Iran and arms were swapped for hostages.

Now, you have talked a lot about patriotism and the love of our country. Most nations derive from a single tribe, a single race; they practice a single religion. Common racial; ethnic religious heritages are the glue of nationhood for many. The United States is different; we have all races, all religions, we have a limited common heritage. The glue of nationhood for us is the American ideal of individual liberty and equal justice. The rule of law is critical in our society. It's the great equalizer, because in America everybody is equal before the law. We must never allow the end to justify the means where the law is concerned. However important and noble an objective, and surely democracy abroad is important and is noble. It cannot be achieved at the expense of the rule of law in our country. And your diversity is very broad.

You talked about your background and it was really very compelling, and is obviously one of the reasons why the American people are attracted to you.

Let me tell you a story from my background. Before I entered the Senate I had the great honor of serving as a federal judge. In that position I had great power. The one I most enjoyed exercising was the power to make people American citizens. From time to time I presided at what we call nationalization ceremonies; they're citizenship ceremonies. These are people who came from all over the world, risked their lives, sometimes left their families and their fortunes behind to come here. They had gone through the required procedures, and I in the final act administered to them the oath of allegiance to the United States, and I made them American citizens. To this moment, to this moment it was the most exciting thing I have ever done in my life.

Ceremonies were always moving for me because my mother was an immigrant, my father the orphan son of immigrants. Neither of them had any education and they worked at very menial tasks in our society. But because of the openness of America, because of equal justice under law in America, I sit here today a United States Senator. And after every one of these ceremonies I made it a point to speak to these new Americans, I asked them why they came, how they came, and the stories, each of them, was inspiring. I think you would be interested and moved by them given the views that you have expressed on this country.

And when I asked them why they came they said several things, mostly two. The first is they said we came because here in America everybody has a chance, opportunity. And they also said over and over again, particularly people from totalitarian societies, we came here because here in America you can criticize the government without looking over your shoulder. Freedom to disagree with the government.

Now, you have addressed several pleas to this committee very eloquently. None more eloquent than last Friday when in response to a question by Representative Cheney you asked that Congress not cut off aid to the contras for the love of God and for the love of country. I now address a plea to you. Of all the qualities which the American people find compelling about you, none is more impressive than your obvious deep devotion to this country. Please remember that others share that devotion and recognize that it is possible for an American to disagree with you on aid to the contras and still love God and still love this country just as much as you do.

Although he's regularly asked to do so, God does not take sides in American politics. And in America, disagreement with the policies of the Government is not evidence of lack of patriotism.

I want to repeat that: In America, disagreement with the policies of the Government is not evidence of lack of patriotism.

Indeed, it is the very fact that Americans can criticize their Government openly and without fear of reprisal that is the essence of our freedom, and that will keep us free.

I have one final plea. Debate this issue forcefully and vigorously as you have and as you surely will, but, please, do it in a way that respects the patriotism and the motives of those who disagree with you, as you would have them respect yours.

Thank you very much, Colonel.

RESERVATION OF THE REPUBLICAN LEADER'S TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the distinguished Republican leader be reserved for his use later in the day.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The **ACTING PRESIDENT** pro tempore. Under the previous order, there will now be a period for the transaction of morning business not to extend beyond 10 a.m. with Senators permitted to speak therein for not to exceed 5 minutes.

The Senator from Wisconsin.

LET'S STOP SHREDDING OF VITAL NATIONAL SECURITY DOCUMENTATION

Mr. PROXMIRE. Mr. President, in listening to the testimony of Colonel North, Admiral Poindexter, and others at the Iran-Contra hearings, I am reminded of a song written a few years ago by Lerner and Lane. The song title was: "How Can You Believe Me When I Say I Love You When You Know I've Been a Liar All My Life?" Now, in testimony before the Congress and the country, these witnesses admit they lied again and again and again. And why did they lie? To protect the President. So doesn't it seem logical to assume that when they are asked whether they had ever told the President about the diversion of profits from the Iran arms sale, and when they know that if they answered "yes, I have told the President," it would put their Commander in Chief in jeopardy, that once again they would not hestitate to lie, if necessary, to protect their Commander in Chief? And doesn't it seem overwhelmingly likely that some time in the long months of this transaction so dear to the President's heart that North or Poindexter or both would have reported the truth about this crucial transfer to the Contras to their chief? Polls indicate that the American people believe that the President is lying when he says he did not know about this diversion of Iran money to the Contras. The evidence proving or disproving this has been shredded.

Would North, Poindexter, and the others fear that the written, documented evidence would be likely to expose any lie they told under oath before the Joint Committee as criminal perjury and result in a jail sentence? Maybe. But they had shredded the evidence meticulously. So, they're taking a gamble. But isn't that the name of the game they are playing?

Mr. President, it is time the Congress stopped this practice of shredding or destroying critical documented national security information to protect the President. I have tried to do this before. But I failed. On November 21, 1986, I suggested to the office of the Senate Democratic leader, ROBERT BYRD that he call on William Webster then FBI Director to move at once to locate, collect, secure, catalog, and safeguard all files, documents, and other materials related to the Iran arms sale, the diversion of these funds to assist the Contra forces in Central America and the use of Swiss bank accounts for this purpose. Senator BYRD agreed. He wrote the FBI Director Webster making the request that the FBI assure the safeguarding of the documents. So what happened? The shredding went ahead anyway. The documents were destroyed. The Congress and the country will never know the truth.

Now Mr. President, this is not the first time this destruction of crucial documentation of illegal activity by a President or subordinate acting for him has taken place. The same thing happened in the Watergate case. There too I tried to persuade our law enforcement authorities to safeguard critical material. But what happened? In Watergate too the shredding went merrily on, destroying critical documents, essential to determine the truth.

Mr. President, it is time we put an end to this easy way for Presidents to avoid accountability for their unlawful acts. We can and should stop the shredding of all relevant documents. Why not? Well there are two objections we will certainly encounter to legislation that would automatically and surely preserve such crucial documentation. First we will be told that shredding must occur. Why? Because if the Government did not destroy the colossal amount of paper generated in this city we would shortly be buried under a mountain of paper 10 miles high, covering not only the District of Columbia but much of the country. The answer to that, Mr. President, is available in our new technology. We can transfer millions of pieces of information to a single computer chip. A small file box can hold a literally infinite amount of detailed documentation. So we can forget the alibi that we will run out of space if we safeguard critical material.

The second objection to a law safeguarding the material is that the information is too dangerous to preserve at all, too sensitive, too threatening to our national security and to the lives of brave and patriotic Americans who are engaged in intelligence activities. Of course this objection has merit. But is it beyond the capacity of this country to provide a system of truly safeguarding such information? It is one thing for a briefing officer to walk into a room and discuss classified information with a hundred or more persons present, including elected officials and Presidentially appointed officials. If that briefing officer discusses information that—if publicly released—could endanger the life of Americans or the national security, he is taking a risk. Under such circumstances no system to safeguard the national security or the lives of Americans can be perfectly effective. But it is far safer to place the information in a secure place under lock and key and guard, so the information can only be released under carefully monitored circumstances. Again, there is a risk. But the risk can be much more limited. And we can preserve the vital capacity of the nation to prevent unlawful conduct by our President or his agents.

For these reasons I urge the Inouye-Hamilton committee to consider as one of their recommendations a procedure which, henceforth, will fully protect the documentation affecting the foreign policy and national security activities of our Presidents. We have been burned twice now. Thirteen years ago it was the Watergate shredding. This time it is the Iran-Contra shredding. If we fail to act after these two tragic experiences in which evidence was deliberately destroyed, we can count on a future President in 5 or 10 or 15 years from now to once again give in to the temptation to use his great power to violate a law he doesn't like.

JULY GOLDEN FLEECE GOES TO DEPARTMENT OF COMMERCE

Mr. PROXMIRE. Mr. President, my Golden Fleece Award for the month for July goes to the Department of Commerce for a see no evil policy permitting local authorities to so mismanage a federally funded, revolving loan program that the local economy was hurt rather than helped and $1.3 million—over 90 percent—of the money was lost. In one case, $95,000 was used to hijack 45 jobs from another part of the country. In another, EDA stood by while a $700,000 loan was frittered away over 7 years, leaving the taxpayers with zilch.

The Economic Development Administration [EDA], stands for: no economy, no administration, and precious little development. Instead of providing as many new jobs as promised, EDA did a job on the American taxpayer.

The Department of Commerce's Economic Development Administration gives grants to local areas to establish revolving loan programs. Local authorities are expected to use the funds to make loans which will further economic development, increase incomes, and reduce unemployment. EDA officials are required to supervise the local programs to see that these goals are accomplished.

The turn-a-blind-eye approach to reviewing one community's loan program resulted in questionable, improper, and illegal loans being made over the past several years. According to the Department of Commerce's own auditors, the less than eagled-eye EDA officials missed the following:

> The loan portfolio was in poor condition at best, and certain loan practices had hindered rather than stimulated the local economy. For example, four loans were approved by the city council rather than the industrial board, with no loan applications having been submitted and with insufficient funds to cover them. Two years later, funding for two of the loans still had not been disbursed. The delay disrupted planning and created private financing problems for the intended borrowers.
>
> Loan records show, and City officials confirmed, that the initial loan . . ., which is now in default, was never monitored or serviced throughout the seven years the company was operating and in financial trouble. Although the grantee may not have been able to prevent the company from ultimately defaulting on the loan, adequate loan monitoring may have helped reduce the $700,000 loss to the RLF. Similarly, there has been no monitoring of the other loans.
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> To further exemplify the grantee's poor RLF management, our review revealed that the Board knowingly violated the job relocation prohibition. Title 13 of the Code of Federal Regulations (Section 309.3) and Section 2.,C of the General Terms and Conditions of the grant award prohibit grant funds to be used in any way that would relocate jobs from one labor area to another EDA is to terminate those awards where the grantee knew about a relocation but did not inform the agency. In December 1985, the Board provided . . . its first of three installments of about $95,000 which was used to relocate its manufacturing operation . . . The plant was closed and the relocation completed in mid-1986. Labor union officials said that 45 jobs were lost as a result.
>
> To illustrate obvious violations of the grant agreement, the Board permitted excessive loan approvals . . . Four loans were approved that exceed the $100,000 maximum loan amount stipulated in the grant agreement.

EDA officials have finally decided to terminate this particular local loan program. How much of the $1,400,000 have they recovered? About $92,000—or 6 percent—meaning that the taxpayers took a $1,300,000 bath.

The Economic Development Administration is a $215 million a year economic dinosaur. This fleece is one example—one of many—of why Congress should put a stop to this waste. Here is one program that should be killed before taxes are raised.

COMPOSITES TECHNOLOGY

Mr. ROTH. Mr. President, in the last decade our Nation has entered a new era of international competition. Today we face new challenges in overseas markets and in our once secure domestic market as well. Our ability to compete in this international setting depends increasingly on the development and commercial exploitation of new technologies.

While the United States retains its world leadership in many fields of basic research, we are not adequately applying this research to the development of high quality, price competitive consumer and industrial products. This failure is reflected in our increasing reliance on foreign made value-added products, in our chronic trade deficits and in the often repeated pattern of product markets here and abroad dominated by foreign goods developed from our breakthroughs in the lab.

One means of upgrading our manufacturing technology and better using it to create marketable commercial products is the creation of manufacturing technology centers. Such centers would be located near industry and academic research centers with a shared technology interest. In bringing together the talents of industry and academia, the centers would serve to move basic technologies through the high risk, middle stages of development to the point where private industry could design and market commercial products.

Several weeks ago I introduced legislation to create a prototype manufacturing technology center in the area of composites technology. Composites are light-weight, high-strength, and heat-resistant materials which are produced by combining two separate substances such as a fiber and a resin or fiber and a metal. The material used in bullet-proof vests and the light weight fuselage of the *Voyager* aircraft that recently circled the globe are common examples of composites.

The world market for advanced composites is expected to grow from the present $1.5 billion per year to nearly $12 billion by the year 2000. The State of Delaware alone can realistically expect the research and development portion of the industry to generate some $300 million in business annually by the year 2000. When manufacturing is taken into account, the total impact on the State's economy could amount to roughly $1.5 billion, with some 16,000 new jobs created throughout all sectors of the State's economy.

This level of growth on a national scale establishes the composites industry as a potential job creating machine for the entire economy. Our national preeminence in this field of research, however, is by no means assured. Unless we focus on the transfer of composites technology from the lab to the factory floor, we will concede this technological breakthrough to our foreign competition as we have in so many other areas.

If the demonstration effort I propose today produces the results I envision, manufacturing technology centers could be established in other areas such as computer chips and boards, casting, forging, advanced electronics and biochemistry, for example. The operation of these centers would be modeled on the proposed composites institute which would develop innovations originating from industry, universities, individual entrepreneurs, and from Government labs and contractors. Promising technologies developed at the institute will be spun off to the private sector where they will be advanced to the final product stage and marketed here at home and abroad. Materials with a national security application developed at the institute will help to provide the Defense Department with a steady stream of lower cost, high-quality materials and products.

Support for the institute will come from a partnership of Federal and State government, industry, and academic interests. The Federal Government contribution will be provided from existing Defense Department research and development funds. Thus, the legislation I am proposing today calls for the authorization of no new public funds for this research and development effort. Today we spend more than 70 percent of the Nation's Government sponsored research and development dollars on defense. By opening up the Defense R&D process through efforts like the proposed composites institute, we will receive a better return for each DOD dollar invested, without in any way jeopardizing national security interests.

In proposing the creation of an institute for composite development and application and in encouraging the creation of manufacturing technology centers in other fields, my objective is to meet today's problems with available resources. Centers established in locales where they can light the fire of interest and ambition represent a tool we must use in this new age of international competitiveness. The composites institute and related technology centers are the best way I know to achieve timely application of the Nation's hard-earned research and development.

Mr. President, I ask unanimous consent that the text of the proposed composites legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1445

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Composites Technology Development Act of 1987".

SEC. 2. PURPOSES

The purposes of this Act are to provide for—

(1) the identification of potential civilian applications of composites technology developed under research programs conducted by or for the Department of Defense;

(2) the efficient transfer of such technology to the private sector of the United States for commercial uses; and

(3) the development of potential military applications of such technology.

SEC. 3. DEFINITIONS

As used in this Act:

(1) The term "Board" means the Board of Directors of the Institute.

(2) The term "composite" means any material having two or more components which, by reason of the combination of such components in such material, has a property (such as strength-to-weight ratio) that is superior to a comparable property of a conventional material.

(3) The term "Institute" means the Institute for Composite Development and Application established pursuant to section 6(1).

(4) The term "Secretary" means the Secretary of Defense.

SEC. 4. PILOT PROGRAM

During fiscal years 1988 through 1992, the Secretary shall formulate and carry out a pilot program designed to achieve the purposes of this Act.

SEC. 5. GRANT AUTHORITY

(a) IN GENERAL.—In order to carry out the purposes of this Act, the Secretary may make monetary grants periodically to any consortium which—

(1) is comprised of the University of Delaware, commercial enterprises in the chemical industry, and the State of Delaware;

(2) enters into an agreement with the Secretary under this Act; and

(3) meets the private contributions requirement provided for in subsection (b).

(b) PRIVATE CONTRIBUTIONS REQUIREMENT.—To qualify for grants under this Act, a consortium described in subsection (a) shall be required—

(1) to obtain donated funds, facilities, equipment, supplies, or services from sources other than the Federal Government, including private sector sources, that are equal in value to at least 50 percent of the amount made available to the consortium by the Secretary under this section; and

(2) to use such funds, facilities, equipment, supplies, and services to conduct the activities of the Institute under the agreement under section 6.

(c) MAXIMUM AMOUNT OF GRANTS.—The total amount that may be made available by the Secretary to a consortium under this Act in any fiscal year may not exceed $10,000,000.

SEC. 6. REQUIRED PROVISIONS OF AGREEMENT

An agreement entered into under this Act between the Secretary and a consortium shall include the following provisions:

(1) The consortium shall establish a research center to be known as the "Institute for Composite Development and Application".

(2) The consortium shall acquire such facilities in the State of Delaware as may be necessary for the Institute to carry out effectively the purposes of this Act.

(3) The Institute shall carry out projects at such facilities for the purpose of (A) identifying potential civilian applications for composites technology developed under research programs conducted by or for the Department of Defense, and (B) developing military applications of such technology.

(4) The Secretary and the Executive Director of the Institute shall develop procedures for efficiently transferring the results of the Institute's projects to the private sector of the United States for commercial uses.

(5) The Secretary shall furnish to the Institute, through such heads of Department of Defense laboratories as the Under Secretary of Defense for Acquisition designates, composites technology developed under research programs conducted by or for the Department of Defense.

(6) The Secretary shall furnish to the Institute, without charge, scientific and engineering assistance that is at least the equivalent of furnishing the full-time services of two Department of Defense experts in composites technology for a 5-year period.

(7) The Institute shall have a Board of Directors consisting of seven members appointed as follows:

(A) One member appointed by the Governor of the State of Delaware.

(B) One member appointed by the President of the University of Delaware.

(C) Five members appointed by the Secretary, three of whom shall be appointed from among persons involved in the chemical industry.

(8) The Institute shall have an Executive Director who shall be appointed by the Board in consultation with such heads of Department of Defense laboratories as the Under Secretary of Defense for Acquisition and the President of the University of Delaware jointly designate.

(9) Funds made available to the consortium under this Act and funds, facilities, equipment, supplies, and services obtained by the consortium in accordance with section 5(b) may not be used for any purpose other than conducting the activities of the Institute under the agreement between the Secretary and the consortium, including the acquisition of facilities.

(10) Authorized representatives of the Secretary may, during normal business hours of the Institute, inspect the facilities, books, documents, papers, and records of the Institute and audit the accounts of the Institute.

(11) The University of Delaware shall be responsible for providing administrative services for the Institute.

SEC. 7. ADDITIONAL AGREEMENT PROVISIONS; PROTECTION OF FEDERAL GOVERNMENT INTERESTS AND CERTAIN OTHER INTERESTS

The Secretary may include in the agreement referred to in section 5(a) such additional terms and conditions as the Secretary considers appropriate—

(1) to carry out the purposes of this Act;

(2) to protect the national security interests of the United States; and

(3) to protect any proprietary interests that a Federal Government contractor has in composites technology.

SEC. 8. REPORT

Not later than January 1, 1993, the Board shall transmit to the Secretary a written report assessing whether and to what extent the purposes of this Act have been achieved under the pilot program. The Board shall also include in such report such recommendations for continuing and improving the program provided for in this Act as the Board considers appropriate.

SEC. 9. FUNDING

Funds available to the Defense Agencies of the Department of Defense for research, development, test, and evaluation for fiscal years 1988 through 1992 shall be available for the purpose of making grants under this Act. The amount that shall be used for such purpose in any fiscal year is as follows:

(1) $5,000,000 for fiscal year 1988.

(2) $10,000,000 for fiscal year 1989.

(3) $10,000,000 for fiscal year 1990.

(4) $10,000,000 for fiscal year 1991.

(5) $10,000,000 for fiscal year 1992.

THE POINDEXTER THEORY

Mr. HARKIN. Mr. President, I want to follow up on some of the fine, outstanding remarks of the distinguished majority leader this morning on the situation we confront in our Nation's Capital. I want to talk about a different aspect of it, though.

Mr. President, Rear Admiral Poindexter made a point at the outset of his testimony that deserves to be brought to the attention of all Members of the Senate. He said that he had always tried to make a clear distinction between the two hats he had simultaneously worn: As National Security Adviser, and as Navy admiral. He explained that he chose to appear in civilian clothes before the joint committee because he was commissioned by the President as a political appointee and handled Iran-Contra matters as a civilian. I do not wish to address, at this time. The shortcomings of Admiral Poindexter's tenure as National Security Adviser. I do wish to note his assertion that he functioned as a civilian on the NSC. I believe that the National Security Adviser should not only function as a civilian; he or she should be a civilian.

The idea that an active-duty military officer can split his psyche in half is an interesting theory. But it seems to me that two hats are best worn on two different heads. No other National Security Adviser to my knowledge has subscribed to the Poindexter theory of dual personality. Gen. Brent Scowcroft, one of the most respected former National Security Advisers, obviously held a different view when he resigned his military commission in service to President Ford. Scowcroft recently commented that he felt—

> The job of National Security Adviser could not be separated from the President in all his aspects as a political leader * * *

> and therefore it was incompatible to remain on active duty.

George C. Marshall demonstrated a similar understanding when he resigned his commission upon appointment as Secretary of State under President Truman.

Certainly, retirement can be a sacrifice for flag officers with such distinguished military careers. But would we want to have a National Security Adviser or Secretary of State who is unwilling to take off his military hat to serve the President? Would we want that individual to feel so strongly about promotion prospects or pension rights? After all, bad judgment at the start can be an indicator of bad judgment down the road.

In its review of the Iran-Contra affair, the Tower Board emphasized the need for the National Security Adviser to act as an "honest broker" in the interagency policy process—as a coordinator, not an advocate. The adviser should provide high quality advice "unalloyed by institutional responsibilities and biases." I repeat: the adviser should provide high-quality advice "unalloyed by institutional responsibilities and biases."

The post of National Security Adviser was created in 1953 to help the President cope with an increasingly complex world and the huge bureaucracy that has come to implement foreign and defense policies. It has become one of the most important positions in the executive branch, comparable in significance to that of Secretary of State or of Defense.

It is therefore important that such a critical position in the national security process be occupied by a civilian. That does not mean that retired officers cannot make use of their expertise and serve in this sensitive post with distinction. Nor does it mean that career officers should not serve on the National Security Council staff. But there is a long and valuable tradition of civilian control over the military in this country, which is jeopardized when top administration officials are active-duty officers.

I remind my colleagues that I have introduced a bill (S. 715) to require any active duty officers of the U.S. Armed Forces to give up his or her commission before becoming National Security Adviser.

I hope that my colleagues will listen to the advice of retired Gen. Brent Scowcroft, the former National Security Adviser, and his remarks on this matter. I hope my colleagues will give this measure their full and active support.

The ACTING PRESIDENT pro tempore. The Senator from Georgia.

Mr. NUNN. Mr. President, may I inquire of the Chair whether there is more time on morning business?

The ACTING PRESIDENT pro tempore. One minute remains.

Mr. BYRD. Mr. President, I ask unanimous consent that the time for morning business be extended for an additional 15 minutes under the restrictions as was earlier ordered.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Mr. NUNN's statement appears later in today's Record under "Statements on Introduced Bills and Joint Resolutions.)

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. Breaux). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered. The Chair recognizes the Senator from Arkansas.

TAXPAYERS' BILL OF RIGHTS ACT—S. 604

Mr. PRYOR. Mr. President, this morning it is a pleasure for me to announce as additional cosponsors of S. 604, better known as the taxpayers' bill of rights, the names of two new Senators who have joined in this effort. One of those Senators is Senator Tim Wirth, of the State of Colorado. The other of those Senators, Mr. President, is Senator D'Amato from the State of New York.

I understand that Senator D'Amato is on the floor now and he will make a statement shortly.

Mr. President, first we have had three hearings on S. 604. I think that those hearings have been most productive. I think that they have been very constructive. They have demonstrated beyond a reasonable doubt, Mr. President, that today grants us a rare opportunity to bring about some needed reform in the relationship between the Internal Revenue Service and the American taxpayer.

In these hearings, Mr. President, we have first heard from individuals who have been abused by the Internal Revenue Service. The second hearing, Mr. President, was a hearing in which we allowed Mr. Lawrence Gibbs, a man I respect very much, to come and testify before the Finance Committee oversight of IRS.

The third hearing, Mr. President, was most revealing because in that particular hearing it was documented without question that the collection agents of the Internal Revenue Service are under severe pressure, inhumane pressure, by their superiors, by their bosses, by their supervisors, to collect, collect, seize, and seize.

We think, yes, that the Internal Revenue Service should be one that is a program and a system based on respect. We do not feel it should be one based upon fear.

I received, Mr. President, about 4,000 to 5,000 letters from across the United States from individual American taxpayers. I have not received a letter, Mr. President, for example, from Lee Iacocca nor from the chairman of IBM nor from the chairman of Mobil Oil Co., because these individuals have scores of attorneys and tax specialists and CPA's to keep their taxes in order.

But who we are hearing from in this effort relative to the passage, ultimately, of S. 604, the taxpayers' bill of rights, are small business people across America, individual taxpayers who do not have the resources to fight the awesome power of the U.S. Government in a dispute.

S. 604 would build in some basic safeguards that would protect the taxpayer from abuse by the Internal Revenue Service.

Finally, Mr. President, before I yield the floor, let me read, if I might, one recent letter to demonstrate the absolute fear that the American citizen has of the Internal Revenue Service.

I received a letter recently, in fact I think it is interesting that Senator D'Amato would be on the floor at this moment because, if I am not mistaken, this letter came from the State of New York. It goes:

> Dear Senator Pryor, I am in strong support of the taxpayers' bill of rights. Please add my name to the list of supporters for this legislation.—Signed, Anonymous.

Most letters that we get are signed "anonymous" because they have an inherent and basic fear of retaliation by the Internal Revenue Service. We hope that S. 604 will move through the proper channels in this session of Congress and, hopefully, it can be enacted into law.

Mr. President, seeing the Senator from New York and a new cosponsor for this legislation make the list of 31 cosponsors in the Senate, I now yield the floor.

The PRESIDING OFFICER. Mr. Pryor yields the floor.

The Senator from New York is recognized.

Mr. D'AMATO. Mr. President, I am delighted to join as a cosponsor of the Omnibus Taxpayers' Bill of Rights Act, S. 604, introduced by my distinguished colleague from Arkansas, Senator Pryor. This legislation is long overdue and deserves swift passage by Congress. Once again Senator Pryor has sponsored thoughtful and constructive legislation worthy of the Senate's consideration.

One year ago the most sweeping tax overhaul bill in 30 years was enacted. Tax rates were lowered and 6 million of the working poor were removed from the tax rolls. However, the job of tax reform is not finished. Reform of IRS' policies and agents' attitudes toward the public must be addressed. This is especially true since Congress is relying on increased IRS enforcement to reduce the budget deficit. Passage of a taxpayers' bill of rights will finish the job of tax reform.

Year after year the American public has identified the IRS as the most disliked, mistrusted agency of the Federal Government. As usual the public has just cause for concern. The IRS acts as a government within a government and treats the taxpaying public as the enemy.

Mr. President a taxpayers' bill of rights will force the IRS to deal with the public in a fair and equitable manner. The legislation requires the Treasury Department to prepare a statement explaining both the taxpayers' and the IRS' rights during an audit. This will allow taxpayers to understand their rights and obligations before the audit process begins. Currently a taxpayer must ask the IRS about his or her rights and hope the revenue agent provides accurate information.

The legislation will require revenue agents to inform taxpayers of their right to remain silent and that an attorney may be present for any audit or interview. Furthermore, a revenue agent will be required to deal directly with the person holding power of attorney from the taxpayer.

Another important section of the taxpayers' bill of rights will put the burden of proof on the IRS to prove wrongdoing by a taxpayer in any administrative or judicial proceeding. Currently the taxpayer bears the burden of proof in any case brought by the IRS.

If it is shown that a tax deficiency exists the IRS may demand payment from the taxpayer. Under current procedures the IRS may put a lien on the taxpayers' property within 10 days if payment is not made. The taxpayers' bill of rights will force the IRS to wait 30 days from demand of payment before levying on the taxpayer's property. A process will also be created for the taxpayer to appeal any liens.

Mr. President, a taxpayers' bill of rights is long overdue. Increased IRS enforcement is being relied on to help reduce the budget deficit. I support improved enforcement, but S. 604 will insure that the IRS does not overstep its authority and trample taxpayers' legitimate rights.

Mr. President, I applaud Senator Pryor for introducing this thoughtful legislation and I urge my colleagues to join as cosponsors of S. 604.

Thank you, Mr. President.

Mr. PRYOR addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas.

Mr. PRYOR. Mr. President, I appreciate the cosponsorship of the Senator from New York, Senator D'Amato. I know he will join in this effort to make S. 604 the law of the land.

In the last several minutes we have picked up another cosponsor of S. 604. I ask unanimous consent that the name of Senator Terry Sanford of North Carolina be added as an original cosponsor of S. 604 along with Senator Wirth and Senator D'Amato.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. PRYOR. Mr. President, I yield the floor.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, Mr. Chiles, Mr. Domenici, and others are busily engaged in the effort to develop a bipartisan approach on the debt limit extension. They will need some additional time. I have just talked to Mr. Chiles.

In order to give them additional time, and in the long run I feel it will pay dividends, I shall put the Senate in recess until noon, by which time we ought to know what progress is being made.

Therefore, Mr. President, unless a Senator wishes to obtain recognition——

Mr. PRYOR. Mr. President, if the majority leader will yield.

Mr. BYRD. I am happy to yield.

Mr. PRYOR. Will the majority leader answer this question: During this 1½-hour recess you will be proposing, will it be possible for Senators to interrupt the recess in order to make statements, or would the leader rather we not do that?

Mr. BYRD. I do not know of any Senator on this side who wishes to make a statement. If we put the Senate in recess awaiting the call of the Chair, it will keep a Senator tied to the Chair or in close proximity thereof. Unless the distinguished Senator has something in mind——

Mr. PRYOR. I was thinking later in the morning I might have another short statement, but I think what I will do is withhold the statement until tomorrow.

Mr. BYRD. Very well. I would like to accommodate the distinguished Senator.

RECESS UNTIL 12 NOON

Mr. BYRD. Mr. President, I have indications from the Republican leader that there is no objection to recessing until the hour of noon today.

Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 12 noon today.

There being no objection, the Senate, at 10:32 a.m., recessed until 12 noon; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. Graham].

The PRESIDING OFFICER. The Chair recognizes the majority leader.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the period for morning business be extended for 15 minutes under the restrictions previously ordered for today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I have cleared with the able Republican leader action on the Arms Control and Disarmament Agency authorization bill and I have his authorization to proceed immediately without his being present on the floor.

ARMS CONTROL AND DISARMAMENT AMENDMENTS ACT

Mr. BYRD. Mr. President, under those conditions and understandings, therefore, I ask unanimous consent that the Senate now proceed to the consideration of Calendar Order No. 240, S. 1498, the Arms Control and Disarmament Agency authorization bill.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

> A bill (S. 1498) to amend the Arms Control and Disarmament Act to authorize appropriations for fiscal year 1988 for the Arms Control and Disarmament Agency, and for other purposes.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill.

Mr. PELL. Mr. President, I am pleased to support passage today of the Arms Control and Disarmament Amendments Act of 1987. The legislation, an original bill, was approved by the committee on May 15 and ordered favorably reported.

The administration requested an authorization for the Agency for fiscal year 1988 of $32.7 million, an increase of $3.7 million over the fiscal year 1987 spending level. The committee considered the request carefully and concluded that, while the Agency request had merit, some trimming appeared possible. Moreover, budgetary restrictions make it clear that spending in the foreign policy area must be at a freeze level at best, except when extraordinary and compelling need is demonstrated. Such is not the case with the ACDA authorization request. Accordingly, the committee decided to approve spending at the freeze levels, or $29 million.

To help the Agency deal with the budgetary squeeze, and for other reasons, the committee decided to reduce by one-half proposed spending for one costly program which would have consumed $5.2 million of the $5.9 million restricted program.

The ACDA authorization request anticipates spending of $5.2 million for the Reduced Enrichment in Research and Test Reactor [RERTR] Program, an increase of $400,000 above the $4.8 million provided for in the fiscal year 1987 External Research Program. The RERTR Program, which is aimed at developing a low enrichment fuel for research reactors worldwide, was transferred to ACDA from the Department of Energy last year. The Agency had requested authorizations and appropriations for RERTR in fiscal year 1984 and fiscal year 1985, but was turned down. ACDA did not renew that request in seeking the fiscal year 1986 authorization or appropriation or for the fiscal year 1987 authorization. However, last year the Agency did seek and gain appropriations committee support for the program to be transferred in fiscal year 1987. In the past, transfer of the RERTR Program to ACDA for DOE has elicited little support in Congress because of questions about the merits of ACDA management in lieu of that of DOE, and the possibility that funding for RERTR would divert funds from other worthwhile research projects.

The committee believes that the RERTR Program has distinct value in nonproliferation efforts and merits adequate support until its projected termination in fiscal year 1990. However, the Agency should not be required to shoulder the whole burden of the project, in which both ACDA and DOE have interests. Clearly, some of the costs assumed by ACDA in fiscal year 1987 for RERTR, such as operation of the Oak Ridge/research reactor in order to conduct a full-core demonstration of the utility of low-enriched rules, are well beyond the Agency's normal range of operations and should be the responsibility of DOE.

Accordingly, the committee decided to restrict the ACDA share of RERTR spending in fiscal year 1988 to not more than $2.6 million, which is exactly half of projected spending. The committee urges the Agency to review the RERTR Program to ascertain possible economies and to seek the cooperation of the DOE funding.

The committee also earmarked $7,063,000 to be spent only for expenses connected with the Geneva negotiations. The Agency had indicated that it expects to spend that amount, and the committee decided to continue the practice initiated 2 years ago of earmarking sums for negotiations in order to ensure that those efforts continue to receive the full financial support needed.

In addition, the committee earmarked $310,000 to support the William C. Foster Fellows Program at the Agency, under which scholars in the appropriate sciences are brought into the Agency from the academic world for 1 or 2 years to work in specific Agency activities. The program was started in 1984 at committee initiative, and six scholars came to the Agency and made laudable contributions. In the current fiscal year there are only two scholars. The committee earmarked a sum ACDA anticipates spending for the Scholars Program to ensure that the program is reinvigorated.

The committee bill also requires a new annual report by the U.S. Commissioner of the Standing Consultative Commission on activities of the Commission. The SCC was established under the terms of the 1972 Anti-Ballistic Missile Treaty, and is the proper forum for the discussion of most strategic arms treaty compliance questions and related issues between the United States and the Soviet Union.

Given the continuing importance of verification provisions in arms control agreements, the committee believes it would be of considerable value to receive direct, firsthand reports from the United States official charged with dealing directly with the Soviet Union in compliance matters.

The committee also clarified and expanded the coverage of an annual report now required from the President on the adherence of the United States to, and the compliance of other nations with, the provisions of arms control agreements.

The committee also decided, at the suggestion of Senator KERRY, to require the Director to provide an annual report to Congress including a comprehensive list of research, development, and other studies related to arms control and disarmament issues done for and by the Government. By statute, the Director is authorized and directed to ensure that such studies are conducted, to make arrangements for such studies, and to coordinate such efforts by other Government agencies. The committee is concerned at the steadily diminishing level of support for external research provided by the Agency. This compilation should help in ascertaining what research is being done and by whom, and what problems there are which require remedy and redirection. The report will also serve to put the Agency into a better position to carry out the required coordination of research, a duty which has been neglected.

Mr. President, 25 years ago, our Nation's leaders, mindful of the threat to world peace posed by growing and spreading nuclear arsenals, enacted legislation creating the Arms Control and Disarmament Agency. To this day, ACDA remains the only independent governmental agency in the world charged with the formulation, implementation, and support of arms control and disarmament practices.

The Agency's first 25 years have been marked by a great deal of frustration as various arms control initiatives have failed to gain support within our own Government or have encountered obstacles in bilateral negotiations. Nonetheless, the Agency has managed to attract and retain a solid core of professionals at the working level. These professionals are fully capable of leading the resolution of substantive issues once given the authority at the political level to do so.

The Agency has never attained the bureaucratic power some hoped for and others feared 25 years ago. With regard to possible excessive power, it is instructive to recall that a section of the Arms Control and Disarmament Act of 1961 on policy formulation incorporated the safeguard that no action was to be taken under the statute or any other law "that will obligate the United States to drain or to reduce or to limit" its armaments or Armed Forces without the approval of the Senate or the whole Congress. Another section established a General Advisory Committee to advise the Director. It was reassuring to some that the Advisory Committee could make sure that things did not yet get out of hand.

In the years since, it has become quite clear that any concerns that ACDA would exert excessive power were needless. We understand now that arms control can never be imposed. It must be achieved through consensus. In addition, successful arms control ventures must be, and must be seen to be, consistent with our national security interests.

Despite recurring problems of personnel shortages, budgetary differences, and bureaucratic neglect, the Agency has endured, if it has not always prospered. The Committee on Foreign Relations has taken steps over the years to strengthen the Agency. More needs to be done. The Agency has yet to realize the potential envisioned when its charter was drawn up 25 years ago. We now understand what the Agency cannot do, what it does well, and what it could do better with vigorous and skilled leadership and the necessary support.

The arms control achievements during the Agency's first 20 years were considerable, beginning with the Limited Test Ban Treaty by the Kennedy administration. Since then, there have been such major accords as its Outer Space and Non-Proliferation Treaties during the Johnson administration; the Seabed Arms Control Treaty, the Biological Weapons Convention, the Threshold Test Ban Treaty, and the SALT I Interim Agreement and Anti-Ballistic Missile Treaty during the Nixon administration; the Peaceful Nuclear Explosions Treaty and the Environmental Modification Treaty during the Ford administration; and the SALT II Treaty during the Carter administration. At present, we hope for a successful fruition of talks in Geneva on reducing or eliminating intermediate-range nuclear missiles, reduction of strategic offensive weapons, and control of space weapons.

Clearly, the task of arms control is far from done. There has been a serious beginning. At present, there are opportunities waiting to be seized. With perseverence, arms control can be of central importance in shaping a truly better and safer world for the United States and other nations.

The committee believes that its original bill will provide ACDA with the necessary congressional guidance and financial support. In addition, the bill will help ensure that corrective action is taken in key areas. Accordingly, I recommend without reservation that the Senate give its approval to the Senate bill.

Thank you, Mr. President.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BYRD. Mr. President, I now ask unanimous consent that the Committee on Foreign Relations be discharged from further consideration of H.R. 2689, the House-passed companion measure, and that the Senate turn to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 2689) to amend the Arms Control and Disarmament Act to authorize appropriations for the fiscal years 1988 and 1989 for the Arms Control and Disarmament Agency, and for other purposes.

The PRESIDING OFFICER. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. BYRD. Mr. President, I move that all after the enacting clause be stricken and that the text of S. 1498 be inserted in lieu thereof.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 2689) was passed.

The PRESIDING OFFICER. Without objection, the title of the bill will be appropriately amended.

The title was amended so as to read:

"A bill to amend the Arms Control and disarmament Act to authorize appropriations for fiscal year 1988 for the Arms Control and Disarmament Agency, and for other purposes."

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed. And I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I ask unanimous consent that S. 1498 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Republican leader for his cooperation and assistance in this matter. It shows that the Senate can act quickly when it wants to.

PUBLIC DEBT LIMIT EXTENSION

Mr. BENTSEN. Mr. President, since midnight of last Friday, July 17, the authority of the Treasury to borrow money has, in effect, been suspended. On that date, the statutory debt limit dropped to a level of $2.111 trillion. This is roughly $200 billion lower than the actual level of outstanding debt. As a result, no more debt can be issued until Congress passes and the President signs the measure now before us—House Joint Resolution 324, which will increase and extend the debt limit.

We are already in a somewhat disruptive situation. Savings bonds sales have been suspended. State and local governments are unable to purchase the special securities which Treasury ordinarily issues to assist those governments in their financing operations. This week's regular bond auction has been canceled, and, on Thursday, Treasury will have to pay off in cash about $14 billion worth of maturing bonds. Most of the holders of those bonds ordinarily do not cash them in, but rather roll them over into new issues. This week they will not have that option.

In the absence of new borrowing authority, Treasury will have to continue to meet obligations with the cash on hand. This of course will rapidly deplete the Treasury cash fund so that, by July 30 or 31, there would be no cash left. At this point, the U.S. Government would be unable to honor its obligations.

To prevent such an unprecedented default of the United States, Congress and the President must work together to enact debt-limit legislation. At the very latest, it now appears that such legislation must become law by July 29.

House Joint Resolution 324, as sent to us from the House of Representatives, would increase the debt limit to $2.5651 trillion. That is an increase of $454.1 billion over the present permanent limit of $2.111 trillion. It is an increase of $245.1 billion over the recently expired temporary debt limit. The increase proposed in House Joint Resolution 324 is in the form of a permanent debt limit. It is the amount which is expected under the budget resolution to be sufficient to meet the Government's financing needs until September 30, 1988.

We all know that amendments will be offered to this measure. At a minimum, an attempt will be made to use House Joint Resolution 324 as the vehicle for proposals to strengthen the Gramm-Rudman-Hollings legislation. I hope and expect that the Senate will be able to work out appropriate amendments to improve our ability to achieve necessary deficit reduction. But, in any event, we must act quickly to address the debt-ceiling issue. We have only from now to the beginning of next week to enact legislation which will prevent the U.S. Government from going into default.

I ask unanimous consent to insert in the RECORD a letter from Treasury Secretary James A. Baker III, which spells out in some detail the urgency of prompt action on the debt limit.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF THE TREASURY,
WASHINGTON, *July 8, 1987.*

Hon. LLOYD BENTSEN,
Chairman, Committee on Finance, U.S. Senate, Washington, DC.

DEAR LLOYD: I am writing to request that the Congress act by July 17 on legislation to extend the debt ceiling. The temporary debt limit enacted May 15 expires at midnight on July 17. The ceiling then reverts to the $2.1 trillion permanent ceiling—about $195 billion below the amount of debt that we estimate will be outstanding.

The Congress enacted only a two-month extension of the temporary debt limit in May to assure that there would be no other choice but to revisit the debt limit in mid-July. Enactment of a debt limit extension by July 17 is crucial to prevent disruptions in Treasury debt management that would begin immediately. As described below, in the absence of timely Congressional action the Government could well default on its obligations on July 30, and almost certainly will do so on July 31.

The following actions must be taken if the Congress delays enactment of a debt limit increase. On July 17, we would have to (1) notify the 44,000 savings bond issuing agents not to sell any more bonds and (2) notify the Federal Reserve Banks to stop issuing State and local government series (SLGS) Treasury securities. Interruption in the availability of SLGS will result in lost interest earnings and interest arbitrage rebate problems for municipal entities. Furthermore, Treasury will be unable to invest or roll over maturing investments of trust funds and other Government accounts. For many of these accounts, Congressional action will be required if any resultant losses of investment income are to be restored.

Disruptions in Treasury's normal market financing will begin on July 20 with the postponement of the weekly bill auction. On July 23, $13.7 billion maturing bills will have to be redeemed in full. We will notify the thousands of smaller investors who use the Treasury book-entry system that they may receive a check instead of their requested reinvestment of the redemption proceeds in new bills. This will be done so that they can plan alternative investments. Smaller investors in book-entry Treasury bills maturing July 30 would also have to be notified, with the additional warning that the checks may not be honored on July 30.

The Treasury may well not have enough cash to pay off $13.7 billion of maturing weekly bills on July 30. Even if the Treasury managed to get through July 30, our balance would be perilously small and we would almost certainly run out of cash the next day. On July 31, in addition to defaulting on $10.2 billion of maturing marketable Treasury notes, the United States would not be able to honor $2.1 billion of benefit payments to veterans and supplemental security income beneficiaries. Further, on August 3, $17.1 billion of social security benefit payments could not be honored, nor could $4.2 billion of benefit payments to railroad, military and civil service retirees.

I should stress that defaulting on already outstanding, validly incurred obligations has far graver effects than halting operations of the Government when spending authority is allowed to lapse, such as when there is a delay in action on appropriations. A failure to pay what is already due will cause certain and serious harm to our credit, financial markets and our citizens; it is not remotely similar to a lapse in authority to incur new obligations.

I urge you to seek the cooperation of your colleagues and to act quickly on a debt limit increase in order to prevent unnecessary problems and later default on the Government's obligations. We are requesting an increase in the current debt ceiling to: (a) $2,800 billion, an amount sufficient to get through may 1989, and avoid the burden of dealing with this time consuming issue in the midst of election year schedules; or (b) $2,578 billion, the amount estimated in the President's Budget to be necessary for FY 1988.

I cannot overemphasize the damage that would be done to the United States' credit standing in the world if the Government were to default on its obligations, nor the unprecedented and catastrophic repercussions that would ensue. Market chaos, financial institution failures, higher interest rates, flight from the dollar and loss of confidence in the certainty of all United States Government obligations would produce a global economic and financial calamity. Future generations of Americans would have to pay dearly for this grave breach of a 200-year old trust.

Sincerely,

James A. Baker III.

THE HUMAN COST OF A CORPORATE RAID

Mr. SANFORD. Mr. President, North Carolina, and the Nation, just lost 525 jobs, Mr. President, because our laws allow greedy individuals backed by loose financing to put serious, responsible corporations into play.

When Burlington Industries, the Nation's largest textiles firm and widely regarded as a leader in the industry, managed to fight off a hostile takeover bid last month, no one had any doubt that the cost would be high. We're just beginning to see how high.

Burlington's chief executive officer on Monday announced the layoffs—which are mostly of mid-level corporate employees—with obvious pain. "They are some of our best people * * * some of our most loyal people," he said. "It's 525 people who have been very dedicated to Burlington Industries and we feel that loss very greatly."

Just a few months ago, Burlington was a healthy, thriving, competitive business, with almsot 40,000 employees nationwide. It had invested heavily in modernization—a wise move for any firm in an industry as battered by imports as our textile and apparel industry has been.

But a financier had this healthy company in his sights and put thousands of stable, productive jobs into play—at virtually no risk to himself. Burlington fought tooth and nail for its independence, and won.

But in the process it ran up a new debt of more than $2 billion. The 525 layoffs announced Monday are just the beginning of paying off that bill. There are 525 people, with 525 families, who have had their lives uprooted, and who must now look for a new means of livelihood.

The damage such raids cause to corporate North America is exemplified by the fact that those 525 jobs include Burlington's research and development wing, which now must close. Time and again we have seen corporations saddled with debt because of takeovers, or because of successful defensive measures, cut their R&D budgets. This can hardly help American competitiveness.

The financier and his cronies, on the other hand, stand to gain millions of dollars in short swing profits from the trouble they have caused.

This did not have to happen, Mr. President, and we should not allow it to happen to other healthy, competitive firms. The Senate has before it several different proposals which would introduce discipline and responsibility into a corporate realm that sorely needs it. I have introduced one such measure, as have Senators Proxmire and Riegle.

I hope that, as we here in the Senate consider these measures, we well remember the 525 Burlington employees and their families. We owe it to them, and to the thousands of other employees whose jobs and families may be put at risk in the future, to rein in irresponsible corporate takeovers.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the distinguished chairman of the Budget Committee and ranking member of that committee and other Members on both sides are continuing to meet in the hope that some agreed-upon amendment can be found and we might be able to proceed then with such an amendment.

RECESS UNTIL 1 P.M.

Mr. BYRD. Mr. President, in the hopes that an additional recess will expedite the work of that group and in the final analysis hopefully save time, I ask unanimous consent that the Senate stand in recess until the hour of 1 o'clock p.m. today.

There being no objection, the Senate, at 1 p.m., recessed until 1 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. Byrd].

RECESS UNTIL 1:30 P.M.

The PRESIDING OFFICER. Without objection, the Senate will stand in recess until 1:30 p.m. today.

There being no objection, the Senate, at 1 p.m., recessed until 1:30 p.m., whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. Wirth].

The PRESIDING OFFICER. The majority leader.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a brief period for morning business, and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that that period for morning business extend no longer than 2 o'clock p.m. today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I yield the floor.

Mr. LEVIN addressed the Chair.

The **PRESIDING OFFICER**. The Chair recognizes the Senator from Michigan.

INDEPENDENT COUNSELS ARE CONSTITUTIONAL

Mr. LEVIN. Mr. President, on Monday, July 20, 1987, Chief Judge Aubrey E. Robinson, Jr., of the U.S. District Court for the District of Columbia issued a ruling finding that the independent counsel law is constitutional.

This is the first time a Federal court has ruled squarely on the constitutionality of the independent counsel statute. Chief Judge Robinson specifically held that an independent counsel may be appointed by a court, may be removed only for good cause rather than at the will of the President, and may operate with independent authority. His decision upholds the law's basic mechanisms which have been under constitutional attack. His findings and the reasons for them are expressed in a memorandum which has been made available to the public, and I ask unanimous consent to include that memorandum in the RECORD following my remarks, so that my colleagues can read it in full.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

(See exhibit 1.)

Mr. LEVIN. The ruling is a timely one, not only to clarify further the lawful authority of the ongoing independent counsel proceedings, but also to provide welcome guidance to the Congress as it proceeds to reauthorize the independent counsel statute before it expires in January 1988.

The ruling by Chief Judge Robinson states that the independent counsel mechanisms Congress has so carefully designed are within the framework of the Constitution. It goes beyond rulings made earlier this year, when several individuals unsuccessfully sought to halt the investigations of independent counsels on the ground that the underlying statute was allegedly unconstitutional. The courts refused to stop the investigations, in part because they determined that the law would probably be found to meet the requirements of the Constitution.

That is precisely what Judge Robinson now says. The independent counsel law is indeed constitutional, in his view.

The Subcommittee on Oversight of Government Management, which I chair, has been examining the operation of the independent counsel statute since its last authorization in 1982. We have concluded that the statutory scheme is soundly conceived and that it provides an effective and essential means for conducting criminal investigations of high Government officials.

In May, Senator COHEN and I introduced S. 1293, the Independent Counsel Reauthorization Act of 1987. That bill reauthorizes the independent counsel statute, retaining its basic statutory scheme while also clarifying and strengthening some of its provisions. On July 1, 1987, the Governmental Affairs Committee ordered the bill reported to the full Senate by a vote of 13 to 1. We hope that in the next few weeks the independent counsel bill will be considered on the Senate floor and passed with an overwhelming show of bipartisan support.

Mr. President, I yield the floor.

EXHIBIT 1—MEMORANDUM

This sealed matter presents for determination by the Court the question of whether the Independent Counsel provisions of the Ethics in Government Act of 1978, 28 U.S.C. § 591 et seq., comport with the Constitution of the United States. After consideration of a number of submissions concerning this issue,[1] the Court holds that the statute is constitutional.

INTRODUCTION

The historical background of and need for the Independent Counsel provisions of the Act have been fully described in other decisions and shall not be repeated here. See, e.g., In re Olson, No. 86-1, D.C. Cir. Indep. Couns. Div., April 2, 1987, at 9-14. Congress's intent in enacting the statute was clearly to create an office within the Executive Branch to investigate and prosecute matters in which the Department of Justice had a real or apparent conflict of interest. In short, [t]he statute is designed to ensure that violations of federal criminal law by high ranking government officials (particularly those who are of the same party as the administration in power) will be fairly and impartially investigated and prosecuted. Id. at 9.

While it is beyond question that Congress's motive for enacting the statute was laudatory, it is also axiomatic that this motive cannot validate an otherwise unconstitutional act of the legislature. For this reason, the Court has examined in turn each provision of the Ethics in Government Act which has been alleged to be unconstitutional.

THE POWERS OF THE SPECIAL DIVISION OF THE COURT OF APPEALS

The first contention relates to the provisions of 28 U.S.C. § 49 giving authority for the appointment of Independent Counsel to a division of the United States Court of Appeals for the District of Columbia Circuit. It is strenuously contended that this grants powers to that division which exceed the limitations imposed upon federal courts by Article III of the Constitution of the United States. The specific duties alleged to be unconstitutional are set forth at 28 U.S.C. § 593(b): Upon consideration of an application (from the Attorney General) under section 592(c) of this title, the division of the court shall appoint an appropriate independent counsel and shall define that independent counsel's prosecutorial jurisdiction.

In considering whether the Special Division has been vested with unconstitutional power, it must be recognized that the source of the court's authority is not only Article III but also the Appointments Clause of Article II. Article II, Section 2, Clause 2 of the Constitution expressly grants to Congress the authority to "vest the Appointment of such inferior Officers as they think proper, in the President alone, in the Courts of law, or in the heads of Departments."

The issue of whether the Independent Counsel is a superior or inferior officer for purposes of the Appointments Clause has been discussed and determined by other Courts with which this Court agrees that "the Independent Counsel is clearly an 'inferior officer'—he is appointed for a single task to serve for a temporary limited period." In re Olson at 17. See also *Banzhaf* v. *Smith*, 588 F. Supp. 1498 (D.D.C.), vacated on other grounds, 737 F.2d 1167 (D.C. Cir. 1984). Cf. *United States* v. *Eaton*, 169 U.S. 331, 343 (1898) ("Because the subordinate officer is charged with the performance of the duty of the superior for a limited time and under special and temporary conditions, he is not thereby transformed into the superior and permanent official.")[2] In addition to the limitations placed on independent counsels, it is also relevant that they are not among the specifically mentioned "primary class (of officers who) require a nomination by the President and confirmation by the Senate." *United States* v. *Germaine*, 99 U.S. 508, 509-510 (1878). In fact, Congress indicated its own assessment that independent counsels are inferior officers when it authorized their appointment by a court of law.[3] Finally, the Attorney General, by applying for the appointment by the Court of an independent counsel, also deemed the officer to be inferior as that word is used in Article II.

Although it is clear to the Court that independent counsels are inferior officers, this does not end the analysis of the proper role of the Special Division under the Appointments Clause. For as the Court wrote in Banzhaf, 588 F. Supp. at 1504: This constitutional provision obviously does not authorize the congress to charge the courts indiscriminately and without reason with the responsibility for appointing officers in the Executive departments generally.

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[1] Among the material considered by the Court are all of the briefs filed in *North* v. *Walsh*, C.A. No. 87-0457 (D.D.C. 1987) and the appellate briefs filed in *In re Sealed Case*, No. 87-5168 (D.C. Cir. 1987).

[2] The limitations on the Independent Counsel are numerous. Only a small set of officials are subject to the Independent Counsel provisions. (28 U.S.C. § 591(b) includes only the President, Vice President, high officials in the White House, Department of Justice and CIA, and ranking officers of the President's National Campaign Committee). The Independent counsel has no authority outside the jurisdiction established by the Court. Pursuant to 28 U.S.C. § 596(a)(1), the independent counsel is subject to removal by the Attorney General for "good cause." The Office of the Independent Counsel terminates automatically when he or she notifies the Attorney General that the investigation is completed, 28 U.S.C. § 596(b)(1), or earlier if the Division on its own motion or that of the Attorney General determines that the investigation is substantially completed, 28 U.S.C. § 596(b)(2).

[3] It is also noteworthy that the Watergate Special Prosecutor was not confirmed by the Senate, although his authority was virtually identical to the authority vested in independent counsels pursuant to the Ethics in Government Act.

Once it is determined that the Independent Counsel is an inferior officer, it is clear that the attorneys on his staff are not officers at all but employees of the United States. (Again, the attorneys employed by the Watergate Special Prosecutor were not appointed under the Appointments Clause.) *See* Buckley v. Valeo, 424 U.S. 1, 126 n. 162 (1976) (*citing* Auffmordt v. Hedden, 137 U.S. 310, 327 (1890); United States v. Germaine, 99 U.S. 508 (1879)) ("Employees are lesser functionaries subordinate to officers of the United States")). Therefore, the fact that Associate Independent Counsel were appointed by the Independent Counsel and not the Special Court does not invalidate their appointments or the Act.

The Court in Banzhaf referred to the Supreme Court's decision in ExParte Siebold, 100 U.S. 371 (1880), for guidance in the determination of whether Congress appropriately vested the appointment power in the case of an independent cousel in a court of law. In Siebold, the Court made the following statements in the course of its decision involving a challenge to a statute vesting in the federal court the appointment of supervisors of congressional elections: But as the Constitution stands, the selection of the appointing power, as between the functionaries named, is a matter resting in the discretion of Congress.

* * * * *

The observation in the case of Hennen, to which reference is made, (13 Pet. 258), that the appointing power in the clause referred to 'was no doubt intended to be exercised by the department of the government to which the official to be appointed most appropriately belonged,' was not intended to define the constitutional power of congress in this regard, . . .

* * * * *

[T]he duty to appoint inferior officers, when required thereto by law, is a constitutional duty of the courts; and in the present case there is no such incongruity in the duty required as to excuse the courts from its performance, or to render their acts void. Id. at 98.

Given the previously mentioned intent of the Congress in passing the Ethics in Government Act, it was clearly not incongruous for it to utilize the authority expressly stated in the Appointments Clause to allow an impartial court of law to select, at the application of the Attorney General,[4] an individual to investigate and potentially prosecute criminal activity within the Executive Branch. In fact, "[n]either the President, nor any head of department, could have been equally competent to the task." Siebold, 100 U.S. 398. Although the Special Division appoints independent counsels and defines their jurisdiction it plays no role in their investigations and performs no acts with regard to any prosecutions that may result from these investigations. For this reason, the Act clearly does not "place incompatible duties upon (any) Court. See *Nader* v. *Bork*, 366 F. Supp. 105, 109 (D.D.C. 1973). Under the circumstances in which independent counsels operate, their appointment by the Judicial Branch is warranted and constitutional in the same manner as the courts' appointment of interim United States Attorneys (See, *United States* v. *Solomon*, 216 F. Supp. 835 (S.D.N.Y. 1963)) and attorneys to initiate criminal contempt proceedings See, *Young* v. *United States ex rel. Vuitton et Fils*, No. 85-1329 (U.S. May 26, 1987); *Musidor, B.V.* v. *Great American Screen Design, Ltd.*, 658 F.2d 60 (2d Cir. 1981); Matter of Green, 568 F.2d 1247 (8th Cir. 1978)). See also the inter-branch appointments upheld in *Rice* v. *Ames*, 180 U.S. 371 (1901); *Go-Bart Importing Co.* v. *United States*, 282 U.S. 344 (1931); *Hobson* v. *Hansen*, 265 F. Supp. 902 (D.D.C. 1967). The clear and precise words of the Appointments Clause validate all of these appointments.[5]

SEPARATION OF POWERS

A major theme running through the argument that the Independent Counsel provisions of the Ethics in Government Act are unconstitutional is the contention that the whole scheme represented by the Act violates separation of powers principles. This argument is advanced particularly with regard to the removal provisions of the Act, and the absence of ongoing Presidential supervision over the exercise of the Independent Counsel's discretion.

These issues are appropriately examined in a manner accepted by the Supreme Court. As the Court wrote in *Banzhaf* v. *Smith*, 588 F. Supp. at 1507, The Supreme Court has admonished the lower courts that, in matters involving the separation of powers, a pragmatic, flexible approach, must control (citing *Nixon* v. *Administrator of General services*, 433 U.S. 425 at 442 (1973)) and that separation of powers questions must be resolved "according to common sense and the inherent necessities of the governmental coordination" (quoting *Buckley* v. *Valeo*, 424 U.S. 1, 122 (1976) (quoting *Hampton & Co.* v. *United States*, 276 U.S. 394, 406 (1928))).

REMOVAL PROVISION

Pursuant to 28 U.S.C. § 596(a)(1): A(n) independent counsel appointed under this chapter may be removed from office, other than by impeachment and conviction, only by the personal action of the Attorney General and only for good cause, physical disability, mental incapacity, or any other condition that substantially impairs the performance of such independent counsel's duties.

Although this provision of the act clearly places the authority to remove an independent counsel exclusively in the Attorney General, it is argued that the limitations placed on the Executive Branch's power of removal contravene the principle of separation of powers. This argument is advanced as well in relation to the authority of the Special Division under § 596(a)(3) which provides: A(n) independent counsel so removed may obtain judicial review of the removal in a civil action commenced before the division of the court and, if such removal was based on error of law or fact, may obtain reinstatement or other appropriate relief.

Supreme Court precedent suggests that in situations such as this one, where an inferior officer requires a certain degree of independence from the President for the proper execution of his assigned functions, the Congress may insulate him or her from the threat of termination at will by the Executive. First, the Supreme Court accepted even more stringent limitations than found here on the President's removal power in the case of the Watergate Special Prosecutor. See, *United States* v. *Nixon*, 418 U.S. 683 (1973). Additionally, both *Humphrey's Executor* v. *United States*, 295 U.S. 602 (1935) and *Wiener* v. *United States*, 357 U.S. 349 (1958) also upheld congressional authority to impose limitations on the removal power of the President. The Court, in deciding the latter two cases, looked to the nature of the function vested in the official by the Legislature to see whether independence from the Executive was a necessary characteristic of his position. The same analysis when applied here demands the conclusion that independent counsels must not be subject to removal at will by the President. For the reasons previously stated, it is beyond preadventure that "the very purpose of the office requires a degree of independence from Presidential control." *North* v. *Walsh*, C.A Nos. 87-457 and 87-626, slip op. at 15, n. 9 (D.D.C. Mar. 12, 1987). The removal provision, therefore, does not violate the principle of separation of powers.[6]

The Congress' limits on the Attorney General's authority to remove an independent counsel are also valid for another reason. In *United States* v. *Perkins*, 116 U.S. 485 (1886), the Court upheld the power of Congress to place limitations on the Secretary of the Navy's authority to dismiss naval cadets who were inferior officers appointed by the Secretary. The Court wrote: We have no doubt that when Congress, by law, vests the appointment of inferior officers in the heads of Departments it may limit and restict the power of removal as it deems best for the public interest. The constitutional authority in Congress to thus vest the appointment implies authority to limit, restrict, and regulate the removal by such laws as Congress may enact in relation to officers so appointed. Id. at 485. Here, because Congress validly vested the appointment of independent counsels in the court of law under Article II, it also validly limited the circumstances under which independent counsels may be removed.

ABSENCE OF PRESIDENTIAL SUPERVISION

As has previously been noted, independent counsels operate within a limited and narrowly defined class of cases. With regard to these cases, however, they are given a large degree of independence from the Attorney General and the President.

Supreme Court precedent as well as "common sense and the inherent necessities of the governmental coordination" suggest stongly that the authority of independent counsels does not violate the separation of powers principle. In *United States* v. *Nixon*, 418 U.S. 683 (1973), the Court recognized and accepted that "the Attorney General has delegated the authority to represent the United States in these particular matters to a Special Prosecutor with unique authority and tenure." Id. at 694. The Court knew that this authority included "plenary authority to control the course of investigation and litigation related to" the Watergate matter. Id. at 694, n. 8 (citing 38 Fed. Reg. 30739, as amended by 38 Fed. Reg. 32805).

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[4] That the Attorney General must first apply for the appointment of an Independent Counsel before the Court may act is a vital limitation on the Court's power under § 593(b). If the Attorney General decides to apply for the appointment of an independent counsel, his decision is not reviewable by any court. 28 U.S.C. § 592(f). Similarly, if the Attorney General determines that there are no reasonable grounds to believe that further investigation or prosecution is warranted, that decision is also unreviewable. *See* Banzhaf v. Smith, 737 F.2d 1167, 1169-70 (D.C. Cir. 1984); *accord* Dellums v. Smith, 797 F.2d 817, 823 (9th Cir. 1986). In fact, the Court may not even extend the jurisdiction of the Independent Counsel if the Attorney General has denied such request. In re Olson, at 22-25.

[5] That the Special Division also defines the jurisdiction of independent counsels does not invalidate the Ethics in Government Act. As stated above, the Court may constitutionally appoint an independent counsel under Article II because this appointment meets the incongruity test set forth by the Supreme Court. The power of the Court to define the independent counsels' jurisdiction is a necessary and proper incident of this appointment power. Independent counsels must be appointed to specific and limited tasks. To avoid the same incongruity that caused Congress to vest the appointment power in the Special Court, the Court was also given the authority to define the independent counsels' jurisdiction. The Constitution does not bar this action of the Legislature.

[6] It is significant that, although the basis of the foregoing argument is the violation of the principle of separation of powers, the Congress, in enacting the Ethics in Government Act, did not "aggrandize itself at the expense of the other two branches." Buckley v. Valeo, 424 U.S. at 129 (1976). This is an important, distinction between this matter and cases such as INS v. Chadha, 462 U.S. 919 (1982) and Bowsher v. Synar, 106 S. Ct. 3181 (1986). Similarly, the Judicial Branch has no opportunity to aggrandize itself under the Act.

Although the Watergate Special Prosecutor was appointed by a regulation promulgated by the Attorney General, the Court's acceptance of the constitutionality of an independent prosecutor is equally applicable here. In both cases, inferior officers were freed from daily supervision by the Executive so that they could best perform their duties and thereby satisfy congressional intent. See also, *Kendall* v. *United States*, 37 U.S. (12 Pet.) 524 (1837); Humphrey's Executor, 295 U.S. 349 (1935); *Wiener* v. *United States*, 357 U.S. 349 (1957). Here, as in the above-cited cases, the Independent Counsel's power comports with the Constitution.

CONCLUSION

The Independent Counsel provisions of the Ethics in Government Act represent Congress's measured response to the recurrent question of how to enforce the laws of the United States when they are violated by high government officials. Congress chose to use its authority, well settled under the Constitution and Supreme Court precedent, to create a mechanism to guarantee the integrity and independence of criminal investigations in matters where the Department of Justice has real or apparent conflicts of interest. By carefully assigning the functions necessary for the accomplishment of its purpose, it has constitutionally addressed an important national need. For the United States, the Act represents a landmark effort to instill public confidence in the fair and ethical behavior of public officials.

Mr. BYRD. Mr. President, again I feel that the principals who are working on the debt limit extension may need some further time. I hope to learn something more by 2 o'clock today.

RECESS UNTIL 2 P.M. TODAY

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until 2 p.m. today.

There being no objection, the Senate, at 1:34 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. BYRD].

RECESS UNTIL 2:15 P.M.

The PRESIDING OFFICER. Is there objection to recessing the Senate until the hour of 2:15 p.m.?

There being no objection, the Senate, at 2 p.m., recessed until 2:15 p.m.; whereupon, the Senate reassembled when called to order by the Presiding officer [Mr. REID].

RECESS UNTIL 4 P.M.

Mr. BYRD. Mr. President, I have talked with Senator CHILES, Senator DOMENICI, Senator GRAMM, and Senator RUDMAN. They indicate they need some more time. In view of the fact that I believe they are making some progress and I think they can make more progress if they are not interrupted by having to be on the floor to discuss the debt limit extension, it seems to me that in the interest of saving time in the long run we should put the Senate in recess again.

In accordance with their request, I ask unanimous consent that the Senate stand in recess until the hour of 4 o'clock today.

There being no objection, the Senate, at 2:16 p.m., recessed until 4 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. CONRAD].

The PRESIDING OFFICER. The Republican leader.

Mr. DOLE. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended under the same restrictions as ordered earlier today, and that morning business conclude at 5 o'clock p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

THE AGRICULTURE EXPORT ENHANCEMENT PROGRAM

Mr. MELCHER. Mr. President, the trade bill has passed. The President is poised to act, as he will, when the conference is completed and the report is on his desk. I hope his actions will be favorable at that time. But one thing is clear to all of us here in the Senate, and I hope it is clear to all of the country: Action on controlling the trade deficit is much better than just plain talking about it. Action to control and improve the trade imbalance that we have is a great deal better than just rhetoric.

One major component of the trade picture is the agricultural segment. In good times and in bad times, ever since the Great Depression, the agricultural segment has shown a positive and favorable balance of trade. We have, as a Nation, helped Europe recover after World War II. We encouraged the growth of the European Economic Community in the 1960's.

We have developed food assistance and concessional sales programs which have developed new markets abroad. We have provided technology to emerging nations to help their subsistence agriculture in their own country. And we have fathered the green revolution to the point that we now find former recipients of food aid, such as India and Bangladesh, active now in the world export markets.

Brazil and Argentina now vie forcefully against American soybean producers with types of soybeans that were developed by U.S. Government-funded research.

We have shared our knowhow and research in the development of world agriculture, and it is our policy to share fully in world markets for our own agricultural products. In many cases, U.S. market shares are being lost through unfair trade practices of our competitors. We have to meet and beat our competitors where they are engaging in predatory practices.

Congress forced this administration to take the dramatic action on exports in the year prior to the passage of the 1985 Food and Security Act farm bill. Algeria and Egypt were the first targets for the Export Enhancement Program of the U.S. Department of Agriculture. Traditionally, they have been U.S. customers, but they have been enticed away by heavily subsidized sales coming from the European Economic Community.

Through targeted action, we won those markets back. Under the congressional mandates in the 1985 Farm Food and Security Act, Congress broadened USDA actions in the Export Enhancement Program. The Export Enhancement Program is working. In fact, it is essential to preserving the U.S. share of world grain and food product markets in the face of heavy foreign subsidies.

At this point, I ask unanimous consent to have printed in the RECORD a number of Congressional Budget Office compilations from the publication "The GATT Negotiations and U.S. Trade Policy" from June 1987.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE GATT NEGOTIATIONS AND U.S. TRADE POLICY

June 1987.

THE DECLINE IN U.S. EXPORTS

World market shares of key agricultural producers have shifted in the 1980s, especially for the United States. The decline in the U.S. share of world markets has been especially large for wheat and coarse grain exports. The U.S. share of the world market fell from about 45 percent in 1981 to about 30 percent in 1986, while its share in coarse grains—such as corn, barley, and sorghum—dropped from about 65 percent to about 44 percent (see Table 6). Australia and Argentina were the largest gainers of market share in wheat exports over this period, as were China and Western Europe in coarse grains.

The value of U.S. agricultural exports has fallen significantly in nominal terms over the last five years—from a record level of $43.3 billion in 1981 to just $26.1 billion in

1986 (see Table 7). This decline can be attributed almost equally to reductions in agricultural prices and to reduction in export volume. Major reductions in agricultural export values occurred for almost every important export product except animal products. Grains, which made up almost 45 percent of the total value of U.S. agricultural exports in 1981, contributed only about 26.5 percent by 1986. The United States has suffered not only from the stagnant world market for agricultural products, but it has also lost some of its share in world markets for almost every major commodity group. The United States, nevertheless, is still the world's largest exporter of agricultural products—predominantly exporting food grains such as wheat and rice, coarse grains, oilseeds and products, cotton, tobacco, and animal products.

The largest single purchaser of U.S. agricultural exports is Japan, although sales to the combined European Community exceed those to Japan (see Table 8). Other key markets for U.S. agricultural products include: East Asian countries such as South Korea and Taiwan; the Soviet Union and Eastern European countries; Latin America, especially Mexico; and Canada. Developed countries buy about half of all U.S. agricultural exports, while sales to developing countries contribute about another 40 percent. Sales to centrally planned economies have decreased in relative importance during the 1980s.

THE RISE IN U.S. IMPORTS

While U.S. exports have fallen, U.S. imports have increased steadily during the 1980s (see Table 7). The chief agricultural products imported by the United States are: coffee and cocoa; animal products, including dairy products; fruits and vegetables; and tobacco. Developing countries, dominated by Latin America, supply almost two-thirds of imports into the United States. Among developed countries, the European Community is the largest supplier.

The fall in exports and the rise in imports have brought a substantial decline in the U.S. agricultural trade surplus, from $26.6 billion in the peak year of 1981 to only $5.0 billion in 1986 (see Table 7). For several months in 1986, the United States actually imported more agricultural products than it exported.

TABLE 6.—WORLD MARKET SHARES FOR WHEAT AND COARSE GRAINS IN TRADE YEAR 1985/1986

[In millions of metric tons, shares in percent]

Country	Production	Trade	Trade as percent of production [1]	Share of world trade	
				1980/1981	1985/1986
Wheat:					
World	499.0	84.9	17.0		
Major exporters:					
United States	66.0	25.0	37.9	44.5	29.4
Canada	24.3	16.8	69.1	18.1	19.8
Australia	16.1	16.0	99.4	11.3	18.8
EC–12	71.7	15.6	21.8	16.7	18.4
Argentina	8.5	6.1	71.8	4.1	7.2
Major importers:					
U.S.S.R.	78.1	15.7	17.1	17.0	18.5
China	85.8	6.6	7.1	14.7	7.8
Japan	.9	5.5	85.9	6.2	6.5
Coarse Grains:					
World	844.6	83.4	9.9		
Major exporters:					
United States	274.9	36.4	13.2	64.2	43.6
Argentina	17.1	9.7	56.7	13.2	11.6
EC–12	88.3	8.0	9.1	5.5	9.6
China	82.3	7.1	8.6	0.0	8.5
Canada	25.0	5.8	23.2	5.1	7.0
Major importers:					
Japan	0.4	21.5	98.2	17.2	25.8
U.S.S.R.	100.0	13.5	12.1	21.8	16.2
EC–12	88.3	5.7	6.4	18.3	6.8

[1] Trade as a percent of production for exporters is the ratio of exports to production, and for importers the ratio of imports to total domestic utilization. Production is not adjusted for stock carryover. For example, allowing for stock carryover, Australia generally exports between 80 percent and 90 percent of its wheat production.

Sources: U.S. Department of Agriculture and Congressional Budget Office.

Note.—A trade year for wheat covers activity between July and June. For example, trade year 1985/1986 covers the period from July 1985 through June 1986. A trade year for coarse grains is from October to September. Trade years are adjusted for different production seasons in the Northern and Southern Hemispheres.

TABLE 7.—U.S. EXPORTS AND IMPORTS OF AGRICULTURAL COMMODITIES, 1971–86

[In billions of dollars]

Year	Exports [1]							Crops, fruits, and vegetables				
	Total [2]	Coarse grains	Food grains	Oil seeds and products	Cotton	Tobacco	Animals and products	Total [3]	Imports [2]	Animals and products	Coffee and cocoa	Agricultural trade balance
1971	7.7	1.0	1.3	2.2	0.6	0.5	1.0	5.8	0.6	1.5	1.4	1.9
1972	9.4	1.5	1.8	2.4	.5	.7	1.1	6.5	.7	1.8	1.5	2.9
1973	17.7	3.5	4.7	4.3	.9	.7	1.6	8.4	.8	2.6	2.0	9.3
1974	21.9	4.6	5.4	5.7	1.3	.8	1.8	10.2	.8	2.2	2.1	11.7
1975	21.9	5.2	6.2	4.5	1.0	.9	1.7	9.3	.8	1.8	2.2	12.6
1976	23.0	6.0	4.7	5.1	1.0	.9	2.4	11.0	.9	2.3	3.5	12.0
1977	23.6	4.9	3.6	6.6	1.5	1.1	2.7	13.4	1.2	2.3	5.2	10.2
1978	29.4	5.9	5.5	8.2	1.7	1.4	3.0	14.8	1.5	3.1	5.4	14.6
1979	34.7	7.7	6.3	8.9	2.2	1.2	3.8	16.7	1.7	3.9	5.4	18.0
1980	41.2	9.8	7.9	9.4	2.9	1.3	3.8	17.4	1.6	3.8	5.1	23.9
1981	43.3	9.4	9.6	9.6	2.3	1.5	4.2	16.8	2.0	3.5	3.8	26.6
1982	36.6	6.4	7.9	9.1	2.0	1.5	3.9	15.3	2.3	3.7	3.6	21.3
1983	36.1	7.3	7.4	8.7	1.8	1.5	3.8	16.6	2.3	3.8	3.6	19.5
1984	37.8	8.1	7.5	8.4	2.4	1.5	4.2	19.3	3.1	4.1	4.4	18.5
1985	29.0	6.0	4.5	5.8	1.6	1.5	4.1	20.0	3.5	4.2	4.7	9.1
1986	26.1	3.1	3.8	6.5	.7	1.2	4.5	21.1	3.5	4.5	5.6	5.0

[1] Exports are valued at the U.S. port of exportation.

[2] Imports are valued at the foreign port, thus excluding international shipping costs and U.S. duties.

[3] Totals include items not shown separately.

Sources: U.S. Department of Agriculture and Congressional Budget Office.

Note.—In most cases, the United States predominantly exports or imports a certain agricultural product, meaning that gross export and import values in this table also approximately represent net trade flows. This does not hold for the following commodities, where imports roughly offset exports: animals and products; fruits, nuts, and vegetables; and tobacco.

TABLE 8.—U.S. AGRICULTURAL EXPORTS BY REGION, FISCAL YEARS 1981 AND 1986

[In billions of dollars]

Importing region	1981	1986	Change from 1981 to 1986 (in percent)
Western Europe	11.8	6.8	−42
European Community	8.9	6.4	−28
Other	2.9	.4	−86
Eastern Europe	2.0	.4	−80
Soviet Union	1.7	1.1	−35
Asia	16.1	10.5	−35
Middle East	1.8	1.2	−33
South Asia	.6	.5	−17
Southeast and East Asia	4.8	3.5	−27
Japan	6.7	5.1	−24
China	2.2	.1	−96
Canada	2.1	1.5	−29
North Africa	1.5	1.4	−7
Other Africa	1.3	.7	−46
Latin America	6.9	3.6	−48
Oceania	.2	.2	
Total	43.8	26.3	−40
Developed Countries	20.9	14.0	−33
Developing Countries	16.9	10.7	−37
Centrally Planned Countries	5.9	1.6	−73
Total	43.8	26.3	−40

Sources: U.S. Department of Agriculture and Congressional Budget Office.

TABLE 9.—U.S. AND EC OUTLAYS FOR PRICE AND INCOME SUPPORTS, 1977–87

[In billions of dollars]

Year	United States	European Community (EC–10)
1977	3.8	8.0
1978	5.6	11.5
1979	3.6	14.9
1980	2.7	16.6
1981	4.0	12.9
1982	11.6	12.8
1983	18.8	14.7
1984	7.2	15.0
1985	17.6	15.7
1986 [1]	25.7	21.8
1987 [1]	24.6	26.2

[1] Estimated.

Sources: U.S. Department of Agriculture; European Community.

Mr. MELCHER. Let me summarize what these CBO tables tell us.

They show that the U.S. share of world markets declined substantially during the 1980's. The U.S. trade surplus in agricultural trade fell from $26.6 billion in 1981 to only $5 billion in 1986. For the first time in 20-plus years, the United States actually imported more food than it exported during several months of 1986. That is last year.

The Congressional Budget Office also shows that in the face of massive foreign subsidies of agriculture, the United States has responded with farm programs which will substantially support farm income for American producers while our Government attempts to bring our trading partners to negotiations of the type that will eliminate the worst of their predatory policies in world trade.

The PRESIDING OFFICER. Will the Senator suspend for just a moment. We are under a 5-minute rule and the majority leader asked that the Senator be advised at the end of 5 minutes. If the Senator would like to request an additional 5 minutes, he indicated that would be agreed to.

Mr. MELCHER. Mr. President, I make such a request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. These negotiations should eliminate the worst distortions in the world's agricultural trade picture. As we have increased our farm program spending, others, such as the European Community, have increased theirs, and their spending has been increased to the point where their heavy subsidizing to sell their products has—well, I think there is some harm from it.

Mr. President, we have a policy of looking to our producers and saying that "if the prices are not good enough, we have this safety net under you. But we ask you, on behalf of the Nation, to continue production and to do so knowing that the market price is not good enough to keep you in business, but we have this safety net of deficiency payments under you." That is our method.

The European Community has a different method. It subsidizes the producer, holding the price high, so that in their marketplace in Europe the producer has good pay for the products produced, and those that cannot be utilized in Europe are part of the joint ownership of the community and are exported out of Europe with heavy subsidy.

They object sometimes, saying to us, "Well, we do not like your policy very well either because it produces a lot of products that go on the world market." But I would point out, Mr. President, the method under our farm program is very direct. What we attempt to do with the target prices—which, after all, form the basis of what the deficiency payments are to farmers, the safety net—is set them just a little bit under the cost of production.

So I believe our method is fair for producers, and I think it is more logical than what we see coming out of the European Community. But the point is that unless we are going to get a negotiated settlement, we must keep the pressure on in order to retain our market shares throughout the world.

I believe that the CBO compilations demonstrate that the Export Enhancement Program is the method for the United States to retain market shares throughout the world.

The Food and Security Act of 1985 mandated the Export Enhancement Program through 1988, and this Congress in its wisdom provided separate funding for the program up to $1.5 billion. Much of that money has now been spent. My colleagues may well ask, "What have we obtained for our dollars spent on the Export Enhancement Program?" I will include for the RECORD some information provided by the Foreign Agricultural Service of the USDA which points out that meeting or beating the unfair subsidy levels of our competitors has been successful in winning back market shares for wheat, coarse grain, milled flour, and a range of other agricultural products. In fact, Export Enhancement Program sales have accounted for 3.1 percent of our total agricultural exports in 1986, 11.5 percent of our grain sales are supported with Export Enhancement Program targeting and fully 24.5 percent of our wheat flour sales. The figures for 1987 will surpass those.

The message has been made clear to our international competitors, and that is that the United States will not sit idle while our agricultural markets are hacked away by unfair trade practices.

I must point out to the Senate that more needs to be done. Unless the Secretary of Agriculture continues the Export Enhancement Program under existing authority of the Commodity Credit Corporation charter, our trade adversaries will quickly get the message that we have let down in our resolve. With their existing levels of subsidies for their exports, they will once again move into markets that have been traditionally customers of U.S. farm goods.

A case in point is the Philippines where subsidized wheat and flour from Canada and Europe have been imported into an exclusive U.S. market. Philippine flour millers have suggested an Export Enhancement Program sale of wheat to them. We can and should expedite the sale of up to 1 million tons of wheat because it is good for the Philippines and we regain lost market shares.

The PRESIDING OFFICER. If the Senator will suspend, he has used the additional 5 minutes He might choose to request an additional 5 minutes.

Mr. MELCHER. Mr. President, I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. MELCHER. Mr. President, I have here today a concurrent resolution to recognize the importance of the Agricultural Export Enhancement Program, and I am submitting it today with Senators DOLE, LEAHY, BENTSEN, PRYOR, BOREN, HEFLIN, HELMS, DOMENICI, THURMOND, HARKIN, CONRAD, the current Presiding Officer of the Senate, I am happy to say, Senators FOWLER, DURENBERGER, GRASSLEY, MCCLURE, DASCHLE, BREAUX, PRESSLER, KARNES, EXON, SASSER, ADAMS, SHELBY, MCCONNELL, and SIMON.

This concurrent resolution, Mr. President, is to very clearly state both by the House and the Senate concurrently that Congress recognizes the importance of the Agricultural Export Enhancement Program that is currently operated under section 1127 of the Food Security Act of 1985 and that the multilateral trade negotiations should be the result of our Export Enhancement Program. That is the pressure we exert to get to multilateral trade negotiations. And that the Export Enchancement Program helps to counter or offset foreign agricultural subsidies and unfair trade practices of foreign countries, and that we meet that competition, and that is useful as a transitory tool in implementing the Food Security Act and the other provisions of the farm bill of 1985.

Therefore, Mr. President, I think it is very timely that this concurrent resolution be available to be taken up by the Senate at any time that we can clear it. We are now in the process of attempting to clear it.

I ask my colleagues who have not joined in cosponsoring this concurrent resolution to become cosponsors.

Unless the U.S. policy is aggressive on agricultural exports, we will find them skidding down again. We have gotten the ball rolling and passed a special allocation of the Export Enhancement Program. There is an opportunity for the administration, through this existing authority and funding, to continue this vital shepherding of America's trade interests abroad. We might as well continue to press for long-term agreements which will eliminate unfair foreign subsidy practices.

Mr. President, I think that is what this is all about—our agricultural trade policy. It is one of helping people who are producers here to continue to be able and effective food producers for ourselves and for the rest of the world. I think our agricultural policy is one of leadership. We cannot just produce these commodities here and allow them to accumulate, which is price depressing, not only for our own agricultural producers but also price depressing for other agricultural producers.

We have been leaders in production; we have been leaders in research; we have been leaders in applying agricultural technology. I want us to continue to see that be the case. The concurrent resolution I am submitting with all these cosponsors, including the Presiding Officer, points out how important that type of policy is for us and the world.

Mr. President, I ask unanimous consent to have printed in the RECORD a letter to me from the National Grain and Feed Association, their letter to Secretary of Agriculture Lyng, in support of the agricultural Export Enhancement Program, and statistics in connection with the export enhancement program.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL GRAIN AND
FEED ASSOCIATION,
July 22, 1987.

Hon. JOHN MELCHER,
U.S. Senate, Hart Senate Office Building, Washington, DC.

DEAR SENATOR MELCHER: The members of the National Grain and Feed Association strongly support your efforts to encourage a continuation of the Export Enhancement Program pending the increase to $2.5 billion in EEP program authority that is contained in the House and Senate trade legislation.

We share your belief that USDA has the statutory authority under Section 5(f) of the Commodity Credit Corporation Charter Act to administratively fund the program above the current $1.5 billion program limit until congressional reauthorization is finalized.

Enclosed for your review is a letter sent by International Trade Subcommittee Chairman Thomas Racciatti to Secretary Richard Lyng outlining our position. From our standpoint, it is vitally important to the competitiveness of certain grain and grain products that USDA exercise that authority to avoid disrupting U.S. competitive pricing. The EEP, while not a panacea, provides U.S. producers with the ability to compete on price terms with our subsidized foreign competitors. This program provides an operational mechanism to bridge the gap toward a truly market-oriented pricing structure for U.S. grains and grain products.

Sincerely,

EDWARD O'ROURKE,
Chairman, International Trade, Agricultural Policy Committee.

NATIONAL GRAIN AND
FEED ASSOCIATION,
July 22, 1987.

Hon. RICHARD E. LYNG,
Secretary of Agriculture, U.S. Department of Agriculture, Administration Building, Washington, DC.

DEAR MR. SECRETARY: The National Grain and Feed Association urges you to use your administration authority to provide continued funding for the Export Enhancement Program. We believe that such action is vitally important to ensure that a sector of U.S. grain exports can continue to be price-competitive with the heavily subsidized exports of foreign nations.

The National Grain and Feed Association is a voluntary association of grain and feed firms ranging in size from the smallest country elevator to the largest grain and feed complex. Included in our membership are country and terminal elevators, merchandisers, processors and exporters covering the wide spectrum of the grain and feed industry. In addition, there are 40 state and regional grain and feed associations affiliated with the National Grain and Feed Association whose membership includes more than 10,000 grain and feed companies nationwide.

In some instances, notably corn, the ability to compete on price terms has been achieved through lowered loan rates and use of the generic commodity certificate program. Both of these actions are very important and should be continued. In other commodities, such as wheat and some value-added products, subsidized foreign competition has necessitated the implementation of the Export Enhancement Program (EEP) to enhance the price-competitiveness of U.S. commodities. We believe that until true market orientation has created a level playing field upon which U.S. commodities have an opportunity to compete on price terms, a program such as the EEP should be continued without interruption.

But the price competitiveness permitted by EEP is threatened because the current authorization level for the program is nearly exhausted. Less than $500 million in EEP program spending remain from now until Sept. 30, 1988. And with evidence pointing to the fact that nearly 500,000 metric tons of EEP tenders are about to surface, program activity shows no sign of abating. Trade legislation, which includes bipartisan agreement on extending the EEP program limit to $2.5 billion, still faces a difficult and potentially long-lasting conference committee in Congress. Time is of the essence because wheat and grain byproduct exports from the European Community continue to be subsidized heavily. With a potentially large wheat and oilseed crop coming to market over the next several months, the United States, in the absence of a program to ensure our price competitiveness, could be faced with a situation where we might unilaterally cede a significant share of our wheat and grain byproduct export sales to foreign competitors.

That is why we urge you to use the wide-ranging discretionary authority vested in Sections 5(d) and 5(f) of the CCC Charter Act to continue the export enhancement program at levels exceeding the $1.5 billion level specified in the Food Security Act Amendments of 1986, until such time as Congress statutorily increases the authorized program spending limit. Indeed, it was the CCC Charter Act that was used to administratively initiate the EEP in 1985 prior to any congressional authorization. Further, we think action at this time also would signal the administration's resolve in having U.S. grains be price-competitive at a crucial stage in the multilateral trade negotiations under the Uruguay Round of the General Agreement on Tariffs and Trade.

American farmers and the grain and feed industry can ill-afford to have the competitive position of a significant share of U.S. commodities in world markets jeopardized at a time when foreign buyers have once again begun to look increasingly to the United States a reliable source for competitively priced grains and grain products.

We would appreciate your prompt and decisive action on this important matter.

Sincerely,

THOMAS M. RACCIATTI,
Chairman, International Trade Subcommittee.

EXPORT ENHANCEMENT PROGRAM

[Announced as of 9:00 a.m. July 10, 1987]

Announced to date:	
Grains and products (grain equivalent) (megaton)	29,835,680
Table eggs (pieces)	758,000,000
Frozen poultry (megaton)	140,500
Head dairy cattle	65,500
Vegetable oil (megaton)	25,000
Sold to date:	
Wheat (megaton)	16,451,309
Flour (grain equivalent (megaton)	1,593,196
Barley (megaton)	3,457,324
Semolina (grain equivalent) (megaton)	72,610
Barley malt (grain equivalent) (megaton)	106,883
Sorghum (megaton)	106,000
Rice (megaton)	38,700
Poultry feed (megaton)	108,668
Vegetable oil (megaton)	25,000
Frozen poultry (megaton)	130,133
Head dairy cattle	49,264
Table eggs (pieces)	54,572,004

Total sales value: $2,092.2 million.

Estimated bonus book value: $1,401.4 million.

Market value of awards: $998.6 million.

Total announced initiatives—69.

Countries targeted: (Sales completed or initiatives still open): 45—Algeria, Bahrain, Bangladesh, Benin, Burkina Faso, Canary Islands (Spain), Cameroon, China, Colombia, Cote d'Ivoire, Cyprus, Dominican Republic, Egypt, Gabon, Ghana, Hong Kong, India, Indonesia, Iraq, Israel, Jordan, Kuwait, Liberia, Morocco, Niger, Nigeria, North Yemen, Oman, Philippines, Poland, Qatar, Romania, Saudi Arabia, Senegal, Soviet Union, Sri Lanka, Switzerland, Togo, Tunisia, Turkey, United Arab Emirates, Venezuela, Yugoslavia, Zaire, Zanzibar (Tanzania).

Commodities targeted: 12—Barley, Barley Malt, Dairy Cattle, Eggs, Poultry, Poultry Feed, Rice, Semolina, Sorghum, Vegetable Oil, Wheat, Wheat Flour.

EEP SALES VERSUS TOTAL EXPORTS

[In percent]

	Fiscal year—	
	1986 [1]	1987 [2]
Total EEP Sales versus Total Agricultural Exports (dollars):	3.1	3.9
EEP Grain Sales versus Total Grain Exports (megatons)	11.5	17.6
EEP Wheat/Flour Sales versus Total Wheat/Flour Exports (megatons):	24.5	40.6

[1] Total fiscal year 1986 EEP sales (C&F and FOB) as a percentage of total fiscal year 1986 exports.

[2] Fiscal year 1987 EEP sales as a percentage of fiscal year 1987 exports cumulative through April.

Source: Foreign Agriculture Service. Fact Sheet: revised May 19, 1987.

(Ms. MIKULSKI assumed the chair.)

EXECUTIVE CALENDAR

Mr. BYRD. Madam President, I ask the distinguished Republican leader if the following nominations are cleared on the Executive Calendar: Calendar

Orders numbered 220, 222, and the nominations placed on the Secretary's desk in the Coast Guard.

Mr. DOLE. Madam President, I would indicate that they have been cleared on this side.

Mr. BYRD. Madam President, I thank the leader.

EXECUTIVE ORDER

Mr. BYRD. Madam President, I ask unanimous consent that the Senate go into executive session, that the nominations referred to be considered en bloc, confirmed en bloc, that the President be immediately notified of the confirmation of the nominations, that the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations confirmed en bloc are as follows:

THE JUDICIARY

Philip M. Pro, of Nevada, to be U.S. District Judge for the District of Nevada vice Harry E. Claiborne, impeached.

DEPARTMENT OF JUSTICE

Verne L. Speirs, of Virginia, to be Administrator of the Office of Juvenile Justice and Delinquency Prevention, vice Alfred S. Regnery.

NOMINATIONS PLACED ON THE SECRETARY'S DESK IN THE COAST GUARD

Coast Guard nominations beginning Charles R. Collins, and ending George F. Hillegas, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 16, 1987.

Coast Guard nominations beginning John J. Fagan, and ending Richard E. Petherbridge, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD of June 23, 1987.

STATEMENT ON THE CONFIRMATION OF PHILIP M. PRO, OF NEVADA, TO BE U.S. DISTRICT JUDGE

Mr. REID. Madam President, it is an honor, a privilege, and pleasure to speak today to testify on behalf of the nomination of Philip M. Pro to the Federal bench in the district of Nevada.

For many years, Madam President, before I came to the Congress, I practiced law in the State of Nevada. During that time I appeared in front of many judges on the State and Federal bench. I gave a good deal of thought to the qualities which make a good judge.

I believe that those qualities can be summarized in three areas: hard work, intellect, and judicial demeanor. Each is important.

A judge toils unceasingly if he or she wishes to do the task which society has given them. Not only must they appear in court on a daily basis, vast amounts of time are spent in reading, research, and study. Judges are as much students as teachers of the law; they constantly learn, and continually inquire.

The corollary to that toil is the intellect necessary to perform the analytical and factfinding tasks which face all trial judges. A good judge approaches those tasks with a background steeped in knowledge of the law, and the skills and ability to apply those studies. He or she also needs a healthy dose of good old common sense.

Finally, a judge needs that almost indefinable asset, judicial demeanor. Dignity, patience, a sense of humor, and compassion are all part of that mix which makes a judge the person we chose to apply the law to each and all of us.

Phil Pro meets those high standards.

Judge Pro has sat as a U.S. magistrate in southern Nevada for several years. During that time, he has developed a reputation as a judge who is fairminded and willing to listen to both sides, who has read the parties' briefs and the law they cite, and who will render a decision which both sides will agree is based on sound legal reasoning and dispassionate analysis.

I have seen Judge Pro in action on the bench. He is a model of decorum, common sense, and friendly wisdom. He takes seriously his job as a seeker after the truth, and as an expediter of justice, and his efforts have certainly improved the quality of practice in the Federal courts in Las Vegas.

I have described the qualities, hard work, intelligence, and judicial demeanor, which make a good judge. If they were the only reasons for my support for Phil Pro, they would be more than sufficient.

There is another reason, however, which I wish to mention. Every lawyer worth his or her salt, whether a practicing attorney, a judge, or an administrator, owes a debt to his community which he repays through public service. Phil Pro has gone above and beyond the call of that duty.

His work with the National Conference of Christians and Jews has been nothing short of outstanding. He has guided and nurtured the issues in justice forums in southern Nevada, forums which have educated and enlightened the public about key issues of the day. I know that his hard work and intense concentration and creativity, night after night, for weeks on end, has been responsible for raising the funds which have kept the NCCJ functioning in southern Nevada.

Every judge and every nominee is, of course, a human being with other interests and aspects in his or her life. The law, lawyers are fond of saying, is a jealous mistress, but it is and should not be the only facet of an attorney's character. In Judge Pro's case his outside life revolves around his lovely wife and children, and his service to the community.

A vote by the Members of this honorable body to confirm the choice of Phil Pro for the Federal bench is in the highest tradition of this body. I urge his confirmation. I thank you.

Mr. BYRD. Madam President, I should state again that it is my intention soon to call up the nomination of Melissa Wells to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Mozambique.

I also intend to call up very soon the nomination of David Bryan Sentelle, of North Carolina, to be U.S. circuit court judge for the District of Columbia Circuit vice Antonin Scalia, elevated.

LEGISLATIVE SESSION

Mr. BYRD. Madam President, I ask unanimous consent that the Senate return to the consideration of legislative business.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE IMPORTANCE OF AGRICULTURAL EXPORT ENHANCEMENT PROGRAM

Mr. BYRD. Madam President, I ask unanimous consent that the Senate proceed to the consideration of Senate Concurrent Resolution 67, submitted earlier today by Mr. MELCHER and others.

The PRESIDING OFFICER. The concurrent resolution will be stated by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 67) to recognize the importance of the agricultural export enhancement program.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. DOLE. Madam President, today Senator MELCHER and I are submitting a nonbinding concurrent resolution pertaining to the Export Enhancement Program [EEP].

RESOLUTION

The concurrent resolution states it is the intent of Congress that the Secretary of Agriculture use his existing authority under the Commodity Credit Corporation's Charter Act to ensure adequate funding—with either cash or in-kind commodities—for the Export Enhancement Program through fiscal year 1990.

BACKGROUND

Madam President, USDA announced the Export Enhancement Program in May 1985 after several of my farm State colleagues and I had pushed for a more aggressive farm export policy. The 1985 farm bill made EEP a mandatory program through fiscal year 1988 with a funding level of $1 to $1.5 billion. It is my understanding that USDA's current initiatives and commitments will soon reach the maximum funding level specified in the farm bill.

TRADE BILL PROVISIONS

Both the House and Senate trade bills would provide an additional $1 billion and extend EEP through fiscal year 1990. The provisions in the trade bill extending EEP and providing additional funding could prove essential in ensuring the program continues and maintaining export markets of American farmers. But few of us can be sure of when the trade bill will be enacted, or if it will be enacted.

The Export Enhancement Program has also been useful in counteracting the unfair trade practices of other nations and continuation of the program will help bring other nations to the negotiating table during the current GATT round.

CONCLUSION

The concurrent resolution we are offering urges the administration to continue operating the Export Enhancement Program to ensure U.S. competitiveness. The concurrent resolution is supported by the National Association of Wheat Growers, the Millers National Federation, the National Broiler Council, the National Council of Farmer Cooperatives, the National Soybean Processors Association, the United Egg Association, the United Egg Producers, the U.S. Feed Grains Council, and the U.S. Wheat Associates. These organizations have written a letter to Secretary Lyng on the issue which I ask unanimous consent to have printed in the RECORD and I urge my colleagues to support the concurrent resolution.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

JULY 20, 1987.

Hon. RICHARD LYNG,
Secretary, U.S. Department of Agriculture,
Washington, DC.

DEAR MR. SECRETARY: On May 15, 1985, USDA announced creation of the Export Enhancement Program a bold initiative that has since made the U.S. more competitive in a variety of markets and for a broad range of commodities. Though the program has not operated without controversy, U.S. exports to many markets have undoubtedly been higher than they would have been in the absence of the EEP. Now, however, the EEP faces the prospect of sudden and severe limits on its availability to our customers.

Throughout 1985, the EEP was operated under the Secretary's general authorities, without explicit statutory direction. Though Congress subsequently enacted legislation to continue the program, the fundamental operations of the EEP remain consistent with USDA's practice during 1985. There is no doubt that your broad authority under permanent law still allows you to act as necessary to assure U.S. competitiveness.

It appears that Congress will act this year to increase the total value of commodities used as EEP bonuses to $25 billion. Since it is at least possible an agricultural agreement pursuant to the Uruguay Round of GATT talks will not be concluded during FY 1988, such an extension should prove valuable leverage to U.S. negotiators.

Unfortunately, there is a good chance a conference agreement on the trade legislation to which the EEP extension is attached will not be completed until sometime in September. At this point, considering outstanding EEP initiatives under which sales can still be made, and total bonuses awarded to date, it appears to us that such a delay in extending the program's funding level may delay or scuttle several vitally needed initiatives. Should this occur, other countries will makes sales that might have gone to the U.S.

For example, a large wheat crop is in the offing for the European Community, perhaps a record 84 million tons. There have not been any signs that the EC is about to change its attitude on export pricing, with recent offerings at about $75–$80 per ton.

EEP funding is also needed in the vegetable oil sector to counter market losses due to the adverse affects of the EEC softseed subsidy. In many countries where the U.S. has had a head-to-head confrontation with the EC—Algeria, Morocco and Egypt, for instance—we will not have the funding capability to continue the battle much longer. Without further resources, the United States will have to bow out of a struggle just begun. With the bulk of the EC harvest just ahead, a delay in maintaining adequate funds for bonuses can only hurt U.S. exports, even if the delay is only a few months.

We respectfully but urgently request that you use your authority to provide a bridge for EEP funding until enactment of legislation for which there is now a clear congressional consensus. Sec. 1127(g) of the Food Security Act, in our view, makes clear that existing authorities, such as that used to initiate EEP in 1985, are supplemented and not replaced by the statutory program.

Such a funding bridge would not increase the total value of commodities to be used in the 1986–88 period, considering the $2.5 billion in total bonuses provided by both H.R. 3 and S. 1420. Indeed, overall agricultural outlays would likely decrease relative to a situation where funding was interrupted, since the lower export levels attributable to a temporary halt in EEP would reduce season average prices and, for several commodities increase either deficiency payments or loan forfeitures, thus raising budget exposure.

The EEP has been not only an effective means of enhancing competitiveness for U.S. commodities ranging from wheat, barley and vegetable oil to poultry, eggs and dairy cattle, but also a negotiating tool which you have used to demonstrate that the United States is deadly serious about regaining its leadership in world markets. At this critical time, it is urgent that the United States act decisively to assure our competitors and our customers that it will not permit a month-long hiatus to interrupt the U.S. campaign for competitiveness and market share.

Sincerely,
Millers National Federation, National Association of Wheat Growers, National Broiler Council, National Council of Farmer Cooperatives, National Soybean Processors Association, United Egg Association, United Egg Producers, U.S. Feed Grains Council, U.S. Wheat Associates.

Mr. McCLURE. Madam President, I rise today in support of Senator's MELCHER and DOLE's concurrent resolution which states that it is the intent of Congress that the Secretary of Agriculture use his existing authority under the Commodity Credit Corporation's charter act to ensure adequate funding for the Export Enhancement Program through fiscal year 1990.

The U.S. Department of Agriculture began the Export Enhancement Program in May 1985 in an effort to combat the decline in U.S. Exports of agriculture products. I and several farm State Senators had been pushing for a more aggressive export policy and were glad to see the Secretary of Agriculture take the suggestions which had been made and begin a program of using Commodity Credit Corporation stocks as an incentive to foreign buyers to purchase U.S. agriculture products.

In the 1985 farm bill Congress made the Export Enhancement Program mandatory through fiscal year 1988 with a funding level of $1 to $1.5 billion. The USDA currently has initiatives and commitments which will reach this $1.4 million. This is a prime example of a Federal farm program in the 1985 farm bill which is working and working well. Current exports of wheat are proceeding at a brisk pace this year mainly because of the EEP. To date, export inspections total 173 million bushels, up nearly 50 percent from last year. The primary difference is due to purchases by Russia and China under the EEP. In addition to these recent export enhancement programs, new initiatives have been made to Morocco in the amount of 500,000 tons, Egypt for 500,000 tons, Poland for 500,000 tons, and Bangladesh for 50,000 tons. This program must be continued and Congress has expressed interest in maintaining it.

Both the House and Senate trade bills would provide an additional $1 billion and extend the EEP through fiscal year 1990. The provisions in the trade bill extending EEP and providing additional funding could prove essential in ensuring the program continues and maintaining export markets of American farmers. At this time it is not clear that the trade legislation will ever become law, this it is necessary to press for this concurrent resolution.

In addition to helping reduce surplus Government stocks and move U.S. grain on the world market, the Export Enhancement Program has been useful in counteracting the unfair trade practices of other nations and continuation of the program will assure that other agriculture exporting nations stay at the negotiating table during the current negotiations of the General Agreement on Tariffs and Trade.

I am encouraged by the increase in exports and feel that the Export Enhancement Program has been the driving force behind this increase in sales. I have advocated and continue to advocate the use of this type of program to combat unfair trade practice by foreign competitors. I will continue to work toward ensuring U.S. farmers a fair shot at foreign markets. If Congress is to continue to urge U.S. farmers to compete on the international market it must make the commitment to support these efforts to successfully market overseas.

This resolution urges the administration to continue operating the Export Enhancement Program to ensure U.S. competitiveness. The concurrent resolution is supported by many of the national agriculture groups and associations and deserves the support of the full Senate and House. Thus I urge my colleagues to vote for quick passage.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. Res. 67) was agreed to, as follows:

S. Con. Res. 67

Resolved by the Senate (the House of Representatives concurring), That Congress recognizes the importance of the agricultural export enhancement program currently operated under section 1127 of the Food Security Act of 1985 (7 U.S.C. 1736v)——

(1) to multilateral trade negotiations;

(2) to counter or offset foreign agricultural subsidies and unfair trade practices of foreign countries; and

(3) as a transitionary tool in implementing the Food Security Act of 1985 (Public Law 99-198).

Sec. 2. It is the sense of Congress that the Secretary of Agriculture should make available sufficient funding, under section 5(f) of the Commodity Credit Corporation Charter Act (31 U.S.C. 845(f)), in each of the fiscal years 1987 through 1990, to carry out initiatives under the agricultural export enhancement progrma.

Mr. BYRD. Madam President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

OFFICE OF LIBRARIAN OF CONGRESS EMERITUS

Mr. BYRD. Mr. President, I ask that the Chair lay before the Senate a message from the House of Representatives on S. 1020.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

Resolved, That the bill from the Senate (S. 1020) entitled "An Act to create the office of Librarian of Congress Emeritus", do pass with the following amendments:

Strike out all after the enacting clause and insert: *That upon retirement from service as the Librarian of Congress, Daniel J. Boorstin, who has held that position since November 12, 1975, may be known as the Librarian of Congress Emeritus. Such honorary designation shall not constitute an appointment in the civil service, as defined in section 2101 of title 5, United States Code.*

Sec. 2. In connection with his activities as Librarian of Congress Emeritus, Daniel J. Boorstin may receive incidental administrative and clerical support through the Library of Congress.

Amend the title so as to read: "An Act to confer the honorary status of Librarian of Congress Emeritus on Daniel J. Boorstin.".

Mr. PELL. Madam President, as chairman of the Joint Committee on the Library, I join in the expressions of praise and commendation and support for the truly excellent job that Daniel Boorstin has done in the 13 years he has presided over that wonderful institution, the Library of Congress.

By virtue of his scholarship, sensitive human nature, and ability to follow what was going on under his direction, he proved one of the ablest and most competent Librarians of Congress.

I wish him well in his retirement. I am very glad we are passing this legislation, which makes him Librarian Emeritus. It is the first time this title has been used in the Library of Congress. I think I am correct in saying that the only time it has been used in the Senate is when my predecessor, Senator Theodore Francis Green, was made Chairman Emeritus of the Foreign Relations Committee while still staying on the committee.

I think it is a good idea, and I wish our new Librarian Emeritus, the first in our history, a long and successful—I will not call it retirement—active life.

Mr. DOLE. Madam President, I too want to send my best wishes to Daniel Boorstin as he leaves his post as Librarian of Congress.

While Daniel Boorstin's professional training was in law, he built his considerable reputation in historical research. He is probably best known by the public for his three-volume masterwork, "The Americans."

But he is best known to those of us in Congress for the incredible job he has done over the past 12 years as the Librarian of Congress. Under is guidance and expertise, the Library has flourished, and provided not only those of us who work here on Capitol Hill, but the public as well with the wide range of information and entertainment that only one of the finest library in the world can provides.

On a personal note, late last year my wife, Elizabeth, asked Mr. Boorstin if he would give her a list of books that he thought a well-versed politician should have read. He kindly provided the list, and she has been providing me with the books. And I thank him for the suggestions, they've already given me many hours of enjoyment.

Mr. SIMPSON. Madam President, before the majority leader returns and we go on to the business of the Senate, I should like very briefly to share a statement about our friend Daniel Boorstin.

It is a special pleasure for me to say how appropriate it is that we have at the desk a measure, which we will complete this week, honoring this remarkable librarian. He is our librarian. He will now be designated, in his retirement, as Librarian of Congress Emeritus. I would like to say just a few gentle words about a very real gentleman.

We have shared some delightful times together, he and his marvelous wife, Ruth. It has been a privilege for Ann and myself to come to know them and enjoy them in their home.

When I first came to Washington as a Senator-elect, for freshman orientation—the occupant of the chair will remember that particular ritual of passage—one of the many "sights" listed for us to see was the Library of Congress. The good Judge HOWELL HEFLIN of Alabama and I decided to take a look at the Library of Congress. We walked in the door, and the staff was nearly paralyzed with excitement, because here we were, in our library, and I do not think many Members of Congress come through the door over there. We received a special guided tour, the judge and I. The congressional reading room is a superb place. I do not know how many of our colleagues ever take advantage of that place of solace and solitude, but it is a splendid reading room for Members of Congress and their families. The main reading room is beautiful, as is the great hall of that building. In my mind, it is one of the most magnificent buildings in Washington or the United States.

We have held functions there. We held the 50th anniversary of our majority leader and his wife, Erma, there. It is a splendid and beautiful place. Much of that was restored and the upper areas redone and renovated and conserved by the Librarian.

I have had many delightful visits with the Librarian in his beautiful, old office.

Several weeks after that, I went with my wife Ann to another function at the Library. Dan Boorstin, with his eyes sparkling with excitement and enthusiasm, showed us the "Lincoln cache" of artifacts that were found in that office. They had been stored behind a panel. They were the articles found on the President on the tragic evening he was shot: the glasses, some of the material from his pocket.

I remember then, as Dan Boorstin described that to me, how unlike my image of librarians he was—the creme de la creme of librarians. He was not bookish or quiet, but created a most vivid scene for us, waving his arms and speaking with enthusiasm and great pride about this magnificent find.

Madam President, he is a man of remarkable intellect, with a scholarly reputation, who is praised throughout America for his accomplishments, for his history books, and for his love of history. Yet, he is also a most delightful man of great good humor and sensitivity.

I would like to conclude by saying that his remarkable wife, Ruth, is a great lady—vivacious, full of fun, and with a great love of turning a pun. She and I have shared some dandies in that area.

Ruth Boorstin is very much a complement to the Librarian Emeritus. She has always reminded me a bit of Winston Churchill's statement: "The cock croweth, but the hen delivereth the goods." Dan Boorstin writes, but his coauthor with him and great, lifelong assistant, is Ruth Boorstin.

They are a great team, and retirement for them only means a changing of careers. They will be involved in exciting things. They will have great things up their sleeves, and we will all be the rich beneficiaries. He will bring information and education to us with excitement and humanity in his own very special way. He and Ruth have enriched life for all who know them, and I hope we will continue for many years to have the benefit of their contributions and their friendship.

Mr. BYRD. Madam President, I move that the Senate concur in the House amendments.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

JOINT REFERRAL—S. 1321

Mr. BYRD. Madam President, I ask unanimous consent that S. 1321, a bill dealing with an Indian community land transfer be jointly referred to the Energy and Natural Resources Committee and the Select Committee on Indian Affairs.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEBT LIMIT INCREASE

Mr. BYRD. Madam President, our Members on both sides of the aisle are still discussing the debt limit extension measure and the proposals for hopefully going forward in a bipartisan way in support of an amendment thereto.

Mr. Chiles indicated that they might need a little more time, and I conferred with the distinguished Republican leader whose principals have been meeting throughout the day from time to time and I think that even though it may appear that the Senate is wasting time, in the end considerable time may be saved by virtue of these efforts. I am hopeful that that will be the case.

It is also possible that those efforts will not culminate in any agreement but we have to run those risks and take those chances and kind of work our way through.

For the moment, I have nothing to report to the Senate or to the press other than that Mr. Chiles and Mr. Domenici and others are continuing their efforts.

Mr. DOLE. Madam President, will the majority leader yield?

Mr. BYRD. I yield.

Mr. DOLE. I indicate to the majority leader that I have a brief report from the Senator from New Mexico [Mr. Domenici], who was attending the meetings throughout the day and indicates, as the majority leader has, that they are still working, there is still some hope; but I think we have not lost anything by not moving to the debt ceiling because I know there are lots of amendments floating around.

It would seem to me if there can be some agreement on this major agreement that might eliminate a lot of concern that the leaders might have as far as loading up the debt ceiling with 10 or 20 other amendments.

Mr. BYRD. Madam President, I express my hope, also. The Republican leader has said it very well. There are a good many amendments around. Both of us hope that we can avoid loading down that extension with amendments. I hope that we can have an agreed-upon amendment so that we can avoid situations in which the Senate could spend several days marching up the hill, down the hill, and voting on various and sundry amendments, most of them not germane, in all likelihood.

Mr. DOLE. Madam President, will the majority leader yield further?

Mr. BYRD. Yes.

Mr. DOLE. It is also the wish of the administration I am reflecting. The President indicated that to us yesterday as did the Treasury Secretary, Mr. Baker; and as the majority leader has explained before on the floor, we are getting into July 29 and then we start defaulting. If we get into August 3, then we cannot mail out Social Security or veterans' checks, and it is going to be very difficult, as it always is when this legislation goes back to the House, to do very much if there are a lot of amendments on it.

So I want to cooperate and we will certainly be willing to do that in conjunction with the distinguished Senator from New Mexico [Mr. Domenici] and others if we can come together on one big amendment and it may be that it may fall apart. We may have to go through the other exercise.

If there is some agreement on one major amendment, then I would hope there would also be bipartisan agreement there would be no other amendments.

Mr. BYRD. Madam President, I share the Republican leader's hopes and aspirations in this regard.

I visited briefly with the chairman and ranking member and other Senators who have been working off the Senate floor. I visited with them briefly around 2 o'clock today, I guess it was 2:30, some such, and they seem to have been making some progress. There are some thorny issues that have to be settled. There are several of them. And they are working through them one by one. Whether or not we will be able to announce anything before the day is over remains to be seen.

The measure, if amended, does have to go back to the House, and our time is running. Today has been a valuable day. I hope that in the final analysis it would not prove to have been a valuable day thrown away. I would rather believe that it would have been a valuable day but that, commensurate with its value, there will have been progress made.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Emery, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate a message from the President of the United States submitting a nomination, which was referred to the Committee on the Judiciary.

(The nomination received today is printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

At 11 a.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following resolutions, without amendment:

S.J. Res. 76. Joint resolution to designate the week of October 4, 1987, through October 10, 1987, as "Mental Illness Awareness Week"; and

S.J. Res. 160. Joint resolution to designate July 25, 1987, as "Clean Water Day".

At 4 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 1020. An act to create the office of Librarian of Congress Emeritus.

The message also announced that the House has passed the following bills and joint resolution, in which it requests the concurrence of the Senate:

H.R. 60. An act to authorize the Architect of the Capitol to accept gifts and bequests of personal property and money for the benefit of the Capitol Buildings Art Collection;

H.R. 1983. An act authorizing the Secretary of the Interior to preserve certain wetlands and historic and prehistoric sites in the St. Johns River Valley, Florida, and for other purposes;

H.R. 2121. An act to authorize the direct the National Park Service to assist the State of Georgia in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia;

H.R. 2249. An Act to change the title of employees designated by the Librarian of Congress for police duty and to make the rank structure and pay for such employees the same as the rank structure and pay for the Capitol Police; and

H.R. 309. Joint resolution to establish the Speaker's Civic Achievement Awards Program to be administered under the Librarian of Congress to recognize achievement in civic literacy by students, classes, and schools throughout the Nation on grades 5 through 8, and for other purposes.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 60. An act to authorize the Architect of the Capitol to accept gifts and bequests of personal property and money for the benefit of the Capitol Buildings Art Collection; to the Committee on Rules and Administration.

H.R. 1983. An act authorizing the Secretary of the Interior to preserve certain wetlands and historic and prehistoric sites in the St. Johns River Valley, Florida, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 2121. An act to authorize and direct the National Park Service to assist the State of Georgia in relocating a highway affecting the Chickamauga and Chattanooga National Military Park in Georgia; to the Committee on Energy and Natural Resources.

H.R. 2249. An act to change the title of employees designated by the Librarian of Congress for police duty and to make the rank structure and pay for such employees the same as the rank structure and pay for the Capitol Police; to the Committee on Rules and Administration.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry:

Milton J. Hertz, of North Dakota, to be a Member of the Board of Directors of the Commodity Credit Corporation;

Ewen M. Wilson, of Virginia, to be an Assistant Secretary of Agriculture; and

Ewen M. Wilson, of Virginia, to be a Member of the Board of Directors of the Commodity Credit Corporation.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to response to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. NUNN (for himself, Mr. Cochran, Mr. Fowler, Mr. Heflin, Mr. Hollings, and Mr. Harkin):

S. 1521. A bill to amend the Food Security Act of 1985 to increase the number of acres placed in the conservation reserve program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. RIEGLE (for himself, Mr. Durenberger, Mr. Mitchell, Mr. Daschle, Mr. Cranston, Mr. D'Amato, Mr. Sarbanes, Mr. Dodd, Mr. Kennedy, Mr. Kerry, Mr. Sasser, Mr. Pressler, Mr. Adams, Mr. Thurmond, and Mr. Weicker):

S. 1522. A bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage certificates may be issued; to the Committee on Finance.

By Mr. METZENBAUM:

S. 1523. A bill to amend chapter 96 of title 18, United States Code; to the Committee on the Judiciary.

By Mr. CHAFEE (for himself, Mr. Durenberger, and Mr. Stafford):

S. 1524. A bill to clarify the intent of Congress to preserve the authority of local governments to protect public health and the environment under the Federal Insecticide, Fungicide, and Rodenticide Act; to the Committee on Environment and Public Works.

By Mr. ARMSTRONG (for himself and Mr. Glenn):

S. 1525. A bill to amend Public Law 99-572 to authorize the Secretary of the Treasury to invest private funds contributed to the American Battle Monuments Commission for the construction of the Korean War Veterans Memorial in public debt securities; to the Committee on Energy and Natural Resources.

By Mr. CONRAD:

S. 1526. A bill to amend the Internal Revenue Code of 1986 to require that the major categories of Federal outlays and incomes be shown in graphs on the first page of the instructions for individuals income tax returns; to the Committee on Finance.

By Mr. HECHT (for himself and Mr. Reid):

S. 1527. A bill for the relief of Norma Jean Beales; to the Committee on the Judiciary.

By Mr. EVANS (for himself, Mrs. Kassebaum, and Mr. Durenberger):

S. 1528. A bill to improve budgetary information by requiring that the unified budget presented by the President contain an operating budget and a capital budget, and for other purposes; to the Committee on Governmental Affairs.

By Mr. GLENN (for himself, Mr. Roth, Mr. Chiles, Mr. Evans, and Mr. Proxmire):

S. 1529. A bill to improve financial management in the Federal Government; to the Committee on Governmental Affairs.

By Mr. THURMOND:

S.J. Res. 177. Joint resolution to authorize and request the President to designate the month of December 1987, as "Made in the U.S.A. Month"; to the Committee on the Judiciary.

By Mr. KENNEDY (for himself, Mr. Hatfield, Mr. DeConcini, Mr. Durenberger, Mr. Inouye, Mr. Dixon, and Mr. Cochran):

S.J. Res. 178. Joint resolution designating the first day of August as "National Day of Peace"; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MOYNIHAN (for himself, Mr. Hatfield, Mr. Pell, Mrs. Kassebaum, and Mr. Kerry):

S. Con. Res. 66. Concurrent resolution expressing the sense of the Congress that the United Nations should offer to place the United Nations flag on nonbelligerent ships in the Persian Gulf, and to authorize United Nations peacekeeping vessels to escort those ships, as part of broader United Nations efforts to bring about a peaceful resolution of the Iran-Iraq war; to the Committee on Foreign Relations.

By Mr. MELCHER (for himself, Mr. Dole, Mr. Leahy, Mr. Bentsen, Mr. Pryor, Mr. Boren, Mr. Heflin, Mr. Helms, Mr. Domenici, Mr. Thurmond, Mr. Harkin, Mr. Conrad, Mr. Fowler, Mr. Durenberger, Mr. Grassley, Mr. McClure, Mr. Daschle, Mr. Breaux, Mr. Pressler, Mr. Karnes, Mr. Exon, Mr. Sasser, Mr. Adams, Mr. Shelby, Mr. McConnell, Mr. Simon, Mr. Kasten, and Mrs. Kassebaum):

S. Con. Res. 67. Concurrent resolution to recognize the importance of the agricultural export enhancement program; considered and agreed to.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. NUNN (for himself, Mr. Cochran, Mr. Fowler, Mr. Heflin, Mr. Hollings, and Mr. Harkin):

S. 1521. A bill to amend the Food Security Act of 1985 to increase the number of acres placed on the Conservation Reserve Program, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

EXPANSION OF CONSERVATION RESERVE

Mr. NUNN. Mr. President, the Conservation Reserve Progam authorized in section 1232 of the 1985 farm bill is now widely acknowledged as one of the most significant new components of our Nation's farm policy. Nearly 20 million acres have been enrolled in this program.

Many leading farm policy experts recommend even greater reliance on the reserve than is called for in the 1985 farm bill. They contend that more rapid enrollment of land into the reserve and an expansion in the size of the reserve marks the best option for U.S. agriculture to work through the costly adjustments brought on in the 1980's by the combination of global overproduciton and macroeconomic changes that so adversely affected U.S. agricultural export earnings.

I completely agree with these observations and believe we should move ahead very aggressively in the implementation of the reserve and the other key provisions in the conservation title of the 1985 farm bill. There are solid economic and enviornmental reasons for doing so.

One key step that should be taken immediately is the full implementation—indeed expansion—of the conservation reserve. No agricultural program offers such clear benefits to the American public or the American farmer. The CRP contributes to supply control efforts at about half the cost of traditional commodity programs and clearly offers tremendous benefits in controlling erosion and protecting water quality.

In the tree-growing regions of the Nation, the CRP has provided a much needed incentive for reforestation at a time when forestry experts are predicting timber shortages by the year 2000 unless increased tree planting occurs. For these reasons, I believe the time has come to accelerate enrollment of land into an expanded conservation reserve and to direct the Department of Agriculture to administer the CRP more flexibly in order to advance regional economic stability and growth and to underwrite transitions toward new, profitable, and sustainable uses of highly erodible lands.

Mr. President, I introduce this legislation today, with Senators Cochran, Fowler, Heflin, and Hollings, because I am convinced the CRP can play an increasingly important role in controlling soil erosion, protecting water quality, and supporting farm income.

This legislation has six major goals:

First, accelerating enrollment into the CRP, with a goal of enrolling at least 25 million additional acres in the reserve before the end of crop year 1988.

Second, authorizing expansion of the reserve to 65 million acres by the end of crop year 1990 to draw out of cultivation additional highly erodible cropland and lands contributing to serious water quality problems.

Third, providing farmers new incentives and options for the enrollment of land in the reserve, which would allow shifts in crop production patterns while reducing reliance on Government commodity program payments.

Fourth, mandating the Secretary of Agriculture to utilize the reserve as a policy option for addressing serious regional water quality or supply problems, at least on a pilot program basis.

Fifth, mandating the Secretary of Agriculture to provide additional incentives to encourage the planting of trees within the CRP to meet the tree planting requirements of the 1985 farm bill; and

Finally, continuing Commodity Credit Corporation funding for the CRP through fiscal year 1990 so that the CRP, like other commodity programs, will have a stable and certain funding base.

I believe this program offers the agricultural community a major opportunity to attack constructively several longstanding problems in a cost-effective way. Clearly, farmers across the Nation will benefit from strong steps to reduce further acreage planted to surplus crops, particularly in feed grain producing regions. For this reason, the legislation provides the Secretary with a clear mandate and new authority to provide prospective CRP enrollees with adequate incentives to assure that the target level of enrollment is reached.

The shared sense of commitment expressed by a broad diversity of groups and agricultural and environmental leaders toward the basic goals of the CRP has deeply impressed me and has been a very positive force in bringing this new program into place. I have worked with many of these groups in putting together this new legislation. We should build on this common ground and follow the sound principle of the CRP in addressing additional problems.

Two future challenges for the CRP deserve special attention, and are addressed in this legislation. First, the CRP can and should be used to address agricultural water quality and quantity problems. The contamination of rural water supplies with fertilizers and pesticides is emerging as a very serious problem in many farming regions, one which the agriculture community must face and overcome. It will take years—perhaps decades—to study and understand fully how agricultural management practices lead to water quality problems.

Fortunately, agricultural experts now know where many of the most severe problems are likely to occur and are generally able to prescribe well-tested and affordable changes in land use and management practices that will greatly reduce the flow of chemicals into water supplies. Such steps are rarely complete solutions but clearly can greatly reduce the severity of future problems.

The CRP can be used to fashion creative solutions to water quality problems in the sand hills of Nebraska, and I know the Senator from Iowa is on the floor today. Particularly this will apply to northwestern Iowa where drainage wells and the presence of karst geography lead to special problems, and in many other regions when a troublesome water quality or supply problem threatens the viability of existing agricultural practices.

A second challenge for the CRP in coming years involves this program's impact on the economic vitality of rural America and the regional centers serving agricultural producers. I believe the CRP can be used to do more than heal wounds in the landscape. It can help create new opportunities for people in rural areas to make a stable living from the land. In my home State of Georgia, many farmers are already doing so by planting trees on land enrolled in the CRP. Many Texas ranchers are discovering that land in the CRP can be managed profitably as wildlife habitat. In other parts of the Nation, we should explore—and exploit—options to use the reserve as a bridge toward new economic opportunities with a long-run future for farmers and rural cities.

I feel confident that the conservation reserve will meet the very high expectations of the Congress and the agricultural community. We need to move ahead with the sound principles of the reserve and encourage local areas to develop innovative ways to constructively use and manage lands enrolled in the CRP.

Although I have included several changes to the CRP in this bill, I will certainly remain open to further suggestions and improvements as this measure proceeds through the Agricultural Committee. I will certainly welcome additional suggestion from my colleagues, farmers, and environmental groups interested in the Conservation Reserve Program.

Mr. President, I thank the Chair and I yield the floor.

Mr. HARKIN. Mr. President, will the Senator yield a second?

Mr. NUNN. I yield.

Mr. HARKIN. I compliment the distinguished Senator from Georgia on an excellent statement and excellent proposal. This has been a longtime interest of mine. I have listened to his remarks this morning.

I just want the distinguished Senator to know that he has my full support on this legislation, and I ask him to put me on with him if he would.

Mr. NUNN. I would be delighted to have the Senator cosponsor. I know he has been a real leader in agriculture. He does it extremely well and has followed this program as a supporter.

I know it is going to be of great interest to people of Iowa because there are certain regions in Iowa where this new flexibility will have very effective potential.

Mr. HARKIN. I thank the Senator for leadership on this issue. It is great.

Mr. NUNN. Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1521

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPANSION OF CONSERVATION RESERVE.

(a) ACREAGE REQUIREMENT.—Section 1231 of the Food Security Act of 1985 (16 U.S.C. 3831) is amended—

(1) by striking out subsection (b) and inserting in lieu thereof the following:

"(b)(1) The Secretary shall enter into contracts with owners and operators of farms and ranches containing highly erodible cropland to place in the conservation reserve—

"(A) during the 1986 through 1987 crop years, a total of not less than 35, nor more than 45, million acres;

"(B) during the 1986 through 1988 crop years, a total of not less than 45, nor more than 65, million acres;

"(C) during the 1986 through 1989 crop years, a total of not less than 55, nor more than 65, million acres;

"(D) during the 1986 through 1990 crop years, a total of not less than 65 million acres."; and

(2) in subsection (c)(1)(B), by striking out "(5)" and inserting in lieu thereof "(1)(B)".

(b) INCLUSION OF OTHER LANDS.—Section 1231(c)(2) of such Act (16 U.S.C. 3831(c)(2)) is amended by adding at the end thereof the following new sentence: "Not later than January 1, 1988, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a detailed plan and report indicating the manner in which the Secretary may implement this paragraph, including a discussion of the options for cooperating with agencies of State government in identifying areas to be subject to this paragraph and administering any program created under this paragraph.".

SEC. 2. CONSERVATION RESERVE INCENTIVES.

(a) AUTHORITY.—Section 1231(b) of the Food Security Act of 1985 (16 U.S.C. 3831(b)) (as amended by section 1(a)) is further amended by adding at the end thereof the following new paragraph:

"(2) The Secretary may offer an owner or operator of land that is eligible to be placed in the conservation reserve such incentives as the Secretary determines are necessary to achieve the acreage requirements of paragraph (1)(B), including the incentives described in section 1233(b).".

(b) INCENTIVES.—

(1) IN GENERAL.—Section 1233 of such Act (16 U.S.C. 3833) is amended—

(A) by changing the title to read as follows:

"DUTIES AND POWERS OF THE SECRETARY";

(B) by inserting "(a)" after the section designation; and

(C) by adding at the end thereof the following new subsection:

"(b) To encourage an owner or operator to enter into a contract under this subtitle, the Secretary—

"(1) may make an advance payment in cash or in-kind of up to 50 percent of the total amount of rental payments required to be paid under subsection (a)(2);

"(2) may make (in addition to any other payment authorized under this subtitle) a bonus payment in cash or in-kind to an owner or operator who retires permanently, from the cropland base and allotment history applicable to acreage placed in the reserve, a number of acres equal to the number of acres placed in the reserve;

"(3) may permit a specified number of acres placed in the conservation reserve to be considered as reduced or set-aside acreage under an acreage limitation or set-aside program established under section 107D(f), 105C(f), 103A(f), or 101A(f) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(f), 1444e(f), 1444-1(f), or 1441-1(f)), if the Secretary determines that payments made under subsection (a)(2) are, on average, substantially less than payments made as a result of compliance with such program;

"(4) may make (in addition to any other payment authorized under this subtitle) a bonus payment in cash or in-kind to meet the requirements of section 1232(c); and

"(5) shall expand the quantity of land eligible for the program to meet the requirements of section 1232(c).".

(2) PAYMENT SCHEDULE.—Section 1234(a)(2) of such Act (16 U.S.C. 3834(a)(2)) is amended—

(A) by striking out "or" at the end of subparagraph (A);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new subparagraph:

"(C) as provided in section 1233(b)(1).".

SEC. 3. COMMERCIAL USE OF CONSERVATION RESERVE ACREAGE.

Section 1232(a)(7) of the Food Security Act of 1985 (16 U.S.C. 3832(a)(7)) is amended by striking out "contract in response to a drought or other similar emergency"; and inserting in lieu thereof "contract—

"(A) in response to a drought or other similar emergency; or

"(B) if the Secretary—

"(i) determines that allowing such commercial use would not have an adverse effect on existing commercial operations involving forage in the agricultural economy of the particular area in which the land is located; and

"(ii) makes a downward adjustment in the rental payments made or to be made under section 1233(a)(2) to reflect the probable economic return to the farm operation associated with the production of a forage crop on lands placed in the reserve;".

SEC. 4. OWNERSHIP OR OPERATION REQUIREMENT.

(a) IN GENERAL.—Section 1235(a)(1) of the Food Security Act of 1985 (16 U.S.C. 3835(a)(1)) is amended—

(1) by striking out "or" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new subparagraph:

"(D) the Secretary determines that—

"(i) the land was acquired prior to July 1, 1987, by the current owner or the predecessor of the current owner, through involuntary foreclosure or through a deed in lieu of foreclosure; and

"(ii) the current owner is an operator (as defined in section 704.2 of title 7, Code of Federal Regulations).".

(b) ACCEPTABILITY OF CONTRACT OFFERS.—Section 1234(c) of such Act (16 U.S.C. 3834(c)) is amended by adding at the end thereof the following new paragraph:

"(4) In determining the acceptability of contract offers, the Secretary shall consider—

"(A) the fair market value of the land that is the subject of the contract, without rental payments; and

"(B) the revenue stream associated with the bid;

to ensure that, during the term of the contract, the rental payments do not pay for the land.".

SEC. 5. USE OF COMMODITY CREDIT CORPORATION.

Subsection (a) of section 1241 of the Food Security Act of 1985 (16 U.S.C. 3841(a)) is amended to read as follows:

"(a) During each of the fiscal years 1986 through 1990, the Secretary shall use the facilities, services, authorities, and funds of the Commodity Credit Corporation to carry out subtitle D.".

SEC. 6. WATER QUALITY PILOT PROGRAM.

Subtitle D of title XII of the Food Security Act of 1985 is amended by adding after section 1236 (16 U.S.C. 3836) the following new section:

"SEC. 1237. WATER QUALITY PILOT PROGRAM.

"(a) IN GENERAL.—Not later than July 1, 1988, the Secretary shall formulate and carry out, through the 1990 crop year, a ground water pilot program, in conjunction with the conservation reserve program established under this subtitle, through contracts to assist owners and operators of land described in subsection (b) in conserving and improving the soil and water resources of their farms or ranches.

"(b) ELIGIBLE LAND.—

"(1) IRRIGATION.—Land is eligible to be placed in the pilot program established by this section if the land—

"(A) is irrigated for the production of wheat, feed grains, or cotton in an area identified by an agency of the State or Federal government as subject to the overdraft of ground water; or

"(B) is associated with an aquifer adversely affected by such irrigation.

"(2) WATER QUALITY.—Eligible land shall also include cropland that the Secretary determines, in consultation with State agricultural and resource use agencies, to be associated with water quality problems stemming from agricultural and water management practices, including the use of fertilizers and pesticides, drainage systems, irrigation, and tillage practices.

"(c) DUTIES OF OWNERS AND OPERATORS.—Under the terms of a contract entered into under this section, an owner or operator, in addition to fulfilling the obligations described in section 1232, must agree—

"(1) to retire permanently, from the base and allotment history applicable to acreage placed in the reserve, a number of acres equal to the number of acres placed in the reserve; and

"(2) not to use, for agricultural purposes, other land drawing from the same water supply as land placed in the reserve.

"(d) ADMINISTRATION.—

"(1) CONTRACTS.—Except where determined inappropriate by the Secretary, the Secretary shall contract with owners or operators of land described in subsection (b) in accordance with the terms and conditions provided in this subtitle.

"(2) HIGHLY ERODIBLE LAND.—The term 'highly erodible land' as used in this subtitle shall be considered to include land described in this section.".

SEC. 7. SOFTWOOD TIMBER.

Section 608 of the Agricultural Programs Adjustment Act of 1984 (7 U.S.C. 1981 note) is amended—

(1) in subsection (a)(1)—

(A) by striking out "may" the first place it appears and inserting in lieu thereof "shall", and

(B) by striking out "marginal land (as determined by the Secretary)" and inserting in lieu thereof "land"; and

(3) in subsection (g), by striking out "50,000" and inserting in lieu thereof "200,000".

By Mr. RIEGLE (for himself, Mr. Durenberger, Mr. Mitchell, Mr. Daschle, Mr. Cranston, Mr. D'Amato, Mr. Sarbanes, Mr. Dodd, Mr. Kennedy, Mr. Kerry, Mr. Sasser, Mr. Pressler, Mr. Adams, Mr. Thurmond, and Mr. Weicker):

S. 1522. A bill to amend the Internal Revenue Code of 1986 to extend through 1992 the period during which qualified mortgage bonds and mortgage credit certificates may be issued; to the Committee on Finance.

ISSUANCE OF MORTGAGE BONDS AND MORTGAGE CREDIT CERTIFICATES

Mr. RIEGLE. Mr. President, I rise today to introduce legislation to extend for mortgage revenue bonds [MRB's] and mortgage credit certificates [MCC's] for an additional 4 years. I am pleased to be joined in offering this legislation with Senators Durenberger, Mitchell, Cranston, D'Amato, Sarbanes, Dodd, Kennedy, Kerry, Sasser, Pressler, Adams, Thurmond, Weicker, and Daschle.

For 50 years the Federal Government along with State and local governments and the American housing industry have collaborated to make America the best housed Nation in the world. It is a partnership that has worked well.

Yet recent testimony before the Senate Housing Subcommittee suggests that the dream of homeownership is becoming more and more difficult to achieve for many Americans. Today, the Nation's homeownership rate is at its lowest level in 15 years. This decline occurs at a time when members of the baby boom are at the prime homebuying age and during one of the most sustained and vigorous housing recoveries on record.

That testimony also underscored the importance of mortgage revenue bonds [MRB's] and mortgage credit certificates [MCC's] as vital tools in aiding and promoting homeownership. As many of my colleagues know, mortgage revenue bonds are issued by State and local housing to provide funds for home mortgages at rates about 2 percentage points below the market rate. This, in turn, helps ease the problems of housing affordability for many young families seeking to purchase their first home.

Since its inception, the mortgage revenue bonds have helped to finance over 700,000 new homes and over 1 million existing homes through 1986. The national average household income of MRB-financed purchasers is $26,000.

Mortgage credit certificates like MRB's are also issued by State and local housing agencies to provide financial assistance to first-time homebuyers. With an MCC, a homeowner may take a credit each year against his or her tax liability for a portion of mortgage interest paid.

My home State of Michigan has been a pioneer in the use of mortgage credit certificates [MCC's]. Michigan is now approaching its volume cap of $50 million in what was originally thought to be an experimental program. These certificates have been servicing households with, on average, incomes of $22,000 and now operates through 80 lenders in Michigan.

Unfortunately, Mr. President, current authority for these programs is set to expire in December 1988. The legislation I am introducing today extends these sunset dates through the end of 1992. Similar legislation H.R. 2640, was introduced in the House by Congressman Donnelly.

This bill is supported by the National Association of Home Builders, the National Association of Realtors, and the Council of State Housing Agencies.

I urge my colleagues in the Senate to support legislation and to keep in place two valuable programs that aid and promote first time home ownership throughout the Nation.

Mr. President. I ask unanimous consent that a copy of the bill and letters of support be printed in the Record directly following my remarks.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1522

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subparagraph (B) of section 143(a)(1) of the Internal Revenue Code of 1986 is amended by striking out "1988" each place it appears and inserting in lieu thereof "1992".

(b) Subsection (h) of section 25 of such Code is amended by striking out "1987" and inserting in lieu thereof "1992".

National Association
of Home Builders,
Washington, DC, July 15, 1987.

Hon. Donald W. Riegle, Jr.,
U.S. Senate,
Washington, DC.

Dear Senator Riegle: The National Association of Home Builders, which represents more than 147,000 members involved in the building industry, strongly supports your legislation that would extend the Mortgage Revenue Bond program, and Mortgage Credit Certificates, beyond the current December 31, 1988 sunset date.

Tax-exempt Mortgage Revenue Bonds (MRBs) issued by state and local housing agencies provide funds for home mortgages at rates about two percent below the market rate and help alleviate the problem of housing affordability. Mortgage Credit Certificates (MCCs), like MRBs, are issued by state and local housing agencies to provide financial assistance to first-time homebuyers. With a MCC, a homeowner may take a credit each year against his or her tax liability for a portion of mortgage interest paid. The credit rate is between 10 and 50 percent and is limited to no more than $2,000 per year.

Since the Mortgage Revenue Bond program's inception, approximately 1.8 million homes have been financed with the proceeds of MRBs. About 40 percent of those homes were new homes.

The extension of the MRB program, and MCCs, is revenue neutral. This is because, whether or not these programs are extended, states and localities will issue their limit of private purpose tax-exempt bonds. Extending MRBs and MCCs merely gives state and local governments the option of spending these limited resources on the programs they deem most necessary.

Now, as interest rates again begin to rise and young first-time homebuyers are particularly hard hit, we believe that the extension of MRBs and MCCs is crucial to the encouragement of affordable homeownership. Thus, we sincerely appreciate your efforts and will do all we can to assure that these important programs are preserved.

Sincerely,

Kent W. Colton, Ph.D.,
Executive Vice President &
Chief Executive Officer.

National Association of Realtors,
Washington, DC, July 22, 1987.

Hon. Donald W. Riegle, Jr.,
U.S. Senate,
Washington, DC.

Dear Senator Riegle: We understand that you, along with Senators David Durenberger, George Mitchell and others, plan to introduce legislation extending the sunset date of the mortgage revenue bond and mortgage credit certificate programs. The National Association of Realtors® strongly endorses these homebuyer assistance programs and we wholeheartedly support your efforts.

Since 1980 the mortgage revenue bond program has enabled nearly 1 million families to become first time homebuyers. Additionally, the mortgage credit certificate program, which was enacted as a part of the Deficit Reduction Tax Act of 1984, is rapidly becoming a viable program to assist low- and moderate-income first time homebuyers. As you know, these valuable homebuyer assistance programs are scheduled to sunset at the end of 1988.

The scheduled sunset of the mortgage revenue bond and mortgage credit certificate programs comes at a time when overall home ownership is becoming less affordable. This is especially true for households below age 35 where we have witnessed over a 30% decline in the home ownership rate from 1980 to 1986. Further, first time home buyers are finding home ownership out of their reach. For example, in 1977 49% of all buyers were first time buyers but, in 1986, only 37% of all buyers were first time buyers.

Clearly, we need to preserve those home ownership programs which have shown the ability to work and we applaud your efforts to extend the mortgage revenue bond and mortgage credit certificate programs. We look forward to working with you on this vital legislation.

Sincerely,

William M. Moore,
President.

Council of State Housing Agencies,
Washington, DC, July 21, 1987.

Hon. Donald W. Riegle, Jr.,
U.S. Senate,
Washington, DC.

Dear Senator Riegle: On behalf of the Council of State Housing Agencies, let me pledge our full support for the measure that you and your colleagues are introducing to extend the sunset of the mortgage revenue bond program. As you know, the MRB program has been an effective home ownership vehicle. Nationwide it has helped provide the financing for over a million homes, more than ninety percent of which have been for first-time home buyers. The average income of an MRB borrower is $26,000.

While we believe that the MRB program has always been a valid public purpose program, it has had its critics. There were objections raised that the program was too expensive and was not targeted to a low enough income segment of the population. The Tax Reform Act of 1986 addressed these concerns. The program is now very severely targeted and, since it has been placed under a volume cap, its extension will be virtually revenue neutral.

Clearly in times such as these when young Americans are finding it more and more difficult to enter the homeownership market, the continuation of an effective revenue neutral program is sound policy. You and your colleagues are to be applauded, and can count on our support.

Sincerely,

F. LYNN LUALLEN,
President.

Mr. D'AMATO. Mr. President, I rise today as an original cosponsor of legislation introduced by the Senator from Michigan, Mr. RIEGLE, to extend the Mortgage Revenue Bond Program for 4 years. I urge my colleagues to actively support an extension of this vital program.

Mortgage revenue bonds [MRB's] are tax-exempt bonds issued by States the proceeds of which are used principally to finance the purchase of single-family homes for middle-income families. Without the low interest rate provided by tax-exempt bonds, many moderate-income families could not realize the American dream of home ownership.

Mr. President, the MRB Program is scheduled to expire in 1988. To provide certainty of funding it is critical to promptly enact the legislation introduced today by Senator RIEGLE. My preference would be to permanently extend the MRB Program. However, political reality dictates that we seek to only extend the program through 1992.

The MRB Program in New York has been remarkably successful. In 1986 alone, MRB's were used to finance 4,212 loans with aggregate value of $251 million. The average loan was utilized by a family with household income of $36,500. Roughly 22 percent of the loans were used by families that reside in distressed areas with above average unemployment and below average income.

Mr. President, the MRB Program has worked in New York. But tax reform has threatened the effectiveness of MRB's in my State. The tax bill requires that the proceeds of MRB's be made available only to families with income the greater of 115 percent of area or State median income—140 percent in targeted low-income areas. Because New York has unusually high prices families earning 115 percent of median income often cannot find reasonably priced housing.

For example, in New York City a family may have maximum income of $35,880 in a nontarget area to qualify for a low interest loan derived from an MRB. A limit on the maximum price paid for a single-family house by a family utilizing MRB funds in New York City is $132,300. A family earning $35,880 can only afford a single-family home of $100,000. It is impossible to find a $100,000 home in New York City. The sad truth is that the MRB Program cannot work in the Nation's largest city. In fact, 41 percent of the MRB financed loans made last year in New York State could not have been financed in 1987 under tax reform.

In addition the tax reform bill placed most all tax-exempt bond issues in a volume cap. Prior to tax reform so-called private purpose bonds were restricted by a $150 per capita State volume cap, which did not include MRB's. MRB's had a separate volume limit equal to $624 million in New York.

Tax reform placed housing bonds in a unified State-by-State volume cap. In 1988 the volume cap will be $50 per capita compared to $150 per capita in 1985. The smaller cap will limit private purpose bonds issued in New York to roughly $830 million in 1988 compared to $2.5 billion in 1985. Housing bonds are now considered private purpose and will have to compete with other bond issues, such as student loans and resource recovery, for a volume cap allocation.

I have formed a working group of housing officials and private individuals to propose technical changes to the MRB and multifamily housing bond provisions of the Tax Code. In high cost areas such as New York, relief is needed to allow the Housing Bond Programs to function. In addition, the volume cap needs to be expanded or, ideally, housing bonds exempted altogether. This working group will make proposals to fix the housing bond provisions, which I will attempt to incorporate in the tax bill now being discussed by the tax writing committees.

Mr. President, I urge Members to support Senator RIEGLE's legislation to extend the MRB Program through 1992.

By Mr. METZENBAUM:

S. 1523. A bill to amend chapter 96 of title 18, United States Code; to the Committee on the Judiciary.

STRENGTHENING OF RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS LEGISLATION

● Mr. METZENBAUM. Mr. President, today I am introducing a bill that amends the civil provisions of the Racketeer Influenced and Corrupt Organizations Act [RICO]. The purpose of the bill is to curb the abusive uses of civil RICO, ensure that victims of systematic criminal behavior maintain an effective remedy to recover their losses, and codify a private remedy for consumer fraud for the first time in our Nation's history.

This bill is substantially the same as the amendment which I offered last year. I describe the differences in the two bills later in my statement.

RICO was enacted in 1970. It contains both criminal and civil provisions which were originally aimed at putting the mob out of business. The recent success of the trial in New York against nine godfathers of an organized crime family attests to the effectiveness of the statute. However, use of the law's civil provisions have been aimed not only at eradicating the mob, but also at leveraging favorable settlements in commercial disputes not involving systematic criminality. It is wrong for businesses to be subject to this kind of blackmail. I have worked long and hard with the business community, consumer groups, law enforcement officials, organized labor, and the American Civil Liberties Union to frame amendments that would end this misuse of the law. I have also worked closely with Representative BOUCHER who is introducing almost identical legislation in the House.

While civil RICO has been abused, it has also served the critical function of aiding victims of systematic criminal behavior. Governments, consumers, and even businesses are counted among these victims who have relied on civil RICO to seek compensation for losses. There are many examples of these vital uses of civil RICO. For example, New York City has filed numerous civil RICO suits to help it ferret out corruption in the award of contracts to deliver hand-held computers for the issuance of parking summonses, the operation of welfare hotels, and the lease of office and storage space. Other governmental entities, including the north slope borough in Alaska and Chicago, have relied on civil RICO in similar circumstances.

Consumers harmed by criminal fraud schemes have relied on civil RICO to recover compensation for their losses as well. For example, between 500 and 750 homeowners, including persons specifically targeted because they were poorly educated, elderly, or handicapped, relied on civil RICO in seeking compensation for losses incurred due to an alleged conspiracy between a bank and home improvement companies. Persons injured in the wake of recent insider trading violations have also turned to civil RICO for compensation and over 400 senior citizens filed a civil RICO suit to recover the loss of money they had saved over the years to ensure a peaceful retirement.

Suits by businesses to recover losses incurred due to arson, criminal fraud, and bribery schemes should also be counted among the worthwhile applications of civil RICO.

These uses of civil RICO should continue. This is especially so because civil RICO often represents the only meaningful avenue of recovery in these cases.

The goal of this bill is to prevent the abusive uses while preserving the appropriate uses of civil RICO. To accomplish this, it amends the across-the-board award of automatic treble damages under civil RICO and provides different remedies depending on the circumstances of the plaintiff. Every successful plaintiff would be entitled to recover actual damages, costs, and attorney's fees under the compromise bill. The circumstances in which plaintiffs could recover additional damages are outlined below.

First, general purpose units of governments, including Federal, State, and municipal entities, would be entitled to recover automatic treble damages. This year's bill increases the number of government entities that are eligible to recover automatic treble damages.

Second, plaintiffs suing defendants which have been previously convicted of a RICO violation or of an underlying criminal act would also be able to recover automatic treble damages.

Third, consumers and special purpose units of government would be entitled to recover up to two times the amount of their actual damages in most cases. The amount of the additional recovery, if any, would be based on the egregiousness of the defendant's behavior. Individuals involved in securities litigation would be eligible to recover in this category if they were small investors or if they were harmed by insider trading. Last year's bill did not contain special treatment for small investors or persons harmed by insider trading. These improvements were added in the wake of numerous insider trading scandals on Wall Street and in recognition that the most vulnerable and unsophisticated of investors ought to be entitled to recover more than their actual damages in cases of egregious fraud.

RICO provides a remedy for persons harmed by a pattern of criminal behavior. Moreover, the bill I am introducing today provides for the recovery of up to three times the amount of actual damages if the plaintiff proves, by clear and convincing evidence, that the defendant acted in conscious and wanton disregard of the consequences of its actions to the plaintiff. It is not appropriate for Congress to preclude plaintiffs from recovering more than actual damages for securities fraud in these circumstances, particularly when the plantiffs are among the most vulnerable and unsophisticated investors who have been the victims of extremely outrageous conduct.

The inclusion of special treatment for small investors has led the American Institute of Certified Public Accountants to declare their opposition to this bill. In addition, my colleague, Representative BOUCHER, is introducing civil RICO legislation that is identical to this bill in all respects except for the provision allowing small investors to recover more than actual damages and the situations in which the bill is retroactive. I am hopeful that we can resolve this difference in our approaches in a fair and expeditious fashion.

Fourth, and finally, all other plaintiffs, including business plaintiffs, would be able to recover their actual damages, costs, and attorney's fees.

The bill would also add a statute of limitations, require specificity in pleading the elements of an action, remove the inflammatory "racketeer" label, allow for the recovery of attorney's fees for abusive litigation, and provide for limited retroactivity.

These provisions are the result of long and complex negotiations involving representatives of the business community, consumer groups, State and local law enforcement offices, organized labor, and the American Civil Liberties Union. The bill has already been endorsed by the National Association of Manufacturers, members of the insurance industry, the AFL-CIO, and the American Civil Liberties Union. In addition, the Securities Industry Association does not oppose the bill.

The time to amend civil RICO is long overdue. I am anxious to work with all persons committed, as I am, to civil RICO reform so we can pass civil RICO legislation as soon as possible.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1523

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PATTERN OF UNLAWFUL ACTIVITY.

(a) CHAPTER 96 HEADING.—The heading for chapter 96 of title 18, United States Code, is amended by striking out **"RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS"** and inserting in lieu thereof **"PATTERN OF UNLAWFUL ACTIVITY"**.

(b) SECTION 1961.—Section 1961 of title 18, United States Code, is amended—

(1) in paragraph (1), by striking out "racketeering" the first place it appears and inserting "unlawful" in lieu thereof;

(2) in paragraph (5), by striking out "racketeering" each place it appears and inserting "unlawful" in lieu thereof;

(3) in paragraph (7), by striking out "racketeering" each place it appears and inserting "criminal" in lieu thereof; and

(4) in paragraph (8)—

(A) by striking out "racketeering" the first place it appears and inserting "unlawful activity" in lieu thereof; and

(B) by striking out "racketeering" the second place it appears and inserting "criminal" in lieu thereof.

(c) SECTION 1962.—Section 1962 of title 18, United States Code, is amended by striking out "racketeering" each place it appears and inserting "unlawful" in lieu thereof.

(d) SECTION 1963.—Paragraph (3) of section 1963(a) of title 18, United States Code, is amended by striking out "racketeering" and inserting "unlawful" in lieu thereof.

(e) SECTION 1968.—Section 1968 of title 18, United States Code, is amended—

(1) in subsection (a), by striking out "a racketeering investigation" and inserting "an unlawful activity investigation" in lieu thereof;

(2) in subsection (b), by striking out "racketeering" each place it appears and inserting "unlawful activity" in lieu thereof;

(3) in subsection (c), by striking out "racketeering" each place it appears and inserting "unlawful activity" in lieu thereof; and

(4) in subsection (f)—

(A) by striking out "racketeering" the first, second, and fifth places it appears and inserting "criminal" in lieu thereof;

(B) by striking out "racketeering" each other place it appears and inserting "unlawful activity" in lieu thereof; and

(C) by striking out "racketeer" and inserting "unlawful activity" in lieu thereof.

SEC. 2. CIVIL RECOVERY.

Subsection (c) of section 1964 of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) A governmental entity whose business or property is injured by conduct in violation of section 1962 of this title may bring, in any appropriate United States district court, a civil action therefor and shall recover threefold the actual damages to the business or property of the governmental entity sustained by reason of such violation, and the costs of the civil action, including a reasonable attorney's fee.

"(B) A civil action under subparagraph (A) of this paragraph must be brought by—

"(i) the Attorney General, if the injury is to the business or property of the United States;

"(ii) the chief legal officer of a State, if the injury is to the business or property of the State;

"(iii) the chief legal officer of a unit of general local government of a State, if the injury is to the business or property of the unit of general local government; or

"(iv) the court-appointed trustee, if the injury is to the business or property of an enterprise for which a trustee has been appointed by a United States district court under section 1964(a) of this title.

"(2) A person whose business or property is injured by conduct in violation of section 1962 of this title may bring, in any appropriate United States district court, a civil action therefor and shall recover—

"(A) threefold the actual damages to the person's business or property sustained by reason of such violation, and the costs of the civil action, including a reasonable attorney's fee, if the person who engaged in the conduct was, with respect to such conduct, convicted of an unlawful activity or of a violation of section 1962 of this title; or

"(B)(i) the actual damages to the person's business or property sustained by reason of such violation, and the costs of the civil action, including a reasonable attorney's fee; and

"(ii) punitive damages of up to twice the actual damages, if—

"(I) the person whose business or property is injured is a governmental entity other than a unit of general local government; or

"(II)(aa) the person whose business or property is injured is a natural person and the injury occurred in connection with a purchase or lease, for personal or household use or investment, of a product, service, investment, or other property, or a contract for personal or household use or investment;

"(bb) neither State nor Federal securities laws make available an express or implied remedy for the type of behavior on which the claim of the plaintiff is based, unless the plaintiff was injured by conduct proscribed by section 21(d)(2)(A) of the Securities Exchange Act of 1934 (15 U.S.C. 78u(d)(2)(A)) or unless the plaintiff is a small investor; and

"(cc) the plaintiff proves by clear and convincing evidence that the defendant acted in conscious and wanton disregard of the consequences of the defendant's actions to the plaintiff.

"(3) In a civil action involving a claim for punitive damages under paragraph (2)(B) of this subsection, the trier of fact, in determining the amount of punitive damages, shall consider—

"(A) the degree of culpability of the defendant;

"(B) the degree of disparity in the bargaining positions of the plaintiff and the defendant;

"(C) any history of similar conduct by the defendant;

"(D) the benefits derived from the unlawful conduct by the defendant;

"(E) the number of persons victimized;

"(F) any prior decision by a court or State or Federal agency as to whether the defendant's conduct giving rise to the action violated applicable law or constituted bad faith;

"(G) the extent to which the class action aspect of the compensatory damage award fulfills the deterrent function of punitive damages; and

"(H) any other factor the court deems to be an equitable consideration bearing on the appropriate amount of punitive damages.

"(4)(A) A civil action under this subsection may not be commenced after the latest of—

"(i) three years after the date the cause of action accrues;

"(ii) three years after the conduct causing injury to the plaintiff terminates; or

"(iii) two years after the date of the criminal conviction required for an action under paragraph (2)(A) of this subsection.

"(B) The period of limitation provided in subparagraph (A) of this paragraph on a cause of action does not run during the pendency of a government civil action or criminal case relating to the conduct upon which such cause of action is based.

"(5) It shall be an affirmative defense to an action brought under this subsection that the defendant acted in good faith and in reliance upon a directly applicable regulatory action, approval, or interpretation of law by an authorized State agency. Before the commencement of full discovery on and consideration of the plaintiff's claim, the court shall determine, upon defendant's motion, the availability of any affirmative defense asserted under this paragraph, provided that discovery on such defense shall be allowed, as provided by law or rule of procedure, prior to the court's determination.

"(6) In an action under this subsection, evidence relevant only to the amount of punitive damages shall not be introduced until after a finding of liability, except the court may permit, for good cause shown, introduction of such evidence prior to a finding of liability on motion of a party or in the exercise of its discretion.

"(7) In a civil action under this subsection, the court, upon motion, shall award a reasonable attorney's fee if—

"(A) the claim was frivolous, unreasonable, or groundless when asserted; or

"(B) the party asserting the claim continues to litigate after the claim is proven to be clearly frivolous, unreasonable, or groundless.

"(8) In an action under this subsection, facts supporting the claim against each defendant shall be averred with particularity.

"(9)(A) As used in this subsection—

"(i) the term 'governmental entity' means the United States or a State, and includes any department, agency, or government corporation of the United States or a State, any political subdivision of a State, and any enterprise for which a trustee has been appointed by a United States district court under section 1964(a) of this title (but only during the tenure of such trustee);

"(ii) the term 'small investor' means a natural person who, at the time the cause of action arises, either—

"(I) owned securities, excluding securities constituting investments in pooled investment funds that invest substantially all their assets in short-term debt instruments and maintain a stable net asset value or in United States debt instruments, valued at less than or equal to the median portfolio value of all United States securities holders of such securities; or

"(II) was a member of a household with an annual income of less than or equal to the United States median household income; and

"(iii) the term 'security', unless otherwise specifically provided in this Act, shall have the same meaning given to such term under the Securities and Exchange Act of 1934 except that such term shall only include instruments that comply with the requirements of the Securities and Exchange Act of 1934.

"(B)(i) For purposes of subparagraph (A)(ii), the Securities and Exchange Commission shall publish annually a survey that describes the securities holdings of natural persons in the United States. Such survey shall indicate the median portfolio value of all natural persons in the United States who own securities, excluding securities constituting investments in pooled investment funds that invest substantially all their assets in short-term debt instruments and maintain a stable net asset value or in United States debt instruments.

"(ii) The median portfolio value of all United States securities holders for years prior to the enactment of this Act shall be deemed to be the median portfolio value of all United States securities holders for the first year after enactment of this Act as indicated by the Securities and Exchange Commission's survey.".

SEC. 3. EFFECTIVE DATE.

(a) General Rule.—The amendments made by this Act shall apply to any civil action commenced after the date of enactment.

(b) Exception.—In any pending action under section 1964(c) of title 18, United States Code, in which a person would be eligible to recover only under paragraph (2)(B)(i) of section 1964(c) as amended by this Act, if this Act had been enacted before the commencement of that action, the recovery of that person shall be limited to the recovery provided under such paragraph (2)(B)(i), unless in the pending action—

(1) there has been a jury verdict or district court judgment, establishing the defendant's liability, or settlement has occurred;

(2) the plaintiff is a charitable corporation or a non-profit government chartered corporation; or

(3) the court determines that, in light of all the circumstances, such limitation of recovery would be clearly unjust.●

By Mr. CHAFEE (for himself, Mr. Durenberger, and Mr. Stafford):

S. 1524. A bill to clarify the intent of Congress to preserve the authority of local governments to protect public health and the environment under the Federal Insecticide, Fungicide, and Rodenticide Act; to the Committee on Environment and Public Works.

AUTHORITY OF LOCAL GOVERNMENTS UNDER THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT

● Mr. CHAFEE. Mr. President, the issue of pesticide use and regulation is a complicated one with important economic and environmental consequences. The able chairman of the Agriculture Committee, Mr. Leahy, has been working on a much needed bill to overhaul the existing Federal Insecticide, Fungicide, and Rodenticide Act [FIFRA].

The bill he has been working on covers a broad range of issues but is silent on one of the many areas that Congress needs to address under FIFRA—the preservation of local government authority to protect public health and the environment.

The bill I am introducing today would codify what I believe to be the correct interpretation of existing law as well as the proper policy choice. It would reject the view that FIFRA preempts the authority of local governments to regulate the use of pesticides, including, for example, the authority to require the temporary posting of notices when an area has been treated with pesticides. At the same time, my bill would make it clear that we are not creating new authority at the local level. The existence and scope of such authority will continue to be determined by State law.

The Congress needs to address this issue because local communities are faced with conflicting judicial interpretations of the law. In 1984, the California Supreme Court ruled in Deukmejian versus County of Mendocino that FIFRA does not preempt local political subdivisions from using state authorized powers to protect the public from pesticide hazards. The case involved a county ban on the aerial application of certain pesticides which are adopted after two school buses had been accidently sprayed. The court upheld the local ordinance.

Just last month, however, on June 16 the U.S. Court of Appeals for the Fourth Circuit ruled in the case of Maryland Pest Control Association versus Montgomery County, Maryland. In that case it was decided that, even though the county had acted within the authority delegated to it by the State, FIFRA preempts and invalidated the local action.

The amendment I am calling for does not pose the threat of adding a third tier of regulation on the pesticides industry. The fact is that many of the various States' own regulatory schemes already preempt most local regulatory activity.

What proponents of local initiatives are fighting to protect is the fundamental right of the States to delegate their police powers to local political subdivisions. Local political subdivisions cannot establish a third tier of regulation, such as local permits, licences or fees, because the States themselves have preempted that area of regulation.

Nevertheless, as long as local action is consistent with the State regulatory scheme, local governments are entitled and should be permitted to protect public health and the environment by, for example, restricting the methods of application (such as banning aerial application of pesticides in residential communities) or requiring notice of applications.

As sovereign political entities and the primary regulators of pesticides under FIFRA, it is the role of the States to strike the appropriate balance between local and State regulatory authority. It is not appropriate for the Federal Government to reach down into the State and limit its ability to craft measures that protect local concerns and problems.

Since the late 1970's, recognizing that their legal authority is already sharply constrained, local political subdivisions have been trying to legislate solutions to pesticide related problems in their communities. The increase in local regulatory efforts corresponds to increased public awareness of the health and environmental risks posed by toxic substances such as pesticides. At the same time, the use of agricultural pesticides in urban and suburban environments has risen to nearly 1.5 billion pounds per year.

The proliferation of chemical lawn care and tree care companies has brought the problem of pesticide use to virtually every community. Many people are concerned about the long term health effects on themselves, their families, and their pets. At least, 10 communities have already passed lawn care notification and posting ordinances. These include areas in Illinois, Ohio, Michigan, Maryland, Minnesota, and Alaska. An ever-increasing number of localities are beginning to investigate the issue.

In the past year alone, such States as Massachusetts, Maryland, Minnesota, Iowa, and my home State of Rhode Island have taken action on the lawn care issue. Maine has at least 14 ordinances, mostly pertaining to rights-of-way spraying. Vermont has at least four on the same issue and Louisiana has three concerning aerial spraying.

Mr. President, States and local communities should be allowed to exercise traditional police powers to protect public health and the environment without the cloud of Federal preemption hanging over them. The split in court opinions on this issue suggests that it would be a waste of energy and scarce resources to leave this matter to the courts. Congress must address this issue and should do so by siding with the States and local communities.

As I said earlier, this bill does not expand the authority of local governments. It leaves that decision to the States. Having decided to preserve State authority under FIFRA, it should be left to the States to decide how to exercise or delegate that authority.

Mr. President, it is my hope that this bill will be considered by the Committee on Agriculture as part of the FIFRA reauthorization process. I look forward to working with the members of the committee on this issue and resolving this problem as quickly as possible. At this point I ask unanimous consent that the text of the bill and a short factsheet be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1524

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Section 24 of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136v) is amended by adding the following new subsection:

"(d) LOCAL AUTHORITY.—(1) For the purpose of this section, the term "State" includes political subdivisions of a State.

"(2) The authority of political subdivisions of a State to regulate the sale or use of any federally registered pesticide or device shall be determined under applicable State law and, except as expressly provided in this Act, nothing in this Act shall be construed as affecting such authority of political subdivisions of a State."

FACTSHEET ON A BILL TO AMEND FIFRA TO CLARIFY THE AUTHORITY OF LOCAL GOVERNMENTS

WHAT WILL IT DO?

Protect the authority of State governments to determine appropriate exercise of local authority;

Ensure that communities can adopt ordinances which require the posting of areas treated with pesticides;

Enable communities to protect the health and safety of children, pregnant women, the chemically sensitive and all others who would like to avoid exposure to pesticides;

Enable localities to warn people when pesticide applications take place;

Enable communities to require that health and safety information accompany the sale of pesticide services by commercial operators;

Correct confusion created by conflicting judicial interpretations of congressional intent; and

Help communities avoid costly litigation to protect notification and other pesticide related ordinances.

WHY IT IS NEEDED?

A U.S. Court of Appeals (4th Circuit) decision issued on June 16, 1987, invalidated two local ordinances that required the posting of landscapes treated with pesticides and held that federal law (FIFRA) preempted with local authority;

That recent court decision contradicts a 1984 California Supreme Court ruling that upheld Mendocino County's ban on aerial application of certain pesticides after deciding that FIFRA does not preclude all local regulation of pesticides;

These conflicting precedents cast uncertainty over local regulatory authority and will give rise to future litigation in other jurisdictions across the country; and

Continued litigation on this matter is costly to those communities seeking to adopt pesticides ordinances, including notification ordinances which warn children, pregnant women, the chemically sensitive and others who would like to avoid exposure to toxic substances.●

By Mr. ARMSTRONG (for himself and Mr. GLENN):

S. 1525. A bill to amend Public Law 99-572 to authorize the Secretary of the Treasury to invest private funds contributed to the American Battle Monuments Commission for the construction of the Korean War Veterans Memorial in public debt securities; to the Committee on Energy and Natural Resources.

KOREAN WAR MEMORIAL

● Mr. ARMSTRONG. Mr. President, nearly a year ago, President Reagan signed into law legislation that authorized construction of a Korean War Memorial in Washington. The legislation authorized a Federal contribution of $1 million to the memorial project to provide an operating base so that planning could begin. It was expected that private contributions would make up the balance of what was needed to complete the memorial—estimated at between $2.5 to $3.5 million, depending upon the final design of the memorial.

The Korean War Memorial bill had strong support from the Senate, the House of Representatives, numerous veterans organizations, Korean vets, the families of those who served in Korea and Korean and American businesses. I am pleased to say that that original enthusiasm has resulted in contributions totaling $1.271 million to date.

With the recent appointment of the Korean War Veterans Memorial Advisory Board, a major effort will begin to collect the additional funds necessary to build the memorial. In this regard, one further step is necessary to facilitate the fundraising effort.

At present, contributions are held in a fund for the Korean War Memorial. However, Congress must authorize the Secretary of the Treasury to invest the contributions in order to collect interest on the account. Currently, the American Battle Monuments Commission estimates that the fund could collect some $6,000 a month in interest if the present contributions were invested.

In order to facilitate the building of the Korean War Memorial, my colleague, Senator GLENN, and I are introducing legislation to permit the contributions for the Korean War Memorial to be invested in interest earning public debt securities. Identical legislation has been introduced in the House by Representatives PARRIS and FLORIO.

Because this legislation is closely alligned with the intent of the Korean War Memorial legislation of last year, we expect this technical change will be noncontroversial. It does nothing more than speed the completion of the Korean War Memorial—something that is long overdue.

Between 1950 and 1953, nearly 6 million Americans served in Korea. Of these, approximately 100,000 were wounded, 5,000 were either captured or reported missing in action, and 54,000 gave their lives that liberty and self-determination would be preserved for the Korean people. The men and women who served deserve our continued support and recognition. The legislation Senator GLENN and I are introducing today will mean that these 6 million Americans will be appropriately honored by their fellow countrymen in an expeditious manner.

I urge my colleagues to support this legislation and join us in cosponsoring. I ask that the legislation be printed in the CONGRESSIONAL RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1525

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of Public Law 99-572 is amended by striking the last sentence and inserting the following: "The Commission is directed to establish an account with the Treasurer of the United States into which these private funds shall be deposited and maintain documentation of these contributions. The Secretary of the Treasury shall invest the portion of this account which in the judgment of the Chairman of the Commission is not required to meet current withdrawals. Such investments shall be in public debt securities with maturities which are suitable to the needs of the account as determined by the Chairman of the Commission, and which earn interest at a rate equal to the current market yield on outstanding marketable obligations of the United States of comparable maturities. The interest earned on such investments shall be credited to and form a part of the account.".●

● Mr. GLENN. Mr. President, I am pleased to join my distinguished colleague, the senior Senator from Colorado, in introducing a bill which proposes a minor adjustment to the legislation Congress approved last year authorizing the construction of a Korean War Memorial. Quite simply the bill would allow the American Battle Monuments Commission to earn interest on the contributions they receive for the Korean War Memorial until such time as those funds are needed for the project.

As my colleagues will recall, the legislation approved last year authorized the construction of a Korean War Memorial and provided $1 million in Government seed money for the project. The remainder of the funds required to build the memorial would have to be raised from private sources. To date the American Battle Monuments Commission has received $1.271 million in private contributions. These funds are deposited in a designated account until such time as they are needed for the memorial project. However, this account does not accrue interest and thus the ABMC estimates that they are currently forgoing over $6,000 per month in interest that could be earned and added to the memorial construction fund if this legislation is approved. The legislation that Senator ARMSTRONG and I are introducing today would simply allow the Secretary of the Treasury to invest the designated Korean War Memorial contributions in interest earning public debt securities.

I believe that this measure is noncontroversial and trust that it can be expeditiously approved.●

By Mr. CONRAD:

S. 1526. A bill to amend the Internal Revenue Code of 1986 to require that the major categories of Federal outlays and income be shown in graphs on the first page of the instructions for individual income tax returns; to the Committee on Finance.

FEDERAL TAYPAYERS' RIGHT TO KNOW ACT

Mr. CONRAD. Madam President, in an attempt to encourage more informed public debate on our Nation's national budget policy, I rise to introduce the Federal Taxpayers' Right to Know Act. Its purpose is to give taxpayers clear and essential information about the composition of the Federal budget and the major sources of Federal tax receipts. A companion bill is being introduced today by Representative HOWARD WOLPE and five other leading Members of the House of Representatives.

This legislation would require the Internal Revenue Service to print two pie graphs on the front cover of the instruction booklets provided to taxpayers for filing their individual income tax returns. The first chart would illustrate the relative size of major categories of Federal revenues collected in the previous fiscal year. The second chart would show the size of major categories of Federal expenditures.

Although the President and Congress have many disagreements over the nature and size of this year's budget, this is one point on which both are in agreement: The need to encourage greater public interest and understanding of budgetary matters. I am convinced that the simple step proposed in this bill would help to encourage more informed public debate on Federal budget policy that will contribute to developing a national consensus and assist Congress in bringing the Federal deficit under control. Madam President, I ask unanimous consent that a text of the proposed bill be inserted at this point in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1526

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) chapter 77 of the Internal Revenue Code of 1986 (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7519. GRAPHIC PRESENTATION OF MAJOR CATEGORIES OF FEDERAL OUTLAYS AND INCOME.

"(a) GENERAL RULE.—On the first page of any booklet of instructions prepared by the Secretary for filing individual income tax returns for taxable years beginning in any calendar year, the Secretary shall include—

"(1) a pie-shaped graph showing the relative sizes of the major outlay categories for the fiscal year ending in the preceding calendar year, and

"(2) a pie-shaped graph showing the relative sizes of the major income categories for such fiscal year.

"(b) DEFINITIONS AND SPECIAL RULES.—For purposes of subsection (a)—

"(1) MAJOR OUTLAY CATEGORIES.—The term 'major outlay categories' means the following:

"(A) Defense, veterans, and foreign affairs.

"(B) Social security, medicare, and other retirement.

"(C) Physical, human, and community development.

"(D) Social programs.

"(E) Law enforcement and general government.

"(F) Interest on the debt.

"(2) MAJOR INCOME CATEGORIES.—The term 'major income categories' means the following:

"(A) Social security, medicare, and unemployment and other retirement taxes.

"(B) Personal income taxes.

"(C) Corporate income taxes.

"(D) Borrowing to cover the deficit.

"(E) Excise, customs, estate, gift, and miscellaneous taxes.

"(3) Required footnotes.—The pie-shaped graph showing the major outlay categories shall include the following footnotes:

"(A) A footnote to the category referred to in paragraph (1)(A) showing the percentage of the total outlays which is for defense, the percentage of total outlays which is for veterans, and the percentage of total outlays which is for foreign affairs.

"(B) A footnote to the category referred to in paragraph (1)(C) showing that such category consists of agriculture, natural resources, environment, transportation, education, job training, economic development, space, energy, and general science.

"(C) A footnote to the category referred to in paragraph (1)(D) showing the percentage of the total outlays which is for medicaid, food stamps, and aid to families with dependent children and the percentage of total outlays which is for public health, unemployment, assisted housing, and social services.

"(4) Data on which graphs are based.—The graphs required under subsection (a) shall be based on * * *.

"(b) The table of sections for chapter 77 of such Code is amended by adding at the end thereof the following new item:

"Sec. 7519. Graphic presentation of major categories of Federal outlays and income.

"(c) The amendments made by this section shall apply to instructions prepared for taxable years beginning after 1987.

By Mr. EVANS (for himself, Mrs. Kassebaum, and Mr. Durenberger):

S. 1528. A bill to improve budgetary information by requiring that the unified budget presented by the President contain an operating budget and a capital budget, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL CAPITAL BUDGET ACT

● Mr. EVANS. Mr. President, I rise to introduce the Federal Capital Budget Act of 1987. This is one in a series of reforms that seek to restructure the way in which the Federal Government conducts its financial affairs.

Before describing the provisions of this legislation, however, I wish to express my appreciation for the valuable assistance of Charles Bowsher, the Comptroller General, and his staff in helping to develop this legislation. The Comptroller continues to play a valuable leadership role in improving our antiquated financial management practices.

The Federal Capital Budget Act simply seeks to identify, define, and present separate operating and capital components of the Federal budget while maintaining a unified budget. It is not yet a perfect piece of legislation, but hopefully it will help fuel a needed debate.

Mr. President, let me reiterate that this legislation seeks to retain a unified budget. This proposal does not attempt to reduce the Federal budget deficit through more smoke and mirrors by taking capital expenditures off-budget. A unified budget is maintained. This legislation seeks to provide what the existing budget does not—adequate information on the revenues, expenditures, surplus/deficit amounts, and financing requirements for capital activities of the Federal Government. It also attempts to provide a distinction between capital and operating activities in a manner which does not hinder identifying the resources needed to meet the Government's capital infrastructure needs.

The private sector and a large majority of State and local governments have set a financial example of the direction the Federal Government should follow. The benefits of a capital budget are many:

Focuses attention to a greater degree on the deteriorating physical infrastructure of the Nation and allows us to make more rational investment decisions;

Promotes intergenerational equity by burdening future generations with debt service only for activities that provide future tangible benefits (capital);

Provides more equitable budget treatment of capital activities by avoiding the current "front-end loading" of the full costs in the first year; and

Shows that borrowing to finance capital investments is accompanied by an increase in the Nation's assets.

A capital budget that remains part of the unified budget, may also help us better define "what is a balanced budget?" As we move in the direction of a balanced budget, we need to more fully explore whether it makes sense for the Federal Government to balance its annual budget under current bookkeeping practices.

While a capital budget will help, it alone will not do the job. Currently, the Federal Government uses 154 separate accounting systems. Each one is tailored to the needs of the particular agency using the system. There is little coordination of financial information. Is it any wonder we have difficulty deciding how to spend money next when we are not sure how we spent it last year?

The result is a convoluted web of misinformation that is at best an opaque window on the financial status of the Federal Government. Financial investigations turn up billion dollar slush funds or, even worse, conclude that some funds just can't be accounted for.

Legislation that the Senator from Ohio, Senator Glenn, plans to also introduce today seeks to establish a centralized financial manager for the Federal Government as well as individual agency comptrollers, move toward agency and governmentwide financial statements that conform with Generally Accepted Accounting Principles [GAAP], and improve a number of other Federal financial practices. I am an enthusiastic cosponsor of this legislation, which is a necessary step if we are to ever bring order to our financial affairs.

These efforts to improve Federal financial management and better identify capital activities will bear directly on the quality and clarity of the financial information that we use to make budget decisions. Broad improvements include:

Requiring disclosure of all Federal credit including loan subsidy costs;

Identifying trust fund amounts, including trust fund surpluses, as well as clearly specifying liabilities for future payments;

Ensuring that all Federal programs be included within the unified budget and total expenditures, not just net, should be shown; and

Requiring all agencies and the Government as a whole to submit consolidated financial statements which have been subjected to independent audit.

I would like to note, Mr. President, that each of these improvements are common with almost every State government in the United States.

At least part of the improvements can come from emulating certain practices in the private sector, where companies must maintain books of sufficient coherence that investors are not misled and stockholders can ascertain what management is up to. Congress should consider itself as the board of directors of the Federal Government and with this responsibility ensure that citizens living outside the beltway understand how their Government fares financially.

If a study completed by Michael Boskin, professor of economics at Stanford University, is any indication, we are doing a good job misleading our Government's stockholders. In his paper, Dr. Boskin compares private sector corporate financial status under Generally Accepted Accounting Principles [GAAP] to the same numbers cast under what he refers to as "Generally Unacceptable Federal Government Accounting Procedures." He concluded that if General Motors had used Federal accounting procedures in 1984, they would have shown a net loss of $4.82 per share.

But according to GAAP, they made more than $14 profit per share during that year. These are two sets of books using exactly the same figures. It is time the public—who hold all the stock in this Government—have a better idea about what their elected managers are doing.

In closing, Mr. President, Congress continues to debate reducing the Federal budget deficit, budget process reform, and more. However, all this may be to no avail, unless we recognize the most fundamental problem—the lack of accurate, timely, and comprehensive Federal financial information.

Mr. President, I ask unanimous consent that the legislation, a section-by-section description, and the paper prepared by Dr. Boskin be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1528

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Capital Budget Act of 1987".

SECTION 2. STATEMENT OF FINDING AND PURPOSE.

(a) Statement of Finding.—The Congress finds that the existing budget does not provide adequate information on the revenues, expenditures, surplus/deficit amounts, and financing requirements for capital activities of the Federal Government, and obscures the distinctions between capital activities and operating activities in a manner which hinders identifying the resources needed to meet the Government's capital infrastructure needs.

(b) Purpose.—It is the purpose of this Act that the unified budget present a capital budget and an operating budget which provides better and more relevant information on the revenues, expenditures, and financing requirements of Government programs and activities funded by those budgets.

SECTION 3. CAPITAL AND OPERATING BUDGETS.

Title 31, United States Code, is amended by inserting after Section 1105 the following new section:

"Sec. 1105a. Capital and Operating Budgets

"(a)(1) The budget of the United States submitted by the President under section 1105 of this title shall be a unified budget composed of a separate operating budget and a separate capital budget which taken together equal the unified budget.

"(2) Actual, estimated, and proposed amounts contained in the unified budget and its operating and capital budget components shall be presented, at a minimum, as the following separate elements:

"(A) Operating Budget, (i) operating revenues, (ii) operating expenses, (iii) operating surplus/deficit, (iv) depreciation expense, and (v) adjusted operating surplus/deficit;

"(B) Capital Budget, (i) capital revenues, (ii) capital investments, and (iii) net capital financing requirements; and

"(C) Unified Budget (i) gross financing requirements, (ii) adjustment for depreciation expense, and (iii) net financing requirements.

"(3) The capital budget shall represent only the major activities, projects, and programs which support the acquisition, construction, and rehabilitation of capital assets. All other activities, projects, and programs shall be represented in the operating budget.

"(b)(1) The budget submitted by the President shall be presented in a form which distinguishes, at the account, function, agency, and government-wide levels the actual, estimated, and proposed appropriations, receipts, and expenditures which are part of the capital budget component of the unified budget and those that are part of the operating component as described in subsection (a).

"(2) In addition to the basis on which information required under paragraph (1) is provided, the President shall present such information using accrual accounting procedures and provide a reconciliation of the amounts presented under this paragraph with the corresponding amounts presented under paragraph (1). The information required by this paragraph may be provided as a special analysis to the budget the President submits.

"(c) In this section—

"(1) 'capital assets' means physical assets and financial assets, but does not include consumable inventories.

"(2) 'physical assets' means tangible assets whose ownership resides or will reside in the public domain; which typically produce services or benefits, including for national defense and security, for more than one year; and have an initial price per unit of equal to or more than $500,000. Such assets include but are not limited to—

"(A) roadways and bridges;

"(B) airports and airway facilities;

"(C) mass transportation systems;

"(D) waste water treatment and related facilities;

"(E) water resource projects;

"(F) medical facilities;

"(G) resource recovery facilities

"(H) public buildings;

"(I) space and communication facilities;

"(J) railroads;

"(K) defense facilities;

"(L) major weapons platforms; and

"(M) strategic petroleum reserves and mineral stockpiles.

"(3) 'financial assets' means interests in, and claims against, governments, enterprises, organizations, and individuals and their resources which are represented by a legal instrument (such as stocks, bonds, debentures, notes, and other securities) acquired from foreign governments, states and their political subdivisions, corporations, associations, individuals, and others.

"(4) 'consumable inventories' means tangible assets, including stockpiles, supplies, and inventories, which typically are consumed within one year or have an initial price per unit of less than $500,000.

"(5) 'unified budget' means a budget in which revenues and expenditures are consolidated to display totals for the Federal Government as a whole.

"(6) 'operating revenues' means all receipts other than those identified in paragraph (11), including profits and interest earned on financial assets.

"(7) 'operating expenses' means all expenditures, other than those identified in paragraph (12) including interest payments on debts and loan subsidy costs.

"(8) 'the operating surplus/deficit' means the difference between operating revenues and operating expenses.

"(9) 'depreciation expense' means a systematic allocation of a portion of a physical asset's original cost (excluding national monuments and land) owned by the Federal Government, and financed by the appropriation accounts for which the capital budget required under subsection (a) of this section applies.

"(10) 'adjusted operating/deficit' means the total of the operating surplus/deficit and the depreciation expense.

"(11) 'capital revenues' means receipts derived from the repayment of principal invested in financial assets, and taxes, collections, and receipts dedicated by statute, for the acquisition, construction, and rehabilitation of capital assets which relate to the activities, functions, and programs represented by the capital budget.

"(12) 'capital investments' means expenditures, including those under grants, contracts, and leases, which are for the acquisition, construction, and rehabilitation of capital assets.

"(13) 'net capital financing requirements' means the amount capital investments exceed capital revenues.

"(14) 'the gross financing requirements' means the total of the adjusted operating surplus/deficit and the net capital financing requirement.

"(15) 'net financing requirements' means the gross financing requirement less the depreciation expense.

SECTION 4. CONFORMING AMENDMENTS.

Section 1112 of title 31, United States Code, is amended—

(1) in subsection (c)(1), by inserting "criteria, principles, and standards for determining the contents of the operating and capital budgets required under section 1105a of this title, and" after "including".

(2) by adding the following subsection at the end thereof:

"(g) The Comptroller General shall review the implementation of section 1105a of this title as the Comptroller General deems necessary. The review by the Comptroller General shall include but not be limited to determining whether actual and proposed appropriations, receipts, and expenditures presented in the capital budget represent activities, functions, and programs which support the acquisition, construction, and rehabilitation of capital assets.

"(h) Eighteen months after implementation of this legislation, the Comptroller General shall report to the Congress on the appropriateness of the $500,000 threshold for classifying items in the capital budget section of the unified budget. The report shall recommend, if appropriate based on the results of the Comptroller General's review, a new threshold or means of calculating such threshold."

Summary of the Federal Capital Budget Act of 1987

The bill maintains the unified budget concept, however, it amends title 31, United States Code, to require the President to report in his annual budget submissions the budget amounts in total for the Federal Government (unified budget) and within these totals, to report amounts separately in the form of a capital budget and an operating budget. For the unified budget, capital budget component, and operating budget component, information would be reported on the actual and estimated appropriation amounts, revenues, expenditures, surplus/deficit amounts, and financing requirements. In addition, a new special analysis would be required which presents the above amounts on an accrued basis and includes a reconciliation with the corresponding amounts reported in the budget on a cash basis.

The information now presented in the President's budget, by agency, functional category, and account, would distinguish between operating and capital activities.

SECTION-BY-SECTION DESCRIPTION

Sec. 2.(a). Provides a statement of findings. The Congress finds that the existing budget does not adequately distinguish between capital and operating amounts, and thereby hinders identifying the resources needed to meet the Government's capital infrastructure needs.

Sec. 2.(b). Provides a statement of purpose. The purpose is to establish capital and operating budgets within the unified budget to provide better and more relevant information on government programs and activities.

Sec. 3. Revises title 31, USC, Sec. 1105a, as follows:

1105 (a)(1) The President's budget presents a single unified budget that consists of separate operating budget and capital budget sections and a unified budget section that results from combining the totals presented in the operating and capital sections.

1105 (a)(2) This subsection presents a schedule which shows the form of the new budget at the summary level. It requires that the lead tables of the President's budget be presented in terms of an operating budget, a capital budget, and a unified budget as shown in attachment I. For illustrative purposes, attachment II provides an expanded version of the format provided in attachment I. Attachment II contains some estimates and, therefore, its amounts should not be considered official.

The "operating budget" will consist of all cash "operating revenues" and cash "operating expenses" for those government activities and functions which are not classified under the bill as part of the capital budget. This will include interest on the national debt and loan subsidy costs. The operating budget includes a calculation of the cash "operating surplus/deficit" (the budget deficit is currently presented on a cash basis) and of the "adjusted operating surplus/deficit" which reflects the year's non-cash depreciation on physical assets.

The "capital budget" reports both "capital revenues" and "capital investments." Captial revenues include gasoline excise taxes and similar amounts dedicated by law to capital activities. Capital investments include all cash expenditures for capital activities. The amount by which capital investments exceed capital revenues is also reported within the capital budget and is referred to as the "net capital financing requirements." Although this amount is similar (in calculation) to the operating surplus/deficit it is referred to as a capital financing requirement to reflect the fact that the government is financing the acquisition of a capital asset which produces future benefits rather than simply incurring a debt.

The "unified budget" section will combine the operating budget "adjusted operating surplus/deficit" total and the capital budget "net capital financing requirements" total into a single unified budget total.

An "adjustment for depreciation expense" is required because the budget for the United States is accounted for on a cash basis, while depreciation is a non-cash expense.

1105 (a)(3) The capital budget consists of the major activities and programs of the Federal Government which support the acquisition, construction, and rehabilitation of capital assets as defined in the bill.

1105 (b)(1) For those sections of the budget in which the President currently reports data by government total, agency, function, and account, this subsection requires that this data be reported both in total and separately for operating and capital amounts. This would entail distinguishing between operating and capital amounts in the summary tables, budget by agency tables, budget by function tables, and the accounts.

1105 (b)(2) This subsection calls for the presentation of accrual information, in total, and by agency and function, and a reconciliation to the information presented in accordance with the requirements of Section 1105 (b)(1) above. No definition of accruals is provided in the bill. This accrual information can be provided in a special analysis to the budget.

1105 (c)(1)-(15) These subsections define capital assets. They identify the general attributes of capital assets and provide a list of the types of projects which would be classified as capital assets.

In general, there are two types of capital assets—"physical assets" and "financial assets." Physical assets have the following characteristics:

Tangible—meaning hard physical assets. Excluded, for example, would be R&D and education.

Public ownership—meaning the asset will be owned by a federal, state or local government entity. Thus, physical assets would include more than just federally owned assets.

Provide services or benefits for more than one year. This would include national defense and security type benefits.

Initial cost per unit of $500,000 or more. This dollar threshold was arrived at based on a consideration of the dollar levels for individual agency activities and programs that are considered relevant to the congressional budget decisionmaking review, evaluation, and oversight processes. In addition, a Section 4 amendment to Section 1112 of title 31 requires that, 18 months after implementation of this bill, the Comptroller General shall report to the Congress on the appropriateness of this threshold figure and recommend changes, if necessary.

"Depreciation expense" is calculated by a simple straight-line method where an asset's value is reduced in equal installments determined by an asset's useful life.

"Financial assets" are comprised mainly of direct loans made by the Federal Government but also include other legal instruments or claims against governments, enterprises, or individuals which the Federal Government holds and, in the normal course of business, could be considered a financial asset. These would include stocks, bonds, notes and other securities held by the Federal Government. It would not, however, include loan guarantees.

Sec. 4. Amends Section 1112 of title 31, United States Code.

1112 (c)(1) Requires that the Comptroller General of the United States establish, maintain, and publish criteria, principles, and standards for determining the contents of the operating and capital budgets.

1112 (c)(2) Requires that the Comptroller General of the United States review implementation to ensure proper classification of items as operating or capital.

1112 (c)(3) Requires that the Comptroller General of the United States, 18 months after implementation of this legislation, review, evaluate, and report to the Congress on the appropriateness of the $500,000 threshold for classifying items as either capital or operating. If the review reveals that the $500,000 is inappropriate, the report should recommend a new threshold figure or method for calculating the threshold for federal agencies.

ATTACHMENT I

Operating budget:	
Operating revenues	
Operating expenses	
Operating surplus/deficit	
Depreciation expense	
Adjusted operating surplus/deficit	

ATTACHMENT I—Continued

Capital budget:	
Capital revenues	
Capital investments	
Net capital financing requirements	
Unified budget:	
Gross financing requirements	
Adjustment for depreciation expense	
Net financing requirements	

Illustrative Restructured Budget of the U.S. Government

[Dollars in billions] [1]

Operating budget:	
Operating revenues:	
General taxes	464.1
Earmarked taxes	288.7
Market earnings	120.4
Total operating revenus	873.2
Operating Expenses:	
Defense functions	210.8
Civil functions	634.9
Interest on debt	136.0
Loan subsidy costs	
Lease interest	
Other	
Total operating expenses	981.7
Operating surplus/deficit	−108.5
Depreciation expense	40.0
Adjusted operating surplus/deficit	−148.5
Capital budget:	
Capital revenues:	
Loan receipts	20.5
Direct capital taxes	16.3
Total capital revenues	36.8
Capital investments:	
Loan disbursements	42.2
Capital additions	106.8
Total capital investments	149.0
Net capital financing requirements	−112.2
Unified budget:	
Total	−260.7
Adjustment for depreciation expense	40.0
Net financing requirements	−220.7

Footnote [1]. Some dollar amounts in this schedule are estimates rather than actual amounts, and therefore should be used with caution. The schedule should be treated mainly as an illustration on the proposed new budget structure.

How Do Private Firms Fare Under Federal Government Accounting Procedures?

(Examples [1] of Generally Unacceptable Federal Government Accounting Procedures (GUFGAP))

(By Michael J. Boskin, Professor of Economics, Stanford University, and Research Associate National Bureau of Economic Research, Inc.)

1. INTRODUCTION

The federal government's accounting procedures differ greatly from generally accepted accounting principles (GAAP). There are undoubtedly a variety of reasons for this, including important differences between government and private activity, historical accident, political decisions, etc. Among the many unusual features of federal government accounting procedures are the failure to separate capital and current accounts, the lack of provision for expected future losses in many loan and loan guarantee programs, the exclusion of a variety of items, etc.

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[1] These examples are meant to highlight various accounting and conceptual issues in the federal budget and related documents. They are drawn from material in my forthcoming book, "The Real Federal Budget" Harvard University Press. I am deeply indebted to Brad Barham and Matt Camer-

Such accounting procedures may lead to inefficient government decisions at the agency level, e.g., in the decision to rent versus purchase equipment, the terms of loans or guarantees, and the sale of government assets. Thus, future costs or cost savings may be given systematically insufficient weight in budgetary decisions. The additional information conveyed by more complete and accurate financial reporting for the federal government, while potentially a valuable input into better government budgeting, can also be abused or misused. Uneconomic public investment could be justified as not adding to current operating expenditures or the deficit, for example.

In order to highlight the implications of some of these unusual features of federal government accounting procedures, we present below some examples of the financial reporting of some of the most prominent corporations in the United States, using various features of federal government accounting procedures. We have not attempted to adjust each and every item to make it consistent with all features of the federal government's accounting procedures. Rather, we have taken specific examples of federal budget accounting anomalies and applied them selectively to the financial reporting of corporations to highlight the potential problems.

The results are striking. For example, General Motors had one of the most profitable years in the history of the automobile industry in 1984. However, if General Motors did not have a separate capital account and treat its huge investment expenditures as current expenses, as is done in the federal budget, it would have reported a large net loss. This would have had the by-product of transforming $417 million in taxes due into a large net operating loss carry-forward, reducing future tax liabilities.

SeaFirst Bank, whose difficulties stem heavily from the Penn Square fiasco, reported a $180 million loss before taxes, and a $91 million loss after taxes, in 1982 (implying approximately a $90 million tax refund). SeaFirst reported a $288 million loan loss provision that year. Of this amount, only $186 million were on bad loans realized in 1982, the balance being provision for expected future loan losses. Following current federal government accounting procedures and thereby recording only the net loan losses actually incurred in 1982, SeaFirst becomes slightly profitable and its huge tax refund becomes a small tax liability.

IBM had a net income of $11.6 billion in 1984, and an after-tax net income of $6.6 billion. Following federal government accounting procedures, if IBM had recorded all of its 1984 investment expenditures as a current expense, it would have reduced its reported net income to $3.6 billion, and its after-tax income to approximately $2.0 billion. Thus, IBM would have reduced its federal tax liability to approximately $3.5 billion.

Among major corporations, IBM is a rarity as it is a large net creditor. Were IBM to record only one-half of its receipts as interest income as if one-half of its loans were recorded off-budget, as is done by the federal government, its net income would be reduced still further to $3.2 billion, and its after-tax income to $1.8 billion. The earnings per share and the return on stockholders equity would likewise have plummetted with these "adjustments".

Finally, General Electric Corporation reported in 1984 an operating income of $2.8 billion and an after-tax net income of $2.3 billion. The return on total capital and stockholders equity were about 18% and 19%, respectively, and earnings per share were over $5. If GE had recorded all of its investment expenditures as a current expense, it would have reduced its operating income to $357 million, slighly over 10% of reported operating income. On the other hand, if General Electric had reported the revenue from capital asset sales as current revenues, as is often done in the federal budget and as President Reagan proposes in the fiscal year 1987 budget plan for reducing the federal deficit, GE's operating income would have risen to $4.2 billion and its after-tax net income to $2.8 billion. Its return on total capital and return on stockholders equity would have soared, as would its earnings per share and tax liability.

There are numerous problems with private accounting procedures and many conceptual difficulties in setting up an appropriate accounting system for private firms. Many of these are compounded when we examine the activities of the federal government.

These examples, however, clearly illustrate how arbitrary, and in some cases, quite misleading, the use of current federal government accounting procedures can be in presenting either an accurate record of federal government transactions or an accurate guide to budgetary choices in the future. Rather than using generally accepted accounting principles (GAAP), the federal government's accounting procedures might best be labeled as "generally unacceptable federal government accounting procedures" (GUFGAP).

GENERAL MOTORS—1984

	Operating income [1] (millions after taxes)	Return on shareholders' equity (percent)	Earnings per share	Taxes due (millions)
GAAP	$4,516.5 (2,710.9)	18.7	$14.22	$1,805.1
GUFGAP1	−1,530.7	−6.3	−4.82	([2])

[1] Operating income figures are net income prior to extraordinary items, such as asset sales, where relevant.

[2] Note.—Negative present value. Net operating losses to be carried forward which will reduce future tax liabilities.

Note.—GUFGAP1: We include current investment expenditures as a current expense.

Source: General Motor's Annual Report for 1984.

SEAFIRST—1982

	Operating income (millions, after taxes)	Return on shareholders equity (percent)	Earnings per share	Return on assets (percent)	Taxes due [1] (millions)
GAAP	−180.5 (−91.3)	−16.3	−$5.59	−0.8	−$90.2
GUFGAP	12.0 (7.0)	1.2	.44	.07	5.0

[1] Taxes due under GUFGAP approximated using the 1981 effective tax rate of 42 percent rather than the statutory rate of 46 percent.

Note.—GUFGAP allows SeaFirst to avoid making provisions for expected future loan losses. Therefore, they only have to record the net loan losses actually incurred in 1982. Loans expected to default in the future do not have to be provided for, which means that SeaFirst only had to report $186.2 million in net loan losses rather than $288.3 million reported under GAAP.

Source: SeaFirst Annual Report for 1982.

INTERNATIONAL BUSINESS MACHINES CORPORATION—1984

	Operating income (millions, after taxes)	Return on averge stockholders' equity (percent)	Earnings per share	Taxes due [1] (millions)
GAAP	$11,623 (6,582)	26.5	$10.77	$5,041
GUFGAP1	3,583 (2,028)	8.2	3.32	1,555
GUFGAP2	3,183 (1,805)	7.3	2.95	1,378

[1] Taxes due approximated using the effective tax rate of 43.4 percent reported in 1984 rather than the statutory rate of 46 percent.

GUFGAP1.—Includes current investment expenditures as a current expenses.

GUFGAP2.—Records only one-half of interest income as if one half of IBM's loan assets are recorded off-budget through the equivalent of the Federal Financing Bank.

Source: IBM's Annual Report for 1984.

GENERAL ELECTRIC—1984

	Operating income (million, after taxes)	Return on total capital (percent)	Return on average stockholder's equity (percent)	Earnings per share	Taxes due [1] (million)
GAAP	$2,845 (2,280)	17.9	19.1	$5.03	$1,065
GUFGAP1	[2] 357 (593)	4.7	5.0	1.31	275
GUFGAP2	4,191 (2,790)	20.0	23.4	6.15	1,295

[1] Taxes due approximated using the effective tax rate of 31.7 percent reported in 1984 rather than the statutory rate of 46 percent.

[2] The operating income figure of $357 million before taxes and $593 million after taxes is due to the presence of extraordinary items not included in operating income.

GUFGAP1.—Includes current investment expenditures as a current expense.

GUFGAP2.—Includes revenue from capital asset sales as current revenues like President Reagan's plan for asset sales as deficit reduction measures. Under GAAP, generally accepted accounting principles, capital gains or losses from asset sales, not total sale revenues, are reported as extraordinary gains or losses, separate from net income from normal operations.

Source: General Electric Annual Report for 1984. ●

By Mr. GLENN (for himself, Mr. ROTH, Mr. CHILES, Mr. EVANS, and Mr. PROXMIRE):

S. 1529. A bill to improve financial management in the Federal Government; to the Committee on Governmental Affairs.

FEDERAL FINANCIAL MANAGEMENT REFORM ACT

● Mr. GLENN. Mr. President, I rise to introduce the Federal "Financial Management Reform Act of 1987." This bill reflects a continuing effort by the Governmental Affairs Committee to improve the Federal Government's financial management. At a time when Congress is being asked to trim every program to the absolute minimum, it is especially important to ensure that

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on for assistance in preparing these examples. Nothing contained herein is meant to convey any information or judgment concerning the activities or accounting procedures of the firms used as examples.

each dollar is properly spent and tracked. We can no longer afford to waste money because our financial management systems are antiquated and obsolete. Every dollar counts.

Thanks to the earlier work by Senator ROTH and the Governmental Affairs Committee, we already have a long hearing record on the nature of the financial management problem. Over the past years, the committee has met repeatedly to establish both the need for financial management reform and the range of available options. We know that the system is not working.

We know, for example, that $600 million in foreign military sales deposits is unaccounted for. The money has disappeared. We also know that we have almost $2 billion in ongoing financial management improvement projects with no central clearance or coordination. What we do not know is whether these new systems will work.

We have been told that there are at least 400 different accounting systems currently operating at one level or another of effectiveness in the executive branch. We also know that no two systems are exactly the same. We know that many of these systems are broken, that some are incapable of producing reliable, consistent information. We cannot tell, for example, what the impact of Gramm-Rudman-Hollings has been because agencies do not use the same definitions of programmatic or administrative cost.

Make no mistake about it. Poor financial management has a cost. According to past studies by the General Accounting Office and Inspectors General, we have lost millions in public funds because of inadequate fund control, poor collection systems, costly custom-built upgrade efforts, and missing data. Though we cannot tell exactly how much money is being lost—in no small part due to the inadequacy of the systems themselves—or exactly how much could be saved through comprehensive reform, we know that these are real dollars. Money lost in an antiquated system is money nonetheless. Money found in improved interest payments and transfers is money all the same.

Thus, financial management is best considered as part of budget reform, not as an arcane, accounting issue. Investments made in systems today will produce savings and revenues tomorrow. That is a fact of executive branch management borne out repeatedly in past Governmental Affairs Committee hearings.

In examining potential solutions to this problem, the Governmental Affairs Committee concluded long ago that what the executive branch needs most is sustained leadership and commitment. Building upon the earlier efforts of Senator ROTH and others on the committee, I believe this bill will go a great distance toward providing an integrated approach to financial management improvement. It will not be the final word. But it will finally make someone in the executive branch accountable for making a Governmentwide system a reality.

The bill builds upon GAO's recommendations for an Under Secretary for Financial Management within the U.S. Department of the Treasury. Frankly, we have concluded that this function cannot be performed within OMB. Try as OMB might to provide sustained investment in financial management systems, it simply has not provided the staff and resources needed for progress. It is impossible to generate agency interest by appointing a chief financial officer at the third or fourth level of the management side of OMB.

The agencies know that there have been two different Directors of OMB, two different Deputy Directors, and four different Associate Directors for Management over the past 7 years. The agencies know that there have been three different Deputy Associate Directors for Management Improvement. In all, there have been 48 different combinations of leadership for financial management in OMB over the past 7 years.

Moreover, the agencies have seen how OMB's management staff has been slowly weakened, shrinking by almost one-half since the Reagan administration entered office. That kind of turnover and instability sends a message to the agencies that financial management can wait, that financial management is not a top priority.

This is not to criticize the current leadership of OMB. Rather, I believe that force of personality is not enough, especially when the budget side of OMB consistently denies agencies the needed dollars to invest in the future. It is time to try a new approach outside of OMB.

By appointing an Under Secretary for Financial Management at executive level II in Treasury, I believe the agencies will finally get the kind of support and leadership we believe they need and want.

By mandating the development of a Governmentwide financial management improvement plan, I believe we will end the current policy of ad hoc, agency-by-agency improvements, some which work, others which merely perpetuate antiquated approaches to financial management.

By requiring the new Under Secretary to suspend all new projects until he or she can assure that those projects will work, we will be able to stop needless enhancements before they get started, while providing support for needed projects from the very beginning.

By enacting a recapture mechanism to bring at least two-thirds of every dollar saved back to the Treasury, we can assure that a significant share of the savings produced through this bill will go straight to deficit reduction. The other one-third stays with the agency as a form of gain sharing, and should create a powerful incentive for agency heads to invest in finding and certifying savings.

Though we cannot give a precise figure of savings from this bill, we believe that every dollar invested in financial management improvement will return at least $1.40 in savings. At the Internal Revenue Service, the return was even greater, on the order of 1,200 percent.

Thus, I feel that this bill is clearly appropriate to consider as part of budget reconciliation. It is not blue smoke and mirrors, but a tangible investment in making sure the executive branch joins with Congress in improving the budget process at both ends of Pennsylvania Avenue.

Let me summarize the specific provisions of the bill as follows:

First, the bill creates an Under Secretary for Financial Management in the Department of the Treasury, and establishes that position at executive level 11. By putting the Under Secretary at the same level as other Under Secretaries in the executive agencies, we can ensure that financial management will not be dismissed as a low priority. Assistant Secretaries will pay attention.

Second, the bill mandates that the Under Secretary develop a plan for an integrated financial management system to bring all agency systems into compliance with applicable requirements, integrate agency financial systems, set appropriate milestones for the implementation of the plan, and provide cost estimates back to Congress. The development, implementation, and maintenance of this plan is the centerpiece of this bill. It is the single most important missing link in current improvement efforts. Without the plan, agency improvements can only be ad hoc.

Third, the bill requires that the Under Secretary develop a methodology for estimating executive agency assets and liabilities. At this point in time, we still face a variety of definitional problems in developing the methodology. However, if we can surmount those obstacles, and if statements of those assets and liabilities will help achieve better financial management, then the Under Secretary should have the flexibility to proceed.

This bill does not mandate financial statements, and should not be interpreted as doing so. Rather, the bill moves us forward to a more detailed assessment of whether such statements would be useful. If such statements do become part of the Under Secretary's plan, the General Accounting Office or other independent auditor is given primary audit responsibility.

Fourth, the bill requires the Under Secretary to suspend all new enhancements and improvements until the plan is completed or until such time as those new projects are certified as being in compliance with applicable requirements. We do not want to stop progress, but do want to make sure every dollar invested in new plans is going to produce results. The bill also requires the Under Secretary to assure that all ongoing enhancements and improvements are in compliance. Again, the bill creates a powerful presumption in favor of projects that will work.

Fifth, the bill requires that all appropriation requests to Congress carry a statement on whether the amounts used to justify the request were derived from systems in conformance with applicable accounting standards. This is one approach for helping agencies acknowledge their problems, and for helping Congress determine appropriate support.

Sixth, the bill requires each executive agency to appoint a Chief Financial Officer as a point of contact for the Under Secretary. These CFO's will be responsible for financial management improvement within their departments, and will also form the basis for a Financial Management Improvement Council to advise the Under Secretary.

Seventh, the bill establishes a mechanism for recapturing two-thirds of all certified savings that come about as a result of financial management improvement. The other one-third remains with the agency as a form of gain sharing.

Eighth, the bill amends section 1105 of title 31 of the United States Code to require that the President must either send Congress a balanced budget each year or tell Congress how to get there. At present, the President is only required to "recommend in the budget appropriate action" on how to make up any deficit. This amendment clarifies the phrase so that the President cannot recommend additional borrowing, more piling up of the national debt, as the only way of complying with a law that has been in place since 1921. This section of the bill has passed twice before on its own—once in 1985 by 93 to 4, and by voice vote in 1986.

This section is perfectly compatible with Gramm-Rudman. However, it goes further than Gramm-Rudman in one important respect. Gramm-Rudman expires in the early 1990's. My bill imposes a permanent requirement for fiscal responsibility into the future.

Ninth, the bill requires a small study of the organizational placement of financial management leadership in the future. There is still some dispute over whether the chief Federal financial manager should be located in an independent office within the Executive Office of the President. I do not believe that is the way to go, but think further study is necessary. That does not mean that we should hold up on the Under Secretary, however. We must get moving, even if the Under Secretary is eventually moved to independent status.

Overall, I believe this bill will take Federal financial management forward significantly. We cannot afford to wait any longer. The potential costs are too great, the potential savings too large. I urge favorable consideration of this measure.●

● Mr. ROTH. Mr. President, I rise here today to join Senator GLENN in cosponsoring the "Federal Financial Management Reform Act of 1987". I have a long history of concern and work in this area. Last year, as the chairman of the Governmental Affairs Committee, I introduced S. 2230, the "Federal Management Reorganization and Cost Control Act of 1986," which embodied the concepts now being forwarded in this bill.

The financial management systems in the Federal Government supply information that is unreliable, inconsistent, untimely, and incomplete. Of the over 450 different accounting systems in the Government, few comply with the accounting standards set by the Comptroller General. These current practices do not show the actual costs of running the Federal Government. They are not comparable one to another, so that agencies cannot be judged side by side. There is no way that we in the Senate can fully determine the programmatic impacts of the legislative decisions we make on the basis of information reported. To make matters worse, often the information is reported in such an untimely manner, that the decisions must be made with dated, inaccurate information.

It is high time that the Federal Government had a position, a chief financial officer, that could be held accountable for these shortcomings. Someone who would be responsible for supplying the executive branch and the Congress with reliable, consistent, timely, and complete financial information. This financial officer would require the building and maintaining of an effective financial structure including a development and implementation of a financial plan; the maintenance of quality, skilled personnel to carry out the plan, and; the development and implementation of systems to bring about the necessary accountability.

We must continue to do all we can to bring financial management systems up to par and to provide for better reporting of the Government's financial situation—to encourage a responsible, accountable government. I have worked toward this goal in the past and I believe the "Federal Financial Management Reform Act of 1987" takes a major step in achieving this end.●

By Mr. THURMOND:

S.J. Res. 177. Joint resolution to authorize and request the President to designate the month of December 1987, as "Made in the U.S.A. Month"; to the Committee on the Judiciary.

MADE IN THE U.S.A. MONTH

● Mr. THURMOND. Mr. President, it gives me great pleasure today to introduce a joint resolution authorizing and requesting the President to designate the month of December 1987 as "Made in the USA Month".

The importance of this commemorative resolution is that it focuses attention on the many fine products that are made in the United States. It comes at a time when many of American's vital industries are fighting to survive. In 1985, our country became a debtor nation for the first time since before World War I. Our trade deficit reached a record level of $148 billion in 1985 and then exceeded $168 billion 1986.

Over 1.6 million manufacturing jobs have been lost since 1972 as a result of imports. The impact of imports has been felt across all manufacturing sectors. The United States has already lost to imports all or major portions of such industries as machinery, textiles, clothing, shoes, radios, television sets, cameras, optical equipment, tractors, shipbuilding and steel production.

This trend presents a problem of great magnitude for our Nation. It puts our national security in a vulnerable position. To continue as a world power, the United States must maintain the capacity to produce steel, textiles, rubber, food and other basic commodities.

Instead, we see our productive capacity dwindling to dangerous levels and jobs being created in foreign countries at the expense of American jobs. America's basic industries are being dismantled one by one. The time has come for us to go on the offensive. We must stop the export of American jobs. The first step in doing this is through an increased awareness on the part of the American public. That is what "Made in the USA Month" is all about.

Mr. President, through passage of this commemorative resolution, Congress can reaffirm its support of American industry and appropriately recognize the essential role it plays in sustaining the American economy. I invite my Senate colleagues to join as cosponsors of this resolution, and to join in bringing about its prompt passage.●

By KENNEDY (for himself, Mr. Hatfield, Mr. DeConcini, Mr. Durenberger, Mr. Inouye, Mr. Dixon, and Mr. Cochran):

S.J. Res. 178. Joint resolution designating the first Sunday of August as "National Day of Peace"; to the Committee on the Judiciary.

NATIONAL DAY OF PEACE

Mr. KENNEDY. Mr. President, today I am introducing a joint resolution with Senators Hatfield, DeConcini, Durenberger, Inouye, Dixon, and Cochran to designate the first Sunday in August, the anniversary of Hiroshima, as a "National Day of Peace". The resolution also requests the President to issue a proclamation calling upon the people of the United States to observe this day with appropriate celebrations and activities to enchance the cause of peace in the nuclear age.

The bombing of Hiroshima marked the dawn of the nuclear era, and the beginning of the greatest danger to humanity in the history of the Earth, the threat of nuclear annihilation.

I have stood at ground zero; I have walked the streets of Hiroshima, streets that lead to a bridge forever imprinted with the shadows of that day, literally branded in the concrete by the heat of that fateful blast.

There is a museum there today which serves as a constant reminder of the destructive force of human creation. The most powerful reminders of that day, however, are the survivors of the blast whose lives are silent daily testimony that nuclear war is a mortal danger and nuclear peace a necessity.

We all await with hope the outcome of the United States-Soviet arms control negotiations. We can make that hope more substantial for every American by providing a day when people across the country can come together to consider the possibilities of a world at peace, when international tensions are reduced. This hope is neither ideological nor partisan. We may perceive different paths, but we share the same goal—that our children, and our children's children, will never wake to see the terrible light of Hiroshima.

I hope that all of our colleagues will join us in supporting this joint resolution and ensuring its passage. I ask unanimous consent that the text of the peace day joint resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 178

Whereas all Americans need to reflect on the prospect of peace among the peoples of the world; and

Whereas a time should be set aside when people of all shades of opinion can come together in unity to consider the possibilities for peaceful coexistence: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first Sunday of August is designated as "National Day of Peace" and the President is requested to issue a proclamation calling upon the people of the United States to observe such a day with appropriate celebrations and activities.

ADDITIONAL COSPONSORS

S. 74

At the request of Mr. Gramm, the name of the Senator from Illinois [Mr. Dixon] was added as a cosponsor of S. 74, a bill to amend the Internal Revenue Code of 1986 to allow a charitable contribution deduction for certain amounts paid to or for the benefit of an institution of higher education.

S. 129

At the request of Mr. Inouye, the name of the Senator from Montana [Mr. Baucus] was added as a cosponsor of S. 129, a bill to authorize and amend the Indian Health Care Improvement Act, and for other purposes.

S. 402

At the request of Mr. Karnes, his name was added as a consponsor of S. 402, a bill to provide that during a 2-year period each item of any joint resolution making continuing appropriations that is agreed to by both Houses of the Congress in the same form shall be enrolled as a separate joint resolution for presentation to the President.

S. 548

At the request of Mr. Metzenbaum, the name of the Senator from Indiana [Mr. Quayle] was added as a cosponsor of S. 548, a bill to amend title 11, United States Code, the Bankruptcy Code, regarding benefits of certain retired employees.

S. 604

At the request of Mr. Pryor, the names of the Senator from New York [Mr. D'Amato], the Senator from North Carolina [Mr. Sanford], and the Senator from Colorado [Mr. Wirth] were added as cosponsors of S. 604, a bill to promote and protect taxpayer rights, and for other purposes.

S. 612

At the request of Mr. Simon, the names of the Senator from Kansas [Mr. Dole], the Senator from Massachusetts [Mr. Kerry], the Senator from Washington [Mr. Adams], the Senator from Florida [Mr. Chiles], the Senator from Rhode Island [Mr. Pell], the Senator from Michigan [Mr. Riegle], and the Senator from New Jersey [Mr. Bradley] were added as cosponsors of S. 612, a bill to repeal a provision of Federal tort liability law relating to the civil liability of Government contractors for certain injuries, losses of property, and deaths and for other purposes.

S. 672

At the request of Mr. Bentsen, the name of the Senator from Arizona [Mr. McCain] was added as a cosponsor of S. 672, a bill to provide for health education and training in States along the border between the United States and Mexico.

S. 703

At the request of Mr. Specter, the names of the Senator from Kansas [Mrs. Kassebaum] and the Senator from Tennessee [Mr. Gore] were added as cosponsors of S. 703, a bill to amend title 18, United States Code, including the Child Protection Act, to create remedies for children and other victims of pornography, and for other purposes.

S. 814

At the request of Mr. Hatfield, the names of the Senator from New York [Mr. Moynihan] and the Senator from Colorado [Mr. Wirth] were added as cosponsors of S. 814, a bill to facilitate the resettlement of Indochinese refugees and to provide for the protection of Indochinese refugees along the border of Thailand from cross-border attacks, and for other purposes.

S. 845

At the request of Mr. Leahy, the name of the Senator from North Carolina [Mr. Sanford] was added as a cosponsor of S. 845, a bill entitled the "Rural Area Revitalization Act of 1987."

S. 924

At the request of Mr. Bentsen, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of S. 924, a bill to revise the allotment formula for the Alcohol, Drug Abuse, and Mental Health Services Block Grant under part B of title XIX of the Public Health Service Act.

S. 1106

At the request of Mr. Hatfield, the name of the Senator from Washington [Mr. Adams] was added as a cosponsor of S. 1106, a bill to provide for simultaneous, mutual, and verifiable moratorium on underground nuclear explosions above a low-yield threshold.

S. 1124

At the request of Mr. Simon, the names of the Senator from Connecticut [Mr. Dodd] and the Senator from Ohio [Mr. Metzenbaum] were added as cosponsors of S. 1124, a bill to amend title 18, United States Code, to require that telephone monitoring by employers be accompanied by a regular audible warning tone.

S. 1162

At the request of Ms. Mikulski, the name of the Senator from Hawaii [Mr. Matsunaga] was added as a cosponsor of S. 1162, a bill to amend chapter 89 of title 5, United States Code, to provide authority for the direct payment or reimbursement to certain health care professionals; to clarify certain provisions of such chapter with respect to coordination with State and local law; and for other purposes.

S. 1203

At the request of Mr. GRASSLEY, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1203, a bill to amend title 22, United States Code, to make unlawful the establishment or maintenance within the United States of an office of the Palestine Liberation Organization, and for other purposes.

S. 1340

At the request of Mr. PRYOR, the name of the Senator from Vermont [Mr. LEAHY] was added as a cosponsor of S. 1340, a bill to provide for computing the amount of the deductions allowed to rural mail carriers for use of their automobiles.

S. 1345

At the request of Mr. McCONNELL, the names of the Senator from Iowa [Mr. GRASSLEY], the Senator from Rhode Island [Mr. CHAFEE], the Senator from Minnesota [Mr. DURENBERGER], the Senator from Arizona [Mr. McCAIN], the Senator from New Mexico [Mr. DOMENICI], and the Senator from Alabama [Mr. SHELBY] were added as cosponsors of S. 1345, a bill to allow the National Association of State Racing Commissioners, State racing commissions, and regulatory authorities that regulate parimutuel wagering to receive and share Federal Government criminal indentification records.

S. 1347

At the request of Mr. SIMON, the names of the Senator from Maryland [Ms. MIKULSKI] and the Senator from Massachusetts [Mr. KENNEDY] were added as cosponsors of S. 1347, a bill to facilitate implementation of the 1980 Hague Convention on the Civil Aspects of International Child Abduction, and for other purposes.

S. 1365

At the request of Mr. CRANSTON, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of S. 1365, a bill to amend title 38, United States Code, to establish presumptions of service connection for certain diseases of former prisoners of war.

S. 1424

At the request of Mr. SIMON, the names of the Senator from New Mexico [Mr. BINGAMAN] and the Senator from Montana [Mr. MELCHER] were added as cosponsors of S. 1424, a bill to amend title 8, United States Code, to provide for adjustment of status of certain Polish nationals who arrived in the United States before July 21, 1984, and who have continuously resided in the United States since that date.

SENATE JOINT RESOLUTION 99

At the request of Mr. DECONCINI, the name of the Senator from Pennsylvania [Mr. HEINZ] was added as a cosponsor of Senate Joint Resolution 99, joint resolution to express the sense of the Congress that the Special Supplemental Food Program for Women, Infants, and Children should receive increasing amounts of appropriations in fiscal year 1988 and succeeding fiscal years.

SENATE JOINT RESOLUTION 106

At the request of Mr. BINGAMAN, the name of the Senator from Missouri [Mr. BOND] was added as a cosponsor of Senate Joint Resolution 106, joint resolution to recognize the Disabled American Veterans' Vietnam Veterans National Memorial as a memorial of national significance.

SENATE JOINT RESOLUTION 111

At the request of Mr. HEINZ, the name of the Senator from Wyoming [Mr. SIMPSON] was added as a cosponsor of Senate Joint Resolution 111, joint resolution to designate each of the months of November 1987 and November 1988 as "National Hospice Month."

SENATE JOINT RESOLUTION 171

At the request of Mr. CRANSTON, the names of the Senator from Kansas [Mr. DOLE], the Senator from South Carolina [Mr. HOLLINGS], the Senator from Michigan [Mr. RIEGLE], the Senator from Indiana [Mr. QUAYLE], the Senator from Vermont [Mr. STAFFORD], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from California [Mr. WILSON], and the Senator from South Dakota [Mr. DASCHLE] were added as cosponsors of Senate Joint Resolution 171, joint resolution designating the week beginning November 8, 1987, as "National Women Veterans Recognition Week."

SENATE CONCURRENT RESOLUTION 23

At the request of Mr. CRANSTON, the names of the Senator from Massachusetts [Mr. KERRY], the Senator from Idaho [Mr. McCLURE], and the Senator from Maryland [Ms. MIKULSKI] were added as cosponsors of Senate Concurrent Resolution 23, a concurrent resolution designating jazz as an American national treasure.

SENATE RESOLUTION 246

At the request of Mr. MOYNIHAN, the name of the Senator from Rhode Island [Mr. PELL] was added as a cosponsor of Senate Resolution 246, a resolution to honor Irving Berlin for the pleasure he has given to the American people through almost a century of his music.

SENATE RESOLUTION 248

At the request of Mr. GRAHAM, the name of the Senator from Kansas [Mrs. KASSEBAUM] was added as a cosponsor of Senate Resolution 248, a resolution supporting the people of Haiti in their efforts to obtain respect for human rights and the holding of free and fair elections in Haiti, and for other purposes.

SENATE RESOLUTION 250

At the request of Mr. SARBANES, the names of the Senator from Delaware [Mr. ROTH] and the Senator from Arkansas [Mr. BUMPERS] were added as cosponsors of Senate Resolution 250, a resolution to express the sorrow and regret of the Senate at the death of Walter Wolfgang Heller.

SENATE CONCURRENT RESOLUTION 66—RELATIVE TO REFLAGGING OF SHIPS IN THE PERSIAN GULF

Mr. MOYNIHAN (for himself, Mr. HATFIELD, Mr. PELL, Mrs. KASSEBAUM, and Mr. KERRY) submitted the following concurrent resolution; which was referred to the Committee on Foreign Relations:

S. CON. RES. 66

Whereas on July 20, 1987, the United Nations Security Council adopted a resolution introduced by the United States demanding an immediate cease-fire between Iraq and Iran and calling for United Nations observers to monitor compliance with that cease-fire;

Whereas United Nations observers would be particularly valuable in monitoring the safe passage of nonbelligerent shipping, and in examining such shipping to guarantee that no war materiel is being carried; and

Whereas if nonbelligerent ships are permitted to fly the United Nations flag and are escorted by United Nations peacekeeping vessels, such action would do much to supplement United States efforts to protect rights of innocent passage (including self-defense by United States naval vessels and ships under their protection): Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That (a) it is the sense of the Congress that the President should instruct the Permanent Representative of the United States to the United Nations to urge the Secretary General and Security Council to—

(1) permit nonbelligerent ships to fly the United Nations flag if such ships submit to inspection by United Nations observers to guarantee that no war materiel is being carried;

(2) authorize United Nations peacekeeping vessels to escort such ships; and

(3) determine what enforcement action should be taken in event of an attack on ships under the United Nations flag, including action to impose trade embargoes and other measures.

(b) Consistent with the participation of countries in previous United Nations peacekeeping operations, such United Nations escort vessels and their crews should be provided by countries other than the Soviet Union and the United States.

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

● Mr. MOYNIHAN. Mr. President, on July 20, 1987, the United Nations Security Council took an important step—initiated by the United States—to bring about a peaceful end to the Iran-Iraq war. The concurrent resolution I offer today would extend that initiative to a special concern of the West: that of safeguarding shipping in the Persian Gulf. This concurrent resolution urges the United Nations to offer to place the U.N. flag on nonbelligerent ships in the gulf, and authorize U.N. peacekeeping vessels to escort those ships, in a manner compatible with U.S. efforts to protect ships under the American flag.

The President, Secretary of State George Shultz, and Ambassador Vernon Walters deserve great congratulations for last Monday's success in the Security Council. In a unanimous vote, the Council approved a resolution offered by the United States demanding an immediate cease-fire in the Iran-Iraq war, and calling for observers to monitor compliance with that cease-fire. The administration is drafting a second resolution providing for enforcement measures—including an embargo on arms sales—against any belligerent who continues hostilities.

However, by calling for U.N. personnel to observe the cease-fire, yesterday's resolution already moves beyond rhetoric to give the United Nations a direct role in monitoring the peace. And mind: this provision was proposed by a group of nonaligned nations, reflecting the urgency with which many such nations desire an end to the war, and betokening the potential support within the United Nations for stronger action.

The concurrent resolution I offer today would build on this initiative by urging the adoption of a proposal by former Secretary of State Cyrus Vance and former Secretary of Defense Elliot Richardson—as printed in the New York Times of July 8, 1987. The President would be called on to instruct the permanent Representative of the United States to the United Nations to urge that, while nonbelligerent ships were transiting the gulf, they be permitted to fly the U.N. flag. Those ships would first have to submit to inspection by U.N. officials to guarantee that no war material was being carried. The United Nations would also be called on to offer peacekeeping vessels to escort such ships while in the gulf.

The United Nations has provided for such temporary reflagging in the past. In August 1982, for example, the United Nations allowed its flag to be put on ships that evacuated members of the Palestinian Liberation Organization from Lebanon. Such temporary reflagging would not require a permanent change in the flag of national registry, and—as in the Lebanon operation—could be done without a full-scale revision of safety standards and other registry criteria.

The United Nations also has a long history of deploying forces to monitor cease-fires and to help keep the peace. The United Nations has not carried out a collective security action since the Korean war. However, the United Nations—with the guidance of former Under Secretary General Brian Urquhart—devised the alternative of deploying peacekeeping forces under the U.N. flag, interposed between belligerents to discourage further clashes and to identify whichever side dared violate a U.N.-sponsored cease-fire.

It is time to take such peacekeeping forces to sea. Not to provide an invulnerable screen around nonbelligerent shipping, nor even to discourage attacks through the capacity to inflict heavy losses on attackers. Rather, peacekeeping forces would provide for diplomatic deterrence against attack, based on the long-term costs to belligerents of breaking entirely with the community of nations. The concurrent resolution offered today calls for the United Nations to determine what actions should be taken in event of an attack on ships under its flag, including trade embargoes and other enforcement measures.

Preliminary analysis by the United Nations Association of the United States of America suggests that Canada, Sweden, India, and a large number of other members of the United Nations could provide patrol boats suitable for this escort mission. To limit the risk that the U.S.S.R. might exploit such a mission to deploy additional forces in the gulf—albeit under the U.N. flag—the resolution calls for nations other than the Soviet Union and the United States to provide the necessary forces. However, nothing in this proposal would prejudice U.S. efforts to protect rights of innocent passage—including self-defense by U.S. naval vessels and ships under their protection.

Mr. President, Secretaries Vance and Richardson have devised a proposal of great promise. Let us call on the administration to pursue its implementation.

SENATE CONCURRENT RESOLUTION 67—RECOGNIZING THE IMPORTANCE OF THE AGRICULTURAL EXPORT ENHANCEMENT PROGRAM

Mr. MELCHER (for himself, Mr. Dole, Mr. Leahy, Mr. Bentsen, Mr. Pryor, Mr. Boren, Mr. Heflin, Mr. Helms, Mr. Domenici, Mr. Thurmond, Mr. Harkin, Mr. Conrad, Mr. Fowler, Mr. Durenberger, Mr. Grassley, Mr. McClure, Mr. Daschle, Mr. Breaux, Mr. Pressler, Mr. Karnes, Mr. Exon, Mr. Sasser, Mr. Adams, Mr. Shelby, Mr. McConnell, Mr. Simon, Mr. Kasten, and Mrs. Kassebaum) submitted the following concurrent resolution; which was considered and agreed to:

S. Con. Res. 67

Resolved by the Senate (the House of Representatives concurring), That Congress recognizes the importance of the agricultural export enhancement program currently operated under section 1127 of the Food Security Act of 1985 (7 U.S.C. 1736v)—

(1) to multilateral trade negotiations;

(2) to counter or offset foreign agricultural subsidies and unfair trade practices of foreign countries; and

(3) as a transitionary tool in implementing the Food Security Act of 1985 (Public Law 99-198).

Sec. 2. It is the sense of Congress that the Secretary of Agriculture should make available sufficient funding, under section 5(f) of the Commodity Credit Corporation Charter Act (31 U.S.C. 845(f)), in each of the fiscal years 1987 through 1990, to carry out initiatives under the agricultural export enhancement program.

NOTICE OF HEARINGS

SUBCOMMITTEE ON ENERGY RESEARCH AND DEVELOPMENT

Mr. FORD. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled on Senate bill S. 1320, the Solar Development Initiative Act of 1987 and any related legislation pending before the subcommittee.

This hearing will take place on Thursday, August 6, 1987 at 1:30 p.m., instead of 2 p.m. as originally scheduled. The hearing will be held in room SD-366 in the Senate Dirksen Office Building in Washington, DC.

Those wishing to submit written testimony should address it to the Committee on Energy and Natural Resources, Subcommittee on Energy Research and Development, U.S. Senate, Washington, DC 20510.

For further information, please contact Ben Cooper at (202) 224-7569.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Wednesday, July 22, 1987 to conduct an executive session on S. 79, High Risk Occupational Disease Notification and Prevention Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, July 22, 1987 to continue oversight hearings concerning oil and gas leasing in the Coastal Plain of the Arctic National Wildlife Refuge, Alaska.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, July 22, 1987 to consider legislation in response to reconciliation instructions under the budget resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on July 22, beginning at 3:30 p.m., to conduct a hearing on the Environmental Protection Agency's views on pending clean air legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON GOVERNMENT EFFICIENCY, FEDERALISM, AND THE DISTRICT OF COLUMBIA

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Government Efficiency, Federalism, and the District of Columbia, of the Committee on Governmental Affairs, be authorized to meet during the session of the Senate on Wednesday, July 22, 1987 to resume open hearings on improving cash management policies of the Federal Government (S. 1381).

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Wednesday, July 22, 1987, to conduct hearings on the nominations of: David Ruder, to be a member of the Securities and Exchange Commission; Charles Cobb, to be an Assistant Secretary of Commerce; and, Roger Martin, to be a member of the Federal Home Loan Bank Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TAXATION AND DEBT MANAGEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Taxation and Debt Management of the Committee on Finance be authorized to meet during the session of the Senate on July 22, 1987, to hold a hearing on S. 1350, the Technical Corrections Act of 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation, be authorized to meet during the session of the Senate on July 22, 1987 to hold hearings on the nomination of Darrell M. Trent, of Kansas, Robert D. Orr, of Indiana, and Charles Luna, of Texas, all to be members of the Board of Directors of the National Railroad Passenger Corporation [Amtrak].

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

S. 1158—THE OMNIBUS HEALTH REAUTHORIZATION ACT

● Mr. HATCH. Mr. President, public health programs are essential in our Nation's quest for a reduction in deadly diseases, finding cures for ailments and treating serious illnesses. Today, we will consider S. 1158, the Omnibus Health Reauthorization Act, which continues our commitment to America's public health efforts. This legislation, which I introduced on May 6, has been strengthened by action taken by the Senate Committee on Labor and Human Resources action. Specifically, I want to thank the chairman, Senator KENNEDY, for his input and assistance in continuing our traditional bipartisan support of worthwhile public health programs. By reporting S. 1158 favorably to the Senate, the committee has taken the necessary first step on an important portion of our required health agenda.

S. 1158 guarantees that we will continue to provide vaccines for our children. It ensures our Nation's citizens access to health care in underserved areas. And, it will enable us to provide screening and treatment for our Nation's citizens afflicted with communicable diseases.

The specific programs that are continued in this legislation include the immunization program, the sexually transmitted disease program, the National Center for Health Statistics Program, the National Health Center for Health Services Research, the National Health Service Corps, the Council on Health Care Technology, and the tuberculosis program.

All of these programs are indeed worthy of individual support and consideration. Today, I want to draw special attention to the legislation's modifications in the reauthorization of the National Health Service Corps. Specifically, the bill authorizes the establishment of a Loan Repayment Program to help provide an adequate supply of trained physicians, dentists, nurses and other health professionals for medically underserved areas. If a professional will work in such an area, the program will provide for the payment of up to $20,000 in loans on behalf of that individual.

I am also pleased that this legislation includes a provision I requested authorizing a new 3-year program of grants for State programs that recruit health professionals for medically underserved areas. There has been strong support for this initiative from various sectors. Of import, I ask unanimous consent to insert a letter for the RECORD in which the Secretary of Health and Human Services, Dr. Bowen, expresses his endorsement of this new effort. I appreciate his vote of confidence and his willingness to work with us in helping to enact this provision.

There are many States in our country which benefit from health professionals serving under the National Health Service Corps. When I visited various rural health care programs in Utah in March of this year, many of my constituents shared their support for local physicians who were recruited through the Corps. At the same time, I heard a frequent complaint. Communities did not have the authority or discretion to recruit, and hopefully retain, health professionals in rural communities in my home State. I am hopeful this new statewide authority, which is coupled with a State commitment by requiring a funding match, will provide an impetus for more community involvement in recruiting and identifying their needs for health professionals.

This is only one of seven authorities in S. 1158—and I support all of them. I urge my colleagues to join me in its prompt consideration, and I am hopeful that the House will consider this legislation in an expeditious fashion.

The letter follows:

THE SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, DC, July 9, 1987.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We understand that your Committee has ordered favorably reported S. 1158, a bill to continue authorization of various health and science programs. The bill includes, among other provisions, reauthorization of the National Health Service Corps (NHSC).

Of particular interest to the Department are the provisions in Title II of the bill related to loan repayment. The bill would establish a new program of grants to States for loan repayment programs. States would be able to apply for these grants in order to provide for the repayment of the government and commercial loans of health professionals in return for obligated service in designated shortage areas. The Federal share of the costs of any State program supported under this section would not exceed 75 percent. The bill also provides for a separate Federal loan repayment program.

We think this approach of grants to States should be the basis for the entire loan repayment program. The Federal loan repayment program could be subsumed under the program of grants to the States. Accordingly, we would set the authorization level for the State program at such sums as may be necessary to meet the need. Such a program would have the capacity to build successfully on the established relationships that already exist with more than half the States under the NHSC State Contract/Cooperative Agreement program. Under that program, participating States have been responsible for implementing significant portions of the NHSC placement policy and identifying and developing viable sites for the placement of NHSC obligors.

In addition to structuring the loan repayment program on the basis of grants to States, we would recommend that the following changes also be made:

Address the unique needs of the Indian Health Service through a separate loan repayment program.

Place emphasis on physicians and other health professionals determined by the Secretary to be of high priority need, rather than the lengthy list of professionals in the current bill.

Revise the priorities for applications to give priority to those programs which focus on serving rural areas, and to those individuals who are immediately available for service.

Require States to report to the Secretary on the number, cost and type of individuals receiving loan repayment under all of their health manpower placement programs.

Repeal existing reports on the NHSC (section 336A of the Public Health Service (PHS) Act); on the NHSC Scholarship Program (section 338A (i) of the PHS Act); and repeal the requirement for a National Advisory Council on the NHSC (section 337 to the PHS Act).

Add an amendment that would prohibit the discharge in bankruptcy, after the expiration of the present five-year bar, of any payback requirement under the NHSC Scholarship Program unless the Bankruptcy Court found that nondischarge would be unconscionable.

Repeal the NHSC Scholarship Program. The mechanism of loan repayments provides a better mechanism for identifying individuals with the type of training needed and who have sufficiently progressed to the point in their training that they are willing to make a commitment to serve in an underserved area.

Focus Federal resources on the physicians who are obligated for NHSC service. A Federal scholarship program would place physicians in areas where there was not necessarily any evidence that local support exists to encourage physicians to remain after their service obligation is completed.

In summary, we think the concept of a State-based loan repayment program could form the foundation for a sound program effort to address the needs of rural underserved populations. We recommended that the bill under consideration be revised in accordance with the foregoing recommendations.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Otis Bowen, M.D.,
Secretary.

ROCK ISLAND ARSENAL 125TH ANNIVERSARY

● Mr. SIMON. Mr. President, during this past weekend, Rock Island Arsenal celebrated its 125th anniversary. It was July 11, 1862, that Congress established the Rock Island Arsenal following the destruction of the Harper's Ferry Federal Arsenal. Rock Island has served us all well since that time.

Rock Island continues to make a vital contribution to our Nation's security and readiness. The arsenal's role in emergencies has always been critical. But the specter of contracting out jobs at Rock Island and other arsenals has cast a pall over the good work done by thousands of men and women, who now must worry about their future after years of dedicated service.

My good friend and colleague Senator TOM HARKIN of Iowa and I introduced legislation prohibiting further contracting out at defense arsenals and manufacturing plants. This is important to all of us, and I sincerely hope we can pass this measure. It would be a fitting tribute in this Rock Island Arsenal anniversary year.

Mr. President, I am grateful for the long years of service rendered by Rock Island. I commend the arsenal community, and I congratulate the hard-working employees who have made the arsenal an Army success story.●

CHILD CARE IN A HELLER INDUSTRIAL PARK

● Mr. LAUTENBERG. Mr. President, on July 27 the Heller Industrial Park, in Edison, NJ, will be celebrating the official opening of the John F. Kenney Childcare Center. The center is one of the first State licensed day care facilities in this country designed specifically to serve employees of an industrial park.

The owner and developer of the industrial park, Isaac Heller believes that employee day care programs will be the corporate benefit of the late 1980's. Mr. Heller has said that corporate day care facilities are not just good things to have, but rather a real necessity in our rapidly changing society.

Parents who place their children in the industrial park facility will now be assured of adequate supervision for the children, but will be able to visit them during the workday. Parents will be able to spend valuable educational and recreational time with their children.

Employers will also benefit from this onsite day care center. Their employees should experience less tension and fewer distractions if they are relieved of concern about the care and well-being of their children. Only about 3,000 employers, out of 6 million nationwide, provide any sort of child care assistance. Even fewer, approximately 150, provide on- or near-site centers. But these pioneering employers have seen improvements in morale, recruitment, reduced employee turnover, declining absenteeism, and increased productivity.

Mr. President, I commend the vision of Isaac Heller in developing this day-care facility. Everyone gains when employers provide day care. Children have a good place to stay while their parents are at work. Employees will know their children are close at hand and well taken care of. Employers will have a less distracted, more involved work force. I hope that other employers will follow the path being blazed in this New Jersey industrial park.●

NAUM MEIMAN

● Mr. SIMON. Mr. President, the situation regarding Soviet emigration is deplorable, and one which must change immediately. Thousands of Soviet Jews are denied exit visas daily; the reasons given are indefensible.

A common reason given for denial by the Soviet Government is the supposed "possession of state secrets." The authorities claim these refuseniks possess secrets of the Government and thus would be a threat to their state if given permission to leave.

These claims are truly ridiculous. Naum Meiman has been a refusenik for over 10 years. The Soviet Government continually rejects his requests to leave on the grounds that he possesses state secrets. Naum, once a mathematician, was forced to give up his profession upon application of a visa. After 10 years, what pertinent information could Naum possibly still possess? Any knowledge he once may have had would surely be outdated by now.

It is time for the Soviet Government to take action on behalf of Naum Meiman and other refuseniks. Something must be done to relieve the suffering of these individuals. I strongly urge the Soviet officials to grant these exit visas, so that these refuseniks can finally live in peace.●

ORIGINAL INTENT OF THE CONSTITUTION

● Mr. CRANSTON. Mr. President, Leo Rennert, the veteran Washington bureau chief for the McClatchey chain of newspapers, is a writer acclaimed by his peers for the quality of his news coverage and the acuity of his political insights.

He has written a brilliant analysis of the theory of the Constitution's "original intent," which has once again become a matter of controversial interest with President Reagan's nomination of Judge Robert H. Bork to the U.S. Supreme Court.

Mr. Rennert, in his article in the July 12, 1987, issue of the Sacramento, CA, Bee, puts the issue in realistic perspective when he observes:

> When intellectual formulations are stripped away, the court and its judges are seen for what they really are—wielders of tremendous power with a great impact on the lives of all Americans. The office may be judicial, but the game is over high political stakes.
>
> Bork and his chief booster in the Reagan administration, Attorney General Ed Meese, have their own conservative agenda for the court. Having tried other routes and failed, they want to roll back some of the major decisions of the high court going back to Earl Warren's days.

But to give their intentions a more benign appearance, they have tried to cloak them in a high-sounding pop-law doctrine that is out of tune with 200 years of American constitutional law. They're trying to win support with an exercise in illusionism—a hallmark of the Reagan administration.

In giving their "advice and consent" to the Bork nomination, senators properly should focus on what he stands for and what he's apt to do on the court—not on a transparently spurious doctrine that can't stand up to historical analysis.

I ask that the text of the Sacramento Bee article, to which I have referred, be printed in the RECORD in its entirety.

The article follows:

ROBERT BORK: THE ILLUSIONS'S GRAND, THE AGENDA HIDDEN

(By Leo Rennert)

WASHINGTON.—There's a special irony in President Reagan's nomination of Judge Robert H. Bork to the Supreme Court during celebrations marking the 200th anniversary of the U.S. Constitution.

For the White House's basic selling point to obtain confirmation—Bork's supposed adherence to the Constitution's "original intent"—is a fiction that won't stand up to either judicial or historical analysis.

For two centuries, judges of varying ideological persuasions have written their own views in the nation's basic charter. Sometimes, they greatly expanded its reach; at other times, they constricted it.

There have been periods when the high court tilted in favor of property rights—even slavery. There also have been times when it broke new ground in support of racial and individual rights.

Either way, "original intent" was not a key factor for the simple reason that the Constitution was too skimpy to provide definite guidance for changing times and unanticipated problems.

Some judges, while charting a radical new course, pretended their views were entirely in accord with the Constitution's explicit precepts. Others were more candid and acknowledged that the Constitution is a sufficiently small document with broad enough language to permit extensive adaptation to new circumstances.

Legal scholars and constitutional historians long ago concluded that the court, throughout its existence, has been guided by the views and, yes, prejudices of whomever sat on the bench at a particular time. American constitutional history is a drama enacted by a few judges who can command a five-vote majority and by purposeful presidents who seize opportunities at critical moments to make appointments that push the court in a desired direction.

But in selling the Bork nomination, the president brushes aside this basic reality and seeks to convince the Senate and the country that he has picked a judge who finally has a clear, certified notion of what the constitutional framers intended and an ironclad commitment not to stray from this true path.

Similarly, in speeches and lectures, Bork himself has propounded his own judicial theory of "original intent" and argued that judges should not be guided by their own personal views. The framers, not a judge's predilections, should call the shots. "Original intent is the only basis for constitutional decision," Bork declared in a series of speeches in 1985. He repeatedly has accused high-court justices of deviating from true constitutional intent in recent times and gives the impression that he has the necessary insights to rescue the court from its wayward habits. To hear Bork tell it, with self-assurance bordering on arrogance, he has a direct pipeline to the Constitution's undeviating meaning.

The problem with that position is not just that it clashes with liberal precedents and decisions of the court in the last few decades. The real rub is that Bork doesn't reach back far enough in his constant moaning about "corrupters" of the Constitution. His analysis ignores the entire 200-year history of the court and the development of American constitutional law.

Almost from the very beginning, the court charted its own course, greatly exceeding the specific "intent" or provisions of the Constitution. The best refutation of Bork's "original intent" doctrine can be found in the classic formulation delivered by the greatest justice of them all, Chief Justice John Marshall, in the 1819 case of McCulloch v. Maryland.

Marshall was faced with a legal challenge to a congressional decision to set up a national bank. He readily acknowledged that the Constitution makes no mention of a national bank, one way or the other. Although the document was only 32 years old and there were still some framers around whose "intent" presumably could be plumbed, Marshall stepped in and set his own course.

He upheld the establishment of the bank by finding that the Constitution gave Congress not only explicit but all sorts of implied powers that the court, in its wisdom, could deduce. What matters, he argued, is that judges, in filling in the blanks, should be guided by a "fair and just interpretation"—a very convenient and elastic criterion.

But Marshall went a step further in setting rules for judicial interpretation by holding that the Constitution, by its very essence, requires judges to use their full discretion to give new life and meaning to what the framers intended. The Constitution, he declared, is a pithy document; it's up to judges to put flesh on bare bones.

"A constitution, to contain an accurate detail of all the subdivisions of which its great powers will admit, and of all the means by which they may be carried into execution, would partake of the prolixity of a legal code, and could scarcely be embraced by the human mind," Marshall declared. "It would, probably, never be understood by the public. Its nature, therefore, requires that only its great outlines should be marked . . . We must never forget that it is a Constitution we are expounding."

Actually, Marshall did not wait until 1819 to read all sorts of things into the Constitution that weren't there as he aggressively moved to enlarge the court's powers and the authority of the central government. In 1803, he invented the doctrine of judicial review—the right of the Supreme Court to hold legislative measures unconstitutional—in the landmark case of Marbury v. Madison.

That decision still ranks as perhaps the greatest quantum leap in the history of U.S. constitutional interpretation and hardly a model for the Reagan-Bork notion of judicial "restraint." The framers wrote that the Constitution is the "supreme law of the land." But they omitted any authority for the Supreme Court to set itself up as the Constitution's supreme arbiter. Marshall, however, was undeterred and plunged right in. He simply deduced the court's powers to hold congressional acts unconstitutional from "the very essence of judicial duty." As he saw it, naturally.

Marshall fashioned this radical expansion of the court's authority without any evidence of "original intent" and at a time when the framers' views were presumably more ascertainable than they are today. In fact, one can make a good argument that the Constitutional Convention in Philadelphia meant to creat three separate and coequal branches, each obliged to respect the Constitution but none given a monopoly power to have the final word in interpreting its true meaning. One wonders if Bork's "original intent" doctrine is pure enough to forswear the court's power of judicial review—particularly when a liberal statute is under attack.

Since Marbury, the history of American constitutional law has been littered with bold innovations and dramatic reversals of prior decisions by conservative and liberal jurists alike. The 14th Amendment, a product of the Civil War and clearly intended to protect the rights of blacks, was used by conservative-dominated courts in the late 19th and early 20th centuries to invalidate child-labor and other progessive state laws that impinged on property rights.

In 1896, in Plessy v. Ferguson, the court stood in Civil War amendments on their head by sanctioning segregation with the "separate but equal" doctrine. More than a half century later, when the court finally used the 14th Amendment to outlaw public-school segregation and issued landmark rulings to expand individual rights, there was an outcry that Earl Warren had deviated from true constitutional doctrine and turned the court into a haven for "activists." Bork and other critics of the Warren Court never bothered to point out that Plessy was a far greater distortion of constitutional "intent" than Brown v. Board of Education.

In attacking modern justices from Earl Warren to Harry Blackmun for civil rights, one-man, one-vote and pro-abortion rulings, Bork shows a curious intellectual myopia in glossing over a consistent 200-year pattern of creative impulses by those who have sat on the high court.

That's why there are such great, passionate fights over Supreme Court appointments and why a bruising battle looms over the Bork nomination. When intellectual formulations are stripped away, the corut and its judges are seen for what they really are—wielders of tremendous power with a great impact on the lives of all Americans. The office may be judicial, but the game is over high political stakes.

Bork and his chief booster in the Reagan administration, Attorney General Ed Meese, have their own conservative agenda for the court. Having tried other routes and failed, they want to roll back some of the major decisions of the high court going back to Earl Warren's days. But to give their intentions a more benign appearance, they have tried to cloak them in a high-sounding pop-law doctrine that is out of tune with 200 years of American constitutional law. They're trying to win support with an exercise in illusionism—a hallmark of the Reagan administration.

In giving their "advice and consent" to the Bork nomination, senators properly should focus on what he stands for and what he's adt to do on the court—not on a transparently spurious doctrine that can't stand up to historical analysis.●

COMPREHENSIVE AGENT ORANGE SCIENTIFIC EVIDENCE REVIEW ACT OF 1987

● Mr. KERRY. Mr. President, yesterday I introduced S. 1510, the Comprehensive Agent Orange Scientific Evidence Review Act of 1987. This legislation would direct the National Academy of Sciences to conduct a review of all of the scientific evidence and studies pertaining to agent orange and its effects on human health, and to issue a report summarizing their conclusions regarding the evidence on agent orange within 1 year.

I ask that the full text of S. 1510 be printed in the RECORD. I also ask that a letter from myself and Senator CRANSTON to Dr. Frank Press, president of the National Academy of Sciences, regarding this legislation be printed in the RECORD.

The material follows:

S. 1510

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled. That this Act may be cited as the "Comprehensive Agent Orange Scientific Evidence Review Act of 1987".

STUDY OF SCIENTIFIC EVIDENCE REGARDING HEALTH EFFECTS OF EXPOSURE TO AGENT ORANGE

SEC. 2. (a)(1) Within 60 days after the date of the enactment of this section, the Administrator of Veterans' Affairs is directed to conclude negotiations for and enter into an agreement with the National Academy of Sciences under which the Academy will conduct a review of all scientific evidence, studies, and literature pertaining to the human health effects of exposure to Agent Orange and its component compounds and prepare the comprehensive report described in subsection (c). The Academy will conduct the review and prepare such report under an arrangement under which the actual expenses incurred by the Academy in conducting the review will be paid by the Administrator.

(2) (a) If the National Academy of Sciences is not willing to conduct the review and prepare the report described in paragraph (1) under the type of arrangement described in such paragraph, the Administrator shall enter into a similar arrangement with an appropriate nonprofit private scientific entity.

(b) The Administrator may not obligate any funds under such an arrangement with a nonprofit private scientific entity as described in subparagraph (a) until specifically authorized to do so by a law enacted after the date on which this section is enacted.

(c) Not later than October 1, 1988, the Administrator shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives and make available to the public a comprehensive report prepared pursuant to an arrangement described in subsection (a)—

(1) describing the review conducted under such subsection; and

(2) containing a statement of the conclusions of the Academy or such other entity as conducts the review, based on such review, as to the weight of the evidence on the human health effects of exposure to Agent Orange and its component compounds.

(d) There is authorized to be appropriated to the Administrator to carry out this section $1,000,000 for fiscal year 1988.

U.S. SENATE,
Washington, DC, July 13, 1987.

Dr. Frank Press,
President, National Academy of Sciences, Constitution Avenue, NW., Washington, DC.

DEAR DR. PRESS: One of the unresolved legacies of the Vietnam war is the issue of Agent Orange. As you know, the questions arising from exposure of the men and women who served in Vietnam have been controversial and emotional and have long been of serious concern to us and to many of our colleagues in Congress.

It is our belief that the National Academy of Sciences could make an important contribution to the resolution of this issue, by undertaking a review of all of the scientific evidence, studies, and literature pertaining to the adverse health effects in humans of exposure to Agent Orange and its component compounds, and preparing a report summarizing the Academy's conclusions as to the weight of the evidence on this subject. Such a report would provide an authoritative statement regarding the evidence pertaining to Agent Orange.

It is our intention to offer legislation in the near future directing that the Veterans' Administration enter into an agreement with the Academy to conduct such a review and prepare the report on it, and authorizing the appropriation of the funds necessary for such a review, if the National Academy of Sciences is willing to undertake it. We would expect that such a study could be completed, and a report issued, within one year. We understand that the cost of such a comprehensive study should not exceed one million dollars.

The homecoming process for our Vietnam veterans cannot truly be complete until we have resolved the issue of Agent Orange. The National Academy of Sciences can play a valuable and important role in that process. It is our hope that the Academy would be willing to undertake an Agent Orange scientific review, as outlined above, and to issue a comprehensive report which can help guide future Congressional decision-making in this area. We look forward to your response and to working with you.

Sincerely,

JOHN F. KERRY.
ALAN CRANSTON.●

INJUSTICE TO ARMENIANS

● Mr. SIMON. Mr. President, Candy Danielson, the wife of our former House colleague George E. Danielson, now a distinguished associate justice of the Court of Appeals in California, had an article in the Los Angeles Herald-Examiner about the injustice to Armenians.

There can be no question about the great injustice done to these people. And the reason for calling it to our attention, just as a reason for calling the Jewish Holocaust to our attention, is to make sure that we do not repeat these injustices.

I urge my colleagues to read the article by Candy Danielson, and I ask that it be inserted in the RECORD.

The article follows.

[From the Los Angeles Herald Examiner, Apr. 23, 1987]

GIVE THE ARMENIANS THEIR DAY OF REMEMBRANCE

(By Candy Danielson)

Item: House Concurrent Resolution 49 authorizes the use of the U.S. Capitol Rotunda on April 28 for ceremonies to observe the Days of Remembrance of Victims of the Holocaust. That ceremony will take place, as in previous years, in memory of those who perished in Hitler's genocide of Jews.

Item: House Joint Resolution 132 and Senate Joint Resolution 43 to mark April 24 as a Day of Remembrance for victims of the 1915–1923 genocide of Armenians by the Ottoman Turkish Empire face tough sledding on Capitol Hill. If they are approved, a presidential veto is promised.

How are these two dark periods in history similar? Both were pogroms, organized massacres of helpless people carried out by governments, while the rest of the world did nothing to stop the slaughter.

How are they different? Germany has acknowledged the Jewish Holocaust, has made reparations and has sponsored ceremonies to honor the victims. Turkey, on the other hand, has adamantly refused to accept what archives throughout the world have documented. Instead, the government pays Gray & Company, a high-powered lobbying firm in Washington, D.C., thousands of dollars to persuade members of Congress and the American public that the Armenian genocide never took place. Moreover, since Turkey is a member of NATO, the Reagan administration seems more inclined to oppose an Armenian Martyrs Day that risk a rupture in the alliance.

How does this affect Armenians? Unlike the Holocaust victims, the 1.5 million martyrs who died in the Armenian genocide are pawns in a game in which moral imperatives mean nothing. As a consequence, the survivors of that massacre and their families—in fact, all Armenians—are left to cope with the frustration, anguish, trauma and sorrow of that human tragedy without the assuaging official recognition of its occurrence.

Make no mistake about it, the life of every single Armenian martyr who perished during the genocide was just as precious as any other life lost to barbarism.

Why should the administration's repeated calls for human-rights progress in other countries be applied only on a selected basis? Why are some allies exempted from its proddings? Selective morality is immorality.

The time has come for new diplomatic initiatives to restore the administration's credibility. Political expediency must not block the moral recognition owed to Armenians.●

HAPPY BIRTHDAY TO SENATOR DOLE

Mr. BYRD. Mr. President, I call attention to another very important matter today. This is the birthday of the very distinguished Republican leader. He is not only a very distinguished political leader, Mr. DOLE is a very distinguished American who has served his country in many capacities and he has served it well. He served his country nobly on the battlefield and he has served his country in public office.

He is an engaging person; he has an attractive, dynamic personality. He is a very likable individual. The Bible says that "He that hath friends must show himself friendly." And Mr. Dole has thousands of friends and they exist in both parties. He shows himself friendly. I like to count myself as one of his friends. I do count him as my friend.

The Bible also says—and I think this was one of Franklin's favorite passages of Scripture—"Seest thou a man diligent in his business, he shall stand before kings."

Senator Dole is a man who is diligent in his business. He has served his State in various ways and he serves his Nation. He is dedicated, highly dedicated, very able and in many ways I think brilliant.

We have read and heard of his incisive and sharp wit. I think all of us can bear testimony to that wit. I wish I had it. With all of my other attributes, if I had that additional one I would be quite a man. [Laughter.]

But I do take great pleasure today in calling attention to the birthday of this man. We do not know what the future holds for him, but I know what he holds for the future, given the opportunity. I know that all of my colleagues on both sides of the aisle share my admiration and affection for Robert Dole. And may I say, too, for Mrs. Robert Dole. As a matter of fact, she is my favorite departmental Secretary, not only at this time and in this administration but in all the years that I have been in public service, She is my favorite, not only because she is a very able Secretary, but because she, too, has a sparkling, scintillating personality, and I personally like her.

Now, Madam President——

Mr. DOLE. Will the majority leader yield?

Mr. BYRD. Yes. I wanted to recite a poem. As a matter of fact, I may recite two poems.

Well, I will say one today, and perhaps I should save one for next year.

So I say to Robert Dole:

Count your garden by the flowers,
Never by the leaves that fall;
Count your days by the sunny hours,
Not remembering clouds at all.

Count your nights by stars, not shadows;
Count your life by smiles, not tears;
And on this beautiful July afternoon,
Count your age by friends, not years.

I yield the floor.

Mr. DOLE. Well, I want to thank the majority leader. I do not want to ask any questions. He may change that beautiful statement he made.

But I would just say that I thank you very much. I appreciate it. I mean that very much. I certainly count the majority leader as one of my very best friends. I think that, as we have indicated to each other in private sometimes, our jobs are rather lonely, particularly his, the majority leader, in particular, and we are about as powerful as the Members permit us to be. Some days it is not very powerful at all.

But, I do thank the distinguished majority leader. I have learned a great deal from him over the years about the Senate and about this great institution. I think all of us have. I appreciate his kind comments.

I would just add that today is also the birthday of my colleague from Delaware, Senator Bill Roth; and also the birthday of Senator Kennedy's mother, Rose. I certainly wish to extend my best wishes to both Senator Roth and Mrs. Kennedy.

HAPPY BIRTHDAY

Mr. BYRD. Mr. President, I thank the Republican leader for reminding us of the birthday of Senator Roth and also for reminding us of the birthday of Senator Kennedy's mother.

Rose Kennedy is an outstanding woman, a woman who has suffered many sorrows, and who has experienced many proud moments as well, I am sure.

Cornelia was the mother of the Gracchi. She had, I believe, 12 sons and daughters. She lost them all with the exception of two sons.

One day, a neighbor paid a visit to Cornelia and displayed her jewels. Whereupon, she turned to Cornelia and asked if Cornelia had any jewelry. Cornelia turned to her two remaining sons and said, "These are my jewels."

Rose Kennedy, I think, could very well have said, with as much good reason as did Cornelia, regarding her sons, three of whose lives were given in the service of their country, "These are my jewels."

She could also say the same with pride concerning our colleague, her youngest son, who has served in the Senate with us now these many years and who has distinguished himself as a Senator, who is a good Senator, a very dedicated Senator, works diligently for his State of Massachusetts and the Nation and who never ceases to amaze me with his ability to grasp the issues and be prepared when he comes to the floor in support of amendments or in support of a bill or in opposition to a bill or in opposition to or support of a nomination. He does his work well and it reflects well upon him.

I thank the Republican leader for reminding me of these other birthdays, as well.

I also call attention, while we are discussing birthdays, to the recent birthday of the present occupant of the Chair, keeping in mind that we on the floor do have the advantage over the occupant of the Chair. The Chair cannot talk back to us without unanimous consent. And, in this instance, it might be well that the Chair does have this constraint upon it.

But Monday was the birthday of our gracious Presiding Officer, Barbara Mikulski. Walt Whitman said, "Man is a great thing upon the Earth and throughout eternity, but every jot of the greatness of man is unfolded out of woman."

Barbara Mikulski works on the Appropriations Committee. She is a new Member of the Senate, a new member of the committee, but it seems to me that she has been here all the time.

She approaches the work of the committee and of the Senate as diligently as one could approach that work. She accepts the work as a challenge. She loves the challenge, and the leadership on this side of the aisle is very proud of Barbara Mikulski.

I join with others in these belated birthday wishes. I hope we will have the opportunity to wish her many happy returns, not only on this occasion but on many future birthdays to come.

Mr. President, the distinguished Republican leader has reminded me that there will not be any rollcall votes today, and that announcement should be made.

We will keep the Senate in for a little while to see if there is anything to report anent the debt limit extension, before we close down for the day.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

EXTENSION OF TIME FOR MORNING BUSINESS

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Madam President, I ask morning business be extended for 15 minutes under the same restrictions as heretofore ordered.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

GORBACHEV ACCEPTS 0-0 ON INF SYSTEMS

Mr. DOLE. Mr. President, I want to take just a moment to advise the Senate that Soviet media have reported an interview with Soviet Leader Gorbachev, in which he accepts the President's proposal—which I have strongly seconded—of 0-0 levels globally on INF systems.

As I and other observers have suggested, 0-0 is almost imperative if we are to have any confidence in a verification regime for INF systems. Resolution of that issue on terms we have proposed would be a significant step forward toward an acceptable INF agreement.

I would also note that, in his interview, Gorbachev makes no mention whatsoever of one of the remaining unresolved issues relating to a possible INF agreement—the future of the West German Pershings. Whether that suggests Soviet willingness not to contest our view of that issue remains to be seen.

As always, we ought to view this news, welcome as it is, with caution. The proof is in the pudding—in this case, the pudding being the firm, signed-and-sealed proposals the Soviets lay on the table in Geneva. Perhaps we will see such a proposal in the plenary scheduled for tomorrow in Geneva.

As we wait, let's do so with firmness, patience and unity. That's what brought us this far, and that's what can keep progress coming.

BICENTENNIAL MINUTE

JULY 22, 1850: DANIEL WEBSTER RESIGNS FROM THE SENATE

Mr. DOLE. Mr. President, 137 years ago today, on July 22, 1850, Daniel Webster resigned from the Senate to become Secretary of State in the Cabinet of President Millard Fillmore. One of the most outstanding Members in the body's entire history, Webster, the great orator, joined with Henry Clay, the brilliant tactician, and John C. Calhoun, the gifted theorist, to lead the Senate through its golden age.

Webster capped his 37-year public career amidst the bitter conflict that marked the tumultuous year of 1850. While the Senate was embroiled in the controversial slavery issue and the Nation tottered on the brink of disunion, the Massachusetts Senator did his best to restore peace and order. Beginning with his famous 7th of March speech, he urged a compromise between southern and northern views. Webster emphasized the importance of maintaining the union between the States above and beyond any conflict that might threaten this sacred bond, such as slavery and possible secession.

As the debate raged, Webster's resonant voice could be heard echoing throughout the crimson and gold old Senate Chamber. He said: "My object is peace and reconciliation. I am against local ideas, north and south, and against all local and narrow contests." However, the end of Webster's Senate career was brought about by the unexpected death of President Zachary Taylor on July 9, 1850, and his decision to join the new President's Cabinet. On July 22, in the final speech of his long career, Webster called earnestly for the end of the strife that had plagued the Senate and in words that retain their rich meaning even today, he proclaimed, "I mean to stand upon the Constitution. I need no other platform. I shall know but one country. No man can suffer too much, and no man can fall too soon, if he suffer or if he fall in defense of the liberties and Constitution of his country."

Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECESS UNTIL 9 A.M. TOMORROW

Mr. BYRD. Madam President, the distinguished Republican leader knows that I am about to close down the Senate. He has indicated he has nothing further that he wishes to say, no business to transact.

I ask unanimous consent that when the Senate completes its business today, it stand in recess until 9 o'clock tomorrow morning.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR MORNING BUSINESS

Mr. BYRD. Madam President, I ask unanimous consent that on tomorrow morning, after the two leaders have been recognized under the standing order, there be a period for morning business to extend to the hour of 10 a.m. and that Senators be permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

TRANSFER OF MEASURES

Mr. BYRD. Madam President, may I say that this request has been cleared on the other side of the aisle by the Republican leader. I ask unanimous consent that the following bills be transferred to the Subjects on the Table Calendar. These are all portions of the omnibus trade bill which was passed yesterday, or they are trade-related bills, and they are as follows: S. 1200, S. 538, S. 406, S. 907, S. 1406, S. 512, S. 1233, S. 1344, S. 1409, S. 1420, S. 539, H.R. 2160.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 9 A.M. TOMORROW

Mr. BYRD. Madam President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in recess until the hour of 9 o'clock on tomorrow morning.

The motion was agreed to, and at 5:49 p.m. the Senate recessed until tomorrow, Thursday, July 23, 1987, at 9 a.m.

NOMINATIONS

Executive nominations received by the Senate July 22, 1987:

THE JUDICIARY

David C. Treen, of Louisiana, to be U.S. circuit judge for the fifth circuit vice Albert Tate, Jr., deceased.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 22, 1987:

THE JUDICIARY

Philip M. Pro, of Nevada, to be U.S. district judge for the district of Nevada.

DEPARTMENT OF JUSTICE

Verne L. Speirs, of Virginia, to be Administrator of the Office of Juvenile Justice and Delinquency Prevention.

IN THE COAST GUARD

Coast Guard nominations beginning Charles R. Collins, and ending George F. Hillegas, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 16, 1987.

Coast Guard nominations beginning John J. Fagan, and ending Richard E. Petherbridge, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on June 23, 1987.

HOUSE OF REPRESENTATIVES—*Wednesday, July 22, 1987*

The House met at 10 a.m. and was called to order by the Speaker pro tempore [Mr. Foley].

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

Washington, DC,
July 21, 1987.

I hereby designate the Honorable Thomas S. Foley to act as Speaker pro tempore on Wednesday, July 22, 1987.

Jim Wright,
Speaker, House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

As You have created every person, O God, so may we see Your image in the face of people everywhere. Bind us together, gracious God, in our common desires and goals, so that we may represent the unity that You first gave to us. We know that in Your sight, we are all created with the same image, nurtured by Your perfect love, and that together we share in the common destiny and glorious hope that is Your gift to us. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

THE HONORABLE CARL ALBERT, FORMER SPEAKER OF THE HOUSE

(Mr. WATKINS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WATKINS. Mr. Speaker, it is indeed a unique and very rare privilege that I have today to introduce to my colleagues in this body and friends across this land my predecessor, the former Speaker of the House, Carl Albert, who served for 30 years here in the U.S. Congress.

Literally a story can be written and told of this young man who lifted himself out of the cotton fields and the coal mines of southeast Oklahoma, out of basically a sense of poverty, who had a dream, who had a goal and he accomplished it. As a young man, he met a Congressman and he realized his hope and desire would be to serve as Speaker of the House. From 1946 to 1976, he served with honor, without a blemish on his record here for 30 years.

He became the majority whip in the leadership, the majority leader, and served 6 years during the most turbulent times of our Nation's history as Speaker of the House.

To my colleagues and to my friends and to the people around this great country, it is a privilege for me to present, and I would like for him to stand, the former Speaker of the United States House of Representatives, my predecessor, Carl Albert.

H.R. 2970, SUBSTITUTE FOR CATASTROPHIC HEALTH CARE BILL

(Mr. CRAIG asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRAIG. Mr. Speaker, let me share a letter from an Idaho constituent that I believe cuts to the real issue of the question we will be dealing with today, catastrophic health care, and I quote:

> Many of us senior citizens have adequate care for doctors and hospitalization, both through Medicare and private health insurance. What we do need, desperately, is extended nursing home coverage. Yes, our Medicare costs may go up, but at least we wouldn't lose all we have in one fell swoop.

Mr. Speaker, I have heard this comment again and again, both from Idaho seniors and from many others who have been communicating with Congress on the issue of catastrophic health insurance, and I really think we ought to listen to them. They know what they need.

I think we ought to focus our solution on the problem, not try to create distractions, and I think with the resources available to the Congress, we ought to be able to come up with a better answer to the problem of long-term care costs than just another study, another commission and another promise to expand big government. That is why I am cosponsoring H.R. 2970, which will be offered as a substitute to the compromise catastrophic health care bill that we will shortly be considering here in the House.

H.R. 2970 has an answer. It provides incentives to help the private sector expand coverage in the long-term insurance market. It gives seniors additional options for financing long-term care, without an additional massive taxation.

Mr. Speaker, I am listening to my seniors, and I urge my colleagues to listen to theirs. Vote for the substitute when it is offered.

THE COUNTRY NEEDS A TRADE BILL

(Mr. PEASE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PEASE. Mr. Speaker, the trade deficit figures released last week indicate that we have a long way to go toward redressing the trade deficit and our international trade policy. For this reason, I would like to commend the Senate for finishing work yesterday on S. 1420, the Senate omnibus trade bill.

Some observers say there is no need for trade legislation because the trade deficit is on its way out. I, for one, believe this country needs a trade bill regardless of the monthly trade figures. However, last month the trade deficit rose to $14.4 billion, or $173 billion at an annual rate.

Clearly, the Senate's action comes none too soon. While the House bill is the better legislative product, I believe we can and should at the earliest possible date reconcile the two bills and send to the President a bill he cannot refuse to sign.

REPORT FROM THE PHILADELPHIA CONSTITUTIONAL CONVENTION, 1787

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, I am reporting today from the floor of the great Convention in Philadelphia, PA. It is July 22, 1787. The delegates have taken a recess, equally due to the heat of the summer and to the heat of the debate in which they engaged yesterday, but still some of the delegates are coming into the hall to have their little caucuses.

Governor Morris of Pennsylvania is talking with Benjamin Franklin. Governor Morris is one of the central figures in this Constitutional Convention, one of the big speakers on most of the issues that have come before the delegates. He is a big man, and revolutionary that he was, he lost a leg in an accident and has a wooden

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

leg and uses that wooden leg from time to time to punctuate what he says on the floor of the Convention. He and Benjamin Franklin are talking over Governor Morris' ideas that we must have a strong Central Government, with which Ben Franklin agrees.

The delegates are poised now to complete some of the issues leading toward the three forms of government which have been contemplated by the resolutions that are before them.

It is a long hot summer in Philadelphia, and, although it is a day of recess, George Washington and James Madison and Ben Franklin and some of the others who are eager to have a new form of government are hard at work today.

IN SUPPORT OF H.R. 2941, MEDICARE CATASTROPHIC PROTECTION ACT OF 1987

(Mr. CAMPBELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CAMPBELL. Mr. Speaker, I rise today in support of H.R. 2941, the Medicare Catastrophic Protection Act of 1987. I would like to extend my appreciation to the distinguished members of the Ways and Means and Energy and Commerce Committees for all their dedication and hard work on this bill. I particularly want to commend Chairman CLAUDE PEPPER for his leadership and advocacy for our elderly and disabled population.

As we have seen through numerous hours of testimony, catastrophic illness does not discriminate on a particular population, it can strike people of all ages and economic backgrounds. Today, Medicare covers less than half of the health care costs of the Medicare population. The elderly are now paying the same proportion of their income for health care as they did before Medicare was enacted. Since the enactment of the Medicare Program in 1965, the profile of beneficiary needs has changed. Now is the time to begin to address the health care needs of our Nation, in a responsible and realistic manner.

This bill, which represents the most significant improvement in the Medicare Program, fills major gaps in Medicare's coverage of acute and transitional care and provides important protection for the low-income elderly. Key provisions of the bill will contain out-of-pocket costs for doctors' services, hospitalization, and limited stays in skilled nursing facilities. The bill extends Medicare coverage to prescription drug costs for the first time. Prescription drugs are one of the three highest out-of-pocket expenses for the elderly. In addition, this legislation includes protection against spousal impoverishment, and creates a new respite-care benefit.

We in Congress are here today to enact change and to provide meaningful legislation which is more responsive to the health care needs of our Nation. All of us have a stake in this legislation.

I urge my colleagues to join me in support of this legislation.

THE FARM CREDIT SYSTEM

(Mr. GRANDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GRANDY. Mr. Speaker, stop in at any coffee shop between Hubbard and Inwood, IA, and the topic is going to be the same: the Farm Credit System and what Congress will or will not do to fix it. If one believes half the articles and one quarter of the gossip, the inevitable conclusion is that the Farm Credit System has been a bad lender, and that is true; but Mr. Speaker, that is only half the problem. The other half, the untold story, is that the Farm Credit System has also been a very bad borrower.

The Farm Credit System is the primary source of money for both long- and short-term lending, for much of agriculture. The FCS obtains its funds by issuing bonds on Wall Street and reloaning this money to farmer borrowers.

One of the reasons we in the House are writing farm credit legislation for the third time in 3 years is due to the Farm Credit System's own imprudent borrowing in the bond market. The system previously has purchased bonds at 12 percent for 30 years with no provisions to call and then turned around and passed the cost of that money back to its members. The end result is that thousands of farmer/borrowers pay interest rates that are completely out of line with market rates. And while the producer's cash flow ability is compromised the Wall Street investor is losing confidence in a system which has requested $6 billion in assistance from Uncle Sam.

Today, Mr. Speaker, I am introducing legislation that addresses only the borrowing problems of the Farm Credit System. It simply requires the Finance Subcommittee, which formulates the system's funding policies and makes the decisions to issue billions of dollars in securities annually, to retain some financial market expertise on its seven-member board. Astonishingly, at present, there are no such requirements for accountability. My bill simply mandates outside input and expertise by placing criteria for such in the selection process of the remaining subcommittee members.

Mr. Speaker, this is a small bill which does not address all aspects of the farm credit dilemma. But until we address both the lending and the borrowing problems in the Farm Credit System, Congress is likely to come up with only half an answer.

IT IS PAST TIME FOR CONGRESS TO INCLUDE CATASTROPHIC COVERAGE IN MEDICARE

(Mr. ERDREICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ERDREICH. Mr. Speaker, we all know what a catastrophic illness can do to a family. For millions of retired Americans on fixed incomes, such an illness is catastrophic in every meaning of that word.

When I asked Jefferson County citizens in my annual questionnaire this spring if they favored an additional program under Medicare to cover costs of catastrophic health care emergencies, an overwhelming 76 percent said "yes."

It is past time that Congress moved to alter Medicare to include catastrophic coverage. The legislation we are considering today will go a long way toward protecting older Americans from the personal and financial difficulties that catastrophic illness can pose.

There are 328,000 beneficiaries of the Medicare Program in Alabama and 28 million nationwide who are looking to us to keep the promise we made to them when Medicare was first established. I ask my colleagues in the House to keep that promise and support this important legislation.

A GREAT NIGHT FOR DEMOCRATS

(Mr. SABO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SABO. Mr. Speaker, last night was a great night for Democrats. A big come from behind victory, 15 to 14 over the Republicans in the congressional baseball game; the steady pitching of MEL LEVINE, the rifle arm of JIM MOODY behind the plate, the speed of WALTER FAUNTROY, TOM DOWNEY, the hustle and hard hitting of DAVE MCCURDY and HARLEY STAGGERS, the slugging of BILL RICHARDSON, our most valuable player, the hustle and running of AL BUSTAMANTE and DAVID NAGLE and KWEISI MFUME, TOM CARPER and the slugging of LARRY SMITH, we just had a great game. It was a great evening.

I see my good friend, the gentleman from Michigan [Mr. PURSELL] here. The Republicans did good battle. We were a little nervous about it, with a future Hall of Famer on the mound for the Republicans, but Democrats managed to prevail.

We look forward to a rematch a year from now where we intend to win again.

"Carl, a good game."

□ 1015

REPUBLICAN-DEMOCRATIC BASEBALL GAME

(Mr. PURSELL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PURSELL. Mr. Speaker, I cannot think of a more fitting day after a bruising, great, wonderful evening, hot as it was, the Republican-Democratic baseball game. Today we are debating catastrophic health, I cannot think of a more appropriate time.

So I too want to congratulate my great GOP team. We came from behind. We were down 15-7 and lost 15-14. Dean Gallo, our most valuable player, put one out of the park over the left field fence.

I enjoyed managing the team. I want to compliment Sil Conte for all of the years he was our leader.

We have a young, freshman club. We will be back next year, at least next year. The whole club is ready to go. We will have 364 days to practice. It is a long time. Sandy Levin says we need it.

But I want to thank Sears for sponsoring, being our host and for Rollcall for being a great sponsor in the media. The Democrats and Republicans had a great night, and as our manager I want to compliment the House, the gentleman from Washington [Mr. Foley], and others, who allowed us to take an evening off to relax and have some fun, and in the spirit of camaraderie and expression of joint friendliness from our usual days of battle on the House floor. Last night was a wonderful evening.

THE HOME EQUITY LOAN CONSUMER PROTECTION ACT OF 1987

(Mr. PRICE of North Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. PRICE of North Carolina. Mr. Speaker, today, I have introduced legislation to insure that consumers receive timely, accurate, and adequate information about home equity loans.

Home equity loans have become the latest financial craze. It is expected that by the end of this year almost every major bank and thrift institution will be marketing a home equity product. The boom is due in large part to the 1986 Tax Reform Act which phased out the deductibility of interest payments on all consumer borrowings except home mortgages. Consumers, therefore, have a strong incentive to finance new consumer purchases or consolidate existing debt by borrowing against the equity in their homes.

Home equity loans are a unique financial product. Unlike traditional second mortgages where one borrows a fixed lump sum, a home equity loan, in most cases, gives the borrower a line of credit which can be tapped up to an approved maximum. In fact, a growing number of institutions allow the borrower to draw on a credit line through the use of a credit card. Most home equity loans employ a variable interest rate pegged some one-half percent to 2 percent above the prime rate.

Though these loans offer advantages, including in many instances lower rates, there are potential problems with their growing usage. The Consumer Federation of America and Consumers Union have raised questions about the information provided to consumers and the terms of many of the loans. And even banking groups have acknowledged that there is some confusion on the part of consumers in using this line of credit.

My legislation will first make certain that home equity loans are subject to the same disclosure requirements, under the truth-in-lending law, as other mortgage products so that consumers will have the ability to make prudent credit decisions. It will also add certain disclosures to enable the consumer to evaluate the impact of a rise in interest rates. Second, the bill will require that disclosures be made at the time of application rather than when credit is extended so that a consumer can clearly see the conditions and terms of the loan prior to paying nonrefundable fees. Finally, the bill will ban certain misleading terms used in some current advertising and require additional advertising disclosures if certain features like the tax deductibility of these loans are mentioned in an ad.

Mr. Speaker, home equity loans, should prove advantageous to millions of consumers. My bill will insure that those consumers are fully informed about the terms of these loans and will help prevent borrowers from imprudently putting their homes at risk. I invite my colleagues to join me in this effort and I appreciate the support I have received from the 19 Members who have already joined me in sponsoring this legislation.

NEAR-RECOILLESS POLYMER WEAPONS

(Mr. TALLON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TALLON. Mr. Speaker, I would like to share with my colleagues news of an exciting breakthrough in weapons technology with tremendous strategic and conventional potential.

A small, Florida-based company, Red Eye Arms, has invented the technology to produce near-recoilless polymer weapons. The result is a 50- to 70-percent reduction in weight.

This technology has been positively reviewed by the Congressional Office of Technology Assessment, General Electric Corp., Defense Advanced Research Projects Agency, and a number of other independent researchers.

If the all-plastic gun becomes a reality, it would be a landmark event comparable to the shift from muzzle loading to cartridge-loaded rifles in the mid-1800's. Clearly, it would give our Armed Forces a distinct superiority in armaments.

Mr. Speaker, I hope my colleagues will recognize the enormous potential in this development and give it the support it deserves. The reality is here, let us make it work for our country.

CATASTROPHIC CARE

(Mr. BUSTAMANTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUSTAMANTE. Mr. Speaker, later today we will consider H.R. 2470, the Medicare Catastrophic Protection Act of 1987. Under this bill, Medicare coverage is expanded and improved in several areas such as inpatient hospital care, prescription drugs, and physician services.

Enrollees will also benefit enormously from the bill's provisions for respite care and skilled nursing. My only concern arises from the sizable premiums for financing part A and part B.

I have reservations about that financing scheme, because I believe it goes against the founding principles of the Medicare Program. Among those principles is the belief that Medicare costs should be shared fairly among all workers, whether or not they are beneficiaries at the time.

Still, our senior citizens are so vulnerable to the devastating costs of catastrophic illness that I will support this bill in spite of my reservations.

DEATH PENALTY FOR COP KILLERS

(Mr. BIAGGI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BIAGGI. Mr. Speaker, last week our Nation suffered a terrible loss. In one of the most vicious and senseless acts committed in recent time, three Michigan police officers were taken hostage and then shot and killed while trying to serve an arrest warrant. Four persons were arrested for the crime, a woman and three of her sons.

But, there is more to this tragedy. You see, Michigan is one of 13 States that has no death penalty statute for killing a police officer, or in this case, multiple police officers. As a result, those responsible for this atrocity can be sentenced to no more than life in prison, which carries with it an average of less than 6 years of actual time served in prison according to the bureau of justice statistics.

Think about that. Three police officers killed. Their wives and children left to fend for themselves. And, those responsible are sent to jail for less than 6 years. That is intolerable.

It is cases like this that led me to author a bill, H.R. 2392, to reduce Federal criminal justice assistance to those States that fail to adopt a death penalty statute for persons convicted of willfully killing a law enforcement officer. A death penalty for the murderers of police officers is not only just punishment, it is an effective deterrent to others. I hope my colleagues will join me as cosponsors of this important measure.

MENTAL HEALTH COVERAGE IN H.R. 2941

(Mr. BATES asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BATES. Mr. Speaker, today the House will consider H.R. 2941, the Medicare Catastrophic Protection Act. This bill improves the financial security of our elderly Americans in a number of ways. One important improvement is the expansion in the mental health benefit. For the first time since Medicare began, Congress will expand the maximum reimbursement for outpatient mental health serves from $250 to $1,000 per year.

This expansion reflects the growing acceptance of mental health services as an integral part of our health care system. The cost of mental health care is such that it becomes a catastrophic expense quickly. I applaud the authors of H.R. 2941 for recognizing this, and urge my colleagues to give their strong support to this important provision.

SWEET CHARITY

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, our Caribbean Basin Initiative has been clobbered again. Two tiny Caribbean islands, St. Kitts and Nevis, have had their export of sugar to the United States cut 40 percent by the United States Department of Agriculture.

President Reagan's idealistic hopes of a solid relationship between the United States and Latin American countries has been dimmed by a greedy sugar lobby and a Congress that refuses to respond.

St. Kitts and Nevis have a total population of 41,000, a friendly democratic government, and a one-product economy—sugar. Currently the U.S. Agency for International Development is financing a new 8-mile highway for the islands, yet at the same time we are dismantling their sugar trade and destroying their ability to be self-sufficient.

Our friends on the islands of St. Kitts and Nevis do not want our charity—all they really want is a "consistent sugar policy". Mr. Speaker, I do not think that is too much to ask.

MENTAL HEALTH COVERAGE UNDER H.R. 2470, MEDICARE CATASTOPHIC PROTECTION ACT OF 1987

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, what was the mental health benefit under Medicare 20 years ago? $250. What is it today? $250, which is about $60 20 years ago.

What kind of help can senior citizens receive in the way of mental health benefits for $250? Very, very little, indeed.

One of the many strengths of H.R. 2470 that we are going to be discussing today is that it expands the mental health benefits, at least in dollar terms, to $1,000. That itself is not very much, but it is better than we have today.

Every senior citizen does not need mental health services, but some do. When it is needed, it is badly needed.

This is one of the reasons why H.R. 2470 is an infinitely strong and more just measure than the substitute. I urge all of our colleagues on both sides of the aisle to join together in passing H.R. 2470 with the increased outpatient mental health benefit.

FLAGGING KUWAITI SHIPS UNNECESSARY WITH A NATIONAL ENERGY POLICY

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, today is the first day of the President's policy of reflagging foreign ships to fly the American flag as they sail through the Persian Gulf around the Strait of Hormuz. The stated reason for the President's policy is a valid concern. It is to keep open the sealanes to continue commerce in the Persian Gulf and to maintain the supply of foreign oil that comes from the gulf and supplies the commerce of the Western World.

I hope all Americans will see the reflagging of foreign ships issue as a signal that our Nation needs to develop a national energy policy. For more than a decade, we have ignored the need to develop a national energy policy, relying instead of foreign oil. If we had formulated a national energy policy utilizing the technology, the know-how, the resources, the intelligence of our great Nation, at a minimum of blending alcohol and methanol with gasoline, we would lessen our dependence on foreign oil, diminish the likelihood of conflict in the Persian Gulf, provide a multibillion, dollar market for farmers and provide a cleaner air and environment for the American people. It is better late, than never.

NATIONAL ENERGY POLICY

(Mr. DANNEMEYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DANNEMEYER. Mr. Speaker, I could not help but hear my good colleague, the gentleman from Arkansas [Mr. ALEXANDER], just relate on the necessity of the Congress of the United States or this administration to develop a national energy policy.

In response I can say we Republicans have been attempting to get the House to vote on just such a national energy policy, but our friends on the Democratic side have been preventing us from doing so all during this Congress.

First, we should be deregulating natural gas prices. If we had the courage to do that, it is estimated that we could back out of use from 300,000 up to 1 million barrels of oil that we are currently importing.

We should be expanding offshore drilling off of our coasts rather than restricting it as the Democratic majority is now doing, and in so doing bring into production fields that off my State of California contain anywhere from 1 to 5 billion barrels of oil.

□ 1030

We should be developing the energy source that now exists in the State of Alaska in the northeastern area called Anwr, estimated to contain 5 to 10 billion barrels of oil but the Democratic majority in this House prevents us from doing so.

These three options, among others if time permitted, could significantly reduce our dependence on foreign oil. If the Democrats in this House want to adopt those, let them come forward and introduce and support them. We can reduce our dependence on oil from the Persian Gulf or someplace else and reduce the chance that American lives are going to be lost in pursuing this folly of dependence on foreign oil.

ALLEGATIONS CONCERNING DRUG TRAFFICKING BY THOSE INVOLVED WITH THE CONTRAS

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, yesterday at the Select Committee on Narcotics meeting, information was reaffirmed that individuals involved in supplying arms and goods to the Contras in Nicaragua were also involved in bringing drugs back to America.

As an example, Michael Palmer, a Miami pilot who was indicted, convicted, and served 3 months in jail in Colombia on drug smuggling charges, signed a contract with the State Department to supply goods to the Contras 10 months after getting out of jail on drug smuggling charges. Palmer was scheduled to stand trial in Detroit in April 1987 for his role in a major smugging ring that imported massive amounts of narcotics to America.

Now yesterday in the Post a State Department official said, "We had no knowledge," no knowledge of Mr. Palmer's background.

Now my question is if the State Department and the CIA, our intelligence community, is not checking out these operators then who is taking care of the shoreline of America for drug smuggling?

Mr. Speaker, there is too much drugs on the streets of this country for people in high places not to know about it. And I believe the Iran-Contra hearings should be expanded to look at drug smuggling and whether or not planes were going down with goods and coming back and picking up dope in Panama to be sold on the streets of America.

I think there is a valid need for a further investigation and an expansion of our Iran-Contra hearings.

THE MEDICARE CATASTROPHIC PROTECTION ACT OF 1987

(Mr. MOODY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker, the House will today consider H.R. 2470, the Medicare Catastrophic Protection Act of 1987. As an orginal cosponsor and as a member of the Ways and Means Subcommittee on Health which originated the bill, I rise in strong support for this landmark legislation.

H.R. 2470 will provide long overdue protection for catastrophic out-of-pocket expenses for Medicare beneficiaries. It also makes significant improvements in existing Medicare benefits, and adds a new prescription drug benefit. Most important, the bill is financed in an innovative budget-neutral way, ensuring that those who are the direct beneficiaries will pay for the costs themselves.

The bill includes two provisions which I particularly wanted to commend to the House:

First, H.R. 2470 expands the existing limited home health benefit from 5 to 7 days per week up to 35 days. Home health is an increasingly important benefit to the elderly. It can be a cost-effective substitute for more costly hospital or nursing home care.

Second, the bill repeals the antequated 3-day prior hospitalization requirement for admission to a skilled nursing facility. Enabling physicians to prescribe SNF care without having to put their patients into a hospital first can only save the Medicare system money.

I was the author of these two provisions. My subcommittee colleague, SANDY LEVIN, was the author of the mental health benefit expansion.

Mr. Speaker, H.R. 2470 is a consensus bill painstakingly crafted by my chairman, PETE STARK, the ranking member, BILL GRADISON, and the rest of the Health Subcommittee and the full Ways and Means Committee. It is a bill of which we can all be proud. I commend my colleagues for their hard work on H.R. 2470, and I urge its adoption by the House.

TRIBUTE TO FORMER SPEAKER CARL ALBERT

(Mr. NATCHER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NATCHER. Mr. Speaker, I want to join with you and our other colleagues in welcoming back to the House today our former Member and one of the great outstanding Speakers ever to serve in this House, Carl Albert of Oklahoma.

As you know, Mr. Speaker, we have had 11,173 Members to serve in both Houses of the Congress since March 4, 1789. None served in this House with more distinction, none served in this House who loved and respected this House more than my friend, Carl Albert.

During the 30 years that he served, we passed through one of the most unusual periods in the history of our country, a changeover from the industrial age into the space age. We went through, as you know, the longest most unpopular war in the history of this country; 11½ years with 58,000 of our boys killed.

During the time that my friend, Carl Albert, served in this House, we had four Puerto Ricans come in this door up here and shoot five of the Members. Carl Albert was sitting two seats, Mr. Speaker, away from Kenneth Roberts, the only one of the five who is still alive. Kenneth Roberts is from Alabama.

All during this period of time Carl Albert served in this House, as I said, with distinction and honor.

Mr. Speaker, I keep a journal and I now have 48 bound volumes. I want you and every Member of this House to know that my friend, Carl Albert comes out good in my journal.

Some day you will enjoy reading a portion of this journal.

Again, Mr. Speaker, I want to join with you in welcoming back one of the greatest Members ever to serve in this House, my friend, Carl Albert of Oklahoma.

MENTAL HEALTH BENEFITS/ CATASTROPHIC HEALTH INSURANCE BILL

(Mr. SIKORSKI asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SIKORSKI. Mr. Speaker, common sense and experience tell us that good mental health is good physical health. For the elderly, it's particularly true. Untreated, the loneliness and loss that often come with aging can exacerbate the direct physical illnesses that afflict us as we grow older.

In that context, the catastrophic illness bill before the House today contains an important dose of preventive medicine. It raises the mental health benefit for outpatient counseling from $250 per year—where it has stood since 1965—to $1,000 per year, which will at least partially restore the value in services that the mental health benefit was intended to provide.

This change is long overdue and it's good, cost-effective health policy. Those who oppose this bill because they are concerned about spending any money should remember the greater costs avoided by improving the mental well-being of older Americans. And they should remember, too, that for the elderly, it is the right thing to do.

MEDICARE CATASTROPHIC PROTECTION ACT OF 1987

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 227 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 227

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 2470) to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the Medicare Program, and for other purposes, and the first reading of the bill shall be dispensed with. All points of order against the consideration of the bill are hereby waived. After general debate, which shall be confined to the bill and which shall not exceed two hours, with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 2941 as an original bill for the purpose of amendment under the five-minute rule, said substitute shall be considered as having been read, and all points of order against said substitute are hereby waived. No amendment to said substitute shall be in order in the House or in the Committee of the Whole except the following amendments in the following order only, which shall not be subject to amendment, and all points of order against said amendments are hereby waived: (1) an amendment printed in section 2 of this resolution, by and if offered by Representative Jacobs of Indiana or his designee, which shall be debatable for not to exceed thirty minutes, equally divided and controlled by the proponent and a Member opposed thereto; and (2) a substitute for the amendment in the nature of a substitute made in order by this resolution, consisting of the text of the bill H.R. 2970, by and if offered by Representative Michel of Illinois or his designee, which shall be debatable for not to exceed sixty minutes, equally divided and controlled by the proponent and a Member opposed thereto. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit.

SEC. 2. Page 49, strike line 21 and all that follows through page 50, line 2, and insert the following:

"(B) A drug has a 'restrictive prescription' only if the prescription for the drug indicates, in accordance with the applicable law of the State in which the prescription was written, that the particular drug must be dispensed. A preprinted indication alone shall not constitute a 'restrictive prescription".

The SPEAKER pro tempore (Mr. AKAKA). The gentleman from Florida [Mr. PEPPER] is recognized for one hour.

Mr. PEPPER. Mr. Speaker, I yield the customary 30 minutes, for the purposes of debate only, to the distinguished gentleman from Tennessee [Mr. QUILLEN], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 227 is a modified closed rule providing for the consideration of H.R. 2470, the Medicare Catastrophic Protection Act of 1987. The rule provides for 2 hours of general debate, with 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means and 1 hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce. The rule makes in order the text of H.R. 2941, the substitute legislation agreed upon by the two committees that reported H.R. 2470, as original text for the purpose of amendment and will be considered as having been read.

The rule waives all points of order against consideration of the bill, against the substitute, and against all amendments to the substitute made in order under the rule. Only two amendments shall be made in order under the rule. One amendment which is printed in section 2 of the rule is to be offered by Representative JACOBS, or his designee. This amendment will be debatable for 30 minutes, equally divided and controlled by the proponent and an opponent of the amendment. The other amendment is the Republican substitute consisting of the text of H.R. 2970 and is to be offered by Representative MICHEL or is designee. This amendment will be debatable for 1 hour, equally divided and controlled by the proponent and an opponent of the amendment. Neither of the two amendments shall be subject to further amendment. Finally, the rule provides for one motion to recommit.

Mr. Speaker, this rule provides for the consideration of a very important piece of legislation. The rule recognizes the delicate balance arrived at by the Ways and Means Committee and the Energy and Commerce Committee in developing a compromise bill. Given the complex issues involved, I believe this rule is a fair rule which will allow this bill and a comprehensive Republican substitute to receive floor consideration.

Mr. Speaker, H.R. 2470, the Catastrophic Health Insurance Act, represents a historic first step in providing comprehensive health care protection for all Americans against financial devastation due to a chronic illness. In my opinion, this bill is a good measure. I urge my colleagues to vote for its adoption. This bill, however, is just a beginning. We must do a great deal more.

H.R. 2470 improves the Medicare and Medicaid systems in some very valuable ways. Title I reduces a Medicare beneficiary's total out-of-pocket expenses for inpatient hospital care to one deductible per year—$544 in 1988; extends the number of days of skilled nursing facility coverage from 100 to 150; extends the day limitation on hospice care; reduced the blood deductible requirement; and transfers home health benefits to part B of Medicare. Title II places limitations on out-of-pocket expenses incurred by the beneficiaries under Medicare part B to $1,043 per year; creates an outpatient prescription drug plan with a $500 deductible and a 20-percent coinsurance requirement; creates an in-home respite care program; and provides for additional home health coverage and mental health benefits. Title III makes changes to the Medicaid Program requiring that States pay the Medicare premiums and cost-sharing for persons with incomes at or below the poverty levels and contains an important provision to prevent the impoverishment of spouses of nursing home patients. Title IV creates a bipartisan congressional commission to examine the manner in which comprehensive health care can be provided to all Americans.

Congress is now sensitized to the fact that the elderly are paying too much of their income on health care cost. Combined with the aging of the population and the rapid rate of medical inflation definite steps must be taken to come to terms with this most important domestic issue confronting our Nation. The elderly currently spend three times more on health care needs than other Americans. By 1991 the elderly will be paying 18.5 percent of their income on health care. This is a higher percentage than when Medicare was adopted in 1965. The out-of-pocket expenses paid by the elderly for heath care in 1987 will be $30 billion.

In regard to the drug provision, I would have preferred to have seen a bill with a smaller deductible. The elderly currently spend over $9 billion annually or almost 30 percent of their total out-of-pocket expenses on prescription drugs. The price of prescription drugs is increasing at an alarming rate. I do, however, strongly support this drug provision because it recognizes the need to cap the amount of income spent by the elderly on prescription drugs. We can revisit this provision in the future and reduce the level of the deductible.

As a whole, H.R. 2470 addresses the issue of catastrophic health care costs by the elderly in a very limited manner. Personally, I believe Congress should have used this legislative opportunity to fashion a truly comprehensive response to the problem of catastrophic health care costs. The American public recognizes the need for a comprehensive solution to the problem of long-term care. Eighty percent of all catastrophic health care costs are associated with long-term or chronic illness. Mr. Speaker, I am confident that the American people will support the efforts of Congress in advancing a bold initiative in this area.

While the measure that we are considering today fails to cover long-term care; it does recognize the need to provide for such coverage by providing for the creation of a bipartisan congressional commission on long-term care immediately following the adoption of this bill. This commission which was included, if I may say so, at my request would not determine whether the need exists for long-term care in America. We know that. Rather, the commission's mandate would be twofold. First, the commission would be required, within 6 months of this bill's enactment, to determine who should administer a long-term care program for all Americans and how should such a health care program be financed. Second, the commission would be required, within 1 year of this bill's enactment, to determine who should administer a comprehensive health care program for all Americans and how such a health care program would be financed. The commission would be further required to rely primarily upon social insurance priniciples of financing.

In spite of the many benefits of this bill, long-term illness will still remain as the primary cause of financial ruin for millions of Americans. This year 1 million Americans—two-thirds of them elderly—will go bankrupt due to the catastrophic nature of their chronic illness. I had hoped to be able to offer an amendment today which would have gone a long way toward addressing this problem. I have introduced a bill with my distinguished colleague Mr. ROYBAL, H.R. 2762, which would provide home-care coverage to persons who need assistance with at least two activities of daily living. It would, for the first time, provide assistance against the catastrophic costs of chronic illness for both the elderly and the young, as well as disabled and chronically ill persons of all ages. The measure would help the 20 million Americans with chronic heart conditions; the 5 million Americans with cancer; the 4 million American accident victims who are hospitalized each year, nearly half a million of whom are left permanently disabled; the 3 million Americans who have Alzheimer's disease; and the 2 million children with such serious chronic problems as cystic fibrosis, muscular dystrophy, and juvenile diabetes. Our bill is completely self-financing. It is financed by revenues resulting from the elimination of the cap—$45,000 in 1988—on individual income upon which the Medicare payroll tax of 1.5 percent is levied. Such a change would affect only 5 percent of American workers and generate approximately $6 billion annually over a 5-year period. However, in an agreement with the leadership and the able authors of the legislation to which this rule applies, I reluctantly withdrew our amendments from consideration as part of this legislation in exchange for an agreement that I would be allowed to offer it as soon as possible on another vehicle. I am confident that such a vehicle will be found before the end of this session of Congress. I hope our bill will offer an opportunity for other Members to offer amendments which are not made in order under this rule.

Mr. Speaker, for the first time in my 50-year congressional career, the President, Congress, and the people are all standing on the same square. Today, the United States is one of only two industrialized nations in the world which has failed to adopt a comprehensive health care system for its citizens. Surely, in our great America, we can do better.

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Mr. Speaker, H.R. 2470 is a meaningful step forward, and I warmly commend my able colleagues who are the authors of this legislation. Also I commend the President and the Secretary of Health and Human Services for their initiative in respect to this legislation leading to the adoption of the legislation which we will consider today. I commend, therefore, this rule to my colleagues, and also I commend to my colleagues the adoption of H.R. 2470.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, I ask for adoption of the rule despite the fact that a number of good amendments which were presented to the Rules Committee, and which should have been made in order, were not. Nevertheless, I think we should agree to this rule so we may begin consideration of this important bill.

The bill this rule makes in order is a compromise between the versions produced by the Committee on Ways and Means and the Committee on Energy and Commerce. It represents the first major expansion of the Medicare Act since it was enacted in 1965. This is also true of the substitute which will be offered by the distinguished House Republican leader, Mr. MICHEL. The Michel bill is closer to the proposal submitted to the Congress earlier this year by the President, who I commend for his leadership in asking the Congress to improve the Medicare Program for the benefit of our senior citizens.

I think all of us are agreed that major changes in the Medicare Program are urgently required to protect older Americans from the frightful cost of catastrophic medical care. We cannot tolerate a medical care system under which those in desperate need of services and drugs face absolute financial ruin to pay for their treatment. This prospect will be eliminated substantially under either the committees' bill or the Michel substitute.

There are two basic matters involved in this debate we are about to begin. The first is the need to expand and improve the Medicare Program, especially as it relates to catastrophic medical care such as hospital services, outpatient and physician care, nursing home care, home health care and, of course, prescription drug coverage. There is general agreement that substantial expansion of Medicare coverage is desirable and justifiable. I certainly agree with this, and in fact cosponsored a catastrophic health coverage bill several years ago. Our older Americans deserve health insurance coverage that they have been getting and they need the great fear of financial ruin associated with health problems removed.

The second matter is the hard part—how to pay for the expansion and improvement in service. In this regard I have reservations about the committee's bill. For example, the President's proposal was estimated to cost about $13 billion over a 5-year period. The committees' bill will cost about twice as much. Moreover, in the years beyond, estimates indicate powerful cost acceleration up to $30 billion a year early in the next century. Clearly, we are in danger of raising the Medicare premiums so high that people are forced to drop coverage.

So I hope Members will study the two basic proposals this rule brings before the House and be mindful of the cost differences between the committees' bill and the substitute bill to be offered by Mr. MICHEL of Illinois.

Mr. Speaker, I ask for a "yes" vote on the rule so we may begin consideration of this important bill.

Mr. Speaker, I yield 2 minutes to the gentlewoman from Maryland [Mrs. MORELLA].

Mrs. MORELLA. Mr. Speaker, I rise to oppose the rule for H.R. 2941, the Medicare Catastrophic Protection Act of 1987. An amendment was offered in the Rules Committee to make the catastrophic benefits optional. That amendment would have allowed Federal and military retirees to retain a fair choice between Medicare and their own Federal plans.

Unfortunately, that amendment was not made in order by the Rules Committee. Federal and military retirees already have retiree health catastrophic benefits which provide similar coverage to the new Medicare package. They have now been forced into a situation of paying for benefits which they already receive.

I believe the catastrophic package should be optional for these retirees, and I will be working with the National Association of Retired Federal Employees and my colleagues on the Committee on the Post Office and Civil Service to address this situation. In the meantime, I urge my colleagues to oppose this rule and allow consideration of this amendment.

Mr. PEPPER. Mr. Speaker, for the purpose of debate only, I yield 3 minutes to the able gentleman from California [Mr. MILLER].

Mr. MILLER of California. Mr. Speaker, I want to thank the gentleman from Florida [Mr. PEPPER] for yielding time to me and praise him for his work on behalf of health care for the elderly and all of the citizens of our country.

Mr. Speaker, I rise in support of H.R. 2470, the Medicare Catastrophic Protection Act to expand current Medicare benefits to protect the elderly against devastating catastrophic health expenses.

The bill will limit an individual's out-of-pocket medical expenses, and will end the unconscionable practice of forcing a spouse into impoverishment in order to pay the cost of nursing home care for the other.

The bill also requires States to provide Medicaid coverage to pay for Medicare premiums, deductibles, and coinsurance for all Medicare beneficiaries with incomes below the Federal poverty line. Over the last several years, Congress has made important strides in expanding Medicaid coverage to some groups of families below the Federal poverty level. I am pleased to see that the bill will allow more equitable, though only partial, Medicaid coverage for the elderly as well.

I am especially pleased that the bill includes a provision for respite care, which will provide temporary relief for a relative or friend who is caring for an elderly family member who cannot be left alone.

It is vital that we revise our mechanisms for providing ongoing health care to the elderly, especially those who do not require institutionalization or hospitalization. Expanding incentives for at-home care makes good sense, not only for the elderly, but for taxpayers as well, since it is far cheaper than alternate forms of long-term care. Currently, for every person 65 years and over residing in a nursing home, there are twice as many persons living in the community needing long-term care.

Because of its lower costs, if for no other reason, respite care is a key step in addressing the question of senior citizens health care. During hearings by the House Select Committee on Children, Youth, and Families, we have learned of the enormous struggles faced by contemporary families: Housing costs, child care, tuition costs, and the necessary two careers to pay for them. For many, the additional burden of parental housing and health care is simply impossible without sacrificing the family's standard of living.

Study after study has confirmed that the most pervasive and servere effects of the caregiving role are emotional strain and family stress. Respite care is essential for these caregivers if we are to truly support the growing number of families, the majority of whom are women with multiple family and work responsibilities, who assume the care of their elderly parents.

As the select committee has repreatedly documented, respite care is essential to assuring family stability, reducing stress, and tragically on the rise among elderly dependent family members.

Mr. Speaker, our colleagues Chairman STARK of the Subcommittee on Health and Chairman WAXMAN of the Subcommittee on Health and the Environment deserve our collective thanks for their leadership in bringing this important legislation to the floor.

I would also like to commend my colleague, Chairman CLAUDE PEPPER for his tireless advocacy on behalf of the Nation's elderly. Recently, Chairman PEPPER joined the Select Committee on Children, Youth, and Families and the Select Committee on Aging, to focus attention on the effects of catastrophic illness on the nonelderly population:

Children with chronic and disabling conditions, whose families face the threat of poverty every day because of limited or nonexistent health coverage to pay for catastrophic health expenses or long-term home-based health care;

More than 11 million children, many of whom with employed parents, who still have no health insurance protection at all to pay for basic preventive or acute care needs; and

The millions of disabled individuals under age 65 who still struggle to pay for their basic health care needs, especially if they are trying to live independently at home and in their communities.

By passing this legislation today, we will have taken an important step to assure security for the Nation's elderly. It is my hope that Congress will also ensure that these same protections are afforded the growing number of children, families, and disabled adults who share with the elderly the extraordinary and burdensome medical costs of catastrophic or chronic illness.

Mr. Speaker, I want to accompany my remarks with the findings of the Select Committee on Children, Youth, and Families that follow here:

FACTSHEET—CATASTROPHIC ILLNESS AND LONG-TERM CARE: ISSUES FOR CHILDREN AND FAMILIES

EXTENT OF CHRONIC ILLNESS AMONG CHILDREN

Approximately ten million children (10-15% of all children) have a chronic illness; about one million have a severe chronic illness. (Gortmaker and Sappenfield, 1984)

Between 1960 and 1981, the prevalence of activity-limiting chronic conditions among children under age 17 doubled, from 1.8% to 3.8%. Respiratory conditions and mental and nervous system disorders demonstrated the largest changes. (Newacheck, Budetti, and Halfon, 1986)

Prematurity is anticipated in 6 births per 1000; cystic fibrosis in 1 birth per 1000; congenital heart disease in 7.5 births; and a diagnosis of cancer in 130 children per 1 million. (National Association of Children's Hospitals and Related Institutions [NACHRI], 1986.)

Prevalence rates of certain diagnostic groups may have increased as a result of improved chances for survival. The evidence suggests a sevenfold increase in survival to age twenty-one among children with cystic fibrosis, and increases of twofold or greater for children with spina bifida, leukemia, and congenital heart disease. In 1984, the survival rate for childhood cancer was over 54%, compared to 39% in 1970. (Gortmaker, 1985; American Cancer Society, 1984)

Poor children are 40% more likely to have a severe functional disability than do children in families with higher incomes (8.5% vs. 4.9%). (NACHRI, 1986)

CHRONICALLY ILL CHILDREN HAVE HIGH MEDICAL COSTS

The cost of care for very distressed, ventilator dependent infants who remain hospitalized can reach $350,000 per year. (NACHRI, 1986)

The annual expenses for hospital and physician services for a child with a disabling chronic condition has been estimated to range from $870 to $10,229, depending on the severity of the illness. In contrast, the typical healthy child's expenses for these services average about $270 a year. (Fox, 1984)

In 1980, more than $1.7 billion were expended for physician visits and hospitalization of children with activity limitations; hospitalization accounted for 65% of the total. The average annual hospital cost for a child with activity limitations was $511 compared with only $66 for a child without limitations. (Butler, et al, 1985)

Comprehensive care for a child with cystic fibrosis can cost a family $6,000-$12,000 annually; and intermittent hospitalizations may average over $7,000 per stay. (NACHRI, 1987)

Expenses for a child with cerebral palsy, including physician services, speech therapy, medications, special education, and other support services average $4,490 annually, with 51% paid by the family. (United Cerebral Palsy Association, 1986)

ACUTE OR PRIMARY HEALTH CARE COSTS FOR CHILDREN HIGH

In 1985, newborn intensive care costs totaled $2.4-$3.3 billion and averaged $14,698 for each infant. (American Academy of Pediatrics [AAP], 1986)

Cardiac surgery for a child may cost a family $22,000 for a hospital stay. (NACHRI, 1987)

Treatment for extensive burns may result in a hospital bill of $45,000. (NACHRI, 1987)

The $600 cost of treatment for one asthma episode, or a routine hospitalization costing $700 per day, may be catastrophic for those with no insurance or very limited resources. (NACHRI, 1987)

SMALL PERCENTAGE OF CHRONICALLY ILL CHILDREN INCUR HIGH PERCENTAGE OF MEDICAL EXPENSES

Fewer than 1 million or 1% of all children under 21 are likely to incur catastrophic expenses if catastrophic is defined as out-of-pocket medical expenses greater than 10% of family income. (AAP, 1986; Newacheck, 1986)

About 5% of all children incur annual medical costs in excess of $5,000. Others estimate that 5-10% of children incur catastrophic expenses in excess of $10,000 (regardless of insurance coverage). (Rosenbaum, 1987; AAP, 1987)

In 1983-84, the 1.35% of admissions to children's hospitals incurring catastrophic expenses over $50,000 accounted for 26% of the total children's hospitals' inpatient charges. Newborns accounted for 50% of these hospital admissions. (NACHRI, 1987)

In 1980, the total cost for hospitalization of children with activity limitations ($1.17 billion) was 30% of the total hospital care costs ($3.86 billion) for all children. (Butler, 1985)

MILLIONS OF CHILDREN WITH NO HEALTH INSURANCE

In 1985, 11 million children age 18 or younger were uninsured. Among uninsured children, 64% lived in families headed by someone without health insurance; 29% lived in families headed by someone with employer-based health coverage, usually a parent. (Employee Benefits Research Institute [EBRI], 1987)

Three-quarters of all uninsured children have family incomes below 200% of the federal poverty level, and between 66-75% live in working families. (Rosenbaum, 1987)

In 1985, nearly half of the uninsured children age 18 or under lived in single-parent, usually female-headed, families. (EBRI, 1987)

Children without any form of health insurance protection were most likely to be Hispanics and near poor children whose family incomes were between 100 and 200% of poverty. Children living in the South and West and in the rural areas were more likely than those in other regions and communities to lack coverage. (Butler, 1985)

10.3% of disabled children, and 19.5% of disabled children in poverty have no health insurance. (Butler, 1985).

Forty % of all disabled children below the federal poverty level are not covered by Medicaid. Private group and individual insurance covers about 60% of disabled children, compared to 75% in the general child population. (Butler, 1985).

In FY 1985, Medicaid served 10.9 million children younger than 21—more than 400,000 fewer than were served in FY 1978. (Rosenbaum, 1987).

Uninsured low-income children receive 40% less physician care and half as much hospital care as insured children. (Rosenbaum, 1987).

MILLIONS OF CHILDREN WITH INADEQUATE INSURANCE

Of those children under 18 who are insured, 17% do not have major medical to cover special health care costs, and less than 10% have unlimited coverage. (NACHRI, 1987).

Of all employers responding to a major health insurance survey conducted in 1986, 73% indicated that their plans excluded coverage of pre-existing conditions. Only about 75% of plans offered by medium and large-sized firms between 1980 and 1985 contained protections against huge out-of-pocket costs borne by enrollees in the event of catastrophic illness. (Rosenbaum, 1987).

Fourteen state Medicaid programs limit the number of hospital days covered each year, and 15 states restrict the number of covered physician visits. (Rosenbaum, 1987; Fox, 1984).

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Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from Mississippi [Mr. LOTT].

Mr. LOTT. Mr. Speaker, I thank the gentleman from Tennessee for yielding me this time.

Mr. Speaker, I do want to say that I guess it is only appropriate that we have a catastrophic rule for the catastrophic health bill. The rules are getting more and more restrictive everyday that come out of the Rules Committee.

And boy, did the Rules Committee ever come up with a procedural catastrophe this time when it comes to Members' rights and representative government.

It seems the Democratic leadership in this Congress now has a set formula for these rules: the restrictiveness of a rule is in direct relation to the importance of the legislation it makes in order. And in this case, the bill must be considered especially important because this rule is more restrictive than the strictures at a seventh grade mixer. Only here the fear is not that we'll make improper passes but that a proper amendment just might pass. So the rule makes in order only two amendments, and shuts the other 433 Members completely out of the process.

Yes, the majority leadership is pitching a near shutout at us—shutting out Democrats and Republicans alike—free-thinking, freely elected, freedom-loving Members whose freedom to fully participate in the process is being denied by this rule.

When, oh when, will Members wake up to this steady erosion of their freedom to truly and freely exercise their rights and responsibilities as Representatives of the people? Must we hand over to a few our independent decisionmaking power for this system of government to succeed? I think not.

Mr. Speaker, the majority leadership is being overly restrictive, overly protective, and overly disdainful of our participatory democracy. Quite frankly, I'm getting a little tired of listening to daily lectures on the meaning of our Constitution emanating from certain televised hearings, and then coming to the House floor to find that those noble ideals have been waived when it comes to the nitty-gritty lawmaking we do here.

At least my copy of the Constitution says that "All legislative powers * * * shall be vested in a Congress" consisting of Members "chosen by the people of the several States." Nowhere does it say that only a select few Members shall make all laws.

Mr. Speaker, we had some 19 Members testify before the Rules Committee on this bill, many of whom requested that their amendments be made in order. The witnesses were rudely urged to hurry their testimony so the rule could be filed. It was fairly clear that the shape of the rule had already been predetermined by the leadership. Rules Committee Democrats did not want to be bothered with further options.

I attempted to make in order two amendments by Mr. DAUB, one by Mr. GREGG, and one by Mr. DANNEMEYER. And Mr. LATTA attempted to have an amendment by Mr. REGULA made in order. All such attempts were shot down on a straight, party-line vote.

Mr. Speaker, if all this makes my colleagues and the viewing public a little cynical about how our laws are made, welcome to the club. I have a feeling that you ain't seen nothing yet. The new House rule seems to be that the dealer not only sets the rules, but is assured the pot on every hand. All the other players are mere dummies in this game of Democratic strip poker. I urge my colleagues to vote "no" on this rule before you are stripped of all your rights as legislators.

Mr. GREGG. Mr. Speaker, will the gentleman yield?

Mr. LOTT. I am glad to yield to the gentleman from New Hampshire.

Mr. GREGG. Mr. Speaker, does the gentleman mean to tell me that the Rules Committee had this rule written before they listened to 19 Members asking for an amendment, that there was that possibility?

Mr. LOTT. Generally speaking, we do not see the rule until just before we get a chance to vote, but there was no doubt in anybody's mind in that room, either as witnesses or the committee, that it was predetermined as to what was going to happen on the rule.

Mr. GREGG. Mr. Speaker, if the gentleman will yield further, does the gentleman mean they asked these Members to come and testify, but a decision had already been made by a majority?

Mr. LOTT. No. We never ask Members to come and testify. They ask to appear and we tolerate that appearance as much as we can.

But I want to also speak just briefly on the substance. For years I have maintained that we needed catastrophic health insurance.

There are people who do have a need for catastrophic health insurance. They need to be able to do more for themselves. The private sector needs to be more involved, and the Federal Government can be helpful in putting this package together.

So this was a good idea, an idea I thought whose time had come; but once again, this bill shows how Congress cannot control its insatiable appetite to spend and spend. We have created a bill now that is going to cost—we do not know how many billions and it is going to hit the ones the hardest who need the help the most, and that is the elderly. We have a bill that is going to put them into a higher tax bracket, that is going to cost all kinds of extra money in their Medicare payments, and many of the people who need it the most are not going to be able to get what they really are entitled to and all seniors are going to have to pay for it on a mandatory basis.

This bill has in it what really amounts to a mandatory user surtax for the elderly.

We need to see if we cannot do better than this. I urge you to look at the alternative that will be offered. Hopefully in the Senate and in conference we can come up with a catastrophic health insurance bill that will be limited in its scope and help the people that really need it, but not be punitive to our senior citizens.

Mr. QUILLEN. Mr. Speaker, I yield 4 minutes to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. At the outset, Mr. Speaker, let me say that I do think we need to do something in the area of catastrophic health care. Unfortunately, yesterday the House Rules Committee voted to slam the door shut and to put the brakes on a full and free debate on catastrophic health legislation. By precluding consideration of how the Stark-Waxman package will affect those Americans who rely on private insurance, the Rules Committee leadership may have smashed our society's ability to meet the real health care challenge of our time—the staggering expense of long-term care.

As we all know by now, the Stark-Waxman bill will require seniors to give up the private insurance plans they have freely chosen and replace them mandatorily with benefits financed by a massive surtax, a surtax paid by almost all over 65, and yet conferring benefits that very few will receive.

When I testified before the Rules Committee yesterday, I presented an amendment that would have given seniors both improved benefits and the freedom of choice that all Americans deserve. The amendment provided for an optional "Bowen plan" with unlimited coverage of hospital costs and a $2,000 cap on out-of-pocket expenses; but it would have permitted seniors to decide for themselves to opt out of such a package if they preferred to make use of the private insurance plans millions now rely on. Regrettably, the Rules Committee rejected both my amendment and the principle of freedom of choice.

Mr. Speaker, it is bad enough that the package will exacerbate health care inflation through the total elimination of market pressures on hospital costs, but it is intolerable that the House Democrats have elected to ignore the 7 million Americans who now use group health plans. Many of these individuals, including blue collar workers, Federal employees who have retired, and educators, will now have to pay for health care coverage that they presently receive through benefits already conferred on them through their own plan. So they will be required to pay for something they do not need. Because they have taken the opportunity to prepare for themselves, they are now going to be required to pay for something that they will not receive. In other words, the tax addicts on Capitol Hill are not only going to saddle seniors with billions of dollars in new premiums, but they are going to do it for benefits that many of them already receive.

Even worse, Mr. Speaker, the displacement of private insurance from the acute care market may spell doom for our hopes of responding to the real financial catastrophe faced by senior citizens, and that is nursing home care. On average, nursing homes cost residents over $20,000 per year. The New York Times has reported that a public sector answer to nursing home expenses would cost the Government some $30 billion, and that is before the demographic shifts of the coming decades.

In my generation, the baby boom generation, it is going to be far beyond that. We are setting ourselves up for a system that sounds good, but it is going to fall of its own weight, and not give people the opportunity they think that they are going to have.

Will private insurers ever again show an interest in costly long-term care after we throw them out of the acute care market? I do not think so.

Last, as I request my colleagues to vote down this rule, let me just say, yesterday I believe I was more rudely treated by the Rules Committee than by any other committee in the House in the 9 years I have been here. We were told to hurry along. "Don't finish your total testimony," they said. And why? Because the committee already had the rule they wanted in their pocket and they wanted to vote it right away. If a city council or a mayor did something like that, they would be embarrassed and run out of town. We are talking about the American people and their Representatives. We ought to be treated better, not because of who we are, but because of those whom we represent.

Mr. PEPPER. Mr. Speaker, I yield 4 minutes to the able gentleman from Ohio [Mr. THOMAS A. LUKEN].

Mr. THOMAS A. LUKEN. Mr. Speaker, I think that someone from this side of the aisle should talk a little bit of sense about this particular bill.

I agree with Senator PEPPER. I agree with the statements that he has made, the very eloquent statements that he has made on the floor here today.

I agree that catastrophic coverage is long-term coverage. It is comprehensive coverage, but I am not willing to compromise today. I think amendments should have been permitted.

I think if we are going to pass a catastrophic bill, it should be catastrophic, not in the nature of the limited puny coverage available, but catastrophic in the sense of the way the public deems catastrophic, and that means catastrophic, and that means comprehensive and long term and chronic, not acute and short term, and that is what we have here.

It is not a truly comprehensive bill. As the Senator says, 80 percent of the costs connected with health care are for the long-term chronic cases. They are not covered under this bill as it comes out of the Rules Committee. This is not long term.

It may be, as has been suggested, the first historic first step. It certainly is historic and I want to cover that in just a moment, but it is a step of a pygmy, a dwarf.

There is no nursing home coverage here. Tell that to your seniors. It is catastrophic, but there is no long term, there is no nursing home coverage.

The AARP has been quoted as saying it is in favor of it. Well, let me quote to you from the AARP study just put out on June 19, a study of costs, health care costs. The AARP concludes as follows, and I take it right from the top:

> An effective catastrophic illness proposal must include, first, real long term, it must focus on the long term.

Here is the AARP study. That is what they really think about it.

Yes, this is innovative, as has been described. It is innovative because we have at long last come to the concept of taxing the elderly. This is a huge tax increase on the elderly. We have got an innovative system now if we pass this. Tax the beneficiaries. Tax the beneficiaries, that is what has been put out by the promoters of this legislation.

□ 1115

But where are we going to stop that? Are we going to tax the unemployed for unemployment insurance, are we going to tax the elderly for Social Security retirement, tax the sick for Medicaid, tax the homeless for housing programs? That is exactly what this does.

The third problem I have is that this has been compared to insurance, from time to time. A tax is a tax is a tax. This is a tax as put out by the bill, and I point out that here is the schedule of the tax. It goes up in the first year to $580 per person, which totals up for a couple, plus the other increases, to about $1,900 per couple for the first year, 1988, and it goes up quickly to $2,600.

That is quite a tax almost $2,000 in the first year and $2,600 in just a couple of years. That is what we are passing here today, not an insignificant supplemental, that is a euphemism, supplemental insurance premium, and only 40 percent of the elderly are going to pay.

I do not have anything against graduated, I am in favor of graduated, progressive taxation. But let us put that taxation on the rest of us who are under 65. Let us put it in the payroll tax or out of general revenues where it belongs if we are going to pass this, and if we are going to pass it let it be a comprehensive catastrophic bill worthy of the name.

This is not insurance, and I object to it, and I think we should have had amendments that required the elderly, 40 percent of them, not to pay 2½ times as much as they should.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from Virginia [Mr. Slaughter].

Mr. SLAUGHTER of Virginia. Mr. Speaker, I thank the gentleman from Tennessee for yielding me this time.

Mr. Speaker, I rise in strong opposition to this rule. I believe it would be a serious error for us to consider the sweeping changes to our Medicare system incorporated in H.R. 2470 under such a restricted rule.

This legislation would effectively eliminate the private sector market for Medicare supplement policies—also known as MediGap policies. And yet an amendment offered by Mr. Lungren and myself to keep this catastrophic plan voluntary was not permitted.

Mr. Speaker, 7 million Americans now have a group Medicare supplement policy; many of them earned this coverage during their working years. This legislation will force many of them to pay for a new Government program—one which for many will have a higher deductible than their current coverage, which some are now receiving at no cost; Federal, civil, and military retirees are a part of this group. Without consideration of the Lungren-Slaughter amendment, this inequity cannot be addressed.

This legislation does not address the problem of financing long-term nursing home care. In fact, it eliminates the private MediGap market which would provide the framework upon which future long-term nursing home care insurance policies can be built. Not only did the Rules Committee reject the Lungren-Slaughter amendment to retain the MediGap groundwork for long-term care insurance, it refused an amendment offered by Mr. Daub to permit the tax-free conversion of life insurance contracts and individual retirement account funds into long-term care insurance.

Mr. Speaker, I could continue, but let me summarize by saying that this House should be debating and considering these and other amendments offered before the Rules Committee yesterday in order for us to come up with the best possible catastrophic illness protection legislation.

Mr. QUILLEN. Mr. Speaker. I yield 5 minutes to the gentleman from California [Mr. Dannemeyer.]

Mr. DANNEMEYER. Mr. Speaker, I rise in opposition to this rule. I would like to address my comments to a major defect in this legislation that is going to come home to haunt any Member of this House that chooses to vote for the Democrat alternative if the Republican substitute, which I will support, is voted down.

This bill, the Democrat alternative, opens a new horizon in the whole field of health care provided by the Federal Government called the Drug Program. Prescription drugs will be a new entitlement for the elderly of the country.

It is sold as a catastrophic health plan, but there are many cars on this train. One of them is drugs for persons ostensibly over 65, and I say ostensibly because it is the point to which I speak now.

Most Americans are not aware that there is a window whereby the Medicare trust fund can be used for persons under 65. If you are disabled and after you have established the status of being disabled, you are eligible for SSI which comes out of the general fund, the money paid for by all of us.

What is more, under the law, as it exists today, once you have been disabled for 24 months, you are eligible for coverage under Medicare, and that is how this whole process comes together, because when we now add prescription drugs, what we are opening in the way of a large window of opportunity is to provide drugs for those who have AIDS.

This is not an idle suggestion. Today 4,000 people are drawing SSI under 65, getting money out of the general fund, and when they are in that status for 24 months they will be eligible for prescription drugs which will include AZT, a drug that does not cure AIDS but prolongs life and costs $10,000 a year.

Mr. MADIGAN. Mr. Speaker, will the gentleman from California yield?

Mr. DANNEMEYER. I am happy to yield to my friend, the gentleman from Illinois.

Mr. MADIGAN. Mr. Speaker, I think the gentleman is making a very important point, but I think there is another point that needs to be injected in this debate as well. That is that the AIDS patients are the people who are truly going to experience the catastrophic hospital and doctor bills. We hear that that care is averaging $40,000 per person.

We are creating a catastrophic bill here to cover those kinds of obligations. It is the AIDS patients rather than the senior citizens who are going to be incurring those kinds of obligations. But it is the senior citizens through the surtax in the Democratic legislation who are going to be picking up the bill for those catastrophic obligations.

Mr. DANNEMEYER. Mr. Speaker, I thank my colleague for making the very point I am trying to make right now. With this Democrat plan today, we are opening a window whereby those with AIDS in America will be able to use the prescription drug portion of this bill and have prescribed for their benefit AZT that costs $10,000 per person per year. It does not cure but it continues life. Four thousand people currently on SSI would be eligible for this drug after 24 months; 4,000 people times $10,000 a year is $40 million a year coming out of the Social Security Medicare trust fund.

People over 65 are going to be taxed and paying for benefits for prescription drugs, in this case AZT for AIDS patients under 65. When the seniors of America find this out, my friends, they are going to be outraged.

We Americans, because we are a humanitarian people, will provide drugs for the people suffering from AIDS, there is no question about that. But the point is we should not be laying the foundation for placing this load on the seniors of America.

I went to the Rules Committee and I offered an amendment that I thought was very reasonable. It said any person getting the drug benefit under this legislation had to be at least 65 before they got it. I think that is a very rational approach. But the Rules Committee had already made up their minds apparently before I came to the Rules Committee and asked to have this amendment of mine made in order. So they put out a rule that denied my being able to offer this amendment.

I think it is a major amendment that deserves to be considered as a part of this bill. I think all Members in the House, even those who want to vote for this Democrat alternative, would like to clarify the law so that it is clear that prescription drugs are going to be limited to those who are going to be paying the tax. How much more rational, logical can we get than that?

For this reason, I think this rule should be voted down.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from New Hampshire [Mr. Gregg].

Mr. GREGG. Mr. Speaker, we are stepping down a long road leading to a brand new entitlement, and we are doing it in a manner which I think is totally irresponsible from a legislation standpoint. We are going into a darkened room and we are not allowing the lights of amendments to be turned on at all.

There was a whole series of very reasonable amendments brought up before the Rules Committee. It now appears the Rules Committee had already made up their minds before those amendments were addressed to the committee.

Let us just talk about a couple of them. Some have been mentioned, but let us talk about a couple of others.

A gentleman from the majority side, a member of the subcommittee, a member of the full committee, managed in the subcommittee and at the full committee level to amend this bill in two ways, two very reasonable ways. One, he suggested that we not start the drug benefit until 1990 because we had a significant amount of evidence at subcommittee, where the hearings took place to begin with, to the extent there was any information at all on this issue, that said you could not organize this by 1989. So the committee agreed with that.

Then we had a second amendment that the gentleman passed that said that there should be a deductible of $800 rather than $500 because we have no idea what the costs of this Drug Program are going to be. We have a CBO estimate that says it is going to be $4 a month, we have a HCFA estimate that says it is going to be $22 a month, a fourfold difference. Nobody really has any idea what the costs are going to be.

We are taking a cap off a jar, the cost of which we have no estimates in the outyears. That amendment disappeared into the night, just disappeared.

All right if the Rules Committee wants to write legislation, fine, they can do it. That is their right, I guess, under the legislative prerogatives of this House. But they at least ought to let the full body of the Congress address some of these very reasonable amendments, amendments which were accepted at the subcommittee level, amendments which were accepted at the full committee level.

I offered an amendment that I thought was fairly reasonable which says that in the outyears if this program starts to run a huge deficit in the Trust Fund that there will be an adjustment, an automatic adjustment, in the premium and in the benefit schedules so that the proposal will be budget neutral. In the out years, it is projected that in the year 2005 the deficit that this is going to create is $21 billion. In the year 2010 the deficit that this is going to create is $58 billion, a geometric progression which just goes right off the chart. I just suggested we have budget neutral language in the bill. That amendment was not allowed.

It is fairly clear that if we are going to undertake the adoption of a brand-new, major entitlement, probably the most significant entitlement of this decade, that we ought to have more than 3½ hours of debate, and we certainly ought to have the opportunity to amend it on the floor and allow the will of the Congress as a whole to impact this legislation.

For that reason, I oppose this rule.

Mr. QUILLEN. Mr. Speaker, I yield 1 minute to the gentleman from Pennsylvania [Mr. Gekas].

Mr. GEKAS. Mr. Speaker, I have never met a closed rule that I did not dislike, and this is another one of those animals which we detest on many issues. The closed rule that we have before us today prevents the American people from debating and analyzing those specific issues which mean so much to them.

The gentlewoman from Maryland, the gentleman from California, the gentleman from Mississippi, all have outlined specific concerns which they would have liked to have had the full time to debate on this floor. I too am very worried about the $500 excludable or deductible in the Prescription Drug Program which in itself has to have full debate.

In my judgment, to include a deductible of this type, because we have great experience in deductibles in every other type of insurance program, is an invitation to have every American who spends money on drugs to spend at least $500 on drugs per year, even if now they are only spending $100, $200, or $300.

□ 1130

To state in the law that there is a deductible of $500 and then that everything else will be paid by the program invites every American to make sure that that individual spends $500 a year, an additional tax, as it were.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Ohio [Mr. Regula].

Mr. REGULA. Mr. Speaker and my colleagues, this is an important policy issue and to bring it with a closed rule certainly is not appropriate for this kind of policy question. It prevents many important amendments that others would like to offer.

Several of our colleagues and myself had hoped to offer an amendment for Medicare reimbursement for influenza vaccine. The government does it now and has for several years for pneumonia.

Forty-one thousand senior citizens die each year from the complications of influenza. Statistically it would be cost-effective, at a 50 percent or even less participation rate. By providing the influenza vaccine, and by making it a reimbursable item many more senior citizens would get this kind of treatment. It would save on medical costs for influenza-related illnesses.

The policy issue that is involved in reimbursement for influenza vaccine is supported by the American Medical Association, by the American Lung Association, by the Association of American Medical Colleges, the National Foundation for Infectious Diseases and many other groups because they recognize the importance of making influenza vaccine available to Medicare recipients.

A bill to do this is sponsored by 120 Members of this body from both sides of the aisle. I think it illustrates the support that exists for a reimbursement program. It is my hope that if this bill passes that this amendment will be eventually included in the final package that would go to the President for his signature. It is a very important element that we need to make available to those covered with the Medicare Program.

Mr. QUILLEN. Mr. Speaker, I yield 2 minutes to the gentleman from Virginia [Mr. Wolf].

Mr. WOLF. Mr. Speaker, we all support catastrophic health care. Just a couple of quick points in 2 very fast minutes: I oppose the rule and not all Federal employee groups, Federal groups and retiree groups support this. NARFE, the National Association of Retired Federal Employees, declines to support this. This bill will make many people pay double. What are you going to tell all the Federal employees and retirees when you see them tomorrow when you go home about this? What are you going to tell all the teachers when you go back to the PTA night meeting in September, what are you going to tell them why you included the teachers? When the mailman brings your mail Saturday morning when you go back to your district are you going to tell him "Can you stop for a minute? I want to tell you we just covered you under this catastrophic health care; you are going to have to pay double?" What are you going to tell the unions, what are you going to tell all the unions that are covered by this, what are you going to tell all the people from the private sector?

The only thing we can do, and I am not sure we can defeat a bill and I am not sure that is the approach, but what we can do as Republicans and Democrats alike can join together in a bipartisan effort to do one thing, defeat the rule. We have defeated the rules before. It is not catastrophic.

We can send it back to the Rules Committee and send them a message. If you care about policemen, if you care about teachers, if you care about firemen, if you care about union employees, if you care about Federal retirees, if you care about the military that is serving in the gulf today escorting those ships, people like that, vote "no" on the rule.

Mr. Speaker, I hope all of us, aside from our differences, Republican, Democratic, Liberal, Conservative, we can unite on one thing: Defeat the rule.

Mr. QUILLEN. Mr. Speaker, you can see by the debate on this side of the aisle that the bill is highly controversial. More amendments should have been made in order. Despite that fact, we now have the day ahead of us to debate the bill in depth.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PEPPER. Mr. Speaker, I have no further requests for time and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. AKAKA). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PEPPER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 248, nays 174, not voting 11, as follows:

[Roll No. 276]

YEAS—248

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Berman
Bevill
Biaggi
Bilbray
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Chapman
Chappell
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Daniel
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Dorgan (ND)
Dowdy
Durbin
Dwyer
Dymally
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Gonzalez
Gradison
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Jacobs
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lowry (WA)
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
McCloskey
McCurdy
McDade
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Obey
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ray
Richardson
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stratton
Studds
Swift
Synar
Tauzin
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Solomon
Spence
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NAYS—174

Applegate
Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Carper
Carr
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Donnelly
Dornan (CA)
Dreier
Duncan
Dyson
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Glickman
Goodling
Grandy
Green
Gregg
Gunderson
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Johnson (CT)
Kasich
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
Mazzoli
McCandless
McCollum
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Morella
Morrison (WA)
Myers
Nielson
Olin
Oxley
Packard
Parris
Pashayan
Petri
Porter
Ravenel
Regula
Rhodes
Ritter
Roberts
Roemer
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Slattery
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe

NOT VOTING—11

Bentley
Downey
Flake
Gephardt
Gordon
Kemp
Mica
Oberstar
Ridge
Stokes
Towns

☐ 1145

The Clerk announced the following pair:

On this vote:

Mr. Mica for, with Mr. Ridge against.

Messrs. ROEMER, BARTLETT, and APPLEGATE changed their votes from "yea" to "nay."

Mr. MURPHY and Mr. BOEHLERT changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore (Mr. MURTHA). Pursuant to House Resolution 227 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 2470.

☐ 1155

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill H.R. (2470) to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the Medicare Program, and for other purposes, with Mr. SABO in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Illinois [Mr. ROSTENKOWSKI] will be recognized for 30 minutes; the gentleman from Tennessee [Mr. DUNCAN] will be recognized for 30 minutes; the gentleman from California [Mr. WAXMAN] will be recognized for 30 minutes; and the gentleman from Illinois [Mr. MADIGAN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. ROSTENKOWSKI].

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the House will vote today on what may be the most significant Federal health insurance bill since the enactment of the Medicare Program in 1965. It contains the first major expansion of Medicare benefits for the elderly since the program was enacted. In terms of increased costs and beneficiaries, it is at least equal to if not larger than the bills in the 1970's that extended Medicare to the disabled and those with chronic kidney disease.

The bill makes major and long overdue improvements in the hospital and physician coverage provided under the Medicare Program. It improves Medicare by creating a basic hospital and physician benefit that is more consistent with the medical needs of the elderly and disabled beneficiaries; and by changing an exceedingly complicated basic benefit to one that the beneficiaries can more readily understand.

I want to explain the bill that is before the House today by telling the Members a little about its development.

In February, President Reagan announced his support for a bill proposed by Secretary Bowen that placed a limit of $2,000 on out-of-pocket costs for Medicare covered hospital and physician charges. For several weeks preceding the President's endorsement, this proposal had been the subject of a fierce debate within the administration, with most of the President's advisers and Cabinet officers opposing any expansion of Medicare.

After the President's bill was introduced, it was criticized by Members of Congress and outside groups on grounds that the limits on hospital and physician costs were too high, and for not covering prescription drugs, long-term care, and a variety of other benefits. Some argued that, because of these deficiencies, it was inappropriate to label the bill catastrophic health insurance. Whether or not it did enough, the proposal did expand Medicare benefits. It increased Medicare costs by an estimated $3.4 billion in 1992; with 1.6 million elderly and disabled individuals benefiting from the expanded benefits.

A major problem with the President's proposal was that it financed the benefit expansion by increasing the current Medicare part B premium. This is a monthly premium, currently $17.90 per month, paid by all part B enrollees, except the very poorest who qualify for Medicaid. The President's bill would increase this premium by $8.70 per month in 1992, or $104.40 per year. While this increase might be acceptable to the better-off Medicare recipients, it would add a significant financial burden to the low-income elderly and disabled. In fact, some of the same low-income elderly who currently cannot afford private MediGap Policies would not opt for the new coverage contained in the President's bill because they could not afford the additional premium.

The President's interest in the issue and endorsement of the Bowen proposal provided Congress with the unexpected opportunity to make long overdue improvements in the Medicare Program. Improvements that, a few months earlier, virtually no one would have thought possible.

Shortly after the President announced his plan, a number of similar Medicare catastrophic health insurance bills were developed and introduced in the House and Senate. My colleagues, Mr. STARK and Mr. GRADISON, the chairman and ranking Republican of the Ways and Means Health Subcommittee, developed legislation for the subcommittee's consideration. This legislation, as reported by the full Committee on Ways and Means on May 19, 1987, lowers the limits on out-of-pocket covered hospital costs to $580 per year in 1989, and out-of-pocket physician costs to $1,043 per year. Medicare costs would be increased by $7.4 billion in 1992, and 3.5 million elderly and disabled people would be helped by this expansion of benefits. While similar in structure, the committee bill costs twice as much and helps two times as many individuals as the President's proposal.

In addition to substantially increasing the benefits provided under the President's proposal, the Ways and Means bill contains a new, progressive financing mechanism. Instead of financing the benefits by increasing the part B premium, which is the same amount for all recipients, rich or poor, the committee developed an income-related premium that is paid through the income tax system. In 1988, those who do not owe Federal taxes and have adjusted gross income of under $6,000 will pay no premium; which includes about 60 percent of all Medicare beneficiaries. The premium will gradually increase for those with adjusted gross income above this level until it reaches a maximum of $580 in 1988.

Throughout the subcommittee and full committee process, our objective was to improve the President's bill to the extent possible. We wanted a better bill; but, we also wanted a bill that Republican Members would support and the President would sign. This meant we could not do everything. We did not want to repeat the past, where we reached for too much and ended up with nothing.

The bill reported by Ways and Means was referred to Energy and Commerce. On June 17, 1987, they reported the bill with several changes, including coverage for prescription drugs with a $500 per year deductible and no cost sharing. This new Medicare benefit was financed by an increase in the part B premium. Shortly after this, Ways and Means approved an amendment that would cover prescription drugs, with an $800 deductible and a 20-percent coinsurance after the deductible had been met. The drug benefit was financed 75 percent by an increase in the part B premium and 25 percent through an increase in the income related premium developed for the basic catastrophic coverage. It was estimated that the Energy and Commerce Committee prescription drug provision would cost $2.6 billion in 1992 and cover 3 million people; and that the Ways and Means amendment would cost $1.4 billion in 1992 with 1.5 million potential beneficiaries.

The House Democratic leadership asked Ways and Means and Energy and Commerce to attempt to work out the differences between the two bills so that we could go to the Rules Committee with a unified position on what should be made in order for House consideration under the rule. In order to understand where we were at this point, remember that the President's proposal was estimated to cost $3.4 billion in 1992. The Ways and Means approved bill, with the drug amendment, cost $9.8 billion. The Energy and Commerce reported bill cost $11.8 billion.

At a meeting called by the Speaker, attended by the chairmen of the two committees and their respective subcommittees, plus Chairman PEPPER and Chairman ROYBAL, a package was developed containing provisions from both bills. Not everyone was totally happy with this package. Frankly, I am concerned about the potential cost of the new prescription drug benefit. Because of cost and the controversy over key features of this new benefit, I preferred that the prescription drug provision be considered by the House as a separate amendment. Also, I have concerns about paying for respite care, which is basically a social service, under the Medicare Program. I think that both of these new Medicare benefits increase the likelihood that the President will veto the bill. Obviously, there are those who disagree with me on these matters.

In the spirit of unity, I introduced a bill, H.R. 2941, along with Chairman DINGELL, containing the package of Ways and Means and Energy and Commerce provisions that had been developed. Under the rule that has been adopted, the provisions of this bill have been substituted for the provisions of H.R. 2470 as reported by the two committees. In other words, it is the package developed at the direction of the House leadership that is before the House today.

The estimated cost of this package in 1992 is $10 billion for the Medicare benefits plus a net increase of $110 million in Medicaid costs. At least 5.5 million of our Nation's elderly and disabled will benefit from the expanded benefits. To pay for these benefits an income-related supplemental premium and a higher part B premium will be assessed Medicare beneficiaries. The level of these premiums has been set so that the bill is budget neutral.

The key Medicare benefit expansions contained in this bill include:

A limit on out-of-pocket spending for covered hospital stays to one hospital deductible per year, which is $580 in 1989.

A cap on covered physician and outpatient services expenses of $1,043 in 1989.

Payment for outpatient prescription drugs after a $500 deductible had been met, with 20-percent coinsurance.

I will ask the Health Subcommittee chairman, Mr. STARK, to explain in more detail the need for and specific provisions of this bill.

As I stated at the beginning, this is a bill of major significance. It adds new benefits and substantially expands existing hospital and physician coverage under the Medicare Program. It is a major Medicare improvement bill that Congress should pass, and that I hope the President will sign.

Mr. Chairman, I reserve the balance of my time.

□ 1200

Mr. DUNCAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of the substitute for H.R. 2470.

Mr. Chairman, I was gratified when President Reagan placed catastrophic health insurance on the national agenda. In my view, the plan developed for the President by Secretary Bowen of Health and Human Services was a reasonable response to the needs of the elderly. The Bowen plan does not take care of all the potential financial risks faced by Medicare beneficiaries but it goes as far as I thought it should, with respect to total program cost.

Unfortunately, from my point of view, the Ways and Means and Energy and Commerce Committees went much further than Secretary Bowen. Those committees brought the cost of the plan from $12 billion over 5 years to $30 billion plus. This new price tag concerns me.

The expansion of Secretary Bowen's original concept is due to the more generous catastrophic limits set by the committees and a multitude of noncatastrophic add-on benefits.

The add-ons go beyond the concept of catastrophic coverage.

Enough is enough. If we keep on this path we are likely to derail the whole catastrophic coverage effort by inviting a Presidential veto.

Since I have been in Congress we have been trying to pass catastrophic health coverage. It always runs into trouble when well-intentioned new benefits and requirements make it too expensive.

It will be argued today that these new benefits are fiscally acceptable because the elderly bear the cost through increased premiums. Well, you know as well as I do that as the benefits get more expensive, the elderly groups will come to Congress seeking a cut in premiums. And, in the end, the taxpayers will have to pay more, or the Congress will have to regulate the providers and cut payments even further to contain the new Federal expenditures.

This is always what happens when the Congress gets too free-handed with a "good thing" and passes the "dinner check" on to the next generation of taxpayers.

This is why I have chosen to support the substitute to H.R. 2470 being considered today. It has a reasonable price tag and is closest to the original proposal set forth by the President.

I look to my colleagues to bring some level-headedness to this process and join me in supporting this alternative to H.R. 2470 before the catastrophic health insurance train runs off the track.

Mr. Chairman, I reserve the balance of my time.

Mr. STARK. Mr. Chairman, I yield myself such time as I may consume.

Mr. STARK. Mr. Chairman, this is a proud day for our senior citizens who are Medicare beneficiaries; and I would like to take this opportunity to, first of all, thank President Reagan.

It was his statement in the State of the Union Address that said, we should provide catastrophic coverage to our seniors.

The Secretary of Health and Human Services, Dr. Otis Bowen, picked up that charge and proceeded to form a bill to provide expanded Medicare benefits.

I would then like to thank the gentleman from Texas [Mr. WRIGHT], the Speaker of the House, and the gentleman from Florida [Mr. PEPPER], chairman of the Committee on Rules, and the gentleman from California [Mr. ROYBAL], the chairman of the Select Committee on Aging, who saw this as an opportunity to expand benefits to help the plight of our seniors.

□ 1210

Along with the dedicated commitment of the chairman of the Ways and Means Committee, the gentleman from Illinois [Mr. ROSTENKOWSKI], and the chairman of the Energy and Commerce Committee, the gentleman from Michigan [Mr. DINGELL], these two committees proceeded to form a bill that is indeed the first major expansion improvement in the Medicare Program in 22 years.

Chairman WAXMAN, the gentleman from California, who chairs the Subcommittee on Health in the Energy and Commerce Committee, did a marvelous job and you will hear from the Energy and Commerce Committee in subsequent debate.

I have saved the most earned thanks for last to the ranking member of our Health Subcommittee on the Ways and Means Committee, the gentleman from Ohio [Mr. GRADISON], who worked long and hard to forge a compromise in our initial bill and suffered through the expansion of the bill with the pharmaceutical benefits. We all owe and the seniors owe him a great debt of gratitude.

Let me now tell you what this bill does. You have all seen stacks of benefits printed out, but I would submit that none of you in this Chamber and very few who are watching this on the electronic media could describe without the aid of notes what the benefits under Medicare are; indeed, this gentleman has some problem remembering whether it is after 60 days that you have a hospital co-pay of $130, or whether you have 60 lifetime reserve days and whether it is 20 percent owing to the doctors who participate. It is a confusing program. It is confusing to me, it is confusing to my mother, it is confusing to other senior citizens in this country.

So the first thing this bill does is take away the confusion to the point that this gentleman can understand it.

If you are a senior and a Medicare beneficiary and you go to a hospital in 1988, you will pay once $544 in hospital bills, period, paragraph, end. You then stay in the hospital until hopefully you are well and cured or until you die, but you only pay $544 out of pocket for your part A coverage.

As for the doctor bills, assuming that you have the good sense to go to a physician who has a big enough heart and accepts assignment or participates in the Medicare Program so that that doctor will take the Medicare part B payment as full payment, you pay only 20 percent of those doctor bills until you reach $1,043 out of your own pocket as a beneficiary. After you reach the $1,043 limit, Medicare pays all the doctor bills from then on for the rest of the year. In short you pay $544 to the hospital, and $1,043 out of pocket to the doctor.

If you use prescription drugs, after you have paid $500 out of your pocket, all the drugs that the doctor prescribes beyond that $500 in a year, you pay only 20 percent for the prescription charge; so your limit is $500 out of pocket, plus 20 percent of the prescription drugs used after the $500, and that is it. That is a simple definition. I think it is easily understood. It can only total for the doctor and the hospital and drugs $2,017 out of pocket, plus 20 percent of your drugs.

I think this, much to the consternation of Lorne Green and Danny Thomas, who will exhort you on late night television that you are going to have $18,000 out of pocket and you ought to get medigap policies, this takes that fear and confusion away from our senior citizens. I think that in itself is an outstanding and worthy cause.

Let me tell you what this bill does not do, because you will hear it from some of our colleagues today. Sadly and unfortunately, it does not end the catastrophes of health. We really misnamed the bill, and I agree with some people, that it should have been the catastrophic medical costs bill.

Health is a societal problem. Health is not handled just by doctors, nurses, and hospitals. Health is part of our environment. If you feel good, if your life is happy, if you are happy in your work, that is health. All of us are going to get that disease that is now called 75. You will probably have it for 15 years, but doctors cannot treat that. We may need help functioning during the day for these 15 years.

For the 4 million seniors who live below the poverty level, they do not need a doctor. They do not need a dentist. They are trying to exist on less than $6,000 a year. They need $25,000 a year to go into a nursing home and those costs are indeed astronomical and cannot be addressed by the medical delivery system.

This bill does not solve the broad societal problem of long-term care. This bill is directed at the catastrophic costs of acute medical care, for doctor bills, hospital bills, and prescription drugs.

Something else this bill does not do, it does not cost the Treasury 1 red cent. This bill is paid for entirely by the beneficiaries and those beneficiaries are the Medicare beneficiaries. Not all of them will use it, admittedly, but they all have the fear they may have to use it and this legislation protects them from the costs that they may have if they have a catastrophic illness.

It also protects some people who do not pay; me, for instance. It takes the financial worry away from me that, God forbid, my mother might get ill and not have the insurance and financial wherewithal to cover her medical expenses. So there will be some sub-65 citizens in this country who will derive a secondary benefit from this bill.

Now, you are going to hear that it is going to cost an awful lot. I admit the averages only talk about people drowning in a 2-inch stream, but let me point out to you what some average Americans will pay.

In the first place, you will hear or you have heard criticism that only 40 percent of our seniors will pay the supplemental premium. That is because only 40 percent of our seniors have anything like a modest income and pay any tax. The 60 percent of our seniors who are exempted have the very lowest incomes in this country and so I think the progressive financing contained in this bill is something we should all support; I would also like to point out that in 1989 all beneficiaries will pay $2.60 a month more than they would otherwise pay.

On the average, those upper income senior citizens, on the average will pay $13 a month in a supplemental premium. That is a total of $155 a year; but on the average they will save $50 a month in MediGap premiums. The 70 percent of seniors who now have MediGap, one could presume are the more well-to-do seniors, and they will have a net saving out of pocket of $37 a month; but take the worst case and assume that they are the highest of the high income. They will pay $48 a month in supplemental premiums, plus the $2.60, for $50.60 a month extra.

If you also assume that they would have the maximum MediGap insurance of about $125 a month, they are going to save $74.40 a month.

In the outyears, the supplemental premium does go up, but it goes up because medical costs go up and one would presume so would MediGap premiums go up.

So I submit to you in summary that this bill takes away the fear, expands modest benefits to those seniors who will be most in need, although they may not be identifiable today because bad health strikes in a random sense.

The bill has some other changes. It improves the skilled nursing facility benefit. It expands the outpatient mental health benefit, though not nearly as much as many of us would like. It provides a respite care benefit, which for the first time, as many have indicated, provides some assistance to those family members or those very low paid assistants who help maintain seniors in their homes to give people a few days of vacation or a weekend off so that that senior will have continuous care and those people who provide that care, either voluntarily as a relative or friend or at very low wages, will have some opportunity to expand their lives beyond the confinement of a senior in a home.

Mr. Speaker, it is an excellent bill. It costs nothing. It benefits millions of seniors. It is long past due.

Again I want to thank those who have collaborated and cooperated and worked so hard to see this bill come to the floor today and I urge its adoption.

Mr. Chairman, I reserve the balance of my time.

Mr. DUNCAN. Mr. Chairman, I yield 6 minutes to the able gentleman from Ohio [Mr. GRADISON], the ranking member of the Health and the Environment Subcommittee.

Mr. GRADISON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, today I will be supporting the substitute to H.R. 2470.

Mr. Chairman, the substitute represents the successful efforts of the Republican leadership, particularly Representative JERRY LEWIS, chairman of the Republican Policy Committee, in developing a consensus proposal which a broad spectrum of Members can wholeheartedly support. I commend those who have worked long and hard to prepare this amendment in the nature of a substitute.

The substitute also reflects the basic intent of the original Medicare catastrophic coverage proposal developed by the Secretary of Health and Human Services, Dr. Otis Bowen, and presented to the Congress by President Reagan. Today's consideration of H.R. 2470, and the substitute, is a tribute to the initiative and leadership of the President and Dr. Bowen.

The President placed catastrophic health insurance coverage on the Nation's agenda. Dr. Bowen recognized—despite the major contribution Medicare already has made to the health of the elderly and disabled—that the program does not assure protection against significant out-of-pocket costs for doctor and hospital services which may result from truly catastrophic illness. It should be the purpose of Medicare to protect beneficiaries from financial distress or ruin. Medicare does not now accomplish that goal. The President and Dr. Bowen rightly identified this gap in Medicare as the first item of business in assuring all Americans protection against expenses of catastrophic illness.

Now, some Members may question why I am supporting the substitute when the primary measure before the House, H.R. 2470, bears my name as a coauthor. I did assist in the development of that legislation with my colleague, the chairman of the Ways and Means Health Subcommittee, Representative PETE STARK. Chairman STARK is to be commended for shepherding the bill through the Ways and Means Committee. I salute him for a job well done. I think the original bill reported by our committee is a good bill and I am proud to have contributed to it. Were the original Ways and Means bill before us today I would not be supporting a substitute.

But H.R. 2470 in its present form goes too far. It is weighted down with noncatastrophic add-ons, the most costly of which is coverage for outpatient prescription drugs.

Unquestionably, the cost of prescription drugs can be a burden to the elderly, and drug coverage should be considered for Medicare. But, now is not the time, and H.R. 2470 is definitely not the proper vehicle.

First, a new drug benefit will be complex to design and administer. It requires careful study. The Congress has not had sufficient time to do that. Second, a drug benefit will be expensive. With our current budget deficit problems, the Congress must face this Nation's elderly and disabled and admit that resources are limited and that catastrophic coverage for doctors and hospital costs is as far as the Congress can responsibly go at this time.

It will be argued that all the benefits in H.R. 2470 are being paid for through premium dollars from the elderly. So the program expansions are budget neutral. I do not question this assertion. Nevertheless, if both the flat part B premium and the new supplemental premium increase over time to cover so many new benefits, those who are paying may balk at the ever increasing cost. And, 3 or 4 years down the line, the Congress will be under pressure to reduce the premium burden for beneficiaries. At that point budget neutrality could go out the window and the H.R. 2470 benefits contribute to the deficit.

Let's act responsibly now. The best way to avoid the outcome I envision is to support the substitute.

If I have one regret about the substitute, it is that it lacks the income-related financing approach used in H.R. 2470. I have long advocated funding a portion of the cost of Medicare through an income-sensitive mechanism. Elderly Americans with the ability to pay should contribute more to sustain Medicare. Even if they are asked to foot more of the bill, Medicare will still be a great insurance deal.

When the Ways and Means Committee developed the supplemental premium, it recognized the need to respect the connection between the Medicare coverage and the ability to pay by:

First, capping the supplemental premium; and

Second, the most importantly, relating the new premium to the portion of the benefit which is subsidized, that is not paid for by the beneficiary.

The committee reinforced this concept in the report language for H.R. 2470. The report language specifies the supplemental premium, should be less than the portion of the value of the Medicare coverage received that is not paid for by the basic premium or employee payroll taxes. The committee set the maximum supplemental premium at 33 percent of the value of the Medicare coverage not paid for by the beneficiary.

This notion of value for premiums should not be forgotten in the debate today. The supplemental premium is not simply a tax. In a real sense it is an income-related mandatory users fee.

Mr. Chairman, in conclusion, it is my hope that the substitute will pass. If it does not, I plan to vote for H.R. 2470 on final passage. H.R. 2470 is an important measure which should continue through the legislative process.

□ 1225

Mr. DUNCAN. Mr. Chairman, I yield 7 minutes to the able gentleman from Illinois [Mr. CRANE], a member of the Ways and Means Committee.

Mr. CRANE. Mr. Chairman, I know a lot of time, energy, and effort has gone into the production of this legislation, and I salute those individuals who were involved in an effort to accomplish something worthwhile. But I think that somewhere in the process we got off the track in terms of what the expectations of seniors are versus what this bill actually provides.

I think it is important to focus on what the bill is not. First of all, it is not cheap or free.

Second, it is not equitable in terms of the distribution of taxes that will be imposed on the elderly.

Third, it certainly is not a simplification of the Internal Revenue Code because there is an addition of 58 tax brackets for senior citizens under this bill.

Fourth, it does not provide care in the one most critically important area identified by seniors, who worry about the escalating occurrence of Alzheimer's and other lingering diseases. There is no long-term health care benefit, such as nursing home coverage, provided in this legislation.

Fifth, there are not going to be free prescription drugs to a majority of senior citizens. This legislation requires a $500 deductible to be met before one's prescription drug costs are absorbed. The average annual prescription drug cost for seniors is $370, and for the disabled it is $440. Thus, for a majority of individuals anticipating that this bill is going to give them free prescription drugs, they can forget about it.

Furthermore, the additional health care coverage offered here is not as cheap or as extensive as private insurance coverage. For example, Mutual of Omaha in Maryland provides a catastrophic category for $530 a year to a 65-year-old, which includes first dollar coverage. In this bill, the recipient pays the first $1,600 out-of-pocket expenses before the Government begins to provide catastrophic coverage. Otherwise, the Mutual of Omaha policy will provide everything that is contained in this legislation except for the drug benefit and the mental health benefit.

Let me show my colleagues a hypothetical. I think it is important for senior citizens to focus on just exactly who is paying what. This is a hypothetical and one can change the designation, which we did. When this chart was prepared we were referring to the Ways and Means Committee bill, but the figures are nevertheless accurate for H.R. 2941.

This chart shows what this bill costs a typical senior, let's call her Mary Smith, age 66. She is a widow and making $14,166 a year. Under current law, my colleagues can see what her expenditures will be going out to the year 2000, ranging from $264 in premium costs up to $408. But now we start adding the additional premium. The Ways and Means Committee made it explicit in the report that we are not talking about supplemental premiums, we are talking about an income tax. That is precisely what it is, and it is based on income, and that is why we get in this bill the 58 different tax brackets for seniors.

From this chart my colleagues can see what the additional costs will be with the new surtaxes. These range from a $580 surtax on Mary Smith in the very first year, to, by the year 2000, and these are in 1988 dollars, mind you, a surtax of $1,385, on this typical senior citizen.

I ask my colleagues to look at this line right down here. With H.R. 2941, that final tax by the year 2000 in 1988 dollars is $2,373 to Grandma Smith, who by that time is age 78.

If my colleagues look at the alternative, and that is without passage of this legislation, in the year 2000, in 1988 dollars, her total cost is only $408.

There is another ticking time bomb in this legislation that the committee refused to address. I pleaded the case in the Ways and Means Committee and I introduced an amendment. I was defeated by my good friends on the other side of the aisle. Then I went before the Rules Committee and tried it one more time.

Under existing law AIDS victims, the overwhelming majority of whom are under 65, can qualify for disability benefits. If my colleagues harken back to what I said before in terms of prescription drug costs, the average person drawing disability is spending about $440 a year on prescription drugs. But AZT, a breakthrough drug that does not save life but extends life for least a couple of years, runs approximately $1,000 a month.

Keep in mind what a potential time bomb we are asking seniors to pay for. I do not mean to be callous or indifferent about the AIDS problem. That is a problem perhaps warranting some kind of congressional attention. But the unfortunate thing is that we are asking grandparents to absorb the cost of this very expensive treatment for AIDS patients. And we have no idea how many patients we're talking about. The projections right now are that over the next 5 years there will be a 300-percent increase in AIDS victims at untold costs. Yet, under the formula for financing this bill, the burden falls preponderantly on senior citizens. They are the ones we should be tending to in making any provision if we intend to do so for senior citizens who may otherwise be ravaged by medical costs at that point in life. However, they are certainly not the sector of our society that should be asked to pick up the imponderable costs of drug benefits to AIDS victims.

The other chart over here that I would like to point out, and I put in the RECORD on June 26 and refer to all of my colleagues, is the tax form that these seniors are going to need to fill out as a basis for meeting IRS requirements. As I said, and as one can see from this chart, there are 58 different tax brackets. We went to tax simplification, and we are going to reduce the brackets down to three starting next year, under the new tax law. For seniors, however, the brackets are going to total 61 because, under this bill, every senior is going to be forced to fill out these new tax forms.

I would urge my colleagues to recognize that while we started with good intentions we went awry. This is not the answer.

We have an alternative. It is a Republican alternative, but it is not just Republican. It involved a lot more input from different sources outside this Chamber, outside the Congress, from the business community, from people trying to provide a satisfactory solution to these problems.

I urge my colleagues to support this substitute and reject H.R. 2941.

Mr. DUNCAN. Mr. Chairman, I yield 6 minutes to the gentleman from Nebraska [Mr. DAUB], an able member of the Ways and Means Committee.

Mr. DAUB. Mr. Chairman, for some years, the majority has expressed its sincere desire to provide our Nation's elderly population with both peace of mind and sound economic support in times of catastrophic health crises. And now, when that opportunity has arisen—when the President has indicated in his State of the Union Address that he would like to see a Medicare catastrophic health care policy implemented—the majority has brought before this Congress neither peace of mind nor sound economic support for the elderly; rather, they have drafted a financially burdensome and unpredictable piece of legislation in H.R. 2941.

Perhaps most disturbing about this bill—aside from the tremendous demands it makes upon the pocketbooks of older Americans—is the fact that it simply fails to address the true catastrophic health problem confronting the elderly: long-term care and nursing home costs.

Over 80 percent of health costs incurred by the elderly result from long-term nursing home stays.

Seventy-nine percent of Medicare beneficiaries mistakenly believe that Medicare already covers the costs of long-term care; H.R. 2941 fails to address the issue of long-term care but spends $33 billion in the next 5 years on acute, short-term, very small improvements in the current part A and part B system that we now have on the books.

Eight out of ten senior citizens are protected from acute—hospital-related—health costs; 9 out of 10 have no protection for long-term care expenses.

Clearly, our efforts should be directed toward helping our elderly help themselves in times of long-term health care cost catastrophes. And it has been with this motive in mind that I have for several months been attempting to gain support for two provisions—both of which originally were included in my bill, the Long-Term Health Care Amendments of 1987—which would introduce an element obtrusively absent in H.R. 2941; the private sector.

I proposed two incentives which would contribute to the establishment of a viable long-term care picture for elderly Americans.

First, a tax free conversion of life insurance contract exchanges, and second, the rollover of that portion of an individual retirement account, an IRA, which would be taxable at age 59½ when withdrawn. But if in fact the payment, from either of these two sources with otherwise taxable gain or inside buildup for cash value, of a premium to purchase a long-term or life care policy that contains a nursing home care provision, would indeed be the objective which I was seeking to add.

These provisions help to balance the creation of government protection for those who lack financial resources with the establishment of individual private insurance incentives, while in addition helping to avoid the full blown socialization of Medicare. This, after all, is what we should go looking for, balance.

The majority bill essentially takes private dollars and substitutes for them public dollars. We essentially are socializing Medicare under the majority bill, taking away all incentive and all initiative from individuals and/or businesses to help provide not only for their short-term acute care, but the most important piece that is missing is a private sector incentive, a balance in the bill to give us a reason to want to take care of our long-term, more catastrophic expense the President was talking about when he talked about having a bill and a part of our law help elderly Americans avoid that last worst choice between death and bankruptcy. He was talking about the expense of nursing home care and home health care. The majority bill does little to address this particular subject.

The Republican substitute, however, which I stand here today before my colleagues to support, does address these initiatives, these balancing features, to give individuals and businesses an opportunity through the Tax Code and through a savings incentive to provide for our long-term care.

We must fill the void left by the absence of private sector involvement in the majority bill in Medicare with the types of independent initiatives included in the Republican alternative to the bill.

There are four things wrong, as have often been said. First, this bill makes the Medicare trust fund even less solvent by 1996 to the year 2000 than we already know it will be, which will require us to raise taxes on workers or invade the general revenues of the country even more. Clearly by switching home health care from part A to part B requries us to dip into the General Treasury, because under current law 75 percent of part B is financed by the General Treasury, not by the trust fund.

□ 1240

Second, we have two new taxes, a regular tax and a mandatory additional premium, by any other name a tax on all citizens, even if they choose not to voluntarily participate in part B. In other words, we have a mandatory new tax on all senior citizens over age 65.

Third, the AIDS benefits that will come through Medicare, I think, should be unacceptable to not only my mother and father, but your mother and father as well. Older Americans do not believe that their trust fund moneys should be used to pay for this kind of a circumstance. That is a general obligation of all society and more rightfully belongs in the general revenue.

Last, there are no long-term health care or nursing home benefits in this bill and it simply avoids the responsibility we all would rather have to use the private sector to induce savings and provide for those more catastrophic expenses.

For those reasons I oppose the majority bill and stand in support of the Republican substitute.

Mr. STARK. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. COYNE].

Mr. COYNE. Mr. Chairman, I rise in support of the committee bill.

Mr. Chairman, the figures on health care costs incurred by the elderly speak volumes of the economic burden this growing segment of our population faces every day. We should be embarrassed, frankly, that many senior citizens in this country must often make a choice between, for example, paying a hospital bill instead of buying food, or buying needed prescription drugs instead of paying a utility or phone bill.

These examples are not myths but reality to thousands of older Americans because of the overwhelming, catastrophic costs of medical services for major illnesses or lengthy hospital stays. The numbers simply don't lie. Married couples over the age of 65 average about $3,000 in out-of-pocket health care costs annually. That's the average; many couples pay much, much more. In 1984, out-of-pocket costs incurred by the elderly totaled more than $30 billion, an astounding increase of 138 percent over 7 years. By 1991, the elderly will spend 18.5 percent of their often limited income on health care.

But today we have a rare chance to give hope and help to those most in need of basic, life-saving medical care by passing the Medicare Catastrophic Protection Act. This bill, simply, will give financial relief to Medicare beneficiaries for catastrophic medical costs. And it will do so using a unique self-financing mechanism that avoids the need for any additional Federal spending. The cost of the expanded benefits will be spread across the Medicare population based on an individual's income. That means those elderly in the lowest tax brackets will pay little or nothing for the catastrophic health insurance. Even for those at the top end, the added costs are reasonable.

This bill places an overall limit on out-of-pocket expenses by the elderly for health care services covered by Medicare including hospitalization for up to one year, doctor's services, mental health outpatient care, and expanded care in skilled nursing facilities.

The Ways and Means Committee also approved expansion of benefits for a long neglected but clearly vital service—mental health care. More than 20 years ago the reimbursement cap for mental health services was set at $250, and it has remained at that level ever since. Inflation has trimmed the value of that benefit to barely $60 today, and a dismal and unproductive element of the current Medicare system.

Our knowledge of mental health problems, particularly among the elderly, and the development of sophisticated treatments, has far outstripped the usefulness of the present cap. We need to encourage the use of mental health services, not discourage the elderly from seeking help simply because the Medicare cap is artificially low.

This bill also offers a significant new benefit that reflects the tremendous advances in Medical technology in the past two decades. For the first time, Medicare beneficiaries will be eligible to receive 80 percent of the cost of prescription drugs after payment of a $500 annual deductible. There is no such coverage today, and this added benefit is long overdue.

These are just a few of the reasons the House should enact this bill today. And while this bill does not represent a total solution to the catastrophic problem, it does serve as an important step forward in making health care affordable and available to this Nation's growing population of older Americans.

Mr. STARK. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. ANDERSON].

Mr. ANDERSON. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise today to express my strong support for H.R. 2470 the landmark catastrophic health legislation which we are soon to vote upon. I congratulate the various architects of this legislation, the leaders of the Ways and Means, Energy and Commerce, and Aging Committees for shepherding this vital legislation through the process and onto the House floor, and also commend the House leadership for their efforts in placing catastrophic health legislation high on our agenda.

This legislation is an important step forward toward providing Medicare beneficiaries comprehensive protection against medical catastrophes. It prevents beneficiaries from having to pay more than one deductible per year, puts a cap on out-of-pocket expenses for physician services where none currently exists, and significantly bolsters Medicare's coverage for skilled nursing facility care. Other extremely significant reforms include protection against the high costs of prescription drugs and inclusion of "respite care" benefits for chronically dependent homebound persons.

Mr. Chairman, passage of H.R. 2470 will provide many seniors new weapons with which they can wage war against the ravages of catastrophic health care costs. In addition, its financing scheme is progressive and budget neutral, minimizing the financial burden on low-income beneficiaries and contributing not a cent to our Federal deficit. I think it is clear that the Medicare Catastrophic Protection Act addresses our national catastrophic health problem forthrightly, and does so responsibly and equitably. I urge my colleagues to support it.

Mr. STARK. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. VENTO].

Mr. VENTO. Mr. Chairman, I rise in support of the committee bill and in opposition to the substitute.

Mr. Chairman, I rise in support of the Medicare Catastrophic Protection Act of 1987. Although broader expansion of Medicare coverage, is desireable particularly in the area of long-term care, H.R. 2470 represents a significant step in protecting our Nation's elderly against the bankrupting costs of a catastrophic illness.

I commend Congressman CLAUDE PEPPER for initiating the debate which made this legislation possible. Congressman PEPPER'S tenacious support for an expansion of Medicare's shrinking benefit package helped force the administration to acknowledge the need for this legislation.

I am a supporter of Congressman PEPPER'S catastrophic health care legislation, H.R. 65, which served as an impetus for this bill. He has been a exceptional champion for those in need of improved health care coverage and I will continue to support his efforts to provide for an adequate expansion of long-term health care coverage.

Although this legislation is not as far reaching as H.R. 65, it is much more comprehensive than the limited narrow proposal the administration outlined. This legislation represents the first major Medicare expansion since the programs inception more than 20 years ago. It is a step in the right direction and it should set the stage for coping with long-term health care coverage.

As a member Congressman PEPPER'S Select Aging Subcommittee on Health and long-term care, I had the opportunity to participate in numerous hearings regarding this issue. During the last 4 years, literally hundreds of witnesses have shared their own personal experiences with members of the subcommittee. The testimony of these witnesses clearly demonstrated the overwhelming need for improved health care coverage which they so desperately need. Their testimony echoed the concerns that many of my constituents have constantly relayed to me. I am pleased to see that some of these concerns have been addressed through the measure before the House today. This legislation prevents beneficiaries from having to pay more than one deductible each year, caps out-of-pocket payments for physician services, reduces copayments for skilled nursing home care, provides protection against the high cost of prescription drugs and adds respite care for chornically dependent homebound persons. This legislation is an important step in providing the 28 million elderly and 3 million disabled individuals covered by Medicare with the comprehensive protection against medical catastrophe that they need and deserve. I strongly support provisions of this legislation but am concerned that if falls short in terms of funding long-term care.

Long-term care is an overriding concern of our constituents. At my request, one of my constituents was invited to testify on long-term care before the Subcommittee on Health and Long-term Care. Although she was unable to speak, Susan Margoles, came to Washington and eloquently courageously presented her views on the pressing need for Medicare coverage of home health care services and long-term care. She is almost completely paralyzed from Lou Gehrig's disease which she contracted almost 10 years ago. She risked her own health to come to testify because she is so convinced of the therapeutic effects of home care. Her tenacity and sheer will to live have allowed her to defy the odds and live as high a quality of life as possible. Most people with her severe disability do not even realize that life outside of an institution is feasible. Even though she is barely able to move even her eyes and mouth, she lives in her own home and has become incredibly a tireless advocate of home care. She has devoted the remainder of her life to helping institutionalized individuals across the country to move out of institutions and into their own homes. In many instances, home care would not only provide a higher quality of life, it could save up to five time the amount of money needed to provide care in an institution.

Mr. Chairman, this legislation provides some improvements and expansions of Medicare home care coverage but is short of being the ideal or complete policy change desired and needed. It is my hope that the Bipartisan Commission on Long-term Health Care established by this legislation will thoroughly explore the cost-effectiveness and improved living conditions available through, home health care services for both elderly and the nonelderly. I would like to insert in the RECORD a copy of Susan Margoles' testimony and an article about this remarkable woman.

TESTIMONY OF SUSAN MARGOLES BEFORE THE SUBCOMMITTEE ON HEALTH AND LONG-TERM CARE, JULY 2, 1987

QUALITY OF LIFE

There is a rapidly growing body of data pointing to the cost-effectivenss of home-care. This is true in the case of most people who require nursing or attendant care. It is especially true of ventilator-dependent individuals, where hospital care is inordinately expensive. My own organization, the Minnesota Home Care Advocacy Program, has shown in preliminary studies that hospital care for ventilator-dependent patients is vastly more expensive than home care. In my own case, whenever I have been hospitalized, I have been admitted to a respiratory intensive care unit. Depending upon the institution and a number of other variables, my care in R.I.C.U. can cost from eight-hundred to fifteen-hundred dollars a day—two to five times as expensive as my twenty-four hour nursing care.

These kind of cost-comparsion studies are encouraging, and serve as supportive evidence in making the economic case for home care. But they can also make us lose sight of the most important reasons for home care. And that reason is that we are dealing with human beings. Human beings whose dignity is worth more than a collection of statistics. Human beings whose potential is challenged but not diminished. Human beings whose worth cannot be calculated on a data base or a spread sheet.

We are now celebrating the wisdom and virtues of the U.S. Constitution. We should consider then, a group of people who have been disenfranchised, who, through no fault of their own, have been denied the basic freedoms set forth in that document. The spirit of that document demands that every citizen—disabled or able-bodied—be allowed to pursue their goals and develop their potential. That is impossible if one is trapped in the environment of an institution, robbed of privacy, robbed of dignity, robbed of choice.

Government sponsored home care must be made available to severely disabled people. It must be an alternative to the institution. Not only are basic human rights violated when home care legislation is not supported, in addition, an enormous reservoir of experience, intellect, and talent is squandered.

Responsibility, however, doesn't end at providing hours of home care. Careful consideration must be given to the many problems surrounding home care. The overriding concern must always be protecting the self-determination of the home care client. The client must remain in charge of their care and of their life.

There is at present a serious shortage of nurses across the Nation—especially in the area of critical care nursing. In addition to the shortage, most nurses have virtually no experience or education in home care nursing. Hospital and home care nursing are worlds apart and nursing agencies and their employees must understand that. Unfortunately, that is rarely the case. As a whole, agencies do not give priority status to client rights. They are more often concerned with profit, convenience, and control. Although we believe that some clients are well-served by agencies, the Minnesota Home Care Advocacy Program believes that Medicare must take pains to protect the rights of Medicaid recipients.

[From the Minneapolis Star and Tribune, July 3, 1987]

ST. PAUL WOMAN SILENTLY CARRIES HER CRUSADE FOR DISABLED TO CAPITOL HILL

(By Randy Furst)

WASHINGTON, DC—The subcommittee room suddenly turned quiet, except for the sound of a battery-operated ventilator that keeps a St. Paul woman alive.

Sitting in a wheelchair, Susan Margoles took her crusade to the halls of Congress Thursday, an appeal for disabled people to live in their own homes in dignity.

The 40-year-old woman, who is paralyzed and unable to speak, communicated to the congressional panel via a letter board, blinking her eyes to spell out words.

"Government-sponsored home care must be made available to severely disabled people," she said. "It must be an alternative to the institution." The House subcommittee chairman, Rep. Claude Pepper, D-Fla., strained forward to listen.

Pepper, who has gained a national reputation for his work on behalf of the elderly and infirm, said that in 50 years on Capitol Hill he had never seen someone so disabled testify before Congress or accomplish what she has done.

"It is the most striking example of courage I've ever seen," Pepper said after the hearing, placing his hand on hers, as she looked at him silently, a slight smile crossing her face.

Margoles has ALS, also known as Lou Gehrig's disease, and has become Minnesota's leading advocate for home care patients. She is executive director of the Minnesota Home Care Advocacy Program, a new state organization that in a few months has acquired 42 disabled clients, many of whom she visits herself.

Val Halamandaris, president of the National Association for Home Care, who also testified yesterday, said there is no other organization like Margoles' in the United States, and called her remarks "stirring."

Margoles told the Subcommittee on Health and Long-Term Care, "We have a right, just as much as able-bodied people, to take risks.

"We must have guidelines to protect us from violations by health care agencies. We have not committed a crime by becoming disabled."

As many as 20 million Americans are getting or are eligible for home care in the United States, according to rough estimates by Pepper. The Congressional Budget Office has estimated that 2 million to 4 million need long-term care, but are unable to receive it, Halamandaris said.

According to a 1985 state study, 32,000 Minnesotans receive government-funded home care, but an estimated 56,000 to 80,000 need it.

Pepper has introduced a home care proposal that would provide nursing care and home services for the chronically ill. He calls it the most cost-effective solution and says many families are driven into financial ruin when they must take care of loved ones at home. Several such families testified at yesterday's hearing.

Some of the problems the disabled face were illustrated yesterday by the extraordinary difficulties Margoles had in giving her testimony.

She normally speaks and writes with a computer, using a device that rests on her eyebrow to activate it, but the device was apparently damaged in transit, so she had to use the letter board to speak.

Part of her testimony was given yesterday by Dick Mersky associate director of her St. Paul-based organization.

Margoles has become an ever-increasing force in the State politics of home care. Gov. Rudy Perpich visited her at her St. Paul apartment in early June and promised to back legislation for home are reform that she is supporting according to state Rep. Howard Orenstein, DFL-St. Paul.

"I think she's a miracle worker," said Orenstein. "Without a voice or without use of her arms or legs, she gives voice to people in a desperate condition."

U.S. Rep. Bruce Vento met her recently and recommended to Pepper that she testify.

"Susan Margoles is the best example of the possibilities of home care." Vento said yesterday. "It is hard to imagine someone with more disabilities."

Nonetheless, the position papers that stream from her computer include pleas for increased training and wages and improved conditions for nurses who take of home care patients.

Mr. STARK. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. MOODY].

Mr. MOODY. Mr. Chairman, I rise in strong support for H.R. 2470, the Medicare Catastrophic Protection Act of 1987. As an original cosponsor of the bill, and as a member of the Subcommittee on Health which originated it, I want to commend my chairman, PETE STARK, the ranking member, BILL GRADISON, and the rest of my colleagues on the subcommittee and the full Ways and Means Committee for their efforts on behalf of the Nation's senior citizens.

1. NEED FOR THE LEGISLATION

There is no queston that catastrophic acute care protection is needed. Despite Medicare and Medicaid, out-of-pocket expenses on health by the elderly have skyrocketed in recent years, from $12 billion in 1974 to $30 billion in 1984. Total spending on elderly health care has also risen dramatically, from $43 billion in 1977 to $120 billion in 1984. Per capita expenses rose from $1,785 to $4,202.

More than one quarter of Medicare beneficiaries will spend some time in the hospital each year. The typical out-of-pocket costs for such beneficiaries will average about $1,300. But for those with lengthy hospital stays, the out-of-pocket costs can result in financial ruins. Some 20 percent of senior citizens will spend at least 15 percent of their income on medical care, while 7 percent will spend more than 25 percent of their income.

So there is clear evidence that additional protection is needed for our senior citizens.

2. WHAT IT DOES

In response to the clear need for catastrophic acute care legislation, Health Subcommittee chairman, PETE STARK, and ranking member, BILL GRADISON, introduced two comprehensive bills to address the problems. I was an original cosponsor of both bills.

Following extensive hearings and a long and difficult markup process, the Health Subcommittee, and later the full Ways and Means Committee, approved H.R. 2470. This is a landmark bill, marking the broadest expansion of Medicare benefits since the founding of the program more than 20 years ago.

As approved by the Ways and Means Committee and the Energy and Commerce Committee—which shares jurisdiction on part B issues, H.R. 2470 sets a $1,798 cap—in 1989—on out-of-pocket expenses for Medicare covered services.

Inpatient hospital coverage is expanded from 90 days per year to 365 days. The hospital deductible is limited to a single deductible, and the existing copayment requirement—after 60 days of hospital care is repealed. Skilled nursing facility care is expanded from 100 to 150 days. The current 210 day limit on hospice care for the terminally ill is repealed. Out-of-pocket payments for physicians' services is limited to $1,043. Outpatient mental health benefits are doubled. The bill includes a new respite care benefit.

Medicaid would be required to "buy-in" to the catastrophic bill for elderly and disabled individuals with incomes at or below 100 percent of the Federal poverty line. Under the provision, Medicaid would pay the Medicare premiums, deductibles, and coinsurance for low-income elderly and disabled beneficiaries. This is a real and direct benefit to our poorest elderly and disabled.

And the bill includes, for the first time, a prescription drug benefit, under which Medicare would pay 80 percent of annual drug costs in excess of $500.

3. BUDGET NEUTRAL FUNDING

The committee bill is budget neutral, financing the improved benefits through a small increase in the monthly part B premium and through a supplemental income-related premium. This is an innovative financing mechanism which is fiscally sound.

4. GENERATIONALLY NEUTRAL FUNDING

The premium financing ensures that the bill pays for itself, that costs are not shifted onto current workers. Furthermore, the funding is progressive in its incidence. Medicare beneficiaries with adjusted gross incomes of less than $6,000—more than half of all Medicare beneficiaries—will pay little or nothing for the catastrophic protection. Those who have the most pay the most.

5. KEY AMENDMENTS

H.R. 2470 includes a number of amendments which I am pleased to have authored. These are:

Repeal of the 3-day prior hospitalization requirement for skilled nursing facility care. Under current law, beneficiaries seeking admission to an SNF must first spend at least 3 days in the hospital. My amendment eliminates this requirement, allowing physicians to prescribe direct access to skilled nursing care for elderly and disabled patients who need such care. I offered the amendment because it simply didn't make sense to require physicians to admit their patients into a hospital before letting them into an SNF, thus incurring additional costs to the system.

Expansion of the current home health benefit. The current benefit is limited to 5 days per week for a 3-week period. My amendment expands the benefit to 7 days per week for a 5-week period. Cost containment by hospitals has meant that some seniors are being discharged "quicker and sicker" after an illness. Medicare home health can help fill the gaps in posthospital care. My amendment will make the home health benefit even more useful to those who need it.

Cost information on prescription drugs. The prescription drug provision includes my amendment requiring the Secretary of Health and Human Services to compile a list of average wholesale prices of prescription drugs, grouped together by drug type. The annually updated list will be provided to doctors and hospitals, which will enable them to compare wholesale drug prices before prescribing medication. As a result, real cost savings can be expected to both Medicare beneficiaries and the Medicare system. I am deeply disturbed that the Ways and Means Committee approved an amendment eliminating the drug formulary from the bill. That amendment would have helped impose meaningful cost controls on the drug benefit.

6. CRITICISM

Criticism has been leveled that the bill is too costly, or that it fails to address such health needs as long-term care. But the bill is budget neutral, financing the benefits in a sound and progressive manner. And, while I agree that long-term care is of particular importance to the Nation's oldest old, there is simply no current consensus on how best to finance long-term care, or even what the appropriate role of the Federal Government should be.

So this is not a perfect product. But it is a remarkable effort to address the very real health needs of our Nation's Medicare beneficiaries. It is a responsible, carefully crafted bill of which we can be proud.

Mr. Chairman, I want to commend my chairman, PETE STARK, and the rest of the Health Subcommittee for the strong work that is embodied in this bill. I'm delighted to have been a part of the deliberations on this landmark legislation, and I urge its adoption by the House.

Mr. DUNCAN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DANNEMEYER].

Mr. DANNEMEYER. Mr. Chairman, earlier in the debate on the rule, I was permitted to have a few moments and I am grateful for that. I would like to continue the thought with my colleagues at this time, explaining the major problem with this legislation, the Democratic alternative, that I think is going to come home to haunt many Members of the House who choose to vote for it, in the months and years that unfold in the future.

Specifically, this measure that is presented by our friends on the Democratic side today has a very large window of coverage for persons in America today who currently have AIDS and are in need of treatment with drugs. The way that happens is this: When you are disabled you are eligible for SSI. Currently there are 4,000 people with AIDS in America that are now drawing SSI that comes out of the general fund.

After you are in that status for 24 months drawing SSI, under existing law you are eligible for Medicare. The question arose previously: "Well, do you pay the part B premium?" The answer is, "Well, kind of," because even though the individual may not have the resources to do it, Medicaid will pay it for him. In other words, the individual could be anyone under 65. Their premium for part B under Medicare would be paid for my Medicaid and they would establish eligibility for drug coverage under the Democratic alternative.

This is not just an idle threat that I am talking about today. Four thousand people currently have AIDS drawing SSI. When they have survived 24 months they are eligible for drugs. What about the future?

Nobody knows in this country how many people have the virus. The estimates are 1.5 to 3 million. The reason we do not know is because it is one of the major scandals of American public health that we have not been reporting those with the virus. And because we have not been reporting those with the virus routinely, we are now talking about testing people and we are having difficulty getting that done. But we believe there are about 1.5 to 3 million Americans with the virus, many of whom are asymptomatic.

The next stage in the progression of the disease is those with ARC. Nobody knows how many we have, but we believe it is approximately 10 times the number who have AIDS. The number who have AIDS is 37,000. Nineteen thousand have died. If the factor is a factor of 10, we have 370,000 Americans today who have ARC. They have identifiable symptoms numbering six or seven. Those people in my judgment would be eligible for drugs under the Democratic alternative. I think the responsible thing is to support the Republican alternative which has drug benefit limited to those who are medically indigent.

H.R. 2470 is labeled a catastrophic health insurance plan but is more accurately described as an unprecedented expansion of the welfare state.

Unlike the Republican substitute or the President's original plan, H.R. 2470 expands Medicare coverage for home health care, outpatient mental health, respite care, and outpatient prescription drugs for all Medicare enrollees. H.R. 2470 financed these expansions through a "supplemental premium" which is related to the beneficiaries income. This mandatory premium is collected by the IRS, and looks a lot like a tax. Since there is no mandate in this legislation that these expansions must be fully financed by premiums, the administration anticipates that the bill will cause a revenue shortfall following 1992 which may be as great as $10 billion by 2000.

Unfortunately the individual most adversely impacted by this "catastrophic" package is the beneficiary who will be faced with rising premiums as well as an income-related tax to pay for benefits which only one-third or less will use and most of which are currently available at less cost through MediGap insurance policies. According to CBO, the maximum surtax on an individual's income will be $580 annually in 1988 and will rise to $830 in 1991. This estimate does not include the effect of the Waxman amendment passed at full committee which provides that beneficiaries must pay for the growing costs of the program by paying a premium which could increase by a maximum of 25 percent or a deductible which may be increased by an unspecified amount. In addition a monthly part B premium of approximately $22 in 1988 and $31.50 by 1992 will be assessed to every beneficiary.

Although the entire bill represents too large and too costly an expansion of the welfare state, undoubtedly, the most onerous provision in H.R. 2470 is the drug benefit added by the Energy and Commerce Committee. This amendment extends the prescription drug benefit to all Medicare part B beneficiaries after a $500 deductible and 20 percent coinsurance. This program is supposed to be self-supporting by an addition to the part B premium estimated by CBO to be $5.60 monthly in 1989 and estimated by HCFA to be $22 monthly in 1989. The benefit would be available to anyone over 65 and anyone who qualifies as disabled after receiving SSI payments for 24 months. The current Medicare population is approximately 31 million, only 2 million of which fall into the category of disabled. There is little doubt that this category will expand dramatically as persons afflicted with AIDS qualify. My amendment addressed this problem and provided that the elderly would not have to subsidize the drug needs of a growing population of disabled.

The amendment that I had planned to offer limits the prescription drug benefit to persons over age 65 and those "disabled" who are entitled to benefits under part B prior to January 1, 1989. This limitation is vital in light of the current AIDS epidemic facing this Nation. Under the language now included in H.R. 2470, the elderly will be forced to subsidize drugs for a large portion of the nonelderly population including AIDS victims. At present over 37,000 persons have been diagnosed with AIDS and approximately 19,000 have already died. It is estimated that approximately 370,000 persons have AIDS-related complex [ARC] and that 1.5 to 3 million are infected with the virus. Of that number almost all will suffer some disability and a large percent will contract AIDS and die. While there is no cure, scientists have discovered a drug, AZT, which offers hope to AIDS victims by substantially prolonging their life. Unfortunately AZT commands a market price of approximately $10,000 per year and there is no evidence that the cost will be reduced in the near future. If the Medicare drug provision in H.R. 2470 remains unamended, the elderly could be faced with subsidizing the drug needs of up to 3 million AIDS victims at a cost of $300 billion.

While I recognize that someone must bear the health care costs of these unfortunate victims, I do not believe that the elderly should be targeted for that role. Currently there is a 24-month waiting period for persons defined as "disabled" to become eligible for Medicare. With the discovery of AZT it is inevitable that many of these victims will qualify for Medicare in the future. In addition, many Members of Congress want to waive the 24-month waiting period and permit individuals diagnosed with AIDS to become eligible for Medicare immediately. My amendment would limit beneficiaries of the prescription drug benefit to those persons intended to be protected by Medicare—the elderly, and not place the entire burden of a national epidemic in the hands of those least able to pay.

There are currently 4,000 AIDS patients on the Social Security disability roles who will be permitted to participate in the Medicare Program as disabled at the end of a 24-month waiting period. The Health Care Financing Administration [HCFA] estimates that if the drug benefit currently contained in H.R. 2470 is not deleted, AIDS victims alone will cost the Medicare system $20 million in drug benefits the first year. According to HCFA the estimate will change as AZT becomes more available and the number of eligible AIDS victims grows. In the first year this expenditure will be partially offset by a Medicaid savings of $3.5 million because of a decrease in the number of persons eligible for Medicaid due to this out-of-pocket savings.

However, the $20 million estimate does not fully take into account the availability of AZT in the coming year nor the growing number of AIDS victims. Each AIDS victim could cost the Federal Government $10,000 annually. Therefore if the 4,000 AIDS victims currently eligible for Medicare were provided AZT, the cost to the Government would be $40 million the first year. In addition, the number of AIDS victims will grow steadily during the next 10 years as persons now infected with the virus progress to the final stages of AIDS.

In addition, the cost of the Medicare drug benefit in H.R. 2470 is disproportionate to the value of services it provides. In 1989 the drug benefit alone will cost the Federal Government $5.8 billion and in 1992 that cost will rise to $7.7 billion. During that same time period the premium that beneficiaries will be required to pay will rise from $15 a month, or $180 a year to $19 a month or $228 a year. The Health Care Financing Administration [HCFA] further estimates that in the year 2005 the monthly premium will be $53 a month or $636 a year. Contrast this to the actual cost to the beneficiary of prescription drugs. In 1988 the average annual cost for prescription drugs to an elderly beneficiary will be $336 and to a disabled beneficiary it will be $411. In 1991 the average cost will be $424 for the elderly and $518 for the disabled. Although the average premium is slightly less than the average cost for prescription drugs, it is important to note that this flat premium only represents approximately half of the cost to the beneficiary. This premium will be assessed to all beneficiaries regardless of income and an additional premium, in the form of a surtax, will be assessed to beneficiaries with incomes above $14,000. Most importantly only 19.2 percent of the beneficiaries will exceed the $500 deductible and 20 percent coinsurance provisions in H.R. 2470 and actually receive benefits pursuant to this provision.

Below is a chart illustrating the budget impact of the drug benefit and the other Energy and Commerce add-ons in H.R. 2941 on the beneficiary.

Flat monthly premium drug benefit

1989	$15
1990	16
1991	17
1992	19
1993	20
1995	24
2000	35
2005	53
2010	76

Total part B monthly premium, plus surtax

1988	$22.00
1989	22.50
1990	27.70
1991	30.30
1992	31.50

Annual maximum surtax

1988	$580
1989	670

1990	745
1991	830
1992	925

Total annual premium

1988	$844
1989	976
1990	1,077
1991	1,194
1992	1,303

AVERAGE ANNUAL COST OF PRESCRIPTION DRUGS PER BENEFICIARY

	1988	1989	1990	1991
Aged	$336	$364	$392	$424
Disabled	411	443	480	518
All on Medicare	342	370	400	432

AVERAGE NUMBER OF PRESCRIPTION DRUGS PER BENEFICIARY (ANNUALLY)

	1988	1989	1990	1991
Aged	17.7	18	18.4	18.7
Disabled	21.7	22	22.5	22.9

AVERAGE COST PER PRESCRIPTION DRUG

	1988	1989	1990	1991
Aged	$18.97	$20.19	$21.32	$22.67
Disabled	18.92	20.15	21.32	22.60

NUMBER OF BENEFICIARIES EXCEEDING THE $500 CAP AND 20 PERCENT COINSURANCE

	1988	1989	1990	1991	1992
Percent of beneficiaries receiving drug benefit	19.2	(1)	(1)	(1)	
Number of beneficiaries to receive benefit (in millions):					
Aged	(1)	3.0	3.1	3.1	3.2
Disabled	(1)	8.2	8.4	8.5	8.6
Total		11.2	11.5	11.6	11.8

[1] Not available.

Note.—There are a total of 31 million medicare beneficiaries.

The drug benefit in H.R. 2941 is inherently unfair and singles out the elderly to shoulder the burden for an exploding disabled population of AIDS victims. In addition, the inclusion of the drug benefit in H.R. 2941 will ensure an administration veto. In a June 15 letter to the chairman of the Energy and Commerce Committee, Health and Human Services Secretary, Otis Bowen, states:

> Inclusion in the legislation of several provisions alone could cause recomendation of a veto * * * namely the well-intentioned, but ill-advised drug benefit, which * * * would run into billions of dollars in expenditures per year.

In light of these considerations, I urge my colleagues to defeat the rule so that it may be amended in order to permit me to offer my amendment to this bill.

Mr. STARK. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. LEVIN].

Mr. LEVIN of Michigan. Mr. Chairman, the ranking Member who worked so hard on this issue with our distinguished chairman spoke in a nonpartisan or bipartisan way saying that he would in the end vote for the bill if the substitute does not pass. And I hope others on this side will join him. Indeed, I hope many Republicans will vote against the substitute, they should carry nonpartisanship that far, for these three reasons: First of all, coverage. H.R. 2470 covers 5 million, or 16 percent of the senior citizens; the substitute only 1.5 million.

There have been rumors around here that H.R. 2470 covered only about 1 million people or 1 percent of the seniors. That is just wrong.

Second, how we fund it: I find the substitute uses a device curiously backed by Republicans. They throw about $1 billion on to the States and the rest of it would come mostly from seniors who cannot benefit.

So pass most of the buck or much of it to the States plus people who cannot, under the system, ever benefit from it. That is because of the use of Medicaid.

That is not a fair way to proceed. H.R. 2470 says those who could benefit pay for it and we relate it to income. That is a much fairer way to proceed.

Third, the mental health benefit, among others, is added in this bill; presently $250, disgraceful, it is raised to $1,000.

I hear from the gentleman from Nebraska two things: the bill goes too far and it does not go far enough.

I am confused. He is wrong on both counts, really. This is a bill that hits the target. We should vote for it.

I yield back the balance of my time.

Mr. DUNCAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. FRENZEL].

Mr. FRENZEL. Mr. Chairman, I rise in opposition to the bill and in favor of the Michel amendment.

Mr. Chairman, when I first heard of the President's proposal to provide catastrophic health insurance to fill a bothersome gap in Medicare, I thought it was a wonderful idea. I still do.

I became a sponsor, both of the original Stark-Gradison bill and of the proposal brought to us by Dr. Otis Bowen, Secretary of Health and Human Services. At the beginning of this session, I thought the support for both plans was the start of an unusual bipartisan effort on this issue.

Then the irresistible urge to expand programs took over the process. Thereafter, as this Medicare legislation moved through the relevant committees, it became overburdened with additional benefits and goodies. What was once a simple, straightforward financing scheme has become if not an actuarial nightmare, at least a very complicated program. The Bowen plan has been rejected.

What is left in its place is a 5-year, $34 billion proposal with some very foggy actuarial estimates. We asked CBO, HHS, and other actuaries to run some numbers on H.R. 2941. The results are frightening: HHS estimates annual deficits of $10 billion by 2000, and $30 billion by 2005. CBO, which apparently believes that the world will end in 3 years, has no estimates after 1992.

When these startling figures became available, the committee added an open-ended prescription drug amendment. Again HHS and CBO gave us a wide range of fuzzy numbers, although CBO admits that only 1 in 5 will spend more than the $500 deductible on prescription drugs in 1989. CBO says that the prescription drug benefit alone will cost beneficiaries $4 a month in premiums by 1991, while HCFA says it will be $22 a month. This wide discrepancy over utilization should make responsible legislators stop in their tracks. We simply do not have our figures on a prescription drug benefit straight at the moment. We have moved too far too fast.

Mr. Chairman, this bill which should have been a careful step forward, has become too expensive. The rising costs of the added benefits in the outyears will force us to make a painful choice of either jacking up unaffordable premiums or raiding the already-shaky Medicare Trust Fund.

H.R. 2941 proposes to cover its 5-year $34 billion cost by socking seniors twice. First, it mandates an across-the-board permium increase of $5-$6 per month over the next 5 years. Second, it creates a mandatory surtax, or the so-called supplemental premium, which adds a new tax to middle and upper income elderly bearing no relationship to the costs of the benefits received.

This new tax would be in addition to their regular income tax payments. It is capped at $580 for 1988. That is before the drug benefit kicks in Treasury estimates that the extra benefits will cause this cap to rise to $830 in 1991.

An example of this supplemental premium, or tax, is an elderly couple with an adjusted gross income of $34,000. They will face a $1,160 increase in 1988 to their current tax liability of approximately $2,700. Treasury projects that the additional tax burden would eventually be as high as $8,000 per year for an elderly couple, besides the increases in premiums.

Seniors in the middle income ranges, $20,000 to $50,000 a year, will, as usual carry the lion's share, nearly 60 percent, of the load. The supplemental tax kicks in at $6,000 of income.

This supplemental premium plays havoc with the new marginal tax rates that we put into place last year. Elderly tax rates are raised from 15 percent to 22 percent by this legislation. They would continue to increase indefinitely because Medicare expenses are likely to grow faster than national income. Between 1988 and 1992 the 22 percent tax rate would grow to 25 percent.

Questions of fairness have been raised because Medicare beneficiaries will pay so much more for a benefit that only a very small portion, 8 percent of them, will need next year. Eighty percent of beneficiaries are already covered by private MediGap policies or Medicaid. Under H.R. 2941, many elderly will see their premiums double or triple—without receiving significant protection in return. This bill, in effect, socializes the role previously played rather well by private insurance companies.

H.R. 2941 is the broadest expanison to Medicare since its inception in 1965. Still, it does not even begin to tackle the most expensive and truly catastrophic item our elderly face: long term care and nursing home expenses. Nursing home care cost Americans $32 billion in 1986. Currently, $1.4 billion are in nursing homes, at an average cost of $22,000 a year. Here is a bill which promises catastrophic coverage, but does not come up with any answers to the real questions being posed.

No one wants to dwell on the miseries of AIDS, but H.R. 2941 will make expensive, noncuratine drugs available to AIDS victims at the expense of non-AIDS-infected seniors. Some people in my district have indicated that they would prefer not to pay for these drugs.

Mr. Chairman, we have strayed far from the original Bowen plan with its simple financing scheme and $12 billion price tag. But we will have an opportunity to vote on a proposal, the Michel amendment, that would take us back closer to the Bowen plan. It will also not unduly nor unfairly burden our Medicare population with out outrageous tax increases.

The Michel substitute holds down future costs by offering a more responsible set of benefits. It takes the original Bowen plan, with a $2,000 out-of-pocket cap and unlimited number of days in the hospital and then adds a limited prescription drug benefit targeted for low-income seniors. Those with incomes below 150 percent of the poverty line would be eligible for this Medicaid drug benefit.

In addition, the substitute offers spousal impoverishment protection by shielding the incomes and assets of spouses of nursing home residents. States must allow the remaining spouse to retain at least $925 per month in income and at least $12,000 in liquid assets.

Finally, the substitute offers a package of tax incentives to encourage private insurers to help with a long term care solution. This follows the President's original plan for addressing the high cost of long term care in a responsible and flexible manner. Government and Medicare cannot do it alone. The substitute offers a start toward dealing with the important issue of long term care—H.R. 2941 does not.

Mr. Chairman, this is a very attractive substitute. It comes with a much more modest price tag of $18 billion over 5 years. It does not sock our elderly with new taxes. It will not lead to a raid on the trust fund. It is not embellished with goofy cost/revenue estimates. It does take a modest step toward coverage of long-term needs. And it does fill a gap in current Medicare coverage without taking irresponsible risks with money that we don't have.

Mr. DUNCAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Massachusetts [Mr. DONNELLY].

Mr. DONNELLY. Mr. Chairman, I rise in reluctant opposition to the bill.

Mr. Chairman, let me say from the outset that this bill has a noble purpose. Medicare beneficiaries today spend more on health care than before the Medicare Program was created. There are truly catastrophic expenses that beneficiaries face, and they deserve protection from those expenses. Unfortunately, this legislation does not provide that protection.

The real catastrophic expenses which the elderly face come from two areas: long-term care, and physician balance billing. Yet H.R. 2470 does nothing in either area. The Ways and Means Committee had an opportunity to address the long-term care issue, but ignored that opportunity. Some day—and soon, as America ages—we will have to address that issue. But by delaying the day of reckoning, we have ensured that a future Congress will have to act in a crisis situation.

I also want to comment on a myth which is offered to us: that this bill limits beneficiaries' physician expenses to $1,043. It does not. Next year, physicians who refuse to accept Medicare reimbursement as payment in full will balance bill the people we're trying to protect today by over $930 million. This bill does not help those people—and even though States are free to prohibit balance billing, it's wrong that the Federal Government won't take the lead.

Finally, this bill adds a costly and untested prescription drug benefit to the Medicare program. If we must cover prescription drugs, we should at least make sure there is a high deductible, time to get the program going, and limits on costs. As it is, the Congressional Budget Office says this program will cost $1.2 billion. The Health Care Financing Administration says it will cost $6 billion. The truth probably lies somewhere in between, but the point is, we don't know. It's not too hard to imagine that in 5 years, senior citizens will be paying $50 a month for all the benefits in this bill. They can't afford it, we can't afford it, but it is a future Congress that will have to pay the price.

Mr. Chairman, H.R. 2470 promises more than it can deliver, and we will rue the day we passed it. I wish I could support this bill: but it doesn't do the job. I urge the Members: don't take the politically easy road. Stand up for the 90 percent of the elderly who won't be protected by this bill, and work to craft legislation that will protect all of America's senior citizens today—and into the next century.

Mr. DUNCAN. Mr. Chairman, I yield 6 minutes to the gentleman from New Hampshire [Mr. GREGG].

Mr. GREGG. Mr. Chairman, we confront today what is clearly going to be the most critical entitlement decision that this Congress addresses in this decade.

We came into the 1980's with a massive inflation problem and a government that was out of control. A lot of that was driven by the fact that we made entitlement decisions in the seventies without anticipating their impact in the out years.

I recall as one of my first actions in this Congress hearing about how close to bankruptcy the Social Security trust fund was and the necessity of putting together a joint bipartisan commission chaired by Mr. PICKLE from Texas, which solved that problem. But it was a problem created by the Congress in the seventies when we did not anticipate what we were doing in legislating benefits.

We confront the same issue again today with this new entitlement program. One way to describe this entitlement program would be to say to the seniors of America, "What you think you see is not what you are going to get." For what is proposed as catastrophic is not catastrophic by most seniors' definition.

What we are talking about here is acute care treatment. But when you talk to a senior citizen and ask what do they consider to be catastrophic, the average senior citizen will tell you it is long-term care that they see as catastrophic, nursing-home care.

Well, that is not addressed in the Democratic proposal. It is, however, addressed in the Republican proposal.

There are a number of private initiatives to address the issue of long-term care and to allow for seniors to have the opportunity to go into the marketplace and purchase long-term care coverage.

What is covered here by this bill, the Democratic bill, is the replacement of already private sector coverage in the MediGap area. As the chairman noted in his testimony before this House, 76 percent of senior citizens have MediGap coverage, coverage which includes acute care.

So what we are essentially doing here is replacing the private sector activity with public sector dollars, the classic definition of socialization. And that essentially is what this is, a socialization of a private insurance activity by the Democratic proposal.

It is grossed up, however, by add-ons, add-ons which were not the original concept of the committee of jurisdiction but which were the concept of the House leadership, because it wanted to one-upsmanship the President of the United States.

Those add-ons include primarily a drug benefit for which we have no legitimate costs and which we do not know where it is going to go. But the estimates for HCFA, as best as they can do them, shows this program exploding in the out years as this chart shows, because of the drug proposal.

The tall lines are the add-ons from the drug proposal; the shorter lines are the basic benefit under the catastrophic proposal.

□ 1255

CBO estimates that it is going to cost $4 extra a month for this drug proposal. HCFA estimates that it is going to cost $22 extra a month for the drug proposal.

What we also have in the proposal from the Democratic side is an assured major deficit in the hospital trust fund and possibly a drain in the general trust fund in the outyears. As a result of the catastrophic proposal from the Democratic leadership, we are looking at a deficit which will be at least $21 billion in the year 2005 and $58 billion in the year 2010. This represents, in my opinion, total irresponsibility. The Republican substitute does not have those sorts of deficits.

Third and most important, I suspect, to the beneficiaries of this program is the tax effect which it is going to generate for senior citizens. A tax by any other name is still a tax, and that is exactly what the Democratic program is proposing. If you look at this chart here, you will see just how much that tax is going to be. The green lines reflect what the tax liability will be for elderly who get hit with the surtax as a result of the catastrophic program. We are talking about tax increases of approximately $1,000 to $2,000, in that range, for the average elderly senior citizen with incomes in the range of $10,000 to $14,000. That is an incredible tax increase, and it is basically driven by the fact that the Democratic proposal has a coverage level which is not catastrophic, which is simply an attempt to pick up private insurance activity.

The gentleman from Michigan said that the Democratic proposal covers many more people. Well, it does cover many more people because it sets a level of deductibility so low that events which clearly are not catastrophic are covered. It sets a level of deductibility at $1,500. Now, I ask, if a $1,500 event is catastrophic on an annual basis for a senior citizen, then what is the event when a senior citizen goes out and buys an automobile which costs that senior citizen $5,000? That must be cataclysmic.

Clearly the bill which the Democrats have brought to us today is not responding to the primary problem. However, the Republican substitute addresses all these issues and does it in a positive and a fiscally responsible way.

All time of the gentleman from Tennessee [Mr. DUNCAN] has expired.

Mr. STARK. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Chairman, I rise in support of H.R. 2470.

For the last 25 years or more, the American people have hoped for and dreamed of legislation that would provide protection from catastrophic illnesses.

We took a bold step forward in 1965 in creating the Medicare Program, and we have made significant health improvements since then. But never before have we come together with the opportunity to pass a catastrophic illness protection bill. That was always hoped for. It has always been very elusive.

We have that chance now.

The concept of protecting older Americans against catastrophic illness has been endorsed by the administration and HCFA. It has been endorsed by the Speaker of this House, and by every group in this country that represents senior citizens.

Under the leadership of Mr. STARK, the chairman of the Ways and Means Subcommittee on Health—in conjunction with Mr. WAXMAN and the Energy and Commerce Subcommittee on Health and the Environment, these committees have advanced a bill that will give relief to those most critically affected by catastrophic illness.

This measure is the product of months of hard and often difficult deliberation. It is not perfect. It is not truly complete catastrophic protection.

Some beneficiaries will question if this legislation is worth the substantial amount of money it costs. We will be asked to explain if the improvements in coverage really do that much to protect older Americans from catastrophic costs of serious illnesses.

They will face substantial increases in their premiums as well as substantial deductibles before qualifying for many benefits. And, ultimately, many will find that they are financing benefits that they will not qualify to receive.

This measure does not address the critical problem of providing protection from the enormous costs of long-term care. Most Members of this House agree that we simply cannot afford to attach such an expensive provision to this legislation.

We have added a provision to provide coverage for outpatient prescription drugs. This is a most significant addition. I know some of my colleagues think the impact of this coverage is too uncertain and will be too costly. I must say to you that members of the subcommittee were equally apprehensive about the costs.

However, we believe that the Congressional Budget Office estimates of the costs are accurate and that we can cope with the costs.

Most significantly of all, this giant step forward in health care comes to this body revenue neutral. It is not paid for by the U.S. Treasury, but rather by the men and women who will benefit from its protection.

Mr. Chairman, many of us in this Chamber never thought we would have a bill that would protect Americans against catastrophic illness—but here is a good one.

We never thought we would have a bill that provided coverage for costly prescription drugs—but here is a good one.

It is only a first step, in that it does not address the issue of long-term care, but it is a giant step forward.

If you share the desire to fulfill a dream that many Americans have had for a quarter century—I urge my colleagues to screw your courage up to the sticking point, give our best efforts the benefit of a doubt, and become an active participant in the making of history.

You will be proud that you did.

The CHAIRMAN. The gentleman from California [Mr. STARK] has 4 minutes remaining.

Mr. STARK. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from Texas [Mr. ANDREWS].

Mr. ANDREWS. Mr. Chairman, I rise in support of H.R. 2470, the Medicare Catastrophic Protection Act of 1987.

Today, elderly people covered by Medicare who are stricken with long-term, disabling illnesses all too often must spend themselves into poverty before their hospital and health care costs are picked up by Medicaid.

The bill before us is the most important improvement for the elderly and disabled since the enactment of Medicare 22 years ago. This catastrophic health care bill provides long overdue relief for the victims, and the families of victims, of debilitating diseases such as cancer, Alzheimer's, stroke, diabetes, and the list goes on and on.

H.R. 2470 provides the 1.7 million elderly in Texas, who make up almost 5.5 percent of all Medicare spending, the assurance that needed medical care will not have to be forgone. It removes their haunting fear of complete financial devastation that, until now, was an all-too-possible consequence of an unexpected illness.

The staggering costs of health care in this country have mandated an expansion of Medicare benefits. This bill not only meets the growing needs of the elderly, but it meets these needs in an equitable and fiscally responsible manner. By adding an income-related supplemental premium, this bill ensures that those who can afford to contribute to our Nation's health will do so. It is important to note that only around 40 percent of all beneficiaries would pay this supplemental premium, and the remaining 60 percent of beneficiaries would pay only a small increase in the part B premium for this additional coverage.

Despite all of these fine accomplishments, this bill as written has one flaw. The provision which requires States to pick up the Medicare deductibles and coinsurance of people who have traditionally fallen into the gap between Medicare and Medicaid eligibility has not been studied carefully enough. While some estimates show that the costs to States would be negligible, the State of Texas today estimates that this provision could cost over $100 million. Needless to say, I am deeply concerned about the consequences such an obligation would have upon a State which is already experiencing serious economic difficulties. I have great confidence, however, that this provision of the bill will ultimately be deleted or improved in conference.

Some of my colleagues would reject this comprehensive benefit package because of doubts about one or two such elements in it—to them, I can call upon the words of Abraham Lincoln to quiet their doubts: "The true rule in determining to embrace anything is not whether it has any evil in it; but whether it has more evil than good. There are few things wholly evil or wholly good. Almost everything, especially of governmental policy, is an inseparable compound of the two." The fact is, our senior citizens want this protection and are willing to pay for it. I believe this health insurance plan will go a long way toward improving the quality of life for older Americans.

Mr. Chairman, I urge my colleagues to help our elderly and disabled Medicare beneficiaries by supporting H.R. 2470.

Mr. STARK. Mr. Chairman, I yield 1 minute to the gentleman from New York [Mr. BIAGGI].

Mr. BIAGGI. Mr. Chairman, I rise in support of this vital bill. I view it as a powerful and relatively painless prescription to help cure one of our Nation's greatest ailments—the exorbitant cost of health care for our elderly.

It is a sad but true statement in our Nation today that millions of our senior citizens cannot afford to get sick.

It is a sad but true statement that the value of the Medicare dollar has eroded to the point where it covers only about 45 percent of the health care expenditures of the elderly.

It is a sad but true fact that because of this more than 20 million seniors have purchased MediGap policies at an average cost of $500 a year—some of them good—others useless. This on top of the more than $700 they must pay in up front Medicare premiums each year.

It is a sad but true fact in our Nation that overall out-of-pocket expenditures for the elderly now exceed $30 billion. The increase was 138 percent just between 1977 and 1984—more than twice the rate of increase of Social Security benefits. Based on current projections elderly health care payments will continue to rise twice as fast as their income through 1990.

At long last, we find ourselves with a blueprint for a solution to this thorny problem, H.R. 2941, the Medicare Catastrophic Protection Act of 1987.

This is honest legislation. It tells the senior citizens of our Nation—yes you will have to pay more in out-of-pocket costs for premiums and deductibles—but you will be able to get something tangible in return.

Consider the Medicare part a deductible. Under this bill it will rise to $580 in 1989. It should be noted that it will rise whether or not we pass this bill. However for that modest $60 a year increase—Medicare beneficiaries can get up to 365 days a year coverage for in patient care in a hospital. This compares to the 60 days and the 90 day lifetime reserve in present law.

Consider the part B premium. It too will rise by about $2.60 a month in 1989. This too would rise whether or not we enact this bill. However, this increase will pay for the following:

Seventy-five percent of the new catastrophic prescription drug benefit.

One hundred percent of the new respite care benefit.

Partial financing of the new provisions which would at long last set a cap on beneficiary expenditures for physician and outpatient services under part B.

One should realize that this is far more than just an acute illness catastrophic protection bill.

This is legislation that recognizes that our health policy for the elderly must be diversified and recognize that seniors have different needs.

This is legislation that recognizes that services in the home and in the community can be just as important to health maintenance as that time spent in hospitals or nursing homes.

I am especially supportive of this bill's provisions to provide first time prescription drug cost relief for our elderly. After a senior citizen pays a $500 deductible Medicare will pay 80 percent of the cost of prescription drugs beyond that.

This provision recognizes that in some instances generic drugs should be substituted and can be but does not mandate it in all occasions.

Our Nation has seen a dramatic rise in prescription drug costs in recent years. Between 1981 and 1984 their prices rose by 56 percent while the overall CPI only increased by 23 percent. In 1986 drug prices were four times the inflation rate.

We must also remember that 75 percent of those over 65 fill at least one prescription during the course of a year. Overall in 1986 out-of-pocket expenditures for the noninstitutionalized elderly totaled $8.5 billion.

This prescription drug benefit is perhaps the most meaningful provision in this bill since it will potentially affect almost every Medicare beneficiary. It also serves to compliment the recent State initiatives such as that taken in New York State to provide relief for the cost of prescription drugs.

I strongly support the new respite care benefit provided in this bill. It will provide needed help for those in our Nation who assume the role of caregiver for an elderly parent, relative or friend. The 80 hours of coverage provided by this benefit can make a real difference in the life of the caregiver.

This bill also recognizes the long overdue need to reform those policies which lead to the impoverishment of the spouse who remains in the community following admission of the other spouse into a nursing home or other institution.

This bill will permit the community based spouse to retain a sufficient income and assets to live and also permits equity in the distribution of assets between spouses.

H.R. 2941 makes an important reform in the hospice program made eligible for Medicare coverage several years ago.

It will allow Medicare coverage to go beyond the 210-day limit in present law if the beneficiary is deemed to be terminally ill.

I also strongly support the provisions of this bill that both expand and liberalize coverage for certain home health services and also expands Medicare coverage for mental health services. We must remember that as many as 25 percent of those elderly in the community have some degree of mental health impairment and services must be expanded.

Another key element of this bill is the special protection it provides for the most vulnerable of our seniors—those living at or below the poverty line. This bill requires States to pay the premiums, deductibles, and coinsurance for those elderly citizens. Make no mistake about it. Income is directly related to health. The National Council on Aging reported that more than 40 percent of older people with incomes over $25,000 described their health as excellent. Yet less than 25 percent of those with incomes under $7,000 reported excellent health.

Yet this bill has one major flaw. It might in fact be its fatal flaw in terms of whether or not it ever is signed into law—namely, its call for a supplemental premium for certain elderly under Medicare.

It is said that this new premium only affects 40 percent of those on Medicare since they are the ones who have Federal tax liability.

I argue that it is both unfair and regressive to ask a disproportionate sacrifice on one group for the benefit of all others. Yet that is in fact what we do for those individuals with incomes over $14,000 and couples over $28,000. We hit them with this supplemental premium, or surtax—which may cost them an additional $580 a year on top of the other increases already built into this bill.

We set this bad precedent once before in 1983 with the Social Security bill when we imposed a first-time tax on benefits for certain so called upper income elderly.

It is wrong for us to assume that this segment of elderly is so financially secure to be able to absorb this major new burden.

I would have preferred to see more creative and equitable methods used to finance this legislation.

This is clearly the castor oil provision of this bill. Yet while we all know it tastes bad—there is no real certainty that it is good for us as a nation either.

Mr. Chairman, it has been a long time since this subject was raised, some 10 years ago. We were on the verge then of having catastrophic health care, and because we had some intractable forces who refused to compromise, the elderly of our Nation were subjected to a period without this benefit. To the credit of the administration and the Members of Congress and these committees, we are now discussing catastrophic health care.

Someone said, "Well, what is catastrophic health care?" Let me give the Members my understanding of it. When I was young, my folks used to worry about some illness wiping out their entire life savings. That is catastrophic, whether it is cancer, Alzheimer's—of course, we did not have Alzheimer's then—or pneumonia or what have you. It was a kind of sickness that wiped out the life savings of the elderly.

That is the catastrophic nature of the legislation we are dealing with. But it goes beyond that. It provides innumerable benefits. However, the beneficiaries will be required to pay more.

The CHAIRMAN. The time of the gentleman from New York [Mr. BIAGGI] has expired.

The Chair will advise that the gentleman from California [Mr. STARK] has 1 minute remaining.

Mr. STARK. Mr. Chairman, I yield myself my remaining 1 minute.

Mr. Chairman, I would just like to summarize and make two points because I think erroneous impressions may have been left with the Members.

This bill does not deplete the hospital insurance trust fund for Medicare. As a matter of fact, CBO estimates that it will improve the solvency of the trust fund over 5 years by $9.5 billion. The charts that were represented before must have been those for the President's budget for aid to the Contras.

Second, as far as the matter of AIDS is concerned, fewer than 1 percent of AIDS patients live long enough to qualify for Medicare, and the National Institutes of Health is developing a new drug which will be much less expensive, and if indeed we had to use the present expensive drug, it would only cost $55 million over the next 5 years. I submit that it is good to hear the gentleman on the other side of the aisle be concerned about the AIDS issue, but it will not have a very significant cost effect on this bill.

Mr. Chairman, I urge the adoption of the bill.

The CHAIRMAN. Pursuant to the rule, the gentleman from Michigan [Mr. DINGELL] will now be recognized for 30 minutes and the gentleman from Illinois [Mr. MADIGAN] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. DINGELL].

Mr. DINGELL. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, I rise today in support of H.R. 2941, the Medicare Catastrophic Protection Act of 1987.

The bill before us represents a major cooperative effort between the Committees on Energy and Commerce and Ways and Means, with important input from our colleagues on the Aging Committee, Chairman ROYBAL and Senator PEPPER. The bill is not perfect, mainly because it does not address adequately the problem of paying for long-term care. But the bill does represent the most significant impovement in the Medicare Program since the program was enacted orginally, 22 years ago.

In brief, the legislation before us assures elderly and disabled Medicare beneficiaries that out-of-pocket costs for hospital, physician, and drug bills will be capped so that an illness will not wipe out a lifetime of savings.

The legislation would also improve Medicare benefits for home health services, mental health services, availability of skilled nursing care and availability of hospice care for the terminally ill.

The legislation assures that the elderly and disabled poor will receive the same catastrophic benefits by requiring the Medicaid Program to pay for the individual's Medicare expenses.

Finally, the legislation provides for a commission to study the problem of providing long-term care to the elderly and the disabled. The Commission would be required to report to this Congress within 6 months to assure that we will have an opportunity to address this important issue before the end of the Congress.

Mr. Chairman, this bill helps those with the most severe health problems and the greatest need for assistance. I urge my colleagues to join me in supporting this important measure.

Mr. Chairman, I reserve the balance of my time.

Mr. MADIGAN. Mr. Chairman, for the purpose of responding to the gentleman from California [Mr. STARK], I yield 1 minute to the gentleman from New Hampshire [Mr. GREGG].

Mr. GREGG. Mr. Chairman, I would just point out that on the issue of deficit, I found it ironic that the gentleman from California cited 5-year figures. That may be because at the subcommittee hearings on this bill he did not deem it appropriate that we should hear from the HCFA actuaries who would have given him the outyear figures, which are estimated to be a $21 billion deficit in the year 2005 and a $58 billion deficit in the year 2010.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. GREGG. I am happy to yield to the gentleman from Illinois.

Mr. MADIGAN. So is it the point of the gentleman's remarks that the gentleman from California says there would be a surplus generated for the first 5 years, but the gentleman from New Hampshire says that is the end of it and then in the further outyears a terrible deficit is generated?

Mr. GREGG. That is absolutely correct. Unfortunately, the committee only worked on a 5-year figure and decided there was nothing beyond 5 years. However, if we had looked beyond 5 years, we would have seen this massive abyss of deficits which is going to be generated.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for his contribution.

Mr. WAXMAN. Mr. Chairman, I yield myself 3 minutes.

Mr. Chairman, the bill before us today is a critical improvement to the Medicare Program that helps to eliminate the fear of impoverishment from medical expenses for our Nation's 30 million elderly and disabled citizens. It is a bill that recognizes the inadequacies in current Medicare coverage and removes the most egregious gaps with a carefully tailored and fiscally responsible approach.

Our distinguished colleagues on the Ways and Means Committee developed the essential features of the bill which extend the scope of Medicare coverage when serious illness strikes. These improvements address the cumulative burden of cost sharing for hospital and physician bills under Medicare by limiting the cost of hospitalization to a single annual deductible, placing a ceiling on out-of-pocket spending for Medicare covered services, and providing for improved coverage of home health, skilled nursing facility, mental health, and hospice services.

The Energy and Commerce Committee endorsed these improvements and sought to assure additional protections for the most vulnerable Medicare beneficiaries. Recognizing that the poor elderly and disabled face catastrophic health burdens earlier because of their limited incomes. We require that State Medicaid programs pay the Medicare premiums and cost sharing of all beneficiaries with incomes below the poverty level. Over 2 million elderly and disabled poor would be helped by this provision.

The committee also addressed a critical shortcoming in the Medicare Program—its failure to help patients with extraordinary prescription drug bills. The bill protects all Medicare beneficiaries by adding coverage of 80 percent of outpatient prescription drug and insulin costs exceeding $500 per year. Under current law, the elderly and disabled have no assistance with the cost of outpatient drugs even though many require expensive medication on a regular and sustained basis to control hypertension, diabetes, and other life-threatening conditions. For the nearly 6½ million Medicare beneficiaries with drug expenses exceeding $500 per year, the average expenditure is $1,000. Private insurance to assist with these costs is generally unavailable or unaffordable. For most beneficiaries, this provision is the only means available to assist with the burden of prescription drugs.

Moreover, for the poorest of our elderly, the bill provides additional protection through the Medicaid Program. States have the option of either paying the full Medicare drug deductible for poor beneficiaries or providing Medicaid coverage of prescription drugs up to the Medicare catastrophic limit. In either case, the poor elderly will not be devastated by the cost of prescription drugs. This is the best approach for all elderly—full coverage for the poor and piece of mind for all elderly who incur substantial expenses for medications.

Additionally, this bill begins to provide limited, but strategically targeted assistance to those struggling to cope with the need for long-term care. For the severely impaired elderly and disabled who are confined to their homes and unable to perform basic activities of living without help the bill provides up to 80 hours of in-home assistance per year. It is a modest start, but it means that 500,000 of the most frail and incapacitated beneficiaries can receive some help at home from home health aides. In addition, the bill provides for a study of adult day services as an alternative to in-home care.

The committee recognizes that the leading cause of financial catastrophe is the need for extended nursing home care. Until the day we can enact a comprehensive long-term care program, Medicaid is the source of coverage for nursing home care. Too often, Medicaid requires impoverishment as a condition for eligibility. In this bill we reduce the risk of financial devastation from nursing home care by providing that the Medicaid Program allow the spouse of a nursing home resident to retain enough of the couple's income and resources to continue to live in the community. No longer will a wife be driven to choose between poverty and divorce if her husband enters a nursing home.

Moreover, the bill acknowledges that we need to do much more to lay the groundwork for future improvements in long-term care delivery and financing. It establishes a Bipartisan Congressional Commission on Comprehensive Health Care and Long-Term Care that will report back to Congress in 6 months on the best approaches to address long-term care reform.

The bill before us is a good bill that will provide freedom from fear of financial catastrophe for the elderly and disabled of this Nation. Some maintain that we have gone too far and that the limited proposal offered by Secretary Bowen and the administration is enough. I disagree and the senior and disabled citizens of this country disagree. The improvements in financing and benefits made by the Ways and Means and the Energy and Commerce Committees are essential to achieve real protection against catastrophic medical expenses for Medicare beneficiaries.

This is a bill that the elderly and disabled want and are willing to pay for. Lower ceilings on out-of-pocket costs, added protection for prescription drugs, and long-term care assistance are their priorities to correct the most serious deficiencies in Medicare today. While the bill does not protect Medicare beneficiaries from every possible health cost, it goes a long way toward giving them the assurance that a medical catastrophe will not become a financial catastrophe.

I urge you to support H.R. 2470.

Mr. Chairman, I reserve the balance of my time.

□ 1310

Mr. MADIGAN. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. LENT], the distinguished ranking member of the Committee on Energy and Commerce.

Mr. LENT. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise to express my opposition to H.R. 2470, and in support of the substitute to be offered by the gentleman from Illinois [Mr. MICHEL].

When the President submitted legislation to protect the elderly against financial catastrophe a few months ago, I strongly supported the concept, and cosponsored the House bill, H.R. 1245. Since the introduction of that legislation, the goal of protecting against financial catastrophe has been seriously distorted.

Today we are considering legislation which expands Medicare benefits to AIDS victims, as well as seniors, through tremendous increases in income taxes and part B premiums imposed on the elderly, without regard to whether these benefits are needed to prevent financial catastrophe.

The largest expansion of benefits contained in this legislation is that for outpatient prescription drugs. This is not really an expansion of benefits—it is a completely new benefit. For more than 20 years Congress has made the conscious decision to require that Medicare beneficiaries bear some of the costs of their medical care themselves. Among the costs that they have had to bear are those associated with prescription drugs. It has been recognized that these expenses can be covered by all but the most indigent elderly without causing severe financial strain.

H.R. 2470 requires that elderly Medicare part B beneficiaries pay a premium for a prescription drug benefit which will be made available to all Medicare recipients, including younger persons who qualify for Medicare because of disability. According to the actuaries at the Department of Health and Human Services, the cost of this benefit has been significantly underestimated by the Congressional Budget Office. The cost of this new benefit is estimated by HHS to be nine times more expensive than that predicted by CBO.

It would take considerably more in income taxes and part B premiums imposed on the elderly than the $2,908 per year per couple provided for in H.R. 2470.

The point is that Congress should not provide a new benefit, unless it knows what it will cost. Past experience has shown Congress has a reluctance to increase premiums if the costs exceed expectations.

As drugs like AZT at $8,000 to $10,000 per year cost extend the lives of younger persons who have been disabled by AIDS, more of these individuals will qualify for Medicare benefits, including this new drug benefit—with America's senior citizens picking up the tab. Congress should not approve this bill which makes AIDS patients the wards of the senior citizens of this Nation.

Try asking your senior citizens, as I have, if they want to pay $2,152 a year per couple in extra income taxes only they would pay, together with sharply increased part B premiums only they would pay, so that the 240,000 AIDS patients predicted by 1992 can receive free Medicare drug benefits. I urge my colleagues to reflect thoughtfully before exposing this Nation's Treasury to potential financial catastrophe in the name of protecting individuals from financial catastrophe. The drug benefit is simply one example of a new benefit in H.R. 2470, the cost of which we do not know. I urge my colleagues to oppose H.R. 2470 and to support the Republican substitute which is much more in keeping with the concept of protecting the elderly against financial catastrophe.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. SCHEUER].

Mr. SCHEUER. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. CHAIRMAN, I rise in strong support of this great measure.

The concept of catastrophic health insurance is long overdue. I am sorry it is restricted to the elderly.

I hope soon we will extend it to other groups in the population. There are a few of the Members in this Congress who have emerged comparatively unscathed from a catastrophic illness, and I think all of the Members share a deep satisfaction, as well as deep emotion, at the prospective passage of this bill which at least for the elderly among us will diminish the catastrophic effects, both economic and family, and personal, illness effects of a catastrophic illness.

In 1980 we included preventive shots for pneumonia in medicare. We have been trying hard ever since then to extend preventive shots to flu shots. These are shots that will save the Government money.

The break-even rate, the participation rate for flu shots, is about 38 or 40 percent. If more elderly than that participate, and for a modest sum of $3, $4, or $5, we can prevent the hospitalization of senior citizens who get the flu, and it will save money.

The Surgeon General estimates that once we include flu shots under medicare, the participation rate will be between 50 and 60 percent, so we will save tens of millions of dollars in hospital, care and the unnecessary hospitalizations.

Of the hundreds of thousands of people who get flu, we will save the deaths of over 40,000 people a year who die from flu, whose deaths are easily preventable by a simple flu shot.

Ninety percent of them are senior citizens, and we owe it to the senior citizens to blanket in flu shots under Medicare, and I hope and pray we will do it before the end of this year, and hopefully in the reconciliation process, before the end of the 200th birthday of our Congress.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. BLILEY], a member of the Health and the Environment Subcommittee.

Mr. BLILEY. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in strong support of catastrophic health care protection and in opposition to the bill before us today. The bill that has been brought to this House floor is catastrophic only in the sense that it will be catastrophic for our Nation's senior citizens and this Nation's economy. Earlier this year, the President sent to this Congress a catastrophic health care initiative, which was not perfect, but which represented a starting point from which to work.

Unfortunately, some of my colleagues on the other side of the aisle seized upon the opportunity to turn this bill into a tax increase for the elderly and a threat to the long term solvency of the Medicare trust fund.

I would like to confine my remarks to two particular aspects of this bill. First, the bill contains a drug benefit provision which has the potential to force our Nation's senior citizens to foot the bill for the drug treatment of hundreds of thousands of AIDS patients. Under this bill, anyone who survives long enough to qualify for Medicare as a disabled individual will be eligible for coverage of their drug costs in excess of $500. Right now there is only one drug that is available which has shown some progress in halting the effects of AIDS—AZT. Its cost is around $1,000 per month. That means our Nation's senior citizens are going to have their health program foot the $11,500 per year bill for AIDS drug treatment. This is wrong and the House should reject it.

Second, this bill will be paid for by increasing taxes on our Nation's elderly. Nearly, 40 percent of Medicare beneficiaries will be forced to pay the maximum surtax. The maximum surtax will apply to any single or widowed individual earning more than $14,166 per year or any couple earning more than $28,332. Between 1988 and 1992 those individuals will pay $3,400 more in premiums and taxes under the bill before us today than they will under the Michel substitute. And that is without paying one dime for AIDS drugs. Who knows how high the price will go then.

Mr. Chairman, this bill is not the answer. I would urge my colleagues to reject this bill. Let's not force a tax increase on our senior citizens at the same time we tell them they may have to foot the bill for drugs used in treating AIDS victims. Adopt the Michel substitute and move us one step closer to making catastrophic health care coverage a reality.

☐ 1320

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentlewoman from Illinois [Mrs. COLLINS], a member of the Health and the Environment Subcommittee.

Mrs. COLLINS. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of H.R. 2470, the Catastrophic Illness Act. I did want to mention that when this measure was being marked up in the Health Subcommittee, I offered an amendment which was unanimously adopted to enable those who are going to qualify under this catastrophic illness program to be given the opportunity to allow the cost of colorectal and mammogram tests to be counted toward the cost of the catastrophic care cap.

I think the bill would have been dramatically improved if my amendment had stood the test of time and stayed in the legislation. It did not, however. One of the reasons why I understand it did not was because there was a misconception that my amendment was a prevention provision.

Having an examination for colon or breast cancer does not prevent cancer. What it does is provide early detection of these deadly cancers. The survival rate for early detection for colorectal cancer, for example, is 86 percent. Late detection, on the other hand, survival rates are something like 39 percent for colon cancer and 31 percent for rectal cancer.

The cost for a colorectal examination is about $200, but the cost for the initial 23-day stay in the hospital is approximately $2,000, almost 10 times more than it costs to have the examination. Certainly early detection would save the Government a great deal of money.

For breast cancer, which is the leading cancer among women, the survival rate for 5 years is 90 percent. The first cost for going into the hospital for 13 days is approximately $1,100, but the cost of a mammogram test ranges up to $175. It seems that we would have been a great deal wiser had my amendment been included. It was not, however, but I am still supporting the legislation.

On the question of prescription drugs, I think prescription drugs pose the single greatest out-of-pocket expense faced by 75 percent of our elderly. Many prescription costs have far exceeded the $500 a month. The new prescription drug coverage is important and long overdue.

Mr. Chairman, I urge my colleagues' support of H.R. 2470.

Mr. MADIGAN. Mr. Chairman, I yield 3 minutes to the gentleman from California [Mr. DANNEMEYER], also a member of the Health and the Environment Subcommittee.

Mr. DANNEMEYER. Mr. Chairman, this bill is being billed as one providing catastrophic health care. It does that and many other things. It has a provision for spousal impoverishment, estimated to cost $1.54 billion; outpatient mental health care for $860 million; respite care for $584 million; outpatient prescription drugs for $6.160 billion, and home health for $985 million.

This train is standing at the station and these additional cars have been added.

I would like to say a few words relating to the drug provision that I have previously been privileged to talk about, because I think it is one feature of this bill that any Member who votes for the Democrat alternative is going to be answering to his senior citizens why they are paying premiums for catastrophic health care and drugs and a surtax on their income tax in order to provide drugs for those suffering from AIDS.

Previously it was established that 4,000 people today are drawing disability insurance under SSI out of the general fund who if provided with AZT would cost some $10,000 per year for each of those persons who have AIDS. That comes to about $40 million per year that very well could come out of the Medicare trust fund.

So far as the future is concerned, we have about 370,000 persons with ARC in this Nation, that is an estimate, and a good share of whom will develop AIDS, and if each of these is given AZT which does not cure, but prolongs life, you can extrapolate that to see that the cost is some $3.7 billion.

Indeed, this loophole in this bill, if AZT is broadly prescribed for persons suffering from AIDS, could conceivably wipe out the entire Medicare trust fund. No one wants that to happen.

We have an obligation to provide this drug. Under Medicaid, it will be provided to those in need, but I do not believe it is a responsibility of senior citizens to be paying this money out of the Medicare trust fund.

This Member from California went to the Rules Committee yesterday and sought an amendment to this bill that would have permitted the House to consider a provision that coverage under the drug provision of this bill would have been limited to persons over 65. I think that is what the Medicare trust fund, both medical services and Social Security, was designed to provide for, not for persons under 65.

Unfortunately, the Rules Committee did not make this amendment in order and this Member from California will not have an opportunity to offer this amendment at this time. Until this loophole is closed, the Democrat version of the bill should be defeated.

Mr. WAXMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. PANETTA].

Mr. PANETTA. Mr. Chairman, I rise in support of H.R. 2470, the Medicare Catastrophic Protection Act of 1987. I feel that this legislation takes major steps toward protecting Medicare beneficiaries from the catastrophic financial effects of severe illness, and beginning steps in the direction coverage for long-term care and other important areas of health coverage.

As you know, catastrophic health care costs faced by the elderly have been an issue of growing concern over the last number of years. In spite of the assistance provided by Medicare and Medicaid, out-of-pocket expenses for health care by the elderly have shot up. A graphic example is provided by the increase in out-of-pocket expenses from 1977, when they totaled $12.7 billion, to 1984, when they reached $30.2 billion. This represents a phenomenal 138-percent increase in just 7 years, and the situation is getting not better but worse. Medicare was enacted in 1965 due to the escalating cost of health care experienced by the elderly, when they were spending 15 percent of their income on health care. In 1986, despite Medicare, the elderly were spending more, 16 percent, on health care, and it is projected that under current law, this percentage would rise to fully 18.5 percent by 1991. It is clear that action must be taken to prevent many elderly from being forced into poverty by constantly rising medical expenses.

The need for protection against catastrophic medical expenses by the elderly is likely to increase, not decrease, over the years ahead as the proportion of elderly in the population increases. It is currently estimated that the number of Americans age 65 and over is growing at twice the rate of the general population and now makes up almost 12 percent of our populace; in the year 2000, there will be almost 35 million persons over 65 and nearly 5 million over 85. As the number of elderly continues to grow, meeting their health care needs will be a challenge, one that our present health system is not yet well-equipped to handle.

The Medicare Catastrophic Protection Act takes a number of significant steps in filling existing gaps. It limits out-of-pocket spending for hospital care, outpatient physician services, and prescription drugs, so that the many elderly who incur major expenses in any or all of these areas will be able to breathe a little easier. Coping with a severe or chronic illness is stressful enough in itself for a sick person and his or her family. Being financially ruined by such an illness, or being threatened with ruin, is something with which the elderly should not also have to be concerned. While not all or even most of the elderly incur catastrophic medical expenses, I feel it is significant to point out that in 1986, married couples over 65 averaged approximately $3,000 in out-of-pocket health care costs. Similarly, while not all the elderly spend large sums of money on prescription drugs, nearly 5 million beneficiaries do spend over $400 each year, and the average annual cost of medication for this group exceeds $900. Clearly, there is a large number of Medicare beneficiaries who incur medical expenses that could be considered catastrophic.

The bill also makes a number of other improvements to Medicare and Medicaid that aid the elderly and other beneficiaries. It adds up to 50 days of skilled nursing care, for a total of up to 150 days, decreasing the copayment required and eliminating the requirement for prior hospitalization. It expands the intermittent care home care provision of Medicare from 21 to 35 days at any one time, allows up to 80 hours of respite care services for chronically dependent homebound persons, and extends the hospice benefit for the terminally ill. Concerning mental illness, the bill quadruples Medicare coverage for outpatient mental health services. Under Medicaid, H.R. 2470 strengthens the buy-in provision by requiring States to pay Medicare premiums, deductibles, and other costs for low-income elderly and disabled persons. This takes care of many persons who cannot even afford basic Medicare expenses, yet have been responsible for these until now. The bill also takes a significant first step toward modifying the spend-down rule that forces elderly families to get rid of most of their income and assets to be covered by Medicaid for nursing home placements. It does so by liberalizing rules for retention of income and assets by the community spouse, the one still living at home, of a Medicaid-eligible nursing home patient.

While, as I mentioned, the bill begins to address the need for a variety of forms of long-term care, it does only that: take preliminary steps. That the need in this area is great is borne out by a number of facts. In 1984, for example, a total of $32 billion was spent in this country on nursing home care. Of this amount, fully $25.1 billion was spent on services to those 65 or older. In addition, nursing home stays now account for 80 percent of the expenses incurred by those over 65 who have out-of-pocket medical costs of over $2,000 per year.

Current nursing home expenditures are only the tip of the iceberg, for, as you know, most long-term care of the elderly is now actually provided at home by primary caregivers, mostly spouses, children and other relatives. Family members provide a total of millions of hours in care to frail parents, spouses, and relatives, and this can cause great physical, financial and emotional hardship to those caregivers. Mounting evidence shows that having to care for an elderly parent at home can be very disruptive to jobs, careers, and life in general, because of the great time and effort that must be put into such care. This is true, of course, not only for the elderly, but for any persons who are incapacitated for any length of time.

H.R. 2470, in addition to some expansion of benefits in the long-term care areas of nursing home, respite, home, and hospice care, authorizes several important studies in this field. It authorizes $5 million for each of the next 5 years for the Department of Health and Human Services to research the delivery and financing of long-term care services. It requires HHS to, within 1 year, conduct a study and make recommendations on adult day care services with a view to setting appropriate guidelines for Medicare coverage of such services. As you may know, the Medicare adult day care amendments, which I have introduced in this and the last Congress, would make adult day care a Medicare-eligible activity. Finally, H.R. 2470 creates a U.S. Bipartisan Commission on Comprehensive Health Care to make recommendations to Congress on improving access by Americans to health care. The initial phase of the Commission's work would be access by the elderly to long-term care, but eventually, the panel would look at and make recommendations in the crucial area of comprehensive health coverage for all Americans. Thus, the studies emanating from this bill could lead to major positive changes in our long-term care and overall health system.

Mr. Chairman, H.R. 2470, the Medicare Catastrophic Protection Act, is mostly that: a measure to protect against the financial ravages of catastrophic illness. The bill takes significant steps in this direction that should aid many elderly and their families. While the bill only begins to address the wide gap that now exists in coverage of long-term care under Medicare, it does take initial steps and lays the groundwork for much more extensive, needed work in this area. Although I have some reservations about H.R. 2470 in this area as well as in how it is financed, I feel that on the whole it deserves our support as a major improvement in health care protection for the elderly and disabled. Therefore, I urge the support of my colleagues for the Medicare Catastrophic Protection Act of 1987.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Oregon [Mr. WYDEN], a member of the subcommittee.

Mr. WYDEN. Mr. Chairman, since 1981 there has been more than $20 billion cut in key Federal health programs. Now finally we have a chance to do something to fill in some of the holes in Medicare. I would urge my colleagues to take advantage of it.

In particular, there are some very real differences between this bill and the substitute.

First of all, this bill provides more comprehensive hospital coverage. It limits the deductible requirement to one per year. The substitute would have required additional deductibles and older people would have to incur much more in hospital expenses, before coverage begins.

Second, and I think a major difference between this bill and the substitute, is that this legislation would provide in-home assistance to the frail elderly. We will be able to make a small start in this legislation to have some long-term care for the older people in this country. The substitute does absolutely nothing to try to help older people in their homes.

The legislation also offers some much needed mental health coverage under Medicare. The substitute again offers much narrower coverage.

Finally, this bill provides direct and immediate assistance to the poor. The substitute, on the other hand, imposes new burdens on the poor, more than $8.80 a month in premiums in 1989.

The last point that I would make, Mr. Chairman, is that I noted in a New York Times article earlier this year that President Reagan, during the course of one of his recent operations, declined to use Medicare or to live within its current limitations. I am very pleased that the President was able to get good medical care, but millions of older people in this country must rely on the Medicare Program. They have no other alternative.

I think we need to take this opportunity to improve and strengthen the Medicare Program. I urge my colleagues to support the bill and make these improvements, and I want to commend the chairman of the Health Subcommittee, the gentleman from California [Mr. WAXMAN], for his work.

Mr. MADIGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. CLINGER].

Mr. CLINGER. Mr. Chairman, the fear of catastrophic illness is very real among the senior citizens in my congressional district and throughout the country. This fear exists because Medicare does not cover truly catastrophic hospital and physician expenses. It is shocking to note that even though Medicare in 1987 will spend close to $80 billion in medical care, the elderly will also have out-of-pocket medical expenses of over $30 billion, not including long-term care. For low and moderate income elderly in particular, the cost of a catastrophic illness can quickly eat up their lifetime savings and that of their relatives.

The bill before us today will protect seniors from catastrophic health care costs while increasing coverage for outpatient mental health, skilled nursing facility, home health, and hospice services. One of the key points about H.R. 2470 that convinced me to support it is the financing mechanism. The monthly premium would be adjusted according to their income, exempting those seniors with the lowest incomes. This is not only a fair proposal but a fiscally responsible proposal which is budget neutral and will not affect the solvency of the trust fund.

Mr. Chairman, I hope my colleagues will not miss this opportunity to provide some peace of mind for our older constituents and urge a vote in favor of H.R. 2470.

Mr. MADIGAN. Mr. Chairman, I yield 3½ minutes to the gentleman from Indiana [Mr. COATS].

Mr. COATS. Mr. Chairman, I was an original cosponsor of the President's catastrophic care legislation, H.R. 1245, and I have been actively working with Health and Human Service's Secretary Dr. Otis Bowen since January of this year to develop and promote this sound approach that he originated.

Today I intend to vote for the Michel substitute that includes the essence of H.R. 1245 and improves it by correcting some inequities in the Medicare Program and by making some substantial progress in providing for long-term care protection. However, I cannot, in good conscience, vote for H.R. 2470, the legislation that the House Democrat leadership has brought before us today. H.R. 2470 is a Medicare expansion bill—not a genuine catastrophic health care bill. It forces our senior citizens to shoulder a massive tax increase and it has an expensive prescription drug benefit that could force the elderly to pay for the drug costs of large numbers of people who are not even senior citizens.

Unfortunately, H.R. 2470 has none of the advantages of the Michel substitute. The bill before us today has many serious flaws that I urge my colleagues to examine with great care.

In the first place, H.R. 2470 is not, in balance, a catastrophic protection bill at all. Only those parts dealing with acute care, skilled nursing home care, and hospice care can fairly be called catastrophic protection. The rest of the provisions are medicare add-ons and would represent the greatest expansion of the Medicare system since it was formulated more than 20 years ago. While it is appealing to argue that any expense related to an illness or adverse physical condition is or can be catastrophic, that position only begs the question and is of no help in making difficult policy decisions. One reasonable approach is to evaluate the extent of the expense related to treating the condition and the number of people likely to be affected. Clearly, long-term care is at the head of the list made with these conditions in mind, and acute care is not far behind. All of the benefits included in H.R. 2470 could assist some elderly to one degree or another, but only those I just mentioned are clearly priorities and deserve to be termed truly catastrophic conditions.

This bill substitutes a massive tax increase for the currently voluntary part B Medicare Program. This fundamental structural change will, for the first time, force Medicare recipients to pay for part B whether or not they judge those benefits worth the price. This remarkable new tax is based on adjusted gross income and may not be treated as a deductible medical expense. The Energy and Commerce Committee estimates that 40 percent of Medicare beneficiaries will pay the maximum tax—an amount that totals $886 annually in 1988. By 1992 the annual tax is estimated to be over $1,400 for single individuals and $2,900 for married couples. This is not first dollar coverage insurance and every senior that has medical expenses will pay more. Before full coverage begins for hospital (part A) and doctor bills (part B) they will have to have paid more than $1,500 in copayments in 1988 and more than that in future years.

Not only is this a huge tax for a list of benefits that most seniors are likely to find disappointingly short and incomplete, this policy change of forcing seniors to pay for part B threatens the private competitive market for supplemental insurance. Many seniors have opted to selectively increase their health protection from a growing variety of private so called medi-gap policies. This sharp tax increase is sure to force many seniors to abandon these policies and make it impossible for private carriers to offer a variety of benefits in a competitive market. The private sector must continue to play a major role in solving catastrophic health care questions, especially long term care, because the Federal Government cannot and should not try to solve this massive problem alone.

Finally, Mr. Chairman, H.R. 2470 contains a drug benefit that is too expensive, would assist only a small number of senior citizens and could have the unintended consequence of forcing the elderly to pay for the drug benefits of large numbers of beneficiaries who are under 65 years of age.

This outpatient prescription drug benefit would provide 80 percent reimbursement to all part B beneficiaries who have reached a $500 annual deductible. This provision would cover only 1 in 5 beneficiaries in 1989, the first year it would be effective. However, no one knows how much it will cost. The theory is that it will be self-financed with a combination of revenues from the new tax and a separate premium of $2.30 in 1989. That premium is guaranteed to rise to $3.40 in 1990. The CBO and HCFA revenue estimates of the cost are so far apart that the Health Environment Subcommittee on which I sit added a provision to have HHS assess the difference in the program's cost and revenues in 1990 and raise the separate premium accordingly.

Even more serious than the high, but unknown, cost and the low number of elderly it would serve, this benefit could force seniors to pay the prescription drug costs of large populations of Medicare beneficiaries under 65 who have not paid into the Medicare program.

An individual can qualify for Medicare after 24 months of disability. At that point, the individual would be eligible for the drug benefit after the $500 deductible was paid. It is entirely possible that AIDS patients could qualify under Medicare disability in large numbers. One drug recently approved for treating AIDS, AZT, costs upwards of $1,000 per month. A large number of people with expenses of this magnitude could quickly push the costs of this benefit out of sight.

I am not suggesting that it would be inappropriate for the Federal Government to become involved in handling the cost of AIDS. However, that question should be addressed thoroughly and apart from Medicare issues. It does not make sense to force senior citizens to pay the cost of drugs to treat AIDS patients.

I urge my colleagues to reject this overpriced and undervalued bill and vote instead for the Michel substitute. The Michel substitute offers senior citizens peace of mind insurance against acute care costs, corrects a number of inequities in the Medicare system and offers a package of tax incentives and private sector initiatives for long term care.

□ 1335

Mr. WAXMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Oregon [Mr. AUCOIN].

Mr. AuCOIN. Mr. Chairman, I rise in support of the bill.

Mr. AuCOIN. Mr. Chairman, I rise in support of the Medicare Catastrophic Protection Act of 1987, which will afford a measure of security to our elders and their families against the threat of financially ruinous medical bills.

In spite of reservations I have about some provisions of the bill, and even though it falls short of addressing one of the greatest problems our elderly and disabled citizens face—long term health care—it is a positive first step. And to those who now know that when this bill becomes law, at least some kinds of disaster cannot touch them, it will bring greater peace of mind.

For the last several years, we have been overwhelmed with facts and figures about the problem of affordable health care for seniors. I know that even with current Medicare benefits, the elderly are spending more and more of their income for health care. In the last 10 years, out-of-pocket health care costs to senior citizens have skyrocketed. Between 1977 and 1984, they increased 138 percent, to a total of $30.2 billion.

These statistics are alarming. But they're just statistics. When you look further at the personal impact of these numbers, alarm turns to great sadness that we've been unable to do more. My reasons for supporting this bill, and for wishing it went further, are highly personal. Let me give you a few examples why.

A constituent of mine from Forest Grove, OR—my home town—lost his wife in January. Before she died of cancer her medical bills came to $223,000 in 6 months. Medicare paid about half. After supplemental insurance paid part of the rest, he was left with a debt of $42,270, which he is trying to pay off out of a Social Security check of $650 a month. He is 74 years old. He is disabled. In the sunset of his life, he can't talk about it without weeping.

A couple I know of in Astoria, on the Oregon coast, live on Social Security. He has had numerous operations. Following eye surgery, has three postoperation prescriptions he cannot afford to fill. Despite Medicare coverage, medical bills owed by this couple to clinics, doctors, and pharmacies come to over $4,000. By middle class standards this may not seem like much of a burden, but consider their income: $549 per month. They are already living on oatmeal as the main staple of their diet.

A Hillsboro, OR, man in his seventies lives on $500 income from Social Security. His prescriptions cost $400 a month. Needless to say, he does not buy them. His health is deteriorating rapidly.

Mr. Chairman, those are a few of my reasons for supporting this bill. There are many other individuals in the country with equally tragic stories to tell.

The provisions in this bill for covering prescriptions and providing more hospital care coverage will help. I am also very pleased with the new program to provide respite care. Giving a break to relatives who care for seniors in their homes, and keep them out of nursing homes as long as possible, is not only sound social and humane policy, it is sound budget policy. These are good things, but we must also prepare to go further than this.

So I want to take a moment to express my disappointment that there are no provisions to address the problem my distinguished colleague from Florida, Mr. PEPPER, has led the fight to solve—the problem of long-term nursing home care for those who have no alternative. I am disappointed that Mr. PEPPER's program will not be debated here today because we've been told it would draw a veto from the Reagan administration, which can raise millions to send to the Contras but can't seem to locate any funds to solve this critical problem.

Finally, Mr. Chairman, I am also concerned about the methods of financing the Medicare benefits in the bill. I support a progressive supplemental premium. Those who can afford to pay more for their Medicare coverage should pay more. But the formula we have here is not progressive enough. It takes off like a jet into the middle incomes, but as soon as we approach higher altitudes it is somehow transformed into a glider. I think we can do better, and I will work to make sure we can at the next opportunity.

I want to commend all my colleagues who have worked so long and hard on this bill, and I urge its passage.

Mr. WAXMAN. Mr. Chairman, I yield 1 minute to the gentlewoman from Ohio [Ms. OAKAR].

Ms. OAKAR. Mr. Chairman, first I want to compliment the chairman, the distinguished chairman, of the Ways and Means Committee, the Energy and Commerce Committee, the gentleman from California [Mr. WAXMAN], my friend, and others for this bill. This will go a long way I think to relieving the tremendous anxiety that older Americans have.

Medicare right now only covers about 40 percent of their needs. Medicare does not cover the essential skilled nursing facility care, it does not cover prescription drugs, it does not allow for respite care, it does very little if anything related to mental health, which is also sometimes a problem for certain individuals who are older Americans.

We ought to treat our older people humanely. That is the whole point of this legislation. The fastest growing population in our country is people over 85, and we have not planned ahead, we have done nothing really to change things since the 1960's related to our people.

I hope we support this legislation. It is the least we can do.

Mr. Chairman, I rise today in strong support of H.R. 2470, the Catastrophic Health Prevention Act of 1987. It is not a perfect bill, but it will serve as a starting point for our efforts to ensure minimal health care for all Americans.

First, I want to commend the chairmen, Mr. DINGELL and Mr. ROSTENKOWSKI, for their diligent efforts to guide this bill through the committees. It is often challenging to forge a consensus when so many Members are concerned with basic issues such as health care. I am only happy that a bill finally made it to the floor. Given the amount of press attention and concern voiced by Members in this body, it is obvious a consensus exists that something must be done.

When President Reagan first indicated his support for catastrophic health care protection, he acknowledged the need to address inequities existing in the Medicare Act almost since its inception. It is a fact that Medicare recipients now pay more for health care than when the Medicare system was created. It becomes even more frustrating to read projections that medical costs will continue to escalate and further erode the financial position of older Americans.

Given the present problems and the predicted trends for increasing health care costs, I fully support H.R. 2470 as being a good foundation upon which to provide for basic health care needs for our people. It is not a perfect bill as almost all of us agree. However, it does improve many aspects of the Medicare system.

The bill sets a cap on out-of-pocket expenses for outpatient services and hospitalization costs. It provides limited relief for prescription drugs and for mental health services. H.R. 2470 also assists in payments for skilled nursing care facilities and respite care costs. But there is much it does not address.

The bill does not allow for commonsense preventive health care visits that would ward off greater health problems and ultimately save billions in tax dollars. It does not allow for cancer screening which is a proven method for saving medical dollars as well as lives. In particular, a provision was stricken from the final version of the bill which would have allowed for annual colorectal examinations and mammograms for breast cancer screening. As I have stated so many times before, I cannot imagine the logic used to remove these provisions from the bill.

In spite of all this uncertainty, I recommend a "yes" vote for the bill. It is helpful overall because it assists in our national attempts to provide basic health care for our elderly. The bill will allow our citizens, at a time of their lives when they need the most help, to live lives of dignity. It is something we owe them for all they have done for us.

If you need any further help in deciding how to vote, think of this: How many times in your life have you considered just how much you owe your parents for all they have done for you? I believe that if you answer that question honestly, there will be no doubt what is proper and right to do.

Mr. MADIGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. COUGHLIN].

Mr. COUGHLIN. Mr. Chairman, I rise in support of the Michel amendment and in opposition to the bill.

Mr. Chairman, I support the Michel substitute which is fair and provides for long-term care. I oppose the majority compromise (H.R. 2941) which is unfair, excessive, and does not provide for long-term care.

First, the majority compromise would fund catastrophic and drug benefits by taxing the elderly who already have paid for similar protection in order to provide for those who have not. The compromise is financed through a supplemental premium which amounts to a mandatory surtax on the elderly.

An estimated 40 percent of all Medicare beneficiaries would be forced to pay the maximum surtax of $580 in the first year growing to several thousand dollars yearly as we approach the year 2000. This mandatory new tax on older Americans would bear no relationship to the cost of benefits received.

Under H.R. 2941, union members, Federal workers, State employees, military retirees, railroad retirees, and individuals with private benefit plans would, for the most part, have to pay the maximum surtax. In effect, they would be paying twice for their benefits.

The Michel substitute does not impose this onerous new tax on the elderly and provides essentially the same catastrophic coverage as H.R. 2941.

Second, the compromise fails to address the most pressing catastrophic expense of the elderly—long-term care. Many supporters of H.R. 2941 are unaware that it does nothing to address the issue of long-term care except to propose another study commission.

The Michel substitute, on the other hand, provides tax incentives for private sector insurers to move into providing long-term care. While more needs to be done, the substitute at least moves us affirmatively in the right direction.

A catastrophic health bill that does not address the most worrisome problem of older Americans—long-term care—is indeed a hoax.

Third, the majority compromise includes a costly outpatient prescription drug benefit for all Medicare beneficiaries which, according to CBO estimates, would benefit only one in every five elderly persons because of the $500 deductible. The drug benefit, moreover, is so structured that the elderly could end up paying taxes to underwrite the monthly drug bills of AIDS victims because the drug benefit would be available to disabled Medicare beneficiaries regardless of their age.

We must provide for the victims of AIDS, and we will provide for the victims of AIDS. Taxing the elderly to do so, however, is not the way to do it.

The Michel substitute contains a Medicaid drug benefit which extends eligibility to the poorest segment of the elderly who may not currently qualify for Medicaid. This targets the prescription drug benefit to the poorest of the elderly rather than making it available to all who qualify for Medicare.

Fourth, H.R. 2941 would bankrupt the Medicare trust funds within 15 years according to the Health Care Financing Administration.

In typical congressional fashion, the majority has taken a reasonable proposal by the President and fattened it, and fatten it with more add ons. The result is a proposal that is clearly beyond the ability of the system to finance.

It is easy to propose and vote for new benefits and new programs. The difficulty comes in paying for them.

The Michel substitute is a reasonable measure that addresses the very real concerns of older Americans about catastrophic illness and long-term care. It should be supported.

Mr. MADIGAN. Mr. Chairman, I yield 3½ minutes to the gentleman from New Jersey [Mr. RINALDO].

Mr. RINALDO. Mr. Chairman, although Medicare and Medicaid were designed to cover health care costs for senior citizens, poll after poll shows that the overriding fear of senior citizens is that they will fall victim to an illness from which, if they recover physically, they will not recover financially.

While the administration may have sent to Congress a limited proposal, that criticism applies equally well to the bill reported out by the Ways and Means and Energy and Commerce Committees. It is estimated that only 2 to 3 percent of the 33 million Medicare beneficiaries would benefit from the acute catastrophic benefit. The fact of the matter is if you polled senior citizens individually they don't ever benefit.

Under the bill reported from committee, we are leaving untouched the enormous population of people who are in desperate need of extended home health and nursing home care.

Mr. Chairman, as the ranking minority member of the House Aging Committee, I can tell my colleagues without hesitation that the real need of the elderly is long-term home health and nursing home care.

In hearing after hearing, in every part of the country, witness after witness has testified that the great fear of the elderly is being afflicted with a long, debilitating illness that will exhaust their resources or those of their relatives.

Congress can do something now on nursing home and extended home health care. We should not let this opportunity pass us by.

It would be wrong to do so for political reasons. It would be wrong to do so for any reason.

We have crafted a package of proposals to ignite the private sector to develop, market and provide long-term nursing and home health insurance at prices most can afford.

This is the only package that addresses these concerns.

As I said earlier, these are the major concerns that we should be addressing.

The Republican substitute incorporates targeted tax incentives to stipulate that reserves for long-term health care policies will be given the same treatment as life insurance reserves. It will stimulate employers to provide long-term care policies in the health plans they offer workers. And it would enable workers to use their IRA's to purchase long-term care policies free from any tax penalties that might otherwise be imposed.

At the same time, the Republican substitute includes a proposal to establish a Federal National Reinsurance Corporation that would reinsure private industry against excessive risks of providing long-term care insurance.

Taken as a whole, this package of provisions would provide a tremendous stimulus to private industry, but it would do so only with important guarantees for the Government and consumers.

Section 201 of the Republican substitute contains a definition of a qualified long-term care policy, and the Secretary of HHS is directed to certify only affordable policies that will qualify for preferential tax treatment.

As a result, the Federal Government will be able to ensure that the policies it certifies will accomplish what we set out to accomplish, and we will also protect consumers from rate gouging.

Under figures I have requested and received from the Prudential Insurance Co., such private policies can be made available for as little as $20 a month if purchased by people as old as 55.

In other words, the answer to our problems on catastrophic health care are there is we are willing to ask the right questions.

The Republican substitute addresses these problems. It is an honest, constructive proposal that deserves our support, and I urge my colleagues to join me in voting for its adoption.

Mr. WAXMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Chairman, I rise in strong support of the Medicare Catastrophic Protection Act. This bill is absolutely necessary to address many of the most pressing health care needs of our elderly.

Though Medicare covers in-hospital care, it creates many gaps that, if not supplemented by other insurance, leave individuals vulnerable to devastating medical costs, including tremendous bills for physician services and drugs. Under this important measure, most of the catastrophic risks associated with hospitalization and outpatient medical care will be eliminated or substantially mitigated.

I have received volumes of mail from senior citizens in southern Indiana lamenting the high costs of prescription drugs no individual on a fixed income can possibly be expected to pay—yet which they must purchase. Some senior citizens are even forced to spend their grocery money in order to pay for their expensive prescriptions. I commend the House Energy and Commerce and Ways and Means Committees for adding the prescription drug benefit.

In addition, this measure will loosen unnecessary restrictions on medical treatment received at skilled nursing homes, while extending hospice benefits. The bill also addresses the distressing problem of spousal impoverishment for those whose mates require Medicaid-assisted nursing care—so that our elderly are not forced into poverty by a spouse's physical illness.

Although, we have not addressed the long-term care issue due to budgetary constraints, this bill authorizes $5 million for each of the next 5 years for the Department of Health and Human Services to research the delivery of long-term care and possible financing methods for long-term care—a mandate to develop an economical and practical future for protection of our elderly.

We cannot ignore those devastated by hospital costs, those who cannot even afford the prescription drugs that they desperately need, and those who must live the last years of their lives without comfort or security. I would hope that we will not fail our Nation's elderly who need medical assistance. I strongly urge my colleagues to support this bill.

Mr. WAXMAN. Mr. Chairman, I am pleased to yield 2 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, this bill before us is the most important improvement in this vital health care program for the elderly and disabled since enactment of Medicare 22 years ago. It helps the victims of cancer, stroke, arthritis, Alzheimer's disease, and other debilitating diseases, by limiting the financial burden they must face to treat their illnesses.

This legislation assures the elderly and disabled Medicare beneficiaries that catastrophic hospital, physician, and drug bills will not wipe out their savings of a lifetime. It means that those living on modest and fixed incomes will not have to forgo needed medical care because the cost is too great. It removes the fear of bankruptcy from unexpected illness from the lives of millions of senior citizens and their families. It helps those with the most severe health problems and greatest need for assistance. Our senior citizens want these protections and are willing to pay for them.

Mr. Chairman, I rise in support of H.R. 2470, the Medicare Catastrophic Protection Act of 1987. It is time to finally put an end to older American's fears of the financial devastation associated with unexpected and catastrophic illness. As the Representative of a district with a large population of elderly citizens, I highly commend the Committees on Energy and Commerce, and Ways and Means for their quick decisive action.

NEED FOR MEDICARE CATASTROPHIC PROTECTION ACT—STATISTICS

There is a documented need for catastrophic health insurance.

Thousands of my constituents from the Third District of New Mexico have written me to express their fears of the financial devastation associated with catastrophic illness.

This concern is not limited to New Mexico alone, when in 1987 alone, 1 million Americans will be driven into poverty because of unexpected catastrophic health care costs.

Nearly two-thirds of these 1 million Americans will be elderly.

Moreover, because of the rapid escalation of health care costs in general, out-of-pocket health care expenditures for Americans covered by Medicare and Medicaid have increased tremendously.

In fact, there has been a 138-percent increase in out-of-pocket costs for elderly Americans from $12.7 billion in 1977 to $30.2 billion in 1984.

More specifically, over 800,000 people a year incur $2,000 or more in out-of-pocket costs for acute care.

Costs like these represent a tremendous burden to citizens who have worked and saved for their retirement their entire lives.

CAUSES AND DIMENSIONS OF THE CATASTROPHIC PROBLEM

There are a number of factors which have contributed to catastrophic health care costs. These include: lack of the current Medicare benefit structure to provide adequate coverage even for prolonged hospital stays; increases in the cost-sharing requirements of Medicare in recent years; the rapid rise in the costs of prescription drugs and the failure of Medicare to provide coverage for the costs of prescription drugs; lack of Medicare coverage for mental health services; and charges by doctors in excess of Medicare's reimbursement coverage.

All of the above costs are out-of-pocket costs paid by our elderly. In other words, 16 percent of the typical older American's disposable income is spent on health care and this is expected to rise to 18.5 percent by 1991 if no action is taken.

SUMMARY OF IMPORANT BENEFIT IMPROVEMENTS UNDER H.R. 2470

H.R. 2470 caps out-of-pocket expenditures at $1,798 for services covered by Medicare.

This $1,798 cap covers a broad range of services including: 365 days per year of inpatient hospital care covered by one yearly deductible of $544; physician and outpatient services covered by a $75 deductible and a limit of $1,043; and 150 days of skilled nursing facility care with no requirement for prior hospitalization in order to be eligible.

In addition, H.R. 2470 extends Medicare coverage to outpatient prescription drugs subject to a $500 deductible and 20 percent coinsurance.

Provides 80 hours of yearly respite care coverage to relieve the primary care giver.

Provides up to $1,000 per year of outpatient mental health services.

Mr. WAXMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Hawaii [Mr. AKAKA].

Mr. AKAKA. Mr. Chairman, I rise today to express my wholehearted support of H.R. 2470, the Medicare Catastrophic Protection Act of 1987. We have before us the result of a remarkable effort by the two presiding subcommittees to create legislation that responsibly addresses the need for catastropic protection for our Nation's elderly. Allow me this opportunity to commend my colleagues, Mr. STARK and Mr. WAXMAN, for expeditiously moving this bill to floor consideration.

Medicare is a nationwide health insurance program for 30 million aged and 3 million disabled individuals. Since the establishment of the Medicare Program in 1965, the portion of the elderly's health care bill covered by the Government has almost doubled, while that portion paid directly by older Americans themselves has been reduced by one-half. Between 1984 and 1986 alone, Medicare expenditures for those over the age of 65 rose from $55.7 to $67.2 billion.

For as long as I have been a Member of this body, I have been a staunch supporter of the Medicare Program. I recognize that Medicare provides our elderly with important benefits. At the same time, I further recognize that the program does not go far enough to protect against the costs associated with chronic illness, and that a beneficiary can be liable for hundreds of dollars in out-of-pocket costs per year. H.R. 2470, which I am proud to support, attempts to ease some of these burdens.

The bill places on overall limit on out-of-pocket expenditures by the elderly for services covered by Medicare, including hospitalization, doctors' services, other outpatient care, and limited stays in skilled nursing facilities. In 1989, the first effective year, the limit would be $1,798, with limits in subsequent years to be adjusted for inflation. The bill also increases coverage for outpatient mental health, home-health and hospice services, and creates respite care benefits to provide relief for those who care for homebound Medicare beneficiaries.

In addition, changes to the Medicaid Program as required in H.R. 2470 include: First, a requirement for States to pay the Medicare premium, deductibles, and coinsurance amounts for all elderly and disabled with incomes up to the Federal poverty level; and second, a change in the rules that fequently leave an individual impoverished when Medicaid picks up the cost of nursing-home care for the individual's spouse.

Finally, I am very pleased to note the inclusion of a new prescription drug benefit. Under the new benefit, Medicare will pay 80 percent of the cost of prescription drugs after an enrollee meets an annual deductible. The deductible would be set at $500 in 1989, and would be indexed to medical care inflation in subsequent years.

The additional benefits will be paid for entirely by Medicare beneficiaries—through an increase in the part B premium and through a new income-related supplemental premium. The Medicaid improvements will be financed by Medicaid savings resulting from the new Medicare catastrophic coverage and by increased Federal spending.

H.R. 2470 is truly a landmark legislation. The need for the expansions in Medicare as included in this bill has been widely recognized; H.R. 2470 has been endorsed by such organizations as American Association of Retired Persons, National Council for Senior Citizens, AFL-CIO, American Psychiatric Association, and National Association of Public Hospitals.

I strongly urge my colleagues to vote for the passage of this most worthy legislation, and to vote against the Jacobs amendment and the Republican substitute. I am opposed to the Jacobs amendment because it would modify current provisions in the bill that encourage the dispensation of lower-priced generic drugs whenever generics are appropriate. The CBO estimates that adoption of this amendment would increase the cost of the bill by $500 million in fiscal years 1989-92 because it would cause more expensive brand-name drugs to be dispensed more often. Regarding the Republican substitute, I feel it does not go nearly far enough in offering the kind of protection our elderly deserve.

Again, I hope my colleagues will join me in supporting the committee bill and voting down weakening amendments.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER. Mr. Chairman, I supported this bill in the Energy and Commerce Committee, hoping that it would be improved in committee conference. I will vote for H.R. 2941 today, hoping even more that it will be improved in House/Senate conference. But my misgivings are strong enough that, without a substantial improvement in the bill, I may not be able to support the conference report.

I believe that all of us should be especially careful about today's vote, and by upcoming votes on the issue. Congressional Quarterly calls this bill "by far the broadest expansion of the $80 billion per year Medicare Program since its inception in 1965." This is the first time in my 5 years in Congress that we are voting to create a major new entitlement program. For me and for almost 100 of my colleagues who came to Congress since 1982, this is our first test to see whether we can construct a major benefits program that is fiscally sound and fair. Unfortunately, I feel that this bill and the Republican substitute, as currently drafted, fail both tests.

I have talked with my constituents about catastrophic health insurance for several months now. I cannot recall an issue about which there is greater misunderstanding. My senior citizens think that help is on the way for their long-term care needs. They think that they will face much less a risk of bankruptcy or impoverishment as a result of this bill. But when they really see what's in the bill, I wonder if they would even want me to vote for it.

Is this bill fiscally sound? We know that the bill is a huge expansion of Medicare, but we don't even know how great. No one knows. CBO has it growing from a nothing to a $10 billion per year annual expense within 5 years. CBO did not even dare estimate its cost after that. Other estimates are considerably higher than CBO's. The Health Care Financing Administration estimates that the cost will double every 5 years, leaving us with a liability of $200 billion a year by the year 2010, less than 25 years from now. It is tempting to laugh off the high estimates; the trouble is that, in the past, they have been accurate. Even if you cut the HCFA estimates in one-half, or into a smaller fraction, you still have a gigantic, spiraling, open-ended liability.

Would you buy a house or anything else if you could only guess that the annual payment would rise from $1,000 the first year, to $4,000 the next, to $7 the next, to $9 the next, to $10 the next, and you had no idea what the remaining payments would be? Our colleagues are asking us to make such a deal, only these are the most favorable estimates, and the annual payments are in billions, not thousands.

So much for the fiscal soundness of the proposal. Is it fair?

Our colleagues are saying not to worry about the cost because it is budget neutral. Try telling a senior citizen that it is neutral in regard to his budget. We will soon be raising $10 billion more a year, exclusively from the elderly and the disabled. This is a gigantic and unfair increase.

Most of our seniors think that this bill includes nursing-home benefits. That's their biggest need and what they think of when they think of catastrophic insurance. But this bill barely deals with that issue. Our elderly won't think it's fair when we ignore their greatest need.

What does all this money pay for? Many excellent things, but the core concept of unlimited hospitalization only sounds excellent. According to the most recent AARR study only a tiny fraction of our Nation's elderly will ever benefit from having unlimited hospitalization benefits. Why? Because only about 0.5 percent of all Medicare beneficiaries ever need to stay in the hospital more than the current 60 days. Of these 158,000 people about 80 percent already have medigap or Medicaid coverage. This means that only 30,000 people a year will benefit from the care benefit of the bill. This means we'll tax 30 million Medicare beneficiaries to pay for 30,000 or 0.1 percent of the population. Does that sound fair?

Our colleagues have tried hard to invent a fair funding formula for these billions. Despite their best efforts, I predict that we will have constituents who are barely above the poverty line who are devastated just by the deductible in this bill. We will have constituents who currently receive almost everything this bill offers for free, only now we will make them pay dearly for it. We will have friends who pay tens of thousands of dollars as a result of this bill, and who barely receive a penny of benefit. We will have others who desperately want to sign up for the old Medicare part B, but we will force the new on them, and dare to call their choice voluntary. And we will have a few elderly constituents who are very rich indeed, and who only have to pay what their neighbor does who has $15,000 adjusted gross income.

Finally, passage of this bill will put the House in a very tricky position regarding future legislation. We will be caught up in a continuing struggle first to keep the program solvent, and then to expand it dramatically to meet the demands of the beneficiaries. The temptation to dip into general revenues will be irresistible. I just hope that such a day comes when we can afford such an expense.

This bill is backed by the best of intentions. But good intentions are not enough. We need a program that is fiscally sound and fair.

Mr. MADIGAN. Mr. Chairman, I yield 1½ minutes to the gentleman from Iowa [Mr. TAUKE], a member of the Subcommittee on Health and the Environment.

Mr. TAUKE. Mr. Chairman, there has been a lot of discussion in relationship to this bill about long-term nursing home care. We do have a program that provides long-term nursing home care under the Medicaid Program, and it provides that care if certain income guidelines are met. Those income guidelines unfortunately apply not only to the institutionalized spouse, but also to the noninstitutionalized spouse, and that has resulted in the impoverishment of many people in our society, especially elderly women.

Fortunately, both the Democratic and Republican versions that will be offered today of this bill have provisions which will change the unfair policy which requires noninstitutionalized spouses to be impoverished before the institutionalized spouse can receive benefits, and at the same time these provisions ensure that no one escapes contributing a fair share to nursing home care costs.

Most often women are affected by current policy. Most often the husband is institutionalized, his pension benefits go to pay for the costs of nursing home care, the assets are in his name or held jointly and they have to go to pay for nursing home care. The wife is left with an income on average of $340 a month, and assets have to be spent down to $1,800 a month.

Under both versions of the bill the wife would be able to keep up to $925 in income, and would be able to keep assets of $48,000. That is a great improvement from current law.

Mr. WAXMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Texas [Mr. BUSTAMANTE].

Mr. BUSTAMANTE. Mr. Chairman, I rise in strong support of H.R. 2470.

Mr. Chairman, let there be no mistake as to my position on H.R. 2470, the Medicare Catastrophic Protection Act. I support this bill and intend to vote for it.

In fact, I was an original cosponsor of H.R. 1280 and H.R. 1281, which formed the basis for a significant portion of the catastrophic care bill currently under consideration.

Nevertheless, earlier today I expressed my reservations about the financing of H.R. 2470. I am worried that the premiums contained in H.R. 2470 may financially overburden my elderly constituents.

Owing to these concerns, I am introducing into the CONGRESSIONAL RECORD a letter I received from the National Council on the Aging, Inc.

In this letter, that Aging Council recommends that the financing of H.R. 2470 be reconsidered by the bipartisan commission established under the bill. I endorse this proposal.

Again, I urge all Members to vote for H.R. 2470. It contains much needed improvements in physician services, inpatient hospital care, and prescription drug payments. The bill also provides for vital services such as respite care and hospice care as well as new Medicaid reforms.

This bill, Mr. Chairman, represents only the beginning of our efforts to ultimately provide senior citizens with true long-term care.

THE NATIONAL COUNCIL
ON THE AGING, INC.,
Washington, DC, July 20, 1987.

The National Council on the Aging, the leading national organization for professionals, agencies and volunteers working to improve the quality of life for older Americans, supports congressional action this session on needed improvements in the Medicare program. We believe that H.R. 2941, The Medicare Catastrophic Protection Act of 1987, is responsive to many of those needs and we urge your support when it reaches the floor for action.

Our support for passage of this bill is tempered, however, by aspects of its financing and by some of the limitations on its benefits.

Together with many of our colleagues in the field of aging, social services, health care and maintenance and public administration we believe that H.R. 2470 addresses many of the more pressing health care needs of older persons. For the first time, some of the costs of our-patient prescription drugs will be covered. Most of the catastrophic risks associated with hospitalization and extensive out-patient medical care will be eased or eliminated. The bill will loosen unnecessary restrictions on skilled home nursing and adds a new respite benefit, while extending hospice benefits. Finally, the bill addresses the distressing problem of the impoverishment of spouses when their mates require Medicaid-assisted nursing care. Unfortunately, H.R. 2470 fails to address the true catastrophic health problems of the elderly—long-term care.

While each and every one of these benefit improvements merits the support of the full Congress, each member should also recognize the limitations of this bill and their implications for the profound Medicare reformulation that our demographic imperatives require within the next few years.

Each member of the Congress knows that social entitlement programs, principally Social Security and Medicare, have the widest constituent support among all Federal activities. It is no surprise that national polls consistently show that all adult age groups support improved Social Security and Medicare benefits even over defense or other social welfare outlays. Workers and taxpayers consistently express a willingness to bear higher taxes for those purposes.

Despite such evidence, the Ways and Means and Commerce and Energy Committees were held to severe deficit related restrictions on possible revenues for catastrophic health care purposes. This prevented consideration of excise taxes, estate taxes, bringing state and local public employees into the Medicare system and raising or eliminating the cap for the 1.45 Medicare payroll tax. The members of such committees worked under an imposed rule to keep all benefit improvements revenue neutral.

As a result, H.R. 2470 derives almost all revenue for added benefits from Medicare beneficiaries, the nation's elderly and disabled, exclusively. It adds a new "user fee" concept to Medicare.

The political genius of Social Security and Medicare has been its social insurance base—the spreading of risk and costs across the whole working and tax paying population and, for some Medicare benefits, contributions by the elderly themselves.

Today's retired have contributed to Medicare over a large part of, if not all of, their work lives. Tomorrow's elderly will have contributed throughout their full working years both through payroll taxes and through Federal income taxes in support of Medicare, Part b, services. Almost half of the elderly over 65 continue to pay taxes for Medicare either through payroll contributions or through income taxes.

The elderly, who are the poorest adult group, continue to pay the highest proportion and absolute amounts of their incomes for medical services. The modest benefits derived from Medicare by the elderly, now covering less than half of their medical expenses, can hardly be portrayed as adequate.

An even larger group of citizens and voters who directly benefit from the provision of Medicare services are the families of beneficiaries who would otherwise sustain the burden of excessive health care costs for their parents, grandparents, and elderly relatives.

But, in the name of "revenue neutrality", H.R. 2470 will place into law the proposition that all Medicare improvements must be paid for by the elderly themselves with the Federal government acting as a kind of national insurance broker for an intra-elderly transfer of resources. This threatens to destroy the intergenerational compact on which Social Security and Medicare is based. With such a new principle in place, when will the Congress require, with an evenhanded logic, that only the families of school children pay the taxes for national primary and secondary school reform? Will the Congress insist that only defense contractors and military personnel pay for advances in the national defense?

The members, in passing H.R. 2470, should recognize that the new financing principle embodied in this bill should not be carried over to consideration of Medicare long-term care legislation in this, or the next session.

In fact, we suggest that the Bipartisan Congressional Commission on comprehensive health care and long-term care give high priority to reconsideration of the financing mode of H.R. 2470 with its continuation of high deductibles and significant copayments combined with the potentially volatile new Part B and supplemental premiums. The Bipartisan Congressional Commission could serve best if it is instructed to develop its report and recommendations on the basis of a social insurance, payroll tax financing model. Mr. Pepper's bill, H.R. 2762, providing a Medicare, long-term care benefit, exemplifies this approach.

In short, while we have serious reservations regarding the financing of H.R. 2470, we also believe that the overall direction of the new benefits compels support for passage. We trust that, in the coming year as you consider long-term care and other health options, the House Committees and the Bipartisan Commission will include in its consultations representatives of those millions of Americans who support the social insurance base of Medicare. The National Council on the Aging looks forward to working with the Congress toward these goals.

Sincerely,

BARBARA W. SKLAR,
Chair.
JACK OSSOFSKY,
President.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. WALGREN], a member of the Subcommittee on Health and the Environment.

Mr. WALGREN. Mr. Chairman, as speaker after speaker have mentioned, this program, although going under the name of catastrophic health assurance, does not reach the most directly felt need of many if not most of those who suffer catastrophic health problems in their old age, and that is the need for long-term nursing home care.

The healthy part of this experience was that the initial and deep reaction of the public to the administration's plan was to recognize how limited it was, and when asked what their response was.

□ 1350

I urge my colleagues to support H.R. 2470, the Medicare Catastrophic Protection Act of 1987.

We all know there is a widespread belief in the public that, because of Medicare, people do not have to worry about financing their health care in their later years. Nothing could be further from the truth. Currently, Medicare covers only one-half the costs of health care for those over 65. In fact, individuals now pay the same amount for health care as they did before Medicare was created over 20 years ago.

Medicare benefits are limited. Medicare does not cover prescription drugs, eye exams, eyeglasses, dental care, dentures, flu vaccines, mammograms, and preventive care. And, what may be the worst, there is no limit on how much an individual may be asked to pay for health care. If an individual's condition requires an extended period of hospital care, a beneficiary can exhaust all benefits and, in effect, be made a pauper.

In the case of long-term care in a nursing home, an individual is limited to only 100 days in a skilled nursing facility. Beyond that they must personally pay the entire cost of the care.

IN-HOME TEMPORARY CARE

The most gratifying part of this bill is the inclusion of an amendment I was privileged to offer in our Health Subcommittee providing Medicare coverage of temporary care in the home for the chronically dependent elderly. Covering 80 hours of respite care in the home per year, this benefit is intended to give some support to the thousands of unpaid care providers and help prevent institutionalization of dependent family members.

Eighty percent of the severely impaired elderly live in the community. Most are able to do so because they have a caregiver, such as a spouse or daughter. Caregivers are frequently themselves old, people in their sixties and seventies. More and more, the frail elderly are being taken care of by elderly family members. Even the most heroic, need help and relief. The provision in this bill would provide less than 1½ hours of help a week, a minimal benefit but a start.

Spending almost all their savings to be eligible for Medicaid coverage under State welfare programs—either route leads to poverty for the elderly person who becomes ill.

The bill before us today makes the most significant improvements in Medicare coverage since the start of this program in 1965, including important benefits in the areas of long-term care, home health, mental health, and drugs.

OUT-OF-POCKET LIMITS

H.R. 2470 would limit the amount that comes out of an individual's own pocket for health care. Beginning in 1989, once an individual has incurred $1,798 in health care expenses, Medicare will pay for 100 percent of all costs thereafter.

HOME HEALTH

The bill expands home health services from the current framework, where regular home care is limited to several weeks in duration, to allow home health services every day of the week for up to 35 days. Most importantly, regular home care could be extended if certified by a physician.

MORE HOSPITAL COVERAGE

This initiative also focuses on extended hospital and nursing home stays. Hospital care would be covered throughout the year, instead of being capped at a limit of 60 days. The number of days covered by Medicare in a skilled nursing facility would be increased from 100 to 150.

MENTAL HEALTH IMPROVEMENTS

Psychiatric care, which, until this point, has been virtually ignored by Medicare, is also recognized under this legislation. The yearly amount that Medicare would pay for psychiatric care would be increased from $250 to $1,000, making this a significant benefit.

CATASTROPHIC DRUG COVERAGE

Perhaps the most significant change was the addition of Medicare coverage for prescription drugs. Under the bill Medicare will pay for 80 percent of the cost of prescription drugs after meeting the $500 annual deductible. Currently, Medicare does not cover drugs.

The bill establishes an arrangement under which pharmacists would assume significant, new responsibilities for assisting Medicare enrollees and Medicare carriers. As discussed in the Energy and Commerce Committee report, we would hope HHS would establish a system so that pharmacists could process claims and do recordkeeping electronically, to keep paperwork and administrative burdens to a minimum.

In this context, it is important to note that the committee report urges the Secretary to establish a system for pharmacists to not only process claims electronically but also to be able to electronically determine whether a Medicare beneficiary has met the $500 deductible. With todays information processing capabilities, what used to be terrible recordkeeping burdens now can be computer processed to drastically reduce administrative costs and ease the recordkeeping burden on both the elderly and the pharmacists. I am familiar with one system presently in multistate use for non-Medicare patients that has the capability to electronically process prescription claims, indicate patient histories, alternative drugs, and keep track of copayments or deductibles. There is no reason why Medicare should not provide the same services to its beneficiaries and benefit from the efficiencies of computer processing at the same time.

SPOUSAL IMPOVERISHMENT

We also took an important step to prevent the impoverishment of the spouse of someone who has to go into a nursing home. Currently, when one partner in a marriage enters a nursing home, the income and assets of both individuals are used to pay for that care. If the couple wishes to qualify for Medicaid, they must first exhaust all their funds on nursing home costs. In effect, savings from a lifetime's work can dwindle rapidly within a short time. Moreover, the pension check of the individual in the facility, often the only source of income that the couple receives, is also used to finance that care, leaving the spouse very little on which to live—currently an allowance of about $330 per month. The spousal impoverishment provision in this bill would provide an income of at least $925 per month for the community spouse as well as minimum liquid assets of $12,000.

COMPREHENSIVE CARE FOR ALL

Finally, the bill would create a 15-member bipartisan commission to examine ways to improve health care for everyone. The commission would recommend ways to finance a more comprehensive program of long-term care for the elderly and disabled as well as a comprehensive program of health care for everyone in the United States.

It is shocking that the United States is essentially the only industrialized country in the world that does not provide comprehensive health care for all our citizens, even though we spend 11 percent of our gross national product on health care.

The enactment of H.R. 2470 would be a fitting commemorative for the 100th Congress. It would fill in some of the gaps in Medicare promised to our elderly 20 years ago, and also begin a process to look at what remains to be done.

I am proud to cast my vote for H.R. 2470.

I want to urge support for the bill.

Mr. MADIGAN. Mr. Chairman, I yield 30 seconds to the gentleman from Utah [Mr. NIELSON], a member of the committee.

Mr. NIELSON of Utah. Mr. Chairman, I would like to ask permission to advise and extend my remarks. I have for some time been concerned about the issue of comprehensive catastrophic health care for the elderly. When this bill was introduced and referred to the Energy and Commerce Committee, of which I am a member, I had an opportunity to study it thoroughly. Now, Mr. Chairman, after educating myself on this issue, I am sorry to report that I will have to oppose this piece of legislation in its current form. There are several reasons why I will vote against this bill.

First, there are many people who already have substantial retiree health benefits including military retirees, Federal workers, State employees, railroad retirees—tier II, individuals with private pensions and former union workers who have negotiated favorable medical benefits. All will pay the maximum premium in spite of what they may have provided for themselves through their own efforts. I think this is unfair. The benefits should be optional. Those who wish to join should have the option to do so, and those who don't wish to join should be allowed that privilege.

Second, the cost of this bill to beneficiaries is triple what was initially proposed and it's triple what the Michel substitute would be. Let me explain. The part B premium per couple in H.R. 2470 is $2,908, whereas under the Michel substitute it would be only $936 per couple and this does not include the additional tax my democratic colleagues would impose on the elderly.

Third, I have before me a letter addressed from the White House to our House Republican leader, the Honorable ROBERT MICHEL and a copy was also sent to the Honorable JAMES C. WRIGHT, Jr. This letter indicates that H.R. 2470 will be vetoed unless changes are made. On the second page of the letter it states what the bill contains, I would like to share this information with my colleagues at this time:

A staggering long-term tax and premium increase for the middle-income elderly and disabled.

Use of a complicated and unnecessary surtax in the income tax code as a means of financing the expansion of Medicare.

The outpatient Medicare prescription drug amendment. This major expansion of Medicare would prohibitively increase costs unrelated to financial catastrophes.

The inclusion of additional expansions of Medicare beyond acute care catastrophic coverage. For example, the addition of a respite, in-home, care benefit and the expansions of skilled nursing facility and outpatient mental health coverage will cause outyear costs to increase substantially.

Other changes unrelated to acute care protection such as requiring the States to pay Medicare deductibles premiums, and copayments for elderly not now covered; and

The additional deficits, growing over time, because the bill is actuarially unsound.

Finally, I think it's very unfair that our senior citizens will have to pay not only for the drugs of all senior citizens, but for disabled persons of all ages. This is particularly inequitable in the case of AIDS victims who use an average of $12,000 a year for drugs. Since these people qualify for disability benefits, our senior citizens will be paying $11,500 for each AIDS patient. This ought to be paid through the general revenues or some other way, but senior citizens should not be assessed for the benefits of other people.

Mr. Chairman, for these reasons I strongly oppose H.R. 2470 and urge my colleagues to support the Michel substitute.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, some people came to the well and said we cannot do everything for everyone. Other people came to the well and said the most important financial decision we make possibly in this decade will be on this issue. I disagree.

Mr. Chairman, we spend $40 billion a year to protect the Persian Gulf. Billions and billions of dollars to benefit other nations through NATO contracts. We literally spend billions of dollars on star wars up to maybe a trillion. I believe today it is right for us to put seniors over hardware, to put health care over weaponry. That is the bottom line. That is the issue here.

Now I do not think the bill is perfect. We all know that. But it is a start. I am waiting for future legislative initiatives from Senator PEPPER that will expand upon this initiative.

But I just would like to close out and tip my hat to the President. I happen to be the leading opponent, the most vocal critic in the 99th Congress in both bodies. But today I salute the President, because he urged this initiative that Congress should undertake to help protect in the event of catastrophic illness.

So "BOB" DORNAN, wherever you are, keep that in mind that the President deserves that salute. We should pass this, it is the prudent and the right thing to do.

Today we decide with our seniors. Today it is a little bit of butter over guns.

I rise in support of H.R. 2470, the Medicare Catastrophic Health Care Act. I believe it is vital that we provide protection for catastrophic health care now. Everyday families are losing their homes, are being both financially and emotionally destroyed and are not getting the health care they desparately need because of catastrophic illness. We need to protect our Nation's elderly and disabled from these catastrophic hospital and physician expenses.

H.R. 2470 is a meaningful, affordable, and lasting response to health care crises facing so many older Americans and their families. This legislation takes the first step in protecting our Nation's 31 million Medicare beneficiaries from catastrophic medical costs. H.R. 2470 extends the Medicare Program to cover unlimited hospital stays after payment of a single $520 deductible. Additionally, H.R. 2470 increases coverage for outpatient mental health, skilled nursing facility and hospice services. Finally, this bill requires States to cover the costs of all Medicare premiums, deductibles, and copayments for the elderly and disabled individuals whose incomes fall below the poverty line.

The benefits are 100 percent financed from new premiums paid by Medicare participants and the increase in premiums paid are based on income, making this legislation fair. Best of all, the CBO estimates that this bill will be revenue neutral.

Senior citizens are a valuable part of our society and I believe we must continue to fight for decent health care coverage. This bill addresses many of the more pressing needs of older persons for the first time. I urge my colleagues to support this bill, and I further salute President Reagan for his efforts to promote this legislation. He deserves credit for his effort.

Mr. MADIGAN. Mr. Chairman, I yield 4 minutes to the gentleman from Kansas [Mr. SLATTERY].

Mr. SLATTERY. Mr. Chairman, I recognize that the cost of health care is a very difficult burden for Medicare beneficiaries who are gravely ill. Changes are clearly needed to close loopholes in the existing Medicare Program and the legislation before us today will do some of that. But, Mr. Chairman, I must rise in opposition to this legislation, because we have been unable to come even within the ballpark in determining what the cost of

H.R. 2470 is going to be. As we vote on this legislation today we do not know whether we are asking the senior citizens in America to pay for a $7.6 billion program or a $14.7 billion program by 1990. We do not know whether the monthly premium will be increased from $17.90 to about $30 or a figure much, much higher than that.

Before we sharply expand the Medicare Program, it seems to me we should correct some of the serious problems in the existing program.

I am particularly concerned with the geographic discrepancy in Medicare reimbursement for physicians. For example, as we sit here today a physician performing a triple bypass operation in Manhattan, NY, is reimbursed $7,500. If that physician is doing business in Topeka, KS, they are reimbursed $3,300.

I am also concerned that urban hospitals are paid about 17 percent more than rural hospitals under the existing program. These are only two examples of problems we have with the existing program that are not being corrected.

Now in a broader sense, we must realize that we have utterly failed to contain the cost of the existing Medicare Program. The cost of the Medicare Program next year is projected to increase about $10 billion.

By the way, I find it rather ironic that here we are debating a major expansion of this program at a time when the respective committees with jurisdiction are trying to find $1.5 billion to cut in the existing program. It does not make a lot of sense.

Of this $10 billion increase that I just referred to, the House Budget Committee this morning indicated to me that 15.3 percent of that is due to an increase in the number of beneficiaries, in other words, the number of seniors who are eligible for the program.

To state it another way, 85 percent of the $10 billion increase projected for next year is due to factors other than the increase in the number of beneficiaries. And there is nothing being done in this bill to address that fundamental problem.

Mr. Chairman, the cost of health care in America today for our senior citizens is a problem that we all care about. But this Nation faces many very serious problems and I want to just ask my colleagues to focus on some basic facts.

The $10 billion increase that I referred to represents more money than the Federal Government is spending today for general science, space, and technology. The increase annually is more than we are spending in that whole area of our Federal budget. The increase is almost three times what we are spending annually to protect the energy security of this country. It is more than we are spending for all of our housing programs on an annual basis. And it is more than we are spending for community and regional development on an annual basis.

Ladies and gentlemen, we are spending less today on education at the Federal level than we did in 1980. The reason is this Government does not have any money.

Yes, health care for seniors is a terrible problem and a serious problem. But let us not ignore all the other problems this Nation is facing. But the bottom line, Mr. Chairman, is a very simple one. Before we pass this kind of legislation, let us make sure we know at least generally what it is going to cost the senior citizens of America and how those senior citizens in this country are going to pay for it. Today, Mr. Chairman, we do not know that.

Mr. WAXMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. BORSKI].

Mr. BORSKI. I thank the gentleman for yielding.

Mr. Chairman, I rise in strong support of H.R. 2470, the Medicare Catastrophic Protection Act, which we are debating today. It is a good bill, one which deserves the support of my colleagues from both sides of the aisle.

The Medicare Program was established in 1965 to ease the health care burden on senior citizens but rising health costs and shrinking Medicare dollars have limited the program. Therefore, beneficiaries out-of-pocket expenses have skyrocketed. In fact, seniors spend as much of their income on health care today as they did prior to Medicare's establishment. It is estimated that by the year 2000, health costs will consume approximately 20 percent of seniors' annual income. Clearly, the program must be adjusted to provide adequate coverage for these health costs.

It has become painfully evident that many elderly Americans are suffering from the severe inadequacy of their health insurance policies. The incidence of a long-term illness can exact not only devastating emotional trauma but an extreme financial burden as well. The need for catastrophic insurance is one of the most prominent health concerns in America today.

This legislation represents the first expansion of the program since its enactment. It makes a number of commendable changes that will help to relieve the financial burden of long hospital stays and it caps overall Medicare physician and outpatient expenses. Furthermore, H.R. 2470 makes obvious improvements over the President's plan proposed earlier this year.

Mr. Chairman, I would like to highlight some of the most important provisions included in H.R. 2470. First, this bill will clarify the home care benefit under the Medicare Program to allow for daily home health care visits—7 days a week—up to 35 days. This benefit could be extended if the care is ordered by a physician as medically necessary. Home care has been proven to be both a humane and cost-effective source for nursing care. Clarification of this benefit under Medicare is long overdue.

Further, the bill allows for Medicare coverage of temporary home care services to relieve relatives and friends caring for homebound Medicare beneficiaries. Under this new benefit, Medicare would pay for up to 80 hours per year of home health aide and personal care services for chronically dependent Medicare enrollees.

The bill also addresses the need to eliminate cases of spousal impoverishment by protecting the income and assets of the spouses of Medicaid-eligible nursing home residents. As a member of the House Select Committee on Aging, I have heard witness after witness testify about the bankrupting cost of caring for a chronically ill spouse. In my own district of Philadelphia, I listened to horror stories about couples who have exhausted their lifetime savings and spent down to Federal poverty levels in order to qualify for Medicaid and provide nursing home care for their spouses. The statements could have been scripted in Hollywood but instead they are all too real. H.R. 2470 would protect these families by qualifying the institutionalized spouse for Medicaid assistance and allowing the spouse at home to retain $925 per month and $12,000 in liquid assets.

While this legislation is called catastrophic it is not a perfect bill. The bill lacks coverage for long-term nursing home and other services which have been proven most devastating financially. However, it makes great strides in the area of long-term care by establishing a bipartisan commission to examine the long-term care issue. It requires the commission to make recommendations to Congress on improving access to all Americans to comprehensive health care services and report within 6 months for legislative initiatives this term. The bill also authorizes $5 million for research into financing mechanisms and delivery options for long-term care.

Mr. Chairman, I want to commend the chairmen of the Health Subcommittees, Mr. WAXMAN and Mr. STARK, for their dedicated work on this important legislation. I also want to commend Mr. PEPPER, better known as Mr. Senior Citizen, whose longstanding support for elderly health concerns has focused national attention on this essential legislation. I believe the Medicare Catastrophic Protection Act provides a number of commendable improvements in Medicare. While we must look ahead to doing more for older Americans, this bill deserves our support.

Mr. WAXMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Washington [Mr. BONKER].

Mr. BONKER. Mr. Chairman, I rise in support of H.R. 2470. I commend the committee chairman.

Mr. Chairman, without question, Medicare has been of immense assistance to older persons over the past two decades. Since its enactment, Federal spending for Medicare has risen from $7 billion in 1966 to an estimated $74 billion in outlays projections for 1986. Despite this tremendous growth, health care expenditures not paid by the program have been rising steadily as a percentage of the average older person's income.

Originally intended to cover 80 percent of the elderly's medical expenses, Medicare currently pays less than half of older Americans' health care bills. By 1984, health spending not paid by Medicare again absorbed 15 percent of the average older persons income—almost equal to the share paid by the elderly prior to the enactment of the Medicare Program. Translated to actual dollars, direct out-of-pocket health care expenses averaged $1,575 per person in 1984, even with Medicare. For all too many Medicare beneficiaries, the cost of an acute and serious illness has once again become catastrophic.

In the past, I have authored and actively supported legislation to expand Medicare benefits and reduce the burden of cost-sharing. While I am encouraged that provisions similar to those in my legislation have been incorporated into H.R. 2470, I am concerned that the deductible for prescription drug benefit which is currently set at $500, will not assist most Medicare beneficiaries. Moreover, beneficiaries meeting the $500 deductible will face a 20-percent copayment.

Drug costs remain the largest out-of-pocket health costs for 75 percent of all older people. Drug prices have increased at a rate twice that of other commodities included in the Consumer Price Index [CPI]. For example, data from the Bureau of Labor Statistics indicate that for the period January 1981 to June 1985, the CPI rose 23 percent, while prescription drug prices jumped 56 percent.

Over the past 6 months, major senior groups such as the American Association of Retired Persons and the National Council of Senior Citizens have testified at numerous congressional hearings on catastrophic care. They have consistently expressed strong support for coverage of prescription drugs.

Unlike most other health care costs, prescription drugs are not typically covered by private health insurance or by Medicare outside of the hospital. Most MediGap policies do not cover these costs, and Medicaid will only cover these costs for the indigent. Only 20 percent of the elderly fall into one of these categories, the remaining 80 percent must pay for drugs from their own pockets.

Though Medicare has emerged as the premier Federal health care program in the country, serious gaps in coverage remain. The elderly must pay a variety of deductibles, coinsurance, and physician charges in excess of what Medicare considers reasonable in the case of unassigned claims. In order to deal with this gap in coverage, a piecemeal system of private insurance has developed to help pay for expenses not reimbursed by the existing Federal program.

I want to reemphasize that I do not view H.R. 2470 as the solution to the health care financing problems facing our Nation's elderly. Until we have more comprehensive legislation, the cost-sharing burden placed on older persons under the present program must be removed. It does not provide for the truly catastrophic costs of long-term care. However, the U.S. Bipartisan Commission on Comprehensive Health Care represents a major step in that direction. I am also pleased that H.R. 2470 expands the skilled nursing facility and home health care benefits and eases the tremendous burdens on spouses of nursing home patients on Medicaid who must live in poverty.

I would also like to note that H.R. 2470 will not end the elderly's need to obtain supplemental insurance. They will still purchase MediGap. We still face the challenge of ending the widespread abuses in the marketing and sales of MediGap insurance. I am placing in the RECORD elsewhere today my comments about this matter and why I feel legislation, similar to H.R. 784 I introduced in that session, should be enacted.

H.R. 2470 is designed to ease some of the financial problems faced by older citizens in meeting their basic daily needs. It is one way that we can act to guarantee that the gains they have made will not be eroded. I urge my colleagues to support this measure.

The CHAIRMAN. The gentleman from California [Mr. WAXMAN] has 8 minutes remaining. The gentleman from Illinois [Mr. MADIGAN] has 6½ minutes remaining.

Mr. MADIGAN. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. RHODES].

Mr. RHODES. Mr. Chairman, 22 years ago the Congress, in its infinite wisdom, created the Medicare Program to provide health care protection for the elderly citizens of this Nation. This federally managed and financed health insurance program for people 65 and over, today covers approximately 31 million people with basic coverage for acute health care needs.

Everyone recognizes the limitations of the coverage currently provided by Medicare. All agree that the elderly and their families should not have to choose between "bankruptcy and death" in order to pay for catastrophic health care cost. However, the legislation before the House, the Medicare Catastrophic Protection Act of 1987 is catastrophic only with respect to its effects on our senior citizens and the Medicare Trust Fund. As one who represents a large number of senior citizens in the State of Arizona, I am very disturbed by the misleading nature of this legislation, which is labeled "catastrophic protection," and the effects it will have on my constituents' physical, mental, and financial well being.

Catastrophic illness connotes different things to different people; however, it is generally associated with long-term care which causes exorbitant out-of-pocket expenses. To the majority of senior citizens and their families long-term care means nursing homes. In fact, 41 percent of the elderly's 1984 out-of-pocket health cost went to nursing home coverage. This bill does not provide the long-term care most senior citizens need or want. This is a catastrophically "cruel hoax" on America's senior citizens.

Since this bill does not provide long-term nursing home coverage what does this misnamed legislation do? This bill imposes a catastrophic income surtax on senior citizens. It will raise their taxes. Those who thought they were going to be in the 15-percent tax bracket will actually end up in a 22-percent bracket. The surtax will be up to $580 per year. This surtax plus the Medicare part B premium of $22 per month—$264 annually—will mean Medicare will cost a senior citizen as much as $844 in 1988. Still worse, this surtax is expected to increase to over $900 per year within 5 years causing the individual's cost of Medicare to be over $1,200 per year. "Catastrophic" yes. This legislation is a financial catastrophe for our senior citizens.

In addition, this bill catastrophically abridges the freedom of choice of senior citizens by eliminating the current MediGap insurance policies, thus forcing seniors to accept more costly and less comprehensive Government insurance. More than 70 percent of elderly Americans have MediGap supplemental insurance policies. This bill removes the option which 20 million senior citizens have chosen. It is a catastrophe to take away fundamental freedoms from our senior citizens, in essence making them second class citizens.

The financial catastrophe which this bill creates for the Medicare Trust Fund will eventually lead to lower quality care and less access, as well as increased Federal deficits. Due to rapid increases in health care costs and in the Medicare age population, the Medicare Trust Fund's future financial soundness is questionable. In fact, the trustees estimate the Medicare Trust Fund will go bankrupt by the year 2000. A system that is under such current financial clouds does not need the added strain this bill will impose. The various aspects of this bill cause the program cost to increase more rapidly than funding, bringing on huge revenue shortfalls. The Department of Health and Human Services estimates these shortfalls to be as high as $10 billion by the year 2000. Some will be quick to point out that the estimates from HHS and CBO are vastly different. However, they agree that in fiscal year 1989 pay outs will exceed income from premiums and surtaxes by $4 billion, which we will have to supply from general revenues. There is also agreement that there will be catastrophic annual increases in premiums to be borne by senior citizens. This bill will cause a catastrophic collapse of the Medicare trust fund.

This bill also includes a provision to pay for prescription drugs for all who are covered by Medicare. The effect of this provision is to have the senior citizens of our Nation pick up the tab for the drug treatment of AIDS patients and possibly their hospitalization cost. These costs are truly catastrophic and they need to be addressed; but, not on the backs of our senior citizens.

"Catastrophic protection" no. Yes, a catastrophic disaster for America's senior citizens through higher taxes, a bankrupt Medicare, and the loss of freedom to choose.

We have a choice. The alternative which will be offered by the minority leader does address the catastrophic cost of long term care through the private sector insurance. The Michel substitute does provide prescription drug benefits for those elderly who truly need it. The Michel substitute does not impose a mandatory "surtax" on America's senior citizens. It retains the traditional financing method, relating cost paid to benefits received. In short, the Michel substitute provides more needed services for the elderly at about half the cost of the majority's catastrophic senior citizen tax bill.

Mr. Chairman, I urge my colleagues to vote "no" catastrophe on our senior citizens. Vote "no" on H.R. 2941. Vote "yes" on the Michel substitute.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the very patient gentleman from Virginia [Mr. WOLF].

Mr. WOLF. Mr. Chairman, today we will be considering a major new initiative addressing the matter of catastrophic health coverage. Without doubt, such legislation to deal with rising health care costs of chronic illness is a positive step toward recognizing the changing needs of an aging America. In our consideration of this measure, the underlying issue must be fairness. I am concerned that the legislation before us today falls far short of passing the fairness test.

I want to alert my colleagues to the fact that not all retiree organizations support this bill. The National Association of Retired Federal Employees has declined to support this package because the groups most likely to pay for these new benefits are the retirees who already have a health benefits package with catastrophic coverage. That group not only includes the Federal and military retirees, but State and local government retirees including educators, retired employees from major corporations and other entities where health insurance programs already address the catastrophic question. I understand that some 70 percent of retired Americans already have some catastrophic coverage.

Is it fair to force this large group of Americans into a mandatory system when they are already paying for similar coverage?

Shouldn't we give elderly Americans who have catastrophic care coverage the freedom to choose whether or not to pay for the same coverage under Medicare?

What started out as a well-intentioned proposal to protect the elderly has become a major expansion of the Medicare Program. We can agree that the Medicare Program should be improved to cover health care for elderly Americans who need such care. The legislation before us today, however, does not address the financial needs of the vast majority of the elderly—namely, long term health care—but instead offers benefits for which some 70 percent of Medicare beneficiaries are already covered. It is that 70 percent of elderly Americans who will pay for the coverage provided under this legislation and who will benefit from this bill the least.

When you elect an insurance program, do you decide to pay for benefits that you will not need or are already covered for. Of course not. But this bill does not even give people a choice. It substantially increases premiums and force beneficiaries to foot the bill for benefits they will probably never use.

A retired Federal employee in my district estimates that he will be forced to pay an additional $800 a year for benefits which his current policy already covers. By 1992, 40 percent of all Medicare beneficiaries will be paying around $900 more per year in their premiums. Do the benefits of the bill outweigh these substantial costs? Your constituents who are already covered will not think so.

I urge my colleagues to look closely at this package. Weigh it on its merits, whether it responds to the national concerns it sought to address and whether it is fair. It could have been made more fair and equitable with a rule allowing more flexibility in terms of its coverage.

WASHINGTON, DC, *July 20, 1987.*

NARFE STATEMENT

Mailgram: To all Members of the House of Representatives.

The National Association of Retired Federal Employees (NARFE) regrets that we are unable to commit full support to the Medicare catastrophic bill presently before the House because of our following concerns:

We agree with the findings of a recent GAO report that the elderly will still risk high out-of-pocket costs because of unprotected long-term nursing home and home health care, continued out-of-pocket expenditures for physician charges above the Medicare-approved payment, and non-covered routine physical exams, vision, dental and hearing care.

Long term care is the real catastrophic concern and we fear cost of the Medicare expansions in this bill may preclude substantive action on long-term care coverage in the foreseeable future.

Federal annuitants, because their annuities are fully taxable, will pay more for catastrophic coverage through the supplemental premium than social security counterparts. A $600 per month social security survivor benefit would incur no supplemental premium; a $600 civil service survivor annuity would incur a $90 supplemental premium.

Annuitants enrolled in the Federal Employees Health Benefits (FEHB) program rely on their FEHB plan as a Medicare supplement. Like millions of other retirees with employer-sponsored group health insurance, they already are covered for most of the new benefits in the catastrophic legislation. Their supplemental plans cannot be realigned without penalizing others in the group plan who are not Medicare eligible. Unless and until a separate Medigap option is available to annuitants the cost of continuing both Medicare and an FEHB plan will be prohibitive for many.

While many Medicare enrollees may be able to drop their Medigap policies when extended Medicare coverage is available, federal annuitants cannot, for once a retiree drops out of the FEHB program reenrollment is prohibited.

NARFE looks forward to continuing to work with you in the months ahead to find solutions to these concerns.

H.T. STEVE MORRISSEY,
President, National Association of Retired Federal Employees.

Mr. MADIGAN. Mr. Chairman, I yield myself the remaining time.

The CHAIRMAN. The gentleman from Illinois [Mr. MADIGAN] is recognized for 3½ minutes.

Mr. MADIGAN. Mr. Chairman, no one will argue that it is not a worthwhile task to devise a financing mechanism to reduce the risks involved with serious illness. For this reason, I joined many of my colleagues in cosponsoring legislation submitted to the Congress by the President providing full acute care coverage to Medicare beneficiaries. Unfortunately, what began as an actuarially sound, simple reform to the Federal health insurance program for the elderly has resulted in a broad expansion of Medicare benefits financed through increases in the program's existing premium and by adding a new mandatory premium which is essentially a tax, for nearly half of the program's beneficiaries.

The surtax, as it is better called, has no relationship to the value of the new benefits actually provided to beneficiaries. Estimates by the Department of Treasury show the maximum annual surtax of $580 per individual in 1988 will grow to 1,017 in 1992. This means in 1992 a couple could pay a surtax of 2,034. If you add this to their Medicare part B annual premium which then will be $756, this elderly couple can have a total annual premium expense for Medicare in 1992 of $2,790.

This number is staggering.

But in addition to the substantial increase in beneficiary expenses, the long-term outlook is grim because of the increase in Federal expenditures. Although this bill provides excess revenues in the first 5 years, it will not remain budget neutral over time. According to the Department of Health and Human Services, a revenue shortfall of over $20 billion is estimated by the year 2005. This concerns me because this bill is being sold for its budget neutrality, and, more importantly, if this bill causes the size deficits anticipated in the out years, the long-term solvency of the Medicare Program is seriously in question.

For the reasons I have explained, I cannot support H.R. 2941 and will join with many of my colleagues in supporting H.R. 2970 when it is offered as an amendment in the nature of a substitute.

The pensions of military retirees, Federal workers, State employees, railroad retirees (tier II), and individuals with private pensions must include those pensions in estimating their adjusted gross income. Many of these individuals will have to pay the maximum surtax because of their pensions.

These are also the individuals, who may already have substantial retiree health benefits, but will be fully assessed the maximum surtax.

TOTAL INCOME ESTIMATES

AGI	Social Security Income	Total income	1988 annual surtax	1992 annual surtax
Single filer:				
$6,001	$5,000	$14,000	$10	$15
$8,006	5,000	16,000	150	230
$14,167	5,000	22,000	580	1,017
Couple:				
$12,002	8,000	25,000	20	30
$16,012	9,000	30,000	300	460
$28,334	10,000	43,000	1,060	2,034

This surtax is in addition to an increased part B premium together resulting in a total annual Medicare payment for individuals of $1,454, and for couples $2,908. This compares to an annual Medicare premium in the Michel substitute of $468 per individual and $936 per couple.

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Mr. WAXMAN. Mr. Chairman, I yield 3 minutes to the very distinguished chairman of the Select Committee on Aging, the gentleman from California [Mr. Roybal].

Mr. ROYBAL. Mr. Chairman, I rise today in strong support of the House catastrophic health insurance bill, H.R. 2470, and urge the full support of my colleagues. Though much can be said both for an against this compromise package, on the whole I believe that it is a very important piece of Medicare and Medicaid reform and is a significant step forward. In fact, many key provisions were actually contained in my catastrophic health initiative, H.R. 1930.

This bill, on which I was privileged to work, limits Medicare beneficiary costs and extends protection for hospital and skilled nursing home care. It takes a critical step forward in providing supportive care in the home. For the first time, prescription drugs and a limited amount of respite care will be covered by Medicare. While far from a complete solution, these are all needed first steps toward a comprehensive solution to America's catastrophic health insurance problem.

Now I recognize that some Members will raise concerns about the cost of this bill and its impact on budget deficits. In my mind and according to Congressional Budget Office estimates, this should not limit your support. The Medicare portions of this bill are not only budget neutral, but are paid totally by Medicare beneficiaries in a way that limits the burden on lower income beneficiaries.

Assuming that we pass this bill, as I believe that we will, I ask that you begin to think about the next step. As many of you know, Claude Pepper and I believe that much work lies ahead. Our view is reinforced by the General Accounting Office report which was released by me a few weeks ago. Remember that even after this bill is passed, 37 million Americans will still be uninsured and over 200 million Americans will still be underinsured for long-term care.

Whether it be in the direction of the Pepper-Roybal home care legislation (H.R. 2762) or my more comprehensive U.S. health legislation (H.R. 200), Claude Pepper and I both fully intend to pursue this issue. In fact, a key element of the bill, the Bipartisan Commission on Comprehensive Health Care, clearly sets the stage for tackling the problems of long-term care and the uninsured. Rest assured that Claude Pepper and I will not stop until we can say that we have protected all Americans from all catastrophic health costs.

In closing, I want to point out that this bill has many parents, as is the case with any positive piece of legislation. I want to express my deep appreciation to the Speaker, key members of the Ways and Means and Energy and Commerce Committees, and my dear friend, Claude Pepper, for their sincere commitment to better protecting Medicare and Medicaid beneficiaries. While we have not agreed on every issue, we were able to come together and join forces behind the leadership package. Today I strongly urge you to join forces with us and vote for the Medicare Catastrophic Protection Act, H.R. 2470.

The CHAIRMAN. The gentleman from California [Mr. Waxman] has 5 minutes remaining.

Mr. WAXMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Wisconsin [Mr. Obey].

Mr. OBEY. Mr. Chairman, I want to congratulate the committee for bringing this important legislation to the floor today, and I want to congratulate Secretary Bowen for making it possible to finally make some progress in providing some small increase in help for people who face the prospect of financial disaster because of long-term hospitalization due to a major illness or injury.

It is time that this country face up to the fact that health care is a basic human right. It should be available to people simply on the basis that they are Americans and not on the basis of how many dollars they have in their pockets, or whether they can afford to sell off, and drain off their assets before coming hat in hand to the Government for some help.

Most people in my district are concerned about job opportunities, but after that, the issue raised most often with me as I travel around northern Wisconsin is the question of how we are going to help people pay for extensive medical bills. This bill today provides one small piece of the answer.

H.R. 2470 is the barest minimum effort that we ought to pass to reduce the fear and humiliation that senior citizens often face when they see their health and their worldly assets both drain away at the same time. People shouldn't have to sign up for the poorhouse in order to avail themselves of needed medical services. This bill will help those who need that care in a hospital or doctors office. It also makes desperately needed improvements for respite care for the homebound, and helps the elderly poor under the State/Federal Medicaid Program. It does not yet deal with the issue of nursing home care, which this society must finally wrestle with if it is going to provide justice for people, who, even with passage of this bill, would still face economic ruin if they ever had the need for such long-term care.

Sooner or later we have to find a fiscally responsible way to provide long-term nursing home care and deal with the problems of younger families with inadequate insurance or no insurance at all. We have to face the fact that this isn't just an elderly issue. Young families are constantly worried about how they are going to take care of those parents and grandparents who need extended or long-term help. I expect that in the end the solution will require some combination of the expertise and best efforts of the private sector and the resources of Government.

A special word of thanks is owed to the committee for finally reporting to the House a provision to provide assistance to seniors with sky-high drug costs. In 1972, I introduced my first legislation calling for coverage of prescription drugs under Medicare. I can remember getting over 120 cosponsors at that time, and I can remember appearing before the Senate Finance Committee on the issue. Unfortunately, the answer was always the same—we could not afford the added coverage.

Yet the country has apparently been able to double what it spends on the military budget and weapons in order to improve our military security, but it has not been willing to make the same financial commitment to assure senior citizen's financial security. This legislation is another small step down the road toward providing them with that security.

I also want to add a word in support of the committee position on the generic drug provision. All of the years of research that I did in trying to meet our obligations to provide desperately needed help to senior citizens without breaking the Federal Treasury, demonstrated amply the need to allow doctors to prescribe brand named drugs, but also demonstated the need to allow pharmacists the ability to provide equal quality generic drugs if the doctor had no objection. When you can provide what is essentially the same drug for senior citizens at a cost which may be many times less than a brand name, and if the physician has no specific objection, there is no reason I can see why Uncle Sam shouldn't be able to avail himself of those savings. I hope the House will support the committee position on this issue.

I think that by passing this bill this year we will have made some real progress, more than in the last decade. I also think that we have a long way to go.

We will argue a long time about how we deal with the many outstanding issues this legislation doesn't address, but I don't believe for 1 minute that the public is going to stop demanding action until we take care of the issue in a comprehensive way.

People will not stand for anything less and they shouldn't have to.

Mr. WAXMAN. Mr. Chairman, I yield 1 minute to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Chairman, I thank the gentleman from California for yielding time to me.

Mr. Chairman, I rise in support of H.R. 2470, the Medicare Catastrophic Protection Act of 1987. I cannot emphasize enough the need for this comprehensive health care package to deal with the rising costs of catastrophic illnesses.

And, Mr. Chairman, I congratulate the gentleman for his leadership, and I appreciate the work the committee has done on this important matter. I would like to relate a story that was once told to me by a county judge named Dan Blodgett in my home county in Arkansas. I asked the county judge, "What happened to people before 1965, before Medicare was enacted into law, when they were too old to work and too tired to care for themselves?"

He replied, "You know, Bill, the old people too tired and old to work just crawled up in to a corner and shrinked up until they died."

Mr. Chairman, since Congress created Medicare in 1965, the medical expense of the elderly have increased by phenomenal amounts. However, Medicare's coverage of such expenses has lagged behind, and elderly Americans have had to cover a large proportion of their medical costs out of their own pocket, very often an extremely shallow pocket.

There are 86,722 senior citizens in the First District of Arkansas. Rarely does a day go by that I do not receive either letters or phone calls from senior citizens from the First Congressional District of Arkansas, who express their need for help in meeting out-of-pocket medical expenses. The per capita incomes for the 24 counties within the First District range from $5,903 to $10,685. Obviously the people of the First District simply cannot afford the financial burden of a catastrophic illness.

In 1965 before there was any Medicare, the elderly spent 15 percent of their income on health care. In 1986, after 21 years of Medicare, the elderly are spending 16 percent of their income on health care. Even more alarming is the projection that under current law this percentage will rise to 18.5 percent by 1991.

Elderly Americans have worked all their lives to build this great Nation. They deserve to be liberated from the fear of destitution caused by the specter of massive health care costs.

Medicare currently provided health care coverage to some 28 million elderly and 3 million disabled Americans. Unfortunately for many of those covered by Medicare, their medical bills far exceed the limited coverage provided by the program. The bill before us today would both expand existing coverage and would add new coverage for outpatient prescription drug costs and respite care.

I am concerned that the bill falls short of providing extensive coverage for home health care expenses. But the addition of the respite care benefit will provide temporary relief for those family members or friends who care for chronically dependent Medicare beneficiaries. It is vital that we assist those who struggle against both financial and mental hardships to care for elderly family members within their homes.

To help control the outrageous amounts that Medicare beneficiaries now must pay out of their own pocket, the bill places an overall limit on out-of-pocket expenditures by the elderly for health care services covered by Medicare. These include hospitalization, doctors' services, other outpatient care, and limited stays in skilled nursing facilities.

Mr. Chairman, the time has come for a comprehensive health care package which deals with catastrophic health care costs of this Nation's elderly. It is our duty and responsibility to insure that the senior citizens of Arkansas and the Nation are not forced into poverty as a result of rising health care costs. I urge my colleagues to join me in voting for H.R. 2470.

Mr. GUNDERSON. Mr. Chairman, in early July, I returned to western Wisconsin to conduct a series of four regional older Americans forums on the issue of Medicare catastrophic health insurance coverage. Considering the variety of legislation introduced to address the concerns of escalating health care costs facing older Americans, it was my intent to inform Medicare recipients of the legislation before the House and be informed as to the benefit needs and cost limits of the older Americans in Wisconsin's Third District.

It is important to briefly touch on the genesis of our debate on Medicare catastrophic health care coverage. Data indicates that roughly 70 percent of older Americans are covered by Medicare and some form of private MediGap insurance, another 10 percent quality for Medicaid health care coverage, and the remaining 20 percent of our elderly population are covered solely by Medicare. It is this 20 percent of the 31 million Medicare beneficiaries—28 million older Americans and 3 million disabled persons under the age of 65—that are in need of additional health care protection.

Data also indicates that the out-of-pocket, burdensome medical expenses for older Americans are primarily those associated with nursing home care, with hospital costs a distant second, followed by physician, dental, and drugs costs.

It is important to state up front that the fiscal realities of the Federal Government and Medicare beneficiaries limited the parameter of our catastrophic Medicare coverage debate. Both the majority and minority bills provide greater health care coverage for our Medicare population, expanding on current law in the areas of inpatient hospital services, skilled nursing facility care, spousal impoverishment, home health care, and outpatient prescription drugs coverage. However, this new expanded Medicare coverage will be financed through specific increases in monthly premiums and deductibles, paid by all Medicare beneficiaries.

Reflecting on the comments made by older Americans in western Wisconsin on the issue of Medicare catastrophic health care coverage, their primary interests were in the area of nursing home coverage, prescription drugs, home health care, and spousal impoverishment. In weighing the expanded Medicare benefits and the cost to the average Medicare recipient in Wisconsin's third district—the bottom line favored H.R. 2941. The economic makeup of older Americans in this area is such that of the 16 counties in my district only 1 has an average income that will be taxed through the supplemental premium in H.R. 2941. It is clear that the additional benefits available in this catastrophic health care package currently are sound for Medicare recipients in Wisconsin's third district.

As with practically every piece of reform legislation that moves through Congress, there are good and bad points. It is important to me that catastrophic health care legislation be budget neutral—H.R. 2941 is, according to cost estimates for the first 5 years. And unfortunately this Medicare catastrophic health care plan misses the excessive health costs facing older Americans—nursing home and hospice care.

While I was an original cosponsor of H.R. 1245, the Medicare Catastrophic Illness Coverage Act, and committed to providing appropriate and humane health care coverage for our Medicare beneficiaries. It is my hope that we can work with the Senate in controlling the outyear costs of these Medicare benefits for beneficiaries and the Federal Government. And finally to tackle the nursing home care needs of our aging society.

While we have made great strides in expanding Medicare coverage in the areas of home health care, prescription drugs, respite care, and spousal impoverishment, the largest out-of-pocket expenses facing older Americans—nursing home care—has yet to be addressed.

Mr. SKAGGS. Mr. Chairman, I urge my colleagues to join me in voting in support of the Medicare Catastrophic Protection Act of 1987.

The catastrophic illness issue has demanded the attention of the Congress and the American public as have few other health care issues in recent memory. Medicare's coverage of acute care for older and disabled Americans is increasingly inadequate, and the intolerable costs associated with long-term care can threaten the financial security of young and old alike. So, the need for new legislation has become clear.

Our Nation has come a long way since Medicare was enacted in 1965 to address the availability and cost of health care for older Americans. But Medicare coverage has not kept up with the cost of health care today. Despite the assistance provided by Medicare and Medicaid, out-of-pocket health care expenses for the elderly have skyrocketed. In 1977, out-of-pocket health care expenditures by the elderly totaled $12.7 billion; by 1984, they had reached $30.2 billion, representing a 138-percent increase in only 7 years.

After promising a year ago to submit legislation to provide catastrophic illness insurance, the President in the end offered a very modest proposal. Today we are considering a program better designed to meet the real health care needs.

The Medicare Catastrophic Protection Act of 1987 would insulate the elderly from catastrophic expenses by placing a cap on beneficiaries' out-of-pocket expenditures for services by Medicare. It would also create two new Medicare benefits: a limited prescription drug benefit, and a respite care benefit for short-term services to individuals unable to care for themselves. In addition, the bill would protect the income and assets of spouses of Medicaid-eligible nursing home residents.

The expanded Medicare coverage would be paid for entirely by Medicare beneficiaries—through an increase in the part B premium and through a new income-adjusted supplemental premium. The Medicaid improvements would be financed by Medicaid savings resulting from the new Medicare catastrophic coverage, and by increased Federal spending.

This legislation is a major step along the course toward meeting the demand for health care. We still need to solve the special problems of long-term nursing home care, and resolve the question of Medicare coverage for Alzheimer's disease, among other issues.

Today's action marks real progress in fulfilling our obligations as a civilized society. It will mean freedom from fear of medical impoverishment for older Americans.

Mr. GILMAN. Mr. Chairman, I rise in support of H.R. 2470, the Medicare Catastrophic Protection Act of 1987. I would like to commend the gentleman from California [Mr. STARK] and the gentleman from Ohio [Mr. GRADISON] for their leadership in bringing this bill before the House today.

I also commend the distinguished minority leader, the gentleman from Illinois [Mr. MICHEL], for seeking to provide a more fiscally prudent proposal. By seeking to eliminate the manditory surtax—the supplemental premium—and by strengthening the current acute care provisions of Medicare.

H.R. 2470 utilizes the Medicare Program to provide catastrophic acute-care services for individuals who qualify for and enroll in Medicare parts A and B. Effective January 1, 1989, the bill limits out-of-pocket expenses to $1,043 annually. Once this limit is reached, the beneficiary receives 100-percent Federal reimbursement. The legislation further expands Medicare to cover unlimited hospital stay after payment of the $500 deductible; eliminates the current 210-day limit on hospice coverage if a doctor or hospice director recertifies that the beneficiary is still terminally ill; and increases the income an individual may keep when his or her spouse is institutionalized and the care is paid for by Medicare. In addition, the bill adds on outpatient prescription-drug benefit for Medicare part B enrollees.

H.R. 2470 also increases from $250 to $1,000 annually the amount Medicare part B will reimburse beneficiaries for mental health coverage. The cap has not been altered since the inception of the program in 1965 and is clearly inadequate to meet the needs of the Medicare enrollees. Our knowledge and ability to treat mental illness has improved dramatically in the last 20 years. The old limitations encouraged institutionalization of patients who need care but cannot afford to pay out-of-pocket for it. The Catastrophic Protection Act is the most appropriate vehicle for improving this situation.

Through protection against spousal impoverishment and short-term coverage of in-home care for chronically dependent individuals, the bill begins to address the most critical need for catastrophic protection—long term, chronic illness. However, we cannot stop here. Eighty percent of catastrophic health care expenses are for long-term care provided outside of hospitals. I have cosponsored the gentleman from Florida, Mr. PEPPER's bill, H.R. 2762, which would provide Federal financing for long-term care. I understand that the House will vote on that proposal at a future date. Although the bill before us today is a step in the right direction, I believe that it does not fully address the needs of our senior citizens. A comprehensive catastropic health care bill should not only cover long stays in hospitals, but long stays in the home or in nursing homes as well. I hope that we can address long-term care in the near future.

The United States like all Western countries faces unprecedented growth in its elderly population, which has increased twice as fast as all other age groups combined in the last two decades. Policymakers could not have envisioned this when Medicare was enacted in 1965. Although advancements in medicine and technology assure that most Americans reach old age in better health than in any other time in history, rising health-care expenses has focused increased attention on the potentially devastating effects of a prolonged illness on the Nation's elderly. Our senior citizens should not be reduced to poverty levels before they receive Government assistance.

Mr. Chairman, it is essential that we enact a comprehensive health coverage for our senior citizens, and that we do all that we can to protect the savings that our constituents have accumulated over their working lives. Accordingly, I urge my colleagues to support for H.R. 2470, the Medicare Catastrophic Protection Act of 1987.

Mr. CONTE. Mr. Chairman, I rise to support H.R. 2470—but not without reservations, and I've got to tell you what they are.

I'm sure you've all gotten letters from your constituents saying "please support the President's catastrophic proposal" or "please support Secretary Bowen's catastrophic proposal"—I've gotten a lot of letters like that.

I'm sure most of you contacted the President or the Secretary to congratulate them for taking what we all called a good first step on the issue of catastrophic health care costs—I did.

And I'm sure most of you urged the administration to go further, to build on its original proposal and try to do more to address the real needs of seniors, and you pledged your support for those kinds of efforts—so did I.

Well, we've gotten what we asked for—and then some.

The final catastrophic package that we have before us today has grown so far beyond its original version that I believe most people who have written to us in support of this bill would now be shocked if they could see an itemized list of its provisions.

The original Bowen proposal was intended to protect Medicare beneficiaries who had long hospital stays from running out of Medicare coverage for those hospital days of from running up big copayment bills. That proposal offered beneficiaries a modest expansion of benefits, and peace of mind, at a reasonable cost.

But now, I'm afraid that the peace of mind that Medicare beneficiaries get from the package before us today will not last long.

In this bill, Congress has fought to outdo the administration, to be more generous with new benefits, so that the final package has become a hodgepodge of incremental expansions in Medicare coverage. Things that Members have tried for years to put into reconciliation—but couldn't figure out how to pay for—have now been tacked on to the basic catastrophic bill.

Why? The rationale given has been that without these provisions, Medicare beneficiaries will face out-of-pocket costs so great that they are truly catastrophic. But I think there is another reason—since beneficiaries have accepted the idea that a new premium is necessary to finance the original Bowen proposal, and told us of their willingness to pay that premium this bill has become the perfect opportunity for Congress to give beneficiaries more benefits than the administration proposed, and at the same time add the cost of that generosity to the new premium—where beneficiaries will never know just how much this generosity is costing them.

According to both HHS and CBO, the cost of these new benefits to the Medicare trust funds is now many times what the original Bowen proposal would have cost. And HHS is predicting that this proposal is not deficit-neutral beyond 1992, but instead that it will become a drain on the trust funds. So we're accelerating the eventual due date on which we'll have to consider another big Medicare reform to keep the program from becoming insolvent.

Granted, this bill does offer beneficiaries some additional financial protection, some predictability in health care costs, and some peace of mind. It does reflect sensitivity to the needs of beneficiaries whose incomes are below the poverty line. And it does set into place some of the groundwork that needs to be done for the future.

But does it help to keep the hospital deductible from growing? No.

Does it help to hold down the growth in part B costs so that premiums, and copayments, and costs to beneficiaries that exceed what Medicare considers reasonable, don't continue to soar? No.

What about the drug benefit? Medicare covers not only people 65 and older but people who are disabled. Therefore, as new drug therapies extend the lives of AIDS victims, couldn't we see AIDS patients qualifying for this new Medicare drug coverage on grounds that they are disabled? This possibility strikes me as terribly unfair. Drugs for AIDS patients can cost as much as $1,000 a month. True, that's a terrible burden, but whether or how the Federal Government can help defray those costs is a debate we haven't had on this floor yet. Heaping those costs on senior citizens through new Medicare premiums without any notice or discussion seems pretty underhanded.

The thing that probably bothers me most about this bill is the way its changes in nursing home coverage is described. We've all stated time and time again that we understand that the real health care need of seniors is coverage for long-term care. And we've acknowledged that this bill doesn't provide it. The seniors that have written to me are aware of that, but they still want this bill—that's why I'm going to vote for it. I'm confident that they've watched this issue closely and that they know this bill doesn't provide long-term care.

But, in spite of that confidence, I'm disturbed by the way in which the coverage that is provided by this bill is described.

Currently, Medicare will cover up to 100 days of care in a skilled nursing facility "per spell of illness". A "spell of illness" is a technical term that Medicare borrowed from private insurance policies. It really should be called the Medicare benefit period because right now Medicare limits is coverage of hosptial day or skilled nursing facility days to a certain number of days per spell of illness, not per calendar year.

Since this benefit period ends once a beneficiary has been out of a hospital or skilled nurisng facility for 60-consecutive days, it is possible for a beneficiary to have more than one spell of illness—or period of sickness covered by Medicare benefits—in a calendar year. There is no limit on the number of benefit periods a beneficiary may have.

As I said, right now, Medicare covers up to 100 days of care in a skilled nursing facility per spell of illness. So if a beneficiary had two spells of illness in a calendar year, it is possible that he could be covered for 200 days of care in a skilled nursing facility.

But the bill before us will change that coverage to 150 days per calendar year. The bill does away with the spell-of-illness concept and sets this flat per-year limit. The descriptions of the bill that I've seen play up the fact that the number of covered days goes from 100 to 150, without explaining that the 100 figure applied per spell of illness while the 150 figure applies per calendar year.

Is that terrible? Is that a big reduction in covered days? No, it isn't. Let's be clear on that—I don't want to needlessly alarm Medicare beneficiaries. People rarely have more than one spell of illness in a year. And, for those people who have one long spell of illness requiring more than 100 days of care in a skilled nursing facility, this change will be an improvement in benefits. Furthermore, eligibility for skilled nursing facility coverage is so narrowly defined that very few Medicare beneficiaries ever qualify for it. In other words, expanding coverage for skilled nursing facilities is not the way to provide what Medicare beneficiaries consider long-term care.

But what bothers me about this description is its potential for misleading beneficiaries into thinking that a small, primarily technical change in the program is a big expansion in coverage for a particular type of nursing home care.

Until this catastrophic debate began, the vast majority of Medicare beneficiaries didn't know that Medicare does not cover ordinary nursing home care. We've all acknowledged that the program is so complicated that beneficiaries don't know what's covered and what isn't, and have a hard time buying supplemental coverage or planning ahead without that kind of information.

The last thing in the world that Medicare beneficiaries need out of this debate is to be flooded with rhetoric or congratulatory propoganda which will add to their problems in trying to decipher their Medicare benefits. In hearing after hearing, the private MediGap insurers have been criticized for puting out misleading information to Medicare beneficiaries about the coverage they are selling. The last thing we should be doing is engaging in that process ourselves.

I want to lend my support to the passage of this package, but with this final word of caution—we have to avoid the temptation to inflate descriptions of what we've done here. We have all promised that we will continue to work on responsible solutions to the problem of long-term care. Now, we have to be absolutely clear and straightforward—both about what we've done and what we haven't done here—if we want the American people to believe in that promise.

Mrs. MORELLA. Mr. Chairman, I rise in support of H.R. 2941, the Medicare Catastrophic Protection Act of 1987. While this legislation is far from perfect, it does represent an important first step in providing for the catastrophic health needs of the elderly.

I have several serious concerns with the bill, shared by a number of my colleagues and constituents. The bill does not provide long-term care coverage and the coverage for catastrophic hospital costs will help a very small percentage of the elderly. The financing mechanism introduces an element of income testing to the Medicare Program.

The legislation duplicates benefits provided to those Federal and military retirees who receive both Medicare and Federal or military health benefits. I have asked the General Accounting Office to conduct a study of the impact of the new catastrophic benefits on Federal retirees and the possible solutions to this duplication of benefits. I will be working with the National Association of Retired Federal Employees and my colleagues on the Post Office and Civil Service Committee to develop legislation to address this situation, and prevent an unfair burden from being placed on our Federal retirees.

But there are many positive aspects of the legislation as well. There is a need for protection against long-term hospital stays. Out-of-pocket health care expenses now account for 16 percent of the Medicare beneficiary's income, 1 percent more than the 15-percent share at the time when the Medicare Program was first created. There is clearly a need to cap these costs which are taking up a greater and greater share of their limited resources.

The bill expands the Medicare Program to provide for the first time some coverage for prescription drugs costs, a new benefit for respite care, and provisions to address the problem of spousal impoverishment as a result of the confinement of a spouse to a nursing home. Home health, mental health, and hospice benefits are expanded, and States are required to pay the Medicare premiums, deductibles, and coinsurance for elderly and disabled individuals with incomes at or below 100 percent of the Federal poverty line.

Several studies are required, including a 6-month study of long-term care options. To avoid confusion over the new benefits, the Department of Health and Human Services will be required to send an annual notice to beneficiaries explaining the benefits of the program, including the lack of long-term care insurance. Congress will be required to report within 150 days after enactment regarding its recommendations for changes in the Federal requirements for certification of MediGap policies, in view of the new Medicare benefits. The MediGap insurers will be required to send a mailing to their policyholders explaining the improved Medicare benefits and the impact on their policy.

Mr. Chairman, this legislation does make a contribution to the protection of our elderly from catastrophic health care costs. While it falls short of providing comprehensive protection, the bill provides an important expansion of the program. As a member of the Select Committee on Aging, I will be working with my colleagues to accelerate the debate on the need for long-term care protection as the next step. This lack of coverage represents the true catastrophic health cost for far more beneficiaries—but we must start somewhere and this bill should serve only as the beginning of Congress' focus on the health care needs of the elderly.

Mr. FAZIO. Mr. Chairman, I offer my strong support for H.R. 2470, the Medicare Catastrophic Protection Act of 1987. This legislation is an important first step in providing Medicare beneficiaries and others comprehensive protection against medical catastrophes.

Despite the assistance provided by Medicare and Medicaid over the past 30 years, out-of-pocket health care expenses for seniors have skyrocketed. For example, in 1977, out-of-pocket health care expenditures for these individuals totaled $12.7 billion; by 1984, they had reached $30.2 billion, representing a 138-percent increase.

H.R. 2470 will provide 30 million older Americans with much-needed insurance protection against the overwhelming financial burden of catastrophic hospital and physician expenses. This legislation is especially important to California where 16 percent of the Nation's seniors age 65 and older reside and where more than 180,000 of these individuals are living under the Federal poverty level. In fact, several features of this legislation are especially noteworthy for my congressional district, where more than 52,000 seniors over the age of 60 reside. These key provisions include changes in:

HOSPITAL SERVICES

Expands Medicare to cover unlimited inpatient hospital payments after payment of a single deductible, currently $520, per year. Medicare currently covers hospital expenses in a given year on a declining basis after the first 60 days and stops paying entirely after 150 days. The change will benefit about 150,000 senior citizens.

OUTPATIENT AND PHYSICIAN CARE

Limits beneficiary liability for covered services under optional Medicare part B to $1,000 in 1988. The limit would increase annually at the same rate as the Social Security cost-of-living adjustment. Approximately 10 percent of Medicare beneficiaries will reach the limit in 1992.

SKILLED-NURSING HOME COVERAGE

Limits beneficiary liability to the first 7 days of Medicare-covered stays in a "skilled nursing facility" [SNF]. Coinsurance for those 7 days would be 20 percent of the average cost of a day in a nursing home. Currently about 2 percent of Medicare beneficiaries—about 600,000 people—qualify for SNF coverage each year, and about 7,500 exhaust SNF benefits.

DRUG COVERAGE

Adds broad Medicare coverage of outpatient prescription drugs. Beginning in 1989, Medicare would pay 80 percent of the cost of all federally approved prescription drugs, biological products and insulin, after the beneficiary has met a $500 deductible. Almost 5 million Medicare beneficiaries spend more than $400 annually on prescription drugs, with the average annual cost of medication exceeding $900.

RESPITE CARE

Extends Medicare to cover up to 80 hours per year of respite care for unpaid care givers. The benefit would pay for the temporary services of a home health aide to provide a respite for a spouse, relative or friend caring for a Medicare beneficiary who cannot be left alone.

MENTAL HEALTH SERVICES

Increases from $250 to $1,000 annually the amount Medicare part B will reimburse beneficiaries for mental health coverage.

SPOUSAL IMPOVERISHMENT

Increases the income an individual may keep when his/her spouse is institutionalized and the care is paid for by Medicaid. The spouse who remains in the community would be permitted to keep income equal to at least 150 percent of the Federal poverty threshold for a family of two and at least $12,000 in liquid assets.

The need for this legislation is evident, especially as seniors comprise a greater percentage of our Nation's total population. I urge my colleagues to join me and a number of groups, including the American Association of Retired Persons, the National Council of Senior Citizens, the American Federation of State, County and Municipal Employees, the Older Women's League, and the American Psychiatric Association, in supporting this important bill.

Mr. MOAKLEY. Mr. Chairman, I rise in strong support of H.R. 2470, the Medicare Catastrophic Protection Act of 1987.

Catastrophic illness causes a great financial burden on most families; 37 million people are uninsured for basic health care, while nearly 200 million people, 85 percent of the American people are underinsured against catastrophic illness.

I strongly believe that it must be a top priority to protect individuals from the financial devastation that results from a catastrophic illness. The Medicare Catastrophic Protection Act of 1987 is a good bill which meets a real need in a responsible way. I commend my colleagues on the Ways and Means Committee for their commitment to providing protection to individuals who will be burdened by the staggering out-of-the-pocket costs associated with catastrophic illness.

Additionally, I support the provision to improve Medicare's mental health benefits by raising the reimbursement for outpatient mental health services from $250 to $1,000 each year. The Medicare catastrophic health bill is the appropriate and reasonable vehicle to improve benefits for individuals suffering from mental illness.

I urge my colleagues to vote for the H.R. 2491, the Medicare Catastrophic Protection Act of 1987 which is long overdue.

Mr. BALLENGER. Mr. Chairman, the House is debating today Resolution 2470, the Catastrophic Protection Act. Instead of protecting senior citizens, what this bill does is improve a new tax on the elderly.

Under this bill, 40 percent of the elderly would be taxed to pay for 100 percent of the additional health benefits. To get to this point, all senior citizens would pay a surtax of up to $580 a year.

These costs are estimated to be even higher in future years.

Even after the elderly had paid the extra taxes, we would still not have enough money to cover the cost of the program.

Senior citizens would have to pay for Medicare part B even if they do not elect this option. If they are legitimate taxpayers, every senior citizen will pay this surtax.

And those who do not elect this coverage—although they will pay the surtax—will not be eligible for catastrophic coverage offered under this part of the bill.

Furthermore, this tax cannot count toward a medical expense under present income tax laws.

This bill is offered as a cure for all the ills of the elderly. Obviously, that's not the case. For some senior citizens, it will mean that they will pay more taxes and get nothing in return.

I urge you to support the substitute.

Mr. KOSTMAYER. Mr. Chairman, the costs of health care for senior citizens is often overwhelming. We all know of cases in our districts where a severe and long-lasting illness has wiped out the lifetime earnings of a family. This legislation recognizes this problem, and proposes a fiscally responsible—yet compassionate solution.

President Reagan addressed the issue of providing catastrophic care for our senior citizens in his State of the Union speech last January. Congress has worked in a bipartisan way to insure that the needs of senior citizens are met in this landmark legislation.

This bill before us, does the following:

Places a $1,798 cap on out-of-pocket costs for all services covered by Medicare.

Eliminates copayments for inpatient hospital care.

Provides unlimited hospital stays, an important improvement over current Medicare coverage.

Requires only one deductible per year at $544 for inpatient hospital care.

Places a $1,043 cap on payments for physician and other outpatient services.

Covers 150 days per year of nursing home care.

Does not require prior hospitalization for admittance into a nursing home, an important change from current law.

Requires copayments of $24 per day for 7 days with no further copayments after that for nursing home care.

Pays 80 percent of outpatient prescriptions drug costs after the beneficiary pays $500 for drugs per year.

Provides 80 hours per year for home health services in order to relieve an unpaid care provider.

The bill is, therefore, a major improvement over the current Medicare Program. In the event of catastrophic accident or illness, a family can anticipate that total expenses will be capped. The potential of financial ruin to pay hospital bills need not worry older Americans any longer.

For the first time, Mr. Chairman, Medicare will cover outpatient prescription expenses. Prescription medicines are a major budget item for seniors and the rising cost of medicine is something about which I hear all the time from my constituents in Bucks and Montgomery Counties in Pennsylvania.

Unfortunately, the bill does not address a major problem–the expenses of long-term nursing home care. The bill does cover 150 days of nursing home care per year, but the fact of the matter is senior citizens—and their children—can often ill afford the exorbitant costs associated with extended nursing home stays. This is a problem which demands the continued efforts of the Congress and the government to remedy.

On the whole, however, Mr. Chairman, this bill is a great achievement. It is a victory for all seniors who have lobbied for its passage, who have sought Medicare protection for the expenses of catastrophic illness.

The American Association of Retired Persons, the National Council of Senior Citizens, the Consumer Federation of Amercia, the Consumers Union, and the National Consumers League all support this legislation.

I urge my colleagues to vote in favor of this landmark Medicare Catastrophic Protection Act.

Mr. BONER of Tennessee. Mr. Chairman, I rise in strong support of H.R. 2470, the Medicare Catastrophic Protection Act.

Like many of my colleagues, I have learned through my talks with our older Americans that one of their greatest fears is being devastated financially as a result of a chronic or prolonged illness. Such fears are well founded.

As we have seen in the last decade, health care expenses have risen dramatically. But, as Medicare has covered a decreasing portion of these health care costs, older Americans have had to dig deeper into their pockets to make up the difference or have had to forego some medical services altogether.

Today, Medicare pays only 45 percent of the health care expenditures incurred by the elderly. This statistic, however, disguises the fact that Medicare protections are inadequate for older Americans with chronic conditions or those in need of long-term care.

The number of older Americans is increasing, particularly those over the age of 75. And, as the number of older Americans increases, it is critical that Congress revisit the Medicare Program and bring it up to date with the needs of these Americans as well as up to date with the technological medical advances of the last 22 years.

One of the major shortcomings of the current Medicare Program is its lack of coverage for long-term care. Many of the families with whom I have spoken have expressed the fear of financial catastrophy that may befall them in trying to provide adequate long-term care for their aged parents or spouses.

Another shortcoming is the current program's lack of coverage for self-administered prescription drugs. Older Americans use 30 percent of all prescription drugs in this country, and use them at roughly three times the rate of younger Americans. As repeatedly expressed to me, many older Americans have chronic conditions that require them to take expensive medication on a regular sustained basis in order to remain alive or to maintain a level of functioning. Fewer than half of all older Americans have insurance or some other form of financial assistance to help them pay the costs of these drugs.

Armed with these two major priorities, as well as information about other inadequacies in the Medicare Program, the Energy and Commerce and the Ways and Means Committees have reported a bill to plug some of these gaps.

H.R. 2470 places an overall limit on out-of-pocket expenses for services covered by Medicare. In addition, the bill extends Medicare coverage to some prescription drugs for the first time. And, of particular significance is the reform proposed for care in a skilled nursing facility.

Mr. Chairman, I am pleased to speak in support of this major legislative initiative. I commend the members of the two authorizing committees for their work and I especially want to thank the many Americans with whom I have spoken for sharing with me their fears, their hopes, and their suggestions for improving the Medicare Program.

Thank you.

Mr. HOWARD. Mr. Chairman, today a very significant piece of legislation is being considered by the House. This bill, H.R. 2941, the Medicare Catastrophic Protection Act, is designed to increase the range of Medicare and Medicaid coverage through decreased out-of-pocket expenditures for the elderly in the areas of prescription drugs, hospitalization stays, and outpatient care. The growing cost of outpatient care is causing considerable concern, and in keeping with Medicare's original purpose to aid the elderly with rising medical expenses, I strongly support this effort to update these policies.

Of special interest in this bill is the provision improving mental health care benefits. This section raises the Medicare mental health benefits cap from $250 to $1,000 per year and maintains the 50 percent copayment. The combination of recent medical breakthroughs in the field of mental health and increases in insurance coverage as proposed by H.R. 2941 will improve the care and treatment of the mentally ill and make it more accessible to all. Providing funds for mental health care has sometimes been overlooked in the past and that is why this provision is so important to the families affected by mental illness each year.

Recently, increases in medical benefits have not kept pace with the climbing costs of medical care. I believe H.R. 2941, with its provisions for mental health care, is evidence of a major effort by Congress to accept responsibility for providing catastrophic health care for the elderly, and I fully support this endeavor.

Mr. COLEMAN of Texas. Mr. Chairman, the catastrophic health care costs faced by the elderly have skyrocketed in recent years. In 1977, out-of-pocket health costs by the elderly totaled $12.7 billion; by 1984, they had reached $30.2 billion, an increase of 138 percent in just 7 years.

These costs have increased for a number of reasons. The cost-sharing requirements of Medicare have gone up in recent years, and the number of elderly people in nursing homes has increased as well. Furthermore, there has been a rapid escalation in the costs of prescription drugs, which are currently not covered at all by Medicare.

Private insurance policies, sometimes known as MediGap coverage, have failed to prevent the ever-widening gap between actual costs and the elderly's ability to pay. In 1984, private coverage paid for only 7 percent of the elderly's total health care bill, and more than 20 percent of Medicare enrollees have neither MediGap nor Medicaid coverage to supplement Medicare.

The cost of prescription drugs is a matter of special concern. Almost all of these costs are paid by the elderly out-of-pocket. Almost 5 million Medicare beneficiaries spend more than $400 annually on prescription drugs, with an average total bill that exceeds $900.

This legislation places an overall limit on out-of-pocket expenditures by the elderly for health care services covered by Medicare, including hospitalization, doctors' services, other outpatient care, and limited stays in skilled nursing facilities. In 1989, the first year in which all provisions would be in effect, the overall limit would be $1,798, and it would be adjusted for inflation in subsequent years.

The expanded Medicare benefits would be financed entirely by the Medicare beneficiaries themselves. It does not represent a tax increase on the general population. The existing premium for Medicare coverage under part B would be increased, and a supplemental premium would be established that is tied to income and administered through the existing income tax system, thus eliminating the need for another costly bureaucracy.

This legislation is far more comprehensive than either the administration's proposal or the Republican substitute on the floor today. The administration would place a cap of $2,150, compared to this cap of $1,798. But unlike this bill, the administration's plan includes no prescription drug benefit, no respite care, no improvements in the home health care benefit, and no improvements in the mental health benefit. The administration's plan is a step in the right direction, but it falls short of our goal.

The Republican substitute includes a cap of $2,000 in 1988, which would then be indexed to the medical cost inflation in subsequent years. Furthermore, while H.R. 2941 provides that a Medicare beneficiary may not be required to pay more than one hospital deductible a year, the Republican substitute's limit is two deductibles a year.

I am concerned that the substitute does not establish Medicare coverage for large prescription drug expenses, and it does not include the provision that extends the Medicare hospice benefit beyond the current 210-day limit when a beneficiary is recertified as terminally ill.

I also want to express my opposition to the Jacobs amendment, which would increase the cost of the bill by more than $500 million between fiscal year 1989 and 1992. It would cause higher cost, brand-name drugs to be dispensed more often, and it specifically targets Medicare beneficiaries for this treatment. This amendment would result in a direct transfer of $500 million from the pockets of the elderly to the brand-name drug companies. It is unnecessary, and it increases the Medicare costs borne by the elderly and the disabled without providing them with any additional benefits.

Mr. Chairman, I believe the committee bill without the Jacobs amendment is more carefully tailored to avoid overburdening those elderly least able to bear additional financial strain. It bases its financing on the ability to pay, whereas under the Republican substitute, the poor elderly will in effect be subsidizing the costs of the rich. This is unfair and unnecessary, and while the substitute is indeed a step in the right direction, the committee's bill is far better, and I urge my colleagues to adopt it. Thank you very much.

Mr. FORD of Tennessee. Mr. Chairman, mental health improvements in H.R. 2470, the Medicare Catastrophic Protection Act of 1987.

The Medicare Catastrophic Protection Act that we are voting on today contains many very important provisions for the improved care of our elderly and disabled. I would like to draw particular attention to a major change within this bill for those with mental and addictive disorders.

By expanding Medicare's outpatient mental health benefit, we have given our elderly and disabled Medicare beneficiaries a chance to take advantage of the exciting new breakthroughs that have occurred in the treatment of mental disorders. For example, researchers have demonstrated that the memory loss and other cognitive deficits associated with Alzheimer's disease may be modifiable with medication and that more than 85 percent of all severe depression may be effectively treated with psychopharmacology and psychotherapy. In addition, the genetic bases of major mental illnesses such as manic depression have been identified. With more adequate outpatient mental health coverage these advances are now more accessible to Medicare beneficiaries. We are now taking a first step on the legislative journey toward nondiscrimination for the mentally ill.

I think it is important that the Congress recognized the need that all Medicare beneficiaries, including the mentally ill, have for catastrophic protection. I look forward to continued commitment to mental health concerns.

Mr. MATSUI. Mr. Chairman, I would like to take this time to speak in favor of the Medicare Catastrophic Protection Act, and call particular attention to mental health provisions included in this important piece of legislation, designed to aid Medicare beneficiaries with mental or addictive disorders.

Recently, breakthroughs have been made in the treatment of mental disorders. For example, it has been shown that most cases of severe depression can be effectively treated with medication and psychotherapy. Also, it has been demonstrated that much of the memory loss experienced as a result of Alzheimer's disease can be modified with medication. This bill expands coverage for outpatient mental health, which is vital to ensure that our elderly and disabled are allowed to take advantage of these new developments.

I urge my colleagues to support the Medicare Catastrophic Protection Act. This is the first step in catastrophic protection for all Medicare beneficiaries as well as the first important changes made for beneficiaries with mental disorders since the inception of this program.

Mr. DOWNEY of New York. Mr. Chairman, we have a unique opportunity today with our consideration of the Medicare Catastrophic Protection Act to end the discrimination that has existed against the mentally ill since the inception of the Medicare program.

For too long the mental health care needs of the elderly have been unmet. Between 15 to 20 percent of older Americans, who are particularly vulnerable to emotional suffering, have significant mental health problems. However, senior citizens receive only 7 percent of inpatient psychiatric services, 6 percent of community mental health services, and 2 percent of services delivered in private psychiatrists' offices.

Proper treatment of mental health problems for the elderly has been severely limited because of the dark-ages approach we have allowed Medicare to take toward mental health. Our understanding and treatment of mental health disorders has advanced significantly since 1965, when Congress enacted Medicare. But the discriminatory limits for both inpatient and outpatient treatment of mental health problems have never been changed.

I have introduced the Medicare Mental Illness Nondiscrimination Act in each Congress since 1979. However, today we are on the verge of bringing Medicare into the 20th century on the mental health question. The Medicare Catastrophic Protection Act, as a result of action by the Committee on Ways and Means and the Energy and Commerce Committee, includes major improvements in the Medicare mental health benefit. These changes essentially raise the current $250 outpatient cap for mental health problems to $1,000. While I think we ultimately need to do away with limits on both the inpatient and outpatient treatment of mental disorders, H.R. 2470 will improve access to mental health care for millions of senior citizens. That is why I urge my colleagues to support H.R. 2470.

Mr. BROWN of California. Mr. Chairman, I rise in support of H.R. 2470, the Medicare Catastrophic Protection Act of 1987.

This compromise proposal would provide protection for over 31 million of our Nation's Medicare beneficiaries. No longer will they need to fear the overwhelming, and for many, prohibitive, financial burden of catastrophic coverage. H.R. 2470 would provide for enhanced Medicaid protections for the poor; expand home health, mental health, and hospice benefits; eliminate the 3-day prior hospitalization requirement for skilled nursing facility [SNF] care; and expand Medicare coverage to include an out-patient prescription drug benefit.

The measure includes Medicare payment of all Medicare-covered services, once a beneficiary exceeds $1,043 in out-of-pocket payments for Medicare part B services, and one hospital deductible per year under the Medicare part A program. The benefits would be financed by the elderly and disabled through two premiums, one income-related and the other a flat add-on to the Medicare part B premium. This financing mechanism will assure that all costs are fully covered each year, and has received the support of the American Association of Retired Persons and numerous other senior citizen groups.

The cost of nursing home care alone is overwhelming, ranging up to $30,000 annually per person. This is a price that few families, however willing, are able to afford. At present, the only way an elderly person can become eligible for Federal assistance in paying nursing home costs is to become impoverished first. Only by selling all assets—to $1,800 for an individual and $2,600 for a couple—can a person qualify for that nursing home assistance under Medicaid, the Federal health care program for the poor. It is worth noting that these costs, not to mention the number of elderly, will balloon in coming years. The number of elderly Americans is predicted to more than double over the next 50 years, from 26 million to almost 67 million.

Mr. Chairman, it is important for eveyone to realize that it will not be only the elderly who will bear this great burden. High, prohibitive costs for catastrophic care will threaten the financial stability of both young and old, affecting all American families. H.R. 2470 would set an adequate catastrophic coverage system in place to deal with the health care issues that ultimately affect us all.

While concerns about catastrophic illness are not new, plans to address these concerns are. Today's Medicare system, while clearly a boon to the elderly and disabled, is nevertheless inadequate when it comes to acute care coverage. Although the House is considering other, more comprehensive plans, the legislation before us is a strong compromise resulting from great efforts by the Speaker and the Committee on Ways and Means, Energy and Commerce, and Aging. As my honored colleague Mr. ROYBAL has pointed out, the General Accounting Office report on catastrophic proposals contains the key finding that virtually all of the current congressional bills have shortcomings regarding complete catastrophic coverage. I urge my colleagues to support H.R. 2470 on its merits, which are many. We must take advantage of the national momentum surrounding the issue of catastrophic care to offer our Nation's senior citizens decent health care that will not compromise their financial security.

We must honor our commitment to the Nation's seniors. We have a vital responsibility to care for those who for so long have cared for us. With age should come respect, and how better to demonstrate that respect than with the chance to provide our seniors with vastly increased health benefits. Again, I strongly support the passage of H.R. 2470 and urge its acceptance by my colleagues.

Mr. LUJAN. Mr. Chairman, this catastrophic care measure before the House today may turn out uo be the most widereaching legislation to be enacted by this 100th session of Congress. Directly affecting over 30 million Medicare beneficiaries, it is clear that this legislation, as envisioned by President Reagan, will have an impact on us all.

I recognize that this legislation is the product of much work and much compromise. To keep this carefully negotiated package from unraveling, no nondesignated floor amendments to this bill were allowed during its consideration. This barred me from offering amendments to this bill to eliminate provisions that negatively affect New Mexicans.

The first problem centers on the March 1, 1987, date by which States must have a spousal impoverishment statute in place for persons to elect to, in lieu of terms in this bill. This is found in section 214(a)(4). The second is the Medicaid eligibility requirement: a couple's income provided in one spouse's name is considered the sole income of the named spouse for the purposes of determining his or her Medicaid eligibility, even in community property law States like New Mexico. This is in section 214(b)(2)(A)(i). These provisions fall within section 302 of the adopted Ways and Means amendment, H.R. 2941.

The New Mexico State House and Senate unanimously passed a law in their 1987 legislative session allowing retention of $30,000 to avoid the impoverishment of the community spouse. New Mexico's Governor signed this popular bill, H.B. 279, into law on March 11, 1987, and it became effective on July 1, 1987. Because this measure, now 1987 N.M. laws, Ch. 16, section 27-2-12.2, was not signed before March 1, 1987, under H.R. 2470, New Mexicans cannot elect to use their State law instead of the formula in this bill. I would like to see this result changed.

The second change I seek is that when computing income for the purposes of determining Medicaid eligibility for institutionalized spouses, income be characterized consistent with the laws of that State. Because New Mexico is a community property State, income to a spouse is income to the community. For this reason, Medicaid eligibility should not be determined by presuming the income to the institutionalized spouse is solely the property of the spouse whose name is on the instrument, as directed in H.R. 2470. A recent Federal court decision reaches a comparable result.

I alerted the Committee on Energy and Commerce to these problems as soon as I learned of them. It is my understanding that the the other legislative body has yet to take final action on this measure. I am working to see that these matters can be adequately addressed. I am optimistic that it can be done. Catastrophic health care protection is timely legislation that can only grow in importance as we live longer and fuller lives.

Mr. SAXTON. Mr. Chairman, I rise today in support of H.R. 2470. It is not a decision which I have come to easily nor without a great deal of deliberation and communication with the senior citizens I represent.

During the past weekend break, I met with seniors throughout my district. It is apparent to them, as it is to me, that there is an obvious need for additional health coverage, particularly in the area of long-term care.

The high cost of medical treatment today is unprecedented. While individuals on fixed incomes struggle to maintain themselves, the occasion too often occurs wherein those individuals are forced into impoverishment by the necessity of paying impossibly high medical bills.

Our current Medicare system has offered important assistance. However, it falls far short of providing the level of assistance necessary in a world of rapidly rising medical costs.

H.R. 2470 is a step in the right direction. But by no means is it a perfect bill.

Let me elaborate on some objections which have been raised. Perhaps heading the list is the lack of provisions for comprehensive long-term nursing and home health care. Many elderly individuals who become seriously ill or develop chronic conditions that demand ongoing care and assistance are currently unable to receive benefits to cover these very expensive services. Although H.R. 2470 offers important acute care protection in the hospital and expands the skilled nursing facility benefit and the home health benefit, many of the elderly are still at risk of incurring catastrophic health bills in these areas.

There are also examples of unfairness in the proposed legislation that concern me. For exmaple, there are older Americans who carefully planned for retirement, often with the help of their former employers. These benefit packages often include health insurance protection which is duplicated in this bill. It does seem unfair to those who have planned for and already have coverage, to have no choice but to pay additional premiums as imposed in H.R. 2470. I believe a better plan would be optional.

Additionally, the schedule for supplemental premiums to support part A of Medicare under this bill are certainly burdensome to middle class American senior citizens. Persons with adjusted gross incomes [AGI] under $6,000 pay no supplemental premium. Keep in mind that adjusted gross income is not the same as total income. The upper income cap on the supplemental premium means that persons with AGI of, say, $30,000 pays the same premium as persons with AGI of $14,000.

Finally, fairness should be provided for retirees who have retirement income from sources other than Social Security. Social Security beneficiaries get preferential treatment under the part A premium plan because Social Security benefits are never fully taxed, and most often, not taxed at all. This means that retirees who do not receive Social Security benefits or have Social Security benefits coordinated with Federal Retirement programs have much higher part A premiums.

In spite of these problems, this bill does provide much needed benefits: hospital coverage with few if any copayments; care in a skilled nursing facility extended to 150 days of coverage; a $1,043 per year cap on part B (outpatient) coverage; additional home health care coverage and a prescription drug plan for the elderly with high prescription drug bills. The bill also offers a new respite care benefit to aid a person caring for a Medicare beneficiary who cannot be left alone. These features are so necessary to those with serious illness.

H.R. 2470 also contains vital protection of a spouse of an institutionalized individual from impoverishment when their husband or wife enters a nursing home. We all know of horror stories of couples who were forced to spend down their income and savings to qualify for Medicare in order to meet the high costs of nursing home care. This bill allows the spouse in the community to retain at least $925 per month in income and $12,000 in liquid assets.

And, importantly, we will continue to push for coverage of comprehensive home health and nursing home care. This bill establishes a 15-member bipartisan commission to make recommendations for legislation regarding comprehensive health services. It also authorizes funds to support research on the delivery and financing of long-term care.

On balance, and again while not perfect, this bill is deserving of support.

Mr. Chairman, it is very likely that this bill will pass the House today. And it looks as though the other body will pass a much different version of this bill. The final bill will then be considered by a joint conference committee. Hopefully at that time, many of the problems which remain unresolved will be corrected.

Despite my reservations, I will vote in favor of this bill not only because of its beneficial provisions but also to continue the process toward an acceptable end result. Our senior citizens deserve to be able to live their retirement years without the constant worry of how to pay for long-term illness. This vote is an important first step in the process of meeting the comprehensive health care needs of our Nation's senior citizens. But, much remains to be done to correct the problems which I have pointed out today.

Mr. LANTOS. Mr. Chairman, today, the House is considering legislation which will make catastrophic health coverage available under the Medicare Program. I welcome these proposals and, in particular, the mental health benefit contained in H.R. 2470.

The mental health provision will expand Medicare's maximum reimbursement for outpatient mental health services from $250 to $1,000 per calendar year. The present limit, established in 1965, is worth less than $60. It is clear that a change in this benefit is long overdue. New breakthroughs in the treatmnt of mental illness mean that more sophisticated techniques are available rather than simple hospitalization which was formerly resorted to.

Mental illness is one of the most common illnesses in the United States today. At any given time more than 10 percent of the population is affected by serious mental disorders that could benefit from professional treatment. The direct cost of mental illness was estimated to be $33.4 billion in 1983. It is long overdue for the United States to address mental health and accord it the same importance as physical health.

The Catastrophic Protection Act is an important first step in giving seniors access to mental health care. I will give it my full support, and urge my colleagues to join me.

Mr. LAGOMARSINO. Mr. Chairman, I rise in opposition to H.R. 2470 for one very simple reason. In its current form, it represents bad public policy. I strongly support catastrophic health insurance but frankly, our senior citizens deserve better from their Representatives in Washington than passage of legislation like this. It establishes a mandatory tax to finance a major expansion of the Medicare Program that most of them won't even use. It just doesn't make much sense to me.

I very much want to support efforts to better provide for the health care needs of our Nation's elderly. And I will vote in favor of a bill that does so without increasing their taxes and threatening the long-term solvency of the Medicare System. Hopefully, such a bill will emerge from the conference committee should we get that far. However, in the meantime, I cannot in good conscience cast my vote in favor of H.R. 2470.

Mr. BILBRAY. Mr. Chairman, through creative use of Government and private initiatives much has been done to improve the lives of millions of our senior citizens. However great that accomplishment is, it would be a mistake to infer that older Americans are now insulated from the high cost of health care. In fact, Medicare today covers less than one-half of the total elderly health care bill which will likely approach $170 billion in 1987. Although Medicaid picks up another 13 percent, the beneficiary himself is responsible for fully one-third of the total, either directly out-of-pocket or indirectly through private health insurance premium payments.

In my State of Nevada, where hospital costs are the highest in the Nation, the burden to our senior citizens is certainly catastrophic. However, through the efforts of Nevada's Governor, which I have supported and continue to support, Nevada has been able to arrest the escalating cost of health care. Now Congress must help us fight high health care costs at the Federal level.

Realizing this, I support the Medicare Catastrophic Protection Act of 1987, as a long overdue step in the right direction. This bill assures the elderly and disabled Medicare beneficiaries that catastrophic hospital, physician, and drug bills will not wipe out the savings of a lifetime. It means that those living on modest and fixed incomes will not have to forgo needed medical care because the cost is too great. It removes the fear of bankruptcy from unexpected illness from the lives of millions of senior citizens and their families.

However, we cannot be lulled into the belief that we have won the war against catastrophic health care for the elderly, when in fact we have only just begun to fight.

I support this bill, which is much needed and long overdue. But this is not the end of this issue. Not while 80 percent of catastrophic health care expenses are for long-term care provided outside of hospitals. Therefore, as my friend and colleague CLAUDE PEPPER has, we must continue to address the overwhelming need by affording home care assistance to chronically ill elderly and disabled. I believe we can meet this need at a future time, by taking the next logical step in the war against catastrophic health care for the elderly, which will be to accept Chairman PEPPER's proposals on long-term care.

Mrs. LLOYD. Mr. Chairman, I would like to commend everyone who has had a part in bringing the catastrophic health care issue before this House today. The list of people who have been involved in this effort is too long for me to mention everyone by name. Among those at top of this list are DAN ROSTENKOWSKI and JOHN DUNCAN who deserve a major share of the credit for giving the House an opportunity to work its will on a catastrophic health care plan. Then we have collectively other Members of the House and Senate committees that have legislative jurisdiction over the Medicare Program, and the Select Committees on Aging that helped to maximize public involvement in the dialogue by holding hearings throughout the country. As a member of the House Aging Committee, I was proud to involve the people of my Third Congressional District in discussing ways by which this Congress could help to make the Medicare Program more responsive to their needs and expectations.

We have now come to the moment of decision. We have before us two proposals, the committee bill and a substitute, each of which seeks to establish a catastrophic limit under the Medicare Program.

In some respects the two proposals are very similar. Both of them provide 365 days per year of hospital benefits, and eliminate certain copayments. Both establish a cap on patients' out-of-pocket expenses for services currently covered by Medicare; expand the Medicare home health benefit; and, protect the community spouses of Medicaid-eligible nursing home residents from impoverishment.

But, beyond these similarities, there are significant differences between the two proposals. By relying primarily on increases in the part B premium to finance improvements in coverage, the substitute would put a heavy burden on the majority of older people who are already struggling to make ends meet on limited incomes. In return, a small percentage of the elderly—those living at or below 150 percent of the Federal poverty line—would receive prescription drug coverage through the Medicaid Program.

By contrast, the committee proposal contains a progressive financing mechanism that spreads the cost of coverage in proportion with the ability to pay. In return, all beneficiaries would receive prescription drug coverage under the Medicare Program, in addition to lower catastrophic limits ($1,798 in 1989 as compared to $2,150 under the substitute), expanded care in skilled nursing facilities, up to 80 hours per year of in-home assistance for the chronically dependent, additional mental health services and hospice care for the terminally ill.

The committee bill also takes additional steps to protect the needy by requiring the Medicaid Program to pay for Medicare premiums and coinsurance for the elderly and disabled with incomes below the Federal poverty line.

Contrary to what critics of the prescription drug plan are saying, the committee bill does contain a cost control mechanism that will ensure that the drug deductible will rise if the costs of the benefit escalate beyond current CBO projections.

There are provisions in the substitute proposal that I support, and I hope they will become part of the final bill. I refer to those provisions in the substitute which will promote the availability and purchase of long-term care insurance products. All of us here are painfully aware of the fact that Medicare, as an acute care program, provides little if any help for those who suffer from chronic illnesses such as Alzheimers disease. About half of our Nation's elderly are economically vulnerable mostly as a result of under-insurance for the catastrophic health care expenses associated with long-term, chronic health problems. At present there is a dearth of health plans that adequately insure the cost of long-term care at the intermediate skill level. Financing intermediate care has become a national dilemma, one that has been magnified by our inability to even begin to address it within the constraints of budget neutrality.

If we can't deal with it, then we should be taking steps to encourage the private sector to fill the vacuum. To do that, we need to offer incentives such as those that are proposed in the substitute. Employers and employees should be allowed to exclude payments for group insurance from their taxable income. Individuals should be allowed to make tax-free use of assets from IRAs and life insurance policies to purchase long-term care insurance, and we should consider establishing tax-favored health care savings accounts and a federally chartered corporation to reinsure the writers of long-term care policies against excessive risks.

I realize that the committee bill does create a commission to study the crisis in long-term care. However, I think most of us have already faced the fact that we cannot begin to solve this crisis without the private sector, and I, for one, believe that we desperately need to get things moving now before the situation gets totally out of control.

I think we owe the American people more than just the promise that we will do something about long-term care somewhere down the line. This is a "front burner" issue and deserves to be treated accordingly by the House, by the Senate and by the administration. It is my hope that the final product of the Congress will include some meaningful steps toward resolving the long-term care needs of the American people.

Mr. INHOFE. Mr. Chairman, today we are considering H.R. 2470, the Medicare Catastrophic Protection Act, the most dramatic expansion of the welfare state since FDR introduced Social Security. We are being called upon to increase the coverage of benefits to our country's elderly to cover catastrophic health costs. Unfortunately, these new benefits will be paid for through a massive income tax increase imposed exclusively on the elderly. The bill calls for a new "mandatory supplemental premium" which would apply to all Medicare beneficiaries.

This new tax would start for individuals whose income is just $6,000 per year and the maximum tax of $580 per year would apply to elderly persons with incomes of $14,166. In stark contrast, the President's catastrophic health bill would require only a modest $4.92 a month premium. Let's compare the two bills:

H.R. 2470—would provide insurance to the elderly by imposing a new $580 annual tax.

President's plan—would provide insurance at an annual cost of less than $60 a year in additional premiums.

It is my view that elderly Americans need catastrophic health protection but they do not deserve substantial tax increases to pay for coverage which the majority of them will not need. I suggest we look not just at the end result of our goals, but at the means by which we intend to achieve this result.

Health and Human Services Secretary Bowen convinced the administration last February to endorse a plan to cap a patient's cost for Medicare-covered benefits at $2,000 a year. Projections of the taxpayer cost of this original bill, according to HHS, was to be $2.3 billion in 1988 with an increase to $12.1 billion and $54 billion in the years 2000 and 2010, respectively. This was, however, as the bill stood before being marked up by the House Ways and Means Committee. As you will see, marked up is used a bit euphemistically, because the bill certainly didn't loose any weight in committee.

As currently written, the bill would provide funds for an unlimited hospital stay after payment of $520 deductible. It also limits to $1,043 annually the amount beneficiaries have to pay for physician fees and outpatient services. Not to be outdone by such landmarks, the House Energy Subcommittee on Health added a provision mandating that Medicare pay 80 percent of the cost of outpatient prescription drugs after beneficiaries pay a $500 a year deductible.

The preliminary HHS estimate of this final draft projects a boost in spending to $13.1 billion in 1989, rising to $52.8 billion a year by 2000 and over $205 billion annually by the year 2010! The Treasury Department translates this into a $20 billion Medicare trust fund deficit by 2005!

But what of the elderly and disabled poor? They are the ones who we are trying to help. Let's look to see what this legislation means to them. Most of the funds for this insurance are provided through a massive tax increase on our senior citizens. In fact, 58 new tax brackets would be added! In all, a fivefold increase in annual Medicare premiums is what we are passing on to our Nation's elderly.

I think there is a better way! We need not raise taxes on the Nation's elderly for health care coverage. The President submitted a catastrophic health plan that would have provided necessary coverage at a modest $4.90 monthly premium. The President's plan would have limited out-of-pocket expenses to $2,000 annually for those who decide to participate in the plan.

Instead, our senior citizens are being stuck with a new tax hike of over $30 billion during the next 5 years to pay for the more liberal health plan. H.R. 2470 would also provide coverage for prescription medicines. This type of insurance already exists in the private market but is not purchased. Why? Because most elderly choose not to buy such coverage because it is simply not worth the cost to them. In all, I doubt very seriously that the so-called beneficiaries of this legislation will see the increase in their taxes at all essential when it pays for services which they are able to receive at better quality and price in the private sector.

I suggest that we think about what we're doing for a change. If this legislation is passed we are almost assuredly increasing our Nation's deficit while instituting massive tax hikes on our Nation's elderly, and for what? The answer—to duplicate coverage already enacted in a much more efficient private sector. In this instance, we are accomplishing the wrong ends with completely unacceptable means. If you value the opinions of your constituents who beg you not to increase the Nation's debt, and if you have any regard for the elderly who hold down the basic foundations of this country, I urge you to defeat this legislation.

Mr. GALLO. Mr. Chairman, I come here today with very mixed emotions about the actions we are being asked to take on H.R. 2470, the Medicare Catastrophic Protection Act of 1987.

As a long-time advocate of programs that protect our senior citizens from the fear and uncertainty associated with severe or long-term illnesses, which can ruin the financial, as well as the physical, health of an individual and his or her family, I support the spirit of the program that would be created under this legislation.

This bill does provide many necessary benefits that will protect senior citizens from financial ruin due to a serious illness. Specifically, the bill limits out-of-pocket hospital expenses to a single deductible [$580 in 1989]; limits out-of-pocket spending on physician and outpatient services covered by Medicare to $1,043 per year; payment for prescription drugs after a $500 deductible and with a 20 percent coinsurance requirement; provides up to 80 hours of respite care; improves Medicare coverage of home health services, mental health services, skilled nursing care, and hospice care.

While all of these benefits are deserving of support, I have grave reservations about the question of who will carry the burden of taxation to pay for this program.

In fact, I am appalled by the funding mechanism chosen by the Ways and Means Committee to pay for the catastrophic health care program. I expressed these strong reservations in an April 30, 1987, letter to the ranking member, Representative GRADISON, and I am saying today that I would be unable, in good conscience, to continue to support this legislation in its present form, if the Senate does not act to fix the serious flaws in the funding provisions.

This funding mechanism, which will tax Medicare-eligible individuals with income above $6,000 on a sliding scale and impose a maximum surcharge on persons with incomes over $14,166, is nothing more than a self-perpetuating hidden tax on the middle class.

Our senior citizens have been sold a bill of goods. They have been told loudly and clearly what they will get from this bill, but they have not been told what they will pay.

I support the Republican alternative catastrophic health bill, because I believe that it is much closer in letter and in spirit to the plan developed after much study by Health and Human Services Secretary Otis Bowen than is H.R. 2470. I have a great deal of faith in Mr. Bowen's efforts, having had input in the development of his plan. His positive response to the recommendations of my New Jersey home health care task force concerning the needs of our senior citizens has been most gratifying and I, in turn, respect his feelings concerning the bill before us today.

After a great deal of soul searching, I have chosen to vote for this legislation, because I believe that our senior citizens need to be given the best possible health care coverage at the lowest possible cost.

I am totally opposed to the hidden tax on the middle class included in this bill, because I believe that it will lead to higher and higher taxes for less and less coverage—exactly the opposite result.

Members of my home health care task force last year found that senior citizens have not been given the straight story about health care coverage for quite some time. I sponsored a bill to address that problem and, obviously, my bill is needed now more than ever.

My bill, H.R. 977, would create a nationwide public awareness campaign to help senior citizens at the grassroots level to plan for their future health care needs.

I believe that, if my program were in place and senior citizens from across the country were given the information they need to make a proper evaluation, they would be reacting with shock and displeasure against this proposal, which promises relief from high costs by proposing higher taxes.

The Ways and Means proposal continues the theme of the majority leadership, which says to the middle class, "How may I tax you, let me count the ways."

This plan places a mandatory tax on senior citizens with incomes over $6,000 and those with incomes over $14,166 will pay as much as $580 each in new taxes next year on top of the $264 basic Medicare part B premium. Senior citizens in the solid middle class are going to be dragged into the ranks of the poor if we choose to place a mandatory tax of $844—triple the current costs—on these people who are just getting by as it is.

As scary as these figures are, it will get worse. Because the tax is capped for the first year, this onerous tax could skyrocket to as much as $1,160 by 1990.

Like other automatic taxing mechanisms, this new health tax will eat up the savings of the middle class. With that kind of increase, we will tax our middle class senior citizens into poverty by the end of the century.

This plan places a double tax on civil service and other employees already covered under other health care plans.

Because of the disability clause in Medicare, this plan also has the potential of placing the total burden of paying drug benefits for AIDS patients, at an average cost of $11,000 per patient per year, squarely on the backs of our senior citizens. AIDS is a national problem that should be addressed directly, not through the back door by taxing our senior citizens.

This catastrophic health care bill is an important step in our efforts to meet the needs of senior citizens in a way that protects family values and individual dignity. This legislation fills a critical gap in our Federal health care system and leaves the door open for creation of innovative private insurance programs to cover other needs, such as home health care. It is too bad that this victory should be so clouded by the fact that the funding mechanism simply will not work.

Mr. WEISS. Mr. Chairman, for over 30 years Congress has considered proposals to alter substantially the role of the Federal Government in providing for the health care of the American people. Many of these efforts have led to improvements in the health status of our population. Millions of Americans however, are falling through the gaping holes in the Government's safety net. Recent estimates indicate that there are approximately 37 million people in the United States with no health insurance coverage.

The purpose of Government is to assure the protection of basic rights and services for all Americans. We have a responsibility to protect America's health as well as her borders. However, we are failing to meet that critical responsibility. The United States is the only industrialized nation, with the exception of South Africa, that does not have a national health plan for its people.

Although establishing a national health plan is not the issue at hand today. I would like to reaffirm my strong support for such a plan. I believe that all Americans—young and old—are entitled to quality medical care. We must work to change the current reality where quality health care is the privilege of the few who can afford it. Unfortunately, the cloud of Reaganomics and huge budget deficits is hovering overhead and, for the time being, is blocking any sweeping national health policy reform.

However, we have today the opportunity and indeed, the responsibility to make genuine improvements in the Medicare Program.

When Congress enacted Medicare in 1965, we made a solemn compact with the American people—a compact which said that when you grow old and retire, you should not live in fear that you will become sick and not be able to pay the medical bills. In 1966, elderly individuals spent approximately 15 percent of their yearly income on health care. Today, over 20 years after the enactment of Medicare, senior citizens are spending 16 percent of their income on health care and, it is predicted that by 1991, this figure will increase to a staggering 18.5 percent. Recent studies indicate that married couples over age 65 average about $3,000 in out-of-pocket health care costs in 1986.

It is clear that the Medicare Program as conceived in 1965 has not kept pace with the needs of our Nation's elderly population or with the skyrocketing costs of health care. We must review, revise, and renew the Medicare compact.

After serious consideration, I chose to support H.R. 65, introduced by Congressman CLAUDE PEPPER. I made this decision because, unlike other catastrophic illness proposals, H.R. 65 was the only measure which contained several provisions which I feel are essential to a meaningful catastrophic illness insurance bill. H.R. 65 was the only legislation which addressed the two largest categories of out-of-pocket expenditures for noncovered services borne by beneficiaries—long-term care and prescription drug coverage. I am hopeful that comprehensive health coverage such as that included H.R. 65 will soon become law.

During committee consideration H.R. 2470 was amended and greatly improved. I vote today for this legislation because of the critical additions made during committee markup.

There are four new provisions which are particularly significant. First and perhaps most significant, is the new prescription drug benefit. There is currently no Medicare and virtually no private insurance coverage for prescription drugs. According to estimates made by CBO, almost 5 million Medicare beneficiaries spend more than $400 annually on prescription drugs. The majority of these beneficiaries spend in excess of $900 per year on drugs. The new drug benefit will relieve our Nation's seniors of the devastating financial burden of prescription drug costs.

The second significant addition to this bill is an expanded mental health benefit. An estimated 15 to 20 percent of our Nation's more than 25 million elderly suffer from significant mental problems. Although it is clear these senior citizens are in need of psychiatric intervention, the costs of such treatment can be astronomical and Medicare's coverage is woefuly inadequate. Today's coverage in real dollars provides about $57 worth of care. This measure would provide a long-overdue increase in Medicare's reimbursement limit for mental health care. While still not perfect, this provision at least brings antiquated Medicare rates in line with the reality the modern psychiatric care marketplace.

Third is the new respite care benefit. This important measure responds to the fact that those who provide around the clock, uncompensated care to disabled elderly loved ones are themselves in need of help sometimes. The dollars we spend on respite care will save even greater amounts for families and State and Federal Government by enabling the postponement or avoidance of expensive institutionalizations.

The final provision I wish to mention addresses the critical issue of spousal impoverishment. If a couple has lived together for many years, it is tragic when one must enter a nursing home. When the community spouse—that is, the spouse who remains at home—is left impoverished as well as alone, it is a double tragedy. By raising the community spouse's minimum monthly income allotment and allowing him or her to retain at least $12,000 in liquid assets, we can avert the tragedy of community spouses who in their older years face impoverishment and public dependency. Again, this measure is a beginning. The only true solution to the problem of spousal impoverishment is a comprehensive long-term care policy.

I am voting for H.R. 2470 because it provides for long-overdue expansions and additions to the Medicare Program. However, my support for this legislation is tempered by the exclusion of a meaningful long-term care provision. In addition, there is one other catastrophic health predicament which is not addressed by this legislation. This is the situation faced by AIDS patients who qualify for Social Security Disability Insurance [SSDI].

People with AIDS, who are unable to work and have contributed the requisite number of quarters into Social Security, are eligible for the SSDI program. After eligibility has been established, SSDI recipients must wait 2 years before they can receive Medicare coverage. Tragically, AIDS victims often die before they are eligible to receive Medicare benefits. The Centers for Disease Control statistics are sobering: 74 percent of the people diagnosed with AIDS die within 2 years.

AIDS victims, who often face a series of severe health emergencies during the 2-year waiting period for Medicare coverage, are forced to spend down their financial resources in order to qualify for Medicaid. This tragic situation is similar to the one faced by couples in which one spouse requires long-term institutionalization.

While H.R. 2470 does provide some relief for impoverished community spouses, it does not address the problems of people with AIDS. I have proposed legislation which will rectify this problem. H.R. 276 would waive the 2-year waiting period and thus expedite the provision of Medicare benefits for many individuals suffering from AIDS.

In 1987, when we discuss catastrophic illness and Medicare, we must consider and plan for the AIDS epidemic. We must help provide needed health care for those who struggle with this disease today, for tomorrow there will be many more.

I believe that this bill is an important step toward catastrophic illness coverage and it can serve as a useful foundation upon which to build, however, I do not in any way see it as the answer to the problem of catastrophic health costs. While I am hopeful that we will today pass H.R. 2470, I urge my collegues to remember that it is just a first step. We must continue to work to assure that the health needs of our Nation's entire population are met.

Mr. DORNAN of California. Mr. Chairman, I submit for the record my intended remarks earlier today. I rise in support of the amendment by Mr. JACOBS. This amendment is needed to correct a provision, in the part of H.R. 2470 on outpatient prescription drug coverage under Medicare, that would otherwise completely disrupt the present system of laws and regulations in all 50 States on drug product substitution.

All of our States have laws allowing pharmacists to dispense a generically equivalent drug in place of a prescribed brand-name product. The intent of these laws is to allow consumers to save money on their prescription drug bills by shopping for the best price among the pioneer drug and available generic copies.

The State provisions generally try to balance the objective of saving money with the realization that substitution is not sound medical practice for all patients and all drugs.

Therefore, physicians can assure that their patients receive a particular drug when they believe this is medically necessary. For example, many State laws follow the logical approach of putting two signature lines on each prescription form. If the doctor signs the line after the words, "substitution permitted," the pharmacist may use his or her judgment to substitute a generic version. If the doctor signs the line designated "dispense as written," the pharmacist must provide the exact product prescribed.

H.R. 2470 would disrupt the balance established by the States. It would preempt State laws with respect to prescriptions written for Medicare patients. This new requirement would result in the pharmacist dispensing the lowest price product unless the physician writes three words, such as "brand medically necessary," on the prescription form. This removes the flexibility of the physician to prescribe generic drugs and brand name drugs with equal ease.

The amendment by Mr. JACOBS simply revises the provision at issue in H.R. 2470, so that existing State regulatory systems for the prescribing of all drugs can be retained. The

House Ways and Means Committee adopted the approach taken in the Jacobs amendment to preserve a single procedure for all patients in all the 50 States. The committee action affirmed the cost-saving benefits of the present State regulatory systems. The committee also was concerned that physicians should have the primary discretion in choosing among drug therapies for their patients. Finally, the committee believed that it would be confusing to doctors, pharmacists, and patients to set up one prescribing procedure for Medicare patients and a separate procedure for all other patients. This confusion could lead to the wrong product being dispensed.

Mr. Chairman, the present provision in H.R. 2470 constitutes an unnecessary and unwarranted intrusion by the Federal Government into the authority of the States in an area where current regulation works well. It works well because it is based on first-hand grass roots knowledge of the most appropriate and effective method of assuring that all the residents of a State receive good medical therapy, at the same time that the objective of cost savings is achieved.

By contrast, the system proposed in H.R. 2470 will require extensive and costly Federal auditing operations to check millions of prescriptions a year against the proposed new Federal standard. Moreover, the present provisions would lead to the cheapest drugs being dispensed to State residents who are Medicare patients, under a cumbersome prescribing procedure. I strongly oppose a double standard of health care being imposed on my constituents.

Mr. Chairman, Congress should not suddenly adopt new prescribing instructions for Medicare patients. I urge that the amendment by Mr. JACOBS, to maintain the existing instructions of the 50 States, be adopted. We should allow physicians to prescribe drugs for Medicare patients according to their own State laws.

Mr. OWENS of New York. Mr. Chairman, I rise in support of H.R. 2470, the Medicare Catastrophic Protection Act, because too many older Americans in my district and across the country are living in fear today of becoming ill. They are afraid not so much of the illness itself, but of how in the world they are going to be able to pay for the care they will need to see the illness through. In a wealthy Nation like ours, that sort of fear is a scandal.

H.R. 2470 responds to the fears and concerns of older Americans by providing for the first time some measure of protection against the staggering, often bankrupting costs of catastrophic health care. Out-of-pocket payments by Medicare beneficiaries would be limited to no more than $1,798 each year. The current 90-day limit on coverage of inpatient hospital care would be eliminated, providing unlimited hospital care to all beneficiaries for just one annual deductible of $544 and no copayments. Coverage of care provided by skilled nursing facilities would be expanded from the current limit of 100 days to 150 days, such care would be covered at any time it is needed and not merely following hospitalization, and total copayments required for such care would be capped at $168 a year. Home health care benefits would be extended to 35 days annually and possibly longer in some circumstances. A new benefit would be established to cover the cost of respite care or home health care services provided to relieve friends and family caring for a beneficiary who cannot be left alone. And perhaps most significantly, H.R. 2470 creates an essential new benefit to cover the increasingly unmanageable cost of prescription medicines. After an initial deductible of $500, Medicare would pay for 80 percent of the cost of medications needed by a beneficiary.

While H.R. 2470 is a significant improvement over current law, it is important to note that it responds primarily to the problem of acute care catastrophic costs and fails to address the most common and most devastating health care expense for the elderly, long-term care for chronic illness. This is a serious omission and one which I expect will be redressed in the near future when H.R. 2762, the Medicare Long-Term Home Care Catastrophic Protection Act introduced by Congressman PEPPER, is brought to the floor for a vote. As a supporter of H.R. 2762, I believe that this legislation is a workable solution to the problem of long-term health care costs among older Americans and hope that the House will act on it without further delay.

I am also troubled by the manner in which the benefit improvements provided in H.R. 2470 would be financed. Nearly all of the revenue needed to support the catastrophic health care benefits would be generated through a new supplementary premium levied on Medicare beneficiaries, creating a modified user's fee type of mechanism. Although I understand that this device was made necessary by concerns over the monstrous deficit Ronald Reagan has rung up over the last 6 years, I believe that this is a wrong-headed approach to financing health care benefits and could set a terrible precedent for the future. Providing affordable and quality health care, much like education, is something which benefits not merely the individual who actually receives the care, but the entire community as a whole. The costs of providing such care should be borne not by the user alone but shared among all of us.

H.R. 2470 is a good bill, but we should be honest here in recognizing its limitations and the need to do much more to improve the availability and affordability of health care to senior citizens in this country. Our colleague, Mr. PEPPER, correctly characterized President Reagan's original catastrophic health care proposal as the step of dwarf when it was first unveiled. H.R. 2470 is a vast improvement over that proposal and the Republican substitute being offered today, but it is, unfortunately, by no means the giant step forward which older Americans need and certainly deserve. More than ever, we see the need for a National Health Care Program as the only real answer to the problem of medical care for senior citizens.

Mr. RAHALL. Mr. Chairman. I rise today in support of the bill H.R. 2941, the Catastrophic Protection Act of 1987. As a cosponsor of Senator PEPPER's bill, H.R. 65, the Catastrophic Health Insurance Act of 1987, I am very much in support of efforts to provide older Americans with comprehensive catastrophic health care coverage. While H.R. 2941 is not as extensive as H.R. 65, it is a beginning. From this beginning, it is my hope that we will build a truly comprehensive plan to protect our senior citizens from the devastating costs of catastrophic health care. While the controversy surrounding the cost of such a plan prohibits such a big step initially, such a plan is an extremely important goal. I applaud the Senator for his great efforts in this regard and will continue to work with him to make this goal a reality.

Catastrophic health care costs faced by the elderly have been an issue of growing concern over the last several years. Despite the assistance provided by Medicare and Medicaid, out-of-pocket health care expenses for the elderly have skyrocketed. In 1977, out-of-pocket health care expenditures by the elderly totaled $12.7 billion; by 1984, they had reached $30.2 billion, representing a 138-percent increase in 7 short years. A recent study has shown that married couples over age 65 averaged about $3,000 in out-of-pocket health care costs in 1986.

The problem is by no means confined to the elderly. Presently, about 37 million people lack any health insurance at all—almost all of whom are below age 65. However, while there is still debate about the proper role of government in providing health care for the population in general, health care for the elderly has been recognized as a Federal responsibility since the Medicare program was established in 1965.

The rapidly increasing out-of-pocket health care costs being faced by the elderly have a number of causes: Increases in the cost-sharing requirements of Medicare in recent years; rapid escalation in the costs of prescription drugs—which are not presently covered by Medicare at all; charges by doctors in excess of the amounts recognized by Medicare charges which must be paid entirely by the patients themselves; and increases in the number of elderly people in nursing homes—especially since Medicare pays only a small fraction of nursing home costs while Medicaid only provides for the very poor.

Medicare was enacted in 1965 because of the escalating cost of health care encountered by the elderly. At that time, the elderly were spending 15 percent of their income on health care. And yet, in 1986, despite the existence of Medicare, the elderly were spending 16 percent of their income on health care. Moreover, it is projected that under current law this percentage will rise to 18.5 percent by 1991.

While many of the elderly have Medigap insurance policies to supplement their Medicare coverage and to protect them from rising out-of-pocket health care expenses, private insurance policies paid only $8.7 billion—roughly 7 percent—of the elderly's total health care bill in 1984. In addition, approximately 20 percent of Medicare enrollees have neither Medigap nor Medicaid coverage to supplement Medicare.

The cost of prescription drugs is also a matter of concern. With no Medicare and virtually no private insurance coverage, almost all prescription drug costs are paid for by the elderly out-of-pocket. According to estimates by CBO, almost 5 million Medicare beneficiaries spend more than $400 annually on prescription drugs. For this group, the average annual cost of medication exceeds $900. In addition the cost of prescription drugs has been rising much faster than inflation. In 1986, for example, when overall inflation was only 1.9 percent, the price of prescription drugs rose 8.6 percent.

Finally, out-of-pocket expenditures by the elderly on nursing home care have also been escalating rapidly—rising by 139 percent between 1977 and 1984. By 1984, 42 percent of all out-of-pocket health care spending by the elderly went for nursing home care. Nursing home stays account for 80 percent of the expenses incurred by persons over 65 who have very high out-of-pocket medical costs—more than $2,000 per year.

H.R. 2491 is designed to plug some of the gaps in Medicare coverage that have left the elderly spending as much of their income on health care as they did when the Medicare Program was established. This measure protects Medicare beneficiaries from catastrophic hospital and physician expenses, creates a prescription drug benefit and a "respite care" benefit under the Medicare Program, and requires States to pay Medicare's cost sharing requirements for indigent elderly and disabled Americans.

The bill places an overall limit on beneficiaries' out-of-pocket expenditures for services covered by Medicare, including hospitalization, doctors' services, other outpatient care, and limited stays in skilled nursing facilities. In 1989, the first year when all provisions will be fully in effect, the overall limit would be $1,798. In subsequent years, the limits will be adjusted for inflation.

Key provisions of the bill designed to contain out-of-pocket costs eliminate the limit on the number of days of hospitalization covered, end cost sharing requirements for lengthy hospital stays, limit cost sharing for doctors services, and increase the number of days of skilled nursing facility care covered by Medicare.

The bill extends, for the first time, Medicare coverage to some prescription drug costs. Under the new benefit once a beneficiary has incurred $500 in prescription drug costs in a calendar year, Medicare would pay 80 percent of additional costs.

In addition, the bill improves Medicaid benefits by requiring the State Medicaid programs to pay Medicare premiums and cost-sharing for all Medicare enrollees with incomes below the Federal poverty line, and by protecting the income and assets of the spouses of Medicaid-eligible nursing home residents.

The expanded Medicare benefits would be financed entirely by Medicare beneficiaries themselves. Two mechanisms are used: an increase in the existing premium for coverage under Medicare part B (which covers physicians' services and other outpatient care) and a new supplemental premium that would be related to income and administered through the income tax system.

Increases in the part B premium would begin in 1989, when the estimated premium would rise from $22.90 per month under current law to $25.50 under the bill. The new income-related supplemental premium would begin in 1988, when it would range from $10 to $580 per year. The supplemental premium would be paid only by Medicare enrollees with incomes high enough to incur income tax liabilities—about 40 percent of all beneficiaries. It is important to note that this increased cost would be at least somewhat offset by the amount these beneficiaries would save by not purchasing Medigap insurance—which should no longer be necessary due to the out-of-pocket cost limits created by the bill.

I applaud the efforts of Chairman DINGELL of the Energy and Commerce Committee, Chairman WAXMAN of the Subcommittee on Health and Environment, Chairman ROSTENKOWSKI of the Ways and Means Committee, and Chairman STARK of the Subcommittee on Health in bringing this measure before us today. All of the members of the Energy and Commerce and Ways and Means Committees worked diligently on this effort; this effort—while not as extensive as I would have liked—is a good beginning. In this vein, it is my hope that we will proceed from here to address the devastating cost of nursing home care to both the Medicare recipient and his or her spouse. I am sure we all agree that it is paramount that we address this, the single largest factor which contributes to the financial devastation connected with health care costs. While H.R. 2941 is a good beginning, our effort will not be complete until we can address long-term health care costs. In the meantime, I rise in support of H.R. 2941—the first necessary step toward realizing the goal of catastrophic health care cost protection.

Mr. FEIGHAN. Mr. Chairman, I rise today to express my strongest support for H.R. 2470, the Medicare Catastrophic Protection Act of 1987. Mr. Chairman, there is no social problem more compelling than the need to protect our senior citizens against the high cost of essential health care. In 1987, over 1 million Americans will be forced into poverty due to the costs of catastrophic illness. Two out of three will be elderly. With long-term care in the home or nursing home ranging from $25,000 to well over $1 million a year it is easy to see how an entire life's savings can quickly be depleted from costs associated with even one period of long-term illness.

This legislation is before us today because it has become clear that Medicare, as currently structured, is no longer adequate. When Congress created Medicare 20 years ago it meant to insure elderly Americans against the intolerable financial burden of serious illness. And, Medicare did make a difference in the security and health of our senior citizens.

But the protection that Congress intended has been slowly but steadily eroded by the increases in drug costs, in doctors charges in excess of Medicare, in the cost-sharing requirements of Medicare and in the number of elderly in nursing homes. Today, senior citizens, on average, spend at least as much of their limited incomes on health care as they did before Medicare or Medicaid was enacted. Medicare provides no coverage for such common elderly health problems as Alzheimer's disease, prolonged illness resulting from heart disease or cancer or hearing aids and eyeglasses.

H.R. 2470 will go a long way toward aligning health care programs with the real expenses the elderly face. Its cap on out-of-pocket medical expenses will stem the impoverishment increasingly associated with catastrophic care. Its coverage of prescription drug costs is long overdue to offset the rapid increases in these costs. The respite care benefit, although limited, recognizes the burden of providing long-term, home care.

Nor will H.R. 2470 add a single dollar to the Federal deficit. The plan simply calls for more efficient use of the health care dollars already being spent by the State and Federal Government and by the beneficiaries themselves. In a recent Cleveland Plain Dealer article Congressman PEPPER pointed out that "No one in America will go bankrupt financing such a program—but most Americans will continue to face bankruptcy without it." I couldn't agree more.

H.R. 2470 is not perfect; it does not entirely relieve the financial burden of catastrophic care on the poor and elderly. Notably, it does not significantly defray the costs of home health care, unlike similar legislation introduced by Congressman PEPPER. Nor does it cap patient copayments at as low a level as Congressman PEPPER's bill. It is nevertheless a giant step in the right direction and deserves our support.

America's fastest growing age group consists of citizens over the age of 65. By the time children born today reach retirement age, one out of every five Americans will be over the age of 65. It is time to restore the promise of a secure and dignified retirement. It is time for comprehensive catastrophic care legislation.

Mr. McGRATH. Mr. Chairman, I rise in opposition to H.R. 2470, the Medicare Catastrophic Protection Act of 1987. This measure purports to provide protection to the elderly from the devastating costs of a catastrophic illness when it is, in itself, a catastrophe.

The Medicare Program was developed as a social insurance program that spread both risk and cost over a large population in order to provide assistance with the medical expenses of the elderly. This system was designed to not only assist current beneficiaries but to ensure that future beneficiaries would be provided for. The legislation currently before the House will, in fact, put the entire program in jeopardy. By the year 1995, it is predicted that H.R. 2470 will create large deficits in the Medicare trust funds. The Treasury Department has indicated that that deficit will be $22 billion in the year 2005 alone.

In addition to being fiscally unsound with respect to the trust funds, this legislation will dramatically increase the tax burden on the elderly. The Medicare Program has always been an insurance program that relates costs to benefits and applies equal premiums to all beneficiaries. This legislation claims to be a "progressive" improvement to the Medicare Program in that it uses the tax system to implement means testing. The result of the means test is a "mandatory supplemental premium." Many have supported this bill because they believe this is an equitable way of distributing the costs of the enhanced program.

The truth is that, by relating the costs of the program to income rather than benefits, this bill will actually create a surtax on the Nation's elderly. If it were a true means test, those at higher income levels would not only pay higher premiums, they would receive reduced benefits. Under this legislation, all beneficiaries, regardless of income, would receive full Medicare benefits.

It must also be remembered that the part B program of Medicare, under which the new catastrophic protection benefits would fall, is a voluntary program. Although most seniors do enroll in part B, those that do not would still be subject to the supplemental premium while they would not be eligible for the new benefits. In fact, all Medicare beneficiaries will pay the supplemental premium in 1988 but none of the benefits that this premium is supposed to provide will be available until 1989.

What about tax reform? Last year the Congress worked diligently on a plan that would simplify the Tax Code and reduce marginal tax rates. The surtax created under this catastrophic protection plan will, in effect, subject the elderly to an entirely different tax scale than the rest of the population. Many seniors will actually be exempt from the benefits of recent tax reform. In fact, those senior citizens who would fall into the new 15-percent tax bracket will, under this bill, effectively pay a 22-percent tax. In addition, higher income beneficiaries may pay from $3,000 to $4,000 for the supplemental Medicare premium by the year 2005, according to the Treasury Department.

While the costs of this legislation are high, the benefits are, at best, marginal in comparison. While professing to be protection from catastrophic illness expenses, this legislation does not even address the issue of long-term care. This bill includes funding for research in this area with the implication that the Medicare Program will eventually cover long-term care. This is not the course which we should embark upon. The Republican alternative to this bill takes a much more sensible approach.

Coverage for long-term care is relatively new to the insurance industry, but the market is growing. According to the Health Insurance Association of America there is at least one policy for long-term care available in each State. The costs of these policies and what they cover vary, but they are significantly better than what is offered by this legislation. According to HIAA, in 1986, costs ranged from about $100 a year in premiums to more than $2,500, depending on several factors including age, deductible amounts, and duration of coverage. The Republican alternative to H.R. 2470 offers tax incentives that will encourage the continued development of this market in the private sector where variety and competition are readily available. By noting the costs at which private companies are able to provide long-term care coverage, it does not follow that the Government should initiate a plan such as H.R. 2470 at such great costs to the elderly without even including comparable benefits.

Another major "initiative" of H.R. 2470 is the coverage of prescription drugs. However, this benefit is not all that it seems to be. In fact, only about 1 in 5 Medicare beneficiaries will be eligible for prescription drug coverage. Only about 17 percent of current Medicare beneficiaries spend more than $500, the deductible under this plan, on prescription drugs, according to the Congressional Budget Office.

Another problem with this drug benefit is that it is available to all those eligible for Medicare. It is in no way limited to the elderly. With recent and continuing advances in medical technology, many nonelderly victims of the AIDS virus may be eligible for this benefit. Improved treatment of AIDS patients is helping them to live longer. It is quite conceivable that some of these patients may become disabled and therefore eligible for Medicare. Under this legislation, the costly drugs used by AIDS victims would be reimbursed under the prescription drug benefit which would be financed by senior citizens. This is no solution for AIDS victims or for senior citizens.

The Republican alternative to H.R. 2470 offers a much more sensible approach to coverage of prescription drugs. Instead of a Medicare benefit, this plan includes a Medicaid benefit for those over the age of 65 who are below 150 percent of the Federal poverty level. This benefit offers coverage to those who need it most and limits it only to senior citizens, the group that it is financed by. Other benefits in the Republican alternative, such as the $2,150 out of pocket expense limit, the elimination of hospital coinsurance, the limit of two hospital deductibles, and the elimination of copayments for skilled nursing facility care, will reduce the general medical expenses of the elderly and will therefore lessen the burden of prescription drug payments.

Don't be fooled by the name. H.R. 2470 is a fiscally unsound program that reaches into the pockets of the elderly and turns them inside out without providing any real catastrophic protection. The true catastrophe of this bill is that it claims to protect the elderly from unpredictable and costly medical events when it actually subjects them to higher taxes with no signficant benefit it return.

Many of our colleagues support this legislation because they think that this program will be good for our Nation's senior citizens. Mr. Speaker, I submit that this program is not good enough for our senior citizens and I urge my colleagues to oppose it.

Mr. SOLARZ. Mr. Chairman, I am glad to join my colleagues today in support of the mental health provisions of H.R. 2941, the Medicare Catastrophic Protection Act. This expansion of the Medicare Program represents the first increase in the amount of Medicare coverage provided for mental health treatment since the enactment of the Medicare Program in 1965.

Under the current system Medicare recognizes only 62.5 percent of the reasonable charges for outpatient mental health services, and then pays only 80 percent of the charges which it recognizes. Therefore, an enrollee actually faces a coinsurance rate of 50 percent for the first $500 which he or she spends. This inadequate amount of money encourages the institutionalization of those who might otherwise receive outpatient care which would enable them to lead normal and productive lives.

We have learned a lot about care and treatment of mental illness since 1965 and this expansion of the Medicare Program would allow us to make better use of our knowledge. This legislation would raise the maximum benefit to $1,000 in 1989, and amount which would be indexed to rise in accordance with increases in physician charges.

The Medicare Catastrophic Protection Act represents a positive expansion of current catastrophic protection available to Medicare recipients. It is not as comprehensive a bill as I would have liked, but it is an important first step in improving our Nation's system of health insurance.

I hope that some time in the not too distant future I will be able to come to the floor and applaud further efforts to provide health insurance to the 37 million Americans who have none. In the meantime, I am optimistic that that we can pass this legislation today and that later in this session we will pass the bill introduced by Congressman PEPPER which would add a critical long-term care component to this package.

I congratulate my colleagues on the Ways and Means and Energy and Commerce Committees for their hard work in producing this bill. I know it was not easy to reach a compromise position which would satisfy all Members, and I think that they have done an admirable job. I urge all Memers to give H.R. 2941 their strongest support.

Mr. MANTON. Mr. Chairman, as a member of the Select Committee on Aging and the representative of the district with the 12th highest number of senior citizens of the 435 congressional districts, I rise in strong support of H.R. 2470, the Medicare Catastrophic Protection Act of 1987.

Our Nation's seniors are vulnerable to financial ruin because of the health care expenses incurred during a long-term illness. These costs can include Medicare deductibles for hospital stays and home care. Other costs can include nursing home care and prescription drugs, for which Medicare provides no coverage. In 1987, approximately 1.4 million elderly individuals will be forced to pay more than $2,000 in out-of-pocket medical expenses, according to the Department of Health and Human Services. Furthermore, current projections suggest that under current law the elderly will be spending 18.5 percent of their income on health care by 1991. In 1965 when Medicare was established, the elderly were spending 15 percent of their income on health care.

While I am concerned that this legislation does not provide long-term care coverage, the expansions to the Medicare system contained in this legislation are essential to our Nation's senior citizens and are a great improvement over the current system.

H.R. 2470 expands the Medicare system to help protect against catastrophic medical costs. H.R. 2470 expands Medicare to pay for unlimited hospital stays after payment of a single deductible. The bill caps the amount beneficiaries must pay for services covered by part B of Medicare. The legislation also extends current Medicare coverage of home health care, newly provides coverage for outpatient prescription drugs and provides respite care for those who care for homebound Medicare beneficiaries. H.R. 2470 also extend current Medicare coverage for hospice care, improves skilled nursing home coverage and expands Medicare coverage of mental health services. Furthermore, the bill makes important improvements in the Medicaid Program in order to protect community spouses from impoverishment when their spouses enter a nursing home.

H.R. 2470 will go far in protecting Medicare and Medicaid beneficiaries from the financial ravages of a catastrophic illness without burdening lower income beneficiaries. Furthermore, the Bipartisan Commission on Comprehensive Health Care established in the bill will ensure that the long term care needs of our Nation's elderly will soon be addressed. I urge my colleagues to join me in voting for the Medicare Catastrophic Protection Act of 1987.

Mrs. VUCANOVICH. I consider the bill we are voting on today, the Catastrophic Protection Act, one of the most important pieces of legislation since I became a Member of the House of Representatives in 1982.

This is one of the top priorities of our President and this historic 100th Congress. It could be the landmark legislation for which this Congress is most remembered.

Too long, older Americans have lived with the fear and uncertainty that their life savings will not be enough to tide them through a catastrophic medical expense or the cost of long-term care. Too long, older couples have had to face the spectre of bankrupting one spouse in order to pay for the medical or nursing home expenses of the other.

Although we cannot predict the cost of medical technology in the future, we have seen the effect of sky-rocketing health care costs. These costs have risen beyond the wildest dreams of those over 65, who have painstakingly saved for a comfortable and financially-independent future.

There is no doubt that protection is needed from the devastating consequences of catastrophic medical costs. What remains is for us to select the best bill to meet the needs of older Americans as fully as possible.

While I am strongly convinced that legislation is needed, I have strong concerns about H.R. 2491, the Catastrophic Protection Act we are now debating. I do not believe that older Americans have been informed about the tremendous increase in the cost of Medicare premiums for all elderly and disabled people eligible for Medicare. It is estimated that this tax, which start with in increase of $580 per year for seniors with incomes of $14,000 or more, may rise as high as $925 annually by 1992.

This is a departure from the current method by paying for Medicare, which is based upon costs paid for benefits received.

The new method will tax everyone with an income of more than $6,000, with the most effect on single elderly people, most of whom are widows trying to live on the already dwindling purchase-power of their fixed income.

Everyone who is eligible for Medicare must pay the tax, even if they have a retirement benefits package which offers the same or better benefits.

I am concerned that this tax will result in the financial burden for caring for all disabled people, including AIDS victims who qualify, being placed on the backs of older Americans; those with the least ability to cope with this new tax.

I strongly support the need for protection against catastrophic health costs, and I would urge my colleagues to vote for the Michel substitute bill. The Michel bill offers the protection that is needed without this dangerous tax increase and without putting Medicare trust funds at risk by changing the method by which Medicare has always been financed.

Let's face it. The common cause of catastrophic medical expenses for elderly Americans is longterm care in a skilled nursing facility. H.R. 2971 fails to address this need, and retreats instead into appointing study commissions. The Michel bill takes a courageous new approach to the long-term care problem. It is a good, well-balanced and realistic bill that offers long-term and financially responsible solutions, not expensive band-aids. I urge your support for the Michel substitute.

Mr. LIGHTFOOT. Mr. Chairman, I am opposed to the majority's so-called catastrophic health insurance plan, H.R. 2470. It is a radical departure from the plan that was put forth by Secretary of Health and Human Services Otis Bowen. In its attempt to expand the Medicare Program, the majority has succeeded in once again expanding the welfare state. Also, I think it is fair to say that this bill is a hoax on our elderly citizens; of the 28 million persons eligible for Medicare, only 12,000 of these exceed their current Medicare hospital coverage limit. In effect, H.R. 2470 is aimed at less than 1 percent of our seniors. H.R. 2470 will be a major tax increase for our elderly citizens. Every elderly person who makes over $14,000 per year will pay a tax of up to $580 per year. This amount will be at least $935 per person by 1992, and at least $4,000 per person by the year 2005. The effect of this bill will be to push our elderly into higher tax brackets. No senior citizen will be exempt from paying this tax increase if they pay any taxes at all. The ultimate insult to our elderly is that this so-called premium surtax will not be deductible as a medical expense on one's income tax. This will be a double blow to the elderly who have been deducting the cost of their MediGap insurance, but will now be forced to switch to this new Government insurance program with poorer coverage. H.R. 2470 will tend to eliminate the MediGap market, leaving 70 percent of those who hold such policies with no free choice.

This over-expansion of the Medicare Program includes a prescription drug plan that would benefit only an estimated one in every five elderly persons. More importantly, Mr. Chairman, this drug plan is financed by an outright, mandatory tax increase on those who are supposed to be helped by this legislation: Every person in this country who is over the age of 65.

In addition, this expansion of the Medicare Program has failed to adequately address the most pressing catastrophic expense and concern of America's elderly: Long-term care. This glaring gap in H.R. 2470 may be the cruelest hoax ever perpetrated upon our senior citizens. Mr. Chairman, 80 percent of older Americans out-of-pocket expenses that exceed $1,700 are not for doctor, hospital, or for drug costs, but in fact come from long-term health care costs, such as those associated with a nursing home. H.R. 2470 does create a study of the long-term care issue. However, this sends a signal to the elderly that the Congress intends to arrive at an eventual solution to the burden that long-term care places upon our elderly. This signal will only succeed in inhibiting the private sector from taking the steps necessary toward developing insurance policies at reasonable costs for those individuals who prefer choice, rather than government mandates.

Mr. Chairman, the effect of H.R. 2470 will be to bankrupt the Medicare system. The Department of Health and Human Services estimates that this bill will cause a revenue deficit in the Medicare Program as high as $10 billion by the year 2000, and at least $27 billion by 2005.

Finally, H.R. 2470 will require: First, at least $4 billion from general revenues to make up the difference between premium moneys and benefits paid; second, even high premiums levied on our seniors down the road; and third, dramatic increases in the supplemental premium over time because it will be adjusted annually by increases in the cost of the total Medicare Program.

An alternative to H.R. 2470 was offered by Congressman MICHEL. This plan would have provided for legitimate catastrophic health expenses, because it provided incentives, such as tax incentives, to assist the private sector to expand coverage in the long-term insurance market. This plan also would have created a Federal Reinsurance Corporation that would reduce premiums by partially sheltering policy writers from excessive risks.

The Michel plan also included a Medicaid drug benefit that was carefully limited to those 65 and over with incomes at a level where drug expenses could represent a catastrophic expense. This benefit would have extended eligibility to the poorest segmant of the elderly who may not qualify for Medicaid.

Finally, the Michel plan retained the traditional Medicare financing approach that relates costs to benefits received, while maximizing the choices available to individuals.

Mr. Chairman, I have supported a solution to the problem of providing for catastrophic health care for our seniors since I became a Member of the Congress. Once again, I must tell my constituents that the majority has misled them. Once again, the majority has fallen back upon its tired, old solution of solving a problem with a tax increase. I cannot face my constituents and tell them that I support such an approach to such an important issue when other, more responsible approaches exist.

Mr. GRANDY. Mr. Chairman, catastrophic health care coverage is urgently needed by our Nation's elderly, and I stand in support of H.R. 2970 which offers the more reasonable catastrophic coverage of the two bills being offered in the House today. Rather than give our elderly a false hope that they no longer need to worry about medical expenses, we should address an issue that is probably in the forefront of the catastrophic issue; namely, long-term care. This issue is not adequately addressed in H.R. 2470 and I cannot support this bill as a catastrophic coverage bill. Eighty percent of out-of-pocket health care expenses exceeding $1,700 come from nursing home costs. This is truly the catastrophic issue that demands our attention. H.R. 2970 addresses this issue by offering a package of tax incentives encouraging preplanning for long-term care costs. Providing coverage for long-term care is the number one catastrophic issue, and the bill reported out of the Ways and Means Committee does nothing more than authorize a study commission to address this critical issue.

Another issue of critical concern is that of prescription drug coverage. I strongly support prescription drug coverage for our elderly. I believe H.R. 2970 will go much further to protect the elderly from high expenses associated with prescription drugs. By offering coverage to those at or below 150 percent of the poverty level, and requiring only a $50 deductable, this provision offers far greater assistance where it is most needed. H.R. 2470, on the other hand, will not benefit the average Medicare recipient who normally pays less than the proposed $500 deductable. The prescription drug coverage offered by H.R. 2470 is, sadly, another false hope for our senior citizens.

If Congress is willing to extend prescription drug coverage to Medicare recipients, it should let our senior citizens know that under the provisions of H.R. 2470, recipients would be paying increased premiums to cover costs associated with the treatment of AIDS patients who are Medicare beneficiaries. This has the potential of greatly increasing our costs of the Medicare Program and placing additional burdens on our Nation's elderly and Congress should make clear to our Nation's unsuspecting seniors that their Medicare premiums will reflect increased costs because of the coverage of AIDS patients under Medicare.

Finally, I would like to point out the high costs that this bill will inflict on our senior citizens and the general public. This bill adds a harsh tax burden on our Nation's elderly and this new tax will increase each year in order to cover increased expenses. Estimates indicate that this costly premium will double in a few short years. Furthermore, the Treasury Department estimates that by 2005, only 70 percent of added costs would be covered by revenues, leaving a $20-billion deficit in just 1 year. This is not fiscally responsible legislation and I urge my colleagues to carefully consider the more reasonable alternative, H.R. 2970, a budget neutral bill which will not jeopardize the entire Medicare Program and offers true "catastrophic" coverage.

Mr. HAMMERSCHMIDT. Mr. Chairman, I rise in support of H.R. 2470, the Medicare Catastrophic Protection Act of 1987.

There are many provisions in this bill which will increase the utilization of health care services by the elderly and therefore improve the overall health of the population. I believe that one of the most important provisions in the bill is the requirement that the beneficiary pay only one inpatient hospital deductible in a calendar year. There are many older people who defer or forego necessary hospital care because they cannot cover the $520 deductible for each hospitalization. The cap on beneficiary expenditures under part B for physician care and outpatient services will also be an enormous benefit to older persons who have serious acute care episodes and those with chronic health conditions.

The expansion of the mental health benefit has been long overdue. In 1979 when Mr. PEPPER and I cochaired the National Conference on Mental Health and the Elderly, we learned about the inadequacy of Medicare benefits for treating older persons with mental health conditions. Reimbursement for outpatient mental health benefits was $250 when Medicare legislation was first authorized in 1965 and there has not been an increase until now. I strongly support the increase in the mental health benefit to $1,000 for outpatient services. Another important provision is the new requirement in the Medicaid Program which mandates that States pay the Medicare deductibles, premiums, and coinsurance for the elderly and disabled with incomes at or below the Federal poverty line.

I would be less than honest if I did not say that I have some reservations in regard to the scope of the benefit package and the financing mechanism of the bill.

A bill entitled the "Catastrophic Protection Act" sounds as though it will shield the elderly from high medical expenses; therefore, it will allay fears that a serious illness can lead to impoverishment. But anyone who has studied the utilization of health care by the elderly knows that only 0.5 percent or 1½ million exceed 60 days of hospitalization in a benefit period. The primary source of financial risk for the elderly is long-term care costs and these expenses are not covered in the bill. For me, the most troubling part of the bill is that older persons can still be the victims of catastrophic illnesses that can deplete all of their assets if they should require lengthy home health care or nursing home care.

As I see it, there are two challenges raised by this legislation. The first will be to educate the elderly so that they are aware of the benefits that are available to them and so that they will not continue to ration their own health care. But it will be as important for them to understand the limitations of this bill so that they are not overwhelmed at some later date by the expenses that they are responsible for.

In closing I must say that I have difficulty with the financing of the new supplemental premium which must be paid by all Medicare beneficiaries with Federal income tax liability—about 40 percent of the elderly—regardless of their use of Medicare benefits. I understand that the taxes are based on adjusted gross income [AGI] and that most forms of nontaxable income are not included. In 1988 a person with an AGI over $14,166 will have to pay an additional $580 in medical costs. The Treasury Department has estimated that the $580 premium could rise as much as 43 percent to $830 by 1991. I feel that that is a very substantial amount of money. It has always been my view that Congress should not make any precipitous changes before people have had an opportunity to make adequate preparation prior to retirement.

Ms. SLAUGHTER of New York. Mr. Chairman, today the House will consider H.R. 2470, the Medicare Catastrophic Illness Protection Act, a bill that will make needed improvements in the Medicare Program for the millions of senior citizens who face hospital and extensive outpatient costs.

Many seniors are unaware that Medicare does not pay for all physician and hospital costs until they "bump up" against Medicare's limits. In instances where that happens, many elderly are threatened to have their entire life savings wiped out. The bill we consider today takes an important first step in providing the elderly and disabled with peace of mind against catastrophic medical costs. Most of the catastrophic risks associated with hospitalization and extensive outpatient medical care will be eased or eliminated. The bill will loosen some of the restrictions on skilled home nursing and it adds a new respite benefit for families of the most frail who are chronically ill and confined to the home. Finally, Mr. Speaker, the bill provides a new prescription drug benefit which will provide 80 percent Medicare reimbursement after a deductible of $500.

If there is one regret I have, Mr. Chairman, it is that this bill does not provide coverage for the pressing need of so many of our older Americans who face the costs associated with long-term, chronic illness. It is important for the senior citizens in my district and the millions of seniors throughout the country to understand that this bill will not cover nursing home care nor many of the other costly expenses associated with home care for the chronically ill.

Mr. Chairman, while these issues are not addressed by H.R. 2470, the bill still takes a very important step in focusing attention on the fact that more needs to be done. During the past several months the debate on long-term care has increased. Now, more than at any other time, information about the costs, extent and complications of long-term care has been surfacing. Providing protection for long term illness is foremost in the minds of policymakers at all levels of government, medical providers, and of course those that must deal with these concerns on a day-to-day basis. It is an issue that will not go away with passage of this bill and it is an issue that I am committed to trying to solve.

Finally, Mr. Chairman, H.R. 2470 includes a provision to protect spouses from impoverishment when Medicaid covers nursing home care. Currently, when a spouse enters a nursing home they are required to "spend down" their income and assets until they qualify for Medicaid often leaving the spouse remaining in the community improverished. The spousal improverishment provisions in this bill will correct many of these basic inequities. However, while improving the situation for the majority of spouses I have some concern that as currently written this provision may jeopardize certain categories of spouses who have been protected by a more lenient New York law. To resolve this potential conflict, I have been working with experts in my district to develop possible solutions before this legislation is finalized.

Mr. Chairman, the Medicare catastrophic illness protection bill is not a perfect bill, but it is responsible legislation and it is a sound beginning to provide many the needed protection against medical catastrophies. Its adoption today will be a signal to millions of senior citizens that Congress is willing to find solutions to some of the health problems they face and that will ultimately face us all.

Mr. RAY. Mr. Chairman, I rise today in opposition to H.R. 2470, the Medicare Catastrophic Protection Act.

I would like to support this bill, but I must share with my colleagues some of the concerns which I have about H.R. 2470. Although this measure purports to be budget neutral, I am skeptical of this claim. My colleagues need only to look at the periodic reestimations of the budget deficit to recognize that the initial economic assumptions to determine the costs of programs are often off target. I am afraid that we will get into a position of either substantially increasing the premiums or tax that Medicare beneficiaries pay or dipping into general revenues to finance the expansion of Medicare benefits that are contained in this bill. Developments of this kind could easily jeopardize the entire Medicare Program. For these reasons, I must oppose this bill.

Mr. Chairman, I appreciate this opportunity to express my views on this important legislation, the catastrophic health care bill.

Mr. LEWIS of Florida. Mr. Chairman, today the Congress has taken a giant step to assist and protect our Nation's older Americans. The passage of legislation which addresses the rising costs of health care for senior citizens is the first comprehensive revamping of the Medicare system since its inception. There is no doubt of the necessity of this protection. I enthusiastically support the concept of insurance against financial devastation due to serious illness and I applaud my colleagues for this first step.

But it is only a first step. The issue of long-term care, the major concern of Medicare beneficiaries, has not been addressed by the legislation passed today, and the package is flawed in some fundamental ways. I am particularly concerned with the high cost of the prescription drug benefit. Because this is a broad new benefit, it is difficult to estimate its costs in the future. A huge jump in premium cost will be difficult for beneficiaries to absorb, and it seems likely that Congress will have to revisit the issue of financing. I am also concerned that, because of the financing mechanisms used, drug benefits for those eligible for Medicare due to disability will be funded by senior citizens through the supplemental premium. The cost of very expensive drugs, such as those used to treat AIDS, will be shouldered by our Nation's elderly. This is unacceptable and unfair.

Although there are flaws in the package, the basic intent of the legislation is good, and I will work closely with my colleagues to see that these concerns are addressed by the Senate and in conference. If the fundamental problems are not adequately addressed, I may have to reassess my affirmative vote when the House considers the conference report.

While there is no doubt that the package we have passed today needs careful attention and refinement in order to provide the best possible coverage to beneficiaries, the primary goal of all is to address the urgent needs and concerns of older Americans. I look forward to being a part of that process.

Mr. BONIOR of Michigan. Mr. Chairman, I rise in support of H.R. 2470, the catastrophic health proposal before us today. For too long now, senior citizens have had to bear the cost, both financially and emotionally, for catastrophic health care coverage. For many senior citizens living on fixed incomes, accessible and affordable health care coverage has been beyond their means.

The legislation before us today provides the most significant improvements in the Medicare Program since its enactment in 1965. This legislation is important because it provides:

A cap on the amount patients must actually pay for Medicare covered services. This way, no elderly and/or disabled person will face financial ruin because of out-of-pocket expenses.

Coverage for certain prescription drugs;

Protection against impoverishment of the spouse of a person in a nursing home;

Medicare payment for professional in-home service which, by providing temporary relief to the full-time caregiver, can keep people home and out of nursing homes.

One in eight of every elderly person lives in poverty. This bill will help them immeasurably by:

Providing persons covered under State Medicaid programs with the same benefits provided to those individuals covered under Medicare;

Providing them with the improved catastrophic benefits of Medicare;

Providing prescription drug coverage through a combination of State Medicaid drug programs and the new Medicare catastrophic drug benefit.

Most important, this bill will end the fear of financial bankruptcy from high hospital and physician expenses. For 22 years, older Americans have been scared into buying often expensive and inadequate MediGap insurance because Medicare has only a limited, and often confusing hospital benefit. H.R. 2470 will bring peace of mind to the elderly because they know that once they pay $544 in 1988, Medicare will pay for all their covered hospital care for 365 days.

H.R. 2470 further improves upon existing Medicare benefits that are so important to senior citizens. The bill:

Adds up to 14 days of home health care. This will bring up to 35 the number of days covered by Medicare for those who require professional care at home;

Increases the dollar amount reimbursable for outpatient mental health benefits to $1,000;

Eliminates the 3-day prior hospitalization requirement for Medicare skilled nursing benefits;

Improves access to the hospice benefit for terminally ill enrollees.

The measure before us today is not perfect. It is not a panacea. However, it does set in motion important steps that will lead to the creation of a long-term benefit. The bill calls for the establishment of a Bipartisan Congressional Commission to report to Congress on ways to finance both comprehensive health care and long term care.

The magnitude of the problems to be solved in assuring senior citizens an existence with dignity amplifies the importance of this bill as a first step in providing protections and assistance to the elderly and disabled.

I strongly support H.R. 2470.

Mr. GUNDERSON. Mr. Chairman, earlier this month, I returned to western Wisconsin to conduct a series of four regional Older Americans Forums on the issue of Medicare catastrophic health insurance coverage. Keeping in mind the variety of legislation introduced to address the concerns of the escalating health care costs facing older Americans, it was my intent to inform Medicare recipients of the legislation before the House and gain a better understanding of the benefit needs and cost limits of older Americans in Wisconsin's Third District.

It is important to briefly touch on the genesis of our debate on Medicare catastrophic health care coverage. Data indicates that roughly 70 percent of older Americans are covered by Medicare and some form of private MediGap insurance, another 10 percent qualify for Medicaid health care coverage, and the remaining 20 percent of our elderly population are covered solely by Medicare. It is this 20 percent of the 31 million Medicare beneficiaries—28 million older Americans and 3 million disabled persons under the age of 65—that are in need of additional health care protection.

Statistics also reflect that the major out-of-pocket, burdensome health care expenses facing older Americans are those associated with nursing home care, with hospital costs a distant second, followed by physician, dental and drugs costs.

It is important to state up front that the fiscal realities of the Federal Government and Medicare beneficiaries limited the parameter of our Medicare catastrophic health care coverage debate. Both H.R. 2941, the Medicare Catastrophic Protection Act and minority substitute provide greater health care coverage for our Medicare population by expanding on our current Medicare law in the areas of acute inpatient hospital services, skilled nursing care, spousal impoverishment, home health care, outpatient prescription drugs and respite care. This new expanded Medicare coverage is to be financed through an increase in the monthly Medicare part B premium, a supplemental premium based on income and deductibles according to services received.

Reflecting on comments made by older Americans in western Wisconsin on the issue of Medicare catastrophic health care coverage, their primary interests were in the areas of home health care, nursing home coverage, prescription drugs, and spousal impoverishment. In weighing the expanded Medicare benefits and the cost to the average Medicare recipient in Wisconsin's Third District—the bottom line favored H.R. 2941, the Medicare Catastrophic Protection Act. The economic makeup of older Americans in Wisconsin's Third District is such that of the 16 counties in my district only one has an average income that will be taxed through the supplemental premium in H.R. 2941. It is clear that the additional benefits available in this catastrophic health care package currently are sound for Medicare recipients in western Wisconsin.

As with practically every piece of major reform legislation that moves through Congress, there are good and bad points. It is important to me that catastrophic health care plans be budget neutral—which H.R. 2941 is, according to cost estimates for the first 5 years. However, one drawback of H.R. 2941 is that it unfortunately misses the excessive health costs facing older Americans—nursing home care.

I am an original cosponsor of H.R. 1245, the Medicare Catastrophic Illness Coverage Act, and have long been committed to providing appropriate and quality health care coverage for our Medicare beneficiaries. At this juncture, I believe, we need to work with the Senate to control the out year costs—that is, the costs of this program many years down the road—both for Medicare beneficiaries and the Federal Government. And eventually, we must tackle the nursing home care needs of our aging society, and look deeper into proven community based options, such as home health care and adult day care coverage.

While we have made great strides today in expanding Medicare coverage in the areas of home health care, prescription drugs, respite care and spousal impoverishment, the large out-of-pocket expenses facing older Americans—nursing home care—have yet to be appropriately addressed.

Mr. GAYDOS. Mr. Chairman, I rise in strong support of H.R. 2470, the Medicare Catastrophic Protection Act of 1987.

Skyrocketing health care costs are hurting all Americans, but they are especially hard on our Nation's elderly citizens, and the threat of thousands of dollars in medical bills is cited as one of their greatest fears.

In fact, a recent study showed that married couples over 65 averaged about $3,000 in annual out-of-pocket health care costs last year. The Catastrophic Protection Act will ease this burden by providing a $1,798 cap on out-of-pocket costs for Medicare patients, starting in 1989.

The bill also extends yearly hospital in-patient coverage to 365 days, it will start covering some of the cost of prescription drugs, and it will pay for up to 80 hours of home health services. This expansion of Medicare will benefit the 31 million older Americans who are served by Medicare, and it will help improve their standard of living.

Mr. Chairman, our senior citizens spent their lives building our Nation. They are the people who have shaped our past and the parents and grandparents of the men and women who will shape our future. This Nation's elderly have earned the right to receive good, affordable health care, and I urge all of my colleagues to support the catastrophic health care bill.

Mr. ROYBAL. Mr. Chairman, today, the House will begin consideration of H.R. 2470, the Medicare Catastrophic Protection Act of 1987. I strongly support this critical piece of Medicare and Medicaid reform because it represents an important first step toward a comprehensive solution to America's catastrophic health insurance problem. I rise at this time to speak in support of the improved mental health benefit contained in this legislation.

Studies indicate that 15 to 20 percent of elderly Americans—between 4 and 6 million persons—suffer from significant mental health problems. Disorders such as depression and alcoholism, not to mention Alzheimer's disease and other forms of dementia, are exacting a heavy toll among our elderly citizens. Elderly men over the age of 75 have the highest suicide rate of any age group in America. It has been estimated that as many as 80 percent of elderly persons in need of mental health services fail to receive any treatment at all.

In spite of such great need, elderly persons still have very limited access to mental health services funded by the Federal Government, including those funded by Medicare. Medicare mental health benefits have not changed since the program was instituted over 20 years ago so that what was a very small benefit of $250 in 1965 is now worth less than $60 in current dollars. The improved Medicare mental health benefit proposed as part of the Medicare Catastrophic Protection Act simply restores the original value of this benefit. For that reason, I strongly supported its inclusion in H.R. 2470.

Such a readjustment of the Medicare mental health benefit, however, is only a first step toward meeting the great mental health needs of all Americans. Soon the Congress must begin to take the next critical steps toward ensuring adequate mental health services for elderly Americans as well as for Americans of all ages. Toward this end, I will soon be introducing a more comprehensive mental health initiative for better protecting the mental health of both elderly and nonelderly Americans.

Mr. KEMP. Mr. Chairman, I want to go on record in opposition to this piece of legislation. I believe Congress has a historic opportunity to meet the health care needs facing older Americans through an innovative and exciting private-sector/Government partnership. Instead, we are considering a woefully inadequate bill that is a throwback to the worn-out policies of tax and spend and the mentality that the Federal Government is the answer to all our problems.

While I have numerous concerns about this bill, there are three flaws which I regard as fatal to its ability to meet our goal of providing comprehensive catastrophic health care coverage to older Americans. Because of these flaws, the victims of this bill will be the elderly who mistakenly believe it will fully cover their health care needs, the elderly who already have better coverage through the private sector, and the elderly who will face significantly higher taxes and higher premiums for this inadequate coverage.

Unfortunately, the seed for this misguided approach to meeting the catastrophic health care needs of older Americans was planted by the administration. Instead of providing greater incentives and opportunities for the elderly to meet their health care needs through affordable, comprehensive private-sector coverage, the administration proposed coopting the private sector's role. Once the administration set the tone for expanded, nationalized health care, it should not have been surprised when some of my colleagues declared its efforts inadequate and began proposing more grandiose, expensive schemes for a new entitlement program in health care.

The threat of being financially devastated by catastrophic health care costs is a very real one for Americans, particularly our elderly. The real catastrophic health care issue which haunts many older Americans is long-term care, especially nursing home care. Incredibly, this bill fails to address this problem.

Many older Americans mistakenly believe that Medicare will pay for long-term care. In reality, Medicare covers only about 2 percent of nursing home bills. Of the $38 billion spent on nursing home care in 1985, the elderly and their families paid roughly half of the bills. With nursing home costs averaging $22,000 a year, this is a terrible financial burden for older Americans who confidently expected their retirement income to enable them to live comfortably. After families spend down their assets and literally impoverish themselves—which is the unfortunate result for 500,000 people every year—Medicaid will step in to pay the bills. As a result, Medicaid pays almost 45 percent of all nursing home costs.

There are no easy answers to meeting the long-term care needs of our senior citizens. But, there are initiatives which we should implement. I believe we must expand access to affordable long-term care insurance. While this is an infant industry in comparison to other types of insurance coverage, more than 30 companies currently offer long-term care policies, roughly twice as many as were in the market only 2 years ago.

First, the Government should work with the industry to provide the data needed to accurately price long-term insurance and to remove Government regulatory barriers to affordable insurance. Second, the Government should educate older Americans on the need for coverage of long-term care. In addition, I believe we should allow taxpayers to fully deduct the cost of premiums for long-term care coverage without regard to the 7.5 percent floor under the regular medical expense deduction.

A second fatal flaw in this bill is its undermining of private-sector supplemental insurance, with the result that older Americans could actually be worse off in meeting acute care expenses. Seven out of 10 older Americans currently have private-sector insurance, called MediGap policies, to cover most of the deductibles and coinsurance fees incurred under Medicare. This limits their out-of-pocket expenses. In addition, MediGap policies provide coverage for 365 days of hospital care after Medicare benefits have run out. For most older Americans, the coverage offered by these policies is sufficiently comprehensive.

However, under this bill, beneficiaries can still incur significant out-of-pocket expenses. They will have to pay more than $1,000 for outpatient services, and physicians' charges above assignment, a hospital deductible of roughly $580, and, if they are on medication, a $500 deductible and coinsurance fees to cover prescription drugs. If they still want to purchase MediGap policies to cover these expenses, they will need to find those health care dollars on top of the higher premiums and harsh new taxes imposed by this bill to pay for expanded benefits which are hardly catastrophic in nature.

There is a much simpler and less expensive means of providing comprehensive catastrophic health care coverage to older Americans. Instead of essentially driving out the private sector, we should expand the opportunities for the private sector to offer affordable comprehensive insurance coverage to the elderly.

We can accomplish this goal by changing the minimum standards for MediGap policies. These policies should be required to provide coverage for an unlimited number of days in the hospital and unlimited coverage for part B coinsurance fees. Because few people ever exceed the limits in current MediGap policies, the insurance industry has indicated it can provide this additional coverage at no extra cost to the beneficiary. In addition, I believe we should allow companies to offer policies with higher deductibles, similar to those set by this bill, at lower premium levels. This would give older Americans the flexibility to purchase a policy which meets their financial and medical needs.

The third fatal flaw in this bill is also the most punitive. In addition to imposing higher premiums on the elderly, the bill creates a new surtax on older Americans before the full benefits of tax reform have even been realized. Senior citizens with incomes as low as $6,000 would have to pay this new tax, and all older Americans with incomes over roughly $14,000 would pay as much as $580 in additional taxes in 1988. As a result, roughly 40 percent of all Medicare beneficiaries would be subsidizing the cost of this bill for the other 60 percent of beneficiaries.

This tax burden will continue to rise to reflect increasing health care costs. As early as 1992, the Treasury Department estimates that the tax burden could reach as much as $958 for a single elderly person and $1,916 for an older couple, and eventually rise to almost $8,000 per year for an elderly couple. Unlike the premiums for private insurance coverage, these taxes are not deductible.

Last year, this Congress passed historic tax legislation designed to lower marginal tax rates and to simplify the Tax Code. But, if this bill were enacted into law, our senior citizens would be paying higher marginal tax rates than other taxpayers at a time in their lives when many are struggling to pay their bills on fixed incomes. They would not enjoy the low 15-percent marginal tax rate from which most Americans will benefit; instead, they will face a 22-percent effective rate until the maximum supplemental tax is reached. And, unlike the indexed tax brackets which most Americans will enjoy, the elderly will face continually rising marginal tax rates as the tax burden is adjusted to reflect higher health care expenses.

Older Americans simply cannot afford the price tag on this bill. Senior citizens of modest means are going to find themselves paying almost $600 in additional taxes, as well as sharply higher premiums every month, and still face many of the same gaps and fees for health care which necessitate carrying private insurance. The additional costs will result in an almost fivefold increase in annual Medicare expenses for nearly one-half of all beneficiaries. This is not the answer to their health care needs; this is a potential nightmare waiting to occur.

In spite of the tremendous increase in the cost being borne by beneficiaries, all the addons in this bill are going to put a great strain on an already shaky Medicare system. With a 5-year program cost of $24 billion, the bills are going to exceed revenues by $10 billion in the year 2000 and by almost $30 billion with 5 more years. Passage of this bill is going to hasten the deficit drain already facing the Medicare trust funds.

While I also have fundamental disagreements with the approach taken by the Republican substitute, I intend to vote for it. The substitute does address the issue of increasing access to private long-term care insurance. Compared to the bill before us, the Republican substitute is an improvement.

I am confident that Congress can meet the health care needs of older Americans without creating an expensive new entitlement program that threatens the very foundation of the Medicare system upon which so many Americans rely. We should start by rejecting this bill and work with the private sector to provide greater access to affordable comprehensive health care coverage which will offer the peace of mind to older Americans which they so richly deserve.

Mr. ARMEY. Mr. Chairman, this bill perfectly defines how not to take care of our elderly's high medical costs. A wise course would be to encourage private sector initiatives to meet the problem, and to reduce the Government bureaucracy which inhibits an effective solution. This bill does precisely the opposite: It obliterates a large part of the private insurance market and replaces it with an expensive, inflationary new Government entitlement.

Have we not learned anything at all from our experiment with big government over the last two decades? In the 1960's, before we knew any better, our instinctive response to nearly every problem known to man was to create a bureaucracy and pump money into it. It didn't work. We have the sad result before us: an astronomical public debt, an inefficient and nearly bankrupt Medicare system, and high payroll taxes that fall disproportionately on the working poor.

Now we are contemplating compounding our error. We are about to set up a new entitlement that will cause an explosion of Government spending. Don't believe that this bill is deficit neutral. That's a fantasy. It would be true only if we assume that the utilization rate for health care services won't change. In fact, it will change drastically.

The reason for this is simple. If the Government agrees to pick up an unlimited tab for health care, any incentive the hospitals and physicians have to cut costs will be destroyed. They will be like business executives with unlimited expense accounts—except they won't be out staying in luxury hotels and ordering lobster, they'll be recommending tests that people don't need, performing unnecessary surgery, deliberately searching out the most expensive treatments even when cheaper ones would serve equally well.

I don't want to criticize doctors, but let's face it, it is natural human behavior to forget the bottom line when you don't have to worry about who's paying the bill. Defense contractors do it when defense budgets are high, colleges do it when subsidized student loans are plentiful, and health care providers do it when the Government covers their services. Whenever the Government agrees to pick up the tab, cost controls vanish and spending skyrockets.

Look at what has happened with the limited Medicare system we have now. Medicare spending has suffered a 2,000-fold increase since 1967. Even after shackling doctors and hospitals with DRG's and pay freezes, costs are still galloping upwards at over 9 percent per year—far above the rate of inflation.

This is placing a serious burden on our national budget, and the outlook is grim. By most estimates, the Medicare trust fund will be completely exhausted by 2002. No one has any idea about how we're going to make up for the shortfall—at least no idea other than a massive increase in the payroll tax on American workers.

And yet here we are trying to enact a whole new entitlement with the same potential for out-of-control explosive growth. HHS expects a $10 billion deficit by the year 2000, rising to $30 billion only 5 years after that. How in the world do we expect to pay for that except through enormous tax increases?

Let's have no illusions about what we're doing here today. The American people will not stand for the new taxes that will be necessary to make this program work. If we enact this bill and saddle our Government with a giant new entitlement they don't want to pay for, we will end up losing the Medicare system we have now. Enact this bill, put us further into the red, and, believe me, some day we are all going to be held accountable.

Maybe if the private sector were intrinsically unable to help people bear the burden, high health costs there might be a case for this legislation. But the private sector can, with limited help from the Government, meet the costs that this legislation is trying to alleviate.

The many MediGap insurance policies, which are becoming more comprehensive all the time, can help people pay the deductibles and coinsurance fees and long hospital stays. They're already doing it to a large extent; 70 percent of Medicare beneficiaries have such policies. The most immediate effect of this bill will be to destroy the market for these policies, while continuing to offer no protection for other health costs that are not covered.

A wise catastrophic health plan would employ a system of tax incentives to encourage the private sector to fully cover catastrophic health costs. We could set up tax-free individual medical accounts, for example, which would allow young people to save for future health expenses in exactly the way that they now prepare for their retirement needs. We could grant full deductibility for the health plans of self-employed Americans, and perhaps require that all deductible plans include catastrophic protection.

These private sector alternatives would have several advantages over the bureaucratic solution we are today considering. First, they would have superior cost control mechanism without the great inflationary potential of a Government solution. Second, they would allow people to take control of their own lives and provide for their needs in a manner in which they see fit. Finally, they would result in tax cuts, not spending increases.

Given a choice between Government and the private sector, people will choose the private sector. Given a choice between higher taxes and less spending, they will choose less spending. I strongly urge my colleagues to oppose this bill.

Mr. McCANDLESS. Mr. Chairman, the so-called catastrophic health insurance bill, H.R. 2470, would be a real catastrophe for at least 40 percent of our senior citizens—those with incomes of over $14,166 per year. It represents a huge tax increase—just for the elderly.

While Medicare costs to the beneficiary have always had some relation to benefits received in the past, this bill sets up a supplemental premium based on income, and having no connection with benefits at all.

Starting with small amounts to be paid by those with adjusted gross incomes of $6,000 per year, the bill requires payment of this supplemental premium on a graduated basis up to a maximum surtax to be paid by all Medicare beneficiaries with incomes of over $14,166. The maximum amount would be $580 in 1988. A couple would pay the surtax for each spouse, or $1,160, just for this extra premium—whether or not either spouse had any medical or hospital expenses.

How many couples with an income of $30,000 can afford to pay $1,160 next year for no benefits received?

The maximum amount is supposed to go up to $935 in 1992—just 5 years from now. Twice that would be $1,870—nearly $2,000 additional for that elderly couple living on an adjusted gross income of about $30,000 to pay at income tax time. And it represents no benefits to them at all.

Of course, those with very large incomes could afford this extra tax, but each elderly person living on $14,166 and each elderly couple living on $28,332 wold really have to struggle to pay it every year.

It is estimated that only about 8 percent of elderly people would benefit from the provisions of the so-called catastrophic insurance bill in 1988. Even the new prescription drug section would not help many elderly persons. The Congressional Budget Office estimates that only about 17 percent of the elderly population would ever reach the $500 annual deductible.

Mr. Chairman, the so-called catastrophic insurance bill is really a catastrophic tax bill. That is why I voted for the Republican initiative, which has no mandatory surtax to burden the senior citizens of America.

Mr. SCHUETTE. Mr. Chairman, I rise today to express my strong support for the enactment of legislation to provide catastrophic health coverage for our Nation's elderly. I am deeply troubled, however, by many aspects of the bill before us, H.R. 2470. When the President announced his proposal for catastrophic health protection under Medicare, everyone agreed that it was something that was truly necessary and something which should be actively pursued.

The bill before us, H.R. 2470 took that proposal and transformed it from its original intent of protection against catastrophic illness, into a catastrophic $29 billion tax increase imposed exclusively on our Nation's elderly. Under this proposal, a mandatory tax on income, disguised as a "supplementary premium" by its supporters, would be imposed on all seniors who have an annual adjusted gross income of more than $6,000. All seniors with an adjusted gross income of more than $14,166 would pay the maximum mandatory tax of $580 per year. For married couples filing jointly, each Medicare-eligible individual would be taxed at one-half of the couple's combined adjusted gross income. In future years, this tax will continue to rise as the cost of Medicare continues to rise.

I am fearful that if this legislation is adopted, this new tax will eventually rise to extraordinary levels, placing an even more severe financial burden on many of our Nation's elderly. The new tax on seniors is estimated to rise to almost $1,000 by 1992.

One of the major shortcomings of this bill is that it almost completely ignores long-term health care. Despite a massive mandatory tax to be imposed on many of our senior citizens, the most serious of all catastrophic health care costs, long-term care, and specifically nursing home care, is addressed simply by the creation of yet another bureaucratic government commission to delay action and study the issue.

In 1985, a total of $35.2 billion was spent on nursing home care. A great percentage of this amount was paid out-of-pocket by the elderly or their families. Few people can afford the expense of an extended nursing home stay, so many seniors eventually end up on Medicaid. We cannot justify shifting such a large financial burden to our elderly without providing the benefits that they truly need.

Another serious deficiency of this bill is that many of our senior citizens may end up paying for the cost of AIDS treatment. Once a person is diagnosed as having AIDS, he or she can become eligible for Medicare as a disabled person 29 months after the original diagnosis. Medicare will then pay for the cost of AIDS drug treatments, currently estimated at $10,000 to $12,000 per patient per year.

We all recognize that AIDS is a devastating disease and one in which the Federal Government must take an active role. But that role must be the pursuit of a cure or vaccine for this dreaded disease. We should not ask our senior citizens, many of whom live on fixed incomes, to pay for the costs of this treatment. The true costs of this measure as it is written will be staggering.

For those reasons, I am greatly troubled by this bill. No one can dispute the importance of providing catastrophic health coverage for our senior citizens and the time to protect our Nation's seniors from the staggering financial consequences of catastrophic illness is now. However, while we must provide coverage against catastrophic loss, we must not surrender to ill-conceived proposals that would impose catastrophic taxes on our senior citizens, particularly when we fail to adequately address their true catastrophic health care needs.

There is an alternative catastrophic health care package which we can choose, which does accomplish the health care goals of our elderly while at the same time not bankrupting their very existence. H.R. 2970, of which I am a cosponsor, provides similar coverage to H.R. 2470 without imposing a massive mandatory tax on our senior citizens. In addition, the substitute addresses the real crux of providing for our Nation's elderly, long-term care coverage.

Under the substitute, assets from IRA's and life insurance policies can be used to help pay for the cost of long-term care. Currently law subjects transfers of these funds to pay for health care to a penalty tax. The substitute would remove this penalty for those who have been subjected to the catastrophic costs associated with long-term health care.

It also excludes employer-provided long-term health care benefits as taxable income. Under the new tax law, the value of these benefits are calculated and included as taxable income. In addition, a federally chartered reinsurance corporation would be established by Congress. The effect of this corporation would be to reduce the risks associated with long-term health care coverage, thereby reducing insurance premiums for persons who seek private long-term health care insurance. These provisions, none of which are contained in H.R. 2470, would be an important and necessary first step in protecting against long-term catastrophic costs to our senior citizens.

In addition to containing the long-term care provisions, the substitute includes nearly all of the new benefits contained in H.R. 2470. These benefits include a slightly higher cap on out-of-pocket expenses set at $2,000 annually. It eliminates the coinsurance for stays at skilled nursing facilities, provides an identical home health care benefit and includes a provision to protect against spousal impoverishment. The substitute also contains a prescription drug benefit targeted at our seniors who most need this coverage.

In conclusion, I want to reemphasize that I strongly support the expansion of the Medicare program to include protection against catastrophic illness. I cannot, however, support a measure that will impose a catastrophic tax increase on our senior citizens while at the same time virtually ignoring the key issue—long-term care protection. We can and we must do better for America's senior citizens. And I for one will continue to fight to see that necessary and adequate care is provided, and this catastrophic tax is eliminated.

The CHAIRMAN. The gentleman from California [Mr. WAXMAN] has 1 minute remaining.

Mr. WAXMAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time has expired.

Pursuant to the rule, an amendment in the nature of a substitute consisting of the text of H.R. 2941 is considered as an original bill for purposes of amendment under the 5-minute rule and is considered as having been read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 2941

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medicare Catastrophic Protection Act of 1987".

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of, a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; references in Act; table of contents.

TITLE I—PROVISIONS RELATING TO PART A OF MEDICARE PROGRAM AND SUPPLEMENTAL MEDICARE PREMIUM

Sec. 101. Inpatient hospital services.
Sec. 102. Extended care services.
Sec. 103. Hospice care.
Sec. 104. Blood deductible.
Sec. 105. Home health benefits.
Sec. 106. Imposition of supplemental medicare premium.

TITLE II—PROVISIONS RELATING TO PART B OF THE MEDICARE PROGRAM AND TO MEDICARE SUPPLEMENTAL HEALTH INSURANCE

Sec. 201. Limitation on medicare out-of-pocket expenses under part B.
Sec. 202. Coverage of catastrophic expenses for prescription drugs and insulin.
Sec. 203. In-home care for certain chronically dependent individuals.
Sec. 204. Extending home health services.
Sec. 205. Increase in maximum payment allowed for outpatient mental health services.
Sec. 206. Adjustments in medicare part B premium.
Sec. 207. Treatment of prepaid health plans.
Sec. 208. Mailing of notice of medicare benefits and participating physician directories.
Sec. 209. Changes in certification of medicare supplemental health insurance policies.
Sec. 210. Extension of social HMO demonstration project.
Sec. 211. Research on long-term care for medicare beneficiaries.
Sec. 212. Study of adult day care services.

TITLE III—PROVISIONS RELATING TO THE MEDICAID PROGRAM

Sec. 301. Requiring medicaid buy-in of premiums and cost-sharing for indigent medicare beneficiaries.
Sec. 302. Protection of income and resources of couple for maintenance of community spouse.

TITLE IV—UNITED STATES BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE

Sec. 401. Establishment.
Sec. 402. Duties.
Sec. 403. Membership.
Sec. 404. Staff and consultants.
Sec. 405. Powers.
Sec. 406. Report.
Sec. 407. Termination.
Sec. 408. Authorization of appropriations.

TITLE I—PROVISIONS RELATING TO PART A OF MEDICARE PROGRAM AND SUPPLEMENTAL MEDICARE PREMIUM

SEC. 101. INPATIENT HOSPITAL SERVICES.

(a) Application of Inpatient Hospital Deductible on a Calendar Year Basis and Limitation to One Deductible Each Year.—The first sentence of section 1813(a)(1) (42 U.S.C. 1395e(a)(1)) is amended—

(1) by striking "any spell of illness" and inserting "the first period of continuous hospitalization (as defined in subsection (b)(3)) that begins in a calendar year", and

(2) by inserting "for that calendar year" after "inpatient hospital deductible".

(b) Elimination of General Day Limitation on Inpatient Hospital Services.—Section 1812 (42 U.S.C. 1395d) is amended—

(1) by amending paragraph (1) of subsection (a) to read as follows:

"(1) inpatient hospital services;";

(2) in subsection (b)—

(A) in the matter before paragraph (1), by striking "during a spell of illness may not (subject to subsection (c))" and inserting "may not",

(B) by striking paragraph (1), and

(C) by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively; and

(3) by amending subsection (c) to read as follows:

"(c)(1) If an individual is an inpatient of a psychiatric hospital on the first day of medicare entitlement (as defined in paragraph (4)(A)) payment may not be made under this part during the period described in paragraph (2) for inpatient mental health services (as defined in paragraph (4)(B)) in excess of the number of days specified in paragraph (3).

"(2) The period described in this paragraph—

"(A) begins on the first day of medicare entitlement, and

"(B) ends at the end of the first period of 60 consecutive days thereafter on each of which the individual is not receiving inpatient mental health services.

"(3) The number of days specified in this paragraph for an individual is 150 days less the number of days (during the 150-day period immediately before the first day of medicare entitlement) during which the individual was an inpatient of a psychiatric hospital.

"(4) In this subsection:

"(A) The term 'first day of medicare entitlement' means, for an individual, the first day of the first month for which the individual is entitled to benefits under this part.

"(B) The term 'inpatient mental health services' means—

"(i) inpatient psychiatric hospital services, and

"(ii) inpatient hospital services for an individual who is an inpatient primarily for the diagnosis or treatment of mental illness.".

(c) Elimination of Coinsurance Amounts for Inpatient Hospital Services.—(1) Section 1813(a)(1) (42 U.S.C. 1395e(a)(1)) is amended by striking the second sentence.

(2) Section 1814(d)(3) (42 U.S.C. 1395f(d)(3)) is amended—

(A) by striking "60 percent" and "80 percent" and inserting "100 percent" both places, and

(B) by striking "two-thirds of".

(d) Determination of Part A Premium.—Subsection (d) of section 1818 (42 U.S.C. 1395i(2)) is amended to read as follows:

"(d)(1) The Secretary shall, during September of each year (beginning with 1987), estimate the monthly actuarial rate for months in the succeeding year. Such actuarial rate shall be one-twelfth of the amount which the Secretary estimates (on an average, per capita basis) is equal to 100 percent of the benefits and administrative costs which will be payable from the Federal Hospital Insurance Trust Fund for services performed and related administrative costs incurred in the succeeding year with respect to individuals age 65 and over who will be entitled to benefits under this part during that entire year.

"(2) The Secretary shall, during September of each year determine and promulgate the dollar amount which shall be applicable for premiums for months occurring in the following year. Such amount shall be equal to the monthly actuarial rate determined under paragraph (1) for that following year. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1 (or, if it is a multiple of 50 cents but not a multiple of $1, to the next higher multiple of $1).

"(3) Whenever the Secretary promulgates the dollar amount which shall be applicable as the monthly premium under this section, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of an adequate actuarial rate for individuals 65 and older as provided in paragraph (1).".

(e) Conforming Amendments.—

(1) Dropping "spell-of-illness" concept.—Section 1861 (42 U.S.C. 1395x) is amended—

(A) by striking subsection (a);

(B) in subsection (e)—

(i) by striking the second sentence, and

(ii) in the fifth sentence, by striking ", except for purposes of subsection (a)(2),";

(C) in subsection (j)—

(i) in the first sentence, by striking "(other than for purposes of subsection (a)(2))", and

(ii) by striking the second sentence; and

(D) in subsection (y)—

(i) in paragraph (1), by striking "(except for purposes of subsection (a)(2))", and

(ii) in paragraphs (2) and (3), by striking "spell of illness" and "spell" each place either appears and inserting "year".

(2) Miscellaneous.—(A) Section 1812 (42 U.S.C. 1395e) is amended by striking subsection (g).

(B) Section 1832(b) (42 U.S.C. 1395k(b)) is amended by striking " 'spell of illness'," and the comma before "and".

(f) Effective Date and Transition.—

(1) Deductible.—(A) The amendments made by subsection (a) shall apply to the deductible for 1988 and succeeding years.

(B) Hold harmless against transition for calendar year deductible.—In the case of an individual for whom a spell of illness (as defined in section 1861(a) of the Social Security Act, as in effect on December 31, 1987) began before January 1, 1988, and had not yet ended as of such date, the amendment made by subsection (a) shall not apply to services furnished during that spell of illness during 1988 or 1989.

(2) Extension of benefits and coinsurance.—The amendments made by subsections (b) and (c) shall apply to inpatient hospital services furnished on or after January 1, 1988.

(3) Premium.—The amendments made by subsection (d) shall apply to premiums for months beginning with January 1988.

(4) Miscellaneous.—The amendments made by subsection (e) shall take effect on January 1, 1988.

(5) Adjustment in payments for inpatient hospital services.—In adjusting—

(A) DRG prospective payment rates under section 1886(d) of the Social Security Act,

(B) target amounts under section 1886(b)(3) of such Act,

(C) outlier cutoff points under section 1886(d)(5)(A) of such Act, and

(D) weighting factors under section 1886(d)(4) of such Act, the Secretary shall, to the extent appropriate, take into consideration the reductions in payments to hospitals by medicare beneficiaries resulting from the amendments made by subsection (b) of this section (eliminating a day limitation on inpatient hospital services).

SEC. 102. EXTENDED CARE SERVICES.

(a) **Coinsurance Rate of 20 Percent of National Average Per Diem Cost for Services Furnished During First 7 Days of Each Calendar Year.**—Paragraph (3) of section 1813(a) (42 U.S.C. 1395e(a)) is amended to read as follows:

"(3)(A) The amount payable for post-hospital extended care services furnished an individual in any calendar year shall be reduced by the coinsurance amount (promulgated under subparagraph (C) for that year) for each day (before the 8th day) on which he is furnished such services during the year.

"(B) Before September 1 of each year (beginning with 1987), the Secretary shall estimate the national average per diem reasonable cost recognized under this title for post-hospital extended care services which will be furnished in the succeeding calendar year.

"(C) The Secretary shall, in September of each year (beginning with 1987) promulgate the coinsurance amount which shall apply to post-hospital extended care services furnished in the succeeding year. Such amount shall be equal to 20 percent of the national average per diem cost estimated under subparagraph (B) in that year. If the coinsurance amount determined under the preceding sentence is not a multiple of 50 cents, it shall be rounded to the nearest multiple of 50 cents (or, if it is a multiple of 25 cents but not a multiple of 50 cents, to the next higher multiple of 50 cents).".

(b) **Extending to 150 Days in Each Calendar Year.**—Section 1812 (42 U.S.C. 1395d) is amended—

(1) in subsection (a)(2)(A), by striking "100 days during any spell of illness" and inserting "150 days during any calendar year", and

(2) in subsection (b)(1), as redesignated by section 101(b)(2)(C), by striking "during such spell after such services have been furnished to him for 100 days during such spell" and inserting "during a calendar year after such services have been furnished to the individual for 150 days during that year".

(c) **Eliminating Hospital Requirement for Coverage of Extended Care Services.**—

(1) **In general.**—Section 1812 (42 U.S.C. 1395d) is amended—

(A) in subsection (a)(2)—

(i) by striking "(2)(A)" and inserting "(2)",

(ii) by striking "post-hospital", and

(iii) by striking ", and (B)" and all that follows up to the semicolon; and

(B) by striking subsection (f).

(2) **Conforming amendments.**—

(A) Title XVIII is amended by striking "post-hospital" each place it appears in each of the following provisions:

(i) Subsections (b)(1) (as redesignated by section 101(b)(2)(C) of this Act) and (e) of section 1812 (42 U.S.C. 1395d).

(ii) Subsection (a)(3) of section 1813 (42 U.S.C. 1395e).

(iii) Paragraphs (2)(B) and (6) of section 1814(a) (42 U.S.C. 1395f(a)).

(iv) Subsections (v)(1)(G), (v)(2), (v)(3), and (y) of section 1861 (42 U.S.C. 1395x).

(v) Subsections (b)(3) and (d) of section 1866 (42 U.S.C. 1395cc).

(vi) Subsections (d) and (f) of section 1883 (42 U.S.C. 1395tt).

(B) Section 1811 (42 U.S.C. 1395c) is amended by striking "hospital, related post-hospital" and inserting "inpatient hospital services, extended care services".

(C) Section 1814(a)(2)(B) (42 U.S.C. 1395f(a)(2)(B)) is amended by striking ", for any of the conditions" and all that follows up to the semicolon.

(D) Section 1861 (42 U.S.C. 1395x) is amended—

(i) in subsection (e), as amended by section 101(e)(1)(B) of this Act,—

(I) in the matter before paragraph (1), by striking "paragraph (7) of this subsection, and subsection (i) of this section" and inserting "and paragraph (7) of this subsection", and

(II) in the second sentence, by striking "section 1814(f)(2), and subsection (i) of this section" and inserting "and section 1814(f)(2)";

(ii) by striking subsection (i), and

(iii) by striking paragraph (4) of subsection (y).

(d) **Conforming Amendment.**—Section 1861(y)(3) (42 U.S.C. 1395x(y)(3)) is amended by striking "equal to" and all that follows through "31st day" and inserting "equal to the coinsurance amount established under section 1813(a)(3)(C) for each day before the 8th day".

(e) **Effective Dates.**—

(1) The amendments made by subsections (a), (b), and (d) shall apply to extended care services furnished on or after January 1, 1988.

(2) The amendments made by subsection (c) shall apply to extended care services furnished pursuant to an admission to a skilled nursing facility occurring on or after January 1, 1989.

SEC. 103. HOSPICE CARE.

(a) **Extension of Coverage Period.**—Section 1812 (42 U.S.C. 1395d) is amended—

(1) in subsection (a)(4), by striking "and one subsequent period of 30 days" and inserting ", a subsequent period of 30 days, and a subsequent extension period";

(2) in subsection (d)(1), by striking "and one subsequent period of 30 days" and inserting ", a subsequent period of 30 days, and a subsequent extension period"; and

(3) in subsection (d)(2)(B), by inserting "or a subsequent extension period" after "30-day period".

(b) **Continued Certification of Terminal Illness for Extended Benefits.**—Section 1814(a)(7)(A) (42 U.S.C. 1395f(a)(7)(A)) is amended—

(1) by striking "and" at the end of clause (i),

(2) by striking the semicolon at the end of clause (ii) and inserting ", and", and

(3) by adding at the end the following new clause:

"(iii) in a subsequent extension period, the medical director or physician described in clause (i)(II) recertifies at the beginning of the period that the individual is terminally ill;".

(c) **Effective Date.**—The amendments made by this section shall apply to hospice care furnished on or after January 1, 1988.

SEC. 104. BLOOD DEDUCTIBLE.

(a) **In General.**—Paragraph (2) of section 1813(a) (42 U.S.C. 1395e(a)) is amended to read as follows:

"(2)(A) The amount payable to any provider of services under this part for services furnished an individual shall be further reduced by a deduction equal to the expenses incurred for the first three pints of whole blood (or equivalent quantities of packed red blood cells, as defined under regulations) furnished to the individual during each calendar year, except that such deductible for such blood shall in accordance with regulations be appropriately reduced to the extent that there has been a replacement of such blood (or equivalent quantities of packed red blood cells, as so defined); and for such purposes blood (or equivalent quantities of packed red blood cells, as so defined) furnished such individual shall be deemed replaced when the institution or other person furnishing such blood (or such equivalent quantities of packed red blood cells, as so defined) is given one pint of blood for each pint of blood (or equivalent quantities of packed red blood cells, as so defined) furnished such individual with respect to which a deduction is made under this sentence.

"(B) The deductible under subparagraph (A) for blood or blood cells furnished an individual in a year shall be reduced to the extent that a deductible has been imposed under section 1833(b) to blood or blood cells furnished the individual in the year.".

(b) **Effective Date.**—(1) The amendment made by subsection (a) shall apply to blood or blood cells furnished on or after January 1, 1988.

(2) In the case of an individual for whom a spell of illness (as defined in section 1861(a) of the Social Security Act) began before January 1, 1988, and had not yet ended as of such date, the amount of any deductible under section 1813(a)(2) of such Act (as amended by subsection (a)) shall be reduced during that spell of illness during 1988 or 1989 to the extent the deductible under section 1813(a)(2) of such Act (as in effect before January 1, 1988) was applied during the spell of illness.

SEC. 105. HOME HEALTH BENEFITS.

(a) **Coverage Under Part A Only if No Coverage Under Part B.**—Section 1812 (42 U.S.C. 1395d), as amended by sections 101(e)(2) and 102(c)(1)(B) of this Act, is amended—

(1) in subsection (a)(3), by inserting "subject to subsection (f)," after "(3)", and

(2) by striking subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) Subsection (a)(3) shall only apply to home health services provided to an individual during a month in which the individual is not entitled to benefits under part B.".

(b) **Effective Date.**—The amendments made by this section shall apply to home health services furnished on or after January 1, 1989.

SEC. 106. IMPOSITION OF SUPPLEMENTAL MEDICARE PREMIUM.

(a) **General Rule.**—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

"PART VIII—SUPPLEMENTAL MEDICARE PREMIUM

"Sec. 59B. Imposition of supplemental medicare premium.

"SEC. 59B. IMPOSITION OF SUPPLEMENTAL MEDICARE PREMIUM.

"(a) **Imposition of Premium.**—In the case of a medicare-eligible individual, there is hereby imposed (in addition to any other amount imposed by this subtitle) for each taxable year a premium equal to the annual premium for such year determined under subsection (b).

"(b) DETERMINATION OF AMOUNT.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection—

"If the adjusted gross income for the taxable year is:		The annual premium for the taxable year is:
Over:	But not over:	
$ 0	$ 6,000	$ 0
6,000	6,143	10
6,143	6,287	20
6,287	6,430	30
6,430	6,573	40
6,573	6,716	50
6,716	6,860	60
6,860	7,003	70
7,003	7,146	80
7,146	7,289	90
7,289	7,433	100
7,433	7,576	110
7,576	7,719	120
7,719	7,862	130
7,862	8,006	140
8,006	8,149	150
8,149	8,292	160
8,292	8,436	170
8,436	8,579	180
8,579	8,722	190
8,722	8,865	200
8,865	9,009	210
9,009	9,152	220
9,152	9,295	230
9,295	9,438	240
9,438	9,582	250
9,582	9,725	260
9,725	9,868	270
9,868	10,011	280
10,011	10,155	290
10,155	10,298	300
10,298	10,441	310
10,441	10,585	320
10,585	10,728	330
10,728	10,871	340
10,871	11,014	350
11,014	11,158	360
11,158	11,301	370
11,301	11,444	380
11,444	11,587	390
11,587	11,731	400
11,731	11,874	410
11,874	12,017	420
12,017	12,160	430
12,160	12,304	440
12,304	12,447	450
12,447	12,590	460
12,590	12,734	470
12,734	12,877	480
12,877	13,020	490
13,020	13,163	500
13,163	13,307	510
13,307	13,450	520
13,450	13,593	530
13,593	13,736	540
13,736	13,880	550
13,880	14,023	560
14,023	14,166	570
14,166		580.

"(2) SPECIAL RULE WHERE INDIVIDUAL NOT ELIGIBLE FOR ENTIRE TAXABLE YEAR; SHORT TAXABLE YEARS.—If an individual is not a medicare-eligible individual for each month during his taxable year, the annual premium determined under this subsection shall be an amount which bears the same ratio to the amount determined under paragraph (1) as—

"(A) the number of months during the taxable year for which such individual is a medicare-eligible individual, bears to

"(B) 12.

A similar rule shall apply in the case of a taxable year of less than 12 months; except that adjusted gross income for the taxable year shall be annualized.

"(3) SPECIAL RULE FOR JOINT RETURNS.—In the case of a joint return—

"(A) this section shall be applied separately with respect to each spouse, and

"(B) the adjusted gross income of each spouse shall be ½ of their combined adjusted gross income.

"(4) ADJUSTMENTS TO TABLE.—

"(A) IN GENERAL.—Not later than December 15 of 1988 and each subsequent calendar year, the Secretary shall prescribe a table which shall apply in lieu of the table contained in paragraph (1) with respect to taxable years beginning in the succeeding calendar year.

"(B) METHOD OF PRESCRIBING TABLE.—The table which, under subparagraph (A), is to apply in lieu of the table contained in paragraph (1) with respect to taxable years beginning in any calendar year shall be prescribed—

"(i) by increasing each dollar amount setting forth the amount of the premium in such table by the sum of the medicare inflation factor and the prescription drug factor for such calendar year, and

"(ii) by increasing each other dollar amount in such table by the cost-of-living adjustment for such calendar year (as defined in section 1(f)(3)).

"(C) MEDICARE INFLATION FACTOR.—For purposes of subparagraph (B), the medicare inflation factor for any calendar year is the percentage (if any) by which—

"(i) the medicare value for such calendar year, exceeds

"(ii) the medicare value for 1988.

"(D) PRESCRIPTION DRUG FACTOR.—

"(i) IN GENERAL.—For purposes of subparagraph (B), the prescription drug factor—

"(I) for 1988 is 0 percent;

"(II) for 1989 is 5.5 percent; and

"(III) for a subsequent year is the percent determined under clause (ii) for that year.

"(ii) DETERMINATIONS.—In September of each year (beginning with 1989) the Secretary shall establish a prescription drug factor for purposes of subparagraph (B) for taxable years beginning in the succeeding calendar year. Subject to clauses (iv) and (v), the prescription drug factor with respect to taxable years beginning in the succeeding calendar year shall be the percent the Secretary estimates to be necessary so that the total amount of premiums which the Secretary estimates is collectible under this section for taxable years beginning in that succeeding calendar year by virtue of the establishment of such factor is equal to ⅓ of the amount estimated by the Secretary of Health and Human Services under section 1839(g)(2)(C) of the Social Security Act with respect to premiums in that succeeding calendar year.

"(iii) DETERMINATION OF SURPLUS OR DEFICIT.—In September of each year (beginning with 1991) the Secretary shall determine—

"(I) the total amount of additional premiums which are estimated to be collectible under this section with respect to taxable years beginning in calendar years after 1988 and before the previous calendar year by virtue of the prescription drug factor for those years, and

"(II) whether the amount described in subclause (I) is greater or less than 25 percent of the sum of the totals determined by the Secretary of Health and Human Services under section 1839(g)(1)(C)(i)(II) of the Social Security Act which were paid for calendar years after 1988 and before the previous calendar year.

"(iv) ADJUSTMENT.—If the Secretary determines under subclause (II) of clause (iii) in a year that there is a surplus or deficit described in that subclause, the Secretary shall adjust the prescription drug factor otherwise determined under this subparagraph for taxable years beginning in the succeeding year so as to reduce or increase, respectively, the aggregate amount of the additional premiums which are estimated to be collectible under this section for taxable years beginning in that succeeding year by the amount of such surplus or deficit. In making such adjustment, the Secretary shall take into account the effect of previous adjustments made under this clause.

"(v) LIMIT ON INCREASE.—Notwithstanding the previous provisions of this subparagraph, in no case shall the prescription drug factor for a year (after 1990) exceed 120 percent of such factor for the previous year.

"(E) ROUNDING.—If any increase determined under subparagraph (B) is not a multiple of $1, such increase shall be rounded to the nearest multiple of $1.

"(c) DEFINITIONS AND SPECIAL RULES.—

"(1) MEDICARE-ELIGIBLE INDIVIDUAL.—For purposes of this section—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'medicare-eligible individual' means, with respect to any month, any individual who is entitled to (or, on application without the payment of an additional premium, would be entitled to) benefits under part A of title XVIII of the Social Security Act for such month.

"(B) EXCEPTIONS.—The term 'medicare-eligible individual' shall not include for any month—

"(i) any individual who is entitled to benefits under part A of title XVIII of the Social Security Act for such month solely by reason of the payment of a premium under section 1818 of such Act,

"(ii) any individual who is required to pay a premium for such month increased or computed under paragraph (4) or (5) of section 1839(e) of the Social Security Act, or

"(iii) any qualified nonresident.

"(C) TREATMENT OF INDIVIDUALS WHO HAVE ATTAINED AGE 65.—An individual (other than a nonresident alien) who has attained age 65 shall be treated as a medicare-eligible individual for the month in which he attains age 65 and any subsequent month unless such individual establishes to the satisfaction of the Secretary that he is not a medicare-eligible individual for the month concerned.

"(2) MEDICARE VALUE.—

"(A) IN GENERAL.—For purposes of this section, the term 'medicare value' means, for any calendar year, the sum of the Medicare part A value for January of such calendar year and the Medicare part B value for January of such calendar year.

"(B) MEDICARE PART A VALUE.—For purposes of subparagraph (A), the term 'Medicare part A value' means, with respect to any month, an amount equal to 50 percent of the monthly actuarial rate promulgated under section 1818(d)(1) of the Social Security Act for such month.

"(C) MEDICARE PART B VALUE.—For purposes of subparagraph (A), the term 'Medicare part B value' means, with respect to any month, an amount equal to the excess of—

"(i) the amount equal to twice the monthly actuarial rate established under section 1839(a)(1) of the Social Security Act for the calendar year which includes such month, over

"(ii) the amount of the monthly premium for such month established under section 1839 of such Act (without regard to subsections (b), (e)(4), (e)(5), and (f) through (h) thereof).

"(3) QUALIFIED NONRESIDENT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified nonresident' means, with respect to any month during the taxable year, any individual if—

"(i) such individual is not furnished during such taxable year or any of the 4 preceding taxable years any service for which a claim for payment is or will be made under part A of title XVIII of the Social Security Act,

“(ii) such individual is not entitled to benefits under part B of title XVIII of the Social Security Act at any time during such taxable year or any of the 4 preceding taxable years, and

“(iii) such individual is present in a foreign country or countries for at least 330 full days during—

“(I) the 12-month period ending at the close of the taxable year, and

“(II) each of the 4 consecutive preceding 12-month periods.

“(B) Special rule for individuals who die during the taxable year.—An individual who dies during the taxable year shall be treated as meeting the requirement of subparagraph (A)(iii)(I) if such individual is present in a foreign country or countries for at least a number of full days equal to 90 percent of the days during such taxable year before the date of death.

“(4) Coordination with other provisions.—

“(A) Not treated as medical expense.—The premium imposed by this section shall not be treated as an expense paid for medical care for purposes of section 213.

“(B) Not treated as tax for certain purposes.—The premium imposed by this section shall not be treated as a tax imposed by this chapter for purposes of determining—

“(i) the amount of any credit allowable under this chapter, or

“(ii) the amount of the minimum tax imposed by section 55.

“(C) Treated as tax for subtitle F.—For purposes of subtitle F, the premium imposed by this section shall be treated as if it were a tax imposed by section 1.

“(D) Section 15 not to apply.—Section 15 shall not apply to the premium imposed by this section.”

(b) Reporting Requirement.—Subpart B of part III of subchapter A of chapter 61 of such Code is amended by adding at the end thereof the following new section:

“SEC. 6050O. RETURNS RELATING TO INDIVIDUALS ENTITLED TO RECEIVE BENEFITS UNDER MEDICARE PART A.

“The Secretary of Health and Human Services shall make a return (at such times and in such form as the Secretary may prescribe) setting forth the name, address, and TIN of each individual who is entitled to receive benefits (other than by reason of the payment of a premium referred to in clause (i) or (ii) of section 59B(c)(1)(B)) under part A of title XVIII of the Social Security Act for any month during the calendar year and the number of months in the calendar year for which the individual is so entitled.”

(c) Clerical Amendments.—

(1) The table of parts for subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

“Part VIII. Supplemental medicare premium.”

(2) The table of sections for subpart B of part III of subchapter A of chapter 61 of such Code is amended by adding at the end thereof the following new item:

“Sec. 6050O. Returns relating to individuals entitled to receive benefits under Medicare part A.”

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

TITLE II—PROVISIONS RELATING TO PART B OF THE MEDICARE PROGRAM AND MEDICARE SUPPLEMENTAL HEALTH INSURANCE

SEC. 201. LIMITATION ON MEDICARE OUT-OF-POCKET EXPENSES UNDER PART B.

(a) In General.—Section 1833 (42 U.S.C. 1395l) is amended—

(1) by inserting after subsection (e) the following new subsection:

“(f)(1) Notwithstanding subsections (a) and (b), if an individual has incurred out-of-pocket part B expenses (as defined in paragraph (2)) in a calendar year (beginning with 1989) in an amount equal to the part B catastrophic limit (established under paragraph (3)) for the year, payment under this part with respect to any additional incurred expenses in the calendar year shall be made as if—

“(A) the deduction described in the second sentence of subsection (b) (relating to blood) no longer applied, and

“(B) ‘100 percent’ and ‘0 percent’ were substituted for ‘80 percent’ and ‘20 percent’, respectively, each place either appears in subsection (a), in section 1833(i)(2), in section 1835(b)(2), and in subsections (b)(2) and (b)(3) of section 1881.

“(2) In this subsection, the term ‘out-of-pocket part B expenses’ means—

“(A) the deductions established under subsection (b), and

“(B) the difference between the payment amount provided under this part and the payment amount that would be provided if ‘100 percent’ and ‘0 percent’ were substituted for ‘80 percent’ and ‘20 percent’, respectively, each place either appears in subsection (a), in section 1833(i)(2), in section 1835(b)(2), and in subsections (b)(2) and (b)(3) of section 1881.

“(3)(A) The part B catastrophic limit for 1989 is $1,043. The part B catastrophic limit for any succeeding year shall be an amount equal to the part B catastrophic limit for the preceding year increased by the applicable increase percentage determined under section 215(i) in the previous year. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1 (or, if it is a multiple of 50 cents but not a multiple of $1, to the next higher multiple of $1).

“(B) Not later than November 15 of each year (beginning with 1988), the Secretary shall promulgate the part B catastrophic limit under this paragraph for the succeeding year.

“(4) In applying paragraph (1) in the case of an organization receiving payment under clause (A) of subsection (a)(1) or under a reasonable cost reimbursement contract under section 1876—

“(A) the Secretary shall provide for an appropriate adjustment in the payment amounts otherwise made to reflect, in the aggregate, the aggregate increase in payments that would otherwise be made with respect to enrollees in the organization if payments were made other than under such clause or such a contract or with respect to individuals furnished services through the organization or a facility if payments were to be made on an individual-by-individual basis, and

“(B) the organization shall provide assurances satisfactory to the Secretary that the organization and such a facility will not undertake to charge an individual during a year for services for which payment may be made under this part after the individual has incurred (whether through the organization, facility, or otherwise) out-of-pocket part B expenses in the year in an amount equal to the part B catastrophic limit established under paragraph (3) for the year.”; and

(2) in subsections (c) and (g), by striking “(a) and (b)” each place it appears and inserting “(a), (b), and (f)”.

(b) Limitation on Charges When Catastrophic Limit Reached.—Section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended by adding at the end the following new sentence: “A provider of services may not impose a charge under the first sentence of this subparagraph for services for which payment is made to the provider pursuant to section 1833(f) (relating to catastrophic benefits).”.

(c) Notice for Beneficiaries Reaching Catastrophic Limit.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(1) by striking “and” at the end of subparagraph (G),

(2) by inserting “and” at the end of subparagraph (H), and

(3) by inserting after subparagraph (H) the following new subparagraph:

“(I) will provide each individual, who is determined to have incurred (or has had paid on the individual’s behalf) sufficient out-of-pocket part B expenses in a calendar year to qualify for payment for additional incurred expenses to be made pursuant to section 1833(f), with a notice, in a form appropriate for presentation to a physician, that—

“(i) states that the individual has reached the part B catastrophic limit on out-of-pocket expenses for the year, and

“(ii) encourages such a physician not to charge the individual amounts in excess of the reasonable charge recognized under this section and to accept payment on an assignment-related basis for physicians’ services furnished the individual during the remainder of the year;”.

SEC. 202. COVERAGE OF CATASTROPHIC EXPENSES FOR PRESCRIPTION DRUGS AND INSULIN.

(a) In General.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) by amending subparagraph (J) of subsection (s)(2) to read as follows:

“(J)(i) drugs described in subsection (t)(2)(A) used in immunosuppressive therapy furnished, to an individual who receives an organ transplant for which payment is made under this title, within 1 year after the date of the transplant, and (ii) covered outpatient drugs (as defined in subsection (t)(2)); and”, and

(2) in subsection (t)—

(A) by striking “subsection (m)(5)” and inserting “subsections (m)(5) and (s)(2)(J)(ii) and paragraph (2)”,

(B) by inserting “(1)” after “(t)”, and

(C) by adding at the end the following new paragraph:

“(2) The term ‘covered outpatient drug’ means—

“(A) a drug which—

“(i) is approved for safety and effectiveness as a prescription drug under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act, or

“(ii) in the case of a drug which is biological product, is licensed under section 351 of the Public Health Service Act, and

“(B) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act; but does not include any drug or insulin provided to an inpatient as part of inpatient hospital services (described in subsection (b)(2)), as part of extended care services (described in subsection (h)(5)), or as an incident to physicians' services under subparagraph (A) or (B) of subsection (s)(2), and does not include drugs under the conditions described in subsection (s)(2)(J)(i).".

(b) Deductible and Payment Amounts.—

(1) In general.—Section 1833 (42 U.S.C. 1395l(b)) is amended—

(A) in subsection (a)(1)—

(i) by striking "and" before "(H)", and

(ii) by adding at the end the following: "(I) with respect to expenses incurred for covered outpatient drugs, the amounts paid shall be the amounts determined under subsection (m)(2), and (J) with respect to drugs under the conditions described in section 1861(s)(2)(J)(i), the amounts paid shall be the amounts determined under subsection (m)(2) (without regard to the deductible established under subsection (m)(1)(A) but taking into account the deductible established under subsection (b))";

(B) in subsection (b)—

(i) in clause (1), by inserting "or for covered outpatient drugs" after "1861(s)(10)(A)", and

(ii) in clause (2), by inserting "or with respect to covered outpatient drugs" after "home health services"; and

(C) by adding at the end the following new subsection:

"(m) Payment for Covered Outpatient Drugs.—

"(1) Deductible.—

"(A) In general.—Before applying paragraph (2) with respect to expenses incurred by an individual for covered outpatient drugs dispensed in a calendar year, the individual must establish that the individual has incurred (or has had paid on the individual's behalf) expenses for covered outpatient drugs dispensed in the year (during a period in which the individual is entitled to benefits under this part) of the amount specified in subparagraph (C) for that year.

"(B) Response to application.—If an individual applies to the Secretary to establish that the individual has met the requirement of subparagraph (A), the Secretary shall promptly notify the individual (and, if the application was submitted by or through a participating pharmacy, the pharmacy) as to whether or not the individual has met such requirement.

"(C) Deductible amount.—

"(i) In general.—Subject to subparagraph (D), the amount specified in this subparagraph for—

"(I) 1989 is $500;

"(II) 1990 and 1991 is the amount specified under this subparagraph for the previous year increased by the percentage change in the medical care component of the consumer price index for all urban consumers (U.S. city average, as published by the Bureau of Labor Statistics) for the 12-month period ending in August in that previous year; and

"(III) any succeeding year is the amount specified under this subparagraph for the previous year increased by the percentage increase determined under the index under clause (ii) in September of the previous year.

"(ii) Covered outpatient drug index.—The Secretary shall establish by regulation an index which reflects the prices of covered outpatient drugs. The Secretary shall use, as a base point, the prices for the drugs as of August 1990. In September of each year (beginning with 1991) the Secretary shall determine the percentage change in the index during the 12-month period ending with the previous month.

"(iii) Rounding.—Any amount determined under this subparagraph which is not a multiple of $1 shall be rounded to the next highest multiple of $1.

"(iv) Publication.—In September of each year (beginning with 1989) the Secretary shall publish the deductible established under this subparagraph for the following year.

"(D) Adjustment to prevent excessive premium increases.—If the monthly actuarial rate determined under section 1839(g)(1) for months in a year (after 1990) exceeds 120 percent of the basic monthly premium increase described in section 1839(g)(2) for the previous year, the Secretary shall increase the amount otherwise specified under subparagraph (C) for that year (and only for that year) by such an amount as will assure that—

"(i) the aggregate amount of the monthly premium increase which is estimated to be collected or paid under section 1839(g)(3) for the year for all enrollees,

is equal to—

"(ii) 75 percent of the amount determined under section 1839(g)(1)(B)(i) for such year.

"(2) Payment amount.—

"(A) In general.—Subject to the deductible established under paragraph (1)(A) (or, with respect to drugs described in section 1861(s)(2)(J)(i), the deductible established under subsection (b)) and except as provided in subparagraph (C), the amounts payable under this part with respect to a covered outpatient drug or a drug described in section 1861(s)(2)(J)(i) is equal to—

"(i) the lesser of—

"(I) the actual charge for the drug, or

"(II) the applicable payment limit described in paragraph (3) or paragraph (4); minus

"(i) 20 percent of the actual charge for the drug.

"(B) Publication of payment limits.—The Secretary, before each payment calculation period (as defined in paragraph (9)(C)) beginning on or after January 1, 1989, shall provide for the distribution to participating pharmacies (as defined in section 1842(i)) and to groups representing or assisting individuals entitled to benefits under this part, of information on the payment limits established under paragraphs (3) and (4).

"(C) Treatment of certain prepaid organizations.—In applying subparagraph (A) in the case of an organization receiving payment under clause (A) of subsection (a)(1) or under a reasonable cost reimbursement contract under section 1876—

"(i) the Secretary shall provide for an appropriate adjustment in the payment amounts otherwise made to reflect, in the aggregate, the aggregate increase in payments that would otherwise be made with respect to enrollees in the organization if payments were made other than under such clause or such a contract or with respect to individuals furnished covered outpatient drugs through the organization or a facility if payments were to be made on an individual-by-individual basis, and

"(ii) the organization shall provide assurances satisfactory to the Secretary that the organization or such a facility will not undertake to charge an individual more than 20 percent of such reasonable cost plus any amounts payable by the individual as a result of paragraph (1).

"(3) Payment limit for non-multiple source drugs and drugs with restrictive prescriptions.—

"(A) In general.—In the case of a drug that either is not a multiple source drug (as defined in paragraph (9)(A)) or is a multiple source drug and has a restrictive prescription (as defined in paragraph (9)(B)), the payment limit for the drug under this subsection is the sum of—

"(i) the product of (I) the number of tablets (or other dosage units) dispensed and (II) the average per tablet or unit wholesale price for the drug (as determined under subparagraph (B)), and

"(ii) an administrative allowance in the amount determined under paragraph (5).

"(B) Determination of unit price.—For purposes of this paragraph, the Secretary shall determine, with respect to dispensing of a covered outpatient drug in a payment calculation period (beginning on or after January 1, 1989), the average per tablet or unit wholesale price for the drug. Such average shall be based on the average wholesale price for purchases in reasonable quantities. Such determination shall be made for each payment calculation period based on wholesale prices for the first day of the third month before the beginning of the period. The Secretary shall make such determination, and calculate the payment limits under subparagraph (A), on a national basis; except that the Secretary may make such determination, and calculate such payment limits, on a regional basis to take account of limitations on the availability of drug products and variations among regions in the average wholesale prices for a drug product.

"(4) Payment limit for multiple source drugs without restrictive prescriptions.—

"(A) In general.—In the case of a drug that is a multiple source drug but does not have a restrictive prescription, the payment limit for the drug under this paragraph is the sum of—

"(i) the product of (I) the number of tablets (or other dosage units) dispensed and (II) the amount specified under subparagraph (B)(i), and

"(ii) an administrative allowance in the amount determined under paragraph (5).

"(B) Unit limit.—

"(i) In general.—The amount specified under this clause with respect to a multiple source drug dispensed in a payment calculation period is 50 percent of the brand name reference price (established under clause (ii)) for the reference drug product (as defined in clause (iv)) for the period.

"(ii) Brand name reference price.—The Secretary shall establish, for purposes of clause (i), a brand name reference price for each reference drug product for each payment calculation period. The brand name reference price with respect to a reference drug product—

"(I) for the 6-month period beginning with January 1987, is the average per tablet or unit wholesale price (based on purchases in reasonable quantities) for the reference drug product as of January 1, 1987, or

"(II) for a subsequent payment calculation period, is the brand name reference price established for the previous period increased by the percentage increase in the consumer price index for all urban consumers (all items, United States city average, as published by the Bureau of Labor Statistics) for the 6-month period ending in the third month of the previous period.

In the case of a reference drug product which is not available as of January 1, 1987, but which is first available in a payment calculation period after such date, the Secretary shall establish the brand name reference price as the average per tablet or unit wholesale price for the reference drug product (based on purchases in reasonable quantities) in the first month of the first payment calculation period in which it is available.

"(iii) Basis.—The Secretary shall establish brand name reference prices under clause (ii) on a national basis; except that the Secretary may establish such prices on a regional basis to take account of limitations on the availability of drug products and variations among regions in the average wholesale for a drug product.

"(iv) Reference drug product defined.—In this subparagraph, the term 'reference drug product' means, with respect to a multiple source drug, the drug product described in paragraph (9)(A) in reference to which other drug products are rated as therapeutically equivalent in the publication described in such paragraph.

"(5) Computation of administrative allowance for purposes of payment limits.—

"(A) For 1989.—For drugs dispensed in a payment calculation period beginning in 1989, the administrative allowance under this paragraph is $4.50.

"(B) For later years.—For drugs dispensed in a subsequent payment calculation period, the administrative allowance under this paragraph is the administrative allowance under this paragraph for the preceding calculation period increased by the percentage increase (if any) in the implicit price deflator for gross national product (as published by the Department of Commerce in its 'Survey of Current Business') over the 2-quarter period ending with the second quarter preceding the payment calculation period. Any allowance determined under the preceding sentence which is not a multiple of 1 cent shall be rounded to the nearest multiple of 1 cent.

"(6) Assuring appropriate utilization.—

"(A) Denial of payment for abusive practices.—In order to prevent abusive practices in the prescribing or dispensing of covered outpatient drugs, the Secretary may provide that payment for covered outpatient drugs may not be made if they are prescribed or dispensed with excessive frequency or in excessive quantities.

"(B) Utilization review.—The Secretary shall establish a utilization review program for covered outpatient drugs to identify instances of unnecessary or inappropriate prescribing or dispensing practices and to identify quality of care problems.

"(7) Treatment of certain prepaid organizations.—In the case of covered outpatient drugs furnished by an eligible organization (described in section 1876(b)) or an organization described in section 1833(a)(1)(A) which does not impose charges on covered outpatient drugs dispensed to its members—

"(A) for purposes of this subsection the actual charges of the organization shall be the organization's standard charges to members and other individuals not entitled to benefits with respect to such drugs, and

"(B) for purposes of meeting the deductible established under paragraph (1), there shall be taken into account the standard charges that are fully or partially prepaid for covered outpatient drugs.

"(8) Physician guide.—

"(A) In general.—The Secretary shall develop, and update annually, an information guide for physicians concerning the comparative average wholesale prices of at least 500 of the most commonly prescribed covered outpatient drugs. Such guide shall, to the extent practicable, group covered outpatient drugs (including multiple source drugs) in a manner useful to physicians by therapeutic category or with respect to the conditions for which they are prescribed. Such guide shall specify the wholesale prices on the basis of the amount of the drug required for a typical daily therapeutic regimen.

"(B) Mailing guide.—The Secretary shall provide for mailing, not later than March 1 of each year (beginning with 1989), a copy of the guide developed and updated under subparagraph (A)—

"(i) to each hospital with an agreement in effect under section 1866, and

"(ii) to each physician (as defined in section 1861(r)(1)) who routinely provides services under this part.

"(9) Definitions.—In this subsection:

"(A) Multiple source drug.—The term 'multiple source drug' means, with respect to a payment calculation period, a covered outpatient drug for which there are 2 or more drug products which—

"(i) are rated as therapeutically equivalent (under the Food and Drug Administration's most recent publication of 'Approved Drug Products with Therapeutic Equivalence Evaluations', available on the first day of the third month before the beginning of the period), and

"(ii) are sold or marketed during the period.

For purposes of clause (ii), a drug is considered to be sold or marketed during a period if it is listed in the publications referred to in clause (i) for the third month before the beginning of the period, unless the Secretary determines that such sale or marketing is not actually taking place.

"(B) Restrictive prescription.—A drug has a 'restrictive prescription' only if the prescription for the drug indicates, in the handwriting of the physician or other person prescribing the drug and with an appropriate phrase (such as 'brand medically necessary') recognized by the Secretary, that the particular drug must be dispensed.

"(C) Payment calculation period.—The term 'payment calculation period' means the 6-month period beginning with January of each year and the 6-month period beginning with July of each year.".

(2) Report on payment limits.—The Secretary of Health and Human Services shall review the payment limits described in paragraphs (3) and (4) of section 1833(m) of the Social Security Act on covered outpatient drugs and shall report to Congress, by not later than April 1, 1989, on the appropriateness of such limits. The Secretary shall include in such report such recommendations for changes in such limits as may be appropriate.

(3) Report on covered outpatient drug index.—Before January 1, 1991, the Secretary of Health and Human Services shall report to the Congress on the covered outpatient drug index established under section 1833(m)(1)(C)(ii) of the Social Security Act (as added by the amendment made by paragraph (1)(C)).

(c) Participating Pharmacies.—Section 1842 (42 U.S.C. 1395t) is amended—

(1) in subclauses (III) and (IV) of subsection (c)(2)(B)(ii), by inserting "or by participating pharmacies" after "participating physicians" each place it appears;

(2) in subsection (h)(1), by inserting before the period at the end of the second sentence the following: "and, with respect to a supplier of covered outpatient drugs, is a participating pharmacy (as defined in subsection (i)(1))"; and

(3) by adding after subsection (h) the following new subsection:

"(i)(1) For purposes of this section, the term 'participating pharmacy' means an entity which is authorized under a State law to dispense covered outpatient drugs and which has entered into an agreement with the Secretary, providing at least the following:

"(A) The entity agrees—

"(i) not to refuse to dispense covered outpatient drugs items stocked by the entity to any individual entitled to benefits under this part (in this section referred to as 'medicare beneficiaries'), and

"(ii) not to charge medicare beneficiaries more for such drugs than the amount it charges to the general public.

"(B) The entity agrees to keep patient records (including records on expenses incurred by medicare beneficiaries) for all covered outpatient drugs dispensed to all such beneficiaries.

"(C) The entity agrees—

"(i) to assist medicare beneficiaries in determining whether or not their expenses (for covered outpatient drugs dispensed in a year) have exceeded the deductible under section 1833(m)(1)(A), including providing the documentation necessary to establish this, and

"(ii) on behalf and on the request of such a beneficiary, to submit to the carrier such documentation as the Secretary requires.

"(D) The entity agrees, upon request of a medicare beneficiary, to provide a copy of the records maintained under subparagraph (B) to another participating pharmacy or to a carrier under this section.

"(E) The entity agrees—

"(i) to offer to counsel, or to offer to provide information to, each medicare beneficiary on the appropriate use of a drug to be dispensed and whether there are potential interactions between the drug and other drugs dispensed to the beneficiary; and

"(ii) to advise the beneficiary on the availability (consistent with State laws respecting substitution of drugs) of therapeutically equivalent covered outpatient drugs.

"(F) Effective January 1, 1992, the entity agrees to submit all requests for payment under this part to carriers electronically; except that the Secretary may waive the requirement of this subparagraph (in accordance with regulations) in cases where its imposition would pose an undue hardship on an entity.

Nothing in this paragraph shall be construed as requiring a pharmacy operated by an eligible organization (described in section 1876(b)) or an organization described in section 1833(a)(1)(A) for the exclusive benefit of its members to dispense covered outpatient drugs to individuals who are not members of the organization.

"(2) The Secretary shall provide to each participating pharmacy—

"(A) a distinctive emblem (suitable for display to the public) indicating that the pharmacy is a participating pharmacy, and

"(B) before the beginning of each payment calculation period, information on the payment limits established under paragraphs (3), (4), and (5) of section 1833(m).

"(3) The Secretary shall provide for periodic audits of participating pharmacies to assure that they do not impose charges in excess of the amounts permitted under paragraph (1)(A)(ii).

"(4) Notwithstanding subsection (b)(3)(B), payment for covered outpatient drugs may be made on the basis of an assignment described in clause (ii) of that subsection only to a participating pharmacy.".

(d) Limitation to 60-Day Prescription.—Section 1862(c) (42 U.S.C. 1395y(c)) is amended—

(1) by redesignating subparagraphs (A) through (D) of paragraph (1) as clauses (i) through (iv), respectively;

(2) in paragraph (2)(A), by striking "paragraph (1)" and inserting "subparagraph (A)";

(3) by redesignating subparagraphs (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

(4) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(5) by inserting "(1)" after "(c)"; and

(6) by adding at the end the following new paragraph:

"(2) No payment may be made under part B for any expense incurred for a covered outpatient drug if the drug is dispensed in a quantity exceeding a 60-day supply.".

(e) Additional Premium for Prescription Drug Benefit.—For amendments providing for additional premiums to pay for the additional benefits provided under the amendments made by this section, see sections 106(a) and 206(d) of this Act.

(f) Use of Carriers in Administration.—

(1) Additional functions of carriers.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)), as amended by section 201(c) of this Act, is amended—

(A) by striking "and" at the end of subparagraph (H),

(B) by adding "and" at the end of subparagraph (I), and

(C) by inserting after subparagraph (I) the following new subparagraph:

"(J) if it makes determinations or payments with respect to covered outpatient drugs, will—

"(i) offer to receive requests for payments for such drugs through electronic communciations, and

"(ii) respond to requests by participating pharmacies as to whether or not an individual has met the deductible requirement of section 1833(m)(1)(A) for a year;".

(2) Use of regional carriers.—Section 1842(b)(2) is amended by adding at the end the following new sentence: "With respect to carrying out functions relating to payment for the Secretary may enter into contracts with carriers under this section to perform such functions on a regional basis.".

(g) Modification of HMO/CMP Risk-Sharing Contracts to Count Expenses of Members Before Enrollment.—Section 1876(c) (42 U.S.C. 1395mm(c)) is amended by adding at the end the following new paragraph:

"(8) In the case of an individual who enrolls as a member of an eligible organization under this section after January 1 of a year, the organization must take into account, in computing the expenses incurred for covered outpatient drugs for purposes of meeting the deductible under section 1833(m)(1)(A) for the year, expenses incurred for covered outpatient drugs during the year while the individual was entitled to benefits under part B but before the individual so enrolled.".

(h) Conforming Amendments.—

(1) The first sentence of section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended—

(A) by inserting "1833(m)," after "1833(b)," and

(B) by inserting "and in the case of covered outpatient drugs, 20 percent of the actual charges for the drugs" after "established by the Secretary".

(2) Section 1903(i)(5) (42 U.S.C. 1396b(i)(5)) is amended by striking "section 1862(c)" and inserting "section 1862(c)(1)".

(3) Section 1905(p) (42 U.S.C. 1396d(p)) is amended—

(A) in paragraph (3)(C) (as subsequently amended by section 301(d)(2) of this Act), by inserting "and, subject to paragraph (4), the annual deductible under section 1833(m)(1)" after "1833(b)"; and

(B) by adding at the end the following new paragraph:

"(4) Instead of providing to qualified medicare beneficiaries, under paragraph (3)(C), medicare cost-sharing with respect to the annual deductible for covered outpatient drugs under section 1833(m)(1), a State may provide to such beneficiaries, before charges for covered outpatient drugs for a year reach such deductible amount, benefits for prescribed drugs in the same amount, duration, and scope as the benefits made available under the State plan for individuals described in subsection (a)(10)(A)(i).".

(i) Beneficiary Drug Cost Survey and CBO Report.—

(1) Survey.—(A) The Secretary of Health and Human Services shall conduct a statistically valid survey of expenses for covered outpatient drugs (as defined in section 1861(t)(2) of the Social Security Act) incurred by medicare beneficiaries.

(B) In developing the design of the survey, the Secretary shall consult with the Comptroller General and the Director of the Congressional Budget Office.

(C) The survey shall be designed so as to provide information on the distribution of expenses for covered outpatient drugs for medicare beneficiaries generally and, within the population of such beneficiaries, the distribution of such expenses by age, sex, income, and institutionalized status.

(D) The Secretary shall report to Congress, by not later than March 1, 1989, a report on the survey conducted under this paragraph.

(2) Reestimation of costs.—The Director of the Congressional Budget Office shall transmit to the Congress, not later than 2 months after the date the report is made under paragraph (1), the Director's estimate of the expenditures which will be made (in each of fiscal years 1990, 1991, 1992, and 1993) under the medicare program for covered outpatient drugs (under the amendments made by this section).

(j) Prescription Drug Payment Review Commission.—Part B is amended by adding at the end the following new section:

"PRESCRIPTION DRUG PAYMENT REVIEW COMMISSION

"Sec. 1846. (a)(1) The Director of the Congressional Office of Technology Assessment (in this section referred to as the 'Director' and the 'Office', respectively) shall provide for the appointment of a Prescription Drug Payment Review Commission (in this section referred to as the 'Commission'), to be composed of individuals with expertise in the provision and financing of covered outpatient drugs appointed by the Director (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service).

"(2) The Commission shall consist of 11 individuals. Members of the Commission shall first be appointed by no later than October 1, 1988, for a term of 3 years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than 4 members expire in any one year.

"(3) The membership of the Commission shall include recognized experts in the fields of health care economics, medicine, pharmacology, pharmacy, and prescription drug reimbursement, as well as at least one individual who is a medicare beneficiary.

"(b) The Commission shall make recommendations to the Congress not later than March 1 of each year concerning methods for payment for covered outpatient drugs under this part.

"(c) Section 1845(c)(1) shall apply to the Commission in the same manner as it applies to the Physician Payment Review Commission.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums shall be payable from the Federal Supplementary Medical Insurance Trust Fund.".

(k) Additional Studies.—The Secretary of Health and Human Services shall conduct studies on the following issues:

(1) The extent of private or other third-party insurance coverage of covered outpatient drugs among medicare beneficiaries.

(2) A comparison of published average wholesale prices and actual pharmacy acquisition costs by type of pharmacy.

(3) The overhead costs of retail pharmacies.

(4) Potential application of new claims processing and billing technologies to payment for covered outpatient drugs.

(5) Methods for review of utilization of covered outpatient drugs.

(6) Alternative payment methodologies for covered outpatient drugs that promote greater program efficiency, including use of lower cost medications.

(7) The potential for induced demand resulting from the coverage of covered outpatient drugs under the medicare program.

As part of such studies the Secretary shall conduct a longitudinal study on the use of covered outpatient drugs by medicare beneficiaries with respect to medical necessity, potential for adverse drug interactions, cost (including whether lower cost drugs could have been used), and patient stockpiling or wastage. The Secretary shall report to Congress on the results of such studies over a period ending not later than January 1, 1991.

(l) Effective Dates.—

(1) In general.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to drugs dispensed on or after January 1, 1989.

(2) Carriers.—The amendments made by subsections (f) and (j) shall take effect on the date of the enactment of this Act.

(3) HMO/CMP enrollments.—The amendment made by subsection (g) shall apply to enrollments effected on or after January 1, 1989.

(4) Medicaid changes.—(A) The amendments made by subsection (h)(3) apply (except as provided in subparagraph (B)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1989, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date, with respect to medical assistance for—

(i) monthly premiums under title XVIII of such Act for months beginning with January 1989, and

(ii) covered outpatient drugs dispensed on or after January 1, 1989.

(B) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by subsection (h)(3), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first session of the State legislature that begins after the date of the enactment of this Act.

SEC. 203. IN-HOME CARE FOR CERTAIN CHRONICALLY DEPENDENT INDIVIDUALS.

(a) IN GENERAL.—Section 1832(a) (42 U.S.C. 1395k(a)) is amended—

(1) by amending subparagraph (A) of paragraph (2) to read as follows:

"(A)(i) home health services, and (ii) subject to section 1839(h)(4), in-home care for a chronically dependent individual for up to 80 hours in any calendar year;"; and

(2) by adding at the end the following new sentence:

"In the case of in-home care (described in paragraph (2)(A)(ii)) provided to a chronically dependent individual on any day, such care provided for 3 hours or less on the day shall be counted (for purposes of the limitation in such paragraph) as 3 hours of such care.".

(b) IN-HOME CARE FOR CHRONICALLY DEPENDENT INDIVIDUAL DEFINED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"In-Home Care; Chronically Dependent Individual

"(ff)(1) The term 'in-home care' means the following items and services furnished, under the supervision of a registered professional nurse, to a chronically dependent individual (as defined in paragraph (2)) by a home health agency or by others under arrangements with them made by such agency in a place of residence used as such individual's home:

"(A) Services of a homemaker/home health aide (who has successfully completed a training program approved by the Secretary).

"(B) Personal care services.

"(C) Nursing care provided by a licensed professional nurse.

"(2) The term 'chronically dependent individual' means an individual who—

"(A) is dependent on a daily basis on a primary caregiver who is living with the individual and is assisting the individual without monetary compensation in the performance of at least 2 of the activities of daily living (described in paragraph (3)), and

"(B) without such assistance could not perform such activities of daily living.

"(3) The 'activities of daily living', referred to in paragraph (2), are as follows:

"(i) Eating.

"(ii) Bathing.

"(iii) Dressing.

"(iv) Toileting.

"(v) Transfering in and out of a bed or in and out of a chair.".

(c) PAYMENT.—Section 1833(a) (42 U.S.C. 1395l(a)) is amended—

(1) in paragraph (2), by inserting "(A)(ii)," after "subparagraphs" the first place it appears,

(2) in paragraph (3), by striking "(D)" and inserting "(A)(ii), (D),", and

(3) by adding at the end the following:

"Payment for in-home care for chronically dependent individuals shall be paid on the basis of an hour of such care provided. In applying paragraph (2) in the case of an organization receiving payment under clause (A) of paragraph (1) or under a reasonable cost reimbursement contract under section 1876, (i) the Secretary shall provide for an appropriate adjustment in the payment amounts otherwise made to reflect, in the aggregate, the aggregate increase in payments that would otherwise be made with respect to enrollees in the organization if payments were made other than under such clause or such a contract or with respect to individuals furnished in-home care through the organization or a facility if payments were to be made on an individual-by-individual basis, and (ii) the organization shall provide assurances satisfactory to the Secretary that the organization or such a facility will not undertake to charge an individual more than 20 percent of such reasonable cost plus any amounts payable by them as a result of subsection (b).".

(d) CERTIFICATION.—Section 1835(a)(2) (42 U.S.C. 1395n(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting in lieu thereof "; and"; and

(3) by inserting after subparagraph (E) the following new subparagraph:

"(F) in the case of in-home care provided to a chronically dependent individual during a 12-month period, the individual was a chronically dependent individual during the 3-month period immediately preceding the beginning of the 12-month period.".

(e) ADDITIONAL PREMIUM FOR IN-HOME CARE.—For provision providing for an additional premium to pay for the additional benefits provided under this section, see section 206(e) of this Act.

(f) STANDARDS FOR UTILIZATION.—

(1) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "subparagraphs (B), (C), or (D)" and inserting "a succeeding subparagraph of this paragraph",

(ii) by striking "and" at the end of subparagraph (D),

(iii) by adding "and" at the end of subparagraph (E), and

(iv) by adding at the end the following new subparagraph:

"(F) in the case of in-home care for chronically dependent individuals, which is not reasonable and necessary to assure the health and condition of the individual is maintained in the individual's noninstitutional residence;"; and

(B) in paragraph (6), by inserting "and except, in the case of in-home care, as is otherwise permitted under paragraph (1)(F)" after "paragraph (1)(C)".

(2) The Secretary of Health and Human Services shall take appropriate efforts to assure the quality, and provide for appropriate utilization of, in-home care for chronically dependent individuals under the amendments made by this section.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1989, and before January 1, 1992.

(h) STUDY OF ALTERNATIVE OUT-OF-HOME SERVICES.—The Secretary of Health and Human Services shall study, and report to Congress, not later than 18 months after the date of the enactment of this Act, on the advisability of providing, to chronically dependent individuals eligible for in-home care under the amendments made by this section, out-of-home services (such as adult day care services or nursing facility services) as alternative services to in-home care.

(i) STUDY OF IN-HOME CARE.—The Secretary shall study, and report to Congress, not later than June 1, 1991, on the extent of use, cost, and effectiveness of in-home care provided to chronically dependent individuals under the amendments made by this section.

SEC. 204. EXTENDING HOME HEALTH SERVICES.

(a) COVERAGE.—Section 1861(m) (42 U.S.C. 1395x(m)) is amended by adding at the end the following new sentence: "For purposes of paragraphs (1) and (4) and sections 1814(a)(2)(C) and 1835(a)(2)(A), nursing care and home health aide services shall be considered to be provided or needed on an 'intermittent' basis if they are provided or needed less than 7 days each week and, in the case they are provided or needed for 7 days each week, if they are provided or needed for an initial period of up to 35 consecutive days, and for a subsequent period based on a physician certification of exceptional circumstances requiring such services on such a basis.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1989.

SEC. 205. INCREASE IN MAXIMUM PAYMENT ALLOWED FOR OUTPATIENT MENTAL HEALTH SERVICES.

(a) IN GENERAL.—Section 1833(c)(1) (42 U.S.C. 1395l(c)(1)) is amended by striking "$312.50" and inserting "$1,250".

(b) CONFORMING AMENDMENT.—Section 1833(f), as inserted by section 201 of this Act, is amended by adding at the end the following new paragraph:

"(5) In applying paragraphs (1) and (2), the dollar amount specified in subsection (c)(1) shall be deemed to be $312.50.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to expenses incurred for services furnished on or after January 1, 1989.

SEC. 206. ADJUSTMENTS IN MEDICARE PART B PREMIUM.

(a) TRANSITIONAL ADJUSTMENTS IN 1991 AND 1992.—Section 1839(e) (42 U.S.C. 1395r(e)) is amended by adding at the end the following new paragraph:

"(3)(A) Notwithstanding the provisions of subsection (a), but subject to the provisions of subsections (g) and (h), the monthly premium for each individual enrolled under this part for each month—

"(i) in 1991 shall be $1.00 greater than the amount otherwise determined under subsection (a), and

"(ii) in 1992 shall be $1.30 greater than the amount otherwise determined under subsection (a).

The increase in premium amount taking effect under clause (i) shall not be taken into account for purposes of determining increases in each subsequent year under subsection (a)(3), but the increase in premium amount taking effect under clause (ii) shall be taken into account for purposes of determining increases in 1993 and each subsequent year under subsection (a)(3).

"(B) Subparagraph (A) does not apply to premiums determined under paragraph (4) or (5).".

(b) PART B PREMIUM FOR RESIDENTS OF U.S. COMMONWEALTHS AND TERRITORIES.—Such section is further amended by adding at the end the following new paragraph:

"(4)(A) Notwithstanding the provisions of subsection (a), but subject to subsections (g) and (h), in the case of an individual who is a resident of a commonwealth or territory during a month—

"(i) in 1988 or 1989, the monthly premium otherwise determined for the individual under paragraph (1) or subsection (a)(3), respectively, shall be increased by the amount described in subparagraph (B) for that month; or

"(ii) in a subsequent year, the monthly premium which shall apply shall be the amount described in subparagraph (C) for that month.

"(B) The amount described in this subparagraph for a month in 1988 or 1989 for an individual residing in a particular commonwealth or territory is 1/12th of the product of—

"(i) the amount of the average, per capita additional benefits (and related administrative costs), as determined by the Secretary during September of the previous year, that will be paid under this title during the year by reason of the amendments made by the Medicare Catastrophic Protection Act of 1987 (other than sections 202 and 203 thereof); and

"(ii) the ratio (determined by the Secretary for that commonwealth or territory during September 1987) of—

"(I) the per capita actuarial value of the benefits under this title for residents of the commonwealth or territory who are entitled to benefits under both part A and this part, to

"(II) the per capita actuarial value of the benefits under this title for residents of the United States who are entitled to benefits under both part A and this part.

"(C) The amount described in this subparagraph for a month in—

"(i) 1990, is the sum of—

"(I) the monthly premium established under subsection (a)(3) for months in 1989, and

"(II) the amount described in subparagraph (B) for months in 1989,

increased by the premium increase percentage (as defined in subparagraph (E)(ii)) for 1990; or

"(ii) a succeeding year is the amount described in this subparagraph for months in the previous year increased by the premium increase percentage for that succeeding year.

"(D) If any amount determined under the previous provisions of this paragraph is not a multiple of 10 cents, the Secretary shall round the amount to the nearest multiple of 10 cents.

"(E) In this paragraph:

"(i) The term 'commonwealth or territory' means Puerto Rico, the Virgin Islands, Guam, American Samoa, or the Northern Mariana Islands.

"(ii) The term 'premium increase percentage', for a year, means the percentage determined under subsection (a)(3)(B) in the previous year.".

(c) Part B Premium for Individuals Enrolled under Part B but not Entitled to Benefits under Part A.—Such section is further amended by adding at the end the following new paragraph:

"(5)(A) Notwithstanding the provisions of subsection (a), but subject to subsections (g) and (h), in the case of a part B only individual (as defined in subparagraph (E)) during a month—

"(i) in 1989, the monthly premium otherwise determined for the individual under subsection (a)(3) shall be increased by the amount described in subparagraph (B); or

"(ii) in a subsequent year, the monthly premium which shall apply shall be the amount described in subparagraph (C) for that month.

"(B) The amount described in this subparagraph is 1/12th of the average, per capita additional benefits (and related administrative costs) that the Secretary estimates (during September of 1988) will be paid under this part during 1989 by reason of the amendments made by the Medicare Catastrophic Protection Act of 1987 (other than sections 202 and 203 thereof).

"(C) The amount described in this subparagraph for a month—

"(i) in 1990, is the sum of—

"(I) the monthly premium established under subsection (a)(3) for months in 1989, and

"(II) the amount described in subparagraph (B), increased by the premium increase percentage (as defined in paragraph (4)(E)(ii)) for 1990; or

"(ii) in a succeeding year is the amount described in this subparagraph for months in the previous year increased by the premium increase percentage (as so defined) for that succeeding year.

"(D) If any amount determined under the previous provisions of this paragraph is not a multiple of 10 cents, the Secretary shall round the amount to the nearest multiple of 10 cents.

"(E) In this paragraph the term 'part B only individual' means, with respect to a premium for a month, an individual who—

"(i) is not a resident of a commonwealth or territory (as defined in paragraph (4)(E)(i)) during the month,

"(ii) is entitled to benefits under this part, and

"(iii) is not entitled to (or, on application without payment of an additional premium, would not be entitled to) benefits under part A.".

(d) Additional Premium for Prescription Drug Benefit.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

"(g) Additional Premium for Prescription Drug Benefit.—

"(1) Determination of actuarial rate.—

"(A) For 1989.—For purposes of this subsection, the monthly actuarial rate determined according to this paragraph for 1989 is $2.30.

"(B) For subsequent years.—In September of each year (beginning with 1989) the Secretary shall determine—

"(i) the total of the benefits and administrative costs which he estimates will be paid from the Federal Supplementary Medical Insurance Trust Fund in such succeeding calendar year for covered outpatient drugs and related administrative costs, and

"(ii) a monthly actuarial rate for covered outpatient drugs which shall be applicable for the succeeding calendar year, which rate shall, subject to subparagraph (C)(ii), be the rate the Secretary estimates to be necessary so that the aggregate amount of the increase in premiums collected or received under paragraph (3) for such year will equal 75 percent of the total determined under clause (i) for that year.

"(C) Adjustment for previous surpluses or deficits.—

"(i) Determination as to whether to make an adjustment.—In September of each year (beginning with 1990), the Secretary shall determine—

"(I) the aggregate amount of the monthly premium increases collected or received under paragraph (3) during the previous year;

"(II) the total of the benefits and administrative costs which the Secretary determines were paid in the previous year from the Federal Supplementary Medical Insurance Trust Fund for covered outpatient drugs dispensed and related administrative costs; and

"(III) whether the amount described in subclause (I) is greater or less than 75 percent of the total described in subclause (II).

"(ii) Adjustment to monthly actuarial rate.—If the Secretary determines under clause (i)(III) in a year that there was a surplus or deficit described in that clause in the previous year, the Secretary shall adjust the monthly actuarial rate otherwise determined under subparagraph (B)(ii) for the succeeding year so as to reduce or increase, respectively, the aggregate amount of the monthly premium increases that otherwise would be collected or received under paragraph (3) during such period by the amount of such surplus or deficit, respectively.

"(2) Establishment of basic monthly drug premium increase.—

"(A) In general.—For purposes of paragraph (3), the basic monthly drug premium increase for a year is, subject to subparagraph (B), the monthly actuarial rate determined according to paragraph (1) for months in the year.

"(B) Limit on basic monthly drug premium increase.—The basic monthly drug premium increase for months—

"(i) in 1990 may not exceed $3.40, or

"(ii) in 1991 (or a subsequent year) may not exceed 120 percent of the basic monthly drug premium increase under this paragraph for months in the preceding year.

"(C) Determination of potential premium revenues based on monthly actuarial rate.—In September of each year (beginning with 1989) the Secretary shall determine, for purposes of section 59B(b)(4)(D)(ii) of the Internal Revenue Code of 1986, the total of the monthly premium increases which the Secretary estimates would be collected or received in the succeeding year under paragraph (3) if the monthly actuarial rate (determined under paragraph (1)(A) without regard to any adjustment under paragraph (1)(C)(ii)) were substituted for the basic monthly drug premium increase each place it appears in paragraph (3).

"(3) Monthly premium increase applied.—Notwithstanding any other provision of this section (except as provided in subsections (b) and (f)), the monthly premium of each individual enrolled under this part for each month in a year after December 1988 shall be increased by the following:

"(A) In general.—Except as provided in subparagraphs (B) and (C), the basic monthly drug premium increase described in paragraph (2)(A) for that year.

"(B) Residents of commonwealth and territories.—In the case of an individual who is a resident of a commonwealth or territory (as defined in subsection (e)(4)(E)(i)) during the month, the product of—

"(i) 133⅓ percent of the basic monthly drug premium increase described in paragraph (2)(A) for that year, and

"(ii) the ratio determined by the Secretary for that commonwealth or territory under subsection (e)(4)(B)(ii).

"(C) Part B only individuals.—In the case of a part B only individual (as defined in subsection (e)(5)(E)), 133⅓ percent of the basic monthly drug premium increase described in paragraph (2)(A) for that year.

However, if an increase determined under this paragraph is not a multiple of 10 cents, it shall be rounded to the nearest multiple of 10 cents.

"(4) Report on projected excess premium increases.—In May of each year (beginning with 1990), the Secretary shall report to Congress concerning whether, based on the best estimates available at the time for expenditures under this part for covered outpatient drugs, the Secretary anticipates that the monthly actuarial rate determined under paragraph (1) for the succeeding year will exceed the limit on the basic monthly drug premium increase provided in paragraph (2)(B) for that year. If the Secretary determines so, the Secretary shall include in the report recommendations for changes in policies under this part sufficient to reduce expenditures under this part for covered outpatient drugs for that succeeding year so that the monthly actuarial rate (as reduced by such expenditure reductions) will not exceed the limit on the basic monthly drug premium amount provided in paragraph (2)(B) for the year.".

(e) Additional Premium for In-Home Care.—Section 1839 (42 U.S.C. 1395r), as amended by subsection (d), is further amended by adding at the end the following new subsection:

"(h)(1)(A) The Secretary shall, during September of 1988, 1989, and 1990, determine—

"(i) the total of the benefits and administrative costs which he estimates will be paid from the Federal Supplementary Medical Insurance Trust Fund in the succeeding calendar year for in-home care and related administrative costs with respect to such enrollees, and

"(ii) a monthly actuarial rate for in-home care (as defined in section 1861(ff)(1)) which shall be applicable for the succeeding calendar year, which rate shall, subject to subparagraph (B)(ii), be the rate which the Secretary estimates to be necessary so that the aggregate amount of the increase in premiums collected or paid under this subsection for such year will equal 100 percent of the total determined under clause (i) for that year.

"(B)(i) In September of 1990 the Secretary shall determine—

"(I) the aggregate amount of the monthly premium increases collected or received under paragraph (2) during the previous year;

"(II) the total of the benefits and administrative costs which the Secretary determines were paid in the previous year from the Federal Supplementary Medical Insurance Trust Fund for in-home care and related administrative costs; and

"(III) whether the amount described in subclause (I) is greater or less than 100 percent of the total described in subclause (II).

"(ii) If the Secretary determines under clause (i)(III) in a year that there was a surplus or deficit described in that clause in 1989, the Secretary shall adjust the monthly actuarial rate otherwise determined under subparagraph (A)(ii) for 1991 so as to reduce or increase, respectively, the aggregate amount of the monthly premium increases that otherwise would be collected or received under paragraph (2) 1991 by the amount of such surplus or deficit, respectively.

"(2) Subject to paragraph (3), notwithstanding any other provision of this section (except as provided in subsections (b) and (f)), the monthly premium of each individual enrolled under this part for each month in a year after December 1988 and before January 1992 shall be increased by the monthly actuarial rate determined according to paragraph (1) for that year; except that if the increase determined under this paragraph is not a multiple of 10 cents, it shall be rounded to the nearest multiple of 10 cents.

"(3) The increase in monthly premium under paragraph (2) for each month—

"(A) in 1989 may not exceed $0.30,

"(B) in 1990 may not exceed $0.50, and

"(C) in 1991 may not exceed 120 percent of the monthly premium increase provided under paragraph (2) for months in 1990.

"(4) If the monthly actuarial rate determined under paragraph (1) for 1991 exceeds 120 percent of the monthly premium increase provided under paragraph (2) for months in 1990, the Secretary shall decrease the maximum number of hours of in-home care under section 1832(a)(2)(A)(ii) in 1991 by such an amount as will assure that—

"(A) the aggregate amount of the monthly premium increase collected or paid under this subsection for 1991 for all enrollees,

is equal to—

"(B) the total of the benefits and administrative costs which the Secretary estimates will be paid from the Federal Supplementary Medical Insurance Trust Fund in 1991 for in-home care and related administrative costs for all such enrollees.".

(f) Conforming Amendments.—

(1) Section 1839 (42 U.S.C. 1395r) is amended—

(A) in the second sentence of subsection (a)(1), by inserting "(other than costs relating to covered outpatient drugs, costs relating to in-home care (as defined in section 1861(ff)(1)), and costs attributable to section 1812(f))" before the period;

(B) in subsection (a)(2), by striking "and (e)" and inserting ", (e), (g), and (h)";

(C) in subsection (a)(3), by striking "subsection (e)" and inserting "subsections (e), (g), and (h)";

(D) in the second sentence of subsection (a)(4), by inserting "(other than costs relating to covered outpatient drugs, costs relating to in-home care (as defined in section 1861(ff)(1)), and costs attributable to section 1812(f))" before the period; and

(E) in subsection (b), by striking "determined under subsection (a) or (e)" and inserting "otherwise determined under this section (without regard to subsection (f))".

(2) Section 1844(a) (42 U.S.C. 1395w(a)(1)) is amended by adding at the end the following:

"In computing the amount of aggregate premiums and premiums per enrollee under paragraph (1), there shall not be taken into account premiums attributable to section 1839(g) and such premiums shall be computed as though the clause '(other than costs attributable to section 1812(f))' was deleted from paragraphs (1) and (4) of section 1839(a)".

(g) Effective Dates.—

(1) Transitional adjustment.—The amendments made by subsection (a) shall apply to monthly premiums for months beginning with January 1991.

(2) Premiums for residents of commonwealths and territories.—The amendments made by subsection (b) shall apply to monthly premiums for months beginning with January 1988.

(3) Premiums for part B only individuals, premium for covered outpatient drugs, and conforming amendments.—The amendments made by subsections (c), (d), and (f) shall apply to monthly premiums for months beginning with January 1989.

(4) Premium for in-home care.—The amendments made by subsection (e) shall apply to premiums for months beginning with January 1989 and ending with December 1991.

SEC. 207. TREATMENT OF PREPAID HEALTH PLANS.

(a) Adjustment of AAPCC's and Contracts for Risk-Based Eligible Organizations.—The Secretary of Health and Human Services shall—

(1) take into account the amendments made by this Act in estimating the adjusted average per capita cost under section 1876(a) of the Social Security Act for eligible organizations with risk sharing contracts under that section for portions of contract years occurring after December 31, 1987;

(2) modify such contracts, for such portions of contract years, to reflect any adjustments made under paragraph (1); and

(3) require such organizations to make appropriate adjustments (including adjustments in premiums and benefits) in the terms of their agreements with medicare beneficiaries to take into account the amendments made by this Act.

(b) Provisions Continuing of Reasonable Cost Reimbursement.—For provisions permitting certain prepaid organizations to continue receiving payment on a reasonable cost basis, see—

(1) section 1833(f)(4) of the Social Security Act (as added by section 201(a)(1) of this Act and relating to payment for catastrophic benefits),

(2) section 1833(m)(2)(C) of such Act (as added by section 202(b)(1)(C) of this Act and relating to payment for covered outpatient drugs), and

(3) the last sentence of section 1833(a) of such Act (as added by section 203(c)(3) of this Act and relating to payment for in-home care).

SEC. 208. MAILING OF NOTICE OF MEDICARE BENEFITS AND PARTICIPATING PHYSICIAN DIRECTORIES.

(a) Distribution of Notice of Medicare Benefits.—Title XVIII is amended by inserting after section 1803 the following new section:

"NOTICE OF MEDICARE BENEFITS

"Sec. 1804. (a) The Secretary shall distribute annually a notice containing—

"(1) a clear, simple explanation of the benefits available under this title and health care services for which benefits are not available under this title, and

"(2) a description of the limited benefits for long-term care services available under this title and generally available under State plans approved under title XIX.

Such notice shall be mailed annually to individuals entitled to benefits under part A or part B of this title.

"(b) There are authorized to be appropriated in equal proportions from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund such sums as may be required to provide for the annual publication and distribution of the notice described in subsection (a).".

(b) Distribution of Participating Physician Directories.—The second sentence of section 1842(h)(6) (42 U.S.C. 1395u(h)(6)) is amended by inserting after "that area" the following: "and to each individual enrolled under this part and residing in that area".

(c) Effective Dates.—

(1) The Secretary of Health and Human Services shall first distribute the notice required by the amendment made by subsection (a) not later than January 31, 1988, or, if later, 3 months after the date of the enactment of this Act.

(2) The amendment made by subsection (b) shall first apply to directories for 1988.

SEC. 209. CHANGES IN CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES.

(a) ESTABLISHMENT OF NEW MEDIGAP STANDARDS.—

(1) RECOMMENDED CHANGES.—The Secretary of Health and Human Services shall report to Congress, not later than 150 days after the date of the enactment of this Act, on changes that should be made in the requirements of subsection (c) of section 1882 of the Social Security Act for certification of medicare supplemental policies to take into account both the amendments made by this Act, and by any other pertinent Acts enacted by the first session of the 100th Congress, and any recommendations developed by the National Association of Insurance Commissioners.

(2) CONGRESSIONAL ACTION.—It is the sense of Congress that—

(A) Congress will promptly act on such recommendations and provide for appropriate changes in the requirements of subsection (c) of that section, and

(B) States will be expected to adjust their laws in a timely manner to comply with the changes in such requirements.

(b) REQUIRED MAILING OF NOTICE.—

(1) IN GENERAL.—Section 1882(b) (42 U.S.C. 1395ss(b)) is amended by adding at the end the following new paragraph:

"(3) Notwithstanding paragraph (1), in the case of a medicare supplemental policy offered in a State and in effect on January 1, 1988, the policy shall not be deemed to meet the standards and requirements set forth in subsection (c), unless each individual who is entitled to benefits under this title and is a policyholder under such policy on January 1, 1988, is sent a letter by not later than January 31, 1988, that explains—

"(A) the improved benefits under this title contained in legislation enacted by the first session of the 100th Congress, and

"(B) how these improvements affect the benefits contained in the policies and the premium for the policy.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to medicare supplemental policies as of February 1, 1988.

(c) REQUIRED SUBMISSION OF ADVERTISING.—

(1) IN GENERAL.—Section 1882(b) is further amended by adding after paragraph (3) the following new paragraph:

"(4) Notwithstanding paragraph (1), a medicare supplemental policy offered in a State shall not be deemed to meet the standards and requirements set forth in subsection (c), with respect to a advertisment (whether through written, radio, or television medium) used (or, at a State's option, to be used) for the policy in the State, unless the entity issuing the policy provides a copy of each advertisement to the Commissioner of Insurance (or comparable officer identified by the Secretary) of that State for his or her review in accordance with State law.".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to medicare supplemental policies as of January 1, 1988, with respect to advertising used on or after such date.

(d) TRANSITION FOR CURRENT POLICIES.—

(1) IN GENERAL.—Notwithstanding any other provision of law, during the period beginning on January 1, 1988, and ending on December 31, 1988 (or, if later, the date described in paragraph (2)(B) in the case of a medicare supplemental policy offered in a State identified under paragraph (2)(A)), no penalty may be imposed under subparagraph (A) of section 1882(d)(3) of the Social Security Act with respect to a medicare supplemental policy of an individual which—

(A) was sold with respect to the individual before the date of the enactment of this Act, and

(B) would not substantially duplicate health benefits to which an individual is otherwise entitled under title XVIII of such Act but for the amendments made by this Act.

(2) ADDITIONAL PERIOD ALLOWED TO PERMIT STATE LEGISLATION TO BE ENACTED.—

(A) IDENTIFICATION OF CERTAIN STATES IN WHICH ADDITIONAL PERIOD REQUIRED.—The Secretary of Health and Human Services shall identify those States—

(i) which require State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to be changed to avoid a penalty under section 1882(d)(3)(A) of the Social Security Act, but

(ii) the legislature of which is not scheduled to meet in 1988 in a legislative session in which such legislation may be considered.

(B) ADDITIONAL PERIOD DATE.—In the case of a State identified under subparagraph (A), the date established under this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1989, and in which legislation described in subparagraph (A)(i) may be considered.

SEC. 210. EXTENSION OF SOCIAL HMO DEMONSTRATION PROJECT.

(a) THROUGH SEPTEMBER 30, 1992.—The Secretary of Health and Human Services shall extend without interruption, through September 30, 1992, the approval of waivers granted under subsection (a) of section 2355 of the Deficit Reduction Act of 1984 for the demonstration project described in subsection (b) of that section, subject to the terms and conditions (other than duration of the project) established under that section (as amended by subsection (b)).

(b) EXTENSION OF RISK.—Section 2355(b)(5) of the Deficit Reduction Act of 1984 is amended by inserting "and in succeeding years" after "third year".

(c) INTERIM REPORT.—Section 2355(d)(2) of the Deficit Reduction Act of 1984 is amended by striking "final" and inserting "interim".

(d) FINAL REPORT.—The Secretary shall submit a final report to the Congress on the project referred to in subsection (a) not later than March 31, 1993.

SEC. 211. RESEARCH ON LONG-TERM CARE SERVICES FOR MEDICARE BENEFICIARIES.

(a) IN GENERAL.—The Secretary of Health and Human Services, from the funds appropriated under subsection (b), shall provide for research on issues relating to the delivery and financing of long-term care services for medicare beneficiaries. Such research shall include research into at least the following areas:

(1) The financial characteristics of medicare beneficiaries who receive or need long-term care services, including whether such beneficiaries are eligible for medicaid benefits for such services.

(2) How the financial and other characteristics of medicare beneficiaries affect their utilization of institutional and noninstitutional long-term care services.

(3) How relatives of medicare beneficiaries are affected financially and in other ways because the beneficiaries require or receive long-term care services.

(4) The quality of long-term care services (in community-based and custodial settings) and how the provision of long-term care services may reduce expenditures for acute health care services.

(5) The effectiveness of, and need for, State and Federal consumer protections which assure adequate access to and protect the rights of medicare beneficiaries who are provided long-term care services (other than in a nursing facility).

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, in equal parts from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund, $5,000,000 for each of fiscal years 1988, 1989, 1990, 1991, and 1992, to carry out the research described in subsection (a).

(c) LONG-TERM CARE SERVICES DEFINED.—In this section, the term "long-term care services" includes nursing home care, home care, community-based services, and custodial care.

SEC. 212. STUDY OF ADULT DAY CARE SERVICES.

(a) SURVEY OF CURRENT ADULT DAY CARE SERVICES.—The Secretary of Health and Human Services shall conduct a survey of adult day care services in the United States to collect information concerning—

(1) the scope of such services and the extent of their availability;

(2) the characteristics of entities providing such services;

(3) licensure, certification, and other quality standards that are applied to those providing such services;

(4) the cost and financing of such services; and

(5) the characteristics of the people who use such services.

(b) REPORT.—The Secretary shall report to Congress, by not later than 1 year after the date of the enactment of this Act, on the information collected in the survey. Based on such information, the Secretary shall include in the report recommendations concerning appropriate standards for coverage of adult day care services under medicare, including defining chronically dependent individuals, defining services included in adult day care services, establishing qualifications of providers of adult day care services, and establishing a reimbursement mechanism.

(c) ADULT DAY CARE SERVICES DEFINED.—In this section, the term "adult day care services" means medical or social services provided in an organized nonresidential setting to chronically impaired individuals who are not inpatients in a medical institution.

TITLE III—PROVISIONS RELATING TO THE MEDICAID PROGRAM

SEC. 301. REQUIRING MEDICAID BUY-IN OF PREMIUMS AND COST-SHARING FOR INDIGENT MEDICARE BENEFICIARIES.

(a) REQUIREMENT.—(1) Section 1902(a)(10)(E) (42 U.S.C. 1396a(a)(10)(E)) is amended by striking "at the option of a State, but".

(2) Section 1905(p)(1)(B) (42 U.S.C. 1396d(p)(1)(B)) is amended by striking "and the election of the State".

(b) SETTING INCOME STANDARD AT 100 PERCENT OF POVERTY LEVEL.—Section 1905(p)(2)(A) (42 U.S.C. 1396d(p)(2)(A)) is amended by striking "may not exceed a percentage (not more than 100 percent) of the nonfarm" and inserting "shall be 100 percent of the".

(c) RESOURCE STANDARD.—Section 1905(p) (42 U.S.C. 1396d(p)) is amended—

(1) in paragraph (1)(C), by striking "(2)(A)" and inserting "(2)";

(2) in paragraph (1)(D), by striking "(except as provided in paragraph (2)(B))" and inserting "twice"; and

(3) in paragraph (2)—

(A) in subparagraph (A), by striking "(2)(A)" and inserting "(2)", and

(B) by striking subparagraph (B).

(d) Medicare Coverage.—Section 1905(p)(3) (42 U.S.C. 1396d(p)(3)) is amended—

(1) in subparagraph (A), by striking "under part B and (if applicable) under section 1818" and inserting "under title XVIII (including under part B and, if applicable, under section 1818)"; and

(2) by amending subparagraphs (B) and (C) to read as follows:

"(B) Coinsurance under title XVIII (including coinsurance described in section 1813).

"(C) Deductibles established under title XVIII (including those described in section 1813 and 1833(b)).".

(e) Conforming Amendments.—(1) Section 1902(a)(10)(A)(i) (42 U.S.C. 1396a(a)(10)(A)(i)) is amended by adding after and below subclause (III) the following:

"and, to the extent required under subsection (m)(3), some or all of the individuals described in subsection (l)(1);".

(2) Section 1843 (42 U.S.C. 1395v) is amended by inserting "or after 1987" in subsections (a), (g)(1), and (h)(1) after "during 1981".

(f) Technical Amendment.—Effective as though included in the enactment of the Omnibus Budget Reconciliation Act of 1986, paragraph (2) of section 9403(g) of such Act is amended to read as follows:

"(2) Payment of medicare cost-sharing.—Section 1903(a)(1) of such Act (42 U.S.C. 1396b(a)(1)) is amended by inserting 'including expenditures for medicare cost-sharing and' before 'including expenditures.'.".

(g) Treatment of Certain States.—

(1) States operating under demonstration projects.—In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115(a) of the Social Security Act, the Secretary of Health and Human Services shall require the State to meet the requirement of section 1902(a)(10)(E) of the Social Security Act in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under title XIX of such Act.

(2) Commonwealths and territories.—Section 1905(p) (42 U.S.C. 1396d(p)), as amended by section 202(h)(3)(B), is amended by adding at the end the following new paragraph:

"(5) Notwithstanding any other provision of this title, in the case of a State (other than the 50 States and the District of Columbia)—

"(A) the requirement stated in section 1902(a)(10)(E) shall be optional, and

"(B) for purposes of paragraph (2)(A), the State may substitute for 100 percent any lesser percentage.".

(h) Effective Date.—(1) The amendments made by this section apply (except as provided in subsection (f) and under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1988, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date, with respect to medical assistance for—

(A) monthly premiums under title XVIII of such Act for months beginning with July 1988, and

(B) items and services furnished on and after July 1, 1988.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first session of the State legislature that begins after the date of the enactment of this Act.

SEC. 302. PROTECTION OF INCOME AND RESOURCES OF COUPLE FOR MAINTENANCE OF COMMUNITY SPOUSE.

(a) In General.—Title XIX is amended—

(1) by redesignating section 1921 as section 1922, and

(2) by inserting after section 1920 the following new section:

"TREATMENT OF INCOME AND RESOURCES FOR CERTAIN INSTITUTIONALIZED SPOUSES

"Sec. 1921. (a) Special Treatment for Institutionalized Spouses.—

"(1) Supersedes other provisions.—In determining the eligibility for medical assistance of an institutionalized spouse (as defined in subsection (g)(1)), the provisions of this section supersede any other provision of this title (including sections 1902(a)(17) and 1902(f)) which is inconsistent with them.

"(2) No comparable treatment required.—Any different treatment provided under this section for institutionalized spouses shall not, by reason of paragraph (10) or (17) of section 1902(a), require such treatment for other individuals.

"(3) Does not affect certain determinations.—Except as this section specifically provides, this section does not apply to—

"(A) the determination of what constitutes income or resources, or

"(B) the methodology and standards for determining and evaluating income and resources.

"(4) Election to use other rules.—An institutionalized spouse may elect not to have this section (other than subsection (c)) apply but to have the spouse's resources and income determined under the law, practice, or policy of the plan (whether approved or not) in effect on March 1, 1987, except to the extent inconsistent with subsection (c).

"(5) Application in certain states and territories.—

"(A) Application in states operating under demonstration projects.—In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to meet the requirements of this section in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title.

"(B) No application in commonwealths and territories.—This section shall only apply to a State that is one of the 50 States or the District of Columbia.

"(b) Rules for Treatment of Income.—

"(1) Separate treatment of income.—During any month in which an institutionalized spouse is in the institution, no income of the community spouse shall be deemed available to the institutionalized spouse.

"(2) Attribution of income.—In determining the income of an institutionalized spouse or community spouse, except as otherwise provided in this section and regardless of any State laws relating to community property or the division of marital property, the following rules apply:

"(A) Non-trust property.—Subject to subparagraphs (C) and (D), in the case of income not from a trust, unless the instrument providing the income otherwise specifically provides—

"(i) if payment of income is made solely in the name of the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse;

"(ii) if payment of income is made in the names of the institutionalized spouse and the community spouse, one-half of the income shall be considered available to each of them; and

"(iii) if payment of income is made in the names of the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each of the individuals named in equal proportional shares.

"(B) Trust property.—In the case of a trust—

"(i) except as provided in clause (ii), income shall be attributed in accordance with the provisions of this title (including sections 1902(a)(17) and 1902(k)), and

"(ii) unless the trust otherwise specifically provides—

"(I) if payment of income is made solely to the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse;

"(II) if payment of income is made to both the institutionalized spouse and the community spouse, one-half of the income shall be considered available to each of them; and

"(III) if payment of income is made to the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each of such individuals in equal proportional shares.

"(C) Property with no instrument.—In the case of income not from a trust in which there is no instrument establishing ownership, subject to subparagraph (D), one-half of the income shall be considered to be available to the institutionalized spouse and one-half to the community spouse.

"(D) Rebutting ownership.—The rules of subparagraphs (A) and (C) are superceded to the extent that an institutionalized spouse can establish, by a preponderance of the evidence, that the ownership interests in income are other than as provided under such subparagraphs.

"(c) Rules for Treatment of Resources.

"(1) Computation of spousal share at time of institutionalization.—There shall be computed (as of the beginning of a continuous period of institutionalization of the institutionalized spouse) a spousal share which is equal to ½ of the value of all the resources held by either the institutionalized spouse, community spouse, or both.

"(2) Attribution of resources at time of initial eligibility determination.—In determining the resources of an institutionalized spouse at the time of application for benefits under this title, regardless of any State laws relating to community property or the division of marital property—

"(A) except as provided in subparagraph (B), all the resources held by either the institutionalized spouse, community spouse, or both, shall be considered to be available to the institutionalized spouse, and

"(B) resources held in the name of (or for the sole benefit of) the community spouse shall not be considered to be available to an institutionalized spouse, to the extent that the amount of such resources does not exceed the amount computed under subsection (e)(2)(A) (as of the time of application for benefits) or, if greater, the amount that a court has ordered to be retained by the community spouse for the support of the community spouse.

"(3) Separate treatment of resources after eligibility for benefits established.—During the continuous period in which an institutionalized spouse is in an institution and after the month in which an institutionalized spouse is determined to be eligible for benefits under this title, no resources of the community spouse shall be deemed available to the institutionalized spouse.

"(4) Resources defined.—In this section, the term 'resources' does not include resources excluded under subsection (a) or (d) of section 1613 and does not include resources that would be excluded under section 1613(a)(2)(A) but for the limitation on total value described in such section.

"(c) Protecting Income for Community Spouse.—

"(1) Allowances to be offset from income of institutionalized spouse.—After an institutionalized spouse is determined to be eligible for medical assistance, in determining the amount of the spouse's income that is to be applied monthly to payment for the costs of care in the institution, there shall be deducted from the spouse's monthly income the following amounts in the following order:

"(A) A personal needs allowance that is reasonable in amount for clothing and other personal needs of the institutionalized spouse and which is not less than $25 per month.

"(B) A community spouse monthly income allowance (as defined in paragraph (2)), but only to the extent income of the institutionalized spouse is made available to (or for the benefit of) the community spouse.

"(C) A family allowance, for each family member, equal to at least ⅓ of the amount by which the amount described in paragraph (3)(A)(i) exceeds the amount of the monthly income of that family member.

"(D) Amounts for incurred expenses for medical or remedial care for the institutionalized spouse that are not subject to payment by a legally liable third party.

In subparagraph (C), the term 'family member' only includes minor or dependent children, dependent parents, or dependent siblings of the institutionalized or community spouse who are residing with the community spouse.

"(2) Community spouse monthly income allowance defined.—In this section (except as provided in paragraph (6)), the 'community spouse monthly income allowance' for a community spouse is an amount by which—

"(A) except as provided in paragraph (4), the minimum monthly maintenance needs allowance (established under and in accordance with paragraph (3)) for the spouse, exceeds

"(B) the amount of monthly income otherwise available to the community spouse (determined without regard to such an allowance).

"(3) Establishment of minimum monthly maintenance needs allowance.—

"(A) In general.—Each State shall establish a minimum monthly maintenance needs allowance for each community spouse which, subject to subparagraph (B), is equal to or exceeds—

"(i) 150 percent of 1/12 of the nonfarm income official poverty line (defined by the Office of Management and Budget and revised annually in accordance with sections 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981) for a family unit of 2 members; plus

"(ii) an excess shelter allowance (as defined in paragraph (5)); plus

"(iii) ⅓ of the amount by which the income available to the institutionalized spouse exceeds the sum of the amounts described in clauses (i) and (ii).

A revision of the official poverty line referred to in clause (i) shall apply to medical assistance furnished during and after the second calendar quarter that begins after the date of publication of the revision.

"(B) Cap on minimum monthly maintenance needs allowance.—The minimum monthly maintenance needs allowance established under subparagraph (A) may not exceed $1,500 (subject to adjustment under subsection (f)).

"(4) Notice and fair hearing.—

"(A) Notice.—Upon—

"(i) a determination of eligibility for medical assistance of an institutionalized spouse, or

"(ii) a request by an institutionalized spouse (or community spouse or representative on the spouse's behalf),

each State shall notify the spouse of the amount of the community spouse monthly income allowance (described in paragraph (1)(B)), of the amount of any family allowances (described in paragraph (1)(C)), of the method for computing the amount of the community spouse resources allowance permitted under subsection (e), and of the spouse's right to a fair hearing under subparagraph (B) respecting the determination of the community spouse monthly income allowance.

"(B) Fair hearing.—If an institutionalized spouse is dissatisfied with a determination of—

"(i) the community spouse monthly income allowance because the amount of the minimum monthly maintenance needs allowance (established under paragraph (3)) is not adequate to support the community spouse without financial duress, or

"(ii) the amount of monthly income otherwise available to the community spouse (as applied under paragraph (2)(B)),

the institutionalized spouse is entitled to a fair hearing described in section 1902(a)(3) with respect to such determination. If the institutionalized spouse establishes that the minimum monthly maintenance needs allowance is not adequate to support the community spouse without financial duress, there shall be substituted, for the minimum monthly maintenance needs allowance in paragraph (2)(A), an amount adequate to support the community spouse without financial duress.

"(5) Excess shelter allowance defined.—In paragraph (3)(A)(ii), the term 'excess shelter allowance' means, for a community spouse, the amount by which the sum of—

"(A) the spouse's expenses for mortgage payment (including principal, interest, taxes, and insurance and, in the case of a condominium or cooperative, required maintenance charge) or rent, and

"(B) the standard utility allowance (used by the State under section 5(e) of the Food Stamp Act of 1977) or, if the State does not use such an allowance, the spouse's actual utility expenses,

exceeds 30 percent of the amount described in paragraph (3)(A)(i), except that, in the case of a condominium or cooperative, for which a maintenance charge is included under subparagraph (A), any allowance under subparagraph (B) shall be reduced to the extent the maintenance charge includes utility expenses.

"(6) Court ordered support.—If a court has entered an order against an institutionalized spouse for monthly income for the support of the community spouse, the community spouse monthly income allowance for the spouse shall be not less than the amount of the monthly income so ordered.

"(e) Permitting Transfer of Resources to Community Spouse.—

"(1) In general.—An institutionalized spouse may, without regard to section 1917, transfer to the community spouse (or to another for the sole benefit of the community spouse) an amount equal to the community spouse resource allowance (as defined in paragraph (2)), but only to the extent the resources of the institutionalized spouse are transferred to (or for the sole benefit of) the community spouse.

"(2) Community spouse resource allowance defined.—In paragraph (1), the 'community spouse resource allowance' for a community spouse is an amount (if any) by which—

"(A) the greater of—

"(i) $12,000 (subject to adjustment under subsection (f)), or

"(ii) the lesser of (I) the spousal share computed under subsection (c)(1), or (II) 4 times the amount described in clause (i), exceeds

"(B) the amount of the resources otherwise available to the community spouse (determined without regard to such an allowance).

"(3) Transfers under court orders.—If a court has entered an order against an institutionalized spouse for the support of the community spouse, section 1917 shall not apply to amounts of resources transferred pursuant to such order for the support of the spouse of a family member (as defined in subsection (d)(1)).

"(f) Indexing Dollar Amounts.—For services furnished during a calendar year after 1988, the dollar amounts specified in subsections (d)(3)(B) and (e)(2)(A)(i) shall be increased by the same percentage as the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1987 and the September before the calendar year involved.

"(g) Definitions.—In this section:

"(1) The term 'institutionalized spouse' means an individual who—

"(A) is in a hospital, skilled nursing facility, or intermediate care facility, or who (at the option of the State) is described in section 1902(a)(10)(A)(ii)(VI), and

"(B) is married to a spouse who is not in a hospital, skilled nursing facility, or intermediate care facility;

but does not include any such individual who is not likely to meet the requirements of subparagraph (A) for at least 30 consecutive days.

"(2) The term 'community spouse' means the spouse of an institutionalized spouse.".

(b) Taking Into Account Certain Transfers of Assets.—Subsection (c) of section

1917 (42 U.S.C. 1396p) is amended to read as follows:

"(c)(1) In order to meet the requirements of this subsection (for purposes of section 1902(a)(49)(B)), the State plan must provide for a period of ineligibility in the case of an institutionalized individual (as defined in paragraph (3)) who, at any time during the 24-month period immediately before the individual's application for medical assistance under the State plan, disposed of resources for less than fair market value. The period of ineligibility shall begin with the month in which such resources were transferred and the number of months in such period shall be equal to (A) the total uncompensated value of the resources so transferred, divided by (B) the average cost, to a private patient at the time of the application, of nursing home care in the State or, at State option, in the community in which the individual is institutionalized.

"(2) An individual shall not be ineligible for medical assistance by reason of paragraph (1) to the extent that—

"(A) the resources transferred were a home and title to the home was transferred to the individual's spouse or child who is under age 21, or (with respect to State eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614;

"(B) the resources were transferred to (or to another for the sole benefit of) the community spouse, as defined in section 1921(g)(2);

"(C) a satisfactory showing is made to the State (in accordance with any regulations promulgated by the Secretary) that the individual intended to dispose of the resources either at fair market value, or for other valuable consideration; and

"(D) the State determines that denial of eligibility would work an undue hardship.

"(3) In this subsection, the term 'institutionalized individual' means an individual who—

"(A) is an inpatient in a skilled nursing facility, intermediate care facility, or other medical institution; and

"(B) is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of the individual's income required for personal needs.

"(4) A State may not provide for any period of ineligibility for an institutionalized individual due to transfer of resources for less than fair market value except in accordance with this subsection.".

(c) Conforming Amendment.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (10)(C)(i)(III), by striking "the same" each place it appears and inserting "no more restrictive than the";

(2) by striking "and" at the end of paragraph (46);

(3 by striking out the period at the end of the paragraph (47) inserted by section 9407(a) of the Omnibus Budget Reconciliation Act of 1986 and inserting a semicolon;

(4) in the paragraph (47) added by section 11005(b) of the Anti-Drug Abuse Act of 1986, by redesignating such paragraph as paragraph (48), by transferring and inserting such paragraph immediately after paragraph (47), and by striking the period and inserting "; and";

(5) by inserting after paragraph (48) the following new paragraph:

"(49)(A) meet the requirements of section 1921 (relating to protection of community spouses), and (B) meet the requirement of section 1917(c) (relating to transfer of assets)."; and

(6) by adding at the end the following new sentence: "For purposes of paragraph (10), methodology is considered to be 'no more restrictive' if, using the methodology, additional individuals may be eligible for medical assistance and no individuals who are otherwise eligible are made ineligible for such assistance.".

(d) Effective Date.—(1) The amendments made by this section apply (except as provided under paragraphs (2) and (3)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1988, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(3) The amendments made by subparagraphs (A) and (F) of subsection (c)(1) shall apply to medical assistance furnished on or after October 1, 1982.

TITLE IV—UNITED STATES BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE

SEC. 401. ESTABLISHMENT.

There is established a commission to be known as the United States Bipartisan Commission on Comprehensive Health Care (in this title referred to as the "Commission").

SEC. 402. DUTIES.

(a) In General.—The Commission shall—

(1) examine shortcomings in the current health care delivery and financing mechanisms that limit or prevent access of all individuals in the United States to comprehensive health care, and

(2) make specific recommendations to the Congress respecting Federal programs, policies, and financing needed to assure the availability of—

(A) comprehensive long-term care services for the elderly and disabled,

(B) comprehensive health care services for the elderly and disabled, and

(C) comprehensive health care services for all individuals in the United States.

(b) Considerations in Recommendations.—In making its recommendations, the Commission shall consider—

(1) the amount and sources (consistent with principles of social insurance) of Federal funds to finance the needed services, including reallocations of existing Federal program funds, and

(2) the most efficient and effective manner of administering such programs.

(c) Definitions.—In this title:

(1) The term "comprehensive health care services" includes—

(A) inpatient hospital services (including mental health services);

(B) skilled nursing facility services, intermediate care facility services, home health services, and other long-term health care services;

(C) physician services and other outpatient health care services (including mental health services);

(D) periodic general physical examinations, eye examinations, hearing examinations, dental examinations, foot examinations, and other preventive health care services; and

(E) prescription drugs, eyeglasses, hearing aids, orthopedic equipment, and dentures (both complete and partial).

(2) The term "comprehensive long-term care services" includes custodial and noncustodial services in facilities, as well as home and community-based services.

SEC. 403. MEMBERSHIP.

(a) Appointment.—The Commission shall be composed of 15 members appointed as follows:

(1) The President shall appoint 3 members.

(2) The President pro tempore of the Senate shall appoint, after consultation with the minority leader of the Senate, 6 members of the Senate, of whom not more than 4 may be of the same political party.

(3) The Speaker of the House of Representatives shall appoint, after consultation with the minority leader of the House of Representatives, 6 members of the House, of whom not more than 4 may be of the same political party.

(b) Chairman and Vice Chairman.—The Commission shall elect a chairman and vice chairman from among its members.

(c) Vacancies.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(d) Quorum.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under section 405(a).

(e) Meetings.—The Commission shall meet at the call of its chairman or a majority of its members.

(f) Compensation and Reimbursement of Expenses.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

SEC. 404. STAFF AND CONSULTANTS.

(a) Staff.—The Commission may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(b) Consultants.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

SEC. 405. POWERS.

(a) Hearings and Other Activities.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(b) Studies by General Accounting Office.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(c) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE.—

(1) Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(2) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under paragraph (1).

(d) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(e) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(f) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies.

(g) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(h) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(i) ACCEPTANCE OF DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 406. REPORT.

(a) REPORT ON COMPREHENSIVE LONG-TERM CARE SERVICES FOR THE ELDERLY AND DISABLED.—The Commission shall submit to Congress a report, not later than 6 months after the date of the enactment of this Act, containing its findings and recommendations regarding comprehensive long-term care services for the elderly and disabled. The report shall include detailed recommendations for appropriate legislative initiatives respecting such services.

(b) REPORT ON COMPREHENSIVE HEALTH CARE SERVICES.—The Commission shall submit to Congress a report, not later than 1 year after the date of the enactment of this Act, containing its findings and recommendations regarding comprehensive health care services for the elderly and disabled and comprehensive health care services for all individuals in the United States. The report shall include detailed recommendations for appropriate legislative initiatives respecting such services.

SEC. 407. TERMINATION.

The Commission shall terminate 30 days after the date of submission of the report required in section 406(b).

SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,500,000 to carry out this title.

The CHAIRMAN. No amendments are in order to said substitute except the following amendments, which shall be considered in the following order and are not subject to amendment:

First, the amendment printed in section 2 of House Resolution 277, by and if offered by Representative JACOBS, or his designee, which is debatable for 30 minutes, equally divided and controlled by the proponent and a Member opposed thereto; and

Second, the substitute for the amendment in the nature of a substitute, consisting of the text of H.R. 2970, by and if offered by Representative MICHEL, or his designee, which is debatable for 60 minutes, equally divided and controlled by the proponent and a Member opposed thereto.

AMENDMENT OFFERED BY MR. JACOBS

Mr. JACOBS. Mr. Chairman, I offer an amendment made in order under the rule.

The Clerk read as follows:

Amendment offered by Mr. JACOBS: SEC. 2. Page 49, strike line 21 and all that follows through page 50, line 2, and insert the following:

"(B) A drug has a 'restrictive prescription' only if the prescription for the drug indicates, in accordance with the applicable law of the State in which the prescription was written, that the particular drug must be dispensed. A preprinted indication alone shall not constitute a 'restrictive prescription'."

The CHAIRMAN. Under the rule, the gentleman from Indiana [Mr. JACOBS] will be recognized for 15 minutes, and a Member opposed will be recognized for 15 minutes.

Mr. WAXMAN. Mr. Chairman, I am in opposition to the amendment.

The CHAIRMAN. The gentleman from California [Mr. WAXMAN] will be recognized for 15 minutes in opposition to the amendment.

The Chair recognizes the gentleman from Indiana [Mr. JACOBS].

Mr. JACOBS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment is essentially the amendment which was adopted by the Committee on Ways and Means with regard to this bill. Under the Ouija board, arcane procedures of the House, which none of us will ever master because they keep popping up either by fiat or by obscurity, the amendment was deleted by the time we got to the Rules Committee, and I obtained permission to reoffer the amendment on the floor, with one improvement to it.

First of all, I think it is important for the record to say what this amendment is not. It was erroneously reported widely in the press at one point that this amendment excised from the legislation a mandatory provision for generic drugs. That is not true. The only provision in this legislation dealing with influencing the use of generic drugs is an incentive that this program will pay a disproportionate bonus to the pharmacist who substitutes for generic drugs. The provision that we are dealing with is the manner in which a physician may insist that substitution of generic drugs not be made for the brand drug prescibed. Every one of the 50 States has such a provision in its own law. The question is whether the physicians of this country, not being practitioners in interstate commerce but being about as local and state-bound as you can get, will have to march lockstep to the tune of an overriding Federal regulation which would supplant the State law, thus making a dual regulation for each doctor in the country, the State regulation regarding all of his or her other patients and a Federal regulation regarding this program.

Now, what does it boil down to as far as the fuss is concerned?

□ 1420

The question is not whether a physician will be required to specify brand only where in the judgment of that physician the generic is not suitable for his or her patient.

That remains in the bill. The question is, must that physician dot every "i" and cross every "t" according to the Federal Government, or may he or she continue the practice which he or she is following now, either to put a check in a little box on the prescription slip, or in some States actually to write out in longhand. Why is that a fuss? Simply because, it is argued, that in the inner reaches of the subconscious, if it is a box that you put a check in, you might not think as carefully. If you are required actually to write it out, you might be more conscious of whether you are requiring a brand-name drug or allowing a generic drug to be used in its stead.

In other words, if all you need to do is check a box, and I might add that is not all physicians need to do in their practices, if all you need to do is check a box, a squirrel might run by and distract you, and you might forget what you are doing, especially if you did not happen to be bright enough to get through medical school.

We have heard estimates. The first estimate I heard was before the committee that this will cost the program about $80 million. That was intuitive, according to the fellow from the Budget Office.

Intuitively, it would cost about $80 million. Overnight it became $500 million. Yesterday in the paper it was $100 million.

Today I am told that CBO thinks maybe it is $80 million. Why cannot anybody say with any precision what it would cost? Because nobody is a mind reader, and nobody can really prove except by circumstantial and coincidental evidence that doctors are so stupid that marking a box means they would not know what they are doing, or being forced to write it out, "Do not substitute" would mean that they would know what they are doing.

The whole thing is reminiscent of the accusation that FDR had a destroyer sent to the Aleutian Islands to pick up his pet dog, Fala. When FDR answered that charge, he said they are not content with attacks on me, my family, or my children, no, not content with that. They now attack my little dog, Fala.

He said:

> Now, you know Fala is of Scotch ancestry; and when he heard that a destroyer was sent to the Aleutian Islands at a cost of $1 or $30 or $20 or $16 or $50 million, he was outraged. He has not been the same dog since.

That is where we are on the cost estimate of this. I suppose we could have a cost estimate that we could save a lot of money if people would just die and not use this program at all; but if it is an $80 million cost, what is the cost of not doing it, of putting one more Federal regulation, one more complication into every doctor's office in the United States, not to achieve a conscious choice in each case as to whether a brand, say an AT&T phone versus a Suzuki phone, if you have ever tried that, and sometimes, I dare say, the brand product is the more desirable and the more efficacious product. Sometimes it is not. Who can decide best? Somebody in Washington or somebody who has a stethoscope on the chest at the time, so that is pretty much what it is about.

It is a very arcane, esoteric argument on what happens in the inner tangles of the human mind, and whether doctors are so stupid that they cannot make a choice by checking a box and being just as conscious if they had to write it 10 times on the board or 1 time on the prescription slip.

That is all I have to say at the moment, and I reserve the balance of my time.

Mr. WAXMAN. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. Wyden].

Mr. WYDEN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise to speak in opposition to the amendment. I am very fond personally of the gentleman from Indiana, but I have to tell my colleagues here that this amendment carries a simple message for senior citizens in this country.

That message is, pay more, pay more out of your pocket, but get nothing in return.

The official Congressional Budget Office estimate on this is very clear, and that is that this amendment will raise Medicare premiums by $445 million. As far as I am concerned, if we accept this amendment, we will have removed an important cost control in this legislation, and a lot of our colleagues have talked at some length about the cost of this bill.

The provision that is in the bill now that this amendment would change is clear and easily implemented.

It has been used successfully in the Federal Medicaid drug program since 1976. The provision in the bill does not change or preempt State law in any way, and I would also like to point out that Medicare premiums are based on national figures, so even if a Member believes that the procedure in his or her State is adequate, Medicare enrollees in all States will pay for higher drug costs in States with weaker procedures.

Mr. Chairman, we should not be making it tougher to use generic drugs where appropriate. The bill does stipulate that the Government will pay for brand name drugs when medically needed.

We certainly should not be setting up new hurdles, new obstacles to using generic drugs.

This is an amendment that is going to do nothing in my view but heap additional out-of-pocket costs on the older people in this country and lessen the value of the drug benefit in this bill.

I hope the Members will turn down this amendment.

Mr. WAXMAN. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. Stark], chairman of the Health Subcommittee of the Committee on Ways and Means.

Mr. STARK. Mr. Chairman, I thank the gentleman for yielding to me at this time, and I rise in opposition to the amendment.

We are for the first time providing an outpatient prescription drug benefit to many seniors in this country under Medicare. This benefit is now available under Medicaid. Most States have very stringent cost-control provisions.

Our cost-control provisions are supported by the beneficiaries groups, the seniors. They are supported by the pharmacists, the professionals who compound the prescriptions and indeed would make the choice professionally, as they should, as to when the generic prescription is identical to a brand-name prescription.

That is a job for pharmacists to decide, not physicians. The retail druggists have also endorsed our cost savings.

The only people in the United States who oppose cost savings are those manufacturers who hide under the protection of a patent. They may tell you that they need that patent to fund their research; but there is not a one of them, and the Eli Lilly Co. in particular, who spends as much on research as they do on advertising. I would submit to the Members that their advertising and promotion are far less important when they have the grip of an exclusive patent on these drugs.

This amendment will increase the cost by $500 million over 5 years. We have heard from the Members on the other side of the aisle all day, and we've seen charts that purport to relate to Medicare.

I would suggest to the Members that this is the Members' chance to make sure that we save $445 million right out of the box.

It is very simple. There is absolutely nothing to prevent a physician from prescribing any drug that he chooses and prescribing a brand name.

Brain surgeons may have a little trouble with this requirement, but all a brain surgeon has to do is write a brief statement on the prescription that he indeed wants this brand name, and that will indicate to the pharmacist that it should not be generic.

Tha provision has worked well in every State under Medicaid for over 10 years. Millions of prescriptions have been written without any problems and there are no administrative problems.

□ 1430

The druggists, the beneficiaries, and the people who administer these programs in every State oppose the Jacobs amendment. It is a very clear vote. If you want to vote to unnecessarily create monopolistic profits for a few drug manufacturers at the cost to your beneficiaries and to the Federal Government, you will vote for the Jacobs amendment.

If you want to hold costs down by $445 million, and perhaps far more as we encourage the use of generic prescription drugs, you will vote in opposition to the Jacobs amendment and bring some cost control to the program.

Mr. JACOBS. Mr. Chairman, we will just see how insane my proposal is now by yielding 3 minutes to the only physician in the U.S. House of Representatives, the gentleman from Georgia [Mr. Rowland].

Mr. ROWLAND of Georgia. Mr. Chairman, I appreciate the gentleman from Indiana yielding this time to me.

Mr. Chairman, I rise not because of any particular interest in pharmaceutical manufacturers, whether they be proprietary or whether they be generic, but I rise because of my concern for the patient.

Now, I have no problem with generic drugs. I prescribed generic drugs on many occasions while I was in practice, but there are occasions when the variation in the potency of generic drugs can be a problem for the patient. Let me give you an example. A patient I had who was in congestive heart failure and was marginal, was taking a drug called Lanoxin. The generic name for that is Digoxin. The patient did very well as long as he was taking the brand name of the drug, but when this patient was switched over to Digoxin, which was a generic type drug, the patient got into trouble, because these drugs do vary in potency. I had to put the patient back on the brand name drug in order to get the patient out of trouble.

This is true not only with drugs for heart problems, it is true with anticonvulsives, antipsychotic drugs, or antidiabetic drugs.

By passing the legislation as it is now written, without the Jacobs amendment, will place another barrier in front of the physician, because he will have to write on the prescription, "Dispense brand name only."

Actually, what this is going to do is to put the pharmacist in a rather difficult position, because it is going to place more responsibility on him in that the pharmacist can dispense generic drugs unless the physician says, "Dispense brand name only," and because of that variation it does place the pharmacist in a rather precarious position. I do not know why a pharmacist would want to be in that position, anyway, because if the patient is not doing all right, he is not going to come back to the pharmacist. He is going to come back to the physician and let the physician know that he is not doing all right.

So I think from the standpoint of patient care, when the patient comes back he is going to come back to the physician and not to the pharmacist. The pharmacist should not be in the position of having to dispense a drug or being able to dispense a drug that may cause the patient to get in trouble.

I am sure that many Members of this House if they had family members who were very marginal with their illness, they would want to have a drug that they were sure was near 100-percent potency and they would not be given a drug that might have some variation in potency.

Mr. WAXMAN. Mr. Chairman, I yield myself 2 minutes.

Mr. Chairman, whether you are for the bill that is before us or for the Republican substitute, it seems to me that you ought to vote against the Jacobs amendment. It would be very costly for the Medicare Program and for the elderly who will be paying the premiums to finance the prescription drug benefit, to have to pay for a higher price brand name drug instead of a lower cost generic. That is what the result of the Jacobs amendment would be.

The Congressional Budget Office gave us an official estimate that it would raise Medicare care premiums by $445 million over 4 years, but it would add no additional benefits.

Under the bill, if a doctor believes that the brand name drug is the medically necessary drug to prescribe, the doctor would prescribe the brand name drug and that is what Medicare would pay for. But sometimes the doctor is unaware of a generic substitute, and the doctor prescribes a brand name drug simply because he is familiar with that brand name. Under State law, if he does not specify otherwise, the pharmacist could substitute a lower cost generic drug. And that seems to me an appropriate policy to follow. But some States make it almost routine to indicate use of only the brand name—not because it's the conscious decision of the physician, but simply because it is the easy thing to do. In some States, it depends where the doctor signs the form or what box is checked. The result: many more brand name drugs are paid for than need be.

The Jacobs amendment would say let Medicare follow every State's law, whatever that law may be, on the question of substituting a generic drug for a brand name drug.

I say that would be a waste of money. The problem is that all the aged and disabled people in this country would pay for this prescription drug benefit under Medicare should it become law. If there is some State that allows the brand name instead of substituting a lower-cost generic simply because the law is tilted in the way of encouraging that kind of a prescription, it seems to me that the rest of the Nation's aged and disabled should not have to pay for that additional cost.

Mr. JACOBS. Mr. Chairman, lest there be any confusion, let me say one more time, there is no State that does not have essentially what is proposed here. It is just that each one says that a doctor does it a different way, either checking a box or writing it out. Every State has this requirement that if the doctor specifies no substitute, no substitute will be made.

I might add that there is one thing not prohibited by all State laws and that is preprinted choices. Those I understand, those blanks are being used by some doctors in the country.

This amendment would intervene federally on that matter. In other words, this amendment leaves the requirement of an individual choice by the physician in each case. It prohibits that part of State law that would permit preprinted choices.

Mr. Chairman, I yield 1 minute to my colleague, the gentleman from Indiana [Mr. COATS].

Mr. COATS. Mr. Chairman, I rise in support of the amendment of the gentleman from Indiana [Mr. JACOBS] and appreciate the efforts that he has made to address what I think is a mistake in the bill.

I hope my colleagues have listened to his arguments in terms of the States already considering and already providing what is necessary for physicians to prescribe adequate and necessary medicine for their patients.

I would hope that my colleagues have also listened to the arguments of the only physician in the House of Representatives who states the essence of the problem; namely, the right of physicians to prescribe the necessary drug for their patients, the drug that is in the best interest of their patients, and to do it in a way that is as efficient and effective as possible.

The Jacobs amendment allows States to establish that procedure. My State of Indiana has already established an efficient, effective method for doctors to prescribe the proper drug for their patients.

The language in the committee bill would supersede that. I think it is wrong and I urge my colleagues to support the Jacobs amendment.

Mr. WAXMAN. Mr. Chairman, I yield 2 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding.

Under the rule, this was one of only two amendments, this one and the Republican substitute, that were made in order.

There is a lot wrong with H.R. 2470, but this does not happen to be one of the provisions in error. This provision of H.R. 2470 as it is presently written is absolutely correct and the gentleman from California in what he has said about it is absolutely correct.

What we are talking about is the savings of close to half a billion dollars.

Now, the gentleman from Georgia, the physician of the House, did make a very critical point, and that is in some instances the name drug will be of benefit to the patient and the bill does set forth how that prescription would be properly drawn and be properly taken care of. There may be some inconvenience to the physician who may have to be trained in making that special provision; however, I would say that for the savings of half a billion dollars, this is certainly worthwhile.

I would say to my colleagues on this side of the aisle who are justifiably by reputation very cost conscious in passing new legislation that you look very carefully at what is being done here.

The Jacobs amendment would cost the elderly taxpayers of this country, the ultimate consumers, approximately half a billion dollars over a period of years. This is wrong. The bill is carefully drawn in this particular respect.

Mr. Chairman, I would urge all my colleagues to oppose the amendment of the gentleman from Indiana.

Mr. JACOBS. Mr. Chairman, I yield 1 minute to the gentleman from California [Mr. LUNGREN].

Mr. LUNGREN. Mr. Chairman, I rise in support of this amendment. While I do not think that we ought to have the overall provision of prescription drugs in this bill, it is in the bill. If we are going to have it in the bill, we ought to give as much choice to the individual patient and the doctor as is possible.

I really do not understand the argument that somehow we arrogate to ourselves the ability to define the precise manner in which the name is to be written, the language that the doctor is to choose, and so forth. This is particularly true when the States have already addressed this. Here we are going to have a situation where the doctor has one set of forms to deal with those patients who are under a State program, and another set when they happen to be under this program.

If you talk to many physicians, many good physicians who are not out to make the almighty buck, who do not have any relationship with the pharmaceutical houses or anything like that, the complaint they have is that we make things complicated. We come and interfere with the relationship they have with their patients.

This is just another example of that. No one knows what the real costs are going to be. There are just some assumptions that we are going to save costs here. Let us at least give the patients who are going to come under this program the right of choice.

Mrs. LLOYD. Mr. Chairman, I rise in support of the Jacobs amendment to the Medicare Catastrophic Protection Act of 1987 because it is compatible with the generic substitution laws that regulate the dispensing of prescription drugs in the majority of States including Tennessee.

At the present time, there are only 20 States that require a physician to indicate in his or her own handwriting that the brand name drug is medically necessary. All 50 States currently have some type of generic incentive law by which a physician can prescribe either a brand name drug or a generic substitute for his or her patients. But in most of the States, including Tennessee, the physician can use a preprinted form to make the choice—either by checking a box or by signing his or her name under the appropriate heading for a brand name drug or generic substitution.

I have seen no hard data to support claims that generic substitutions are used less frequently in those States that do not require a handwritten phrase such as "brand medically necessary," or that such a requirement would save $100 million a year under the prescription drug benefit that is authorized by this legislation. Yet, these are the primary arguments that are being used to justify the preemption of generic substitution laws in 30 States. Even the States that do require a handwritten phrase for brand name drugs would have to obtain permission to continue using that phrase if it differs from the wording that is finally approved by the Secretary of HHS.

There has also been a lot of talk about the cost of brand name drugs versus their generic counterparts. Anyone who has done any comparison shopping knows that the cost of both kinds of drugs varies from pharmacy to pharmacy. There is a lot of competition in the drug industry at both the manufacturing and retail level. And, it is my information that the retail markup on generic drugs is generally higher than it is for brand name drugs. As a result, a brand name drug at one pharmacy can end up being less expensive than a generic substitute at another pharmacy. Consequently, the presumption that brand name drugs are always more expensive than generic substitutes is specious at best.

The committee provision also assumes that physicians are not capable of exercising good judgment on a preprinted form, which I find insulting to the medical profession. Doctors are responsible for the care of their patients, and an important part of that care involves prescribing medication based on their knowledge of the patient's overall condition. Articles in respected medical journals clearly refute well-meaning but nonetheless unscientific contentions that indiscriminate interchange of medications is harmless. To the contrary, medical reports clearly warn that switching patients from one product to another that vary in strength can be dangerous, especially to the elderly, and that for a number of medications and patients, these changes could have adverse medical effects and should be avoided.

It seems to me that we are treating Medicare beneficiaries as second-class citizens when we offer them prescription drug coverage with strings attached that could be detrimental to their health.

For that and all of the other reasons that I have cited above, I support the Jacobs amendment which seeks to shield Medicare patients from the consequences of the committee's unreasonable and unjustifiable interference in the doctor-patient relationship.

Mr. WAXMAN. Mr. Chairman, I make the point of order that a quorum is not present.

The CHAIRMAN. Evidently a quorum is not present.

Members will record their presence by electronic device.

The call was taken by electronic device.

The following Members responded to their names:

[Roll No. 277]

ANSWERED "PRESENT"—411

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Armey
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bereuter
Bevill
Biaggi
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flippo
Florio
Foglietta
Ford (MI)
Ford (TN)
Frenzel
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hunter
Hutto
Hyde
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Rangel
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Roemer
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal

Sabo
Saiki
Savage
Sawyer
Saxton
Schaefer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Sweeney
Swift
Swindall
Synar
Tallon
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yatron
Young (AK)
Young (FL)

□ 1500

The CHAIRMAN. Four hundred eleven Members have answered to their names, a quorum is present, and the Committee will resume its business.

The Chair would remind Members that there is 5½ minutes of debate remaining on the pending amendment.

The gentleman from Indiana [Mr. Jacobs] is recognized for 2 minutes.

Mr. JACOBS. Mr. Chairman, the point I would want to make is that this amendment requires every physician under this program to make an individual choice as to whether there will be a generic or brand drug used in a given case. I am not a Johnny-come-lately to this approach to Federal law.

In the mid-seventies when the day care credit was put into the Federal income tax, we sat around for an hour or so in the Committee on Ways and Means trying to figure out what the Federal regulation would be for fire and safety in the day care centers that would be eligible. I believe it was I who finally prevailed on the committee simply to adopt the State laws which already existed and already were in practice.

The experts in Washington sometimes have to do things that the states just will not do. In this amendment, for example, states now allow preprinted choices by physicians. My amendment would outlaw that practice. That is the only intervention we need.

I will tell you about experts: There is this vacuum cleaner salesman who walks into the lady's front room, takes a sack of dirt and dumps it upside down on her rug and says, "Lady, if this vacuum cleaner doesn't pick up every bit of that dirt, I'll eat it." She says, "Well, you had better get yourself a spoon, because we got no electricity." A doctor with the stethoscope on the chest knows almost as much about what his or her patient needs as the U.S. House of Representatives.

I yield to the gentleman from Oklahoma.

Mr. EDWARDS of Oklahoma. Mr. Chairman, I rise in strong support of the Jacobs amendment so that doctors can prescribe for their patients those medications which they truly need.

I thank the gentleman for his very good amendment.

The CHAIRMAN. The time of the gentleman from Indiana [Mr. Jacobs] has expired.

The gentleman from California [Mr. Waxman] is recognized for 3½ minutes.

Mr. WAXMAN. Mr. Chairman, there is one important thing Members need to know about the Jacobs amendment, to be clear about it. It would raise Medicare premiums by nearly $450 million but the drug benefit would not be changed one iota. The bill provides that a physician can prescribe the drug he thinks is medically appropriate. What the Jacobs amendment would do would be to make it harder to substitute a lower priced generic drug. The consequence of that is we lose the ability to control costs in this legislation. The Congressional Budget Office tells us that by not being able to control the costs and allowing a generic drug to be substituted, the program would cost $445 million more over 4 years.

For that reason, we have the following organizations that are opposing the Jacobs amendment: American Association of Retired Persons, National Council of Senior Citizens, AFL–CIO, UAW, AFSCME, Consumer Federation of America, the National Consumer's League, the National Association of Public Hospitals, Consumer's Union, Service Employees International Union, United Steel Workers of America, American Federation of Teachers, United Food and Commercial Workers, International Ladies Garment Workers Union, American Pharmaceutical Association, the National Association of Chain Drug Stores, the National Association of Retail Druggists, and Blue Cross and Blue Shield Association. The Committee on Energy and Commerce adopted the provision in the bill—not the Jacobs approach.

Mr. Chairman, I yield at this time to the chairman of the Subcommittee on Health of the Committee on Ways and Means to join in urging opposition to the Jacobs amendment.

Mr. STARK. I thank the gentleman for yielding.

Mr. Chairman, I urge a "no" vote on the Jacobs amendment. The Health Subcommittee of the Committee on Ways and Means opposed this proposal. It does cost actually $445 million over 4 years. The provision in H.R. 2470 will set a proper standard for physicians to request the generic or a brand name where it is needed. This is now done in 50 States under Medicaid. This would just solidify the current Federal policy and save our beneficiaries a great deal of money.

Mr. Chairman, I urge a "no" vote.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Indiana [Mr. Jacobs].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. JACOBS. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 161, noes 265, not voting 7, as follows:

[Roll No. 278]

AYES—161

Ackerman
Andrews
Anthony
Archer
Badham
Ballenger
Barnard
Bateman
Bliley
Boehlert
Boner (TN)
Boulter
Buechner
Bunning
Burton
Callahan
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
DeLay
Derrick
DeWine
Dickinson
DioGuardi
Dornan (CA)
Duncan
Dwyer
Dyson
Edwards (OK)
Emerson
English
Fields
Fish
Frenzel
Gallegly
Gallo
Gibbons
Gingrich
Gradison
Green
Gregg
Hamilton
Hammerschmidt
Hansen
Hastert
Hatcher
Hefner
Herger
Hiler
Hopkins
Houghton
Hughes
Hutto
Inhofe
Ireland
Jacobs
Jenkins
Johnson (CT)
Jones (NC)
Kasich
Konnyu
Kyl
Lagomarsino
Lancaster
Latta
Lehman (CA)
Lent
Lewis (CA)
Lightfoot
Lloyd
Lott
Lowery (CA)
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Manton
Marlenee
Martin (IL)
Martin (NY)
McCloskey
McCurdy
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Mollohan
Montgomery
Moorhead
Myers
Nielson
Ortiz
Oxley
Packard
Parris
Pickett
Porter
Quillen
Ravenel
Ray
Rhodes
Richardson
Ridge
Ritter
Roberts
Robinson
Rogers
Rose
Roukema
Rowland (CT)
Rowland (GA)
Saiki
Saxton
Schneider
Schuette
Schulze
Shumway
Shuster
Skelton
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Solomon
Spratt
Stallings
Stangeland
Stenholm
Stump
Sundquist
Swindall
Taylor
Thomas (CA)
Thomas (GA)
Towns
Visclosky
Volkmer
Walker
Watkins
Weber
Wheat
Williams
Wolf
Wortley
Wylie

NOES—265

Akaka
Alexander
Anderson
Annunzio
Applegate
Armey
Aspin
Atkins
AuCoin
Baker
Bartlett
Barton
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Biaggi
Bilbray
Bilirakis
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan

Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Davis (MI)
de la Garza
DeFazio
Dellums
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Dreier
Durbin
Dymally
Early
Eckart
Edwards (CA)
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gekas
Gilman
Glickman
Gonzalez
Goodling
Grandy
Grant
Gray (IL)
Gray (PA)
Guarini
Gunderson
Hall (OH)
Hall (TX)
Harris
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Henry
Hertel
Hochbrueckner
Holloway
Horton
Howard
Hoyer
Hubbard
Huckaby
Hunter
Hyde
Jeffords
Johnson (SD)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
LaFalce
Lantos
Leach (IA)
Leath (TX)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lowry (WA)
Lujan
MacKay
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCollum
McDade
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Molinari
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickle
Price (IL)
Price (NC)
Pursell
Rahall
Rangel
Regula
Rinaldo
Rodino
Roe
Roemer
Rostenkowski
Roth
Roybal
Sabo
Savage
Sawyer
Schaefer
Scheuer
Schroeder
Schumer
Sensenbrenner
Sharp
Shaw
Sikorski
Sisisky
Skaggs
Skeen
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith, Robert (OR)
Snowe
Solarz
Spence
St Germain
Staggers
Stark
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauke
Tauzin
Torres
Torricelli
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Vucanovich
Walgren
Waxman
Weiss
Weldon
Whittaker
Whitten
Wilson
Wise
Wolpe
Wyden
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—7

Bentley
Flake
Gephardt
Gordon
Kemp
Kostmayer
Russo

☐ 1515

Mr. ASPIN and Mr. DOWDY of Mississippi changed their votes from "aye" to "no."

So the amendment was rejected.

The result of the vote was announced as above recorded.

AMENDMENT IN THE NATURE OF A SUBSTITUTE OFFERED BY MR. MICHEL

Mr. MICHEL. Mr. Chairman, I offer an amendment in the nature of a substitute.

The Clerk read as follows:

Amendment in the nature of a substitute offered by Mr. Michel: Strike all after the enacting clause and insert in lieu thereof the following:

TITLE I—MEDICARE CATASTROPHIC ILLNESS COVERAGE ACT

SECTION 101. SHORT TITLE AND REFERENCES IN TITLE.

(a) Short Title.—This title may be cited as the "Medicare Catastrophic Illness Coverage Act".

(b) References in Title.—Except as otherwise provided in this title, the amendments in this title apply to the Social Security Act.

SEC. 102. REVISIONS IN HOSPITAL INSURANCE PROGRAM.

(a) Unlimited Hospital Benefits.—Section 1812(a) (42 U.S.C. 1395d(a)) is amended—

(1) by amending paragraph (1) to read as follows:

"(1) inpatient hospital services;", and

(2) in paragraph (2), by striking "spell of illness" and inserting "year".

(b) Omitting Spell of Illness Limits.—Section 1812(b) (42 U.S.C. 1395d(b)) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking "spell of illness" and inserting "year", and

(B) by striking "(subject to subsection (c))";

(2) by striking paragraph (1);

(3) in paragraph (2), by striking "spell" each place it appears and inserting "year"; and

(4) by redesignating paragraphs (2) and (3) as (1) and (2), respectively.

(c) Repealing Special Rule for Certain Patients in Psychiatric Hospitals.—Section 1812(c) (42 U.S.C. 1395d(c)) is repealed.

(d) Conforming Amendment.—Section 1812(e) (42 U.S.C. 1395d(e)) is amended by striking "subsections (b) and (c), inpatient hospital services, inpatient psychiatric hospital services," and inserting "subsection (b), inpatient psychiatric services".

(e) Conforming Amendment.—Section 1812(g) (42 U.S.C. 1395d(g)) is amended by striking "definition of 'spell of illness', and for definitions of other" and inserting "definitions of".

(f) Application of Hospital Deductible.—Section 1813(a) (42 U.S.C. 1395e(a)) is amended—

(1) in the first sentence of paragraph (1), by striking "any spell of illness" and inserting "each of the first two admissions in a year";

(2) by striking the second sentence of paragraph (1); and

(3) by striking paragraph (3).

(g) Conforming Amendment.—Section 1813(b)(3) (42 U.S.C. 1395e(b)(3)) is amended to read as follows:

"(3) The inpatient hospital deductible for a year shall apply to the deduction under subsection (a)(1) for the year in which the first day of inpatient services occurs in an admission.".

(h) Conforming Amendment.—Section 1832(b) (42 U.S.C. 1395k(b)) is amended to read as follows:

"(b) For definitions of 'medical and other health services' and other terms used in this part, see section 1861.".

(i) Repealing Definition of Spell of Illness.—Section 1861(a) (42 U.S.C. 1395x(a)) is repealed.

(j) Conforming Amendment.—Section 1861(y) (42 U.S.C. 1395x(y)) is amended—

(1) in paragraph (1), by striking "(except for purposes of subsection (a)(2))";

(2) in paragraph (2), by (A) striking "spell of illness" each place it appears and inserting "year" and (B) striking "spell" each place it appears and inserting "year";

(3) by striking paragraph (3), and

(4) by renumbering paragraph (4) as (3).

(k) Conforming Amendment.—Section 1866(a)(2)(A)(i) (42 U.S.C. 1395cc(a)(2)(A)(i)) is amended by striking "(a)(3), or (a)(4), section 1833(b), or section 1861(y)(3)" and inserting "section 1813(a)(4), or section 1833(b)".

(l) Effective Date.—The amendments made by this section apply to items and services furnished after 1987.

SEC. 103. CEILING FOR BENEFICIARY EXPENSES.

(a) Entitlement to Catastrophic Benefits.—Section 1832(a) (42 U.S.C. 1395k(a)) is amended—

(1) by striking "and" at the end of paragraph (1),

(2) by substituting "; and" for the period at the end of paragraph (2), and

(3) by adding at the end the following:

"(3) entitlement to have payment made to him or on his behalf (subject to the provisions of this part) of the amounts specified in section 1833(a)(5).".

(b) Limit on Cost Sharing.—Section 1833(a) (42 U.S.C. 1395l(a)) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(5) the amounts by which the beneficiary cost sharing amounts for items and services furnished in a year (but substituting that period of the last quarter of the preceding year that occurs before the cost sharing limitation for that preceding year is reached (if at all) for the last quarter of the year in question, if the amounts are greater) exceed the cost sharing limitation for that year.".

(c) Including Deductible in Cost Sharing Limit.—The first sentence of section 1833(b) (42 U.S.C. 1395l(b)) is amended—

(1) by striking "and" at the end of clause (3), and

(2) by inserting before the period the following: ", and (5) such deductible shall be included in the beneficiary cost sharing amounts".

(d) Conforming Amendment.—Section 1833(d) (42 U.S.C. 1395l(d)) is amended by inserting "(except as provided by subsection (a)(5))" before the period.

(e) Annual Determination of Cost Sharing Limitation.—Section 1833 is further amended by adding at the end the following new subsection:

"(m) The Secretary shall, during September of 1988 and of each year thereafter, determine and promulgate the cost sharing limitation (as defined in section 1861(a)(2)) for the succeeding calendar year.".

(f) Beneficiary Cost Sharing Amounts and Cost Sharing Limitations Defined.—Section 1861 (42 U.S.C. 1395x), as amended by section 102(i) of this title, is further amended by inserting before subsection (b) the following:

"Beneficiary Cost Sharing Amounts; Cost Sharing Limitation

"(a)(1) The term 'beneficiary cost sharing amounts' means the amounts of expenses that an individual who is covered under the insurance program established by part B incurs that are—

"(A) amounts specified in the first two sentences of section 1866(a)(2)(A) (but for an individual who is not also covered under the insurance program established by part A, only those amounts for items and services covered under part B), and

"(B) amounts equal to the difference between the total amounts that constitute payment in full under part B when a physician or other entity that is not a provider of services accepts (or would accept) assignment (or otherwise agrees to accept a specified amount) and the amounts payable from the Federal Supplementary Medical Insurance Trust Fund for those items and services (other than under section 1833(a)(5)).

"(2) The term 'cost sharing limitation' means—

"(A) for 1988, $2,000, and

"(B) for 1989 and later years, $2,000 increased (or decreased) by the percentage increase (or decrease) in total per capita expenses of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund for the second preceding year over those for 1986 (but, if not a multiple of $10, rounded to the nearest multiple, or, if midway between two multiples, rounded to the next higher).".

(g) Limitation on Additional Charges Where Cost Sharing Limitation Reached.—Section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended by adding at the end the following: "A provider of services may not impose a charge under this subparagraph to the extent payment is made to the provider of services under section 1832(a)(3).".

(h) Effective Date.—The amendments made by this section apply to items and services furnished after 1987 (and do not, for purposes of the parenthetical clause in section 1833(a)(5) of the Social Security Act, apply to items and services furnished during the last three months of 1987).

SEC. 104. INCREASE IN SUPPLEMENTARY MEDICAL INSURANCE PREMIUM.

(a) Revision of Premium.—Section 1839(a)(1) (42 U.S.C. 1395r(a)(1)) is amended to read as follows:

"Sec. 1839. (a)(1) The Secretary shall, during September of 1987 and of each year thereafter, determine the monthly actuarial basic rate and the monthly actuarial catastrophic illness rate for enrollees age 65 and over which shall be applicable for the succeeding calendar year. The monthly actuarial basic rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to those enrollees age 65 and over will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees (excluding benefits payable under section 1833(a)(5)). The monthly actuarial catastrophic illness rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to those enrollees age 65 and over will equal the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees under section 1833(a)(5), and from the Federal Hospital Insurance Trust Fund for the changes (under sections 102 and 103 of the Medicare Catastrophic Illness Coverage Act) in services performed in such calendar year with respect to individuals age 65 and over who are covered under the insurance program established by part A. In calculating the monthly actuarial rates, the Secretary shall include appropriate amounts for a contingency margin.".

(b) Computation of Actuarial Amount for Disabled Enrollees.—Section 1839(a)(4) (42 U.S.C. 1395r(a)(4)) is amended to read as follows:

"(4) The Secretary shall also, during September of 1987 and of each year thereafter, determine the monthly actuarial basic rate and the monthly actuarial catastrophic illness rate for disabled enrollees under age 65 which shall be applicable for the succeeding calendar year. The monthly actuarial basic rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to disabled enrollees under age 65 will equal one-half of the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees (excluding benefits payable under section 1833(a)(5)). The monthly actuarial catastrophic illness rate shall be the amount the Secretary estimates to be necessary so that the aggregate amount for the calendar year with respect to disabled enrollees under age 65 will equal the total of the benefits and administrative costs which he estimates will be payable from the Federal Supplementary Medical Insurance Trust Fund for services performed and related administrative costs incurred in such calendar year with respect to such enrollees under section 1833(a)(5), and from the Federal Hospital Insurance Trust Fund for the changes (under sections 102 and 103 of the Medicare Catastrophic Illness Coverage Act) in services performed in such calendar year with respect to disabled individuals under age 65 who are covered under the insurance program established by part A. In calculating the monthly actuarial rates, the Secretary shall include appropriate amounts for a contingency margin.".

(c) Treatment of Additional Premium.—Section 1841 (42 U.S.C. 1395t) is amended by adding at the end the following:

"(j) The portion of the premium amounts that is determined under section 1839(a)(3)(A) shall be treated as a separate account. Amounts paid under section 1832(a)(3) or transferred under subsection (k) of this section shall come from that portion.

"(k) There shall be transferred from time to time from the Trust Fund to the Federal Hospital Insurance Trust Fund amounts from the premium under this part that are attributable to the changes (under sections 102 and 103 of the Medicare Catastrophic Illness Coverage Act) in services performed in such calendar year with respect to individuals who are covered under the insurance program established by part A.".

(d) Extending for 2 Years Part B Premium Basic Premium at 25 Percent of Program Costs.—Section 1839 (42 U.S.C. 1395r) is amended—

(1) in subsection (e), by striking "1989" and inserting "1991",

(2) in subsection (f)(1), by striking "or 1987" and inserting "1987, 1988, or 1989", and

(3) in subsection (f)(2), by striking "or 1988" and inserting "1988, 1989, or 1990".

(e) Conforming Amendments.—(1) Section 1839(a)(2) (42 U.S.C. 1395r(a)(2)) is amended by striking "1983" and inserting "1987".

(2) Section 1839(a)(3) (42 U.S.C. 1395r(a)(2)) is amended—

(A) in the first sentence, by striking "1983" and inserting "1987",

(B) by amending the second sentence to read as follows:

"The monthly premium shall (except as otherwise provided in subsection (e)) be equal to the sum of—

"(A) a weighted average of the monthly actuarial catastrophic illness rate for enrollees age 65 and over, determined according to paragraph (1) of this subsection, and that rate for disabled enrollees under age 65, determined according to paragraph (4) of this subsection, for that calendar year, and

"(B) the smaller of—

"(i) the monthly actuarial basic rate for enrollees age 65 and over, determined according to paragraph (1) of this subsection, for that calendar year, or

"(ii) the monthly payment rate most recently promulgated by the Secretary under this paragraph, increased by a percentage determined as follows: The Secretary shall ascertain the primary insurance amount computed under section 215(a)(1), based upon average indexed monthly earnings of $900, that applied to individuals who became eligible for and entitled to old-age insurance benefits on November 1 of the year before the year of the promulgation. He shall increase the monthly premium rate by the same percentage by which that primary insurance amount is increased when, by reason of the law in effect at the time the promulgation is made, it is so computed to apply to those individuals for the following November 1.", and

(C) in the third sentence, by striking "amount of an adequate actuarial rate for enrollees age 65 and over as provided in paragraph (1)" and inserting "amounts of adequate actuarial basic and catastrophic illness rates for enrollees as provided in paragraphs (1) and (4)";

(3) Section 1839(e)(1) (42 U.S.C. 1395r(e)(1)) is amended—

(A) by striking "monthly premium" and inserting "portion of the monthly premium otherwise determined under subsection (a)(3)(B)", and

(B) by inserting "basic" after "actuarial".

(4) Section 1839(f)(1) (42 U.S.C. 1395r(f)(1)) is amended by striking "1985, 1986, or 1987, the monthly premium" and inserting "1987, the portion of the monthly premium otherwise determined under subsection (a)(3)(B)".

(5) Section 1839(f)(2) (42 U.S.C. 1395r(f)(2)) is amended—

(A) in the matter preceding subparagraph (A), by striking "1986, 1987, or" and by striking "monthly premium" the second place it appears and inserting "portion of the monthly premium otherwise determined under subsection (a)(3)(B)", and

(B) in subparagraph (A), by striking "monthly premium amount determined under subsection (a)(2)" each place it appears and inserting "portion of the monthly premium amount determined under subsection (a)(3)(B)".

(6) Subparagarphs (A)(i) and (B)(i) of section 1844(a)(1) (42 U.S.C. 1395w(a)(1) are each amended by striking "twice the dollar

amount of the actuarially adequate rate" and inserting "the dollar amount of the actuarially adequate catastrophic illness rate and twice the dollar amount of the actuarially adequate basic rate".

(7) Section 1876(a)(5) (42 U.S.C. 1395mm(a)(5)) is amended—

(A) in the matter preceding subparagraph (A), by striking "200 percent of", and

(B) in subparagraphs (A)(ii) and (B)(ii), by striking "monthly actuarial rate" and inserting "the sum of the monthly actuarial catastrophic illness rate and twice the monthly actuarial basic rate".

SEC. 105. EXTENDING HOME HEALTH SERVICES.

(a) In General.—Section 1861(m) (42 U.S.C. 1395x(m)) is amended by adding at the end the following new sentence: "For purposes of paragraphs (1) and (4) and sections 1814(a)(2)(C) and 1835(a)(2)(A), nursing care and home health aide services shall be considered to be provided or needed on an 'intermittent' basis if they are provided or needed less than 7 days each week and, in the case they are provided or needed for 7 days each week, if they are provided or needed for an initial period of up to 35 consecutive days, and for a subsequent period based on a physician certification of exceptional circumstances requiring such services on such a basis.".

(b) Additional Premium for Certain Daily Home Health Services.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

"(g)(1)(A) The Secretary shall, during September of each year (beginning with 1989), determine—

"(i) the total of the benefits and administrative costs which he estimates will be paid from the Federal Supplementary Medical Insurance Trust Fund in the succeeding calendar year for supplemental daily home health services (as defined in paragraph (4)) and related administrative costs with respect to such enrollees, and

"(ii) a monthly actuarial rate for supplemental daily home health services which shall be applicable for the succeeding calendar year, which rate shall, subject to subparagraph (B)(ii), be the rate which the Secretary estimates to be necessary so that the aggregate amount of the increase in premiums collected or paid under this subsection for such year will equal 100 percent of the total determined under clause (i) for that year.

"(B)(i) In September of each year (beginning with 1990) the Secretary shall determine—

"(I) the aggregate amount of the monthly premium increases collected or received under paragraph (2) during the previous year;

"(II) the total of the benefits and administrative costs which the Secretary determines were paid in the previous year from the Federal Supplementary Medical Insurance Trust Fund for supplemental daily home health services and related administrative costs; and

"(III) whether the amount described in subclause (I) is greater or less than 100 percent of the total described in subclause (II).

"(ii) If the Secretary determines under clause (i)(III) in a year that there was a surplus or deficit described in that clause in the previous year, the Secretary shall adjust the monthly actuarial rate otherwise determined under subparagraph (A)(ii) for the succeeding year so as to reduce or increase, respectively, the aggregate amount of the monthly premium increases that otherwise would be collected or received under paragraph (2) in that succeeding year by the amount of such surplus or deficit, respectively.

"(2) Notwithstanding any other provision of this section (except as provided in subsections (b) and (f)), the monthly premium of each individual enrolled under this part for each month in a year after December 1988 shall be increased by the monthly actuarial rate determined according to paragraph (1) for that year; except that if the increase determined under this paragraph is not a multiple of 10 cents, it shall be rounded to the nearest multiple of 10 cents.

"(3) There shall be transferred from time to time from the Trust Fund to the Federal Hospital Insurance Trust Fund amounts from the additional premium under this subsection that are attributable to the supplemental daily home health services for which payments are made under part A.

"(4) In this subsection, the term 'daily home health services' means home health services which are provided on a daily basis pursuant to the last sentence of section 1861(m).".

(c) Conforming Amendments.—Section 1839 (42 U.S.C. 1395r) is amended—

(1) in the second sentence of subsection (a)(1), by inserting "(other than costs relating to daily home health services (as defined in section 1839(g)(4))" before the period;

(2) in subsection (a)(2), by striking "and (e)" and inserting ", (e), and (g)";

(3) in subsection (a)(3), by striking "subsection (e)" and inserting "subsections (e) and (g)"; and

(4) in the second sentence of subsection (a)(4), by inserting "(other than costs relating to daily home health services (as defined in section 1839(g)(4))" before the period.

(d) Effective Dates.—(1) The amendment made by subsection (a) shall apply to services furnished on or after January 1, 1989.

(2) The amendments made by subsections (b) and (c) shall apply to monthly premiums for months beginning with January 1989.

SEC. 106. MEDICAID COVERAGE OF PRESCRIPTION DRUGS FOR LOW INCOME ELDERLY INDIVIDUALS.

(a) Requiring Medicaid Coverage of Prescription Drugs for Low Income Elderly Individuals.—Section 1902 (42 U.S.C. 1396a) is amended—

(1) in subsection (a)(10)—

(A) by striking "and" at the end of subparagraph (D),

(B) by inserting "and" at the end of subparagraph (E), and

(C) by inserting after subparagraph (E) the following new subparagraph:

"(F) subject to subsection (p)(3), for making medical assistance available for prescription drugs for qualified prescription drug beneficiaries (as defined in subsection (p)(1));";

(2) by redesignating the subsection (l), added by section 3(b) of Public Law 99-643, as subsection (o); and

(3) by adding at the end the following new subsection:

"(p)(1) In this title, the term 'qualified prescription drug beneficiary' is an individual—

"(A) who is 65 years of age or older, and

"(B) whose income does not exceed 150 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(2) Income under this paragraph shall be determined under a methodology recognized by the State consistent with subparagraph (C)(ii), which methodology may not be more restrictive or less generous to an individual than the methodology used under section 1612 for purposes of the supplemental security income program.

"(C) Notwithstanding subsection (a)(17), for qualified prescription drug beneficiaries described in paragraph (1) who are covered under the State plan by virtue of subsection (a)(10)(F)—

"(i) the income standard to be applied is the income standard described in paragraph (1)(B), and

"(ii) except as provided in section 1612(b)(4)(B)(ii), costs incurred for medical care or for any other type of remedial care shall not be taken into account in determining income.

Any different treatment provided under this paragraph for such individuals shall not, because of subsection (a)(10) or (a)(17), require or permit such treatment for other individuals.

"(3) In the case of a State (other than the 50 States and the District of Columbia), the requirement stated in section 1902(a)(10)(F) shall be optional."

(b) Effective Date of Individual's Benefits.—Section 1902(e) (42 U.S.C. 1396a(e)) is amended by adding at the end the following new paragraph:

"(10) If an individual is determined to be eligible for medical assistance because of subsection (a)(10)(F), such determination shall apply to medical assistance for prescribed drugs furnished after the end of the month in which the determination first occurs. Such determination shall be considered to be valid for a period of at least 6 months.".

(c) Benefit Limited to Prescription Drugs.—Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended, in the matter after subparagraph (F) (as inserted by subsection (a))—

(1) by striking "and" before "(IX)" and inserting a comma, and

(2) by inserting before the semicolon at the end the following: ", and (X) the medical assistance made available to an individual pursuant to subparagraph (F) shall be limited to the medical assistance for prescribed drugs of the same amount, duration, and scope as the medical assistance made available for prescribed drugs to individuals described in subparagraph (A)(i), except that such assistance shall be subject to an annual deductible of $50 for each individual".

(d) Conforming and Technical Amendments.—

(1) Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended—

(A) in subparagraph (A), in the matter before clause (i), by inserting ", (12)(A)," after "(5)";

(B) in subparagraph (C)—

(i) in the matter before clause (i), by striking "or (E)" and inserting "(E), or (F)", and

(ii) in clause (iv), by inserting ", (12)(A)," after "(5)";

(B) in subclause (VIII) in the matter following subparagraph (F), by striking "described in section 1905(p)(1)" and inserting "pursuant to subparagraph (E)".

(2) Section 1905(a) (42 U.S.C. 1396d(a)) is amended—

(A) in the matter before subdivision (i), by inserting "or in the case of such assistance furnished pursuant to section 1902(a)(10)(F) to a qualified prescription drug beneficiary described in section 1902(p)(1), if provided after the month in which the individual is determined to be such an individual" after "makes application for assistance", and

(B) in paragraph (12), by striking "(12) prescribed drugs, dentures, and prosthetic devices; and" and inserting "(12)(A) prescribed drugs, (B) dentures and prosthetic devices, and (C)".

(3) Section 1905(p)(1)(B) (42 U.S.C. 1396a(p)(1)(B)) is amended by inserting "(other than as a qualified prescription drug beneficiary described in section 1902(p)(1))" after "under the plan".

(4) Section 1916 (42 U.S.C. 1395o) is amended by adding at the end the following new subsection:

"(e) Notwithstanding the previous provisions of this section, with respect to medical assistance made available to an individual pursuant to section 1902(a)(10)(F) (relating to prescription drug coverage for certain low income elderly individuals), the State plan shall provide for an annual deductible of $50 for each individual.".

(e) State Operating Under Demonstration Project.—As a condition for the continued approval of a waiver under section 1115(a) of the Social Security Act for a State's provision of medical assistance on or after January 1, 1989, the State must provide for medical assistance with respect to prescribed drugs for qualified prescription drug beneficiaries (described in section 1902(p)(1) of such Act) in a reasonable amount, duration, and scope (which is not less than the amount, duration, and scope made available to individuals described in section 1902(a)(10)(A)(i)) after they have met an annual deductible of $50 for each individual.

(f) Effective Date.—(1) The amendments made by this section apply (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1988, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

SEC. 107. PROTECTION OF INCOME AND RESOURCES OF COUPLE FOR MAINTENANCE OF COMMUNITY SPOUSE.

(a) In General.—Title XIX is amended—

(1) by redesignating section 1921 as section 1922, and

(2) by inserting after section 1920 the following new section:

"TREATMENT OF INCOME AND RESOURCES FOR CERTAIN INSTITUTIONALIZED SPOUSES

"Sec. 1921. (a) Special Treatment for Institutionalized Spouses.—

"(1) Supersedes other provisions.—In determining the eligibility for medical assistance of an institutionalized spouse (as defined in subsection (g)(1)), the provisions of this section supersede any other provision of this title (including sections 1902(a)(17) and 1902(f)) which is inconsistent with them.

"(2) No comparable treatment required.—Any different treatment provided under this section for institutionalized spouses shall not, by reason of paragraph (10) or (17) of section 1902(a), require such treatment for other individuals.

"(3) Does not affect certain determinations.—Except as this section specifically provides, this section does not apply to—

"(A) the determination of what constitutes income or resources, or

"(B) the methodology and standards for determining and evaluating income and resources.

"(4) Election to use other rules.—An institutionalized spouse may elect not to have this section (other than subsection (c)) apply but to have the spouse's resources and income determined under the law, practice, or policy of the plan (whether approved or not) in effect on March 1, 1987, except to the extent inconsistent with subsection (c).

"(5) Application in certain states and territories.—

"(A) Application in states operating under demonstration projects.—In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to meet the requirements of this section in same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title XIX.

"(B) No application in commonwealths and territories.—This section shall only apply to a State that is one of the 50 States or the District of Columbia.

"(b) Rules for Treatment of Income.—

"(1) Separate treatment of income.—During any month in which an institutionalized spouse is in the institution, no income of the community spouse shall be deemed available to the institutionalized spouse.

"(2) Attribution of income.—In determining the income of an institutionalized spouse or community spouse, except as otherwise provided in this section and regardless of any State laws relating to community property or the division of marital property, the following rules apply:

"(A) Non-trust property.—Subject to subparagraphs (C) and (D), in the case of income not from a trust, unless the instrument providing the income otherwise specifically provides—

"(i) if payment of income is made solely in the name of the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse;

"(ii) if payment of income is made in the names of the institutionalized spouse and the community spouse, one-half of the income shall be considered available to each of them; and

"(iii) if payment of income is made in the names of the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each of the individuals named in equal proportional shares.

"(B) Trust property.—In the case of a trust—

"(i) except as provided in clause (ii), income shall be attributed in accordance with the provisions of this title (including sections 1902(a)(17) and 1902(k)), and

"(ii) unless the trust otherwise specifically provides—

"(I) if payment of income is made solely to the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse;

"(II) if payment of income is made to both the institutionalized spouse and the community spouse, one-half of the income shall be considered available to each of them; and

"(III) if payment of income is made to the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each of such individuals in equal proportional shares.

"(C) Property with no instrument.—In the case of income not from a trust in which there is no instrument establishing ownership, subject to subparagraph (D), one-half of the income shall be considered to be available to the institutionalized spouse and one-half to the community spouse.

"(D) Rebutting ownership.—The rules of subparagraphs (A) and (C) are superceded to the extent that an institutionalized spouse can establish, by a preponderance of the evidence, that the ownership interests in income are other than as provided under such subparagraphs.

"(c) Rules for Treatment of Resources.—

"(1) Computation of spousal share at time of institutionalization.—There shall be computed (as of the beginning of a continuous period of institutionalization of the institutionalized spouse) a spousal share which is equal to ½ of the value of all the resources held by either the institutionalized spouse, community spouse, or both.

"(2) Attribution of resources at time of initial eligibility determination.—In determining the resources of an institutionalized spouse at the time of application for benefits under this title, regardless of any State laws relating to community property or the division of marital property—

"(A) except as provided in subparagraph (B), all the resources held by either the institutionalized spouse, community spouse, or both, shall be considered to be available to the institutionalized spouse, and

"(B) resources held in the name of (or for the sole benefit of) the community spouse shall not be considered to be available to an institutionalized spouse, to the extent that the amount of such resources does not exceed the amount computed under subsection (e)(2)(A) (as of the time of application for benefits) or, if greater, the amount that a court has ordered to be retained by the community spouse for the support of the community spouse.

"(3) Separate treatment of resources after eligibility for benefits established.—During the continuous period in which an institutionalized spouse is in an institution and after the month in which an institutionalized spouse is determined to be eligible for benefits under this title, no resources of the community spouse shall be deemed available to the institutionalized spouse.

"(4) Resources defined.—In this section, the term 'resources' does not include resources excluded under subsection (a) or (d) of section 1613 and does not include resources that would be excluded under section 1613(a)(2)(A) but for the limitation on total value described in such section.

"(d) Protecting Income for Community Spouse.—

"(1) Allowances to be offset from income of institutionalized spouse.—After an institutionalized spouse is determined to be eligible for medical assistance, in determining the amount of the spouse's income that is to be applied monthly to payment for the costs of care in the institution, there shall be deducted from the spouse's monthly income the following amounts in the following order:

"(A) A personal needs allowance that is reasonable in amount for clothing and other personal needs of the institutionalized spouse and which is not less than $25 per month.

"(B) A community spouse monthly income allowance (as defined in paragraph (2)), but only to the extent income of the institutionalized spouse is made available to (or for the benefit of) the community spouse.

"(C) A family allowance, for each family member, equal to at least ⅓ of the amount by which the amount described in paragraph (3)(A)(i) exceeds the amount of the monthly income of that family member.

"(D) Amounts for incurred expenses for medical or remedial care for the institutionalized spouse that are not subject to payment by a legally liable third party.

In subparagraph (C), the term 'family member' only includes minor or dependent children, dependent parents, or dependent siblings of the institutionalized or community spouse who are residing with the community spouse.

"(2) Community spouse monthly income allowance defined.—In this section (except as provided in paragraph (6)), the 'community spouse monthly income allowance' for a community spouse is an amount by which—

"(A) except as provided in paragraph (4), the minimum monthly maintenance needs allowance (established under and in accordance with paragraph (3)) for the spouse, exceeds

"(B) the amount of monthly income otherwise available to the community spouse (determined without regard to such an allowance).

"(3) Establishment of minimum monthly maintenance needs allowance.—

"(A) In general.—Each State shall establish a minimum monthly maintenance needs allowance for each community spouse which, subject to subparagraph (B), is equal to or exceeds—

"(i) 150 percent of 1/12 of the nonfarm income official poverty line (defined by the Office of Management and Budget and revised annually in accordance with sections 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981) for a family unit of 2 members; plus

"(ii) an excess shelter allowance (as defined in paragraph (5)); plus

"(iii) ½ of the amount by which the income available to the institutionalized spouse exceeds the sum of the amounts described in clauses (i) and (ii).

A revision of the official poverty line referred to in clause (i) shall apply to medical assistance furnished during and after the second calendar quarter that begins after the date of publication of the revision.

"(B) Cap on minimum monthly maintenance needs allowance.—The minimum monthly maintenance needs allowance established under subparagraph (A) may not exceed $1,500 (subject to adjustment under subsection (f)).

"(4) Notice and fair hearing.—

"(A) Notice.—Upon—

"(i) a determination of eligibility for medical assistance of an institutionalized spouse, or

"(ii) a request by an institutionalized spouse (or community spouse or representative on the spouse's behalf),

each State shall notify the spouse of the amount of the community spouse monthly income allowance (described in paragraph (1)(B)), of the amount of any family allowances (described in paragraph (1)(C)), of the method for computing the amount of the community spouse resources allowance permitted under subsection (e), and of the spouse's right to a fair hearing under subparagraph (B) respecting the determination of the community spouse monthly income allowance.

"(B) Fair hearing.—If an institutionalized spouse is dissatisfied with a determination of—

"(i) the community spouse monthly income allowance because the amount of the minimum monthly maintenance needs allowance (established under paragraph (3)) is not adequate to support the community spouse without financial duress, or

"(ii) the amount of monthly income otherwise available to the community spouse (as applied under paragraph (2)(B)),

the institutionalized spouse is entitled to a fair hearing described in section 1902(a)(3) with respect to such determination. If the institutionalized spouse establishes that the minimum monthly maintenance needs allowance is not adequate to support the community spouse without financial duress, there shall be substituted, for the minimum monthly maintenance needs allowance in paragraph (2)(A), an amount adequate to support the community spouse without financial duress.

"(5) Excess shelter allowance defined.—In paragraph (3)(A)(ii), the term 'excess shelter allowance' means, for a community spouse, the amount by which the sum of—

"(A) the spouse's expenses for mortgage payment (including principal, interest, taxes, and insurance and, in the case of a condominium or cooperative, required maintenance charge) or rent, and

"(B) the standard utility allowance (used by the State under section 5(e) of the Food Stamp Act of 1977) or, if the State does not use such an allowance, the spouse's actual utility expenses,

exceeds 30 percent of the amount described in paragraph (3)(A)(i), except that, in the case of a condominium or cooperative, for which a maintenance charge is included under subparagraph (A), any allowance under subparagraph (B) shall be reduced to the extent the maintenance charge includes utility expenses.

"(6) Court ordered support.—If a court has entered an order against an institutionalized spouse for monthly income for the support of the community spouse, the community spouse monthly income allowance for the spouse shall be not less than the amount of the monthly income so ordered.

"(e) Permitting Transfer of Resources to Community Spouse.—

"(1) In general.—An institutionalized spouse may, without regard to section 1917, transfer to the community spouse (or to another for the sole benefit of the community spouse) an amount equal to the community spouse resource allowance (as defined in paragraph (2)), but only to the extent the resources of the institutionalized spouse are transferred to (or for the sole benefit of) the community spouse.

"(2) Community spouse resource allowance defined.—In paragraph (1), the 'community spouse resource allowance' for a community spouse is an amount (if any) by which—

"(A) the greater of—

"(i) $12,000 (subject to adjustment under subsection (f)), or

"(ii) the lesser of (I) the spousal share computed under subsection (c)(1), or (II) 4 times the amount described in clause (i), exceeds

"(B) the amount of the resources otherwise available to the community spouse (determined without regard to such an allowance).

"(3) Transfers under court orders.—If a court has entered an order against an institutionalized spouse for the support of [illegible] community spouse, section 1917 shall [illegible] apply to amounts of resources transferred pursuant to such order for the support of the spouse of a family member (as defined in subsection (d)(1)).

"(f) Indexing Dollar Amounts.—For services furnished during a calendar year after 1988, the dollar amounts specified in subsections (d)(3)(B) and (e)(2)(A)(i) shall be increased by the same percentage as the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1987 and the September before the calendar year involved.

"(g) Definitions.—In this section:

"(1) The term 'institutionalized spouse' means an individual who—

"(A) is in a hospital, skilled nursing facility, or intermediate care facility, or who (at the option of the State) is described in section 1902(a)(10)(A)(ii)(VI), and

"(B) is married to a spouse who is not in a hospital, skilled nursing facility, or intermediate care facility;

but does not include any such individual who is not likely to meet the requirements of subparagraph (A) for at least 30 consecutive days.

"(2) The term 'community spouse' means the spouse of an institutionalized spouse.".

(b) Taking into Account Certain Transfers of Assets.—Subsection (c) of section 1917 (42 U.S.C. 1396p) is amended to read as follows:

"(c)(1) In order to meet the requirements of this subsection (for purposes of section 1902(a)(49)(B)), the State plan must provide for a period of ineligibility in the case of an institutionalized individual (as defined in paragraph (3)) who, at any time during the 24-month period immediately before the individual's application for medical assistance under the State plan, disposed of resources for less than fair market value. The period of ineligibility shall begin with the month in which such resources were transferred and the number of months in such period shall be equal to (A) the total uncompensated value of the resources so transferred, divided by (B) the average cost, to a private patient at the time of the application, of nursing home care in the State or, at State option, in the community in which the individual is institutionalized.

"(2) An individual shall not be ineligible for medical assistance by reason of paragraph (1) to the extent that—

"(A) the resources transferred were a home and title to the home was transferred to the individual's spouse or child who is under age 21, or (with respect to State eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614;

"(B) the resources were transferred to (or to another for the sole benefit of) the community spouse, as defined in section 1921(g)(2);

"(C) a satisfactory showing is made to the State (in accordance with any regulations promulgated by the Secretary) that the individual intended to dispose of the resources either at fair market value, or for other valuable consideration; and

"(D) the State determines that denial of eligibility would work an undue hardship.

"(3) In this subsection, the term 'institutionalized individual' means an individual who—

"(A) is an inpatient in a skilled nursing facility, intermediate care facility, or other medical institution and

"(B) is required, as a condition of receiving services in such institution under the State plan, to spend for costs of medical care all but a minimal amount of the individual's income required for personal needs.

"(4) A State may not provide for any period of ineligibility for an institutionalized individual due to transfer of resources for less than fair market value except in accordance with this subsection.".

(c) Conforming Amendment.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) in paragraph (10)(C)(i)(III), by striking "the same" each place it appears and inserting "no more restrictive than the";

(2) by striking "and" at the end of paragraph (46);

(3) by striking out the period at the end of the paragraph (47) inserted by section 9407(a) of the Omnibus Budget Reconciliation Act of 1986 and inserting a semicolon;

(4) in the paragraph (47) added by section 11005(b) of the Anti-Drug Abuse Act of 1986, by redesignating such paragraph as paragraph (48), by transferring and inserting such paragraph immediately after paragraph (47), and by striking the period and inserting "; and";

(5) by inserting after paragraph (48) the following new paragraph:

"(49)(A) meet the requirements of section 1921 (relating to protection of community spouses), and (B) meet the requirement of section 1917(c) (relating to transfer of assets)."; and

(6) by adding at the end the following new sentence: "For purposes of paragraph (10), methodology is considered to be 'no more restrictive' if, using the methodology, additional individuals may be eligible for medical assistance and no individuals who are otherwise eligible are made ineligible for such assistance.".

(d) Effective Date.—(1) The amendments made by this section apply (except as provided under paragraphs (2) and (3)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1988, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(3) The amendments made by subparagraphs (A) and (F) of subsection (c)(1) shall apply to medical assistance furnished on or after October 1, 1982.

SEC. 108. REPORT ON STUDY OF METHODS TO STRENGTHEN LONG-TERM SOLVENCY OF THE MEDICARE TRUST FUNDS.

The Boards of Trustees of the Federal Hospital Insurance Trust Fund (established under section 1817 of the Social Security Act) and of the Federal Supplementary Medical Insurance Trust Fund (established under section 1841 of such Act) shall include in their reports to Congress in April 1988 an analysis, performed by the Secretary of the Treasury in consultation with the Secretary of Health and Human Services, of the options to strengthen the long-term solvency of such Trust Funds. Such analysis shall include a study of the effectiveness of the health care savings accounts (described in H.R. 955, as introduced in the 100th Congress) and other options to transfer the financing of health care in retirement to the private sector.

SEC. 109. EFFECTIVE DATE.

Except as otherwise provided in this title, the amendments made by this title apply to items and services furnished after, and premiums for months after, 1987 (and do not, for purposes of the parenthetical clause in section 1833(a)(5) of the Social Security Act, apply to items and services furnished during the last three months of 1987).

TITLE II—TAX PROVISIONS RELATED TO LONG-TERM CARE INSURANCE

SEC. 201. QUALIFIED LONG-TERM CARE INSURANCE TREATED AS ACCIDENT AND HEALTH INSURANCE FOR PURPOSES OF TAXATION OF LIFE INSURANCE COMPANIES.

(a) In General.—Section 818 of the Internal Revenue Code of 1986 (relating to other definitions and special rules) is amended by adding at the end thereof the the following new subsection:

"(h) Qualified Long-Term Care Insurance Treated as Accident or Health Insurance.—For purposes of this part—

"(1) In general.—Any reference to accident or health insurance shall be treated as including a reference to qualified long-term care insurance.

"(2) Qualified long-term care insurance.—For purposes of this subsection—

"(A) In general.—Subject to subparagraphs (B) and (C), the term 'qualified long-term care insurance' means insurance under a policy or rider, issued by a qualified issuer, and certified by the Secretary of Health and Human Services (in accordance with procedures similar to the procedures prescribed in section 1882 of the Social Security Act (42 U.S.C. 1385ss) used in the certification of medicare supplemental policies (as defined in subsection (g)(1) of such section)) to be advertised, marketed, offered, or designed to provide coverage—

"(i) for not less than 12 consecutive months for each covered person who has attained age 50,

"(ii) on an expense incurred, indemnity, or prepaid basis,

"(iii) for 1 or more medically necessary, diagnostic services, preventive services, therapeutic services, rehabilitation services, maintenance services, or personal care services, and

"(iv) provided in a setting other than an acute care unit of a hospital.

"(B) Coverage specifically excluded.—Such term does not include any insurance under any policy or rider which is offered primarily to provide any combination of the following kinds of coverage:

"(i) Basic Medicare supplement coverage.

"(ii) Basic hospital-based acute care expense coverage.

"(iii) Basic medical-surgical expense coverage.

"(iv) Hospital confinement indemnity coverage.

"(v) Major medical expense coverage.

"(vi) Disability income protection coverage.

"(vii) Accident only coverage.

"(viii) Specified disease coverage.

"(ix) Specified accident coverage.

"(x) Limited benefit health coverage.

"(C) Requirement for reinsurance.—If the Federal National Long-Term Care Reinsurance Corporation is incorporated as of January 1, 1990, effective on and after such date, such term does not include any insurance unless, with respect to such insurance, the qualified insurer is reinsured by such Corporation.

"(D) Qualified issuer.—For purposes of subparagraph (A), the term 'qualified issuer' means any of the following:

"(i) Private insurance company.

"(ii) Fraternal benefit society.

"(iii) Nonprofit health corporation.

"(iv) Nonprofit hospital corporation.

"(v) Nonprofit medical service corporation.

"(vi) Prepaid health plan."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1987.

SEC. 202. QUALIFIED LONG-TERM CARE INSURANCE TREATED AS ACCIDENT AND HEALTH INSURANCE FOR PURPOSES OF EXCLUSION FOR BENEFITS RECEIVED UNDER SUCH INSURANCE AND FOR EMPLOYER CONTRIBUTIONS FOR SUCH INSURANCE.

(a) In General.—Section 105 of the Internal Revenue Code of 1986 (relating to amounts received under accident and health plans) is amended by adding at the end thereof the following new subsection:

"(j) Special Rules Relating to Qualified Long-Term Care Insurance.—For purposes of section 104, this section, and section 106—

"(1) Benefits treated as payable for sickness, etc.—Any benefit received through qualified long-term care insurance (as defined in section 818(h)) shall be treated as received for personal injuries or sickness.

"(2) Expenses for which reimbursement provided under qualified long-term care insurance treated as incurred for medical care.—Expenses incurred by a taxpayer for which reimbursement is paid through qualified long-term care insurance (as so defined) shall be treated for purposes of subsection (b) as incurred for medical care (as defined in section 213(d)).

"(3) References to accident and health plans.—Any reference to an accident or health plan shall be treated as including a reference to a plan providing qualified long-term care insurance."

(b) Effective Date.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1987.

SEC. 203. EXCLUSION FROM GROSS INCOME FOR AMOUNTS WITHDRAWN FROM INDIVIDUAL RETIREMENT PLANS FOR QUALIFIED LONG-TERM CARE INSURANCE.

(a) In General.—Subsection (d) of section 408 of the Internal Revenue Code of 1986 (relating to tax treatment of distributions from individual retirement plans) is amended by adding at the end thereof the following new paragraph:

"(7) DISTRIBUTIONS FOR QUALIFIED LONG-TERM CARE INSURANCE PREMIUMS.—The portion of a distribution which (but for this paragraph) would be includible in the gross income of the payee or distributee under paragraph (1) shall not be included in gross income during the taxable year if—

"(A) the payee or distributee has attained age 59½ on or before the date of the distribution, and

"(B) such portion is used during such year to pay premiums for any policy of qualified long-term care insurance (as defined in section 818(h)) for the benefit of the payee or distributee or the spouse of the payee or distributee if such spouse has attained age 59½ on or before the date of the distribution."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1987.

SEC. 204. EXCLUSION FROM GROSS INCOME FOR AMOUNTS ON THE SURRENDER OR CANCELLATION OF ANY LIFE INSURANCE POLICY WHICH ARE USED TO PAY PREMIUMS FOR QUALIFIED LONG-TERM CARE INSURANCE.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items specifically excluded from gross income) is amended by redesignating section 135 as section 136 and by inserting after section 134 the following new section:

"SEC. 135. AMOUNTS RECEIVED ON CANCELLATION, ETC. OF LIFE INSURANCE CONTRACTS AND USED TO PAY PREMIUMS FOR QUALIFIED LONG-TERM CARE INSURANCE.

"No amount (which but for this section would be includible in the gross income of an individual) shall be included in gross income on the whole or partial surrender, cancellation, or exchange of any life insurance contract during the taxable year if—

"(1) such individual has attained age 65 on or before the date of the transaction, and

"(2) the amount otherwise includible in gross income is used during such year to pay premiums for any policy of qualified long-term care insurance (as defined in section 818(h)) for the benefit of such individual or the spouse of such individual if such spouse has attained age 65 on or before the date of the transaction."

(b) CLERICAL AMENDMENT.—The table of sections for such part III is amended by striking out the last item and inserting in lieu thereof the following new items:

"Sec. 135. Amounts received on cancellation, etc. of life insurance contracts and used to pay premiums for qualified long-term care insurance.

"Sec. 136. Cross references to other Acts."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

TITLE III—FEDERAL NATIONAL LONG-TERM CARE REINSURANCE CORPORATION.

SEC. 301. SHORT TITLE.

This title may be cited as the "Federal National Long-Term Care Reinsurance Corporation Act".

SEC. 302. AUTHORIZATION FOR ESTABLISHMENT OF CORPORATION.

The Secretary of Health and Human Services (in this title referred to as the "Secretary") is authorized to provide, in accordance with this title, for the incorporation of a corporation, to be known as the Federal National Long-Term Care Reinsurance Corporation (in this title referred to as the "Corporation"), which shall not be an agency or establishment of the United States Government.

SEC. 303. BOARD OF DIRECTORS AND OFFICERS.

(a) BOARD OF DIRECTORS.—The Corporation shall have a Board of Directors (in this title referred to as the "Board") consisting of 9 members, of which—

(1) 3 shall be appointed by the President of the United States, of which one shall be a representative of entities providing long-term care, one shall be a representative from an insurer, and one shall be a representative of consumers of long-term care; and

(2) 6 shall be elected annually by the stockholders of the Corporation entitled to vote for such members.

Within the limitations of law and regulation, the Board shall determine the general policies which shall govern the operations of the Corporation, and shall have power to adopt, amend, and repeal by-laws governing the performance of the powers and duties granted to or imposed upon it by law.

(b) INITIAL BOARD.—Notwithstanding subsection (a), the members described in subsection (a)(1) shall serve as incorporators and are authorized to assist the Secretary in taking whatever actions are necessary to incorporate the Corporation.

(c) TERMS OF OFFICE.—The terms of office of each member of the Board shall be one year, expiring on the date of the annual meeting of the stockholders of the Corporation; except that (A) in the case of a vacancy occurring prior to the expiration of the term of a member, the vacancy shall be filled by the President (for members described in subsection (a)(1)) or by the remaining members of the Board (for other members) for the remainder of such term, and (2) any member may be removed by the President for good cause. Any vacancy in the Board shall not affect its power.

(d) CHAIRMAN.—The President shall designate one of the members described in subsection (a)(1) as the initial Chairman of the Board. Thereafter, the members of the Boards shall annually elect one of their number as Chairman.

(e) TREATMENT OF MEMBERS.—(1) The members of the Board shall not, by reason of such membership, be deemed to be employees of the United States Government. Except as provided in paragraph (2), each member of the Board shall be entitled to receive the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of the General Schedule for each day (including travel time) during which he is engaged in the actual performance of duties vested in the Corporation.

(2) Members of the Board who are full-time officers or employees of the United States shall receive no additional pay by reason of their service on the Board.

(f) OFFICERS.—The Corporation shall have a President and such other executive officers and employees as may be appointed by the Board at rates of compensation fixed by the Board, without regard to any provisions of title 5, United States Code. No such executive officer may receive any salary or other compensation from any source other than the Corporation during the period of his employment by the Corporation.

SEC. 304. PURPOSE AND AUTHORITY OF CORPORATION.

(a) PURPOSE.—The Corporation shall confine its activities to providing for the reinsurance of insurance companies for extraordinary loss in the issuance or payment of benefits for qualified long-term care insurance (as defined in subparagraph (A) of section 818(h)(2) of the Internal Revenue Code of 1986). Except as may be provided by the Secretary in regulations, the Corporation may not refuse to provide for such reinsurance for any insurance meeting the requirements of such section (other than subparagraph (C) thereof).

(b) PREMIUMS.—The Corporation shall impose for such reinsurance reasonable premiums which—

(1) are related to actuarial estimates of the type and amount of financial risk assumed by the Corporation, and

(2) in the aggregate (in conjunction with other income which the Corporation may have) provide for all the expenses of the Corporation.

(c) NO POLITICAL CONTRIBUTIONS.—The Corporation shall not contribute or otherwise support any political party or candidate for elective public office.

(d) GENERAL POWERS.—Except as otherwise specifically provided in this title, the Corporation and Board shall have the powers of a corporation and board of directors in the State in which incorporated.

SEC. 305. CAPITALIZATION.

(a) COMMON STOCK.—The Corporation shall have common stock, with such par value as the Board establishes, which shall be vested with all voting rights, each share being entitled to one vote with rights of cumulative voting at all elections of directors. The free transferability of the common stock at all times to any person, firm, corporation, or other entity shall not be restricted, except that, as to the Corporation, it shall be transferable only on the books of the Corporation. The Corporation shall only issue such common stock with the approval of the Secretary.

(b) DEBT.—(1) For purposes of carrying out this title, the Corporation may, with the approval of the Secretary, issue obligations having such maturities and bearing such rate or rates and having such conditions (including subordination to other such obligations) as the Board determines to be appropriate.

(2) The full faith and credit of the United States is not pledged to the obligations and debts of the Corporation. The Corporation shall insert appropriate language in all of its obligations issued under this subsection clearly indicating that such obligations, together with the interest thereon, are not guaranteed by the United States and do not constitute debt or obligation of the United States or of any agency or instrumentality thereof. The Corporation may purchase in the open market any of its obligations outstanding under this subsection at any time and at any price.

(3) All obligations, participations, or other instruments issued by the Corporation shall be lawful investments, and may be accepted as security for all fiduciary, trust, and public funds, the investment or deposit of which shall be under the autohrity and control of the United States or any officer or officers thereof.

SEC. 306. EXEMPTION FROM STATE REGULATION AND TAXATION.

(a) TAXATION.—The Corporation, including its capital, reserves, surplus, security holdings, and income, shall be exempt from all taxation now or hereafter imposed by any State, District, Commonwealth, county, municipality, or local taxing authority, except that any real property of the Corporation shall be subject to such taxation to the same extent according to its value as other real property is taxed.

(b) Insurance Regulation.—Except to the extent specified by the Secretary in regulations, the Corporation shall not be subject to regulation under the insurance laws of any State, District, or Commonwealth.

SEC. 307. AUDIT AND ANNUAL REPORT.

(a) Audit.—The Board shall provide for an annual audit of the operations of the Corporation. Such audit shall be conducted by a certified public accountant in accordance with generally accepted auditing principles (as recognized by the Comptroller General).

(b) Annual Report.—The Board shall report annually to the President and the Congress on the activities of the Corporation. Such report shall include a presentation of the financial status of the Corporation, as certified under the audit described in subsection (a).

SEC. 308. PROTECTION OF NAME.

No individual association, partnership, or corporation, except the Corporation, shall hereafter use the word "Federal National Long-Term Care Reinsurance Corporation", or any combination of such words, as the name or a part thereof under which he or it shall do business. Violations of the foregoing sentence may be enjoined by any court of general jurisdiction at the suit of the Corporation. In any such suit, the Corporation may recover any actual damages flowing from such violations, and, in addition, shall be entitled to punitive damages (regardless of the existence or nonexistence of actual damages) of not exceeding $10,000 for each day during which such violation is committed or repeated.

Mr. MICHEL (during the reading). Mr. Chairman, I ask unanimous consent that the amendment in the nature of a substitute be considered as read and printed in the Record.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The CHAIRMAN. Under the rule, the gentleman from Illinois [Mr. Michel] will be recognized for 30 minutes.

For what purpose does the gentleman from California [Mr. Stark] rise?

Mr. STARK. Mr. Chairman, I rise in opposition to the amendment.

The CHAIRMAN. The gentleman from California [Mr. Stark] will be recognized for 30 minutes in opposition to the amendment.

The Chair now recognizes the distinguished minority leader, the gentleman from Illinois [Mr. Michel].

Mr. MICHEL. Mr. Chairman, I yield myself such time as I may consume.

PARLIAMENTARY INQUIRY

Mr. MADIGAN. Mr. Chairman, I rise to make a parliamentary inquiry of the Chair.

The CHAIRMAN. The gentleman will state his parliamentary inquiry.

Mr. MADIGAN. Mr. Chairman, is it correct that the proponents have the right to close the debate on the Michel substitute?

The CHAIRMAN. No; the Committee would have the right to close debate on the substitute.

Mr. MADIGAN. I thank the Chair.

□ 1530

Mr. MICHEL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, President Reagan initiated the idea of catastrophic health insurance coverage over 1½ years ago in his State of the Union Message. This year, he set the legislative ball rolling with the submission of the so-called Bowen plan.

Unfortunately, the Democratic majority's bill gives a good idea a bad name. The President's call for catastrophic coverage could have been a sterling example of bipartisan cooperation in the Congress. Both sides of the aisle, it seems from the discussion that has taken place thus far, have seen the need for this program.

At the outset of this debate, I heard one of the proponents say that the committee bill would not cost the Treasury a dime. The beneficiaries would be paying the bill, so-called, but what a whopping bill it will be.

The bill reported from the committee does place a heavy fiancial burden on all our seniors, and yet only one in five will reap the benefits from the program.

In fact, the most glaring omission in the committee bill is the lack of any program or incentive to cover the cost of long-term nursing-home care.

I am reminded of one of the conclusions that the American Association of Retired Persons wrote on this subject in June of this year.

In one of the paragraphs addressing the problem, they say, and I quote:

> It is imperative that proposals purporting to deal with catastrophic illness costs focus on the "true" problem. In the case of older Americans, that problem derives form the cost of long-term care. Plans which tackle acute care catastrophic costs for older Americans may ultimately yield an improved Medicare program, but they have not necessarily provided catastrophic "protection" and peace of mind to older Americans. This is not merely a matter of semantics; it is conscionable to characterize an expanded Medicare package as "catastrophic" if it fails to address the single greatest source of catastrophic costs for the elderly—long-term care.

That is from our friends over at the American Association of Retired Persons.

The Democratic majority's bill would in fact be a catastrophe for many of America's seniors.

Our Republican initiatives we are presenting today is a balanced and comprehensive plan that seeks to address the overall catastrophic health-care needs of the elderly, without imposing upon them undue premiums or tax burdens.

In a nutshell, our proposal provides the following:

First, the basic Bowen plan of catastrophic coverage for acute care. This includes a $2,000 cap on out-of-pocket expenses covered under Medicare parts A and B.

Second, a prescription drug benefit for persons over age 65 who are at or below 150 percent of the Federal poverty level.

Third, a home health care benefit that extends the number of days covered under Medicare from 21 to 35 days.

Fourth, an extensive series of provisions designed to assist the elderly in providing for long-term nursing-home care.

A so-called spousal impoverishment provision that would increase the monthly needs allowance for the spouse of a person whose nursing-home care is being financed by Medicare.

The codification of several tax provisions that would make it easier for insurance companies to write long-term care policies and at lower rates.

This in my view is the key to addressing our long-term health care needs—the provision of affordable insurance policies through the private sector. I think we ought to move ahead in this area immediately.

Mr. Chairman, I understand that the whips on the other side of the aisle are probably doing their work, and I understand that there is this kind of commotion that takes place when you are trying to whip up proposals for the majority committee's bill when in fact the minority, while a minority voice in this House, nevertheless, has a very constructive proposal to offer, and we ought to be heard on the subject.

We also have a provision to allow individuals to use the assets of their IRA and life insurance policies to purchase long-term care insurance without having to incur Federal taxes or penalties, and then a provision clarifying the benefits received from long-term care insurance would be excluded from taxable income, and then a provision authorizing the Secretary of Health and Human Services to create a federally chartered corporation to reinsure writers of long-term-care policies against excessive risks at no cost to the Federal Government.

Finally, then a provision requiring Treasury to study the feasibility and revenue impact of health care savings accounts.

Our Republican initiative is revenue neutral. The basic Bowen benefits and home health care provisions would be funded through a part B Medicare premium increase along the lines suggested in the Bowen plan. Additional revenues to finance other portions of the plan would come from the windfall savings to Medicaid made possible by the catastrophic cap and through an extension to 1990 of the current 25 percent beneficiary financing requirement.

Mr. Chairman, the Republican catastrophic health care program differs from the committee version in two major respects:

First, it does not impose a tax increase on the elderly that would result in a total cost for some senior citizens of over $1,000 a year by 1990; and

Second, it addresses long-term nursing home care needs, which to many elderly are much more imposing and "catastrophic" than acute care.

Such care, as many of the Members know very well, can cost those on the average, those 1,400,000 people currently in nursing homes, $25,000 a year, and that obviously can wipe out quickly retirement budgets and all the rest.

Elderly citizens should have an opportunity to plan for such care in a fashion that does not eliminate all their assets and force them onto Medicaid. Our plan provides that opportunity through the rollover of IRA and life insurance assets and the encouragement of much greater and lower cost private insurance coverage.

Finally, our Republican initiative is a true catastrophic health bill that addresses the needs of our elderly citizens in a balanced and reasonable fashion. I know there are Members frankly who have come to me from both sides of the aisle who would like to have something more reasonable to vote for here today.

Frankly, every Member in this Chamber wants some kind of measure that would ultimately pass muster down at the other end of Pennsylvania Avenue to cover this catastrophic-health-care area.

I would urge Members to think the second and third time about blindly going along with what the majority has given the House today, and support our Republican initiative today.

And before yielding my time, Mr. Chairman, I have to pay special tribute to the gentleman from California [Mr. Lewis] for the superb job he did with our task force in crafting our substitute.

I also want to pay my respects to my good friend and neighbor, Mr. Madigan for all of his assistance in putting our substitute together. He has demonstrated again his extraordinary talents in grasping an issue, tearing it apart, putting it back together, and quite frankly making the most of what little he has to work with.

Mr. Chairman, I would ask the balance of my time be yielded to Mr. Madigan that he may in turn manage the debate from our side of the aisle on our substitute.

Mr. Chairman, I yield the balance of my time to the gentleman from Illinois [Mr. Madigan], for the purpose of handling the balance of the debate.

The CHAIRMAN. The balance of the time of the gentleman from Illinois [Mr. Michel] will be controlled by the gentleman from Illinois [Mr. Madigan].

Mr. ROSTENKOWSKI. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the Republican substitute. I urge the Members to vote against the substitute for several important reasons.

First, the basic hospital and physician coverage provisions contained in the substitute do not reflect the improvements that were made in the President's bill by the Committee on Ways and Means on a bipartisan basis.

Second, the substitute does not contain the progressive financing mechanism that was developed in the Committe on Ways and Means, also on a bipartisan basis. The substitute finances the benefit expansions, as did the President's bill, by increasing the current Medicare part B premium. This is a monthly premium, currently $17.90 per month, paid by all part B enrollees, except the very poorest who qualify for Medicaid. The substitute would increase this premium by $13 per month in 1992, or $156 a year. While this increase might be OK for wealthy Medicare beneficiaries, it would impose a significant financial burden on the low-income elderly and disabled. The committee developed an income-related premium that is paid through the income tax system. In 1988 those who do not owe Federal taxes and have adjusted gross income of under $6,000 will pay no premium; which includes about 60 percent of all Medicare beneficiaries.

In addition, I am opposed to the tax provisions of the Republican substitute. In particular I am concerned about the provision to allow a medical expense tax deduction for any long-term health care expenses, and to allow an income tax exclusion for amounts withdrawn from IRA's to reimburse long-term expense. These proposals raise the risk of significant revenue loss at the very time the budget resolution reconciliation process mandates that over $65 billion in new revenues be legislated. In addition, they will be more valuable to high-income taxpayers than to lower income individuals. By contrast, H.R. 2470 provides assistance for long-term medical care in a more equitable manner.

For the reasons stated, I urge the members to vote against the Republican substitute. I hope we will defeat this substitute and then a large majority of the Members of both parties will vote in favor of the major Medicare legislation that is before us. The development in the Committee on Ways and Means of the basic Medicare catastrophic insurance provisions was a bipartisan effort. It will be most unfortunate if the House does pass this bill with a strong bipartisan vote.

□ 1540

Mr. MADIGAN. Mr. Chairman, I yield 3½ minutes to the gentleman from California [Mr. Lewis].

Mr. LEWIS of California. Mr. Chairman, I thank my colleague, the gentleman from Illinois, for yielding this time.

Mr. Chairman, one of the most important developments in the House since I have been a Member has been the raising of the issue of catastrophic care to the level of debate that causes the country to focus upon this very significant need in terms of our constituency.

One of the difficulties of the debate up to this moment is that that which is before us in terms of likely final passage today is a bill that could lead to a senior citizen and retired citizen disaster, instead of a substitute solution of the catastrophic care difficulties we face.

The Michel substitute before us at this moment is designed to avoid that disaster by attempting to be responsive to the need for major medical catastrophic assistance to retired citizens.

The package that we are considering at this moment includes beyond the fundamental catastrophic care proposed by the President an effort to provide adequate levels of drug assistance for the elderly poor, designed in a fashion to make sure that drug services are made available to those who cannot afford it, but at the same time not drive the cost to the point where we undermine the Medicare and Social Security systems.

Beyond that, this package provides for nursing home assistance that recognizes that one of the major tragedies that many face in the country is the fact that following hospital care many people face economic disaster because of long-term nursing home needs.

Beyond that, we attempt to provide stimulus for expansion of the private market place to make sure that private assistance and insurance is available to those people who cannot afford it.

It is critical for us to recognize that in final passage today, we are likely to look at what is lipservice to catastrophic care that could lead to disaster. Built within that package is a proposal for drug assistance to all seniors through Medicare that could lead to an escalation of costs that could undermine the security and stability of the Social Security system.

I particularly refer to the fact that disabled people may very well early on begin receiving that drug assistance. It could be, as suggested by many, that that will in turn provide for the funding of drug needs of those people suffering from AIDS in our society.

Let me suggest, Mr. Chairman, that we need to meet that Challenge; but having said that, we should not meet that challenge by threatening the Social Security system, and indeed the Medicare system itself.

Mr. STARK. Mr. Chairman, I yield 2 minutes to the gentleman from North Dakota [Mr. DORGAN].

Mr. DORGAN of North Dakota. Mr. Chairman, I want to thank the gentleman from California [Mr. STARK], the chairman of the subcommittee, who I think has done an excellent job on this legislation.

I'd like to make some general comments. The President came to Congress and recommended that we ought to develop some kind of a catastrophic health insurance program. That made sense to me and I think all of us in this body have had friends or know of friends who have lost their entire life savings because something catastrophic happened in their families. I had a friend who is in his late sixties. His spouse was stricken with a terrible catastrophe, laid in the hospital about 6½ or 7 months. After working an entire lifetime they had accumulated some meager assets and in 7 months they were wiped out, gone, completely finished; financially ruined. That should not happen in this country. We ought to have some kind of catastrophic insurance to deal with that.

Most of us have said we ought to have that kind of plan for a long while, but yet we have never been able to do it. Today we are presented with legislation that is not perfect. Frankly, I worry, about the costs this might impose on some senior citizens. I worry about the growth that occurs as a result of this program, and yet I think there are safeguards in the program that give us some comfort that the worst case scenario will not happen.

We are talking about a program that gives a year of hospital benefits, 150 days of nursing home care and some prescription drug benefits. I understand why people stand up and say that this is not perfect. Some of the same people who say this is not perfect stand up and say nothing is perfect. But this is an important first step. It is a plan that will ultimately result in a catastrophic health insurance that will be good for this country.

I support this legislation and will vote to move it forward because I feel that senior citizens in this country desperately need and deserve a catastrophic health insurance program. As the cost of health care continues to rise we must recognize the extraordinary burden medical bills present for senior citizens on fixed and limited incomes. With the advent of the prospective payment system hospital stays are shorter, therefore there is a greater need for intermediate, long-term and home health care. H.R. 2470 goes a long way to expand Medicare's coverage for this type of care. In addition, the bill offers important protections against impoverishment when one elderly person enters a nursing facility. Too often the spouse who remains in the community is left penniless as they use all of their assets to pay for care before they become eligible for Medicaid.

Again, I am pleased with the important and necessary expansion of benefits for our senior citizens but I want to make it clear that I am concerned about the potential impact the costs of this program will have on middle-income senior citizens. I expect that as this issue works its way through the process we will be able to make some major improvements in the funding mechanism so as not to overburden seniors with premium charges. In addition, I want to note that I fully expect that the catastrophic health insurance program can and will be funded in a manner that will not increase the deficit.

I want to commend my colleagues on the Ways and Means Committee and the Energy and Commerce Committee for their diligent efforts to ensure that senior citizens are protected against truly catastrophic health care costs.

Mr. STARK. Mr. Chairman, I yield 2 minutes to the gentlewoman from Connecticut [Mrs. KENNELLY].

Mrs. KENNELLY. Mr. Chairman, as a nation, we have invested in the development of new treatments for a spectrum of diseases; we have tried to make these advances as widely available as possible through the private and public sector. Yet even relatively well-off senior citizens have found themselves impoverished by illness. Witness after witness before Chairman PEPPER's Subcommittee on Health and Long-Term Care has testified of spending the savings of a lifetime to pay for health care.

In the past several years, the price of getting sick has risen far faster than the inflation rate. Despite the expenditures of the Medicare Program, America's elderly are paying more out of their own pockets for basic health care each year. That is a fact I find deeply disturbing. Clearly, we have not adjusted Medicare to the realities of health care in the 1980's. Advances in medical technology have greatly improved our lives, but they have also escalated the price of hospital stays, physician care, and prescription drugs. It is time we faced this problem and brought the Medicare Program into this decade.

We have before us a bill which will go a long way toward that goal. The creation of a responsible catastrophic health insurance program has been a top priority of the Ways and Means Committee since the beginning of this session. The committee has invested many hours hammering out a package which is at the same time fiscally responsible and effective.

In terms of fiscal responsibility, the package is revenue neutral, a delicate balancing act for any new program. Those Americans who benefit from the program pay for it; those who can afford to contribute more will contribute more. The financing is both broad-based and progressive, using a two-tiered method. First, it calls for a modest increase in the basic part B premium for all beneficiaries. A premium is an accepted part of the Medicare Program and reinforces the understanding that Medicare is, at heart, an insurance policy. Second, it adds a supplemental premium based on the ability to pay, which is a unique feature of this particular benefit expansion.

In terms of effectiveness the bill will tackle some of the most glaring deficiencies of the Medicare Program. For example, under present law, elderly patients staying in a hospital more than 90 days per year face a difficult choice: Either they draw down on a lifetime reserve of an additional 60 days, or they pay for the hospital care themselves. This legislation will remove the current limit on the number of days covered. Patients will no longer worry themselves sicker over how many days of coverage they have left.

Another improvement: the bill places a cap on out-of-pocket expenses for covered physician services. Beginning in 1989, no one will spend more than the $1,043 limit for covered services. The bill will also significantly improve the home health care benefit under Medicare. It extends the coverage of home health benefits from 21 to 35 days. All of us who believe that we must allow the elderly to remain in their own homes as long as possible should applaud these needed improvements.

I would also like to call particular attention to a major change we have made within this bill for those with mental and addictive disorders. By expanding Medicare's outpatient mental health benefit, we have given our elderly and disabled Medicare beneficiaries a better chance to take advantage of breakthroughs that have occurred in the treatment of mental disorders. This is an important change—the first for Medicare beneficiaries with mental disorders since the inception of the program and a significant move toward nondiscrimination for those who are mentally ill.

These improvements are responsible and effective. But the bill goes beyond simply improving Medicare programs. For the first time since the establishment of the program, we have a chance to expand the basic structure of the benefits. Specifically, the bill creates two new benefits: Prescription drug coverage and respite care to provide temporary relief for families caring for a relative at home.

The prescription drug program builds on the success of State drug benefit programs already helping thousands of senior citizens in eight States, including Connecticut. Connecticut is a pioneer in developing prescription drug protection for its low-income elderly. The ConnPACE program is now in its second year; it has proven to be an invaluable guarantee that Connecticut seniors receive proper medication without having to choose between groceries and prescriptions. To my colleagues who fret that the cost of a prescription drug benefit will grow beyond control, I say look at the success of ConnPACE and at the modest, healthy annual growth of that particular program.

Under the respite care benefit, Medicare would pay for the temporary services of a home health aide to provide a break for family members caring for relatives who cannot be left at home alone. Medicare would cover up to 80 hours per year of personal care for chronically dependent beneficiaries. Eighty hours a year is hardly going to replace family care, but it will mean a few weekends or quiet afternoons of relief. Again, those of us who believe the elderly often receive the best—not to mention the most cost-efficient—health care at home must applaud this new program.

This bill represents a bipartisan effort to bring the Medicare Program in the 1980's. It is the most courageous attempt to improve the program since its inception two decades ago. However, like most pieces of legislation, the catastrophic insurance bill is not perfect. Long-term care is not adequately addressed in the bill, although a study is mandated. A real catastrophe would occur if we let the catastrophic insurance issue fade with the passage of this legislation. We must support this bill as a big step in the right direction, but let us not forget that this journey is far from over.

I urge my colleagues to support this bill.

Mr. STARK. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from Florida [Mr. PEPPER], the chairman of the Rules Committee.

Mr. PEPPER. Mr. Chairman, I rise in support of H.R. 2470 and in opposition to the substitute which is now before the House.

The real long-range importance of this discussion today is not this particular bill, but the fact that for the first time in the history of this Republic the Congress of the United States is coming earnestly and seriously to grips with the problem of making the health care that they need available to all the people of the United States by a system that they can afford.

This bill that is now before the House, H.R. 2470, is not all I would like to see it be. It is not all that I originally proposed, but it is better than the substitute by far and it is a good beginning toward the establishment eventually of a comprehensive health care program for the people of this Nation.

This bill will make a great deal of difference to a great many people. I could specify, but you already are pretty well familiar with the details of the legislation.

I had expected when this bill came up to ask the Rules Committee to allow me to offer an amendment to this bill providing long-term care at home for every man, woman, and child in America who is chronically ill. After consideration and long consultation with the leadership and with the able authors of this pending bill, H.R. 2470, and due to the fact that it would be likely that the President would veto the bill if my amendment were added on, because my amendment provides revenue of the same kind that we now apply for the support of Medicare, the chances are that the President would have vetoed the bill. I did not want to jeopardize the hard work of these able men and women for the Ways and Means Committee and the Committee on Energy and Commerce who brought forth this good bill, H.R. 2470; but I would like the membership of the House to know that the leadership has agreed with me and with my colleague, the gentleman from California [Mr. ROYBAL] who joined me in the introduction of my proposed amendment, that at an early date as soon as an appropriate vehicle can be found and an appropriate vehicle will be offered upon which we may offer our long-term amendment for home care, as I said, for every chronically ill man, woman, and child in the United States. Now, that would be before the House at an early date.

□ 1555

I hope Members will reserve their opinions about it until they can hear the matter, and when it comes up here I hope it will have the support of this House.

One of the most important provisions of H.R. 2470 is an item they were kind enough to refer to as the Pepper amendment which provides for a bipartisan commission comparable to the Commission on Social Security that we had in 1982 and 1983, the duty of which would be for the first 6 months to study the subject, and at the end of that period report back to the Congress how much it would cost and where the money can come from to afford the cost to provide long-term nursing home and home care. Then the next 6 months that commission would devote its study to determining how much it would cost and where the money would come from to provide, if Congress chose to do so, comprehensive health care to every man, woman, and child in America.

These are historic matters, my colleagues. The only two nations in the world of an industrial character that do not have such a program are the United States of America and South Africa. I do not think that is company that America wishes to keep here, and I think that is the reason I hope this good beginning that we make here today will lead us on at a very early date to an improvement in the program, and finally to the consummation of the program that the people of America are crying out for, the kind of care that they need.

A million Americans a year are becoming destitute trying to pay the cost of catastrophic illness. That is wrong. We can provide a system of taxation that will not hurt anybody and will help millions of our fellow Americans. The children that cry out for such care are numerous, they are in the millions, as well as people of middle age and the elderly as well.

So I support this bill and I am not in favor of the substitute.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, this is simply an exercise in one-upmanship. The President of the United States proposed a reasonable program for catastrophic care, and what did the opponents of the President, those who have opposed every turn of his Presidency from the very beginning do? They see that he has seized the leadership on a very important issue of our time, and so what do they do? They go one up on the President by preparing legislation that is now before us that would increase the spending, create new programs, prove if they can to the American people, that they and only they, know the answer to the long-term problems in health care facing this country.

The President of the United States is the leader in this issue and the substitute that is before us now is the proper reflection of that leadership. It is modest in its approach, fiscally responsible and one that is possible of enactment without violation to the already disastrous budget deficit.

Stick with the substitute which is well bridled and avoid the runaway that can occur and will occur under the bill as the committees have brought it to this floor.

Mr. STARK. Mr. Chairman, I yield such time as he may consume to the gentleman from Minnesota [Mr. OBERSTAR].

Mr. OBERSTAR. Mr. Chairman, I rise in support of H.R. 2470.

Mr. OBERSTAR. Mr. Chairman, Medicare was enacted in 1965 in response to the rising cost of medical care for older Americans. At that time, 15 percent of a senior citizen's income was spent on health care. In 1986 the average senior spent 16 percent of his or her income on health care in addition to that paid by Medicare. By the 1990's this figure could rise to almost 19 percent if no action is taken. The time to act is now; if we continue to allow the gap between actual costs and Medicare coverage to widen, our growing senior population will find themselves in worsening financial jeopardy.

The rising costs of prescription drugs concerns me greatly. With no Medicare drug benefit and virtually no private insurance coverage, almost all prescription drug costs are paid for by the elderly out of pocket. According to estimates by the Congressional Budget Office, almost 5 million Medicare beneficiaries spend more than $400 annually on prescription drugs. For this group, the average annual cost of all medication exceeds $900. In addition, the cost of prescription drugs has been rising much faster than inflation. In 1986, for example, when overall inflation was only 1.9 percent, the price of prescription drugs rose 8.6 percent.

H.R. 2470 is a good start toward moderation of health care costs, including drug costs. This legislation will put a cap on out-of-pocket expenses for inpatient hospital services at $580. It will limit physicians payments to $1,043 and skilled nursing facilities to $175. This means that no person will have to pay more than $1,798 per year for these medical services.

Under this measure, prescription drugs will be covered for the first time by Medicare. under H.R. 2470, Medicare will pay for 80 percent of all prescription drugs after a $500 deductible has been reached. This is perhaps one of the most important and most compassionate provisions in this bill. Too often, in these calculations of medical costs, the senior citizen faces the dilemma of having to choose between the necessities of life such as food, clothing, and a safe place to live, and the medications they need to remain well. I am hopeful that this bill will help resolve this severe and frightening problem which too many senior citizens face today.

H.R. 2470, however, must be only a strong first step. although it does address the problem of acute care it does not tackle the tough issue of long-term care. Out-of-pocket expenditures by the elderly on nursing home care is escalating rapidly; in 1984, 42 percent of all out-of-pocket health care spending by the elderly went for nursing home care. Action must be taken to assist seniors and their families with the costs of nursing home care. We must not let the issue of long-term care fade into the background with the passage of this bill, for these issues will certainly not fade from our constituents who face the devastating costs of long-term care, nor their families who are often saddled with medical costs far exceeding their means. I was very pleased to hear the announcement of Chairman PEPPER a moment ago that long-term-care legislation will be on the agenda before the end of this session. I urge a yes vote on H.R. 2470.

Mr. STARK. Mr. Chairman, I yield 1 minute to the gentleman from Maryland [Mr. CARDIN].

Mr. CARDIN. Mr. Chairman, I thank the gentleman for yielding me this time and thank him for his leadership on this issue.

Mr. Chairman, I rise in opposition to the substitute amendment and in strong support of the committee position.

There are many reasons for my opposition to the committee amendment, but let me just mention one in the time that has been allotted to me. That is that in the bill itself we raise the outpatient mental health services from $250 to $1,000. The substitute amendment would eliminate that improvement in the program.

There are many elderly today that need outpatient mental health services in our community. We have a limit of $250. At that arbitrarily low limit, many, many people are being denied any benefits at all for outpatient care.

I think it is somewhat ironic that if an elderly person gets really sick and needs inpatient care, the system will reimburse the elderly for the inpatient care, but not for the outpatient care. Only when we reimburse for appropriate levels of care will we truly have a benefit program that will help the people of our country.

That is my reason for opposing the amendment.

Mr. STARK. Mr. Chairman, I yield 1 minute to the gentleman from Kansas [Mr. GLICKMAN].

Mr. GLICKMAN. Mr. Chairman, I too oppose the Madigan substitute for a lot of the same reasons that the gentleman from Maryland [Mr. CARDIN] just spoke about, as well as for the pharmaceutical or drug benefit which is not contained in that substitute which is contained in the general bill.

I just want to make a couple of comments on this general bill. I am concerned a bit about the financing mechanisms. I do not think they are perfect, and I would hope that this bill would be improved as it is moved through the process.

But the bottom line is the fact that there are millions of Americans out there who literally work all their lives to put a little money into savings and see those savings absolutely destroyed by catastrophic illness, cancer, heart disease, acute care, see their savings of their children destroyed by these long-term acute illnesses.

This bill, particularly the base bill, goes a step toward dealing with those very human, serious problems that millions of Americans face and will continue to face a people live longer.

So I urge a yes vote on final passage with the understanding that the financing mechanism will be looked at as the bill goes through the legislative process.

Mr. MADIGAN. Mr. Chairman, for the purpose of responding to the last speaker, the gentleman from Kansas [Mr. GLICKMAN], I yield myself 15 seconds to point out to the gentleman from Kansas that the Michel substitute does have a drug benefit. It has a drug benefit for all persons over 65 who are at or below 150 percent of the poverty level.

Unlike the committee bill, it does not have a drug benefit for multimillionaires.

Mr. Chairman, I yield 1 minute and 45 seconds to the gentleman from Indiana [Mr. COATS].

Mr. COATS. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, as many of my constituents in the Fourth District know, I have been an early and a vocal advocate of catastrophic health insurance. I think this peace-of-mind insurance is necessary to protect against those illnesses which wipe out a lifetime of savings.

I have taken surveys in my district, held special town hall meetings and a special health seminar. I think I have a pretty good idea of what the seniors are looking for and what they are not looking for.

What they are not looking for is a mandatory new surtax added to their basic part B premium to run their costs as high as $1,450 a year for a single senior citizen or $2,900 a year for married couples. That is what H.R. 2470 does. The substitute does not to that.

What they are not looking for is a bill with a drug benefit that will cause them to pay for drug expenses of AIDS patients. That is right, AIDS patients under 65 will be paid for by the premiums of senior citizens over 65.

My senior citizens are not looking for that kind of legislation, yet that is what the committee bill does. The Republican substitute does not do that.

They are also not looking for a bill that does not address perhaps what they expressed as the most important issue, and that is long-term care. The committee bill does not do that; the Republican bill takes a responsible look at that.

Many people have said that we need a bill to protect people from wiping them out from hospital expenses. The premiums that are going to be paid by senior citizens are going to, under the committee bill, wipe them out before they even get to the hospital.

The substitute is a responsible piece of legislation. It moves us forward along the track of bringing necessary catastrophic coverage to our senior citizens in a cost effective and reasonable way, and I urge my colleagues to reject the committee bill and support the substitute.

Mr. STARK. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. WAXMAN], the distinguished chairman of the Health and the Environment Subcommittee.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield very briefly for a colloquy?

Mr. WAXMAN. I am happy to yield to the gentleman from Illinois.

Mr. MADIGAN. Mr. Chairman, may I ask my colleague how the Medicare entitlement authority contained in H.R. 2470 will be scored with respect to the $2.4 billion 3-year program expansion provided for in the budget resolution?

Mr. WAXMAN. Yes; under the fiscal year 1988 budget resolution, the Energy and Commerce Committee was allocated $550 million in fiscal year 1988, $850 million in fiscal year 1989 and $1 billion in fiscal year 1990 for various Medicaid initiatives.

Among the Medicaid initiatives recognized by the budget resolution are improvements to address the needs of poor elderly. The bill before us today contains two improvements for the poor elderly, a provision to require States to pay the Medicare cost sharing for their poor elderly and protection for elderly men and women whose spouses are in a nursing home at Medicaid expense. These Medicaid buy in and spousal impoverishment provisions will result in additional outlays. However, the expansion of Medicare benefits will result in significant Medicaid savings.

All of these provisions were reported by the Energy and Commerce Committee. Adding up all of the Medicaid spending and savings in the bill, the net Medicaid spending is $40 million in fiscal year 1988, $205 million in fiscal year 1989 and $115 million in fiscal year 1990.

It is my understanding that these net spending amounts would be counted against the Energy and Commerce 302(a) Medicaid allocations. After subtracting this net spending, the Energy and Commerce allocations are $150 million in fiscal year 1988, $645 million in fiscal year 1989, and $885 million in fiscal year 1990.

I appreciate the gentleman asking me that so that I could get that on the record.

Mr. MADIGAN. I thank the gentleman.

Mr. WAXMAN. Mr. Chairman, I do want to use my time to express some thoughts about the Republican substitute.

First of all, I think it is interesting to note how far the substitute offered today by the Republicans in the House has moved away from the original Bowen proposals. The original Bowen proposal dealt only with the physician costs and the hospital costs and tried to put a ceiling of $2,000 per Medicare patient per year for those Medicare out-of-pocket expenses.

But the Republican substitute before us is far more generous than what Secretary Bowen had before us, and they are to be commended for that.

The second thing to note, however, is that as far as they have moved away from their own Secretary of Health and Human Services, their approach is neither balanced nor fair. It is modest, and it has much reason to be called a modest proposal, because it is certainly not generous to the elderly and disabled in this country who have been crying out for some kind of relief from the catastrophic expenses of illness.

We talk as if we are going to protect the elderly and disabled fully. Neither proposal does that because we do not address all of the long-term care needs. But we, in the legislation reported by the Energy and Commerce Committee and the Ways and Means Committee, make significant improvements in and go far beyond what is before us as a Republican substitute.

First of all, the upper limit on out-of-pocket expenses in the Republican substitute not only starts out several hundred dollars higher than the proposed protection afforded in H.R. 2470, but it increases at twice the rate of the bill. The annual increase in the catastrophic limit on out-of-pocket expenses averages roughly 10 percent per year in the Republican substitute. It is half that per year in H.R. 2470. Thus the meager protections in the Republican substitute are quickly eroded. That is, the upper limit on out-of-pocket expenses that they would require be expended before there would be any kind of protection from the additional catastrophic costs would be increasing rapidly.

Even more troublesome is the fact that the Republican substitute would increase, not reduce, the health care burdens of the poor. For the 22 million poor elderly currently without Medicaid, the Republican substitute increases part B premiums by $8.85 in 1989 and does nothing to assist with the current law premium of $22.90 under part B. It offers them drug coverage under Medicaid, but only after the $50 deductible. It does not protect them from other out-of-pocket expenses that would be covered under the bill that is before us.

In short, the Republican alternative does nothing to help the poor except to contribute to their impoverishment. They require they pay more money. Many of those people cannot afford to pay additional part B expenses when they are below the poverty line.

I think it is interesting to note what we are talking about. The Republicans say they've designed their substitute so it won't help multimillionaires. If fact, it is people below poverty it doesn't help.

□ 1610

The poverty level is $5,600 for a single individual in 1988, $7,164 for a couple. So if we talk about that level of poverty, even up to 150 percent of poverty where you add a little bit more for their drug benefit, you are talking about people who are quite poor. They would receive little assistance at all from the GOP substitute—none at all with their Medicare premiums.

The average income of the elderly poor is $4,308 and they would not be benefited.

Mr. Chairman, I would urge that we stay with the catastrophic bill before us; it is more fair, more balanced, and more generous. I urge Members to not go along with the Republican substitute, which is none of those things.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. SLAUGHTER].

Mr. SLAUGHTER of Virginia. Mr. Chairman, at the beginning of this year, the President presented Congress with legislation to provide protection for our Nation's elderly against the costs associated with a catastrophic illness requiring a long hospitalization. This was certainly a worthy goal.

I am concerned, however, that the legislation we are considering today—H.R. 2470—will extract a high price from the elderly in terms of a tax increase and yet it will not address severe problems facing the elderly in terms of health care: namely, the financing of nursing home care and the weak financial condition of our Medicare Program. The substitute, on the other hand, makes great strides toward solving these problems at half the cost of H.R. 2470, and without altering the elderly's income tax rates as set by the tax reform bill we passed last year.

Under the provisions of H.R. 2470, in 1988, 44 percent of our elderly will face income tax increases of $10 to $580, with about half of these paying the maximum. According to the Department of the Treasury, this maximum tax will rapidly increase to an estimated $4,000 in constant dollars by 2005.

If we are going to do something over the long haul for our elderly people who cannot afford extensive hospital or nursing home care, the first thing we must do is make Medicare a sound financial system, so that it can pay the benefits now provided by law. This should be done to ensure the continued payment of promised benefits. Even without H.R. 2470, Medicare's trustees are predicting the bankruptcy of Medicare's part A program by the year 2002. And yet, according to actuarial estimates of the Department of Health and Human Services, H.R. 2470 will cause annual trust fund deficits of $8 billion in 2000, $22 billion in 2005, and $58 billion in 2010.

The substitute is truly deficit neutral, over both the short and long term. It will not put the trust funds in further jeopardy. In fact, we have included provisions directing the Departments of Treasury and Health and Human Services to include in the next Medicare trustees' report recommendations for how Congress can act to strengthen the trust funds to ensure that promised Medicare benefits will continue to be paid in the future.

The provisions specifically require a study of the effectiveness of health care savings accounts—as envisioned in H.R. 955 which I introduced along with my colleagues Phil Crane and David Dreier—to provide incentives for individuals to save funds for use on their health care in retirement. I believe these provisions of H.R. 955—now cosponsored by 40 of our colleagues in the House—would result in decreasing claims on Medicare which, coupled with unaltered payroll tax revenues, would bring this program closer to actuarial balance. I am confident that such a study will result in a recommendation that Congress look seriously at the health care savings account concept to ensure the future soundness of our important Medicare Program.

Finally, with regard to long-term care, it is interesting to note that there are over 70 companies now selling long-term-care policies, as compared with only 16 firms just 3 years ago.

As anyone who has ever had a family member with a long-term illness knows, catastrophic health care costs usually involve nursing home or home care—and not just hospital care. In fact, fully 82 percent of medical expenses for those individuals who spend over $2,000 in a year on health care costs is spent on nursing home care. Unfortunately, H.R. 2470 as reported from committee does not provide any coverage for such long-term or "custodial" care outside the hospital.

I believe what Congress ought to do at this time is to encourage the private insurance industry to expand their long-term-care insurance products and make them more widely available. If the long-term-care financing problem is to be solved, it is extremely doubtful that the Federal Government can solve it alone without also appealing to a substantial degree to the private sector. The substitute does just that by including a number of incentives for insurance companies to offer—as well as for both individuals and employers to purchase—long-term-care insurance.

The substitute appeals to individuals to purchase long-term-care insurance during the working years by treating such insurance as a typical, nontaxable employee benefit. We did not stop with that, however, as we also provided incentives for individuals to convert, on a tax-free basis, life insurance policies and individual retirement account funds to long-term-care insurance policies.

How sensible it is to permit individuals, once their homes are paid for and the children are out in the working world, to convert life insurance policies—purchased to ensure that the home would be paid off and the children would be educated—into a policy to protect against the greatest fear of old age: a debilitating illness that leaves one unable to care for himself or herself. Such a policy gives the elderly the assurance that they will not be a financial burden on their children or on society.

I hope that the Congress will not let this opportunity slip through its hands to provide real assistance in solving not only the problem of the costs associated with a long hospitalization, but also the problems of a financially weak Medicare system and the high costs of nursing home and long-term care. I urge my colleagues to support the substitute, carefully crafted by many Members of the House to meet the needs of the elderly at an acceptable cost.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. Bliley], a member of the subcommittee.

Mr. BLILEY. Mr. Chairman, I rise in strong support of the Michel substitute which represents a responsible, fiscally sound approach to meeting the catastrophic health care needs of our Nation's citizens.

The Michel substitute corrects one of the most glaring errors contained in the bill before us today. Instead of forcing our senior citizens to foot the bill for AIDS drug treatments, the Michel substitute provides a medicaid drug benefit which is limited to those who are 65 or older and who have incomes at or below 150 percent of the Federal poverty level. It also provides for a $50 deductible instead of the $500 deductible provided for in the bill before us. Mr. Chairman, this represents a far more responsible and responsible approach to providing coverage for prescription drugs.

The Michel substitute retains the traditional Medicare financing approach which relates costs paid to benefits received. It does not contain a mandatory surtax. That surtax contained in the bill the leadership has brought to the floor will amount to $580 in the first year and could grow to several thousand dollars by the year 2000 if the program is to remain self financing and financially solvent. Mr. Chairman, that tax—which my liberal colleagues refer to as a supplemental premium—is mandatory and will apply to anyone who earns more than $14,166 if they are single and $28,332 if married. According to the Congressional Budget Office, 40 percent of Medicare beneficiaries will be forced to pay that surtax. A surtax which will amount to more then $3,700 between 1988 and 1992, and that is if the system is not forced to pay the drug costs of even one AIDS patient.

Mr. Chairman, the Michel substitute provides a more needed set of services, with a more realistic financing mechanism at about half the cost of the bill before us. I urge my colleague to adopt the Michel substitute and give our senior citizens meaningful catastrophic health care coverage. Let's not force our senior citizens to pay the drug bill for this Nation's AIDS patients. Let's not increase their taxes. Support the Michel substitute.

Mr. MADIGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Missouri [Mr. Coleman].

Mr. COLEMAN of Missouri. Mr. Chairman, I rise in support of the Michel substitute.

Mr. MADIGAN. Mr. Chairman, I yield 1 minute to the gentleman from Arizona [Mr. Kolbe].

Mr. KOLBE. Mr. Chairman, in his State of the Union Address, the President reiterated one of his domestic policy goals: To provide protection for the elderly against catastrophic health care costs. The Ways and Means Committee proposal, although well intended, has deviated widely from this goal. I am strongly opposed to this proposal because this hurts seniors.

This bill will raid Medicare beneficiaries' pockets. It proposes a mandatory surtax spread out over 58 tax brackets for seniors alone. Oh sure, it might be called a "supplemental premium," but don't be misled, it is a mandatory surtax, plain and simple. Everyone will be hard-hit by the big increase in the basic part B premium. Medicare beneficiaries with an income over $15,000 a year—and that isn't much—could pay an annual supplemental premium of as much as $3,000 to $4,000 by the year 2005. This surtax could amount to a 400-percent increase in Medicare part B premiums for a large number of our Nation's seniors. In Arizona alone, the average senior citizen will be forced to pay an additional annual tax of $400 to $500 in the very first year. I will not go on record as having voted to financially strap this country's senior citizens.

Even harder hit will be all Federal retirees, both civil service, and military. These retirees who are for the most part already covered by extensive health care coverage will also be forced to pay the mandatory supplemental premium. Unlike Social Security, civil service, and military pensions are included when adjusted gross income is calculated, thus virtually guaranteeing that all retirees will pay some sort of supplemental premium, and that most will pay the maximum premium. This whopping 294-percent premium increase in the first year alone would affect over one-third of all Arizona seniors.

Another revenue enhancer built into the majority compromise is the repeal of the tax deduction of health insurance premium costs over 7.5 percent. This will tack an additional $300 to $500 burden on middle-income seniors. All together, in the first year alone, we would add between $1,000 and $1,200 burden on seniors. And for what—benefits that half of America's seniors would not be able to enjoy.

At a time of financial strain on the Medicare system, we are being asked to start such a vast expansion that will cost the American people $205 billion by 2010. This is a 300-percent increase. With the changing demographics of our country we need to be making long range policy decisions that doesn't place an undue burden on one specific segment of our society. The majority bill would place an incredible strain on the younger generation that would be close to insurmountable.

The Michel substitute maintains the traditional Medicare principle of a flat voluntary Medicare part B premium. This premium increase will cover the cost of the expanded benefits. An increase of $10.20 a month is a far easier pill to swallow than $52.43 a month. Will we forget so soon the anguished cries from constituents about the modest increase in part B premiums for this year?

Some of my colleagues might argue that the increase in benefits provided would more than offset the rise in premiums. I disagree; setting the deductible for prescription drugs at $500 does not reflect fiscal reality. Senior citizens annually spend an average of $440 on prescription drugs. Thus many seniors will be forced to pay for benefits they will never receive.

The Michel substitute utilizes the Medicare system to assist those elderly who are in the most need of prescription drug benefits. Such a drug benefit makes existing Medicare drug benefits more uniform and extends eligibility to the elderly most in need but who may not qualify for eligibility to the elderly most in need but who may not qualify for Medicare. By setting the deductible at $50, it ensures that necessary prescription drugs are within reach to the most needy elderly.

The majority compromise briefly addresses the true problem of long-term care with the establishment of another commission and study. This does nothing to help our elderly today. The Michel substitute encourages the growth of a relatively new sector of health insurance. Instead of relying on the expansion of a government entitlement program that would again threaten the financial solvency of Medicare trust funds, it offers a package of tax incentives to encourage markets to provide the solution. In addition, it gives incentives to today's working people to save for possible future health problems by promoting health care savings accounts.

The question that I pose to my colleagues is this: When are we going to stop reacting to every problem with the same old solution of tax and spend? We will be doing exactly that if we pass the majority bill. We will be taxing seniors to fund expensive programs that many of them will never have the opportunity to use. The Michel substitute provides expansion of Medicare benefits where most needed. But it also encourages individual and private industry solutions to the problems of seniors. The so-called majority compromise is well named, for it certainly compromises the well being of America's seniors. I urge my colleagues to vote for the Michel substitute.

Mr. SIKORSKI. Mr. Chairman, as we examined this legislation in committee and considered the new provisions providing coverage for catastrophic expense for prescription drugs, a major concern arose with the costs of establishing this new program.

I take note of the fact that during subcommittee and committee deliberations we took every step to provide for a cost effective and efficient administration of this program. Specifically we urged the Secretary of HHS to take steps to operate the program in a cost-efficient manner placing as little burden upon beneficiaries and participating pharmacies as possible. Indeed as part 2 of the committee report notes, the limits on the Medicare allowed charge would be adjusted periodically to reflect the administrative responsibilities assumed by "participating pharmacists." Likewise, other administrative costs related to determining the benefit would be financed by monthly premiums. To that degree we have tried to keep those responsibilities simple by instructing the Secretary to both make electronic billing available and set up a system which would allow pharmacies to query, electronically, whether an enrollee has met the deductible. In taking these steps, I point out the belief that neither enrollees nor pharmacists should be overburdened with costs in assuming these recordkeeping responsibilities. Rather, they should be accounted for when the Secretary provides for such an electronic inquiry system.

I note for you the recent availability of at least one such electronic system which would utilize toll-free telephone lines interacting with an electronic device to be placed in each pharmacy that allows not only inquiries as to whether or not the deductible has been met but also would eliminate substantial paperwork in claims processing. This new system would also tell the pharmacist if the requested drug is covered, if a generic substitute is available and in the future could provide drug interaction information, all while the patient is standing at the counter.

I strongly urge the consideration and implementation of such cost-saving systems and provisions so as to ease the delivery of pharmaceuticals to patients and the burdens and costs on the pharmacist.

Mr. LAGOMARSINO. Mr. Chairman, I rise in support of the Republican alternative to H.R. 2470. I believe it is important for us at this time to think back upon the words used by President Reagan in his 1986 State of the Union Address. He stated that we must "address the problems of affordable insurance for those whose life savings would otherwise be threatened when catastrophic illness strikes." The goal here is very simple: reasonable protection of those elderly who require long-term care from having their entire life's savings depleted in order to pay the high cost. Furthermore, the President specifically said that he wanted to see "how the private sector and Government can work together * * *" to reach this goal. The Democratic bill before us today, H.R. 2470, does neither of these things. In fact, it does just the opposite by increasing Medicare expenses for a great many beneficiaries.

H.R. 2470 essentially replaces a successful, existing system of private and public coverage, MediGap and Medicaid, which is already addressing gaps in acute care coverage for 80 percent of the Medicare population. Thus, billions of dollars will be spent for a benefit that will affect only an estimated 8 percent of beneficiaries in 1988 and completely fails to address the true sources of catastrophic costs: balance billing, dental and eye care, and most importantly, long-term care. Under this plan, already-scarce public and private dollars will be badly misapplied.

The Republican alternative gets at the real catastrophe facing our Nation's elderly—long-term care—and it does so without creating a major new Government entitlement program. Furthermore, it does not, like H.R. 2470, contain a so-called supplemental premium which is in reality nothing but a new tax to be paid by older Americans. I strenuously oppose this additional tax and believe that our Nation's senior citizens deserve better than that.

To return to the words of President Reagan, we need an affordable and reasonable method of protecting the elderly from financial ruin if long-term care becomes necessary. We do not need and cannot afford a new Government entitlement program such as the one proposed in H.R. 2470. In the Republican alternative we have a sound means to accomplish our goal. We should take advantage of the opportunity.

Ms. SNOWE. Mr. Chairman, I rise in support of the Republican catastrophic health care substitute offered here today. I also want to commend all the Members involved in bringing the substitute to the floor. I appreciate the difficulties and intricacies involved in crafting the legislation that we are now considering.

Like many of my colleagues, I have been concerned that in the debate over catastrophic health care we have directed our attention to acute health care rather than to the long-term care issues that face our older constituents. I am pleased to note that the substitute takes many important steps in that direction. This substitute takes important steps to protect the elderly of our Nation from the potential financial disaster a severe illness can pose, and does so without incurring financial hardship for the very individuals we are seeking to help.

While I do support this substitute, if it is not adopted I will support passage of the committee's bill, despite my reservations about that bill's financing mechanism. With the many low-income elderly in my district, however, it is important that we adopt a catastrophic care bill. If the committee bill is approved, I will support moves to revamp its financing mechanism in conference.

Of particular interest in the substitute is the provision that addresses the issue of spousal impoverishment by protecting, once and for all, the resources and income of community spouses who have placed a husband or wife in a nursing home.

As you know, Medicaid is a means tested program that requires an individual to be poor in order to be eligible for coverage. To qualify under current law, institutionalized individuals must spend most of their resources down to a minimal level and they must apply their monthly income to the payment of their care. As a consequence, those funds are no longer available to the spouse who resides in the community.

Because women live longer than men and tend to marry older men, the person left in the community is most often a woman. Spousal impoverishment legislation is, therfore, aimed at assuring that those who are not institutionalized, generally women, have adequate resources on which to live.

The effect of establishing a spend-down level for eligibility is obvious—it leaves the spouse in the community with very limited resources. While income is treated differently, the outcome is generally the same.

Income is usually considered the property of the spouse whose name is on the check. For example, if an institutionalized spouse receives a pension check it will go directly to pay for nursing home care and is not available to the community spouse for living expenses. Women who worked in the home or who worked part time are usually dependent upon their husband's Social Security and retirement income. If all of their husband's income goes to pay for nursing home care, they may end up living on as little as $340 a month—the SSI minimum monthly needs allowance.

As is apparent, the consequence of Medicaid eligibility criteria has been to force many community dwelling spouses into economic dependence upon public welfare programs. The introduction of spousal impoverishment language into Medicare catastrophic legislation is essential in remedying this gross inequity.

Based on legislation introduced by Mr. WAXMAN and myself, the Waxman-Tauke spousal impoverishment provision creates a uniform national spousal protection policy establishing minimum resource and income levels. The Republican substitute provides for a monthly community spouse income allowance and permits resources to be split in half. It further provides for a floor so that the community property provision would not reduce resources to so low a level as to be meaningless, and a ceiling to place a limit on the amount of protected resources.

I have been a strong supporter of the application of community property principles to the allocation of resources and income under Medicaid. I am pleased to see that a modified version of this concept will be applied because I believe it to be a fair way of distributing resources among individuals who, each in their own way, have contributed to the family unit.

If a couple has lived together for many years, it is tragic when they are separated because one must enter a nursing home. When the community spouse is left impoverished as well as alone, it is a double tragedy. Legislation to address the economic situation of those who have been impoverished as a result of the institutionalization of their spouse is an important step in providing economic security for all older persons.

Mr. CARDIN. Mr. Chairman, I rise to oppose the Republican substitute to the Catastrophic Protection Act, especially those provisions that keep the current rediculously low and archaic reimbursement limit of $250 for outpatient mental health services.

Serious, debilitating mental illness knows no age discrimination. However, the elderly are particularly at risk for emotional suffering. Each day may bring significant blows to their self-esteem as they lose close friends, relatives, mobility and cognitive or physical functioning. If they become sick enough, they can receive psychiatric care as inpatients in an expensive hospital setting. But if they need treatment on an outpatient basis, we are saying in this bill that the Government will only reimburse them for $250. From the standpoint of both fiscal and health policy, this makes no sense at all. And once again, it reinforces the stigma of mental illness as something distinctly different from physical illness.

The mental health care needs of the elderly are not being met today by any standard of evaluation. The elderly receive as much as half of the total prescriptions for tranquilizers and barbiturates, in addition to the over-the-counter analgesics and sedatives they buy. The suicide rate for older white males is higher than for any other age category. Yet people 65 and older receive only 7 percent of inpatient psychiatric services, 6 percent of community mental health services and 2 percent of services delivered in private psychiatrists' offices.

The current Medicare restrictions reinforce a gloomy perception that the emotional needs of the elderly are untreatable and senility is irreversible. Studies have proven just the contrary; 20 to 30 percent of the elderly who have dementia have a reversible, treatable condition. Depression, another prevalent disease among the elderly, is an extremely treatable illness.

It is time for us to enter the 20th century and recognize that expenditures for mental health treatment are well worth the investment for the families bearing the emotional and financial strain for their parents or grandparents; for the community benefiting from the many volunteer efforts of the elderly; and, most importantly, for the individuals over 65 who deserve protection against the real catastrophy of mental illness.

The proposal to increase the reimbursement level to $1,000 is a more realistic approach to meeting the mental health needs of the elderly. Although it is still inadequate, it represents some progress in our efforts to keep the elderly in their homes and out of institutions.

Mr. YOUNG of Florida. Mr. Chairman, I rise in strong support of the Michel substitute because I'm convinced that H.R. 2470 in its current form is not good legislation. However, should the substitute fail, I'm going to vote for H.R. 2470 anyway. I'm going to vote for it because I believe it solves the catastrophic health care problem, because it doesn't, but I'm going to vote for it today so that we can keep the legislative process going in the hope that as this bill moves through the Senate, a House-Senate conference committee, and is sent back to the House for final approval that the deficiencies in the bill I will discuss here will be corrected and the unfair financing provisions in this bill will be deleted. My strong commitment to providing catastrophic and long-term health care for my constituents is best served by keeping this legislative process alive rather than stopping it dead here in the House today.

Let me discuss in some detail why I believe H.R. 2470 in its present form is not responsive to the needs it should address. My thoughts are based on hearings and meetings with my constituents in Florida, calls and letters I've received from them, and discussions with the Secretary and other representatives of the Department of Health and Human Services who have studied the need for catastrophic health care protection, which is one of the most important issues affecting the health and financial well-being of older Americans ever considered by this House.

The effort to provide catastrophic health care to our Nation's Medicare beneficiaries is an initiative set in motion by President Reagan in his February 1986 State of the Union Message. Secretary of Health and Human Services Otis Bowen, following President Reagan's direction, completed an exhaustive year-long study of the catastrophic health care needs of our Nation's retirees that resulted in the administration's legislative plan introduced in the House February 25.

Soon after submitting his catastrophic health care plan to Congress, Secretary Bowen was my guest at a Medicare seminar in St. Petersburg, FL, where he discussed catastrophic health care, and a broad range of other Medicare issues, with more than 1,400 concerned current and future Medicare beneficiaries. As part of this program in April, I asked those present to complete a questionnaire concerning their views about the Medicare Program and the need for catastrophic and long-term health care protection.

It is obvious from the comments and questions Secretary Bowen and I heard that day, and the response to my questionnaire, that there is a great deal of concern and uncertainty among many older Americans about their ability to meet their future health care needs. Although Secretary Bowen's catastrophic health care legislation had only been submitted to the Congress 5 weeks before the seminar, 61 percent of those who responded to my questionnaire indicated their support for his proposal.

The questionnaire also documents the fear of many Medicare beneficiaries that they will be unable to meet their health care needs later in life. Although 69 percent said they purchase private MediGap insurance to help defray out-of-pocket medical expenses not covered by Medicare, 89 percent said either they were uncertain or knew for sure that their MediGap policy would not cover their catastrophic health care costs.

Following my remarks, I would like to include the results of my questionnaire because I believe they emphasize how frightened older Americans are about their prospects of being able to meet the rising cost of medical care, especially in the event of prolonged illness. These results also clearly indicate the need for Congress to continue moving forward with catastrophic health care legislation.

I say this because I believe the legislation we are considering today is the wrong way to provide catastrophic health care protection. Among my concerns about H.R. 2470, as reported to the House by the Ways and Means and Energy and Commerce Committees, is the tax on the elderly used to finance this legislation, the burden this legislation will impose on the Medicare trust funds, the lack of any provisions dealing with the serious need for long-term nursing and home health care, and the loophole which would entitle AIDS patients to receive Medicare reimbursement for their costly AZT prescriptions. I strongly support the Michel substitute to H.R. 2470 because it would correct every one of these serious concerns.

My single greatest concern with H.R. 2470 is the financing mechanism which utilizes a so-called supplemental premium to fund a large portion of the program. This is in reality another tax on 40 percent of our Nation's retirees who are eligible for Medicare benefits. It is estimated that the maximum surtax will increase from $580 per person in 1988 to $925 per person in 1992, a 60-percent increase over the next 5 years. With the surtaxes and increased part B premium necessary to finance the expansion of the Medicare Program called for in H.R. 2470, retirees eligible for Medicare coverage will pay, on the average, $700 in 1989 for part B and catastrophic coverage, an increase of 150 percent over part B premiums scheduled by law for 1989. By the year 2000, the average retiree eligible for Medicare coverage will pay $1,200 per year in surtaxes and part B premiums.

In addition to these costs, surtaxes on retirees mean that 40 percent of the Medicare eligible population will be surpporting a major part of this expanded health care program. Older individuals with adjusted gross incomes in 1988 below $6,000 per year would pay no surtax to receive these new benefits, while individuals with an adjusted gross income of $7,300 would pay $100 in additional taxes. Individuals with adjusted incomes of $8,800 would pay $200 in additional taxes, individuals with adjusted gross income of $10,200 would pay $300 in additional taxes, and individuals with adjusted gross incomes of $11,600 would pay $400 in additional taxes all to receive the same benefits as people paying no surfax.

This is not only unfair but places a disproportionate burden of funding these new programs on the shoulders of a small number of retirees.

In conjunction with the taxing provision of this legislation, I'm concerned that this tax increase on the elderly takes effect in 1988 even though the majority of benefits, including reimbursement for outpatient prescription drugs, are not available until 1989.

The Michel substitute maintains the self-financing character of President Reagan's initial plan. This plan would finance catastrophic health care coverage with increased part B premiums alone. In 1988, the premiums would be only $6.10 per month more than called for under current law. The Michel substitute would also begin providing catastrophic health care protection in 1988, as opposed to 1989 in the committee bill.

My second concern with H.R. 2470 is the overall cost of the legislation. As reported by the committees, it is estimated that H.R. 2470 will cost $34 billion over the next 5 years—$16 billion more than the Michel substitute. In order for H.R. 2470 to remain self-financing, part B premiums and the surtax will have to be sharply increased. Actuaries for the Medicare trust funds estimate that within 10 years, the costs associated with the new programs in H.R. 2470 will begin to exceed revenues, even with the steep increases in surtaxes and part B premiums. By the year 2000, the actuaries estimate the revenue shortfall in the Medicare trust funds will reach $8 billion. This would seriously threaten the financial integrity of the Medicare system at a time when the system is already in a tenuous condition.

In providing catastrophic health care coverage for older Americans, we cannot respond to the need for this legislation with a proposal so expensive that it will bankrupt the Medicare system, which provides the primary source of health care for 32 million beneficiaries. I'm concerned about the possibility that H.R. 2470 will do to the Medicare system the same thing Congress did to the Social Security system, that is overburden the system with more and more new benefit programs that the trust funds could not afford. The Social Security system faced bankruptcy in 1983 because of a long list of program add-ons in the previous 20 years. Congress acted in 1983 to ensure the financial solvency of the Social Security system but as early as 1992 we may face the same dire economic situation with regard to the Medicare system.

The Michel substitute provides the catastrophic health care protection Secretary Bowen determined is necessary to ensure financial security for older Americans and the Medicare trust fund through a financially responsible system that pays for new health care benefits with Medicare premium increases shared equally by all beneficiaries.

A third major problem with H.R. 2470 is the absence of any long-term health care assistance for beneficiaries and families facing the growing cost of nursing and home health care. Perhaps the greatest concern of all among older Americans is their ability to meet the cost of nursing home or home health care. The private long-term care insurance industry is new and policies are very expensive. Only 8.4 percent of those who answered my Medicare questionnaire purchase these policies. Because Medicare does not pay for nursing home care, and only pays in specific cases for home health care, many people are unsure whether they have enough money saved to meet their long-term health care needs. Almost 95 percent of those who answered my questionnaire said they were either uncertain or knew for sure that they would not be able to provide for themselves in the event they ever need nursing home care.

The Michel substitute provides a plan of action to begin addressing the need for long-term care protection. It would allow for the tax-free transfer of funds from individual retirement accounts and life insurance policies to purchase long-term care insurance. The alternative also clarifies certain provisions of the Federal tax law regarding long-term care insurance policies, reserves, and benefits. This would bring more certainty and stability to the long-term care insurance market and lower the annual premiums paid by beneficiaries.

Finally, the Republican alternative directs the Department of Treasury to make specific recommendations to the Congress regarding the establishment of tax-free health care savings accounts that would work along the same lines as individual retirement accounts.

Although these provisions do not provide all the answers to the problem of providing for long-term health care needs, they are the first positive step to easing the financial burden nursing home and home health care places on many families. H.R. 2470 provides no assistance with these specific health care needs. Instead, it delays any decisions on these matters for 5 years pending the completion of still more studies on the subject.

A fourth major concern of mine with H.R. 2470 is the loophole through which AIDS patients of any age will qualify for Medicare coverage of prescription medication, including the expensive drug AZT which costs $8,000 to $10,000 per year per patient. AIDS is a serious national health problem which Congress has addressed in several separate measures and should not be associated with this legislation, which is directed at providing health care for older Americans. The Medicare trust funds should not be burdened and the premiums paid by retirees living on fixed incomes should not be driven up by the tremendous costs associated with treating AIDS patients, many of whom have paid little or no money into the Medicare trust fund during their working years. It's unfair to place the burden of treating many AIDS patients on the shoulders of our Nation's elderly, who have their own major health concerns.

So I say again, Mr. Chairman, that I will vote for this bill to keep the legislative process alive and with the hope that it will be amended to correct many of the deficiencies I have just discussed so that I'll be able to support it when it comes before the House for final approval.

Medicare Questionnaire Results, April 1987

1. How would you rate the quality of services provided under the Medicare program including the adequate coverage of procedures and the timeliness and ease of billings?

Very Good—4.1%.
Good—18.7%.
Average—29.0%.
Poor—32.6%.
Very Poor—15.6%.

2. Are you a member or provider in a Medicare sponsored Health Maintenance Organization (HMO)?

Yes—13.1%.
No—86.9%.

3. How would you rate the HMO?

Very Good—18.9%.
Good—32.4%.
Average—27.0%.
Poor—16.2%.
Very Poor—5.4%.

4. Has your HMO provided all the advertised services?

Yes—67.6%.
No—32.4%.

5. If you are a Medicare beneficiary, do you participate in the Part B supplemental medical insurance program?

Yes—94.1%.
No—5.9%.

6. If you are a Medicare beneficiary, do you purchase a separate private Medigap policy?

Yes—69.4%.
No—30.6%.

7. If you answered yes to question number 6, does your private Medigap policy include catastrophic health care coverage?

Yes—10.9%.
No—61.7%.
Not sure—27.4%.

8. President Reagan's catastrophic health care proposal calls for a voluntary $4.92 a month increase in the Part B premium to cover out-of-pocket medical costs in excess of $2,000 per year. Would you pay the additional $4.92 per month to receive catastrophic coverage if this legislation is enacted into law?

Yes—61.3%.
No—13.6%.
Not sure—25.1%.

9. Do you carry private long-term care insurance to provide for the cost of nursing or home health care?

Yes—8.4%.
No—83.1%.
Not sure—8.5%.

10. Do you believe you will be able to provide for yourself in the event you ever need nursing home care?

Yes—5.4%.
No—61.0%.
Not sure—33.6%.

Mr. STARK. Mr. Chairman, I reserve the balance of my time.

Mr. MADIGAN. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. Fields].

Mr. FIELDS. Mr. Chairman, I rise in support of the substitute catastrophic care coverage proposal offered by our distinguished minority leader, Mr. Michel, on behalf of the Republicans of the House, and I might say all Americans.

As its centerpiece, the Michel substitute has the substance of H.R. 1245, the Bowen catastrophic care coverage plan, of which I was a cosponsor. I also remind my colleagues that it was the plan endorsed by President Reagan.

Today, as I did throughout consideration by the Energy and Commerce Committee, I maintain my support of the original initiative. I prefer it because of its actuarial soundness and, moreover, because of its modest cost to all Medicare part B enrollees.

Not only does the Michel substitute consist of the original catastrophic care proposal, but it also includes several additional provisions which have received considerable attention and popular support during the past several weeks.

In addition to providing an out-of-pocket cap of $2,000 for all covered expenses under Medicare parts A and B—including two hospital deductibles per year—financed by a modest addition to the Medicare part B premium, the Michel substitute:

Eliminates coinsurance and provides up to 100 days per year in a skilled nursing facility.

Adds up to 14 days for a total of 35 days of intermittent home health care.

Provides a Medicaid outpatient prescription drug benefit for those over 65 who are at or below 150 percent of the Federal poverty level, with a $50 deductible.

Increases the monthly needs allowance for the spouse of an individual receiving Medicaid coverage for nursing home care to a minimum of $925.

Allows the tax-free transfer of assets from IRA's and life insurance if assets are used to purchase long-term care insurance; requires the Department of the Treasury to study the feasibility and revenue effects of health care savings accounts; clarifies that benefits received from qualified long-term care insurance are excluded from taxable income; allows employers to sponsor long-term care group insurance; and authorizes the creation of a federally chartered corporation to reinsure writers of long-term care policies against excessive risks.

While I do support the Michel substitute, I do so with some concern about a few of the provisions. However, my minor concerns are far overshadowed by my strong preference for the cost and funding mechanism of the Michel substitute as opposed to the majority compromise.

With the Michel substitute, overall costs are less and, moreover, the cost to individual beneficiaries—and I use the term "beneficiary" with some hesitance—is less. In fact, the cost to beneficiaries under the Michel substitute far better reflects the average benefit any individual may receive.

The Michel substitute retains traditional Medicare financing which relates costs paid to benefits received. It does not contain a mandatory surtax, but does retain the President's principle that the beneficiaries be asked to underwrite the costs of revisions in Medicare covered services. It provides a more needed set of services, with a more realistic financing at about half the total cost of the majority compromise—$18.1 billion versus $34 billion over 5 years.

The majority compromise draws the largest share of its funds from a supplemental income-related premium. It is intended to finance the major portion of the projected costs of the basic catastrophic provisions and amendments, and 75 percent of the costs of the outpatient prescription drug benefit included in H.R. 2941.

Additionally, beneficiaries must pay an increased basic monthly part B premium, which usually is deducted from the Social Security check. The 1989 monthly premium is expected to be $25.50; annually that would be $306, according to the Congressional Budget Office.

Now, taking into account the supplemental premium, an individual with an adjusted gross income of $14,166 would pay an additional $580 per year—that is in additional to the $306 I just mentioned. Thus the total annual increase in program costs to that individual would be $886.

As another example, an individual with an adjusted gross income of $10,000 would pay a supplemental premium of $280 and the regular monthly premium of $25.50 or $306 annually for a total of $586.

Just for the sake of further comparison let me tell you specific year differences:

PREMIUM COMPARISONS

	1988	1989	1990	1991	1992
HOUSE GOP ALTERNATIVE					
Monthly part B	$28.10	$31.75	$35.03	$36.99	$39.00
Total annual premium	337.00	381.00	420.00	444.00	468.00
WAYS AND MEANS/ENERGY AND COMMERCE MAJORITY COMPROMISE					
Monthly part B	22.00	25.50	27.70	30.30	31.50
Annual maximum surtax	580.00	670.00	745.00	830.00	925.00
Total annual premium	844.00	976.00	1,077.00	1,194.00	1,303.00

Note.—An estimated 40 percent of current Medicare beneficiaries will be mandated to pay an annual surtax. The maximum surtax will be paid by single and/or widowed individuals with adjusted gross incomes (AGI) of $14,166. Couples with minimum AGI's of $28,332 would also pay the maximum surtax. The CBO estimate of the total outlays in the majority compromise over the period from 1988–92 is $34 billion.

It also is crucial to note that the supplemental premium or surtax in the majority compromise is designed to increase at a rate to cover the program costs. The prescription drug benefit provision is expected to be the fastest growing part of the package. Since 75 percent of that benefit is to be financed by the supplemental premium, the surtax will have to rise commensurately.

Mr. Chairman, I urge all of my colleagues to support the Michel substitute. It is a prudent plan which more truly addresses acute catastrophic care for those most in need than does H.R. 2941. We must tread carefully as we seek to expand an already fragile program.

Mr. STARK. Mr. Chairman, I yield 5 minutes to the gentleman from California [Mr. Waxman].

Mr. WAXMAN. I thank the gentleman for yielding.

Mr. Chairman, I just want to attack straight on a strawman that has been raised throughout today's debate on the catastrophic health insurance bill.

We have heard a number of times that what we are going to do is open the Medicare system to pay for drugs for AIDS patients. I would like to point out some realities to people about Medicare and about the life expectancy of patients with AIDS.

Under current law, a disabled person can become a Medicare beneficiary even under the age of 65. Of course, most people think of Medicare as covering those people who are over 65, but it also covers the disabled. But to be eligible as a disabled when you are under 65, a person must wait 29 months from the time of diagnosis to qualify for Medicare benefits. That 29-month period seems like a short time to some people, but for AIDS patients the estimated time, unfortunately, after diagnosis of AIDS until death has been under 1 year.

Now there is a new drug called AZT that has been licensed by the Food and Drug Administration. It is not a cure for AIDS but it does prolong the life of an AIDS patient.

But even under the estimated effect of AZT, it has not prolonged the life of patients long enough for qualification under Medicare. The average additional length of life is now thought to be under 1 year as well.

Of course, we are hopeful that there will be progress in developing new drugs for AIDS patients and that these patients will be cured or their lives prolonged for some period of time while we are looking for a cure.

But if we are thinking about the time when we make the breakthrough to extend the lives of AIDS patients longer than the 29 months they now must wait to be eligible for Medicare, a couple of things ought to be noted. By that time we will probably have a number of drugs a lot less expensive than AZT to deal with AIDS conditions. And if it turns out that Medicare then becomes a payer for drugs for AIDS patients because they are living 29 months, and the cost for care is a large cost that is troublesome to the future of the Medicare Program, Congress will have many opportunities to make appropriate changes in Medicare; and indeed to decide whether Medicare is an appropriate payer for AIDS patients in this country or some other assistance should be provided.

I would say offhand that Medicare may not be the appropriate payer for AIDS patients. It was never thought of as a way to deal with an epidemic. It was thought of as a way to guarantee health care services for the elderly and disabled in this country. But while we would not envision Medicare becoming a payer for most AIDS cases, we will need to decide who will pay—how we can, as a society, meet the costs of the services AIDS patients will require.

And at the time when we are thinking through what the Federal policy will be, especially when we have alternative therapies, then it seems to me we could think through whether Medicare, Medicaid or some other program—or private insurance in some way backed up by some Federal efforts, would be more appropriate to pay for the treatment of AIDS patients in this country.

I want to point all this out simply to illustrate that the attack claiming this prescription drug benefit under the bill is for AIDS patients is a strawman. It is raised to fan the fears of Members and the public. It is designed to undermine the broad support for a catastrophic prescription drug program to help meet the need that we know exists for the millions of elderly and disabled who are on Medicare now.

Mr. STARK. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I yield to the gentleman from California [Mr. Stark].

Mr. STARK. I thank the gentleman for yielding.

Mr. Chairman, I commend the gentleman for hitting this particular point.

Mr. Chairman, I point out that the Republican substitute could put more AIDS patients on federally funded drug programs by transferring them to the Medicaid Program, where they tend to be, because they are impoverished by the disease.

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The Republican substitute would add the AIDS patients to the Medicaid Program, and it could cost more than under our proposal. I am not sure it is a good thing in both instances, but I want to suggest that the Republican substitute does nothing to bring down this strawman. The Republicans are, in fact, hanging the AIDS issue out there to detract attention from the main purpose of this bill, which is to help our seniors.

Mr. WAXMAN. Mr. Chairman, if we look at the difference between the two bills in dealing with prescription drugs, the Republican substitute would say that the Medicaid Program in each State would have to cover people below 150 percent of poverty.

The CHAIRMAN. The time of the gentleman from California [Mr. Waxman] has expired.

Mr. STARK. Mr. Chairman, I yield 2 additional minutes to the gentleman from California [Mr. Waxman].

Mr. WAXMAN. That Medicaid coverage would apply to people below 150 percent of poverty and would be only for the drugs covered in the Medicaid Program. The benefits would be dependent on the program at that State level. In fact with the additional people that would be added to the Medicaid Drug Prescription Program, States might reduce or even change their drug program, since it is an optional benefit under Medicaid law. They would have an economic incentive to narrow their drug program. It would not guarantee even that low income people everywhere in this country would have access to basic prescription drug coverage. If the Republican substitute truly did that, it would be highly commendable on that point, but in fact it does not achieve even its more limited goal.

Mr. MADIGAN. Mr. Chairman, will the gentleman yield?

Mr. WAXMAN. I will yield in a minute.

Mr. MADIGAN. You are not telling the truth.

Mr. WAXMAN. The Republican substitute leaves it up to each State to decide what the drug benefit would be. It does mandate that the State cover all those people below 150 percent of poverty for whatever the benefit is, but in truth it can be greatly limited.

Mr. Chairman, I would now yield to my friend and colleague, the gentleman from Illinois, if he wants to challenge those comments.

Mr. MADIGAN. Mr. Chairman, I thank the gentleman for yielding, and I certainly want to challenge the comments with regard to the Republican substitute picking up more AIDS patients for drug benefit than the committee bill. The language in the Republican substitute specifically limits the drug benefit to persons over the age of 65.

Mr. WAXMAN. Mr. Chairman, Medicaid is now paying for the services of AIDS patients. AIDS patients are getting help with their health care if they do not have private insurance; once they have lost all their income and assets, they will go on Medicaid. If the Republican proposal made more AIDS people eligible for Medicaid assistance for drugs, that would be a plus. But evidently the Republican substitute does not even cover them—or any other disabled people—for prescription drugs. That leaves us with another problem to address at some future time, and that is, who will pay for the drugs that would allow an AIDS patient to survive? If no one pays for that, how can we as a society allow that situation to continue, denying lack of access to that care? But however we solve that problem, the additional irony in the Republican approach is that in their concern not to cover AIDS patients, they have decided not to provide drugs to any other needy disabled persons as well.

Mr. MADIGAN. Mr. Chairman, I yield 1 minute to the gentleman from New Hampshire [Mr. Gregg].

Mr. GREGG. Mr. Chairman, I thank the gentleman from Illinois [Mr. Madigan].

Mr. Chairman, on the issue of whether or not the AIDS patients will have an impact on the drug program, I would note that HCFA is estimating that 240,000 people would be qualified for the program, and, therefore, that is a lot of straw men. In fact, that is enough straw to break the camel's back or at least the pocketbooks of senior citizens.

On the second point of catastrophic costs, I would point out that under this bill a catastrophic event is described as something that costs $1,500, and that is when you qualify for the proposal. On the question of catastrophic costs, then, since a catastrophic cost is defined as $1,500 or more, it becomes a catastrophic cost under the Democratic bill to simply pay the premium, because the premium on the Democratic bill exceeds $1,500 for approximately 14 million people.

Mr. MADIGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from California [Mr. DREIER].

Mr. DREIER of California. Mr. Chairman, I rise in strong opposition to this misnamed piece of legislation which violates every precept of truth in advertising.

Mr. MADIGAN. Mr. Chairman, if the gentleman will yield, I presume that the gentleman was not referring to the Republican substitute?

Mr. DREIER of California. The gentleman is correct.

Mr. Chairman, I rise in strong opposition to H.R. 2941, the co-called Medicare Catastrophic Protection Act. This bill violates every principle of truth-in-advertising that so many Members of this body demand of private enterprise. At the same time, it does little to address the problems of financing catastrophic and long-term health care for our Nation's elderly.

Instead, Mr. Chairman, it will steepen the fall of Medicare toward bankruptcy. The bill ignores the necessity for private-sector participation in a future solution; it will hamper recent progress in controlling spiraling health care costs, and it will take us one giant step closer to a "cradle-to-grave national health insurance program."

The Medicare Catastrophic Protection Act is a cruel hoax on the millions of elderly who will mistakingly believe that they will be protected from long-term health care expenses not now covered by Medicare. In addition, it would impose a fivefold increase in premiums for nearly half of all Medicare enrollees for benefits that few elderly Americans need. Even worse, it will force the elderly to subsidize drug treatment for AIDS patients.

Of the 28 million Americans enrolled in Medicare, only about 12,000 currently exceed Medicare's hospital coverage each year. In addition, up to 80 percent of the elderly already are covered for the benefits they would receive in the legislation by private insurance or Medicaid. By forcing the elderly to accept inferior benefits from the Government, we will be wiping out what is becoming a growing market for long-term care insurance. About 30 companies offer long-term care policies, roughly twice the number in the market only 2 years ago, and another 30 are considering entering the market.

The most catastrophic of all health care expenses is not even covered in this bill. Of all annual out-of-pocket expenses incurred by the elderly, 41.6 percent is spent on nursing home care, and 31.3 percent on miscellaneous home care. Only 5.6 percent goes for hospital care.

In 1985, a report of the Select Committee on Aging revealed that our Nation's elderly spend a greater percentage of their incomes on health care today than when Medicare and Medicaid were enacted. Enactment of this legislation will surely continue this upward trend.

In April of this year, I had the honor of chairing a hearing on potential private sector solutions to financing catastrophic and long-term health care costs. In that hearing, we examined an array of proposals that would provide real solutions with limited government intervention.

One of the witnesses at that hearing was Mrs. Elaine Yarbrough of Green Valley, AZ. Mrs. Yarbrough currently cares for a husband with Alzheimers disease. Her previous husband died of a chronic illness in the early 1960's. Her parents also spent many years in a nursing home. This is what she told the committee:

> Believe me, it would be very easy to add my encouragement to any proposed legislation that would shift the financial burden from our shoulders to those of Uncle Sam. But, I love my children and grandchildren, and I would be neither a responsible parent nor citizen to increase their tax burden with even more staggering national debt.

Yet, Mr. Chairman, that's exactly what we will be doing should H.R. 2941 prevail. The Medicare part A trust fund is expected to run short of funds to pay for currently promised benefits as early as 1993. The cumulative deficit in that trust fund is expected to reach $400 billion between now and 1995. Enactment of H.R. 2941 will, according to the Department of Health and Human Services, result in additional deficits of $10 billion by 2000 and $30 billion 5 years later.

It will be financially devastating to the elderly to increase their monthly premiums for catastrophic coverage to match certain increased costs in the program. As a result, there will be pressure on Congress to subsidize the program either from general revenues, or by increasing the Medicare payroll tax, as some members have already suggested.

Instead of following this ill-conceived path, we should reject H.R. 2941 and bring up a more responsible alternative. There is no shortage of excellent and viable proposals to address the problems of financing catastrophic and long-term health care. For example, we can provide most of the benefits contained in H.R. 2941 simply by requiring insurance companies that sell MediGap policies to include catastrophic features in those policies.

In addition, legislation to establish health care savings accounts was introduced by Congressmen SLAUGHTER and CRANE and myself, and cosponsored by 38 of our colleagues. The three of us outlined our proposal when we testified before the Health Subcommittee of Ways and Means. It would establish IRA-type accounts for individuals so they can accumulate funds for their own retirement health care needs, including the cost of long-term care. It would also have the added benefit of relieving the Medicare funding crisis.

Another innovative idea is to allow any savings derived from higher deductible employee health care premiums to be converted into medical IRA's. This concept of health banking would encourage workers to purchase inexpensive catastrophic coverage and save for their out-of-pocket health care expenses in later years.

There are other alternatives as well, including tax incentives for the cost of long-term care premiums; Medicare vouchers so that low-income individuals can purchase private long-term care insurance; and even State risk pools to protect uninsurable Americans.

Mr. Chairman, passage of H.R. 2941 will be a greater catastrophe than the problem it purports to fix. I, therefore, urge my colleagues to reject the bill and pursue a more responsible solution. H.R. 2941 is nothing more than a massive entitlement program that will increase Federal deficits and bankrupt Medicare, while offering little protection against the financial catastrophe of serious and chronic illness.

Mr. MADIGAN. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska [Mr. BEREUTER].

Mr. BEREUTER. Mr. Chairman, I rise in strong support of the Michel substitute.

Mr. Chairman, this Member supports congressional efforts to provide assistance in meeting catastrophic health care costs for elderly Americans. The issue is one of approach—how best to meet catastrophic health care costs without saddling future generations with a debt too enormous to pay. The pending committee bill, H.R. 2941, is seriously flawed and I will vote against it. Alternatively, I will support the substitute that will be offered by the distinguished Republican leader, Mr. MICHEL. I am a cosponsor of Mr. MICHEL's legislation.

This body has begun to take important steps in the right direction in protecting elderly Americans against catastrophic health care costs. And the most important step today would be a vote in favor of the Michel substitute. Consider this: The alternative proposed by Mr. MICHEL provides for lower monthly premiums than does the committees' version. The Michel substitute addresses the need for long-term custodial care in a more feasible manner. Most importantly, the Michel substitute is not a tax increase for the elderly.

We are today proposing sweeping changes to the Medicare Program, no matter which proposal we eventually adopt. Before we agree to these sweeping changes in the Medicare Program, this Member appeals to this body for caution and restraint. This proposed initiative, if enacted, will be with us for a very long time. The question of how we will pay for this important new program in the next decades cannot be ignored in our actions today.

Make no mistake about it. This Member believes we need to protect elderly Americans from the catastrophic costs of serious illness. The legislation we are considering today begins to plug up some of the holes in Medicare that allow catastrophic health care costs. We are addressing the need to alleviate spousal impoverishment. We are considering the role that skilled nursing care and prescription drugs play in the creation of catastrophic costs. And, we recognize the humane benefits of home health care services, which help elderly Americans avoid institutionalization.

Ideally, however, we need, by a variety of public and nonpublic means, to protect all Americans from the catastrophic costs of severe illness. I am extremely disturbed by the fact that each year hundreds of thousands of citizens face the horrendous choice between health and poverty. This is intolerable! Nearly 35 million Americans under 65 reported no health insurance from any public or private source. One-third of all these uninsured people are children—that's 12 million children. And 4 million of those live with uninsured parents or guardians. Too often, young growing families are forced to choose between a small child's health or their family's poverty. No parent should be forced to make such a choice.

But this legislative initiative must not foster a battle between young and old, rich and poor. This effort must really be a struggle to insure all Americans against the devastating impact of financial catastrophe and medical crisis. To do this, realistically, we must identify the potential and serious problem areas.

Hospital and medical care costs are inflating at significant rates. Unfortunately, it is also clear that when a new pool of costs is added, in the form of increased premiums, the potential for further inflationary impact is considerably increased. Sadly, this Member fears that the bill as reported by the Ways and Means Committee and the Energy and Commerce Committee simply will not ultimately assist in alleviating the catastrophic costs for today's baby boom generation—a group who will certainly comprise the largest numbers of elderly Americans. Bailing a few buckets from a sinking ship today does not guarantee that it will not sink tomorrow. If we do not choose a viable proposal now, we cannot possibly keep up with the costs that will occur beyond the 5 year cost projections on which the pending bill is based.

We cannot shut our eyes to the long-range effects of H.R. 2941. We must not enact laws to make ourselves more comfortable today without looking at the impact of such legislation in the future. The Department of Health and Human Services estimates, for example, that costs of H.R. 2941 will exceed revenues after 1992. They predict annual program deficits of $10 billion by the year 2000 and $30 billion by the year 2005 for the Ways and Means proposal. And those figures do not take into account the Energy and Commerce Committee's amendments that are now a part of H.R. 2941. Those additions will add another $13 billion to the cost of catastrophic health care coverage in the first 5 years.

In just 13 years we may be facing an annual deficit of $10 billion from this single new legislative initiative. Who will pay for such expanding costs—our children and our grandchildren? Yours and mine! This Member believes we really must not pass unreasonable burdens on to our children and grandchildren.

Therefore, this Member urges his colleagues to put aside the partisan considerations that too often drive this body. The Michel substitute is better for America—now and especially in the future. The costs are significantly lower and many of the important features of the committee's bill are retained in a similar or identical fashion.

The substitute caps out-of-pocket expenses at $2,000.

The substitute eliminates coinsurance for limited skilled nursing facility care.

The substitute increases home health care from the current 21 days to 35 days.

The substitute covers out-patient prescription drugs for poor elderly.

The substitute protects against spousal impoverishment.

We in the Congress can act responsibly today in a manner that can lay the groundwork for a humane and really responsible program of catastrophic health care coverage for all Americans. I urge my colleagues to adopt the Michel substitute!

Mr. MADIGAN. Mr. Chairman, I yield 1 minute to the gentlewoman from Connecticut [Mrs. JOHNSON].

Mrs. JOHNSON of Connecticut. Mr. Chairman, I would just like to call the attention of my colleagues to the fact that the Michel substitute, as the original bill, has in it those very important home health care provisions, spousal impoverishment provisions, and other basic provisions, and in other respects it is not only more affordable but is fairer. Under the Michel amendment, we target our prescription drug subsidy to those who can afford it with at least a $50 deductible. Under the committee bill we will require the single retiree in America with a $14,000 income to pay the first $500 of their prescription costs and, in addition to that, a $580 premium in 1988 and a $1,000-plus premium in 1992, which, when paired with the increase part B cost, will be a $1,400 cost per person with a $14,000 income. In fairness, I ask the Members to support the Michel amendment.

The CHAIRMAN. The gentleman from Illinois [Mr. MICHEL] has 5½ minutes remaining, and the gentleman from California [Mr. STARK] has 3 minutes remaining.

Mr. MADIGAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this procedure does not really lend itself very well to what one would actually call a debate, because on both sides of the aisle we have a great many Members who are interested in this issue and who want to speak on this issue, but the very limited time each receives really does not give an opportunity for either side to respond to what the other side is saying. But let me, in the time remaining, try to respond to some of the things that I think are distortions about the differences between the committee bill and the substitute offered by the gentleman from Illinois [Mr. MICHEL].

Let me at the outset say that the gentleman from Illinois and I represent neighboring districts. Those are districts that are Republican districts, as one can tell by looking at the vote returns, but they are also districts inhabited by a great number of senior citizens whom the gentleman from Illinois [Mr. MICHEL] and I have the responsibility of representing. We want to represent them in a sincere and honest way. We are doing that, in my judgment, by the offering of the Michel substitute to this bill because, No. 1, Mr. Chairman, the Michel substitute is affordable.

The distinguished chairman of my subcommittee, the gentleman from California, has said that the senior citizens of the United States are crying out for legislation. Let me say that I do not think they are crying out for this legislation because, as I mentioned before, the pensions of military retirees, Federal workers, State employees, railroad retirees, and individuals with private pensions are involved here, and all of those people must include the income from those pensions in estimating their adjusted gross income which is subject to a surtax under the committee bill. Many of those people will have to pay the maximum surtax because of their pensions. As it happens, most of them are also individuals who already have substantial health benefits through their retirement programs associated with their previous employment.

Now, this chart that we have here shows that for a senior citizen couple with the kind of retirement income that I have just described may, by 1992, be paying a surtax under the committee bill of $2,034, in addition to an annual part B premium of $756, making their total financial liability under the Stark-Waxman bill $2,908 a year, compared to $936 a year under the Michel substitute.

That is what I am talking about when I say the Michel substitute is affordable. In addition, the Michel substitute is budget neutral. After the end of 5 years the Stark-Waxman bill begins to cause a deficit in the Medicare trust fund. The Michel substitute does not. The Michel substitute has no delays. The benefits begin to be available in 1988. It has the same spousal impoverishment provision that is contained in the Stark-Waxman bill. It contains a drug benefit for people at 150 percent of the Federal poverty level. Additionally, the hospital and physician services available under the Michel substitute are almost exactly identical to what is contained in the Stark-Waxman bill. But all of those benefits are provided for approximately a third of the cost.

The gentleman from California has said that we set up a straw man when we brought up the issue of AIDS. The AIDS expenses will never be reimbursable under Medicare because of the waiting time required under the Medicare formula. As a matter of fact, there is already a bill introduced in this session of Congress to do exactly that, to eliminate that waiting period. Are the two gentlemen from California telling us that they are irrevocably and forever opposed to supporting that kind of bill? Is that the kind of promise they are making here?

Mr. Chairman, I will yield to the gentleman from California to respond to that question.

Mr. WAXMAN. Mr. Chairman, I might have misunderstood the gentleman. Did he ask if I sponsored a bill to eliminate the waiting period?

Mr. MADIGAN. No. I said that such a bill has been introduced in this session of Congress by a Member from that side of the aisle, and I am asking the gentleman if his comments earlier on that issue were an assurance to this assembly that he is forever opposed to that kind of legislation.

Mr. WAXMAN. Mr. Chairman, I certainly would not say I am opposed to it. But my point is we have not yet thought through all that we have to think through in this country in terms of how we are going to pay for those AIDS patients to get their medical care. The answer is not to take this Medicare bill and eliminate needed drug benefits for the aged or disabled because we might in the future be covering some AIDS patients. The fact is, with the reality of how long AIDS patients survive, this legislation is not addressed to them.

Mr. MADIGAN. Then, Mr. Chairman, if I may reclaim my time at that point, we have had testimony in our subcommittee that the AZT drug therapy treatment for AIDS patients is $1,000 a month, or $12,000 a year, and that the hospital and doctor bill expense for AIDS patients is approximately $40,000 from the time they go in the hospital until the time they unfortunately expire. Those are serious financial obligations. Those are obligations that I think this Congress is going to have to address. But I think this is a very sneaky way of setting up a mechanism by which, in the future, the senior citizens of America are going to be paying a supplemental surtax and an increased Medicare part B premium to take care of the bills, of those people who are going to have the catastrophic expenses.

The CHAIRMAN. The time of the gentleman from Illinois [Mr. MADIGAN] has expired.

The gentleman from California [Mr. STARK] has 3 minutes remaining.

Mr. STARK. Mr. Chairman, I yield such time as he may consume to the gentleman from Illinois [Mr. GRAY].

Mr. GRAY of Illinois. Mr. Chairman, I thank my friend for yielding me this time, and I rise in support of the committee bill and in opposition to the Michel substitute.

Mr. Chairman, I rise in support of H.R. 2941, the Medicare Catastrophic Protection Act and against the Michel substitute now pending before the committee.

Mr. Chairman, there are several areas of coverage which my friend Mr. Michel's substitute does not address completely.

My friend, Cyril F. Brickfield, head of the AARP—Association of Retired Persons—lists the following shortcomings which I would like to reiterate at this time:

1. The alternative provides protection of income but not of assets for spouses of nursing home residents. While income protection is critical, protection of a small amount of assets can ensure that a spouse who remains in the community has resources sufficient to live with independence and dignity.

2. The long-term care provisions in the alternative depend exclusively on the private sector, and particularly on tax subsidies to promote private long-term care insurance. Yet private insurance is not affordable or accessible to many older persons. It is our understanding that the long-term care provisions in the alternative proposal would cost $1.2 billion. AARP believes that these revenues should be directed toward a more comprehensive public sector effort based on the concept of social insurance.

3. The alternative requires the beneficiary to pay two hospital deductibles each year rather than one and it lacks the improved home health protection included in H.R. 2941.

4. The alternative lacks the broad protection of low-income beneficiaries accomplished in H.R. 2941 through the Medicaid buy-in to Medicare premiums and cost-sharing for enrollees with incomes below the Federal poverty level. Currently, 3.3 million individuals over the age of 65 have incomes below the Federal poverty level. Only 1.1 million of these are on Medicaid. H.R. 2941 takes a major step forward with its broad expansion of health care coverage for these 2.2 million people who have incomes below poverty level.

5. The prescription drug benefit in the alternative helps far fewer elderly than the benefit contained in H.R. 2941. The 18.4 percent of beneficiaries projected to be helped by the H.R. 2941 prescription drug benefit have all encountered catastrophic drug expenses of at least $500 in the course of year.

In closing, Mr. Chairman, I urge my colleagues to vote no on the Michel substitute and Yes on the final passage of H.R. 2941, the committee bill.

Mr. STARK. Mr. Chairman, I yield myself such time as I may consume.

Mr. WAXMAN. Mr. Chairman, will the gentleman yield?

Mr. STARK. I yield to the gentleman from California.

Mr. WAXMAN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, I think we need to keep in mind that we are going to have serious problems in this country financing the care for the AIDS patients. We have one now and it is projected to get worse in the years ahead. We are going to have to think that through very carefully. But I think it is a serious mistake to try to mislead people into thinking that this drug benefit under Medicare is a way to finance that care. In fact, it is not a way to finance that care for AIDS patients.

CBO estimates that the number of Medicare-eligible AIDS patients is approximately 400 people. All those cases are people who are over the age of 65 and are eligible because they are over 65. AIDS patients under 65 are not living long enough to qualify as disabled, to wait through the 29-month period, to be eligible for Medicare.

But I find it interesting that the Republican substitute, which would provide drug coverage under Medicaid to elderly people under 150 percent of poverty not only AIDS patients but all the disabled. They evidently are not willing to change Medicaid coverage to deal with AIDS patients.

I hope that does not represent an irrevocable policy for the future. Most AIDS patients, after they have exhausted their resources, will be Medicaid-eligible, and that would be the only assistance available for them getting health care services.

We are going to have to reevaluate this whole question of AIDS patients and how to pay for their care. However, this is not the time or place to do it. But this bill, evidently neither the Republican substitute nor the Democratic version, addresses the issue.

Mr. STARK. Mr. Chairman, I would like to point out that the Republican substitute actually cuts back in some current benefits. It also has a higher catastrophic cap and thereby saves millions of dollars. It cuts the number of days of the current skilled nursing benefit, it has an income-related prescription drug benefit, it doesnot provide a respite care benefit, and it doesnot have the hospice care coverage for people who are dying, contained in H.R. 2470.

While it does cost less than H.R. 2470, it very ingeniously shifts the costs. First of all, in a very regressive fashion, it makes the poorest of the poor pay considerably more in a fixed dollar premium, and it makes the sick bear the cost by raising the catastrophic cap. Older Americans who get sick will pay more out of their pockets than they would under the committee bill. The committee bill has a lower part B premium and a progressive supplemental premium that spreads the costs fairly among all the beneficiaries. In this way all beneficiaries may enjoy some freedom from fear and from the catastrophic cost of hospital bills and medical bills for acute care and the high cost of prescription drugs.

Mr. Chairman, I would urge my colleagues to defeat the Republican substitute and to vote yes on final passage for H.R. 2470, the Medicare Catastrophic Protection Act of 1987.

□ 1640

The CHAIRMAN. All time has expired.

The question is on the amendment in the nature of a substitute offered by the gentleman from Illinois [Mr. MICHEL].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. GREGG. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 190, noes 242, not voting 1, as follows:

[Roll No. 279]

AYES—190

Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bentley
Bereuter
Bilirakis
Bliley
Boehlert
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Carper
Chandler
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Coughlin
Courter
Craig
Crane
Daniel
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Gradison
Grandy
Green
Gregg
Gunderson
Hammerschmidt
Hansen
Hastert
Hatcher
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hunter
Hyde
Inhofe
Ireland
Jeffords
Johnson (CT)
Kasich
Kemp
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morella
Morrison (WA)
Murphy
Myers
Nichols
Nielson
Oxley
Packard
Parris
Pashayan
Patterson
Penny
Petri
Porter
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stallings
Stangeland
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NOES—242

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Berman
Bevill
Biaggi
Bilbray
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carr
Chapman
Chappell
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Early
Eckart
Edwards (CA)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Harris
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Moody
Morrison (CT)
Mrazek
Murtha
Nagle
Natcher
Neal
Nelson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Pease
Pelosi
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Richardson
Robinson
Rodino
Roe
Roemer
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schroeder
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Spratt
St Germain
Staggers
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—1

Gephardt

□ 1650

Mr. HUGHES changed his vote from "aye" to "no."

Mr. McDADE and Mr. DAVIS of Michigan changed their votes from "no" to "aye."

So the amendment in the nature of a substitute was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the amendment in the nature of a substitute consisting of the text of H.R. 2941.

The amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the chair, Mr. SABO, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 2470) to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the Medicare Program, and for other purposes, pursuant to House Resolution 227, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. CRANE

Mr. CRANE. Mr. Speaker, I offer a motion to recommit.

The SPEAKER. Is the gentleman opposed to the bill?

Mr. CRANE. I am, Mr. Speaker.

The SPEAKER. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. CRANE, moves to recommit the bill, H.R. 2470, to the Committee on Ways and Means with instructions that the Committee hold hearings in cooperation with the appropriate Departments and Agencies of Government to ascertain the extent of the tax burden or additional payments required of senior citizens as a result of the drug benefits provided by this bill to persons under the age of sixty-five who are suffering the effects of the "Acquired Immune Deficiency Syndrome" virus and promptly report the bill with such recommendations as are necessary to eliminate or prevent such additional financial burdens of the elderly.

□ 1705

The SPEAKER. The gentleman from Illinois [Mr. CRANE] is recognized for 5 minutes.

Mr. CRANE. Mr. Speaker, I think indeed Members should want to listen carefully to what is contained in my motion to recommit. It is not a dilatory tactic, and in the language of the recommitment motion it would simply refer this bill back to the Ways and Means Committee to get appropriate input from responsible agencies or departments of Government as to what the potential AIDS costs might be to those people who are going to finance this progam who are over 65, and then promptly report that bill back to the entire Committee of the Whole House for such recommendations as are necessary to eliminate or prevent any additional financial burdens that might, based upon that input, be put upon the elderly.

I think, Mr. Speaker, it is important for us to acknowledge that we do not have definitive input as to what the magnitude of the universe of AIDS victims that can qualify for disability may be, and that is especially true with prolongation of life through the drug AZT. I think certainly the Health Care Financing Administration, CBO, Treasury, Health and Human Services, the Center for Disease Control all could provide some appropriate input.

Mr. Speaker, I think it is important for us to have some assessment because, as has been mentioned in the debate here this afternoon, AIDS is a very serious problem and the AIDS problem unquestionably will be addressed.

But I think AIDS cannot be addressed within the context of the financing mechanism where senior citizens are going to be hit with the disproportionate burden of taxation that will be required to service any AIDS patient who qualifies for disability.

As I say, this is not going to delay action on catastrophic health care coverage. It will provide us with some input that we did not have available to us when the committee conducted hearings on the subject, and I think thus far we still do not know the answers to the question.

This is a ticking time bomb in terms of a potential burden, a potential financing burden, that will fall overwhelmingly upon senior citizens in this country, the very people we are asking to finance their own catastrophic health care coverage, and finance their own prescription drug coverage. If they are going to provide this service, let us make sure the service is addressed exclusively to them, unless any extension to others who qualify under disability is so inconsequential as to be relatively meaningless.

But we do not have the answers to those questions, and for that reason, Mr. Speaker, I would urge my colleagues to support the recommittal motion. As I say, the language calls for a prompt report of the bill after that finding, and we can have it before the floor and make that final determination with that appropriate information.

I yield back the balance of my time.

Mr. ROSTENKOWSKI. Mr. Speaker, I rise in opposition to the motion to recommit offered by the gentleman from Illinois [Mr. CRANE].

Mr. Speaker, the bill clearly provides for the formation of a commission to review the drug program and make recommendations to the Congress each year. It also provides for a report back to the House of Representatives by the Secretary of HHS in May of each year if the costs of the drug benefit are 20 percent higher than expected. Such a report could include recommendations concerning AIDS benefits if the higher costs were the result of the payment for drugs for AIDS patients.

I am certain that everyone in this Chamber agrees that AIDS is a major problem. There is no question that the commission, as well as the HHS Secretary, should recommend just what activities this legislative body should pursue with regard to drug costs, in relation to the AIDS problem.

And I would like to point out, Mr. Speaker, there is also a cap on drug costs. If the gentleman from Illinois is concerned about costs, there is a cap on the amount by which the premium can increase. It cannot increase by more than 20 percent or the program itself starts cutting back.

I urge my colleagues to vote down the motion to recommit.

The SPEAKER. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER. The question is on the motion to recommit.

The question was taken; and the Speaker announced that the noes appeared to have it.

Mr. CRANE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER. The Chair desires to announce that pursuant to the provisions of clause 5 of rule XV, the Chair will reduce to a minimum of 5 minutes the period of time within which a vote by electronic device, if ordered, will be taken on the question of passage.

The vote was taken by electronic device, and there were—yeas 187, nays 244, not voting 2, as follows:

[Roll No. 280]

YEAS—187

Applegate
Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bateman
Bentley
Bilirakis
Bliley
Boucher
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Chandler
Chappell
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Daniel
Dannemeyer
Daub
Davis (IL)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Erdreich
Fawell
Fields
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Grandy
Gregg
Hall (TX)
Hammerschmidt
Hansen
Harris
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
Johnson (CT)
Kasich
Kemp
Kolbe
Konnyu
Kyl
Lagomarsino
Lancaster
Latta
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Morrison (WA)
Myers
Nielson
Olin
Oxley
Packard
Parris
Pashayan
Penny
Pickett
Porter
Pursell
Quillen
Ravenel
Ray
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roemer
Rogers
Roth
Roukema
Rowland (CT)
Rowland (GA)
Saiki
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Skeen
Slattery
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stallings
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Taylor
Thomas (CA)
Upton
Valentine
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Wylie
Young (AK)
Young (FL)

NAYS—244

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Barnard
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Biaggi
Bilbray
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Campbell
Cardin
Carper
Carr
Chapman
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hamilton
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Howard
Hoyer
Huckaby
Hughes
Jacobs
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Pepper
Perkins
Petri

Pickle
Price (IL)
Price (NC)
Rahall
Rangel
Richardson
Rodino
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Sharp
Sikorski

Skaggs
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Snowe
Solarz
Spratt
St Germain
Staggers
Stark
Stokes
Stratton
Studds
Swift
Synar
Tauzin
Thomas (GA)
Torres
Torricelli
Towns

Traficant
Traxler
Udall
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Yates
Yatron

NOT VOTING—2

Early
Gephardt

□ 1720

Mr. CONTE changed his vote from "nay" to "yea."

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

RECORDED VOTE

Mr. FRENZEL. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER. The Chair announces again this will be a 5-minute vote.

The vote was taken by electronic device, and there were—ayes 302, noes 127, not voting 4, as follows:

[Roll No. 281]

AYES—302

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Aspin
Atkins
AuCoin
Bates
Bennett
Bentley
Berman
Bevill
Biaggi
Bilbray
Bilirakis
Boehlert
Boggs
Boland
Boner (TN)
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell

Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clay
Clinger
Coelho
Coleman (MO)
Coleman (TX)
Collins
Conte
Conyers
Cooper
Courter
Coyne
Crockett
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Dickinson
Dicks
Dingell
Dixon
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Emerson
English

Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Gallo
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher

Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jacobs
Jeffords
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lowry (WA)
Lujan
MacKay
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCollum
McDade
McHugh
McMillen (MD)
Mfume

Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Ortiz
Owens (NY)
Owens (UT)
Panetta
Pashayan
Patterson
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Rahall
Rangel
Ravenel
Regula
Richardson
Ridge
Rinaldo
Robinson
Rodino
Roe
Roemer
Rose
Rostenkowski
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder

Schulze
Schumer
Sharp
Shaw
Sikorski
Sisisky
Skaggs
Skeen
Skelton
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Sweeney
Swift
Synar
Tallon
Tauzin
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Watkins
Waxman
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOES—127

Archer
Armey
Badham
Baker
Barnard
Bartlett
Barton
Bateman
Beilenson
Bereuter
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Chandler
Cheney
Coats
Coble
Combest
Coughlin
Craig
Crane
Daniel
Dannemeyer
Daub
Davis (IL)
DeLay

Derrick
DeWine
DioGuardi
Donnelly
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Fawell
Fields
Frenzel
Gallegly
Gekas
Gingrich
Goodling
Grandy
Gregg
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Hunter
Hyde
Inhofe
Ireland
Johnson (CT)

Kemp
Kolbe
Konnyu
Kyl
Lagomarsino
Leath (TX)
Lent
Lewis (CA)
Lightfoot
Lott
Lowery (CA)
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
McCandless
McCurdy
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Montgomery
Moorhead
Morrison (WA)
Myers

Nielson
Olin
Oxley
Packard
Parris
Penny
Pursell
Quillen
Ray
Rhodes
Ritter
Roberts
Rogers
Roth

Schaefer
Schuette
Sensenbrenner
Shumway
Shuster
Slattery
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)

Stangeland
Stenholm
Stump
Sundquist
Swindall
Tauke
Taylor
Thomas (CA)
Upton
Walker
Weber
Wolf

NOT VOTING—4

Ballenger
Early
Gephardt
Vander Jagt

□ 1735

Mr. KASICH and Mr. MARTIN of New York changed their votes from "no" to "aye."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. BALLENGER. Mr. Speaker, I was in the Chamber and recorded my vote on rollcall No. 281, final passage of the catastrophic health legislation. However, the computer has me listed as "not voting." I meant to vote "no" on final passage.

GENERAL LEAVE

Mr. STARK. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the bill just passed.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

PERMISSION TO VACATE CERTAIN SPECIAL ORDERS AND SUBSTITUTE OTHERS THEREFOR

Mr. PARRIS. Mr. Speaker, I ask unanimous consent that the special orders scheduled for myself on today and tomorrow for 60 minutes be vacated, and that 5-minute special orders be substituted therefor.

The SPEAKER. Is there objection to the request of the gentleman from Virginia?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1049

Mr. HANSEN. Mr. Speaker, I ask unanimous consent that I may be permitted to remove my name as a cosponsor of H.R. 1049.

The SPEAKER. Is there objection to the request of the gentleman from Utah?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1082

Mr. ROEMER. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 1082.

The SPEAKER pro tempore (Mr. SAWYER). Is there objection to the request of the gentleman from Louisiana?

There was no objection.

WITHDRAWAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1049

Mr. HYDE. Mr. Speaker, I ask unanimous consent that my name be withdrawn as a cosponsor of H.R. 1049.

The SPEAKER. Is there objection to the request of the gentleman from Illinois?

There was no objection.

MOST-FAVORED-NATION STATUS FOR ROMANIA

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. WOLF. Mr. Speaker, on April 30 the House voted 232 to 183 to suspend most-favored-nation status for Romania. On June 28 the Senate, by an overwhelming bipartisan vote, voted 56 to 26 to suspend MFN for Romania.

Why did they do that? Because the Romania Government is bulldozing churches, they are bulldozing synagogues, they beat a Catholic priest and are persecuting different religious groups, they are aiding the PLO, they are sending weapons to Libya, advisers to Libya, and yet, Mr. Speaker, where is the administration at this time? The other day the Wall Street Journal did an editorial about this issue where they said:

> On Romania there is no reason why President Reagan should continue to leave the high road on this issue to Congress. He has the right under existing law to suspend Romania's most-favored-nation status, as he had the right to act on Poland's trade status. He does not have to wait for the trade bill to reach him. Indeed, the President can follow his own precedent of 1983, when he stared down Mr. Ceausescu over Romanian plans to impose an "education tax" on emigrants.

Mr. Speaker, where is the Reagan administration when the House has acted and the Senate has acted, and the overwhelming public opinion and world opinion is to suspend MFN? Where is the Reagan administration?

THE ROMANIA PROBLEM

> On May 29 in the early evening hours at the three-way border of Romania, Yugoslavia and Hungary, a 28-year-old Romanian citizen, Lionte Gheorge, was fleeing Premier Ceausescu's communist rule. He first crossed to Yugoslavia and thence to Hungary. A Romanian mounted border guard pursued Mr. Gheorge and on Hungarian soil shot him to death. According to the Hungarian daily Nepszabadsag, "appropriate Hungarian authorities were investigating the incident, coordinating their efforts with the Romanian and Yugoslav authorities."
>
> Despite numerous other alleged human-rights violations, President Reagan has continued to follow the State Department's pro-Romanian policy. On June 3, he recommended continuation of Romania's most-favored-nation tariff status for another 12 months. This unnecessarily puts the administration at odds with its own party. On April 30 the House voted 232 to 183, and on June 26 the Senate voted 57 to 36 to suspend Romania's most-favored-nation status for six months. The bipartisan measure got strong Republic backing.
>
> The legislation would amend the omnibus trade bill, which is probably headed for a much-deserved presidential veto. Supporters of the Romanian measure, however, say the only way the effort will be dropped is if the Romanians do something dramatic to improve their rights record. To regain full access to U.S. markets the amendments would require persecution; improve conditions for ethnic minorities, specifically Hungarians; and meet the tests of the Jackson-Vanik amendment on freedom of emigration.
>
> What America does has implications for European governments. At the Vienna meeting on the Helsinki accords, Romanian policies have come under increasingly harsh criticism from Britain, Switzerland, Canada and the Netherlands.
>
> The reason the White House finds itself tangled up in the crossfire of the Romanian problem is the manner in which the State Department has been pursuing its policy of "differentiation." This notion seeks to turn East Bloc totalitarian regimes toward the West with trade and credit incentives. Now we certainly have no problems with efforts to try to woo countries away from Moscow's orbit. Differentiation has a noble purpose, and in some instances—Deng Xiaoping's China comes to mind—one could argue that gains are possible. But the gains in Romania have been grudging and minor, while in important ways the country has grown worse. In Romania the policy has failed.
>
> Experience with the Soviets has shown that it's important not to let transgressions pass. On Romania there is no reason why President Reagan should continue to leave the high road on this issue to Congress. He has the right under existing law to suspend Romania's most-favored-nation status, as he had the right to act on Poland's trade status. He does not have to wait for the trade bill to reach him. Indeed, the president can follow his own precedent of 1983, when he stared down Mr. Ceausescu over Romanian plans to impose an "education tax" on emigrants. The lesson of Mr. Gheorge's tragic fate lends urgency to resolute action.

THE 10TH ANNIVERSARY OF "POLICY REVIEW"

The SPEAKER. Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 5 minutes.

Mr. WALKER. Mr. Speaker, the 10th anniversary issue of Policy Review has just been published, and I think it is time for at least some of us to pause and think about what that 10 years has meant and what this publication has meant in that 10-year period.

Policy Review, as most people know, is the flagship publication of the Heritage Foundation. Ten years ago, when this magazine came into being, we had a conservative movement that was looking for focus. The conservative movement had not yet found that it had to be more than an opposition movement, and when the Policy Review and the Heritage Foundation began their work, it began to find an intellectual framework in which conservatives could present policy options in Congress and to the country. The Policy Review has been a major factor in having conservatives address the country in terms of policy alternatives. It has not only just talked about the political climate of the Nation, it has in fact in large measure helped to shape the debate of the last 10 years.

This 10th anniversary issue is entitled "Ten Years that Shook the World." That is literally true. Because of the kinds of policy alternatives that were chronicled in Policy Review, conservatives have taken control of not only the agenda of this country but also of much of the world. Much of the world, looking at the Reagan revolution and what has gone on in this country, has in fact been able to parlay that into victories for conservative policy ideas in other parts of the world.

So I take this time just to say congratulations to Policy Review for the kind of intellectual formulation they have done for conservatives over a period of years and for the kind of policy alternatives they have presented to the Nation over those same years, and I would hope we would see Policy Review for another decade and for decades to come, because it is a publication that all of us can take pride in.

PENSACOLA HONORED AS AN "ALL-AMERICAN CITY"

The SPEAKER pro tempore (Mr. SAWYER). Under a previous order of the House, the gentleman from Florida [Mr. HUTTO] is recognized for 5 minutes.

Mr. HUTTO. Mr. Speaker, it is with great pride and pleasure that I take this opportunity to focus America's attention on Pensacola, a city in Florida's First and finest District, which has been honored as an "all-American city." The honor was bestowed by the National Civic League upon only 8 cities from over 300 entries around the country.

The National Civic League looks for cities that best exemplify a smooth relationship among the citizens, business, and Government in working to solve local problems. Without a doubt, Pensacola is a fine and excellent example of this criteria.

The efforts of the Pensacola Downtown Improvement Board should be noted as they were instrumental in their city's selection as an "all-American city." The board was responsible for downtown development and rejuvenation, in particular the Palafox Place project which added $31 million to the central business district's taxable property values, and sparked over $40 million in additional redevelopment efforts. Also, a revolving loan fund was created by Community Equity Investments, Inc. in order to provide for the establishment or expansion of 17 small business. As a result, over 103 jobs were created.

Recently, officials from the city of Pensacola were honored by President Reagan in the White House, an honor which was certainly deserved. Pensacola is a beautiful and wonderful city that serves as a model to others, and I am proud to have it in the First Congressional District.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

[Mr. DORNAN of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

[Mr. ANNUNZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

A NEW EFFORT ON TRANSPORTATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. PARRIS] is recognized for 5 minutes.

Mr. PARRIS. Mr. Speaker, I take the floor this afternoon to extend my congratulations, appreciation, and support to those who are responsible for the formation of the Northern Virginia Transportation Alliance. This new organization is a bipartisan citizens group, dedicated to achieving the completion at an early date comprehensive, regionally coordinated, balanced transportation improvements.

The alliance operates from the presumption, quite accurately in my opinion, that northern Virginia is one of the finest places in America to live with good jobs and excellent schools, health care, parks, recreation and cultural activities. The one thing northern Virginia doesn't have is an adequate, well-planned regional transportation system.

The central thrust of the NVTA is not to merely advocate transportation improvements—northern Virginians are nearly unanimous on that score—but to help change the way government makes the decisions to improve transportation. The alliance advocates a comprehensive regional transportation system to replace the piecemeal decisionmaking process involved in 20 State, regional, and local governmental organizations.

To accomplish this goal, the alliance is calling for active citizen involvement to ensure that elected officials act promptly and funds are used effectively to build the regional system we need for the 21st century. Current estimates show that more than $3 billion will be needed to accomplish the creation of a regional transportation system over 20 years—and as we know, the accuracy of this estimate greatly depends on the relative efficiency of government spending decisions.

I believe that the alliance will help us take the next logical step in our efforts to improve transportation. We do not need any more hand-wringing studies telling us how bad traffic is—we already know that. The suggestion that we need more professional studies to tell us how bad things are is ridiculous. We need action to implement those plans and projects on the drawing board today, and to find a solution to the circumstances that are intolerable for all of us.

THE LOST OPPORTUNITIES

Many people speculate that the cause of today's transportation problems are the result of excessive growth. But growth was never unexpected. I can tell you that, because 25 years ago, as a member of the Fairfax County Board of Supervisors, I helped draft and approve plans to deal with the expected growth in the county. To paraphrase the poet, what we have here is a case of "The Road Not Built."

In the 1960's, we proposed an outer beltway, to help redirect nonlocal traffic around the metropolitan area. The idea is still being debated by transportation bureaucrats.

In the 1960's, we proposed a bypass around Springfield to help ease the problem of intracounty traffic. Just last week—25 years later—the Fairfax Board gave final approval to the plan to complete the bypass.

In the 1960's, we proposed the Monticello Freeway to move traffic rapidly from the District of Columbia to Charlottesville—a diagonal route that allowed for improved intrastate transportation.

In the 1960's, we proposed the Potomac Freeway, which would have reduced traffic on Route 1, by allowing a direct expressway to run between the District and the Springfield bypass, roughly parallel to U.S. 1. This would have dramatically reduced congestion in Alexandria but still remains to be built.

In the 1960's, we proposed new lanes for Routes 1, 15, 123, and 234. Yet in many cases, these projects are still waiting to begin.

This system was scheduled for completion in 1985. But was never built for lack of public support and foresight by government officials. In the 1960's, as a member of local government, I voted for and strongly supported the Washington Area Metro Subway System which now, 20 years later is still only about 60 percent constructed and operating. We are suffering today from many years of sporadic and tentative policies and of inadequate attempts to solve our transportation problems.

Instead of finding ourselves commuting to work in relative ease, we face our current condition of near-constant gridlock on many of our vital roadways.

WHERE WE ARE TODAY

Northern Virginia includes just 4 percent of the State's secondary roads, but they carry more than one-quarter of all of the State's traffic on such thoroughfares. Some primary roads, such as Route 50 in Fairfax County, are used by twice as many, and in some stretches three times as many cars as a decade ago. Interstates 66 and 95 are badly overloaded and literally the day they opened for use the number of vehicles exceeded their designated capacity. And they have been operating like that for many years.

The average Prince William County commuter spends 2 or more hours on the road each business day getting to and from work. In terms of productivity and family time, each Prince William commuter loses about 250 hours per year, 8 commuters lost a total of 1 work year—about 2,000 hours—and 35 commuters, and there are thousands of them, lose the equivalent of an entire year of life—about 8,760 hours.

More alarmingly, traffic safety is eroding. In 1986, there were 85 fatalities in 75 auto accidents. In 1985, 58 died in 55 accidents. In addition, the average response time for ambulances in Fairfax—while still exemplary compared to certain other area services—has risen by a full minute since 1978; and average response times to fires has increased dramatically.

Perhaps these problems are best illustrated by a story told in an area newspaper recently by a Virginia State trooper. The officer said:

> One new recruit responded to a crash on northbound I-95 during the morning rush hour and investigated it like they teach at the police academy. He had the distances measured and the position of the vehicles recorded. Well, another, more experienced trooper, came up on the scene and approached the new recruit. 'John,' he said, 'you're doing well, you're doing very well. But the people in Fredericksburg (about 50 miles away) are wondering why all these

horns are blowing! Get these cars off the road—now!

My point in bringing out just some of the critical elements of the traffic problem in northern Virginia is to illustrate the urgency of immediate action.

ACTIONS WE CAN TAKE NOW

Today, there are many elements in place to support transportation improvements in our region. First, the existence of resources—particularly revenues—are available for immediate action. The Commonwealth's current Governor has initiated a transportation program combining Federal funds and new State revenues together in a coordinated, far-reaching effort to begin vital road construction. Not only do I support the Governor's efforts, but I actively lobbied the Virginia General Assembly urging them to support the proposal. Where transportation is concerned, in my opinion, partisan politics must take a back seat. There is no identifiable partisan interest in a traffic jam from which all of us suffer.

There is tremendous public support for—in fact, demand for—constructive transportation solutions. Quite frankly, people are willing to pay higher taxes, if they know the additional revenue will be used to improve regional transportation. Although I believe America's citizens are supplying enough of their income to support government activities, transportation improvements may be the one exception to that situation. If additional funds are required they must be found and utilized.

New resources are available for area governments, including the improved distribution formula for State highway funds, the authority to issue road bonds and establish transportation tax districts. I recently became involved in a remarkable intergovernmental effort to study ways to coordinate private and local government funding formulas in combination with Federal and State spending to insure the completion of Metrorail funding for the Springfield/Franconia extension. This would be in addition to the more than $200 million in major road improvements paid for by employers, builders, and developers.

Most importantly, there are a healthy number of transportation options before us that we can begin work on now. We need to emphasize mass transportation options for commuting into the District of Columbia. The completion of the full Metrorail system must be accomplished, or else the system will never meet its full potential. In northern Virginia the Van Dorn station and the Springfield/Franconia station will greatly improve the utilization and efficiency of the Metrorail system and ease traffic congestion.

One of the most vital systems with enormous potential for northern Virginia is the commuter rail system from Manassas and Fredericksburg. This system, anticipated to be operating in 1989, will be the equivalent of building an entire lane along the I-95/I-395 corridor, greatly easing highway congestion. I am very proud of my role in helping to bring this system about. In 1973—over 15 years ago—when no one thought it was practical, we ran a demonstration train from Manassas to the District to show the feasibility of this idea. It is unfortunate, and expensive, that it has taken that period of time to make that idea a reality, but it is indeed a welcome aspect of our regional transportation solutions.

In addition, we need a more elaborate express and feeder bus system to metro and commuter rail stations. We need more community parking facilities. It should be possible for people to get from one part of the region to another without too much difficulty on public transportation.

These are ideas that can be, and should, and indeed must be implemented now. There are other creative ideas, such as monorails, and even hydrofoils, that can be studied later in greater detail, that may offer hope for large-scale improvements in the future.

Of course, these systems involve traffic headed into the District. But we must realize that the traffic patterns have shifted dramatically over the last few decades. In 1960, only 30 percent of the county's work force stayed in the Fairfax area each day. By 1972, according to the Metropolitan Washington Council of Governments statistics, the figure was 40 percent. Today, fewer than one-half of Fairfax workers go downtown, and in the future the number will be still lower as employment centers in the suburbs grow.

We will need a strong emphasis on transportation within the region, rather than into the District. For instance, the Springfield bypass, sometimes called the Fairfax Parkway, must be built as soon as possible. The outer beltway is a necessary and essential part of the program—including a new Virginia-Maryland bridge in Prince William County that will help reduce traffic on the I-495 beltway. A new transportation corridor to provide an alternate route for interstate traffic will greatly relieve congestion, particularly during rush hour.

New lanes have been planned for, and must be built on I-95 to ease traffic congestion south of the beltway, and a workable system must be developed to adjust HOV restrictions when the situation merits it.

And, of course, we must continue the program administered by the State and financed in part by Federal dollars, to improve and expand our existing transportation infrastructure. There is less room for new roads in Fairfax than there was 25 years ago, but we still possess the technology and ability to improve the efficiency and capacity of major roads in the region.

IT'S WORTH THE PRICE OF VICTORY

There can be no doubt that the source of our area's greatest problem is the fact that we have been so successful. But I do not believe you can say we've been too successful—rather we have not yet met the challenges imposed on us by our economic blessings. According to rankings released by City and State Magazine, Fairfax County is in the second best financial shape of any large political jurisdiction in the Nation—and Arlington and Prince William County finished in the top 50. The annual unemployment rate for our region is only 2.4 percent, and the overall property value of Fairfax County alone soared by over $4 billion last year alone. In addition, the county's job market has grown by 32 percent since 1980.

What we need now is action and the implementation of a strategic, comprehensive regional approach to transportation in northern Virginia. I salute the efforts by the Northern Virginia Transportation Alliance to educate the public and work to make this regional approach a reality.

The alliance has hit upon a simple, but frequently overlooked, fact that when Americans get together and unite to attack a problem, there is almost nothing, no matter how seemingly insurmountable, that cannot be conquered.

Together, with the combined talent of private citizens, entrepreneurs, and Government officials engaged in a nonprofit, nonpartisan, public benefit program, we have the ability to overcome the naysayers and doomsday prophets and make one of the best areas of the country an even better place to live and work.

We can do no less in the satisfaction of our responsibilities.

A FEDERAL BALANCED-BUDGET AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Idaho [Mr. CRAIG] is recognized for 60 minutes.

Mr. CRAIG. Mr. Speaker, I again take a special order this evening to discuss with Members of this House Joint Resolution 321. To myself and 234 of my colleagues, that represents a constitutional amendment to our Federal Constitution requiring a balanced budget. In all of the years that I have served this Congress, now 6½ years, I have never seen a time when our budget considerations for the public policy of this country were not in part determined by our Federal debt and our level of deficit spending, and yet, as that has remained a major concern of this House, a major concern of this administration to view where we were in 1981 to where we are today would demonstrate that someone apparently does not care.

□ 1750

During that period of time, and during all of those hours of rhetoric about budgets and fiscal responsibility and the votes necessary to make it so, that deficit that I talked about in my 6½ years has risen 56 percent.

That is why I, and 234 of my colleagues, are now convinced, along with 85 percent of the American public, that the only way this House can bring some semblance of fiscal responsibility and order to our Government and its budget is through a constitutional amendment requiring a balanced budget.

In our special order this evening, I will be joined by other Members to discuss the ramifications of a constitutional amendment requiring a balanced budget; and at this time I would like to yield to the gentleman from Texas [Mr. STENHOLM], who has worked with me over the years along with several other of our colleagues, to make this one of the leading issues that we believe it is today, not only across the Nation but here in this 100th Congress.

Mr. STENHOLM. Mr. Speaker, I thank the gentleman for yielding, and again for providing for this 1 hour to continue the discussion of the proposed constitutional amendment to balance the budget, and to review for all, the support for this has never been greater.

Thirty-two States have now called for a Congress to either pass a balanced-budget amendment or convene a constitutional convention.

In 10 or more States, one house of the legislature has approved a call to Congress to either pass a balanced-budget amendment or convene a constitutional convention.

Thirty-nine States have provisions in their State constitutions requiring balanced budgets.

We will hear from the gentleman from Alabama [Mr. HARRIS], in this regard in just a moment.

Support in the Congress, again in the 99th Congress, 220 House Members cosponsored House Joint Resolution 27, the Craig-Stenholm-Smith bill. Majority support was reached on December 5, 1985.

Also in the 99th Congress, 101 House Members cosponsored House Joint Resolution 642 by the gentleman from Delaware [Mr. CARPER].

Last year, the Thurmond-Simon-Hatch-DeConcini balanced-budget amendment failed by 1 vote in the other body, 66 to 34.

This year, as the gentleman mentioned, we had 233 House Members as original sponsors of this legislation. I am happy to report tonight we are up to 235 Members, 55 short of the two-thirds required to pass the balanced-budget constitutional amendment.

The conclusion that I reach tonight as we continue to press for a vote in the House this year, the 200th anniversary of the Constitution of the United States, to the House leadership and to the Committee on the Judiciary, let us let the normal democratic legislative process of the House work, give a substantial majority of the House the meaningful up-or-down vote it is demanding on this important issue, hold the necessary hearings, send House Joint Resolution 321 to the floor of the House for full and fair consideration.

Let us allow all Members to represent their constituencies, all 250 million Americans which are speaking to us loudly and clearly.

As we have mentioned before, the CBS-New York Times opinion poll conducted May 11 through May 14, 1987 on the question that was asked, "Would you favor or oppose a constitutional amendment requiring the Federal Government to balance its budget?" and 85 percent said "Yes," 10 percent said "No."

The support of the American people is there for a well-crafted amendment, and we think we have one offered.

There is no pride in authorship in our particular version. If it can be improved on, let it be improved on, but put a constitutional restraint on the President of the United States and the Congress to act in a fiscally responsible manner.

Mr. CRAIG. Mr. Chairman, I thank the gentleman from Texas, and I can only agree with the point the gentleman has just made.

It is now time for this House to take action. It is no longer a time for rhetoric, a time for excuses, no longer a time to point fingers, for there are many others who would like to point down to Pennsylvania Avenue and say, "It is you. Mr. President, you are the reason for the deficits. You are the reason for the debt. You have not presented a balanced budget."

There is truth in that, but there is truth in pointing the finger at our own House. This House in the 6½ years that I have served here has not developed a balanced budget, nor has it made an effort to, so clearly it is a mutual responsibility.

That is why our amendment for the first time calls for the President to submit to Congress a balanced budget, and for both the legislative and executive branches to agree on the figures of the revenue coming in, so that we can start from a common baseline in determining the national priorities of this country in establishing our budgets.

It is clearly time that this House and the leadership of this House give the Members the opportunity to hear the issue, debate the issue, vote the issue, and let the American people decide.

Mr. Speaker, I yield to the gentleman from North Carolina [Mr. BALLENGER], who has at an early time with his seniority here in Congress chosen to take this most important issue up and to become a leader in it.

Mr. BALLENGER. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, as a rookie Member of the 100th Congress I know I have to learn how the game is played in the House of Representatives. What concerns me even more, however, is that what we appear to be doing, and what many people think we are doing, is playing games.

The biggest game in town during this session concerns our budget deficit. I didn't learn that from listening to our debates here, because the word obviously hasn't yet reached these lofty heights.

But the folks in my district know what's going on in this country. I suspect people in your district are also aware of the danger we face by not following commonsense rules in weighing priorities.

For several weeks we have been voting on appropriations bills. Unless I'm mistaken, it is at this point that we should begin taking a whack at the deficit. So what have we been doing? It's just the same old game of spend and spend and spend some more.

So what's the problem? Well, it is the opinion of a rookie—and one who has spent some time here sitting and watching—that what this Congress needs is a balanced-budget amendment to return fiscal responsibility to our Government. By using the moral force of the Constitution and increasing the level of difficulty for deficit spending and for raising taxes, a balanced-budget amendment will force the Congress and the President to make the tough budget choices that must be made. Discipline will be returned to the budget process while maintaining flexibility to cope with unforeseen circumstances in times of crisis.

Refusing to cut spending—and thereby guaranteeing that we continue to build on the deficit is a ticket to disaster. Unless we get down to real business and start working our way out of the hole we've dug for ourselves, the Nation itself may be in very serious trouble.

I believe the voters in my district elected me to make tough decisions. I don't believe they are waiting with their hands out for us to pass another spending bill that is loaded with pork-barrel and special projects that are deceivingly self-serving.

John Kennedy said it best; It's time for us to stop asking what our country can do for us and start asking what we can do for our country. What we can do for our country today is to stop the game playing right now, in this historic Congress, and try to pass the balanced budget amendment.

It's time the 435 Members of the House did what's best for this country, we can and must get our financial affairs in some semblance of order. We need to have the courage to change the rules of the game such as passing a balanced-budget amendment. If we take our responsibility seriously, we can win the battle against the deficit.

Mr. CRAIG. Mr. Speaker, I would like to thank the gentleman from North Carolina for joining in this special order, and for providing for the Members those very valuable thoughts.

I do not know of any other issue in this country today, if it had behind it the kind of statistics that we have just heard in the last few minutes, that 85 percent of the American people support the issue that we are speaking of tonight, that now 235 Members of the House support it, that clearly a majority of all concerned believe this is the proper avenue to go, then why is it not happening?

Why is not there being allowed hearings? Why are we not debating it on the floor? The simple answer is, it is not being allowed by the leadership; and that is why we make this appeal tonight to the leadership of the House to give the Members the opportunity to allow the rules and the processes of the House to work, to have full hearings before the Committee on the Judiciary, because as the gentleman from Texas and I readily agree, we have no pride of authorship, although we believe our amendment to be a good one.

We believe our amendment to be one that will work for the betterment of fiscal responsibility in Government. Most importantly, if the process works, if the hearings are proper, if the amendments are allowed to come, then this body can craft a balanced-budget amendment to the Constitution that will serve us well.

Mr. Speaker, I yield to the gentleman from Alabama [Mr. HARRIS] who again as a new Member of this body has chosen to take this issue and lead with us on it for the well-being of our Government, but most importantly, for the well-being of our Nation. I thank the gentleman for joining us.

Mr. HARRIS. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I am pleased to have this opportunity to speak before Congress about a very important subject, the balanced budget amendment, House Concurrent Resolution 321. Congressman STENHOLM introduced this bill on June 17, 1987 with 233 House sponsors. I urge my colleagues, who have not already cosponsored this bill to consider this resolution more carefully.

House Concurrent Resolution 321 represents a coalition of supporters from many parts of the country. In fact, this legislation has evolved from several earlier versions of similar legislation. These pieces of legislation during the 99th Congress included House Joint Resolution 27, Senate Joint Resolution 13, House Joint Resolution 643, and Senate Joint Resolution 225.

Today, we have resolved our differences and combined our efforts to support one bill, House Concurrent Resolution 321. This measure contains three important sections: section one requires that both the Congress and the President agree to a joint resolution prior to each fiscal year, which would estimate Federal revenues. All budget resolutions that followed those figures would have to stay within those estimates. This step is extremely important, as it would end the discrepancies between OMB and CBO estimates. Section two would require that Congress pass legislation that would increase revenues or reduce spending, if the Federal outlays exceeded previous estimates. Public debt could only be increased if three-fifths of the entire membership of each House would provide by law for such an increase in debt. Section three would require that the President submit a budget prior to each fiscal year which meets the figures agreed to earlier.

I believe this bill will help to streamline the budget process. Presently, we have a very complicated, cumbersome process. Let me outline the major steps involved in passing the Federal budget each year:

First, during the first week of each fiscal year—usually the month of January—the President must submit a budget proposal for Congress' review.

Second, by the end of February, each of the House committees must submit views and estimates of Federal outlays to the House Budget Committee.

Third, usually by the middle of April, the House Budget Committee will submit a budget resolution for consideration by the entire House.

Fourth, if by May 15, the budget resolution has not been agreed to by both Houses, the appropriations bills may be considered. All of these bills are supposed to be reported to the House by the beginning of June.

Fifth, a conference committee is set up to resolve differences between the House and Senate versions of the budget resolution. This conference report is usually considered sometime in late June to early July.

Sixth, during the month of August, OMB/CBO take a "snapshot" of the Federal deficit projections for the coming year.

Seventh, as required by the Gramm-Rudman law, the OMB/CBO must then issue a fiscal year 1988 sequestration report if the Congress has failed to pass a budget before this.

Eighth, this report is referred to the temporary Joint Committee on Deficit Reduction. They report their bill in the month of September. A vote must be completed before October 1, when the new fiscal year begins. The President must also sign this resolution, in order for the funds to be released.

Ninth, after this initial resolution, Congress completes a final sequestration report, and then votes upon it. The President must agree to the report, and then funds are released.

This year, we have worked hard to keep ourselves close to the schedule described above. However, each of the budget resolutions brought forth has required increased revenues. In my State, many of my constituents have personally appealed to me to not tax more of their personal income.

I would like now to turn my discussion to my home State, Alabama. Ten years ago, the Alabama legislature joined in the fight to demand a balanced budget, when on August 18, 1976, House Joint Resolution 227, was passed. I would like to read an excerpt from that resolution:

> Whereas, with each passing year this Nation falls more deeply into debt as our expenditures grossly and repeatedly exceed available revenues, so that the public debt is now in excess of hundreds of billions of dollars; and
>
> Whereas, the annual Federal budget continually demonstrates an unwillingness or inability of both the legislative and executive branches of the Federal Government to curtail spending to conform to available revenues; and
>
> Whereas, unified budgets do not reflect actual spending because of the exclusion of special outlays which are neither included in the budget nor subject to the legal public debt limit; and
>
> Whereas, knowledgeable planning, fiscal prudence, and plain good sense require that the budget reflect all spending and be in balance, * * *
>
> Be it resolved by the legislature of Alabama, both Houses thereof concurring, that the Legislature or Alabama hereby petitions the Congress of the United States that procedures be instituted in the Congress to add a new article to the Constitution of the United States, and that the Alabama legislature requests the Congress to prepare and submit to the several States an amendment to the Constitution of the United States * * *.

I believe their request is both clear and urgent. We need to bring this discussion up as soon as possible. Next week this Congress will be discussing the Federal debt ceiling. It was only 2 months ago that we passed a temporary increase in the Federal debt level. Now we have already reached the point where that debt is quickly approaching our new ceiling. We cannot, as a body, continue to offer 2 month solutions to a yearly problem. The Congress must learn to plan in both the long and short term. Businesses have to adhere to a balance sheet, as we should learn to do.

My home State of Alabama has had a balanced budget requirement in its State constitution since 1933. This amendment to our 1901 constitution was adopted following a Brookings Institution study of our State finances. At that time, the State had over-extended its own credit, and much as today's Third World nations, faced the prospect of default on its public obligations. I would like to quote a section of this amendment to the Alabama constitution, because its provisions have real teeth in them, including criminal penalties and the threat of impeachment, should responsible State officials fail to adhere to its requirements.

And I quote:

> To prevent further deficits in the State Treasury, it shall be unlawful from and after the adoption of this amendment for the State Comptroller of the State of Alabama to draw any warrant or other order for the payment of money belonging to, or administered by, the State of Alabama upon the State Treasurer, unless there is in the hand of such treasurer money appropriated and available for the full payment of the same. In case there is, at the end of any fiscal year, insufficient money in the State Treasury for the payment of all proper claims presented to the State Comptroller for the issuance of warrants, the Comptroller shall issue warrants for that proportion of each such claim which the money available for the payment of all said claims bears to the whole, and such warrants for such prorated sums shall thereupon be paid by the State Treasurer. At the end of each fiscal year all unpaid appropriations which exceed the amount of money in the State Treasury subject to the payment of the same after the proration above provided for, shall thereupon become null and void to the extent of such excess. Any person violating any of the provisions of this amendment shall, on conviction, be punished by a fine of not exceeding five thousand dollars, or by imprisonment in the penitentiary for not more than two years, one or both, at the discretion of the jury trying the same, and the violation of any provisions of this amendment shall also be ground for impeachment.

The drastic provisions of this amendment have had the desired effect. There have been years in which State revenues, due to unexpected economic downturns, failed to keep pace with appropriations. In those years we saw across-the-board reductions in all State expenditures. While this certainly worked a hardship in those particular years, it provided the necessary discipline to the Alabama Legislature to prevent rampant overspending for every seemingly worthwhile project.

The last three Members from Alabama to represent this district, Armistead Seldon, Walter Flowers, and RICHARD SHELBY, have all advocated action to restore a balanced Federal budget. If one looks back at the size of the deficit when my predecessors voiced their concerns, the figures seem miniscule. The debt ceiling exceeds $2 trillion. Payment of interest on this debt is the third largest expenditure by the Federal Government, consuming some 4 percent of our total gross national product. In our financial markets this massive Government borrowing has helped maintain real interest rates and has consumed capital which industry needs to increase productivity. It has also had the effect of turning America into a financial debtor nation, as we must finance our deficits through the massive influx of foreign capital. While to the casual observer the idea of financing our deficits with foreign capital is attractive, we must realize that when the bill comes due, it can only be paid through export earnings, of which we have none, or by a net reduction in our standard of living. It is interesting to me that everyone in Government condemns this deficit, but instead of actually reducing the deficit, the Government can hardly control the rate of increase. In 1981 the deficit was $998.8, billion and we have now seen it double in only 5 years.

Mr. Speaker, we must take action on this problem, and it is apparent that without having such action mandated by the Constitution, neither the executive nor the legislative branches can muster the will or the political courage to take the necessary steps.

I would be glad to discuss this subject in depth, with any Member who has questions. Again, let me emphasize how important this resolution is. I hope all of you will consider my views carefully. Please support House Concurrent Resolution 321. Thank you, Mr. Speaker.

□ 1805

Mr. CRAIG. Well, Mr. Speaker, I thank the gentleman from Alabama for his thoughtful comments and for reflecting with us how the citizens of the State of Alabama deal with with their State budgets. As we know, clearly a majority of the States of this Nation require a balanced budget by their constitution and it is a law that is not violated. There are many here who would like to save, but the National Government is different. They cannot operate like a State operates, yet we know that there is not all that much difference in the fact that a constitutional amendment requiring a balanced budget does bring about the kind of fiscal restraint and fiscal responsibility that the gentleman has mentioned goes on in the State of Alabama. That is true in my State of Idaho. I think it can also be true with this Government and this Congress in a similar provision, and I thank my colleague.

Mr. SHUMWAY. Mr. Speaker, will the gentleman yield?

Mr. CRAIG. I yield to my colleague, the gentleman from California [Mr. SHUMWAY], who has stood for years in this Congress as a Representative who firmly believed in a balanced budget amendment to our Constitution and has demonstrated that kind of fiscal responsibility with his vote.

Mr. SHUMWAY. Mr. Speaker, I appreciate the opportunity to express my very strong views concerning the need for a balanced budget amendment this afternoon and I would like to thank my colleagues, the gentleman from Idaho, LARRY CRAIG and the gentleman from Texas, CHARLIE STENHOLM for requesting this special order today and giving me some time.

As one who has sponsored legislation providing for such an amendment since my initial election to Congress, I am especially pleased to be among the 230-plus House Members who have endorsed this most recent effort. Much as I would like to see our membership achieve budgetary balance voluntarily, the dismal record of deficit spending accrued over the past four decades leaves little doubt that such is hardly likely to be the case. Unlike those who claim that a simple statute would suffice, I realize that the many statutes already on the books to prohibit deficit spending are routinely ignored.

Just a few weeks ago, in his address to the Nation, President Reagan reiterated his commitment to what he called an economic bill of rights. He urged us to take every possible step to enact this amendment, pointing out that Americans want, and need, less government spending, lower taxes, manageable interest rates, and freedom from inflation. Critical to the success of that program is bringing the budget to heel. In fact, our burgeoning deficit is a major concern not only to us as Americans and, indeed, my own constituents have once again ranked it our greatest national problem, but to all our major allies and trading partners as well.

Representing as I do a State which is prohibited from running up unlimited debts, I can attest to the success of such a prohibition. No doubt my colleagues from all 42 States with constitutional requisites for budgetary balance could second that statement.

As introduced, our bill would require Congress and the President to agree that total outlays in any given fiscal year shall not exceed revenue estimates, unless three-fifths of both Houses vote otherwise. The measure would also limit taxes: No tax increase could go into effect without a majority vote in both Houses, by rollcall vote. Finally, the bill provides for systematic repayment of the national debt. All these provisions could be waived in time of war, a realistic observance.

I am not proud of the fact that Congress appears to need a constitutional cattle prod to practice fiscal responsibility. Nonetheless, I believe the time has long since past for us to postpone action on this effort. More than half our membership endorses the constitutional amendment approach, and I believe the measure would readily gain the support of an even larger number of voting and taxpaying Americans. Indeed, recent polls reflect as much as 85 percent of the American public applauding the balanced budget amendment.

Recently, we went through the annual sham of elevating the debt ceiling to $2.32 trillion, for just 60 days. Next week, we will again be called upon to participate in this irresponsible ritual, and ritual it is: For 18 straight years, Congress has been forced to increase the debt limit. To me, that foolishness simply confirms the fact that there is no budget process; it further confirms that we are losing the war against the deficit. Clearly, the balanced budget amendment is the weapon of choice in that war.

If enacted, this legislation will not only tame the deficit—it will also ensure our childrens' futures, removing some of the mortgage now confronting them, and would also enhance our image as a responsible leader in the international community.

Thank you again for the opportunity to express my support for this much needed effort.

Mr. CRAIG. Mr. Speaker, I thank my colleague, the gentleman from California, for participating with us this evening in this special order.

Congressman Shumway mentioned the activities that this House must engage itself in next week to solve the fiscal dilemma that we have confronting us and that is the need to spend more money in relation to the budget; therefore, the necessary requirements to raise the debt ceiling beyond the $2.3 trillion existing mark.

Last year in fiscal year 1986, the Federal deficit, the amount of money that this Government borrowed, not taxed, but borrowed from the economy, accounted for $3,198 per American household. Interest payments alone on this $2.3 trillion debt that we are talking about arrived at the amount of $1,537 per American household.

Now, any kind of cursory examination of those kinds of figures would tell us that we have a major problem, if not a true budget crisis. That is why I am sure that the American public agrees with us, and now clearly a majority of this House agrees with us, that an approach, a most valuable tool in the war against the deficit and the Federal debt, would be a balanced budget required amendment in the Constitution.

□ 1820

I now would like to turn to my colleague from Texas, Joe Barton, who has joined with us in this effort and who has been a leader in fiscal responsibility in this House, and I appreciate him joining with us in this special order.

Mr. BARTON of Texas. I thank the gentleman for yielding, and I want to also thank Congressman Stenholm for holding this special order. Today is a very special day for me. It is my daughter's 12th birthday, and when I leave this special order I am going out to a local restaurant to a birthday party. Unfortunately, one of my daughter's birthday presents today is going to be a $10,000 deficit, which is her portion of the Federal debt as it stands today.

That is not a birthday present that I am very happy about and I am hopeful that with the leadership of the gentleman from Idaho [Mr. Craig] and the gentleman from Texas [Mr. Stenholm], and the gentleman from Delaware [Mr. Carper] and others in the Congress that we are going to do something about that in the next week and in the next months ahead.

When I understood that the gentleman from Texas [Mr. Stenholm] was going to hold this special order I decided to do a little research about the national debt, and try to find out how large it is and how fast it has been growing and when it began to grow. I obtained a little blue book called "The United States Budget in Brief for Fiscal Year 1987."

This little book has the President's recommendations on how he thinks the money should be spent. We do not all agree with that, but there are some tables in the back that are just factual in nature. One of them is on page 93, it is table No. 9 entitled, "Total Receipts and Outlays, 1789-1991," and 1789 was when we signed the Constitution, or 2 years after we signed the Constitution, and it includes actual facts and then estimates for next year and the next 3 years until fiscal year 1991.

I found out that this year, 1987, is going to be the 19th straight year that we have had a deficit in this country. The previous record number of years was from 1931 until 1946, when we had 16 consecutive years that we ran annual Federal deficits.

If you are a historian you realize that 1931 was in the midst of the Great Depression and then the early 1940's was World War II. The previous record for consecutive Federal deficits was the Great Depression years and then World War II. Now we have not had a great depression beginning in the year 1970 when our deficit run began. We have not had a great war. What we have had is an explosion in spending and absolutely no discipline in fiscal responsibility. So we have had 19 consecutive years of deficit spending. Unless we pass the balanced-budget amendment or one very similar to it, who knows what the record is going to be. Is it going to be 25 years, is it going to be 30 years, 50 years, will we ever balance the budget again in this country?

I think not, unless we act on the balanced budget amendment.

Some people say that the reason we have these deficits is because we have cut taxes too much. We have reduced our receipts.

I have checked into that and I have found out that in 1980 our tax receipts were $517 billion. It is estimated that this year our receipts are going to be $850 billion. So we have had an increase in receipts of over $300 billion.

How much has our spending risen in that same amount of time?

It has gone up from $590 billion, and this year it is expected to be $994 billion.

So it is not that we do not have enough taxes, enough receipts, the plain facts are that we are spending more money than we are bringing in and we are continuing to do it indefinitely.

I think that we ought to pass this balanced budget amendment. I think we ought to shoot for September 17 to pass it and have it on the President's desk, which is the date that the Constitution was signed 200 years ago in Philadelphia, and I think we need to begin the battle immediately next week when we vote on this supposedly clean debt ceiling. To me there is nothing clean about it at all. It shows an act of fiscal irresponsibility to continue to borrow money. If we vote on a clean debt ceiling next week we are voting to borrow more money between next week and October 1 than the entire budget was in 1939, 1940, 1941, right before we got into World War II.

So the time has come. I hope that we vote against the debt ceiling increase unless there is a Gramm-Rudman fix. I hope we vote yes on a constitutional amendment to the Constitution requiring a balanced budget and I hope we do it on or before September 17.

I submit for inclusion in the Record at this point the table referred to:

TABLE 9.—TOTAL RECEIPTS AND OUTLAYS, 1789–1991

[In millions of dollars]

Fiscal year	Receipts	Outlays	Surplus or deficit (−)
1789–1849	1,160	1,090	+70
1850–1900	14,462	15,453	−991
1901	588	525	+63
1902	562	485	+77
1903	562	517	+45
1904	541	584	−43
1905	544	567	−23
1906	595	570	+25
1907	666	579	+87
1908	602	659	−57
1909	604	694	−89
1910	676	694	−18
1911	702	691	+11

TABLE 9.—TOTAL RECEIPTS AND OUTLAYS, 1789–1991—Continued

[In millions of dollars]

Fiscal year	Receipts	Outlays	Surplus or deficit (−)
1912	693	690	+3
1913	714	715	−(1)
1914	725	726	−(1)
1915	683	746	−63
1916	761	713	+48
1917	1,101	1,954	−853
1918	3,645	12,677	−9,032
1919	5,130	18,493	−13,363
1920	6,649	6,358	+291
1921	5,571	5,062	+509
1922	4,026	3,289	+736
1923	3,853	3,140	+713
1924	3,871	2,908	+963
1925	3,641	2,924	+717
1926	3,795	2,930	+865
1927	4,013	2,857	+1,155
1928	3,900	2,961	+939
1929	3,862	3,127	+734
1930	4,058	3,320	+738
1931	3,116	3,577	−462
1932	1,924	4,659	−2,735
1933	1,997	4,598	−2,602
1934	2,955	6,541	−3,586
1935	3,609	6,412	−2,803
1936	3,923	8,228	−4,304
1937	5,387	7,580	−2,193
1938	6,751	6,840	−89
1939	6,295	9,141	−2,846
1940	6,548	9,468	−2,920
1941	8,712	13,653	−4,941
1942	14,634	35,137	−20,503
1943	24,001	78,555	−54,554
1944	43,747	91,304	−47,557
1945	45,159	92,712	−47,553
1946	39,296	55,232	−15,936
1947	38,514	34,496	+4,018
1948	41,560	29,764	+11,796
1949	39,415	38,835	+580
1950	39,443	42,562	−3,119
1951	51,616	45,514	+6,102
1952	66,167	67,686	−1,519
1953	69,608	76,101	−6,493
1954	69,701	70,855	−1,154
1955	65,451	68,444	−2,993
1956	74,587	70,640	+3,947
1957	79,990	76,578	+3,412
1958	79,636	82,405	−2,769
1959	79,249	92,098	−12,849
1960	92,492	92,191	+301
1961	94,388	97,723	−3,335
1962	99,676	106,821	−7,146
1963	106,560	111,316	−4,756
1964	112,613	118,528	−5,915
1965	116,817	118,228	−1,411
1966	130,835	134,532	−3,698
1967	148,822	157,464	−8,643
1968	152,973	178,134	−25,161
1969	186,882	183,640	+3,242
1970	192,807	195,649	−2,842
1971	187,139	210,172	−23,033
1972	207,309	230,681	−23,373
1973	230,799	245,707	−14,908
1974	263,224	269,359	−6,135
1975	279,090	332,332	−53,242
1976	298,060	371,779	−73,719
TQ	81,232	95,973	−14,741
1977	355,559	409,203	−53,644
1978	399,561	458,729	−59,168
1979	463,302	503,464	−40,162
1980	517,112	590,920	−73,808
1981	599,272	678,209	−78,936
1982	617,766	745,706	−127,940
1983	600,562	808,327	−207,764
1984	666,457	851,781	−185,324
1985	734,057	946,323	−212,266
1986 est	777,139	979,928	−202,789
1987 est	850,372	994,002	−143,630
1988 est	933,179	1,026,765	−93,585
1989 est	996,115	1,063,619	−67,504
1990 est	1,058,096	1,093,848	−35,752
1991 est	1,124,039	1,122,716	+1,323

[1] $500 thousand or less.

Note.—Data for 1789–1933 are for the administrative budget; data for 1934 and all following years are for the unified budget.

Beginning in 1937, includes amounts for social security trust funds that are off-budget.

Mr. CRAIG. I thank the gentleman from Texas for those statements and now yield to my friend, the gentleman from Texas [Mr. STENHOLM].

Mr. STENHOLM. I thank the gentleman from Idaho for yielding, and I would like to briefly follow on the comments of our colleague from Texas [Mr. BARTON] and point out that what we are talking about today is part of an overall budget effort to do something rather than just talk about it.

For years now we have done a good job of talking about the deficit without action. Our colleague pointed out that next week we are going to have an opportunity on the debt ceiling increase to do something, and I hope that our colleagues were listening at this moment because one of the things that we must do, I believe, is to put an absolute hair trigger back into Gramm-Rudman to force the President and this Congress to come to grips with the balanced budget prospect.

What do I mean by balanced budget prospect? Everyone basically has agreed, or perhaps not everyone, but most everyone has agreed that in order to bring about a balanced budget, in order for this amendment, should we be successful, and we expect to be, in order for this amendment to pass in the House and pass in the Senate, and sending it out for ratification, it will be 1991 or 1992 at the earliest before it will be law. But if it should become law in 1992 without us doing something step by step year by year we would be in the same fix that we would be in were we to have to balance the budget this year under a constitutional restraint.

It would be nigh on impossible to do.

Therefore, in terms of we in west Texas in trying to put some west Texas tractor seat common sense into an approach, the balanced budget amendment is one part of it. A second part of it is going to be Gramm-Rudman-Rostenkowski-Chiles, or whoever it might be, in putting together an absolute box on spending so that we have to meet our target. If the newly agreed upon target for fiscal year 1988 happens to be $144 billion, then so be it. Put us in the box and say do it.

I think we will come to the proper conclusions at that time.

A third part of this effort has been going on in this Chamber over the last several weeks. Many of us, unfortunately not always a majority of us, have tried to cut a little spending. Obviously, if you are going to do something about balancing the budget, we are going to have to cut spending. Spending is what has gone up. Revenues available to the Federal Government as a percentage of our GNP have gone down. Spending has gone up.

Yet we day after day fail to get 218 votes in this House to cut 2 percent here, 4.7 percent here. Well, the chickens are going to come home to roost one of these days, I believe. If 85 percent of the American people want us to pass a constitutional restraint on the Congress and the President to balance the budget, then I would suppose that somewhere out there at some point in time politics is going to get involved. We are supposed to be representing the majority of the people, and yet we know there is a tremendous lobbying effort going on right now to turn around some of those of us who have cosponsored this legislation saying this is not what we need.

The pressure is on. What we are hoping to do today is to reverse build that pressure to say not only to the 235 who have cosponsored this, you happen to be agreeing with 85 percent of the American people, and those other 55 we need, listen, look at the 3-part plan. If you want to add a fourth part, do it, but the bottom line is we must come to an organized effort of how we deal with the spending habits, the deficit spending habits, of this Congress. That is what we are all about today. That is why it is so important that we look seriously at an added tool, that is what we are talking about today.

We must also recognize that there are other parts of this effort that must play an equal role or we in fact will be unsuccessful.

I thank the gentleman for yielding.

Mr. CRAIG. I thank my colleague. I would now like to turn to my colleague from California, Congressman KONNYU.

Mr. KONNYU. Mr. Speaker, I thank the gentleman from Idaho for yielding.

Let me first of all tell you why I am here. A couple of weeks ago I was here on the floor and I heard the ranking Republican from the spending committee, the Appropriations Committee, and the ranking Republican from a subcommittee attack other Republicans who were offering what I at least thought, Mr. Speaker, were reasonable amendments to cut spending. What happened was that, of course, the reasonable cuts were defeated. Of course, I looked at the results of spending cuts after spending cuts and what I found was the majority party time after time, three-quarters of them at least, were voting for more spending and against reasonable spending cuts.

First I want to establish that the hope in Congress to cut spending is very, very low.

The second reason I am here is I come from the California Legislature, and the California Constitution has a balanced budget element in it and so we were able to time after time, even under trying circumstances, even when we had major economic problems in California, balance the State budget. We were able to do it in a reasonable way through compromise by both parties working for it, together with the Speaker Willie Brown, of the California State Assembly, who is known everywhere as a true liberal's liberal. Yet Speaker Willie Brown stood with the Governor and with the president pro tem of the senate and created a compromise in 1983 when we had our last major budget crisis and we were able to do that, that is to balance the State budget, in a fair and reasonable manner that responded to, if I remember correctly, over 60 percent of the State legislature in a favorable way.

I know that the balanced budget amendment has great hope for it working here at the Federal level. I know that this Congress is hopeless in terms of stopping spending, so let me now go into my prepared remarks which outline other specific points.

Mr. Speaker, those for the balanced budget amendment and those against the balanced budget amendment have weighed in all the rhetoric to support their respective positions. And while defending their position they always point the finger of blame for the budget deficit at the other guy.

Some say the deficit is the President's fault because he never submitted a balanced budget to Congress. Others say the Congress is to blame for the deficit because they always waive the Budget Act and pass budget-busting bills. Some even say the deficit is the fault of the American people because they want spending programs but don't want to pay taxes necessary to fund those programs.

I say, who cares.

Who is to blame for the deficit is neither here nor there in the eyes of the American people. What the American people want is no more budget deficit.

As much as I am ashamed to admit it this Congress isn't going to do away with the budget deficit unless and until they are bound by the Constitution to do so.

□ 1835

No other branch of Government can appropriate funds and until the Congress does so in a reasonable manner, we will have red ink as far as the eye can see until Congress is forced to do so.

There are laws on the books, not rules of the House, but public laws which demand Congress stay within the budget resolution and Congress won't even abide by those laws.

Nothing short of a constitutional amendment is going to save the American people from their own elected officials. Public pressure hasn't balanced the budget. We don't abide by laws forcing us to work toward a balanced budget.

The bottom line is, it is going to take an amendment to the Constitution.

Some say the Constitution is a perfect document and shouldn't be amended. I say every time a new amendment has been added to the Constitution this Nation has gotten a little bit better. An amendment to balance the budget would make this Nation a lot better.

Furthermore, when the Constitution was written the authors presupposed their successors in Congress would have some restraint. Well, this body has never met a spending program it didn't like. There is no restraint here. This House has not defeated an appropriations bill since June 1983.

This body scoffs at the President the vast majority of the times he comes to the Hill for legislation. This is especially true of his budget. But let the President come up with a new spending program and Congress leaps forward. Today's vote on the catastrophic illness bill is a perfect example.

My colleagues, I wish we did not have to come here tonight. I wish the President would submit to Congress a balanced budget. I wish Congress would then act on that balanced budget changing only priorities but leaving the end result in balance. That has not happened since 1969.

Do you not think 18 years of folly is sufficient evidence to the fact we need to do something serious with respect to the budget process?

It is hard to remember your original objective was to drain the swamp when you are up to your neck in alligators. Folks, we are up to our necks in something far more devastating than alligators.

We are up to our neck in a debt that is the main cause of the trade deficit, higher interest rates, astronomical tax payments, and the rising interest costs to the Federal Treasury.

Let's drain the swamp. Let's pass the balanced budget and tax limitation amendment to the Constitution.

Mr. CRAIG. I thank my colleague from California for those observations, for his involvement, his leadership and the tough votes that he makes in behalf of fiscal responsibility here in the Congress. At this time I would like to yield to my colleague from Delaware, Congressman TOM CARPER. Congressman CARPER has in past years introduced balanced budget amendments of his own, has joined with me, our colleague from Texas, Congressman STENHOLM, Congressman from Oregon, Mr. SMITH and now 235 total sponsors in building the coalition that represents that number here in the House today in support of the constitutional amendment requiring the balanced budget. I certainly yield time to my colleague from Delaware.

Mr. CARPER. I thank my friend from Idaho for yielding.

I am honored to be a coauthor of our balanced budget amendment to the Constitution. I thank the gentleman in the well and my friend, CHARLIE STENHOLM for their leadership on this issue.

I am inclined to respond to the comments made by the speaker who immediately spoke before me. Let me just say with regard to the President, I do not want this to turn into a partisan battle over whether it is the executive branch's fault on the budget or whether the fault lies solely with the Congress. Let me just say it took the worst collective efforts of Democrats and Republicans to put us in this mess. It took the worst efforts of the President and the legislative branch over a number of years, including the last 6, to get us into this mess; it is going to take the best collective efforts of all of us to get out of this mess. That is why we are here today in a bipartisan way pushing for the adoption of this amendment to our Constitution.

I think this last week a number of us shared a wonderful time in Philadelphia. We were there in commemoration of the first Constitutional Convention the time during which representatives of 12 States gathered to debate the Constitution that was being written and to actually vote on certain aspects of that Constitution.

One of the most compelling arguments as far as I am concerned for the adoption of a balanced budget amendment to the Constitution is to better insure that we do not have another Constitutional Convention in 1988 or 1989 or 1990 to reopen Pandora's box and to do or to undo or redo much of what was done by our forefathers 200 years ago.

Thirty-two States have now completed call for a Constitutional Convention in order to consider the adoption of a balanced budget amendment. If a Constitutional Convention were held, not only would the issue of the balanced budget amendment be on the table but so would a whole slew of other issues, many of which, as far as I am concerned, are better left out of the Constitution and better left out of the debate at this time.

I do not want to see at this time a Constitutional Convention. I think the best way to make sure that we do not reopen that Pandora's box is to craft and to adopt a reasonable and a flexible balanced budget amendment to the Constitution.

I think that is exactly what Mr. CRAIG, Mr. STENHOLM, Mr. SMITH and I have crafted and I think that is why so many of our colleagues have joined us in cosponsoring it. I would just like to mention a couple of points in our amendment that really have not gotten as much attention as some other points have. We generally acknowledge that the amendment does not mandate a balanced budget every year, but what it does beginning in 1991 it would require a super majority, three-fifths vote of the House and three-fifths vote of the Senate if we are going to spend more money than we expect to raise.

Another point that is fairly well known is the fact that we say in our amendment that we make it tougher to raise taxes, that we need a rollcall vote to raise taxes, at least a majority of the Members of the House 218 Members and 51 Members of the Senate in order to raise taxes, unlike the current situation where you can raise taxes with 2 or 3 people, as many as we have on the floor this evening, to raise taxes. We do not want to do that. We want to make it more difficult. Those are the points that I think are well known.

Some points that probably receive less attention but I think are nonetheless important, one dealing with our development of a revenue figure as the basic building block for adopting a budget. A major reason why we have such big budget deficits is because we use unrealistic revenue estimates. Our basic building block in the first place if flawed. This administration and previous administrations overestimate economic growth and subsequently they overestimate revenue that will be generated in any single year.

We in the Congress more often than not make the same mistake of adopting or going along with, albeit grudgingly, that faulty, flawed revenue estimate.

When the revenues do not come in as high as anyone officially forecasts, we end up with a much bigger deficit than anyone had officially forecast.

In my State of Delaware a number of years ago we had the same problem. We could not agree on a good revenue number, we generally overestimated the revenue number and as a result we had a bigger deficit than we wanted.

What we learned to do was to devise a mechanism whereby the house and senate and the Governor would have to agree, through the adoption of a joint resolution, on a revenue number for the budget prior to the adoption of that budget.

A number of States have a plan just like that, very similar to that. What we have done in our balanced budget amendment is borrowed from that successful experiment in my State and in other States and say that we are going to have at the beginning of the process a joint resolution in which the U.S. House and the U.S. Senate and the President will be required by our Constitution to formally agree on a budget revenue number. I think that would probably be of all the components of our amendment one that would have the potential of being the most constructive.

The second important requirement is I am tired of Presidents talking about balanced budgets. I would like to have a President who proposes balanced budgets.

Our balanced budget amendment requires future Presidents to propose balanced budgets, to propose balanced budgets. It gives them the alternative to propose a second budget that is not in balance but we would like to have from future Presidents at least one budget each year that is in balance.

I will conclude by just saying that not long ago I saw a flowchart, the likes of which I had never seen before. It was a flowchart that dealt with the flow of capital around the world, savings around the world.

What that flowchart indicated was that money that is saved in a particular country does not necessarily stay in that country but it is generally loaned to other places around the world.

Japan, for example, historically very strong savers, West Germany and other places in Europe, historically strong savers; we in the United States are paltry savers. We have a very low savings rate. We look at capital flows in the world today and we find that as that capital is being accumulated a fair amount of it comes from Japan and Western Europe into a pot, if you will, and then it is distributed from there.

Roughly $5 billion goes to LDC's, the less developed countries, roughly $5 billion or so goes to some of the newer industrial countries, maybe $15 billion goes to the traditional industrial countries, $125 billion in 1986 came to us, $125 billion; the lion's share of the capital flow in the world came to the United States.

The reason why is because we are living beyond our means.

Not a good situation, one that we have got to clear up.

My hope, and Mr. STENHOLM here talked about some of the things we are doing in an ongoing way on the appropriations bills trying to limit the growth, he talked about making a constitutional fix of Gramm-Rudman. But my fear is that the $160 billion deficit that we are going to see this year, if we did not have economic growth or sustained strong economic growth right now, if we were in the throes of a depression or a recession that $160 billion would look more like $260 or $360 billion.

We have to act now before that happens.

This balanced budget amendment is part of the blueprint, part of the roadmap to get us from here to a position where our country is back on the right track toward fiscal responsibility, fiscal sanity.

I thank the gentleman for sponsoring the colloquy.

Mr. CRAIG. I thank my colleague from Delaware for his leadership and his involvement.

Mr. SOLOMON. Mr. Speaker, some say that a constitutional amendment requiring a balanced Federal budget would deprive the Congress of its fiscal privileges. I say that a balanced budget amendment is required because Congress has already abused those privileges. A balanced budget amendment is a necessary regulation to extricate the Nation from its deficit woes. It is a responsible act that should be supported.

That is why I am proud to be a sponsor of the Stenholm-Craig balanced budget amendment, House Joint Resolution 321. I would encourage endorsement of this resolution simply because it is a responsible means by which Congress can guarantee spending within the budget limit year by year.

House Joint Resolution 321 sets forth the stipulation that total outlays for a fiscal year shall not exceed the level of estimated receipts, except by a three-fifths vote by both Houses of Congress to authorize an excess of outlays over estimated receipts. It also requires that the President submit to Congress a proposed budget in which spending does not exceed total revenue. In my opinion, this resolution is a viable means to control overspending and bring the nation out of the red.

I have been a strong supporter of a balanced budget amendment since I came to Congress. A balanced budget amendment would tell every Senator and Congressman that a balanced budget should be the normal circumstance—and that a deficit budget should be an exception to the rule which is taken only under extraordinary circumstances. In fact I have introduced my own balanced budget amendment, House Joint Resolution 239, that would require equal levels of total budget outlays and Federal revenues. A deficit budget must be agreed to by a two-thirds vote of both Houses of Congress should there exist a condition danger to national security.

It is our responsibility as legislators to require a balanced budget because it is a mandate for honesty and accountability in Government. Before Congress could spend billions of dollars on any program, a responsible choice would have to be made on spending priorities. If Government wants to spend, it should have to choose among competing interests, set priorities for them within available revenues, or openly vote to raise taxes or run a deficit if it can't do either.

The amendment would require Congress to live within its means and eliminate the unnecessary spending. Outlays would have to be limited to what was originally planned. The amendment would change the framework of Federal fiscal policy: not just by limiting what Government could take from the people, but by forcing Government to choose and be accountable for what it does.

It took this country 200 years to build the first $500 billion deficit. It then took an overspending Congress 5 years to accumulate the second $500 billion deficit. So this problem cannot be solved in a month or a year. We would have to cut $180 billion this year to balance the budget, which is not at all realistic. With the help of a balanced budget amendment, Congress could control this immense deficit within 5 years while giving Congress the latitude it needs to deal effectively with economic circumstances as they develop. I urge my colleagues to offer the necessary bipartisan sponsorship to see that a balanced budget amendment becomes a reality.

Mr. GALLEGLY. Mr. Speaker, I am pleased to participate in this special order supporting House Joint Resolution 321, the balanced budget amendment to the Constitution. At the outset, I would also like to thank Congressmen CRAIG and STENHOLM for organizing this special order.

Mr. Speaker, the bottom line is that the country needs a balanced budget constitutional amendment. The U.S. Congress can't seem to exercise the fiscal restraint necessary to control Government spending, balance the budget, and eliminate the obscene deficits that we are incurring each year.

The Gramm-Rudman law was enacted to impose fiscal responsibility on the Congress under the threat of across-the-board cuts or sequestration. Yet Congress is already beginning to ignore the Gramm-Rudman deficit targets. For fiscal year 1988, the deficit target is $108 billion, but the Congressional Budget Office and the House Budget Committee recently announced that the true deficit figure for fiscal year 1988 will be $150 billion. If we wish to avoid a tax increase, which I adamantly oppose, we must cut Government spending and the best way to do this is to constitutionally require that Congress pass a balanced budget each year. In fact 42 States, including my home State of California, have constitutions which require a balanced budget.

For these reasons, I am a proud cosponsor, along with 233 of my colleagues, of House Joint Resolution 321. This joint resolution proposes an amendment to the Constitution requiring that the total Federal outlays for any fiscal year shall not exceed the level of estimated revenues unless three-fifths of the total membership of each House of Congress approve of this budget through a rollcall vote. Although I oppose the type of deficit spending this bill would allow with a three-fifths vote, passage of this amendment will at least force each Member to take a clear stand on the related issues of deficit spending, and a balanced Federal budget.

Mr. Speaker, the time has come to pass a balanced budget amendment to the Constitution. I urge the leadership of the House to expedite this process, and I urge my colleagues who have not cosponsored House Joint Resolution 321, to join us in this great endeavor.

Mr. HERGER. Mr. Speaker, I rise today in support of House Joint Resolution 321. This resolution seeks to balance the Federal budget and restore the trust of the American people in this critical area of fiscal reform.

Many of my colleagues have focused on the current need for such an amendment to the Constitution. They have been both eloquent and informative. I would like to explore the possible consequences of such legislation in the hopes of allaying concerns that such action will have a harmful effect on the welfare of the people of this great land.

I believe that as a native Californian and a former California State assemblyman, I am able to offer a unique perspective on this question. As many of you know, California was one of the first States to incorporate a balanced budget provision into its Constitution. The past 4 years of Governor George Deukmejian's term in office serve as proof that life under the shadow of such an act can not only be tolerable, but often very beneficial.

The State of California has had a balanced budget for 4 straight years. During each of those years the State assembly and the Governor's office have not only brought the 1982 deficit of $1.5 billion under control but have managed to accumulate an emergency fund totalling nearly $1 billion. This is a remarkable achievement in itself. What is evern more impressive is the fact that Government services, from education to welfare programs, have not suffered in the least. In fact, in the past 4 years State spending on education has increased by over $4 billion, or more than 40 percent. This is proof that State moneys are being spent wisely thus benefiting taxpayers and those needing services alike.

Many of my colleagues have expressed concern that this amendment will necessitate some form of tax increase, or "revenue enhancement" as some in this Chamber prefer. If the experience of my home State of California is any indication this need not be the case. California has not resorted to any tax increases during the last 5 years, yet it has payed off a $1.5 billion deficit and has balanced the budget with money to spare. This achievement is no miracle; no act of God. It is simply careful management of the taxpayer's hard earned dollars. We should expect no less from the Congress of the United States.

Our Founding Fathers gave this body a great power: The power of the purse. Along with that great power comes a great responsibility: to spend tax revenues with care. Unfortunately, that has not always been the case and we have let short-term local interests infringe upon the long-term interests of this Nation. This amendment offers us a light at the end of the deficit tunnel that seems to lengthen year by year.

Thank you.

Mr. ARCHER. Mr. Speaker, this discussion is taking place tonight because the congressional budget process has failed—and we need something other than that process to force the Congress to live within the taxpayers' means.

That's a horrible admission to have to make—that the elected leaders of this Nation are incapable of managing the fiscal affairs of the country—but it's painfully true.

The budget process has failed because the majority in Congress has never learned to say "no" to demands for spending money that we don't have.

It is painfully clear that we need more than a budget process that doesn't work. We need a budget process that does work—a constitutional amendment which will mandate a balanced Federal budget with spending restrictions.

For years, the majority in Congress has resisted attempts even to vote on our amendment. We have been stymied every step of this way.

When will they learn that they cannot get by only with trying to give an impression of concern about the deficit—rather than to take firm, forceful action to eliminate it?

As a result of a devastated regional economy—a subject I've discussed before the House on prior occasions—the government of my home State of Texas is now in the throes of its own budgetary nightmare. In relative terms, it rivals the dilemma we are facing at the national level.

There's one significant difference. The State of Texas will in fact eliminate its deficit, because its Constitution requires the State to operate under a balanced budget. The members of the Texas Legislature will balance the State's budget because they have no choice. They will make the tough decisions because they have no choice.

They accept that as part of their responsibility as elected State officials. They are sworn to uphold the State's constitution—including its requirement that they adopt a balanced budget.

They can't get away with speeches calling for a balanced budget—and then not deliver when the decisions must be made.

I know that Texas is not alone in that regard. I'm sure that the governments of virtually every State represented here tonight have similar constitutional requirements for a balanced budget.

Why not the Government of the United States of America? Why does this governmental body have the blatant irresponsibility to pass on its accumulating debt to future generations of its citizens?

Because we have no balanced budget constitutional requirement which we have sworn to uphold.

We're here tonight—and I commend my colleagues Mr. CRAIG and Mr. STENHOLM for requesting this time—to try to eliminate that void in our Federal Constitution.

House Joint Resolution 321 is the tool we desperately need to force the Congress to face up to its fiscal responsibility.

It is the responsible approach to eliminating the irresponsible approach Congress has taken for years in meeting its fiscal obligations to the taxpayers of this Nation.

Its provisions are well known. It has been before the Congress for a number of years. There is nothing mysterious about it.

All that is missing is an opportunity for every Member of this body to stand up and be counted.

So here we are tonight again demanding that opportunity so that we can finally provide the American people with a budget process in which they can place their confidence. When you stop to think about it, that isn't really very much to ask.

Mr. CRAIG. I would like to recognize my colleague from Kentucky, Congressman BUNNING. We have about 3½ minutes left in this special order.

Mr. BUNNING. I thank the gentleman from Idaho for yielding.

Mr. Speaker, the primary argument I have heard, repeated over and over, against the idea of a constitutional amendment requiring a balanced budget is that it would be overly restrictive and put the Federal Government in a straitjacket.

I personally don't think it is a very good argument because when it comes to spending policy, the record is pretty clear—Congress deserves to be put in a straitjacket.

When a person totally loses control, it becomes necessary to restrain him to prevent him from harming himself or the people around him.

What is it going to take to convince us that Congress has totally lost control and needs to be restrained? What is it going to take to convince this body that we do not have the institutional will power to control ourselves when it comes to passing out money?

This Congress has become a danger to the people around us—the people who depend on us to represent them. What is it going to take to make that message sink in.

We have 18 straight years of deficit budgets. For those 18 years, Congress has talked about the need to balance the budget and get spending under control but it obviously cannot do it on its own. We need some restraint and it has to be imposed from outside.

Congress instituted a budget process which was supposed to help it get its financial house in order but all I have seen in my 6 months here is budget waiver after budget waiver to allow us to ignore our self-imposed budgetary restrictions. I have yet to see a balance sheet of any kind.

Some years ago, Congress went so far as to pass a law which required a balanced budget but it was ignored, buried and repealed the next year.

Congress passed a law requiring deficit reductions on a regular schedule and it started to work, but then when the Supreme Court said a portion of that law was unconstitutional, Congress ignored the spirit of that law and refused to put the teeth back in that law.

And this Congress has proven this year that the will power just isn't here. We have talked a great deal about reducing the deficit but when the opportunity comes up to do something about it, we have found excuses.

GENERAL LEAVE

Mr. CRAIG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on the subject of my special order today.

The SPEAKER pro tempore (Mr. SAWYER). Is there objection to the request of the gentleman from Idaho?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. FEIGHAN] is recognized for 60 minutes.

[Mr. FEIGHAN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

□ 1850

The SPEAKER pro tempore (Mr. SAWYER). Under a previous order of the House, the gentleman from New York [Mr. MOLINARI] is recognized for 60 minutes.

[Mr. MOLINARI addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. ROYBAL] is recognized for 60 minutes.

[Mr. ROYBAL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

[Mrs. BENTLEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. EDWARDS] is recognized for 60 minutes.

[Mr. EDWARDS of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Hampshire [Mr. GREGG] is recognized for 60 minutes.

[Mr. GREGG addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. FLORIO] is recognized for 60 minutes.

[Mr. FLORIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

THE PROPOSED FEDERAL BALANCED BUDGET AMENDMENT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Indiana [Mr. BURTON] is recognized for 60 minutes.

Mr. BURTON of Indiana. Mr. Speaker, I am going to start my special order by yielding to the gentleman from Kentucky [Mr. BUNNING] so he can conclude his remarks on the previous special order.

Mr. BUNNING. Mr. Speaker, I thank the gentleman from Indiana for yielding. We will conclude our remarks in a very short order on the balanced budget amendment.

Mr. Speaker, in this body, we have approved eight major spending bills and every one of them with the exception of the military construction appropriation, called for more, not less, spending than we approved last year. That is not the way to reduce the deficit, and we all know it.

We made a token 2 percent across-the-board cut in the Transportation appropriation but it still ended up almost $600 million higher than last year's.

We did make a token 2.45-percent cut in the Commerce appropriation bill, but it still ended up $347 million higher than last year's.

On the Interior appropriations bill, this body rejected a modest 2-percent cut and boosted that spending bill over $1 billion.

On the Treasury appropriations, we initially passed a 4.5-percent cut only to reverse field the next day and ended up with $1½ billion more in spending. The legislative appropriation was increased 5.5 percent, energy and water went up $1.14 billion. And Housing and Urban Development spending was boosted nearly $2 billion.

Mr. Speaker, that is not the way to reduce the deficit. We are proving once again, as Congress has for the past 18 years, that we simply cannot cope with deficits on our own. There is too much temptation to spend and too much pain in budget cutting for us to voluntarily restrain ourselves.

We need a straitjacket.

We need some outside restraint imposed on Congress to hold its feet to the fire and restore some sanity to our budget.

House Joint Resolution 321 would provide the restraint we need. It would be the straitjacket we need to keep from harming ourselves and destroying the future for our children and grandchildren, yet leave us the flexibility to deal with emergencies.

Congress has already inflicted on the American people a $2.3 trillion mountain of debt. That, Mr. Speaker, is irrational.

When you have 9 children and 12 grandchildren as I do, you think a great deal about what the future will be like for them. And, if the past 18 years are any indication, if the past 6 months that I have been here are any indication, those kids are in big trouble unless we do something.

Mr. BURTON of Indiana. Mr. Speaker, I thank the gentleman for his illuminating remarks, and I want to say that I must congratulate him on his 9 children and 11 grandchildren.

Mr. BUNNING. Mr. Speaker, I thank the gentleman for yielding to me.

Mr. HASTERT. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I yield to my colleague, the gentleman from Illinois.

Mr. HASTERT. Mr. Speaker, I thank the gentleman from Indiana for his gracious offer to extend his time for us, and I would also like to thank the gentleman from Idaho [Mr. CRAIG] and the gentleman from Texas [Mr. STENHOLM] for providing this time to discuss the urgent need for a balanced budget amendment and fiscal responsibility by the Congress.

The gentleman from Kentucky [Mr. BUNNING] who preceded me talked about the need for constraint, the need to get our own house in order. That need is very, very real.

Not too many weeks ago I joined with many of my freshman colleagues on this House floor to urge a bipartisan response to the need for budget reform and deficit spending. We are now quickly approaching the deadline for debt extension legislation, and still we have not tackled long-term solutions to what I feel is the most serious economic problem facing our Nation. We hear the words, "fiscal responsibility," used time and time again in this body, on this very floor, but we fail to act upon our own words.

If I was to behave at home with my own checkbook as Congress behaves with the Nation's checkbook, I would have to face very grave circumstances. I wonder how many Americans realize that almost $1 out of every $4 the Federal Government spends goes toward servicing our enormous Federal debt. That is interest. Perhaps we had better pay that debt before we ask our citizens to fund additional programs and to assume additional taxes. Let us at least get our books in order long enough to find out how serious our problems really are. That is only fair.

The balanced budget amendment has received overwhelming support in this Congress, as it has in past Congresses for simple reasons: It is sensible, it is logical, and it makes good common sense. Never mind the fact that it is essential for our Nation's long-term economic health.

I call on the leadership of this body to recognize the consensus achieved by the membership on this floor to allow this issue and this legislation to come before the full House for consideration. Only then can we separate those who prefer action from those who prefer rhetoric.

Recently I sent a survey to every resident of my congressional district asking their views on some economic issues. When asked how the debt should be reduced, an overwhelming 94 percent said that Congress should cut spending. I knew this to be true when I ran for election to this body last year, and I am now armed with the facts. I now want to go back to those very same constituents who said, "Cut spending, don't raise taxes," and tell them, those who answered that survey, that I brought the issues, along with my colleagues, to the floor of this House, and I hope to tell them after September 17 of this year that we are successful, that we can be problem solvers, that we can find solutions to these problems. This legislation, the balanced budget amendment, is the answer that I want to give them. I hope soon to have that opportunity.

Mr. Speaker, I thank the gentleman from Indiana for yielding, and I thank the gentleman from Idaho and also the gentleman from Texas for presenting this issue before us.

Mr. CRAIG. Mr. Speaker, will the gentleman yield?

Mr. BURTON of Indiana. I am happy to yield to my colleague, the gentleman from Idaho.

Mr. CRAIG. Mr. Speaker, let me thank my colleague, the gentleman from Indiana, for allowing a few minutes of his special order to our colleagues here in the House who support this balanced budget amendment. I thank the gentleman certainly on behalf of the gentleman from Illinois and the gentleman from Kentucky and all those who joined tonight in this special order. As I said earlier, they make a very large bipartisan coalition here in the House that we believe is strong and growing, and I hope that this special order and others that we have held and more that we will hold will send a clear message to the leadership of this House that it is now time to schedule a date for hearings before the Judiciary Committee and that it is now time to schedule a date on this floor when the Members of this House can work their will on this issue and vote it up or down, so we can at least turn to the American people and say that we honored their wishes by bringing this issue to the floor for the consideration of the U.S. Congress.

It is unfair to the citizens and the taxpayers of this country to continually, year after year, lock this matter up in committee, realizing that everybody supports it but never allowing a vote. We hope that that is what the leadership of the House will do this year in the 100th Congress. We hope they will give our Members an opportunity to vote.

Mr. Speaker, I thank the gentleman for yielding some of his time to us.

Mr. BURTON of Indiana. Mr. Speaker, I will be happy to yield anytime to my colleague, the gentleman from Idaho, because he has his finger on the pulse of the people of this country. They want a balanced budget amendment.

Most of the States have provisions in their constitutions like the one we have proposed here at the Federal level. I think it is a laudable objective, and we really ought to get behind the gentleman and get it passed. I am glad that I am one of the signatories to that piece of legislation. The people of this country certainly do not want a tax increase. They want to cut spending.

A FACTUAL PRESENTATION RELATIVE TO ASSISTANT SECRETARY CHESTER CROCKER

Mr. BURTON of Indiana. Tonight, Mr. Speaker, I have a special order that is kind of unique, and I hope that my colleagues who may be watching in their offices will have a chance to hear this because it has so much to do with the Iran-Contra hearings and what is going on here in Washington.

Mr. Speaker, much has been made in the ongoing Iran-Contra hearings about "the privatization of foreign policy" and lower level officials taking matters into their own hands "from the White House basement." As it turns out, those who early on accused Lt. Col. Ollie North of being a loose cannon seem to be having second thoughts.

My special order tonight is about what may be a worse case of lying to Congress, taking policy into you own hands, and keeping fundamental policy decisions away from the President. The case I have in mind is that of Chester Crocker, the Assistant Secretary for African Affairs at the State Department.

Chester Crocker has lied to a congressional committee, maintains his own secret negotiator who is not even listed in the State Department directory, and has been pursuing a failed negotiating track in southern Africa without Presidential approval.

Just last month Chester Crocker testified before the Africa Subcommittee on Foreign Affairs, of which I am ranking member, that "We have not, in the State Department, sought to inhibit the operation of Radio Marti as far as the situation in Angola is concerned." That was a flat-out lie.

According to the Chairman of the President's Advisory Board on Radio Marti, Chester Crocker has "systematically" opposed Radio Marti's efforts to cover the war in Angola. Per capita, more Cubans have died and are dying in Angola than Americans in Vietnam. Radio Marti was created by Congress to broadcast news of Cuba of interest to the Cuban people. Yet Chester Crocker has maintained that Angola is none of Radio Marti's business!

On March 4 of this year, Chester Crocker blocked a trip to Angola by the News Director of Radio Marti. Today I, and other Members of Congress have asked the Office of Special Investigations of the Government Accounting Office to get the facts behind this incident.

Tonight, however, I would like to discuss another matter concerning Chester Crockert and the Africa Bureau at State. That question is: Who is Robert Cabelli?

Mr. Speaker, the entire Iran-Contra investigation revolves around the premise that the executive branch circumvented the law with the purpose of carrying out a foreign policy inconsistent with the legislated will and direction of the Congress. Particularly galling to the critics of the Iran-Contra diversion scheme are those who claim Oliver North was an unappointed, low-level operative with authority that overreached his position.

Yet, the same folks crying "Foul" over the Iran-Contra mission sometimes ignore similar questionable executive conduct. A case in point is Robert Cabelli, whose authority and power beyond his title resembles that of the much maligned Oliver North.

Robert Cabelli, for most of us who have never heard his name, is essentially the No. 2 man in the Africa Bureau of the Department of State, although that high ranking is not apparent in the Bureau's structure on paper. Mr. Cabelli, I am told, travels widely around in Africa, serving as a de facto and unappointed ambassador-at-large, in effect conducting foreign policy and secret missions on behalf of his patron, the Assistant Secretary for African Affairs, Chester A. Crocker, and with no accountability to Congress. The executive branch has the constitutionally mandated power to appoint ambassadors, but not with the circumvention of the ambassadorial nomination and clearance process.

Mr. Cabelli never seems to make any appearances on Capitol Hill with Mr. Crocker, and has no known accountability to Congress. How are we to assess our country's Africa policy when one of the two key players in implementing that policy is not only available to Congress but is virtually unknown to us? I am ranking Republican of the African Affairs Subcommittee and confess that I had never heard of Mr. Cabelli until last week.

Certainly, Mr. Crocker is not well known for his rapport with Congress. Perhaps Mr. Cabelli could be more forthcoming. At State, Mr. Cabelli seems to be a mystery man, his activities shrouded in darkness, deliberately kept concealed from not only the Department, but also the entire Federal Government, including the Congress. Yet Mr. Cabelli appears always to be involved in southern Africa. Little else is known about him or his activities.

Who is this man with so much power and freedom of action? Why are his activities so clandestine? What are his qualifications for this critical post? How was he selected for such an important assignment? Why are we in Congress left in the dark about Mr. Cabelli?

Mr. Speaker, I intend to ask many more questions about Mr. Cabelli and his role in the Africa Bureau, questions which I hope will enlighten Congress about exactly who in that Bureau is making policy decisions with such deep ramifications for national security. I hope to receive answers to my questions, and urge that Assistant Secretary of State Crocker be forthcoming in his answers. For starters, he should produce Mr. Cabelli for us, in open hearings, so that we can question Mr. Cabelli about his role in policy formulation and implementation.

I trust that the light which Mr. Cabelli can shed on the formulation and implementation of our Nation's Africa policy will promote a better understanding between the executive branch and Congress so that we can work hand in hand toward a foreign policy which serves the best interests of the U.S. Government.

□ 1905

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California [Mrs. Boxer] is recognized for 30 minutes.

[Mrs. BOXER addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.)

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. Barton] is recognized for 60 minutes.

[Mr. BARTON of Texas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. Miller] is recognized for 60 minutes.

[Mr. MILLER of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. Dymally] is recognized for 60 minutes.

[Mr. DYMALLY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. Bonior] is recognized for 60 minutes.

[Mr. BONIOR of Michigan addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

COMMUNICATION FROM CHAIRMAN OF COMMITTEE ON THE BUDGET REGARDING CURRENT LEVEL OF SPENDING AND REVENUES FOR FISCAL YEAR 1987

(Mr. DERRICK asked and was given permission to extend his remarks at this point in the Record and to include extraneous matter.)

Mr. DERRICK. Mr. Speaker, on behalf of Chairman William H. Gray III, pursuant to the procedures of the Committee on the Budget and section 311 of the Congressional Budget Act as amended, I am submitting for printing in the Congressional Record the official letter to the Speaker advising him of the updated current level of spending, credit, and revenues for fiscal year 1987. The most recent current level report of this session of Congress was filed on June 10, 1987. Since that report, Public Law 100-71, making supplemental appropriations for fiscal year 1987, and Public Law 100-72, a bill to amend the Small Business Act and the Small Business Investment Act of 1958, have been signed into law; changing budget authority and outlay estimates for fiscal year 1987.

The term "current level" refers to the estimated amount of budget authority, outlays, credit authority and revenues that are available—or will be used—for the full fiscal year in question based only on enacted law.

Current level reports are intended to provide Members information to compare enacted spending and revenues with the aggregate ceilings on budget authority, outlays, and revenues established in a budget resolution; and also to compare enacted legislation with the allocations of new discretionary budget authority, entitlement authority and new credit authority made to a committee pursuant to subsection 302(a) of the Budget Act as amended. This report compares the spending, credit and revenue levels in current level with those assumed in the budget resolution for fiscal year 1987—Senate Concurrent Resolution 120—adopted on June 26, 1986.

Current level reports provide information that is necessary for enforcing section 311 of the Budget Act, as amended. Subsection 311(a) prohibits the consideration of a spending or revenue measure if the adoption of that measure would cause the ceiling on total new budget authority or total outlays set in the budget resolution for a fiscal year to be exceeded or would cause revenues to be less than the appropriate level of revenues set in the budget resolution.

Subsection 311(b) provides an exception to the 311(a) point of order for measures which would breach the ceilings on total spending set in the budget resolution but would not cause a committee to exceed its "appropriate allocation" of discretionary spending authority made pursuant to section 302(a) of the Budget Act. Such an exception was first provided by the budget resolution for fiscal year 1985 (House Concurrent Resolution 280, 98th Congress). The exception was made permanent by the amendments to the Budget Act included in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177, Gramm-Rudman-Hollings). This exception is intended to protect a committee that has stayed within its allocation of discretionary budget authority and new entitlement authority from points of order if the total spending ceilings have been breached for reasons outside of its control. The fiscal year 1987 302(a) allocations to House committees made pursuant to the conference report on Senate Concurrent Resolution 120 were printed in House Report 99-666, July 9, 1986.

Section 311(c) of the Budget Act, provides that for purposes of enforcing section 311 in the House of Representatives the levels of new budget authority, entitlement authority, outlays and revenues shall be determined on the basis of estimates made by the Committee on the Budget. Current level reports represent partial fulfillment of this enforcement responsibility of the Budget Committee by providing both estimates of enacted aggregate spending and revenues; and, for purposes of determining the applicability of the section 311(b) exception, estimates of the relationship between the budgetary effect of enacted legislation within a committee's jurisdiction and the allocation of spending authority made to that committee.

Because current level reports are intended both to inform the Members of the House and to be used in determining appropriate enforcement of the Budget Act, this report includes two sets of aggregate expenditure and revenue levels. The first set of estimates is included for the purpose of enforcing section 311 of the Budget Act. These estimates are based on economic and technical assumptions in place at the time of the adoption of the budget resolution, Senate Concurrent Resolution 120, on June 26, 1986. This is intended to protect committees which acted on the basis of the assumptions of the budget resolution from changes in economic and technical factors over which they have no control. Unless the Congress adopts a subsequent budget resolution which alters the assumptions about legislative actions, committees should be able to expect that measures that conform with the budget resolution will not be subject to points of order for violation of the Budget Act. To do otherwise and base enforcement on constantly changing economic and technical estimates would seriously disrupt the legislative process, penalize committees which are unable to complete work on legislation within a short period after adoption of a budget resolution, and undermine respect for budget enforcement procedures.

The second set of estimates is included solely for information purposes. It is based on the latest economic and technical data and gives Members the best available estimates of the actual spending and revenue situation for fiscal year 1987. They are intended to provide a realistic picture of the current budget situation.

In addition to section 311, the Budget Act contains another point of order which requires Budget Committee estimates for enforcement. Section 302(f) of the Budget Act, as amended, prohibits the consideration of a measure providing new budget authority, entitlement authority or new credit authority if the adoption of that measure would cause a committee to exceed its allocation of new spending or credit authority made pursuant to subsection 302(b) of the Budget Act. The 302(b) allocation is a subdivision of the new spending, entitlement and credit authority allocated to a committee pursuant to section 302(a), among either the subcommittees of that committee or among programs over which the committee has jurisdiction. This provision was added to the Budget Act by the amendments included in the Balanced Budget and Emergency Deficit Control Act of 1985.

Section 302(g) provides that the enforcement of section 302 shall be based on estimates of spending and credit authority made by the Committee on the Budget. The Budget Committee intends to fulfill this responsibility by providing, as necessary, a separate Section 302 Status Report to the Speaker.

For information purposes only, current level reports will continue to include a comparison of the budget and credit authority divided among the Appropriations subcommittees by that Committee's 302(b) division with the actual enacted spending and credit legislation within each subcommittee's jurisdiction.

As chairman of the Budget Process Task Force, and on behalf of Chairman GRAY, I intend to keep the House informed regularly on the status of the current level.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON THE BUDGET,
Washington, DC, July 22, 1987.

Hon. JAMES C. WRIGHT, Jr.,
Speaker, U.S. House of Representatives, Washington, DC.

DEAR MR. SPEAKER: On January 30, 1976, the Committee on the Budget outlined the procedure which it had adopted in connection with its responsibilities under Section 311 of the Congressional Budget Act of 1974 to provide estimates of the current level of revenues and spending.

I am herewith transmitting the status report under S. Con. Res. 120, the Concurrent Resolution on the Budget for fiscal year 1987.

In the House of Representatives, the procedural situation with regard to the spending ceilings (total budget authority and total outlays) is affected by Section 311(b) of the Congressional Budget Act of 1974, as amended by Public Law 99-177. Enforcement against possible breaches of the spending ceilings under 311(a) of the Budget Act would not apply when a measure would not cause a committee to exceed its "appropriate allocation" of "new discretionary budget authority" or "new entitlement authority" made pursuant to Section 302(a) of the Budget Act. It should be noted that under this procedure the committee's outlay allocation is not considered.

The intent of section 311(b) of the Budget Act is to protect a committee that has stayed within its spending authority allocations—discretionary budget authority or new entitlement authority—from points of order if the total spending ceilings have been breached for reasons outside of its control. The 302(a) allocations to House committees made pursuant to the conference report on S. Con. Res. 120 were printed in H. Rept. 99-666 (July 9, 1986).

The enclosed tables compare enacted legislation to each committee's 302(a) allocation of discretionary budget authority, new entitlement authority, new direct loan obligations and new primary loan guarantee commitments. The estimates of spending and revenues for purposes of the application of points of order under the Budget Act are based upon the economic and technical assumptions underlying the most recently agreed to budget resolution.

Sincerely,

WILLIAM H. GRAY III,
Chairman.

Enclosures.

REPORT TO THE SPEAKER OF THE U.S. HOUSE OF REPRESENTATIVES FROM THE COMMITTEE ON THE BUDGET ON THE STATUS OF THE FISCAL YEAR 1987 CONGRESSIONAL BUDGET ADOPTED IN S. CON. RES. 120

REFLECTING COMPLETED ACTION AS OF JULY 20, 1987

[In millions of dollars]

	Budget authority	Outlays	Revenues
Appropriate level	1,093,350	995,000	852,400
Current level	1,093,721	992,902	860,139
Amount under ceilings		2,098	
Amount over ceilings	371		
Amount over floor			7,739

BUDGET AUTHORITY

Any measure providing budget or entitlement authority which is not included in the current level estimate and would cause budget authority for fiscal year 1987, if adopted and enacted, would cause the appropriate level of budget authority for that year as set forth in S. Con. Res. 120 to be exceeded.

OUTLAYS

Any measure providing budget or entitlement authority which is not included in the current level estimate and that exceeds $2,098 million in outlays for fiscal year 1987, if adopted and enacted, would cause the appropriate level of outlays for that year as set forth in S. Con. Res. 120 to be exceeded.

REVENUES

Any measure that would result in a revenue loss which is not included in the current level estimate and exceeds $7,739 million for fiscal year 1987, if adopted and enacted, would cause revenues to be less than the appropriate level for that year as set forth in S. Con. Res. 120.

Fiscal year 1987 budget authority comparison of current level and budget resolution allocation by committee pursuant to section 302 [In millions of dollars]

House authorizing committee:	*Percent level budget authority*
Agriculture	(+960)
Armed Services	(...)
Banking, Finance, and Urban Affairs	(+110)
District of Columbia	(...)
Education and Labor	(+10)
Energy and Commerce	(+692)
Foreign Affairs	(+1)
Government Operations	(...)
House Administration	(...)
Interior and Insular Affairs	(+176)
Judiciary	(−53)
Merchant Marine and Fisheries	(+93)
Post Office and Civil Service	(+106)
Public Works and Transportation	(−5)
Science and Technology	(+2)
Small Business	(+395)
Veterans' Affairs	(...)
Ways and Means	(+530)

**Committees are over (+) or under (−) their 302(a) allocation.

FISCAL YEAR 1987 BUDGET AUTHORITY AND CREDIT AUTHORITY—COMPARISON OF CURRENT LEVEL AND BUDGET RESOLUTION SUBDIVISIONS OF THE HOUSE APPROPRIATIONS COMMITTEE PURSUANT TO SECTION 302

[In millions of dollars]

House appropriations subcommittee subdivisions	Current level budget authority	Direct loans	Primary loan guarantees
Commerce, State, Justice	(−215)	(+524)	(+53)
Defense	(−4,720)	(..........)	(..........)
District of Columbia	(−1)	(..........)	(..........)
Energy and water	(−541)	(+2)	(..........)
Foreign operations	(+564)	(+456)	(−26)

FISCAL YEAR 1987 BUDGET AUTHORITY AND CREDIT AUTHORITY—COMPARISON OF CURRENT LEVEL AND BUDGET RESOLUTION SUBDIVISIONS OF THE HOUSE APPROPRIATIONS COMMITTEE PURSUANT TO SECTION 302—Continued

[In millions of dollars]

House appropriations subcommittee subdivisions	Current level budget authority	Direct loans	Primary loan guarantees
HUD/independent agencies	(−1,186)	(−21)	(+12,434)
Interior	(−224)	(..........)	(..........)
Labor, HHS, Education	(+720)	(+82)	(+15)
Legislative branch	(−22)	(..........)	(..........)
Military construction	(−66)	(..........)	(..........)
Rural development and agriculture	(+5,731)	(−511)	(+12)
Transportation	(+32)	(−24)	(..........)
Treasury, Postal Service	(+91)	(..........)	(..........)
Total	(+163)	(+508)	(+12,488)

** Subcommittees are over (+) or under (−) their 302(b) subdivisions of discretionary action.

FISCAL YEAR 1987—ALLOCATION OF NEW ENTITLEMENT AUTHORITY [NEA] PURSUANT TO SECTION 302

[In millions of dollars]

Committee	Allocation	Enacted
Armed Services	0	+1,469
Education and Labor	+11	−45
Energy and Commerce	+108	+145
Foreign Affairs	0	+1
Interior and Insular Affairs	0	+205
Judiciary	0	+9
Post Office and Civil Service	−100	+1
Veterans' Affairs	+172	+122
Ways and Means	−315	−2,891

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, July 21, 1987.

Hon. WILLIAM H. GRAY III,
Chairman, Committee on the Budget, U.S. House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to section 308(b) and in aid of section 311 of the Congressional Budget Act, as amended, this letter and supporting detail provide an up-to-date tabulation of the current levels of new budget authority, estimated outlays, estimated revenues, and direct and guaranteed loan levels in comparison with the appropriate levels for those items contained in the most recently agreed to concurrent resolution on the 1987 budget (S. Con. Res. 120). This report for fiscal year 1987 is tabulated as of close of business July 20, 1987. A summary of this tabulation is as follows:

[In millions of dollars]

	Current level	Budget resolution S. Con. Res. 120	Current level +/− resolution
Budget authority	1,093,721	1,093,350	371
Outlays	992,902	995,000	−2,098
Revenues	860,139	852,400	7,739
Direct loan obligations	33,460	34,550	−1,090
Guaranteed loan commitments	115,041	100,750	14,291

Since my last report the President has signed into law P.L. 100-71, making Supplemental Appropriations for 1987, and P.L. 100-72, Small Business Administration Authorization and Program Amendments, changing budget authority, outlays, and loan levels in FY 1987.

At the request of the Committee staff, we have enclosed a table showing the major differences between the current level for 1987 and CBO's revised baseline.

With best wishes,
Sincerely,

EDWARD M. GRAMLICH,
Acting Director.

PARLIAMENTARIAN STATUS REPORT, 100TH CONGRESS 1ST SESSION, HOUSE SUPPORTING DETAIL, FISCAL YEAR 1987, AS OF CLOSE OF BUSINESS JULY 20, 1987

[In millions of dollars]

	Budget authority	Outlays	Revenues
I. Enacted in previous sessions:			
Revenues			860,137
Permanent appropriations and trust funds	736,815	637,732	....
Other appropriations	533,865	549,039	....
Offsetting receipts	−196,917	−196,917	....
Total enacted in previous sessions	1,073,763	989,854	860,137
II. Enacted this session:			
Water Quality Act of 1987 (Public Law 100–4)	−4	−4	....
Emergency Supplemental for the Homeless (Public Law 100–6)	−7	−1	....
Surface Transportation and Relocation Act (Public Law 100–17)	10,466	−90	2
Federal Employees Retirement System Technical Corrections (Public Law 100–20)	1	1	....
Prohibit entrance fees at the Statue of Liberty Monument (S.626)	1	1	....
Small Business Administration Program and authorization amendments (Public Law 100–72)	−43	....	....
Supplemental Appropriations, 1987 (Public Law 100–71)	9,545	3,140	....
Total enacted this session	19,958	3,048	2
III. Continuing resolution authority	....	....	....
IV. Conference agreements ratified by both Houses:			
V. Entitlement authority and other mandatory items requiring further appropriation action	....	....	....
Total current level as of July 20, 1987	1,093,721	992,902	860,139
1987 budget resolution (S. Con. Res. 120)	1,093,350	995,000	852,400
Amount remaining:			
Over budget resolution	371	....	7,739
Under budget resolution	....	2,098	....

Note: Numbers may not add due to rounding.

Fiscal year 1987 level compared with CBO revised baseline major reestimates

[In billions of dollars]	*Outlays*
CBO revised baseline, Feb. 2, 1987	1,009.8
Current level as of July 20, 1987	990.4
Total difference	19.4
Due to revised economic assumptions:	
Outer Continental Shelf	2.4
Medicare	0.4
Unemployment trust fund	0.3
Other income security (subfunction 609)	−0.2
Medicaid	−0.3
Social Security	−0.8
Net interest	−12.3
Due to technical reestimates:	
Commodity Credit Corporation	5.9
Federal Deposit Insurance Corporation	5.0
Federal Savings and Loan Insurance Corporation	2.7
National Defense (function 050)	2.6
Net interest	2.3
Medicare	2.6
Medicaid	1.4
Other income security (subfunction 609)	0.9
Custom user fees (budget reclassification)	1.0
Unemployment trust fund	0.9
Rural Development Insurance Fund	0.8
Employer share, employee retirement	0.7
Civil Service Retirement & Disability	0.7
Tennessee Valley Authority	0.6
Rural Housing Insurance Fund	0.6
Agricultural Credit Insurance Fund	0.5
Oil overcharge (budget reclassification)	0.4
Economic Support Fund	0.3
Rural Electrification Administration	0.4
Federal Housing Administration Fund	0.5
Employees Health Benefits Fund	0.3
Outer Continental Shelf	0.2
Veterans Education Benefits Fund.	−0.3
Repayments of loans to the District of Columbia	−0.3
Social Security	−0.5
Postal Service	−1.8
Other reestimates	1.5

Fiscal year 1987 current revenue level compared with CBO February baseline

[In billions of dollars]	*1987*
CBO revised baseline, Feb. 2, 1987	834.1
Current revenue level as of July 20, 1987	860.1
Total difference	−26.0
Due to revised economic assumptions	−28.7
Due to technical reestimates	2.7
Due to changes in legislation	([1])

[1] Less than $10 million.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BAKER) to revise and extend their remarks and include extraneous material:)

Mr. WALKER, for 5 minutes, today.

Mr. WALKER, for 60 minutes, on July 23.

Mr. HUNTER, for 60 minutes, on July 23.

Mr. BURTON of Indiana, for 60 minutes, today.

Mr. BARTON of Texas, for 60 minutes, today.

Mr. BARTON of Texas, for 60 minutes, on July 23.

Mr. DORNAN of California, for 5 minutes, today.

Mr. PORTER for 5 minutes, on July 23.

(The following Members (at the request of Mr. GRAY of Illinois) to revise and extend their remarks and include extraneous material:)

Mr. HUTTO, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. BONIOR of Michigan, for 60 minutes, today.

Mr. FRANK, for 60 minutes, on July 27.

Mr. **Miller** of California, for 60 minutes, on July 27.

Mr. **Williams**, for 60 minutes, on July 29.

Mr. **Williams**, for 60 minutes, on July 30.

Mr. **Guarini**, for 60 minutes, on August 4.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. **Baker**) and to include extraneous matter:)

Mr. **Gradison**.
Mrs. **Morella**.
Mr. **Boehlert**.
Mr. **Solomon** in two instances.
Mr. **Shaw**.
Mr. **Packard**.
Mr. **Barton** of Texas.
Mr. **Kyl**.
Mr. **Courter**.
Mr. **Green**.
Mr. **Schaefer**.
Mr. **Gekas**.
Mr. **Gunderson**.
Mr. **Bunning**.
Mr. **Shumway** in two instances.
Mr. **Donald E. Lukens**.
Mr. **Lujan**.
Mr. **Dornan** of California.
Mr. **Crane** in two instances.
Mr. **Daub**.
Mr. **Moorhead**.
Mr. **Kemp**.
Mr. **Lagomarsino**.
Mrs. **Vucanovich**.
Mr. **Lightfoot**.
Mr. **Gunderson**.
Mr. **Gingrich**.

(The following Members (at the request of Mr. **Gray** of Illinois) and to include extraneous matter:)

Mr. **Montgomery**.
Mr. **Lipinski**.
Mr. **Downey** of New York.
Mr. **Solarz**.
Mr. **Hoyer** in two instances.
Mr. **Coelho** in two instances.
Mr. **Yatron**.
Mr. **Guarini** in two instances.
Mrs. **Boxer**.
Mr. **Lantos** in three instances.
Mr. **Traficant**.
Mr. **Hamilton**.
Mr. **Berman**.
Mr. **Kostmayer**.
Mr. **AuCoin**.
Mr. **Bonior** of Michigan.
Mr. **Obey**.
Mr. **Studds** in two instances.
Mr. **Garcia**.
Mr. **Lehman** of California.

ADJOURNMENT

Mr. BURTON of Indiana. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 7 minutes p.m.) the House adjourned until tomorrow, Thursday, July 23, 1987, at 10 a.m.

EXPENDITURE REPORTS CONCERNING OFFICIAL FOREIGN TRAVEL

Reports of various House committees concerning the foreign currencies and U.S. dollars utilized by them during the first and second quarters of calendar year 1987 in connection with foreign travel pursuant to Public Law 95-384 are as follows:

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, JOINT COMMITTEE ON TAXATION, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN JAN. 1 AND MAR. 31, 1987

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
David H. Brockway	1/11	1/14	France		465.00		1,598.00				2,063.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

DAN ROSTENKOWSKI, Chairman, June 24, 1987.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1987

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Jeffrey Farrow, staff	4/18	4/19	Japan		254.00						254.00
Patricia Krause, staff	4/18	4/19	Japan		254.00						254.00
Manase Mansur, staff	4/18	4/19	Japan		254.00						254.00
Committee total					762.00						762.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

MORRIS K. UDALL, Chairman, July 14, 1987.

REPORT OF EXPENDITURES FOR OFFICIAL FOREIGN TRAVEL, COMMITTEE ON POST OFFICE AND CIVIL SERVICE, U.S. HOUSE OF REPRESENTATIVES, EXPENDED BETWEEN APR. 1 AND JUNE 30, 1987

Name of Member or employee	Date		Country	Per diem[1]		Transportation		Other purposes		Total	
	Arrival	Departure		Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]	Foreign currency	U.S. dollar equivalent or U.S. currency[2]
Ms. TerriAnn Lowenthal	5/21	5/25	Trinidad and Tobago	1466.96	408.00	323.60	90.00				498.00
Commercial transportation							710.00				710.00
Committee total					408.00		800.00				1,208.00

[1] Per diem constitutes lodging and meals.
[2] If foreign currency is used, enter U.S. dollar equivalent; if U.S. currency is used, enter amount expended.

WILLIAM D. FORD, Chairman, June 30, 1987.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1809. A letter from the Chairman, Council of the District of Columbia, transmitting a copy of D.C. Act 7-58, "Tenant Assistance Program and Rental Housing Commission Amendment Act of 1987," and report, pursuant to D.C. Code section 1-233(c)(1); to the Committee on the District of Columbia.

1810. A letter from the Secretary of Education, transmitting a draft of proposed legislation to amend the Education for Economic Security Act, to reauthorize and make improvements to the Magnet Schools Assistance Program, and for other purposes; to the Committee on Education and Labor.

1811. A letter from the Assistant Vice President, Farm Credit Services, transmitting financial reports covering the ninth farm credit district retirement plan, pursuant to 12 U.S.C. 1141b(3); to the Committee on Government Operations.

1812. A letter from the Chairperson, Martin Luther King, Jr., Federal Holiday Commission, transmitting a report on the Commission's activities as of February 28, 1987, pursuant to Public Law 98-399, section 8; to the Committee on Post Office and Civil Service.

1813. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to amend the Federal Aviation Act of 1958, as amended, to increase civil penalty limits for safety violations by persons engaged in commercial aircraft operations, and for other purposes; to the Committee on Public Works and Transportation.

1814. A letter from the Chairman, Cultural Property Advisory Committee, U.S. Information Agency, transmitting notification that the report on the request received from the Republic of El Salvador relating to emergency United States import restrictions has been completed and will be submitted following Presidential action, pursuant to Public Law 97-446, section 306(f)(6); to the Committee on Ways and Means.

1815. A letter from the Director, Office of Civilian Radioactive Waste Management, Department of Energy, transmitting additional comments from the State of Nevada which were inadvertently omitted from the report previously transmitted on the status of consultation and cooperation negotiations with the State of Nevada (Ex. Com. No. 1660), pursuant to 42 U.S.C. 10137(c); jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. ROE: Committee on Science, Space, and Technology. H.R. 1414. A bill to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents; with amendments (Rept. 100-104, Pt. 2). Ordered to be printed.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 1414. A bill to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents; with an amendment (Rept. 100-104, Pt. 3). Referred to the Committee of the Whole House on the State of the Union.

Mr. PEPPER: Committee on Rules. H.R. 618. A bill to provide for a General Accounting Office investigation and report on conditions of displaced Salvadorans and Nicaraguans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Salvadorans and Nicaraguans, and for other purposes; with amendments (Rept. 100-212, Pt. 2). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL: Committee on Interior and Insular Affairs. Report of the Committee on Interior and Insular Affairs on the subdivision among programs of budget allocation for fiscal year 1988 submitted pursuant to section 302(b) of the Congressional Budget Act of 1974 (Rept. 100-227). Referred to the Committee of the Whole House on the State of the Union.

Mr. ROSTENKOWSKI: Committee on Ways and Means. Report of the Committee on Ways and Means pursuant to section 302(b) of the Congressional Budget Act of 1974, relating to the budget resolution for fiscal year 1988 (Rept. 100-228). Referred to the Committee of the Whole House on the State of the Union.

Mr. DANIEL: Committee on Armed Services. H.R. 2948. A bill to prohibit the Department of Defense from purchasing any product manufactured or assembled by Toshiba America, Incorporated, or Toshiba Corporation for the purpose of resale of such product in a military exchange store (Rept. 100-229). Referred to the Committee of the Whole House on the State of the Union.

Mr. PEPPER: Committee on Rules. H.R. 1409. A bill to provide for a General Accounting Office investigation and report on conditions of displaced Nicaraguans and Salvadorans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Nicaraguans and Salvadorans, and for other purposes; with amendments (Rept. 100-230, Pt. 1). Ordered to be printed.

Mrs. BYRON: Committee on Armed Services. H.R. 2974. A bill to amend title 10, United States Code, to make technical corrections in provisions of law enacted by the Military Retirement Reform Act of 1986 (Rept. 100-231). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. GRANDY:

H.R. 2982. A bill to amend the Farm Credit Act of 1971 to reconstitute the finance committee which determines the amounts, maturities, rates of interest, and participation of system banks in the issuance of joint, consolidated, or systemwide obligations; to the Committee on Agriculture.

By Mr. BOUCHER (for himself, Mr. Gekas, Mr. Feighan, Mr. Bryant, Mr. Schumer, Mr. Frank, Mr. Glickman, Mr. Synar, Mr. Smith of Florida, Mr. Shaw, Mr. Swindall, and Mr. McCollum):

H.R. 2983. A bill to amend chapter 96 of title 18, United States Code; to the Committee on the Judiciary.

By Mr. EDWARDS of Oklahoma:

H.R. 2984. A bill to amend the Immigration and Nationality Act to prohibit the revocation, solely because of the death of a citizen of the United States, of approval of a petition for immediate relative status filed on behalf of the spouse of that citizen; to the Committee on the Judiciary.

By Mr. GUARINI (for himself and Mr. Clay):

H.R. 2985. A bill to designate the facility of the U.S. Postal Service located at 850 Newark Turnpike in Kearny, NJ, as the "Dominick V. Daniels Postal Facility"; to the Committee on Post Office and Civil Service.

By Mr. GUNDERSON:

H.R. 2986. A bill to amend the Dairy Export Incentive Program to allow for the use of generic certificates; to the Committee on Agriculture.

By Mr. NAGLE:

H.R. 2987. A bill to amend title IV of the Employee Retirement Income Security Act of 1974 to require that, in the case of participants meeting certain minimum requirements as of the date of termination of the plan, early retirement pension benefits under the plan shall be guaranteed by the Pension Benefit Guaranty Corporation and shall commence no later than as specified in applicable plan provisions; to the Committee on Education and Labor.

By Mr. SHUMWAY (for himself, Mr. Bosco, Mr. Crane, Mr. Lagomarsino, Mr. Anderson, Mr. Pashayan, Mrs. Vucanovich, and Mr. Herger):

H.R. 2988. A bill to amend the National Trails System Act to designate the Western States Pioneer Express National Historic Trail and the Tahoe Rim National Scenic Trail, and for other purposes; to the Committee on Interior and Insular Affairs.

By Ms. SLAUGHTER of New York (for herself, Mr. Ackerman, Mr. DeFazio, Mr. Horton, Mr. LaFalce, Mrs. Morella, and Mr. Scheuer):

H.R. 2989. A bill to amend the Older Americans Act of 1965 to establish a program to provide preventive health screening, health education, and health promotion services, and for other purposes; to the Committee on Education and Labor.

By Mr. SOLOMON:

H.R. 2990. A bill to require agreements entered into with certain foreign countries that involve the exchange or transfer of scientific or technological information to be submitted to the Secretary of Defense; jointly, to the Committees on Foreign Affairs and Armed Services.

By Mr. STUDDS (for himself and Mr. Miller of California):

H.R. 2991. A bill to clarify the authority of the Secretary of the Interior to make land exchanges within the Arctic National Wildlife Refuge; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. WOLPE (for himself, Mr. Foley, Mr. Gray of Pennsylvania, Mr. Panetta, Mr. Jenkins, and Mr. Russo):

H.R. 2992. A bill to amend the Internal Revenue Code of 1986 to require that the major categories of Federal outlays and income be shown in graphs on the first page of the instructions for individual income tax returns; to the Committee on Ways and Means.

By Mr. HOYER (for himself, Mr. Conte, and Mr. Early):

H.J. Res. 340. Joint resolution designating October 1, 1987, as "National Medical Research Day"; to the Committee on Post Office and Civil Service.

By Mr. PARRIS:

H.J. Res. 341. Joint resolution disapproving the action of the District of Columbia Council in approving the "Prison Overcrowding Emergency Powers Act of 1987", D.C. Act 7-56; to the Committee on the District of Columbia.

By Mr. DAUB (for himself, Mr. Glickman, and Mr. Dorgan of North Dakota):

H. Con. Res. 163. Concurrent resolution to recognize the importance of the agricultural export enhancement program; jointly, to the Committees on Agriculture and Foreign Affairs.

By Mr. de la GARZA (for himself, Mr. Madigan, and Mr. Glickman):

H. Con. Res. 164. Concurrent resolution to recognize the importance of the agricultural export enhancement program; jointly, to the Committees on Agriculture and Foreign Affairs.

By Mr. RANGEL:

H. Con. Res. 165. Concurrent resolution to express the sense of the Congress concerning tourist travel to South Africa by United States citizens; to the Committee on Foreign Affairs.

By Mr. BEREUTER (for himself, Mr. Chandler, and Mr. Lewis of California):

H. Con. Res. 166. Concurrent resolution stating United States findings regarding conditions in Central America and the Sandinista government of Nicaragua, support for the initiative of President Oscar Arias Sanchez of Costa Rica to end armed conflict in Central America, encouragement for the nations of Central America in the timely pursuit and implementation of a peace demilitarization, and democratization plan for the region resulting from the Arias initiative, and the nature of the Presidential findings and report to the Congress necessary to permit it to appropriate additional funds for the support of the Nicaraguan resistance forces; to the Committee on Foreign Affairs.

By Mr. DORNAN of California:

H. Res. 228. Resolution relating to "National Day" greetings made by the President of the United States to the Chairman of the Communist Party of the Soviet Union and the people of the Soviet Union; to the Committee on Foreign Affairs.

By Mr. SCHAEFER:

H. Res. 229. Resolution to amend the Rules of the House of Representatives to impose certain limitations on the use of continuing resolutions; to the Committee on Rules.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

169. By the SPEAKER: Memorial of the House of Representatives of the State of Oklahoma, relative to Older American Indian Services Improvement Act; to the Committee on Education and Labor.

170. Also, memorial of the Senate of the State of New York, relative to acid rain; to the Committee on Energy and Commerce.

171. Also, memorial of the Legislative Assembly of the State of Oregon, relative to high-level nuclear waste repository; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

172. Also, memorial of the General Assembly of the State of Maryland, relative to general assembly (original laws) 1984, chapters 674 and 675; jointly, to the Committees on Public Works and Transportation and the Judiciary.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. HAYES of Louisiana introduced a bill (H.R. 2993) for the relief of LeRoy Sylestine, chairman of the tribal council of the Coushatta Tribe of Louisiana, and all other enrolled members of the Coushatta Tribe of Louisiana; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 17: Mr. Bustamante and Mr. Gejdenson.

H.R. 18: Mr. Boehlert.

H.R. 371: Mr. Matsui.

H.R. 378: Mr. Staggers.

H.R. 382: Mr. Sawyer.

H.R. 386: Mr. Dellums.

H.R. 387: Mr. Morrison of Washington.

H.R. 388: Mr. Gejdenson.

H.R. 541: Ms. Snowe, Mr. Fauntroy, and Mr. Solarz.

H.R. 543: Mr. Porter.

H.R. 588: Mr. English, Mr. Lewis of Florida, Mr. Hutto, and Mr. Parris.

H.R. 592: Mr. Torricelli and Mr. Lehman of Florida.

H.R. 612: Mr. McMillan of North Carolina, Mr. Morrison of Connecticut, Mr. Martinez, Mr. Kildee, Mr. Conyers, and Mr. Marlenee.

H.R. 671: Mr. Kennedy.

H.R. 680: Mr. Kennedy.

H.R. 709: Mr. Gray of Pennsylvania.

H.R. 792: Mr. Panetta, Mr. Thomas of California, Mr. Chandler, Mr. Moorhead, and Mr. Gunderson.

H.R. 898: Mrs. Collins.

H.R. 911: Mr. DeFazio, Mr. Mazzoli, Mr. Coats, Mr. Brown of Colorado, Mr. Shaw, Mr. Jenkins, Mr. Herger, Mr. Thomas of Georgia, Mr. Ireland, Mr. Lightfoot, Mr. Brown of California, and Mr. Lantos.

H.R. 940: Mr. Ackerman, Mr. Mavroules, Mr. Martinez, Mr. Dellums, Mr. Espy, Mr. Hawkins, and Mrs. Meyers of Kansas.

H.R. 1057: Mr. Martinez.

H.R. 1115: Mr. Ballenger, Mr. Donald E. Lukens, Mr. Broomfield, and Mr. Burton of Indiana.

H.R. 1196: Mr. Dixon, Mr. Dannemeyer, and Mr. Edwards of Oklahoma.

H.R. 1213: Mr. Staggers and Mr. Gilman.

H.R. 1234: Mr. Traficant.

H.R. 1293: Mr. Biaggi, Mr. Buechner, and Mr. DeLay.

H.R. 1467: Mr. Howard.

H.R. 1546: Mr. Torricelli and Mr. Lowry of Washington.

H.R. 1572: Mr. Smith of New Jersey.

H.R. 1604: Mr. Penny, Mr. Darden, and Mr. Hastert.

H.R. 1700: Mrs. Boxer, Mr. de Lugo, and Mr. Eckart.

H.R. 1705: Mr. DeFazio.

H.R. 1800: Mr. Harris, Mr. Holloway, Mr. Lancaster, and Mr. Lewis of Georgia.

H.R. 1801: Mr. Borski, Mr. Martinez, and Mr. Stallings.

H.R. 1841: Mr. Towns.

H.R. 1868: Mr. Feighan, Mr. Smith of Florida, and Mr. Edwards of California.

H.R. 1879: Mr. Traxler, Mr. Evans, and Mrs. Bentley.

H.R. 1891: Mr. Hayes of Louisiana, Mr. Jones of Tennessee, Mr. Harris, Mr. Stallings, and Mr. Stokes.

H.R. 1930: Mr. Fauntroy.

H.R. 1959: Mr. Penny.

H.R. 1966: Mr. Robinson.

H.R. 1977: Mr. Edwards of Oklahoma, Mr. Sunia, and Ms. Slaughter of New York.

H.R. 1987: Mr. Daniel.

H.R. 2021: Ms. Pelosi.

H.R. 2041: Mr. Garcia.

H.R. 2083: Mr. Lott, Mr. McEwen, and Mr. Coats.

H.R. 2148: Mr. Nielson of Utah, Mr. Torricelli, Mr. Kastenmeier, and Mr. Shaw.

H.R. 2191: Mr. Konnyu.

H.R. 2218: Mr. Cardin, Mr. Hubbard, Mrs. Saiki, Mr. Frank, and Mr. Barnard.

H.R. 2238: Mr. Daniel, Mr. Ray, Mr. Dannemeyer, Mr. Parris, Mr. Nielson of Utah, Mr. Davis of Michigan, Mr. Howard, Mr. Mavroules, Mr. Hubbard, Mr. Jones of North Carolina, Ms. Kaptur, Mr. Hastert, Mr. Towns, and Mr. Burton of Indiana.

H.R. 2260: Mr. Brown of Colorado, Mr. Grandy, Mr. Staggers, Mr. Schaefer, and Mr. Ravenel.

H.R. 2316: Mr. Gilman.

H.R. 2415: Mr. Pelosi and Mr. Lantos.

H.R. 2482: Mr. Flake, Ms. Slaughter of New York, and Mr. Sunia.

H.R. 2491: Mr. Young of Florida and Mr. Fish.

H.R. 2498: Mr. Mrazek.

H.R. 2521: Mr. Morrison of Connecticut.

H.R. 2538: Mr. Sunia.

H.R. 2546: Mr. Rogers.

H.R. 2556: Mr. DeLay.

H.R. 2567: Mr. Owens of New York.

H.R. 2569: Mr. Frenzel, Mr. Biaggi, Mr. Lancaster, Mr. Sweeney, Mr. Swindall, Mr. Stump, Mr. Towns, and Mr. Nielson of Utah.

H.R. 2624: Mr. Davis of Illinois, Mr. Combest, Mr. Rhodes, Mr. Scheuer, Mr. DeLay, and Mr. Bilbray.

H.R. 2634: Mr. Espy.

H.R. 2640: Mr. Hochbrueckner, Mr. Dwyer of New Jersey, Mr. Hefner, Mr. Mfume, Mr. Gilman, Mr. DioGuardi, Mr. Boucher, Mr. Traxler, Mr. Bliley, Mr. Emerson, Mr. Smith of New Jersey, Mr. Bunning, Mr. Jones of North Carolina, Mr. Skaggs, Mr. Ford of Michigan, Mr. Hatcher, and Mr. Gejdenson.

H.R. 2666: Mr. LaFalce, Mr. Gejdenson, Mr. Mavroules, Mr. Edwards of California, Mr. Howard, Mr. Boland, Mr. Frank, Miss Schneider, and Mr. Fish.

H.R. 2690: Mr. Bilirakis, Mr. Ballenger, Mr. Young of Florida, Mr. Thomas of Georgia, Mr. Atkins, Mr. Jontz, Mr. Hawkins, Mr. Gilman, Mr. Udall, and Mr. McCloskey.

H.R. 2724: Mr. Conyers, Mr. Morrison of Connecticut, Mr. Kostmayer, Mr. Beilenson, Mr. Owens of New York, Mr. Biaggi, Mr. Jacobs, Mr. Berman, Mr. Solarz, and Mrs. Boxer.

H.R. 2801: Mr. Kanjorski and Mrs. Collins.

H.R. 2846: Mr. Daub, Mr. DeLay, Mrs. Johnson of Connecticut, Mrs. Meyers of Kansas, Mr. Wortley, and Mrs. Collins.

H.R. 2853: Mr. Baker and Mr. Gilman.

H.R. 2858: Mr. Dellums and Mr. Petri.

H.R. 2883: Mr. Mrazek, Mr. Kasich, Mr. Stark, Mr. Florio, Mr. Towns, Ms. Pelosi, Mr. Dornan of California, Mr. Kastenmeier, Mr. Kostmayer, Mr. Fazio, Mr. Russo, Ms. Kaptur, and Mr. Lipinski.

H.R. 2891: Mr. Martin of New York, Mr. Goodling, Mr. Gordon, Mr. Roth, Mr. Owens of New York, Mr. Kleczka, and Mrs. Collins.

H.R. 2924: Mr. Robinson, Mrs. Smith of Nebraska, Mr. Quillen, Mr. Lott, Mr. Biaggi, and Mr. Robert F. Smith.

H.R. 2935: Ms. Pelosi.

H.R. 2945: Mr. Kildee.

H.R. 2970: Mr. Lewis of California, Mr. Daub, Mr. Grandy, Mrs. Vucanovich, Mrs. Saiki, Mr. Bereuter, Mr. McMillan of North Carolina, Mr. Bliley, Mr. Schuette, Mr. Madigan, Mr. Lagomarsino, Mr. Kyl, Mr. Shaw, and Mr. Coleman of Missouri.

H.J. Res. 43: Mr. Hughes, Ms. Slaughter of New York, Mr. Lewis of Georgia, Mr. Guarini, Ms. Snowe, Mr. Smith of New Jersey, Mr. Shaw, Mr. Anderson, Mr. Conyers, Mr. Murtha, Mr. Hawkins, Mr. Hefner, Mr. Blaz, and Mr. Hall of Texas.

H.J. Res. 48: Mr. Conyers, Mr. Ireland, Mr. Sundquist, Mr. Gunderson, Mr. Callahan, and Mr. Latta.

H.J. Res. 140: Mr. McGrath, Mr. Foglietta, Mr. Rowland of Georgia, and Mr. Flake.

H.J. Res. 180: Mr. Aspin, Mr. Mazzoli, Mr. Evans, Mr. Smith of New Jersey, Mr. Gallo, Mr. Madigan, Mr. Young of Alaska, Mr. Torres, and Mr. Hastert.

H.J. Res. 199: Mr. Markey, Mr. Garcia, and Mr. Carr.

H.J. Res. 219: Mr. Fuster, Mr. Conyers, Mr. de la Garza, Mr. Roe, Mr. Towns, Mr. Lantos, Mr. Fazio, Mr. Scheuer, Ms. Kaptur, Mr. Feighan, Mr. Howard, Mr. Lehman of California, Mr. Frost, Mrs. Collins, Mr. Bonior of Michigan, Mr. Lipinski, Mr. Hayes of Illinois, and Mr. Gilman.

H.J. Res. 224: Ms. Kaptur, Mr. Duncan, Mr. Hawkins, Mr. Dellums, Mr. Mineta, Mr. Bennett, Mr. Kanjorski, Mrs. Collins, Mr. Lowery of California, Mr. Carper, Mr. Conyers, Mr. Bonior of Michigan, Mr. LaFalce, Mr. Vander Jagt, Mr. Hall of Texas, Mr. Coble, Mr. Stump, Mr. Feighan, Mr. Bustamante, Mr. Garcia, Mr. Archer, and Mr. Bunning.

H.J. Res. 242: Mr. Conyers, Mr. Gray of Illinois, Mr. Daniel, Mr. Perkins, Mr. Fields, Ms. Kaptur, Mr. Frost, Mr. Lantos, Mr. Fazio, Mr. Roe, Mrs. Patterson, Mr. Hatcher, Mr. Coelho, Mr. Savage, Mr. Bevill, and Mr. Gray of Pennsylvania.

H.J. Res. 246: Mr. Bonior of Michigan, Mr. Dwyer of New Jersey, Mr. Volkmer, Mr. Evans, and Mr. Robinson.

H.J. Res. 255: Mr. Lungren.

H.J. Res. 272: Ms. Oakar, Mr. Valentine, Mr. Tallon, Mr. Foglietta, Mr. Miller of California, Mrs. Bentley, Mr. Tauke, Mr. Walgren, Mr. Markey, Mr. Moakley, Mr. Murphy, Mr. Price of Illinios, Mr. Ravenel, Mr. Yatron, Mr. Ritter, Mr. Porter, Mr. Rodino, Mr. Morrison of Washington, Mr. Jones of North Carolina, Mr. Hochbrueckner, Mr. Lantos, Mr. Young of Alaska, Mr. Thomas of Georgia, Mr. Traxler, Mr. Sunia, Mr. Volkmer, Mr. Montgomery, Mr. Rahall, and Mr. Waxman.

H.J. Res. 300: Mrs. Collins, Mr. Dornan of California, Mr. Fazio, Mr. Feighan, Mr. Frank, Mr. Frost, Mr. Horton, Ms. Kaptur, Mr. Scheuer, Ms. Slaughter of New York, and Mr. Wolpe.

H.J. Res. 313: Ms. Snowe, Mr. Bates, Mr. Anderson, Mr. Leland, Mr. Berman, Mr. Hutto, Mr. Livingston, Mr. Young of Alaska, Mr. Lewis of California, Mr. Traxler, Ms. Kaptur, Mr. Lehman of Florida, Mrs. Bentley, Mr. Frank, Mr. Boucher, Mr. Fish, Mr. Frenzel, and Mrs. Boxer.

H.J. Res. 321: Mr. Coughlin.

H.J. Res. 328: Mr. Wilson, Mr. Horton, Ms. Kaptur, Mr. Solomon, Mr. Smith of Florida, Mr. Mollohan, Mr. Solarz, Mr. Sunia, and Mr. Bevill.

H.J. Res. 329: Mr. Towns, Ms. Kaptur, Mr. Frost Mr. Fazio, Mr. Rahall, Mr. Daub, and Mr. Fauntroy.

H.J. Res. 336: Mr. Price of Illinois, Mr. Hayes of Louisiana, Mr. Natcher, Mr. Darden, Mr. LaFalce, Mr. Lantos, Mr. Russo, Mr. Neal, Mrs. Boxer, Mr. Lowery of California, Mr. Savage, Mr. Crockett, Mr. Solarz, Mr. Biaggi, Mr. Tallon, Mr. Sabo, Ms. Pelosi, Mr. Tauke, Mr. Lagomarsino, and Mr. Sikorski.

H. Con. Res. 97: Mr. Stenholm, Mr. Jontz, and Mr. Ford of Michigan.

H. Con. Res. 128: Mr. Durbin and Mr. Kolter.

H. Con. Res. 139: Mr. Lancaster, Mr. Upton, Mr. Buechner, Mrs. Bentley, Mr. Hastert, Mr. Saxton, and Mrs. Meyers of Kansas.

H. Res. 188: Mr. Coleman of Missouri, Mr. Pashayan, Mr. McCandless, and Mr. Fields.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1049: Mr. Hyde and Mr. Hansen.

H.R. 1082: Mr. Roemer.

PETITIONS, ETC.

Under clause 1 of rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

56. By the SPEAKER: Petition of city of Park Falls, Park Falls WI, relative to treaty agreements with the Lake Superior Band of Chippewa Indians; to the Committee on Interior and Insular Affairs.

57. Also, petition of Council of the District of Columbia, Washington, D.C. relative to the Washington Metropolitan Area Transit Authority Compact Amendment Act of 1984; to the Committee on the Judiciary.

EXTENSIONS OF REMARKS

A TRIBUTE TO REBA AND DAN MALAMED

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to two people who have been dear friends for much of my life—Reba and Dan Malamed. On Sunday, September 20, 1987, these wonderful people will be honored by the Labor Zionist Alliance as the recipients of the prestigious Hemshech Award.

Reba and Dan met in Philadelphia where they were an active part of the Poale Zionist Movement. Both were very concerned with the successful organization of the emerging State of Israel. After their marriage, the Malameds turned their attention to the practice of law. Dan joined the Philadelphia bar after graduating from Temple University Law School and Reba devoted her talents in the same field as an executive legal secretary.

During World War II, Dan was transferred to Los Angeles where he served as Assistant Director of the Disputes Division of the War Labor Board. This position removed him from private practice for a few years, but gained him valuable experience in negotiation and adjudication.

In 1952, Dan joined my uncle, Jack G. Schapiro, in forming the law firm of Schapiro & Malamed. The firm prospered, and Dan's knowledge and skill earned him the widespread reputation as a craftsman in the practice of law. Reba also joined the venture as an executive assistant.

I was a struggling law student at the time and was given the opportunity to work as a clerk with Jack and Dan. I can never overestimate the benefit that and my career gained from this outstanding experience.

By the time Dan retired after 40 years of practicing law, he and Reba had become increasingly involved in the Jewish community. They were also active in fund raising efforts on behalf of the State of Israel.

Dan and Reba have always given unstintingly of their energy, time and resources to many worthwhile organizations. Dan has served in leadership posts in the Labor Zionist Alliance, the American Zionist Federation, and the Israel Histadrut Campaign. Reba has worked tirelessly on behalf of many community organizations, including Planned Parenthood, the Psychiatric Assistance League and the Psychiatric Inpatient and Outpatient Research Program at the Sinai Medical Center. Together they earned the title of honorary alumni for lecturing on social anthropology and politics in the University of California's Adult Education Discussion Program. And they have worked as a team with the Brandeis-Bardin Institute and for the city of Hope.

Reba and Dan's dedication in serving their friends, their family, and their community has made them an inspiration to all those fortunate enough to know them. I am grateful to be among their friends and extremely pleased to join the Labor Zionist Alliance in saluting them.

NADEZHDA FRADKOVA—THE SUFFERING ENDS

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. HOYER. Mr. Speaker, during our trip to the Soviet Union, we met a remarkable woman by the name of Nadezhda Fradkova. She had recently been released from a mental hospital where she had been subjected to torture and drug abuse.

I am pleased to report that Nadezhda Fradkova is now in Israel, having arrived in June. After almost 10 years of being denied permission to emigrate, the Soviets changed their minds and allowed her to leave.

However, the story of her plight was a very moving one to me as I am sure it was to you. With your permission, I would like to submit to our colleagues a copy of a letter she handed to you while we were in Moscow.

NADEZHDA FRADKOVA,
HOMELESS,
Leningrad, April 15, 1987.

To Mr. Jim Wright, Speaker of the House of Representatives of the United States of America:

DEAR SIR: Being fully aware of the nature of this totalitarian state, I was in deep inner opposition to it my whole life. I am a woman, so I don't know how to fight and struggle politically. The only exit for me appeared to be emigration. The issue of anti-semitism was also of great importance for deciding this.

Following this decision I've been trying to emigrate to Israel since 1978. The KGB warned me that I'd be punished severely if I wouldn't "behave." I was threatened to be placed in mental hospital, in jail and so on. And they did it. They kept me in intensive therapy ward in a hospital for 95 days under illegal arrest. I was administered with narcotics, Haldol and other drugs. An exceptionally hard pressure was exerted upon me to force me to give up my efforts to emigrate. The KGB men and their helpers ("doctors") humiliated, threatened, intimidated and insulted me in the hospital in all possible ways. It was a real torture, and not only a psychological one. When I was released, the KGB reinforced their systematic psychological war which came as far as placing me in the mental hospital. In order to do it they invented a case of my allegedly inadequate behavior, that was a bold lie. I spent 5 months in the mental hospital ward for the most severe mental cases among really insane patients. The pressure, threats, humiliations were unbearable. Psychiatrists told me: "Our task is to gag such antisoviet persons as you", "You'll spend the rest of your life in mental hospitals", "Your fate is in our hands", "As long as you are trying to emigrate you'll be in mental institutions" and many other things. They used sulphur injections to punish me.

Then directly from the mental hospital I was delivered to jail. I was sentenced to 2 years of labor camp on a trumped-up accusation of "parasitism". Approximately a year I spent in a punishment cell, which is called "torture by cold"; I was deprived of food parcels and visits; nobody heard from me for months and months and I didn't hear from anybody. All my complaints about the lawlessness and crimes of the camp administration were in vain. They broke their own rules, and even provoked me to commit a suicide. Up to the very end of my term they tried to invent something in order not to release me. When my term was almost over, they considered placing me in a mental institution again. It was even published in the newspaper "Sovietskaya Rossia", that I was in the mental hospital at that time. (I was not, they only tried to do it). Then it was decided to keep me in labor camps for another 3 years and a new criminal case of art. 1883 of the Criminal Code of RSFSR ("persistent disobedience to the camp admininstration") was opened against me. But a few days before the end of my term following some new instructions the case was closed because "there was no crime".

Now I am homeless, jobless, very ill and a real criminal, because it is a crime here to be homeless and jobless. I've been already warned by police. The only thing that could save me, is immediate emigration.

If there is anything you can do, please help.

NADEZHDA FRADKOVA,
Refusnik.

DEMOCRACY AND PEACE AWARD PRESENTED TO RAUL ALFONSIN, PRESIDENT OF ARGENTINA

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. FASCELL. Mr. Speaker, on June 20, 1987, the Institute of the Americas presented its Democracy and Peace Award to Raul Alfonsin, President of Argentina. The ceremony in San Diego, CA, for which I had the honor of serving as a national vice chairman, occurred just 5 days after the House of Representatives passed House Concurrent Resolution 113, commending President Alfonsin for his courageous leadership.

Raul Alfonsin has become an inspiration to proponents of democracy here in the United States and throughout the world. He has placed at risk his personal and political life in

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

order to defend and promote the democratic principles and institutions which he has been instrumental in reestablishing in his country.

In celebrating the two hundredth anniversary of the writing of the U.S. Constitution, which itself has served as a model and inspiration for democracy, it is appropriate that the Institute of the Americas has honored this great democrat and fellow American, Raul Alfonsin.

I would like to commend to my colleagues' attention the statement of Richard W. Fisher, chairman of the Institute of the Americas, in presenting the award to President Alfonsin, and the statement of President Alfonsin in response.

INTRODUCTION OF PRESIDENT ALFONSIN BY RICHARD W. FISHER CHAIRMAN, INSTITUTE OF THE AMERICAS

Señor Presidente, distinguidos miembros del gabinete y de la comitiva de La Republica Argentina, ladies and gentlemen * * *

The mission of the Institute of the Americas is to enhance the dialogue between the people of the Americas, North and South in an effort to promote democracy and economic development. We believe that without a constructive partnership with the North, there can be no economic growth or political stability in the South. And we realize that without political and social stability in the South the security and prosperity of the entire hemisphere will be ever threatened and, in the end, destroyed. These are simple facts of life. We depend on each other.

The cornerstone of the Institute's vision of the future is an abiding faith in the potential of democracy. In this year of the 200th anniversary of the Constitution of the United States, we are constantly reminded of the economic miracles achievable by free people. And we take note that no nation in today's world whose government is authoritarian and repressive enjoys even a modicum of the economic success enjoyed by those who freely elect their governments. Without the freedom that is the essence of democracy, there is really no hope for accomplishing true and economic lasting development.

The purpose of this evening is to honor a man whose commitment to democracy is so profound and inspirational as to warrant celebration and thanksgiving by all who value peace and freedom. Raúl Alfonsín was not just our "choice" for the Award for Democracy and Peace. He is in fact the model for the award. There is no finer example of dedication to an accomplishment of the values this award is designed to honor. President Alfonsín has become the very symbol of functioning democracy in Latin America. The bravery he has shown and the excitement he has generated are nothing short of breathtaking. He is very much the Man of the Americas of 1987.

A story unrelated to Argentina might put this great leader in perspective. It concerns Hank Aaron, the baseball player who broke Babe Ruth's homerun record. During the 1957 Worlds Series, Yankee catcher Yogi Berra noticed that Aaron held his bat the wrong way. "Turn it around," he said, "so you can see the trademark." Hank Aaron kept his eye on the pitcher's mound. "Didn't come up here to read," he replied. "Came up here to hit the ball."

Raúl Alfonsín has approached his presidency in the same way: He did not fight to get himself elected simply to test theory. He pursued the office with the intent of being a hitter, of getting things done, of making democracy work in Argentina.

President Alfonsín inherited the leadership of a country deeply in trouble. When he assumed office in a stunning upset victory, Argentina's economy was steeped in recession, astronomical inflation and record foreign indebtedness. Argentina had lost control of its economic destiny. Her people were beset by fear, by uncertainty, by insecurity, by self-doubt. Her military had suffered the indignity of defeat in war. Her government had destroyed public ethics and legality with ruthless authoritarianism. To quote President Alfonsín himself: "this state of affairs placed (Argentine) society before an abyss of disintegration". These were hardly the conditions under which one wanted to test the viability of democratic governance.

Yet as I said earlier, President Alfonsín had stepped up to the plate of democracy as a hitter.

Realizing that standing ready for war with Chile distracted energies from reconstruction of the nation, he adroitly took advantage of intervention by the Vatican to create a peace agreement almost overnight;

He pursued a tough but pragmatic course to bring justice to those of past administrations who had violated the Argentine people. In doing so, he restored from near annihilation the integrity of the judiciary and respect for basic human rights;

On the economic front, he provided inspired leadership. He fortrightly told his people, "We have two roads ahead of us for solving our socio-economic problems: nostalgic whimpering or working . . ." Clearly rejecting the former, he brought to a halt the Central bank's printing of money to pay the public debt, raised tariffs on government services, curtailed wage increases, and set out to cut the Federal deficit in half. No one believed that a President, least of all a democratically elected one, would have the courage to simply shut down the money presses and suffer the consequences of reduced spending only five months before Congressional elections. Yet President Alfonsín did and his program has reduced inflation, restored productivity and given hope to the Argentine people;

Finally when mutiny and insurrection raised its ugly head only weeks ago in the barracks, he looked it squarely in the eye and stared it down;

This is a tough and brave man. This is a man whose deep belief in democracy has empowered him to change the course of Argentine history.

Writing in the new republic, the former editor of the Buenos Aires Herald, Robert Cox, captured the essence of our honoree in an article written mid-way into his Presidency: "When I went to see Alfonsin," he wrote, "he was holding his thirteenth grandchild in his arms. He was the same warm, decent man, the same convinced democrat, the same stickler for the law. But as Argentines discovered . . . something had happened to him. He had become the person who seemed to save Argentina. The transformation he personifies is little short of miraculous."

Señor Presidente, your leadership has inspired the Board of Governors of the Institute of the Americas to pass the following resolution:

Whereas His Excellency Raúl Alfonsin, President of the Republic of Argentina, has demonstrated his constant commitment to the rule of law and government by the people,

Whereas President Alfonsin has displayed remarkable personal courage in the face of threats to the continuance of democracy,

And Whereas President Alfonsin has helped to negotiate peaceful settlement of the Beagle Channel dispute with Chile,

Be it resolved that the Board of Governors of the Institute of the Americas selects as the recipient of the 1987 Award for Democracy and Peace, His Excellency Raul Alfsonin, President of the Republic of Argentina, and declares him the 1987 Man of the Americas.

ADDRESS BY THE PRESIDENT OF ARGENTINA, DR. RAUL ALFONSIN, INSTITUTE OF THE AMERICAS, SAN DIEGO, CA, JUNE 20, 1987

I am very grateful for the hospitality of this prestigious institution and its generosity in bestowing upon me the award "Man of the Americas 1987". With the same sincerity I want to express to you that this distinction transcends my person and underscoring the efforts the people of Argentina are making to consolidate democracy in my country and to strengthen the fraternal and historical links that unite the nations of the region. With this understanding and spirit, I accept, honored and pleased this award. Once again, in the name of my people and myself, thank you very much.

I have chosen on this occasion to share with you a few reflections about the integration of Latin America for this is the best way to understand our goals. The United States is probably the first successful and fecund project of integration in the modern world in which free peoples came together in favor of a superior union benefitting all and giving an example to humanity. When we refer to Latin American integration, this is our goal. A project which for the people of the United States is a tangible reality, naturally rooted in the everyday lives of men and women. Furthermore, it is a direct consequence of the audacity, imagination and courage of those who two centuries ago envisioned in the free and voluntary union of the first States of the Union the principal condition which would make viable this great nation of today.

This example from the north of the continent was not alien to the men who forged the independence of the colonies of Iberian America. San Martin formed his army to free our continent, the soldiers that crossed the Andes were protagonists of the independence of Chile and Peru, and in Ecuador they completed their mission united with the soldiers of that other great liberator of our people's Simon Bolivar. Both men shared the same dream of a Great Union of American States (La Patria Grande), a dream that was also shared by many of our Founding Fathers. A dream nourished by the historical experience of the Americans in the north on the other side of the continent.

Therefore, the integration of Latin America is a historical aspiration of our people. It is also an aspiration which has been frustrated, yet it has never ceased to be our common goal. Many reasons explain this permanent secular interest. We share the same origin, we are the offspring of the same culture, our successes and failures are similar.

Certainly it was not a failure of the will which stopped us from reaching this natural goal of the founders of our political independence. The dreams of a common country transformed into a Latin American State were shattered by backwardness, immense distances without communications, the demands of poverty and a scarce population.

The same causes generated conflicts and civil wars which retarded the internal organization of the units which could have forged a higher union. After independence, when peace returned the world had changed. It was not the same world present at the birth of our nation. Each of our countries now searched for its own destiny within the new organization developed by industrial expansion. In this way, each of our nations established their own connections which radiated from the centers which motored their progress. Integration, by now an old aspiration had not disappeared, but it lacked the conditions to transform itself from aspiration to reality. This is how we grew. This is how we were formed: as separate sister nations. We progressed protected yet restrained by the alternatives determined by the place each of our nations had obtained in the organization of the international economy. With great difficulty we found economic spaces in markets that were already structured, and at times of crisis and recession these markets would be closed to us, unleashing in our midst all kinds of internal conflicts.

This is why more than once we regarded the external world as a threat and we became victims of isolationism.

Another characteristic of the evolution of the nations of Latin America is the failure to achieve another one of its historical aspirations: Democracy. I once said to an American audience that the consolidation of democracy in my country and in Latin America is one of the fundamental obsessions that have guided my life. Destiny has determined that this decisive moment of my public life coincides with the recent rebirth of democracy in Latin America. Where the few had imposed their will on the many, today the will of the people has recovered its domain. Tolerance and freedom are now present where persecution and violation of human rights were the norm. Violence and the rule of force have been replaced by law, in this way social harmony and peaceful descent have been reborn. Latin America has definitively recovered democracy, therefore, today's challenge is to consolidate this recovery, and we face this challenge with a basic resource: the knowledge of what we have gone through in the past and why. We know why we lost democracy and this knowledge is precisely what tells us what threatens democracy today and clouds its future tomorrow.

That is why in returning to democracy we have not forgotten the serious issues we must confront. On the contrary, it is the very return to democracy which permits a realistic and courageous analysis of the threats to democracy. The very first issue we must face is the link between democracy and economic prosperity. Frequently in Latin America this link is formulated as an outright contradiction. We, on the contrary, affirm that democracy is the instrument for, and the necessary condition of, economic progress. But at the same time we take into account the experience of those countries that have succeeded in constructing solid and stable democracies, and North Americans and Europeans know, through their own historical experience, that public freedoms are assured through economic growth and social progress.

Latin Americans certainly know it is not easy to preserve democratic values when misery robs human beings of their dignity and when ignorance makes it difficult to respect the opinions of others. We also know that the pervasiveness of misery and ignorance in Latin America has led many to believe that democracy is a luxury for wealthy nations and, as a consequence, Democracy's capacity for changing social reality was discarded. These ideas were not just announced they were used as one of many justifications for different types of dictatorships. The end result has been that we have inherited from authoritarian regimes the destruction of social harmony, deeper social inequality, and frequently, greater economic backwardness.

Our experience and not just our will and desire signals that there is no other way except that of uniting democracy and economic growth.

With the patrimony of our recovered democracy we Latin Americans approach the difficult task of inserting ourselves in the contemporary international order. We realize that our nations are not isolated units, but live immersed in a world characterized by different kinds of conflicts. It is also a world that permits us to envisage a new culture, determined by intelligence whose strength has been greatly multiplied by science. Latin Americans want to be part of the adventure of creating this new culture. Our return to democracy is also a return to the world. That is a reason why we should carefully examine the tendencies exhibited in today's international order so as to find the place of Latin America in this order characterized by interdependence and the technological revolution. One special aspect of today's international economy is the new characteristics of the relations between advanced economies and developing nations that have left behind their traditional form.

Today we begin to see a growing tendency among the great blocks of countries with advanced economies to limit their relations with the developing nations. One consequence of this state of affairs is that rarely in the past our external sector of the economy has been so negative and threatening as today. The prices of our international exports have fallen to their lowest level of the century. In part, this is due to a true war of subsidies over these products unleashed between countries with advanced economies. In part, it is the result of discrimination against our products, whether they be traditional agricultural products or the industrial goods we are now producing. These problems are intensified by the insufferable burden of the foreign debt which has transformed Latin America into a net capital-exporting region when it is only a developing region of the world economy. To confirm this situation it is enough to recall that in the last 5 years Latin American nations have transferred to the industrialized countries an amount equivalent to at least twice the cost of the Marshall plan in current dollars.

The Latin American nations are making a great effort to overcome the situation, but we are convinced that all efforts will not be sufficient if we do not take into account the deep underlying currents of the contemporary organization of the world. These indicate accelerated movement toward the consolidation of large economic spaces that have a great capacity to incorporate or propel immense technological changes, at the same time the set of international economic relations is increasingly concentrated on the interchange between these large economic spaces. That is how the developing countries, increasingly are becoming marginal in the development and evolution of the world's economy. If the developing countries especially we, the Latin American countries, do not transform ourselves to create appropriate conditions for overcoming this reality, sooner or later we will be left out of history. Once again we will become nations isolated from the rest of the world which progresses and prospers under a new impulse of the scientific-technological revolution, perhaps forever.

To reach our goals we must approach imaginatively, courageously and decisively our principal task: The integration of our countries.

I have aleady recalled here that the integration of the nations of Latin America is an aspiration of our peoples as old as the existence of our republics. And today we must insist that Latin American integration is a fundamental requirement of the viability and prosperity of our economies, and even of our nations.

Stimulated by the crisis that we are experiencing, I believe today that the integration of Latin America is possible and necessary, and that is the difference with the past. It is perceived with ever greater clarity that integration in Latin America is the only real alternative left for constructing a promising future for our peoples. I am convinced furthermore, that we can now seriously approach the creation of a large space for an economic community because the rebirth of democracy in our region has created the adequate political conditions for that enterprise.

Yes, I am convinced that Latin America is prepared to confront the challenge, the boldest challenge we have faced since the resolution of our emancipation in the 19th century. In a world in which one path after another is barred to us and we are facing the most serious sacrifices of our history Latin Americans are reaching inward.

We have the sympathy of the observers, but it is unfortunate that the imagination that helped so much to construct the more audacious dream of developing a prosperous and peaceful Europe after the last world war, does not accompany our efforts.

Today, as 40 years ago in Europe the destiny of a continent is at stake, right here in the continent whose name is synonymous with hope.

Our journey has begun and we are holding fast to our course, but our journey will be secure and less painful when the understanding and boldness once given to Europe accompanies the efforts of Latin America.

Do not doubt it the end result of this journey will be a flourishing, prosperous, stable democratic community which actively and creatively participates in the never-ending adventure of liberty.

RETIREMENT OF COL. CHRISTOPHER G. GIAIMO

HON. PETER W. RODINO, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. RODINO. Mr. Speaker, after 21 years of service, Col. Christopher G. Giaimo has retired from the U.S. Air Force.

I first met Chris when he assisted a delegation of the Committee on the Judiciary with a study mission abroad. Then as Chief of the Legislative Division of the Air Force's Office of Legislative Affairs, I was pleased to have him accompany the committee on several additional missions. He carried out his responsibilities by displaying resourcefulness, a keen understanding of the international legal issues discussed by our delegations and, most importantly, a high degree of professionalism and dedication regarding the duties entrusted to him.

While serving in that capacity, Chris authored a weekly activities publication entitled "Keeping Up" which was distributed to top Air Force executives worldwide. These reports analyzed congressional developments as they affected the Air Force.

Chris also prepared position papers for Air Force executives in response to congressional inquiries arising from pending budget requests. In this context, he maintained daily contact with members and staff, both in the Air Force and on the Hill.

In this capacity, Chris also directed the daily operations of a staff of eight officers in the presentation of the Air Force's annual legislative program. In doing this, he was particularly diligent in providing members and staff, in a prompt and thorough fashion, with current information on the Air Force position relative to each program under consideration. Chris also was directly tasked with communicating Department of Defense's justification for foreign military sales proposals. Furthering the process, he coordinated appearances of witnesses before relevant committees and counseled them as to their testimony to assure that it was consistent with Air Force policy.

Chris obtained his B.S. in political science from Manhattan College in New York, a J.D. in law from St. John's University. He earned a management masters degree equivalent from the Armed Forces Industrial College.

During his career with the Air Force, Chris at one time was a principal member and chief counsel for a nine-member U.S. delegation which developed the current bilateral labor agreement with the Government of Portugal affecting 2,500 civilian employees. He then actively managed the implementation of this agreement which resulted in preventing a pending job action, improved employee morale, and insured continued productivity.

In his wide range of experience, Chris also served as chief coordinator for a study justifying the continued operation of a major Air Force installation slated for closure. He accomplished this by analyzing details of the budget, use of manpower, adequacy of facilities and equipment, and above all, assessed the operational benefits and impact of the political climate, nationally and locally. This comprehensive study convinced the decisionmakers of the wisdom of continuing the operations of this facility.

I have cited only a few examples of the breadth and stature of Colonel Giaimo and his abilities. In all of his activities, there is great evidence of initiative, effectiveness and loyalty.

Colonel Giaimo and I have had a warm and cordial relationship,—one which I wish will continue for many years. There are parallels in my life with those in his—an Italian Heritage; the same Northeast region where only a river separates our home States, the same profession—the law; and service to our country in the military. Last, but not least, Chris is an ardent Giant fan as I am.

In the last 21 years, Col. Christopher Giaimo has served his country well. He was an outstanding military officer. I have no doubt that he will succeed in any endeavor he wishes to pursue after his retirement. I am sure that many Members of Congress join me today in wishing a long, prosperous, and rewarding future to Chris, his wife, Eileen, and their three children.

NATIONAL SAFETY BELT USE DAY

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. DINGELL. Mr. Speaker, today I introduced, along with my good friend and colleague, Congressman BUD SHUSTER, a House joint resolution to designate October 15, 1987, as "National Safety Belt Use Day."

We speak from personal experience that safety belts and child safety seats have proven to be effective in reducing highway fatalities and injuries. Thousands of lives and millions of dollars in medical and insurance expenses have been saved by "buckling up."

The tremendous benefits of adult and child seat belt use are now recognized throughout the United States. Twenty-nine States, including the District of Columbia, have enacted seat belt use laws, and child safety seat laws are in place in all of the States. These laws, in conjunction with other activities, have resulted in millions of Americans regularly wearing safety belts and using child safety seats.

Although great progress has been made to make the public aware of the advantages of increased seat belt and child safety seat use, Congress should go on record as recognizing that universal use of these safety systems would substantially reduce highway deaths and injuries.

The resolution requests the President to issue a proclamation calling on the people of the United States to wear safety belts, to have their children wear child safety seats, and to encourage safety and other law enforcement agencies and others to promote greater usage of these essential safety devices.

Congressman SHUSTER and I invite our colleagues to cosponsor this important House joint resolution and become part of a national movement to reduce highway fatalities and injuries.

The resolution follows:

H.J. RES. —

Whereas safety belts and child safety seats have proven to be effective in reducing highway fatalities and injuries;

Whereas the legislatures of 29 States and the District of Columbia have recognized the benefits of safety belt use and enacted safety belt use laws;

Whereas child safety seat laws are in effect in all of the States;

Whereas as a result of these laws and other activities, millions of Americans are regularly wearing safety belts and using child safety seats;

Whereas the universal use of these safety systems would prevent thousands of fatalities and injuries each year;

Whereas the use of safety belts and child safety seats should be encouraged even as passive restraint systems are phased into the vehicle fleet;

Whereas numerous public interest and safety organizations are working to encourage more extensive use of safety belts and child safety seats; and

Whereas the law enforcement community has played an essential role in encouraging the more widespread use of safety belts and child safety seats: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 15, 1987, is designated as "National Safety Belt Use Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to wear safety belts and have their children use child safety seats, encouraging public safety and law enforcement agencies to promote greater usage of these essential safety devices.

MEDICAID-CERTIFIED STATE VETERANS HOMES NEED YOUR HELP

HON. OLYMPIA J. SNOWE

OF MAINE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Ms. SNOWE. Mr. Speaker, I am introducing legislation today to assist Medicaid-certified State Veterans Homes, such as the Maine Veterans Home, in making full and proper use of the funds Congress has authorized for the benefit of veterans.

This measure seeks to address a problem that has arisen over the per diem payment program authorized by 38 U.S.C. 641–643. Under this program, the Veterans Administration [VA] contributes funds directly to recognized State homes to help meet the cost of care for eligible veterans in the homes. Per diem payments are made for domiciliary care, nursing home and hospital care.

The general counsel of the U.S. Department of Health and Human Services has ruled that the per diem payments paid to the State homes must be treated as third-party liability payments. This means that the per diem is being offset by Medicaid payments due the homes. So the Medicaid payment is reduced by the amount of the VA per diem. The per diem is in essence, therefore, of no benefit to the homes.

The purpose of the per diem program is to improve the quality of care for veterans. In the Medicaid-certified homes, however, the per diem is simply being used by the States to replace Federal and State funds in the Medicaid Program. The per diem, then, is not providing any benefit to the veteran.

This legislation would resolve the problem by stating that the VA per diem payments are not to be treated as third party liability payments for Medicaid purposes. This will allow the homes to use the per diem for the full benefit of our elderly veterans.

Providing adequate care for our elderly veterans must continue to be a priority for this country. As the veterans population continues to age, these homes will play an increasingly essential role in keeping this country's commitment to the men and women who came to the aid of our Nation in its time of need. They were there when we needed them, and it is only right that we are there for veterans in their time of need.

BORK NOMINATION OPPOSED

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. EDWARDS of California. Mr. Speaker, much has been written and said about the nomination of Robert Bork to the Supreme Court. However, I would like to take this opportunity to draw my colleagues' attention to a letter to the editor which appeared recently in the Washington Post. The letter, by my good friend and colleague in arms in the civil rights struggles of the past several decades, Joe Rauh, explains why so many people who fought in those struggles have made the Bork nomination their highest priority. I commend the article to our colleagues' attention.

WHY ATTACK THOSE WHO ATTACK JUDGE BORK?

As a Washington Post fan for half a century, I am at a loss to understand or explain your drumbeat of editorial abuse upon those whose dedication to civil rights and civil liberties brings us to oppose the Supreme Court nomination of Robert Bork.

Your July 2 editorial attacks two highly respected leaders of important civil rights groups for engaging in a "mud-pie contest" because they are seeking a mass mobilization against Judge Bork. What did The Post expect them to do? Judge Bork has made crystal clear his positions against minority rights, women's rights, criminal defendants' rights, church-state separation, one-man-one vote, privacy generally and abortion choice in particular. Does the Post expect civil rights leaders to leave the field to the pro-life and other extremist groups that are mobilizing in support of Judge Bork?

Your writer, Michael Barone, [oped, July 9], chides liberals for not relying for their rights upon state legislatures, which he assures us, "are liberal today." Apart from Mr. Barone's failure to mention the dangers inherent in the thousands of cities, towns, counties and other local governing bodies, he equally importantly fails to answer the real question: "What's wrong in fighting for important rights in both the legislative and judicial branches—and even in the executive for that matter?"

Your July 10 editorial attacks senators for declaring their opposition to Judge Bork before the hearings, claiming, "If there is a strong, serious case to be argued against Judge Bork, why do so many Democrats seem unwilling to make it. . .?" Actually the case has been made overwhelmingly in the fine news coverage of The Post. Its own reporters have dug up Bork writings, lectures and opinions demonstrating that his right-wing think-tank supporters are quite right in claiming that: "We have the opportunity now to roll back 30 years of social and political activism by the Supreme Court."

Your writer, Mark Shields, July 11, extrapolates from some intemperate language by a single member of the Democratic National Committee, who also happens to be an NAACP board member, that Democrats voting against Judge Bork will be subject to the charge of yielding to "pressure groups." But as one who has labored for civil rights, including Supreme Court nomination battles back to the defeats of Haynsworth and Carswell, I can testify that this mobilization of religious, civic, black, Hispanic, civil rights, labor, women's and other groups against Judge Bork equals in size and enthusiasm anything ever accomplished before. Is it really fair to call such a coalition of pro-civil rights organizations a "pressure group"? If so, it is a pressure that includes a substantial part of the nation.

Your July 12 editorial commends Judge Bork's "flexibility" through reference to a single, simple libel case in which he ruled for right-wing columnists Evans and Novak against an accused Marxist plaintiff. And once more there is The Post refrain against senators who have found the Bork record clear enough to state their opposition at this time. One wonders why this is so much worse than the immediate, pre-hearing plaudits of Sen. Thurmond and many of his Republican colleagues for the Rehnquist, Scalia and Bork nominations—all of which The Post fails to mention.

The Post record over the years in support of civil rights and civil liberties is second to none. One hopes its support of confirmation for Attorney General Edwin Meese was only an aberration and trusts that the editorial staff winces at every new revelation about Mr. Meese. For 6½ years, Mr. Meese has led the administration effort to roll back the great advances in civil freedom of the past 30 years. The Bork nomination is his last ditch effort to accomplish what he has failed to do in Congress and the Supreme Court. I hope The Post will not consider it out of line for this faithful friend to urge it not to compound its earlier Meese blunder by continuing its course of support for Mr. Meese's hand-picked Supreme Court nomination.

WHAT IS ACADEMIC FREEDOM?

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. DORNAN of California. Mr. Speaker, I am pleased today to be able to share with this Congress an essay dealing with academic freedom, which is the object of much discussion today, particularly in the academic world. However, academic freedom is an issue which extends far beyond academia because education is of such critical importance in the shaping of our Nation.

Every society with the desire to advance itself has recognized the value of solid education—from the time of the Spartans to Karl Marx and to our own 20th century. The knowledge imparted in the classroom often has lasting effects. Thus educators play a crucial role in the formation of our Nation's youth.

What is academic freedom? Is it the right of professors and teachers to instruct their students on the whim of the moment or try to sell them on their political views during class time? Can anything to taught in the name of academic freedom? Would it be a violation of a teacher's right to academic freedom to insist that he or she teach two plus two equals four and not five?

I am submitting for the RECORD this article by former Senator S.I. Hayakawa who explores this issue of academic freedom to conclude that it is a gross misinterpretation of the phrase academic freedom to construe from it a license for irresponsibility in the classroom. Educators must be able to distinguish the "relation between a professor's duties as a scholar and teacher and his obligations as a citizen."

ACADEMIC FREEDOM: WHAT IT MEANS AND WHAT IT DOESN'T MEAN

(By S.I. Hayakawa)

I

The American Association of University Professors has the following to say about the relation between a professor's duties as a scholar and teacher and his obligations as a citizen:

"It is the teacher's mastering of his subject and his own scholarship which entitle him to freedom in the presentation of his subject. Thus, it is improper for an instructor persistently to intrude material which has no relation to his subject, or to fail to present his course as announced.

"Because academic freedom has traditionally included the instructor's full freedom as a citizen, most faculty members face no insoluble conflicts between the claims of politics. . . . If such conflict becomes acute and the instructor's obligation as a citizen and moral agent precludes the fulfillment of his academic obligations, he should either request a leave of absence or resign."

But of course many activist professors, under the waves of emotion generated by events in Vietnam or Nicaragua or South Africa, neither resign nor take leaves of absence as they abandon their academic duties to convert their classes into political rallies.

In the face of this abandonment of professional responsibilities, I have maintained that those who are paid to teach literature or mathematics must continue to do so, whatever political activities they might want to engage in outside of class hours. For saying this when I was president of San Francisco State College, I was duly censured by a faculty meeting for "interfering with academic freedom."

But academic freedom, far from meaning professional irresponsibility, means the exact opposite. Academic freedom is not a civil right, like the right to vote. You don't do anything to earn your civil rights. They are automatically yours by virtue of citizenship in a democratic society.

Academic freedom, on the other hand, has to be earned. It doesn't come automatically with your job as a college or university teacher. In order to be entitled to full academic freedom, you must first earn an advanced degree in your field of knowledge or have in your record some equivalent intellectual or artistic achievement. Next, you must as a rule serve as a junior faculty member for a year or two or more. Finally, a committee of your faculty seniors will go over your record and decide, subject to the approval of the Dean or the President, whether to grant you tenure—and the full academic freedom that goes with it.

It is no accident that academic freedom and tenure go together. Before you have tenure you are essentially a professor on trial. You enjoy much freedom, of course, but your ideas and actions are still subject to the censure of non-reappointment. When you are granted tenure, however, you are by definition a fully-qualified professional in your field, whether in geology or literature or physical education or philosophy. You are certified as not being an amateur, a delettante or a crackpot. Your intellectual competence has been established.

But what of a professor's right to have strongly-held views on matters that have nothing to do with his area of expertise: views on the wickedness of trade unions or the errors of the foreign policy of the Reagan administration? Here we are concerned not with the professor's academic freedom, but with his civil rights. Like the stockbroker's or the milkman's views on such matters, the professor's views may be those of a wise man or a crackpot, but he is entitled to them and has the right as a citizen to espouse them. But he is not entitled to espouse them as a professor. In this context, he is just another voter.

II

The dismissal of a professor of uncertain scholarly attainments but of quite definite pro-communist sympathies was demanded by a Lion's Club in a small city in California. The response of the professor's departmental colleagues was to grant him immediate tenure, not because they admired him or agreed with him, but principally because they didn't want to seem to be yielding to pressure from the Lions. (They didn't seem to notice that they were yielding to pressure from the communists.)

This incident points to the problem for many professors. The Lion's Club of course is profoundly of the middle class. But professors in some departments—most notably in the humanities and the social sciences—believe it to be almost a religious duty to hold the middle class in contempt. According to them, the middle class is smug, vulgar, anti-intellectural, anti-artistic, materialistic. You must, as an educated person, hold middle-class values in scorn.

However, a contradiction arises from the fact that universities are profoundly middle-class institutions. Middle-class parents send their sons and daughters to college to affirm and strengthen their middle-class status. Working class people go to the university in order to join the middle class. Most American colleges and universities are basically designed for the middle-classification of everybody in America!

Professors who despise the middle class are essentially aristocratic in outlook. They are in a different position. Many of them are clearly unhappy when they find themselves in highly democratic institutions such as state universities and state colleges.

III

A typical example is a teacher of English literature at a state university in California—hereinafter referred to as the "Professor." He wrote an article in The Nation a few years ago to say that except for a few "younger and often more intellectually active faculty in the social sciences and the humanities," the California state universities are institutions in which "mediocrity is the end as well as the rule."

The faculty, the Professor continued, is dominated by "a large anti-intellectual emphasis upon schools of education, business administration, industrial arts and other sub-academic services."

This, of course, is characteristic liberal arts arrogance, which I am sorry to say, I shared as an English and philosophy major for much of my early life.

According to this view, only in the liberal arts—and possibly in political science or anthropology—is there any genuine intellectual life. What goes on in schools of education, business administration, engineering, agriculture, industrial design and the like is "sub-academic." Education that is career-oriented is by definition illiberal—and therefore really not education at all.

"The state colleges," the Professor continues, "carry on the main work of technical training and indoctrination for submissive service in the middle ranges of corporate and state hierarchies."

In other words, states colleges, instead of training people to become gentlemen, connoisseurs of literature, critics of society, revolutionaries or philosopher kings, undertake the ignominious task of preparing young men and women for jobs in industry or government! How disgraceful!

The Professor must indeed be, if he is still in the state university system, a miserable man. He despises the very raison d'etre of the institution he works for. He views the trustees and the governor as busy manipulating the system so that "the economically privileged shall keep full power over education and withdraw its access from the socially and politically unsubmissive." He despises administrators, who are to him "the super janitors who run the colleges." He scorns most of his professorial colleagues and their "sub-academic" concerns. One wonders why he deigns to remain in such a miserable educational setting. Maybe he likes the pay and the security.

At a reception following the commencement exercises at San Francisco State in 1973—my last commencement before my retirement from academic life—I was greeted by a man who introduced himself as a skycap at the San Francisco airport. "You don't know me," he said, "but I've often carried your baggage." He proudly introduced his wife, his younger children, and his eldest son, who had just graduated with a degree in business administration and was on the threshold of a career very different from his father's.

I was proud of that graduate in business administration and of the fact that our state university had made possible this milestone in the history of his family.

No doubt the Professor will find the achievements of that graduate in business administration "sub-academic" and beneath contempt. What continues to puzzle me about some scholars in the liberal arts is that their own humanity and human sympathies appear to be diminished rather than broadened by their humanistic studies. One wonders what the humanities are for if their principal product is this kind of elitist snobbery.

V

Our organization, Accuracy in Academia, is concerned about the serious attacks on academic freedom now rampant on the campuses of distinguished and elite colleges and universities throughout the United States: Harvard, Dartmouth, Wellesley, Yale, the University of California at Berkeley, the University of Southern California.

Among the many speakers whose speeches have been interrupted, disrupted or cancelled because of student protest are people like Caspar Weinberger, Alexander Haig, Chief Justice Rehnquist, Jeane Kirkpatrick. They have been shouted down, heckled, pelted with red paint and eggs; some have had to be escorted out of the lecture hall by security officers because of dangers of physical assault.

What is happening on such elite campuses is a direct continuation of what happened in the 1960s at the same or similar institutions. An undergraduate student at Harvard, Steven Kelman, wrote a book about the disturbances at that university, Push Comes to Shove: The Escalation of Student Protest (Houghton Mifflin, 1970), which contributes much to our understanding of student disorders, then and now. What he wrote then applies with equal force to what is happening now:

"Students are today's idle rich. Being idle, well fed, and generally satisfied . . . (T)he first non-negotiable demand of the oppressed student class is therefore for a rapidly changing stream of sensations . . . And the hostility . . . is directed against its oppressors, institutions which require routinized behavior (such as going to classes every day) or which discourages experimentation with new sensations such as drugs. The three most serious oppressors: University, Law, Family."

Also inherent in student radicalism is elitism—a profound contempt for ordinary people—which Kelman calls the "rotten kernel" of student radicalism. Hence the tactics of confrontation.

If radical students respected their fellow citizens, they would reason with them. But no, they cannot be bothered reasoning with anybody, because they know what is right—so they will shut down by force whatever and whomever they object to.

Elitism is certainly the curse of student political life. Actuated by moral arrogance, the liberal elitist gives assent to the radical elitist's rape of the democratic process. This is why the student movement is so much like Nazi-ism.

"The elitists must be fought and fought hard," writes Kelman, "because . . . the bloody history of the twentieth century has taught us that democracy, majority rule, and civil liberties are not luxuries, but the alternatives to mass murder and suffering. They are the necessary preconditions for any decent society."

VI

Let me wind up these remarks with some reminiscences from my days at San Francisco State—a thoroughly non-elitist institution, formerly known as a "street-car college", where most of our students, perhaps three-quarters of them, have full or part-time jobs or children at home to take care of.

It must have been 1964 or thereabouts when we had as a speaker on our campus the late George Lincoln Rockwell, at the time the notorious head of the American Nazi Party. Student body officers discussed the coming event with many fellow-students and decided on a policy as to how to behave at Rockwell's speech. They agreed that there was to be no rude behavior, no demonstrations. Those who wished to express their disapproval of Rockwell's anti-Semitic views were to wear yellow arm-bands and remain silent. There was to be no applause.

At the end of his speech, which was never interrupted but listened to in silence, there was a faint scattering of applause, which quickly died down when it became clear that the rest of the audience was not joining in.

Thereupon Mr. Rockwell strode back to center stage and bowed stiffly. "Ladies and gentlemen," he said. "This is the first time in my experience when a college audience has given me a fair hearing. Thank you," he said, and bowed stiffly and marched off the stage.

I was very proud of our student body at that moment, when more distinguished universities around the country, including Berkeley, were being torn up by student protests. For a while I remained proud.

But not for long. We too had our elitists: students who didn't have to go back to work as clerks, taxi-drivers, waitresses, bartenders or baby-sitters the moment classes were over. With demonstrations, riots, classroom disruptions and vandalism, our elitists disrupted the college incessantly from then on.

In order to restore order at San Francisco State, the trustees appointed as a new president in 1966 a charming and thoughtful psychologist. Student radicals, white and black, broke up his inauguration ceremonies.

Nevertheless, he tried to communicate with and be friends with the radicals. In May of 1968, he fled, calling the vice-president from New York to say he was resigning and was on his way to a new job in Ethiopia.

His successor, one of our own professors, was appointed at once, but resigned in November, his problems with both students and trustees having proved to be insoluble.

Therefore a third president had to be appointed in 1968. The trustees had really reached the bottom of the barrel. I was appointed to this job in Thanksgiving Week of that year. Life has never been the same since.

JUSTICE DEPARTMENT INACTIVITY ADDS TO ATV TRAGEDY

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. FLORIO. Mr. Speaker, the following editorial from the Daily Journal of Elizabeth, NJ, describes the current controversy surrounding all-terrain vehicles [ATV's] in very plain language.

The Subcommittee on Commerce, Consumer Protection and Competitiveness has been focusing on the actions of the Consumer Product Safety Commission and the Justice Department regarding ATV's.

Five people are killed each week in accidents involving ATV's. The Consumer Product Safety Commission performed a $2.2 million study on the subject of ATV safety. The CPSC has asked the Justice Department to represent it in declaring ATV's an "imminent hazard." The CPSC seeks to require ATV manufacturers to offer recalls and refunds, as well as to provide free training to ATV owners.

Five months have passed since the CPSC asked the Justice Department to represent the CPSC in declaring ATV's an imminent hazard and requiring additional safety steps. In those 5 months nearly 100 more Americans—about half children—have died. The editorial raises the question "What is justice waiting for?" The subcommittee has been waiting for that answer from the Department of Justice for 5 months.

The article follows:

NO EXCUSE FOR LACK OF ACTION

Perhaps it never occurred to the bureaucrats and legal experts in Washington that a problem is not solved merely by making a study and issuing a report. Some action has to be taken to stop the killing of children. But that's where the Consumer Product Safety Commission and the U.S. Justice Department draw the line.

The killing is taking place on all-terrain vehicles, popularly known as ATVs—those three- or four-wheel motorized "bikes" made for flying across fields and whizzing through the woods. The safety commission reports that from 1982 through 1986 a total of 559 were killed and 271,300 injured in accidents involving ATVs. Children 12 and under accounted for 135 of those deaths.

Rep. James J. Florio, D-1st Dist., of Pine Hill, who has criticized both the commission and the Justice Department for their lack of action, says ATV accidents continue to claim about 20 lives a month.

Admittedly the Consumer Product Safety Commission did follow up its $2.2 million, 18-month study of ATVs, and 14,000-page report, by asking the Justice Department to declare ATVs an imminent hazard. This action would allow the department to require manufacturers to offer recalls and refunds, and to provide free training to ATV owners.

Interestingly, Terrence Scanlon, chairman of the safety commission, voted against even these modest measures. And perhaps the people in the Justice Department noted his opposition, because after four months, the nation's top law enforcement agency has done nothing to implement the recommendation of the two safety commission members. Meanwhile the injuries and deaths continue.

The safety commission's study concluded that children under 12 cannot operate ATVs safely and that children between 12 and 15 cannot safely handle adult-size vehicles. And it said that education and safety equipment, especially helmets, save lives.

Fortunately for the children of New Jersey, it is illegal for anyone under 14 to operate an ATV in the state. State law also requires operators of all ages to wear helmets.

More can be done to make ATV use safer in New Jersey. But nothing has been done at the federal level, where the head of the commission responsible for consumer safety apparently thinks 20 deaths a month is a reasonable price to pay for an industry with $1.5 billion in annual sales.

There is no substitute for personal caution, whether driving a car or riding an ATV, and no substitute for parental responsibility when it comes to the safety of children. That is no excuse for the safety commission to shirk its responsibilities or for the Justice Department to drag its feet while 20 people a month are killed partly as a result of their inaction.

MORTON GOULD: MUSICAL CITIZEN

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. CARR. Mr. Speaker, as chairman of the Congressional Arts Caucus, I have had the privilege of meeting several of the legendary composers of our time. To most of us, music has been a source of joy and comfort for as long as we can remember; we are fortunate in the United States to have a talented and viable music community which keeps this art form alive for all of us to enjoy. American music, indeed, boasts many artists of great talent, dedication, and simple human warmth and humor, but few typify these qualities as well as Morton Gould, president of the American Society of Composers, Authors, and Publishers [ASCAP].

I was recently pleased to see a biographical article appear on Mr. Gould in the July 1987 issue of the Instrumentalist. This article is a revealing profile of Mr. Gould as a man of many talents: composer, arranger, conductor, and president of the oldest performing rights association in America.

Mr. Gould has dedicated his life to an art which deeply touches the lives of most Americans, and he has shown the utmost dedication to the growth and protection of American music and musicians. In light of Mr. Gould's enormous contributions to our society, I offer this article to be included at this point in the RECORD for the benefit of all those who value the arts in our society.

The article follows:

MORTON GOULD: MUSICAL CITIZEN

(By Harvey Phillips)

Few American composers have succeeded as well in combining traditional and modern idioms as has Morton Gould. Since the 1930s, when he began composing and conducting for the "Music for Today" series on the Mutual Radio Network, Gould has been at the forefront of composers for the broadcast media, including radio, television, and film. His busy schedule and spiraling success have not, however, deterred him from writing in classical forms; he has produced concertos for piano, violin, and viola, along with numerous symphonic works.

Born in Richmond, New York in 1913 of immigrant Austrian and Russian parents, Gould began composing at six and presented a concert of his works in New York City at age 16. He sustained himself by playing the piano for silent movies, which undoubtedly contributed to his legendary facility at illustrating film with music. At 18 he became staff pianist at Radio City Music Hall and three years later joined the Mutual network. In 1942 Arturo Toscanini conducted the N.B.C. Symphony in Gould's Lincoln Legend, and three years later Gould conducted the Boston Symphony in a program of his own compositions.

Working for Mutual Radio for eight years had prepared Gould for the big break, which came in 1943, when C.B.S. Radio engaged him as music director of the "Chrysler Hour." Over the next few years Gould composed two Broadway musicals, three ballets, and several Hollywood film scores. With the advent of television, he began writing scores for historical productions such as World War I and Holocaust, all the while maintaining his conducting career.

In 1986 Morton Gould became president of the American Society of Composers, Authors, and Publishers.

When Morton Gould accepted the presidency of the American Society of Composers, Authors, and Publishers (A.S.C.A.P.), it seemed to many of his friends and admirers a drastic career change. What influenced him to take on such a responsibility?

"That's a loaded question," Gould begins with a smile. "Let me try to take it apart and answer it bit by bit. On the face of it, it may seem odd that a composer/conductor should become an executive; and yet, if you look closely at the background and varied involvements that have made up my career, it's not so far removed from what I've done before. I've always done things off the cuff—I have not had an orthodox or traditional career."

Even as an adolescent, having had formal training as a classical musician, Gould was already involved with commercial music. Growing up as a prodigy in a little town just outside New York City during the 1920s and finding himself a "serious composer" at an early age, he had to figure out what to do to survive economically.

"Many of my composer colleagues chose teaching to earn a living," he explains, "because in the '20s and '30s, even if your works were performed by symphony orchestras, it was unlikely that you would receive any kind of fee. (That was before A.S.C.A.P. began collecting fees for composers.) For that reason I chose to shape part of my career around income-producing possibilities, and at that time radio was an important one. I became active in live radio, conducting programs of light music that I arranged and sometimes composed. At the same time I was writing more extended pieces and getting them performed by some great conductors and orchestras. I wrote, conducted, and recorded various kinds of music; so I was doing some unorthodox things early in my career."

Along with those activities, Gould has always been involved with what he calls musical citizenship: "I served on committees that had to do with the development and improvement of our musical culture. I have been a composer member of A.S.C.A.P. for over 50 years, and I have served on its Board of Directors for almost 30. I've also served on the board of the American Symphony Orchestra League and the National Endowment for the Arts. In short, I have been involved in the economics of music, which I believe is a very important subject. For a number of years there was talk of my becoming president of A.S.C.A.P. I was not sympathetic to the idea at first, but last year when my fellow board members asked me again to accept the presidency, it seemed like a natural thing for me to do. I look upon it as an extension of what I was already doing, yet it involves me in another area of the musical scene, in this case, as chief executive of the largest performing rights society in the world."

In the 35 years that I have known Morton Gould, he has always had free-spirited across-the-board concern for music. His open-mindedness is especially notable considering that when Morton Gould was getting his musical education, much of the music we now view as part of the standard repertoire—important works of Bartók, and Copland, for example—had not been written. What music did he listen to as a student?

"The music I first heard as a child came from a player piano my parents had. Up until about the age of six or seven, the only music I heard was on player-piano rolls. This music consisted for the most part of pieces like Rachmaninoff's *Prelude in C# Minor*, Strauss waltzes, and transcriptions of overtures from works like *William Tell*, *Poet* and *Peasant*, and *Zampa*. There were no school music programs to speak of. The only bands I remember were the local policemen's and firemen's bands, which would march on the Fourth of July or Memorial Day. There was no concert series, and I don't remember any programs at school. At best we might sing words to the theme of Schubert's 'Unfinished' Symphony."

When he was eight years old, Morton received a scholarship to the Institute of Musical Art, which later became the Juilliard School. Before that he had only studied privately with a local piano teacher.

"One day when I was about four-and-a-half my parents heard me play what I had heard on the piano rolls and they took me to a local teacher. At the Institute of Musical Art I studied with a Hungarian pianist named Joseph Kardos, a wonderful teacher. We would play the Beethoven and Mozart Symphonies in piano four-hands. From the age of 13 or 14 I studied piano with Abby Whiteside, a sort of maverick who was nevertheless well known and respected in pianistic circles. She had a fanatic dedication to her own way of doing things. Then I studied theory and composition with Dr. Vincent Jones at New York University. That was the extent of my formal musical training."

Morton Gould did not learn what he knows about popular music at the Institute of Musical Art. "Oh no," he explains, "we're talking about a period of our musical life when the basic musical influence was the Viennese Classic or German tradition. The idea of teaching, or hearing, or even being exposed to popular music was unheard of. There was a rigid belief that popular music was trash. It was tolerated, but it was considered to have nothing to do with 'serious' music.

"It was tremendously different from today's tolerance and concern for all music. Still, the truly great artists of that time didn't have such a narrow attitude. They appreciated genius whether it was found in a popular song or in a great symphonic work."

Gould's first composition, written when he was six years old, was appropriately titled *Just Six*. "It's not an epic contribution," he assures me, "but I have always been composing." A.S.C.A.P. was also six years old that year; the president is the same age as his organization. "I was not a member of A.S.C.A.P. when my first piece was published," Gould quips, "I became a member in 1936."

After having served on the policy-making Board of Directors for so long, Gould had some definite objectives in mind when he assumed the presidency. The battle against illegal copying, for instance, has escalated in recent years with the introduction of inexpensive desktop copiers.

"A.S.C.A.P. supports any action that restricts the possibilities of piracy; and piracy is exactly what we are talking about, whether inadvertent or intentional. With the growth in technology, there are increasing ways to misappropriate intellectual property—not only music, but all forms of art. At one time the whole idea of duplicating anything on tape was a highly technological feat that only the most skilled engineers could handle, but now people with simple tape machines can duplicate commercial recordings and record live."

With students bringing an increasing number of photocopies into their lessons, is this a problem our educational institutions need to address? Gould says it is. "It has been devastating for both composers and publishers, but it is most discouraging for the publishers. If, instead of buying additional copies of a work, students go out and photocopy them, they cut out any profit to the publisher and thus any income to the composer. So why publish? Why make any material available at all?"

Gould's approach to composition has been inexorably bound up with the business of music. Over the years almost all his work has been done on commission. Does his new career allow time to compose?

"I have a lot of sketches lying around, and I hope I can shape my schedule here at A.S.C.A.P. to permit time to compose. This year I have had to cut back on the commissions I accepted, and on personal appearances, because this position is a full-time involvement; but I have always had full-time involvements along with other responsibilities."

As a film composer Gould is accustomed to meeting deadlines. The composer is usually called in after the film is shot, given a release date, and expected to meet it.

"The ideal would be for the composer to be involved right from the beginning, " Gould explains, "but it doesn't usually work that way. What happened with Holocaust was that they called me in and showed me the rough cut of the film. To dramatize a very moving event like this you have to look at it objectively to determine where music should go and what the music can do to enhance the drama.

"The composer is restricted by a certain amount of time and film. There may be seven seconds here, eighteen there, and every now and then a scene may stretch out to two or three minutes. Within that framework there are certain gestures and events you have to pick up. You organize that in your mind and record it on a log sheet, using a stopwatch. Once you adjust to the time restraints, it's like writing anything else—ideas start to come to you and you hear music.

"Whether I am writing film music or a symphony or a band work, there is no guarantee that I will hear any original music in my head. I might just sit and stare at the wall. Oddly enough, though, it's usually the pressure of a deadline that produces something."

Whatever Gould composes, he does it with complete dedication to craftsmanship. "I treat it seriously, no matter what it is. I can sweat over a very simple short piece; I can get hung up over four bars, yet I often see myself labeled as facile. I think I do have a good technical command of my craft. I know instrumentation: I write for orchestra; I write for band; I write chamber music. I hear music already orchestrated: when I write an orchestral score, I don't write it and then orchestrate it. Then is it just a matter of calligraphy—getting the notes on the page. That doesn't mean that I don't sometimes have problems before I get to that stage, though."

Though modern computer technology has affected Gould less than some of his contemporaries—Pierre Boulez, for instance—Gould is open-minded about electronic music. "I've written very little of that," he explains, "because I found it difficult to find time to write all I wanted to write for traditional instruments and live musicians. Still, I am intrigued by all the possibilities that exist with synthesizers and computers. There is no doubt in my mind that they are valid new ways of producing musical sounds and textures.

"If I were younger, I would be very much a part of this new wave. Starting out in radio in the '30s, I was already experimenting with echo chambers and doing things with instruments that were slightly altered electronically; and throughout my years as a recording artist, I have stayed abreast of the developments in technology. Who knows, after I leave the presidency of A.S.C.A.P. I may become the next electronic composer. Anything is possible. Seriously, all these ways of putting sounds together are valid; it depends on how they are used and who uses them. It's a matter of what a person does with the talent and facilities he has at his disposal."

Morton Gould believes that young composers and instrumentalists should seek as broad a knowledge of music as possible if they want to succeed in the music business. "On every level there are exciting, wonderful, creative things going on. From the rock and pop field to the more esoteric music, new terrains are being opened up along with all the inherted ways of making music, from the traditional classical medium through twelve-tone and electronic composition. I think the composer and performer should be aware of all the possibilities and listen to all the great classical, jazz, rock, and other performers, because all those people have their own musicality. They enrich both the performer and the composer.

Students should be exposed to as many musical disciplines as possible, and it should be the choice of the individual which one to emphasize, It is significant how important popular music has been to young people over the years, even during periods when the establishment looked on it with a jaundiced eye."

Morton Gould has always been concerned about music education, and he is acutely aware of the problems that schools, from elementary through college, face today. It bothers him when people suggest that music is an extracurricular subject that is not so important as, say, the sciences. To Gould, the arts are what make us civilized.

"Music is an expression of the human spirit and of the spiritual quality unique to the human condition. Music is an intrinsic part of what we are, from the way we speak to the kinds of songs we sing. Babies are lulled to sleep with it; we grow up with it; we live with it as adults. For that reason, I believe that music in the schools—vocal ensembles, bands, orchestras, chamber ensembles, stage bands—should be an opportunity for young people to flex their talents in whatever form they choose to express themselves. Not all students will choose to be involved, but they must have the option; music must be part of the educational experience. Obviously, money must be available to sustain the programs.

"Along with funding for the necessities of life—and I am certainly aware of the problems facing our society with the homeless, the sick, and the elderly—society must recognize the importance of museums, of libraries, of the arts, and of all those things that may not appear to have much to do with everyday survival. Money is needed to sustain and develop these institutions of human culture, and certainly I think that music education should be a part of that. One way to do this is to keep leaning on our legislators. Support for the musical arts should be one of their priorities."

Besides lobbying for legislation, A.S.C.A.P. is involved in music education in a number of ways. It provides funds for a number of musical organizations affiliated with educational institutions. A considerable amount of the money collected from users of the music it licenses is reinvested in music education.

It would seem that even a composer as prolific as Morton Gould would have some favorites among his compositions, but he claims to be neutral. "I really don't think much about my works once I have finished them," he says. "I continue to be aware of them, and I would like to think that they are being performed, that people hear and react to them, and that they get good critical reception; but you know, when it's done, it's finished.

"In the field of band repertoire I consider my *West Point Symphony* for band to be a good realization of the objective of that kind of piece. It was written to celebrate the 150th anniversary of the founding of the West Point Military Academy. Among orchestral compositions, I'm not sure . . . composers often have a particular awareness of works that do not get a lot of performances. For example, my *Jekyll and Hyde Variations*, which I wrote for Dmitri Mitropoulos and the New York Philharmonic in 1957, is a twelve-tone piece in my own style.

"I remember the *Tuba Suite* I wrote for you, Harvey, and how you and your three colleagues played it for me after I hadn't heard it for a long time. As I listened, I thought, 'that's not a bad piece,' and I was happy to have written it."

After having conducted the world's great orchestras, often in performances of his own compositions, and after having been president of A.S.C.A.P., what is left for a man like Morton Gould to accomplish?

"I think the aspiration of any composer—of any creator—is to reach out over the horizon to try to achieve what you have not achieved before," says Gould. "As for me, I am still running after something, and I hope I can keep running, but not because I have any illusion of ever finding it. The horizon always moves; whenever you think you are getting close, you find it is still far away. That is what creative people are all about. I am very fortunate that I do what I like best, which is music; and I would hope that I have contributed something to an art that I love, one that affects me intellectually, emotionally, personally, and professionally. I feel lucky to have had a career in music."

THE TERLITSKY FAMILY—THE SUFFERING CONTINUES

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. HOYER. Mr. Speaker, a few days ago I spoke of Nadezhda Fradkova and the suffering she endured while in the Soviet Union as well as the end of her pain when she was finally permitted to emigrate to Israel.

Yet, Mr. Speaker, the suffering continues for the Terlitsky family of Moscow. Mark Terlitsky, his wife, Svetlana, their daughter, Olga, and Mark's mother, Fanya, have all been seeking permission to join Mark's brother, Leonard, who has lived in the United States since 1976.

Mr. Speaker, I met with Mark Terlitsky during the Passover Seder in Moscow and I wanted to share with my colleagues his plea to our congressional delegation.

Moscow 121099,
April 15, 1987.

HONORABLE MR. HOYER: My name is Moisey Terlitsky. In October 1976 my family and I were refused permission to emigrate to Israel for reasons of state security. This reason was not specifically mentioned when I later, after 1982, three times applied for permission to go to the USA where my brother Leonard Terlitsky and the sister of my wife Ninel Kredova lived since 1976 and 1974 respectively.

I hoped that since January 1, 1987, the day when the new emigrational rules were put into force, my family and me will have no obstacles to join our relatives in the USA and receive permission to leave. My mother Fanya Terlitsky is very ill and her application to join her son should be considered without a delay. I should also mention that in 1979 and 1981 I four times was received by deputy ministers of Internal Affairs who promised me soon resolution of our case.

However in January 1987 OVIR, the Moscow visa office, again refused us permission and, again, with the reference to state security reasons.

I am an architect and was working in the institute called MOSPROJECT 2 that was involved in design and building of civil constructions. The administration of the institute does not consider me a bearer of a secret information but OVIR remained deaf to my requests to inquire the administration of the institute about my real involvements.

Isn't this absurd that for 11 years a civil architect, a representative of one of the most peaceful professions, is refused permission to leave the country on the state security grounds?

In September of 1985 General Secretary Gorbachev said to French journalists that refusals for reasons of state security cannot exceed 5 to 10 years. Those words were heard by millions around the world. But OVIR continues to ignore the statement of the leader of the state and in this time of "glastnost" we, the state security refuseniks, are still not informed of how long we shall be prevented from leaving the country.

I ask, Mr. Hoyer, for your help. I believe your help may make it possible for us to meet each other and, for my mother, to see again her second son whom she has been unable to see for more than 11 years.

Sincerely Yours,

MOISEY TERLITSKY.

A TRIBUTE TO MAURICE ROJAS

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to a truly outstanding member of my community, Mr. Maurice Rojas. Maury has served the southern California community for over 20 years, and this week is being honored as a recipient of the NAACP Corporate Sponsor Award. I ask my colleagues to join me in paying tribute to this extraordinary individual.

An employee of Pacific Bell since 1966, Maury became area vice president in 1985. As vice president, he has increased his commitment to community service. He has served as a board member of the Tarzana Regional Medical Center, the Salesian Boys Club, the Van Nuys Chamber, and Caminos Magazine, and as a trustee of the Bilingual Foundation of the Arts, the Los Angeles Boys and Girls Club Foundation, and the Latin Professional Business Association. Currently, he is highly involved with the United Way regional board of directors, the Valley Industry and Commerce Association, the San Fernando Valley Cultural Foundation, the Hispanic Women's Council, the Los Angeles Chamber of Commerce "First Break" Program, and the Junior Achievement Program.

The NAACP Corporate Award is the most recent of many honors that have been bestowed on Maury. As early as 1967, he was recognized by his employers with their Community Involvement Award. He has also received honors from the United Way, the Los Angeles City Council, the Los Angeles County Board of Supervisors, the California State Assembly, and the California State Senate.

It is my distinct honor and pleasure to salute Maury Rojas. In contributing tirelessly of his time and energy he has exemplified for many years the highest standards of business leadership and community involvement.

HON. LOUIS STOKES' STATEMENT ADDRESSING LIEUTENANT COLONEL NORTH

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. CLAY. Mr. Speaker, I would like to enter in today's CONGRESSIONAL RECORD the eminent statement given by our distinguished colleague from Ohio, Mr. LOUIS STOKES, as he addressed Lieutenant Colonel North before the Select Committee To Investigate Covert Arms Transactions With Iran:

STATEMENT OF HON. LOUIS STOKES BEFORE THE SELECT COMMITTEE TO INVESTIGATE COVERT ARMS TRANSACTIONS WITH IRAN—JULY 14, 1987

Colonel North, at the beginning of your testimony you told us that you came to tell the truth, the good, the bad, and the ugly. I want to commend you for keeping your word. It has been good; it has been bad; and it has been ugly.

I suppose what has been most disturbing about your testimony is the ugly part. In fact, it has been more than ugly. It has been chilling; in fact, frightening. I'm not talking just about your part in this but the entire scenario. About Government officials who plotted and conspired; who set up a straw man, fall guy; officials who lied, misrepresented and deceived. Officials who planned to super-impose upon our Government structure a layer outside of our Government, shrouded in secrecy and only accountable to the conspirators. I could go on and on, but we both know the testimony—and it is ugly. In my opinion it is a prescription for anarchy in a democratic society.

In the course of your testimony I have thought often about the Honor Code at the U.S. Naval Academy. For nineteen, now almost twenty years, I have been appointing young men to that Academy. I have always taken great pride in these appointees, knowing that they would be imbued with the highest standard of honor, duty, and responsibility toward their Government. The Academy catalog speaks of the honor concept as being more than an administrative device; that it fosters the development of lasting and moral principles; it becomes part and parcel of the professionalism expected of graduates as commissioned officers.

But more than that, I think of the young students all over America who are sitting in civic and government courses. You have said many times that you worry about the damage these hearings are creating for the United States around the world.

I worry, Colonel, about the damage to the children of America, the future leaders of America. I worry about how we tell them that the ugly things you have told us about in our Government is not the way American Government is conducted. That it is not our democracy's finest hour.

And then lastly, Colonel, I was touched yesterday morning by the eloquence of Senator MITCHELL who spoke so poignantly about the rule of law and what our Constitution means to immigrants. He spoke eloquently of how all Americans are equal under our law.

Senator MITCHELL's words meant a great deal to another class of Americans, blacks and minorities, because unlike immigrants they have not always enjoyed full privileges of justice and equality under the Constitution which we now celebrate in its two hundredth year.

If any class of Americans understand and appreciate the rule of law, the judicial process, and constitutional law, it is those who have had to use that process to come from a status of nonpersons in American law to a status of equality under law. We had to abide by the slow and arduous process of abiding by law until we could change the law, through the judicial process.

In fact, Colonel, as I sit here this morning looking at you in your uniform I cannot help but remember that I wore the uniform of this country in World War II, in a segregated Army. I wore it as proudly as you do even though our Government required black and white soldiers, in the same Army, to live, sleep, eat, and travel separate and apart, while fighting and in some cases dying for our country.

Because of the rule of law, today's servicemen in America suffer no such indignity.

Similar to Senator MITCHELL's humble beginning, my mother, a widow, raised two boys. She had an eighth grade education and was a domestic worker. One son became the first black mayor of a major American city—Cleveland, OH. The other sits here today as chairman of the Intelligence Committee of the House of Representatives.

Only in America, Colonel North. Only in America.

And while I admire your love for America, I hope too that you will never forget that others too love America just as much as you. And while they disagree with you and our Government on aid to the Contras, they will die for America just as quickly as you will.

BLACK ENROLLMENT DECLINE REFLECTS LOWERED COLLEGE ACCESS

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. MILLER of California. Mr. Speaker, on July 17, 1987, an editorial appeared in the Washington Post, "Why Fewer Blacks Are Going to College" which focuses attention on a disturbing trend which the Select Committee on Children, Youth, and Families heard testimony about just 3 weeks ago: The declining rate of college enrollment among blacks, and the potential disaster this trend holds for blacks and for our national economy.

On July 1, 1987, the select committee held a hearing entitled "American Families in Tomorrow's Economy." Dr. Carol Frances, recognized internationally as an expert in the finance of higher education, testified that tuition prices during the 1980's have far outpaced both the Consumer Price Index and increases in family income. Also, Federal student aid has not kept up with tuition costs, and the share of student aid awarded as grants has decreased significant while the share awarded as loans has increased. Because black students aspiring to college are far more likely to come form low- and moderate-income families, these trends have a particularly negative impact on them.

The Post editorial on black students corroborates what we learned are national trends among all students: Many more students face very significant debts upon leaving college and that prospect is deterring some from enrolling. Currently, almost half of all graduates leave college with loans to repay, and the amount of indebtedness is increasing. Also, while in college, more students are splitting their time between school and work. Over 40 percent of full-time students and almost 90 percent of part-time students work.

Just when our Nation most desperately needs a highly trained and educated labor force to maintain our position of international competitiveness, higher education is becoming less accessible because of cost. If we do not intend to accept economic decline as an inevitability, and I for one do not, we must take action to reverse this trend.

I commend the Post article to my colleagues, and urge that they pay it close attention.

WHY FEWER BLACKS ARE GOING TO COLLEGE

(By William Raspberry)

The good news is that more and more blacks are graduating from high school. The dismaying bad news, considering that the jobs of the future will require more education than ever before, is that fewer and fewer of them are going on to college. And the question is: why?

The most frequently heard explanation—the Reagan administration's cuts in student aid—is only partially correct, say two black college presidents—Herman Blake of Tougaloo and Robert Albright of Johnson C. Smith.

The two educators, in town to lobby Congress into including historically black institutions in a proposed new program for strengthening science education, spent a recent afternoon talking about declining college attendance among blacks.

"Part of it clearly is the cutback in aid," Albright believes. "Every time Reagan talks about reducing student aid, students, who do not understand that financial aid is funded a year in advance, think it applies to the current year, and they don't apply. In other words, it's part perception, part reality.

"But that isn't all that's happening. A second factor is that more young blacks are entering the military. And a third is that more young blacks are entering the job market, primarily in the fast-food and service-related jobs. These aren't well-paid jobs, but for the young black male who perhaps wants a car, it'll get him there. So it's a combination of factors, but if I had to put my finger on one thing, it would be the reduction in aid."

Albright says his Charlotte, N.C., school has already exhausted its own pool of student financial aid for the year "We just don't have any more money, so the kids who are applying to us now, and some of the upperclassmen who are slow getting their paper work in, are going to have to rely on Pell grants, if they qualify, or take our guaranteed student loans. Some of those kids may make the decision not to come back because they would be piling up $5,000, $10,000 or $12,000 worth of debt over the course of a four-year career."

Blake has noted a similar trend at his Jackson, Miss., school and in South Carolina, where he had done extensive research:

"Something like 52 percent of the entering freshmen at Tougaloo last year were from households where the annual income was under $15,000. Forty-seven percent of them were from families with an average of six siblings, many of those from single-parent families. Put those factors together and you get young people in circumstances where they simply don't have many resources. They can't save for college. We only have about $500,000 per year that we are able to give in financial aid, and Pell grants don't cover all the costs of college. The only thing left is loans.

"I haven't fully examined this in Mississippi, but in South Carolina my research shows that the one thing people don't like is debt. They see debt as the first step toward losing land. We see a lot of people who simply won't come back to school if they have to borrow."

Well, shouldn't college administrators try to persuade young people that borrowing for their education is the wise thing to do?

"I don't do it personally," says Blake. "The reason is that when students start to have these sorts of doubts and fears, they ultimately must come to their own conclusions as to where their priorities are. If they are so strongly concerned about debt that that's going to impact on their perception of their educational experience and their course work, I don't think it's in my best interest or theirs to have them there."

Albright has a different view. "I try to encourage kids that a part of their education ought to be financed by them. I think that makes them more serious about their education. I try to encourage them to borrow only what they need, rather than take the full $2,500 that's allowable. But I'd rather see them borrow than work.

"We're in Charlotte, and there are a hell of a lot of places they can work. What the faculty tells me is that they spend so darn much time working, they don't have time to study. They go down to work for United Parcel Service and make good money. My God, they make $15 to $18 an hour slinging packages for UPS. They work all night and can't go to school the next day. Given a choice, I'd much rather see them borrow than work off campus."

Albright also senses a growing feeling among young blacks that education "isn't worth as much as it once was, in terms of immediate gratification. They find it too easy to do other things that provide them with a car and a better life style right now. The zest and zeal for deferred gratification isn't there."

The two men agree that declining college attendance represents potential disaster for blacks. Low-skill entry-level jobs are rapidly disappearing, and young people without college education are likely to find themselves on the economic scrapheap by the year 2000.

They agree, too, that the problem is especially acute for black males, whose college-going rates are significantly lower than for their female counterparts. But that's another column.

CENTRAL AMERICA UPDATE

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. MICHEL. Mr. Speaker, the Bureau of Inter-American Affairs of the U.S. Department of State publishes a valuable document called Central America Update, a compilation of news items and other information concerning Central America. I believe our colleagues should find the latest issue of interest since it contains a quotation from Tomas Borge, notorious head of the Sandinista secret police, praising what he believes is "a model country"—the Soviet Union. He believes the Soviet Union helps the poor. This will come as great surprise to those living under communism.

If Borge believes the Soviet Union is a model, what do you think he wants to have in Nicaragua?

At this point I wish to insert in the RECORD, Central America Update, July 14, 1987.

[From the U.S. Department of State, July 14, 1987]

CENTRAL AMERICA UPDATE

SANDINISTA OFFICIAL PRAISES SOVIET UNION

"The Soviet Union is a model country. This is valid from the point of view that it helps the poor; but also because it has set an heroic example in the course of the history of the most modern times, since the victory of the Bolshevik revolution. I think that the Soviet Union's blood sacrifice, which it made for its own freedom and also for the freedom of the peoples of Europe, makes it worthy of particularly great admiration. The Soviet Union is a country that has contributed to a significant extent to our being able to resolve some of our most burning problems."

These are the words of Tomas Borge, Nicaraguan Interior Minister, upon his return from a twenty-nine day journey through six Warsaw Pact countries. (Budapest Television Service, June 28)

SANDINISTAS CHOOSE INDOCTRINATION OVER EDUCATION

Critics and parents charge that Nicaraguan students receive Marxist indoctrination rather than an education. They claim that the educational system has become the primary institution charged with the creation of what the Sandinistas term "the new man." The Sandinistas see education as an indoctrination tool. Bayardo Arce, the Sandinista official in charge of the educational system said, "Teachers in our society have as their priority, not the transmission of knowledge, but the transmission of a new consciousness."—Dallas Morning News, June 29.

LA PRENSA, LABOR GROUPS DEMAND PAPER'S RE-OPENING

On June 26, workers of the newspaper La Prensa, and opposition labor and political leaders demanded that the newspaper, which was closed one year ago by the Sandinista government, be re-opened. La Prensa workers charged that "freedom of the press and information are restricted in Nicaragua." Furthermore, Lino Hernandez, executive director of the Independent Permanent Human Rights Commission noted that "since 1982, twenty-one independent radio broadcasts have been closed, as well as La Prensa."—Agence France Presse, June 26.

SANDINISTA DEFENSE MINISTRY BATTLE STATISTICS

Following are Sandinista Defense Ministry statistics on military engagements between the Nicaraguan Resistance and Sandinista forces:

Date	*Total*
February 6 to March 5	303
March 6 to April 5	426
April 6 to May 5	323
May 6 to June 5	315
June 6 to July 5	427

VA EMPLOYEES VOICE STRONG SUPPORT FOR THEIR MEDICAL COMPUTER SYSTEM

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. MONTGOMERY. Mr. Speaker, a controversy over the effectiveness and cost of the Veterans' Administration's Medical Computer System, known as the Decentralized Hospital Computer Program [DHCP] System, has arisen in the Congress. As chairman of the Committee on Veterans' Affairs, I have scheduled many oversight hearings on this important Medical Computer System over the past several years and the reports on its effectiveness and costs have been uniformly very positive.

Since our hearing of April 8, 1987, on this important subject, I have received many letters from veterans and Veterans' Administration employees in support of the DHCP.

I would like to share with my colleagues a copy of a letter which I received from Mr. John Kittel, chief of the Pharmacy Service at the VA Medical Center in Spokane, WA, which demonstrates how the VA employees feel about "their" Medical Computer System. The letter follows:

VA MEDICAL CENTER,
Spokane, WA, April 28, 1987.

Hon. G.V. (SONNY) MONTGOMERY,
Chairman, House Veterans' Affairs Committee, House of Representatives, Washington, DC.

DEAR REPRESENTATIVE MONTGOMERY: I am currently the Chief, Pharmacy Service at the VA Medical Center in Spokane, WA. In this capacity I have been intimately involved in the installation of the Decentralized Hospital Computer Program (DHCP), both in the Pharmacy portion of the CORE system and, incidentally, in the Medical Administration and Laboratory portions as well, since I also serve as the Chairman of the medical center ADP Committee. My reason for writing you is to express my concern over the current controversy which has developed over this system as described in the April 1987 issue of U.S. Medicine.

In my opinion, the DHCP has been the most significant overall positive event to occur in my 15 year VA career. It has enabled us to provide much more consistent, comprehensive services to our Veteran patients and has allowed us to increase productivity without additional staff. The fact that initial CORE was implemented in 169 medical centers in less than two years also attests to the fact that it is a very usable, user-friendly system. There is no question, as far as I am concerned, that we could not survive today without the system.

I know the question at the heart of the controversy is whether or not the system should be commercially developed and supported. For many years the notion that the private sector can do things better then the federal government has irritated me. While this MAY be true in some areas of government, I most strongly believe it is NOT true with the DHCP. Again, the fact that the VA has developed, written, and implemented its own software, and continues to support it through a responsive interest users group (SIUG) network, speaks in favor of continuing to expand the present system. My previous experience with a vendor-supported system (albeit incidental experience) was that it was laborious and very difficult to have support or changes made because of the proprietary concerns involved. This was the Honeywell laboratory system. I also question the ability of any single company to effectively support 169 installations simultaneously without compromising the system at some point.

I truly appreciate your efforts on behalf of this country's veterans over the years and I hope you will continue to promote DHCP as a means of helping the VA provide quality service.

Sincerely,

John Kittel, Pharm. D.,
Chief, Pharmacy Service.

WHY WE NEED A BALANCED BUDGET AMENDMENT

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. DONALD E. LUKENS. Mr. Speaker, the massive $2 trillion Federal debt continues to grow at an alarming rate. That is why I have joined as a cosponsor of the balanced budget constitutional amendment. The debt has grown so large that it is difficult to explain to the average person why we need the amendment. I am submitting for the RECORD a column written by Scott Burns for the Columbus Dispatch on June 7, 1987. This column outlines the problem in layman's terms and makes a strong case for the balanced budget amendment.

Hike in Federal Debt Worth $2,000 Apiece

Could you borrow $2,000 right now? Could you borrow $15,000 or $20,000? Would you want to? Do you feel secure enough in your job to take on more debt?

Don't answer right away. Think about it. I would be willing to bet that many people answered with a simple, but emphatic, "No." And others might have said they could handle $2,000 but not $15,000 or $20,000.

In fact, easy credit has developed so far that we don't have to go through the troublesome process of filling out application forms, verifying our employment, etc. Our government regularly applies for loans, gets them and even spends the money for us.

Talk about easy money!

While the money is, in theory, owed by the U.S. Treasury, the fact is that you and I must service the debt. We—those of us who work or own productive assets—are the ones who will have to "make the payments" on money borrowed by our government.

This is not a minor matter. According to Internal Revenue Service figures, there are about 100 million people in this country who must file tax returns. That figure is a very close approximation of the number of people available to make the payments on our rapidly expanding federal debt.

How much was the increase? A lot. In fiscal 1986, federal debt increased about $237.5 billion, or $2,375 per tax filer.

That is probably more than most people could add to their MasterCard balances, yet the current fiscal year is little better, with an estimated deficit of an additional $192.7 billion, or about $1,927 per tax filer. Taking a look at the longer term, federal debt has increased nearly $2 trillion since 1975, or about $20,000 per taxpayer.

Why did I look back to 1975?

Because that is the year Delaware, Louisiana, Maryland, Mississippi and North Dakota became the first states to pass resolutions calling for a Constitutional Convention on a balanced-budget amendment. Other states quickly followed: nine in '76, six in '77, two in '78 and eight in '79.

Then the movement came to a virtual standstill.

Although gross federal debt stood at "only" $833 billion in 1979 and has grown to more than $2.3 trillion now, only two states have been added in the '80s: Alaska in '82 and Missouri in '83. So the total stands at 32 states, just short of the two-thirds requirement for calling a Constitutional Convention.

Now the tide seems to have turned. Just recently, National Taxpayers Union Chairman James Dale Davidson was in Austin, Texas, to defend the resolution the Texas legislature had passed in 1977 because there is a move to rescind it.

This makes you stop and think.

What kind of message do these fellows who make our laws and vote our taxes need? What will it take for Congress to get serious about cutting federal spending?

Federal debt, "only" $544 billion in 1975, has grown fivefold to a projected $2,372 billion for 1987. One consequence is that interest rates are now an international matter, not a domestic issue. As this is written, interest rates are rising as an appeasement to the Japanese and to ensure their continued investment in U.S. Treasury obligations.

If George won't do it, they'll arrange for Taki to pay the bills . . . even if attracting Japanese investors requires interest rates that will put our entire economy into recession. The Congress of the United States, in other words, is quite willing to wreck the present and indenture our future to maintain its power and spending habits.

What they have *not* been willing to do is take steps to balance the federal budget. Gramm-Rudman-Hollings, the 1985 deficit-reduction law aimed at balancing the budget by 1991, has been defanged. The result, according to a Heritage Foundation study, is that congressional liberals are proposing spending bills that would be a whopping $80 billion over the proposed deficit levels under Gramm-Rudman-Hollings.

What's to be done?

We—and I mean that as We, the people—have to take the government's spending power away. That means we have to have a Constitutional Convention. We need an amendment that will require a balanced budget as a fundamental principal of government.

It would be nice if we could be more flexible. But we can't. Give them a budgetary inch and they will charge and borrow a mile.

Do we have anything to fear from a Constitutional Convention?

Propagandists against it say, "Yes," that it would be dangerous because it could "runaway," that it could alter our Constitution in ways we don't expect and change our entire government.

Possible. But improbable.

The greatest danger to our Constitution is the Congress itself. As Davidson pointed out to the Texas legislature, it is far more difficult to revise the Constitution through a Constitutional Convention than it is to revise it directly through the Congress, which meets every year.

Congress, he observed, is a standing constitutional convention. Yet few amendments have been passed and many, many proposed.

All of which brings us back to the need. If Congress can't balance income and spending in spite of public desire to have a balanced budget, if our representatives can't—after years of maneuvering and public patience—find a way to balance the books, then we've got to do it for them.

Why?

Because all we got for our patience was $2 trillion in new debt and a need to bow before the Japanese checkbook.

STAFF SERVES PUBLIC WITH SUCCESS

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. FLORIO. Mr. Speaker, I wish to take the opportunity to thank one of my staff members, Kathye Karpuk-Thomas, for the service that she has consistently given in the daily performance of her work.

Many times, our staff members, whether in district offices or in offices on Capitol Hill, do not get the recognition that they deserve. When there is a task to be done, they do it willingly and efficiently.

Working in my Barrington office in the First Congressional District of New Jersey, Kathye recently demonstrated once again that she is able and willing to go the extra mile in helping a constituent resolve a difficulty.

Because of Kathye's help, persistence, and knowledge, Mrs. Angie McKinnon of Woodbury was able to cut through the bureaucracy and to get a helping hand from the Government.

At a time when Mrs. McKinnon feared that she might lose benefits to which she was entitled and at a time when she had just gone through the ordeal of a fire destroying her home, Kathye quickly solved the problems.

In recognizing Kathye, it might seem as if the help that she gave to Mrs. McKinnon was exceptional. On the contrary, it was routine. What makes Kathye and the many other staff members in all our offices so exceptional is that they perform these tasks on a daily basis.

On behalf of the many people who have benefited from the work of our staff members, I thank them and urge them to continue their good work.

I am including an article recognizing Kathye that appeared recently in the Camden County Record Breeze:

LOCAL AGENCIES MOVE ON AID FOR MOM, ADOPTED SONS

(By Mark Cesarano)

WOODBURY—After hearing of the fate of Angie McKinnon, local agencies are going out of their way to give her assistance.

McKinnon, now living in Woodbury with her two adopted sons, was featured in an article last week which detailed the troubles she has had since the death of her husband, Fred, in 1976. Since that time, she has been forced out of one house, had to leave another because of a fire, and has faced medical troubles.

When McKinnon's Deptford house went up in flames earlier this year, so did the family's application to receive supplementary security income.

"When we had the fire, they were destroyed," she said. But because of the work done by Kathye Karpuk-Thomas of Congressman Jim Florio's staff, McKinnon should receive help.

Normally, a person filing for Supplementary Security Income through Social Security would have to appear at the office. McKinnon's medical condition makes it tough for her to walk, though, so the social security office did a phone interview Saturday to determine her need. The forms were sent to her earlier that week.

It's possible that McKinnon could be receiving $700 a month through the program.

Also, McKinnon will have to return her landlord's air conditioner. McKinnon needs the air conditioner because of her heart condition (she suffered two strokes). "I have to get my own air conditioner now," she said. But she may not have to pay for the electric bills. Through a program sponsored by the state, people on low-income can have their air conditioner bills paid by the state. Florio's aide says McKinnon qualifies for that program.

McKinnon was also afraid she might lose out on her welfare grant, but again Karpuk-Thomas came to the rescue. The Woodbury resident was in danger of losing her subsidy because the welfare office did not receive a note from her doctor describing her medical condition. The welfare agency wanted to set her up in a special job service program, but McKinnon would be unable to participate.

McKinnon said her doctor sent a note describing her condition, but it apparently never reached the office. So, a welfare office official will be contacting McKinnon's doctor by phone to verify the case.

The quickness is very unusual said McKinnon. "It's great. It really is."

Government agencies have not been the only ones to help out. Parents Without Partners, an organization McKinnon has been a member of for years, held a dance benefit Friday night.

All profits from the dance went directly to McKinnon.

The group is also accepting donations for the family. If you are interested, contact the local chapter.

Everything has helped, McKinnon said, but one thing still seems to be important to her—her family.

When her family was young, even in the hard times, McKinnon enjoyed the closeness. "It's not like it used to be though. It'll never be that way."

Of McKinnon's six children, only two are with her in the Woodbury apartment. "The rest of them have their own lives now," she said.

AIDS A NATIONAL HEALTH PROBLEM

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. DORNAN of California. Mr. Speaker, it must be the job of Congress to make the public more aware of the nature of the threat that AIDS poses. We must move beyond addressing AIDS as a civil rights issue, as my liberal colleagues constantly do, and deal with what the disease is—a national health problem of dramatic proportions.

A citizen of Orange County, CA, which I am proud to represent, has written a letter to a local newspaper there that clearly and succinctly details the problem we all face. Mr. Jerome Greenblatt of Laguna Hills forcefully makes the case for mandatory testing and exposes the "safe sex" campaign for the charade that it is.

I urge all my colleagues to read Mr. Greenblatt's letter which I include in the RECORD:

JUNE 23, 1987.

Editor, The Clearing House, The Register:

AIDS continues to be a serious problem. It is reported that some African countries have 70 percent of their populations afflicted. Presumably, unless something is done about it, we can have the same percentage afflicted in time.

Present figures show about 26,000 actively infected, with about 1½ to 3 million carrying the virus. If this were tuberculosis threatening us, there would be a public clamor to identify the afflicted, to prevent spreading the plague.

With AIDS we have a special situation. In order not to stigmatize homosexuals, who are 90 percent of the carriers, and who apparently have considerable political clout, the 240 million or so of the rest of us are in jeopardy, perhaps even up to 70 percent of us, because it is indelicate to expect a homosexual to have himself examined for the disease. Imagine knowing there are 3 million infected people in this country with a fatal, incurable, transmissible disease, and we hesitate to identify the 3 million on behalf of the 240 million. There are all sorts of national suicide, but this is the most incomprehensible.

In talking to those treating AIDS victims, it is difficult to have them explain the cause. There is a suggestion that the virus is carried in the semen, in which case why doesn't everyone have it? There is a suggestion that it is in the heterosexual population, no mention as to what degree.

The fact of the matter is that sodomy causes lacerations in the flesh of both parties, resulting in the mixing of blood and the transmission of the disease. It would be quite rare for this to occur in heterosexual intercourse. The disease could occur in drug addicts who use dirty needles, carrying the infection from one blood stream to another. But in heterosexual intercourse there is no reason to believe that the male has his blood system exposed to the female's. Ultimately, these rare occurrences can infiltrate the heterosexual population, as it can too if children are born to AIDS victims, but the disease undoubtedly is mainly a disease of homosexuals.

It seems incredible to me that we should jeopardize our 240 million population or expect them to use "safe sex" practices in order to preserve the reputations of the 3 million disease carriers. The only people who should use safe sex practices should be the homosexuals, and they should be identified as infected, if they are, and told of the terrible risk they run of passing the disease on to others. Concealing this information only leads to the proliferation of the disease.

Why don't our health protection agencies speak to the real issue? They minimize the extreme danger because they don't want to offend the homosexuals who have a civil right to choose their own sexual orientation. Who cares what their sexual orientation is so long as it doesn't kill millions of other homosexuals, drug addicts, people receiving blood transfusions, or heterosexuals, because of the homosexuals' unwillingness to be tested. It seems to me testing should be compulsory to protect the rest of us.

FINANCING OF CATASTROPHIC AND LONG-TERM HEALTH CARE

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. DREIER of California. Mr. Speaker, on April 30, the Republican Study Committee sponsored a hearing on private sector solutions to the financing of catastrophic and long-term health care. One witness, Dr. George Ross Fisher, brought to the attention of the committee an intriguing concept that I would like to bring to the attention of my colleagues. In his testimony, Dr. Fisher outlined a proposal whereby savings from higher deductible employee health care premiums can be placed in individual medical accounts [IMA's] which would pay for future health care expenses, including catastrophic and long-term care. This is one of many proposals which offer real and practical alternatives to the ill-conceived "Medicare Catastrophic Protection Act" scheduled for floor consideration this week.

STATEMENT OF DR. GEORGE ROSS FISHER, CHAIRMAN, COUNCIL OF MEDICAL ECONOMICS OF THE PENNSYLVANIA MEDICAL SOCIETY, PHILADELPHIA, PA

Dr. FISHER. Thank you, Mr. Chairman.

In the brief time available, I plan to begin with an optimistic prediction for the medical future of the elderly, and conclude with a medical observation about nature's tradeoffs. Sandwiched in between will be mention of two financial principles with promise for relieving the coming crisis in health care financing. These four points are not a comprehensive legislative package, since transitional accommodations would be necessary, the technical obstacles in existing law would need to be addressed. However, these projects are better suited for Congressmen than physicians, and what I offer, therefore, are four thumbtacks with which to pin up a full proposal following which I am anxious to answer questions if there is time for them.

No doubt you have heard there are mainly two killer diseases left to conquer, cancer and arteriosclerosis, but conquering them may be a mixed blessing. Instead of dying of a quick heart attack, the argument runs, the nation may be condemned to die of old age—strapped in a wheelchair, surrounded by imbeciles, smelling like a sewer, being fed with a spoon. Surely nothing could be worse; but that is not my prediction. My focus is on two other diseases, Alzheimer's disease and spinal stenosis. Only in the past 5 years has come general recognition these are distinct diseases, probably mainly responsible for the loss of memory and mental function and loss of bladder and rectal control, which since Ecclesiastes had been regarded as inevitable torments of growing old.

Relieving pressure on nerve roots at the bottom of the spine does not sound impossible, and if successful might well relieve the elderly of the devastating blow to their pride of uncertain hygiene. If I know my profession, treatments of all sorts will immediately be proposed, and within a generation we dare hope for cure. Old age seen as hideous leads to shamefaced talk about suicide and euthanasia.

But a prospect everyone might actually enjoy life 30 years past retirement and have reasonable hope of doing so, poses equally overwhelming problems of how to pay for it. When I entered medicine, life expectancy was 63, and a Social Security system which paid at 65 was practical, even cynical. Nowadays, practically everybody can expect to be 80. I expect my children to tell their patients that thenadays everybody can expect to live to be 100.

There is only one financial principle which takes advantage of longevity, positively thriving on it and that is the power of compound interest. If I could only have bought $100 of IBM in 1936, if only I could have put $1000 in a mutual fund in 1959, if only I could fund my Individual Retirement Account, so recently abandoned by Congress. There are numerous lifecare communities which will care for someone age 70 for life, for a lump-sum payment of $100,000. That is a great deal of money, beyond the dreams of the average person, but money at 7 percent will double in 10 years, and to take that backwards, it is $40,000 at 60; $25,000 at 50; and so on back to $750 at birth. Imagine a straight line drawn from $750 at birth to $100,000 at 70. If an individual ever achieves savings which touch that line, there is hope that old age can be afforded. There are other things to say for, but we'll return to that.

The second financial principle which may rescue us, particularly if linked to the first one of compound interest, is the rule that higher deductibles for health insurance lower the premium. Higher deductibles lower the premiums. Health insurance coverage up to a million dollars in benefits can be purchased for a premium around $100.00, I have it, but with a deductible of about $25,000. A policy with a $5000 deductible costs several hundred in premiums; a $1000 deductible costs about a thousand a year and full coverage from the ground up, first-dollar coverage, costs a couple thousand dollars plus the frightening hidden cost that it limits benefits to much less than a million dollars in coverage.

If the individual could set aside a fund of $25,000, he could afford to carry a $25,000 deductible health insurance policy, would be just as fully protected as if he had first-dollar coverage because the fund could pay the deductible. Notice particularly that a fund of $25,000 would generate interest income of about $1,500 a year, easily enough to pay the $100 premium, plus the premium on a reinsurance policy against the remote possibility of being afflicted a second time after the fund had been depleted.

As a matter of fact, it would require a fund of only about $12,000 to create perpetual insurance, in the sense that the interest on the fund would generate enough income to balance the premium on a policy with a deductible of the same size.

This scheme has 3 hidden features which make it practical. I assure you that this is not double-talk. The first is that paying a substantial portion out of pocket or in this case, out of the fund, acts as a restraint on overutilization, creating sales resistance which is absent when insurance seems to shift the cost away from the beneficiary.

Second, there is a saving in the cost of claim administration. Five dollars to pay a claim of $25,000 is negligible, but to pay $5.00 to administer a claim for a $5.00 urinalysis, which happens in my office everyday, essentially doubles the price of the urinalysis. It is entirely arguable that overuse of the insurance payment mechanism adds 25 percent. I'll stand on that—25 percent to the cost of medical care. The 75 cent health care dollar becomes a dollar again, and myriads of small transactions are shifted to a cash payment basis by use of the deductible policy.

Pennsylvania Blue Shield which administers Medicare in my area and I'm on the Board of Incorporaters, receives 150,000 pieces of paper everyday. The decreased premium of a high deductible policy is therefore not just a mathematical shifting-equation, but a true reducer of unnecessary costs by two methods, utilization restraint and administrative simplification.

Finally the concept of building up a perpetual fund when you are young is greatly assisted by the fact that serious illness is quite uncommon in young people. I have 8 children. I have 4 children and their wives and husbands. I haven't seen $100 worth of medical expense in those 8 kids in the last 10 years.

The proposal I am unfolding is that the employer health benefits and contributions for Medicare be shifted into an IRA. Let me say that again. Employer health contributions for Medicare and the employer health benefits both of which are, at the present time, tax sheltered. I am not talking about increasing tax shelters. They accumulated an IRA—which is therefore perhaps an unfortunate term, which then buys deductible health policies accumulating the net savings over first dollar coverage into a gradually growing fund, and that fund quickly escalates because as the fund grows, it can afford a higher deductible which is progressively cheaper, allowing the fund to accelerate. When the fund gets into balance with its premium costs, the individual no longer needs Medicare in his future and, except for reinsurance against repeat disasters, can devote his health care benefits entirely to provision for lifecare in retirement.

As a fourth thumbtack for this proposal, let elected officials quietly note, and actuaries hurriedly verify, that if you get very sick, very often—if you get very sick very often, you won't have to worry about living to be a hundred. That's a physician's perspective.

This is nature's financial trade-off and is most easily seen in any high school class at its 50th reunion. Only half the class will be back for the reunion, the other half is in memoriam; 50-50 at the 50th. One half of the class did indeed use its health insurance and probably needed its life insurance too for its dependents. But those who can attend the reunion will be worrying about the costs of retirement and nursing homes. Their life insurance has largely lost its purpose; their children are themselves contemplating retirement. Although tales of operations and heart attacks are the common topic of conversation at such reunions, most of the returning alumni secretly regret every penny they spend on Blue Cross.

The point here is that different forms of insurance are appropriate for different stages of life, and that Congress should examine the legal barriers which prevent one form of protection from flowing into another creating a seamless entirety. The two largest investments an individual ever makes are his house and his life insurance; perhaps one day the IRA will be the third. Even the house is not appropriate to all stages of life, maintenance becomes a burden, stairs an obstacle, and gardening becomes a chore.

Ways must be found to convert the equity in home ownership into funds for protection and investment. I'll skip a portion here.

Most of these simple concepts can expect to encounter almost endless obstacles in law created by early Congresses, and some of the problems are in state law which is not made by Congress. But real estate, life insurance and health insurance all have the thread in common of enjoying favorable federal tax treatment, so congressional leverage with state legislatures, not to mention insurance lobbyists is considerable.

Speaking of them, I would not want Washington representatives of the insurance industry to go back home with the news that I proposed to smite them with this agreeable rearrangement of their traditional methodologies, using the threat of removing tax shelters as a weapon.

On the contrary, it seems imperative that many of these concepts be rolled into a package which insurance salesmen can sell. These are complicated concepts for the average working person, and they cannot be promoted in a voluntary way without the vigorous enthusiasm of an army of commission-motivated salesmen.

Without the salesmen, you're forced to something mandatory; 27 percent participation rate in the IRA's last year showed that. Without salesmen, you are forced to consider federal paternalism, federal pools of investment capital, think of that, potentially acquiring ownership control of the stock of Fortune 500 companies or else relegated to the pitiable investment potential of government bonds. If you bought and held bonds at any point in the last 50 years, you lost money. That may change in the future, but I wouldn't count on it.

The life insurance industry must be encouraged to join the health insurance industry, especially Medicare to pay the cost of terminal illness with life insurance. Terminal illness paid for with life insurance rather than health insurance. Medicare now spends something like 20 percent of its money on the last months of someone's life. Quite aside from the likely futility of such expenditures, there is the fact that this once in a lifetime risk has been successively transferred from one health to another until it eventually lands in Medicare, when it could have been life insurance all along. With this substantial cost guaranteed by life insurance, Medicare could make an equal amount available for nursing and custodial costs by transfer to the IRA fund, which might buy private nursing home insurance.

In effect, nursing home care would be provided at the expense of the named beneficiary of the life insurance policy, but the cost would be fixed by a pooling process. Terminal illness can be terribly expensive or it may not.

Pooling is needed to smooth out divergences into a stable fund. Eventually, of course, last-year-of-life coverage would be purchased by younger generations with reductions in premiums of the irregular health insurance, since there is some risk of terminal illness at any age.

But let's not get lost in technical tangles. The important goal is to remove the legal obstacles to uniting the three main savings vehicles, home ownership, life insurance, and investment into flexible protection over lifetimes whose risks may change but whose illiquidity may not.

At the end of this presentation, it seems important to me to reemphasize that nothing is proposed to be tax-sheltered by an IRA for health except what is already tax sheltered, in case that point escapes your notice. The original IRA did extend tax shelters in new money. That's gone now. While this proposal is based on withholding for the Medicare trust fund, an employee health fringe benefit. Both of these are shelterd and the proposal is revenue neutral for the government.

In fact, I would go on to say that it is unfortunate to continue to use the term IRA or IMA or anything even close because it seems to conjure up the idea of tax shelter and without examining it, people say we can't afford it. I think we should probably start talking about this concept as health banking or funded health insurance or something that doesn't have that emotional baggage to it.

Mr. DREIER. Thank you very much, Dr. Fisher.

We appreciate your testimony and you're right, there are multi-farious terms used to describe what we are referring to and I call it any number of things myself. We all know what we are gearing towards though and that is a private sector solution to this problem.

I am going to take the prerogative, I have not asked any questions of any of the panels and let my colleagues do that and I have so many that I would like to ask, frankly, of everyone of these excellent witnesses that we have had.

I would just like to touch on the area which really was the prime focus of Dr. Berrey's testimony and that is the quality of care question.

And, I wondered if Mr. Tabak, probably should be the first to respond, if you could tell us what impact the quality of care queston has had relative to Medicare and Medicaid?

In fact, I guess what I am saying is: Has it, in anyway, been jeopardized and if so, if you could give us a couple of examples?

Mr. TABAK. Has quality of care been jeopardized, specifically as a result of Medicare—Medicaid budget debates, is that what you're getting at.

Mr. DREIER. Exactly.

Mr. TABAK. Well, every state is different. Since Medicaid is pretty well split in most states, 50-50, there is some divergence with that. It all depends on the economy, I think of the state. In Virginia, we have been fortunate in that Medicaid funding has been very reasonable. In fact, we're considered to be one of the better funded states for nursing home reimbursement, but I think what we're seeing now is more and more sicker types of patients being expected to be cared for in our facilities as a result of Medicare, the DOD system for hospitals and hospitals discharging patients into nursing homes who, in the past, would have remained in the hospital and what is happening is there has been a lot of pressure on staff at nursing homes to increase staffing, to provide more care for a sicker type of patient when, in fact, our funding, although it's been adequate, it's going up with the rate of inflation and there's not enough growth in that to hire more staffing in many cases, to meet those needs.

Mr. DREIER. Let me ask this question then. How would you—what do you think the impact would be if we were to see Medicare and Medicaid move more strongly into the area of long term care and catastrophic?

Mr. TABAK. I think that Medicaid, in some form or another or some other—there has to be some means for people who truly do not have the ability to save in their lifetime, to cover those individuals. But there needs to be and I feel very strongly about it, a way that middle income people can have a choice in the future so they don't face what I see everyday which is a family and a patient coming into the facility and thinking they're covered. They have Medicare, they have private insurance, a Medicgap policy and they're devastated and they never recover from that and I don't think that those people ever intended to be dependent on the government nor do they want to be dependent on the government.

Mr. DREIER. Would either of your gentlemen care to address that? Dr. Berrey?

Dr. FISHER. I was just going to give you an anecdote from a hospital for the mentally retarded that I visit in Delaware, state run, where with the recent fund crunch, the lunchroom for visitors is closed for lunch. It's open all day from 9:00 to 5:00, but it's closed for lunch.

I feel sure you wouldn't see that happen in a lunchroom of a nursing home that was run for people who were paying their way.

Mr. DREIER. Dr. Berrey.

Dr. BERREY. Medicaid, as I am sure all of you are aware, is a very dehumanizing approach to receiving care and watching it closely from an outside perspective, but having the responsibility for Medicaid's programs, I was appalled at the rules and regulations and restrictive covenants that were written in to the CAFR's that guided us, all of the stuff from HICFA, they changed it every week. You couldn't understand what they wanted. The cost reports sometimes went one way, they went another, you had reimbursables, you didn't have reimbursables, all of this though with the patient and the patient's family spending down to a niggardly sum that was barely enough for a spouse to live on and in many instances, insufficient for a spouse to live on.

In my judgment, that, somehow or other has to be rectified, but quality of care can be given to those people in the same way it can be given to those in the middle income or those who are paying their way all the time. The arguments keep coming up that seem to me show a distinct bias for those patients on Medicaid because they are getting—the nursing homes are getting reimbursed through Medicaid. I think the nursing home industry ought to go just exactly like the hospitals. They get a contract, a flat contract, they either make it on that or they absorb the overages, just like DRG's and the hospitals. Not everybody likes DRG's and I don't either, but it does have a way of bringing into focus and there are a lot of fancy things given in nursing homes. People who drove a Chevrolet all their life and this is not pejorative and it's not intended to be, but they expect Cadillac care because the government is paying for it and I think that's a distortion in view.

Mr. DREIER. Maybe we could just pursue the one item which you have now talked about even further and that is the paperwork question.

Dr. Fisher referred to the 150,000 pages and I wonder if any of you could compare the paperwork burden imposed by government programs and to the paperwork burden imposed from the private sector insurers.

Dr. BERREY. I would defer to Dr. Fisher with one comment to start that.

That it has been estimated that 40 percent of the cost of providing care for Medicaid is absorbed in meeting the rules and regulations and all the paperwork requirements on a nursing home administrator and this has been documented whether it's 40 percent or 30 percent, it's an unbelievable cost burden for that money to go to providing more staff and more intensive care for the patient.

Dr. FISHER. Well, the most expensive thing you can do is not trust people. I hear people say all the time, you know, you learn sooner or later not to trust anybody. Well, that attitude is a very expensive attitude when you're running a hospital. All these inventory systems and the purchasing agent, it might be easier to replace the purchasing agent every year rather than to pay all these surveillance systems.

But, to address the point specifically, in the past year I have watched Pennsylvania Hospital hire at least 25 people and install 4 computer terminals in its record room simply to comply with the PRO regulations, which, having been involved in the PR activity myself, I know I am mandated out of Baltimore and not anything generated by the PRO itself.

Dr. DREIER. Thank you very much. I would like to call on my colleague, Congressman Slaughter.

Mr. SLAUGHTER. I certainly want to thank you gentlemen on the panel. I think the description of the situation that you have given us has been very helpful and your suggestions have been very interesting and I hope that we will make good use of them.

Dr. DREIER. Thank you very much and I would like to extend my appreciation to everyone of you for your patience, understanding the rigors of our schedule, bouncing back and forth and for providing an insight which I will hazard to say that no panel in this entire Congress has had and I think it is something that I hope many of my colleagues will look at when this record does come out and I can assure you that we will get into all of their hands and I again thank every single one of you. Dr. Berrey.

Dr. BERREY. Mr. Chairman, it's sort of like preaching to the choir, but I think the end result is, speak to the choir and go forth and do good.

Dr. DREIER. That's right. We're going to have other members of the congregation read the record. Thank you very much.

[Whereupon, at 12:52 p.m., the subcommittee hearing was adjourned.]

DR. LAWRENCE GRAYSON

HON. JACK F. KEMP

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. KEMP. Mr. Speaker, for the past year I have had the pleasure of working with Dr. Lawrence Grayson. He has served as a Congressional Fellow assigned to my office by the Department of Education under the auspices of the Institute of Electrical and Electronics Engineers fellowship program.

Larry has distinguished himself as an educator, engineer, author, scholar and manager. He is one of those rare people who combines the mastery of a field of study with the ability to apply it to his work. He has received many awards for his efforts, but the latest is the most prestigious.

Last month, Larry Grayson was made the 46th recipient of the Hoover Medal. The citation reads:

> In recognition of his rare ability to effectively combine technical, educational, and managerial expertise in developing and applying satellite systems for education throughout the United States.

Dr. Grayson joins the ranks of distinguished Americans who have been given this award. Among them are President Herbert Hoover, President Dwight Eisenhower, Alfred P. Sloan, Jr., Charles F. Kettering, and David Packard.

I would like to have printed in the RECORD the statement made upon awarding the Hoover Medal to Dr. Grayson and his acceptance remarks.

The statement follows:

LAWRENCE P. GRAYSON

Lawrence P. Grayson distinguished his profession of engineering through his work as an educator, author, scholar and manager and by his demonstrated understanding and sensitivity for the concerns of people. For over a decade, he was a major force in the development and application of communications satellite systems in America, particularly in Appalachia and Alaska. These efforts resulted in outstanding and unique contributions to education through satellite technology, displaying a rare ability to combine technical expertise and knowledge of educational approaches with a deep humanitarian concern.

Early in 1970, Dr. Grayson headed a team of twenty-five high-level professionals from the U.S. Office of Education who, with an equal number of engineers from NASA, developed a major report describing potential and future educational applications of satellites. This was a response to President Nixon's call for a "New Technological Opportunities Program." The report provided the conceptual basis for most of the educational applications of satellites that were developed over the next decade. As a result, NASA and the Department of Health, Education, and Welfare (DHEW) agreed to modify the NASA experimental satellite, ATS-6, which was scheduled for launch in 1974, to allow the conduct of educational, health and other social service experiments. His efforts within DHEW and in cooperation with NASA resulted in a major program of year-long demonstrations in 1974-75 that affected tens of thousands of students, teachers and parents in seventeen states.

As a result of these demonstrations, Dr. Grayson continued to work closely with the project directors in Appalachia and Alaska to develop operational systems that could continue to provide high quality educational services to the people of these regions on a self-supporting basis for many future years. Both programs gained financial self-sufficiency in 1982.

The Appalachian activities evolved from a project into an independent corporation, The Learning Channel (TLC). Today that organization broadcasts via satellite through local cable systems into homes throughout the nation. Over twenty million people in all fifty states have access to the twenty hours per day of the Channel's educational offerings, and the viewership is continuing to expand.

In Alaska, during the pilot phase of the demonstration, Dr. Grayson required representatives of the native groups and villages that were to be affected by the satellite broadcasts be involved in their development. This resulted not only in the native groups becoming committed through participation in the programs, but allowed for the avoidance of several potential mistakes that would have been culturally offensive. Satellites have been used since then to deliver educational programming to children in every school district in the state.

These projects represent major steps toward the expansion of educational opportunity throughout America and are excellent examples of how advanced technology can be used to meet basic human needs. Dr. Grayson was intimately involved with these activities from their origin and provided twelve years of leadership for the federal government in this area. He combined his technical and engineering expertise and his knowledge of education with a deep concern for people and their welfare.

In commenting on Dr. Grayson's contributions, Senator Jennings Randolph of West Virginia stated, "Dr. Grayson's name stands out as that of the person who has consistently and unfailingly contributed to this endeavor. Without this type of farsighted, sensitive and long-term federal leadership, the program's chances for success would have been diminished significantly."

Dr. Harold E. Morse, chairman of the Board of The Learning Channel, attributed the success of the Appalachain activities as "due in large measure to the dedicated, insightful, imaginative and persistent leadership provided by Dr. Grayson."

In commenting about Alaska, Dr. Marshall Lind, the State's Commissioner of Education, wrote, "if it were not for his support, interest, and advice we would never have undertaken the single most important project in the history of the [Alaska] Department of Education."

Dr. Grayson's contribution to these major satellite systems have been recognized several times. He received a Quality Award from the National Institute of Education (1974), a Special Award on Social Justice from the National Association of Public Continuing and Adult Education for work on educational satellites and their potential for impacting worldwide problems of illiteracy and under-educatin (1975), and has been made a Fellow of the Institute of Electrical and Electronics Engineers (IEEE) and of the American Association for the Advancement of Science. In 1984, he was presented with a special testimonial from TLC for his pioneering efforts in educational satellites and his contributions to the development of TLC.

In addition, Dr. Grayson received the Distinguished Service Gold Medal from DHEW for his contributions to educational satellites. In any given year, this award, the highest granted by the Department was given to approximately one in ten thousand employees.

Dr. Grayson received his bachelor's, master's and Ph.D. degrees in electrical engineering from the Polytechnic Institute of Brooklyn (now Polytechnic University). After a tour of duty in the U.S. Army, where he received the Distinguished Service Award and a patent for his work in lasers, he taught electrical engineering at The Johns Hopkins University and at Manhattan College, and currently serves as adjunct professor of library and information science at The Catholic University of America. In 1967-68 he was a Ford Foundation Fellow working at IBM's Thomas J. Watson Research Center on the development of computer-assisted instruction. In 1969, he joined the U.S. Office of Education, where he has served as director of the division of technology development and as advisor on mathematics, science and technology to the National Institute of Education.

Presently, he is on leave of absence from the U.S. Department of Education, under an IEEE Congressional Fellowship, working in the U.S. House of Representatives. He serves on the staff of Congressman Jack Kemp, concentrating on matters of international industrial competitiveness. He also was appointed a senior scholar at The Fund for an American Renaissance, an educational foundation chaired by Representative Kemp.

Dr. Grayson's development and advocacy of technology has not diminished his concern for its impact on people. He has written a number of articles in this regard, pointing out the potentially adverse effects of technology on society, so that the effects can be identified and appropriate actions taken to avoid widespread negative consequences. Some of his articles deal with the impacts of technology on education and culture, diversity of educational offerings, and the privacy of the individual.

In addition to his promotion of educational applications of satellites, Dr. Grayson has worked enthusiastically and effectively for the improvement of engineering education both in the United States and abroad. He has held national offices in the American Society for Engineering Education (ASEE), including the 1988 Presidential nominee, and in IEEE.

For the past fifteen years, he and his colleague, Dr. Joseph M. Biedenbach, have been active in establishing and editing the *Proceedings* of the Frontiers in Education Conference, the College Industry Education Conference, and the ASEE Annual Conference, among others. The more than fifty proceedings that have been published have improved the quality of the conferences and have made the information presented available to persons who could not attend. More important, the proceedings are creating a significant body of literature on engineering education, which the field needs to progress and develop as part of the engineering profession. For his efforts in this regard, Dr. Grayson received the Distinguished Service Award of ASEE in 1977 and that Society's Distinguished Service Citation in 1981, the 1979 Achievement Award of the IEEE Education Society, the ASEE Continuing Professional Development Division's Certificate of Appreciation in 1983 and its Certificate of Merit in 1984, the 1985 Roland J. Schmitz

Award of the Frontiers in Education Conference, and the IEEE Centennial Medal in 1984.

Dr Grayson has been a consultant to the United Nations Educational, Scientific and Cultural Organization (UNESCO) on engineering education, chairman of UNESCO's International Working Group on Curriculum Design in Engineering Education, and for six years was a member of the World Federation of Engineering Organizations' Committee on Education and Training. His book, The Design of Engineering Curricula, which was translated into French, Spanish, Arabic and Polish, has been distributed worldwide by UNESCO. His concerns for engineering education throughout the world led to his appointment in 1977 by Secretary of State Cyrus Vance to a three-year term as a member of the United States National Commission for UNESCO, to which he was reappointed for a second term by Secretary Edmund Muskie.

His international interests have been expressed in his writings, as well as professional society activities. Dr Grayson's publications describing the systems of engineering education in numerous countries in Asia and Eastern and Western Europe have appeared in many professional journals. His series of articles on technological education and economic development in Japan resulted in hundreds of requests for reprints for engineering educators in over twenty countries. UNESCO thought it so good that they asked Dr. Grayson to write a chapter on engineering education in Japan, the only one written by a person not native to the country being described. This will appear in the forthcoming UNESCO book on engineering education throughout the world.

Dr. Grayson has keen interest in the history of his profession. He was actively involved in the organization of a national event at Valley Forge in 1978 to celebrate the 200th anniversary of a call by George Washington to establish a school of engineering in this country. His paper, "A Brief History of Engineering Education in the United States," was awarded the William Elgin Wickenden Award as the best paper published in 1977-78 by ASEE, being cited for the excellence of its historical research and clarity of presentation.

He also has a strong interest in the improvement of mathematics and science education in elementary and secondary schools. Until his appointment as a Congressional Fellow in September 1986, he was chairman of the IEEE Committee on pre-college education. He edited two issues of a pre-college education magazine called *Impact* and contributed to a third. He also helped organize the Pyramid Conference, which brought together leaders from over forty professional societies in engineering, science and education to discuss how they could cooperate on activities to address problems of pre-college mathematics and science education. And he developed a slide/tape show entitled, "Education: The Key to America's Future." Copies of the show have been distributed nationally, and shown twice at The White House, at several state capitals, on several broadcast and cable TV systems, and before hundreds of business and community groups.

Dr. Grayson is a very dynamic, enthusiastic, knowledgeable and diligent individual, with imagination and vision that he has applied both to the needs of humanity and the advancement of the engineering profession. With his technical, educational and managerial expertise, he has displayed a rare talent for realizing and developing the potential and promise of educational satellite technology for its use in humanitarian service. His international reputation, his continued commitment to the development and application of technology to education and to educating people for a technological world, and his deep understanding and sensitivity for human concerns make him an extremely qualified and worthy recipient of the Hoover Medal.

REMARKS BY DR. LAWRENCE P. GRAYSON ON THE ACCEPTANCE OF THE HOOVER MEDAL

Mr. Salgo, I am deeply grateful to you and to the members of the Board of Award, as representatives of the Founder Societies of our profession, for selecting me as the 46th recipient of the Hoover Medal. This is a unique and singular honor that I will cherish for the rest of my life.

I have long believed that the purpose of engineering is to improve the lives of people through the development and application of technology. Engineering, by its very nature, implies service to mankind. That is why this medal, named in honor Herbert Clark Hoover, is so meaningful. Herbert Hoover was an accomplished professional and an exemplary human being.

As an engineer, he mined for gold in western Australia and in the Gobi Desert in China; discovered and operated one of the world's most profitable silver mines in the jungles of Burma; and managed an iron and steel works in Imperial Russia. As a humanitarian, he organized famine relief for Russia during a serious wheat crop failure in that country. With the outbreak of World War I, he organized the relief of the Belgium nation, feeding and clothing nearly ten million people. After the war, he continued and expanded this work to include many others who suffered in the conflict. As a politician, he served successively as Secretary of Commerce, 31st President of the United States, and advisor to Presidents Truman and Eisenhower. In his private life, he gave generously of his time to organizations devoted to the welfare of children. Even with the demands of these numerous activities, Herbert Hoover still found time to serve his profession, first as president of the American Institute of Mining and Metallurgical Engineers, and later as president of the Federated American Engineering Societies, which was the engineering unity organization of its day.

The life of Herbert Hoover should be an example to all of us. In America, with our heritage of individuality and an emphasis on personal attainment, it is easy to allow self-interest to undermine public interest. As a nation, we must rekindle our sense of public purpose and concern for others. We must recognize once again that success in life is not measured by the accumulation of money or power or prestige, but by one's service to God, country, community and one's family.

In accepting this award, I do so with deep appreciation to my wife, Susan, and to our children for their encouragement of my efforts and for their continuing love; and to you, my colleagues in engineering, for the opportunities and support I have received throughout my professional career. I accept the Hoover Medal recognizing that it carries with it a responsibility to foster the ideal for which it was established—to improve the lives of people through engineering.

Thank you.

LEGISLATION TO BAN CHLORDANE

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. RAY. Mr. Speaker, I recently submitted testimony to the Subcommittee on Health and the Environment for its consideration of legislation to ban the pesticide chlordane as a termiticide. As a former pest control operator myself, I have personally applied chlordane to structures hundreds of times and have supervised service personnel who have been actively involved without health problems. Therefore, I can understand the concerns of the pest control industry about this legislation. We must do what we can to protect our environment and the health of the American people, but it is important to base our actions on firm scientific data.

For the benefit of my colleagues, I want to share with the House my remarks to the subcommittee.

STATEMENT BY CONGRESSMAN RICHARD RAY

Mr. Chairman, I appreciate this opportunity to submit testimony to your subcommittee about an issue that causes me great concern: the banning of Chlordane as a termiticide.

Chemical dangers and suspected dangers are hard issues to be against and to oppose, and I share the concern that you and all Americans have in wanting to protect our environment and the health of our people.

As a former pest control operator and as a former regional manager in a national pest control company, I am aware of how widely Chlordane has been used in homes all across this country. It has a 29-year history of efficient structure protection and has been used in over 30,000,000 termite jobs in the United States alone.

Chlordane is one of a small number of termiticides available to pest control operators. It is regarded by people in the industry, however, as probably the most effective.

I oppose H.R. 2622, which is the legislation that has been introduced in the 100th Congress to ban Chlordane, and I want to endorse the testimony made before this subcommittee on behalf of the National Pest Control Association by Robert Russell and Harvey Gold, both of whom are recognized as knowledgeable experts in this area.

Further, I want to express my deep concern about the inflammatory statements that are being circulated by sources within EPA regarding Chlordane and its alleged hazards. The kind of premature conclusions that are being put forth are likely to cause alarm among the American public and could easily result in untold liability to the American pest control industry. If EPA continues in this vein, we could easily see the entire industry wiped out.

Whenever our health and our environment is proven to be threatened, we should make every effort, through legislation or other means, to correct and eliminate such threats.

"Proven" is the key word, and I have not seen scientific data at this time that convinces me that the good intentions and the frantic, incoherent cries of alarm can be credited to indisputable scientific data.

I spent 23 years of my working career actively involved in the pest control service industry. Twelve of these years—from the age of 23 to the age of 35—were spent as an owner/service operator, actively applying insecticides to the under surfaces, interiors, and exterior foundations of residential structures.

Through the years, I was personally involved in the mixing and distribution of thousands of gallons of chemicals, including Pentachlorophenol, Creosote, Chlordane, DDt, Dieldrin, Aldrin, and other known pesticides and termiticides that were publicly marketed with federal approval.

I might add that prior to the age of 23, I was actively engaged in farming with my family. During this period, I was involved in applying and distributing various deadly chemicals to control peach, pecan, and cotton pests. We used chemicals such as Parathion and others of a toxic nature.

From the age of 35 to the age of 45, I was a regional manager of a pest control service firm, which employed hundreds of men and women who were directly involved in the mixing and application of pesticides, including large volumes of Chlordane. Many of these people traveled in vans and closed vehicles carrying their application equipment and chemicals with them.

Through the years, I felt a responsibility to keep my own health under medical supervision and urged my co-workers and employees to do the same.

The point that I want to make is not to reject the good intentions of you, your subcommittee, EPA, and those who are severely frightened and anguished by all the publicity surrounding chemical use. I simply want to inform you that, during my years of active involvement and presently at the age of 60, I have never had any symptoms that would lead me to believe that Chlordane or similar Chlorinated Hydrocarbons should be banned without proof beyond doubt.

I further add that I do not know of any case where the hundreds of employees and co-workers who assisted me have suffered any effects from these chemicals.

I want to share with the subcommittee my knowledge about a study that was done on the health of pest control operators nationally. In 1979, Dr. Brian MacMahon and Dr. Helen Wang of the Department of Epidemiology at the Harvard School of Public Health released the results of a nationwide survey of 16,126 operators from three pest control companies. They found the operators' mortality to be more favorable than that of the general public, and they further found no excess of cancer among termite control applicators. Dr. MacMahon updated the survey in 1982 with the same results. I want to add that this study was supported by the National Cancer Institute.

In conclusion, Mr. Chairman, I want to reiterate my opposition to H.R. 2622. It is an unnecessary circumvention of FIFRA and the review process established under the Act. EPA can resolve this issue. However, I hope the agency will use more caution and prudence than it has already exhibited. I concur with the request of those in the pest control industry that EPA reach beyond its own scientists and bring in additional authorities to review this matter and determine the real risks involved with the use of Chlordane.

THE CAMPAIGN REFORM FRAUD

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. SHUMWAY. Mr. Speaker, I was surprised and pleased to read Robert J. Samuelson's editorial, "The Campaign Reform Fraud" in Newsweek magazine recently. Seldom does anyone have the courage to point out that, while money is a necessary evil in campaigns, the so-called reforms being contemplated would result in even greater evils. We would run the risk of trampling free speech, free choice, and citizen involvement in the political process. I will allow the article to speak for itself, and I strongly commend it to my colleagues attention.

The Campaign Reform Fraud

(By Robert J. Samuelson)

The Founding Fathers are growling in their graves. The Senate is now debating campaign-finance "reform": A respectable-sounding idea that's a fraud. Campaign reform would cure problems that don't exist with solutions that would restrict free speech, smother elections in bureaucratic rules and hurt candidates' chances of beating incumbents. It's an odd way to celebrate the Constitution's 200th birthday.

Blame that on Fred Wertheimer of Common Cause. His crusade for reform—campaign-spending restrictions and public financing—is built on half-truths. He says that campaign contributions of "special interests" have corrupted politics. They haven't. The Founding Fathers knew that special interests were inevitable. Their government of checks and balances requires compromise; competing groups check each other. The system isn't perfect, but it curbs the undue influence of campaign contributors.

Wertheimer is a genius at obscuring this. He harps on the huge rise in congressional campaign spending—up from $195 million in 1978 to $450 million in 1986—and its simplest implication: because congressmen need more money, they're more beholden to donors. The obvious answer is to limit dependence on the doners. The logic fits popular prejudices about special interests, and most editorialists and journalists accept Common Cause's claims uncritically. They shouldn't.

For starters, money doesn't determine who wins elections. Winning candidates are often outspent. In last year's Senate election, says political scientist Michael Malbin, six of the seven Democrats who ousted incumbent Republicans were outspent by an average of about 75 percent. There are too many other influences to make money decisive; the economy, party loyalties, personalities, issues, national mood. The 1986 election results, Brooks Jackson of The Wall Street Journal wrote later, suggested "that much . . . money was spent with little practical effect."

Paradoxically, campaign reform could make it tougher for challengers to unseat incumbents. If money doesn't settle elections, serious challengers need adequate minimums to gain name recognition and project campaign themes. It's these threshold amounts that campaign reform threatens. The spending limits in the bill before the Senate are below what five of the winning Senate Democratic challengers spent. In North Carolina, Terry Sanford spent $4.17 million to beat former senator James T. Broyhill. The bill would have allowed Sanford $2,95 million.

No one is smart enough to set "correct" spending limits based on population or anything else. States and congressional districts differ radically in political characteristics. California races require lots of media spending. That's less true in Chicago. Spending in hotly contested races is typically higher than average. Because Congress—that is, incumbents—would control spending limits, the bias would be against challengers.

Likewise, Wertheimer's assertion that campaign contributions corrupt the legislative process is similarly weak. You hear lots of talk about the dangers of political-action committees (PAC's). What you don't hear is:

PAC's remain a minority of all contributions. In 1986 they were 21 percent for the Senate (up from 17 percent in 1984) and 34 percent for the House (level with 1984).

The diversity of the 4,157 PAC's dilutes their power. There are business PAC's, labor PAC's, pro-abortion PAC's, anti-abortion PAC's, importer PAC's and protectionist PAC's. Contributions are fairly evenly split between Democrats ($74.6 million in 1986) and Republicans ($57.5 million).

PAC's give heavily to senior, powerful congressmen, who are politically secure and not easily intimidated. According to Common Cause, Democratic Rep. Augustus Hawkins of California is the most dependent on PAC contributions (92 percent). First elected in 1962, he won last year with 85 percent of the vote.

Of course special interests mob Congress. That's democracy. One person's special interest is another's crusade or livelihood. To be influential, people organize. As government's powers have grown, so has lobbying by affected groups: old people, farmers, doctors, teachers. The list runs on. But PAC's are only a minor influence on voting. Political scientist Frank Sorauf of the University of Minnesota reports that in 1984 the average PAC contribution to House incumbents was less than one-third of 1 percent of the average congressman's total receipts. Congressmen vote according to their political views, constituents' interests, party wishes and—yes—their consciences. Special interests were supposed to block tax reform. They didn't.

Free speech: About half the rise in campaign spending since 1978 reflects inflation. Much of the rest stems from the emergence of younger politicians who use expensive campaign consultants, television and direct mail. In 1984 Democratic House Speaker Thomas P. O'Neill, Jr., of Massachusetts spent $213,000 winning re-election. In 1986 Democrat Joseph P. Kennedy II spent $1.8 million to win the same seat. But the expense of modern communications makes it no less vital for free speech.

That's why the Supreme Court held in 1976 that mandatory campaign-spending limits on candidates violate the First Amendment. Public financing of election spending aims to make "voluntary" limits more acceptable. But even if voluntary limits on candidates were enacted, the problem of "independent spending" remains: if I want to buy TV time to support Joe Blow, the Supreme Court says that's my right. Candidate spending limits would prompt special interests to raise independent spending. The Senate bill tries to deter this by subsidizing responses: my $10,000 praising Joe Blow would entitle his opponent to $10,000 of public money to answer me.

Suppose this were judged constitutional (unlikely), what's the point? In our diverse society, one role of politics is to allow the venting of different opinions and pent-up frustrations. Groups need to feel they can express themselves and participate without colliding with obtuse rules intended to shut them out. Our politics is open and free-wheeling. Its occasional excesses are preferable to arbitrary restraints. Wertheimer's brand of reform is misconceived. The Senate would dignify the Founding Fathers by rejecting it.

KILDEE HONORS RECIPIENTS OF SAM DUNCAN SCHOLARSHIP AWARD

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. KILDEE. Mr. Speaker, I rise today to bring to the attention of my colleagues and the Nation an event which will take place on July 26, 1987. On that date, seven exceptional young Americans will become the proud recipients of the Sam Duncan Memorial Scholarship Award. The financial award has been bestowed since 1980 upon deserving college students who are handicapped.

In the pantheon of the most highly respected labor leaders in the city of Flint, the name of Sam Duncan shines among those most bright. Mr. Duncan was the first black person to be elected president of a UAW local in the Flint area. He was widely respected by union, government, and company officials.

As president of the Flint Chevrolet Truck Plant UAW Local 598, he was not only held in high esteem by fellow union officers, but also by the rank and file of his own local union as well as other local unions in the Flint area. The organizers of the original UAW retirement plan consider Mr. Duncan's early support as crucial to the success that was achieved for thousands of UAW members who continue to enjoy the benefits of that plan.

Mr. Duncan devoted many years of his life to serving on various community agencies and spent many hours of his time voluntarily assisting hundreds of individuals who approached him for help. Mr. Duncan served several years on the board of directors for the NAACP chapter in Flint including one term as president of that distinguished organization. To name just a few of his affiliations from a long and impressive list, Sam was also active in the local United Way, the Muscular Dystrophy Association, and the March of Dimes.

Sam Duncan served as president of UAW Local 598 from 1963 until his death on December 12, 1979. During those years, Mr. Duncan became a legend for his outstanding dedication to helping others and his deep and genuine concern for those he served. Sam Duncan's numerous and meaningful achievements would constitute an impressive list for any individual. His accomplishments, Mr. Speaker, are magnified in light of the fact that Sam Duncan was physically handicapped. Sam was injured in the service of the U.S. Navy during World War II. His shrapnel injury became increasingly worse over the years. Sam first walked with a limp, then with a cane, later with aluminum crutches, and finally, paralyzed from the waist down, he was unable to walk. Mr. Duncan served the majority of his years in the union while confined to a wheelchair.

A unique honor was paid to Mr. Duncan's memory in a most unusual way. In a tribute to Duncan upon his death, the Chevrolet Truck Assembly Plant shut down all assembly lines for 1 minute during each work shift. This symbolic gesture testifies to the high regard in which Chevrolet officials held Sam Duncan.

In another unusual move, Sam Duncan's body was displayed at the local union hall instead of a funeral home. Sam's colleagues were sure that there would be a large number of people who would want to pay their last respects, and were not sure the funeral home would be large enough to provide everyone that chance. Of course, everyone knew that Sam spent most of his life in the union hall and thought it was only right for him to be brought back there for the last time.

The love and admiration won by Sam Duncan during his lifetime live on today through the annual award of the Sam Duncan Memorial Scholarship. The scholarship is aimed at assisting physically handicapped individuals in obtaining education and training. The first Sam Duncan Memorial Scholarship was awarded in 1980. This year, seven scholarships, in amounts of $600, will be given away. Funds for these awards are raised through voluntary contributions from those who, in the memory of Sam Duncan, realize the energy, intelligence and unlimited potential of so many members of our physically handicapped community.

Mr. Speaker, those that we will honor on the evening of July 26, 1987, include previous award winner Linda K. Rutherford, who, while confined to a wheelchair by multiple sclerosis, has the tenacity to pursue a bachelor's degree in engineering from the Charles Stewart Mott Community College. Another recipient is Cheryl A. Hyde, a previous winner who is totally blind and also attending Mott Community College for a child development program. Ann P. Mora is legally blind and is attending Alma College. William A. Jenkings is a three time recipient of the Sam Duncan Memorial Scholarship Award who became a quadriplegic through a diving accident. Now the first four-time recipient, William graduated from Mott in May with an associate's degree in marketing management and plans to continue his studies for a bachelor's degree in a program offered through Mott by Ferris State College. Arnold Gilliland became a paraplegic from a snow mobile accident and is currently working toward an associate's degree in business from the Detroit College of Business. Two time winner Clarence E. Ferguson suffers from a learning disability but sets a fine example for today's youth by studying art and design at the Academy of Art in Chicago. And finally there is Darleene K. States, who is deaf, is an excellent lip reader, and who suffers from additional kidney affliction. Darleene also attends the Mott Community College. Mr. Speaker, these young Americans are the perfect embodiment of the type of dedication to excellence, determination for success, and sheer desire to be somebody that makes it such an honor for me to serve in their behalf in Congress. Thank you for listening to my words today and for reflecting for a moment on Sunday evening about Linda, Cheryl, Ann, William, Arnold, Clarence, Darleene, and of course, Mr. Sam Duncan.

THE NEUTRALITY ACT MUST BE UPDATED

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. LEVINE of California. Mr. Speaker, my distinguished colleague from Iowa, Mr. LEACH, and I recently coauthored an op-ed article which appeared in last Sunday's Los Angeles Herald Examiner. Our essay discusses the need for an updating of the Neutrality Act. The urgency of passage of our bill has been underlined by the revelations of the Iran-Contra hearings. I hope my colleagues will take a moment to read it and consider supporting our legislation to reform the Neutrality Act, H.R. 2522.

The article follows:

[From the Los Angeles Herald Examiner, July 19, 1987]

THE NEUTRALITY ACT MUST BE UPDATED

(By Mel Levine and Jim Leach)

Lt. Col. Oliver North's and Rear Adm. John Poindexter's testimonies to the Iran-Contra investigating committees provided a vivid picture of how the Reagan administration carried out its private foreign policy. In the course of aiding the contras and arming Iran, the administration either ignored, circumvented or conspired to break numerous laws, not the least of which was the Boland amendment prohibiting government support for the Nicaraguan rebels. Among the most egregious of these breaches of law was the violation of the Neutrality Act, which bars private citizens from waging war against nations with whom the United States government is at peace.

The Neutrality Act was enacted in 1794 in response to circumstances surrounding the Anglo-French war. At the time, one faction in America wanted a British victory, another a French triumph. The U.S. government's official position was one of strict neutrality. The Neutrality Act was passed to ensure that this country would not become a staging area for private military operations against either of the two combatants.

The act, then, does not affect individual private citizens who wish to leave the country and fight alongside foreign military forces. It would not, for example, have prohibited citizens from taking up arms in Britain early in World War II. What it does do, and should do, is to prevent private citizens from undermining U.S. foreign policy by organizing and/or launching military actions from American soil against nations with whom we are at peace.

The fundamental principle underlying the Neutrality Act is firmly imbedded in the Constitution: that the federal government should be the nation's sole voice in matters of foreign policy. The Founding Fathers wisely recognized that questions of war and peace must be addressed by our representative government, not by a minority, be it public or private.

We have thus introduced a bill, HR 2522, that would update the Neutrality Act to reflect the vastly changed environment in which U.S. foreign policy is carried out. It is designed to underscore the constitutional and legal obligations of private citizens in circumstances where official government action has been specificially precluded.

In 1974, the only way the Founding Fathers could envision private citizens undermining U.S. neutrality policy was through an actual physical attack launched from the states. They could not have imagined the maze of financial channels that today allows individuals to funnel money halfway across the globe and back almost instantaneously; or how easy it would be to translate financial resources into military power in world arms markets; of a time when there would no longer be formally declared wars but only "covert actions."

Our legislation would broaden the Neutrality Act to take into account the fact that neutrality today is not so much determined by the absence of a declaration of war as by a lack of participation in or a statutorily mandated end to "covert actions" against another nation.

HR 2522 is narrowly drafted. Its provisions would only have applied in only two cases in all of U.S. history: when the Clark amendment forbade assistance to the UNITA rebels in Angola, and when the Boland amendment banned government aid to the contras.

What the legislation says is that if the government, after supporting military operations somewhere, decides that it has made a mistake and goes to the extreme length of enacting a statutory ban on future government assistance, private citizen may not undermine that statutory foreign-policy mandate. This is entirely in keeping with the spirit of the Neutrality Act.

The organizers of the private aid network that supplied arms and money to the contras during the period when the Boland amendment was in force have asserted that they believed the Neutrality Act did not cover their actions. Yet under any meaningful definition of the phrase, North and his colleagues were in fact waging war against the government of Nicaragua. Their claim that the Neutrality Act did not apply to their actions only strengthens the case for updating it to clear up any possible ambiguities.

HR 2522 accomplishes this without impinging on individuals' constitutional rights. The headlines we have been reading for months should tell us that the Neutrality Act needs revision. It is time to heed that call and say no, in a firm and explicit fashion, to the privatization of foreign policy and subversion of U.S. law.

REEVES "BUD" BOWEN

HON. GEORGE (BUDDY) DARDEN

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. DARDEN. Mr. Speaker, labor and management alike today are mourning the untimely death of Reeves "Bud" Bowen, president of Local 709 of the International Association of Machinists & Aerospace Workers in Marietta, GA.

Bud Bowen, who died in an automobile accident this past Sunday, represented 14,000 workers in their union's relationship with the Lockheed-Georgia Co., which is the largest employer in the Seventh District of Georgia and has produced such major components of our military's airlift fleet as the C-130, the C-141, and the C-5.

The men and women of Local 709 valued Bud for his consistent and articulate representation of their interests in negotiations with the company. At the same time, the company officials with whom he negotiated had equal respect for his tremendous integrity, his honesty, and his dedication to the purpose and goals of the union.

Bud was a native of Miami, FL, and a graduate of Florida State University. He was a blueprint reader and mechanical inspector for the Lockeed-Georgia Co. before becoming union president.

Mr. Speaker, I ask my colleagues to join me in offering our sincere condolences to Bud's parents, Mr. and Mrs. Reeves Bowen, Sr., of Quitman, FL; to his brother, Tom Bowen of Chipley, FL; and to his sister, Mrs. Betty Cousar of Decatur, GA.

I also request that the attached newspaper article be included in the RECORD.

The article follows:

[From the Atlanta Journal Constitution, July 19, 1987]

REEVES "BUD" BOWEN JR., PRESIDENT OF AEROSPACE UNION AT LOCKHEED

MORVEN, GA.—Reeves "Bud" Bowen Jr. of Marietta, president of the 14,000-member aerospace workers' union at Lockheed-Georgia Co., died in an auto wreck here Thursday, according to the Morven Police Department. he was 60.

According to E.H. Scrivens, Morven's chief of police, Bowen had been in Tallahassee on business Thursday morning, and then had stopped to visit his parents in a rest home in Quitman, Ga. The accident occurred about 7 p.m. as Bowen was on his way home to Marietta when he reportedly failed to heed a stop sign on Georgia 76 and was hit by a truck traveling west on Georgia 94. He died about 8 p.m., a few minutes after arriving at the hospital.

The funeral will be at 2 p.m. Sunday at First Presbyterian Church in Chipley, Fla., with burial at Glenwood Cemetery in Chipley. A memorial service will be at 4 p.m. Tuesday at Roswell Street Baptist Church in Marietta.

Mr. Bowen headed Local 709 of the International Association of Machinists & Aerospace Workers at Lockheed-Georgia.

Lockheed-Georgia Co. issued a statement from Executive Vice President H.B. Allison saying: "Bud Bowen was a man of immense integrity who represented the men and women of Local Lodge 709 with the utmost competence and dedication. He will be missed by everyone associated with the company and the International Association of Machinists and Aerospace Workers."

Reeves Bowen Jr. was born May 7, 1927, in Miami. He was the oldest of three children of Reeves Bowen, an assistant attorney general for the state of Florida, and Mrs. Wilhelmina Whitted Bowen.

Mr. Bowen graduated from Florida State University with a bachelor's degree in science. He served in the Navy from 1945 until 1947.

Mr. Bowen was a blueprint reader and mechanical inspector for Lockheed-Georgia Co. before he became union president.

He was a member of Sigma Phi Epsilon fraternity and the First Presbyterian Church of Tallahassee.

Surviving are his parents, Mr. and Mrs. Reeves Bowen Sr. of Quitman, Fla.; a brother, Tom W. Bowen of Chipley, Fla.; and a sister, Mrs. Betty Cousar of Decatur.

A TRIBUTE TO RUTH THOMPSON

HON. CARL D. PURSELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. PURSELL. Mr. Speaker, it is with pleasure and pride that I rise today to honor Mrs. Ruth Thompson of Hillsdale, MI, whose dedication and love for her community have led to her nomination for the Michigan 150 First Lady Award. This award is in honor of Michigan's sesquicentennial and is designed to recognize the outstanding contributions of women to their communities and the great State of Michigan.

For the last 34 years, Ruth Thompson has been a driving force behind the Hillsdale County 4-H Mothers Club, serving as treasurer for 11 years and president for the past 23. Under her guidance this group has been the largest source of financial support for the Hillsdale County 4-H. Her generous commitment has enabled hundreds of youth in the county to participate in educational and leadership opportunities who otherwise could not have done so.

Born in Jonesville, MI, where she was raised on a farm with three brothers and one sister, Ruth graduated from Jonesville High School in 1934. She attended International Business College in Fort Wayne, IN, where she graduated in 1935. After marrying Felts Thompson in 1937, she returned to Hillsdale County to live and raise their three children on a farm near the city of Hillsdale.

I am delighted to hear that Cooperative Extension Service of Michigan State University, 4-H council, 4-H alumni, and Ruth's many, many friends are honoring her Friday, July 24, with a "Ruth Thompson Day."

Mr. Speaker, in honor of this occasion, I ask my colleagues in the United States House of Representatives to join me in sending warmest congratulations and sincere appreciation to Ruth Thompson—a true "First Lady" of Michigan.

CONGRESSIONAL SALUTE TO JOSEPH L. VICITES

HON. AUSTIN J. MURPHY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. MURPHY. Mr. Speaker, I rise today to pay tribute to a devoted family man, a dedicated public servant, and a tireless veteran's leader whose untimely death on July 10, 1987, is a tremendous loss to the community he served for over 40 years—Joseph L. Vicites.

A World War II veteran, Joseph Vicites rose through the ranks of the Veterans of Foreign Wars, helping to build the largest post in

Pennsylvania and 1 of the 10 largest in the world, VFW Post 47. Along the way he served in every commander's position in post, county, district, and State until becoming national commander in 1971-72. After that, he continued to serve in both local positions and as a member of the National Council of Administration.

While junior vice commander in 1969, he accompanied then Commander in Chief Raymond A. Gallagher on a trip around the world to acquaint himself with global problems affecting the United States. He held discussions with South Vietnam President Nguyen Van Thieu, China Vice President C.K. Yen, and Pope Paul VI among others.

Mr. Vicites served as junior vice commander and commander of the Fayette County Council, commander of District 23 of Pennsylvania, department judge advocate and department commander and vice commander. He was appointed vice chairman of the 1966-67 National Loyalty Day Committee and from 1967 to 1969 he was a member of the National Council of Administration and the National Budget and Finance Committee.

While department commander, he was appointed to the State veteran's commission and was a member of the State war veteran's council and president of the United War Veterans Association of Uniontown. Also, he served as a lieutenant colonel in the Civil Air Patrol and State director of Selective Service for Pennsylvania.

In addition to his work with the VFW, Joe Vicites served two terms from 1968 to 1976 as Fayette County clerk of courts and also served as chairman of the county Democratic Party. At the time of his death, he was assistant auditor of liquor control in the State auditor general's office.

Above all else, Joe Vicites was devoutly religious and extremely generous of his time and considerable talent to the entire community. He was a member of St. Therese's Catholic Church, Catholic War Veterans Post 1669, American Legion Post 51, Sons of Italy Lodge 231, Knights of Columbus, BPO Elks and the Fayette County Heart Association and Cancer Society. He was chairman of a fund drive for retarded children and was associated with many other charities.

In rare recognition of his enduring efforts, he was given the Man of the Year Award from the Junior Chamber of Commerce and the Assumption Award from the Most Rev. William Connaire, former bishop of the Greensburg Diocese. He was also invested as a Master Knight of Malta by Terence Cardinal Cooke, Archbishop of New York.

Mr. Speaker, Joe Vicites will be sorely missed, by both the family he loved and the community he served. But his spirit will live on in the veterans programs he initiated, the charities he promoted, and the lives of all those he touched and enriched. So it is with great honor and sadness that I join my colleagues in the House of Representatives in a final congressional salute to one of the finest men I have ever known and a true American hero—Joseph L. Vicites.

DRAINPIPE KOSKI TO DEPART

HON. BOB TRAXLER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. TRAXLER. Mr. Speaker, I rise today to pay tribute to an outstanding citizen and good friend, Mr. James Koski as he leaves his post as Saginaw County drain commissioner. As he enters the private sector, Drainpipe Jim will be sorely missed by folks at the local, State, and Federal level, as well as the residents of Saginaw County.

In his position as Saginaw County drain commissioner, Jim has been responsible for the administration of the largest Michigan drainage basin which involves all aspects of storm water management, soil erosion, environmental impact, engineering, finance, and construction. Since 1985, he has been the chairman of the Great Lakes and Water Resource Planning Commission. In this capacity, he has been the spokesman for the 16-member commission, running public hearings, setting agendas, and making committee assignments.

For the past 23 years, Jim Koski has had many accomplishments. He is an avid deerhunter, and each year he pursues the Michigan white tail. He is credited with successfully operating the largest Youth Corp Program in the State of Michigan, employing over 500 unemployed youths. He has helped to secure over $1 million in Federal and State grants to aid in alleviating Saginaw County's drainage problems. He has been the chairman of the Michigan Association of County Drain Commissioners' Legislation Committee. And he has introduced 24-hour, 7-days-a-week service to the citizens of Saginaw County.

For many years, Ole Drainpipe has been a concerned and involved citizen. When he sees something that needs to be done, he doesn't complain, he steps into action. His community involvement has been extensive: Member and past chairman of the Saginaw County Aviation Commission, member of the Saginaw County Department of Public Works, the advisory committee of the Saginaw County Mosquito Abatement Commission, past legislative chairman of the Michigan Association of County Drain Commissioners, Department of Agriculture Task Force, past chairman of Saginaw County Chapter of the American Cancer Society, captain of the Frankenmuth Police Auxiliary, to name but a few.

Mr. James Koski has left his everlasting mark on Saginaw County. The people living in the Saginaw area will be able to reap the benefits of his efforts for generations to come. I ask my colleagues to join with me today in honoring a fine individual and my good friend, and wish him every continued success and happiness in his future endeavors.

PREVENTING MORE TRAIN ACCIDENTS

HON. DOUG WALGREN

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. WALGREN. Mr. Speaker, on April 11, 1987, two Conrail freight trains collided in a densely populated neighborhood in Pittsburgh—34 cars derailed and several started to burn. One train had twelve tanker cars containing various toxic chemicals. A leak from one of the cars forced an evacuation of 16,000 people.

As bad as it was, skillful handling of the situation by public safety officials and a number of fortuitous circumstances, including weather and timing, prevented the accident from becoming far more serious. The combined fact that such close calls are occurring and that the transport of 75 million tons of hazardous materials by the railroads each year has become an unavoidable fact of modern life, suggest that the potential for rail accidents endangering the public safety is greater than at any time in the past. In light of these risks, careful examination of the adequacy of our rail safety standards and continuing improvements in our margin of safety should be one of this Congress' greatest priorities.

Today I am introducing a bill that addresses some of the rail safety concerns raised following the Pittsburgh and other accidents. I offer this bill to be part of the discussion of rail safety reform to be considered in the Energy and Commerce Committee this year.

First, this bill would require the installation of event recorders or black boxes aboard all trains. These devices are used to record a variety of data, including train speed, brake application, and throttle position. The National Transportation Safety Board has long recommended event recorders as the most precise method of investigating the factors that contribute to or cause an accident. Event recorders reduce the risk of accidents caused by human error or mechanical failure through mechanical supervision of crew activities and equipment performance.

The bill would also require Federal licensing of locomotive engineers and train dispatchers. Actions of railroad employees, who physically operate or centrally coordinate the movement of trains, can affect the lives of millions of people. Just as commercial airline pilots and air traffic controllers are required by law to demonstrate a wide range of skills, knowledge, and training, it seems that we have an obligation to ensure that those who are entrusted with the safe operation of trains be equally qualified. The licensing program would include minimum training and apprenticeship requirements, comprehensive knowledge of railroad operating practices and operating rules, and would take into account serious motor vehicle violations of an individual within the 5 years prior to application for licensing.

Additionally, the bill would require the Office of Technology Assessment to conduct a study into the feasibility of automatic train control [ATC] devices. ATC is an automatic braking system that will automatically slow or stop a train if an engineer fails to properly acknowledge and respond to an outside warning signal. Following the tragic accident in Chase, MD, last January in which 16 people died, the NTSB concluded that if the Conrail freight train had been equipped with ATC, the accident probably could have been prevented. ATC is currently a standard safety feature on Amtrak passenger trains operating in the Northeast corridor and the FRA has issued regulations requiring them on all trains operating there. Installation of ATC devices nationwide would be expensive, but as a rapidly developing technology of great public safety benefit, I feel their feasibility should be studied.

The bill also addresses the tampering of safety devices by train crews. It attempts to discourage tampering by increasing fines against railroad companies and by granting the FRA authority to assess penalties in the form of fines or suspensions against individuals who willfully tamper with or disable safety devices on trains.

Another issue addressed is the issue of railroad/highway grade crossings. Grade-crossing accidents account for 58 percent of all rail fatalities in the United States. Federal funding for traffic control systems at crossings has helped to improve safety. Still, there are no Federal regulations requiring adequate maintenance, inspection, and testing of grade crossings. The bill I am introducing today would require DOT to issue such regulaions to ensure the safe maintenance, inspection and testing of signal systems at railroad/highway grade crossings. A related provision would provide access to the courts for employees to require the Secretary to perform nondiscretionary acts related to the enforcement of the railroad safety laws, if there is a danger of serious injury or death to railroad employees.

The bill would also make some changes in the system of reporting accidents. One flaw in the current reporting system is that rail workers who are involved in accidents have no formal input in determining the causes of accidents. In cases where railroads assign human error as a cause of an accident, the employees involved would be permitted to state on the form mailed to the FRA what they believe to be the contributing factors of an accident.

In addition, the Secretary would be prohibited from disclosing the name of any employee who has provided information about an alleged violation of the FRA's safety laws or regulations, until the FRA actually files a lawsuit. Many dangerous violations go unreported because the names of those who file reports are often revealed to the carrier by the FRA and are then subject to harassment by the carrier.

Finally, the safety of all types of vehicles such as those used by railroad workers in employment is an issue that has long been neglected by both the FRA and Congress. There are too many accidents and injuries attributable to unsafe motor vehicles used by rail employees on the job. The bill would require that all vehicles used by railroad workers in employment be covered by Federal safety standards.

Mr. Speaker, commitment to improving our rail safety laws should be one of our Nation's top priorities. This is an issue we should address now. We should not wait for another accident like the one that occurred in Pittsburgh. Given the risks involved, we may not be as fortunate as we have been until now. I urge my colleagues to support this legislation. I hope that these suggestions will be part of the discussion of railroad safety reauthorization to be considered by the Subcomittee on Transportation in the Energy and Commerce Committee.

URGING SUPPORT FOR H.R. 1950, A BILL TO ALLEVIATE SECRET BUGGING IN THE WORKPLACE

HON. EDWARD F. FEIGHAN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. FEIGHAN. Mr. Speaker, millions of workers each day suffer anxiety and discomfort inflicted by the threat of secret telephone monitoring by their supervisors. This practice demeans worker morale, invades the privacy of both employee and consumer, and hinders worker-supervisor relations. My colleague, Mr. EDWARDS, has proposed timely legislation to rectify this problem, H.R. 1950. The bill would provide for an audible beep whenever phone monitoring of employees takes place.

This legislation is imperative for two reasons. First, secret monitoring robs workers of dignity and professionalism. A worker cannot be expected to perform, nor can he take pride in his work, with the constant threat of secret supervision. Second, the right to privacy is jeopardized with secret monitoring. A consumer who reveals personal information to an employee—health or financial data—should not be monitored by that employee's supervisor. Insurance agents, lawyers, and hospital attendants are among the workers who often are asked to obtain this confidential information. And when a worker's personal phone calls are subject to the same eavesdropping, his or her right to privacy is further eroded.

H.R. 1950 provides for an audible beep, signaling persons on the phone that they are being monitored. This would allow any party to a telephone conversation to know when he or she is being surveiled.

Mr. Speaker, it has been statistically proven that secret bugging does not improve worker performance. I thank Barb Easterling, Executive Vice-President of the Communications Workers of America, for leading the fight against this injustice and bringing the issue to the attention of Congress. On behalf of workers subject to secret monitoring, I ask my colleagues to join me in supporting Mr. EDWARDS' crucial legislation, which restores worker dignity and maintains our right to privacy.

A SOLUTION TO THE FARM CREDIT SYSTEM CRISIS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. HUBBARD. Mr. Speaker, I have just received a recent letter from my good friend and constituent, George Pettit, Jr., of Princeton, KY, which I would like to share with my colleagues. George Pettit has contacted me about his concerns regarding the Farm Credit System and has suggested a number of actions which have merit and could be taken in an effort to resolve this very severe problem which affects farmers in Kentucky and throughout the Nation.

I hope my colleagues will take a few minutes to read and consider his timely comments. The letter to me from Mr. Pettit is as follows:

> PRINCETON, KY, *June 26, 1987.*
>
> DEAR CONGRESSMAN HUBBARD: Your position on the House Banking Committee could be useful in solving our present Farm Credit System crisis.
>
> Our farmers still face tremendous restructuring and liquidation of their resources and debt.
>
> If this nation intends to maintain its prominence in food and fiber production then the capital must be available for this process.
>
> The critical issue is how to fund the FCS bailout and maintain the "sense of Congress" in reducing the federal deficit. It may be that Congress may find resolution in the following strategy:
>
> (1) Transfer all the acquired agricultural property from FmHA to the FCS.
>
> (2) Mandate that the FCS finance the sales of the acquired property with as little as 10 percent down.
>
> (3) On those properties presently financed by FmHA but facing imminent write-down, transfer these loans to FCS with the provision that the FCS service these loans at no more interest than presently charged by FmHA. This provision would not occur until the write-down had been implemented.
>
> What you would achieve with this plan would be multi-faceted.
>
> (1) Reduced budget exposure due to the fact that the government has already allocated the funds and accepted the loss.
>
> (2) The new loans would come in at the prevailing market values thus creating a broader performing loan base for FCS.
>
> (3) The FmHA operating cost would be dramatically reduced due to less loan servicing and acquired property management.
>
> (4) There would be less social consequences and enhanced productivity in our rural infrastructure. To be sure, more capital could be allocated to re-tooling the farms and paying local bills rather than "exporting" the capital to large monetary centers.
>
> (5) It would target the most depressed areas and thus offer some revitalization to those economically deprived sections.
>
> Congressman, what I have presented is a concept. To be sure, my information to document the value of this concept is limited. Only with some extensive research can we clearly define whether this concept has merit.

It is imperative that you expand your role toward shaping the required policy needed to resolve this crisis.

If I may be of any further assistance, please contact me.

Thank you.

GEORGE PETTIT, Jr.

TRIBUTE TO LT. COL. MICHAEL R. HIGGINS

HON. BEVERLY B. BYRON

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mrs. BYRON. Mr. Speaker, I know I speak for many in commending the valuable contribution of Lt. Col. Michael R. Higgins of Air Force legislative liaison for his support to the Military Personnel and Compensation Subcommittee during the last 3 years. Colonel Higgins is uncomfortable with the term "personnel expert" because he understands, as few people do, that the Air Force is composed of people, not personnel.

Colonel Higgins' expertise in people programs is unrivaled. He has worked with great determination on behalf of many quality of life programs and has pledged a personal commitment to the welfare of airmen and their families. In no small measure because of his stewardship, we have seen stable pay levels leading to recruitment and retention figures which tell us we have the best people ever volunteering to serve and remain with our Armed Forces. He has also provided this committee with the kind of painstaking, often tedious work to produce the data we need to make the right decisions on personnel issues. Of particular note is the contribution he has made to Air Force family life, including spousal employment rights, permanent change of station entitlements, and junior enlisted household goods allowances. Throughout the sometimes byzantine and always taxing budgetary cycle, we have come to rely on Mike Higgins' dogged, good-natured advocacy of the Air Force family. We on the committee owe him a great deal, but more important, the Air Force people for whom he worked tirelessly and brilliantly are better off for this work. Colonel Higgins has been reassigned as the Chief of Personnel at Nellis Air Force Base, NV. We shall miss him.

LOCAL SUBCONTRACTING FOR CHILD LABOR

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. PEASE. Mr. Speaker, one of the reasons that child labor is so prevalent around the world is that major corporations do not pay attention to whom they subcontract with and their working operations. The following article from the Cox Newspaper series "Stolen Childhood" bears out the lack of concern. Multinational corporate managers must be encouraged to show some regard for how local managers conduct their business in subcontracting relationships.

IN PRIMITIVE FACTORY, INDIAN CHILDREN PRODUCING GLASS, PROFITS FOR CORNING

(By Joseph Albright)

BOMBAY, India.—Corning Glass Works, the most modern glass manufacturer in the world, makes small change for its stockholders from the labor of 11-year-old factory workers in India.

These squalid little boys in rubber-thonged sandals cannot be found darting around the furnaces of Borosil Glass Works, the Indian affiliate of Corning in Bombay.

Indian technicians wearing laboratory coats, safety shoes and protective glasses work on Borosil's spotless floors, just as the Corning safety teams from the United States demand.

The children work instead in the primitive factory of a Borosil subcontractor.

Every year, the Corning affiliate orders thousands of test tubes, beakers and other laboratory glass from the subcontractor, West Glass, whose factory is in Firozabad, 650 miles northeast of Bombay.

Borosil then sells the Firozabad glass, without labels, to customers in Africa, the Middle East and Southeast Asia.

Rajesh Vyas, the marketing manager of Borosil, said buying glass from Firozabad enables him to fill a niche in his overall export strategy: meeting the demand of "countries where price is the main criterion, such as Egypt or Kenya, which have foreign exchange problems."

In its modern Bombay plant, Borosil manufactures 98 percent of the glass it sells to its domestic and foreign customers.

Chemically identical to Corning's Pyrex and pharmaceutical lines, glass carrying the Borosil label doesn't crack when heated and isn't corroded by laboratory acids. Its one drawback is that it is too expensive for some Third World markets.

CORNING CALLED A GOOD CORPORATE CUSTOMER

Borosil gets the remaining 2 percent of what it sells from Firozabad, exclusively for export customers. It is cheap laboratory glassware made of "soda glass," the same material used in tumblers and beer bottles everywhere.

Laboratory vessels made of soda glass are not heat resistant, etch-proof or accurately calibrated. But they are cheap.

It's only a sideline for Borosil. For Corning—a blue-blood company that last year sold $1.9 billion worth of products ranging from fiber optic cables to Steuben vases—the impact on the bottom line is infinitesimal.

Is it proper for Corning and its affiliate to derive any benefit from the illegal labor of 11-year-old boys?

In the United States, John Abrams, manager of corporate information for Corning, said: "The child labor which is utilized in Firozabad is done with the full knowledge of the Indian government and as far as we know complies with Indian law. . . . As of now, we have no reason to believe the child employment laws are being flouted" at West Glass.

After an exchange of messages between Corning headquarters and Borosil, Abrams said that as far as he knows, the youngest employees at West Glass are 14.

"We believe Corning Glass is a good corporate citizen in India," he said, arguing that the purchases from West Glass comply with an Indian government policy of promoting exports from smaller companies.

It's clear, however, that the Borosil orders make a huge difference to one ambitious factory boss in Firozabad—both in profits and prestige.

The proprietor of West Glass, Bihari Lal Sharma, told visiting reporters in Firozabad that Borosil is one of his most important customers.

He said that at times 20 percent of his 1,500 workers are making laboratory glass for Borosil and that he receives at least $100,000 worth of orders from Borosil every year.

West Glass may well be, as Sharma boasted, "the biggest company in Firozabad, quality-wise, diversity-wise and labor-wise." But it is not the sort of place where the luminaries on Corning's board, including civil rights leader Vernon Jordan and former World Bank chief Robert McNamara, would feel comfortable.

In touring the factory, a visitor flinches from unexpected surges of heat on the nape of the neck. The heat radiates from orbs of molten glass carried by Indian boys criss-crossing the crowded factory floor.

Breathing is another worry. Among the chemicals the factory uses to make colored glass, Sharma volunteered, is arsenic. When pressed about the use of arsenic, the factory proprietor changed the subject.

About one-third of the 500 workers on duty looked like children. "The small child child comes here with his father to do some small work," explained Sharma.

The factory proprietor at first acknowledged hiring boys under the legal minimum age of 14. He said boys are "at least 11" when they come to work. After reflecting a moment, he amended that by saying, "at least 13 or 14."

It can be no surprise to Borosil that its supplier illegally hires underage children. Borosil officials have visited the West Glass plant periodically on buying trips, as both Sharma and Vyas of Borosil confirmed.

Vyas estimated that every year Borosil exports about $250,000 worth of goods made by subcontractors. The "bulk" of the goods consists of soda glass ordered from the West Glass factory, he said. (Corning's U.S. spokesman said that he understood the purchases from West Glass amounted only to about $50,000, but that he was not sure what period was covered.)

Borosil views itself as closely affiliated with Corning. Although Corning owns only 39.5 percent of the Borosil stock, Borosil manufacturing manager Ranjit Mehra called this a "controlling interest."

Indian investors, many of them now or formerly part of the company management, hold the non-Corning shares.

"Corning is very, very conscious about safety," Mehra said. "They keep coming here to personally inspect our safety practices. We have to send them periodic audits on safety."

In a sign of how aggressive Corning has been when it wanted to get things changed in Bombay, Mehra said the 1984 disaster at Union Carbide's Bhopal chemical plant led Corning officials to demand that Borosil change the way it calibrates the scientific instruments it makes.

"After Bhopal, Corning came down on us like a ton of bricks," Mehra said. "They told us that if you're using mercury, you've got to stop or else shut down the plant."

A Borosil catalog says the company was incorporated in India in 1963 "with technical and financial collaboration from Corning Glass Works." A Corning spokesman in New York described Borosil as "a little Corning Works," adding that from Corning's viewpoint it was a "joint venture."

During its first decade, Americans from Corning worked alongside Indian executives in running Borosil. Since 1974, the day-to-day managers have been Indians, but "a couple of Americans" from Corning still sit on Borosil's board of directors, Mehra said.

THE 3D MARINE DIVISION RETURNS TO GUAM

HON. BEN BLAZ

OF GUAM

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. BLAZ. Mr. Speaker, our territory is going to have some special help in celebrating its annual Fiestan Guam, which marks the 43th anniversary of the liberation of our island during World War II.

Secretary of the Navy James Webb and some of the original liberators of Guam, members of the 3d Marine Division, who stormed ashore 43 years ago to begin the end of the agony of occupation, will join us for the celebration.

It is fitting that Secretary Webb, who is intimately familiar with our people, join us in marking the anniversary. As a noted author, whose first book was about Guam and Micronesia—including a chapter on "Guam" and the "Forgotten Patriots"—Secretary Webb appreciates more than most the importance of this patriotic celebration.

It is especially significant that men of the 3d Marine Division, which has fought in Bougainville, Guam, Iwo Jima, and Vietnam, will be visiting our island in July as part of a nostalgic tour of their former battlefields.

These valiant men are part of the historic division that stormed ashore July 21 on the beaches of Western Guam near Asan Point. They fought against heavy resistance, clearing out enemy troops.

The division remained on Guam after the campaign, later fought on Iwo Jima and was reassigned to Guam, where the unit remained until December 28, 1945.

Our distinguished 3d Division visitors will dedicate an Asan beachhead monument during their visit. Among these special visitors are: Mr. Jack B. Bromley and his wife Lucille; Eugene J. Dooley; Leo A. Farrow; George Gillians; Wayne Goodhart and his wife Jane; Stanley and Alma Hafner; Richard H. And Betty Johnson; C.J. Killeen; Robert J. and Marion Le Blanc; Americo Mitter and Olga Montini; Harry Noble; George R. and Laila Novotny; John A. and Esther Peterkovich; Robert Rennie; Roy E. and Jane Reidenbach; Vincent J. and Lois Robinson; Michael Rodosovich; Mildred E. Sadler; Jack D. and Ada Shipman; Rudy and Rita Stoysich; Warren H. Wiedhahn and tour leader William R. Masciangelo.

I want to thank all of them and their wives for helping us mark this very special occasion in Guamanian history. The people of Guam will show their appreciation by hosting the visitors at a special fiesta, sponsored by local veterans, members of the 19th Guam Legislature, the Federation of Chamorro Women and the Guam Visitors Bureau.

PROCEEDINGS OF THE CANADA-UNITED STATES INTERPARLIAMENTARY GROUP

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. FASCELL. Mr. Speaker, the Canada-United States Interparliamentary Group held its 28th annual meeting June 4–8, 1987. The House delegation was ably led by our colleague SAM GEJDENSON of Connecticut.

I recently received a letter from one of the Canadian participants, Senator Jerry S. Grafstein, which included the highlights of the meeting as he presented it to the Canadian Senate. I am inserting his statement into the CONGRESSIONAL RECORD so that Members of the House can get a flavor of the proceedings of the Canada-United States Interparliamentary Group and a snapshot of how we are perceived by our Canadian colleagues.

Hon. JERAHMIEL S. GRAFSTEIN. Honourable senators, I was pleased to be a member of the Twenty-Seventh Annual Meeting of the Canada-United States Parliamentary Group which met this June in Vancouver.

To meet American counterparts from the Senate and the House of Representatives and to exchange ideas on current public policy and priorities of our respective public agendas is always a stimulating challenge. We seem to be looking, however, at opposite ends of a telescope. Sometimes one feels as if trapped in a surrealist painting by Salvador Dali.

While we Canadians were convulsed by issues of gas export pricing, film distribution in Canada, softwood lumber and Arctic sovereignty, the Americans arrived fresh from congressional committee discussions on the missile attack on the U.S.S. Stark in the Persian Gulf and the continuing saga of Irangate. Many members were delayed because of their attendance at these hearings. Americans are debating the role of their President and Congress, their economic future, compounded by their stupendous deficit budget, the impact of their debt overlay on the free world, and the continuing Samurai-like attacks and counterattacks on their corrosive trade deficit.

To cause Americans to focus on Canada-U.S. relations at any time is an act of optimism over experience. The baroque American mind now, however, has become concentrated on international trade.

I can report that the Americans in Congress are slowly beginning to concentrate on Canada-U.S. negotiations. While obsessed with local constituency trade protective measures, trade, indeed, will be an issue in the run-up to the American presidential elections commencing after Labour Day this year. But American realism is concentrating the American mind as the velocity of the Canada-U.S. fast-track negotiation reaches a critical period later this fall.

Some American congressmen were pessimistic that Congress could grapple with a comprehensive trade bill in the available time period. Some were pessimistic that if the time period were too short before a trade agreement were open for debate, a congressional delay would be granted. However, American lawmakers are always passionate in pressing their local interests, provocative in promotion of their national positions, provocative in applying their global responsibilities, and at all times are united and programmed to propel their manifest destiny.

We did not, honourable senators, meet the stereotype of the "ugly American." Rather, we met articulate, well-briefed, well-traveled, skilled, public-spirited legislators who, while declaiming their global goals, continued to act in their local interests. This meeting went beyond the niceties and developed into a genuine exchange of viewpoints. Under the excellent chairmanship of Patrick Nowlan and our colleague, Senator Balfour, supported by an excellent staff and briefing by departmental officials, the Canadian delegation was well prepared, vigorous and even eloquent.

The list of issues, as outlined in the report tabled by Senator Balfour, was extensive and wide-ranging. Let me touch briefly on a few of the issues, two of which I was asked to present.

On Arctic sovereignty, we pointed out that there was a strong consensus in Canada to exercise full sovereignty over our historic internal waters of the Arctic archipelago. Canada, with our rights well founded in law and fact, is now prepared to have its position affirmed before the International Court of Justice. Legislation defining the straight base lines for these internal waters became effective January 1, 1986, and Canada's exercise of sovereignty is in no way a precedent that would justify interference with international navigation in other parts of the world, precisely because Canada's rights to the Canadian archipelago are unique in that it is unlike any other archipelago in the world in geographic terms. This Arctic area has been used and occupied by Canadian Inuit from time immemorial, and they have not customarily, been used for international navigation. Thus, the Northwest Passage does not constitute an international strait.

Canada, we indicated, would prefer cooperation rather than confrontation. We are united in our concern that our sovereignty, security, preservation of the environment and the welfare of the Inuit in the Arctic continue. The Canadian position, while formally questioned by Americans, was informally well received and well supported. We believe we made the point that Americans should seek cooperative arrangements rather than crudely breaching what all Canadians consider a clear case of our sovereignty.

On cultural sovereignty, the plenary dealt with the Honourable Flora MacDonald's recent film policy to separate the Canadian marketplace from the American marketplace, and to allow Canadian film producers and film directors an opportunity to establish viable businesses within our own domestic marketplace here in Canada. Less than 10 per cent of the films distributed, produced and exhibited in Canada are Canadian. Yet, surprisingly, there was vitriolic objection to any modest step to repatriate even a small portion of our own domestic marketplace by our own domestic marketplace by American film lobbyists.

We argued that Americans had a similar situation with respect to books by American authors at the turn of the century that were substantially published in England. At that time Congress placed a provision in their Copyright Act that provided that American writers, to be protected in their copyright, must be published by American publishing firms. Sixty years later that protective provision in the U.S. Copyright Act was deleted, because, by that time, American publishing firms had become large and healthy having effectively repatriated their domestic marketplace. Now the overwhelming majority of books read by Americans are written and published by Americans in America.

We argued that in Canada our cultural industries, such as films, do not even have a level playing field in Canada. Canadians cannot get on our own field in our own country to play the game. Again the majority of the American delegation was informally sympathetic to our viewpoint. One American legislator even went so far as to point out jocularly that, to be fair, Canada should be given at least 60 years to repatriate our marketplace, as the Americans did. However, we were reminded that fairness in America is no equivalent to any dilution, however, minor, to a perceived American interest, and that hell hath no fury like an American lobbyist deterred.

On acid rain, the Americans used their familiar technique of the sword and the shield. While sympathetic, they hid behind their divided jurisdictions, which exist between the two houses of Congress and the President, which act as a collective shield against any coherent continental policy that would protect Canadians or Americans against acid rain in the short run.

Finally, a small item placed on the agenda by the Americans illustrates the American competitive spirit at work. The Japanese have demonstrated recently that they are about to become world leaders in the development of superconductor technology in such applied areas as nuclear medicine and electronic technology. In America this has provoked a publicly a perceived gap in high tech. In order to catch up by the year 2,000, America is prepared to build a super conducting supercollider called SSC. The estimate for this major project is approximately $4 billion to $5 billion.

The Americans have demonstrated the vibrancy and imagination of their economic model. While we Canadians are obscenely concerned about supporting General Motors at Ste. Therese, Americans are looking to the future for breakthroughs in high tech and are prepared to put their money where their minds are.

Walt Whitman, the great American poet, wrote a beautiful poem called "I Hear America Singing". At this meeting we heard American legislators, we listened to their words, we listened to their music, and I came away believing that Canadians must be more coherent in our national policies, more united in our national objectives, more concentrated in our national priorities if we are not to be drowned out by the cacophony of the grant American chorus.

One final footnote, honourable senators. Our American colleagues, while not wishing to interfere with or intrude on domestic Canadian affairs, were informally most interested and bemused by Canada's new constitutional model. Read, I was advised, read the deliberations of the Grant Convention held in Philadelphia 200 years ago in 1787 that led to the new U.S. Constitution to see how Americans dealt with their national idea of "a more perfect economic union." Sometimes, honourable senators, sometimes American advice should be heeded.

SALUTE TO KIDS LINE/TALKLINE INC.

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. PORTER. Mr. Speaker, I rise today to recognize and praise the accomplishments of Kids Lines/Talkline Inc. Kids Line, which serves the Chicago metropolitan area, has won the 1987 President's Volunteer Action Award.

With the help of Executive Director Lorraine LaSusa-Weymouth and 240 volunteers, Kids Line is the first 24 hour children's crisis intervention and prevention hotline in the Nation. This not-for-profit service provides children with guidance, support, direction, information, and resources when parents are not accessible. Kids Line offers a confidential, nonjudgmental and nonthreatening outlet for kids when they need to speak with a trained adult they can trust without divulging their identity.

Although Kids Line was originally designed to assist latchkey kids who are depressed, Kids Line now provides helpful advice to all children with a variety of concerns. Some of the problems that Kids Line volunteers are trained to address include: divorce, substance abuse, child and elder abuse, family problems, suicide, pregnancy, death, loneliness, and insecurity. Kids Line volunteers are also able to explain emergency first aid procedures.

This outstanding voluntary service and its 240 dedicated volunteers respond to nearly 18,000 calls annually in the Chicago metropolitan area. All the volunteers, ranging in age from 16 to 80, have been trained to reinforce safety and parental rules. They urge constructive use of time, the necessity of good communication, and emphasize to all callers the importance of being an integral part of their family, school and community.

It is with great pride that I ask my colleagues to join me in extending warmest congratulations to Kids Line/Talkline for receiving a most deserving award.

TRIBUTE TO AN ACTIVIST

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. STARK. Mr. Speaker, on July 17, 1987, the friends of Nate Everett gathered to roast and toast him on the occasion of his 67th birthday. I join in offering congratulations to Mr. Everett, who is an outstanding community activist.

The list of organizations with which he is affiliated reads like a directory of activist groups * * * the NAACP, Oakland Black Caucus, the Black Unity Council, the East Oakland Health Alliance, Oakland Tenants Union, Welfare Rights Organization, Muleskinners Democratic Club, and the Citizens for Political Representation.

Wherever there is a cause for equal rights, Nate Everett is in the forefront of the movement. He regularly attends the meetings of the Oakland City Council, the Alameda County Board of Supervisors, and community groups to ensure that the citizens of Oakland are treated equitably, with dignity and compassion. His is a voice that is heard when there is an injustice.

Mr. Everett has a history of activism in the civil rights movement of the 1960's, the war on poverty, the Birmingham boycott, and the historic march on Washington. His spirit of involvement transcends to every fiber of this country and his community.

The political process is an integral part of Nate Everett's life. His tireless efforts on behalf of voter registration, organizing, and monitoring issues that affect constituents are exemplary.

Out of a rich and useful life, he offers a model of activism for all to emulate. "Everything I do is volunteer. I feel good doing it."

It is an honor to pay tribute to this great humanitarian and dedicated volunteer servant for improving his community and bringing meaning to the lives of others.

AWARD WINNERS

HON. NEAL SMITH

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. SMITH of Iowa. Mr. Speaker, it has come to my attention that the U.S. Department of Agriculture's Office of International Cooperation and Development [OICD] has just presented its International Honor Award to two people from Iowa State University—Barbara Burton and Stanley Johnson. This is an honor not only for these individuals, but also the university.

Barbara's award recognizes her "for exceptional performance as International Science and Education Council Coordinator, enhancing communication and collaboration between the USDA and the university community." The International Science and Education Council, or ISEC, as it is more commonly known, is a coordinating and planning body composed of representatives from USDA and the university community. It provides guidance to USDA's international research, technical assistance and training programs and coordinates involvement in these activities by the 300+ U.S. colleges and universities.

Stanley Johnson, administrator of the Center for Agriculture and Rural Development at Iowa State, was recognized "for excellence and dedication in promoting knowledge about the impact of agricultural and food policies on food consumption and nutrition patterns in low income populations around the world." He has been collaborating with OICD's Nutrition Economics Group.

I offer my congratulations to both of these worthy representatives of Iowa State University.

One of our own distinguished colleagues—DANIEL AKAKA—spoke at the ceremony and was also honored "for significant contributions to the advancement of U.S. agricultural interests through the channels of international cooperation and development." I likewise offer my congratulations to him.

I also ask that his remarks be printed in the RECORD, as they provide insights on international development and OICD's programs which would be of interest to many of us. A listing of other award winners would then follow.

REMARKS OF THE HONORABLE DANIEL K. AKAKA, 1987 AWARDS CEREMONY, OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT, U.S. DEPARTMENT OF AGRICULTURE

Thank you for that kind introduction.

Deputy Secretary Myers, Under Secretary Amstutz, Dr. Wallace, Associate Administrator Marks, distinguished guests, friends, good morning. It is nice to see so many familiar faces, and there is one, in particular, that I am pleasantly surprised to see, Dr. William Furtick, of AID. (Bill) Dr. Furtick, formerly with the University of Hawaii's School of Tropical Agriculture, left our State with an outstanding record of achievements. Clearly, he is continuing in that fashion here in Washington.

It is a distinct pleasure for me to be a part of your awards program today. Awards ceremonies are always exciting, since they recognize people who have been doing outstanding work. Today's ceremony, however, is especially significant to me, because of a special interest that I have in international development, and in OICD's success in that area.

For a number of years, from my position on the House Appropriations Committee, I have witnessed the achievements of your programs. And, on each and every occasion, I am impressed with your broad range of activities; without question, you are performing a valuable function.

The United States has a lot of information and expertise that can be shared with less developed nations, of course, and * * * sharing is important. We need to help other nations feed their people, if for no other reason than humanitarian concern.

America has long demonstrated concern and compassion for the less fortunate. I know that USDA has been involved in international technical assistance and training for many years. And, as the world's largest food donor, we have given more food assistance to developing countries than all other nations combined.

Yet, OICD's programs transcend simple humanitarianism; indeed, we benefit from them, as well. Our own scientists note that they gain valuable overseas experience through these programs. They obtain data and other useful information, they make indispensable contacts in other nations, and, they are offered resource opportunities, such as new germplasm, that may be used to improve our own production capabilities.

While the nation, its farmers and its businessmen, reap tremendous benefits from OICD programs, I know that the people of my State feel particularly fortunate. In fact, one of my constituents from Hawaii's Oceanic Institute, on a recent visit to my office, reiterated that sentiment; one of the topics of our discussion concerned your overseas aquaculture research activities. And, I think that you will appreciate knowing that our discussion was quite positive. I am pleased that you have engaged in a number of programs with the institute, even as you work closely with the University of Hawaii.

To me, this is what makes OICD activities so useful. Any time that you can have activities with other nations, activities of mutual benefit, then everyone gains.

We live today in a global society; one of complicated political, economic, and strategic interrelationships with other countries. We depend on each other in so many ways that we must be able to work together effectively. We must strive to build friendships, mutual trust and admiration, and of course, understanding. Good will is extremely important, too, and * * * building good will is exactly what your programs are doing. Of course, that you have been graciously honored today by the Government of Yugoslavia is evidence of the significant service that you perform in this area.

Clearly, we must continue in our efforts to reduce our production costs, so that we can be more competitive in world markets. This means finding ways to improve our production techniques: more effective and efficient methods of controlling insect and disease problems of both plants and animals, and, the development or identification of new and improved varieties and species. OICD, once again, leads the pack in these initiatives.

Incidentally, Dr. Wallace, I see that there are a couple of awards being given today for research activities in cooperation with Spanish institutions. I find this United States-Spain program to be interesting for a number of reasons: First, because it is funded through a defense department base agreement, second, because it is mutually-beneficial, and third * * * and, this is where my Appropriations Committee background enters * * * because almost half of the funds spent on the program actually remain in the United States.

We need to do more of this. With care, building research into other agreements could expand opportunities for the United States and other nations to gain valuable research information without adding to our budget costs.

Another important activity for the United States is helping others to understand our capabilities, products, and services. In so doing, their propensity to "Think American" when making buying decisions will be enhanced. This is certainly crucial for agriculture. Over the last 25 years, there has been no appreciable growth in per capita food consumption in the United States, so overseas markets are critical to our producers. OICD deserves commendation for providing this type of exposure.

Coupled with exposure to our goods and services is a need to help less developed nations improve their economies so that they can have cash to buy needed products. Unless they have money, they cannot buy. In most developing nations, this means developing the agricultural sector since that is the virtual backbone of their economies. This is what OICD programs are doing. Through your technical assistance and training efforts, your are helping to develop the economic base that is essential to building new markets for our commodities.

As I recall, Dr. Wallace, you mentioned in your budget testimony that OICD is working to protect American interests in multilateral organizations. In this day and time, this should not be overlooked. We need to make sure that world bank or other loans do not create undue competition for our own producers.

I could go on with this list of noteworthy functions, but I think I had better leave time for the awards. The point that I am making today is that you are involved in a gainful undertaking * * * an undertaking that yields mutually-beneficial returns. Not only are you helping less fortunate nations, you are also helping our own. The Federal Government-university-private sector partnership of which you are a part, is a mighty force. By the looks of today's participants, the diverse groups, that is, it is obviously a deeply-engrained partnership. The truly collaborative manner in which you appear to be working is a real asset for our Nation, and you can be proud of your effort. Keep up the good work.

In closing, let me say, "congratulations," to all who are being honored here today * * * with a special salute to the recipients of USDA's distinguished service award, the Food Technology Branch. Being singled out for such illustrious recognition is evidence of your exceptional productivity and resourcefulness. You, along with AID's Office of Nutrition, coworkers at Iowa State University, and the Coating Place, Inc., have provided us with invaluable and practical assistance. You are the people who make America the great country that it is. And, undoubtedly, you are the people who will keep it that way.

Finally, I would be remiss if I did not congratulate the rest of you. OICD is a very small agency, yet your accomplishments are great. This means there have to be a lot of good, hard-working people in the organization, not just the few who are being recognized today. While only a few people can receive awards at any one time, my guess is that most of you deserve awards. As your friend in Congress, my thanks to all of you for your hard work. Congratulations to all!

Other OICD International Honor Award Recipients:

UNIVERSITY REPRESENTATIVES

Darshan Padda, Vice President for Research and Land Grant Programs, University of the Virgin Islands.

OTHER FEDERAL AGENCIES

Daniel Deely, Agency for International Development, Office of Forestry, Environment and Natural Resources.

Martin Forman, Agency for International Development, Office of Nutrition, Bureau of Science and Technology.

FOREIGN COOPERATING AGENCY

Jesus Moreno Gonzalez, Director of Technical Scientific Relations, Instituto Nacional de Investigaciones Agrarias, Spain.

Fernando Medina Lopez, Assistant Director of Technical Scientific Relations, Instituto Nacional de Investigaciones Agrarias, Spain.

OICD Employees

Kathleen Blythe, Office of the Administrator.

Charles H. Cook, Administration.

Charle A. Rooney, Administration.

Calvert Hall, Management Services.

Theresa Przybylek, Technical Assistance Division.

Ronald T. Jones, Technical Assistance Division.

Paul Crowley, Robert Weil, Fred Barrett, Nina Blocker, David Fellers (ARS), and Diann Robinson, Food Technology Branch Group Award, Technical Assistance Division.

A DIFFERENT VIEW

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. GINGRICH. Mr. Speaker, the attached article by James Kilpatrick reveals in simplest terms the basic economic flaws of the job-killing agenda of big labor. Raising the minimum wage is just part of the systematic effort to bring about an American strain of the European disease of employment stagnation. I urge my colleagues to read this interesting article.

The article follows:

[From the Washington Post, July 15, 1987]

The "Cruel Kindness" of the Minimum Wage

(By James J. Kilpatrick)

Joann Peters, 18, is an attractive young woman, not overly endowed in the brains department, who was graduated a few weeks ago from her smalltown high school. She has no great interest in college and no funds for tuition. She is living at home with her mother and a younger brother. Her mother earns $9,360 a year as an ironer in a local laundry.

James Kennon, 41, is manager of the Steamboat restaurant at 23rd and Main streets. His franchised fast-food operation is in heavy competition with the Sizzlin' Steak and the Happy Crab. Kennon works seven days a week, but his food costs are rising and his rent just went up. In slow weeks he has a tough time meeting his payroll.

The Steamboat now employs 10 persons per shift at the minimum wage of $3.35 an hour and two others at $4 an hour. This figures out to labor costs of $41.50 an hour or $332 for an eight-hour shift. He really could use an 11th worker to clear tables and wash dishes, but he hesitates to add to his payroll when his margin of profit is so small.

Very well, Joann Peters and James Kennon, meet Sen. Edward Kennedy. The gentleman from Massachusetts is about to complicate your lives. He and Rep. Augustus Hawkins (D-Calif.) are pushing hard for a bill to increase the minimum hourly wage in 1988 from $3.35 to $3.85. It would mandate a minimum of $4.65 in 1990.

Joann would like to work at the Steamboat. Jim Kennon would like to hire Joann. This would be her first job, and there's an opening on the floor. She's good-hearted but a little careless; she needs the experience of holding a job and showing up on time. All of us know such Joanns.

But this is how Jim Kennon looks at it: the Kennedy-Hawkins bill would require him to pay his 10 lowest-level employees $3.85 an hour, or $38.50 per hour. The two cooks would have to be raised to $4.50 an hour to preserve a reasonable differential. If he keeps everyone employed, he is now looking at labor costs of $380 a shift, two shifts a day, compared with his present $332 a shift. He is looking at added labor costs of $35,000 a year, with no increase in productivity or service.

Goodbye, Joann, and tough luck, kid. Instead of 10 full-time hired hands at $3.35, Kennon will hire eight persons full-time and one to work six hours a shift at the required $3.85. Assuming the raise of 50 cents an hour for the cooks, the Steamboat will now have labor costs of $341.50 per shift. The manager will be spending roughly $7,000 more a year for labor; he will have nothing to show for it, and Joann will be just kind of, you know, hanging around home.

The example is hypothetical, of course, but this is how the real world works. In the idealistic world of Kennedy and Hawkins, an increase in the statutory minimum wage is a great thing for the poor folks. Don't you believe it. Every study that has been made of the economic "benefits" of a higher minimum wage demonstrates that an increase harms the very class of unskilled workers it is intended to help.

Who are these workers on minimum wage? The Department of Labor says there are about 5 million of them, of whom 3 million are in the 16-to-24 age bracket. Nearly 40 percent are teen-agers. Two-thirds are women. Only about 1.7 million work full-time; the rest work part-time.

For the great majority, a minimum-wage job is their first job. It's the bottom rung for persons who lack higher education and sophisticated skills. Clearing tables at the Steamboat may not sound like much, but it marks the beginning of real-world responsibility. Here the willing Joanns have an opportunity to earn an honest wage, to acquire experience, and to demonstrate to the Jim Kennons that they have the ambition and the personality to move up.

Kennedy and Hawkins, with the very best intentions, suppose that a higher minimum wage will reduce welfare costs and lower the number of families at the so-called poverty level. No evidence supports this surmise. On the contrary, for every increase of 10 percent in the minimum wage, we may anticipate a loss of 80,000 to 240,000 jobs for teenagers.

Grammarians define an "oxymoron" as a combination of contradictory words. The example usually given is "cruel kindness." That says all that needs to be said of the Kennedy-Hawkins bill.

STANLEY WHITMAN: DOING IT HIS WAY, AND DOING IT RIGHT

HON. WILLIAM LEHMAN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. LEHMAN of Florida. Mr. Speaker, genius is unpredictable and paradoxical.

My longtime and special friend, Stan Whitman, is a rare example of creative intelligence and dogged determination. In real estate, development and merchandising, he ignored conventional wisdom, followed his instincts and, in the end, prevailed. Above all, he is a decent, kind, and understanding human being in a competitive jungle.

He and his wife Dorothy still live in the same Miami Shores ranch-style home they moved into almost 40 years ago. That says a lot about the personal values of a man who could live almost anywhere he chooses.

Mr. Speaker, land developers and risk takers have always played a big role in the growth of Miami. Stan Whitman is one of the special ones, however, because profit wasn't the only thing he was looking for. Decades from now, Miamians will still be talking about the breadth of his vision and the contribution he made to our community.

The Miami Herald recently featured a story on Stanley Whitman, and I would like to share it with my colleagues.

The article follows:

[From the Miami Herald, July 14, 1987]

A Man and His Mall

(By Gelareh Asayesh)

When the board game Snob came out two years ago, Stanley Whitman, millionaire developer of Bal Harbour Shops, ordered 100 sets.

The game, a fantasy shopping spree, reflected Bal Harbour Shops as Whitman sees it: set among oil wells and a Palm Beach estate, sharing space with Beverly Hills' Rodeo Drive and New York's Fifth Avenue.

Once, Whitman sent crates of mangoes to merchants in the same spirit Julia Tuttle sent orange blossoms to Henry Flagler: to lure. He designed a brochure more than a foot long so it would not fit in the average wastebasket.

He bought a chunk of land off 96th Street in Bal Harbour, and while he debated whether to call it Harbour Square or Bal Harbour Shops, others called it Whitman's Folly.

It was 1957 and fashion revolved around shopping streets such as Lincoln Road in Miami Beach and Coral Gables' Miracle Mile. The Mall at 163rd Street, Dade's first, was a year old.

"When he did Bal Harbour, shopping centers were still finding their way in suburbia," says Frank Spink, director of residential research at the Urban Land Institute. "He was way ahead of his time in realizing there could be a specialized center."

Whitman planned his mall in the middle of empty fields. "Lincoln Road was still the key," recalls Hunter Moss, real estate counselor and past president of the Urban Land Institute. "And Stanley comes up with this thing way north. It was Stanley's folly."

Today, the words Bal Harbour are almost as magical as Beverly Hills. Bal Harbour has it all: Neiman Marcus, Saks, Bonwit Teller and a host of fancy stores from A (Andrew Geller) to Z (Zorro).

Since it opened in 1966, it has grown from one level to three, with space for more. Saks Fifth avenue is preparing an expansion that will make the Bal Harbour store its largest in Florida—bigger than the one at Worth Avenue, bigger than the Dadeland store.

At a time when specialty centers are becoming more and more common, Bal Harbour is a prototype. Bakery Centre developer Martin Margulies recently wanted advice on his latest enterprise. He came to Whitman.

"He's the best in the business," Margulies says. "He's like a kind of guru."

But outside business circles, few recognize Whitman's name. Although Bal Harbour is famous, few have heard of the man behind the mall.

Stanley Whitman was born a millionaire's son. His father, William, printed catalogs for Sears, Roebuck & Co. and Montgomery Ward and owned a home on the 18th hole of the Skokie golf course in the Chicago suburbs.

The Whitmans had planned to have their winter home in Beverly Hills, but got sidetracked in Miami Beach. The three boys, Bill, Stanley and Dudley, grew up in a palatial home at 33rd Street and Collins Avenue, with the Atlantic surf lapping their back yard.

Mother Leona Whitman was a socialite who loved to give parties for 500 on a dance floor set into the dune, an orchestra playing in the moonlight.

FEW INDULGENCES

Her son Stanley, 68, and his wife Dorothy had lived since 1949 in a three-bedroom house in Miami Shores. They make occasional appearances at the exclusive Bath Club.

His indulgences are few: a pale yellow Mercedes, the oak trees in his back yard, strawberry ice cream. He would have loved to have added another: a home on the

Indian Creek golf course, surrounded by the blue waters of the bay. But Dorothy is not interested.

"I don't live on the beach because I married a woman from New Jersey," Whitman says. "I tried to get my wife years ago to move to Indian Creek Island. She said, 'I don't know those people.' "

He is not fashionable—a favorite jacket is one he bought 20 years ago from one of Bal Harbour's first tenants, Maus & Hoffman. They've rewoven the elbows for him several times since.

His ambitions are limited to the one shopping center, which he sometimes prowls with a handheld tape recorder, making note of imperfections: chewing gum on the pavement, a sign that is too large, wilting flowers.

COOKIE-CUTTER MALLS

"I've never wanted to be a DeBartolo and build shopping centers all over, spend my life on an airplane," Whitman says. "To me that's the pits. I would rather do this one as well as I can than 50 of those cookie-cutter centers."

His father was a moralist who did not believe in spoiling his sons. Whitman says he earned his allowance working in the school cafeteria. His first car was a Ford Model T that he bought at 16. Dad didn't pay for it.

His mother had a talent for accumulating money matched only by her love of it. A widow for most of her sons' adult lives, she was reputed to own more real estate on the beach than anyone except Carl Fisher. She is the closest Stanley comes to having a hero.

"She was one of the smartest people the Lord created," Whitman says. "The best negotiator I ever saw. The George Saxes, the Victor Posners, she'd eat them up for breakfast and they'd never know it. She was much tougher than any of her sons."

MOTHER'S BLESSING

Stanley, the only one of the three to take an active role in the family business, began selling real estate after serving in the Navy and working as a sales manager of a Pepsi plant in Asbury Park, N.J. He recalls complaining to his mother once about a colleague who made more money from his desk than Whitman did pounding the pavement.

"Son," Leona said, "what your head won't do, your feet must."

Yet when Stanley embarked on what was to become his life's work, a shopping center nine years in the planning, Leona backed him up.

"The only person who felt all along I could pull it off was my mother," he says. "She thought I could do anything."

Whitman managed the family's stores on Lincoln Road. That experience spawned Bal Harbour.

Lincoln Road introduced him to the upscale New York merchants. As the older mall declined, Whitman conceived a vision that he stuck to doggedly through years of rebuff. He planned a Lincoln Road reborn—without any of the flaws.

"He saw Lincoln Road when it was at its prime, before World War II," says Randy Whitman, his son. "And he saw it decline. He was able to logically deduce what the problems with Lincoln Road were.

"He said, 'What a natural, make it shorter, have adequate parking, have single landlord control so you keep out the junky shops.' That sort of thing."

CONFLICTING VISIONS

Whitman's plans ran contrary to those of Robert Graham, the developer of Bal Harbour Village. Graham sold Whitman half interest in 15 acres next to the village church in exchange for developing a shopping center.

Graham envisioned a food fair where Saks sits today. He wanted to call it Community Shopping Plaza. "I nearly died when I heard that name," says Whitman.

In 1957, Whitman bought out Graham's share and became the sole owner of the site. Family members were investors.

Surfside and Bal Harbour were just beginning to grow. Miami Beach was beginning to fade.

"The money was coming into this end of town," Whitman says. "It was a no-miss. I was the only idiot who could see it."

Whitman spent almost a decade planning his shopping center. He fired two architects because they did not incorporate what he thought was essential for the perfect Lincoln Road. He wanted a center where the transition from car to store was effortless.

THE RIGHT MERCHANTS

The plans were drawn. But ahead were years of frustration as he tried to recruit the right merchants. Burdines was not good enough—he wanted Bloomingdale's. He wanted Neiman Marcus and Saks Fifth Avenue.

"I can't tell you the number of hours I sat in the offices of the Gimbels and the Marcuses," Whitman says. "And those devils wouldn't see me.

"I'd sit out there and I'd wait until they came out of their offices. And then they'd see me."

Bal Harbour Shops opened in 1966—three stores, no anchor. It was 1971 before Neiman Marcus moved in. In 1976, Sake arrived. Bonwit Teller moved in in 1981.

But by then the center was already a success.

Some say Bal Harbour today has lost some of its sterling quality to quantity. The center's second floor, built in 1983, caters to the young urban professional. It includes such stores as Banana Republic, selling the kind of casual tropical wear you would never find at Martha's boutique.

"It was a little gem of a center before he added the second floor," says Stanley Marcus, whose father funded Neiman Marcus.

But others say Whitman's Folly is really Whitman's Triumph—because Stanley Whitman wouldn't give up.

"Whitman has always had his own convictions," says Moss, the real estate counselor. "He had the nerve to build stores when he didn't have tenants for them. He refused to rent to Saks at their rental [price]. The didn't come and they didn't come until they came at Stan's rental. He was one of the first shopping center developers I ever knew who had the nerve to charge for parking.

"He's the kind of guy who had the nerve to do it his way. And it couldn't help but come up a success."

HON. DON RITTER: A LEADER IN SCIENCE AND TECHNOLOGY POLICY

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. BROWN of California. Mr. Speaker, last week, as the Subcommittee on Science, Research, and Technology of the Science, Space, and Technology Committee met to mark up a bill to improve our Nation's technological competitiveness, our colleague, the Honorable DON RITTER, made an opening statement which I believe deserves the attention of all Members, and, in fact, the attention of the entire Nation. I have worked with Mr. RITTER during his entire career in the House, and have gained a very high respect for his excellent scientific and technical background, and his grasp of policy issues in science and technology. He has devoted much attention to these issues, has served as cochairman of a Republican caucus task force on the subject, and has been an eloquent spokesman before many national organizations on all aspects of these issues. His analysis of the potential of the legislation before the subcommittee, which was aimed at enhancing cooperation between Government and industry to improve our national competitiveness, was perceptive and cogent. His own contribution to that legislation was substantial. Mr. Chairman, the Senate has already acted favorably on similar legislation, and I expect that the House will have an opportunity to do so shortly. I urge my colleagues to consider Mr. RITTER's views now, and again when we take up the bill.

Mr. RITTER's statement follows.

HON. DON RITTER (R-PA), SUBCOMMITTEE ON SCIENCE, RESEARCH AND TECHNOLOGY—OPENING STATEMENT FOR MARKUP, TECHNOLOGY COMPETITIVENESS BILL, JULY 14, 1987

Mr. Chairman, this legislation—which I believe could be the most important piece of legislation this Subcommittee considers during the 100th Congress—is aimed at helping United States industry help itself to compete better domestically and internationally.

Let us all admit that the legislation we're considering today offers no panacea which will magically boost U.S. global competitiveness. The competitiveness issue is complex, involving issues beyond those in this bill and the jurisdiction of this committee. But we have made some significant inroads.

I am pleased to see many of the aspects of H.R. 2068 (National Bureau of Standards and Industrial Competitiveness), which I introduced with substantial cosponsorship from this committee, incorporated into this package. I have long felt that a new capability was badly needed to provide greater focus in the federal government on technology issues that cross the borders of our mission agencies. From steel to semiconductors, from autos to advanced materials, our industry and our government simply have not been able to generate significant pre-commercial stage collaboration to accelerate the movement of scientific advances into the market-place. Today, in so many cases . . from basic industry to biotechnology . . . the will is there, but the mechanism isn't.

It is my hope, that by creating the Advanced Technology Foundation within the National Institutes of Technology we are providing a start.

The federal government can and has led and organized work, and both industry and academe have followed that federal market for research and development and technology. The goals of the Advanced Technology Foundation are to have industry and the private sector lead for a change, with the cooperation of government.

If the Foundation dedicates its ideas, its people, and its funds to bridge gaps in industry and private sector efforts, rather than a serving as the fearless leader, it will make a significant positive impact on our national competitiveness.

Amendments that will be offered today, which I support, seek to strengthen the ties between the Foundation and the private sector which it is designed to serve.

I am pleased that the bill emphasizes quality. In many instances, over a period of three decades, the Japanese have beaten us simply by making continuous incremental quality improvements in their products, processes, worker performance and market sensitivity. And recently, American companies have started similar approaches with great success. By having the National Institutes assist industry in developing technologies and techniques to improve quality, and by establishing a Clearinghouse of current "quality management" information, we are recognizing a great need while tapping into an even greater resource, our people. Enhanced quality on all fronts means worker fulfillment as well as elevated competitiveness. Reorienting relationships between workers and management could have the most significant impact on U.S. competitiveness of any of the issues we are considering in this bill.

The incorporation of a study on superconductivity, very similar to the bill H.R. 2069, which I introduced along with other members of this committee, is an important step in our race with Japan, and the rest of the free world, to promote recent breakthroughs in high temperature superconductors to the commercial stage. This race could well serve as a barometer of our competitiveness into the next century.

I welcome too, the focus on semiconductors, the seed corn of the information age . . . upon which so much of our technology all across our economy is based. This bill bears directly on the whole debate over sematech, the semiconductor manufacturing technology issue.

I would also like to praise the incorporation of an analysis of the concept of Competitive Impact Reviews into this legislation. If all levels of government and the courts can become more conscious of the competitiveness effects of their actions we may prevent mistakes that are later exceedingly difficult to undo.

The exigencies of the global marketplace require government to be the friend and not the foe of American business, American labor, and American consumers. That's the process we all seek to promote via this legislation.

In sum, we are learning that competitiveness is a team sport . . . that government's role is to facilitate and promote Team America's game. It's kind of like a new olympics. It's exciting.

A TRIBUTE TO FRANK COTTER

HON. MELVIN PRICE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. PRICE of Illinois. Mr. Speaker, I was privileged to be present at a most auspicious affair a few weeks ago at which Mr. Frank Cotter's many friends gathered to honor him on the completion of another landmark in his illustrious career. This particular occasion honored Frank for his completion of nearly a quarter of a century as vice president of the Westinghouse Electric Corp.

Many of my colleagues here in this body have had the opportunity of knowing and working with Mr. Cotter. I first got to know Frank when he served the Congress as the staff director of the Joint Congressional Committee on Atomic Energy. This association started in the early fifties. As a charter member of that committee, I worked very closely with Frank and can attest to his outstanding professional competence and ability to get things done. Those were parlous times in the advancement of nuclear energy. Frank worked tirelessly to control the entry of this incomparable force in international affairs. He also worked very hard to advance the utilization of this new force for humanitarian purposes. In all of these endeavors Frank always acted to promote our national interests. Our Nation is indebted to this outstanding patriot.

I would like to offer a brief résumé of Frank Cotter so that others can get to know him better and thereby share in the knowledge of his outstanding public service and achievements.

Mr. Cotter was born in New York City in 1922. He received his bachelor of science degree from New York University, his bachelor of laws degree at the Catholic University of America in Washington, DC, and is a member of the bar of the District of Columbia.

After World War II when he served with distinction in the South Pacific as a Marine Corps captain, Mr. Cotter was appointed as a special agent in the FBI and assigned to the Los Alamos National Laboratories in New Mexico and later to Washington, DC.

In 1952, he was appointed a member of the professional staff of the Joint Congressional Committee on Atomic Energy, and he later served as staff director to the Joint Committee. It was during this period that he participated in drafting the landmark Atomic Energy Act of 1954 which for the first time provided for private participation in developing nuclear power for peaceful uses. He joined Westinghouse in 1956 at the Bettis Atomic Power Laboratory, which developed the first nuclear submarine.

In the spring of 1958, on leave from Westinghouse, Mr. Cotter was appointed special consultant to the Select Committee on Astronautics and Space Exploration of the House of Representatives and assisted in drafting yet another major legislative initiative—the National Aeronautics and Space Act.

Again, on another leave, from 1962 to 1963, he served as Deputy Inspector General at the State Department.

During 1967 he was appointed by the Atomic Energy Commission to serve as a member of the Ad Hoc Advisory Panel on Safeguarding Special Nuclear Material.

In 1970 he was appointed a member of the Advisory Committee on Energy to the Secretary of the Interior and chairman of the Nuclear Subcommittee.

Mr. Cotter serves on the boards of directors of the American Nuclear Energy Council, the National Epilepsy Foundation, the Rio Grande Technology Foundation, and the Washington Parent Group Fund.

He and his wife, the former Malinda DuBose, have five children and live in Washington, DC.

Clearly, Frank Cotter has made his mark in a number of significant ways—as public servant, corporate officer, civic leader and loving, devoted husband and father.

Those of us who were actively involved 30 years ago in helping to create a legal and regulatory framework for making the unique values of nuclear energy available to mankind for peaceful uses recall that Frank Cotter played an unusually creative role. He understands and believes in the benefits of this abundant source of clean energy.

And this man who has always been devoted to utilizing the values of science has been a friend to many in high places in our Government and industry.

On this special occasion of his retirement from Westinghouse his friends and colleagues honor his years of service. Emerson said that an institution is the lengthened shadow of one man. Surely, this is the case with Frank Cotter and Westinghouse, the corporation to which he has devoted so much of his time and energy. And, I hope Frank will continue to be available to advise leaders of industry and Government how to work together for the good of all.

I am glad to have this opportunity, Mr. Speaker, to share with my colleagues a recollection of the accomplishments of this talented and dedicated man, and the opportunity to wish him and his lovely wife, Malinda much happiness in the years ahead, and in their new endeavors.

McCARRAN-FERGUSON—WHERE THE REAL TRUTH LIES

HON. NORMAN F. LENT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mr. LENT. Mr. Speaker, a recent Washington Post op-ed by Bob Hunter and Jay Angoff of the National Insurance Consumer Organization erroneously described the McCarran-Ferguson Act as "The Federal law that allows companies to price fix." Les Cheek of Crum & Forster Insurance Co. has provided me with a copy of a letter he sent to the authors of the op-ed that clearly points out the article's lack of validity. I would like to share with my colleagues this excellent exposé that strips away the rhetoric and puts this issue in a much clearer and more accurate perspective. I am inserting into the RECORD at this point a copy of the op-ed and Mr. Cheek's response thereto.

[From the Washington Post, June 24, 1987]

A LAW THAT BOOSTS INSURANCE COSTS

(Bob Hunter and Jay Angoff)

For the first time, consumer groups and banks, environmentalists and small businesses, builders of shopping centers and the Federal Trade Commission, state legislators and attorneys general and feminist organizations and unions are working together in Washington. Not because they love each other—they don't—but because they have all been hurt by a common enemy: the McCarran-Ferguson Act, the federal law that allows insurance companies to price fix.

If two candy stores agreed that they would sell candy bars for 60 cents, they could both go to jail for three years. But McCarran-Ferguson allows Prudential (with assets totaling $93.1 billion) and State Farm (assets $30.3 billion) to agree on the auto insurance rate they will charge a 25-year-old male in Northeast Washington who drives a 1980 Toyota to work.

The McCarran-Ferguson Act also allows insurance companies to do the following without fear of antitrust prosecution:

Raise prices in concert—by 500 percent or 1,000 percent or even more.

Refuse to sell one type of insurance to an individual unless he also purchases another type.

Have an organization wholly owned by insurance companies issue a rate for a certain type of insurance and require all companies to charge that rate.

Insurers admit that they can do all of these things, but maintain that in fact they don't.

For example, they claim that insurance rates rose dramatically last year not because insurers colluded but because injuries and judges were requiring them to pay out greater amounts in personal injury costs than they ever had before.

But insurance prices rose by $60 billion last year, while the cost of the entire civil justice system—including verdicts and settlements, lawyers' and judges' salaries, overhead and everything else—was less than half that amount, according to the industry-funded Rand Institute for Civil Justice.

Insurers also claim they do not refuse to sell one type of insurance unless the buyer also buys another type of insurance. But our organization recently received a copy of a letter from Allstate to one of its policy holders, notifying him that if he wished to continue buying umbrella coverage from Allstate, "the primary liability coverage afforded by the homeowners and auto policy must be with Allstate."

Finally, insurers claim that companies do not actually charge the rates published by the industry rate-making organizations, known as rating bureaus. But the constitution of the National Council on Compensation Insurance, the rate-setting organization to which all workers' compensation insurers belong, provides that "each member shall . . . adhere to all filings made by the National Council on its behalf with state supervisory authorities." And even when the rating bureau does not expressly require each company to charge the rate it issues, many companies use that rate as a benchmark. For homeowners' coverage of $150,000 in the District in September 1986, for example, the rate bureau rate was $417; Firemen's Insurance Co. charged $417; Republic charged $417; Travelers charged $414; and State Farm charged $404.

The antitrust exemption also allows insurance companies to require, and insurance agents to agree, that all agents will charge the same commission. Laws requiring such arrangements—misleadingly known as "fair trade" laws—have been abolished in virtually all industries, resulting in the rise of discount stores. But they have not been abolished in the insurance industry—where there are no discount stores.

Those seeking repeal of the insurance industry's antitrust exemption do so for different reasons. Small businesses, consumers and unions have seen their insurance rates rise because of the exemption. Feminists believe that the exemption makes it easier for insurers to get together to discriminate on the basis of sex. Environmentalists see the exemption as facilitating collusion in insuring nuclear power plants; banks, which would like to be able to sell insurance (they are generally prohibited from doing so by state law), do not want the insurance industry to have a special privilege they don't have. And law enforcement officials, whether state or federal, want to prevent price-fixing—whether by candy stores, manufacturers, insurers or anyone else.

The last three presidential administrations have strongly urged repeal of the antitrust exemption for insurance. President Reagan's Federal Trade Commission chairman, Daniel Oliver, has been particularly critical of it.

Yet calls to repeal the exemption have never been taken seriously because of the industry's political power. Insurance is a $400 billion industry accounting for 13 percent of gross national product (Americans spend more on insurance than anything else except food and shelter). It employs more than 2 million people, and it has more lobbyists and contributes more money to political campaigns than any other industry. And insurers have always cared more about retaining the exemption than opponents have cared about repealing it.

But this year may be different. Because of the sudden, dramatic and unjustified insurance price increases of the last two years, bills to repeal the insurance industry's antitrust exemption are getting serious consideration in both houses. After 42 years, Congress may finally be realizing that if it is illegal for two candy stores to fix prices, it should also be illegal for State Farm and Allstate to fix prices.

CRUM & FORSTER INSURANCE COS.,
Washington, DC, July 8, 1987.

Re June 24, 1987, Washington Post Column: "A Law That Boosts Insurance Costs".

Mr. J. ROBERT HUNTER, *President,*
JAY ANGOFF, *Esquire, Counsel,*
National Insurance Consumer Organization, Alexandria, VA.

DEAR BOB AND JAY: It is one thing to be a zealous advocate of a legislative goal; it is quite another to seek to achieve that objective by misleading the public, as your column on the McCarran-Ferguson Act in the June 24, 1987, Washington Post most assuredly did.

From its title to its final paragraph, your column is a *tour de force* of intellectual dishonesty, a breathtaking distortion of the facts. In my judgment, you have done the insurance consumer you purport to serve a major disservice by misrepresenting both the substance of the McCarran-Ferguson Act and its effect on insurance prices.

You characterize the McCarran-Ferguson Act as "the federal law that allows insurance companies to price fix." This assertion is patently false. By its terms, the Act subjects to antitrust prosecution any anticompetitive conduct by insurers that is "not regulated by State law." I challenge you to identify a single State that regulates "price fixing" so as to exempt it from prosecution under the antitrust laws.

You go on to assert that the Act "allows Prudential . . . and State Farm . . . to agree on the auto insurance rate they will charge a 25-year-old male in Northeast Washington. . . ." This is patently false. The Act itself permits no such thing. The Act simply says that if the laws of the District of Columbia require or permit these two giant companies to pool their auto insurance loss and expense data with that of other insurers, then that joint activity is not subject to Federal antitrust prosecution.

You failed to mention that District of Columbia law requires the Department of Insurance to approve any auto insurance rate in advance of its use by any insurer. Thus, not even local law "allows Prudential and State Farm to agree" on auto insurance rates.

You also failed to mention that if Prudential and State Farm were to attempt to force either each other or other insurers to charge the same price, the Act explicitly permits them to be prosecuted for conspiracy to boycott, coerce, or intimidate or for committing acts of boycott, coercion, or intimidation.

You assert that the Act allows insurers to "raise prices in concert." This is patently false. The Act simply says that if the States do not regulate joint pricing activity, then such activity is subject to the full force of the Federal antitrust laws. Alone among the States, Illinois has not chosen to regulate most insurance pricing activity since 1971. To my knowledge, there have been no allegations of price fixing among insurers in Illinois, even though they have been subject to Federal antitrust prosecution for the past 16 years.

You allege that the Act allows insurers to "refuse to sell one type of insurance to an individual unless he also purchases another type." This is patently false. The Act permits no such thing. If insurers were to agree among themselves to require "tie-in" sales, they would be subject to Federal antitrust prosecution, because no States permit, much less regulate, such anticompetitive joint activity.

But if Allstate decides unilaterally that it will "refuse to sell one type of insurance unless the buyer also buys another type of insurance," as your column puts it, the company could not be prosecuted for antitrust violations even if McCarran-Ferguson were repealed, because the company is acting alone. There is nothing more sinister about an umbrella carrier wanting to write the underlying primary coverages than there is about an automobile manufacturer insisting on selling only fully assembled cars.

You allege that the Act allows insurers to own an organization that can "issue a rate for a certain type of insurance and require all companies to charge that rate." This is also false. The Act does no such thing. The Act allows the States to decide how to regulate insurance rates. Many States have licensed insurer-owned statistical organizations as their own statistical agencies, and any rate adherence requirements are a matter of State law, not of the coercive whim of insurers operating free of regulatory restraint.

Your column quotes very selectively from the constitution of the National Council on Compensation Insurance (NCCI), to support your allegation that the Act permits rating organizations to "require all companies to charge that rate." To demonstrate how deliberately your column attempts to mislead its readers, herewith the entire section from which you quoted, with the parts you left out underlined:

(E)ach member shall . . . adhere to all filings made by the National Council on its behalf with state supervisory authorities, except to the extent that

(1) such member shall obtain the right to depart from such filings in accordance with

the requirements of law specifically applicable thereto, or

(2) the applicable law precludes, either directly or indirectly, agreements to adhere to such filings.

You not only failed to quote accurately from the NCCI constitution, you also failed to explain that in the 34 jurisdictions in which NCCI files rates on behalf of its members, those insurers are either expressly allowed to make individual rate filings that may deviate upward or downward from the NCCI rates, or are prohibited by law from agreeing to adhere to the NCCI filings.

The sole argument you advance in support of your assertion that insurers "raise prices in concert" is a stunning non-sequitur. "(I)nsurance prices rose by $60 billion last year," you wrote, "while the cost of the entire civil justice system . . . was less than half that amount." So what? Those $60 billion in increased premiums were for all property and casualty coverage—including such first-party lines as fire, inland marine, automobile collision, homeowners', commercial multi-peril, etc.—not just for the third-party lines involving the "civil justice system." This misleading misuse of statistics is the worst example of intellectual dishonesty in a column rife with it.

Your column argues that the "antitrust exemption also allows insurance companies to require, and insurance agents to agree, that all agents will charge the same commission." This is not true. The anti-rebate statutes to which you refer are creatures of State law, and most of them were enacted before McCarran-Ferguson.

You compound this misstatement by asserting that these laws have produced an industry "where there are no discount stores." The millions of policyholders in such low-cost, direct-writing companies as State Farm, Allstate, GEICO, Liberty Mutual, Nationwide, and USAA would be perfectly justified in calling you liars for this assertion.

Indeed, if you were truly insurance consumer advocates, rather than devotees of Federal insurance regulation, you would have to retract your statement that "(s)mall businesses, consumers and unions have seen their insurance rates rise because of the exemption" in McCarran-Ferguson. You know as well as I do that the enactment of McCarran-Ferguson, with its prohibition of acts of boycott, coercion and intimidation, broke the back of the insurance cartel and gave rise to the hundreds of new competitors—including union-owned insurers, business-owned captives, and direct-writing mutuals—that have made our industry one of the most competitive in the United States. The Act has saved the insurance consumers you purportedly represent billions of dollars.

Your column asserts that "(t)he last three presidential administrations have strongly urged repeal of the antitrust exemption for insurance." This is not true. They have said only that the exemption should be narrowed, to protect from antitrust prosecution those areas of joint industry activity that are essential to the conduct of the business (joint data collection, for example) or socially useful (residual market mechanisms and voluntary pools, for example). And the Federal Trade Commission Chairman that you say "has been particularly critical of it" told an American Bar Association meeting in May that "(t)he possibility of federal regulation tempers my enthusiasm for repeal of McCarran-Ferguson."

Finally, you suggest that McCarran-Ferguson has stayed on the statute books for 42 years only "because of the industry's political power." You assert that the industry "has more lobbyists and contributes more money to political campaigns than any other industry." This is the only false statement in your column that I wish were true. I wish we had the resources of the defense contractors, the unions, the realtors, the doctors, and the plaintiffs' bar, to name just a few.

The fact of the matter is that because we are (thank God!) a State-regulated industry, insurers are only marginal players in Washington's public policy game. And McCarran-Ferguson's endurance is a function not of our industry's political power, but rather of the fact that it has encouraged the development of one of America's most competitive industries.

I am confident that McCarran-Ferguson will survive the assault that you are currently leading against it, and one of the main reasons it will survive is because those who will be asked to make the choice between what you tell them and the reality of our business will find it easy to see where the truth lies.

Sincerely yours,

LESLIE CHEEK III,
Senior Vice President-Federal Affairs.

SPECULATION OF A MOTOR FUELS TAX INCREASE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. ANDERSON. Mr. Speaker, as the Ways and Means Committee considers various ways of raising revenues to comply with the budget resolution conference report, I am increasingly concerned by speculation of a motor fuels tax increase.

According to Wharton Econometrics, a 10-cent gasoline tax increase, when used for deficit reduction purposes, would increase unemployment in this country by 80,000 next year and 180,000 by 1990. Our gross national product would fall by $10 billion. Compared to generating comparable amounts from an oil import fee, an income tax surcharge, a corporate tax increase, or a tobacco tax increase, a gasoline tax increase would, in fact, have the greatest negative impact on unemployment and GNP. It would also have the greatest inflationary impact on the economy than any of these except an oil import fee, the inflationary impact of which would be similar to that of a gasoline tax increase.

Mr. Speaker, I urge our colleagues to join me in cosponsoring House Resolution 225, expressing the sense of the House that the Federal excise tax on gasoline and diesel taxes shall not be increased for deficit reduction purposes.

Mr. Speaker, I ask that the statement of Dr. Mark French of Wharton Econometrics, and an executive summary of prepared testimony he submitted to the Surface Transportation Subcommittee be made a part of the RECORD.

WHARTON ECONOMETRICS,
Bala Cynwyd, PA, July 1, 1987.

Hon. GLENN ANDERSON,
Chairman, Subcommittee on Surface Transportation, House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: Wharton Econometrics is pleased to provide this written statement, which summarizes our estimate of the short-term impact of an increase in the federal excise tax on gasoline. Analysis of the issue was performed using our Annual and Industry Model of the United States Economy. The results of our analysis suggest that an increase in the federal gasoline tax will, in the first year after enactment, increase inflation, slow the growth in GNP, and reduce employment growth.

Congress is attempting to cut the federal budget deficit, in hopes that over the long term, lower deficits will result in lower interest rates, lower inflation, and improved economic growth. While these long-term benefits are desirable, there appear to be better ways to achieve them than through an increase in the gas tax.

Wharton Econometrics has used its U.S. econometric model to compare the impacts of alternative deficit-reduction measures with a gasoline tax increase. The alternatives examined included a personal income tax surcharge, a corporate tax increase, defense spending cuts, an oil import fee, and an increase in taxes on tobacco products. The size of each policy change was scaled to match the projected deficit gains from a ten-cent gasoline tax increase.

Our econometric simulations suggest that each of the above policy alternatives, with the exception of a defense spending cut, would do less short-term damage to employment and income than would a gas tax increase.

A gasoline tax increase has two major disadvantages relative to the alternative deficit-reduction measures. A gas tax increases inflation, and thus may tend to boost interest rates and slow the growth of business and residential investment. Most of the other policy options are not as inflationary as a gas tax boost.

A gas tax is also regressive, hitting lower income groups harder than the rich. But inequity is not the only consequence of the gas tax's regressive nature. This regressiveness also creates further losses in total employment and income. Because poor people spend more of their income than the wealthy, a regressive tax rise will lead to a greater reduction in consumer spending than a progressive tax rise (such as an income tax surcharge). This greater reduction in consumer spending with a gas tax rise means fewer jobs created and slower income growth than with income tax increases. The table which follows summarizes our results.

NEAR-TERM ECONOMIC COSTS OF ALTERNATIVE POLICIES TO REDUCE THE DEFICIT

[Changes in key indicators relative to Wharton Econometrics baseline projections; in billions of 1982 dollars [1]]

	Employment (thousands)	GNP		Inflation (GNP deflations) (percent)
		Amount	Percent	
10-cent gas tax rise	−80	−7.29	−0.2	+0.3
$2.50 oil import fee	−76	−6.91	−0.2	+0.4
Income tax surcharge	−77	−6.90	−0.2	0.0
Corporate tax rise	−29	−2.56	−0.1	0.0
Tobacco tax rise: [2]				
a. Absorbed by producers	−25	−2.20	−0.1	0.0
b. Full passthrough	−83	−7.47	−0.2	0.1

NEAR-TERM ECONOMIC COSTS OF ALTERNATIVE POLICIES TO REDUCE THE DEFICIT—Continued

[Changes in key indicators relative to Wharton Econometrics baseline projections; in billions of 1982 dollars [1]]

	Employment (thousands)	GNP		Inflation (GNP deflations) (percent)
		Amount	Percent	
Defense spending cut	−292	−17.65	−0.5	−0.1

[1] All policy options were scaled to yield the same deficit reduction ($5.9 billion) as a 10-cent tax on residential gasoline consumption.

[2] The actual extent that the tobacco tax is passed on to consumers will fall between a and b, probably closer to b. The analysis neglects the effects on public health of any changes in tobacco use with higher prices of tobacco products.

The results of our econometric study show some of the drawbacks of a rise in the federal gasoline tax. They suggest that several other deficit-reduction options would do less short-term damage to the economy than would a gasoline tax increase.

Sincerely,

Mark French,
Manager of Energy Analysis,
Macroeconomic Services.

Executive Summary

Congress is currently searching for ways to cut the federal budget deficit. More than a dozen bills have been introduced so far in 1987 to increase taxes on fuel in order to generate billions of dollars in new tax revenue.

Several of the bills undergoing congressional consideration would raise the existing federal excise tax on gasoline by as much as 30-cents-per-gallon. The near-term costs of such a gas tax are very clear. Thousands of people would be put out of work, consumer prices would rise and the poor would be hurt disproportionately. Those living in the South and West—hit hardest by the recent collapse in oil prices—are especially dependent on private vehicles. They must travel greater distances and will suffer more with a gas tax increase than those in other regions.

This report examined the negative economic impacts of both a 10-cent gasoline tax increase and a 30-cent increase. Specifically, the tax proposals would cause the following:

10-CENT GASOLINE TAX

Adding 10 cents more to the cost of a gallon of gasoline would reduce the Gross National Product by nearly $10 billion in the first year alone. In addition:

Automobile production would fall by 1.3 percent;

Housing construction would drop 0.9 percent;

80,000 persons would be out of work next year;

180,000 would be out of work by 1990;

Petroleum refinery output would decline by 1.2 percent;

Income tax revenues would decline by nearly $1 billion annually;

Personal savings rate would decline by nearly 3 percent;

The Consumer Price Index would rise 0.3 percent.

30-CENT GASOLINE TAX

Adding 30 cents more to the cost of a gallon of gasoline would reduce the Gross National Product by nearly $30 billion in the first year alone. In addition:

Automobile production would fall more than 4 percent;

Housing construction would drop 2.4 percent;

225,000 persons would be out of work next year;

525,000 would be out of work by 1990;

Petroleum refinery output would decline by 3.2 percent;

Income tax revenues would decline by nearly $2.7 billion annually;

Personal savings rate would decline by nearly 8 percent;

The Consumer Price Index would rise nearly 1 percent.

The report outlines several secondary impacts including:

Payments of U.S. industries for wages and salaries would also fall, multiplying the impact on national income;

Payments by government agencies for welfare, unemployment and food stamp programs would increase.

The report concludes with a series of statistical tables which identify more precisely the item-by-item effects of the two gasoline tax proposals as derived from Wharton's Econometric model.

NATIONAL MEDICAL RESEARCH DAY

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. HOYER. Mr. Speaker, today it is my great pleasure to introduce House Joint Resolution 340, which designates October 1, 1987, as "National Medical Research Day." This year, we are celebrating the centennial of the National Institute of Health, and it is indeed appropriate that to continue the momentum generated by this 100th anniversary celebration we commemorate the priceless contributions made to the health and well-being of the citizens of the United States and the world by America's medical research enterprise.

The breakthroughs in health promotion and disease prevention generated by the Federal centers for medical research—the National Institutes of Health, the Alcohol, Drug Abuse, and Mental Health Administration, the Centers for Disease Control, and the Veterans' Administration—as well as research undertaken through private sector initiatives has saved countless lives and improved the health of virtually every American and member of the world community. The list of health and economic benefits provided by medical research and the promise of new treatments and potential cures for the diseases and illnesses that still plague humankind serve as ample justification for the celebration of October 1 as National Medical Research Day.

Diseases that once killed or incapacitated millions—such as tuberculosis and polio—have been virtually eradicated. Medical research has also led to the discovery of DNA as the molecular basis for inheritance, the development of new, innovative pharmacological and surgical techniques to combat cancer and heart disease, the discovery of the causative agents and possible treatment and cures for infectious diseases such as AIDS and legionnaire's disease and the identification of the genetic basis for addictive disorders. As the result of these and other advances, American medical research has become the envy of the entire world.

SOUTH AFRICAN TOURISM

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. RANGEL. Mr. Speaker, believe it or not, quite a few people have packed their bags and have winged off to South Africa over the last couple years as either tourists or conventioneers. About 297,000 foreigners from non-African countries traveled there in 1986, according to figures from the South African Tourism Board, and prospects are that tourism there this year will be on the upswing.

What disturbs me about all this is that it comes at a time when the Government of South Africa continues to press down upon the people with the unjust thumb of apartheid. The South African Government has ruled under a state of emergency since July 1985. In its siege mentality, the Government has taken thousands of children into detention and many have been mistreated. Some have died.

But even more disheartening is that of this incredible number of visitors who flocked to that country last year, some 37,000 of them were Americans. And that number is down from the estimated 58,000 Americans who visited South Africa as tourists in 1985. In the last 12 years, nearly 600,000 Americans have visited South Africa. The number of American travelers to South Africa for tourist or convention purposes peaked in 1984 at an estimated 70,500.

Of all the things we have tried in order to dispense with apartheid, nothing has been more counterproductive to those efforts, I believe, than the hundreds of millions of dollars that tourists pump into South Africa's economy annually.

Every year, South Africa realizes about $450 million from tourism from all points all over the world. The United States accounts for roughly 7 percent of that worldwide figure, but about 13 percent of the non-African foreign travelers to South Africa. That is a real shame and should not go unnoticed.

While on the one hand we may be slowly but surely turning back the hands of apartheid through economic sanctions and divestment, we are seeing, on the other hand, where many of the same dollars lost through the implementation of sanctions and divestment are being replaced by American and other foreign tourists who travel to South Africa, for reasons such as business, pleasure, and study.

Today, Mr. Speaker, I would like to introduce a sense-of-the-Congress resolution that, if passed, would show this body's displeasure with any American individual or group that travels to South Africa for tourist or convention purposes. It is not my intention to rebuke any official Government or emergency travel, or any travel there by working media, despite the press restrictions that now exist.

My resolution calls for the immediate cancellation of any travel plans to South Africa on the part of any American individual or group or organization, whether for tourist or convention purposes, beginning with the passage of this resolution. My resolution, if passed, would express the sense of the Congress, Mr. Speaker, that tourist and convention travel to South Africa by Americans not be resumed until the Government there lifts apartheid.

I would like to point out, Mr. Speaker, that my resolution also speaks to entertainers and celebrities who would consider going to South Africa. They should be considered no different than the rest of us and, in fact, they may be pumping even more dollars into the apartheid economy than others who travel there, through their performances or celebrity status.

I believe that we, the Members of Congress, are obligated to carry the torch for those who remain in the dark about the dreadful situation in South Africa. We did that in 1986 when we overwhelmingly passed legislation enacting sanctions against South Africa, a policy far tougher than the administration's so-called policy of constructive engagement.

In this case, we are continuing the moral consciousness raising that we have engaged in trying to end apartheid.

We would be saying to American travelers that, before you make the decision to venture to South Africa, think about the value of your dollar to the perpetuation of apartheid. Do you really want to engage in the financing of apartheid?

We would be saying, again to American tourists, find something better and more honorable to do with your precious holiday time than to soak up the Sun and fun in the variety vacation land of bigotry. Should it not bother the conscience of an American traveler that he or she is able to travel to South Africa and enjoy far more privileges and human rights benefits than the vast majority of the natives of that country themselves?

Through this resolution, we would be saying to Americans interested in going to South Africa that if you really and truly believe in the American ideals of freedom and democracy and justice for all, you will not at this time choose to go to South Africa. A visit to South Africa for tourist purposes, we should be telling them, would actually contribute to the damage that is being inflicted upon that country's black natives with every beat of the apartheid drum; a drum whose beat is not in step with the American ideals of freedom and democracy.

I was shocked to read in a recent report the comments of the chairman of the South African Tourism Board, Danie Hough, who said, and I quote:

> The biggest value of tourism for South Africans was to get people from overseas to see the situation in South Africa for themselves—not only to see the wonders of this country but also to be exposed to the complexities, problems and challenges of the country and its people and to realize that all the peoples of South Africa were striving toward the building of new South Africa.

I must tell you, Mr. Speaker, that I have not heard the situation couched in such eloquent terms as that. Mr. Hough has obviously done a very good job of selling South Africa to foreign tourists, or there would not be so many of them, particularly at a time like this. I suggest to Americans that unlike people from elsewhere around the world, we should not allow ourselves to be sandbagged by such underhanded efforts to keep apartheid propped up. We are, after all, the world leaders in freedom and human rights and we have an obligation to live up to that.

Mr. Speaker, in addition to my resolution, I ask that South Africa Tourism Board statistics on foreign visitors to South Africa from 1975 to 1985 be included in the RECORD.

SOUTH AFRICAN TOURISM BOARD ANNUAL REPORT, 1985

APPENDIX A.—MONTHLY ARRIVAL OF OVERSEAS VISITORS: 1985

Country of residence	J	F	M	A	M	J	J	A	S	O	N	D	Total
Europe:													
Austria	428	630	536	392	354	313	472	381	319	807	511	635	5,778
Belgium	528	693	657	450	311	380	927	594	337	581	545	652	6,655
Denmark	233	301	292	217	151	179	169	176	167	133	134	189	2,341
Finland	141	149	92	94	51	46	37	53	64	81	90	58	956
France	1,017	1,305	1,603	890	614	734	1,011	1,151	838	882	762	949	11,756
Germany	3,886	6,073	7,268	4,461	2,693	2,971	3,703	3,524	3,304	5,690	4,554	5,111	53,238
Greece	385	471	483	360	229	317	345	261	205	284	354	494	4,188
Ireland	610	464	397	438	280	371	484	426	394	571	369	613	5,417
Italy	1,104	1,152	1,268	907	609	600	744	1,031	531	610	531	1,067	10,154
Luxembourg	32	35	49	57	13	10	15	22	22	34	22	39	350
Netherlands	954	1,682	1,076	1,008	703	941	1,045	590	597	1,405	1,207	1,347	12,555
Norway	146	170	153	140	93	127	154	128	128	103	119	171	1,632
Portugal	1,013	799	718	425	542	432	470	469	560	558	597	750	7,333
Spain	386	459	369	372	213	312	561	634	341	291	355	394	4,687
Sweden	370	316	366	312	268	250	181	183	193	267	225	296	3,227
Switzerland	1,044	1,420	1,341	922	539	481	942	622	712	1,338	1,382	1,543	12,286
United Kingdom	11,841	15,728	12,930	11,671	7,202	5,817	7,449	7,439	6,946	10,600	10,274	15,757	123,654
Other	860	517	188	141	406	751	244	193	118	1,047	859	463	5,787
Total	24,978	32,364	29,786	23,257	15,271	15,032	18,953	17,877	15,776	25,282	22,890	30,528	271,994
North America:													
Canada	1,229	1,716	1,154	935	810	851	1,124	860	728	896	870	1,833	13,006
U.S.A.	5,666	5,744	5,875	4,448	4,119	4,989	5,431	5,211	4,035	4,027	3,493	5,324	58,362
Total	6,895	7,460	7,029	5,383	4,929	5,840	6,555	6,071	4,763	4,923	4,363	7,157	71,368
Central and South America:													
Argentina	229	180	110	73	37	65	173	67	59	58	46	92	1,189
Brazil	202	147	416	174	147	166	227	119	176	156	111	126	2,167
Chile	116	68	71	72	47	29	57	60	43	66	35	97	761
Colombia	18	6	13	22	13	4	12	7	6	18	25	25	169
Mexico	9	16	11	20	10	35	71	34	19	16	4	8	253
Paraguay	11	6	4	3	12	9	13	3	2	8	4	12	87
Peru	6	9	13	13	5	9	14	9	7	12	8	15	120
Uruguay	12	4	15	10	3	2	9	10	4	3	5	14	91
Venezuela	32	16	18	8	10	1	19	12	17	24	14	31	202
Other	32	33	34	43	45	35	53	25	33	33	24	56	446
Total	667	485	705	438	329	355	648	346	366	394	276	476	5,485
Australasia:													
Australia	1,208	937	1,337	1,147	1,237	1,205	1,031	1,118	1,266	854	1,054	1,743	14,137
New Zealand	208	193	252	260	262	305	340	672	435	176	181	249	3,533
Other	6	3		2		5			8		4	4	32
Total	1,422	1,133	1,589	1,409	1,499	1,515	1,371	1,790	1,709	1,030	1,239	1,996	17,702
Asia:													
Hong Kong	122	158	158	93	96	164	204	129	88	96	140	147	1,595
India	259	191	194	231	231	243	307	170	246	282	152	373	2,879
Japan	478	598	921	783	449	566	706	881	470	385	479	591	7,307
Korea	67	34	67	50	84	34	48	44	30	35	22	30	545
Republic of China	565	423	589	637	584	693	577	740	538	660	487	645	7,138
Other	262	244	387	286	273	288	323	258	277	288	358	329	3,573
Total	1,753	1,648	2,316	2,080	1,717	1,988	2,165	2,222	1,649	1,746	1,638	2,115	23,037

APPENDIX A.—MONTHLY ARRIVAL OF OVERSEAS VISITORS: 1985—Continued

Country of residence	J	F	M	A	M	J	J	A	S	O	N	D	Total
Middle East:													
Israel	1,326	965	951	737	643	595	961	937	704	820	860	975	10,494
Other	146	135	135	149	76	113	128	150	84	82	126	239	1,563
Total	1,472	1,100	1,086	886	719	708	1,109	1,087	788	902	986	1,214	12,057
Indian Ocean islands:													
Mauritius	357	258	294	296	211	213	291	243	275	269	248	346	3,291
Reunion	149	70	21	25	50	9	26	44	18	35	15	40	502
Seychelles	18	16	17	13	6	17	14	6	16	3	16	19	161
Total	524	344	322	334	267	239	331	293	309	307	279	405	[illegible]
Overseas total	37,711	44,534	42,833	33,787	24,731	25,677	31,132	29,686	25,360	34,584	31,671	43,891	[illegible]
Africa:													
Botswana	3,621	2,839	3,291	3,955	3,131	2,637	3,524	3,355	3,804	3,172	3,100	4,240	40,669
Kenya	142	76	113	107	81	96	117	95	64	94	57	139	1,181
Lesotho	1,827	1,395	1,805	1,632	1,612	1,691	1,623	1,520	1,406	1,941	1,442	1,846	19,740
Malawi	842	690	722	993	727	731	956	996	958	907	1,002	990	10,514
Mozambique	655	577	589	614	603	572	705	712	583	737	788	947	8,082
Swaziland	3,935	2,960	3,085	3,415	3,558	3,146	3,494	3,264	3,541	3,437	3,173	3,657	40,665
Zambia	1,191	633	667	1,012	671	561	860	762	779	767	637	1,087	9,627
Zimbabwe	15,185	12,133	12,768	22,899	11,778	9,820	11,911	18,664	11,794	13,256	14,167	27,461	181,836
Other	915	679	859	877	667	852	901	746	643	776	671	1,055	9,641
Total	28,313	21,982	23,899	35,504	22,828	20,106	24,091	30,114	23,572	25,087	25,037	41,422	321,955
Grand total	66,024	66,516	66,732	69,291	47,559	45,783	55,223	59,800	48,932	59,671	56,708	85,313	727,552

SOUTH AFRICA, 1986

TABLE 1.—NUMBER OF FOREIGN TOURISTS, ACCORDING TO COUNTRY OF ORIGIN

Country of origin	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984
Africa:										
Zimbabwe	187,811	171,187	169,175	174,985	173,581	170,805	149,591	166,192	174,274	196,861
Zambia	10,105	10,109	9,102	9,934	8,868	8,614	12,345	8,325	8,835	10,069
Malawi	3,025	5,344	4,430	5,772	6,106	5,286	7,722	5,093	6,896	8,092
Kenya	2,734	2,324	2,441	2,720	2,799	2,834	2,929	1,968	1,731	1,328
Mauritius	1,846	1,590	1,702	2,073	2,565	2,558	2,857	2,188	2,682	3,015
Mozambique	35,786	12,626	4,739	3,951	3,600	4,663	5,886	6,971	6,844	6,219
Other	86,073	73,019	95,189	107,852	106,768	107,746	85,668	80,021	97,768	115,698
Total	327,380	276,199	286,779	307,287	304,287	302,806	266,998	270,758	299,030	341,282
Europe:										
United Kingdom	140,324	123,268	97,465	108,476	118,128	123,700	133,317	130,949	131,520	139,242
Ireland	4,471	3,822	3,121	(1)	3,583	3,882	7,937	5,349	4,853	5,409
Austria	3,847	3,611	3,184	4,039	4,445	5,033	5,539	5,303	4,803	5,095
Belgium	5,320	4,889	5,262	5,863	6,016	6,631	6,827	6,105	6,493	7,325
Finland	832	1,467	1,015	607	591	883	767	1,011	866	1,126
France	12,928	9,676	9,308	10,535	12,205	14,654	16,634	14,432	13,321	14,291
Germany	41,506	35,789	32,981	37,062	41,461	49,924	55,845	47,796	50,637	56,808
Greece	4,926	3,799	3,065	4,192	5,408	5,395	6,546	4,523	4,956	5,045
The Netherlands	18,239	15,211	11,638	13,126	14,928	15,142	15,439	12,670	13,376	14,253
Italy	10,634	8,109	7,181	8,739	9,656	11,136	13,065	10,662	11,731	13,111
Scandinavia	9,382	8,022	9,517	8,466	8,731	9,468	10,136	9,417	8,716	6,581
Portugal	12,295	9,982	5,445	6,677	6,573	6,684	9,277	6,890	6,052	8,038
Spain	5,908	5,494	3,901	5,009	6,379	5,900	7,007	6,801	5,385	5,388
Switzerland	10,482	10,219	8,698	9,969	11,312	12,478	14,180	12,280	12,409	13,337
Other	2,540	3,409	3,790	7,351	5,991	4,611	6,846	4,073	6,091	9,368
Total	281,624	246,767	205,571	230,161	255,407	275,521	309,362	278,261	281,209	304,417
Asia:										
India	1,066	1,025	934	1,622	1,891	1,863	2,408	1,844	2,020	2,498
Japan	7,783	5,813	4,653	5,261	5,154	6,952	8,444	6,608	7,873	8,714
Israel	7,284	6,433	5,972	7,296	9,336	8,300	9,310	6,641	8,945	10,859
Other	6,152	6,607	6,535	8,598	8,555	10,263	11,672	10,736	11,159	14,346
Total	22,285	19,878	18,094	22,777	25,236	27,378	31,834	25,829	29,997	36,417
Americas:										
Canada	9,413	8,479	8,380	8,977	10,111	10,264	11,066	9,423	10,831	12,942
United States of America	48,712	44,090	38,348	41,521	43,588	48,725	56,828	50,688	57,391	70,504
Argentina	3,405	1,533	6,173	13,997	20,189	13,200	6,984	1,896	1,792	1,906
Brazil	2,176	2,032	1,559	(1)	1,949	2,837	3,139	2,556	2,402	2,789
Other	1,654	1,686	2,095	4,311	3,278	2,895	3,281	2,282	2,076	2,319
Total	65,360	57,820	56,555	68,806	79,115	77,924	81,298	66,852	74,492	90,460
Australasia:										
Australia	20,654	16,674	11,123	12,282	14,404	15,104	14,987	11,213	12,906	16,661
New Zealand	7,679	8,534	2,581	2,843	3,704	4,012	4,216	3,465	3,159	3,114
Other	86	61	75	42	44	44	21	17	60	36
Total	28,419	25,269	13,779	15,167	18,152	19,160	19,224	14,695	16,125	19,811
Unspecified	5,300	12,546	8,248	131	1	5	0	3,518	3,591	....
Grand total	730,368	638,479	589,025	644,329	682,198	702,794	708,716	659,913	704,444	792,387

[1] No separate figures available, incorporated in "Other".

ENHANCE EVALUATION OF U.S. SCIENTIFIC AND TECHNOLOGICAL EXCHANGE AGREEMENTS

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. SOLOMON. Mr. Speaker, legislation I am introducing today will establish a comprehensive program to review agreements for the exchange of scientific information with the Soviet Union.

My legislation will give the President authority to monitor and evaluate agreements involving the exchange of scientific or technological information with the Soviet Union and other controlled countries.

The illegal diversion of sensitive propeller technology to the the Soviet Union by Toshiba illustrates only one method by which the Soviets obtain Western military technology and expertise.

Recently, a high level Defense official expressed his concern over the flow of American technology through scientific exchanges stating:

> The process by which decision are made that affect broad policy, detailed negotiations and eventual implementation of agreements for scientific and technology exchanges with the Soviet Union is a shambles, marked by indifference, incompetence, and parochialisim.

The failure to adequately review scientific exchanges is also troubling when one considers that such exchanges are with countries to which exports of American technology are controlled for national security purposes.

The Soviets currently obtain the lion's share of scientific knowledge and technological know-how from exchanges that are supposed to be mutually beneficial. Soviet secrecy prevents the United States from learning information of much interest, while American openness continues to facilitate Soviet acquisition of United States advances in science and technology.

My legislation establishes a mechanism for managing science and technology agreements from original conception through negotiation and actual implementation. The measure calls for an ongoing review of issues involving scientific merit, technology security, economic and trade impact, intelligence, and international relations.

National security considerations receive short shrift in the bureaucratic morass that has become a substitute for serious policymaking with respect to scientific exhanges between the United States and the Soviet Union.

Disarray in policymaking on science and technology exchanges was particularly evident in the recent case of deep ocean drilling. The United States Government was forced into the embarassing position of having to withdraw a previous invitation to the Soviets to participate in the exchange when it was found that security concerns had not been properly reviewed. This is an example of how the failure to provide for comprehensive review of these agreements can have a direct impact on our national security and foreign policy.

At present a comprehensive, rigorous assessment of costs and benefits for proposed agreements and exchanges is not made on a routine basis. Each agency of our Government wishes to have its own exchange program, with little regard to costs.

Safeguarding American scientific and technological information will be enhanced by the enactment of this legislation.

I respectfully request all of my colleagues who share my concern over the Soviet's aggressive efforts to acquire American scientific and technical data for military application to join in cosponsoring this important legislation.

PROBLEM FARM LOANS

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. COELHO. Mr. Speaker, a recent article in the Fresno Bee shows that many farmers are still facing serious financial difficulties. The number of troubled farm loans is rising, and it is evident that many farmers will only be able to survive if some assistance is provided to them until the farm economy starts to recover.

I introduced legislation earlier this year, H.R. 2120, to provide farmers with loans from the Federal Government for up to 3 years to help pay their long-term real estate debt. This legislation offers a means of assisting those farmers who can show they would have viable operations if it were not for the large debt loads they have due to inflated land prices.

I urge my colleagues to review this article from the Bee, and consider the need for helping our farmers make it through these difficult times. I submit the text of the article at this point:

[From the Fresno Bee, June 30, 1987]

PROBLEM FARM LOANS STILL RISING

(By Ann Cony)

SACRAMENTO.—Farm loan portfolios at California commercial banks deteriorated in 1986 to the point where nearly half the loans had problems by year's end.

According to a survey conducted by the California Bankers Associations, 46.7 percent of farm loans were "classified" as of Dec. 31. Classified loans cover a broad spectrum. Some represent sure losses while others simply have potential problems that are likely to be overcome.

Classified-loan volume was up from 28.4 percent in 1984 and 35.5 percent in 1985.

The latest statistics came from 10 banks that are responsible for more than 80 percent of the commercial farm lending in the state, according to the CBA.

The survey also revealed a marked increase in non-performing agricultural loans. Bankers reported that 22.7 percent of their farm loans were non-performing at the end of last year, compared with 16 percent at the end of 1985.

All told, nearly $600 million of the banks' $2.6 billion in outstanding loans were non-performing, a category that includes loans that are more than 90 days delinquent.

Similar study conducted by the American Bankers Association showed California with the highest delinquency rate for farm loans nationwide. In addition, it ranked the state second in annualized loan-loss rates from agriculture.

Ironically, bankers say one reason California stands out from the crowd stems from its commercial lending institutions being more diversified and less dependent on farm lending than their counterparts in other parts of the country.

"The California banks are large enough and healthy enough that they can afford to be more aggressive about recognizing difficulties [with agricultural loans]," said Vern Crowder, an economist with Security Pacific National Bank and chairman of the CBA agricultural lending committee. "We tend to recognize the problem earlier."

Nevertheless, bankers believe the problems confronting California farmers are just as severe as those faced by growers in the Midwest and the south.

"Many of our-crop sectors are not protected by government [subsidy] programs, and many of them are more subject to foreign competition," Crowder said.

In addition, there tends to be a lag between economic conditions and the negative statistics that reflect those conditions, he said. That helps explain why the agricultural banking picture appears bleakest just as the farm economy shows signs of improvement.

INTRODUCTION OF THE ARCTIC REFUGE LAND EXCHANGE ACT

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. STUDDS. Mr. Speaker, today I am introducing the Arctic Refuge Land Exchange Act. This brief legislation has a simple purpose; to make clear to all parties that no exchanges of the subsurface mineral rights to the Arctic National Wildlife Refuge [ANWR] may occur without the prior approval of Congress.

In 1980, in adopting the Alaska National Interest Lands Conservation Act, Congress clearly reserved to itself the decision over the fate of the coastal plain of the Arctic National Wildlife Refuge.

While Congress undertakes the difficult task of deciding the future of ANWR, the Department of the Interior has been working out a "megatrade" land exchange involving the rights to the oil which may underlie the refuge. In its simplest terms, the Department is negotiating agreements to trade these rights to several native corporations in return for their lands within national wildlife refuges elsewhere. Also involved are several oil companies, serving in some undisclosed capacity as silent partners in the transactions.

I introduce this legislation today not to support or oppose these exchanges, but to establish a sensible order for proceeding. My subcommittee intends to approach the overall ANWR question in a careful, deliberate, and orderly manner, examining each facet of the question, listening to all sides. I am convinced that, given the complexity of the subject and the degree of controversy surrounding it, we ought not get ahead of ourselves and make commitments to positions or outcomes before we are fully aware of their ramifications.

The Interior Department, it seems, does not agree. I was dismayed to learn from the Wall Street Journal of July 13, 1987, that the Department of the Interior had conducted a "conditional auction" of oil rights in the Arctic refuge to private parties. Through these land exchanges, the Department will make more complicated an already enormously complex matter. And in pursuing these exchanges beyond the reach of public scrutiny, it has unfortunately generated doubts about its purpose and intent.

The Secretary, in his wisdom, has promised repeatedly to inquisitive congressonal committees not to consummate any further land exchanges in the Arctic Refuge without the full, prior approval of Congress. On this point, at least, the Secretary and I agree. The bill I am introducing today would codify this commitment and dispel any misconceptions that might linger to the contrary.

In closing, the legislation I introduce today is an appeal for an ordered and thoughtful approach to the Arctic National Wildlife Refuge. Let us first examine whether to develop the refuge at all before we decide who should develop it.

NATIONAL TRAILS SYSTEM ACT

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. SHUMWAY. Mr. Speaker, today I am introducing legislation to amend the National Trails System Act to designate the Western States Pioneer Express National Historic Trail and the Tahoe Rim National Scenic Trail, and for other purposes. The Western States Trail Act of 1987 is intended, among other things, to give national recognition to two magnificent trails located in the Sierra Nevada Mountains in northern California and Nevada. I am joined in this effort by seven of my colleagues.

The first trail designation recognizes as a National Historic Trail, a 125-mile stretch of the Western States Trail which spans a distance of over 200 miles from Carson City, NV, to Sacramento, CA. This historic thoroughfare which stretches from points east to the Pacific follows practical routes used by American Indians and later early emigrants, miners, settlers and mail carriers. It was rediscovered by Sheriff Robert M. Watson and others in the early part of this century.

This legislation, if enacted, would also identify the Tahoe Rim Trail as a National Scenic Trail. The Tahoe Rim Trail is the product of a national volunteer project organized and financed through private contributions with the cooperation of the U.S. Forest Service to plan, construct and maintain a 150-mile multiuse trail which will encircle the Lake Tahoe Basin. Following the ridge-tops surrounding the lake through six counties, three National Forests and two States, the Tahoe Rim Trail will offer the public breathtaking panoramas of Lake Tahoe, unspoiled high-Sierra wilderness and the vast desert plateau in Nevada. Presently scheduled for completion in 1990, the Tahoe Rim National Scenic Trail will be a lasting monument to volunteer spirit and giving, as well as another national treasure.

In addition to the national trail designations, my legislation is structured to protect several traditional organized recreational events which utilize the Western States Pioneer Express Trail. The 100-mile Tevis Cup Trail Ride and 100-mile Western States Endurance Run conducted annually for more than 30 and 10 years respectively, are coveted events drawing participants from throughout the United States and the world. These well-renowned events along with several others such as the Capitol-to-Capitol 200-mile Ride and the Trans-Sierra Ultra Run follow the historic trails marked by Bob Watson at the American River headquarters in the Granite Chief region.

Regrettably, Mr. Speaker, the future of these important events has been inadvertently threatened. Legislation enacted in 1984 incorporated in the wilderness designation for Granite Chief a 4 to 5 mile section of the Western States Pioneer Express Trail. As a result, the Forest Service has determined that the aforementioned events cannot continue to use the traditional route because competitive events have been deemed to be incompatible with a wilderness area.

The Western States Trail Foundation, again Mr. Speaker, comprised entirely of private individuals donating significant amounts of time and money to maintain this historic trail, conducted a thorough search to locate a comparable trail route. Unfortunately, the foundation has been unable to locate a trail with similar accessibility and/or rich history. Thus, unless Congress rectifies this ill-fated situation, these historic events which enjoy broad support from the public face an uncertain future. Inasmuch as Congress never intended to preclude these special annual events, it is my sincere desire that my colleagues will join me and support swift passage of this measure to alleviate this unintentional roadblock to the continuance of the Tevis Cup Ride and the Western States Endurance Run.

In summation, I strongly urge my colleagues to embrace this straightforward, noncontroversial legislation and trust, once reviewed, that you will conclude that it is worthy of your active support.

RAOUL WALLENBERG SCHOLARSHIPS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. LANTOS. Mr. Speaker, international dialog and understanding is best achieved through cross-cultural exchange. The Raoul Wallenberg Scholarships for outstanding American students enable young leaders of the upcoming generation to study at the Hebrew University in Jerusalem and become immersed in the life of another culture.

These scholarships were created in memory of Raoul Wallenberg, a Christian Swedish diplomat who repeatedly risked his life to rescue over 100,000 Jews from the death grip of the Nazis during World War II. Recipients of these scholarships share Wallenberg's commitment to human rights and the preservation of democratic ideals.

Mr. Speaker, I would like to take this opportunity to commend and congratulate the winners of these scholarships and share with you and my colleagues in the Congress excerpts from their outstanding scholarship essays.

Vered Sharon is one of the group of outstanding scholarship winners. She also chaired a congressional forum on Wallenberg. Her essay states:

> At a time when democratic leaders were acting exclusively in their own national interests, Wallenberg—who was neither a Jew nor a citizen of Hungary—acted solely in the name of humanity. He courageously volunteered to leave behind his family and successful business in order to "save as many Jews as possible."
>
> To this end, he risked his life and worked tirelessly day and night. He repeatedly traveled to where the Jews were rounded up for deportation and with his illegal Schutz-passen (Swedish protective passes), faced down the SS officers, demanding that they release the Jews.
>
> Once, when he arrived too late and the Jews had already been shoved into the cattle cars, Wallenberg, in this three-piece suit, climbed on top of the train to where there was an opening. As the SS shot at him, he calmly handed the Schutz-passen to all those that reached for them. Afterwards, the SS actually released these Jews into Wallenberg's protection.
>
> Miriam Herzog, one of the Jews saved by Wallenberg, recalled her impression of him. Recounting the arduous 125 "death march" to the area of deportation, she described how the Nazis murdered any Jew who collapsed from fatigue and how the village people hurled hateful remarks at the Jews as they marched.
>
> Thus, it was in a most dejected frame of mind that they finally reached the place where they were to be deported to Auschwitz. It was then that Wallenberg arrived. Herzog recalled his words: "I wish I could save all of you, but, I can only save a number of you. And, forgive me but I must take the young ones. For you see, I want to save a nation."
>
> Recollections of this kind suggest the depth of Wallenberg's commitment to humanity. This noble commitment, free of all personal interest, served as his guiding force throughout his endeavors in Budapest and should serve too, as a guiding principle for national leaders.

Another Wallenberg scholar, Mitch Neurock, wrote his essay on the problems faced by democratic leaders in developing countries and the courses of action that are open to them. The experience of Raoul Wallenberg provides an example in dealing with some of the complicated issues democratic leaders face. As developing nations achieve "economic, political, or even military power, problems challenge the very possibility of democratic development."

> What is important is not merely the decision itself, but the decision-making process which is the mark of the level of democracy in a particular state. A democratic leader can enhance his own position, and that of his nation, through the exercise of common sense and competence.

Michael Beals' essay discusses the role the United States should play in the Middle East peace process. His thoughtful analysis emphasizes the importance of cross-cultural exchanges and understanding—the purpose of the Wallenberg scholarships.

In order for any type of meaningful peace process to proceed in the Middle East, there must be an atmosphere of empathy. Each side must have the ability to understand the other's fears, hopes and desires. Each side must be able to identify common goals and use these as a point for negotiation.

At present, there are so many preconditions for discussion and there is so much lack of empathy, that the notion of another U.S. presidential peace proposal would be nothing more than an exercise in redundancy. The United States, with its physical and financial resources, can add creativity and success to its Middle East policy by adding a strong and committed cultural policy designed to foster exchange alongside what military, economic and political policies are deemed necessary to maintain U.S. security interests in the region. Only by creating an environment for peace can there be peace.

These well-organized, thought-provoking essays indicate how well the Wallenberg scholars will represent the United States when they begin their studies at Hebrew University in Jerusalem. Through their hard work and future successes, the Wallenberg scholars will continue to make the word "Wallenberg" synonymous with commitment and compassion.

NELSON MANDELA

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. OWENS of New York. Mr. Speaker, on July 18, one of the longest held political prisoners in the world observed his 69th birthday in Cape Town, South Africa's Pollsmoor Prison: Nelson Mandela, leader of the antiapartheid organization, the African National Congress.

In 1964, Mandela and 6 other ANC members were charged with committing nearly 200 acts of sabotage and conspiracy to overthrow the government by revolution, despite a lack of credible evidence on either charge. Conspiracy to overthrow the government is a capital offense in South Africa; only the outcry from the international community, and an unprecedented, unanimous vote in the United Nations expressing support for Mandela and the others, saved them from execution. Instead, they were sentenced to life imprisonment, with no possibility of parole.

If Mandela is guilty of any crime, it is the crime of dedication and commitment to freeing his people from apartheid. Born in South Africa's Transkei area into the royal family of Tembu, Mandela had an inbred sense of responsibility to his people. His lifetime efforts to bring about a nonracial, democratic system of government in South Africa were largely inspired by the stories the elders of his village told him about the system of tribal government which existed before the British and Dutch colonizers took over South Africa.

"Then our people lived peacefully under the democratic rule of their kings * * *" Mandela recalled. "The land belonged to the whole tribe. There were no classes, no rich or poor and no exploitation of man by man * * *.

"The (tribal) council was so completely democratic that all members of the tribe could participate in its deliberations."

Mandela joined the African National Congress as a youth during the early 1940's following his suspension from Fort Hare, the "blacks only" university, for participating in antiapartheid student protests. The ANC had always employed nonviolent methods, such as petitioning the government, protest meetings, and use of the courts, to challenge South Africa's racist laws. But Mandela and two of his young ANC colleagues, Walter Sisulu and current ANC President Oliver Tambo, mounted mass nonviolent resistance actions under the auspices of the ANC Youth League, which they founded in 1944. Mandela was the guiding force behind the league's successful 1952 defiance campaign, in which thousands were deliberately arrested protesting the country's pass laws and color-bar regulations.

Mandela eventually completed his education, becoming a lawyer who represented victims of apartheid. His increasing activism, however, made him and his family particular targets for arrests, harassment, and surveillance by the South African police. In 1960, Mandela and other ANC members were arrested and tried for treason, but acquitted because the state failed to prove the ANC was a Communist organization or that it operated on a policy of violence. In 1962, he was rearrested and imprisoned on the charges of inciting South African blacks to strike, and with leaving the country without valid travel documents. He was sentenced to 5 years of hard labor, and had already served part of his sentence when he was charged in 1964 with the six other ANC members for sabotage and conspiracy to overthrow the government.

Throughout his 23 years in prison, first on Robben Island and later in Pollsmoor, Mandela has been subjected to constant physical and psychological abuse. His diet has consisted only of corn porridge and stale vegetables. He has been forced to work on road gangs or to dig holes in lime quarries in the dead of winter and the scorching summer's heat. Visits by family members and letters from home are limited and strictly monitored.

In 1985, South African State President P.W. Botha announced that he would consider freeing Mandela, and the other ANC members arrested with him, if he would renounce violence. Mandela's reply, issued through his daughter Zindzi, was:

> Let (Botha) renounce violence. Let him say that he will dismantle apartheid. Let him unban the people's organization, the African National Congress. Let him free all who have been imprisoned, banished or exiled for their opposition to apartheid. Let him guarantee free political activity so that people may decide who will govern them.
>
> I cannot and will not give any undertaking at a time when I and you the people are not free. Your freedom and mine cannot be separated.

We in the United States who also believe in freedom cannot allow Mandela to observe yet another birthday in prison. We call on the Reagan administration to end its policy of constructive engagement or friendly persuasion with South Africa, and cut all economic, political, and diplomatic ties with the racist regime, until it abolishes apartheid, negotiates a democratic government with the true representatives of South Africa's majority black population, and frees Nelson Mandela and all political prisoners.

MURDERING SDI

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. COURTER. Mr. Speaker, one of the lesser noticed practices of terrorist groups in Europe is attacking targets which are of special value to the North Atlantic Treaty Organization [NATO]. Fuel pipelines, computer companies, and defense contractors are all hit with more frequency than many Americans realize. And of course, the attacks upon European and American soldiers and their bases are continual. There is very definitely a military side to political terrorism.

I was therefore extremely concerned to see a pattern developing in Europe this year in which scientists and military officers closely involved with strategic defense work and the European role in SDI were dying in remarkable numbers. Yet as of May 2, when I raised the issue in a speech before the Committee for the Free World, there was only a press item or two to indicate anyone had noticed a pattern, or taken any interest in it.

I was pleased to learn subsequently that the president of the National Forum Foundation, Mr. Jim Denton, had been making a thorough inquiry into this concert of circumstances. The results of that inquiry, just published this month, literally merit headlines.

It is not reasonable to believe that America and her European allies are dealing with coincidence. The details are too overwhelming in number, too consistent, and in some cases too explicit—statements by the terrorists acknowledge that SDI is the real target of their assassinations.

I would strongly urge my colleagues in the House to read the Jim Denton/Peter Schweizer article closely, and to consider its implications. Among these, certainly, must be the unity of left-wing terrorists in Europe, the military ramifications of their peacetime strikes, and the confluence of interests—at the very least—between the leftist terrorists international and the U.S.S.R., which has made many official efforts to kill SDI.

[From the National Review, July 31, 1987]

MURDERING SDI

Since last July there have been seven terrorist bombings, three assassinations, five highly suspicious "suicides," and one disappearance among European scientists, researchers, defense contractors, and military and government officials. All the victims were involved with high-tech, defense-related research, most of it linked directly to the Strategic Defense Initiative (SDI), and all the deaths took place in the midst of a high-profile campaign by the Soviets to kill SDI development. Three of the dead men were senior advisors to Western European governments; each of them had participated in sensitive and previously secret SDI "cooperation talks" between their respective governments and Washington. Although some individual reports of the more dramatic terrorist incidents have appeared in the press, as yet not one in the U.S. Government or media has seriously addressed the SDI-related killing spree.

On July 9, 1986, Karl-Heinz Beckurts and his driver were killed by a remote-control bomb outside Munich. Beckurts was the Director of Research at the Siemens Company, an SDI contractor; in June 1985, he had met with U.S. Government officials to discuss the possibility of conducting SDI research. According to a report in the Los Angeles Times (July 10, 1986), government officials said Beckurts had been involved in research on SDI technologies, although a company spokesman denied it. In late 1985 and early 1986, Beckurts served as an advisor to the Bonn government during SDI cooperation talks with Washington. A letter left by the Marxist Red Army Faction (RAF) indicated Beckurts was assassinated because of his involvement in these "secret negotiations." Beckurts name appeared on an RAF hit list of businessmen and researchers who had expressed interest in SDI, which was found during a raid on a Red Army Faction safehouse shortly after Beckurts death.

On October 10, 1986, Gerold von Braunmuhl, a West German Foreign Ministry official, was shot dead by a masked gunman while leaving a taxi near his home outside Bonn. Von Braunmuhl has been a principal advisor to West German Foreign Minister Hans-Dietrich Genscher during SDI cooperation talks with the United States. According to the Frankfurter Allgemeine Zeitung, von Braunmuhl had "great responsibilities" in these secret talks and "will hardly be replaceable." Near the scene of the murder police found a six-page letter written by a faction of the RAF claiming responsibility. In an apparent reference to von Braunmuhl's role in West Germany's secret discussions with Washington, the communiqué stated: "Today we have, through the Ingrid Schubert Commando, shot dead the secret diplomat von Braunmuhl." Investigators say that the same typewriter was used in the von Braunmuhl and the Beckurts communiqués.

NO TO STAR WARS

On March 20, 1987, General Licio Giorgieri of the Italian Defense Ministry was gunned down by two assassins on the streets of Rome. Giorgieri, the Director General of the Department of Space and Armaments Procurement at the ministry, was the leading advocate of SDI in the Italian armed forces. Giorgieri, like Beckurts and von Braunmuhl, served as a principal advisor to his government during the SDI cooperation talks. The Union of Fighting Communists, a faction of the Italian Red Brigades, claimed responsibility for the attack in a rambling 14-page communiqué. According to that document, Giorgieri "was struck down exclusively for his responsibility exercised following the Italian adhesion to the Star Wars project." The word "exclusively" was underlined in the document, which closed with: "No to Star Wars." Only a few days later, French police reported that Giorgieri's name appeared on yet another hit list, this one discovered in a raid on a Direct Action safehouse in Orleans. Direct Action is a well-known Marxist terrorist group.

While these attacks against high government officials were taking place, private European defense contractors were also targeted by terrorist groups. As a matter of security, virtually all defense contractors had initially attempted to keep their SDI contracts secret. And for good reason. In several instances, terrorist attacks followed hard on the heels of public disclosure that a company was seeking or participating in SDI-related research.

On June 18, 1986, the German Ministry for Research and Technology released Paper No. 31-86, identifying companies engaged in research on missile-defense-related technologies. Barely a month later, two of the companies listed were attacked. On July 24, the offices of the Fraunhofer Research Institute in Aachen sustained heavy damage from a bomb blast. According to Paper No. 31-86, Fraunhofer was conducting SDI-related research on a high-energy laser project known as Eurolaser. On July 25, a 15-pound bomb rocked the headquarters of the Dornier Company in Immenstaad. Dornier was working with the Sperry Corporation on the Instrument Pointing System, a device that allows objects in space to be targeted with greater accuracy.

In August, two months after the CSF Thomson corporation was publicly awarded an SDI contract, Thomson's Paris office was bombed. The firm was working on free-electron lasers, a technology that, according to General James Abrahamson, director of the U.S. Government's Strategic Defense Initiative effort, would make "a dramatic difference" in the SDI system. Thomson was also reportedly working on gallium-arsenide integrated circuits for SDI. These circuits, which are faster than silicon chips and more resistant to countermeasures, are designed to reduce the reaction time of the weapons system. According to French embassy officials in Washington, Direct Action is believed to be responsible for this attack.

On September 18, 1986, the Research Institute of Optics in Tubin, West Germany, was bombed. Rumors had circulated that the institute was conducting research on SDI, but the firm strongly denied it. According to a spokesman for the institute, as reported in the German press, the institute is "not engaged in any research connected with SDI."

Again, on October 29, barely a month after a public announcement that the AEG Company of West Germany was bidding on an SDI contract, its Copenhagen office was bombed. AEG was proposing to study means of applying SDI technology to a missile-defense system for Western Europe under the Theater Defense Architecture Study.

The IBM Research Center in Heidelberg, West Germany, was damaged on November 16, 1986, when a bomb exploded inside. The Red Army Faction claimed responsibility for the attack. IBM had four SDI contracts, although it is not clear whether SDI work was being done at the particular facility that was bombed.

On November 20, 1986, the home of Guenter Spur was shattered by a bomb. Spur, the director of the Fraunhofer Institute's Berlin office, survived the apparent assassination attempt.

Unlike the aftermath of the murders of Beckurts, von Braunmuhl, and General Giorgieri, there were no communiqués issued connecting the bombings with SDI. Perhaps it is only coincidental, but the intensity of these attacks and their concentrated focus on SDI contractors strongly suggest that the ultimate target was SDI.

NO WITNESSES, NO MOTIVE

During the same period in which anti-SDI attacks were taking place on the Continent, there was in Great Britain a bizarre suicide wave. Five high-tech defense researchers—at least three of whom were apparently working on SDI-related research—died, apparently by their own hand.

In August 1986 Vimal Dajibhai, a computer-guidance expert with Marconi Defense Systems, Britain's largest SDI contractor, apparently committed suicide by jumping from a bridge in Bristol. In a telephone interview Bristol police said there were no witnesses nor could they find a motive. A month later, in an especially determined effort, Ashhad Shariff, a computer expert with Marconi who was reportedly working on the interception of projectiles, apparently killed himself by driving off in his car after having first tied one end of a rope around a tree and the other end around his neck. According to the same Bristol police: no witness, no motive.

On March 30, 1987, David Sands, a computer expert with Easams, also an SDI contractor, was killed when his car slammed into an abandoned building in Surrey. The car, which had been loaded with gasoline-filled containers, exploded violently. Again: no witness, no motive.

In January 1987, Aytar Singh-Gida, a Sikh friend of Dajibhai, disappeared while conducting tests in central England. Singh-Gida was working on military-funded research on sonar technologies, research with apparent SDI applications. Police are still investigating his disappearance, including recent reports that he has been spotted in the red-light district of Paris.

There have been two other mysterious suicides by individuals who, though not directly engaged in SDI research, were connected with high-tech defense-related industries. On February 21 of this year, Peter Peapell, a senior lecturer at Britain's Royal Military College of Science, died in his garage as a result of carbon-monoxide poisoning. He apparently took his own life, after he and his wife entertained friends at their home. According to press accounts, the wife knew of no motive. And in May 1987, Richard Greenhalgh, a 46-year-old computer salesman with Defense Center of ICL, apparently slashed his wrists and leaped off a bridge onto railroad tracks some sixty feet below. Greenhalgh survived the fall but died a few days later in a nearby hospital. At the time police said there were neither witnesses nor any apparent motives. Defense Center of ICL is the principal computer contractor for the Royal Navy's Opcon Command and Control Center at Northwood, London.

A LOCAL MATTER?

This peculiar series of deaths has not been entirely overlooked by the British government. In Parliament, John Cartwright of the Liberal/Social Democratic Alliance has called for an investigation. In a letter to the Defense ministry, he noted: "Mr. Dajibhai, Mr. Shariff, and Mr. Singh-Gida were all working on aspects of underwater vibration simulation which has extensive implications for the Strategic Defense Initiative. I understand that Mr. Sands was also involved in SDI-related research on computer-controlled radar." The British government, however, maintains that these victims were not connected with the SDI research program, and that they were merely conducting research related to the interception of projectiles. British embassy officials in Washington acknowledge, however, that this research would "most definitely" have potential application to SDI. Thus far, the government considers the deaths a local matter and is not conducting its own investigation.

Back in July 1986, Kurt Rebmann, Germany's Federal Prosecutor investigating the Beckurts murder and the Dornier and Fraunhofer bombings, told the New York

Times that he believed these three attacks were part of "a coordinated offensive" against the West in general and SDI in particular. The subsequent terrorist assassinations and bombings—as well as the discovery of the communiqués and hit lists—appear to confirm Rebmann's early suspicions. There may be no connection between the bombing spree in Europe and the suicide binge in Great Britain, and in none of the SDI-related suicides is there any hard evidence of foul play. Perhaps it is just a statistical aberration. But it is curious that British high-tech researchers became particularly vulnerable to suicide at the precise time terrorists were striking at SDI targets on the Continent.

What is clear from their own words is that several European terrorist groups are zeroing in on SDI, a dramatic and ominous departure from their traditional tactics and strategy. According to Dr. Yonah Alexander, author of thirty books on international terrorism, "Left-wing European terrorist groups traditionally confine themselves largely to political targets, symbols of capitalism and 'Western imperialism,' the victims usually having nothing in common except perhaps being part of 'the system.'" In the past, European terrorists were rarely driven by anything more specific than a desire for ransom or for the release of their comrades in prison. But the recent attacks appear aimed at sabotaging a specific military weapons system by adding enormous human and financial costs to the contractors' cost benefit equation, as well as by intimidating SDI proponents and scientists at every level.

Why have a number of otherwise independent terrorist organizations suddenly banded together to sabotage SDI development? It is tempting to speculate that the Soviets' high-intensity public-relations campaign to stop SDI has exceeded diplomatic norms. Of course, it may be just another freak coincidence that the Soviets' assault on SDI was launched simultaneously with the terrorists' strikes. Another possibility is that Marxist terrorists are taking their cues from Moscow's public statements, without direct KGB involvement. Senator Robert Dole plans to call for an investigation into the SDI attacks that may answer these questions.

Until then, we do know that Soviet leaders are desperately anxious to stop the development and deployment of the Strategic Defense Initiative, and that they have an established record of willingness to knock off civilians in furtherance of political goals. In view of the Kremlin's preoccupation with killing SDI, its cozy relationship with various terrorist groups, and the pattern of its past behavior, it would be naive and irresponsible to ignore its possible complicity.

A TRIBUTE TO LT. COL. OLIVER NORTH

HON. JIM BUNNING

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. BUNNING. Mr. Speaker, for the past 9 months, this administration in general, and Lt. Col. Oliver North in particular have been tried by the press and have been tried by rhetoric, innuendo, and speculation in this body.

Last week, when Colonel North finally came to the stand, the American people got to judge for themselves. They had a chance to listen to the man who has been vilified for months as being a loose cannon. They had a chance to see with their own eyes, the man who has been pictured for months as a rogue elephant and an extremist.

And Mr. Speaker, the verdict of the people is considerably different than what we have been hearing for the past 9 months.

Since Colonel North took the stand, we have received nearly 300 phone calls in my congressional offices. And of all those phone calls, maybe six have agreed that Oliver North was a rogue or a loose cannon. The other 98 percent of the callers came up with a different verdict. Their verdict was that Colonel North is a patriot—not a rogue elephant. Their verdict is that Colonel North deserves our respect and gratitude rather than our damnation and disdain.

The people who are calling into my offices clearly do not believe that patriotism is a fatal character flaw at all.

The fact, the people calling into my offices generally think that Congress may be guilty of worse crimes than anything Colonel North has done.

Many of the callers feel that what should have been an impartial fact-finding hearing was instead a hanging trial from the beginning, studded with unfairness and laced with partisan gamesmanship.

The general consensus seems to be that Colonel Oliver North may have made some mistakes in judgment during his involvement with the Iran-Contra affair. But that Congress has made some very serious mistakes itself in the way it has handled the whole affair.

In fact, the American people seem to be willing to forgive Ollie North for his mistakes because they were motivated by patriotism—a virtue that I happen to think is pretty noble myself. It will be interesting to see what the final judgment of the American people will be about the motivating forces behind the heavy-handed way Congress conducted this entire affair.

I, for one, do hope that the dramatic testimony of Colonel North and the responsive chord it touched with the American people will make this Congress think twice about the way it has attempted to conduct foreign policy.

Yes, it is wrong for one man like Ollie North to conduct a foreign policy on his own. But he was motivated by patriotism, deep convictions, and a strong belief in freedom.

It is equally wrong for 535 Members of Congress to set themselves up as little Secretaries of State, each trying to conduct our Nation's foreign policy on their own, motivated by partisan advantage, political gain and personal whim.

When you get to the bottom line, the plain fact is that there would have been no need for Colonel North to do what he has done if Congress had been doing what it is supposed to do.

I think we owe Colonel North a big thank you.

RUNNING TO END WORLD HUNGER

HON. RICHARD H. LEHMAN

OF CALIFORNIA

HON. TONY COELHO

OF CALIFORNIA

HON. CHARLES PASHAYAN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. LEHMAN of California. Mr. Speaker, today an estimated 40,000 individuals worldwide will die from the effects of hunger; this year alone over 15 million lives will be lost due to malnutrition related illness and death. As equally staggering as these statistics are is the projection that this grim reality can be eliminated by the year 2000. This message of hope and efforts to accomplish this goal are set forth worldwide by 13,000 members of the World Runners organization, six of whom are from our congressional district in Fresno, CA.

World Runners is a nonprofit international running organization with membership from 47 countries around the globe. Like most running clubs, World Runners is engaged in athletic competition, sportsmanship, and teamwork. Unlike most running clubs, however, World Runners is committed to ending hunger and death by starvation in our lifetime.

The Fresno contingent of World Runners includes: Peter Vasilovich, administrative assistant to State Senator Rose Ann Vuich; J. Cari Elliott, vice president of the Hospital Council of Central California; Lisa Ruffner, travel agent; Stephen Pearson, certified public accountant; Ted Ruffner, securities broker; and Paul Epp, World Runner's Fresno area representative.

The Fresno World Runners will travel with their message to Moscow on August 8, 1987, and will participate in the 1987 International Peace Marathon. Just as in 490 B.C., the legendary Greek soldiers ran from Marathon to Athens to deliver the news of an Athenian victory over the Persians, so too the Fresno runners will deliver their message of hope and foreseeable victory over world hunger. The runners will act as ambassadors of the United States, the richest, most productive agricultural and industrial nation in the world, to promote the goal not only in the lesser developed countries of the world but throughout America as well. Their global message urges the linking of United States and U.S.S.R. food production and food distribution for the purpose of eliminating hunger worldwide.

The group runs for donations which go to hunger relief agencies around the world, including: the African Food and Peace Foundation, Bread for the World, Catholic Relief Services, UNICEF, World Vision, and more. The World Runners' worldwide fundraising goal for the Moscow marathon is $500,000; the Fresno runners hope to contribute $50,000 to this effort.

Glasnost is the Russian word for the new openness displayed in Soviet society since the rise to power of Mikhail Gorbachev. The 26.2 mile Moscow marathon, in which the World Runners will participate, is another in a series of citizen level demonstrations in the Soviet Union which reflects the glasnost spirit. The Fresno World Runners will run in the event in T-shirts which read "Za Mir Bez Goloda, for a World Without Hunger."

Mr. Speaker, we have the resources and the technology to end world hunger. Now all we need is the commitment. We commend the six Fresno runners for showing such commitment and wish them the best of luck not only in the Moscow marathon, but in their efforts for the elimination of hunger which will continue long after they finish the 26.2 mile race.

THE REAGAN DOCTRINE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. SOLOMON. Mr. Speaker, it's been a sad fact of postwar life that every recent President has seen at least one country lost to communism. It was a fact, that is, until Ronald Reagan. Not only has he not lost one country on his watch, but he has fashioned a foreign policy to reverse, rather than merely contain, Soviet expansion. It's called the Reagan doctrine, and if there is anything that vindicates the Reagan doctrine it is the growing success of the anti-Communist rebels in Angola. We are reminded of that progress, and the parallel miseries of the Cuban merceneries there, by the revelations of Cuban defector Rafael del Pino, a former air force major general for Fidel Castro.

Now, it is only a question of whether or not Congress has as much courage as the freedom fighters in Angola and elsewhere throughout the globe.

BUT WHAT WILL HAPPEN WITH OUR CHILDREN?

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. HOYER. Mr. Speaker, "state secrecy" has been a major criteria for denial of emigration for many Soviet Jews. But what of the children of those refuseniks who also are refused for no reason other than being the children of their parents. What of their future?

During my trip to the Soviet Union, a group of women appealed to me, as Chairman of the Commission on Security and Cooperation in Europe, to help bring to the attention of Soviet authorities the plight of the children of refuseniks. These women feel that the next generation may also suffer the same plight as their parents. Mr. Speaker, I ask that their appeal be included in the RECORD.

DEAR SIR: There is a process of democratization and reconstruction in the Soviet Union. Some refusenik cases are reconsidered in positive and humanistic ways.

This process unfortunately did not touch upon the families which were refused visas to leave the U.S.S.R. because of state secrecy—security refusal. The pretext of state secrecy is absurd by itself after a long period of waiting—5, 10, 15 years.

But we would like to draw your attention not to our own fate, but to the fate of our grown up children, to the fate of our next generations, who had never anything to do with any secrecy—they are detained because of state secrecy * * * of their parents.

The same senseless reason became an unbreakable stone wall for them as well, and for their children—for the whole line of our generations. And Soviet authorities refuse to consider their cases separately from us. Our children were little ones when we applied for Israel for the first time. Now they are young people between twenty and thirty, some of them have their own families. They have been living in a very difficult position of refuseniks for the whole of their life.

Meanwhile to permit our grown up children to emigrate separately is a very easy task for Soviet authorities to decide, because they never had any contact with state secrecy and we, their parents, haven't any material or financial claims.

We ask you to help us with this extremely important problem, the fate of our children not to be the same tragedy as ours.

Yours respectfully,

Evgenia Palanker, Elena Margulis-Krasavthicova, Erlena Matlina, Natalja Rosenstein, Hina Bogdetieva, Ida Taratuta, Irina Llyn, Anna Liberman, Polina Parizkaja, Vika Ivanovskaja.

A CONGRESSIONAL SALUTE TO FILE AND VIRGINIA CORDOVA

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. ANDERSON. Mr. Speaker, it is my distinct honor to rise today to pay tribute to File and Virginia Cordova on a very special occasion. Mr. and Mrs. Cordova will be celebrating their 50th wedding anniversary on August 16, 1987.

Marie Virginia DeHerrera was born November 24, 1915, in Mogota, CO, and attended Longfellow Elementary School, Salida Junior High School, and Salida High School in Salida, CO. File Cordova was born August 11, 1912, in Mosquaro, NM. He attended Pagosa Springs Elementary School in Pagosa Springs, CO, and El Rito Normal School in New Mexico.

In their 50 years of marriage, the Cordovas have lived in New Mexico and Colorado. They have been blessed with six children; Patricia; Raymond—who served in the U.S. Army and spent his tour of duty in Germany; Robert—who served in the U.S. Navy and spent his tour of duty in Japan; Ben—who served in the U.S. Marine Corps.; Donald—who served in the U.S. Air Force; and George who served in the U.S. Army and spent his tour of duty in Vietnam. File and Virginia also have 13 grandchildren, and 5 great-grandchildren.

File, now retired, worked for Ringsby Truck Lines for 25 years. Both File and Virginia have been active in party politics, as well as serving as precinct workers on election day in Colorado.

Mr. Speaker, File and Virginia Cordova will be celebrating something that is so very special, and is in itself a tribute to their commitment to one another. My wife, Lee, joins me in congratulating File and Virginia on their 50th wedding anniversary. We wish them and their children, Patricia, Raymond, Robert, Ben, Donald, and George; their 13 grandchildren, and 5 great-grandchildren happiness and all the best in the years ahead.

NEW YORK'S WELFARE HOTELS

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. OWENS of New York. Mr. Speaker, we are reminded daily that the Child Abuse Prevention and Treatment Act which this House passed recently is a small and relatively insignificant Federal effort to address the problems of child maltreatment in this country. Child abuse comes in a variety of forms—H.R. 1900 was an attempt to encourage the States to combine their efforts at reaching the most patent forms of abuse and neglect and to stimulate prevention efforts. However, we need to consider the less obvious kinds of child abuse and neglect, problems perpetrated less by malignant or negligent adults but by the cruel weight of poverty and lack of opportunity. A New York Times report—Thursday, July 16—pointed recently to these devastating effects when commenting on the plight of the children who spend time in New York City's "Welfare Hotels." There are currently 8,980 housed children in the hotels crammed 6 or 7 to a room, eating one hot meal a day. It is estimated that by the year 2000 an additional 20,000 children will be placed in the system.

The New York Times report contains a depressing glimpse into a chasm of childhood poverty within one of the most affluent centers of the Western World. A psychologist quoted in the article states that most children in the hotels learn very early on not to trust others. One out of every three high school students drops out of school and stands at a high risk of ending up in poverty. At a time when our Government is rife with scandal this story represents a more significant indictment of a system that frustrates the hopes of young lives and those of their parents. Apparently it costs $1,600 a month to keep a family of four at a hotel, and a family must stay 18 months before becoming eligible to move to city-owned housing. For city hall the wait is more tolerable when 75 percent of the bill is picked up by State and Federal Government. It is the residents belief that they could rent something better for $1,600 than one room lined with bunk beds.

The days of the war on poverty might be over but those still trapped beneath the crushing weight of need still have to fight for survival. Within that struggle those with the greatest to lose are our children—the hope we maintain for a better future. While it is fashionable to be cynical about government and its capacity to solve society's ills, we will be fortunate if today's victims of neglect grow up with such smug notions. More than likely we will all pay for our lack of care and attention in increased crime, unemployment, and more and more welfare hotels housing increasing levels of frustration.

Mr. Speaker, I commend the New York Times article to the attention of my colleagues.

[From the New York Times, July 16, 1987]

WELFARE HOTEL CHILDREN: TOMORROW’S POOR

(By Lydia Chavez)

In the cavernous ballroom of the Prince George Hotel, four boys were shooting pool, talking as tough as any New York pool sharks. One wore just his shorts, and another’s face was smeared with sweat. With the boys as old as 12, they might have seemed wise about the streets—except that two of them were sucking their thumbs.

Nearby, Jessie, a gangly 11-year-old, introduced a visitor to his stuffed puppy. “His name is Snuff,” he said, clutching a doll that seemed appropriate for a child half his age.

In the year 2000, these children—and more than 10,000 others who live in the welfare hotels in New York City—will be in their 20’s. A special mayoral commission predicted that unless the city intervened, many of the children were destined to be tomorrow’s poor.

A psychologist said the children would also be alienated adults, unable to forge relationships and tending toward anger, criminality and poor educational achievement.

PHYSICAL AND EMOTIONAL NEEDS

The Prince George, on East 28th Street, where more than 1,300 children live, provides a signpost.

A psychologist who works at the hotel, Dr. Steve Himmelstein, said the thumb sucking and stuffed animals were symptoms that the children were needy in the physical and emotional senses. Most children in the hotels, he said, learn early not to trust others.

“Their needs are not being met,” he said. “They simply don’t trust from a very early age. It makes it very difficult to have genuine give-and-take relationships later on.”

“They aren’t nurtured very much, and that is why you see thumb sucking as old as 8 or 9 years old,” Dr. Himmelstein said. “They are the future, as all kids are, and it’s scary.”

Most of the children begin life and enter adulthood among conditions that yield depressing statistics. Two-fifths of the children live in poverty, according to the Mayoral Commission on the Year 2000. One of every three high school students drops out.

Most of the children are black and Hispanic. Their male role models are twice as likely to be unemployed as white males. The female role models are overrepresented among the unwed mothers and have often given birth in their teen-age years.

There are 8,980 children in the hotels. They are crammed four, six or seven to a room and eat one hot meal a day. At the present rate, an additional 20,000 children will be in the system in 13 years.

A year ago, there were 50 hotels. Now there are 63. Every month, 750 families enter the system and 700 leave, according to the city.

The prospect of the year 2000 and growing up does not excite many of the children. Their dreams—if they exist—are generally retreats from the discomforts of today.

“I DON’T WANT TO FEEL DIRTY”

Rasheen, 6, is unsure of what he wants to do. Joey, 11, talked about wanting to be a social worker.

Javier, 12, with a split tooth, thought he would like to clean streets. “I don’t want to feel dirty,” he said. “No one wants to feel dirty.”

For most of the children, their parents are their sole role models. They mimic the parents’ dreams and frustrations as naturally as they imitate hairstyles and language.

Jason, 12, wears his blond hair like his father’s, a little on the long side. The son, as does the father, refers to the family’s circumstances as “undomiciled.”

His father, David Mirayes, 32, an unemployed musician, said the family went to the Prince George last March, after his second wife had become ill and needed his care.

She was upstairs, he said, resting. His 22-year-old stepdaughter was also in bed. She has a thyroid condition, and her weight becomes unbearable in high humidity, he said.

COMMUTE TO STATEN ISLAND

Mr. Mirayes talked angrily about how the system had mishandled his family and how they should have been placed on Staten Island, where they had always lived.

Jason repeated in similar language his frustration at missing five weeks of school during their move and how he commuted from the Prince George Hotel to Staten Island to attend his regular school.

For the moment, Mr. Mirayes only sees obstacles in his returning to work. He cannot, he said, leave his family alone at the hotel because he fears for their safety. Moreover, he said, finding work is difficult, because he sold his instruments to help feed the family.

He also speaks of striking it rich with a toy bear his stepdaughter has designed, “the ubu.” If his plan seems unlikely, Jason holds onto it tightly.

“The ubu,” Jason said, “that’s what’s been keeping our family alive.”

Ernie Richardson, director of an after-school program of the Children’s Aid Society, said of the children at the hotel:

“The majority of them end up like their parents. The little girls will be like their mothers—pregnant.”

When the boys become teen-agers, according to Mr. Richardson, they become uncontrollable.

Arlene Bruce, 35, has been at the hotel with her 12-year-old son and 4-year-old daughter three weeks. She has been on welfare 11 years, and landed at the Prince George after her benefits had been mistakenly cut off.

Last week, she sat at one of the long tables eating a hot lunch that consisted of breaded meat, pale mixed vegetable and a small cup of fruit. Someone played a piano in the corner, and a group of children sang songs from “Annie” and “The Sound of Music.”

Her first husband, Ms. Bruce said, left her when the doctor announced their son was deaf and dumb. Pointing at her daughter, she added, “Her father beat me, so I left him.”

The girl, her long brown hair pulled back with a band said, “You see, Mommy was mad at Daddy, and Daddy was mad at Mommy.”

Ms. Bruce said she planned to leave the Prince George before too long. She said she could not take sleeping on a bottom bunk, adding, “I feel like I am in a coffin.”

Sandra Clemens, 25, and the mother of two, was living with her mother in Brooklyn when she decided to return to her husband. He lived in a shelter, and it took two weeks before the family could be transferred to the Prince George.

Ms. Clemens’s parents were divorced when she was 1. Her father died when she turned 21. By the year 2000, she said, she will be working as a nurse’s assistant. She is unsure, however, what the future holds for her husband.

“He’s on and off,” she said. “He’s lazy. Sometimes he just decides he doesn’t want to work.”

When Ms. Bruce was asked why she stayed with him, she answered.

“That’s a question I still try and ask myself. He doesn’t abuse me, and he doesn’t drink. The only problem is the work. I guess I know how it was to be raised without a father.”

The mayoral commission warned the more fortunate residents that if class tension was to be avoided, the city must demonstrate to the poor these promises.

That the city offers equal opportunity.

That success can come through work.

That violence and dependency unacceptable.

FOR $1,600 A MONTH

The recommendations make no sense to many residents at the hotels. Opportunity is almost a foreign word. Their immediate concerns are most important, and those circumstances are confusing at best.

The government spends $1,600 a month to keep a family of four at a hotel. A family must stay 18 months before becoming eligible to move to city-owned housing.

For $1,600 a month, residents said, they could rent something better than one room lined with bunk beds. The 18-month wait only prolongs their hopes for a new beginning.

To the city, there is a rationale behind the large payments and the long wait. The director of the homeless program for the Children’s Aid Society, Leslie Lannon, said the city paid 25 percent of the housing bill. The rest is paid by the Federal and state Governments.

“In a funny way, it’s cheaper for the city to keep them in hotels than to renovate buildings,” Ms. Lannon said.

The 18-month limit was imposed after Mayor Koch had decided to try to give housing to the families that had been in the system longest.

DRUGS AND THE CONTRAS: NO CONNECTION

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. COURTER. Mr. Speaker, given the persistent nature of allegations that the Nicaraguan resistance is funding operations by running drugs, I wish to introduce into the RECORD the press notices about a subcommittee hearing in which those charges were discussed and found to be without basis.

The articles, from the Washington Times and the Washington Post, are dated July 22, 1987.

[From the Washington Post, July 22, 1987]

HILL PANEL FINDS NO EVIDENCE LINKING CONTRAS TO DRUG SMUGGLING

(By David S. Hilzenrath)

A House committee that has been investigating allegations that leaders of the Nicaraguan contras were involved in drug smuggling yesterday reported it has discovered no evidence to support the allegations.

"None of the witnesses gave any evidence that would show the contra leadership was involved in drug smuggling," said Rep. Charles B. Rangel (D-N.Y.), chairman of the Select Committee on Narcotics Abuse and Control.

The strongest evidence the committee has gathered shows that known drug traffickers participated in the U.S. effort to funnel supplies to the contras, Rangel said after a closed hearing.

The committee, which has received reams of testimony from hundreds of witnesses since it began its inquiry in June 1986, will give its material to another House panel that is taking over the investigation.

The key question facing the House crime subcommittee, members said, is whether officials in the U.S. government deliberately ignored drug dealing by individuals who carried supplies to the contras.

"There were flights going down with goods and guns, and there were flights coming back with drugs," said Rep. James A. Traficant Jr., (D-Ohio). "I don't know how it could occur without someone in this country knowing what's going on," he said.

Republican members sharply disagreed with Traficant's conclusion but concurred that Congress should continue the investigation.

"I just don't believe any of it, frankly. I haven't seen one scintilla of evidence," said Rep. Robert K. Dornan (R-Calif.).

The narcotics panel yesterday heard more than three hours of testimony from private organizations that have been scrutinizing the Nicaraguan resistance.

Rep. William J. Hughes (D-N.J.) said the witnesses repeated the same unsubstantiated allegations that have been publicized for months. "They're just allegations," said Hughes, chairman of the crime subcommittee, which has voted to issue subpoenas to three federal prosecutors in connection with its own ongoing investigation.

Documents provided to the Rangel panel yesterday included three letters showing that a firm whose vice president was under indictment on cocaine charges participated in the effort to transport nonlethal supplies to Central America.

Rangel said that Michael Palmer, vice president of Vortex Aircraft Sales and Leasing, was under indictment in 1986 when he billed the State Department's Nicaraguan Humanitarian Aid Office approximately $100,000. A State Department official said the department did not know that Palmer was under indictment.

[From The Washington Times, July 22, 1987]

CONTRA TRAFFICKING CHARGES RESURFACE

(By Jennifer Spevacek)

Old allegations of drug smuggling activities by Nicaraguan resistance forces resurfaced yesterday during a closed House Select Committee on Narcotics meeting, but lawmakers said afterward they had learned nothing new.

The committee chairman, Rep. Charles Rangel, New York Democrat, said the information gathered by the committee would be turned over to the House Judiciary crime subcommittee.

That committee, headed by Rep. William Hughes, New Jersey Democrat, is conducting an independent investigation into allegations that the administration tolerated gunrunning and other illegal activities on behalf of rebels battling Nicaragua's Marxist Sandinista regime.

Mr. Hughes said yesterday's testimony contained "the very same allegations carried in the media for some time."

"Many of the allegations have to be tested," Mr. Hughes said. "Many come from people that have felony convictions, who have motives of their own. We just can't tell where the truth lies."

Mr. Hughes also said investigators for his committee will question three Miami-based federal prosecutors later this week.

After the three-hour, closed-door hearing, Mr. Rangel said members of his committee had agreed not to discuss the substance of the testimony, given by representatives of the Christic Institute, the International Center for Development Policy and the National Security Archive.

"None of the witnesses gave any evidence that the Contra leadership was involved in the trafficking of drugs," said Mr. Rangel.

But Mr. Rangel added that memos from Lt. Col. Oliver North, the fired National Security Council aide, to Robert Owen, his courier to the Nicaraguan resistance leaders, showed that "they were apprehensive about many of the people they were using and their involvement in narcotics trafficking."

Rep. Ben Gilman of New York, the panel's ranking Republican, said the evidence offered was "third party reports and hearsay."

"I haven't seen one scintilla of evidence this morning I haven't seen from my press clipping service," said Rep. Robert Dornan, California Republican.

"It's a hot story," Mr. Dornan said. "It's pursued by left-of-center groups, particularly by those with a religious orientation towards liberation theology. They want to nail this down for both political and sincere reasons."

Most allegations of drug smuggling and gunrunning by the Nicaraguan resistance stem from a year-old lawsuit filed by freelance journalists Tony Avirgan and Martha Honey.

The liberal Washington-based Christic Institute is representing the husband-and-wife team in the lawsuit, which charges that former agents of the CIA and top Nicaraguan resistance leaders conspired to murder former rebel leader Eden Pastora.

The lawsuit, which includes charges of drug-smuggling activity to raise money to buy guns for the rebels, names 29 defendants, including Mr. Owen, retired Air Force Gen. Richard Secord, his business partner Albert Hakim, and resistance leader Adolfo Calero.

The Iran-Contra hearings have caused an upsurge of public support for the Nicaraguan resistance following Lt. Col. North's televised testimony, according to polls.

CATASTROPHIC HEALTH CARE

HON. NORMAN D. SHUMWAY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. SHUMWAY. Mr. Speaker, I rise in opposition to H.R. 2470, and in support of the Republican substitute being offered today.

Following the President's February 1986 State of the Union Address, Congress and the Nation have focused on the need for affordable catastrophic health insurance. The Census Bureau has estimated that up to 35 million Americans or 15 percent of the population lack health insurance. Of those who have health insurance, most lack catastrophic health care coverage—including those under Medicare. Heretofore, there has existed no Federal policy for catastrophic health care.

Although I am pleased that the House leadership has worked to develop this policy, I regret that H.R. 2470 does not adequately do so. Rather, this bill represents the largest expansion of Medicare since it was created over 20 years ago, and requires catastrophic taxation to provide protection against the cost of catastrophic illness. In my view, this cannot be considered an appropriate solution to the problem.

The new benefits contained in H.R. 2470 would be funded through a massive additional income tax—the so-called supplemental premium—and a flat rate increase in Medicare premiums. The supplemental premium is in reality no more than a mandatory surtax. The Treasury Department projects that the addition tax burden could eventually be as high as $8,000 per year for an elderly couple and $4,000 for widows and widowers, in addition to substantial increases—hundreds of dollars per year—in Medicare premiums. Marginal tax rates for the elderly would increase each year under the bill to keep pace with unlimited benefit expenditures.

Of additional concern is the fact that certain provisions such as the large-scale prescription drug entitlement, do not address the needs of the majority of beneficiaries. The Congressional Budget Office estimates that only 17 percent of current beneficiaries will spend more than the $500 deductible on outpatient drugs in 1989.

I support the Republican substitute, which provides a more appropriate and responsible set of services, with more realistic financing at about half the total cost of H.R. 2470—$18.1 billion versus $34 billion. It eliminates the mandatory surtax, and instead retains the traditional Medicare pattern of tying costs paid to benefits received. The prescription drug provision is targeted at seniors near the poverty line, and includes a package of tax incentives to encourage the private sector to provide solutions to long-term care. It also permits the conversion of IRA's for long-term care insurance and provides a phase-in of health care savings accounts, approaches I have long supported.

Yes, it is time for an appropriate Federal response to the costs of catastrophic health care. But let's not aggravate catastrophic illness with a catastrophic tax. I urge my colleagues to join me in supporting the Republican substitute.

EDITORIAL GIVES RINGING ENDORSEMENT OF REAGAN DOCTRINE

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. SOLOMON. Mr. Speaker, a July 13, 1987, editorial in the Albany (NY) Times-Union provides ample proof that we need only pursue the Reagan doctrine if we want a foreign policy that is both effective and inexpensive in terms of dollars and loss of American lives. Air Force General Rafael del Pino, a recent Cuban defector, has revealed the disarray of Cuban forces in Angola.

TROUBLE FOR CUBA

Just as the Soviet Union has gotten itself mired in its own kind of Vietnam in Afghanistan, so it is beginning to appear that Cuba has gotten itself mired down in Angola.

Cuban Air Force General Rafael del Pino, who fled Cuba with his wife and three of his children on May 28, has lately been telling U.S. officials of Mr. Castro's plight in Angola. It turns out that the Cuban presence in Africa—which Andrew Young once called a "stabilizing force"—is turning into a hugh expense and even bigger headache.

According to General Pina, the Cuban Army has had roughly 56,000 deserters in the past three years alone in Angola. Over the past 12 years, the army has suffered 10,000 casualties. In addition, according to the general, much of the 30,000-man force now in Angola believe the war is lost. "Only Fidel and Raul Castro have any faith in victory," he said.

All of this, needless to say, is good news for the U.S., which supports the democratic insurgency that is trying to topple the shaky Angolan Marxist government. While it may be impossible to trust implicitly General Pina's story about Cuba's troubles in Angola—the general, after all, could be a plant—his testimony should further strengthen the Reagan administration policy of backing the rebels. It should be evidence to support the claim that aid to the rebels is money well spent.

The Reagan Doctrine, which expresses the resolve that no more ground will be lost to Soviet aggression and adventurism, seems certain to be successful, at least in part, if we continue to back those forces committed to anti-Marxism. Afghanistan and now Angola are two good examples of how U.S. backing in the form of money and arms can allow the indigenous population to create its own wall against the Soviet onslaught.

If the U.S. can embarrass the Soviets or Cubans without sending in its own men, so much the better for at least the U.S., and probably for the people under siege as well.

SAN MATEO COUNTY AIDS RESPONSE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. LANTOS. Mr. Speaker, most stories about acquired immune deficiency syndrome [AIDS] are about failure. This, Mr. Speaker, is a success story. It is about a community which decided to develop a comprehensive response program which has become one of the most successful in the United States. I am proud to represent this community in San Mateo County.

Two years ago, there were relatively few cases of AIDS in suburban San Mateo County. Yet the county recognized that this was a problem which was not going to be confined to major urban areas, but would have a profound impact on suburban communities. The AIDS project they established will, I believe, serve as a model for other suburban areas. It has attracted support from all parts of the county and operates a number of highly successful model programs.

The AIDS project of San Mateo was formed within the Department of Human Services of San Mateo County. Its mandate was to identify services currently available and those which were needed to help those infected with the virus. A major thrust of the program was to establish educational programs for the whole community. A task force was formed comprising members of the local board of supervisors, health officials, community service organizations, county officials, and interested citizens.

The task force soon began to make an impact. All new county employees began receiving AIDS education as part of their orientation. County jails, local hospitals, schools, maternal and child health providers are just a few of the groups who receive regular AIDS educational programs. A "buddies program" was developed to provide one-on-one practical and emotional support to people with AIDS, AIDS-related complex [ARC], and those who have tested positive for the AIDS antibody.

The lower incidence of the disease in San Mateo County has meant that the project has been able to provide more comprehensive services than communities to the north and south, which face a higher incidence. Both public and private funding and expertise have been combined to achieve maximum impact. Direct services to persons infected by the virus are provided by a private nonprofit organization while the role of the AIDS project itself is in the area of education and mobilizing county response.

This joint effort led to the first skilled nursing for AIDS patients in the United States. Another result was the formation by the United Way of a Mid County Action Committee which provides funding for a case manager, a home meal service delivery program and an inhome support program for those with AIDS and ARC. These ambitious goals could only be developed with the cooperation of many community service organizations throughout the county. One program now receiving national service organizations throughout the county. One program now receiving national attention was developed by the Sequoia YMCA and provides AIDS education to incarcerated and sheltered youth. Most recently, a San Mateo County AIDS Coordinating Counsel has been formed to coordinate professional counseling services by the many community based organizations which provide these services. This service aims to insure that all AIDS patients receive adequate counseling.

Many of the programs developed by San Mateo County AIDS project and individual participants have received formal recognition for their work. The San Mateo model as a whole received a National Association of County Government's outstanding program award this year. In particular, I would like to recognize the efforts of the dynamic coordinator of the AIDS project, Ed Hilton. He has brought the community together to care for those suffering from AIDS and to educate those as yet unaffected. His extraordinary energy and pragmatism serve as an example to us all.

The San Mateo AIDS project is a model for other communities with limited funding who are trying to develop a response to AIDS. The key to the San Mateo response has been its basis on fundamental American values—neighbor helping neighbor and friends helping friends.

HAPPY 350TH ANNIVERSARY, SANDWICH, MA

HON. GERRY E. STUDDS

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. STUDDS. Mr. Speaker, the town of Sandwich, MA, which I am privileged to represent in the U.S. House of Representatives, has prospered on the northern shore of Cape Cod since its founding in 1637. It is my honor to rise today on behalf of the town of Sandwich, which this year celebrates its 350th anniversary, with the following resolution:

RESOLUTION

Whereas the settlement of Sandwich was approved by Plymouth Colony on April 3, 1637, and

Whereas the ten founders of the town were William Almy, John Carman, Richard Chadwell, Edward Dillingham, Thomas Dexter, Henry Feake, Edmund Freeman, George Knott, Thomas Tupper, and William Wood, known as the "Ten Men of Saugus", and

Whereas sixty families from Massachusetts Bay Colony and Plymouth Colony settled in the town during 1637, and

Whereas Sandwich preachers created the two Indian Reservations of Mashpee and Herring Pond thereby preserving complete peace on Cape Cod during the King Philip's War, and

Whereas liberal Christians in Sandwich held regular Quaker meetings from 1658, the first such meetings in North America, and

Whereas members of the Nye, Wing, Tupper, and other founding families have formed part of the American and Canadian mainstream of people in all States and Provinces, and

Whereas Sandwich produced a superb quality of glass now found in the World's museums, and

Whereas Sandwich is the birthplace of Thornton W. Burgess, the renowned children's author and conservationist whose "Briar Path" and "Smiling Pool" images were conceived in our town.

Now, therefore be it resolved that the Town of Sandwich is to be congratulated in the festivities marking the 350th Anniversary of its founding.

SOVIET EMIGRATION REGULATIONS—A REFUSENIK'S RESPONSE

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. HOYER. Mr. Speaker, in January of this year, the Soviet Government initiated a new law which codified applications for entry into and exit from the Soviet Union by Soviet citizens and foreigners. Many, both in the Soviet Union and here in the West, hoped that the new regulations would result in an increase in visas being approved by Soviet officials. But as we are finding out, Mr. Speaker, these regulations may be restricting emigration of many Soviet citizens.

During our trip to the Soviet Union, I had the opportunity to discuss with many individuals these emigration regulations. In Kiev, I spoke with Misha Elbert. In our conversations Misha explained the views of many refuseniks regarding the new regulations.

Mr. Speaker, I ask unanimous consent that these remarks be included in the RECORD and commend this assessment to my colleagues.

Misha Elbert's remarks follow:

Ladies and gentlemen, I intended to explain to you the attitude of my friends and my own to the new Complement of Rules added to the old body of Regulations for entering and leaving the U.S.S.R. and implemented since January 1, 1987. In the West this complement is usually mistakenly referred to as the New Law of Emigration. In fact, it is no more than a simple executive act of the U.S.S.R. Council of Ministers.

The U.S.S.R. body of law provides for 3 different categories of legislative acts which form a vertically subordinative hierarchy: 1) the laws, passed and enacted by the Supreme Soviet or its Presidium; 2) the sublaws, or executive acts of different state ministries and agencies; 3) sets of rules and regulations issued by the same agencies in strict accordance to the provisions of the laws and sublaws.

The only existing law explicitly governing the processes of immigration and emigration in the U.S.S.R. is the International Pact of Civil and Political Rights signed, ratified and enacted by the U.S.S.R. Clause 12 of the Pact provides for any citizen of the state, party to the treaty, the right to leave his country at will and to return to it. This clause also contains a complete list of reasons by which these rights can be restricted or abrogated. The Complement of Rules being an executive act signed by the Head of the Council of Ministers, Mr. Ryzhkov, should not contradict the main Law, in this case the provisions of the Pact. Unfortunately, in reality it severely restricts the right of Jews to emigrate from the U.S.S.R., recognizing as the sole reason for emigration only the reunification of families. By the Complement's provisions, only those who have first-degree relatives abroad are entitled to apply for permission to leave the U.S.S.R. They have to produce upon the emigration board's request proof that those who invite them are really their mothers, brothers, sisters, etc.

For some time the mortal threat of Jewish emigration contained in this Complement will be obscured by a temporary growth in the number of Jews applying for exit visas. It is a predictable phenomenon that the possibility to apply was extended to the Jews in the Ukraine having brothers and sisters living abroad because since 1979 brothers or sisters were not considered first-degree relatives by Ukrainian emigration authorities. It stands to reason that the recently publicized review of 10,000 refusenik's cases in reality will deal with those previously denied permission to emigrate on invitations from brothers and sisters. Quite understandably this stock of potential emigrants will shortly be exhausted—bringing the whole emigration process to a sharp grinding end. It will come as a natural result of a situation where Jews without first-degree relatives living abroad will be effectively barred from applying by the new Complement.

The adverse effects of such a situation will be also felt by the long-term refuseniks. The vast majority of these people either have no first-degree relatives abroad, or have old-age parents having emigrated in the early 1970s. As there is no definite term of refusal and human life is finite, the gradual deaths of parents will strip even this category of formal reasons for exist visa application. On the other hand, the created situation will have definite advantages for the authorities, as the review of 10,000 cases can be stretched to 1 to 15 years, allowing a small but constant flow of Jews—thus effectively stifling any protests from the West.

Our view on a satisfactory solution of the Jewish emigration problem is as follows:

1. Any Jew should have the right to apply for permission to leave for Israel without giving any reasons for such a decision. This right should not be subject to any restrictions due to the existence or non-existence of first-degree relatives either in Israel or in the U.S.S.R.

2. If a person is refused permission to emigrate it should be formulated in written form, specifically mentioning the exact term of emigration restrictions and that after that period he should automatically receive an exit visa.

3. As a preliminary goodwill gesture, exist visas shouild be immediately granted to Prisoners of Zion and Jews refused more than 10 years ago.

Ladies and Gentlemen! The government of the U.S.S.R. perfectly understands the repressive essence of these new restrictions. This explains why they were formulated as a Complement to a set of Regulations, thus making it possible to amend or even cancel them in response to the free world's reaction.

It is evident that only your prompt, decisive, and strong actions and protests will be able to prevent this Complement from being upgraded, first de facto, and then de jure, to the status of a full-fledged law of the land—effectively killing Jewish emigration.

VA EMPLOYEES VOICE STRONG SUPPORT FOR THEIR MEDICAL COMPUTER SYSTEM

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. MONTGOMERY. Mr. Speaker, controversy over the effectiveness and cost of the Veterans' Administration's medical computer system, known as the Decentralized Hospital Computer Program [DHCP] system, has arisen in the Congress. As chairman of the Committee on Veterans' Affairs, I have scheduled many oversight hearings on this important medical computer system over the past several years and the reports on its effectiveness and costs have been uniformly very positive.

Since our hearing of April 8, 1987 on this important subject, I have received many letters from veterans and Veterans' Administration employees in support of the DHCP.

I would like to share with my colleagues a copy of a letter which I received from Dr. Charles T. Uyeda, Chief of the Microbiology Section of the Laboratory Service at the VA Medical Center in Palo Alto, CA, which demonstrates how the VA employees feel about their medical computer system. The letter follows:

PALO ALTO, CA, *April 3, 1987.*

Hon. G.V. (SONNY) MONTGOMERY,
Chairman, Committee on Veterans' Affairs, House of Representatives, Washington, DC.

DEAR MR. MONTGOMERY: I have just learned that funding for the Veterans Administration Decentralized Hospital Computer Program may be discontinued while the McDonnell Douglas Computer System is considered. With direct DHCP experience as a Laboratory Computer Application Manager, I think that this action would not be in the best interest of the veteran patient.

The DHCP Laboratory program allows test results to be reported to the physician and ward much sooner than with our old manual system. This will facilitate more timely treatment and in some cases may mean that a patient is released sooner. Critical or life threatening values are flagged by the system so there is less likelihood of being missed by laboratory or physician. Since physicians can obtain their patients' test results via CRT, and results are automatically printed on urgent care wards, phone calls to the laboratory for test results are greatly reduced (up to 80% of all calls to the laboratory). Test counts and tally used for statistical reporting to VA Central Office are more accurate and less time consuming.

These are just a few of the items that I feel will make a difference in patient care relative to the Laboratory DHCP.

I don't feel that we should discontinue our efforts to improve patient care relative to the DHCP while we wait for another computer system to be evaluated when it is not clearly delineated that a change to the McDonnell Douglas system will occur. I request that you continue to support the DHCP system.

Sincerely,

CHARLES T. UYEDA, Ph.D.,
Chief, Microbiolgy Section, Laboratory Service (113), Veterans' Administration Medical Center.

TRIBUTE TO FORMER CONGRESSMAN DOMINICK V. DANIELS

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. GUARINI. Mr. Speaker, I am saddened to report the passing of Dominick V. Daniels, a nine-term U.S. Congressman from the 14th District of New Jersey which I now represent. Our former colleague served most ably as a member of the House Committees on Education and Labor and Post Office and Civil Service from 1958 until his retirement in 1976.

Dominick Daniels was born in Jersey City, NJ, the son of an Italian immigrant. He died last Friday after a long illness, in Union City, NJ. He graduated from Fordham University, worked his way through Rutgers University Law School, and he became a member of the

New Jersey and Hudson County bar associations at age 21.

In 1952, he was appointed magistrate of the Jersey City Municipal Court and was named presiding magistrate in 1957. Dominick Daniels also served as vice chairman of the Jersey City Civil Rights Commission from 1952 to 1955.

As a Member of the House from 1958 until 1976, Dominick Daniels championed the causes of health and safety in the workplace. He took the lead in efforts to provide compensation of injured workers and Federal job-safety rules where States failed to enforce any. His efforts led to a compromise that established the principle of Federal supervision over occupational health and safety in industries around the country. He was particularly instrumental in the passage of key labor legislation, including the Comprehensive Employment and Training Act [CETA], and the Occupational Safety and Health Act [OSHA].

Mr. Daniels was also outspoken in prodding the Kennedy administration to see that schools and colleges strictly complied with the 1954 Supreme Court decision against racial segregation. He wrote a bill that in 1962 closed a loophole through which land-grant colleges could escape such compliance.

He also guided legislation which made many improvements in the operation of the Postal Service and other advancements for Postal workers. He was instrumental in the development of the North Jersey Mail Facility in Kearny, NJ, which now employs over 4,000 workers. He also made many positive recommendations regarding the country's bulk mail system.

In 1976, he was awarded an honorary doctor of laws degree by St. Peter's College, where his congressional papers are now housed. In 1980, he was honored by the people of Hudson County for his special interests in the problems of older Americans.

Congressman Daniels was an advocate of pride in workmanship and often preached his ethic of hard work to school children in the area. He told a group of students at Public School No. 6, "It is easy to criticize, but hard work is necessary to improve things. Our forefathers did not retreat from the challenge of work. America is a great country today and will continue to be if we don't forget the principles laid down by its founders."

Dominick Daniels was a parishioner of St. Joseph's Roman Catholic Church in Jersey City and a fourth-degree member of the Knights of Columbus Council 137. He was also a member of the Elks Lodge 211 and had been the president of the Dante Alighieri Society of Jersey City.

Surviving Dominick Daniels are his wife, Camille Curcio Daniels, two daughters, Dolores Maragni of North Long Branch and Barbara Coleman of Avon, a brother, Alfred J. of Englewood Cliffs, and five sisters, Anna Coglianese of Holmdel, Genevieve Daniels and Elizabeth Corrigan of Avon, Mildred Daniels of Cliffside Park, Eleanor Stutz who lives in Louisiana, and four grandchildren.

A front page article in the "Jersey Journal" concerning his death, said, "Hudson County has lost a true friend." Tributes by former Representative Joseph A. LaFante, who succeeded Daniels in 1976, West New York Mayor Anthony M. De Fino, and others, recalled that "Hudson County showed its appreciation for Daniels by sending him back to Congress term after term with sweeping margins." Congressman Daniels left a legacy to the community leaders of Hudson County reminding them of the need of "service above self."

I urge my colleagues to join me in paying tribute to a worthy man. He has earned the accolades of his colleagues for a job well done. May he rest in peace.

NICARAGUA'S LIBERATION ANNIVERSARY

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. OWENS of New York. Mr. Speaker, July 19 was the eighth anniversary of Nicaragua's liberation from nearly 50 years of oppressive, dictatorial rule by the United States-backed Somoza family.

The anniversary comes at a time when Congress is embroiled in hearings concerning the illegal diversion of ill-gotten funds from the Iranian arms sales to the Nicaraguan Contras, who are largely the remnants of Somoza's hated National Guard. It also comes at a time when the Reagan administration is preparing to lobby Congress for more financial aid to the Contras: This time, an astronomical $105 million.

The Reagan administration's insistence on continuing a United States policy of supporting Somoza-like entities shows that it has failed to learn anything from the history of past mistakes in United States-Nicaragua relations.

Like the Contras, the Somoza dynasty was "made in the U.S.A." Just as the Reagan administration views the Contras as freedom fighters battling the spread of communism in Nicaragua, previous administrations supported the Somozas as protectors of United States economic and political interests in that country. But the Nicaraguan people, the victims of the brutal and corrupt Somozas, their National Guard, and the offshoots of the guard, the Contras, know them not as protectors but as storm troopers who attempted to crush their dreams and aspirations for a peaceful and democratic Nicaragua.

Indeed, the history of the Somoza dictatorship is marked by coercion and intimidation.

The first Somoza, Anastasio Somoza Garcia, was installed as head of the United States-trained and equipped National Guard, which replaced our marines who had invaded Nicaragua to put down a popular uprising led by peasant organizer Austusto Sandino. Indicative of things to come, Somoza became President of Nicaragua through a coup, and murdered Sandino not long after signing a 1934 peace agreement which ended the uprising. Somoza launched a wave of terror against Sandino's remaining followers, and began what is said to be the longest dictatorship in Latin American history.

Somoza enriched himself, his family, and friends by taking over most of Nicaragua's factories, textile mills, sugar plantations, and natural resources. He also took over the country's underground economy, cornering the market on illegal gambling, alcohol, and prostitution. He flirted with open fascism when he organized a group of soldiers he called the blue shirts, which were patterned after Nazi and Italian fascist models.

When Somoza was assassinated by a Nicaraguan poet in 1956, Somoza's son Luis became the President and continued the rule-by-terror until he died of a heart attack in 1967. He was replaced by his brother, Anastasio Somoza Debayle, who had been commander in chief of the armed forces. Under this Somoza, attempts by the Nicaraguan people to protest the lack of democracy in their country was put down with a vengeance by the National Guard, which destroyed villages, cut children's throats, raped women, burned huts with the residents still inside, and used mutilation as a form of torture—methods still employed by the present-day Contras.

Somoza also had an elite army of young boys who were trained assassins. Their drilling chant is still used by some of the Contra forces today: "What are you?" "Tigers." "What do tigers eat?" "Blood." "Whose blood?" "The blood of the people."

At no time was the Somoza family corruption, callousness, and greed more obvious than in the aftermath of the 1972 earthquake that struck Nicaragua's capital, Managua. The Somoza family and friends, as well as the National Guard, pocketed much of the international relief funds that poured into the city to help the 170,000 homeless and thousands of injured. National Guard troops looted the city, and sold stolen goods, along with food and other materials donated by Catholic relief agencies, at ludicrously marked up prices.

During the last stages of the 1978–79 Sandinista uprising against the Somoza dictatorship, Anastasio Somoza doubled National Guard strength, and dropped hundreds of bombs on poor villages to reverse the uprising's momentum. When he was finally forced out of Nicaragua on July 19, 1979, Somoza fled to Miami with most of the national treasury, and left his ravaged country with an external debt of $1.5 billion.

In spite of all the documented evidence that the Somozas were fascists, roundly feared and despised by the Nicaraguan people, no United States administration ever funded any rebel force fighting to overthrow them, as the administration fervently supports the Contras today. Instead, the United States turned a blind eye toward the brutal excesses of the Somozas and the National Guard, just as it turns a blind eye today to the human rights atrocities committed by the descendants of the Somozas and their Guard, the Contras.

It is not too late to change the course of United States policy toward Nicaragua, and repair the nearly 50 years of damaged relations between the United States and the Nicaraguan people due to our having supported a succession of repressive regimes. We can begin by ending all U.S. aid to the Contras, and supporting the Contadora process and other peace initiatives calling for a negotiated, rather than a military, settlement to the conflict.

Second, we could end the United States trade embargo against Nicaragua. Lastly, we could provide financial and technical support for the Nicaraguan Government's efforts to provide the people with vastly improved housing, health care, education, and employment opportunities; efforts which have been stymied by the Nicaraguan Government's having to divert its resources from much needed development to defense.

We cannot continue to fund a war against an elected government in Nicaragua which has enjoyed the widespread support of its people for 8 years, and which, by all indications, will continue to be popularly supported well beyond its eighth anniversary. The United States has a history of siding with tyranny in Nicaragua. It must seize the opportunity to side with that country's true forces of democracy for a change; and those forces are clearly not the "children of Somoza," the Contras.

AMERICA SPEAKS

HON. JON L. KYL

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. KYL. Mr. Speaker, We have all received a great deal of correspondence from our constituents on the Iran-Contra hearings. On the theory that we ought to know how Americans feel in order to establish public policy, I have selected three items for insertion into the RECORD for the benefit of my colleagues.

One is a letter to me from Mr. Thomas E. Holmes of Taylor, AZ, a small farming community. Mr. Holmes expressed great frustration over the obvious partisanship of the hearings and supported the use of covert operations.

Another item is a letter to the editor by Mr. Al Dahlberg of Payson, AZ, a small recreational community. Mr. Dahlberg referred to the hearings as "Star Chamber" proceedings and concluded it was worse for Congress to have adopted the Boland amendment than for Lieutenant Colonel North to have continued to aid the Democratic Resistance in Nicaragua.

Finally, I am inserting an editorial from a weekly newspaper by Carroll Cox. She writes that the people at the grass roots in America can see through the hypocrisy of those critical of Lieutenant Colonel North and the President. The American public, she says, "wants no more Communist neighbors."

Mr. Speaker, these are the voices of America. We ought to listen.

Letter from Mr. Thomas E. Holmes:

Dear Sir, Once again, while following the televised event of the shameful mistreatment of Oliver North, I feel compelled to write to you.

Concerning the attitude of certain liberal democrats, who are at the root of this trouble, they seem to feel that they are speaking for the American public. I assure you that they are not! I deeply resent their implication that we, the citizens of this nation, are so stupid as to demand that we be informed of each and every covert action that must be taken in the interest of national defense.

I have heard remarks made on television by both, members of our government bodies as well as the news media, to the effect that there are still some people who do not believe Oliver North, who do not believe our President, who are not satisfied with their actions, etc, and that this dissent of the minority gives them all the excuse they need to continue on in the persecution of these men. I urge you to remind them that this nation is governed by majority rule. I also ask you to remind them that we, the majority, approve of Lt. Col. North's actions. That we approve of the actions of President Reagan and give him our full support. That no law is greater than the people that it governs. In other words, we are sick and tired of the actions and opinions of these few that are at the root of this persecution, and most respectfully ask that they get the hell off the backs of our President and those who are trying to serve our country.

Sincerely yours,

THOMAS E. HOLMES.

NORTH—A HERO OR A ZEALOT?

[Editorial: by Carroll Cox]

Washington columnist David Broder calls Lt. Col. Oliver North "unapologetic and combative." Arizona Republic columnist E. J. Montini describes him as a "self-serving zealot." The message from the media in general as well as Congressional iniquisitors playing key roles in the Iran/Contra hearings, is that North has betrayed his Democracy and deceived a gullible public that has decided to make him an American hero.

America, of course, needs a hero. We are so short of them! And even the gullible grass roots can see through the blatant hypocrisy of those bleating that a corrupt administration and its flunky North have done violence to the law of the land. Those same voices seem to forget that in the not-so-distant past they have glibly advocated civil disobedience concealed under a host of noble sounding labels. North freely admits to practicing deception, which is basic to covert operations, though the intent is to deceive enemies of our nation, not the American public.

Perhaps we should remember a few facts that North reminded us of, but that have been mostly contemptuously dismissed by the media as the ramblings of a uniformed demagogue, whose actions they would have us believe are the ultimate threat to the freedoms we hold dear.

During the 70's alone, 15 nations were swallowed up by the Soviet Empire, earning a one way ticket to oppression and poverty. The conquest of Rhodesia (Zimbabwe) in 1980 was the last addition to the Red kingdom, indicating probably that the Soviets had overextended themselves and also that Reagan anti-Communist rhetoric had at least a measure of effect.

I believe the massive grass roots support for North convey the message that the American public wants no more Communist neighbors. To date, no Soviet-backed government has been removed from power from within, yet at this time a half dozen Soviet colonies on three continents are engaging in national liberation wars against their Red masters, a phenomenon that Jack Wheeler, director of the Freedom Research Foundation says has "immense historical significance."

The resisters in Nicaragua who North calls "freedom fighters" and the American press calls "rebels," are among this number and their fate and maybe ultimately our own depends on assistance from other freedom loving people.

CONGRESS: 'HYPOCRITICAL AND COMPROMISED'

Dear Editor, Lt. Colonel Oliver North stated that he stood in awe of the American Congress and the Presidency: He stood in awe of the institutions. The distinction between the institution and Congress' present personnel is well advised.

The men in the present Congress, who had the power to being Lt. Colonel North before them and victimize him in what was nothing less than a Star Chamber procedure, and whatever their pretences, persecute him, prosecute him and torment him, have no respect for Congress as an institution, or for themselves.

The very method they used in fastening the so-called Boland Amendment onto a vast appropriations measure, literally blackmailing a President into legitimizing it with his signature, reveals their ignorance of and contempt for the high calling of parliamentary procedures. Also, the very amendment they would impale the President and his staff on was for all practical purposes repealed in that great Legislative reversal last year when they voted aid to the Nicaragua Freedom Fighters, the very thing the Boland travesty was supposed to keep the President from giving.

The great legal minds in what today is a hypocritical and compromised Congress should check out what could be a consitutional problem in their wolf-pack chase after this administration.

Whatever the deeds of Lt. Colonel Oliver North and his President, their significance pales alongside the illconcealed demagogic prostitution of legislative processes the Pharisees who control this Congress are guilty of.

THE TRADE BILL IS WRONG, AND THE TIMING IS WORSE

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. CRANE. Mr. Speaker, with omibus trade legislation under consideration by the Senate, may I again point out the shortsightedness and dangerousness of enacting protectionist legislation.

The Senate bill, like the House bill, does nothing more than attempt to cure the symptoms of our trade deficit. It intermingles economic considerations with political emotions, and not only does irreparable harm to world trade, but also to our political relationship with our trading partners.

The best way to deal with the U.S. trade problem is to go back to economic fundamentals and tackle the true sources of our problem. Primary among these is the fact that our economy lives beyond its means. First of all public consumption is too high. Our foremost goal must be to reduce our huge buget deficit. But also our private savings are far from being sufficient. With a historical low rate of personal savings of about 3 percent in comparison to about 20 percent in Japan in 1986 it is most urgent to think the implementation of saving incentives in our current legislation.

In order to foster our exports, our products have to become more competitive in the world markets. Accurate market analysis must lead firms to develop products that meet the needs of the foreign consumers. American cars must be useable in small Japanese streets. Managerial techniques of our business leaders have to be changed so that they create a more harmonious atmosphere in our factories and thus increase the quality of products. A higher degree of automatization and robotization is necessary so as to reduce unit labor cost. American business should also refine their overseas marketing techniques.

Rather than taking positive steps to increase America's competitiveness, the legislative approach Congress is currently advocating seeks to implement defensive measures. It seeks the erection of tariff walls behind which our industries will become more and more inefficient in comparison to the rest of the world. At the same time, world trade will be cut down, depriving us of the advantages of the international division of labor. Our exports will decrease and additional pressure will be put on our labor market. Consumers in America—our constituents—and throughout the world will ultimately carry the burden of this action. Furthermore, history warns us that this kind of legislation is likely to strengthen tendencies toward a world depression, the worst example being the Smoot Hawley Tariff Act of 1930.

[From the Los Angeles Times, May 21, 1987]

THE TRADE BILL IS WRONG, AND THE TIMING IS WORSE

(By Robert J. Samuelson)

The latest trade figures make clear the shortsightedness of the trade legislation now before Congress.

The figures confirm that U.S. exports are beginning to grow again—a development that will spur protectionist pressures against our products in other countries. The last thing we ought to do is give those countries a pretext to act against us. Because it violates international trade rules, the trade legislation would do precisely that.

One of Congress' fond illusions is that if you don't like something, you can outlaw it. The House-passed trade bill takes that silly notion to its logical conclusion. In effect, it tries to outlaw the trade deficit. It orders the President to impose tariffs or quotas on countries that have large trade surpluses and are deemed to have "unfair" trade practices. Of course, other countries will find that we, too, have "unfair" trade practices. The bill risks a destructive cycle of protectionism.

And the timing could not be worse. If you are going to practice protectionism, at least pick a moment when your exports are slipping and imports are rapidly increasing. The worst moment is when your exports are rising and imports are receding. In those circumstances, protectionism may block imports that would have stopped anyway, while foreign retaliation actually hurts exports. Congress is embracing the wrong policy at the wrong time.

It's clear that the dollar's 40% depreciation since early 1985 is finally stimulating exports (by making them cheaper abroad) and discouraging imports (by making them more expensive to Americans). For months, there has been anecdotal evidence of the change. General Electric, for example, said it would make 500,000 color television sets in the United States rather than buying them in Japan. Now the trade data confirm the stories.

Superficially, the numbers don't look impressive. In March, the monthly trade deficit narrowed to $13.6 billion from February $15.1 billion. The gain seems small compared with last year's $166 billion deficit. In fact, the shift is stronger than it appears. First, the lower deficit resulted exclusively from higher exports, the dollar total of imports actually rose in March. And second, the dollar's depreciation obscures the move away from imports and toward exports.

What's at work here is a phenomenon that economists call the "J curve." As the dollar depreciates, U.S. import prices tend to rise because foreign producers need to earn more dollars to convert into their domestic currencies and pay their local bills. Consequently, the total dollar cost of imports can rise when the volume is falling. For a while, higher import costs can offset any increase in exports. Thus, a currency depreciation affects a country's trade balance like a J: First, the deficit gets worse; then, as exports grow, the balance turns up toward a surplus.

Consider an example. Japan sells us 1 million widgets at $1 apiece, with each widget costing 200 yen in Japan. The exchange rate is $1 to 200 yen. Now the dollar falls to $1 to 150 yen. The Japanese company needs to cover costs in yen and raises the widget price to $1.34 ($1.34 times 150 yen equals 201 yen). But at $1.34, we buy only 850,000 widgets. Widget demand is down 15% but the dollar cost is higher, $1.139 million ($1.34 times 850,000).

Precisely this process has masked the growth in U.S. exports and the decline in imports. The turnaround actually occurred in the third quarter of 1986. Until then, importers absorbed the dollar's depreciation through lower profits with only modest price increases. But since then, import prices have risen more sharply and volumes have fallen about 5%. Meanwhile, export volumes have jumped about 10%.

What is important about this change is that import and export volumes actually affect economic growth and jobs in the United States. In sharp contrast to the period between 1980 and mid-1986, trade is now contributing positively to U.S. jobs and economic growth. Some economists even think we've reached the point on the "J curve" when the dollar trade deficit drops. Jerry Jasinowski, chief economist for the National Assn. of Manufacturers, predicts a $20-billion improvement in 1987.

What's now desirable is a gradual decline in the U.S. deficit, with other countries stimulating the growth of their economies. This higher growth would create larger markets for U.S. exports while helping other nations offset export losses.

The trouble with the trade bills in Congress is that they distract attention from this problem. Eliminating "unfair" trade practices is a worthy goal, but not in a way that will embroil countries in protectionist squabbles. Unfair practices are not at the heart of today's huge trade imbalances. These originated in the high dollar and the fast growth of the U.S. economy. As these forces unwind, a burst of American protectionism would only make an unstable world economy more unstable.

VANA WHITE AND THE TEN COMMANDMENTS

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. GINGRICH. Mr. Speaker, many of my colleagues may not have heard of the "Vana factor." Indeed, until I read Ted Koppel's commencement address to the graduates of Duke University, neither had I. This factor is one of "moral ambiguity" that, as Mr. Koppel points out, is replacing the "moral absolutes" found in the Ten Commandments. This shift from straightforward rules to neutral suggestions is becoming apparent in economics, religion, and politics. I hope that my colleagues will find this speech as interesting and informative as I did.

TED KOPPEL'S DUKE UNIVERSITY COMMENCEMENT ADDRESS

America has been Vanatized. Vanatized, as in Vana White—"Wheel of Fortune's" vestal virgin. The young lady may or may not already have appeared on one of those ubiquitous lists of most-admired Americans; but if she has not, it's only a matter of time. Through the mysterious alchemy of popular television Ms. White is roundly, indeed all but universally adored.

It seems unlikely, but lest there be among you someone who has not thrilled to the graceful ease with which Ms. White glides across our television screens, permit me to tell you what she does: She turns blocks, on which blank sides are displayed, to another side of the block, on which a letter is displayed. She does this very well; very fluidly, and with what appears to be genuine enjoyment. She also does it, mutely. Vana says nothing. She is often seen smiling at and talking with winners at the end of the program; but we can only imagine what they are saying to each other. We don't hear Vana. She speaks only body language; and she seems to like everything she sees. No, "like" is too tepid. Vana thrills, rejoices, adores everything she sees. And therein lies her magic.

We have no idea what, or even if Vana thinks. Is she a feminist, or every male chauvinist's dream? She is, whatever you want her to be. Sister, lover, daughter, friend; never cross, non-threatening, and nonjudgmental—to a fault. The viewer can, and apparently does, project a thousand different personalities onto that charmingly neutral television image, and she accomodates them all.

Even Vana White's autobiography, (an oxymoron if ever there was one) reveals only that her greatest nightmare is—running out of cat food; and that one of the complexities of her job entails making proper allowance for the greater weight of the letters "M" or "W" over the letter "I," for example.

Once, we learn, during her earlier, less experienced days, she failed to take that "heavy-letter-factor" into proper account, and broke a fingernail. I tremble to think what judgment a future anthropologist, finding that book, will render on our society. I tremble, not out of fear that they will misjudge us; but rather, that they will judge us only too accurately. For the Vana factor has wormed its way into all too many aspects of our lives.

All of us, whose success is, directly or indirectly, a function of television, are the beneficiaries of the Vana factor. I am, for example; and my mail proves it to me on a daily basis.

I am increasingly driven to the conclusion that on television, neutrality or objectivity are simple perceived, or at least treated, as a form of intellectual vacuum, into which the viewer's own opinion is drawn. I find myself being regarded not so much as an objective journalist, but as someone who shares most views; even those that are incompatible with one another. As in the case of Vana White (although mercifully to a lesser degree) many of Nightline's viewers project onto me those opinions they would like me to hold; and then find me compatible.

In Vana White's case, in my own, the fostering of such illusions may be, not only permissible, but even necessary. We have been hired, Vana and I, to project neutrality. The problem is that, what I call the "Vana factor", has evolved more and more into a political, an economic, even a religious necessity. On television, ambiguity is a virtue; and television these days is our most active marketplace of ideas.

Let's take inventory for a moment. 60% or more of the American public . . . get most or all of their news from television. Presumably some of those people can read; but aproximately 60 million of our fellow citizens cannot. They are functional illiterates. For them, television is not merely the medium of choice, but of necessity.

What then should we, or must we conclude? Whatever your merchandise, if you want to move it in bulk, you flog it on TV. Merchants trying to sell their goods; politicians trying to sell their ideas; preachers, trying to sell their gospel or their morality—all of these items are most efficiently sold on TV.

If that doesn't scare the living daylights out of you, then you're not paying attention.

Never mind the dry goods. Television and toilet paper were made for one another.

But let's focus on our national policies; let's look at our principles—our ethical and moral standards. How do they fare on television?

You won't be surprised to learn that there is not a great deal of room on television for complexity. We are nothing, as an industry, if not attuned to the appetites and limitations of our audience. We have learned, for example, that your attention span is brief. We should know; we helped make it that way. Watch "Miami Vice" some Friday night. You will find, not only a pastel colored world—which neatly symbolizes the moral ambiguity of the program—you will discover that no scene lasts more than ten to fifteen seconds. It is a direct reflection of the industry's confidence in your ability to concentrate.

Analyze what out most popular, youth-oriented radio stations are doing: Seven songs in a row; ten songs in a row; sixteen songs in a row. As Andy Rooney likes to say: "Didn't you ever wonder why?" Many of you, I'm told lacked the patience to sit through commercials. As soon as the music stopped, you began scanning the dial, looking for more music; and so the media consultants, those lineal descendants of the oracle at Delphi, reprogrammed your itchy dial fingers; fed you multiple morsels of music, one after another, until you learned to sit through the commercials also.

Look at MTV or "Good Morning America" and watch the images and ideas flash past in a blur of impressionistic appetizers, No, there is not much room on television for complexity. You can partake of our daily banquet without drawing on any intellectual resources; without either physical or moral discipline. We require nothing of you; only that you watch; or say that you were watching if Mr. Nielsen's representative should happen to call. And gradually, it must be said, we are beginning to make our mark on the American psyche. We have actually convinced ourselves that slogans will save us. "Shoot up if you must; but use a clean needle." "Enjoy sex whenever and with whomever you wish; but wear a condom."

No. The answer is no. Not no because it isn't cool, or smart, or because you might end up in jail or dying in an AIDS ward—but no, because it's wrong. Because we have spent 5,000 years as a race of rational human beings trying to drag outselves out of the primeval slime by searching for truth, and moral absolutes. In the place of Truth we have discovered facts; for moral absolutes we have substituted moral ambiguity. We now communicate with everyone . . . and say absolutely nothing. We have reconstructed the Tower of Babel and it is a television antenna. A thousand voices producing a daily parody of democracy; in which everyone's opinion is afforded equal weight; regardless of substance or merit. Indeed, it can even be argued that opinions of real weight tend to sink with barely a trace in television's ocean of banalities.

Our society finds Truth too strong a medicine to digest undiluted. In its purest form Truth is not a polite tap on the shoulder; it is a howling reproach.

What Moses brought down from Mt. Sinai were not the Ten Suggestions . . . they are Commandments. Are not were.

The sheer brilliance of the Ten Commandments is that they codify, in a handful of words, acceptable human behavior. Not just for then, or now, but for all Time. Language evolves, power shifts from nation to nation, messages are transmitted with the speed of light. Man erases one frontier after another; and yet we and our behaviour, and the Commandments which govern that behavior, remain the same.

The tension between those Commandments and our baser instincts provide the grist for journalism's daily mill. What a huge, gaping void there would be in our informational flow and in our entertainment without the routine violation of the Sixth Commandment. Thou shalt not murder.

On what did the Hart campaign founder? On accusations that he violated the Seventh Commandment. Thou shalt not commit adultery. Relevant? Of course the Commandments are relevant. Simply because we use different terms and tools, the Eighth Commandment is still relevant to the insider trading scandal. The Commandments don't get bogged down in methodology. Simple and to the point. Thou shalt not steal. Watch the Iran/Contra hearings and keep the Ninth Commandment in mind: Thou shalt not bear false witness. And the Tenth Commandment, which seems to have been crafted for the 80s and the "Me" generation. The Commandment against covetous desires: against longing for anything we cannot get in an honest and legal fashion.

When you think about it, it's curious, isn't it. We've changed in almost all things—where we live, how we eat, communicate, travel: and yet, in our moral and immoral behavior we are fundamentally unchanged.

Maimonedes and Jesus summed it up in almost identical words: Thou shalt love thy neighbor as thyself. Do unto others as you would have them do unto you. So much for our obligations toward our fellow men. That's what the last five Commandments are all about.

The first five are more complex in that they deal with figures of moral authority. The Fifth Commandment requires us to honor our father and mother. Religious scholars through the years have concluded that it was inscribed on the first tablet . . . among the laws and peity toward God because, as far as their children are concerned, parents stand in the place of God. What a strange conclusion! Us in the place of God. We, who set such flawed examples for you. And yet, in our efforts to love you, to provide for you, in our efforts to forgive you when you make mistakes, we do our feeble best to personify that perfect image of love and forgiveness and Providence which some of us find in God. Which brings me to the First and, in this day and age probably the most controversial of the Commandments; since it requires that we believe in the existence of a single supreme God. And then, in the second, third and fourth Commandments, prohibits the worship of any other gods, forbids that his name be taken in vain, requires that we set aside one day in seven to rest and worship Him. What a bizarre journey; from sweet, undemanding Vana White to that all-demanding, jealous Old Testament God.

There have always been imperfect role models; false gods of material success and shallow fame; but now their influence is magnified by television.

I caution you, as one who performs daily on that flickering altar, to set your sights beyond what you can see. There is true majesty in the concept of an unseen power which can neither be measured nor weighed. There is harmony and inner peace to be found in following a moral compass that points in the same direction, regardless of fashion or trend. There is hope that if we can only set our course according to Man's finest aspirations, we can achieve what we all want; and that we can have it without diminishing our neighbor's share: Peace!

May it come to your generation.

THE OSAGE ENTERPRISE

HON. TONY COELHO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. COELHO. Mr. Speaker, as you know I have for some time been concerned about the plight of the homeless in America. This is a growing problem which neither the public nor the private sector alone can solve. It is only by working together, through joint initiatives, that business and Government can positively impact the problem.

I would like to commend to you one such initiative brought to my attention by Jack A. MacAllister, chairman and chief executive officer of US WEST, Inc., who shares my concerns. That initiative is called The Osage Enterprise.

Located in Denver, CO, the Osage Enterprise is a coalition of businesses, Government and existing Denver nonprofit service groups united to provide employment for the homeless. It will offer jobs and services, including counseling and education to the homeless and poor. US WEST's Mountain Bell subsidiary donated a 90,000 square-foot facility near Denver's downtown as Osage Enterprises headquarters. US WEST has also donated $395,000 to the enterprise.

The coalition is composed of five agencies that have a combined 58-year history of service to Denver's homeless. They are: Adult Learning Source [ALS], Brothers Redevelopment, Inc. [BRI], Colorado Women's Employment and Education, Inc. [CEWEE], Community Economic Development Co. of Colorado [CEDCO], and Community Technical Skills Center [CTSC].

The best way to achieve permanent reductions in the number of this Nation's homeless is through collaborative efforts such as this.

The Osage Enterprise has been visited by, among others, Mitch Snyder of Wasington, DC.

At this point in the RECORD, I would like to include an article about the Osage Enterprise.

[From the Denver Business Journal, June 29, 1987]

US WEST, SUBSIDIARY AID JOBS PLAN

(By Kate Bulkley)

US West Inc. and its Mountain Bell subsidiary will contribute close to $850,000 to kickstart a new economic development coalition for Denver's homeless and unemployed.

The Osage Enterprise Development Group, a coalition of businesses, government and existing Denver non-profit service groups, will combine forces to provide up to 60 new jobs in its first year as well as employment training and advice to the economically disadvantaged.

US West Chairman Jack MacAllister and Gov. Roy Romer will formalize the creation of the group at a press conference later this week.

Mountain Bell will donate a 90,000-square-foot building at 1175 Osage St., valued at $450,000, to house the new development group, comprised of five Denver service organizations.

The building also will eventually house several light manufacturing companies, owned and operated by The Osage Enterprise Development Group. No decisions have been made but some ideas for businesses include an automobile detailing company and a temporary employment service.

There are also plans to put in a day care center for those workers employed at the facility.

US West has donated $45,000 toward the development of the project. In addition, the company has committed $350,000 for the acquisition or development of new businesses for The Osage Enterprise.

US West also will sign purchase agreements for goods and services produced by The Osage Enterprise provided the product is something the company can use, said Jane Prancan, US West's director of community affairs and executive assistant to MacAllister.

The donated Mountain Bell building had been a training center for the local telephone company, but in recent years it has been used primarily for storage.

Renovation costs for the Osage Street location are estimated to be about $2.8 million, the bulk of which the group wants to raise from local businesses and foundations.

A $100,000 grant toward the building's renovation was committed last week by The Denver Foundation, a 62-year-old foundation that provides funds to service groups operating within a 40-mile radius of the state capital.

Interior demolition of the building will start late this week and the building should be ready for occupancy by April 1988, said officials with US West.

Five local service groups will occupy about 25,000 square feet of the new Osage Street facility, including Adult Learning Source, an adult education center; Brothers Redevelopment Inc., a housing counseling group; Colorado Women's Employment and Education Inc., providing employment readiness and job placement skills; Community Economic Development Co. of Colorado, which helps small businesses get long-term, low-interest loans, and Community Technical Skills Center, providers of classroom instruction in basic office skills and word processing.

"We will be creating at Osage new businesses that will not take somebody else's job," said John Burger, executive director of Community Economic Development Co. of Colorado, the lead group of The Osage Enterprise.

"It's a real-world type of thing we're talking about," he added. "It's not subsidized and it's not jobs just made up to keep people busy."

Burger said providing "real jobs" for homeless people "goes a long way toward solving the problem.

"Once they get a real job, then there's a lot of services out there to help them get more educated, more skilled, whatever," said Burger.

"It is a tremendous public-private partnership," said Tim Schultz, executive director of the state's Department of Local Affairs, which has acted as the liaison between the Osage Enterprise and the governor.

"The private side is the one that deserves the credit on this," said Schultz. "US West has again shown a leadership role in corporate responsibility."

Schultz characterized the project as a "demonstration facility" for economic development across the state and, possibly, the nation.

"It's very much demonstrating the type of activity that we'd like to see happen in the rest of the state," he said.

"This is the kind of thing that Romer has been looking for," Schultz added.

MacAllister started to work on the concept of an economic development group last December after he toured some of Denver's homeless facilities, said US West's Prancan.

"Jack was struck by the number of people that were circumstantially homeless," she said.

MacAllister and Gov. Romer co-chair the Governor's Economic Development Action Council, a group dedicated to creating economic development across the state.

Prancan said that the Osage Enterprise is an attempt to try and address "one slice of the whole."

ONSITE DAY CARE—A CHANCE FOR OUR CHILDREN

HON. MARIO BIAGGI

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. BIAGGI. Mr. Speaker, I would like to call to the attention of my colleagues a recent article from Nation's Business, entitled "Child Care: Your Baby?"

As this article points out:

A sharp increase in the number of present or future working mothers is making smaller companies increasingly aware of the high priority those workers attach to availability of child care.

Though the number of companies actively involved in some form of child care arrangements is not yet large—about 3,000, and hundreds more are exploring options—there is a trend here that will grow in significance in the years just ahead.

The Employee Benefits Research Institute, a Washington-based public policy research organization, says: "As a result of the rising population of children under 6, the changing composition of the family and the increasing participation in the work force of women with children, child care is emerging as a valuable benefit offered by a relatively small, but growing, number of employers." Child care, the institute notes, has been called "the employee benefit of the 1990s."

Catalyst, a nonprofit, employer-supported organization that deals with workplace issues as they affect women and families, puts it this way: "Work force demographics are inescapable—the typical American employee is fast becoming the working parent." Catalyst points out that "a 'traditional' family, in which father is the breadwinner and mother the homemaker" is becoming almost a rarity.

The U.S. Labor Department's Women's Bureau reports 13 million children under age 13 are in families where both parents work full time. Some 1 million of these children go to commercial day care facilities, and another 6.8 million are cared for through arrangements parents make with people who provide day care in their homes.

More than 50 percent of mothers with young children now work outside the home, and that figure could easily reach 75 percent as early as 1990—when, the Census Bureau projects, there will be 23.3 million children under age 6 in this country. Another forecast for 1990: Nearly two-thirds of all new employees will be women, and most of them will become mothers at some point of their working careers.

I am particularly pleased with the focus on onsite day care. An exerpt from the article follows:

"Working parents spend an average of 10 hours on the job making arrangements every time a new situation is needed," he says. "And it's not uncommon for parents to change child care providers two or three times a year."

Child Care Systems, Inc., a Lansdale, Pa., consulting firm, reports research it has done shows that working parents miss an average of eight days a year to deal with child care problems.

Warner Dalhouse, president and chief executive officer of Dominion Bankshares Corporation, says a child care center the bank recently opened for its 900-employee headquarters in Roanoke, Va., "is not an altruistic venture."

Dalhouse explains: "We do everything with the objective of profit. Seventy percent of our work force is made up of women. A major portion of those women are of childbearing age. We're going to ease those minds. We're going to help. And we're going to end up making more money."

There is good news for the bottom line, he explains, "in reduced absenteeism, in reduced tardiness, in reduced turnover, in improved productivity, in improved quality of our recruiting options, in improved morale, in enhanced corporate image."

A similar view is expressed by Janet Muhleman, president of Group 243, Inc., an Ann Arbor, Mich., advertising agency. She recalls that the question of child care hit home at her firm when a top ad designer left because she had been unable to find adequate facilities for her child. The issue gained a higher priority when several others in the firm—including the boss, Muhleman herself—became pregnant.

The company set up an on-site facility for use by any of the 150 employees needing child care arrangements. The worker and the company share the $162 weekly fee. David Jansen, the firm's human resources director, says the impact on morale is apparent: "When you're having a bad day, you just walk over to the day care center. After spending 10 minutes playing with your kid, things at work don't look as bad. Even employees who don't have children in the center walk over there to get perked up."

Muhleman says the four-year-old center is expensive, but the investment pays off in increased morale and productivity. "The cost simply comes off the bottom line, and I really don't think about it," she says.

Broader evidence of the benefits to employers comes from a report on a three-year study, funded by the Department of Health and Human Services in 1981, of child care programs at 415 hospitals and midsized businesses across the country.

The National Employer Supported Child Care Project, as the study was called, shows that 90 percent of the hospitals and businesses surveyed report employee morale improved as a result of a child care program, 85 percent cite an increased ability to recruit and retain workers, 65 percent cite lower turnover, and 53 percent report a lowering of absenteeism.

Employees also were surveyed. Thirty-eight percent say the availability of child care arrangements was a factor in their going to work for the company to which they applied, and 69 percent say the arrangements were a factor in their staying in their jobs.

I have introduced legislation, the On-Site Day Care Privatization Act, which seeks to assist employers in providing affordable and quality child care for our Nation's children. This legislation seeks to provide a one-time-only tax incentive for employers to provide on-site day care for their employees. I urge my colleagues to join with me in this effort to provide our children with the attention and care they deserve. On-site day care will allow parental participation and involvement. It will ensure that although, because most parents are forced to work because of economic conditions, children will not suffer.

A TRIBUTE TO MR. HERMAN ALVAREZ

HON. HOWARD L. BERMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. BERMAN. Mr. Speaker, I rise today to pay tribute to one of California's outstanding citizens on the occasion of his 70th birthday—Herman Alvarez. Mr. Alvarez has devoted his long and productive life to the service of his family, his community, and his country.

Mr. Alvarez volunteered for the U.S. Army in 1944, served in Japan during World War II and became a citizen while in the Armed Forces. An active participant in veterans affairs, he was honored by the Clifford Rodriguez Veterans Post 809 with its Distinguished Service Award for his work with crippled and disabled childen. Mr. Alvarez continues today to demonstrate his concern for social service by working for and with his fellow citizens.

Paramount among Mr. Alvarez's priorities is advancing educational opportunities for America's youth. During the 1970's he joined the American G.I. Forum Scholarship Committee, helping to provide financial aid to Mexican-American youth bound for higher education. In 1984, Mr. Alvarez established the Henrietta Alvarez Scholarship Fund in memory of his beloved wife. This was most appropriate, for Henrietta and Herman both believed that education is the key to a better future, and invested their energy and resources to help their children obtain a college education.

It is my distinct honor and pleasure to join my colleagues in saluting Herman Alvarez for his outstanding citizenship in California and for his leadership and service to his family and his community.

PERSONAL EXPLANATION

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. KOSTMAYER. Mr. Speaker, earlier today due to a malfunction of the electronic bell system in the Capitol I missed the vote on the Jacobs amendment to H.R. 2941. Had I been present, I would have voted "no."

HUMAN RIGHTS VIOLATIONS IN KENYA

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. YATRON. Mr. Speaker, I want to take this moment to commend Amnesty International on its recently issued report on human rights violations in Kenya. It is an outstanding publication which documents and details an extensive and increasing pattern of government abuses, including torture of political prisoners; prolonged, secret, and illegal detentions; unfair trials; and a complete absence of due process.

Amnesty's report reveals the brutality of the torture and the scope of the crackdown. It cites specific instances in which two political prisoners have died in custody. Torture includes deliberate starvation, beatings with truncheons, and examples where prisoners were held naked in waterlogged cells until their feet began to rot. It also discusses the widely publicized case of Gibson Kamau Kuria, a prominent lawyer representing political prisoners, who disappeared shortly after filing four torture charges.

Most of the victims, according to Amnesty, have been arrested on the suspicion of having links to a clandestine opposition movement, but many simply appear to have done nothing more than complain about how their government is being run. The Kenyan courts have, for the most part, ignored or dismissed evidence of torture or prolonged detention.

Amnesty's report states that the current government drive began in 1986 and led to the arrest of several hundred suspected political opponents, including journalists, students, lawyers, businessmen, teachers, farmers, lecturers, and civil servants. None was brought to the court within 24 hours as required by law, and many were held incommunicado for interrogation for months. Nearly 100 remain imprisoned.

As chairman of the House Foreign Affairs Subcommittee on Human Rights and International Organizations, I welcome Amnesty's work on Kenya. It will prove to be a valuable contribution to the subcommittee's continuing investigation into the deteriorating human rights situation in that country, and in efforts to improve conditions.

Kenya is important to United States security and economic interests in Africa, and is the recipient of a significant amount of United States assistance. Stability in Kenya can best be preserved through respect for human rights and a government based on sound, democratic principles and institutions. It is imperative that the United States press the Moi government to end its campaign of detentions and torture and allow freedom of expression, public dissent and other fundamental rights in accordance with the Universal Declaration of Human Rights and other international covenants.

Clearly, while Kenya is not the worst violator of human rights, Amnesty's report shows a government increasingly paranoid about domestic opposition and willing to take excessive measures to suppress it. I encourage all Members of Congress and appropriate officials in the State Department to review Amnesty's report and to unite in an effort to promote respect for basic human rights in Kenya.

CAPTIVE NATIONS WEEK

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. LIPINSKI. Mr. Speaker, I rise today to remember the nations of the world which live under the oppressive yoke of communism. It is testimony to the concern of the American people for these countries that the U.S. Congress has set aside July 19–25, 1987, as the 29th commemoration of Captive Nations Week.

As cochairman of the Democratic Council on Ethnic Americans, I have been made aware that Communist domination knows no one particular ethnic group or nationality. Communist oppression exists not only in Eastern Europe, but in Vietnam, Cambodia, Laos, Nicaragua, Afghanistan, mainland China, Cuba, and in many other regions and areas of the world. People residing in these countries have no recourse to the fundamental human rights we Americans and citizens of other free nations take for granted. In the Communist countries of the world, the state determines what rights, if any, are to be given to whom—there is no objective document outlining inalienable rights to which any citizen is entitled.

State domination does not end at the political and social aspects of society, but extends into all facets of a particular culture. Schools must reflect the Communist view of the world, which if often subject to change and revision, media offers little more than party propaganda, and the very culture of a nation, that which sets it uniquely apart from the other peoples of the world, must be strictly controlled and monitored so as not to usurp the power of the state. The rigid allocation of resources in Communist countries takes away the ability for man to better himself and his family, to work hard and achieve something better than what his forebears were accustomed to.

Though communism has affected many peoples and lands, perhaps nowhere else has the fight for individual dignity and economic freedom been as pronounced as in the countries of Eastern Europe. We remember in 1956 when the brave people of Hungary fought Soviet tanks and the alien Communist ideology which sought to impose its will on a country with strong democratic traditions. We remember in 1968 the democratic reforms of the Dubcek government in Czechslovakia and the ensuring "Prague Spring" that became an outlet for popular opposition to dictatorial rule. We remember the latest manifestation of discontent—that of the Solidarity Union and their leader, Lech Walesa, protesting the fact that the working men and women of Poland were not able to provide for themselves or their families and seeking to create a labor organization independent of Communist control.

The hope and yearning of the peoples of these nations, however, is not confined to Eastern Europe. It is felt in every country which experiences the tyranny of the Communist form of government. That is why, Mr. Speaker, it is incumbent upon us as American public officials to renew and rekindle that flame of hope, so it not be quenched by despair and resignation. We will always remember the 31 captive nations of the world were once sovereign states—with the ability to decide their own destiny.

I want to extend my heartfelt greetings to the members of the Illinois chapter of the Captive Nations Organization and commend them on their campaign to bring the plight of these nations to the attention of the American public. I also want to pay tribute to the citizens of the Fifth Congressional District of Illinois and our Nation as a whole who have knowledge of what it means to live under Communist rule.

STRENGTHENING CLEAN COAL TECHNOLOGY DEVELOPMENT

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. BOEHLERT. Mr. Speaker, this week the House Science Subcommittees on International Scientific Cooperation and Energy Research and Development is holding 2 days of hearings into the possibility of boosting U.S. coal exports by increasing U.S. exports of clean coal-burning technology.

As many of my colleagues know, the subjects of acid rain and clean coal technology have been two of my chief concerns since coming to Congress 5 years ago. My concern continues unabated because the air pollution that causes acid rain and related problems continues unabated. Despite much progress toward cleaner air since the Federal Clean Air Act was enacted, Congress and the administration keep avoiding the central facts: emissions are still too high. We in Congress need to establish lower emission limits to address the acid rain and lower atmosphere ozone problems.

This week's hearings, I'm afraid, are just one more example of the politics of evasion. In an ironic twist, we will hear of the potential export market for clean coal technology, a market being created by the imposition abroad of the very controls we are unwilling to implement at home.

Now I'm pleased anytime the United States can increase its exports. But I would like to see a stronger, more competitive domestic market for clean coal technology as well. A wider range of options at lower cost will never come into being unless our Government takes the responsible step of requiring emission reductions.

Technology—as we have learned the hard way in so many American industries—technology does not get used merely because it exists. There have to be incentives to ensure it gets used. People cannot simply point to the clean coal technology program and pretend that the acid rain problem has been solved.

The Canadian Special Envoy to the United States, Mr. Davis, certainly did not believe clean coal R&D was the sole answer to acid rain when he signed the agreement that will be so piously cited in these hearings.

Our economic competitors in West Germany and Japan have adopted some of the strongest clean air requirements in the world. Their giant corporations are quickly narrowing the gap, or perhaps even bypassing the American producers of clean coal technology, precisely because they have much closer experience with those clean air laws. If we keep our own heads in the sand, we stand to lose yet another cutting edge industry, and the promise of more jobs, to foreigners.

With the crises in oil and nuclear energy, we have an opportunity to expand coal use, and a clean coal technology program, linked to a carefully designed acid rain program, would allow us to develop both a stronger domestic market for coal, as well as stronger export opportunities.

Mr. Speaker, several members of the full House Science, Space, and Technology Committee have requested a comprehensive full committee review of the Clean Coal Technology Program, since the program suffers from such a confused mandate, and has never been authorized by our committee. I hope we get that opportunity.

A TRIBUTE TO A PIONEER FOR WOMEN IN THE FEDERAL WORK FORCE

HON. E. CLAY SHAW, JR.

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. SHAW. Mr. Speaker, I would like to take a moment to mark the passing of Viola Prassas, one of the first women attorneys for the Federal Government and a resident of my home district in Fort Lauderdale.

Mrs. Prassas earned her law degree in 1936 and began work for a succession of Federal agencies, including the Federal Housing Administration, the Coal Commission, the Liquor Control Commission after prohibition was repealed, and the Labor Department. After several more years of service in Government departments, Mrs Prassas decided to end her career in public service in 1950.

Mr. Speaker, these accomplishments are even more impressive when we consider the conditions for working women in the 1930's and 1940's. In such a male-dominated work force, for a women to achieve such professional success required a great deal of determination, talent and hard work.

After her Government service, Mrs. Prassas joined an architectural and engineering firm founded by her husband, Milton Prassas. Her design of a mosaic glass panel at Saint Matthews Lutheran Church earned a citation from the American Institute of Architects in 1965. In 1979, she and her partner-husband decided to retire to Fort Lauderdale.

Mr. Speaker, this fine American was buried in Arlington National Cemetary on June 24, 1987. Her accomplishments 50 years ago are an example to all the young women who seek professional success in government and law.

JACK TURNER REPRESENTS THE FINEST IN THE AMERICAN WORK ETHIC

HON. JAMES H. BILBRAY

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. BILBRAY. Mr. Speaker, I rise today to pay tribute to an outstanding southern Nevada resident, Mr. Jack Turner. Jack currently serves as director of the United Auto Workers Retired Workers Department.

Few men or women have demonstrated the dedication and skill which have characterized Jack's work on behalf of the working men and women of our Nation. At age 18 Jack began his distinguished career by entering the work force in 1942 at the Flint, Michigan Chevrolet plant, where he joined UAW Local 659. Soon afterward, Jack nobly served our country in World War II, leaving in 1946 after nearly 4 years of honorable service. Upon return to the civilian ranks, Jack entered Michigan State University.

Graduating in 1950 with a degree in accounting, Jack began his work in earnest. In 1955 through 1958 he served as District Committeeman for Skilled Trades, and from 1958 until 1966 served as the Secretary of the General Motors National Negotiating Committee. During his service in the latter capacity, Jack served in the 1964 General Motors National negotiations. Jack expanded his activities, on behalf of America's working men and women by joining the International Skilled Trades Advisory Committee in 1964, and in 1966 was named to the International Skilled Trades Staff.

As a result of the excellence of his efforts, Jack was named assistant director of the Retired Workers Department of the UAW in 1973 and continued to serve in that role until 1980. At that time, in recognition for his continued outstanding work, Jack was named director of this important group.

Jack's contributions are not limted to these areas alone, however. In 1973, Jack was named to the executive board of the National Council of Senior Citizens, a position he continues to hold today. For the past 2 years Jack has served as Secretary/Treasurer of the distinguished organization.

A devoted family man, Jack is the proud father of two gifted children. He has given countless hours in service to his community both as a Shriner and as a Mason.

Mr. Speaker, I ask today that my colleagues join me in commending the outstanding contributions of Jack Turner. Jack truly embodies the finest in family values, service to community and Nation, and of the American work ethic.

TRIBUTE TO JAMES WARREN WRIGHT

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. LAGOMARSINO. Mr. Speaker, I rise to pay tribute to James Warren Wright, petroleum engineer, on the occasion of his retirement from Federal service.

Jim Wright has been supervisor of the Ventura District of the Minerals Management Service, Department of the Interior, for the past 5 years. Prior to that, he was supervising petroleum engineer in the Los Angeles office, and has worked in the Department of the Interior for the past 13 years. Jim came to Federal service well recommended, having worked in private industry for many years, most recently as reliability engineer for McDonnell Douglas Aircraft Division.

Jim also served in the armed services, as an infantryman in World War II, and in the Reserve, where he attained the rank of major.

During his tenure in Ventura, Jim also continued his interest in civic matters, particularly the Boy Scouts. As a youth, Jim attained the rank of Eagle Scout, and has been involved in scouting for over half a century. Professionally, he is a member of the American Petroleum Institute, and a petroleum production pioneer.

It has been our privilege to work with Jim in his capacity of district supervisor, during which time he has had responsibility for Outer Continental Shelf production for an area ranging from the Mexican border to Point Conception.

I know I speak for all his friends when I say that we wish him well in his retirement, and appreciate the many contributions he has made to our community.

AVIA/BLAZERS GET PRESIDENTIAL AWARD

HON. LES AuCOIN

OF OREGON

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. AuCOIN. Mr. Speaker, account after account of high school and college athletic scandals are reported every day. But this coverage ignores the vast majority of our Nation's athletes—both amateur and professional—who are working to increase student interest in academic achievement.

An outstanding example of an athletic organization's involvement in the community is taking place right in my own Oregon Congressional District. And I'd like to tell you today, Mr. Speaker, that the efforts of the Portland Trail Blazers and the AVIA Athletic Footwear Co. are certainly refreshing.

Studies show that 25 percent of the students that start high school will never finish. In Oregon, 8,000 students a year are added to the ranks of high school dropouts. The Blazers, with the help of AVIA, have used their position as role models to influence students to develop their interests—scholastic as well as athletic.

The Blazers and AVIA were recently selected to receive a Presidential Award for Private Sector Initiatives for their successful Blazer/AVIA Scholastic Improvement Concepts [BASIC] program. This is a program designed to fight these frightening statistics.

BASIC has helped more than 120,000 students throughout Multnomah, Washington, Clackamas, and Yamhill County since the program's inception in 1984. The program is broken down into separate reading, writing and general achievement sections involving grades 1 through 12. The program has received excellent marks from teachers, principals, school superintendents, parents and most important, students.

Materials for reading, writing and general improvement competitions are sent to over 5,500 teachers in over 500 schools at the start of each school year. Teachers then incorporate the competitions into their curriculum and winners are awarded tickets to Blazer games, AVIA products and a chance to meet the players. The competitions act as an incentive for students to participate in class and turn in top performances.

The Blazer/AVIA team was one of 100 honored programs chosen out of 1,000 entries submitted by businesses, trade associations and professional societies. The President's Citation Program was established in 1984 to recognize exemplary community involvement projects sponsored by businesses, corporate social responsibility, and public-private partnerships.

I've had the pleasure of working with the Trail Blazers to put on free basketball clinics for kids in the Portland area. Programs like my basketball camp and BASIC demonstrate a dedication to providing our children with every opportunity to achieve and more importantly, encouraging the desire to achieve.

AVIA Athletic Footwear was founded in Portland, OR, in 1980 by Jerry Stubblefield, a track coach and educator at Montana State University. AVIA has experienced skyrocketing success because of a dedication to putting out quality footwear that will prevent injuries. AVIA's dedication to quality performance is one of the reasons BASIC is an award winning program.

Mr. Speaker, I want to take this opportunity to bring to my colleague's attention, the AVIA—Trailblazer commitment to making our children's education a top priority and to commend them for their program's recognition from the White House.

A DEEP CONCERN FOR MR. KIM HYON-JANG

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mrs. BOXER. Mr. Speaker, I would like to express my deep concern for Mr. Kim Hyon-jang, a political prisoner in South Korea currently serving a life sentence for a crime he did not commit.

In April 1982, Mr. Kim was arrested by the South Korean Government for his alleged involvement in an arsonist attack on the American Cultural Center in Pusan. Among 5,000 suspects, Kim Hyon-jang was 1 of 15 charged under the National Security Law and Martial Law regulations with "masterminding" the attack. Kim denied any involvement in the attack. His "confession" used for the conviction was obtained under torture. In August 1982, Kim was convicted and sentenced to death, but his sentence was reduced to life imprisonment in 1983 by President Chun Doo-Hwan.

Before his imprisonment, Kim Hyon-jang was a freelance writer and human rights activist. He studied English at Chosun University in Kwangju, and reportedly worked in 1979 with the Kwangju Dismissed Students Association, which assisted students dismissed from college or university for political reasons. In May 1980 demonstrations took place in Kwangju in which students protested the imposition of martial law. Mr. Kim compiled and circulated documents about the atrocities of these events, in which over 1,200 people were reportedly killed, and human rights were blatantly violated.

As soon as the South Korean police got hold of these documents, Mr. Kim was forced into hiding in order to escape questioning. He sought refuge at the Catholic Educational Center in Wonju, the same site that those involved with the arson attack sought refuge. On April 2, Kim Hyon-jang was arrested and charged with involvement in the arson case.

Reports by Amnesty International claim that the arson charge against Kim Hyon-jang was falsified, and his personal testimony was supported by those who confessed their own participation in the attack. Because his confession was obtained through torture and there was no direct evidence of his actual participation in the attack, it follows that Mr. Kim's conviction and continued imprisonment were based solely on the peaceful expression of his political opinions as a freelance writer. The right to freedom of opinion is guaranteed in article 20 of the South Korean Constitution and article 19 of the United Nations Universal Declaration of Human Rights [UNUDHR]. The use of torture is prohibited by article 11 of the South Korean Constitution and article 5 of the UNUDHR.

Unfortunately, Kim Hyon-jang's case is not an isolated one in South Korea. The imprisonment of a citizen for the peaceful exercise of free speech violates both the South Korean Constitution and the U.N. Declaration of Human Rights. The use of torture is also prohibited by South Korean law yet is being applied repeatedly to political prisoners. Mr. Kim should not have to suffer these injustices. These injustices must be addressed and eradicated.

"MILTON ON AMERICA: TAKING THE ECONOMIC PULSE OF THE U.S.A."

HON. BILL GREEN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. GREEN. Mr. Speaker, I should like to draw my colleagues' attention to a new book "Milton on America: Taking the Economic Pulse of the U.S.A.," by Arthur Milton.

For the past 42 years, Mr. Milton has led a crusade to bring the message of sound financial planning to the average American, often exposing the inequities of the insurance industry. Since his first book, "Life Insurance Stocks: The Modern Gold Rush," Mr. Milton has authored 13 additional publications. Despite being 20 years old, "How To Get a Dollar's Value for a Dollar Spent" remains an invaluable guide for consumers wishing to get the most for their money.

Among his many honors, Mr. Milton serves as the national chairman of the Citizens Committee of the United States Mission to the United Nations and is a member of the President's committee, Citizens for the Republic.

During the past year, Mr. Milton made hundreds of radio, television, and lecture appearances, offering his expertise and insight to his listeners. The synthesis of those experiences is a book that is both informative and inspirational. Having witnessed his own generation's failure to prepare adequately for later life, Mr. Milton directs his advice to the current and future generations. For them, there is still time to undertake sound financial planning. Despite his underscoring of the many pitfalls which plague financial planners and consumers, Mr. Milton voices a strong and affirmative optimism concerning the economic opportunities available. In his mind, America is still very much "the land of opportunity" for those who wish to enter the free market system.

It is my firm belief that this book will prove beneficial to those planning their financial future.

CAN WE AFFORD MR. MARKEY'S BILLION DOLLAR EMERGENCY PLANNING AMENDMENT?

HON. CARLOS J. MOORHEAD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. MOORHEAD. Mr. Speaker, In a letter, dated July 14, 1987, to all House Members, Congressman MARKEY and several other Members stated that an emergency planning amendment to H.R. 1315, the Nuclear Regulatory Commission Authorization Act for Fiscal Years 1988 and 1989, would be offered on the House floor during the week of July 27. Although this amendment was defeated by the Committee on Energy and Commerce on June 9, Mr. MARKEY and his supporters are urging Members to support the same amendment on the ground that it would affect only two nuclear powerplants: Shoreham and Seabrook.

I requested an analysis of that assertion from the Prudential-Bache Capital Funding Co. Their response states, among other things, that enactment of the Markey emergency planning amendment could result in a greater than $100 billion reaction in the financial markets. In view of that assessment, I think we need to take a closer look at the true impact of the Markey emergency planning amendment.

Mr. Speaker, I am inserting in the RECORD at this point the analysis I received from Prudential-Bache for the benefit of my colleagues.

PRUDENTIAL-BACHE CAPITAL FUNDING,
New York, NY, July 21, 1987.

Hon. CARLOS J. MOORHEAD,
U.S. House of Representatives,
Washington, DC.

DEAR CONGRESSMAN MOORHEAD: In response to your recent inquiry about the possible impact on the financial markets of The Markey Amendment of Emergency Planning, we offer the following analysis:

As financial analysts specializing in the analysis of electric utility companies for investment clients, our views are objective. We are not investment bankers. We are research analysts. We are not pro-nuclear nor are we anti-nuclear. We are not pro-utility nor are we anti-utility. Our job is to make informed, objective judgments of the financial quality and investment merits of individual electric utility companies. If the Markey Amendment passes, it could severely harm the financial quality of many electric utilities, in our opinion.

Congressman Markey's amendment is specifically aimed at allowing the local governments to continue to block the opening of the Shoreham Nuclear Power Plant (100% owned by Long Island Lighting Company) and the Seabrook Nuclear Power Plant (owned by several utilities in New England including Public Service Company of New Hampshire, 35.6% ownership share; United Illuminating Company, 17.5%; Eastern Utilities Associates, 15.0%; Massachusetts Municipal Wholesale Electric Company, 11.6%; New England Electric System, 9.9%; and several others with smaller shares).

These two plants represent a combined total investment of more than $9 billion. Markey's amendment could cause these assets to be rendered nearly worthless and consequently the already depressed market values of the securities of these companies could decline by several billion dollars more, in our opinion. Furthermore, both Public Service Company of New Hampshire and Long Island Lighting could be forced to file for bankruptcy protection because state regulators would not be willing to allow a utility to charge customers for a non-operating electric generating facility.

There are four other unlicensed nuclear units that are expected to begin commerical operation within the next two years, in which a total investment of $14 billion has been made. Passage of the Markey Amendment could lead to a situation in which the respective governors of the states in which these nuclear units are located might use the precedent of the Markey Amendment and therefore feel free to try, for whatever reason, to block their operation.

Furthermore, every few years, the evacuation plans for each of the more than 100 operating nuclear power plants in the U.S. must have their emergency plans recertified. The financial markets would be well aware that any local politician could try to use the precedent of the Markey Amendment to block the recertification of any one of these 100+ nuclear units. The resulting financial damage to the utility or utilities involved would be devastating. We would conservatively estimate that a greater than $100 billion reaction in the financial markets could occur to reflect the potential loss of value of these assets.

In addition to the impact on the millions of individual stock and bondholders of utility company securities, the ratepayers would suffer much more. Some areas of the country could experience brownouts and even blackouts because of capacity shortages from the loss of electricity now being derived from nuclear power plants. Furthermore, the respective utility companies would have to increase their electric rates sharply in order to buy replacement power (if available) from nearby utilities, or else burn more costly fossil fuels, in the short term. In the long term, these utilities would have to spend upwards of $200 billion in order to build replacement generating capacity, and electricity rates would soar.

We thank you for the opportunity to comment on The Markey Amendment on Emergency Planning.

Yours truly,

BARRY M. ABRAMSON,
C.F.A.,
Vice President.
MARGARET D. JONES,
C.F.A.,
Vice President.

PROMPT PAYMENT FOR SMALL BUSINESS

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. PRICE of North Carolina. Mr. Speaker, one of the priority items emerging from the 1986 White House Conference on Small Business was a recommendation to amend the Prompt Payment Act of 1982. Though the original act has helped the Federal Government pay its bills on time, the conference felt that further legislative action was needed to ensure that small businesses were not hurt by the delaying tactics of Federal agencies and general contractors.

This conference recommendation has been supported in discussions with constituents during my travels throughout the Fourth District of North Carolina. Many small business owners have complained about the delay in receiving payment from the Federal Government or general contractors. There have even been some owners who have had to take out loans to keep their businesses operating while waiting for a Government check for services already performed.

The Small Business Prompt Payment Act of 1987, H.R. 1663, would help address these problems. The bill is designed to end Federal agency practices that slow payment to Government contractors and to ensure that late payment interest charges are paid in the event of delay. In addition, it sets out payment guidelines for general contractors so that subcontractors, which are mainly small businesses, also receive timely payment.

This measure should encourage more small businesses to bid for Government contracts by providing predictability and promptness in payment for goods and services. Later this month, the Small Business Sucommittee on Exports, Tourism, and Special Problems, will be holding a hearing on H.R. 1663 and I commend Chairman SKELTON for scheduling this hearing. I hope my colleagues will aid the Small Business Committee's efforts by joining me in cosponsoring this legislation.

VICTORY OVER COMMUNISM

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. DONALD E. LUKENS. Mr. Speaker, I rise today in support of aid to the Nicaraguan freedom fighters. Once again the liberal left's policy of retreat and surrender in Central America has been exposed. Oliver North showed the American public what the liberals do not want to face up to, that there is a massive Communist military buildup taking place in Nicaragua which is paid for by the Soviet Union with technical assistance being provided by the East German, Cuban, and North Korean Communists. I submit for the RECORD, an article by Pat Buchanan from the July 19 Washington Post. This article outlines the defeat of the liberal left and its policy of retreat and surrender to communism in Central America.

The article follows:

[From the Washington Post, July 19, 1987]

YOU'VE WON, MR. PRESIDENT; NOW PARDON OLLIE AND JOHN

(By Patrick J. Buchanan)

Noon Wednesday, suddenly, it was over; and everyone knew it. The coup d'etat had failed. Ronald Reagan would survive.

One could see defeat etched in the faces of the network anchors and correspondents. One could sense it in the frenetic whining of politicians that "What did the president know?" was actually the "wrong question." But, it was all over. For once, Mary McGrory go it right. Ollie North had left the committee "a smoking ruin" and the quarry, the president of the United States, had escaped. As Rear Adm. John Poindexter testified, under oath, Old Dutch has been telling us the truth all along.

Wednesday and Thursday, the Left sought maniacally to re-shift the focus back to the sale of arms to Iran, but that souffle will not rise a second time.

In November, when it was first revealed that Ronald Reagan had authorized weapons sales to the mullahs, the anger, the anguish, the outrage—even among the president's own—were genuine, legitimate. Today, they are synthetic, feigned, and transparently so.

After eight months, the arms sale to Iran has become to the current claque of liberals what Nixon's decision to "contain" Watergate was for the generation of 1974: a convenient club to beat to death a president the Left could not defeat at the ballot box.

This time, fellas, it didn't work; this time the American people, with the help of a passionate and articulate Marine lieutenant colonel, say through the falsity and fraudulence of the Show Trial. This time, the country wised up to the fact that all this liberal breast-beating and outrage, faked for a compliant news media, was an act. America openly rooted for Ollie North, and against the Sanhedrin of hypocrites trying to tear him down.

In the aftermath of the failed coup, Ronald Reagan should go on the offensive:

He should block any criminal prosecution of Poindexter or North. Any indictment of either officer would be an offense against justice that ought not to be permitted by the president, whom they served honorably, faithfully and well. And the president should so state, publicly. Then North should be sent by the Marine Corps on a speaking tour for the contras in every swing congressional district in the United States, not excluding the Ft. Worth district of the speaker of the House.

If special prosecutor Lawrence Walsh doesn't get the message and moves to indict Poindexter or North, Reagan should step in with a presidential pardon. This is a political, not a legal, struggle.

President Reagan should demand, not request, $500 million for the contras, not $100 million; and he should settle for nothing less than what the contras require to continue this fight. No more no-win wars, Mr. President. Did not you tell us, sir, that this was the central lesson of Vietnam?

And should the Democratic Party in Congress, with no policy of its own for dealing with the beachhead of the Warsaw Pact on the mainland of North America, choose to pursue its dog-in-the-manger tactics and abandon the contras in the field, the president should find the supplies, ship them openly and challenge the Congress to impeach him. As North demonstrated, they haven't got the cojones.

It is time for the United States to begin doing openly what the CIA director, Poindexter and North had to do secretly. Salus Populi Suprema Lex.

The time to launch the campaign for contra aid is now, when the iron is hot; and the way to begin that campaign is with a rally in the East Room, where the Medal of Freedom should be awarded, posthumously, to that splendid American, the Honorable William J. Casey.

In a single week, Ollie not only put God and country and the Constitution, and all the splendid values he represents, back on the side of the president and the Nicaraguan resistance; he held up a mirror to the ugly face of the Inquisition.

How, when North admitted to setting up secret bank accounts, to deceiving Congress, to shredding documents, can the American people consider him a national hero, one bewildered network reporter asked his equally bewildered colleagues?

The answer is simple. What the American people saw was genuine drama: A patriotic son of the republic who, confronted with a grave moral dilemma—whether to betray his comrades and cause or to deceive members of Congress—chose the lesser of two evils, the path of honor. It was magnificent. The American people watched daily the anguish and pain of a genuinely moral man and contrasted that with the stuffy self-righteousness of the pharisees putting him through his ordeal.

The spluttering and uncomprehending rage of Sam Donaldson last Sunday morning exposed not only how far the national media is out of touch with America, but how far apart we, as a people, have become—and not simply on the issue of Central America. Americans of Left and Right no longer share the same religion, the same values, the same codes of morality; we only inhabit the same piece of land.

North speaks the language of duty, honor, country; his is a faith deeply rooted in Christian tradition. He did not, and would not, proclaim some amoral "right to lie"; he was forced into a moral dilemma by an immoral act of Congress.

With the Boland Amendment, the Congress of the United States passed a death sentence upon the embattled friends of North; and then it instructed men like North to carry it out. Instead, the colonel built a new and ingenious lifeline to keep the contras alive; and when Congress came to close that down as well, North protected it, at the risk of his own career. He deceived Congress, to save his friends on a field of battle.

That is what the American people, deeply moved, were applauding. That is why the American people laughed out loud, when North volunteered that even as Justice Department lawyers were seizing documents in one room, he was shredding documents in the next.

"They were doing their job, and I was doing mine," Ollie said; and every American knew in his heart that North had done a brave and beautiful thing. For all this moralizing that "the end does not justify the means," the truth is the colonel's ends were noble and his means—secrecy and shredding documents—licit or not, were not inherently immoral.

There is another reason America took North to her heart. That is because they believe that the Left, the Sam Donaldsons of the world, lack the moral standing to sit in judgment on anyone—especially North.

Men who have proclaimed it a great advance for human freedom when 4,000 unborn children are daily shredded in the abortuaries of the United States are to be laughed at when they profess moral horror over the shredding of documents.

Men who have cheered every twisted perversion of the Constitution by a renegade Supreme Court, driven by ideologues like Brennan and Marshall and Douglas, are frauds when they proclaim themselves profoundly concerned with Ronald Reagan's transgressions against the constitutional rights of Congress.

Men, who have for three years been calumniating the contras—as Somocistas, facists, rapists and thugs—are hypocrites when they stand before television cameras and fault the president of the United States for "failing to make his case to the American people."

Many truths have emerged from these hearings, few of them to the liking of the Left. First among these is that if Nicaragua is ever again free, the capital city of Managua will boast an Avenida Oliver North, leading directly into the Plaza William J. Casey. And if Nicaragua is permanently appended to the Warsaw Pact, moral and political responsibility will rest squarely with the dominant wing of the Democratic Party, which has passively collaborated with Moscow and Managua in bringing that about.

Thanks to three men—Poindexter, Casey and North—the democratic resistance is alive. Thanks to these three men, there was an army of 15,000 peasants prepared to fight, when a courageous fifth of the Democrats in Congress awoke to their party's folly, openly and bravely crossed the aisle, scrapped the Boland Amendment and voted $100 million in military assistance.

And, damn it, Mr. President, the "diversion" was a "neat idea."

The Boland Amendment did not forbid Iranian contributions to the contras; it did not forbid private aid to the contras; it did not apply to the NSC staff. It was a civil statute with no criminal penalties. And there is no hard evidence that North or Poindexter violated that amendment.

Neither man should have been let go in the West Wing panic of late November. They should have been defended then, as they should be defended now. It is time we retrieved our wounded.

And if the letter of the Boland Amendment was not violated, its "spirit," merited contempt. For the Boland Amendment was rooted in malice; it was a calculated, cold-blooded congressional act to abandon to their communist enemies thousands of Nicaraguan patriots who had taken up arms, at the urging of the United States, to expel Moscow's Quislings from Central America.

The Boland Amendment was rooted in the same malevolence that motivated an earlier Congress to disarm and desert to its communist enemies a South Vietnamese Army that had fought for seven years alongside our own.

With the testimony of North, the contra cause, the anti-communist cause, has been given one of its great victories of the decade. But continued success requires of the White House more of the mindset of Ollie North. The White House must get off the defensive and go on the attack; the president must not only make the case for the contras, but against the Congress.

It is not Poindexter and North who belong in a court of law—but Congress that belongs in the court of public opinion, explaining why, for three years, it has actively sought a contra defeat—and its natural concomitant, a communist victory in Central America.

In 1985 and 1986, while Fidel Castro moved 3,000 combat advisers into Nicaragua, while Gorbachev pumped in a billion dollars in military hardware, the Congress did its damnedest to discredit, defund and defeat the army of peasants fighting on the side of freedom and the United States. The Boland Amendment was nothing less than the American corollary to the Brezhnev Doctrine.

If you shoot at a king, be sure you kill him. Don't miss. That was among the first things taught us by Richard M. Nixon when I hooked up with him more than two decades ago. For the last six months, the left wing of the Democratic Party, and its auxiliaries in the press, have sought to use the Iran-contra affair to cripple and kill the presidency of Ronald Reagan as they used Watergate to kill the presidency of Richard Nixon. They failed. Mr. President; they are retreating in disarray; and now is the time to let the jackal pack know what it means to strike a king.

HOW IRAN IS TURNING REFLAGGING INTO A PROFIT-MAKING OPERATION

HON. LES ASPIN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. ASPIN. Mr. Speaker, in the last weeks it appears that the Iranians may have discovered how to make the reflagging program pay off for themselves—with the free and unwitting assistance of the Western news media. It is an interesting example of how we can be manipulated if we don't take care.

Over the last weeks, the price of oil on the spot market has risen about 10 percent—from around $20 to around $22 a barrel. This is an increase that Iran has long sought. It is generally accepted that the rise results from increased fears that the war in the Persian Gulf might expand and reduce the supply of oil on international markets. For example, John H. Lichtblau, president of the Petroleum Industry Research Foundation, said last week: "What has happened was directly related to concerns in the market about the Persian Gulf."

What are the concerns? Simply Iranian rhetoric about the reflagging.

Every few days some Iranian official says something inflammatory about the war and the reflagging issue. The inflammatory phrase of the day is duly picked up by the wire services and printed in hundreds of newpapers.

But let's look at what the Iranians have been saying with more care—because, Mr. Speaker, there's a lot less there than meets the eye. That's the topic I would like to discuss today in this speech, the seventh in a series I have been giving on the Persian Gulf.

There are three catagories of comments we should look at: First, the detailed explanation of Iranian policy given a month ago; second, the inflammatory comments made by officials up until the last several days; an third, the comments coming from Tehran most recently.

First, there is the detailed explanation of Iranian policy, which was outlined May 22 by the speaker of the Iranian parliament, Ali Akbar Hashemi Rafsanjani, in his homily at the Friday prayers in Tehran. That is the primary forum used by the Khomeini regime for communicating policy to the masses of its supporters.

Rafsanjani opened with some flashy rhetoric: "Flags do not solve anything. One day we could land on their ships and carry their flags here."

But the rest of the speech was a very careful explanation for the masses of why Iran would not want to attack the American or Soviet warships escorting American and Soviet tankers. His primary theme was that the superpowers were the losers because they were stuck escorting Kuwaiti tankers.

"For a 90,000-ton vessel to be escorted by a Soviet fleet is a victory for Iran," he told the congregation, "because the cost of transporting oil this way would be much more than the cost of flying it out."

Then he argued that if the superpowers really devoted all their manpower to the escort role, the price of oil would soar, which would be to Iran's advantage.

Finally, he chuckled at the sight of a speedy warship forced to lumber along at the slow speed of a tanker and suggested it was demeaning for the superpowers. He compared it to a racing car stuck escorting a heavy truck. The very act of escorting motley tankers, Rafsanjani said, "signifies the miserable situation of the superpowers."

It was vintage Iranian hyperbole. But the point is important; the point was to explain to the masses why the presence of the superpower fleets in the gulf was a defeat for the superpowers rather than a challenge to Iran. The point was to explain, in short, why Iran had no need to attack the United States Navy. The point was to tell the radicals who form the heart of the regime's support why it would be a bad idea to do what the radicals would love to do. Rafsanjani even said flatly that Iran had won a "victory" because the superpowers were reduced to escorting tankers. This line of logic brings back memories of the late Senator George Aiken of Vermont who said the way out of the Vietnam mire was simply for us to "declare victory" and go home. The Rafsanjani speech is the official exposition of Iranian policy given the Iranian supporters of the Khomeini regime.

The second category of remarks—those made until the last few weeks that threaten graphic bodily harm to Americans—have gotten much coverage in the American media. A survey I made finds that each and every such threat has been accompanied by major qualifiers.

Here are just four quotes selected as representative. They come from the President of the Islamic Republic, the foreign minister, the speaker of parliament, and the commander of the Revolutionary Guards, which is commonly viewed as a band of wild men who cannot be trusted to restrain themselves.

The statement of Mohsen Rezai, commander of the Pasdaran or Revolutionary Guards, is especially interesting because it is so carefully nuanced—nuances one wouldn't normally expect from the leader of wild men. In a speech to Pasdaran officers June 25, Rezai said: "Should the enemy bring all its forces into the Persian Gulf, we possess enough forces seeking martyrdom who are capable of striking blows at its modern equipment and capturing any number of U.S. naval craft as war booty."

First, the threat is conditional: If the Americans do something * * *. Second, he says the Revolutionary Guards possess forces; he doesn't say they will use them. Third, he says the forces are capable of doing harm, but not that they will do anything.

The speaker of the parliament, Rafsanjani, came back to the reflagging issue at the Friday prayers on June 26, a month after his first detailed comments. Rafsanjani said: "The East, the West, world reaction, and the American public should know that, if the United States fires one bullet in the Persian Gulf, they will bear the responsibility for starting a war and the conclusion will not be within their control. They will not be immune even if they run away because we will pursue them. If even one single drop of blood is shed by the United States in the Persian Gulf, there will be a river of blood flowing throughout the world."

The comment about the river of blood got a great deal of attention in the Western press. Unfortunately, the qualifying phrase—"if the United States fires one bullet"—did not get equal billing.

The President of the Islamic Republic, Ali Khamenehi, addressed the issue in a speech made to officers of the Pasdaran on June 28. The speech text was not printed in the Iranian media, but this is the lead paragraph from the English-language report filed by the Islamic Republic News Agency [IRNA]: "The superpowers will certainly suffer heavy blows if they conspire to launch an aggression in the Persian Gulf or back Iran into a corner for making it back down from its legitimate demands."

Foreign Minister Ali Akbar Velayati was questioned at length in an interview published textually in the July 6 issue of Profil, an Austrian periodical. Velayati said: "We will act in accordance with our national and regional interests. Iran does not intend to attack any ships or to bring any disquiet to the region." The interviewer then pointed to some of the rhetorical remarks about teaching the United States "bitter lessons." Velayati responded: "When our tankers, ports and oil installations are attacked, we will defend ourselves and retaliate. This does not mean, however, that we will start the attacks."

Thus, this second category covers threats carefully conditioned to exclude Iranian action against the United States Navy merely for escorting Kuwaiti tankers.

The third category of comments are those remarks made in recent days, some of which hit new heights of rhetoric and lack the qualifiers noted in the quotations I have just cited.

First, there was an interview with Prime Minister Mir Hossain Musavi that appeared on Japan's NHK television network. In that interview, Musavi stated—without qualification: "So long as Iraq continues to attack tankers, even a ship flying the Stars and Stripes will be subject to our attack."

Second, there is a speech made July 15 to a gathering of officers of the Pasdaran. As the Islamic Republic News Agency reported: "Majlis Speaker Akbar Hashemi Rafsanjani warned the United States that if it ventured to enter the Persian Gulf, 'That day, we will point our guns at the Yankees and will take American captives with their hands on their heads to (POW) camps. On that day, the world would witness this (spectacle) and there would be no way for the United States to return'."

Third, there was a speech the same day to the same audience by the number two officer in the Pasdaran. As reported by IRNA: "Deputy Commander of the Islamic Revolution Guards Corps [IRGC] Ali Shamkhani said here Tuesday that Iran was eagerly waiting the United States fleets in the Persian Gulf. 'We would try as much as possible not to destroy them but to seize them intact to strengthen Iran's naval potential,' " he said.

These coments have two points in common. First, they are all more threatening than prior remarks. Second, they are designed for foreign distribution and were not published in Farsi.

The Prime minister's comment appeared in an interview given to a Japanese reporter. The other two quotes are taken from the English language service of the Islamic Republic News Agency. IRNA also carried a long dispatch in Farsi describing the commanders conference and including long quotes from the speakers. Neither the threatening Rafsanjani quote nor the threatening Shamkhani quote was carried by IRNA in Farsi. Yet each quote formed the lead paragraph of separate stories carried in English for foreign readers.

The point is emphasized when one looks at what the Iranians are saying internally. At congregational prayers last Friday, here is what Rafsanjani had to say: "The world's people—the American people in particular—should know that Reagan and his supporters are endeavoring to create a crisis in the Persian Gulf and to involve the rest of the world as well * * *. If they resort to mischief in the Persian Gulf and set the region afire then most certainly those who will suffer the greatest from the smoke of this fire will be the American people, the supporters of America, and the reactionary governments of the region."

And last Wednesday, here is what the Prime Minister Musavi told an interviewer from the Iranian state radio: "I think we have said our last word on this. It's natural that our future measures and the subsequent actions of our Navy will depend on the U.S. measures and on those forces that are escalating tension in the Persian Gulf."

The phraseology used internally is considerably milder and lacking in spice compared to that being used externally.

Mr. Speaker, I suggest that the Iranians have noted the jittery oil markets and recognized that war fears were helping to push the price of oil up. I submit that the evidence points to the likelihood that Iran is consciously trying to give an extra boost to oil prices. And we are playing right along with them. While the Iranians don't sell a lot of oil on the spot market, higher spot market prices are a goal of Tehran because that is the key to higher fixed OPEC prices.

The Iranians may also be trying to frighten us into dropping reflagging. You will note that all these citations come after the House vote on Wednesday, July 8. We voted then to delay reflagging for 90 days. As I said that day, the vote was purely a protest—the legislation couldn't be enacted before reflagging would begin, and the President would veto delay legislation anyway. The vote was simply a message sent to the White House of congressional dissatisfaction with its handling of Persian Gulf policy. It is quite possible, however, that the Iranians got the wrong idea. They may have thought the vote indicated some fear and that if they could frighten us some more with their rhetoric, then Congress would vote not merely to delay reflagging but to bar it outright.

It is clear that the latest round of rhetoric from Iran corresponds both to the period after the reflagging vote and to the period after analysts began commenting that war jitters were sending the price of oil higher.

It is clear, Mr. Speaker, that when the Iranians make pronouncements to the foreign media that are not in their own media, then foreign ears are the ones intended to hear the message. I would hope that we would not merely hear the message, but, more importantly, understand it. There is no need for us to give the Iranians their heart's desire on a silver platter. Every market jitter means more money in the Ayatollah's pockets. Let's not contribute to the jingle.

NATIONAL CONFERENCE ON SOVIET JEWRY ISSUES REPORT: "RESCUING SOVIET JEWRY IN LIGHT OF GLASNOST"

HON. BENJAMIN A. GILMAN

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. GILMAN. Mr. Speaker, recently the National Conference on Soviet Jewry issued a comprehensive and informative report on the current status of Soviet Jewry. It was presented to Secretary of State George Shultz, and deserves a close look by Members of our own body. Accordingly, I ask that this report be printed in full at this point in the CONGRESSIONAL RECORD, and urge my colleagues to familiarize themselves with its contents. It is imperative that the issue of religious and cultural rights for Soviet Jews remain in the forefront of our human rights activities. "Rescuing Soviet Jewry in Light of Glasnost" is a particularly timely piece with a special perspective from which we can gain additional, valuable insights.

RESCUING SOVIET JEWRY IN LIGHT OF "GLASNOST"

The movement on behalf of Soviet Jewry is a unique struggle for emigration in the context of a tradition of four thousand years. It is the struggle to reunite and redeem one-sixth of World Jewry, the remnant of East European Jewry after the Holocaust. It fits within the tradition of the people who have returned to the land of Israel from exodus, exile and dispersion.

Emigration remained the central issue of concern to Jewish activists and refuseniks alike, despite interest and concern with other matters, including religious and cultural life within the Soviet Union.

While 1986 was characterized by the National Conference on Soviet Jewry (NCSJ) as "a year of dramatic, but largely disappointing, developments" for nearly two million Jews in the Soviet Union, the first six months of 1987 may be regarded, in terms of both emigration and Jewish life in the Soviet Union, as a period of bureaucratic gestures and promises, heightened anticipation within the refusenik community and abroad, and relatively meagre results, combined with contradictory and confusing signals from Soviet officials.

EMIGRATION

Until the end of June, 1987 seemed to be better for Soviet Jewry than the recent past. Emigration for the first six months (3,092), although a long way from the Soviet-inspired speculation of "11,000 by the end of the year," was nevertheless a marked increase over the 914 Jewish exit permits for all of 1986!

Nevertheless, Mikhail Gorbachev had a very long way to go before he could claim to be truly solving the classic Soviet "Jewish problem." Despite the improved emigration figures, the issue of the long-term refuseniks, almost all of them "regime refuseniks," appears as intractable as ever. In this regard Soviet bureaucracy can be blamed for many utterly ludicrous decisions and, in general, Soviet policy regarding security matters was out of step with practices in the Western democracies. In fact, emigration figures for the "best days" of the Gorbachev regime are much lower then those of the "worst days" of the Brezhnev era.

Since almost all those individuals concerned, including an increasingly active Jewish women's community, many now with adult children, were directly involved in the initiation of the movement of Aliva, and also the resurgence of Soviet Jewish national identity, their release remains a priority.

In January, 98 Jews left the Soviet Union followed by monthly increases peaking in May at 871. The next month, the figure slipped to only 790 prompting the NCSJ to observe: "We had hoped that the June figure would follow the pattern of monthly increases in emigration visas granted during the first five months of 1987. But it appears that emigration has once again dropped."

It should be noted, also, that while Jewish emigration increased significantly in the first six months of 1987, the following situation remained:

If Jewish emigration this year would continue at the current rate, the year's total would reach only 7,000—less than one seventh of the peak year of 1979 when 51,320 Jews arrived in Vienna.

Almost all of those granted permission are drawn from a list of 11,000 *documented* refuseniks, with little evident breakthrough concerning the thousands of others who are known to seek to emigrate.

Very few new applicants are being approved, or even processed.

Virtually no one who lacks first degree relatives abroad, whether parents or siblings, can get new applications accepted.

There is virtually no flexibility applied with new applicants, leading to the assumption that "glasnost" does not apply to Soviet Jews, and that the Soviet Union seeks to close the door on Jewish emigration once the refusenik backlog has been resolved.

The use of the "secrecy" disqualification has expanded, and the concept abused, as in the cases of such refuseniks as Ida Nudel, Aleksandr Lerner, Lev Elbert, Vladimir Slepak and Naum Meiman, all of whom have not been privy to "secrets" for many years. An increasing number of people were denied exit permits in May and June whose cases were on the refusenik list submitted to Soviet officials by Secretary of State George Shultz. Soviet officials had promised to review the list, and implied speedy and more favorable responses.

Seriously ill refuseniks were denied life-saving permission to leave, as in the case of cancer victim Benjamin Charny, who qualifies for emigration on the "kinship" ground, as he has a brother living in the U.S., but was told not to re-apply until 1995. It is doubtful that, from an actuarial viewpoint, he will be alive.

PROMISES, GESTURES AND NON-DELIVERY

The NCSJ's expression of optimism, tempered by regret, concerning June emigration figures, characterized other aspects of the plight of Soviet Jewry: Permission to leave was given to prominent refuseniks, such as pianist Vladimir Feltsman, and the Jewish Prisoners of Conscience (POC's) were released, except for Aleksey Magarik. This was welcomed by Jewish and non-Jewish groups. Yet questions remained.

Refuseniks wondered why any Jewish refusenik was ever arrested when their desire to emigrate was completely justified under the 1975 Helsinki Accords to which the Soviet Union is signatory. Furthermore, at mid-year, Aleksey Magarik remained in prison for a crime he did not commit. Under the provisions of even the restrictive emigration decree, effective in January, he is a candidate for emigration and could be released immediately and be reunited with his father and sister in Israel.

It seemed that it would be in the Soviet Union's own self-interest, and in the spirit of "glasnost," to free Magarik now and allow him, and the many other long-term refuseniks and former POC's, to emigrate without further delay. Yet Soviet officials seemingly refused to grapple with these issues, while sending ambiguous and even contradictory signals to Western leaders concerning emigration and rights for Jews who remain in the Soviet Union.

An example of these confusing signals was the reaction to the visit to the Soviet Union in March by NCSJ Chairman Morris B. Abram and World Jewish Congress President Edgar Bronfman, who, at that time, received assurance on the following points, as reported to Jewish community leadership in New York on April 1:

Soviet Jews with exit visas for Israel will travel via Rumania on flights to be established.

All refuseniks and their families will be allowed to emigrate to Israel within a one-year period, except for legitimate national security cases. A procedure will be established, however, to review previous visa denials on national security grounds. This procedure may involve officials on as high a level as the Supreme Soviet.

First degree relatives may emigrate for family reunification within an established time frame. There may be flexibility within the framework of the current narrow interpretation of "first degree relative."

Cases of refuseniks recently placed in a "never allowed to emigrate" category will be reviewed.

All Jewish religious books may be imported into the USSR, and a recommended list of books will be submitted.

Synagogues will be opened in all sites where there is a demonstrated need.

Soviet Jews will be allowed greater access to rabbinical training. Some may even be allowed to study in the United States.

The teaching of Hebrew in school or synagogue settings will be considered together with similar restrictions applied to other religious groups.

A kosher restaurant will be opened in Moscow, and liberal provisions will be made for ritual slaughter.

Subsequent official Moscow reaction, and little evidence of real commitment to deal with these issues, indicated that their implementation remained to be seen. Indeed, even the promise of a refusenik review could result in continuing refusals.

REFUSENIKS ARTICULATE EXPECTATIONS

A group of refuseniks, including former POC's, responded to public discussion concerning how many Jews could leave, as opposed to ensuring a regular process. They noted that:

"Numerical indicators are often proposed as the criterion for a satisfactory situation regarding Jewish emigration from the USSR, and numbers like 40,000, 100,000 and 400,000 persons are cited. Also, in recent years we have witnessed cases of the open ransom or attempted ransom of families and persons, conducted on the basis of lists and requests of governmental figures and public organizations in the West. . . .

"Point 30 of the Decree of the Soviet Council of Ministers of 28 August No. 1064 Regulations envision a change in procedure on the basis of bi-lateral agreements between the USSR and other countries.

"It is our view that the practical realization of our suggestions can be brought about by some kind of a special agreement between the USSR and Israel on the repatriation of Jews.

"When proposing that the possibility of concluding such an agreement be examined, we base ourselves on the assumption that the USSR in principle recognizes the idea of repatriation and has in practice applied it, for example, in regard to Greeks, Spaniards and Poles. Such an agreement would allow the realization of the genuine repatriation of Jews in Israel. As a technical means of carrying out such an agreement, direct Moscow-Tel Aviv flights or a direct Odessa-Haifa passenger ship line might be instituted."

Among the signatories were Viktor Brailovsky, Yosif Begun, Leonid Volvovsky, Roald Zelichenok, Stanislav Zubko, Vladimir Kislik, Feliks Kochubiyevsky, Evgeny Lein, Vladimir Lifshitz, Osip Lokshin, Alexander Magidovich, Ida Nudel, Alexander Paritsky, Vladimir Slepak, Kim Fridman, Boris Chernobilsky, Lev Elbert and Alexander Yakir.

CHANGES IN THE SOVIET PUBLIC POSTURE AND THEIR IMPACT ON THE JEWISH COMMUNITY

There did appear to be a change in Soviet public posture, notably in their official willingness to discuss these and other issues with the Jewish community. This new response, coupled with the seemingly more "open" posture in evidence during the 1986 summit in Reykjavik, suggests that the Soviet Union is at least becoming more sensitive to Western concerns and that Western human rights advocates have touched a raw, albeit tough, Soviet nerve.

This new sensitivity is evidenced by the Soviet call for an International Conference on Humanitarianism to be held in Moscow. While the Soviet Union wants to be considered a major power, equal to the U.S., this Conference, in the absence of any real progress on human rights issues for Soviet Jews, would be absurd, despite the stance of those who speak of "windows of opportunity."

In a position taken by the NCSJ, and endorsed by many scholars, members of Congress, and the Administration, it would be difficult to support such a conference on human rights as guaranteed in the Helsinki Accords, in the capital of a country in which monitors of that state's compliance were placed in jail, sent into exile or silenced or persecuted, and where guarantees of emigration and family reunification are still in violation of international accords and law. According to the NCSJ, "If a Soviet proposal for such a human rights conference were to foreshadow a reversal of Soviet policy from violation to compliance, the NCSJ position would be reviewed. In the meantime, we await the Soviet deeds to match the principles to which Leonid Brezhnev affixed his signature on August 1, 1975, at Helsinki."

The NCSJ position was supported by Ambassador Warren Zimmerman, chairman of the U.S. delegation to the Vienna CSCE follow-up meeting still in progress, where a final statement is now in preparation. Such a document, Zimmerman stated, "should highlight and strengthen the obligations of the Helsinki Final Act, particularly those obligations—as in the human rights dimension—where implementation has been weak. . . . We must not lose sight of an element of the Helsinki process that is even more important than words on paper—performance on the ground. . . . Much has happened in the bi-lateral relationship between the U.S. and the Soviet Union. It is clear that changes continue to affect major areas of Soviet life. . . . There has also been some progress in the human dimension of the Helsinki Final Act. Here I would like to examine as specifically as possible the major categories, with the objective of welcoming what has been accomplished but also recognizing how much still remains to be done."

In fact, under the new policy of "glasnost," mixed signals were in evidence. While no Jewish refuseniks were sent to prison this year, and most public demonstrations were undisturbed by the police, there have been reports of allegedly "spontaneous" attacks on activists, as in the case of the assault on Inna Begun as she demonstrated on behalf of her then imprisoned husband, Iosif Begun; and the emergence into the open of extremist elements who are known to be extremely nationalistic, xenophobic, and anti-Semitic. Most prominent among them was a group named Pamyat ("memory").

"Glasnost" has been selective, providing a new public platform for anti-Semites, but denying it to Jewish activists. An example of this is the publication of Let Us Live As We Choose, by Jews of the official "Anti-Zionist Committee," and the failure to permit the publication of the response of veteran Moscow refusenik Viktor Fulmakht, who stated:

". . . The authors of the letter demand: 'let us educate our children and grandchildren in peace and quiet.' But how are they going to answer their children's and grandchildren's question: 'Who are the Jews?' Will they refer them to their school textbooks, where the Bible, the Old Testament—the greatest cultural monument of the Jewish people and the world—is not mentioned? Or will they take them to a Museum of Jewish History and Ethnography? Will they take them to a lecture at a Jewish Culture Society? Alas, no such museums or lectures are available here, even though they do exist in other Socialist countries.

"Jews, like any other nation, are a community built on historic memory. How can any person whose memory has been amputated bring up his children and grandchildren, and defend his personal dignity? . . ."

Another example of the silencing of Jewish activists is the treatment accorded recently to an increasingly vocal group of Jewish refusenik women: A two-day Conference of Women in June, called by the group Women Against Refusal, to coincide with the International Women's Conference in Moscow, from which they were excluded, came in for unexpected publicity in separate issues of Vechernaya Moskva.

In the last six months, Jewish women, concerned about the dislocation in family life and the negative impact living in refusal has had on their children ("The Second Generation"), have become increasingly active and articulate.

On June 24, the second day of the alternate Conference, the Moscow evening paper published a report of how two women had been turned away by the refuseniks. This, the newspaper said, showed how "ill-mannered" and "unfriendly" the women were. Indeed, two women, who may have been KGB provocateurs, were denied admittance. One claimed to be a relative of Ida Taratuta from Leningrad, a claim that turned out to be false; the other spuriously claimed to be a member of APR, a national press agency.

Two days earlier. Vechernaya Moskva had resorted to a convoluted strategem to attack some of the women involved in setting up the refusenik conference. The newspaper alleged to have received an anonymous letter from a woman refusenik outlining her own grievances and those of several of the women involved in the Conference. The language used by the "anonymous" writer made it obvious that the letter was used purely as a vehicle to attack the parallel conference. The conference was less parallel than a "crooked way" of obstruction, the paper wrote. Among the names of refuseniks mentioned in the article were: Rima Yakir, Elena Dubianskaya, Vladimir Prestin, Pavel Abramovich, Nellie May, Yudit Ratner and Grigory Rosenshtein.

The following day Moscow Radio, in Russian for broadcast abroad, cited the publication of the article which was entitled Crooked Conscience, signed by N. Arefyev and R. Strokov. In response, one of the refuseniks noted that "since February, no less than twenty articles have been published about us, all of them either untrue, misleading or tendentious. We wrote letters to the editor many times—not once were our letters published."

Another product of "glasnost" was in the area of U.S.-Soviet exchanges, including cultural and scientific relations, and "people-to-people" contacts, such as sister cities programs, which the NCSJ endorsed, provided that, in the words of Ambassador Stephen Rhinesmith, coordinator of the president's U.S.-Soviet Exchange Initiative, "There should be no misinterpretation that the human rights issue of freedom and conscience is a fundamental issue for all Americans and that responsible dialogue requires us to feel free to discuss the issues of concern" with Soviet visitors.

The NCSJ stated further that in such contacts "U.S. participants must have an opportunity to raise those concerns which divide as well as unite the USA and the USSR. . . . Not to raise the issue of human rights as a formal part of the agenda would be to deny our own system of American values. . . ." The NCSJ also believed that cultural exchanges are valuable opportunities for engaging the Soviets on the issues and "to bring attention to the plight of Soviet Jews and to highlight specific cases, as appropriate."

In another exchange area, the NCSJ believed that the agreement in effect between the American Bar Association (ABA) and the Association of Soviet Lawyers (ASL) could be the focus of an effort on behalf of Soviet Jewry, and that the ABA, under the terms of its on-going relationship with the ASL, must assume the obligation of demonstrating a commitment to those Soviet citizens denied fundamental human rights, guaranteed by international law and procedure, The ABA "should also implement its commitment to organize exchange programs with the Soviet bar in the areas of prison visitation and trial observation. The declaration of cooperation between the two organizations should be reviewed for adherence to stated goals, as the ASL, unlike the ABA, is an arm of the State, and uses its relationship with the West to gain credibility (and) . . . serve as a forum for the abuses of the human rights of the thousands of Soviet Jewish refuseniks."

CONCLUSION

The large list of cases still unresolved remained mute evidence that despite Soviet protestations of "glasnost," there is scant human rights protection for Jews in the Soviet Union. Despite the welcome news that many "high profile" Soviet Jews, including pianist Vladimir Feltsman, have been or are about to be granted permission to emigrate, and that only one Jewish prisoner remains incarcerated, or that cultural rights for Soviet Jews who remain there are imminent, in the words of Ambassador Warren Zimmerman, "promises are not performance; objectives are not achievement. 'Glasnost,' and 'perestroika' represent an encouraging process. But they do not—at least not yet—describe considerable accomplishments."

BEST WISHES ON 60TH ANNIVERSARY

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. GEKAS. Mr. Speaker, On May 28, 1927, Luther M.F. Hocker and Nora C. Reese were married in the Parsonage of the Progress Church of God by the Reverend Snyder. On July 26, 1987, 60 years after the Hocker's union in marriage, family and friends will gather to host a celebration in their honor.

I remember very well the joy that my parents felt at a family gathering honoring them at one of their anniversaries. I would like to extend my best wishes to the Hocker's on the occasion of their 60th wedding anniversary.

TRIBUTE TO THE LATE HON. ALVIN E. O'KONSKI

HON. JAMES H. (JIMMY) QUILLEN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 15, 1987

Mr. QUILLEN. Mr. Speaker, I wish to join my colleagues in paying respects to the memory of former Congressman Alvin E. O'Konski of Wisconsin, who passed away last Wednesday at his home in Kewaunee, WI.

Congressman O'Konski served with distinction in the House of Representatives for 30 years. I was privileged to serve together with him from 1963 until he left the House in 1973. During those 30 years of public service here

Congressman O'Konski served on the Armed Services, Veterans' Affairs, Public Works, Education and Labor, and District of Columbia Committees.

Although he built a solid record of accomplishments during his long congressional career, Congressman O'Konski is probably best remembered for his coauthorship of the GI bill of rights. This bill, which created a wide range of educational benefits, home mortgage loans, health care, and other benefits to millions of our deserving veterans, established one of the most successful Government programs in American history. For his leadership in guiding this bill through to enactment, Congressman O'Konski is owed a great debt of gratitude and the enduring admiration of our veterans.

At this time of sorrow I want to extend my sympathy and condolences to his wife, Veronica "Bonnie" Hemming O'Konski and Alvin's two brothers.

EXPORT ENHANCEMENT PROGRAMS VITAL TO AGRICULTURE

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. DAUB. Mr. Speaker, the low prices farmers receive for the fruits of their labor today is largely due to world export subsidies. With these subsidies, governments continually sell farm products under the cost of production. This is simply price sabotage.

The Export Enhancement Program is a response to world farm commodity export subsidies. The EEP is not intended to undercut world prices, but it is intended to meet the competition from subsidizing nations.

To date, 67 initiatives have been announced under the EEP over 40 nations have been targeted involving 12 commodities.

The program operates on the principle of additionality: it is only available where the United States is not likely to otherwise get the sale. Nearly 41 percent of our wheat and flour exports and about 18 percent of our total grain shipments are tied to the EEP it is, therefore, responsible for a significant portion of our grain shipments.

As much as I think this program is needed, I wish the state of world agriculture didn't demand that we have it. If world agriculture subsidies were not out of control, farm prices would be much higher, Government costs much lower and the American farmer would move much more grain.

The EEP is the kind of pressure we need to bring export subsidizers to the negotiating table and rationalize world agriculture trading practices.

Unfortunately, as important as the EEP is in going head-to-head with export subsidies, initiatives already announced will nearly use up available funding authority.

We need to continue this program. The bill I am introducing today House Concurrent Resolution 163 along with Mr. GLICKMAN and Mr. DORGAN expresses the sense of the House that USDA should ensure the EEP is sufficiently funded from 1988 through 1990.

Without a new source of funds, we will be telling export subsidizers how much powder is left in the keg. They will know how long they can continue their price destruction and how much it will cost.

This is the wrong signal to send at this time. We need to increase pressure on export subsidizers not tell when we are going to quit fighting.

I urge my colleagues to support this bill.

PROTOCOLS TO THE TREATY OF RAROTONGA

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. SOLARZ. Mr. Speaker, Congressman LEACH and I and 12 other colleagues have recently introduced a resolution, House Concurrent Resolution 158, in support of nonproliferation in the South Pacific which calls upon the President to sign the Treaty of Rarotonga which created the South Pacific Nuclear Free Zone. The treaty bans the testing, manufacture, acquisition, and stationing of nuclear weapons, or the dumping of nuclear wastes in the territory of parties to the treaty. Australia, the Cook Islands, Fiji, Kiribati, New Zealand, Niue, Tuvalu, and Western Samoa ratified the treaty and brought it into effect in December 1986.

The protocols of this treaty, if signed by the nuclear powers—namely the United States, France, Great Britain, China, and the Soviet Union—would require these countries to abide by the treaty in any territories in the region which they control and not to contribute to violations of the treaty. The protocols further require signatories not to threaten to use nuclear weapons against parties to the treaty or to test nuclear devices in the zone.

Because the Subcommittee on Asian and Pacific Affairs has received so many requests for information on this matter, I have decided to have the text of the protocols included in the CONGRESSIONAL RECORD, to allow for convenient access for all those interested in this issue.

Mr. Speaker, I insert the text of the Protocols in the CONGRESSIONAL RECORD.

TREATY OF RAROTONGA

PROTOCOL 1

The Parties to this Protocol.

Noting the South Pacific Nuclear Free Zone Treaty (the Treaty).

Have agreed as follows:

Article 1

Each Party undertakes to apply, in respect of the territories for which it is internationally responsible situated within the South Pacific Nuclear Free Zone, the prohibitions contained in Articles 3, 5 and 6, insofar as they related to the manufacture, stationing and testing of any nuclear explosive device within those territories, and the safeguards specified in Article 8(2)(c) and Annex 2 of the Treaty.

Article 2

Each Party may, by written notification to the depositary, indicate its acceptance from the date of such notification of any alteration to its obligation under this protocol brought about by the entry into force of an amendment to the Treaty pursuant to Article 11 of the Treaty.

Article 3

This Protocol shall be open for signature by the French Republic, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

Article 4

This Protocol shall be subject to ratification.

Article 5

This Protocol is of a permanent nature and shall remain in force indefinitely, provided that each Party shall, in exercising its national sovereignty, have the right to withdraw from this Protocol if it decides that extraordinary events, related to the subject matter of this Protocol, have jeopardized its supreme interests. It shall give notice of such withdrawal to the depositary three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

Article 6

This protocol shall enter into force for each State on the date of its deposit with the depositary of its instrument of ratification.

In witness whereof the undersigned, being duly authorized by their Governments, have signed this Protocol.

Done at Suva, this eighth day of August, one thousand nine hundred and eighty-six, in a single original in the English language.

PROTOCOL 2

The Parties to this Protocol.

Noting the South Pacific Nuclear Free Zone Treaty (the Treaty).

Have agreed as follows:

Article 1

Each Party undertakes not to use or threaten to use any nuclear explosive device against:

(a) Parties to the Treaty; or

(b) Any territory within the South Pacific Nuclear Free Zone for which a State that has become a Party to Protocol 1 is internationally responsible.

Article 2

Each Party undertakes not to contribute to any act of a Party to the Treaty which constitutes a violation of the Treaty, or to any act of another Party to a Protocol which constitutes a violation of a Protocol.

Article 3

Each Party may, by written notification to the depositary, indicate its acceptance from the date of such notification of any alteration to its obligation under this Protocol brought about by the entry into force of an amendment to the Treaty pursuant to Article 11 of the Treaty or by the extension of the South Pacific Nuclear Free Zone pursuant to Article 12(3) of the Treaty.

Article 4

This Protocol shall be open for signature by the French Republic, the People's Republic of China, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

Article 5

This Protocol shall be subject to ratification.

Article 6

This Protocol is of a permanent nature and shall remain in force indefinitely, provided that each Party shall, in exercising its national sovereignty, have the right to withdraw from this Protocol if it decides that extraordinary events, related to the subject matter of this Protocol, have jeopardized its supreme interests. It shall give notice of such withdrawal to the depositary three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

Article 7

This Protocol shall enter into force for each State on the date of its deposit with the depositary of its instrument of ratification.

In witness whereof the undersigned, being duly authorized by their Governments, have signed this Protocol.

Done at Suva, this eighth day of August, one thousand nine hundred and eighty-six, in a single original in the English language.

PROTOCOL 3

The Parties to this Protocol.

Noting the South Pacific Nuclear Free Zone Treaty (the Treaty).

Have agreed as follows:

Article 1

Each Party undertakes not to test any nuclear explosive device anywhere within the South Pacific Nuclear Free Zone.

Article 2

Each Party may, be written notification to the depositary, indicate its acceptance from the date of such notification of any alteration to its obligation under this Protocol brought about by the entry into force of an amendment to the Treaty pursuant to Article 11 of the Treaty or by the extension of the South Pacific Nuclear Free Zone pursuant to Article 12(3) of the Treaty.

Article 3

This Protocol shall be open for signature by the French Republic, the People's Republic of China, the Union of Soviet Socialist Republics, the United Kingdom of Great Britain and Northern Ireland and the United States of America.

Article 4

This Protocol shall be subject to ratification.

Article 5

This Protocol is of a permanent nature and shall remain in force indefinitely, provided that each Party shall, in exercising its national sovereignty, have the right to withdraw from this Protocol if it decides that extraordinary events, related to the subject matter of this Protocol, have jeopardized its supreme interests. It shall give notice of such withdrawal to the depositary three months in advance. Such notice shall include a statement of the extraordinary events it regards as having jeopardized its supreme interests.

FOREIGN POLICY IMPLICATIONS OF THE SUGAR PROGRAM

HON. WILLIS D. GRADISON, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. GRADISON. Mr. Speaker, for the past 5 years, the United States has operated a price support program for domestic sugar producers. As a result, sugar prices for American consumers are three times higher than the world market price. Proponents of the program have argued that it provides stability in an otherwise volatile commodity market. That, it is said, is in the interest of producers and consumers. In 1985, Congress added a no-net-cost provision to the sugar program as well as a requirement that the administration adjust import quotas to prevent defaults by producers on their nonrecourse loans.

Recently, Mr. Speaker, I received a copy of a letter sent to you and the President of the Senate describing the harmful ramifications of current law from the perspective of our friends abroad. The letter, signed by the representatives of 20 nations, is an important statement and I have included it with my remarks. I commend it to the Members of the House as one indication of the foreign policy implications of the U.S. Sugar Program.

The U.S. Sugar Program, by guaranteeing a price far in excess of the world market price, is encouraging additional American production. In 1985, U.S. sugar production rose by 3.2 percent and increased last year by an astounding 7.7 percent. Analysts indicate that production will increase yet again this year. The increase in production witnessed in recent years is not the result of market demand, but, rather, is an understandable reaction by producers to the skewing of the market by a Federal price support program.

As American production increases, the administration continues to force traditional suppliers out of the U.S. market by reducing import quotas. In December 1986, the quotas for the current year were announced by the Department of Agriculture. The current quota level is 41 percent reduction from last year's level. Analysts agree that, within a very short period of time, perhaps 2 to 4 years, the United States will become a net exporter of sugar. At that time, it will likely be impossible to maintain the fiction of a no-net-cost price support program without some system of production controls and/or larger Federal subsidies.

For now, the costs borne by the taxpayer are largely hidden. For the friends and allies of the United States who traditionally have had access to our market, the costs of the swiftly closing American market are all too obvious.

JULY 9, 1987.

Hon. BILL GRADISON,
U.S. House of Representatives, Rayburn House Office Building, Washington, DC.

DEAR CONGRESSMAN GRADISON: A letter signed by 20 countries has been sent to the Speaker of the House and the President of the Senate. The letter details the concerns our countries share regarding the negative effects of the United States sugar program.

The text of the letter follows:

We are writing to express the shared concerns of our respective Governments with the serious effects of the United States sugar program on our sugar industries and exports. Our national economies are suffering damage from diminished access to the U.S. sugar market and from the effects of U.S. policy on the world sugar market.

U.S. imports of sugar have been cut unilaterally by 80 percent, or from just over 5 million short tons in 1981, i.e. the year prior to the introduction of import quotas, to a quota of 1 million short tons in 1987. This has resulted in a substantial loss of export income from the U.S. market. In addition, the world market as a whole has been disrupted by displaced tonnages onto markets other than the U.S. and by the dumping of a substantial volume of sugar on the world market in 1986 by the U.S., which has resulted in severely depressed prices. Restrictive U.S. import quotas imposed on a wide range of products containing sugar have similarly contributed to lower export earnings.

The damage already inflicted on our economies through reduced export earnings has had significant effects on employment, external indebtedness and our capacity to purchase and finance imports, including goods and services which would normally be purchased from the United States. This has significant implications for U.S. relations with sugar exporting nations. Unless U.S. sugar policy is changed, this damage will be compounded by the emergence of a net surplus of sweetener production in the U.S. as was realized in the EEC in the 1970's. Our Governments are concerned that there is already pressure in the United States to sell further quantities of subsidised sugar on the world market. This would have catastrophic effects on the world price, and devasting effects on the industries of even the world's most efficient producers of sugar.

The government of the United States of America has for many years condemned internationally the practice of maintaining price support levels on agricultural products that are far higher than world market prices. Nevertheless, U.S. sugar producers have been able to rely on administered domestic prices which are, at present, some three times greater than free world market prices. This shelter from international competition has promoted uneconomic production and has distorted sweetener markets by encouraging the penetration of sugar markets by alternatives, principally corn sweeteners. Market forces have not been permitted to operate effectively.

The continued operation by the United States of such an anticompetitive system of domestic sugar production weakens support internationally for efforts to bring about market-oriented policies and reduce trade barriers.

Accordingly we request that you urgently support steps to legislate changes to the U.S. program that will halt the erosion of imports and provide for steadily increasing access for sugar exports to the U.S. market. Such action would be consistent with the undertakings given by the U.S. Government at Punta del Este in September, 1986 to put a stop to protectionism and to seek, through the GATT, to liberalize world trade. Support for this process is essential for the preservation of a healthy world economy.

H.E. Enrique J.A. Candioti, Ambassador of The Republic of Argentina; H.E. F.R. Dalrymple, Ambassador of Australia; H.E. Fernando Illanes, Ambassador of The Republic of Bolivia; H.E. Marcilio Marques Moreira, Ambassador of Brazil; Mrs. Ximena Casalino, Charge d'Affaires of Colombia; H.E. P.K. Kaul, Ambassador of India; H.E. Mario Ribadeneira, Ambassador of Ecuador; Mr. Abdul Yusuf, Charge d'Affaires of Fiji; H.E. Charles Gomis, Ambassador of Cote d'Ivoire; H.E. Timon S. Mangwazu, Ambassador of Malawi; H.E. Chitmansing Jesseramsing, Ambassador of Mauritius; Mr. Longas Solomon, Charge d'Affaires of Papua New

Guinea; Mr. Amado Martinez Rojas, Charge d'Affaires of Paraguay; H.E. Cesar G. Atala, Ambassador of Peru; For: H.E. Emmanuel Pelaez, Ambassador of The Philippines; H.E. Leon Rajaobelina, Ambassador of Madagascar; H.E. Peter H. Mtetwa, Ambassador of Swaziland; H.E. Arsa Sarasin, Ambassador of Thailand; H.E. Hector Luisi, Ambassador of Uruguay; H.E. E.R.M. Garwe, Ambassador of The Republic of Zimbabwe.

REPUTATION ON THE LINE: WE MUST HELP THE CONTRAS

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. CRANE. Mr. Speaker, United States funding of the Contras should not be discontinued as a result of the outcry over the sale of arms to Iran. Despite the controversy surrounding the Iranian arms deal, the Nicaraguan revolution should remain the primary issue. If no laws were broken, there is nothing objectionable with the channeling of profits from the arms sales to the Nicaraguan freedom fighters. One must keep in mind that Mr. BOLAND'S amendment merely stated that no appropriated funds could be used to aid the Contras, and the U.S. Government should not engage in activities to overthrow the Sandinistan government. The profit obtained from the sale of arms to Iran does not qualify as appropriated money. Neither does it constitute direct U.S. involvement. Force to contain the Nicaraguan Marxists is being exerted by Nicaraguan freedom fighters, not by Americans.

The stability and freedom of all Central America is at stake in Nicaragua. Though poverty is indeed prevalent in Central America, the real problem is intervention by nondemocratic foreign powers, mainly Cuba and the Soviet Union. The Sandinista's military force is larger than the armies of all other Central American countries combined. Sandinistan military hardware includes a considerable supply of tanks, trucks, helicopters, radar sites, communications intercept sites, and antitank guns. It is evident that this military build-up is part of a threat to destabilize Central America.

As well as being a military threat, the establishment of a Sandinistan government would threaten our Nation's economy. Forty-five percent of U.S. imports and exports pass through the Gulf of Mexico and Florida straits. The Panama Canal is a sea lane for 65 percent of ships transiting goods to and from the United States.

A battle is being carried on in Nicaragua to resist communism. Brave freedom fighters are fighting for dignity, democracy, civil and political rights. The noble task of the Contras gets harder as the Nicaraguan army gets stronger, and repression of human rights continues. The Contras are the only effective force dealing with the Soviet-backed Sandinistas.

It is imperative for us to take part in this fight against Communist aggression. We owe it to the future of this neighboring country, as well as our own, to aid in the Nicaraguan resistance. Our role in the fight involves supplying weapons and funds, not active involvement of American combat forces.

In a recent editorial—U.S. News & World Report of February 23, 1987—the chairman and the editor-in-chief of U.S. News & World Report, Mortimer Zuckerman, commending the President's commitment to the freedom fighters, addresses some questions raised about the continuation of aid to the Contras.

The attached article not only points out this destructive cycle of retaliation, but also refers to the latest U.S. trade data showing that our exports are increasing again. Thus, demonstrating that less restricted trade, in connection with a realistic exchange rate, leads to a gain of competitiveness in our economy by forcing it to make the necessary adjustments.

Foreign demand for our products is increasing right now. What could be more inadequate in this situation than to force our trading partners to cut down on their imports from the United States and thereby hurt our export industries?

I commend the following article to my colleagues' attention.

THE PRESIDENT'S PASSION

(By Mortimer B. Zuckerman)

Finding the guilty in the laundering of the Iranian millions for the Contras preoccupies Congress and the press. Colonel North, General Secord and others reappear in the headlines. But one name is missing in all the furor—Daniel Ortega, President of Nicaragua. It is right to pursue our American scandal. But it will be tragic if the primary issue is sidetracked. That primary issue is the outrageous subversion of the Nicaraguan revolution by the Sandinistas. It presents the U.S. with moral and strategic issues that will outlast the current furor and the Reagan Presidency.

President Reagan has been wrong about Iran, but he has been right in his personal commitment to the Nicaraguan Contras. He did not invent them. The Sandinistas did. There were no Contras until the Sandinistas imposed a totalitarian state on the people's hopes of freedom after the Somoza dictatorship. What would happen if we didn't support the Contras and their effect were minimized? The Sandinistas would then be free to do what they tried to do before there were Contras—namely to expand the revolution. Even in 1979, when they were hanging on by their fingernails, the Sandinistas were supporting insurrections in Honduras, El Salvador and Guatemala. Today, they have an Army 10 times the size of and more powerfully armed than Somoza's. The Sandinistas are very explicit about their revolution as Marxist and a "revolution without boundaries." They say they want a Marxist paradise in Nicaragua and in all countries around Nicaragua. Nothing short of force will contain the Sandinistas, and it is clearly better if that force were exerted by Nicaraguan fighters rather than American.

Let's deal with the questions that are raised.

1. Why don't Nicaragua's neighbors feel strongly about this? They do. But they are influenced by our own vacillations. In private, these governments are much more hostile for they understand how vulnerable their own countries are to Nicaraguan subversion should the Contras collapse.

2. Wouldn't the arms money be better spent eliminating the causes of Communism in our hemisphere? We know all too well how long and how difficult it is to rid injustice and poverty from weak local economies. Meanwhile, what is to be done about Sandinista military action and subversion? To defend our southern flank would cost the U.S. vastly more than the $100 million in Contra aid.

3. Won't America be drawn into military action to rescue the rebels or rescue Honduras or rescue U.S. prestige? Reagan's opponents raised the same argument and were wrong about the military-aid program for El Salvador. Had military aid not been given, the U.S. might well have had a major crisis following a Communist takeover in El Salvador.

4. Are not the Contras a collection of Somocistas? No. There are about as many ex-Sandinistas in the command and staff positions as there are ex-Somocistas—both about 25 percent. Of 14 Contra regional commanders, 3 are ex-Somocistas and 6 are ex-Sandinistas. The three top leaders have unambiguous anti-Somoza credentials. But Contra human-rights abuses have occurred. Congress, as it has done on El Salvador, is wise to raise the issue to limit these violations.

5. Aren't the Contras ineffective? Again, no. If the U.S. had 3,000 advisers in El Salvador and the guerrilla forces doubled in size over 18 months, this would be seen as a failure. Yet Cuba has 3,000 advisers in Nicaragua, and the insurgency forces there have doubled over the last 18 months. In five years, the Contras have built up an effective force five times the size of the one the Sandinistas built up over 15 years. Success for guerrilla armies cannot be measured by body counts or by territory held. The Sandinistas engaged in guerrilla operations for years before they ever held an inch of territory, and we do not make such demands for territorial gain on the Afghan resistance.

The real questions: Are we committed to our own hemisphere? Is it important? The Contras are central to the stability and future of this hemisphere, because it is Nicaragua that is challenging that stability and the Contras are the only effective counterforce we have. To reverse our support would advertise an unreliability that would undermine our friends and tempt our foes in the region and perhaps beyond. It would cost us dearly.

THE CONTINUING RESOLUTION LIMITATION ACT

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. SCHAEFER. Mr. Speaker, today I introduced legislation which would penalize Congress for flouting the budget through the continuing appropriations process. My bill would mandate that continuing resolutions [CR's] could fund programs at only 90 percent of the previous year's level.

Last year Congress abandoned the budget, over which we had agonized for months, and approved a $563 billion continuing resolution. As I'm sure you painfully remember, this CR wrapped all 13 appropriations into a single bill, creating the largest spending measure in history, and ignoring whatever program and project evaluations that were contained in the budget. Why do we even debate and vote on a budget resolution when we turn to a CR in the closing days of a session?

My bill, the Continuing Resolution Limitation Act would penalize Congress for dragging its feet and resorting to a CR. It would mandate a 10-percent reduction in funding from the previous year's level, and limit the CR to 90 days' duration. It would further restrict a CR to fund only those programs previously authorized. In case of an emergency situation, these rules could be waived by a two-thirds majority of the House.

A penalty such as this spending reduction mandated by my legislation would hold the feet of Congress to the fire, and force it to complete work on all appropriations bills and stick to the timetables set forth in the Budget Act and Gramm-Rudman deficit reduction law. It is imperative that we discourage the use of CR's, and that they not be used to continue spending for an entire fiscal year. As we once again deliberate over raising the debt ceiling, I urge my colleagues to cosponsor this legislation as part of an overall effort to reform our budget and spending policies.

PESTICIDES AND FOOD SAFETY

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. HAMILTON. Mr. Speaker, I would like to insert in my Washington Report for Wednesday, July 22, 1987 into the CONGRESSIONAL RECORD:

PESTICIDES AND FOOD SAFETY

A woman asked me in a recent public meeting whether any of our food is safe. She said she is almost getting to the stage of not trusting anything she eats. The question of food safety is now coming up consistently in public meetings. People are paying much more attention to food labels and are concerned about reports of lax inspection, chemicals in our food, tainted food imports, and unhealthy diets.

We have the safest food supply in the world. By and large, the food we eat in the United States is healthy and does not pose significant health risks. Yet several recent government reports have heightened Congressional and public concern about food safety by indicating that federal food safety laws and inspection programs may not be adequately protecting public health. Congress is carefully considering proposals for reducing the risks we face in our daily food intake, and has already held numerous hearings.

There are several concerns about food safety. Vast amounts of imported foods treated with pesticides, both legal and illegal, are entering U.S. markets uninspected; salmonella poisoning has increased 50 percent in 10 years; and fifteen foods—including tomatoes, beef, potatoes, oranges and lettuce—treated by a few pesticides have been claimed to pose cancer risks. Ensuring food safety can be extremely difficult, especially with the limited resources of federal agencies.

Much of the concern centers around pesticides. Since World War II, pesticides have become a key factor in U.S. agricultural productivity—controlling weeds, bacteria, and insects, and boosting crop yields. Yet by definition pesticides are toxic and can pose some risks to public health and the environment. In addition to lax programs testing pesticide levels, we do not even know how dangerous many pesticides are. The Environmental Protection Agency (EPA) decides which pesticides can be used and sets their legal limits. Hundreds of pesticides, however, were approved decades ago before we had knowledge of their potential hazards and before we had the technology required to assess those risks. It is estimated that these older pesticides constitute 90% of the dietary risk from pesticides faced by the public.

Under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), EPA decides which pesticide uses can be approved, or registered. Congress strengthened FIFRA in 1972 to require EPA to perform strict health testing before registering new pesticides. Those pesticides registered before 1972 can remain on the market until EPA can show that they are too hazardous for use. Under this reregistration process, which originally was to be completed by 1975, EPA has been studying nearly 600 active pesticide ingredients. Complete data has been developed on only four or five of these chemicals. Efforts have also been slowed by a burdensome appeals process and requirements that EPA pay manufacturers for losses from cancelled pesticides. At the current pace it will take well into the 21st century to remove unacceptable pesticides from the market.

Approval of newer, possibly safer pesticides has been hampered by the complex laws regulating our food supply. Before EPA approves pesticide use, it sets a legal limit for the amount of pesticide which can remain in or on a food. EPA uses one standard of safety for raw foods, and a much tougher standard, known as the Delaney Clause, for processed foods. The standard for raw food balances risks and benefits of the pesticide level. Pesticides that concentrate in processed foods are subject to the Delaney Clause, which prohibits approval for any food additive that has been found to induce cancer in humans or animals. When the Delaney Clause is triggered, EPA generally cannot approve any use of the pesticide. The Delaney Clause thus may result in keeping newer and more thoroughly tested pesticides off the market while older and more harmful pesticides, awaiting reregistration under FIFRA, remain in our foods. It has proven to be extremely difficult, however, for the Congress to rewrite the Delaney Clause because it has long been held as the fundamental federal risk-standard.

Concerns have also been raised about Food and Drug Administration (FDA) inspection of domestic and imported food: food containing illegal pesticide levels have been making it to the market, enforcement against violators has not been strong enough, and FDA testing for illegal pesticides and residues has occurred for less than 1 percent of the 1 million shipments of imported food.

While the risks from pesticides in our food are small, there are several ways in which we could improve food safety. We need better data on suspected carcinogens, better ways to assess risks, a strict FIFRA reregistration schedule, better control of imports, improved inspection programs, and more efficient and pragmatic use of pesticides. Some farm program changes are under consideration that would reduce incentives for farmers to use pesticides intensively, and research is underway on genetically-engineered crop varieties that need lower levels of pesticides. Congress is working on a package to strengthen FIFRA, as well as a provision to prohibit imports of foods tainted with pesticides banned in this country. We must also ensure that EPA and other agencies overseeing food safety have adequate budgets. We are now paying the price for recent efforts to reduce the effectiveness of EPA and FDA.

The question of food safety essentially remains unanswered. We do not know the extent to which pesticides are actually in our foods, and we do not know how dangerous most of the pesticides really are. As the production of our food becomes more complicated—with increased pesticide use, more of our food coming from abroad, and more refined methods of toxicity testing—we will have to be increasingly vigilant about our food supply.

POSTAL SERVICE AND POSTAL WORKERS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. GARCIA. Mr. Speaker, I would like to applaud the U.S. Postal Service and the two major postal worker unions for reaching a tentative contract settlement for wage increases today. The wage increases for the postal workers are well-deserved. The negotiations involved a long and arduous process, but I congratulate them for demonstrating that labor and management can indeed work together to reach a mutually beneficial agreement.

The Postal Service is one Federal organization that Americans depend on for service everyday, but it is one most underappreciated. In order to fully appreciate the Postal Service, we must remember that our Postal Service allows for a free flow of information which is critical in a democracy like ours. Moreover, imagine a week or two without mail service. Our Nation would grind to a halt. Remember also that in appreciating the Postal Service we must not forget the thousands of hardworking postal workers.

As the president of the National Association of Letter Carriers, Vincent Sombrotto, said of the contract, "everybody won, especially the American people."

I hope that Postmaster General Tisch is right in saying that the contract agreement set the tone for a better relationship between labor and management. It would only mean a more efficient Postal Service for all Americans.

So, "KUDOS!" to the two postal unions and the Postal Service for reaching a settlement today.

IN HONOR OF STONE RIDGE AND FARQUHAR SCHOOLS

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mrs. MORELLA. Mr. Speaker, I take great pleasure in commending two schools from

Maryland's Eighth Congressional District who have been honored in the Secondary Schools Recognition Program: Stone Ridge Country Day School of the Sacred Heart in Bethesda, MD, and the William H. Farquhar Middle School in Olney, MD.

Stone Ridge, a member of the network of 19 Sacred Heart schools in the United States, is one of 5 high schools in Maryland receiving this honor. The religious of the Sacred Heart began this school in 1947 and will celebrate its 40th birthday on October 3. I congratulate the headmistress, Sister Ann Dyer, and the young women in grades 9 to 12 on this public recognition of their fine school.

The William H. Farquhar Middle School is the only middle school in Maryland honored by this program. Part of the Montgomery County public school system, Farquhar sets clear goals and has high expectations for its students in grades 6 to 8. Mr. J. Thomas Hickman, the school principal, is proud of the cooperative spirit among community, staff, and students. I sent Mr. Hickman and all those connected with Farquhar my best wishes for continued success.

Both these schools have met criteria that include well-articulated academic goals, administrative leadership, community support and involvement. In a word, each of these schools is a good place to learn.

Let me take this opportunity to thank both Stone Ridge and Farquhar for their outstanding service to the community of Montgomery County, MD, and to wish them all the best in the years to come.

SICK LEAVE SHARING: THE CASE OF PERCY CLEMONS

HON. CURT WELDON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. WELDON. Mr. Speaker, I rise today to bring Congress' attention to an important case of volunteerism in the Federal workplace. Earlier this year, Percy Clemons, a former constituent of mine in Delaware County, was forced to leave his job at the region 1 facility of the Nuclear Regulatory Commission. He had contracted a serious form of cancer which required extended medical treatment. During his stay in the hospital, Percy exhausted his Federal sick leave. His coworkers responded to the situation by offering their excess sick leave to Percy, so that he could continue to receive pay while recovering from the cancer.

Unfortunately, the employees' efforts were blocked. The laws prohibits Federal workers from donating their sick leave to fellow workers. I find this regulation archaic and callous. In today's world of skyrocketing medical costs, the Government should do all that it can to encourage volunteerism. I commend the workers at region 1 of the NRC for their noble efforts. Because they brought Percy's case to my attention, I have cosponsored H.R. 2487, the Federal Employee Leave Act of 1987. The bill, introduced by our colleague from Virginia FRANK WOLF, would establish a national sick leave sharing program for Federal employees.

I regret to say that Percy Clemons passed away on July 1, 1987. After 10 years of dedicated service to the NRC, Percy will be missed by his coworkers. He was one of the Nation's top experts in creating safety guidelines for transporting radioactive materials. I offer my condolences to his wife and his three children—Kimberly, Byron, and Stephanie. Percy's death should remind us of the need for a more lenient Federal sick leave policy.

THE DAIRY EXPORT INCENTIVE PROGRAM

HON. STEVE GUNDERSON

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. GUNDERSON. Mr. Speaker, today I am introducing legislation to amend the Dairy Export Incentive Program, which was created by the Food Security Act of 1985.

This legislation already has been adopted as an amendment to the Senate trade bill, and I commend the senior Senator from Montana, Mr. MELCHER, for his efforts in this regard.

My primary purpose for introducing the Dairy Export Incentive Program Amendment Act today is to bring attention to this issue on the House side. This matter was not addressed during either the House Agriculture Committee's consideration of the trade bill or the full House's action on the bill. However, we should now rally around the good work of the other body, and push for inclusion of the Melcher language in the final trade bill package.

The Dairy Export Incentive Program [DEIP] was announced by the U.S. Department of Agriculture on February 4, 1987, with the goal of enabling U.S. exporters to meet prevailing world prices for targeted dairy products and destinations. DEIP offers U.S. exporters subsidies, in the form of dairy products in the Commodity Credit Corporation [CCC] stockpile, to help them meet competition from other subsidizing nations, especially the European Community.

The subsidies obtained by U.S. exporters under current law have to be in the form of CCC certificates made out in dairy products, which then have to be exported as well. In many cases, this requirement has proved an obstacle for exporters. The use of generic certificates, however, would still provide the dairy export incentive, and would increase the number of U.S. exporters interested in the program. The bill does make it clear that if the certificates are made out in dairy products that they must be exported as well.

This modification in the Dairy Export Incentive Program is critical to the overall success of the initiative. DEIP expires at the end of fiscal year 1989. Therefore, it's important that we make the programmatic adjustments to allow DEIP to build a good track record.

I urge my colleagues to give full consideration to this legislative proposal, and to communicate your support to the House conferees on the trade bill once they are named.

A TRIBUTE TO JOHN AND GRACE DUCAY

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to John and Grace Ducay of Poland, OH, two very special residents of my 17th Congressional District. This wonderful couple will be celebrating their 40th wedding anniversary as well as renewing their marriage vows on July 26, 1987. It truly warms my heart to be able to rise on the floor of the U.S. House of Representatives to salute these two outstanding human beings.

Forty long years ago, the late Rt. Rev. Msgr. Vito Franco married this loving couple at Our Lady of Mount Carmel Church in Youngstown, OH. At a noon Mass this year on July 26, Mr. and Mrs. Ducay will have their marriage vows renewed by the Rev. Michael Cariglio, again at Our Lady of Mount Carmel Church. They will later be honored by their numerous friends and relatives at a dinner hosted by their adoring and loyal son and daughter—Joanne Ducay Schulick and her husband Robert, and Earl Ducay and his wife. It should also be noted that Mr. and Mrs. Ducay are enormously cherished by their four grandchildren—Scott Schulick, Jill Schulick, Matthew Ducay, and Abby Ducay.

John Ducay, after an extremely productive and successful career in self-employment, is now enjoying his golden years in blissful retirement. Grace Ducay is still continuing to make great strides as an employee of the Schwebel Baking Co. in Youngstown.

I must inform my fellow House Members that John and Grace Ducay are especially important people to me—because they are my cousins. Having been extremely close to them all of my life, it is my deepest and most heartfelt desire that their next 40 years of marriage are as happy and as joyful as their first 40. Thus, it is with thanks and special pleasure that I join with the residents of the 17th Congressional District, and with my fellow family members, in recognizing the heavenly marriage and truly exemplary characters of John and Grace Ducay on their 40th wedding anniversary.

FORMING OUR UNITED STATES CONSTITUTION

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. PACKARD. Mr. Speaker, it was 200 years ago this week that the Committee of Detail was elected to organize the various resolutions which would form our U.S. Constitution. The five members of that committee consisted of John Rutledge, James Wilson, John Blair, Jr., William Patterson, and Oliver Ellsworth. Several discussions were held to work out controls that were to be placed on the legislative and executive branches. The final branch under debate was the judiciary, however discussions only lasted a few days.

A motion was made by James Madison that the Supreme Court Judges be nominated by the executive unless two-thirds of the Senate disagreed. Madison believed this "would unite the advantage of responsibility in the executive with the security afforded in the second branch against any incautious or corrupt nominations by the executive."

One of the greatest hopes and ideals of our forefathers was placed in the judicial branch because they felt it was the most insulated of any of the three branches against corruption. The justices would oversee the application of a law "only in its true princples" rather than according to fashion and public opinion. With the recent resignation of Judge Powell the President now has the responsibility to nominate a new associate judge. I pray that person and those who follow will pursue the original intentions of the Founding Fathers regarding our inspired Constitution.

A TRIBUTE TO THE OAKLAND BUSINESS DEVELOPMENT CORP.

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 22, 1987

Mr. DELLUMS. Mr. Speaker, I rise today to pay tribute to the Oakland Business Development Corp. [OBDC]. It pleases me greatly to call to the attention of my colleagues and the Nation the outstanding accomplishments of OBDC. This organization's efforts to expand employment and business development opportunities for the residents of our district is deserving of the highest commendations.

OBDC's accomplishments include the corporation's successful raising of more than $100,000 in corporate contributions and foundation support, which was matched dollar for dollar by the Hewlett Foundation for a total $200,000 for investment projects in Oakland. They also developed a joint venture with the Urban Indian Health Board for the purpose of renovating a commercial property for medical services.

The impressive record of the Oakland Business Development Corp., includes producing a small business fair, saluting business with a Minority Enterprise Development Week and the completion of a major feasibity study on the need for a small business credit union.

OBDC has not only worked on behalf of small business but was responsible for the creation and/or retention of more than 1,000 jobs for low to moderate income residents of our district since 1982.

Thank you, Mr. Speaker, for this opportunity to address the House in commemoration of the extraordinary accomplishments of this fine organization.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, July 23, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 24

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To resume joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

9:30 a.m.

Environment and Public Works

Nuclear Regulation Subcommittee

Business meeting, to mark up S. 843, to extend and improve the procedures for the protection of the public from nuclear incidents.

SD-406

10:00 a.m.

Foreign Relations

To hold hearings on the nominations of Nicholas Platt, of the District of Columbia, to the Ambassador to the Republic of the Philippines, and Michael G. Wygant, of Massachusetts, to be the United States Representative to the Federated States of Micronesia.

SD-419

Governmental Affairs

Business meeting, to consider pending calendar business.

SD-342

Labor and Human Resources

Business meeting, to consider pending calendar business.

SD-430

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

JULY 27

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To resume joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

JULY 28

9:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1988 for export financing programs.

S-126, Capitol

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

9:30 a.m.

Judiciary

Constitution Subcommittee

To hold hearings on S. 465, to prohibit the manufacture, importation, sale or possession of firearms, not detectable by metal detection and x-ray systems commonly used at airports in the United States.

SD-226

Small Business

Government Contracting and Paperwork Reduction Subcommittee

To hold hearings to examine the impact of a series of amendments to the Small Business Act as contained in the Department of Defense Authorization Act, 1987 (P.L. 99-661).

SR-428A

10:00 a.m.

Agriculture, Nutrition, and Forestry

Business meeting, to consider certain spending reductions and revenue increases to meet reconciliation expenditures as imposed by H. Con. Res. 93, setting forth the congressional budget for the United States Government for fiscal years 1988, 1989, 1990, and 1991.

SR-332

*Commerce, Science, and Transportation

Business meeting, to consider pending calendar business.

SR-253

Foreign Relations

Business meeting, to consider pending nominations.

SD-419

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran-Contra affair.

2172 Rayburn Building

JULY 29

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

9:30 a.m.

Commerce, Science, and Transportation

To hold oversight hearings in conjunction with the National Ocean Policy Study to examine plastic pollution in the marine environment.

SR-253

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

*Veterans Affairs

Business meeting, to mark up S. 6, Veterans' Health Care Improvement Act, S. 9, Service-Disabled Veterans' Benefits Improvement Act, S. 1443, VA Medical Inspector General Act, S. 1444, VA Assistant Inspector General for Health Care Quality Assurance Review Act, S. 1464, Veterans' Beneficiary Travel Reimbursement Restoration Act, proposed Veterans' Readjustment Counseling Preservation Act, proposed legislation providing for disability payments based on nuclear-detonation radiation exposure, and other related measures.

SR-418

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold oversight hearings on the combination of banking and insurance activities.

SD-538

Labor and Human Resources

To hold hearings on the nomination of Dorothy L. Strunk, of Maryland, to be Assistant Secretary of Labor for Mine Safety and Health.

SD-430

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

6:00 p.m.

Environment and Public Works

Environmental Protection Subcommittee

Business meeting, to resume markup of proposed legislation to provide limited extensions in Clean Air Act deadlines for areas that violate the health-protective national air quality standards.

SD-406

JULY 30

9:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1988 for foreign assistance programs.

S-126, Capitol

Judiciary

Business meeting, to consider pending calendar business.

SD-226

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

9:30 a.m.

Banking, Housing, and Urban Affairs

To hold oversight hearings on the history of the Glass-Steagall Act and its current relevance.

SD-538

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings on S. 582 and S. 876, bills to provide for improved air transportation to small communities.

SR-253

10:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on proposed legislation authorizing funds for the Federal Insecticide, Fungicide, and Rodenticide Act.

SR-332

Energy and Natural Resources

Energy Regulation and Conservation Subcommittee

To hold hearings on S. 1382, to improve the Federal Energy Management program.

SD-366

2:00 p.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on miscellaneous proposals.

SD-366

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

6:00 p.m.

Environment and Public Works

Environmental Protection Subcommittee

Business meeting, to continue markup of proposed legislation to provide limited extensions in Clean Air Act deadlines for areas that violate the health-protective national air quality standards.

SD-406

JULY 31

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

9:30 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on S. 889, to provide for fair marketing practices for certain encrypted satellite communications.

SR-253

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

AUGUST 3

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To resume joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

AUGUST 4

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

9:30 a.m.

Agriculture, Nutrition, and Forestry

Conservation and Forestry Subcommittee

To hold hearings on the management of inventory properties held by agricultural lenders.

SR-332

Commerce, Science, and Transportation

Business meeting, to consider pending calendar business.

SR-253

10:00 a.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1138, to designate certain lands in Nevada as wilderness.

SD-366

Judiciary

Business meeting, to consider pending calendar business.

SD-226

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

AUGUST 5

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calender business.

SD-366

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold oversight hearings on certain financial restructuring proposals.

SD-538

Small Business

To hold hearings on the impact of section 1706 of the Tax Reform Act of 1986 (P.L. 99-514) relating to technical service workers as independent businesses.

SR-428A

2:00 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings on S. 641, to provide for the relief of the city of Minot, North Dakota from liability for repayment of a specified sum associated with excess capacity of the Minot Pipeline resulting from enactment of the Garrison Diversion Unit Reformulation Act (P.L. 99-294), and S. 649, to provide for an increase in authorized funds for construction at the Oroville-Tonasket Unit, Washington irrigation project.

SD-366

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

AUGUST 6

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold oversight hearings on the limited securities powers for bank holding companies.

SD-538

1:30 p.m.

*Energy and Natural Resources

Research and Development Subcommittee

To hold hearings on S. 1320, Solar Development Initiative Act, and related proposals.

SD-366

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on Matters relating to the Iran/Contra affair.

2172 Rayburn Building

AUGUST 7

9:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1988 for foreign assistance programs.

SD-192

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

POSTPONED

JULY 28

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings on proposed legislation to create an independent Federal Aviation Administration.

SR-253

HOUSE OF REPRESENTATIVES—*Thursday, July 23, 1987*

The House met at 10 a.m.

Rabbi Michael A. Barenbaum, Temple Rodef-Shalom, San Rafael, CA, offered the following prayer:

It is written: Pray as if everything depended on God. Act as if everything depended on you!

Gracious source of life, we thank You for the gift of our lives and for the opportunities which they present to us to touch, lighten, and enthuse the lives of others.

May we use our lives and our privileged roles as public servants to send light to those who dwell in darkness, to comfort the fallen, to free those who are captive to the tyranny of hate and want.

May we use our lives to give bread to the hungry, shelter to the homeless, to bring knowledge to the ignorant, opportunity to the unfortunate, and to bestow upon the despondent the promise of freedom, security, dignity, hope, and peace.

God of Life, may our lives reflect You in our words, our deeds, and the work of our hands and hearts and minds. Amen.

THE JOURNAL

The **SPEAKER**. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. **UPTON**. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The **SPEAKER**. The question is on the Chair's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. **UPTON**. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER**. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 282, nays 110, answered "present" 5, not voting 36, as follows:

[Roll No. 282]

YEAS—282

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Archer
Atkins
AuCoin
Baker
Barnard
Bartlett
Bateman
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Biaggi
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chapman
Chappell
Clarke
Clinger
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Cooper
Coyne
Daniel
Darden
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
DeWine
Dicks
Dowdy
Downey
Duncan
Durbin
Dwyer
Dyson
Eckart
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Foley
Ford (MI)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Green
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Harris
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Houghton
Howard
Hoyer
Hubbard
Huckaby
Hughes
Hutto
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lipinski
Lloyd
Lowry (WA)
Lujan
Luken, Thomas
MacKay
Manton
Markey
Martin (NY)
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McEwen
McHugh
McMillen (MD)
Meyers
Mfume
Mica
Miller (CA)
Miller (WA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Nelson
Nichols
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Packard
Panetta
Patterson
Pease
Pelosi
Pepper
Perkins
Petri
Pickett
Pickle
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Rinaldo
Ritter
Robinson
Rodino
Roe
Rose
Roth
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schulze
Schumer
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Snowe
Solarz
Spence
Spratt
St Germain
Staggers
Stallings
Stark
Stenholm
Stokes
Stratton
Studds
Swift
Synar
Tallon
Tauke
Taylor
Thomas (GA)
Torres
Torricelli
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Wise
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—110

Armey
Badham
Ballenger
Barton
Bilirakis
Bliley
Boehlert
Boulter
Brown (CO)
Buechner
Bunning
Burton
Chandler
Clay
Coats
Coble
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (IL)
DeLay
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Fields
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Grandy
Gregg
Hansen
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Hunter
Hyde
Inhofe
Ireland
Jacobs
Kolbe
Konnyu
Kyl
Lagomarsino
Latta
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
McCandless
McCollum
McGrath
McMillan (NC)
Michel
Miller (OH)
Molinari
Moorhead
Nielson
Oxley
Pashayan
Penny
Porter
Ridge
Roberts
Rogers
Roukema
Saiki
Saxton
Schaefer
Schroeder
Schuette
Sensenbrenner
Sikorski
Skeen
Slaughter (VA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Stangeland
Stump
Sundquist
Swindall
Thomas (CA)
Upton
Walker
Weber
Weldon
Whittaker
Young (AK)
Young (FL)

ANSWERED "PRESENT"—5

Bentley
Edwards (CA)
Florio
Lewis (GA)
Wolf

NOT VOTING—36

Applegate
Aspin
Bilbray
Boner (TN)
Cheney
Conyers
Crockett
Dingell
Dixon
Donnelly
Dorgan (ND)
Dymally
Early
Ford (TN)
Gephardt
Guarini
Kasich
Kemp
Kleczka
Livingston
Lowery (CA)
Martin (IL)
Mavroules
Morrison (WA)
Neal
Parris
Rangel
Roemer
Rostenkowski
Rowland (CT)
Sweeney
Tauzin
Towns
Vucanovich
Williams
Wilson

☐ 1015

Mr. **SAWYER** changed his vote from "nay" to "yea."

Ms. **SLAUGHTER** of New York changed her vote from "present" to "yea."

So the Journal was approved.

The result of the vote was announced as above recorded.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed bills of the

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☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

following titles, in which the concurrence of the House is requested:

S. 769. An act to provide grants to support excellence in minority health professions education;

S. 1267. An act to provide authorization of appropriations for the U.S. Travel and Tourism Administration, and for other purposes; and

S. 1417. An act to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act.

RABBI MICHAEL A. BARENBAUM

(Mrs. BOXER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BOXER. Mr. Speaker, I am proud to honor one of the most distinguished spiritual leaders in my district, Rabbi Michael A. Barenbaum, who had the privilege of offering the opening prayer in the House today.

I have long awaited this very special occasion when Rabbi Barenbaum would come here from his congregation, Rodef-Shalom, in San Rafael, CA. His congregation has grown enormously in the 10 years since the rabbi has been there because he is such a dynamic and inspirational spiritual leader.

Rabbi Barenbaum was the first clergy from the Bay Area to go to the Soviet Union on behalf of the plight of Soviet Jews. He is the first rabbi from northern California to travel to the Soviet Union in this decade. He went there by himself in 1981 when things were particularly difficult for Jews in that country, and through his courage and commitment, clergy of all denominations in the Bay Area have become involved in this issue.

So I am pleased to help bring well deserved recognition to Michael Barenbaum for his productive efforts concerning human rights. He is a community leader in the best sense of the word and I am proud that he is here today.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 135

Mr. BERMAN. Mr. Speaker, I ask unanimous consent that my name be removed from the list of cosponsors of H.R. 135.

The SPEAKER. Is there objection to the request of the gentleman from California?

There was no objection.

WESTERN STATES TRAIL ACT OF 1987

(Mr. SHUMWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHUMWAY. Mr. Speaker, yesterday I introduced H.R. 2988, to amend the National Trails System Act to designate the Western States Pioneer Express National Historic Trail and the Tahoe Rim National Scenic Trail, and for other purposes. The Western States Trail Act of 1987 is intended, among other things, to give national recognition to two magnificent trails, the Western States Pioneer Express Trail and the Tahoe Rim Trail located in the Sierra Nevada Mountains in northern California and Nevada.

In addition to the national trail designations, my legislation is structured to protect several traditional organized recreational events which utilize the Western States Pioneer Express Trail. Wilderness legislation enacted in 1984 included a 4-5 mile section of the Western States Pioneer Express Trail. Without congressional action, the aforementioned events cannot continue to use the traditional route because "competitive events," have been deemed to be incompatible with a wilderness area. Inasmuch as Congress never intended to preclude these special annual events, I urge my colleagues to join me and support swift passage of H.R. 2988 to alleviate this unfortunate situation and give national recognition to two spectacular trails.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair wishes to make the following announcement concerning the decorum during debate in the Chamber.

The Chair has recently observed instances in which Members recognized to address the House or the Committee of the Whole have chosen instead to direct their remarks outside the Chamber. Being charged with the responsibility of preserving decorum in debate, the Chair would remind all Members that under the rules and the precedents of the House remarks in debate should be addressed to the Chair. It is not in order to address remarks elsewhere, whether to the President, to Cabinet officials, to persons viewing the proceedings in the gallery or on television, or even to other Members, who not being present in the Chamber, might be viewing the proceedings on television.

The Chair will enforce the rule on its own initiative and will naturally expect fullest cooperation of all Members in maintaining the decorum that dignifies the proceedings of the Chamber. The Chair is certain that all Members want to cooperate in preserving and protecting the reputation of the Chamber for that decorum.

RESOLUTION AGAINST GASOLINE TAX INCREASE

(Mr. ANDERSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ANDERSON. Mr. Speaker, pursuant to the conference report on the budget, the Congress must raise revenues by $19.3 billion in fiscal year 1988 and in excess of $64 billion over the next 3 years. Among the proposals said to be on the table is a gasoline and diesel Federal excise tax increase.

Last week, I introduced House Resolution 225, expressing the sense of the House that motor fuels taxes must not be increased for deficit reduction purposes.

While there is no question that we must reduce the Nation's deficit, there is also no question that a motor fuels tax increase would be the wrong approach.

An excise tax used in this manner would be extremely regressive with low and moderate income individuals using a higher percentage of their income to pay the taxes on this vital commodity than will higher income individuals.

Adding 10 cents or more per gallon to the cost of fuel will have a devastating effect on the national economy. Among other things it would reduce the GNP by $10 billion and increase unemployment by 80,000 the first year.

At a time when Federal funding for transportation does not meet our documented need and so State and local governments are increasing their revenues to fill this gap, an increase in the Federal motor fuels tax would severely inhibit their ability to meet our Nation's highway and public transit needs.

Mr. Speaker, I invite our colleagues to join in cosponsoring House Resolution 225. We need to tackle the deficit, but we need to do so in a productive, and not counterproductive manner.

□ 1030

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will request the cooperation of Members today in that there are a great many Members who have indicated a desire to be heard under the 1-minute rule which is our period of democracy here in the Chamber and during which any Member is entitled to be heard.

The Chair would ask that Members cooperate in observing the 1-minute rule and that other Members observe the decorum of the Chamber and if they do not wish to hear what is being said, to retire from the Chamber, because whoever addresses the House is entitled to be heard.

OLLIE NORTH SLIDE SHOW

(Mr. LOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOTT. Mr. Speaker, Lt. Col. Oliver North clearly defined the issue in Nicaragua. That issue is what are we going to do to stop the Soviet base presently being established a very short distance away in Central America? And this chart, Mr. Speaker, which we would like to show you, clearly shows just how close this area is. In fact, this is my district and this is the port in my district.

We will now show you, Mr. Speaker, the presentation that Colonel North was prevented from presenting when he appeared before the special committee to investigate the Iran-Contra situation. He was not allowed to show the slides and we would like for you, Mr. Speaker, to have this opportunity to see these slides. And we will also, of course, make the presentation that went along with the slides.

The Soviets clearly recognize the geographic significance of Central America.

Strategically, Central America is of vital importance to the economic stability and security of the United States. The Soviets already have a willing partner in Cuba, threatening our sea lines of communication and trade and placing at risk our access to vital resources. Through the Gulf of Mexico and the Caribbean pass 55 percent of our crude oil as you will see from this slide, 45 percent of our imports and exports and in the event of war, 96 percent of our NATO supplies would go through this particular area.

WHO ARE THE CONTRAS?

(Mr. BONIOR of Michigan asked and was given permission to address the House for 1 minute.)

Mr. BONIOR of Michigan. Mr. Speaker, first of all, let me say that Colonel North was allowed to show his slides. For security reasons, the room was not darkened but he did show his slides and he did not object to it.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The House will be in order. Members are entitled to be heard and if other Members disagree with what is being said Members at least are entitled to be heard as a courtesy.

Mr. BONIOR of Michigan. I thank the Chair. Mr. Speaker, I think the record will reflect that.

Mr. Speaker, long after the lights have faded from the Iran-Contra hearings, the American people will remember who the Contras are.

The Contras commit atrocities. They use land mines that kill more civilians than soldiers. They attack poorly defended villages, firing their machine guns indiscriminately. They bayonet pregnant women and children.

This picture that I have here illustrates the victims of the Contras. They are innocent civilians like this 26-year-old schoolteacher who was injured in an ambush by the Contras in June 1985.

But the most atrocious crime the Contras have committed is to wage a war for 6 long years against the Nicaraguan people without any hope of military victory. Not a single town has been seized; No territory has been taken.

Mr. Speaker, today we will see the faces of the Contras' victims. The faces of innocent children, of women, and the elderly.

The faces of health care professionals, church workers, teachers, and poor peasants.

In war, no one wins and everyone loses. If there is a message to be gleaned from the faces of these innocent victims, it is simply this: The Contra war must end and it must end now.

Continued U.S. funding of a rebel force which has no hope of military victory would surely be the most detestable, atrocious, immoral crime that has yet been committed in this long, ugly struggle.

Today, I call upon my colleagues for their help in drawing a swift, complete close to further funding for the Contras.

OLLIE NORTH SLIDE SHOW: THE SOVIET THREAT TO THE WESTERN HEMISPHERE

(Mr. FIELDS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FIELDS. Mr. Speaker, in 1983 then Soviet Foreign Minister Andrei Gromyko clearly reflected Soviet intentions. His statements in Moscow were ample indication that the Soviets have designs which we seem to ignore. He said the region is boiling like a cauldron. Cuba and Nicaragua are living examples of countries in that part of the world. Now, if you look at the position of Nicaragua we in Texas realize that the war in Nicaragua means refugees. People in America must understand that there are 6 million refugees, feet people waiting to come here as refugees. Where are we going to find jobs for these people, how will we house and feed them, how can we clothe them? For those defending the Sandinistas today, they must answer the following questions: What about free labor unions in Nicaragua? What about freedom of religion, particularly for the Catholic Church in Nicaragua? What about genocide of the Miskito Indians? What about freedom of the press in Nicaragua? Because there is no freedom of press there.

THE OLLIE NORTH SLIDE SHOW

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, I asked to revise and extend my remarks this morning, because I want to remind some of the freshmen and second and third termers about a great Democrat who served on your side of the aisle who was murdered by a Soviet interceptor fighter, Larry McDonald. Look into this man's eyes; he was the head of the Soviet Armed Forces when one of your Members was murdered. And this Ogarkov is the cat that had the press conference saying that Larry McDonald deserved to be murdered because that plane should not have been over their air space about an hour before they shot it down. Two hundred and sixty-nine men, women, and children were on that Korean jumbo jet 747 and 68 of them, including one of our colleagues was a United States citizen.

Now, if Ollie North had been able to show the slide—and I was in the audience over there and he did not show this slide, he was not able to show you, Mr. Speaker, because I know you were watching television, what Ogarkov looked like and what the marshal said, that over two decades ago there was only Cuba in Latin America, today there is Nicaragua, there is Grenada and a serious battle is going on in El Salvador.

I was in those hospitals Sunday, Sunday of this week, the Contra hospitals, shaking the hands of those people that the gentleman from Michigan said bayonetted women. I do not believe it. I know he does sincerely. I think it is Sandinista lies pumped through church groups on the left and special interest groups and funneled into this House and it is Communist propaganda and there is not a word of it that is true.

OLLIE NORTH SLIDE SHOW

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, do the people of the United States of America believe Ollie North, a genuine American hero about the Communist menace in Central America? Or do they believe the Communist propaganda that they have been seeing, some here today on the floor of the House, sent to us by the Communist Sandinistas through church groups and unwitting Members of this House—at least I hope they are unwitting Members, supporters?

The fact of the matter is, Mr. Speaker, that the stated purpose of the Soviet Union is to create such turmoil in the Caribbean Basin that the United States must divert attention and military resources from areas critical to the Soviets in other parts of the world.

We have a 2,000-mile border, Mr. Speaker, between us and Mexico. If the Soviets achieve their goals in Central America and the Caribbean, we will have to defend it with American lives, with young men. We will have to send our kids down there to defend what I call the soft underbelly of America. This need not happen if we do what needs to be done today.

Ollie North realizes the danger. We in this body must realize the danger. I hope my colleagues on that side of the aisle will look at these maps and listen to what was said in those hearings and realize when the vote comes up this fall we must appropriate the money necessary to give those freedom fighters down there the resources they need to defend their freedoms and ours as well.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. It will be the purpose of the Chair when time has expired and the gavel indicates the conclusion of time, to permit a Member addressing the House to complete his sentence, assuming it is not unnecessarily compounded and elongated.

WHAT HAVE WE BROUGHT ABOUT WITH THIS ADMINISTRATION'S CONTRA AID SCHEME

(Mr. MINETA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MINETA. Mr. Speaker, what have we brought about with this administration's Contra aid scheme? On March 9 of this year, the Contras attacked a small agricultural cooperative called Monterey. Attacking in the evening the Contras fired their weapons directly into the homes in the community. The Contras then used grenades against the village. Who are the victims of the Contras? They are innocent villagers like Transito Guerrera and his 5-year-old daughter injured in Monterey. There are children like Transito Guerrera's 14-year-old son killed by a Contra grenade that night.

The Contras' victims are innocent civilians like this 22-month-old girl who lost her arm after having her home attacked by the Contras on December 8, 1986. Her father was killed and her mother was wounded and it is time to end this murky madness.

OLLIE NORTH SLIDE SHOW, NO. 6

(Mr. McEWEN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McEWEN. Mr. Speaker, on this, the sixth slide in Colonel North's presentation shows that the Soviets back up their policy with more than just rhetoric. They are consistently outspending the democracies in our own hemisphere, both economically and militarily. In Nicaragua, an unprecedented military buildup has taken place since 1979, sponsored primarily by the PLO, by Libya, by the Soviets, Cuba, and the Warsaw Pact nations.

Last year alone, 23,000 metric tons of hardware worth $600 million was donated to the Sandinista regime by their Communist brothers. This CARE package from the Kremlin included patrol boats, attack helicopters, transport ships, military vehicles, and the world's most sophisticated helicopter gunships.

Mr. Speaker, with this massive military aid from their comrades in arms, Daniel Ortega can now boast that he has the largest army and the most powerful military force in Central America. And for the Soviets, feeding the insatiable Sandinista military appetite has provided them now with a military beachhead on our doorstep that they have so long sought, and America's adversaries applaud.

□ 1045

HEAD START EXPANSION FUNDS

(Mr. STAGGERS asked and was given permisssion to address the House for 1 minute and to revise and extend his remarks.)

Mr. STAGGERS. Mr. Speaker, today, I rise to urge you to support legislation that I, along with my colleague from West Virginia, Bob Wise, have introduced. This bill will correct a mistake in the administration of Head Start expansion funds.

Earlier this year, the Department of Health and Human Services proposed rule changes that would exclude most current Head Start programs from receiving additional expansion funds. The rules promulgated by HHS discriminates against both rural and urban Americans.

Upon learning of this most unfair proposal, I asked why this was being done. "It's the way Congress wanted it done," I was told. Upon a full examination I found that Members of Congress do not want it, and oppose this approach toward expansion funds.

The legislation I am introducing today will require that a fair and balanced approach toward the use of expansion funds be used. This legislation would amend the Head Start Act to prevent the Secretary from disqualifying from eligibility those small Head Start programs to receive discretionary payments any Head Start agency that serves less than one-third of the children eligible to participate in its Head Start Program.

I urge you to support this legislation.

SOVIET NAVAL BATTLE GROUPS JUST OFF THE AMERICAN COAST

(Mr. SOLOMON asked and was given permission to address the House for 1 minute.)

Mr. SOLOMON. Mr. Speaker, these slides, Nos. 7 and 8, show the Soviet military threat just off our shores. The Soviet Communists know about this, but the American people do not. And why do they not? Because Ollie North was not allowed to show the American people these slides.

This is what he had to say about these two slides that he tried to show: "Let's take a look at what 'little' Communist Cuba has done for the Soviet Navy. These are 1985 photographs of Soviet naval battle groups just miles off the coast of"—where?—"Louisiana" and also Texas and Florida and Mississippi and Alabama and a lot of other States.

"The Soviets no longer consider the Caribbean to be an 'American lake.' Naval deployments such as these send a clear message to our friends in the region that the United States no longer controls the water frontiers off its own coast line. To Mexico, Guatemala, Honduras, and Costa Rica this serves as intimidation."

Mr. Speaker, while the opponents of aid to the Contras have completely ignored Soviet military plans for "little" Nicaragua, thank God Oliver North and others who are concerned about America's security have not. We owe a debt of gratitude to them. Thank you, Ollie.

THE MILITARY FAILURE OF THE CONTRAS

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, I have witnessed all the pictures shown by my colleagues here, and I do not think they make the point.

We on both sides of the aisle are against Soviet expansion and incursion in Latin America, in Central America, and in the Caribbean. The fact that Daniel Ortega has claimed he is a Marxist-Leninist is abhorrent to me and all my colleagues. The question is: How do we get what we really want in Central America. How do we?

Let me tell my colleagues that Soviet Union would not be so stupid as to spend $1 billion in Central America in backing an army that could not hold a single town after 5½ years. The Soviet Union would not be so stupid as to give money to supposed fighters and find much of the money into drug running and other kinds of activities. The Soviet Union would not be so stupid as to back an army that had no popular support.

We have to do something in Central America but the Contra policy is a bankrupt policy that will only enhance the Soviet Union's policy in Central America. The people in Nicaragua, if given a choice between the Contras and the Sandinistas, will likely choose the Sandinistas. We have to give the people a better choice.

THE SOVIET-NICARAGUAN AIR POWER IN THE WESTERN HEMISPHERE

(Mr. BLILEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BLILEY. Mr. Speaker, these are slides Nos. 9 and 10 in Colonel North's presentation that he was denied the privilege of showing to the American people before the Iran-Contra Committee in the Senate.

Mr. Speaker, anyone that sees these two slides cannot help but realize the very present threat to our security that now lies in Nicaragua. This is a Soviet Bear Bomber being escorted by a Navy F-4 plane 13 miles off the Virginia coast. That plane is able to be there because of this base in Cuba. This is San Antonio de los Banos Air Base in Cuba, which is the home base in the Caribbean for these Bear bombers that are acting as reconnaissance planes. This fighter can do nothing to prevent this intelligence gathering just 13 miles off our coast. A similar base in Nicaragua provides the same service on the Pacific Coast.

A PROGRAM FOR LIVING

(Mr. ACKERMAN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ACKERMAN. With apologies, Mr. Speaker, I will be my own visual aid.

Since coming here, Mr. Speaker, I have heard a lot of talk about reducing fat in government, and I have to tell the Members that I used to take that very personally. Like the Federal budget, I had gotten to be fat and out of control.

Back in February I weighed 283 pounds and decided to get myself on a program. I knew that Gramm-Rudman did not work, so I went on a gram-calorie program, and I want to announce today that I have met my goal. I have lost over 100 pounds since February. My waist has gone from a 54 to a 38, my blood pressure from 150/95 to 110/70. My cholesterol, which was three times normal, is now absolutely midrange normal, and I have more energy and stamina than I can ever remember.

I want to call this to the attention of the American people and Members of the House because there is a message in this, and the message is, Mr. Speaker, that there are 30 million Americans who are overweight. I was one of them for almost all my life, and they can be successful if they combine a program of exercise and diet.

I am going to be talking to some of my colleagues about this, not now, remembering the Speaker's admonition not to get personal, but you guys know who you are.

THE COMMUNISTS' INTELLIGENCE-GATHERING ACTIVITIES

(Mr. ROTH asked and was given permission to address the House for 1 minute.)

Mr. ROTH. Mr. Speaker, I think the last speaker indicated that if you have a lot of will power, you can do a lot. I think that is what we need here in this House.

We have here a slide presentation, and these slides indicate the intelligence-gathering institutions and sites in Cuba. These are not manned by Cubans, incidentally. These are manned by Soviets, and this is the way they intercept United States diplomatic and military communications.

Now, we see that there is quite a divergence between the two Houses and between the two sides of our aisle on many issues. Many people were, I think, amazed at the tremendous public response Colonel North received. I think one of the reasons is because the American people view us differently.

Let me just indicate what a leading editorialist said. He said this: "The Iran-Contra hearings really cost more than all the Contras got from arms sales, highlighting the facts of life." It is now the anti-Communists, people like you, not the Communists, who have to operate clandestinely in the United States and who fear exposure by congressional investigators.

Mr. Speaker, the Democrats eulogize Benjamin Linder on the left.

OLIVER NORTH AS FRONT RUNNER

(Mr. FRANK asked and was given permission to address the House for 1 minute.)

Mr. FRANK. Mr. Speaker, my colleagues are well advised to use pictures because they do better with them than they do with words. But I think we ought to just refer to the fact that when we talk about Oliver North, Colonel North now knows the meaning of the words, "front runner."

When Ronald Reagan fired him in November—and Ronald Reagan fired him apparently for doing everything he was told—I do not remember this outpouring of support for Colonel North.

When Ronald Reagan fired Oliver North, we did not get this ourpouring of support. After Mr. North looked good on his own, the front runners came forward. But what they have come forward to do illustrates the incoherence of this administration's policy. Some of them have made a good case for invading Cuba. I did not think that was on their agenda.

Others have objected, it seems to me, implicitly to the fact that when the Korean airliner was shot down, Ronald Reagan did nothing. Others have pointed to the absence of civil liberties in Nicaragua, which I regret, as I regret the absence of civil liberties in the country the President is so fond of, the People's Republic of China.

THE SOVIET THREAT TO THE WESTERN HEMISPHERE

(Mr. DELAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DELAY. Mr. Speaker, the gentleman from New York is right, the Soviets are not stupid enough to give peanuts to their allies and pull them in and out like this Congress does with the Contras.

Mr. Speaker, this is slide No. 12 in the Ollie North presentation. Ollie North's caption to this slide is:

> The Soviets have not stopped at constructing facilities. The youth of Cuba are prepared for military service in grade school. Political indoctrination and military training are part of the education for the smallest children.

Mr. Speaker, a gentleman from this body praised the Sandinistas for educating the children of Nicaragua. This is the kind of education the children of Nicaragua are getting. This is a picture of children of the age of about 12 to 13 holding a rifle and taking target practice in front of their school, not in Nicaragua but in Cuba.

THE CONTRAS

(Mr. HALL of Ohio asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HALL of Ohio. Mr. Speaker, I would like to share with my colleagues an example of the kind of things the Contras are doing in Nicaragua.

On June 4, 1987, the Contras were near the town of Buena Vista. Two Contras dressed in camouflage came upon a group of three peasants working in a field and tried to take the men with them. None of the three farmers was armed.

The farmers replied that they did not want to go because they were working. The Contras shot one of the men, Daniel de la Cruz, in the back, killing him. They shot another, Diego Arriola, seriously wounding him. The third man managed to escape.

This is one small example of the kind of atrocities being committed by the Contras in Nicaragua. Another example of an innocent victim is this woman—whose home was burned to the ground by the Contras! Stories like this are why the Contras have failed to win a strong following among the Nicaraguan people.

They are not freedom fighters. They do not advance democratic principles by killing unarmed peasants. These are not the kind of people our country should be supporting.

I hope my colleagues will reflect on incidents like this when they consider the matter of providing aid to the Contras.

THE SOVIET AND CUBAN PRESENCE IN NICARAGUA AND AROUND THE WORLD

(Mr. WELDON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WELDON. Mr. Speaker, my concern today in Nicaragua is not with the people there, but rather, with the Soviet and Cuban presence in Nicaragua and around the world. As the father of five young children, I am concerned with the exploitation of young children who are being sent around the world as tools for Communist subversion.

The Cubans today have thousands of young people in South Yemen, Angola, Mozambique, Ethiopia, the Congo, and Nicaragua all for the expressed purpose of undermining foreign nationalities and spreading communism. The Soviets have also established operations around the world to subvert local will and democratic initiatives.

Recently, I gave the Nicaraguan Government the benefit of the doubt and invited the Sandinista ambassador to my office. After meeting for 1½ hours I was certainly not convinced that the $1.2 billion of Soviet/Cuban aid to Nicaragua was for agrarian reform.

We must now move to fight the establishment of a Soviet/Cuban beach head in Central America that will allow a permanent Soviet puppet state to exist on the mainland of the Americas for the first time ever.

□ 1100

CONTRAS ARE NOT GOOD GUYS

(Mr. MRAZEK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MRAZEK. Mr. Speaker, we call the El Salvadoran Communist rebel terrorists for blowing up schools and hospitals, and some people consider the Contras heroes and freedom fighters for blowing up schools and hospitals inside of Nicaragua.

The real victims are people who have the same hopes and dreams that we have for our children that someday they are going to have a better life. They are not Marxists. The people of Nicaragua are illiterate for the most part. They cannot read or write.

They do have dreams for their kids. How are we going to help to foster those dreams? By supporting people who commit atrocities or building more schools and hospitals, so that they will have hope in that region.

Atrocities are atrocities, no matter who commits them; and all lives are precious before God, even the least among us.

It is hard for Americans to appreciate and understand who the good guys and who the bad guys are in that region, and there is no perfect symmetry.

Just because there are bad guys, does not necessarily mean there are good guys.

I do not think the Contras represent good guys.

WAKE UP AND UNDERSTAND WHAT IS HAPPENING IN NICARAGUA

(Mr. LUNGREN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LUNGREN. Mr. Speaker, I stand before the House not only as a Member of the Congress, but as the father of three children, a 14-year-old son and two younger daughters, one of whom has expressed an interest in joining the Armed Forces of the United States.

I am concerned about their future, as I am concerned about the future of every young person in America. I frankly do not want them to have to appear on foreign ground in Central and South America in the next decade to defend our freedoms, but I am afraid that is a possibility if we cut and run in Central America.

Just a few years ago, Members on this floor were saying that there is no problem in Grenada, that it is their own business what they do there.

It does not affect the United States. There were criticisms here on the floor of what the President did when he came to the aid of those people who wanted to be saved in Grenada.

Why should I suggest what he did then goes beyond just Grenada? This is one reason, a 10,000-foot runway that was built in Port Salinas, Grenada. We were told it was for peaceful purposes. It is the same thing being done at the present time in Nicaragua for supposed peaceful purposes.

Let us wake up and understand what has really happened.

U.S. MILITARY MIGHT CAN STOP SANDINISTAS

(Mr. ALEXANDER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ALEXANDER. Mr. Speaker, some of the Members speaking today have lost sight of the fact that the U.S. Armed Forces maintain about 21 military installations in Honduras. We have the military might to stop the Sandinistas at the Honduran border.

It is a matter of fact that the United States has the military strength to achieve this virtually at anytime we choose. That is to say that a military solution is an option if we choose it.

But the Sandinistas do not present a threat to our national security. They are not a threat to Honduras; and if and when Nicaragua becomes a threat, we have the military might ready to stop them.

Mr. Reagan's policy to support the Contras is prolonging a war.

I have a Nicaraguan friend living in Panama who told me that the war has killed 44,000 people in Nicaragua. United States prolongation of the conflict is not what America is all about.

It does not make me feel like a big man to kill one more Nicaraguan. To cripple and maim innocent people.

The T-shirts that propose Ollie North for President proclaim support for the war. They should say Ollie North was President until revealed by the Iran-Contra hearings.

GRENADA USED AS SUBVERSIVE BASE FOR LATIN AMERICA

(Mr. HERGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HERGER. Mr. Speaker, as slide No. 15 clearly indicates, when American and Caribbean troops arrived in Grenada on the rescue mission in October of 1983, they found warehouses full of Cuban economic aid, aid in the form of tons of munitions and weapons.

In slide No. 16, Mr. Speaker:

> Careful research after the Grenada rescue mission clearly shows that the little island of Grenada was being used as a subversive base for Latin America. For example, this rocket-propelled grenade [RPG] launcher

was captured in El Salvador from Communist guerrillas.

FRANCISCA SAVALVARRO, VICTIM OF CONTRA MINE

(Mr. FAZIO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FAZIO. Mr. Speaker, this is Francisca Savalvarro, a 60-year-old grandmother, perhaps great-grandmother, in Nicaragua. She is the victim of a Contra mine that blew off her legs in the Department of Jinotega on October 20, 1986.

She is typical of people in that country who are victims of a war they do not want to participate in, but which imposes itself on their lives every day.

I have to ask, are these Contra victims of the war, the way in which we convey our sentiment about democracy in Central America? I sense it is not.

I sense this is exactly how we should not go about winning the hearts and minds of people in that region for the democratic principles that unite all of us in this country.

It seems that we pay attention to regions like this in this world only when our interests are directly affected, not on an ongoing basis as part of an effort of those of us in the North to help people in the south of our hemisphere.

This is not only an East/West conflict. This is a human conflict that we have to constructively participate in the solution of not through military approaches but through a peace process that can eventually lead an attack on the basic social, political, and economic problems of the region.

OLLIE NORTH'S SLIDE NO. 17

(Mr. KYL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KYL. Mr. Speaker, this is an East/West conflict. One of the reasons the United States has a direct and legitimate interest in supporting an opportunity for a free Nicaragua is that the Communist government there is an integral part of a worldwide Communist network.

The Communist Sandinista government there is responsible, for example, for sending weapons to the Communist guerrillas opposing the democratic Government of El Salvador, and I have been there, and I have seen the results.

This slide shows how the Communist network works. First you see a photocopy of an inventory of weapons captured in El Salvador, including rocket-propelled grenades. The inventory list of weapons indicates that the Salvadoran RPG, along with many other weapons, have been transshipped through Grenada with the support of the Cubans.

This particular one was probably provided by the Communist government in Vietnam, sent to Cuba, then to Nicaragua, and then to the FMLN Communist guerrillas in El Salvador.

Anyone who denies that there is a concerted Communist effort to gain control of Central America is either naive or deliberately misinformed. This is one of the reasons we must support a free democratic government in Nicaragua.

CONTRAS GETTING NOWHERE, END THIS KILLING

(Mr. GRAY of Illinois asked and was given permission to address the House for 1 minute.)

Mr. GRAY of Illinois. Mr. Speaker, I yield to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Speaker, I thank the gentleman for yielding.

A picture is worth a thousand words. Look at this 5-year-old child and look at the sadness deep in his eyes—shot by the Contras at his home, his femur fractured by a bullet in February of this year, his mother and brother dead.

I raised two children who are now in their twenties. Many of the Members in this Chamber are proud mothers and fathers and grandmothers and grandfathers. How would you feel toward the people who maimed and killed your children, the flesh of your flesh? Would you raise up and help them? No. That is why in 5 years the Contras are getting nowhere.

We saw in the Philippines what it takes to win for democracy. It takes the forces of good, not the forces of evil.

Let us end this blight on America. Killing children in their beds is not what we are all about.

OLLIE NORTH'S SLIDE NO. 18

(Mr. ARMEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ARMEY. Mr. Speaker, this is slide No. 18 in the Ollie North slide show.

Lieutenant Colonel North's caption on this slide is:

> Secret military agreements found in the Cuban Embassy and in the Party offices in Grenada indicate that the Soviets and their surrogates have even bigger plans which were aborted by the rescue mission.

Mr. Speaker, the gentleman from Arkansas has assured the Members that when it becomes necessary, we have the military might to stop the Sandinistas at the Honduran border. That is reassuring.

The thing that I feel distressed about is that one or four of my teenage sons might comprise that military might that faces the Sandinistas at the Honduran border, or even possibly at the Texas border.

We have people in Nicaragua who are fighting and dying and sacrificing their freedom. They deserve our support.

INNOCENT VICTIMS OF CONTRAS

(Ms. OAKAR asked and was given permission to address the House for 1 minute.)

Ms. OAKAR. Mr. Speaker, what we are trying to do, many of the Members, is bring this down to a very human level. We are talking about human beings, not charts.

This is the picture of a 13-year-old boy who, like many innocent civilians who really only care about survival, not philosophy, has had his legs blown off by a Contra-set land mine.

I think the American people do not want their tax dollars used this way.

I also think the American people want accountability of their tax dollars. They want to know if their dollars are being used for a drug-ring operation, money laundering in Florida. They really want to know whether their dollars are being used to kill innocent civilians.

That is why we show these pictures, to bring it back to a very human level, and I think the people of Nicaragua will never side with our philosophy, if we keep using our tax dollars in this manner.

□ 1100

NICARAGUA HAS LARGEST ARMY EVER RAISED IN CENTRAL AMERICA

(Mr. BOULTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BOULTER. Mr. Speaker, the slides of Lt. Col. Oliver North were designed to show that the Soviets are using Nicaragua as a forward military base to expand the cause of Marxist-Leninism throughout this hemisphere.

Nicaragua is a country about the size of Iowa or Michigan. It is the only country today in Latin America with a decreasing population. Once composed of about 3 million people, Mr. Speaker, over 300,000 people have fled Nicaragua, many to the United States, and many, Mr. Speaker, to my State of Texas.

Slide No. 20 shows that Nicaragua has the largest Army in Central America. By 1985, with the support of the Soviet bloc, and with advisers from the U.S.S.R., Cuba, East Germany, Bulgaria, and Libya, North Korea and the PLO, the Communist regime in Managua had built the most combat capable military machine ever seen in Central America. This military capability, Mr. Speaker, has two primary purposes—intimidation of its neighbors and the indoctrination of its population.

THE CONSTITUTION, A BLUEPRINT

(Mr. MOODY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker, at this 200th anniversary of our Constitution, it is appropriate to remember that that document is a blueprint for self-determination and for peaceful settlement of political differences, a blueprint for responsible and restrained use of government power and for the use of that force only within a lawful context. It is blueprint for passionate loyalty to process, and a commitment that worthy ends cannot justify unworthy means. That is our legacy.

Our current policies in Central America do not flow from those constitutional values of fairness, dignity, and self-determination. They do not recognize the inalienable rights to self-determination by any country as we seek to forcibly replace the government in that country. In pursuing that policy, Ronald Reagan's National Security Council people have trampled the very ideals that our Constitution supports and that they purport to support abroad. We have seen the abuse of government power, the illegal use of force abroad, the pursuit of failed ends by unworthy means, the falsification of evidence, lying to the people and lying to the Congress.

I think it is an unworthy pursuit of our constitutional legacy.

THE MILITARY BUILDUP IN NICARAGUA

Mr. HEFLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFLEY. Mr. Speaker, to support this military buildup in Nicaragua, enormous quantities of military hardware have been delivered to the Sandinistas. The Soviets have provided more than 150 of these T-55 tanks that you see in this slide, more than all the rest of the armor in Central America combined.

PT-76 tanks like this one that you see in slide No. 22 and other armored vehicles provide an offensive capability that threatens the stability of the entire region.

Now, my colleagues on this side of the aisle have talked a lot about the Contra victims. These are not exactly instruments of peace that you see up here. These are instruments of war and destruction. There is a war down there and there are victims on both sides. We do not like the fact there are victims on either side, but we need to be honest about it and recognize that it is not just a matter of the Contras providing victims.

The other day President Reagan read in the newspaper about the Contras attacking some refugees that a priest was trying to get out of Nicaragua. He called the priest when he got back to Iowa and said, "What about this story that the Contras attacked you?"

He said, "Oh, no. The Contras didn't attack us. The Sandinistas attacked us. The Contras saved us."

CASE FOR CONTINUED SUPPORT FOR FREEDOM FIGHTERS IS COMPELLING

(Mr. BILIRAKIS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BILIRAKIS. Mr. Speaker, you see in this aerial reconnaissance photograph a 481-meter aircraft runway. This forward airstrip at San Jose de Bocay in Nicaragua was built to Soviet and Cuban specifications. It provides not only a means of attacking the Nicaragua resistance, but threatens Honduras as well.

It is important to remember that the Soviet supplied helicopter gunships the Sandinistas are using have been their most effective air weapon against the freedom fighters, and these helicopters do not require such a runway.

The military jets that utilize such a runway threaten much more than the freedom fighters. They threaten the many nations of the Caribbean and Central America, nations that form our third border.

My colleague, the gentleman from California [Mr. DREIER] plans to update us on this slide.

A Soviet sponsored military menace in the Americas is not a hypothetical vision. It is reality. The Soviets already, through Cuba, have established a permanent presence in the Caribbean. Allowing the consolidation of an expansionist, Marxist Nicaragua, would permit the Soviets to put a second foot down in the Western Hemisphere.

Indeed, the case for continued support for the freedom fighters is compelling.

ARE WE WINNING IN CENTRAL AMERICA?

(Mr. DREIER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER of California. Mr. Speaker, I am leaving the same slide up here because I have a very important update for my colleagues.

First of all, I would like to respond briefly to what I think was the best 1 minute on this issue given from the other side. It came from our colleague, the gentleman from New York [Mr. SCHUMER], who talked about the fact that we have to win this battle, and he underscored that Daniel Ortega has admitted that he is a Marxist-Leninist.

Well, I think it is important for us to realize that a question which has been raised by a great many Americans is, Are we winning in Central America?

I left this slide up here, Mr. Speaker, because 1 week ago today, July 16, when 200 of us were celebrating the 200th anniversary of the Connecticut compromise, there was a great victory being won by the Contras.

I spent 4 days this past weekend, it was a rather long weekend, in Central America and found that at San Jose de Bocay there has been a great success, a real victory. I think the American people should know that the Contras are winning.

OLLIE NORTH'S SECRET BANK ACCOUNTS

(Mr. COELHO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COELHO. Mr. Speaker, I find it interesting that our colleagues on the other side of the aisle are making this presentation for Colonel North. What they have forgotten, Mr. Speaker, is that in this presentation Colonel North was saying that there was not enough money and he was begging for money for people and saying that there were people who were starving and the Contras could not exist another day without some more money.

At the same time he was making this presentation, Mr. Speaker, there was $2 million at one point in a secret bank account in Switzerland, then $5 million at another point, and now we understand there is $8 million in a secret bank account in Switzerland and Colonel North had control over that money.

I think the question that my colleagues on the other side need to answer is, If the concern made by this presentation was so real and so sincere, then why was not that money taken out of that secret bank account to take care of these individuals?

Mr. Speaker, there is more to this story than my colleagues like to present.

THE MILITARY RUNWAY AT SANDINO IN NICARAGUA

(Mr. SLAUGHTER of Virginia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SLAUGHTER of Virginia. Mr. Speaker, this slide shows an airfield at Sandino in Nicaragua. It is a military air base, as you can see, with a very long runway. There is no economic reason for this airport to be built in Nicaragua. You can see from the military facilities that are shown here that it is a military airport and purely a military airport.

Now, imagine what that means to the rest of the countries in Central America and the Caribbean. The greatest military power in Central America and the Caribbean is centered in Nicaragua. There is no need for the people of Nicaragua, the economy of Nicaragua, to have such an airport.

Similarly, with the Russian Fleet, there is no need for the size of the Russian Fleet that we see today.

All of these lead to only one conclusion, that we still have in the Soviet Union the most aggressive, expansionist, and imperialist power in the world for the last 40 years.

THE AMERICAN PEOPLE BELIEVE OLIVER NORTH

(Mr. SUNDQUIST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SUNDQUIST. Mr. Speaker, I appreciate the fairness of the Chair.

Mr. Speaker, my constituents have spoken to me by phone and in person and by letter. They are saying that if there is a question of believing the Sandinistas in Nicaragua or believing Ollie North, they are suggesting to me that I listen to Ollie North, and I agree with that.

This slide is a series of slides that are based on intelligence information. This particular slide is Corinto. Corinto is a port on the Pacific side of Nicaragua and it is used as a main depot for receiving Soviet military supplies.

Additionally, Mr. Speaker, this port is being dredged and will be used, I think, for a submarine base by the Soviets.

Now, the Soviets are not building a submarine base in Nicaragua to haul tourists back and forth.

To paraphrase something one of the earlier speakers, one of my colleagues on the other side of the aisle said, he said the Soviet Union is not so stupid as not to utilize an opportunity to help the Sandinistas.

CONTRA SLAUGHTER OF INNOCENT PEOPLE

(Mr. DURBIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DURBIN. One week ago today while Olliemania was sweeping the United States, the Contras were sweeping a Nicaraguan village with machinegun fire. The village of San Jose de Bocay was the object of their attack, an 8½-hour attack on innocent civilians.

Domingo Marinez Vivas will not appear on the cover of any news magazine in America this week, but he should be there to tell his side of the Contra story. He stood and watched Contra machinegun fire kill his pregnant wife and 3-year-old son.

His 13-year-old neighbor, Maria Cecelia Fanceca has shrapnel in her throat as a result of that attack, and her sister—12-year-old sister—Maria Basilia, was more fortunate. Machinegun fire swept her hut and killed her instantly.

Last Saturday the President asked for Americans to send more of our tax dollars to these Contra terrorists, millions more of our tax dollars to contribute to the slaughter of innocent people and to line the pockets of profiteers.

SOVIET BUILDUP IN NICARAGUA

(Mr. WALKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WALKER. Mr. Speaker, just let me say in reply to what we just heard a minute ago, we just saw the military airfield at that location the gentleman talked about. It was a military target.

Mr. Speaker, on this chart is a picture of a naval base in Nicaragua that the Soviet Union knows about. They know about it because they are building it.

As Lieutenant Colonel North said, the Soviet improvements to the Pacific coast port at Corinto has turned this peacetime port into a naval facility which threatens Honduras and El Salvador.

Fire power like that on the Soviet and Korean patrol boats shown in this picture have never before been seen in that area.

Those who oppose our policy to apply pressure on Nicaragua appear willing to accept this kind of Soviet presence in our hemisphere.

Those who on this floor today have stood to defend the Sandinista Communists and ignore the Soviet presence or who try to explain away that Soviet presence, ultimately jeopardize this Nation's security.

REPORT FROM NICARAGUA

(Mr. BADHAM asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BADHAM. Mr. Speaker, I know where my information comes from, because I have been to Costa Rica, Honduras, Nicaragua, and El Salvador. I have talked to the Presidents of those countries, with the exception of one, where the President was not here. He was over having a tete-a-tete with Mr. Castro in Africa at the time.

This is a slide of the Punta Huete airfield, which when completed 60 miles outside of Managua, will take any aircraft in the Soviet inventory.

When one of our Members of the U.S. Congress was talking to the Ambassador from Managua to the United States, he asked him:

> What is this airfield for, anyway, a 10,000-foot runway with revetments for Soviet aircraft, helicopter bases, military radar, et cetera, et cetera?

He said:

> That is in case they have another earthquake in Managua, that is the alternate airfield.

One small road, two lanes each way, to get out to this airfield that cannot be used for anything but military aircraft to put surveillance on the west coast of our country.

□ 1125

SOVIET WAR IN NICARAGUA

(Mr. SMITH of New Hampshire asked and was given permission to address the House for 1 minute.)

Mr. SMITH of New Hampshire. Mr. Speaker, this is the 31st slide of Colonel North's presentation, which although some may object to that fact on the other side, it tells the truth about what is going on in Nicaragua.

Some have said that it is the United States who is responsible for escalating the conflict in Nicaragua. Let us take a look at the facts.

Initial Soviet support to Nicaragua was not always as blatant as what we have seen in some of the preceding slides. Initially the Soviets tried to disguise their deliveries and the Nicaraguan military buildup.

Attack helicopters, like this MI-8 HIP, were originally sent to the Sandinistas as "agricultural support equipment." Note the unique agricultural uniforms in this slide and the agricultural rocket launcher on this attack helicopter which bears the Sandinista Party emblem.

Mr. Speaker, this helicopter I am sure could hold quite a bit of seed, fertilizer and perhaps insecticides, and I am sure that any surviving insects could be immediately exterminated by this unique rocket launcher.

Mr. Speaker, we are driving the Sandinistas to the Soviets, some have said. I submit they are on automatic pilot.

CONTRA AID

(Mr. EVANS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EVANS. Mr. Speaker, the United States should stop arming the

Contras and start working for a diplomatic solution. Our policy is costing dearly—in taxpayers dollars and innocent people who are the real victims.

The victims include two children and five militia members killed when Contras attacked their cooperative just last month. The cooperative lies in an area not considered to be a war zone. The militiamen were inexperienced, only standing guard to protect their community.

But just before daybreak, as the militiamen were leaving their posts, Contra soldiers launched an all-out military assault. They quickly surrounded the community and pounded it with mortar rounds and gunfire.

Survivors described how the Contras then plundered the town, burned four houses and stole belongings. These are the freedom fighters we hear so much about?

Who are the victims of the Contras? They are innocent civilians like this 71-year-old man who lost his legs from a Contra land mine explosion on October 20, 1986. His wife was killed.

CONTRA AID

(Mr. SWINDALL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SWINDALL. Mr. Speaker, I would like to say to my friend from Illinois [Mr. EVANS] that brought forth photographs of victims of the war for freedom in Central America that I would hope that we would never have brought forth those types of photographs in terms of what the allies had done in Europe in World War II. We all know that there are victims to war, and I think it is ludicrous to bring forth those victims as though to say war can be fought without victims.

I would like to say though to my friend from Arkansas who said that we could stop this any time we wanted to, he is quite right, but this Congress lacks the resolve. The Soviet Union does have that resolve as demonstrated by slide No. 32, the Hind-D helicopter.

This unit costs $5 million. There are currently 12 of them in Nicaragua.

What makes that significant is that this has a titanium armament underneath it, which makes it impossible to stop without the aid of literally a guided missile like the Stinger.

This country cannot provide that because this Congress does not have the resolve.

FINDING A MEANS TO AN END IN NICARAGUA

(Mr. BUSTAMANTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUSTAMANTE. Mr. Speaker, as we begin again to debate our policy toward the Marxist-Leninist government of Nicaragua, we should think about means and ends. Our end, according to the President, is to bring down the Sandinistas. Others may urge a political solution, but the administration's goal remains clear.

The means, however, are more confusing. They range from profit-minded paramilitary groups and corporations to an exile army, the Contras. In having supported Contra aid once in the past, I never supported those profiteers and arms dealers.

Now, in looking ahead to the President's request this fall, I am also disturbed by the Contras as the instrument of our policy. We have been waiting for 5 years for them to attract local political support. I cannot see how they are going to gain that support by going into villages and killing innocent civilians.

I acknowledge that this is a bloody war. But this betrayal of our stated objectives—through greed and indiscriminate killings—is taking us nowhere we want to go.

SOVIET PUSH FOR WORLD DOMINATION

(Mr. KONNYU asked and was given permission to address the House for 1 minute.)

Mr. KONNYU. Mr. Speaker, I was born in Hungary, which is now a Communist country. I am more familiar than most as to what the Soviet Union does in terms of political and military domination.

Mr. Speaker, I see the emergence of another domination in Nicaragua. Here is an example. You see the Soviet markings here and you see the Soviet markings here in this slide, and then this airplane, which is a reconnaissance aircraft, medium range, has Aeroflot markings on it. In other words, they are disguising this plane, which is a military reconnaissance craft, as a commerical aircraft.

If there is any doubt, look at the nose of this plane. That is where the reconnaissance work is done out of this particular aircraft.

That is what this is all about. The Soviets are establishing bases in Cuba, naval and air bases, and they are going to have their way in circling America unless you and I stop it.

COMMUNIST INFLUENCE IN NICARAGUA

(Mr. WOLF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WOLF. Mr. Speaker, I have had the opportunity to visit Nicaragua on two different occasions. This is another slide showing the Communist influence there.

But what made an impression on me is when I had the opportunity to meet with Cardinal Obando y Bravo, who was made a cardinal by the Pope, and he told me of the persecution of the Catholic Church and the harassment of many as individuals. I also met with the leaders of the religious faiths who told me of the same persecution.

We then met with Violetto Chamorro, who is the editor of the newspaper, La Prensa, which is the only free newspaper, and her husband had been killed by Somoza. She was an original supporter of the Sandinistas. She told us the Sandinistas are Communists and what they are doing.

What we would hope, Mr. Speaker, is that we could come together, Republicans and Democrats, in a bipartisan way to continue aid to the freedom fighters in Nicaragua so that they can do one thing, just one thing, bring about democracy so that young people there can have freedom, so the Catholic Church can operate, so the free press can operate and we can have democracy in Central America.

COMMUNIST INFLUENCE IN NICARAGUA

(Mr. GEKAS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEKAS. Mr. Speaker, if there is any doubt about the political leanings of the Nicaraguan Government as it now obtains, all one has to do is to listen to Ortega from time to time, watch his visits to Moscow and see with whom he pals around, and then you can take a look at one of the slides that portrays the Sandinista political committee chief, Bayardo Arce, who blatantly says any investment project in our country belongs to the state. The bourgeoisie no longer invests, it subsists. This was said in May 1984, pure Communist, Marxist dogma, and this is the kind of leadership that the Nicaraguan Sandinistas want to exert on their people and on the Central American region as a whole.

We cannot afford to see this spread.

FRIENDS OF THE SANDINISTAS

(Mr. MACK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MACK. Mr. Speaker, it has been said that you can tell a man by the friends he keeps and by what those friends say. And it's no different with Commandante Daniel Ortega.

Here's a good friend of the commandante, Tomas Borge, the Sandinista Interior Minister. Borge doesn't run the national parks—he runs the Sandinista secret police. It's a police force that randomly arrests suspected dissidents. It employs torture and cruel prison conditions as a means of intimidation.

In case you can't read the print on this poster, Mr. Borge is quoted from a speech he gave in Havana, "You cannot be a true revolutionary in Latin America without being a Marxist-Leninist."

Here is another slide that shows Daniel Ortega and a close friend of his, Mr. Castro. Since 1979, Ortega has religiously emulated Castro's Cuban experiment.

I think it is about time the American people understand what is happening in Nicaragua.

AID TO THE CONTRAS

(Mr. BARTON of Texas asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BARTON of Texas. Mr. Speaker, is this a photograph of a rally to sell Girl Scout cookies? No.

Is this a photograph of graduation day at sign language school where the graduates are demonstrating the sign for love thy neighbor? No.

What this photograph is, is a photograph of a Communist rally where members of the World Communist Brotherhood came together to denounce America and praise Marxist-Leninism.

As Colonel North said in his slide presentation:

> These brothers in arms, Daniel Ortega, Mu'ammar Qadhafi and Miguel D'Escoto, the Nicaraguan foreign minister, clearly pose a threat to the United States and place at risk American interests in our hemisphere.

Mr. Speaker, some of my Democratic colleagues have discussed the innocent victims of the freedom fighters. There have been some, but what of the millions of innocent victims of communism in the Soviet Union, in Eastern Europe, in Southeast Asia, and now today in our own Western Hemisphere? Please consider the future innocent victims of world communism if we do not continue, and increase, our support for the freedom fighters in Nicaragua.

REAGAN ADMINISTRATION CHOICES IN NICARAGUA

(Mr. KOSTMAYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOSTMAYER. Mr. Speaker, shortly after he entered office, President Reagan was told the Sandinistas had largely ceased arming the Salvadoran guerrillas. Faced with a choice of resuming the economic aid to the Nicaraguan people, which President Carter had extended, or financing the Contras, President Reagan chose to finance the Contras.

In his book, "Caveat" Alexander Haig himself acknowledges that the Sandinistas had stopped arming the Salvadoran guerrillas by early 1981. This administration has shown over and over and over that they are not sincere about talking, not sincere about negotiating, not sincere about reaching a settlement.

The administration has committed to outright military overthrow of the Nicaraguan Government. We in the Congress must stop this war, Mr. Speaker, before it results, as it inevitably will, if continued, in the sending of American boys to Central America.

THE SOVIET THREAT TO THE WESTERN HEMISPHERE

(Mrs. BENTLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BENTLEY. Mr. Speaker, Sandinista efforts to destabilize democracies in the region take many forms. Last year this car, a Soviet-built Lada, crashed into a bridge abutment in Honduras. When police officials became suspicious about the documents carried by the two occupants, they checked more carefully and found that the automobile bearing false Costa Rican license tags had more than a dozen secret compartments, and the contents of those secret compartments revealed direct Nicaraguan connections to the Communist guerrillas in El Salvador.

The ammunition, code books, instructions, East German agent radios and counterfeit currency were to be used by the FMLN in their attacks against the struggling democracy in El Salvador, and they are all shown here.

□ 1140

OLLIE NORTH SLIDE SHOW

(Mr. LOWERY of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LOWERY of California. Mr. Speaker, I am participating in this presentation today with my colleagues because I believe the American people have a right to see the slides which they were denied the opportunity to view last week during the hearings of the select joint committees to investigate the Iran-Contra matter.

Mr. Speaker, no civilized human beings condone killing of innocent civilians. War is hell, war is ugly. But when innocent civilians are the intended victims, not merely an accident of war but the intended victims, that is terrorism. That is precisely what these slides, slides 42 and 43 of Colonel North depict. These weapons were collected after the M-19 terrorist attack in which all the Justices of the Supreme Court of Colombia were murdered. These weapons originated in Nicaragua. The Sandinistas are intent on exporting their revolution by supporting insurgents, subversives and terrorist movements in the region.

As Daniel Ortega himself said, "Our revolution is a revolution without borders." And when the jurists of a sovereign country are murdered with weapons provided by the Sandinistas that is where civilized nations must step in to stop the terror.

OLLIE NORTH SLIDE SHOW

(Mr. COMBEST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COMBEST. Mr. Speaker, for those who will not yield, there are few choices. This minister who refused to shut down his church was bound hand and foot and set afire inside that church.

I yield back the balance of my time.

OLLIE NORTH SLIDE SHOW

(Mr. WORTLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WORTLEY. Mr. Speaker, this slide shows hundreds of Nicaraguans who will not submit and have now become refugees. This entire town has fled to neighboring Honduras simply so it could go to church. The Sandinista regime represses religion, it represses free worship. It has driven most of the Jews from their homes in Nicaragua. It denies the broadcast of religious services when it objects to the homily or the gospel of that Sunday.

The Sandinistas have shut down the Catholic press; the Sandinistas forbid the teaching of religion in the classrooms of religious schools.

Mr. Speaker, the moral fiber of this Nation and any nation is built upon its spiritual and its family values. The Marxist Sandinista regime are destroying those values.

They are destroying freedom.

Mr. Speaker, can you and I afford to stand idly by?

(Mr. MACKAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

[Mr. MACKAY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

OLLIE NORTH SLIDE SHOW: NO. 51

(Mr. RAVENEL asked and was given permission to address the House for 1 minute.)

Mr. RAVENEL. Mr. Speaker, this is slide No. 51 in Ollie North's presentation. These men are Contras. Their average age is barely 18.

I visited with them. They are fighting for freedom for their country but a fight for freedom anywhere is a fight for freedom everywhere. Their struggle against Godless international communism is our struggle. Not to support them is—well, Mr. Speaker, I will let every American figure that one out for himself.

I yield back the balance of my time.

OLLIE NORTH SLIDE SHOW

(Mr. NIELSON of Utah asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NIELSON of Utah. Mr. Speaker, supporters of the Sandinista regime would have Americans believe that those who oppose the Communists in Managua are simply supporters of the old Somoza regime. Mr. Speaker, this is simply not true. In the photograph here, 11 of the 17 men present once served with the Sandinistas. Adolfo Calero on the right was twice jailed by Somoza. We visited the camps and also the refugee camps last weekend.

We have from the right here: We find three of the field commanders are former Somositas, 7 are former Sandinistas, 46 were not affiliated with either one. Of the total force, 1 percent were former Somositas, 24 percent or 24 times as much were former Sandinistas and the other 75 percent were not affiliated with either.

I yield back the balance of my time.

CONSTITUTION DAY: A FITTING TIME TO DISCUSS THE CONTRA SITUATION

(Mr. COATS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COATS. Mr. Speaker, I think we have been engaged here in a healthy debate on the issue of the Contras and the situation that exists in Central America. It is fitting that on this day we also examine the issue of the Constitution and the celebration of the Constitution that we have had this healthy and free exercise and expression of where each of us stand.

Obviously, innocent civilians are going to be injured in any kind of conflict. I am sure in the Revolutionary War there were innocent civilians who were injured.

Of course, each side always says it was the result of the other.

I spent a week in January in Central America and talked to a number of people who were there and who have witnessed what is going on. There is considerable, a great deal of support for the Contra effort, not because the Contras are necessarily the most embraceable people in the world, but simply because it appears that they are the only viable alternative to keep the Sandinistas tied down in their own country and from exporting the revolution to their neighbors, No. 1 and, No. 2, because the pressure of the Contras against the Sandinistas is the only thing that is going to bring about a settlement of this situation.

OLLIE NORTH SLIDE SHOW

(Mr. CRANE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CRANE. Mr. Speaker, this is a picture of Daniel Ortega with his mentor, Fidel Castro. I think it is important for us to realize that the so-called revolutionaries in Nicaragua have acknowledged publicly on more than one occasion their Marxist-Leninist orientation. As the Bible says, "By their fruits ye shall know them."

I would ask all of my colleagues, Mr. Speaker: Why do they provide sanctuary for such organizations as the Palestine Liberation Organization? Why do they provide sanctuary for Bader-Meinhof, the Red Brigade, the M-19? It is a training ground. They have stated their objectives.

I think the question we must ask ourselves is, Who do you believe, Daniel Ortega and Fidel Castro or Ollie North?

I BELIEVE SOME OF OUR ALLIES IN CENTRAL AMERICA

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, I would like to say who I believe. I believe some of our other allies in the region who are not Communists, who care very much about the stability of that region, because they share common borders and I think they are making a lot of sense.

The President of Costa Rica, and of Mexico, many of those countries are coming to us and saying, "Let us lead. Let us go down there. Let us communicate to the Sandinistas that they should not do anything to threaten other countries in the hemisphere's national security. If you do that, we will all move with you in concert."

And I think that that is who we should be listening to. We are pretending like we are the only player in the hemisphere. There are many other countries terribly concerned about this troubled region and they are trying to talk to us and say "Let us go out front."

I think we have to be very cautious and move with all our other allies, because that is the way to long-term success.

WHO SHOULD WE BELIEVE?

(Mr. YOUNG of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. YOUNG of Florida. Mr. Speaker, this morning we are engaged in a great controversial discussion of an important event taking place in our part of the world. A lot of military activity, a lot of terrorist and counterterrorist activity as we have seen from the pictures. We have seen a lot of tanks and helicopter gunships that the Soviets have provided the Sandinistas. One has to ask, "Why don't we try to negotiate? Why don't we try to make some kind of accommodation?"

Mr. Speaker, I come to this well today to tell you that we have and we are. When the Carter administration helped orchestrate the removal of Somoza from power in Nicaragua and the emplacement of the Sandinista regime, we gave the Sandinistas 130 million American dollars to help them get established. As they accepted our money, they were signing formal military alliances with the Soviet Union. As they rejected our Peace Corps volunteers, they were accepting Soviet and Cuban educators rather indoctrinators, I should say.

I spoke with Ortega's Sandinista junta in Managua at their invitation. They told me they were Communists. They showed me the documents that allied them formally with the Soviet Union and with Cuba. And so to the gentlelady who preceded me in the well, and asked who are we to believe, I would say that Mr. Ortega's comrades in the Sandinista junta told me they were marxists and that their revolution would not be bound by any geographic borders and based on those comments and their subsequent actions, I have to believe them. And the rest of the nations of our hemisphere who value peace and freedom had better believe them too.

OUR EXPERIENCE IN CENTRAL AMERICA

(Mr. BALLENGER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BALLENGER. Mr. Speaker, my wife and I have worked in Central America for the last 15 years providing hospitals, fire departments, and everything else. We developed great friendships in El Salvador, Guatemala, and

Honduras. What those people say over and over again is: "Why is it in Congress that nobody recognizes what it was like here in Central America before people like this man, the Contras, came into existence?"

There were armed forces coming across the border into El Salvador, arms and shipments and people coming across there to overthrow this government.

At the present time we now have four very fragile democracies in Central America. The only reason these democracies can continue to exist is because of men like this and the Contra forces who are willing to fight and keep the Sandinistas involved in their own country. I think we need to continue their support.

ARMANDO VALLADARES: A TRUE PATRIOT

(Mr. INHOFE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. INHOFE. Mr. Speaker, we were honored last week to have a real true patriot visit us, a man named Armando Valladares.

He is the author of a book that should be required reading for every American, a book called "Against All Hope," where he talked about the 22 years that he survived the Communist Cuban prisons and the types of the blend of scientific and medieval tortures to which he was subjected during that period of time. It is something that all Americans should know about. We do have at this time conclusive and incontrovertible proof that those prison officials in Communist Cuba are in Managua today teaching the Sandinistas how to torture political prisoners. When Somoza relinquished, there were at that point two prisons in Nicaragua. Today there are 11 prisons. This is an aerial photo of the Zona Franca Prison that is built to the Soviet gulag design and designed to insure that the Nicaraguan people who refuse to submit to their Communist rulers are carefully controlled.

OLLIE NORTH SLIDE SHOW

(Mr. RITTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RITTER. Mr. Speaker, on my left is the construction of a massive blue water Navy port away from all potential industry or commerce in Nicaragua. It is being constructed by the Soviets and Bulgarians. Many of our colleagues on the other side of the aisle have said that if the presence of a major Soviet military base could be proven then we, the United States, using American troops, I might add, might react.

It is happening now. It has happened already.

On my right is a chart showing how the Nicaraguan schoolchildren learn, three grenades plus three grenades equals six grenades, six Kalashnikov rifles.

What is the connection? The connection is for people who are starving, who are poverty stricken, they are building massive investments in military bases while their schoolchildren learn how to build military forces with Kalashnikov rifles.

□ 1155

THE U.S. POLICY ON THE CONTRAS—A FLAWED POLICY

(Mr. BOUCHER asked and was given permission to address the House for 1 minute.)

Mr. BOUCHER. Mr. Speaker, the provision of American tax dollars to the Contras is wrong. It is wrong in the view of our allies who want a negotiated solution to the problems that confront Central America.

It is wrong in the view of the World Court, which expects the United States to adhere to its international treaties. It is wrong in the view of the Nicaraguan people, who want an end to the atrocities that are being committed against them by the Contras, and it is wrong in the view of the American public, which fears the potential for our direct military involvement and which can find much better uses for that money here at home. There are means other than aid to the Contras for addressing the problems that confront Nicaragua, and we should employ those means.

The President of Costa Rica, our most steadfast Central American ally, has advanced a peace plan based on regional negotiation. That plan specifically rejects aid to the Contras. It is that plan that we should endorse and encourage.

A REVOLUTION BY THE SOVIETS IN THE WESTERN HEMISPHERE

(Mr. DENNY SMITH asked and was given permission to address the House for 1 minute.)

Mr. DENNY SMITH. Mr. Speaker, I had not intended to say anything today, but I think it is important to look back at how the Contra and Sandinista movements have come about.

In 1979, when the Carter administration was in charge of the foreign policy of this country, they went ahead and gave the negotiated settlement that had been made with the OAS some $125 million. That $125 million was turned from what we had given as plowshares into swords, and they have continued to remove the freedoms of the people in Nicaragua. That is how the Contra movement began. Those people who were involved in the Sandinista movement have gone over—not all of them have gone over, but many of the Contras are made up of people who were once opposed to Somoza.

Mr. Speaker, this is not a revolution that has been created by this Nation. It was created by the Communists in Cuba, in Russia, in East Berlin, and in Eastern bloc countries. I think what we have here is revolution by the Soviet.

THE UNCONTROVERTED FACTS OF THE MILITARY BUILDUP IN NICARAGUA

(Mr. HUNTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HUNTER. Mr. Speaker, a number of the American people and our colleagues have seen Oliver North's presentation that he was precluded from showing in the hearings. What struck me during the presentation was that not a single Member of the Democrat side got up to say, "This isn't the truth. That is not a base being put in at Corinto. That is not a long-range bomber base being put in at Punta Huete. That is not an attack submarine base being put in at El Bluff. Those are not Kalashnikov rifles that were captured on their way throughout Central America to produce more revolution and more violence."

Oliver North was right. The key issue in this debate is, what are we going to do in the American Congress to deal with the Soviets and their beachhead in Central America?

I think the most dramatic picture to me of this entire presentation was a Soviet bomber off the coast of Virginia, and it is there because of the runways we have allowed Castro to put into Cuba. And there are completely similar runways in Nicaragua.

What will the liberal Democrats in this Congress do to confront the Communists in Central America?

MISPLACED SUPPORT OF COMMUNISTS IN CENTRAL AMERICA

(Mr. DONALD E. LUKENS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DONALD E. LUKENS. Mr. Speaker, I am always in wonderment at my squishy-soft friends on the left who cannot recognize communism in Nicaragua, who cannot recognize communism in Cuba, who cannot recognize communism in Grenada, and who apparently cannot recognize terrorism in El Salvador. Are they just soft in the head, or do they really believe that communism will go away if we put mere economic pressure on them, when the economic pressure of the Soviets is four times that of our assistance to legitimate democratic governments in Central America?

If you believe what the Communists put out, if you repeat it here on the floor of the Congress, that does not make it true. You were wrong on El Salvador, you were wrong on Cuba, you were wrong on Grenada, and you are terribly, terribly wrong to support the Communists in Nicaragua instead of the anti-communist freedom fighters.

SOURCES OF INFORMATION ABOUT THE CONTRA MOVEMENT

(Mr. HEFNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HEFNER. Mr. Speaker, we accept the fact that there are some things being done in Nicaragua that we do not like, but I have heard inferences on this floor today that all the information that has been touted here is coming from Communist sources. I have had in my district in North Carolina ministers sit around the table—Lutherans, Methodists, Presbyterians, and, yes, even born-again Baptist ministers who went to Nicaragua and saw what was going on.

I am not disputing that some of the things I do not like in Nicaragua, but when Members stand on this floor and say that all the information we have is espoused by the Communist Party, that is absolutely ludicrous, and we can have a difference of opinion.

What I want to know is, are they going to get the money if we appropriate it? We have appropriated $27 million, and we cannot account for half of it. There was several million dollars that was appropriated in diversions. Only $2.5 million got to the freedom fighters, and the rest of it is in a Swiss bank account. If that is strong support against communism and for the Contras, I would like to see somebody that would explain it.

Mr. DONALD E. LUKENS. Mr. Speaker, will the gentleman yield?

Mr. HEFNER. No, I do not yield.

REQUEST FOR INVOKING A POINT OF PERSONAL PRIVILEGE

Mr. DONALD E. LUKENS. Mr. Speaker, I have a point of personal privilege.

The **SPEAKER** pro tempore. (Mr. TORRES). The gentleman will state his question of personal privilege.

Mr. DONALD E. LUKENS. Mr. Speaker, I feel I have been attacked in my remarks. I would like to respond to the gentleman's remarks, very briefly.

The **SPEAKER** pro tempore. The gentleman cannot raise such a point of personal privilege at this time.

Mr. DONALD E. LUKENS. Mr. Speaker, a point of personal privilege is always in order.

The **SPEAKER** pro tempore. Does the gentleman wish that certain words be taken down?

Mr. DONALD E. LUKENS. No, I do not wish that, Mr. Speaker.

The **SPEAKER** pro tempore. The gentleman objects?

Mr. DONALD E. LUKENS. I would object, Mr. Speaker, to the gentleman's remarks because he addressed himself in response to my remarks, and if you would read my remarks, I did not suggest that all the information came as he suggested.

The **SPEAKER** pro tempore. That is not the basis for a question of personal privilege at this time.

Mr. DONALD E. LUKENS. Mr. Speaker, I withdraw my point of personal privilege.

The **SPEAKER** pro tempore. The gentleman withdraws his point of personal privilege.

COLONEL NORTH AND "SPITZ" CHANNELL

(Mr. ANTHONY asked and was given permission to address the House for 1 minute.)

Mr. ANTHONY. Mr. Speaker, the gentleman from Florida stated in his comments that you are known by the friends you keep. When Oliver North concluded his slide presentation, the friend that he had with him was Carl "Spitz" Channell. Oliver North shook him up. Carl Channell shook him down. Carl Channell solicited tax-free, tax-deductible contributions into a nontaxable foundation.

I do not hear anybody rising in righteous indignation of this criminal activity. I would like to hear what my fellow colleagues think about this criminal activity.

Carl Channell has plead guilty to defrauding the American taxpayer by illegally diverting those funds to a military operation.

OUR CENTRAL AMERICAN POLICY—A POLICY THAT DOES NOT WORK

(Mr. DORGAN of North Dakota asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORGAN of North Dakota. Mr. Speaker, I have heard reference on this floor repeatedly this morning to Oliver North. I have also heard reference to the fact that some people consider Oliver North a hero.

A hero in the days of George Washington, for example, was someone who could not tell a lie. Now there is a suggestion that we have an American hero who cannot tell the truth. I do not think that is what we mean by hero.

We also hear about Nicaragua and Central America. I have been in Nicaragua, I have been in the Contra camps, and I have tried to understand the administration's policy down there. Frankly, having looked at it as best I can, I think that policy is nuts. For one thing, we have a situation down there where none of the neighbors support our policy.

You administration supporters want to throw more and more money at that policy, despite the fact that there is substantial evidence that there is waste, fraud and abuse. By contrast, you stand up on the floor and talk about all of the penalties you want to apply to those welfare mothers who allegedly waste money; but with respect to this aid to the Contras, it does not matter where it goes, you simply want to throw money at it.

I think this policy is foolish. What we ought to do is develop a policy in Central America that works, that works to resist communism, that works for the people of Central America, and that works in the best interests of this country.

A CAMPAIGN COMMITTEE SHAKEDOWN

(Mr. UPTON asked and was given permission to address the House for 1 minute.)

Mr. UPTON. Mr. Speaker, I yield to the gentleman from Pennsylvania [Mr. WALKER].

Mr. WALKER. Mr. Speaker, I thank the gentleman for yielding.

The chairman of the Democratic Congressional Campaign Committee spoke a minute ago and would not yield to me, but I thought maybe we ought to reply to him.

He was worried about the fact that "Spitz" Channell shook down some people illegally. That is true, and I do not defend it. But I would say to the gentleman that I do not think "Spitz" Channell was engaged in anything any more illegal than what the gentleman's committee did when they brought people aboard a yacht and illegally used the yacht to shake down people for the Democratic Congressional Campaign Committee and ended up just a few weeks ago having to pay back over $25,000 of moneys for the use of that yacht illegally for campaign activities.

Mr. Speaker, we have a little bit of a problem with the way people get shaken down by the Democratic Congressional Campaign Committee as well.

Mr. UPTON. Mr. Speaker, I yield back the balance of my time.

DEFENDING DEMOCRACY IN THE UNITED STATES

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, let me say to the Members of this House that we have now been 2 hours at a debate about a very serious policy undertaken by the United States of America. In a few minutes, as the gentleman from the other side of the aisle so aptly pointed out, we will consider a resolution honoring the Constitution of the United States.

The policy in Nicaragua should be shaped and determined on the floor of this House and the floor of the other body. The tragedy of the slide show that we have seen today is that it was used in furtherance of undermining the democratic process in the United States of America. It did attempt to shred the Constitution. I would suggest to my colleagues in the House that we cannot defend democracy in Nicaragua by undermining democracy in the United States.

MEMBERS SEEM HORRIFIED AT OLIVER NORTH'S ACTIONS BUT NOT AT SOVIET ACTIVITIES

(Mr. GINGRICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGRICH. Mr. Speaker, let me say that I find it amazing that some of our friends on the left are more worried by Lieutenant Colonel North and by a slide show than they are by the Soviet Union, the Cuban colonial army, the KGB, and all the efforts to undermine the United States around the world.

I think to be able to look past the Cuban involvement in Nicaragua, to be able to look past the Soviet listening devices in Cuba, to be able to look past all the efforts of the Soviet empire and point in horror at Lieutenant Colonel North and his slide show is a level of being out of touch with reality which only could be sustained by federally financed incumbents who run for reelection with a million dollars paid by the taxpayers.

Mr. Speaker, I find it amazing in the year of the Constitution that a level of constitutional power which Washington, Madison, and Jefferson would have repudiated is asserted by our friends on the left.

SUPPORT FOR CONTRA POLICY BY CENTRAL AMERICAN NATIONS

(Mr. HOLLOWAY asked and was given permission to address the House for 1 minute.)

Mr. HOLLOWAY. Mr. Speaker, I think as politicians most of us know that we respect the people close to our homes, and we respect a person whose people around him support him and not the people 200 or 300 miles away.

The Wall Street Journal on Friday, July 17, released some figures on what the neighbors in Central America feel. I do not have time to go through all of them, but I want to get into the last one which says this: "Do you approve of America's help to the Contras?"

In four countries listed, Costa Rica, Honduras, El Salvador, and Guatemala, the figures showed 70, 81, 69, and 68 percent of the people in these countries say they support us being there. All the other figures are very similar on the questions asked.

Mr. Speaker, I trust the feelings of the people in these countries as much as I would my neighbors voting for me. I hope the Congress of these United States will also see this as support expressed by their neighbors.

PROVIDING FOR CONSIDERATION OF H.R. 157, CONSTITUTION DAY

Mr. PEPPER. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 186 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 186

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 157) to designate September 17, 1987, the bicentennial of the signing of the Constitution of the United States, as "Constitution Day", and to make such day a legal public holiday, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and shall not exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service, the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the bill as an original bill for the purpose of amendment, and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute, and the previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion expect one motion to recommit with or without instructions.

□ 1210

The SPEAKER pro tempore (Mr. TORRES). The gentleman from Florida [Mr. PEPPER] is recognized for 1 hour.

Mr. PEPPER. Mr. Speaker, for purposes of debate only, I yield the customary 30 minutes to the gentleman from Missouri [Mr. TAYLOR], pending which I yield myself such time as I may consume.

Mr. Speaker, House Resolution 186 is an open rule providing for the consideration of H.R. 157, designating September 17, 1987, as "Constitution Day," and making such day a onetime legal public holiday.

Mr. Speaker, as we all know, it was on that day in Philadelphia after 17 weeks of secret consultation, that 39 of the 55 original designated members of the Constitutional Convention signed that historic document and recommended it for ratification.

Mr. Speaker, that is the document that William Gladstone described as the greatest single document ever struck off at a given time by the mind and hand of man.

That is a document that George Washington described as the precious depository of American happiness.

It is the consummation of that historic document that this resolution proposes that the American people shall honor on September 17, the 200th anniversary of that document.

The rule provides 1 hour of general debate to be equally divided and controlled by the chairman and ranking minority member of the Committee on Post Office and Civil Service.

The bill shall be considered for amendment under the 5-minute rule and it shall be in order to consider the amendment in the nature of a substitute recommended by the Committee on Post Office and Civil Service now printed in the bill as original text for purposes of amendment. The rule provides one motion to recommit with or without instructions.

Mr. Speaker, H.R. 157 recognizes the significance to the American people of our Constitution by setting aside September 17, 1987, as a legal public holiday.

I want to emphasize that is only one day, September 17, 1987, and no other day. Our usual public holidays are on into the indefinite future, those that we could name.

This one is only once, because that commemorative date only occurs 200 years from the date of the signing of the Constitution; and that is the one event that that day is to honor.

On September 17, 1787, our forefathers wisely recommended our Constitution for ratification by the States. This living document contains appropriate restraints on public and private activities which if left unchecked might inhibit the freedoms and rights we all enjoy as Americans.

Mr. Speaker in 1983 the Congress established the Commission on the Bicentennial of the U.S. Constitution. The Commission consists of 23 persons and is chaired by former Chief Justice Warren E. Burger. The Commission plans celebration activities to be held September 17, 1987, in honor of our Constitution. The passage of this bill will symbolize the intent of Congress to support these activities.

It is appropriate and desirable to honor and remember the Constitution. A document by which we proudly stand and proclaim evidences the fact that we are a nation of laws and not men.

Mr. Speaker, I commend the gentlewoman from Louisiana [Mrs. Boggs] having been the chairperson of the commission which recently in Philadelphia commemorated the 200th anniversary of the adoption by the forefathers, our Founding Fathers, at that convention of the Great Compromise which made possible the Congress of the United States, the House of Representatives and the Senate.

The people of Philadelphia could not have done more in expressing their hospitality to the Members of Congress and those who were their guests at the historic 3 days that we enjoyed in that great city of the Founding Fathers.

In every gracious gesture that one almost could think of, the people of Philadelphia poured out their hearts and hospitality to the Members of Congress in that sacred city.

We met in the very hall where the forefathers two centuries ago brought forth that document for the formation of this country, setting up the model democracy for all nations and people of the world.

This is a great event that this resolution proposes to commemorate, and I hope it will have the approval of the Members of this House, and that the House will agree that this one day is enough to suggest to America that we set it specially apart, and whatever little incidental expenses may be incurred would be justified on account of the reverence that is due that immortal document.

I hope this rule will be adopted, and I hope that the resolution we bring forward to the House will likewise have the approval of this House.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 186 is an open rule under which the House will consider making September 17, 1987, a onetime Federal holiday in honor of the bicentennial of the signing of the U.S. Constitution.

The bill made in order by this rule honors the historic document that is the very essence of our Nation's government on the 200th anniversary of the signing in Philadelphia on September 17, 1787.

H.R. 157 makes Thursday, September 17, 1987, a legal public holiday for the purposes of the chapter of law covering pay and leave of Federal employees. The bill will have no legal, binding effect on any other facet of modern-day American life, since it does not require States, local governments or the private sector to give their employees a paid holiday.

Mr. Speaker, 200 years ago this summer the 55 delegates appointed by the legislatures of 12 States met in the Pennsylvania State House, which we now call Independence Hall. They wrote out a plan for a National Government which they hoped the States would accept.

Although they had been called together to recommend changes to our then-existing Articles of Confederation, these notable men were well aware of the problems the 13 independent States faced, not only in getting along with each other, but also in being part of a nation.

The overriding concern they faced was to create a system whereby the States would be participants in a truly National Government while at the same time retaining the soveregnity they had so recently won.

This was truly a remarkable convention, and they recommended a truly remarkable form of government.

Mr. Speaker, these men, these forefathers we often refer to in our history classes, finished their monumental work and began signing it at 3 o'clock on the afternoon of September 17, 1787.

With their signatures, they had replaced the Articles of Confederation with a Constitution creating a stong National Government.

Mr. Speaker, the bill made in order by this rule not only honors that historic day, it also honors the uniquely federal system conceived during that summer.

□ 1220

Under our Federal system, the National Government does not always dictate to the States, nor do we always require citizens to do things.

Sometimes we leave the followup actions to others. This bill is one of those occasions. We set aside September 17 as a Federal holiday. Two hundred years ago those who wrote our Constitution could not have imagined a National Government with almost 3 million employees.

Mr. Speaker, the bill made in order by this rule, H.R. 157, applies only to U.S. Government employees.

Some of the States, especially the Thirteen Original States, may well observe Constitution Day by closing State offices and schools. These are among the powers reserved to the States by the very Constitution that we celebrate. They have the right to do this, if they choose, because we have a Constitution.

Mr. Speaker, when one considers that our Constitution produced and continues to guide one of the most remarkable forms of government in the entire history of the world, I believe it is entirely fitting that we have a Federal holiday in its honor.

The Constitution of the United States of America reaches across two centuries, and it continues to shine as a beacon for the cause of freedom throughout the world. The history of our Constitution deserves to be celebrated, and the bicentennial of the day it was signed deserved to be celebrated.

Mr. Speaker, I have the privilege of serving as the ranking Republican member of the Committee on Post Office and Civil Service.

I want to congratulate the gentlewoman from Louisiana [Mrs. Boggs] and the gentleman from Illinois [Mr. Crane] for the efforts they have expended on behalf of this legislation and to congratulate the distinguished chairman, the gentleman from Michigan [Mr. Ford], the chairman of the Committee on Post Office and Civil Service, and the gentlewoman from Maryland [Mrs. Morella], the ranking Republican member of the Subcommittee on Census and Population, for their hard work in bringing us to this point.

Mr. Speaker, under the rule the bill is open to amendments, under the 5-minute rule. The time will be equally divided and controlled by the opponents and proponents of the bill. I will designate the gentlewoman from Maryland [Mrs. Morella] to handle the time on our side.

Mr. Speaker, when we discussed this proposal in the Rules Committee, someone suggested that only once every 200 years will we celebrate this historic document. The document which has guided the ship of state over the stormy seas for 200 years. And probably none of us will have the opportunity to observe its quadracentennial, in another 200 years; however, the distinguished chairman of our Rules Committee took exception to that and asked that we speak for ourselves.

Someone asked, "What did we do in 1887?" I think it was the gentleman from Massachusetts, Congressman Moakley, who said that we might have to refer to the chairman's diary to find out what we did a hundred years ago.

Mr. Speaker, the distinguished chairman of the Committee on Rules, the gentleman from Florida [Mr. Pepper], has just delivered a magnificent statement, and I want to compliment him.

I was honored and privileged to sit in the room last week where the framers of our Constitution labored during that summer 200 years ago. As one of the 55 State delegates to the session of the 100th Congress called to reaffirm the greatness of the Constitution, I listened to several statements that day.

Mr. Speaker, no statement was more eloquent, nor more moving than the one delivered by the gentlemen from Florida [Mr. PEPPER]. During the ceremonies we conducted in Congress Hall, where the House of Representatives met from 1791 until 1800, the gentleman from Florida favored us with his views on the beauty of the Constitution and the enduring values it contains. Those values are embodied today in the person of the gentleman from Florida, and I want to compliment for his remarks here this morning.

I would just like to say, Mr. Speaker, that I think this is a very appropriate piece of legislation. We have the opportunity here to celebrate one of the greatest documents ever known to mankind.

Our Constitution was divinely inspired, and it has been the inspiration for the foundation of other governments throughout the world.

The hopes and dreams of those who labored to write the Constitution have been and continue to be realized, because the document they produced has given us a balanced form of government which preserves the rights of every individual in this great Nation.

I hope this historic 100th Congress will take the lead in urging all 240 million Americans to join in setting aside this day, the 17th of September, to celebrate the event of the signing.

The signing of the Constitution led to the establishment of one of the strongest and most delicately balanced, divinely inspired governments—our Government—on the face of the Earth.

It is a unique privilege that we have been given, in doing this, I hope this Congress will take the lead in the celebration of this great event.

I hope that this resolution will be adopted by the House.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. PEPPER. Mr. Speaker, I have no further requests for time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. TORRES). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. PEPPER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 409, nays 5, not voting 19, as follows:

[Roll No. 283]

YEAS—409

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bates
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Biaggi
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior (MI)
Bonker
Borski
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeFazio
DeLay
Dellums
Derrick
DeWine
Dickinson
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dymally
Dyson
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gejdenson
Gekas
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Hubbard
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Manton
Markey
Martin (IL)
Martin (NY)
Martinez
Matsui
Mavroules
Mazzoli
McCandless
McCloskey
McCollum
McCurdy
McDade
McEwen
McGrath
McHugh
McMillan (NC)
McMillen (MD)
Meyers
Mfume
Mica
Michel
Miller (CA)
Miller (OH)
Miller (WA)
Mineta
Moakley
Molinari
Mollohan
Montgomery
Moody
Moorhead
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Nowak
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Oxley
Packard
Panetta
Parris
Pashayan
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Petri
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Rahall
Rangel
Ravenel
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rodino
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Saxton
Scheuer
Schneider
Schroeder
Schuette
Schulze
Schumer
Sharp
Shaw
Shumway
Shuster
Sikorski
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
Solomon
Spence
Spratt
St Germain
Staggers
Stallings
Stangeland
Stark
Stenholm
Stokes
Stratton
Studds
Stump
Sundquist
Swift
Swindall
Synar
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Upton
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Watkins
Waxman
Weber
Weiss
Weldon
Wheat
Whittaker
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NAYS—5

Coble
Gibbons
Quillen
Schaefer
Sensenbrenner

NOT VOTING—19

Boner (TN)
Bosco
Dornan (CA)
Early
Emerson
Gephardt
Huckaby
Kasich
Kemp
Kolter
Leath (TX)
Lewis (CA)
Livingston
Marlenee
Ray
Roemer
Sisisky
Sweeney
Tauzin

☐ 1235

Mr. DONALD E. LUKENS changed his vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

RECOGNIZING IMPORTANCE OF AGRICULTURAL EXPORT ENHANCEMENT PROGRAM

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent for the immediate consideration of the concurrent resolution (H. Con. Res. 164) to recognize the importance of the agricultural export enhancement program.

The Clerk read the title of the concurrent resolution.

The **SPEAKER** pro tempore (Mr. Torres). Is there objection to the request of the gentleman from Texas?

Mr. **SCHUETTE**. Mr. Speaker, reserving the right to object, though I do not intend to object, I would like to yield to the distinguished gentleman from Texas [Mr. de la Garza], chairman of the Agriculture Committee to explain this very important resolution.

Mr. **de la GARZA**. Mr. Speaker, I thank the gentleman for yielding. First let me thank my dear and respected colleague, the gentleman from Michigan [Mr. Ford], for allowing us to proceed ahead of his legislation.

Mr. Speaker, this is a very simple resolution that is the sense of the Congress that the export enhancement program, which is a very successful agricultural program, be continued, and that we urge the Secretary of Agriculture to utilize all available funding for this program.

The reason for that is that the necessary adequate funding is contained in the Trade Act, and since there may be a delay in that legislation this would allow the Secretary to utilize available funding.

Mr. **SCHUETTE**. Mr. Speaker, I thank the distinguished gentleman from Texas for that explanation. I concur in the comments of the gentleman from Texas [Mr. de la Garza], chairman of the House Committee on Agriculture, on this resolution. It is important that we move and ship our grain. The chairman's comments with respect to the trade bill are very accurate, and I urge this bill be considered.

Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The Clerk read the concurrent resolution, as follows:

H. Con. Res. 164

Resolved by the House of Representatives (the Senate concurring), That Congress recognizes the importance of the agricultural export enhancement program currently operated under section 1127 of the Food Security Act of 1985 (7 U.S.C. 1736v)—

(1) to multilateral trade negotiations;

(2) to counter or offset foreign agricultural subsidies and unfair trade practices of foreign countries; and

(3) as a transitionary tool in implementing the Food Security Act of 1985 (Public Law 99-198).

Sec. 2. It is the sense of Congress that the Secretary of Agriculture should make available sufficient funding, under section 5(f) of the Commodity Credit Corporation Charter Act (31 U.S.C. 845(f)), in each of the fiscal years 1987 through 1990, to carry out agricultural export enhancement initiatives.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CONSTITUTION DAY

The **SPEAKER** pro tempore. Pursuant to the provisions of House Resolution 186, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 157.

□ 1247

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 157) to designate September 17, 1987, the bicentennial of the signing of the Constitution of the United States, as "Constitution Day," and to make such a day a legal public holiday, with Mr. Coleman of Texas in the chair.

The Clerk read the title of the bill.

The **CHAIRMAN**. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Michigan [Mr. Ford] will be recognized for 30 minutes and the gentlewoman from Maryland [Mrs. Morella] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Michigan [Mr. Ford].

Mr. **FORD** of Michigan. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, H.R. 157, which was ordered reported by voice vote of the Committee on Post Office and Civil Service, would recognize the profound historical significance of the signing of the Constitution by providing for a one-time legal holiday on September 17, 1987—the 200th anniversary of the signing of that magnificent document.

What happened at Philadelphia two centuries ago has been aptly described as a miracle. There can be little doubt of that. What the framers of this unique charter fashioned was a document that has withstood not only the test of time but has weathered wars, insurrections, radical social and economic changes and countless shifts in the mores of our culture.

When the framers met in Philadelphia most Americans were farmers who tilled land carved from a wilderness. Since then we have become an urban nation of mines, mills, factories and scientific entities. Yet we are governed by the same document that was written by a quill on parchment paper. That, I think, is evidence enough of a miracle.

True, there have been amendments to reflect some of the more significant changes. By and large, however, the basic blueprint remains unchanged. And the fact that the authors envisioned the need for change through an amending process is a testimonial to their genius and foresight.

I believe it is vitally important to our shared sense of history, dedication, and partriotism that we honor the 200th birthday of this document in an appropriate manner. This is not just another day in our history. It is a day of very special importance, and it should be so observed.

The 200th anniversary of the Constitution, without which we could not have survived as a nation, ranks with the anniversary of our Declaration of Independence.

We are discussing here a special milestone—the beginning of a third century under the Constitution. Certainly such an important event warrants the establishment of a national holiday—not simply another day of observance. I trust my colleagues share this sentiment.

□ 1250

Mr. Chairman, I reserve the balance of my time.

Mrs. **MORELLA**. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in strong support of H.R. 157 to designate September 17, 1987, as "Constitution Day" and to make such day a legal public holiday.

Designating September 17, 1987, as a legal public holiday will present an opportunity to reacquaint the American people with the history and circumstances surrounding the Constitution, from its drafting to final ratification, and to better familiarize ourselves with the substantial provisions of this centerpiece of our democracy.

The Constitution of the United States represents the greatest leap forward in human history by setting the framework for our Government as we have known it for the last 200 years. It is a document that guarantees equality to all men and women. In addition, it secures rights and freedoms unmatched anywhere in the world.

Our country is only as good and strong as the people who live within its borders. The strength of our Nation stems from a commonly held belief that ours is a "government of the people, by the people and for the people." That belief is embodied in the three words that begin the Constitution—and they imply: "We the people."

We felt the significance when we journeyed to Philadelphia this past weekend. Many of us on this side of the aisle were also inspired by our weekend at Federal Hall, New York—the meeting place of the first Congress. Recognition of the Constitution cannot be taken lightly—the date of the signing, September 17, is not just another day.

Mr. Chairman, the bicentennial of the Constitution presents us with an unparalled opportunity to use modern technology and telecommunication to instill in our citizenry a greater sense and understanding of the rights, privileges, and opportunities the Constitution affords all American citizens.

As well-informed a nation as we are, it is most appropriate that we focus more attention on the Constitution. Yearly we celebrate Independence Day, the anniversary of the American Revolution. However, it is the Constitution that proved that the American people had the wisdom and ability to make something of that revolution.

As the great statesman Henry Clay said over 130 years ago, "The Constitution was made not merely for the generation that then existed, but for posterity—unlimited, undefined, endless, perpetual posterity."

Mr. Chairman and my fellow colleagues, we have many other public holidays, but I cannot imagine this body denying this one time holiday to celebrate an occasion of such great historical significance to the people of the United States.

The President of the United States, by Executive order, declared December 26, 1986, as a one-time holiday for all Federal employees. What did that day commemorate? Or July 3, 1987? Surely we can afford to take 1 day out of the 72,000 days that have passed since September 17, 1787, to observe the heritage of our Constitution and the struggles to bring its promise to all Americans.

Mr. Chairman, we will not be around for the next 200-year celebration of the Constitution. Many of us would not be here if 200 years ago the document had not been signed. Let us offer our support of this bill to make this one day—this one year—a legal holiday.

Mr. Chairman, I reserve the balance of my time.

Mr. FORD of Michigan. Mr. Chairman, I yield 6 minutes to the gentleman from Pennsylvania [Mr. Foglietta].

Mr. FOGLIETTA. Mr. Chairman, the U.S. Constitution is our country's most prized national treasure. It is responsible for protecting the rights that every U.S. citizen enjoys, and is looked to by nations around the world as a blueprint for the formation of a democratic society. Because of the Constitution's vital role in the development of our Nation, I, along with Representatives Boggs and Crane, have introduced legislation to give the bicentennial of the signing of this historic document the recognition it deserves. Our bill will make September 17, 1987, a one time-time legal public holiday to ensure that every U.S. citizen is able to take time to participate in the activities commemorating this day.

The President, in his State of the Union Address this year, expressed his belief in the three words which are the foundation of our Constitution. Those words are "We the People." The United States is a Nation created by the people, for the people. Our Constitution represents the ideals and desires of each and every one of us, and each of us should set aside time to contemplate the vital role it has played in protecting the liberties which we too often, I am sure, take for granted.

In this time of severe budget constraints, I realize that we need to carefully examine how and where the Federal Government's resources are allocated. There has been a great deal of confusion over the cost the Federal Government would incur with enactment of this bill. The Office of Management and Budget has estimated the cost to be $332 million. A more realistic estimate is the Congressional Budget Office's figure of $20 million, which is basically the average cost of premium pay paid on a holiday.

Of course time at work would be lost if this bill is passed. This work would have to be made up before and after this day. But the cost of the lost work hours does not begin to approach OMB's estimate, and the opportunity that would be lost if Federal workers were excluded from the educational experience of this very important day could never be recouped.

The importance of this event, the 200th anniversary of the signing of the U.S. Constitution, merits a legal public holiday. Around the country, activities are being planned to commemorate this occasion, under the supervision of the Commission on the Bicentennial of the U.S. Constitution, of which Mrs. Boggs and Mr. Crane are members. This Commission voted overwhelmingly in support of H.R. 157. It would be a crime to deprive any American of the opportunity to participate in the exciting and educational activities that are being planned. A one-time holiday on September 17 would cost no more than the holiday the President granted on December 26, 1986, but it certainly would have a much greater benefit for the American public.

The Chairman of the Commission on the Bicentennial of the U.S. Constitution, former Chief Justice Warren Burger, himself testified before the Subcommittee on Census and Population in support of this legislation. He stated, and I quote,

> Quite clearly the 200th anniversary of the signing of the Constitution of the United States on September 17, 1987 deserves a special national recognition by Congress and the Federal Government. Establishment of a Federal legal holiday, as would be created by H.R. 157, would help accomplish this objective. It is a unique, once in a century commemorative public holiday—only the second such occasion in the history of the United States.

September 17, 1787, is one of the most important dates in this Nation's history. It is the day the Founding Fathers finished their work on the Constitution. September 17, 1987, will be the culmination of a summer-long recognition of the profound effect this document has had on the lives of all Americans.

Each year we celebrate July 4, the day of the signing of the Declaration of Independence. Obviously, this was a critical event in our Nation's history and is clearly worthy of tribute. But winning our independence would have meant nothing if our forefathers had not the foresight to establish a system of government which would project the rights which every American enjoys. The anniversary of the signing of the U.S. Constitution is an event which this year merits the same amount of attention that we devote to Independence Day.

In conclusion, I would like to point out that there have been hundreds of revolutions around the globe, but very few have been able to produce truly stable and democratic societies. For example, while the French Revolution began only a few years after the American Revolution, France endured five republics, three empires, and two kingdoms before establishing the democratic government it now enjoys. Many other nations have constitutions. Nicaragua signed and disbanded its Constitution on the same day. The Soviet Constitution actually provides for more rights than does ours. But it has no procedural safeguards to ensure the protection of these rights.

The U.S. Constitution is without equal. Though tens of nations have tried to copy it, none have been able to achieve the balance of individual rights and societal obligations our Constitution has. This summer will offer a unique opportunity for every American to examine the profound effect the U.S. Constitution has had on not only this country but the whole world. In order to allow each citizen an equal chance to celebrate this momentous occasion, I feel it is essential to make September 17, 1987, a one-time commemorative legal public holiday. It is my hope you will join us in ensuring that we take advantage of this once-in-a-lifetime event. I urge my colleagues to vote in favor of H.R. 157.

□ 1305

Mrs. MORELLA. Mr. Chairman, I yield 10 minutes to the distinguished gentleman from Illinois [Mr. Crane], who is also a member of the Bicentennial Commission.

Mr. CRANE. Mr. Chairman, let us get down to the nubbies with regard to some of the objections that have been raised to this legislation which, I am sure many Members remember, passed overwhelmingly in the other body last year but, by a margin that was fairly significant, failed to pass in this Chamber last year.

We have a second opportunity to rectify the mistake of last year as we consider this one-time national holiday this afternoon. One of the arguments that came up during the debate last year was the question of cost, and the figure was thrown out that this could cost the taxpayers in the neighborhood of $332 million.

What that cost figure failed to explain in the course of the debate was that well over $300 million of that is salary cost, and the salary cost is a constant. Whether you take a day off or do not take a day off, that figure is a constant.

CBO gave us figures that suggested that there would be an overtime cost, and the overtime cost would amount to $7 million, but they make simultaneously a $4 million savings, utilities cost savings, so it nets out to $3 million. A $3 million cost, considering the significance of what we are contemplating today, is the equivalent of roughly one or two demonstration projects in a highway bill. But I think it is important for us to make the distinction between the importance of a couple of demonstration projects in a highway bill and this one-time observance of that miracle that took place in Philadelphia.

Justice Burger said, "We have an opportunity to engage in a national civics lesson," and I am proud to say that the Commission's work has been instrumental in trying to focus national attention on this subject. All 50 States and Puerto Rico have now formed their own bicentennial commissions. There are active projects going on in the schools with students.

We will have a major event on the steps of this Capitol, on the west side of this Capitol, on September 16, Wednesday, and the President will be here to lead the American schoolchildren through television in the Pledge of Allegiance to the Flag, and Chief Justice Burger will then follow the President and recite the Preamble to the Constitution. It is all designed to try to elevate and to hype in the national consciousness the importance of this dramatic day.

I think it is important for us to recognize, as some suggest, that we do not have to take the day off to do this. We can have a commemorative day off to do this. We can have a commemorative day. But we have had a commemorative day. It is part of the United States Code. It has been part of the United States Code, title 36, paragraph 174. That has been a part of the national Code for a generation.

How many Americans are aware of that? We have observed a national commemorative day every September 17. We have furthermore observed a National Constitution Week over that same timeframe.

How many of the children in this country do you suppose are aware of the fact that we have had elevated that exalted Constitution through making it a commemorative day to the same level that we put mules? We have a National Mule Appreciation Commemorative Day. I have nothing against mules.

We have a National Catfish Day, and I love catfish. I say to my distinguished colleague, the gentlewoman from Louisiana, that down there in her hometown they provide the best I have ever tasted.

We have a National Flowers by Wire Commemorative Day; we have a National Frozen Food Day. We have lots of these commemoratives, and, of course, they lose significance because except for satisfying certain concerned constituencies, most of the rest of us fail to appreciate that, for example, we just celebrated mules last week, or whenever it was.

My point is that we have put our Constitution into the same category, and that is one of the reasons why we have not been able to generate the national consciousness about the importance of what those gentlemen did that long, hot summer 200 years ago in Philadelphia.

Now, the significance of it, it seems to me, goes beyond words. We take a lot of things for granted, though, and some of these things we take for granted are the direct byproduct in consequence of what those people fashioned there during that summer, with the compromises that had to be hammered out in the interest of bringing 13 disparate colonies together to form a union, a union that had an amendment provision in it or an article provision that guarantees that perfections could be made, and indeed perfections were made and needed to be made.

They knew they had not created a perfect document, and Ben Franklin certainly testified to that. He made further observance in his last speech at that Convention that it mattered "little what form of government you create because," he said, "this government, like all governments before it, will degenerate into despotism when the people need despotism."

Thank God we have not reached that point, and thank God these people had the wisdom to create something that still enables the greatest number of people to enjoy the greatest degree of personal liberty that has ever been known in the history of civilization and over the longest period of time.

That is what we are trying to focus attention on. As I say, commemoratives just have not done it. The commemoratives have not galvanized public sentiment to engage in the memorializing of that important work. We are calling for a one-time national holiday to hopefully try to generate that kind of enthusiasm and interest especially on the part of the younger generation.

I was a history professor before coming here, and the thing that has demoralized me, looking at the curriculums in our schools, is the fact that history has been denigrated. In fact, history as an isolated discipline has been folded into some broad subject of civics, and unfortunately there is not even a chronological teaching of the history of this country to our young people in most of our schools.

I would hope that maybe one of the byproducts of this one-time national observance would be to focus national attention on us so that we would also focus attention on going back and studying our past. As Santayana said, "Those who fail to learn the lessons of history are condemned to relive it."

What we want to do is get that attention redirected so that young people who will be here a century hence will be able to celebrate a tricentennial, thanks to the awareness that hopefully will be generated in the remaining years of this century. The Bicentennial Commission's work does not end with September 17. The Commission's life extends until 1991, and as Justice Burger said, next year we are going to celebrate the election of that first Congress.

So we are going to try to focus the national civics lesson on the legislative branch of government. In 1989 we will focus on Washington's inaugural, and we can look at the executive branch of government and what the Founding Fathers intended for the executive branch. And in 1789, that first Congress passed the Judiciary Act, and they called into being in 1790 the Supreme Court. So in 1990 we will focus attention on the judiciary.

Then in 1991 we will focus attention on the Bill of Rights, and that has to be viewed in the same context as the Constitution, because during those debates that went on in Philadelphia there was a gentleman's agreement that there would be a bill of particulars—thou-shalt-nots, what government cannot do—that would be appended to that document, and during the ratification debate in Virginia, that was instrumental in getting ratification in Virginia, as it was instrumental in getting ratification in Massachusetts.

So we will focus on those precious thou-shalt-nots that were appended in the year 1791.

We are not calling for national one-time holidays for that purpose. We are calling for just the leadoff, when they put the pen to that document. Then we will, though, carry on this national lesson to try and guarantee that people do not just brush it aside and forget about it after 1987, but that they will follow it through with these important lessons, through 1991.

It is important, I think, for us to keep in mind that this document is the first document in history that ever called a national government into creation. There was never a national government that was called into creation with a written document. Those men did that with a very specific purpose in mind. They did not want confusion. They shared George Washington's concern that government is like fire, a dangerous servant and a fearful master. They wanted to make sure that people understood what powers we were positing where and what responsibilities would be fixed with whom, and they did that as a safeguard of our personal liberties.

Since that time 161 other governments have been called into creation with constitutions, most of them patterning themselves in one form or another after that model that they provided up in Philadelphia in 1787. Yet, interestingly enough, there were only 15 governments that had been called into creation through written documents by World War II. So we are talking about 147 of them that came into creation in the post-World War II era, and in those countries their founding fathers are still alive. They are actively involved in the political process, and those people are experiencing a degree of personal liberty that was unparalleled in their national experience because of the example set forth here.

Mr. Chairman, I urge the Members to support H.R. 157 and give us a one-time national holiday so that we and our posterity can continue to reap those blessings that those gentlemen gave us in Philadelphia.

Mr. FORD of Michigan. Mr. Chairman, I yield 3 minutes to the gentleman from Georgia [Mr. LEWIS].

Mr. LEWIS of Georgia. Mr. Chairman, I feel very strongly that this Congress should designate September 17, 1987, as a one-time holiday to commemorate the bicentennial of the signing of our Constitution. I feel it is proper and highly appropriate that this country take time to celebrate the importance of this great document.

The Constitution is not a dry legal paper, only for lawyers to debate. It is a living, breathing document which protects the individual freedoms and human rights for all Americans. We should wake up every morning, thankful that we live in a country, founded on the principles included in this historic document.

The cost associated with "Constitution Day" is minimal; the education value to this country is immeasurable.

I urge my colleagues to support this legislation to help educate our fellow Americans to the full meaning of the Constitution.

Mrs. MORELLA. Mr. Chairman, I yield 1 minute to the gentleman from Ohio [Mr. GRADISON].

Mr. GRADISON. Mr. Chairman, I rise in opposition to H.R. 157, Constitution Day, and urge my colleagues to vote against the bill in its present form.

The purpose of H.R. 157 is to designate September 17, 1987, the 200th anniversary of the signing of the Constitution, as "Constitution Day," and to make September 17 of this year a one-time, legal public holiday. The House considered a similar piece of legislation in the 99th Congress and wisely defeated it by 110 votes.

No one questions the significance of the 200th anniversary of the U.S. Constitution. The document, which emerged from the convention in Philadelphia, established a "more perfect union" by replacing the much weaker Articles of Confederation. The American Constitution, as an experiment in constitutional democracy, has served as the model for democratic reformers for two centuries. Throughout the 19th century, the emerging nations of Latin America continually turned to the American model as the basis of their constitutional processes. In our own time, one need only look at the recently ratified Philippine constitution to see its continuing influence.

In recognition of this historic milestone, the Congress established the Commission on the Bicentennial of the U.S. Constitution in 1983. The Commission has been very active in planning and coordinating activities around the country in honor of the bicentennial. The Chairman of the Commission, former Chief Justice Warren Burger, and other members of the Commission have been supportive of this legislation.

I agree that a proper commemoration of the bicentennial of the signing of the Constitution is important, but I am not convinced that giving Members of Congress and Federal employees the day off is necessary or desirable.

If H.R. 157 is enacted, it would grant Federal employees an 11th paid holiday. In the context of our difficult fiscal problems, we should be careful about how we spend the public's money, no matter how seemingly inconsequential the sum. Admittedly, the cost estimates for this bill vary widely. CBO indicates it will cost an additional $3 million. OMB has estimated the cost at $332 million. While there is considerable controversy about how the costs should be calculated, there is no dispute that it will cost the taxpayer something.

There is a further consideration. Recently, the Congress was severely criticized for the backhanded way in which the salary increase for Members was approved. Against this background, will the passge of H.R. 157 contribute to a strengthening of public confidence in our institutions, as proponents hope, or will it be viewed cynically, as I fear it may be, as yet another instance in which Congress padded the perks of Federal service?

Mr. Chairman, free people around the world recognize the significance of the experiment in democratic institutions begun by the Founders. We struggled, against seemingly insurmountable odds, to establish this Nation. We have protected our liberties from the challenges posed by hostile powers, and, yes, even from ourselves. The resilience of the Constitution would astound the Founders and its endurance is a testament to their genius.

For those who continue to struggle against authoritarian and totalitarian oppression, the American experiment is a wonder and an inspiration. They need no reminder.

Currently, Mr. Chairman, we are scheduled to be in session on September 17. I can think of no better tribute to Mr. Madison and the other Founders than to be in this Chamber on the bicentennial of the signing of the Constitution, exercising the responsibilities of representative government. If our goal is to convince the public that their present low opinion of Congress is justified, this bill will do the trick. Let's hang out the "gone fishin'" sign, and close the Social Security, Army recruiting, and Congressional offices which serve the public—a public which, by the way, will not get the day off. I urge my colleagues to join me in opposing the designation as a legal public holiday.

There is a better way.

Mr. FORD of Michigan. Mr. Chairman, I yield 3 minutes to the gentleman from Oregon [Mr. DEFAZIO].

Mr. DEFAZIO. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in recognition and with deep respect for the Constitution, a vital and living document, a document which underlays our Government.

The rule of law in the United States is supreme, and we are most successful and we are the longest standing democracy on Earth. The question is not whether or not we should recognize and revere the Constitution or whether or not our schoolchildren and all the adults in America should read and understand the Constitution. The question is whether or not we should have a one-time holiday for Members of Congress and Federal employees.

□ 1320

I would first ask another question. Are all of the Social Security disability problems that my constituents have, like some of them waiting a year to get their case decided, are they, and will they all be decided by September 17?

Will all of the veterans' appeals from my veterans who sacrifice so much for this Nation, will they be resolved on or before September 17? Will all of the IRS audits be done? Will all the Federal Aviation Administration safety inspections be done?

If these and all the other important duties of the Federal Government are totally caught up, if there was no deficit, then perhaps we could afford to shut down the Federal Government for a one-time holiday. There is an alternative.

The key comes from the statements of the Members who have spoken in support. Let us honor the 200th anniversary of the Constitution in an "appropriate manner."

The key is the words "appropriate manner," a special commemorative day.

I agree with my colleague who says it should not be at the level of National Catfish Day or other days, and we would designate a special commemorative day with special activities by Federal employees at work. Perhaps they could take an hour at lunch. The President by proclamation could suggest that all Federal employees could take an hour at lunch to read, study, understand and discuss the Constitution of the United States, not take a day off and go to the beach or engage in other activities which I do not think are as appropriate as educational activities.

Just last year in this House, there was a rollcall vote No. 426 which many of the Members have forgotten; but the Members should look at on October 14, where the House voted 240 to 130 against the designation of a legal public holiday.

I would urge the Members to join the gentleman from Ohio [Mr. GRADISON] and me, and the gentleman from Michigan [Mr. UPTON], when we offer an amendment to designate a one-time special commemorative day but not a legal Federal holiday with time off for Members of Congress and the Federal Government.

Mrs. MORELLA. Mr. Chairman, I yield 2 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, I thank the gentlewoman for yielding me this time. Mr. Chairman, go back with me 200 years to this very moment in Philadelphia.

I am reporting to the Members from the floor of the Constitutional Convention in Independence Hall in Philadelphia. Benjamin Franklin has just walked in and nods to General Washington, who is wielding the gavel at a time very critical to these debates.

The delegates are at this very moment debating how many people from each State should represent them in the Senate that they contemplate would be the upper Chamber of the Congress of the United States.

Gouverneur Morris, Delegate Morris, says it should be three from each State. Gorham says it should be only two, because we are going to have new States come into the Union from the West; and if they come in, if we have three, it might become too cluttered for the Senate of the United States, so the vote is going to be taking place in a very short time on whether it should be two or three.

Right now in a poll that I took, it appears that the question of two Members of the Senate is probably going to prevail. In the meantime, there is a quick recess, because the two Members who have not heretofore come to participate in these proceedings from New Hampshire have just arrived by carriage.

General Washington and James Madison are greeting them now, and they are taking their places while the vote is going on in these proceedings. They have already agreed that all public officials, the President on down, should take their office only after an oath to be taken, and now the vote is completed on the makeup of the Senate of the United States.

It appears that the vote is clear that there will be two Members in the Senate, the upper body of the Congress of the United States.

I predict now here from the floor on July 23, 1787, that by September 16 or September 17, the work of this convention will be completed, and a new document will be signed on one of those two dates, and I further predict that 200 years from then the Congress of the United States will be commemorating this very summer in Philadelphia.

Mr. FORD of Michigan. Mr. Chairman, I yield 3 minutes to the gentleman from Illinois [Mr. SAVAGE].

Mr. SAVAGE. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise to register a protest to make the record more accurate. I have heard the Constitution signed in 1787 was divinely inspired. I just do not believe that God inspired a document that recognized that an estimated one-fifth of the American population, my ancestors, those who were black and slaves at that time, that God sanctioned and recognized that slavery, as it is recognized in the 1787 Constitution, and the three-fifths compromise with regard to apportionment where my ancestors, blacks, were estimated at three-fifths of the work of the whites, a document that further recognized and sanctioned slavery by stating that it would not be outlawed, and finally a document that referred to my ancestors by ordering that if they escaped from slavery, if they escaped to freedom, that they should be returned to slavery, and so when some refer to the preamble of that document and talk about "We, the people," what people?

That may have included you but did not include me, did not include my ancestors who were here when many of the Members' ancestors were not.

I urge those Members who recognize that fault to recognize that this is a flawed document undeserving of such celebration. Why ask blacks and those who sympathize with us to take the day off to celebrate the enslavement of our foreparents? And especially I urge those Members whose foreparents, like mine, were slaves, not to forget in order to curry favor in this august body.

Mrs. MORELLA. Mr. Chairman, I yield 3 minutes to the gentleman from North Carolina [Mr. COBLE].

Mr. COBLE. Mr. Chairman, I thank the gentlewoman for yielding me this time.

I dislike being the perennial critic of the Congress, and I dislike being the prophet of doom; but I also dislike the manner in which this body spends money which belongs to our taxpayers.

We elected officials should be good stewards of the public trust, and good stewardship, among other things, means prudent disposition of taxpayers' money.

We are oftentimes, however, reckless and imprudent.

An example of this recklessness and imprudence, it seems to me, may well be the matter under discussion now.

Mr. Chairman, the U.S. Constitution is the world's great fundamental charter of freedom. It has served us well for two centuries, and we should honor it through celebration.

We should not, however, declare another Federal holiday, because to do so emphasizes the fiscal recklessness and imprudence I previously mentioned.

We can appropriately honor the Constitution, but we should do so without incurring yet another unnecessary expenditure.

The Office of Management and Budget estimates the Federal outlays—that is another way of saying taxpayers' money—would be $332 million. Others claim there will be no loss or minimal loss, but such a claim assumes that we get no value in exchange for 1 day's portion of the Federal payroll.

To shut down Federal offices will indeed result in financial loss to taxpayers of this country.

I commend the spirit of pride and patriotism that is alive and flourishing in this country. This spirit is so strong, in fact, that I am fully convinced that Americans will thoughtfully, solemnly, and appropriately observe the magnitude of this milestone and do so without the need for another multimillion-dollar Federal holiday.

Let us celebrate, but let us do so after the work of the day has been completed.

□ 1330

Mrs. MORELLA. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. Upton].

Mr. UPTON. Mr. Chairman, I thank the gentlewoman from Maryland for yielding some time.

As many Members in this Chamber know, I will be offering an amendment to this bill, the Upton-DeFazio-Gradison amendment, which in essence will still recognize as a national day of recognition each year September 17 in the future as a day of recognition for the Constitution, but it will not allow for a multimillion-dollar holiday, one-time Federal holiday, for Federal workers.

My amendment will express strong support, the bill will still express strong support for the Constitution. It supports appropriate constitutional celebrations. This body has already approved legislation that supports essay contests and that type of thing for his schools all around the country to embrace this marvelous living document called the U.S. Constitution.

My amendment will still set the right kind of example for our constituents to follow and at the same time it will save Federal outlays in a time of high deficits. The Office of Management and Budget has estimated the cost will run upwards of $330 million.

Under my amendment, which would take away the Federal holiday, still will affect all workers, and in fact only a small select group, including Members of Congress, will benefit from a Federal holiday.

For those reasons, I will be offering this amendment which will determine and set the national day forever, a national day of recognition, September 17, but not a Federal holiday.

Mr. FORD of Michigan. Mr. Chairman, I yield such time as we have remaining to the gentlewoman from Louisiana [Mrs. Boggs].

The CHAIRMAN. The gentlewoman from Louisiana is recognized for the time of up to 11 minutes.

Mrs. BOGGS. Mr. Chairman, I thank so much the gentleman from Michigan and the gentlewoman from Maryland and all the members of their committee and their staff members for bringing this bill to the floor.

Mr. Chairman, there is a fever throughout the land, an excitment about the celebration of the bicentennial and the Constitution of the United States. It is a most remarkable thing that is going on. I am sure that all of you are beginning to hear about it from your districts and from the documentaries on TV, from the great stories in the newspapers, and we in this Chamber had some of that excitment brought home to us last week when we assembled in Philadelphia for the celebration of the 200th anniversary of the Great Compromise that really created the Constitution of the United States.

As we have heard, Mr. Chairman, that the gentleman from Illinois [Mr. Crane] and I sit on the U.S. Constitutional Commission and we are proud to sit there. As members of that Commission, we know that all 50 States and Puerto Rico have State commissions on the bicentennial, that there are over 1,000 designated bicentennial communities in this Nation, all of which means that they have programs that are worthy of being considered designated programs.

Our constituents, Mr. Chairman, are indeed conscious of the celebration of the Constitution of the United States. We are very, very fortunate in this country to have dedicated Federal workers. Commissioner Fred Bibel of the U.S. Commission on the Constitution and I cochair the Federal Agencies Committee. I can tell you that there are over 60 agencies and departments of the Government that have programs on the Constitution of the United States that last not only this year, but through the ratification process of 1988, the establishment of the Government in 1989, the establishment of the Supreme Court in 1990, and the adoption of the Bill of Rights in 1991. They have remarkable programs and they have worked very hard. They have spent countless hours, not only on their regular Government time, but on their free time when they have given to the Government countless hours and interest to the celebration of the bicentennial of the Constitution.

It is all geared, Mr. Chairman, to making the young people of this country recognize what we have as a country and that it all came about because of the Constitution of the United States. It is the oldest constitution in the history of the world. Most of the constitutions of the nations of the world have been adopted within the last 17 years. Ours is the model for the emerging democracies of this hemisphere and the other hemispheres around the world.

Mr. Chairman, this Bicentennial Commission, the U.S. Commission, in one of its initial meetings passed a resolution that asked for the designation of September 17, 1987, the date of the signing of the Constitution, to be a one-time legal national holiday.

In its first report to the Congress of the United States, the Commission used this request as its very first request to the Congress, and as members of that Commission who sit in this body, the gentleman from Ilinois [Mr. Crane] and I have felt an obligation to carry forward this No. 1 request of the U.S. Commission on the Constitution of the United States.

We have had 72,000 days since the signing of the Constitution in 1787. Surely this country can afford to have a one-time legal holiday to celebrate the 200th anniversary of that signing.

Mr. Chairman, I hope that we will know that everyone in this body, all of the people who work for the Federal Government and all of the schoolchildren throughout the United States have an opportunity on September 16 from the West Front of this Capitol to be able to participate in a citizenship day. It is a teach-in day that will reach 67 million students, teachers and school administrators, across this country. It is being sponsored by the American Newpaper Publishing Association, by the American Broadcasting Companies, and by 12 educational associations and by corporate sponsors as well to be able to afford this remarkable celebration and on the West Front of this Capitol, the beautiful old West Front, recently re-done, we will have the President of the United States, the leaders of the Congress, the Chief Justice of the United States, the former Chief Justice who is the head of the Bicentennial Commission of the United States, 5,000 schoolchildren from Maryland, Virginia, and the District of Columbia, and yes, all those Federal employees taking their own time to be on the Mall to go out in a telecast for a day long teach-in in all the schools across America about the Constitution of the United States and what it means.

The Constitution, Mr. Chairman, was a flexible document, a simple document of real truths. It has been able to accommodate through the amendment process all of the problems to which our good colleague, the gentleman from Illinois, has referred.

We women Members of the Congress of the United States were not a part of the original Constitution as well, but we are here now, as are the members of every race and every color from every State in the Union, because that document was so fine, so true, so flexible.

It is the basis of our Government, Mr. Chairman. We have to recognize this one-time 200th anniversary of its signing.

When Benjamin Franklin left the Chamber when the signing had been accomplished, a Mrs. Powell came up to him and said, "Dr. Franklin, what kind of government have you given us?"

And he replied, "A Republic, Madam, if we can keep it."

If we Members of Congress cannot help to keep the Republic in conjunction with those dedicated Federal workers, with the teachers, with all the people who are so in favor of celebrating this day, then I do not know, Mr. Chairman, who can.

Mr. RODINO. Mr. Chairman, I rise in strong support of H.R. 157, designating September 17, 1987, as "Constitution Day," and providing that it be a one-time Federal hoilday in recognition of the bicentennial of the signing of the Constitution.

At present, we celebrate as national holidays, Columbus Day and the Fourth of July. These dates and the celebration of them are very important to this Nation's continuing historical awareness of its origins and evolution, and are worthy of commemoration and reflection in the form of national holidays.

In my mind, the 200th anniversary of the signing of the Constitution should be accorded the same distinction. September 17, 1787, is one of the most significant dates in this country's long and eventful history. As a historical occurrence, the signing of the Constitution was a tribute to the delegates' patience and willingness to make compromises in the pursuit of a higher common good. I had the opportunity to experience firsthand the magnitude of this achievement, when I represented New Jersey as a delegate to the Special Session of Congress held in Philadelphia on July 16. That gathering was in commemoration of the Great Compromise of the Constitutional Convention. The Great Compromise represented the turning point of the Convention, because after 1½ months of angry debates and threats to leave the Convention, the Representatives of the large and small States finally agreed on the question of how representation in the Legislature would be determined.

However, the signing and enactment of the Constitution is far more than a series of historical events. I believe that the bicentennial of the signing of the Constitution should be observed by a national holiday because the Constitution is such an integral part of this Nation. It is the most important and fundamental exposition of what this country represents and what it stands for. It is much more than our Nation's controlling political document. It is testimony to what is unique and great about the United States of America. Many of the world's constitutions, both past and present, are full of lofty ideals and rights which are summarily ignored or suspended altogether, rendering those ideals and rights hollow and without meaning. The United States is fortunate not to fall into that category.

In our country, the Constitution represents a sacred compact of trust between the people and each other, and the Government. It has been that solemn bond of trust, preserved through the years by our respect for the rule of law, that has enabled our great Constitution to endure where others have fallen short or failed altogether.

The birth of the Constitution was not an event in the same sense that the discovery of the New World and the secession from the British Empire were. The Constitution is something more. It is a process that requires the ongoing participation of all Americans in order to ensure that the Constitution continues to represent what is great and unique about this Nation. The Constitution is not a static event. It is an evolving entity which has come to mean different things to different generations. But one characteristic of the Constitution has remained the same since its inception 198 years ago: It has remained the supreme law of the land that has touched the daily lives of succeeding generations of Americans.

I believe that when one takes these points into account, especially when coupled with the fact that this is to be only a one-time holiday observance, that passing H.R. 157 designating September 17, 1987, as "Constitution Day" and declaring a one-time Federal holiday, is the least that could be done to honor such a momentus occasion.

Mr. DIXON Mr. Chairman, today, by voting on a one-time holiday to commemorate the 200th anniversary of its creation, Congress prepares to recognize the significant role the American Constitution has played in the life of this country. This is a particularly appropriate time to reflect upon the evolutionary nature of this historical document. It is important to recognize the great contribution the Constitutional framers made in formulating the original manuscript. We must remember too, however, that it has only been through the striving of dedicated men and women, and through often painful and tumultuous periods in our history, that the manuscript has evolved into the Constitution we applaud today.

In his remarks to the San Francisco Patent and Trademark Law Association in May, Justice Thurgood Marshall reopened the constitutional debate by questioning the framers' ultimate accomplishments. Marshall feared that for many Americans the bicentennial celebration would be little more than a blind pilgrimage to see a document that bears substantial differences from the Constitution today. In reminding us that the 1787 document did not extend the basic right of equlity under the law to black people or women, the Justice warned against simple adulation of the framers; we must recognize that they were mortal men constrained by both the economics and the ideologies of their times.

For Americans today, the importance of the Constitution is enhanced by the efforts of ordinary citizens who, throughout our history, worked toward universal expansion of civil rights. Such Americans fought and suffered through a civil war to create a broader basis for justice and equality. And over 50 years later, ordinary citizens took a large step toward surmounting age-old sexual inequality by working successfully to grant women the right to vote. These people, and countless other heretofore unrecognized Americans, worked in many ways to effect the slow but promising evolution of a document with serious defects into the Constitution we know today.

Our 200-year-old American Constitution is a living document. To view it as having sprung, whole and entire, in its present form from the minds and intentions of the 18th century framers is to fail to recognize the substantive contributions of those who succeeded them, Americans whose critical modifications to the present Constitution were often gained through tremendous personal costs. Failure to view the Constitution as ever-evolving invites complacency. During this 200th anniversary celebration, we must pledge to continue to regard it as a living document.

Mr. BORSKI. Mr. Chairman, I rise to express my support for recognizing Constitution Day, September 17, as a one-time public holiday.

Two centuries ago, representatives from the American States gathered in Philadelphia to draft what is now our Constitution. The U.S. Constitution is the oldest written document of its kind. It established a national system of government with a keen regard for democracy and justice. The Convention was marked by sharp disagreement about the rights of individual States and the power of the Congress. Fortunately, the disagreements eventually gave way to the Connecticut compromise.

The final draft secured the representation of small States in the upper House where each State had two Members and also recognized the strength of the larger States in the lower House where the number of Members was linked to population. When the final document was signed and ratified, it created three equal branches including the bicameral Congress existing today.

Even as a young Nation made up of only 13 States, the delegates of the Constitutional Convention structured a document which would withstand two centuries of turmoil and growth of a young America. Because the Constitution was written as a flexible document, many changes have occurred over 200 years. But the essence of its guidelines—a Government designed and run by the people—remain firmly intact.

Mr. Chairman, every year we commemorate the birth of our Nation on July 4 which marks the signing the Declaration of Independence. But the Constitution has provided the structure and substance of our Government which has withstood so many years of change. I believe a one-time holiday will provide a unique opportunity for all Americans to reflect on the creation of democracy in America. It will also commend Americans and their ancestors for their individual contributions to our Nation. As a Representative of Philadelphia, I am honored to support this important legislation to recognize our Constitution.

Mr. GOODLING. Mr. Chairman, I rise in opposition to H.R. 157, designating September 17, 1987, as Constitution Day.

Our Constitution is a document of which all Americans can be proud and it certainly deserves to be honored on its 200th birthday.

However, as an American concerned about the future of our country, concerned about budget deficits, I simply cannot support the expenditure of $332 million for another Federal holiday—and I believe the majority of Americans, many of whom will not benfeit from this bill, will agree with me. If we have $322 million to spend, let us spend it wisely.

We cannot, of course, let our Constitution's 200th birthday go unnoticed and it will not be. All types of appropriate activities are already planned across our great Nation, activities which will take place whether or not there is a Federal holiday.

Although I do not support another Federal holiday for Constitution Day or any other purpose, I do believe it most appropriate to designate September 17 as a "day of recognition," which will pay tribute to one of the most important documents in our Nation's history and, at the same time, save the taxpayers some of their hard-earned dollars.

I urge my colleagues to oppose this bill and, instead, support the designation of September 17 as a "day of recognition" for our Nation's Constitution.

Mr. DYMALLY. Mr. Chairman, on April 7, the Subcommittee on Census and Population, which I chair, heard testimony on and approved H.R. 157, a bill which designates September 17, 1987, as "Constitution Day," and makes it a one-time legal public holiday.

The sponsors of H.R. 157 seek to promote public participation and recognition on an event 200 years ago that shaped the lives of millions of people, both in the United States and abroad.

This event was of great importance, but of greater significance, I believe, is the evolution of that document over 200 years.

The Constitution of today is radically different from that drafted at the Philadelphia Convention, reflecting a social transformation which calls for the protection of minority groups of the population and the affirmation of equal rights to all persons, regardless of race or sex.

As a society which holds itself out as the guardian of democracy and a model of equality for other nations, it is important that we address the realities of our situation and continue to measure our society by its ability to live up to the moral values now reflected in the Constitution.

The Commission on the Bicentennial of the U.S. Constitution became operative in 1985 and is responsible for the planning and direction of the commemoration of the bicentennial.

I would strongly urge the Commission to include in that educational process the contributions of people of diverse backgrounds and persons whose history is often overlooked in our teaching of the history of America.

Mr. Chairman, as chairman of the Subcommittee on Census and Population, I supported this bill and commend the efforts of the sponsors. I therefore urge passage of H.R. 157.

Mr. Chairman, I am submitting the text of a recent speech by Justice Thurgood Marshall on the evolution of the Constitution to be inserted into the RECORD:

Remarks of Thurgood Marshall at the Annual Seminar of the San Francisco Patent and Trademark Law Association

1987 marks the 200th anniversary of the United States Constitution. A Commission has been established to coordinate the celebration. The official meetings, essay contests, and festivities have begun.

The planned commemoration will span three years, and I am told 1987 is "dedicated to the memory of the Founders and the document they drafted in Philadelphia." [1] We are to "recall the achievements of our Founders and the knowledge and experience that inspired them, the nature of the government they established, its origins, its character, and its ends, and the rights and privileges of citizenship, as well as its attendant responsibilities." [2]

Like many anniversary celebrations, the plan for 1987 takes particular events and holds them up as the source of all the very best that has followed. Patriotic feelings will surely swell, prompting proud proclamations of the wisdom, foresight, and sense of justice shared by the Framers and reflected in a written document now yellowed with age. This is unfortunate—not the patriotism itself, but the tendency for the celebration to oversimplify, and overlook the many other events that have been instrumental to our achievements as a nation. The focus of this celebration invites a complacent belief that the vision of those who debated and compromised in Philadelphia yielded the "more perfect Union" it is said we now enjoy.

I cannot accept this invitation, for I do not believe that the meaning of the Constitution was forever "fixed" at the Philadelphia Convention. Nor do I find the wisdom, foresight, and sense of justice exhibited by the Framers particularly profound. To the contrary, the government they devised was defective from the start, requiring several amendments, a civil war, and momentous social transformation to attain the system of constitutional government, and its respect for the individual freedoms and human rights, we hold as fundamental today. When contemporary Americans cite "The Constitution," they invoke a concept that is vastly different from what the Framers barely began to construct two centuries ago.

For a sense of the evolving nature of the Constitution we need look no further than the first three words of the document's preamble: "We the People." When the Founding Fathers used this phrase in 1787, they did not have in mind the majority of America's citizens. "We the People" included, in the words of the Framers, "the whole Number of free Persons." [3] On a matter so basic as the right to vote, for example, Negro slaves were excluded, although they were counted for representational purposes—at three-fifths each. Women did not gain the right to vote for over a hundred and thirty years.[4]

These omissions were intentional. The record of the Framers' debates on the slave question is especially clear: The Southern States acceded to the demands of the New England States for giving Congress broad power to regulate commerce, in exchange for the right to continue the slave trade. The economic interests of the regions coalesced: New Englanders engaged in the "carrying trade" would profit from transporting slaves from Africa as well as goods produced in America by slave labor. The perpetuation of slavery ensured the primary source of wealth in the Southern States.

Despite this clear understanding of the role slavery would play in the new republic, use of the words "slaves" and "slavery" was carefully avoided in the original document. Political representation in the lower House of Congress was to be based on the population of "free Persons" in each State, plus three-fifths of all "other Persons." [5] Moral principles against slavery, for those who had them, were compromised, with no explanation of the conflicting principles for which the American Revolutionary War had ostensibly been fought: the self-evident truths "that all men are created equal, that they are endowed by their Creator with certain unalienable Rights, that among these are Life, Liberty and the pursuit of Happiness." [6]

It was not the first such compromise. Even these ringing phrases from the Declaration of Independence are filled with irony, for an early draft of what became that Declaration assailed the King of England for suppressing legislative attempts to end the slave trade and for encouraging slave rebellions.[7] The final draft adopted in 1776 did not contain this criticism. And so again at the Constitutional Convention eloquent objections to the institution of slavery went unheeded, and its opponents eventually consented to a document which laid a foundation for the tragic events that were to follow.

Pennsylvania's Gouverneur Morris provides an example. He opposed slavery and the counting of slaves in determining the basis for representation in Congress. At the Convention he objected that—

"The inhabitant of Georgia [or] South Carolina who goes to the coast of Africa, and in defiance of the most sacred laws of humanity tears away his fellow creatures from their dearest connections and damns them to the most cruel bondages, shall have more votes in a Government instituted for protection of the rights of mankind, than the Citizen of Pennsylvania or New Jersey who views with a laudable horror, so nefarious a practice." [8]

And yet Gouverneur Morris eventually accepted the three-fifths accommodation. In fact, he wrote the final draft of the Constitution, the very document the bicentennial will commemorate.

As a result of compromise, the right of the Southern States to continue importing slaves was extended, officially, at least until 1808. We know that it actually lasted a good deal longer, as the Framers possessed no monopoly on the ability to trade moral principles for self-interest. But they nevertheless set an unfortunate example. Slaves could be imported, if the commercial interests of the North were protected. To make the compromise even more palatable, customs duties would be imposed at up to ten dollars per slave as a means of raising public revenues.[9]

No doubt it will be said, when the unpleasant truth of the history of slavery in America is mentioned during this bicentennial year, that the Constitution was a product of its times, and embodied a compromise which, under other circumstances, would not have been made. But the effects of the Framers' compromise have remained for generations. They arose from the contradiction between guaranteeing liberty and justice to all, and denying both to Negroes.

The original intent of the phrase, "We the People," was far too clear for any ameliorating construction. Writing for the Supreme Court in 1857, Chief Justice Taney penned the following passage in the *Dred Scott* case,[10] on the issue whether, in the eyes of the Framers, slaves were "constituent members of the sovereignty," and were to be included among "We the People":

"We think they are not, and that they are not included, and were not intended to be included. . . . They had for more than a century before been regarded as beings of an inferior order, and altogether unfit to associate with the white race . . .; and so far inferior, that they had no rights which the white man was bound to respect; and that the negro might justly and lawfully be reduced to slavery for his benefit. . . . [A]ccordingly, a negro of the African race was regarded . . . as an article of property, and held, and bought and sold as such . . . [N]o one seems to have doubted the correctness of the prevailing opinion of the time."

And so, nearly seven decades after the Constitutional Convention, the Supreme Court reaffirmed the prevailing opinion of the Framers regarding the rights of Negroes in America. It took a bloody civil war before the 13th Amendment could be adopted to abolish slavery, though not the consequences slavery would have for future Americans.

While the Union survived the civil war, the Constitution did not. In its place arose a new, more promising basis for justice and equality, the 14th Amendment, ensuring protection of the life, liberty, and property of all persons against deprivations without due process, and guaranteeing equal protection of the laws. And yet almost another century would pass before any significant recognition was obtained of the rights of black Americans to share equally even in such basic opportunities as education, housing, and employment, and to have their votes counted, and counted equally. In the meantime, blacks joined America's military to fight its wars and invested untold hours working in its factories and on its farms, contributing to the development of this country's magnificent wealth and waiting to share in its prosperity.

What is striking is the role legal principles have played throughout America's history in determining the condition of Negroes. They were enslaved by law, emancipated by law, disenfranchised and segregated by law; and, finally, they have begun to win equality by law. Along the way, new constitutional principles have emerged to meet the challenges of a changing society. The progress has been dramatic, and it will continue.

The men who gathered in Philadelphia in 1787 could not have envisioned these changes. They could not have imagined, nor would they have accepted, that the document they were drafting would one day be construed by a Supreme Court to which had been appointed a woman and the descendant of an African slave. "We the People" no longer enslave, but the credit does not belong to the Framers. It belongs to those who refused to acquiesce in outdated notions of "liberty," "justice," and "equality," and who strived to better them.

And so we must be careful, when focusing on the events which took place in Philadelphia two centuries ago, that we not overlook the momentous events which followed, and thereby lose our proper sense of perspective. Otherwise, the odds are that for many Americans the bicentennial celebration will be little more than a blind pilgrimage to the shrine of the original document now stored in a vault in the National Archives. If we seek, instead, a sensitive understanding of the Constitution's inherent defects, and its promising evolution through 200 years of history, the celebration of the "Miracle at Philadelphia" [11] will, in my view, be a far more meaningful and humbling experience. We will see that the true miracle was not the birth of the Constitution, but its life, a life nurtured through two turbulent centuries of our own making, and a life embodying much good fortune that was not.

Thus, in this bicentennial year, we may not all participate in the festivities with flag-waving fervor. Some may more quietly commemorate the suffering, struggle, and sacrifice that has triumphed over much of what was wrong with the original document, and observe the anniversary with hopes not realized and promises not fulfilled. I plan to celebrate the bicentennial of the Constitution as a living document, including the Bill of Rights and the other amendments protecting individual freedoms and human rights.

FOOTNOTES

[1] Commission on the Bicentennial of the United States Constitution, First Full Year's Report, at 7 (September 1986).

[2] Commission on the Bicentennial of the United States Constitution, First Report, at 6 (Sept. 17, 1985).

[3] U.S. Constitution, Art. 1, § 2 (Sept. 17, 1787).

[4] The 19th amendment (ratified in 1920).

[5] U.S. Constitution, Art. 1, § 2 (Sept. 17, 1787).

[6] Declaration of Independence (July 4, 1776).

[7] See Becker, The Declaration of Independence: A Study in the History of Political Ideas 147 (1942).

[8] Farrand, ed., The Records of the Federal Convention of 1787, vol. II, 222 (New Haven, CT, 1911).

[9] U.S. Constitution, Art. 1, § 9 (Sept. 17, 1787).

[10] 19 How. (60 U.S.) 393, 405, 407-408 (1857).

[11] Bowen, Miracle at Philadelphia: "The Story of the Constitutional Convention May to September 1787" (Boston 1966).

Mrs. MORELLA. Mr. Chairman, I yield myself such time as I may consume.

I just wanted to follow up. I was very proud when I went to Philadelphia over this weekend. I was very proud of the fact that the gentlewoman from Louisiana [Mrs. BOGGS] who just spoke was the president of our session in Philadelphia.

I was particularly pleased as a woman to know that she in 1987 was the president of that session. I recognize that the 55 Members who were there in Philadelphia had no blacks, had no Orientals, had no women, but what is so special about this document is that through the amendment process, it is a living, changing, fluid document.

I know that as a woman, my female ancestors did not get the right to vote until the 19th amendment in 1920.

I know that my black colleagues, brothers and sisters—brothers, got the right to vote earlier than that, but it was long in coming. It was hard fought, but it is through this document that the changes are able to be made.

I know I, for one, would like to see another amendment. I would like to see the equal rights amendment added to our Constitution; but all of that makes very special this particular year, the 100th Congress, in the 200th anniversary of our Constitution.

Now, mention was made earlier by my colleague, the gentleman from Oregon, that last year a measure of this nature came up and it was defeated. It was defeated, that was the 99th Congress. We now have the 100th Congress. We now have had a number of ceremonies where we realize the true significance of the Constitution this year.

I believe also as legislators we have open minds. We listen, we learn, we recognize, we cherish and we act accordingly. We are never so rigidly structured into something that happened 1, 2, 3 years ago. Things are constantly changing.

I also have heard a figure used, a figure that I think is absolutely preposterous with regard to the cost of this particular one-time-only measure. The figure that I have is our own budget office, the Congressional Budget Office, which indicates that there would be a $300 million cost. We have a letter from them indicating that that is what they project. It may not be 100 percent accurate, but dealing with guesstimates, it is probably the best guesstimate they could come up with.

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The figure my colleague heard included the postal workers who are exempt from this bill since they are not the Federal Government as such. The figure my colleague heard was one of what it cost the Federal Government to operate each day plus special pay. What it costs them to operate per day is going to go on whether they are there or not. The work that they might accomplish on that day with the boost in morale could well be accomplished in 2 days prior to that, or several days prior to that, because this is the special event. Someone also mentioned that Congress will not be in session because of this legal holiday. I submit Congress will not be in session whether we pass this bill or not. I submit on that day the President will be going to Philadelphia. There will not be a session of Congress.

So what are we doing is exempting ourselves and forgetting we the people, the people who are out there who keep Government in operation. I also reiterate the fact that this country is so special and the reason our ancestors came here was because of the hopes, the opportunities and the dreams that were offered by the "We, the People" concept and all that it represents in that Constitution.

I am the daughter of immigrant parents. They came here because they knew that this country would offer them opportunities through education. Through the opportunities I am able to be here in this Chamber. I serve with my colleagues, with Members who were not even born in the United States but have had the great opportunity that comes from this country to serve in the U.S. Congress.

We talk about commemoration. It has been my enormous honor to be able to have the time allocation on this side for the commemorations and I deem that an honor and I appreciate the commemorations that we handle, but I do not put the Bicentennial of the Constitution in the same category as National Asparagus Day.

That is the very kind of thing that is being suggested by virtue of the amendment that is going to be offered.

So I say to my colleagues, December 26 last year was declared a legal holiday by the President of the United States, and I do not know what that day commemorates. July 3 of this year was declared a legal holiday by the President of the United States, and I do not know what July 3 reflects or represents.

Remember, every year July 4 is a special holiday and I do know what that represents, but that was the beginning and what the fruition was was a document that we are now commemorating one time only with a special legal holiday.

I think it is very important, and I hope that in our wisdom that we pass this bill and make it a one-time legal holiday.

Mr. DeFAZIO. Mr. Chairman, will the gentlewoman yield?

Mrs. MORELLA. Yes, indeed, I yield to the gentleman from California.

Mr. DeFAZIO. I thank the gentlewomen from Maryland for yielding.

Mr. Chairman, I would just like to reflect on the remarks of the gentlewomen from Maryland [Mrs. Morella], that I too am the son of imigrant parents, as she is the daughter, and I appreciate the opportunities afforded me by my Nation. One of those is, of course, the opportunity to work, which many Americans still lack who want gainful employment. On this day that the gentlewomen is supporting, who is it that will have the day, just Federal employees who will have the day off? That is my understanding.

Mrs. MORELLA. Within our jurisdiction we have only the Federal Government. We just do not have purview over what each individual State does. Some States do reflect or mirror their Federal Government.

Mr. DeFAZIO. On the other days the gentlewomen mentioned, Memorial Day or July 4, it is generally a holiday celebrated by all Americans, is that correct?

Mrs. MORELLA. Not necessarily, because, as a matter of fact, Memorial Day, we celebrate Memorial Day with the movable Monday feast. Many States celebrate on May 30, the actual day. We have lost significance of those days for just that reason. This is one day that is specifically set aside, it is a Thursday, it is not a Monday, so it is a special day.

Mr. DeFAZIO. But how many Federal employees does the gentlewomen from Maryland believe will return to work on Friday, having observed the appropriate activity on Thursday, which generally I do not believe will be the educational activities that we want, would so much like to promote. I would suggest if we kept the people at work, asked them to read and study and perhaps discuss the Constitution of the United States, it would be a more appropriate day and we would get more Federal employees to observe it rather than having them go to the beach or engage in other activities which are not particularly appropriate.

Mrs. MORELLA. If the gentleman will vote for this bill, I will promise him that there will be no lack of people showing up in the Federal Government to work on that particular Friday. I have confidence in the Federal Government and the fact that these are the people who make America work. We tend to not give them the recognition they deserve. They are all over, they are doing all these things for us.

Mr. DeFAZIO. I thank the gentlewoman.

Mrs. MORELLA. And this would show that we have faith in them, and I think this is something else that is significant.

Mr. Chairman, I yield the balance of my time to the gentleman from Illinois [Mr. Crane].

The CHAIRMAN. The Chair will advise the gentlewoman from Maryland that all time on her side has expired.

The Chair would advise that the gentleman from Michigan [Mr. Ford] has 2 minutes remaining.

Mr. FORD of Michigan. Mr. Chairman, I yield my remaining time to the gentleman from Illinois [Mr. Crane].

The CHAIRMAN. The gentleman from Illinois [Mr. Crane], is recognized for 2 minutes.

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. CRANE. I yield to the gentleman from Michigan.

Mr. FORD of Michigan. Mr. Chairman, I would like to observe that for many years it has been very rare that you see Bill Ford and Phil Crane on the same side of an issue, and if that is not the litmus test of the value for what we are trying to do, nothing is.

Mr. CRANE. I agree, although I think there are probably many other areas that the gentleman from Michigan and I agree upon, but let me say one thing in reference to some remarks that were made earlier here about the economy. I will challenge any Member of this body to exceed my national taxpayers' unon rating any and every year I have been here, which is not to say that I may end up on top, but I will challenge all, because had all of my votes prevailed since I have been here in 18 years we would have been running budget surpluses and not budget deficits. We are talking about so modest a figure and with such significance attached to it that this is one of those areas where I think every one of us in this Chamber should be rallying behind these observances that we are proposing.

Let me hearken back to last weekend in Philadelphia and our distinguished colleagues from Philadelphia certainly showed us sights in that magnificant town that I have never been aware of. I have always subscribed to the W.C. Fields' estimate of Philadelphia, that he supposedly has on his epitaph, "Better here than in Philadelphia."

Those trips for me were quick in and outers until this weekend. I discovered the wondrous charms and the beauties and historical significance and it was an eye-opener not just for me. It was I think for every one of us who made that trip. It was an appetite whetter. Sad to say, we did not have enough time to take in all of the many historic spots and to properly savor them. We will be back on September 17. The President will be in Philadelphia then, and probably since every Member of this body has received an invitation, probably the overwhelming majority of the Members of this body will be back in Philadelphia on September 17. We are there for an appropriate observance with not just the President, Chief Justice Burger and all the members of the Bicentennial Commission. In addition to that, let me hearken back to what our distinguished ranking minority Member from Maryland said.

We are the only people who work on the Fourth of July. We, Members of Congress, politicians. Everybody else is celebrating the Fourth of July, but for all of that, as the gentlewoman from Maryland [Mrs. Morella] indicated, July 3 fell on a Friday so we provided a national holiday. Let me just conclude, Mr. Chairman, by saying in that precious Preamble those Founding Fathers intended to secure unto themselves and their posterity the blessings of liberty. Let us carry forth with that grand tradition, provide this one-time national observance and, God willing, a century hence at the tricentennial they will look back and thank us all for it.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the committee amendment in the nature of a substitute, now printed in the reported bill, shall be considered as an original bill for the purpose of amendment. Each section shall be considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the United States Constitution is the cornerstone of our system of government under law;

(2) September 17, 1987, marks the bicentennial of the signing of the United States Constitution;

(3) the bicentennial of the signing of the United States Constitution serves as a reminder and a celebration of the rights, privileges, and responsibilities of citizenship;

(4) the United States Constitution is an inspiration in the pursuit of freedom and justice for individuals all over the world;

(5) the United States Constitution significes the importance of the rule of law and affirms our dedication to freedom and justice; and

(6) the United States Constitution provides the framework for our law, our spirit, and our beliefs as a Nation.

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. DESIGNATION.

September 17, 1987, is designated as "Constitution Day".

The CHAIRMAN. Are there any amendments to section 2?

If not, the Clerk will designate section 3.

The text of section 3 is as follows:

SEC. 3. TREATMENT AS A LEGAL PUBLIC HOLIDAY.

The date designated by section 2 as Constitution Day shall be treated as if it were a legal public holiday under section 6103(a) of title 5, United States Code, for purposes of—

(1) any statute relating to pay or leave of employees (as defined by section 2105 of title 5, United States Code);

(2) section 15(a) of the Federal Contested Elections Act (2 U.S.C. 394(a)); and

(3) any other provision of Federal law.

AMENDMENT OFFERED BY MR. UPTON

Mr. UPTON. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. UPTON: Strike section 3 and insert the following:

SEC. 3. TREATMENT AS A NATIONAL DAY OF RECOGNITION.

The date September 17 each year shall be designated as Constitution Day in section 2 and shall be observed as a National Day of Recognition and the people of the United States shall be encouraged to observe the day with appropriate ceremonies in schools, public and private work places, churches, and other suitable places.

Mr. UPTON. Mr. Chairman, I rise today to offer an amendment to H.R. 157, a bill to designate September 17, 1987, as a one-time legal public holiday to honor the 200th birthday of the U.S. Constitution.

I strongly support an appropriate commemoration of the 200th anniversary of the signing of our Constitution. The purpose of my amendment, however, is to strike the clause in this bill which gives a legal day off of work to ourselves and all other Federal employees.

Mr. Chairman, I would like to begin by commending the sponsors of this legislation, as well as the members of the Bicentennial Commission for their fine work in planning this celebration. The work of Chief Justice Burger and the Members of Congress associated with this celebration has served to focus well-deserved attention on both the merits of our constitutional system.

Our Constitution, in its relatively short history, has proven to be a living, breathing document of unsurpassed excellence and international renown. During good times and bad, the uniquely American principles of this document have guided us throughout our country's relatively short history. Despite occasional imperfections, no document in the history of mankind has ever served a country so well. Clearly, a day of recognition to commemorate this celebrated document is merited.

I have a great deal of trouble, however, in believing that Federal workers like ourselves actually deserve a paid holiday to celebrate this event. Mr. Chairman, we all realize that the Constitution is a working document. If this is true, does it really make sense to celebrate a working document by taking a day off work?

In my opinion, Federal workers should feel privileged to work on the 200th anniversary of the Constitution. Hard work is the building block of our great Nation—not paid vacations that seem to regularly crop up when our country nears a notable point in history. We should encourage Federal and non-Federal employees to participate in programs in our workplaces and schools to commemorate this day—rather than encourage them to participate in a day of folly.

Furthermore, I am concerned about what this says about the U.S. Congress as an institution. Many of us hear complaints from constituents about the work habits of our body. To them, it seems that Congress is seldom in session; and when we are working—we accomplish very little. Mr. Chairman, what are these same people going to say when we give ourselves, as well as the entire Federal Government, another day off? Only 3.9 percent of U.S. workers are employed by the Federal Government. If the farmers, doctors, nurses, and small businesspeople we represent still must work, why shouldn't we? What makes Federal workers so special?

If that argument alone does not strike home, then perhaps we should consider the effect of this legislation on the Federal deficit. In that vein, I would like to ask each of the Members of this body to ponder the following question: Is another day off really worth the loss of Federal funds and productivity that this bill will cause?

Many of us have seen the conflicting cost estimates for this proposed holiday. The Office of Management and Budget [OMB] calculates that H.R. 157 will cost the Federal Government over $330 million. The Congressional Budget Office [CBO]—ignoring the fact that work not done this day will have be made up at a later date day—says it will cost only $3 million.

In my mind at least, this method of calculation simply is not justifiable. Everyone knows that the work we miss when we go on vacation will unfortunately have to be made up later on when we return; to not calculate this fact in the cost estimate is to misrepresent the true fiscal effect of this bill.

We can debate the exact cost of this measure from here to eternity, but the point is that an additional Federal holiday will clearly add to our deficit. Given our current budget deficit, is that what we really want?

What kind of example does this set for the American people. I say it is just another case in which Congress talks tough about cutting the deficit, and then resorts to the same old irresponsible spending practices of the past.

In summary, Mr. Chairman, I believe that the 200th birthday of our Constitution is worthy of recognition and celebration. We should absolutely encourage the Federal Government and its employees to participate in programs which commemorate this special period in our Nation's history. Contrary to much of what has been said, these programs can still take place in our schools, our homes, and our places of work. What Federal workers cannot do, however, is sit home and watch TV, go to the beach, or any of the other things the vast majority of them will inevitably do if given the day off.

If we are truly convinced of the need to dedicate our Nation's resources to this project, let us do it wisely. Let us teach ourselves, our children, and the entire world about this living testament to the hard work, wisdom, and foresight of our Founding Fathers.

We are paid by Mr. and Mrs. U.S. Taxpayer to work. In addition, many of us were sent to Washington by constituents who elected us to get the deficit under control. Mr. Chairman, we accomplish neither by taking another paid vacation. I urge my colleagues to vote to amend H.R. 157 to provide for a well-deserved, yet responsible, celebration of the 200th birthday of our Constitution. I truly believe that our Founding Fathers would want it no other way.

□ 1400

Mr. FORD of Michigan. Mr. Chairman, I move to strike the last word and I rise in opposition to the amendment.

Mr. Chairman, the gentleman from Michigan is a dear friend of mine and a colleague, someone who I admire very much and certainly respect not only as a fellow Member but as a fellow Michiganite.

I look forward to him having a long and very successful career in this body. But in the softest way possible, as a friend and as sympathetically as I can offer it to him I want to give him a little advice:

This is my 23d year as a Member of Congress from Michigan. I would suggest to the gentleman, if he regards a patriotic holiday as a day off, that his career is not going to be as long as mine has been. I have never had a day off on a patriotic day since I have been here, because there are plenty of things that folks want me to do and expect me to do, to be a leader in my area.

On the Fourth of July you will find me at the head of the parade, making speeches.

On Memorial Day, I might say that it becomes a whole weekend of Memorial Day functions in my area, and I have functions that go on from Friday through Monday.

Of course, Easter, Christmas, Thanksgiving are different.

But people do expect that we will be visible to them and we will be back with them on this day. I suspect that even if this was not a national holiday that most of us would be responding to requests to be back in our own States, in our own district, occupying a position of leadership and urging the American people to understand the importance of this event.

Now as to the merits of the gentleman's amendment, let me point out that in about the last year and a half or 2 years we have passed over 250 commemorative resolutions. The gentlewoman from Maryland mentioned National Asparagus Day, we have a National Catfish Day, we have National Mule Appreciation Day and we have a lot of other days that to some people, someplace in this country are important enough so that the Congress pauses in its busy schedule and takes the time—at no little bit of expense, I might say—to pass a resolution that goes to the other body, gets passed and is signed by the President.

I was chairman of this committee for a number of years before I discovered that if you check the books you will find that Ronald Reagan has signed more joint resolutions passed by me as chairman than all of the other chairmen in both bodies combined.

The reason for that is that all of these resolutions do get signed, just like a law. They are afforded that level of dignity.

But that is a level of dignity that now has a clear implication of simply being something that would be offered.

I recall that the same argument came up when we debated the Martin Luther King holiday, the first time we were on the floor. It got so contentious that, you may remember, we had to pull the bill off the floor.

When we came back the second time with it, it passed overwhelmingly and we did not have similar proposals made.

It was well recognized that when it was suggested in conjunction with Martin Luther King's birthday that it was a real insult to a substantial part of the population of this country to suggest that we were going to commemorate this day in America with something less than a legal holiday.

Now I would like to point out that what the gentleman is doing is already the law. If you will look at the code you will find the following language:

> The President of the United States is authorized and requested to designate the period beginning September 17 and ending September 23 of each year as Constitution Week and to issue annually a proclamation inviting the people of the United States to observe such week in schools, churches and other suitable places with appropriate ceremonies and activities.

That was signed into law by a great President named Eisenhower on August 2, 1956. And every President, starting with President Eisenhower, since then has annually complied with the direction of this law and issued the necessary proclamation to make the week of September 17 through the 23d Constitution Week.

Now that is something more than the gentleman now wants to offer the people on the 200th anniversary. We do annually something more than the gentleman is offering; a whole week if you will for the schools to direct their attention. That week will be in place this year as well.

Frankly, as I heard our colleague talking as if he was in the Convention looking forward, he finished up, as I recall, by saying, "And we can look forward to 200 years from now a Congress thinking of how to properly celebrate this great event."

The CHAIRMAN. The time of the gentleman from Michigan [Mr. FORD] has expired.

(By unanimous consent, Mr. FORD of Michigan was allowed to proceed for 1 additional minute.)

Mr. FORD of Michigan. I do not think the Founding Fathers would be very proud if they could watch us on televison today and see this kind of a penurious disagreement in the question of whether or not we wanted to honor this 200th anniversary.

Gentlemen and ladies, it is penurious. We are talking about maybe $3 million. We waste more than that with quorum calls around this place, for no good purpose.

And if, indeed, for $3 million we could get a good recognition of the importance of the Constitution, and I thought that $3 billion would give us a better appreciation of the Constitution, I would be supporting that.

I think we demean this House, we demean the institution of the Congress and we demean the Constitution itself by quibbling over a few dollars of expense.

The real issue is whether or not we think the 200th anniversary of this magnificent document and what it stands for is worthy of a day of pause in the business of this country as reflected through its National Government to honor it as a holiday equal to the holidays that we have when people do indeed go to the beaches.

In your State and mine, I would suggest to you all the beaches are closed along Lake Michigan by September 17.

Mr. SOLOMON. Mr. Chairman, I move to strike the requisite number of words and I rise in support of the amendment and against the bill.

Mr. Speaker, I rise in support of the gentleman's amendment and against the bill because the gentleman's amendment would create a national recognition day for this great Constitution of ours as opposed to a one time legal paid holiday for a group of Federal employees that does not even include the Postal Service.

I have the greatest respect for the chairman of the subcommittee, the ranking member of the subcommittee and the sponsors of the resolution, because I know they love their country, they love this Constitution as much as I do. But I can recall 35 years ago this month that I took off a marine uniform, put on civilian clothes and I pinned this American flag in my lapel and I have worn it ever since.

I guess I have traveled in those 35 years all around this great country of ours, throughout the world and I guess I have given away probably 1,000 of these American flags to people in foreign countries. I can recall the last time I did that I was in a place called Hanoi in Vietnam. I was there as the chairman of the POW/MIA task force. I was doing something that was rather humiliating to me and that was sitting across the table from Communists and almost begging them to return the remains of our soldiers and perhaps even some who may be still alive, to let them come back to America.

That was sort of demeaning. But I had an opportunity at that time sitting across from the Deputy Foreign Minister Han Bich Son and I had a copy of the Constitution of America and I was talking to him, after looking at the faces of these people where there was total dispair, there was no hope, there were no jobs. There was no economy, and if you want to see the difference between communism and democracy, let me tell you it was right there across from this table.

Even those people we were negotiating with had no faith in their own philosophy.

I showed them this Constitution, give him an American flag and invited him to come to America and see what this country is all about.

The reason I say that is because I just do not think that a one-time paid holiday really does justice to what we want to do.

I am the father of five children, mostly grown, two grandchildren and I would hope that next year on September 17 and 5 years from then, 10 years from then, that the teachers in our schools would show the Constitution and would teach our young people what it is all about and tell them that, yes, this is the 200th year and the 205th year and the 210th year.

I think that is what we ought to be doing here today. I do not blame any of you for voting against the gentleman's amendment. I certainly do not blame you for offering the resolution, because your hearts are there, you love America, you love this great Constitution.

Mr. FOGLIETTA. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I would be glad to yield to the gentleman from Pennsylvania [Mr. FOGLIETTA].

Mr. FOGLIETTA. I thank the gentleman for yielding.

Mr. Chairman, in all due respect to the gentleman I really appreciate his words this afternoon but I would like to know whether the gentleman is aware of the fact that title XXXVI of the United States Code, section 153 states that the 17th day of September of each year is "hereby designated as Citizenship Day in commemoration of the information and signing on September 17, 1787, of the Constitution of the United States of America."

It is already legally a day of commemoration in this Nation.

Mr. SOLOMON. I appreciate the gentleman pointing that out. I am very aware of that.

Yet on my school calendar that I saw the other day it did not even appear on the calendar. This gentleman's amendment makes it a national recognition day. I would hope that in the future everyone would celebrate this and not just this year, not just during September 17. Again, I know the gentleman means well, certainly he is a great American. I just think at this time when we are suffering under tremendous fiscal restraints—I, as ranking Republican member on the Committee on Veterans' Affairs, have had to make cuts in the veterans' appropriations that is coming out of the Appropriation Committee to meet our budget resolution which we all are bound to live by—I do not think we ought to be spending more money at this time when we can accomplish the same thing and do it for posterity as opposed to just this one day.

The CHAIRMAN. The time of the gentleman from New York [Mr. SOLOMON] has expired.

(On request of Mr. FORD of Michigan and by unanimous consent Mr. SOLOMON was allowed to proceed for 2 additional minutes.)

Mr. FORD of Michigan. Mr. Chairman, will the gentleman yield?

Mr. SOLOMON. I would be glad to yield to the gentleman from Michigan [Mr. FORD].

Mr. FORD of Michigan. I thank the gentleman for yielding.

Mr. Chairman, I know of the gentleman's fierce loyalty to this country and his patriotic zeal. I wonder if he, as I have had to on occasion, looked at title XXXVI of the United States Code which deals with patriotic societies and observances. If you would look at that section 174 of that law you will find that it says with respect to the flag, after setting forth the Pledge of Allegiance and other matters dealing with the flag, when and how it should be displayed, that the when it should be displayed section includes this: "Particular days of display," and it gives all of the days during the year in which by statute Congress has designated that the flag should be displayed. That means as a matter of fact that governmental agencies are required to display it on that day. You will find listed in there September 17.

Now I have to confess that while I do put my flag up for the Fourth of July and I put it up when I am home for Memorial Day and other similar events, I have never taken the trouble before leaving the house to run the flag up on September 17.

I am going to be more careful in the future. If that little lesson that I have learned would spread out across the country it would be well worth $3 million in expenditure. Does the gentleman agree?

Mr. SOLOMON. I certainly agree.

The gentleman is certainly one of the most patriotic Members of this House and we all appreciate that.

Let me just say in closing, ladies and gentlemen, that, you know, if the Speaker were to decide there would not be a session on September 17 and allow some of us to go up to Philadelphia, I would invite you beyond that to come on up through the Hudson Valley, that is where the Battle of Saratoga was fought, that is where I live up in Lake George. The fall scenery should be changing about that time.

Come on up and see one of the most beautiful places in America that this Constitution permits.

□ 1415

Mr. McMILLAN of North Carolina. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. McMILLAN of North Carolina. Mr. Chairman, I rise in support of the Gradison-DeFazio-Upton amendment to strike the requirement for another paid Federal holiday.

Aside from the fact that it is too expensive to the American taxpayer—OMB puts it at $332 million in lost work time—H.R. 157 serves to highlight the fact that we have enough Federal holidays already. We do a great disservice to the draftsmen of the U.S. Constitution who worked so hard to bring forth this great document by asking everyone to take the day off with pay to celebrate. Perhaps if one of those great men were here today, they would insist that we work overtime without pay to guarantee what they established, as the gentlewoman from Louisiana pointed out.

After the Constitution was signed on September 17, 1787, a woman by the name of Mrs. Powel confronted Benjamin Franklin on September 18 with the following question: "Well, Doctor, what have we got? A republic or a monarchy?" To which he replied, "A republic, if you can keep it."

Can we keep it? Are we really doing a service to this Nation by shutting down the Federal Government in the middle of the week on September 17 and wasting millions of taxpayers' dollars? Would our forefathers, Madison, Franklin, Jefferson, and Washington be proud of the 100th Congress for requiring another paid vacation day for Federal employees? I think not.

There is one valid argument that the supporters of H.R. 157 have pointed out. They say the Federal Government could save up to $4 million in utility costs by closing all Federal offices on September 17. If we want to truly emulate our Founding Fathers, then why not shut off all of the air-conditioning and other modern conveniences and require Congress to meet on September 17 in exactly the same conditions as the delegates in 1787? I would submit that we would accomplish more work in a shorter amount of time and might save the taxpayers up to $4 million in utility costs.

We could then earmark that $4 million to reduce the Federal budget deficit.

I urge your support of this amendment and I ask you to oppose any unnecessary waste of the taxpayers money to celebrate what is truly one of the great days in our history.

Mrs. BOGGS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the Bicentennial Commission for the U.S Constitution's bicentennial celebration is a Presidential Commission authorized by the Congress, and it is made up of 23 of the finest citizens of this country who, of course, serve long, hard hours at their own expense and who travel at their own expense. Among them are many, many scholars of the Constitution and of the framers of the Constitution. They have agreed unanimously that Madison and that Gouverneur Morris and George Mason and all of the members who were there as framers of that Constitution, all of the delegates there assembled, would indeed approve of having this one-time legal holiday.

I would like to read to the Members from the First Report of the Commission on the Bicentennial of the U.S. Constitution to the Congress of the United States:

September 17, 1987.

Two Hundredth Anniversary of the Formal Signing of the Constitution and the Adjournment of the Constitutional Convention

Delegates of all twelve States represented in Philadelphia voted to approve the Constitution. Thirty-nine of the forty-two delegates present signed the engrossed copy, and a letter of transmittal to the Continental Congress was drafted.

September 17 has traditionally been celebrated as "Constitution Day." The Commission supports the creation of a one-time National Holiday on this date and considers it the appropriate date for the main observance during the 1987 Bicentennial year. This day should involve special programs across America.

CONCLUSION

The Commission believes it has rightly discerned the governing intent of Congress in establishing it—namely, that primary emphasis should be placed on the educational opportunities afforded by the Bicentennial of the United States Constitution. The most lasting honor we can bestow upon the generation that gave us our form of government is to foster among the people of the United States a just appreciation and a clearer understanding of their Constitution. We will make every effort to carry out this mission.

Respectfully submitted,

Warren E. Burger,

Chairman of the Commission on the Bicentennial of the U.S. Constitution.

I submit, Mr. Chairman, that a one-time national legal holiday is what the Bicentennial Commission of the U.S. Constitution firmly believes is the very best way of paying tribute to our Constitution and to the Nation which it established.

Mr. SCHEUER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am a cosponsor of this bill. But now as I reflect on it, I think it is a bad idea, and I think we are sending the wrong signal to the American public.

I venerate the Constitution. All of us do. There is not a man or woman in this Congress who does not venerate this Constitution. It is the beginning and the end of democratic government as we know it. But surely to venerate the Constitution we do not have to give a holiday to millions of Federal workers.

Surely if we care about the Constitution and we want to immerse ourselves in the Constitution, the way to do it is perhaps not to take a day at the beach but to think about it, to engage in common activities and discussions where we celebrate the Constitution together. That is a meaningful activity; it is not a day off at the beach.

I do not know whether this bill is going to cost $20 million or $322 million. Money is fungible. We give employees a day off, and somehow or other their work has to be made up. It is a fuzzy question. But whatever it is, if we care about the Constitution, let us have $20 million or $322 million of public service television and radio programs. Let us invest some more money in school programs so our school kids will further understand the richness and the wonder of this Constitution that has led us through 200 years of history.

The omnibus drug bill came to this floor, and we provided $250 million for drug education. The administration only found it in its heart to provide $100 million. I would rather see that $150 million put back into drug education than spend it providing a day at the beach for millions of Federal employees. I say to my colleagues that we are sending the wrong signal.

The problem with our country is that we are becoming a soft society, an indulgent society. We have got to become a lean, mean, and hungry society if we are going to be successful, if we are going to compete, if we are going to be a competitor in global commerce. We have to work more, not less; we have to study more, not less. Our school kids lose several months a year in study compared to Japanese school kids. And overtime counts.

In the fullness of time, 1 day of Federal vacation that will never be repeated is not going to be a very significant event. It is not terribly important. It is a one-time expenditure, but it is a wasteful expenditure. It is an indulgent expenditure. It is not a productive expenditure, even from the point of view of venerating the Constitution, which we do by thinking, which we do by talking to each other, which we do by learning and by exchanging thoughts. We do not do that by taking a day at the beach.

So, Mr. Chairman, I suggest that I was wrong and I was thoughtless when I went on this bill. I regret having done it, and I hope this substitute, which provides the opportunity for thought and collegiality and thinking about the wonders of our Constitution, will be approved. I urge my colleagues to support the substitute.

Mr. DORNAN of California. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the amendment.

Mr. Chairman, like the speaker before me, I did not think this issue through properly when I encouraged my young colleague, the gentleman from Michigan, to go ahead with a cost-cutting measure. I encourage all the new Members around this House to find ways to cut costs, but I think I made a mistake in encouraging the gentleman from Michigan because I now rise in opposition to this amendment.

I would like to endorse in advance the 300th anniversary of the Constitution, so that it be a Federal holiday, although none of us will be around. Why? Because no nation in the history of the Earth has ever made the 300-year mark with a free people. If all of us had been alive 100 years ago for the 100th centennial, of course, we would have endorsed it because there were bets being made all around the world, particularly among the then royal families, that we would never make a century.

So let us look at this one in between. How many of us have heard in school that hardly any country in history has reached 200 years as a republic with a constitution that is revered? We are the first. We are the oldest existing ongoing republic with a democratic form of government, with a solid Constitution, in history. Of course, it is worth a Federal holiday for people, if they want to repair to the beach to renourish their souls, even if they only read the Preamble and realize that they have a day off from the sweat of their brow to think about what a great country this is.

Mr. Chairman, I have two very special reasons. One is that, God willing, I will be a grandfather for the sixth time on September 17 of this year. My oldest daughter, Robin Marie Griffin, will soon deliver a Gavin Griffin or an Erin Griffin. This will be her third cesarean. She had a choice of 4 or 5 days, including the 40th anniversary of my Air Force commission the day after the Constitution's birthday. I said, "Robin, that little boy or that little girl will thrill if they ever follow in their grandfather's footsteps in this Chamber and know that their birthday was the 200th birthday of the country."

My final reason—and I know this is getaway Thursday—is my younger brother is not known as Congressman Bob Dornan's brother. Everybody for 20 years that sat in his classroom as an American history student in junior high school calls me Dick Dornan's brother. He has been selected by the school system at Los Angeles, at their expense, taxpayer expense, to come back to represent his students and the teachers of Los Angeles to Pennsylvania on that fateful day, the 200th anniversary of this Constitution.

□ 1430

For my daughter, Robin, for my schoolteacher, my American history teacher, Richard Malcolm Dornan, and for the fact that 200 years is so rare, let us have this holiday and look for other ways to save our great Nation and our taxpayers money.

Mr. WALKER. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendment.

Mr. Chairman, this debate is not about whether or not we love the Constitution. Obviously, every Member of this body does. Every American does.

This debate is not about whether or not Philadelphia is a nice place to visit. Those Members who got a chance to spend last weekend there as a part of the bicentennial gatherings know that it is a nice place to visit. It is not about whether or not each of us is lucky to be alive on so momentous a day in history when we celebrate the 200th anniversary of the Constitution.

All of us are very fortunate to have seen 200 years under this document live for us on that anniversary.

It seems to me the debate, though, is really in that it is about what OMB tells us is a $332-million expenditure that is going to have to be made in order to make this particular holiday come about; $332 million is a lot of money.

It represents the entire tax payment of 100,000 average American families; 100,000 average American families will pay every dime of their taxes this year, so that we can have a holiday for Federal employees.

Is that right? Is that what the Constitution is really all about? That is 250 families in every one of our congressional districts. Are there 250 families in every congressional district that think that what we ought to do in order to celebrate the anniversary of the Constitution, what we should do is give the Federal employees a day off from work?

I would suggest we already give Federal employees a fair number of vacation days. If they feel they want to celebrate the birth of the Constitution by utilizing one of their vacation days, fine.

My guess is that this body will make a determination that we are not going to be here that day. My guess is that, because there is going to be celebrations in Philadelphia, that probably we will not be here, and Members will be given a chance to go to Philadelphia.

I just wonder whether or not 100,000 American families think that this is an appropriate way for their money to be spent with regard to the Constitution.

What we have heard is that to do less would be wrong, that a commemorative day is not enough, that commemorative days we have depreciated, so that is a meaningless exercise.

To some extent what we have heard is, what we have done before, we have had the United States Code quoted to the Members a few times, that what we have done before was not sufficient.

We were not sufficiently meritorious in the past in what we have proclaimed for Constitution Day. I suggest that we have been sufficiently meritorious in the past, that we do not believe the Constitution is important, and the fact that we in this body have depreciated commemorative days ought not be a reason not to regard this as a commemorative day.

The fact that we have said in the past we are going to have National Asparagus Day or National Mule Week, I do not think we ought to pass that bill on to the American taxpayer.

We are being told in the arguments here today that the only way that we can have a worthy celebration is for it to cost a bunch of money.

I do not like that precedent, and I do not think it is a precedent that we ought to get comfortable with.

One hundred years ago some of our forefathers also had a similar anniversary. They probably thought it was very, very important to celebrate the 100th anniversary of the Constitution.

That is a very important date, too, the centennial celebration. Did they take a day off? Did they declare a Federal holiday? No, no; they did not.

I do not think we should either. Support the gentleman's amendment. It is the right way to go.

Mr. FRENZEL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I am a little surprised that the House is taking up this particular resolution. It was destroyed the last time it was before the House of Representatives by a 2-to-1 vote.

No one expects it to be enacted in its current form, and yet the House is being put through the hoops one more time, because of somebody's urge to give an extra holiday.

It is very strange to me that this House, whenever it wants to make a historical remembrance or to confer an honor upon some individual or recollection, we decide to give another paid holiday to the Federal work force.

The Federal work force is one against which I carry no prejudice; but it is, at least in terms of holidays, a very significantly privileged group which now, I believe, receives 10 paid holidays compared to the rest of the work force getting considerably less.

I happen to be a Federal employee, so I am one of those privileged few as well, and I do not think I deserve a day off with pay, nor do I think anybody else who works for the Government does, in honor of the Constitution.

There is not anybody in this House, or perhaps anybody in America, that does not honor the Constitution and look for a fitting way to remember the 200th birthday of the Constitution; but it always seems strange to me that we have to give people a day off.

We do not, for instance, consider devoting the $332 million to scholarships for students who might work in the field of constitutional law or constitutional history. We do not give prizes to people who will write historical treatises about the Constitution, make movies about it, raise memorials to it, create works of sculpture to it. No, instead we have got to give a day off to our friendly neighborhood bureaucrat. That is the silliest way to do honor to our Constitution that I can conceive of.

I would hope that on the 300th birthday of the Constitution, a really enlightened Congress would say let us have a day off work to honor the Constitution; that is, to honor those people who gave that extra measure to absent themselves from their families and their workplaces to go to Philadelphia to produce this extraordinary charter under which this country has prospered economically, culturally, politically for 200 years.

For the Members to stand here and say now that we must give this very select few, this privileged elite, a day off to give any kind of proper respect to the Constitution is in my judgment making all of the Members look foolish to our constituents.

We, of course, are passing on as a part of that long human chain of history the Constitution to our children. Lately, however, we have begun to pass on something else; and that is an enormous public debt.

Here is a couple of million dollars at least that we do not have to pass on to our children; and as we direct their attention or invite it perhaps to the Constitution and its glories and its development, we can say as we would like you to follow this Constitution, we are not going to lard on top of it an extra layer of pork for this select privileged crowd, and we will just ask you to think about the Constitution in its own right without having to think about giving away millions of dollars to this elite group.

Mr. Chairman, I think that the amendment which has been submitted by the gentleman from Michigan [Mr. UPTON], the gentleman from Oregon [Mr. DEFAZIO], and the gentleman from Ohio [Mr. GRADISON] is the only way in which this House can take the raw stuff that we have before the House, the resolution, and make it into anything responsible or reasonable.

☐ 1440

If we do not adopt that amendment, not only will we be required to stay here a little longer while we vote some more, but also we will not have a bill that is actually passed and enacted.

Mr. Chairman, I urge the adoption of the amendment, and if not, I urge the powerful defeat, as we have done before, of the basic resolution.

Mr. DEFAZIO. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment. I do not rise to speak against Federal employees nor the fact that they perhaps could well utilize another day off. I came to this body, having been a county commissioner. As a county commissioner, we suffered tremendous cutbacks in our budgets, in the number of our employees, and we had very long and very fervent discussions about how much time we could allow our people to take off about sick leave and that. It was not because our people did not work hard and they did not deserve more time off. The fact was there was a workload and there was work that had to be done and they were already overworked and if they had another day off, the work was just going to slip that much further behind.

I suggest that we have the same problem here with the Federal Government. I have constituents who have waited nearly a year, 1 year, disabled people, truly disabled people, to get a decision from Social Security on whether or not their disability checks which they have paid for and they have earned will come to them and they are going to wait a little bit longer if we have another Federal holiday, another day when the people who are processing so slowly that claim or those many claims have to take the day off and not get that work done.

My veterans, if we are going to talk about people who have earned a day off or people who have given so much to their country, let us talk a little bit about our veterans, the millions and millions of our veterans who are deserving of benefits from the Veterans' Administration, again many of whom are waiting now for their claims to be processed, their disability upgrades to be handled, or to be admitted to a hospital. They are on a waiting list for some surgery or to get into one of our VA hospitals.

The FAA is behind in its safety inspections. We are reading day in and day out about problems with safety in the air, whether of not the equipment is safe. Should we give the Federal Aviation inspectors, the safety inspectors who are so far behind in their work, another day off? I do not believe that we can afford another day off for those people.

No, the solution is before us. It is to adopt this amendment. Let us recognize the Constitution with a special day of recognition at no cost to the Federal taxpayer, at no cost to the people who need services from the Federal Government, the people who are waiting now, and have our employees gather at work and in other places, discuss the Constitution, read the Constitution, observe other special activities, but not another paid holiday.

Mr. PARRIS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment, and I consider myself a fiscal conservative. I generally vote that way.

This House recently adopted a $1 trillion budget. The few million dollars that we are talking about in personnel costs here, it has been suggested there is a $300 million direct cost to the Federal Government, is totally fallacious.

This amendment is a great deal to do about nothing. We are spending $1 trillion a year. We want to have 1 lousy day for this purpose, and everybody gets all excited about it.

Let me take exception to the characterization of the purpose of this day as a day off, as a holiday; rather, in my view, this is an opportunity to encourage employees everywhere, including Federal employees and their families, to contemplate the tradition and the history and the foundation of this magnificent Nation and to hopefully attend patriotic celebrations throughout this land.

Now, I had planned, Mr. Chairman, to share with my colleagues a recent example of Americana in which I played a small part later in these proceedings today; but in view of this debate and the consideration at this time of this amendment, I would like to share it with you now. It is in my view an example of what the Constitution is all about.

Last Saturday I was invited to and I did make a talk to the American Legion, the District of Columbia Department, 69th Annual Convention, July 18 in Rosslyn, VA, right across the river. At that time there was a reading by a Mildred Dreyfuss, master sergeant retired, U.S. Army, U.S.S. Jacob Jones Post No. 1. This lady is an 88-year-old former member of the armed services of this Nation who served in World War I. She got up at this American Legion convention and she said the following things:

I AM THE NATION

> I was born on the 4th of July 1776, and the Declaration of Independence is my birth certificate. The bloodlines of the world run in my veins because I offered freedom to the oppressed. I am many things—and many people. I am the Nation.
>
> I am 250 million souls and the ghost of millions who have lived and died for me. I am Nathan Hale and Paul Revere. I stood at Lexington and fired the shot heard 'round the world.' I am Washington, Jefferson and Patrick Henry. I am Independence Hall, the Monitor and the Merrimac. I am Lee, Grant and Abe Lincoln. I remember the Alamo, the Maine, and Pearl Harbor. I am John Kennedy and Martin Luther King. When Freedom called, I answered, and stayed until it was over, over there. I left heroic dead in Flanders Field, on the rock of Corregidor, on the bloody hills of Korea and in the steaming jungles of Vietnam. I was held hostage in Iran and Lebanon.
>
> I am the wheat fields of Nebraska, and the Black Hills of South Dakota. I am the coal fields of the Virginias and Pennsylvania. I am the Golden Gate and the Grand Canyon.
>
> I am forest, field, mountain and desert. I am the quiet villages and the cities that never sleep. I am the ballot dropped in the box. The roar of the crowds and the voice of a choir in a cathedral. You see the lights of Christmas in me, and hear the strains of "Auld Lang Syne" as the calendar turns.
>
> Yes. I am the Nation and these are the things I am. I was conceived in Freedom and God willing, in freedom will spend the rest of my days. May I possess always the integrity, the courage and the strength to keep myself unshackled. To remain a citadel of freedom and beacon of strength to the world. This is my wish, my goal, my prayer—211 years after my birth—I am the United States of America.

That is what the Constitution is the heart of. That is what this Nation is all about, and to have a day to cherish that fact is the very least this Congress can do.

Mr. KLECZKA. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment and in strong opposition to the bill.

Mr. Chairman, first of all, I would like to begin by applauding the work of the Commission. I think events like they set up, the tour of Philadelphia, the historic session back in Philadelphia, are very appropriate ways to observe the bicentennial of the Constitution.

I listened very intently to the remarks of the gentlewoman from Louisiana, and I was very impressed when she talked about the miracle at Philadelphia and the flexibility of the document we call the Constitution. All those things are very true. Those of us who support the amendment share in those comments also; but let me make it clear at the outset that those of us who vote against this legislation in its current form, those of us who vote for this amendment, are not voting on the importance or the historic value of September 17. What we are voting on, in my estimation, is an issue we use around here very often called fairness.

We were told during general debate that it would be a crime to deny an American the right to participate in activities on September 17. We were told to give us the day off so we and posterity can reap the benefits. We were told that this country should take time off to celebrate.

The truth of the matter is if this bill should pass and be signed into law in its current form, 96 percent of the work force could not be participating, for they would have to work.

Under the bill, 4 percent of the work force of this great Nation would have the time off to celebrate. Would they celebrate? That is another question.

We were told by one of the previous speakers that this elite group, and he kept using in reference to Federal employees this elite group.

While I disagree with the outcome or the basis of his statement, I share in this comments in one respect, that I think Federal employees are an elite group. The ones who I work with in my district are the people who really help my constituents, be it the Social Security Administration, the Veterans'

Administration, the Internal Revenue Service or whatever, those elite group of employees are of help and benefit to the citizens of this great Nation.

So yes, in my estimation they are elite, but I wish to make it perfectly clear that the Federal employees in my district are not clamoring for this additional day off. I do not know where the committee thinks the impetus is coming from. Surely it is not coming from the district in Milwaukee, WI, which I happen to represent.

A lot has been said today about the cost of the proposal. The proponents would lead us to believe that this proposal will cost $3 million. Well, I tell you, my friends, there are almost 3 million Federal civilian employees; so are you standing before us today saying that each of those employees gets a dollar a day? Basically that is what you are telling us.

You are also telling us that in a leap year when there is another paid Federal work day, that should cost us about $3 million.

Well, my friends, if you believe that, you believe in Santa Claus.

It is very hard to get an exact figure, but let me try to share one with you which I think is a little more than $3 million and one which is probably more accurate. I think the way to calculate this is what is the average 1-day Federal payroll? What is the Federal payroll for today? Then add on fringe benefits. Is today's Federal payroll $3 million? You know darn well it is not. I am saying it is closer to $275 million.

So, basically, that is what this legislation is going to cost.

It really surprises me sitting on this side of the aisle to listen to my friends on the right howl for the need for this legislation, and if we are in session tomorrow, these same howlers will get up and talk about the Federal deficit, they will talk about willy-nilly spending around here; but today for some reason there is this lapse of memory. Some fiscal shade has been drawn on these Members and today it is okie-dokie to spend upward of $300 million for this proposal, where there is no merit to it whatsoever.

Another Member said, "I don't get off on the Fourth of July and that is a Federal holiday." Well, you are darn right, you do not. You do not get off for Memorial Day. You do not get off on Veterans Day, because that is a day people like us have to work; but the truth of the matter is, and I have been in politics since 1968, the crowds at the cemeteries on those Federal holidays, like Veterans Day, and Memorial Day, are dwindling and dwindling and dwindling. They are out at the lake, I guess.

Let me close, Mr. Chairman, by indicating that since I was elected to Congress, our policy in my office, both in the district and here in D.C., is not to observe Federal holidays. With the exception of Christmas, New Year's, and Thanksgiving, the offices of this Member of Congress are open. Why? So I can punish the employees who work for me? No, so we can serve the people that I was elected to represent, and that includes September 17 of this year.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Michigan [Mr. UPTON].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. UPTON. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 237, noes 162, not voting 34, as follows:

[Roll No. 284]

AYES—237

Anderson
Andrews
Annunzio
Archer
Armey
Badham
Ballenger
Barnard
Bartlett
Bateman
Bates
Bentley
Bereuter
Bilbray
Bilirakis
Bliley
Boehlert
Boland
Bonker
Bosco
Boucher
Boulter
Broomfield
Brown (CO)
Bruce
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Carper
Carr
Chandler
Chapman
Coats
Coble
Coleman (MO)
Combest
Conte
Cooper
Courter
Coyne
Craig
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
DeFazio
DeLay
Derrick
DeWine
Dickinson
DioGuardi
Donnelly
Dorgan (ND)
Dreier
Durbin
Dyson
Eckart
English
Erdreich
Fawell
Feighan
Fields
Fish
Flippo
Frank
Frenzel
Gallegly
Gallo
Gejdenson
Gekas
Gilman
Glickman
Goodling
Gordon
Gradison
Grandy
Grant
Green
Gregg
Guarini
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Hastert
Hatcher
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Hubbard
Hunter
Hutto
Hyde
Inhofe
Ireland
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jontz
Kanjorski
Kennedy
Kleczka
Kolbe
Konnyu
Kyl
Lagomarsino
Lancaster
Latta
Leach (IA)
Lehman (CA)
Lewis (FL)
Lightfoot
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
MacKay
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McHugh
McMillan (NC)
Meyers
Mfume
Michel
Miller (OH)
Miller (WA)
Molinari
Montgomery
Moorhead
Morrison (WA)
Myers
Neal
Nelson
Nichols
Nielson
Olin
Ortiz
Owens (UT)
Oxley
Packard
Panetta
Patterson
Pease
Penny
Petri
Price (NC)
Ravenel
Ray
Regula
Rhodes
Richardson
Rinaldo
Ritter
Roberts
Robinson
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Saiki
Sawyer
Saxton
Schaefer
Scheuer
Schneider
Sensenbrenner
Shaw
Shumway
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Spratt
St Germain
Staggers
Stangeland
Stenholm
Studds
Stump
Sundquist
Swindall
Tallon
Tauke
Thomas (CA)
Thomas (GA)
Torricelli
Udall
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walgren
Walker
Weber
Weldon
Whittaker
Wolpe
Wortley
Wyden
Wylie
Young (AK)
Young (FL)

NOES—162

Ackerman
Akaka
Alexander
Anthony
Applegate
Aspin
Atkins
AuCoin
Barton
Beilenson
Bennett
Berman
Bevill
Biaggi
Boggs
Bonior (MI)
Borski
Boxer
Brennan
Brooks
Brown (CA)
Bryant
Cardin
Chappell
Cheney
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conyers
Coughlin
Crane
Crockett
Dellums
Dingell
Dixon
Dornan (CA)
Downey
Duncan
Dwyer
Dymally
Edwards (CA)
Edwards (OK)
Espy
Evans
Fascell
Fazio
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frost
Garcia
Gaydos
Gephardt
Gingrich
Gonzalez
Gray (IL)
Gray (PA)
Hall (OH)
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Howard
Hoyer
Hughes
Jones (NC)
Jones (TN)
Kastenmeier
Kennelly
Kildee
Kostmayer
LaFalce
Lantos
Leath (TX)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
Manton
Markey
Matsui
Mazzoli
McCloskey
McCurdy
McMillen (MD)
Miller (CA)
Mineta
Moakley
Mollohan
Moody
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Oakar
Oberstar
Obey
Owens (NY)
Parris
Pashayan
Pepper
Perkins
Pickett
Pickle
Porter
Price (IL)
Rahall
Rangel
Rodino
Roe
Roybal
Sabo
Savage
Schroeder
Schulze
Schumer
Sharp
Shuster
Sikorski
Slaughter (NY)
Smith (FL)
Smith (IA)
Solarz
Stallings
Stark
Stokes
Stratton
Swift
Synar
Taylor
Torres
Towns
Traficant
Vento
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Yates
Yatron

NOT VOTING—34

Baker
Boner (TN)
Clinger
de la Garza
Dicks
Dowdy
Early
Emerson
Gibbons
Harris
Huckaby
Kaptur
Kasich
Kemp
Kolter
Lewis (CA)
Livingston
Madigan
Marlenee
Martinez
Mavroules
Mica
Nowak
Pelosi
Pursell
Quillen
Ridge
Roemer
Russo
Schuette
Sisisky
Sweeney
Tauzin
Traxler

□ 1510

The Clerk announced the following pairs:

On this vote:

Mr. Sisisky for, with Mr. Traxler against.

Mr. Pursell for, with Mr. Madigan against.

Mr. Ridge for, with Mr. Emerson against.

Mr. MURPHY changed his vote from "aye" to "no."

Messrs. HYDE, MOORHEAD, GEJDENSON, GLICKMAN, BUSTAMANTE, RICHARDSON, PANETTA, YOUNG of Alaska, BARNARD, ROSE, SAWYER, SENSENBRENNER, and SLATTERY changed their votes from "no" to "aye."

So the amendment was agreed to.

The result of the vote was announced as above recorded.

Mr. FORD of Michigan. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. COELHO] having assumed the chair, Mr. COLEMAN of Texas, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 157) to designate September 17, 1987, the bicentennial of the signing of the Constitution of the United States, as "Constitution Day," and to make such day a legal public holiday had come to no resolution thereon.

LEGISLATIVE PROGRAM

(Mr. MICHEL asked and was given permission to address the House for 1 minute.)

Mr. MICHEL. Mr. Speaker, I take this 1 minute for the purpose of inquiring of the distinguished majority leader, the gentleman from Washington [Mr. FOLEY], the program for the balance of the week and the program for next week.

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. I yield to the distinguished majority leader.

Mr. FOLEY. I thank the gentleman for yielding.

Mr. Speaker, we have concluded the business for today. It will be my intention subsequent to this announcement to ask unanimous consent that when the House adjourns tonight, it adjourn to meet at noon on Monday next. Therefore, we are not planning for a session tomorrow.

The House will meet at noon on Monday and will consider 10 bills under suspension of the rules:

H.R. 2663, to authorize a plant stress and water conservation research laboratory at Lubbock, TX;

H.R. 2971, Uniform Cotton Classing Fees Act;

H.R. 2399, Forest Ecosystems and Atmospheric Pollution Research Act;

H.R. 2401, to extend the Renewable Resources Extension Act;

H.R. 2855, to settle Indian land claims in the town of Gay Head, MA;

H.R. 82, to amend the Merchant Marine Act to require vessels used to transport sewage sludge to be built in the United States;

H.R. 1811, Atomic Veterans Compensation Act of 1987;

H.R. 2945, Veterans Compensation Act amendments;

H.R. 2948, to prohibit the Department of Defense from purchasing any product manufactured or assembled by Toshiba America, Inc., or Toshiba Corp. for the purpose of resale of such product in a military exchange store; and

H.R. 2974, Military Retirement Reform Act Technical Corrections Act.

Mr. Speaker, any votes ordered on suspensions debate on Monday will be postponed until Tuesday, July 28. So there will be no votes on legislation on Monday.

On Tuesday, we will consider H.R. 618 to temporarily suspend the deportation of certain Nicaraguan and Salvadoran refugees, an open rule, 2 hours of debate. And then we will consider any votes ordered on suspensions debated on Monday.

On Wednesday, Thursday and Friday, July 29, 30, and 31, respectively, the House will meet at 10 a.m. and consider H.R. 1414, the Price-Anderson Act amendments subject to a rule and an unnamed House Resolution which we expect to consider to temporarily extend the debt limit.

Mr. MICHEL. Mr. Speaker, I notice that there are no appropriation bills scheduled for next week and, of course, we will be hoping to adjourn for the August recess the following week. Is it anticipated we will have some more appropriations bills to dispose of before we have the August recess?

Mr. FOLEY. Yes. It is anticipated we may have up to three appropriation bills in the week of the 4th of August.

Mr. MICHEL. I thank the gentleman.

ADJOURNMENT TO MONDAY, JULY 27, 1987

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at noon on Monday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. FOLEY. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 618, CENTRAL AMERICAN STUDIES AND TEMPORARY RELIEF ACT OF 1987

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-234) on the resolution (H. Res. 230) providing for the consideration of the bill (H.R. 618) to provide for a General Accounting Office investigation and report on conditions of displaced Salvadorans and Nicaraguans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Salvadorans and Nicaraguans, and for other purposes which was referred to the House Calendar and ordered to be printed.

GENERAL LEAVE

Mr. COMBEST. Mr. Speaker, I ask unanimous consent that all Members have 5 legislative days in which to revise and extend their remarks on the concurrent resolution, House Concurrent Resolution 164, which was agreed to earlier today.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

MINORITY ENTERPRISE ENHANCEMENT ACT

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, today I am introducing the Minority Enterprise Enhancement Act. I hope my colleagues will join me in cosponsoring this important legislation which will compliment legislative proposals currently being considered by the Small Business Committee.

All of us support enhancing the minority small business community. We made that point very clear last year by passing section 1207(a) of Public Law 99-661 which establishes a goal that 5 percent of all Department of Defense contract dollars should be awarded to firms qualifying as minority small businesses.

I am not satisfied that we are doing all we can to implement this important program. It seems clear that the SBA and the Department of Defense need further direction from Congress if we are to achieve our goals and implement fully previous congressional action.

My legislation amends the Small Business Act to provide an affirmative thrust for small, minority-owned businesses in two major areas: First, to firmly guide the Department of Defense toward achievement of the congressionally mandated 5 percent goal for small minority contracting in fiscal years 1987, 1988 and 1989; and second, to assist 8(a) firms in achieving competitive viability. Legislation will soon be considered by the Small Business Committee, and I am hopeful that the improvements contained in my bill will be favorably accepted. For the review of my colleagues, I am submitting a summary of my bill for the RECORD. I urge my colleagues to support this legislation.

PROPOSALS TO BE INCORPORATED INTO THE RICHARDSON BILL

1. Eliminate the current maximum seven year FPPT program. Replace the seven year FPPT with a ten year participation term for all firms in the 8(a) portfolio on January 1, 1987 which entered the program after April 21, 1982. In addition, a transition rule to provide an automatic three year extension past the graduation date for firms entering the program prior to April 21, 1982, which were in the program prior to April 21, 1982, which were in the program as of January 1, 1987, should be provided.

2. Adopt a temporary (effective for the three years period of the DoD 5 percent goal) eliminating the current SIC code limitations and the twenty-five percent cap on 8(a) sales beyond approved business plan levels, and raising the size standards for minority small businesses to correct the overly restrictive regulations concerning the 8(a) program.

3. Substitute the phrase "8(a) negotiated procurement program" for "8(a) set-aside program" in all statutory and regulatory language regarding the 8(a) program. This will alleviate the perception that 8(a) contracts are awarded on a no-bid basis with no controls over price.

4. Maintain the sole-source procurement method of the 8(a) program. The "8(a) negotiated procurement program" should be complemented, not replaced, by a competitive minority set-aside program, such as the program being implemented by DOD, or as proposed in the Conte bill. This complementary competitive minority set-aside program will facilitate the achievement of the DOD five percent contracting goal.

5. Allow 8(a) concerns to sell all or a portion of their businesses with SBA's knowledge and prior approval. Prohibition of the sale of an 8(a) company would be discriminatory and in conflict with constitutional tenets and basic property rights. The magnitude of the 8(a) backlog can be controlled by SBA through the business plan.

6. Institute specific procedures to ensure that the DOD small disadvantaged business (SDB) set-aside program implementing the DOD five percent contracting goal does not interfere with or diminish the use of the 8(a) program in meeting the DOD five percent minority business goal.

7. Clarify that 8(a) contracts will be counted towards the DOD five percent minority contracting goal. Specifically, SBA search letters and self-marketing by 8(a) firms must be honored by DOD.

8. Provide that Small and Disadvantaged Business Utilization (SADBU) officers, rather than contracting officers, are responsible for the determination as to whether a particular procurement will be an 8(a) set-aside or an SDB set-aside.

9. Cause DOD contracting officers' performance ratings to be tied to achievement of the 5 percent minority business goal and the effective utilization of the 8(a) set-aside and the SDB set-aside programs.

10. Provide prime contractors with additional credit when they utilize minority subcontractors to facilitate the achievement of the DOD five percent minority contracting goal.

11. Establish more objective procedures for determining fair market price, such as the proposal in the Mavroules bill. Create a Fair Market Price Determination Panel composed of SBA and DOD pricing specialists to resolve disputes over fair market price.

12. Minority firms participating in DOD procurements (through the 8(a) program or the DOD SDB program) should be exempt from DOD's onerous profit policy rules which unfairly affect fair market price.

13. Provide that six months after filing Phase I and II, which shall be filed simultaneously, an applicant for Section 8(a) shall be certified as an 8(a) firm unless for a valid reason the application is rejected by SBA.

14. Provide that ten days after submission of a complete proposal following negotiation and DCAA and Procuring Agency Approval, including all representations and warranties, SBA is deemed to have approved 8(a) contracts unless there is an objection for a specific, valid reason.

15. Provide that contracting officers shall require representations and warranties from all Section 1207 concerns at the time of submission of complete proposals including representations and warranties that the concern is at least 51 percent owned, managed and controlled on a daily basis by a socially and economically disadvantaged individual(s) and that the majority of the earnings accrue to such individual(s).

16. Provide that if the Department of Defense fails to meet its five percent goal for minority contracting by the end of Fiscal Year 1989, the five percent goal shall become a mandatory five percent requirement.

THIS MEMBER IS PROUD TO SERVE AS AN ELECTED OFFICIAL

(Mr. NICHOLS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NICHOLS. Mr. Speaker, some 12 members of the House Committee on Armed Services recently returned from the Persian Gulf where we visited with our Navy personnel aboard the U.S.S. *Fox*. For the past 40 years—with the support of Presidents from both parties—these United States have followed a policy which recognizes the need of maintaining and protecting the lanes of navigation and commerce in these important international waters in that area of the world.

The one thing that left a lasting impression in my mind during our visit to the countries of Bahrain, Kuwait, Iraq, and Saudi Arabia, was the dedicated commitment of our American sailors serving in this troubled part of the world. Then yesterday morning when I turned on the television in my office here in the Rayburn Building, a big lump came in my throat as I saw proudly cruising along side the lead tanker *Bridgeton* the proud ship U.S.S. *Fox* which is home-ported in San Diego, CA, and which carries a complement of 31 officers and 387 enlisted men.

Mr. Speaker, I was privileged to spend a little time with three enlisted members of the crew from my State of Alabama, and I would want the House of Representatives to know that this Member of Congress is deeply appreciative of the sacrifices each member of this ship makes in his commitment as a member of the U.S. Navy. Summer temperatures in the Persian Gulf are extremely high, the opportunities for recreation are at a very bare minimum, and the sailors—like sailors everywhere—miss their families back home. I am proud to serve as an elected official in a country where individuals volunteer for military service, go where they are called, and perform admirably in situations which are not always easy.

I would wish to insert into the RECORD a response which I received from the wife of EM1 Matt Strickland—a proud member of the U.S.S. *Fox* along with the remaining members and officers of this proud ship—performing their duties in this troubled area of the world:

CHULA VISTA, CA,
July 16, 1987.

DEAR MR. NICHOLS: Today I received your letter dated July 10, 1987 which enclosed a picture of yourself and my husband, Matt F. Strickland, EM1, aboard the USS *Fox*, currently stationed in Bahrain. Thank you so much for the picture and the message you conveyed of my husband's love and good spirits.

I know that since the attack on the USS *Stark*, the anxiety levels of us at home have been quite high. I do know, however, that Matt and the others serving our country, are in the Persian Gulf for a specific reason and are there making a presence for the United States. It is hard to understand at times, and of course, I wish that he did not have to be in such a "hot" spot in the world, but * * * I am proud to be his wife and know that he is defending our country and the freedom that we have earned and kept throughout the years. I am the Ombudsman for the USS *Fox* (liaison for the command to the families and vice versa), and this often proves to be a stressful job reassuring wives and loved ones of the safety of their men. I do know that *Fox* is prepared for anything and they are a good ship with a great CO (Captain Mathis) guiding them. I think that those in charge are doing the best they can in determining our policies, etc., and I do pray that the Lord will give them guidance and wisdom for each and every decision they make.

Once again, as I am out of room, thank you for the picture of my sweetie, and for the very thoughtful letter.

MRS. LARELL STRICKLAND.

A TRIBUTE TO PEGGY CHILDS, DEDICATED GEORGIA LAWMAKER

(Mr. DARDEN asked and was given permission to revise and extend his remarks and include extraneous matter.)

Mr. DARDEN. Mr. Speaker, the recent death of State Representative Peggy Childs has taken from the people of Georgia one of their most capable and dedicated lawmakers. For those of us who served with her in the Georgia House of Representatives, her death also has deprived us of a dear and valued friend.

Peggy Childs had represented DeKalb County in the Georgia House since 1974, and it was my pleasure to serve with her for a portion of that time, from 1981 until my election to Congress in 1983. She was vice chairman of the house retirement committee, and also served on the judiciary and appropriations committees.

Her many legislative achievements included passage of a law returning part of the State life insurance premium tax to the counties to help roll back property taxes. She also sponsored the bill which made "Georgia On My Mind" our State song.

Before her election to the general assembly, Peggy Childs was a teacher and counselor. In 1970, she gained international recognition for her hometown of Tallulah Falls, in the mountains of northeast Georgia, by hiring famed aerialist Karl Wallenda to walk a high wire across Tallulah Gorge.

Two years ago, even as she fought the cancer which eventually took her life, Peggy earned her law degree from Georgia State University. Only 2 weeks before her death, she argued a case before the Georgia Court of Appeals for the first time and argued her first case before the Supreme Court 1 week later.

In addition to her professional and legislative responsibilities, Peggy also took active roles in many civic organizations. She was DeKalb County chairman of the United Way in 1973 and chairman of the board of Trinity Child Development Center during 1974-75.

Mr. Speaker, I invite my colleagues to join me in extending our deepest sympathy to Peggy's husband, Mobley Childs, Sr., as well as to her son Mobley Jr., her daughter Christy, her mother Mrs. Billie Maxwell, and other family members.

I also would like to submit for inclusion in the CONGRESSIONAL RECORD an article from the July 9, 1987, edition of the Atlanta Constitution, which outlines the achievements of this remarkable woman.

[From the Atlanta Constitution, July 9, 1987]

STATE REPRESENTATIVE CHILDS DIES OF CANCER COMPLICATIONS

(By Tom Bennett)

Rep. Peggy Childs of Decatur, a lawyer and popular state legislator, died of complications from cancer Wednesday at DeKalb General Hospital. She was 49.

Mrs. Childs had suffered from breast and liver cancer for six years; recently her illness had been complicated by a broken rib suffered in a fall and by hepatitis.

Nevertheless, two weeks before her death, she had argued a case before the state Court of Appeals for the first time, and had presented her first case before the state Supreme Court a week before she died. Her husband, Mobley F. Childs Sr., a well-known DeKalb criminal lawyer, had tried one of the cases she appealed and recalled, "I couldn't help but admire the way she did it."

Mrs. Childs, who had been admitted Tuesday to DeKalb General, was scheduled to go to Duke University Hospital next week for a form of experimental therapy.

The funeral will be at 11 a.m. Saturday at Decatur First United Methodist Church with burial at Tallulah Falls Cemetery.

Mrs. Childs was an activist, former teacher and counselor. Two years before her death, she became a lawyer, earning her degree from Georgia State University while serving in the state House of Representatives, raising a family and receiving cancer treatments.

Well before her legislative career, she made news when she hired aerialist Karl Wallenda to walk a high wire across Tallulah Gorge in a 1970 publicity stunt to boost tourism in her hometown of Tallulah Falls.

Mrs. Childs' legislative career began with her election as a Democrat from the 51st House District (now the 53rd) in DeKalb County in 1974. She was re-elected six times, and rose to become vice chairman of the House Retirement Committee, chairman of the DeKalb delegation to the House in 1981-82 and a member of the Judiciary and Appropriations committees.

She wrote one of the most important bills aiding Georgia homeowners in recent years—a 1980 measure return a portion of the state life insurance premium tax to counties to be used as a property tax rollback. She also wrote the 1979 bill adopting singer Ray Charles' version of "Georgia on My Mind" as the state song. Mrs. Childs and her colleagues then brought Charles, an Albany native, to the state Capitol to sing the song.

Two headline-making measures she sponsored or co-sponsored were defeated. The first was a 1983 bill that would have permitted counties to impose a 4 percent franchise tax on utility companies—a move she said would have permitted further cuts in property taxes. The second was a 1985 bill that would have given condemned prisoners the choice of death by electrocution or by lethal injection.

Peggy El Lena Maxwell was born November 17, 1937, in Tallulah Falls, the first of two daughters of Samuel T. Maxwell and Mrs. Billie Harvey Maxwell. Her father was an operator at the Georgia Power Co. plant in the gorge, and at the time of the Wallenda walk was mayor of the town.

She graduated from the University of Georgia with a degree in journalism in 1958, and later said, "Journalism is an excellent background for whatever you want to do." She taught English at Madison County High School in Danielsville, Ga., from 1958 to 1961. She received a master's degree from UGA in counseling in 1961.

Her next career move brought her to metropolitan Atlanta. In 1961-66, she taught English and speech, worked as a counselor and coached the debate team at Cross Keys High School in DeKalb County.

At various times, she also taught part time at DeKalb Community College, DeKalb Technological Center and Georgia State. She wrote a catalog, "Area Technical Schools of Georgia," in 1966.

Mrs. Childs was state chairman for the Heart Fund in 1978-80, chairman of the American Heart Association Georgia Affiliate in 1984-85, DeKalb chairman for the United Way drive in 1973 and chairman of the board of Trinity Child Development Center in 1974-75.

She was a former Decatur PTA chairwoman, and in 1975 was awarded a life membership in the 13th District of the Georgia Congress of the PTA.

Georgia State named her a distinguished alumna last year.

Surviving in addition to her mother, who lives in Tullulah Falls, and husband are a son, Mobley F. Childs Jr. of Decatur, a Penn State University senior and fencing team captain; a daughter, Miss Christy Childs of Decatur, and a sister, the Rev. Sammie Maxwell-Prejeant, a United Methodist minister in Ludlow, Mass., who was chaplain of the Georgia House for a day in 1986.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. PARRIS] is recognized for 5 minutes.

[Mr. PARRIS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

CAPTIVE NATIONS WEEK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

Mr. ANNUNZIO. Mr. Speaker, I rise to commemorate the 29th annual observance of Captive Nations Week and focus attention on the many nations which are controlled today by the oppressive policies of the Soviet Union.

Twenty-nine years ago President Eisenhower first designated the third week in July as Captive Nations Week. During this week we take time to reflect and give thanks for the freedoms of religion, speech, press, and emigration that we enjoy, as well as reaffirm our commitment and support for the millions of people in the captive nations who can only dream about the day when they too will know such freedom. Although the Communists have been ruthless in their attempts to destroy the culture, the national identity, and the religion of the many peoples of the captive nations, and sadly, although the list of captive nations continues to grow, the individuality of the peoples of the captive nations remains, and so, too, does their desire one day to achieve independance and self-determination.

At this point in the RECORD, I would like to include a copy of the President's Captive Nations Week proclamation:

[A Proclamation by the President of the United States of America]

CAPTIVE NATIONS WEEK, 1987

For nearly three decades Captive Nations Week has symbolized the American people's solidarity with all throughout the world who courageously seek freedom and independence from Soviet domination. During this week, we recall that the liberties we enjoy are denied to many by the Soviet empire; and we publicly affirm our admiration for captive nations, who keep the light of freedom burning brightly as they oppose military occupation and brutal totalitarian oppression.

Our Nation offers the world a vision of inalienable political, religious, and economic rights. This vision has always been shared among peoples subjugated by Soviet imperialism; and so has resistance, ever the catalyst of liberty. Today, a struggle that began in Ukraine 70 years ago is taking place throughout the Soviet empire. In the last year alone, people have risen up to demand basic human rights in Czechoslovakia, East Germany, Hungary, Poland, Kazakhstan, Latvia, Moldavia, and among the Crimean Tatars. And across the globe, in Afghanistan, Angola, Cambodia, and Nicaragua, courageous freedom fighters battle tyranny. All captive nations deserve and require our special support. For those seeking to enjoy humanity's birthright of liberty, independence, and justice, we serve as guardians of their dream.

Thus, we must and will continue to speak out on the plight of captive nations. We will continue to call for the speedy release of the persecuted and the falsely imprisoned—people such as Gunars Astra, Lev Lukyanenko, Mart Niklus, and Viktoras Petkus. So long as brave individuals suffer because of the nationality, faith, and desire for human rights, the United States of America will demand that every signatory of the United Nations Charter and the Helsinki Accords live up to its obligations and respect the principles and spirit of these international agreements.

So that we who cherish liberty may proclaim our commitment to those to whom its blessings are presently denied, the Congress, by joint resolution approved July 17, 1959 (73 Stat. 212), has authorized and requested the President to issue a proclamation designating the third week in July of each year as "Captive Nations Week."

Now, therefore, I, Ronald Reagan, President of the United States of America, do hereby proclaim the week beginning July 19, 1987, as Captive Nations Week. I call upon the people of the United States to observe this week with appropriate ceremonies and activities, and I urge them to reaffirm their devotion to the aspirations of all peoples for justice, self-determination, and liberty.

In witness whereof, I have hereunto set my hand this seventeenth day of July, in the year of our Lord nineteen hundred and eighty-seven, and of the Independence of the United States of America the two hundred and twelfth.

RONALD REAGAN.

Mr. ANNUNZIO. Mr. Speaker, millions of Americans who trace their origins to the captive nations of the world, and other nations, join each year during Captive Nations Week to express their support for all policies which will eventually free these nations from the bondage of tyranny. I join in the hopes and the prayers of my constituents in the 11th Congressional District of Illinois which I am honored to represent, and all of our citizens, that we continue to be the strongest democracy among the world powers, and that we may have the strength to combat the communists, and all forms of tyranny and oppression wherever they appear on the face of the earth.

* * *

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GEKAS] is recognized for 5 minutes.

[Mr. GEKAS addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

* * *

THE REAGAN ADMINISTRATION AND THE AMERICAN VETERAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. EDWARDS] is recognized for 60 minutes.

Mr. EDWARDS of California. Mr. Speaker, for an administration purporting to be promilitary, strongly advocating a peace-through-strength policy of defense, the Reagan administration has neglected and ignored the very backbone of its own program, American veterans.

This country's veteran population has been outspoken in support of the administration's defense posture and foreign policy. Veterans have been among Ronald Reagan's strongest supporters. Yet, for close to 7 years, the Reagan administration has systematically tried to deny their entitlements, refused to recommend necessary funding, and stalled programs critical to the well-being of veterans and their families. Behind his mask of full support, Ronald Reagan has compiled an unequalled record of apathy toward American veterans.

No matter what year of the Reagan administration we look at, the dismal record is the same. Among the things President Reagan proposed to do this year was to move certain veterans' health care and pension benefits into its welfare reform package. Apparently, the Reagan administration does not understand that veterans benefits are not welfare, but benefits well earned through valiant service in our country's times of need. Let's look at Reagan's fiscal year 1988 budget proposal for veterans.

REAGAN'S FISCAL YEAR 1988 BUDGET PROPOSAL FOR VETERANS

The Reagan administration tried to rescind $75 million of already appropriated fiscal year 1987 health care funds. This rescission would have led to the termination or furlough of approximately 3,000 health care employees, greatly reducing the number of veterans who could receive inpatient or outpatient care. Its proposal for fiscal year 1988 health care funding would have led to hundreds of additional health care staff cuts.

The Reagan administration proposed indexing the annual adjustment in VA compensation benefits to the Consumer Price Index. This would have eliminated annual congressional action on the COLA, action which has been an effective vehicle for making periodic refinements to the program taking into consideration the special needs of service-disabled veterans.

The Reagan administration proposed to cut 296 employees in the VA's regional offices. Those employees are responsible for processing claims for disability, death, housing, and education benefits. Almost one-third of the VA's regional office staff have already been cut since 1979. This proposal would have led to even longer delays in payments to veterans and their dependents of compensation, pension, education, and burial benefits.

The Reagan administration proposed to increase the veteran home loan origination fee to 2.5 percent. This 150-percent increase would have resulted in an additional $900 fee to the typical veteran homebuyer. Thus, a veteran would have been charged an average amount of $1,500—up from $600—just for the privilege of using the program. This, of course, would have been merely a form of selective taxation on homebuying veterans.

The Reagan administration tried to eliminate the VA's authority to set the maximum interest rate charged by a lender to a veteran homebuyer. This would have led to higher interest rates and higher mortgages for veterans, eroding their purchasing power—if not their very ability—to afford adequate housing.

The Reagan administration did drastically curtail, by a change in regulation, necessary travel expenses which enabled many veterans to receive VA medical care. Veterans, who often have to travel long distances from rural areas to reach the nearest VA medical facility, would have no longer received such payments, even though the veteran might be seriously disabled, with service-connected disabilities.

The Reagan administration wanted to repeal the VA's authority to make education loans to veterans, the fourth year the administration has recommended terminating this program.

The Congress received the President's fiscal year 1988 veterans' budget proposal and said no way. Under President Reagan, veterans have already borne more than their fair share of cuts. Since President Reagan was first elected in 1980, the cost of veterans' benefits and services as a percentage of GNP has steadily declined, from 0.77 in 1980 to an estimated 0.57 in 1988.

The Congress soundly rejected each part of the President's fiscal year 1988 veterans' budget proposal outlined above. We, in the Congress, are determined to fulfill the promises of this Nation to its veterans. They remain committed to our country and to the President of the United States. If only the President would demonstrate such a commitment to the men and women who have served our country so well.

☐ 1525

Mr. Speaker, I now yield to the gentleman from Illinois [Mr. Evans], a senior member of the Veterans' Affairs Committee, a subcommittee chairman, and a Member who is known from coast to coast as a champion of the American veterans.

Mr. EVANS. Mr. Speaker, I thank the gentleman for yielding, and I commend him for holding this special order.

I have had the privilege of working with the gentleman as a former marine, as a subcommittee chairman and a member of the Veterans' Affairs Committee, and as chairman of the Vietnam Era Veterans in Congress, in this and the previous Congress. So we are pleased that he continues his leadership. He has been a leader here on veterans issues for the past 25 years, and we are pleased that he is continuing in that leadership today.

Mr. Speaker, I rise in support of his special order because I think it would be hard to find a group more entitled to help from our Federal Government than the people who have fought for and defended this country in time of war, the veterans of our country.

My colleague, the gentleman from California, has outlined in great detail the proposals the Reagan administration had made in regard to the cutbacks they proposed and just what kind of impact that would have on the veterans of this country. I find it ironic that will those calls for greater fiscal restraint, we have seen the largest deficit ever in the history of our country, and I think, while it is important to address that issue, that we cannot balance the budget on the backs of the veterans, the people who have always responded to this country's call when we needed them.

I am really proud that our committee and the Congress as a whole have resisted these cuts really on a bipartisan basis. I remember when I first came to Congress, we extended the 98th Congress legislation that kept our veterans' center program open. That is not a well-known program to many Americans. It is a program that offers peer group counseling to veterans on a storefront basis and a grassroots basis. We in this Congress will soon be considering whether we will extend these centers once again in future legislation.

But I think our colleagues should know that the Reagan administration has gone about trying to close some eight centers nationwide. In fact, they have already closed one center, and that is way before the October 1, 1987, transition to so-called regional or medical centers which was required under previous legislation that we passed in the 98th Congress, and before studies were released to us for our committee to consider. One of the studies was supposed to have been released on April 1—we have not yet received the study—about whether we should or should not close the veterans' centers. We have passed out of the committee and now out of the House of Representatives legislation that would prevent the further closing of those centers until we do receive at least two studies, including the one that was supposed to be concluded by April 1 of this year.

So our committee and the House, I think, are moving in a way to help our veterans, to prevent further closings until we at least receive those reports. But I must tell our colleagues that I had to join with three of our colleagues in the Senate and the House and actually go to Federal court in a suit brought by the Vietnam Veterans of America to actually enjoin the Reagan administration from closing these centers contrary to the law that was established in the 98th Congress. I am pleased that the Federal judge in the case has enjoined that at least until October 1. But I think it is unfortunate that Members of Congress have to resort to the Federal courts just to make sure that the Reagan administration is complying with the law of the land as far as the veterans of this country are concerned.

On another issue, I think it might surprise a lot of people listening, including our colleagues, to know that the veterans of this country do not have the right of judiciary review, the right to take adverse claims from the Veterans' Administration administrative process to the Federal courts the way any other group of Federal claimants, including Social Security recipients and including undocumented workers, may proceed. Even Federal prisoners have a right to take those kinds of claims from the administrative process to the Federal courts. That constitutional right here at the 200th anniversary of our Constitution is still denied to the veterans of our country who have fought for and defended our Constitution.

I am pleased that the gentleman who started this procedure, the gentleman from California [Mr. Edwards], initiated this legislation. He has handed it off to me in this Congress, and I have reintroduced it. He is one of the cosponsors, along with 75 other colleagues. It just kind of concerns me that in this bicentennial era the veterans lack that very important right to take their claims to Federal court.

Mr. EDWARDS of California. Mr. Speaker, if I may interject to ask a question, is it not true that a prisoner in a Federal correctional institution, in a Federal penitentiary, has a right to petition the courts, but an American veteran does not have that right?

Mr. EVANS. Mr. Speaker, the gentleman is absolutely correct. That is a right that virtually every group of Federal claimants has, including convicted Federal prisoners who want to challenge sentencing or probation decisions made by the parole boards and the Federal Government. So if it is good enough for Federal prisoners to have that kind of constitutional avenue for redress to the courts, it ought to be good enough for the veterans who have fought for our Constitution. They ought to have those rights.

It just seems to me that we have many concerns as well as to the atomic-era veterans. The gentleman from Georgia, Dr. Roy Rowland, is going to be offering some legislation next week that will address their problems after 40 years. I know we have faced efforts on the part of the Veterans' Administration during the Reagan administration to help that group of World War II and past World War II veterans who were either occupation troops in Nagasaki or Hiroshima or who were exposed to atomic testing devices, and efforts have been made to receive some kind of help or compensation from the Veterans' Administration. The gentleman from Georgia, Dr. Rowland, will be offering that legislation next week with the gentleman from Mississippi, Mr. Montgomery.

I would like to rebuke the notion that we are big spenders. We are achieving savings brought about by the gentlewoman from Ohio, Ms. Marcy Kaptur, in some of the housing programs. She is the chair of our Subcommittee on Housing and Memorial Affairs of the Veterans' Affairs Committee. She had obtained some savings that we believe will pay and offset the cost of those programs.

We need more help on agent orange, speaking as the chairman of the Vietnam-era veterans in Congress. I think that problem has been ignored, and help is long overdue.

We are going to have growing demands on the Veterans' Administration medical care system as that generation of World War II veterans goes over the age of 65. They are going to be needing help with some of the illnesses they face. I think it is important to remember that we have an obligation to the veterans of this country. They were there when we needed them. Now that they need some help, I think we ought to be there in response. Good government has got to be a two-way street. It cannot be a one-way street. They have been there for us; I think we have to to be there for them.

Mr. Speaker, I very much appreciate the opportunity to speak, and again I commend the gentleman from California [Mr. EDWARDS] for offering this special order today.

Mr. EDWARDS of California. Mr. Speaker, I thank the gentleman from Illinois [Mr. EVANS] for his very eloquent statement and for the laying out of the record of the administration insofar as the veterans' programs are concerned.

I am going to yield in a moment to the chairman of the Committee on Veterans' Affairs, the gentleman from Mississippi [Mr. MONTGOMERY]. I do not think there is anybody in the history of the Congress who has been a better friend to the American veteran than the gentleman from Mississippi [Mr. MONTGOMERY]. Each year the Veterans' Administration and the White House send over their budget, and for each year they are cutting back and cutting back on veterans programs. And under the leadership of the gentleman from Mississippi [Mr. MONTGOMERY], the chairman of the Veterans' Affairs Committee, we fight back. He fights for the American veteran, and as a result each of those programs is returned so that the veteran does not suffer.

The gentleman from Illinois pointed out in eloquent fashion the debt that we owe the American veteran in every State of the Union, and that applies to Mississippi, too.

Mr. MONTGOMERY. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I am proud now to yield to the chairman of the committee.

□ 1540

Mr. MONTGOMERY. Mr. Speaker, I thank the gentleman for yielding.

I certainly appreciate the gentleman's kind words talking about the chairman of the House Committee on Veterans' Affairs.

I would like to say to the gentleman in the well, the gentleman is the ranking majority member of the House Committee on Veterans' Affairs; and as far as seniority is concerned, including the Senate Veterans' Affairs Committee, the gentleman has been working on veterans' programs longer than anyone in the Congress of the United States, so if compliments are being passed out, certainly the gentleman in the well from California deserves credit for the work the gentleman has done on the veterans' programs.

The gentleman has been a strong advocate, and the gentleman has given me the opportunity to be chairman of this committee. The gentleman could have taken over the chairmanship, but you felt you had other interests just as important on the Committee on the Judiciary.

I want to publicly thank the gentleman again for letting me serve as chairman of the House Committee on Veterans' Affairs.

As the gentleman who is the chairman of the Subcommittee on Oversight and Investigations, the gentleman from Illinois [Mr. EVANS], we are concerned about the vet centers, about the closing of these vet centers, moving the other vet centers onto the grounds of the VA hospitals or in the VA hospital systems themselves.

We ought to look at it. We passed legislation here in the House, and we hope the other body will act on it. That will at least delay this movement in closing for at least 1 year.

Mr. EDWARDS of California. I have several of those vet centers in the San Francisco Bay area. I have visited them, as I am sure the gentleman has. They are a valuable resource.

A lot of veterans, especially the Vietnam-era veterans, still to this day are having problems readjusting to American life. It is the only war where they did not come home with the same flags waving and bands playing that veterans are entitled to, and they have trouble getting back into the swing of things.

They want to go to a vet center where they can talk to their buddies and not go to a hospital setting, and they want to receive care and affection and counseling.

Mr. MONTGOMERY. That is exactly correct. By the legislation we have passed in the House, and I think the other body will act on it, it will hold up any drastic action by the Veterans' Administration of closing up these vet centers.

It was mentioned by the gentleman from Illinois about the housing bill for veterans that we have passed out. We have reworked the housing program for veterans.

No Member had really looked at this until the gentlewoman from Ohio [Ms. KAPTUR] became chairman of the Subcommittee on Housing and Memorial Affairs.

We have been instructed by the Committee on the Budget to find $90 million of savings in veterans' programs in the next 3 years. By some adjustment in the housing program, changing a few laws, we will come up with that $90 million savings, so we are acting with responsibility in veterans' programs.

I would have to admit that the best friend, in my opinion, the veteran, that his or her dependents have, are Members of this Congress when we bring legislation out, if it is reasonable, and we have a good chance of passing it, as the gentleman in the well knows.

I want to thank the gentleman for yielding me this time, and also for taking time pertaining to the veterans of this country.

Mr. EDWARDS of California. I thank the gentleman from Mississippi, the chairman of the Committee on Veterans' Affairs, and one of the great heroes of the veterans' population in the United States.

I might say also that the gentleman was a major or lieutenant general in World War II in the Tank Corps, and really was an outstanding veteran himself.

I want to reiterate once again that it is a constant fight against the Reagan administration to keep these programs going, because they might wave the flag down there at the White House; but when the chips are down, it is the Democratic controlled House Committee on Veterans' Affairs, and the same in the other body, that gets these programs through that pass unanimously in the House and in the other body.

Mr. EVANS. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. I yield to the gentleman from Illinois.

Mr. EVANS. Mr. Speaker, I thank the gentleman for again yielding.

I would like to also make the further point that these programs obviously are essential to treating the veterans of this country with the proper respect that they are entitled to.

The gentleman from Mississippi has also worked to help today's Armed Forces personnel, tomorrow's veterans in the passage of the GI bill.

The gentleman did that with a great deal of resistance in terms of the administration, and the gentleman is to be commended in terms of what the gentleman has done in that regard.

The GI bill has aided generations now of veterans across this country, and that is an important program that we think ultimately saves the Government money, because the American Legion, and several other veterans' organizations, have done studies that have indicated for every dollar we spend on the GI bill, we get $6 back in the form of higher taxes, because a better-educated veteran makes more money. He is more productive, so we not only help those individuals, we have helped this country as a whole in terms of helping this country become more productive in the process, so this is an ongoing effort.

The way that we are treating the veterans of this country is being viewed by the people in today's Armed Forces; and if we are going to have the kind of motivated troops we need to protect this country time and time again, we ought to look at it from the point of view as to how they are seeing their fathers, older brothers being treated by the Veterans' Administration, and that affects the morale of today's Armed Forces, too.

Mr. EDWARDS of California. It is a very important point, a few years ago in keeping the volunteer Army with enough volunteers, and there was talk about conscription and the draft.

They even started a program of registration. The law that did more to get young men and women to volunteer for the Armed Forces was the GI employment bill, the GI bill of rights offered by the gentleman from Illinois, and led by the gentleman from Mississippi [Mr. MONTGOMERY].

The bill passed, and almost immediately it was easier to get young men and women in the United States to volunteer for the Armed Forces.

For every dollar invested in education, education of the vet, we get $6 back. What a wonderful investment.

Mr. MONTGOMERY. Mr. Speaker, if the gentleman will yield further, I thank the gentleman for the credit on the GI bill. We had a lot of problems with that.

We started working in 1981, but most Members of the House of Representatives were totally supportive of the GI peacetime bill; and it was a team effort.

Quite frankly, I think the new GI bill, plus a few more incentives, saved the all-volunteer system. If we had not come up with this way to attract young men and women into the service, and incidentally the young men and women now that are volunteering, they are not coming in to see the world and for adventure.

They are coming in now for an education, to learn a skill and then go back into civilian life after they get out of the military to make a better living for themselves and their families.

We think it is a team effort in this move of pushing ahead for the GI bill, that we think it had some effect on keeping the all-volunteer system in place.

I think the all-volunteer system is working as well as I saw the draft work in years past.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. EDWARDS of California. Mr. Speaker, I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman for yielding.

I also rise to join the Members, and particularly the gentleman from Mississippi [Mr. MONTGOMERY], our distinguished chairman of the Committee on Veterans' Affairs, who has toiled so diligently and has been the spearhead of the congressional resistance to the current administration's attempts, and to a certain extent, a couple of former administrations that have attempted to erode, to dilute, to reduce those programs that were intended by the Congress, established by the Congress and intended to recognize the service of those men and women who served loyally, patriotically, and beautifully under honorable conditions.

I wanted to congratulate the gentleman from California [Mr. EDWARDS] for this special order and for an overdue discussion, because history shows us that as our memories fade as to the recollection of the hot shooting faces of a war or an encounter. In direct proportion to a distant memory, we tend to forget.

But, I remember that I earned my living moonlighting, teaching mathematics to the veterans who qualified for the veterans' program from 1947 to 1950 in San Antonio, TX.

Outside of our free public school education system, no other one single program has so galvanized the ambition and the energies and efforts of young Americans, some of whom came back, literally wired together.

I used to ponder and say, "What a tragedy."

It took a war; it took men going out there, some of them not fortunate enough to survive, before we on the national level arrived at the conclusion that it was not socialistic to provide an educational opportunity.

I said to myself, "Here are students who served in every single major encounter, both the European and the Pacific theaters. Some of them had left San Antonio without even having finished seventh grade."

Today some of those, by virtue of this program, the Veterans' Training Program, are judges in municipal, county, district, and appellate courts.

Some are architects, engineers that I taught myself, so I do not have to have any kind of a learned discussion on the part of those that sit up here theorizing about the extent of the good of these programs.

I can vouchsafe they have had such a multiplier effect, an increase in the commonwealth, the common good and the common improvement in the sustenance over the national well-being that from a social standpoint, it is impossible to calculate.

In my own district, for example, currently we are confronted with this dismantling of one of the most noble institutions for hospital and medical care since before World War I.

The hospital at Fort Sam Houston, which has since been named the Brooke Army General Hospital, has a service area that has a potential eligible group of veterans, actually veterans who are eligible for hospital and medical care delivery services, of almost 100,000. Yet, this administration, if its plans are carried out, would reduce this hospital from a general base hospital to a post or station hospital of 200 beds or less.

The recommendations of 1 year and 1 month ago of the so-called Blue Ribbon Commission, which incidentally was a commission that was tainted, was formed by this administration and picked by the Assistant Secretary of Defense for Health Affairs, William Mayer, who is an ideology, has no experience of hospital administration, is actually trained in the discipline of psychiatry, and who has never had 1 minute's time as administrator in a hospital system. Yet, he envisions himself, as he described last year to me, as a sort of a Dr. Strangelove, who by sitting in his office, and having a master computer yet to be developed, at the touch of a finger will be able to tell you exactly what he wants done in every single bed worldwide that our armed services provide, whether in England, Italy, or where have you. That is his dream, to consolidate the hospital services.

☐ 1555

So he issued an administrative order; that is, he requested and got from the Secretary of Defense, which in effect emasculates the service Secretaries from any responsibility.

There is no real outcry from the Congress. The Secretary of the Navy, the Secretary of the Army, the Secretary of the Air Force, no longer have any kind of discretionary or judgmental administrative responsibility for the hospital and medical care delivery services in their various departments, in their respective departments; so that Mayer has acquired through the delegation of this power by the Secretary of Defense the right to come in, and sooner or later any Member in this House who has a hospital system, whether in the Navy or the Air Force or the Army directorate, is going to be confronted with a reduction and an elimination of the current level of hospital services, both for the active duty soldier and his family. Further, there will be the privatization of the CHAMPUS system and of the current ongoing. In fact, Mayer's plans call for, as of January 1, a contract of $3½ billion equivalent of CHAMPUS.

The only reason this is being done is because the Congress, in my opinion, has supinely gone along, not from the standpoint of merit of the program, or from the standpoint of serving both the active duty sailor, soldier, or airman and his family, his dear ones, much less the retirees, but strictly from the David Stockman approach of pointing the computer and saying that has got to go down.

So I am appealing to the gentleman, taking this advantage, as I have already done in respect to the chairman, who has magnificently responded, to help me to maintain what is known throughout the Army as the "soldiers hospital." The soldiers hospital is not Walter Reed, or any other, but Brooke Army General Hospital, at Fort Sam Houston, a full status general basis hospital which needs to be maintained. Even though the Congress in

1984 mandated that a replacement structure be authorized for no less than 450 beds, this administration's blue ribbon commission, which as I say was tainted because it had a substantial number of its members from the private lobbying representatives of the private hospital and Medicare care system business, have caused us to face a real crisis if we are sincere about keeping our commitment to these thousands of men and women, some of them real heroes who fought in the Battle of the Bulge, and were decorated beyond mention for great acts of heroism.

We have in my district probably the most volunteeringest group of Americans anywhere. The first to fall in Korea was a man with a name like mine from Texas, San Antonio.

In Vietnam, the same way. In World War II, seven out of the total from Texas, and there were not many more than those, were Congressional Medal of Honor winners.

So it is true what the gentleman says, even though publicly the consensus is that this administration is a friend of the soldier, it really is not. It has been the most callously indifferent administration in the 26 years that I have had the privilege of serving in this Congress.

On top of that, it is very lamentable and heart rending to talk to the survivors of some of these young men, marines, sailors, who have died recently, because, gentlemen, do you know how they are listed as of having died? Not in action, although they are in the uniform of our country and are there at the command of the Commander in Chief. They are listed as having died in an accident.

What is the entitlement of those families? At least during World War II we could say that they were fighting and dying in action and would be entitled to those benefits that accrued by way of insurance and the like.

Today, my friends, in this era of twilight wars, undeclared wars, which the gentleman, being a legal expert, knows cannot trigger off the full definition of involvement.

These men, the 241 marines in Beirut, the near 20 in Grenada, the 37 or so sailors in the Persian Gulf, they are listed as having died in an accident. So that veterans benefits would accrue to their survivors and their dependents, such as Congress was willing to recognize since World War II?

I happen to come from a district that also had great participation in World War I. One of the first things I did when I was sworn in on January 10, 1962, was to walk over and pull a discharge petition that the distinguished Member from Indiana at that time had filed to provide compensation and recognition for the diminishing number of World War I veterans, and for that I was cussed out. I was literally taken and told by the then very active colleague from Texas, who later became the chairman of the Veterans' Affairs Committee, Olin "Tiger" Teague, that I was out of line because the administration had given my bill for World War I veterans a total cost estimate of $11 billion—which was highly exaggerated.

I wanted the bill passed, and still do, because there is still a need. When I was in the State Senate of Texas, these Legionnaires, the widows of World War I soldiers, had come to me. I had actually introduced a total of three resolutions in the State Senate of Texas memorializing Congress on the need to have some kind of recognition by way of benefits to those from World War I.

So I am one of those who more than appreciates what the gentleman from California, the gentleman from Mississippi, and the gentleman from Illinois, who, as he said earlier, has served in hours of combat and as a member of this great glorious group known as the marines.

I wish just merely to say that not only do I adhere and support to the extent I can, but I am here in a supplicant's position asking for the gentleman's help to save the Brooke Army General Hospital as a general base hospital, instead of a post or station hospital, and thereby breaking faith with thousands of those we have promised would be entitled to the proper level of medical and hospital care.

I have been left alone. The hospital is in my district and the administration has overlooked that. I have been left alone. Up to now I have not been able to get sufficient resources, except on this level, but administratively the administration is committed to reducing the level of hospital and medical care, not only to the retired, not only to the veteran, but to even the active duty soldier and his own dear ones in his family.

If you talk to an active duty soldier today in the Fort Sam Houston area or Camp Hood, which is the nearest large Army installation, you will see that they have real problems when it comes to figuring out how they can take care medically, dentally, and the like, the problems of their wives, their children, and so forth.

So I thank the gentleman and I ask his forgiveness for having enlarged this long on his time.

Mr. EDWARDS of California. Well, Mr. Speaker, I thank the gentleman from Texas. That was a very moving wonderful statement the gentleman made.

PARADISE LOST?

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. PORTER] is recognized for 5 minutes.

Mr. PORTER. Mr. Speaker, the world is now at an environmental crossroads. The coming crisis will be of international importance: At issue is the future of the world's most valuable natural resources, the tropical forests.

To most, these forests are remote territories that are the responsibility of the Nation in which they are located. It is generally assumed that the impact of their destruction would be localized and limited only to esthetic losses. Such assumptions could not be further from the truth. Our inaction, coupled with continued forest degradation, will result in adverse environmental and economic losses that may only be noticed after it is too late.

The world's rainforests have been beseiged. In the late seventies the United Nations Food and Agriculture Organization estimated that over 40,000 square miles per year of rainforest was being destroyed annually, estimating an end to all rainforests in 60 years. This estimate does not even assume an expanding population or other factors which effect deforestation.

According to the United Nations Environmental Programme [UNEP], at present rates most of the rain forests of Asia, Africa, and Latin America will be gone within the next 25 years.

Currently, Costa Rica is destroying 10 percent of their nonprotected rain forest annually. Its deforestation rate is the highest of any Latin American country. Forests, which in 1940 took up 65 percent of the land today only account for 26 percent. In 10 years' time, no productive rain forests will exist outside the national park system. Their rain forests are tremendously rich in species, containing more than 12,000 types of plants with at least 2,000 kinds of trees.

The current economic crisis in Costa Rica threatens to undermine the environmental resources of the nation. Hamstrung by foreign debt service obligations, nearly 75 percent of Costa Rica's export earnings go to pay banks—leaving virtually nothing for economic improvement. The rain forests are lost primarily to cattle grazing, logging, and small farming.

How does this happen? Studies have shown that as little as one tenth of 1 percent of forest nutrients ever penetrate below the first five centimeters of soil in the rain forest. Once the cover is removed, the soil that is left is surprisingly poor for agriculture.

Deforestation of rain forests is the world's liability. Edward C. Wolf, author of "On the Brink of Extinction" wrote:

> Without innovative efforts to preserve natural ecosystems that remain—and to restore those that are degraded—the Earth

will experience the largest loss of plant and animal species since the disappearance of the dinosaurs 65 million years ago.

These tropical forests are the key to the preservation of millions of plant and animal species. At today's rate of destruction, thousands of species of animals are annually rendered extinct by the march of civilization, vastly exceeding the level of the last million years. The impact is everlasting. Unless immediate action is taken, a significant proportion of all living species on the planet will have been extinguished by the year 2000. If current patterns continue through the next century, at least one third of all species could be lost.

From a scientific standpoint, extinction is unquestionably the one problem with the most lasting consequences. There are untold benefits, unknown potential for human welfare. We are only now becoming aware of the biochemical diversity of tropical plants, and they are already making contributions to modern health care. Based on what has been revealed to date, it seems certain that the Earth's stock of natural resources offers many new materials of benefit to a society willing to repay the costs of protecting the world's genetic diversity through species preservation.

There are other adverse effects of deforestation. The absence of trees, which reycle air and thereby eliminate carbon dioxide from the atmosphere would result in potential regional temperature increases of 3-5 degrees, extending the dry season and speeding the process of desertification.

Scientists from the United States and Brazil have begun a worldwide project, sponsored by the National Aeronautics and Space Administration [NASA] that will attempt to quantify the tropical rainforests' role in influencing levels of gases that may contribute to global atmospheric warming. Destroying the remaining forests might result in changing weather patterns in the American Midwest which could be a catastrophe not only for the United States but for the world's food production.

Can we use the huge debts of the tropical nations to help preserve one of our most valuable natural resources? Debtor nations have little incentive to protect their forests—in many situations, exploitation is the means through which they meet their debt payments. The key to this problem is to link the two issues—tropical forest destruction and debt—together to create a mutually beneficial solution.

The World Bank has taken the first significant steps toward tropical rainforest preservation. World Bank President Barber Conable announced on May 5 a plan that will facilitate environmental review and monitoring of bank-funded projects under the supervision of a new World Bank Department for the Environment. In addition to the new department, the Bank will employ expert environmental staffs within each of its four regional offices. This is an important first step.

Now, we must do more. Along with my colleague, the chairman of the Foreign Operations Subcommittee, DAVID OBEY, and the ranking minority member of the Senate Foreign Operations Subcommittee, Senator ROBERT KASTEN, I have introduced the Tropical Forest Protection Act of 1987. It calls on the Secretary of the Treasury, in coordination with relevant U.S. agencies and the Multilateral Development Banks, to study which forests might be saved through the actions of the world's scientific community and tourism industry, along with an assessment of local environmental organizations to effectively influence their own governments to help retard the destruction of the forests.

Most importantly, the bill calls on the U.S. Executive Director to the World Bank to propose environmental structural adjustment lending to stretch out the potential long-term economic benefits of tropical forest conservation. The act would also instruct him to propose a pilot program to set aside "conservation easements."

These easements could be given in exchange for rescheduling or abatement of certain outstanding loan repayments. If expanded, this program could help debtor nations deal with their debts by preserving the tropical forests rather than cutting them down.

Let us commit ourselves to facing this issue head on. Only through the most vigorous efforts can we rescue the remaining tropical forests for the future of mankind and the world. I urge my colleagues to support this legislation. We must dedicate ourselves now. Any further delay only brings us closer to an environmental point of no return.

□ 1610

DEMOCRAT SOURCE MATERIAL FOR CONTRA COMMENTARY

The SPEAKER pro tempore (Mr. TRAFICANT). Under a previous order of the House, the gentleman from Pennsylvania [Mr. WALKER] is recognized for 60 minutes.

Mr. WALKER. Mr. Speaker, earlier today during the period for 1-minute speeches the House was given an opportunity to hear two sides of a very important argument, the argument on whether we ought to have a policy toward Central America that is in opposition to the Soviet attempts to colonize Nicaragua and have that policy thereby support the Contras, or whether or not the policy of this country ought to be to cut off all aid to the democratic resistance in Nicaragua and thereby assure the permanency of the Sandinista Communist regime, and thereby the permanency of the colonial empire of the Soviet Union in Central America.

We discussed this on the floor earlier today utilizing on this side of the aisle the slides prepared by Colonel North for his presentation to Americans who were looking to provide some private help to the rebels in Nicaragua during that period of time when Congress refused to provide help to those people fighting for their own freedom. On the other side of the aisle they too had pictures, pictures that they brought out of what they called Contra atrocities that had taken place within Nicaragua.

I think the contrast between the two sets of pictures and the arguments become very clear. On this side of the aisle many of us believe that the threat posed by Soviet intervention in Central America is a threat to the people of Nicaragua, is a threat to the democratic nations of Central America and ultimately is a threat to this country.

On the other side of the aisle, based upon the presentations we heard today, there are many who sincerely believe that what the Contras are doing there is not worthy of our support and therefore the acceptance of the Communist Sandinista regime in Nicaragua is a more palatable option than continuing to back the Contras. I do not doubt their sincerity, I do not doubt their patriotism. I think that many of the people who hold the view that the Sandinista Communists are a reasonable alternative are people who want the best for this country and for the world.

However, I must say that I think that they are sadly mistaken, and that in terms of the long-term security of this country they are terrible wrong. What I think is particularly disappointing to this Member of Congress is that too often I find that they bring to the debate of this body propaganda that has been developed by the Communists themselves in order to try to influence the debate within this Chamber, and I must say that I am afraid that during the course of our debate today that is precisely what we have had presented to us.

I say that because as those pictures were being presented, and as the presentations ended, I went to Members on the other side and asked them where those pictures came from, what was the source of those pictures, I would personally like to get ahold of those sources. I would like to have the commentary and the pictures that were presented on the floor today for my own reference since it was a part obviously of their debate. I was told that that information would be gotten to me immediately and would be sent over to my staff.

All I was asking for is where do I go to find the sources of those pictures and that commentary. So far, I have not heard back. I think the reason why I have not heard back is because I started, through some other independent channels, to try to locate where those pictures have come from, and what I have now discovered is that the pictures in large part, if not totally, came from an organization known as the Witness for Peace.

Let me read from the book, "The Real Secret War: Sandinista Political Warfare and its Effects on Congress," about who Witness for Peace really is. This book is a book by Lynn Bouchey, who is the editor and was really authored by Mike Waller and Steve Baldwin.

Mr. Speaker, I ask unanimous consent that I be permitted to read from papers.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding and appreciate the fact that he is interested not only in the presentations that were made today, but in the authenticity of the presentations that were made today. What the gentleman is referring to, if I am not mistaken, is that during the presentations that were being made on the Republican side showing the actual aerial reconnaissance photographs of the Soviet bases, bomber bases and naval bases that are being established in Nicaragua by Russian and Cuban engineers, on the Democrat side a number of pictures of children and villagers were brought in and they were offered during speeches in which it was stated that the wounds that these children and villagers had had been done by Contras, had been effected by Contras and that, therefore, the Contras were horrible people who committed atrocities and were not deserving of support, and then they whisked the pictures out and left with them. I think the gentleman is referring to those pictures right now.

Mr. WALKER. The gentleman is absolutely right. Those are the pictures to which this gentleman is referring. As I say, I attempted to find out from Members on the other side just where those pictures came from. I am still waiting to hear.

I hope that some Member that has information that would be different from the information that I have gathered independently would come to the floor and give us an explanation of where those pictures came from. And if I am in any way mistaken, I would be happy to acknowledge any Member who wants to come and tell us so.

Mr. HUNTER. But the gentleman has information that the pictures came from a group that is called Witness for Peace?

Mr. WALKER. That is exactly right.

Mr. HUNTER. Whether they are really witnesses for peace or not and a Sandinista support organization is open to debate.

Mr. WALKER. Let me quote from the book "The Real Secret War," on who Witness for Peace is.

I quote to the gentleman: "Witness for Peace was organized in 1983 to mobilize support for the Sandinista regime as well as opposition to United States aid for the Nicaraguan resistance."

So in other words, I would say to the gentleman that this is a group that was formed specifically as a pro-Sandinista Communist organization, and is specifically aimed at trying to defeat U.S. aid to the resistance, the democratic resistance within Nicaragua.

So we were in fact being shown pictures that come from a group that has direct ties to the Sandinista Communist regime in Managua. I simply would contrast that with the fact that the pictures that we showed on the floor today are pictures from our own Government developed by our own Government resources; in some cases some of the pictures, the aerial photographs I think had to be declassified in order for that presentation to be made to show the Soviet installations that are going on in Central America and particularly in Nicaragua. So obviously our Government has an interest in promoting its side of the story, but we will very truthfully tell people that the Colonel North presentation, those charts and those pictures, come out of our Government resources. I hope that we can find out just as truthfully where the pictures that are being developed that the left is using for their side of the argument come from. The information that we now have is that those pictures were developed by the Witness for Peace group, and I think we ought to understand why then some of us would have some problem with those pictures being presented out here, because, as the gentleman may know, Witness for Peace does not have a very reliable record in terms of providing real information.

Mr. HUNTER. If the gentleman will yield, would the gentleman give us some examples of the Witness for Peace?

Mr. WALKER. I would say to the gentleman once again, referring to the book "The Real Secret War," that in 1984 Witness for Peace put in their official newsletter information about a Contra unit that attacked civilians in a northern town. It turned out upon investigation by a Nicaraguan historian, Dr. Bolognus, who is director of the Nicaraguan Information Center, that that particular massacre was a total and complete fabrication. Dr. Bolognus issued a 144-page report that concluded that the incident was a complete fabrication meant for public consumption in the United States, and one of the reasons why he could draw that conclusion was because he went back to the official Sandinista newspapers and found that in those, including the publication, the Barricade, they just totally discredited what Witness for Peace had published in this country about that civilian massacre.

The St. Louis Globe Democrat wrote two editorials about Dr. Bolognus' findings urging "that the U.S. news media not only exercise special caution about unverified reports about Contra atrocities in the future, but that the watch dog should also watch a little closer." The Globe Democrat concluded, "The intent of Sandinista use of the northern town incident, as nearly as we can determine, was to pipeline into American media another example of ideological deceptions currently plaguing the Nicaraguan landscape. It is all linked to a gargantuan effort to discredit the Contras in the eyes of U.S. Congressmen who must eventually decide whether or not to renew American aid in support of the Contra resistance."

Mr. HUNTER. If the gentleman will yield further, what he is saying is that this group, the group that supplied these pictures and said this child stepped on a Contra mine, is the same group that was caught in a lie by a noted historian. And the fact that they were caught in a lie in publishing something that would tend to make Americans not like the Contras and support the Sandinistas was recorded by a major newspaper of the United States.

Mr. WALKER. I would say to the gentleman that is absolutely correct. One might say that is just one incident and maybe this group just got off track once and maybe we ought not hold them responsible for that. The problem is that they have a record of doing this.

In 1985 they staged a kidnaping of Americans supposedly by the Contras on the San Juan River in Nicaragua. This one the American media saw for what it was, a publicity stunt pretty early, but what they did was they went into an area that the Nicaraguan Army absolutely controlled, and they floated a boat down the river, and then they had people in Contra uniforms come out and kidnap the boat. It turns out, according to the investigation that was done, that the so-called guerrillas were probably regular troops of the Nicaraguan Army.

Mr. HUNTER. If the gentleman will yield further, I think this is a good point. Is the gentleman suggesting that one reason why the Democrats that offered these photographs never seemed to be interested in telling us where they got them is because they were not very proud, apparently, of the Witness for Peace label. They did not say here is a photo that Witness for Peace provided. In fact, they were silent as to where these photos came from. They simply read the captions and got out of there with them.

Is the gentleman suggesting that one reason that they were not proud that the photographs came from Witness for Peace was because of this rather poor reputation for veracity that Witness for Peace, which stages phony kidnapings and phony massacres, has in the world?

Mr. WALKER. I think this gentleman would have to conclude that. I am somewhat concerned about the fact that this data was presented as factual data.

If some of the Members who presented that in fact have independent confirmation of the material that they brought to the floor, once again I think we would be pleased to hear that. If they have some news journalist who independently verified what they showed on the floor today, I think that would be useful for us to know. If they have independent news reports of the incidents that they brought to bear on the floor today, I think we would be interested in knowing that.

But at the present time, the information that we had was that the commentary and the pictures that were offered on the House floor today as factual about Contra atrocities in fact came almost wholly from the Witness for Peace organization, and organization which has been documented to be perfectly willing to mislead the American media and ultimately the American Congress about what is going on in Nicaragua.

□ 1625

I yield to the gentleman.

Mr. HUNTER. I thank the gentleman for yielding.

I am glad the gentleman brought this out. Now let us get back to the real task at hand. The real task at hand, and I think Ollie North proved this, is letting the American people know what the facts are with regard to Nicaragua. You know, we had polls come out for years that said two to one the American people were against providing help for the freedom fighters in Nicaragua. One marine colonel testifies and all of a sudden millions of Americans who had never heard these facts before are hearing that the Russians are building a bomber base at Punta Huete complete with jet revetments and a 10,000-foot runway that will allow every single plane, Mig and strategic aircraft in the Soviet inventory to operate and that will allow their long-range bombers to strike if they were based and became part of the military operation, to strike practically every city in the United States.

People that I have talked to in my district were astounded by these facts. All they knew about Central America was this hazy foggy allegation that somehow the Contras were bad people, the Sandinistas were good people and that the United States was again repeating the kind of a Vietnam-like experience, was becoming involved in a immoral war. People throughout the United States, most people throughout the United States over the last year thought that we were on the side of the Sandinistas. In other words, they did not even really know. They confused the Sandinistas for the Salvadorans. In El Salvador Mr. Duarte is an ally of ours. He has a democratic government. He held free elections.

But the American people have their jobs, they have their families, they have their time taken away from them, they cannot spend as much time as we can. They have many distractions. But because of Colonel North they started looking at this very important area of the world. All of a sudden they see pictures like the ones that we presented which was Colonel North's presentation—and if the gentleman could put those pictures up I think it would be important, because those pictures, 3 out of the 57 that were presented today by Members of Congress—and, incidentally, those Members of Congress had a lot of other things to do that were pressing on their schedules but they thought it was important to inform the American people. But all of a sudden the American people are seeing a statement by Andrei Gromyko, one of the top Russian leaders——

Mr. WALKER. He is the President of the Soviet Union.

Mr. HUNTER. He is the President of the Soviet Union—say this about Central America and let us quote him:

> The region is boiling like a caldron. Cuba and Nicaragua are living examples for countries in that part of the world. Moscow, April 1983

Boiling like a caldron. The average American looks at that, looks at Colonel North's testimony and says, "Wait a minute. These aren't a bunch of peasant farmers who just want to make a little better life for themselves in Nicaragua. There seems to be an interest by the Soviet Union in that part of the world." And then Colonel North tells us that while we have wrangeled in this House over spending $100 million for the freedom fighters, the Soviet Union has put in in the last 12 months 600 million dollars' worth of tanks and attack helicopters to the Communists in Nicaragua to help them hold on to the Communist revolution and help them establish a strong Soviet beachhead in our hemisphere.

I was talking to a businessman who flies back and forth from San Diego, my district, to the Panama Canal. He said, "it is a funny feeling to fly back and forth to the Panama Canal which is really pretty close and I have to fly over Russian tanks now." Would the gentleman take Mr. Gromyko's statement down?

Mr. WALKER. Well, let us stay with this for a moment, because I want to make the point that Mr. Gromyko is somebody, because of his long experience as Foreign Minister of the Soviet Union, who is well aware of what the strategic needs are of the Soviet Union in our area of the world, in our hemisphere, all you have to do is look at the map that was included in Colonel North's slides here and begin to understand why Nicaragua is so important strategically to the Soviet Union.

Here it is, it sits in the middle of Central America, it sits in the middle of the democracies of Central America, Costa Rica to the south, Honduras and El Salvador to the north, near Guatemala.

Then it sits between us and the Panama Canal which is absolutely vital to everything we do economically in this country. It, in fact, covers the entire land mass of Central America between us and the Panama Canal which means that in order to have a land bridge to the Panama Canal you would have to pass through Soviet territory in order to get to the Panama Canal.

That is devastating to us strategically, something that Andrei Gromyko knows fundamentally since what he was all about for most of his career was providing those strategic options for the Soviet Union. These people are not dummies. They know exactly what they are doing. If you put together Cuba with Nicaragua, you control not only the land bridge to Panama, but you also, between those two places, control the sea bridge on the Caribbean side. It is a devastating strategic problem for this country to lose Nicaragua and make it into a Soviet client state which is the direction that that nation is headed unless it is stopped by the democratic resistance there.

I yield to the gentleman.

Mr. HUNTER. I thank the gentleman. He is making excellent points for the American people right now.

You know, as a member of the Sea Power Subcommittee of the Committee on Armed Services, I appreciate the devastating capability of Soviet attack submarines. The Soviet Union now bases Foxtrot-class attack submarines in Cuba.

If they base those same submarines in the two ports that they are building at Corinto on the Pacific side of Nicaragua and El Bluff on the Atlantic side of Nicaragua, they will have a stranglehold over the Panama Canal.

Now I was in the Panama Canal just a couple of days ago. I went down and took a look at the lock system, I went the entire length of the canal. One cruise missile from a Soviet attack submarine into the lock system of the Panama Canal will stop our traffic, will destroy the lock system and will keep our boats, our ships from traveling through the Panama Canal.

That is a major port of America's commerce.

Now I have a lot of friends who have large farming areas. I have a large farming area myself. I know we have heard that it has been very difficult for farming communities in the Midwest, for example, when they are undergoing tough economic times to understand why it is important to be concerned about that part of the world. One reason they should be concerned is that about 50 percent of the exports, the grain that is sold for export from their farming communities goes through that canal. And now if it does not go through the canal, I asked one of the people at the canal, one of the executives, I said, "What happens if you don't go through the canal?" He said, "Then you have to go all the way around South America. One affect that that has on our grain markets is that then perhaps it will go to different customers because our grain is going to be more expensive than it would be if it went through the canal."

The point is that everybody in America who makes a living and depends to some degree on export, whether you are farmer, manufacturer et cetera has an interest in the Panama Canal.

That is why the American people acted so fervently when Jimmy Carter gave away the Panama Canal. They knew, they knew even if they were not intellectualizing about it, even if they did not have a complete intellectual or technical analysis of it, they knew the Panama Canal was fundamental to our economic system. And that is why they did not want it to go.

They probably were right because General Noriega is tearing the country up in Panama now. We are going to have a very difficult time there.

But to go back to the gentleman's position. The Soviet military that is operating, that is strategizing the policy for Communist Nicaragua, realizes that when they complete the ports, the naval bases at Corinto and El Bluff, they will have a stranglehold over the Panama Canal. In World War II, Adolf Hitler sunk more American tonnage at the Panama Canal right at the mouth of the canal than in the entire Atlantic. It is a very vulnerable area.

You know, one thing that impressed me today about the liberals who stood up and were upset with Colonel North's photo presentation? I listened and I listened and I never heard one of them say the word Russian. They want to keep that out of the debate as if by keeping it out of the debate we can keep it from becoming a reality. If we never mention the 600 million dollars' worth of tanks and attack aircraft and bullets and guns that the Soviets are stuffing into Nicaragua, it will all go away. And in our own minds we can way, "Well, those are just simple peasant folks down there who want a little bit better life, they are a Socialist government, a Communist government but they are not going to bother us." But I find it interesting that the Democrats in this House absolutely are unable to deal with the idea that the Soviet Union is moving into Nicaragua. And if the gentleman has a second slide there, I think that is even more important than the first one. Now this is Marshal Ogarkov on communism in Latin America. Now this statement by Marshal Ogarkov is this and it was taken back from the Grenadan Defense Minister in 1983 when Grenada was Communist. The Grenadan Defense Minister went for some of his training in some of his meetings to Moscow and met with Marshal Ogarkov, then the head of all the Soviet military forces. He met with him and wrote about his meetings and came back and in the Grenadan papers that we captured when we took Grenada for freedom we captured 26,000 pounds of documents.

We found this one document from the Grenadan Communist defense minister who was talking about his visit with Marshal Ogarkov in Moscow. He said Marshal Ogarov said these words: "Over two decades ago there was only Cuba in Latin America. Today there are Nicaragua, Grenada, and a serious battle is going on in El Salvador."

Now obviously that shows that the Soviet Union is very much involved and interested in what is happening in Central America.

Mr. WALKER. Let us be clear: When that statement was made in 1983 insofar as the Soviet Union was concerned, insofar as the Soviet military of which Marshal Ogarkov was the head, is concerned, at that point Cuba was theirs, Nicaragua was theirs, Grenada was theirs and the battlefield for what was to be next theirs was El Salvador. I mean, that is what Marshal Ogarkov was stating at that point. And what we know from Grenada is that it was, that until we went in and retrieved that country for democracy there was in fact a massive base being built there despite the fact that in this body there were many Members who denied that there was any kind of real Soviet activity in Grenada at all; that the airfield being built there was being built there to land civilian aircraft. When we got there we found out there were not even any roads to the airfield and the only thing that was there was a huge airfield with all kinds of emplacements around it for storing of military weapons that were practically full of those military weapons.

Mr. HUNTER. The gentleman is absolutely right. If I could relate a personal experience with regard to Grenada, the President of Grenada, the Prime Minister of Grenada, Maurice Bishop, a London-educated lawyer, came to the United States and a number of members of the Committee on Armed Services sat down and talked with him. He looked us right in the eye and he said, "I tell you, Congressman, we are not building that airstrip for military use. That is going to be used for commercial use. We ship a lot of spices, nutmeg, and cinnamon," I cannot remember precisely what he said they shipped. But he said, "I want to assure you that is not for military use."

Mr. WALKER. He lied to you.

Mr. HUNTER. He lied to us. Because when we captured Grenada we found a record from the central committee meeting that he sat in on in which it was noted that of course the air base will be used by the Russian and Cuban military.

Now the point is the same Cuban engineers who built that airbase in Grenada are building another airbase complete with jet revetments in Nicaragua. I found it incredible to have to have a debate with the majority leader not long ago when first he said, "I can't believe there are jet revetments at Punta Huete." I had to show him the photographs, the actual photographs of the jet revetments. And that then he seemed to want to insist that there still was not proof that this airbase would be used by military, even though there were antiaircraft pods also on the base.

Another point is they had jet revetments and Nicaragua does not have any jets. So whose jets are they going to use? Well, ultimately they are going to be Russian jets at that airbase. I think you can presume that if somebody built a railroad track at some point a train would come down that railroad track and that if somebody builds a bomber base ultimately there will be bombers on that base and if somebody builds a naval facility, ultimately there will be naval vessels at that facility.

And if you follow the Cuban pattern that is precisely what we have seen. We have seen Foxtrot attack submarines using Cuba, we see bombers in Cuba. Speaking of bombers, could the gentleman show the last picture?

Mr. WALKER. Well, let us make one point here while this is still up. I say to the gentleman I do not think even the most left wing Democrat among us at the present time would tell us that Cuba is not a part of the Soviet satellite operation. I think most Members of this body will admit now that Cuba is in fact a Soviet satellite state.

□ 1640

Mr. HUNTER. Is the gentleman telling me that Fidel Castro is not that jolly guy who made such a great impression on the "Dorothy Kilgallen Show" in the 1950's, and who talked with the New York Times and impressed their leaders with his evenhandedness and fairness?

Mr. WALKER. Mr. Speaker, we have come to believe that maybe Fidel has a few human rights problems and is kind of a vicious dictator. I know the gentleman from California finds that hard to believe after witnessing those shows 25 years ago but I am afraid that I have to tell the gentleman that we have come to that conclusion.

I would also tell the gentleman from California that I think even the left-wing Democrats in this body have come to the conclusion now that Cuba is not a paradise and that in fact it has been pulled into the Soviet orbit.

But the point I want to make to the gentleman from California is that we knew that before we were able to retrieve Granada, we knew that it was in fact in the operation despite the denials about that in this place, and Ogarkov was right there. Do we have any reason to believe he is wrong with Nicaragua which he also put into that orbit in his statement? Do we have any reason to believe that he also did not believe that the real battleground at that time was El Salvador and only because the Democratic Resistance came into being in Nicaragua about this time did the battlefield revert back to Nicaragua, and did we have some chance for the embryonic democracy in El Salvador to get on its feet and move toward survival.

I think the fact that Ogarkov was absolutely right in his analysis about the others certainly makes it clear that he feels anyhow that Nicaragua is a part of their satellite operation in Central America.

Mr. HUNTER. If the gentleman from Pennsylvania will yield again, I think having Marshal Ogarkov's picture before us has another significance, because Marshal Ogarkov for practical purposes has been the leader of Cuba. The ostensible leader, Fidel Castro, and we know he is a Communist, but he is the ostensible leader and my point is if Fidel Castro sends his troops around the world to Africa and other places to kill and be killed by young black men, and the reason he sends them is because the Soviet Union orders him to send them, that is the fact.

The gentleman from Illinois [Mr. HYDE] made a statement not long ago. He said Cuba is the only nation in the world that has its governments in Moscow, Marshal Ogarkov, who tells him where to send the troops, his troops in Africa, the 25,000 troops in Angola, and a large part of its population in Miami. But that is absolutely the truth.

Who is going to be calling the shots in Nicaragua? We have these delegations going down and they say that, we talked with Denny Ortega and he does not seem to be that bad. We write him, "Dear Commandante" letters, as if he can somehow respond to us and alleviate the situation. The real guys that will be calling the shots if we follow the Cuban model, are the Soviets. When Marshal Ogarkov spoke and said, "Jump," Fidel Castro asked, "How high? How many men? Where and when do you want them?"

And Fidel Castro sent those men even though they went into situations where defectors tell us now that over 10,000 Cubans have been killed in Angola in battle, 10,000 body bags have come back to the people of Cuba, and the people of Cuba are saying, "Why are we killing young black men in Africa? What does that have to do with Cuba?"

All Fidel Castro could really say to them is, "Marshal Ogarkov told me to send them."

Now, who is going to be calling the shots in Nicaragua?

Mr. WALKER. If the gentleman will yield, I think we already know that, that the Nicaragua Government is more and more modeling itself along a Stalinist concept and that it is putting itself in the precise position of being able to have the Soviets call the shots in Nicaragua as well.

Mr. HUNTER. If the gentleman will further yield, I think it is very clear that they are going to. In fact, I would predict that you are going to see a time when young Nicaraguan men are sent to places like Angola to kill and be killed by young black men.

I think the Soviets are going to utilize as long as they are paying for the Nicaraguans, just like they pay for Castro and they pay for Cuba, they want to get their money's worth, and their idea of getting their money's worth is to send their proxies into the battleground in places where they do not want to go.

I am sure they would just as soon have some Nicaraguan brigades being killed and killing other people in Africa, for example, as their Cuban brigades. Maybe they want to give the Cubans a rest for a while.

So I think we can expect that if the Cuban model is followed.

Mr. WALKER. If the gentleman will yield for a moment, I have this last chart.

Mr. HUNTER. If the gentleman will yield, I think the last chart the gentleman has is quite interesting. This is a picture that I would venture to say that before Ollie North testified before the joint hearing, 99 percent of the people of this country did not realize was the fact. This bomber aircraft, this is a Soviet bomber. This picture was not taken in the Soviet Union. This picture was not taken over the vast expanse of the Pacific or the vast expanse of the Atlantic.

This picture was taken right off the Virginia coastline right where sunbathers could see it. This is a bomber that is able to reconnaissance our coast and our Navy activities from its base in Cuba.

The Punta Huete air field that is being built in Nicaragua will allow that same model bomber, and that is a Bear bomber, to reconnaissance our Pacific Fleet and my hometown in San Diego and up the California coastline and more importantly, if we ever have a conflict it will allow bombers to operate off those bases not with cameras but with nuclear weapons or conventional weapons, and strike practically every city in the United States from those air bases in Nicaragua.

Mr. Speaker, one thing that I have noticed about the liberals in this House is that in their debates as I said I never hear the word "Russian" because they do not want the American people to even think about the Russian dimension in this problem.

Mr. WALKER. Mr. Speaker, if the gentleman will yield, I think we should be fair, they do say that they are as opposed many times to the Soviets being there as we are. The problem is they have no policy for getting the Soviets out. They keep protesting that they do not like the Soviet activity there either, and they do not like what the Sandinistas do, and they are not really pro-Sandinista, the problem is they seem to use pro-Sandinista propaganda to make their points on the floor and they also seem to have absolutely no policy whatsoever to force the Soviet Union out of our hemisphere.

Instead they hope to rely upon, I guess, their good will. They sometimes call it diplomacy, but they have no policy whatsoever to put on the pressure.

The Soviets have invested billions in this area to place the very things the gentleman has discussed, and they are not likely to leave without some kind of pressure.

They were not about to leave Grenada without some kind of pressure, and the pressure that we have to put on the situation in Nicaragua is through the democratic resistance. There is no need to send American troops to Nicaragua if the democratic resistance is capable of recapturing Nicaragua for their own democracy. That is the policy that we ought to pursue rather than a policy which some of them suggest from time to time is the policy that we need to think about, and that is the Soviet Union threat is so great we ought to send in American troops to clean up the mess.

I think that that is almost irrational in its context when you think that what we can do is achieve the same thing and at the same time achieve a country that would then become another embryonic democracy in Central America.

Mr. HUNTER. Mr. Speaker, if the gentleman will yield, another point offered by the Democrats of this House is that we can tolerate the building of these bases in Nicaragua but that we should be able to draw a line in the sand and tell the Soviets if they ever put attack submarines, for example, in the bases that they are building, if they ever put jets in the jet revetments that they are building, then we will strike and we will knock out those jets or those attack submarines or whatever other types of military equipment they are installing of an offensive nature.

Mr. Speaker, I would suggest to this House and to the American people that that is the worst of all alternatives. I do not think we want to be in a position where we are making military strikes against Soviet submarines or Soviet bombers. That reconnaissance bomber is not flown by a Cuban. It is flown by a Russian. That is a direct military confrontation with the Soviet Union. It is much better, I would argue, not to allow them to have the bomber base, not to allow them to have the submarine base, not allow them to have the beachhead in our hemisphere by not allowing them to have Nicaragua than to put ourselves in a Cuban missile crisis situation where ultimately an American President, like John Kennedy was, has to have the world on the precipice of a nuclear war to back down the Soviet Union. I wonder if President Kennedy ever reflected when he was going through that horrible crisis where nuclear missiles were being installed a few miles from his shore and he had to back down the Soviet Union not knowing if they were going to back down or if they were going to strike.

I wonder if he did not go over in his mind the picture of Mr. Castro talking with the press, and appearing on the talk shows in New York and winning the hearts of liberals and the media leaders?

Mr. WALKER. Mr. Speaker, if the gentleman from California will yield, that is much as Danny Ortega does today.

Mr. HUNTER. Precisely the pattern Mr. Ortega does today.

Mr. Speaker, I remember appearing shortly after him on the "Phil Donohue Show" after he was introduced with his wife as the President and first lady of Nicaragua. My point is with regard to President Kennedy, I would bet that President Kennedy regretted when forced with this decision to place the world on the nuclear precipice, I am sure that he very much regretted that he abandoned the Cuban freedom fighters in the Bay of Pigs, pulled off the air cover, and allowed Castro to cut them to pieces on the beaches and win the day.

Mr. Speaker, I am sure that was a horrible part of Mr. Kennedy's life but especially when he was going through those terrible, terrible moments when he had to deal with nuclear weapons a few miles from our shores. I bet he wished he had done something about making sure that Cuba was free and not subject to a Soviet beachhead before that situation ever arose.

For those Democrat Members who say, that is OK, let them build the bomber base but if they ever put a bomber there than we will strike, I would say let us put that off. Let us not put ourselves in a position where when that first Foxtrot submarine sails up and installs itself at that naval base in Corinto, that we then have to make a strike or back down, let us not have that decision. Let us not allow them to make a Soviet beachhead in Nicaragua. That is the issue and I think that is the best service that Ollie North did the American people by letting us know that that is the issue.

Mr. WALKER. Mr. Speaker, let me say to the gentleman from California that one of the problems I have whenever we hear this business about drawing the line in the sand with respect to certain points in this argument, that for the better part of our history the line in the sand that we had drawn was the Monroe Doctrine which said that we would not allow a hostile power into the Caribbean, into the soft underbelly of this country.

With Cuba, essentially the left in this country said, "Well, Cuba is OK. We did not think it was going to be as bad as it is, but that is OK and the line that we are going to draw now is that we will never allow any other expansion of the Soviet Union into the Caribbean other than Cuba."

But then came Grenada. The fact is that they went along with that as well.

The fact is that until you had a President with the courage of a Ronald Reagan to decide to retrieve Grenada, they were perfectly willing to allow that to sit there and become another Soviet base in our hemisphere, and then Nicaragua they allowed no line in the sand there. They say, let us do that. Now they are drawing other lines.

One of the other Members on the other side drew the line at Honduras today saying that Nicaragua is no real threat to us and so on, but if they ever go into Honduras then we will get them and we will do it with American troops.

Mr. Speaker, there is just no line in the sand with regard to the left. Give them enough years and they will give more and more and more of the Caribbean away, more and more and more of Central America, and that has to be a fearful prospect for this country.

It is a direct contravention of everything in our national security interest to allow that kind of process to go on.

Mr. HUNTER. Mr. Speaker, if the gentleman would yield further, I hope they do not draw the line in my district, in Imperial County, or Tucson, AZ, but I would like to point out to the gentleman and to the people who might be watching this, that now is an opportunity for America to educate itself.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TRAFICANT). The gentleman from California should not direct his remarks to any viewing audience.

Mr. WALKER. Mr. Speaker, let me say to the gentleman from California, the Chair is absolutely correct. Our remarks are supposed to be directed to the Chair, and we certainly want to do that.

Mr. HUNTER. Will the gentleman from Pennsylvania yield?

Mr. WALKER. I am happy to yield to the gentleman from California.

Mr. HUNTER. The Chair is absolutely correct, and we will confine our remarks to each other.

I would like to say that I think now is the time, and I would tell the gentleman and my colleagues, that now is the time for us to educate the American people, and now is the time for us to get as much data as we possibly can about the Soviet Union, about the presence of Soviet bases being established in Nicaragua, about the amount of weapons and the number of attack helicopters such as the Hind-D helicopter, those helicopters known also as the killing tanks that can fire 30,000 rounds a minute and that literally tear up the freedom fighters when they are exposed, and it is important that we get as much information as we can about the intelligence site that the Soviet Union is building in Nicaragua and that we educate the American people and the American people take this next 3 or 4 weeks to get as much information as they can even though they have their jobs to attend to and they have all the business of living in this great country to attend to, but we cannot afford to be uneducated regarding the Soviet threat which is a few miles from our doors.

I as a Member of Congress did not know much about Central America, and I still do not know a lot.

Mr. Speaker, most Congressmen probably know more about Europe than we know about Central America.

The gentleman mentioned Ronald Reagan and while Mr. Ogarkov is over there hoping Grenada is falling fast and that El Salvador will shortly follow, Ronald Reagan in his policies has helped produce democracies in Guatemala, Honduras, and El Salvador. They are very fragile democracies, and they hold free elections, and it is very difficult. One woman was standing at the election center in El Salvador with a bullet in her arm, and they said, "Don't you want to go the hospital?"

She said, "I want to vote first, then I will go to the hospital."

So we have very fragile democracies that have been founded and nurtured by the Reagan administration and it is very, very important that we protect those democracies. That is another reason for the American people to educate themselves.

Mr. Speaker, I hope that Members of Congress and the American people will embark on a program of education over the next several weeks about this threat that Ollie North has brought to our attention so that when that votes comes for the $100 or $150 million for the freedom fighters, that the President will ask of this Congress, that the people will react in an educated manner and support it.

☐ 1655

Mr. SWINDALL. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Georgia.

Mr. SWINDALL. Mr. Speaker, I thank the gentleman for yielding.

First of all, I want to commend the gentleman from Pennsylvania for taking this special order.

I am sure the gentleman shared some of the frustration that I shared trying to synopsize all that there is to say into a mere 1 minute, as we did this morning; but I had slide No. 32, which was the Hind-D helicopter that the gentleman from California just mentioned.

I unfortunately did not have adequate time to really talk about the significance of that particular helicopter in terms of what is happening, not only in Angola and Afghanistan and in Central America.

Repeatedly, the gentleman read editorial comments that say that the Contras are unable to win militarily. Let us examine just one moment the significance of that helicopter in terms of why the Contras are not doing better than perhaps many felt they would.

The significance is that: That particular machine, which costs $5 million, and which there are 12 presently in Nicaragua, is basically a Gatling gun.

It has the ability to spray a football field, every square foot of a football field in one pass with a round of ammunition on every square foot.

Imagine now the ability that that particular weapon gives to the Communists in Nicaragua, when they are confronting guerrilla troops, when they can fly over and spray an area the size of a football field and cover every square foot with one round of ammunition.

The other aspect that I think we must focus on is this year alone, the Soviet-bloc countries, including Libya, have already pumped into Nicaragua $300 million just in the first 6 months.

The significance of that is, that is far more than the entire amount of money that the United States has given to the Contras since 1980. In fact, we have given a total of less than $200 million, $100 million for military assistance, a mere $27 million for humanitarian assistance, and the balance in covert action.

My point is, the only way that we can deal with that particular sophisticated weapon, and incidentally we have nothing in our arsenals that compare with it, because the sophistication is in the armament. They have been able to take in essence a flying tank which is fortified by titanium underneath which is impenetrable by anything other than a guided-missile system.

With Stingers we could knock out, and I say we, because like the President, I consider myself a freedom fighter, we could knock out those 12 $60 million cumulative investments of the Soviet Union into Central America, and suddenly you would see the entire equation change in Central America.

Let me point out the undergirth here is totally fortified by titanium, light enough to fly, but strong enough to repel anything short of a guided missile. That means that while they hover over any type of guerrilla formation, they can spray that area with a round of artillery, and basically not be concerned at all about being hit, because it will essentially withstand anything except a Stinger.

Mr. WALKER. The gentleman's point is too that just the 12 helicopters of this type that have been provided to the Nicaraguans, to the Communists is almost the same amount of money that we have provided in total in military aid to the democratic resistance down there, just for the 12 helicopters, let alone all the rest of the military supplies.

Mr. SWINDALL. That is correct. This gives them $60 million of supremacy; but the point I made this morning is this: The gentleman from Arkansas [Mr. ALEXANDER] pointed out the fact that the United States of America has the ability anytime it wants to basically stop the Communists in Nicaragua.

The point is, this Congress, which only has the ability to appropriate money for this purpose, does not want to.

My question is why. Given the tradition of that party, Harry Truman, who is responsible for the Truman doctrine, and President Kennedy, who reinstated——

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TRAFICANT). The Chair asks the Member to suspend.

The substance of this special order is not in question; but alluding to the American people or alluding to Members who are not on the floor should be restricted, if not in fact by rule, but at least by the conduct of those Members so engaged, and the Chair would ask those Members rather than rule to not refer to Members in this special order and to continue on.

Mr. SWINDALL. Would the Chair please cite the rule to which the Chair refers that would bar any mention of any Member of Congress ever being referred to on the floor?

The SPEAKER pro tempore. The Chair merely intends to remind the gentleman to refrain from referring to Members who may not be on the floor,

Mr. SWINDALL. Mr. Speaker, if I might respond, I did not refer to any Member in the context of my remarks.

I referred to a statement made on this floor by a Member today.

The SPEAKER pro tempore. The Chair again merely means to remind the Members to refrain from alluding to other Members who are not on the floor.

Mr. SWINDALL. Mr. Speaker, I have yet to refer to any Member of this body that is not on the floor, so I would assume that that is more by way of prospective precaution, so I will proceed.

The SPEAKER pro tempore. Without belaboring the issue, so the gentlemen can continue on with the special order, there was reference made to the gentleman from Arkansas [Mr. ALEXANDER], and some comments that were made.

Mr. SWINDALL. That is not the case. I would be glad to have the record read, and the Chair will find that I referred to the gentleman's comments, a substantial difference.

PARLIAMENTARY INQUIRY

Mr. WALKER. Mr. Speaker, I have a parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state his parliamentary inquiry.

Mr. WALKER. Mr. Speaker, it seems to me that matters that had been commented on on the floor, statements that had been made on the floor, are in fact public record.

They will be in the RECORD tomorrow.

I think that it would be a travesty of the process to suggest that we cannot refer to public statements made on the floor.

Mr. SWINDALL. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Georgia.

Mr. SWINDALL. Mr. Speaker, I thank the gentleman for yielding.

This sounds very similar to not allowing Ollie North to even show these particular slides to begin with.

Why are we concerned about keeping the American people from learning the facts with respect to what is going on in Central America?

Mr. WALKER. I think the gentleman extends it, but we need to get a clarification here about exactly what we are talking about.

I agree with the Speaker that there should never be a case where a Member is referred to, called into question, or in any way referred to in such a way that they are not on the floor to reply.

However, we operate in a public realm on the floor. We make statements. It seems to me that in order to identify particular statements, that at times it is necessary to reference the Member who may have made that statement.

I think that we would strangle the debate of the House of Representatives to suggest that a Member cannot refer to statements that were made as part of the debate on this floor.

Is that what the Chair is saying?

The SPEAKER pro tempore. The Chair stands corrected and is in agreement that comments of the Members can be discussed on the floor, and would allow the debate to continue.

Mr. WALKER. I thank the Chair.

Mr. SWINDALL. Mr. Speaker, if the gentleman will yield further, the point I would make is that President Kennedy invoked the Monroe Doctrine, of course, with respect to the Soviet buildup in Cuba in 1962.

For some reason that is inexplicable. We have lost the will to basically address what is really happening in Central America, and it is the Communist insurgency that is there that is now the established government that is suppressing people in large part because of this type of Soviet presence.

To date, in 5 years the Soviet Union and the Soviet-bloc countries have pumped in $2.8 billion in military assistance. That compares roughly 14 times as much as we have pumped in, and that has been over the same period of time.

There seems to be an acceleration of this in the last 6 months. Here is the significance of that. While the Soviet Union has pumped in $300 million in the first 6 months of this year, we have pumped $10 million into the Iran/Contra hearings at a time when apparently we are oblivious to what is actually going on in Central America.

As we spend $10 million on the Iran/Contra hearings, they are spending $300 million in further military assistance to the Communist government in Nicaragua.

I would again refer to the gentleman's comments, and it is not the only time the comment has been made that we have the ability if we so desire to address the Communist threat anytime we want to.

What happened to the Truman doctrine? What happened to the Monroe Doctrine? Why do we not have the resolve, as Ollie North has had the resolve, and the vast majority of the American people have the resolves to truly contain communism, because containment, as some of my colleagues would define it, is, you stop them momentarily in one country while they basically fortify to move on to the next country, and on to the next country.

We know that from the Grenadan doctrines. There is no question but the plan is one country at a time. As soon as Nicaragua is firmly in hold, then you move on El Salvador, and Daniel Ortega has said as much. We stand here basically solid.

If you go back and study two very significant assessments of what happened from World War I to World War II in England, one by Winston Churchill, and the other by John Kennedy, and one wrote a book called "While England Slept."

The other wrote a master's thesis called "While England Slept."

Both came to the conclusion that England, though they had the ability to contain Nazi Germany, lacked the resolve, and so in spite of their ability, they stood there and watched the most massive arms buildup of this century next to, of course, what is going on in Nicaragua today, and never did a single thing.

By the time they understood the threat, it was too late, and one other point John Kennedy made. He said at the time the mood in England was, No, 1, to have any type of arms buildup would not be healthy for the League of Nations; and No. 2, that somehow to build up arms and to maintain defensive readiness would in some way hasten the likelihood of war; and finally, because of their own deficit problems, their own imbalance in their budget, they thought it ill-advised to continue to build up their defenses because, as they said, the threat from within in their deficit was far more significant than the threat from without.

Does that not sound vaguely familiar to a number of the arguments that are being made here? Substitute a number of names of countries, and basically we are as a nation sleeping while the Soviet Union, through a policy of gradualism but determination, moves out of Cuba into Nicaragua, next into El Salvador. In fact, they are already in El Salvador, and we sleep.

Mr. WALKER. We had this chart up here earlier before the gentleman arrived, but Marshal Ogarkov has said what the gentleman said, and he is the head of the Soviet military.

He has said that over two decades ago there was only Cuba in Latin America. Today, Nicaragua, Grenada, and a serious battle is going on in El Salvador.

□ 1710

They understand what it is they are doing. In the Caribbean they are fighting for domination of a hemisphere that they know is vitally important to this country. They understand it. It seems to be only here that often we do not understand the nature of the battle.

Mr. SWINDALL. Mr. Speaker, if the gentleman will yield, one other point that needs to be made. I am a ranking member on the Immigration Subcommittee of the Judiciary. Next week, Tuesday to be precise, we will be debating the extended voluntary departure bill, which in essence will give a new type of amnesty to the various Salvadoran refugees who are in this country.

We all know what has occurred as a result of the communization of Cuba in terms of the impact on American jobs and this economy. Those are individuals who have fled the intolerance of communism and now we are seeing a duplication of that with respect to what is going on in Nicaragua.

My point is this. Forget for a moment the national security problem that we all know exists when you have the ability for a Bear reconnaissance flight up and down our very sensitive bases on the west coast. Let us focus exclusively on the economic impact of these various individuals coming by the hundreds of thousands into this country, as they are already doing. Imagine how much worse it gets as Nicaragua moves into El Salvador and into Mexico and we have to deal with the further immigration problem, which then has an effect on Medicare,' Medicaid, aid to families with dependent children, unemployment figures, you name it, it has an impact economically, so we are dealing here with far more than simply the national security problems. We are dealing here with American jobs.

Mr. WALKER. The gentleman from California pointed out earlier that those American jobs are also wrapped up in being able to control the Panama Canal and that this is all tied to our ability to maintain the vital canal route for the flow of our trade and for our own economic goods around the world.

Mr. HUNTER. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I am glad to yield to the gentleman from California.

Mr. HUNTER. Mr. Speaker, I thank the gentleman for yielding.

The gentleman from Georgia has made an excellent point. A couple days ago I was at the United Nations refugee camp in Honduras near the Nicaraguan border. It was packed. When I walked in, people gathered around by the hundreds and I asked people, with no advance notice, no contacts, "Why are you here?"

The first man said, "Because of Sandinista oppression."

I said, "What did they do to you specifically?"

And he said in Spanish, we had an interpreter, he said, "You see this scar on my neck and my cheek? They cut me with a bayonet."

The next man that we talked to said, "The Sandinistas attached an electrode to my head and my leg and turned on the electricity."

It is a heck of a way for a campisino to learn about electricity.

Mr. SWINDALL. Mr. Speaker, if the gentleman will yield, I would simply say that those tactics were learned from the Cubans.

Mr. HUNTER. Well, I think the gentleman is partly right. I think some of them were learned also from the East Germans and the Bulgarian Secret Police who have some very, very tough ways of dealing with people; but my point is, as I watched that teeming mass of refugees at the United Nations camp, I realized suddenly that those are people who are going to end up in one of two places, because Honduras will not even let them work while they are in the refugee camp. Honduras has a high rate of unemployment. They are a poor country and barely able to tolerate this heavy infusion of refugees. Those people in that refugee camp are going to end up in one of two places. Either they are going to go back to their homes where they want to go in Nicaragua, because freedom has been established with help from America, or they are going to come join us, just like the refugees from Cambodia joined us after this Congress abandoned the defense of Phnom Penh on the basis that it would promote peace and later we undercovered literally caches of skulls where people had been mass executed, an enormous genocide.

The SPEAKER pro tempore. All time has expired.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. MOLINARI] is recognized for 60 minutes.

[Mr. MOLINARI addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New Jersey [Mr. FLORIO] is recognized for 60 minutes.

[Mr. FLORIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

[Mrs. BENTLEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. FRANK] is recognized for 60 minutes.

[Mr. FRANK addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

THE ISSUE IN CENTRAL AMERICA

The SPEAKER pro tempore (Mr. TRAFICANT). Under a previous order of the House, the gentleman from California [Mr. HUNTER] is recognized for 60 minutes.

Mr. SWINDALL. Mr. Speaker, will the gentleman yield about the comments he was just making. I would just like to make a couple observations.

Mr. HUNTER. Let me just conclude, if I could.

We abandoned the freedom fighters of Phnom Penh. I read some of the testimony, some of the statements that were made in the debate. The debate that was made by those who wanted to abandon the Resistance was that this was the only way to peace, and yet later on we discovered again literally thousands and thousands of skulls, some of them with the blindfolds still on where they had been executed in place. In fact, some people were executed by simply being bulldozed into open caverns; but those Cambodians who survived came to the United States. The Cubans who were able to survive Mr. Castro's devastating totalitarianism came to the United States, the survivors of those people who made the aborted attempt to take back Cuba at the Bay of Pigs came to the United States.

My point is, and I guess we should also include the South Vietnamese in that population of refugees who the United States abandoned while the Soviet Union helped its ally, North Vietnam, to establish totalitarianism in South Vietnam and thereby initiated the boat people, the program that was known as the boat people, because people were willing to get out in leaky boats and attempt to swim after the Americans to find some refuge in the United States.

My point is, and I will conclude very briefly, is that we can expect those Honduran refugees, or those Nicaraguan refugees in those Honduran refugee camps, to be ultimately in the United States with us if we do not allow and pursue a policy that will allow freedom to grow in Nicaragua and to allow a safe place for them to come back and reestablish their lives.

Most of the campesinos wanted to go back, but they did not want to go back to the Sandinistas.

Mr. SWINDALL. Mr. Speaker, will the gentleman yield?

Mr. HUNTER. I am happy to yield to the gentleman from Georgia.

Mr. SWINDALL. Mr. Speaker, I would like to say that it is significant for a moment to understand the thrust behind the Truman doctrine. We are celebrating the 40th anniversary this March 1987 of the Truman doctrine. Essentially the Truman doctrine recognizes that the nature of communism is to expand. There is a very significant reason why it has to expand. It is parasitic. It cannot survive on the foundation of its own economic system.

Marxist-Leninism has failed in this sense. The idea behind it is to redistribute the wealth, but in no way does it provide the initiative to create the wealth.

If you look at Central America today, you will find that the combined gross national product of the five major nations comprising Central America is $20 billion. Were you to divide that by the total populous of Central America, you will find that they will still live in abject poverty.

The point is that Marxist-Leninism cannot in any way raise these people above poverty.

How do we do it? Look at the Kissinger plan, which is still the fundamental outline that we are following in terms of our Central American policy, a bipartisan plan that in essence says that you have got to create wealth. You have got to create an economic climate that you can create wealth so that you then have the opportunity for individuals to lift themselves out of poverty.

The problem is that you cannot create wealth in an atmosphere of totalitarianism.

So the whole idea of the Kissinger plan is that we will put three-quarters of every dollar of assistance into economic development and one-quarter into military assistance to level the playing field. Why is it necessary to level the playing field? Very simple. The concept behind the Monroe Doctrine is that we will not allow any type of foreign governments into these lands to basically dominate them.

I continually hear individuals say, "All we want is self-determination." How can you have self-determination where $2.8 billion has been pumped in by the Soviet-bloc countries in essence to create a Soviet military base, a Soviet deepwater port, a reconnaissance base. All they want Central America for is to essentially establish their Soviet base there. They are not concerned about the people there, but they are very concerned about the political military advantage they have by seizing that.

Mr. **HUNTER**. Another point that the gentleman has brought out is that you can never have self-determination where you have the microcontrol that the Soviets have over every community in Nicaragua. For example, the existence of block communities or block committees. A block committee is established in a very small neighborhood to monitor for the State the actions of the people who live in that neighborhood. Certain people are designated to tell on other people, and if they tell on other people enough, then they advance their own political careers or they get some favor.

I just remembered one instance of this situation in Nicaragua. Nelson Perez was a Managua taxicab driver who went to a union meeting in Managua, a taxicab driver union meeting, and Commandante Bayardo Arce was speaking to the union that night. Nelson Perez, taxicab driver, exercised what he thought was his right of free speech. He made the unforgivable mistake of booing Commandante Bayardo Arce. He booed him. Now, all American politicians get booed, but when Commandante Bayardo Arce gets booed, things happen.

Nelson Perez was taken immediately from the meeting by armed guards and his wife was told the next morning that unfortunately he had been shot and killed while trying to escape.

So the point is, these people who talk about self-determination are not really talking about self-determination, because once the Communist state takes over in places like Nicaragua, any chance for people who want to follow the path of democracy is absolutely eliminated and only the party people and the hard core believers are left.

In fact, in the case of Grenada, the real hard core Communists, like Coard and Bishop, or Coard and Austin came to the conclusion that Maurice Bishop, while being a Communist, really was not a good Communist, and therefore they felt compelled to line him and his pregnant girlfriend up against the wall and machine gun them.

So the point is, nations can never follow this self-determination course once the Communist system has been in place.

Mr. **WALKER**. Mr. Speaker, will the gentleman yield before he moves too far away from this point?

Mr. **HUNTER**. I am happy to yield to the gentleman from Pennsylvania.

Mr. **WALKER**. Since we are using pictures on the floor, I thought that we might want to use this. By the way, this is not some clandestine publication. This comes from the U.S. Department of State. It is their report on human rights in Nicaragua and the Sandinistas. We actually have a picture here, it is not a very pleasant picture, but, nevertheless, a picture of Mr. Perez after he had been tortured, before he was shot. It is important I think to note that while they claim he was shot while trying to escape, there are signs all over the body of torture. When the Independent Human Rights Commission, the Permanent Human Rights Commission in Nicaragua published a report on this particular case, Ministry of the Interior officials, that is the secret police, called the National Coordinator of the Permanent Human Rights Commission and ordered her never to print these pictures again. With good reason, because the torture of this man whose crime was he booed a Commandante is devastating.

Mr. **HUNTER**. If I could just comment on that briefly, I think that shows, that goes back to an initial point that the gentleman from Pennsylvania made about all the pictures that were withheld apparently the Witness for Peace Organization that were offered on the floor today. I am sure that the Sandinistas are just as accurate when they in their presentation of those photos as being photos representing Contra atrocities as they are in their statement that Nelson Perez unfortunately got all these bruise marks when he attempted to escape and had to be shot by a faultless Sandinista police force. I am sure they are just as accurate in their representation of those pictures, if they produced those pictures, as they are in the case of Nelson Perez.

Mr. **SWINDALL**. Mr. Speaker, will the gentleman yield?

Mr. **HUNTER**. I yield to the gentleman from Georgia.

□ 1725

Mr. **SWINDALL**. Let me just briefly say with respect to the photographs that were shown earlier today in the 1-minute that there need to be a distinction made between those types of photographs that indicate clear signs of torture before they were ultimately killed and those that were victims of being in a combat zone, because I would suggest that before we come across with these types of photographs suggesting that the Contras have gone out and somehow systematically killed folks, that we ought to be very careful because the truth of the matter is that it is impossible to engage in any type of war without there being innocent victims.

Can my colleagues imagine for a moment what would have happened if just after World War II, or worse yet during World War II U.S. news correspondents had shown on the evening news, or just in the newsreels in the various movie theaters the bodies of individuals that were victims of our bombing Germany and other places during World War II. We know for a fact that individuals, when there is a war, are going to be casualties.

But what bothers me is the suggestion that somehow these individuals were not in the areas. For example, one of the photographs this morning was from an airstrip, an individual in a military target was killed. I would have to say that when an individual goes into a known combat zone they certainly assume the risks.

I am just troubled by the fact that we are somehow separating these photographs and the suggestion of these photographs from the reality of what is going on in Central America.

If my colleagues go back to the American Revolution they will find that there were undoubtedly Americans that were killed as part of a war. War means that. It is regrettable, but the point here is there is war in Central America not because of American intervention, because let us remember, under the Carter administration we pumped over $100 million into the Sandinista government before we learned that they were avowed Communists. At that time I think that they were the equivalent in terms of our policy with the Philippines. Today we are doing exactly the same thing.

There has been a successful revolution. We aided those individuals in their revolution, and now we are seeking to help them establish a legitimate democracy. We did exactly the same thing, and it was not until the Soviet Union through their puppets, whether it is the East Germans or the Cubans, began the massive military buildup that caused even President Carter to withdraw further aid, and our President, our current President, to say we are not going to not only aid them any further, we are going to try to help these individuals, many of whom were original Sandinistas, who wanted a revolution, who wanted to have free elections, who wanted to have a free press, who wanted to have freedom of religion, all of whom quickly saw through Daniel Ortega and his Communist friends, and they left the ruling junta, they left the Communist government and they established the Contras. So the Contras exist not because of American interventionalism in a military fashion, but because of Soviet interventionalism, just as certainly as we saw the interventionalism in Afghanistan. I think that is a very critical point, because somehow we want to ignore that very relevant period of history where the Soviet Union intervened in this area contrary to the Monroe Doctrine, contrary to the Truman doctrine, and now suddenly we are blaming ourselves because of what the Soviet Union has done as part of their master plan.

Mr. HUNTER. The gentleman is right. The Contras exist for another reason also, and that is because the Sandinistas did not live up to their promises.

Mr. SWINDALL. Absolutely.

Mr. HUNTER. Any time you have a political movement and you make a broad array of promises, and then you tell the people that you promised to go hang themselves when they want you to live up to the promises, you can expect to have a resistance movement formed in very short order. In fact, it was amazing, I was talking to the Contra leadership recently and they showed me the complete roster of their commanders, their field and regional commanders. There were 87, I believe; 9 of those commanders, 9 of the 87 were former guardsmen under Somoza, 9 of the 87, and 27 of the 87 were former Sandinistas.

Mr. SWINDALL. Three to one.

Mr. HUNTER. In other words, it was 3 to 1 for the people who had been Sandinistas and who had been a part of that body when they made the promises for free and fair elections, they made the promises for freedom of religion, they made the promises for free enterprise and they did not live up to any of them.

Mr. SWINDALL. If the gentleman will yield, I would like to suggest one reason why it took 5 years to have the free elections. The gentleman suggested the reason earlier.

Part of the way a Communist totalitarian government exists is they first marshal all of the resources. Once they marshal and centralize the resources, they then basically say to those individuals when the free elections occur, and it took about 5 years for them to fully control all of the resources, they then say if you do not vote you will not be entitled to your ration of sugar, your ration of wheat, your ration of food. The reason they do that is they want to have high participation.

The problem is those candidates that appear on the ballot are not all of the candidates that would like to appear on the ballot. But in order to give a cloak of legitimacy, they force individuals to participate in the election process that has already been rigged, and then if they do not vote they do not get any of their rations. That is why it took 5 years.

In the 5-year period they were able to completely marshal the resources so that if an individual really wanted to vote he had to weigh that desire to vote in a legitimate election versus an illegitimate election with his desire to feed his family, and regrettably under those circumstances, you cannot possibly have a rational person who is going to starve their family in order to protest an election which they know is a complete farce.

Mr. WALKER. If the gentleman will yield, I think maybe we have proceeded here long enough this evening. But I would say to the gentleman that when we touched on the Perez case, there are numerous human rights violations that can be documented with the Sandinistas against children where children have been bayonetted, where throats have been slit, where there are just atrocious crimes. I think because the left wants to focus on some of those kinds of incidents, as they apply to the Contras, that we probably ought to also focus during a special order here at some point on some of the things that are going on within Nicaragua that tell us why people are trying to escape that country. At some point in the future I think we probably should document for our colleagues and for the Chair the kinds of human rights abuses that have become so much a prevalent part of Nicaraguan life today.

It is a disturbing kind of scene that has to be created when we talk about those things. But it is important I think to put it into the appropriate perspective to know that children are in fact being victimized by the terror campaign run by the Sandinista Communists probably to a greater extent than the atrocities that have been pinned on the Contras, and in some cases probably factually, in other cases we are not so sure. But, nevertheless, the children are the objects of Sandinista Communist attacks as well, and I think at some point in the future we may want to document some of that.

Mr. HUNTER. I thank the gentleman and would recommend to any Member of this House who wants to try to figure out who the good guys and who the bad guys are in this situation, and who commits atrocities and who does not commit atrocities, to go to the neutral ground of the U.N. refugee camps in Honduras and simply ask the refugees, ask the people with no political ax to grind, the campesinos who have been displaced what happened to them, what was their relationship with the Sandinistas and why are they there in Honduras instead over on the other side in their native Nicaragua.

I thank the gentleman for helping me to kind of work a summation, if you will, this afternoon, of the 1-minute speeches that we had this morning and the presentation of Colonel North's slides. I think these slides will have an effect on the American people. I hope they will be distributed by Members of Congress throughout this great land so that we can truly educate this country as to what is taking place in Central America before these very critical votes.

I thank the gentleman, and I yield back the balance of my time.

RICO REFORM, H.R. 2983

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Virginia [Mr. BOUCHER] is recognized for 10 minutes.

Mr. BOUCHER. Mr. Speaker, yesterday, along with our Judiciary Committee colleagues, GEORGE GEKAS, ED FEIGHAN, JOHN BRYANT, CHUCK SCHUMER, BARNEY FRANK, DAN GLICKMAN, MIKE SYNAR, LARRY SMITH, CLAY SHAW, PAT SWINDALL, and BILL MCCOLLUM, I introduced legislation, H.R. 2983, to reform the misused civil provisions of the Federal Racketeer Influenced and Corrupt Organizations Act [RICO]. Similar legislation was introduced in the Senate by Senator METZENBAUM.

Introduction of the bill marks the renewal of our effort which began in 1985 and witnessed House passage of RICO reform legislation in the waning hours of the 99th Congress.

Civil RICO in its present form has caused significant problems. The broadly crafted civil statute, adorned with automatic treble damages and attorney's fees and easily met pleading requirements, has become the legal weapon of choice in common commercial disputes and has supplanted carefully crafted State and Federal remedies.

As a consequence, ordinary businessmen are being branded as racketeers merely because they are involved in a contract dispute. RICO's treble damage hammer allows plaintiffs to leverage substantial settlements on less-than-substantial allegations. And the Federal courts are being flooded with a tide of suits best adjudicated in the State courts under well-developed statutory and common law schemes.

Last year's House-passed bill, H.R. 5445, serves as the starting point for the new proposal in the 100th Congress.

H.R. 2983 mirrors, in large part, H.R. 5445. It includes provisions for automatic treble damages in civil suits brought by Federal and State Governments and in private suits where the underlying pattern of behavior led to a criminal conviction; actual damages in most actions; and a consumer suit section providing up to treble damages in egregious cases.

We have also made some significant changes in the bill, changes which are designed to solidify support for the measure.

The new bill:

Retains a multiple damage cause of action for consumers injured by insider trading,

Broadens the Government suit provision to include units of general purpose local government, and allows units of special purpose local government to proceed for punitive damages under the consumer suit section,

Raises the evidentiary burden in consumer suits to "clear and convincing" evidence, a change in keeping with State fraud laws,

Provides an affirmative defense against RICO liability for action taken in reliance on a State administrative decision, and

Precludes the presentation of evidence which bears directly on the level of punitive damages in a consumer suit until liability has been established.

The bill is the outgrowth of lengthy negotiations involving interested Members of Congress, the RICO reform coalition and consumer representatives.

We have achieved substantial agreement with Senator METZENBAUM on changes to H.R. 5445. Only the breadth of the securities exemption remains unresolved. I am confident that this issue will be fully addressed and resolved during House and Senate consideration of the reform measures.

The compromise measure, H.R. 2983, restricts the inappropriate use of the Federal racketeering laws in private litigation while retaining a carefully crafted multiple damage consumer fraud remedy. I look forward to working with all interested Members to ensure swift enactment of this much needed legislation.

The bill follows:

H.R. 2983

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PATTERN OF UNLAWFUL ACTIVITY.

(a) Chapter 96 Heading.—The heading for chapter 96 of title 18, United States Code, is amended by striking out "RACKETEER INFLUENCED AND CORRUPT ORGANIZATIONS" and inserting in lieu thereof "PATTERN OF UNLAWFUL ACTIVITY".

(b) Section 1961.—Section 1961 of title 18, United States Code, is amended—

(1) in paragraph (1), by striking out "racketeering" the first place it appears and inserting "unlawful" in lieu thereof;

(2) in paragraph (5), by striking out "racketeering" each place it appears and inserting "unlawful" in lieu thereof;

(3) in paragraph (7), by striking out "racketeering" each place it appears and inserting "criminal" in lieu thereof; and

(4) in paragraph (8)—

(A) by striking out "racketeering" the first place it appears and inserting "unlawful activity" in lieu thereof; and

(B) by striking out "racketeering" the second place it appears and inserting "criminal" in lieu thereof.

(c) Section 1962.—Section 1962 of title 18, United States Code, is amended by striking out "racketeering" each place it appears and inserting "unlawful" in lieu thereof.

(d) Section 1963.—Paragraph (3) of section 1963(a) of title 18, United States Code, is amended by striking out "racketeering" and inserting "unlawful" in lieu thereof.

(e) Section 1968.—Section 1968 of title 18, United States Code, is amended—

(1) in subsection (a), by striking out "a racketeering investigation" and inserting "an unlawful activity investigation" in lieu thereof;

(2) in subsection (b), by striking out "racketeering" each place it appears and inserting "unlawful activity" in lieu thereof;

(3) in subsection (c), by striking out "racketeering" each place it appears and inserting "unlawful activity" in lieu thereof; and

(4) in subsection (f)—

(A) by striking out "racketeering" the first, second, and fifth places it appears and inserting "criminal" in lieu thereof;

(B) by striking out "racketeering" each other place it appears and inserting "unlawful activity" in lieu thereof; and

(C) by striking out "racketeering" and inserting "unlawful activity" in lieu thereof.

SEC. 2. CIVIL RECOVERY.

Subsection (c) of section 1964 of title 18, United States Code, is amended to read as follows:

"(c)(1)(A) A governmental entity whose business or property is injured by conduct in violation of section 1962 of this title may bring, in any appropriate United States district court, a civil action therefor and shall recover threefold the actual damages that the government entity sustained to its business or property by reason of such injury, and the costs of the civil action, including a reasonable attorney's fee.

"(B) A civil action under subparagraph (A) of this paragraph must be brought by—

"(i) the Attorney General, if the injury is to the business or property of a governmental entity of the United States;

"(ii) the chief legal officer of the State, if the injury is to the business or property of a governmental entity of the State;

"(iii) the chief legal officer of a unit of general local government of a State, if the injury is to the business or property of the unit of general local government; or

"(iv) the court appointed trustee, if the injury is to the business or property of an enterprise for which a trustee has been appointed by a United States district court under section 1964(a) of this title.

"(2) A person, other than a natural person, whose business or property is injured by conduct in violation of section 1962 of this title may bring, in any appropriate United States district court, a civil action therefor and shall recover—

"(A) threefold the actual damages to the person's property or business sustained by reason of such injury, and the cost of the civil action, including a reasonable attorney's fee, if the person who engaged in the conduct was, with respect to such conduct, convicted of an unlawful activity or of a violation of section 1962 of this title; or

"(B) the actual damages to the person's business or property sustained by reason of such injury and the costs of the civil action, including a reasonable attorney's fee.

"(3) A natural person whose business or property is injured by conduct in violation of section 1962 of this title may bring, in any appropriate United States district court, a civil action therefor and shall recover—

"(A) the actual damages to the person's business or property sustained by reason of such injury, and the costs of the civil action, including a reasonable attorney's fee, and

"(B) punitive damages of up to twice the actual damages if—

"(i) the injury occurred in connection with a purchase or lease, for presonal or household use or investment, of a product, service, investment, or other property, or a contract for personal or household use or investments;

"(ii) neither State nor Federal securities laws make available an express or implied remedy for the type of behavior on which the claim of the plaintiff is based, unless the plaintiff was injured by conduct in violation of section 21(d)(2) of the Securities Exchange Act of 1934; and

"(iii) the defendant is found by clear and convincing evidence to have acted in conscious and wanton disregard of the consequences to the plaintiff of the defendant's conduct.

"(4) (A) In a civil action involving a claim for punitive damages under paragraph (3) of this subsection, the trier of fact, in determining the amout of punitive damages, if any, shall consider—

"(i) the degree of culpability of the defendant;

"(ii) the degree of disparity in the bargaining positions of the plaintiff and the defendant;

"(iii) any history of similar conduct by the defendant;

"(iv) the benefits derived from the unlawful conduct by the defendant;

"(v) the number of persons victimized;

"(vi) any prior decision by a court or State or Federal agency as to whether the defendant's conduct giving rise to the action violated applicable law or constituted bad faith;

"(vii) the extent to which the class action aspect of the compensatory damage award fulfills the deterrent function of punitive damages; and

"(viii) any other factor the court deems to be an equitable consideration bearing on the appropriate amount of punitive damages.

"(B) Evidence relevant only to the amount of punitive damages shall not be introduced until after a finding of liability; except on motion of a party, for good cause shown, or in the exercise of its discretion, the court may permit introduction of such evidence prior to a finding of liability.

"(5) A unit of local government other than a unit of general local government whose business or property is injured by conduct in violation of section 1962 of this title may bring, in any appropriate United States district court, a civil action against the person who engaged in the conduct and shall recover the actual damages to the entity's business or property sustained by reason of such injury, the costs of the civil action including a reasonable attorneys' fee, and, if it is proved by clear and convincing evidence that the defendant acted in conscious and wanton disregard of the consequences to the plaintiff of the defendant's actions, punitive damages up to twice the actual damages to be determined by the court pursuant to paragraph (4) of this section.

"(6)(A) A civil action under this subsection may not be commenced after the lastest of—

"(i) three years after the date the cause of action accrues;

"(ii) three years after the conduct causing injury to the plaintiff terminates; or

"(iii) two years after the date of the criminal conviction required for an action under paragraph (2)(A) of this subsection.

"(B) The period of limitation provided in subparagraph (A) of this paragraph on a cause of action does not run during the pendency of a government civil action or criminal case relating to the conduct upon which such cause of action is based.

"(7) As used in this subsection, the term 'governmental entity' means the United States or a State, and includes any department, agency, or government corporation of the United States or a State, a unit of general local government of a State, and any enterprise for which a trustee has been appointed by a United States district court under section 1964(a) of this title (but only during the tenure of such trustee).

"(8) It shall be an affirmative defense to an action brought under this section that the defendant acted in good faith and in reliance upon a directly applicable regulatory action, approval, or interpretation of law by an authorized State agency. Before the commencement of full discovery on and consideration of the plaintiff's claim, the court shall determine the availability of any affirmative defenses asserted by a defendant under this section. This paragraph is not a limitation on discovery relating solely to the availability of the affirmative defense provided by this paragraph.

"(9) In a civil action under this subsection, the court, upon motion, shall award a reasonable attorney's fee if—

"(A) the claim was frivolous, unreasonable, or groundless when asserted; or

"(B) the party asserting the claim continues to litigate after the claim is proven to be clearly frivolous, unreasonable, or groundless.

"(10) In an action under this subsection, facts supporting the claim against each defendant shall be averred with particularity.".

SEC. 3. EFFECTIVE DATE.

(a) GENERAL RULE.—The amendments made by this Act shall apply to any civil action commenced after the date of enactment.

(b) EXCEPTION.—In any pending action under section 1964(c) of title 18, United States Code, in which a person would be eligible to recover only under paragraph (2)(B) of section 1964(c) as amended by this Act, if this Act had been enacted before the commencement of that action, the recovery of that person shall be limited to the recovery provided under such paragraph (2)(B), unless in the pending action—

(1) there has been a jury verdict or court judgment, establishing the defendant's liability, or settlement has occurred; or

(2) the court determines that, in light of all the circumstances, such limitation of recovery would be clearly unjust.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas [Mr. BARTON] is recognized for 60 minutes.

[Mr. BARTON of Texas addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

CONTRA MILITARY OFFENSIVE—LACK OF PROGRESS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Michigan [Mr. BONIOR] is recognized for 60 minutes.

Mr. BONIOR of Michigan. Mr. Speaker, I want to talk about a theme that we were talking about a little bit earlier today and have been talking about over the past few weeks, and that is the Contra military offensive or lack of progress therein.

Mr. Speaker, last week the Contras staged a major attack in northern Nicaragua on San Jose de Bocay—the site of the most important military operations base of the Sandinista army in northern Nicaragua. The Contras claimed they had destroyed the military barracks and occupied the airstrip at Bocay, and heralded the attack as their biggest victory in their 6-year war against the Nicaraguan Government.

Mr. Speaker, if this was one of the greatest military successes of the Contras, then the American people should meet with grave skepticism future Reagan administration claims that the Contras are about to march into Managua.

According to a July 19 article in the New York Times, it appears the only "success" of the attack was the killing of nine soldiers and four innocent civilians—three children and a pregnant woman.

There was no evidence of damage to either the town's dirt airstrip or the small collection of shacks that serves as the local headquarters for the Nicaraguan Army. The rebels, who have never managed to seize and hold a Nicaraguan town in 6 years, reached the edge of San Jose de Bocay, but advanced no further.

In contrast, the damage wrought on civilian property was very great. More than a dozen homes were burned and cattle and other private property was stolen by the Contras.

The three dead children ranged in age from 3 years to 13 years. The woman, 18, was in the fifth month of her third pregnancy. Of the 30 wounded in the attack, 18 were civilians. Among them was Maria Cecilia Novoa Fonseca, a 12-year old girl who was hit by shrapnel which lodged in her throat.

Adolfo Novoa described the death of his 13-year old daughter, as follows: "A bunch of Contras just shot machine guns into my house as they ran by. My little girl was hit and died right away."

Mr. Speaker, I can't overemphasize the importance of this attack and the lessons that can be drawn about the Contras and their methods.

Two weeks ago, Lt. Col. Oliver North described, with great fervor and elan, the Contra cause and the legitimacy of their battle with the Nicaraguan Government. Many people in this country were moved by the sincerity of North's testimony and were favorably impressed by his description of the Contras.

☐ 1740

But the portrayal North gave of the Contras is pure bunk. The bottom line is:

In 6 years of combat, 6 years, the Contras have still not been able to capture and hold a single Nicaraguan town or piece of territory. Not a single town.

Contra attacks kill more civilians than soldiers. Too often the victims are women and children.

The Contras seem more interested in seizing food and personal property than military bases.

The only targets the Contras have had any success at destroying are "soft" economic targets that are difficult to defend. Targets such as electric pylons or grain cooperatives. Even health clinics have been torched by the Contras.

San Jose de Bocay is one of the poorest settlements in Nicaragua. Even under the best of circumstances, the townspeople are barely able to survive.

Many of its occupants had already come down from the mountains to escape the Contras. After the Contra attack, they have no food, no clothes, not even a home. One of the stolen cows had provided milk for an entire family with seven children. If the refugees were to return to their homes in the mountains now, they would most certainly be killed.

How can the Contras ever hope to win the hearts and minds of the Nicaraguan people if they continue to use tactics such as these?

In January this year, retired Army General Paul Gorman, the former commander of U.S. military forces in Central America, told Congress that the Contras were incapable of defeating the Sandinista army. In a January 29, 1987, Washington Post report, Gorman said the $100 million approved by Congress last year for the Contras "is not going to do it; the money you're going to spend this year isn't going to do it."

I must ask my colleagues how we can contemplate continued funding for a rebel force which claims the killing of three children and a pregnant woman as its greatest military success?

It is immoral for the U.S. Government to continue funding a guerrilla force:

That has no hope of military victory;

That destroys civilian lives and property indiscriminately;

That has no base of popular support among the Nicaraguan people and in fact would not exist were it not for the support of U.S. tax dollars.

The June 1 issue of Newsweek contained an eyewitness account by reporter Rod Nordland, who spent a week with the Contras traveling through the jungles of northern Nicaragua. Nordland's account paints the most vivid picture to date of the Contras. It explains why they will never win the war with the Nicaraguan Government, and why they will never win the hearts of the Nicaraguan people.

Nordland says of the Contras during their march together in May of last year:

> Perhaps from frustration as much as fatigue, the march corroded both discipline and comradeship. The quest for food outweighed any hunger for combat. Every campesino hut became a target. Often other Contra units had cleaned out houses before we got to them. There were no eggs, because the hens had become Contra fryers; no milk, because the cows had become Contra beef. Frequently there weren't even beans. The Contras made a show of paying for these things when they took them, but that was little solace.
>
> * * * As the men in * * * the column grew hungrier, fewer bothered with the nicety of payment—especially after they lost wads of their food money gambling.

> Why not make me a gift of this chicken?, one would ask. No one ever refused. Frightened peasants become instant, if temporary, "collaborators" when scores of heavily armed, hungry men drop in for breakfast. There is not overt coercion: the physical appearance of the Contras is usually sufficient. Many of the men have skulls and crossbones tattooed on their arms or painted on their shirts, or boast names like "exterminator" and "dragon".
>
> Hard pressed by Sandinistas on the hunt, the Contras also forced campesinos to scout for them and, worse, to walk on their point (the first man in the column) to make sure we weren't falling into a trap. They bragged that these men were their collaborators, but when we talked to them privately it was clear they felt more like human mine detectors.
>
> The Contras were great at retreating; attacks, they never quite managed. One after another, we abandoned targets assigned us by the high command. * * *
>
> The conduct of the Sandinistas made a striking contrast with the Contras. Their discipline held firm after many months. * * * Many told us they hadn't seen a paved road or had a cold drink in 15 months of steady action. Where it had taken a mere 3 weeks for the Contras we accompanied in the same mountains to turn into an unruly scourge, Sandinista troops on the march never even stopped at a peasant's house, except with permission from an officer—and then only to wait outside for drinking water * * *. When they did requisition food, the campesinos told us, they always paid.

That is the end of the quote of Mr. Nordland's description of what it is like being with the Contras in the middle of a war, and it was done last January.

Mr. Speaker, we cannot expect the American people to support indefinitely a war the Contras can never hope to win. Six more years of hundred-million-dollar installments would still not result in victory for the Contras. The Sandinistas are surviving and are likely to do so for some time.

Continued U.S. funding of a rebel force which has no hope of military victory would surely be the most detestable, atrocious, immoral crime that has yet been committed in this long, ugly struggle.

I call upon my colleagues for their help in drawing a swift and a final conclusion to this ugly spectacle.

Now I was in a meeting and I did not hear the previous special orders. I understand questions were raised about photos that scores of my colleagues showed here earlier in the day, photos I might add of women, children, teachers, maimed, wounded during Contra attacks and where they came from. Well, they came from Witness for Peace Program. And as usual, some of my colleagues attacked that organization and the people they represent, the people on their board as having leftist leanings and questioning their patriotism. Is it not sad in the year in which we celebrate the Constitution of this country, its bicentennial, the ability to speak freely on this floor or in villages and cities throughout this country that opponents of this program that we are trying to bring forward to the American people, supporters of the President's program will try to stifle that free speech, would paint a dark, gloomy, red picture of those who take exception to their concept of what is happening in Central America. But they should know when they do that they not only attack me and my staff and the people that work for me and the people in the Witness for Peace Program and the 2,500 people that Witness for Peace has sponsored in their witness to the war in Nicaragua, but they attack the board of the Witness for Peace, they attack the American religious community, they attack the two Catholic bishops who serve on that board, they attack representatives of the Presbyterian Church, the United Church of Christ, the Episcopalian Church, the president of the Conservative Baptist Seminary. And if they are comfortable stifling those voices, I think they make a tragic mistake.

Witness for Peace has sent 2,500 American citizens to Central America from every State in this Union, representing 24 religious traditions. Volunteers travel at the invitation of Central American churches. The group is committed to nonviolence, and neither receives or gives any aid to any government in the region.

The pictures we used are from well-documented Contra attacks, documented by at least two eyewitnesses. The bulk of the pictures were taken from a landmine attack on October 20, 1986. This incident has been documented in the New York Times on October 23, as well as in the Americas Watch report of December 1986.

Contra abuses, my friends and colleagues, are real, they are well documented. And as much as people would like to paint them over as red and deny that they ever happened, they are real. The people of this country have a right to know about them. Religious leaders of this country have spoken out against the Contra war, who have seen the Contra terror with their own eyes have a right to speak about them. Time and time again this administration has tried to silence its critics by resorting to smearing the names of those who dissent from this policy. The American people will not stand for this. We will not see our own religious and political leaders' names publicly stoned.

Mr. Speaker, I say to you and I say to my colleagues and friends that we have reached a shameful point in American politics when the ability to speak freely without our patriotism being questioned is raised to the level that it has been raised in the past couple of weeks. It only tells me the fear in the hearts of the people who oppose our position on this issue. And it is that fear that will permeate the souls of the American people and will put an end to this ugly war once and for all.

Mr. Speaker, I yield back the balance of my time.

MY IMPRESSIONS FROM LISTENING TO THE SPECIAL ORDERS

The SPEAKER pro tempore (Mr. BONIOR of Michigan). Under a previous order of the House, the gentleman from Ohio [Mr. TRAFICANT] is recognized for 5 minutes.

Mr. TRAFICANT. Mr. Speaker, I want to associate myself with the remarks of the distinguished gentleman from Michigan who has been a leader on this issue. I want to offer my views after having listened to most of this debate here this evening in these rather empty chambers. No. 1, in all these years, the Contras have not overthrown one outhouse in Central America. No. 2, Mr. Speaker, the Contras have never controlled one crossroad after all of these millions in Nicaragua. No. 3, the Contras themselves through many different polls have likened their leaders to bumbling idiots. In fact, there have been characterizations of Robelo, Calero, and Cruz as being akin to the three stooges, not quite the mold for the "war generals."

But the problem that I have on this issue is if for valid reasons a Member of this body disagrees with the policy in Central America, they are being branded as soft on communism and weak on defense or even worse some are even being considered not even a patriot. I think this is literally disgusting.

□ 1755

But I would just like to point out if this matter of keeping the Contras alive was so critical, the Iran-Contra hearings have brought out the fact that of $16.5 million available in arms sales money, only $3 million found itself in the hands of the Contras.

Frankly, Mr. Speaker, Mr. Poindexter and General Secord have testified they did not even know there was $8 million in a hidden Swiss bank account that they could have given to the Contras.

I think the question is quite clear, sooner or later the American taxpayers are not going to be the champions of righteousness all over the world, and the rest of the world through the United Nations which is a mechanism developed for those purposes will have to take the leadership role. Mr. Speaker, I do not think our American taxpayers should be paying $40 billion a year to protect the Persian Gulf. We should be participating with everyone else who benefits from the gulf to protect the gulf.

Yes, we have to keep those lanes open, and we should be a part of that, yes. But there has to be a plan for peace in Central America, otherwise America is putting itself in a position of a future conflict which would be very unpopular in this country, so this is not an easy issue and those who attempt to make it easy and to categorize Members in unpatriotic terms are not necessarily facing the issue as it really exists.

Mr. Speaker, in closing, I want to identify myself with the remarks of the gentleman from Michigan [Mr. Bonior] who had the courage to stand up and make the statement that not all of us are weak on defense or soft on communism. We just may be looking at the materials a little differently and perhaps trying to see through to the end result of policies that sometimes are overlooked in some macho Rambo mentalities around here.

Mr. Speaker, I yield back the balance of my time.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. EMERSON (at the request of Mr. Michel), from noon today, on account of official business.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

Mr. Traficant, for 5 minutes, today.

(The following Member (at the request of Mr. Combest) to revise and extend his remarks and include extraneous material:)

Mr. Gekas, for 5 minutes, today.

(The following Members (at the request of Mr. Gonzalez) to revise and extend their remarks and include extraneous material:)

Mr. Annunzio, for 5 minutes, today.

Mr. Boucher, for 10 minutes, today.

Mr. Glickman, for 60 minutes, on August 4 and 5.

Mr. Dymally, for 60 minutes, on August 4.

Mr. Gonzalez, for 60 minutes, on July 27.

(The following Member (at the request of Mr. Hunter) to revise and extend his remarks and include extraneous material:)

Mr. Rangel, for 60 minutes, on July 30, August 4, and August 5.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. Bonior of Michigan, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

(The following Members (at the request of Mr. Combest) and to include extraneous matter:)

Mr. Barton of Texas.
Mr. Stump.
Mr. Houghton.
Mr. Porter in three instances.
Mr. Schaefer.
Mr. Gingrich.
Mr. Kemp.
Mr. Frenzel.
Mr. Dannemeyer.
Mr. Smith of New Hampshire.
Mr. Duncan in two instances.
Mr. Michel in two instances.
Mr. Lowery of California.
Mr. Upton.
Mr. Lightfoot.
Mr. Hunter.
Mr. Armey.

(The following Members (at the request of Mr. Gonzalez) and to include extraneous matter:)

Mr. Ray.
Mr. Smith of Florida in three instances.
Mr. Yatron.
Mr. de la Garza.
Mr. Kostmayer.
Mr. Carr.
Mr. Montgomery.
Mr. Mineta.
Mr. Beilenson.
Mr. Fascell.
Mr. Pease in three instances.
Mr. Dellums.
Mr. Hoyer in two instances.
Mr. Edwards of California.
Mr. Mavroules.
Mr. Borski.
Mr. Solarz.
Mr. Weiss.
Mr. Price of North Carolina.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1267. An act to provide authorization of appropriations for the U.S. Travel and Tourism Administration, and for other purposes; to the Committee on Energy and Commerce.

S. 1417. An act to revise and extend the Developmental Disabilities Assistance and Bill of Rights Act; to the Committee on Energy and Commerce and Education and Labor.

SENATE ENROLLED JOINT RESOLUTIONS SIGNED

The SPEAKER announced his signature to enrolled joint resolutions of the Senate of the following titles:

S.J. Res. 76. Joint resolution to designate the week of October 10, 1987, as "Mental Illness Awareness Week," and

S.J. Res. 160. Joint resolution to designate July 25, 1987 as "Clean Water Day."

ADJOURNMENT TO MONDAY, JULY 27, 1987

Mr. TRAFICANT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed; accordingly (at 5 o'clock and 57 minutes p.m.) under its previous order, the House adjourned until Monday, July 27, 1987, at 12 noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1816. A letter from the Executive Associate Director, Office of Management and Budget, transmitting a report listing several appropriations that have been apportioned on a basis that indicates a necessity for supplemental appropriations for the fiscal year 1987, pursuant to 31 U.S.C. 1515(b)(2); to the Committee on Appropriations.

1817. A letter from the Secretary of Education, transmitting a copy of final regulations for the Education Department General Administrative Regulations, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1818. A letter from the Secretary of Education, transmitting copies of final regulations—Clearinghouses for the Handicapped Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1819. A letter from the Secretary of Education, transmitting a copy of final regulations for the Upward Bound Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1820. A letter from the Secretary of Education, transmitting a copy of final regulations for the Talent Search Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1821. A letter from the Secretary of Education, transmitting a copy of final regulations for the Student Support Services Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1822. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notice of a proposed license for the export of major defense equipment sold commercially under a contract to the Government of France, pursuant to 22 U.S.C. 2776(c); to the Committee on Foreign Affairs.

1823. A letter from the Director, Defense Security Assistance Agency, transmitting notification of the Department of the Air Force's proposed lease of defense articles to the Federal Republic of Germany (Transmittal No. 7-87), pursuant to 22 U.S.C. 2796(a); to the Committee on Foreign Affairs.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. FORD of Michigan: Committee on Post Office and Civil Service. House Joint Resolution 132. Resolution designating April 24, 1987, as "National Day of Remembrance of the Armenian Genocide of 1915-1923"; with amendments (Report No. 100-232). Referred to the House Calendar.

Mr. JONES of North Carolina: Committee on Merchant Marine and Fisheries. H.R. 300. A bill to provide for the negotiation of maritime agreements for the carriage of United States waterborne trade and for other purposes (Rept. 100-233). Referred to the Committee of the Whole House on the State of the Union.

Mr. MOAKLEY: Committee on Rules. House Resolution 230. Resolution providing for the consideration of H.R. 618, a bill to provide for a General Accounting Office investigation and report on conditions of displaced Salvadorans and Nicaraguans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Salvadorans and Nicaraguans, and for other purposes (Rept. 100-234). Referred to the House Calendar.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 1811. A bill to amend title 38, United States Code, to provide certain benefits to veterans and survivors of veterans who participated in atmospheric nuclear tests or the occupation of Hiroshima and Nagasaki and who suffer from diseases that may be attributable to low levels of ionizing radiation; with an amendment (Rept. 100-235). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY: Committee on Veterans' Affairs. H.R. 2945. A bill to amend title 38, United States Code, to provide a 4.1 percent increase in the rates of compensation and of dependency and indemnity compensation (DIC) paid by the Veterans' Administration, and for other purposes; with an amendment (Rept. No. 100-236). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. UDALL (for himself, Mr. Dingell, Mr. Roe, and Mr. Sharp):

H.R. 2994. A bill to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents; to the Committee on Interior and Insular Affairs.

By Mr. DORGAN of North Dakota:

H.R. 2995. A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on the receipt of greenmail payments, to provide that the deemed sale rules shall apply in the case of hostile stock purchases, and to deny any deduction for interest incurred in connection with a hostile stock purchase; to the Committee on Ways and Means.

H.R. 2996. A bill to amend the Securities and Exchange Act of 1934 to improve corporate governance and protect shareholder rights, and for other purposes; to the Committee on Energy and Commerce.

By Mr. DAUB:

H.R. 2997. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts withdrawn from individual retirement plans for payment of long-term care insurance premiums; to the Committee on Ways and Means.

H.R. 2998. A bill to amend the Internal Revenue Code of 1986 to exclude from gross income amounts otherwise includible on the surrender or cancellation of any life insurance policy which are used to pay long-term care insurance premiums; to the Committee on Ways and Means.

By Mr. BEILENSON (for himself, Mr. Ackerman, Mr. Bates, Mrs. Bentley, Mr. Berman, Mr. Biaggi, Mrs. Boxer, Mr. Brown of California, Mrs. Collins, Mr. Conyers, Mr. Dornan of California, Mr. Edwards of California, Mr. Feighan, Mr. Gordon, Mr. Gregg, Mr. Hughes, Ms. Kaptur, Mr. Kastenmeier, Mr. Kostmayer, Mr. Lantos, Mr. Lipinski, Mr. Martinez, Mr. Mrazek, Mr. Neal, Mr. Owens of New York, Mr. Panetta, Ms. Pelosi, Mr. Rodino, Mr. Roe, Mr. Solarz, Mr. Towns, Mr. Udall, Mr. Weiss, and Mr. Wilson):

H.R. 2999. A bill to prohibit the importation or exportation and certain other transactions involving elephant products, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BENNETT:

H.R. 3000. A bill to prohibit the Department of Defense from purchasing any product manufactured or assembled by Toshiba America, Inc., Toshiba Corp., or the Kongsberg Vappenfabrik Co. of Norway or their subsidiaries; to the Committee on Armed Services.

By Mr. DOWDY of Mississippi:

H.R. 3001. A bill to amend title 38, United States Code, with respect to the Montgomery GI bill; jointly, to the Committees on Veterans' Affairs and Armed Services.

By Mr. FORD of Tennessee:

H.R. 3002. A bill to amend chapter 215 of title 18, United States Code, to provide certain rights for persons who are subjected to grand jury investigation; to the Committee on the Judiciary.

By Mr. LIPINSKI:

H.R. 3003. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of, and the deduction of contributions to, education savings accounts; to the Committee on Ways and Means.

H.R. 3004. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of, and the deduction of contributions to, housing saving accounts; to the Committee on Ways and Means.

H.R. 3005. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide onsite day-care facilities for dependents of their employees, and to restrict the credit for dependent care services to taxpayers with adjusted gross incomes of $50,000 or less; to the Committee on Ways and Means.

By Mr. LUJAN:

H.R. 3006. A bill to improve the integration of universities and private industry into the national laboratory system of the Department of Energy in order to speed the development of technology in areas of significant economic potential; jointly, to the Committees on Science, Space, and Technology; Energy and Commerce; and Armed Services.

By Mr. McEWEN (for himself and Mr. Weber):

H.R. 3007. A bill to provide funds and assistance to Farm Credit System institutions, to protect borrower stock, and for other purposes; to the Committee on Agriculture.

By Mr. MILLER of California (for himself, Mr. Studds, and Mr. Young of Alaska):

H.R. 3008. A bill to clarify the authority of the Secretary of the Interior to make land exchanges within the Arctic National Wildlife Refuge; jointly, to the Committees on Interior and Insular Affairs and Merchant Marine and Fisheries.

By Mr. OWENS of New York (for himself, Mr. Waxman, Mr. Weiss, and Mr. Rangel):

H.R. 3009. A bill to require the Secretary of Health and Human Services to make grants to local governments for demonstration projects to provide respite homes and other assistance for infants abandoned in hospitals, and for other purposes; jointly, to the Committees on Education and Labor and Energy and Commerce.

By Mr. PORTER (for himself and Mr. Obey):

H.R. 3010. A bill to protect the world's remaining tropical forests; to the Committee on Banking, Finance and Urban Affairs.

By Mr. PRICE of North Carolina (for himself, Mr. St Germain, Mr. Wylie, Mr. Annunzio, Mr. Barnard, Mr. Bereuter, Mr. Bustamante, Mr. Cooper, Mr. Eckart, Mr. Flake, Mr. Foglietta, Mr. Garcia, Mr. Hawkins, Ms. Kaptur, Mr. Kennedy, Mr. Kleczka, Mr. LaFalce, Mr. Manton, Mr. Morrison of Connecticut, Mr. Murphy, Mr. Neal, Mrs. Patterson, Mr. Solarz and Mr. Valentine):

H.R. 3011. A bill to amend the Truth in Lending Act to establish additional disclosure and advertising requirements for home equity loans; to the Committee on Banking, Finance and Urban Affairs.

By Mr. RINALDO:

H.R. 3012. A bill to amend title 18, United States Code, to impose criminal penalties for early disclosure and use of certain time-sensitive official economic information; to the Committee on the Judiciary.

By Mr. STAGGERS (for himself and Mr. Wise):

H.R. 3013. A bill to amend the Head Start Act to prevent the Secretary of Health and Human Services from disqualifying from eligibility to receive discretionary payments any Head Start agency that then serves less than one-third of the children eligible to participate in its Head Start Program; to the Committee on Education and Labor.

By Mr. SWINDALL:

H.R. 3014. A bill to limit the number of aliens in each fiscal year who may become lawfully admitted to the United States for permanent residence; to the Committee on the Judiciary.

By Mrs. VUCANOVICH (for herself and Mr. Bilbray):

H.R. 3015. A bill to convey certain lands in Nevada to the Las Vegas Young Mens Christian Association; to the Committee on Interior and Insular Affairs.

By Mr. SCHEUER:

H. Con. Res. 167. Concurrent resolution declaring the support of the Congress for continuation of civil land remote-sensing activities, for the benefit of all mankind, through the continuation and commercialization of the existing Landsat program; to the Committee on Science, Space, and Technology.

By Mr. RIDGE (for himself, Mr. Montgomery, Mr. Lagomarsino, Mr. Gilman, Mr. Solomon, Mr. Broomfield, Mr. Blaz, Mr. DeWine, Mr. Dornan of California, Mr. Smith of

New Jersey, Mr. Bilirakis, and Mr. Applegate):

H. Res. 231. Resolution expressing the sense of the House of Representatives regarding the upcoming negotiations between Gen. John Vessey and the Vietnamese to resolve the problem of Americans missing in Southeast Asia and other issues of humanitarian concern to the people of the United States and Vietnam; to the Committee on Foreign Affairs.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII,

Mr. ANTHONY introduced a bill (H.R. 3016) for the relief of Dale B. Thompson; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 17: Mr. Waxman, Miss Schneider, Mr. Rowland of Connecticut, and Mr. Kastenmeier.

H.R. 20: Ms. Slaughter of New York, Mr. Kennedy, Mr. Jones of Tennessee, Mr. Kleczka, and Mr. Ray.

H.R. 21: Ms. Slaughter of New York, Mr. Kennedy, Mr. Jones of Tennessee, and Mr. Kleczka.

H.R. 39: Mr. Sunia and Mrs. Schroeder.

H.R. 442: Mr. AuCoin, Mr. Boehlert, Mr. Donnelly, Mr. Nagle, and Mr. Traficant.

H.R. 639: Mr. Sunia and Mr. Traficant.

H.R. 758: Mr. Panetta.

H.R. 813: Mr. Torres.

H.R. 817: Mr. Duncan.

H.R. 1049: Mr. Coyne, Mr. Nielson of Utah, and Mr. Gray of Illinois.

H.R. 1342: Mr. Downey of New York, Mr. Towns, and Mr. Ackerman.

H.R. 1395: Mr. Dreier of California.

H.R. 1411: Mr. Dwyer of New Jersey, Mr. Garcia, Mr. de Lugo, and Mr. Foglietta.

H.R. 1536: Mr. Stenholm, Mr. Jones of North Carolina, and Mr. Rose.

H.R. 1566: Mr. MacKay.

H.R. 1583: Mr. Carper and Mr. Upton.

H.R. 1598: Mr. Fish.

H.R. 1638: Mr. Bryant.

H.R. 1646: Mr. Bilbray.

H.R. 1729: Mr. Michel, Mrs. Bentley, and Mr. Hall of Texas.

H.R. 1770: Mr. Mfume.

H.R. 1811: Mr. Mica, Mr. Wylie, Mr. Dowdy of Mississippi, Mr. Smith of New Jersey, Mr. Evans, Mr. Rowland of Connecticut, Mr. Staggers, Mr. Dornan of California, Mr. Florio, Mr. Smith of New Hampshire, Mr. Kanjorski, Mr. Robinson, Mr. Harris, Mr. Kennedy, Mrs. Patterson, Mr. Jenkins, Mr. Hefner, and Mr. Kostmayer.

H.R. 1897: Mr. Bonker.

H.R. 2056: Mr. Swift, Mr. Bates, Mr. Fauntroy, and Mr. Morrison of Connecticut.

H.R. 2114: Mr. Bruce.

H.R. 2125: Mr. Stokes.

H.R. 2270: Mr. Swift.

H.R. 2435: Mr. Hatcher, Mr. Thomas of California, Mr. Glickman, Mr. Watkins, Mr. Campbell, Mr. McCurdy, Mr. Coelho, Mr. Alexander, Mr. Bustamante, Mr. Williams, Mr. Owens of Utah, Mr. Gordon, Mr. Stangeland, Mr. Lewis of Florida, Mr. Grandy, Mr. Olin, Mr. Gephardt, Mr. Johnson of South Dakota, and Mr. Manton.

H.R. 2509: Mr. Ford of Michigan, Mr. Moakley, Mr. Daniel, Mr. Dowdy of Mississippi, Mr. Sawyer, Mr. Gray of Illinois, Mr. Smith of Florida, Mr. Boehlert, Mr. Dymally, Mr. Boucher, Mr. Murphy, Mr. Hall of Ohio, Mr. Levine of California, Mr. Edwards of Oklahoma, Mr. Towns, Mr. Yatron, Mr. Jones of North Carolina, Mr. Frost, Mr. Oberstar, Mr. Kennedy, Mrs. Collins, Mr. Johnson of South Dakota, Mr. Sunia, and Mr. Gilman.

H.R. 2517: Mr. Fauntroy and Mr. Solarz.

H.R. 2522: Mr. Bates and Mr. Hughes.

H.R. 2537: Mr. Ackerman.

H.R. 2546: Mr. Robert F. Smith.

H.R. 2565: Mr. Whitten, Mr. Thomas of Georgia, and Mr. Hammerschmidt.

H.R. 2567: Mr. Solarz and Mr. Hayes of Illinois.

H.R. 2619: Mr. Vento.

H.R. 2662: Mr. Lott and Mr. Wilson.

H.R. 2667: Mr. Panetta.

H.R. 2715: Mrs. Saiki.

H.R. 2717: Mr. Bryant, Mr. Edwards of California, Mr. Kostmayer, and Mr. Mavroules.

H.R. 2731: Mr. Hansen.

H.R. 2736: Mr. Kolter.

H.R. 2750: Mr. Jeffords, Mrs. Collins, Mr. Coelho, and Mr. Brown of California.

H.R. 2776: Mr. Horton and Mrs. Collins.

H.R. 2787: Mr. Fauntroy and Mr. Solarz.

H.R. 2789: Mr. Baker, Mr. Hayes of Louisiana, Mr. Huckaby, Mr. Livingston, Mr. Roemer, and Mr. Tauzin.

H.R. 2800: Mr. Hertel, Mr. Upton, Mr. Studds, Mr. Hayes of Illinois, Mr. Hochbrueckner, Mr. Skaggs, Mr. Johnson of South Dakota, Mr. Oberstar, Mr. Jeffords, Mr. Roe, Mr. Spratt, Mr. Yates, Mr. Owens of New York, Mr. Savage, Mr. Miller of Washington, Mr. Smith of New Jersey, Mr. Conte, and Mr. Frost.

H.R. 2859: Mr. Scheuer, Mr. Neal, Mr. Yates, Mr. Weiss, Ms. Pelosi, Mr. Edwards of Oklahoma, Mr. Nielson of Utah, Mr. Markey.

H.R. 2861: Mr. Davis of Illinois.

H.R. 2862: Mr. Dingell, Mr. Volkmer, Mr. Waxman, Mr. Murtha, Mr. Armey, Mr. Fazio, Mr. Konnyu, Ms. Slaughter of New York, Mr. Solarz, Mr. Richardson, and Mr. Martinez.

H.R. 2934: Mr. Richardson, Mr. Howard, Ms. Kaptur, Mrs. Collins.

H.R. 2945: Mr. Edwards of California, Mr. Hammerschmidt, Mr. Dowdy of Mississippi, Mr. Stump, Ms. Kaptur, Mr. Smith of New Jersey, Mr. Staggers, Mr. Burton of Indiana, Mr. Rowland of Georgia, Mr. Ridge, Mr. Bryant, Mr. Rowland of Connecticut, Mr. Florio, Mr. Dornan of California, Mr. Gray of Illinois, Mr. Davis of Illinois, Mr. Kanjorski, Mr. Stenhholm, Mr. Harris, Mr. Kennedy, Mrs. Patterson, Mr. Jontz, Mr. Leath of Texas, Mr. Richardson, Mr. Hefner, Mr. Jenkins, and Ms. Slaughter of New York.

H.R. 2969: Mr. Edwards of California, Mr. Smith of Florida, Mr. Kolter, Mr. Frank, Mr. Hayes of Illinois, Mr. Biaggi, Mr. Olin, Mr. Conyers, Mr. English, Mr. Howard, Mrs. Byron, and Mr. Ackerman.

H.R. 2970: Mr. Donald E. Lukens.

H.J. Res. 8: Mr. Holloway and Mr. Smith of Texas.

H.J. Res. 132: Mr. Gonzalez.

H.J. Res. 145: Mr. Hertel.

H.J. Res. 152: Mrs. Boggs.

H.J. Res. 266: Mr. Mollohan, Mr. DeWine, Mr. Hammerschmidt, Mr. McMillen of Maryland, Ms. Pelosi, Mr. Weiss, Mr. Hall of Ohio, Mr. Donald E. Lukens, Mr. Neal, Mr. Akaka, Mr. Young of Florida, Mr. Shumway, and Mr. Sunia.

H.J. Res. 302: Mr. Hayes of Illinois, Mr. Lehman of California, and Mr. Owens of New York.

H.J. Res. 310: Mrs. Collins, Mr. Traficant, Mr. Frank, Mr. Hawkins, Ms. Kaptur, and Mr. Downey of New York.

H.J. Res. 311: Mr. Gilman, Mr. Sabo, Mr. Atkins, Mr. Mavroules, and Mr. Fish.

H.J. Res. 313: Mrs. Collins, Mr. Perkins, Mr. Hochbrueckner, Mr. Conte, Mr. Manton, and Mr. Stark.

H.J. Res. 331: Mr. Bustamante, Mr. Towns, Mr. Ravenel, Mr. Frank, Mrs. Lloyd, Mr. Daub, Mr. Dixon, Mr. Biaggi, Mr. Spratt, Mr. Evans, Mr. Davis of Illinois, Mr. Aspin, Mr. Wolpe, Mr. Bevill, Mr. Brennan, Mr. Frost, Mrs. Collins, and Mr. Dowdy of Mississippi.

H.J. Res. 336: Mr. Cardin, Mr. Wyden, Mr. Leland, Mr. Wolpe, Mr. Davis of Michigan, Mr. Rodino, Mr. Thomas of Georgia, Mr. Traficant, Mr. Young of Alaska, Mr. Valentine, Mr. Clay, Mr. Jones of Tennessee, Mr. Markey, Mr. Donnelly, Mr. McEwen, Mr. Smith of Florida, Mr. Henry, Mr. Nielson of Utah, Mr. Levine of California, Mr. Lipinski, Mrs. Johnson of Connecticut, Mr. Wheat, and Mr. Wilson.

H. Con. Res. 96: Mr. Bevill and Mr. Hastert.

H. Con. Res. 122: Mr. Traxler.

H. Con. Res. 138: Mr. Penny, Mr. Vento, and Mrs. Boxer.

H. Con. Res. 146: Mr. Neal, Mr. Hochbrueckner, Mr. Howard, Mr. Dymally, Mr. Studds, Mrs. Collins, Mr. Kildee, Mr. Kostmayer, Mr. Weiss, Mr. Leach of Iowa, Mr. Clarke, Mr. Green, Mr. Pursell, Mr. Bonker, Miss Schneider, Mr. Moakley, Mr. Moody, Mr. Brennan, Mr. Dorgan of North Dakota, Mr. Lagomarsino, and Mr. Blaz.

H. Con. Res. 164: Mr. Stallings, Mr. Jones of Tennessee, Mr. Daub, Mr. Marlenee, Mr. Emerson, Mr. Harris, Mr. Nagle, Mr. English, Mr. Holloway, and Mr. Robert F. Smith.

SENATE—*Thursday, July 23, 1987*

(Legislative day of Tuesday, June 23, 1987)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable JOHN BREAUX, a Senator from the State of Louisiana.

The PRESIDING OFFICER. The prayer this morning will be offered by the Reverend Chester Phillips, pastor of the Heritage Baptist Church, Johnson City, TN. Reverend Phillips is sponsored by Senator JIM SASSER.

PRAYER

The Reverend Chester Phillips, pastor, Heritage Baptist Church, Johnson City, TN, offered the following prayer:

We will pray, please.

Father, we thank Thee that in this place we sense the awesome power that is here, the power that is to provide for our needs and our protection and, our Heavenly Father, we know the power of words that are here also, the words that can determine the destiny of this Nation.

So, our Father, we thank Thee for these men who do debate for the laws to pass, and I pray, Heavenly Father, that all that they shall do shall be pleasing to Thee.

We pray for wisdom for them. We pray, Heavenly Father, for individual needs that they might have. We know that they live under great stress. We realize, Heavenly Father, that many times they have to deny themselves things that they would personally enjoy and things that they would enjoy doing with their families. We know that they work long hours.

So, Father, we pray that as they lead this Nation, they might have Your help.

May they never fail to look to Thee and be grateful.

Bless this day, bless our President, bless all of our leaders, bless our Senators, for we ask this in the precious name of the Lord Jesus. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 23, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN B. BREAUX, a Senator from the State of Louisiana, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. BREAUX thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting Democratic leader is recognized, the Senator from Tennessee.

Mr. SASSER. Mr. President, I reserve the remainder of the majority leader's time.

GUEST CHAPLAIN CHESTER PHILLIPS

Mr. SASSER. Mr. President, we are greatly honored this morning by the presence of the Reverend Chester Phillips as the Senate's guest chaplain.

Reverend Phillips is the pastor of the Heritage Baptist Church in Johnson City, TN, a position he has held for 11 years. He and his lovely wife, Dot, have developed a deep attachment to their community where Reverend Phillips is a respected leader.

Reverend Phillips is the latest in a long line of distinguished guest chaplains in the Senate. As a matter of fact, the 35th Congress, which served in 1857 and 1858, did not elect a permanent chaplain but rather invited the clergy of the District of Columbia to alternate in opening the daily sessions with prayer.

The role of chaplains goes back to the earliest legislative assemblies in our country's history. Our Founding Fathers believed that God ruled the universe and guided the destinies of nations. That faith in God was their beacon as they sought to build a new nation in a raw new world. We can see this from the great documents in our early history—the Declaration of Independence, and the Constitution of the United States, that we honor on its 200th anniversary this year.

This spiritual awareness runs as an unbroken thread from our Founding Fathers, through the men and women who have built our Nation, down to the present day. It has helped us in times of great adversity and encouraged us in times of prosperity.

Likewise, from the very first session, the Senate has followed the example of the Continental Congress and the Constitutional Convention. When the first Senate met in New York City in 1789, one of the first items of business was the election of a chaplain. After George Washington took the oath of office as our first President, he and the First Congress immediately proceeded to St. Paul's Chapel where the newly elected Chaplain led them in prayer for the new Government.

So, Mr. President, from our very first days we have recognized the need for divine guidance. We have never forgotten that our hopes and our dreams depend on the will of God. Thus, we recall the words of scripture:

"Except the Lord keepeth the city, the watchman waketh but in vain."

Rev. Chester Phillips of Johnson City is here to remind us of that, and so I welcome him here today along with my colleagues in the Senate and express our appreciation to him for joining us.

The ACTING PRESIDENT pro tempore. The Senator yields the floor.

RECOGNITION OF THE REPUBLICAN LEADER

The ACTING PRESIDENT pro tempore. The Chair recognizes the Republican leader.

Mr. DOLE. Mr. President, I ask unanimous consent to reserve my time to be used following the statement by the distinguished Senator from Delaware, Senator BIDEN, on the Bork nomination.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, to extend to the hour of 10 a.m., with Senators permitted to speak therein.

The Chair recognizes the Senator from Wisconsin.

TIME TO GET SERIOUS ABOUT THE BUDGET DEFICITS

Mr. PROXMIRE. Mr. President, the President of the United States together with both Houses of the Congress have once again for the third consecutive year grossly underestimated the Federal deficit. As a result the President and Congress did not make the painful spending cuts we should have made to reduce the deficit. We have

● **This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.**

failed year after year. The administration's Office of Management and Budget [OMB] assured us earlier this year that at last we're on track. They told us the budget they sent the Congress will give us in the coming year a substantial reduction in the deficit.

Here is the record of deficits under Gramm-Rudman since it went into effect in 1986: 1986 target, $172 million; actual deficit, $221 billion; 1987 target, $144 billion; OMB deficit estimate, $180 billion. CBO without nonrecurring asset sale or tax reform deficit estimate, $194 billion; 1988 target, $108 billion; latest, almost certainly too rosy, deficit estimate, $181 billion.

The Congress changed the administration's spending priorities some but ended up with a budget that closely reflected the President's judgment on deficit reduction. Both the Congress and the President turned out to be hugely wrong. Wrong by tens of billions of dollars. This is what happened to the 1986 budget, the 1987 budget. You can count on it. It will happen to the 1988 budget. Each year the administration and the Congress grossly underestimate the deficit. Each year we sink another $200 billion or so more deeply in debt.

This has become a serious international embarrassment. America is still the driving economic force of the free world. Our world's most powerful economy has given us the military strength to serve as leaders of the free world. But we are putting this vital economy in constantly more serious jeopardy. Indeed we have become the despair of our strongest allies. Leaders of country after country have told us that we must bring our huge deficits under control. Our answer has been to tell them to follow our live-it-up, playboy, spend-and-borrow philosophy. We actually tell the Germans and the Japanese to cut their taxes, flood their countries with credit, borrow more and spend more. The administration tells them that kind of extravagant easy living will expand their markets. Then we can sell more to them and improve our trade deficit. And what do they tell us? They tell us another way to improve our trade deficit. They tell us to get serious about reducing our huge $200 billion deficits and our exploding national debt. They tell us if we don't stop this squandermania we're headed for superinflation and a full-scale depression. Who's right?

Mr. President, the remarkable thing about this situation is everyone knows the Germans and Japanese and our other foreign friends and allies are absolutely right. Go into the stores or shops or farms or factories of this country and ask the Americans who are running their enterprise. Ask them if the deficit spending policies of this Federal Government are right or wrong. Ask them if they believe the Government is getting its act in working order. Republican or Democrat will all tell you the same thing. Their answer will be "no way." They tell you as in one voice. Get back to Washington and spend less, much less. Then, if necessary, to bring down the deficit, increase taxes. They consistently believe the President is wrong to call for so much spending for the military. Our constituents also believe the Congress is wrong in insisting on continuing to fund social programs at too high a level. Sure in many cases they have their favorite cause. But if they ask for more spending for instance to help the Contras—ask them if they really want to spend $100 million a year of the taxpayers money for that purpose. Some constituents will say sure. But some will say, on second thought, save that money. Ask them if they are prepared to spend billions to follow up on the Contra expenditure if the Contras can't do the government overthrow job in Nicaragua. If your constituent calls for more money for community development ask her or him if they really want to increase Government spending beyond the $4 billion a year we now spend. If they support the President's call for a 50-percent increase in spending for the National Science Foundation, over the next 5 years, ask them if they're ready to increase their taxes to pay for it.

Mr. President this abysmal failure of the Federal Government—President and the Congress—to reduce the deficit comes during a long period of economic recovery. Indeed this is one of the longest recovery periods in the past 50 years. This is precisely the time we should be running surpluses. We know this situation cannot go on much longer. Next year or the year after—when the next recession hits as it always will in a free economy, the deficits will really explode. The annual deficits will rise to $300 or $400 billion. Before the recession—or depression—runs its course the country could be saddled with a national debt of $4 or $5 trillion. Inflation, low household saving, and huge Federal borrowing spell high interest rates. The interest cost of servicing the national debt would then become larger than any Federal expenditure including national defense. Now let me tell you why that's such a wicked burden. That interest cost would be completely uncontrollable. The Congress with the best will in the world could not reduce it by a penny. This is what our failure, I repeat our failure in this Government to cut spending, cut spending everywhere—military, social programs—right across the board and our failure to raise whatever taxes are necessary to cover our unwillingness to cut spending—is doing to us.

I yield the floor.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum is noted. The clerk will please call the roll.

The legislative clerk proceeded to call the roll.

Mr. BIDEN addressed the Chair.

The ACTING PRESIDENT pro tempore. The Senator from Delaware.

Mr. BIDEN. Mr. President, I would like to take some time this morning.

The ACTING PRESIDENT pro tempore. The Chair will advise the Senator—does he seek unanimous consent that the order for quorum call be rescinded?

Mr. BIDEN. Yes, I do.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Chair recognizes the Senator from Delaware.

Mr. BIDEN. I thank the Chair.

Mr. President, I rise this morning to speak on the subject of the role of the U.S. Senate in the confirmation process of Supreme Court Justices.

I will tell my colleague in the chair that I am going to take more time this morning than I usually take on the floor. My speech this morning will be relatively long, but, hopefully, historically and constitutionally accurate.

ADVICE AND CONSENT: THE RIGHT AND DUTY OF THE SENATE TO PROTECT THE INTEGRITY OF THE SUPREME COURT

Mr. BIDEN. Mr. President, on July 1, 1987, President Reagan nominated Judge Robert Bork to be an Associate Justice of the Supreme Court. I am delivering today the first of several speeches on questions the Senate will face in considering the nomination.

In future speeches, I will set out my views on the substance of the debate—and there is room for principled disagreement. But in this speech, I want to focus on the terms of the debate—and I hope to put an end to disagreement on the terms of the debate. Arguing from constitutional history and Senate precedent, I want to address one question and one question only: What are the rights and duties of the Senate in considering nominees to the Supreme Court?

Some argue that the Senate should defer to the President in the selection process. They argue that any nominee who meets the narrow standards of legal distinction, high moral character, and judicial temperament is entitled to be confirmed in the Senate without further question. A leading exponent of this view was President Richard Nixon, who declared in 1970 that the President is "the only person entrusted by the Constitution with the power of appointment to the Supreme Court." Apparently, there are some in this body and outside this body who share that view.

I stand here today to argue the opposite proposition. Article II, section 2, of the Constitution clearly states that the President "shall nominate, and by and with the advice and consent of the Senate, shall appoint * * * Judges of the Supreme Court. * * *" I will argue that the framers intended the Senate to take the broadest view of its constitutional responsibility. I will argue that the Senate historically has taken such a view. I will argue that, in case after case, it has scrutinized the political, legal, and constitutional views of nominees. I will argue that, in case after case, it has rejected professionally qualified nominees because of the perceived effect of their views on the Court and the country. And I will argue that, in certain cases, the Senate has performed a constitutional function in attempting to resist the President's efforts to remake the Supreme Court in his own image.

THE INTENT OF THE FRAMERS

How can we be sure of the scope of the Senate's constitutional rights and duties under the "advice and consent" clause? We should begin—but not end—our investigation by considering the intent of the framers. Based on the debates of the Constitutional Convention, it is clear that the delegates intended the Senate to set into play a broad role in the appointment of judges.

In fact, they originally intended even more. At the beginning of the Constitutional Convention, they intended to give the Congress exclusive control over the selection process and to leave the President out entirely. On May 29, 1787, the Constitutional Convention began to deliberate in Philadelphia. It adopted as a working paper the Virginia plan, which provided that "a National Judiciary be established * * * to be chosen by the National Legislature."

A few weeks after debate began, some delegates questioned the wisdom of entrusting the selection of judges to Congress alone. They feared that Congress was large and lumbering and might have some trouble making up its mind. James Wilson of Pennsylvania was an advocate of strong Executive power, so he proposed an obvious alternative: giving the President exclusie power to choose the judges. This proposal found no support whatsoever. If one concern united the delegates from large States and small States, North and South, it was a determination to keep the President from amassing too much power. After all, they had fought a war to rid themselves of tyranny and the royal prerogative in any form. John Rutledge of South Carolina opposed giving the President free rein to appoint the judiciary since "the people will think we are leaning too much toward monarchy."

James Madison, the principal architect of the Constitution, agreed. He shared Wilson's fear that the legislature was too large to choose, but stated that he was "not satisfied with referring the appointment to the Executive." He was "rather inclined to give it to the senatorial branch" of the legislature, which he envisioned as a group "sufficiently stable and independent" to provide "deliberate judgments." Accordingly, on June 13, Madison formally moved that the power of appointment be given exclusively to the Senate. His motion passed without objection.

On July 18, 200 years ago last Saturday, James Wilson again moved "that the Judges be appointed by the Executive." His motion was defeated, by six States to two. It was widely agreed that the Senate "would be composed of men nearly equal to the Executive and would of course have on the whole more wisdom." Moreover, "it would be less easy for candidates to intrigue with them, than with the Executive."

Obviously, we can see here the fear that was growing on the part of those at the Convention was that respective nominees would be able to intrigue with a single individual, the President, but not the Senate as a whole. So Mr. Ghorum of Massachusetts suggested a compromise proposal: to provide for appointment by the Executive "by and with the advice and consent" of the Senate. Without much debate, the "advice and consent" proposal failed on a tie vote.

Up until now, no one, no single vote at the Convention, gave the Executive any role to play in this process.

All told, there were four different attempts to include the President in the selection process, and four times he was excluded. Until the closing days of the Convention, the draft provision stood: "The Senate of the United States shall have power to * * * appoint * * * Judges of the Supreme Court." But the controversy would not die, and between August 25 and September 4, the advice and consent compromise was proposed once again. On September 4, the Special Committee on Postponed Matters reported the compromise, and 3 days later, the Convention adopted it unanimously.

What can explain this 11th hour compromise? Well, historians have debated it for years.

Gouverneur Morris of Pennsylvania offered the following paraphrase. The advice and consent clause, he said, would give the Senate the power "to appoint Judges nominated to them by the President." Was his interpretation correct?

Well, we can never know for sure, but it seems to be the overwhelming point of view among the scholars. But it is difficult to imagine that after four attempts to exclude the President from the selection process, the framers intended anything less than the broadest role for the Senate—in choosing the Court and checking the President in every way.

The ratification debates confirm this conclusion. No one was keener for a strong Executive than Alexander Hamilton. But in Federalist Papers 76 and 77, Hamilton stressed that even the Federalists intended an active and independent role for the Senate.

In Federalist 76, Hamilton wrote that senatorial review would prevent the President from appointing justices to be "the obsequious instruments of his pleasure." And in Federalist 77, he responded to the argument that the Senate's power to refuse confirmation would give it an improper influence over the President by using the following words: "If by influencing the President, be meant restraining him, this is precisely what must have been intended. And it has been shown that the restraint would be salutary. * * *"

Now, this is the fellow, Hamilton, who argued throughout this entire process that we needed a very strong Executive, making the case as to why the Senate was intended to restrain the President and play a very important role.

Most of all, the founders were determined to protect the integrity of the courts. In Federalist 78, Hamilton expressed a common concern: "The complete independence of the courts of justice," he said, "is peculiarly essential in a limited Constitution. * * * Limitations of this kind can be preserved in practice no other way than through the medium of courts of justice, whose duty it must be to declare all acts contrary to the manifest tenor of the Constitution void."

So, in order to preserve an independent Judiciary, the framers devised three important checks: life tenure, prohibition on reduction in salary and, most important, a self-correcting method of selection. As they relied on the Court to check legislative encroachments, so they relied on the Legislature to check Executive encroachments. In dividing responsibility for the appointment of judges, the framers were entrusting the Senate with a solemn task: preventing the President from undermining judicial independence and from remaking the Court in his own image. That in the end is why the framers intended a broad role for the Senate. I think it is beyond dispute from an historical perspective.

THE SENATE PRECEDENTS

The debates and the Federalist Papers are our only keys to the minds of the founders. Confining our investigation to "original intent," you would have to stop there. But there is much more. Two centuries of Senate precedent, always evolving and always changing with the challenges of the moment, point to the same conclusion: The Senate has historically taken seriously its responsibility to restrain the President. Over and over, it has scrutinized the political views and the constitutional philosophy of nominees, in addition to their judicial competence.

I ask unanimous consent to insert in the RECORD a list of all nominations rejected or withdrawn over the last 200 years.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

I. SUPREME COURT NOMINATIONS REJECTED OR WITHDRAWN, 1795–1970

Supreme Court nominee	Nominating president	President's party	Senate party	Rejected (R)/postponed (P)/withdrawn(W)	Vote	Reasons for Senate opposition
John Rutledge (1795)	Washington	Federalist	F	R	14–10	Attacked by his fellow Federalists for his opposition to the Jay Treaty of 1794.[1, 2]
Alexander Wolcott (1811)	Madison	Dem.-Repub.	DR	R	24–9	Unpopular with Federalists for strong enforcement of Embargo and Non-intercourse Act as U.S. Collector of Customs for Connecticut; also questionable legal qualifications.[1, 2]
John Crittenden (1829)	J.Q. Adams	DR	DR	P	23–17	Adams was a lame duck President (nomination came after his 1828 defeat by Jackson).[1, 2]
Roger Brooke Taney (1835)	Jackson	Dem	Whig	P, Later confirmed as Chief Justice 1836		Unpopular with Whips because, as Secretary of the Treasury, removed government funds from the Bank of the United States in compliance with Jackson anti-Bank policy.[1, 2]
John Spener (1844)	Tyler	W/D	W	RD	26–21	Tyler was the first to succeed to the presidency as Vice-President and his power was questioned generally; Tyler viewed as only a nominal Whig; Spencer defeated because of his close political association with Tyler.[1, 2]
Reuben Walworth (1844)	Tyler	W/D	W	P	27–20	Partisan opposition to Walworth by Senate Whigs.[1]
Edward King (1844)	Tyler	W/D	W	P	29–18	Senate Whigs anticipated that Tyler would not be nominated for President, and was thus effectively a lame duck.[1]
Edward King (1845)	Tyler	W/D	W	W		Tyler became a lame duck in fact after Polk's election (King nomination resubmitted in December 1844).[1]
John Read (1845)	Tyler	W/D	W	No action		Nomination made February 1845, Senate adjourned without taking action.[1]
George Woodward (1846)	Polk	D	W	R	29–20	Woodward's home state Senator, Simon Cameron, insisted on right to approve appointment ("senatorial courtesy"); Woodward also attacked as extreme "American nativist."[1, 2]
Edward Bradford (1852)	Fillmore	W	D	W, No action		Fillmore effectively a lame duck because not nominated for President in 1852; Senate adjourned without taking action.[1]
George Badger (1852)	Fillmor	W	D	P	26–25	Fillmore a lame duck in fact after Pierce's election; nomination of Sen. Badger (a Whig) "postponed" by Senate Democratic majority to protect Court seat for Democrat Pierce to fill.[1]
William Micou (1853)	Fillmore	W	D	No action		Same reasons as with Badger nomination, above.[1]
Jeremiah Black (1861)	Buchanan	D	Some Dems. had quit Senate after secession.	R	26–25	Black was opposed politically by Democratic Sen. Stephen Douglas (loser of 1860 election); Buchanan was a lame duck in fact (nomination made after Lincoln's election); Senate anti-slavery forces opposed because Black had advised Buchanan that force could not be used to prevent secession and maintain in the Union.[1, 2]
Henry Stanbury (1866)	A. Johnson	D	R	Court seat eliminated		Radical Republicans controlling Senate reduced size of Supreme Court by two seats to deny Democratic President Johnson a chance to make any nominations.[1, 2, 3]
Ebenezer Hoar (1870)	Grant	R	R	R	33–24	Hoar rejected for his stands on policital issues: for merit nominations of lower court judges, for civil service reforms, against impeachment of President Johnson; also desire of some Senators to have a southern nominee.[1, 2, 3]
George Williams (1874)	Grant	R	R	W		Withdrawn because of questions about Williams' capabilities and financial integrity; and his connection, as Attorney General, to the scandal-ridden Grant Administration.[1, 3]
Caleb Cushing (1874)	Grant	R	R	W		Cushing had changed political parties several times; attacked constitutionality of Reconstruction Laws; sent indiscreet letter to Jefferson Davis in 1861 after secession.[1, 2, 3]
Stanley Matthews (1881)	Hayes	R	D	No judiciary Comm. action; renominated by Garfield and confirmed by 24–23 vote.		Matthews opposed for his close ties to Jay Gould and railroad interests; less importantly, he was Hayes' brother-in-law and Hayes' lawyer before the Electoral Count Commission adjudicating the disputed 1876 Hayes-Tilden vote.[1, 2, 3]
William Hornblower (1893)	Cleveland	D	D	R	30–24	Hornblower's opposition to machine politics in New York led to "senatorial courtesy" veto of nomination by New York Democratic Sen. Hill; also Republican fear of Hornblower's opposition to protective tariffs.[1, 2, 3]
Wheeler Peckham (1893)	Cleveland	D	D	R	41–32	Same reasons as with Hornblower nomination, above.[1, 2, 3]
John J. Parker (1930)	Hoover	R	R	R	41–39	Opposed by unions for close adherence to anti-labor precedents; opposed by civil rights groups for racist statements made as candidate for Governor of North Carolina in 1920.[1, 2, 4]
Abe Fortas (1968)	L. Johnson	D	D	W		Senate filibuster from opposition to Warren Court, Fortas' membership on Court; Johnson effectively a lame duck in summer of 1968 (not running for renomination).[1, 2]
Homer Thornberry (1968)	L. Johnson	D	D	W		No Court vacancy after withdrawal of Justice Fortas' nomination to Chief Justice.[1, 2]
Clement Haynsworth (1969)	Nixon	R	D	R	55–45	Criticism of civil rights and civil liberties record; questions of financial impropriety.[1, 3, 4]
G. Harrold Carswell (1970)	Nixon	R	D	R	51–45	Mediocre legal qualifications; criticism that part statements and actions were racist.[1, 3, 4]

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[1] Henry J. Abraham, "Justices and Presidents" (New York: Penguin Books, 1975).

[2] Philip B. Kurland, "The Appointment and Disappointment of Supreme Court Justices," in Law and the Social Order (1972 Arizona State Univ. Law Journal), No. 2, p. 183.

[3] Richard D. Friedman, "The Transformation in Senate Response to Supreme Court Nominations: From Reconstruction to the Taft Administration and Beyond," 5 Cardozo Law Review 1 (1983).

[4] Donald E. Lively, "The Supreme Court Appointment Process: In Search of Constitutional Roles and Responsibilities," 59 Southern California Law Review 551 (1986).

Mr. BIDEN. In many cases, the Senate rejected technically competent candidates whose views it perceived to clash with the national interest. The chart lists 26 nominations rejected or withdrawn since 1789. In only one case, George Williams—a Grant nominee whose nomination was withdrawn in 1874—does it appear that substantive questions played no role whatsoever. The rest were, in whole or in part, rejected for political or philosophical reasons.

The precedent was set as early as 1795, in the first administration of George Washington. And the precedent setter was none other than poor John Rutledge who I quoted earlier. Remember Rutledge? He was the one who argued at the Constitutional Convention that to give the President complete control over the Supreme Court would be "leaning too much toward monarchy." Well Old John would come to wish he had not uttered those words.

Rutledge was first nominated to the Court in 1790, and he had little trouble being confirmed. As one of the principal authors of the first draft of the Constitution, he was clearly qualified to judge original intent. In 1791, however, he resigned his seat to become chief justice of South Carolina, which—as our two South Carolina Senators probably still think—he considered a far more important post. But then, Chief Justice John Jay resigned from the Supreme Court in 1795, and Washington nominated Rutledge to take his seat. The President was so confident to a speedy confirmation that he had the commission papers drawn up in advance and gave him a recess appointment.

But that was not to be. A few weeks after his nomination, Rutledge attacked the Jay Treaty, which Washington had negotiated to ease the last tensions of the Revolutionary War and to resolve a host of trade issues. Because of the violent opposition of the anti-British faction, support of the treaty was regarded as the touchstone of true federalism. One newspaper reported that Rutledge had declared "he had rather the President should die (dearly as he loved him) than he should sign that treaty." Another paper reported that Rutledge had insinuated "that Mr. Jay and the Senate were fools or knaves, duped by British sophistry or bribed by British gold * * * prostituting the dearest rights of freemen and laying them at the feet of royalty."

Debate raged for 5 months, and Rutledge was ultimately rejected, 14 to 10. To the minds of many Senators, Rutledge's opposition to the treaty called into question his judgment in taking such a strong position on an issue that polarized the Nation. Some even feared for his mental stability. But make no mistake: the first Supreme Court nominee to be rejected by the Senate—one of the framers, no less—was rejected specifically on political grounds. And the precedent was firmly established that inquiry into a nominee's substantive views is a proper and an essential part of the confirmation process.

Since Washington's time, the precedent has been frequently reinforced and extended—often at turning points in our history. In 1811, Alexander Wolcott, a Madison nominee, was rejected at least in large part because of his vigorous enforcement of embargo legislation and nonintercourse laws. His rejection was fortunate for our legal history, since he later endorsed the view that any Judge deciding a law unconstitutional should be immediately expelled from the Court.

In 1835, Roger Taney, a Jackson nominee, was opposed for much more serious and substantive reasons. I will discuss the historic details of the Taney case later. But, for now, though, a sketch will suffice. Jackson was attempting to undermine the Bank of the United States. Taney had been a crucial ally in his crusade, so Jackson nominated him to the Court. Those favoring confirmation urged the Senate to consider Taney's constitutional philosophy on its own merits. "It would indeed be strange," said a leading paper in the South, "if, in selecting the members of so august a tribunal, no weight should be attached to the views entertained by its members of the Constitution, or their acquirements in the science of politics in its relations to the forms of government under which we live." Those opposing confirmation had no reservation about doing so on the ground that Taney's views did not belong on the Court. In the end, the Whigs succeeded in defeating the nomination by postponement, but Jackson bided his time and resubmitted it the following year—this time for the seat of retiring Chief Justice Marshall.

Between the Jackson and Lincoln Presidencies, no fewer than 10 out of 18 Supreme Court nominees failed to win confirmation. Whigs and Democrats were equally divided in the Senate. While the issue of States rights versus a nationalist philosophy inflamed some of the debates, most of the struggles were strictly partisan. John Tyler set a Presidential record: the Senate refused to confirm five of his six nominees. At one point, after the resignation of Justice Baldwin in 1844, the struggle became so intense that a seat remained vacant for 28 months.

Twentieth century debates have been on the whole more civil but no less political. The last nominee to be rejected on exclusively political or philisophical grounds was John J. Parker, a Herbert Hoover nominee, in 1930. And in Parker's case, debate focused as much on the net impact of adding a conservative to the Court as on the opinions of the nominee himself. Parker's scholarly credentials were beyond reproach. But Republicans, disturbed by the highly conservative direction taken by the Court under President Taft, began to organize the opposition.

Their case rested on three contentions—I have this right, by the way; it is Republicans; and Republicans in those days were much more progressive in these matters, in my perspective—first, that Parker was unfriendly to labor; second, that he was opposed to voting rights and political participation for blacks; and third, that his appointment was dictated by political considerations.

Parker's opinions on the court of appeals drew attention to his stand on labor activism. He had upheld a "yellow dog" contract that set as a condition of employment a worker's pledge never to join a union.

But the case for the opposition was put most eloquently by Senator Borah of Idaho, in a speech that would be quoted for years to come:

> [Our Justices] pass upon what we do. Therefore, it is exceedingly important that we pass upon them before they decide upon these matters.

And Senator Norris of Nebraska added, in stirring words that we would do well to remember today:

> When we are passing on a judge * * * we ought not only to know whether he is a good lawyer, not only whether he is honest—and I admit that this nominee possesses both of those qualifications—but we ought to know how he approaches these great questions of human liberty.

Parker was denied a seat on the Court by a vote of 41 to 39. Justice Owen Roberts, the man appointed in his place, was less wedded to the wisdom of the past: his was the famous "switch in time" that helped defuse the Court-packing crisis in 1937—more on that later.

But what of our own times? In the past two decades, three nominees have been rejected by the Senate—Abe Fortas, Clement Haynsworth and G. Harrold Carswell—and, although there were other issues at stake, debate in all three cases centered on their constitutional views as well as their professional competence. I am inserting into the Congressional Record a list of the statements of Senators during the Fortas and Haynsworth hearings and debates concerning the relevance of a nominee's substantive views.

I ask unanimous consent that they be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

II. Statements of Senators Concerning Relevance of Nominee's Substantive Views—Fortas Hearings and Debates

A. SENATORS WHO ARGUED DIRECTLY THAT THE VIEWS OF THE NOMINEE ARE RELEVANT

Senator Baker, 114 Cong. Rec. 28258 (1968).

Senator Byrd (Va.), 114 Cong. Rec. 26142 (1968).

Senator Curtis, 114 Cong. Rec. 26148 (1968).

Senator Ervin, Hearings on the Nomination of Abe Fortas and Homer Thornberry Before the Senate Comm. on the Judiciary, 90th Cong., 2nd Sess., at 107 (1968) [hereinafter cited as 1968 Hearings].

Senator Fannin, 114 Cong. Rec. 26704, 28755 (1968).

Senator Fong, 114 Cong. Rec. 28167 (1968).

Senator Gore, 114 Cong. Rec. 28780 (1968).

Senator Griffin, 1968 Hearings at 44.

Senator Holland, 114 Cong. Rec. 26146 (1968).

Senator Hollings, 114 Cong. Rec. 28153 (1968).

Senator McClellan, 114 Cong. Rec. 26145 (1968).

Senator Miller, 114 Cong. Rec. 23489 (1968).

Senator Thurmond, 1968 Hearings at 180.

B. SENATORS WHO DEBATED THE NOMINEE'S VIEWS

Senator Byrd (W. Va.), 114 Cong. Rec. 28785 (1968).

Senator Eastland, 114 Cong. Rec. 28759 (1968).

Senator Hart, 1968 Hearings at 276.

Senator Javits, 114 Cong. Rec. 28268 (1968).

Senator Lausche, 114 Cong. Rec. 28928 (1968).

Senator Montoya, 114 Cong. Rec. 20143 (1968).

Senator Murphy, 114 Cong. Rec. 28254 (1968).

Senator Smathers, 114 Cong. Rec. 28748 (1968).

Senator Stennis, 114 Cong. Rec. 28748 (1968).

C. SENATORS WHO ARGUED THAT THE NOMINEE'S VIEWS ARE NOT RELEVANT OR ONLY MARGINALLY RELEVANT

Senator Bayh, 114 Cong. Rec. 19902 (1968).

Senator Mansfield, 114 Cong. Rec. 28113 (1968).

Senator McGee, 114 Cong. Rec. 19638 (1968).

Senator McIntyre, 114 Cong. Rec. 20445 (1968).

Senator Proxmire, 114 Cong. Rec. 20142 (1968).

Senator Randolph, 114 Cong. Rec. 19639 (1968).

Senator Tydings, 114 Cong. Rec. 28164 (1968).

III. Statements of Senators Concerning Relevance of Nominee's Substantive Views—Haynsworth Hearing and Debates

A. SENATORS WHO ARGUED DIRECTLY THAT VIEW OF THE NOMINEE ARE RELEVANT, OR WHO DEBATED THE NOMINEE'S VIEWS

Senator Baker, 115 Cong. Rec. 34432 (1969).

Senator Bayh, 115 Cong. Rec. 35132 (1969).

Senator Byrd (Va.), 115 Cong. Rec. 30155 (1969).

Senator Case, 115 Cong. Rec. 35130 (1969).

Senator Dole, 115 Cong. Rec. 35142 (1969).

Senator Eagleton, 115 Cong. Rec. 28212 (1969).

Senator Ervin, Hearings on the Nomination of Clement Haynsworth Before the Senate Comm. on the Judiciary, 91st Cong. 1st Sess., at 75 (1969) [hereinafter cited as 1969 Hearings].

Senator Fannin, 115 Cong. Rec. 34606 (1969).

Senator Goodell, 115 Cong. Rec. 32672 (1969).

Senator Gurney, 115 Cong. Rec. 34439 (1969).

Senator Harris, 115 Cong. Rec. 35376 (1969).

Senator Hart, 1969 Hearings at 463.

Senator Hollings, 115 Cong. Rec. 28877 (1969).

Senator Javits, 115 Cong. Rec. 34275 (1969).

Senator Kennedy, 1969 Hearings at 327.

Senator McClellan, 1969 Hearings at 167.

Senator Mathias, 1969 Hearings at 307.

Senator Metcalf, 115 Cong. Rec. 34425 (1969).

Senator Mondale, 115 Cong. Rec. 28211 (1969).

Senator Muskie, 115 Cong. Rec. 35368 (1969).

Senator Percy, 115 Cong. Rec. 35375 (1969).

Senator Stennis, 115 Cong. Rec. 34849 (1969).

Senator Young, 115 Cong. Rec. 28895 (1969).

B. SENATORS WHO ARGUED THAT THE NOMINEE'S VIEWS ARE NOT RELEVANT

Senator Allott, 115 Cong. Rec. 35126 (1969).

Senator Bellmon, 115 Cong. Rec. 31787 (1969).

Senator Boggs, 115 Cong. Rec. 34847 (1969).

Senator Cook, 115 Cong. Rec. 29557 (1969).

Senator Fong, 115 Cong. Rec. 34862 (1969).

Senator Hruska, 115 Cong. Rec. 28649 (1969).

Senator Mundt, 115 Cong. Rec. 35371 (1969).

Senator Murphy, 115 Cong. Rec. 35138 (1969).

Senator Prouty, 115 Cong. Rec. 34439 (1969).

Senator Spong, 115 Cong. Rec. 34444 (1969).

Senator Stevens, 115 Cong. Rec. 35129 (1969).

Senator Tower, 115 Cong. Rec. 34843 (1969).

Senator Tydings, 1969 Hearings at 57.

Mr. BIDEN. Mr. President, the list was compiled by three law professors in a memorandum prepared for several members of the Judiciary Committee in 1971 to address the proper scope of the Senate's inquiry into the political and constitutional philosophies of nominees.

The tone of the recent debates was established during the hearings for Justice Thurgood Marshall in 1967. Senator Ervin summarized the viewpoint of several Senators.

> I believe that the duty which that [advice and consent] provision of the Constitution imposes upon a Senator requires him to ascertain as far as he humanly can the constitutional philosophy of any nominee to the Supreme Court.

When Justice Marshall's nomination reached the floor, the Senators who spoke against confirmation rested their case on what they saw as his activist views. Senator Stennis said: "The nominee must be measured not only by the ordinary standards of merit, training, and experience, but his basic philosophy must be carefully examined." And Senator Byrd of West Virginia emphasized not only the nominee's own views but also the effect they would have in shifting the balance of the Court as a whole. Senator Thurmond emphasized the importance of balance: "This means that it will require the appointment of two additional conservative justices in order to change the tenor of future Supreme Court decisions." Of the numerous Senators who spoke in favor of Marshall's confirmation, many argued that his record of litigation aimed toward expanding the rights of black Americans was a positive factor in their decisions.

President Johnson's nomination of Abe Fortas to be Chief Justice in 1968 provoked the most protracted confirmation fight of recent times. There were personal as well as philosophical issues involved—particularly the propriety of a lameduck nomination and of the nominee's role as confidential adviser to the President—but his substantive positions were central to the debate. Of the 29 Senators who addressed the question, 13 explicitly stated that the nominee's political and constitutional views were relevant and should be discussed. Another nine analyzed his views in explaining their own votes, implying that they regarded this consideration to be relevant. Seven others seemed to argue that a nominee's constitutional philosophy was either not a proper topic of consideration by the Senate or of only marginal relevance.

Passions were high during that debate, but few disputed the terms of debate. Eloquent voices on both sides of the Senate agreed that the nominee's views, philosophy and past decisions were relevant to the question of his confirmation. Senator Fannin of Arizona quoted Senator Borah's stirring words from the Parker debate. He also quoted a letter from William Rehnquist, then a young lawyer in Arizona. As early as 1959, Mr. Rehnquist had called in the Harvard Law Record for restoring the Senate's practice "of thoroughly informing itself on the judicial philosophy of a Supreme Court nominee before voting to confirm him."

Senator Miller of Iowa endorsed the sentiment:

> For too long, the Senate has rubber-stamped nominations * * *. But a time comes when every Senator should search his conscience to see whether the exercise of the confirming power by the Senate is for the good of the country.

Then Senator Thurmond rose again: "It is my contention," he said to the Chamber, "that the Supreme Court has assumed such a powerful role as a policymaker in the Government that the Senate must necessarily be concerned with the views of the prospective Justices or Chief Justices as they relate to broad issues confronting the American people, and the role of the Court in dealing with these issues."

Since Fortas's time, two more nominees have been rejected by the Senate—nominees for the seat that would come to be occupied by Justice Powell. There is no need to review the unhappy circumstances of the nominations of Clement Haynsworth and G. Harrold Carswell. They are as familiar now as they were then. But although both cases involved questions of ethics and competence, judicial philosophy played a central role. In the case of Judge Haynsworth, apparently 23 Senators argued for the relevance of his substantive views on labor law and race relations, while at least 13 Senators took the opposite position. Senator Case of New Jersey once more looked back to Borah: "How he approaches these great questions of human liberty—this for me is the essence of the issue in the pending nomination of Judge Haynsworth."

In the subsequent debate over G. Harrold Carswell, his views about racial equality received no less attention than his ability on the bench. Of particular concern was his always restrained, and often reversed, view of the scope of the 14th amendment. Senator Inouye took particular exception to the nominee's "philosophy on one of the most critical issues facing our Nation today—civil rights." And Senator Brooke of Massachusetts argued the general proposition: "The Senate," he said, "bears no less responsibility than the President in the process of selecting members of the Supreme Court * * * (judicial competence) could not be sufficient (qualification) for a man who began his public career with a profound and far-reaching commitment to an anticonstitutional doctrine, a denial of the very pillar of our legal system, that all citizens are equal before the law."

DEVELOPING THE PROPER STANDARDS

This, then, is the history of the Senate debates. It is a rich and fractious history—always entangled with the passions of the moment and the questions of the day. But although the issues under review have changed, the terms of review have not. Until recent times, few have questioned the Senate's right to consider the judicial philosophy, as well as the judicial competence, of nominees. The Founders intended it and the Senate has exercised it. Over and over, the Senate has rejected nominees who possessed otherwise distinguished professional credentials but whose politics clashed with the Senate majority or whose judicial philosophies were out of step with the times or viewed as tipping the balance in the Court.

It is easy to see why the Senate has subjected nominees to the Supreme Court to more exacting standards than nominees to the lower courts, for as the highest court in the land, the Supreme Court dictates the judicial precedents that all lower courts are bound to respect. But as the only court of no appeal, the Supreme Court itself is the only court with unreviewable power to change precedents. Thus, only the Senate can guard the guardians—by attempting to engage and gage the philosophies of Justices before placing them on the Court.

But to say that the Senate has an undisputed right to consider the judicial philosophy of Supreme Court nominees does not mean that it has always been prudent in exercizing that right. After all, some of our most distinguished Justices—such as Harlan Fiske Stone, Charles Evans Hughes, and Louis Brandeis—have been opposed unsuccessfully on philosophical grounds. To say, furthermore, that political philosophy has often played a role in the past does not mean that nominees' views should always play a role in the present. For there are obvious costs to political fights over judicial nominees. There are only costs to political fights over the Supreme Court seat. As history shows, tempers flare, factions mobilize, and the Court, and the country, wait for a truce.

There are costs that all of us would prefer to avoid. And these are costs that I have discussed before. In supporting the nomination of Justice O'Connor, whose views are more conservative than my own, I warned of the dangers of applying political litmus tests to Presidential nominees. I agreed with Justice O'Connor that to answer questions about specific decisions would jeopardize her independence on the Court. I cautioned that if every Supreme Court nomination became a political battle, then we would run the risk of holding the Court hostage to the internecine wars of the President and Congress. And I endorsed a modern convention that has developed in the Senate—a convention designed to keep the peace. In recent times, under normal circumstances, many Members have preferred not to consider questions of judicial philosophy in discharging their duty to advise and to consent. Instead, they have been inclined to restrict their standards for Presidential nominees to questions of character and of competence. These are the three questions we have preferred to ask:

First. Does the nominee have the intellectual capacity, competence and temperament to be a Supreme Court Justice?

Second. Is the nominee of good moral character and free of conflicts of interest?

Third. Will the nominee faithfully uphold the Constitution of the United States?

These were the questions asked by the Senate when President Eisenhower nominated Justice Brennan, when President Kennedy nominated Justice White, when President Nixon nominated Justice Powell and when President Reagan nominated Justice O'Connor, to name only a few recent examples.

But during what times and under what circumstances can this narrow standard be confidently applied? For obvious reasons, the narrow standard presumes a spirit of bipartisanship between the President and the Senate. It presumes that the President will enlist and heed the advice of the Senate; or it presumes that he will make an honest effort to choose nominees from the mainstream of American legal thought; or it presumes that he will demonstrate his good faith by seeking two qualities, above all, in his nominees—first, detachment and second, statesmanship.

Judge Learned Hand wrote of the necessity for detachment. He said that a Supreme Court Justice:

> * * * must have the historical capacity to reconstruct the whole setting which evoked the law; the contentions which it resolved; the objects which it sought; the events which led up to it. But all this is only the beginning, for he must possess the far more exceptional power of divination which can peer into the purpose beyond its expression, and bring to fruition that which lay only in flower * * * he must approach his problems with as little preconception of what should be the outcome as it is given to men to have; in short, the prime condition of his success will be his capacity for detachment.

And Justice Felix Frankfurter wrote of the necessity for statesmanship:

> Of course a Justice should be an outstanding lawyer in the ordinary professional acceptance of the term, but that is the merest beginning. With the great men of the Court, constitutional adjudication has always been statecraft. The deepest significance of Marshall's magistracy is his recognition of the practical needs of government, to be realized by treating the Constitution as the living framework within which the nation and the States could freely move through the inevitable changes wrought by time and inventions. Those of his successors whose labors history has validated have been men who brought to their task insight into the problems of their generation * * * Not anointed priests, removed from knowledge of the stress of life, but men with proved grasp of affairs who have developed resilience and vigor of mind through seasoned and diversified experience in a work-a-day world—(these) are the judges who have wrought abidingly on the Supreme Court.

Detachment and statesmanship—these are demanding standards. But they were standards admirably met by retiring Justice Lewis Powell—a practicing lawyer before his appointment to the Court. During a farewell interview, Justice Powell sought to express his own vision of the responsibilities of a Justice. "I never think of myself as having a judicial philosophy," he said. "* * * I try to be careful, to do justice to the particular case, rather than try to write principles that will be new, or original * * *." And Justice Powell called for "a consideration of history and the extent to which decisions of this Court reflect an evolving concept of particular provisions of the Constitution."

When the President selects nominees on the basis of their detachment and their statesmanship, with a sensitivity to the balance of the Court and the concerns of the country, then the Senate should be inclined to respond in kind. Individual Senators are bound to have individual objections. But at least since I have been in the Senate, many of us have made an effort to put aside our personal biases and to support even nominees with whom we were inclined to disagree.

But in recent years, it has struck many of us that the ground rules have been changed. Increasingly, nominees have been selected with more attention to their judicial philosophy and less attention to their detachment and statesmanship. When, and how, should a Senator respond when this happens? Constitutional scholars and Senate precedents agree that, under certain circumstances, a Senator has not only the right but the duty to respond by carefully weighing the nominee's judicial philosophy and the consequences for the country. What are those circumstances?

One circumstance is when a President attempts to remake the Court in his own image by selecting nominees for their judicial philosophy. Alone, Charles Black, a liberal scholar then at Yale Law School, wrote in 1970:

> If a President should desire, and if chance should give him the opportunity, to change entirely the character of the Supreme Court, shaping it after his own political image, nothing would stand in his way except the United States Senate * * *. A Senator, voting on a presidential nomination to the Court, not only may but generally ought to vote in the negative, if he firmly believes, on reasonable grounds, that the nominee's views on the large issues of the day will make it harmful to the country for him to sit and vote on the Court * * *.

I think that is a very important quote.

Another circumstance is when the President and the Senate are deeply divided, demonstrating a lack of consensus on the great issues of the day. Philip B. Kurland of the University of Chicago, a conservative scholar, wrote in 1972:

> Obviously, when the President and the Senate are closely aligned in their views, there is not likely to be a conflict over appointees. When their views are essentially disparate, suggesting an absence of consensus in the nation—a situation more likely to occur at the time of greatest constitutional change—it will become the obligation of the contending forces to reach appropriate compromise. It should not satisfy the Senate that the nominee is an able barrister with a record of unimpeachable ethical conduct. He who receives a Supreme Court appointment will engage in the governance of this country.

Let me repeat that. This is not repeated in the quote, but let me repeat that part of the quote.

> He who receives a Supreme Court appointment will engage in the governments of this country. The question for the Senate—no less than the President—is whether he is an appropriate person to wield that authority.

A final circumstances is when the balance of the Court itself is at stake. When the country and the Court are divided, then a determined President has the greatest opportunity of remaking the Court in his own image. To protect the independence of the Court and the integrity of the Constitution, the Senate should be vigilant against letting him succeed where they disagree. During the debate over the qualifications of Clement Haynsworth, our former distinguished colleague and my former seatmate, Senator Muskie of Maine spoke movingly of the Senate's duty to consider the impact of a nominee's views on the balance of the Court. He said:

> It is the prerogative of the President, of course, to try to shift the direction and the thrust of the Court's opinions in this field by his appointments to the Court. It is my prerogative and my responsibility to disagree with him when I believe, as I do, that such a change would not be in our country's best interests.

These, in sort, are some of the circumstances when the Senate's right to consider judicial philosophy becomes a duty to consider judicial philosophy: When the President attempts to use the Court for political purposes; when the President and Congress are deeply divided; or when the Court is divided and a single nomination can bend it in the direction of the President's political purposes. These are all times when the Senate has a duty to engage the President.

In future speeches, I will attempt to support my belief that all three circumstances obtain today. But in turning to the future we should be guided by the past. Our predecessors have been met with similar challenges. How have they responded under fire?

A COURAGEOUS SENATE VERSUS A DETERMINED PRESIDENT: TWO FAMOUS PRECEDENTS

Fifty years ago, and 150 years ago, popular Presidents committed themselves to controversial political agendas. In both cases, the Supreme Court had ruled parts of the agenda unconstitutional. In both cases, the President attempted to tilt the balance of the Court by politicizing the appointments process. And in both cases, a courageous Senate attempted to block the President's efforts to bend the Court to his personal ends.

The first case is one I have already outlined—the case of Andrew Jackson's relentless efforts to place Roger Taney on the Supreme Court.

At its heart, the story of Andrew Jackson and Roger Taney versus the Senate and the Bank of the United States was a struggle over the broad ideological issues that split the fledgling Republic—a struggle between debtor and creditor, executive and legislative, States' rights and Federal power. Andrew Jackson arrived in Washington resolved to do battle with the the "monster" Bank. "I have it chained," he crowed after vetoing an attempt to recharter the Bank in 1832. "The monster must perish," he said.

To prosecute his vendetta against the Bank, Jackson sought to remove all Federal money from the "monster's" vaults. In late 1833, Jackson summoned his Cabinet and announced his resolve. By law, only Secretary of the Treasury Louis McLane was authorized to withdraw the funds. So Jackson commanded McLane to act. McLane, understanding the law, refused. So Jackson fired the staunch McLane and appointed William Duane to take his place. As a condition of his appointment, Duane promised to withdraw the funds. But, once in office, his conscience got the better of him. So he went to Jackson, who reminded him of his promise. "A Secretary, sir," said Jackson, "is merely an executive agent, a subordinate, and you may say so in self defense." "In this particular case," responded Duane, "Congress confers a discretionary power and requires reasons if I exercise it." Obviously, Duane was right. The law clearly stated that Duane had to report to Congress any decision regarding the deposit, and Congress was in recess. Duane asked for a delay. "Not a day," barked Jackson, "not an hour."

So Jackson fired his second Secretary. Who would carry out the executive order? In Attorney General Roger Taney, Jackson found a Cabinet member with a less scrupulous view of Executive power. Jackson designated Taney to take the Treasury and execute the order. And Taney wasted no time. Though not yet confirmed by the Senate, he immediately ordered the removal of funds. "Executive despotism!" cried the Whigs as soon as the Senate reconvened, and refused to confirm his Cabinet appointment.

But the deed was done, and the Bank was bleeding. The victory would not be complete, however, unless Jackson could tilt the balance of the Supreme Court. At first, the Court had leaned toward the Federalists in the battle of the Bank—John Marshall had upheld the Bank against attack by the States as early as 1819. But, after four Jackson appointments, the Court was rapidly shifting in favor of the States. In 1835, another vacancy arose, and Jackson was quick to reward his loyal henchman, Taney. But the Whigs could not forget Taney's earlier performance under fire. One New York paper said that he was "unworthy of public confidence, a supple, cringing tool of power."

In the minds of the Whigs—many of them giants of the Senate such as Calhoun and Crittenden, Webster and Clay—Taney's detachment and statesmanship were in serious doubt. And they defeated the nomination by postponing consideration until the last day of the Senate's session. Jackson was furious, and in his fury decided to bide his time. In December, with the resignation of Chief Justice Marshall, yet another vacancy arose. To fill the shoes of the great justice, Jackson resubmitted the name of Taney.

Once again, the lions of the Senate roared to the very end. Henry Clay, the "great compromiser," was said to use every "opprobrious epithet" in his vocabulary to fight the Taney nomination. The Whigs had no reservation about opposing him on the ground that they believed his views did not belong on the Court. As Senator Borah put it, in his classic speech against the Parker nomination in 1930:

> They opposed [Taney] for the same reason some of us now oppose the present nominee, because they believed his views on certain important matters were unsound. They certainly did not oppose him because of his lack of learning, or because of his incapability as a lawyer, for in no sense was he lacking in fitness except, in their opinion, that he did not give proper construction to certain problems that were then obtaining.

But the Democrats had gained the upper hand in the Senate, and Taney became Chief Justice by a vote of 29 to 15. Unfortunately, the Whig fears proved only too well justified. It would be hard to imagine a more inappropriate successor to Chief Justice Marshall than Chief Justice Taney. Where Marshall's broad reading of the Constitution was indispensable in strengthening the growing Union, Taney's narrow reading played a significant role in weakening the cohesion of the Union. In 1857, Taney wrote the infamous Dred Scott decision for a divided Court. And in refusing to read into the Constitution the power of Congress to limit slavery in newly admitted States, he nullified the Missouri Compromise and helped to precipitate the greatest constitutional crisis in our history—the Civil War.

I prefer to end on a happier note. It is another story of a powerful and popular President who attempted to bend the Court to suit his own ends. But it is a story of courage crowned with success. It unfolded in the Senate 50 years ago, in the summer of 1937.

America 50 years ago was a nation struggling against economic collapse. Under Franklin Roosevelt's inspiring leadership, Congress and the States enacted by overwhelming majorities a series of laws to stimulate recovery.

But by narrow margins—5 to 4 or 6 to 3—the Supreme Court had struck down a series of enactments, from minimum wage laws to agricultural stabilization acts. Representative government seemed paralyzed by the intransigence of the Court.

Moderates and progressives—Republicans and Democrats—searched for a way to thwart the "nine old men." They proposed a wide range of constitutional amendments and legislative limits on the Court. But Roosevelt was impatient for a quick remedy, and suspicious of indirect methods. In his view, the only way to save the New Deal was to change the composition of the Court itself.

Fresh from his landslide victory over Alf Landon, FDR sprang his Court-packing proposal: For every Justice over the age of 70 who failed to retire, the President would be able to nominate a new Justice, up to a limit of 15 members on the Court. The plan had been veiled in secrecy, and when Roosevelt announced it in February 1937, it was met with a storm of popular criticism.

Let me be clear. I am not for a moment suggesting that President Reagan is attempting to do what President Roosevelt attempted to do—enacting a constitutional change by enlarging the membership of the Court itself. But there are important similarities as well as important differences between the intentions of the two Presidents.

Both had in mind the same result. Both sought to use their power of appointment to shift the balance of Courts that had repeatedly rejected their social agendas. But there is a crucial difference. While President Reagan has used his nominations to shift the balance of the Court, in Roosevelt's case, the Court shifted on its own. Before the Court packing bill reached the Senate floor, before Justice Van Devanter's timely resignation, Justice Owen Roberts had already made his welcome "switch in time that saved nine"—giving Roosevelt the 5 to 4 majority that he sought.

But in May 1937, the outcome in the Senate was anything but certain. The Judiciary Committee was controlled by the Democrats—loyal New Dealers. Although they supported Roosevelt's political ends, they refused to allow him to pursue them through judicial means. In their minds, the integrity of the Court meant more than the agenda of the President. On June 14, they issued a report condemning the Court-packing plan. The President's legislation, they concluded, demonstrated, "the futility and absurdity of the devious." It was an effort to "punish the justices" for their opinions and was "an invasion of judicial power such as has never before been attempted in this country."

But the committee report went further still. Executive attempts to dominate the judiciary lead inevitably to autocratic dominance, "the very thing against which the American Colonies revolted, and to prevent which the Constitution was in every particular framed." The report concluded with a final thundering sentence that, before the day was out, would be quoted in newspapers across the land: "It is a measure which should be so emphatically rejected that its parallel will never again be presented to the free representatives of the free people of America."

It was a stinging rebuke to a beloved President—all the more remarkable in view of the fact its authors shared his legislative goals. The British Ambassador wrote to the British Prime Minister:

> Seven Democratic Senators have committed the unforgivable sin. They have crossed the Rubicon and have burned their boats; and as they are not men to lead a forlorn hope, one may assume that many others are substantially committed to the same action. One can only assume that the President is beaten.

The formal verdict was delivered on the Senate floor on July 22, 1937. Though a meaningless rollcall vote lay ahead, it was clear that Roosevelt's effort to pack the Court, which for some time appeared destined to succeed, had come to an end. Arms outstretched, his eyes fixed on the galleries, Senator Hiram Johnson cried, "Glory be to God!"

Let me conclude by saying that my case today has been rooted in history, precedent, and common sense. I have argued that the framers entrusted the Senate with the responsibility of "advice and consent" to protect the independence of the judiciary. I have urged that the Senate has historically taken its responsibility seriously. I have argued that, in case after case, it has scrutinized Supreme Court nominees on the basis of their political and judicial philosophies. I have argued that, in case after case, it has rejected qualified nominees, because it perceived those views to clash with the interests of the country.

In future speeches I will make the case that today, 50 years after Roosevelt failed, 150 years after Jackson succeeded, we are once again confronted with a popular President's determined attempt to bend the Supreme Court to his political ends. No one should dispute his right to try. But no one should dispute the Senate's duty to respond.

As we prepare to disagree about the substance of the debate, let no one contest the terms of the debate—let no one deny our right and our duty to consider questions of substance in casting our votes. For the founders themselves intended no less.

I thank the Chair and thank my colleagues for their indulgence.

(The following occurred during the remarks of Mr. Biden.)

The ACTING PRESIDENT pro tempore. The Senator will please suspend.

The Chair will note the time of morning business has now expired.

Does the Senator seek consent to extend morning business?

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the period for morning business be extended for an additional 30 minutes.

Mr. President, I believe that the Republican leader wants to utilize some morning business period also, and we would not be able to resume consideration of the debt limit extension until 10:30 in any event. I ask unanimous consent, also, that morning business period be under the same restrictions as heretofore ordered and that the statement of the distinguished Senator from Delaware not show an interruption in the Record.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

(Conclusion of earlier proceedings.)

The ACTING PRESIDENT pro tempore. The Senator yields the floor. The Chair recognizes the majority leader.

Mr. BYRD. Mr. President, I have cleared, I believe, with the Republican leader the unanimous-consent action on Calendar No. 238. May I inquire?

Mr. DOLE. Yes.

Mr. BYRD. I thank the leader.

MEDICARE AND MEDICAID PATIENT AND PROGRAM PROTECTION ACT

Mr. BYRD. Mr. President. I ask unanimous consent that the Senate proceed with the immediate consideration of Calendar Order No. 238, S. 661, the Medicare and Medicaid Patient and Program Protection Act.

The **ACTING PRESIDENT** pro tempore. Without objection, it is so ordered. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 661) to amend titles XI, XVIII, and XIX of the Social Security Act to protect beneficiaries under the health care programs of that act from unfit health care practitioners, and otherwise to improve the antifraud provisions relating to those programs.

The Senate proceeded to consider the bill which had been reported from the Committee on Finance, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS.

(a) Short Title.—This Act may be cited as the "Medicare and Medicaid Patient and Program Protection Act of 1987".

(b) Amendments to the Social Security Act.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of, a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) Table of Contents.—The table of contents of this Act is as follows:

Sec. 1. Short title; references in Act; table of contents.
Sec. 2. Exclusion from medicare and State health care programs.
Sec. 3. Civil monetary penalties.
Sec. 4. Criminal penalties for acts involving medicare and State health care programs.
Sec. 5. Information concerning sanctions taken by State licensing authorities against health care practitioners and providers.
Sec. 6. Obligation of health care practitioners and providers.
Sec. 7. Exclusion under the medicaid program.
Sec. 8. Miscellaneous and conforming amendments.
Sec. 9. Clarification of medicaid moratorium provisions of Deficit Reduction Act of 1984.
Sec. 10. Limitation of liability of medicare beneficiaries with respect to services furnished by excluded individuals and entities.
Sec. 11. Definition of person with ownership or control interest.
Sec. 12. Conditional approval of renal dialysis facilities.
Sec. 13. Amendment relating to fraud involving medicare supplemental insurance.
Sec. 14. Standards for anti-kickback provisions.
Sec. 15. Effective dates.

SEC. 2. EXCLUSION FROM MEDICARE AND STATE HEALTH CARE PROGRAMS.

Section 1128 (42 U.S.C. 1320a-7) is amended to read as follows:

"EXCLUSION OF CERTAIN INDIVIDUALS AND ENTITIES FROM PARTICIPATION IN MEDICARE AND STATE HEALTH CARE PROGRAMS

"Sec. 1128. (a) Mandatory Exclusion.—The Secretary shall exclude the following individuals and entities from participation in any program under title XVIII and shall direct that the following individuals and entities be excluded from participation in any State health care program (as defined in subsection (h)):

"(1) Conviction of program-related crimes.—Any individual or entity that has been convicted of a criminal offense related to the delivery of an item or service under title XVIII or under any State health care program.

"(2) Conviction relating to patient abuse.—Any individual or entity that has been convicted, under Federal or State law, of a criminal offense relating to neglect or abuse of patients in connection with the delivery of a health care item or service.

"(b) Permissive Exclusion.—The Secretary may exclude the following individuals and entities from participation in any program under title XVIII and may direct that the following individuals and entities be excluded from participation in any State health care program:

"(1) Conviction relating to fraud.—Any individual or entity that has been convicted, under Federal or State law, in connection with the delivery of a health care item or service or with respect to any act or omission in a program operated by or financed in whole or in part by any Federal, State, or local government agency, of a criminal offense relating to fraud, theft, embezzlement, breach of fiduciary responsibility, or other financial misconduct.

"(2) Conviction relating to obstruction of an investigation.—Any individual or entity that has been convicted, under Federal or State law, in connection with the interference with or obstruction of any investigation into any criminal offense described in paragraph (1) or in subsection (a).

"(3) Conviction relating to controlled substance.—Any individual or entity that has been convicted, under Federal or State law, of a criminal offense relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.

"(4) License revocation or suspension.—Any individual or entity—

"(A) whose license to provide health care has been revoked or suspended by any State licensing authority, or who otherwise lost such a license, for reasons bearing on the individual's or entity's professional competence, professional performance, or financial integrity, or

"(B) who surrendered such a license while a formal disciplinary proceeding was pending before such an authority and the proceeding concerned the individual's or entity's professional competence, professional performance, or financial integrity.

"(5) Exclusion or suspension under Federal or State health care program.—Any individual or entity which has been suspended or excluded from participation, or otherwise sanctioned, under—

"(A) any Federal program, including programs of the Department of Defense or the Veterans' Administration, involving the provision of health care, or

"(B) a State health care program,

for reasons bearing on the individual's or entity's professional competence, professional performance, or financial integrity.

"(6) Claims for excessive charges or unnecessary services and failure of certain organizations to furnish medically necessary services.—Any individual or entity that the Secretary determines—

"(A) has submitted or caused to be submitted bills or requests for payment (where such bills or requests are based on charges or cost) under title XVIII or a State health care program containing charges (or, in applicable cases, requests for payment of costs) for items or services furnished substantially in excess of such individual's or entity's usual charges (or, in applicable cases, substantially in excess of such individual's or entity's costs) for such items or services, unless the Secretary finds there is good cause for such bills or requests containing such charges or costs;

"(B) has furnished or caused to be furnished items or services to patients (whether or not eligible for benefits under title XVIII or under a State health care program) substantially in excess of the needs of such patients or of a quality which fails to meet professionally recognized standards of health care;

"(C) is—

"(i) a health maintenance organization (as defined in section 1903(m)) providing items and services under a State plan approved under title XIX, or

"(ii) an entity furnishing services under a waiver approved under section 1915(b)(1),

and has failed substantially to provide medically necessary items and services that are required (under law or the contract with the State under title XIX) to be provided to individuals covered under that plan or waiver, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) these individuals; or

"(D) is an entity providing items and services as an eligible organization under a risk-sharing contract under section 1876 and has failed substantially to provide medically necessary items and services that are required (under law or such contract) to be provided to individuals covered under the risk-sharing contract, if the failure has adversely affected (or has a substantial likelihood of adversely affecting) these individuals.

"(7) Fraud, kickbacks, and other prohibited activities.—Any individual or entity that the Secretary determines has committed an act which is described in section 1128A or section 1128B.

"(8) Entities controlled by a sanctioned individual.—Any entity with respect to which the Secretary determines that a person—

"(A)(i) with an ownership or control interest (as defined in section 1124(a)(3)) in that entity, or

"(ii) who is an officer, director, agent, or managing employee (as defined in section 1126(b)) of that entity—

is a person—

"(B)(i) who has been convicted of any offense described in subsection (a) or in paragraph (1), (2), or (3) of this subsection;

"(ii) against whom a civil monetary penalty has been assessed under section 1128A; or

"(iii) who has been excluded from participation under a program under title XVIII or under a State health care program.

"(9) Failure to disclose required information.—Any entity that did not fully and accurately make any disclosure required by section 1124 or section 1126.

"(10) Failure to supply requested information on subcontractors and suppliers.—Any disclosing entity (as defined in section

1124(a)(2)) that fails to supply (within such period as may be specified by the Secretary in regulations) upon request specifically addressed to the entity by the Secretary or by the State agency administering or supervising the administration of a State health care program—

"(A) full and complete information as to the ownership of a subcontractor (as defined by the Secretary in regulations) with whom the entity has had, during the previous 12 months, business transactions in an aggregate amount in excess of $25,000, or

"(B) full and complete information as to any significant business transactions (as defined by the Secretary in regulations), occurring during the five-year period ending on the date of such request, between the entity and any wholly owned supplier or between the entity and any subcontractor.

"(11) Failure to supply payment information.—Any individual or entity furnishing items or services for which payment may be made under title XVIII or a State health care program that fails to provide such information as the Secretary or the appropriate State agency finds necessary to determine whether such payments are or were due and the amounts thereof, or has refused to permit such examination of its records by or on behalf of the Secretary or that agency as may be necessary to verify such information.

"(12) Failure to grant immediate access.—Any individual or entity that fails to grant immediate access, upon reasonable request (as defined by the Secretary in regulations) to any of the following:

"(A) To the Secretary, or to the agency used by the Secretary, for the purpose specified in the first sentence of section 1864(a) (relating to compliance with conditions of participation or payment).

"(B) To the Secretary or the State agency, to perform the reviews and surveys required under State plans under paragraphs (26), (31), and (33) of section 1902(a) and under section 1903(g).

"(C) To the Inspector General of the Department of Health and Human Services, for the purpose of reviewing records, documents, and other data necessary to the performance of the statutory functions of the Inspector General.

"(D) To a State medicaid fraud control unit (as defined in section 1903(q)), for the purpose of conducting activities described in that section.

"(13) Failure to take corrective action.—Any hospital that fails to comply substantially with a corrective action required under section 1886(f)(2)(B).

"(14) Default on health education loan or scholarship obligations.—Any individual who the Secretary determines is in default on repayments of scholarship obligations or loans in connection with health professions education made or secured, in whole or in part, by the Secretary and with respect to whom the Secretary has taken all reasonable steps available to the Secretary to secure repayment of such obligations or loans, except that (A) the Secretary shall not exclude pursuant to this paragraph a physician who is the sole community physician or sole source of essential specialized services in a community if a State requests that the physician not be excluded, and (B) the Secretary shall take into account, in determining whether to exclude any other physician pursuant to this paragraph, access of beneficiaries to physician services for which payment may be made under title XVIII or XIX.

"(c) Notice, Effective Date, and Period of Exclusion.—(1) An exclusion under this section or under section 1128A shall be effective at such time and upon such reasonable notice to the public and to the individual or entity excluded as may be specified in regulations consistent with paragraph (2).

"(2)(A) Except as provided in subparagraph (B), such an exclusion shall be effective with respect to services furnished to an individual on or after the effective date of the exclusion.

"(B) Unless the Secretary determines that the health and safety of individuals receiving services warrants the exclusion taking effect earlier, an exclusion shall not apply to payments made under title XVIII or under a State health care program for—

"(i) inpatient institutional services furnished to an individual who was admitted to such institution before the date of the exclusion, or

"(ii) home health services and hospice care furnished to an individual under a plan of care established before the date of the exclusion,

until the passage of 30 days after the effective date of the exclusion.

"(3)(A) The Secretary shall specify, in the notice of exclusion under paragraph (1) and the written notice under section 1128A, the minimum period (or, in the case of an exclusion of an individual under subsection (b)(12), the period) of the exclusion.

"(B) In the case of an exclusion under subsection (a), the minimum period of exclusion shall be not less than five years, except that, upon the request of a State, the Secretary may waive the exclusion under subsection (a)(1) in the case of an individual or entity that is the sole community physician or sole source of essential specialized services in a community. The Secretary's decision whether to waive the exclusion shall not be reviewable.

"(C) In the case of an exclusion of an individual under subsection (b)(12), the period of the exclusion shall be equal to the sum of—

"(i) the length of the period in which the individual failed to grant the immediate access described in that subsection, and

"(ii) an additional period, not to exceed 90 days, set by the Secretary.

"(d) Notice to State Agencies and Exclusion Under State Health Care Programs.—(1) Subject to paragraph (3), the Secretary shall exercise the authority under subsection (b) in a manner that results in an individual's or entity's exclusion from all the programs under title XVIII and all the State health care programs in which the individual or entity may otherwise participate.

"(2) The Secretary shall promptly notify each appropriate State agency administering or supervising the administration of each State health care program (and, in the case of an exclusion effected pursuant to subsection (a) and to which section 304(a)(5) of the Controlled Substances Act may apply, the Attorney General)—

"(A) of the fact and circumstances of each exclusion effected against an individual or entity under this section or section 1128A, and

"(B) of the period (described in paragraph (3)) for which the State agency is directed to exclude the individual or entity from participation in the State health care program.

"(3)(A) Except as provided in subparagraph (B), the period of the exclusion under a State health care program under paragraph (2) shall be the same as any period of exclusion under a program under title XVIII.

"(B) The Secretary may waive an individual's or entity's exclusion under a State health care program under paragraph (2) if the Secretary receives and approves a request for the waiver with respect to the individual or entity from the State agency administering or supervising the administration of the program.

"(e) Notice to State Licensing Agencies.—The Secretary shall—

"(1) promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of an individual or entity excluded (or directed to be excluded) from participation under this section or section 1128A, of the fact and circumstances of the exclusion,

"(2) request that appropriate investigations be made and sanctions invoked in accordance with applicable State law and policy, and

"(3) request that the State or local agency or authority keep the Secretary and the Inspector General of the Department of Health and Human Services fully and currently informed with respect to any actions taken in response to the request.

"(f) Notice, Hearing, and Judicial Review.—(1) Subject to paragraph (2), any individual or entity that is excluded (or directed to be excluded) from participation under this section is entitled to reasonable notice and opportunity for a hearing thereon by the Secretary to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

"(2) Unless the Secretary determines that the health or safety of individuals receiving services warrants the exclusion taking effect earlier, any individual or entity that is the subject of an adverse determination under subsection (b)(7) shall be entitled to a hearing by an administrative law judge (as provided under section 205(b)) on the determination under subsection (b)(7) before any exclusion based upon the determination takes effect.

"(3) The provisions of section 205(h) shall apply with respect to this section and sections 1128A and 1156 to the same extent as it is applicable with respect to title II.

"(g) Application for Termination of Exclusion.—(1) An individual or entity excluded (or directed to be excluded) from participation under this section or section 1128A may apply to the Secretary, in the manner specified by the Secretary in regulations and at the end of the minimum period of exclusion provided under subsection (c)(3) and at such other times as the Secretary may provide, for termination of the exclusion effected under this section or section 1128A.

"(2) The Secretary may terminate the exclusion if the Secretary determines, on the basis of the conduct of the applicant which occurred after the date of the notice of exclusion or which was unknown to the Secretary at the time of the exclusion, that—

"(A) there is no basis under subsection (a) or (b) or section 1128A(a) for a continuation of the exclusion, and

"(B) there are reasonable assurances that the types of actions which formed the basis for the original exclusion have not recurred and will not recur.

"(3) The Secretary shall promptly notify each appropriate State agency administering or supervising the administration of each State health care program (and, in the case of an exclusion effected pursuant to subsection (a) and to which section

304(a)(5) of the Controlled Substances Act may apply, the Attorney General) of the fact and circumstances of each termination of exclusion made under this subsection.

"(h) DEFINITION OF STATE HEALTH CARE PROGRAM.—For purposes of this section and sections 1128A and 1128B, the term 'State health care program' means—

"(1) a State plan approved under title XIX,

"(2) any program receiving funds under title V or from an allotment to a State under such title, or

"(3) any program receiving funds under title XX or from an allotment to a State under such title.

"(i) CONVICTED DEFINED.—For purposes of subsections (a) and (b), a physician or other individual is considered to have been 'convicted' of a criminal offense—

"(1) when a judgment of conviction has been entered against the physician or individual by a Federal, State, or local court, regardless of whether there is an appeal pending or whether the judgment of conviction or other record relating to criminal conduct has been expunged;

"(2) when there has been a finding of guilt against the physician or individual by a Federal, State, or local court;

"(3) when a plea of guilty or nolo contendere by the physician or individual has been accepted by a Federal, State, or local court; or

"(4) when the physician or individual has entered into participation in a first offender or other program where judgment of conviction has been withheld.".

SEC. 3. CIVIL MONETARY PENALTIES.

(a) GROUNDS FOR IMPOSITION.—(1) Section 1128A(a)(1) (42 U.S.C. 1320a-7a(a)(1)) is amended by striking "the Secretary determines" and all that follows through "; or" and inserting "the Secretary determines—

"(A) is for a medical or other item or service that the person knows or has reason to know was not provided as claimed,

"(B) is for a medical or other item or service and the person knows or has reason to know the claim is false or fraudulent,

"(C) is presented for a physician's service (or an item or service incident to a physician's service) by a person who knows or has reason to know that the individual who furnished (or supervised the furnishing of) the service—

"(i) was not licensed as a physician,

"(ii) was licensed as a physician, but such license had been obtained through a misrepresentation of material fact (including cheating on an examination required for licensing), or

"(iii) represented to the patient at the time the service was furnished that the physician was certified in a medical specialty by a medical specialty board when the individual was not so certified, or

"(D) is for a medical or other item or service furnished during a period in which the person was excluded under the program under which the claim was made pursuant to a determination by the Secretary under this section or under section 1128, 1156, 1160(b) (as in effect on September 2, 1982), 1862(d) (as in effect on the date of the enactment of the Medicare and Medicaid Patient and Program Protection Act of 1987), or 1866(b); or".

(2) Section 1128A(a)(2) is amended—

(A) in subparagraph (B) by inserting "(or other requirement of a State plan under title XIX)" after "State agency", and

(B) by inserting at the end "or (D) an agreement pursuant to section 1866(a)(1)(G), or".

(3) Subsection (a) of section 1128A is further amended—

(A) by inserting after paragraph (2) and before the end matter of such subsection the following new paragraph:

"(3) gives to any person, with respect to coverage under title XVIII of inpatient hospital services subject to the provisions of section 1886, information that he knows or has reason to know is false or misleading, and that could reasonably be expected to influence the decision when to discharge such person or another individual from the hospital;", and

(B) in the matter following paragraph (3)—

(i) by inserting "(or, in cases under paragraph (3), $15,000 for each individual with respect to whom false or misleading information was given)" before the period at the end of the first sentence, and

(ii) by adding at the end thereof the following new sentence: "In addition the Secretary may make a determination in the same proceeding to exclude the person from participation in the programs under title XVIII and to direct the appropriate State agency to exclude the person from participation in any State health care program.".

(b) STATUTE OF LIMITATION ON ACTIONS.—Subsection (c)(1) of section 1128A (as redesignated by section 9313(c)(1)(D) of the Omnibus Budget Reconciliation Act of 1986) is amended by adding at the end the following new sentences: "The Secretary may not initiate an action under this section with respect to any claim later than six years after the date the claim was presented. The Secretary may initiate an action under this section by serving notice of the action in any manner authorized by Rule 4 of the Federal Rules of Civil Procedure.".

(c) CONFORMING AMENDMENT.—Subsections (c), (d), (g), and (h) of section 1128A are each amended by striking "penalty or assessment" and inserting "penalty, assessment, or exclusion" each place it appears.

(d) PRO-RATED PAYMENT OF RECOVERIES TO STATE AGENCIES.—Subsection (f)(1)(A) of section 1128A is amended by striking "equal to the State's share of the amount paid by the State agency" and inserting "bearing the same proportion to the total amount recovered as the State's share of the amount paid by the State agency for such claim bears to the total amount paid".

(e) NOTICE TO STATE AGENCIES.—Subsection (h) of section 1128A is further amended by inserting "the appropriate State agency or agencies administering or supervising the administration of State health care programs (as defined in section 1128(h))," after "professional organization,".

(f) APPLICATION OF SUBPOENA POWER AND INJUNCTIVE POWERS.—Section 1128A is further amended by adding at the end the following new subsections:

"(j) The provisions of subsections (d) and (e) of section 205 shall apply with respect to this section to the same extent as they are applicable with respect to title II. The Secretary may delegate the authority granted by section 205(d) (as made applicable to this section) to the Inspector General of the Department of Health and Human Services for purposes of any investigation under this section.

"(k) Whenever the Secretary has reason to believe that any person has engaged, is engaging, or is about to engage in any activity which makes the person subject to a civil monetary penalty under this section, the Secretary may bring an action in an appropriate district court of the United States (or, if applicable, a United States court of any territory) to enjoin such activity, or to enjoin the person from concealing, removing, encumbering, or disposing of assets which may be required in order to pay a civil monetary penalty if any such penalty were to be imposed or to seek other appropriate relief.".

SEC. 4. CRIMINAL PENALTIES FOR ACTS INVOLVING MEDICARE AND STATE HEALTH CARE PROGRAMS.

(a) TECHNICAL AMENDMENTS.—Section 1909 (42 U.S.C. 1396h) is amended—

(1) by amending the heading to read as follows:

"CRIMINAL PENALTIES FOR ACTS INVOLVING MEDICARE OR STATE HEALTH CARE PROGRAMS";

(2) in subsection (a)(1), by striking "a State plan approved under this title" and inserting "a program under title XVIII or a State health care program (as defined in section 1128(h))";

(3) in the matter in subsection (a) following paragraph (4), by striking "this title" the first place it appears and inserting "the program";

(4) in the last sentence of subsection (a), by striking "this title" the first place it appears and inserting "title XIX", and by striking "this title" the second place it appears and inserting "that title";

(5) in paragraphs (1)(A), (1)(B), (2)(A), (2)(B), and (3)(A) of subsection (b), by striking "this title" and inserting "title XVIII or a State health care program" each place it appears;

(6) in subsection (b)(3)—

(A) by striking "and" at the end of subparagraph (A),

(B) by striking the period at the end of subparagraph (B) and inserting "; and", and

(C) by adding at the end the following:

"(C) any amount paid by a vendor of goods or services to a person authorized to act as a purchasing agent for a group of individuals or entities who are furnishing services reimbursed under title XVIII or a State health care program if—

"(i) the person has a written contract, with each such individual or entity, which specifies the amount to be paid the person, which amount may be a fixed amount or a fixed percentage of the value of the purchases made by each such individual or entity under the contract, and

"(ii) in the case of an entity that is a provider of services (as defined in section 1861(u)), the person discloses (in such form and manner as the Secretary requires) to the entity and, upon request, to the Secretary the amount received from each such vendor with respect to purchases made by or on behalf of the entity.";

(7) in subsection (c), by striking "or home health agency (as those terms are employed in this title)" and inserting "home health agency, or other entity for which certification is required under title XVIII or a State health care program"; and

(8) in subsection (d), by striking "this title" and inserting "title XIX" each place it appears.

(b) CRIMINAL PENALTIES FOR PHYSICIAN MISREPRESENTATIONS.—Subsection (a) of such section is further amended—

(1) by striking "or" at the end of paragraph (3),

(2) by inserting "or" at the end of paragraph (4), and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) presents or causes to be presented a claim for a physician's service for which payment may be made under a program under title XVIII or a State health care program and knows that the individual who furnished the service was not licensed as a physician,".

(c) Redesignation of Section 1877(d) as Section 1128B(e).—Subsection (d) of section 1877 (42 U.S.C. 1395nn) is redesignated as subsection (e) and is transferred and inserted in section 1909 at the end thereof.

(d) Redesignation of Section 1909 as Section 1128B.—Section 1909, as amended by subsections (a), (b), and (c) of this section, is redesignated as section 1128B and is transferred to title XI and inserted immediately after section 1128A.

(e) Repeal.—Section 1877 (other than subsection (d) thereof which was transferred under subsection (c) of this section) is repealed.

SEC. 5. INFORMATION CONCERNING SANCTIONS TAKEN BY STATE LICENSING AUTHORITIES AGAINST HEALTH CARE PRACTITIONERS AND PROVIDERS.

(a) Medicaid Plan Requirement.—Section 1902(a) (42 U.S.C. 1396a(a)) is amended—

(1) by striking "and" at the end of paragraph (46),

(2) by striking the period at the end of the paragraph (47) added by section 9407(a) of the Omnibus Budget Reconciliation Act of 1986 and inserting a semicolon and transferring and inserting such paragraph after paragraph (46),

(3) by striking the period at the end of the paragraph (47) added by section 11005(b) of the Anti-Drug Abuse Act of 1986 and inserting "; and", by redesignating such paragraph as paragraph (48), and by transferring and inserting such paragraph after paragraph (47), and

(4) by inserting after paragraph (48) the following new paragraph:

"(49) provide that the State will provide information and access to certain information respecting sanctions taken against health care practitioners and providers by State licensing authorities in accordance with section 1921.".

(b) Information Required.—Title XIX is amended by redesignating section 1921 as section 1922 and inserting after section 1920 the following new section:

"INFORMATION CONCERNING SANCTIONS TAKEN BY STATE LICENSING AUTHORITIES AGAINST HEALTH CARE PRACTITIONERS AND PROVIDERS

"Sec. 1921. (a) Information Reporting Requirement.—The requirement referred to in section 1902(a)(49) is that the State must provide for the following:

"(1) Information reporting system.—The State must have in effect a system of reporting the following information with respect to formal proceedings (as defined by the Secretary in regulations) concluded against a health care practitioner or entity by any authority of the State (or of a political subdivision thereof) responsible for the licensing of health care practitioners or entities:

"(A) Any adverse action taken by such licensing authority as a result of the proceeding, including any revocation or suspension of a license (and the length of any such suspension), reprimand, censure, or probation.

"(B) Any dismissal or closure of the proceedings by reason of the practitioner or entity surrendering the license or leaving the State or jurisdiction.

"(C) Any other loss of the license of the practitioner or entity, whether by operation of law, voluntary surrender, or otherwise.

"(2) Access to documents.—The State must provide the Secretary (or an entity designated by the Secretary) with access to such documents of the authority described in paragraph (1) as may be necessary for the Secretary to determine the facts and circumstances concerning the actions and determinations described in such paragraph for the purpose of carrying out this Act.

"(b) Form of Information.—The information described in subsection (a)(1) shall be provided to the Secretary (or to an appropriate private or public agency, under suitable arrangements made by the Secretary with respect to receipt, storage, protection of confidentiality, and dissemination of information) in such a form and manner as the Secretary determines to be appropriate in order to provide for activities of the Secretary under this Act and in order to provide, directly or through suitable arrangements made by the Secretary, information—

"(1) to agencies administering Federal health care programs, including private entities administering such programs under contract,

"(2) to licensing authorities described in subsection (a)(1),

"(3) to State agencies administering or supervising the administration of State health care programs (as defined in section 1128(h)),

"(4) to utilization and quality control peer review organizations described in part B of title XI and to appropriate entities with contracts under section 1154(a)(4)(C) with respect to eligible organizations reviewed under the contracts,

"(5) to State medicaid fraud control units (as defined in section 1903(q)),

"(6) to hospitals and other health care entities (as defined in section 431 of the Health Care Quality Improvement Act of 1986), with respect to physicians or other licensed health care practitioners that have entered (or may be entering) into an employment or affiliation relationship with, or have applied for clinical privileges or appointments to the medical staff of, such hospitals or other health care entities (and such information shall be deemed to be disclosed pursuant to section 427 of, and be subject to the provisions of, that Act),

"(7) to the Attorney General and such other law enforcement officials as the Secretary deems appropriate, and

"(8) upon request, to the Comptroller General,

in order for such authorities to determine the fitness of individuals to provide health care services, to protect the health and safety of individuals receiving health care through such programs, and to protect the fiscal integrity of such programs.

"(c) Confidentiality of Information Provided.—The Secretary shall provide for suitable safeguards for the confidentiality of the information furnished under subsection (a). Nothing in this subsection shall prevent the disclosure of such information by a party which is otherwise authorized, under applicable State law, to make such disclosure.

"(d) Appropriate Coordination.—The Secretary shall provide for the maximum appropriate coordination in the implementation of subsection (a) of this section and section 422 of the Health Care Quality Improvement Act of 1986.".

SEC. 6. OBLIGATION OF HEALTH CARE PRACTITIONERS AND PROVIDERS.

Section 1156 (42 U.S.C. 1320c-5) is amended—

(1) by striking "title XVIII" and "such title" in subsection (a) and inserting "this Act" in each instance, and

(2) by striking "title XVIII" in subsection (b) and inserting "this Act" each place it appears.

SEC. 7. EXCLUSION UNDER THE MEDICAID PROGRAM.

Section 1902 (42 U.S.C. 1396b) is amended by redesignating the subsection (l) added by section 3(b) of the Employment Opportunities for Disabled Americans Act as subsection (o) and by inserting after such subsection the following new subsection:

"(p)(1) In addition to any other authority, a State may exclude any individual or entity for purposes of participating under the State plan under this title for any reason for which the Secretary could exclude the individual or entity from participation in a program under title XVIII under section 1128, 1128A, or 1866(b)(2).

"(2) In order for a State to receive payments for medical assistance under section 1903(a), with respect to payments the State makes to a health maintenance organization (as defined in section 1903(m)) or to an entity furnishing services under a waiver approved under section 1915(b)(1), the State must provide that it will exclude from participation, as such an organization or entity, any organization or entity that—

"(A) could be excluded under section 1128(b)(8) (relating to owners and managing employees who have been convicted of certain crimes or received other sanctions), or

"(B) has, directly or indirectly, a substantial contractual relationship (as defined by the Secretary) with an individual or entity that is described in section 1128(b)(8)(B).

"(3) As used in this subsection, the term 'exclude' includes the refusal to enter into or renew a participation agreement or the termination of such an agreement.".

SEC. 8. MISCELLANEOUS AND CONFORMING AMENDMENTS.

(a) Maternal and Child Health Program.—Section 504(b) (42 U.S.C. 704(b)) is amended—

(1) by striking "or" at the end of paragraph (4),

(2) by striking the period at the end of paragraph (5) and inserting "; or", and

(3) by adding at the end thereof the following new paragraph:

"(6) payment for any item or service (other than an emergency item or service) furnished—

"(A) by an individual or entity during the period when such individual or entity is excluded pursuant to section 1128 or section 1128A from participation in the program under this title, or

"(B) at the medical direction or on the prescription of a physician during the period when the physician is excluded pursuant to section 1128 or section 1128A from participation in the program under this title and when the person furnishing such item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person).".

(b) Disclosure Requirements.—(1) Subsection (a) of section 1126 (42 U.S.C. 1320a-5) is amended—

(A) in the first sentence, by striking "or other institution" and all that follows through the period at the end and inserting "or other entity (other than an individual practitioner or group of practitioners) shall be required to disclose to the Secretary or to the appropriate State agency the name of any person that is a person described in subparagraphs (A) and (B) of section 1128(b)(8).", and

(B) in the second sentence, by striking "institution, organization, or agency" and inserting "entity".

(2) Subsection (b) of such section is amended by striking "institution, organization, or agency" and inserting "entity" each place it appears.

(c) Medicare Payments.—(1) Section 1862 (42 U.S.C. 1395y) is amended—

(A) by repealing subsection (d), and

(B) by amending subsection (e) to read as follows:

"(e) No payment may be made under this title with respect to any item or service (other than an emergency item or service) furnished—

"(1) by an individual or entity during the period when such individual or entity is excluded pursuant to section 1128 or section 1128A from participation in the program under this title; or

"(2) at the medical direction or on the prescription of a physician during the period when he is excluded pursuant to section 1128 or section 1128A from participation in the program under this title and when the person furnishing such item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person).".

(2) Section 1842(j) (42 U.S.C. 1395u(j)) is amended—

(A) in paragraph (2)—

(i) by amending subparagraph (A) to read as follows:

"(A) excluding a physician from participation in the programs under this title for a period not to exceed 5 years, in accordance with the procedures of subsections (c), (f), and (g) of section 1128, or", and

(ii) by striking "barred from participation in the program" in the second sentence and inserting "excluded from participation in the programs"; and

(B) by striking "bar" in paragraph (3)(A) and inserting "exclude".

(3) Section 1862(h)(4) (42 U.S.C. 1395y(h)(4)) is amended by striking "paragraphs (2) and (3) of subsection (d)" and inserting "subsections (c), (f), and (g) of section 1128".

(4) Paragraph (3) of section 1886(f) (42 U.S.C. 1395ww(f)) is amended to read as follows:

"(3) The provisions of subsections (c) through (g) of section 1128 shall apply to determinations made under paragraph (2) in the same manner as they apply to exclusions effected under section 1128(b)(13).".

(d) Termination of Provider Agreements Under Medicare.—Section 1866 (42 U.S.C. 1395cc) is amended—

(1) in subsection (a)—

(A) by striking paragraph (3), and

(B) by redesignating paragraph (4) as paragraph (3);

(2) by amending subsection (b) to read as follows:

"(b)(1) A provider of services may terminate an agreement with the Secretary under this section at such time and upon such notice to the Secretary and the public as may be provided in regulations, except that notice of more than six months shall not be required.

"(2) The Secretary may refuse to enter into an agreement under this section or, upon such reasonable notice to the provider and the public as may be specified in regulations, may refuse to renew or may terminate such an agreement after the Secretary—

"(A) has determined that the provider fails to comply substantially with the provisions of the agreement, with the provisions of this title and regulations thereunder, or with a corrective action required under section 1886(f)(2)(B),

"(B) has determined that the provider fails substantially to meet the applicable provisions of section 1861, or

"(C) has excluded the provider from participation in a program under this title pursuant to section 1128 or section 1128A.

"(3) A termination of an agreement or a refusal to renew an agreement under this subsection shall become effective on the same date and in the same manner as an exclusion from participation under the programs under this title becomes effective under section 1128(c).";

(3) in paragraphs (1) and (3) of subsection (c), by striking "an agreement filed under this title by a provider of services has been terminated by the Secretary" and inserting "the Secretary has terminated or has refused to renew an agreement under this title with a provider of services";

(4) by inserting "or nonrenewal" in subsection (c) after "termination" each place it appears; and

(5) by adding at the end the following new subsection:

"(h)(1) Except as provided in paragraph (2), an institution or agency dissatisfied with a determination by the Secretary that it is not a provider of services or with a determination described in subsection (b)(2) shall be entitled to a hearing thereon by the Secretary (after reasonable notice) to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).

"(2) An institution or agency is not entitled to separate notice and opportunity for a hearing under both section 1128 and this section with respect to a determination or determinations based on the same underlying facts and issues.".

(e) Conforming Amendment.—Section 1869 (42 U.S.C. 1395ff) is amended by striking subsection (c).

(f) Medicaid Plan Revisions.—Section 1902(a) (42 U.S.C. 1396b(a)) is amended—

(1) in paragraph (23), by inserting "subsection (g) and in" after "except as provided in",

(2) in paragraph (38), by striking "respectively, (A)" and all that follows up to the semicolon at the end and inserting "the information described in section 1128(b)(9)", and

(3) in paragraph (39)—

(A) by striking "bar" and inserting "exclude",

(B) by striking "person" and inserting "individual or entity" each place it appears, and

(C) by inserting "or section 1128A" after "section 1128".

(g) Denial of Federal Financial Participation Under Medicaid.—Paragraph (2) of section 1903(i) (42 U.S.C. 1396b(i)) is amended to read as follows:

"(2) with respect to any amount expended for an item or service (other than an emergency item or service) furnished—

"(A) under the plan by any individual or entity during any period when the individual or entity is excluded from participation in the State plan under this title pursuant to section 1128 or section 1128A, or

"(B) at the medical direction or on the prescription of a physician, during the period when such physician is excluded pursuant to section 1128 or section 1128A from participation in the program under this title and when the person furnishing such item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person).".

(h) Medicaid Conforming Amendments.—(1) Subsection (n) of section 1903 (42 U.S.C. 1396b) is repealed.

(2) Paragraph (2) of section 1915(a) (42 U.S.C. 1396n(a)) is amended to read as follows:

"(2) restricts for a reasonable period of time the provider or providers from which an individual (eligible for medical assistance for items or services under the State plan) can receive such items or services, if—

"(A) the State has found, after notice and opportunity for a hearing (in accordance with procedures established by the State), that the individual has utilized such items or services at a frequency or amount not medically necessary (as determined in accordance with utilization guidelines established by the State), and

"(B) under such restriction, individuals eligible for medical assistance for such services have reasonable access (taking into account geographic location and reasonable travel time) to such services of adequate quality.".

(i) Title XX.—Section 2005(a) (42 U.S.C. 1397d(a)) is amended—

(1) by striking "or" at the end of paragraph (7),

(2) by striking the period at the end of paragraph (8) and inserting "; or", and

(3) by adding at the end thereof the following new paragraph:

"(9) for payment for any item or service (other than an emergency item or service) furnished—

"(A) by an individual or entity during the period when such individual or entity is excluded pursuant to section 1128 or section 1128A from participation in the program under this title, or

"(B) at the medical direction or on the prescription of a physician during the period when the physician is excluded pursuant to section 1128 or section 1128A from participation in the program under this title and when the person furnishing such item or service knew or had reason to know of the exclusion (after a reasonable time period after reasonable notice has been furnished to the person).".

(j) Denial, Revocation, or Suspension of Registration To Manufacture, Distribute, or Dispense a Controlled Substance for Entities Excluded From the Medicare Program.—Section 304(a) of the Controlled Substances Act (21 U.S.C. 824(a)) is amended—

(1) by striking "or" at the end of paragraph (3),

(2) by striking the period at the end of paragraph (4) and inserting "; or", and

(3) by inserting after paragraph (4) the following new paragraph:

"(5) has been excluded (or directed to be excluded) from participation in a program pursuant to section 1128(a) of the Social Security Act.".

SEC. 9. CLARIFICATION OF MEDICAID MORATORIUM PROVISIONS OF DEFICIT REDUCTION ACT OF 1984.

Section 2373(c) of the Deficit Reduction Act of 1984 (Public Law 98–369; 98 Stat. 1112) is amended to read as follows:

"(c)(1) The Secretary of Health and Human Services shall not take any compliance, disallowance, penalty, or other regulatory action against a State with respect to the moratorium period described in paragraph (2) by reason of such State's plan described in paragraph (5) under title XIX of *the Social Security Act (including any part of the plan operating pursuant to section 1902(f) of such Act), or the operation thereunder, being determined to be in violation of clause (IV), (V), or (VI) of section 1902(a)(10)(A)(ii) or section 1902(a)(10)(C)(i)(III) of such Act on account of such plan's (or its operation) having a standard or methodology which the Secretary interprets as being less restrictive than the standard or methodology required under such section, provided that such plan (or its operation) does not make ineligible any individual who would be eligible but for the provisions of this subsection.*

"(2) The moratorium period is the period beginning on October 1, 1981, and ending 18 months after the date on which the Secretary submits the report required under paragraph (3).

"(3) The Secretary shall report to the Congress within 12 months after the date of the enactment of this Act with respect to the appropriateness, and impact on States and recipients of medical assistance, of applying standards and methodologies utilized in cash assistance programs to those recipients of medical assistance who do not receive cash assistance, and any recommendations for changes in such requirements.

"(4) No provision of law shall repeal or suspend the moratorium imposed by this subsection unless such provision specifically amends or repeals this subsection.

"(5) In this subsection, a State plan is considered to include—

"(A) any amendment or other change in the plan which is submitted by a State, or

"(B) any policy or guideline delineated in the Medicaid operation or program manuals of the State which are submitted by the State to the Secretary,

whether before or after the date of enactment of this Act and whether or not the amendment or change, or the operating or program manual was approved, disapproved, acted upon, or not acted upon by the Secretary.

"(6) During the moratorium period, the Secretary shall implement (and shall not change by any administrative action) the policy in effect at the beginning of such moratorium period with respect to—

"(A) the point in time at which an institutionalized individual must sell his home (in order that it not be counted as a resource); and

"(B) the time period allowed for sale of a home of any such individual,

who is an applicant for or recipient of medical assistance under the State plan as a medically needy individual (described in section 1902(a)(10)(C) of the Social Security Act) or as an optional categorically needy individual (described in section 1902(a)(10)(A)(ii) of such Act).".

SEC. 10. LIMITATION OF LIABILITY OF MEDICARE BENEFICIARIES WITH RESPECT TO SERVICES FURNISHED BY EXCLUDED INDIVIDUALS AND ENTITIES.

Title XVIII is amended by adding at the end the following new section:

"LIMITATION OF LIABILITY OF BENEFICIARIES WITH RESPECT TO SERVICES FURNISHED BY EXCLUDED INDIVIDUALS AND ENTITIES

"Sec. 1890. Where an individual eligible for benefits under this title submits a claim for payment for items or services furnished by an individual or entity excluded from participation in the programs under this title, pursuant to section 1128, 1128A, 1156, 1160 (as in effect on September 2, 1982), 1862(d) (as in effect on the date of the enactment of the Medicare and Medicaid Patient and Program Protection Act of 1987), or 1866, and such beneficiary did not know or have reason to know that such individual or entity was so excluded, then, to the extent permitted by this title, and notwithstanding such exclusion, payment shall be made for such items or services. In each such case the Secretary shall notify the beneficiary of the exclusion of the individual or entity furnishing the items or services. Payment shall not be made for items or services furnished by an excluded individual or entity to a beneficiary after a reasonable time (as determined by the Secretary in regulations) after the Secretary has notified the beneficiary of the exclusion of that individual or entity.".

SEC. 11. DEFINITION OF PERSON WITH OWNERSHIP OR CONTROL INTEREST.

Section 1124(a)(3)(A)(ii) (42 U.S.C. 1320a-3(a)(3)(A)(ii)) is amended by striking "$25,000 or".

SEC. 12. CONDITIONAL APPROVAL OF RENAL DIALYSIS FACILITIES.

Section 1881 (42 U.S.C. 1395rr) is amended by adding at the end the following new subsection:

"(h)(1) In any case where the Secretary—

"(A) finds that a renal dialysis facility is not in substantial compliance with requirements for such facilities prescribed under subsection (b)(1)(A),

"(B) finds that the facility's deficiencies do not immediately jeopardize the health and safety of patients, and

"(C) has given the facility a reasonable opportunity to correct its deficiencies,

the Secretary may, in lieu of terminating approval of the facility, determine that payment under this title shall be made to the facility only for services furnished to individuals who were patients of the facility before the effective date of the notice.

"(2) The Secretary's decision to restrict payments under this subsection shall be made effective only after such notice to the public and to the facility as may be prescribed in regulations, and shall remain in effect until (A) the Secretary finds that the facility is in substantial compliance with the requirements under subsection (b)(1)(A), or (B) the Secretary terminates the agreement under this title with the facility.

"(3) A facility dissatisfied with a determination by the Secretary under paragraph (1) shall be entitled to a hearing thereon by the Secretary (after reasonable notice) to the same extent as is provided in section 205(b), and to judicial review of the Secretary's final decision after such hearing as is provided in section 205(g).".

SEC. 13. AMENDMENT RELATING TO FRAUD INVOLVING MEDICARE SUPPLEMENTAL INSURANCE.

Section 1882(d)(1) (42 U.S.C. 1395ss(d)(1)) is amended by striking "knowingly or willfully" and inserting "knowingly and willfully".

SEC. 14. STANDARDS FOR ANTI-KICKBACK PROVISIONS.

(a) Regulations.—The Secretary of Health and Human Services, in consultation with the Attorney General, not later than 1 year after the date of the enactment of this Act shall publish proposed regulations, and not later than 2 years after the date of the enactment of this Act shall promulgate final regulations, specifying payment practices that shall not be treated as a criminal offense under section 1128B(b) of the Social Security Act and shall not serve as the basis for an exclusion under section 1128(b)(7) of such Act. Any practices specified in regulations pursuant to the preceding sentence shall be in addition to the practices described in subparagraphs (A) through (C) of section 1128B(b)(3).

(b) Criminal Violation.—Section 1128B(b)(3), as amended and redesignated by section 4 of this Act, is further amended—

(1) by striking "and" at the end of subparagraph (B),

(2) by striking the period at the end of subparagraph (C) and inserting "; and", and

(3) by adding at the end thereof the following new subparagraph:

"(D) any payment practice specified by the Secretary in regulations promulgated pursuant to section 14(a) of the Medicare and Medicaid Patient and Program Protection Act of 1987.".

SEC. 15. EFFECTIVE DATES.

(a) In General.—Except as provided in subsections (b), (c), (d), and (e), the amendments made by this Act shall become effective at the end of the fourteen-day period beginning on the date of the enactment of this Act and shall not apply to administrative proceedings commenced before the end of such period.

(b) Mandatory Minimum Exclusions Apply Prospectively.—Section 1128(c)(3)(B) of the Social Security Act (as amended by this Act), which requires an exclusion of not less than five years in the case of certain exclusions, shall not apply to exclusions based on convictions occurring before the date of the enactment of this Act.

(c) Effective Date for Changes in Medicaid Law.—(1) The amendments made by sections 5 and 8(f) apply (except as provided under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning more than thirty days after the date of the enactment of this Act, without regard to whether or not final regulations to carry out such amendment have been published by such date.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this Act, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act.

(3) Subsection (j) of section 1128A of the Social Security Act (as added by section 3(f) of this Act) takes effect on the date of the enactment of this Act.

(d) Physician Misrepresentations.—Clauses (ii) and (iii) of section 1128A(a)(1)(C) of the Social Security Act, as amended by section 3(a)(1)(F) of this Act, apply to claims presented for services performed on or after the effective date specified in subsection (a), without regard to the date the misrepresentation of fact was made.

(e) Clarification of Medicaid Moratorium.—The amendments made by section 9 of this Act shall apply as though they were originally included in the enactment of section 2373(c) of the Deficit Reduction Act of 1984.

(f) Treatment of Certain Denials of Payment.—For purposes of section 1128(b)(8)(B)(iii) of the Social Security Act (as amended by section 2 of this Act), a person shall be considered to have been ex-

cluded from participation under a program under title XVIII if payment to the person has been denied under section 1862(d) of the Social Security Act, as in effect before the effective date specified in subsection (a).

Mr. BENTSEN. Mr. President, the Medicare and Medicaid Patient and Program Protection Act of 1987 is a bill designed to protect beneficiaries and the Federal and State governments from fraud and abuse in the delivery and financing of health care under the Medicare, Medicaid, and other health care programs.

The bill strengthens the ability of the Secretary of Health and Human Services to exclude from Medicare and Medicaid those health care providers and practitioners who fail to provide quality health services or who have engaged in fraud involving health care programs. The bill is based on studies by the General Accounting Office that recommended changes necessary to protect beneficiaries from practitioners who lose their license in one State but continue to practice in other States.

The bill conforms and coordinates provisions of the Social Security Act relating to the exclusionary powers of the Secretary of Health and Human Services, criminal penalties, and civil penalties, and applies the provisions to all of the Social Security Act health care programs—Medicare, Medicaid, the maternal and child health block grant, and the social services block grant. The bill also closes loopholes and eliminates ambiguities in existing fraud and abuse provisions.

The Congressional Budget Office estimates that the cost of the bill will be $6 million in the first year, dropping to $3 million per year after 1989. This is money well spent to protect beneficiaries and eliminate the few unscrupulous providers that may be defrauding the health care programs.

A similar bill, H.R. 1444, passed the House of Representatives on June 2 by a vote of 402 to 0. The only substantive difference between the two bills is a provision in S. 661, as amended by the Finance Committee, that requires an administrative hearing prior to exclusion—as opposed to the usual post-exclusion hearing—when the grounds for exclusion are based on the practitioner having engaged in certain activities that also are violations subject to criminal or civil penalties, but for which the practitioner has not yet been convicted. This ground for exclusion usually would involve violations of the antikickback provisions, and a preexclusion hearing is important because of some uncertainties in defining "kickbacks," since a knowing and willful violation is an element of the criminal statute. There are also some technical differences between the two bills. I hope that the House can agree to the Senate amendment and send this legislation on to the White House.

Mr. President, this bill is the culmination of a long process of putting together comprehensive legislation to weed out fraud and abuse in our health care programs. The bill has evolved over a period of several years, with maximum input from the General Accounting Office and the Inspector General of the Department of Health and Human Services. I would like to thank my colleague Senator Heinz who was the sponsor of S. 661, along with the original cosponsors, Senators Glenn, Mitchell, Durenberger, Bradley, Rockefeller, Melcher, and Hecht.

Mr. GLENN. Mr. President, I am pleased to join Senator Heinz in urging enactment of S. 661, the Medicare and Medicaid Patient and Program Protection Act.

S. 661 is the outcome of a hearing of the Special Committee on Aging held in May 1984, when Senator Heinz and I were chairman and ranking minority member, respectively. This bill is similar to our previous legislation, S. 837, which was reported by the Senate Finance Committee but which did not receive the consideration of the full Senate before the 99th Congress adjourned. I am pleased that S. 661 and its House companion H.R. 1444 have moved swiftly through the current 100th Congress.

At our 1984 Aging Committee hearing, we heard testimony from the General Accounting Office [GAO], the Inspector General [IG] of the Department of Health and Human Services [HHS], and others about a most disturbing matter—the treatment of Medicare and Medicaid beneficiaries by doctors, pharmacists, and other health care professionals who have been found to provide incompetent, dangerous, and/or unethical care.

Although the Secretary of HHS can exclude practitioners from participation in Medicare and can require the States to exclude practitioners from participation in Medicaid, this sanction authority is limited under current law. For example, the Secretary can only exclude health care providers for certain acts committed against the Medicare and Medicaid Programs. In other words, the Secretary cannot exclude individuals or entities serving private pay patients or patients in other programs who are found guilty of crimes such as fraud, financial abuse, neglect of patients or unlawful distribution of a controlled substance. And, HHS only has the authority to exclude practitioners in the States where he or she has lost a license, rather than nationwide.

Due to loopholes in current law, and because health care professionals are often licensed in several States, unethical and incompetent providers are continuing to treat Medicare and Medicaid patients—our Nation's elderly, low-income and ofter vulnerable citizens. In some cases, doctors and other providers who are found unfit to practice in one State simply move to another State and continue treating patients. In other cases, the practitioners do not even have to change States—if barred from practice in Medicare, they switch to Medicaid and vice versa.

If enacted, the Medicare and Medicaid Patient and Program Protection Act, would close the escape routes now available to unfit health care providers by prohibiting them from participating in Medicare, Medicaid, and other Federal health programs. Among numerous provisions, this legislation:

Mandates the exclusion of individuals or entities convicted of program-related crimes from Medicare, Medicaid, the title V, maternal and child health block grant programs and the title XX, social services programs; and establishes a minimum 5-year period of exclusion.

Adds a new mandatory exclusion for individuals and entities convicted under Federal or State law of neglect or abuse of any patient.

Clarifies and broadens the Secretary of HHS' authority to exclude providers. New reasons that may justify an exclusion include: Convictions related to obstruction of an investigation; controlled substance violations; loss or suspension of license; and suspension or exclusion from any Federal program, including the health care programs of the Department of Defense and the Veterans' Administration.

Broadens the Secretary's authority to impose civil monetary penalties for the submission of improper claims by physicians and hospitals, and includes the authority to assess penalties against hospitals that provide improper information that may influence a discharge decision.

Extends Medicare and Medicaid criminal penalties for kickbacks, bribes or false statements to the title V and title XX programs.

Establishes a national reporting system for sanctions taken by State licensing authorities against all health care practitioners. The Secretary of HHS would provide these reports nationwide—to State licensing authorities, Federal and State health care programs, and appropriate law enforcement officials—as well as reports required by the Health Care Quality Improvement Act of 1986 on sanctioned physicians and physicians who have been successfully sued for malpractice.

Doctors and other health professions who lose their State licenses do so for very serious reasons. According to the GAO, the majority provide substandard care through malpractice, alcohol and drug abuse, or immoral conduct. This is a national problem; and I believe we should have a national registry to help ensure that no person, regardless of how their health care is financed, is treated by an unfit doctor.

The Congressional Budget Office [CBO] has estimated the cost of administering this legislation to be a total of $13 million for fiscal years 1988-90. This small investment will go a long way toward ensuring that Federal outlays for Medicare and Medicaid, which will top $100 billion in fiscal year 1987, do not go to sanctioned doctors and institutions.

The Medicare and Medicaid Patient and Program Protection Act enhances our ongoing efforts to ensure high-quality health care for beneficiaries and to protect against the misuse of Federal dollars. While the number of unfit doctors and other health care providers is small, the threat they pose is very serious. It only makes sense to do all that we can to remedy this situation. S. 661 merits our support, and I urge my colleagues to join me in voting for its passage.

Mr. MITCHELL. Mr. President, I rise today in support of the Medicare and Medicaid Patient and Program Protection Act of 1987. This bill, which was unanimously reported from the Senate Finance Committee, provides protection for Medicare and Medicaid beneficiaries from unfit or uncompetent providers and practitioners.

This important legislation will strengthen the protections against fraud and abuse in the Medicare and Medicaid programs by authorizing exclusion from these programs any practioner whose license has been revoked or suspended in any State.

Under the provisions of this bill, providers or practitioners who have been found to be engaging in fraudulent activities under the Medicare and Medicaid Programs may be subject to criminal or civil penalties.

I am also supportive of provisions in the fraud and abuse bill which are designed to protect the due process rights of practitioners and providers. Such providers may not be excluded from practicing until after an administrative hearing has been held. This provision does not apply, however, in any case where the Secretary determines that the delay in the exclusion would pose an immediate risk to the health or safety of patients.

Medicare and Medicaid beneficiaries are the most frail members of our society. They are elderly and poor persons with few resources, often overwhelmed by the rules and regulations of their health benefits under Medicare and Medicaid. We must make sure that the health care they receive is of the highest quality, and that they are not the victims of some who would take advantage of them.

The Medicare and Medicaid Patient and Program Protection Act of 1987 is a sincere effort to protect the health care of the poor and elderly. I urge my colleagues in the Senate to support this important legislation.

THE MEDICARE AND MEDICAID PATIENT PROTECTION ACT OF 1987

Mr. HEINZ. Mr. President, I am pleased that today we will address an important legislative item left unfinished when Congress adjourned last October. I am talking about S. 661, a bill to protect this Nation's elderly and poor from unfit and fraudulent doctors.

Our major Federal health programs, Medicare and Medicaid, serve this country's most vulnerable citizens. It is a blatant shortcoming in government oversight when an incompetent or dangerous doctor, banned in one State or from one of these programs, can hang out his shingle in another State or continue to treat patients in another program. But as chairman of the Senate Aging Committee, a committee investigation revealed shocking evidence of just such activity.

A report to the committee from the General Accounting Office in 1984 identified hundreds of doctors, osteopaths, dentists, chiropractors, podiatrists, and pharmacists whose improper, illegal, and unethical practices threaten the lives and well-being of thousands of patients. We found that loopholes in the authority of the Secretary of Health and Human Services, and the lack of coordination among State agencies, gives unfit doctors a deadly stranglehold on Americans in the Medicare and Medicaid programs.

Mr. President, some of these doctors push addictive drugs. Some of them push destructive surgery. But together they have pushed the conscious of this Congress too far—and tonight I urge that we push them back.

Consider the appalling case of Dr. T. A. convicted felon, Dr. T lied and connived his way through three States. He lost his license in California for falsifying his credentials. He took up practice in Arizona—that State revoked his license when he failed a State-ordered competence exam. It took several more months before Ohio caught up with him for falsifying documents. Incredible though it may seem, Dr. T still practices in Nevada and is entitled to treat Medicare and Medicaid patients.

The Medicare and Medicaid Patient and Program Protection Act enables the Secretary to plug up these loopholes and exclude incompetent doctors from participation in all federally funded programs. The bill also creates a new information-sharing network, similar to the national registry on drunk drivers.

States would be required to submit information about formal sanction proceedings conducted by State licensing authorities. This network represents a clear and needed cooperation between Federal and State authorities in tracking and monitoring potentially dangerous physicians.

Mr. President, I want to thank Mr. GLENN and others among my colleagues who have lent their support to this bill. I am confident that passage of S. 661 will provide desperately needed protections for our poor and aged.

Mr. PACKWOOD. Mr. President, today's action on S. 661, the Medicare and Medicaid Patient and Program Protection Act of 1987, is a major step toward protecting this Nation's elderly and poor from unfit or unscrupulous practitioners. It will also protect the poor and elderly from inappropriate or inadequate care. In addition this bill will fight fraud and abuse in the Medicare, Medicaid, Maternal and Child Health, and Social Services programs under the Social Security Act.

The Department of Health and Human Services [HHS] is currently without the authority to exclude individuals or entities who have been convicted of nonprogram related crimes from major Government health programs. Although some individuals have been convicted of fraud, financial abuse, neglect of patients, or the unlawful distribution of a controlled substance, they may still be allowed to participate in these programs. In addition, HHS currently can't exclude individuals who have been disciplined by State licensing boards because they did not meet minimum professional standards or did not provide quality care to their patients.

We owe a debt of thanks to the U.S. General Accounting Office and the Office of the Inspector General at HHS; first, for their work in identifying the problem, and second, for their efforts in working with the Committee on Finance in devising a solution to these intolerable practices. That solution, S. 661, will provide HHS with sufficient authority to better protect the beneficiaries of the Government health programs and the taxpayers' investment in those programs.

It's time we took action to remedy these problems. When fraud and financial abuse occur in Government health care programs, American taxpayers are the victim. In the case of inappropriate or inadequate care, the real victim is the patient. This cannot be tolerated. I encourage my colleagues to support this important piece of legislation.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

The bill was ordered to be engrossed for a third reading and was read the third time.

Mr. BYRD. Mr. President, I ask unanimous consent that the Finance Committee be discharged from further consideration of H.R. 1444, the House companion measure, and that the bill be immediately considered.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

> A bill (H.R. 1444) to amend titles XI, XVIII, and XIX of the Social Security Act to protect beneficiaries under the health care programs of that act from unfit health care practitioners, and otherwise to improve the antifraud provisions relating to those programs.

The ACTING PRESIDENT pro tempore. Without objection, the Senate will proceed immediately to the consideration of the bill.

Mr. BYRD. Mr. President, I move to strike all after the enacting clause of H.R. 1444 and to substitute the text of S. 661, as reported and as amended.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion of the Senator from West Virginia.

The motion was agreed to.

The ACTING PRESIDENT pro tempore. The question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill was read the third time.

The ACTING PRESIDENT pro tempore. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 1444) was passed.

Mr. BYRD. Mr. President, I ask unanimous consent to postpone indefinitely consideration of S. 661.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DOLE. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

S. 490 PLACED UNDER SUBJECTS ON THE TABLE

Mr. BYRD. Mr. President, I have one further unanimous-consent request.

I ask unanimous consent that Calendar No. 167, S. 490, the Finance Committee report on the trade bill, be placed with those bills listed under "Subjects on the Table" in the back of the calendar.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the distinguished Republican leader has his time reserved, I believe, under the standing order.

The ACTING PRESIDENT pro tempore. The Senator is correct.

Mr. BYRD. Resumption of the consideration of the debt limit measure will be delayed.

The ACTING PRESIDENT pro tempore. The Chair recognizes the minority leader.

THE NOMINATION OF ROBERT BORK

THE TRUE ROLE OF THE SENATE

Mr. DOLE. Mr. President, I thank the distinguished majority leader. I have listened on the floor and in the cloakroom with interest to the distinguished Senator from Delaware, Senator BIDEN, chairman of the Judiciary Committee.

I have watched and listened to the public debate over the Bork nomination evolve over the last few weeks in this body and in the press. I must say I am struck by the amount of handwringing by Judge Bork's opponents over whether a nominee's so-called ideology may be considered by the Senate as part of its constitutional obligation to offer its "advice and consent" to the President.

Much of their debate, I must say, has been quite edifying in the context of our constitutional bicentennial, exploring as it does the various historical precedents.

We have just had an hour of that. I think that is very helpful, if we receive it in a constructive way, as I am certain it was offered.

IDEOLOGY OFF LIMITS

But let us be honest, candid and right up front about this nomination. In the case of Judge Bork, the issue is not whether a nominee's ideology can ever be considered by the Senate. I am certain that we could all conjure up an imaginary nominee whose ideology was so bizarre, whose thought processes were so alien, that we would feel obliged to vote against him or her.

I am also certain, however, that such an imaginary candidate would never have served as Solicitor General of the United States, having attained a partnership at a prominent law firm, and distinguished himself as a professor at the Yale Law School, and would most certainly never be confirmed by this body to serve on the extraordinarily important U.S. Court of Appeals for the District of Columbia.

BORK—IN THE MAINSTREAM

The stark—and to his opponents, disconcerting—fact is that Judge Bork's views are well within the acceptable range of legal debate and, if Presidential elections mean anything at all, are probably much closer to the mainstream of American thought than that of most of his political critics. In this regard, it is important to note that not 1 of the 100 majority opinions written by Judge Bork, or even 1 of the 300 or so decisions where he was joined the majority, has been overturned on appeal.

Judge Bork has in large part made his formidable reputation by arguing for a neutral, nonpolitical and nonpersonal kind of judging, for a reaffirmation of the great principle of judicial restraint. His opponents fear only that the application of that traditional principle will not result in judicial decisions that will advance their own political and social agendas.

The real issue, then, is whether our duty to advise and consent to the nomination should include our consideration of a nominee's views on specific political and social issues, as opposed to his fitness and merit.

Such an approach, I suggest, would offend common sense, would be contrary to the intent of the framers, and would, in the end, be horribly shortsighted.

I noted reference in footnotes on the number of Senators who talked about a judge's position, that I was listed in 1969 addressing certain views of Judge Haynsworth who was rejected by the Senate. I have since taken another look at that. I think that may have been true in the broad context, but only in the broad context trying to respond to some of the arguments made against Judge Haynsworth. I will say again, as I have said in the past, that is one time this Senator made a mistake. We rejected an outstanding judge, in my view, but that is history.

NO CHECK LISTS

It is universally acknowledged that judicial nominees should not be asked to commit themselves on particular points of law in order to satisfy a Senator as to how he or she will decide an issue that might come before the Court. Yet there is little discernible difference between a Senator demanding such an explicit quid pro quo during the confirmation process and one who decides beforehand that he will only support nominees that satisfy a check list concerning specific issues or cases.

As Prof. Richard Friedman has put it: "Extended debates, both within and without the Senate, concerning the political philosophy of a nominee cannot help but diminish the Court's reputation as an independent institution and impress upon the public—and, indeed, the Court itself—a political perception of its role." In short, the independent judiciary should not be caught up in campaign promises designed to curry favor with politicians and their constituent groups.

FOUNDING FATHERS ON THE MARK

Similarly, had the framers intended that the Senate should consider views on political or social issues as a criterion for confirmation, the constitutional convention would have adopted a proposal that would have exclusively lodged the appointment power in either the Senate or the entire Congress. They did not do that. The framers, however, expressly rejected giving the Senate such a role, primarily out of fear that cronyism would prevail or that the process would be tainted by "[I]ntrigue, partiality and concealment."

Rather, as Alexander Hamilton explained in Federalist No. 76, the President was to be "the principal agent" in the judicial process. The Senate's role in the confirmation process was limited to weighing the qualifications, rather than the politics, of each candidate. According to Hamilton, the Senate's scrutiny "would be an excellent check upon a spirit of favoritism * * * and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity."

Having rejected congressional selection of judges because of concerns about "[I]ntrigue, partiality and concealment," the framers could hardly have envisioned that the Senate would politicize the Court through the exercise of its advice and consent functions.

BIDEN, KENNEDY AGREE: NO LITMUS TEST

Framed in this manner, the issues for debate are more limited. As my distinguished colleague the Senator from Delaware [Mr. BIDEN] put it some years back:

> This hearing is not to be a referendum on any single issue or the significant opposition that comes from a specific quarter * * * as long as I am chairing this hearing, that will not be the relevant issue. The real issue is your competence as a judge and not whether you voted rightly or wrongly on a particular issue. * * * If we take that attitude, we fundamentally change the basis on which we consider the appointment of persons to the bench.

And the distinguished Senator from Massachusetts [Mr. KENNEDY] has also expressed what I believe to be the traditional understanding of the Senate's role in the confirmation process:

> I believe that it is recognized by most Senators that we are not charged with the responsibility of approving a man to be an Associate Justice of the Supreme Court only if his views coincide with our own. We are not seeking a nominee for the Supreme Court who will always express the majority views of the Senate on every given issue of fundamental importance. We are interested really in knowing whether the nominee has the background, experience, qualifications, temperament and integrity to handle this most sensitive, important, responsible job.

STAYING WITH THE CONSTITUTION

In my view, our inquiry should focus on the nominees's ability and integrity, and upon whether the nominee would faithfully and neutrally apply the Constitution in a manner that upholds the prerogatives of the three coordinate branches. If we go beyond this and require that judicial candidates pledge allegiance to the political and ideological views of particular Senators or interest groups, we will do grave and irreparable violence to basic separation of powers principles that act as the ultimate safeguard against the tyranny of the majority. We would threaten all three branches of government. We would undermine the President's constitutionally mandated power of appointment by paralyzing the Senate in a gridlock of competing interests groups, each hawking its own agenda—and I am afraid that the extremely long, almost unprecedented delay in hearings on this nomination is only a foretaste of what we can expect if we politicize this process. And, more important, we will deny the Court that insulation from the political process which the Constitution so wisely attempted to insure.

So finally I would just say that for these reasons this is going to be a long, drawn-out process. Judge Bork should be closely scrutinized. He will be closely scrutinized. There are already a number of Members on both sides of the aisle, both ends of the political spectrum, who have announced their positions long before the hearings will begin. In fact, somebody was already saying yesterday there are 45 for, 45 against and 10 undecided on the nomination. I do not know anything about that, but that is one of the rumors floating around. But the hearings will happen and there will be extended debate, I would assume, I hope, since the Constitution says the Senate shall act on the nomination, it will come to the Senate floor, notwithstanding what the vote could be or might be in the Judiciary Committee, I hope we could have an opportunity to vote up or down on the nomination when it reaches the Senate floor.

And so there will be a long struggle over this very important nomination, the most important nomination in my view that Ronald Reagan has made since he became President, if you look at what impact it could have after he leaves the Presidency in January 1989.

Mr. BIDEN. Will the Senator yield for just a second? I do not want to engage in debate, just to make one clarification, if I may.

Mr. DOLE. Sure.

Mr. BIDEN. The Senator accurately quoted me. I just want to make a point that the quote regarding "that is not about a single issue" was for Abe Mikva to be on the court of appeals, and I hope in my speech I laid out the distinction between the role of the lower courts and the Supreme Court. That is the only point.

Mr. DOLE. I thank the Senator from Delaware. I indicated earlier that I think his presentation will be very helpful and I appreciate his remarks this morning.

Mr. BIDEN. I thank the Senator.

The ACTING PRESIDENT pro tempore. The Chair will state that all time for morning business has now come to an end. Is there further morning business?

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the period for morning business be extended no more than 10 minutes and under the same restrictions as heretofore ordered.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Who seeks recognition?

Mr. BYRD. Mr. President, I ask unanimous consent that the period be extended no more than 20 minutes and that if I am not in the Chamber, the Chair then put the Senate into recess until I get back into the Chamber.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. And I want that 20 minutes to be 10 minutes to Mr. SIMPSON and 10 minutes to Mr. HATCH.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Wyoming.

THE NOMINATION OF ROBERT BORK TO BE SUPREME COURT JUSTICE

Mr. SIMPSON. Mr. President, I thank the majority leader for providing time so that those of us who embrace the other side of the Bork issue could have equal time to express our views. That is most helpful and appreciated by this Senator.

Well, Mr. President, 10 minutes, I will take 10 today and I will probably take 10 another time because I intend to get fully involved in this one with a series of vignettes and small addresses on Robert Bork because I think it is so very important.

I would relate to you that going on in Wyoming right now is a great event called Cheyenne Frontier Days. You have heard me review this event before. Some know that, and as I thought of what we are going to go through on this one it reminded me of the cry from the rodeo announcer, "Here we come out of chute No. 4," because it really is going to be like riding Brahma bulls around here on this one.

We can see what awaits Robert Bork. And I guess, Mr. President, if the Democratic majority—it is not my intent to slip into partisanship for I think partisanship for simply partisanship sake is a feckless operation. I do not only say that; I try to live by that legislatively, but if we are going to object and oppose the Bork nomination simply because Judge Bork has been nominated by a conservative Republican President, why not just come right out and say so and kind of clean up the whole operation at once? They are in the majority here, and it is within their power to reject the nomination. Let him have it and stop the posturing, but let us be honest about it. Let them admit they do not like Judge Bork and they do not like some of his previous decisions. There are comments about his utterings of 1962 about civil rights, when there are three Members sitting now in this body who voted against the civil rights bill of 1964.

How long do you keep score around here? How long do you hang a guy by his thumbs? Three Members of this present body voted against the civil rights bill of 1964. Are they any lesser in our eyes? Not one whit. They are all remarkable participating Members of this body.

Now, that is an extraordinary bit of argument to trot up when many people were concerned in 1962 as to what would happen with their business under this proposed new law. What was your right as a restaurant owner, as a shopkeeper? Go read the remarks of our remarkable friend, Senator Hubert Humphrey, at the time. Do not worry about that; that is not what is involved here.

So let us just admit that we do not like him and that will help to clarify the debate instead of somehow trying to shroud the political, partisan, and special interest opposition in some type of vapid rationalization or some ponderous historical perspective.

In raising concerns about the nomination of this extraordinary man, with a record that is beyond objection, really beyond commentary if you are a lawyer or a judge or any thoughtful person, we now find that among all of the other qualifications that he might have it is important for us to oppose Judge Bork's nomination on the grounds that it would affect the "balance" of the Supreme Court. Balance.

We are informed that the major issue upon which this nomination should turn is whether the nominee would alter significantly the balance of the Court. That is stated by the Senator from Delaware. That is paraphrasing a theme by Prof. Laurence Tribe of the Harvard Law School.

I think if we are going to review credentials throughout this long and what will be a tedious and ponderous debate, we should also examine the credentials of Laurence Tribe. He has at least in my review of his writings never really quite embraced anything much that Ronald Reagan has done in 6½ years, not one whit, unless I am missing something. And now he will become the oracle for the proponents of the decline of Robert Bork. How fascinating.

I do not see anything in the Constitution that says anything about balance. I must have missed something. It is not there. Altering the balance is really only a rather crudely veiled way of saying that one disagrees with the philosophical direction in which the nominee would move the Court. And whatever the propriety of a Senator opposing a nominee because of philosophical differences, that should not be confused with an objection of some imbalancing of the Court.

Nothing I find in the historical practice surrounding the Senate confirmation of Supreme Court nominees requires or even suggests anything about balance between liberals and conservatives when a new nominee is presented for a vacancy. Certainly, no such standard was employed when Franklin Delano Roosevelt had eight nominations to the Court, even though, as Prof. Laurence Tribe has written, Justice Black's appointment in 1937 "took a delicately balanced Court * * * and turned it into a Court willing to give solid support of FDR's initiatives. So, too, Arthur Goldberg's appointment to the Court in 1962 shifted a tenuous balance on matters of personal liberty toward a consistent libertarianism * * *." We can almost see the delight in that statement, if one can picture the sayer at the time of the saying.

We are now hearing about the pendulum swinging from one extreme to the other. My friend Senator Paul Simon describes that. But the Supreme Court is a collegial body of remarkable Americans. It has been my privilege to come to know them personally. I have the same respect and regard and admiration for Justice William Brennan as I have for Chief Justice William Rehnquist. They are superb people and do a magnificent job for this country, and so will Robert Bork, and he will serve with great distinction.

The advocacy of the balance theory in the 1960's, when Justice Goldberg and Justice Fortas and Justice Marshall were being placed on the Supreme Court, resulted in a body that consisted of two judicial conservatives, I think. Was the balance theory then discussed?

If either Senator Biden or Senator Simon—and they both have remarked on this nomination—were fortunate enough, and America would not be badly served, to be elected President of the United States, and be faced with appointing a successor, say, to Chief Justice Rehnquist or Justice Scalia, would they feel constrained then in upsetting the Court's balance? I think not. More likely, the underlying theory of the balance proponents is that the judicial philosophy espoused by the Court can be allowed to evolve properly but only in the concept of their own single and more liberal direction. That is not balance in any sense.

I commend to my colleagues a piece by Lloyd Cutler, former counsel to President Carter—another man I have come to know personally, and who I have the richest admiration and respect for—in the New York Times, of Thursday, July 16, 1987, "Saving Bork From Both Friends And Enemies," which I ask unanimous consent to have printed in the Record. Here is a truly thoughtful commentary. He says it superbly.

There being no objection, the material was ordered to be printed in the Record, as follows:

[From the New York Times, July 16, 1987]

Saving Bork From Both Friends and Enemies

(By Lloyd N. Cutler)

Washington.—The nomination of Judge Robert H. Bork to the United States Supreme Court has drawn predictable reactions from both extremes of the political spectrum. One can fairly say that the confirmation is as much endangered by one extreme as the other.

The liberal left's characterization of Judge Bork as a right-wing ideologue is being reinforced by the enthusiastic embrace of his neo-conservative supporters. His confirmation may well depend on whether he can persuade the Senate that this characterization is a false one.

In my view, Judge Bork is neither an ideologue nor an extreme rightwinger, either in his judicial philosophy or in his personal position on current social issues. I base this assessment on a post-nomination review of Judge Bork's published articles and opinions, and on 20 years of personal association as a professional colleague or adversary. I make it as a liberal Democrat and as an advocate of civil rights before the Supreme Court. Let's look at several categories of concern.

Judicial philosophy. The essence of Judge Bork's judicial philosophy is self-restraint. He believes that judges should interpret the Constitution and the laws according to neutral principles, without reference to their personal views as to desirable social or legislative policy, insofar as this is humanly practicable.

All Justices subscribe at least nominally to this philosophy, but few rigorously observe it. Justices Oliver Wendell Holmes, Louis D. Brandeis, Felix Frankfurter, Potter Stewart and Lewis F. Powell, Jr. were among those few, and Judge Bork's articles and opinions confirm that he would be another. He has criticized the rightwing activism of the pre-1937 court majorities that struck down social legislation on due process and equal protection grounds. He is likely to be a strong vote against any similar tendencies that might arise during his own tenure.

Freedom of speech. As a judge, Judge Bork has supported broad constitutional protection for political speech but has questioned whether the First Amendment also protects literary and scientific speech. However, he has since agreed that these forms of speech are also covered by the amendment. And as a judge, he has voted to extend the constitutional protection of the press against libel judgments well beyond the previous state of the law. In his view, "It is the task of the judge in this generation to discern how the Framers' values, defined in the context of the world they knew, apply to the world we know." Over Justice (then Judge) Antonin Scalia's objections, he was willing to apply "the First Amendment's guarantee . . . to frame new doctrine to cope with changes in libel law [huge damage awards] that threaten the functions of a free press."

Civil Rights. While Judge Bork adheres to the "original intent" school of constitutional interpretation, he plainly includes the intent of the Framers of the post-Civil War amendments outlawing slavery and racial discrimination. In this spirit, he welcomed the 1955 decision in Brown v. Board of Education proclaiming public school segregation unconstitutional as "surely correct," and as one of "the Court's most splendid vindications of human freedom."

In 1963, he did in fact oppose the public accommodations title of the Civil Rights Act as an undesirable legislative interference with private business behavior. But in his 1973 confirmation hearing as Solicitor General he acknowledged he has been wrong and agreed that the statute "has worked very well." At least when compared to the Reagan Justice Department, Judge Bork as Solicitor General was almost a paragon of civil rights advocacy.

Judge Bork was later a severe critic of Justice Powell's decisive concurring opinion in the University of California v. Bakke case, leaving state universities free to take racial diversity into account in their admissions policies, so long as they did not employ numerical quotas. But this criticism was limited to the constitutional theory of the opinion. Judge Bork expressly conceded that the limited degree of affirmative action it permitted might well be a desirable social policy.

Abortion. Judge Bork has been a leading critic of Roe v. Wade, particularly its holding that the Bill of Rights implies a constitutional right of privacy that some state abortion laws invade. But this does not mean that he is a sure vote to overrule Roe v. Wade; his writings reflect a respect for precedent that would require him to weigh the cost as well as the benefits of reversing a decision deeply imbedded in our legal and social systems. (Justice Stewart, who had dissented from the 1965 decision in Griswold v. Connecticut, on which Roe v. Wade is based, accepted Griswold as binding in 1973 and jointed the Roe v. Wade majority.).

Judge Bork has also testified against legislative efforts to reverse the court by definite life to begin at conception or by removing abortion cases from Federal court jurisdiction. If the extreme right is embracing him as a convinced right-to-lifer who would strike down the many state laws now permitting abortions, it is probably mistaken.

Presidential powers. I thought in October 1973 that Judge Bork should have resigned along with Elliot L. Richardson and William S. Ruckelshaus rather than carry out President Richard M. Nixon's instruction to fire Archibald Cox as Watergate special prosecutor.

But, as Mr. Richardson has recently observed, it was inevitable that the President would eventually find someone in the Justice Department to fire Mr. Cox, and, if all three top officers resigned, the department's morale and the pursuit of the Watergate investigation might have been irreparably crippled.

Mr. Bork allowed the Cox staff to carry on and continue pressing for the President's tapes—the very issue over which Mr. Cox had been fired. He appointed Leon Jaworski as the new special prosecutor, and the investigations continued to their succesful conclusion. Indeed, it is my understanding that Mr. Nixon later asked, "Why did I go to the trouble of firing Cox?"

I do not share Judge Bork's constitutional and policy doubts about the statute institutionalizing the special prosecutor function. But if the constitutional issue reaches the Supreme Court, he will most likely recuse himself, as he has apparently aready done in withdrawing from a motions panel about to consider this issue in the Court of Appeals. Moreover, as he testified in 1973, he accepts the need for independent special prosecutors in cases involving the President and his close associates.

Balance-the-budget amendment. While this proposed amendment is not a near-term Supreme Court issue, Judge Bork's position on it is significant because support for that amendment is a litmus test of right-wing ideology. He has publicly opposed the amendment on several grounds, including its unenforceability except by judges who are singularly ill-equipped to weigh the economic policy considerations that judicial enforcement would entail. This reasoning is far from the ritual cant of a right-wing ideologue.

Experience shows that it is risky to pinpoint Supreme Court Justices along the ideological spectrum, and in the great majority of cases that reach the Court ideology has little effect on the outcome.

The conventional wisdom today places two Justices on the liberal side, three in the middle and three on the conservative side. I predict that if Judge Bork is confirmed, the conventional wisdom of 1993 will place him closer to the middle than to the right, and not far from the Justice whose chair he has been nominated to fill.

Every new appointment created some change in the "balance" of the Court, but of those on the list the President reportedly considered, Judge Bork is one of the least to create a decisive one.

Mr. SIMPSON. Mr. President, what is the time remaining?

The ACTING PRESIDENT pro tempore. Nine minutes and 25 seconds.

Mr. SIMPSON. The Senator from Utah wishes to speak and I shall yield.

Mr. President, the issue of balance is an extraordinary red herring. It is also quite remarkable to me that almost in simultaneous fashion, Justice Bork is being accused of being "outside the mainstream," yet apparently and fearsomely becoming somehow capable of moving the Court in a variety of unsatisfactory directions. Are the four judges he will take with him on decisions also outside of the mainstream? How can that be? What an ironic statement!

This is a man of remarkable competency, and we are going to get down into the trenches and see that he is confirmed as a member of the U.S. Supreme Court. We will have to do it with the use of hard work and common sense, because it will not be done any other way. The American public will see through the partisan opposition to Judge Bork.

The ACTING PRESIDENT pro tempore. The Senator from Utah is recognized for 10 minutes.

Mr. HATCH. Mr. President, does the Senator from Wyoming have any time remaining?

The ACTING PRESIDENT pro tempore. The Senator from Wyoming has consumed all his time.

Mr. HATCH. Mr. President, I am happy to be here this morning. I come from the famous—or infamous—Iran-Contra hearings, during which, I think many judgments are being made before the end of the hearing process. As a matter of fact, some people formed opinions long before Colonel North testified; but once he did testify, those people were amazed to find that some of the things they thought were wrong did not appear quite as wrong in light of his explanations.

I find the same problem here. It is a difficult problem for me to understand how Members of this body, before the first day of hearing, before listening to this individual, or even reading the better than 100 decisions he has made as a member of the District of Columbia Circuit Court of Appeals, can make the decision that he is unfit or unworthy to be on the Supreme Court. I find something really wrong with that.

I think that is one of the things we do around here: We jump to conclusions just a little too fast.

Mr. President, July 1, 1987, was a historic day. On that day President Reagan chose Judge Robert Bork to be the 107th Associate Justice of the U.S. Supreme Court. This is the most important appointment a President can make, and nominees should be the very best the legal community has to offer. That is what we have in Judge Bork. Robert H. Bork is a law professor and scholar whose teachings and writings have greatly influenced the development of our laws; a practitioner who has himself argued—and won—numerous cases before the Supreme Court; and a judge whose searching, thoughtful, and moderate opinions serve as models of experienced judicial reasoning.

President Regan has sent us a nominee solidly in the mainstream of American jurisprudence. The facts speak for themselves. Of the more than 100 majority opinions authored by Judge Bork, not one has been reversed by the Supreme Court. No appellate judge in the United States has a finer record.

Nonetheless, we have heard some shrill critics of Judge Bork fault him for being out of the mainstream. Many of those thus faulting Bork are themselves circling in eddies somewhere in the back waters of the Nile. They would not know a judicial mainstream from a judicial jet stream.

It should come as no surprise that Judge Bork has never been reversed. Judge Bork's opinions on the court of appeals have won the agreement of his colleagues on both sides of the spectrum. The U.S. Court of Appeals for the District of Columbia Circuit, the court on which he sits, is not a conservative court. When Judge Bork assumed his seat on that court in 1982, fully 8 of the 10 judges with whom he sat had been appointed by Lyndon Johnson or Jimmy Carter. Even today, 5 of the 10 are Democratic appointees. And yet in his 5 years on the bench, years in which Judge Bork heard argument in literally hundreds of cases, he has written in those cases only nine dissenting opinions, and only seven partially dissenting opinions. Moreover, the reasoning of several of those dissents was adopted by the U.S. Supreme Court when it reversed the opinions with which he expressed disagreement.

I have been surprised, Mr. President, to hear some of those who oppose Judge Bork's nomination refer to him as an ideologue. It has been said that an ideologue is "someone who disagrees with me," and I fear that definition must be the operative one here. Judge Bork has served for years on the Federal bench, and his record provides this body with an accurate measure by which to predict his future performance. He has won the respect of his colleagues on the court of appeals and of the Justices who review his work. This is not simply my opinion, it is a hard fact, one supported by the numbers, and one which no amount of rhetoric can obscure.

In connection with the charge that Judge Bork is an ideologue, we have also heard opinions that the President is obliged to preserve the ideological balance of the Court. This is a ludicrous notion. If past Presidents has striven to preserve the Court's ideological balance, the vile separate but equal doctrine of Plessy versus Ferguson would still be the law of the land. Moreover, the abuses of the Court's Lochner era would still rule today.

This ideological balance notion is a smokescreen for those who fear their own narrow preferences might not prevail with different judges on the Court. This fear betrays too much. It betrays that critics of Judge Bork also understand that much of the law they prefer is judge-made and is susceptible to change by other judges. Their protestations only underscore that the doctrines they like are not found in the Constitution. If their preferences were stated in the Constitution, they would not have any reason to fear a new judge because that judge would be bound to uphold the Constitution. These vociferous attacks however, betray that many of the attacker's favorite legal doctrines are, in fact, judge-made. And what judges have wrought, other judges can set aside in light of the Constitution itself.

Mr. President, there is always room for diversity, and people are perfectly entitled to disagree with the views of Judge Bork, his colleagues on the D.C. Circuit, and the Justices who currently sit on our highest court. But those who do so have a responsibility to be straightforward in what they say, and ought to admit that it is they who stand outside the mainstream. It is they who fear for the fate of past judge-made law. For years, Robert Bork has said that it is the responsibility of a judge to decide cases on the basis of the facts and the law before him and not on the basis of his own individual views on questions of policy. It is Judge Bork's capacity to practice that element of restraint that has won him the respect and admiration of so many other judges of varying judicial philosophies and the respect and admiration of this Senator as well.

Senator BIDEN has argued articulately today that the Senate should scrutinize nominees to the Supreme Court and only approve those whose ideology this body approves. This overlooks the danger of politicizing the appointment process. The historical record shows that political involvement in the selection of Justices is a two-edged sword whose backswing has the potential to injure the prestige and independence of the Supreme Court more than its thrusts have the chance to reshape its jurisprudential directions.

I would like to take more time on another occasion to respond point by point to Senator BIDEN, but today I would like to raise only a few points.

Senator BIDEN's two major points are, first, that the framers of the Constitution intended the Senate to undertake an ideological inquisition of nominees and, second, that the Senate has regularly undertaken that inquisition.

On the first point, I would note two important points. First, article 2 section 2 grants the President and only the President the nomination power. In fact, despite some earlier votes to the contrary, the 1787 Convention rejected, I repeat, rejected the notion that the Senate should appoint Justices.

Alexander Hamilton, who Senator BIDEN quoted often, explained what the Convention really intended the Senate's role to be in the nomination process. He stated:

> "But might not [the president's] nomination be overruled? I grant it might, yet this could only be to make place for another nomination by himself. . . . The Senate could not be tempted, by the preference they might feel to another, to reject the one proposed; because they could not assure themselves, that the person they might wish would be [subsequently nominated] . . . and as their dissent might cast a kind of stigma upon the individual rejected, . . . it is not likely that their sanction would often be refused, where there were not special and strong reasons for the refusal.
>
> "To what purpose then require the cooperation of the Senate? . . . [Senate concurrence] would be an excellent check upon a spirit of favoritism in the President, and would tend greatly to prevent the appointment of unfit characters from State prejudice, from family connection, from personal attachment, or from a view to popularity."
>
> As Hamilton and other framers of the Constitution intended, rejection of a nominee does not prevent the president from selecting another qualified candidate to his own liking. If the Senate were to insist on exercising its veto authority repeatedly, it would precipitate an interbranch confrontation clearly not contemplated by the framers, whose primary objectives for the advice and consent function were to "check" presidential favoritism and nomination of "unfit characters." Moreover, if the Senate insisted on confirming only justices likely to vote in accordance with a majority of the Senate on judicial issues, it would deny the President his constitutional prerogative and assert a power to select nominees that the Senate was not intended to possess. In the long run, the Senate must concede that it is not entitled to control the decisions of the Supreme Court by choosing justices. Thus, prudence as well as the apparent purpose of article II would counsel against the Senate's using its veto to assert a virtual appointment authority.

On Senator BIDEN's second point—that the Senate has often engaged in ideological inquisitions—I would note only a few points. First, Franklin Delano Roosevelt appointed nine judges in his own image. In fact, he completely reshaped the Court. During that time, a total of 20 votes were cast—out of a possible 900 votes—against F.D.R.'s appointees and nominees. Eisenhower appointed five Justices. A total of 28 votes—out of a possible 500—were cast against Eisenhower's nominees. President Kennedy in only 3 years appointed two Justices. On one of these occasions, Kennedy replaced the conservative Frankfurter with the ultraliberal Goldberg. Not a single vote was cast against either of these nominees. I could go on, but the point is that since 1894, the Senate has only failed to confirm four nominees. This is significant. The Senate has confirmed 51 Justices in recent history, while considering nominees from Presidents Franklin Delano Roosevelt and John F. Kennedy and Lyndon Baines Johnson to Eisenhower, Ford, and Reagan.

Thus, for the last 50 years or more, the Senate has eschewed ideological inquisitions. The Senate has refused to inject politics into the "advice and consent process." The Senate has acknowledged that the President nominates, not the Senate. After all the President, as was stated in the 1787 Convention, is the only officer elected by all the people. This is the reason that the 1787 Convention vested appointment power in the President—because he is elected by all the people.

One final point.

> Another problem with a partisan approach to the advice and consent process is that such an approach engenders political reprisals. The few rejections in the last nine decades amply illustrate this problem. In 1968, President Johnson's appointment of Justice Abe Fortas to preside as Chief Justice was defeated by Republicans who ob-

jected to the Justice's apparent willingness to depart from the language and intent of the authors of the Constitution. A year later, President Nixon's appointments to Clement Haynsworth and Harrold Carswell ran into similar intransigent opposition from Democrats. In the parlance of several of my colleagues, this incident illustrates the age-old observation that "what goes around comes around." If blocking a nomination on ideological grounds is fair game for one president and party, it is fair game for the other as well. Such an atmosphere holds the potential for touching off a cycle of revenge and retribution which can only damage the institutional integrity of both the Senate and the judiciary. Thus, the Senate has learned that the probability of long-term gain for one set of ideological views from partisan combat over judicial nominees is slim, while the casualties caused by that combat are many and certain.

Mr. HATCH. In conclusion, the casualty of politicizing the advice and consent process may well be the independence and prestige of the Supreme Court itself. We cannot afford to pay that kind of price for political gamesmanship.

I come back to my original comments and they are these: I think that it is incredible that anybody in this body would prejudge this confirmation before the first day of hearing, given the sterling reputation of Judge Robert Bork as a teacher, as an author, as a judge, as an attorney.

I think that such prejudice has to be criticized more than the criticisms that are made against Judge Bork.

Thank you, Mr. President.

CONSERVATION INTERNATIONAL BREAKS NEW GROUND FOR CONSERVATION

Mr. KASTEN. Mr. President, Monday, a new environmental organization, Conservation International, took a precedent setting step to protect environmentally important lands in a developing nation. Conservation International entered into an agreement with the Bolivian Government to accept the responsibility for a portion of Bolivia's foreign debt in exchange for major conservation measures.

With this agreement, the Bolivians agreed to reserve 4 million acres for environmental management in exchange for Conservation International assuming the responsibility for $650,000 of foreign debt.

Conservation International was able to purchase this debt at a tremendous discount. Because of Bolivia's foreign credit difficulties, this debt was purchased at the discount rate of 15 cents on the dollar. For just $100,000 this organization protected an area which supports more species of birds than all of the United States.

I would like to complement Conservation International for its innovative use of the unique resource it has identified in foreign debt. This organization was able to find a golden lining to protect tropical forests, biological diversity and a tremendous acreage of tropical lands in the dark cloud of overwhelming foreign debt problems.

This technique is being pursued by several other environmental groups. In the coming months, I hope these organizations will continue to target the protection of carefully selected lands through this innovative technique.

SCHOOL OF PROFESSIONAL PSYCHOLOGY AT WRIGHT STATE UNIVERSITY

Mr. INOUYE. Mr. President, on May 30, 1987, the School of Professional Psychology at Wright State University held its first annual alumni reunion.

Nearly a decade ago, in September 1979, I had the honor and privilege of serving as the founding convocation speaker at the inauguration of this new school, and even at that time, was impressed by the dedication and support demonstrated by the entire university administration for this new program, as well as by the high quality of its faculty.

I wish to take this opporunity to commend the accomplishment of the faculty of the school and in particular, Dean Ronald E. Fox; his associate deans and assistants, Allan G. Barclay, Russell J. Bent, W. Rodney Hammon, Jr., and James T. Webb.

I understand that this program has had an ongoing commitment to recruiting and training minorities, and I am confident that the citizens of Ohio are being well served by this fine institution. I look forward to the next decade of their graduates.

THE DELAYED PROMOTION OF GENERAL ABRAHAMSON

Mr. SYMMS. Mr. President, 2 weeks ago, while the eyes of the Nation were focused on a military man, Lt. Col. Oliver North, testifying before a congressional committee, another military man, Lt. Gen. James Abrahamson, was being denied a hearing by another congressional committee, here in the Senate.

Gen. James Abrahamson was nominated for a fourth star, December 18, 1986, by the President. That nomination expires September 30. But the Senate Armed Services Committee has not held a hearing on this nomination, and there is no evidence the committee intends to. At this time, the Senate Armed Services Committee has no hearings scheduled. Something must be done, and done soon, or there will be no promotion for General Abrahamson.

What has the general done to receive this kind of treatment by the Senate? His record shows that he flew 49 combat missions in Southeast Asia, and was selected to be an astronaut with the Air Force's Manned Orbiting Laboratory Program before serving as director for the TV-guided, air-to-ground Maverick Missile Program and director for the F-16 Air Combat Fighter Program. I should note that this program was an outstanding success. The plane came in under cost and on schedule. It is still recognized as a significant achievement in most of the free world.

In 1981, the general was made assistant administrator for the NASA Space Shuttle Program, and guided that program until 1984.

Among the honors the general has been given are: The Distinguished Service Medal, the Legion of Merit with two oak leaf clusters, three meritorius service medals, the Air Medal with oak leaf cluster, the NASA Commendation Medal, the National Defense Medal, and three foreign awards: The Order of King Olaf of Norway, the Order of the Orange from the Netherlands, and the Order of King Leopold of Belguim.

Mr. President, the promotion of this distinguished officer of the U.S. Air Force is being delayed, perhaps denied. And it's being delayed because General Abrahamson's present position is director of the strategic defense initiative. Quite simply, the general is being punished for serving his Commander in Chief as best he can, as he has served seven other Commanders in Chief—Democrats and Republicans—for the past 32 years.

There is a great deal of controversy and disagreement surrounding the SDI program, and we've seen some of that on the floor of this Senate. But there is no controversy about General Abrahamson. He is managing, and managing well, a highly technical, complex program of awesome scope, dealing with the highest level of Government in the United States and with our allies.

So I am asking my distinguished colleagues, Senator NUNN and Senator WARNER, as well as all the other members of the Senate Armed Services Committee, to rise above the current arguments and political issues relating to the SDI. There are other ways to demonstrate disagreement with the program, but don't penalize an honorable man with petty politics. Senators, I am asking you to schedule a hearing on this nomination now, before the August recess.

Give this good soldier his star.

CYPRUS

Mr. PRESSLER. Mr. President, July 20, 1987, was the 13th anniversary of the brutal invasion of the Republic of Cyprus by Turkey. Today, Cyprus remains occupied by more than 35,000 heavily armed Turkish troops, maintaining an artificial division of that sovereign nation. As a major source of foreign military assistance to Turkey, the United States has an obligation to encourage the immediate withdrawal of Turkish troops from Cyprus as a first step toward the settlement of that dispute.

Unfortunately, Ankara has displayed a total unwillingness to act responsibly on the Cyprus issue. President Evren of Turkey has now indicated that, in light of recent actions by the House Foreign Affairs Committee and the Senate Foreign Relations Committee, Turkey is reconsidering whether it will ratify our base rights renewal. In particular, Turkey is opposed to a measure I cosponsored with Senator PELL in the Senate Foreign Relations Committee to prohibit the use of United States military equipment by Turkish forces on Cyprus. We did not introduce this legislation to taunt Turkey or weaken our alliance with that unquestionably important United States ally. Instead, we did so because we feel strongly that the United States should not support, either directly or indirectly, Turkey's illegal occupation of Cyprus.

Even the strongest supporters of Turkey have great difficulty articulating why today, 13 years after that invasion, 35,000 heavily armed Turkish troops remain on Cyprus. Nevertheless, efforts by Secretary General Javier Perez de Cuellar to bring a peaceful resolution to the Cyprus dispute have stalled primarily because Turkey will not consider any settlement that includes the withdrawal of its troops. Our legislation is designed to ensure that U.S. foreign assistance is not used to maintain this illegal occupation. At the same time, we hope the prohibition will send a clear message of congressional disapproval of Turkey's continued intransigence on this issue.

Supporters of Ankara in Washington argue that even the most subtle United States pressure to encourage Turkey to be more forthcoming on the Cyprus issue is counterproductive and thereby undermines our security interests. The failure of the partial embargo on United States military assistance to Turkey, imposed by Congress after the 1974 invasion, is cited as proof that Turkey will not be strong-armed into acting like a more responsible member of the world community.

However, the fact that the Turkish arms embargo did not result in progress on the Cyprus issue can be traced directly to the two distinct voices Ankara heard on the subject. While the Congress was talking tough on the Turkish invasion, the Ford, and later, the Carter administration was assuring Ankara that Congress would soon lose its resolve and resume the arms shipments. When Congress lifted the embargo, we did so with the understanding that Turkey would be more forthcoming on the Cyprus issue. The fact that Ankara has been anything but cooperative can again be traced to assurances by the Carter, and now the Reagan administration that Congress will not take actions that could jeopardize our close friendship with Turkey.

U.S. influence is much greater when the administration security blanket is taken from Turkey and the United States speaks with one voice. A good example of this was the successful, unified voice of U.S. support for the January 17, 1985 high level meeting between Cypriot President Spyros Kyprianou and Turkish Cypriot leader Rauf Denktash in New York. The fierce 1984 congressional debate on the Cyprus issue sent leaders in Ankara looking desperately for comfort from the Reagan administration. Instead they got a November 22, 1984 letter from President Reagan warning Turkey that the administration would have no control over future congressional actions unless Turkey were more forthcoming on the Cyprus issue. Soon thereafter, Mr. Denktash did an about-face and agreed to participate in the high-level meeting long sought by President Kyprianou and the Secretary-General.

Critics of congressional efforts to promote peace in Cyprus dismiss measures like the Pell legislation as "Turkey bashing." But how does the call for the removal of the 35,000 illegal troops "bash" anyone? Even if Ankara did have cause for concern for the security of the Turkish Cypriots, the close geographic proximity of its bases enables Turkey to airlift troops to Cyprus on 15 minutes notice. Recent indications are that even the Turkish Cypriots are growing restless with the continued presence of Turkish troops and want an end to Turkey's colonization policy, which is designed to turn the occupied area into a de facto colony of Turkey.

Turkey could again significantly by removing its troops as a first step toward the permanent settlement of the Cyprus dispute. First and foremost, removal of the troops would be a constructive step toward normalizing relations with Greece. This could allow Turkey to utilize the resources now used to defend its common border with Greece for more constructive purposes, including the discharge of its NATO obligations. This action also would alleviate security fears on the part of the Greek Cypriot majority population on Cyprus and thereby allow its political leaders to be more trusting of the Turkish side during negotiations on the remaining issues. Removal of the troops would also strengthen Turkey's standing in the world community. This in turn would assist Turkey in realizing some of its economic and political goals, including entry into the European Economic Community.

President Evren and Prime Minister Ozal are once again begging the Reagan administration for comfort from those "bullies" on Capitol Hill. At the same time, they are augmenting and modernizing their troops on Cyprus with United States arms, expanding their colonization program, and refusing to promote U.N. sponsored talks to resolve the crisis. Witness for example the unnecessarily defiant attitude of the Turkish Foreign Minister toward the latest appeal by U.N. Secretary Gen. Javier Perez de Cuellar for the reduction of the occupation troops. On June 6 the Turkish official reportedly told journalists that Turkey does not have to answer to anyone on the number of troops and military equipment it has in Cyprus. This kind of attitude is anything but constructive. It undermines the U.N. efforts and will certainly not help Turkey in Congress.

Mr. de Cuellar underlined the importance of the troops issue in his May 29, 1987 report to the Security Council and has renewed his appeal to Turkey to "make a start by reducing its forces on the island."

Instead of holding Ankara's hand, the administration would be well advised to support efforts by Congress to promote a Cyprus settlement and join the U.N. Secretary-General in urging Turkey to help the peace process by the withdrawal of its occupation forces from Cyprus. Ankara will not be able to turn a deaf ear on such a clear and unified U.S. message.

THE BORK NOMINATION

Mr. DANFORTH. Mr. President, barring wholly unforeseen revelations, debate on the nomination of Robert Bork will not concern his ability or character. Those qualifications have not been questioned. The debate will be about basic philosophy, whether we in the Senate want an activist Supreme Court or one which practices judicial restraint. Because the Supreme Court has become so important to our people and our communities, I look forward to a vigorous debate on the philosophical question. Because Judge Bork has been a strong advocate of judicial restraint, I intend to support his nomination with enthusiasm.

How one feels about the power and reach of the Supreme Court is, of course, a political issue. Walter Mondale correctly stressed this in 1984 when he insisted that Presidential campaigns are about who will appoint Justices to the Supreme Court. It should also be said that Senate campaigns are about who will confirm Justices to the Supreme Court. Clearly, judicial philosophy is on the mind of a President when he sends a name to the Senate, and judicial philosophy is on the mind of each Senator when he votes on a Supreme Court nominee.

Of the eight remaining Justices of the Supreme Court, three will be over the age of 80 during the next Presidential term. In all probability, the next President and the next Senate will determine the makeup of the Court for decades to come. Few Presidential decisions are more important to the daily lives of citizens than Supreme Court nominations. Few Senate votes are more important to local communities than Supreme Court confirmations. Ultimately the issue of judicial philosophy is one for the people to consider and for the people to decide at the polls. The hearings and the debate on the Bork nomination will put the question squarely to the American people: What do you think about the power and reach of the Supreme Court?

It is fitting that the debate on basic judicial philosophy should coincide with the bicentennial of our Constitution, for the great constitutional issue was the limitations and locus of governmental power. Precisely the same issue will be before the Senate when we vote on the nomination of Judge Bork. The question will be the extent to which legislatures can define and enforce community values versus the readiness of the Court to set aside legislative action as unconstitutional.

Since the early years of our Republic, the Congress and State legislatures have been the implementors of community values, but they have been limited in their exercise of power by the Constitution. The question is whether the Supreme Court strictly construes constitutional language, thereby allowing broad discretion to legislatures, or gives the Constitution an expansive interpretation, thereby contracting legislative discretion.

As Judge Bork puts the problem:

> The courts must be energetic to protect the rights of individuals, but they must also be scrupulous not to deny the majority's legitimate right to govern.

For example, the Court must continue to safeguard important individual rights such as the right to racial equality protected by cases like Brown versus Board of Education; however, the Court should not engage in broad social engineering which encroaches upon the domain of the legislature.

Judge Bork forcefully comes down on the side of strict construction. He believes that the Supreme Court should heed the plain meaning of constitutional language and that it should not invent novel or strained interpretations of clear language in order to replace the policies of elected legislatures with its own. In Judge Bork's words:

> When the judiciary imposes upon democracy limits not to be found in the Constitution, it deprives Americans of a right that is found there, the right to make the laws to govern themselves. As courts intervene more frequently to set aside majoritarian outcomes, they teach the lesson that democratic processes are suspect, essentially unprincipled and untrustworthy.

Some believe that a nominee's personal opinions on a range of social issues should be ascertained before he is placed on the Supreme Court. My own view is that a judge's personal opinions on questions such as abortion should be irrelevant. Supreme Court Justices should not be in the business of supplanting the policies of Congress or of State legislatures with their own political or social views. Public policy should be made by those who are elected by the people, report to the people, and who can be removed by the people. It should not be made by men and women who have been elected by no one, who are isolated in courthouses and who serve for life. The Supreme Court should be in the business of interpreting the law written by elected representatives. It should not be in the business of creating new law out of whole cloth.

Since 1981, I have had the privilege of recommending seven persons to President Reagan for nomination to the U.S. district court. I have never asked any candidate's personal opinion on any political or social issue. I have asked each person I have recommended to state a position on the relative roles of the judicial and legislative branches of government. I do not want a judge who sees his role as an opportunity to impose his own personal opinions on the public, even when I agree with those opinions. The personal opinions of any individual should have no bearing on the person's duties on the bench.

To ideologues of the left or right, it is tempting to select an activist judiciary which will be ready to shove unpopular social policies down the throats of an unwilling public. That is an elitist position which is repugnant to the democratic tradition of our country. The Bork nomination is about democracy versus elitism. It is about philosophy of the judiciary and about philosophy of government. It is about fundamental questions which will be debated before the Nation in this bicentennial year of our Constitution. Those fundamental questions will be voted on first in the U.S. Senate, and then by the people themselves.

PROGRESS ON INF AGREEMENT

Mr. PELL. Mr. President, I welcome Secretary Gorbachev's statement that the Soviet Union is prepared to eliminate all medium- and short-range nuclear missiles. It is a first big step forward.

As chairman of the Senate Foreign Relations Committee and cochairman of the Senate Arms Control Observer Group, I have followed these negotiations closely here and in Geneva and believe there is now a basis for greater optimism. At the same time, it is important to understand that there are still some fundamental disagreements to be resolved, as well as numerous lesser issues.

On the positive side, it has been clear that the retention of 100 or more intermediate-range nuclear warheads on each side would compound verification problems without offering any military benefit. The Gorbachev decision should mean that that particular verification issue could be handled easily and expeditiously.

With regard to the shorter range system, total elimination will remove the possibility of an arms race in that particular type of weapon. That is of positive value.

I see significant benefits from the emerging accord—because it will get the process started. It will get the military bureaucracies on both sides involved in a program of mutual reductions. And, even more important, it will get President Reagan and Secretary Gorbachev themselves involved in the arms control process, after 7 years of stalemate. This would be the first time that specific categories of deployed weapons will have been eliminated through an arms control agreement.

Nonetheless, it is important to place an INF agreement in perspective. Because INF missiles constitute only 3 percent of the superpower arsenals, their elimination would, in itself, have only limited impact on the nuclear competition. Indeed, the administration will deploy more nuclear warheads in the next 9 months than the United States would dismantle in total under a zero-zero accord.

Moreover, an INF accord would eliminate only a small portion of the United States and Soviet theater nuclear forces at a time when the administration's break out from the SALT limits last fall has eliminated all existing constraints on strategic systems. Without a followup agreement on strategic systems, no great progress will have been accomplished except for the fact that this is a first big step.

BICENTENNIAL MINUTE

JULY 23, 1793: DEATH OF ROGER SHERMAN

Mr. DOLE. Mr. President, on July 23, 1793, 194 years ago today, Senator Roger Sherman of Connecticut died in office. Although he served in the First and Second Congresses, Sherman was better known for his achievements in the Continental Congress and the Constitutional Convention. Born in Massachusetts in 1721, Sherman moved to Connecticut at the age of 22. He began his political career 2 years later as surveyor for New Haven

County. Sherman also served for many years in the Connecticut General Assembly.

In 1774, Sherman became a Member of the First Continental Congress, where he supported the American Revolution. By serving 8 years in the Continental Congresses, he held office in those bodies longer than any other Member. Referred to by John Adams as "an old Puritan, as honest as an angel and as firm in the cause of American independence as mount atlas," Sherman was an important early patriot. He was on both the Committee to Draft the Declaration of Independence and the Committee to Draft the Articles of Confederation. At the Constitutional Convention, on June 11, 1787, Sherman introduced the famous "Connecticut Compromise" which established the basis of representation between the Senate and House and ended a deadlock that threatened to destroy the Convention. When he inscribed his name on the Constitution he helped craft, Sherman earned the distinction of being the only person to sign the Constitution, the Articles of Confederation, the Declaration of Independence, and the Articles of Association of 1774.

In 1789, Sherman was elected to the House of Representatives of the First Congress. Two years later, the Connecticut Legislature elected Sherman to the Senate and he began his service on June 13, 1791. After only slightly more than 2 years, Sherman died in office. His death marked the end of the career of a leading American statesman who helped frame our system of government.

THE TEACHING PROFESSION AND U.S. COMPETITIVENESS

Mr. CHAFEE. Mr. President, I should like to take a moment of the Senate's time to reflect on a news item that appeared during the last recess, and as a result may not have gotten much notice. On July 4, the National Education Association closed its annual convention with this prediction: The Nation faces a shortage of qualified teachers—particularly in math and the sciences—and that shortage is getting worse. Polling 128 of the largest school districts in the country, NEA found that schools are lowering their standards to fill the gap. To take just one example, 39 percent of those districts polled said they planned to assign teachers to classes outside their fields.

This doesn't bode well for our children's education, or for our competitiveness as a nation. We can pass all the trade bills we like, but a shortage of qualified teachers is a serious problem in the one place where it all begins: The classroom. It behooves us to give serious thought to why such a shortage might exist, and what we can do about it.

How ridiculous it is that we entrust the most precious assets we have, our children, to individuals to whom we fail to pay a competitive wage. We have our priorities all mixed up! Clearly, there is much we can do to improve teaching conditions. First and foremost, that means paying salaries that reflect the importance of the job we entrust to our teachers.

We should be cutting class sizes down to manageable levels. We should be freeing teachers from bureaucratic burdens like excessive paperwork. We should give teachers more autonomy and more decisionmaking authority. All these steps will free up our teachers to do what they do best, and will help attract and keep the best in the profession.

Attracting and maintaining a high-quality teaching force requires more resources for education, and we, as citizens, recognize this. In a recent poll, 43 percent of those questioned said they would pay higher taxes to increase teacher salaries. In the same poll, two-thirds said that more Federal money should be spent on elementary and secondary education.

We're starting to see some very constructive responses on these points at the Federal, State, and local levels. Here in Congress, we just passed a budget that calls for $2.2 billion in new Federal support for education above what we spent last year. The effects of this additional funding will be far reaching.

For example, the chapter 1 program, providing math and reading instruction to disadvantaged children, will reach hundreds of thousands of additional youngsters. In special education, the Federal share of costs will be increased from 10 to 12 percent. Funding for programs that open doors to needy college students will increase, including student grants, the College Work-Study Program, and the TRIO Programs for students who are the first in their families to attend college. And finally, $50 million will be set aside for the new Dropout Prevention Program authorized in the Senate's trade bill. All told, the budget we have just approved will increase educational spending by nearly $8 billion over what the Reagan administration had proposed.

This increase will work hand-in-hand with all States, such as Rhode Island, have done and are still doing to improve their schools. This year, Rhode Island increased its aid to local school systems by 10 percent over last year's level. And just last month, the legislature approved three major education bills: A comprehensive Literacy and Dropout Prevention Program, a new State policy providing additional support to vocational education, and a $3 million "excellence in education" fund.

These bills contain provisions that hold distinct promise for improving the quality of Rhode Island's schools. For example, school districts that develop "school-site management" programs will be able to compete for $250,000 in incentive grants. The intent of such programs is to give more authority to those at the heart of the action—teachers and principals. Also, school committees will be encouraged to reduce class size to 15 students—a reform that would relieve a major pressure point for classroom teachers.

This approach—encouraging changes that will be good for our teachers and good for our children—is a goal which should be reflected in Federal educational policy. We need to give our serious attention to what we in Congress can do to help promote these changes. For example, schools that aggressively pursue reforms could get a real boost from a program of Federal incentive grants to reduce class size, enhance teacher pay, provide professional development opportunities, and relieve teachers of administrative burdens like paperwork and extra duties.

A program like this could be an effective way to make the most of the new resources that are now being channeled into education, at both the Federal and State levels. We need to capitalize on this opportunity to achieve long-overdue reforms—reforms that will make teaching the "prestige" profession that it has to be if we are to attract and keep the best. Otherwise, we can only look forward to more reports of teacher shortages and of standards being lowered to fill the breach.

A shortage of qualified teachers can have only one result—a shortage of qualified students. We would do well to keep this in mind as we continue our work here in the Senate, giving serious thought to what we might do to make teaching a more rewarding and satisfying profession. We owe this to our teachers and to our children.

RECESS SUBJECT TO CALL OF THE CHAIR

The PRESIDING OFFICER (Mr. CONRAD). Under the previous order, the Senate will stand in recess subject to the call of the Chair.

At 11:04 a.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 11:58 a.m., when called to order by the Presiding Officer [Mr. CONRAD].

CONCLUSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT

The PRESIDING OFFICER. The clerk will report the pending business.

The assistant legislative clerk read as follows:

A joint resolution (H.J. Res. 324) increasing the statutory limit on the public debt.

The Senate continued with the consideration of the joint resolution.

Mr. CHILES. Mr. President, I intend to offer an amendment shortly which will revive the Gramm-Rudman-Hollings law.

The amendment restores the automatic sequester provision, and removes the illusions that crept into the law at the outset.

For the last several days, a number of Democrats and Republicans have been meeting on this issue. In the end, we didn't agree. But at least we got together. I can't help but think that if our phone calls had been answered earlier in the year, we might have all this behind us now.

But here we are—nearing the end of July—and we still have plenty ahead of us. So we've got to get down to business. We are moving on with this amendment because we're confident it will make Gramm-Rudman-Hollings work.

THE REASONS FOR ACTION (I)

The message of this amendment is sharp and clear. We want to make Gramm-Rudman-Hollings stronger so we can eliminate the Federal deficit. And the reasons we need to act decisively were made just as sharp and just as clear last week at a hearing of the Senate Budget Committee.

We met to consider ideas about improving Gramm-Rudman-Hollings. We heard from the Director of the Congressional Budget Office and from the Director of the Office and Management and Budget. Here's part of what we heard.

The Congressional Budget Office gave us revised estimates that showed the Federal deficit climbing and staying high for the next several years. I'll get to the "why" in a minute. But, first, let's talk about how much, and let me illustrate by talking about the deficit estimates for just 2 years, fiscal 1989 and fiscal 1990.

According to the targets in Gramm-Rudman-Hollings, the deficit for 1989 is supposed to be $72 billion. The revised deficit figures from the Congressional Budget Office put the projected baseline deficit at $198 billion.

What does that mean? It means that in just 1 year the deficit would have to be reduced $126 billion.

The 1990 deficit under Gramm-Rudman-Hollings is supposed to be $36 billion. The newly projected baseline deficit is $183 billion, or $147 billion higher than planned.

So that's the how much side of things. If you want to hear about why the deficits are so high, the Congressional Budget Office had something to say about that, as well.

Part of it stems from that so-called deficit-neutral tax law approved in the last Congress. It wasn't really neutral. In fact, it adds a total of $30 billion to the deficit during fiscal 1988 and 1989.

Then, of course, there's the matter of economic assumptions. Inflation and interest rates for 1987 and 1988 are now higher than originally predicted, while real economic growth is lower. I remember there were a lot of skeptics in the Senate about the rosy predictions for the path of the economy. I was one of the skeptics. The problem is, there just weren't enough of us.

But the facts are there. We aren't growing as fast as projected, inflation and interest rates are up, and so is the deficit.

THE REASONS FOR ACTION (II)

Before I talk about the actual provisions of the amendment, I'd like to take a little time to talk about two other key events that make the amendment essential.

Back in December 1985, when Gramm-Rudman-Hollings was approved, some assumptions were made about what the size of the deficit was at the time. The only trouble is, the assumption was off by something like $50 billion.

When the annual targets were established, they were all tied to that original figure—the figure that made the deficit look $50 billion lower than it really was. Ever since, we've had continual frustration. No matter what we did, the deficit was never down to the target.

Was it a lack of will power? Well, I don't want to discount that possibility. But the fact is, if you plan to cut the deficit about $36 billion a year but begin with a deficit $50 billion higher than you thought, you always come up short no matter what you do.

The second event—which took place in July 1986—was the Supreme Court's decision to remove the automatic sequester provision. That sort of took the teeth out of the tiger and made us secure in the idea that we might get scratched, but we won't get bit.

Gramm-Rudman-Hollings was designed with two kinds of enforcement mechanisms. One was a basic sequester formula that said if Congress and the White House can't agree on enough savings in a given year, then we devise enough additional savings, put it a bill and pass it. That was the "fall back" provision, and we've found it to be about as tough as tissue.

But the automatic sequester provision was the primary enforcer. If we failed to work out a budget, then the responsibility was removed from our hands. A third party would determine by what percent all the nonexempt programs would have to be cut, and they would be cut.

Frankly, it was an awful provision. It was so bad, it was to be the outcome everybody would work hard to avoid. It would virtually demand that we all cooperate. But that's what the Supreme Court struck down on separation of powers considerations.

SEQUESTER

Mr. President, this amendment will restore the automatic sequester provision, and revise it to overcome the constitutional objections.

To begin with, the sequester provision would insure that the deficit would be reduced $36 billion every year. While Congress and the President could agree to cut the deficit by more than $36 billion in any given year, the amount of the sequester would not be allowed to exceed $36 billion.

Sequester can be avoided if overall savings are such that the deficit reaches or falls below the new target levels. It can be avoided if the deficit is cut $36 billion as a result of all legislation enacted since the beginning of the current fiscal year.

If Congress and the President make progress toward the $36 billion annual reduction, but come up short, then the size of the sequester would be equal to the remaining difference.

Automatic sequester is the heaviest sort of artillery. It can do a great deal of damage if the trigger is pulled. It could damage national defense. It could devastate critical domestic programs. But if the specter of sequester is what's needed to force cooperation, then it's worth having.

This amendment repairs the mistakes made on the deficit targets when Gramm-Rudman-Hollings was adopted. The new deficit targets are based on the clearest, most direct assessment we have of projected baseline deficits.

For 1988, the target is set at $150 billion. For 1989, the target is $130 billion. In 1990, it will be $90 billion, and in 1991 it will be $45 billion. The target for 1992 is zero.

Now, Mr. President, it's important that we have an accurate idea of reasonable deficit targets. But perfection is a rare thing in this world, and it's even harder to find in Congress. So while perfection is a fine goal, progress is the most important product.

This amendment assures that there will be $36 billion in deficit reduction every year. If we were to rely solely on fixed deficit-reduction targets, and we hit a recession, those targets wouldn't be credible. Moreover, it's not only unrealistic, but it actually feeds a recession.

It's understood that as the economy grows worse, the baseline deficit goes up, putting more distance between the expanding deficit and the deficit target. The greater the distance between the baseline deficit and the target, the more you have to cut.

On the other hand, when the economy is improving, you are required to cut less. That, it seems to me, undermines the discipline we're trying to achieve.

To illustrate, this year Congress made a good-faith effort to get $36 billion in genuine deficit reduction. But now we are told by the Congressional Budget Office that the actual deficit is much higher. With a fixed target, regardless of our previous effort, we would be forced to go back and find billions more in savings or cuts. And that is just not realistic.

So either way you look at it, the fixed targets are more a political emblem than they are an effective tool in the effort to eliminate the deficit.

WHO DECIDES THE SIZE OF SEQUESTER

Mr. President, the reason Gramm-Rudman-Hollings fell on hard times so fast was over the question of who determines the size of the sequester. That issue was at the heart of the Supreme Court's ruling.

This amendment repairs the constitutional problem, and does so in a way that involves the work of three agencies, with ultimate authority vested in the Congress and the President. The agencies involved are the Congressional Budget Office [CBO], the Office of Management and Budget [OMB], and the General Accounting Office [GAO].

The amendment requires up to three review points in which the agencies participate. These review points take place at the end of July, mid-September, and mid-October.

Let me illustrate the process by focusing on the July event. The Office of Management and Budget together with the Congressional Budget Office issue a report on July 25. The report contains their joint estimate of the net deficit savings as of that date, and any required sequester amount—should those savings fall short of the $36 billion in mandated savings.

On July 29, after reviewing this report, the General Accounting Office issues a report confirming or challenging the figures.

On the following day, July 30, a fast-track, nonamendable joint resolution comes before the Congress. Both Houses must vote to certify the figures, and it requires the President's signature. That process puts us all on notice about where we are and how much farther we have to go.

Let us skip, now, to the October process. October 1, the sequester order is to take effect. But this amendment gives us one last chance. If Congress and the President have reached no agreement at all on deficit reduction, we would be up against a $36 billion sequester order. If we have made some progress, we would have until October 15 to finish the job.

If, however, we've made some savings but not the required $36 billion—and were still unable to agree on additional savings—the sequester amount would be the difference between $36 billion and how much we have already saved. We would still have the chance to make the remaining savings on our own. If we failed, sequester would take place.

For the last several days, we have had some disagreements over the role that OMB would have in this process. The administration obviously prefers a freer hand for OMB to decide the sequester amount. I personally think that is a mistake.

I will just point back into the previous time that I have been here, or the 17 years now that I have been here, I have never known OMB to be neutral. It is an arm of the branch of the executive. During the tenure of Presidents of both parties, I have always seen OMB operate in that way. I think whatever is in the best interest of the executive, the administration that is in power at that time, that is the way OMB operates and that is the way their numbers operate.

On the other hand, we have created the Congressional Budget Office and tried to make that a neutral, professional agency. To date, I do not now know of many people that grade it as being partisan. And we have seen CBO Directors that were Democrats and Republicans. We have seen both Houses controlled at one time by Democrats, as they are now, and one time a split and the President of another party. But in the past history, I do not know anyone that now points that CBO as being a political agency. That is not to say that that perhaps could not happen in the future or it could become purely a whipping boy or a lever for the Congress, but I have not seen that happen in the past.

But our dispute was whether you put OMB in charge and say that you would have some neutral figures.

Last year, we wrote in 13 economic variables that OMB would have to consider even after that. I do not think that that is planned to be done this year in the plan that the Republicans are proposing. But last year, in an effort to try to reduce the partisanship or reduce the advantage that OMB might have, the Senate wrote in 13 economic variables that they would have to consider. We subsequently found out that it would be possible, even with that, for OMB to juggle these variables to effect the sequester amount.

If you consider what has already happened this year you can see the opportunities for trouble. The OMB snapshot this year showed a substantial lower deficit than the one determined by the Congressional Budget Office.

Our budget resolution included a deficit of $134 billion, according to the Congressional Budget Office. Now they tell us it is already up to $152 billion because of shifting economic conditions.

I am not suggesting any sinister motives here, but we all know that when it became clear that there was no way to reach the $108 billion deficit target, we ran into a blizzard of eccentric economies to prove that it was really possible when it really was not. We want to avoid that in the future and the best way to do that is to triangulate the numbers to try to get a fix on them by involving more people rather than vesting authority in a single agency.

Mr. President, ultimately, when we started out in our fix, in order to simplify it, we were going to have the predominant factor be the Congressional Budget Office. It was our feeling that this had been a neutral agency—historically, it was supposed to be professional, not always right, but had been neutral and was designed to be that way—and that we would give the power to them.

There was a concern on the part of the Republicans that we were negotiating with that CBO might not always be neutral, that it might change in the future, and that OMB also deserved a role and should be entitled to a role. And so we began to move into that direction. But we did not want to give the entire role to OMB, given their markup, given their historical way of operating and the total history that we see there. So we went back to the role of putting CBO and OMB and GAO into the net of trying to come up with fair figures and having those figures come through the Congress.

Ultimately, Mr. President, the best way to avoid sequester is for the Congress and the White House to act responsibly, to work together to make direct choices to reduce the deficit $36 billion every year until the deficit is gone.

ADDITIONAL CHANGES

This amendment does make a series of other changes. And notable among them is that savings from asset sales cannot count toward deficit reduction for the purposes of avoiding or reducing a sequester.

The amendment makes a series of other changes, and notable among them is that savings from asset sales cannot count toward deficit reduction for purposes of avoiding or reducing a sequester.

It also deals with the key issue that's become known as "defense flexibility." Our amendment preserves the current sequester formula that would require that half of any required cuts would come from domestic programs, and half would come from military programs.

If approved, the amendment would give the President the flexibility to exempt military personnel accounts from a sequester. I think it is clear nobody wants to see soldiers, sailors, airmen, or marines laid off to save money.

But, on the other hand, it seems to me a little out of bounds to give the White House unlimited discretion to pick and choose among the whole range of savings from weapons systems.

Mr. President, this is another one of the problems that we ran into between the two sides, as to what to do on this defense flexibility. When it was originally raised, we did not have any defense flexibility. We did move to accommodate the concern which we have done in this amendment, that allows the flexibility in the personnel accounts. But the request was made from the other side of the aisle, and I assume a lot of that was coming from the White House as well, that there be flexibility in regard to the weapons accounts and that was a sticking point that we had.

If a President had a preference for the MX missile over the Midgetman, for example, he could virtually wipe out the latter program in the name of savings. If a President had a preference for SDI and a prejudice against the Stealth bomber, the same thing could happen.

Mr. President, let me repeat what I said at the beginning. The changes proposed are meant to strengthen Gramm-Rudman-Hollings so that we can eliminate the deficit. These are serious, positive changes.

What I would hope comes from this, is a renewed spirit of combined effort between the White House and Congress, among Republicans and Democrats in the deficit struggle.

This has not been a good year for cooperation. But we won't have many good years at all until we either learn—or are forced—to cooperate. That's what this amendment does. It would pull that lever to sort of force us to cooperate, and I hope it will be approved by the Senate.

Mr. President, I ask that the July 14, 1987, statement to the Senate Budget Committee by Edward Gramlich of the Congressional Budget Office, along with material detailing the pending amendment, be printed at this point in the RECORD.

There being no objection, the statement was ordered to be printed in the RECORD, as follows:

STATEMENT OF EDWARD M. GRAMLICH, ACTING DIRECTOR, CONGRESSIONAL BUDGET OFFICE

I am pleased to testify this morning on the Congressional Budget Office's (CBO's) preliminary summer economic and baseline budget projections. While CBO would normally not be making estimates public at this time, we are doing so this year at the request of the chairman and the ranking member of this committee. The figures are preliminary, however, and may change somewhat before we complete our summer update report and our sequestration report in mid-August. Moreover, the estimates were prepared without benefit of the Department of Agriculture's first crop survey for the current growing season. They also do not reflect actual data on the gross national product (GNP) for the second quarter of the year, which will not be released until July 24. Our final estimates will benefit from both these and other upcoming data.

BASELINE BUDGET PROJECTIONS

Table 1 shows our preliminary summer estimates of baseline outlays, revenues, and the deficit and compares them with CBO's winter baseline. While our winter baseline deficit projection declined steadily from $176 billion in 1987 to $84 billion in 1992, the new estimates show a different pattern. Because of unexpectedly strong revenue growth, the 1987 deficit is now estimated at $161 billion. The deficit then rises to $181 billion in 1988 and $198 billion in 1989 before beginning a slow decline.

This puzzling pattern of deficits is caused largely by the phase-in of the Tax Reform Act and by various one-time outlay reductions, as shown in Table 2. Tax reform has added about $18 billion to revenues in 1987, but will reduce revenues by $13 billion in 1988 and $17 billion in 1989. Asset sales, loan prepayments, the one-day delay of the military pay date, and other one-time outlay reductions total $16 billion in 1987 and $3 billion in 1988. Removing these two items yields an adjusted deficit that averages about $175 billion over the next several years. These adjusted deficits decline relative to GNP—from 4.4 percent of GNP in 1987 to 2.6 percent in 1992—but at a slower rate than in our previous projections.

Table 3 details the changes to our baseline budget projections since our last report. The most significant changes stem from revisions to our economic projections. The supplemental appropriations bill, which allows prepayment of additional Rural Electrification Administration (REA) loans without penalty, lowers 1988 outlays. Technical reestimates resulting primarily from new data on taxable incomes have raised revenues a bit in all years. Our preliminary estimates also follow the recent General Accounting Office (GAO) opinion, and they assume that the thrift savings fund is not included in the budget totals. As a result, the thrift fund's receipt of voluntary employee contributions would no longer be treated as reducing the deficit, and agency contributions would add to the deficit.

ECONOMIC PROJECTIONS

The major differences between our revised economic projections and those in our January report are higher inflation and interest rates for 1987 and 1988 and lower real economic growth in all years. Table 4 summarizes our preliminary economic assumptions and compares them with the January figures.

Consumer price inflation is higher than we assumed in January for two reasons:

Oil prices have risen much more this spring than we expected; and

The dollar has fallen much more than expected.

The oil price increase has already shown up at the gasoline pump and elsewhere, but the lower dollar will continue to raise the cost of imported goods and other consumer purchases through the end of 1988. Because of the current amount of slack in the economy, however, we do not expect these price increases to touch off a wage-price explosion, such as happened in the 1970s. We assume, therefore, that the increase in inflation will be temporary.

Interest rates in our preliminary forecast are also higher than we assumed in January. In large part, this rise is a reflection of increases in interest rates that have already taken place. We expect that higher interest rates will persist through the end of 1988, both because of higher inflation and because of the Federal Reserve's announced intention to lean against further declines in the dollar.

The reduction in the real GNP growth forecast for 1987 and 1988 results from the higher interest rates and the adverse effect of higher inflation on household real incomes. The change in the growth assumptions after 1988 arises from a reappraisal of the long-run growth prospects of the economy, which CBO initiated late last year. Our analysis has also benefited from new long-run force projections, which were released by the Bureau of Labor Statistics in June.

The revised long-run growth path assumes that, after adjusting for cyclical changes, growth of gross domestic product (GDP) will exceed growth of the labor force by about one percentage point, the same amount as in the 1981-1987 period. Nonfarm productivity, as conventionally measured, grows by close to 1½ percent per year. In addition, CBO assumes that by 1992 the economy will reach an average operating rate—that is, a level somewhat below its full capacity. The level of real GDP that we project as a result of these assumptions is still slightly above the average of five private forecasts, as shown in Figure 1.

We have not seen any new information that would call for significant changes in this preliminary economic forecast, which we developed in mid-June. We are, however, particularly concerned about movements in prices, the exchange rate, and interest rates. Many private forecasters expect lower consumer price inflation for 1987 and 1988 than is in our preliminary forecast, apparently because they expect smaller increases in import prices. Interest rates have also fallen a little since mid-June, and this drop will probably lower our short-term interest rate projections by a few tenths of a percentage point in August.

Small changes in these economic assumptions may have a large effect on the budget. In particular, as the federal debt has grown rapidly during the 1980s, outlays have become increasingly sensitive to both the level and term structure of interest rates. As Table 5 shows, a change of one percentage point in all government interest rates would affect net interest outlays by amounts growing from $5 billion in 1988 to $25 billion in 1992. Even if short-term interest rates could be projected exactly, a one-percentage-point difference in medium- and long-term rates would still change outlays substantially.

CONGRESSIONAL BUDGET RESOLUTION

Let me also report the effects of our reestimates on the recently adopted Congressional budget resolution for fiscal year 1988. Under CBO's winter assumptions, the policies of the budget resolution would have resulted in deficits of $134 billion in 1988, $115 billion in 1989, and $72 billion in 1990. Under our new economic and technical assumptions, the deficit figures would be $151 billion in 1988, $147 billion in 1989, and $117 billion in 1990, as shown in Table 6. The reestimates reflect mainly the revised economic assumptions discussed previously. Recently enacted legislation does not affect the budget resolution estimates, because most of the items included in the supplemental appropriation, including the REA prepayments, were already assumed in the budget resolution. An additional $30 billion in deficit reduction measures called for by the budget resolution, however, remain to be enacted.

TABLE 1.—PRELIMINARY REESTIMATES OF CBO BASELINE

[By fiscal year, in billions of dollars]

	1987	1988	1989	1990	1991	1992
Outlays:						
Winter baseline	1,010	1,071	1,126	1,188	1,248	1,306
Preliminary reestimates	3	7	25	30	38	46
Preliminary baseline	1,013	1,078	1,152	1,218	1,286	1,352
Revenues:						
Winter baseline	834	900	962	1,051	1,139	1,222
Preliminary reestimates	18	−4	−8	−17	−26	−30
Preliminary baseline	852	897	954	1,034	1,113	1,192
Deficit:						
Winter baseline	176	171	164	137	109	84
Preliminary reestimates	−15	11	33	47	64	76
Preliminary baseline	161	181	198	183	173	160

TABLE 2.—EFFECT OF TAX REFORM AND ONE-TIME OUTLAY SAVINGS ON DEFICIT

[By fiscal year, in billions of dollars]

	1987	1988	1989	1990	1991	1992
Preliminary baseline deficit	161	181	198	183	173	160
Adjustment for:						
Tax reform	18	−13	−17	−4	2	−1
One-time outlay savings [1]	16	3	−2	−1	−1	−1
Total adjustments	34	−10	−19	−5	1	−2
Adjusted deficit	194	171	179	178	174	157
As a Percent of GNP						
Preliminary baseline deficit	3.7	3.9	4.0	3.4	3.0	2.6
Adjusted deficit	4.4	3.7	3.6	3.3	3.0	2.6

[1] Includes asset sales, loan prepayments, OCS escrow releases, military pay delay, Medicare payment delay, and advance of final revenue sharing payment.

TABLE 3.—DETAIL OF PRELIMINARY BASELINE REESTIMATES

[By fiscal year, in billions of dollars]

	1987	1988	1989	1990	1991	1992
Outlays						
Enacted Legislation	2	−7	1	1	0	0
Economic reestimates:						
Interest rates	1	11	13	13	15	17
Cost-of-living adjustments		1	4	6	9	10
Discretionary inflation adjustments			1	1	1	1
Other	−1	−1				
Subtotal		11	18	21	25	28
Technical reestimates		1	2	1	2	3
Debt service		−1	1	3	7	11
Thrift fund accounting	1	3	3	3	3	3
Total	3	7	25	30	38	46
Revenues						
Economic reestimates	−8	−13	−17	−25	−32	−38
Technical reestimates	26	9	9	8	6	8
Total	18	−4	−8	−17	−26	−30

TABLE 3.—DETAIL OF PRELIMINARY BASELINE REESTIMATES—Continued

[By fiscal year, in billions of dollars]

	1987	1988	1989	1990	1991	1992
Deficit						
Enacted legislation	2	−7	1	1		
Economic reestimates	8	24	35	46	57	66
Technical reestimates	−26	−9	−6	−7	−4	−5
Debt service		−1	1	3	7	11
Thrift fund accounting	1	3	3	3	3	3
Total	−15	11	33	47	64	76

TABLE 4.—COMPARISON OF CBO WINTER ECONOMIC PROJECTIONS AND PRELIMINARY SUMMER PROJECTIONS

[By calendar year]

	Actual	Forecast		Projected			
	1986	1987	1988	1989	1990	1991	1992
GNP (billions of current dollars):							
Summer	4,206	4,447	4,753	5,075	5,425	5,800	6,200
Winter	4,216	4,469	4,779	5,124	5,503	5,888	6,288
Real GNP growth (percent change):							
Summer	2.5	2.5	2.5	2.5	2.6	2.6	2.6
Winter	2.6	2.8	3.0	3.0	3.1	2.7	2.5
CPI-W (percent change):							
Summer	1.6	3.8	5.6	5.0	4.5	4.5	4.6
Winter	1.6	3.5	4.3	4.3	4.3	4.3	4.3
3-month Treasury bill rate (percent):							
Summer	6.0	6.1	6.6	5.9	5.9	5.9	5.9
Winter	6.0	5.6	5.7	5.6	5.5	5.3	5.2
10-Year Government bond rate (percent):							
Summer	7.7	8.4	8.7	7.6	7.2	6.8	6.4
Winter	7.7	7.2	7.2	6.6	6.2	5.9	5.6

TABLE 5.—EFFECTS ON CBO BASELINE BUDGET PROJECTIONS OF SELECTED CHANGES IN ECONOMIC ASSUMPTIONS

[By fiscal year, in billions of dollars]

	1988	1989	1990	1991	1992
Interest rates:					
Effect on net interest outlays of a 1 percentage point change in all interest rates beginning October 1987	5	11	16	20	25
Effect on net interest outlays of a 1 percentage point change in medium- and long-term rates beginning October 1987	2	6	10	14	17
Consumer prices: Effect of a 0.5 percentage point change in cost-of-living adjustments in January 1989 and 1990	0	1	3	4	4

TABLE 6.—PRELIMINARY REESTIMATES OF CONGRESSIONAL BUDGET RESOLUTION

[By fiscal year, in billions of dollars]

	1988	1989	1990
Budget resolution deficit under CBO winter assumptions	134	115	72
Preliminary CBO reestimates:			
Economic reestimates	24	34	45
Technical reestimates	−9	−6	−7
Debt service	−1	1	4
Thrift fund accounting	3	3	3
Total reestimates	17	32	45
Preliminary reestimate of budget resolution deficit	151	147	117

FACT SHEET ON GRAMM-RUDMAN-HOLLINGS RESTORATION AMENDMENT

REVISION OF DEFICIT TARGETS

	1988	1989	1990	1991	1992
Original target	$108	$72	$36	0	0
New CBO baseline	181	198	183	$173	$160
New deficit targets	150	130	90	45	0

RESTORATION OF AUTOMATIC SEQUESTER

OMB and CBO will write advisory sequester reports in May which would mathematically compute the amounts each program would be cut under a full $36 billion sequester. OMB will issue a final sequester report on June 1 based on the OMB/CBO reports.

The President will issue the sequester order on September 1 which will take effect in October unless Congress and the President act to avoid sequester. Maximum sequester is always $36 billion.

No change in current sequester formula: 50% defense, 50% domestic. Presidential flexibility in military personal cuts, as in 1986 sequester. No changes in exemptions or special rules.

Sequester order can be avoided by "fast-track reconciliation" or normal legislation; Congress and President have 4 months to act.

PREVENTING A SEQUESTER

Sequester is avoided if $36 billion in policy reductions below baseline are enacted or if the new deficit target is reached.

Amount of sequester will equal the amount of savings necessary to reduce the annual deficit by $36 billion below baseline or to reach the fixed target, whichever amount is smaller.

CBO and OMB will issue reports in July and September certifying net deficit savings to date and the remaining sequester amount. GAO reviews these reports and send its own report to Congress for immediate consideration in both Houses as a joint resolution. Resolution's enactment changes sequester amount. At option of Congress, CBO reports (attached to normal legislation) can also adjust sequester amount, if enacted.

In October, OMB and CBO will issue a final clean-up estimate taking account of all deficit savings and additions made by legislative and regulatory actions to date. GAO will issue a final report resolving differences.

The GAO report will be set forth before Congress as a nonamendable, fast-track joint resolution, and, if enacted, will determine the size of a final sequester (if any). If not enacted, the sequester amount will equal whatever remaining savings are required to reduce the deficit by $36 billion or to reach the target, as most recently certified by GAO and passed into law.

LIMITATION OF OMB'S ROLE

OMB and the President will not have authority to determine the size of the sequester or have any flexibility in determining program priorities under a sequester.

TIMETABLE

(FY 1988 Dates in Parentheses if Different).

Jan./Feb.: OMB/CBO Baseline Estimates.

March 1: GAO Determines Common Baseline Based on OMB/CBO.

May 18 (8/20): OMB/CBO $36 Billion Preliminary Sequester Report.

June 1 (9/8): OMB's $36 Billion Final Sequester Report.

Ongoing: Optional CBO Running Total of Net Deficit Savings.

July 25: OMB/CBO Rept on Net Savings & Sequester Amount.

July 29: GAO Report on Net Savings & Sequester Amount.

July 30: Congress Votes on GAO Rept.

Sept. 1 (9/14): President Issues Initial Sequester Order.

Sept. 8: OMB/CBO Rept on Net Savings & Sequester Amount.

Sept. 12: GAO Report on Net Savings & Sequester Amount.

Sept. 13: Congress Votes on GAO Rept.

Oct. 1: President's Initial Sequester Order Effective.

Oct. 10: OMB/CBO Rept on Net Savings & Sequester Amount.

Oct. 14: Final GAO Report on Net Savings & Sequester Amount.

Oct. 15: Congress Votes on Final GAO Report.

Late Oct.: President's Final Sequester Order Effective.

FACT SHEET ON MISCELLANEOUS FISCAL REFORMS

Prohibit Counting as Savings the Shift of Government Payments from one Year to Another: Provide that where Government payments are shifted from one fiscal year to an adjacent fiscal year without reducing the cost to the Government over the two fiscal years, that shift would not be treated as causing a reduction in outlays for the fiscal year from which the payments were shifted.

Financial Management Reform: Provide the sense of the Congress that the Congress shall adopt as part of reconciliation a plan to ensure improvements in the Government's financial management.

Extension of State and Local Cost Estimates: Repeal the sunset provision of the State and Local Government Cost Estimate Act of 1981 so as to extend CBO's authority to conduct these estimates of costs imposed on state and local governments.

Extraneous Provisions: Extend to 1992 the Byrd Rule prohibition extraneous provisions on reconciliation legislation. Extend the rule to prohibit programs that expand in the out-years to exceed savings in the same title.

Prohibit Policy Deferrals: Confirm the reporting requirement for deferrals and codify the *New Haven* decision.

Rescissions: Confirm Congressional intent that rescissions cannot be repeatedly resubmitted during one year.

Single Set of Economics: Require a single set of economics in the budget resolution.

Time Limit on Debate on Budget Resolution Conference Report: Clarify Congressional intent that time for amendments (if allowable) and points of order must come out of the total time envelope for the budget resolution conference report.

U.S. Congress,
Congressional Budget Office,
Washington, DC, May 8, 1987.

Memorandum to: Rick Brandon, Bill Hoagland, Steve Pruitt, Martha Phillips.

From: Jim Blum.

Subject: GRH II Analysis.

CBO was asked to estimate how much variation might be possible in CBO's and OMB's deficit estimates if we had to use the same values for the 15 economic variables specified in S. 75, otherwise known as Gramm-Rudman-Hollings II. The attached paper discusses the question of possible variation, and uses some illustrative numbers to demonstrate that the variation could be quite large. I thought that you would be interested in having this analysis.

ECONOMIC ASSUMPTIONS IN GRAMM-RUDMAN-HOLLINGS II

A proposed change to the Balanced Budget Act would require the Temporary Joint Committee on Deficit Reduction to set economic assumptions to be used by the Directors of the Office of Management and Budget (OMB) and the Congressional Budget Office (CBO). Proposed legislative language lists 15 economic assumptions for which fiscal year averages would be specified (Table 1). This memorandum provides some examples showing why this approach may not eliminate variations in budget estimates arising from economic assumptions:

Economic assumptions for the remainder of the current fiscal year are not specified.

Nothing is said about the quarterly pattern of the economy during the budget year in question.

Other, subsidiary economic variables—besides the 15 listed—as well as technical assumptions that interact with the economic forecast are left up to the agencies.

As will be shown below, the third factor is the most important.

ECONOMIC ASSUMPTIONS FOR THE CURRENT FISCAL YEAR

OMB and CBO prepare their initial sequestration report for a fiscal year in August of the preceding fiscal year. These forecasts contain estimates of economic activity from the third calendar quarter on, and often, preliminary or estimated data for the second calendar quarter as well.

While the legislative proposal would specify assumptions about the economy for the budget year, economic activity during the rest of the current fiscal year also affects the budget year. These effects are most important in three areas:

Revenues.—Because of lags in revenue collection, taxes on some of the income earned in one fiscal year are not collected until the next. For some taxes, federal budget receipts are reasonably simultaneous with economic activity: personal income and employment taxes are withheld from wages, and other taxes often involve quarterly payments of estimated liabilities. But individuals and businesses are not required to make final settlements of calendar year liabilities until the following year. Thus, different assumptions about the economy's performance in one fiscal year affect federal government revenues in the next.

Cost-of-living adjustments.—Increases in Social Security and many other benefit programs are paid beginning in January, based on the consumer price index in the third calendar quarter (the final fiscal quarter) of the past year. This index is known in late October.

Interest costs.—In a typical quarter, the Treasury Department borrows approximately $50 billion in new cash and refinances almost $300 billion in existing marketable debt. Interest rates on debt borrowed in one year critically affect interest costs in the next.

By failing to specify economic assumptions for the rest of the current year, the proposed legislation leaves room for disagreement.

ECONOMIC ASSUMPTIONS FOR THE BUDGET YEAR

The proposal requires the Temporary Joint Committee to specify fiscal year averages for the economic variables. But the quarterly patterns of economic activity are not specified.

This lack of specificity has the greatest effects on revenues and net interest estimates. In general, for a given annual total of fiscal year gross national product (GNP), revenues will be higher if economic growth starts off strong and weakens later in the fiscal year. This conclusion arises from lags in the revenue collection process. (For example, strong growth in the first fiscal quarter ensures higher final settlements the following April 15.) The quarterly pattern of economic activity may also interact with scheduled changes in tax law; for example, individual income tax rates will drop in January 1988 under the Tax Reform Act of 1986.

Changes in interest rates late in a fiscal year have little effect on that year's outlays. Debt borrowed in the first fiscal quarter is outstanding for most of the year; debt borrowed in the last quarter only a trivial part of the year. Thus for a given fiscal year average, interest rates that climb throughout the year favor a lower deficit.

While federal government revenues and interest costs are most sensitive to the quarterly pattern of the economy, certain other spending programs are also affected. For example, unemployment compensation outlays are also lower if economic activity is strong early in the year.

OTHER ASSUMPTIONS

The 15 variables listed are the most important economic variables for budget projections. Nevertheless, budget analysts make assumptions about other economic variables. They also make myriads of technical assumptions that often interact with economic variables.

Subsidiary economic assumptions.—Economic assumptions other than those listed have important effects on outlays for entitlement programs and net interest. (The Balanced Budget Act is very specific about projections for discretionary programs, and these are unaffected by the economic assumptions.)

Medical care inflation primarily affects spending for Medicaid and Medicare. While hospital reimbursement rates are currently fixed in law, spending for physician services and for Medicaid still varies with changes in medical inflation.

Unemployment insurance spending depends not on the overall unemployment rate but the insured unemployment rate. The relation between the two unemployment rates often varies. Regional economic disparities also matter: statewide insured unemployment rates determine the prevalence of the extended benefit program.

Net interest costs hinge on Treasury borrowing rates for a wide range of maturities, from three months to 30 years. Contrasting assumptions about the shape of the yield curve can cause estimates to differ.

Technical assumptions.—The distinction between economic and technical assumptions sometimes is not clear-cut. Many assumptions usually labeled technical, in fact, are related to the economic forecast or contain hypotheses about the response of revenues and outlays to the economy.

Examples of such assumptions that affect revenues include: the distribution of income among taxpayers; the use of tax preferences; the speed of taxpayers' adjustments to new withholding schedules; adjustments in corporate income tax payment schedules; and the remittance of periodic fees (such as energy escrows).

A few such assumptions that affect benefit programs include: decisions by individuals to seek benefits for which they may be eligible; states' actions extending benefits in joint federal/state programs; average benefit levels and rates of benefit exhaustion in unemployment insurance; medical utilization; and others.

Net interest contains a prime example of the importance of technical assumptions, namely estimates of the mix of Treasury financing. Because long-term interest rates are usually two to three percentage points higher than short-term rates, assumptions about the composition of Treasury financing are important. For example, both the 1987 and 1988 budgets have assumed that 50 percent of future marketable borrowing would take place in short-term Treasury bills—an assumption sharply different from recent Treasury practice.

Finally, while the list of economically sensitive outlays is usually confined to benefit programs and interest costs, economic assumptions affect many other federal government programs. For example, spending for farm price supports depends on economic developments in the agriculture sector, while outlays for deposit insurance reflect, in part, interest rate trends and regional economic distress. Outer continental shelf oil receipts depend on the oil industry outlook, and international monetary programs are affected by changes in the dollar's value. Differences in estimates for these programs, however, are usually labeled technical.

ILLUSTRATION AND CONCLUSION

Table 2 shows the effects on fiscal year 1988 budget projections of some of the most important factors discussed above.

The first few entries in Table 2 illustrate some potential consequences of failing to specify quarterly economic assumptions. For these illustrations, CBO constructed alternative quarterly patterns for several variables that yield the same fiscal year 1988 averages as in the CBO baseline but that favor lower deficits. To bias the comparison further, CBO also assumed better economic performance in the second half of fiscal year 1987 than in the baseline—because the proposed legislative language is silent about the current year. As shown in the table, these assumptions readily yield a deficit that is $5 billion lower in 1988.

The remaining entries illustrate some consequences of varying subsidiary economic assumptions, or technical assumptions that interact with the economy. Under the selected assumptions shown in the table, the deficit could be $13 billion lower in 1988.

The total variation of $18 billion shown in Table 2 is merely illustrative, showing that specifying the 15 variables listed may not prevent large variations in deficit projections. The actual disagreement in budget estimates could be greater or smaller.

TABLE 1. ECONOMIC ASSUMPTIONS TO BE SPECIFIED BY THE JOINT COMMITTEE ON DEFICIT REDUCTION (PROPOSED)

Nominal gross national product.
Real gross national product.
Gross national product deflator.
Consumer price index (all urban consumers).
Consumer price index (urban wage and clerical workers).
Civilian unemployment rate.
Three-month Treasury bill rate.
Ten-year Treasury bond rate.
Corporate profits (economic).
Wage and salary disbursements.
Other taxable income.
Capital consumption adjustment.
Inventory valuation adjustment.
Average refiners' acquisition price for oil.
Merchandise imports.

NOTE.—Under the proposed change, the Joint Committee on Deficit Reduction would specify fiscal year averages for the variables listed.

TABLE 2.—ILLUSTRATIVE VARIATIONS IN FISCAL YEAR 1988 BUDGET ESTIMATES DUE TO ALTERNATIVE QUARTERLY PATTERNS AND OTHER SELECTED SOURCES

[In billions of dollars]

	Revenues	Outlays	Deficit
Variations from failure to specify quarterly economic assumptions: [1]			
Alternative GNP pattern	1.4		−1.4
One percentage point lower COLA in January		−2.1	−2.1
Alternative quarterly interest rate pattern		−1.3	−1.3
Alternative quarterly unemployment rate pattern		−.1	−.1
Subtotal	1.4	−3.5	−4.9
Variations stemming from subsidiary economic and technical assumptions:			
One percentage point lower medical care inflation		−.6	−.6
Larger insured vs. overall unemployment differential		−.5	−.5
Flat vs. steep yield curve		−2.5	−2.5
Treasury financing mix (50 percent short-term)		−.6	−.6
$300 higher taxable wage ceiling (FICA)	.4		−.4
Delayed payment of fees	.8		−.8
Delayed taxpayer adjustment to new withholding schedule	5.5		−5.5
Different payment schedule for corporations	2.5		−2.5
Subtotal	9.2	−4.2	−13.4
Total	10.6	−7.7	−18.3

[1] Includes different quarterly patterns in both the remainder of the current fiscal year and the budget year.

AMENDMENT NO. 626

Mr. CHILES. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The assistant legislative clerk read as follows:

The Senator from Florida (Mr. CHILES), proposes an amendment numbered 626.

Mr. CHILES. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment of Mr. CHILES is printed under Amendments Submitted.)

Mr. CHILES. This is the amendment I discussed and I think our proposal now is to continue to discuss that.

We had a meeting, sort of, of both sides. I think now we propose to discuss this until our respective caucuses are going to meet around 1 o'clock.

Then, after that we will come back to the floor and perhaps discuss a possible time agreement as to when we could have a vote.

My understanding is that we would, perhaps, first have a vote on the amendment that I had proposed. If it did not pass then the distinguished ranking member of the Budget Committee, my friend from New Mexico, would propose an amendment and then we would have some time agreement on that and we would take that up.

I would hope that we could have those votes taken sometime this afternoon so that we would sort of know where we stand, given the fact that our debt limit is going to run out—Tuesday is sort of the drop-dead date and I know none of us want that to happen. We have got to determine where the votes are for some resolution in this regard.

I yield the floor.

Mr. DOMENICI. Reserving the right to object to the reading of the amendment, I yield to the distinguished majority leader.

ORDER FOR RECESS FROM 1 TO 2 P.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess today from the hours of 1 p.m. to 2 p.m. to allow the party conferences to discuss this debt limit extension and the amendment thereto, to which the distinguished Senator from Florida alluded.

Mr. CHILES. I might say to my good friend you might want to wait to enter that to see whether we want to read this amendment. We might want to read it during that time, if we need to read it.

Mr. DOMENICI. I am not objecting to the majority leader's request.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. DOMENICI. Reserving the right to object with respect to the reading of the amendment—

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Let me just say I shall not object.

The PRESIDING OFFICER. It is so ordered.

Mr. DOMENICI. I am still reserving my right, but I am telling you I am not going to object so my friend will not have to be worried.

But I just want to say that I am sorely tempted to have it read. In fact, I am sorely tempted to have just the first 3 pages of the 86-page amendment read because we assume around here that people read what is proposed and, as a matter of fact, the very reason that the Senator from New Mexico will have another amendment, different from this, has to do with simplicity and understandability of a process. I think reading the first three pages would indicate that perhaps I have a little bit of justification for concern. But I will assume that we are all very dedicated people around here and that we will read, not only the first 3 but all 86 and that at some point in the middle of it will read a couple of sections where there is one sentence that I think goes on for three pages—three and a half without a period, and see if the Senator from New Mexico does not at least make a point. We are trying to fix something and make it certain and yet it appears to me that what this amendment does is to make very many things uncertain.

Having said that, I have no objection to not reading the amendment and we will proceed under the order propounded by the majority leader to take a recess at 1 and we will go to our conference and you will go to yours and we will come back at 2 and begin the debate.

The PRESIDING OFFICER. Without objection, reading of the amendment will be dispensed with.

Mr. CHILES. I yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I am not being facetious, I am not going to debate the so-called Chiles-Gramm-Rudman-Hollings fix at this point because I am just very honest with the Senate. We worked very hard trying to come up with a bipartisan compromise. It was so complicated that at the end I acknowledged to myself that I did not understand what we were doing, and now what has happened, not by way of criticizing anyone, but actually the final draft has taken parts of the original Chiles proposal and then parts of the negotiation that had taken place and where temporary accord had been reached. Now parts are in and parts are out. Frankly, I need a little bit of time to analyze it in order to make my argument to the U.S. Senate as to why we should not do it.

Suffice it to say for the Members of the Senate, and for the American people, clearly some very, very important things are happening.

The Irangate hearings seem to preoccupy everyone. If it was not that it was, here in this institution, it was the trade bill which went on sort of ad nauseam, while something very, very important to the American people, to every single businessman, large and small, in this country, to every pensioner, around, has been occurring.

We have ourself on a path where, from time to time, even though Congress and Presidents vote in and sign appropriations bills and we have a debt and it continues to grow, we have set ourself on this path of approving a debt limit every now and then.

Well, everybody ought to know that not only at this point in time, on this date, has the last extension of the credit of the United States expired but, believe it or not, after building up 200 years of credit in the world where American Treasury bills and American obligations are the absolute foundation of credibility and strength in the monetary and currency systems of the world, we are operating on a cash basis right now.

We are hopeful from day to day that there is enough money coming into the Treasury to pay the bills because we cannot borrow any money.

Mr. President, on the 29th day of this month, for the first time in the history of the Republic, we are probably going to default on Treasury obligations of the United States of America, and I do not know who is going to come first. I do not know whether it is some bank that holds them or some poor pensioner who bought them, but we are not going to be able to pay those U.S. obligations. We now have before us today a 1-year extension of that debt limit authority so our Government can continue to operate, not willy-nilly but pursuant to the laws we have already passed, the money we have already obligated.

So here that event is occurring.

I might say just parenthetically for those who do not think this is a very important issue that we ought to get it over with quickly, on August 3 so all the pensioners in the United States will know there is no money to pay the pension plans in this country. That does not mean just civil service and military. I am including in that Social Security. We do not have the money to pay them because the cash flow will run out and we have to borrow money, which we all understand we do from time to time when you are running a government this big and have a deficit as large as ours. We will not be able to do that.

I just would like to set the stage and have everybody understand that. That is what we are talking about here. Let us get something done and get it over with.

Now No. 2: This Gramm-Rudman-Hollings sequester proposition that the U.S. Senate adopted 2 years ago, and which was carried out piecemeal one time—we have the experience of a one-time, my recollection is a 4.3-percent sequester on the domestic side—we all heard about that. We knew what that amounted to. It cannot help but be arbitrary because we have decided as a Congress what programs we are going to exclude and then we have taken a few health programs and we have said they can only get hit 2 percent. The rest of Government gets hit across the board on the domestic side and defense gets hit across the board for 50 percent of this deficit.

Everybody ought to know that there is no game plan in town—let me repeat, there is no game plan in town—not even full implementation of the budget passed by the majority party in the Senate and the House, that can avoid a sequester unless we do something.

If we do not change the targets, even that budget fully implemented would not get us to the target that it assumes, a substitute for the $108 billion, because we now have an estimate that it is off by a substantial number of billions and, consequently, if we had a Gramm-Rudman-Hollings fix in place and ready to go, and if it was the $134 billion that we all assumed this year by updating the President's budget with current economics and other things, and if we implemented the entire Democratic budget with $19 billion to $21 billion worth of taxes, we would still have a sequester. That is why we are changing the targets.

So I agree with the distinguished chairman that if we are going to fix Gramm-Rudman-Hollings, we have to take into account that when we started the process, we were off by some $50 billion in our estimates, and, since then, principally, Mr. President, because of the passage of the tax reform bill, we all stood here on the floor and talked about it, we said the year that we are in right now we are going to get a nice bonus from the tax bill, something like $22 billion.

That is why I stood in this place and challenged my good friend Senator PROXMIRE and said, "This year, the year we are in, we will reach the target."

For those who wonder whether we did, that target with the window for a margin of error was $154 billion. I predict the deficit for this year will be $155 billion. I think the distinguished Senator from Wisconsin who voted against everything last year on that approach said we were going to be off by literally scores and scores of billions. Well, we were, but let me suggest that was because we were telling everyone the way the tax law was written we would get a great big kicker in the year we are in.

But, as predicted, most estimators are saying next year and the year after we are not going to get revenue coming into the Federal Treasury at an expected increase each year because of growth, but, rather, there is going to be a big dip because of the reforms which indeed gave many people tax breaks that they did not have before. We are all aware of that. While it took away from some, it gave to many, and it lowered the rates. So we needed to fix the targets. I have no objection to the numbers that the distinguished chairman is talking about. Clearly, my best estimate for the Senate is that off of the current, as of today, best estimates of the deficit for 1988 and 1989, that the numbers suggested, $150 billion and $130 billion as the targets for 1988 and 1989, my best estimate is that that is right around $36 billion in reductions from current policy.

So that is the reason for the strange appearing numbers, but it is because the deficit is going up because of what I have just explained, and a couple of other things. So the targets are not a matter of debate from the standpoint of the Senator from New Mexico. Basically, what we want to do—and then I will sit down—is we want the Senate to adopt as simple an approach as humanly possible to bring this deficit down to those targets—$150 billion and $130 billion, $36 billion the next year after—and getting down to balance in 1992.

We believe they ought to be fixed and that we ought to have the same margin of error that we maintained before, the $10 billion, for the error that we might make in economics and in estimates.

So one big difference right off the bat that we ought to talk about is we fix the targets and with those targets we are not in disagreement, that they should be achieved, that they are credible and consistent with an extrapolation of Gramm-Rudman-Hollings as originally adopted, modified to take into account what we all knew was going to happen because we went too fast the first year and because of the tax bill. So with those we do not have any argument.

We do not think it ought to float no more than $36 billion. We think it just ought to be fixed and give ourselves a $10 billion latitude in each one of those targets.

Now, Mr. President, I want to say a word about defense flexibility and then I will wait until we have had our conferences and talk a little bit more about why the Senate, in my opinion, should not adopt the Chiles amendment.

Before I speak about defense flexibility for a moment, let me suggest so everyone will generally have an idea—I facetiously spoke of reading the Chiles amendment—I can say that the amendment that we are offering, subject to very few changes, certainly has been read by a lot of people. The presumption is that when the U.S. Senate passes something, some people have read it, at least more than will have read an amendment that is tendered today, that is very complex.

We are offering essentially, essentially, with new targets, the amendment that was found to be constitutional by every expert around. The Senate passed that amendment to reinstate the automatic trigger 63 votes to 36 many, many months ago. For all of that time the amendment has been there for people to study, for lawyers to quibble with and pick at on constitutionality, for experts in baselines to argue about. It is essentially the same amendment.

Because it is late in the year we need an amendment to fix up this year, and after we have adopted it, and I hope we will, we need to address an issue of defense flexibility.

Let me tell you, the distinguished chairman has offered a little part of what we negotiated on defense flexibility. Everybody should know that the defense flexibility which is in the pending amendment is almost, almost giving the defense of our Nation nothing. Why?

Well, Mr. President, let me suggest to you when it comes to domestic spending in our land and the Gramm-Rudman sequester process, we went to great lengths, let me assure you, to produce domestic program flexibility. How? We exempted programs, for starters, to which we were afraid to have a sequester applied because they were important.

Then we took all the health programs in the country, and maybe it is not fair to say we exempted them, I say to my friend from Texas, but we surely treated them differently. We said they do not get sequestered very much regardless of what happens. And then, Mr. President, we said that the sequester would not apply to civilian personnel; they do not get laid off. So it would seem to me it would be absolutely axiomatic that we would say the same thing about defense.

The defense of our country is being given very little, if anything, in this amendment. Who would want a sequester of the size I am to predict for you, who would want to force the President of the United States, with no choice whatsoever, to cut the force structure by a half million people, overnight? Nobody wants that.

Mr. President, the point of it is defense has taken the brunt of the cuts. All this air that people thought was in it, and all this excess, we have been taking it out every year. As a matter of fact, $20 billion of the deficit reduction that we are proud of, that we stand here today and say caused us to reach the targets, just take a look, $20 billion of it came out of defense.

Now we are down at rock bottom. I submit this Senate in any Gramm-Rudman sequester, because 50 percent of the cuts are going to come out of defense, we ought to forget when it comes to the defense of our country what kind of leverage are we building against the President. That is not the issue. Some say if you make him cut everything across the board, he is going to come over here crying "uncle" and make a deal with us.

Well, let us just assume that does not happen. Let us just assume he says, "You put this sequester on. I will sign it." Would we not at least want to say, let us keep defense, with its dramatically reduced capability, as strong as possible, let the President and the Defense Department make some crucial decision about defense? After all, it has been cut and we are going to cut it some more in the sequester. So nobody should think that exempting personnel, which is part of the negotiations that took place—for starters there would be no flexibility in defense, but my good friend from Florida has gone at least part of the way we negotiated and has personnel in it. But I hope nobody in this body, who is worried about the defense issue, votes for the amendment on the basis that it has treated defense fairly in terms of devastating across-the-board cuts.

Now, that is about all I am going to say at this point, other than to repeat, really, in all honesty, when we are finished with this debate this afternoon, I think we all tried to come up with a so-called bipartisan Gramm-Rudman fix—it has not always been partisan. It was Gramm-Rudman-Hollings and it has always had both sides—that the distinguished chairman of the Budget Committee would now support. We tried.

But when you boil down this whole new 86-page amendment, a completely new process really is born in my humble opinion out of a paranoia, a paranoia about OMB and estimating, and that is it, simple, plain, and there is not anything else to it.

So every time we turned around, when OMB and CBO had some jobs to do, the U.S. Supreme Court had stricken down the previous one, I mean it is as if to say if we let OMB do this, they are going to rig everything.

This afternoon I am going to dig up for the Senate, because it is not in my mind—I cannot remember it precisely—just how bad they were the first time we sequestered, because, you see, Mr. President, the first time OMB and CBO, went to work with the green eyeshades on in the dark of the night and averaged their economics and averaged their estimates and they gave us a sequester. And I believe before we are finished today that is essentially what we say ought to continue.

We have a nice way to get around it. If either of those two groups act crazy or maybe act crazier than us, we have a little way to bring it back to us if they act wild.

But, Mr. President, I believe the truth of the matter is that when they were given a chance to do that in this very simple way, an alleged neutral body that Congress controls and an OMB that the President controls, they did it. I believe an objective analysis of what they did, without all these new pages that say if you do this, we will do that and then we will have another vote, and then we will put GAO in, and, well, let us use CBO for the most part because, after all, they are more credible, will prove that there were very few significant disagreements of any substantial nature between OMB and CBO when they were all finished with the process that we used the first time. I do not believe they had mountains of differences. I do not believe OMB rigged anything. Their economic differences were minutia at the end as applied to the various accounts. Their spend-out differences—I think we can get the numbers—were so small, as compared with the estimating errors that we are living up against because economics and estimating is kind of an enlightened guesswork anyway, that I really do not know why we are having such a big argument about not just staying with the bill that we already passed, that we know about and that is constitutional.

Now, I understand that somebody has looked at that bill and said that there is great opportunity for differences of opinion between OMB and CBO and consequently we have to put the britches on OMB and we have to give this job to CBO. I will have to tell the Senate that the distinguished chairman has made many changes from his original proposal which would have clearly had CBO doing everything. But I want to just close by telling the Senate this.

If you are looking for neutrality in this arena—economic estimating, account spendouts, budget authority to outlay ratios—as you go across and cut accounts, none of which anybody understands except a few people around here and the hard-working people in the two agencies who have to do it, all you have to do with a 5-year bill is to say we are going to give the real authority to CBO, we trust them, and some gimmick to make it constitutional. But they will be the ones making these estimates.

I submit to you—and I am looking right at a new Senator, but I know he has been around Congress long enough—you just give that to CBO and see how long they remain neutral. Just wait around until next year, when they know it is all on their shoulders, and let us assume things are as they are: The Democrats control the Senate, the Democrats control the House, and essentially the Director of that place is hired by two people.

If we are looking for something that is neutral, how long will it be that? That is No. 1. If we are looking for one agency that has been better at it than the other, we will dig up some information for the Senate on that, too.

CBO's estimating and their economics have been laughed at around here. Well, I believe I can show the Senate that over 5 or 6 years, a neutral body, looking at the two of them, will end up saying that they have both been about equally wrong. That is about what it will come out. Whether it is on economics or estimating, neither is inspired by the Holy Spirit. Perhaps from time to time OMB's Holy Spirit is the President's, but I submit that the holy spirit for the CBO, once you give them the whole ball of wax, is going to be the Congress of the United States. In fact, I do not believe that former Congressional Budget Office Directors think they should be given this; I do not think they want it. I do not think they think it would serve their agency's professionalism right, and I do not believe they want the responsibility.

Mr. President, I know that my friend is going to come back and say we have doctored this up and OMB is in the game again, but I return to the proposition: What is wrong with what we already passed, which was in essence tried before, in terms of the averaging, and found to be in pretty good shape in terms of the disputes between the two? We will have more to say about it.

None of what I have said should be taken in any way as meaning that my good friend from Florida and his wonderful staff have not tried very hard and that they do not have good ideas—they do. I just think we have a better one that has been voted on, and we ought to adopt it this evening, after we defeat this one.

Mr. CHILES. Mr. President, I think we are sort of asking, why should we not use the same fix we had last year? For one simple reason: it does not work; it has not worked; it did not work.

First, we thought we could control the size of the sequester by writing the OMB-CBO average of 15 economic variables, and that is what we did last year.

I have not had a chance to see the amendment of the Senator from New Mexico, but I do not think we tried to write in any variables this time. Congress does not try to decide any of those variables. We just give it to OMB.

The distinguished Presiding Officer [Mr. SHELBY] is new to the Senate but is not new to Congress. He has had an opportunity to review OMB's function over the years. If we want to make the proposition that CBO may not be neutral in the future—and anyone can make that proposition—I hope they would be. But we do not have to worry about saying whether OMB has been neutral in the past, because it simply has not been, whether it was a Democratic President or a Republican President. OMB is a part of the Executive Office of the President of the United States, and they have functioned that way, and they will continue to function that way. So I do not think we have to ask ourselves about any of the past history to do that.

We also found that OMB could make the sequester, even with the 15 economic variables we had. OMB could make the sequester at least $18 billion higher or lower by simply how they combined those variables.

We also found out that in the first 2 years of Gramm-Rudman-Hollings, Congress and the President could slip the deficit targets by 1-year savings, and we have seen that happen. We have seen that happen, and it is being proposed to happen again in some of the House provisions by 1-year, 1-time savings, whether they be loan portfolios or with the accounting gimmicks like changing pay dates.

We did not do a total of $36 billion in deficit reduction in the first 2 years, in either of those years. In fact, we did not do it in the 2 years combined because we were able to use these gimmicks. We are trying to take care of that in the proposed amendment that we have placed before the Senate.

It is interesting that the amendment now is sort of complex. It takes up a lot of pages. Why is that? Because we had it much simpler at one time, when we were going to let CBO be the force. But we found it did not appear that that would be fair, or some time in the future it may not be fair, so we attempted to take care of that.

Mr. President, we have less complexity in the proposal we are putting forward, certainly in the key respect that we are only going to do these economic estimates once. We are not going to do them twice a year. We are going to to them just one time.

If the amendment of the Senator from New Mexico is as I have heard it is, if it is similar to what we have had in the past, OMB is going to have an opportunity to change the estimates again, to do that in the end of August. That means that we may have a totally different change from what we have.

Remember, this is the agency that set the President's budget, reached $108 billion in deficit reduction at the beginning of the year. Every consensus forecast said it did not. The Congressional Budget Office forecast said it did not. Everybody that looked at it said it did not. Now OMB has had to say that it does not. But when it was convenient to say that 136 or 134 is 108, this is the agency that could do it. They can do the same thing under a Democratic agency, too, because it is like hiring an accountant. When you really find out if you want the job, you sort of say, "What do you want the numbers to be?" That, in effect, is what the Director of OMB does. He has done it in the past, and he will do it in the future.

Are we paranoid about that? Absolutely. No doubt about it. You burn me at the stove once, and I am a little more careful about how I approach that stove in the future. I might let you stick my head or my hand on it one time, but I am going to be more careful.

What we have designed here is a springloaded shotgun, and we are trying to design it with two barrels. I want to make sure it has two barrels, or that those barrels are pointed in separate directions. I think the gun might have two barrels under the amendment proposed by the Senator from New Mexico, but both barrels are pointed at Congress. I think we want to make sure that if that gun goes off, there are not going to be any survivors. There are going to be casualties on both sides, not just at one end. The only way to do that is to take away or limit some of the discretion of OMB, and I do not think it is in this proposal.

The PRESIDING OFFICER. The hour of 1 o'clock having arrived, under the previous order, the Senate will stand in recess.

Mr. GRAMM. Mr. President, I ask unanimous consent to proceed for 4 minutes.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. GRAMM. I thank the distinguished Presiding Officer.

Mr. President, I am going to make a full statement after the recess, but there are a couple of points I want to make now.

First, it is true that OMB scored their fiscal year 1988 budget deficit at $108 billion. Congress jumped up and down and said OMB did not meet the target, and all these assumptions OMB made were wrong; and yet, when the distinguished Budget Committee brought its budget to the floor, it assumed all the things OMB did to meet the deficit target itself. So, in essence, OMB's assumptions were phony, but the Budget Committee decided it wanted to be phony as well. I do not know what that proves. I guess it proves that there is no purity on this issue.

There are several additional points that I think need to be made. We have before us a totally new process that has been dreamed up during the last week and has received no comprehensive review. It has been put in final form only within the last several hours. The alternative is a proposal that was before the Senate last year, which was adopted by the Senate by a vote of 63 to 36, including the vote of the distinguished Senator from Florida, which I reintroduced with Senators RUDMAN and HOLLINGS on the first day of this session. It has been written about, debated, studied, discussed, analyzed, and everybody knows what it does.

In essence, it is a simple system that works. It is 36 pages long and it is straightforward. It builds on a mechanism that has worked, a mechanism that brought the deficit down from $233 billion the day it started to $161 billion today.

What we are being asked to do is throw out this proven system and adopt a bill that no one could explain or understand, a bill that is 87 pages long, more than twice the length of the bill that we all know.

A second problem is fixed versus variable targets. If you want to balance the budget, you cannot do it by adjusting the ruler every time you make a measurement. I can tell you what is going to happen if the Chiles proposal is adopted. We are going to say the deficit is $170 billion. We must reduce it by $36 billion and then we are going to cut $36 billion, mostly through empty savings, nonrecurring savings and guess what? Next year we get a deficit of $170 billion, we cut $36; next year $170, we cut $36. This way we never get to a balanced budget which is what Gramm-Rudman-Hollings is all about.

Then we have the whole problem concerning constitutionality.

If you view the OMB as a source of all evil and you try to eliminate its role, except to meet the constitutional requirements, you run into big trouble and complexity. That is exactly what this proposal does.

The problem with having the baselines set out by GAO, when the Supreme Court has already struck down GAO as a final arbiter, arises because when the targets can be met by either $36 billion cuts from the baseline or fixed cuts, you run right back into the constitutional "separation of powers" problem. I am not convinced, Mr. President, that that problem has been solved in this proposal.

Finally, we are faced with a simple decision. Are we going to stay with the process that has lowered the deficit by $72 billion and adopt a fix that the Senate has already spoken by a 2-to-1 margin in favor of, or start out with a totally new process that clearly is aimed at changing the whole mechanism that has brought us that success? I assert, Mr. President, that we should not change a system which is working, which has worked. I urge my colleagues, out of all deference to the distinguished chairman of the Budget Committee who I highly respect, to reject this new complicated arrangement.

Let us go back to a proven system that we know, that we believe in. Let us adopt that proven system. Let us go to conference. Let us try to put the teeth back into Gramm-Rudman-Hollings so that we might bring the deficit down and balance the budget.

The PRESIDING OFFICER. The Senate will now stand in recess until 2 o'clock.

RECESS UNTIL 2 P.M.

Whereupon, the Senate, at 1:04 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. ADAMS].

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished acting Republican leader if Calendar Order No. 242 and Calendar Order No. 237 have been cleared on his side.

Mr. DOMENICI. Mr. President, let me respond to the distinguished majority leader. Yes, Calendar Order No. 242 and Calendar Order No. 237 have been cleared.

Mr. BYRD. Mr. President, I thank the acting minority leader.

OMNIBUS HEALTH AND SCIENCE REAUTHORIZATION ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 237, S. 1158.

The PRESIDING OFFICER. The bill will be started by title.

The assistant legislative clerk read as follows:

A bill (S. 1158) to continue authorization of various health and science programs.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill which had been reported from the Committee on Labor and Human Resources with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

That this Act may be cited as the "Public Health Service Amendments of 1987".

REFERENCE

SEC. 2. Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

TITLE I—HEALTH SERVICES RESEARCH, HEALTH CARE TECHNOLOGY, HEALTH STATISTICS, AND PREVENTIVE HEALTH PROGRAMS

NATIONAL CENTER FOR HEALTH SERVICES RESEARCH AND HEALTH CARE TECHNOLOGY

SEC. 101. Section 308(i)(1) is amended—

(1) by striking out the first sentence and and inserting in lieu thereof the following: "For health service research, evaluation, and demonstration activities undertaken or supported under section 304 or 305, there are authorized to be appropriated $26,500,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989 and 1990; and

(2) by striking out beginning with "$3,000,000" in the third sentence through "1987" and inserting in lieu thereof "$4,000,000 for each of the fiscal years 1988, 1989, and 1990".

NATIONAL CENTER FOR HEALTH STATISTICS

SEC. 102. (a) Section 308(i)(2) is amended to read as follows:

"(2) For health statistical and epidemiological activities undertaken or supported under section 304 or 306, there are authorized to be appropriated $55,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

(b)(1) Section 306(k) is amended—

(A) by striking out "fifteen" in paragraph (1) and inserting in lieu thereof "sixteen";

(B) by striking out "three" in the second sentence of paragraph (2)(A) and inserting in lieu thereof "four"; and

(C) by striking out paragraph (2)(B) and inserting in lieu thereof the following:

"(B)(i) In the case of membership terms on the Committee under this subsection (as in effect prior to January 1, 1988) which expire in calendar year 1988, the appointments to three such terms in such calendar year shall be for a period of four years and the appointments to two such terms in such calendar year shall be for a period of three years, as designated by the Secretary.

"(ii) In the case of membership terms on the Committee under this subsection (as in effect prior to January 1, 1988) which expire in calendar year 1989, one such term shall be extended for an additional consecutive one-year period, as designated by the Secretary.

"(iii) In the case of membership terms on the Committee under this subsection (as in effect prior to January 1, 1988) which expire in calendar year 1990, two of such terms shall each be extended for an additional consecutive one-year period, as designated by the Secretary.".

(2) The amendments made by this subsection shall take effect January 1, 1990.

(c) Section 304(d) is repealed.

(d) Section 306(l) is repealed.

(e)(1) Section 308(a) is amended—

(A) by striking out paragraph (1),

(B) by redesignating paragraph (2) as paragraph (1) and (in such paragraph)—

(i) by striking out "the National Center for Health Services Research and"; and

(ii) by striking out "December 1" and inserting in lieu thereof "March 15"; and

(C) by redesignating paragraph (3) as paragraph (2) and (in such paragraph) by striking out "or (2) of this subsection".

(2) The first sentence of section 404(a) of the Health Services and Centers Amendments of 1978 is amended—

(A) by striking out "December 1" each place it occurs and inserting in lieu thereof "March 15", and

(B) by striking out "1980" and inserting in lieu thereof "1990".

(3) The amendments made by paragraphs (1) and (2) apply to reports and profiles required to be submitted after November 1, 1987.

COUNCIL ON HEALTH CARE TECHNOLOGY

SEC. 103. (a) Section 308(i)(1) (as amended by section 101 of this Act) is further amended by striking out the fourth sentence and inserting in lieu thereof the following: "For grants under section 309 the Secretary shall obligate not less than $750,000 for each of the fiscal years 1988, 1989, and 1990. Grants under such section for each such fiscal year shall be subject to the provisions of section 309(a)(2)(B) applicable to such fiscal year.".

(b) Section 309(a)(2)(B) is amended by striking out "at least twice the amount of the grant applied for" and inserting in lieu thereof "(i) at least the amount of the grant applied for (in the case of a grant for fiscal year 1988 or 1989), or (ii) at least twice the amount of the grant applied for (in the case of a grant for fiscal year 1990)".

PROJECT GRANTS FOR PREVENTIVE HEALTH PROJECTS FOR IMMUNIZATIONS

SEC. 104. (a) Section 317(j)(1) is amended—

(1) by striking out "For" and inserting in lieu thereof the following: "(A) Except for grants for immunization programs the authorization of appropriations for which are established in subparagraph (B), for";

(2) by striking out "and" after "1986,";

(3) by striking out the period and inserting in lieu thereof a comma and "$94,000,000 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990."; and

(4) by adding at the end the following new subparagraphs:

"(B) For grants under subsection (a) for preventive health service programs for the provision of immunizations with vaccines approved for use, and recommended for routine use, after the date of the enactment of this subparagraph, there are authorized to be appropriated for such sums as may be necessary for each of the fiscal years 1988, 1989, and 1990.

"(C) Upon the implementation of subtitle 2 of title XXI, there are authorized to be appropriated for grants under subsection (a) for which appropriations are authorized in subparagraph (A) of this paragraph such sums as may be necessary for fiscal years 1988 through 1990 to make such grants.".

(b)(1) The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, shall acquire and maintain a supply of vaccines sufficient to provide vaccinations throughout a 6-month period.

(2) There are authorized to be appropriated to carry out paragraph (1) $5,000,000 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.

PROJECT GRANTS FOR PREVENTIVE HEALTH PROJECTS FOR TUBERCULOSIS; ADDITIONAL PROGRAMS

SEC. 105. (a) Section 317(j)(2) is amended to read as follows:

"(2) For grants under subsection (a) for preventive health service programs for tuberculosis, and for grants under section 317A, there are authorized to be appropriated $22,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989 and 1990. Not more than 10 percent of the total amount appropriated under the preceding sentence for any fiscal year shall be available for grants under section 317A(b) for such fiscal year.".

(b) Part B of title III is amended by inserting after section 317 the following new section:

"ADDITIONAL PROGRAMS RELATING TO PREVENTIVE HEALTH SERVICES AND TUBERCULOSIS

"SEC. 317A. (a) The Secretary may make grants to States, political subdivisions of States, and other public and nonprofit private entities for—

"(1) research into the prevention and control of diseases which may be prevented through vaccination;

"(2) demonstration projects for the prevention and control of such diseases;

"(3) public information and education programs for the prevention and control of such diseases; and

"(4) education, training, and clinical skills improvement activities in the prevention and control of such diseases for health professionals (including allied health personnel).

(b) The Secretary may make grants to States, political subdivisions of States, and other public and nonprofit private entities for—

"(1) research into the prevention and control of tuberculosis, especially research concerning strains of tuberculosis resistant to drugs and research concerning cases of tuberculosis that affect certain populations;

"(2) demonstration projects for the prevention and control of tuberculosis;

"(3) public information and education programs for prevention and control of tuberculosis; and

"(4) education, training, and clinical skills improvement activities in the prevention and control of tuberculosis for health professionals, including allied health personnel.

"(c) No grant may be made under this section unless an application therefor is submitted to the Secretary in such form, at such time, and containing such information as the Secretary may by regulation prescribe.

"(d) Subsections (d), (e), and (f) of section 317 shall apply to grants under this section in the same manner as such subsections apply to grants under subsection (a) of section 317.".

PROJECTS AND PROGRAMS FOR THE PREVENTION AND CONTROL OF SEXUALLY TRANSMITTED DISEASES

SEC. 106. Section 318 is amended—

(1) by striking out paragraph (1) of subsection (e) and inserting in lieu thereof the following:

"(1)(A) For grants under subsections (b), (c), and (d), there are authorized to be appropriated $100,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989 and 1990.

"(B) For grants under subsection (b) for any fiscal year, the Secretary shall obligate not less than 10 percent of the total amount appropriated for such fiscal year under subparagraph (A).

"(C) Grants made under subsection (b), (c), or (d) shall be made under such terms and conditions as the Secretary finds necessary to carry out the purposes of such subsection, and payments under any such grants shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary."; and

(2) by adding at the end thereof the following new subsection:

"(h) Grants under subsections (b) and (c) shall include grants for the prevention and control of, and grants for research and other projects, programs, and activities relating to, chlamydia.".

TITLE II—NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM

ESTABLISHMENT OF LOAN REPAYMENT PROGRAM

SEC. 201. Subpart II of part D of title III is amended—

(1) by redesignating section 338G as section 338I;

(2) by redesignating sections 338B through 338F as sections 338C through 338G, respectively; and

(3) by inserting after section 338A the following new section:

"NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM

"SEC. 338B. (a) The Secretary shall establish a program to be known as the National Health Service Corps Loan Repayment Program (hereafter in this subpart referred to as the 'Loan Repayment Program') in order to assure an adequate supply of trained physicians, dentists, and nurses for the Corps and, if needed by the Corps, to assure an adequate supply of podiatrists, optometrists, pharmacists, clinical psychologists, graduates of schools of veterinary medicine, graduates of schools of public health, graduates of programs in health administration, graduates of programs for the training of physician assistants, expanded function dental auxiliaries, and nurse practitioners (as de-

fined in section 822), and other health professionals.

"(b) To be eligible to participate in the Loan Repayment Program, an individual must—

"(1)(A) be enrolled—

"(i) as a full-time student—

"(I) in an accredited (as determined by the Secretary) educational institution in a State; and

"(II) in the final year of a course of study or program, offered by such institution and approved by the Secretary, leading to a degree in medicine, osteopathy, dentistry, or other health profession; or

"(ii) in an accredited graduate training program in medicine, osteopathy, dentistry, or other health profession; or

"(B) have—

"(i) a degree in medicine, osteopathy, dentistry, or other health profession;

"(ii) completed an accredited graduate training program in medicine, osteopathy, dentistry, or other health profession in a State (except as provided in the last sentence of this subsection); and

"(iii) a license to practice medicine, osteopathy, dentistry, or other health profession in a State;

"(2) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be eligible for selection for civilian service in the Corps;

"(3) submit an application to participate in the Loan Repayment Program; and

"(4) sign and submit to the Secretary, at the time of the submission of such application, a written contract (described in subsection (f)) to accept repayment of educational loans and to serve (in accordance with this subpart) for the applicable period of obligated service in a health manpower shortage area.

The Secretary may waive the requirement of paragraph (1)(B)(ii) for good cause.

"(c) In disseminating application forms and contract forms to individuals desiring to participate in the Loan Repayment Program, the Secretary shall include with such forms—

"(1) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under section 338E in the case of the individual's breach of the contract; and

"(2) information respecting meeting a service obligation through private practice under an agreement under section 338D and such other information as may be necessary for the individual to understand the individual's prospective participation in the Loan Repayment Program and service in the Corps.

The application form, contract form, and all other information furnished by the Secretary under this subpart shall be written in a manner calculated to be understood by the average individual applying to participate in the Loan Repayment Program. The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Loan Repayment Program on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

"(d)(1) In determining which applications under the Loan Repayment Program to approve (and which contracts to accept), the Secretary shall give priority to applications made by—

"(A) individuals whose training is in a health profession or specialty determined by the Secretary to be needed by the Corps;

"(B) individuals who are committed to service in medically underserved areas; and

"(C) individuals who are more immediately available for service.

"(2) In reviewing the applications of two or more individuals with equivalent qualifications for participation in the Loan Repayment Program, the Secretary shall give preference to the individual with the lowest amount of total outstanding loan obligations for principal, interest, and related expenses for which repayments may be made under subsection (g).

"(e)(1) An individual becomes a participant in the Loan Repayment Program only upon the Secretary's approval of the individual's application submitted under subsection (b)(3) and the Secretary's acceptance of the contract submitted by the individual under subsection (b)(4).

"(2) The Secretary shall provide written notice to an individual promptly upon—

"(A) the Secretary's approving, under paragraph (1), of the individual's participation in the Loan Repayment Program; or

"(B) the Secretary's disapproving an individual's participation in such Program.

"(f) The written contract (referred to in this subpart) between the Secretary and an individual shall contain—

"(1) an agreement that—

"(A) subject to paragraph (3), the Secretary agrees (i) to pay on behalf of the individual loans in accordance with subsection (g), and (ii) to accept (subject to the availability of appropriated funds for carrying out sections 331 through 335 and section 337) the individual into the Corps (or for equivalent service as otherwise provided in this subpart); and

"(B) subject to paragraph (3), the individual agrees—

"(i) to accept loan payments on behalf of the individual;

"(ii) in the case of an individual described in subsection (b)(1)(A), to maintain enrollment in a course of study or training described in such subsection until the individual completes the course of study or training;

"(iii) in the case of an individual described in subsection (b)(1)(A), while enrolled in such course of study or training, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study or training); and

"(iv) to serve for a time period (hereafter in the subpart referred to as the 'period of obligated service') equal to 2 years or such longer period as the individual may agree to, in a health manpower shortage area (designated under section 332) to which such individual is assigned by the Secretary as a member of the Corps or under section 338D;

"(2) a provision permitting the Secretary to extend for a 1-year period or such longer period, as the individual may agree to, the period of obligated service agreed to by the individual under paragraph (1)(B)(iv);

"(3) a provision that any financial obligation of the United States arising out of a contract entered into under this subpart and any obligation of the individual which is conditioned thereon, is contingent upon funds being appropriated for loan repayments under this subpart and to carry out the purposes of sections 331 through 335 and sections 337 and 338;

"(4) a statement of the damages to which the United States is entitled, under section 338E for the individual's breach of the contract; and

"(5) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with the provisions of this subpart.

"(g)(1) A loan repayment provided for an individual under a written contract under the Loan Repayment Program shall consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual for—

"(A) tuition expenses;

"(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; or

"(C) reasonable living expenses as determined by the Secretary.

"(2) For each year of obligated service that an individual contracts to serve under subsection (f) the Secretary may pay up to $20,000 on behalf of the individual for loans described in paragraph (1), except as provided in paragraph (3).

"(3) In any case in which payments on behalf of an individual under the Loan Repayment Program result in an increase in Federal, State, or local income tax liability for such individual, the Secretary may, on the request of such individual, make payments to such individual in a reasonable amount, as determined by the Secretary, to reimburse such individual for such increased tax liability. The total of the payments made on behalf of an individual under paragraph (1) and the payments made to an individual under this paragraph may exceed $20,000 for each year of obligated service the individual contracts to serve under subsection (f).

"(4) The Secretary may enter into an agreement with the holder of any loan for which payments are made under the Loan Repayment Program to establish a schedule for the making of such payments if the establishment of such a schedule would result in reducing the costs to the United States under the Loan Repayment Program.

"(h) Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic or other training, shall not be counted against any employment ceiling affecting the Department.

"(i) The Secretary shall, not later than March 1 of each year, submit to the Congress a report specifying—

"(1) the number, and type of health profession training, of individuals receiving loan payments under the Loan Repayment Program;

"(2) the educational institution at which such individuals are receiving their training;

"(3) the number of applications filed under this section in the school year beginning in such year and in prior school years; and

"(4) the amount of loan payments made in the year reported on.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 202. (a) Section 303(d)(4) is amended—

(1) by striking out "752 or 753" each place it appears and inserting in lieu thereof "338C or 338D"; and

(2) by striking out "subpart IV of part C of title VII" and inserting in lieu thereof "subpart II of part D".

(b) Section 331 is amended—

(1) in subsection (b), by striking out "and the Scholarship Program" and inserting in lieu thereof ", the Scholarship Program, and the Loan Repayment Program";

(2) in subsection (c), by striking out "338C" and inserting in lieu thereof "338D";

(3) in subsection (d)(2), by inserting after "Program" the following: "or the Loan Repayment Program";

(4) in subsection (f), by striking out "Scholarship Program" and inserting in lieu thereof "Scholarship Program or the Loan Repayment Program"; and

(5) in subsection (h), by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) The term 'Loan Repayment Program' means the National Health Service Corps Loan Repayment Program established under section 338B.".

(c) Section 334(a)(3)(B) is amended by inserting "or the Loan Repayment Program" after "Program".

(d) Section 336(a) is amended by striking "scholarship program" and inserting "Scholarship Program or Loan Repayment Program".

(e) Section 338E (as redesignated by section 201 of this Act) is amended—

(1) in subsection (a), by inserting "(1)" after "(a)", by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and by adding at the end thereof the following:

"(2) An individual who has entered into a written contract with the Secretary under section 338B and who—

"(A) in the case of an individual who is enrolled in the final year of a course of study, fails to maintain an acceptable level of academic standing in the educational institution in which such individual is enrolled (such level determined by the educational institution under regulations of the Secretary) or voluntarily terminates such enrollment or is dismissed from such educational institution before completion of such course of study; or

"(B) in the case of an individual who is enrolled in a graduate training program, fails to complete such training program and does not receive a waiver from the Secretary under the last sentence of section 338B(b),

in lieu of any service obligation arising under such contract shall be liable to the United States for the amount which has been paid on his behalf under the contract.";

(2) in subsection (b)(1)—

(A) by inserting "under section 338A" after "service obligation";

(B) by striking out "338C" each place it appears and inserting in lieu thereof "338D";

(C) by striking out "338B" each place it appears and inserting in lieu thereof "338C"; and

(D) by striking out "338E(d)" and inserting in lieu thereof "338F(d)"; and

(3) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following:

"(c)(1) If (for any reason not specified in subsection (a) or section 338F(d)) an individual breaches the written contract of the individual under section 338B by failing either to begin such individual's service obligation in accordance with section 338C or 338D or to complete such service obligation, the United States shall be entitled to recover from the individual an amount equal to the sum of—

"(A) the total of the amounts prepaid by the United States on behalf of the individual;

"(B) the interest on the amounts described in subparagraph (A) which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum prevailing rate, as determined by the Treasurer of the United States; and

"(C) an amount equal to the unserved obligation penalty.

"(2) For purposes of paragraph (1)(C), the term 'unserved obligation penalty' means the amount equal to the product of number of months of obligated service which were not completed by an individual, multiplied by $500.

"(3) The Secretary, in the discretion of the Secretary, may reduce the amount which the United States would otherwise be entitled to recover from an individual under paragraph (1)(A) if the Secretary determines that such individual has performed a sufficient amount of obligated service to warrant such a reduction.

"(4) The Secretary may waive, in whole or in part, the rights of the United States to recover amounts under this section in any case of extreme hardship, as determined by the Secretary.

"(5) Damages which the United States is entitled to recover shall be paid in accordance with the last sentence of subsection (b)(1).";

(4) in subsection (d) (as redesignated by clause (3) of this subsection), by inserting "or the Loan Repayment Program (or a contract thereunder)" after "thereunder)" each place it appears; and

(5) in the section heading, by adding "OR LOAN REPAYMENT CONTRACT" after "CONTRACT".

(f) Part D of title III is amended—

(1) by redesignating subparts III and IV as subparts IV and V, respectively; and

(2) by inserting before section 338A the following:

"Subpart III—Scholarship Program and Loan Repayment Program".

AUTHORIZATION OF APPROPRIATIONS WITH RESPECT TO SCHOLARSHIP PROGRAM AND LOAN REPAYMENT PROGRAM

SEC. 203. Part D of title III is amended by striking out section 338G (as redesignated by section 201(2) of this Act) and inserting in lieu thereof the following:

"REPORT AND AUTHORIZATION OF APPROPRIATIONS

"SEC. 338G. (a) The Secretary shall report on January 20 of each year to the Committee on Labor and Human Resources of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives the number of providers of health care who will be needed for the Corps during the 3 fiscal years beginning after the date the report is filed and the number—

"(1) of scholarships the Secretary proposes to provide under the Scholarship Program during such 3 fiscal years;

"(2) of individuals for whom the Secretary proposes to make loan repayments under the Loan Repayment Program during such 3 fiscal years; and

"(3) of individuals who have no obligation under section 338C and who the Secretary proposes to have as members of the Corps during such 3 fiscal years,

in order to provide such number of health care providers.

"(b) There are authorized to be appropriated such sums as may be necessary for scholarships and loan repayments under this subpart.

"STATE PROGRAMS

"SEC. 338H. (a) The Secretary may make grants to States to support the establishment by States of State programs similar to the Loan Repayment Program. Any State program supported with a grant under this section shall—

"(1) provide for the repayment of government and commercial loans for the tuition, educational expenses, and living expenses described in section 338B(g)(1); and

"(2) shall be conducted in conformance with the description of such program contained in the application required under subsection (b).

"(b) No grant may be made under this section for a State program unless an application therefor is submitted to the Secretary, in such form, at such time, and containing such information as the Secretary may prescribe. Each such application shall contain such standards for the designation of medically underserved areas under the State program and the determination of obligated service under the State program as may be acceptable to the Secretary.

"(c) The Federal share of the costs of any State program supported under this section shall not exceed 75 percent.

"(d) To carry out this section, there are authorized to be appropriated $1,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

TITLE III—FURTHER REVISIONS AND EXTENSIONS OF THE PROGRAM FOR THE NATIONAL HEALTH SERVICE CORPS

DESIGNATION OF HEALTH MANPOWER SHORTAGE AREAS

SEC. 301. Section 332 is amended—

(1) in subsection (a)(1), by adding at the end thereof the following: "The Secretary shall not remove an area from the areas determined to be health manpower shortage areas under clause (A) of the preceding sentence until the Secretary has afforded interested persons and groups in such area an opportunity to provide data and information in support of the designation as a health manpower shortage area or a population group described in clause (B) of such sentence or a facility described in clause (C) of such sentence, and has made a determination on the basis of the data and information submitted by such persons and groups and other data and information available to the Secretary."; and

(2) in subsection (b)(2)—

(A) by striking out "and" after "services," in subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and"; and

(C) by adding at the end the following new subparagraph:

"(D) ability to pay for health services.".

OBLIGATED SERVICE

SEC. 302. Section 338C (as redesignated by section 201(2) of this Act) is amended—

(1) in subsection (a), by striking out "338C" and inserting in lieu thereof "338D" and by inserting "or 338B" after "338A";

(2) in subsection (b)(1), by inserting "or 338B(f)(1)(B)(iv)" after "(iv)";

(3) by striking out subsection (b)(5) and inserting in lieu thereof the following:

"(5)(A) In the case of the Scholarship Program, with respect to an individual receiving a degree from a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, or pharmacy, the date referred to in paragraphs (1) through (4) shall be the date upon which the individual completes the training required for such degree, except that—

"(i) at the request of such an individual with whom the Secretary has entered into a contract under section 338A prior to October 1, 1985, the Secretary shall defer such date until the end of the period of time (not to exceed the number of years specified in subparagraph (B) or such greater period as the Secretary, consistent with the needs of the Corps, may authorize) required for the individual to complete an internship, residency, or other advanced clinical training; and

"(ii) at the request of such an individual with whom the Secretary has entered into a contract under section 338A on or after October 1, 1985, the Secretary may defer such date in accordance with the provisions of clause (i).

"(B)(i) In the case of the Scholarship Program, with respect to an individual receiving a degree from a school of medicine, osteopathy, or dentistry, the number of years referred to in subparagraph (A)(i) shall be three years.

"(ii) In the case of the Scholarship Program, with respect to an individual receiving a degree from a school of veterinary medicine, optometry, podiatry, or pharmacy, the number of years referred to in subparagraph (A)(i) shall be one year.

"(C) No period of internship, residency, or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subpart.

"(D) In the case of the Scholarship Program, with respect to an individual receiving a degree from an institution other than a school referred to in subparagraph (A), the date referred to in paragraphs (1) through (4) shall be the date upon which the individual completes his academic training leading to such degree.

"(E) In the case of the Loan Repayment Program, if an individual is required to provide obligated service under such Program, the date referred to in paragraphs (1) through (4)—

"(i) shall be the date determined under subparagraph (A), (B), or (D) in the case of an individual who is enrolled in the final year of a course of study;

"(ii) shall, in the case of an individual who is enrolled in an accredited graduate training program in medicine, osteopathy, dentistry, or other health profession, be the date the individual completes such training program; and

"(iii) shall, in the case of an individual who has a degree in medicine, osteopathy, dentistry, or other health profession and who has completed graduate training, be the date the individual enters into an agreement with the Secretary under section 338B.";

(4) in subsection (c)(2), by striking out "338C" and inserting in lieu thereof "338D"; and

(5) in subsection (e), by inserting ", under the Loan Repayment Program," after "Program".

PRIVATE PRACTICE

SEC. 303. Section 338D of the Public Health Service Act (as redesignated by section 201(2) of this Act) is amended—

(1) in subsection (a), by striking out "338B(a)" and inserting in lieu thereof "338C(a)";

(2) in subsection (a)(1), by inserting after "individual" the following: "who received a scholarship under the Scholarship Program and" and by inserting before the semicolon in such subsection the following: "or in the case of an individual for whom a loan payment was made under the Loan Repayment Program and who is performing obligated service as a member of the Corps in a health manpower shortage area on the date of his application for such a release, in the health manpower shortage area selected by the Secretary";

(3) in subsection (a)(2), by inserting before the period "selected by the Secretary";

(4) in subsection (b), by inserting at the end the following: "The Secretary shall take such action as may be appropriate to assure that the conditions of the written agreement prescribed by this subsection are adhered to.";

(5) in subsection (c), by inserting "or 338B" after "338A"; and

(6) in subsection (e), by striking out paragraph (1) and by striking "(2)" before "Upon".

SPECIAL LOANS FOR CORPS MEMBERS TO ENTER PRIVATE PRACTICE

SEC. 304. Section 338F (as redesignated by section 201(2) of this Act) is amended—

(1) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) The Secretary may, out of appropriations authorized under section 338, make one loan to a Corps member who has agreed in writing—

"(1) to engage in the private full-time clinical practice of his profession in a health manpower shortage area (designated under section 332) for a period of not less than two years which—

"(A) in the case of a Corps member who is required to complete a period of obligated service under this subpart, begins not later than one year after the date on which such individual completes such period of obligated service; and

"(B) in the case of an individual who is not required to complete a period of obligated service under this subpart, begins at such time as the Secretary considers appropriate;

"(2) to conduct such practice in accordance with the provisions of section 338D(b)(1); and

"(3) to such additional conditions as the Secretary may require to carry out the purposes of this section.

Such a loan shall be used to assist such individual in meeting the costs of beginning the practice of such individual's profession in accordance with such agreement, including the costs of acquiring equipment and renovating facilities for use in providing health services, and of hiring nurses and other personnel to assist in providing health services. Such loan may not be used for the purchase or construction of any building.

"(b) The amount of a loan under subsection (a) to an individual shall not exceed $25,000.";

(2) in subsection (c), by striking "grant or" in the first sentence; and

(3) in subsection (d)(1)—

(A) by striking "338D(b)" and inserting "338E(b)"; and

(B) by striking "this section," and inserting "this section (as in effect prior to October 1, 1984),".

AUTHORIZATIONS OF APPROPRIATIONS WITH RESPECT TO GENERAL OPERATIONS OF NATIONAL HEALTH SERVICE CORPS

SEC. 305. Section 338(a) is amended to read as follows:

"(a) To carry out this subpart and section 338F, there are authorized to be appropriated $65,000,000 for fiscal year 1988, $65,000,000 for fiscal year 1989, and $65,000,000 for fiscal year 1990.".

EFFECTIVE DATE

SEC. 306. Except as provided in sections 102(b)(2) and 102(e)(3), this Act and the amendments made by this Act shall take effect October 1, 1987.

AMENDMENT NO. 627

(Purpose: To add provisions relating to discharge in bankruptcy, to improve the process of assignment of physicians specializing in family medicine by the National Health Service Corps, and to otherwise improve the bill)

Mr. BYRD. Mr. President, I send an amendment to the desk on behalf of Messrs. KENNEDY and METZENBAUM and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for Mr. KENNEDY and Mr. METZENBAUM, proposes an amendment numbered 627.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 36, line 6, after "podiatry," insert "clinical psychology,".

On page 41, between lines 19 and 20, insert the following new sections:

DISCHARGE OF OBLIGATIONS IN BANKRUPTCY

SEC. 306. (a) Section 338E(d)(3) (as redesignated by sections 201(2) and 202(e)(3) of this Act) is amended by inserting before the period a comma and "and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable".

(b) The amendment made by subsection (a) applies to any bankruptcy proceeding in which discharge of an obligation under section 338E(d)(3) of the Public Health Service Act (as redesignated by sections 201(2) and 202(e)(3) of this Act) has not been granted before the date which is 31 days after the date of enactment of this Act.

ASSIGNMENT OF FAMILY PHYSICIANS

SEC. 307. Section 333 is amended by adding at the end thereof the following new subsection:

"(j) In the assignment by the National Health Service Corps under this section of physicians specializing in family medicine, the Secretary shall take account of the needs of urban areas, and shall place special attention on urban areas in which there are serious incidences of infant mortality, adolescent pregnancy, drug and alcohol abuse, sexually transmitted diseases, and other acute urban health care needs.".

On page 41, line 21, strike out "306." and insert in lieu thereof "308.".

On page 41, lines 21 and 22, strike out "and 102(e)(3)" and insert in lieu thereof ", 102(e)(3), and 306(b)".

Mr. KENNEDY. Mr. President, I rise to speak on the Public Health Service Amendments of 1987. As reported unanimously by the Committee on Labor and Human Resources, S. 1158 authorizes appropriations for programs and activities under title III of the Public Health Service Act for fiscal years 1988 through 1990. These programs and activities include the National Center for Health Services Research, the National Center for Health Statistics, the Council on Health Care Technology, Project Grants for Preventive Health Projects for Immunizations, Project Grants for Preventive Health Projects for Tuberculosis, Additional Programs Relating to Tuberculosis, Projects and Programs for the Prevention and Control of Sexually Transmitted Diseases, the National Health Service Corps, the National Health Service Corps Scholarship Program, Designation of Health Manpower Shortage Areas, and Special Loans for Corps Members to Enter Private Practice.

This authorization includes continuation of programs aimed at treatment and prevention of such sexually transmitted diseases as gonorrhea and syphilis. These programs have been successful, and the number of reported cases of gonorrhea has not increased since 1976. In addition, a new program will be initiated against chlamydia, a sexually transmitted disease which is growing in incidence and adding significantly to the problem of sterility. Recent advances have produced accurate and reasonably priced diagnostic tests for chlamydia which make this program possible. Because chlamydia is largely asymptomatic, this intiative of testing and intervention is vitally important.

Programs for treatment and control of tuberculosis are reauthorized at higher levels than in the past. The growing number of cases of tuberculosis justifies expended program activities in this area. Because many of these cases involve strains of tuberculosis which are resistant to traditional therapy, intensified efforts to control this disease are very much needed.

Authorization of programs which provide immunizations against diphtheria, pertussis, tetanus, polio, measles, mumps, rubella, and hemophilus influenza are included. Funds to allow purchase of sufficient vaccine to ensure a 6-month stockpile, and purchase of several news vaccines that may be approved and recommended after passage of this bill are provided. In addition, this bill provides for funding of the National Vaccine Injury Compensation Act. Support for all of these programs is vitally important in maintaining the health of the American public.

The National Center for Health Services Research and Health Care Technology, the National Center for Health Statistics, and the Council on Health Care Technology are important resources in the effort to collect and analyze data on the health status of our population. Authorization is provided to allow these program efforts to continue.

A key part of this legislation is reauthorization of the National Health Service Corps. Since its intitiation in 1970, the corps has provided access to health care to thousands of Americans living in health manpower shortage areas. Community and migrant Health Centers, and the Indian Health Service, have relied heavily on corps health care providers. At its peak in 1986, the Corps had 3,127 health care providers in the field. Despite the argument citing an aggregate surplus of physicians, many rural and uran areas in the United States are without health care providers. the need for continuation of the National Health Service Corps is clearly evident.

In addition, a National Health Service Corps Loan Repayment Program has been included. This provision will allow the Secretary of Health and Human Services to enter into contracts with health care providers to commit to practice in health manpower shortage areas for a specified number of years, in return for repayment of their educational debt. States will also be able to conduct similar loan repayment programs. These provisions will greatly facilitate the supply of corps personnel for health manpower shortage areas.

In total, this legislation will allow the Public Health Service to continue program efforts vital to the health of the Nation. I would like to thank the members of the Committee on Labor and Human Resources for their support of this legislation. I urge the House of Representatives to hasten their consideration of this reauthorization.

THE NATIONAL HEALTH SERVICE CORPS

Mr. METZENBAUM. Mr. President, I have been a longstanding supporter of the National Health Service Corps. It is an important and effective program in meeting the health care needs of medically underserved areas in this country.

But I have also been deeply disturbed by the policy of the National Health Service Corps in not assigning family practitioners to urban as well as rural centers.

This problem is particularly acute in Cleveland, where we have three National Health Service Corps physicians facing reassignment. Two of these family practitioners, Dr. Mark Renninga and Dr. Henrika Fitzpatrick, serve at the Kenneth W. Clement Center in Cleveland. A third physician, Dr. Mark Lay, serves at the Neighborhood Family Practice Center, also in Cleveland.

Mr. President, these are excellent doctors who serve a tremendous medical need. Infant mortality, drug abuse, teen pregnancy, sexually transmitted diseases, all pose an awesome challenge to the staff at these clinics. They serve a medically needy population, and the policy for the placement of family physicians under the National Health Service Corps should be supportive. Unfortunately, it is not.

That is why I have authored this amendment dealing with the assignment of family physicians. The secretary is directed to take account of the needs of urban areas with special attention to those areas with serious incidences of infant mortality, adolescent pregnancy, drug and alcohol abuse, sexually transmitted diseases, and other acute urban health care needs.

Of course rural areas need family physicians. So do urban areas. This amendment will ensure that the needs of urban areas will now be taken into account in the assignment of family physicians. No longer will we have a de facto ban on the assignment of family physicians to urban locations of great need.

Mr. President, the case for this amendment is best made by the people who staff these urban clinics. They are individuals of enormous dedication and I ask unanimous consent that statements from Dr. Susan Edelstein, the director of family medicine at the Clement Center in Cleveland, and Maxine Pollack, the administrator of the Neighborhood Family Practice Clinic in Cleveland, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NEIGHBORHOOD FAMILY PRACTICE,
June 22, 1987.

Senator HOWARD METZENBAUM,
Federal Office Building,
Cleveland, OH.

DEAR SENATOR METZENBAUM: Although I am feeling somewhat hopeless about the struggle with the National Health Service Corps (NHSC) at this point I am nonetheless pleased to hear of your interest in our struggle to allow the placement of family practice doctors in urban settings.

I would like you to be aware of how critical our situation is here. If Dr. Mark Lay does not start with us on a full-time basis soon, the stability of the Practice is in jeopardy.

Our center, Neighborhood Family Practice, on the near west side of Cleveland, was established with the assistance of the NHSC in 1980. We are a non-profit corporation established by neighborhood people to fill a large gap in medical services available. Rules were different then and we began with one full-time family practice doctor serving an obligation to the NHSC (just like the obligation that Dr. Lay has), and another full-time family practice doctor who was a volunteer to the NHSC.

In 1984, both our physicians completed their obligation and one moved to another city. We have been vigorously recruiting on the private market ever since then and have been largely unsuccessful recruiting family practice doctors. The market for primary care physicians is quite competitive due to the introduction on HMO'S and PPO'S.

The salary we are able to pay and the work required are not competitive with the private sector. We are no longer able to get family doctors from the NHSC, because of the agency's current prohibition against placing family practitioners in cities.

Consequently, we are down to two part-time family doctors. We will be adding a 3rd part-time physician to replace a physician who is retiring and a nurse-practitioner who has left. We are located in the middle of "Health Manpower Shortage Area #1" (that is, the most severely medically underserved classification) encompassing eighteen contiguous urban census tracts with a total population of 44,000 people (1980 Census). We turn people down for appointments all day every day.

There's a severe need here and there are not doctors to meet it. Our Clinic serves large numbers of Appalachians and Hispanics and some American Indians. If these people were in a rural setting or on a reservation, they would be able to avail themselves of the services of a NHSC family practitioner. However, they are in the City—so they are not similarly served as they are in rural populations.

Our situation has become intolerable. I have grown increasingly frustrated in the three-year struggle with the NHSC. We fit all the criteria, have demonstrated the need, have wide community support and yet we do not qualify for physicians.

We at Neighborhood Family Practice will greatly appreciate anything you can do to help in our particular situation. Further, if you are interested in making legislative changes to the whole system to make it better serve urban health care needs, we would be pleased to assist in any way.

Please feel free to contact me at (216) 281-8945 if I can assist in your efforts. For the sake of our center and our patients, I hope that you are successful.

Sincerely,

MAXINE POLLACK,
Administrator.

Public Health Care in the Inner City: Why We Need Family Practice Physicians

(Statement of Dr. Susan Edelstein)

The inner city of Cleveland particularly on the east side is surrounded by high powered tertiary care facilities loaded with specialists and subspecialists. Residents are trained in a variety of disciplines at University Hospitals, the Cleveland Clinic and Cleveland Metropolitan General to name perhaps the most prestigious. Only a tiny fraction of those residents end up working in the inner city on a long-term basis. Indigent care is delivered by a patchwork quilt of public and non-profit clinics throughout the inner city. Despite a fairly impressive list of clinics severe public health problems and health care delivery problems remain.

The Clement Center for Family Health Care opened its doors eleven years ago. Located between the Central and Fairfax statistical planning areas it draws its clientele from what has for some years been one of the worst pockets of urban poverty in the area. Under the auspices of Cleveland Metropolitan General Hospital the clinic has attempted to impact on the health problems of the inner city through a variety of innovative programs. Although initially conceived as a family health center it was years before a family practice department was established. The interns and pediatricians of Clement Center tried hard to recruit family practitioners. There were simply none available.

Why family practice? What do family practice physicians do that can't be done by a combination of internists, pediatricians and obstetricians? All are capable of giving excellent health care. The fact is however that family practice physicians are more likely to be prepared by virtue of the type of specialty training they receive to deal with the major and complicated psychosocial problems that are encountered in an inner city population. They are more likely to have specific training in the management of depression, drug and alcohol abuse, family violence and other family crises just to name a few. In addition to specific and sophisticated training in the management of difficult and complex problems they are trained in all of the basic areas of medicine and are therefore able to fill almost any primary care need. The family practice physicians have been compensating for a shortage of obstetrical providers in an area that has one of the highest rates of infant mortality in the country: the predominantly black near east side of Cleveland.

From July, 1983 to July, 1984 there was an obstetrician and two family practice physicians at Clement Center. That year and the following year during which the obstetrician left and was replaced by another full time family physician and a part time obstetrician the Clement Center treated approximately 350 pregnant women per year. In August, 1985 another full time family physician joined the staff. That year the clinic treated about 540 pregnant women. The number of obstetrical visits increased by 150% indicating that not only were more women seen but they were being seen more often. In a population where only a third of pregnant women are seen at all in the first trimester this could only mean more prenatal care reaching those who need it. The same year the Center was able to recruit the services of a high-risk obstetrical specialist on a one day a week referral only basis. Up until then the family physicians had been handling many of the high-risk patients who were unable or unwilling to go to the hospital clinic for their care.

Over the next year and a half three family practice physicians have been added to the staff of the clinic. All were trained in family practice residencies in Cleveland. All have a clear commitment to serving an indigent population. Two have a clear commitment to remaining at Clement Center indefinitely. The National Public Health Service does not recognize a sufficient need for family practice physicians in the inner city to allow them to stay.

The system of prenatal care at Clement Center is one in which the woman is first seen by a family practice provider and referred to the high-risk obstetrician only if her problems are extremely severe or complex. The family practice physicians routinely see patients with problems that are encountered only rarely by obstetricians in private practice. The system is working so well that the Maternal and Infant Care Project under the auspices of the Obstetrics Department at Cleveland Metropolitan General is beginning to decentralize its services to high-risk pregnant women and to include family practice physicians in its newer sites.

The real test of how well the additional services to pregnant women at Clement Center are working is what has happened to the infant mortality in the area. The Central area has been number one in infant mortality in Cleveland for a number of years. In 1984 44 of every thousand babies born died before a year of age. In 1985 that figure had fallen to 23 per thousand, a difference that is statistically significant despite the fact that there are only about 450 births in the Central area per year. Almost 7% of pregnant women in the Central area go on to deliver their babies with no prenatal care at all. There is no other facility serving this area. Starting this summer the Clement Center will be participating in a study to examine the effectiveness of outreach strategies for pregnant woman to get them into prenatal care sooner and to be sure they continue to come on a regular basis. The Cleveland Foundation has allocated $750,000 for this project. There will be twenty community outreach workers trained in the Central area who will be bringing obstetrical patients to Clement Center. Despite a vigorous recruiting effort only one family physician has been hired for the coming year and she will be replacing a physician who is leaving. Decreasing the number of family practice physicians at Clement Center jeopardizes the success of the outreach grant since there must be physicians to see the women who come in as a result of outreach efforts. The most tragic possible consequence of decreasing the number of family practice physicians is an increase in the infant mortality which could occur if the Center forced to curtail its obstetrical services for lack of qualified doctors.

The current staffing in the department of Family Practice at Clement Center has allowed for expansion of services within the area traditionally served by the clinic and into another underserved area. The Murtis-Taylor Center is a multi-purpose center with an extensive mental health program. There has been no health care available to many of the clients of that facility. One of the physicians that the Public Health Services wishes to remove is single-handedly staffing a satellite of Clement Center at Murtis-Taylor. He is so busy after only six months that more physician time is needed. If he is removed there will be no way to maintain the current level of service let alone increase it to meet the demand.

Family practice physicians have been involved in a variety of community projects including a Robert Wood Johnson grant to give health care to the homeless, health surveys of housing projects in the inner city and a project to work cooperatively with black church groups to improve the health of the community. Qualified physicians who wish to remain in the inner city and are committed to delivering high quality health care to minorities and to the poor are rare in any specialty. To allow the removal of two physicians who are currently filling a variety of vital needs for the community is contrary to any reasonable goal that the National Public Health Service could possibly have if indeed it is committed to improving health care in underserved communities.

The **PRESIDING OFFICER.** Is there further debate on the amendment? If not, the question is on agreeing to the amendment. The amendment (No. 627) was agreed to.

Mr. **DOMENICI.** Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to

Mr. HATCH. Mr. President, public health progams are essential in our Nation's quest for a reduction in deadly diseases, finding cures for ailments and treating serious illnesses. Today, we will consider S. 1158, the Omnibus Health Reauthorization Act, which continues our commitment to America's public health efforts. This legislation, which I introduced on May 6, has been strengthened by action taken by the Senate Committee on Labor and Human Resources action. Specifically, I want to thank the chairman, Senator KENNEDY for his input and assistance in continuing our traditional bipartisan support of worthwhile public health programs. By reporting S. 1158 favorably to the Senate, the committee has taken the necessary first step on an important portion of our required health agenda.

S. 1158 guarantees that we will continue to provide vaccines for our children. It ensures our Nation's citizens access to health care in underserved areas. And, it will enable us to provide screening and treatment for our Nation's citizens afflicted with communicable diseases.

The specific programs that are continued in this legislation include the Immunization Program, the Sexually Transmitted Disease Program, the National Center for Health Statistics Program, the National Center for Health Services Research, the National Health Service Corps, the Council on Health Care Technology, and the Tuberculosis Program.

All of these programs are indeed worthy of individual support and consideration. Today, I want to draw special attention to the legislation's modifications in the reauthorization of the National Health Service Corps. Specifically, the bill authorizes the establishment of a Loan Repayment Program to help provide an adequate supply of trained physicians, dentists, nurses, and other health professionals for medically underserved areas. If a professional will work in such an area, the program will provide for the payment of up to $20,000 in loans on behalf of that individual.

I am also pleased that this legislation includes a provision I requested authorizing a new 3-year program of grants for State programs that recruit health professionals for medically underserved areas. There has been strong support for this initiative from various sectors. Of import, I will ask unanimous consent to insert a letter for the RECORD in which the Secretary of Health and Human Services, Dr. Bowen, expresses his endorsement for this new effort. I appreciate his vote of confidence and his willingness to work with us in helping to enact this provision.

There are many States in our country who benefit from health professionals serving under the National Health Service Corps. When I visited various rural health care programs in Utah in March of this year, many of my constituents shared their support for local physicians that were recruited through the corps. At the same time, I heard a frequent complaint. Communities did not have the authority or discretion to recruit, and hopefully retain, health professionals in rural communities in my home State. I am hopeful this new statewide authority, which is coupled with a State commitment by requiring a funding match, will provide an impetus for more community involvement in recruiting and identifying their needs for health professionals.

This is only one of seven authorities in S. 1158—and I support all of them. I urge my colleagues to join me in its prompt consideration and I am hopeful that the House will consider this legislation in an expeditious fashion.

Mr. President, I ask unanimous consent that the letter to which I earlier referred be printed in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

THE SECRETARY OF HEALTH
AND HUMAN SERVICES,
Washington, DC, July 9, 1987.

Hon. EDWARD M. KENNEDY,
Chairman, Committee on Labor and Human Resources, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We understand that your Committee has ordered favorably reported S. 1158, a bill to continue authorization of various health and science programs. The bill includes, among other provisions, reauthorization of the National Health Service Corps (NHSC).

Of particular interest to the Department are the provisions in Title II of the bill related to loan repayment. The bill would establish a new program of grants to States for loan repayment programs. States would be able to apply for these grants in order to provide for the repayment of the government and commercial loans of health professionals in return for obligated service in designated shortage areas. The Federal share of the costs of any State program supported under this section would not exceed 75 percent. The bill also provides for a separate Federal loan repayment program.

We think this approach of grants to States should be the basis for the entire loan repayment program. The Federal loan repayment program could be subsumed under the program of grants to the States. Accordingly, we would set the authorization level for the State program at such sums as may be necessary to meet the need. Such a program would have the capacity to build successfully on the established relationships that already exist with more than half the States under the NHSC State Contract/Cooperative Agreement program. Under that program, participating States have been responsible for implementing significant portions of the NHSC placement policy and identifying and developing viable sites for the placement of NHSC obligors.

In addition to structuring the loan repayment program on the basis of grants to States, we would recommend that the following changes also be made:

Address the unique needs of the Indian Health Service through a separate loan repayment program.

Place emphasis on physicians and other health professionals determined by the Secretary to be of high priority need, rather than the lengthy list of professionals in the current bill.

Revise the priorities for applications to give priority to those programs which focus on serving rural areas, and to those individuals who are immediately available for service.

Require States to report to the Secretary on the number, cost and type of individuals receiving loan repayments under all of their health manpower placement programs.

Repeal existing report on the NHSC (section 336A of the Public Health Service (PHS Act); on the NHSC Scholarship Program (section 338 (i) of the PHS Act); and repeal the requirement for a National Advisory Council on the NHSC (section 337 of the PHS Act).

Add an amendment that would prohibit the discharge in bankruptcy, after the expiration of the present five-year bar, of any payback requirement under the NHSC Scholarship Program unless the Bankruptcy Court found that nondischarge would be unconscionable.

Repeal the NHSC Scholarship Program. The mechanism of loan repayments provides a better mechanism for identifying individuals with the type of training needed and who have sufficiently progressed to the point in their training that they are willing to make a commitment to serve in an underserved area.

Focus Federal resources on the physicians who are obligated for NHSC service. A Federal scholarship program would place physicians in areas where there was not necessarily any evidence that local support exists to encourage physicians to remain after their service obligation is completed.

In summary, we think the concept of a State-based loan repayment program could form the foundation for a sound program effort to address the needs of rural underserved populations. We recommend that the bill under consideration be revised in accordance with the foregoing recommendations.

We are advised by the Office of Management and Budget that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

OTIS BOWEN, M.D.,
Secretary.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S.1158) was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1158

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Health Service Amendments of 1987".

REFERENCE

SEC. 2. Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

TITLE I—HEALTH SERVICES RESEARCH, HEALTH CARE TECHNOLOGY, HEALTH STATISTICS, AND PREVENTIVE HEALTH PROGRAMS

NATIONAL CENTER FOR HEALTH SERVICES RESEARCH AND HEALTH CARE TECHNOLOGY

SEC. 101. Section 308(i)(1) is amended—

(1) by striking out the first sentence and and inserting in lieu thereof the following: "For health service research, evaluation, and demonstration activities undertaken or supported under section 304 or 305, there are authorized to be appropriated $26,500,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989 and 1990; and

(2) by striking out beginning with "$3,000,000" in the third sentence through "1987" and inserting in lieu thereof "$4,000,000 for each of the fiscal years 1988, 1989, and 1990".

NATIONAL CENTER FOR HEALTH STATISTICS

SEC. 102. (a) Section 308(i)(2) is amended to read as follows:

"(2) For health statistical and epidemiological activities undertaken or supported under section 304 or 306, there are authorized to be appropriated $55,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

(b)(1) Section 306(k) is amended—

(A) by striking out "fifteen" in paragraph (1) and inserting in lieu thereof "sixteen";

(B) by striking out "three" in the second sentence of paragraph (2)(A) and inserting in lieu thereof "four"; and

(C) by striking out paragraph (2)(B) and inserting in lieu thereof the following:

"(B)(i) In the case of membership terms on the Committee under this subsection (as in effect prior to January 1, 1988) which expire in calendar year 1988, the appointments to three such terms in such calendar year shall be for a period of four years and the appointments to two such terms in such calendar year shall be for a period of three years, as designated by the Secretary.

"(ii) In the case of membership terms on the Committee under this subsection (as in effect prior to January 1, 1988) which expire in calendar year 1989, one such term shall be extended for an additional consecutive one-year period, as designated by the Secretary.

"(iii) In the case of membership terms on the Committee under this subsection (as in effect prior to January 1, 1988) which expire in calendar year 1990, two of such terms shall each be extended for an additional consecutive one-year period, as designated by the Secretary.".

(2) The amendments made by this subsection shall take effect January 1, 1990.

(c) Section 304(d) is repealed.

(d) Section 306(l) is repealed.

(e)(1) Section 308(a) is amended—

(A) by striking out paragraph (1),

(B) by redesignating paragraph (2) as paragraph (1) and (in such paragraph)—

(i) by striking out "the National Center for Health Services Research and"; and

(ii) by striking out "December 1" and inserting in lieu thereof "March 15"; and

(C) by redesignating paragraph (3) as paragraph (2) and (in such paragraph) by striking out "or (2) of this subsection".

(2) The first sentence of section 404(a) of the Health Services and Centers Amendments of 1978 is amended—

(A) by striking out "December 1" each place it occurs and inserting in lieu thereof "March 15", and

(B) by striking out "1980" and inserting in lieu thereof "1990".

(3) The amendments made by paragraphs (1) and (2) apply to reports and profiles required to be submitted after November 1, 1987.

COUNCIL ON HEALTH CARE TECHNOLOGY

SEC. 103. (a) Section 308(i)(1) (as amended by section 101 of this Act) is further amended by striking out the fourth sentence and inserting in lieu thereof the following: "For grants under section 309 the Secretary shall obligate not less than $750,000 for each of the fiscal years 1988, 1989, and 1990. Grants under such section for each such fiscal year shall be subject to the provisions of section 309(a)(2)(B) applicable to such fiscal year.".

(b) Section 309(a)(2)(B) is amended by striking out "at least twice the amount of the grant applied for" and inserting in lieu thereof "(i) at least the amount of the grant applied for (in the case of a grant for fiscal year 1988 or 1989), or (ii) at least twice the amount of the grant applied for (in the case of a grant for fiscal year 1990)".

PROJECT GRANTS FOR PREVENTIVE HEALTH PROJECTS FOR IMMUNIZATIONS

SEC. 104. (a) Section 317(j)(1) is amended—

(1) by striking out "For" and inserting in lieu thereof the following: "(A) Except for grants for immunization programs the authorization of appropriations for which are established in subparagraph (B), for";

(2) by striking out "and" after "1986,";

(3) by striking out the period and inserting in lieu thereof a comma and "$94,000,000 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990."; and

(4) by adding at the end the following new subparagraphs:

"(B) For grants under subsection (a) for preventive health service programs for the provision of immunizations with vaccines approved for use, and recommended for routine use, after the date of the enactment of this subparagraph, there are authorized to be appropriated for such sums as may be necessary for each of the fiscal years 1988, 1989, and 1990.

"(C) Upon the implementation of subtitle 2 of title XXI, there are authorized to be appropriated for grants under subsection (a) for which appropriations are authorized in subparagraph (A) of this paragraph such sums as may be necessary for fiscal years 1988 through 1990 to make such grants.".

(b)(1) The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, shall acquire and maintain a supply of vaccines sufficient to provide vaccinations throughout a 6-month period.

(2) There are authorized to be appropriated to carry out paragraph (1) $5,000,000 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989 and 1990.

PROJECT GRANTS FOR PREVENTIVE HEALTH PROJECTS FOR TUBERCULOSIS; ADDITIONAL PROGRAMS

SEC. 105. (a) Section 317(j)(2) is amended to read as follows:

"(2) For grants under subsection (a) for preventive health service programs for tuberculosis, and for grants under section 317A, there are authorized to be appropriated $22,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989 and 1990. Not more than 10 percent of the total amount appropriated under the preceding sentence for any fiscal year shall be available for grants under section 317A(b) for such fiscal year.".

(b) Part B of title III is amended by inserting after section 317 the following new section:

"ADDITIONAL PROGRAMS RELATING TO PREVENTIVE HEALTH SERVICES AND TUBERCULOSIS

"SEC. 317A. (a) The Secretary may make grants to States, political subdivisions of States, and other public and nonprofit private entities for—

"(1) research into the prevention and control of diseases which may be prevented through vaccination;

"(2) demonstration projects for the prevention and control of such diseases;

"(3) public information and education programs for the prevention and control of such diseases; and

"(4) education, training, and clinical skills improvement activities in the prevention and control of such diseases for health professionals (including allied health personnel).

"(b) The Secretary may make grants to States, political subdivisions of States, and other public and nonprofit private entities for—

"(1) research into the prevention and control of tuberculosis, especially research concerning strains of tuberculosis resistant to drugs and research concerning cases of tuberculosis that affect certain populations;

"(2) demonstration projects for the prevention and control of tuberculosis;

"(3) public information and education programs for prevention and control of tuberculosis; and

"(4) education, training, and clinical skills improvement activities in the prevention and control of tuberculosis for health professionals, including allied health personnel.

"(c) No grant may be made under this section unless an application therefor is submitted to the Secretary in such form, at such time, and containing such information as the Secretary may by regulation prescribe.

"(d) Subsections (d), (e), and (f) of section 317 shall apply to grants under this section in the same manner as such subsections apply to grants under subsection (a) of section 317.".

PROJECTS AND PROGRAMS FOR THE PREVENTION AND CONTROL OF SEXUALLY TRANSMITTED DISEASES

SEC. 106. Section 318 is amended—

(1) by striking out paragraph (1) of subsection (e) and inserting in lieu thereof the following:

"(1)(A) For grants under subsections (b), (c), and (d), there are authorized to be appropriated $100,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989 and 1990.

"(B) For grants under subsection (b) for any fiscal year, the Secretary shall obligate not less than 10 percent of the total amount appropriated for such fiscal year under subparagraph (A).

"(C) Grants made under subsection (b), (c), or (d) shall be made under such terms and conditions as the Secretary finds necessary to carry out the purposes of such subsection, and payments under any such grants shall be made in advance or by way of reimbursement and in such installments as the Secretary finds necessary."; and

(2) by adding at the end thereof the following new subsection:

"(h) Grants under subsections (b) and (c) shall include grants for the prevention and control of, and grants for research and other projects, programs, and activities relating to, chlamydia.".

TITLE II—NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM

ESTABLISHMENT OF LOAN REPAYMENT PROGRAM

SEC. 201. Subpart II of part D of title III is amended—

(1) by redesignating section 338G as section 338I;

(2) by redesignating sections 338B through 338F as sections 338C through 338G, respectively; and

(3) by inserting after section 338A the following new section:

"NATIONAL HEALTH SERVICE CORPS LOAN REPAYMENT PROGRAM

"SEC. 338B. (a) The Secretary shall establish a program to be known as the National Health Service Corps Loan Repayment Program (hereafter in this subpart referred to as the 'Loan Repayment Program') in order to assure an adequate supply of trained physicians, dentists, and nurses for the Corps and, if needed by the Corps, to assure an adequate supply of podiatrists, optometrists, pharmacists, clinical psychologists, graduates of schools of veterinary medicine, graduates of schools of public health, graduates of programs in health administration, graduates of programs for the training of physician assistants, expanded function dental auxiliaries, and nurse practitioners (as defined in section 822), and other health professionals.

"(b) To be eligible to participate in the Loan Repayment Program, an individual must—

"(1)(A) be enrolled—

"(i) as a full-time student—

"(I) in an accredited (as determined by the Secretary) educational institution in a State; and

"(II) in the final year of a course of study or program, offered by such institution and approved by the Secretary, leading to a degree in medicine, osteopathy, dentistry, or other health profession; or

"(ii) in an accredited graduate training program in medicine, osteopathy, dentistry, or other health profession; or

"(B) have—

"(i) a degree in medicine, osteopathy, dentistry, or other health profession;

"(ii) completed an accredited graduate training program in medicine, osteopathy, dentistry, or other health profession in a State (except as provided in the last sentence of this subsection); and

"(iii) a license to practice medicine, osteopathy, dentistry, or other health profession in a State;

"(2) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Service or be eligible for selection for civilian service in the Corps;

"(3) submit an application to participate in the Loan Repayment Program; and

"(4) sign and submit to the Secretary, at the time of the submission of such application, a written contract (described in subsection (f)) to accept repayment of educational loans and to serve (in accordance with this subpart) for the applicable period of obligated service in a health manpower shortage area.

The Secretary may waive the requirement of paragraph (1)(B)(ii) for good cause.

"(c) In disseminating application forms and contract forms to individuals desiring to participate in the Loan Repayment Program, the Secretary shall include with such forms—

"(1) a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under section 338E in the case of the individual's breach of the contract; and

"(2) information respecting meeting a service obligation through private practice under an agreement under section 338D and such other information as may be necessary for the individual to understand the individual's prospective participation in the Loan Repayment Program and service in the Corps.

The application form, contract form, and all other information furnished by the Secretary under this subpart shall be written in a manner calculated to be understood by the average individual applying to participate in the Loan Repayment Program. The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Loan Repayment Program on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

"(d)(1) In determining which applications under the Loan Repayment Program to approve (and which contracts to accept), the Secretary shall give priority to applications made by—

"(A) individuals whose training is in a health profession or specialty determined by the Secretary to be needed by the Corps;

"(B) individuals who are committed to service in medically underserved areas; and

"(C) individuals who are more immediately available for service.

"(2) In reviewing the applications of two or more individuals with equivalent qualifications for participation in the Loan Repayment Program, the Secretary shall give preference to the individual with the lowest amount of total outstanding loan obligations for principal, interest, and related expenses for which repayments may be made under subsection (g).

"(e)(1) An individual becomes a participant in the Loan Repayment Program only upon the Secretary's approval of the individual's application submitted under subsection (b)(3) and the Secretary's acceptance of the contract submitted by the individual under subsection (b)(4).

"(2) The Secretary shall provide written notice to an individual promptly upon—

"(A) the Secretary's approving, under paragraph (1), of the individual's participation in the Loan Repayment Program; or

"(B) the Secretary's disapproving an individual's participation in such Program.

"(f) The written contract (referred to in this subpart) between the Secretary and an individual shall contain—

"(1) an agreement that—

"(A) subject to paragraph (3), the Secretary agrees (i) to pay on behalf of the individual loans in accordance with subsection (g), and (ii) to accept (subject to the availability of appropriated funds for carrying out sections 331 through 335 and section 337) the individual into the Corps (or for equivalent service as otherwise provided in this subpart); and

"(B) subject to paragraph (3), the individual agrees—

"(i) to accept loan payments on behalf of the individual;

"(ii) in the case of an individual described in subsection (b)(1)(A), to maintain enrollment in a course of study or training described in such subsection until the individual completes the course of study or training;

"(iii) in the case of an individual described in subsection (b)(1)(A), while enrolled in such course of study or training, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study or training); and

"(iv) to serve for a time period (hereafter in the subpart referred to as the 'period of obligated service') equal to 2 years or such longer period as the individual may agree to, in a health manpower shortage area (designated under section 332) to which such individual is assigned by the Secretary as a member of the Corps or under section 338D;

"(2) a provision permitting the Secretary to extend for a 1-year period or such longer period, as the individual may agree to, the period of obligated service agreed to by the individual under paragraph (1)(B)(iv);

"(3) a provision that any financial obligation of the United States arising out of a contract entered into under this subpart and any obligation of the individual which is conditioned thereon, is contingent upon funds being appropriated for loan repayments under this subpart and to carry out the purposes of sections 331 through 335 and sections 337 and 338;

"(4) a statement of the damages to which the United States is entitled, under section 338E for the individual's breach of the contract; and

"(5) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with the provisions of this subpart.

"(g)(1) A loan repayment provided for an individual under a written contract under the Loan Repayment Program shall consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual for—

"(A) tuition expenses;

"(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; or

"(C) reasonable living expenses as determined by the Secretary.

"(2) For each year of obligated service that an individual contracts to serve under subsection (f) the Secretary may pay up to $20,000 on behalf of the individual for loans described in paragraph (1), except as provided in paragraph (3).

"(3) In any case in which payments on behalf of an individual under the Loan Repayment Program result in an increase in Federal, State, or local income tax liability for such individual, the Secretary may, on the request of such individual, make payments to such individual in a reasonable amount, as determined by the Secretary, to reimburse such individual for such increased tax liability. The total of the payments made on behalf of an individual under paragraph (1) and the payments made to an individual under this paragraph may exceed $20,000 for each year of obligated service the individual contracts to serve under subsection (f).

"(4) The Secretary may enter into an agreement with the holder of any loan for which payments are made under the Loan Repayment Program to establish a schedule for the making of such payments if the establishment of such a schedule would result in reducing the costs to the United States under the Loan Repayment Program.

"(h) Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic or other training, shall not be counted against any employment ceiling affecting the Department.

"(i) The Secretary shall, not later than March 1 of each year, submit to the Congress a report specifying—

"(1) the number, and type of health profession training, of individuals receiving loan payments under the Loan Repayment Program;

"(2) the educational institution at which such individuals are receiving their training;

"(3) the number of applications filed under this section in the school year beginning in such year and in prior school years; and

"(4) the amount of loan payments made in the year reported on.".

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 202. (a) Section 303(d)(4) is amended—

(1) by striking out "752 or 753" each place it appears and inserting in lieu thereof "338C or 338D"; and

(2) by striking out "subpart IV of part C of title VII" and inserting in lieu thereof "subpart II of part D".

(b) Section 331 is amended—

(1) in subsection (b), by striking out "and the Scholarship Program" and inserting in lieu thereof ", the Scholarship Program, and the Loan Repayment Program";

(2) in subsection (c), by striking out "338C" and inserting in lieu thereof "338D";

(3) in subsection (d)(2), by inserting after "Program" the following: "or the Loan Repayment Program";

(4) in subsection (f), by striking out "Scholarship Program" and inserting in lieu thereof "Scholarship Program or the Loan Repayment Program"; and

(5) in subsection (h), by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively, and by inserting after paragraph (1) the following new paragraph:

"(2) The term 'Loan Repayment Program' means the National Health Service Corps Loan Repayment Program established under section 338B.".

(c) Section 334(a)(3)(B) is amended by inserting "or the Loan Repayment Program" after "Program".

(d) Section 336(a) is amended by striking "scholarship program" and inserting "Scholarship Program or Loan Repayment Program".

(e) Section 338E (as redesignated by section 201 of this Act) is amended—

(1) in subsection (a), by inserting "(1)" after "(a)", by redesignating paragraphs (1) through (4) as subparagraphs (A) through (D), respectively, and by adding at the end thereof the following:

"(2) An individual who has entered into a written contract with the Secretary under section 338B and who—

"(A) in the case of an individual who is enrolled in the final year of a course of study, fails to maintain an acceptable level of academic standing in the educational institution in which such individual is enrolled (such level determined by the educational institution under regulations of the Secretary) or voluntarily terminates such enrollment or is dismissed from such educational institution before completion of such course of study; or

"(B) in the case of an individual who is enrolled in a graduate training program, fails to complete such training program and does not receive a waiver from the Secretary under the last sentence of section 338B(b),

in lieu of any service obligation arising under such contract shall be liable to the United States for the amount which has been paid on his behalf under the contract.";

(2) in subsection (b)(1)—

(A) by inserting "under section 338A" after "service obligation";

(B) by striking out "338C" each place it appears and inserting in lieu thereof "338D";

(C) by striking out "338B" each place it appears and inserting in lieu thereof "338C"; and

(D) by striking out "338E(d)" and inserting in lieu thereof "338F(d)"; and

(3) by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following:

"(c)(1) If (for any reason not specified in subsection (a) or section 338F(d)) an individual breaches the written contract of the individual under section 338B by failing either to begin such individual's service obligation in accordance with section 338C or 338D or to complete such service obligation, the United States shall be entitled to recover from the individual an amount equal to the sum of—

"(A) the total of the amounts prepaid by the United States on behalf of the individual;

"(B) the interest on the amounts described in subparagraph (A) which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum prevailing rate, as determined by the Treasurer of the United States; and

"(C) an amount equal to the unserved obligation penalty.

"(2) For purposes of paragraph (1)(C), the term 'unserved obligation penalty' means the amount equal to the product of number of months of obligated service which were not completed by an individual, multiplied by $500.

"(3) The Secretary, in the discretion of the Secretary, may reduce the amount which the United States would otherwise be entitled to recover from an individual under paragraph (1)(A) if the Secretary determines that such individual has performed a sufficient amount of obligated service to warrant such a reduction.

"(4) The Secretary may waive, in whole or in part, the rights of the United States to recover amounts under this section in any case of extreme hardship, as determined by the Secretary.

"(5) Damages which the United States is entitled to recover shall be paid in accordance with the last sentence of subsection (b)(1).";

(4) in subsection (d) (as redesignated by clause (3) of this subsection), by inserting "or the Loan Repayment Program (or a contract thereunder)" after "thereunder)" each place it appears; and

(5) in the section heading, by adding "OR LOAN REPAYMENT CONTRACT" after "CONTRACT".

(f) Part D of title III is amended—

(1) by redesignating subparts III and IV as subparts IV and V, respectively; and

(2) by inserting before section 338A the following:

"Subpart III—Scholarship Program and Loan Repayment Program".

AUTHORIZATION OF APPROPRIATIONS WITH RESPECT TO SCHOLARSHIP PROGRAM AND LOAN REPAYMENT PROGRAM

SEC. 203. Part D of title III is amended by striking out section 338G (as redesignated by section 201(2) of this Act) and inserting in lieu thereof the following:

"REPORT AND AUTHORIZATION OF APPROPRIATIONS

"SEC. 338G. (a) The Secretary shall report on January 20 of each year to the Committee on Labor and Human Resources of the Senate, the Committee on Energy and Commerce of the House of Representatives, and the Committees on Appropriations of the Senate and the House of Representatives the number of providers of health care who will be needed for the Corps during the 3 fiscal years beginning after the date the report is filed and the number—

"(1) of scholarships the Secretary proposes to provide under the Scholarship Program during such 3 fiscal years;

"(2) of individuals for whom the Secretary proposes to make loan repayments under the Loan Repayment Program during such 3 fiscal years; and

"(3) of individuals who have no obligation under section 338C and who the Secretary proposes to have as members of the Corps during such 3 fiscal years,

in order to provide such number of health care providers.

"(b) There are authorized to be appropriated such sums as may be necessary for scholarships and loan repayments under this subpart.

"STATE PROGRAMS

"SEC. 338H. (a) The Secretary may make grants to States to support the establishment by States of State programs similar to the Loan Repayment Program. Any State program supported with a grant under this section shall—

"(1) provide for the repayment of government and commercial loans for the tuition, educational expenses, and living expenses described in section 338B(g)(1); and

"(2) shall be conducted in conformance with the description of such program contained in the application required under subsection (b).

"(b) No grant may be made under this section for a State program unless an application therefor is submitted to the Secretary, in such form, at such time, and containing such information as the Secretary may prescribe. Each such application shall contain such standards for the designation of medically underserved areas under the State program and the determination of obligated service under the State program as may be acceptable to the Secretary.

"(c) The Federal share of the costs of any State program supported under this section shall not exceed 75 percent.

"(d) To carry out this section, there are authorized to be appropriated $1,000,000 for fiscal year 1988 and such sums as may be necessary for each of the fiscal years 1989 and 1990.".

TITLE III—FURTHER REVISIONS AND EXTENSIONS OF THE PROGRAM FOR THE NATIONAL HEALTH SERVICE CORPS

DESIGNATION OF HEALTH MANPOWER SHORTAGE AREAS

SEC. 301. Section 332 is amended—

(1) in subsection (a)(1), by adding at the end thereof the following: "The Secretary shall not remove an area from the areas determined to be health manpower shortage areas under clause (A) of the preceding sentence until the Secretary has afforded interested persons and groups in such area an opportunity to provide data and information in support of the designation as a health manpower shortage area or a population group described in clause (B) of such sentence or a facility described in clause (C) of such sentence, and has made a determination on the basis of the data and information submitted by such persons and groups and other data and information available to the Secretary."; and

(2) in subsection (b)(2)—

(A) by striking out "and" after "services," in subparagraph (B);

(B) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and"; and

(C) by adding at the end the following new subparagraph:

"(D) ability to pay for health services.".

OBLIGATED SERVICE

SEC. 302. Section 338C (as redesignated by section 201(2) of this Act) is amended—

(1) in subsection (a), by striking out "338C" and inserting in lieu thereof "338D" and by inserting "or 338B" after "338A";

(2) in subsection (b)(1), by inserting "or 338B(f)(1)(B)(iv)" after "(iv)";

(3) by striking out subsection (b)(5) and inserting in lieu thereof the following:

"(5)(A) In the case of the Scholarship Program, with respect to an individual receiving a degree from a school of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, clinical psychology, or pharmacy, the date referred to in paragraphs (1) through (4) shall be the date upon which the individual completes the training required for such degree, except that—

"(i) at the request of such an individual with whom the Secretary has entered into a contract under section 338A prior to October 1, 1985, the Secretary shall defer such date until the end of the period of time (not to exceed the number of years specified in subparagraph (B) or such greater period as the Secretary, consistent with the needs of the Corps, may authorize) required for the individual to complete an internship, residency, or other advanced clinical training; and

"(ii) at the request of such an individual with whom the Secretary has entered into a contract under section 338A on or after October 1, 1985, the Secretary may defer such date in accordance with the provisions of clause (i).

"(B)(i) In the case of the Scholarship Program, with respect to an individual receiving a degree from a school of medicine, osteopathy, or dentistry, the number of years referred to in subparagraph (A)(i) shall be three years.

"(ii) In the case of the Scholarship Program, with respect to an individual receiving a degree from a school of veterinary medicine, optometry, podiatry, or pharmacy, the number of years referred to in subparagraph (A)(i) shall be one year.

"(C) No period of internship, residency, or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subpart.

"(D) In the case of the Scholarship Program, with respect to an individual receiving a degree from an institution other than a school referred to in subparagraph (A), the date referred to in paragraphs (1) through (4) shall be the date upon which the individual completes his academic training leading to such degree.

"(E) In the case of the Loan Repayment Program, if an individual is required to provide obligated service under such Program, the date referred to in paragraphs (1) through (4)—

"(i) shall be the date determined under subparagraph (A), (B), or (D) in the case of an individual who is enrolled in the final year of a course of study;

"(ii) shall, in the case of an individual who is enrolled in an accredited graduate training program in medicine, osteopathy, dentistry, or other health profession, be the date the individual completes such training program; and

"(iii) shall, in the case of an individual who has a degree in medicine, osteopathy, dentistry, or other health profession and who has completed graduate training, be the date the individual enters into an agreement with the Secretary under section 338B.";

(4) in subsection (c)(2), by striking out "338C" and inserting in lieu thereof "338D"; and

(5) in subsection (e), by inserting ", under the Loan Repayment Program," after "Program".

PRIVATE PRACTICE

SEC. 303. Section 338D of the Public Health Service Act (as redesignated by section 201(2) of this Act) is amended—

(1) in subsection (a), by striking out "338B(a)" and inserting in lieu thereof "338C(a)";

(2) in subsection (a)(1), by inserting after "individual" the following: "who received a scholarship under the Scholarship Program and" and by inserting before the semicolon in such subsection the following: "or in the case of an individual for whom a loan payment was made under the Loan Repayment Program and who is performing obligated service as a member of the Corps in a health manpower shortage area on the date of his application for such a release, in the health manpower shortage area selected by the Secretary";

(3) in subsection (a)(2), by inserting before the period "selected by the Secretary";

(4) in subsection (b), by inserting at the end the following: "The Secretary shall take such action as may be appropriate to assure that the conditions of the written agreement prescribed by this subsection are adhered to.";

(5) in subsection (c), by inserting "or 338B" after "338A"; and

(6) in subsection (e), by striking out paragraph (1) and by striking "(2)" before "Upon".

SPECIAL LOANS FOR CORPS MEMBERS TO ENTER PRIVATE PRACTICE

SEC. 304. Section 338F (as redesignated by section 201(2) of this Act) is amended—

(1) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a) The Secretary may, out of appropriations authorized under section 338, make one loan to a Corps member who has agreed in writing—

"(1) to engage in the private full-time clinical practice of his profession in a health manpower shortage area (designated under section 332) for a period of not less than two years which—

"(A) in the case of a Corps member who is required to complete a period of obligated service under this subpart, begins not later than one year after the date on which such individual completes such period of obligated service; and

"(B) in the case of an individual who is not required to complete a period of obligated service under this subpart, begins at such time as the Secretary considers appropriate;

"(2) to conduct such practice in accordance with the provisions of section 338D(b)(1); and

"(3) to such additional conditions as the Secretary may require to carry out the purposes of this section.

Such a loan shall be used to assist such individual in meeting the costs of beginning the practice of such individual's profession in accordance with such agreement, including the costs of acquiring equipment and renovating facilities for use in providing health services, and of hiring nurses and other personnel to assist in providing health services. Such loan may not be used for the purchase or construction of any building.

"(b) The amount of a loan under subsection (a) to an individual shall not exceed $25,000.";

(2) in subsection (c), by striking "grant or" in the first sentence; and

(3) in subsection (d)(1)—

(A) by striking "338D(b)" and inserting "338E(b)"; and

(B) by striking "this section," and inserting "this section (as in effect prior to October 1, 1984),".

AUTHORIZATIONS OF APPROPRIATIONS WITH RESPECT TO GENERAL OPERATIONS OF NATIONAL HEALTH SERVICE CORPS

SEC. 305. Section 338(a) is amended to read as follows:

"(a) To carry out this subpart and section 338F, there are authorized to be appropriated $65,000,000 for fiscal year 1988, $65,000,000 for fiscal year 1989, and $65,000,000 for fiscal year 1990.".

DISCHARGE OF OBLIGATIONS IN BANKRUPTCY

SEC. 306. (a) Section 338E(d)(3) (as designated by section 201(2) and 202(e)(3) of this Act) is amended by inserting before the period a comma and "and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable".

(2) The amendment made by subsection (a) applies to any bankruptcy proceeding in which discharge of an obligation under section 338E(d)(3) of the Public Health Service Act (as redesignated by sections 201(2) and 202(e)(3) of this Act) has not been granted before the date which is 31 days after the date of enactment of this Act.

ASSIGNMENT OF FAMILY PHYSICIANS

SEC. 307. Section 333 is amended by adding at the end thereof the following new subsection:

"(j) In the assignment by the National Health Service Corps under this section of physicians specializing in family medicine, the Secretary shall take account of the needs of urban areas, and shall place special attention on urban areas in which there are serious incidences of infant mortality, adolescent pregnancy, drug and alcohol abuse, sexually transmitted diseases, and other acute urban health care needs.".

EFFECTIVE DATE

Sec. 308. Except as provided in sections 102(b)92), 102(e)(3), and 306(b) this Act and the amendments made by this Act shall take effect on October 1, 1987.

The title was amended so as to read "A bill to extend the authorization of appropriations for programs and activities under title III of the Public Health Service Act, to establish a National Health Service Corps Loan Repayment Program, to otherwise revise and extend the program for the National Health Service Corps, and for other purposes".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DOMENICI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

PUBLIC BUILDINGS AUTHORIZATION ACT

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 242.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1502) to authorize appropriations for the Public Buildings Service of the General Services Administration for fiscal year 1988.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill.

AMENDMENT NO. 628

(Purpose: To amend S. 1502, the "Public Buildings Authorization Act of 1987")

Mr. BYRD. Mr. President, I send to the desk an amendment on behalf of Senators Moynihan, Stafford, and Burdick, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from West Virginia (Mr. Byrd), for Mr. Moynihan, Mr. Stafford, and Mr. Burdick, proposes an amendment numbered 628.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add a new section as follows:

"Sec. 9. There is authorized to be appropriated, from the fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)), to the Administrator of General Services for transfer to the Pennsylvania Avenue Development Corporation, the sum of $3,700,000 for services necessary for construction of an international cultural and trade center on the Federal Triangle property in the District of Columbia."

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 628) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 629

(Purpose: To amend S. 1502 the "Public Buildings Authorization Act of 1987"

Mr. DOMENICI. Mr. President, I send an amendment to the desk on behalf of Senators Stafford, Moynihan, and Burdick, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. Domenici], for Mr. Stafford, Mr. Moynihan, and Mr. Burdick, proposes an amendment numbered 629.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of the bill add a new section as follows:

"Sec. 10. There is hereby authorized to be appropriated to the Administrator of General Services from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), funds necessary for the design and construction of a federally-owned building to house the Environmental Protection Agency, which shall not exceed 1,400,000 occupiable square feet on a site to be determined within the boundaries of the District of Columbia."

The PRESIDING OFFICER. Is there further debate upon the amendment?

If not, the question is on agreeing to the amendment.

The amendment (No. 629) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. LAUTENBERG. Mr. President, I rise today in support of S. 1502, a bill authorizing appropriations for fiscal year 1988 for the Public Buildings Service. I would like to commend my colleagues on the Environment and Public Works Committee, particularly Water Resources, Transportation, and Infrastructure Subcommittee Chairman Moynihan, for moving this legislation so quickly.

This bill authorizes site acquisition, design, construction, and rehabilitation work and other services at important Federal facilities throughout the country. Included is authorization of funding for the International Cultural and Trade Center in Washington, and for 1.4 million feet of much needed space for the Environmental Protection Agency. A total of $2.93 billion is authorized for the projects in this bill.

S. 1502 is of particular importance to my State. Two major New Jersey projects, each with strong local support, are included in this bill. Implementation of these projects will play a major role in the revitalization of the cities of Trenton and Camden.

First, $2.8 million is authorized for work at the Federal building and U.S. Courthouse in Trenton, our State capital. The funds will be used for the conversion of former post office space to general office space, together with replacement of windows and installation of a sprinkler system.

Second, $1.486 million is authorized for site acquisition and design of an annex to the U.S. District Courthouse in Camden, a project with an estimated total cost of approximately $18 million. $300,000 is earmarked for site acquisition. Currently, the court has use of approximately 33,000 square feet in the Camden facility, and leases an additional 11,000 outside the facility. However, five new judges and magistrates will be added to the court in order to meet current and future demands placed upon the court system. The court will require the construction of an annex of approximately 82,000 square feet, which will greatly ease the backlog of cases in New Jersey. I am pleased to note that this bill will enable the Government to begin to address these needs.

There is some concern about the specific site of the annex. I have met with the GSA and Camden Mayor Primas to discuss these concerns, and feel significant progress is being made. I am pleased that the report to S. 1502 contains language directing the GSA to continue to work with the city of Camden in this effort.

Mr. President, this is an important bill, and I urge my colleagues to support its passage.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there is no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill (S. 1502), as amended, was ordered to be engrossed for a third reading, was read the third time, and passed, as follows:

S. 1502

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Public Buildings Authorization Act of 1987".

SEC. 2. No appropriation, including any appropriation from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, shall be made by Congress or obligated by the Administrator unless it has been authorized by Congress in accordance with this Act.

SEC. 3. (a) No public building construction, repair, or alteration shall be commenced unless an appropriation has first been made in the same fiscal year for which such appropriation is authorized and for the estimated cost of completion of such construction, repair, or alteration.

(b) Beginning in fiscal year 1989, no lease shall be entered into unless the authority to enter into contracts has first been made for the maximum cost of such lease over the entire term in such amounts as are specified in annual appropriations Acts and in the fiscal year for which such lease is authorized.

SEC. 4. There is hereby authorized to be appropriated for fiscal year 1988 not to exceed in the aggregate the amount of $2,933,034,000 from revenues and collections deposited into the fund pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), for the real property management and related activities of the Public Buildings Service of which:

CONSTRUCTION AND ACQUISITION

(a) Not to exceed $155,650,000 shall be available for fiscal year 1988 as follows:

(1) $3,800,000 for acquisition of a site for future construction to expand the Detroit, Michigan, Ambassador Bridge, Cargo Inspection Facility;

(2) $300,000 for acquisition of a site for future construction of the Camden, New Jersey, United States Post Office-Courthouse Annex;

(3) $550,000 for acquisition of a site for future construction of the St. Croix, Virgin Islands, Federal Building, Courthouse;

(4) $1,000,000 for construction projects less than $500,000 per project; and

(5) $150,000,000 for other selected purchases of buildings and sites, including options to purchase.

REPAIRS AND ALTERATIONS

(b) Not to exceed $443,945,000 shall be available for fiscal year 1988 as follows:

(1) $276,518,000 for repairs and alterations of public buildings at the following locations and maximum construction costs of $500,000 or more:

Alabama, Birmingham, Federal Building, Courthouse	$3,899,000
California, Fresno, B.F. Sisk Federal Building, Courthouse	2,879,000
California, Los Angeles, Federal Building, 300 N LA	10,422,000
California, San Francisco, Federal Building, Courthouse, Phase II	16,962,000
District of Columbia, Central Heating Plant	15,500,000
District of Columbia, West Heating Plant	9,201,000
District of Columbia, Elevators and Escalators, Replacement/Repair	26,700,000
District of Columbia, James V. Forrestal Building	2,578,000
District of Columbia, GSA Regional Office Building	1,036,000
District of Columbia, Agriculture Administration Building	530,000
District of Columbia, Agriculture South Building	3,360,000
District of Columbia, Courthouse	1,887,000
District of Columbia, Frances Perkins Federal Building	1,644,000
District of Columbia, GSA Headquarters	929,000
District of Columbia, J. Edgar Hoover Federal Building	1,627,000
District of Columbia, Department of Interior	1,858,000
District of Columbia, New Post Office	1,006,000
District of Columbia, Veterans Administration	1,355,000
Florida, Miami, Federal Building	11,481,000
Florida, West Palm Beach, Post Office	2,900,000
Georgia, Atlanta, Federal Annex	2,400,000
Georgia, East Point, Federal Archives and Records Center	1,102,000
Illinois, Chicago, Everett M. Dirksen Federal Building, Courthouse	7,334,000
Illinois, East St. Louis, Post Office, Courthouse	3,762,000
Iowa, Des Moines, Federal Building	1,300,000
Louisiana, New Orleans, F. Edward Hebert Federal Building	12,525,000
Maryland, Baltimore, Appraisers Stores	2,668,000
Maryland, Bethesda, Federal Building	700,000
Massachusetts, Boston, J.W. McCormack Post Office, Courthouse	2,200,000
Missouri, St. Louis, Mart Federal Building	28,964,000
Missouri, St. Louis, Federal Center No. 104	8,983,000
New Jersey, Trenton, Post Office, Courthouse	2,823,000
New York, Brooklyn, Federal Building No. 2	11,472,000
New York, New York, Foley Square, Courthouse	4,655,000
New York, New York, Federal Building, 201 Varick St	14,475,000
North Carolina, Raleigh, Federal Building, Post Office, Courthouse	9,640,000
Pennsylvania, Philadelphia, James A. Byrne Courthouse	6,875,000
Pennsylvania, Pittsburgh, Post Office, Courthouse	16,572,000
Texas, San Antonio, Post Office, Courthouse	8,154,000
Virginia, Arlington, Federal Building No. 2	4,080,000
Virginia, Arlington, Pentagon	8,080,000

(2) $167,427,000 for repair and alteration projects with construction costs of less than $500,000 per project.

DESIGN AND CONSTRUCTION SERVICES

(c) Notwithstanding the provisions of section 3 of this Act, not to exceed $115,036,000 shall be available without regard to fiscal year limitations for design and construction services, of which $800,000 shall be available for the design and planning of the International Cultural and Trade Center on the Federal Triangle site, Pennsylvania Avenue, Washington, D.C.

RENTAL OF SPACE

(d) Not to exceed $1,191,900,000 shall be available for fiscal year 1988 for rental of space.

REAL PROPERTY OPERATIONS

(e) Not to exceed $845,384,000 shall be available for fiscal year 1988 real property operations.

PROGRAM DIRECTION

(f) Not to exceed $48,014,000 shall be available for fiscal year 1988 program direction.

PURCHASE CONTRACT PAYMENTS

(g) Not to exceed $133,105,000 shall be available for fiscal year 1988 for payment of principal, interest, taxes, and any other obligation for public buildings acquired by purchase contract.

SEC. 5. (a) Funds appropriated under sections 4(a) and 4(b) of this Act for construction, repair and alteration shall remain available for obligation and expenditure without regard to fiscal year limitations: *Provided,* That construction, repair, or alteration has commenced in the same fiscal year for which funds are made available.

(b) Commencement of design for projects authorized by sections 4(a) and 4(b) of this Act, prior to or in the same fiscal year funds are made available for construction, repair or alteration, shall be regarded as complying with the provisions of subsection (a) of this section.

SEC. 6. Ten per centum of the funds made available pursuant to this Act to the Public Buildings Service for repair and alteration of public buildings and for payment of leases on buildings shall be available for repair and alteration projects and leases, respectively, not otherwise authorized by this Act, if the Administrator certifies that the space to be repaired, altered, or leased resulted from emergency building conditions or changing or additional programs of Federal agencies. The Administrator shall submit an explanatory statement to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives which, among other things, shall include the reasons why such project or lease cannot be deferred for authorization in the next succeeding fiscal year.

SEC. 7. The Administrator of General Services is hereby authorized to enter into a contract for construction of a building in Oakland, California, on a site donated by the city of Oakland. The contract shall provide, by lease or installment payments over a period not to exceed thirty years, for the payment of the purchase price, which shall not exceed $141,700,000 and reasonable interest thereon. The contract shall further provide that title to the building shall vest in the United States at or before the expiration of the contract term upon fulfillment of the terms and conditions of the contract.

Sec. 8. Notwithstanding the provisions of section 3 of this Act, not to exceed $4,000,000 from funds made available pursuant to section 101 of Public Law 97-377 for the construction of a Federal Building-Courthouse in Youngstown, Ohio, and not to exceed $5,200,000 from funds made available pursuant to section 115 of Public Law 99-591 for real property operations for fiscal year 1987 shall be available without regard to fiscal year limitations for repairs and alterations of the Chet Holifield Federal Building in Laguna Niguel, California.

Sec. 9. There is authorized to be appropriated, from the fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)), to the Administrator of General Services for transfer to the Pennsylvania Avenue Development Corporation, the sum of $3,700,000 for services necessary for construction of an international cultural and trade center on the Federal Triangle property in the District of Columbia.

Sec. 10. There is hereby authorized to be appropriated to Administrator of General Services from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), funds necessary for the design and construction of a federally-owned building to house the Environmental Protection Agency, which shall not exceed 1,400,000 occupiable square feet on a site to be determined within the boundaries of the District of Columbia.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill, as amended, was passed.

Mr. DOMENICI. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

UNANIMOUS-CONSENT AGREEMENT—S. 1243

Mr. BYRD. Mr. President, I ask unanimous consent that the majority leader be permitted to turn to the consideration of Calendar No. 247, S. 1243, the intelligence authorization bill, at any time after consultation with the minority leader, and that it be considered under the following time agreement:

Twenty minutes on the bill, and the specified amendments to be offered, equally divided, and controlled by Senators BOREN and COHEN;

Twenty minutes on the bill, equally divided, and controlled by Senators NUNN and WARNER;

That no amendments be in order, except for the committee-reported amendments and an amendment to be offered by Senator BOREN to strike section 503 of the bill;

That there be 10 minutes, equally divided, on any debatable motion, appeal, or point of order, if such is submitted by the Chair;

That the agreement be in the usual form;

And no motion to recommit with instructions be in order.

The PRESIDING OFFICER. Is there objection?

If not, without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the distinguished Senator from New Mexico, the acting Republican leader.

INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT

The Senate continued with the consideration of the joint resolution

The PRESIDING OFFICER. The question occurs on the Chiles amendment.

AMENDMENT NO. 626 (AS MODIFIED)

Mr. CHILES. Mr. President, I send to the desk a modification of my amendment.

The PRESIDING OFFICER. The Senator has the right to modify the amendment, and the amendment is so modified.

(The text of amendment No. 626, as modified, is printed later under Amendments Submitted.)

Mr. CHILES. I thank the Chair. I explained to my good friend from New Mexico, and I say it for the body as well, the amendment is exactly the same as the other amendment with the one change that we have included here, the 60-vote point of order. That is a provision that we had talked about. I think we had reached an agreement on that. I had inadvertently left it out of the first amendment that I put up. I then modified it to include that provision.

Mr. DOMENICI. Mr. President, while the distinguished Senator, the chairman of the committee, had the right to modify it, we were kind of operating on some gentlemen's agreements from this morning and even if I had the right to object, I would not have because I understand that the only change that is made is to provide, as I argued this morning for a bit, that we needed this amendment sometime, someplace, and now it is included. It says that the supermajority required under Gramm-Rudman-Hollings will not have the escape valve any longer of just appealing the ruling of the Chair and thus using the 51-vote margin to get around the supermajority which is the essence and cornerstone of the budget restraint aspects of Gramm-Rudman-Hollings from the beginning.

That is all the chairman has added as an amendment. I understand it. Everyone on our side who has been a part of this understands it and we appreciate the chairman offering it as an amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

YSLETA DEL SUR PUEBLO AND ALABAMA AND COUSHATTA INDIAN TRIBES OF TEXAS RESTORATION ACT

Mr. BYRD. Mr. President, I ask unanimous consent that there be a time limitation of 5 minutes on Calendar No. 211, H.R. 318, with no amendments other than the committee amendment in order, and that the Senate proceed at this time to the consideration of the bill. This has been cleared on the other side of the aisle.

Mr. GRAMM, who is one of the principal supporters, is here and is ready to act upon the measure.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 318) to provide for the restoration of Federal recognition to the Ysleta del Sur Pueblo and the Alabama and Coushatta Indian Tribes of Texas, and for other purposes.

The Senate proceeded to consider the bill, which has been reported from the Select Committee on Indian Affairs with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ysleta del Sur Pueblo and Alabama and Coushatta Indian Tribes of Texas Restoration Act".

SEC. 2. REGULATIONS.

The Secretary of the Interior or his designated representative may promulgate such regulations as may be necessary to carry out the provisions of this Act.

TITLE I—YSLETA DEL SUR PUEBLO RESTORATION

SEC. 101. DEFINITIONS.

For purposes of this title—

(1) the term "tribe" means the Ysleta del Sur Pueblo (as so designated by section 102);

(2) the term "Secretary" means the Secretary of the Interior or his designated representative;

(3) the term "reservation" means lands within El Paso and Hudspeth Counties, Texas—

(A) held by the tribe on the date of the enactment of this title;

(B) held in trust by the State or by the Texas Indian Commission for the benefit of the tribe on such date;

(C) held in trust for the benefit of the tribe by the Secretary under section 105(g)(2); and

(D) subsequently acquired and held in trust by the Secretary for the benefit of the tribe.

(4) the term "State" means the State of Texas;

(5) the term "Tribal Council" means the governing body of the tribe as recognized by the Texas Indian Commission on the date of enactment of this Act, and such tribal council's successors; and

(6) the term "Tiwa Indians Act" means the Act entitled "An Act relating to the Tiwa Indians of Texas." and approved April 12, 1968 (82 Stat. 93).

SEC. 102. REDESIGNATION OF TRIBE.

The Indians designated as the Tiwa Indians of Ysleta, Texas, by the Tiwa Indians Act shall, on and after the date of the enactment of this title, be known and designated as the Ysleta del Sur Pueblo. Any reference in any law, map, regulation, document, record, or other paper of the United States to the Tiwa Indians of Ysleta, Texas, shall be deemed to be a reference to the Ysleta del Sur Pueblo.

SEC. 103. RESTORATION OF THE FEDERAL TRUST RELATIONSHIP; FEDERAL SERVICES AND ASSISTANCE.

(a) FEDERAL TRUST RELATIONSHIP.—The Federal trust relationship between the United States and the tribe is hereby restored. The Act of June 18, 1934 (48 Stat. 984), as amended, and all laws and rules of law of the United States of general application to Indians, to nations, tribes, or bands of Indians, or to Indian reservations which are not inconsistent with any specific provision contained in this title shall apply to the members of the tribe, the tribe, and the reservation.

(b) RESTORATION OF RIGHTS AND PRIVILEGES.—All rights and privileges of the tribe and members of the tribe under any Federal treaty, statute, Executive order, agreement, or under any other authority of the United States which may have been diminished or lost under the Tiwa Indians Act are hereby restored.

(c) FEDERAL SERVICES AND BENEFITS.—Notwithstanding any other provision of law, the tribe and the members of the tribe shall be eligible, on and after the date of the enactment of this title, for all benefits and services furnished to federally recognized Indian tribes.

(d) EFFECT ON PROPERTY RIGHTS AND OTHER OBLIGATIONS.—Except as otherwise specifically provided in this title, the enactment of this title shall not affect any property right or obligation or any contractual right or obligation in existence before the date of the enactment of this title or any obligation for taxes levied before such date.

SEC. 104. STATE AND TRIBAL AUTHORITY.

(a) STATE AUTHORITY.—Nothing in this Act shall affect the power of the State of Texas to enact special legislation benefiting the tribe, and the State is authorized to perform any services benefiting the tribe that are not inconsistent with the provisions of this Act.

(b) TRIBAL AUTHORITY.—The Tribal Council shall represent the tribe and its members in the implementation of this title and shall have full authority and capacity—

(1) to enter into contracts, grant agreements, and other arrangements with any Federal department or agency, and

(2) to administer or operate any program or activity under or in connection with any such contract, agreement, or arrangement, to enter into subcontracts or award grants to provide for the administration of any such program or activity, or to conduct any other activity under or in connection with any such contract, agreement, or arrangement.

SEC. 105. PROVISIONS RELATING TO TRIBAL RESERVATION.

(a) FEDERAL RESERVATION ESTABLISHED.—The reservation is hereby declared to be a Federal Indian reservation for the use and benefit of the tribe without regard to whether legal title to such lands is held in trust by the Secretary.

(b) CONVEYANCE OF LAND BY STATE.—The Secretary shall—

(1) accept any offer from the State to convey title to any land within the reservation held in trust on the date of enactment of this Act by the State or by the Texas Indian Commission for the benefit of the tribe to the Secretary, and

(2) hold such title, upon conveyance by the State, in trust for the benefit of the tribe.

(c) CONVEYANCE OF LAND BY TRIBE.—At the written request of the Tribal Council, the Secretary shall—

(1) accept conveyance by the tribe of title to any land within the reservation held by the tribe on the date of enactment of this Act to the Secretary, and

(2) hold such title, upon such conveyance by the tribe, in trust for the benefit of the tribe.

(d) APPROVAL OF DEED BY ATTORNEY GENERAL.—Notwithstanding any other provision of law or regulation, the Attorney General of the United States shall approve any deed or other instrument which conveys title to land within El Paso or Hudspeth Counties, Texas, to the United States to be held in trust by the Secretary for the benefit of the tribe.

(e) PERMANENT IMPROVEMENTS AUTHORIZED.—Notwithstanding any other provision of law or rule of law, the Secretary or the tribe may erect permanent improvements, improvements of substantial value, or any other improvement authorized by law on the reservation without regard to whether legal title to such lands has been conveyed to the Secretary by the State or the tribe.

(f) CIVIL AND CRIMINAL JURISDICTION WITHIN RESERVATION.—The State shall exercise civil and criminal jurisdiction within the boundaries of the reservation as if such State had assumed such jurisdiction with the consent of the tribe under sections 401 and 402 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes." and approved April 11, 1968 (25 U.S.C. 1321, 1322).

(g) ACQUISITION OF LAND BY THE TRIBE AFTER ENACTMENT.—

(1) Notwithstanding any other provision of law, the Tribal Council may, on behalf of the tribe—

(A) acquire land located within El Paso County, or Hudspeth County, Texas, after the date of enactment of this Act and take title to such land in fee simple, and

(B) lease, sell, or otherwise dispose of such land in the same manner in which a private person may do so under the laws of the State.

(2) At the written request of the Tribal Council, the Secretary may—

(A) accept conveyance to the Secretary by the Tribal Council (on behalf of the tribe) of title to any land located within El Paso County, or Hudspeth County, Texas, that is acquired by the Tribal Council in fee simple after the date of enactment of this Act, and

(B) hold such title, upon such conveyance by the Tribal Council, in trust for the benefit of the tribe.

SEC. 106. TIWA INDIANS ACT REPEALED.

The Tiwa Indians Act is hereby repealed.

SEC. 107. GAMING ACTIVITIES.

(a) IN GENERAL.—All gaming activities which are prohibited by the laws of the State of Texas are hereby prohibited on the reservation and on lands of the tribe. Any violation of the prohibition provided in this subsection shall be subject to the same civil and criminal penalties that are provided by the laws of the State of Texas. The provisions of this subsection are enacted in accordance with the tribe's request in Tribal Resolution No. T.C.-02-86 which was approved and certified on March 12, 1986.

(b) NO STATE REGULATORY JURISDICTION.—Nothing in this section shall be construed as a grant of civil or criminal regulatory jurisdiction to the State of Texas.

(c) JURISDICTION OVER ENFORCEMENT AGAINST MEMBERS.—Notwithstanding section 105(f), the courts of the United States shall have exclusive jurisdiction over any offense in violation of subsection (a) that is committed by the tribe, or by any member of the tribe, on the reservation or on lands of the tribe. However, nothing in this section shall be construed as precluding the State of Texas from bringing an action in the courts of the United States to enjoin violations of the provisions of this section.

SEC. 108. TRIBAL MEMBERSHIP.

(a) IN GENERAL.—The membership of the tribe shall consist of—

(1) the individuals listed on the Tribal Membership Roll approved by the tribe's Resolution No. TC-5-84 approved December 18, 1984, and approved by the Texas Indian Commission's Resolution No. TIC-85-005 adopted on January 16, 1985; and

(2) a descendant of an individual listed on that Roll if the descendant—

(i) has ⅛ degree or more of Tigua-Ysleta del Sur Pueblo Indian blood, and

(ii) is enrolled by the tribe.

(b) REMOVAL FROM TRIBAL ROLL.—Notwithstanding subsection (a)—

(1) the tribe may remove an individual from tribal membership if it determines that the individual's enrollment was improper; and

(2) the Secretary, in consultation with the tribe, may review the Tribal Membership Roll.

TITLE II—ALABAMA AND COUSHATTA INDIAN TRIBES OF TEXAS

SEC. 201. DEFINITIONS.

For purposes of this title—

(1) the term "tribe" means the Alabama and Coushatta Indian Tribes of Texas (considered as one tribe in accordance with section 202);

(2) the term "Secretary" means the Secretary of the Interior or his designated representative;

(3) the term "reservation" means the Alabama and Coushatta Indian Reservation in Polk County, Texas, comprised of—

(A) the lands and other natural resources conveyed to the State of Texas by the Secretary pursuant to the provisions of section 1 of the Act entitled "An Act to provide for the termination of Federal supervision over the property of the Alabama and Coushatta Tribes of Indians of Texas, and the individual members thereof; and for other purposes." and approved August 23, 1954 (25 U.S.C. 721);

(B) the lands and other natural resources purchased for and deeded to the Alabama Indians in accordance with an act of the legislature of the State of Texas approved February 3, 1854; and

(C) lands subsequently acquired and held in trust by the Secretary for the benefit of the tribe;

(4) the term "State" means the State of Texas;

(5) the term "constitution and bylaws" means the constitution and bylaws of the tribe which were adopted on June 16, 1971; and

(6) the term "Tribal Council" means the governing body of the tribe under the constitution and bylaws.

SEC. 202. ALABAMA AND COUSHATTA INDIAN TRIBES OF TEXAS CONSIDERED AS ONE TRIBE.

The Alabama and Coushatta Indian Tribes of Texas shall be considered as one tribal unit for purposes of this title and any other law or rule of law of the United States.

SEC. 203. RESTORATION OF THE FEDERAL TRUST RELATIONSHIP; FEDERAL SERVICES AND ASSISTANCE.

(a) Federal Trust Relationship.—The Federal recognition of the tribe and of the trust relationship between the United States and the tribe is hereby restored. The Act of June 18, 1934 (48 Stat. 984), as amended, and all laws and rules of law of the United States of general application to Indians, to nations, tribes, or bands of Indians, or to Indian reservations which are not inconsistent with any specific provision contained in this title shall apply to the members of the tribe, the tribe, and the reservation.

(b) Restoration of Rights and Privileges.—All rights and privileges of the tribe and members of the tribe under any Federal treaty, Executive order, agreement, statute, or under any other authority of the United States which may have been diminished or lost under the Act entitled "An Act to provide for the termination of Federal supervision over the property of the Alabama and Coushatta Tribes of Indians of Texas, and the individual members thereof; and for other purposes" and approved August 23, 1954, are hereby restored and such Act shall not apply to the tribe or to members of the tribe after the date of the enactment of this title.

(c) Federal Benefits and Services.—Notwithstanding any other provision of law, the tribe and the members of the tribe shall be eligible, on and after the date of the enactment of this title, for all benefits and services furnished to federally recognized Indian tribes.

(d) Effect on Property Rights and Other Obligations.—Except as otherwise specifically provided in this title, the enactment of this title shall not affect any property right or obligation or any contractual right or obligation in existence before the date of the enactment of this title or any obligation for taxes levied before such date.

SEC. 204. STATE AND TRIBAL AUTHORITY.

(a) State Authority.—Nothing in this Act shall affect the power of the State of Texas to enact special legislation benefitting the tribe, and the State is authorized to perform any services benefitting the tribe that are not inconsistent with the provisions of this Act.

(b) Current Constitution and Bylaws To Remain in Effect.—Subject to the provisions of section 203(a) of this Act, the constitution and by laws of the tribe on file with the Committee on Interior and Insular Affairs is hereby declared to be approved for the purposes of section 16 of the Act of June 18, 1934 (48 Stat. 987; 25 U.S.C. 476) except that all reference to the Texas Indian Commission shall be considered as reference to the Secretary of the Interior.

(c) Authority and Capacity of Tribal Council.—No provision contained in this title shall affect the power of the Tribal Council to take any action under the constitution and bylaws described in subsection (b). The Tribal Council shall represent the tribe and its members in the implementation of this title and shall have full authority and capacity—

(1) to enter into contracts, grant agreements, and other arrangements with any Federal department or agency;

(2) to administer or operate any program or activity under or in connection with any such contract, agreement, or arrangement, to enter into subcontracts or award grants to provide for the administration of any such program or activity, or to conduct any other activity under or in connection with any such contract, agreement, or arrangement; and

(3) to bind any tribal governing body selected under any new constitution adopted in accordance with section 205 as the successor in interest to the Tribal Council.

SEC. 205. ADOPTION OF NEW CONSTITUTION AND BYLAWS.

Upon written request of the tribal council, the Secretary shall hold an election for the members of the tribe for the purpose of adopting a new constitution and bylaws in accordance with section 16 of the Act of June 18, 1934 (25 U.S.C. 476).

SEC. 206. PROVISIONS RELATING TO TRIBAL RESERVATION.

(a) Federal Reservation Established.—The reservation is hereby declared to be a Federal Indian reservation for the use and benefit of the tribe without regard to whether legal title to such lands is held in trust by the Secretary.

(b) Conveyance of Land by State.—The Secretary shall—

(1) accept any offer from the State to convey title to any lands held in trust by the State or the Texas Indian Commission for the benefit of the tribe to the Secretary, and

(2) shall hold such title, upon conveyance by the State, in trust for the benefit of the tribe.

(c) Conveyance of Land by Tribe.—At the written request of the Tribal Council, the Secretary shall—

(1) accept conveyance by the tribe of title to any lands within the reservation which are held by the tribe to the Secretary, and

(2) hold such title, upon such conveyance by the tribe, in trust for the benefit of the tribe.

(d) Approval of Deed by Attorney General.—Notwithstanding any other provision of law or regulation, the Attorney General of the United States shall approve any deed or other instrument from the State or the tribe which conveys title to lands within the reservation to the United States.

(e) Permanent Improvements Authorized.—Notwithstanding any other provision of law or rule of law, the Secretary or the tribe may erect permanent improvements, improvements of substantial value, or any other improvement authorized by law on the reservation without regard to whether legal title to such lands has been conveyed to the Secretary by the State or the tribe.

(f) Civil and Criminal Jurisdiction Within Reservation.—The State shall exercise civil and criminal jurisdiction within the boundaries of the reservation as if such State had assumed such jurisdiction with the consent of the tribe under sections 401 and 402 of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" and approved April 11, 1968 (25 U.S.C. 1321, 1322).

SEC. 207. GAMING ACTIVITIES.

(a) In General.—All gaming activities which are prohibited by the laws of the State of Texas are hereby prohibited on the reservation and on lands of the tribe. Any violation of the prohibition provided in this subsection shall be subject to the same civil and criminal penalties that are provided by the laws of the State of Texas. The provisions of this subsection are enacted in accordance with the tribe's request in Tribal Resolution No. T.C.-86-07 which was approved and certified on March 10, 1986.

(b) No State Regulatory Jurisdiction.—Nothing in this section shall be construed as a grant of civil or criminal regulatory jurisdiction to the State of Texas.

(c) Jurisdiction Over Enforcement Against Members.—Notwithstanding section 206(f), the courts of the United States shall have exclusive jurisdiction over any offense in violation of subsection (a) that is committed by the tribe, or by any member of the tribe, on the reservation or on lands of the tribe. However, nothing in this section shall be construed as precluding the State of Texas from bringing an action in the courts of the United States to enjoin violations of the provisions of this section.

Mr. GRAMM. Mr. President, I rise in strong support of H.R. 318. The Federal recognition of these two small Indian tribes is vitally important to the preservation of their identity.

We have had a long effort underway, trying to come up with an approach that protects the taxpayer but also protects the legitimate rights of the members of these two tribes. I think we have come to a reasonable compromise.

I thank the distinguished chairman of the committee for his leadership in this area, and I urge our colleagues to adopt this amendment, which I think comes to a good balance between the legitimate rights of the members of these two tribes and, obviously, the interests of the American taxpayers.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment.

The committee amendment was agreed to.

Mr. GRAMM. Mr. President, I move to reconsider the vote by which the committee amendment was agreed to.

Mr. BYRD. I move to lay that motion on the table.

The PRESIDING OFFICER. Is there further debate on the bill, as amended? If not, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 318) was read the third time and passed.

The title was amended so as to read:

> "An Act to provide for the restoration of the Federal trust relationship and Federal services and assistance to the Ysleta del Sur Pueblo and the Alabama and Coushatta Indian Tribes of Texas, and for other purposes."

Mr. GRAMM. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

INCREASE IN THE STATUTORY LIMIT ON THE PUBLIC DEBT

The Senate continued with consideration of the joint resolution.

UNANIMOUS-CONSENT AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that there be a 1-hour time limitation on the amendment by Mr. CHILES, which is pending, the time to be equally divided between Mr. CHILES and Mr. DOMENICI; that upon the disposition of that amendment, if it fails, then Mr. DOMENICI be recognized to call up an amendment and that there be a 1-hour time limitation on that amendment, to be equally divided between the same two Senators; provided further, that no amendments to either amendment be in order.

The PRESIDING OFFICER (Mr. DIXON). Is there objection?

Mr. DOMENICI. Reserving the right to object.

The PRESIDING OFFICER. The Senator from New Mexico.

Did the minority leader ask for recognition, may I inquire?

Mr. DOLE. I will defer to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. As I understand it, I say to the distinguished majority leader, no amendments are in order to the Chiles amendment; on the Domenici amendment, which I will offer on behalf of Senator GRAMM and others, no amendments will be in order to it; and that in the event the Chiles amendment fails, my amendment would be called up next and be the pending business under this unanimous-consent agreement.

Mr. BYRD. The Senator is correct.

The PRESIDING OFFICER. Is there objection?

Mr. DOLE. Reserving the right to object, and I shall not object.

The PRESIDING OFFICER. Who seeks recognition?

Mr. DOMENICI. I suggest the absence of a quorum.

Mr. BYRD. Mr. President, I have the floor.

Mr. DOMENICI. Excuse me, Mr. Leader.

The PRESIDING OFFICER. Who seeks recognition?

Mr. BYRD. I have the floor. I yield to the distinguished Republican leader.

The PRESIDING OFFICER. The minority leader is recognized.

Mr. DOLE. Mr. President, as I understand it, if both amendments fail, then we still have the debt ceiling. Would it be the majority leader's intention to have a vote on that at that time?

Mr. BYRD. Well, I think we would have to make that decision based on the circumstances at the time. I hope that if both amendments failed, we could reopen negotiations and perhaps come out with something that could be agreed upon by a majority on both sides.

Mr. DOLE. It is also my understanding that the Senator from Connecticut [Mr. WEICKER] has indicated that, unless there is some agreement to waive points of order, he would lodge a point of order against each amendment on the budget.

Mr. BYRD. This agreement would not waive points of order.

Mr. DOMENICI. Mr. President, I say to the majority leader, reserving the right to object, that I apologize for seeking a quorum without having the floor. I was unaware and forgot.

But let me just ask further clarification. In the event the Chiles amendment is agreed to, obviously it is subject to amendment. In the event it fails and the Domenici amendment is agreed to, it is subject to further amendment. Nothing that we will be doing in this unanimous consent precludes that condition from being the operative parliamentary situation of Senators, is that correct?

Mr. BYRD. I take it both Senators would want that situation to obtain. I add that to the request, that if either amendment is adopted it is then subject to further amendment.

The PRESIDING OFFICER. The majority leader has added that to his unanimous-consent request.

Are there any objections? Are there any objections to the majority leader's amended unanimous-consent request?

Without objection, that is so ordered.

Who yields time?

Mr. CHILES. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Florida is recognized for 5 minutes.

Mr. CHILES. Mr. President, I think now that we have the time agreement we can begin to compare the two propositions that we have before us. While the distinguishing ranking member of the Budget Committee, Mr. DOMENICI, has not proposed his amendment, I guess I will have to make some remarks about it. If I am incorrect in any regard, I am sure that he will correct me.

I think we are looking at now for guidance from the Senate on the two propositions that we have before us.

I would say to start with, I think both propositions are similar in this respect: each one attempts to make a correction to the glidepath of Gramm-Rudman-Hollings that legislation got off the path at its very outset when we started off thinking we had a deficit of $170 billion then found out the deficit had gone to roughly $220 billion. So, glidepath began with a $50 billion error and we have carried that error all the way through.

I think both attempt to correct that.

I think, however, there is a basic difference. In the proposition we now have before us, in addition to that glidepath and fixed targets there is another way to avoid the sequester. That is, if we do $36 billion in deficit cuts off real policy changes in 1 year, that would allow us to avoid a sequester.

The mechanism is not included in the proposition of the distinguished Senator from New Mexico and the Senator from Texas and others.

Mr. President, I think that is a major difference. I want to illustrate the reason that we have the $36 billion. If you just look at the projection chart back there, you see what has happened to us.

You are looking at the February 1987 CBO baseline. That is the green line on the chart, Mr. President. You will see how that line is going and how it measures up against the Gramm-Rudman-Hollings targets, which is the red line. You see that is what we are supposed to be doing under the present targets. You see the budget resolution falls roughly in between. We could not, perhaps, get it all the way to the Gramm-Rudman-Hollings targets this year. That is because of the $50 billion error. So that shows you why we had to correct that; why the black line is not following the red line.

If you look a little further, Mr. President, to the blue line, you see what has happened economically between February and July; not too many months difference.

You see the CBO baseline has changed. It is much higher; much, much higher than it was. Because of that, if you did not have some flexibility, you would have to adjust those deficits to fixed targets and you would have to make tremendous cuts. We see, off of the CBO baseline, required of cuts would be over $100 billion in a year.

This body has worked very hard, and in the last several years tried to do some good work. We have not cut $36 billion in real policy changes in the last 2 years combined. What is the occasion for the changes in the blue line? Is it congressional action? Not really. It is several other things.

One of the major factors is that economic conditions have changed. Interest rates have gone up. The inflation rate has turned up a little bit.

The revenues anticipated as early as February have not materialized. We are not going to have the tax collections.

So those factors, none of which were in any bill we passed involving additional spending or anything, have had a major impact.

What we are saying is even when we corrected the glidepath, and both sides are going to do that, we are still subject to those fluctuations you see projected there. For that reason we are trying to install a discipline.

We say you have to achieve $36 billion in real cuts. In our proposition, remember, we do not allow asset sales; we do not allow phony accounting so you can slip military pay 2 or 3 days or defense contracts 10 days. We are not allowing those devices. We are saying if you do $36 billion in real cuts, that will save you from sequester.

To me that is much more creditable. The Congress knows from the outset what they will have to do. If you do not have that, and the economic projections change, everybody around here throws up their hands and they say there is no way you can measure it.

I think the public loses confidence because you said you are going to do something and you cannot, but the public can measure whether you have changed $36 billion. Mr. President, the glidepath may change over a year. It may, I guess, change over 2 years, depending on what the economic variations were. But at least you will know you are going to have to make real policy changes of $36 billion a year. And if you could get that discipline installed here, you would get that deficit cranking down toward zero. Then I suspect the blue line would behave even better because you would not have as many fluctuations once you had set your path. So we think that is a major difference.

What is another major difference? It is who handles the figures. We are pursuing neutrality. I think basically all sides have sought that all the way through the process. The question is how do you try to get a neutral set of books that are not cooked?

The Senator from New Mexico said there is paranoia on our side. There is. I guess I will have to admit to that. As I said this morning, once I have been burned by the fire I am going to be a little careful approaching that hot lid the second time.

We are saying there will be no neutral set of books, neutral accounting, neutral figures, if you put OMB in the driver's seat. It just cannot be.

OMB is an agency of the President. It is in the Executive Office of the President. As such the employees are picked and selected directly by the President. Whether it has been Democrats or Republicans, that is a branch, an arm of the President.

We only have to look at this year. You see that in this year when the President sent his budget to us they said that budget was $108 billion.

The CBO disagreed. They said it missed by $27 billion higher. The consensus forecasts all said that. Now OMB has even had to come around and admit: Yes, we did not meet the $108 billion target.

Was that a small estimating error? A guestimate? No, it was 50 percent.

It was 50 percent and it was cooked. That is what OMB's job is; to cook the books the way the President wants them cooked; the way it will come out for him.

We are just saying we do not think we should set up this guillotine and place the string in the hands of someone who can adjust which necks are going to get hit.

If it is going to fall, we want it to fall on Congress' heads and we want it, not on the administration and the President.

We are worried, with the proposition we have before us, that that could not happen.

Mr. President, in a nutshell, I think that is the principal differences that we have.

Mr. President, I have pointed out that in our proposition we do not allow one-time savings, we do not allow asset sales to be used. The proposition of the Senator from New Mexico and the Senator from Texas would allow you to have asset sales, and I assume they would also allow the 1-year savings.

So those are the principle differences between the two plans.

Mr. JOHNSTON addressed the Chair.

The PRESIDING OFFICER. The Senator from Louisiana. Who yields time to the Senator from Louisiana? There is 1 hour equally divided.

Mr. CHILES. I was going to ask the Senator whether he was going to speak for or against my amendment.

Mr. JOHNSTON. Mr. President, a parliamentary inquiry. What is the time limitation?

The PRESIDING OFFICER. The time limitation is 1 hour equally divided between the managers on the two sides. That is on the Chiles amendment, I say to the Senator from Louisiana. The Senator from Florida has been indicating a distinction between his amendment and the subsequent amendment to be offered by the Senator from New Mexico.

Mr. JOHNSTON. Are second-degree amendments in order?

The PRESIDING OFFICER. There are no second-degree amendments in order by virtue of the unanimous-consent agreement obtained by the majority leader, though it is agreed that if either the Domenici or the Chiles amendment is adopted, thereafter amendments would be appropriately considered under the unanimous-consent agreement.

Mr. JOHNSTON. Is there a time limitation thereafter?

The PRESIDING OFFICER. There is none.

Mr. CHILES. Mr. President, I yield 5 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. JOHNSTON. Mr. President, I appreciate the Senator yielding 5 minutes.

Mr. President, the Gramm-Rudman-Hollings bill is looked upon by many as an unalloyed success, as being the solution to all our problems. I must say, Mr. President, I look on this procedure as an abject failure, as the root of much of our problem, as something that has accomplished almost nothing, and yet here we are in the process of trying to lock ourselves into it for a period of 5 years.

Can anybody really look at this process and say it has really worked? I think it has not. I think without the process we would have faced up to our responsibilities much better. I think it is a triumph of form over substance, of trying to substitute procedure for decisionmaking, for actual cuts, for taxes, and other things to cut the budget.

Mr. President, I look at what has happened under this bill. I can tell you what I think the result has been.

First of all, cooked numbers. We have just been talking about the cooked numbers. Who denies there have been cooked numbers? There are the stories about how we moved the paydays forward by 1 day in order to receive a great dividend.

I remember when the OCS revenues, $2.5 billion, received in 1 year were fictitious moved to the next year to make the next year's deficit seem smaller and this year's deficit seem a little bigger so it would not result in a higher deficit.

Gosh, Mr. President, we have had asset sales that would never come about, we have had growth rates that have been overextended to make things look better, and it just has not worked. We cannot just blame the President for not going along with taxes. It is that we have tried to substitute this procedure for the substance of decision. That is the fundamental mistake, that this thing is simply not going to work.

Mr. DOMENICI. Will the distinguished Senator yield for a request of the Chair? I have to step off the floor.

Mr. JOHNSTON. Not on my time.

The PRESIDING OFFICER. The Senator may yield without it being charged to his time.

Mr. DOMENICI. Mr. President, I ask that time and management of this bill temporarily be transfered to the distinguished Senator from Texas while I step off the floor for a few moments.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Louisiana is recognized without loss of time.

Mr. JOHNSTON. The first result is that it has not reduced the deficit as much as we would have done if we had faced up to our responsibilities instead of trying to do it through procedures. The second result, and nobody can deny this, is to delay the whole process. Nothing is done until you finally agree on a budget number.

What does that mean? You put off all the appropriations bills. Look at us. Here we are virtually at the first of August and we have not considered the first appropriations bill. What does that mean? We will have another CR. Who thinks that to have all the functions of Government rolled into one CR is a good thing to do? Of course, it is not.

As long as you have this Gramm-Rudman-Hollings procedure, it will happen that way because it is calculated to move everything toward the end of the year.

Third, Mr. President, this whole process does not deal with over 80 percent of the problem. What is the problem? You estimate the deficit each year and then it grows the next year. It has grown by tens of billions of dollars most each year.

Why does it grow? It grows because of technical requirements. It grows because of wrong projections in figures such as economic growth, unemployment, et cetera. And it grows because of inability to estimate entitlement growth.

Over 80 percent of the errors that have come about have come about from those three sources, and this whole procedure does not deal with those one whit, not one bit.

So here we are, we are going to lock ourselves into this straitjacket to have a little hair of the dog. You know, when the guy wakes up in the morning and has this terrible hangover, he says, "Boy, what I need is some hair of the dog. A little drink. That will chase away the hangover and I will be OK."

So the Gramm amendment and the Chiles amendment are hair of the dog. Boy, the last one did not work, but if we just make that drink a little stronger, maybe it is going to work.

We have somehow lost track of where it is we were supposed to be going.

The PRESIDING OFFICER. The Chair regrets to advise the Senator from Louisiana that his 5 minutes have expired.

Mr. JOHNSTON. If the manager will yield to me 1 minute, I would like to announce that if anybody announces—I really want to be informed on any unanimous-consent requests—if anybody thinks these packages will be adopted without debate, and I am not talking about filibuster but debate and mature consideration, please disabuse themselves of that idea.

Mr. LEAHY. Mr. President, as one of the early supporters of the Gramm-Rudman-Hollings law, I rise today in support of Senator CHILES' amendment to restore the discipline to the balanced budget process.

This amendment is just the beginning of the process of restoring the efficacy of the balanced budget law. This is not a perfect proposal and, in the coming days, I hope that much needed improvements will be made.

The Chiles amendment, however, restores the automatic cutting process to the Gramm-Rudman-Hollings law, while still giving Congress ample opportunity to vote up or down on specific spending cuts and revenue increases. Such congressional action would prevent undesirable automatic cuts.

Congress is also given an opportunity to vote up or down on the across-the-board cuts, in the event that the deficit exceeds legal limits. Congress should bear this responsibility. The Constitution gives Congress spending and taxing authority to ensure that the interests of the people, including the needy, senior citizens, and others, are protected.

Last year, I was one of the handful of Senators who voted for Senator EXON's amendment to require Congress to vote on sequesters. I am pleased that the Exon proposal was included in this effort to restore the Gramm-Rudman-Hollings discipline.

The Chiles amendment will also go a long way toward restoring truth in budgeting. The Office of Management and Budget [OMB] will be prevented from cooking the books to further the President's agenda of increasing defense spending and cutting programs that help people. It will also cut down on the smoke and mirrors currently used to reduce the deficit. No more one-time asset sales. No more prior year savings.

Finally, Mr. President, restoring the discipline—the potential for an across-the-board reduction in spending—is needed to force true deficit reduction. The prospect that virtually all defense and domestic programs would be subject to an across-the-board cut is designed to force the President and Congress to agree on reasoned reductions in spending and increases in revenues. We must not let the computers do the job we were elected to do—to responsibly manage the fiscal affairs of this Nation.

Congress may prevent a sequester by passing a reconciliation bill—a bill to make specific reductions and even increases in certain programs. This process will substitute responsible spending choices concerning specific programs for arbitrary cuts in nearly all programs.

Mr. President, since the Gramm-Rudman-Hollings was enacted, the deficit has been reduced by more than $60 billion. And, we have reduced the deficit without cutting health, education, and human services programs. In fact, in the last 2 years, Federal support for health and education programs has been increased to keep up with inflation for the first time since this administration came to office.

The Chiles amendment also continues to protect vital Social Security, children's programs and nutrition programs from any cuts during a sequester. Federal retirees would also be protected.

Mr. President, I believe the Chiles amendment is superior to the Domenici amendment.

The Domenici amendment resembles the so-called Gramm-Rudman-Hollings II plan, which I supported last year. Yet, the Domenici amendment is actually very different. I voted for Gramm-Rudman-Hollings II only after Senator EXON's amendment was defeated. As I mentioned earlier, the Exon amendment would have forced Congress to vote on sequesters. This is essential, as I said last year and when I voted for the original Gramm-Rudman-Hollings law. Unfortunately, the Exon amendment was defeated.

Senator CHILES' amendment includes a version of the Exon plan. Congress would be forced to vote—to make tough choices. The Domenici plan contains no such requirement.

Unlike Gramm-Rudman-Hollings II, the Domenici amendment also gives the Office of Management and Budget license to manipulate sequesters in order to shield defense spending and force deeper cuts in vital social programs. This is unfair cuts and unacceptable.

For all of these reasons and, especially because Congress would be forced to vote, I support the Chiles amendment.

Gramm-Rudman-Hollings has worked reasonably well. The Chiles amendment will restore the discipline to this process and hopefully send a message to the President. It is time to get serious about reducing the deficit.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I assume under the previous consent, having returned to the floor, I now control time on this side.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mr. GRAMM. Mr. President, I thank the Senator for yielding.

I would like to first point out that something very fundamental has changed as we look at the path of the budget deficit.

When we adopted the Gramm-Rudman-Hollings law, it was trumpeted all over America that we had made a commitment to do in 5 years what every family has to do every year, and that is to balance the budget. We had a tremendous reaction in the financial markets. I do not think it is an overstatement to say that for the first time in our current spending era there was a belief in the financial markets of America and on Main Street, America, that we had done the first fundamental thing to address the budget deficit in 20 years.

As a result, interest rates fell, both short-term and long-term rates. I am not going to give Gramm-Rudman-Hollings credit for all of the decline, but it was clearly a substantial factor.

However, we have not been overwhelmingly successful in forcing the kind of budget compromise that many of us wanted. In many cases we have not made the fundamental decisions that I had hoped for and still hope for, But I think the facts speak for themselves.

By the time Gramm-Rudman-Hollings was enacted, the deficit was estimated at $233 billion. We had a sequester of $12 billion off of the $233 and Congress affirmed it, bringing the deficit down to $221 billion for fiscal year 1986. Today the Congressional Budget Office projects the deficit for fiscal year 1987 to be $161 billion. That is $72 billion of deficit reduction.

Now, much of the deficit reduction occurred because of a decline in interest rates. Much of it occurred because of the one-time impact of tax reform. Some of it occurred because we did not start any new big spending programs, because with the points of order we stopped spending from growing. But the bottom line is that we experienced the largest budget deficit reduction in history.

Today, we are here with two different approaches to the same thing, and that is to fix this one imperfect instrument that is the first vehicle that has ever really given us any hope of doing anything about the deficit. We have two sincere but distinctly different ways of trying to do that. I oppose the approach that Senator CHILES has proposed not because we do not share the same objective; we do, but because I do not think his proposal is an effective way to achieve it. I think there are very serious problems with his proposal.

I would like to outline the things that are similar and the things that are different between the two proposals.

First, both approaches agree that interest rates have risen partly because in the last 6 months it has been clear to everybody that we lost our will to control spending—domestic spending in the budget was up by over $40 billion, taxes up by $20 billion and unless something is done, we all know those taxes are not going to be enacted into law. The deficit begins to mount.

What do we do that is similar? What do we do that is different? We both agree on a set of new targets based on the new reality. That is not an issue. The new targets are identical. We both agree that we ought to have 60 votes to overrule the Chair on a 60-vote budget point of order because we want the process to work. We both agree that while OMB and the Senate Budget Committee have used "cooked" numbers this year—in fact, there were two baselines in the budget—we do not want to do that on a permanent basis and we both outlaw it.

What are the differences? Well, the differences really boil down to the mechanism itself. In the case of the mechanism that I will offer with the distinguished Senator from New Mexico, we have a mechanism that was adopted by the Senate on a vote of 63 to 36. We have a mechanism that has been debated for over a year. We have a mechanism that has been studied by distinguished scholars, by economists, and by constitutional lawyers. It has been written about. It has been thoroughly analyzed. There is no debate about two things: First, it is constitutional. Second, it will work.

The alternative is a new approach that has been written, thought out, brought up, all in 1 week.

Now, part of the problem is not any lack of sincerity or brilliance by Senator CHILES and his staff. They have both. The problem is you cannot produce in a week a totally new mechanism to reconstitute Gramm-Rudman-Hollings. This is proven by the fact that it took us 8 months to develop the one that was adopted previously and is going to be offered later today.

A second problem is that by trying to exclude the Office of Management and Budget from having a coequal role while at the same time addressing the constitutional problems, you have to have a very complicated, very convoluted process. The process that I will offer with the distinguished Senator from New Mexico is 36 pages of a straightforward process that will do the job. The vehicle that has been offered is 87 pages long. It is a laborious, convoluted, complicated process. I do not want to get into a long debate about this cumbersome process because we only have a half-hour, so I have just picked out one example to demonstrate the problem with this approach.

In trying to cut OMB out of this partnership, you have to keep coming back to Congress to do things. But what if Congress and the President do not agree and do not act? Well, look at this one problem under the Chiles mechanism, on March 1, GAO determines a common baseline based on the OMB and CBO estimates.

So GAO sets out what is, for the Chiles approach, a baseline. That baseline is relevant because under the Chiles approach you can avoid the automatic cut by either getting $36 billion of deficit reduction or meeting the target, and if the target is closer than $36 billion, then the difference between the baseline and the target becomes what Congress has to do to avoid the sequester order.

Now, I pose this problem. GAO puts the baseline into effect. The difference between the baseline and the target in the Chiles bill is less than $36 billion. Congress in the intervening period does not act. There is a dispute between the President and the Congress. The President has sold assets or done something in the farm program on a final regulation; he claims credit for deficit reduction. It is scored by CBO and OMB. Congress will not adopt a joint resolution. Or CBO has overscored a bill; the President disagrees with it and will not sign it; there is no intervening action. It certainly could happen. You get to the end of the fiscal year. What happens? Well, if you sequester based on the $36 billion sequester order hanging out there—in my example, say the deficit is $20 billion from the target—you are over-sequestering by $36 billion. On the other hand, if you sequester $20 billion, based on GAO, you violate the Constitution of the United States because you violated the separation of powers, as we already know by a Supreme Court decision.

So, in one case, you oversequester by $16 billion. In the other case, you have a clear violation of the Constitution, and that is clearly only one of many, many problems that could be raised about the Chiles approach.

Now, rather than get into those, let me go on. We have in the approach that will be offered, if the Chiles amendment fails, fixed targets. The virtue of a fixed deficit target is that you know this is a 5-year program, not a 1-year program. The problem with having variable targets that float is that we have a tendency to enact 1-year savings. So that we say the deficit is $170 billion and we——

The PRESIDING OFFICER. I regret to inform the Senator from Texas that his 10 minutes have expired.

Mr. GRAMM. I ask for 4 more minutes.

Mr. DOMENICI. I yield 5 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator is recognized for 5 minutes.

Mr. GRAMM. So our problem is if you have floating targets, we say the current deficit is $170 billion, and we have to achieve 36 billion dollars' worth of savings.

They do not have to be reoccurring, they can be 1-year savings like selling REA loans so that at the end of the fiscal year everybody applauds, we reduced the deficit by $36 billion and the next year the deficit is $170 billion again. In fact, under the Chiles proposal with floating targets there is no guarantee that if we do everything the law calls for, we will ever come close to balancing the budget. With the fixed targets of the Domenici-Gramm approach, No. 1, if we do what the law calls for, we will balance the Federal budget. Second, we have an incentive to do permanent things that induce permanent savings because you do not let the target float. You have to meet $150, $130, $90, $45, and zero. That gives Congress an incentive to do things that last.

Now, the distinguished Senator from Florida has said he outlaws asset sales, but he clearly does not outlaw asset gifts. We would lose $2 billion by allowing REA loans to be prepaid without a penalty. If we went into the marketplace and sold those loans, they would sell for $2 billion more than the redemption value because their face value is above the market value. So under the Chiles proposal, you can give it away; you cannot sell it. But it is still a one-time savings, or a phony savings as some have said.

That, basically, is the nucleus of the difference.

First, we have a vehicle that has been debated for almost a year. We all know what is in it. We all agree, based on the study of constitutional scholars, economists, and Members of the Senate and House, that it will work. The Senate agreed to it once with a vote of 63 to 36. It has fixed targets that act as an incentive for a permanent solution, recurring savings. It does not have a constitutional problem. It is not convoluted. It is not complex. It seeks a balance between CBO and OMB.

The plain truth is that both of these entities are subservient, one to the President and one of Congress. At least at OMB we confirm the Director. Two people hire the Director of CBO. CBO has been objective because it has never had any power. But if you give it the power to certify, which it would have under the Chiles proposal, when the Director is hired by two people who both have their individual objectives, objectivity is going to go out the door.

Jefferson said: "If you can't eliminate power, disperse it."

What we try to do is to have a division of power between CBO and OMB, meeting the constitutional constraints and giving Congress, if it disagrees with the final decision, an opportunity, on an expedited basis, to come back on a highly privileged motion and redefine the baseline. I think that is a reasonable approach.

I hope that those who want to fix the Gramm-Rudman-Hollings bill, put the teeth back in it, will reject the Chiles proposal—not because it is not a good effort from the point of view of being well-intentioned, but because it is not a viable solution to the problem.

There has been discussion elsewhere about defense flexibility. That is going to be a separate issue from the vote on the Gramm-Rudman-Hollings fix that Senator DOMENICI and I will offer. If you do not support that, you will have a chance to vote separately on that issue.

The clothes are dirty. They need to be washed. Stay with the washer we all know and understand. It works. Do not go with this new device that has all kinds of constitutional problems, all kinds of practical problems. It is a tough problem. We need a simply machine to help us do the work.

I yield the floor.

The PRESIDING OFFICER. Who yield time?

Mr. DOMENICI. Mr. President, how much time do we have remaining on our side?

The PRESIDING OFFICER. The Senator from New Mexico has 14½ minutes on his side.

Mr. DOMENICI. How much time does the distinguished chairman have on the other side?

The PRESIDING OFFICER. The Senator from Florida has 14 minutes and 10 seconds.

Mr. DOMENICI. I yield myself 5 minutes at this point.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 5 minutes.

Mr. DOMENICI. Mr. President, I deeply regret that we are not here today on a permanent Gramm-Rudman fix in full collaboration with Senator CHILES, his wonderful staff, and those on this side of the aisle who have worked literally for months on it.

Frankly, I am firmly convinced—aside from whether we should have fixed targets or whether we should have the $36 billion reduction each year, as described in the Chiles amendment—I am firmly convinced that we are destined to be here because of a very simple but profound difference of opinion with reference to the OMB, the CBO, and GAO, and the President of the United States.

My friend, the chairman of the committee, is firmly convinced that even through the U.S. Supreme Court has made it rather clear that you must maintain zealous constitutional limits on the separation of powers in this approach, and that you cannot use legislatively created entities to do executive work, or vice versa, he has come to the conclusion, with the aid of those who helped draft this 86-page amendment, that, one way or another, the Congressional Budget Office is superior to OMB, more trustworthy, more neutral, and, in the final analysis, can really help us control this deficit better because they are apt to be more fair.

Once that conclusion was fixed in the mind of my friend from Florida, and then he would try to have a mandatory sequester process, it was unavoidable that we would be here with this difference of opinion and this huge attempt to make a constitutional automatic sequester the law of the land.

Mr. President, I am discouraged that I am now hearing that what the U.S. Senate voted in last year as a permanent Gramm-Rudman-Hollings sequester fix—it never made it through the U.S. House of Representatives, but it made it through this body handsomely—I am very disturbed to hear that, somehow or other, in about 8 or 9 months it has all of a sudden become something that the other side of the aisle cannot vote for. I really do not understand that, unless we have a marvelous proposal before us that was unequivocally better than that.

It seems to me if that is the case, Senators ought to vote "aye" for the Chiles proposal. If that is not the case, it seems to me that Senators ought to vote "aye" when we offer our amendment, because we already have adopted it. We can talk in our hour when we get on our amendment. But, essentially, for those who are saying it is all confused, yes, indeed, the amendment that we are going to vote on is all confused, because it is brand new. But we are not offering a brand-new amendment. When we follow this, if it fails—and I hope it fails—we will offer the Senate a permanent Gramm-Rudman fix that we have already voted in.

There are a few changes—some that changing economic circumstances dictate. We will try to convince the Senate to make other amendments to it, but they will be freestanding.

Mr. President, is there any real reason for us to have come to loggerheads over OMB and CBO?

I want to read to the Senate from the U.S. General Accounting Office, their assessment of OMB's and CBO's accuracy, with reference to their responsibility on economic assumptions and the like. It is very short. They say:

> Neither OMB nor CBO has been substantially less accurate than the private sector forecasters in forecasting the upcoming year, and neither has had a greater tendency to overpredict or underpredict than have private sector sources. In particular, variable mean error of the OMB and CBO forecasts tend to be the same sign, and both root mean square areas——

Now we are getting into jargon——

> tend to be of similar magnitudes to the corresponding measure of the private sector.

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired.

Mr. DOMENICI. I yield myself 3 additional minutes.

Mr. President, the bottom line is that we did not have to be here. If we really want a permanent Gramm-Rudman fix, we did not have to be in this state of confusion.

If there were a few amendments that people wanted to the bill we already passed, we could have worked those out, but we had to start over, there is the essence of the reason why CBO is more trustworthy. For the next 5 years we are going to give them the prime responsibility of determining the economics, the sequester, the account diminutions as we go through this process. We really believe there is no justification for it, and the other was absolutely constitutional and, I repeat, was voted in by the Senate, by a rather handsome margin.

I also suggest that if anybody is interested—and from what I am gathering here, minds are made up: we are making sure that we fill this RECORD with our eloquence, if that be the case, or lack thereof—I submit that if you want to know the difference between OMB and CBO the last time we had a sequester, look at it. There is a difference. Instead of speculating, read it and see where the differences are, and see what we have done in the amendment that the Senate already passed, which will follow the Chiles amendment today. See what we have done to correct it.

Obviously, they made honest, bona fide estimating errors.

They did such things as this: one assumed we would make advance deficiency payments and the other did not—a few billion dollars. In the amendment that we will ask the Senate to vote for, we have clarified that, and that is our prerogative. Advance deficiency payments will be treated one way. That is $3 billion or $4 billion of the error.

As to the other things that were in error or where they had differences of opinion, almost every one we have taken care of in the amendment that already passed the Senate, which is the fixed mechanism of assuring the Senators. Almost every difference that occurred the first round has already been fixed. People will say, "Fixed in what?" fixed in a law you already adopted here, not a brand new one.

I want to close with two other things, with reference to economic assumptions and a fixed target. Everybody should remember that this law says if you have two quarters of less than 1 percent growth that is defined as a recession and all bets are off.

Consequently, the disparities and ranges are not going to be permitted to have that much effect because if it is two quarters of 1 percent or less the whole process is off.

I want to close in reading something. I yield myself 2 additional minutes, Mr. President.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for an additional 2 minutes.

Mr. DOMENICI. I have gone through this amendment and I am going to read and see if everybody will listen and understand how confusing this is. "One thing most Members can agree upon is the need to reduce the deficit. The general consensus is that Congress should try to cut the deficit by at least $36 billion."

Now, Mr. President, that is the basis of our proposals, his and ours which will follow.

Senator CHILES' proposal, for example, states that the sequestration amount is $36 billion. The question to my good friend from Florida is $36 billion from what? This amendment has some very complex instructions on calculating the $36 billion from what? First it says that the sequestration amount is an amount equal to the difference between—if you are getting confused, so am I—the estimated deficit and the maximum deficit amount.

Then it says that the sequestration amount is an amount equal to the difference between the deficit reduction amount and the estimated amount by which the deficit will be reduced below the deficit reduction baseline. If you were confused before I imagine you are a little more confused. So am I.

These instructions hardly help, because, let us go on. A $36 billion reduction from the deficit reduction baseline, which this amendment defines elsewhere as the CBO baseline, is not the same as the $36 billion sequestered from the Gradison base and it is still in the law. The difference is about $13 or $14 billion. That is real. We have gone back and understood the jargon and it is $13 to $14 billion difference if you can understand it. And that is not just some decimal dust, especially when the amount may be cut from Federal programs.

So I really wish that the proponents of this amendment could explain to me, and I am someone that I think is fairly experienced in these matters, what really is doing on in this amendment that we are being asked to vote for here today.

Now, Mr. President, how much time does the Senator from New Mexico have?

The PRESIDING OFFICER. I regret to inform the Senator from New Mexico has used up the time he asked for. But his side still has 2 minutes and 54 seconds.

Mr. DOMENICI. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from Georgia has 14 minutes and 3 seconds.

Mr. CHILES. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Florida is recognized for 5 minutes.

Mr. CHILES. Mr. President, I have listened with interest to the arguments of my two distinguished colleagues, the Senator from Texas and the Senator from New Mexico. And I think there is a basic difference here. There is no doubt about that.

Something that has been talked about is the constitutionality of the act and how to assure constitutionality in the Gramm-Rudman-Hollings scheme.

There are basically two ways you can do that. We have had the Supreme Court decision. We know something about that now. One is to delegate to the executive. The other is to legislate. We chose the second route, to legislate. The amendment from the Senator from New Mexico and the Senator from Texas will take the other route and that is to delegate to the executive. You can take either one of those.

Now the amendment is lengthy. We have cited a number of pages, 80-something pages here. It is lengthy. But I will point out to the Chair and to the Senate that we had a simpler provision in the introduction of the original Gramm-Rudman-Hollings as introduced by the Senator from Texas. That provision was 37 pages.

Now we are weighing pages here and talking about pages. It was 37 pages, so you might say it was simple, but it did not define some things, and when it went to the conference where there was a rewrite that took place, it came back 150 pages, and I do not remember anybody at the time saying this is 150 pages and it is just too long.

Now, Mr. President, it went from 37 pages to 150 pages because someone was trying at that time to make sure what they were doing and trying to assure some neutrality. We passed that and we thought we had neutrality.

Now, I have heard an argument at length about the differences between OMB and CBO in the first sequester and you find how minor they are, and they were. They certainly were but, remember, Mr. President, at the time there was a neutral referee, GAO.

So, I just want to raise the argument that those differences were minor because there was that neutral, referee, both sides knew the referee was there, no one had a whip hand, no one had the predominant hand and so there was every reason that they be neutral.

Now what we have done in ours is provide that, overall, Congress has to approve those figures. We take the legislative route, rather than to delegate to the executive route, to try to keep the constitutionality. It takes a few pages to do that but they are in pursuit of neutrality.

So, really, let us talk about the basic differences. One is, if you are for putting in an automatic sequester, does that mean you have to surrender everything—the neutrality—to the executive? I happen to believe that article I, section 8 of the Constitution was written for good purpose which says that the Congress is the body that legislates the taxes, Congress is the body that determines spending. I think Congress should be the body the levies what a sequester should be.

I am not ready to surrender that to the executive branch and to OMB. If it takes me a few pages to keep from doing that, I am going to do it. If the Senator from New Mexico said it was a fundamental difference from the outset that was something that the Senator from Florida felt should be necessary.

I hope the Senate feels it should be necessary that we should have this kind of a neutral difference between the two.

The PRESIDING OFFICER. I regret to advise the Senator from Florida his 5 minutes have expired.

Mr. CHILES. Mr. President, I yield myself 5 additional minutes.

The PRESIDING OFFICER. The Senator from Florida is recognized for an additional 5 minutes. He is advised he has 8 minutes and 36 seconds.

Mr. CHILES. I thank the Chair.

The opponents to the amendment are saying that their amendment, the amendment of the Senators from New Mexico and Texas, would be the same plan that the Senate has passed last year and we should not back away from that plan which was to be a permanent fix. My memory on that was that before it was over, it was a 1-year plan, not a permanent fix.

But there was a basic difference even in that, and that difference is to try to provide some neutrality. And we were reaching, after the court decision, to try to find out how to do it.

The Senate passed an average of the OMB-CBO figures. We passed an average, wrote those into the law in 13 variables, 13 areas that we thought at the time were the most important areas in which there could be fluctuation. It is interesting to note after that, in some reflection and hindsight, we asked for a report. Are there other areas that we did not think about? We found out, in addition to the 13 we had written into law, there was room for OMB to have influenced a sequester $18 billion higher or lower by what they would have done and what powers they would have had.

Mr. President, none of those 13 are written in here. This is not the same proposition that the Senate voted on. We have not written those averages in here. In fact, the OMB can go out and reestimate the deficit. Under the plan that will be put before the Senate, if this plan does not pass, they can do it in the month of August. They can change the figures entirely and there is no average written into those; none at all.

So I think there is a basic difference. The difference is in trying to bring about a constitutional provision and neutrality. Are you going to determine whether it is going to be done in the legislative route, that is one way, or the executive route, that is the other way. We have chosen the legislative route.

It took some pages to do that, yes, sir. It took some written provisions to do that. But that is what we have opted for, feeling that we ought to follow article 1, section 8, rather than surrender and delegate that authority to the executive branch.

Mr. President, I am prepared to yield back the balance of my time.

The PRESIDING OFFICER. Who yields time?

Does the Senator from Florida yield back the balance of his time?

Mr. CHILES. I will wait.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

Mr. CONRAD. Mr. President, will the Senator withhold on that?

The PRESIDING OFFICER. Does the Senator withhold his suggestion?

Mr. DOMENICI. I would be pleased to.

Mr. CONRAD. If I might ask a question first of the Senator from New Mexico. In the proposal that you will advance should the Chiles proposal fall, is it a correct understanding that the President and the Office of Management and Budget would have the flexibility to determine, for example, in the Defense Department appropriation what weapons systems were invested in?

Mr. DOMENICI. Let me say to my friend, clearly and unequivocally—and I regret that we have not been able to call you and inform you on this subject—the amendment that we will offer has no flexibility with reference to defense. None.

Now I do not want to mislead the Senator. We intend to let the Senate debate the issue of defense flexibility in depth. So that if you were to vote for the Domenici amendment, it does not have any flexibility, and then we will present to the Senate an amendment and argue as to flexibility. But there is none in it.

Mr. CONRAD. Is my understanding correct that you would then be offering an amendment in the second degree that would allow——

Mr. DOMENICI. Well, I do not know whether one wants to agree that it is a second-degree amendment. Let us just say we intend to offer an amendment to put the issue before the Senate and let the Senate decide on whether they want no flexibility or some flexibility. There would be an up or down vote on that. That would have to be disposed of by the Senate.

Mr. CONRAD. Let me put into context the reason for my question, because I, for one, am convinced that we must have a sequester device. I think a majority of this body agrees with that position on both sides of the aisle. I am also someone that believes that targets ought to be fixed, rather than based on projection. but I also am someone who is sympathetic to the argument that I hear being made by the Senator from Florida on the question of OMB being given additional authority and having the power to determine whether a sequester is made and how much that sequester might be.

That is a matter that concerns this Senator greatly. Right now I find myself in the posture of perhaps having to vote in opposition to both the amendment of the Senator from Florida and the amendment of the Senator from New Mexico in the hope that we would then have a follow-on agreement that might address both of those concerns.

I would be interested if the Senator from New Mexico would have a view on whether or not, if both of these are defeated, there is any prospect.

The PRESIDING OFFICER. May I say, the Senator from New Mexico's time has expired, but candor here in the Chair requires me to state that almost 2 minutes of time has been charged to the Senator from New Mexico in the colloquy between the Senator from New Mexico and the Senator from North Dakota. In fairness, the Senator from Florida still has 5 minutes and 32 seconds. Perhaps he would want to accommodate the Senator from New Mexico.

Mr. CHILES. I yield the Senator from New Mexico 2 minutes.

The PRESIDING OFFICER. The Senator from New Mexico is recognized for 2 minutes; 3 minutes will be remaining to the Senator from Florida.

Mr. DOMENICI. I thank the Chair.

Let me suggest to my friend, first of all, we will be glad to explain in detail, when the Domenici amendment is called up, our assessment of the OMB-CBO and what check is there on arbitrariness or abuse of discretion. I will be glad to do that if and when the Chiles amendment is defeated, and I hope it is. I need to use my remaining time on one other issue.

The PRESIDING OFFICER. The Senator from New Mexico has a minute and a half.

Mr. DOMENICI. Mr. President, there is one other difference in these amendments. First of all, we keep current law on the sale of assets, yet we intend later on to amend the credit accounting of our country. We had reached agreement on that and we would hope to take into account later on, through amendment, the abuses in the accounting system as it reflects the budget.

Mr. President, let me just tell you about asset sales. There are many around who think they should not be counted, they should not be used in a budget. Let me give you one glaring example of why we should not preclude the same from operation.

When we passed the tax reform bill, Mr. President, we said, over 5 years that tax bill would yield revenue neutrality. But we also said that in the first year it would be up, in the second year down, and then in the third and fourth years back up, causing a revenue shortfall that is temporary, and then you go back up.

If ever there was an example of why you ought not discount asset sales, there is one for you. Why would you not count it, knowing full well that the revenues are going to come back up and fill the gap? Why would you insist on cutting other programs or raising revenues under just that circumstance? It seems to me we ought to leave it like it is.

The Chiles amendment says you do not get credit for any asset sales. Sell Conrail, take $2 billion into the Treasury and it has not affected the deficit. In some miraculous way, it is thrown out the window.

I hope the Senate will defeat this new approach. We will have an hour to explain ours which they adopted heretofore. I hope then we will adopt the amendment that we proposed.

The PRESIDING OFFICER (Mr. LAUTENBERG). The Senator from Florida has 2 minutes remaining.

Mr. CHILES. Mr. President, let me just hit that one basic difference, and that is the fixed targets, the set glidepath allowing the Senate to avoid a sequester by doing $36 billion. For the life of me, Mr. President, I do not know why the Congress should have to cut deficits another $18 billion because the interest rates went up. That is, in effect, what we would be required to do this year if you look at the new projection, if you had fixed targets.

And how did that change? That changed from February of 1987 to July. That is—March, April, May, June—a period of 4 months the projections changed because of interest rates. So Congress would be required to go back and cut another $18 billion. Now, I do not see the reason for that.

On the other hand, if the interest rates went down and we picked up $18 billion, and that would be because your economy was doing very well, then you could say: "Forget about doing $18 billion of deficit reduction, fellows. We do not have to do it." So that would be the worst of all worlds to put yourself in.

You will be in that if you adopt that resolution and do not adopt the one you have before you.

The PRESIDING OFFICER. The Senator from Florida still has 1 minute remaining.

Mr. CHILES. I yield back the balance of my time.

The PRESIDING OFFICER. All time has expired.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WEICKER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WEICKER. Mr. President, the amendment being offered changes the congressional budget process and is being offered to a bill not reported by the Senate Budget Committee. Therefore, I raise the point of order pursuant to section 306 of the Congressional Budget Act that the pending amendment is not in order.

Mr. CHILES. Mr. President, I move, pursuant to section 904(c) of the Congressional Budget Act of 1974, that section 306 of the Budget Act be waived in respect to the consideration of the Chiles amendment No. 628, as modified.

Mr. DOMENICI. Mr. President, I offer an amendment to the Chiles motion. I move that the appropriate provisions of the Budget Act as referred to by the chairman be waived as to the pending Chiles amendment and as to the to-be-offered Domenici amendment and that the motion apply to both amendments.

Mr. CHILES. Mr. President, the motion would be out of order, as I recall under the unanimous-consent agreement.

The PRESIDING OFFICER. The unanimous-consent agreement precluded amendments to amendments. It did not preclude an amendment to a motion, the motion made to waive the Budget Act. And if the Senator from New Mexico would send his amendment to the desk, it will be read.

Mr. DOMENICI. Parliamentary inquiry. Is the Chair asking that my amendment to the Chiles motion to waive be sent to the desk?

The PRESIDING OFFICER. It would be useful to the clerk to have the amendment so that he can report it.

Mr. DOMENICI. The Senator from New Mexico will send it to the desk momentarily.

Mr. WEICKER. Mr. President, parliamentary inquiry while we are waiting. Would it be in order to ask at this juncture for the yeas and nays on my initial point of order?

AMENDMENT NO. 630

Mr. DOMENICI. I send my amendment to the desk.

The PRESIDING OFFICER. The point of order is not subject to a vote, the Chair informs the Senator from Connecticut. The motion to waive and the amendment will be subject, of course.

Mr. DOMENICI. I send my amendment to the Chiles motion to the desk.

Mr. BYRD. Mr. President, I ask that the amendment be read.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from New Mexico [Mr. DOMENICI] proposes an amendment numbered 630:
>
> In lieu of the motion to waive I move that the 306 point of order be waived for the pending amendment and the Gramm-Domenici amendment to be offered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. I ask unanimous consent that the call for the quorum be rescinded.

Mr. CHILES. I object.

The PRESIDING OFFICER. There is an objection heard.

The assistant legislative clerk continued the call of the roll.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER (Mr. DODD). The Senator from Florida.

Mr. CHILES. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHILES. I move to table the Domenici amendment.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate?

There being no further debate, the question is on agreeing to the motion of the Senator from Florida. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

The PRESIDING OFFICER (Mr. SANFORD). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 50, nays 47, as follows:

[Rollcall Vote No. 209 Leg.]

YEAS—50

Adams
Baucus
Bentsen
Bingaman
Boren
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Graham
Harkin
Heflin
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Proxmire
Pryor
Reid
Riegle
Rockefeller
Sanford
Sarbanes
Sasser
Shelby
Stennis
Wirth

NAYS—47

Armstrong
Bond
Boschwitz
Chafee
Cochran
Cohen
D'Amato
Danforth
Dole
Domenici
Durenberger
Evans
Garn
Gramm
Grassley
Hatch
Hatfield
Hecht
Heinz
Helms
Hollings
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Packwood
Pressler
Quayle
Roth
Rudman
Simpson
Specter
Stafford
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson

NOT VOTING—3

Biden
Gore
Simon

So the motion to lay on the table, amendment No. 630, was agreed to.

Mr. CHILES. Mr. President, I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER (Mr. DODD). Is there a sufficient second?

There is sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive section 306 of the Budget Act.

Mr. DOMENICI. Mr. President, I wonder if the distinguished majority leader will agree that he or his designee might have 2 minutes and I might have 2 minutes to explain the situation.

Mr. BYRD. Mr. President, I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I obviously feel that this is a very unfair situation. Frankly, the procedures involved here have nothing to do with numbers. It has to do with whether or not these bills have been referred to the right committee.

So, what I sought was that the Senate work its will on each amendment, that we either vote in favor of the Chiles amendment or in favor of ours, which would follow.

I thought we ought to waive the Budget Act equally on both. We offered to the other side that there would be no points of order made to either amendment and that we would like to get that kind of deal. That was rejected.

Now we have a motion to waive as to their amendment, but no motion before us to waive as to our amendment. It seems to me that the fair thing to do is to treat both the same. The Senate has refused to do that.

I want the Senate to know that we are going to vote to waive—a number of us—because we think Senator CHILES deserves a chance to have his amendment voted on. We hope that 30 minutes or so from now, the Senate will do the same for us—agree to waive the Budget Act—and let us have a vote in the event he loses.

That is what this issue is all about.

The PRESIDING OFFICER. The Senator from Florida.

Mr. CHILES. Mr. President, the Senator from Florida made the motion to strike. We were asked to waive a Domenici et al., amendment. It was not on the desk. We did not have it before us. We did not have a copy of it, did not know exactly what would be in it.

I am glad the Senate did not vote that way. We are now on a motion to waive a budget point of order that is raised by the distinguished Senator from Connecticut, a Member of the other side. Obviously, I hope the motion to waive will be granted. But no one on our side that I know of said they were going to make a motion on theirs. Maybe somebody will now, in fairness.

It seems to me that what we are simply saying is that both of these have to stand the test. A motion has been made on ours, and we have to stand that test, and we will now stand it in this vote. After that, the Senate, depending on whether it is waived or not, will have a chance to work its will.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the budget impediment to both amendments be waived.

Mr. BYRD. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. DOMENICI. Mr. President, let me suggest that, in the weeks of working with the distinguished Senator from Florida, I must confess to the Senate that his argument, the one he just made, is the first time I can truly say he is being absolutely arbitrary about this.

Everybody knows what our amendment is. He knows what it is. The whole Senate knows. It is an amendment we already passed. We deserve fair treatment. We are going to help them get a vote on his amendment.

What is really happening is that they do not want reciprocity. He does not want to let us have a vote on our amendment. That is what the last tabling motion was all about.

Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Florida has 30 seconds.

Mr. CHILES. Mr. President, I will just say that I think that any move the Senator from New Mexico is making, he makes out of what he thinks is in the best interests for the proposition he stands for. I do not think he is deprived of anything by anything that has been done.

If the Senator from New Mexico and others want to help waive the motion on the Chiles amendment, we welcome that. That is very good. I assume that there is some reason they want to do that, and that is fine. I do not give you any arbitrary motives, but I think we are free to determine how we feel on that.

The PRESIDING OFFICER. All time has expired.

The question is on agreeing to the Chiles motion to waive section 306 of the Budget Act. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], the Senator from Georgia [Mr. NUNN], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 71, nays 25, as follows:

[Rollcall Vote No. 210 Leg.]

YEAS—71

Adams
Armstrong
Baucus
Bentsen
Bond
Boren
Boschwitz
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cochran
Cohen
Cranston
Danforth
Daschle
DeConcini
Dodd
Dole
Domenici
Durenberger
Evans
Ford
Fowler
Garn
Graham
Gramm
Grassley
Hatch
Heflin
Heinz
Hollings
Humphrey
Inouye
Karnes
Kassebaum
Kasten
Kennedy
Leahy
Levin
Lugar
Matsunaga
McCain
McConnell
Melcher
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Packwood
Pell
Pressler
Proxmire
Pryor
Quayle
Rockefeller
Rudman
Sanford
Sasser
Shelby
Simpson
Specter
Stafford
Stevens
Thurmond
Trible
Warner
Wirth

NAYS—25

Bingaman
Bradley
Conrad
D'Amato
Dixon
Exon
Glenn
Harkin
Hatfield
Hecht
Helms
Johnston
Kerry
Lautenberg
McClure
Metzenbaum
Reid
Riegle
Roth
Sarbanes
Stennis
Symms
Wallop
Weicker
Wilson

NOT VOTING—4

Biden
Gore
Nunn
Simon

So the motion to waive section 306 of the Budget Act was agreed to.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Florida.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. Is there further debate?

There being no further debate, the question is on agreeing to the amendment of the Senator from Florida. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], the Senator from Georgia [Mr. NUNN], and the Senator from Illinois [Mr. SIMON] are necessarily absent.

The PRESIDING OFFICER (Mr. DASCHLE). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 25, nays 71, as follows:

[Rollcall Vote No. 211 Leg.]

YEAS—25

Baucus
Bentsen
Boren
Breaux
Bumpers
Burdick
Byrd
Chiles
Dixon
Dodd
Ford
Fowler
Graham
Heflin
Inouye
Kennedy
Leahy
Levin
Matsunaga
Mikulski
Pryor
Rockefeller
Sanford
Sasser
Wirth

NAYS—71

Adams
Armstrong
Bingaman
Bond
Boschwitz
Bradley
Chafee
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dole
Domenici
Durenberger
Evans
Exon
Garn
Glenn
Gramm
Grassley
Harkin
Hatch
Hatfield
Hecht
Heinz
Helms
Hollings
Humphrey
Johnston
Karnes
Kassebaum
Kasten
Kerry
Lautenberg
Lugar
McCain
McClure
McConnell
Melcher
Metzenbaum
Mitchell
Moynihan
Murkowski
Nickles
Packwood
Pell
Pressler
Proxmire
Quayle
Reid
Riegle
Roth
Rudman
Sarbanes
Shelby
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson

NOT VOTING—4

Biden
Gore
Nunn
Simon

So the amendment (No. 626), as modified, was rejected.

Mr. DOMENICI. I move to reconsider the vote by which the amendment was rejected.

Mr. BYRD. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 631

The PRESIDING OFFICER. Under the previous order, the Senator from New Mexico [Mr. DOMENICI] is recognized to offer an amendment.

Mr. DOMENICI. Mr. President, I send an amendment to the desk on behalf of Senator GRAMM, myself, and others, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI], for Mr. GRAMM, for himself, Mr. DOMENICI, and others, proposes an amendment numbered 631.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the clerk dispense with further reading of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed under amendments submitted.)

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Budget Act be waived for purposes of this amendment.

The PRESIDING OFFICER. Is there an objection?

Mr. CHILES. I object.

The PRESIDING OFFICER. The Senator from Florida objects.

Mr. DOMENICI. Mr. President, I expected objection, if not by one, by many. I would just like the Senate to know we are talking about the U.S. Treasury running out of money. These who are concerned are saying let us get something passed. We on our side decided that we ought to waive a technical procedure here and let the distinguished chairman of the Budget Committee have a vote—as a matter of fact, I believe our side gave him 36 votes—so that we could get on with the business of the Senate. The Senate has worked its will on the Chiles amendment and has decided that they did not favor it.

The reason I asked for unanimous consent it be waived as to us is because it seems to the Senator from New Mexico that we ought to have an up or down vote on the two substantive amendments that have to do with automatic sequester. We had one. It lost. I think we ought to have another. If my suspicion is right, when we are finished with our debate, someone will make a point of order and then we will have a vote on that. And if my suspicion is further right, we will be denied a vote on this amendment. It seems to me that just means we are not really serious about fixing up Gramm-Rudman-Hollings, we are not serious about getting the matter of the debt limit behind us so that we can get on with the business of the people and assure the credit of the United States, make sure the pensioners and Social Security people of this country get their checks. But we will see.

We have done our share to expedite the vote on substance. We will see whether we get some reciprocity in the next few minutes. I do not intend to be long, unless others want to speak at length on the amendment that is pending—we have been talking about it now most of the day, but the most important thing is that the Senate has voted on this amendment. The Senate voted 63 yeas and 36 nays and said let us get on with fixing Gramm-Rudman-Hollings in a constitutional manner. Let us reinstate the sequester and let us get on with getting this deficit down.

We have basically the same procedural tools which were in the amendment that passed the Senate in this amendment. In the first year there has to be a change because last year when we passed it, it was later in the year and we fixed the targets in the budget itself in the amendment. This year we cannot do that because we do not yet have the numbers. But the rest of this amendment is the same. The targets are the same as in the Chiles amendment, $150 billion in the first year. That will require about 36 billion dollars' worth of effort, and thereafter they are fixed, just as we have been describing them for the last couple of hours. There is no amendment to current law with reference to defense spending. Let me repeat. We have been asked by Members of the Senate, "Do you in any way in this amendment give favored treatment to the Defense Department in an across-the-board sequester?" Let me repeat for the third or fourth time, no. There is no preferential treatment for the Defense Department in this amendment.

Obviously, that is an issue. The Senator from New Mexico does not want anyone to think it will go away. But we perceive it ought to be voted on with full debate, and if you adopt this amendment then we will, in due course in the next couple of days—tomorrow or whenever we have time—submit an amendment on defense spending. There is not any question that some kind of exemption has to be built in for defense. Even the distinguished chairman of the Budget Committee built in a personnel exemption the President could use. But we will vote on that issue later. It is not in this amendment.

This amendment essentially was adopted by the Senate with 63 votes last year. Anyone who is reading it will look at the first part and say, "But for 1988 it is different." For 1988 is exactly as 1988 was in the bill we passed, but for new targets. For 1987, the year we have already finished, obviously it is different, because we already have finished that year and it is not required. But for 1988, because we have time, we actually go through the OMB-CBO methodology of setting their averages, coming up with the sequester order. That is sent to GAO and if they find that there is significant error, they can adjust it, and then it is sent back to OMB to be implemented with a Presidential order.

Those on the other side who oppose it will argue that OMB has too much power under this and that CBO ought to be given more power. I am prepared to answer questions on that.

For those who are intrigued by this motion of who should do the number crunching, who should do the economics, who will do the best job, who is apt to be fair, who is apt to be unfair, who has been more right, and who has been more wrong in the past 6 or 7 years, we are delighted to answer their questions as they raise them.

However, the truth of the matter is that we have already stated that when it comes to economics, whichever way you want to look at it—a cup half full or a cup half empty—they have both been about as bad or about as good, whichever way you want to look at it. I do not say that. GAO says that CBO and OMB have been just about equally wrong or equally right, as compared to anyone who does these kinds of things, for the past 7 or 8 years.

We think we should leave CBO and OMB in to do their averaging, but we have clarified from the first sequester some of the major areas of disagreement.

So that when somebody tells the Senate there was such a difference between OMB and CBO the first time, we cannot trust them, that OMB had a lower deficit than CBO, let me tell you that that time around we left some real areas of dispute.

Since we have someone from agriculture presiding over the Senate, let me say that we did not even clarify the first time, when we adopted the first Gramm-Rudman-Hollings, whether or not advance deficiency payments were going to be charged in the budget—not an insignificant amount of money. It ends up that OMB tries to save money and CBO says you are going to do it sometime and spend money. That is eliminated, as it was when we voted 63 "ayes" last year. We resolved that issue, and advance deficiency payments are assumed to be made in the deficit calculations for the budget year.

A number of issues that arose the first time on Gramm-Rudman-Hollings are resolved, including technical disputes about the ratio of budget authority and outlays in defense spending and in other programs. They are set in this amendment because we clarified that last year with weeks of effort and consultation with the lawyers. It is constitutional now, and there will be fair treatment of the budget accounts and as reasonable a conclusion as possible of how much the sequester ought to be and how it ought to be implemented. Let me repeat: as reasonable as you are going to get, considering the complexity of Government and the disparity of professionalism among OMB, CBO, and GAO.

I do not believe 63 Senators would have voted for it. I do not believe 63 Senators would have said: "Let us fix it, and now, today, find that we need a wholly new scheme. We even need to put something in this scheme that once again makes it constitutionally challengeable."

We do not need that. We need something that is tried and true, that will work, and that is what we have before us—fixed targets that, if met, will reduce the deficit by $36 billion from our current estimates of deficits as they exist. We will have to do that in each year with the same margin of error that we prescribed in the early bill, plus, we have $10 billion of potential error in economics and other things; and that is built into this new trend line, just as it is in current law, just as it has been from the first Gramm-Rudman-Hollings.

So it can go up to $160 billion at the end of the year if we make mistakes; $130 billion can go up to $140 billion if we make mistakes. But we are fixed at those numbers in each year for the next five, coming down to zero.

I could say much more in rebuttal as to why we should reinvent the wheel, which is what those who are going to vote against this amendment and who voted for it last time are going to suggest: that in these few short months we should reinvent the wheel, not only the wheel of procedures but also the wheel as to the perfection that one seeks called neutrality.

I can argue that point, too, almost ad nauseum. But, on the point of neutrality, let me conclude on this point: If you do not vote on this kind of amendment because you would like to have the Congressional Budget Office more involved, as the distinguished chairman had, let me assure you that you will have no neutral body left around to do any estimating, because, just as sure as we are here, the Congressional Budget Office will get turned into a political quagmire.

So we have given them the same role they had last year, when 63 Senators voted for this, and we do give the U.S. Congress and GAO one opportunity to correct egregious economics if they really think they are there. That is what we did last year in the scheme of things. We have done it again here.

I repeat: We are just proposing the same amendment we already adopted, adjusted to new economics and adjusted for the year 1988, which is now upon us.

I am pleased to yield 10 minutes to the distinguished Senator from Texas [Mr. GRAMM].

Mr. GRAMM. Mr. President, I think the distinguished Senator from New Mexico has described the amendment very well.

This amendment was adopted by the Senate last year on a vote of 63 to 36. It was debated for months. It was reintroduced the first day of this session. It has been in the RECORD. We all know what it does. We all know how it works.

The Supreme Court struck down the General Accounting Office, the Comptroller General, as the final arbiter of the size of the deficit.

I want to be sure everybody understands that when we are talking about CBO and OMB and GAO making these decisions, we are not talking about decisions about what is cut. If, God forbid, there is a sequester order, it is already written into law what must be cut.

We have now prepared several sequester orders, one of which was put into place, and it is written into law and established by precedent exactly what is going to be sequestered. There is no discretion there.

In his amendment, the distinguished Senator from Florida gave the President some discretion on the personnel accounts in defense. So far as we are concerned, that is another issue to be dealt with later today or another day and Congress can work its will there. I personally support that discretion, but we did not want to clutter this choice up with that debate.

The only thing that is in dispute is how do you determine whether or not we met the deficit target? When Congress claims to have met the target, how do you measure this truth in budgeting, as Senator CHILES called it? The way we try to do that and conform to the Constitution is to have CBO and OMB, the budgeting arm of the Congress and the budgeting arm of the President, report jointly on what they think the deficit is. They list all their assumptions about the economy in the next year. GAO comes in and then audits those two estimates, audits the account of the Federal Government and reports to the Congress.

Then the GAO report goes to the OMB Director, as the officer of the executive branch required by the Supreme Court decision, and he certifies the deficit. Let us assume at that point—even though when OMB and CBO reported jointly before on economic assumptions, they were one-half billion dollars apart in the first sequester—let us assume that they are way apart here.

We have written into this bill a procedure whereby Congress on an expedited fast-track basis, no motion to table, no filibuster, up or down vote, can go back and set the economic parameters between what CBO said initially and what OMB said initially. In fact, in the outyears when we have more time when they first report before there is a sequester order, Congress can move to vote on that.

Now, if you are looking for a perfectly fair and leadpipe cinch solution you are not likely to get it. What we have to do, it seems to me, is take the two agencies that have the budget expertise and have them both involved and then give Congress the final bite out of the apple.

Sixty-three Members of the Senate when we voted on this before said this is a reasonable approach. The head of the Federal Reserve Bank, the new designee head of the Federal Reserve Bank, both support fixing Gramm-Rudman-Hollings and supported this procedure when we voted on it before.

Now, I want to make one final point. I know there are some people here who are saying "Well, I voted against Senator CHILES' proposal. I am going to vote against this proposal, and I am going to hope for the best."

Let me remind my colleagues that we barely put Gramm-Rudman-Hollings into place to begin with. Under that law, the deficits have come down by $72 billion, not by that law alone, but nobody would argue that it has not been a positive law.

The Treasury will default next Wednesday under current estimates. For us to have any hope of fixing the Gramm-Rudman-Hollings Act and putting the automatic mechanism back into it, we have to act, we have to go to conference, and we have to work out a compromise in conference. Fortunately, the chairman of the Ways and Means Committee, who will be the chairman of the conference, has endorsed many features of this procedure. But clearly, we are going to have to work out some compromises. We are going to have to come back and vote on a conference agreement. We are going to have to do all that by next Wednesday and the President is going to have to sign it to keep us from going into default and to be sure the Social Security checks go out on August 3.

So I want to urge my colleagues not to wait for the perfect train to come along. This may be the last train. This may be the last opportunity we get. If we fail here, there will be a big push for a clean debt ceiling or a 30-day extension which takes us into our recess. We are gone. We come back here in September. At that point, that close to the moment of truth on whether we meet the target or not, we all know there is going to be no fix at that point.

So I am not saying that this is the end of the trail if we lose. I am willing to negotiate with anybody, work with anybody in as good faith as I can, but the plain truth is that this may be the last opportunity we have to fix Gramm-Rudman-Hollings.

So if you want the process fixed, this is a reasonable solution. It was adopted by 63 Members of the Senate before.

I urge those who supported it in the past to not let partisanship stand between us and our best hope of doing something to reduce the deficit, to keep a recovery going that has brought jobs and hope and opportunity to our people, give us a chance to bring this deficit back under control.

This is a critical vote. It may be the last opportunity we have in any meaningful way to put the automatic mechanism back into place, to mandate that Congress meet fixed targets and reaffirm a commitment we made to the American people 2 years ago when we wrote this law. We said then that we were going to do over 5 years what every family has to do every year and that is balance the budget.

This gives us fixed targets and a reasonable mechanism. I believe that working together we can make it work.

I urge those who want to fix the Gramm-Rudman-Hollings law, who want to reaffirm the commitment to balance the budget, to vote for this amendment.

The PRESIDING OFFICER. Under the unanimous-consent agreement, the Senator from Florida had 30 minutes; the Senator from New Mexico had 30 minutes. The Senator from New Mexico has 9 minutes remaining; the Senator from Florida has 30 minutes.

The Senator from Florida.

Mr. CHILES. Mr. President, in the debate that has just taken place here, it was argued that a waiver was granted—and supported by a number of Members on the Republican side—to waive the point of order raised on the Budget Act, and out of pure fairness that should be granted to the other side.

It reminds me of a little bit of the hymn "Almost Persuaded in That Regard." It is interesting to the Senator from Florida to hear that fairness is always argued when the votes are stacked your way, and you argue the procedure when the votes are stacked the other way.

I heard the distinguished Senator from Texas say that partisanship should not allow this amendment to now be adopted. I agree in that regard.

I have looked long and hard at the last rollcall and have not been able to find anybody from the other side that was almost persuaded on that amendment, but I know that that was no mark of partisanship there. I have heard the time is just kind of running out here and if we did not want the Social Security recipients to get worried about their checks and others that we just have to deal with this right now.

I would say after some weeks of trying to negotiate this, it was not the Senator from Florida who threw up his hands and said I am tired of this, or I do not think there is any way to go any further. When the Senator from Florida had thought we had gotten within about two points of agreement and were getting very close and I thought everybody sort of thought that, it was the other side that decided to walk out. Time was not so much of the essence at that time that we could not stay a little bit longer and try to fix those.

But that is interesting, all a very legitimate part of debate, and I understand that. I think that men of good will who want to fix Gramm-Rudman-Hollings certainly differ in some of their ideas about how that should be done.

I happen to want to restore an automatic sequester. I have had that position for a good while. I have certainly tried to argue that on my side of the aisle. I want it to be truly automatic, and I want it to be fair. Those are the two things that I think have to be there. Everyone needs to understand how it will fall, and we have to know that it is basically fair.

I have listened with interest about how we are bound by this 63-to-36 vote. The Senator from Florida was one of the 63 that voted in that regard.

The Senator from Florida helped to write the provisions last year that made up for that 63, made up for the fix after Gramm-Rudman-Hollings. I supported it when it was over at OMB. At that time, I will have to say I was concerned. And the Senator from Florida is the one that helped write in the 13 economic variables to limit OMB's discretion in that regard. I will say that there is a basic difference. And even though we found out later that we had not done enough in limiting their discretion we at least were trying. I can tell you in this provision before us now, those 13 variables are not there. And so OMB has more discretion now than it had last year.

Also, the Senator from Florida, perhaps by this prejudice, is concerned because I have seen OMB say that $136 billion deficit is a $108 billion deficit. I have seen that happen. I have seen them in all of the reestimates. So I am not persuaded that OMB is going to be fair.

I also think that as we try to fix this we need something in addition to the basic glidepath to allow the Congress to know that if it works, $36 billion in true deficit reduction would result. It seems to me that that would be fair.

Those arguments I think have been made. But time is running out. It is interesting that they did not play much yesterday when we were almost there. No one worried as much about it them, but now we are very concerned.

I hope that the amendment before us will not be adopted. I think we can do better. I think it ought to be the role of the Senate to attempt to do better. I would like to see an automatic sequester, but I want to see that that sequester is fair.

If you look and see what happens to this, OMB has the final word on the baseline spending level, in the distribution of cuts to each program, on the size of the sequester, and on how much any legislation or regulations reduce the deficit.

Now, I can tell you that is a world of discretion. And if the body wants to grant all of that, then that is certainly within the purview of the body to grant. I do not think that it would be wise to do that. I hope that the Senate will not do that.

As I say, we have debated this at length. I think most of the people sort of know what they are doing on it. But I would hope that we will turn it down.

The PRESIDING OFFICER (Mr. Rockefeller). Who yields time?

Mr. CHILES. I yield 5 minutes to the Senator from North Dakota.

Mr. CONRAD. Mr. President, there are several things that trouble me about the proposal before us. One is the discretion that OMB has. I, too, have seen a budget sent to us that was scored as being $108 billion which more objective parties viewed as being $134 billion in deficit. I must say to those on the other side who are advocating this particular fix that that concerns this Senator. And I am one who feels very strongly that we need a Gramm-Rudman fix. I am convinced from watching the activities of those of us in the Senate that we need to have a fix, we need to have a sequester in place in order to get true budget deficit reduction.

I am also someone who is convinced that we must have fixed targets. And so that part of the proposal that is before us strikes me as responsible and as the one that can promise us true deficit reduction. We are not cutting off a projection. We are delivering, hopefully, results.

I am very troubled, and I would like to ask the Senator from New Mexico about the targets that were chosen. If I might interrupt the Senator from New Mexico, perhaps I could ask him why the deficit target for 1988 was selected at $150 billion. The reason for my question and the reason for my concern—I had the same concern on the Chiles amendment which I voted against—was that that virtually assures that we will have no budget deficit reduction year to year; that is, CBO is now saying that the budget deficit for fiscal year 1978 will be $161 billion. I understand the administration thinks it may be $155 billion. Now, we have a target in this new proposal for fiscal 1988 that is $150 billion and that of course takes no note of a possible supplemental, and you will always have of course the possibility as I understand it in this proposal of an additional $10 billion of slippage.

So we could have the deficit going up year to year, and I must say that troubles me deeply. I think that would be a major mistake substantively for this Chamber to adopt targets that allow the budget deficit to increase rather than going down. We are still in an expansionary phase and to allow the budget deficit to go up in fiscal 1988 from fiscal 1987, I think, would send entirely the wrong message.

But I would like to again pose the question to the distinguished Senator from New Mexico as to why the target of 150 was chosen for fiscal year 1988.

Mr. DOMENICI. I will be pleased to try to answer.

As we indicated in our debate throughout the day, the $150 billion is not in dispute as between the distinguished chairman in his amendment and us in ours. The reason for that is that we are now getting current estimates of what the deficit will be for next year. And the estimates are anywhere between 180 to 186. And that $6 billion difference, let me just quickly tell you, has to do with REA. One group of assumptions say we have accomplished that REA refinancing and others say we have not. Essentially, we are talking about the same ultimate facts.

But when you reestimate what happened to the revenue base as a result of the new tax law, you get a very big bonus this year which we predicted on the floor—somewhere between $18 to $22 billion. That will not reoccur.

You were not here when we voted it in but we all warned the Members then that in the first year revenues go up and after that they will be going down. That $18 to $22 billion is now estimated to be money that will not come in this year. So there is part of it.

Interest rates, you can do nothing more than estimate the cost of interest on the national debt. You cannot be sure. And it is a big ticket item.

You remember a few months ago interest rates went up a bit. Well, they go up for T-bills, too. As a matter of fact—I will give you a rough number—interest costs are up $11 billion in the new estimates. We are now trying our best to use those and plug them in. We have come up with $186 billion. You subtract $36 billion—which is what everybody thinks you ought to do—and you get $150 billion as the target. That is where it comes in.

The PRESIDING OFFICER. The time yielded to the Senator from North Dakota has expired.

Mr. CHILES. I yield the Senator 2 additional minutes.

Mr. CONRAD. If I might just pursue this because it is of great concern to me. I understand that the baseline deficit for 1988 has risen as a result of changed economic forecasts; that is, they now take account of the higher interest rates, take account of slower economic growth, higher inflation and, as a result, the baseline deficit has gone up.

I think we will have a very difficult time explaining that to the American people. I think they are looking for deficit progress year to year and if we go to the American people and we say, "Well, we had to slip the deficit targets by $42 billion for 1 year because the projections changed," they are going to say, "Who made the projections?" And our answer is going to have to be, "The Congressional Budget Office made the projections." They are going to say, "Who controls the Congressional Budget Office?" The Congress controls the Congressional Budget Office.

So I think we have got to deliver results year to year and this does not do it.

Mr. CHILES. Mr. President, I just want to say in the same vein that my distinguished colleague from North Dakota has asked about the $150 billion. I think that we should look at why the administration would support the Domenici version. I think it is because it tends to let them off the hook on the deficit.

They have taken our target of $150 billion and I think they put another twist on that. We calculated that $150 billion by taking the CBO current deficit of $186 billion and subtracted the $36 billion that we have proposed doing and that is where we come up with the $150 billion.

But I think the other plan is a little different. They take the $150 billion target, but under that plan they allow OMB to come back and reestimate the deficit. We know there has been about a $30 billion difference between OMB and CBO in the estimating of the deficit this year. If that $30 billion persists, half of that takes $15 billion away.

Then, remember under this plan you can have asset sales and you can have accounting gimmicks or slips. So I think any sort of discipline toward getting that $36 billion disappears—$15 billion in just estimating—any others in the asset sales. The net result is you are going to get zero discipline or zero progress toward the budget this year.

Mr. GRAMM. Mr. President, I ask the Senator for 2 more minutes.

Mr. DOMENICI. I would be pleased to yield 2 minutes to the distinguished Senator. Let me say to the Senate, whatever time we have remaining—as I understand it, the distinguished chairman does not desire much more time. I am prepared after this 2 minutes to yield back the balance of our time and proceed with dispatch.

Mr. CHILES. I seek 3 minutes.

Mr. DOMENICI. Then we will reserve our time.

Mr. GRAMM. The deficit has shot up to $186 billion for two reasons. One, we had a revenue bulge with the tax reform package and it gave us a once for all revenue increase that is nonrecurring. We all knew it. We all put the charts up here. In fact, the distinguished Senator from New Mexico and I offered an amendment that the Senate adopted which said you could not count the revenue bulge the first year. You had to spread it out over the next 3. We adopted it here and it was thrown out in conference.

Second, the deficit is up because interest rates are up. Why are interest rates up? They are up because for the last 7 months we have been running away from Gramm-Rudman and our commitment as quickly as we could and the financial markets have adjusted to it.

Finally, I am sorry that this is not lower than $150 billion, but do you want me to tell you something? If we do not fix Gramm-Rudman, it is going to end up 190. It is 186 now on current services and of the $40 billion of addons in domestic spending in the budget, there is no way the President is going to end up vetoing all of those bills. Some of that is going to get built into the baseline.

I can tell you I can go home and say "I wish it were better, but it is $40 billion better than it would have been had we not done something about it."

I can tell you, if we reaffirm our commitment to balance the budget in 1992, there are not going to be many people in my State or your State that are going to be jumping up and down and saying, "They let it slide for a year." They are going to be jumping up and down and saying "Thank God, they are doing something about it because if they had not done anything about it, I might not have ever gotten to buy a home because interest rates would keep coming up, inflation would be back up, and we would be back in the same mess we were in before."

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. CHILES. I yield 3 minutes.

Mr. LEVIN. Mr. President, I am one of those who believe we have to have an automatic trigger if we are to have deficit reduction. It should not be that way. It is not a logical way to behave but history has proven without it we are simply not going to do what we have to do. There will not be enough discipline around here to reduce this deficit, so I favored a Gramm-Rudman approach and favor the automatic trigger.

I also think we have to fix Gramm-Rudman. The President and a few Members of the House went to the Supreme Court and knocked out the automatic trigger. The President had a right to do it. The others had a right to do it. The Supreme Court knocked it out. We have to do our best to replace it. But it is not just any old fix we ought to favor; it is the fix that makes the most sense in terms of what we are trying to accomplish.

I was one of the 63 that voted for last year's fix. Then the question comes: Well, why not vote for the same fix this year? The answer is, it is not the same fix. It is a different amendment.

There are a number of other reasons why we should not vote for the particular proposal of the Senator from New Mexico. But one of the reasons is that last year's amendment that we voted on, there were 13 economic assumptions for the upcoming fiscal year which the Congress set. It did not abdicate that to the OMB. The upcoming year was 1987. Congress set those assumptions. We did not cede that to the OMB.

Congress determined, rightly or wrongly, what the gross national product would be. Congress determined what the CPI would be. Congress determined what the unemployment rate would be. Congress determined what the corporate profits would be. Congress determined what the taxable income rate would be. Are we the best one to determine it for the upcoming fiscal year? You can argue if you want we are not. You can argue that OMB will do a better job.

But I do not think you can argue that this is the same amendment. It is not.

Let me repeat, at least in one respect, why it is not. Congress last year set these economic assumptions for the upcoming fiscal year which was then 1987. The amendment before us does not set those economic assumptions for 1988, which is the upcoming fiscal year.

This was not some casual difference. I think my friends in New Mexico, Texas, and others, and surely my friend from Florida will remember that this was a fought-over issue in that 1987 fiscal year fix that we voted on a year ago.

It was not casual. It is a critical difference, how much power we are going to give the OMB.

We can try to do the same thing now for 1988 that we did last year for 1987. We ought to try to do it. But, again, it is one thing to say OMB can do a better job. It is a very different thing to say that this is the same amendment when we do not do for 1988 what we last year did for 1987 and that is set those 13 economic assumptions.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The time has expired. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, let me say to my good friend, and I really compliment him. Although a nonmember of the Budget Committee, he has been involved for over 2 years. But let me suggest that in making his statement, if he will just go back and look at where we were and what we did when we made those 13 specific assumptions: this is the same bill.

It happens that at that point in time, I say to my friend from Ohio——

Mr. LEVIN. Michigan.

Mr. DOMENICI [continuing]. From Michigan—listen carefully. We had——

Mr. LEVIN. It is a difference where I come from.

Mr. DOMENICI. I say to my friend from Missouri——

[Laughter.]

Mr. DOMENICI [continuing]. Listen carefully. We had the then-known economic assumptions of—guess who? OMB and CBO. And we took the average and we wrote them in.

That is precisely what our bill says we are going to do. It just happens that we do not have those economic assumptions now. We did then.

That is the difference. If that is a difference, it is a difference without any distinction, as the Senator from New Mexico sees it.

You were agreeing then: CBO's, OMB's, all 13 of them then known. Averaged them and wrote them in.

We do not know them now so what we have done is adopt the same exact formula in this bill.

Mr. LEVIN. If you would yield for a question?

Will the Senator yield for a question?

Mr. DOMENICI. I yield my remaining time to the Senator from Texas.

Mr. GRAMM. We do not have both of those estimates now, but we have a provision that when CBO and OMB report, when GAO audits the accounts and reports to Congress and to the President and to the people, and when OMB issues a report, we then have an expedited procedure whereby we can do exactly what we did last time, which is write the economic assumptions into law.

I think it is very interesting that the ones we wrote in last time were not remotely similar to what ended up being used by OMB and CBO in the actual audit. But the point is that nothing we did last time denies us doing it this time. It is just we are at a different stage in the process.

This is the best shot we are going to have.

Mr. CHILES. Mr. President, there is one difference. What the Senator from Texas has said is right. This says CBO and OMB can both gather figures. It says you can use an average.

But it also says that OMB, if it wants to, can override that. If that is not a difference when you allow the override, I do not know what is.

We do not have the OMB figures. Why? Because they have decided not to give them. CBO has already done their reestimates. We asked the Director of OMB, "Why can you not give us these numbers?" He said, "Well, it takes us a long time. It is a long process."

Those figures can be given now. They do not want to give those figures now. They want to override.

Mr. DOMENICI. We yield back the remainder of our time.

Mr. CHILES. I yield back any time I have.

I suggest the absence of a quorum.

Mr. JOHNSTON. Will the Senator withhold?

Mr. CHILES. I withhold.

Mr. JOHNSTON. Mr. President, as the pending amendment deals with matter within the jurisdiction of the Committee on the Budget, without having been reported by that committee, I raise the point of order under section 306 of the Congressional Budget Act of 1974.

Mr. DOMENICI. Pursuant to section 904 of the Budget Act, I move that section 306 be waived and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive Section 306 of the Budget Act. The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], the Senator from Illinois [Mr. SIMON], and the Senator from Mississippi [Mr. STENNIS], are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 47, nays 49, as follows:

[Rollcall Vote No. 212 Leg.]

YEAS—47

Armstrong
Bond
Boren
Boschwitz
Chafee
Cochran
Cohen
D'Amato
Danforth
Dole
Domenici
Durenberger
Evans
Garn
Gramm
Grassley
Hatch
Hecht
Heflin
Heinz
Helms
Hollings
Humphrey
Karnes
Kassebaum
Kasten
Lugar
McCain
McClure
McConnell
Murkowski
Nickles
Packwood
Pressler
Proxmire
Quayle
Rudman
Shelby
Simpson
Specter
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Wilson

NAYS—49

Adams
Baucus
Bentsen
Bingaman
Bradley
Breaux
Bumpers
Burdick
Byrd
Chiles
Conrad
Cranston
Daschle
DeConcini
Dixon
Dodd
Exon
Ford
Fowler
Glenn
Graham
Harkin
Hatfield
Inouye
Johnston
Kennedy
Kerry
Lautenberg
Leahy
Levin
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Nunn
Pell
Pryor
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Stafford
Weicker
Wirth

NOT VOTING—4

Biden
Gore
Simon
Stennis

The PRESIDING OFFICER. On this vote there are 47 yeas and 49 nays. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is not agreed to. The point of order is well taken. The Domenici-Gramm amendment falls.

Mr. BYRD. Mr. President, there will be no more rollcall votes this evening.

ORDER FOR CONVENING OF THE SENATE AT 8:15 A.M. TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it come in tomorrow at 8:15 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR MORNING BUSINESS TOMORROW

Mr. BYRD. Mr. President, I ask unanimous consent that after the two leaders have been recognized on tomorrow—and I ask that my time be reduced to 5 minutes under the standing order—there be a period for morning business, not to extend beyond the hour of 9:15 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Although the hour is late and there are no more rollcall votes, the majority leader is tending to the business of the Senate, and the Chair would appreciate order in the Senate.

Mr. BYRD. I thank the Chair.

I ask unanimous consent that Senators be permitted to speak during the period for morning business tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR CONSIDERATION TOMORROW OF HOUSE JOINT RESOLUTION 324

Mr. BYRD. Mr. President, I ask unanimous consent that at the close of morning business tomorrow, the Senate resume consideration of the pending business.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I have consulted with the distinguished Republican leader, and I indicated to him that under the order, I being authorized to call up S. 1243 after consultation with him, that bill being under a time agreement, it would be my plan to call up that bill this evening.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. BYRD. I yield.

Mr. JOHNSTON. I wonder if the Senator would allow me to lay down an amendment to the pending measure, to be brought up at the pleasure of the majority leader. I have no desire to bring it up at any particular time, but I would like to lay it down, if that is possible.

Mr. BYRD. Mr. President, would the Senator not press me on that this evening? If he would not, I would appreciate it. I want to go to this intelligence matter.

Mr. JOHNSTON. After laying it down, then go to wherever you want to go, so that when we come back to the bill, we could consider the measure. What I have in mind is a simple extension, a substitute amendment with a simple extension.

Mr. BYRD. Would the Senator forgive me if I do not yield for that purpose at this time? If the Senator would not press me this evening, I am sure he will have an opportunity tomorrow.

INTELLIGENCE AUTHORIZATION ACT, FISCAL YEARS 1988 AND 1989

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed, and Mr. BOREN and Mr. COHEN are on the floor, to the consideration of Calendar Order No. 247, S. 1243.

The PRESIDING OFFICER. The bill will be stated by title.

The legislative clerk read as follows:

A bill (S. 1243) to authorize appropriations for fiscal years 1988 and 1989 for intelligence and intelligence-related activities of the United States Government, the Intelligence Community Staff, and the Central Intelligence Agency Retirement and Disability System, and for other purposes,

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Armed Services, with an amendment:

On page 3, line 8, after "Senate", insert "as amended by the Committee on Armed Services of the Senate"

So as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this

Act may be cited as the "Intelligence Authorization Act, Fiscal Years 1988 and 1989".

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal years 1988 and 1989 for the conduct of the intelligence activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.

(2) The Department of Defense.

(3) The Defense Intelligence Agency.

(4) The National Security Agency.

(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.

(6) The Department of State.

(7) The Department of the Treasury.

(8) The Department of Energy.

(9) The Federal Bureau of Investigation.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1988, and September 30, 1989, for the conduct of the intelligence activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Select Committee on Intelligence of the Senate *as amended by the Committee on Armed Services of the Senate*. That Schedule of Authorizations shall be made available to the Committee on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch.

PERSONNEL CEILING ADJUSTMENTS

SEC. 103. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal years 1988 and 1989 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1988 the sum of $21,900,000 and for fiscal year 1989 the sum of $21,900,000.

AUTHORIZATION OF PERSONNEL END STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized 237 full-time personnel as of September 30, 1988, and 237 full-time personnel as of September 30, 1989. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal years 1988 and 1989, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence activities.

(c) During fiscal years 1988 and 1989, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal years 1988 and 1989, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1988 the sum of $134,700,000 and for fiscal year 1989 the sum of $144,500,000.

TITLE IV—ENHANCED COUNTERINTELLIGENCE AND SECURITY CAPABILITIES

REPORT ON ADMISSION OF CERTAIN ALIENS

SEC. 401. The Attorney General shall report annually to the House Permanent Select Committee on Intelligence and the Senate Select Committee on Intelligence regarding the circumstances of any admission to the United States over the objections of the Federal Bureau of Investigation, of any Soviet national employed by or assigned to a foreign mission or international organization in the United States.

FBI NEW YORK FIELD DIVISION COMPENSATION

SEC. 402. The Director of the Federal Bureau of Investigation is authorized to pay from appropriated funds additional compensation to the New York Field Division of the Federal Bureau of Investigation to the extent necessary and appropriate to defray unusual living expenses associated with such employment.

TITLE V—DOD INTELLIGENCE PERSONNEL IMPROVEMENTS

DIA CIVILIAN UNIFORM ALLOWANCE ADJUSTMENT

SEC. 501. (a) Chapter 13 of title 10, United States Code, is amended by inserting after section 1605 the following new section:

"§ 1606. Civilian Uniform Allowance

"Notwithstanding the provisions of subsection 5901(a) of title 5, United States Code, the Director Defense Intelligence Agency is authorized to pay from appropriated funds civilian employees of Defense attaché offices located outside the United States, who are required by agency regulations to wear a prescribed uniform as part of their official duties, a uniform allowance, not to exceed the amount prescribed by the Secretary of State for its civilian employees outside the United States pursuant to section 2669(e) of title 22, United States Code.".

SPECIAL TERMINATION AUTHORITY—DIA CIVILIAN EMPLOYEES

SEC. 502. Paragraph 1604(e)(1) of title 10, United States Code, is amended by striking the words "1986" and "1987", and inserting in lieu thereof the words "1988" and "1989", respectively.

NSA AND DIA EMPLOYEES—EQUALIZING TAX TREATMENT OF PERSONNEL BENEFITS

SEC. 503. Section 912(1) of chapter 1 of title 26, United States Code, is amended by striking the "or" in Paragraph (C) and inserting at the end thereof the following new paragraphs:

"(E) Subsection (b) of section 9 of the National Security Agency Act of 1959, as amended (50 U.S.C. Section 402 note), whenever the allowance would be excluded from gross income under paragraphs (1)(A) or (1)(B) of this section, or

"(F) Subsection 1605(a) of title 10, United States Code, whenever the allowance would be excluded from gross income under paragraph 1(A) of this section.".

SPECIAL PERSONNEL MANAGEMENT AUTHORITY DOD MILITARY INTELLIGENCE

SEC. 504. Paragraph 1590(e)(1) of chapter 81 of title 10, United States Code, is amended by striking "Fiscal Year 1987" and inserting in lieu thereof "Fiscal Years 1988 and 1989".

REQUIREMENTS TO DISCLOSE ORGANIZATIONAL AND PERSONAL DATA: DIA EXEMPTION

SEC. 505. (a) Chapter 83 of title 10, United States Code, is amended by inserting the following new section:

"§ 1607. Exemption from disclosing organizational and personnel data

"Notwithstanding the provisions of any other law, and except as provided herein, the Defense Intelligence Agency shall not be required to disclose the organization or any function of the Defense Intelligence Agency or the names, official titles, occupational series, grades, salaries or numbers of personnel employed by such Agency. This section shall not apply to information provided the Congress.".

NSA GRADUATE-LEVEL "CRITICAL SKILLS" PROGRAM

SEC. 506. (a) Section 16(a) of the National Security Agency Act of 1959 is amended to read as follows:

"SEC. 16. (a). The purposes of this section are: (1) to establish an undergraduate training program, which may lead to the baccalaureate degree, to facilitate the recruitment of individuals, particularly minority high school students, with a demonstrated capability to develop skills critical to the mission of the National Security Agency, including mathematics, computer science, engineering, and foreign languages; and (2) to establish a graduate training program which may lead to a graduate degree to facilitate the retention of employees and the recruitment of new employees with a demonstrated capability to develop skills critical to this mission of NSA."

(b) Section 16(b) is amended by inserting the words "or graduate" after "undergraduate".

(c) Paragraph (2) of Section 16(e) is amended by inserting the words "or graduate" after "undergraduate".

TITLE VI—GENERAL PROVISIONS

AUTHORITY FOR THE CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 601. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

INCREASES IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW

SEC. 602. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

Mr. BOREN. Mr. President, it is a privilege for me to have been able to work with the distinguished Senator from Maine on this piece of legislation, the vice chairman of the Intelligence Committee, and I would like to yield to my colleague from Maine at this time.

Mr. COHEN. I thank the Senator for yielding. I will try to be as brief as I possibly can due to the hour of the evening.

Mr. President, perhaps the most potent oversight tool at the disposal of the Congress in monitoring the activities of the U.S. intelligence community is the power of the purse.

The legislation before the Senate today reflects the Intelligence Committee's best judgment as to how the limited resources at our disposal can best be used to meet constantly expanding national intelligence requirements.

The pressures on the intelligence community continue to expand. A new, aggressive Soviet leader has forced us to change the analytical ground rules which we use to assess Soviet intentions.

The advent of mobile missiles, and increased mobility of Soviet strategic forces in general, will pose difficult challenges for the intelligence community in monitoring new arms control agreements.

Countering Soviet espionage efforts and, in particular, assessing the costs of reconstituting a secure working environment at our Embassy in Moscow will continue to demand intelligence community resources and the scrutiny of the committee.

While the Soviet target is probably the most important focus of United States intelligence, our interests worldwide dictate growing attention to emerging problems in the Third World and to complex issues which cut across traditional political and geographic boundaries. Combating and preempting terrorism, identifying the sources of the international narcotics trade, monitoring the proliferation of nuclear technology, and assessing global economic instability require significant contributions from intelligence. If ignored, these issues will pose serious threats to the stability of the international community.

Intelligence requirements are complex and costly. In an era of constrained resources, it is critical for the oversight committees to have a thorough and comprehensive understanding of the nature of intelligence requirements, not only in exercising restraint in current expenditures but in providing for future needs.

The committee has addressed several issues in this budget which may have implications for our intelligence and national security into the next century.

Enhancing the effective allocation of diminishing resources requires, among other things, an ability to conduct selective audits of intelligence community accounts. The need for such a capability has only been emphasized by recent events. Recognizing this, the chairman and I have proposed establishing a special auditing staff within the committee. We hope this step will provide insurance not only against fiscal irresponsibility, but also against excesses which inevitably are detrimental to the intelligence community itself.

Finally, Mr. President, I would like to speak briefly on the effects of the Iran-Contra affair on the oversight of intelligence. It is abundantly clear that the mutual trust between the executive branch and the Congress which is essential for effective oversight has deteriorated badly. One of the most pressing issues before the Congress and the Nation as a whole at the close of the hearings of the select committees will be the reconstitution of an oversight regime that will restore accountability in the conduct of covert operations.

In this regard, the chairman and I are in the process of conducting a thorough review of current oversight statutes and the legislative history underpinning the current structure. We have involved our colleagues on the committee and executive branch officials in discussions on possible legislative and administrative remedies to the flaws in the current system of intelligence oversight.

We hope, after a series of hearings on the subject and a full airing of committee members' views, to produce a package which will clarify the legislative provisions for intelligence oversight. We mean to ensure, at the same time, that the President is accorded the flexibility required to conduct foreign policy.

If anything has emerged from the investigation of the covert operations conducted in the Iran-Contra affair, it is that things have not been what they seemed to some members of the intelligence community, to Cabinet-level officials, to Congress, and most importantly to the American public.

If covert operations are to be used in support of the foreign policy of this democracy, we must guarantee by whatever means necessary that their goals are consistent with our stated policy objectives and their conduct in keeping with our laws. That excessive secrecy surrounded many of the worst mistakes of this affair should be a lesson to us all.

Reconstructing an oversight regime which encourages the straightforward exchange of information and advice between Congress and the executive branch will not be accomplished through legislation alone. Rebuilding trust will be critical as we attempt to ensure again that things are indeed what they seem. The oversight committees of Congress need to view themselves as equal participants in this exercise particularly with regard to keeping secure the Nation's secrets.

I would like to take this opportunity to thank the chairman for his leadership in this regard, for his recognition of the extraordinarily sensitive responsibilities with which he is charged, and his commitment to forging bipartisan consensus on difficult issues. I think it is fair to say that no other chairman has participated in two separate formal inquiries involving the intelligence community and two confirmation hearings for the directorship of Central Intelligence in the first 6 months in office.

I think that the authorization bill which we have before us is in part a reflection of his leadership. It is also a product of a time consuming and often tedious process to which virtually every member of the committee has contributed his energy and counsel. I compliment my colleagues for their work during this turbulent period, and urge that favorable action be taken on this authorization bill by all members.

I think it is becoming clear that the pressure upon the intelligence community is expanding very rapidly. We have a very bright, aggressive new Soviet leader who is certainly making a mark throughout the world with bold new programs. He also has a fairly vigorous military-industrial complex that has certainly not been in abeyance in the past few years. We have the threat of mobile missiles that seem to be proliferating. And it poses a number of difficulties for the intelligence community. It requires more and more resources to be devoted to the monitoring of these new capabilities.

In addition, we have seen a rather dramatic increase in Soviet espionage activities in our own country. We know about the problems that now are afflicting our new Embassy in the Soviet Union that will cost many additional dollars to correct the deficiencies and to make it habitable and secure.

I think that with the changing of ground rules throughout the country; namely, that of terrorism, nuclear proliferation, narcotics, all of these issues require greater and greater attention in a time when we are living with diminishing resources as far as this Congress is concerned.

So we try to address the expanding responsibilities and the diminishing resources in a responsible way.

I believe that this proposal does, in fact, reflect the best judgment for efficient allocation of resources in a tight fiscal environment.

We have had also to address the need to prevent policy excess and so we have established an audit capability within the Select Committee on Intelligence.

Perhaps one of the most significant issues that we are dealing with right now, and I see my colleague from Georgia who is a distinguished member not only of the Intelligence Committee but also of the Iran-Contra hearings, is the need to have accountability for covert operations. It is one of the most pressing issues before the country and certainly this Congress.

We have heard lots of testimony in the past several months at the Iran-Contra hearings as well as the Intelligence Committee about the fact that Congress cannot be trusted with the Nation's secrets. That is simply a false statement. It is a statement that has been made in order to justify some of the activities taken and undertaken by certain individuals within the administration. But the fact remains that we as members of the Intelligence Committee pass upon covert actions on a regular basis and none of those covert activities have been leaked to the press to damage our national security.

But the fact also remains that there is a perception if you say it long enough and loud enough that somehow Congress is responsible for the leaks in this city, people tend to believe it and it builds a sense of mistrust, of more secrecy, of an almost persuasive sense of paranoia to a point that not only are Members of Congress not trusted but indeed even members within the administration itself are not trusted. That circle of secrecy can be so tightly drawn that everybody can be seen as the enemy with the exception of one or two individuals.

So we have to accept a measure of the blame even though I think that blame is largely overblown in terms of the reality of the situation.

Senator BOREN and I want to take a moment to commend him—I must say that I do not know of a more energetic chairman that I have had the pleasure of working with in nearly 15 years in the U.S. Congress. He has one major fault. He is a bit tardy at times, but that has become his hallmark.

Mr. NUNN. Mr. President, if the Senator will yield, he will recall there is another chairman he worked with on the floor. Do not go overboard on the Senator.

Mr. COHEN. I will modify my comments.

Mr. NUNN. I agree with the Senator's comments. I am kidding him.

Mr. COHEN. I think I said energetic.

Mr. NUNN. I was afraid he was going to use some other adjective.

Mr. COHEN. I think the Senator is energetic and tardy. If you would like me to include the Senator from Georgia in that definition, I will do so.

Frankly, I must tell you that Senator BOREN has been just indefatigable in his energy level and commitment to try and make this committee work.

I stand duly chastised by my colleague from Georgia. I also have the same feeling for him and I have worked on the Armed Services Committee with him in that capacity and I think the words "energy and intelligence" apply with equal force to the Senator from Georgia and perhaps the next President of the United States.

So, let me get back to the matter at hand and that is the discussion of covert activities.

I think we have to take some measures to reassure this administration and any further administration of our ability to indeed maintain the Nation's secrets. I think under Senator BOREN's leadership we have done exactly that. We have changed the way in which the Senate does business in that committee.

We no longer, for example, allow any classified documents to be removed from the committee. They cannot be taken to committee member's offices and even read there. They have to be read and contained within the intelligence room itself.

Second, we do not even allow notes to be taken out of the committee room. This is something that varies from past practice. Notes can be taken. They must be then filed within an individual folder, with a special seal that can only be broken by the Member when he logs in to the office itself.

We have, I think, made it very clear to the leadership. I see the majority leader is on the floor—Senator DOLE has been contacted as well—that we simply are not going to tolerate any individual member of the committee disclosing confidential or classified information. We have put the leadership certainly on notice of our desire that if there is any rumor, allegation, by the executive branch or indeed from any Member of the Congress, or from whatever source that individual Members are not maintaining their oath of office and their pledge of confidentiality in these matters, if that allegation is substantiated, they shall be removed post haste from the committee and that carries very, very significant implications for that Member in his State.

These are just a few of the things that we have done.

Second, Senator BOREN and I on behalf of the committee with the committee's consent have been discussing ways in which we can build a bridge of trust between the executive branch and the Senate. And as recently as yesterday we met with Senator Baker and Mr. Carlucci to discuss ways in which we could preserve each institutions' constitutional responsibilities, at the same time maintaining a cooperation that will only ensure the enhancement of that relationship. That is underway and should be, in fact, I think solidified with some sort of an informal if not formal arrangement in the very near future.

So we are determined to rebuild that trust with respect to covert actions. We want to make sure that covert activities are carried out in a democratic society consistent with policy and in keeping with the law.

I am satisfied that what the chairman and I, on behalf of the committee, are trying to do will in fact achieve those goals.

Finally, I will yield the floor to my friend without praising him with too many more rose petals about the job he has done in the committee.

I must say I do not know of any other chairman who had the opportunity to hold confirmation hearings on two nominees on the directorship of the Central Intelligence Agency within the period of 2 or 3 months and at the same time serve on the Iran-Contra hearing and has done an outstanding job in both committees than the Senator from Oklahoma.

With fear of alienating other Members who serve on the other committees on which I serve, the Senator from Virginia, Senator WARNER, a very distinguished member of both committees, the ranking member on Armed Services, I just want to say this has been a pleasure for me to work with the chairman of the committee.

Mr. BOREN. Mr. President, I thank my colleague from Maine for his generous comments. I would say to my colleagues that it is a rare privilege to be able to work with him. He is a person of immense intellect, great ability, sound judgment, and expertise certainly in matters of national security.

We have been able to build together, I think, the kind of bipartisan spirit in that committee that we need across the landscape of American politics, especially as we confront national security issues and issues of foreign policy.

I am very proud of the fact that the committee has pulled together as one unit and on the essential matters that have been before it—the initial report of inquiry in the Iran-Contra matter which the committee reported to the full Senate early in January, the confirmation of William Webster to be Director of the Central Intelligence Agency, and the report on Embassy security which was adopted by the committee—that on those three crucial matters that could easily have divided themselves along party lines, the committee has been nearly unanimous, unanimous in two of those votes and nearly unanimous 14 to 1 on the third issue. I think this demonstrates what can be done if we work together, listen to one another, and seriously strive to develop a bipartisan partnership on these kinds of issues that confront our country.

As Senator COHEN has just said, we have been endeavoring, representatives of the committee, Senator COHEN and myself, working with members of the executive branch, to try to develop that kind of cooperative partnership between the two branches of Government. Nothing hurts this country more than for us to appear divided as we face the rest of the world. In some way we have to struggle to rebuild that kind of spirit that was captured by the phrase that "politics stops at the water's edge," that, when it comes to foreign policy and our relationship to the rest of the world, particularly on those matters of national security, we will unify, band together, and try to speak to the rest of the world with a single voice. That requires consultation between the branches of Government. It requires each branch to meet the other halfway and to understand the point of view of others who exercise responsibility.

We are doing our best to build that kind of relationship of trust and to do our part. The new rules that we have set forth in the Intelligence Committee I am convinced have contributed to the fact that since January of this year there has not been an allegation of a single leak of classified information from the Senate Select Committee on Intelligence. The committee has banded together to adopt rules of no longer taking classified documents out of our space, no longer allowing notes taken by members on classified briefings, as Senator COHEN has indicated, to be taken out of our committee space, and has agreed with the recommendation of the chairman and vice chairman, with the support of the distinguished majority leader, who is now on the floor, and the distinguished minority leader, as well, that we would seek the resignation or removal of any member, any Senator, from the committee that was found guilty of leaking classified information, developing classified information with proper authority.

Those kinds of steps I think have gone a long way, along with tight compartmentalization of our committee staff, the provision of information to members of committee staff on a need-to-know basis, to restore confidence and trust, and to demonstrate to the entire country that the Congress can and will meet its responsibility to safeguard those essential sensitive elements of information that must be kept secret for purposes of national security, all of this within the bounds of oversight that our democratic process demands.

Mr. President, it is a distinct honor for me to present to the Senate the fiscal year 1988-89 Intelligence authorization bill. This is the 11th consecutive year that the Senate has considered an Intelligence authorization.

President Eisenhower said that in the Intelligence profession "success cannot be advertised: failure cannot be explained". He observed that inspiration for the Intelligence officer must be rooted in patriotism, and that reward can be little except the conviction that one is performing a unique and indispensable service for the country. Clearly, President Eisenhower could not have foreseen the current situation when he stated those sentiments some 28 years ago. Indeed, the Intelligence Committees themselves were not formed until some 17 years after the cornerstone-laying ceremony at CIA headquarters which occasioned those remarks by President Eisenhower. But today, in this period of great public focus on the Iran-Contra affair, those of us on the Intelligence Committee know only too well the truth of those words.

Failures must often be suffered in public in the Intelligence profession. But, Mr. President, we must keep any failure in its proper context. it occurs against a backdrop of successes that "cannot be advertised". Let us remember that the Intelligence authorization bill is symbolic of such success. Let us also remember that there are thousands of dedicated, able, selfless, and courageous Americans in the intelligence community who continue to perform a unique and indispensable service for the country.

The Intelligence authorization, as you are aware, is the principal means for the Senate to express its concerns and its priorities for the U.S. Intelligence community each year. It is the product of many hours of closed hearings and meetings and review of thousands of pages of highly classified and detailed documentation relative to Intelligence plans and programs. Of course, most of the actions recommended by the committee are classified and cannot be made public. However, the classified supplement to the committee's report on the fiscal year 1988-89 Intelligence authorization has been available for review by all Members of the Senate since early June in accordance with the provisions of Senate Resolution 400. This classified supplement explains in detail the specific recommendations of the committee on all Intelligence programs.

Mr. President, what is the pending amendment? Is it the Armed Services Committee amendment on sequential referral of the bill?

The **PRESIDING OFFICER**. The clerk will report the committee amendment.

The assistant legislative clerk read as follows:

> On page 3, line 8, after "Senate", insert "as amended by the Committee on Armed Services of the Senate."

Mr. **BOREN**. Mr. President, let me express my appreciation for the cooperation of the distinguished members of the Senate Armed Services Committee, especially the chairman, Senator NUNN of Georgia, and the ranking member, Senator WARNER of Virginia. They are also valued members of the Intelligence Committee. They make an immense contribution in this field. They are students of the entire process. They know what is going on in the Intelligence community. They have sound judgments about the budgetary priorities that should be set.

Mr. President, I yield to my colleagues, the chairman of the Armed Services Committee or the ranking member, if they might wish to make any comments about this amendment. I certainly, as chairman of the Intelligence Committee, agree with the amendment made by the Armed Services Committee and would urge its adoption.

Mr. **NUNN**. Mr. President, I am pleased to support S. 1243, the Intelligence Authorization Act for Fiscal Years 1988 and 1989. As a member of both the Intelligence and Armed Services Committees, I have been involved in the development of this bill from the outset in both committees as we proceeded in our respective hearings and markups.

The Intelligence Committee reported this bill out on May 20 and it was sequentially referred to the Armed Services Committee for a period of 30 days. The Armed Services Committee reported S. 1243 to the Senate on July 17, 1987.

The Armed Services Committee has three cross-over members on the Intelligence Committee—Senator WARNER, Senator COHEN, and myself. We all participated in the markup of the intelligence authorization bill in the Intelligence Committee. In addition, our staff carefully reviewed the intelligence authorization bill as well as stayed in close touch with the Intelligence Committee staff as we both proceeded in our respective markups.

The Armed Services Committee fully supports the actions of the Intelligence Committee as reflected in both the Defense Authorization Act as well as our sequential approval of this bill.

The Armed Services Committee did adopt one amendment and two additional measures. These are described in detail in our report accompanying S. 1243 (Senate Rept. 100-117).

I will emphasize two aspects of our consideration of the Intelligence bill.

The first aspect is this is a 2-year authorization—fiscal years 1988 and 1989. This was the first year that the administration and the Congress considered 2-year budgets for both the Department of Defense and the intelligence community. This budget request was based on an amendment I sponsored in 1986 requiring a 2-year budget submittal.

The purpose of the 2-year authorization is to permit longer range planning within the executive branch, reduce turmoil caused by the annual budget process, and permit both the Congress and the executive branch to concentrate on issues of oversight and management and reduce the amount of time spent on the annual budget process and in micromanagement particularly by the Congress.

I am pleased with the results in the Senate in both the defense and intelligence bills with the 2-year budget. The DOD authorization bill has over 80 percent of the second year authorized.

The second matter I want to stress is the direction to both the Secretary of Defense and the Director of Central Intelligence to develop a plan for the conduct of net assessments which allow for independent judgments by the intelligence community.

Net assessments provide a valuable source of information on the potential effectiveness of U.S. forces and weapon systems in hypothetical engagements with adversaries. As my colleagues know, the Packard Commission recommended increased use of net assessments in the acquisition process—a step which a number of us have been urging for some time. In addition, in the Goldwater-Nichols defense authorization bill last year, we gave the Chairman of the Joint Chiefs an enhanced role in performing net assessments.

The Director of Central Intelligence and the Secretary of Defense have conducted some joint net assessments in selected areas with DOD providing the intelligence community with data on U.S. forces for use in these analyses. The most notable activity undertaken to date has been a joint net assessment of United States and Soviet strategic forces completed in 1983, and updated in 1985. However, these joint efforts have been very limited in number and scope. These efforts clearly could and should be expanded.

For example, it would be useful to have an independent net assessment of such strategic systems as the United States air-breathing systems against the Soviet air defense systems. This is particularly important given the well-publicized problems with the B-1B and the substantial investment yet to come in air breathing systems. Net assessments of key weapons systems will assist the executive branch and the Congress in making budgetary and programmatic decisions. Currently, the absence of such assessments means that very important decisions are often made without a complete or independent assessment of how these systems would fare in actual combat.

With this in mind, the committee has directed the submission of a joint plan to enable these net assessments to be expanded, improved, and integrated into the decisionmaking process both in the executive and legislative branches.

Finally, Mr. President, I want to compliment the chairman and vice-chairman of the Intelligence Committee, as well as the very capable committee staff on this bill. It is a pleasure to serve with them as they serve the Senate so ably in this critical area.

Mr. President, as I said, I have the pleasure of serving on both the Intelligence Committee and the Armed Services Committee. It is a great privilege for me to serve with Chairman BOREN and the ranking Republican member, Senator COHEN, on the Intelligence Committee. They are providing superb leadership.

It is also a great privilege for me to serve with Senator WARNER from Virginia on the Armed Services Committee. He is now a member of that Intelligence Committee. We have, I believe, three crossover members of the Intelligence Committee. We have Senator WARNER, Senator COHEN, and myself, who all serve also on the Armed Services Committee.

Both of these committees have to work together very closely in order to make sure that our intelligence needs are met and to make certain they are properly funded. We also have to work together closely in many substantive matters because, with the overlap between committee jurisdictions, we have a number of concerns in the Armed Services Committee about intelligence.

I know that Senator BOREN will join me in expressing a grave concern in line with what the Secretary of State testified to today in the Iran committee, where he said it is absolutely essential that you divorce and have a separation between those responsible for producing intelligence and those responsible for making policy. He made that point emphatically, saying that if the people who are making policy also are producing intelligence, it will not only have a grave danger of biasing their judgment on the intelligence, because the intelligence usually is made then to fit the policy, but, even if they are accurate in their intelligence, it gives the perception that the policy may be defying the facts.

So intelligence has to be objective. We have to have good leadership in the intelligence community.

To have that good leadership in the Intelligence Committee it is imperative that the intelligence community have a close working relationship and mutual trust with the Intelligence Committee. That trust has been breached in recent months. Recent revelations have made that clear.

We have to repair that trust because the security of this Nation depends on fair and objective intelligence. That can only be derived if there is trust between those in Congress responsible for oversight and the intelligence community itself. So we are in good hands with Senator BOREN as the chairman and Senator COHEN as the ranking member.

Our committee reviewed this bill. We do not have primary jurisdiction but we have a 30-day period in which to review this on a sequential referral. We have reviewed it and we think that the Intelligence Committee has done a superb job so we are here to endorse it this evening.

We added one amendment that I think is a very important amendment. We had a couple of amendments but the one I want to emphasize now is the net assessment requirement.

We have not been getting a net assessment from the intelligence community. By net assessment we mean a dynamic assessment. Not simply a bean count between how many tanks we have and how many tanks the Soviet Union have, but rather a dynamic assessment.

We have tasked the Chairman of the Joint Chiefs now, in his new capacity, with more authority. One of his jobs is to conduct the net assessment. We are now asking the intelligence community, CIA, to particpate in that net assessment in a meaningful way. So that is an amendment we added in the authorization, the intelligence authorization bill from the Armed Services Committee.

We have reviewed this. We believe it is a sound product and we on the Armed Services Committee join our Intelligence colleagues in urging our colleagues to pass this in the Senate.

Mr. WARNER. Mr. President, I join my very dear friend and distinguished chairman of the Senate Armed Services Committee, the Senator from Georgia, expressing our complete confidence in the leadership—the Senator from Oklahoma, the Senator from Maine, four of whom worked very closely together. The committees coordinated, and I think the quality of leadership is reflected in the quality of the staff they have in the Intelligence Committee and indeed on the Senate Armed Services Committee.

We are privileged, not only the committees but indeed the Senate as a whole, to have this quality of service in the public service on this subject.

Before my distinguished chairman leaves, there is one matter that I think the record should reflect. This legislation, which I anticipate the Senate will adopt momentarily, does reflect a concern of the members of the committee with respect to the intelligence-gathering capabilities that this Nation has in the overhead systems.

Great publicity recently has been given on these subjects and these committees, both the Intelligence Committee and the Armed Services Committee, have taken into consideration these concerns and they are addressed in this bill.

Perhaps the chairman of either committee might wish to add to that, but I do think we should make it of the public RECORD here tonight that the committees have carefully taken into consideration those concerns.

Mr. NUNN. I certainly concur with that, my friend from Virginia.

Mr. BOREN addressed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. I thank the distinguished Senators from Georgia and Virginia for their comments. I would agree with that observation that has just been made by both of them that this legislation does take into account our very serious concern about our overhead capability and also it reflects our concern that this country be in the best possible position to monitor the compliance with any potential arms control agreement into which we might enter. That has also been a matter of very serious concern for the committees in the preparation of legislation.

Again I want to thank them for their cooperation. I join with them also in the comments that have been made about the staff of the Intelligence Committee. It is operated in a totally bipartisan basis. Many hours of work have gone into the preparation of this particular piece of legislation and the staff not only is a very able staff but it is one of the most hard-working staffs on the Hill, and I would be derelict if I did not express my appreciation to them, as chairman of the committee.

Mr. President, I received a letter from Senator STROM THURMOND, ranking minority member of the Senate Committee on the Judiciary, and Senator JOE BIDEN, chairman, commenting favorably on those portions of this legislation which relate to the Federal Bureau of Investigation. I would ask unanimous consent that this letter be entered into the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON THE JUDICIARY,
Washington, DC, July 16, 1987.

Hon. DAVID L. BOREN
Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We write regarding the Intelligence Authorization Act, fiscal years 1988 and 1989, which was referred to the Judiciary Committee on May 20, 1987.

The Judiciary Committee's review of this legislation was restricted to consideration of Title IV, relating to the Federal Bureau of Investigation (FBI). Specifically, the Committee was responsible for reviewing Section 401, which would require the Attorney General to report to the Senate and House Intelligence Committees "regarding the circumstances of any admission to the United States over the objections of the FBI, of any Soviet national employed or assigned to a foreign mission or international organization in the United States," and Section 402, which would allow the FBI Director to pay additional compensation to personnel assigned to the New York Field Division.

With respect to Section 401, the Judiciary Committee like the Intelligence Committee, is concerned about admitting known or suspected hostile intelligence agents into the United States. The reporting requirements of section 401 would provide the House and Senate Intelligence Committees with information regarding the admittance of Soviet personnel into the United States that is necessary for the Intelligence Committees to assess the adequacy of the procedures currently used to protect the United States against hostile foreign intelligence agents.

With respect to Section 402, the high cost of living in the New York area imposes a considerable financial burden on agents and their families under the current pay structure. As your Committee noted in its report, "from the standpoint of the effectiveness of the FBI's Foreign Counterintelligence Program, the New York field division in critically important. To have employees assigned to this division against their wishes, at a considerable financial sacrifice, and to have them take the first opportunity to leave, inevitably undermines the effectiveness of the New York Office in terms of its counterintelligence responsibilities." We support this provision, which would allow the FBI Director to more adequately recruit and retain qualified agents and support personnel in the New York Field Division.

After reviewing Sections 401 and 402 of the Intelligence Authorization Act, we believe there is no need for the Judiciary Committee to take further action on this legislation.

Sincerely,

STROM THURMOND,
Ranking Minority Member.
JOSEPH R. BIDEN, Jr.,
Chairman.

Mr. BOREN. Mr. President, I would urge the adoption of the pending amendment.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. BOREN. I yield to the Senator from Nebraska.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I have been listening with great interest and rise in support of the matter that we are about to vote on. Just a word or comment or two from one who is not on the Select Committee on Intelligence.

I join in the praise that has been heaped upon my colleagues, the Senator from Oklahoma, the Senator from Maine, the chairman of the Armed Services Committee from the State of Georgia and my dear friend, also from the State of Virginia, who is the ranking member on the Armed Services Committee. All of them served with distinction and I have the honor of serving with the latter three members of the Armed Services Committee.

I want the Senate to understand that security matters are highly important to all of us in the Congress. It is particularly important to the Armed Services Committee where a special referral is had on most intelligence matters. I want you all to know that even those of us who do not serve on the Intelligence Committee do pick apart the matters that we have jurisdiction over and we do a good job of it. We do not simply rubber-stamp things that come over the Intelligence Committee.

So I simply want to say that the measure before us is a good one. It has been thoroughly reviewed.

In closing, I want to compliment not only those in whom we have great confidence, who daily work with these intelligence matters, but I also want to assure my colleagues in this body that those of us who are involved in these things are quite surprised, from time to time, when we see certain statements made about not being able to fully trust the Members of the U.S. Senate with high-security matters.

Sometimes I wonder if those who are accusing us, on a broad brush basis, of leaks of information from the U.S. Senate know whereof they speak. I simply say they do not. Because with the knowledge that we have on highly sensitive matters, if even a fraction of it ever began to leak we could do great harm to the great intelligence services that is is the primary responsibility of the Intelligence Committee to oversee.

So I say Godspeed to those who serve in these important matters and I just wanted to assure the Senate that there are Members of the Senate who are not on the Intelligence Committee who keep looking over their shoulders.

The money is well spent. I wish we had more to spend.

I thank the Chair.

Mr. BOREN addessed the Chair.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. BOREN. I want to thank the Senator from Nebraska for the very generous comments he just made and also express my appreciation for his great interest in this subject matter. He chairs the subcommittee on the strategic matters of the Armed Services Committee and in that position he has the responsibility to make sure that the taxpayers' money is being wisely spent in this area.

It is a responsibility he takes very seriously. I know that because of the justifications that he requires from me for every matter requested by the Intelligence Committee.

He looks over every dollar that is being spent and that is exactly what we want in every area in which the taxpayers' money is being appropriated.

He does a fine job of it and his contribution, I think, is a very important one and a constructive one. It has improved the setting of priorities within the intelligence community. I appreciate very, very much the statements that he has just made and his participation.

Mr. WARNER. Mr. President, would the Senator yield?

Mr. BOREN. I am happy to yield to my colleague from Virginia.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I wish to associate myself with the remarks of my distinguished colleague. Indeed, I preceded my distinguished colleague in that post as chairman of the Strategic Subcommittee and that committee is heavily dependent on the intelligence-gathering capabilities to make the strategic assessments, so we are delighted to have him.

Mr. BOREN. I thank my colleagues and let me say, again, I feel very fortunate to work with the Senators who have spoken tonight on the floor on matters of national security.

I wish that the people of the United States could sit in on those meetings where they could see the expertise of those on the Intelligence Committee, the expertise of the congressional staffs with whom they work, and the dedication of the Members of the Senate to our national security interests as we discuss these matters.

I wish they could also be privy to the fact that in spite of the exchange of highly sensitive information that these trusts are being kept. We can look to the past and have regrets about some of the things that have happened both in the executive branch and in the Congress in the past. But I am very optimistic about the future of the relationship between the two branches of Government, especially in the intelligence field, the security field, with appropriate oversight activities that should be and must be conducted to further our national interests.

Judge Webster, as Director of the Intelligence Agency, Mr. Gates, and the leaders of the other intelligence-related agencies and activities have been working with us with complete trust and candor. It is a trust which has been returned. It is a very constructive relationship.

With all of the divisiveness and discussions of past problems we have been having in the country over the last several weeks and days, I think it would make the people of the United States feel good indeed if they could witness the day-to-day working relationship which has developed in this important area.

Mr. President, I urge adoption of the amendment.

The PRESIDING OFFICER. Is there further debate? If not, the question is on agreeing to the committee amendment.

The committee amendment was agreed to.

AMENDMENT NO. 632

Mr. BOREN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Oklahoma (Mr. BOREN), for himself and Mr. COHEN, proposes an amendment numbered 632.

Mr. BOREN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> Amend S. 1243 by striking section 503 in its entirety.

Mr. BOREN. Mr. President, the amendment strikes section 503 of the bill. This section amends the Internal Revenue Code which treats certain Department of Defense personnel comparable to that treatment provided for Foreign Service and CIA employees performing similar duties.

The committee certainly believes that this action is justifiable, that these benefits should be provided and are fully warranted. But the Finance Committee, Mr. President, has not really had an adequate opportunity to review this section. They have made their desire known to me that they wish to have an opportunity to review this proposal. I certainly think that is quite appropriate.

This Senator also has the privilege of serving on the Finance Committee. It is very justifiable and important that the committee with appropriate jurisdiction over tax matters thoroughly consider this matter.

It would be our intention to pursue this matter in the future after consultation with the Finance Committee, but out of deference to the Finance Committee I believe that provision should be removed from this bill at this time.

This amendment simply strikes the tax provision.

Mr. WARNER. Mr. President, I join our distinguished chairman. I would first like to solicit from him his prognosis of the likelihood that this matter someday would pass the Senate. I know there are people who will be affected by this. Does the chairman have any prognosis as to when this would eventually pass the Senate?

Mr. BOREN. I would say I am very optimistic that it will pass the Senate. This is something that should be done. In my discussions with colleagues on the Finance Committee, I think they understand the need for it. I am optimistic we will have action on this. This Senator certainly intends to press as hard as possible to get the action as quickly as we possibly can.

This action does not reflect lack of support, but simply reflects consideration of the jurisdiction of the Finance Committee.

The PRESIDING OFFICER. The remaining time is under the control of the Senator from Virginia.

Mr. WARNER. Mr. President, if no other Senator desires recognition, I yield back the remainder of my time.

The PRESIDING OFFICER. If there is no further debate on the amendment, the question is on agreeing to the amendment.

The amendment (No. 632) was agreed to.

THE NEED FOR POLYGRAPH EXAMINATIONS OF SENATE INTELLIGENCE COMMITTEE STAFF

Mr. HOLLINGS. Mr. President, today I intended to offer an amendment to require the Senate to do something that professionalism and common sense should have dictated years ago: administer polygraph examinations to the staff of the Senate Intelligence Committee. However, in the interest of moving the pending legislation, I will not. But I do have a few things to say on this subject.

I know some of my colleagues on the Intelligence Committee feel uncomfortable with this proposal. I am told it is impractical and unfair because we operate in a political and media environment. But that is exactly the point. We do operate in such an environment, and therefore, must hold ourselves to an even higher standard of diligence, security, and self-regulation.

What I am proposing today requires nothing more of the Senate than what we already expect of the intelligence community. The CIA, NSA, DIA, and DOD already require polygraph examinations. And such a requirement also should be a condition of employment here on the Senate Intelligence Committee.

Members and staff of our Intelligence Committee have daily access to the most highly classified and important information in our Nation. Oversight requires that we diligently review activities ranging from covert actions to sophisticated satellite reconnaissance. The unauthorized disclosure of such information can literally cost the Nation hundreds of millions of dollars in lost time and technology, threaten the lives of our agents, and disrupt our foreign policy.

Yet the staff with access to such information is not polygraphed as part of their background investigation. On the one hand we expect such a standard in the executive branch. On the other hand, we exempt ourselves.

Of course, Mr. President, this should come as no surprise to anyone. The Congress already exempts itself from many of those uncomfortable procedures that it mandates for everyone else. We are exempt from EEO. We are exempt from OSHA. Indeed, we are even exempt from laws that we make that do apply to us. If we blow the budget, we either ignore the budget resolution or waive it. The Harry Byrd amendment requiring a balanced budget? We have ignored that for years. Gramm-Rudman-Hollings? We cook the books to make reality conform to economic fantasy.

The point is clear. The Congress does not set a sterling example of consistency, self-discipline, and integrity. But it is one thing to be duplicitous with the American people on budgets or OSHA. It is another thing to be duplicitous and lazy with them when it comes to national security.

By taking the simple step of requiring polygraph examinations, we will do more to reestablish our credibility with the American people and the intelligence community than any other single move. We will show them that we take national security seriously. We will show them that we can and will clean our own house. We will show them that we will hold ourselves to the same high standards we expect of others.

Yet despite these apparent benefits, many will still ring their hands about this proposal. So let me now address some of their concerns.

First, there is the issue that it is unfair that staff on the committee, but not Senators, are polygraphed. That is true—it is unfair. But it is also a fact of life for elected officials. Yet I believe my colleagues will join me in voluntarily taking a polygraph. We understand that we must lead by example.

Second, the polygraph is said to be unreliable. However, a wide range of professional organizations and scientists have exhaustively studied this issue. The assessments vary but the weight of evidence shows that in regulated and professional conditions, the polygraph is a valuable investigative tool.

It should also be noted that on the basis of its own carefully regulated and controlled research, the National Security Agency has concluded that the polygraph is 90 to 95 percent effective. While that is not perfect, it is very good. Other experts from the CIA have stated that the polygraph is the single most important tool they have in personnel security.

Additionally, Mr. President, it should be noted that the polygraph is only one part of the overall background investigation. No action will be taken against an employee simply on the basis of the exam. It will be used as a complement to the already extensive background investigation performed prior to employment of staff.

And this leads to another issue—the contention that the polygraph is an unwarranted intrusion on personal privacy. All of us as elected officials can certainly empathize with that. But we also know that such intrusions come with the territory. We know it is a condition of our employment.

But more to the point, such an assertion is baffling, and basically untrue. Employees of the Intelligence Committee already go through an extensive and intrusive background investigation. It covers their last 15 years of employment and residences. It is a nationwide investigation. Hopefully it leaves no stone—no matter how embarrassing—unturned. And, it is done at the consent of the employee.

Further, the polygraph I am proposing will cover only counterintelligence and security issues. It will not be the full exam given in the intelligence community. It will not delve into personal areas or lifestyles. In the jargon of the professionals, it only will be a counterintelligence polygraph.

Mr. President, it should be noted that it is unrealistic to expect background investigations by themselves to turn up evidence of espionage. Obviously the personal history of a well-trained agent will be sufficiently sanitized to avoid detection. Background investigations may uncover character flaws or vulnerability to espionage. But they will not, and can not, on their own reveal evidence of intent to commit espionage. And there are cases on the record where only the polygraph did unmask a person seeking employment for the purposes of espionage.

Deterrence is also a benefit. Convicted spies Christopher Boyce and William Bell both have testified that they would not have considered espionage if they had to undergo periodic polygraphs. Edward Howard, Ronald Pelton, and David Barnett all committed their treason after they left the intelligence community and its polygraph system. The Walker family spy ring operated in the Navy where polygraphs were not administered.

Mr. President, some view the polygraph as an insult. But it is no such thing. Access to classified information is a privilege, not a right. Accordingly, it is not unreasonable that the Government have the ability to fully assess all those accorded that privilege. And it is not unreasonable that the Government ask me, or the Secretary of State, or a Senate employee, to reaffirm my allegiance and conduct. I do it now in my oath of office. I welcome the opportunity to do it again as part of my oversight responsibility to the Senate.

A summary of the proposed amendment follows:

SUMMARY OF SENATE INTELLIGENCE COMMITTEE POLYGRAPH AMENDMENT

I. COVERAGE

All SSCI Staff (present and future) are to be polygraphed.

Current staff are to be polygraphed within 1 year of enactment.

Future staff are to be polygraphed as a condition of employment.

All staff are to be routinely re-examined every five years.

Nothing in this proposal shall limit or diminish existing Committee practice of using investigative polygraphs to investigate unauthorized disclosures.

II. EXAMINATION

Polygraph examination will cover issues only related to counter intelligence and security.

The polygraph examination will not cover areas related to an individual's personnal lifestyle.

To the extent possible, a standardized and common set of examination questions related to counterintelligence and security will be developed and administered to all examinees.

III. ADMINISTRATION

Within 45 days of enactment, the Chairman and Vice Chairman of the SSCI will consult with the Capitol Police and Senate Office of Security regarding the employment of a competent civilian polygraph examiner. To the extent possible, existing equipment under the jurisdiction of the Capitol Hill Police will be utilized.

All records, transcripts, notes and related materials of all examinations will be the property of the SSCI. Such materials will be under the jurisdiction of the SSCI and will be stored in a secure and confidential manner. Content of such materials shall be accessible only to the Chairman, Vice Chairman, Majority and Minority Staff Directors and Security Director of the SSCI.

All materials related to an examination will be destroyed in a secure manner within 14 days of such examination. Destruction of such records will be conducted by the Security Director under the guidance of the Majority and Minority Staff Directors.

IV. ADJUDICATION

Results of polygraph examinations will be reviewed only by the Chairman, Vice Chairman, Majority and Minority Staff Directors, and Security Director. Based upon their review of examination results and other background investigation information, a determination of the suitability for employment will be made.

The SSCI will not make available any results or information regarding the polygraph examination to any examinee or any other individual and will not disclose any reasons for refusal to employ, or continue to employ, any individual to such individual or any other party.

The PRESIDING OFFICER. The bill is before the Senate and open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment and third reading of the bill.

The bill was engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I ask unanimous consent that the Intelligence Committee be discharged from further consideration of H.R. 2112, which is the companion measure, and that the Senate proceed to its immediate consideration; that all after the enacting clause be stricken, and that S. 1243, as amended, be inserted in lieu thereof; that the bill be advanced to third reading, passed, and a motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I move that the Senate insist on its amendments and requests a conference with the House of Representatives on the disagreeing votes of the two Houses, and that the Chair be authorized to appoint conferees on the part of the Senate.

The motion was agreed to and the Presiding Officer [Mr. ROCKEFELLER] appointed Mr. BOREN, Mr. COHEN, Mr. BENTSEN, Mr. NUNN, Mr. HOLLINGS, Mr. BRADLEY, Mr. CRANSTON, Mr. DECONCINI, Mr. METZENBAUM, Mr. ROTH, Mr. HATCH, Mr. MURKOWSKI, Mr. SPECTER, Mr. HECHT, Mr. WARNER; and, for matters within the jurisdiction of the Committee on Armed Services, Mr. EXON, and Mr. THURMOND conferees on the part of the Senate.

Mr. BOREN. Mr. President, I ask unanimous consent that S. 1243 be indefinitely postponed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BOREN. Mr. President, I thank my colleagues and all who have labored so hard on this piece of legislation. I think it is moving us in the direction of a more effective intelligence capability for this country, and I appreciate the hard work of all those involved.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there now be a period for morning business, that Senators be permitted to speak therein for not to exceed 5 minutes each, and that the period for morning business not extend beyond 15 minutes.

Mr. HUMPHREY. Mr. President, reserving the right to object, I want to speak for 20 minutes at the most.

Mr. BYRD. Very well. I ask that the time not extend beyond 9 p.m. and that Senators may speak therein up to 10 minutes each.

The PRESIDING OFFICER. Is there objection?

Mr. HUMPHREY. Reserving the right to object, the Senator from New Hampshire would desire to speak for 20 minutes.

Mr. BYRD. If the Senator will yield, I am trying to help him get his 20 minutes.

Mr. HUMPHREY. I beg the Senator's pardon.

Mr. BYRD. I put a limitation of 10 minutes, but the Senator only has to ask to speak for an additional 10 minutes under this order. I hope he will not object because otherwise he would not have the 20 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. EXON. Mr. President, reserving the right to object, I might add that those of us who would like to live within the original time constraints suggested by the majority leader ask that we might be recognized for the purpose of introducing a bill and then allow the Senator to work his will in whatever timeframe he wants thereafter. But I would not object. I simply ask consideration for those of us who want to use a limited amount of the Senate's time for the purpose of introducing a bill.

The PRESIDING OFFICER. Is there objection? Without objection, the request is granted.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I will take a very brief period of time for the purpose of introducing a bill.

Mr. President, if I could accommodate all my friends, including my friend from New Hampshire, I would need about 3 minutes for the purpose of introducing a bill. Then I will be glad to yield him the remainder of the 10 minutes that I would otherwise have. That would give him the approximate time that I believe he has stated he needs.

(The remarks of Mr. EXON pertaining to the introduction of legislation appear in today's RECORD under Statements of Introduced Bills and Joint Resolutions.)

Mr. EXON. Mr. President, I reserve the remainder of my time and yield it to my friend from New Hampshire.

Mr. HUMPHREY. Mr. President, I thank the Senator from Nebraska and likewise the majority leader for his helpfulness.

NOMINATION OF ROBERT BORK TO BE SUPREME COURT JUSTICE

Mr. HUMPHREY. Mr. President, the opponents of the nomination of Robert Bork to the Supreme Court seem to have an extraordinarily short span of memory.

Only last year there was much hue and cry in this body concerning certain nominees to the Federal bench. Some said that President Reagan was placing too much stress on ideology and too little on professional excellence in his nominations to the Federal bench. The same cry was heard from the outside lobbying groups which are now orchestrating special interest opposition to Judge Bork.

If only President Reagan would nominate judges of high professional qualifications, they said, then, then the fact that they were conservative would not be used to block their confirmation. This line was most repeatedly stressed during the bitter opposition to the nomination of Judge Daniel Manion to the Seventh Circuit Court of Appeals. But it was a common refrain during the opposition campaigns against other Reagan nominees as well.

Curiously, Mr. President, this refrain is no longer heard from those now arrayed in bitter opposition to the Bork nomination. In fact, they are saying just the opposite thing. Suddenly, qualifications, experience, and general professional excellence have become inconsequential or superfluous. All that seems to matter now to the Bork detractors is whether the nominee can satisfy them that he will vote to their satisfaction on certain litmus test issues and whether he is prepared to ignore the constraints of the plain text of the Constitution.

But it should surprise no one, Mr. President, that these forces now seek to lightly skip over the question of judicial excellence and legal scholarship. The obvious reason is that, in Robert Bork, they are confronted with a genuine giant of the law. The Bork inquisitors will look very small, indeed, if their partisan brickbats are measured against the breadth and excellence of Judge Bork's career as a judge, scholar, and public servant.

If one were to design the hypothetical background of a person ideally qualified for the Supreme Court, it would closely match the actual career of Robert Bork.

He received his law degree from the University of Chicago law school, one of the most prestigious in the Nation. He served with the highest distinction as a professor of law at Yale Law School, where he held two of the most distinguished chairs at that institution. His scholarly legal writings have been both prolific and profound, reflecting an appreciation and respect for our written Constitution that is exactly what we need in our judges.

Judge Bork served as Solicitor General of the United States from 1973 to 1977, the third highest post in the Justice Department. He served as the Justice Department's chief litigator before the U.S. Supreme Court. His performance in that capacity was exemplary in every respect, and it provides him with invaluable knowledge, understanding and respect for the high court as an institution.

Those who may now choose to distort Judge Bork's actions while Solicitor General in connection with the Watergate firing of Special Prosecutor Archibald Cox would do well to review the record and the facts before they embarrass themselves. The Senate Judiciary Committee carefully inquired into that matter in Bork's confirmation hearings for the D.C. Circuit Court in 1982. Bork candidly explained how his actions scrupulously maintained the integrity of the Watergate Special Prosecutor, with the selection of Leon Jaworksi to replace Cox, and how the contrary course of refusing the President's order and resigning would have left the Justice Department leaderless and in disarray.

Elliot Richardson, whose knowledge and sensitivity to these events is second to none, has publicly endorsed the integrity of Bork's actions. And so did this body when it confirmed Judge Bork for the second highest court in the land in 1982, without a single objection based on the Cox incident or otherwise. When Senators voted then unanimously to confirm Robert Bork, they did so only after the conduct of Mr. Bork in the Cox firing had been closely scrutinized.

Indeed, the Senate's unanimous approval of Bork for the D.C. Circuit Court of Appeals is further testimony to the excellence and integrity which commends him for the Supreme Court. Members of this body have not been reluctant to vigorously oppose nominees for the Federal appeals courts and district courts when they harbor concerns such as insensitivity to civil rights and similar issues. Rightly or wrongly, it was such professed concerns which resulted in the rejection of Jefferson Sessions to the Federal district court just last year. But no such concerns were raised to oppose Judge Bork when we confirmed him 5 years ago to the powerful D.C. circuit—and for good reason. After a full hearing before the Judiciary Committee, there was simply no basis for them. Today, some Senators would have us believe that 100 Senators in 1982 were grossly derelict in our duty when we confirmed Robert Bork unanimously to the D.C. Circuit Court of Appeals. Either the Senate acted as a fool in 1982, or some Senators are acting as fools in 1987.

Judge Bork's performance on the D.C. circuit has been truly outstanding, and fully compatible with the sound principles of judging which he expressed in his confirmation hearings. Judge Bork has authored or joined in over 100 majority opinions on the D.C. circuit and not one, not one of those 100 opinions has been reversed by the Supreme Court. Such a record would be inconceivable if, as alleged by his more rabid opponents, Judge Bork was an ideological extremist on the fringes of the judicial mainstream.

The reality is that Judge Bork's exemplary record in this regard demonstrates the utter illegitimacy of the calumnies now raised against him. The charge that Judge Bork is a judicial extremist simply proves too much. If Bork is an extremist, then so must be a majority of the Supreme Court itself. Indeed, the four more conservative members of the current Court would all be doomed to rejection under the various litmus tests being applied to Bork. And the other four would likewise be subject to rejection if the same ideological standard were imposed from the right instead of from the left.

Saner and more responsible voices from the liberal side have recognized Judge Bork's excellence and refuted these charges of ideological rigidity.

Judge Abner Mikva, a liberal and Judge Bork's colleague on the D.C. circuit, has openly expressed his admiration for his conservative colleague. Mikva has stated that:

> I think Abraham Lincoln would have liked Judge Bork, and not just because they both spent their formative years in Illinois.

Geoffrey Stone, dean of the University of Chicago Law School, stated that:

> If it were a person of lesser ability, I would vote against confirmation, but my own view is that Bork's capabilities are so unquestionable that he would make significant contributions.

Dean Stone added:

> Bork is a four-star appointment. You usually don't get anyone with anywhere near his credentials.

And Lloyd Cutler, former White House counsel to President Carter, a man who calls himself a liberal Democrat, one of the most respected and knowledgeable lawyers in the Nation, one of the most well known, has directly refuted charges from fellow liberals that Judge Bork is an ideological extremist. Cutler stated in a July 16 article in the New York Times:

> Judge Bork is neither an ideologue nor an extreme right-winger, either in his judicial philosophy or in his personal position on current social issues. I base this assessment on a post-nomination review of Judge Bork's published articles and opinions, and on 20 years of personal association as a professional colleague or adversary. I make it as a liberal Democrat and as an advocate of civil rights before the Supreme Court.

Mr. President, just recently, Justice Stevens spoke in Colorado Springs; and according to the Omaha World Herald, dated July 18, Justice Stevens said that Robert H. Bork will be a "welcome addition" to the U.S. Supreme Court. "I think Judge Bork is very well qualified," Stevens said. "He will be a welcome addition to the Court."

Mr. President, I ask unanimous consent that this news clipping be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

JUSTICE STEVENS BACKS BORK

(By David Thompson)

COLORADO SPRINGS, COLO.—Robert H. Bork will be a "welcome addition" to the U.S. Supreme Court, a member of the court told a group of lawyers and judges meeting here Friday.

Supreme Court Justice John Paul Stevens, appointed to the court in 1975 by Republican President Ford, made what legal observers said was the first public appraisal of Bork by a sitting member of the court.

President Reagan's selection of the 60-year-old Bork, now a federal appeals court judge in Washington, D.C., has drawn strong criticism from liberals, women's groups and others.

The chairman of the U.S. Senate Judiciary Committee, Sen. Joseph Biden, D-Del., has scheduled hearings for September on the Bork nomination.

Stevens said he gave his recommendations on Bork to the chairman of the American Bar Association committee that has been asked to evaluate the president's selection.

"I think Judge Bork is very well qualified," Stevens told those attending the 8th U.S. Circuit Court Judicial Conference.

"He will be a welcome addition to the court."

Stevens—a moderate on what court observers and scholars have characterized as an increasingly conservative court—followed his endorsement by reading extensively from an opinion that Bork wrote earlier this year in a libel case.

The justice quoted Bork as decrying "mechanical jurisprudence," trying to force certain kinds of cases to meet a specified number of legal requirements.

Stevens quoted Bork as saying that there has to be "a continuing evolution" of judicial doctrine.

Stevens, like Bork, was a federal appeals court judge when he was appointed.

Stevens also offered observations about the newest member of the court, Justice Antonin Scalia, and the new chief justice, William Rehnquist.

Stevens said Scalia, regarded as a strong conservative before he stepped up to the Supreme Court last October, keeps an open mind on cases while they are being discussed by the judges.

Stevens said Scalia has been known to change his views on a case between the time the justices begin their discussion and the time a final decision is rendered.

Scalia also has persuaded others on the court to change their minds during the same process, Stevens said.

The associate justice said a year's experience has shown Rehnquist to be "a fine chief justice."

Stevens also said the surprise retirement of Justice Lewis Powell—whom Bork has been selected to succeed—"was an emotional experience" for all members of the Supreme Court.

Stevens described Powell as "a gentleman and a friend to all members of the court."

The associate justice was one of a series of speakers at the annual conference conducted for federal judges and lawyers who practice in the seven states of the 8th Circuit, Nebraska, Iowa, the Dakotas, Missouri, Minnesota and Arkansas.

Approximately 60 lawyers and judges from Nebraska are attending.

Mr. **HUMPHREY**. Mr. President, these statements show that responsible liberals and civil rights advocates recognize that Judge Bork is a conscientious and principled jurist who will serve honorably on the Supreme Court.

As Lloyd Cutler stressed, "The essence of Judge Bork's judicial philosophy is self-restraint."

Self-restraint. That is an extremely crucial virtue for those appointed for life to so powerful position as the Supreme Court. It is the only thing that stands between conscientious adherence to our great written Constitution and presumptuous, anti-democratic policymaking by an imperial judiciary.

Judge Robert Bork has the kind of principled judicial restrain which makes him a trutworthy guardian of our Constitution. And he has the experience and scholarly capacity to cope with the complex and divisive disputes which the Supreme Court must ultimately decide.

So, Mr. President, I think it is time for Judge Bork's attackers to put aside their knives, put aside their strident, exaggerated, bitter rhetoric and reflect a bit on the responsibilities we must finally confront.

They should reflect on the breadth and the caliber of Judge Bork's career and consider very carefully the precedent they would destroy if they reject such a nominee.

Let them also reflect on the precedent they will set: the confirmation process for Supreme Court nominees is now to become bitterly partisan.

They should reflect on the Senate's unanimous approval of Bork's confirmation to the District of Columbia Circuit Court 5 years ago and consider why the accolades of 1982 should suddenly be transformed into the calumnies of 1987.

Finally, they should reflect on the value of our great Constitution and consider the damage we will do to it if we reject a nominee for the Supreme Court because he insists on adhering, to that Constitution.

Mr. President, it distresses me greatly that a number of Senators in this body have already announced their opposition to this nominee before the nominee has even had an opportunity to speak one word before the committee that will consider his nomination in September. Senators are entitled to their opinions. We all have them. We all have our inclinations.

The PRESIDING OFFICER. The time of the Senator under morning business has expired.

Mr. HUMPHREY. I ask unanimous consent that I may continue another 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Senators have their inclinations. I have mine. I am inclined to support Judge Bork, but I have not cast my feet in concrete. I want to hear what he has to say. I want to see how he responds to questions. We may be sure that there will be tough questions, put to him in the Judiciary Committee.

I hope that other Senators, likewise, will refrain from taking a position for or against this nominee until they have had a chance to hear all the evidence. Can we not wait until the evidence comes in before we render a verdict?

It is especially distressing and really disturbing and disappointing to find that the chairman of the Judiciary Committee, the man who will preside over these hearings, which will form a means of our passing judgment on the nominee, will not only be this man's judge but also is already today, in the press, this man's prosecutor. The chairman has already made up his mind and has already announced that he is going to lead the opposition to the nominee, notwithstanding the fact that the same Senator 5 years ago was among the 100 who voted unanimously to confirm Robert Bork to the second highest court in the land.

Is it asking too much that we have fairness in this proceeding? Is it too much to ask that we have a higher level of ethics than ordinarily obtains around here on more mundane nominations? I think it is not asking too much, and I ask it. I ask it of my chairman, as a member of the Judiciary Committee.

Mr. President, those Senators present in this body now who likewise were present 5 years ago and who supported him as they all did 5 years ago and who now bitterly attack the man ask us to believe something that leaves us incredulous. They ask us to believe that in 1982 in confirming a man to the second most important court in this country that they discharged their responsibilities carelessly.

Is that not what they are asking us? They say now Robert Bork is a rightwing ideolog and an extremist, an ogre. Why did they not say that 5 years ago? What further evidence do they have today that they did not have 5 years ago except 100 opinions all of which have been upheld by the Supreme Court?

So if Robert Bork, since his appointment to the Circuit Court for the District of Columbia, in the space of 5 years has become a rightwing extremist, an ideolog, an ogre and devil incarnate, and the Supreme Court upheld every one of his decisions, I think we have to assume also that the Supreme Court over the past 5 years has become peopled by disciples of the devil, if you believe the opponents. They leave us incredulous. They leave us aghast. Either they were extraordinarily careless in the discharge of their responsibility 5 years ago, or there is a great deal of hypocrisy about today.

It is grossly unfair. It is grossly and shamefully unethical.

I object further not only to the prejudgment of the case by the very man who will chair the hearing, if he wants to be not only the prosecutor as he is in the press, he wants to be the judge, perhaps the jailer as well. How much more undemocratic can a man be?

I hope the chairman will stop and think and back up and reintroduce fairness and decency into this process.

Before I close, Mr. President, I want to complain further about the inordinate, the unfair, the unreasonable, the unconscionable delay in beginning hearings on this nomination. The Congressional Research Service which, as my colleagues know, is a nonpartisan entity of function of the Library of Congress conducted a survey which encompassed the last 25 years, which is to say the modern age of telecommunications and computers when we can obtain all kinds of information on nominees with great ease, of which advantage our forebears did not have at the turn of the century or earlier. But in the last 25 years in the modern era, the average length of time between the submission of a nomination by a President and the beginning of hearings by the Senate Judiciary Committee has been 18 days, actually 17.6, round it up to 18 days, when the Bork hearings begin if they begin on the date stipulated by the chairman, 70 days will have elapsed—7 oh. What just cause is served by this inordinate delay?

Some will say that figures lie, that I am distorting the record. That is not so. Anyone may look at this study. It is quite straightforward.

Some make the excuse, well, there is a recess intervening in this instance——

The PRESIDING OFFICER. The Chair will point out the additional 5 minutes granted to the Senator from New Hampshire have expired.

Mr. HUMPHREY. Mr. President, I ask unanimous consent that I might have an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. HUMPHREY. Mr. President, some may claim excuse that in this instance there is an intervening recess. I have news for those critics as well because in no less than eight cases in the last 25 years, likewise an August recess intervened, and in no case did the time from submission of the nomination to the beginning of the hearings exceed 42 days. In this case it will be 70 days.

What is the point? I suspect the point is delay for the sake of delay. The point is to delay this nomination until the Senate does not have time to deal with it. We are, after all, supposed to adjourn sine die in early October. That carries it over to January. Filibuster in the Judiciary Committee. Filibuster on the floor. Drag it out. Bottle it up and you present the President with a case where he has a very difficult time making good on his campaign promise.

I suggest to you the purpose of the delay is nothing less than the retroactive stealing of the election of 1984.

Mr. President, I ask unanimous consent that this table from which I have extracted figures about recesses be printed in the RECORD at this point.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

TOTAL DAYS OF RECESS DURING INTERVAL BETWEEN SENATE RECEIPT OF NOMINATION AND START OF COMMITTEE HEARINGS FOR THE FOLLOWING SUPREME COURT NOMINEES

	No. of recess days	Total days, receipt of nomin. until hearing	Difference
Thurgood Marshall (1967)	12	31	19
Abe Fortas (1968)	13	15	2
Homer Thornberry (1968)	13	15	2
Clement Haynsworth (1969)	14	26	12
Sandra Day O'Connor (1981)	21	21	0
William H. Rehnquist (1986)	12	39	27
Antonin Scalia	12	42	30
Robert H. Bork (F1987)	?	70	

Above data based on official recess records as published in the "1987–88 Official Congressional Directory—100th Congress".

Mr. HUMPHREY. Mr. President, today a public interest group held a press conference to suggest that in view of the prejudice, the prejudging by the chairman, that the chairman ought to recuse himself from chairing the hearing on this nomination. I do not find that an unreasonable suggestion under the extraordinary circumstance which the chairman himself has created. I join that plea that for the sake of fairness the chairman recuse himself from this hearing.

Mr. President, I yield the floor

If I might have the attention of the majority leader, does he wish me to suggest the absence of a quorum?

Mr. BYRD. Mr. President, I thank the distinguished Senator. No. He has completed his statement.

MESSAGE FROM THE HOUSE RECEIVED DURING RECESS

ENROLLED JOINT RESOLUTIONS SIGNED

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate on today, July 23, 1987, received a message from the House of Representatives announcing that the Speaker has signed the following enrolled joint resolutions:

S.J. Res. 76. Joint resolution to designate the week of October 4, 1987, through October 10, 1987, as "Mental Illness Awareness Week"; and

S.J. Res. 160. Joint resolution to designate July 25, 1987, as "Clean Water Day."

Under the authority of the order of the Senate of February 3, 1987, the enrolled joint resolutions were signed on today, July 23, 1987, during the recess of the Senate, by the Deputy President pro tempore (Mr. Mitchell).

MEASURES REFERRED

The following joint resolution, previously received from the House of Representatives for concurrence, was read the first and second times by unanimous consent, and referred as indicated:

H.J. Res. 309. Joint resolution to establish the Speaker's Civic Achievement Awards Program to be administered under the Librarian of Congress to recognize achievement in civic literacy by students, classes, and schools throughout the Nation on grades 5 through 8, and for other purposes; to the Committee on Rules and Administration.

ENROLLED JOINT RESOLUTIONS PRESENTED

The Secretary of the Senate reported that on today, July 23, 1987, he had presented to the President of the United States the following enrolled joint resolutions:

S.J. Res. 76. Joint resolution to designate the week of October 4, 1987, through October 10, 1987, as "Mental Illness Awareness Week"; and

S.J. Res. 160. Joint resolution to designate July 25, 1987, as "Clean Water Day."

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM-262. Joint resolution adopted by the Legislature of the State of California; to the Committee on Agriculture, Nutrition, and Forestry.

"A RESOLUTION

"Whereas, A portion of the receipts from timber sales on lands within the National Forest System are provided to the states and counties of origin; and

"Whereas, The federal law governing the sharing of receipts from the National Forest System needs to be clarified by Congress; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact appropriate legislation to clarify that receipts from the National Forest System shared with the state and counties are to be based on the gross moneys received; and be it further

"Resolved, that the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

POM-263. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Banking, Housing, and Urban Affairs:

"A CONCURRENT RESOLUTION

"Whereas, the Housing Authority of New Orleans maintains and operates, with financial assistance from the Department of Housing and Urban Development, ten housing projects and several scattered site developments in the city of New Orleans; and

"Whereas, the authority bears the responsibility of providing decent, safe, and sanitary housing for over fifty-five thousand residents, a number equivalent to the population of a city the size of Alexandria, Louisiana; and

"Whereas, this task has become increasingly difficult wihin the last few years due to many reasons, including a lack of funds, which has been made more serious by the rise in liability costs for the authority, and the inability to employ sufficient, adequate, and skilled workers to make repairs; and

"Whereas, within the last few years there has been an alarming increase in the number of insurance claims and lawsuits filed against the authority by residents and their visitors; and

"Whereas, between the years of 1982 and 1985, bodily injury and property damage claims increased sixty percent, while settlements increased a staggering eighty-one percent, in other words, a one million dollar financial drain on the authority; and

"Whereas, this problem has placed the authority in a vicious cycle, in that the monies that could be used for maintenance and repairs must be used for high insurance and liability costs, which are themselves the effect of inadequate maintenance and upkeep; and

"Whereas, by providing the funding that this Resolution requests, the result would be to put an end to this vicious cycle within which the authority has been forced to operate; and

"Whereas, the economic, social, and political state of affairs of housing developments in the city of New Orleans now call for examination of alternatives to the existing management, ownership, and physical structures; and

"Whereas, the objectives of these alternative models may be to provide physical, economic, social, and political relief for a very depressed sector of the greater New Orleans community; and

"Whereas, through the renovation of substandard units, reduction of density, conversion of units to ownership, and innovative financing and subsidy programs, the quality of life can be improved in the housing developments of New Orleans; and

"Whereas, further objectives of alternative structures should be those of creating job skills, creating management skills, creating diversity in the physical environment, improving community facilities and community security, and instilling a sense of pride in self and community; and

"Whereas, accomplishing these objectives will involve the work of individuals and groups as well as sufficient resources, in order that there may be a full understanding of goals and ideas and gathering of necessary information; and

"Whereas, if the above objectives are to be attained, tenant involvement in the process is essential through the planning, design, construction, and management phases.

"Therefore, be it resolved that the Legislature of Louisiana does hereby memorialize the Congress of the United States to provide funding, through the Department of Housing and Urban Development, for the maintenance and repairs of the Desire housing development, the C.J.P. Homes (Magnolia Housing Project), and all other housing developments in the city of New Orleans, so that the Housing Authority of New Orleans will be in a position to maintain its facilities.

"Be it further resolved that a portion of any such federal funds be directed towards the adoption of a feasibility plan to provide alternatives to the existing management, ownership, and physical structures of all housing developments in the city of New Orleans.

"Be it further resolved that a copy of this Resolution be transmitted to the president of the United States Senate and the speaker of the United States House of Representatives and to each member of the Louisiana Congressional delegation."

POM-264. A resolution adopted by the Alaska Land Use Council relative to the Alaska National Interest Lands Conservation Act and section 705 of that Act, the National Forest Timber Utilization Program; to the Committee on Energy and Natural Resources.

POM-265. An act adopted by the Legislature of the State of Oregon to the Committee on Energy and Natural Resources.

SENATE BILL 1405

Be It Enacted by the People of the State of Oregon:

SECTION 1. The Legislative Assembly and the people of the State of Oregon find that:

"(1) In order to solve the problem of high-level radioactive waste disposal, Congress established a process for selecting two sites for the safe, permanent and regionally equitable disposal of such waste.

"(2) The process of selecting three sites as final candidates, including the Hanford reservation in the State of Washington, for a first high-level nuclear waste repository by the United States Department of Energy violated the intent and the mandate of Congress.

"(3) The United States Department of Energy has prematurely deferred consideration of numerous potential sites and disposal media that its own research indicates are more appropriate, safer and less expensive.

"(4) Placement of a repository at Hanford without methodical and independently verified scientific evaluation threatens the health and safety of the people and the environment of this state.

"(5) The selection process is flawed and not credible because it did not include independent experts in the selection of the sites and in the review of the selected sites, as recommended by the National Academy of Sciences.

"(6) By postponing indefinitely all site specific work for an eastern repository, the United States Department of Energy has not complied with the intent of Congress expressed in the Nuclear Waste Policy Act, Public Law 97-425, and the fundamental compromise which enabled its enactment.

"SECTION 2. In order to achieve complete compliance with federal law and protect the health, safety and welfare of the people of the State of Oregon, the Legislative Assembly, other state-wide officials and state agencies shall use all legal means necessary to:

"(1) Suspend the preliminary site selection process for a high-level nuclear waste repository, including the process of site characterization, until there is compliance with the intent of the Nuclear Waste Policy Act;

"(2) Reverse the Secretary of Energy's decision to postpone indefinitely all site specific work on locating and developing an eastern repository for high-level nuclear waste;

"(3) Insist that the United States Department of Energy's site selection process, when resumed, considers all acceptable geologic media and results in safe, scientifically justified and regionally and geographically equitable high-level nuclear waste disposal;

"(4) Demand that federal budget actions fully and completely follow the intent of the Nuclear Waste Policy Act;

"(5) Continue to pursue alliance with other states and interested parties, particularly with Pacific Northwest Governors, legislatures and other parties, affected by the site selection process and transportation of high-level nuclear waste; and

"(6) Assure that Oregon, because of its close geographic and geologic proximity to the proposed Hanford site, be accorded the same status under federal law as a state in which a high-level nuclear repository is proposed to be located.

"SECTION 3. Within 10 days after the effective date of this Act, the Secretary of State shall transmit copies of this Act, including the voter referendum results, to the President of the United States, the United States Department of Energy, the President of the United States Senate, the Speaker of the House of Representatives, each member of Congress and the Governors and legislatures of the other 49 states.

"SECTION 4. The ballot title for the measure referred to in section 5 of this Act shall be:

"STATE ROLE IN SELECTION OF HIGH-LEVEL NUCLEAR WASTE REPOSITORY SITE

"Question: Shall state officials continue challenges to federal selection process for high-level nuclear waste repositories and seek a greater role for Oregon?

"Purpose: Directs state officials and agencies to continue activities to challenge federal selection process for high-level nuclear waste repositories. Directs state officials and agencies to seek status for Oregon that would allow Oregon a greater role in the process of selecting high-level radioactive waste repository.

"SECTION 5. This Act shall be submitted to the people for their approval or rejection at the next special election held throughout the state."

POM-266. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on Environment and Public Works:

"HOUSE CONCURRENT RESOLUTION No. 50

"Whereas, the United States Environmental Protection Agency has heretofore been unable to respond to the need for the expeditious clean up of this nation's hazardous waste sites; and

"Whereas, initial funding for "Superfund" has proven to be woefully inadequate, and subsequent funding will undoubtedly be insufficient to complete this urgent clean up task; and

"Whereas, the national approach to this problem has been to homogenize clean up efforts, ignoring the individual geological characteristics of sites; and

"Whereas, individual states should be capable of responding to these waste sites more expeditiously, efficiently, and uniquely than the federal government; and

"Whereas, the allowance of a 'Superfund' assessment credit should stimulate the voluntary clean up by businesses of many of the worst hazardous waste sites in every state; and

"Whereas, those companies which are potentially liable for damage from past disposal practices may diminish or eliminate those liabilities through voluntary clean up activities which allow a credit against the "Superfund" assessment equal to actual expenses incurred in such clean up activities; and

"Whereas, the concept of delegating greater authority to states for the supervision and administration of such clean up activities, and of allowing a credit against the "Superfund" assessment has been overwhelmingly endorsed by the Southwest Regional Energy Council, the Southern Legislative Conference, and the National Conference of State Legislatures.

"Therefore, be it resolved, That the Legislature of Louisiana does hereby memorialize the Congress of the United States to amend the Comprehensive Environmental Response, Compensation, and Liability Act to allow a credit against the "Superfund" assessment for voluntary clean up activities on eligible sites, and to delegate greater administrative control to individual states in conducting these clean up activities.

"Be it further resolved, That provisions should be made to require that sites eligible for such voluntary clean up assessment credits be drawn from those that have qualified and been submitted for preliminary assessment site investigation under C.E.R.C.L.A., or have been approved for funding under C.E.R.C.L.A. by the United States Environmental Protection Agency for the clean up of sites; to require state certification of clean up activities prior to the allowance of the credit; to allow companies to carry forward unused credits to facilitate large and expensive clean up projects; to allow the imposition of a state administrative fee not to exceed five percent of credit claimed and to allow the deduction of that sum from tax liability; and, to specifically exclude those sites from credit eligibility that are subject to any judgment or order by any state or federal court or agency requiring clean up so as to preclude the use of credits to meet an already outstanding obligation.

"Be it further resolved, That the president of the United States is urged and requested to support congressional efforts to apply this concept to C.E.R.C.L.A.

"Be it further resolved, That a copy of this Concurrent Resolution shall be immediately transmitted to the president of the United States, to the president of the Senate and the speaker of the House of Representatives of the Congress of the United States, to the secretary of the United States Environmental Protection Agency, and to each member of the Louisiana delegation to the United States Congress."

POM-267. A concurrent resolution adopted by the Legislature of the State of Michigan; to the Committee on Finance:

HOUSE CONCURRENT RESOLUTION No. 78

"Whereas, The 1977 amendments to the Social Security program enacted by the United States Congress included what has been referred to as the "notch" effect, a provision which changed the payments formula in an attempt to slow the growth of Social Security benefits;

"Whereas, The "notch" provision penalizes individuals born between 1917 and 1921. The "notch" refers to the situation in which some people born in 1916 and earlier—with benefits figured under the method in effect before the 1977 amendments—receive higher monthly benefits than workers born in 1917 and later who have similar earning histories and who retire at the same age with benefits figured under the new indexing method; and

"Whereas, The Ninety-ninth Congress considered H.R. 1917, a measure introduced by Representative Edward Roybal, which was designed to repeal the "notch" provision and retroactively dispense increased benefits to those effected. While this bill was not enacted, it is anticipated that a similar measure will be introduced in 1987. The members of the Michigan Legislature would like to express their support for legislation which would correct this problem; now, therefore, be it

"*Resolved by the House of Representatives (the Senate concurring)*, That we hereby memorialize the United States Congress to enact legislation eliminating the Social Security benefit disparities brought about by the "notch" provision; and be it further

"Resolved, That a copy of this resolution be transmitted to the President of the United States Senate, the Speaker of the United States House of Representatives, and the Michigan congressional delegation."

POM-268. A concurrent resolution adopted by the Legislature of the State of Louisiana; to the Committee on the Judiciary:

"House Concurrent Resolution No. 262

"Whereas, the growth of population, development, and land and water use of the Mississippi River Basin has resulted in serious pollution of interstate waters flowing past the boundaries of several states; and

"Whereas, such pollution constitutes a menace to the health, welfare, and economic prosperity of the people living in such areas; and

"Whereas, the abatement of existing pollution and control of future pollution in interstate waters of the Mississippi River Basin area are of prime importance to the people and can best be accomplished through the cooperation of the states bordering on the river and the federal government, in the establishment of a cooperative federal-interstate agency to work with the states in the field of pollution abatement along the river.

"Therefore, be it resolved That the legislature of Louisiana does hereby memorialize the respective governors and state legislatures of Arkansas, Illinois, Iowa, Kentucky, Minnesota, Mississippi, Missouri, Tennessee, and Wisconsin and the Congress of the United States to enter into and actively participate in a compact for the interstate phase-out of pollution in the Mississippi River.

"*Be it further Resolved* That the signatory states collect and share information with other signatories relative to technologies, methods, incentives, or regulatory concessions which can further improve the water quality in the Mississippi River.

"*Be it further Resolved* That the signatories of such a compact investigate innovative multi-use regulatory schemes which can maintain the biological and chemical integrity of the water in the Mississippi River System in a manner so as to insure that the water is healthful for drinking purposes and is suitable for agricultural, aquacultural, and recreational use.

"*Be it further Resolved* That the signatories deliberate relative to the establishment of a waste registry for the collection and dissemination of waste information in conjunction with the compact for the purpose of encouraging waste exchanges for productive reuse with other signatories.

"*Be it further Resolved* That upon House Bill No. 1452 of the 1987 Regular Session becoming law a copy of this Concurrent Resolution and House Bill No. 1452 shall be transmitted to the respective governor, president of the state Senate, and speaker of the state House of Arkansas, Illinois, Iowa, Kentucky, Minnesota, Mississippi, Missouri, Tennessee and Wisconsin; to the president of the Senate and the speaker of the House of Representatives of the Congress of the United States; and to each member of the Louisiana congressional delegation."

POM-269. Joint resolution adopted by the Legislature of the State of Maine; to the Committee on Labor and Human Resources:

"Joint Resolution

"We, your Memorialists, the Senate and House of Representatives of the State of Maine in the First Regular Session of the One Hundred and Thirteenth Legislature, now assembled, most respectfully present and petition the Congress of the United States, as follows:

"Whereas, the most basic of all human rights is the right to survival in a dignified manner; and

"Whereas, the federal minimum wage was last increased to its present level of $3.35 an hour in 1981; and

"Whereas, there are millions of individuals currently working for minimum wage in this country, with the great majority of these individuals being women, many of whom are heads of households working to provide a dignified living for their children; and

"Whereas, studies have shown that these individuals and their families are being forced to live a life of poverty despite having the initiative and determination to seek and hold employment; and

"Whereas, it should be the policy of this nation, which extolls and encourages the virtues exhibited by these individuals, to reward their efforts in an appropriate manner and not to force them to request public assistance from the government; and

"Whereas, the value of the contributions made by these individuals cannot be measured by mere application of the economic law of supply and demand and requires more suitable compensation than a rate of pay which has been severely eroded by inflation; and

"Whereas, increasing the minimum wage would provide accompanying benefits of stimulating the nation's economy by putting more money in the hands of the people who need it the most and would also reduce the dependence upon the country's public assistance programs; and

"Whereas, experience in the State of Maine has shown that increasing the minimum wage does not carry with it any adverse economic effects, but to the contrary, since enacting its own increase in its minimum wage, the State of Maine has experienced the greatest economic activity in its history; now, therefore, be it

"*Resolved:* That We, your Memorialists, respectfully, urge and petition the 100th Congress of the United States to enact the legislation now pending in that body, namely the Kennedy-Hawkins bill, S-837, HR-1834, to increase the federal minimum wage; and be it further

"*Resolved:* That suitable copies of this Memorial, duly authenticated by the Secretary of State, be transmitted to the President of the Senate and the Speaker of the House of Representatives in the Congress of the United States and to each member of the Maine Congressional Delegation."

POM-270. A resolution adopted by the National Council of Juvenile and Family Court Judgesurging approval of the nomination of Verne L. Spiers to the Administrator of the Office of Juvenile Justice and Delinquency Prevention; ordered to lie on the table.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 249: A resolution relative to expenditures by the Select Committee on Indian Affairs (Rept. No. 100-120).

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. 1532: A bill relating to the payment for telecommunications equipment and certain services furnished by the Sergeant at Arms and Doorkeeper of the Senate (Rept. No. 100-121).

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute and an amendment to the title:

S. 970: A bill to authorize a research program for the modification of plants focusing on the development and production of new marketable industrial and commercial products, and for other purposes (Rept. No. 100-122).

By Mr. CHILES, from the Committee on the Budget, without amendment:

S. Res. 242: A resolution waiving section 303(a) of the Congressional Budget Act of 1974 with respect to the consideration of S. 1184.

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 251: A resolution to pay a gratuity to Patricia A. McLaughlin.

S. Res. 252: A resolution to pay a gratuity to Navarro A. Harrod.

S. Res. 253: A resolution to pay a gratuity to Deede S. Wyatt, Debra Vander Voort and Steven M. Schmidt.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. FORD, from the Committee on Rules and Administration:

Lee Ann Elliott, of Illinois, to be a member of the Federal Election Commission for a term expiring April 30, 1993;

Danny Lee McDonald, of Oklahoma, to be a member of the Federal Election Commission for a term expiring April 30, 1993; and

James H. Billington, of the District of Columbia, to be Librarian of Congress.

(The above nominations were reported with the recommendations that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. SASSER:

S. 1530. A bill to extend for 5 years the authorization granted under the State and Local Government Cost Estimate Act of 1981; to the Committee on the Budget and the Committee on Governmental Affairs, jointly, pursuant to the order of August 4, 1977, with instructions that if one Committee reports, the other has thirty days of continuous session to report or be discharged.

By Mr. EXON:

S. 1531. A bill to extend the Internal Revenue Code of 1986 to preclude all corporations engaged in farm product processing with gross receipts in excess of $100,000,000 from using cash accounting; to the Committee on Finance.

By Mr. FORD, from the Committee on Rules and Administration:

S. 1532. A bill relating to the payment for telecommunications equipment and certain services furnished by the Sergeant at Arms and Doorkeeper of the Senate; placed on the calendar.

By Mr. DECONCINI:

S. 1533. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of, and the deduction of contributions to, education savings accounts; to the Committee on Finance.

S. 1534. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of, and the deduction of contributions to, housing savings accounts; to the Committee on Finance.

S. 1535. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide on-site day care facilities for dependents of their employees; to the Committee on Finance.

By Mr. DANFORTH:

S. 1536. A bill to require the Secretary of Transportation to promulgate rules regarding the safe operation of certain rapid acceleration motorcycles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. CHAFEE (for himself, Mr. MOYNIHAN, Mr. DASCHLE and Mr. MATSUNAGA):

S. 1537. A bill to amend title V of the Social Security Act to provide care management to certain children and to provide care management and health care to children with high cost catastrophic health care needs; to the Committee on Finance.

By Mr. KASTEN (for himself and Mr. D'AMATO):

S. 1538. A bill to protect the world's remaining tropical forests; to the Committee on Foreign Relations.

By Mr. EXON (for himself, Mr. HOLLINGS, Mr. DANFORTH and Mr. KASTEN):

S. 1539. A bill to amend the Federal Railroad Safety Act and for other purposes; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. FORD, from the Committee on Rules and Administration:

S. Res. 251. An original resolution to pay a gratuity to Patricia A. McLaughlin; placed on the calendar.

By Mr. FORD:

S. Res. 252. An original resolution to pay a gratuity to Navarro A. Harrod; placed on the calendar.

S. Res. 253. An original resolution to pay a gratuity to Deede S. Wyatt, Debra Vander Voort and Steven M. Schmidt; placed on the calendar.

By Mr. SIMON (for himself and Mr. WEICKER):

S. Res. 254. A resolution to state the guiding principles of United States policy toward South Africa's illegal occupation of Namibia; to the Committee on Foreign Relations.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. SASSER:

S. 1530. A bill to extend for 5 years the authorization granted under the State and Local Government Cost Estimate Act of 1981; pursuant to the order of August 4, 1977, referred jointly to the Committee on the Budget and the Committee on Governmental Affairs.

STATE AND LOCAL GOVERNMENT COST ESTIMATE ACT REAUTHORIZATION

Mr. SASSER. Mr. President, today I join my distinguished colleagues Senator HEINZ and Senator LEVIN in introducing legislation providing for a 5-year reauthorization of the State and Local Government Cost Estimate Act of 1981. This authorization is scheduled to expire on September 30, 1987.

This legislation requires the Congressional Budget Office [CBO] to provide an estimate of the cost impact on State and local governments on reported congressional legislation. This very successful program has been in effect for 5 years.

The merits for reauthorization are clear. State and local estimates on proposed Federal legislation permits Congress early in the legislation process to identify hidden and significant costs which could be blindly passed along to State and local governments. This fiscal note process is vital, particularly in this current era of fiscal restraint.

Furthermore, the fiscal note process may lessen the number of new mandates imposed on State and local governments, and also, improves State and local government access to data necessary for those governments to estimate cost of Federal legislation for use in their fiscal decisionmaking process.

This legislation clearly improves the budget process. The CBO is required to consider direct budgetary costs or savings that would be incurred by State and locals as result of legislation reported from full committees. The CBO, in the fiscal note process, is neither required to consider secondary or indirect costs, nor issue fiscal notes for tax legislation or appropriation bills.

Rather the fiscal note process focuses on those bills or resolutions which would result in an annual cost of $200 million or more to State and local government or where exceptional fiscal consequences are felt by State governments or localities.

Fiscal notes, or analyses of the costs of legislation to Government, are not a new idea. The process originated at the State level in the late 1950's when New Jersey and Wisconsin enacted such laws. Eventually, many States, with constitutional limitations on their ability to raise new taxes, and thus pay for new programs, found fiscal notes a sound device for anticipating the cost of new legislation—not only to State governments, but to local governments as well.

Today, more than three-quarters of the States use fiscal year notes for proposed legislation affecting local governments.

At the Federal level, it was not until the Congress passed the Congressional Budget Act of 1974 that it directed the newly created CBO to prepare fiscal notes outlining the cost to the Federal Government of proposed legislation. Prior to that, these costs had simply not been determined.

Passage of the State and Local Government Cost Estimate Act in 1981 heralded a new approach to federalism.

It its 5 years of existence, the fiscal note has proved useful in drafting clearer and more concise policy making and budget decisions.

One of the more notable successes of this fiscal note process is the immigration reform bill passed by Congress in 1986. This legislation, which subjects employers to fines who knowingly hire illegal aliens and provides amnesty to perhaps millions of illegals who have lived in the United States since 1982, places an unusually difficult fiscal burden upon State and local governments. Under the act, the State and local governments are better able to identify their responsibility as well as the role and commitment of the U.S. Government.

Other legislation in the 99th Congress which was positively affected by the Fiscal Note Act include the safe drinking water, bill, the education of the handicapped bill, the Rehabilitation Act Amendments, and the Housing Act of 1985.

Today, reauthorization of this legislation is more important than ever. With declining Federal aid to State and local governments, and with the elimination of the General Revenue Sharing Program last year, cooperation between the Federal and the State and local level is essential in making better use of each dollar spent.

In the coming weeks, the Governmental Affairs Subcommittee on Governmental Efficiency, Federalism and the District of Columbia will conduct hearings to further focus upon the importance of reauthorizing fiscal notes and will consider other legislative changes to the Fiscal Note Act. Such changes could include preparing estimates earlier in the process and regularly updating estimates for amendments. Also worthy of further study is whether this process should be expanded to cover all appropriation measures.

Senator Heinz and I commend the National Conference of State Legislatures, the National League of Cities, and the Congressional Budget Office for their support of the permanent reauthorization of the State and Local Government Cost Estimate Act. We urge Members of the Senate to support the reauthorization of the proven, cost-effective program.

By Mr. EXON:

S. 1531. A bill to amend the Internal Revenue Code of 1986 to preclude all corporations engaged in farm product processing with gross receipts in excess of $100,000,000 from using cash accounting; to the Committee on Finance.

ACCOUNTING METHODS OF MAJOR FOOD PROCESSORS

Mr. EXON. Mr. President, today I am introducing legislation to provide a level playing field among major food processors. Because of a tax loophole, some multimillion-dollar food processors are treated as though they are family farms and receive millions of dollars in tax breaks, while other similarly-situated food processing businesses pay through the nose. The means to the present inequity is through current tax rules established by Congress which allow some of these food processing businesses to use the cash basis method of accounting, while others are held to the use of accrual accounting.

The underlying reason our tax laws allow some taxpayers to use one accounting method and not the other is that small family farmers do not have the technical sophistication through armies of accountants and tax lawyers that large corporations enjoy. All cash accounting really means is that a taxpayer can deduct expenses paid in the current year instead of later years when matched against related income. However, the larger the enterprise, the more it is likely to be able to time its expense payments based on tax considerations, thus postponing payment of its taxes and reaping a harvest of income from the fields of the internal revenue code. That is why the law generally requires use of accrual accounting for large enterprises.

Mr. President, this is not the first time this matter has come to light. Nor will it likely be the last. Many different magazines and newspapers have carried articles on the inconsistency of treating some huge food processors like family farms for tax purposes. Most recently, the June 1987 issue of the Readers' Digest carried an article entitled "Time to End Corporate Welfare" which highlighted this inequitable giveaway in the article's lead paragraph. It has now reached the point of becoming one of those issues that will keep appearing and reappearing until Congress does justice. After all the hoopla and sanctimonious talk during the debate on the 1986 tax reform act about fairness, equity, and level playing fields, it seems especially inconsistent to allow this to remain.

In many respects, my legislation is similar to legislation already proposed in the Senate by the late and much-missed Senator Ed Zorinsky. Under the bill, no company which processes farm products with gross receipts over $100 million per year would be able to use cash accounting for tax purposes and thus be treated like a family farm. Considering the issue, I think most would agree this $100 million ceiling is quite generous. As one from a State with a large number of family farmers, I can attest to that, as can the family farmers throughout our entire country. Classifying operations larger than that as family farms as our current law does is like classifying Bloomingdale's as just a corner drygoods store or classifying Daddy Warbucks as Pa Kettle.

However, in recognition of the political realities of trying to take away a special benefit from vested interests, my legislation also proposes a special 3-year phase-in of this change. Just as the 1986 Tax Reform Act provided for phasing-in various tax changes which took away loopholes, my legislation does this as well. The old argument of "this change is too sudden and will cause undue economic dislocation" is put to rest, just as this inequity in our tax laws should be put to rest.

Mr. President, this issue will not go away. I cannot in good conscience be considering cuts in programs for the elderly, for education, and for our national security, without addressing such obvious inequities which will also help to reduce our budget deficit. I urge my colleagues to join me in this effort for a change that is overdue.

Mr. President, I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1531

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DENIAL OF USE OF CASH ACCOUNTING FOR ALL CORPORATIONS ENGAGED IN FARM PRODUCT PROCESSING WITH GROSS RECEIPTS IN EXCESS OF $100,000,000.

(a) In General.—Section 447 of the Internal Revenue Code of 1986 (relating to method of accounting for corporations engaged in farming) as amended by adding at the end thereof the following new subsections:

"(i) Subsections (c) and (h) Only to Apply to Corporations Engaged in Farm Product Processing Having Gross Receipts of $100,000,000 or Less.—A corporation engaged in farm product processing shall not be treated as being described in subsection (c)(1) or (2) or subsection (h) unless such corporation meets the requirements of subsection (e), except that subsection (e) shall be applied—

"(1) by substituting '$100,000,000' for '$1,000,000', and

"(2) by substituting '1986' for '1975'.

"(j) Corporations Engaged in Farm Product Processing.—

"(1) General rule.—For purposes of this section, a corporation shall be treated as engaged in farm product processing if such corporation, including any person related to such corporation or any partnership in which such corporation or related person is a partner, engages in the slaughter, evisceration, processing, or other transformation of any crop, animal, or other farm product.

"(2) Related person.—For purposes of paragraph (1), a person is a related person to another person if—

"(A) the relationship between such persons would result in a disallowance of losses under section 267 or 707(b), or

"(B) such persons are corporations and the members of the same 3 or fewer families own at least 50 percent of the total combined voting power of all classes of stock entitled to vote or at least 50 percent of the total value of shares of all classes of stock of each such corporation.".

"(b) Modification of Coordination With Section 481.—Section 447(f) of the Internal Revenue Code of 1986 (relating to coordination with section 481) is amended by adding at the end thereof the following new sentence: "In the case of any change in method of accounting required by subsection (i), paragraph (3) shall be applied by substituting '4 taxable years' for '10 taxable years'."

"(c) Conforming Amendment.—Section 447(d) of the Internal Revenue Code of 1986 (relating to members of the same family) is amended by striking out "subsection (c)(2)" and inserting in lieu thereof "subsections (c)(2) and (j)(2)".

"(d) Effective Date.—

"(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1987.

"(2) Phase-in of tax increase.—In the case of a taxpayer which computed its taxable income on the cash receipts and disbursements method of accounting for its last taxable year beginning before January 1, 1988, and is required by the amendments made by this section to compute its taxable income on the accrual method of accounting for taxable years beginning after December 31, 1987, the tax imposed by section 11 of the Internal Revenue Code of 1986 for such taxpayer's first 2 taxable years beginning after December 31, 1987, shall not be greater than the following amounts:

"(A) 1st taxable year.—For the 1st taxable year beginning after December 31, 1987, the amount determined by dividing—

"(i) the sum of—

"(I) such tax computed on the accrual method of accounting (after application of section 447(f) of such Code), plus

"(II) 2 times such tax computed on the cash receipts and disbursements method of accounting, by

"(ii) 3.

"(B) 2nd taxable year.—For the 2nd taxable year beginning after December 31, 1987, the amount determined by dividing—

"(i) the sum of—

"(I) 2 times such tax computed on the accrual method of accounting (after application of section 447(f) of such Code), plus

"(II) such tax computed on the cash receipts and disbursements method of accounting, by

"(ii) 3.

By Mr. DeCONCINI:

S. 1533. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of, and the deduction of contributions, to, education savings accounts; to the Committee on Finance.

S. 1534. A bill to amend the Internal Revenue Code of 1986 to provide for the establishment of, and the deducion of contributions to, housing savings accounts; to the Committee on Finance.

S. 1535. A bill to amend the Internal Revenue Code of 1986 to provide a credit against tax for employers who provide on-site day care facilities for dependents of their employees; to the Committee on Finance.

FAMILY ASSISTANCE TAX LEGISLATION

● Mr. DeCONCINI. Mr. President, time was when a typical family could be defined this way, dad works and mom stays at home with the children. Yet now, with women becoming a stronger building block in the work force, two-income households are becoming the rule rather than the exception. This means that many of America's working parents cannot care for their children for large portions of the day and night. And many of them have no relatives or friends to turn to. As a result, half of our children in America under 13 years old depend on a child care center or babysitter for care during these hours. Over the next 5 years, this figure will swell to nearly 30 million, and experts believe many of these children will not receive the basic attention necessary for the development of healthy minds and bodies.

The American family is also struggling with skyrocketing tuition costs for college and other post-high-school education, and younger families are fast losing sight of the American dream of owning their own home.

Today, the Honorable William Lipinski, Representative from Illinois, and myself are introducing three bills designed to take the American family off the endangered species list, and to call for immediate action in Congress to insure their survival. The bills we are introducing today represent only a small beginning, but they address some of the most critical issues confronting families, and especially younger families which are raising our leaders of tomorrow.

Mr. President, the three family assistance bills we are introducing today deal with tax credits for employers to stimulate development of on-site child care, and tax incentives for low- and middle-income families to purchase their first home and/or pay for their children's postsecondary education.

Two bills would provide tax incentives to low- and middle-income families to purchase their first home and/or pay for their children's postsecondary education.

The first bill would establish an education savings account [ESA] that would mimic individual retirement accounts [IRA's] by allowing a deduction from gross income on contribution to an ESA account of up to $1,000 per eligible child. The tax-free contribution would be allowed for couples filing jointly with income below $40,000 and would phase out between $40,000 and $50,000. For single filers the eligible level would be under $25,000 with a phase out between $25,000 and $35,000.

College tuitions have increased at an annual rate of 10.6 percent since 1980. To make matters worse, most colleges and universities are finding it impossible to meet the financial aid requirements of students.

The second bill would assist low- and middle-income families purchase their first home by establishing an individual housing account [IHA]. The IHA would also be based on the IRA system. The eligibility requirements would be the same as those for the ESA.

The housing account proposal would have a maximum annual contribution of $2,000 per working taxpayer. The IHA account would be limited to a total of $20,000 over its life.

Mr. President, the continuing pattern of rising home prices shuts the door on the hopes of young families to own their own homes. Too many families today are caught between the rising cost of achieving traditional family goals and stagnating family incomes. The dream of providing one's family and children with decent child care, a college education, and a good home is fading away. I feel strongly that government must now step in to help the family help itself.

Mr. President, it should not be a surprise to any person today that America is experiencing a child care crisis. Our best statistics to date show:

In 1985, 57.5 percent of American children had mothers in the labor force, and almost two-thirds of all American mothers are now part of the work force.

As many as 7 million children under age 13 are left alone during some part of the day.

Between 1975 and 1985, the number of children in single parent families grew by almost 27 percent to 12.6 million.

Two-thirds of working woman are either the sole provider for their children or have husbands who earn less then $10,000 per year, and one-half of working women and husbands who earn less than $20,000 per year.

Mr. President, the bottom line is that a majority of working parents report difficulty in finding the kind of child care they need at a price they can afford.

With the growing numbers of mothers in the work force, the demand for child care is ever increasing. However, the supply has not kept pace with this demand. Our public child care system can serve only 5 percent of the young children who need this care. We need a rapid response by private business to assist their employees, and the employers need greater incentives to increase the supply of available child care.

Current tax incentives for employer-assisted child care have not stimulated the development of increased child care options for working families. Today, there are only 400 employer on-site child care centers in the United States and approximately three-quarters of these centers are operated by government-owned institutions or nonprofit organizations. While about 1,800 of the over 6 million American businesses support child care programs in some way, only about 100 provide onsite child care.

Onsite child care is good for families and good for businesses. Parents with children in employer onsite child care are more productive because of better morale, less absenteeism and far less turnover. It is estimated that for every $1 spent on an onsite facility, there is a potential profit increase of $3 to $6 due to increased productivity.

The third bill I am introducting today would provide tax credits to employers who provide onsite or nearby site child care centers. Employers would be allowed a tax credit of up to $2,000, multiplied by the maximum number of children who could be cared for at the facility. These credits would be allowed for acquisition, construction, rehabilitation or expansion of a child care facility. Any employer who takes the credits must pay back all or some of the credits taken if the facility does not operate for a minimum of 5 years. If the facility remains open at least 3 years, the employer would be required to pay back no more than 50 percent of the credits taken.

Unlike most child care legislation under consideration in Congress today, this bill emphasizes the critcal need for more and properly equipped physical facilities. Others emphasize funding assistance for day-to-day operations, increased employee training and improved child care standards. These costs, especially the cost of labor, makeup the overwhelming majority of the expenses of operating a child care center. This bill will help satisfy the need for improved access and availability to facilities by providing the startup capital, and, in the long run, will help reduce the cost of quality child care by reducing the now staggering demand.

Our preliminary cost estimates of the onsite child care tax credit to employers show it will require anywhere from $100 to $200 million a year. This may seem high, but we must remember what the cost of not providing care will be in the future. Just as the employer will save from increased productivity from the working parents, the Nation can avoid hundreds of millions of dollars of Federal expenditures which otherwise would be required to provide health care, social welfare and education services to children that do not receive adequate care in their most formative years.

Our children are the leaders of tomorrow and we must provide them with the opportunities they need for proper mental and physical development. There is no more important asset to a society than its young people. Let's start facing the reality that the number of two-income families is not getting any smaller, and the need for good child care is growing. America can ill afford to ignore the child care crisis and assume that families and children will be able to survive with the present patchwork system of child care. We need to take off our blindfolds to insure that we prepare, in the best way we can, the children of today to be productive citizens of our country's tomorrow. Creating quality child care facilities is the best place to start facing this problem.

Mr. President, I urge my distinguished colleagues to support these innovative approaches to prevent the virtual extinction of the American family.

Mr. President, I ask unanimous consent that the three bills be placed, following my remarks, at an appropriate place in the Record.

There being no objection, the bills were ordered to be printed in the Record, as follows:

S. 1533

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EDUCATION SAVINGS ACCOUNTS.

(a) In General.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. EDUCATION SAVINGS ACCOUNTS.

"(a) Deduction Allowed.—In the case of an individual, there is allowed as a deduction the amounts paid in cash during the calendar year which ends with or within the taxable year by such individual to an education savings account for the benefit of an eligible individual with respect to the taxpayer.

"(b) Limitations.—

"(1) Account may not be established for benefit of more than 1 individual.—An education savings account may not be established for the benefit of more than 1 individual.

"(2) Maximum deduction per account.—

"(A) In general.—The amount allowable as a deduction under subsection (a) to an individual for amounts paid to an account for any calendar year shall not exceed the lesser of—

"(i) $1,000, or

"(ii) an amount equal to the compensation (as defined in section 219(f)(1)) includible in the individual's gross income for such taxable year.

"(B) Adjusted gross income limitation.—The aggregate amount allowable as a deduction under subsection (a) to any individual for any taxable year shall be reduced (but not below zero) under rules similar to the rules of paragraphs (2) and (3) of section 219(g).

"(3) No deduction after beneficiary attains age 19.—No deduction shall be allowed for any contribution to an education savings account established for the benefit of an individual who has attained age 19 before the close of the calendar year in which such contribution is made.

"(c) Definitions and Special Rules.—

"(1) Education savings account.—For purposes of this section, the term 'education savings account' means a trust created or organized in the United States exclusively for the purposes of paying the educational expenses of an eligible individual, but only if the written governing instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted unless it is in cash, and contributions will not be accepted for the taxable year in excess of $1,000.

"(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts (other than contracts the beneficiary of which is the trust and the face amount of which does not exceed the amount by which the maximum amount which can be contributed to the account exceeds the sum of the amounts contributed to the account for all taxable years).

"(D) The assets of the account may be invested in accordance with the direction of the individual contributing to the account, but, if more than one individual has made contributions to the account, the consent of all such individuals shall be required for any such direction.

"(E) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(F) Any balance in the account on the day after the date on which the individual for whose benefit the trust is established attains age 27 (or, if earlier, the date on which such individual dies) will be distributed on that date to each of the individuals who have contributed to the trust in an amount which bears the same ratio to such balance as such individual's contributions bear to the sum of all such contributions.

"(2) Time when contributions deemed made.—For purposes of this section, a taxpayer shall be deemed to have made a contribution on the last day of a calendar year if the contribution is made on account of such calendar year and is made not later than the time prescribed by law for filing the return for the taxable year (not including extensions thereof) with or within which the calendar year ends.

"(3) Eligible individual.—The term 'eligible individual' means, with respect to a contribution made by the taxpayer for a taxable year, any individual who has not attained age 19 before the close of the calendar year in which the contribution is made and with respect to whom the taxpayer is allowed an additional personal exemption under section 151 for the taxable year.

"(4) Educational expenses.—The term 'educational expenses' means—

"(A) tuition and fees required for the enrollment or attendance of a student at an eligible educational institution.

"(B) fees, books, supplies, and equipment required for courses of instruction at an eligible educational institution, and

"(C) a reasonable allowance for meals and lodging while attending an eligible educational institution away from home.

"(5) Eligible educational institution.—The term 'eligible educational institution' means—

"(A) an institution of higher education, or

"(B) a vocational school.

"(6) Institution of higher education.—The term 'institution of higher education' means the institutions described in section 1201(a) or 481(a) of the Higher Education Act of 1965.

"(7) Vocational school.—The term 'vocational school' means an area vocational education school as defined in subparagraph (C) or (D) of section 521(3) of the Carl D. Perkins Vocational Educational Act which is in any State (as defined in section 521(27) of such Act).

"(d) Tax Treatment of Distributions.—

"(1) In general.—Except as otherwise provided in this subsection, any amount paid or distributed out of an education savings account shall be included in gross income by each individual who has contributed to the account, in an amount which bears the same ratio to such payment or distribution as the amount contributed by that individual for all taxable years bears to the amounts contributed by all individual for all taxable years, for the taxable year in which the payment or distribution is received, unless such amount is used exclusively to pay the educational expenses incurred by the individuals for whose benefit the account is established.

"(2) Excess contributions returned before due date of return.—Paragraph (1) does not apply to the distribution of any contribution paid during a taxable year to an education savings account to the extent that such contribution exceeds the amount allowable as a deduction under subsection (a) if—

"(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year,

"(B) no deduction is allowed under subsection (a) with respect to such excess contribution, and

"(C) such distribution is accompanied by the amount of net income attributable to such excess contribution.

Any net income described in subparagraph (C) shall be included in the gross income of the individual for the taxable year in which it is received.

"(e) Tax Treatment of Accounts.—

"(1) Exemption from tax.—An education savings account is exempt from taxation under this subtitle unless such account has ceased to be an education savings account by reason of paragraph (2) or (3). Notwithstanding the preceding sentence, any such account is subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) Loss of exemption of account where individual engages in prohibited transaction.—

"(A) In general.—If, during any taxable year of an individual who contributes to an education savings account, that individual engages in any transaction prohibited by section 4975 with respect to the account, the account ceases to be an education savings account as of the first day of that taxable year.

"(B) Account treated as distributing all its assets.—In any case in which any account ceases to be an education savings account by reason of subparagraph (A) on the first day of any taxable year, paragraph (1) of subsection (d) applies as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

"(3) Effect of pledging account as security.—If, during any taxable year, the individual for whose benefit an education savings account is established uses the account or any portion thereof as security for a loan, the portion so used is treated as distributed to that individual.

"(f) Additional Tax on Certain Amounts Included in Gross Income.—

"(1) Distribution not used for educational expenses.—If a distribution from an education savings account is made, and not used in connection with the payment of educational expenses of the individual for whose benefit the account was established, the tax liability of each of the individuals who has contributed to the account for the taxable year in which such distribution is received shall be increased by an amount equal to 10 percent of the amount of the distribution which is includible in his gross income for such taxable year.

"(2) Disqualification cases.—If an amount is includible in the gross income of an individual for a taxable year under subsection (d), his tax under this chapter for such taxable year shall be increased by an amount equal to 10 percent of such amount required to be included in his gross income.

"(3) Disability or Death Cases.—Paragraphs (1) and (2) do not apply if the payment or distribution is made after the individual for whose benefit the education savings account becomes disabled within the meaning of section 72(m)(7) or dies.

"(g) Community Property Laws.—This section shall be applied without regard to any community property laws.

"(h) Custodial Accounts.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute an education savings account described in subsection (c). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(i) Reports.—The trustee of an education savings account shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations."

(b) Deduction Allowed in Arriving at Adjusted Gross Income.—Paragraph (7) of section 62(a) of such Code (relating to retirement savings) is amended—

(1) by inserting "or Education" after "Retirement" in the heading of such paragraph, and

(2) by inserting before the period at the end thereof the following: "and the deduction allowed by section 220 (relating to deduction of certain payments to education savings accounts)".

(c) Tax on Excess Contributions.—Section 4973 of such Code (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting "Education Savings Accounts," after "Accounts," in the heading of such section,

(2) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) an education savings account (within the meaning of section 220(c)), or",

(3) by striking out "or" at the end of paragraph (1) of subsection (a), and

(4) by adding at the end thereof the following new subsection:

"(d) Excess Contributions to Education Savings Accounts.—For purposes of this section, in the case of an education savings account, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the account exceeds the amount allowable as a deduction under section 220 for such taxable year. For purposes of this subsection, any contribution which is distributed out of the education savings account in a distribution to which section 220(d)(2) applies shall be treated as an amount not contributed."

(d) Contribution Not To Be Treated as a Gift for Gift Tax Purposes.—Section 2503 of such Code (relating to taxable gifts) is amended by adding at the end thereof the following new subsection:

"(g) Education Savings Accounts.—For purposes of subsection (b), any payment made by an individual to an education savings account described in section 220(c), shall not be considered a gift of a future interest in property to the extent that such payment is allowed as a deduction under section 220."

(e) Tax on Prohibited Transactions.—Section 4975 of such Code (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) Special rule for education savings accounts.—An individual for whose benefit an education savings account is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be an education savings account by reason of the application of section 220(e)(2)(A) to such account.", and

(2) by inserting "or an education savings account described in section 220(c)" in subsection (e)(1) after "described in section 408(a)".

(f) Failure To Provide Reports on Education Savings Accounts.—Section 6693 of such Code (relating to failure to provide reports on individual retirement account or annuities) is amended—

(1) by inserting "or on education savings accounts" after "annuities" in the heading of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 220(i) to file a report regarding an education account at the time and in the manner required by such section shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause."

(g) Clerical Amendments.—

(1) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 220 and inserting in lieu thereof the following:

"Sec. 220. Education savings accounts.
"Sec. 221. Cross reference."

(2) The table of sections for chapter 43 of such Code is amended by striking out the item relating to section 4973 and inserting in lieu thereof the following:

"Sec. 4973. Tax on excess contributions to individual retirement accounts, education savings accounts, certain 403(b) contracts, and certain individual retirement annuities."

(3) The table of sections for subchapter B of chapter 68 of such Code is amended by inserting "or on education savings accounts" after "annuities" in the item relating to section 6693.

(h) Exclusion From Gross Income Where Education Expenses Paid.—

(1) In General.—Part III of subchapter B of chapter 1 of such Code (relating to items specifically excluded from gross income) is amended by redesignating section 135 as section 136 and by inserting after section 134 the following new section:

"SEC. 135. EDUCATION SAVINGS ACCOUNT DISTRIBUTIONS.

"In the case of an individual, gross income does not include distributions from an education savings account used exclusively for the payment of educational expenses of that individual (within the meaning of section 220(c)(4))."

(2) Clerical Amendment.—The table of sections for such part III is amended by striking out the item relating to section 135 and inserting in lieu thereof the following new items:

"Sec. 135. Education savings account distributions.
"Sec. 136. Cross references to other Acts."

(i) Special Rule for Determination of Dependency.—Subsection (b) of section 152 of such Code (relating to definition of dependent) is amended by adding at the end thereof the following new paragraph:

"(6) A payment to an individual for whose benefit an education savings account (as defined in section 220(c)) is established from that account which is excluded from the gross income of that individual under section 135 shall not be taken into account in determining support for purposes of this section."

(j) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

S. 1534

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HOUSING SAVINGS ACCOUNTS.

(a) In General.—Part VII of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

SEC. 220. HOUSING SAVINGS ACCOUNTS.

"(a) Deduction Allowed.—In the case of an individual, there is allowed as a deduction the amounts paid in cash during the taxable year by such individual to a housing savings account established for the benefit of such individual.

"(b) Limitations.—

"(1) Maximum deduction per account.—The amount allowable as a deduction under subsection (a) to any individual for amounts paid to an account for the benefit of such individual—

"(A) for any taxable year shall not exceed the lesser of—

"(i) $2,000, or

"(ii) an amount equal to the compensation (as defined in section 219(f)(1)) includible in the individual's gross income for such taxable year, and

"(B) for all taxable years shall not exceed $20,000.

"(2) Adjusted gross income limitation.—The aggregate amount allowable as a deduction under subsection (a) to any individual for any taxable year shall be reduced (but not below zero) under rules similar to the rules of paragraphs (2) and (3) of section 219(g).

"(3) Individual may not be beneficiary of more than 1 account.—If an individual is the beneficiary of more than 1 housing savings account during any taxable year, no deduction shall be allowed under subsection (a) for any amount paid for such taxable year to any housing savings account established for the benefit of such individual.

"(c) Definitions and Special Rules.—For purposes of this section—

"(1) Housing savings account.—For purposes of this section, the term 'housing savings account' means a trust created or organized in the United States for the exclusive benefit of an individual who has never owned his principal residence, but only if the written governing instrument creating the trust meets the following requirements:

"(A) No contribution will be accepted unless it is in cash, and contributions will not be accepted for the taxable year in excess of $2,000. Total contributions in all taxable years shall not exceed $20,000.

"(B) The trustee is a bank (as defined in section 408(n)) or another person who demonstrates to the satisfaction of the Secretary that the manner in which that person will administer the trust will be consistent with the requirements of this section.

"(C) No part of the trust assets will be invested in life insurance contracts (other than contracts the beneficiary of which is the trust and the face amount of which does not exceed the amount by which the maximum amount which can be contributed to the account exceeds the sum of the amounts contributed to the account for all taxable years).

"(D) The assets of the account may be invested in accordance with the direction of the individual for whose benefit the account is established.

"(E) The assets of the trust will not be commingled with other property except in a common trust fund or common investment fund.

"(2) Time when contributions deemed made.—For purposes of this section, a taxpayer shall be deemed to have made a contribution on the last day of a taxable year if the contribution is made on account of such taxable year and is made not later than the time prescribed by law for filing the return for such taxable year (not including extensions thereof).

"(d) Tax Treatment of Distributions.—

"(1) In general.—Except as otherwise provided in this subsection, any amount paid or distributed out of a housing savings account shall be included in gross income by the payee or distributee, unless such amount is used exclusively in connection with the purchase of a principal residence for the individual for whom the account was established.

"(2) Excess contributions returned before due date of return.—Paragraph (1) shall not apply to the distribution of any contribution paid during a taxable year to a housing savings account to the extent that such contribution exceeds the amount allowable as a deduction under subsection (a) if—

"(A) such distribution is received on or before the day prescribed by law (including extensions of time) for filing such individual's return for such taxable year,

"(B) no deduction is allowed under subsection (a) with respect to such excess contribution, and

"(C) such distribution is accompanied by the amount of net income attributable to such excess contribution. Any net income described in subparagraph (C) shall be included in the gross income of the individual for the taxable year in which it is received.

"(3) Transfer of account incident to divorce.—The transfer of an individual's interest in a housing savings account to his former spouse under a divorce decree or under a written instrument incident to a divorce shall not be considered a taxable transfer made by such individual notwithstanding any other provision of this subtitle, and such interest at the time of the transfer shall be treated as a housing savings account of such spouse and not of such individual. Thereafter such account shall be treated, for purposes of this subtitle, as maintained for the benefit of such spouse.

"(e) Tax Treatment of Accounts.—

"(1) Exemption from tax.—A housing savings account shall be exempt from taxation under this subtitle unless such account has ceased to be a housing savings account by reason of paragraph (2) or (4). Notwithstanding the preceding sentence, any such account shall be subject to the taxes imposed by section 511 (relating to imposition of tax on unrelated business income of charitable, etc. organizations).

"(2) Loss of exemption of account where individual engages in prohibited transaction.—

"(A) In General.—If, during any taxable year of the individual for whose benefit the housing savings account is established, that individual engages in any transaction prohibited by section 4975 with respect to the account, the account shall cease to be a housing savings account as the first day of that taxable year.

"(B) Account treated as distributing all its assets.—In any case in which any account ceases to be a housing savings account by reason of subparagraph (A) on the first day of any taxable year, paragraph (1) of subsection (d) shall be applied as if there were a distribution on such first day in an amount equal to the fair market value (on such first day) of all assets in the account (on such first day).

"(3) Effect of pledging account as security.—If, during any taxable year, an individual for whose benefit a housing savings account is established uses the account or any portion thereof as security for a loan, the portion so used shall be treated as distributed to that individual.

"(4) Effect of acquisition of principal residence.—

"(A) In general.—In the event that the individual for whose benefit a housing savings account has been established acquires a principal residence in any taxable year, such account shall cease to be a housing savings account and any assets in the account not utilized in connection with the acquisition of such residence shall, for purposes of subsection (d)(1), be deemed to have been distributed on the first day of such taxable year.

"(B) Special rules upon marriage.—Any individual for whose benefit a housing savings account has been established and who marries an individual who owns a principal residence shall, for purposes of this paragraph, be deemed to have acquired a principal residence on the date of marriage, and such account shall cease to be a housing savings account.

"(f) Additional Tax on Certain Amounts Included in Gross Income.—

"(1) Distribution not used for purchase of residence.—If a distribution from a housing savings account is made, and not used in connection with the purchase of a principal residence for the individual for whose benefit the account was established, the tax liability of such individual for the taxable year in which such distribution is received shall be increased by an amount equal to 10 percent of the amount of the distribution which is includible in his gross income for such taxable year.

"(2) Disqualification cases.—If an amount is includible in the gross income of an individual for a taxable year under subsection (d), his tax under this chapter for such taxable year shall be increased by an amount equal to 10 percent of such amount required to be included in his gross income.

"(3) Disability or death cases.—Paragraphs (1) and (2) shall not apply if the payment or distribution is made after the individual for whose benefit the housing savings account becomes disabled within the meaning of section 72(m)(7) or dies.

"(g) Community Property Laws.—This section shall be applied without regard to any community property laws.

"(h) Custodial Accounts.—For purposes of this section, a custodial account shall be treated as a trust if the assets of such account are held by a bank (as defined in section 408(n)) or another person who demonstrates, to the satisfaction of the Secretary, that the manner in which he will administer the account will be consistent with the requirements of this section, and if the custodial account would, except for the fact that it is not a trust, constitute a housing savings account described in subsection (c). For purposes of this title, in the case of a custodial account treated as a trust by reason of the preceding sentence, the custodian of such account shall be treated as the trustee thereof.

"(i) Reports.—The trustee of a housing savings account shall make such reports regarding such account to the Secretary and to the individual for whose benefit the account is maintained with respect to contributions, distributions, and such other matters as the Secretary may require under regulations. The reports required by this subsection shall be filed at such time and in such manner and furnished to such individuals at such time and in such manner as may be required by those regulations."

(b) Deduction Allowed in Arriving at Adjusted Gross Income.—Paragraph (7) of section 62(a) of such Code (relating to retirement savings) is amended—

(1) by inserting "OR HOUSING" after "RETIREMENT" in the heading of such paragraph, and

(2) by inserting before the period at the end thereof the following: "and the deduction allowed by section 220 (relating to deduction of certain payments to housing savings accounts)."

(c) Tax on Excess Contributions.—Section 4973 of such Code (relating to tax on excess contributions to individual retirement accounts, certain section 403(b) contracts, and certain individual retirement annuities) is amended—

(1) by inserting "HOUSING SAVINGS ACCOUNTS," after "ACCOUNTS," in the heading of such section,

(2) by redesignating paragraph (2) of subsection (a) as paragraph (3) and by inserting after paragraph (1) the following:

"(2) a housing savings account (within the meaning of section 220(c)), or",

(3) by striking out "or" at the end of paragraph (1) of subsection (a), and

(4) by adding at the end thereof the following new subsection:

"(d) Excess Contributions to Housing Savings Accounts.—For purposes of this section, in the case of a housing savings account, the term 'excess contributions' means the amount by which the amount contributed for the taxable year to the account exceeds the amount allowable as a deduction under section 220 for such taxable year. For purposes of this subsection, any contribution which is distributed out of the housing savings account in a distribution to which section 220(d)(2) applies shall be treated as an amount not contributed."

(d) Contribution Not To Be Treated as a Gift for Gift Tax Purposes.—Section 2503 of such Code (relating to taxable gifts) is amended by adding at the end thereof the following new subsection:

"(f) Housing Savings Accounts.—For purposes of subsection (b), any payment made by an individual to a housing savings account described in section 220(c), shall not be considered a gift of a future interest in property to the extent that such payment is allowed as a deduction under section 220."

(e) Tax on Prohibited Transactions.—Section 4975 of such Code (relating to prohibited transactions) is amended—

(1) by adding at the end of subsection (c) the following new paragraph:

"(4) Special rule for housing savings accounts.—An individual for whose benefit a housing savings account is established shall be exempt from the tax imposed by this section with respect to any transaction concerning such account (which would otherwise be taxable under this section) if, with respect to such transaction, the account ceases to be a housing savings account by reason of the application of section 220(e)(2)(A) to such account.", and

(2) by inserting "or a housing savings account described in section 220(c)" in subsection (e)(1) after "described in section 408(a)".

(f) Failure To Provide Reports on Housing Savings Accounts.—Section 6693 of such Code (relating to failure to provide reports on individual retirement account or annuities) is amended—

(1) by inserting "OR ON HOUSING SAVINGS ACCOUNTS" after "ANNUITIES" in the heading of such section, and

(2) by adding at the end of subsection (a) the following: "The person required by section 220(i) to file a report regarding a housing savings account at the time and in the manner required by such section shall pay a penalty of $50 for each failure unless it is shown that such failure is due to reasonable cause."

(g) Clerical Amendments.—

(1) The table of sections for part VII of subchapter B of chapter 1 of such Code is amended by striking out the item relating to section 220 and inserting in lieu thereof the following:

"Sec. 220. Housing savings accounts.

"Sec. 221. Cross reference.

(2) The table of sections for chapter 43 of such Code is amended by striking out the item relating to section 4973 and inserting in lieu thereof the following:

"Sec. 4973. Tax on excess contributions to individual retirement accounts, housing savings accounts, certain 403(b) contracts, and certain individual retirement annuities."

(3) The table of sections for subchapter B of chapter 68 of such Code is amended by striking out the item relating to section 6693 and inserting in lieu thereof the following:

"Sec. 6693. Failure to provide reports on individual retirement accounts or annuities or on housing savings accounts."

(h) Exclusion From Gross Income Where Principal Residence Purchased.—

(1) Part III of subchapter B of chapter 1 of such Code (relating to items specifically excluded from gross income) is amended by redesignating section 135 as section 136 and by inserting after section 134 the following new section:

"SEC. 135. HOUSING SAVINGS ACCOUNT DISTRIBUTIONS.

"In the case of an individual, gross income does not include distributions from a housing savings account used in connection with the purchase of a principal residence for such individual."

(2) The table of sections for such part III is amended by inserting after the item relating to section 135 the following new items:

"Sec. 135. Housing savings account distributions.

"Sec. 136. Cross references to other Acts."

(i) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.

S. 1535

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALLOWANCE OF CREDIT FOR EMPLOYER EXPENSES FOR CERTAIN ON-SITE DAY-CARE FACILITIES.

(a) In General.—Subpart D of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to business related credits) is amended by adding at the end thereof the following new section:

"SEC. 43. EMPLOYER ON-SITE DAY-CARE FACILITY CREDIT.

"(a) In General.—For purposes of section 38, the employer on-site day-care facility credit determined under this section for the taxable year is an amount equal to the qualified on-site day-care expenses for such taxable year.

"(b) Limitation.—The credit allowable under subsection (a) for any taxable year shall not exceed an amount equal to $2,000 multiplied by the maximum number of enrollees who may be cared for in the qualified day-care facility at any one time.

"(c) Definitions.—

"(1) Qualified on-site day-care expenses.—The term 'qualified on-site day-care expenses' means any expense paid or incurred by an employer during the taxable year to acquire, construct, rehabilitate, or expand a qualified day-care facility.

"(2) Qualified day-care facility.—

"(A) In general.—The term 'qualified day-care facility' means a facility—

"(i) operated by an employer for the care of enrollees, at least 30 percent of whom are dependents of employees of such employer,

"(ii) located on the premises such employer, and

"(iii) which meets the requirements of all applicable laws and regulations of the State or local government where it is located.

"(B) Multiple employers.—With respect to a facility jointly operated by more than 1 employer, the term 'qualified day-care facility' shall include any facility located on the premises of 1 employer and within a reasonable distance from the premises of the other employers.

"(d) Recapture of Credit.—

"(1) In general.—If, as of the close of any taxable year, there is a recapture event with respect to any qualified day-care facility, then the tax of the taxpayer under this chapter for such taxable year shall be increased by an amount equal to the product of—

"(A) the applicable recapture percentage, and

"(B) the aggregate decrease in the credits allowed under section 38 for all prior taxable years which would have resulted from the nonallowance of the credit described under subsection (a).

"(2) Applicable recapture percentage.—

"(A) In general.—For purposes of this subsection, the applicable recapture percentage shall be determined from the following table:

"If the recapture event occurs in:	The applicable recapture percentage is:
Years 1–3	100
Years 4–5	50
Years 6 and thereafter	0.

"(B) For purposes of subparagraph (A), year 1 shall begin on the first day of the taxable year in which the qualified day-care facility is placed into service by the taxpayer.

"(3) Recapture event defined.—For purposes of this subsection, the term 'recapture event' means—

"(A) Cessation of operation.—The cessation of the operation of the facility as a qualified day-care facility.

"(B) Change in ownership.—

"(i) In general.—Except as provided in clause (ii), the disposition of a person's interest in a qualified day-care facility with respect to which the credit described in subsection (a) was allowable.

"(ii) Agreement to assume credit allowance and recapture liability.—Clause (i) shall not apply if the person acquiring such interest in the facility agrees in writing to assume the recapture liability of the person disposing of such interest in effect immediately before such disposition. In the event of such an assumption, the person acquiring the interest in the facility shall be treated as the taxpayer for purposes of assessing any recapture liability (computed as if there had been no change in ownership).

"(4) Special rules.—

"(A) Tax benefit rule.—The tax for the taxable year shall be increased under paragraph (1) only with respect to credits allowed by reason of this section which were used to reduce tax liability. In the case of credits not so used to reduce tax liability, the carryforwards and carrybacks under section 39 shall be appropriately adjusted.

"(B) No credits against tax.—Any increase in tax under this subsection shall not be treated as a tax imposed by this chapter for purposes of determining the amount of any credit under subpart A, B, or D of this part.

"(C) No recapture by reason of casualty loss.—The increase in tax under this subsection shall not apply to a cessation of operation of the facility as a qualified day-care facility by reason of a casualty loss to the extent such loss is restored by reconstruction or replacement within a reasonable period established by the Secretary.

"(e) Special Aggregation and Allocation Rules.—For purposes of this section—

"(1) Aggregation of expenditures.—

"(A) Controlled group of corporations.—In determining the amount of the credit under this section—

"(i) all members of the same controlled group of corporations shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such member shall be its proportionate share of the qualified on-site day-care expenses giving rise to the credit.

"(B) Common control.—Under regulations prescribed by the Secretary, in determining the amount of the credit under this section—

"(i) all trades or businesses (whether or not incorporated) which are under common control shall be treated as a single taxpayer, and

"(ii) the credit (if any) allowable by this section to each such person shall be its proportionate share of the qualified on-site day-care expenses giving rise to the credit.

The regulations prescribed under this subparagraph shall be based on principles similar to the principles which apply in the case of subparagraph (A).

"(2) Allocations.—

"(A) Allocation in case of multiple employers.—In the case of multiple employers jointly operating a qualified day-care facility, the credit allowable by this section to each such employer shall be its proportionate share of the qualified on-site day-care expenses giving rise to the credit.

"(B) Pass-thru in the case of estates and trusts.—Under regulations prescribed by the Secretary, rules similar to the rules of subsection (d) of section 52 shall apply.

"(C) Allocation in the case of partnerships.—In the case of partnerships, the credit shall be allocated among partners under regulations prescribed by the Secretary.

"(3) Controlled group of corporations.—The term 'controlled group of corporations' has the same meaning given to such term by section 1563(a), except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears in section 1563(a)(1), and

"(B) the determination shall be made without regard to subsections (a)(4) and (e)(3)(C) of section 1563.

"(f) Special Rule for Pass-Thru of Credit.—In the case of an individual who—

"(1) owns an interest in an unincorporated trade or business,

"(2) is a partner in a partnership,

"(3) is a beneficiary of an estate or trust, or

"(4) is a shareholder in an S corporation,

the amount allowable under subsection (a) for any taxable year shall not exceed an amount (separately computed with respect to such person's interest in such trade or business or entity) equal to the amount of tax attributable to that portion of a person's taxable income which is allocable or apportionable to the person's interest in such trade or business or entity.".

(b) Conforming Amendments.—

(1) Section 38(b) of the Internal Revenue Code of 1986 is amended—

(A) by striking out "plus" at the end of paragraph (4),

(B) by striking out the period at the end of paragraph (5), and inserting in lieu thereof a comma and "plus", and

(C) by adding at the end thereof the following new paragraph:

"(6) the employer on-site day-care facility credit determined under section 43.".

(2) The table of sections for subpart D of part IV of subchapter A of chapter 1 is amended by adding at the end thereof the following new item:

"Sec. 43. Employer on-site day-care facility credit.".

(c) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.●

By Mr. DANFORTH:

S. 1536. A bill to require the Secretary of transportation to promulgate rules regarding the safe operation of certain rapid acceleration motorcycles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

MOTORCYCLE SAFETY ACT

● Mr. DANFORTH. Mr. President, in 1984, the Japanese began selling what can only be described as killer motorcycles in this country. These are racing bikes that were developed for use on a track but they are being driven on our streets. From a dead stop, one of these superbikes can accelerate to 60 miles per hour by the time it reaches the other side of a city intersection. It takes one of these killer cycles 2.7 seconds to reach this speed. Top speeds for these bikes range up to 162 miles per hour. Some of these 400 to 600 pound motorcycles have well over 100 horsepower. For comparison, a 4-cylinder Chevrolet Celebrity weights 2,705 pounds and has 98 horsepower. A 4-cylinder Ford Taurus weighing 2,886 pounds has only 98 horsepower.

Mr. President, the marketing of these killer cycles is a lesson in corporate irresponsibility. They are made by Japanese manufacturers under names such as the Kawasaki Ninja, Honda Hurricane, Suzuki GSXR, and Yamaha FZ. The advertising is directed at teenage males. A typical one is Honda's slogan—"0 to 55 faster than you can read this."

Mr. President, the combination of these racing machines and young inexperienced riders is deadly. In southern California, young riders are racing superbikes on the public streets. Down a narrow, twisting canyon road such as Mulholland Drive near Los Angeles, packs of six or more riders fight for position in the left lane. These riders frequently run head on into oncoming traffic. The police do not chase these killer cycles for fear of crashing their patrol cars or motorcycles. Unfortunately, this problem is spreading to other areas, particularly military bases. For example, in November 1986, near Orlando, FL, Naval Training Center, a speeding cyclist killed two teenagers.

Mr. President, this problem is particularly galling because the Japanese have virtually banned the sale of these killer cycles in their own country because of safety concerns. According to the Insurance Institute for Highway Safety, in Japan it is virtually impossible to get a license to operate a motorcycle with more than a 400 cubic centimeter [cc] engine. Only 1 in 20 of the applicants who pay an expensive application fee manages to get a license. In addition, the Japanese manufacturers have an unwritten agreement with the Japanese Government not to sell any motorcycle with over 750 cc in Japan.

Mr. President, this is analogous to selling Indy racers to teenagers barely old enough to have a license and then turning them loose on the public streets to play. Law enforcement cannot stop these killer cycles; they are too fast. There is only one way to stop them and that is to limit the power and speed of superbikes sold for street use in this country.

Mr. President, I am introducing today, the Motorcycle Safety Act of 1987 to end this danger. it would require the Secretary of Transportation to develop safety standards that will eliminate the hazards of these killer cycles. My bill would require the Secretary to examine a series of limitations on this new breed of racing type motorcycles. One limit that must be considered is on acceleration. Zero to sixty in 2.7 seconds on city streets is too dangerous. The bill would also require consideration of limits on the weight to horsepower ratios of superbikes.

Finally, my bill would require the Secretary of Commerce to report to Congress on the extent to which foreign manufacturers are restricted by their governments from selling motorcycles in their home countries which they are selling in our country. Mr.

President, I ask unanimous consent that this bill be printed in the Record.

Mr. President, I urge my colleagues to support this legislation. The public safety cannot tolerate the continued use of these rockets on our public streets.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1536

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Motorcycle Safety Act of 1987".

Sec. 2. The Congress finds that—

(1) in 1985, over 4,700 individuals were killed in accidents involving motorcycles; and

(2) in recent years, the competition among certain manufacturers to produce and sell motorcycles equipped with high-powered engines and engineered and designed to enable such motorcycles to be capable of rapid acceleration and of achieving maximum speeds of up to 162 miles per hour has posed safety hazards to the operators of such motorcycles and other individuals while such motorcycles are used on public highways, roads, and streets, and in other public areas.

Sec. 3. Part A of Title I of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391 et seq.) is amended by adding at the end the following:

"Sec. 126. (a) the Secretary shall initiate (not later than 60 days after the date of enactment of the Motorcycle Safety Act of 1987) and complete (not later than one year after the date of enactment of the Motorcycle Safety Act of 1987) a rulemaking to establish a Federal motor vehicle safety standard applicable to any motorcycle equipped with a high-powered engine and engineered and designed to enable such motorcycle to be capable of rapid acceleration and of achieving maximum speeds of up to 162 miles per hour. Notwithstanding section 103(f)(3) of this Act, it shall be the purpose of such rulemaking to eliminate, to the extent possible, the hazards posed to operators of such motorcycles and other individuals while such motorcycles are used on public highways, roads, and streets, and in other public areas.

"(b) In promulgating a rule under subsection (a) of this section, the Secretary shall consider, among other methods—

"(1) the establishment of a maximum achievable rate of acceleration for such motorcycles; and

"(2) the establishment of a maximum horsepower-to-weight ratio for such motorcycles.

"(c) Rules promulgated under subsection (a) of this section shall apply to any such motorcycle offered for sale or sold on or after July 23, 1987.".

Sec. 4. Not later than 60 days after the date of enactment of this Act, the Secretary of Commerce shall conduct a study as to the extent to which, if any, foreign countries impose safety-related restrictions on the the manufacture or sale of motorcycles which their manufacturers are attempting to market or are marketing in the United States, and the reasons for the imposition of such restrictions. The Secretary of Commerce shall transmit the results of such study to the Congress not later than one year after the date of enactment of this Act.●

By Mr. CHAFEE (for himself, Mr. Moynihan, Mr. Daschle, and Mr. Matsunaga):

S. 1537. A bill to amend title V of the Social Security Act to provide care management to certain children and to provide care management and health care to children with high cost catastrophic health care needs; to the Committee on Finance.

CARE MANAGEMENT AND CATASTROPHIC HEALTH CARE FOR CHILDREN ACT

Mr. CHAFEE. Mr. President, as I have said many times before, I think our health care system has far too many gaps in coverage. Ultimately, I think it will become essential for us to rethink that system. However, until this feeling is shared by a majority of the Congress, we will have to continue to work—step-by-step—to fill in the gaps in our current system.

Of all the gaps in our present health care system—and there are many of them—one of the most heartbreaking is the plight of young parents of children with catastrophic illnesses who face financial ruin because they cannot meet the staggering bills of proper health care.

Few children require medical care that results in catastrophic expenses to their families. However, when they do, the results to the family can be devastating. The costs frequently exceed even the best insurance policies, and the health care services and equipment needed to bring these seriously ill children home from the hospital are frequently completely uncovered. Too often, these families are faced with financial ruin and extraordinary emotional distress.

In order to address these concerns, I am introducing legislation to establish a fund, within the Maternal and Child Health Program, which will provide relief to families with young children facing extremely high medical bills. This fund is designed to pick up the slack for families who face large health care bills which are not covered by health insurance policies.

The fund will be available to families with children who, in the first year of life, have accumulated more than $50,000 of medical bills and who face out-of-pocket expenses of more than 10 percent of their adjusted gross income. An estimated 9,700 infants incur such costs annually. These families would continue to be eligible for assistance from the fund after the child's first year of life if the family incurs out-of-pocket expenses of more than 10 percent of their adjusted gross income each year.

A total of $500 million would be authorized to go into this catastrophic fund.

The fund would pay for a broad range of services both in the hospital and in their own home. And the needs of each child will be assessed by the family and the child's physician.

This proposal will provide piece of mind to all families because they will know that there is help available should they fall, as many of them do today, outside of all private and public health care programs. I hope my colleagues in the Senate will join me in supporting this proposal.

Mr. President, I ask unanimous consent that a summary of this bill, a letter of support signed by a number of organizations and the bill itself be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1537

Be it enacted by the Senate of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES.

(a) This Act may be cited as the "Care Management and Catastrophic Health Care for Children Act of 1987".

(b) Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Social Security Act.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS; DEFINITIONS.

Section 501 (42 U.S.C. § 701) is amended:

(a) By striking current "(1)", "(2)", "(3)", and "(4)", and inserting in lieu thereof, respectively, "(A)", "(B)", "(C)", and "(D)", inserting a new "(1)" after "(a)", and adding at the end of subsection (a)(1) (as so redesignated) the following:

"(2) For the purpose of enabling the Secretary to make payments on behalf of children with high cost catastrophic health care needs, in accordance with section 510, there are authorized to be appropriated $375,000,000 for fiscal year 1988, and such sums as are necessary for fiscal year 1989, and each fiscal year thereafter.

"(3) For the purpose of enabling each State to provide care management to certain children, and enabling the Secretary to provide for special projects of regional and national significance designed to enhance the delivery of care management and health care services to certain children, in accordance with Section 511, there are authorized to be appropriated $125,000,000 for fiscal year 1988, and such sums as are necessary for fiscal year 1989 and each fiscal year thereafter."

(b)(1) By striking "health and" in subsection (b)(1)(A) and inserting in lieu thereof "health," and inserting immediately after the phrase "crippled children's services" the following: ", health care for children with high cost catastrophic health care needs, and care management";

(2) By adding after paragraph (2) the following new paragraphs:

"(3) the term 'care management' means advocacy on the child's and family's behalf to secure needed services and entitlements in accordance with a written care management plan which at least:

"(A) identifies with specificity (i) the health care and service needs of the child and his or her family, (ii) the recommended course, type, and amount of treatment and other care and services to be provided the child and his or her family, (iii) the resources currently available (including third party coverage, if any) to pay for such treatment, care and services, (iv) the providers that will be involved in providing such treatment, care and services, and (v) any remaining unmet health care or service needs of the child or his or her family;

"(B) is based on a baseline assessment designed to determine the eligibility of the child and family for assistance under this title, and to identify the care and service needs described in subparagraph (A);

"(C) is developed: (i) in collaboration with the child's parents or legal guardians and at least one attending physician, and is subject to the approval of a parent or legal guardian; and (ii) in consultation with other health care providers and any agencies providing related health, social, or educational services for the child;

"(D) is regularly monitored to assure that treatment, care and services are provided in accordance with the plan, and with appropriate professional and quality standards, and are delivered in the most cost effective manner and in the least restrictive setting appropriate to the child's and family's needs; and

"(E) is updated and modified at least annually, but in any event whenever there occurs a significant change in the child's condition, in accordance with reassessments similar to those assessments described in subparagraph (B).

"(4) the term 'child with high cost catastrophic health care needs' means any child under age one suffering from a condition, illness, or disability, who as a result thereof incurs medical charges, whether or not reimbursed, of $50,000 or greater in the first year of life. Such term also applies to any two or more children under one year of age in the same family whose aggregate medical charges are greater than or equal to $50,000 in that year.

"(5) the term 'third party coverage' means any private or public insurance coverage to which the child is entitled, including coverage under titles XVIII and XIX of this chapter."

SEC. 3. FEDERAL SET-ASIDE AND ALLOTMENTS TO STATES

Section 502 is amended by redesignating subsection (d) as subsection (e), and inserting the following new subsection:

"(d)(1) Of the amounts appropriated for each fiscal year under section 501(a)(3), the Secretary shall retain an amount not less then 10 and not more than 15 percent for special projects of regional and national significance designed to enhance the delivery of care management and health care services to children described in section 511 of this title:

"(2) The remaining amounts appropriated under section 501(a)(3) shall be allotted to each State in accordance with subsection (b)."

SEC. 4. PAYMENTS TO STATES

Section 503 is amended by inserting "(1)" immediately before the word "From", and by adding at the end of paragraph (a)(1) (as so redesignated) the following new paragraph:

"(2) From the allotments made available under section 502(d), the Secretary shall make payments as provided by section 6503(a) of Title 31, United States Code, to each State provided such an allotment under section 502(b) of this title, for each quarter, of an amount equal to four fifths of the total of the sums expended by the State during such quarter in carrying out the care management functions required under section 511."

SEC. 5. USE OF ALLOTMENT FUNDS

Section 504(b) is amended by inserting immediately after the words "children with special health care needs" the following: "(including children with high cost catastrophic health care needs)".

SEC. 6. DESCRIPTION OF INTENDED EXPENDITURES AND STATEMENT OF ASSURANCES

(a) Section 505(1) is amended by adding after the words "a report describing the intended use of payments" the following: "(including payments for carrying out the programs described in section 511 of this title)".

(b) Section 505(2)(D) is amended by striking "and" before "(iii)" and adding at the end thereof the following: ", (iv) any cost sharing requirement imposed on families served by the program described in section 511 of this title shall be in accordance with the requirements of that section, and (v) for purposes of determining eligibility under this title and title XIX of the Act, provider charges imposed on a low income family shall be considered incurred regardless of any obligation to pay such charges. Nothing in Section 505(2)(D) shall preclude the imposition of charges on low income families when such charges are imposed solely in order to determine a family's eligibility for medical assistance under section 1902(a)(10)(C) of the Act."

SEC. 7. ADMINISTRATION OF FEDERAL AND STATE PROGRAMS

Section 509(a)(1) is amended by striking "program described in section 502(a)" and inserting in lieu thereof: "programs described in sections 502 (a) and (d)."

SEC. 8. PAYMENTS FOR CATASTROPHIC HEALTH CARE SERVICES

Title V is amended by adding at the end thereof the following:

"PAYMENTS FOR CATASTROPHIC HEALTH CARE SERVICES

"SEC. 510(a)(1) The appropriations made pursuant to section 501(a)(2) of this title shall be expended by the Secretary on behalf of children described in section 501(b)(4), and meeting the eligibility criteria in paragraph (b) below.

"(2) For the purpose of making the payments described in this paragraph, the Secretary shall enter into agreements with private entities, such as entities responsible for processing and payment of claims under Title XVIII of this Act.

"(b) Payments shall be made on behalf of any child described in section 501(b)(4), if either of the following conditions is met:

"(1) the child belongs to a low income family, as defined in section 501(b)(2); or

"(2) the amount of any incurred charges paid by the child's family for medical items or services related to the child's condition, illness, or disability in any year of such child's life exceeds 10% of the annual adjusted gross income of the child's family for the previous taxable year.

"(3) Payments under this section shall continue so long as a child's family continues to qualify as a low income family, or to pay incurred charges for medical items or services related to the child's original qualifying condition, illness, or disability, during any year of such child's life, in an amount exceeding 10% of the family's adjusted gross income for the previous taxable year.

"(4) For purposes of paragraph (1), in the case of a low income family, a provider's charges shall be considered incurred for purposes of determining eligibility under this title and title XIX regardless of any obligation to pay such charges.

"(c)(1) Payments under this section shall be made for any of the items and services included in sections 1905 and 1915(c) of the Act, and which are described in a child's individual care management plan.

"(2) Except as limited by a child's individual care management plan, the items and services authorized for payment shall not be otherwise limited in amount, duration, or scope.

"(3) In no event shall payments under this section be made for items or services covered under a third party plan for which payment, in accordance with the plan's fee schedule, has been made in full, or for that portion of the cost of care for which the child's family is responsible under subsection (b)(2).

"(d)(1)(A) In making payments under this section for impatient hospital services, as defined in section 1861(b) of the Act, the Secretary shall base payment levels on ratios of costs to charges for services provided which are specific as to hospital and department.

"(B) Any limits on payments imposed by section 1861(v)(1)(A) of the Act, or pursuant to Public Law 97-248, shall be inapplicable to payment levels established under this paragraph.

"(2)(A) Payments for items and services other than inpatient hospital services shall be based on applicable payment levels established under Title XVIII of the Act.

"(B) The Secretary shall, by regulation, establish a fee schedule for items and services to which such payment levels are not applicable."

SEC. 9. CARE MANAGEMENT

Title V of the Social Security Act (as amended by Section 8 of this bill) is amended by adding at the end thereof the following new section:

"CARE MANAGEMENT

"SEC. 511(a) From the allotment described in section 502(d), each State shall provide care management for any child described in section 510 and for any child with anticipated annual medical expenditures in excess of $5,000.

"(b) The State shall determine a child's eligibility for care management under subsection (a) in accordance with written eligiblity standards.

"(c) The State shall establish, in consultation with agencies, institutions, and providers serving children described in subsection (a), procedures designed to assure that such children are identified and referred for care management as early as practicable.

"(b) (1) In developing each care management plan, the State shall take into consideration the child's individual family plan (if any) specifying early intervention services pursuant to Public Law 99-457, and the child's individual education plan (if any) for special education services, pursuant to Public Law 94-142.

"(2) In instances in which the State is furnishing care management services to a child who is not currently covered by services under one or both such acts, the State shall refer the child's family to the appropriate educational agency for development of a plan or plans and shall coordinate with the agency on the continuing basis.

"(e) Funds allotted under section 502(d) of this title:

(1) shall be used to pay for the cost of premiums for any third party coverage that may be available; and

(2) shall not be used to supplant funds allotted under Section 502(b) or (c) of this title".

SEC. 10. REPORT TO CONGRESS

"(a) The Secretary of Health and Human Services shall develop and report to Congress a plan for an inpatient hospital prospective payment system with classifications and payments appropriate to the general pediatric population, the eligible population under this proposal, and children entitled to services under Title XVIII of this chapter.

"(b)(1) The plan required under subsection (a) shall include all of the elements of the prospective payment system established by Title XVIII of the Act, adapted to be fair and appropriate for a pediatric population, especially for those children with catastrophic and other special health care needs.

"(2) The plan shall also provide a method to identify the costs associated with pediatric patients separately and distinctly from those associated with adult patients.

"(c) The report required by this section shall be delivered by the Secretary to the Speaker of the House of Representatives and the President Pro Tempore of the United States Senate no later than December 31, 1988."

[Fact Sheet]

CATASTROPHIC HEALTH CARE COVERAGE FOR CHILDREN

PURPOSE OF THE BILL

To establish a fund within Title V of the Social Security Act to provide protection against catastrophically high medical costs for children in the first year of life, and

To establish under Title V a program to provide for the comprehensive planning and management of the care of these children and other children with high cost special health care needs.

THE CATASTROPHIC FUND

Covered population

The fund would provide protection against very high medical costs to the 3.8 million American families with newborns and infants. An estimated 9,643 infants would incur such costs and be eligible for the program.

These newborns and infants account for about 50 percent of all children age 0 to 19, with very high medical costs.

One-half of these children are premature newborns. Forty percent are full term newborns with major health problems, such as congenital heart defects or respiratory disorders. The remaining ten percent develop serious high cost medical conditions after the first month of life.

Eligibility criteria

The fund will act as the payer of last resort after exhaustion of all third party coverage, public or private, for children in the first year of life with medical bills exceeding $50,000 and an out-of-pocket liability equal to ten percent of the family's adjusted gross income.

In succeeding years of life, health care costs resulting in an annual out-of-pocket liability equal to 10 percent of the family's adjusted gross income and which are related to the original qualifying conditions would trigger continued assistance from the fund.

Scope of coverage

Benefits under the program, except for emergency services, would be provided as approved under a care management plan.

Benefits would include a broad range of inpatient and outpatient hospital care; home and community-based care; respite care; preventive, diagnostic, and therapeutic procedures; drugs; medical equipment and supplies; and physician services.

Benefits would not be limited in duration or scope except as defined by the care management plan.

Payments for services

Payments for service shall be made in accordance with Medicare payment levels where applicable.

Payments for hospital providers shall be based on hospital specific departmental ratios of costs to charges for services provided until such time as the Secretary develops a prospective payment system appropriate for the children covered under this program.

Program administration

The catastrophic fund would be administered by the Division of Maternal and Child Health, DHHS.

Responsibility for the catastrophic fund program shall rest with the Division of Maternal and Child Health, and care management services, and eligibility determination will be provided by State Maternal and Child Health Agencies.

Program cost

The first year cost of the catastrophic fund is estimated to be $375 million.

Ten percent of the children are estimated to continue eligibility in subsequent years of life.

THE CARE MANAGEMENT PROGRAM:

The program would provide care management services to all children using the catastrophic fund. Development of a care management plan would be mandatory for participation in the fund; and payment for services from the fund, with the exception of emergency care, would be conditioned on such a plan.

In addition, the care management program would also be available for children with medical bills exceeding $5,000 per year.

The care management program would be administered by State Maternal and Child Health Agencies.

Care management plans would assess the needs of the child and family, the appropriateness of services provided, and the quality of care as agreed upon by the child's parents and attending physicians. They would be updated as required by the child's changing health care needs.

One hundred twenty five million would be provided to State Maternal and Child Health Agencies for the care management program.

JULY 23, 1987.

Hon. JOHN H. CHAFEE,
U.S. Senate,
Washington, DC.

DEAR SENATOR CHAFEE: As organizations representing the interests of both the families and health care providers who care for children afflicted with catastrophic medical needs, we want to strongly commend your leadership in introducing legislation "to provide care management and health care to children with high cost catastrophic health care needs." Your bill offers the Congress the opportunity to commit the federal government as the "insurer of last resort" for the economic survival and dignity of nearly 10,000 families whose young children's illnesses threaten them with financial crisis each year.

When mother and father, sister and brother are consumed with the emotional and physical needs of an infant whose life is in question week after week, the threat of financial jeopardy posed by the catastrophic cost of their child's health care only compounds their personal tragedy. It robs them of fundamental economic security when they and their children most need it.

As a society we cannot afford economically or morally to allow parents to bankrupt themselves and their families' future with the uninsured cost of highly expensive, life-sustaining care for sick newborn or infant children. Nor can we afford to burden with mounting unpaid bills and debt the health care providers whose own economic well-being is so crucial to the children and families they serve.

Your legislation takes reasonable and appropriate steps to cover—when all other public and private insurance has been exhausted—a family's infant health care bills that total more than $50,000 and cost the parents more than 10 percent of their adjusted gross income. We urge your colleagues in the Congress to join you in seeking serious consideration and timely enactment of this bill.

Catastrophic care for the elderly has been the subject of intense national concern this year. Together with other proposals to expand Medicaid coverage for children of all ages in poor families and children with preexisting conditions or disabilities your legislation demonstrates our nation's commitment to the vulnerable young as well as old among us—and the families who care for them so deeply.

ENDORSING ORGANIZATIONS

American Diabetes Association;
American Hospital Association;
American Nurses Association;
American Public Health Association;
Association for the Care of Children's Health;
Association for Retarded Citizens of America;
Association of Maternal and Child Health Programs;
Catholic Health Association;
Children's Defense Fund;
Epilepsy Foundation of America;
National Association of Childrens' Hospitals and Related Institutions;
National Black Child Development Institute;
National Foundation for Ileitis and Colitis;
National Perinatal Association;
Sick Kids (Need) Involved People;
Society for Hospital Social Work Directors;
Western Association of Children's Hospitals.

By Mr. KASTEN (for himself and Mr. D'AMATO):

S. 1538. A bill to protect the world's remaining tropical forests; to the Committee on Foreign Relations.

TROPICAL FOREST AND WETLANDS PROTECTION ACT

● Mr. KASTEN. Mr. President, I rise to introduce legislation to protect the tropical rainforests and wetlands of the developing world. This legislation to use the opportunity, or leverage of debt to establish conservation easements.

This legislation will require the world wide assessment of the rate of rainforest and wetland loss.

It will encourage multilateral development bank lending to enhance resource conservation.

And it will encourage a pilot program to encourage the creation of conservation easements when Third World debt is renegotiated.

Each year, we are loosing over 200,000 square kilometers of tropical forests. At that rate, we will be left with only a few remnant forests in a generation. If we do not act, it will be too late. In this century, we have lost half of the wetlands in the world.

These two ecosystems, tropical rainforests and wetlands, are some of the most productive, and biologically diverse in the world. In fact, rainforests contain 40 percent of all species of plants and animals. When we allow their loss, we are writing off millions of species of plants and animals.

I want to emphasize that good ecology makes good economic sense. When major ecosystems are lost or damaged, the environment and economy of the local region suffers. As a resource base is depleted, so too is the economic future.

But the destruction of forests and wetlands impoverishes us all. For example, roughly one in four of our modern pharmaceutical drugs are derived from tropical plants. We have just begun to tap the economic benefits of these resources.

Last week, conservation international entered into the first of its kind "debt for conservation" exchange. In this agreement, they purchased $600,000 of Bolivia's debt in exchange for an agreement to protect 4 million acres.

Later that week, Bolivia rescheduled $1 billion of debt, without any benefits such as conservation easements. If this kind of debt right down is going to occur, we should use this leverage to protect valuable natural resources.

The pilot program conceived in this legislation would utilize opportunities offered by debt renegotiation. Furthermore, this pilot program will require that the anticipated conservation easements are actually implemented for the program to go forward. If they are not, the agreement would become void, and the debt could be recalled.

Congressman Porter is introducing companion legislation to this in the House of Representatives today. His leadership in crafting this legislation is to be commended.

Finally, I would like to announce that Senator D'Amato is joining me as an original cosponsor of this legislation.

The legislation we are announcing today is an important first step in creating a comprehensive program to protect the world's tropical rainforests and wetlands.

I ask unanimous consent that the text of this legislation and a summary of the major provisions of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1538

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tropical Forest and Wetlands Protection Act of 1987".

SEC. 2. TROPICAL FOREST AND WETLAND PROTECTION.

(a) Tropical forest reserves and wetland; conservation.—

(1) Study required.—The Secretary of the Treasury shall—

(A) Conduct a review of appropriate literature in cooperation with the Secretary of Interior, to determine which tropical forests and wetlands are likely to be unsuitable for agriculture and could, with assistance from the multilateral development banks and public and private donors, be established as reserves for scientific research, tourism, indigenous people and nonconsumptive uses; and

(B) Analyze the likelihood that conserving tropical forests and wetlands can be achieved without assistance from the sources described in subparagraph (A).

(C) Technical support—the Secretary of the Interior shall assign professional personnel knowledgeable in the area of international park development, fish and wildlife, cultural resources, geology and soils, and ecology to the Secretary of the Treasury for the purposes of assisting in the required review.

(2) Consultation with other united states officials, agencies, and appropriate nongovernmental organizations.—In conducting the review and analysis under paragraph (1), the Secretary of the Treasury shall consult with the Secretary of State, the Representative of the United States to the United Nations, the Administrator of the Agency for International Development, the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Monetary Fund, the Inter-American Development Bank, the African Development Bank, the African Development Fund, the Asian Development Bank, the boards of directors of the Inter-American Foundation, the African Development Foundation, the Asian Foundation, and the Office of Technology Assessment, the National Aeronautics and Space Administration, and the Smithsonian Institution.

(3) Maximizing in-country support for protection of the environment; consultation.—In conducting the review and analysis under paragraph (2)(A), the Secretary of the Treasury shall—

(A) determine the extent to which government agencies and nongovernmental organizations of countries in which tropical forests and wetlands are located and are financially and/or institutionally able to protect and manage such forest resources;

(B) determine appropriate means for increasing the effectiveness of and resources available to the agencies and organizations referred to in subparagraph (A); and

(C) in making the review and analysis required by Section 2(a) consultations shall include but not be limited to international environmental organizations, conservation organizations and other members of the public in the United States and in selected countries in which tropical forests or wetlands are located, who are especially well-informed on the topic of conservation of tropical forests or wetlands.

(4) Report to committees of congress.—Within 12 months of the passage of this Act, the Secretary of the Treasury shall prepare and submit a report to—

(A) the House Committees on Appropriations; Banking, Finance and Urban Affairs; and Foreign Affairs; and

(B) the Senate Committees on Appropriations; and Foreign Relations;

the results of the review, analysis, and determinations required under Subsection (2).

(b) World Bank Program Initiatives.—

(1) Negotiations.—The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development (hereafter in this Act referred to as the "Bank" or the "World Bank") to initiate discussions with other executive directors of the Bank and the management of the Bank and propose that—

(A) the Bank establish a 3-year pilot environmental structural adjustment lending program, to be made available to countries with a demonstrated commitment to natural resource conservation, based on the estimated long-term economic return which could be expected from the sustainable use and protection of tropical forests, including their value for scientific tourism, indigenous people and nonconsumptive uses; and such services as watershed management; soil erosion control; maintenance and improvement of fisheries; water supply regulation for industrial development; food, fuel, fodder and building materials for local communities; extraction of naturally occurring products from locally controlled protected areas; as well as long-term benefits expected to be derived from maintenance of genetic diversity and climate moderation; and

(B) the Bank establish a 3-year pilot exchange program with the voluntary cooperation of the borrowing countries whereby any country, with outstanding debts held by the Bank, may establish long-term conservation easements or take any similar legal action which has the effect of preventing the development or environmental degradation of such forests to be effective for at least 3 years, to protect endangered tracts of tropical forests and wetlands located in such country, and to establish effective management plans for such tracts, as part of the suspension or rescheduling by the Bank of some or all of the debt repayments on such loans for such period as the easements or other protective actions and management plans are effective.

(2) World Bank Initiatives Following Conclusion of Pilot Program.—At the conclusion of and in connection with the programs described in subsection (b)(1), the United States Executive Director of the Bank shall propose that—

(A) no country whose debt repayments are suspended under the pilot program or any subsequent exchange program described in subsection (b)(1) in exchange for conservation easements (or other protective actions) be denied the authority under the terms of the program to terminate the easements (or the effectiveness of any other protective actions) at any time after it resumes making the debt service repayments; and

(B) the suspension of debt repayments be conditioned on actual implementation of the terms of the easements (or the continued effectiveness of other similar protective actions) and management plans as determined by the staff of the Bank.

(3) Report on Pilot Exchange Programs.—The Secretary of the Treasury shall instruct the United States Executive Director of the Bank to prepare annual reports while the 3-year pilot programs described in paragraph (b)(1) are in effect, and a final report after 3 years of operation, describing the results of the programs, to assist in the decision on whether to establish the programs on a permanent basis at the World Bank and other multilateral development banks.

(4) World Bank Pilot Program Dissemination.—At the conclusion of the World Bank study, the results shall be disseminated to all multilateral development banks and to all private lending institutions with outstanding loans to tropical nations in order to provide such banks with information about exchanges of debt for conservation easements as an alternative to forgiveness of any such debt.

(c) International Monetary Fund.—

(1) Study Required.—The Secretary of the Treasury shall conduct an analysis of the program and policies of the International Monetary Fund (IMF) to assess the potential for adapting the pilot programs described in subsection (b)(1) to the operation of the Fund.

(2) Report to Committees of Congress.—Within 12 months of the enactment of this Act, the Secretary of the Treasury shall prepare and submit to—

(A) the House Committees on Appropriations; Banking, Finance and Urban Affairs; and Foreign Affairs; and

(B) the Senate Committees on Appropriations; and Foreign Relations;

a report setting forth the results of the study and analysis required under paragraph (1).●

By Mr. EXON (for himself, Mr. Hollings, Mr. Danforth, and Mr. Kasten):

S. 1539. A bill to amend the Federal Railroad Safety Act of 1970 and for other purposes; to the Committee on Commerce, Science, and Transportation.

RAILROAD SAFETY ACT

Mr. EXON. Mr. President, today, I am introducing legislation which takes a significant step toward improving the safety of rail transportation in this country. This legislation, the Railroad Safety Act of 1987, is the product of comprehensive hearings the Surface Transportation Subcommittee has held on the topic of rail safety during this year, plus numerous other discussions on this topic.

After having listened carefully to the evidence presented during the hearings and discussions, I am convinced that our Federal rail safety laws need to be strengthened. More must be done to improve rail safety. The legislation I am introducing today seeks to accomplish this and I am convinced that it does so in a fair and evenhanded manner.

I would like to state up front that the legislation I am proposing is not the product of any one individual, agency or constituency. Rather, this legislation addresses collective concerns that have been brought to the Commerce Committee's attention by the Federal Railroad Administration [FRA], industry and labor. It also owes a great deal to legislation and concerns raised by other of my Senate colleagues who share my keen interest in promoting rail safety.

The legislation I am introducing seeks to improve rail safety in a number of key ways. At the outset, it would reauthorize the Federal Rail Safety Program for 2 years. The authorization for fiscal year 1988 represents an approximately 5-percent increase in the level of funds actually appropriated for rail safety in fiscal year 1987. Recognizing the severe budget constraints under which we are operating, this is an amount that is intended to provide FRA with sufficient funds to meet the agency's safety responsibilities and make the improvements mandated by this legislation and other sources. The fiscal year 1989 authorization level is intended to serve as a hedge against projected inflation, and ensure that the Federal Safety Program continues in full force.

This legislation also provides the FRA with the authority to proceed against individual rail employees, both management and labor, for violation of the safety laws. Recent events have pointed to the need for the FRA to have authority over the actions of individual rail employees, as well as railroad companies. That the FRA does not now have this authority, except in a limited number of instances, has been identified by some as a loophole in our safety laws and is one which this legislation seeks to close.

This provision should help address the concerns identified by rail labor regarding the safety problems that can occur when railroad management personnel order workers to operate trains with safety defects. Management will be held strictly accountable for such actions if this legislation is approved.

This provision should also better enable the FRA to take enforcement actions to prevent violations such as the 69 instances of tampering with safety devices discovered by the FRA in the months between the Amtrak/Conrail accident in January and the Surface Transportation Subcommittee's rail safety hearing on June 2.

This bill also proposes to increase FRA's civil penalty authority from the current $2,500 maximum to a $10,000 maximum. This would more than make up for the effects of inflation that have eroded the impact of the current maximum penalty first set in 1970. Sufficient incentives will be placed into law by this legislation to deter would-be safety violations and ensure that our rails are safe.

This legislation also seeks to guarantee, for the first time, that operators of trains are qualified, properly trained and fit to serve in safety-sensitive positions. This is accomplished through the bill's requirement for an FRA rulemaking on the options of engineer licensing, uniform minimum qualification standards, and a program of review and approval of individual railroad qualification standards. At the end of the rulemaking required in this legislation, we will have a program to ensure that those who operate our trains meet safety fitness requirements and are properly trained. This legislation also requires a report on this within 1 year, so that Congress will have a continuing role in overseeing the implementation of a Federal program in this area.

In order to ensure the fitness of those who work in the rail industry, this bill also authorizes access by employers, prospective employers and the FRA to information contained in the National Driver Register relating to an individual's driving record. Through access to information that could show a record of serious traffic infractions, a better judgment might be rendered as to the fitness of any individual who serves or seeks to serve in a safety-sensitive position with a railroad. This bill also guarantees that employees shall have a right to comment on information contained in the register. In this way, individuals will be guaranteed the right to bring to light any circumstances which they feel may mitigate the impact of an otherwise poor driving record or pattern of offenses.

This bill also takes a significant step to encourage employees to come forward and report rail safety violations. It does this by providing for an expedited grievance process and punitive damages up to $5,000 against any railroad that harasses an employee for reporting a safety violation. This supplements current law which limits remedies to cases in which an employee is harassed and the harassment results in a loss of employment or other monetary damages. This provision goes beyond this to ensure that no form of harassment will be tolerated against employees who report safety violations.

A number of other important provisions are included in this bill. Included among these is a provision that would authorize certain Amtrak-related improvements in the Northeast Corridor. This should do much to improve the safety of rail passenger service in this densely traveled portion of the system.

Finally, I think that this bill reaffirms the Federal role in ensuring a safe rail system. The authorization levels and amendments contained in this bill represent an affirmative and well-reasoned effort to improve the safety of our rail system for the benefit of rail workers, passengers and the public, at large. I am hopeful this comprehensive proposal will receive strong and bipartisan support by the Members of the Senate.

In closing, I would like to ask unanimous consent that the text of this legislation, as well as a section-by-section analysis of its provisions be printed in the RECORD in full. I would also ask that my colleagues, Senators HOLLINGS, DANFORTH, and KASTEN, be added as original cosponsors of this measure.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1539

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Railroad Safety Act of 1987".

AUTHORIZATION FOR APPROPRIATIONS

SEC. 2. Section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting immediately after subsection (c) the following:

"(d) There are authorized to be appropriated to carry out the provisions of this Act not to exceed $40,649,000 for the fiscal year ending September 30, 1988, and not to exceed $41,868,470 for the fiscal year ending September 30, 1989.".

INCREASED PENALTIES; LIABILITY OF INDIVIDUALS

SEC. 3. (a) Section 209(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(a)) is amended by striking "railroad" and inserting in lieu thereof the following: "person (including a railroad or any individual who performs service covered under the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.) as in effect on the date of enactment of the Federal Railroad Safety Authorization Act of 1987, or who performs other safety-sensitive functions for a railroad, as those functions are determined by the Secretary)".

(b) Section 209(b) of the Federal Railroad Safety Act of 1970 (45 U.S.C 438(b)) is amended by striking all after "thereof" and inserting in lieu thereof the following: "in such amount, not less than $250 nor more than $10,000, as the Secretary considers reasonable.".

(c)(1) The first sentence of section 209(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(c)) is amended to read as follows: "Any person violating any rule, regulation, order or standard referred to in subsection (b) of this section may be assessed by the Secretary the civil penalty applicable to the rule, regulation, order or standard violated, except that any penalty may be assessed against an individual only for willful violations.".

(2) The third sentence of section 209(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438(c)) is amended immediately after "occurred" the following: "in which the individual resides,".

(d) Section 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438) the following:

"(f) Where, after notice and opportunity for a hearing, violation by an individual of any rule, regulation, order, or standard prescribed by the Secretary under this title indicates that such individual is unfit for performance of any safety-sensitive task, the Secretary may issue an order directing that such individual be prohibited from serving in a safety-sensitive capacity in the rail industry for such period of time as the Secretary considers necessary. This subsection shall not be construed to affect the Secretary's authority under section 203 of this title to take such action on an emergency basis.".

QUALIFICATIONS OF OPERATORS OF TRAINS

SEC. 4. Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431), as amended by this Act, is further amended by adding at the end the following:

"(j)(1) The Secretary shall, within 18 months after the date of enactment of this subsection, issue rules, regulations, standards and orders concerning the minimum qualifications of the operations of trains. In issuing such rules, regulations, standards and orders, the Secretary shall consider the establishment of an engineer licensing program, uniform minimum qualification standards, and a program of review and approval of each railroad's own qualification standards.

"(2) Not later than twelve months after the date of enactment of this subsection, the Secretary shall transmit to the Congress a report on the activities of the Secretary under this subsection, together with an evaluation of the rules, regulations, standards and orders the Secretary anticipates will be issued under this subsection.".

ACCESS TO THE NATIONAL DRIVER REGISTER

SEC. 5. (a) Section 206(b) of the National Driver Register Act of 1982 (23 U.S.C. 401, note) is amended by adding at the end the following:

"(5) Any individuals who is employed by a railroad or who seeks employment with a railroad and who performs or would perform services covered by the Hours of Service Act (45 U.S.C. 61 et seq.) or other safety-sensitive functions, as determined by the Secretary, may request the chief driving licensing official of a State to transmit information regarding the individual under subsection (a) of this section to his or her employer, prospective employer, or to the Administrator of the Federal Railroad Administration. The Administrator, employer or prospective employer shall make that information available to the individual, who will be given an opportunity to comment on it in writing. There shall be no access to information in the Register under this paragraph which was entered in the Register more than three years before the date of such request, unless such information relates to revocations or suspensions that are still in effect on the date of the request. Information submitted to the Register by the States under Public Law 86-660 (74 Stat. 526) or under this Act shall be subject to access for the purpose of this paragraph during the transition to the Register established under section 203(a) of this Act.".

(b) Section 206(b) (1), (2) and (5) of the National Driver Register Act of 1982 (23 U.S.C. 401, note) is amended by adding at the end the following: "Information submitted to the Register by States under Public Law 86-660 (74 Stat. 526), and under this Act shall be subject to access for the purpose of this paragraph during the transition to the Register established under section 203(a) of this Act.".

PROTECTION OF EMPLOYEES AGAINST DISCRIMINATION

SEC. 6. Section 212(c)(2) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441(c)(2) is amended to read as follows:

"(2) In any proceeding with respect to which a dispute, grievance or claim is brought for resolution before the Adjustment Board (or any division or delegate thereof) or any other Board of Adjustment created under section 3 of the Railway Labor Act (45 U.S.C 153), such dispute, grievance or claim shall be expedited by any such Board and be resolved within 180 days after its filing. If the violation of subsection (a) or (b) is a form of discrimination other than discharge, suspension, or any other discrimination with respect to pay, and no other remedy is available under this subsection, the Adjustment Board (or any division or delegate thereof) or any other board of adjustment created under section 3 of the Railway Labor Act, may award the aggrieved employee reasonable damages, including punitive damages, not to exceed $5,000.".

NORTHEAST CORRIDOR IMPROVEMENT PROJECT

SEC. 7. Section 704(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(1)) is amended by adding at the end the following: "improvements to the communication and signal systems at locations between Wilmington, Delaware, and Boston, Massachusetts, on the Northeast Corridor main line and between Philadelphia, Pennsylvania, and Harrisburg, Pennsylvania, on the Harrisburg Line; improvement to the electric traction systems between Wilmington, Delaware, and Newark, New Jersey; installation of baggage rack restraints, seat back guards and seat lock devices on three hundred forty eight passenger cars operating within the Northeast Corridor; installation of forty four event recorders and ten electronic warning devices on locomotives operating within the Northeast Corridor; and acquisition of cab signal test boxes and installation of nine wayside loop code transmitters for use on the Northeast Corridor;".

JURISDICTION OVER HIGH SPEED RAIL SYSTEMS

SEC. 8. (a) Section 202(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(e)) is amended to read as follows:

"(e) The term railroad as used in this title includes all forms of non-highway ground transportation that run on rails or electromagnetic guideways, except for rapid transit operations within an urban area that are not connected to the general railroad system of transportation. The term railroad specifically refers, but is not limited, to (1) commuter or other short-haul rail passenger service in a metropolitan or suburban area, including any commuter rail service which was operated by the Consolidated Rail Corporation as of January 1, 1979, and (2) high speed ground transportation systems that connect metropolitan areas, without regard to whether they use new technologies not associated with traditional railroads.".

(b) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by striking subsections (i), (j) and (k).

ENFORCEMENT OF SUBPOENAS AND ORDERS

SEC. 9. Section 208(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437(a)) is amended by striking all from the semicolon and inserting in lieu thereof the following: ". In case of contumacy or refusal to obey a subpoena, order, or directive of the Secretary issued under this subsection or under section 203 of this title by any individual, partnership, or corporation that resides, is found, or conducts business within the jurisdiction of any district court of the United States, such district court shall have jurisdiction, upon petition by the Attorney General, to issue to such individual, partnership, or corporation an order requiring immediate compliance with the Secretary's subpoena, order, or directive. Failure to obey such court order may be punished by the court as a contempt of court.".

STUDY

SEC. 10. Not later than six months after the date of enactment of this Act, the Secretary of Transportation shall report to the Congress on the need and feasibility of imposing user fees as a source of funding the costs of administering the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.) and all other Federal laws relating to railroad safety and railroad noise control. In preparing such report, the Secretary shall specifically consider various methodologies and means for establishing a schedule of fees to be assessed to railroads or others involved in providing rail transportation; procedures for the collection of such fees; the projected revenues that could be generated by user fees; a projected schedule for the implementation of such fees; and the impact of user fees on railroads or others who might be subject to such fees and on the Federal railroad safety and railroad noise control programs.

CONFORMING AMENDMENTS

SEC. 11 Section 202(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(a)) is amended by inserting immediately after the first sentence the following: "This authority specifically includes the authority to regulate all aspects of railroad employees' safety-related behavior, as well as the safety-related behavior of the railroads themselves.".

MISCELLANEOUS

SEC. 12. Section 211(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 440(c)) is repealed.

[Section-by-section analysis]

S. 1539, THE RAILROAD SAFETY ACT OF 1987

SECTION 2—AUTHORIZATION FOR APPROPRIATIONS

This section would amend Section 214 of the Federal Railroad Safety Act of 1970 (Safety Act) to authorize appropriations for fiscal years 1988 and 1989 for the Federal rail safety program. A total of $40,649,000 would be authorized for the Federal Railroad Administration's general safety operations and state grants in fiscal year 1988, and sums not to exceed $41,868,470 would be authorized for these purposes for fiscal year 1989.

SECTION 3—INCREASED PENALTIES; LIABILITY OF INDIVIDUALS

This section would amend Section 209 of the Safety Act to provide the Secretary of Transportation (Secretary), acting through the Federal Railroad Administration, with authority to sanction and penalize individuals for violations of the Federal safety laws. It would also increase the current maximum civil penalty of $2,500 to a new maximum of $10,000.

Subsection (a) would amend the Safety Act to provide the Department of Transportation, acting through the Federal Railroad Administration (FRA), with enforcement authority over "persons", which include both railroads and any individual who performs service under the Hours of Service Act or who performs other safety-sensitive functions for a railroad.

Subsection (b)would amend the Safety Act to provide that for violations of any safety rule, regulation, order, or standard, the FRA may assess a civil penalty of not less than $250 nor more than $10,000, as the Secretary deems reasonable.

Subsection (c) provides that any railroad violating any such rule, regulation, order or standard may be assessed the civil penalty applicable to the standard violated. However, it further provides that a willful violation is necessary for any assessment of a civil penalty against an individual. It also provides that these penalties may be recovered through suits brought in the district court of the United States for the judicial district in which such individual resides.

Subsection (d) would amend the Safety Act to provide the Secretary with the authority to direct that an individual be prohibited from serving in a safety-sensitive capacity in the rail industry for a necessary period of time if, after notice and opportunity for a hearing, the Secretary determines that an individual has violated a safety rule, regulation, order, or standard, as would indicate such individual is unfit for performance of a safety-sensitive task.

SECTION 4—QUALIFICATIONS OF OPERATORS OF TRAINS

This section would amend Section 202 the Federal Railroad Safety Act to ensure that within eighteen months after the date of enactment of this subsection, the Secretary shall issue rules, regulations, standards and orders concerning the minimum qualifications of operators of trains. In such issuance, consideration shall be given to the establishment of an engineer licensing program, uniform minimum qualification standards, and a program of review and approval of each railroad's own qualification standards. This section also provides for a report to Congress on this proceeding no later than twelve months after the date of enactment, which report would include an evaluation of anticipated results of the proceeding.

SECTION 5—ACCESS TO THE NATIONAL DRIVER REGISTER

This section would amend section 206 of the National Driver Register Act of 1982 to provide increased access to information contained in the National Driver Register (NDR).

Subsection (a) would allow an individual who is employed by or who seeks employment with a railroad and who performs or would perform services covered by the Hours of Service Act or other safety-sensitive functions to request the chief driver licensing official of a State to transmit NDR information about the individual to the individual's employer, prospective employer, or the Federal Railroad Administration. The Federal Railroad Administrator, employer or prospective employer shall make that information available to the individual, who will be given an opportunity to comment on it in writing. This subsection also provides that access to information which was entered in the NDR more than three years before the date of a request would be prohibited, unless the information related to suspensions or revocations still in effect on the date of the request.

Subsection (b) would clarify the access to information submitted to the Register by States during the transition to the new NDR contemplated by current law.

SECTION 6—PROTECTION OF EMPLOYEES AGAINST DISCRIMINATION

This section would amend Section 212 the Federal Railroad Safety Act of 1970 to provide for expediting of any proceeding with respect to a dispute, grievance or claim for discharge or discrimination and which arises from an employee's filing of a complaint, institution of a proceeding or testifying regarding the enforcement of the railroad safety laws. Any such dispute shall be resolved by the appropriate Adjustment Board or any other Board of Adjustment within 180 days after filing. This section also provides that if the discrimination is in a form other than discharge, suspension, or pay, and if no other remedy is available, the appropriate Board may award the aggrieved employee reasonable damages, including punitive damages, not to exceed $5,000.

SECTION 7-NORTHEAST CORRIDOR IMPROVEMENT PROJECT

This section would amend Section 704 of the Railroad Revitalization and Regulatory Reform Act of 1976 to make eligible for funds provided under the Northeast Corridor Improvement Program certain Amtrak-related safety projects, including: improvements to communication and signal systems; improvement in electric traction systems; the installation of baggage rack restraints, seat back guards, and seat lock devices on certain passenger cars operating within the Northeast Corridor; the installation of event recorders and electronic warning devices on locomotives operating within the Northeast Corridor; the acquisition of cab signal test boxes; and installation of wayside loop code transmitters for use on the Northeast Corridor.

SECTION 8—JURISDICTION OVER HIGH SPEED RAIL SYSTEMS

This section would amend Section 202 of the Safety Act to ensure that all forms of non-highway ground transportation that run on rails or electromagnetic guideways, except for certain urban transit operations, shall be subject to the Federal Railroad Safety Act of 1970. This provides the Department of Transportation and the Federal Railroad Administration with jurisdiction over newly emerging technologies and high speed rail systems.

SECTION 9—ENFORCEMENT OF SUBPOENAS AND ORDERS

This section would amend Section 208 of the Safety Act to confirm the Attorney General's authority to seek enforcement of orders and subpoenas issued by the Secretary under section 208(a) and of emergency safety orders issued under section 203 of the Safety Act, through a proceeding in an appropriate federal district court. The Safety Act authorizes the Secretary to issue such directives when necessary to achievement of the safety program, but except for the provision on compliance orders, has no express provision for the enforcement of such directives. This technical amendment would make express the Attorney General's implicit authority to seek enforcement of such subpoenas and orders.

SECTION 10—STUDY

This section provides that no later than six months after enactment, the Secretary shall report to the Congress on the need and feasibility of imposing user fees as a source of funding the costs of administering the Federal Railroad Safety Act of 1970 and other Federal laws relating to railroad safety and railroad noise control.

SECTION 11—CONFORMING AMENDMENTS

This section would amend Section 202 of the Safety Act and the general grant to the Secretary of regulatory authority over railroad safety to clarify that this authority extends to railroad employees.

SECTION 12—MISCELLANEOUS

This section would strike existing section 221 (c) of the Safety Act because it concerns details of a special report on railroad safety that was required for submission to the Congress in 1976, an obligation which has been fulfilled.

Mr. DANFORTH. Mr. President, today I am pleased to cosponsor the Railroad Safety Act of 1987. This legislation represents a bipartisan effort to address major safety concerns. The tragic Conrail/Amtrak accident at Chase, MD, on January 4, 1987, which claimed the lives of 16 innocent rail passengers, provides clear and convincing evidence of the need for action.

Key elements of this proposal are: First, authorization of funding levels for rail safety programs of $40.6 million for fiscal year 1988 and $41.8 million for fiscal year 1989; second, Federal Railroad Administration [FRA] authority to sanction and penalize individuals for willful violations of rail safety laws, including the ability to remove employees from safety-sensitive positions; third, an increase in FRA's maximum penalty level from $2,500 to $10,000 per violation per day; fourth, FRA establishment of minimal qualifications, licensing, or a program of review and approval of railroad qualification standards for engineers; fifth access to National Driver Register information on employees or prospective employees by FRA and railroad employers; sixth, Northeast corridor/Amtrak improvements; seventh, FRA jurisdiction over high speed rail systems; eighth, a provision to expedite harassment claims through Adjustment Board proceedings with damages not to exceed $5,000; and ninth, a DOT study on the feasibility of establishing user fees to fund railroad safety programs.

It should be noted that an authorization for rail safety programs has not been enacted since January 1983 during the 97th Congress. This has not been for lack of interest or effort on the part of the U.S. Senate. During each of the intervening Congresses I have introduced, and the Senate has passed, legislation supporting funding needed by FRA to carry out its important safety responsibilities.

At the same time, however, the House has offered legislation, under the guise of rail safety, which instead addresses collective bargaining issues and other economic matters which, if enacted, would actually serve to undermine FRA's safety programs. Previous House proposals have been veto bait, and Senate conferees have walked away from the conference table rather than destroy FRA's hard-won safety record.

The tragic Chase accident proves that we can no longer afford to tolerate the standoff I have just described. It is high time we give FRA the tools it needs to insure the safety of rail passengers, and rail employees. I would urge my colleagues to preserve the integrity of this legislation in committee and on the Senate floor so that the Senate may take a "clean" bill, with a clear focus on safety, into conference this year. The stakes are too high to do otherwise.

ADDITIONAL COSPONSORS

S. 10

At the request of Mr. CRANSTON, the name of the Senator from Delaware [Mr. BIDEN] was added as a cosponsor of S. 10, a bill to amend the Public Health Service Act to improve emergency medical services and trauma care, and for other purposes.

S. 450

At the request of Mr. ARMSTRONG, the names of the Senator from Utah [Mr. GARN], and the Senator from Wyoming [Mr. WALLOP] were added as cosponsors of S. 450, a bill to recognize the organization known as the National Mining Hall of Fame and Museum.

S. 567

At the request of Mr. DECONCINI, the name of the Senator from South Carolina [Mr. HOLLINGS] was added as a cosponsor of S. 567, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws.

S. 685

At the request of Mr. QUAYLE, the name of the Senator from Ohio [Mr. GLENN] was added as a cosponsor of S. 685, a bill to amend the Deficit Reduction Act of 1984 to make permanent the administrative offset debt collection provisions with respect to education loans.

S. 746

At the request of Mrs. KASSEBAUM, the name of the Senator from Kansas [Mr. DOLE] was added as a cosponsor of S. 746, a bill to amend the Federal Insecticide, Fungicide, and Rodenticide Act to permit applicants to file abbreviated applications for registration of pesticides or new uses of pesticides under certain circumstances, and for other purposes.

S. 1002

At the request of Mr. CRANSTON, the name of the Senator from Michigan [Mr. RIEGLE] was added as a cosponsor of S. 1002, a bill to amend title 38, United States Code, to provide disability and death benefits to veterans (and survivors of such veterans) exposed to ionizing radiation during the detonation of a nuclear device in connection with the U.S. nuclear weapons testing program or the American occupation of Hiroshima or Nagasaki, Japan; and for other purposes.

S. 1158

At the request of Mr. KENNEDY, his name and the name of the Senator from Delaware [Mr. BIDEN] were added as cosponsors of S. 1158, a bill to continue authorization of various health and science programs.

S. 1240

At the request of Mr. GRAHAM, the name of the Senator from North Carolina [Mr. SANFORD] was added as a cosponsor of S. 1240, a bill to amend title XVIII of the Social Security Act to provide coverage for certain preventive care items and services under part B and to provide a discount in premiums under such part for certain individuals certified as maintaining healthy lifestyle.

S. 1241

At the request of Mr. GRAHAM, the names of the Senator from North Carolina [Mr. SANFORD] and the Senator from Pennsylvania [Mr. HEINZ] were added as cosponsors of S. 1241, a bill to amend title IV of the Older Americans Act of 1965 to establish demonstration projects for community care preventive health services.

S. 1247

At the request of Mr. MCCAIN, the names of the Senator from Kansas [Mr. DOLE] and the Senator from North Dakota [Mr. BURDICK] were added as cosponsors of S. 1247, a bill to designate the area of Arlington National Cemetery where the remains of four unknown service members are interred as the "Tomb of the Unknowns."

S. 1251

At the request of Mr. GRAHAM, the names of the Senator from Arkansas [Mr. BUMPERS], the Senator from California [Mr. CRANSTON], the Senator from Connecticut [Mr. DODD], the Senator from Minnesota [Mr. DURENBERGER], and the Senator from New York [Mr. MOYNIHAN] were added as cosponsors of S. 1251, a bill to amend the Stevenson-Wydler Technology Innovation Act of 1980 to establish a National Quality Award, with the objective of encouraging American business and other organizations to practice effective quality control in the provision of their goods and services.

S. 1273

At the request of Mr. BYRD, the name of the Senator from Virginia [Mr. WARNER] was added as a cosponsor of S. 1273, a bill to extend the Appalachian Regional Development Act of 1965 and to provide authorizations for the Appalachian Highway and Appalachian Area Development Programs.

S. 1297

At the request of Mr. GRAHAM, the names of the Senator from Mississippi [Mr. COCHRAN] and the Senator from

Tennessee [Mr. GORE] were added as cosponsors of S. 1297, a bill to amend the National Trails System Act to provide for a study of the De Soto Trail, and for other purposes.

S. 1334

At the request of Mr. NICKLES, his name was added as a cosponsor of S. 1334, a bill to restrict certain U.S. contributions to international organizations until certain actions to eliminate abuses of the U.N. system are undertaken by the U.N. Secretary General.

S. 1340

At the request of Mr. PRYOR, the name of the Senator from North Dakota [Mr. BURDICK] was added as a cosponsor of S. 1340, a bill to provide for computing the amount of the deductions allowed to rural mail carriers for use of their automobiles.

S. 1365

At the request of Mr. GRAHAM, the name of the Senator from Alabama [Mr. HEFLIN] was added as a cosponsor of S. 1365, a bill to amend title 38, United States Code, to establish presumptions of service connection for certain diseases of former prisoners of war.

S. 1397

At the request of Mr. CRANSTON, the names of the Senator from Rhode Island [Mr. CHAFEE], the Senator from Wyoming [Mr. SIMPSON], the Senator from Connecticut [Mr. DODD], the Senator from South Dakota [Mr. DASCHLE], the Senator from Vermont [Mr. STAFFORD], the Senator from Massachusetts [Mr. KENNEDY], the Senator from North Dakota [Mr. BURDICK], the Senator from Idaho [Mr. SYMMS], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 1397, a bill to recognize the organization known as the Non Commissioned Officers Association of the United States of America.

S. 1424

At the request of Mr. SIMON, the names of the Senator from Alaska [Mr. MURKOWSKI], and the Senator from Minnesota [Mr. DURENBERGER] were added as cosponsors of S. 1424, a bill to amend title 8, United States Code, to provide for adjustment of status of certain Polish nationals who arrived in the United States before July 21, 1984, and who have continuously resided in the United States since that date.

S. 1448

At the request of Mr. PELL, the name of the Senator from Alabama [Mr. SHELBY] was added as a cosponsor of S. 1448, a bill to provide a clarification in the insurance premium rule for the Guaranteed Student Loan Program under part B of title IV of the Higher Education Act of 1965.

S. 1464

At the request of Mr. CRANSTON, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 1464, a bill to amend title 38, United States Code, to provide eligibility to certain individuals for beneficiary travel payments in connection with travel to and from Veterans' Administration facilities.

S. 1501

At the request of Mr. CRANSTON, the names of the Senator from Maine [Mr. COHEN], and the Senator from Illinois [Mr. SIMON] were added as cosponsors of S. 1501, a bill to amend title 38, United States Code, to eliminate the requirement that the Administrator of Veterans' Affairs carry out a transition under which community-based vet centers would be moved to Veterans' Administration medical facilities and to provide standards and procedures governing any closures or moves of vet centers, and for other purposes.

SENATE JOINT RESOLUTION 172

At the request of Mr. BRADLEY, the name of the Senator from Texas [Mr. BENTSEN] was added as a cosponsor of Senate Joint Resolution 172, a joint resolution to designate the period commencing February 21, 1988, and ending February 27, 1988, as "National Visiting Nurse Association Week."

SENATE CONCURRENT RESOLUTION 29

At the request of Mr. DECONCINI, the name of the Senator from Idaho [Mr. SYMMS] was added as a cosponsor of Senate Concurrent Resolution 29, a concurrent resolution expressing the sense of Congress regarding the inability of American citizens to maintain regular contact with relatives in the Soviet Union.

AMENDMENT NO. 591

At the request of Mr. DANFORTH, the names of the Senator from Nebraska [Mr. KARNES], and the Senator from Missouri [Mr. BOND] were added as cosponsors of Amendment No. 591 intended to be proposed to S. 328, a bill to amend chapter 39, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

SENATE RESOLUTION 251—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO PATRICIA A. McLAUGHLIN

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 251

Resolved, that the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Patricia A. McLaughlin, widow of Samuel B. McLaughlin, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 252—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO NAVARRO A. HARROD

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 252

Resolved, that the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Navarro A. Harrod, widower of Shirley E. Harrod, an employee of the Senate at the time of her death, a sum equal to ten and one-half months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 253—ORIGINAL RESOLUTION REPORTED TO PAY A GRATUITY TO DEEDE S. WYATT, DEBRA VANDER VOORT, AND STEVEN M. SCHMIDT

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. RES. 253

Resolved, that the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Deede S. Wyatt and Debra Vander Voort and Steven M. Schmidt, children of Dorothy Schmidt, an employee of the Senate at the time of her death, a sum to each equal to one-third of six months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

SENATE RESOLUTION 254—STATING PRINCIPLES OF UNITED STATES POLICY TOWARD OCCUPATION OF NAMIBIA

Mr. SIMON (for himself and Mr. WEICKER) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 254

Whereas "self-determination" has been and will continue to be the foundation of all democratic societies;

Whereas colonialization is a concept of the past and one that contradicts the true meaning of democracy;

Whereas South Africa has, with respect to Namibia, continued to violate the United Nations Trusteeship System and the ruling of the International Court of Justice which explicitly called for Namibia's independence;

Whereas the United Nations General Assembly in 1966, under United Nations Resolution 2145, which was supported by the United States, terminated South Africa's mandate and placed Namibia under U.N. control;

Whereas the United Nations Security Council in 1969, under Resolution 264, which was also supported by the United States, concurred with Resolution 2145 and declared South African occupation of Namibia illegal and called for South Africa's immediate withdrawal from Namibia;

Whereas, in spite of the international community's overwhelming support for Namibian independence, South Africa refuses to terminate its illegal occupation of Namibia;

Whereas South Africa has attempted to allay the growing international pressure for genuine negotiations to reach a settlement on the question of the independence of Namibia by establishing a transitional government in Namibia which is appointed and controlled by the South African Government;

Whereas South Africa has extended the apartheid system to Namibia through the enactment of oppressive laws which dictate every aspect of the social, economic, and political lives of the Namibian people;

Whereas South African military forces in Namibia continue to be guilty of human rights violations on a massive scale, including the detention of persons without charge, torture, rape, and killings.

Whereas the principal threat to the human rights of the Namibian people is the continued illegal occupation of Namibia by the colonialist South African Government;

Whereas the United States Government rejects the illegal occupation of Namibia by South Africa, has called for the abolition of the apartheid system, and is the human rights champion of the world;

Whereas the United States supports United Nations Resolution 435, adopted by the United Nations Security Council in 1978, which calls for the independence of Namibia through the cessation of armed hostilities in Namibia, the withdrawal of South African troops, and the holding of elections that are supervised by the United Nations; and

Whereas the independence of Namibia is consistent with American traditions and principles of democracy: Now, therefore, be it

Resolved, That it is the sense of the Senate that the President should—

(1) recognize the legitimacy of the plight of the Namibian people;

(2) urge the Government of South Africa to take prompt and effective actions to end its illegal occupation of Namibia and to implement United Nations Security Council Resolution 435;

(3) should take an active role in pursuing the resumption of negotiations between South Africa and truly representative leaders of the Namibian people;

(4) reject any policy which links the implementation of Resolution 435 to the withdrawal of Cuban troops from Angola; and

(5) call for the termination of any business conducted by United States businesses in Namibia, until South Africa complies with Resolution 435.

● Mr. SIMON. Mr. President today I am joined by my colleague Senator WEICKER in submitting a resolution outlining what should be the guiding principles of United States policy toward Namibia. This same resolution has been introduced in the House of Representatives by Congressman DYMALLY.

The resolution, in outlining the history of South Africa's illegal occupation of Namibia and the condemnation by the international community of that occupation, states that the President should:

First, recognize the legitimacy of the plight of the Namibian people;

Second, urge the South African Government to end its illegal occupation and implement United Nations Security Council Resolution 435;

Third, should resume negotiations between South Africa and genuine representatives of the Namibian people;

Fourth, reject its policy linking the implementation of Resolution 435 to the withdrawal of Cuban troops from Angola; and,

Fifth, call for the termination of United States business in Namibia.

Almost 3 weeks ago, we celebrated our own independence. Namibians are dying for theirs. What we have means nothing if we are not prepared to use our freedoms and democratic system to help the Namibian people.

If this great Nation cares about freedom, we must play an active role to gain expeditious implementation of U.N. Security Council Resolution 435, and to enforce its call for a cease-fire and elections.

If this democratic country cares about freedom in Namibia, we must exert stiff pressure on the Botha government to get out of Namibia.

If we, as a nation of free people, care about the dream of liberty for every Namibian, we must start today in our communities and in our work to get their story out to our friends and to the world.

For the past 20 years, the lives of Namibian men, women, and children have been bartered away into hatred and despair. They barely survive in a land that has been brazenly taken away from them by South Africa's illegal and brutal occupation. They live without knowing the joy and inspiration that freedom brings to a human life.

Namibians today live in purgatory. The reign of South African terror and brutality is an outrage and a heinous crime against people who should be free. Ten years ago, the Okatale clinic of the Angolan church was set aflame and destroyed by the South African Army. A year ago, Daniel Shifula was killed when an explosive device was tied to his body and detonated, blowing him to pieces. South African troops took 15-year-old Portius Blasius last year and held his face against a searing hot exhaust pipe, causing him severe facial burns. Last September, South African soldiers raped two pregnant hospital workers at a Lutheran hospital. And just a month ago, the brother of Bishop Dumeni was killed by South African troops in Angola. If Namibia had been free, Portius and Daniel and the others would not have known such cruelty and pain.

This is the harsh reality. And it is unforgivable that the United States, and the international community, have failed to prevent this nightmare. Instead, the Namibian people, SWAPO, and the church have largely had to struggle alone in the fight for independence. The U.S. Government has failed to push for implementation of U.N. Security Council Resolution 435. The United States has turned its back on Namibians by insisting on its misguided linkage policy. And constructive engagement—the basis for our misdirected and dangerous policy in the region—is the ultimate betrayal of our ideals and heritage as a free people.

We should, again and again, look at the burned and swollen face of Portius Blasius to remind us of the price of a policy of indifference and abandonment. In his face is our failure, our terrible shame, and the horror of these forgotten years.

Over the past two decades, Namibia has been a country completely imprisoned by South Africa and twisted and buried by apartheid's rule. South Africa's systematized and sophisticated reign of terror represents the last vestige of colonial occupation on the African continent. And the facts show how successful the South Africans have been.

Geographically, Namibia is fenced in by South Africa on the south and the war zone in the north.

Namibians are imprisoned by institutionalized poverty. Roughly 30 percent of the black labor force is unemployed, and many more are underemployed in seasonal jobs. Of the population, 94 percent is black, with 70 percent forced to live in rural areas. Of the viable farm land, 77 percent is occupied by 5,000 large, white-owned farms. The other inferior land and desert areas are left for the 190,000 black peasant farmers.

The infant mortality rate for blacks is almost eight times higher than that of whites. This rate is well above the average for the African Continent. Diarrhea, infectious diseases, and stress-related difficulties are major health problems, compounded by the unusually low doctor to patient ratio.

Sixty percent of the black adult population is illiterate, with only 1 percent having completed secondary education. Public education is designed to provide only the minimal skills necessary to survive and to provide a pool of cheap labor. Government schools teach in Afrikaans, the language of apartheid, and the syllabus glorifies apartheid's history. Although education for whites is free, blacks must pay. Overall, the Government investment in each white child is five times the investment for each black child.

This system keeps Namibians from gaining the tools they need for independence. Fortunately, the churches help to address this problem through independent schools.

A woman who reviews applications for higher education church scholarships abroad had this observation:

> I have files full of applications from secondary school leavers who don't qualify. I've seen so many of them crying when they find their examination certificates are of no use. They feel cheated and despondent, so many of them cross the border to become refugees in search of a brighter future. The independent schools are providing a vital service—we must have scientists, engineers, doctors and accountants for our future nation. We must break our dependence on the skills and know-how of the whites; we can't be properly independent otherwise.

The sheer profitability of occupation keeps apartheid's machine moving; 25 to 30 percent of Namibia's wealth is sent abroad, primarily in the form of corporate profits. South African occupation promotes exploitation of Namibia's natural resources—diamonds, uranium, minerals, beef, animal furs, and fish—and robs the overwhelming majority of its benefits.

Agricultural wealth remains in white hands. Agriculture is profitable: Beef is exported for South Africa's cities and pelts for the international fur trade. But, the country is dependent on imports to meet its basic food requirements.

Namibia imports half its maize requirement and 90 percent of other foodstuffs. Namibia produces enough beef to supply the entire national protein requirement, but most Namibians go hungry and many are seriously undernourished. Black children die because their parents cannot raise or pay for the food to feed them.

One mother said:

> My life is terribly hard. Long ago, my husband went to Windhoek to look for work, but he is unemployed so he never sends money. I get a relief ration from the government each month of beans, maize, jam and fat but it only lasts us for 4 days, so I live by begging for the rest of the month. I send the children out to beg small amounts of food from my neighbors but tonight they came back with nothing, so they will have to go to bed crying for food. . . . we rarely eat an evening meal, because, if I have to choose, it is better for the children to be asleep when they're hungry.

Minerals make up a staggering 85 percent of Namibia's total exports. Virtually 100 percent of mineral production leaves the country, with the majority of poor Namibians deriving almost no benefit. Between 1982 and 1983, of the total sales income from minerals an estimated 10 percent toward the wages of black workers.

The South Africans also benefit from Namibia's fishing industry. Most of the onshore catch is exported, mainly to South Africa. Six South African companies own the inshore processing industry. Taxes to the South African-controlled administration in Namibia have averaged 30 to 35 percent of gross profits in recent years, a rate estimated to be low by world standards. Interestingly enough, the bulk of the offshore catch goes to the Soviet Union and Eastern European countries.

Overall, repressive laws institutionalize the exploitation of black workers and ensure a continuous supply of cheap labor. How and where to live, what one learns and what one earns are all predetermined for the black community. From the beginning of South African occupation in 1915 through the failed Democratic Turnhalle Alliance and South African appointed administrators to today's Multi-Party Council—a so-called interim government—South Africa has maintained complete control.

Namibians are held hostage by a South African military presence that invades their lives at every turn. According to the U.N. Council for Namibia, Namibia is one of the most intensively occupied countries in the world.

Military conscription covers men from age 16 to 54. Often young men find the military is their last and only option and one for which there is an attractive monetary enticement.

In addition, the dreaded Koevoet [Crowbar], masquerading as SWAPO the [South West Africa People's Organization], continues as a South African tool against SWAPO.

In their battle against SWAPO, the military terrorizes the population through violence and intimidation. One schoolteacher in the north said:

> The war makes our people even poorer. All the local farmers around here live in fear. They are frequently questioned at gunpoint and sometimes beaten up. Every day there is something. The soldiers often drive their heavy vehicles over people's crops, just for the sake of it. What can we do?

And in the schools one teacher described it this way:

> The South African soldiers disrupt our work and make us afraid for the safety of our children. For example, they often just burst into the classrooms . . . They shoot into the air to frighten us. Our lives and work are made very difficult and the children are scared.

The South African regime has even tried to do its evil in the name of Christianity. As Reverend Haikali said 1 year ago:

> The present racist South African regime is supported by the church, namely the white Dutch Reformed Church. The theology of the Dutch Reformed Church justifies the status quo of racism, capitalism and totalitarianism. It blesses injustice, canonizes the will of the powerful and reduces the poor to passivity, obedience and apathy.
>
> The racist Prime Minister of South Africa, P.W. Botha, therefore sees this Dutch Reformed Church position as a struggle of the Christian western civilization against the powers of darkness and Marxism and the evil of "Communist inspired" African nationalism.

But Namibians are fortunate to have strong church leadership, particularly the Lutheran Church, which serves the majority of Namibia's 80 percent Christian population. We owe the church in Namibia a great deal for its active ministry in the liberation struggle, the provision of scholarships, independent schools and hospitals, and its efforts to prepare Namibians for independence.

But, sadly, today Namibia is still not free. South Africa's illegal occupation should not have lasted this long. As Tanzania's Foreign Minister, Benjamin Mkapa, said so eloquently last fall at the International Conference for the Immediate Independence of Namibia:

> If the revocation of South Africa's mandate over Namibia had been enforced 20 years ago, there would be now a generation of Namibians voting for a Namibian government who had not known life under South Africa racist rule—a generation of truly free Namibians. There should have been. That there is not must be to the eternal—not just regret—but shame of the community of nations.

Yes; there should have been already a generation of truly free Namibians. Let us be sure that there will not be another doomed to the injustices and mistakes of the past.

The U.S. Government under this administration has lingered too long with the forces of apartheid. Constructive engagement, "linkage" of Cuban troops in Angola to negotiations for Namibian independence, and support for the South African-backed UNITA forces are all part of a policy which works against the interests of the people in the region and United States interests. Namibian Bishop Kleopas Dumeni—head of the Evangelical Lutheran Church—has said:

> It is clear to the Namibian people that the United States is supporting South Africa's foreign policy.

That is a frank, and sadly true, assessment.

The South African Government has tried to manipulate public opinion through its censorship and propaganda that communism is a grave threat to the region. And the U.S. policy of linkage falls in line with this thinking.

However, the real threat in southern Africa is South African hegemony and the evil of apartheid.

Bishop Dumeni asks,

> Why is it that these people are not concerned about the real oppression, the killing, the torture, the rapes, the imprisonments that are happening this very night? Our oppressors are with us now, not in the future.

Apart from constructive engagement, the most damaging United States policy toward the region is linking negotiations on Namibian independence with the withdrawal of Cuban troops from Angola. Make no mistake about it. That policy undergirds South African hegemony in the region.

The Angolans want to move on withdrawal of Cuban troops. They also want Namibian independence. The Angolans cannot realistically be expected to relinquish their line of defense if the South African forces and the South African-supported UNITA forces do not pull out of southern Angola and from Namibia. One cannot expect the Angolans to pose as sitting ducks for the South Africans.

As long as the United States insists on linkage, the Angolans will be forced to retain the Cuban troops, South Africa will continue to have free reign over Namibia, UNITA will have free play in northern Namibia, and no single problem there will be solved.

We need to start quickly and deliberately moving in the right direction.

We need to get the word out, to get our communities moving, to pressure the administration. On South Africa, we have taken the leadership and turned our Government's policy in the right direction with passage of the Anti-Apartheid Act. We can do it with Namibia, too. The churches and individual Americans have given us a good foundation. As Bishop Dumeni said of those friends in the struggle:

> I know that if it were not for their love and concern, even the name of my country might not be known.

The United States must first insist that the provisions of United Nations Security Council Resolution 435 be observed, the cease-fire and the elections. We need to reinvigorate the United Nations Contact Group that provided so much hope when it negotiated United Nations Security Council Resolution 435, the legitimate and internationally endorsed blueprint for Namibian independence.

It is ironic, and sadly unfortunate, that the United States—a member of the contact group that outlined these steps for implementation of Namibian independence—has failed miserably to help bring about implementation of the resolution. Instead of looking after the interests of the Namibian people, supporting their legal right to self-determination, and pressuring the South Africans to withdraw from Namibia, current United States policy has, in effect, strengthened South Africa's hand in postponing Namibian independence.

This country needs to provide the leadership and to pull the contact group back together, not pursue a policy which sabotages this endeavor.

Second, Namibian independence must be a high priority on the foreign policy agenda here in the United States. It must be a cornerstone of a sensible and positive policy toward the region, a comprehensive approach which recognizes the central role of Namibian independence in the battle against apartheid and in the development of a strong region. I look forward to the day when Namibia can join in the cooperative effort of the Southern African Development Coordination Conference.

Third, we must acknowledge—and be grateful for—the role the churches have played in rescuing the Namibian people from certain destruction, and support the role the churches play in Namibian society. As a Lutheran, I am grateful for the work done by our church and concerned members. Of the 80 percent Christians in Namibia, over 70 percent are Lutherans who are led by two great men, Bishop Kleopas Dumeni, heading the church in the war zone in the north, and Bishop Frederik Hendrik, heading the church in the southern two-thirds of the country.

Fourth, we must support the emergence of the trade union movement in Namibia. Just 2 weeks ago, police and soldiers attacked over 200 workers in a southern fishing port. Workers, increasingly, are fighting back. They need our help.

Fifth, the United States, and other Western nations must observe United Nations Decree No. 1 and cease their exploitation of Namibian resources, and work instead for independence so that future foreign investments in Namibia can benefit the Namibian people, to whom those benefits are rightfully owed.

In the Congress, Congressman DYMALLY has introduced a resolution on Namibia, which I have today introduced in the Senate, calling for implementation of United Nations Security Council resolution 435 and calling for a withdrawal of all United States investment in Namibia. As you know, the current South African sanctions also apply to Namibia, but that is not enough.

Sixth, we must listen to and work with the Namibians, the churches, and others to assist the Namibian people in garnering the human resources base to ensure a strong and vibrant independent Namibia. We must look boldly to the future to address now what will be required of Namibians and to determine what we can do to help make it possible for them to determine the future of a free Namibia.

Seventh, the U.S. Government must halt its aid to UNITA.

Finally, the greatest task is bringing the story of the Namibian people to the American people. Education and a call to action is a movement that I hope will grow from this conference. We need to communicate, to organize, to mobilize. We need to put the Reagan administration on notice and reverse its misguided policy. We need to show that we care and that we want to see something done about it.

In Namibia, a homeland is a land of internal exile, individual worth is color coded, law and order is a state of human emergency, and Christianity is a mask for inhumanity.

But there is great hope for Namibia so long as there are people who care and who take action. And where there is hope for Namibia, there is a brighter future for all of southern Africa. Namibia is the apartheid-ruled country which we can—with the political will—help to set free. If we can move on this course, we can bring the light of day closer to those who live in the darkness of South Africa.

Bishop Dumeni said a year ago:

> I am quite convinced that the independence of Namibia will be coming. Then we will share the same rights. Peace will prevail in Namibia. Blacks and whites will live together in peace and harmony. For we hold firmly this truth that all men are created equal. In this faith let us persevere in the struggle, praying together, working together and standing together, firmly believing and hoping that Namibia will be free one day and that peace, justice, equality and human rights for all will be protected and safeguarded by law, where it now is being despised and violated. I am still fully convinced that truth and justice will eventually prevail. The day of Namibian independence is surely coming. I plead with you, act now, be with us so the day of freedom will be tomorrow!

Our relationship to Namibia cannot be one designed to appease the South African Government or one that seeks comfort and convenience in siding with apartheid.

It is not a relationship that comes without special burdens and responsibilities for us, as a nation and as a free people.

At the core is the pressing question of principle and conviction, of our commitment to individual rights, to equality, to justice, and to democratic institutions. We should ask ourselves if we cherish liberty enough to help bring liberty and independence to Namibia.

As Bishop Dumeni said earlier this year:

> May your nation return to its noble ideals of supporting our just independence. We are crying, no we are dying. The work of peace, the work of justice is honorable work. I have spoken the truth to you in a spirit of love. Pray with us, work with us, may God grant us peace.

Mr. President, it is time that this Congress send a strong signal to those illegally occupying Namibia. This resolution, sponsored by myself and Senator WEICKER, will begin to move United States policy toward Namibia in the right direction. I strongly urge my colleagues to support this resolution.●

● Mr. WEICKER. Mr. President, I rise today to join with Senator SIMON in submitting a resolution to foster a positive United States policy toward Namibia. This resolution is more than overdue and I regret it is only a resolution and not a stronger statement on foreign policy.

During the past several years, I have become increasingly concerned that the United States—once considered the world leader by example as a nation of laws, has instead become internationally identified as a nation of men who place narrow interests above the law. The past several weeks of testimony before the Select Committee on the Iran-Contra affair has portrayed at a very basic level this disturbing notion that the law is not the law if it does not serve the purpose of the moment. Webster's definition of law is as follows: "A binding custom or practice of a community: A rule of conduct or action prescribed or formally recognized as binding or enforced by a controlling authority." Clearly, the law is no longer considered binding at least in some parts of the government. This is more than hypocritical. It is reprehensible, no matter where it is practiced.

Mr. President, Namibia is a case where the rule of international law is being ignored, but where the potential exists for the United States to reassert itself as the conscience of the world.

In 1966 the U.N. General Assembly terminated South Africa's archaic mandate over the territory known as South West Africa and placed the newly formed Nation of Namibia under U.N. control. This resolution was supported by the United States. In 1969 the U.N. Security Council declared South Africa's occupation of Namibia illegal. Again, the United States supported this action. In 1971 the International Court of Justice rendered an advisory opinion, which was supported by the United States, that South Africa's occupation of Namibia was illegal. In 1978 the U.N. Security Council passed a resolution establishing a U.N. Transition Assistance Group to monitor a cease-fire and supervise elections in Namibia. This proposal had previously been accepted by both South Africa and Namibia. Progress since 1978 has not been evident. One thing is certain, however, more Namibians have died.

This is a clear case where one state is violating the sovereign existence of another. In 1982 a linkage was established between Cuban withdrawal from Angola and Namibia's future. Thus the fate of one country hinges on the events in its neighbors over which it has no control. Intransigence on this issue has blocked U.S. involvement since that time.

The resolution that is being introduced today is a modest start with five aims. The first is to recognize the legitimacy of the plight of the Namibian people. Several months ago, I met with the Lutheran bishop of Namibia. His plea was that the U.S. Government do what it can do to alleviate the suffering of his people. Certainly any American who can remember our roots as a colony can relate to this heartfelt cry for freedom. This leads me to the second point which is to urge the South African Government to end its illegal occupation. Immediate withdrawal of all South African troops will not occur, but South Africa needs to resume negotiations with Namibian leaders in order to work out an orderly transition. This is the third aim of this resolution. The fourth point is the United States should not insist upon the linkage of the withdrawal of Cuban troops to Namibian independence. Indeed, it is true that these two neighboring countries heavily impact one another. But to punish Namibia for a situation it cannot control means the death of more Namibians and a further dimming of the hope for freedom. Lastly, the resolution calls for the termination of any business conducted by United States companies in Namibia until the nation's independence is a reality. American business has the effect of supporting the status quo—a lengthy, lethal and illegal occupation by the racist Government of South Africa—which is clearly unacceptable.

The United States is constantly reviewing and adapting its foreign policy throughout the world in the light of new events, new information. I firmly believe United States support of Namibian independence is a way we can reassert ourselves as a nation of law and the supporter of democracy throughout the world. The strength of this Nation is not its arsenal of arms but its principles. This is the same conviction President Jefferson came to during his first year of office when he wrote, "A just and solid republican government maintained here will be a standing monument and example for the aim and imitation of the people of other countries * * * that the enquiry which has been excited among the mass of mankind of our revolution and its consequences will ameliorate many conditions of man over a great portion of the globe." Mr. President, the United States has the potential to ameliorate many conditions of man around the globe, if we are true to our own principles. Namibia has a desperate need for our support. Therefore, I urge my colleagues both to consider the plight of the Namibian people and to reexamine our foreign policy in the light of the principles that have guided this Nation successfully for 200 years.

Finally, Mr. President, I want to compliment the chairman of the Africa Subcommittee for submitting both this resolution and the promise of hope to the Namibian people.●

AMENDMENTS SUBMITTED

STATUTORY INCREASE IN THE PUBLIC DEBT LIMIT

CHILES AMENDMENT NO. 626

Mr. CHILES proposed an amendment which was subsequently modified, to the joint resolution (H.J. Res. 324) increasing the statutory limit on the public debt; as follows:

At the end of the joint resolution, add the following:

TITLE II—BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL

PART A—BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL REAFFIRMATION

SHORT TITLE; TABLE OF CONTENTS

SEC. 201. (a) This title may be cited as the "Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987".

(b) The table of contents for this title is as follows:

TITLE II—BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL

PART A—BALANCED BUDGET AND EMERGENCY DEFICIT CONTROL REAFFIRMATION

Sec. 201. Short title; table of contents.
Sec. 202. Reference; timetable.
Sec. 203. Sequestration amount.
Sec. 204. Reports by the Director of the Congressional Budget Office, the Director of the Office of Management and Budget, and the President.
Sec. 205. Presidential orders.
Sec. 206. Prevention of Presidential order; reduction of sequestration amount.
Sec. 207. Deficit reduction amount.
Sec. 208. Revision of maximum deficit amount.
Sec. 209. Rules for determination of amounts.
Sec. 210. Report by Comptroller General.
Sec. 211. Penalties under statute.
Sec. 212. Miscellaneous.
Sec. 213. Applicability.
Sec. 214. Submission of President's budget.

PART B—BUDGET PROCESS REFORMS

Sec. 221. Reference.
Sec. 223. Prohibition of counting as savings the shift of Government payments from one year to another.
Sec. 224. Financial management reform.
Sec. 225. Extension of State and local cost estimates.
Sec. 226. Extraneous provisions.
Sec. 227. Codification of law regarding deferral authority.
Sec. 228. Clarification of congressional intent regarding rescission authority.
Sec. 229. Economic and technical assumptions.
Sec. 230. Clarification of congressional intent regarding time limits for conference reports on concurrent resolutions on the budget.
Sec. 231. Exercise of rulemaking power.

REFERENCE; TIMETABLE

SEC. 202. (a) Except as otherwise specifically provided, whenever in this part an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be a ref-

erence to a section or other provision of the Balanced Budget and Emergency Deficit Control Act of 1985.

(b) Part C is amended by inserting before section 251 the following:

(b) TIMETABLE.—

"On or before:	Deficit reduction process:
First Monday after January 17.	President submits budget including OMB estimate of current services baseline deficit for next fiscal year, specifying key economic and technical assumptions.
February 15	CBO estimate of current services baseline deficit for next fiscal year, specifying key economic and technical assumptions.
March 1	With due regard to CBO and OMB economic and technical assumptions, GAO determines baseline estimate of the deficit and economic assumptions to be used in reports on deficit reduction.
May 1	CBO and/or OMB may report to the Temporary Joint Committee requesting different BA-outlay ratios.
May 5	Temporary Joint Committee may report a joint resolution to Congress affirming all or part of the May 1 report(s).
May 10 (August 15 for FY 1988).	Snapshot for OMB/CBO economic forecast and estimate of budget base level.
May 18 (August 20 for FY 1988).	OMB/CBO sequester report specifying base of sequesterable outlays, amounts and percentages for sequestration by program and economic growth forecast.
June 1 (September 8 in FY 1988).	OMB's report giving due regard to OMB/CBO report.
After June 1	Optional CBO running total of net deficit reduction.
After June 1	Senate Budget Committee may begin reconciliation procedure in response to sequester by reporting a resolution with reconciliation instructions.
July 25	CBO/OMB report to GAO certifies net deficit savings and remaining sequester amount.
July 29	GAO report to Congress analyzes July 25 report from CBO/OMB.
July 30	Majority Leaders introduce joint resolution affirming certification and sequester amount using July 29 GAO report.
September 1 (September 14 in FY 1988).	President issues initial sequester order.
September 8	CBO/OMB report to GAO certifies net deficit savings and remaining sequester amount.
September 12	GAO report to Congress analyzes September 8 report from CBO/OMB.
September 13	Majority Leaders introduce joint resolution affirming certification and sequester amount using September 12 GAO report.
October 1	President's initial sequester order takes effect.
October 10	CBO/OMB final report on net deficit reduction revising September 8 report to GAO.
October 14	GAO final report on net deficit reduction certification and sequestration amount based on October 10 CBO/OMB revised report.
October 15	Majority Leaders introduce joint resolution affirming certification and sequester amount using October 14 GAO report.
Late October	President issues final order eliminating sequester amount after enactment of joint resolution, which becomes effective at this time.
November 15	GAO compliance report to Congress and the President analyzes President's order.

SEQUESTRATION AMOUNT

SEC. 203. Section 257 is amended by adding at the end thereof the following new paragraph:

"(9) The term 'sequestration amount' means, with respect to a fiscal year, $36,000,000,000 except as provided in section 258.".

REPORTS BY THE DIRECTOR OF THE CONGRESSIONAL BUDGET OFFICE, THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET, AND THE PRESIDENT

SEC. 204. (a)(1) Section 251(a)(1) is amended to read as follows:

"(1) ESTIMATES AND DETERMINATIONS.—The Director of the Office of Management and Budget and the Director of the Congressional Budget Office (in this part referred to as the "Directors") shall with respect to each fiscal year—

"(A) estimate, for each defense program and each non-defense program which is subject to reduction under this part for such fiscal year, the budget base level of outlays that may be anticipated for such fiscal year as of May 10 of the calendar year in which such fiscal year begins (August 15 in the case of fiscal year 1988); and

"(B) estimate the rate of real economic growth that will occur during such fiscal year, the rate of real economic growth that will occur during each quarter of such fiscal year, and the rate of real economic growth that will have occurred during each of the last two quarters of the preceding fiscal year."

(2) Section 251(a)(2) is amended to read as follows:

"(2) REPORT.—The Directors jointly shall report to the Director of the Office of Management and Budget on May 18 of the calendar year in which such fiscal year begins (August 20 in the case of fiscal year 1988)—

"(A) estimating, for each defense program and non-defense program subject to reduction under this part for such fiscal year, the budget base level of outlays for such fiscal year;

"(B) specifying the estimated rate of real economic growth for such fiscal year, for each quarter of such fiscal year, and for each of the last two quarters of the preceding fiscal year;

"(C) indicating whether the estimate made pursuant to subparagraph (B) includes two or more consecutive quarters of negative real economic growth; and

"(D) specifying by account for non-defense programs, and by account and programs, projects, and activities within each account, for defense programs, the base from which reductions are taken and the amounts and percentages by which such accounts must be reduced during such fiscal year, in accordance with the succeeding provisions of this part, in order to reduce outlays for such fiscal year by an amount equal to the sequestration amount for such fiscal year.".

(3) Section 251(a)(3) is amended—

(A) by striking out subparagraph (A) and inserting in lieu thereof the following:

"(A) The sequestration amount for a fiscal year shall be divided into halves.";

(B) by striking out "(as adjusted under subparagraph (A)(ii) in the case of fiscal year 1986)" in subparagraph (B);

(C) by striking out "(or the adjusted deficit excess, in the case of fiscal year 1986)" in such subparagraph;

(D) by striking out "(or the adjusted deficit excess, in the case of fiscal year 1986)" each place it appears in subparagraph (C); and

(E) by striking out "deficit excess" each place it appears in subparagraphs (B) and (C) and inserting in lieu thereof "sequestration amount".

(4) Section 251(a)(4) is amended by striking out "deficit excess (as adjusted under paragraph (3)(A)(ii), in the case of fiscal year 1986)" in subparagraph (A) and inserting in lieu thereof "sequestration amount".

(b)(1) Section 251 is amended by striking out subsections (b) and (c) and inserting in lieu thereof the following:

"(b) REPORT BY THE OMB DIRECTOR.—

"(1) REPORT TO GIVE DUE REGARD TO OMB-CBO REPORT.—The Director of the Office of Management and Budget shall review and consider the report issued under subsection (a) by the Directors for the fiscal year and, with due regard for the data, assumptions, and methodologies used in reaching the conclusions set forth therein, shall issue a report to the President and the Congress on June 1 of the calendar year in which such fiscal year begins (September 8 in the case of fiscal year 1988)—

"(A) estimating, for each defense program and non-defense program subject to reduction under this part for such fiscal year, the budget base level of outlays for such fiscal year;

"(B) specifying the estimated rate of real economic growth for such fiscal year, for each quarter of such fiscal year, and for each of the last two quarters of the preceding fiscal year;

"(C) indicating whether the estimate made pursuant to subparagraph (B) includes two or more consecutive quarters of negative economic growth; and

"(D) specifying the amounts and percentages by which defense and non-defense accounts must be reduced during such fiscal year in order to reduce budget outlays for such fiscal year by an amount equal to the sequestration amount for such fiscal year.

Such report shall give due regard to the estimates, determinations, and specifications contained in the report submitted by the Directors under subsection (a) and shall use the budget base, criteria, and guidelines set forth in subsection (a)(6) and in sections 255, 256, and 257.

"(2) CONTENTS OF REPORT.—The report of the Director of the Office of Management and Budget under this subsection shall—

"(A) provide for the determination of reductions in the manner specified in subsection (a)(3);

"(B) contain estimates, determinations, and specifications for all of the items contained in the report submitted by the Directors under subsection (a); and

"(C) state whether the estimates, determinations, and specifications contained therein are consistent with the averaged items contained in the report of such Directors under subsection (b), and, if not, shall explain the reason for any deviation from any averaged item.".

(2) Section 251 is further amended by redesignating subsections (d), (e), (f), and (g) as subsections (c), (d), (e), and (f), and—

(A) in subsection (d) (as so redesignated) by striking out "Directors or the Comptroller General" and inserting in lieu thereof "Directors or the Director of the Office of Management and Budget"; and

(B) in subsection (e) (as so redesignated) by striking out "reports of the Comptroller General submitted to the Congress under subsections (b) and (c)(2)" and inserting in lieu thereof "the report of the Director of the Office of Management and Budget submitted to the President and the Congress under subsection (b)".

(3) Section 274(f)(5) is amended by striking out "section 251 (b) or (c)(2)" and inserting in lieu thereof "section 251(b)".

(4) Section 274(h) is repealed.

(d)(1) Section 251(d) is amended by striking out paragraph (3).

(2) Section 256(l)(2) is amended by striking out ", in accordance with section 251(d)(3),".

PRESIDENTIAL ORDERS

SEC. 205. (a) Section 252(a) is amended—

(1) by striking out the matter preceding subparagraph (A) of paragraph (1) and inserting in lieu thereof the following:

"(1) IN GENERAL.—Except as provided in section 258, by September 1 following the issuance of a report by the Director of the Office of Management and Budget under section 251(b) (September 14 in the case of fiscal year 1988), the President, in strict accordance with the requirements of paragraph (3) and section 251(a)(3) and (4) and subject to the exemptions, exceptions, limitations, special rules, and definitions set forth in sections 255, 256, and 257, shall eliminate the full amount of the sequestration amount by issuing an initial order that (notwithstanding the Impoundment Control Act of 1974)—";

(2) by striking out "deficit excess (or adjusted deficit excess, in the case of fiscal year 1986)" in subparagraph (B) of such paragraph and inserting in lieu thereof "sequestration amount";

(3) by striking out "COMPTROLLER GENERAL'S" in the heading for paragraph (3) and inserting in lieu thereof "OMB DIRECTOR'S";

(4) by striking out paragraph (2)(B) and inserting in lieu thereof the following:

"(B) FLEXIBILITY WITH RESPECT TO MILITARY PERSONNEL ACCOUNTS.—

"(i) Notwithstanding subparagraph (B)(i) of paragraph (1), the order issued by the President under paragraph (1) with respect to any fiscal year may, with respect to any military personnel account—

"(I) exempt any program, project, or activity within such account from the order;

"(II) provide for a lower uniform percentage to be applied to reduce any program, project, or activity within such account than would otherwise apply; or

"(III) take actions described in both subclauses (I) and (II).

"(ii) If the President uses the authority under clause (i), the total amount by which outlays are not reduced for a fiscal year in military personnel accounts by reason of the use of such authority shall be determined. Reductions in outlays under defense programs in such total amount shall be achieved by a uniform percentage sequestration of new budget authority and unobligated balances in each program, project, and activity within each account within major functional category 050 other than those military personnel accounts for which the authority provided under clause (i) has been exercised, computed on the basis of the outlay rate for each such program, project, and activity determined under section 251(d).".

(5) by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) EFFECT OF SEQUESTRATION UNDER INITIAL ORDER.—

"(A) IN GENERAL.—Notwithstanding section 257(7), amounts sequestered under an order issued by the President under paragraph (1) for a fiscal year shall be withheld from obligation and shall be permanently cancelled in accordance with subparagraph (B) or subparagraph (C).

"(B) EFFECT ON AMOUNTS WITHHELD.—The initial order issued by the President under paragraph (1) for a fiscal year shall be deemed to be, and shall be effective as, a final order for such fiscal year if, by September 30 of the fiscal year preceding such fiscal year, a bill or joint resolution has not been enacted under section 258 directing the President to issue a final order under subsection (b). Amounts withheld from obligation under paragraph (1) shall be permanently cancelled in accordance with the terms of the initial order issued under paragraph (1).

"(C) EFFECT OF FINAL ORDER.—If the President, pursuant to a bill or joint resolution enacted under section 258, issues a final order under subsection (b), amounts sequestered under an initial order issued under paragraph (1) shall be made available for obligation, or shall be permanently cancelled, in accordance with the terms of such final order."; and

(6) by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) EFFECTIVE DATE OF INITIAL ORDER.—

"(A) IN GENERAL.—Except as provided in paragraph (4)(C) and section 258, the order issued by the President under paragraph (1) with respect to any fiscal year shall be effective as of October 1 of such fiscal year.

"(B) TREATMENT OF AUTOMATIC SPENDING INCREASES.—

"(i) IN GENERAL.—Notwithstanding any other provision of law, any automatic spending increase that would (but for this clause) be first paid during the period beginning with the first day of such fiscal year and ending with—

"(I) the date on which an initial order under paragraph (1) is effective as a final order for such fiscal year, or

"(II) the date on which a final order is issued under subsection (b),

as the case may be, shall be suspended until such final order becomes effective, and the amounts that would otherwise be expended during such period with respect to such increases shall be withheld. If such final order provides that automatic spending increases shall be reduced to zero during such fiscal year, the increases suspended pursuant to the preceding sentence and any legal rights thereto shall be permanently cancelled. If such final order provides for the payment of automatic spending increases during such fiscal year in amounts that are less than would have been paid but for such final order, or provides for the payment of the full amount of such increases, the increases suspended pursuant to such sentence shall be restored to the extent necessary to pay such reduced or full increases, and lump-sum payments in the amounts necessary to pay such reduced or full increases shall be made, for the period for which such increases were suspended pursuant to this clause.

"(ii) PROHIBITION AGAINST RECOUPMENT.—Notwithstanding clause (i), if an amount required by either such clause to be withheld is paid, no recoupment shall be made against an individual to whom payment was made.

"(iii) EFFECT OF LUMP-SUM PAYMENTS ON NEEDS-RELATED PROGRAMS.—Lump-sum payments made under the last sentence of clause (i) shall not be considered as income or resources or otherwise taken into account in determining the eligibility of any individual for aid, assistance, or benefits under any Federal or federally assisted program which conditions such eligibility to any extent upon the income or resources of such individual or his or her family or household, or in determining the amount or duration of such aid, assistance, or benefits.".

(b) Section 252(b) is amended to read as follows:

"(b) ISSUANCE OF FINAL ORDER.—

"(1) IN GENERAL.—If a bill or joint resolution is enacted under section 258 with respect to a fiscal year, the President, on or before October 30 of such fiscal year, shall issue a final order under this subsection to eliminate the full amount of the sequestration amount for such fiscal year. The order issued under this subsection—

"(A) shall—

"(i) in the case of a final order for a fiscal year which is preceded by an initial order for such fiscal year under subsection (a), include the same reductions and sequestrations as the initial order issued under subsection (a), adjusted to the extent necessary to take account of any adjustments in the sequestration amount for such fiscal year specified in the bill or joint resolution enacted under section 258; or

"(ii) in the case of a final order for a fiscal year which is not preceded by an initial order for such fiscal year under subsection (a), comply with the requirements of this part applicable to an initial order for such fiscal year;

"(B) shall make such reductions and sequestrations in strict accordance with the requirements of section 251(a) (3) and (4); and

"(C) shall use the same criteria and guidelines as those which were used in the issuance of such initial order for such fiscal year under subsection (a) or that would have been used if an initial order had been issued for such fiscal year under subsection (a).

The provisions of subsection (a)(3) shall apply to the order issued under this subsection in the same manner as such provisions apply to the report issued under section 251(b) and to any order issued under subsection (a).

"(2) Order required if sequestration amount has been met.—If a bill or joint resolution has been enacted under section 258—

"(A) affirming a certification described in section 258(a)(1) which causes the sequestration amount for such fiscal year to be zero;

"(B) affirming a certification under section 258(b)(1)(A) which causes the sequestration amount for such fiscal year to be less than $1,000,000,000; or

"(C) specifying a sequestration amount for such fiscal year which is less than $1,000,000,000,

the order issued under this subsection shall so state and shall make available for obligation and expenditure any amounts withheld pursuant to subsection (a)(4) or (a)(6)(B).

"(3) Effective date of final order.—

"(A) The final order issued by the President under paragraph (1) with respect to a fiscal year shall become effective on the date of its issuance, and shall supersede any order issued under subsection (a) with respect to such fiscal year.

"(B) Any modification or suspension by such order of the operation of a provision of law that would (but for such order) require an automatic spending increase to take effect during the fiscal year shall apply for the one-year period beginning with the date on which such automatic increase would have taken effect during such fiscal year (but for such order).".

PREVENTION OF PRESIDENTIAL ORDER; REDUCTION OF SEQUESTRATION AMOUNT

Sec. 206. (a) Part C is amended by adding at the end thereof the following new section:

"SEC. 258. PREVENTION OF PRESIDENTIAL ORDER; REDUCTION OF SEQUESTRATION AMOUNT.

"(a) Prevention of Order.—If, with respect to a fiscal year—

"(1) by September 30 of the fiscal year preceding such fiscal year, the Director of the Congressional Budget Office, upon receiving a request from the Committee on the Budget of the Senate or the House of Representatives, has issued a report containing a certification that—

"(A) the maximum deficit amount for the fiscal year for which an order would otherwise have been issued or implemented under this section—

"(i) in the case of fiscal year 1988, will not be exceeded; or

"(ii) in the case of fiscal year 1989 or any subsequent fiscal year, will not be exceeded by an amount in excess of $10,000,000,000; or

"(B) the deficit for such fiscal year has been reduced below the deficit reduction baseline by an amount equal to the deficit reduction amount for such fiscal year;

"(2) by September 30 of the fiscal year preceding such fiscal year, the Congress has adopted a bill or a joint resolution containing—

"(A) provisions which affirm the certification contained in the report described in paragraph (1); and

"(B) provisions directing the President not to issue an order under section 252 with respect to such fiscal year (in any case in which such bill or joint resolution is adopted before such an order is issued), or directing the President not to implement such an order (in any case in which such an order is issued before such bill or joint resolution is adopted); and

"(3) such bill or joint resolution becomes law,

the sequestration amount for such fiscal year, for purposes of sections 251 and 252, shall be zero.

"(b) Modification of Sequestration Amount.—

"(1) In general.—If, with respect to a fiscal year—

"(A) by September 30 of the fiscal year preceding such fiscal year, the Director of the Congressional Budget Office, upon receiving a request from the Committee on the Budget of the Senate or the House of Representatives, has issued a report containing a certification that—

"(i) the maximum deficit amount for such fiscal year—

"(I) in the case of fiscal year 1988, will be exceeded; or

"(II) in the case of fiscal year 1989 or any subsequent fiscal year, will be exceeded by an amount in excess of $10,000,000,000; and

"(ii) the deficit for such fiscal year has been reduced below the deficit reduction baseline by an amount which is less than the deficit reduction amount for such fiscal year;

"(B) by September 30 of the fiscal year preceding such fiscal year, the Congress has adopted a bill or joint resolution including provisions which—

"(i) affirm the certification contained in the report described in subparagraph (A);

"(ii) affirm the sequestration amount for such fiscal year, and any adjustment in the sequestration amount for such fiscal year, included in such report in accordance with paragraphs (2) and (3);

"(iii) provisions directing the President to issue a report meeting the requirements of section 251(b) in order to implement such sequestration amount or any such adjustment in the sequestration amount for such fiscal year which results from the enactment of a bill or joint resolution with respect to which a certification has been made under subparagraph (A);

"(iv) provisions directing the President to—

"(I) issue an order under section 252 in order to implement such sequestration amount or any such adjustment in the sequestration amount for such fiscal year (in any case in which an initial order has not been issued under section 252(a) for such fiscal year);

"(II) modify the most recent order issued under such section for such fiscal year in order to implement such sequestration amount or any such adjustment in the sequestration amount for such fiscal year; or

"(III) cancel the implementation of an order issued under section 252 for such fiscal year (in any case in which the sequestration amount for such fiscal year will, as a result of such change, be zero pursuant to subsection (a) or will be considered to be zero pursuant to paragraph (4)(B)); and

"(v) specify that, if such bill or joint resolution is not approved by the President, the provisions described in clauses (i) through (iv) will not have any force and effect at any time after 15 days after the date such bill or joint resolution is transmitted to the President for approval; and

"(C) such bill or joint resolution becomes law,

the sequestration amount for such fiscal year shall be the amount determined under paragraphs (2), (3), and (4).

"(2) Sequestration amount.—Except as provided in paragraph (3), for purposes of sections 251 and 252, the sequestration amount for a fiscal year to which paragraph (1) applies shall be the lesser of—

"(A) the amount equal to the difference between—

"(i) the estimated deficit for such fiscal year, minus

"(ii) the amount—

"(I) in the case of fiscal year 1988, equal to the maximum deficit amount for such fiscal year; or

"(II) in the case of fiscal year 1989 and any subsequent fiscal year, equal to the sum of the maximum deficit amount for such fiscal year plus $10,000,000,000; or

"(B) the amount equal to the difference between—

"(i) the deficit reduction amount for such fiscal year, minus

"(ii) the estimated amount by which the deficit for such fiscal year will be reduced below the deficit reduction baseline for such fiscal year.

"(3) Contents of report of director.—Any report issued by the Director of the Congressional Budget Office under paragraph (1) with respect to a fiscal year shall contain—

"(A) a determination by such Director, in accordance with this subsection, of the sequestration amount for such fiscal year, taking into account all bills and joint resolutions enacted by the date on which such report is made; and

"(B) a determination by such Director of the adjustment in the sequestration amount for such fiscal year which would be required by the enactment of each bill or joint resolution which, on the date such report is made, has been adopted by the Congress but has not become law.

"(4) Limitations.—

"(A) Maximum.—Notwithstanding any other provision of this subsection, the sequestration amount for a fiscal year shall not exceed $36,000,000,000.

"(B) Order not required.—Notwithstanding any other provision of this subsection, if the sequestration amount determined or adjusted under this subsection for a fiscal year is less than $1,000,000,000, the sequestration amount for such fiscal year shall be deemed to be zero.

"(c) Preparation of CBO Report.—

"(1) Bills and resolution to be considered.—In preparing any report with respect to a fiscal year requested by the Committee on the Budget of the Senate or the House of Representatives under subsection (a)(1) or (b)(1)(A), the Director of the Congressional Budget Office shall—

"(A) assume that any bill or resolution which the Committee on the Budget specifies will contain provisions affirming any certification contained in such report will become law;

"(B) analyze, for purposes of a certification under subsection (a)(1)(B) or (b)(1)(A)(ii) with respect to a fiscal year, only provisions of law enacted, and final regulations promulgated, during the fiscal year preceding such fiscal year (or, in the case of fiscal year 1988, during the period beginning on February 19, 1987, and ending on September 30, 1987); and

"(C) for purposes of a certification under subsection (a)(1)(B) or (b)(1)(A)(ii), exclude from the deficit reduction baseline any changes in the deficit which resulted from the enactment of provisions of law and the promulgation of final regulations during the period beginning on October 1 of the fiscal year preceding the fiscal year for which the certification is made and ending on the date in such preceding fiscal year on which the Director of the Congressional Budget Office submits the report required under section

202(f)(1) of the Congressional Budget Act of 1974 with respect to the fiscal year for which the certification is being made.

"(2) Assumptions for preparation of reports.—

"(A) Fiscal year 1988.—In preparing the reports required under paragraphs (1) with respect to fiscal year 1988, the Director of the Congressional Budget Office, the Director of the Office of Management and Budget, and the Comptroller General shall assume that the baseline estimate of the deficit for such fiscal year is $186,000,000,000.

"(B) Fiscal years 1989–1992.—In preparing any report under subsection (a)(1) or (b)(1)(A) for fiscal year 1989 or any subsequent fiscal year, the Director of the Congressional Budget Office shall use, except as provided in paragraph (3), the same methodology and economic and technical assumptions used in preparing the baseline estimate of the deficit for such fiscal year contained in the report of such Director with respect to such fiscal year required under section 202(f)(1) of the Congressional Budget Act of 1974 for purposes of determining under such subsections the deficit for such fiscal year and the deficit reduction baseline for such fiscal year.

"(3) Special rules.—Subsections (i), (j), (k), and (l) of section 251 shall apply to the determination of the deficit for a fiscal year for purposes of any report prepared under subsection (a)(1) or (b)(1)(A).

"(d) Inclusion of Affirmation Provisions in Reconciliation Bill.—To the extent feasible, the Congress shall include the provisions described in subsection (a)(2) or (b)(1)(B) in a reconciliation bill or reconciliation resolution under section 310 of the Congressional Budget Act of 1974.

"(e) Enforcement.—

"(1) In general.—At any time after a bill or joint resolution is adopted under subsection (a) or (b) with respect to a fiscal year, it shall not be in order in the Senate or the House of Representatives to consider any bill, resolution, or amendment, or any conference report on any bill or resolution, if the enactment of such bill, resolution, amendment, or conference report would increase the deficit for such fiscal year unless—

"(A) the Committee on the Budget of the Senate or the House of Representatives, as the case may be, has requested the Director of the Congressional Budget Office to prepare a report described in subsection (a)(1) or subsection (b)(1)(A) with respect to such bill, resolution, amendment, or conference report;

"(B) such Director, with respect to such bill, resolution, amendment, or conference report has prepared a report containing a certification described in subparagraph (A) or (B) of subsection (a)(1) or clause (i) or (ii) of subsection (b)(1)(A) and specifying the sequestration amount for such fiscal year (determined in accordance with subsection (a)) or specifying the sequestration amount or one or more adjustments in the sequestration amount for such fiscal year (determined in accordance with subsection (b)); and

"(C) such bill, resolution, amendment, or conference report contains—

"(i) provisions affirming such certification and such sequestration amount or such adjustments in the sequestration amount;

"(ii) provisions directing the President to issue a report meeting the requirements of section 251(b) in order to implement such sequestration amount or any adjustment in the sequestration amount for such fiscal year resulting from the enactment of such bill, resolution, amendment, or conference report; and

"(iii) provisions directing the President to—

"(I) issue an order under section 252 in order to implement such sequestration amount or such adjustment in the sequestration amount for such fiscal year (in any case in which an initial order has not been issued under section 252(a) for such fiscal year);

"(II) modify the most recent order issued under such section for such fiscal year in order to implement such sequestration amount or such adjustment in the sequestration amount for such fiscal year; or

"(III) cancel the implementation of an order issued under section 252 for such fiscal year (in any case in which the sequestration amount for such fiscal year will, as a result of such change, be zero pursuant to subsection (a) or will be considered to be zero pursuant to subsection (b)).

"(2) Application.—Paragraph (1) applies to any bill, resolution, amendment, or conference report which—

"(A) would increase the deficit by more than $1,000,000,000; or

"(B) would increase the deficit by more than $100,000,000 (in any case in which bills and joint resolutions enacted, and regulations implemented, since the most recent report of the Director under subsection (a)(1), (b)(1)(A), or this subsection, have resulted in an increase in the deficit of more than $1,000,000,000).

"(3) Waiver.—Paragraph (1) may be waived or suspended in the Senate or the House of Representatives by the affirmative vote of three-fifths of the Members duly chosen and sworn.

"(4) Determinations to be made by budget committees.—For purposes of this subsection, the amount of the change in the deficit for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the Senate or the House of Representatives, as the case may be.

"(f) Confirmation of Deficit Reduction.—

"(1) Reports.—

"(A) Reports by directors.—By each of July 25 and September 8 of the calendar year in which a fiscal year begins, and by October 10 of a fiscal year, the Directors shall jointly submit a report to the Comptroller General with respect to such fiscal year which—

"(i) specifies, as of the date on which such report is made, a determination of each of the amounts described in subparagraphs (A) and (B) of subsection (b)(2) with respect to such fiscal year, if applicable;

"(ii) specifies, as of the date on which such report is made, the sequestration amount for such fiscal year, determined in accordance with paragraphs (2), (3), and (4) of subsection (b), or subsection (a); and

"(iii) describes the manner in which the determinations under clauses (i) and (ii) were made.

"(B) GAO reports.—By each of July 29 and September 12 of the fiscal year preceding a fiscal year, and by October 14 of a fiscal year, the Comptroller General shall prepare and transmit to the Congress a report which analyzes the most recent report of the Directors under subparagraph (A) for such fiscal year and contains the matters described in clauses (i), (ii), and (iii) of such subparagraph with respect to such fiscal year.

"(2) Assumptions for preparation of reports.—

"(A) Fiscal year 1988.—In preparing the reports required under paragraphs (1) with respect to fiscal year 1988, the Director of the Congressional Budget Office, the Director of the Office of Management and Budget, and the Comptroller General shall assume that the baseline estimate of the deficit for such fiscal year is $186,000,000,000.

"(B) Fiscal year 1989 and subsequent fiscal years.—In preparing each report required under paragraphs (1) for fiscal year 1989 and each subsequent fiscal year, the Director of the Congressional Budget Office, the Director of the Office of Management and Budget, and the Comptroller General of the United States shall use the same economic and technical assumptions for such fiscal year and the baseline estimate of the deficit for such fiscal year specified in the report required under paragraph (5) for such fiscal year.

"(4) Other requirements for preparation of reports.—

"(A) Averaging required.—The provisions of the last two sentences of section 251(a)(5) shall apply to each report prepared by the Directors under paragraph (1)(A).

"(B) Analysis of laws and regulations.—In preparing any report required under this subsection for a fiscal year, the Director of the Congressional Budget Office, the Director of the Office of Management and Budget, and the Comptroller General shall analyze all provisions of law enacted and all final regulations promulgated, by the date on which such report is made.

"(5) Special GAO report.—

"(A) In general.—By March 1 of the calendar year in which a fiscal year begins, the Comptroller General of the United States shall, after analyzing the report of the Director of the Congressional Budget Office under section 201(f)(1) of the Congressional Budget Act of 1974 for such fiscal year and the statement of the Director of the Office of Management and Budget under section 1105(g) of title 31, United States Code, for such fiscal year, issue a report specifying, with respect to such fiscal year and the fiscal year preceding such fiscal year—

"(i) the baseline estimate of the deficit;

"(ii) the baseline estimate of budget authority and budget outlays for each major functional category;

"(iii) revenues by major type, including individual and corporate income taxes, social insurance taxes and contributions, excise taxes, estate and gift taxes, customs duties, and miscellaneous receipts;

"(iv) key technical assumptions relating to the budget estimates; and

"(v) economic assumptions, including—

"(I) the level of real gross national product for each quarter of each such fiscal year;

"(II) the level of nominal gross national product for each quarter of each such fiscal year;

"(III) the level of the gross national product implicit price deflator for each quarter of each such fiscal year;

"(IV) the level of real consumption expenditure for each quarter of each such fiscal year;

"(V) the level of nominal consumption expenditure for each quarter of each such fiscal year;

"(VI) the level of real investment expenditure for each quarter of each such fiscal year;

"(VII) the level of nominal investment expenditure for each quarter of each such fiscal year;

"(VIII) the level of real net exports for each quarter of each such fiscal year;

"(IX) the level of nominal net exports for each quarter of each such fiscal year;

"(X) the level of real government purchases for each quarter of each such fiscal year;

"(XI) the level of current dollar government purchases for each quarter of each such fiscal year;

"(XII) the level of merchandise imports for each quarter of each such fiscal year;

"(XIII) the level of taxable personal income for each such fiscal year;

"(XIV) the effective tax rate on taxable personal income for each such fiscal year;

"(XV) the level of wage and salary disbursements for each such fiscal year;

"(XVI) the effective tax rate on wage and salary disbursements for social insurance;

"(XVII) the level of book profits;

"(XVIII) the effective tax rate on book profits;

"(XIX) the level of the CPI-W for each quarter of each such fiscal year;

"(XX) the market basket percentage increase in the hospital cost index (as defined in section 1886 of the Social Security Act) for each such fiscal year;

"(XXI) the interest rate on 91-day Treasury bills, the interest rate on 1-year Treasury bills, the interest rate on 10-year Treasury notes and the interest rate on 30-year Treasury bonds, for each quarter of each such fiscal year;

"(XXII) the percentage mix of Treasury net new financing in marketable securities for each such fiscal year;

"(XXIII) the average refiners' acquisition price for oil; and

"(XXIV) the civilian unemployment rate.

"(B) Applicability of budget base.—In preparing the baseline estimate of the deficit to be included in each report required under subparagraph (A) for a fiscal year, the Comptroller General shall—

"(i) apply the provisions of section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 (other than the provisions of subparagraph (C) of such section) with respect to all accounts other than appropriated accounts; and

"(ii) with respect to each appropriated account, apply the provisions of subparagraph (D) of such section and assume that the level of appropriations for the fiscal year for which the report is made will be equal to the level of appropriations for such account for the preceding fiscal year, adjusted by the gross national product deflator or such other measure of inflation as the Comptroller General considers appropriate.

"(C) Assistance.—The Directors shall each provide the Comptroller General with such assistance as the Comptroller General may require to prepare each report required by this paragraph.

"(h) Congressional Action.—

"(1) In general.—Within 5 days after receiving a report of the Comptroller General under subsection (g)(1)(B) specifying a sequestration amount for a fiscal year, the Majority Leader of each House shall introduce a joint resolution which contains—

"(A) provisions affirming the sequestration amount for such fiscal year contained in such report; and

"(B) provisions directing the President to—

"(i) issue a final order under section 252(b) in order to reduce the deficit for such fiscal year by the sequestration amount for such fiscal year specified in such joint resolution pursuant to subparagraph (A) (in any case in which an initial order has not been issued under section 252(a) for such fiscal year);

"(ii) modify the most recent order issued under section 252 for such fiscal year in order to implement such sequestration amount for such fiscal year; or

"(iii) cancel the implementation of an order issued under section 252(a) for such fiscal year (in any case in which the sequestration amount for such fiscal year specified in the joint resolution pursuant to subparagraph (A) will, as determined by the Comptroller General in the report required under subsection (g)(1)(B), is less than $1,000,000,000).

"(2) Procedures for consideration of joint resolutions.—

"(A) Exercise of rulemaking power.—The provisions of this paragraph are enacted—

"(i) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in the Senate in the case of joint resolutions described by paragraph (1) of this subsection; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(ii) with full recognition of the constitutional right of either House to change such rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

"(B) No referral to committee.—A joint resolution introduced in the Senate or the House of Representatives under paragraph (1) shall not be referred to a committee of the Senate or the House of Representatives, as the case may be, and shall be held at the desk pending disposition of such joint resolution in accordance with this paragraph.

"(C) Immediate consideration.—At any time after a joint resolution is introduced under paragraph (1), notwithstanding any rule or precedent of the Senate, including Rule 22 of the Standing Rules of the Senate, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution, and all points of order against the resolution (and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the resolution shall remain the unfinished business of the respective House until disposed of.

"(D) Debate.—Debate on a joint resolution introduced under paragraph (1), and on all debatable motions and appeals in connection therewith, shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is in order and not debatable. An amendment to, or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

"(E) Vote on final passage.—Immediately following the conclusion of the debate on a joint resolution introduced under paragraph (1), and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur. Such vote shall occur no later than October 15 of the fiscal year to which the joint resolution relates.

"(F) Appeals.—Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution described in paragraph (1) shall be decided without debate.

"(G) Resolution from other house.—If, before the passage by the Senate of a joint resolution of the Senate introduced under paragraph (1), the Senate receives from the House of Representatives a joint resolution introduced under paragraph (1), then the following procedures shall apply:

"(i) The joint resolution of the House of Representatives shall not be referred to a committee.

"(ii) With respect to a joint resolution introduced under paragraph (1) in the Senate—

"(I) the procedure in the Senate shall be the same as if no resolution had been received from the House; but

"(II) the vote on final passage shall be on the resolution of the House.

"(iii) Upon disposition of the resolution received from the House, it shall no longer be in order to consider the resolution originated in the Senate.

"(H) Senate action on house resolution.—If the Senate receives from the House of Representatives a joint resolution introduced under paragraph (1) after the Senate has disposed of a Senate originated resolution, the action of the Senate with regard to the disposition of the Senate originated resolution shall be deemed to be the action of the Senate with regard to the House originated resolution.".

(b) Section 257 is amended by adding at the end thereof the following new paragraph:

"(10) The term 'deficit reduction baseline' means with respect to a fiscal year, the baseline estimate of the deficit for such fiscal year.".

(c) Section 254(b)(1) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) Prevention of presidential order.—If, on or after June 1 of a calendar year in which a fiscal year begins, the Director of the Congressional Budget Office, upon receiving a request from the Committee on the Budget of the Senate or the House of Representatives, has issued a report containing a certification—

"(i) that, in the case of fiscal year 1988, the maximum deficit amount for such fiscal year will be exceeded, or that in the case of fiscal year 1989 or a subsequent fiscal year, the maximum deficit amount will be exceeded for the fiscal year by more than $10,000,000,000; and

"(ii) the deficit for such fiscal year has not been reduced below the deficit reduction baseline by an amount at least equal to the deficit reduction amount for such fiscal year, the Committee on the Budget of the Senate may report a resolution described in subparagraph (C).

"(B) Contents of report.—Any report issued by the Director of the Congressional Budget Office under subparagraph (A) with respect to a fiscal year shall contain a determination of each adjustment in the sequestration amount for such fiscal year under each of subparagraphs (A) and (B) of section 258(b)(2).

"(C) Initial budget committee action.—Not later than two days after the Director of the Congressional Budget Office issues a report under subparagraph (A) with respect to a fiscal year, the Committee on the Budget of the Senate may report to the Senate a resolution. The resolution shall contain instructions to committees of the Senate of the type referred to in section 310(a) of the Congressional Budget Act of 1974, sufficient to reduce the deficit for such fiscal year in an amount which under section 258(a)(2) would cause the sequestration amount for such fiscal year to be zero.".

(d)(1) Section 301(i) of the Congressional Budget Act of 1974 is amended—

(A) by striking out paragraph (1)(A) and inserting in lieu thereof the following:

"(1)(A) Except as provided in paragraph (2), it shall not be in order in either the House of Representatives or the Senate to consider any concurrent resolution on the budget for a fiscal year under this section, or to consider any amendment to such a concurrent resolution, or to consider a conference report on such a concurrent resolution, if—

"(i) the level of total budget outlays for such fiscal year that is set forth in such concurrent resolution or conference report—

"(I) exceeds the recommended level of Federal revenues set forth for that year by an amount that is greater than the maximum deficit amount for such fiscal year as determined under section 3(7); and

"(II) would cause the reduction in the deficit for such fiscal year below the deficit reduction baseline for such fiscal year to be less than the deficit reduction amount for such fiscal year; or

"(ii) the adoption of such amendment would—

"(I) result in a level of total budget outlays for such fiscal year which exceeds the recommended level of Federal revenues for such fiscal year by an amount that is greater than the maximum deficit amount for such fiscal year as determined under section 3(7); and

"(II) cause the reduction in the deficit for such fiscal year below the deficit reduction baseline for such fiscal year to be less than the deficit reduction amount for such fiscal year."; and

(B) by striking out "Maximum Deficit Amount May Not Be Exceeded" in the heading for such subsection and inserting in lieu thereof "Enforcement of Deficit Reduction".

(2) Section 301 is amended by inserting at the end thereof the following:

"(j) Determinations by Budget Committees.—For purposes of this section, the levels of revenues and outlays and the level of the deficit for a fiscal year for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.".

(3) Section 311(a) of such Act is amended by inserting after "section 3(7)" the following: "and would cause the reduction in the deficit for such fiscal year to be less than the deficit reduction amount for such fiscal year".

(e)(1) Section 202(f) of the Congressional Budget Act of 1974 is amended—

(A) by striking out "and (B)" in paragraph (1) and inserting in lieu thereof "(B) the baseline estimate of the deficit, and (C)";

(B) by adding at the end of paragraph (1) the following: "Such report shall also include a specification of each of the economic assumptions, for the fiscal year for which the report is made and the fiscal year preceding such fiscal year, which are described in section 258(f)(5)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 and which are used in preparing such report.";

(C) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively; and

(D) by inserting after paragraph (1) the following new paragraph:

"(2) On or before August 15 of each year, the Director shall submit to the Committees on the Budget of the House of Representatives and the Senate a report, for the fiscal year commencing on October 1 of that year, which—

"(A) updates the most recent economic forecast and budget outlook, including the most recent aggregates for revenues, budget authority outlays, and related surpluses and deficits; and

"(B) includes the baseline estimate of the deficit for such fiscal year calculated based on the update of such estimates of revenues, budget authority, and outlays.

"(3) In preparing the baseline estimate of the deficit to be included in each report required under paragraph (1) or (2) for a fiscal year, the Director shall—

"(A) apply the provisions of section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 (other than subparagraph (C) of such section) with respect to all accounts other than appropriated accounts; and

"(B) with respect to each appropriated account, apply the provisions of subparagraph (D) of such section and assume that the level of appropriations for the fiscal year for which the report is made will be equal to the level of appropriations for such account for the preceding fiscal year, adjusted by the gross national product deflator or such other measure of inflation as the Director considers appropriate.".

(2) Section 1105 of title 31, United States Code, is amended by adding at the end thereof the following new subsection:

"(g)(1) The budget submitted under subsection (a) for a fiscal year shall include a separate statement, prepared by the Director of the Office of Management and Budget, of—

"(A) each of the economic assumptions, for the fiscal year for which the budget is submitted and the fiscal year preceding such fiscal year, which are described in section 258(f)(5)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 and which are used in preparing such budget; and

"(B) the baseline estimate of the deficit used in the preparation of such budget.

"(2) In preparing the baseline estimate of the deficit to be included in each statement required under paragraph (1) of this subsection for a fiscal year, the Director of the Office of Management and Budget shall—

"(A) apply the provisions of section 251(a)(6) of the Balanced Budget and Emergency Deficit Control Act of 1985 (other than subparagraph (C) of such section) with respect to all accounts other than appropriated accounts; and

"(B) with respect to each appropriated account, apply the provisions of subparagraph (D) of such section and assume that the level of appropriations for the fiscal year for which the report is made will be equal to the level of appropriations for such account for the preceding fiscal year, adjusted by the gross national product deflator or such other measure of inflation as the Director considers appropriate.".

(f)(1) Section 310 of the Congressional Budget Act of 1974 is amended—

(A) in subsection (a)(4) by striking out "and (3)" and inserting in lieu thereof "(3), and (4)";

(B) in subsection (a) by redesignating paragraph (4) as paragraph (5);

(C) in subsection (a) by striking out "or" at the end of paragraph (3);

(D) in subsection (a) by inserting after paragraph (3) the following new paragraph:

"(4) include a provision described in section 258(a)(2) or 258(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985; or"; and

(E) in subsection (b)(2) by striking out "revision." and inserting in lieu thereof "revision other than the addition of a provision described in section 258(a)(2) or 258(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985.".

(2) Section 20001 of the Consolidated Omnibus Budget Reconciliation Act, as amended by section 7006 of the Omnibus Budget Reconciliation Act of 1986, is amended in subsection (d)(3)(A) by inserting "(including a provision described in section 258(a)(2) or 258(b)(1)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985)" after "of such committee".

(g) Section 308(b)(1) of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following new sentence: "Such reports shall also include information that would be included in a certification described in section 258(a)(1) or 258(b)(1)(A) of the Balanced Budget and Emergency Deficit Control Act of 1985 with respect to bills and resolutions adopted by the Congress by the date such report was made.".

DEFICIT REDUCTION AMOUNT

Sec. 207. (a) Part C (as amended by section 206 of this joint resolution) is further amended by adding at the end thereof the following new section:

"SEC. 259. DEFICIT REDUCTION AMOUNT.

"(a) In General.—Except as otherwise provided in this section, the deficit reduction amount for a fiscal year is $36,000,000,000.

"(b) CBO Report.—

"(1) In general.—By October 15 of each fiscal year (beginning with fiscal year 1988), the Director of the Congressional Budget Office shall prepare and transmit to the Committees on the Budget of the Senate and the House of Representatives a report which analyzes all laws enacted during the fiscal year preceding such fiscal year in order to determine—

"(A) whether such laws will result in an increase in the deficit for any fiscal year succeeding the fiscal year in which the report is made; and

"(B) the total amount of such increase for each such succeeding fiscal year.

"(2) Rules for preparation of report.—In carrying out paragraph (1), the Director of the Congressional Budget Office—

"(A) with respect to laws enacted in fiscal year 1987, shall only analyze the impact on the deficit of laws enacted after the date of enactment of this section; and

"(B) shall, for purposes of determining the deficit, use the baseline and economic and technical assumptions used in the report of such Director required under section 202(f)(1) of the Congressional Budget Act of 1974.

"(c) Special Rule.—For purposes of section 258, the term 'deficit reduction amount' means, with respect to any fiscal year, the amount equal to the sum of—

"(1) $36,000,000,000; and

"(2) the sum of each of the amounts determined by the Director of the Congressional Budget Office for such fiscal year under subsection (b)(1)(B) in each of the reports prepared under subsection (b).".

(b) Section 3 of the Congressional Budget Act of 1974 is amended by adding at the end thereof the following new paragraphs:

"(11) The term 'deficit reduction amount' has the meaning given to such term by section 259 of the Balanced Budget and Emergency Deficit Control Act of 1985.

"(12) The term 'deficit reduction baseline' has the same meaning as in section 257(10) of such Act.".

REVISION OF MAXIMUM DEFICIT AMOUNT

Sec. 208. (a) Section 3(7) of the Congressional Budget Act of 1974 is amended to read as follows:

"(7) The term 'maximum deficit amount' means—

"(A) with respect to the fiscal year beginning October 1, 1987, $150,000,000,000;

"(B) with respect to the fiscal year beginning October 1, 1988, $130,000,000,000;

"(C) with respect to the fiscal year beginning October 1, 1989, $85,000,000,000;

"(D) with respect to the fiscal year beginning October 1, 1990, $45,000,000,000; and

"(E) with respect to the fiscal year beginning October 1, 1991, zero.".

(b) Section 254(a)(2) is amended by adding at the end thereof the following new subparagraph:

"(C) The joint resolution may also contain provisions revising the maximum deficit amount for one or more fiscal years.".

(c) Section 275(b)(1) is amended by striking out "1991" and inserting in lieu thereof "1992".

RULES FOR DETERMINATION OF AMOUNTS

Sec. 209. (a) Section 251 (as amended by the preceding sections of this title) is further amended by adding at the end thereof the following new subsections:

"(h) Budgetary Resource-Outlay Ratios.—

"(1) In general.—

"(A) Basic rule.—Except as provided in paragraph (2) and in subparagraph (E), in preparing each report required under this section for a fiscal year, the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, and the President shall calculate budget outlays resulting from each item of budgetary resources (specified in subclauses (I) through (VII) of subparagraph (F)(i)) for an account in accordance with this subsection, for purposes of—

"(i) determining under subsection (a) budget base levels of budget outlays for such fiscal year;

"(ii) determining the amount of budget outlays for such fiscal year for defense programs to which subsections (a)(3)(E)(ii) and (d) apply; and

"(iii) determining the amount of budget outlays for such fiscal year for non-defense programs to which subsection (a)(3)(F)(iv) applies.

"(B) Computation rules.—For purposes of subparagraph (A), in order to determine the amount of budget outlays for a fiscal year resulting from an item of budgetary resources for each account to which clause (i), (ii), or (iii) of such subparagraph applies, the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, and the President shall make the following determinations:

"(i) The amount of such item of budgetary resources for such account for such fiscal year shall be determined.

"(ii) The ratio described in subparagraph (C) shall be determined for such item of budgetary resources for such account.

"(iii) The amount of budget outlays resulting from such item of budgetary resources for such account for such fiscal year shall be equal to the product of the amount determined under clause (i) of this subparagraph for such item of budgetary resources multiplied by the ratio determined under clause (ii) of this subparagraph for such item of budgetary resources.

"(C) Determination of ratio.—For each item of budgetary resources for each account, the ratio referred to in clause (ii) of such paragraph (B) shall be equal to the quotient of—

"(i) the amount of budget outlays specified as the average of the amounts of budget outlays proposed by each of the Directors for fiscal year 1986 for such account in the first appendix of the report submitted by the Directors under subsection (a) for fiscal year 1986 (as such report was modified by the report of the Comptroller General under subsection (b) for such fiscal year and reaffirmed by H.J. Res. 672, as adopted on July 17, 1986), except as provided by subparagraph (D) of this paragraph, divided by

"(ii) the amount for such item of budgetary resources specified as the average of the amounts for such item proposed by each of the Directors for fiscal year 1986 for such account in such appendix.

"(D) Accounts with more than one item of budgetary resources.—In any case in which, in the appendix described in subparagraph (C)(i), there is—

"(i) more than one item of budgetary resources for an account to which clause (i), (ii), or (iii) of subparagraph (A) applies;

"(ii) or an excluded budgetary resource for such an account,

the amount of budget outlays for each such item of budgetary resources, for purposes of subparagraph (C)(i), shall be the amount of budget outlays determined by the Director of the Office of Management and Budget or the Director of the Congressional Budget Office, as the case may be, that was associated with such item of budgetary resources for fiscal year 1986 in the preparation of such appendix.

"(E) Exception.—

"(i) Subparagraph (A) shall not apply to the calculation of budget outlays resulting from an item of budgetary resources for an account if the appendix described in clause (i) of subparagraph (C) does not specify the amount of budget outlays described in such subparagraph or the amount for an item of budgetary resources described in clause (ii) of such subparagraph.

"(ii) In preparing the reports under subsection (a) for a fiscal year, the Director of the Office of Management and Budget and the Director of the Congressional Budget Office shall calculate the budget outlays resulting from an item of budgetary resources described in clause (i) in the same manner as the budget outlays resulting from such item were calculated by such Director for purposes of determining the budget base level of total outlays under subsection (a)(1)(A) for fiscal year 1986.

"(F) Definition.—For purposes of this subsection—

"(i) the term 'item of budgetary resources' means—

"(I) budget authority;

"(II) spending authority (as defined in section 401(c)(2) of the Congressional Budget Act of 1974);

"(III) offsetting collection amounts for spending authority (as so defined);

"(IV) direct loan limitations;

"(V) obligation limitations;

"(VI) unobligated balances for defense programs; and

"(VII) budget authority for programs subject to special sequestration rules; and

"(ii) the term 'excluded budgetary resource' means—

"(I) spending authority (as defined in section 401(c)(2) of the Congressional Budget Act of 1974) for automatic spending increases;

"(II) direct loan floors;

"(III) guaranteed loan limitations;

"(IV) guaranteed loan floors;

"(V) unobligated balances for administrative expenses; and

"(VI) budget authority for automatic spending increases.

"(2) Proposal of alternative ratios.—

"(A) In general.—By June 20 of the calendar year in which a fiscal year begins, the Directors may submit a joint report, or either Director may submit a separate report, to the Temporary Joint Committee on Deficit Reduction established under section 274(f) which proposes, for one or more items of budgetary resources, the use, for purposes of paragraph (1), of a ratio for such fiscal year which is different than the ratio prescribed by subparagraph (C) of such paragraph. The report shall include, for each such item for which a different ratio is recommended, an explanation of the reasons why the ratio prescribed by paragraph (1)(C) is no longer adequate for purposes of paragraph (1) and a justification for the ratio proposed for such account.

"(B) Reporting of joint resolution.—By June 25, if the Directors have submitted a joint report under subparagraph (A), or if either or both Directors have submitted a separate report under such subparagraph, the Temporary Joint Committee may report to the Senate and the House of Representatives a joint resolution that affirms all or part of the contents of the report or reports. The provisions relating to the consideration of joint resolutions under section 254(a)(4) shall apply to the consideration of a joint resolution reported pursuant to this subparagraph, except that debate in each House shall be limited to two hours.

"(C) Effect of joint resolution.—Upon the enactment of a joint resolution under subparagraph (B) that affirms a ratio with respect to an item of budgetary resources, the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, and the President shall each, in preparing each report required to be submitted under this section on or after the date of the enactment of the joint resolution (and before the date of the enactment of a subsequent joint resolution under such subparagraph affirming a different ratio with respect to that item), use the ratio affirmed with respect to that item by the joint resolution.

"(i) Federal Regulations.—Except as provided in subsection (a)(6)(D)(ii), in preparing each report required under this section for a fiscal year, the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, shall assume that only regulations which have been promulgated as final regulations by June 30 of the calendar year in which the fiscal year begins shall be in effect during such fiscal year.

"(j) Asset Sales.—

"(1) Assumptions.—In preparing each report required under this part for a fiscal year, the Director of the Office of Management and Budget and the Director of the Congressional Budget Office shall assume that the sale of an asset by the Federal Government will occur during such fiscal year only if (A) receipts from such sale are assumed by the Director of the Congressional Budget Office in the baseline estimate of the deficit in the report of such Director described in section 258(c)(2), but only to the extent such sale will take place in the fiscal year in which such sale is assumed to take place in such report, (B) receipts from such sale are required by a provision of law enacted on or before the date of enactment of the Balanced Budget and Emergency Deficit Reaffirmation Act of 1987, but only to the extent such sale will take place in the fiscal year in which such sale is assumed to take place in the report described in clause (A), or (C) such savings are the result of reconciliation savings assumed in the joint explanatory statement of the managers of the committee of conference on House Concurrent Resolution 93 (100th Congress, 1st Session, approved June 24, 1987).

"(2) Receipt assumptions.—In preparing the report required under section 258 for a fiscal year, the Director of the Congressional Budget Office shall not take into account, as revenues, receipts, or negative outlays, or in any other manner, any amounts to be realized during such fiscal year from the sale of any asset (whether tangible or intangible) of the United States Government unless (A) the receipts from such sale are assumed by the Director of the congressional Budget Office in the baseline estimate of the deficit in the report of such Director described in section 258(c)(2), but only to the extent such sale will take place in the fiscal year in which such sale is assumed to take place in such report, (B) the receipts from such sale are required by a provision of law enacted on or before the date of enactment of the Balanced Budget and Emergency Deficit Reaffirmation Act of 1987, but only to the extent such sale will take place in the fiscal year in which such sale is assumed to take place in the report described in clause (A), or (C) such savings are the result of reconciliation savings assumed in the joint explanatory statement of the managers of the committee of conference on House Concurrent Resolution 93 (100th Congress, 1st Session, approved June 24, 1987).

"(k) Pay Increases.—

"(1) In general.—In preparing each report required under this section for a fiscal year, the Director of the Office of Management and Budget and the Director of the Congressional Budget Office, shall—

"(A) include amounts of budgetary resources and budget outlays necessary to pay for any Federal pay adjustments for statutory pay systems if such adjustments have been recommended by the President or, notwithstanding subsection (a)(6)(D)(i), have been enacted by law;

"(B) include amounts of budgetary resources and budget outlays necessary to pay for any pay adjustments for elements of military pay if such adjustments occur pursuant to law or are specifically enacted by law; and

"(C) assume that the percentage of the amounts of budgetary resources and budget outlays necessary to pay for such adjustments that will be absorbed by all Federal agencies will not exceed the average (for the three most recently completed pay adjustment absorption fiscal years) of the percentages of such amounts absorbed by Federal agencies for such fiscal years.

"(2) Determination of agencies absorbing pay adjustments.—For purposes of paragraph (1)(C), a Federal agency shall be treated as having absorbed a percentage of pay adjustment for a fiscal year only if—

"(A) a pay adjustment becomes effective with respect to the agency in such fiscal year, and

"(B) a bill or joint resolution making supplemental appropriations for pay (including, in the case of members of the uniformed services, elements of military pay) was enacted with respect to the agency for such fiscal year.

"(3) Definitions.—For purposes of this paragraph—

"(A) the term 'budgetary resources' includes any of the types of budgetary resources described in clauses (i) and (ii) of subsection (i)(1)(F);

"(B) the term 'pay adjustment absorption fiscal year' means a fiscal year in which—

"(i) a pay adjustment becomes effective with respect to any Federal agency, and

"(ii) a bill or joint resolution making supplemental appropriations for pay (including, in the case of members of the uniformed services, elements of military pay) for such fiscal year is enacted for any Federal agency with respect to which such an adjustment becomes effective;

"(C) the term 'statutory pay system' has the same meaning as in section 256(g)(2)(A); and

"(D) the term 'elements of military pay' has the same meaning as in section 256(g)(2)(B).

"(l) Farm Deficiency Payments.—

"(1) Except as provided in paragraph (2), in preparing each report required under this section for a fiscal year, the Director of the Office of Management and Budget and the Director of the Congressional Budget Office shall assume that advance deficiency payments will be made available to producers who agree to participate in an acreage limitation or set-aside program for the crop year relating to such fiscal year based on an amount under section 107C(a)(2)(F)(iii) (7 U.S.C. 1445b-2(a)(2)(F)(iii)) of—

"(A) in the case of wheat and feed grains, 40 percent of the projected payment rate, as determined by the Secretary of Agriculture; and

"(B) in the case of upland cotton and rice, 30 percent of the projected payment rate, as determined by such Secretary.

"(2) Paragraph (1) shall not apply to the preparation of a report for a fiscal year, if as of the date on which the report is required to be prepared, legislation has been enacted that—

"(A)(i) limits or prohibits the making of advance deficiency payments for the crop year relating to the fiscal year involved, or

"(ii) alters the amounts on which such payments are based, and

"(B) specifically waives the application of such paragraph to reports for the fiscal year involved.".

(b) Section 251(a)(6)(A) is amended—

(1) by inserting "(i)" after "(A)",

(2) by striking the semicolon at the end thereof and inserting in lieu thereof ", and", and

(3) by adding at the end thereof the following:

"(ii) assuming, in the case of entitlements subject to annual appropriations, and in the case of the program established by the Food Stamp Act of 1977, the continuation of the current law governing the terms and conditions of such entitlements and such program (and assuming the continuation of only those provisions of appropriation Acts that impose or modify, for a period of more than one fiscal year, the terms and conditions of such an entitlement or such program).".

REPORT BY COMPTROLLER GENERAL

Sec. 210. Section 253 is amended to read as follows:

"SEC. 253. COMPLIANCE REPORT BY COMPTROLLER GENERAL.

"On or before November 15 of each fiscal year, the Comptroller General shall submit to the Congress and the President a report on—

"(1) the extent to which the President's order issued under section 252 for such fiscal year complies with all of the requirements contained in this part, either certifying that the order fully and accurately complies with such requirements or indicating the respects in which it does not;

"(2) the extent to which the report of the Director of the Office of Management and Budget under section 251(b) for such fiscal year complies with all of the requirements contained in this part, either certifying that the order fully and accurately complies with such requirements or indicating the respects in which it does not; and

"(3) any recommendations of the Comptroller General for improving the procedures set forth in this part.".

PENALTIES UNDER STATUTE

Sec. 211. If the President fails to implement an order in compliance with section 252 notwithstanding a failure to prevent of such order under section 258, officers or employees of the United States Government who thereafter make or authorize expenditures or obligations shall be liable to the extent provided in sections 1341, 1350, 1517, and 1519 of title 31, United States Code. Nothing in this section shall be construed as limiting the manner in which any other statutes apply to such activity.

MISCELLANEOUS

Sec. 212. (a) Section 255(g)(1) is amended—

(1) by inserting after the item relating to Health professions graduate student loan insurance fund the following new item:

"Higher education facilities loans and insurance (91-0240-0-1-502);"

(2) by inserting after the item relating to Intragovernmental funds the following new items:

"Medical facilities guarantee and loan fund (75-4430-0-3-551);

"Panama canal commission (95-5190-0-2-403);"; and

(3) by inserting after the item relating to the Tennessee Valley Authority fund the following new item:

"Washington Metropolitan Area Transit Authority, Interest payments (46-0300-0-1-401);".

(b) Section 274(f) is amended—

(1) in paragraph (1) by inserting "on or after the date of the enactment of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987" after "invalidated"; and

(2) in paragraph (2)—

(A) by striking out "Upon the invalidation of any such procedure there" in the first sentence and inserting in lieu thereof "There";

(B) by striking out "and" before "to report" in the third sentence and inserting in lieu thereof a comma; and

(C) by inserting before the period in the third sentence a comma and "and to carry out the functions specified in subsections (h) and (i) of section 251".

APPLICABILITY

SEC. 213. The amendments made by this title shall apply with respect to any report required to be submitted, and any order issued, under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 after the date of enactment of this joint resolution.

SUBMISSION OF PRESIDENT'S BUDGET

SEC. 214. (a) Section 1105(a) of title 31, United States Code, is amended by striking out "first Monday after January 3 of each year (or on or before February 5 in 1986)" and inserting in lieu thereof "first Monday after January 17 of each year".

(b) Section 300 of the Congressional Budget Act of 1974 is amended by striking out "First Monday after January 3" and inserting in lieu thereof "first Monday after January 17".

(c) Section 1109(a) of title 31, United States Code, is amended—

(1) by striking out all beginning with "On or before" through "in 1986)" and inserting in lieu thereof "Concurrently with each budget submitted pursuant to section 1105(a)", and

(2) by striking out "the budget for the following fiscal year" and inserting in lieu thereof "such budget".

PART B—BUDGET PROCESS REFORMS

REFERENCE

SEC. 221. Except as otherwise specifically provided, whenever in this part an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be a reference to a section or other provision of the Congressional Budget and Impoundment Control Act of 1974.

REPEAL OF EXCEPTIONS TO SECTION 311 POINTS OF ORDER

SEC. 222. Section 311 is amended—

(1) in subsection (a) by striking out ", in the Senate,"; and

(2) by striking out subsection (b) and redesignating subsection (c) as subsection (b).

PROHIBITION OF COUNTING AS SAVINGS THE SHIFT OF GOVERNMENT PAYMENTS FROM ONE YEAR TO ANOTHER

SEC. 223. (a) For purposes of titles III and IV of the Congressional Budget and Impoundment Control Act of 1974 and the Balanced Budget and Emergency Deficit Control Act of 1985, where United States Government payments are shifted from one fiscal year to an adjacent fiscal year, that shift shall not be treated as causing a reduction in outlays for the fiscal year from which such payments are shifted except to the extent that such shift reduced the aggregate cost of such payments for the two fiscal years by more than 10 percent of such aggregate cost. For purposes of this section, payments shall be considered to have been shifted when action by the executive branch or a proposed or enacted provision of law causes such payments to be made in a different fiscal year and such change in the year of payment is not a necessary but secondary result of a significant policy change also resulting from such action or provision.

(b) For purposes of this section, the level of outlays and the aggregate cost of payments for a fiscal year shall be determined on the basis of estimates made by the Committee on the Budget of the House of Representatives or the Senate, as the case may be.

FINANCIAL MANAGEMENT REFORM

SEC. 224. It is the sense of the Congress that the Congress shall adopt, as part of reconciliation legislation required pursuant to the concurrent resolution on the budget for fiscal year 1988, legislation to reform the financial management of the United States Government.

EXTENSION OF STATE AND LOCAL COST ESTIMATES

SEC. 225. The State and Local Government Cost Estimate Act of 1981 is amended by striking out section 4.

EXTRANEOUS PROVISIONS

SEC. 226. (a) Section 20001 of the Consolidated Omnibus Budget Reconciliation Act, as amended by section 7006 of the Omnibus Budget Reconciliation Act of 1986, is amended in subsection (c) by striking out "until January 2, 1988" and inserting in lieu thereof "September 30, 1992".

(b) Subsection (d)(1)(A) of such section is amended by inserting before the period at the end thereof "and, (E) a provision shall be considered to be extraneous if it increases, or would increase, net outlays or if it decreases, or would decrease, revenues during a fiscal year after the fiscal years covered by such reconciliation bill or reconciliation resolution, and such increases or decreases are greater than outlay reductions or revenue increases, respectively, resulting from other provisions in such title in such year".

(c) Nothing in the amendment made by subsection (a) shall be construed as limiting the manner in which S. Res. 286 (99th Congress, 1st session), as amended by S. Res. 509 (99th Congress, 2d session), shall apply to reconciliation bills and reconciliation resolutions considered on or after the date of the enactment of this joint resolution.

CODIFICATION OF LAW REGARDING DEFERRAL AUTHORITY

SEC. 227. (a) Section 1013 is amended to read as follows:

"PROPOSED DEFERRALS OF BUDGET AUTHORITY

"SEC. 1013. (a) TRANSMITTAL OF SPECIAL MESSAGE.—Whenever the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States proposes to defer any budget authority provided for a specific purpose or project, the President shall transmit to the House of Representatives and the Senate a special message specifying—

"(1) the amount of the budget authority proposed to be deferred;

"(2) any account, department, or establishment of the Government to which such budget authority is available for obligation, and the specific projects or governmental functions involved;

"(3) the period of time during which the budget authority is proposed to be deferred;

"(4) the reasons for the proposed deferral, including any legal authority invoked by him to justify the proposed deferral;

"(5) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the proposed deferral; and

"(6) all facts, circumstances, and considerations relating to or bearing upon the proposed deferral and the decision to effect the proposed deferral, including an analysis of such facts, circumstances, and considerations in terms of their application to any legal authority, including specific elements of legal authority, invoked by him to justify such proposed deferral, and to the maximum extent practicable, the estimated effect of the proposed deferral upon the objects, purposes, and programs for which the budget authority is provided.

A special message may include one or more proposed deferrals of budget authority. A deferral may not be proposed for any period of time extending beyond the end of the fiscal year in which the special message proposing the deferral is transmitted to the House and the Senate.

"(b) CONSISTENCY WITH LEGISLATIVE POLICY.—Deferrals shall be permissible only—

"(1) to provide for contingencies;

"(2) to achieve savings made possible by or through changes in requirements or greater efficiency of operations; or

"(3) as specifically provided by law.

No officer or employee of the United States may defer any budget authority for any other purpose.

"(c) EXCEPTION.—The provisions of this section do not apply to any budget authority proposed to be rescinded or that is to be reserved as set forth in a special message required to be transmitted under section 1012.".

(b) Sections 1015 and 1016 are reaffirmed.

CLARIFICATION OF CONGRESSIONAL INTENT REGARDING RESCISSION AUTHORITY

SEC. 228. Section 1012(b) is amended by adding at the end thereof "If the Congress has failed to complete action on the rescission bill within the prescribed 45-day period, the President may not within one year transmit a special message under this section regarding substantially the same budget authority upon which the Congress has so failed to complete action.".

ECONOMIC AND TECHNICAL ASSUMPTIONS

SEC. 229. (a) Section 301(g) is amended to read as follows:

"(g) ECONOMIC ASSUMPTIONS.—

"(1) It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year, or any amendment thereto, or any conference report thereon, that sets forth amounts and levels that are determined on the basis of more than one set of economic and technical assumptions.

"(2) The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall set forth the common economic assumptions upon which such joint statement and conference report are based, or upon which any amendment contained in the joint explanatory statement to be proposed by the conferees in the case of technical disagreement, is based.

"(3) Subject to periodic reestimation based on changed economic conditions, determinations under titles III and IV of the Congressional Budget Act of 1974 shall be based upon such common economic and technical assumptions.

(b) Section 304 of the Congressional Budget Act of 1974 is amended by inserting at the end thereof the following:

"(c) ECONOMIC ASSUMPTIONS.—The provisions of section 301(g) shall apply with respect to concurrent resolutions on the budget under this section (and amendments thereto and conference reports thereon) in the same way they apply to concurrent resolutions on the budget under such section 301(g) (and amendments thereto and conference reports thereon).".

CLARIFICATION OF CONGRESSIONAL INTENT REGARDING TIME LIMITS FOR CONFERENCE REPORTS ON CONCURRENT RESOLUTIONS ON THE BUDGET

SEC. 230. Section 305(c)(2) of the Congressional Budget Act of 1974 is amended by inserting "and all amendments in disagreement, and all amendments thereto, and debatable motions and appeals in connection therewith" after "budget,".

SEC. 231. APPEALS OF CERTAIN RULINGS IN THE SENATE.

(a) IN GENERAL.—

(1) section 271 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end thereof the following new subsection:

"(d) APPEALS OF RULINGS.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under section 301(i), 302(f), 304(b), 306, 310(d), 310(g), or 311(a) of the Congressional Budget Act of 1974.".

(2) Section 275(b)(2)(D) of such Act is amended by striking out "section 271(b)" and inserting in lieu thereof "subsections (b) and (d) of section 271".

SEC. 232. The amendments made by this part are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

OMNIBUS HEALTH AND SCIENCE AUTHORIZATION ACT

KENNEDY (AND METZENBAUM) AMENDMENT NO. 627

Mr. BYRD (for Mr. KENNEDY, for himself, and Mr. METZENBAUM) proposed an amendment to the bill (S. 1158) to continue authorization of various health and science programs; as follows:

On page 36, line 6, after "podiatry," insert "clinical psychology,".

On page 41, between lines 19 and 20, insert the following new sections:

DISCHARGE OF OBLIGATIONS IN BANKRUPTCY

SEC. 306. (a) Section 338E(d)(3) (as redesignated by sections 201(2) and 202(e)(3) of this Act) is amended by inserting before the period a comma and "and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable".

(b) The amendment made by subsection (a) applies to any bankruptcy proceeding in which discharge of an obligation under section 338E(d)(3) of the Public Health Service Act (as redesignated by sections 201(2) and 202(e)(3) of this Act) has not been granted before the date which is 31 days after the date of enactment of this Act.

ASSIGNMENT OF FAMILY PHYSICIANS

SEC. 307. Section 333 is amended by adding at the end thereof the following new subsection:

"(j) In the assignment by the National Health Service Corps under this section of physicians specializing in family medicine, the Secretary shall take account of the needs of urban areas, and shall place special attention on urban areas in which there are serious incidences of infant mortality, adolescent pregnancy, drug and alcohol abuse, sexually transmitted diseases, and other acute urban health care needs.".

On page 41, line 21, strike out "306." and insert in lieu thereof "308."

On page 41, lines 21 and 22, strike out "and 102(e)(3)" and insert in lieu thereof ", 102(e)(3), and 306(b)".

PUBLIC BUILDINGS AUTHORIZATION ACT

MOYNIHAN (AND OTHERS) AMENDMENT NO. 628

Mr. BYRD (for Mr. MOYNIHAN, for himself, Mr. STAFFORD, and Mr. BURDICK) proposed an amendment to the bill (S. 1502) to authorize appropriations for the Public Buildings Service of the General Services Administration for fiscal year 1988; as follows:

At the end of the bill add a new section as follows:

"SEC. 9. There is authorized to be appropriated, from the fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)), to the Administrator of General Services for transfer to the Pennsylvania Avenue Development Corporation, the sum of $3,700,000 for services necessary for construction of an international cultural and trade center on the Federal Triangle property in the District of Columbia."

STAFFORD (AND OTHERS) AMENDMENT NO. 629

Mr. DOMENICI (for Mr. STAFFORD, for himself, Mr. MOYNIHAN, and Mr. BURDICK) proposed an amendment to the bill S. 1502, supra; as follows:

At the end of the bill add a new section as follows:

"SEC. 10. There is hereby authorized to be appropriated to the Administrator of General Services from the fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), funds necessary for the design and construction of a federally-owned building to house the Environmental Protection Agency, which shall not exceed 1,400,000 occupiable square feet on a site to be determined within the boundaries of the District of Columbia."

DOMENICI AMENDMENT NO. 630

Mr. DOMENICI proposed an amendment to the motion of Mr. CHILES to waive the provisions of section 306 of the Congressional Budget Act with respect to amendment No. 626 proposed by Mr. CHILES to the joint resolution House Joint Resolution 324, supra; as follows:

In lieu of the motion to waive, I move that the 306 point of order be waived for the pending amendment and the Gramm-Domenici amendment to be offered.

GRAMM (AND OTHERS) AMENDMENT NO. 631

Mr. DOMENICI (for Mr. GRAMM, for himself, Mr. DOMENICI, and Mr. RUDMAN) proposed an amendment to the joint resolution House Joint Resolution 324, supra; as follows:

Strike out the period at the end of page 1, line 6, and insert:

TITLE II—BUDGET AND FISCAL PROCEDURES

SHORT TITLE; REFERENCES IN ACT

SEC. 201. (a) This title may be cited as the "Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987".

(b) Except as otherwise specifically provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be a reference to a section or other provision of the Balanced Budget and Emergency Deficit Control Act of 1985.

SEQUESTRATION PROCEDURES

SEC. 202. (a)(1) Section 251(b) is amended to read as follows:

"(b) REPORTS BY THE COMPTROLLER GENERAL AND THE DIRECTOR OF OMB.—

"(1) REPORT TO THE DIRECTOR OF OMB AND THE CONGRESS BY THE COMPTROLLER GENERAL.—

"(A) REPORT TO BE BASED ON OMB–CBO REPORT.—The Comptroller General shall review and consider the report issued under subsection (a) by the Directors for the fiscal year and, with due regard for the data, assumptions, and methodologies used in reaching the conclusions set forth therein, shall issue a report to the Director of the Office of Management and Budget and the Congress on August 25 of the calendar year in which such fiscal year begins, estimating the budget base levels of total revenues and total budget outlays for such fiscal year, identifying the amount of any deficit excess for such fiscal year, stating whether such deficit excess will be greater than $10,000,000,000 (zero in the case of fiscal year 1992), specifying the estimated rate of real economic growth for such fiscal year, for each quarter of such fiscal year, and for each of the last two quarters of the preceding fiscal year, indicating whether the estimate includes two or more consecutive quarters of negative economic growth, and specifying (if the excess is greater than $10,000,000,000, or zero in the case of fiscal year 1992) the percentages by which defense and non-defense accounts must be reduced during such fiscal year in order to eliminate such deficit excess. Such report shall be based on the estimates, determinations, and specifications contained in the report submitted by the Directors under subsection (a) and shall utilize the budget base, criteria, and guidelines set forth in subsection (a)(6) and in sections 255, 256, and 257.

"(B) CONTENTS OF REPORT.—The report of the Comptroller General under this paragraph shall contain such views as the Comptroller General considers appropriate concerning the estimates, determinations, and specifications contained in the report submitted by the Directors under subsection (a). The report of the Comptroller General shall explain fully any differences between the contents of such report and the report of the Directors under subsection (a).

"(2) REPORT TO PRESIDENT AND CONGRESS BY THE DIRECTOR OF OMB.—

"(A) REPORT TO BE BASED ON GAO REPORT.—The Director of the Office of Management and Budget shall review and consider the report issued by the Comptroller General under paragraph (1) of this subsection for the fiscal year and, with due regard for the data, assumptions, and methodologies used in reaching the conclusions set forth therein, shall issue a report to the President and the Congress on September 1 of the calendar year in which such fiscal year begins, estimating the budget base levels of total revenues and total budget outlays for such fiscal year, identifying the amount of any deficit excess for such fiscal year, stating whether such deficit excess will be greater than $10,000,000,000 (zero in the case of fiscal year 1992), specifying the estimated rate of real economic growth for such fiscal year, for each quarter of such fiscal year, and for each of the last two quarters of the preceding fiscal year, indicating whether the estimate includes two or more consecutive quarters of negative economic growth, and specifying (if the excess is greater than $10,000,000,000, or zero in the case of fiscal year 1992), by account, for non-defense programs, and by account and programs, projects, and activities within each account, for defense programs, the base from which reductions are taken and the amounts and percentages by which such accounts must be reduced during such fiscal year in order to eliminate such deficit excess. Such report shall be based on the estimates, determinations, and specifications, and views of the Comptroller General under paragraph (1) and shall utilize the budget base, criteria, and guidelines set forth in subsection (a)(6) and in sections 255, 256, and 257.

"(B) CONTENTS OF REPORT.—The report of the Director of the Office of Management and Budget under this paragraph shall—

"(i) provide for the determination of reductions in the manner specified in subsection (a)(3);

"(ii) contain estimates, determinations, and specifications for all of the items contained in the report submitted by the Directors under subsection (a); and

"(iii) state whether the estimates, determinations, and specifications contained therein are consistent with the views contained in the report of the Comptroller General under paragraph (1)(B), and, if not, shall justify the reasons for any deviation.".

(2) Section 251(c) is amended—

(A) by striking out "President" in subparagraph (A) of paragraph (2) and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by striking out "subsection (b)" in such subparagraph and inserting in lieu thereof "subsection (b)(1)"; and

(C) by adding at the end of such subparagraph the following new sentence: "Such report shall be based upon the same economic and technical assumptions, employ the same methodologies, and utilize the same definition of the budget base and the same criteria and guidelines as the report submitted by the Comptroller General under subsection (b)(1) (except that subdivision (II) of subsection (a)(6)(D)(i) shall not apply)."; and

(D) by striking out subparagraph (B) of paragraph (2) and inserting in lieu thereof the following new subparagraph:

"(B) The report of the Comptroller General under this paragraph shall revise (to the extent necessary) the views contained in the report submitted pursuant to subsection (b)(1)(B)."; and

(E) by adding at the end thereof the following new paragraph:

"(3) REPORT BY THE DIRECTOR OF OMB.—

"(A) On October 15 of the fiscal year, the Director of the Office of Management and Budget shall submit to the President and the Congress a report revising the report submitted by the Director of the Office of Management and Budget under subsection (b)(2), adjusting the estimates, determinations, and specifications contained in that report to the extent necessary in the light of the revised report submitted to the Director of the Office of Management and Budget by the Comptroller General under paragraph (2) of this subsection.

"(B) The revised report of the Director of the Office of Management and Budget under this paragraph shall provide for the determination of reductions as specified in subsection (a)(3), shall contain all of the estimates, determinations, and specifications required (in the case of the report submitted under subsection (b)(2)) pursuant to subsection (b)(2)(B)(ii), and shall justify any deviation between the revised report of the Director under this paragraph and the report of the Comptroller General under paragraph (2).

"(C) The revised report of the Director under this paragraph shall contain estimates, determinations, and specifications for all of the items contained in the initial report and shall be based on the same economic and technical assumptions, employ the same methodologies, and utilize the same definition of the budget base and the same criteria and guidelines as those used in the report submitted by the Director under subsection (b)(2) (except that subdivision (II) of subsection (a)(6)(D)(i) shall not apply), and shall provide for the determination of reductions in the manner specified in subsection (a)(3).

"(D) The revised report of the Director under this paragraph for a fiscal year shall not contain, with respect to any item, an amount of budget authority, outlays, spending authority (as defined in section 401(c)(2) of the Congressional Budget Act of 1974), revenues, obligation limitation, obligated balances, unobligated balances, loan guarantee commitments, or direct loan obligations, which is different than the amount of budget authority, outlays, spending authority (as so defined), revenues, obligation limitation, obligated balances, unobligated balances, loan guarantee commitments, or direct loan obligations specified for such item in the report of the Director under subsection (b)(2) for such fiscal year unless, after the Director submits the report required under such subsection (b)(2)—

"(i) legislation is enacted,

"(ii) a final regulation is promulgated, or

"(iii) a notice of a sale of assets is published in accordance with subsection (l),

which requires a change in the estimate of such budget authority, outlays, spending authority (as so defined), revenues, obligation limitation, obligated balances, unobligated balances, loan guarantee commitments, or direct loan obligations for such item.".

(3)(A) Section 251(e) is amended by striking out "Directors or the Comptroller General" and inserting in lieu thereof "Directors, the Comptroller General, or the Director of the Office of Management and Budget".

(B) Section 251(f) is amended by striking out "subsections (b) and (c)(2)" and inserting in lieu thereof "subsections (b)(1) and (c)(2), and the reports of the Director of the Office of Management and Budget submitted to the Congress under subsections (b)(2) and (c)(3),".

(b)(1) Section 252(a) is amended—

(A) by striking out "Comptroller General" the first place it appears in paragraph (1) and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by striking out "section 251(b)" each place it appears in paragraphs (1) and (3) and inserting in lieu thereof "section 251(b)(2)";

(C) by striking out "September 1" in paragraph (1) and inserting in lieu thereof "September 3"; and

(D) by striking out "COMPTROLLER GENERAL'S" in the heading for paragraph (3) and inserting in lieu thereof "DIRECTOR'S".

(2) Section 252(b) is amended—

(A) by striking out "Comptroller General" each place it appears and inserting in lieu thereof "Director of the Office of Management and Budget";

(B) by striking out "section 251(b)" each place it appears and inserting in lieu thereof "section 251(b)(2)";

(C) by striking out "section 251(c)(2)" each place it appears and inserting in lieu thereof "section 251(c)(3)"; and

(D) by striking out "October 15" in paragraph (1) and inserting in lieu thereof "October 17".

(c)(1) Section 251(d) is amended by striking out paragraph (3).

(2) The last sentence of section 251(c)(1) is amended by striking out "and authorized under subsection (d)(3)(D)(i)".

(3) Section 256(l)(2) is amended by striking out ", in accordance with section 251(d)(3),".

(d)(1) Section 254(b)(1)(A) is amended by striking out "Comptroller General under section 251(c)(2)" and inserting in lieu thereof "Director of the Office of Management and Budget under section 251(c)(3)".

(2) Section 274(f)(5) is amended by striking out "section 251 (b) or (c)(2)" and inserting in lieu thereof "section 251 (b)(2) or (c)(3)".

(3) Section 274(h) is amended—

(A) by striking out "Comptroller General" the first place it appears and inserting in lieu thereof "Director of the Office of Management and Budget"; and

(B) by striking out "Comptroller General under section 251 (b) or (c)(2)" and inserting in lieu thereof "Director of the Office of Management and Budget under section 251 (b)(2) or (c)(3)".

(e)(1) Section 251 is amended by adding at the end thereof the following new subsections:

"(h) ECONOMIC ASSUMPTIONS.—

"(1) REPORTS BY THE DIRECTORS AND THE COMPTROLLER GENERAL.—By September 9 (in the case of fiscal year 1988) or by July 25 of the calendar year in which a fiscal year begins (in the case of fiscal years 1989–92), the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, and the Comptroller

General shall each submit to the Temporary Joint Committee on Deficit Reduction established by section 274 a report proposing economic assumptions (for each of the items specified in paragraph (5)) for use by the Directors and the Comptroller General in preparing each report required by subsections (a), (b), and (c) for such fiscal year.

"(2) REPORTING OF JOINT RESOLUTION.—The Temporary Joint Committee on Deficit Reduction established under section 274 may, at any time before September 15 of the calendar year in which a fiscal year begins, report to the Senate and the House of Representatives a joint resolution for such fiscal year which—

"(A) specifies, for one or more economic assumptions, the amount (within the range of the amounts proposed for each such economic assumption by the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, and the Comptroller General in the reports required under paragraph (1)) for such economic assumption for such fiscal year;

"(B) directs the Directors and the Comptroller General to use the amount specified in such joint resolution for each such economic assumption in preparing each report required under subsections (a), (b), and (c) for such fiscal year; and

"(C) directs the President to modify the most recent order (if any) issued under section 252 for such fiscal year in a manner which implements the amount specified in such joint resolution for each such economic assumption.

"(3) PROCEDURES.—The provisions relating to the consideration of joint resolutions under section 254(a)(4) shall apply to the consideration of a joint resolution reported pursuant to paragraph (2), except that debate in each House shall be limited to two hours.

"(4) ACTION IF ECONOMIC ASSUMPTION IS NOT SPECIFIED BY JOINT RESOLUTION.—In any case in which a joint resolution is not enacted under this subsection specifying an amount for an economic assumption for a fiscal year, the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, and the Comptroller General shall, in preparing the reports required by subsections (a), (b), and (c) for such fiscal year, use the amount for such economic assumption proposed by such Director or Comptroller General in the report required under paragraph (1) for such fiscal year.

"(5) SPECIFIED ITEMS.—The items specified in this paragraph are:

"The average level of the nominal gross national product.

"The average level of the real gross national product.

"The average level of the gross national product deflator index.

"The average level of the CPI-U index.

"The average level of the CPI-W index.

"The average level of the civilian unemployment rate.

"The average level of the three-month Treasury bill rate.

"The average level of the ten-year government bond rate.

"The average level of corporate profits (economic).

"The average level of wage and salary disbursements.

"The average level of other taxable income.

"The average level of the capital consumption adjustment.

"The average level of the inventory valuation adjustment.

"The average level of refiners' acquisition cost for oil.

"The average level of merchandise imports.

"(6) DEFINITION.—For purposes of this subsection, the term 'range of amounts' means, with respect to an economic assumption, any of the amounts for such economic assumption which is—

"(A) not less than the lesser of the amounts proposed for such economic assumption by either Director or by the Comptroller General in the reports required by paragraph (1) for a fiscal year; or

"(B) not more than the higher of the amounts proposed for such economic assumption used by either Director or the Comptroller General in such reports.

"(i) BUDGETARY RESOURCE-OUTLAY RATIOS.—

"(1) IN GENERAL.—

"(A) BASIC RULE.—Except as provided in paragraph (2) and in subparagraph (E), in preparing each report required under this section for a fiscal year, the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, and the Comptroller General shall calculate budget outlays resulting from each item of budgetary resources (specified in subclauses (I) through (VII) of subparagraph (F)(i)) for an account in accordance with this subsection, for purposes of—

"(i) determining under subsection (a) budget base levels of budget outlays for such fiscal year;

"(ii) determining the amount of budget outlays for such fiscal year for defense programs to which subsections (a)(3)(E)(ii) and (d) apply; and

"(iii) determining the amount of budget outlays for such fiscal year for non-defense programs to which subsection (a)(3)(F)(iv) applies.

"(B) COMPUTATION RULES.—For purposes of subparagraph (A), in order to determine the amount of budget outlays for a fiscal year resulting from an item of budgetary resources for each account to which clause (i), (ii), or (iii) of such subparagraph applies, the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, and the Comptroller General shall make the following determinations:

"(i) The amount of such item of budgetary resources for such account for such fiscal year shall be determined.

"(ii) The ratio described in subparagraph (C) shall be determined for such item of budgetary resources for such account.

"(iii) The amount of budget outlays resulting from such item of budgetary resources for such account for such fiscal year shall be equal to the product of the amount determined under clause (i) of this subparagraph for such item of budgetary resources multiplied by the ratio determined under clause (ii) of this subparagraph for such item of budgetary resources.

"(C) DETERMINATION OF RATIO.—For each item of budgetary resources for each account, the ratio referred to in clause (ii) of subparagraph (B) shall be equal to the quotient of—

"(i) the amount of budget outlays specified as the average of the amounts of budget outlays proposed by each of the Directors for fiscal year 1987 for such account in the first appendix of the report submitted by the Directors under subsection (a) for fiscal year 1987, except as provided by subparagraph (D) of this paragraph, divided by

"(ii) the amount for such item of budgetary resources specified as the average of the amounts for such item proposed by each of the Directors for fiscal year 1987 for such account in such appendix.

"(D) ACCOUNTS WITH MORE THAN ONE ITEM OF BUDGETARY RESOURCES.—In any case in which, in the appendix described in subparagraph (C)(i), there is—

"(i) more than one item of budgetary resources for an account to which clause (i), (ii), or (iii) of subparagraph (A) applies;

"(ii) or an excluded budgetary resource for such an account,

the amount of budget outlays for each such item of budgetary resources, for purposes of subparagraph (C)(i), shall be the amount of budget outlays determined by the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, or the Comptroller General, as the case may be, that was associated with such item of budgetary resources for fiscal year 1987 in the preparation of such appendix.

"(E) EXCEPTION.—

"(i) Subparagraph (A) shall not apply to the calculation of budget outlays resulting from an item of budgetary resources for an account if the appendix described in clause (i) of subparagraph (C) does not specify the amount of budget outlays described in such subparagraph or the amount for an item of budgetary resources described in clause (ii) of such subparagraph.

"(ii) In preparing the reports under subsections (a) and (c)(1) for a fiscal year, the Director of the Office of Management and Budget and the Director of the Congressional Budget Office shall calculate the budget outlays resulting from an item of budgetary resources described in clause (i) in the same manner as the budget outlays resulting from such item were calculated by such Director for purposes of determining the budget base level of total outlays under subsection (a)(1)(A) for fiscal year 1987.

"(F) DEFINITION.—For purposes of this subsection—

"(i) the term 'item of budgetary resources' means—

"(I) budget authority;

"(II) spending authority (as defined in section 401(c)(2) of the Congressional Budget Act of 1974);

"(III) offsetting collection amounts for spending authority (as so defined);

"(IV) direct loan limitations;

"(V) obligation limitations;

"(VI) unobligated balances for defense programs; and

"(VII) budget authority for programs subject to special sequestration rules; and

"(ii) the term 'excluded budgetary resource' means—

"(I) spending authority (as defined in section 401(c)(2) of the Congressional Budget Act of 1974) for automatic spending increases;

"(II) direct loan floors;

"(III) guaranteed loan limitations;

"(IV) guaranteed loan floors;

"(V) unobligated balances for administrative expenses; and

"(VI) budget authority for automatic spending increases.

"(2) PROPOSAL OF ALTERNATIVE RATIOS.—

"(A) IN GENERAL.—By September 9 (in the case of fiscal year 1988 or by June 20 of the calendar year in which a fiscal year begins (in the case of fiscal years 1989-92), the Directors may submit a joint report to the Temporary Joint Committee on Deficit Reduction established under section 274(f) which proposes, for one or more items of budgetary resources, the use, for purposes of paragraph (1), of a ratio for such fiscal year which is different than the ratio prescribed by subparagraph (C) of such paragraph. The report shall include, for each such item for which a different ratio is recommended, an explanation of the reasons why the ratio prescribed by paragraph (1)(C) is no longer adequate for purposes of paragraph (1) and a justification for the ratio proposed for such account.

"(B) Reporting of joint resolution.—Within 5 days after receiving a report under subparagraph (A), the Temporary Joint Committee may report to the Senate and the House of Representatives a joint resolution affirming the report submitted under subparagraph (A). The provisions relating to the consideration of joint resolutions under section 254(a)(4) shall apply to the consideration of a joint resolution reported pursuant to this subparagraph, except that debate in each House shall be limited to two hours.

"(C) Effect of joint resolution.—If a joint resolution is enacted under subparagraph (B) for a fiscal year, the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, and the Comptroller General shall each, in preparing each report required under this section for such fiscal year, use for each item of budgetary resources for which a ratio is contained in the report submitted under subparagraph (A), the ratio contained in such report (as affirmed pursuant to such joint resolution).

"(j) Computation of Budget Base Outlays Resulting From Obligated Balances.—In determining the amount of budget base outlays resulting from obligated balances for defense programs and nondefense programs for a fiscal year for purposes of the reports required under subsections (a) and (c)(1)—

"(1) the Director of the Office of Management and Budget shall use the methodology used by such Director in determining such budget base outlays in the report required under subsection (a) for fiscal year 1987; and

"(2) the Director of the Congressional Budget Office shall use the methodology used by such Director in determining such budget base outlays in the report required under subsection (a) for fiscal year 1987.

"(k) Federal Regulations.—Except as provided in subsection (a)(6)(D)(ii), in preparing each report required under this section for a fiscal year, the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, and the Comptroller General shall assume that only regulations which have been promulgated as final regulations by August 15 of the calendar year in which the fiscal year begins (with respect to reports required under subsection (a) or (b) for such fiscal year), or by October 5 of the fiscal year (with respect to reports required under subsection (c) for such fiscal year), shall be in effect during such fiscal year.

"(l) Asset Sales.—In preparing each report required under this section for a fiscal year, the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, and the Comptroller General shall assume that the sale of an asset by the Federal Government will occur during such fiscal year only if a final notice of sale during such fiscal year (including a description of the asset to be sold and the date of sale) is published in the Federal Register by August 15 of the calendar year in which such fiscal year begins (with respect to reports required under subsection (a) or (b) for such fiscal year), or by October 5 of the fiscal year (with respect to reports required under subsection (c) for such fiscal year).

"(m) Pay Increases.—

"(1) In general.—In preparing each report required under this section for a fiscal year, the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, and the Comptroller General shall—

"(A) include amounts of budgetary resources and budget outlays necessary to pay for any Federal pay adjustments for statutory pay systems if such adjustments have been recommended by the President or, notwithstanding subsection (a)(6)(D)(i), have been enacted by law;

"(B) include amounts of budgetary resources and budget outlays necessary to pay for any pay adjustments for elements of military pay if such adjustments occur pursuant to law or are specifically enacted by law; and

"(C) assume that the percentage of the amounts of budgetary resources and budget outlays necessary to pay for such adjustments that will be absorbed by all Federal agencies will not exceed the average (for the three most recently completed pay adjustment absorption fiscal years) of the percentages of such amounts absorbed by Federal agencies for such fiscal years.

"(2) Determination of agencies absorbing pay adjustments.—For purposes of paragraph (1)(C), a Federal agency shall be treated as having absorbed a percentage of pay adjustment for a fiscal year only if—

"(A) a pay adjustment becomes effective with respect to the agency in such fiscal year, and

"(B) a bill or joint resolution making supplemental appropriations for pay (including, in the case of members of the uniformed services, elements of military pay) was enacted with respect to the agency for such fiscal year.

"(3) Definitions.—For purposes of this paragraph—

"(A) the term 'budgetary resources' includes any of the types of budgetary resources described in clauses (i) and (ii) of subsection (i)(1)(F);

"(B) the term 'pay adjustment absorption fiscal year' means a fiscal year in which—

"(i) a pay adjustment becomes effective with respect to any Federal agency, and

"(ii) a bill or joint resolution making supplemental appropriations for pay (including, in the case of members of the uniformed services, elements of military pay) for such fiscal year is enacted for any Federal agency with respect to which such an adjustment becomes effective;

"(C) the term 'statutory pay system' has the same meaning as in section 256(g)(2)(A); and

"(D) the term 'elements of military pay' has the same meaning as in section 256(g)(2)(B).

"(n) Farm Deficiency Payments.—

"(1) Except as provided in paragraph (2), in preparing each report required under this section for a fiscal year, the Director of the Office of Management and Budget, the Director of the Congressional Budget Office, and the Comptroller General shall assume that advance deficiency payments will be made available to producers who agree to participate in an acreage limitation or set-aside program for the crop year relating to such fiscal year based on an amount under section 107C(a)(2)(F)(iii) (7 U.S.C. 1445b-2(a)(2)(F)(iii)) of—

"(A) in the case of wheat and feed grains, 40 percent of the projected payment rate, as determined by the Secretary of Agriculture; and

"(B) in the case of upland cotton and rice, 30 percent of the projected payment rate, as determined by such Secretary.

"(2) Paragraph (1) shall not apply to the preparation of a report for a fiscal year, if as of the date on which the report is required to be prepared, legislation has been enacted that—

"(A)(i) limits or prohibits the making of advance deficiency payments for the crop year relating to the fiscal year involved, or

"(ii) alters the amounts on which such payments are based, and

"(B) specifically waives the application of such paragraph to report for the fiscal year involved.".

(f) Section 251(a)(6)(A) is amended—

(1) by inserting "(i)" after "(A)",

(2) by striking the semicolon at the end thereof and inserting in lieu thereof ", and", and

(3) by adding at the end thereof the following:

"(ii) assuming, in the case of entitlements funded in annual appropriations, and in the case of the program established by the Food Stamp Act of 1977, the continuation of the current law governing the terms and conditions of such entitlements and such program (and assuming the continuation of only those provisions of appropriation Acts that impose or modify, for a period of more than one fiscal year, the terms and conditions of such an entitlement or such program).".

(g) Section 253 is amended to read as follows:

"SEC. 253. COMPLIANCE REPORT BY COMPTROLLER GENERAL.

"On or before November 15 of each fiscal year, the Comptroller General shall submit to the Congress and the President a report on—

"(1) the extent to which the President's order issued under section 252(b) for such fiscal year complies with all of the requirements contained in section 252, either certifying that the order fully and accurately complies with such requirements or indicating the respects in which it does not;

"(2) the extent to which each report of the Director of the Office of Management and Budget under section 251 (b)(2) and (c)(3) for such fiscal year complies with all of the requirements contained in this part, either certifying that the order fully and accurately complies with such requirements or indicating the respects in which it does not; and

"(3) any recommendations of the Comptroller General for improving the procedures set forth in this part.".

(h) Section 255(g)(1) is amended—

(1) by inserting after the item relating to private donations, bequests, or voluntary contributions to the Government, the following new item:

"Administration of territories (14-0412-0-1-806);";

(2) by inserting after the item relating to the Bonneville Power Administration fund the following new item:

"Bureau of Indian Affairs, miscellaneous payments to Indians (14-2303-0-1-452);";

(3) by inserting after the item relating to the coinage profit fund the following new item:

"Compact of free association (14-0415-0-1-806);";

(4) by inserting after the item relating to health professions graduate student loan insurance fund the following new items:

"Higher education facilities loans and insurance (91-0240-0-1-502);

"Internal revenue collections for Puerto Rico (20-5737-0-2-852);";

(5) by inserting after the item relating to intragovernmental funds the following new items:

"Medical facilities guarantee and loan fund (75-4430-0-3-551);

"Panama Canal Commission, operating expenses (95-5190-0-2-403);";

(7) by inserting after the item relating to payments to health care trust funds the following new item:

"Payments to widows and heirs of deceased Members of Congress (00-0215-0-1-801);";

(7) by inserting after the item relating to payments to trust funds from excise taxes the following new item:

"Payments to the United States territories, fiscal assistance (14-0418-0-1-806);"; and

(8) by inserting after the item relating to the Tennessee Valley Authority fund the following new items:

"Federal Retirement Thrift Investment Board, thrift savings fund (26-8141-0-7-602);

"Trust Territory of the Pacific Islands (14-0414-0-1-806);

"United States Customs Service, miscellaneous permanent appropriations (20-9922-0-2-852);

"Washington Metropolitan Area Transit Authority, interest payments (46-0300-0-1-401);".

(i) Section 274(f) is amended—

(1) in paragraph (1) by inserting "on or after the date of the enactment of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987" after "invalidated"; and

(2) in paragraph (2)—

(A) by striking out "Upon the invalidation of any such procedure there" in the first sentence and inserting in lieu thereof "There";

(B) by striking out "and" before "to report" in the third sentence and inserting in lieu thereof a comma; and

(C) by inserting before the period in the third sentence a comma and "and to carry out the functions specified in subsections (h) and (i) of section 251".

(j) The amendments made by this section shall apply with respect to any report required to be submitted, and any order issued, under part C of the Balanced Budget and Emergency Deficit Control Act of 1985 after the date of enactment of this Act.

REVISION OF MAXIMUM DEFICIT AMOUNT

SEC. 203. (a) Section 3(7) of the Congressional Budget Act of 1974 is amended to read as follows:

"(7) The term 'maximum deficit amount' means—

"(A) with respect to the fiscal year beginning October 1, 1987, $150,000,000,000;

"(B) with respect to the fiscal year beginning October 1, 1988, $130,000,000,000;

"(C) with respect to the fiscal year beginning October 1, 1989, $90,000,000,000;

"(D) with respect to the fiscal year beginning October 1, 1990, $45,000,000,000; and

"(E) with respect to the fiscal year beginning October 1, 1991, zero.".

(b) The Act is amended by striking out "1991" each place it appears in sections 251(a)(1)(B), 251(a)(2), 251(a)(3)(A)(i), 252(a)(1), 252(a)(6)(B), and 252(a)(6)(C)(ii) and inserting in lieu thereof "1992".

(c) Section 275(b)(1) is amended by striking out "September 30, 1991" and inserting in lieu thereof "September 30, 1992".

REVIVAL OF PRIOR LAW

SEC. 204. (a) If, at any time after the date of enactment of this Act, legislation is enacted which—

(1)(A) establishes the Comptroller General of the United States as an officer of the executive branch of the Government; or

(B) establishes an independent agency in the executive branch of the Government to carry out the functions of the Comptroller General which are executive in nature; and

(2) provides that this section will become effective upon the enactment of the legislation,

the provisions of sections 251, 252, 253, and 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be restored and revived, and this part and the amendments made by this part shall be repealed.

(b) If, pursuant to subsection (a), the provisions of sections 251, 252, 253, and 254 of the Balanced Budget and Emergency Deficit Control Act of 1985 are restored and revived, the responsibilities assigned by such sections (as so revived and restored) to the Comptroller General shall be carried out by—

(1) the Comptroller General (if provisions of law described in subsection (a)(1)(A) have been enacted); or

(2) the head of the agency established pursuant to provisions of law described in subsection (a)(1)(B),

as the case may be.

SUBMISSION OF PRESIDENT'S BUDGET

SEC. 205. Section 1105(a) of title 31, United States Code, is amended by striking out "first Monday after January 3 of each year (or on or before February 5 in 1986)" and inserting in lieu thereof "first Monday after January 17 of each year".

SENATE PROCEDURES

SEC. 206. (a)(1) Section 271 of the Balanced Budget and Emergency Deficit Control Act of 1985 is amended by adding at the end thereof the following new subsection:

"(d) APPEALS OF RULINGS.—An affirmative vote of three-fifths of the Members of the Senate, duly chosen and sworn, shall be required in the Senate to sustain an appeal of the ruling of the Chair on a point of order raised under section 301(i), 302(f), 304(b), 306, 310(d), 310(g), or 311(a) of the Congressional Budget Act of 1974.".

(2) Section 275(b)(2)(D) of such Act is amended by striking out "section 271(b)" and inserting in lieu thereof "subsections (b) and (d) of section 271".

(b) The amendments made by this section are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

ECONOMIC AND TECHNICAL ASSUMPTIONS

SEC. 207. (a)(1) Section 301(g) of the Congressional Budget Act of 1974 (2 U.S.C. 622(g)) is amended to read as follows:

"(g) ECONOMIC ASSUMPTIONS.—

"(1) It shall not be in order in the Senate to consider any concurrent resolution on the budget for a fiscal year, or any amendment thereto, or any conference report thereon, that sets forth amounts and levels that are determined on the basis of more than one set of economic and technical assumptions.

"(2) The joint explanatory statement accompanying a conference report on a concurrent resolution on the budget shall set forth the common economic assumptions upon which such joint statement and conference report are based, or upon which any amendment contained in the joint explanatory statement to be proposed by the conferees in the case of technical disagreement is based.".

(2) Section 304(b) of the Congressional Budget Act of 1974 (2 U.S.C. 635(b)) is amended—

(A) by striking "MAXIMUM DEFICIT AMOUNT MAY NOT BE EXCEEDED.—" and inserting in lieu thereof "APPLICATION OF CERTAIN POINTS OF ORDER.—",

(B) by striking "section 301(i)" the first place it appears and inserting in lieu thereof "subsections (g)(1) and (i) of section 301", and

(C) by striking "301(i)" the second place it appears.

(3)(A) Section 271(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) is amended by inserting "301(g)(1)," after "Sections".

(B) Section 271(d) of the Balanced Budget and Emergency Deficit Control Act of 1985, as added by the preceding section of this title, is amended by inserting "301(g)(1)," after "section".

(C) Section 275(b)(2)(B) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 901 note) is amended by striking "301(i)" and inserting in lieu thereof "sections 301(g)(1), 301(i),".

(b)(1) Section 302(f)(2) of the Congressional Budget Act of 1974 (2 U.S.C. 633(f)(2)) is amended by adding at the end thereof the following new sentence: "Determinations under this paragraph shall be based upon the same economic and technical assumptions upon which the levels and amounts set forth in the most recently completed concurrent resolution on the budget for such fiscal year are based.".

(2) Section 310(d)(4) of the Congressional Budget Act of 1974 (2 U.S.C. 641(d)(4)) is amended by adding at the end thereof the following new sentence: "Determinations under paragraph (2) shall be based upon the same economic and technical assumptions upon which the levels and amounts set forth in the concurrent resolution on the budget pursuant to which the reconciliation bill or resolution was reported are based.".

(3) Section 311(c) of the Congressional Budget Act of 1974 (2 U.S.C. 642(c)) is amended by adding at the end thereof the following new sentence: "In the Senate, such determinations shall be based upon the same economic and technical assumptions upon which the levels and amounts set forth in the most recently completed concurrent resolution on the budget for a fiscal year are based.".

(c)(1) The amendments made by subsection (a) shall become effective on the date of the enactment of this Act and shall apply with respect to concurrent resolutions on the budget for fiscal years 1988, 1989, 1990, 1991, and 1992 that are considered after such date.

(2) The amendments made by subsection (b) shall become effective on the date of the enactment of this Act.

(d) The amendments made by this section are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such they shall be considered as part of the rules of each House, respectively, or of that House to which they specifically apply, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (so far as relating to such House) at any time, in the same manner and to the same extent as in the case of any other rule of such House.

INTELLIGENCE COMMUNITY AUTHORIZATION

BOREN (AND COHEN) AMENDMENT NO. 632

Mr. BOREN (for himself and Mr. COHEN) proposed an amendment to the bill (S. 1243) to authorize appropriations for fiscal years 1988 and 1989 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes; as follows

Amend S. 1243 by striking section 503 in its entirety.

NOTICES OF HEARINGS

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS AND FORESTS

Mr. BUMPERS. Mr. President, I would like to announce for the information of the Senate and the public, the scheduling of a public hearing before the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources on Wednesday, August 19, 1987, in Burley, ID.

The subcommittee will receive testimony on S. 1335, to establish the city of Rocks National Reserve in the State of Idaho, and for other purposes.

The hearing will be held at the Burley Best Western Inn in Burley, ID, starting at 9:30 a.m. Those wishing to testify in Burley should contact the office of Senator MCCLURE, 304 No. 8th Street, room 149, Boise, ID 83702, telephone (208) 334-1560. Those wishing to testify must sign up in advance of the hearing no later than Friday, August 14, 1987.

Because of the number of witnesses expected to testify in Burley, oral testimony may be limited to 3 minutes per witness. Written statements may be longer. Witnesses will be placed in panels. Witnesses are requested to bring 15 copies of their testimony with them to the hearing. Do not submit testimony in advance of the hearing. For further information please contact Senator MCCLURE's office or Beth Norcross of the subcommittee staff at (202) 224-7933.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON LABOR AND HUMAN RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate on Thursday, July 23, 1987, to conduct a hearing on minimum wage.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Labor and Human Resources be authorized to meet during the session of the Senate today, July 23, 1987, to conduct an executive session on S. 79, the high risk notification bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON WESTERN HEMISPHERE AND PEACE CORPS AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Western Hemisphere and Peace Corps Affairs of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 23, 1987, to a hearing on the situation in Haiti.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON TERRORISM, NARCOTICS, AND INTERNATIONAL OPERATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Terrorism, Narcotics and International Operations of the Committee on Foreign Relations be authorized to meet during the session of the Senate on Thursday, July 23, 1987, to continue hearings on drugs, law enforcement and foreign policy: money laundering.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON PUBLIC LANDS, NATIONAL PARKS, AND FORESTS

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Public Lands, National Parks and Forests of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, July 23, 1987 to continue to receive testimony concerning S. 7, a bill to provide for the protection of the public lands in the California desert.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection Committee on Environment and Public Works, be authorized to meet during the session of the Senate on July 23, beginning at 6:00 p.m., to conduct a hearing on the control of toxic air pollutants.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND AND ENVIRONMENTAL OVERSIGHT

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Superfund and Environmental Oversight, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on July 23, to conduct a hearing on the manpower and timeframes issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DEFENSE INDUSTRY AND TECHNOLOGY

Mr. BYRD. Mr. President, I ask unanimous consent the Committee on Armed Services' Subcommittee on Defense Industry and Technology be authorized to meet during the session of the Senate on Thursday, July 23, 1987, in open session to receive testimony on the manufacturing capabilities of key second tier defense industries.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate on Thursday, July 23, 1987, to conduct oversight hearings on the Federal Reserve's second monetary policy report for 1987.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON GOVERNMENTAL AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Government Affairs, be authorized to meet during the session of the Senate on Thursday, July 23, 1987, to hold hearings on legislation relating to financial management.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

LAWTON, OK: MOUNTAIN METRO OF THE SOUTHWEST

● Mr. BOREN. Mr. President, Oklahoma Business published a 16-page feature on "Lawton: Mountain Metro of the Southwest," written by Joe Carter, a veteran Washington staffer who now is vice president of Cameron University. I would like to share part of that story that tells about the fine citizens of Comanche County:

> It is these people, educated in fine public schools, vo-tech and through Cameron University, who are the blessing and future of Lawton. They come from warrior, pioneer and immigrant stock but are bonded in a team dedicated to the hard work that brings progress and prosperity.

About the area, it said:

> Six hundred million years ago hot lava spewed Meers Quartzite through the earth's crust. A hundred million years later, granite lava erupted. After three hundred million years of cooling, titanic geological collisions formed giant peaks that became The Wichita Mountains. Through the ages—seas, winds and rain cut and wore the majesty * * *.
>
> In recent centuries, Noble Comanche Indians hunted buffalo on the rich plains south of the mountains. Although whittled by time, the mountains still blunted the cold north winds. The mystical, eroded rocks were reverred, worshipped and respected by the Indians. The land was good. Along clear streams gushing from rocky slopes, nomads camped and tribes prospered. Papoose waxed into bold warrior. Aged chief passed into the ages like dust blown on unwritten history * * *.

The article swept into creation 118 years ago of a frontier post, Fort Sill, and its transformation into the free world's field artillery training center along with the birth and swirling progress of Lawton—both nestled on the plains south of the Wichita Mountains.

> Lawton's people are cosmopolitan, born of an Indian heritage but infused with people of the world who arrived as pioneer settlers or on military missions. Together, there is harmony and a peaceful life * * *.
>
> Quality education was a top priority of frontier settlers. Crude homes, churches and schools shared building priority in the mind of pioneers who envisioned rich and wholesome civilizations. The legacy lives today in Lawton.
>
> From the tree-lined campus of Cameron University to bustling Great Plains Area Vocational-Technical School to the 42 public schools that dot neighborhoods across the dynamic city, Lawton strongly supports education. The institutions repay the investment with superior instructions * * *.
>
> Rugged and unhorizoned, the 59,00 acres of the Wichita Mountains Wildlife Refuge is a geological spectacular and mecca of buffalo, longhorn cattle, antelope, deer, prairie dogs, elk and colorful fowl.
>
> The refuge is a mixture of fertile prairie, boulder upon boulder, the jagged Wichita Mountains, bubbling streams and glistening lakes. After hunting in the area, President Theodore Roosevelt in 1905 declared the expanse a federal sanctuary for wildlife as part of his staunch conservationist's movement * * *.

In a section written by Gary Hearn, the story of how Goodyear Tire & Rubber Co., world's largest tire manufacturer, opened a plant in the city a decade ago and gained "a record as Goodyear's safest tire manufacturing facility in the world for 5 consecutive years" and that the firm had recognized the Lawton workers with its first World-Class Competitor Award last January.

The article explains reasons for the successes:

> Basking in a sunny and temperate climate * * * the four seasons environment nurtures healthy living, the city * * * commands a growing reputation as a health care mecca with the finest state-of-the-art facilities * * *.
>
> Today's progress, prosperity and prognosis for Lawton rests on abundance of water resources: perhaps twice the growth needs for the next half century.
>
> Prolific oil fields are west of Lawton. The expansive Anadarko Basin with uncharted natural gas resources is north of the Wichita Mountains. Energy is abundant.
>
> The stability of the Lawton economy coupled with an elite work force, vast resources, ideal building conditions and a pro-business attitude have led to extensive diversity in industry.

The article concluded:

> Lawton, a city built with people from around the world, enjoys the cultural opportunities of a world class city in a mecca of outdoor recration and relaxing splendor.●

CONSERVATIVE JUDGES AND LIBERAL: JUDGE BORK AND JUDGE MIKVA

● Mr. ARMSTRONG. Mr. President, the Constitution of the United States empowers the President, "by and with the Advice and Consent of the Senate [to] appoint * * * Judges of the Supreme Court." President Reagan, who won the presidency by a nearly unanimous vote of the electoral college—525 to 13—has nominated to the Supreme Court Judge Robert H. Bork, who won a seat on the U.S. Court of Appeals for the District of Columbia by a unanimous vote of the Senate. Liberal politicians and liberal special interest groups think the President has gone too far, and that Judge Bork has gone far enough. They have vowed to stop the Bork nomination.

The implications of this anti-Bork position are considered in a cleverly written article by Robert Steigmann, an Illinois judge. Judge Steigmann asks us to consider a hypothetical Supreme Court nomination 2 years from now after a liberal Democrat has captured the White House and the Republicans have recaptured the Senate. Readers of the Record will find the Steigmann article most interesting, and I ask unanimous consent that it be inserted at the end of my remarks.

Mr. President, Robert Bork is eminently qualified to sit on the highest court of this land. He has a distinguished record as a lawyer, scholar, and public servant. The American Bar Association judged him "exceptionally well qualified" to sit on the Nation's second highest court and this body concurred, unanimously confirming him to the court of appeals. We should confirm him again.

The article follows:

> [From the Chicago Tribune, July 22, 1987]
>
> ### What if President Simon Nominated a Liberal Judge?
>
> (By Robert J. Steigmann)
>
> Consider this scenario: In November, 1988, Sen. Paul Simon is elected president, but the Republicans recapture the Senate and Strom Thurmond re-assumes the chairmanship of the Senate Judiciary Committee.
>
> In June, 1989, Justice Byron "Whizzer" White resigns from the Supreme Court for health reasons. President Simon's White House staff then conducts what it describes as "an intensive evaluation" of potential appointees to find the best-qualified individual who shares President Simon's liberal philosophy and his abiding conviction that the Constitution "is a living document capable of evolving over time to ensure that the least of our citizens enjoy those rights and privileges deemed fundamental in a free society."
>
> In July, 1989, President Simon announces his choice: Judge Abner Mikva of the United States Court of Appeals for the District of Columbia Circuit. In explaining Judge Mikva's selection, President Simon states that he has known Judge Mikva since the days they served together in the Illinois General Assembly, and he knows Judge Mikva to be a brilliant legal scholar and a man of the highest integrity. The President denies that he used any litmus test in the selection process, such as approval of the 1973 Roe v. Wade decisions that legalized abortion.
>
> Later in July, 1989, the President calls for quick Senate hearings on the nomination of Judge Mikva so that the court can be at full strength when it begins its October term. The President and the Senate Democratic leaders point out that Judge Mikva was confirmed by the Senate just 10 years earlier for his appellate judgeship, that he since has served with distinction on the court reputed to be the nation's second highest and that he has received the American Bar Association's rating of "exceptionally well-qualified" for the Supreme Court.
>
> Upon learning of Judge Mikva's nomination, Sen. Orrin Hatch, the second most senior Republican on the Judiciary Committee, says: "Abner Mikva's America is a land in which the police are shackled in their efforts to control dangerous criminals, yet the frightened citizenry may not own guns to protect themselves; where the death penalty may not be imposed no matter how vile the murder, where no restraints may be placed upon the purveyors and peddlers of filth, even when children are involved; and where 13-year-olds may get abortions on demand without their parents even being notified."
>
> In August, 1989, Judiciary Committee Chairman Thurmond expresses "grave concern" over Judge Mikva's nomination, explaining that he fears the nominee is an "ideologue, not a man with an open mind." Sen. Thurmond predicts that scrutinizing the nominee's record and legal philosophy may take months.
>
> "Justice White has occupied the conservative center of the court with regard to his legal philosophy," Sen. Thurmond explains. "The careful balance of the court might be jeopardized by this nominee's decidedly leftward tilt and his possible unwillingness to follow the court's recent precedents holding, for instance, that the death penalty is constitutional despite statistical studies showing a disparity in its utilization based upon the race of the victim, or the holding

that states may constitutionally criminalize consensual homosexual activities between adults."

Meanwhile, Jerry Falwell, Phyllis Schlafly and some far-right and anti-abortion groups announce a nationwide effort to block Judge Mikva's confirmation "to preserve recent gains in the Supreme Court and to protect the lives of millions of the innocent unborn."

Does any of this sound familiar?

The public and the senators who soon will be passing judgment on President Reagan's nomination to the Supreme Court of Judge Robert Bork should consider what their attitudes would be in this scenario.

Both judges are men of the highest repute who are held in the highest esteem by their peers. Both are distinguished legal scholars who have for years demonstrated their judicial skills on the same appeals court in the District of Columbia. Both have received or would receive the ABA's "exceptionally well-qualified" rating.

In fact, the only notable difference between the two is that one is a liberal and the other is a conservative. This is not, and cannot be, a legitimate basis for the Senate to confirm one and reject the other.

The President has the right to select a person of his liking to serve on the Supreme Court. The Senate's opportunity to advise and consent is not grounds for rejecting a nominee, otherwise qualified, because he or she is not a person of the Senate's liking. Instead, it gives the Senate the right to satisfy itself completely that the nominee is a person of the highest integrity, with demonstrated legal ability, who is held in the highest esteem by the legal community.

Raw political power might defeat Judge Bork's confirmation, just as it might the hypothetical nomination of Judge Mikva. But the opposition to Judge Bork is no more principled than would be the opposition to Judge Mikva.●

COMPETITIVENESS IMPACTS OF S. 1384

● Mr. HEFLIN. Mr. President, the Senate has just passed trade legislation designed to insure the continued competitiveness of U.S. industry in world markets. During this debate, this body consistently sought to maintain a strong manufacturing sector for this country and to sustain the important technological advances our industries have made.

One of the most important considerations, in my opinion, was to protect the technology advantages many of our industries have in competing worldwide. The productivity of agriculture and of many important manufacturing sectors and the edge in technology which often offsets higher energy, material or other manufacturing costs are the basis for this strength. To provide enhanced protection for intellectual property rights, the Omnibus Trade and Competitiveness Act of 1987 incorporates numerous provisions to enhance the protections afforded U.S. patents, copyrights, and other forms of confidential business information. The bill enhances these protections under the terms of the Tariff Acts, improves the protection for process patents under U.S. patent law, and even specifically provides assistance to foreign countries for the development of programs to protect intellectual property rights.

In light of all of these legislative efforts, I am troubled to see the Committee on Environment and Public Works currently debating legislation which seems to go in a radically different direction.

The committee currently has under consideration a bill, S. 1384, which would amend the Clean Air Act to address some of the problems raised by the current program to regulate hazardous air pollutants. The bill contemplates bringing the Federal Government into the fundamental operation of our Nation's manufacturing economy. This would come under the banner of protecting us from releases of hazardous chemicals.

This bill calls for hazard assessments, a new investigation board, audit and inspection programs programs and penalties to deal with both planned and unplanned releases of toxic materials.

The proposed new board would have investigatory powers. It could investigate manufacturing and production processes, controls and related matters anywhere that any of a large number of chemical substances is produced, processed, handled, or stored. Many of these substances are likely to be very common in our society as fuels, cleaning solvents, dyes, catalysts, and so on. The board's findings would then be broadly available to the public, and the competition. The only limitation—the protection of trade secrets has broad exclusions in the name of overriding public health and safety concerns so as to make the limitations meaningless. The EPA would likely have similar broad powers in developing regulatory programs regarding manufacturing and distribution operations.

In addition to raising fundamental questions on the role of the Federal Government in the normal operation of our manufacturing economy, this concept seems to leave the door open to competitive mischief. A foreign competitor could use this bill and the fear of toxic chemicals to pry into one of industry's most valuable assets—its technology. All the competitor need do would be to have some questions raised before the board about a U.S. business activity or process they want to know more about.

The board could then investigate and would be compelled to make available to the public just about anything anyone would want to know—process designs, operating parameters, technologies, information on planned investments or other new improvements, and sensitive research and development information. All in the name of public health and safety.

In view of its broad nature and of its potential implications for our agricultural and manufacturing economy, it will be essential for the Senate to look closely at this legislation if and when it comes before us. We should not only look at its merits in terms of its environmental benefits. We will need to look at this bill's implications on the competitiveness of some of the technically critical sectors of our national economy. If we fail to do so, we may end up forfeiting, or undermining, the trade competitiveness we sought to enhance in the Omnibus Trade and Competitiveness Act of 1987.●

THE PERSIAN GULF

● Mr. HATFIELD. Mr. President, Senator MOYNIHAN and I introduced a resolution yesterday urging the President to direct the U.S. Permanent Representative to the United Nations to propose the reflagging of nonbelligerent shipping in the gulf with the United Nations flag. We introduced that resolution, Mr. President, because this country has now embarked on a policy born of fear.

Fear that the Persian Gulf, from which almost half of the Western world's oil supply comes, will close, throwing the United States and her allies into a state of economic havoc.

Fear that Iran, the country to which we were selling arms 12 short months ago, will use its radical theocracy to destabilize moderate regimes in the Middle East.

And fear that the Soviets, who have leased Kuwait three oil tankers, will chip away at United States preeminence in the Persian Gulf.

It is clearly in our interest to keep the Persian Gulf open, to isolate Iran and to prevent the Soviets from becoming a more dominant force in the region.

But are we so myopic that we can see only the threats? What about the potential, the opportunities, the alternatives?

Instead of asking only what we can prevent, we ought also to ask what we can produce.

It seems mind-boggling that this country sold arms to Iran less than a year ago, but we have a compelling interest in isolating Iran.

It is not just the United States that is threatened by that expanding influence—the Ayatollah and his Revolutionary Guard pose a threat to the United States and the Soviet Union.

As George Ball pointed out recently: "Iranian Shiite fundamentalism is already creating unrest in the Moslem-inhabited Central Asian Republics of the Soviet Union, and Iran's assistance to the Afghan rebels is particularly galling."

In fact, insofar as Iran is concerned, the United States shares with the Soviet Union a truly common interest.

Moreover, it is not just the United States and the Soviet Union who share an interest in isolating Iran. Iran also poses a threat—indeed a more direct and immediate threat—to moderate Arab States throughout the Middle East.

In what is potentially the most profound shift in Middle Eastern politics since the Camp David accords, Iran has now replaced Israel as the primary object of foreign policy obsession in the Arab world.

What we have is a rare and genuine opportunity for advancing not only our short-term national interest but the long-term interests of the United States and her allies besides. What we have is an opportunity for creative diplomacy and constructive foreign policy.

Instead of seizing that opportunity, however, the administration has created a negative foreign policy, a foreign policy born of fear and built on desperation.

The administration and supporters of this policy in Congress complain that we criticize the policy without proposing alternatives.

We have proposed alternatives—including one recently put forth by former Secretary of State Cyrus Vance and former Secretary of Defense Elliot Richardson to fly the U.N. Nations flag over nonbelligerent shipping in the gulf.

After submitting to a U.N. Nations inspection to insure that no warmaking material is on board, ships passing through the gulf could fly the U.N. Nations flag.

"The guiding principle," wrote Vance and Richardson, "is diplomatic deterrence, which is likely to be more effective than military deterrence furnished by a nervous superpower."

But that and other alternatives fall on deaf ears. The administration simply does not want to consider them.

The administration wants to sail its warships boldly into the gulf without constraints.

Nothing has changed in the gulf to warrant the sense of urgency now surrounding implementation of this policy, but the administration is determined to go ahead without delay.

As the former U.S. Ambassador to Saudi Arabia, Afghanistan, and Morocco put it:

> The Soviets have suddenly become a major player in the Middle East. They have achieved this success without firing a shot, or threatening to, and have thereby demonstrated that the issues of the region are primarily political and must be addressed by political means.

But the administration wants the Ayatollah to "go to bed every night wondering what we might do." That's pretty hard to do with diplomacy.

The U.N. Nations Security Council unanimously passed a resolution on Monday demanding a cease fire in the Iran-Iraq war. That resolution was introduced by the United States.

Are we serious? Is the political will of this country behind our call for a cease-fire?

If it is, there is no reason why the administration would be hesitant to propose the Vance-Richardson plan in the Security Council.

If it is not, the Ayatollah isn't the only one who ought to go to bed every night wondering what we might do.●

THE 13TH ANNIVERSARY OF THE TURKISH INVASION OF CYPRUS

● Mr. SARBANES. Mr. President, last Sunday several thousand marchers and their supporters converged on the White House Ellipse to protest the brutal 1974 invasion of Cyprus by Turkish military forces and to call for the return of peace and justice to the island. As we reflect on the 13th anniversary of that tragic invasion—which was carried out in blatant violation of international law, in cold defiance of United States law requiring that military assistance be used solely for defensive purposes, and at great risk to the security of the NATO alliance—we cannot distance ourselves from it, for the occupation of Cyprus remains a harsh reality for the island's inhabitants as well as for the broader international community.

The situation on Cyprus has not changed significantly over the past 13 years, nor has time made it any easier to bear. Forty percent of Cyprus is still under Turkish occupation and domination, and some 35,000 heavily armed Turkish troops enforce that partition. Over 200,000 Greek Cypriots who were forced to flee their homes in the north remain refugees in the south, unable to return to their native towns and communities, while another 2,000 who disappeared in the invasion are still missing, as yet to be accounted for. At the same time that former inhabitants of the beautiful coastal city of Famagusta are prohibited from reclaiming their homes and property, more than 62,000 mainland Turkish settlers have been brought into the occupied zones, further entrenching the illegal partition. Most importantly, the energy and genius of the people of Cyprus has been diverted from the challenge of building a just, secure and prosperous nation to the task of repairing the grievous damage caused by the 1974 Turkish invasion.

The Cypriots' task has been further complicated by recent Turkish attempts to make the occupation and division permanent. In 1983, Turkish Cypriots in the northern region issued a unilateral declaration of independence [UDI], designed to create the illusion of an independent and sovereign state. Only the Turkish Government has recognized this entity, while the rest of the world community has steadfastly refused to accept this deception. More recently, Turkey has increased its military strength on Cyprus, and has further contravened United States law by using United States military equipment provided Turkey for defensive purposes instead of upgrade its presence on Cyprus.

Mr. President, this anniversary is not a happy occasion. The Turkish invasion of Cyprus in 1974 effectively halted the emergence of an independent and democratic republic on Cyprus, leaving a society torn by war and ethnic strife, living under the shadow of military aggression. As we remember the events of 1974 and their continuing legacy, we must resolve to do what we can to help the people of Cyprus secure for themselves a brighter and more prosperous future.●

INFORMED CONSENT: ALASKA

● Mr. HUMPHREY. Mr. President, today I would like to insert into the Congressional Record a letter from a woman from the State of Alaska who, unfortunately, made an uninformed choice for an abortion out of embarrassment and a desire to maintain the status quo. Eleven years later, this former public school teacher still regrets that decision.

I ask that the letter from the State of Alaska be printed in the Record.

Fairbanks, AK.

Dear Senator Humphrey: Sorry to say, I too have had an abortion that I have since regretted. It was eleven years ago and so easy to do.

How could I, a single public school teacher, be pregnant? Several years previously a neighboring single public school teacher was pregnant and the words that someone had told her, "You're a teacher! Aren't you smart enough not to get pregnant?" haunted me. So I too wanted to be smart and not be pregnant.

A quiet abortion seemed necessary to keep my status-quo. I called our town's Crisis Line and asked the male voice that answered for the number of someone in another large town who did abortions. He gave it to me, no questions asked. I called that clinic long distance and made an appointment for an abortion.

The way it worked out the social worker did ask me a few questions before I had the abortion. The things she asked me were to help her fill out her forms and not to help me in any way. But at the time, that was fine. I just wanted to get it over with. If anybody would have been kind or personal to me I would have cried, I'm sure. I never had anybody discuss my feelings or alternatives with me.

I do remember asking her, mostly out of curiosity, what does it take to get your tubes tied. She said they could do it at the same time I had the abortion. And she asked me if I wanted it done. I hadn't really thought about it seriously, so I said "No." But if I had said yes, I'm sure she would have checked another little box and it would have been done. Just as easy as that.

Senator, I hope this can help you in some way. At the time I was embarrassed and wanted nobody to know. I still don't. Women need to be well informed about abortions and its risks. Please help.

P.J.

THE BORK NOMINATION

● Mr. SIMON. Mr. President, the senior Senator from New Hampshire [Mr. HUMPHREY] on July 21 introduced into the RECORD an excerpt from a syndicated column written in May 1986 in which the writer incompletely described my views on the factors the Senate should consider in weighting judicial nominations. I would like the record to be clear on this subject.

I was not a member of this body in 1982 when the President nominated and the Senate confirmed Judge Robert H. Bork to the circuit court of appeals. In addition, I have preferred not to predict how I would vote on any hypothetical nomination to the Supreme Court or on this nomination. But I have described some of the factors the Senate should consider, which I will restate here.

As many observers noted last year, Judge Bork is poles apart from Judge Manion on the quality scale. That is significant. But the Senate must also weigh other significant factors, and it is clear that the framers of the Constitution intended for the Senate to take an active role in this process.

Obviously, any of this administration's nominees will be conservative. That is the President's prerogative. In weighing factors like a candidate's philosophy, I have said a guiding principle is that the Senate should weigh the same factors the President did in making his choice. A nominee should show openmindedness, sensitivity to civil rights and civil liberties, understanding of our tradition of separation of church and State, and other issues of basic fairness that will come before the Court. The American people should be able to look at a member of the Nation's highest Court and believe that person would be fair and is not a judge on a mission. I have voted for dozens of the President's nominees after deciding they would be fair and openminded.

When there are indications that a nominee would limit constitutional rights by applying a rigid ideology, that gives me serious reservations. At this point I have such concerns about Judge Bork's nomination, but I won't make my final decision until the hearings when we can weigh the evidence.●

TROPICAL FOREST PROTECTION ACT OF 1987

● Mr. KASTEN. Mr. President, the Tropical Forest Protection Act of 1987 calls for two Treasury studies and two World Bank pilot programs to assess the viability of linking debt forgiveness to tropical forest and wetlands preservation.

If implemented on a large scale by the World Bank and other multilateral development banks similar in structure, this legislation offers the hope of reversing the current trend of deforestation and environmental neglect that is becoming more prevalent given the economic status of most tropical nations.

The first major element of the bill is a study by the Secretary of the Treasury. It will assess tropical forest and wetlands damage to date and future prospects for conservation without outside assistance; what essentially is the timetable for irreprable damage. Treasury will also evaluate the ability of in-country organizations—both governmental and nongovernmental—to protect and manage their forests and wetlands and search for methods and means to increase their effectiveness. In completing the study, Treasury will consult with members of the environmental community and those in tropical nations that are knowledgeable on the subject. Findings will be reported to three different committees in the House and Senate respectively.

The World Bank initiatives will consist of two 3-year pilot programs meant to divert efforts away from the forests and channel economic development toward long-term sustainable uses of the forests and their surroundings. The first program is a structural adjustment loan which will induce sustainable use of the tropical forests. Financial support will be given to countries to deter short-term, capital-intense forest and wetland degredation.

The second World Bank program calls for the creation of land reserves (conservation easements). In exchange for setting aside tracts of land, the World Bank will negotiate suspension of some debt service payments. Specific agreements will pend negotiations between host country and the bank, but the contract will be a minimum of 3 years to ensure successful completion of the study.

If the program is implemented on a large scale by the bank, countries will have the option of terminating easement agreements at any point and resume debt payments. Similarly, banks may force resumption of debt service payments of countries who fail to meet the terms of their contract.

Results of both pilot programs will be reported to Congress and disseminated to private and multilateral development banks, and serve as the basis for determining the potential full scale implementation of these policies by the World Bank. The final component of the legislation calls for a Treasury study of the International Monetary Fund's ability to implement similar programs.

It is our hope that through this legislative act we will reverse this disastrous trend of tropical forest and wetlands destruction and foster a new global ethic that will elevate environmental conservation into the forefront of global economic planning.●

PUERTO RICAN DAY PARADE

● Mr. LAUTENBERG. Mr. President, I would like to call attention to the 25th annual New Jersey Puerto Rican Day Parade which will take place this Sunday, July 26. This parade caps more than a week of events that testify to the many and varied achievements of the Puerto Rican community of New Jersey. And, it celebrates the 35th anniversary of the establishment of the Commonwealth of Puerto Rico.

Over the past 25 years, this parade has grown from a small local event in Newark, NJ, to one of the most significant statewide Puerto Rican events. It is estimated that this year's parade will attract more than 50,000 onlookers along the parade route in Newark.

As in the past, the majority of the parade participants will be from the Puerto Rican community. However, many other ethnic groups will be represneted as participants and spectators. Diverse ethnic cooperation is what makes New Jersey and our Nation a living witness to the spirit of the Statue of Liberty.

Traditionally, this parade is the culmination of a year of activities for its sponsor, the Puerto Rican Statewide Parade of New Jersey, Inc. One of this nonprofit organization's major functions is the granting of numerous scholarships to needy Puerto Rican students throughout our State. Most of the financial resources for the parade and the scholarhsips are the result of the Miss Puerto Rico of New Jersey pageant.

Mr. President, those responsible for organizing and conducting these cultural events deserve our congratulations. While their names are too numerous to cite, each one knows that their efforts are what made this event possible.

Once again, my sincerest congratulations to my many friends in the New Jersey Puerto Rican community during their days of celebration, and especially to Frank Melendez, president of the parade committee and the other members of the parade committee.

I ask that an article describing the parade be included in the RECORD.

The article follows:

[From the Sunday Star-Ledger, July 19, 1987]

PUERTO RICAN PARADE TAKES ON DOUBLE MEANING

(By Frederick W. Byrd)

The annual Pureto Rican Day Parade in Newark next Sunday will mark a double anniversary, and organizers expect a large crowd to view the floats and banners.

It will be the 25th annual New Jersey Statewide Puerto Rican Day parade. And it will fall on the 35th anniversary of Puerto Rico's gaining commonwealth status.

Frank Melendez, president of the parade committee, said the affair is always on the Sunday closest to the actual anniversary, but this year falls on the exact date.

But the parade is only the largest of a group of activities planned for this week, which is Puerto Rican Week in Newark.

Tomorrow at noon, Mayor Sharpe James will read a proclamation in the City Hall rotunda declaring the week and noting: "The Puerto Rican people of the state of New Jersey have made many contributions to the community and have assumed the responsibility of good citizenship."

The week will actually kick off tonight with a dinner and dance, sponsored by the parade committee, at St. Patrick's Pro-Cathedral Hall, Washington Street and Central Avenue. The affair is in honor of Deputy Newark Mayor Luis Quintana.

On Tuesday, Councilman Anthony Carrino will host the parade committee at a reception at the Residents for Community Action office, 201 Bloomfield Ave.

Thursday there will be a reception at the North Ward Center, 346 Mt. Prospect Ave., sponsored by Steve Adubato, the center director.

Gov. Thomas Kean is expected to issue his "Puerto Rican Week" proclamation on Wednesday at 10:20 a.m. in the Governor's office in Trenton.

The committee will host its Los Soles to Jayuya awards ceremony at the Robeson Campus Center, Dr. Martin Luther King Boulevard Jr. in Newark, on Friday at 5 p.m.

Honorees will include Melendez, outstanding businessman; Dr. Gloria Bonilla-Santiago, outstanding woman; Jersey City Business Administrator Ben Lopez, outstanding civic leader; Eileen Laureano, a student at Arts High School in Newark as outstanding student; Manuel Acevedo, an artist and photographer as outstanding artist; and Raul Davila, the actor, as outstanding entertainer.

The annual Puerto Rican Statewide Parade Banquet is scheduled for Saturday at 8 p.m. at the Marriott Hotel at Newark International Airport.

But the big event is the parade. Quintana estimated some 50,000 people will attend this year.

"The mayors of Cidra, Anasoco, Las Piedras and Comerio in Puerto Rico are coming", as is a state senator to represent Gov. Rafael Hernandez Colon, he said.

The parade will begin at Military Park and proceed to Lincoln Park, where there will be four bands featuring salsa or traditional folkloric music.

Miss Puerto Rico of New Jersey and her court will be riding on the float. The honoree, Carina Sentos, a 19-year-old college student from Passaic, was chosen in a contest in June.

Grand marshal will be Raymond Rosa of Newark, a sales representative for Anheuser-Busch.

Melendez said the parade was important "to present part of our culture and show other ethnic groups what we are about."

This year, he added, the parade committee, is also holding various fund raisers in order to buy a building in Newark as a headquarters.

"The parade is a whole year of events, meetings, funding activities and we want a cultural center for this," he explained.●

THE RETIREMENT OF DR. C.R. WEBB

● **Mr. SASSER.** Mr. President, Dr. C.R. Webb recently retired from his medical practice in Ripley, TN. The citizens of that small west Tennessee town and Lauderdale County gathered at the end of last month to honor Dr. Webb for his 38 years of dedicated medical service to their community.

Dr. Webb was born and raised in Dyer County, TN. After graduating from Dyersburg High School in 1935, he received an appointment to the U.S. Naval Academy. However, failing eyesight forced him to give up on his plans for a naval career.

Upon returning to Tennessee, he completed his pre-medical requirements at Memphis State University and entered the University of Tennessee Medical School. He completed his medical degree in 1943 and served in the U.S. Army Medical Corps from 1944 to 1946.

Dr. Webb began his medical practice in Ripley in 1949 after practicing medicine in Memphis for 3 years. He came to the Family Medical Practice Group in Ripley 6 years ago, after serving as a principal in the Ripley Clinic for many years.

We rarely take the time to highlight the special accomplishments of a practicing physician in a small town community. Dr. Webb was not responsible for any dramatic breakthrough in medical science. He never developed an experimental new drug or surgical procedure. However, Dr. Webb has been as important as any Nobel Prize winner to those in Ripley who were under his care for nearly four decades.

Over the years, Dr. Webb has helped thousands with his expert medical care. But, just as important, he truly cared for his patients. He was always there to calm nervous parents before a son or daughter's surgery. He always knew the right thing to say as a family member lay dying.

Dr. Webb is the embodiment of the beloved family practitioner. I know the people of Ripley will sorely miss him.

After 45 years of marriage, Dr. Webb and his wife, Martha, will finally have the time to devote full attention to each other, their 4 sons, 10 grandchildren, and 2 great-grandchildren. They deeply deserve it, and I, along with all Tennesseans, wish them the very best.●

THE WINDFALL PROFIT TAX

● **Mr. SIMON** Mr. President, several days ago, the Senate passed monumental trade legislation. Contained in that bill is a provision to repeal the windfall profit tax. I was unable to be present for the vote on that provision and would like to voice my thoughts on this issue.

I have supported the windfall profit tax since its inception, although it was strongly opposed by many of my southern Illinois constituents. I believe the revenues from this tax can fund conservation measures and energy aid for the poor. In addition, the tax has not inhibited exploration and development of our oil reserves as demonstrated by the strong industry record prior to the present downturn. And, given the monstrous deficit we are facing, we should think long and hard before we cut taxes anywhere.

For these reasons, I announced my opposition to the repeal of the windfall profit tax as offered to the trade bill.

But as a supporter of the windfall profit tax, I am also a supporter of efforts to make it as fair and sensible as possible.

The depression now plaguing our oil industry makes the windfall profit tax a dry hole as far as tax revenues are concerned. There simply aren't any windfall profit to be taxed. As a revenue source, then, current economic conditions render this tax useless.

Despite the absence of any revenues, we continue to require oil producers to file reports with the Government. This just doesn't make sense. Mr. President, I believe that we should suspend reporting requirements for the time being. Americans have enough work to do without filling out forms that serve no purpose. Should prices rise again to the levels which trigger the windfall profit tax, then we can resurrect those reporting requirements.

Mr. President, we must do what we can to retain a strong oil sector. Our efforts should proceed along many lines. A repeal of the windfall profit tax may emerge as part of the House-Senate compromise trade bill. Should that not be a part of the compromise package, I will pursue a suspension of the reporting requirements.●

TALKLINE/KIDS LINE

● **Mr. SIMON.** Mr. President, as one who is very concerned about the welfare of our Nation's children, I am pleased to share the following information with my colleagues. In my home State of Illinois, a 24-hour crisis intervention hotline has been developed to serve the needs of the community. This service, called Talkline/Kids Line, provides confidential crisis intervention, counseling, as well as information and referral.

Organized in 1971, Talkline is the adult/teen hotline which addresses any type of problem or issue. Kids Line is oriented toward children 13 and under, believing that early intervention makes it easier to prevent destructive and risk taking behavior. An emphasis is also placed on the family, communication, and safety.

Kids Line has received the 1987 President's Volunteer Action Award, in the category of public safety. I know my colleagues join me in congratulating Talkline/Kids Line on their fine work. We must continue to support these important and much needed programs.●

POPPA GAR: A UNIQUE NEVADAN

● Mr. HECHT. Mr. President, today I rise to pay tribute to a truly outstanding and unique Nevadan: John Garland Miner.

In 1965, Miner, who is better known to thousands of Nevadans as Poppa Gar, opened a small restaurant on the corner of West Oakey and Western Avenue. Today, the restaurant that bears his name is one of the oldest and most popular eating establishments in Las Vegas.

Poppa Gar's is the local gathering place for Nevada's power brokers, and those who just like an old fashioned quality meal. The food that Poppa serves is famous for its top grade ingredients and good taste, and he is especially noted for his homemade soups and country sausage.

Gar, now 80, learned to cook when he was just a youngster in North Carolina and can still be seen daily greeting and talking with customers. It is his personal interest in each and every one of those customers that makes Poppa such a special man.

Mr. President, in these days of fast food and fast hype, it is truly refreshing to know a man who does not serve either. Poppa Gar has contributed greatly to the State of Nevada, and it is truly an honor to pay tribute to him today.●

ORDERS FOR FRIDAY

RECESS UNTIL 9 A.M.

Mr BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 9 o'clock tomorrow morning instead of 8:15.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that after the two leaders have been recognized on tomorrow under the standing order, there be a period for the transaction of morning business to extend not beyond 10 o'clock and that Senators be permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I do not need unanimous consent for the Senate to resume consideration of the pending business at 10 a.m. tomorrow, do I?

The PRESIDING OFFICER. That will be automatic.

PROGRAM

Mr. BYRD. Mr. President, the Senate will convene at 9 o'clock tomorrow morning. After the two leaders have been recognized under the standing order, there will be a period for the transaction of morning business not to extend beyond the hour of 10 o'clock. Senators will be permitted to speak during that period for the transaction of routine morning business.

At the hour of 10 o'clock, the Senate will resume consideration of the pending business, House Joint Resolution 324, a joint resolution increasing the statutory limit on the public debt.

I anticipate rollcall votes on tomorrow. There may be times, Mr. President, when the Senate will not be working on that matter. It is conceivable that the chairman and other members of the Budget Committee on both sides of the aisle would be entering into negotiations again, now that both the Chiles amendment and the Domenici amendment have been disposed of, in which event the Senate may go to other business.

The other business that could be taken up, of course, would be the campaign financing reform, which is the unfinished business, and which can be brought down at any time. Also, as I indicated to the distinguished Republican leader today, I may very well, if the opportunity presents itself and if otherwise circumstances would dictate, I may very well ask to go the consideration on the Executive Calendar of Melissa Wells. The nomination has been on the calendar now since March 31. This is a nomination to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of Mozambique.

There is another nomination on the calendar that I hope to dispose of before many days. That is the nomination of David Bryan Sentelle, of North Carolina, to be U.S. circuit judge for the District of Columbia Circuit vice Antonin Scalia.

So the Senate could go to those nominations. There may be other business which would be cleared for action by tomorrow. I anticipate rollcall votes during the day.

RECESS UNTIL 9 A.M. TOMORROW

Mr. BYRD. Mr. President, I thank the distinguished occupant of the chair for his patience. Here it is 9 o'clock, lacking 1 or 2 minutes. I think we will beat the clock to 9 o'clock tonight.

In accordance with the order previously entered—and I hope that the Chair will put the order quickly, the Chair being my distinguished colleague from West Virginia, of whom I am very proud—I move, that the Senate stand in recess until the hour of 9 o'clock tomorrow morning.

The motion was agreed to; and, at 8:58 p.m., the Senate recessed until Friday, July 24, 1987, at 9 a.m.

EXTENSIONS OF REMARKS

33D DIVISION REUNION, 1987

HON. RICHARD J. DURBIN

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. DURBIN. Mr. Speaker, I am honored to insert into the CONGRESSIONAL RECORD today a speech given by my most distinguished colleague, CHARLES BENNETT of Florida, at the reunion of the 33d Divison of the U.S. Army. That reunion took place in my home town of Springfield, IL, from which the 33d was originally activated.

I recommend that all my colleagues read this speech, but I think it is particularly important for those of us born too late to be personally aware of both the horrors of World War II and the valor of those brave Americans who defended our country to read CHARLIE BENNETT'S words.

He knows all to well the tragedy of war, and his brave military record qualified him as a war hero, leading over 1,000 men in the Philippines in the battle for the Pacific.

The military record of the 33d Division, in which CHARLIE fought, should make us all proud. In the words of Gen. Douglas MacArthur, "No finer Division has ever fought than the 33d. Its record is long and honorable and fills all Americans with pride and gratification. My confidence in it during the vicissitudes of campaign was complete and it never failed me." There is no better authority on the military qualifications of a combat unit than General MacArthur.

Again, I urge my colleagues to read CHARLIE BENNETT'S speech. The words and the memories they evoke are as important today as they were in the days of World War II.

THIRTY-THIRD DIVISION REUNION, 1987

More than forty years ago, we in the 33rd Division helped our country to make a journey from tragedy to triumph. It is time now not only to remember—but also to rededicate ourselves to our nation's great goals, goals of a strong national defense, world peace, and the improvement of the quality of life in our own beloved country and for mankind. We bring to these quests the spur of patriotism, the illumination of American idealism, and the unifying force of brotherhood, which we forged for ourselves more than four decades ago in the Southwest Pacific. For a few minutes tonight, let us think together of that war and of our future.

Aboard ship in the China Sea enroute from New Guinea to the Philippines early in 1945, I read for the first time, Stephen Crane's war story, *The Red Badge of Courage.* There I read of fictional Henry Fleming and his mother's advice as he entered the Army on the Union side in the Civil War. She said to him: "Henry, there's lots of bad men in the Army. The Army makes 'em wild and they like nothing better than the job of leading off a young feller and a learning 'em to drink and swear. Just think as if I was a' watching you. If you keep that on yer mind I guess you'll come out about right."

Maybe you got such advice from your Mom when you enlisted in World War II. I did. I also experienced many of the things Henry experienced. At first boredom, then fright in various degrees and like him I wound up with a badge of courage. Like him I know many others deserved medals much more than did I.

World War II, our war, was in fact history's most memorable war—it is memorable not just because so many people were involved in it, were killed and wounded, but more for things that were changed.

World War II cost America 405,399 dead, and 670,848 wounded, and more than twice as much money as the Federal government spent in all the years from 1789 to the war's outset.

The role of government in the economy was transformed. In 1940, only 18 percent of the nation's gross national product was spent by federal, state and local governments. By 1979, that figure had almost doubled to one-third of the gross national product.

Thirty million Americans lived on farms before the war, but only 13 million did by 1960.

In 1940, one out of every five Americans had an automobile; by 1970 it was one car to every two Americans.

More important have been the social changes. Women in 1940 accounted for only 25% of the nation's workforce. Wartime needs changed that forever. As for education, the G.I. Bill worked a miracle, which is still to this day unfolding. Before the war the average American was barely a junior high school graduate. Only one of ten finished one year in college. By the mid-60's, well over 40% of the college age population had attended college; and the average American has now more than a high school education. Regional differences in the country were softened; and racial discriminations became illegal and religiously eschewed, tabooed. Personal horizons expanded.

The nation itself became the greatest global power. And it began its new responsibilities by the most extraordinary philanthropic adventure in mankind's history. Truman's Marshall Plan of economic assistance to the nations which were defeated by World War II.

In the decades that have followed, nuclear weapons, which helped end the war, proceeded to imperil all mankind, while preventing by their threat a third world war. This paradox of a curse wrapped in a blessing will be with us until mankind finds a way to triumph over its weaknesses.

You had an important part in the victory of World War II and each of you paid a price for it. As Robert E. Lee wrote to his wife, "A soldier has a hard life and but little consideration."

Like you, I remember our campaigns and the hardships we endured.

It was wet. Remember the rain at Finschhafen where downpours turned our company bivouac . . . into calf-deep bogs of mud?

It was hot and uncomfortable. Remember the terrible heat at Morotai.

It was exhausting. Remember working as stevedores at Wake Island and Finschhafen? Remember hand carrying supplies forward to the front line over the tangled jungle trails? Remember the Kennon Road on Luzon and the long, bloody climb through the pass?

It was lonely. Remember the deadly patrols in leech-laden swamps and the tree filled jungle? . . . Remember being alone at night in the jungle with the Japanese nearby?

I wrote a little unpublished book for my parents, while I was in the hospital at the end of the war. I quote from it:

"A panorama of fighting on a broad front is rare in jungle fighting. On Mount Calugong, near Baguio, I once had such a view. Down to our left we had a full exposure of the Asin valley road to Baguio and above it in the mountains and at a further distance we could see the Naguilian highway to that city. Both roads were in fierce combat as well as another area near at hand in the mountains. It was a stirring sight.

"Here were the puffs of smoke, the cracks of small arms, the clouds of dust, the blasts of artillery all set on a detached stage for my view. I watched it as I had watched old moving pictures of World War I. It seemed like some great stage show. We even had a curtain of cloud now and then to blot the embattled roads from our vision.

"I realized that to the men below there was no such spectacle. Most of them sought routes for advance in the rough terrain on each side of the roads. To them the puffs of smoke were perhaps phosphorous grenades perilously yet carefully and quickly hurled to the narrow openings in enemy installations, bringing the Japs out for a more evenly matched combat. The crack of small arms meant the culmination of the enemy perceived, quick aim, the trigger squeeze, the kick of the rifle, all done with the heart in the throat. Or perhaps it meant enemy fire whizzing and whining around your ears, spattering in the rock and sand and sometimes in the begrimed and sweaty flesh of your buddies.

"Those clouds of dust would be the cannon company struggling for better positions. God bless them! That artillery goes both ways. The noise of ours would be music in your ears. The enemy artillery meant a sudden hurricane of steel, rock and stinging air. You would be deafened, stunned and just waiting to know if you would hear the quiet at the end.

"Then there would be the unforgetable swiftness of close-in fighting, when for an instant enemy eyes met yours. Mirrored there in sinister grimaces and frozen grimness you saw your own mingled terror and fierce determination. You cursed yourself alike for dangerous clumsiness and brutal agility in this business of butchery.

"No, those boys were seeing no spectacle. It was all too quick, too automatic, too full of physical and mental tortures. Even the brief periods of inactivity would be full of tense expectations—of heart pounding pressure. Something would seem to roll up from your stomach and into your throat and leave your body empty. Your hands would

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

be clammy; your throat dry. Sweat and dirt would sting and bite your eyeballs like a mad horde of furious little ants. Heat, dirt, fatigue, pain, anguish for dying comrades, inhuman responsibilities, moral conflicts and fear all pulled at you. Cowardice and heroism played close companions in your mind. But you acted. You went forward. You had to. You were no hero for doing it. Something sent you on to do the job untouched by glory and unthinking.

"Up in the mountains where I had been observing and musing on what was going on below, the scene, as dramatic as it was, seemed suddenly a private thing which no man had a right to gaze upon. I turned away more saddened than stirred. As I slung my rifle and squared my helmet it occurred to me that efficiency in combat denied my right to think these thoughts until the fighting would be over. I was glad that I had a long uphill march ahead of me. It would make me tired and I would not think."

Yes, we of the 33rd experienced hardship, suffering, fear, and the loss of friends and comrades-in-arms. And we can never forget the suffering and the agonies of combat. But another part of the 33rd Division's experience is still with us today.

The friendships forged on New Guinea, Morotai, and Luzon are evident in this room. In the midst of suffering and death, we saw heroism, dedication, and humanity.

We shared the hardships of battle far from home together and those bonds continue to hold the division together.

We saw the contributions of each member of the division to our goal of returning to the States. We saw victory, and we realized its price was dear.

We witnessed the best and worst conduct of men plunged into the most extreme of human actions, war in the most difficult of climates and of terrain known to man. We triumphed because we worked together and the legacy of our victory is with us always.

Stephen Crane on writing of the soldier, Henry Fleming, said: "There was a consciousness always of the presence of his comrades about him. He felt the subtle battle brotherhood more potent even than the cause for which they were fighting. It was a mysterious fraternity born of the smoke and danger of death."

We in the 33rd Division have an important brotherhood. It has its keenest appreciation in memories of specific things we experienced together.

I remember how the fellows covered up for me when I botched some close order drilling at Kekaha; how they pled successfuly with the Colonel that the orders be revoked that would have taken me permanently to staff duty and away from the platoon; how the boys in one pillbox took G.I. soap and a scrubbing brush to one of them who was reluctant to bathe often enough; how we trudged and sloshed through waist deep mud and water, thick undergrowth and head-high kunai grass on jungle patrols; how we slept in rain-filled and insect-infested slit trenches; how boys would volunteer to replace their buddies who were more fatigued than they; how we would laugh when one of us had to deficate or urinate in our helmets when safety prohibited leaving our slit trenches at night; how unbelievably exhausted we were on combat patrols in the mountain ridges; and how we had our best teamwork when things were the toughest; how I wept when PFC Nanny Clark died at Waimea and Sergeant Luther Deichman was blown to bits at the beach in New Guinea.

I remember hoping after the war that the hard won peace would be final and that men in succeeding generations would be reasonably assured that their children would not have to repeat the process of global war.

For us veterans the future security and well-being of our beloved country is what to us is most important. Our past experiences have strengthened our dedication, our understanding, and our resolve to make our country stronger and better in every way we can. John F. Kennedy best expressed it when he said, "I firmly resolve to serve my country in peace as honestly as I tried to serve it in war."

As I have visited with you at this reunion, and as I had heard from scattered correspondence through the years, you veterans of the 33rd have been busy in business, politics, and civic leadership in trying to strengthen our beloved country. I congratulate you upon it. Not everyone can contribute like Kennedy did in the highest office in the land. But we can each do the best we can with what assets we can bring to bear. You each have done that, and I congratulate you. We have a country we can be proud of and together we will make it even better.

I deeply feel that we veterans of World War II had an unique experience in life that has made us especially qualified to serve our country and mankind. So, let's stay involved! Don't retire from life, but vote, write, teach, give advice, and be active members of civic and church organizations, always on the good side, the positive side of life. Let's try to help other people, and our country, to be great; and make ourselves givers, not just getters. Our General Clarkson, said to us long ago, "My confidence is in you now that you will do your part for the United States in peace as you did in war."

So, my brothers in the bonds of battle and of love:

Wherever we are, whatever we may be doing, however strong or weak we may each be, let us pledge to ourselves as brothers that we will do in our time, and to the extent of our individual and collective abilities, everything we can to see our country remain strong and great and to see that the world is blessed with peace from this day forward.

RODRIGO ROJAS' DEATH ONE YEAR LATER

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. PORTER. Mr. Speaker, I rise to remind my colleagues of the tragedy that occurred last year in Santiago, Chile. Nineteen-year-old Rodrigo Rojas, a Washington citizen, was brutally killed last July while visiting his native land. Chilean soldiers broke up a scheduled demonstration, doused Rojas and his friend, Carmen Gloria Quintana, with gasoline and set their bodies in flames. Rojas died 4 days later. Quintana remains in a Canadian hospital, 60 percent of her body covered with burns.

Last year the United States called for a thorough investigation by Chilean legal authorities into Rojas' death. In response to international outrage, one Chilean officer was arrested. His original charge of "unnecessary violence" was later reduce to a misdemeanor charge of neglect. Reports indicate that this man has recently been promoted to captain.

Mr. Speaker, I am not satisfied with these results. The United States must not give up until justice is done in the case of Rodrigo Rojas and the thousands of others who have been arrested, tortured, and killed at the hands of the Chilean Government. Human rights and democracy must be restored in Chile.

THE STRATEGIC IMPERATIVE OF ANTITACTICAL BALLISTIC MISSILE DEFENSE

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. SMITH of Florida. Mr. Speaker, as my colleagues are aware, the Middle East is a very volatile region that is of vital interest to the United States. As such, it is my belief that Members of Congress should be kept appraised of developing security issues in that region. It is for this reason that I am bringing excerpts of the current issue of Policy Focus to the attention of my colleagues.

In the article printed below, the threat of a proliferation of tactical conventional ballistic missiles is discussed. It is also important to note the Israeli Government's responsible reaction to this threat. The Israelis have begun a valuable research program of a antitactical ballistic missile system. This system maybe of great value to the security of the United States and its allies.

While I hope my colleagues will read the entire article, I am only including a particularly pertinent selection, for the sake of fiscal responsibility.

[From Policy Focus, May 1987]

NATO, ISRAEL AND THE TACTICAL MISSILE CHALLENGE

(By W. Seth Carus)

EXECUTIVE SUMMARY

Notwithstanding the current INF negotiations, the threat posed by tactical ballistic missiles to Nato and Israel will not diminish in coming years. In fact, many military experts feel that the threat will grow.

The new generation of missiles, typified by the Soviet SS-21 and SS-23, are about ten times more accurate than their predecessors. They also carry more lethal warheads and according to the U.S. Department of Defense, are armed with improved conventional munitions (bomblets), chemicals, and mines. Fuel air explosives and air base attack warheads have also been developed.

The new generation of missiles are considered especially suitable for use against air bases, radar stations, surface-to-air missile sites, equipment storage depots and supply dumps, and thus constitute a serious danger in the opening stages of a war. It has been calculated, for example, that only three SS-23 missiles would be needed to temporarily knock out an American air base in Germany.

Most existing surface-to-air missiles cannot be used against tactical ballistic missiles. Advances in technology, however, have recently made it practical to consider the development of anti-tactical ballistic missile weapons (ATBM). Israel seems to have made considerable advances in this field that are of growing interest to the West. The increased proliferation of these missiles, particularly in the Middle East and Europe, has made ATBM technology a strategic imperative.

ISRAELI ATBM DEVELOPMENT

Israel has embarked on an unusually sophisticated response to the threat of tactical ballistic missiles and in some areas it may have a comparative advantage over other Western efforts. The Israeli interest in anti-tactical ballistic missile systems has emerged from a growing concern that the new generation of tactical ballistic missiles armed with sophisticated conventional warheads or chemical munitions would make air bases, mobilization sites, and other facilities vulnerable in a surprise attack. Although considerable effort has been made to harden threatened installations, to develop an ability to attack missile launchers, and to deter possible Syrian use of missiles, once Syria received the SS-21 missiles in 1983, it became evident to Israeli defense planners that it was necessary to consider development and deployment of an anti-tactical ballistic missile system.

The primary targets of Syrian tactical ballistic missiles will probably be Israeli air bases and the equipment storage depots for reserve units. By attacking the air bases the Syrians would hope to reduce the number of sorties that could be flown by the Israeli air force, especially during the critical opening hours of a conflict. Because of the effectiveness of Israeli air defenses, it is unlikely that a similar result could be achieved through use of tactical aircraft. During the Lebanon fighting in 1982, the Syrian Air Force reportedly suffered a loss rate of about 30%, or 82 fighters destroyed during only 266 sorties. At a 30% loss rate, a typical aircraft will survive to make only 2.25 missions before it is shot down, and the entire Syrian Air Force would disappear after only 7 days.

A second objective of the Syrians would be Israeli equipment storage sites for Israeli reserve units. Most of the Israeli army consists of reserve formations, and the equipment of such units must be stored in areas relatively close to the front in order to minimize the time required to get them into action. This places the storage sites in range of Syrian missiles. The vulnerability of Israeli equipment is increased by storage methods that keep tanks and armored vehicles filled with ammunition and fuel at all times.

Concerns like these have led Israeli military planners to give serious attention to the threats posed by tactical ballistic missiles, and to the methods of protecting against attacks by such weapons.

In the process of exploring ATBM technologies, Israel's defense industries have developed a number of responses that one senior American defense official publicly stated were of "very great interest" to the United States. The technologies reportedly include efforts in such diverse areas as computer software, electronics design, electronic countermeasures, lasers, holography, rail guns, and point defense missiles.

Although not much information about Israeli ATBM systems has been made public, enough is known to suggest that many are of unique design. One of the programs is a hypervelocity gun that reportedly uses electro-chemical principles, in contrast to the electro-magnetic rail guns being pursued elsewhere. According to one account, the system apparently relies on the explosive energies created through the dissociation of water. The gun uses an electric current to create a plasma field that hydrolyses the water, releasing hydrogen, oxygen, and heat in an explosive combination that can generate sufficient energy to propel 30mm projectiles at velocities of more than 12,000 feet per second. This "thermal" gun may avoid some of the limitations of existing electromagnetic rail guns, which can fire only a single round at a time, require laborious repair before they can fire a second round, and are constrained by the amounts of electricity that can be discharged through the system using existing electrical storage technologies.

Israel also is reported to have developed two hyper-velocity missiles capable of shooting down tactical ballistic missiles (but not longer-ranged missiles). Virtually nothing is known of the projects, but press reports indicate that Israel Aircraft Industries has developed a medium range missile called the Arrow, and Rafael has developed a shorter-range system known as the "AB-3".

Despite Israel's small size and limited resources, it possesses some important structural advantages that may enable Israel's defense industries to make a disproportionately large contribution to the overall Western effort to devise defenses against tactical missiles. Israel's ability to contribute in such an arena is largely due to the extensive awareness of the combat environment by Israeli soldiers, military planners, and weapons developers. There is a constant recognition that if weapons are to be built, they must be able to serve real combat needs. This provides the Israeli defense industries with some unique advantages.

First, the Israeli military is usually able to provide its contractors with a more precise definition of the threat than is true for the armed forces of other countries. Two main reasons account for this. The Israeli military is usually more concerned with immediate threats than with hypothetical ones that may emerge in the future. Thus, it is able to ignore potential dangers that may never emerge, but that must concern weapons designers who have to take into account threats unknown as yet that may appear in ten or fifteen years. In addition, the Israeli military has a clearly defined theater of operations, known opponents, and can determine with some accuracy the likely circumstances in which its forces will be employed. This is often a serious problem for other military forces, where the threats are indeterminate and it is often difficult to anticipate the circumstances in which military operations would take place.

Second, Israel's small size ensures that there is considerable contact between those who develop and build equipment and those who use the weapons. The ability of these two groups to remain in communication ensures that equipment meets the needs of the soldiers who must use it and that the military knows what can and cannot be accomplished with existing technologies.

Third, the Israeli philosophy of weapons design dictates maximum use of existing technologies. Thus, even quite advanced systems often will incorporate a host of devices that were built originally for other purposes. By using off-the-shelf components and sub-systems it is often possible to significantly reduce the costs of developing and building new weapons, and also minimize the risks associated with military research and development programs.

Fourth, Israeli weapons designers have come to make increasing use of advanced technologies in the systems they produce, and often their systems are as sophisticated as those built in Western Europe and the United States. Not only do Israeli scientists and engineers have considerable familiarity with advanced technologies used throughout the world, but they are sometimes better able to exploit those technologies than others. Development cycles in Israel are generally shorter than those in other countries, which makes it easier to incorporate new technologies that have reached a stage where they can be effectively exploited. Similarly, operational demands of the Israeli military for useful equipment that deals with new threats that emerge day-by-day has provided an institutional stimulus for the exploitation of advanced technologies.

These factors have made it possible for Israeli defense companies to gain an edge in the development of workable ATBM systems. It is thus likely that by the end of the century the Israeli military will have a locally-developed and built system to protect the country from missiles. Despite the strengths of the Israeli system, it does not follow that military equipment that works well for Israel will necessarily work equally well for other countries or in other situations.

FUTURE PROSPECTS

Despite the INF talks, the threat from tactical ballistic missiles will not diminish, and may actually be exacerbated, especially for countries in the front-lines. The increasing capabilities of conventionally-armed tactical ballistic missiles poses serious problems for military planners throughout the world. These problems are especially acute in Europe and the Middle East, where such systems have been deployed in vast numbers. As a result, a variety of countries have begun to explore antitactical ballistic missile systems to supplement other defense measures. The Israelis appear to have been especially active in this area, undoubtedly spurred by the very real threat posed by the hundreds of ballistic missiles in the inventories of hostile neighbors. Their technology is readily applicable to the requirements of other Western countries.

The benefits of collaboration between the United States and Israel will be quite substantial for both countries. Recently, it was reported that the Pentagon gave the go ahead to joint U.S.-Israeli development of the Arrow interceptor rocket, which is designed for defense against Soviet short-range missiles. According to the report the Arrow's new development will be paid for by both nations, with U.S. funds coming from the Conventional Defense Initiative, an account Congress set aside in 1986 for improving U.S. and allied non-nuclear forces.

Clearly other American allies, also endangered by tactical missiles will benefit from systems developed by Israel. It is highly possible that an Israeli ATBM will be the first such system deployed anywhere in the Western world, since Israel has a greater incentive to produce a working system of this type than other countries.

THE PLIGHT OF NAHUM MEIMAN

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. HOYER. Mr. Speaker, Nahum Meiman first applied to emigrate in 1975 and has been consistently refused permission on the grounds that he knows state secrets. Of course, this is absurd, for as he has told me, his work for the state ended in 1955.

Now, he is only an ailing, 76-year-old man looking for freedom. But the Meiman story gained its real notoriety in the valiant struggle of Nahum's wife Inna against cancer, a battle she tragically lost in February of this year separated from her family. The Soviet Union allowed her to come to the West for treatment too late to alter the course of the disease, and then would only allow her son to come for the funeral.

It is difficult to fathom the interests of a nation that ultimately are served by keeping separated a family that struggles for nothing more than to be together particularly at a time of impending death.

At a meeting with Nahum, he presented me with a letter of appeal addressed to Secretary of State Shultz which I would now like to share with my colleagues.

Moscow, *March 1987.*

Hon. George P. Shultz,
Secretary of State,
Washington, DC.

Dear Mr. Shultz: Could you please, if possible, include my case in your talks in Moscow? I have been denied permission to emigrate to Israel since 1975.

I am refused the right to emigrate on the absurd and malicious pretext of "secrecy." At the dawn of the atomic age, I did do classified, quite conventional calculations at an institute under the USSR Academy of Sciences. I have a document officially certifying that I ended that work in 1955. Here is an opinion on that by such a competent authority in the field as Academician Andrei Sakharov. He said in a letter to the Federation of American Scientists on August 19, 1977:

"All calculations in which Meiman and Goldfand took part were of a conventional character. Divulgence of the information they had access to would never be of substantial importance. It is now more than twenty years since they participated in secret work. Goldfand and Meiman, without a doubt, possess no information which might be classified as secret."

In January 1980, I was told officially that it had been decided never to let me emigrate. They refused to say who had decided that and when or where. You'd think that now, when so much is being said about "glasnost" (openness) in the Soviet Union, it is high time to annul my life sentence, so like the secret trials of the Middle Ages, like the nightmares of Kafka and George Orwell.

My secret sentence was extended to include my wife, Inna Kitrosskaya-Meiman. She was stricken by cancer in 1983. Though Inna could never receive adequate treatment in the Soviet Union, and in the face of numerous invitations to go for treatment to the United States and other countries, she was not allowed to go. Only thanks to efforts by Senator Hart and certain American diplomats was Inna allowed to go for treatment in January 1987. But it was too late by then. She died tragically in Washington.

I was even refused permission to attend her funeral. Ambassadors Max Kampelman and Warren Zimmerman, and Mark Parris know my story well. They realize how guilty the Soviets are of Inna's death.

I am 76 years old, seriously ill, and quite alone here. My only daughter, Olga Plam, is an American citizen living in Boulder, Colorado. Life has become intolerable for me here, and emigration has become a question of life and death for me.

Sincerely yours,

Prof. Nahum Meiman.

TROUBLE IN EL SALVADOR

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. MICHEL. Mr. Speaker, one of the great triumphs in American foreign policy since World War Two has been President Reagan's policy in Central America and the Caribbean. When he came to office, there were five dictatorships and one democracy in the region. Today there are four Central American democracies, a democratic government on Grenada and only one dictatorship, the Leninist Sandinistas' ruling junta in Nicaragua.

Nowhere has the President's resolve been proven to be more correct than in El Salvador. I can recall debates in the House in which military aid to El Salvador was criticized by the President's critics. There were many calls to bring the Communist terrorists into the government. But President Reagan stood firm. Against the hysterical and ill-informed criticism of the left, he believed that El Salvador could and should become a democracy. It is now a democracy and much of the credit goes to President Reagan. But it is a democracy that is troubled, not only by the continued war carried out against the people by the Communists but by policies of the government in economic areas.

The Wall Street Journal recently published an interview with a colonel in the El Salvador Army. The interview is disturbing because Col. Sigifredo Ochoa Perez has resigned from the armed forces after 26 years of service. He claims things are going badly in the war against the Communists.

What he has to say about the conduct of the war in El Salvador and of what he perceives as a "series of socialist measurements" imposed on that country by its current government (and by the United States) is controversial, but deserves our attention. If indeed what he has said about the current state of the war against communism in El Salvador is even partially true, perhaps the United States should reexamine its current policy toward El Salvador.

At this point I wish to insert in the Record, "A Voice of Dissent From the Salvadoran Military", in the Wall Street Journal, July 17, 1987.

[From The Wall Street Journal, July 17, 1987]

A Voice of Dissent From the Salvadoran Military

(The following is an excerpt from an interview with Col. Sigifredo Ochoa Perez that originally appeared in the El Salvador News-Gazette. Col. Ochoa resigned from the armed forces last month after 26 years of service because he was in disagreement with the policies of the Christian Democrat government. He has become the most important figure in El Salvador's democratic opposition)

News-Gazette: Why did you choose this moment to resign?

Col. Ochoa: Mine has not been a hasty decision. What has troubled me is that we in the military have our hands tied by bad politicians. The war can be won in a short time if the different forces can be united, and not from the military point of view. This kind of a war is purely military; it is the result of a series of circumstances of the past that I believe can be remedied, but not with demagogy, and not by taking from those who have or distributing what others have produced. There must be an agrarian reform, but not like the one carried out; not a banking reform that was more political than technical.

The army is a good one. We have learned to fight this thing. But when the army is close to victory, the orders come . . . the cease-fire and the order to withdraw, and that is where everything falls apart.

Unfortunately the Americans don't know us. When an American begins to get to know the country, he leaves. The American trainers aren't going to teach us anything. I think that we must solve our own problems. And one of these days we will have to sit down with the subversives and give them some political space.

News-Gazette: You said that when victory was near the order to stop fighting came. Doesn't that come from the U.S. policy makers who believe that the war cannot be won militarily and that a convergence with the left must be sought?

Col. Ochoa: The U.S. changes its policy every four years. It is not a consistent policy like that of the Soviet Union, which has a single line for a prolonged period. With the Americans we don't know where we stand. Today they are our allies, tomorrow they can abandon us to our fate. The present government hardly acts at all; it only reacts to what Washington says, and that is the problem.

News-Gazette: Do you mean that the strategy [of not permitting a military victory] comes from Washington?

Col. Ochoa: I think so, because it has been said that we don't do anything by ourselves and that is why they do a number of things. I think that in the tactical area it is different—plans and all that are made [here] in the General Staff. But the overall lines are adapted to what the U.S. sees as having priority for its national security and political interests and this is given the highest priority.

If we are hoping that the Americans will solve our problems, we are lost. I ask myself, why the U.S., the most powerful nation on the face of the earth, the major defender of human rights and individual integrity, has imposed a series of socialist measures on us. Why didn't they experiment on a small state like Vermont or Maine? I would like to know how the U.S. landowners would react when the first lands were taken from them, or their factories, or their banks. I think this is an attempt to change the image of the U.S. And there we have the case of the Christian Democrats: a product of U.S. foreign policy.

They are afraid of a *coup d'etat*, but I don't think that will happen because the coup mentality has disappeared in El Salvador. We must defeat this Christian Democrat government with votes, and they must respect this position.

News-Gazette: If there is a mistaken military strategy that does not lead to victory—a strategy supported by the U.S., accepted by the government and imposed on the military institution—then, where does that leave the people of El Salvador?

Col. Ochoa: Well, that is the big problem. It is the people who suffer. The people are the main victim. If the strategy upstairs is mistaken, the number of dead and crippled civilians and military personnel involved in the war all serve no purpose. I think that the strategy is wrong: The war strategy is completely mistaken. We are involved in a war and somebody has to win. I never heard of a war that was a draw. One side or another wins in a war. Communism will win in El Salvador, or we will defeat communism. A decision must be made.

News-Gazette: Is it possible to mix Marxism with democracy?

Col. Ochoa: No, that is not possible.

News-Gazette: And isn't that precisely the strategy of the low intensity war imposed by the U.S. and implemented through a government that does not permit a military victory, as you have said?

Col. Ochoa: Exactly, we get military assistance with a dropper, enough to keep us alive, but not enough to make us healthy. But I object to the description of low intensity war, since for us it is a high intensity war, given the number of dead, wounded, crippled and the suffering and destruction that assail us. I think the U.S. should put its feet firmly on the ground and define itself, because at times one fears being an ally of the U.S. Nobody knows how the U.S. Congress will react, nor the other institutions that have to do with us. I think that the Americans should appreciate us more and acknowledge the important role that we are playing in containing the communist advance to the North and the powder keg of Mexico. We will solve this problem ourselves. Guatemala has it almost under control, but there was no American aid there, and perhaps that was their great advantage. American aid has tied our hands.

I think that we have been made into a beggar nation. Instead of developing our own economic infrastructure, we have been living off charity. If there is something that we Salvadorans have a right to be proud of, it is our ability to work. But we have been a guinea pig for a socializing experiment that has only served to ruin the nation. It is a mistake to believe that the laboratory is useful; it is good for nothing. We don't wish this fate on any of our brother republics.

News-Gazette: Does the Salvadoran army have the capability of achieving a military victory over the subversives?

Col. Ochoa: I think so. The armed forces of El Salvador have the capability of achieving a military victory, but the political determination to achieve a military victory does not exist in the government. If the army were given objectives and told, "we want victory in such a period of time," the army has the capability and it has the leadership to achieve it. There are many companions-in-arms who are very good—the officers, the noncoms and the combat units are all very good. But you must remember that the political part is what decides the military part. If there is no political determination on the part of the government, or because the government doesn't want it, or because there is some alien hand that refuses to give the government the green light, this makes it impossible for the armed forces to achieve a rapid military victory, even if it has the capability.

THE SHAREHOLDER DEMOCRACY ACT OF 1987

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. DORGAN of North Dakota. Mr. Speaker, today, I am introducing the Shareholder Democracy Act of 1987, which will provide ammunition to fend off the current attack on America's industrial and financial development. I am speaking of the current battle ground on Wall Street of merger activity and hostile mergers in particular. This bill approaches the problem by using the tactics of increased disclosure requirements and democratic procedures. It would require, among other things, a vote by the majority of shareholders of both the bid and target companies before the tender offer is consummated. While not a panacea for solving all the hostile takeover repercussions, this bill represents an important weapon for the victims of this warfare.

This paper warfare hurts most Americans and enriches a small minority. It increases concentration in the economy, reducing economic diversity and the potential for growth through healthy competition. The winners are a few paper entrepreneurs: The raider, the investment banker, the merger lawyer. The losers are workers, American competitiveness, and the American economy.

A look at these statistics should tell us just how potentially harmful the current merger mania is:

American companies spent over $100 billion to buy back their own stock in 1984 and 1985, but just $23 billion in 1983. Had that money been used to modernize plant and equipment, total capital investment in the companies would have increased by 25 percent.

In 1986, there were $177 billion in hostile raids. This represents more money that was spent on all plant and equipment purchased by all manufacturing companies throughout the United States—$140 billion.

In 1986, American corporations sold 263 billion dollars' worth of debt which is five times more than in 1982.

In 1986, over 32 billion-dollar takeover deals took place in America; 17 of them, involving $41 billion, were the result of hostile bids. This $41 billion represents twice the total proceeds of all initial public offerings made by all of the 717 companies in the United States that made initial public offerings last year. This $41 billion was 1,300 percent higher than the venture capital commitments made throughout America in 1986 to all of the independent venture capital firms in this country—1,300 percent higher than the $2½ to $3 billion that were committed to venture capital funds last year.

If we continue to allow this war to be fought without congressional intervention, we will awake to discover the rule of titans. We should not forget a basic fact: The marketplace works best when no giants dominate and competition is allowed to flourish. It's time that Congress stepped in and formulated the rules of the war.

The Shareholder Democracy Act of 1987 aims to discourage hostile takeovers primarily through enhanced disclosure and democratic rules. My goal is not to discourage those who buy with the intention of creating a more efficient profitable company, but to stop those who acquire only to plunder and sell.

The highlights of the bill are:

Requires a longer period, 60 business days, between initiation and consummation of an unsolicited takeover.

Requires that consummation, but not commencement, of a tender offer be approved by the stockholders of both the bidder and the target.

Requires increased disclosures of the economic effects of the bidder's proposal, similar to those in registration statements, including the effects on employees, communities, creditors, pension funds, and governmental units.

Requires equal treatment of all stockholders by the acquiring company in a takeover or anytime that a company reacquires shares from its stockholders.

Prohibits companies from employing "greenmail" by acquiring their shares from the raider at a price in excess of market value.

Requires disclosure of the accumulation of ownership within 2 days, instead of 10, when a person or institution acquires 2 percent, instead of the current 5 percent of a company's common stock, or when a person or institution acquires any shares with the intent of gaining control, in order to curb surprise bids and discourage insider trading.

Obviously, this legislation does not stop hostile takeovers, but it does represent one step in attempting to lay out the rules of the game so that the public will not be the big loser. I urge you to cosponsor the Shareholder Democracy Act of 1987.

The text of the bill follows:

H.R. 2996

A bill to amend the Securities and Exchange Act of 1934 to improve corporate governance and protect shareholder rights, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This title may be cited as the "Shareholder Democracy Act of 1987".

SEC. 2. DISCLOSURE STATEMENTS BY MAJOR SHAREHOLDERS.

Section 13(d)(1) of the Securities Exchange Act of 1934 is amended—

(1) by striking out everything preceding subparagraph (A) and inserting the following:

"(d)(1) Any person who plans to acquire, directly or indirectly, the beneficial ownership of more than 2 per centum of any equity security of a class which is registered pursuant to section 12 of this title, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 12(g)(2)(G) of this title, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940, or any person who plans to acquire, directly or indirectly, the beneficial ownership of any such security for the purpose or with the intent of acquiring control by any means of the issuer, shall make at least one business day prior to any such acquisition a public announcement containing such information as the Commission may by rules and regulations prescribe and shall within two days after such acquisition, send to the issuer of the security at its principal executive office, by registered or certified mail, send to each exchange where the security is traded, and file with the Commission, a statement containing the following information, and such additional information as the Commission may by rules and regulations, prescribe as necessary or appropriate in the public interest or for the protection of investors;";

(2) by striking out subparagraph (C) and inserting the following:

"(C) if the purpose of the purchases or prospective purchases is to acquire control of the business of the issuer of the securities any plans or proposals which the bidder may have—

"(i) to liquidate such issuer or bidder,

"(ii) to sell or otherwise dispose of any significant part of the assets of such issuer or bidder other than in the ordinary course of their respective businesses,

"(iii) to mortgage or otherwise encumber any significant part of the assets of such issuer or bidder,

"(iv) to effect the merger, consolidation, or other combination of such issuer or bidder with any other person,

"(v) to make any significant change which would affect the communities in which such issuer or bidder operates, including a change in location of principal executive office or of a significant portion of business activities,

"(vi) to make any significant change which would substantially affect the management, labor organizations, pension funds, or employees of such issuer or bidder, including a change in the number of employees or a change in the compensation or benefits that are provided to employees,

"(vii) to make any other significant change in the business, corporate structure, management or employment policies or practices of such issuer or bidder, or

"(viii) to make any significant change which would substantially affect the production of goods or the performance of services by such issuer or bidder for the United States, any State, any local government, or any agency, department, body, or division of any thereof;";

(3) by redesignating subparagraphs (D) and (E) as subparagraphs (F) and (G), respectively; and

(4) by inserting after subparagraph (C) the following:

"(D) the anticipated effects of any changes described pursuant to subparagraph (C) as well as the anticipated effects of the proposed transaction generally and subsequent operations upon the innovation, productivity, efficiency, and profitability of such bidder and the issuer, including the effects on shareholders, employees, creditors, suppliers, and customers of each, and the communities in which either is present;

"(E) the financial statements, including projected profit and loss and balance sheets reflective of anticipated operations of such bidder and the issuer for the ensuing three years following the proposed purchase, prepared in accordance with such rules and regulations as the Commission shall adopt within 180 days of the effective date of this subparagraph;".

SEC. 3. ELIMINATION OF CERTAIN EXEMPTION FROM SECTION 13(d) DISCLOSURES.

Section 13(d)(6) of the Securities Exchange Act of 1934 is amended—

(1) by striking out subparagraph (A); and

(2) by redesignating subparagraphs (B), (C), and (D) as subparagraphs (A), (B), and (C) respectively.

SEC. 4. TENDER OFFER REQUIREMENTS.

(A) Mandatory Contents.—Section 14(d)(1) of the Securities Exchange Act of 1934 is amended by striking out "such of the information specified in section 13(d)" and inserting "the information specified in section 13(d)".

(b) Duration of Withdrawal Rights.—Section 14(d)(5) of such Act is amended by striking out "sixty days" and inserting "sixty business days".

(c) Requirement of Approval by Shareholders of Both Bidder and Issuer in Tender Offers.—Section 14 of such Act is further amended by redesignating subsection (g) as subsection (j) and by inserting after subsection (f) the following:

"(g)(1) It shall be unlawful for any person in connection with any tender offer or request or invitation for tenders to fail to comply with the provisions of paragraphs (2) and (3) of this section.

"(2) Any bidder who makes, directly or indirectly, a tender offer or a request or invitation for tenders which is subject to subsection (d)(1) of this section shall not take up or pay for any securities in connection with such tender offer, request, or invitation, unless such offer, request, or invitation shall first have been approved by the holders of securities of both the issuer and the bidder at meetings held for such purpose by the affirmative vote of (A) not less than a majority of the voting power of the issuer and the bidder, respectively, in the election of directors and (B) not less than a majority of the portion of such voting power of the issuer and the bidder, respectively, excluding interested securities. A quorum shall be deemed to be present at any such meeting if, and only if, at least a majority of the voting power of the issuer and the bidder, respectively, in the election of directors, and a majority of the portion of such voting power of the issuer and the bidder, respectively, excluding the voting power of interested securities, are represented at such meeting in person or by proxy.

"(3) With respect to the meetings of holders of securities contemplated by paragraph (2) of this subsection:

"(A) The term 'issuer' shall have the meaning set forth in section 3(a)(8) of this title.

"(B) The term 'bidder' means any person who, directly or indirectly, makes a tender offer or request or invitation for tenders, or on whose behalf or for whose benefit such a tender offer, request, or invitation is made: *Provided, however,* That it shall not include an issuer which makes a tender offer, or request or invitation for tenders for securities of any class of which it is the issuer, unless such tender offer, request, or invitation by the issuer is made in response to another person's tender offer, request, or invitation for securities of the same class of the issuer. The term 'bidder' shall be construed so as to require the approval of a tender offer, or request or invitation for tenders, by the affirmative vote of holders of securities of each person which is an issuer of securities registered pursuant to section 12(g) of this title and on whose behalf or for whose benefit such tender offer or request or invitation for tenders has been made, in the event that any person in whose name a tender offer or request or invitation for tenders has been made is not an issuer of securities registered pursuant to section 12(g) of this title.

"(C) The term 'person' means a natural person; corporation; partnership; limited partnership; parent, subsidiary or affiliate of any corporation, partnership or limited partnership; an unincorporated society or association; two or more persons having a joint or common interest; or other entity, association or organization by or through which a tender offer or request or invitation for tenders can be made.

"(D) The term 'interested securities' means the securities of an issuer or a bidder, respectively, in respect of which any of the following persons may exercise or direct the exercise of the voting power of the issuer or the bidder, respectively, in the election of directors—

"(i) The issuer in the case of securities issued by the bidder, or the bidder in the case of securities issued by the issuer;

"(ii) any officer of the issuer or the bidder, respectively, elected or appointed by the directors of the issuer or the bidder, respectively; and

"(iii) any employee of the issuer or the bidder, respectively, who is also a director of the issuer or the bidder, respectively.

"(4) The laws of any State, with respect to any issuer or bidder which is organized under the laws of such State, may permit the increase of, but not the decrease of, the vote required for the approval of a tender, or request or invitation for tenders, or the quorum required at any such meeting of holders of securities.

"(5) The record date for the determination of holders of securities entitled to notice thereof and to vote thereat shall be as of the close of business on the business day next preceding the commencement of the particular tender offer.

"(6) The meetings shall be held no later than the second business day next preceding the end of the minimum offering period provided in subsection (h) of this section.

"(7) Every proxy, consent, and authorization given in respect thereof is valid and lawful if and only if—

"(A) it is revocable at all times prior to the obtaining of the requisite approval of the holders of securities of the issuer or the bidder, respectively, and

"(B) it is sought, appointed, and received in accordance with all applicable laws of the United States, all applicable laws of any State, and separate and apart from the sale or purchase, contract or tender for sale or purchase, or request or invitation for tender for sale or purchase, of securities of the issuer.

"(8) No proxy, consent or authorization shall be solicited in respect thereof unless—

"(A) if made by or on behalf of the bidder, it includes the information specified in section 13(d)(1) of this title and such additional information as the Commission may by rule and regulation prescribe as necessary or appropriate in the public interest or for the protection of investors, and

"(B) if made by or on behalf of the issuer, and the issuer opposes such tender offer, it includes the information about the issuer which is specified in such section 13(d)(1)(C) of this title and such additional information as the Commission may by rule and regulation prescribe as necessary or appropriate in the public interest or for the protection of investors.

"(9) The meetings of holders of securities required by paragraph (2) of this subsection shall not be held later than any other meeting of such holders of securities called for the purpose of voting on any proposed or planned tender offer, request or invitation for tenders, merger, consolidation, acquisition, dissolution, liquidation, combination, acquisition or issuance of securities, acquisition of dispposition of assets, or any other means by which control of the issuer, control of the bidder, or the management, corporate structure, or business of the issuer or the bidder may be significantly affected, provided that such proposal or plan was made subsequent to the tender offer or request or invitation for tenders that required the meetings of holders of securities pursuant to such paragraph (2).

"(h) A tender offer shall remain open for at least sixty business days after the date on which the tender offer or request or invitation for tenders is commended: *Provided, however,* That this paragraph shall not apply to any such tender offer, request or invitation made by the issuer of the securities for which such tender offfer, request or invitation has been made if the tender offer, request or invitation by the issuer is not made in response to another person's offer, invitation or request for securities of the same class.

"(i) It shall be unlawful for any person, directly or indirectly, by use of the mails or by any means or instrumentality of interstate commerce or of any facility of a national securities exchange or otherwise, to make a tender offer for, or a request or invitation for tenders of, any class of any equity security to which subsection (d) applies, or for any issuer of any class of such equity security to offer to acquire, directly or indirectly, such equity security from the beneficial owner of such equity security, unless such tender offer, request or invitation for tenders, or offer of acquisition is made to all holders of such securities and to all holders of any class from or into which such securities may be converted and all such holders of securities who tender or offer their securities for purchase receive equal value or consideration for such securities. This section shall not prohibit a tender offer, a request or invitation for tenders, or an acquisition of such securities by an issuer for less than all of such securities of any class, provided that the securities are taken up in accordance with subsection (d)(6) of this section and that all holders of such securities which are subsequently acquired, directly or indirectly, by such person or issuer (within two years of the initial tender offer, request or invitation for tenders, or offer to acquire securities) are offered value or consideration for such securities equal to the value or consideration of the initial tender offer, request or invitation for tenders, or offer to acquire.".

HONORING THE CARL JANKE FAMILY—THE FOUNDING FAMILY OF BELMONT

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. LANTOS. Mr. Speaker, 200 years ago the Founding Fathers of our Nation drafted the document that has guided the governance of our country through its westward expansion and development across this continent.

As we recognize the accomplishments of our Nation's Founding Fathers during the bicentennial celebration of our Constitution, we also want to recognize and pay tribute to those men and women—the founding families of the peninsula, who laid the foundation for California to join the Union.

Today, we honor the Carl Janke family who, for generation after generation, have helped to build the community of Belmont.

In or around 1848 during the gold rush days, Carl Janke, a successful merchant in Germany, brought his wife, Dorothea, and three children around the horn from Germany to San Francisco. He purchased a large plot of land in the country town of Belmont, around 1865, from the second governor of California. On this land, he developed a picnic area patterned after a German biergarten. Combined with special train service from San Jose and San Francisco, both the park and Belmont became attractive to visitors and summer residents seeking refuge from the city. The Belmont Picnic Grounds with its band pavilion and dance floor was highly popular until near the turn of the century.

The three children of Carl Janke and Dorothea continued the family tradition of public service and community development. Carl's daughter, Elizabeth, and her husband had eight children most of whom maintained permanent or summer homes in Belmont and the surrounding communities. Several of these children and their spouses had a strong influence on the business, social, and civic life of the community.

A special community landmark, much beloved but now vanished, was the little candy shop and ice cream store operated in the 1920's by Phoebe Keach, another daughter of Elizabeth and Amasa Johnson.

One of their eight children, Edna, married attorney Robert McGown, who served many years as postmaster of Belmont. He was succeeded in this appointment by his wife. Their daughter Ruth was an elementary teacher in the city of San Mateo until she retired in the early 1960's.

Elizabeth's and Amasa's daughter, Adelia, married Lewis Vannier who was police commissioner, served on the sanitary board, was a founder of the Belmont City Council, and formed a volunteer fire department. Adelia also was the backbone of the community as a charter member of the Belmont Women's Club, an original member of the Church of the Good Shepherd, a leader in the Belmont PTA, and president of the American Legion Auxiliary.

Today, in honoring this long line of descendants from one of Belmont's founding families, we give the award for the family to the great granddaughter of Carl and Dorothea Janke, Doris Vannier—the daughter of Adelia and Lewis Vannier.

Doris Vannier has carried on the family tradition of community commitment in Belmont. She, too, has been president of the American Legion Auxiliary, and is the only remaining charter member of the Belmont Women's Club. Miss Vannier has taught for 43 years in the elementary schools of San Mateo County. More than 1,500 children and their families have been taught and influenced by this community daughter. The work, lives, and dream of our founding families are remembered and cherished along with our celebration of the bicentennial of the Constitution.

GASOLINE TAX INCREASE WOULD BE REGRESSIVE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. ANDERSON. Mr. Speaker, last week I introduced House Resolution 225, expressing the sense of the House that the Federal excise tax on gasoline and diesel fuel should not be increased for deficit reduction purposes. On July 1, the Subcommittee on Surface Transportation held a hearing on this subject. I would like to submit the testimony of Dr. Darwin G. Johnson, principal, Policy Economics Group of Peat Marwick that expands upon the regressive nature of a motor fuels tax when used for the purposes of deficit reduction.

A motor fuels tax increase is not a progressive tax. It is not a flat tax. It is horribly regressive. As one's income decreases, the percentage of one's income that is taxed by this mechanism actually rises; 23.2 percent of gasoline excise tax is generated from families earning under $20,000 a year, who account for just 10.5 percent of our total economic income.

Conversely, only 5 percent of the excise tax is levied against families earning over $100,000 a year, those which account for about 15 percent of all economic income.

Of course, many excise taxes are regressive, a fact which greatly concerns me. But such a tax is particularly egregious when it is on a necessary commodity such as motor fuel.

Mr. Speaker, I ask that the statement of Dr. Darwin Johnson be made a part of the record so that it might be considered by all our colleagues, and solicit their joining as cosponsors of House Resolution 225.

TESTIMONY OF DR. DARWIN G. JOHNSON, PRINCIPAL, POLICY ECONOMICS GROUP OF PEAT MARWICK

Mr. Chairman, I am pleased to be here today on behalf of the Coalition Against Regressive Taxation to present the results of our report "The Analysis of the Regressivity of Excise Taxes." This report presents the results of a detailed analysis of the distributional impact of excise taxes on gasoline, alcohol beverages, and cigarettes in comparison to the federal personal income tax and the social security payroll tax.

METHODOLOGY

The analysis was prepared using recent data from a wide variety of sources, including the U.S. Department of Labor's Consumer Expenditure Survey, the U.S. Department of Health and Human Service's 1986 National Health Interview Survey, a 1985 household survey conducted by the Alcohol, Drug Abuse, and Mental Health Administration, and a number of private surveys, such as the Simmons Market Research Bureau 1985 survey on the economic and demographic characteristics of the drinking population.

These specialized survey data were used in combination with the Policy Economics Group's microsimulation model and data base of individual taxpayers to assess the distributional effects of income, payroll, and excise taxes.

The Policy Economics Group's tax data base is patterned after the data base used by the U.S. Department of the Treasury and the Congressional Joint Committee on Taxation. It was developed from a statistical merge of IRS tax data and Census Population Survey data, and includes tax, economic, and demographic data for approximately 250,000 taxpayers. The specialized survey data cited above were used to make statistical "imputations" to this data base to determine the users of tobacco, alcohol, and gasoline, and the extent of their use.

This work provided the basis for assessing the distributional effects of excise taxes. The effects of income and payroll taxes were measured using the Policy Economics Group's previously existing model and data base.

RESULTS OF THE STUDY

The results of the study are presented in three separate ways. First, the report shows the estimated effective tax rate by income class for each of the taxes examined in the study. The effective tax rate is the tax burden for each income class as a percentage of the income for that class. The income measure used in the study is a broad-based measure of income that includes sources that are not included in the income tax base, including income from transfer payments, fringe benefits, and tax-exempt interest. The individual and payroll tax burdens presented in this table reflect federal taxes only. The excise tax burdens reflect both federal and state taxes.

The results of the effective tax rate analysis are presented in Table 1 of this testimony. It shows that the average tax rate for excise taxes declines as income rises. They place a higher proportionate burden on low income taxpayers than on high income taxpayers. In contrast to excise taxes, individual income taxes are highly progressive, with average tax rates rising steadily over the full income distribution.

A second related perspective on the distribution of tax burdens is presented in Table 2 of this testimony. It shows the percentage of the total tax burden for each tax that is absorbed by each of the income classes examined in the study. It shows that a very large percentage of the excise tax burden is borne by low income taxpayers.

For all of the excise taxes combined, for example, 25 percent is borne by families with incomes of less than $20,000. These same families, which have 10 percent of the total income of the population, bear only 3 percent of the total income tax burden.

Families with incomes in excess of $100,000 have 15 percent of the total income of the population and pay only 5 percent of total excise taxes. In contrast, they pay 27 percent of the income tax burden.

Tables 1 and 2 present in two separate ways essentially the same result—namely that excise taxes are highly regressive and are borne disproportionately by low income taxpayers.

The final major empirical analysis presented in the study shows the distributional effects of potential excise tax increases in comparison to the income tax reductions enacted in the Tax Reform Act of 1986. This comparison is presented in Table 3 of this testimony.

The analysis assumed, hypothetically, excise tax increases of $18 billion. These increases are distributed in proportion to the amount of federal revenues raised by gasoline, alcohol and tobacco taxes.

Under this tax policy option, the excise tax increase for low income taxpayers greatly exceeds the tax reduction these taxpayers received from the Tax Reform Act of 1986. For families with incomes of less than $10,000, the excise tax increase is nearly 5 times as great as the income tax reduction. In direct contrast, for taxpayers with incomes in excess of $100,000, the excise tax increase is only 6 percent of the enacted income tax reduction.

This illustrative example assumes that the majority of the fiscal 1988 budget resolution revenue target of $19.3 billion is achieved through excise tax increases. It therefore represents one extreme in the continuum of tax policy options that the Congress might consider. The results show, nevertheless, that excise tax burdens fall disproportionately on low income families and that any significant increase in excise taxes would more than offset any income tax reductions received by these families.

That concludes my statement Mr. Chairman. I will be happy to answer any questions that the Committee might have.

A PROFESSOR'S WISE WORDS ON RELIGION AND EDUCATION

HON. JOE BARTON

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. BARTON of Texas. Mr. Speaker, the relationship between education, religion, and the State continues to receive important public attention. For many years, it appeared that as the schools sought to be free of any mention of God, they also eliminated any reference to ethics and transcendent values.

Now, though, across the political spectrum, there is a recognition that public education must and should address private and public values. However, Americans, from the Pilgrims through Thomas Jefferson to today, have acknowledged God as the foundation of our ethical concepts. The schools cannot properly teach American values, or even American history, without reference to God.

These issues were addressed in an article published in the Wall Street Journal on March 27, 1984, by Prof. E. Earl Ellis of Southwestern Theological Seminary in Fort Worth, TX. I recommend Mr. Ellis's comments to all interested in the important questions of values and education. The article follows:

[From the Wall Street Journal, Mar. 27, 1984]

IF ONLY A SECULARIST RELIGION IS TAUGHT

(By E. Earle Ellis)

Two decades have passed since the Supreme Court prohibited prayer and Bible reading in the public shools, and there is little prospect of returning to the status quo ante. Support for the shift in public education from a mildly Christian to a secular context is sustained mainly by the assumption, remarkably widespread and largely unquestioned, that the removal of "religion" from the school would produce a neutral arena, equally fair to children of every religious background. Does the secular public school, in fact, achieve this goal? Both logic and experience argue that it does not. On the contrary, the secular school only raises the religious question in a different and more acute form.

This is true because of an inherently religious dimension in education. In a Yale Review essay, F.K. Davis rightly concluded that "since education is also a metaphysical expression, a good deal of educational thought and practice is therefore religious in character. . . . It has always been so [and] there is no prospect that a secular society could be constructed in which this would not be so." Admittedly, secularism does not have a prescribed cult and creed or a defined membership. But religion in its most important facets is manifested not by external forms by the questions addressed and by the implicit value judgments and affirmations about reality that are made. At school it is especially involved in the subjects of literature, history and social studies, both in the selection of texts and in the manner and context of presentation.

In this sense, a religion of secular humanism is clearly established in the public school with its explicit exclusion of God, its naturalistic interpretation of meanings and value and in its relativizing of contrary world views and value systems. Such a school may affirm that honesty is the best policy, but it must forbid the Ten Commandments to hang upon the wall. With its humanistic framework it teaches implicitly or explicitly that man is the measure of all things and, while it can laud liberty or democracy as important values, it cannot with Thomas Jefferson present them as gifts "endowed by [the] Creator." Thus Justice Brennan, ruling against Bible reading, could contrast "public secular education with its uniquely democratic values and . . . sectarian education which offers values of its own" (Abingdon School District vs. Schempp, 1963). Even when the public school teaches "about God" or reads the Bible "as literature," man remains the measure.

The transition of the religious context of public education from Christianity to secularism was not the result of some diabolical plot. The Supreme Court, which painted the schools into this particular corner, was apparently guided more by a process of elimination and the prevailing *Zeitgeist* than by a desire to give establishment status to a specific world view and value system. Nevertheless, whatever the court's intentions, the inevitable consequence of its actions was rightly perceived in Justice Stewart's dissent in Abingdon vs. Schempp: ". . . a refusal to permit religious exercises thus is seen, not as the realization of a state neutrality, but rather as the establishment of a religion of secularism or, at the least, of government support of the beliefs of those who think that religious exercises should be conducted only in private."

Jefferson's dictum that it is "sinful and tyrannical" to be compelled to contribute money for the propagation of opinions that one disbelieves is perhaps not a viable option today, given the tax system of the modern state, but the present problem is apropos to his basic contention. It concerns the quasi-monopoly on tax funds given to one kind of educational structure, the secular-humanist public school. Two violations of First Amendment rights seem to be involved. Establishment status is accorded to one "religious" context for education, and the discriminatory distribution of tax funds inhibits many Christians and Orthodox Jews in the free exercise of their religion. For economic reasons, they often must send their children to schools whose religious orientation is repugnant to their consciences and, in their view, endangers the faith of their children. Adding insult to injury, the government uses their taxes to perpetuate the injustice. It is a situation that calls for a change beyond the freedom for organized prayers in school, however helpful to some that might be.

Tax-credit proposals recently before Congress, supported by the president and approved in principle by the Supreme Court, offer an opportunity to redress these grievances. They recognize and give substance to the primary rights of parents in their children's education and, like tax deductions for church contributions, they ensure against an "excessive entanglement" of government and religion. Also, they open the way for a much needed diversity in the nation's educational institutions, a diversity not only in value systems but also in educational emphasis and method.

Education in a pluralistic society requires nothing less than a degree of multiformity commensurate with and responding to the needs and commitments of its citizens. A monopoly given to one system, representing one set of values and one kind of educational structure, not only violates constitutional rights but also stultifies the educational process itself. And the moral relativism of an educational system that excludes the power and the sanctions of a divinely appointed moral order may in time be stultifying in other ways as well. The words of C.S. Lewis in "The Abolition of Man" are not inappropriate. "Such is the tragi-comedy of our situation—we continue to clamor for those very qualities we are rendering impossible. . . . In a sort of ghastly simplicity we remove the organ and demand the function. We make men without chests and demand of them virtue and enterprise. We laugh at honour and are shocked to find traitors in our midst. We castrate and bid the geldings be fruitful."

If the state—as its courts profess—is committed to a religious neutrality, an even-handed accommodation of different value systems, should it not disengage from direct involvement in an enterprise in which religious values are the sine qua non? Let the state rather be content to set minimal standards of learning and distribute its largess equitably to all parents whose choice of educational instrument meets those standards.

VA EMPLOYEES VOICE STRONG SUPPORT FOR THEIR MEDICAL COMPUTER SYSTEM

HON. G.V. (SONNY) MONTGOMERY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. MONTGOMERY. Mr. Speaker, a controversy over the effectiveness and cost of the Veterans' Administration's medical computer system, known as the Decentralized Hospital Computer Program [DHCP] system, has arisen in the Congress. As chairman of the Committee on Veterans' Affairs, I have scheduled many oversight hearings on this important medical computer system over the past several years and the reports on its effectiveness and costs have been uniformly very positive.

Since our hearing of April 8, 1987 on this important subject, I have received many letters from veterans and Veterans' Administration employees in support of the DHCP.

I would like to share with my colleagues a copy of a letter which I received from Mr. E.A. Borrell, director of the Olin E. Teague Veterans' Center at Temple, TX, which demonstrates how the VA employees feel about their medical computer system.

The letter follows:

May 5, 1987.

Hon. G.V. Montgomery,
House of Representatives, Cannon House Office Building, Washington, DC.

Dear Mr. Montgomery: I am deeply concerned about the recent activity in Congress which is threatening the Veterans Administration's Decentralized Hospital Computer Program (DHCP). As the Director of a VA Center in Texas, I can assure you that the DHCP is an effective automated management system that has become indispensable to the operation of our medical center.

Since its installation, it has improved our record keeping, speeded our internal and external communications, and greatly improved our ability to analyze and report upon our operations. More importantly, it has assisted us to increase the quality of health care which we provide to the veterans of Texas. To site just a few examples: It has shortened our admission processing time, increased the speed and accessibility of laboratory and other clinical test results, and allowed physicians and pharmacists to quickly and accurately evaluate a patient's medication history. If Congress acts to curtail or eliminate this program, our hospital administration and quality of patient care will be seriously affected.

It has been suggested that the Veterans Administration might be better served through the contractual procurement of commercial hospital administration software provided by certain vendors. I strongly disagree! I do not believe that propriety software, which is closed to modifications by local management, will ever meet the varied needs of the 172 medical centers and outpatient clinics in the VA system. In addition, I am convinced that such a system will exhibit an inflexibility to changing needs and a requirement for ongoing negotiation and increased costs that are characteristic of such contractual arrangements.

The great strength of the DHCP system, on the other hand, lies in the way it combines a centrally developed core of essential applications with the ability of each medical center to modify, enhance, or add to those applications to meet local needs. I cannot in this short letter list for you all of the enhancements and additional applications that we are running on our DHCP computers which have, at virtually no added cost, improved our productivity and enhanced the timeliness and speed of our services to our veteran patients.

Mr. Montgomery, I urge you to support the Veterans Administration in its efforts to save the Decentralized Hospital Computer Program. It is an essential ingredient in the operation of our medical center. It is also a system with the power and flexibility which we will need in the future if we are to continue to provide our veterans with prompt and cost effective medical care.

Sincerely yours,

E.A. Borrell,
Director, Olin E. Teague Veterans Center, Temple, TX.

RELIEVER AIRPORTS: A NECESSITY TO OUR AVIATION SYSTEM

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. PORTER. Mr. Speaker, I would like to bring attention to the reliever airports across our country which in time of need, provide assistance to our major air traffic network.

There are currently two reliever airports in my congressional district—Palwaukee Airport and Waukegan Airport. Both of these airports are available to relieve congestion or receive diverted traffic from O'Hare International.

Recently, the primary reliever airports requested a $300,000 guaranteed annual entitlement from the airway trust fund. This money would be used to fund what the Federal Aviation Administration categorizes as low priority projects. For example, snow removal equipment.

Mr. Speaker, when O'Hare International is battling a major snowstorm and planes are forced to circle overhead, I would find it comforting to know a reliever airport with a clear landing strip is available where planes can safely land.

Mr. Speaker, this $300,000 guaranteed entitlement is both important and necessary for reliever airports. We must recognize that reliever airports, although not as large as major airports, do provide a major role in our airway traffic system.

CONGRESSIONAL CALL TO CONSCIENCE FOR SOVIET JEWRY YAKOV RABINOVICH

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. SMITH of Florida. Mr. Speaker, human rights are a central precept to America's concept of democracy. In 1776, our Government became the first specifically created to preserve human rights; our Declaration of Independence even speaks of "certain inalienable rights" with which all people are "endowed by their Creator." Such rights are inalienable because they belong to everyone. Yet, unfairly, certain governments deny basic human rights. Precisely because human rights have always been inseparable from the American identity, it follows that a human rights policy is more than just an appendage to our foreign policy.

Therefore, we must continue to bring attention to the dire needs of Soviet Jews who are denied the right to emigrate and consequently are granted status as refuseniks. We must all work with organizations that fight the uphill battle for freedom of the Soviet Jews. The Congressional Call to Conscience Vigil, sponsored by the Union of Councils of Soviet Jews, is one such endeavor, and it is our duty to maintain this important vigil.

Over 400,000 Jewish refuseniks are considered "nonpersons," losing citizenship, residence, occupations and even spouses and children who are allowed to slip through the Soviet system, only because they have begun the process of attempted emigration. Emigration statistics have never been so low, yet these numbers represent human lives and in increasing numbers each year, lives are ruined as refuseniks experience gross violations of their fundamental human rights.

Perhaps most poignant is the case of separated spouses; husbands and wives who leave one another in the hope they will work around emigration laws. The Soviet Government has continualy denied that there is a Jewish problem. Soviet officials also claim that all Jews wishing to leave have done so, and, therefore, family reunification provisions of the Helsinki Final Act are no longer necessary. However, this is not the case, and my adopted refusenik, Yakov Rabinovich, exemplifies this phenomenon.

My adopted refusenik, Yakov Rabinovich, first applied for permission to emigrate with his family in 1978. There years after he first requested an emigration visa, permission was granted to his wife and two children. Rabinovich encouraged them to leave in the hope that he would soon follow them. Since 1980, he has been denied permission to emigrate by an arbitrary Soviet bureaucracy, spuriously characterized as having access to "state secrets."

Probably more tragic than any other aspect of Rabinovich's private torture is his forced separation from his family. Rabinovich divorced his wife because he was told it would make emigration easier for at least one of them. Yet, Rabinovich's son graduated from Brandeis University in 1985, and Rabinovich has not seen his wife or his son since 1980 when they left the Soviet Union. Communication is difficult, often phone calls between Rabinovich's wife and children do not get through.

Seven years later, Rabinovich still resides in Leningrad. Not only does he lead a sad and lonely existence without his wife and children, but he was cruelly stripped of his professional career. Once a shipbuilding engineer, Rabinovich now works in a shoe factory. Although the ships which Rabinovich helped design travel worldwide, and he has not designed a ship since 1972, Rabinovich is characterized as still having access to "state secrets."

Rabinovich earns a meager 130 to 150 rubles a month, equivalent to $130 to $150 in the United States. He must deal with the professional and personal humiliation of a pay decrease of 100 rubles from his prestigous shipbuilding career.

Obviously, Rabinovich is being mistreated simply because he is a Jew dedicated to maintaining his identity and helping others who wish to do so. Yet, Rabinovich still hopes to join his family someday. While he waits, he serves as an active member of the Leningrad refusenik community, where he studies Hebrew and Jewish culture.

Rabinovich is unafraid to stand up for what he believes, even if it only brings him heartache, unemployment, loneliness, and despair. Rabinovich is representative of at least 11,000 known refuseniks who are fighting this frustrating and senseless battle. These refuseniks need to know their fight is not in vain.

As Rabinovich patiently plays his tragic waiting game, Soviet leaders are engaged in a word game of public relations. The implications of glasnost are exciting and frightening at the same time. While Soviet leaders intently push for domestic reform under glasnost, they do not necessarily intend to improve their human rights policy. Gorbachev wants an efficient economic revival, yet, he in no way desires a Soviet-style Western democracy.

Perhaps, human rights can improve as a peripheral result of glasnost. Most importantly, we can not be blinded by this new light glasnost sheds. Instead, we must grasp this opening even if it is not directly related to human rights and make glasnost a time of renewed Jewish emigration and freedom within the Soviet Union.

As Members of Congress, it is our responsibility to constantly put pressure on Soviet officials. Soviet Jews must be allowed to live free of the fear of Soviet persecution, and separated families must be reunited. The only hope for the Soviet Jewish refuseniks is in Western efforts such as the Congressional Call to Conscience Vigil for Soviet Jews. We can not continue to let the Soviet Union deny these basic human rights.

THE PLIGHT OF LEONID YUZEFOVICH

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. HOYER. Mr. Speaker, while in Moscow in April, I had the opportunity to meet Leonid Yuzefovich, a Soviet Jew denied permission to emigrate since 1980. Leonid served in the Soviet Army 13 years ago and the Soviets have refused his permission on the basis that he possesses "state secrets." Earlier this year, Leonid went on a hunger strike to protest his plight. In Moscow, he handed me a copy of a letter he had presented to Secretary of State George Shultz. I would like to share with my colleagues the text of his frustration.

111397 Moscow.

Mr. George Shultz,
Secretary of State.

Dear Sir: Knowing you, Mr. Shultz, as a man deeply concerned with human rights and with the fate of Soviet Jews, I ask you to save my family. My name is El'azar (Leonid) Yuzefovich. My wife Katya Glozman is six months pregnant with our fifth child and has serious heart and kidney diseases. Most of the time, she is in a bed. She badly needs medical care and the help and support of her parents. They live in Israel as well as her other relatives—brothers, grandmother and others. I had to begin a hunger strike and demonstrations on March 19 for the sake of my family. Today is 26th day of my hunger strike.

Seven years ago we applied for permission to emigrate to Israel and since that time we have constantly been refused. The explanation is "state secrets". But it is a typical example of a "catch 22" situation. I served in the Soviet Army 13 years ago where I had to deal with anti-aircraft equipment, based on an obsolete lamp system. (This equipment is not even in use nowadays.) Calling such "state secrets" is not more than mockery and scoff especially during negotiations about disarmament and the consequent verification of it. Practically all the refusenicks who are being denied exit visas on the basis of "national security" possess such "state secrets".

For the local authorities to solve our family's problem is a question of some days and no more—because our documents have been for 4 months in OVIR and for three weeks in the newly formed Commission of the Presidium of the Supreme Soviet.

I ask you, Mr. Shultz, to help us go to Israel and thus maybe to save lives of our future child, my wife and maybe my own as well.

El'azar Yusefovich.

WILL GLASNOST PERMIT THE PUBLICATION OF GLASNOST?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. MICHEL. Mr. Speaker, in recent weeks I have inserted into the Record articles dealing with Mr. Gorbachev's glasnost or openness concept. Today I want our colleagues to learn a little bit more about that idea and, particularly, how it might influence the publication of a journal of opinion, written by Soviet dissidents, titled "Glasnost." Will the concept of glasnost allow the publication of a magazine of the same name? Mr. Gorbachev, it seems to me, is faced with not only a political problem but a philosophical one as well—if his concept of glasnost does not include the fact of being able to publicly disagree with official positions, what then does glasnost mean?

At this point I wish to insert in the Record, "Allowing Publication of a Journal," by Martin Garbus, the New York Times, July 23, 1987:

Allowing Publication of a Journal

(By Martin Garbus)

Sergei Grigoryants, who was released in February after serving 10 of his last 13 years in prison, is putting Mikhail S. Gorbachev's proclaimed policy of free expression to a critical test.

With breathtaking courage, Mr. Grigoryants and other dissidents and freed political prisoners are publishing a journal, appropriately called Glasnost, that contains political, literary, cultural and religious writings of a kind not seen in the Soviet Union since the early 1920's.

On July 6 in his book-lined Moscow apartment. Mr. Grigoryants arranged for me to get a copy of the 56-page journal in typescript.

On June 19, he had asked for permission to publish it openly. Not having heard from Soviet officials, he asked me to take it out of the country and see if I could get it published. Although he had never met me he trusted me because he knew I had delivered Andrei D. Sahkarov's plea for human rights to President Jimmy Carter in 1977.

The journal, reproduced with typewriters and carbon paper, is remarkable. It reprints a Sakharov statement asking for the release of all prisoners of conscience and all those whose prison terms have been arbitrarily extended. Dr. Sakharov also calls on the Soviet Union to pull out of Afghanistan and "put an end to this cruel war," and he asks for a world safe from nuclear accidents like the kind that occurred at Chernobyl.

Another article argues that free-market economies and socialism may not be able to co-exist and that "only free-market relationships allow people to survive." A third says that the Soviet bureaucratic system is built on fear and that only the Government's encouragement of glasnost can end such fear.

The journal contains a list of political prisoners held in the dreaded Chistopol Prison and urges their release. The mere printing of prisoners' names in the Soviet Union violates the law.

Mr. Grigoryants, a literary critic, told me he believed Mr. Gorbachev's glasnost policy faced a two-year experimental period and that "if it does not seep in and change the society, there'll be a servere backlash." He says that if a backlash comes, "I will be back in jail," where he was sent for working on an underground human rights publication.

As we chatted, I knew he was being watched. But it is different today than in the years I previously visited the Soviet Union. In 1977, when I walked the streets with Natan Sharansky who, in Israel changed his named from Anatoly B. Shcharansky) and Dr. Sahkarov, the K.G.B. openly followed us. When I met with them in their living rooms, we knew the rooms were tapped.

Today the K.G.B. seems not as visible. There is less of a feeling of oppression, less of a feeling of Big Brother watching you. As I walked with various dissidents who contributed to the journal, no one followed us, I think. And as I traveled through four cities meeting dissidents, I never felt that any of the rooms we were in were tapped. But I could be wrong.

Nonetheless, most of the dissidents with whom I spoke were under maximum supervision. This meant that at the end of each day they had to report to officers and tell them with whom they spoke and what they said.

When I tried to call Dr. Sahkarov from hotels in Leningrad and Tiflis, the hotel operators insisted on knowing with whom I wanted to speak. When I gave his name, 10 different times I was told the calls could not get through. The only time calls got through was when Russians helped me and I did not have to give his name.

If General Secretary Gorbachev's glasnost policy means anything, it means that Mr. Grigoryants and his colleagues would not face jail for publication and distribution of his insightfull magazine. In fact, it would mean that the Kremlin would permit him to publish Glasnost 36 times a year, as he wants to do.

THE CORPORATE RAIDER TAX ACT OF 1987

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. DORGAN of North Dakota. Mr. Speaker, today, I am introducing the Corporate Raider Tax Act of 1987 in response to the spate of hostile takeovers in recent years and the devastation they bring.

Wall Street's merger and acquisition shops are working overtime. These paper entrepeneurs are engaged in a "feeding frenzy." Last year American industry spent $177 billion in hostile takeover raids, much of this is in the form of new debt. Regretably, the people who really benefit from hostile takeovers are the raiders, the investment bankers, and the merger lawyers.

The Corporate Raider Tax Act of 1987 attempts to restrict hostile takeovers. The major provisions of the bill are:

Imposes a special, nondeductible tax on the recipient of greenmail payments equal to 50 percent of the recipient's greenmail profits. This tax would be in addition to any other tax imposed by the code on that profit. Greenmail refers to the purchase of a large block of corporate shares with the expectation that the stock will be repurchased by the company at a premium over the market price, generally to avoid a hostile takeover bid for the company.

Requires that the corporate payor of a greenmail payment would be required to withhold an amount equal to 20 percent of such payment.

Requires that the purchaser of stock in any hostile stock purchase be treated under the Tax Code as if the acquired corporation had sold all its assets for their fair market value and then liquidated.

Disalows the deductibility of interest on indebtedness incurred or continued to purchase or carry stock acquired as part of a hostile qualified stock purchase. This would help prevent avoidance of the rule.

Obviously, this legislation will not stop hostile takeovers, but it wil discourage these manipulative raids. It's time that Congress acted to protect American workers, American competitiveness, and the American economy from the greed and crimes of these raiders.

I request your cosponsorship of the Corporate Raider Tax Act of 1987.

Text of the bill follows:

H.R. 2995

A bill to amend the Internal Revenue Code of 1986 to impose an excise tax on the receipt of greenmail payments, to provide that the deemed sale rules shall apply in the case of hostile stock purchases, and to deny any deduction for interest incurred in connection with a hostile stock purchase

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Corporate Raider Tax Act of 1987".

SEC. 2. EXCISE TAX ON RECEIPT OF GREENMAIL.

(a) IN GENERAL.—Subtitle E of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new chapter:

"CHAPTER 54—GREENMAIL.

"Sec. 5881. Greenmail.

"SEC. 5881. GREENMAIL.

"(a) IMPOSITION OF TAX.—There is hereby imposed on any person who receives greenmail a tax equal to 50 percent of gain realized by such person on such receipt.

"(b) GREENMAIL.—For purposes of this section, the term 'greenmail' means any amount paid or incurred by a corporation in a direct or indirect redemption of its stock from any shareholder if—

"(1) such shareholder held such stock (as determined under section 1223) for less than 2 years, and

"(2) at some time during the 2-year period ending on the date of such redemption—

"(A) such shareholder,

"(B) any person acting in concert with such shareholder, or

"(C) any person who is related to such shareholder or person described in subparagraph (B)

made or threatened to make a public tender offer for stock of such corporation.

For purposes of the preceding sentence, payments made in connection with, or in transactions related to, a redemption shall be treated as paid in such redemption.

"(c) OTHER DEFINITIONS.—For purposes of this section—

"(1) PUBLIC TENDER OFFER.—The term 'public tender offer' means any offer to purchase or otherwise acquire stock or assets in a corporation if such offer was or would be required to be filed or registered with any Federal or State agency regulating securities.

"(2) RELATED PERSON.—A person is related to another person if the relationship between such persons would result in the disallowance of losses under section 267 or 707(b).

"(d) TAX APPLIES WHETHER OR NOT GAIN RECOGNIZED.—The tax imposed by this section shall apply whether or not the gain referred to in subsection (a) is recognized."

"(b) DENIAL OF INCOME TAX DEDUCTION FOR GREENMAIL TAX.—Paragraph (6) of section 275 of such Code is amended by striking out "and 46" and inserting in lieu thereof "46, and 54".

"(c) CLERICAL AMENDMENT.—The table of chapters for subtitle E of such Code is amended by adding at the end thereof the following new item:

"Chapter 54. Greenmail."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to payments received after the date of the enactment of this Act in taxable years ending after such date.

SEC. 3. SECTION 338 ELECTION DEEMED MADE IN CASE OF HOSTILE QUALIFIED STOCK PURCHASES.

"(a) IN GENERAL.—Section 338 of the Internal Revenue Code of 1986 (relating to certain stock purchases treated as asset acquisitions) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection:

"(i) ELECTION DEEMED MADE WHERE HOSTILE QUALIFIED STOCK PURCHASE.—

"(1) IN GENERAL.—In the case of any hostile qualified stock purchase, the election under subsection (a) shall be treated as made with respect to the target corporation.

"(2) HOSTILE QUALIFIED STOCK PURCHASE.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'hostile qualified stock purchase means any qualified stock purchase if any significant portion of the stock included in such purchase is acquired pursuant to a hostile offer.

"(B) HOSTILE OFFER.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the term 'hostile offer' means any offer to acquire stock of a corporation if a majority of the independent members of the board of directors of such corporation disapprove such offer.

"(ii) REVOCATION OF DISAPPROVAL.—An offer shall not be treated as a hostile offer if—

"(I) a majority of the independent members of the board of directors of such corporation revoke such disapproval, and

"(II) no stock is acquired pursuant to such offer before such revocation.

"(iii) INDEPENDENT DIRECTORS.—For purposes of this subparagraph, a member of a board of directors shall be treated as independent if such member is not, and was not at any time during the 1-year period ending on the date of his approval or disapproval of the offer, an officer or employee of the target corporation.

"(3) SPECIAL RULES FOR DETERMINING WHETHER THERE IS A QUALIFIED STOCK PURCHASE.—For purposes this section—

"(A) the person (whether or not a corporation) who makes the offer to acquire stock of a corporation shall be treated as the purchasing corporation, and

"(B) all stock acquired by—

"(i) any person acting in concert with such offeror, and

"(ii) any person who is related (within the meaning of section 5881(c)(2)) to such offeror or person described in clause (i),

shall be treated as acquired by such offeror.

"(4) OTHER SPECIAL RULES.—In applying subsection (b)(1)(A) to a hostile qualified stock purchase, the grossed-up basis of the purchaser's recently purchased stock shall be treated as equal to the sum of any money plus the fair market value of the property (other than money) transferred in exchange for such stock."

"(b) EFFECTIVE DATE.—The amendments made by this section shall apply to hostile qualified stock purchases (as defined in section 338(i) of the Internal Revenue Code of 1986) with respect to which the acquisition date (as defined in section 338(h)(2) of such Code) is after the date of the enactment of this Act.

SEC. 4. DENIAL OF DEDUCTION FOR INTEREST ON INDEBTEDNESS INCURRED TO ACQUIRE STOCK OR ASSETS OF CORPORATION THE STOCK OF WHICH WAS ACQUIRED IN HOSTILE PURCHASE.

"(a) IN GENERAL.—Part IX of subchapter B of chapter 1 of the Internal Revenue Code of 1986 (relating to items not deductible) is amended by adding at the end thereof the following new section:

"SEC. 280H. INTEREST ON INDEBTEDNESS INCURRED TO ACQUIRE STOCK OR ASSETS OF CORPORATION THE STOCK OF WHICH WAS ACQUIRED IN HOSTILE PURCHASE.

"(a) GENERAL RULE.—No deduction shall be allowed under this chapter for interest on indebtedness incurred or continued by a purchasing shareholder to purchase or carry the stock or assets of any corporation if—

"(1) such stock is purchased as part of a partial hostile qualified stock purchase, and

"(2) such assets are purchased on or after the partial acquisition date and were held by such corporation on such date.

"(b) PARTIAL HOSTILE QUALIFIED STOCK PURCHASE.—For purposes of this section, the term 'partial hostile qualified stock purchase' means a hostile qualified stock purchase (as defined in section 338(i)) determined by substituting '20 percent' for '80 percent' each place it appears in section 1504(a)(2) for purposes of applying section 338(d)(3).

"(c) PURCHASING SHAREHOLDER.—For purposes of this section, the term 'purchasing sharehold' means—

"(1) the shareholder who made the hostile offer referred to in section 338(i),

"(2) any person acting in concert with such shareholder, and

"(3) any person who is related (within the meaning of section 5881(c)(2)) to such shareholder or person described in paragraph (2).

"(d) PARTIAL ACQUISITION DATE.—For purposes of subsection (a), the term 'partial acquisition date' means, with respect to any corporation, the 1st day on which there is a partial hostile qualified stock purchase with respect to such corporation.

"(e) SUCCESSOR CORPORATION INCLUDED.—The corporation referred to in subsection (a) shall be treated as including its successor described in section 338(a)(2)."

(b) CLERICAL AMENDMENT.—The table of sections for such part IX is amended by adding at the end thereof the following new item:

"Sec. 280H. Interest on indebtedness incurred to acquire stock or assets of corporation the stock of which was acquired in hostile purchase."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to indebtedness incurred after the date of the enactment of this Act in taxable years ending after such date.

FOUNDING FAMILY OF MILLBRAE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. LANTOS. Mr. Speaker, 200 years ago the Founding Fathers of our Nation were drafting the document that was to guide our Government as the Nation expanded westward across this continent.

At the same time, 200 years ago, a Spanish settlement was being forged along the California coast by men and their families whose descendants were eventually to become leading citizens in obtaining statehood for California.

While celebrating the bicentennial of the Constitution and the genius of the Founding Fathers, it is appropriate to give recognition to the founding families on the San Francisco Peninsula. These early settlers made their homes in the wilderness, and built there a foundation which served as a base for the unification of the West with the East, enabling our Nation to grow to maturity.

Honored today as a founding family of Millbrae is the family of Jose Antonio Sanchez who, in 1775, traveled north with the Juan Baptista de Anza expedition from Sinola, Mexico. In 1776, he established the Presidio in what is now San Francisco. Accompanying Sanchez on this journey were his wife and infant son, also named Jose Antonio. At the age 14 the young Jose joined the Mexican Army and rose quickly in the ranks. During his 44 years of service he patrolled the Peninsula on horseback from the Presidio to what is now San Jose. On September 23, 1835, when he retired from his army career, he was rewarded by the Mexican Governor of Alta California with the 14,600 acre Buri Buri Rancho. The ranch encompased the land from the north end of south San Francisco to Burlingame, from the bay on the east to the hills overlooking the Pacific Ocean on the west. All of the city of Millbrae was once part of the Buri Buri Rancho. While many of the old buildings now have been destroyed, the Sanchez Adobe house, built in 1846, still stands as a San Mateo County Historical site.

Jose's 10 children received this land inheritance, which was eventually divided and sold. The eldest son, Jose de la Cruz, received a large portion of the land divided upon his death between his two daughters, one of whom was Maria Cueva Sanchez. Maria Cueva lived on the family land at Ludeman Lane in what is now Millbrae, giving birth to two daughters who eventually shared this inheritance. The grandaughter of Jose de la Cruz and the daughter of Maria Cueva, Mrs. Albert Wilson of San Bruno, was born and reared in the old family house on Ludeman Lane.

Mrs. Wilson has helped establish the Millbrae Historical Society, and has contributed immeasurably to preserving the history of our community through the priceless documents she has willed to the new Millbrae Historical Museum.

On August 1, 1987, on behalf of the citizens of Millbrae, and the 11th Congressional District, I present the First Congressional District Bicentennial Award for Founding Families to Mrs. Mildred Wilson, local living descendant of Jose Antonio de la Cruz, first family of Millbrae.

A CONGRESSIONAL SALUTE TO EVELYN AND MAX POINDEXTER

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. ANDERSON. Mr. Speaker, it is my distinct honor to rise today to pay tribute to Evelyn and Max Poindexter. Evelyn and Max will be celebrating their 50th wedding anniversary on July 26, 1987.

Evelyn Poindexter has been a dedicated wife and mother all of her married life. She was a Girl Scout leader and den mother for the Cub Scouts and received the highest honor for a Scout leader bestowed by the Girl Scouts. Her commitment to her family, however, never stopped Evelyn from having an impact in her community. She organized the

Women's Division of the Wilmington Chamber of Commerce in 1953 and served as its first secretary. She has many other accomplishments; president of the Toastmistresses of Wilmington and Member of the year in 1958, the youngest president ever of the Wilmington Women's Club; 1960 member of the Mayor's Advisory Board, 1979 president of the Wilmington Chamber of Commerce, Red Cross volunteer for 32 years, affiliated with the city of Cerritos Women's Club for 25 years, charter chairperson of the Los Cerritos District Art Festival, Lion's Citizen of the Year in 1981, and has worked the polls for elections for years.

Max Poindexter served in the Navy for 5 years and 1 month on the U.S.S. *Oklahoma*. He worked at McMahan's furniture and appliance stores for over 39 years before retiring. He is active as a Cub Master, Scout Master, and Scout Adviser. Max has always worked hard and provided for his family.

Evelyn and Max have been blessed with two children; Jane Poindexter Forsberg and Roy E. Poindexter. They have five grandchildren; Janicy Lynn Forsberg Allen, Edward Forsberg, Scott Eugene Poindexter, Brenda Louise Poindexter, and Gary Roy Poindexter.

Mr. Speaker, Evelyn and Max are celebrating something that is so special, and their commitment to one another is a tribute in itself. My wife, Lee, joins me in congratulating Evelyn and Max on their 50th wedding anniversary. We wish them and their children, Jane and Roy, and their grandchildren happiness and all the best in the years ahead.

HOPE FOR A NEW ERA OF DEMOCRACY IN TAIWAN

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. KOSTMAYER. Mr. Speaker, the whole world is focusing its attention on the dramatic developments toward democratization in the Republic of Korea.

This follows last year's dramatic movement toward democracy in the Philippines.

In recent days and weeks, we have also seen progress taking place on the island of Taiwan. America hopes here, too, democracy will soon flourish as it has not been allowed to flourish for too many years.

On June 23, 1987, Taiwan's legislature, the Yuan, approved a new national security law, thereby ending 38 years of controversial martial law. Frankly, Mr. Speaker, this is long overdue, but as an ancient Chinese proverb says, "A journey of a thousand miles begins with one step."

The new 10-article security law, as I understand from discussion with a fellow Pennsylvanian, Prof. Nathan K. Mao of Shippensburg University, will enhance the rights of assembly and association of the people, will give more freedom to the press, and even more importantly, will specify that private citizens are to be tried in civilian instead of military courts.

The passage of the security law is an encouraging first step. Let us hope that it in fact signifies a start down the road toward full democracy. There is no question that martial law, first imposed in 1949, has to be replaced. Given Taiwan's economic success the time has come for the country to move toward constitutional democracy, full political freedoms, and a free press. These are the common bonds that link the free world. For Taiwan, as a major trading partner, movement in this direction is essential.

In last fall's election, Taiwan's first opposition party—the Democratic Progressive Party—elected its own members to the legislature and is now functioning as the major opposition party. To his credit, President Chiang has been committed to formation of the new political party in spite of conservative opposition within the ruling Kuomintang. The President has been equally determined to end martial law and pass the new security law which will mean the end of military trials for political offenses, and military censorship of the press.

The new law unfortunately still allows for Government review of the press. President Chiang, however, noted himself that these changes, as significant as they are, amount to only a first step. The American people and the Congress look forward to further steps building upon this significant foundation.

With my colleagues on the House Foreign Affairs Committee I applaud these recent developments on Taiwan. As Fredrick Chien, Taiwan's envoy to the United States said, "the passage of the new security law was a historic event for the Chinese people and for the Government." Mr. Speaker, let us hope the people of Taiwan embrace their new freedoms, move forward, and continue the dramatic and encouraging political evolution underway in Asia.

THE FARM CREDIT SYSTEM RESTRUCTURING AND LOCAL CONTROL ACT OF 1987

HON. VIN WEBER

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. WEBER. Mr. Speaker, today I am joining my friend from Ohio, BOB MCEWEN, in introducing the Farm Credit System Restructuring and Local Control Act of 1987. This bill provides substantial assistance to the Farm Credit System, but it ensures that this assistance will be structured in a way that will benefit the borrowers of the district through debt restructuring and lower interest rates.

This bill sets up a reserve fund of $4 billion, through the issuance of federally guaranteed bonds. The Federal Government will pay the interest on these bonds for the first 5 years, which will give the System time to recover. After 1992, the system should be ready to assume responsibility for the bonds and their interest payments.

This legislation requires all farm credit districts to submit a complete restructuring plan before they receive any Federal assistance from the reserve fund. When it became apparent that the System would need an infusion of Federal funds, I made clear that we had to make sure that Federal assistance led to relief for the System's borrowers. This legislation does that, by requiring a debt restructuring program as a condition for assistance. Periodic reviews of the program would precede further assistance.

The loan restructuring plan in our bill is based on the experience of the St. Paul district of the Farm Credit System. The St. Paul district has already restructured half its nonaccrual loans, and as a result farmers are once again able to manage their debt, and the district is no longer operating at a loss. We need to follow this model throughout the System.

The second key component of this legislation is a secondary farm mortgage market. I am sensitive to the concerns of rural independent bankers, who have themselves been in the midst of a severe economic crisis in the past few years. A number of banks have failed in my district in the past few years, and the problems of these banks must not be forgotten as we address the difficulties in farm credit.

A secondary farm mortgage market gives banks access to low-cost, long-term capital, in the same way that the mortgage market in housing gives banks access to this kind of capital. Establishing a secondary market will give banks another option in providing credit and help to bring down interest rates for farmers. I strongly believe that this provision should be part of any final farm credit package.

A number of other important provisions are also included. We must continue to protect the cooperative structure of the System, which is why I completely oppose the administration's proposal to centralize the System further. Our bill provides stockholders the right to reconsider any vote to merge within 60 days, if 5 percent of the stockholders of a merging institution sign a petition to reconsider. This will provide an added safeguard against mergers that are not in the interest of the local stockholder. In addition, we outline a number of borrower rights that must be followed in all negotiations.

Our legislation also guarantees borrowers' stock for 5 years and requires districts to reduce their operating costs by 10 percent.

This is a comprehensive solution to a problem that must be addressed in a comprehensive way. I urge my colleagues to support this bill and support action on farm credit this year that will help our farmers, support our rural banks, and restore confidence in the Farm Credit System.

ECONOMIC DATA LEAKS IN GOVERNMENT

HON. MATTHEW J. RINALDO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. RINALDO. Mr. Speaker, for the past year there has been considerable attention focused on insider trading in the securities industry. As the ranking member of the Telecommunications and Finance Subcommittee, I have been working on legislation to address this problem so that the public's confidence in Wall Street will continue.

I have learned of another type of insider trading, one that occurs within the Federal Government, and am introducing legislation today to remedy the situation. Unlike trading in privileged corporate information on Wall Street, which can lead to civil and criminal penalties, trading on embargoed Government economic data is not illegal. There is nothing in the Criminal Code to prohibit an individual who has advance knowledge about Government economic statistics, such as the gross national product, Consumer Price Index, or the bank discount rate, from using the data for personal gain before its public release date. This type of information, to varying degrees, influences the Nation's financial markets and is valuable to economic analysts and forecasters. Anyone with prerelease access to this information would have a decided advantage in investment decisions.

A recent Federal investigation revealed that Government workers with access to sensitive economic data have either leaked the information to others or used it for their own personal financial gain before it was announced to the public. Records disclosed that numerous Department of Commerce employees had access to data vital to economic analysts and forecasters and that many of them made hundreds of unexplained phone calls to Wall Street concerns. At least two of the employees were discoverd to have used the data for personal financial gain.

To better assure the appropriate management of sensitive Government indicators, I am introducing legislation making it illegal to leak or otherwise misuse this data. The bill provides for a maximum sentence of 2 years imprisonment and a $250,000 fine for any individual convicted of disclosing or using it for personal gain prior to its official release date. The measure is directed primarily at employees of the Federal Reserve Board and the Departments of Labor and Commerce who develop and have control over economic statistics and other sensitive data.

Mr. Speaker, I urge my colleagues to support this legislative effort to correct an important omission in our Criminal Code.

A SALUTE TO CHOONG HWAN OH

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. DYMALLY. Mr. Speaker, it is with a sense of sadness that my staff and I will soon say goodby to a person who has become a friend and coworker during his months with us. Mr. Choong Hwan Oh came to us from the Special Committee on Budget and Accounts of the National Assembly of the Republic of Korea. During this session, he has been serving a Congressional Fellowship in my office.

As many of my colleagues know, I have sponsored for nearly 6 years a very special fellowship between the Korean National Assembly and the Congress. During this time, my office has been visited by a number of outstanding fellows, each of whom is a staff member of the National Assembly. Mr. Oh now takes his place in the ranks of these superb individuals whose presence here has helped to cement the strongest of relations between our two legislative bodies.

As befits his position as a researcher for the Budget Committee, Mr. Oh has taken as his fellowship project a study of our endeavor to reduce our budget deficit. He has concentrated on the Balanced Budget and Emergency Deficit Control Act. I do hope that he has gained an understanding of our efforts to reduce the deficit because if he has, I know 535 people who would like to have a heart to heart talk with him. In all seriousness, it is a highly valuable activity to have a person with Mr. Oh's technical expertise here to provide a fresh perspective on the deficit. I look forward eagerly to seeing his work.

In a larger sense, it has been a real pleasure to have Mr. Oh on our staff precisely because of the perspective he brings. Through our talks with him my staff and I have been able to see ourselves and what we do in a new light. Moreover, we have had the opportunity to learn more about one of our closest allies, South Korea, from the point of view of one who participates in the daily life of that country.

We deeply regret losing Mr. Oh. At the time, we have felt with him the longing he has to be reunited with his wife Myong Sook Kie and his two young sons Se Hoon and Se Chol as well as his mother Ie Suk Lee. Phone calls just are not the same thing as being there. Mr. Oh, my staff and I want you to know that you have lots of friends here in the United States. And they wish you and your family health, success and prosperity.

A COMPROMISE TO BEAT HIGH LAKE LEVELS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. PORTER. Mr. Speaker, I have introduced with my able colleague, Mr. SENSENBRENNER, the Great Lakes Water Relief and Economic Protection Act of 1987.

Earlier this year, both Mr. SENSENBRENNER and I introduced measures to increase the diversion of water at the Chicago River. Our combined bill, which I believe will be a significant step in lowering lake levels, will give the Army Corps flexibility in determining how much water to divert while placing a cap of 10,000 cubic feet per second on the maximum diversion amount and protecting downstate Illinois with the presence of monitoring and gauging stations.

The rains and floods of last fall and early spring have subsided, but the level of the lake still stands above the level of 579.5 feet where active erosion begins. Mr. Speaker, the problem has not disappeared. Water plants, public roads, parks, and recreation areas are still in danger of suffering damage from intense wave action.

I urge support for this relief measure. By ignoring the problem, it will not disappear. Mr. Speaker, it's time to take action.

THE SILENCE IN NICARAGUA

HON. LAWRENCE J. SMITH

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. SMITH of Florida. Mr. Speaker, the Sandinista government has become notorious for its blatant disregard for individual rights and civil liberties. Not only do the Sandinistas preside over a closed society, quelling all nonconciliatory voices, such as the closure of the daily newspaper La Prensa, but fundamental human rights are systematically denied.

The Sandinista mistreatment of their so-called democratic system is evident in the case of La Prensa. The Sandinista's oppressive treatment has continued beyond the newspaper's closing last year. Yet, La Prensa still attempts to project the democratic voice which the Nicaraguan people so desperately need. La Prensa existed long before the Sandinista government, and the spirit of the newspaper cannot be shut down by their persecution.

This singular case is so overwhelmingly important because La Prensa is bravely struggling to continue its quest to inform the Nicaraguan people of the civic opposition to the Sandinista government. Many within Nicaragua believe the Nicaraguan people are seeking a democratic alternative to the Sandinistas. La Prensa intends to freely and unrestrictly inform the Nicaraguan people, even if the newspaper must undergo severe hardship to do so.

La Prensa represents the buttress of democracy within Nicaragua. The people must have access to information that is both for and against the government. Until freedom of speech becomes a reality within this wartorn country, newspapers such as La Prensa must be allowed to freely express their views.

A recent article that appeared in the Washington Post described La Prensa's struggle and repeated efforts for freedom of speech. This timely article depicts the newspaper's battle through the eyes of La Prensa publisher, Violeta Chamorro. I submit this article to the RECORD for careful consideration by my colleagues.

THE SILENCE IN NICARAGUA

(By Violeta Chamorro)

MANAGUA.—The Sandinista government, not satisfied with having arbitrarily brought about the closure last year of the daily newspaper La Prensa for an indefinite period, has continued a series of aggressions against the newspaper which I think the whole world should know about.

In a note dated March 26, but for some unexplained reason not sent until April 13, the Labor Ministry ordered us to pay in full the wages of all the workers, whose work contracts inevitably were suspended—strictly in line with the current Labor Code—at the same time the newspaper was suspended on June 26, 1986.

It should be noted that La Prensa, on the decision of its directors and for humanitarian reasons, seeking to ease as much as possible the unemployment brought about by the Sandinista government, continued paying the wages for two months beyond the June 26 closure.

As can be imagined, La Prensa, after 10 months of receiving not one cent in income, has severe liquidity problems—despite which it has kept on a skeleton staff, in case it might be able to publish again.

To pay those costs, in the absence of any revenue, the directors of La Prensa have had to sell off some of the assets. Amid the pressure for the paper to meet its obligations, The Sandinista government now is trying to liquidate it completely to bankrupt La Prensa.

"Why this now?" ask the noble Nicaraguan people, all of whose freedoms—such as freedom of expression—have already been battered. Very simple. The closure of La Prensa was not done for this or that reason proclaimed by the Sandinistas (without their specifying one), but because this newspaper, even shut down, represents the Nicaraguans' hope of one day being able to express themselves freely again.

That is why for the "Sandinista Front" even the hopes of an innocent people in their tragedy have to be killed.

But despite all the outrages, we are continuing day in and day out to seek means to reestablish our right to appear again before the Nicaraguan public and respond to its demand to be able to be informed openly and impartially—and not solely in line with the local and international policy of the Sandinista government, as it is now by the revolutionary government's media. We do this because we consider it our strong moral obligation to hold on to the defense of the Nicaraguans' rights at this historic moment in my country.

Based on that conviction, during the 77th World Interparliamentary Conference in Managua April 27, La Prensa sought to raise its voice again and claim before representatives from around the world its rights to once again freely inform the Nicaraguan people about what is happening in this country.

To make our message known, La Prensa published a poster-style sheet bearing the newspaper's logo and calling for worldwide solidarity against the Sandinista government's decision to keep it silenced.

The poster has as a background an enlarged photograph of my late husband, the martyred editor of La Prensa, Pedro Joaquin Chamorro Cardenal. It declared that in Nicaragua there is no freedom and therefore no democracy, and that it cannot be said a parliamentary system exists here, such as is known in all the democratic nations of the world.

Our greeting was circulated at the World Interparliamentary Union conference, having been sent to the embassies of the various countries represented there.

The result was that on April 30 a platoon of 30 armed soldiers under the command of Capt. Oscar Lozo, from the Nicaraguan Interior Ministry's State Security, broke into the newspaper's plant and temporarily detained several La Prensa employees, including directors. All were subjected to police interrogation and threats of being hauled off to jail for having published the poster.

Three hours later, the State Security military squad withdrew, after searching the entire building and seizing plates, film and other material used to print the poster. Many of the printed posters were also seized, along with thousands of wastage sheets.

The newspaper was also left with the threat of further action, supposedly stemming from the state of emergency in the country, under which the publication even of a one-sheet flyer is prohibited if its text has not been checked and approved by the Interior Ministry.

With these two Sandinista government actions against us, which I denounce herewith through my Inter American Press Association colleagues, I wish only to carry out a mission that I have taken upon myself: to explain to the world the defenselessness of the Nicaraguans in the principal struggle of this century—the ideological struggle. My mission is to make those who do not live in Nicaragua feel the ominous significance of the silence that has fallen over our Nicaraguan people, after having bled, after a heroic fight for their freedom, a fight in which I lost my loved one.

Nevertheless, I believe it is also my obligation to assert that despite the Sandinistas' flagrant injustice to La Prensa, bulwark and barometer of democracy in Nicaragua, the reaction from the free world—the great world press and the leaders who call themselves democrats—has been little.

What concerns me in this coolness is that all the debate is over whether armed struggle is good or bad. I, and La Prensa, do not want—and have never wanted—to take part in that discussion. It seems absurd to us that we look only at the here and now, and not ahead to the most dangerous outlook for our struggle in Nicaragua. We are fighting against a deceitful, seductive, false ideology that can trick exploited peoples. And against such a force we have no arms.

The barracks, the bulwark, of the ideological struggle in Nicaragua is La Prensa, but the loss of such a bastion does not seem to mean much to the free world.

The months go by and totalitarianism, with the outrage taken for granted, engages in new attacks against the people's right to be informed. The months go by and the new dictatorship continues taking positions and strangling a people's freedoms, won by blood and sacrifice.

U.N. REFORM: CHANGE OR CHARADE?

HON. PATRICK L. SWINDALL

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. SWINDALL. Mr. Speaker, the United Nations continues to waste millions of U.S. taxpayer dollars. Some have said the United Nations is trying to reform itself and give the United States more for its money. But as a Heritage Foundation backgrounder points out below, this "reform" effort is half-hearted at best. Thus, the need to maintain pressure on the United Nations for genuine change is as important as ever.

THE UNITED NATIONS CONTINUES TO DUCK NEEDED REFORMS

INTRODUCTION

Last year the United States withheld $130 million of its assessed contribution to the United Nations. The aim of this was to spur long overdue reform of U.N. budget procedures. In response, the U.N. has adopted some preliminary procedural and budget reforms to improve efficiency and give the organization's major contributors a bigger voice in the budget process. In assessing these steps, Assistant Secretary of State for International Organizations Alan Keyes told a House of Representatives subcommittee this February:

"Of course, the real proof of [U.N.] reform will be in the implementation. Just as we pledged last year to do our utmost to achieve necessary reform, we pledge now to continue our efforts to assure that they will be carried out . . . the real proof of reform will be in the implementation. That will require good faith efforts on the part of the Secretariat and other member states." [1]

As Spendthrift as Ever. So far, however, there is scant evidence of such "good faith efforts." Though the U.N. may be pinching costs a little here and there, the organization is as spendthrift as ever. It is, for example, according to U.N. documents, spending: [2]

$123,000 to rent a limousine for the President of the General Assembly over a two-year period.

$200,000 for a shooting range in the U.N. garage.

$83,000 a year for an assistant to the Secretary General whose primary responsibility is to keep track of the General Assembly's speakers list. The Senate Select Committee on Intelligence last year charged that the aide, Vladimir Kolesnikov, is a Soviet KGB agent.

$447,200 for Russian language training in the Soviet Union.

$709,000 for educational materials for the U.N. Council on Namibia, including buttons and posters of the leader of the terrorist South West Africa People's Organization (SWAPO).

$48,000,000 in budget "add-ons" during the closing days of the 1986 General Assembly.

A $91,204,800 slush fund of "Common services not distributed to programs [at] Headquarters."

Until expenditures such as these are eliminated from the U.N. System's bloated $4 billion-a-year budget, of which U.S. taxpayers supply one-quarter, Congress and the Reagan Administration would be violating their own sensible guidelines were they to restore the full assessed U.S. contribution. The U.N.'s only hope of surviving its crisis of confidence and of budget is to demonstrate that it is capable of reform and of spending restraint. So far, it has not done so.

THE CALL FOR U.N. REFORM

U.S. taxpayers always have borne the lion's share of the U.N.'s assessed and voluntary contributions, pouring more than $15 billion into the organization since the first General Assembly in 1946. Then, the U.N. staff numbered 1,500; last year it was over 11,000. Meanwhile, the budget of the entire U.N. system has grown five times faster than the inflation rate.

There seems to be a near consensus within the U.N. that management has not kept pace with this dizzying growth. Throughout almost every level of the U.N., financial, administrative, and personnel controls have been either nonexistent or broken. Committees have proliferated, many with overlapping and duplicative responsibilities.

Funding Terrorists. Much of the U.N.'s growth was fueled by the emergence of the so-called "Group of 77" or G-77, composed of over 120 developing countries. G-77 has voted as a bloc to control budget appropriations even though G-77 nations provide less than 9 percent of the total U.N. System budget. In effect, major contributors are powerless to prevent the G-77 from voting budgets that automatically cost the major contributors more money. To make matters worse, the G-77 votes money for such known terrorist organizations as the Palestine Liberation Organization, the Irish Republican Army, and the South West Africa People's Organization.

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[1] Testimony before the House Foreign Affairs Committee, Subcommittee on Human Rights and International Organizations, February 25, 1987.

[2] Proposed Budget for the Biennium 1986-1987.

Against this background, the U.S. began to curtail and even eliminate contributions to voluntary U.N. programs such as the U.N. Educational, Scientific and Cultural Organization (UNESCO). And Senator Nancy Kassebaum, the Kansas Republican, in 1985 introduced an amendment to the State Department Funding Bill, P.L. 99-93, which limited U.S. contributions to international organizations to 20 percent of the organization's budget. This included the U.N. whose budget was funded 25 percent by the U.S. Citing fiscal constraints in the U.S., Kassebaum proclaimed: "The United Nations is no longer a sacred cow."[3] The Kassebaum Amendment passed overwhelmingly, 71-13.

This shook the U.N. Secretariat. In late 1985, U.N. Secretary-General Javier Perez de Cuellar appointed an 18-member panel. Officially called the Group of High Level Intergovernmental Experts to Review the Efficiency of the Administrative and Financial Functioning of the United Nations, the panel was to make recommendations for reform. Known as G-18, the group issued its report last August, indicting the U.N. for being top-heavy, junket addicted, and paper crazy. Financial controls and the personnel qualification process were found to be sorely deficient.[4]

Bitter Pill from a Friend. Meanwhile, revelations by the U.S. General Accounting Office and intelligence agencies prompted additional congressional action.[5] The House of Representatives passed an amendment in July 1986 offered by Pat Swindall, the Georgia Republican, which subtracted $17.6 million of the $423 million earmarked for international organizations; $7.57 million of this was to be taken from the U.S. contribution to the U.N. Department of Public Information (DPI), which the GAO had found to be a font of anti-U.S. propaganda.[6]

Also during the summer of 1986, the United Nations Association (UNA), a group normally sympathetic to U.N. management, convened an "International Panel on U.N. Management and Decision-Making." The UNA's carefully worded report was a bitter pill.[7] It found: "Over the years too many of the Secretary-General's top appointments have reflected political considerations as much management ability or loyalty to the Secretary-General."[8] Concluded the UNA: ". . . the U.N.'s credibility is sagging in nearly every region of the world."[9]

Other friends of the U.N. also began suggesting changes at the organization. Mohamed Sahnoun Algeria's ambassador to the U.N. from 1982 to 1985, and now its envoy to the U.S., unveiled a reform package at a Heritage Foundation conference.[10] His recommendations include:

(1) Working harder toward consensus management and incorporating it into the rules of procedure.

(2) Instituting "cooling off periods" before proposals are voted on.

(3) Reviewing negotiating procedures and devices.

(4) Reducing dramatically the General Assembly's agenda.

(5) Reducing drastically the number of resolutions.

(6) Reducing the volume of conference documents and improving their quality.

(7) Banning the creation of new committees and subcommittees that need services.

(8) Limiting the duration of the General Assembly's regular session.

Speaking at the same conference, Singapore's Ambassador to the U.S, Tommy Koh, who represented his country at the U.N. for 13 years, said the U.N. budget has "a lot of fat in it that can be cut out." Koh suggested that U.N. salaries—20 percent higher than those paid U.S. civil servants—be cut and that the U.N. "stop, or at least reduce substantially, the junkets and needless conferences the U.N. has become addicted to." Koh also said that the U.N. needs to discourage formation of new committees, noting that, "Very often, when a delegation runs out of ideas on an item it has inscribed on the agenda, it resorts to the expedient of proposing a committee to examine the question. The U.N. literally has hundreds of such committees, many of which have overlapping jurisdictions.'

THE U.N. RESPONDS

With the calls for U.N. reform mounting, Secretary-General Perez de Cuellar responded last October. He did so through former Undersecretary-General Patricio Ruedas of Spain, who spent two days in October 1986 answering questions about the G-18 report. To many of G-18's substantive recommendations, Ruedas offered merely a flurry of lame denials.[11]

G-18 had determined, as had other groups and individuals before it, that the U.N.'s lax enforcement of personnel qualification standards had created staff and organizational performance problems. Not true, said Ruedas. This response was a cover up, ignoring the mounds of evidence of the serious problems at the U.N. A U.N. auditor's report in October 1986 points out that: [12]

UNICEF acquired several buildings and a computer system, although these acquisitions were never mentioned in the budget.

Tours of U.N. Headquarters in New York, originally designed to generate income, lost $785,000 in 1986.

U.N. employees received fraudulent payments, education grants, dependency allowances, and income tax reimbursements.

U.N. employees repeatedly violated U.N. rules regarding competitive bidding.

"Serious lapses in internal [financial] control mechanisms" occurred at the U.N. and U.N. agencies.

Evidence existed of "gross mismanagement and/or possible fraud" in headquarters catering and gift shop operations.

A key G-18 recommendation is that the U.N. trim its payroll by cutting regular budget posts by 15 percent and cut slots for under and assistant secretaries-general by 25 percent. Replying to this recommendation, Ruedas told the Fifth Committee, which is responsible for U.N. administrative and budgetary matters:

"The Secretary-General, of course, would aim at achieving these reductions to the maximum extent possible through the full utilization of the attrition mechanism."

Protecting the Payroll. By the end of May 1987, the latest period for which figures are available, the numbers confirmed the Secretary-General's reluctance to reduce significantly the size of the U.N. payroll. Overall U.N. employment, excluding the U.N. Development Programme and UNICEF, had been reduced a scant 1.8 percent worldwide. At the Manhattan Headquarters, the workforce had shrunk just 2.4 percent. On the executive level, only the number of assistant secretaries-general showed any significant reduction, down to 22 from 28 in December 1986. The number of undersecretaries-general remained unchanged at 27.

The minor attempts by Perez de Cuellar to cut costs often ran aground. Typical was the squall created by the attempt to save $100,000 per year at Headquarters by removing drinking water pitchers from 13 conference rooms. The entire Fifth Committee last December spent three hours debating this seemingly modest proposal. The New York Times [13] reported that U.N. controller J. Richard Foran said, ". . . it is easy to underestimate the amount of work involved in such an enterprise . . . the jugs not only had to be distributed to each room, but also had to be filled twice a day and removed at night." The task, he said, required the services of five U.N. staffers.

Drinking Water Debate. As the drinking water debate dragged on, Fifth Committee Chairman Even Fontaine-Ortiz felt compelled to remind delegates that the overtime pay for the translators and guards to service this critical debate could cost as much as the discontinued water service. Another delegate reminded the assembly that water fountains were conveniently located in the halls, while still others discussed the symbolic importance of water.

Typical too of the U.N.'s stubborn resistance to reform was the response to the G-18 suggestion that the Secretary-General would get more reliable financial data if the U.N.'s Internal Audit Division, now a part of the Division of Administration and Management, were made an independent unit. To this sensible recommendation, Undersecretary-General Ruedas, speaking for the Secretary-General on October 24, 1986, said, "that it is indeed theoretically possible for the Internal Audit Service to report directly to the Secretary-General. The advisability of this move would have to be seen in relation to other factors, such as whether the already heavy schedule of the Secretary-General should be burdened by further direct supervisory responsibilities.[14]

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[3] "Congressional Quarterly," January 4, 1986, p. 33.

[4] Report of the Group of High-Level Intergovernmental Experts to Review the Efficiency of the Administrative and Financial Functioning of the United Nations, General Assembly, Forty-First Session, Supplement No. 49 (A/41/49).

[5] See "United Nations—Analysis of Selected Media Products Shows Half Oppose Key U.S. Interests," GAO/NSIAD-86-98, April 1986, and "More Can Be Done to Strengthen the U.N. Joint Inspection Unit," GAO/NSIAD-86-141, June 1986.

[6] In October 1986, the Senate rejected a proposal, 46-53, by John Heinz, the Pennsylvania Republican, to withhold all U.S. U.N. contributions until the President implemented a program to eliminate Soviet spying and salary kickbacks there.

[7] "Leadership at the United Nations: The Roles of the Secretary-General and the Member States," the United Nations Association of the United States of America, December 1986.

[8] *Ibid.*, p. 7.

[9] *Ibid.*, p. 4.

[10] Remarks made at The Heritage Foundation, June 1986.

[11] Statement by Undersecretary-General Patricio Ruedas to the Fifth Committee, October 24 and 27, 1986.

[12] "Diplomatic World Bulletin," November 10-17, 1986, p. #2.

[13] The New York Times, December 8, 1986, p. A1.

[14] Statement to the Fifth Committee.

Given the Secretary-General's tepid endorsement of reform, it is not surprising that, during the closing days of the 1986 session, the General Assembly voted to append $48 million worth of "add-ons" to the budget including increases of: [15]

$5,070,900, almost 20 percent of its total budget, for the Committee on Political Affairs, Trusteeship and Decolonization.

$9,142,800, almost 15 percent of its total budget, for the controversial United Nations Conference on Trade and Development (UNCTAD).

$2,722,700, over 25 percent of its budget, for the International Trade Center (ITC).

$16,789,500 for administration and management.

$21,939,000 for conference and library services.

While making these add-ons, the General Assembly did cut other program budgets. However, the net results was over $48 million in new spending, irrefutable proof of the U.N.'s inability to operate within its already ample budget.

THE RECORD OF U.N. MISMANAGEMENT

A number of G-18 recommendations highlight the U.N.'s continuing disregard for cost-effective management. Among them:

Fire sale rents

G-18 recommended that "Member States and other users occupying space on United Nations premises should pay [the U.N.] rent based on the current commercial rate." The U.N. Secretariat has been doing a poor job of ensuring that the U.N. gets full value from U.N. tenants. Example: The Food and Agriculture Organization, the International Atomic Energy Agency, the International Monetary Fund, and the World Health Organization pay approximately $24 per square foot for space in U.N. buildings in Manhattan, about half the going rate. The Group of 77 developing countries, in 1986, paid only $5.04 per square foot for office space in the Secretariat's Manhattan headquarters, an amount at most one-ninth market value. Security Council members pay nothing for 972 square feet of additional office space, also in the Secretariat building.

Travel

For many years the U.N. has spent millions for reimbursement of delegates' travel expenses to and from the General Assembly. Under recent rules, each delegation was entitled to four coach and one first-class air fare. G-18 recommended that these reimbursements be limited to the 37 poorest countries, producing a budget savings of $2.95 million. In the face of last year's withheld U.S. contribution, the U.N. finally adopted this long overdue reform. Beyond the matter of limiting travel reimbursements, it is questionable whether the U.N. should pay for any first class air travel, costly limousines, or education grants to the children of U.N. employees.

Paper flow

The G-18 made several recommendations designed to cut down the enormous volume of documentation. Until the agendas of the committees and the General Assembly are significantly reduced and the number of conferences trimmed, very little can be done in this area. In 1985, the U.N. produced a staggering 825 million page "impressions" (total pages printed), roughly 44 million individual documents.

Appearing before the Fifth Committee last fall, then Undersecretary-General Ruedas claimed that the cost per page was less than one cent. This significantly understates the true costs of the U.N. paper proliferation and pinpoints serious flaws in internal accounting procedures. Ruedas claimed that the cost per page "is determined by dividing the total costs of internal printing by the total number of pages printed. Total costs include all staff costs incurred in the print shop, maintenance and repairs, and supplies and materials." [16] He also alleged that distribution costs were 8.6 cents per document.

This contrasts sharply with the claim made by former U.S. U.N. Ambassador Joseph Reed, now U.N. Undersecretary-General for Political and General Assembly Affairs. Reed states that the U.N. improperly calculates its cost per page by excluding writing and translation costs and that the real cost of generating certain U.N. documents is much higher. Reed told the Second Committee (Economic and Social Issues) last fall that the cost of writing, translating, and producing a 25,000-page sampling of committee documents was an astronomical $650 per page or $16 million.[17]

CONCLUSION

Any serious U.N. reforms must give major contributors a larger say in the U.N. budget process. The G-18 report has made a modest start on this. States the report: "[We] remain convinced that [we] have only begun a reform process. This process must now be carried further by the intergovernmental bodies and by the Secretary-General of the organization."[18]

It also must be carried further by the U.S. Congress and the Reagan Administration. Congress will soon consider legislation that would withhold a part of the U.S. U.N. contribution, pending certification from the President that U.N. reforms are being executed faithfully. When considering this legislation, lawmakers should evaluate the progress of U.N. reforms to determine if the amount to be withheld provides sufficient incentive for reforms to continue at an expedient pace.

Congress and the Administration should insist that the Secretary-General become more involved in the U.N.'s financial management. His aloofness thus far, compounded by the various U.N. bodies' inability to take reform seriously, casts a pall over the promise of U.N. reform.

Maintaining U.S. Pressure. Until significant reforms are adopted and executed, the U.S. must maintain its pressure on the U.N. The terms of the Kassebaum Amendment, for instance, were never fulfilled by the U.N. This is to say nothing of the alleged fraud and widespread incompetence behind the pages of the U.N. budget. Restoring the full U.S. contribution, therefore, would accomplish little but providing a disincentive for the desired reform.

The United Nations can be saved only if it saves itself. The U.S. has given the U.N. the impetus to do so. Now is no time for Washington to relent.—Prepared for The Heritage Foundation by Mark Huber, a Washington-based consultant.

GIVING WEIGHT TO THE ENFORCEMENT OF LABOR LAWS IN THE THIRD WORLD

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. PEASE. Mr. Speaker, in their special report "Stolen Childhood" for Cox Newspapers, reporters Joseph Albright and Marcia Kunstel found compelling examples from Thailand and the Philippines of how commonly children in the Third World are exploited for their labor in open disregard for what labor laws exist. A Thai Government official acknowledges that in 1985 only three cases were brought against employers for forcing young workers to put in excessive hours. This is not altogether surprising inasmuch as there were only 115 factory inspectors in Thailand, according to 1982 data, to monitor 40,951 licensed factories and thousands more illegal shophouses.

If the products of these Third World children are to be marketed in America and other developed countries, therein lies potential leverage to encourage the governments of many Third World countries to effectively enforce their own labor laws.

[From the Atlanta Constitution, June 23, 1987]

THIRD WORLD IGNORES ITS OWN LABOR LAWS—EXPLOITATION OF YOUNG WORKERS HELPS SPUR RACE FOR DEVELOPMENT

(By Joseph Albright and Marcia Kunstel)

TAYTAY, PHILIPPINES.—Eliza Lualhati, 15, doesn't complain about running a high-speed sewing machine 90 to 110 hours a week. But she wishes the boss wouldn't make her pay for the thread.

Eliza is one of hundreds of thousands of 13-, 14- and 15-year-old Asian children who work up to 16-hour days of drudgery in the same sweatshops where they sleep.

Factories such as War Win's Style shirt factory, where Eliza earns 13 cents an hour sitting at her machine, are supposed to register with the government and obey national labor laws.

But they don't. And governments straining for economic development don't try very hard to find them. It's a formula for exploitation of children that applies not only here but in sweatshops by the thousands in Bangladesh, India, Indonesia, Malaysia, Pakistan, Sri Lanka and Thailand.

"Officially, they don't quite exist," said Jose Gatchalian, dean of the Institute of Industrial Relations at the University of the Philippines. "The owners figure that they've got to go through a lot of rigmarole, so why bother. If they register, here come the inspectors to see if their conditions are right. If they don't register, that takes care of all the problems."

No inspectors come around to check the War Win's Style plant, a basketball-court-sized building in a Manila suburb, where Eliza shares a sewing room with a dozen other seamstresses.

Eliza's routine six days a week goes like this:

Wake up at 6 a.m. on a pile of cloth scraps beside her sewing machine, a sturdy model resembling those commonly found in many American homes. Make breakfast, usually a bowl of rice and gravy. Sweep the sewing room floor.

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[15] Revised Budget Appropriations for the Biennium, 1986-1987, pp. 493-495.

[16] Statement before the Fifth Committee, October 24, 1986.

[17] The Honorable Joseph Reed, General Debate before the Second Committee, October 6, 1986.

[18] G-18 Report *op. cit.*, p. 3.

Then:

"We start sewing exactly at 7 a.m. We usually get a break around noon. It lasts maybe two hours, but only half an hour if we are in a rush. We start up again for the afternoon and work until about 7 p.m.

"We stop for about half an hour for dinner. Then we start sewing again. Usually until midnight. Sometimes it is until 3 a.m. In December, we go right on through, just taking a catnap."

Eliza said she often daydreams through the hours she sews. But "you can get hurt if you are not careful or when you are sleepy."

The owner of War Win's Style, Josie Cruz, sounded compassionate.

"Sometimes they get ill," she said. "Some of them have suffered anemia from lack of sleep. There are workers who work 23 hours a day, especially in December" when orders for the holiday season must be filled.

SEWERS BUY THREAD SO "THEY WILL NOT WASTE IT"

But Ms. Cruz, who lives next to the factory, said if she wants to succeed in the garment business, she has no choice but to work the children long hours.

"We have a strict shipping schedule," she said. "If we fail to deliver, there will be no work to be done for the next two weeks. So whenever there is a rush order, they know they have to finish, even if they have to work 23 hours a day."

No clocks adorn the walls to tell the workers how long they've been stitching. "We find out the next day when one of the women comes in and tells us, 'Oh, I got home at 1, 2 or 3 a.m.' That's how we know how long we worked," said Eliza.

Originally from the poor, rural province of Quezon, Eliza goes once a week to her grandmother's house, about 2 miles from the factory.

As for the factory's thread policy, Ms. Cruz said: "I let the sewers purchase the thread. That way they will not waste it."

Eliza's predicament "is not an isolated case in the Philippines," said Aura Sabilano, head of the Labor Ministry's bureau of women and minors. She said President Corazon Aquino's administration hopes to stop such labor abuses. But she isn't optimistic that much will change soon.

"The very sad reality is that we're part of the Third World," she said. "We're part of the dumping ground where cheap labor is the main attraction. For investors, cheap labor is the main attraction of the Philippines at this point in time."

Ms. Sabilano's remarks reflect a mind-set shared by a good many intellectuals in the Third World: that cheap labor and child exploitation may be inevitable as the country struggles to keep up with competing Third World nations in the race for development.

The defect in the argument is that greed and grimness observe no national borders. In the global competition to offer cheap labor, some other country will always hold wages even lower. And the net result is that children are paid so little that their labor verges on servitude.

'SOMETIMES I DON'T GET A DAY OFF FOR WEEKS'

In Thailand, thousands of young peasant girls are recruited from the drought-afflicted northeastern part of the country and kept working seven days a week inside hole-in-the-wall Bangkok factories called "shophouses."

One suburban Bangkok shophouse that made leather purses caught fire in February, killing 19 people. The casualties included a 13-year-old, who was injured, and a 14-year-old and a 15-year-old, who were killed.

Thai fire investigators found that an electrical short from a defective outlet ignited a glue pot after the purse makers had gone to sleep on the floors following a 16-hour workday. The workers were trapped inside the factory behind locked doors and metal window shutters.

"We did not know this place was a factory," a Bangkok newspaper quoted the local labor department officials as saying. "Its front doors were always locked."

In 1978, a survey by the Thai Commerce Department found that 3,000 factories in Thailand employed children.

That was the last time such a survey was published. But other unpublished evidence suggests that child labor has increased in the 1980s, at the same time that Thailand's economy has surged.

In 1983, for instance, a National Statistical Office labor force survey found 300,000 Thai children 11 to 15 years old employed in non-farm jobs. The number was up 30 percent from 1981.

Reporters found that Thai children in their early teens commonly work 75 hours a week in factories for less than 7 cents an hour. That's about one-fifth of Thailand's minimum wage, itself among the lowest in the world.

"Sometimes I don't get a day off for weeks," said Sarapa Nasap, who wraps toy Uzi machine guns in a plastics factory. She said she works 10-to-14 hour days six days a week and usually an 8-hour day on Sunday.

The live-in factory system is such an accepted part of Thailand's labor patterns that it didn't embarrass one of Sarapa's bosses to talk about the arrangements.

"If we give them meals, then we can control them very easily," said Komol Trairattanapa, export manager of Siam Asian Enterprises Ltd. Having the workers sleep in a factory dormitory behind large metal gates also helps exert control, he said.

Komol maintained that none of his workers was under 17. As he was saying this in the front office, a girl who looked about 11 was being photographed in the back workshop wrapping toys after they were popped out of their molds.

Sarapa, 15, said she is paid a monthly salary of $20, plus a bonus of 20 cents each night she works later than 10 p.m. Spread out over the 70 to 90 hours a week she says she works, her pay would average 6 cents an hour.

SWEATSHOP PAY FROM 3 TO 16 CENTS AN HOUR

Komol was inconsistent in discussing wages. At one point, he said, "We get our workers from the northeastern part of Thailand, where the cost is very cheap." But later on in the interview, he insisted that the company pays all its workers the legal minimum wage.

Some Bangkok sweatshop children would have to double their pay to reach 6 cents an hour. Among nine children whom reporters succeeded in interviewing away from their bosses, the pay ranged from 3 to 16 cents an hour.

Pennies buy more in Thailand and the Philippines than in the United States. But not much more.

After sending nearly three months' salary home, a 13-year-old factory gem polisher who called himself only Prasert said, "For this, my parents can buy a water buffalo." The $36 he had earned in the sweatshop was perhaps enough to purchase a calf.

In the Philippines, Eliza would have to work three hours at 13 cents an hour to buy a loaf of bread.

The highest-paid child worker whom reporters found in Bangkok, Siraporn Chookaew, 14, earns 16 cents an hour running a sewing machine at piecework rates in a Bangkok skirt factory. Her monthly earnings sometimes run as high as $70. But to make that much, she must work 15 hours a day, seven days a week.

More typical was Boon Mee Norakot, 13, encountered in a suburban Bangkok live-in furniture factory whittling a piece of rattan propped between his toes. He said he earns a straight salary of $16 a month, plus room and board. Working 85 hours a week, he pulls in about 4 cents an hour.

Lowest paid of all was Somsuey Siritoh, 14, who sews buttons in the same Bangkok skirt factory where her friend makes 16 cents an hour. Somsuey, still an apprentice, is paid $12 a month—which comes out to less than 3 cents an hour.

When asked about the work, most children said they were tired and bored, but at the same time proud to do their duty to their parents.

The pittances paid to these nine children were not aberrations. At a seminar on child labor in Bangkok last September, Voravaun Thanaphibul of the Thai Interior Ministry said working children usually earn between $12 and $60 a month—"much smaller wages than adult workers," as she put it.

And who are the ultimate consumers of this child labor?

More than half of the products made in Asian sweatshops are sold for local consumption. Eliza's shirts, for instance, are sold in a street market 10 miles from her factory.

But tons of other cheap goods are also made specifically for export. In Thailand, Sarapa's toy factory sells its toy machine guns in Europe. Siraporn says here skirts are made for markets in Singapore and the United States. Prasert's artificial gemstones and Boon's rattan are made for export as well, although they said they didn't know the destinations.

FOREIGN BUYERS NEVER SEE SWEATSHOP SQUALOR

An unpublished 1985 study for the Thai government by the United Nations' International Labor Organization traces the recent increase in non-farm work by Thai children to Thailand's export boom. "Manufacturing industries employing a large proportion of child workers are those which expanded very rapidly in the last few years as a result of their export potential," the report says.

No foreign buyer lays eyes on the wretched shophouses that employ children. To find children working, reporters had to walk through the back alleys of Bangkok's Yannawa and other working-class residential districts, listening for the sound of sewing machines.

Buyers from Western department stores deal either with expatriate export brokers based on Bangkok, or with big, clean, respectable Thai manufacturers that don't hire children.

The big factories are pleased to show Western buyers their modern plants where the workers are young women wearing spotless uniforms. What they doin't show is their hidden minor league of unlicensed subcontractors that churn out low-cost merchandise on orders from the same big factories.

Links also exist between child labor and the export market in the Philippines. Among the longest-established Philippine exports to the United States are rattan furniture, decorative baskets and hand-embroidered baby dresses.

About 70 years ago, when the Philippines was a U.S. territory, American entrepreneurs began contracting with Filipino women in Manila suburbs for production of baby dresses in their homes.

The Filipino contractors, called cabecillas, subcontracted the work to their neighbors, who in turn subcontracted the work down to lower and lower levels of subcontractors. By 1930, embroidered articles had become one of the top 10 exports in the Philippines. Then, as now, much of the work was done by children.

Baby dresses still are being exported to the United States, and to some of the same importers, including Manhattan's Feltman Bros., which has been active since the 1930s.

The wages Philippine children earn for sewing in their homes range from 1 cent to 5 cents an hour, according to a 1985 study by the Institute of Industrial Relations at the University of the Philippines. Most of the children found by researchers worked between 15 and 30 hours a week.

WHILE CHILDREN TOIL, ADULT BOSSES MAKE MONEY

The profits from child labor are often obscure. When they can be traced, the pattern is the same as in the Moroccan carpet industry: little people toiling, big people making money.

Like this:

War Win's Style factory in the Philippines earns about four times as much in profits from selling a dozen shirts as Eliza earns for making them.

Ms. Cruz, the owner, says she pays Eliza a piecework rate of 75 cents for every dozen shirts she sews. The factory's profit margin is about $3 on a dozen shirts, judging from figures provided by Ms. Cruz.

Ms. Cruz says that in a busy week the 25 sewers and silk screeners in the factory and 20 more seamstresses who work at home can make 360 dozen shirts, suggesting a potential profit of up to $1,000 a week.

Eliza says it takes her about six hours to make a dozen shirts, netting her 13 cents an hour.

The factory where Sarapa makes 6 cents an hour also appears to be a miniature money machine.

Export manager Komol said he expects to export 1 million plastic toys this year. He said the company charges 48 cents wholesale for its biggest seller, a 16-inch-long plastic Uzi machine gun. Although Komol didn't provide his cost figures, he indicated that making molded plastic toys is a cheap process. he described the material molded into guns as "low-grade plastic," which he said would be considered too toxic for the American market.

With cheap material, only 25 employees and high volume, the factory would have a difficult time losing money. If it makes even a 2 percent profit margin, its yearly profits should run well into the thousands of dollars.

Considerably larger profits accrue to some middlemen who don't directly employ child labor. Export broker Raymond Eaton, an Australian living in Bangkok, is one such middleman.

Eaton said his Export Development Trading Corp. last year arranged $44 million in sales of Thai garments, toys, rattan furniture, tennis shoes and other merchandise to Western buyers. His largest client is the Spiegel mail-order house in the United States, he said.

Eaton's company collected between $1.2 million and $2 million last year for arranging the export of Thai goods, judging from a commission schedule he provided.

Eaton said he buys only from 120 large licensed factories that don't hire children. But he acknowledged that some of their merchandise actually is made in small subcontractors' factories on orders from the big plants.

"I would estimate that 70 percent of garments exported from Thailand are made in licensed factories," he said.

He didn't try to argue that child labor was absent in subcontractors' factories, but emphasized that he didn't deal directly with these plants. "The sweatshops—the people who exploit kids—are not the type of people we do business with," Eaton said.

Both the Philippines and Thailand have laws written to protect young workers, but that doesn't help children such as Eliza and Sarapa.

Both countries set 48 hours as the maximum any factory worker can be made to work in a week without overtime pay. Both have a minimum wage—$2.75 a day in Manila, $2.92 a day in Bangkok.

As for hiring minors, Philippine law says it's illegal to hire children under 15 unless they are directly supervised by a parent, and there is no interference with a child's education.

Thai law permits children up to age 12 to work in light jobs such as flower selling, newspaper delivery, and waiting on tables. But it bars factory work before the age of 15 without governmental permission.

In both countries, however, laws are one thing and enforcement is another. In Thailand, Ms. Voravaun of the Interior Ministry said she knows of only three cases in 1985 where employers were charged with working young employees for excessive hours.

There are not enough factory inspectors to go around. By a 1982 count, Thailand had 40,951 licensed factories and uncounted thousands more illegal shophouses. It had only 115 factory inspectors.

In the Philippines, Mrs. Aquino used a presidential proclamation four months after she took office to stress the government's determination to protect children against "exploitation, abuse, improper influences [and] hazards." But when it comes to funding more labor inspectors, Mrs. Aquino's cupboard is bare.

Ms. Sabilano of the Labor Ministry says the Aquino administration has at least taken a step in the right direction by recognizing that child labor exists in the Philippines and should be monitored.

In Thailand, the government says the opposite—at least when dealing with outsiders.

"Now the situation of child labor is not a worry," asserted Ms. Voravaun, who is in charge of the Thai Interior Ministry's women and child labor division. "We cannot find a lot of child labor. Sometimes we look and inspect the factory all day and they cannot find children."

GEORGE MASON AND THE U.S. CONSTITUTION

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. PARRIS. Mr. Speaker, we are getting ready for a very important celebration in our country this year—the bicentennial of the U.S. Constitution. We have been fortunate to live under the oldest written constitution in the world and this has protected our freedom and our liberties for 200 years. I am pleased to have within my congressional district the homes of two of our Founding Fathers—George Washington's at Mount Vernon and George Mason's at Gunston Hall.

George Mason may not be that well known to many of our people. He was a delegate to the Constitutional Convention in Philadelphia but opposed the U.S. Constitution because it did not contain a bill of rights. Shortly after the adoption of the U.S. Constitution, the First Congress acted to adopt and add a bill of rights, which is the first 10 amendments to the Constitution.

A constituent of mine, Dr. Donald J. Senese, recently wrote an informative article on the career of George Mason and his great contribution to the American Constitution. The article appeared in the Fairfax Chronicles, published by the Heritage Resource Branch of the Office of Comprehensive Planning of Fairfax County, VA.

Dr. Senese is a former associate professor of history at Radford University in Radford, VA, where he taught American constitutional development. He has served as the Assistant Secretary for Educational Research and Improvement in the U.S. Education Department, 1981–85, and presently serves as a member of the Fairfax County History Commission and the Fairfax County Commission on the Bicentennial of the U.S. Constitution. Dr. Senese in this article highlights the great contributions which a leading statesman, George Mason, made to our constitutional heritage.

I would at this time like to enter in the CONGRESSIONAL RECORD the article by Dr. Senese, "Constitutional Ideas Have Consequences: George Mason and the U.S. Bill of Rights."

CONSTITUTIONAL IDEAS HAVE CONSEQUENCES: GEORGE MASON AND THE U.S. BILL OF RIGHTS

(By Donald J. Senese, Ph.D.)

George Mason of Fairfax deserves a special place of honor in the forthcoming celebration of the Bicentennial of the United States Constitution for his dogged determination to have included in the United States Constitution a specific listing of the rights of citizens. His failure in the Constitutional Convention was redeemed when the first congress of the United States adopted and sent to the states a listing of these rights, which became the first ten amendments to the Constitution, our cherished "Bill of Rights."

This distinguished resident of northern Virginia earned a reputation as a planter, scholar, skillful writer, dutiful father of nine children, politician, and, what one author has termed, "reluctant statesman". He moved from passive planter to militant patriot when Britain adopted the Stamp Act of 1765 levying excise taxes through revenue stamps on such papers as legal documents and newspapers. In the spring of 1766, he addressed an open letter to British businessmen lamenting the strained relations in trade between Britain and the American colonies because of the Stamp Act and British assertions, embodied in the Declaratory Act, of the right to tax the colonies in "all cases whatsoever." He then addressed a more fundamental issue: the interference with the rights and liberties of the American colonists whose source remained "the wisdom and happiness of the British Constitution." The differing interpretation of these "rights" on each side of ocean led Mason to see the essence for the need of a specific definition of these rights and liberties.

Mason's opportunity came with the events following the Boston Tea Party and Britain's retaliatory Boston Port Bill, which restricted the rights of colonial Massachusetts. He helped to draw up the colonial case in the Fairfax Resolves, which were read by George Washington at a meeting of Fairfax freeholders in Alexandria (July 18, 1774), adopted, and carried by Washington to the Virginia Convention conference in Williamsburg. The unique contribution of the Fairfax Resolves surely reflected Mason's wisdom and views: while other resolutions had been adopted protesting British policies, the Fairfax Resolves went much further in advocating the boycott of British goods and urging a continental congress to devise "a general and uniform Plan for the Defense and Preservation of our Rights."

While the British body of liberties came from an evolutionary process stemming from key documents (Magna Carta, the common law, and parliamentary enactments) into an "unwritten constitution," a different mode, more specific and precise, became a legal and political necessity for the upcoming battle with the mother country, either within or outside the British Empire. Mason refused to stand for the position of delegate to the Continental Congress but the message of the Fairfax Resolves, calling for definition of colonial rights and liberties, became part of the deliberations in Philadelphia.

Mason's constant concern with rights and liberties had a great influence on his state, the final break with England, and eventually the fundamental law adopted by the new American nation. His hand wrote the monumental Virginia Declaration of Rights and guided the authorship of the Virginia Constitution.

The Declaration of Rights became an emphatic statement of what the coming struggle was all about: "That all men are by nature equally free and independent, and have certain inherent rights . . . namely, the enjoyment of life and liberty, with the means of acquiring and possessing property, and pursuing and obtaining happiness and safety." These words represented a departure from John Locke's *Treatise of Civil Government* defining the rights of individuals as life, liberty, and property. The author of the Declaration of Independence, Thomas Jefferson, also adopted this broader and more specific focus on the rights of the individual beyond mere property, over that of Locke's. Mason's Virginia Declaration of Rights had appeared only three weeks before Jefferson produced the document explaining that the colonies were "free and independent states," that all men were created equal, and possessed the rights of "life, liberty and the pursuit of happiness."

After the American Revolution had been won, the new nation ventured forth on its own under a loose federation bound together by the Articles of Confederation. Efforts to develop a stronger nation led to the gathering to "revise" the Articles, an event which would lead to a total new document. George Mason, a delegate from Virginia, played an important role in this Constitutional Convention defending a decentralized government, denouncing the slave trade, and contributing to the "Great Compromise," which established an upper house based on equality for each state (Senate) and a lower one based on population (House of Representatives). Yet, he found little support for his proposal to attach a list of the rights of citizens to the document; the committee drafting the constitution turned down the suggestion unanimously.

Mason wrote on September 12, 1787 that he wished the outline for the Constitution "had been prefaced with a bill of Rights" and stood ready to second such a motion. In addition to protecting the rights of the people, it would "give great quiet to the people," helping to secure support from the people for this document. Such a list of rights, he wrote, could be drawn up in a few hours. So concerned was Mason with this omission that on September 16, 1787, when he listed his objections to the final document, he included the lack of a bill of rights as his first objection.

His words in a carefully worded polemic entitled "Objections to this Constitution of Government" echoed his objections and its rationale: "There is no Declaration of Rights, and the laws of the general government being paramount to the laws and constitution of the several States, the Declaration of Rights in the separate States are no security. Nor are the people secured even in the enjoyment of the benefit of the common law."

The Constitutional Convention had been occupied with many weighty and crucial issues, including protecting the rights of states as well as the rights of individuals. Opponents of a specific bill of rights as part of the constitutional document believed they had a strong case on their side and they prevailed. They argued that the national government had been designed as one of limited or enumerated powers; it did not possess any powers not specifically delegated to it. Thus, it would make little sense to list that Congress could not do when the document specifically listed only the powers which Congress could exercise. Since the states had powers to act in areas not given to the national government, the proper place for a bill of rights would be in the constitutions of the individual states. Another objection related to practicality: the enormity of listing all the rights belonging to the people and the fear that the omission of some items might be interpreted as meaning the people did not possess these rights. Therefore, the assumption should be made that the establishment of this constitutional government even without a bill of rights was adequate to protect the rights of the people.

This argument did not satisfy George Mason who believed these liberties and rights were too precious to leave to chance or choice. He stressed that since the states listed in their bills of rights those rights identified as essential, the national government should do likewise. Mason was one of only three delegates at the Constitutional Convention who refused to sign the final document. He returned to Virginia to join with Patrick Henry and other Antifederalists to try to defeat the Constitution in opposition to fellow Virginians George Washington, James Madison, and John Marshall.

Mason had, however, made his case more forcefully than even he had imagined. Much opposition surfaced throughout the country to this new constitution, with concern being expressed for the concentration of power in a national government at the expense of the states and a lack of a bill of rights. The contest was close in many states and the Federalists realized that they needed to secure the consent and cooperation of all the states if this union was to be successful. The Federalists found they had to promise that a listing of rights would be added to the Constitution after its ratification in order to secure the necessary support from some states.

The struggle remained especially close in key states where final ratification was secured narrowly—Massachusetts (187-168), New York (30-27) and Virginia (89-79) with George Mason's home state suggesting forty amendments be added to the constitution. (North Carolina refused to ratify the Constitution, proposing a long list of amendments, but eventually ratified after the new government began functioning; Rhode Island ratified it by the narrow vote of 34-32). The Federalists had triumphed in gaining ratification.

The First Congress of the United States, which met from March, 1789 to March, 1791, gave consideration to the structure of the new government including the creation of executive departments, establishment of a judicial system, and the adoption of a bill of rights. Historian Forrest McDonald has noted that the First Congress adopted so much fundamental law that "it almost amounted to a second constitutional convention." James Mason, who had urged adoption of the Constitution without a bill of rights, took the lead in proposing amendments encompassing a bill of rights. A total of eighty amendments had been recommended; the House of Representatives passed seventeen; the Senate concurred; a joint House-Senate conference reduced them to twelve which were sent to the states; the states eventually ratified ten.

Mason's long campaign had been successful. Reflecting the base he laid in the Virginia Declaration of Rights, the first ten amendments to the United States Constitution known throughout the world as the Bill of Rights, contain those rights which have become the essence of the American heritage of ordered liberty; freedom of speech, religion, the press, and assembly; the right to bear arms; protection against arbitrary searches and seizures of property; guarantee of due process before life, liberty, and/or property can be taken away; trial by jury, prohibition against cruel and unusual punishment; and a provision that powers not delegated to the federal government nor prohibited to it by states are reserved to the states and to the people.

The Bill of Rights became part of the United States Constitution on December 15, 1791; George Mason died at his home Gunston Hall less than a year later, October 7, 1792. He had lived to see the triumph of his ideas woven into the fabric of the fundamental law of the nation he loved, a lasting tribute to his nation, to his state, and to the cause of individual human rights.

REPRESENTATIVE MARKEY'S EMERGENCY PLANNING AMENDMENT

HON. ROBERT C. SMITH

OF NEW HAMPSHIRE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. SMITH of New Hampshire. Mr. Speaker, there has been a good deal of rhetoric and confusion surrounding an emergency planning amendment that Representative MARKEY of Massachusetts plans to again offer to the Nuclear Regulatory Commission authorization bill when it comes to the floor, possibly as soon as next week.

In an attempt to provide some focus in this matter, I have submitted for my colleagues recent correspondence between myself and Representative UDALL of Arizona, the distinguished chairman of the House Interior Committee, in regard to his support for the Markey amendment.

I have nothing but the greatest respect for Chairman UDALL, as he serves his constituents and this body with a high degree of thoughtfulness, distinction, and statesmanship. Nevertheless, I must respectfully disagree with his legal analysis of Nuclear Regulatory Commission guidelines for emergency planning and the proposed rule change that is the target of Representative MARKEY'S amendment. I urge my colleagues' serious consideration of this matter.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON INTERIOR AND
INSULAR AFFAIRS,
Washington, DC, July 7, 1987.

Hon. ROBERT C. SMITH,
House of Representatives, Washington, DC.

DEAR BOB: Thank you for your letter on my decision to support Ed Markey's proposed emergency planning amendment.

This has not been an easy issue for me. I am still troubled by the idea of state or local officials preventing operation of a nuclear power plant that meets federal safety standards and has cost billions of dollars to build. I am particularly troubled by this prospect when the plant is in one state and the opposition comes from officials in another.

But after months of reflection, listening to the arguments on both sides, and holding a lengthy and at times contentious hearing on the subject, I have decided to support the Markey amendment because the proposed change to the Nuclear Regulatory Commission's emergency planning rule would weaken the public safety standard by which emergency plans are measured. Since the Three Mile Island accident, the Commission has conditioned operation of nuclear power plants on finding that there is "reasonable assurance that adequate protective measures can and will be taken in the event of a radiological emergency." The law permits the Commission to license a plant even without a state or local emergency plan, but the Commission, at least up to now, has held that the utility's emergency planning measures must provide a level of public protection "generally comparable" to that expected with state or local cooperation. By the Commission's own admission, the proposed rule change would permit the Commission to license plants even though the public is afforded less protection than it would receive with a state or local plan.

I have no objection to the Commission licensing Seabrook if it can meet all existing licensing standards—and the Markey amendment would allow the utility to demonstrate this if they can—but I cannot support the Commission relaxing those standards to license this or any other plant that may not be able to meet current standards. Thus while I continue to oppose efforts to give state or local officials greater authority to block operation of nuclear plants, I support Ed Markey's proposal to condition licensing plants such as Seabrook and Shoreham on their meeting existing licensing standards.

With best regards,
Sincerely,
MORRIS K. UDALL,
Chairman.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, June 30, 1987.

Hon. MORRIS K. UDALL,
Chairman, Subcommittee on Energy and the Environment, Washington, DC.

DEAR MR. CHAIRMAN: I am writing in regard to your recent press release of Representative Ed Markey's proposed emergency planning amendment to the NRC authorization bill.

As the Congressman representing New Hampshire's First District, in which the Seabrook nuclear power plant is located, I am disappointed with your decision to back an amendment which significantly affects the state of New Hampshire and New England's energy future based solely on conversations with your "colleagues who represent the affected areas in New York and Massachusetts."

The Markey amendment would restrict the NRC from moving forward with its proposed rule change. As you know, to address the unusual circumstance whereby a state refuses to participate in the emergency planning process, the NRC proposed rule change would establish an alternative course of action and a number of additional criteria for a utility to meet in order to fulfill the emergency planning requirements for full power licensing. Providing that a comparable, high level of safety is maintained, I am not opposed to the NRC's initiative in addressing this regulatory problem.

It is important to point out that while it is true approval of emergency plans by non-cooperating states would not be required for full power licensing if this alternative route had to be taken by a utility, the proposed rule change does not diminish the right of states and local communities to voluntarily participate fully in developing emergency plans—in fact, it recognizes and encourages state and local cooperation in emergency planning.

The fact that Massachusetts officials have declined to participate in emergency planning activities does not in itself mean that the licensing process for Seabrook Station should not be allowed to continue. In my view, this refusal to participate is an abdication of responsibility, and takes unfair advantage of a regulatory loophole at the expense of providing for the safety of the public. Frankly, Massachusetts' posturing on Seabrook Station lacks credibility given the inconsistent policy on the role of nuclear power in that state. As you know, Massachusetts has participated in developing emergency plans for several other nuclear power plants within and near its borders.

In closing, I urge you to reconsider your support for Mr. Markey's amendment.

With warm regards,
ROBERT C. SMITH.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, July 21, 1987.

Hon. MORRIS K. UDALL,
House of Representatives,
Washington, DC.

DEAR MR. CHAIRMAN: Thank you for your letter of July 7, 1987, explaining why you have decided to support Mr. Markey's emergency planning amendment. Your letter gave as your reason for supporting Mr. Markey's amendment your belief that NRC's proposed emergency planning rule of March 6, 1987, would "weaken the public safety standard by which emergency plans are measured." You base this belief on your statement that NRC has admitted that "the proposed rule change would permit the Commission to license plants even though the public is afforded less protection than it would receive with a state or local plan."

I know of no such NRC admission. Instead, as you know, in the NRC Authorization Act of 1980, Congress established two options for emergency plans for nuclear powerplants: either (1) a State or local emergency plan meeting all standards or (2) a State, local, or utility plan that provided reasonable assurance that the public health and safety would not be endangered by operation of the plant in question. NRC's proposed rule of March 6, 1987, is intended to implement this statutory authority.

Far from admitting that the public would receive less protection, NRC expressly stated when it proposed the rule that the rule is not intended to diminish public safety. To quote from the rule's accompanying text:

> Any consideration of possible changes in the Commission's emergency planning requirements must recognize one central and salient fact: that such a change would not alter the Commission's paramount obligation to assure public health and safety. For each license application, the Commission would remain obligated to determine that there is reasonable assurance that the public health and safety will be adequately protected. If the Commission, for whatever reasons, cannot find that the statutory standard has been met, then the license cannot be issued.

Recently, some confusion has arisen concerning whether a difference exists between the proposed rule and current NRC practice. In the Shoreham operating license proceeding, the Commission held that utility emergency plans must be "generally comparable" to those of a State or local government, rather than exactly the same as or "equivalent" to those of a State or local government. This Commission decision implements the Congressional intent, clearly expressed in the Conference Report accompanying the 1980 NRC Authorization Act, that a utility should not be penalized solely because of the failure of State or local authorities to participate in emergency planning. The proposed rule sets forth four criteria with which a utility emergency plan must comply in order to prove that the public can be protected in the event of an accident. As to whether there is a difference between the Shoreham "generally comparable" standard and the proposed rule's standard, frankly, I cannot discern one. The proposed rule's criteria are quite stringent and are intended to assure that the level of public protection provided is "generally comparable" to that provided by State or local participation.

As you know, as a matter of law, NRC cannot issue an operating license to a nuclear plant unless it is able to find that there is reasonable assurance that the public will be protected in the event of an accident. Also, as a matter of law, NRC cannot make safety findings that are arbitrary, capricious, or irrational. Thus, I believe that you and I can accept NRC's stated purpose that its rule implements the statutory authority it has had since 1980 to license nuclear plants on the basis of utility emergency plans if State or local governments do not participate in the emergency planning process.

Finally, some could view the following language in the Environmental Assessment, which accompanied issuance of the proposed rule, as an "admission" that the public will be afforded less protection:

Adoption of the proposed rule could, in a few cases where State or local governments do not cooperate in emergency planning, result in nuclear plant operation with less than optimum governmental coordination in emergency planning. In the circumstance, the public in the vicinity of the few affected plants would be placed at a somewhat greater risk relative to what would be the case if either the governments cooperated or the NRC adhered to its current emergency planning rules. The NRC believes that the extent of this incremental risk is not significant, since: (1) the likelihood of an accident that would trigger the need for a fully coordinated emergency response is very small, given other NRC safety requirements; and (2) even assuming a serious accident, an adequate and coordinated response may still be possible, given the fact that State and local governments will in fact respond in an actual emergency, and given the requirement in the proposed rule that applicant's offsite plan includes effective measures to compensate for a lack of cooperation which are reasonable and achievable and which take into account a possible State or local response to an actual emergency.

Mr. Chairman, this is not an NRC admission that, under the proposed rule, the public would be afforded less protection. Rather, this is a statement of common sense. State and local government participation in emergency planning and preparedness activities is preferable to non-participation.

In view of the fact that you say that you are "troubled by the idea of State or local officials preventing operation of a nuclear power plant that meets Federal safety standards and has cost billions of dollars to build," I ask that you review NRC's estimate of the practical effects of adoption of the proposed rule, which I have attached to this letter. Upon reading this estimate, I believe that you will come to the conclusion that, as a practical matter, NRC's proposed rule, if made final, will do more to allay your concerns than enactment of Mr. Markey's amendment. In closing, then, I again urge you to reconsider your position on Mr. Markey's amendment.

Sincerely,

ROBERT C. SMITH.

Attachment.

The practical effects of Commission adoption of option two—a rule change—are difficult to estimate, but the Commission believes that the level of public protection associated with option two would not be significantly different from that provided by the current regulations. First, if a plant began operation under the circumstances permitted by the proposed regulation change, and all administrative and judicial remedies available to plant opponents have been exhausted, it seems reasonable to expect that the governments involved more likely than not would change their position and cooperate in planning. The governments or others may dispute whether planning is adequate, but it would seem fairly indisputable that the adequacy of a plan with cooperation will be enhanced relative to a utility-sponsored plan without it. In these circumstances, the governments and the citizens they represent would have much to gain and nothing to lose from cooperation.

Second, the Commission believes that State and local governments which have not cooperated in planning will carry out their traditional public health and safety roles and would therefore respond to an accident. It is reasonable to expect that this response would follow a comprehensive utility plan.

Third, the likelihood that State and local governments would cooperate may be bolstered by Title III of the Superfund Amendments and Reauthorization Act of 1988, which requires States to establish State emergency response commissions. The planning and notification requirements enacted in that Act are based on the same philosophy adopted by the Commission in its own emergency planning regulations. In fact, EPA's Chemical Emergency Preparedness Program is compatible in many respects with the Commission's emergency response program, and EPA's Interim Guidance issued in November 1985 (revision 1) specifically cross-references Commission and FEMA guidance on radiological emergency response. [It should be noted, however, that the Superfund amendments do not require that industrial facilities cease operation if a State refuses to establish the required State organization.] Since the Superfund amendments require States to establish emergency response organizations, a change in posture regarding cooperation in emergency planning for nuclear power plants may entail only small additional commitments of government resources.

Moreover, since it will have been established that adequate planning is achievable, and a utility plan will have been required which will include provisions for possible State and local cooperation in the event of an accident, any interim period after commencement of plant operation during which noncooperating governments may reevaluate their position may be short. The time period is, moreover, largely under the control of the governments. Not only may the governments accelerate their efforts to develop an improved plan once the plant is licensed, but should the option 2 rule change be adopted by the Commission, it may be reasonable for State or local governments which oppose plant operation to develop adequate contingent emergency plans that would only come into play should the plant be licensed over the objection.

FIRST AMENDMENT VICTIM OF POLICY IN NICARAGUA?

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. MILLER of California. Mr. Speaker, there is evidence to suspect that yet another part of our Constitution—first amendment freedoms—is being subverted in this administration's attempt to aid the Contras in Nicaragua.

Since 1984, there have been more than 50 break-ins at churches, residences, and offices of opponents of administration policy in Central America. All of the cases have one element in common: The intruders were more interested in the organization's files and data than anything of value.

The FBI has avoided efforts to discover who is responsible for the break-ins. Recent FBI and Justice Department activities—interviewing U.S. travelers on their return from Nicaragua, questioning American volunteers, and the placing of undercover informants in churches—reveal the harassment that U.S. citizens face because their views differ from those of the administration.

Congressman DON EDWARDS of California, whose work in protecting our constitutional rights is an invaluable service to all Americans, has written this very informative article on the unsolved break-ins. I join Representative EDWARDS in his effort to ensure that the break-ins are not forgotten. I urge my colleagues to read his article, which is reprinted below.

SANCTUARY: THE UNSOLVED BREAK-INS

(By Don Edwards)

Sometime during the weekend of January 31 of this year, intruders entered four refugee assistance offices located in the basement of the Calvary United Mehodist Church, a sanctuary church in Washington, DC. Files were rifled and papers were strewn about, but nothing of value was taken.

Early on the morning of January 4, 1987, hours before the Rev. Victor Carpenter was to preach on the topic "Why We Declared Ourselves a Sanctuary Church," burglars broke into the Arlington Street Church, Unitarian Universalist, in Boston. File and desk drawers were gone through; in one drawer that was left ajar the file labeled "Sanctuary" was left sticking out. The only thing taken was about five dollars in petty cash.

The Old Cambridge Baptist Church, which houses a number of Central American related organizations, has been broken into eight times since October 1984. A report by a detective of the Cambridge City Police states "The main targets in these breaks were desks and organization files . . . [I]t certainly appears a person, or persons unknown, were on several of these breaks, interested only in the organizational files and data of the specific offices of certain organizations."

Over the past three years, according to reports collected by the Center for Constitutional Rights, there have been more than 50 burglaries at churches, homes and offices of citizens opposed to US policy in Central America. The break-ins have occurred across the country, at churches of all denominations: St. Edmund's Episcopal Church, Pacifica, CA; St. William's Catholic Church, Louisville, KY; University Baptist Church, Seattle, WA; United Church of Santa Fe, NM. The break-ins have not been limited to religious organizations. The respected International Center for Development Policy, headed by former US Ambassador Robert E. White, was hit last December. The North American Congress on Latin

America, in New York City, was burglarized in May 1986. Apartments and cars of activists have also been targeted.

The break-ins first came to my attention early in 1985. At the time, the House Judiciary Committee's Subcommittee on Civil and Constitutional Rights, which I chair, had been concerned about the admission by FBI Director William H. Webster that his agents had interviewed approximately 100 Americans who had traveled to Nicaragua. This revelation was troubling because many of those interviewed were understandably intimidated to have an FBI agent question them about their travel, their humanitarian work, or their organizing efforts. Such activities are protected under the First Amendment. The subcommittee made it clear to Webster that we wanted the FBI to stay out of politics.

The break-ins—which numbered less than two dozen in 1985—were an even more troubling form of harassment. However, I believed at the time, and I still believe, that all of these break-ins could not be the work of the FBI. While I still have concerns with the way the FBI operates, a nationwide campaign of break-ins is not among them. Burglaries as widespread and frequent as these would never get approved from the top, and few agents in the field would risk their careers by undertaking such actions on their own.

There are two more likely sources for these break-ins, if they are indeed linked. From the outset, I have felt that the break-ins may be the work of agents of one or more Central American governments or of factions representing the ruling classes in those countries. We know that in the past violent governments have sent their agents to the US to harass and intimidate their opponents here. The Shah of Iran and Marcos of the Philippines both had active intelligence operations in this country, which spied on and harassed Americans and foreign nationals alike. The right-wing government of Chile was involved in the car bombing in Washington that killed Orlando Letelier. Is history repeating itself? Are foreign agents now carrying out break-ins against sanctuary churches and opponents of the Administration's militaristic policy in Central America?

Another possibility is that the break-ins are the work of right-wing groups who support the contras and US policy in Central America. We know there was a private network established to raise money for the contras. We also know that some members of the network were active in promoting the Administration's views. It is possible that they were interested as well in frustrating the efforts of groups opposing those views and sought to collect information about them?

Unfortunately, we may never know the answers to these questions. I have urged the FBI to investigate the break-ins, but Webster has declined, citing advice from the Department of Justice, which has concluded that there is no Federal jurisdiction. Under continued pressure from the subcommittee, the FBI has conducted a preliminary inquiry into break-ins at two locations (Robert White's office and the Old Cambridge Baptist Church), but by all indications these are cursory investigations and are unlikely to resolve the matter. The FBI has categorically denied that it is behind the break-ins.

While I agree that the FBI itself is probably not directly responsible for these bread-ins, related matters involving the Bureau and other Federal law enforcement agencies give us concern.

First, while adamantly denying involvement in these break-ins, the FBI continues to insist that it has the authority to carry out break-ins and admits that it has done so in other cases. In an Executive Order issued in 1981, President Reagan delegated to the FBI the authority to carry out "unconsented physical searches" of the homes, autos and offices of persons suspected of being agents of foreign powers. Under this authority, the FBI claims the power to surreptitiously break into someone's house without a warrant if the Attorney General determines on his own that the target is an agent of a foreign power. Unfortunately, the definition of agent of foreign power may be broad enough to cover Americans criticizing Administration foreign policy. I strongly believe that such break-ins are unconstitutional, but the issue has never been resolved.

Equally troubling, and possibly relevant here, is the fact that the FBI guidelines on intelligence gathering, which are supposed to limit the circumstances in which agents may carry out break-ins, expressly do not apply "to the receipt by the FBI of any information, property or materials furnished by individuals acting on their own initiative." This seems to mean that the FBI will accept from private parties the fruits of break-ins that FBI agents cannot carry out themselves. Again, the FBI has denied that it has obtained any evidence from break-ins at sanctuary churches or offices of Administration opponents, but my subcommittee would like to know what type of information the FBI does receive from private parties and whether any of it relates to Reagan Administration opponents.

A third matter of grave concern is the tale told by Frank Varelli of Dallas, TX. The FBI admits that Varelli was a paid informant for the Bureau and that he infiltrated the Committee in solidarity with the People of El Salvador (CISPES). For four and a half years, from 1981 to 1985, CISPES was the subject of an intensive FBI investigation, and Varelli was a main source of information in that case. In a dramatic appearance before our subcommittee in February, Varelli testified that FBI agents he worked with in Dallas told him that they had broken into Bethany House, a religious community where CISPES' Dallas office was located. The FBI has denied that FBI agents carried out such break-ins. It has promised to respond to the subcommittee in full to Varelli's allegations, but to date has not done so, claiming that its investigation into the allegations is continuing.

Finally, several of the targets of break-ins are themselves the subjects of FBI files. Documents obtained under the Freedom of Information Act show that both the North American Congress on Latin America (burglarized May 21 or 22, 1986) and the New Institute of Central America (burglarized at least four times since 1984) are the subjects of FBI investigations. Recently FBI agents sought to question nearly a dozen volunteers for Tecnica, which provides technical aid to Nicaragua through American volunteers. These cases, on top of the CISPES investigation, suggest that the FBI is again investigating groups opposed to present US foreign policy. And we have the shocking case of Operation Sojourner, the Immigration and Naturalization Service investigation in the Southwest where, for the first time in our history, undercover informants went into churches wearing concealed microphones and recorded meetings and services.

The FBI has repeatedly denied that it is investigating the sanctuary movement, but the use of undercover informants in churches by another component of the Justice Department has fueled the fears of many that this Administration recognizes no limits in its efforts against its opponents.

The break-ins remain an unsolved mystery. The issues involved go far beyond the break-ins themselves. They include the balance between national security and civil liberties, the role of dissent in a free society, and the extent to which there has been a privitization of intelligence gathering. They call into question whether and to what extent the FBI still collects intelligence on domestic critics of Administration policy.

On April 8, the Interfaith Peace Coalition, housed in the Holy Redeemer Lutheran Church in my hometown of San Jose, CA, was broken into. The burglars were more aggressive than in earlier cases: a phone was ripped out, files were turned upside down, a television set was smashed. As FBI Director Webster prepares to become head of the CIA, as congressional committees trace the money trail from the Iranian arms sales, and as an independent counsel examines whether the private contra aid effort broke any laws, a few of us in Congress are determined that the break-ins not be forgotten. We haven't solved them yet, but we intend to keep trying until we get to the bottom of them.

WAR POWERS ACT ALLOWS PRESIDENT TOO MUCH ELBOW ROOM

HON. DON EDWARDS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. EDWARDS of California. Mr. Speaker, the recent congressional investigation of the Iran-Contra affair has created a number of serious questions regarding the War Powers Act, and the extent to which Congress may dictate our Nation's foreign policy.

In the July 14 edition of the San Jose Mercury News Prof. Edward Steinman carefully assesses the role of both the executive and legislative branches of American government. Professor Steinman asserts that the legislative branch should take on the policymaking role which has been allocated to Congress through the Framers of our Constitution and the War Powers Act of 1973. He offers an accurate and well-founded examination of our fundamental system of checks and balances, and the rule of law upon which our government is based. Professor Steinman's analysis leads him to the conclusion that Congress must restore its constitutionally delegated power in decisions regarding war making.

Now that we are celebrating the 200th anniversary of our Constitution, I find it ironic that we are defending the very principles of this great document. Edward Steinman provides an excellent interpretation of Congress' role in the formation of foreign policy, and offers an important reminder of the need to protect our system of checks and balances. I commend the article to the attention of my colleagues.

The article follows:

[From the San Jose Mercury News, July 14, 1987]

WAR POWERS ACT ALLOWS PRESIDENT TOO MUCH ELBOW ROOM

(By Edward H. Steinman)

Testimony in the Iran Contra hearings raises once again the specter of an "imperial presidency," where a president claims his foreign affairs powers are exempted from ordinary limits of law.

The most dramatic assertion of the right to such limitless plenary powers occurs in a president's deployment of armed forces without congressional approval or involvement. Such actions—whether in Vietnam or Iran, Lebanon or Grenada—pose serious political and military questions. Equally important, they challenge the essence of the U.S. Constitution's fundamental concern with checking the unbridled power of any one branch of government.

The power to declare war—the paramount foreign policy decision of any nation—was the subject of much debate at the constitutional convention 200 years ago.

The convention granted Congress power to "declare war," to allow the president to respond unilaterally to an invasion or sudden attack.

Though the constitutional language may be sparse, the intent is clear: Questions of war and peace must be subject to the full and open debate that only the Congress can guarantee.

Except for the War of 1812, where Congress on its initiative declared war, the Congress has always followed the president's lead. Congress has either declared war at the president's behest or supported undeclared war such as the Civil War, the Korean War and the Vietnam War.

Despite sporadic and usually emotional challenges to the president's power, Congress has mostly ignored its constitutional powers and mandates.

During the 1970s, however, in the wake of Watergate and the Vietnam War, Congress attempted to regain its power over the issue of war.

The War Powers Resolution of 1973 (passed over the veto of President Nixon) limits a president's power to introduce armed forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated. The resolution permits such introduction only when there is congressional declaration of war, other specific statutory authority, or a national emergency created by an attack upon the United States, its territories, possessions or armed forces.

Even in situations falling within the national emergency exception, the president must consult with Congress "in every possible instance" before introducing armed forces. Moreover, the president must thereafter report promptly and regularly to Congress on the status of the hostilities.

Finally, the resolution requires that the use of armed forces must terminate within 60 days, or earlier if Congress so directs by a concurrent resolution.

The resolution has been constitutionally attacked by both proponents and opponents of strong presidential powers. Some critics argue the resolution violates a president's powers as commander in chief by permitting Congress to force the withdrawal of armed troops after 60 days unless war has been formally declared. Other critics claim the resolution gives the president too much power, by letting the president deploy troops without a formal declaration of war.

Ironically, the resolution has restrained Congress, not the president.

For example, President Reagan claimed the resolution did not apply to the 1983 deployment of troops in Lebanon, because the troops were not intended to become involved in hostilities. Likewise, he asserted that the urgent need to rescue American citizens in Grenada in 1983 made it impossible to consult Congress beforehand. Nor has President Reagan ever invoked the resolution in connection with activities in Central America, claiming that covert actions by CIA forces do not fall under the resolution.

Reagan's actions and attitude have left Congress with a series of faits accomplish, though Congress has the power to require the removal of troops after they've been committed, it has found it difficult to do so.

The Constitution requires Congress to exercise its power to initiate or reject war, even if it may appear to be "cutting and running." The Constitution is not concerned with the underlying question of the wisdom of a foreign policy that sends American forces to Lebanon or Vietnam, Grenada or Nicaragua; it is concerned with which branch of government shall make that policy.

Nothing in the Constitution (or even the resolution) would deny the president inherent powers to defend the United States or its military from attack. But to allow the president to unilaterally use such powers in any other situation destroys the precise checks and balances of the Constitution.

To fulfill the language and spirit of the Constitutional drafters, Congress must strengthen the War Powers Resolution to restore the legislative branch's power to initiate war. It must provide clear and narrow standards that require prior Congressional approval before a president can dispatch any forces into zones of combat unless there is imminent threat of attack on Americans or negotiations fail to secure the rescue of endangered Americans.

Those who advocate virtually limitless presidential powers cite pragmatism and expediency as the paramount virtues. But, as Bertrand Russell said, "pragmatism is like a warm bath that heats up so imperceptibly that you don't know when to scream."

The constitutional framers wisely decided that the ultimate weapon in our foreign policy arsenal—the power to declare war—was too important to entrust to the president alone.

(Edward H. Steinman is a professor of law at the Santa Clara University School of Law.)

ANNIVERSARY OF THE LAUNCH OF LANDSAT 1

HON. JAMES H. SCHEUER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. SCHEUER. Mr. Speaker, today is a very special day in the history of this Nation's space program. Fifteen years ago on this date, the National Aeronautics and Space Administration launched a pioneering effort that quickly became and continues to be a leader in the use of satellites to conduct remote sensing of the Earth's surface.

Today marks the anniversary of the actual launch of Earth resources techology satellite [ERTS], which was later renamed Landsat.

The 1-ton spacecraft that was successfully placed into orbit on that day carried Earth observing instruments that were able to reveal new and highly relevant information about the Earth's surface—information that previously had been categorized as unsupported theory. On a daily basis Landsat 1 and today its successors Landsats 4 and 5 orbit the Earth 14 times a day capturing in mere seconds thousands of bits of information that can be used to locate mineral deposits, identify and map wetland environments or monitor the health of crops and water resources.

Early images returned to ground stations shortly after the launch of Landsat 1 provided snapshots of the Earth in 10,000 square mile segments. Each segment revealed a tremendous amount of information about our planet. But more importantly that early data excited the scientific minds and imaginations of our university scientists. Human curiousity lead to the marriage of the digital satellite data with the power of the digital computer.

More than 300 scientists from around the world studied data from that first satellite. Results from these first studies included:

The capability of detecting natural disasters, such as forest fires or volcano eruptions like Mount St. Helens, in remote or inaccessible areas;

The ability to update planimetric maps;

The means to monitor agricultural and forest resources in order to help develop optimum management strategies for land uses to improve the allocation of food and fiber products for the betterment of humankind;

And the ever present possibility of being able to monitor pollution, or more graphically the revealing imagery from disasters such as the the nuclear reactor accident at Chernobyl.

Results from the Landsat 1 and 2 investigations were so compelling that recommendations were made and supported in both Houses of Congress to commercialize the Landsat program from the benefit of the Nation. In 1979, President Carter directed that Landsat become an operational program managed by the National Oceanic and Atmospheric Administration. President Reagan subsequently announced his support for an accelerated commercialization program.

In 1984, Congress passed legislation providing for a phased transition of land remote sensing to the private sector. The legislation provided for a Government investment of $250 million to begin development, construction and launch of the next generation of Earth observing satellites upon the expected demise of the final Government satellite sometime after 1988. In September 1985, the Commerce Department announced a contract with the private sector firm of EOSAT to maintain an operational capability of the existing Landsat program and prepare for development and launch of the next generation Landsat in 1989.

But administration support waned for the commercialization program, and the situation was further complicated by the tragic loss of the space shuttle *Challenger*. Recurring delays in the funding of the Landsat commercialization effort has postponed the launch of the next Landsat. For the first time in 15 years, our Nation is faced with the potential disruption in Landsat services and the possible loss of our leadership in the Earth imaging field.

In March and April of this year, my Subcommittee on Natural Resources, Agriculture Research and Environment, together with the Subcommittee on International Scientific Cooperation, chaired by my colleague from Texas [Mr. HALL], held 2 days of hearings on the future of the Landsat program. Testimony delivered by an impressive panel of witnessed clearly showed that as every day goes by the United States is losing ground in the Earth imaging field to the French and Japanese.

Both the French and Japanese Governments have met their financial governments to their respective Earth imaging programs and they are forging ahead while our program languishes.

Mr. Speaker, our Nation cannot afford to abandon this valuable technology. I hope that Congress can galvanize its forces to maintain U.S. leadership in this important and peaceful use of outer space.

Today I am offering a concurrent resolution requesting that the President take all appropriate actions to establish and ensure the stability and continuity of the Landsat program. The text of the resolution follows:

H. CON. RES. 167

Whereas 15 years ago the United States pioneered the development of multispectral remote sensing from space with the launch and operation of the first Landsat satellite;

Whereas the United States has spent approximately $1,500,000,000 on the Landsat program, which includes five Earth remote-sensing satellites, and these satellites and their related programs have been of significant benefit to the world;

Whereas the Landsat satellites have proven value in terms of both military and economic intelligence;

Whereas land remote sensing via satellite has been a significant driver of technology, including—

(1) development of digital and optical technologies which are required to support the archival requirements of satellite-collected data,

(2) production of state-of-the-art 100-megabit tape recorders needed to collect the massive amounts of information that satellites are now capable of collecting,

(3) development of the next generation computer processing hardware and software required to extract and deliver information about Earth resources, and

(4) new techniques for the analysis and integration of satellite-derived Earth resource information with other forms of digital data that are required to optimize the use of Earth's renewable and nonrenewable resources;

Whereas the Landsat program has been a positive and powerful tool in foreign policy issues, dealing both with the right to "open skies" and with issues of human concern; and

Whereas the Congress has acted on Presidential requests to commercialize civil land remote sensing in the United States, and believes that with the proper support and encouragement it can assist the private sector in succeeding: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That (a) the United States should promote and support the continuation of civil land remote-sensing activities for the benefit of all mankind.

(b) These activities can be best achieved through continuation of the existing Landsat program; and the commercialization of the existing Landsat program is the best means of achieving their goals.

SEC. 2. The President is requested to take all appropriate actions to establish and ensure the continuity of the Landsat program; and these actions—

(1) should be for the benefit of all mankind;

(2) should be of a nature which will ensure the continuation of the program through the mid-1990s; and

(3) should be far-reaching enough so as not to impede the use of any advanced science that would be necessary to assure the United States of technological competitiveness and protect its national security interests.

CATASTROPHIC HEALTH CARE: AMERICA'S ELDERLY CONTINUE TO PAY

HON. DAN SCHAEFER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. SCHAEFER. Mr. Speaker, yesterday the House passed H.R. 2470, the Medicare Catastrophic Protection Act. I would like to share my reasons for having opposed this measure.

There are over 37 million underinsured people in this country, many of whom depend on Medicare or Medicaid for acute health care services. There is, however, no Federal program that gives adequate protection to those who require extended health care, whether in the hospital, a nursing home or at home. Very few private or MediGap insurance policies cover long-term care. There is no doubt that this leaves a lot of people, especially senior citizens, in financial and emotional jeopardy.

Several years ago President Reagan made resolution of the catastrophic health care crisis a national priority. I agree with his statement that "the fear of an illness so expensive that it can result in having to make a choice between bankruptcy and death is intolerable." In his 1986 State of the Union Address, the President directed Health and Human Services Secretary Otis Bowen to study this issue and to submit a plan to Congress for consideration. The Bowen proposal was debated at length, and was the basis of a Republican alternative to H.R. 2470 which I was pleased to support.

Unfortunately, H.R. 2470 goes in directions that may hurt senior citizens more than help them. Out-of-pocket hospital and physician expenses would be limited to $1,623 per year, with one annual hospital deductible of $580. A new prescription drug provision was added, with 80 percent of the costs covered after a $500 annual deductible. Benefits for home health care, respite care, skilled nursing home facilities, and outpatient mental health would be slightly increased.

All this sounds reasonable enough, until you scrutinize how these new benefits will be financed. A look at the fine print shows a serious downside to this proposal. Medicare part B premiums—98 percent of those eligible for Medicare subscribe to this optional insurance program—would be raised from $17.90 to $22 per month in 1988, and may be $31.50 by 1992. In addition, a mandatory income-based supplemental premium would be charged. Approximately 40 percent of Medicare beneficiaries would have to pay this surtax, ranging from $10 to $580 in 1988. The maximum surtax could rise to $925 by 1992, making a total annual Medicare premium of $1,303. Both premiums will be indexed annually to cover the costs of the program, so the expense to beneficiaries may become prohibitive. To me, this is not catastrophic health care protection.

Most importantly, H.R. 2470 does not address the true problem. Those who most need additional health care protection are those who are suffering from long-term illness. A stroke victim that needs to spend 2 years in a nursing home or an Alzheimer's patient who needs constant home care are not adequately helped under this bill.

A better alternative, and one that I voted for, was the Republican substitute—which failed by a vote of 190–242. Out-of-pocket expenses would be limited to $2,000, including two hospital deductibles. This measure offered increased acute care benefits, including prescription drugs, without placing a new tax on Medicare beneficiaries. In addition, it would have allowed the tax-free transfer of assets from IRA's and life insurance policies to purchase long-term care insurance. This, along with a new Federal Reinsurance Corporation, would have given incentive to the private insurance industry to offer comprehensive, affordable long-term health care policies.

I truly wish that H.R. 2470 was legislation that I could support, for there is a great need to extend catastrophic health insurance benefits. It is, however, a half-hearted, high-priced measure that does not address the true needs of this country's senior citizens.

THE CONSERVATIVE OPPORTUNITY SOCIETY

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. GINGRICH. Mr. Speaker, the Conservative Opportunity Society is devoted to revitalizing both the economy and society of the United States through such ideas as free enterprise, traditional values, and high technology. Together, these ideas can work to improve the quality of people's lives. The following article by Robert J. Disharoon appeared in the July 1987 issue of "Georgia Realtor" magazine. I urge my colleagues to read this informative description of COS and its purpose.

CONSERVATIVE OPPORTUNITY SOCIETY

(By Robert J. Disharoon, 1984 GAR President)

Realtors cannot afford to go back to double-digit inflation and high interest rates. Just think what a return to 18% mortgage rates would do to our business!

Paul Volcker, chairman of the Federal Reserve, has estimated that if we hold to the provisions of the Gramm-Rudman Act and balance the budget by 1992, our economy would be so improved that we could have mortgage rates as low as 5¼%. In other words, for every $50 billion the government cuts from the deficit, we should see mortgage rates drop 1%.

In recent months, I have become involved with an organization known as the Conservative Opportunity Society. My Congressman, Newt Gingrich, is one of the founders of the COS, along with several other members of Congress.

I believe the goals of the COS will create more jobs, reward incentives, and lead to a healthy American economy with traditional values that have made our country the greatest country in the entire world.

The COS is a coalition of individuals, including members of Congress, who are devoted to revitalizing both the economy and society of the United States. The COS process combines the ideas of free enterprise, traditional values, and high technology in a cultural-political movement which enables people to organize themselves to improve their lives.

COS encourages the attitudes and habits that lead people to leave welfare and seek work, that shifts power away from Washington and back to the state and local governments, that lets you spend more of the money you earn, that reforms the Pentagon so that we get all the defense we pay for and more than enough military strength to protect us against foreign dangers.

The COS movement seeks positive alternatives to the liberal welfare state. The key liberal ideas which COS seeks to replace are:

1. The United States is the chief cause of international tension.

2. Centralized bureaucracies are the key to society's health.

3. Individuals have no free will. For example, criminals aren't bad; they are just misshaped by their society.

4. Today is more important than tomorrow. It is all right to eat the seed corn of the future, as long as you are happy today.

5. Good intentions matter while bad results can be shrugged off. For example, the fact that minimum wage programs have led to 40% black unemployment is insignificant. Liberals say, "We meant well; don't blame us for the results."

6. Government can spend your money and manage your life better than you can.

7. Only Washington can protect you from your local and state elected politicians.

The Conservative Opportunity Society believes:

1. The world is dangerous, and the United States has to be militarily strong enough to preserve the peace.

2. Local governments, volunteer agencies, and the private market are usually more efficient and more responsible to the will of the people than large centralized government bureaucracies.

3. The individual is responsible for his or her own actions, and violent criminals must be locked up because they are a danger to society, whatever their childhood may have been like.

4. Tomorrow's dreams shape today's life. We are willing to save seed corn so our children and grandchildren can have a bigger and better harvest in the future.

5. Results are more important than intentions. We want practical policies that work. For example, we want a workfare program rather than a welfare program, because we want the next generation of poor to work their way out of poverty and not simply continue the decay of the current welfare culture.

6. We, as individuals, know better than any government how to spend or invest our money. And we can manage our lives better than any Washington bureaucrat can manage our lives for us.

7. Only our local and state elected politicians have the incentive and the opportunity to understand the needs of local communities and local problems.

The COS has come a long way since its founding in moving the nation away from the world of despair the liberal welfare state would have us live in to the world of hope and opportunity the COS thinks is rightly ours.

IN CELEBRATION OF 26 YEARS OF SERVICE: FATHER PETER LUQUE

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. BROWN of California. Mr. Speaker, I rise today to commemorate the 26th anniversary of Father Peter Luque as a priest in the Roman Catholic church. The Most Reverend Father Luque, who is now Hispanic Vicar of the diocese of San Bernardino, has spent his entire career serving the district I am privileged to represent.

In celebrating the long tenure of Father Luque, we also celebrate his warmth and the strength that has sustained him and his following over the last quarter century. Born in Colton during the Depression, Father Luque looked to his parents as inspirations in overcoming the barriers of poverty and prejudice. His father became the first Hispanic city councilman in the region. In 1962, Father Luque became the first Hispanic priest to serve his parish in San Bernardino. Now his activism and spirit serve as inspirations to the area's poor and disenfranchised Hispanics.

From 1968 to 1978, Father Luque served as pastor of the San Salvador Church in the South Colton barrio. There he led services in an old wood frame church, so small that many parishioners used to stand outside, listening to the service through open doors and windows. To replace the small, crumbling structure, Father Luque led the parish in a collection to build a new church. Between demolition of the old building and construction of the new one, he would often celebrate mass in an open field near the site. Finally, in 1976, the new San Salvador Church was dedicated in the heart of Colton's Hispanic community.

In this new home, Father Luque preached to his followers the importance of education and learning. "A spiritual life," he would tell them, "begins with the entry of light and learning into one's heart and mind." It is also his message that has entered the hearts and minds of the youth in his congregation, Hispanic and Anglo-American alike, as they have begun to set their sights on higher education.

Pastor of Our Lady of Guadalupe Church from 1978 until earlier this year, Father Luque brought his important message to one of California's largest Catholic parishes. And today, Father Luque begins his work as Episcopal Vicar for Hispanic Affairs and Chancellor of the diocese of San Bernardino. In this new capacity, Father Luque also assumes the responsibility of overseeing the thousands of families seeking amnesty under the provisions of the Immigration Reform Act.

Father Luque has come far over the last 26 years. He created a brighter future not only for himself, but also for the many whose lives he has touched. It is with great pride that I recognize the outstanding contributions this man has made to the many people of my district. Father Luque has truly dedicated his life to theirs, sharing his vision and spiritual strength. The Bible urges us to be "an example of the believers, in word, in conversation, in charity, in spirit, in faith, in purity." For the people of San Bernardino, Father Peter Luque is that example.

THE ABANDONED INFANTS ASSISTANCE ACT OF 1987

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. OWENS of New York. Mr. Speaker, It has been said many times that the quality of a civilization may be judged by the way that it treats its poor and disadvantaged. Without doubt another major test for any society is the way that it treats children who suffer needlessly. Among the most pathetic in this group are newborn babies who are children of intravenous [I-V] drug users and have been abandoned in hospitals. Today, I am introducing a bill that replicates legislation introduced in the Senate and which has been sponsored by Mr. WAXMAN, Mr. WEISS, and Mr. RANGEL.

The Abandoned Infants Assistance Act of 1987 will provide Federal funds for the establishment of respite homes for infants abandoned in hospitals—also referred to as "boarder babies"—including infants with AIDS. Such homes will provide a caring environment for these children as well as curtail the massive costs associated with maintaining them in hospital wards. The legislation also provides incentives for foster care placement.

The problem addressed by this legislation continues to grow alarmingly. In New York City alone the Department of Health estimates that there may be as many as 5,000 I-V drug abusing women of child-bearing age, with an estimated 2,500 deliveries per year. Half of these women could be infected with the AIDS virus. Their children could join the growing numbers of babies who no longer cry to be picked up because most hospitals do not have enough staff to give the babies the love and attention which they would ordinarily receive from parents. In an effort to stimulate these sad newborns the only sound that can be heard on some of these wards is that of a television set. Many of these children will become toddlers and even reach kindergarten age in such an environment before they will be able to find foster care homes. In a publication entitled "The Invisible Emergency: Children and AIDS in New York," a report by the Citizens Committee for Children of New York, Inc., warns of an impending foster care crisis as the number of AIDS infected babies continues to grow rapidly.

The extent of the tragedy can be pieced together through reports that are now appearing on a regular basis. A recent article in the Washington Post states that last year in New York City's Harlem Hospital, a 725-bed public institution, there were only 3 children on the wards with AIDS. Today Harlem treats 40 infected children, 12 of whom live in the hospital because they have nowhere else to go. At New York's Lincoln Hospital 3 to 5 babies a week (out of 5,000 deliveries a year) will become "boarder babies." In San Francisco 10 to 12 babies a month are testing positive for drug exposure, with cocaine and PCP emerging as drugs most commonly used by mothers. The infants show a variety of horrifying symptoms, including spasms, severe jitters, convulsions, breathing disorders and intense irritability. A report in a recent issue of the New York Times tells the story of one boy, Peter, 6½, who spent his first 5 years in a hospital, abandoned by parents who were drug abusers. He is now having a great deal of difficulty adjusting to foster care because of emotional problems.

The bill I am introducing today represents a modest attempt to rescue the hundreds of innocent young lives who stand at risk of spending their early weeks, months, and even years within confines of a clinical institution, dressed in donated clothing and deprived of the necessary nurturing that would begin to make their inherited afflictions more bearable.

We are dedicated to the principle that everyone is entitled to the pursuit of happiness. There should be no exceptions even when it comes to the rights of newborns. Babies, no matter how stricken or how short their tenure on this planet deserve nurturing. Our humanity demands no less. Broad bipartisan support for this bill is one of the most concrete and effective ways we can declare our support of this principle.

TAXES, IRAN/CONTRA HEARINGS, AND OTHER VIEWS

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. HUBBARD. Mr. Speaker, I have received an excellent June 17 letter from Paul E. Stine, plant manager of Airco Carbide in Calvert City, KY. This letter contains many interesting comments on various issues that are being debated and discussed here in Washington during the 100th Congress.

Paul Stine's comments are timely. I believe my colleagues will be interested to read his views about tax increases, the Iran/Contra hearings, and a Presidential line-item veto.

I urge my colleagues to give consideration to these concerns. The letter to me from Paul Stine is as follows:

AIRCO CARBIDE,
DIVISION OF THE BOC GROUP, INC.,
Calvert City, KY, June 17, 1987.

U.S. REPRESENTATIVE CARROLL HUBBARD,
Rayburn House Office Building,
Washington, DC.

DEAR REPRESENTATIVE HUBBARD: The purpose of this letter is to let you know my feeling on the following issues:

1. *Taxes.*—I oppose any new tax on people or business on the proven grounds that Congress will spend the new tax money plus much more to do harm to our economy.

2. *Line-item veto.*—It is imperative that the President and those to follow have line-item veto authority over all appropriations and spending bills which pass through Congress. If you do not share this belief would you be kind enough to explain your reasoning. It would be appreciated.

3. *Contra/Iran hearings.*—These hearings are as great an embarrassment as Congressional fiscal irresponsibility. I travel internationally and can personally assure you that America becomes more of a laughing stock with every passing day. For the sake of our country, exert pressure to stop this self-flagellation.

Respectfully,

PAUL E. STINE,
Plant Manager.

ANWR LAND EXCHANGE LEGISLATION

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. MILLER of California. Mr. Speaker, I have today introduced legislation, along with Congressman STUDDS and Congressman DON YOUNG, to ensure that the land exchanges now being considered by the Interior Department are approved by Congress.

The Subcommittee on Water and Power Resources has embarked on a deliberate hearing process to address the difficult issue of whether the coastal plain of the Arctic National Wildlife Refuge in Alaska [ANWR] should be opened to oil and gas development.

Many Members of Congress, including myself, have reserved judgment on ANWR. Instead we are undertaking careful evaluation of the facts through a comprehensive hearing process.

In 1980, after an intensive legislative battle, Congress decided to instruct the Secretary of the Interior to make a comprehensive study of both the wildlife values and oil potential of the ANWR coastal plain. In April, Secretary Hodel presented Congress with a report and recommendation that the entire ANWR study area be opened to leasing.

It is important to recognize that the Secretary's recommendations are just that—recommendations. In section 1003 of the Alaska National Interest Lands Conservation Act of 1980, we made it absolutely clear that any decision concerning whether or how ANWR would be developed is the sole prerogative of Congress.

"Production of oil and gas from the Arctic National Wildlife Refuge is prohibited," the act said, "and no leasing or other development leading to production of oil and gas" could be undertaken "until authorized by an act of Congress."

Yet some of those engaged in the ANWR debate are not willing to wait for the congressional decision to be made.

Without the public review which is critical to this process, the administration, some oil companies, and a few Native groups have been actively engaged in a secret process to decide how ANWR should be developed.

In lieu of public debate and formal policymaking, these parties have already carved up ANWR's resource potential and divided the choice tracts among themselves.

This process has become known as the "mega-trades" since the Native groups will be offering substantial inholdings within other Alaska wildlife refuges in return for exclusive oil development rights in ANWR.

At the subcommittee's ANWR hearing on Tuesday, I raised the following problems with the mega-trade scenario:

The exchanges are a cynical attempt to put pressure on the Congress to open the area for oil exploration and development.

It is inevitable that the oil companies and Native corporations will demand that the Congress rubber stamp the exchanges because millions of dollars have been invested already.

The exchanges put Native Alaskans in the position of gambling with their land entitlements.

The exchanges would lead to a fractured land management system of private inholdings within the refuge.

The exchanges would significantly reduce Federal and State revenues and allow oil companies to avoid competitive bidding for public resources.

The side agreements between the Native groups and the oil companies have not been disclosed.

The administration has tried to assure the public that these agreements will be subject to congressional scrutiny and ratification. At the same time, Interior asserts that it has the administrative authority to excecute the mega-trades whether Congress likes it or not.

In my opinion, the specific Alaska Lands Act prohibition on leasing or other development leading to production of oil would preclude use of the Secretary's general exchange authority to execute ANWR land trades.

Accordingly, the legislation I am introducing today may not be needed. However, because of the cloud that the mega-trade process had placed on ANWR deliberations, I believe it is important that we clarify once and for all that any decision regarding development—by exchange or otherwise—is exclusively up to Congress.

I am pleased that the ranking minority member for the Interior Committee, the gentleman from Alaska, Mr. YOUNG, and the chairman of the Merchant Marine Subcommittee on Fisheries and Wildlife Conservation and the Environment, Mr. STUDDS, have joined me in introducing this legislation.

Mr. Speaker, it is my intention to see that this legislation is enacted as soon as possible. Without this legislation, our deliberations on ANWR will only be delayed.

STEWART B. McKINNEY HOMELESS ASSISTANCE ACT

HON. JOSEPH P. KENNEDY II

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. KENNEDY. Mr. Speaker, I would like to insert the following statement made by Mayor Raymond Flynn of Boston on the Stewart B. McKinney Homeless Assistance Act into the CONGRESSIONAL RECORD.

STATEMENT OF MAYOR RAYMOND L. FLYNN, CHAIRMAN, U.S. CONFERENCE OF MAYORS' TASK FORCE ON HUNGER AND HOMELESSNESS, ON THE PASSAGE OF THE "STEWART B. McKINNEY HOMELESSNESS

I am proud to be here today, representing the mayors of America's large cities, to celebrate the passage of the Nation's first major legislation to assist the homeless.

This legislation is a tribute to the dedication, hard work, and compassion of many people—particularly speaker Jim Wright, who shepherded the bill through the complex legislative process; Mitch Snyder, whose dogged persistence and activism helped awaken the Nation's conscience to the plight of America's homeless; and the late Representative Stewart B. McKinney of Connecticut who co-sponsored the legislation, fought for it until his death earlier this year, and, by doing so, demonstrated that homelessness is not a Democratic issue, or a Republican issue, but an American issue.

In the past few years, mayors and other local officials have worked closely with housing advocates and shelter volunteers to demonstrate the scope of homeless problems as well as serve their needs. Surveys conducted by the U.S. Conference of Mayors task force on hunger and homelessness, which I have the privilege to Chair, have revealed an increasing demand each year for emergency shelters in cities across the country. The most tragic finding is the growing proportion of families and children among the Nation's homeless population. Our latest survey, released in May, found that the number of families seeking emergency shelter had increased by 31 percent in two years.

What we have found, however, is that local governments and volunteer groups have been stretching their limited resources to provide basic services for the homeless, but that the need far surpasses available resources. We simply lack the funds to meet this growing need.

This bill will provide cities and nonprofit groups much needed funds to expand our efforts to assist the homeless. We will be able to add emergency shelters and food programs for families and individuals; expand our health care programs to reach out to the homeless in shelters and on the streets, who otherwise fall between the cracks of our health care system; help those homeless persons with mental health and substance abuse problems through more treatment programs; create additional lodging houses by rehabbing and constructing new buildings and help the homeless return to society's mainstream through expanded literacy and job training programs.

These funds, in other words, will help us meet the human needs of the homeless in our communities—restore to them the dignity and respect they deserve.

These funds will help repair some of the huge holes in the "safety net" for the poor. Massive Federal housing cuts (75 percent since 1981) and the new tax law (which discourages new low-income housing) have exacerbated the shortage of affordable housing. As a result more and more Americans are living on the edge.

This legislation symbolizes the growing recognition by our congressional leaders that the Federal Government must play an important role in meeting the needs of our homeless citizens. The McKinney bill is a lifeline to our most needy—an important first step. On its own, of course, this bill will not solve the problem of homelessness—that will require a more comprehensive national housing role, one that hopefully can be considered as part of the 1988 Presidential campaign.

Those of us on the front lines of the housing crisis—mayors, housing advocates, shelter providers—see this human side of tragedy every day. We see our citizens, increasingly families with children, who sleep in alleyways and streets. We see longer and longer waiting lists for public and subsidized housing. And, every winter, we see people dying from over-exposure to the elements, because our society did not help us put a roof over their heads. The homeless are the most visible victims of our Nation's severe housing crisis.

Unfortunately, there are some people who have refused to see the problem at all. They have claimed that homelessness is not a major problem—denying the very existence of these men, women and children. Or they claim that people are homeless because they are mentally ill or alcoholics—not because of the growing shortage of affordable housing. Or they claim that the homeless problem is not a Federal responsibility, but a local one—that massive Federal cutbacks for housing and other programs are not responsible for swelling the ranks of the poor.

For those who have refused to see the obvious, we have had to make them see that:

Homelessness is widespread and growing;

An increasing proportion of the homeless population is families and young children; and

Federal cutbacks for assisted housing, job training, and other programs have had a devastating impact.

Mitch Snyder of the community for creative non-violence, Bob Hayes of the national coalition for the homeless, as well as thousands of volunteers in homeless shelters and soup kitchens around the country, have—through their dedicated efforts and good work—helped "remove the blinders" from those who refuse to see the obvious. They deserve much of the credit for raising our awareness of this problem—among public officials, the media, and the citizenry.

America now faces the greatest housing crisis since the Great Depression. Unlike that era—when the Nation and the world community endured a collapse of the economic order—this housing crisis has occurred during a period of so-called economic recovery and at a time of national prosperity. It is a domestic crisis more of our own making than any other in the postwar period. Homelessness is the most tragic symptom of this housing crisis. It is an awful indictment of our country that we have so many who go without shelter in the richest Nation on Earth.

If the record numbers of people in America's streets had been driven there by a natural catastrophe, many States would be declared disaster areas.

We cannot let the disaster of homelessness continue. All segments of our society—Federal, State, and local government; the private sector; and community and religious groups—must work together as partners. Our first task is to work with the homeless people, so that they can get back on their feet and live their lives with dignity and respect. But our more fundamental goal is to eliminate homelessness altogether. We are a great, generous and compassionate Nation. We have the resources to meet the basic needs of our citizens. This legislation is evidence that, as a Nation, we also have the will. It is a fitting tribute to Stewart McKinney.

CREDIT REFORM

HON. AMO HOUGHTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. HOUGHTON. Mr. Speaker, those of us in the Congress committed to battling Federal budget deficits are doing so on two fronts. The first is obvious: Deficits caused by Federal overspending.

The second is hidden, or off budget. We treat Federal loan guarantees as costless. But in fact they cost us plenty.

As columnist Warren Brookes pointed out in the July 22 edition of the Washington Times, the use of federally guaranteed loans has increased 140 percent since 1985 to more than $170 billion projected for 1987. That amount, however, is not counted in any budget. The costs for defaults on those loans will be borne in future years. Add the fact that five times more defaults occur on guaranteed loans than on direct loans, and it becomes obvious that Congress must somehow wrestle with this urgent situation.

Legislation I cosponsored, H.R. 1754, was introduced by my colleague BILL GRADISON to include the actual cost of credit programs in the budget. This approach does not cost anything, it does not appear to be a partisan issue and fiscally, it makes good sense. I hope it is not lost in the shuffle.

I urge my colleagues to read Mr. Brookes' article, which I submit for the RECORD.

WILL CONGRESS GIVE UP ITS CREDIT CARDS?

One of the carrots the congressional budgeteers are holding in front of President Reagan's nose is a package of "budget reforms" in return for his acceding to new taxes.

One of those is credit reform—tightening up on Congress' growing use of "plastic" to finance more and more spending off budget and out of reach of Gramm-Rudman-Hollings deficit limits.

Last year (fiscal 1986) the federal government ran up a deficit of $221 billion—so that's what it had to borrow in the credit markets, right? Wrong! The actual figure, counting both direct borrowing and "federally assisted" borrowing was a whopping $378 billion, which means that the federal government accounted for more than 42.5 percent of all the $889 billion credit raised in the United States last year.

Even it the federal budget deficit itself gets whittled down, that huge federal credit presence will stay high as Congress moves more and more direct spending and lending into indirect loan guarantees as a kind of painless payoff to constituents whose direct subsidies have been curtailed.

This already shows up in an alarming rise in the use of federally guaranteed loans which have shot up 140 percent from $71 billion in 1984 to more than $170 billion estimated for fiscal 1987. That massive spiral was the direct result of the 1985 Gramm-Rudman-Hollings law which put direct lonas back on-budget (repairing the off-budget damage done by the 1974 Congressional "Budget Reform" Act) but left loan guarantees outside of the Gramm-Rudman-Hollings limits.

Of course the real costs of these "budget-free" loans soon comes home to roost when and if they default and the federal government becomes liable for the face value of the loan—as has happened so heavily in the student loan program, where delinquencies have risen from $2.8 billion to $5 billion in the last six years.

Unfortunately, these effective "loan subsidies" are never recognized up front but only after the fact of default. This allows Congress to leverage present political capital by big loan guarantee authorizations whose subsidy or default costs won't come due under the present budget process until from two to as many as eight or 10 years down the road.

Indeed, about $1 billion of the current $9.4 billion in college student aid represents defaults on earlier loans that now must be paid, many of them made as far back as the 1970s.

In some cases, as in the Chrysler $1.5 billion bailout, the loans do get paid off with interest and the government actually makes money. But in most cases, the default costs exceed the interest payments by anywhere from 2 percent to 40 percent or more, an implicit subsidy not budgeted up front but picked up later.

Budgeteers both on Capitol Hill and in the White House worry that because these implicit subsidies are not budgeted, Congress underestimates actual or potential program costs.

Had Chrysler defaulted, for example, the subsidy cost of those "cost free" guarantees would have been the full $1.5 billion and then some. Fortunately, the combination of former Office of Management and Budget Director David Stockman and the Gramm-Rudman-Hollings defict-reduction law has forced Congress to limit its plastic appetites for making direct loans by first sharply curtailing and then moving the Federal Financing Bank (FFB) on to the federal budget and charging the agencies that use it with its costs.

During the Carter administration, Congress took advantage of FFB to "launder" up to $2 billion a year of current spending right out of the budget by letting agencies make direct loans to borrowers and then immediately "sell" those loans to the off-budget FFB, using the proceeds of this "sale" to go right back and lend still more, thus multiplying their effective spending.

Under the administration, direct loans outstanding shot up 83 percent from $101 billion to $185 billion. Few remember that the last Carter budget deficit in fiscal 1981 was not the $58 billion now "advertised" but in fact $79 billion, including the $21 billion off budget FFB operations. That game, which enabled many agencies to increase spending by as much as 50 percent to 100 percent over budget was ended by Gramm-Rudman-Hollings in 1985.

This dramatically slowed down the use of direct government loans to private borrowers, whose share of the budget has steadily declined over the past six years. but it put new pressure to use loan guarantees which more than doubled in the next two years, particularly as the housing market, spurred by lower interest rates, began to take off with both the Veterans Administration and the Federal Housing Administration more than doubling their guarantees since 1984.

Now the administration and some members of Congress, notably Sen. Peter Domenici, New Mexico Republican, and Rep. Willis Gradison, Ohio Republican and the ranking minority members of the two Budget committees want to limit this credit line as well, by forcing Congress to put into the budget up front the actual subsidy costs on both loan guarantees and direct loans.

As desirable as this reform is, it has little immediate fiscal impact, raising budgeted outlays by less than $500 million in 1989, and less than $3 billion in 1990—but the potential value of arresting a much worse trend, which now seems to be developing in loan guarantees, is very real.

HATZOLOH: THE HEROES OF BORO PARK

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. SOLARZ. Mr. Speaker, as many of my colleagues know, a terrible tragedy occurred Tuesday in Boro Park, a Brooklyn neighborhood in the heart of my district. An accident involving propane tanks touched off a huge explosion which killed four people and injured dozens more. The explosion and fire leveled three two-story buildings on a residential street and left a path of destruction best described by one eyewitness who said, "It looks like London in World War II."

Mr. Speaker, I am filled with sorrow and grief over the loss of precious life in Boro Park. Together with their loved ones, I mourn for those who have passed away. And for those who are recovering from their injuries, I extend to them my heartfelt wishes for a refuah shlemah—a speedy recovery.

As difficult as it is to do in this time of despair, I would like to bring to the attention of my colleagues one aspect of the Boro Park disaster which is cause for pride and hope. Amidst the ruin and pain of this tragedy, there were beautiful acts of heroism. Among the many heroes of Tuesday's calamity are the courageous individuals who serve in Hatzoloh, the Orthodox volunteer ambulance service. Founded 20 years ago, Hatzoloh—which means "help" in Hebrew—is a 500 member team of paramedics and medical technicians which concentrates on New York's Hassidic neighborhoods, but aids Jewish and non-Jewish accident victims alike. Hatzoloh volunteers were the very first people to arrive on the scene of the Boro Park accident, and without a doubt, were responsible for saving many lives.

For the Orthodox residents of Boro Park, the cherished values and lessons of the Torah are a guide for daily life. Rarely has the Jewish tradition of aiding the needy been more dramatically fulfilled than by the valiant actions of the members of Hatzoloh. As the Talmud teaches, "He who saves a single life, it is as if he saved the entire world." By that measure, the Hatzoloh volunteers are genuine heroes.

Mr. Speaker, I would like to commend to my colleagues a brief article about Hatzoloh which was printed in the Daily News.

THEY ANSWER THE CALL

(By Jared McCallister and Mike Santangelo)

The name in Hebrew means "help" and yesterday members of Hatzoloh—a Jewish volunteer ambulance corps—were true to the name when three buildings blew up in Brooklyn.

More than a dozen Hasidic medics from Hatzoloh already were on the scene of the Borough Park disaster when police and firemen arrived.

Alerted by the group's two-way radio network, most volunteers raced from neighborhood businesses and homes to 18th Ave. and 50th St., where four people died and 35 were injured.

"It was like a war zone. I got there and a woman pointed to a pile of concrete and beams and said 'a man is in there,' so I started digging," said Volvie Herman, 35, a Hatzoloh emergency medical technician for six years.

Herman, first rescuer to arrive, was five blocks away at his electrical supply shop when he heard the call to action over a small belt radio he and most volunteers wear.

A SECOND MAN

After finding the buried man Herman dug a second man out of the rubble.

By then two Hatzoloh ambulances assigned to the neighborhood arrived, one with volunteer Mark Davidman at the wheel. Davidman drove the two men that Herman had rescued and a third victim to Maimonides Hospital.

"They were in bad shape and we had to move fast," said Davidman.

A dozen Hatzoloh ambulances and more than 30 volunteers joined in the rescue effort.

The all-volunteer corps was founded 20 years ago in Brooklyn and now owns 23 ambulances manned by a pool of more than 500 paramedics and emergency medical technicians. Hatzoloh responds to several thousand calls a year.

Concentrating on Hasidic and Orthodox Jewish neighborhoods, the group also aids non-Jewish victims of accidents or illness, said member Isaac Abraham.

Hatzoloh survives on donations and "we will always find the money to do what has to be done," said Abraham.

Branches operate in Manhattan and Westchester, Rockland and Orange Counties. Volunteers plan service in Sullivan County in a few weeks.

WHY FUND CONTRA MASSACRES?

HON. NANCY PELOSI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Ms. PELOSI. Mr. Speaker, 7 short weeks ago, when I was elected, I said that I couldn't wait to get here to vote against aid to the Contras. Who are the Contras anyway? Freedom fighters? Hardly. Cowards? I think so. Who else but cowards would declare a military victory after they massacred three children and a young expectant mother. We abhor and condemn massacres in other countries—why fund them in Central America?

Who are the victims of the Contras? The victims of the Contras are like the innocent victims in the report below prepared from information gathered by Witness for Peace long termers Daniel Endman, Mary Ramos and Bard Montgomery.

INFANT BAYONETED, FIVE OTHER CIVILIANS KILLED AT EL NISPERO, NUEVA GUINEA

A ten-month-old infant was bayoneted to death and four other civilians, including a pregnant woman, were killed by Contra forces in a November 9, 1986, attack on the village of El Nispero in southern Zelaya. The attackers also wounded a three year old girl and kidnapped three other people. A doctor at the hospital in the nearby town of Nueva Guinea reported that the infant, Arlen Saballos Gonzales died of a bayonet wound in the chest. The child's pregnant mother, two other women, a three-year-old girl, and a nine month old baby were killed by gunfire, according to the same source. One other child remains under treatment for gunshot wounds. A fourth woman, her teenage daughter and infant grandson were abducted from their home when the Contras withdrew from the town.

I have been to Central America and seen first hand the bad effects of our policy there. I knew we were capable of a better policy, but I didn't know that we would have to get our policy making out of the bathroom and back where our Constitution intended.

I urge my colleagues to end the militarization of this region and support the Arias peace plan. If we really care about peace and democracy in our hemisphere we should heed the words of Pope Paul VI who said, if you want peace, work for justice.

SAVE THE ELEPHANTS

HON. ANTHONY C. BEILENSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. BEILENSON. Mr. Speaker, today I am introducing, along with 33 of my colleagues, legislation to help stem the slaughter of the world's largest and perhaps most magnificant land mammal, the African elephant. The Elephant Protection Act would ban all United States trade in elephant ivory and other elephant products.

During the last two decades there has been a steady and drastic decline in the population of elephants in many African countries. Much of this decline is attributed to poaching, the illegal killing of elephants, to obtain their valuable ivory tusks for sale. While most raw ivory is exported to Far Eastern countries, such as Japan and Hong Kong, the United States still imports a great deal of worked or carved ivory that is worn as jewelry.

Because of this senseless killing, in 1978 the Department of Interior's Fish and Wildlife Service placed the African elephant on its list of threatened species. Imports were to be allowed only from countries which were parties to the Convention on International Trade in Endangered Species [CITES], the international member organization that tries to preserve wildlife. The parties to CITES have agreed to sharply restrict, through a quota system, the amount of ivory which is traded each year, and have banned trade in ivory which has been illegally poached. In addition, countries that import raw ivory are required to examine the ivory for official stamps designating its country of origin and to certify it as legal.

Unfortunately, those regulations have been largely ineffective and unenforceable against sophisticated smugglers and forged exportation documents certifying that the ivory came from elephants killed legally. A great deal of ivory is still being illegally exported or rerouted through countries with dwindling or nonexistent elephant populations and international trade data shows that a much greater amount of ivory is entering the world market than is being officially reported to CITES. Banning the importation of ivory products into the United States is the only way to ensure that elephants do not continue to be slaughtered in order to satisfy the demand for ivory in the United States.

Legislation severely restricting the importation of African elephant ivory was passed by the House of Representatives, but not by the Senate, in 1979. At that time Douglas-Hamilton, one of the world's leading authorities on elephants, testified that the ivory trade, which had been fueled by a 1,000-percent increase in the world market price during the 1970's, had greatly contributed to the decimation of elephant populations. For example, Kenya lost more than half of its elephants between 1979 and 1977.

More recent evidence shows that this trend continues: Mr. Douglas-Hamilton stated in a recent article that in the past few years, elephants appear to have been virtually eliminated in certain areas within Sudan, Chad, the Central African Republic, and Zaire, and have been greatly reduced in East, South, and West Africa. The longer we fail to act, the more ominous the situation becomes.

Today, it is estimated, there are fewer than one million elephants in Africa, down more than 23 percent just since 1980. It is imperative that something be done to halt this decline—and the only effective way to do that is to reduce the demand for ivory.

I urge my colleagues to join me in supporting this urgent legislation.

REVOLUTIONARY IDEA STILL A GOOD ONE

HON. BOB STUMP

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. STUMP. Mr. Speaker, I recently came across an article by syndicated columnist Charley Reese. I believe it is worthy of my colleague's attention, as it puts into perspective the current debate over gun control, the second amendment's application to "We the People" of the United States and the system of checks and balances which have protected our Republic for the past 200 years.

I commend the following article to my colleagues in Congress in hopes that it will provide a constructive addition to the gun-control debate.

Communist tyrants often justify their tyranny by claiming the need to defend the revolution. This is one of the great frauds of the 20th century, for communism is a counter-revolution, not a revolution. It was a reimposition of the old tyranny disguised by new verbiage. Divine right of the king was replaced by ideological right of the party.

The only real revolution in Western civilization remains the American Revolution and it is that revolution that needs defending. Our manifesto was the Declaration of Independence, which states the basic principles of the revolution. If you understand this, then everything falls into place from issues like Nicaragua to gun control.

The basic premise is that people, all people, are born free and endowed by God with inalienable rights. In other words, people and their rights exist prior to and independent of any government.

The second premise is that people, in order to ensure those rights, can form a government. The purpose of that government, however, is only to provide a mechanical device for protecting the people's rights, which exist independent of the government.

The third premise is that when any government fails to ensure those rights, then the people have the right to alter or abolish it and to create a new one.

From these premises, many things become clear. For example, the people must be armed. It would have been foolish to assert that people have the right to alter or abolish a government if the intention was that the government could deny them the means to do it.

That's why the Second Amendment to the Bill of Rights says the right of the people to keep and bear arms shall not be abridged. It does not say—as modern legal charlatans would have you believe—that the right of the state to arm its militia shall not be abridged. It says the right of the people to keep and bear arms shall not be infringed.

A disarmed people have no rights. Nothing in modern times refutes this revolutionary wisdom. In fact, modern times confirm it. The Khmer Rouge, before it revealed its intention to commit genocide, disarmed the people of Cambodia. Fidel Castro, before he revealed his intention to betray the Cuban people, made a speech in which he said now that the revolution is successful, everybody please turn in your arms. No tryant can rule an armed people.

It was no accident that the authors of the Bill of Rights put the right to keep and bear arms second nor is there any honest dispute about their intentions. In the debate over ratification of the Constitution, the question was naturally raised: What if this government we institute to ensure our rights instead usurps our rights? What was the answer? Then people will take up arms and abolish it.

The National Rifle Association and others of us who oppose attempts to abridge the people's right to keep and bear arms under one pretense or another are simply defending a basic premise of the American Revolution. Americans will be as foolish as Esau, who sold his birthright for a bowl of porridge, if they allow themselves to be disarmed.

Think what a stupid contradiction it is for someone to say you have the right to life and the right of self-defense, but you have no right to possess the weapons necessary to defend your life. What a stupid contradiction to say the people have the right to alter or abolish a tyrannical government, but no right to possess the means to do so. The men who made the American Revolution were not stupid.

Our Revolution gives us the standard by which to judge other governments. Does the government of Nicaragua exist to protect the rights of the Nicaraguan people who we believe were born free with inalienable rights? No. Then we do not support it. Allegiance to the principles of our Revolution does not permit us to condone or support these who contradict those principles.

THE ARTS AND OUR CHILDREN'S DEVELOPMENT

HON. BOB CARR

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. CARR. Mr. Speaker, Young Audiences held a celebration of its 35th anniversary at its annual conference in Washington, DC, on May 15–18, 1987. This past year Young Audiences, the leading arts and education organization in the Nation, sponsored over 28,000 educational programs by professional artists reaching nearly 5 million children throughout the Nation.

The 37-chapter network sent 2,146 professional artists into 7,773 schools across the country with exciting workshops, performances, and residency programs uniquely designed to encourage young people to explore both the magic of the arts and their own potential for creativity.

Since its orginal focus in 1952 of providing classical music performance/demonstrations, Young Audiences' in-school programming efforts have expanded to include such diverse areas as theater, mime, ballet, opera, poetry, storytelling, modern dance, history of jazz, and special residency programs for handicapped children.

As part of the 35th anniversary celebration, our colleague, Representative PAT WILLIAMS, provided the keynote address at the opening day luncheon. In his remarks, Representative WILLIAMS talks about how the arts play a significant role in our lives and especially in the education of our children.

Mr. Speaker, I am glad to share his speech with my colleagues and urge all Members of Congress to read and consider it as he comments about how the arts play an important part in the developent of our children.

The speech follows:

STATEMENT OF REPRESENTATIVE PATRICK WILLIAMS BEFORE THE YOUNG AUDIENCES CONFERENCE, MAY 15, 1987

I am pleased to be with you today in John Kennedy's hall. It is fitting that you celebrate your birthday in this building. You know John Kennedy did so much for us in so many ways; his vision of us as a people is a great legacy. He stirred the young to come forth into government; he moved America forward into a new level of self-acceptance. He helped make us feel free enough to have the time to look around us, to enjoy the asthetics of life. In fact, carved on one of the walls of this building is a quote that illustrates the importance Kennedy ascribed to the arts:

> I look forward to an America which will reward achievement in the arts as we reward achievement in business or state craft. I look forward to an America which will steadily raise the standards of artistic accomplishment and which will steadily enlarge cultural opportunities for all our citizens. And I look forward to an America which commands respect throughout the world not only for its strength, but for its civilization as well.

I, too, think that art plays a significant role in our lives—as individuals and as members of this great society. And I know you are here today for the same reason. Art is important. It is especially important in the education of children.

The Congress is aware that Americans support the arts. They have not taken kindly to cuts in public school budgets dealing with the arts. Surveys tell us that nine in every ten Americans are convinced that children who are in school should be exposed to theater, music, dance, exhibitions of paintings and sculpture, and similar cultural events. The majority of folks also believe that schoolchildren are being deprived of cultural opportunities. Thus, sizable and rising numbers of the public believe that arts courses are an important part of our education.

What is more, surveys also reveal that a large majority of Americans believe that arts courses should come out of the regular school budget, instead of being provided only when additional or contingency funds are available. Clearly, the arts are viewed as a major and indispensable part of the education of young people in America.

Let me share with you some of my thoughts on the role art plays in our lives. I am a parent and I have watched my 3 children grow from infants to teenagers. My son, Griff, is now in college, and, by the way, he's studying Art at the University of Montana in Missoula, where the state Chapter of Young Audiences is located.

Watching children grow and develop is a marvelous experience. They come into the world without speech, without the ability to read or write. They can't walk or even hold on to objects very well—but they can express themselves! That can be an art form in itself!

Children need to learn a lot to survive. They must discover our culture's symbols. They need to organize their experiences in some meaningful ways, and they must learn to express feelings in appropriate ways. Experiencing art can help. Watch a young child draw or listen to one sing or tell a story. Such behaviors as drawing or storytelling reflect their growing understandings of the world, of our society, and of the relationships that exist among people.

In that sense, art plays a key role in helping our young learn to participate in the world around them. It is central to heathy development.

But art is more than that. As Chairman of the subcommittee with jurisdiction over federal arts legislations, I have had the opportunity to talk with, and listen to, many different types of folks! In the last reauthorization, the Committee was especially interested in the role that the arts plays in the lives of America's citizens from minority cultures. I met with and listened to Black, Hispanic, and American Indian artists, for example, and I observed how much of their energies were devoted to "making it" in our culture. Art seems to play a pivotal role in these efforts. For example, the Studio Museum in Harlem, which I visited, had great success with their exhibition of Tradition and Conflict. This exhibit examined the works of art produced by Black artists who were moved by their experiences to create images that are memorable, haunting, and lasting testaments to the Black American struggle for freedom, justice and dignity.

This art and other examples reflect the tremendous energy put into the arts—energy that uses art forms to reach out to others and help increase our understanding of each other.

Thus, art is an important mechanism by which some of our citizens gain entry into the larger cultural environment. And by sharing our experiences through various art forms we become changed as a people; we become closer and more unified as a nation.

Finally, I think art plays a powerful role in changing society. Artists can be renegades; radicals; and reactionaries. They can confront us with new realities; they can cause us to rethink our values. The artist Richard Serre comes to mind. His piece, the Tilted Arc, which is placed outside the Federal Building in New York City, has promoted much valuable discussion about art in public places.

Last year we were treated to an exhibit of the work of the French Impressionists. Their work revolutionized the art world and it changed our lives. These Impressionists were regarded as renegades too. But who today would dispute the enlightment they have brought to us through their art.

These are but three examples of the power of art. Children are in many ways natural artists, and they grow into tomorrow's adult citizens. We and they benefit by your work in sharing the arts and the artists with America's children.

Happy Birthday!

BALANCED BUDGET AMENDMENT

HON. RICHARD RAY

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. RAY. Mr. Speaker, just last week 55 Members of Congress met in Philadelphia to convene a legislative session of Congress to recognize and commemorate the 200th anniversary of the U.S. Constitution. This remarkable document is the example that all other democracies look to for a pattern of government. Although it is the supreme law of our land and is difficult to alter, it is important to realize that the Constitution is a living document—it does change in an effort to reflect the changing times and the changing concerns of the American people.

It is along these lines that I want to indicate my strong support for a balanced budget amendment to the Constitution. Recent polls indicate that the major concern of most Americans is the Federal budget deficit. In addition, a recent New York Times/CBS News poll found that 85 percent of Americans favor the adoption of a balanced budget amendment to the Constitution. It is evident that the people want this change, and our large Federal budget deficits are an indication of the Nation's need for this change.

Mr. Speaker, there are those who will say that the President and the Congress already have the power to balance the budget. An amendment to the Constitution is not necessary. In a sense, this is true. The Congress and the President determine how much the Government spends and the tax policy which determines how much is raised in revenues to finance this spending. However, we should examine the incentives of Members of Congress when voting on budget issues.

A person elected to this body is expected to produce for his or her district. He or she must "bring home the bacon." The incentive is to increase spending, not reduce it. Most citizens do not appear to want to reduce or eliminate present spending programs but at the same time opose any form or revenue enhancement. It is then difficult for the elected representatives of the people, the Members of this body, to vote against spending for individual programs or to vote to raise taxes.

Several Members on this side of the aisle have tried to address this situation. The Conservative Democratic Forum and the Democratic Budget Study Group have both been excellent forums for critically examining legislation to see if there are program changes or program cuts which can be made to save the American taxpayers some money. I have supported the efforts of both of these groups to reduce excessive Federal spending.

In addition, I have supported the bipartisan Task Force on Deficit Reduction in their attempts to make cuts in the spending levels of individual appropriations bills. This group has offered amendments to appropriations bills to reduce the amount of growth in spending. Three of these amendments have passed, and it is estimated that those three amendments will save $500 million.

Mr. Speaker, although I am supportive of these efforts, we need a stronger, more binding means of balancing the Government's revenues and spending. Quite frankly, we need the strength of the Constitution to force the hard decisions that need to be made to reduce this Nation's budget deficit. A balanced budget amendment would combine the strength of the Constitution with a tougher process for allowing deficit spending. Tough-but-necessary budget decisions would have to be made requiring us to "pay as we go" and to ensure that we do not leave a legacy of debt for future generations.

Legislation has been introduced which proposes such an amendment. This measure, House Joint Resolution 321, has over 230 cosponsors. I strongly support this bill, and I believe that we need a balanced budget amendment now more than ever before. I encourage my colleagues to support this legislation and to work for the passage and ratification of a balanced budget amendment to the Constitution.

PERSONAL EXPLANATION

HON. JAMES L. OBERSTAR

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. OBERSTAR. Mr. Speaker, I was unavoidably absent on official business and unable to vote on roll 276, the rule providing for consideration for H.R. 2470, the Medicare Catastrophic Protection Act of 1987. Had I been present, I would have voted aye.

CONGRESSIONAL CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS

HON. DAVID E. PRICE

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. PRICE of North Carolina. Mr. Speaker, Soviet Jewry's battle for emigration from the Soviet Union continues the 4,000-year struggle of a people to maintain their traditions and their beliefs in the face of hostile governmental interference and repression. It exemplifies a tradition which is as long standing as is the history of state-sponsored oppression: The quest for freedom.

It is as part of the bipartisan congressional movement on behalf of Soviet Jews that I rise today, Mr. Speaker. In particular, I would like to bring attention to the case of Mark Terlitsky, his wife Svetlana Kredova-Terlitskaya, and their family, and I appeal to the Soviet authorities to allow these individuals to emigrate without further delay.

Mark is a graduate of the Moscow Institute of Architecture, and for 15 years was one of the leading architects in Moscow. He was project architect for a number of large projects, including the historic restoration of ancient buildings in the Kremlin. Svetlana was an economic analyst. As soon as Mark made it known in 1974 that he was going to apply for permission to emigrate to Israel, he was demoted. When the entire Terlitsky family applied to emigrate in 1976, Mark's brother and Svetlana's sister were given exit visas but, cruelly, Mark, Svetlana, their daughter Olga, and Mark's elderly mother, Fanya, were refused because of Mark's alleged "possession of secret information." The family reapplied many times to emigrate to Israel and, later, to the United States, but were refused each time.

Both Mark and Svetlana lost their jobs in 1976 because of their application to emigrate, and neither has been able to find a permanent job since. On several occasions Mark and Svetlana have been detained, harassed, and beaten by the KBG and hired thugs. In the face of these hostile actions, Svetlana participated in the Women's Group of Moscow, organizing camps and classes for Jewish children until the authorities banned the organization. Both remain active and courageous members of the refusenik community in Moscow.

After 13 years, whatever architectural "secrets" Mark had knowledge of are surely no longer crucial for state security, if they ever were. Prime Minister Gorbachev has repeatedly reiterated his intended policy of glasnost in the Soviet Union, of a loosening of state control in the economy and in society. Allowing Mark, Svetlana, and their family to emigrate would be a concrete step toward demonstrating that these encouraging Soviet pronouncements are more than mere words. In addition, it would be an affirmation of simple humanity and justice, the thirst for which Mark and Svetlana bear elequent witness.

A TRIBUTE TO MR. FRANK OLDFIELD

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. HUNTER. Mr. Speaker, I rise today to give long overdue praise to Mr. Frank Oldfield, a member of one of the world's most honorable professions—engineering. Frank is an employee of Teledyne-Ryan Aeronautical in San Diego, CA.

On July 21, 1987 the Association of Unmanned Vehicle Systems presented the Pioneer Award, its the highest form of professional recognition, to Mr. Frank E. Oldfield. It is recognition that might otherwise go unnoticed because of the nature of work, performed to a large extent under shrouds of secrecy.

Frank Oldfield's contributions span a period of more than 30 years. The work performed by this San Diego, CA man employed since 1952 by Teledyne-Ryan Aeronautical, should now be made a part of the public record.

With growing intensity today, the subject of unmanned vehicle systems, sometimes known as remotely piloted vehicles or drones, is of compelling interest and importance. Militarily, these unmanned vehicles address the demands for cost-efficiency throughout the world. Their use compliments manned aerial warfare capabilities, offering commanders the ability to order high-risk and long-endurance missions without threat to the lives of their human crews.

These unmanned vehicles offer lifesaving advantages for high-altitude missions, long-endurance surveillance missions, and low-altitute photo reconnaissance, both in advance of manned strikes and for damage assessments following such strikes. Many uses for the vehicles come to mind in this day of an increasingly complex and high-technology military environment.

State-of-the-art technology in responding to these and other requirements exist because of those like Frank Oldfield. As his award cites, he has truly pioneered the age of the RPV since its early beginnings of three decades ago.

Through his career at Ryan, his engineering-development assignments have been devoted to unmanned vehicles. It was Mr. Oldfield's involvement as an engineer that successfully transformed his company's jet-powered Firebee aerial target systems into highly secret unmanned "spy planes" used in more than 3,000 combat missions during the Vietnam War.

These accomplishments have been held secret for many years, as will many of his assignments in years to come. His engineering designs and development work is directly associated with the successful use by Israel in its widely publicized wars of unmanned vehicles against Egypt and Syria. Mr. Oldfield pioneered and developed the avionics systems as well as the ground launch systems used with such dramatic success.

Such accomplishments continued in the years to follow on his company's design-development of high-altitude surveillance vehicles such as the Compass Arrow and Compass Cope aircraft. These developments long ago demonstrated and documented capabilities which today are available in times of peace or war and for use in military, industrial, or commercial ventures.

Frank Oldfield's lifetime of work as an engineer with Ryan can be traced through the technologies and developments of each of the major unmanned vehicle products for which the company has earned global respect and recognition.

Along with the view of the association, comprised primarily of his peers within America's defense industry and military sectors, I believe Frank Oldfield characterizes the pioneering contributions of a technology that is still in its infancy.

It is the belief held by many qualified authorities in the field of unmanned systems development that the potential for steady and continuing technological progress is limited only to the imagination of men like Frank Oldfield.

It is with pride in the contribution that his Pioneer Award symbolizes that I bring Frank's accomplishments to the attention of my colleagues. I know that they share my congratulations and gratitude for Frank Oldfield.

Americans may never know, because of national security interests, the extent to which his dedicated service can be measured. Through the Association of Unmanned Vehicles and its Pioneer Award, we have unquestioned proof of his service to this Nation.

IN OPPOSITION TO AN INCREASE IN THE FEDERAL EXCISE TAX ON GASOLINE OR DIESEL FUEL FOR THE PURPOSE OF DEFICIT REDUCTION

HON. JIM LIGHTFOOT

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. LIGHTFOOT. Mr. Speaker, as a result of the budget resolution approved by this body for fiscal year 1988, the Ways and Means Committee is searching for a way to raise $19.3 billion in new taxes. Rather than make the difficult decision on where to cut Federal spending, we appear to be headed down the path of least resistance toward a tax increase that the American people clearly don't want and don't deserve.

The key to deficit reduction lies in further cuts in Federal spending, not tax increases. But of all the tax increases currently being considered, one of the most disasterous is an increase in the Federal excise tax on motor fuel.

The motor fuel tax is fine when used for highway improvements because it measures road use and ensures that the user pays. But as a deficit reduction measure, the motor fuel tax is terrible regressive because low and moderate income people pay a higher percentage of their income.

The use of the motor fuel tax for the purpose of deficit reduction also violates the user fee concept of the highway trust fund. At a time when our infrastructure is so badly in need of improvement, an increase of only 10 cents per gallon of gasoline would drain an estimated $2.6 billion from the highway trust fund over 5 years. That same 20 cent per gallon increase would also reduce state revenues by $3.3 billion over 5 years at a time when we're drastically reducing other sources of Federal revenue for them.

Another unfair aspect of an increase in the motor fuel tax is the revenue it would raise would be paid by residents of rural and western states, the areas that are now most economically depressed. The State of Iowa, for example, would lose an estimated $56.3 million over 5 years.

Mr. Speaker, we need to get our priorities back in order before it's too late. There is still much room to reduce Federal spending without resorting to disasterous policies such as an increase in the motor fuel tax. I urge my colleagues on the Ways and Means Committee to reject this proposal and all other tax increases and get down to the business of making the difficult spending cuts that are vital to our economic future.

PANDAS ARE COMING TO SAN DIEGO

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. LOWERY of California. Mr. Speaker, the Nation was saddened by the death of the panda cub born last month to Ling Ling and Hsing Hsing at Washington's National Zoo. With as few as 700 pandas estimated to be found in the wild and just over 100 living in captivity, the death of this cub frustrated yet again the hopes of panda enthusiasts the world over that the species could be saved from extinction.

Despite this setback, there is a bright light on the horizon. I am pleased to announce that two panda bears will be delivered today to the San Diego Zoo on loan from the Fuzhou Zoo in southeast China through January 1988. Yuan Yuan, a 6-year-old male, and Basi, a 7-year-old female, are participants in a unique behavioral research program which is hoped will enhance the chances for successful breeding of pandas in captivity.

This program involves extensive physical handling of the pandas by trainers who work with them to accomplish various tasks, such as standing on their hind legs, throwing balls through hoops, and even riding a bicycle. Visitors to the San Diego zoo will be able to observe the pandas in action during their 4-hour daily workout, a display never before seen outside of China.

The long-term benefits of this program appear promising. The familiarity of the animals with humans allows trainers to collect far more information about their health and natural behavior. As a result, trainers are able to gather blood samples, temperature and blood pressure readings, and other physiological data—all without anesthetising the animals.

According to Yuan Yuan and Basi's trainer in China, anesthetising the pandas puts stress on their systems which may affect their ability to reproduce. The trainer believes that Basi's ease with humans may actually allow her to be artificially inseminated without the trauma that accompanies anesthesia.

Learning more about the physical and behavioral nature of pandas may also provide clues on how we can help padas survive and flourish in the wild.

On a different plane, Yuan Yuan and Basi's visit in San diego symbolizes the successful efforts of the United States and the People's Republic of China to expand and improve cultural relations. In fact, the San Diego Zoo has been trading animals with China since 1979 and today the Zoo is home for some 40 different species of Chinese animals. The loan of these two pandas symbolizes the Zoo's ongoing efforts to maintain excellent relations with China. I salute the San Diego Zoo for this accomplishment.

Yuan Yuan and Basi's presence in the United States will also provide a unique forum for educating Americans on the plight of the panda bear. I encourage my colleagues and fellow Americans to visit the San Diego Zoo and see these magnificent animals for themselves. This is a rare treat that no one should pass up.

PUBLIC CONCERN OVER SALMONELLA CONTAMINATION IN OUR POULTRY PRODUCTS

HON. E de la GARZA

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. DE LA GARZA. Mr. Speaker, the world renowned agricultural scientists of Texas A&M University will be sponsoring a major symposium on August 24 and 25 which will address the enormous public concern over Salmonella contamination in our poultry products.

The Poultry Science Department of Texas A&M University's College of Agriculture has alerted me to the symposium and I want my colleagues here in the House to know it, as well—The Salmonella factor is something which has caused concern among us all—in many States across the nation.

The symposium will feature Texas A&M University scientists, U.S. Department of Agriculture scientists—including an address by the Administrator of the USDA Food Safety and Inspection Service—and poultry industry representatives. It is a unique forum for participation by all affected players in our poultry products industry.

The main focus point will be on suggested programs for changes within our production, processing, and distribution segments of the poultry products industry.

The symposium will be held in the Hyatt Regency Hotel at the Dallas-Fort Worth Airport. Further information on the symposium can be obtained by contacting Dr. Fred A. Gardner of Texas A&M University at telephone 409/845-4818.

THE 100TH ANNIVERSARY OF THE PERRIGO CO.

HON. FREDERICK S. UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. UPTON. Mr. Speaker, today I rise to pay special tribute to the Perrigo Co. of Allegan, MI. Perrigo is celebrating its 100th year as a distributor of health care products. I am extremely proud to stand on the floor of the U.S. House of Representatives to salute this outstanding company.

In 1880, two New York immigrants, Luther and Charles Perrigo settled in Allegan County. It was Luther Perrigo who, while serving as the administrator of a general store and apple drying business, realized that there was a pressing need for an efficient method of production for medicinal aids—an idea which transformed the history of home remedies.

Once their idea for production was conceived, Luther and Charles formed the Perrigo Co. as a proprietorship in 1887. By turn of the century, the Perrigo brothers expanded their business and operation to a storefront building on Brandy Street. The company has today expanded to the point where it employs over 1,000 people in its seven Michigan plants. Eventually, the brothers split up and went their separate ways, but their legacy remains. From humble beginnings as a small storefront operation, Perrigo has become one of the finest producers of health and beauty aids in the Midwest.

Mr. Speaker, the Perrigo Co. has proven itself an exemplary leader in providing high-quality private label health and beauty products throughout northern America. Perrigo's dedication to the pursuit of excellence has earned the company an outstanding reputation for quality products. Its performance truly has had a positive economic impact on our area. If past achievements are any indications, then the future looks equally as bright for Perrigo Co. as it goes forth into its next 100 years.

With respect and admiration, I join the people of the Fourth Congressional District in applauding this fine company for a century of accomplishment. I am extremely proud to recognize the success of Perrigo and its important role in the Fourth District of Michigan.

CAPTIVE NATIONS WEEK

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. YATRON. Mr. Speaker, I want to take this opportunity to pay tribute to a very important occasion. This week marks the 29th commemoration of Captive Nations Week.

Captive nations are those which, in essence, suffer under Communist domination. They consist of the Baltic States, various Republics of the Soviet Union, East Europe, and other nations such as Afghanistan, the People's Republic of China, Cuba, Vietnam, where communism is the prevailing political and economic ideology. People in these nations are indeed captives of repressive regimes which seek to control individual initiative and creativity. Fundamental human rights are not guaranteed and international human rights laws and covenants are ignored.

As chairman of the House Foreign Affairs Subcommittee on Human Rights and International Organizations, I have conducted extensive hearings and investigations into abuses committed by Communist governments. Even during this period of "glasnost" any progress and openings regarding human rights remains arbitrary and tenuous until legitimate institutions are established to ensure fundamental rights are respected. The international community has determined that individuals have certain basic rights and freedoms. This concept serves as the very foundation of developing trust and confidence in international agreements and treaties. When Communist nations consistently violate international human rights law, and impose the heavy hand of tyranny on their people, they cast a dark cloud over all their international dealings.

Captive Nations Week is important because it serves as a beacon of hope to millions of oppressed people striving for liberty and the right to be free. It also serves as a reaffirmation of our own commitment to the democratic principles on which the United States was founded and under which we are governed.

As the leader of the free world, the United States must continue to actively promote democracy and respect for human rights. In practice, communism is synonymous with oppression of bankrupt regimes. Let us continue to help those escape from the chains of this vacuous ideology.

VOID IN THE CATASTROPHIC HEALTH BILL

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. DAUB. Mr. Speaker, today I am introducing two separate bills which will fill a void that was left open in the catastrophic health bill which was passed by this body yesterday. I feel that it is essential that Congress address the problems that the elderly are faced with during periods of long-term illness. In addition, I feel that Government programs are not always the answer when Government incentives coupled with private sector programs will work more efficiently. My bills address both of these problems.

First, I have drafted a bill which would allow a person to convert tax free, a life insurance policy surrendered in order to pay for long-term care insurance premiums. Thus offering a Government incentive to encourage the purchase of long-term heatlh care insurance without the bureacratic problems caused by Government programs.

My second bill offers individuals the ability to use their IRA funds to pay for long-term health care insurance plans without paying tax on the funds withdrawn. Again, my goal is to use Government incentives to make use of programs and services already in place in the private sector.

These provisions would help to balance the creation of Government protection for those who lack financial resources with the establishment of individual private insurance incentives—while in addition helping to avoid the full-blown socialization of Medicare. Clearly our efforts should be directed toward helping our elderly help themselves in times of long-term health care cost catastrophies.

IN SUPPORT OF MISSILE PACT WITH SOVIETS

HON. NICHOLAS MAVROULES

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. MAVROULES. Mr. Speaker, I rise today in recognition of an important shift in the Soviet stance with respect to the quest for a substantive, verifiable arms control agreement.

In an interview with an Indonesian newspaper, Mr. Gorbachev has suggested a major shift in the Soviet position, stating that he is ready to dismantle all Soviet medium-range missiles, including the 100 that were previously earmarked for Soviet Asia. A formal adoption of this position by the Soviets would mark the removal of a major obstacle in the negotiations, as it would remove a great deal of Japanese anxiety and puts the ball back in the United States court.

There are still many stumbling blocks to an agreement, including our position on the 72 West German Pershing missiles. However, if an agreement on short- and medium-range missiles is worthwhile—and I firmly believe that it is—then we should urge our negotiators to fully explore the ramifications of the updated Soviet position.

We need substantive, verifiable arms control treaties that encompass short-, medium-, and long-range missiles, conventional weapons, and chemical munitions. There is no doubt that this administration must make a stronger commitment to the arms control process. Now the ball is in our court, and it is my sincere hope that we take a long, careful look with respect to these new developments.

THE ABANDONED INFANTS ASSISTANCE ACT

HON. TED WEISS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. WEISS. Mr. Speaker, many terrible tragedies flow from the drug abuse crisis in the United States. In recent years, these have included the transmission of drug addiction and the AIDS virus from mothers to their infants. Sadly, many of these infants and young children have been abandoned in hospitals by drug-addicted or critically ill parents who are unable or unwilling to care for them.

Some of these abandoned infants and children are initially hospitalized for drug addiction which was developed in utero. In addition, an ever-increasing number of these babies are infected with the AIDS virus or suffering from AIDS or ARC [AIDS related complex]. Without appropriate caretakers outside the hospital, they live in a limbo created by nonexistent families and out-of-reach foster care. For a home, they have only a hospital ward. For a family, they have a team of health care professionals. These "boarder babies" and their extended hospital stays are a great cost to our society from both financial and humanitarian standpoints. Many of these babies are well enough to be released from the hospital into foster or respite care. However, placement in foster care is very difficult. Appropriate respite care is generally unavailable.

Mr. Speaker, I am pleased to join with Representative Owens of New York in introducing the Abandoned Infants Assistance Act, which would offer help to these boarder babies. The bill contains a number of provisions, funded as demonstration projects through grants to local governments, which would ameliorate many aspects of this tragic situation.

One component of the legislation concerns foster care. Incentives would be provided for the placement of these young children in foster care. In addition, foster care personnel would be trained to provide for the special needs of these infants and children. This provision of adequate support services would ensure that children could be returned to their home environments as soon as possible.

Second, for those children who cannot be placed in foster care, the legislation would provide Federal funds for the purpose of establishing respite homes.

These projects could be carried out for a modest investment of $20 million in each of fiscal years 1988, 1989, and 1990. In return we will be providing nurturant care, decent homes, and the prospect of happiness, to children who have begun their lives with such grim prospects.

I urge my colleagues to join in this modest but important effort.

CALL TO CONSCIENCE VIGIL FOR SOVIET JEWS

HON. BILL FRENZEL

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. FRENZEL. Mr. Speaker, today I would like to call the attention of my colleagues to the plight of Alexandr and Alla Rosenshtein, two Soviet Jews whose repeated pleas to emigrate have been denied since 1979. I know my colleagues will share my conviction that we in Congress must do all in our power to win increased emigration rights for Soviet Jews in general, and for the Rosenshteins in particular.

The Rosenshteins have applied for emigratin six times since 1979. Their case is especially urgent because Mr. Rosenshtein's mother, Svetlana Levitas, is living in Los Angeles and suffering from an advanced case of cancer. No government should ever deny emigration to those who wish to leave. Family reunification is a particularly compelling reason to allow emigration, and the medical condition of Rosenshtein's mother makes the matter all the more urgent.

Mr. Speaker, despite Secretary Gorbachev's claims of a new openness in Soviet society, the plight of thousands of Soviet Jews remains unchanged. I urge all my colleagues to join me in pressing Secretary Gorbachev to allow the Rosenshteins to leave the Soviet Union immediately, and to allow the Soviet Jews to practice freely and to emigrate when they want to.

CONGRESSMEN SALUTE FIRST BLACK WOMAN ASTRONAUT

HON. JULIAN C. DIXON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. DIXON. Mr. Speaker, it is with pride and admiration that I join Congressmen Augustus F. Hawkins and Mervyn M. Dymally in congratulating Dr. Mae Jemison on her acceptance into the Astronaut Corps Training Progam. Dr. Jemison, the first black woman ever picked for the space corps, is a general practitioner in Glendale, CA.

Dr. Jemison was one of 15 individuals chosen for the corps after a rigorous selection process conducted by the National Aeronautics and Space Administration [NASA]. The selection involved evaluation of 1,962 applications and medical examinations, and 117 interviews. Dr. Jemison will join her colleagues at the Johnson Space Center in Houston on August 17 for a year of training and evaluation. She will then be eligible to join space shuttle flight crews.

Dr. Jemison is an experienced professional with an impressive educational background. She was awarded a B.S. in chemical engineering and earned enough credits for a B.A. in African and Afro-American Studies from Stanford University. Yet, she also found time to develop and teach two undergraduate courses, and preside over the Stanford chapter of the Black Student Union.

In addition, Dr. Jemison has established an inspiring record of community service, a record begun while she pursued her medical studies at Cornell University. She was instrumental in organizing a city-wide health and law fair for the National Student Medical Association of New York, and developed a pamphlet on prescription drug abuse for New York City high school students.

Dr. Jemison's desire to promote quality health care in lesser developed nations resulted in her receipt of a grant from the International Travellers Institute for health studies in rural Kenya, and led her to work in a Thai refugee camp. After graduating from medical school, Dr. Jemison continued her commitment to world health care by working as a Peace Corps medical officer in Sierra Leone and Liberia.

Dr. Mae Jemison has used her medical knowledge to make substantive contributions within her community, and internationally. I am sure she will continue to make those contributions to humanity in her capacity as a NASA specialist. I am pleased to have this opportunity to call attention to her many accomplishments, and I ask my colleagues in the U.S. Congress to join me in extending congratulations to her for earning the NASA appointment. I wish her the greatest success in her future endeavors.

HOPE REHABILITATION SERVICES

HON. NORMAN Y. MINETA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. MINETA. Mr. Speaker, it is my pleasure to take this opportunity to salute HOPE Rehabilitation Services of San Jose on its 35th anniversary.

From its roots as a small group of parents trying to enrich the lives of their developmentally disabled children, HOPE has grown into a far-reaching organization, serving the needs of 2,200 people in five countries. HOPE, under the umbrella of the United Way, provides a variety of services for disabled persons of all ages—children, students, adults, and seniors—to help them lead more independent lives.

Since its inception, HOPE has been fortunate to have a capable and compassionate staff, which can take credit for a great deal of its success. Each day, staff members devote themselves to assisting clients at HOPE's 11 program centers. Under the direction of the board of directors and the leadership of President Judy Semas, these humanitarians work tirelessly to meet the needs of hundreds of area residents who suffer from profound and multiple disabilities. Their efforts often provide a workable alternative to institutionalization for many clients, leading to great tax savings annually.

HOPE should be proud of its many accomplishments and confident of its future. It established a center for developmentally disabled seniors, one of only a few such programs in the country. It opened the first food service training program in the South Bay area to be staffed by the disabled. HOPE's Fairway Glen Technology Park will be America's first privately financed business park with guaranteed jobs for people with disabilities. It is for innovations like these that HOPE has gained a reputation for forward-thinking.

HOPE has demonstrated, since its inception in 1952, an exemplary record of innovation, quality, concern, and results in meeting the needs of our community. Its reputation is a reflection of the achievements that HOPE has accomplished, the devotion of its staff, and of the prospect of even greater success in the future. It is in this light that I request that my colleagues in the House of Representatives join me in congratulating HOPE Rehabilitative Services on their anniversary and to extend to this outstanding organization our best wishes in the years to come.

REV. JIM CULLOM: 19 YEARS OF SERVICE

HON. JOHN J. DUNCAN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. DUNCAN. Mr. Speaker, on Sunday, July 26, members of the Grace Baptist Church will be honoring retiring pastor, Dr. Jim Cullom, after 19 years of service and ministry. I will be attending the ceremonies designed to thank Jim for his tireless efforts to serve their community.

Jim is originally from Knoxville TN, attended Carson Newman and subsequently Southern Seminary in Louisville, KY. Parishioners laud his ability to see the good side of any person and situation. He has always been happy to help those in need, and has led the church through years of consistent growth and outreach.

Through Jim's personal efforts, the church developed and presently maintains a mission and comprehensive program of service for residents in a mobile home and trailer park located in the surrounding community.

I would like to personally commend Jim for his many years of service and the countless good deeds he has performed over the last 19 years. The members of Grace Baptist Church will greatly miss his loving nature, and will always remember his deep faith and his ability to share it with others.

INTRODUCTION OF LEGISLATON CLARIFYING THAT CONGRESSIONAL APPROVAL OF ANY FEDERAL LAND EXCHANGES INVOLVING THE COASTAL PLAIN OF THE ARCTIC NATIONAL WILDLIFE REFUGE BE SUBJECT TO THE APPROVAL OF THE CONGRESS

HON. DON YOUNG

OF ALASKA

IN THE HOUSE OF REPRESENTATIVES

Thursday, July 23, 1987

Mr. YOUNG of Alaska. Mr. Speaker, I join with my friends and colleagues GEORGE MILLER and GERRY STUDDS today to introduce legislation to clarify congressional intent with regard to the coastal plain of the Arctic National Wildlife Refuge in Alaska.

As many are aware, the coastal plain is the focus of attention following the delivery to Congress of a report from the Secretary of the Interior pursuant to the Alaska National Interest Lands Conservation Act which found that the area was the most promising onshore oil and gas area remaining in North America. That same act created enormous units of the National Wildlife Refuge System, some of which have substantial native Alaskan inholdings. Many Alaska Native corporations and the State of Alaska have been negotiating with the Department of the Interior for some time on the potential of an exchange of land interests, and a tentative proposal was reached just last week. Under the terms of the proposal, Alaska Native corporations would convey large amounts of private lands of key habitat value within National Wildlife Refuges in Alaska in return for property interests in the Arctic National Wildlife Refuge if Congress ultimately decides to open the area for oil and gas leasing.

Although the exchange proposals were never contemplated to be administratively enacted, there is some concern that this might occur. The legislation which Messrs. MILLER, STUDDS, and I introduce today seeks to put to rest any speculation that these exchanges might be undertaken administratively. After consulting with those party to the exchange proposal, I have received indications that such a clarification would be of assistance to the future of their agreement. All parties have indicated that only Congress should pass on the question of whether the United States should add these private lands to the National Wildlife Refuge System in return for property interests in the Arctic National Wildlife Refuge.

It is my hope that through this effort we will clear the air so that the Congress can continue to pursue its investigation of the merits of the issues surrounding the opening of the coastal plain of the Arctic National Wildlife Refuge for oil and gas leasing. It is also my hope that this will set the stage for later hearings to allow the Department of the Interior and the Native Alaskans to describe the conditions of the exchange proposals.

Thank you, Mr. Speaker.

SENATE—*Friday, July 24, 1987*

(Legislative day of Tuesday, June 23, 1987)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray.

How precious also are Thy thoughts unto me O God! How great is the sum of them! If I could count them, they are more in number than the sand: When I awake, I am still with Thee.

Our Father in heaven, the psalmist speaks of Your love for us, Your care, Your interest in the infinitesimal as well as infinite, the microcosm as well as the macrocosm. As You know when a sparrow falls, so each tiny detail of our lives is known to You. You know, Father, the struggle, the stress under which the Senators have been laboring these past days. You know how families have sacrificed, the pressure under which staffs have been. Grant Gracious God that this weekend will provide rest, recreation, and renewal for Your servants and their loved ones in Thy name, O Lord we pray. Amen

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 24, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable PATRICK J. LEAHY, a Senator from the State of Vermont, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. LEAHY thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the distinguished Senator from West Virginia, the majority leader is recognized.

Mr. BYRD. I thank the Chair.

THE CHAPLAIN'S PRAYER

Mr. BYRD. Mr. President, the Chaplain in his prayer this morning spoke of the love that our Father has for us; the fact that He is all-watchful, omnipotent, omnipresent, and omniscient; and of the quietness and the strength that are born of solitude, quietness, and meditation; and that we who are so busily engaged in our little worlds here might do well to take a few minutes off, go to the hills, reflect, meditate, pray about our problems. There is a message in the prayer by the Chaplain. I hope that we will reflect on it.

A LUMP OF CLAY

A Persian fable says one day
A wanderer found a lump of clay,
So redolent with sweet perfume,
It's odor scented all the room.
"What art thou?" was his quick demand,
"Art thou some gem from Samarkand?
"Or Spikenard in this rude disguise,
"Or other costly merchandise?"
"Nay, I am but a lump of clay."
"Then whence this wondrous perfume, say?"
"Friend if the secret I disclose,
I have been dwelling with the rose."
Sweet parable! Will not those
Who love to dwell with Sharon's Rose
Diffuse sweet odors all around
Though low and mean themselves are found?
Dear Lord, abide with us that we
May draw our perfume from Thee.

RESERVATION OF TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the distinguished Republican leader be reserved for him.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, if I have any time I yield it to the distinguished Senator from Wisconsin.

The ACTING PRESIDENT pro tempore. The Senator from Wisconsin.

LET'S KEEP AMERICAN BANKS LEAN, MEAN, COMPETITIVE, AND NUMEROUS

Mr. PROXMIRE. Mr. President, are massive megabanks efficient? Should this Congress adopt policies to encourage the development of U.S. banks that could give our country the biggest banks in the world? Under Secretary of the Treasury Gould fervently believes so. And he is the point man for the Reagan administration in pushing the big is beautiful in banking Reagan administration policy. Is he right? Let's look at the facts. How do we measure the efficiency of banks? If you're an investor the measure is simple and sure. It is profitability. It is return on equity. Whether we measure the efficiency of a bank in Wisconsin or Georgia, in Japan or Australia profitability is the key to efficiency. Whether the bank is large or small, a money center bank or a community bank, return on equity can give you a reliable, honest measure of efficiency.

So let us apply that profitability, that return on equity standard to huge foreign banks and to small and large U.S. banks. Would that not give us some guidance to the wisdom of trying to build banks as the Japanese? It would indeed. Mr. President, the latest Fortune magazine—that is the August 3 issue reports on the 100 biggest non-U.S. banks. Fortune reports the assets, deposits, loans, net income, stockholders' equity of these 100 largest banks in the world outside of the United States. How are those huge banks doing in profitability or efficiency? Last year the average return—the median for these 100 world largest banks was a relatively poor 8.8 percent. Mr. President, U.S. banks had in every single size classification last year a sharply higher rate of return than 8.8 percent. Overall the rate of return of American banks is a solid 50-percent higher than these 100 foreign banking behemoths. And only about 10 percent of these 100 banks had a return on equity that was as high as the average American bank.

Recently, Mr. President, I pointed out on the floor that reports for American banks for 1986 showed that the least—I repeat the least profitable banks in this country are the biggest banks—the money center banks. The return on equity for the biggest U.S. banks was substantially higher than the return for the big banks outside the United States, but it was lower than small U.S. community banks and far lower than the intermediate regional banks. So whether we are considering U.S. banks or foreign banks it is clear that the most efficient banks as measured by profitability are not the massive dinosaur banks lumbering around with their hundreds or even thousands of branches and their $200 billion plus in assets but the far smaller U.S. regional banks that are less than 10 percent as large.

The Japanese do indeed today have five of the six biggest banks in the world. Why? First because they have very few banks—about one-half of 1 percent as many as the United States has: 77 in Japan; 14,000 in America. Since their economy is about 35 percent the size of ours, their far fewer banks should on the average be about 70 times the size of ours. But it is worse. The average Japanese person saves 20 percent of his income. A substantial proportion of those savings become banks deposits. They constitute the major base of bank assets. The average American over the years saves about 5 percent of his income. Last year he saved only a little more than 2 percent. Since over the years Japanese saving has been 4 times as high as ours, and since we have about 200 times more banks than Japan, we could expect Japanese banks to be more than 200 times the size of ours. And there is more. In the past couple of years the Japanese yen has soared in value compared to the dollar. Since the size of the Japanese and the American bank assets are compared in dollars, and since the Japanese banks primarily hold yen, one could expect that the Japanese would have increased their size in comparison with American banks even more in the past couple of years and they have. Japanese banks are indeed bigger. But are they more efficient? The record shows that they are not. Of the 30 biggest Japanese banks only one was clearly more profitable in 1986 than the average American bank.

Now some would argue that we should be talking not about profitability and efficiency, we should be talking about success in international competition. On that point Federal Reserve Board Chairman Paul Volcker told the Senate Banking Committee recently that American banks are "right at the cutting edge" of international banking competition. He pointed out that our banks compete with great success in the Euro-dollar market for instance. He also testified that the most aggressive and successful Japanese bank is not one of their huge banks. It is the Bank of Tokyo. How big is the Bank of Tokyo? Its assets are only one-sixth of the size of Japan's biggest bank. The Bank of Tokyo, the Japanese most vigorous and successful international competitor is smaller than a number of American banks.

Mr. President, the United States is alone, unique in the world in our large number of competing banks. We have 14,000 independent banks. Our big banks are very big—indeed they are among the biggest in the world. They are plenty big enough to trade punches with banks anywhere else in the world and win. Our 10 biggest banks do about 30 percent of the country's banking business. In virtually every other country the five or six biggest banks do 90 to 95 percent of the Nation's banking business. We have local, community ownership for most of our banks. They are more efficient than other banks in the world on the basis of the tough standard of profitability. They are at the cutting edge in international finance. Do we really want to follow the lead of Under Secretary Gould? Do we need to merge our vigorously competing, highly efficient community and regional banks into massive combines with hundreds of offices and tens of thousands of employees taking orders from a centralized headquarters in New York or San Francisco or London or Tokyo? No way.

ACID RAIN

Mr. PROXMIRE. Mr. President, yesterday the Center for Clean Air Policy released a historic report entitled, "Acid Rain: Road to a Middle Ground." This report is the result of 16 months of discussions among the diverse players in the acid rain issue including: coal companies, environmental and consumer groups, and Governors of Midwestern and Northeastern States.

As part of their deliberations, they decided to commission studies from the ICF consulting company of the cost impacts of acid rain controls on the Nation's largest privately owned utility, American Electric Power Co., and the largest publicly owned utility, the Tennessee Valley Authority. Using a least-cost model which allowed free choice of measures to meet a 10 million tons per year target in sulfur dioxide emission reductions, the participants found that this level could be achieved for a modest rate increase of under 3 percent. Even when strategies were adopted to minimize the loss of jobs in high sulfur coal producing regions, rate increases totaled no more than 9 percent. Even better, when new clean coal technologies like sorbent injection were modeled, rate increases could be kept to just 4 percent with almost no job losses.

Other high points of the report include: phased reductions in emissions with earlier reductions traded for a slight extension of the final compliance date; support for a new Federal clean coal program which speeds up the availability of new lower cost emissions control technologies; and, a cap on existing sources and stronger new source performance standards to hold down future emissions once the acid rain program is completed.

I urge my colleagues to read this study which is available from the Center for Clean Air Policy in Washington, DC, and ask unanimous consent that a fact sheet from the center, information about the center, and a list of the participating groups in the dialog be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[Factsheet]

AMERICAN ELECTRIC POWER [AEP] AND TENNESSEE VALLEY [TVA] SYSTEMS

	AEP	TVA
States served	OH, WV, IN, KY, VA, MI	KY, TN, AL, MS, NC, GA, VA
Generating capacity (megawatts).	23,400	29,700
1985 revenues (billion).	$5	$4.5
1985 SO_2 emissions (million tons).	1.8	1.2
Share of national 1985 SO_2 emissions (percent).	10	7

ELECTRIC RATE CHANGES IN 2,000 RESULTING FROM ACID RAIN REQUIREMENTS

[10 million ton SO_2 emission reduction or equivalent]

	Least cost (percent)	Local coal protection and sorbent injection (percent)
American Electric Power Co	+3.2	+4.6
Appalachian Power Co	+1.2	
Columbus and Southern	+1.3	
Indiana and Michigan	+.1	
Kentucky Power	−.4	
Ohio Power Co	+7.5	
Tennessee Valley Authority	+2.5	([1])

[1] Not applicable.

AMERICAN ELECTRIC POWER HIGH-SULFUR COAL CONSUMPTION

[In millions of tons]

	Least cost case	Local coal protection with sorbent injection
High-sulfur coal consumption in 2,000 as percent of 1985 levels	31	100

NOTES ON FACTSHEET

1. American Electric Power company has 5 subsidiary utility companies. The Tennessee Valley Authority has no subsidiary companies.

2. Under acid rain control scenarios, low sulfur coal prices are projected to increase and high sulfur coal prices are projected to decrease. Thus utility companies which are already relatively clean (and will not be required to retrofit scrubbers or significantly alter their coal use) may have electric rate decreases since the high sulfur coal they are using will fall in price.

3. Local coal protection scenario depicted here assumes sorbent injection technology will be available at costs and efficiencies currently being experienced in Europe.

4. AEP consumed 16 million tons of high sulfur coal in 1985. Their high sulfur coal consumption is projected to increase to about 18 million tons in 2000 absent acid rain control requirements.

THE CENTER FOR CLEAN AIR POLICY

In October, 1985, a group of governors headed by Tony Earl of Wisconsin and John Sununu of New Hampshire created the Center for Acid Rain and Clean Air Policy Analysis, recently renamed the Center for Clean Air Policy. The Center was established with a dual mission:

(1) to develop and analyze innovative approaches to resolving a wide range of air pollution issues and

(2) to mediate discussions between key stakeholders on major issues in the air pollution field.

It was created with a desire to inform decisionmakers of the underlying environmental and economic implications of air pollution controls with the hope of advancing the air pollution debate beyond traditionally polarizing perspectives.

CENTER BOARD OF DIRECTORS

Gov. Anthony Earl, Chairman, Wisconsin;
Gov. Thomas Kean, New Jersey;
Gov. Richard Riley, South Carolina;
Gov. Ted Schwinden, Montana;
Gov. Scott Matheson, Utah;
Dr. William Hogan, Energy and Environmental Policy Center, Harvard University;
Senator Gaylord Nelson, the Wilderness Society;
Dr. Martin Rivers,[1] Tennessee Valley Authority;
Ned Helme, Executive Director, Center for Clean Air Policy;
Governor John Sununu, Vice Chairman, New Hampshire;
Governor Rudy Perpich, Minnesota;
Governor Bruce Babbitt, Arizona;
Gov. Michael Dukakis, Massachusetts;
Dr. Anthony Cortese, Director, Tufts University Center for Environmental Management;
Leland Walker, Chairman, Northern Engineering and Testing;
Richard Schwartz, President, Boat Owners Association of the United States; and
William Laub, President and Chief Executive Officer, Southwest Gas Co.

LIST OF DIALOG PARTICIPANTS

American Council for an Energy Efficient Economy.
American Horizons, Gov. Bruce Babbitt, Chairman.
Center for Clean Air Policy.[1]
Consolidation Coal Co.
Electric Power Research Institute.
FMC, Corp.
ICF, Inc.[2]
Illinois Department of Energy and Natural Resources.
Illinois Governor James Thompson's Office.
Massachusetts Department of Environmental Quality Engineering.
Michigan Environmental Council.
Minnesota Pollution Control Agency.
Montana Governor Ted Schwinden's Office.
New Hampshire Department of Environmental Quality.
New Jersey Department of Environmental Protection.
New Jersey Governor Thomas Kean's Office.
Ohio Consumers Counsel.
Ohio Governor Richard Celeste's Office.
Ohio Public Utilities Commission.
Pennsylvania Bureau of Air Quality.
Resources for the Future.
Southwest Gas Co.
State and Territorial Air Pollution Program Administrators [STAPPA].
Stern Brothers.
Tennessee Valley Authority.
U.S. Environmental Protection Agency.[3]
Vermont Department of Environmental Conservation.
West Virginia Highlands Conservancy.
Wisconsin Department of Natural Resources.
Wisconsin Public Service Commission.

INCREASING OPPORTUNITIES FOR WOMEN IN THE MILITARY

Mr. PROXMIRE. Mr. President, in February, my distinguished colleague from Maine [Mr. COHEN] and I introduced a bill to broaden the assignment opportunities for women in the military: S. 581, the Service of Women in the Armed Forces Act. This bill would open more combat support positions to women in the military, and protect our military personnel strength in the 1990's, when the available number of young men will be decreasing.

The acceptance of military personnel, regardless of gender, into the combat support arena would be mutually rewarding for the military organization, in affording a larger—and thus higher quality—pool of candidates; and for the military person, who would be allowed to seek full and rewarding careers, without gender restriction.

There is evidence of increasing interest in this issue. Congressman DICKINSON, the ranking minority member of the House Armed Services Committee, has introduced a companion bill to my legislation, H.R. 2719. Senator DECONCINI has legislation that would permit female members of the Air Force to receive fighter pilot training.

Meanwhile our NATO allies are passing us by. They are acting. Denmark is the first NATO country to allow women in combat units. Canada has eliminated gender restrictions in all of its Air Force jobs. Canadian women are now eligible to serve as CF-18 jet fighter pilots and in tactical helicopter squadrons.

Canada has launched a militarywide study that allows women to serve in any capacity for which they qualify. This study is targeted for 4 years' duration, with the objective to determine if readiness will be affected. The elimination of gender restriction in the Canadian Air Force is the first milestone in the Canadian implementation of this study.

If our NATO allies have determined that there are strong military and economic reasons to increase the role of women in their military forces, then the United States should do likewise. Women can contribute more to our national security, if given the chance.

Mr. President, I ask unanimous consent that this news article from the European Stars and Stripes of July 13, 1987, be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

CANADA TO TEST WOMEN IN COMBAT JOBS

(By Joseph Owen)

LAHR, GERMANY.—Discarding part of a plan to test women in combat jobs previously reserved for men, Canada has eliminated gender restrictions in all of its air force jobs.

"Henceforth, male and female air force personnel will be equally eligible for employment throughout the air community," National Defense Minister Perrin Beatty said in a message to Canadian Forces Europe officials this month.

Beatty said the forces may have to delay combat-related employment trials for women in army jobs, however, because too few female recruits and women already serving in the military have volunteered to participate in them. The forces expect navy trials of women in combat jobs to occur on schedule. The navy experiment calls for staffing a destroyer with a crew of which 25 percent will be women, and evaluating the results over a two-year period beginning in the fall of 1989.

Women make up about 9 percent of Canadian Forces personnel, and about 18 percent of Canadian reservists. Before the air force decision, women were eligible to work in 75 percent of the forces' occupations, compared with 19 percent in 1971.

The air force decision will affect Canada's Lahr and Baden-Soellingen bases immediately, at least on paper, because it makes women eligible to serve as CF-18 jet fighter pilots and in tactical helicopter squadrons. Canadian army units in Germany should see no change for at least a few years, however. The army combat trials are scheduled to take place in Canada.

The experimental combat programs have made no big waves at CFE bases, forces spokesmen said.

Beatty announced the creation of the Combat-Related Employment of Women (CREW) Trials Office in February, according to another Department of National Defense message to CFE officials.

"The fundamental principle involved here is that every Canadian citizen has equal rights and responsibilities when it comes to the defense of this country," Beatty said in a speech to the University of Toronto Law School faculty. Because of the ambiguous nature of modern combat, he said, women who serve in units supporting front-line troops are actually in combat jobs already.

Beatty said the forces are drafting gender-free physical standards for each military occupation to be studied in the trials, and his department will make no changes that put the forces' operational effectiveness at undue risk.

The Trials Office director, Brig. Gen. Lewis W. MacKenzie, said the forces are having a much harder time finding the 300 women needed for the army trials than the 60 women for the navy trials.

"The reason is probably because in the navy trials, women won't have to change their occupational specialties in most cases," MacKenzie said. "If they're a clerk in the navy, they can be a clerk on the ship. But in the army, this entails changing occupations. A clerk will have to retrain as an infanteer, or in the armor corps, or whatever.

"The applicants for the navy trials will take their basic training and occupational training in early 1988 and will graduate in the fall of 1988," he said.

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[1] Affiliate member.

[1] Mediated and coordinated dialog; oversaw AEP and TVA studies.

[2] Conducted AEP and TVA studies and provided technical support.

[3] Participated as technical advisors.

Note—Several other organizations participated during various stages of the project.

The forces have considered integration of the sexes to be trickiest in the navy because of crowded living conditions and the lack of facilities for women on some vessels, particularly on Canada's three diesel-electric submarines. Those structural obstacles may disappear, however, in the wake of a major defense policy "white paper" that the Progressive Conservative government released June 5. The policy calls for creating a three-ocean Canadian navy, partly through building six new frigates and buying 10 to 12 nuclear-powered submarines.

During a recent visit to Canadian Forces Base Baden-Soellingen, Associate National Defense Minister Paul W. Dick acknowledged the limitations of Canada's current vessels, some of which are 30 years old.

"We just can't find a place to put women's washrooms in our submarines," he said, but he added, "We're not going to be designing a whole new submarine. We're going to be taking what other countries can offer us."

In Canadian press reports, unnamed military leaders have accused the defense ministry of taking a myopic view of army problems in setting up the mixed-gender combat trials. One senior officer quoted in the Toronto Star newspaper said that tanks and armored personnel carriers are like "little sumbarines."

"And they overflow with people. Up in the high arctic, on our exercise Lightning Strike, the basic infantry unit is a section of 10 men. They all cram into one tent and do everything in it. The conditions are just as onerous as in a submarine."

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business, not to extend beyond the hour of 10 a.m., with Senators permitted to speak therein.

The Chair, in his capacity as a Senator from Vermont, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NUNN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. NUNN. Mr. President, is the Senate in morning business?

The ACTING PRESIDENT pro tempore. The Senate is in morning business not to extend beyond 10 a.m.

Mr. NUNN. Is there an order, Mr. President, recognizing the Senator from Georgia and the Senator from Virginia?

The ACTING PRESIDENT pro tempore. There are no specific orders. Senators are permitted to speak upon recognition until 10 a.m.

Mr. NUNN. I thank the Chair.

(Mr. SHELBY assumed the Chair.)

MILITARY PROMOTIONS

Mr. NUNN. Mr. President, the Committee on Armed Services is favorably reporting to the Senate today the nominations of eight Marine Corps brigadier generals for promotion to the grade of major general. The 8 nominees are from a list of 10 nominees submitted by the President in January of this year. I want to take a few minutes this morning to give my colleagues a brief summary of the background and the reasons for the committee's action because it is important to the Senate's consideration of the nominations. The full details are provided in the committee report that Senator WARNER and I are today filing with the nominations. My summary is taken from that 14-page report.

Shortly after the committee received the nominations on January 12, 1987, I was informed of alleged irregularities with respect to the selection process that resulted in the nominations of the 10 officers. These irregularities involved allegations that the then Secretary of the Navy, John Lehman, and the then Commandant of the Marine Corps, Gen. Paul X. Kelley, improperly influenced the outcome of the board. I conferred with Senator WARNER, the ranking minority member of the committee—and also, I might add, a previous Secretary of the Navy who has had considerable experience in these matters—and we decided to have the committee staff determine if sufficient grounds existed to support further inquiry into the allegations. That staff review found sufficient grounds for further inquiry. After conferring further with Senator WARNER and the chairman and ranking minority member of the Subcommittee on Manpower and Personnel, Senator GLENN and Senator WILSON, we met as a group with the Assistant Secretary of Defense for Force Management and Personnel to request that the Secretary of Defense investigate and report to us on this matter.

As a result of our request, the Secretary of Defense directed the General Counsel of the Department of Defense to conduct an inquiry. The report of that inquiry was provided to the committee by the Secretary of Defense on May 6, 1987, along with his recommendations and a statement of the action he had taken to prevent recurrence of a similar situation. Upon receipt of the report of inquiry, Senator WARNER and I directed the committee staff to evaluate and report to the committee the legal and policy issues addressed in the report of inquiry. The committee met in executive session on June 19, 1987, to receive a staff briefing of the evaluation. The committee met five more times, all in executive session, to discuss this sensitive personnel matter.

After carefully weighing all of the facts and circumstances presented in the report of inquiry and analyzing the legal and policy issues related to this matter, the committee decided to take the action it is reporting today.

The facts considered by the committee concerned alleged actions by the then Secretary of the Navy, John Lehman, and the then Commandant of the Marine Corps, Gen. Paul X. Kelley, to improperly influence the outcome of the Marine Corps major general promotion selection board that was conducted in October 1986.

Specifically, the allegations involved claims that former Secretary Lehman, with concurrence of former Commandant Kelley, improperly amended instructions to the promotion selection board after it had acted and reported eight selectees under its original instructions. The amended instructions authorized two additional selections for promotion. It was alleged that former Secretary Lehman's purpose in amending the instructions was to obtain the selection by that board of a certain individual. It was further alleged that former Commandant Kelley thereafter suggested to the president of the board that another certain individual be selected to fill one of those additional authorizations.

Mr. President, I will try to frame these allegations in the context of a brief chronology of the key events and circumstances in this case, so that my colleagues can place the committee's decision in perspective.

The promotion selection board in question was initially convened on October 27, 1986, by former Secretary Lehman and given written instructions to select no more than eight officers for promotion to major general. The board complied with the instructions and reported its compliance in writing to former Secretary Lehman.

During verbal debriefing of the board's report by the president of the board, former Commandant Kelley expressed his disappointment that a particular officer was not selected. However, he sent forward the board's report recommending approval.

In his debriefing with former Secretary Lehman, the president of the board synopsized the consideration given each officer being considered. He provided slightly greater detail on two officers about whom the former Secretary of the Navy had expressed an earlier interest but who were not selected. The Secretary's interest had been made known to the president of the board before the initial convening of the board during a preconvening call he had had with the former Secretary of the Navy. This communication had no apparent effect on the initial results since neither officer was selected. In the debriefing, the president of the board indicated that one of the two officers, an aviator, had been very competitive during the board's deliberations. Former Secretary Lehman then asked if the competitive aviator would be selected if he were to authorize an additional selection and specify that the selectee must be an aviator. The president of the board replied:

> That in his judgment, the board would select the aviator that the Secretary had previously mentioned.

The Secretary of the Navy did not approve the board report but indicated that he would speak to the Commandant of the Marine Corps before taking any action. Quoting now directly from the committee report:

> The Secretary has indicated that at the time he received the report he was concerned that only two of the eight officers selected were aviators, while he believed, correctly, that historically approximately one-third of the Marine Corps officers recommended for promotion to major general were aviators. Thus he said he formed an opinion that at least one additional aviation officer was needed. The Secretary of the Navy then telephoned the Commandant, who was in New York, and discussed his suggestion to amend his precept to add an authorization for an aviator. The Secretary of the Navy and the Commandant disagree on the reaction of the Commandant to the telephonic suggestion. The Secretary recalled that the Commandant did not attempt to dissuade him, indicated the Commandant thought it was "a good idea," and suggested that the Secretary add two rather than one more authorization. The Commandant, however, recalled that he first attempted to dissuade the Secretary but later relented when the Secretary persisted. He then suggested that two authorizations instead of one be added to give the board more flexibility and to take the focus off the one aviator, whom he felt would otherwise be marked by the Secretary's action.

Subsequently, former Secretary Lehman sent written instructions to the board authorizing it to make two additional selections, one of which could only be used to select an aviator. In his amended precept, the former Secretary of the Navy cited additional requirements to assign Marine Corps general officers to joint billets and the need for at least 3 of the 10 selectees to be aviators. After intense, heated discussions on the legality and propriety of further proceedings under the amended instructions, the board proceeded to review the records of the officers who were not selected under the initial precept. The board eventually selected two officers and reported the results in writing to the former Secretary of the Navy who approved the amended board results. The two officers who were selected were the ones preferred by former Secretary Lehman and the former Commandant. It is relevant to note here that the officer preferred by the former Commandant superseded another officer of the same skill who was more competitive in the first round of proceedings.

Based on these facts and circumstances, which I have presented in very abbeviated form, the committee concluded that the proceedings under the original instruction which resulted in the selection of eight officers was legal and proper and that the nominations of these eight officers should be confirmed.

With respect to the amended proceeding which resulted in the addition of two officers to the selection list, the committee concluded that the facts and circumstances considered in totality constituted considerable evidence of impropriety and unfairness.

The committee concluded that the process itself was flawed and therefore the committee has taken no action with respect to the two nominees recommended as a result of this process.

In it's deliberations, the committee was keenly aware of the personal considerations for these two officers, and the committee remains concerned about their future in the Marine Corps. This consideration was carefully weighed against the committee's paramount responsibility for ensuring the integrity of a selection system that provides all officers with a fair opportunity to be selected on merit. The committee took seriously the potential effect that approval of the two additional officers, who were selected under a flawed process, would have had on other officers who were competing but were not selected and to whom the committee owes an equal responsibility.

I must add here that there is no evidence or even suggestion that either of the nominees whom the committee decided not to consider had any knowledge of or participation in the improprieties surrounding their selection. To the best of the committee's determination, they were not involved in this at all but they were selected under a flawed process.

If an officer's selection is influenced by actions or oral communications of senior officials occurring outside of the authorized selection board process, then other officers under consideration, who must rely only on the authorized board process, are denied a fair and equitable opportunity to be selected.

I would include my remarks this morning by saying that this matter involves a very important responsibility for the Senate. The men and women in uniform in this country, who serve our Nation so well at such sacrifice to themselves and their families, look first and foremost to their leaders in uniform and their leaders in the Pentagon, but ultimately to the U.S. Senate, in our confirmation role, to keep the promotion system fair and free from manipulation. The integrity of the promotion process is a very sacred trust. What we had in this case was a situation where the leaders, in whom this trust was placed, violated that trust. It therefore fell on our shoulders to restore the integrity of the promotion process through our role in the confirmation process which is also a very sacred trust.

All of the members of the committee are troubled by the effect of the committee's action on the two officers who are innocent victims of the errors of their leaders. We have attempted to protect these two individuals by writing to the President and to the Secretary of the Navy urging that appropriate material be placed in the files of these two officers to ensure their future consideration will not be tainted by this action. However, it remains our primary responsibility to uphold the integrity of the selection process in the eyes of those who look to us to fulfill our important confirmation responsibility under the Constitution. I believe the action of the committee meets that test.

I want to express my appreciation to my colleague and friend from Virginia, Senator WARNER, and all the members of our committee—one of whom, Senator SHELBY of Alabama, is in the Presiding Officer's chair at this time—for their attention to and participation in the committee decisionmaking process.

I want to also express my appreciation to Secretary Weinberger, and in particular to the general counsel of the Department of Defense, Larry Garrett, for their cooperation with the committee in this sensitive and important matter.

Finally, I urge my colleagues to read the committee report, since the Senate will hopefully take up the nominations reported prior to the recess. Because of the importance of this, I believe that every Member of the Senate should read the report.

Mr. President, I yield to my colleague and friend from Virginia, who has been a pillar of strength and wisdom in this sensitive matter. I have looked to him for guidance, for advice, and for the benefit of his wisdom and experience as a former Secretary of the Navy as well as his service in the Senate.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I thank my distinguished colleague, the chairman of this committee.

Mr. President, through his leadership, the members of the committee have reached their conclusion, one that we find most difficult but, nevertheless, one on which the committee spent many, many hours of hard and intensive work.

I think the chairman and all members of the committee can take justifiable pride in the diligence and confidentiality with which they handled this case.

This is a unique case, Mr. President. Under the law adopted in 1980, this is a case of first impression.

If you go back in the records of the Armed Services Committee of the Senate for some 40 years, we find that only as a rare exception has the

Armed Services Committee had to come before the Senate and report a decision such as this.

Mr. President, under the Constitution, this body is entrusted to make very, very special decisions. I shall read from article II, section 2:

The President—

> * * * shall have Power, by and with the Advice and Consent of the Senate, to make Treaties, provided two-thirds of the Senators present concur; and he shall nominate, and by and with the Advice and Consent of the Senate, shall appoint Ambassadors, other public Ministers and Consuls, Judges of the Supreme Court, and all other Officers of the United States, * * *

That confers upon this body a special trust. And through the years—I have now served eight on the Armed Services Committee, and prior to that, over 5 years in the Pentagon—I have observed this process. I wish to make it clear that in my judgment an officer of the Armed Forces of the United States is every bit as important as a Federal judge or an Ambassador. This body should take no less time or consideration on behalf of the selection of an officer, especially flag officers, of the U.S. Armed Forces than we do in other cases recited in the Constitution.

Through the years, a practice has evolved in the Senate, a practice whereby we receive from the President the nominations, the Armed Services Committee reviews those nominations and then makes a recommendation to the Senate.

As I have said, this process has worked and worked well for many years. Only with rare exceptions has the committee had to recommend that the Senate not act favorably on a military officer nominated for promotion by a President of the United States.

But in this case, there is ample ground, as recited by the distinguished chairman, for the unique and perhaps historic action that we are now about to recommend as a committee to the Senate as a whole.

We take that action after very careful deliberation and a finding by the majority of the members of this committee that there is sufficient evidence to support this action. But I return again to the practice we have followed through the many years whereby the recommendation of the chairman and the members of the Armed Services Committee has been sufficient regarding military nomination and the Senate has accepted that. That is one of the reasons that this committee went so deeply into this case, because the other Members of this body repose in our committee the responsibility to evaluate the process and the nominees. We do not, except in unusual circumstance, or in connection with four-star and three-star officers, take testimony on military nominations. We trust the process that selects those nominees. Under that process, officers of a service are designated by the Secretary and concurred in by the chief of the service to sit as trustees in judgment of their fellow officers, and to select officers for promotion under rules of fairness and impartiality.

As Secretary I supervised and observed the operations of this process for many years and to the extent I could without compromising the facts of this case, I consulted with other Secretaries of Navy as to their recollections of how the process must work. They concurred in my recollections.

It is quite clear to this Senator, and I conveyed this to my colleagues on the committee, that there is ample reason for the committee and the Senate to repose in the process of selection boards a full measure of confidence. Except in limited cases, like the confirmation of a chief of service or a CINC, there is no need for independent hearings on the nominations forwarded by the President. The system has worked and worked well for many years. It will continue to work especially under the new guidance given by the Secretary of Defense in the light of this case.

This case was brought to our attention by retired individuals. Senior officer of the corps are trustees of the traditions and the honor of the Marine Corps. They felt so strongly that they came to the Senate, as a court of last resort, a court of appeals, to see if we would not de novo, as we say under the law, look at this case. To determine whether it was our judgment that these selections were made in accordance with law and tradition, and most importantly, in a sense of fairness. I say a sense of fairness because as the chairman pointed out, our military men and women who dedicate their careers and are often called upon to risk their lives in the service of our country, are entitled to a promotion system that is fair and objective. That's all they ask, their families ask, in return for their dedication to public service.

The chairman had the option, when this information first came to his attention, to hold committee hearings. My recommendation was to allow the Department of Defense to investigate the matter first, then, following our examination of their findings, the Armed Services Committee would still have the option of conducting our own independent examination, if necessary.

I commend my chairman for accepting that recommendation and not starting a series of independent hearings because, had we started those hearings, I question whether the full story we now have would have ever come out.

The Secretary of Defense took this initiative and conducted an inquiry. We stress today that our findings are predicated solely on the facts as developed by the Secretary of Defense and we reach our conclusion on that body of fact and the law.

Mr. President, shortly after the information came to the chairman and me, we involved the chairman of the Subcommittee on Manpower, as well as the ranking member of that subcommittee, so there were four of us who provided the leadership. Coincidentally of those four, three were privileged during their lifetime to wear the uniform of the U.S. Marine Corps.

I wish to say to all marines who will study this case that the three of us had foremost in our minds at all times the history, the traditions, and the honor of the corps and that weighed heavily as we participated with the committee in making this difficult decision.

Mr. President, I see other members of the committee desiring to be recognized. I may rise again and seek recognition.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Mr. President, I would like to extend my appreciation to our distinguished chairman and the ranking minority member on the committee for their very dedicated efforts on this issue, and I would like, speaking as a person who was involved for quite a number of years in the military and has a deep and long relationship with selection boards, to elaborate a little bit so that my colleagues will know that this issue was a very difficult and divisive one.

I see my colleague from Illinois, Senator DIXON, who I believe will also have some remarks on this issue.

There is nothing more important to the morale of the officer corps in the military than the sanctity and integrity of selection boards. If there appears to be manipulation or unethical behavior, or improper orders given to those boards by anyone—including the service Secretaries—it can cause enormous and long-lasting damage to the morale of the officer corps.

In this case the committee has concluded this selection board was unfairly and improperly interfered with by the Secretary of the Navy and the former Commandant of the Marine Corps. I do not share that view. In fact, I think our colleagues should know that in our committee on a proposal by my colleague from Illinois that all 10 of these nominees be selected there was a 10-10 tie. So this committee was by no means unanimous in their opinions as to the proper disposition of all 10 of the nominees.

Mr. President, the Secretary of the Navy as is his proper role as any service Secretary has substantial authority over the military. This is one of the basic precepts of the way our Government operates.

As part of the responsibilities of civilian leadership the service Secretary has not only the right but also an obligation to provide certain instructions to a selection board, usually in a broad and general fashion, as to what type of officer should be selected, consistent with the best interests of the service. This has been a standard procedure ever since selection boards were first convened.

The question before the committee was simply: Did the Secretary of the Navy and the Commandant of the Marine Corps act improperly with regard to this particular selection board?

Part of this question, in my opinion, hinged around whether there was indeed a changed requirement for two additional major generals in the Marine Corps beyond the eight that were originally authorized.

At the initial convening of the board, the selection of eight major generals was authorized. Later, after the board had reported out, the Secretary of the Navy determined there was a requirement for two additional major generals in the Marine Corps. It has been made clear in testimony before the committee that at least one of those major generals would have been selected anyway had there been an additional requirement. According to the regulations, which were reviewed during the hearings, the Secretary of the Navy does have the responsibility to set the numbers that a selection board should select for promotion.

I do not think there is any doubt that there is a cloud of suspicion and there is indeed a great deal of controversy which may never be resolved about what actually took place. But I have great concerns about a statement, which appears as a conclusion of the committee report, that "the facts and circumstances, considered in totality, constituted considerable evidence of impropriety and unfairness." I believe that there were certainly allegations of such, but I think it is not clear, at least to this member of the committee, that that was indeed the case. I would look forward to hearing from my colleague from Illinois on that.

Mr. DIXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. BYRD. Mr. President, will the Senator yield to me?

Mr. DIXON. I yield to the majority leader, of course, Mr. President.

Mr. BYRD. I thank my distinguished friend.

ORDER EXTENDING MORNING BUSINESS UNTIL 10:15 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the period for morning business be extended until 10:15 a.m. and that the same restrictions that were ordered heretofore be in effect.

The PRESIDING OFFICER. Without objection, it is so ordered

Mr. DIXON. Mr. President, I thank the distinguished majority leader for giving us the additional time. My remarks may take 8 or 10 minutes.

Mr. President, may I say, first, that I see the chairman of the Armed Services Committee and the ranking member on the floor. At the very outset of my remarks, I would like to say that I know I express the opinion of the entire committee when I say that there are no two Members of the U.S. Senate, now or ever in its history, who have a reputation for fairness in their dealings with their colleagues that excel that of the distinguished chairman of the committee and that of the ranking member.

In the discussions that were held about this entire controversy which took a long period of time and a great many hearings of the committee, I want to make it clear that every one of us who disagreed with this final conclusion, that we discuss here this morning, felt that the chairman and the ranking member were exceedingly considerate of our point of view. All of this was fully discussed in the committee.

I think it is only fair to state, though, Mr. President—and the Senator in the chair was privy to all of these proceedings and attended all of those meetings—that there were substantial differences of opinion in the committee as to the ultimate result that should be taken in this case.

The committee is composed of 11 Democrats and 9 Republicans. Ten of us, half of the committee, felt that the two brigadier generals, who were not promoted as a consequence of the report of this committee that deserved promotion. So it was an even division, 10 to 10, on whether we ought to report 10 persons or only 8.

Now there is some difference of opinion among the 10 Senators who supported reporting all 10 about the process by which ultimately 10 were recommended for promotion. This Senator from Illinois happens to feel that there was considerable question about the second precept and the second meeting of the board and some of the things done by the Secretary of the Navy and the Commandant of the Marine Corps.

But I think as a lawyer I must say that it is not my opinion that the second precept and the second board hearing was illegal. As a consequence of that, I believe that there is reason to promote the additional two brigadier generals.

I would like to go through the history of what happened very briefly to explain how I have come to my conclusion.

As has been stated by the chairman and the ranking member, the original precept called for promoting eight brigadier generals to major general. There is not any question about the propriety of that and the activity of the board. When that result was brought to the Secretary of the Navy, there were only two aviators among the eight. Historically, the experience has been that usually a third of those promoted were aviators, and the Secretary expressed concern about that. I think it is clear that he may have had a favorite among those who were not promoted.

The Commandant and the Secretary had a discussion, a second precept was issued, and thus a second board met.

I want to comment about this point. Some of the comments by staff for the committee originally indicated that they felt it was illegal for the second precept to issue and for the board to meet a second time. The fact is, and I think this should be clearly noted, that since 1980 there have been six occasions, when a second precept was issued and a second board met. So I believe there is considerable historical precedent, which appeals to my sense of fairness as a lawyer, for a second precept and a second meeting of the board.

Now, this is a point I want to stress. I want to urge my colleagues to read this report, Mr. President, and particularly to read page 15 of the report on the conclusions of the committee. I would like to read it into the RECORD.

> The committee wishes to make it very clear that there is no evidence or even suggestion—

I underline "or even suggestion"—

> that either of the nominees whom the committee decided not to consider had any knowledge of or participation in the improprieties surrounding their selection.
>
> Accordingly, the committee is forwarding letters to the Department of the Navy for insertion of the official records of these nominees stating the express concerns of the members of the committee over the undue personal hardships thrust upon these nominees and their families and that future selection boards should view the action the Senate is compelled to take with respect to their promotions as being in no way detrimental to consideration for future selection.

I hope my colleagues in the Senate clearly understand what this states. It clearly says that the two brigadier generals, with an exemplary lifetime service in the Marine Corps, highly decorated veterans with combat experience, serving the people of this United States of America are absolutely innocent of anything that may have occurred.

Mr. President, you attended those committee hearings. I cannot read from the record. It is committee sensitive.

I have made inquiries to make sure how much I can say, because these things are delicate. But I understand that while I cannot read from the record I may represent generally what occurred in the committee.

I want to make it clear that this Senator from Illinois said in the committee, on the basis of everything he had heard and understood the facts to be, that the issuance of the second precept and the activity of the second board was in accordance with what has happened on at least six separate occasions in the past in the last 6 years. In addition, the two brigadier generals constituting the additional 2 in the 10 recommended for promotion, were entirely innocent.

Under those circumstances I made a motion that we make sure that this kind of thing never happens again. I asked that in view of the exemplary lifetime military records of these two brigadier generals, who were absolutely innocent and absolutely unknowing of anything that occurred, that we would treat the second precept and the second board meeting as being clothed in legality on the basis of a historical precedent. I asked that we promote these two brigadier generals.

I want my colleagues in the Senate to know this. On my motion to promote the additional two brigadier generals the committee of 20 U.S. Senators, 11 Democrats and 9 Republicans, divided evenly 10 to 10 on the question of promoting these two brigadier generals.

They lost that star on a tie vote in the committee.

Please understand this Senator is not here to protect John Lehman. I have had many differences with John Lehman when he was Secretary of the Navy, and differ with that man now with respect to the issuance of the call for the second precept. I think what the Commandant of the Marine Corps did was largely locker room discussion and not of any great moment. I do not condone that.

I think we have taken the necessary steps to correct this problem and see that it will not occur in the future. But I do believe that these two innocent, distinguished members of the Marine Corps, who have served a lifetime of Marine Corps service with valor and distinction, should not have been denied the promotions that in my view they richly deserved.

We voted to recommend the eight that were clearly entitled to recommendation under the original precept. We voted to clothe the Chair and the ranking member with the authority to go to the Secretary of Defense and talk about the other two. I believe it was implicit that it would be suggested to the President of the United States that he ought to promote these two contemporaneously, so they stood in the same line with the other eight.

The Secretary of Defense in his own judgment of it said the second precept and the second board were valid and they already recommended promotion and we should follow that.

And so there was a disagreement between the Secretary of Defense and the committee, and as a result those other two have not been promoted.

But I want to say for the record, Mr. President, that the Chair was fair. There is an honest misunderstanding here. The President of the United States, the Secretary of Defense, the Marine Corps lines of command and everybody ought to take into consideration these two innocent brigadier generals, and at the earliest possible convenient moment, they should be promoted now.

In conclusion, I call upon the President, I call upon the Secretary of Defense, I call upon the Commandant of the Marine Corps to, at the earliest convenient moment, take the necessary legal steps to promote the other two brigadier generals who were not promoted under this recommendation from the committee. I thank my colleagues, the chairman and the ranking member on the committee, for all of their courtesies throughout this controversy and I yield the floor, Mr. President.

AMENDMENT TO THE NATIONAL HEALTH SERVICE CORPS RESTORATION BILL

Mr. METZENBAUM. Mr. President, yesterday I offered an amendment with Senator KENNEDY on the National Health Service Corps restoration bill. The purpose of the amendment is to get family physicians into urban areas to deal with problems like infant mortality, drug and alcohol abuse, maternal and child health care, and other problems which are so prevalent in our cities.

In Cleveland we have a crisis. Three family physicians are being reassigned—Drs. Reininga, Fitzpatrick, and Lay. Cleveland needs these family physicians, but the bureaucracy does not place a priority on the needs of cities. My amendment addresses this problem.

Mr. President, I hope that when it comes to meeting the health needs and health care of those most in need that we will help those who live in the cities as well as those who live in rural areas.

MISSING IN ACTION NEGOTIATIONS

Mr. McCAIN. Mr. President, I will be asking unanimous consent to be held at the desk a resolution which I am hoping will be voted on on Tuesday. Mr. President, this resolution is one which will be expressing the support of the Congress of the United States to General Vessey as he proceeds to Hanoi on Tuesday in an effort to resolve the terrible and enduring issue which has plagued this Nation for so many years, and that is the issue of those men who are still listed as missing in action.

General Vessey, appointed by the President, is perhaps the highest level person to address this issue, to go to Hanoi to meet with the North Vietnamese and to try and resolve this and other humanitarian issues.

I am pleased to be joined in this resolution by my distinguished colleague from Georgia, Senator NUNN, Senator DECONCINI, and others. At the time of the vote on Tuesday, if this body agrees to my unanimous-consent request, I will elaborate more on this resolution, its intent, and my belief that this body and this Congress share its commitment to those who are still listed as missing in action in Southeast Asia.

Mr. NUNN. Will the Senator yield to that point?

Mr. McCAIN. I am pleased to yield.

Mr. NUNN. Mr. President, I will take just a moment, but I want to commend the Senator on that resolution. I am proud to be a cosponsor of it.

The Senator has been a prisoner. The Senator understands the plight of the families that still do not know what happened to the missing in action. It is an extremely important resolution. General Vessey's mission is very important.

The resolution has been, I believe, worded very, very carefully and very skillfully by the Senator. So I commend him on his resolution, and I urge our colleagues to give it serious consideration.

Mr. McCAIN. I appreciate the kind remarks of the distinguished chairman who has been involved in this issue for many, many years. He has met with great frequency with the families of those who are missing. He has kept this issue before the Armed Services Committee and this body and I am very grateful for his support on this effort.

Mr. President, I ask unanimous consent that this resolution be held at the desk.

The PRESIDING OFFICER. Is there objection?

Hearing no objection, it is so ordered.

The text of the resolution follows:

Whereas fourteen years have passed since the last American combat troops left Southeast Asia, and twelve years have passed since the end of the war in Vietnam;

Whereas 2,413 Americans missing in action during our involvement in Southeast Asia remain unaccounted for:

Whereas President Reagan has repeatedly stated that the fullest possible accounting of those Americans missing in action in Southeast Asia is "a matter of the highest national priority";

Whereas the President, the Congress and the American people stand united in supporting continued efforts to account for

Americans still missing in action in Southeast Asia;

Whereas other humanitarian issues affecting the people of the United States and Vietnam remain unresolved, including the resettlement of Amerasians still in Vietnam, the release of political prisoners in Vietnamese reeducation camps, the rejuvenation of emigration procedures for Vietnamese who wish to leave their country through the orderly departure program;

Whereas the aforementioned humanitarian issues have caused great hardship to the peoples of both the United States and Vietnam, and it is in the interest of both countries that they be fully and quickly resolved;

Whereas in February, 1987, President Reagan appointed retired General John Vessey, former Chairman of the Joint Chiefs of Staff, as Special Presidential Emissary for POW/MIA affairs;

Whereas General Vessey will, in the near future, travel to Hanoi to discuss with officials of Vietnam humanitarian issues of concern to both countries: Now, therefore, be it

Resolved by the Senate, That the Congress—

(1) expresses its full and undivided support for General Vessey in his forthcoming negotiations to determine the fate of those Americans missing in action in Southeast Asia, to facilitate the return of the recoverable remains of those missing in action, and to discuss the remaining humanitarian issues affecting both nations.

(2) calls on Vietnam to respond positively to the aforementioned concerns of the American people in a humanitarian context.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, we just cannot go on all morning on morning business, but I see there are two other speakers. I ask unanimous consent that Mr. WEICKER may have 10 minutes, Mr. REID may have 6 minutes and then that morning business be closed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent to proceed for 1 minute so that the time not be taken out of either Senator's time.

The PRESIDING OFFICER. Without objection, it is so ordered. The majority leader.

Mr. BYRD. Mr. President, I understand the acting Republican leader is here.

TIME LIMITATION AGREEMENT

Mr. BYRD. Mr. President, I ask unanimous consent that the majority leader, after consultation with the Republican leader, proceed to the consideration of Senate Resolution 255, a resolution dealing with MIA negotiations with Vietnam; provide further that there be a time limitation on the resolution of 20 minutes to be equally divided between Mr. MCCAIN and Mr. PELL or their designees; that there be no amendments in order to the resolution, that no motions to recommit with instructions be in order, and that is it.

The PRESIDING OFFICER. Is there objection?

Mr. WEICKER. Reserving the right to object, if I might just consult with the majority leader.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

UNANIMOUS-CONSENT AGREEMENT—SENATE RESOLUTION 255

Mr. BYRD. Mr. President, I have been authorized by the distinguished Republican leader to ask unanimous consent that on Tuesday, July 28, at 9:40 a.m., the Senate turn to the consideration of Senate Resolution 255 a resolution dealing with the MIA negotiations with Vietnam.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent, and this is with the concurrence of the Republican leader and the acting Republican leader [Mr. WEICKER], who is on the floor, that at 10 a.m., Tuesday, July 28, the Senate proceed to vote on the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that it be in order at this time to order the yeas and nays on passage of the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask for the yeas and nays on passage of the resolution.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. BYRD. Mr. President, I thank all Senators and I thank the distinguished Senator from Connecticut, the acting Republican leader.

Mr. President, I ask unanimous consent that if either Mr. REID or Mr. WEICKER need an additional 4 or 5 minutes they may have it under morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Connecticut is recognized.

Mr. WEICKER. Mr. President, I thank the majority leader for his consideration in granting time for several of us to speak.

(The remarks of Mr. WEICKER are located in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

RECESS

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess for 10 minutes.

There being no objection, the Senate, at 10:28 a.m., recessed until 10:39 a.m., whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. KERRY).

DEBT LIMIT EXTENSION

Mr. BYRD. Mr. President, under the order at this time the Senate is to resume consideration of the debt limit extension measure. The parties who are the principal managers and those most involved at this point in that matter are not prepared to come to the floor.

We saw on yesterday the amendment by Mr. CHILES go down. We saw on yesterday the amendment by Mr. DOMENICI go down indirectly because 60 votes could not be produced to waive the provisions of the Budget Act. So, we have to go back to the drawing board.

I do not want to bring up the debt limit extension and have it here as a target for all kinds of crapshooting amendments that would unnecessarily tie down the manager, Mr. CHILES, and Mr. DOMENICI, the ranking manager. They need to be off negotiating, working at the table, attempting to come to some compromise and accommodation, rather than be here battling against all types of amendments. It is hard to say what we might get; we could get foreign policy amendments, arms control amendments, you name it, and it could be offered.

What we need is to get on with that bill. The deadline is fast approaching. It is my understanding come Wednesday midnight or it may be Tuesday midnight, this Government can no longer meet its obligations and the checks to the Social Security recipients and veterans are not going to go out.

So the main matter of greatest importance right now before this Senate is the debt limit extension. It still has to go to the House. It has to go to conference. So we are not out of the woods even when we pass the measure in this body.

All of these ancillary and extraneous and sideshow issues ought not to come up on this bill. We need to deal with the main thrust. We are attempting to develop some trigger mechanism in the light of the Court decision. We are trying to come up with some approach that will get around the constitutional problem.

But while we are waiting, I also do not want to keep the Senate in recess or keep it in quorum calls. It seems to me we can be doing something and making good use of the Senate's time.

I have discussed with the distinguished Republican leader the possibility of getting up the Department of Defense authorization bill, and he is working at this time with his colleagues on his side in the effort to let us bring up the DOD bill. We are not asking that we go to cloture on it, certainly not at this time. I think if we can get it up, I would hope that we could work our way through that bill, take a few days and have it disposed of before the August recess. That is what the Republican leader is attempting to do now, get the consent of Members on his side. Mr. WARNER, who is the ranking member, is very supportive of getting the bill up. Mr. NUNN, the chairman, is supportive of getting it up. Hopefully, we will be able to get up the DOD bill. If we can do that, then from time to time perhaps time agreements can be reached in relation to amendments thereto.

We have the time between now and the August recess to dispose of both the DOD authorization bill and the debt limit extension.

I say all of this to explain to the audience that is watching and to explain to the press and to explain to Senators what the situation is.

Hopefully, within a short time we will be able to take up the DOD bill. Of course, that will require unanimous consent. Any Senator can block it. But we need to be getting on with that bill and it will take some time. There is not going to be any effort to rush it through, or immediately throw a cloture motion on it, or vote on a cloture motion on it next Tuesday.

I think with some time we can dispose of the amendments that will be offered on that bill.

But we could be utilizing our time today in a very good way if we can get that bill up, and I hope that Senators will allow the Republican leader to give his consent and, of course, he has his problems. He cannot force another Senator to give consent. I cannot do the same on my side.

But that is where we are and with that explanation, unless the distinguished Senator from South Carolina wishes to address the Senate on some matter, I will put the Senate into recess.

SENATE RESOLUTION 255

DESIGNATING TIME FOR VOTE

Mr. BYRD. Mr. President, I ask unanimous consent that the vote on Senate Resolution 255, which was earlier ordered for Tuesday at the hour of 10 o'clock a.m., occur no later than 10 o'clock a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate simple resolution submitted by Mr. McCAIN be placed directly on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEBT LIMIT EXTENSION

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. HOLLINGS. I thank the distinguished majority leader and the Chair.

I wholeheartedly endorse the distinguished majority leader's appeal that we come together on a constructive compromise that restores a strong Gramm-Rudman-Hollings trigger and deficit-cutting targets.

I must say, however, that the events of last evening were a bad act, particularly the part of the majority. It does not lay the basis of fair play and good will to say, "Look, we will waive the Budget Act so the Democratic alternative can be voted upon, but we are not going to waive the Budget Act so the Republican version can be voted upon."

The fact of the matter is we have been criticizing our Republican colleagues, and properly so, all year long on this budget. We have taken them to task for refusing to participate and offer proposals throughout the budget debate.

This was especially counterproductive in the Budget Committee where the minority declined to go on the record with a constructive alternative. As a consequence, we were forced to unilaterally, on this side of the aisle, present a budget.

Under these difficult circumstances, I think the distinguished leader and the distinguished chairman of our Budget Committee did an outstanding job of producing the best budget possible.

Today, our back is to the wall. We will not arrive at a solution by early next week unless both sides get together. One side cannot do it on its own. In that regard, I note the fact that we finally have gotten some movement over on the Republican side and I welcome it.

It is like us Democrats. For 5 long years we were saying that the President did not know what was going on. "He doesn't know what is going on." Then, this year, he came on national TV and said, "I don't know what is going on." And we said, "You are lying."

Likewise we say to the Republicans in this body that they refuse to participate, they refuse to participate, and then they finally respond, "We have got an amendment. We want to participate." And the Democrats respond by saying, "You can't present your amendment. We won't waive the Budget Act for you." That was clearly wrong on our part. We must move in the other direction. We must come together. We are not going to succeed in passing a bill that says to the President on the budget, "Gotcha." The President has to sign it. And if I am the President, I am not going to permit myself to get caught or trapped.

Likewise, the President is not going to catch us. I rather agree with the strong feelings on this side of the aisle with respect to, say, flexibility on apportioning cuts in defense spending. In all candor, if you permit flexibility on materiel and contracts, you ought to do it for personnel and other categories. Currently the President is not in the game, he lacks that discretion. I agree with those who say he should.

At the same time, I endorse the distinguished majority leader's characterization that we are trying to put a gun with a trigger to the heads of both the executive and the legislative branches. Let us understand just exactly what our objective is. The original trigger—the one struck down by the Supreme Court was automatic. It allowed us to say of the sequester, "The Shadow did it."

But we have a trigger now which is the fallback trigger. It requires a majority of both Houses and the signature of the President. That is where we are at this moment. The amendment presented yesterday on behalf of this side of the aisle also requires three affirmative votes of Congress and the President's signature.

An automatic cut or sequester is what we have at the State level. If you exceed your revenues, then there is a cut straight across the board automatically. And that is the posture we are in. We are trying to put in a trigger that will result in an automatic sequester unless we raise revenues and cut spending in order to meet deficit targets. That is what we must accomplish by majority vote in the House and in the Senate.

In the plan presented and voted on on last evening, instead leaving the sequester on automatic, it would have required not one vote but no less than three votes. And therein was the amendment's downfall. It did not fall for reasons of political partisanship. It fell for lack of merit.

So I would suggest, Mr. President, that we must come together. We must understand that they cannot catch us and we cannot catch them.

Frankly, Mr. President, questions have been raised in my mind recently about the independence of CBO. Likewise, I appreciate the widespread distrust of OMB. But, as a practical matter, we ultimately must put trust in the Executive as the Constitution requires. And bear in mind that, with luck, it will be our party in the Executive on January 20, 1989. Accordingly, in the interest of compromise, we would do well to revisit the formula proposed by Senator LEVIN last year. As you will recall, he advocated containing OMB's creativity by imposing a series of set economic assumptions to guide OMB's work. By imposing these constraints, Mr. President, we can overcome our skepticism of OMB and move on to the larger issues involved in fixing Gramm-Rudman-Hollings.

Mr. President, to put it bluntly, we have a trigger now that, in a pinch, is not going to produce the desired result. It requires each Senator, at the end of the session, to stand in the well and vote to cut education, to cut veterans' hospital programs, to cut defense. That trigger is not going to work.

And that is why we are trying to put in place a new trigger, and why we are not going to get a debt limit bill without a new trigger. Indeed, without a workable new trigger, our distinguished chairman of the Finance Committee and the chairman of the Ways and Means Committee on the House side will not have the sufficient pressures to get out a reconciliation bill. We are asking for $19 billion in revenues. In the absence of a real threat of sequester, there is zero chance the President will sign off on those new taxes. Thus, in the absence of a real threat of sequester, there is no chance Congress will indulge in the futile, thankless task of voting taxes that we know the President will veto with impunity.

I do not believe Senator **Bentsen** is going to have a good chance of debating new taxes if he does not have a trigger lurking in the background. The pressure must be put on us. The majority leader has expressed it well. We have got to put a gun to the heads of both the Executive and Congress. But let us do it in an evenhanded fashion.

We do not have a majority, or at least we are split down the middle, on this side, and we have a similar split on the other side. So those of good will who want a new trigger are going to have to get together. I hope we can do that.

And be on notice that the new trigger formula must please the majority of Democrats in both bodies. The Republicans have got a President, but we have got an overwhelmingly Democratic House. Accordingly, the trigger ought to be patterned—and that is what I have been working on—on what our House colleagues also have in mind, because it must pass there also, and it must pass there by early next week.

I thank the distinguished majority leader for yielding the floor. Let me conclude by reminding my colleagues that there is not a possibility of a bill that will catch Ronald Reagan. If there was, I would have introduced it long ago. Believe me, I've tried. If I had succeeded, we wouldn't have a $2 trillion debt today.

The final trigger formula cannot give advantage or disadvantage to either side of the aisle. It must be self-discipline for both sides.

It is not critical that this Senator or any other Senator get credit. What we ought to do is find out what can be done and then let it be introduced by Senator **Chiles** and Senator **Domenici**, who have done the majority of the work. But, by all means, let us come together with a reasonable, workable solution.

Mr. BYRD. Mr. President, I agree with most of what the distinguished Senator from South Carolina has said. As to what happened yesterday, Mr. President, I think we had to do what we did.

Mr. **Chiles** had a proposal. Mr. **Domenici** had a proposal. We all know that neither proposal was going to get the necessary majority votes but we had to show that. That had to be demonstrated.

So I think it was time well spent. We had to do it. There was no way to keep from going through with it.

Now we have done that, and I agree with the distinguished Senator from South Carolina that we now need to get together, go back to the drawing boards, and I know that the distinguished Senator from South Carolina is going to be a part of that negotiation. I am glad of that.

I was against the Gramm-Rudman-Hollings proposal in 1985. I was against the trigger. But I have come to the conclusion, as he so well stated, that if we are going to have reconciliation we are going to have to have a gun at both our heads: The President's head and at ours.

In the final analysis, we have to try to resolve this and get these budget deficits down and find some way to get this public debt going in the other direction so that our grandchildren's grandchildren will not have the kind of exorbitant interest that we in our day and in this administration are putting on them. So I hope that we will find a middle ground.

As the distinguished Senator from South Carolina says, they are not going to "catch us" and we are not going to "catch them." I think what we need to do is try to arrive at an accommodation here that will pass this Senate and will get a majority of the votes, and hopefully get this President involved.

I hope that our negotiators can sit down together and I am ready to offer whatever assistance I can offer, if it will indeed be of assistance to them, in any way that I can.

I have talked with the distinguished Senator from Florida this morning, Mr. **Chiles**, who says he is ready to talk again. I see the distinguished ranking manager is here on the floor. We are all, I hope, ready to talk again and get the negotiations started.

There is nobody who is more eager than I to get this matter behind us.

Mr. President, I have indicated that I do not intend to let this matter come up which our people who are the principal negotiators need to be giving their time to it off the floor, and I do not want it sitting here as a target for any and all kinds of amendments because if it is up here as a target for other amendments, neither the Senator from Florida, Mr. **Chiles**, nor the Senator from New Mexico, Mr. **Domenici**, will be able to spend any time anywhere else.

Unless anybody has anything to say, I thank the distinguished Senator from South Carolina for what he has said. What we want to do is stop partisanship and get everybody involved in solving this problem for the country.

I hope negotiations will go forward today. I will be glad to yield if the distinguished Senator from New Mexico wants me to yield; I do not want this bill to come back down, the debt measure, for the moment. I will be glad to yield to the distinguished Senator.

The PRESIDING OFFICER (Mr. **Graham**). The Senator yielded to the Senator from New Mexico.

Mr. DOMENICI. I understand the majority leader's position about the bill because of our natural tendency to proliferate the offering of amendments that are not relevant to the debt limit and I think there is a general understanding that what would be relevant this year would be budget reform items and possible Gramm-Rudman fix legislation. So I do not rise to in any way suggest that the distinguished majority leader is doing anything but the right thing in not having the debt limit out there for people to start putting amendments on. What I said is I agree that is a good approach.

I would say, however, to my good friend the majority leader, I think it is getting more and more difficult. Time is running. From our standpoint, at least from my standpoint, what makes it slightly more difficult is yesterday's events.

We did not have an opportunity to get a vote and I think the distinguished majority leader knows that the Senator from New Mexico understands the rules. When I spoke last night of fair play, I understand that is in the eyes of the beholder and what is fair play to us in terms of getting an up or down vote—which seemed to us eminently fair, since we worked very hard to let the chairman of the Budget Committee have the vote on his amendment—it does not necessarily seem fair from your side of the aisle.

I want you to know that while I argued for that kind of fairness, I do not come here to the floor with any kind of lasting antagonism because of it. I have not been here as long as the distinguished majority leader, the senior Senator from West Virginia, but I understand the game. I understand the rules.

But I just wanted to make a point. It does appear to me that we had a vote on an overall new kind of idea for the Gramm-Rudman sequester.

Perhaps some of those who did not vote for it on your side—there were none on this side, 25 on your side—perhaps it was because they did not understand it. I do not know. It was new and very cumbersome.

But it does seem to me that there was a rather clear expression, if any expression came out of yesterday, that we ought not go off on some new approach but rather that we ought to try to work off the previous approach that the U.S. Senate had adopted by a rather significant margin. Sixty-three votes is pretty good, a sizable vote, with 21 from your side of the aisle supporting us. It is a pretty heavy vote. A supermajority is not required for that. All we require is a majority of the Senators voting so that is a rather handsome support.

Nonetheless, we were denied an opportunity to see where we stood on that proposition, the tried and true proposition that we voted on before, procedurally.

You know, the distinguished Senator from West Virginia and the majority leader knows that the senior Senator from Florida, the Senator from New Mexico—not only are we good friends but we try very hard to see if we cannot work things out here. I wish I could tell you that our negotiations are moving along toward some kind of daylight but I must report that I do not believe that that is the case at this point.

I stand ready and willing. I think you know as well as I that a number of Senators are leaving this afternoon. That certainly does not have much to do with your obligations and I understand that. But, clearly, I do not see, unless my good friend from Florida has something new in mind that I have not heard, I do not see us moving in the negotiations today to any significant degree.

We are what might appear to be only blocks apart, but apparently, because of the way things have gone, those have stretched into being miles apart. That is about where we are.

I regret to inform the distinguished majority leader of that. I thank him for yielding to me without losing his rights. That is about how I see it at this point.

I do understand that the United States of America cannot default on her obligations and I share with you that genuine concern. You have repeated it over and over. We cannot, next Tuesday or Wednesday, after building our credit for 200 years in the world money markets and with the creditors of the world, including millions of our own who own our obligations—we cannot let that go into default. And 4 days after that occurs we cannot let all the pensioners of America go without their checks. I am working against that very serious eventuality and you are working against that with even more responsibility because you are the majority leader, obviously. This is the Senate that has to do something.

While I understand that and I know that and I think everybody knows that, we always have a tendency to work right up to the last minute on these debt limits anyway but this one is a serious one and I think everybody should know that. This is not like the debt limits of 3 or 4 years ago.

For lack of a better word, we have generated a new concept of debt limit and we have a drop-dead debt limit now, as the distinguished majority leader knows. We are operating off the cash-flow in the Government because the debt limit is now reduced to a previous level. We do not just add to—it is very, very low because that is what we wanted to do to force action.

I just want the majority leader to know that that is how I feel. I understand it and I think everybody here understands it, but I do not know how we are going to accomplish anything in the next few hours to alleviate that problem.

I yield the floor.

Mr. GRAMM. Would the distinguished majority leader yield?

Mr. BYRD. Yes.

Mr. President, may I say to the distinguished Senator from New Mexico he has indicated to me on yesterday that he would stay around here today until 6 o'clock p.m.

The fact that others may be leaving, that does not impress me at all. The others who are leaving may not even be involved in the negotiations.

The distinguished ranking manager is here; the manager is here, Mr. CHILES. Other Senators are here. The Senator from South Carolina is here; the Senator from Texas is here; the Republican leader is here; I am here.

We ought to go forward with those negotiations.

This Senator is not a standoffish Senator. If I have to walk across to the other side of the aisle and extend my hand, I am ready to do it.

I am not waiting on anybody to come to me. I may have to go to them and I shall.

We are talking about the interests of the people. This business about Senators leaving early to go elsewhere leaves me cold. How many coal miners are leaving their places of duty this morning? How many farmers are walking off the fields and leaving their work? We Senators get paid to work here. It has gotten to the point where we can't do business on Mondays, and Senators do not want to vote early on Tuesdays. They want to wait until the shadows of the evening are falling before they vote on Tuesdays. They want to leave early on Fridays. Not everybody who leaves early is going home on Fridays, I dare say. It might be interesting to know where they are flying to on Friday. Here is the place Senators ought to be. This debt limit extension is a serious matter. Nobody can point that out more vividly and more lucidly than the distinguished Senator from New Mexico has just pointed out.

I talked with Mr. CHILES earlier this morning and he indicated to me he was ready to negotiate. He said he was working on something to propose.

Mr. SYMMS. Mr. President, will the majority leader yield for a question?

Mr. BYRD. Mr. President, our business is here, and I hope we will stay ready to negotiate. I am certainly ready.

I hope also that in the meantime we will be able to take up the DOD authorization bill. The distinguished Republican leader is still working on that. He may have a response within an hour.

Mr. DOMENICI. Will the distinguished majority leader yield without losing his right to the floor?

Mr. BYRD. Yes.

Mr. DOMENICI. Let me say to the distinguished majority leader the Senator from New Mexico said he would be here until 6 o'clock. I share your concern that if others want to leave, that is their business. I am not really interested in where they are going.

Let me suggest to you that I had a slight change. So you will know, and I have told the minority leader, I must leave at 5. I am not concerned about anyone finding out where I am going. I am going to an economic summit conference for the Navajo Indians in New Mexico which has been scheduled for 3 months. Senator DECONCINI and I are cosponsors of it. We are trying to do something for people in an underdeveloped part of our Nation, with the heaviest unemployment in America.

It is not a trivial thing for us. It has been planned for 3 months. That gives us 5 hours today.

Mr. BYRD. It does.

Mr. DOMENICI. I will be here. If the other side has something to talk about and wants to begin discussing it, I am within a few moments.

Mr. BYRD. I thank the distinguished Senator.

Mr. GRAMM. Will the distinguished Senator yield?

Mr. BYRD. I yield to the Senator from Texas.

Mr. GRAMM. I thank the distinguished majority leader for yielding.

I do not believe that yesterday was wasted. I admit it ended in frustration on both sides. I think there was a feeling yesterday that after 36 Republicans voted to waive the technicality that denied Senator CHILES, and then only 5 Democrats reciprocated by moving to allow us the same opportunity, I think there was a feeling that perhaps there was a lack of reciprocity in treatment.

But I think we learned something yesterday. That is, we learned that the Chiles approach, despite the sincerity of the author, was not broadly supported. Only 25 Members of the Senate voted for it; 71 voted against it.

There are some on our side who feel that if we had had an opportunity to have an up-or-down vote as Senator Chiles did, we might have won. I am not going to cry over that spilt milk and I am not going to let feelings of fair play stand in the way of trying to work this thing out. I am here today. I was here yesterday. In fact, the day before yesterday, I spent 8 hours with Senator Chiles trying to work out a compromise that we could move forward with.

But I think what we learned yesterday, I say to the majority leader, is that a totally new approach to the problem, after we had spent 14 months trying to work out an approach that was broadly supported at one time, a new approach is probably not going to be successful; that if we are going to sit down together—and I am ready as of right now for the rest of the day to do that if and when we are invited to do that—I think what we have to do is to go back to something that we at one time agreed upon and work from there. I think what we learned yesterday is that we are unlikely, with the pressure of time that we have, to be able to reinvent the wheel. What we have to do is go back and look at that solid, old wagon that we adopted once, see how we can upgrade it, make some minor modifications to satisfy people's concerns, and see if we can put together a bipartisan consensus. I think that if we are unable to fix the Gramm-Rudman-Hollings law, it is not a partisan matter, the whole country loses from it. I think to the degree that we hold up the debt ceiling and we, in the process, have a negative reflection on the credit worthiness of the Nation, or if my mama and other people's mamas do not get their Social Security checks, we are likely to hear about it. I think there will not be any partisan element in there but it will be a negative reflection on everybody. I am ready to move ahead.

I think we demonstrated clearly yesterday that probably the most productive way to do that is to try to work on what we agreed to before and look at the new concerns that have arisen, to see if we can accommodate them in such a way that we can come together. I am certainly willing to do that. I hope we can do that.

I think delay hurts that effort, lessens the chances that we will get the Gramm-Rudman-Hollings law fixed and, therefore, have a chance to someday balance the budget we are all old and gone.

I, for one, am ready to try to move ahead.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Texas, the distinguished Senator from New Mexico, and the distinguished Senator from South Carolina. I believe that reasonable men, men of good will, can work together and we can move ahead today.

I am happy to yield to the distinguished Senator from Idaho without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. I thank the majority leader for yielding. I asked him to yield for the purpose of making a brief statement and then make a proposition to the majority leader in this process.

As a Member of the Senate who came over from the other body, I was in the House when the Budget Control Act was passed. At that time, in the early 1970's, we still had a process working in the Congress where we did pass 13 appropriations bills each year and there were 13 passed over here and 13 bills went to the President for either signature or veto. In the process of the numberkeeping, and so forth, of the Budget Control Act, in the way it is done, we have ended up where we are headed for another continuing resolution at the end of the year.

I know that is not what the majority leader wants. That is not what the membership of both bodies want. They would rather see the process work.

One of the problems I see is that the Budget Act is an abysmal failure. I agree it gives us a forum to debate, but that is all we end up doing, debating. The numerical projections of the numbers are unworkable in a practical sense. We have to project numbers of what they think they are going to spend and they are normally wrong.

For example, in program A, they project that last year we spent $100 million and they project next year we will spend $130 million. We cut $10 million and we say we cut $10 million in the process, but we actually spend $120 million.

When you continue to do that on all the different programs, what happens is that you cannot estimate how bad the deficit is going to be. And that is not the fault of the majority leader. That is not the fault of the minority leader. It is the process which makes it impossible for the Congress to be able to solve the problem. We all have our own constituencies. One Senator has a large group of farmers, one has a large group of senior citizens, or someone has a big military base. There is always the parochial pressure that each program is more important than the other.

I say to the majority leader that I have in my hand a sense-of-the-Senate resolution which I had intended to offer today as an amendment if we got on the debt ceiling, but it certainly could be a freestanding amendment, and it expresses the sense of the Senate that the Congressional Budget and Impoundment Control Act of 1984 has failed to achieve its purpose. It has a resolving clause that states that the forecasts of deficits upon serious reductions in programs for defense of the United States, domestic programs, cannot be used as a basis for planning, and so on and so forth. And then it states further that it is resolved that it is the sense of the Congress that the Congressional Budget and Impoundment Control Act has failed to provide a coherent method for Congress to exercise control over the budget process.

I have another resolution, Mr. President, which I did not think I would offer, which would repeal the Budget Act, give the President authority to impound spending because that is the only elected officer of the country who does not have a parochial interest; he has the Nation's interest, but I am not naive enough to believe the Congress is going to pass that yet.

But I suggest to the majority leader I have this resolution. I would be happy to call it up if he wanted. We could debate it very briefly and have a vote on it. He could get all of his Senators over here and maybe if they recognize what the problem is, Senators could sit down together and work this thing out so we could do the business the majority leader wants. At any time he wishes, I would be happy to call this up, send it to the desk, and debate it, if there is anybody who is interested in debating it, and get a vote on it.

I thank the majority leader for yielding.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Idaho, but as I indicated earlier, I prefer not to have amendments of any nature right now called up to the debt extension measure. That would necessitate our taking the principal actors from that arena. It would necessitate our tying them down here on the floor at this point needlessly when they need to be working in the back room trying to negotiate a compromise. By saying that, I do not denigrate his proposal at all.

Mr. President, I do not want to hold the floor and just field out the time; that is not fair to other Senators, but will the Senator from North Dakota be kind enought to tell me how much time he wishes?

Mr. CONRAD. Five minutes.

Mr. BYRD. Mr. President, I yield to the Senator 5 minutes without losing my right to the floor.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from North Dakota.

Mr. CONRAD. I thank the Chair, and I thank the majority leader. I rise to try to communicate with those who are negotiating on the budget matter. Yesterday we had two votes, one on the Chiles amendment, one on the Domenici amendment, to fix the Gramm-Rudman-Hollings law. I voted against both of those measures, although I firmly am convinced that we must have a fix of the Gramm-Rudman-Hollings law.

One of the reasons I opposed both of those fixes was because the first year target in both was $150 billion, and I would like to try to communicate to those who are negotiating on the Gramm-Rudman fix when we passed our budget, we had a different set of assumptions than the ones we face now.

When we passed our budget, we thought the 1987 deficit was going to be $171 billion. We thought the 1988 budget deficit was going to be $134 billion. In other words, we had real deficit reduction from fiscal year 1987 to fiscal year 1988. In fact, we had approximately $36 billion or $37 billion of deficit reduction. And over the next 5 years the assumptions from the CBO told us we were going to see steadily declining deficits.

Now, the new estimates produced by CBO just last week paint a much different picture. Those new estimates tell us that the 1987 deficit will be approximately $161 billion, the 1988 deficit will be $152 billion, and that is without a supplemental. We know there will be a supplemental. We know that supplementals average about $10 billion. And that is assuming $19 billion of revenue. In other words, we have the very real prospect of the year-to-year deficit rising rather than declining.

I think that would be a policy mistake of major proportions. I think that would send completely the wrong signal to the country. I think that would break faith that the Congress had committed itself to year-to-year deficit reduction. That after all is what was contained in Gramm-Rudman-Hollings—year-to-year deficit reduction. I think it would mean higher interest rates. I think it would mean a continuation of the trade deficit. I think it would mean an addition to our status as the world's greatest debtor nation. Those are things we ought to avoid, and the best way to avoid them is to stick to the commitment to produce year-to-year deficit reduction.

So, Mr. President, I hope that those who are negotiating can listen and hear those of us who feel very, very strongly that there needs to be year-to-year deficit reduction. That is not going to happen if the first-year target is $150 billion. I am hopeful that they will go back and come back to us with a lower first-year target, one that assures the American people that we have year-to-year deficit reduction. Again, I thank the Chair, and I yield the floor.

The PRESIDING OFFICER. The majority leader retains the floor. The majority leader.

RECESS

Mr. BYRD. Mr. President, while I am waiting on the indication as to whether or not we can proceed to the Department of Defense authorization bill, rather than put the Senate into a quorum call, and so as to give the Chair a little time to get out and do some other work and the doorkeepers and faithful employees of the Senate around, who would perhaps like to get a glass of water or walk outside and get a breath of fresh air, I ask unanimous consent that the Senate stand in recess for 15 minutes.

There being no objection, the Senate, at 11:27 a.m., recessed until 11:42 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. GRAHAM].

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the distinguished Republican leader has a meeting going on in his office and another one planned with respect to the DOD authorization bill. He has indicated to me that he can give me an answer by 12:30.

ORDER FOR RECESS SUBJECT TO THE CALL OF THE CHAIR

So, I will ask unanimous consent that the Senate stand in recess awaiting the call of the Chair until 12:30, which means that any Senator may come over and the Chair will give that Senator recognition.

I ask unanimous consent that any recognition for Senators be only with reference to morning business, that Senators be permitted to speak in morning business, to be permitted to offer resolutions and bills, have them referred, but that the pending business not come down and that the unfinished business not come down prior to that time or no other business come down prior to that time unless the majority leader appears on the floor and after consultations with the Republican leader proceeds in one way or another. In this way if Senators have some morning business, they can offer the bills and resolutions, they will be permitted to speak in morning business which under the rules they are not allowed to speak in morning business.

At the same time it would not keep the Chair tied down. So I will make that request.

First I yield to the distinguished Senator from Vermont.

Mr. LEAHY. Only for a question.

Does this mean we will go immediately into another recess, because the Senator from Vermont would like 3 or 4 minutes at most in what would normally be morning business type discussion.

Mr. BYRD. Yes, Mr. President, this would not interfere with the distinguished Senator's wishes in that regard.

The PRESIDING OFFICER. The unanimous-consent request will incorporate the opportunity for Senators as in morning business to make appropriate statements and introductions but not to undertake the pending business of the Senate.

Is this a correct summary?

Mr. BYRD. The Chair is preeminently correct.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Vermont.

THE HILLS OF VERMONT

Mr. LEAHY. Mr. President, this morning it was my privilege to serve as the Acting President pro tempore to open the Senate and listen to the Chaplain's prayer, a very apt one, speaking of the stresses and strains on the Senate, the difficulty in working, the fact that Senators have worked very hard to accommodate each other's concerns to move the business of the country ahead. He spoke of us having a chance to perhaps go to the hill, seek solace, prayer and so forth, to guide us.

The distinguished majority leader as is his wont to do came back immediately with a most appropriate poem, one that happens to be a favorite of mine but, as I pointed out to the distinguished majority leader subsequently, while I enjoy reading it and am able to recognize it when reading it, I could not do as the distinguished Senator from West Virginia did and recite it verbatim.

The distinguished Senator from West Virginia has impressed I think all Senators over the years with his ability to recite not only poetry but the Bible, quotes from famous Americans, quotes from Shakespeare, and others and he always does it correctly, never with notes; oftimes obviously with no predetermination to do it because usually he will make an appropriate quote in response to something he just heard.

I recall listening to him do that, and I hope I do not embarrass the distinguished Senator in saying this, back in my days as a law student here in Washington when I would wangle a ticket to come in here from either Senator Prouty or Senator Aiken and hear him do it.

I would say, without the distinguished majority leader feeling in any way I am a Johnny-one-note, I, too, want to have that chance to go to the hills for solace and for rejuvenation, for a chance to think about the problems of the world.

Now, the hill I have in mind, I say to the distinguished Presiding Officer who comes from a beautiful State and to the distinguished majority leader who comes from a beautiful State, much of which reminds me of my own, but the hill I think of is not a hill in the beautiful State of Florida, not a hill in the beautiful State of West Virginia, not the plains of the beautiful State of North Dakota, as I see my friend from North Dakota, but the hills of Vermont.

The hills of Vermont, Mr. President, are so beautiful this time of the year. They sit out there with shades of blue, green, gray. From my farm on the back of Hunger Mountain in Middlesex, VT, I look down this valley about 40 miles and in that 40 miles I do not see another home except for one that is a building in a clearing about 20-some-odd miles away and I intend one of these days to drive over and see who that is, introduce myself to them, my wife wants to perhaps bring them some food, a kind of welcome thing.

But my nearest neighbor is miles away, over hills. Our home sits in the center of a little tree farm, about 225 acres of just very, very pretty area. We have fields out front.

I remember this week, the day I came back, I got up very early so I could take a little swim before I flew back here. About 5:30, 6 o'clock in the morning, I was swimming around. I looked out across that field and saw a beautiful white-tailed deer just walk across there. In the afternoon, I might sit there reading and working on the business of the Senate, of course, I look up and I will see a hawk circling around there; hear the various birds singing in the bushes; sometimes even see a brown bear amble down across the dirt road.

This is a place so private and so comfortable that it was referred to once in an article in the New York Times which got reprinted. They told, Mr. Leader, of somebody driving up to the farmer whose property adjoins mine, the man who hays my field, grows corn in one of my fields to feed his cows.

A man in a large car drove up and he said: "Does Senator LEAHY live up this road?" My neighbor is kind of careful with my privacy. He said, "Are you a relative of his?" And the visitor said, "No." He said, "Are you a friend of his?" He said, "No, we never really met." He said, "Is Senator LEAHY expecting you?" The man said, "Not really." The farmer looked him straight in the eye and said, "I never heard of him."

Now, I mention that with my good friend from North Dakota here because he is going to be at my home for dinner Sunday night because we are having a hearing there on Monday with 9 or 10 members of the Senate Agriculture Committee. We have had our committee all over the country—in North Dakota, South Dakota, Iowa—in fact, it is the only time a whole lot of Senators came to Iowa and nobody declared for the Presidency—Minnesota, Georgia, Mississippi, Nebraska. Now, 9 or 10 of them are coming to Vermont. We decided to have a hearing in New England. I wanted to be fair about it. We picked a State alphabetically and ended up in Vermont. The Secretary of Agriculture will be there.

Mr. President, I will yield the floor in just a minute. As I go to the beautiful hills of Vermont, I just want to leave you with this picture: Looking down that lovely valley at the mountains, Mount Ellen, Sugar Bush Range, 35 miles away, one rolling into the other, sometimes it is blending in the various colors and various shades; I sit there and watch my apple trees, watch the applies grow; drive back down to my other home in Burlington, look out across the lake, see the sailboats on there, see the people I chat with as I walk down to get my newspaper, spend a couple of hours on the street just talking to anybody who might be on the street who has a question or anything else, finding out what is on their minds, knowing how they feel about the Iran hearings, how they feel about the trade bill, how they feel about everything else we might do here.

So I hope that I can join in the prayer of the Chaplain and go to the hills for the solace.

Having said that, I must say, however, that the distinguished majority leader has worked, has done the chores of Hercules when he thought he was emulating Sisyphus as he brought up the trade bill. Having done the impossible, he got that through. And now he is going to cap that, I guess, with DOD. And I will stay here to help him as long as that might be. But at the moment when that help is no longer needed, I will return to the hills.

Thank you.

WEST VIRGINIA

Mr. BYRD. Mr. President, "a word fitly spoken is like apples of gold in pictures of silver." The distinguished Senator from Vermont has drawn some beautiful word pictures of the hills and mountains of his great State.

Mr. President, if one really wants to see some beautiful viridescent hills and mind-boggling iridescent sunsets, go to Spruce Knob in West Virginia.

West Virginia is the most northern of the Southern States, the most southern of the Northern, the most eastern of the Western, the most western of the Eastern.

It is where the East says "Good morning" to the West, and where Yankee Doodle and Dixie kiss each other "Good night."

It extends farther north than Pittsburgh, as far east as Buffalo, NY, farther south than Richmond, the capitol of the old Confederacy, and as far west as Columbus, OH.

It is an intensely patriotic State. Its citizens have, in the Nation's wars, given their taxes, their treasure, and their blood. In Vietnam, West Virginia was No. 1 in deaths; in Korea, it was No. 1 in deaths, insofar as the State's eligible male population is concerned in proportion to the total eligible male population of the country.

It is a State that blends the old with the new. The interstates cross our State. They are like ribbons in the sunlight. One drives along those silvery ribbons and sees the green hills to the right and the verdant mountains to the left. And still it has the pioneer environment. Peoples still gather in some of the old country stores and sit on the nail kegs.

And when I take my fiddle, Mr. President, into the hills of West Virginia, and go back to one of those old country stores where you still see the horseshoes hanging on the walls and an old coffee grinder sitting up on the shelf and you look over behind the counter and see the Copenhagen snuff and the Brown Mule chewing tobacco—and they do not have spittoons like this one here—where is it? It is not even here at my desk. Yes, it is; it is made in Taiwan. They do not have spittoons made in Taiwan in West Virginia. I take my old fiddle and I sit down there on a nail keg, take off my coat, roll up my sleeves and play "The West Virginia Hills." And many times they will join in in song.

Ours, may I say to the distinguished Senator from Vermont, is a State with a million hills—a million hills. We have Harpers Ferry, where John Brown, of historical note, carried out his action on the great world stage. And we have Charles Town, the old courthouse still sits there where the trial of John Brown took place. As to parks and lodges, we have Blackwater Falls. You ought to see those Blackwater Falls. Those falls sparkle in the sunlight, at morning, at midday, and at evening.

There is nothing like a West Virginia sunset. A West Virginia sunrise. If one wishes to really reinvigorate his spirit, come to West Virginia.

Do not go to Vermont. [Laughter.]

Go to West Virginia.

Well, I will not say do not go to Vermont.

Mr. LEAHY. I want to say—I want to check the rules, Mr. President, if I might say.

Mr. BYRD. No, go to Vermont, but you will always come back to West Virginia if you go there once.

I should add that whether it is Vermont or West Virginia, we both can be proud that we are from States that are great States of the Union. They are beautiful States. We do not have to go to Europe; we do not have to go to Asia. Come to West Virginia, the little Switzerland; the land that is almost heaven, where we have friendly people. They are good neighbors. They believe in God. They believe in this country's flag.

It is the State with the lowest crime rate in the Union; a State whose people believe in law and justice; a State that was born in the midst of the Great Rebellion; a State that was born in the midst of a great civil war; a State whose people were divided in that conflict, probably two-thirds pro-Union and one-third pro-Confederacy, but those wounds have long been healed.

Come to our great reunions, the Hatfields and the McCoys.

The story of that feud is an interesting one. But our people stand together.

If I may just close by saying how wonderful it is that we as Senators can stand here and talk about our great States—and I am sure that we could spend the weekend talking about them. Of course other Senators would be willing to join in talking about theirs as well.

What a wonderful country this is. What a wonderful country this is and what a wonderful system of government we have in which Senators can stand and talk about their States. It is a country in which I can go to Vermont; I do not have to have a passport to go to Vermont. The Senator from Vermont can come to West Virginia. We live as good neighbors with Canada. We do not have to have standing armies on the borders. What a great country this is.

We often take it too much for granted. Sometimes we have to go abroad to really learn how wonderful a country we have of our own.

In some countries, we cannot drink the water. If you send a letter or postcard, it may never get to its destination. We all can be thankful that the Vermonts and the West Virginias and all others are as one, we stand united.

God has blessed us all. He gave us the beautiful hills of Vermont and the beautiful hills of West Virginia.

Mr. President——

Mr. LEAHY. If the Senator will yield? In that I have had the advantage of traveling in West Virginia, as I said earlier, it is absolutely a beautiful State. It reminds me so much of home, especially in the rural areas.

In fact, everything the Senator said has made me even more homesick and I am just sitting here hoping that he will say now, having let everybody know, everybody who may be watching and everything, how beautiful West Virginia, how beautiful Vermont, that he will close by saying: And he would encourage everybody—beginning, of course, with the Senator from Vermont—to go off to these States quickly. I say that because I see the distinguished Senator from Georgia, who is also going to be in Vermont this week, along with the distinguished Senator from North Dakota and the distinguished Senator from South Dakota and the distinguished Senator from Iowa and the distinguished Senator from Indiana and the distinguished Senator from Louisiana and the distinguished Senator from Arkansas, I believe the distinguished Senator from Alabama, and others, for our hearings.

But the Senator from West Virginia has just made it so crystal clear—best we be back there.

I know that he is doing everything possible to bring up this other legislation and I encourage him in that and I will stay here so I can help him any way I can, but once we reach the point that he feels we should be able to see first hand the beauties that he talked about, let me know because I will be out the door.

Mr. BYRD. Mr. President, I thank the Senator.

Perhaps it would be appropriate at this time to close this little dialog with a bit of verse by Henry Van Dyke.

'Tis fine to see the Old World, and travel up and down
Among the famous palaces and cities of renown,
To admire the crumbly castles and the statues of the kings,—
But now I think I've had enough of antiquated things.

So it's home again, and home again, America for me!
My heart is turning home again, and there I long to be
In the land of youth and freedom beyond the ocean bars,
Where the air is full of sunlight and the flag is full of stars.

Oh, London is a man's town, there's power in the air;
And Paris is a woman's town, with flowers in her hair;
And it's sweet to dream in Venice, and it's great to study Rome,
But when it comes to living, there is no place like home.

I like the German fir-woods, in green battalions drilled;
I like the gardens of Versailles with flashing fountains filled;
But, oh, to take your hand, my dear, and ramble for a day
In the friendly western woodland where Nature has her way!

I know that Europe's wonderful, yet something seems to lack!
The Past is too much with her, and the people looking back.
But the glory of the Present is to make the Future free,—
We love our land for what she is and what she is to be.

Oh, it's home again, and home again, America for me!
I want a ship that's westward bound to plough the rolling sea,
To the blessed Land of Room Enough beyond the ocean bars,
Where the air is full of sunlight and the flag is full of stars.

[Applause in the gallery.]

The PRESIDING OFFICER (Mr. FOWLER). The Chair will remind spectators they are guests of the Senate. They will show no displays. But the Chair will also add that he is overwhelmed with pride and admiration at the words of our majority leader.

The Senator from Iowa.

HIGH SCHOOL DROPOUTS, EVERYONE'S PROBLEM

Mr. GRASSLEY. Mr. President, on Tuesday evening of this week, this body passed legislation that I think very strongly deals with many of our trade problems and it has a lot of legislation added to it that tries to deal with our trade problems through improving our educational system and providing more educational opportunities so that the United States can be more competitive with our trading partners.

So today, Mr. President, I rise to speak to this body on the subject of high school dropouts, and the fact that high school dropouts is everyone's problem.

The national rate for dropouts has been estimated by the Department of Education to be 20 to 25 percent.

Substantial numbers of these students will never return to the educational system, ensuring for the dropouts and their families economic and social disadvantages for the remainder of their lives. These youth will neither be able to fully contribute to our Nation, nor will they be able to enjoy the higher quality of life available to those who have graduated from high school.

The economic cost of the dropout to society is reflected in the difficulty the dropout faces in obtaining and keeping a job, therefore, expenditures on welfare tend to be higher for dropouts, and, most of the unemployed pay no taxes. The costs to society for crime and crime prevention are higher as the number of dropouts increase. In Iowa we have less of a problem with the number of dropouts than in some States, but we found in Iowa that 45 percent of our State prison inmates have less than a 12th grade education.

Other studies show that each year we incur an additional $26 billion in social program costs as a result of our failure to graduate another 1 million "at risk" students. Not all dropouts do poorly, but the averages are definitely against them.

A 1986 Department of Education study by the Office of Educational Research and Improvement outlines the consequences to the individual of dropping out. These include the following:

Dropouts face an inability to locate and keep a job because opportunities are limited for them.

They have a decreased possibility for advancement, and are twice as likely as the graduate of the same age to be unemployed.

They earn a lower income over their lifetime. The average lifetime earnings of the dropout is $200,000 less than the high school graduate.

A second consideration is that dropouts tend to come from disadvantaged families. There is a disproportionate number of minority youth, who frequently have two strikes against them already with their socially and economically deprived backgrounds. One in eight of the Nation's 17 year olds is functionally illiterate, one in three minority teens is functionally illiterate. While youth are becoming a smaller segment of our total population, the number of youth in poor families is growing. About one in five children is now living in poverty.

It is projected that by the year 2000, a full one-third of the Nation's children will be economically disadvantaged. Children now constitute the largest age group in the United States who live in poverty. These poor or disadvantaged youth are the young people most likely to become dropouts. Children who have the least, need schools the most.

Since the educational achievement of poor youth is on average lower than the achievement of more advantaged youth, the basic skills competency of the entry-level work force is on the decline. This concerns not only the educational community, but the business community as well. If students do not finish high school, then it is doubtful they have sufficient knowledge, skills and abilities to function productively in society.

Unfortunately, changes in public education inspired by the reform movement of the early 1980's have done little to improve the performance, or retention, of youth who are doing poorly in school, or who have dropped out entirely. These reforms have focused on upgrading the achievement of youth already performing acceptably. Thus, this segment of the population falls farther behind in the basic skills made essential by an increasingly complex society and economy.

However, there is a bright side. Programs are now being initiated which appear to be stemming the tide of the dropout problem. Communities and/or States have designed their own programs to meet their needs. Some are within the normal school setting, others are designed as completely separate schools. The results have been gratifying. These various programs have reported:

Fewer students dropping out.

Their ability to read, write, and compute is at a higher level.

The students exhibit less disruptive behavior.

They exhibit better social adjustment.

They have improved attendance and fewer tardies.

The students have achieved a higher level of self-esteem

Morale has improved in the school systems as a whole.

And—employment opportunities have increased for these youth.

Some of these programs identify potential dropouts at a very early grade level and then provide special assistance, so fewer students in their schools become dropouts. Some provide incentives such as college scholarships for students who achieve a high grade point average and maintain excellent attendance records. Still other programs emphasize life skills and proper parenting, special counseling in life/career planning and workshops are held to help meet student needs.

The Nation's concern about the growing deficit has led us to proceed cautiously, as we must, in expanding programs which are needed to create the changes necessary to turn around the dropout problem. Both the States and the Federal Government have instituted programs which have proven effective in changing the dropout picture. I applaud their achievements.

Clemson University's Dropout Prevention Center estimates that 700,000 students drop out of public schools yearly. They estimate that the present annual cost of $26 billion, caused by these students dropping out, will become an eventual yearly cost of $77 billion in lost tax revenues, welfare, unemployment and crime costs. This is a social and economic cost which we cannot afford.

We must learn more about how to identify these potential dropouts early, how to prevent their dropping out and how to encourage those already out, to return to school. This information then needs to be disseminated to all State and local educational agencies.

High quality education for all young people and a strong economy are intricately intertwined. The Federal, State, and local government must work together to insure that the American public provides a quality education for every American child. Parents and teachers must instill in all children the value of doing their best in school, and impart the expectation of completing high school.

We must continue our investment in our youth, for this is truly an investment in America.

Even though it is 3 days since this body passed the trade bill, I think it will improve investment in America so that we are more competitive individually as well as collectively as a society, as an economy. The trade bill and those educational portions of it I hope will help accomplish these goals, particularly for reducing the number of dropouts because that has to be the key to America's competitiveness.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nebraska.

TROPICAL OILS LABELING ACT

Mr. KARNES. Mr. President, I rise today to cosponsor and express my support for the Tropical Oils Labeling Act, S. 1109.

This bill advances aggressive efforts toward assuring a physically healthy America while giving consumers of vegetable oils a better opportunity to know about the products they buy. The bill will provide an important boost for our domestic oils producers as well.

When American consumers purchase food products, they rely on information printed on the grading label to assess the contents and quality of the product. However, at present, there is no comprehensive labeling requirement for vegetable oils. Consequently, consumers are often misled by labels which only disclose that the product within contains 100 percent pure vegetable oil. But this is only half the story, and not the most important half.

Palm oil, palm kernel oil, and coconut oil are categorized in the broad grouping of vegetable oils. However, they contain much higher levels of fatty acids than soybean oil, which is also a vegetable oil. S. 1109 is designed to correct this problem by altering labeling requirements for vegetable oils to enable consumers to make a conscious, healthful decision regarding the kind of vegetable oil contained in the product being purchased.

Palm oil, palm kernel oil, and coconut oil are all imported into the United States. They serve as not only a competitor to domestically produced soybean oil in terms of usage, but their usage does not necessarily contribute to the good health of consumers. On the other hand, soybean oil, also considered a vegetable oil, is recognized as a preferable vegetable oil due its high level of polyunsaturated fats, compared to saturated fats, which are a suspected cause of heart disease. The American Heart Association recommends the use of food products low in saturated fats as a means for reducing the risk of heart disease. Therefore, it is no surprise to this Senator that the American Heart Association and the Consumer Federation of America support this legislation.

Mr. President, I believe this is a good bill from several perspectives. It requires identification as the type of vegetable oil contained, thereby providing consumers an opportunity to make a conscious decision regarding the healthfulness of the food they purchase. I believe that American consumers are indeed concerned about good health and the content of the foods they eat. This refinement in labeling will result in a third benefit—the increased consumption of soybean oil which will serve to increase market demand for soybeans.

Mr. President, we have just concluded 3 weeks of work on the trade bill in an effort to improve the competitive position of American producers. This is a product where Americans would clearly prefer to "buy American"—if they had the facts before them. Increased demand for soybean oil could only have a positive impact on the American soybean industry. Soybeans are a major agricultural commodity in the United States, and one of my State's largest crops. The value of soybeans produced annually in Nebraska is approximately $425 million—the fourth largest cash crop. It is estimated that the value of soybean oil displaced by palm and coconut oil consumption was $304 million in 1985. This is equal to approximately 75 percent of Nebraska's annual soybean production.

Mr. President, I wish to emphasize that this measure is not designed to be a protectionist measure, nor is there a cost to the Government. Rather, the thrust of S. 1109 could more accurately be described as a "truth-in-labeling" measure. I urge the Senate to pass the bill in the spirit of facilitating informed and healthy decisions by American consumers, and enhancing our Nation's agriculture industry.

Mr. President, I yield the floor.

DEBT LIMIT EXTENSION

Mr. JOHNSTON. Mr. President, I am delighted the majority leader is here because I wanted to speak on the issue of the debt limit and the Gramm-Rudman extension and let him know what my plans are and the plans of those who are in league with me. We affectionately call ourselves a cabal.

Mr. President, we feel very strongly about the issue of making the so-called Gramm-Rudman sequestration mandatory with absolutely no means to escape. It clearly is in my view one of the most, if not the most, far-reaching, important, difficult, complicated subjects with which we will deal all year.

Now, I know it is on this debt limit, but I for one feel that the issue of sequestration, mandatory sequestration is of sufficient gravity to demand at whatever cost appropriate consideration. I would hope, if we are going to deal with that, we could do so at a time when we have more chance to draft amendments and to really consider the matter.

It is only within the last 24 hours that I have received a copy of the Chiles amendment, and that is now under negotiation. There are those who say this amendment or that amendment is precisely the same as last year. We had that debate yesterday. There may be small changes which may have great import. But it takes time to ponder those. Not only that, but there are alternatives to that which they are drawing up, whatever it is, which are going to take time to consider. So at an appropriate time, the first amendment I would want to have considered is a second-degree amendment to the pending resolution, or to some appropriate legislative vehicle to test the Senate on the issue of a clean extension of the debt limit.

A second-degree amendment would be designed to do that by simply changing the figure stated in this resolution of $100 million, which I guess would give us a few hours' extra time on the debt limit, but essentially it would be just to test the Senate's will. How many votes are there for a clean extension? We ought to know that before we make the Senate and the country jump through all these hoops and suffer all the pain of maybe having the Government shut down for a few days.

Having Gramm-Rudman sequestration made mandatory is not the only way to extend the debt and keep the Government running. There may be Senators who are willing to filibuster if they do not get their way on Gramm-Rudman, but it is their filibuster, and it is on their shoulders that the responsibility will be.

The debt limit can be extended by simply adopting the present resolution, which is a simple, five-line resolution. In my view, that is what ought to be done. If it is not to be, it is not to be. But I can tell you that at some point we will have to vote on some kind of second-degree resolution that is a simple extension of the debt limit.

We could vote on that and adopt it, or vote on that and kill it, and have an appropriate test of the sentiment on that issue, and then go on with further debate on whatever the results of that committee are. It is certainly not meant to kill their results, but it is meant to give an indication of how the Senate feels on a clean debt extension. If that clean debt extension vote should fail—and perhaps it would on a first try—then I must say that there are a number of other amendments which would have to be considered. Let me state the general outlines of one amendment I would propose.

It is to say that if we have a sequestration, that sequestration should not adopt the formula of both Chiles and Domenici, both of which say you cut the budget 50 percent defense and 50-percent domestic. Rather, it would say that you have a one-third share of that which goes to revenues in the form of a surtax on personal and corporate income tax, one-third defense, and one-third domestic.

Mr. President, there has not been one serious proposal that I have seen come before the Senate or come before the Budget Committee that did not include revenues. There have been some political documents that have been sent up—impractical—but on both sides of the aisle everyone recognizes that some form of revenue is necessary between here and a balanced budget. If that is so, why in Heaven's name do we provide for a sequestration that does not have any revenue in it?

Under the amendment I will propose, it will say that if Congress does nothing, then you have the surtax on income. By the way, in order to raise $12 billion, which is one-third of the $36 billion target which is being discussed here, we would require a surtax on corporate and personal income of about 2 percent to 2.5 percent. I am not suggesting that is the way we ought to raise that revenue, but I am saying that it is not an unreasonable way to do it. But we would provide a mechanism under my amendment so that if Congress wanted to change that particular revenue package—substitute therefore a gasoline tax or whatever tickled the fancy of Congress at that particular time—my amendment would permit them to do so, utilizing the fast-track procedure. so that if that tax is not attractive, we can come back on the fast track and put in another tax.

Mr. President, it is curious to me, when we talk about sequestration—over here on this side of the aisle, why do people say we need sequestration? They say we need this terrible thing to make the President deal with us on the budget. What do they mean, "deal with us on the budget"? They mean to make the President accept some taxes. If that is the whole purpose of the sequestration drill, to get the President to accept taxes, on the assumption that he does not like taxes—and that is a safe assumption—then why do we put taxes in the sequestration? I can tell you why they were not there in the first place.

I remember when we were talking about that at the time we first confected Gramm-Rudman—I say "we" confected it. I did not have any part of it, except to suggest some things that were bad about it. I voted against it then, and I am still against it. I think it demonstrably has not worked. I do not think it has reduced the deficit. To the extent there has been any restraint on the deficit, I think it would have been that much or more, anyway. I can tell you that it has delayed the process. We have not passed a single appropriation bill in the Senate. We put off all the work of the Senate until the last few weeks, and we put in one CR. We, in Congress, the President, and the people criticize that process. That is all brought about by the Gramm-Rudman law, as engrafted upon the budget.

In any event, if the purpose of that is to get the President of the United States to go along with taxes, why not put it right there in the sequestration document? The reason was, as I mentioned, that back at the time we were putting this together, in the first Democratic draft, we were not the majority. We had precisely that: a third, a third, a third; taxes, defense, and domestic. But, in the wisdom of the Democratic meetings, we decided not to put in taxes, because at that particular time we did not want to be accused of being for taxes. This was right before the election, and President Reagan was saying that we were tax and tax and spend and spend Democrats. So we should not be guilty of being for taxes.

The fact of the matter is that that was not valid then, and it is not valid now. Everyone recognizes—I say everyone. Everyone who knows much about this budget and is willing to be candid about it recognizes that you cannot cut that much safely from the budget without revenues playing some part. Indeed, the President's own budget has some revenues. He calls them user fees, but they are revenues.

In any event, Mr. President, that is a serious discussion that has to take place here if we are going to go to this automatic sequestration. For those amendments and the discussion which they will provoke, we have to set aside time here.

I was hoping that we could consider those matters on the floor today. I am not arguing with the leadership in not allowing for that time today. But I want to put everyone on notice that I have been ready. I tried to submit one of these amendments yesterday. They are going to take some time and will provoke some discussion.

So, when Tuesday rolls around and we have not finally disposed of this matter and there are amendments still pending, let it not be said that the senior Senator from Louisiana is standing or has stood in the way of action on this bill. I am ready with my amendments to begin the discussion, to begin the amendatory process.

If it is more approrpiate that the other group, those who believe in this automatic sequestration, have time to deal before we consider everything else that may be an appropriate strategy. But it is not going to be the fault of the senior Senator from Louisiana that we have not adopted this resolution by Tuesday, because my amendments will be debated and it will take some time and it may take a lot of time.

Frankly, I doubt the basic wisdom of trying to legislate with a gun to our heads on matters of this gravity.

To me, it is like the old kamikaze planes in World War II. You know they would take off from the carriers loaded with bombs, the bombs would be armed, the cockpits would be locked and the wheels would drop off the plane so there was nothing the kamikaze pilot could do but crash into the aircraft carrier.

Under the present law we have a cockpit we can get out of if we want to and jump out in the parachute. That may be a little dangerous to do but at least we can do it.

If we are going to lock that cockpit, take away the parachute and arm the bombs, then I say let us at least consider it for a little while before we do it instead of coming with just a few minutes or a few hours before the time set for the Government to shut down and say, "Oh, you can't consider how you are going to do it; you have to get in that plane, you have to close the cockpit, lock it, take off, drop the wheels and go kill yourself and the country." And maybe somebody will maybe figure out something in the meantime, maybe the President would say, "Oh, yes, I like that $19.3 billion package of taxes."

Mr. President, I do not know a lot of things, and I may not be one of the intimates of Ronald Reagan, but I can tell you as the Sun is shining out there today, and believe me it is searingly hot, as the Sun is shining out there today, President Reagan is going to veto that tax package if the Congress can pass it. He is going to veto it. And then there we are going to be set with the cockpit closed and locked, the landing gear gone and the bombs armed and somebody is going to say "Well, let's think of something."

I can tell you what in my view is going to happen. The American public is going to be all over us like a cheap suit. They are going to be saying "Do something; restore my COLA; take care of my retirement; please don't take our nutrition funds away; you have got to restore this money for national defense, because we are going to have to let off a division, we are going to have to shut down the aircraft lines," and believe me, we are going to have to do some of that if you are going to cut $12 billion. Well, really it is going to be more than $12 billion out of defense. If you have to cut $36 billion in outlays that is $18 billion in outlays in defense which translates to about $36 billion out of defense and in budget authority because there is about a 2-to-1 spend-out rate in national defense.

If anybody thinks you can cut $37 billion out of national defense and do it, you know, even do it in any kind of rational way, you have not looked at the defense budget or else you have a wholly different view of how much the defense of the country needs than I do and some have criticized me for not being strong enough on national defense, but that is going to happen.

The public is going to be in here first mad as a hatter at the Congress, and they ought to be, and people are going to say, "Don't blame me; blame the President."

Now, that is just not going to wash. They are going to say, "How did you vote on this procedure that we are in right now? How did you vote on this kamikaze flight?"

You are going to say, "I voted for it, but * * * " "But what?" "Well, you got us into this," they are going to say "you get us out of it," and it is going to be not only a severe political embarrassment, and it ought to be. It is going to be more than that. It is going to be an economic crisis of severe dimensions to this country.

So if anybody thinks we are going to get into that, just back into it smiling and do so on a unanimous-consent request with a couple hours' debate and no amendments considered, they have another thought coming.

This is deadly serious, and you know we are locking ourselves into that not only this year but for 5 years to come, and the only way you can get out of it is by 60 votes. You know in the kind of partisan politics we play around here, the dedicated minority, and maybe the Democrats will be in the minority in the next Congress, if we adopt this we may very well be, but a dedicated minority can frustrate an intelligent majority very easily when you have a 60-vote requirement. When you can do it by majority rule, it is not so easy, but you can certainly do it and usually successfully do it with a 60-vote requirement.

So, Mr. President, I think the Senate ought to consider these matters and I think the Senate will consider them, and I stand ready to begin the amendment process or the discussion process just as soon as the schedule is appropriate for doing so.

I thank the majority leader for sitting here and listening to my long ruminations.

Mr. BYRD. Mr. President, I thank the distinguished Senator for his observations and he is a very able member of the Committee on the Budget and certainly his thoughts, opinions, and ideas are very important. I am sure he will have an opportunity to call up amendments to the debt limit extension measure in due time.

I do not want to bring the measure up today. I am trying to give the chairman of the Budget Committee and the ranking member and others as much of an opportunity as I possibly can away from the floor to continue their negotiations. I have no pat answer to this problem. I do not say that I have the answer and somebody else does not. But I do feel it is incumbent upon me as much as I can to give them the opportunity to try to develop an approach that will have bipartisan support.

That is the only way I think we are going to be able to deal with this situation and it is critical. I do not know of anything that is as important as this matter at this time.

So the distinguished Senator, I am sure, will have the opportunity to offer amendments and to speak as long as he wishes, and his talents are extensive and his persuasive abilities are virtually unlimited.

But at this time I hope we can get on with something else. I have been talking with the distinguished Republican leader about getting up the DOD authorization bill so as to give our negotiators on the debt limit extension—I will refer to them as negotiators—right now I am kind of casting my lot with the chairman, I want to help him as much as I can as I always try to help any chairman of any bill that is called up here, I want to give them as much of an opportunity and support as I can, and if those efforts fail, then we have to try something else. Maybe we can just go to the bill and let amendments be called up.

The distinguished Senator from Arkansas I believe wants the floor and I do not mean to hold it. Does he wish to speak at this time?

Mr. BUMPERS. Mr. President, I wanted just a couple of minutes in morning business for purposes of introducing a bill.

Mr. BYRD. Fine.

Mr. President, I ask unanimous consent that the distinguished Senator from Arkansas may speak in morning business and that he may speak for not to exceed 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Arkansas [Mr. BUMPERS] is recognized.

(The remarks of Mr. BUMPERS appear later in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

ORDER OF PROCEDURE

DOD AUTHORIZATIONS

Mr. BYRD. Mr. President, I had inquired of the Republican leader, as I stated earlier today, if it might be possible to call up the DOD authorization bill while we are negotiating behind the scenes on the debt limit extension. The distinguished Republican leader has certainly made the effort and has had some meetings. I would like to yield the floor to the distinguished Republican leader for whatever comments he may have in respect to what the prospects may be for our taking up this bill, Mr. President, the DOD bill. I believe we could complete action on this bill by the August recess and complete action on the debt limit extension, which we have to do one way or another.

But while we are having these long quorum calls and recesses and periods for morning business, in which I extol the virtues of my State and talk about the beauty of the hill country and how lovely it is, that is all well and good. But we do have to get on with some of the other business, and that was my hope, that we could get on the DOD bill.

I yield to the distinguished Republican leader.

The PRESIDING OFFICER. The Republican leader, Mr. DOLE, is recognized.

Mr. DOLE. Mr. President, let me indicate that we have had a meeting, just concluded in my office at about 12:30, with Secretary Weinberger, Frank Carlucci, and, I think, all Republican members of the Armed Services Committee, with the exception of two members, and in addition, the distinguished Senator from North Carolina, Senator HELMS, the ranking member on the Foreign Relations Committee.

We did that in response to the request from the majority leader. I share his view that if we can get something going—we have a lot to do. Time is going by and the calendar is there.

But I must say that it was fairly conclusive in that meeting not to alter our stance on taking up the DOD authorization bill, unless, as the Senator from North Carolina suggested, we could remove the Levin-Nunn amendment from the Defense authorization bill and shift it over to the State Department authorization bill where it properly belongs, along with any other arms control amendments.

So if we could bring the DOD authorization bill up free and clear of the Levin-Nunn amendment, and also with the understanding that there would not be any SALT amendment or any other type of arms control amendments offered to the DOD authorization bill, we could proceed. As I understand it, the State Department authorization bill has been reported. Therefore, we could move the Levin-Nunn amendment to the State Department authorization bill, take up the DOD bill, and maybe could have time agreements on a number of amendments.

I agree with the majority leader that the DOD bill would be something that we could complete, something that we could fill in the gaps with, as we try to work out some compromise on the debt limit and the so-called Gramm-Rudman-Hollings fix.

So that is precisely where we are. I cannot tell the majority leader that we can proceed to the DOD authorization bill.

Let me also just comment briefly—and I know the distinguished Senator from Virginia would want to also comment on what I have just stated, and also on the statement by Senator BUMPERS.

I think one thing that was certain this morning, when we woke up and learned that one of the tankers had struck a mine in the Persian Gulf, is that somebody would have a bill today to introduce. We did not know what time it would be, but we all knew it would happen and there would be a press conference and somebody would be decrying American policy. That is surely a right we all have.

But I do believe, having discussed that briefly with Secretary Weinberger, that it is not going to change our policy there. It shoud not change the administration's policy there. I would hope that maybe there will be some time if not today, some time next week that that matter could be fully debated.

Mr. HELMS. Will the Senator yield?

Mr. DOLE. I am happy to yield the floor. The majority leader has the floor, but I would be happy to yield the floor.

Mr. BYRD. Mr. President, I just do not want the debt limit extension bill to come down.

I ask unanimous consent that we may proceed for 15 minutes for a discusssion of the program.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. BYRD. Mr. President, I do not want to stray too far away from the subject matter of the program for this afternoon. I certainly want the Senator from North Carolina to be heard and the Senator from Virginia. But I would like at some point to have Senator NUNN here. He is on his way to the floor.

Mr. WARNER. Mr. President, I wonder if the distinguished majority leader might permit those of us who wish to address the bill introduced by Mr. BUMPERS to do so momentarily. I see the distinguished ranking member of the Foreign Relations Committee on the floor. I could wait.

Mr. HELMS. I just had one observation to make, if the able Senator will yield to me.

The Levin-Nunn or Nunn-Levin amendment, however it goes, does not even belong on the DOD authorization bill. It is clearly under the purview of the Foreign Relations Committee. Arms control is in the same category, I would say to the able majority leader.

I assure him that, for my part, I will do everything that I can to expedite the consideration and the conclusion on that bill. I feel sure that Chairman PELL will feel the same way about it. But I hope we can work out an accommodation on the matter.

I thank the Senator for yielding.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER (Mr. ADAMS). The majority leader has the floor.

Mr. BYRD. Mr. President, I will not keep holding the floor. I hoped that Senator NUNN would be here.

I sense that we probably will not get consent to take up the DOD authorization bill this afternoon, but I would rather not put that request until Mr. NUNN is here. Perhaps, with some colloquizing with Mr. NUNN and others, who knows what may be the outcome. I have heard what the distinguished Senator from South Carolina had to say.

Mr. WARNER. Mr. President, if the majority leader would yield for an observation.

Mr. BYRD. Yes.

Mr. WARNER. I think we had a constructive conversation during the course of the morning on possibilities. I, for one, wish to express my appreciation to the leadership, both for the majority and minority and to the members of the President's Cabinet who came down here today to provide us with their views on this. Other members of the Armed Services Committee and indeed the ranking member of the Foreign Relations Committee were present this morning so I think we could have what I would regard as a profitable colloquy this morning on that issue and we will await the arrival of the distinguished chairman of the Armed Services Committee.

Mr. BYRD. I do not want to keep holding the Republican leader on the floor. He has some other matters for which he has to leave the floor. But I am concerned that once a Senator strays away from the floor, it takes a while to get him back.

I want to thank the Republican leader for having the meeting. He has called people together and called people from downtown. I want to thank him for that.

I want to know one way or the other this afternoon if there is going to be an objection, but I hesitate to proceed while Mr. NUNN is not on the floor.

EXTENSIONS OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be morning business for 15 minutes and that Senators may speak during that period.

The PRESIDING OFFICER. Is there objection? Hearing no objection, it is so ordered.

REFLAGGING IN PERSIAN GULF

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

MR. WARNER. Mr. President, I regret the distinguished Senator from Arkansas had to leave the floor. He indicated to me, however, he had another commitment otherwise he would be here. But I did want very much to make a reply to certain comments that he made in association with the introduction of his bill.

He asked what would be the reaction of the American people to the misfortune of an exposion, earlier this morning, on the tanker.

Within the hour, I met with the Secretary of Defense and the National Security Adviser. The United States is still looking into the details of this incident.

The Senator from Arkansas asked, however, what will be the reaction of the American people? Well, my first reaction was that I was very grateful that there had been no injuries, and particularly none involving the brave men who are conducting that convoy duty as we are here this morning safely in the U.S. Senate.

My second reaction was that I hoped that the leadership of this Nation, the President and the Secretary of Defense, indeed those of us here in Congress, would approach this incident, as well as others that may follow, with a sense of calm, coolness and dedication to try and reach carefully thought out conclusions. Indeed, each day we should examine the risks of our operations in the Persian Gulf. But inflammatory remarks such as this press release that I have just been given, should not be a part of our deliberations.

This press release states as follows:

> Mines in the waters of the Persian Gulf could become what mines and boobytraps were in Vietnam. * * * This is not standing tall in the gulf, said Bumpers. This is using the United States flag as a target in a shooting gallery.

With due respect to my colleagues who issued this press release, it seems to me that that type of rhetoric is not befitting the seriousness of this particular incident; the seriousness of the commitment of our President, the men of the Armed Forces aboard these ships, and other elements of our Armed Forces in that area today.

I am perfectly willing, as has been the leadership of this body and other Members, to periodically examine this issue and others involving the gulf. Many of us expressed our concerns initially. But the decision has been made, the President has gone forward with the execution. Therefore, I urge the Senate, in their continuing examination, in the continuing consultation process between the executive branch and the legislative branch, to proceed with cool heads and carefully chosen rhetoric.

I thank the President.

The PRESIDING OFFICER. Who seeks recognition? The majority leader.

Mr. BYRD. Mr. President, the distinguished Republican leader indicated that we might renew our discussions with respect to the prospect for calling up the defense authorization bill within about 15 minutes and I have asked Senator NUNN to try to be on the floor at that time.

I ask unanimous consent, therefore, that the Senate stand in recess until 1:30 p.m. today.

There being no objection, the Senate at 1:08 p.m. recessed until 1:30 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. ADAMS).

The PRESIDING OFFICER. The Chair, in his capacity as a Senator from the State of Washington, suggests the absence of a quorum.

The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT REQUEST—DOD AUTHORIZATIONS

Mr. BYRD. Mr. President, I think about the best way to bring this matter to a head is for me to ask unanimous consent, and Senators may reserve the right to object and speak their piece. I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 120, S. 1174, a bill to authorize appropriations for the 2 fiscal years 1988-89 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal years for the Armed Forces, and for other purposes.

Mr. DOLE. Mr. President, reserving the right to object, and there may be others who want to speak, otherwise I shall object. As indicated earlier we did have a meeting this morning, a good meeting, that included the Secretary of Defense and the President's National Security Adviser, Mr. Carlucci, and along with eight or nine Republican Senators, and in an effort to see whether we could reach some agreement to bring up the DOD authorization bill and get a time agreement on a number of amendments and try to accommodate the majority leader while we are working out the debt ceiling problem and accommodate the chairman of the Armed Services Committee and the ranking Republican on the Armed Services Committee. I must say that, one, it was a very good meeting; it only lasted 30 minutes; everybody showed up on time, which was a bit of a shock, but which permitted us to end the meeting on time. But it was fairly obvious that we could not accommodate the majority leader or the chairman of the Armed Services Committee.

I do not know what to suggest, except maybe another cloture petition on the motion to proceed or whatever the leadership on that side, of course, wishes to do.

There may be others who wish to speak on a reservation. If not, I will object to the unanimous-consent request.

Mr. WARNER. Mr. President, reserving the right to object, I first want to thank the distinguished leadership of the Senate for indicating the willingness to readdress this question.

The chairman of the Armed Services Committee and myself from time to time discuss it. We see many advantages to the overall national defense of this country, particularly the 2 million men and women serving in uniform, to have this bill addressed.

However, from the onset; namely, the final concluding day of the committee consideration of the bill, it has been unequivocally clear that I and other Republicans feel that a specific provision of this bill is so alien to the interest of the United States that we cannot in good conscience at this time go forward unless there is some provision made whereby the Senate be given an opportunity to address that provision known as the Levin-Nunn amendment, together with arms control provisions. We recognize it is the will of the Senate and the right of the Senate to discuss these provisions.

It would be our hope that the chairman and others would consider a piece of legislation other than the authorization bill and that we could reach an agreement to put those amendments, to be quite candid, matters relating to foreign policy on another piece of legislation and enable this bill to go forward.

Mr. NUNN. Mr. President, reserving the right to object, and I shall not object, but I would like to discuss this just a moment. I appreciate the majority leader giving us an opportunity to make this effort to bring the bill up. We, of course, tried to bring the bill up for the last 2 months. We will continue to work on that to try to bring it up.

I want to thank my colleague from Virginia for good faith efforts on his part, and the minority leader, Senator DOLE, for good faith efforts on his part, to try to see if there could be a way to bring the bill up.

I think time and the clock are ticking against us now. The Senate calendar is getting more and more full in terms of things that are to come and things that are backlogged now.

I think the chances of getting an authorization bill if we do not get it before the August recess go down appreciably.

Frankly, as the Senator from Virginia already knows, we have had some informal conferences going on and I would feel obligated to try to get our committee together and inform everyone, both majority and minority, of some of that informal, nonbinding discussion that has gone on with the House of Representatives before the Appropriations Committees mark up the defense appropriation portion of the appropriations bill.

The reason for that is if we do not do that the appropriations bills will become the operative bills this year on defense and we will not have any need for an authorization bill.

Once this occurs, there will be some things like military construction and pay for our men and women who are risking their lives and so forth, every day that are going to be very difficult to address without an authorization bill, but perhaps we could even figure something out on that.

The point I would like to make to my colleagues is that the need for an authorization bill is before the appropriation bill. If the appropriation bill precedes the authorization bill, then the authorization bill itself becomes if not irrelevant at least less relevant.

So we are going to have to move before the Appropriations Committee does to give them the best advice we can offer based on the good faith efforts of our committee with all participating on both sides of the aisle and based on the results of an informal dialog by various staff members on the Senate and House side that will have to be ratified completely by both our committee and the other committee.

So unless there is a change of heart on that side of the aisle, we may very well not have an authorization bill this year. I do not like that. I think it is bad for the process. I think it is bad for the committee. I think it is bad for the military forces of our Nation. We have spent enormous amounts of time on this. But I am prepared to accept that as being inevitable if our colleagues do not have a change of heart.

I know that some have tried to bring about that change of heart in good faith.

So I thank my colleagues who have tried to get the bill up. As I said before, I will be pleased to separate out the so-called Levin-Nunn amendment at any point and put it on any piece of legislation that comes before the Senate provided the strategic defense initiative funding goes with it because if you separate those two it makes no sense whatsoever and that is, of course, the same offer we had 2 months ago.

So we are right where we were. We made no progress that I see unless someone on that side of the aisle has a change of heart.

I would hope we could have another cloture vote at some point. I know there are a lot of procedural things to consider in this regard.

But I would just like to advise my colleagues that I feel compelled as a chairman of the committee and as a duty as the chairman of the committee to give the Appropriation Committee our best advice and unless we have had some breakthrough in this regard by the time we break for the August recess, I think we will have no option other than to go ahead and just understand that we are not likely to have a bill this year and give them the best advice we can.

Mr. President, I shall not object.

The PRESIDING OFFICER. The Senator from South Carolina. I will protect the rights of each Member. Each is reserving the right to object, and I will recognize the Senators in the order that they rise.

The Senator from South Carolina.

Mr. HOLLINGS. Mr. President, reserving the right to object, and I shall not object, I feel very keenly, as the Senator from Georgia does, that we have an authorization bill. I serve on the Defense Appropriations Subcommittee of the Appropriations Committee.

But I feel equally strongly that we stop rewriting treaties and foreign policy on appropriations and authorizations bills. And that is why I oppose so strongly the Levin-Nunn amendment and want to sort of check in with my leader and those interested in this particular subject, whereby, like Voltaire says, I disagree with everything he says, but I agree on his right to say it, similarly, I disagree with the Levin-Nunn amendment, but I agree with the right of the leader to call it up. So I have been voting with the leader.

But that should not mislead the strong sentiment on this side of the aisle that the discipline has broken down. And I can be specific. When I first came here and introduced the textile bill and thought I had really, you know, won everything, they blue-slipped it over in the House of Representatives where the distinguished Presiding Officer served, and we have not seen that bill since. But we have not effected that kind of discipline over on this side, and you can rewrite any treaty on any appropriations or any authorization bill and we bring it over and we redebate it.

And here is one that has been passed and been a good one for some 15 years, with no questions asked, and now we are going to what is implicit, when the negotiators and the signers said it was precise, and we can go right on down and show that the treaty speaks for itself. I want to be able to show, since the distinguished Senator from Georgia has had a chance for 3 days to stand up and present his view of what happened back in 1972 when many of us voted for that treaty and have supported it and continue to support it, that it certainly does not contain what he says it contains. I can prove that to the Senate's attention, but, Mr. Leader, you have got to get their attention first.

And that is why I have come to the floor, not to object to any unanimous consent, but to register that I want to be present when we have any kind of a time agreement, because we rush through things now and people get all committed up before they even read what they are voting on.

I thank the distinguished leader. I will not object.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Wyoming was on his feet reserving the right to object. The Senator from Wyoming is recognized, having reserved the right to object.

Mr. WALLOP. I thank the Chair.

Mr. President, I reserve the right to object and, absent any other objections, I shall object.

I listened to the Senator from Georgia suggesting that it is time for a change of heart. My suggestion is that, this amendment is the heart and that removing it from this bill is the sign that we need to move forward on it. It is basically irrelevant to the armed services budget authorization. It is that which has created our inability to vote, ours, the Senate.

He talks about the concerns that may be in the hearts of the men and women in uniform and others as we go through this process. I understand that. But the change that is necesary is to clean this up so that it is a DOD authorization and not the deauthorization of the President's ability to negotiate in Geneva.

In Heaven's name, right at this moment at the very time when we are in the end game in Geneva in the INF negotiations, along comes the Senate to debate a contentious issue and hand-tie the President right at the moment that he needs the most explicit authority and the most negotiating room that he could possibly ask for. All of this in the same months that we have new information of new Soviet violations of the ABM Treaty, and even more, the alarming stories that have arisen about the Soviet's MIR experiments. And we are sitting here trying to seal ourselves in a vacuum of information that the appropriate thing to do is to tie the defense of this country to what is, in essence, a sophist debate on the interpretation of words, an interpretation that is essentially the privilege of the executive branch, both traditionally and historically.

For these reasons, Mr. President, absent other objection, the Senator from Wyoming shall be happy to object.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, reserving the right to object, and I will object if the Republican leader for some reason chooses not to, let me say, Mr. President, that it has been a couple of months since we had anything like a discussion of the reasons for this honest disagreement between the members of the Senate Armed Services Committee and by and large between the two caucuses that occupy this floor. The reason, very simply, is that there is one provision in the defense authorization bill that is the sticking point. Reference has been made to it on this floor, it is the so-called Levin-Nunn amendment, the substance of which is to condition funding for the SDI Program upon the acceptance by the United States of an interpretation of the ABM Treaty that would prohibit the development and testing of certain antiballistic missile defenses. For there, it would relegate us to pure research within the four walls of the laboratory.

Mr. President, as the distinguished Senator from South Carolina has very clearly indicated, that is unwise. As the distinguished Senator from Wyoming has indicated, it tends to totally undermine the bargaining position of American negotiators in Geneva, at this very moment at work upon the kind of negotiations that we hope can lead to a breakthrough in meaningful arms reductions talks and actual agreement.

There has been reference made on this floor by the distinguished chairman of the committee, my friend from Georgia, Senator NUNN, that if we do not even at this late moment go forward, if we do not like action on that DOD authorization bill prior to the August recess, all of the work of the Senate Armed Services Committee on that bill is lost and we, as a committee, become irrelevant to the appropriations process, a process by which funding for the armed services is affected.

Well, that is absolutely true. And as much as he objects to it, as much as he regrets it, I regret it. But I would have to say, Mr. President, there is something far more important than committee prerogatives. What is more important is that we set a precedent very clearly, and make it stick, that this kind of provision, which has no place on this legislation, not be tolerated on this legislation.

The Senator from North Carolina, who is the ranking member of the Senate Foreign Relations Committee, has made the suggestion that this provision, if it belongs anywhere, belongs on the State Department authorization bill. I think that is a correct observation. Certainly it is correct that it has no business being on this bill. I would argue substantively that it has no business being before the Senate, but that is a debate on the merits and on the substance of the kind that the Senator from South Carolina wishes to engage in.

But the real point the people of this country who are paying attention to this debate should understand is simply this: The Republican members of the Armed Services Committee, the Republican Members of this body are perfectly willing to go forward with the defense authorization bill upon which we have worked hard and which we think to be otherwise a good bill, but this amendment does not allow us in good conscience to do so. We have to oppose its coming to the floor because this is not simply another amendment among hundreds. It is special. It is, in the view of many of us, unconstitutional in that it seeks to usurp the authority that is given exclusively by the Constitution to the President of the United States. It is important in a special way, a unique way, in that it does undermine the SDI Program, it does undermine negotiations in Geneva.

So, Mr. President, we would be delighted to be able to see the DOD authorization bill move. It is otherwise a largely good bill; not perfect, but a good one. But that really is not our option. The price that we are asked to pay is simply too great. And if committee prerogatives must suffer, so be it. Because our importance to this process is of infinitely less importance than that we observe, in this year when we celebrate the bicentennial of our Constitution, those provisions relating to the separation of powers that say it is the President of the United States that shall negotiate treaties and it is important that we not engage in the kind of revision that will violate that principle that is clearly embodied in the Constitution.

So that, my friends, is why we are at this unhappy pass and why people who do not wish to be irrelevant to that appropriations process are prepared even to suffer that unhappy consequence. It is important that people understand that this is a very, very bad precedent.

We should have had this fight out last year, Mr. President, in the conference on the defense authorization bill when the House of Representatives, in two or three provisions relating to arms control treaties, sought to impose upon the President of the United States and the people of the

United States, observance of an unratified treaty.

That is wrong. And we started to have that fight, Mr. President, but did not conclude it. Why? Because the House Democrats, members of that conference committee, those conferees, did not wish to undermine the President on his way to Reykjavik and it was on the eve of Reykjavik that, in fact, they decided to withdraw from that engagement and withdrew those amendments.

Well, I commend to them that same thought now. Let them once again exercise some responsibility and understand what they are about. It is not the President going to Reykjavik but it is his negotiators, our negotiators in Geneva who are being undercut by this amendment, however well intended it may be. It would give to the Soviet negotiators what they cannot get at the bargaining table. That is what this is all about, Mr. President. That is why it is so important.

Mr. BYRD addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I made a unanimous-consent request. Senators may reserve the right to object, but I do not lose the floor when I do that but I have to stand here to keep the floor. If I sit down I will lose my right to the floor.

I wish someone would either object or say they are not going to object and let me sit down.

The PRESIDING OFFICER (Mr. DASCHLE). Objection is heard.

Does the majority leader continue to seek recognition?

Mr. BYRD. Who objects? The Senator from California.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I make this one request and then I yield the floor.

I ask unanimous consent that there be a period for morning business not to exceed 30 minutes, Mr. President, the Senators to be permitted to speak therein.

The PRESIDING OFFICER. Without objection, the Senate will be in morning business for 30 minutes.

The Senator from Nebraska has been standing and seeking recognition.

Mr. EXON. I thank the Chair.

Mr. President, I was patiently waiting to become involved in the debate that just took place but I am delighted that I can do it in morning business and I will be as brief as possible.

I think the record should be very clear—could we possibly have order in the Senate, Mr. President?

The PRESIDING OFFICER. The Senate will be in order.

The Senator from Nebraska.

Mr. BYRD. I ask also, Mr. President, if the Senator will allow me, that the Senator's remarks appear in the RECORD in conjunction with the colloquy in respect to my request that it not be shown in morning business elsewhere.

The PRESIDING OFFICER. Without objection.

Mr. EXON. I thank the majority leader.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, I am keenly disappointed that we were not able to get an agreement despite the fact that there were some on the other side of the aisle that want to bring this bill up.

What we are facing here, of course, is a filibuster against the defense authorization bill by those on that side of the aisle, for very good reasons that they believe in. They object to bringing the bill up and are going to continue to follow the filibuster route, which I think is an ill-advised one indeed.

I frankly am getting just a little bit worried, Mr. President, for any of us who do not support aid to the contras are indirectly branded as not being in support of the President of the United States and his foreign policy.

Many of us who have gone along in many key votes, as those on that side know, are painted with that broad brush that if you do not agree to drop a very important amendment that was adopted by the Armed Services Committee, then you are trying to tie the hands of the President of the United States in negotiations with the Soviet Union. Nothing could be further from the truth.

What those on that side of the aisle are attempting to do is to thwart the will of the Armed Services Committee, that, despite what they say, has a key role to play in where and how much money we are going to spend, at least through the authorization process, for the continued defense of the United States of America.

If everyone knew the details that went on during the lengthy process of authorizing the strategic defense initiative through the Strategic Subcommittee that I chair, and then through the Armed Services Committee itself, it would put all of this in better perspective.

What is the issue? The issue, Mr. President, simply is that there are those of us who support the Levin-Nunn amendment for the reason that we think it is in the national security interest of the United States and for the free world.

The other point of view is that the President of the United States and his operatives continue to say: Congress, do not bother yourself with these things. This is in the realm of the executive experience. This is in the realm that only the President and his nonelected advisers know everything about. Do not be fooling around with this. You are only Members of the U.S. Senate that under the Constitution, I might say, have responsibilities as far as confirming or approving any treaty that this country involves itself with, with any foreign government, Russian or otherwise.

I simply say that the key issue here is whether or not the majority will of the hawkish, and I emphasize that word again, "hawkish," Mr. President, Armed Services Committee is merely trying to send a signal very loud and very clear that all that we want done is for the treaty that this body confirmed to be maintained.

We are not trying to change the treaty. We are simply saying: Leave the treaty alone as we approved it. It is the administration, Mr. President, not any Members of this body at least on this side of the aisle, that are trying to change the treaty.

In a related matter, I would say, Mr. President, for the information of my colleagues, that the $4.5 billion authorization for the strategic defense initiative would not have been set at $4.5 billion, but something considerably less, I suggest, had not we known that we were going to try and prevent extensive outside-the-laboratory testing for the strategic defense initiative.

So, if the figure below $4.5 billion that most of us would like to see—and I might add, Mr. President, those of us who have supported the SDI from its inception—there are those of us who feel that if a significant portion of that amount over what we think is reasonable and proper, given the budget constraints—that if that money in excess of what we think is in order, probably in this Senator's opinion in the $3.6 to $3.8 billion range, if we are going to end up spending $500 to $800 million for outside-of-laboratory testing in violation of what we think was the solemn treaty obligations of the United States of America, we are against it. And I think we are patriots for so doing.

I simply want to say there are those on the other side of the aisle for whom I have great respect who do not agree with me on this. But when are we ever going to get to the position where the U.S. Senate allows its hawkish committee—and some of its nonhawkish committees—to express its will by even bringing up a bill for debate on the floor of the U.S. Senate and then allow the U.S. Senate as a whole, that was elected by the people of these United States—and as far as I know, there are no leftwing Communists among us—when are we going to allow the processed in the U.S. Senate through its elected officials to work its will?

It is long past that time, Mr. President. I hope that before the August recess takes place we are able to at least bring this bill up on the floor, have a thorough debate, and let the Senate work its will.

I yield the floor.

Mr. JOHNSTON. Mr. President, twice in the debate in the last few moments we have heard allusions to the fact that the treaty in Geneva would be undermined and affected by the approach on SDI. Mr. President, you need only read the newspaper to know that is demonstrably clearly not true. But if you do not trust your newspapers, and a lot of people do not, let me say that I had the privilege of being one of the observers to the Geneva group. I can tell and assure as clearly and as totally convincingly as I know of anything in my realm of experience, that SDI has nothing to do with the INF Treaty.

To briefly explain, in Geneva we have three separate negotiations going on. There is the INF Treaty, with one negotiator; there is a defense in space, with another negotiator; and there is a START Treaty, or Strategic Arms Reduction Treaty, going on in still another arena.

There is some relationship, of course, between all three. Max Kampelman is the main negotiator for all three and also heads up the defense in space compartment.

However, Mr. President, the INF Treaty is separate from star wars because star wars is connected to the START Treaty. The Soviet Union has made clear, and as you read in your morning paper, that they have now accepted the so-called zero-zero option, which we propose. The only thing standing in the way, and this was clear when I was there last month and I think it is equally clear now, the only thing standing in the way of that treaty, that the Soviets say stands in the way, are the 72 Pershing 1-A missiles located in Germany, the warheads to which we control.

Mr. Veronstov, their chief negotiator, said, while we were in Geneva, and again as reported in the morning paper, that a zero-zero option ought to be zero on both sides, and their view is that our 72 Pershing 1-A warheads located in Germany prevents that from being symmetrical.

I mention that not to say that that is going to prevent the treaty from coming into operation. I frankly think we are going to get an intermediate-range treaty. But the Soviets are not asking and we are not offering, and there is no discussion in the INF treaty, about what we are going to do to limit strategic defense initiative.

The thing that the Soviets are concerned about is the short flight time of intermediate range missiles so that what is called in the trade we could execute a decapitation of the Soviet command control located in Moscow. They are very concerned about the survival of their hardware. They have huge tunnels all under the Kremlin that can go out as far as 30 miles away and with a little notice of say 30 minutes, which is the flight time of most long-range missiles, they can get safely out of range.

They were afraid of these Pershing missiles because with the flight time of 10 minutes you could blow them all up in the Kremlin and destroy the leadership, which is their principal concern.

Star wars or the strategic defense initiative is very much an issue in the START Treaty. In my view we are a long, long way from getting a START Treaty because the Soviets want effectively to prevent testing and deployment in space of any SDI as a condition to going down to a 50-percent START limitation or 50 percent of the warheads. We say we want 7 years in which we can test and thereafter we may deploy.

So the United States' position is really on the other side of what most of us regard as the present treaty position. Most of us regard the treaty position as being the so-called restricting interpretation of the treaty, but they would go beyond even the liberal interpretation of the treaty and, in fact, not allow any test for 7 years and deployment thereafter.

Whether or not we ever get together on a START Treaty, and in my view it will not be under this administration, that has nothing to do whatsoever with intermediate-range negotiations. In my view, we will get or not get the intermediate-range treaty based upon what happens to the 72 Pershing 1-A missiles. I think I can see the outlines of that treaty now, which is the probability that the Germans will be able to keep their 72 Pershing 1-A's under a promise that the number not be increased or that they not be upgraded.

Whether that happens or not is beside the point. What is the point is that it is not a matter of contention, SDI is not a matter of contention, or a bargaining chip or undermining the President for the intermediate-range treaty.

Mr. GRAMM. Mr. President, I am sure we all appreciate the information that the United States and Germany are holding up the INF Treaty because of the Pershing 1-A's. If our negotiators were here, we could ask them what happened that brought the Russians back to the bargaining table. Over and over the Soviets said, "You either stop SDI or we stop talking."

What brought them back to the bargaining table is that they fear American technology and fear our ability to develop a viable and workable defense for the United States of America. That is what brought them back to the bargaining table. There is no real debate about that.

People might ask themselves, why do we have people like the distinguished Senator from California, the distinguished Senator from South Carolina, the distinguished Senator from Idaho, the distinguished Senator from Indiana, all of whom are among the strongest supporters of defense in this Senate? In fact, if you were able to put out some index of who over the years has done more to support defense, there is no way that each of those Members would not be rated in the top 10, no matter how you put it together.

I suggest that we should ask ourselves, in fact the Nation should ask, if these people are not allowing the defense authorization bill to come to the floor of the Senate, what is wrong with it? There are a lot of delicate ways you can say what is wrong with it, but you can say it in very simple terms that everybody understands.

What is wrong with it is that it has a provision that has nothing to do with defense in it. It has a provision that gives the Russians what they cannot win at the bargaining table. That is the issue here. That is the issue that is holding up the consideration of the armed services authorization bill.

There seems to be some confusion. We have different committees with different jurisdictions. It is not the jurisdiction of the Armed Services Committee to try to tame the Russian bear or to negotiate with him or to teach him manners. It is the responsibility of the Armed Services Committee to keep the bear from the gate.

We are an armament committee, not a disarmament committee. That jurisdiction belongs to another committee, the Foreign Relations Committee. That is where we ought to be debating shackling the President, if in fact that is what the majority in this Congress wants to do. I do not want to do it. I do not believe the American people want to do it. I for one, as much as I want to authorize the armed services of this Nation, as much as I want to preserve the jurisdiction of a committee that I fought to win membership on, am not going to vote to bring up a provision that I believe undercuts and destroys the effectiveness of the President at the bargaining table in Geneva.

That is what this issue is about. We cannot be conducting two foreign policies. We cannot have 536 Presidents. We have one President. And when that President is bargaining with the Soviets, when we are making progress, when the Soviets have been brought back to the bargaining table because of our ability to develop SDI, I for one am not going to support shackling the President, limiting our ability to move ahead with SDI and give the Russians what they cannot win at the bargaining table.

That is the issue. That is why we are here. That is why the armed services authorization is not here. And to the extent that I have anything to do about it, until this provision comes off this bill, we are not going to have a defense authorization bill.

I yield the floor.

Mr. THURMOND addressed the Chair.

Mr. LEVIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Let us be clear what the issue is. We have heard a lot this afternoon about the language on the DOD bill, shackling the President, unsurping the authority of the President, nothing to do with defense. We have heard all kinds of arguments about this language this afternoon. None of it relates to the issue before the Senate. The issue before the Senate is whether the majority will be able to vote on whether this language should stay in this bill or be stricken from this bill. That is the issue. Now, there are some people who feel very——

Mr. SYMMS. Will the Senator yield for a question?

Mr. LEVIN. In a minute. There are some people who feel very strongly on both sides of this issue. There are some people who feel that the President has a unilateral right to spend the SDI money which we authorize and appropriate to him any way he wants; that we do not have a right to place restrictions on it; that we should write him the check for the $3 billion or $4 billion for SDI and then say, "Here, you spend it." And then we have no right to put limitations on it.

Now, that is what some of us feel. They hold that view strongly. They have a right to hold that view strongly. There are others who feel different; that the Congress, using its power of the purse, has a right to say not only how much money will be authorized and appropriated but how that money will be spent. Some of us feel very strongly on that issue. We had a vote on this in the Armed Services Committee. It happened to be a bipartisan majority of the Armed Services Committee that voted that this language should go in the bill, and it is in the bill.

But now we are told by some people that they will not let this bill come to the floor of the Senate to test their theories. They surely have a right to hold to these theories, to believe deeply in their approach, and I respect that. But it seems to me that is a very different issue from what they are presenting to us. The proposition that they are laying before the Senate is that they do not believe enough in their theories to let a majority of us vote as to whether or not we agree with them.

Are we shackling the President? Let the majority of the Senate decide. Are we undermining our negotiators in Geneva? Let the majority of the Senate decide. Are we usurping the authority of the President? Let the majority of the Senate decide.

Mr. SYMMS. Will the Senator yield for a question?

Mr. LEVIN. I will be happy to yield.

Mr. SYMMS. I thank my good friend for yielding. It was just stated here earlier on the floor by the distinguished majority leader and others on the floor that we were happy to bring these amendments up as a freestanding resolution, or on the State Department authorization bill where it belongs, and let the Senate work its will. But do not interfere with the armed services bill, which is so important to the security of the country. I think the Republicans are willing to debate this as a freestanding resolution, but we are not willing to have the defense of the Nation tied up in a piece of legislation so important as the Department of Defense authorization bill. If we take the amendment as a freestanding resolution, I do not think there would be any problem, and so I do not think the Senator's statement is absolutly correct. I agree with Senator HELMS, Senator DOLE, and others, that we should put it on the State Department authorization bill, and not interfer with the authorization of equipment for the men and women of the armed services.

Mr. LEVIN. What is the question?

Mr. SYMMS. That is the question. Were you aware that is the offer?

Mr. LEVIN. I am very aware of the offer. What it comes down to is exactly the same thing that you are saying—unless we do it your way you are not going to let the majority will work on this armed services bill. You ask me the question and that is the answer. You are saying that a few of us here are saying we will not let this bill that contains this language come to the floor and move to strike it. Why not move to strike this language? Why not let it come to the floor and seek to amend the bill? Just say I move to strike the language which you find so offensive. If you find that this language shackles the President, move to strike it.

Mr. SYMMS. May I ask a question?

Mr. LEVIN. I would be happy to yield for a question.

Mr. SYMMS. I thank the Senator for yielding so I might answer that question and just say simply the reason we do not want to move to strike the provision is because we have the Americans negotiating with the Soviets in Geneva right now and you are talking about stabbing them in the back. It is poor timing.

Mr. LEVIN. You use pretty strong language when you say stabbing in the back, and I am not going to respond to it as emotionally as you present it. I am simply going to say this. If this language stabs anyone in the back, if this language usurps the authority of the President, if this language does anything other than exercise the traditional power of the purse, test your theory. If you hold it so strongly, put it up to a majority vote of the Senate on this bill. It is on the bill.

This is no longer an amendment. It is part of this bill. This bill has come to the floor as a result of a majority vote of the Armed Services Committee of the Senate. You feel strongly it stabs the President in the back. Obviously, a majority of the Armed Services Committee disagrees with you. But you have a right to hold those views strongly, and I respect you for holding them strongly. The difficulty is that you apparently do not believe you can persuade the majority of this Senate to strike this language, and that is where your theory falls. You are not willing to put this to a test of the U.S. Senate. We are. And by the way, I am not sure how it will come out. Let me tell you, I am not sure what the outcome will be of that debate. It will be a very strong debate involving whether or not this is appropriate language under the appropriation-authorization process, over the power of the purse, over the authority to interpret treaties, over the ABM Treaty, over a whole lot of things.

We ought to have that debate, but that is not the issue now. The issue now is whether or not a few of us ought to hold hostage this bill and say unless you do it our way, unless you strip language from that bill that is on it, we are not going to let this bill come to the floor. That is the issue now.

Mr. SYMMS. Mr. President, the majority party has a right to bring it to the floor as a freestanding resolution.

Mr. LEVIN. We have a right to bring it to the floor in the bill in which it now sits, on this calendar. The bill is on the calendar. That is what we have a right to do, unless it is filibustered, which it is. On the last vote we had on this, there were 59 Senators—59 Senators—who said, "Bring this bill to the floor." So do not argue the issue as to whether or not this usurps the right of the President. We should debate that at the right time. This is not the time to debate that. This is the time to debate whether we can get this bill to the floor so we can debate it. We cannot even get this bill to the floor. And then test your theory. And you know what, you may win. I hope you will not because I think you are wrong. But you may win. You may be able to persuade a majority, if your theories are right, that this undercuts the President; that "this is going to let Ivan come through the gates," as our friend from Texas puts it; that this undercuts the President; that this shackles the President.

Those are pretty serious claims. I think you are wrong on all of them but there are serious arguments that ought to be made, and if you are right I think you will persuade a majority of the Senate. If you are wrong, you are going to lose. But you will not take that risk. You will not take the risk that a majority of the Senate will disagree with those theories. That is the issue we are facing right now. That is the risk you will not take.

I yield the floor.

Mr. EXON. Mr. President, will the Senator yield for a question?

Mr. LEVIN. Either way.

Mr. EXON. I ask this question of the Senator from Michigan because I think it is important—as I tried to do in my earlier remarks—to put this in the honest perspective, which is the way I think we should look at it.

Those on that side who are blocking this from coming up absolutely refuse to mention and, as near as I can tell, in their debate never mentioned that this tied in directly with the funding for the strategic defense initiative. It is directly tied in, is it not?

Mr. LEVIN. Absolutely.

Mr. EXON. Let me ask a followup question: Is it not true that those of us on this side who think the defense authorization bill is critically important—and there are those of us who, as correctly stated by the Senator from Ohio, do not agree with our colleagues over there, but we certainly agree with their right to bring it up. The point the Senator from Ohio made was a good one: Let us debate it and let the Senators make that determination.

I ask the question: In the interest of compromise, was it not true that we agreed that if we put this over on some other bill, as the appeal has been made over and over again on that side of the aisle, we would agree to let them do that, so long as the funding amount for the strategic defense initiative goes up? Did we not make that offer?

Mr. LEVIN. That offer was made, indeed.

Mr. EXON. Can the Senator from Ohio tell me why—or can someone on that side tell me why—that was not accepted, if this is something that they think should be discussed on some other bill?

Mr. LEVIN. I think the Senator from Ohio or the Senator from Michigan can probably answer that question. There is a longstanding football rivalry between Ohio and Michigan, and where you come from, that confusion is very serious.

Mr. EXON. Ohio and Michigan, it so happens, are in the minor league, so far as Nebraska is concerned. [Laugther.]

But I am glad you know you have football teams in Ohio and Michigan.

Mr. LEVIN. I wish the Senator from Oklahoma were here, to hear what you just said.

This is a limitation which the Armed Services Committee placed on SDI spending. We have traditionally placed limitations on the spending for weapons. We placed spending limitations on the MX missile, for instance. The Armed Services Committee put those limitations on.

So this is not an unusual thing to do, to say here is some money, but we are placing some limitations on it—in this case, I think a very reasonable limitation; because in this case we are saying, "If you are going to apply a new approach to the ABM Treaty, before you do it, come back and get approval." We are not saying, "Don't do it."

Without getting into the merits of the whole thing, this is a limit on SDI spending—the Senator is correct—and that is why Senator Nunn made the offer with respect to SDI being connected with this and it could be removed and debated elsewhere. To remove this would be to give the President a blank check.

Mr. EXON. That offer was turned down for what reason?

Mr. LEVIN. I cannot speak for the people who turned the offer down.

Mr. EXON. I thank the Senator.

Mr. LEVIN. I yield the floor.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from South Carolina was seeking recognition.

Mr. BYRD. Mr. President, will the distinguished Senator yield to me?

Mr. THURMOND. I yield.

Mr. BYRD. Mr. President, I believe the period for morning business was to end now.

The PRESIDING OFFICER. The time for morning business has not expired.

Mr. BYRD. Mr. President, I ask unanimous consent that morning business may continue.

I inquire of the distinguished Senator from South Carolina how much time he would like?

Mr. THURMOND. Not more than 5 minutes.

Mr. BYRD. Mr. President, I ask unanimous consent to extend the period for morning business for 10 minutes and that Senators may speak therein not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from South Carolina.

Mr. THURMOND. Mr. President, in the Armed Services Committee, every Republican but one voted against placing the Levin amendment on this authorization bill. This amendment does not properly belong on this bill.

The Armed Services Committee authorizes funds for guns, planes, weapons, and other things, to meet the requirements of the armed services. This amendment goes into foreign affairs. This amendment concerns matters that could even go into peace treaties. For that reason, we opposed it. We opposed it then; we oppose it now.

It is a matter that should go into the State Department authorization bill. The distinguished ranking member of the Foreign Relations Committee is here, and he can speak for himself on this, but that is the committee to handle it. It would usurp the rights of that committee to put it in this committee, where it has no business being.

Mr. President, something was said about their being willing to put it on an independent bill to carry the SDI funding with it. The SDI is a defensive weapon. SDI does not kill anybody. It does not destroy any property. SDI merely knocks down missiles that would kill people or destroy property.

Mr. Gorbachev is afraid of it. I went to Russia 2 years ago with several other Senators, and we spent 3½ hours with him, and that is all he talked about: demilitarize space. That simply means you could not build SDI, because you have to test it in space.

I want to tell you now: Mr. Gorbachev is afraid of our technology. He is afraid we will develop this weapon first and can knock down their missiles in case a war comes, and he cannot knock down ours. That is the whole juice in the coconut.

When I got back, I told President Reagan by all means to hold out for SDI, and I am glad he has done it. That means protection for the American people. There would not be any harm if any country had SDI.

SDI funding should not go with this amendment. That is a matter for the Armed Services Committee, to determine what money, if any, should go for a particular weapon, and that is what we did. Therefore, that should stay with the Armed Services Committee.

The only thing that needs to be done is remove the Levin amendment from this authorization bill, and then we can go forward.

I want to say, further, that by putting this amendment on the authorization bill, we are usurping the rights of the President. The President of the United States has to determine those matters concerning treaties and concerning matters of testing. This particular bill will hamper the President of the United States. It is hampering him today. Here he is at Geneva, working hard to get a better agreement, at this moment. This is a critical time in the negotiations. Why should we hamper him at this time in trying to get the best agreement he can?

This amendment is a killer amendment. It will help to kill his negotiations. It will help to kill his efforts to do what he thinks is best for this country.

I hope this amendment will be taken off. I urge and beseech those who want to keep it on there to take it off and let us go ahead. Put it where it really belongs—on the State Department authorization bill, or put it in an independent bill and vote on it. It will get a vote. But do not kill the whole authorization bill for the Defense Department, which is essential to the welfare of our country.

Mr. President, I am convinced that we ought to go forward with this armed services bill. We ought to act on it, get through with it, but in doing so, do not take any steps that are going to hurt the President or hamper the President in getting the best treaty he can with Mr. Gorbachev.

Only yesterday, I believe, or day before, Mr. Gorbachev made another concession. By the President holding out for a better treaty Mr. Gorbachev has come across now and said he would even take out the nuclear weapons in Africa as well as those in Europe.

Those are in our favor. That is in the favor of our allies and we are making progress.

Why should we hamper his efforts to continue to go forward and get an even better treaty?

Mr. President, I hope those who are taking that position, which we think is an arbitrary position, will withdraw that and let us go forward and pass the Senate authorization bill.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. SYMMS. Mr. President, I appreciate the comments of my senior colleague from South Carolina on the committee, Senator THURMOND, and I think that not only is Senator THURMOND correct in his interpretation of what is happening, but history shows us that Secretary Laird and six or seven of our Secretaries of Defense have interpreted it to be the broad interpretation and if in fact we are going to stand by the narrow interpretation of the ABM Treaty, it will cost us at least $3 billion more for the deployment of the first phase of the strategic defense initiative.

I would like to review just a little bit of history, and I know Senator THURMOND lived through World War II as a soldier.

When President Roosevelt told the scientists to do the Manhattan Project, he ordered them to move forward and build the bomb. He did not tell them to go do research and see if you can do it. He said build it, and that bomb probably saved millions of young Americans and Japanese. We did not have every politician in the United States of America in the House and Senate playing politics with something of that strategic import to the country.

In 1961, when President Kennedy said in the Chamber across the hall that we were to go put a man on the Moon, he did not say we want to do research to see if we can put a man on the Moon. He said we are going to put a man on the Moon by the end of that decade.

There are people that I ascertain from their actions, the way they vote and the way things happen, that would lead this Senator to believe that maybe they really do not want the strategic defense initiative. They really do not want a defense that would protect Americans and defend America from incoming missiles from the Soviet Union. What they want is to continue the mutual assured destruction [MAD] policy. That is what this is leading to.

The strategic defense initiative is a new concept of defense. And, it is hard for the institutional bureaucracy of our system to accept anything new that the Government deals. But, this is a new concept based on saving lives and preventing war rather than a policy based on retaliating with the massive mutual assured destruction of both sides of the equation.

Mr. President, we should stop the political bickering and pass the Department of Defense authorization bill without this limiting provision which gives the Soviets everything they want without having a treaty with us. We should also think about one other thing. The strategic defense initiative has been totally misnamed. It really should be called the strategic defense response because while we are arguing politics, our adversaries, the Soviet Union, are in the process of building and working toward deployment of their own space shield to protect them from missiles from our country. The Soviets already have taken the initiative.

I cannot for the life of me understand the logic of the majority party who insist on putting an amendment on the Armed Services Committee bill that all the Republicans would support unanimously. But, we must hold this good bill up because of this one crucial amendment.

It would make so much more sense to bring it up as a freestanding resolution and get a vote on it. Everybody that wants to vote for it may go ahead and vote for it, letting it go down to the President. He can either veto it or sign it. But not tie up the bill.

There are many parts of this bill that I am interested in. Overall, the bill would improve the defenses of the country if we passed it. But we cannot accept an undercutting of America's foreign policy by the political bickering here.

I will just say to my colleagues again that if Franklin Roosevelt would have had this kind of support in World War II, he could not have been successful; if John F. Kennedy would have the kind of support from the Congress in putting the man on the Moon that President Reagan received on the strategic defense initiative, we would still be researching whether or not to put someone on the Moon and debating how the best way to go about doing it was.

The PRESIDING OFFICER. The time for morning business has expired.

Mr. BYRD. Did the distinguished Senator need some additional time?

Mr. SYMMS. I thank the distinguished majority leader.

Mr. BYRD. I thank the Senator.

CALENDAR

Mr. BYRD. Mr. President, I would like to inquire of the distinguished acting Republican leader, Mr. HELMS, if Calendar Order Nos. 251, 252, and 253 have been cleared for action on that side of the aisle?

Mr. HELMS. Mr. President, I say to my friend from West Virginia they have.

Mr. BYRD. Mr. President, I thank the acting leader.

I ask unanimous consent that the Senate proceed to the consideration of Calendar Order Nos. 251, 252, 253 seriatim.

The PRESIDING OFFICER. Without objection, it is so ordered.

GRATUITY TO PATRICIA A. McLAUGHLIN

The resolution (S. Res. 251) to pay a gratuity to Patricia A. McLaughlin, was considered, and agreed to; as follows:

S. RES. 251

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Patricia A. McLaughlin, widow of Samuel B. McLaughlin, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the on the table was agreed to.

GRATUITY TO NAVARRO A. HARROD

The resolution (S. Res. 252) to pay a gratuity to Navarro A. Harrod, was considered, and agreed to; as follows:

S. RES. 252

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Navarro A. Harrod, widower of Shirley E. Harrod, an employee of the Senate at the time of her death, a sum equal to ten and one-half months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GRATUITY TO DEEDE S. WYATT, DEBRA VANDER VOORT, AND STEVEN M. SCHMIDT

The resolution (S. Res. 253) to pay a gratuity to Deede S. Wyatt, Debra Vander Voort, and Steven M. Schmidt, was considered, and agreed to.

The preamble was agreed to.

The resolution, and the preamble, are as follows:

S. Res. 253

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Deede S. Wyatt and Debra Vander Voort and Steven M. Schmidt, children of Dorothy Schmidt, an employee of the Senate at the time of her death, a sum to each equal to one-third of six months' compensation at the rate she was receiving by law at the time of her death, said sum to be considered inclusive of funeral expenses and all other allowances.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

RETIREE BENEFITS SECURITY

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 246.

The PRESIDING OFFICER. The bill be stated by title.

The assistant legislative clerk read as follows:

A bill (S. 548) to amend title 11, United States Code, the Bankruptcy Code, regarding benefits of certain retired employees.

The PRESIDING OFFICER. Is there objection to the present consideration of the bill?

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

TITLE I—RETIREE INSURANCE

Sec. 101. (a) Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end thereof the following new section:

"§ 1114. Payment of insurance benefits to retired employees

"(a) For purposes of this section, the term 'retiree benefits' means payments to any entity or person for the purpose of providing or reimbursing payments for retired employees and their spouses and dependents, for medical, surgical, or hospital care benefits, or benefits in the event of sickness, accident, disability, or death under any plan, fund, or program (through the purchase of insurance or otherwise) maintained or established in whole or in part by the debtor prior to filing a petition commencing a case under this title.

"(b)(1) For purposes of this section, the term 'authorized representative' means the authorized representative designated pursuant to subsection (c) for persons receiving any retiree benefits covered by a collective bargaining agreement or subsection (d) in the case of persons receiving retiree benefits not covered by such an agreement.

"(2) Committees of retired employees appointed by the court pursuant to this section shall have the same rights, powers, and duties as committees appointed under sections 1102 and 1103 of this title for the purpose of carrying out the purposes of sections 1114 and 1129(a)(12) and, as permitted by the court, shall have the power to enforce the rights of persons under this title as they relate to retiree benefits.

"(c)(1) A labor organization shall be, for purposes of this section, the authorized representative of those persons receiving any retiree benefits covered by any collective bargaining agreement to which that labor organization is signatory, unless (A) such labor organization elects not to serve as the authorized representative of such persons, or (B) the court, upon a motion by any party in interest, after notice and hearing, determines that different representation of such persons is appropriate.

"(2) In cases where the labor organization referred to in subparagraph (1) elects not to serve as the authorized representative of those persons receiving any retiree benefits covered by any collective bargaining agreement to which that labor organization is signatory, or in cases where the court, pursuant to subparagraph (1) finds different representation of such persons appropriate, the court, upon a motion by any party in interest, and after notice and a hearing, shall appoint a committee of retired employees if the debtor seeks to modify or not pay the retiree benefits or if the court otherwise determines that it is appropriate, from among such persons, to serve as the authorized representative of such persons under this section.

"(d) The court, upon a motion by any party in interest, and after notice and a hearing, shall appoint a committee of retired employees if the debtor seeks to modify or not pay the retiree benefits or if the court otherwise determines that it is appropriate, to serve as the authorized representative, under this section, of those persons receiving any retiree benefits not covered by a collective bargaining agreement.

"(e)(1) Notwithstanding any other provision of this title, the debtor in possession, or the trustee if one has been appointed under the provisions of this chapter (hereinafter in this section 'trustee' shall include a debtor in possession), shall timely pay and shall not modify any retiree benefits, except that—

"(A) the court, on motion of the trustee or authorized representative, and after notice and a hearing, may order modification of such payments, pursuant to the provisions of subsections (g) and (h) of this section, or

"(B) the trustee and the authorized representative of the recipients of those benefits may agree to modification of such payments,

after which such benefits as modified shall continue to be paid by the trustee.

"(2) Any payment for retiree benefits required to be made before a plan confirmed under section 1129 of this title is effective has the status of an allowed administrative expense as provided in section 503 of this title.

"(f)(1) Subsequent to filing a petition and prior to filing an application seeking modification of the retiree benefits, the trustee shall—

"(A) make a proposal to the authorized representative of the retirees, based on the most complete and reliable information available at the time of such proposal, which provides for those necessary modifications in the retiree benefits that are necessary to permit the reorganization of the debtor and assures that all creditors, the debtor and all of the affected parties are treated fairly and equitably; and

"(B) provide, subject to subsection (k)(3), the representative of the retirees with such relevant information as is necessary to evaluate the proposal.

"(2) During the period beginning on the date of the making of a proposal provided for in paragraph (1), and ending on the date of the hearing provided for in subsection (k)(1), the trustee shall meet, at reasonable times, with the authorized representative to confer in good faith in attempting to reach mutually satisfactory modifications of such retiree benefits.

"(g) The court shall enter an order providing for modification in the payment of retiree benefits if the court finds that—

"(1) the trustee has, prior to the hearing, made a proposal that fulfills the requirements of subsection (f);

"(2) the authorized representative of the retirees has refused to accept such proposal without good cause; and

"(3) such modification is necessary to permit the reorganization of the debtor and assures that all creditors, the debtor, and all of the affected parties are treated fairly and equitably, and is clearly favored by the balance of the equities,

except that in no case shall the court enter an order providing for such modification which provides for a modification to a level lower than that proposed by the trustee in the proposal found by the court to have complied with the requirements of this subsection and subsection (f): Provided, however, That at any time after an order is entered providing for modification in the payment of retiree benefits, or at any time after an agreement modifying such benefits is made between the trustee and the authorized representative of the recipients of such benefits, the authorized representative may apply to the court for an order increasing those benefits which order shall be granted if the increase in retiree benefits sought is consistent with the standard set forth in paragraph (3); and: Provided further, That neither the trustee nor the authorized representative is precluded from making more than one motion for a modification order governed by this subsection.

"(h)(1) Prior to a court issuing a final order under subsection (g) of this section, if essential to the continuation of the debtor's business, or in order to avoid irreparable damage to the estate, the court, after notice and a hearing, may authorize the trustee to implement interim modifications in retiree benefits.

"(2) Any hearing under this subsection shall be scheduled in accordance with the needs of the trustee.

"(3) The implementation of such interim changes does not render the motion for modification moot.

"(i) No retiree benefits paid between the filing of the petition and the time of a plan confirmed under section 1129 of this title becomes effective shall be deducted or offset from the amounts allowed as claims for any benefits which remain unpaid, or from the amounts to be paid under the plan with respect to such claims for unpaid benefits, whether such claims for unpaid benefits are based upon or arise from a right to future unpaid benefits or from any benefits not paid as a result of modifications allowed pursuant to this section.

"(j) No claim for retiree benefits shall be limited by section 502(b)(7) of this title.

"(k)(1) Upon the filing of an application for modifying retiree benefits, the court shall schedule a hearing to be held not later than fourteen days after the date of the filing of such application. All interested parties may appear and be heard at such hearing. Adequate notice shall be provided to such parties at least ten days before the date of such hearing. The court may extend the time for the commencement of such hearing for a period not exceeding seven days where the circumstances of the case, and the interests of justice require such extension, or for additional periods of time to which the trustee and the authorized representative agree.

"(2) The court shall rule on such application for modification within 90 days after the date of the commencement of the hearing. In the interests of justice, the court may extend such time for ruling for such additional period as the trustee and the authorized representative may agree to. If the court does not rule on such application within 90 days after the date of the commencement of the hearing, or within such additional time as the trustee and the authorized representative may agree to, the trustee may implement the proposed modifications pending the ruling of the court on such application.

"(3) The court may enter such protective orders, consistent with the need of the authorized representative of the retirees to evaluate the trustee's proposal and the application for modification, as may be necessary to prevent disclosure of information provided to such representative where such disclosure could compromise the position of the debtor with respect to its competitors in the industry in which it is engaged.

"(l) This section shall not apply to any retiree, or the spouse or dependents of such retiree, if such retiree's gross income for the 12 months proceding the filing of the bankruptcy petition equals or exceeds $1,000,000, unless such retiree can demonstrate to the satisfaction of the court that he is unable to obtain health, medical, life, and disability coverage for himself, his spouse, and his dependents who would otherwise be covered by the employer's insurance plan, comparable to the coverage provided by the employer on the day before the filing of a petition under this title.".

(b) Section 1129 of title 11, United States Code, is amended by adding at the end of subsection (a) thereof the following:

"(12) The plan provides for the continuation after its effective date of payment of all retiree benefits, as that term is defined in section 1114 of this title, at the level established pursuant to subsection (e)(1)(B) or (g) of section 1114 of this title, at any time prior to confirmation of the plan, for the duration of the period the debtor has obligated itself to provide such benefits.".

(c) The table of sections for subchapter I of chapter 11, title 11, United States Code, is amended by adding at the end thereof the following new item:

"1114. Payment of insurance benefits to retired employees.".

(d) This title and the amendments made by this title shall become effective on the date of enactment of this Act and shall be effective with respect to cases commenced under chapter 11 of title 11, United States Code, in which a plan for reorganization was not confirmed by the court as of June 23, 1987, and in which any retiree benefits, as defined in section 1114 of title 11, United States Code, was still being paid on October 2, 1986 or thereafter, and in cases that become subject to chapter 11, title 11, United States Code, after October 2, 1986.

TITLE II—EXPANDED APPLICATION OF CERTAIN BANKRUPTCY AMENDMENTS RELATING TO FAMILY FARMERS

SEC. 201. (a) Section 302(c) of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554) is amended—

(1) by repealing paragraph (1), and

(2) by redesignating paragraphs (2), and (3) as paragraphs (1) and (2), respectively.

(b) The amendments made by subtitle B of title II of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554) shall apply to—

(1) cases that are pending under title 11 of the United States Code, or

(2) cases under title 11 of the United States Code that are reviewable on appeal,

after the date of the enactment of this Act, without regard to whether such cases were commenced before November 26, 1986.

TITLE III—NONDISCHARGEABILITY OF CERTAIN DEBTS FOR RESTITUTION

SEC. 301. Section 523(a) of title 11, United States Code, is amended—

(1) in paragraph (9), by striking out "or" at the end thereof;

(2) by redesignating paragraph (10) as paragraph (11); and

(3) by inserting after such paragraph (9) the following:

"(10) to the extent that such debt arises from a violation by the debtor of a civil or criminal law enforceable by an action by a government unit to recover restitution, damages, civil penalties, attorney fees, costs or any other relief, or to the extent that such debt arises from an agreed judgment or other agreement by the debtor to pay money or transfer property in settlement of such an action by a governmental unit; or".

SEC. 302. Section 1328(a)(2) of title 11, United States Code, is amended by striking out "section 523(a)(5)" and inserting in lieu thereof "paragraphs (5) and (10) of section 523(a)".

SEC. 303. The amendments made by this title shall apply to cases that become subject to title 11, United States Code, after June 23, 1987.

The PRESIDING OFFICER. Are there amendments to be proposed?

AMENDMENT NO. 633

(Purpose: To lower income cap under section 1114(l) in order to exclude persons with high incomes from the special treatment under section 1114)

Mr. HELMS. Mr. President, on behalf of Senator THURMOND, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS] for Mr. THURMOND, proposes an amendment numbered 633.

Mr. HELMS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In section 1114(l): Delete the third "e" in "preceding";

Delete the words "one million", and insert in lieu thereof the following: "two hundred and fifty thousand".

Mr. THURMOND. Mr. President, S. 548 will create a new section of the Bankruptcy Code to provide special protections for retirees, who are unsecured creditors. Of course, any time we change the code to give special treatment to one group of unsecured creditors, we necessarily decrease the amount of money available for the remaining unsecured creditors, such as small businesses and trade creditors. Therefore, we must be extremely careful in creating special classes in the code.

When we decide it is necessary to elevate the position of certain creditors, we must be very selective in granting this special treatment. The current draft of S. 548 does limit its protections to any retiree whose gross income is less than $1 million for the 12-month period preceding the bankruptcy filing. This amendment lowers that cap to $250,000 of gross income during that time period. This amendment will help ensure that the special protection of section 1114 is not extended to the wealthy, at the expense of other creditors. I would personally support a lower cap than this, but this amount has been arrived at by compromise, as has this entire bill. I urge my colleagues to support this amendment.

The PRESIDING OFFICER. If there be no further debate on the amendment, the question is on agreeing to the amendment.

The amendment (No. 633) was agreed to.

AMENDMENT NO. 634

(Purpose: To provide for an additional bankruptcy judge for the judicial district of Colorado)

Mr. BYRD. Mr. President, I send to the desk an amendment on behalf of Messrs. WIRTH and ARMSTRONG.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD], on behalf of Messrs. WIRTH and ARMSTRONG, proposes an amendment numbered 634.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the appropriate place, add the following:

SEC.   . (a) There shall be appointed, pursuant to section 152(a)(1) of title 28, United States Code, an additional bankruptcy judge for the judicial district of Colorado.

(b) To reflect the change made by this section, section 152(a)(2) of title 28, United States Code, is amended by striking out the following:

"Colorado .... 4";

and inserting in lieu thereof the following:

"Colorado .... 5".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 634) was agreed to.

AMENDMENT NO. 635

(Purpose: To clarify the treatment of certain education loans in bankruptcy proceedings)

Mr. HELMS. Mr. President, I send an amendment to the desk on behalf of Senator STAFFORD and Senator PELL.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], on behalf of Messrs. STAFFORD and PELL, proposes an amendment numbered 635.

At the end of the substitute amendment add the following:

TITLE IV—STUDENT LOANS

SEC. 401. This title may be cited as the "Student Loan Bankruptcy Prevention Act".

SEC. 402. (a) Section 1328(a)(2) of title II, United States Code, is amended by striking out "section 523(a)(5)" and inserting in lieu thereof "paragraph (5) or (8) of section 523(a)".

(b) The amendment made by subsection (a) shall not apply to any case under title II, United States Code, commenced before the date of the enactment of this title.

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 635) was agreed to.

AMENDMENT NO. 636

(Purpose: To provide for an additional bankruptcy judge for the judicial district of Arizona)

Mr. BYRD. Mr. President, on behalf of Mr. DECONCINI, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from West Virginia [Mr. BYRD] on behalf of Mr. DECONCINI and Mr. MCCAIN, proposes an amendment numbered 636.

Mr. BYRD. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so sordered.

The amendment is as follows:

At the appropriate place, add the following:

SEC.   . (a) There shall be appointed, pursuant to section 152(a)(1) of title 28, United States Code, an additional bankruptcy judge for the judicial district of Arizona.

(b) To reflect the change made by this section, section 152(a)(2) of title 28, United States Code, is amended by striking out the following:

"Arizona .... 4";

and inserting in lieu thereof the following:

"Arizona .... 5".

The PRESIDING OFFICER. Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 636) was agreed to.

The PRESIDING OFFICER. Are there further amendments? If not, the question is on the committee substitute.

The committee substitute was agreed to.

Mr. METZENBAUM. Mr. President, S. 548, the Retiree Insurance Benefits Security Act of 1987, is a congressional response to LTV's claim that the law mandates the immediate termination of retiree insurance benefits upon filing for bankruptcy. This bill not only rejects that contention, it requires every company filing for bankruptcy to continue retiree benefit payments without interruption unless a modification is necessary to avert liquidation.

This bill is the first Federal effort to protect retiree health and life insurance benefits. It is a major victory for the thousands and thousands of retirees, both union and nonunion, who rely on employer promises to provide insurance protection.

While this measure still will permit some companies to modify retiree benefit payments, I believe that it goes nearly as far as possible, in the context of the bankruptcy code, to protect these benefits. In fact, it affords at least as much protection to health and life insurance benefits for retirees as is accorded active workers. Having said that, I believe that the appropriate committees of Congress must develop legislation to protect retiree benefits when companies are not in bankruptcy or when a modification of benefits occurs under the provisions of this bill.

S. 548 adds a new section to the bankruptcy code requiring companies which file for bankruptcy to continue their retiree insurance arrangements. It provides that these payments be treated as administrative expenses, which means that they come ahead of the other unsecured creditors.

If a company believes a reduction in retiree health insurance benefits is necessary, the bill requires the company to make a proposal for modification and to bargain in good faith with representatives of the retirees to attempt to reach an agreement. This obligation to confer in good faith includes the obligation to meet, at reasonable times, with the authorized representative of the retirees. Expenses incurred by the retirees for professional services, such as attorney fees, actuaries, benefit consultants, and the like, are paid by the company. And the company must share financial information with the retirees' representatives in order to give them an opportunity to evaluate the fairness of the proposed modifications.

The proposal made by the company must meet three requirements.

First, it must be based on the most complete and reliable financial information available at the time of the proposal.

Second, the proposal must provide "for necessary modifications in the payment of retiree benefits that are necessary to permit reorganization of the debtor * * *." This is the same standard Congress enacted in 1984 to govern the rejection of collective bargaining agreements. I believe that the third circuit properly interpreted this standard in the case of *In Re Wheeling Pittsburgh Steel Corporation,* 791 F. 2d 1074 (3d Cir. 1986). There the court held that a labor contract rejection is "necessary to permit reorganization" when essential to the "goal of preventing the debtor's liquidation." 791 F. 2d 1074, at 1089. The committee heard testimony from witnesses who expressed concern with the interpretation of the "necessary" standard by the second circuit in the case of *In Re Carey Transportation,* 816 F. 2d 82 (2d Cir. 1987). I believe that the second circuit decision would not afford retirees the full protections intended by this measure. Unless necessary to avoid liquidation, modifications should not be ordered by a court.

Third, the proposal must assure that "all creditors, the debtor and all of the affected parties are treated fairly and equitably." This language is also identical to the 1984 bankruptcy amendments covering collective bargaining agreements. It is intended to assure that retirees are never forced to accept a disproportionate burden of the sacrifices necessary to permit a reorganization. In weighing whether particular modifications in retiree benefits are fair and equitable, a court should consider the uniquely vulnerable position of retirees compared to other creditors in the bankruptcy. Courts should not lose sight of the fact that retirees differ radically from other creditors in their ability to absorb and cover their financial losses. It is this difference that has led the committee to conclude that retiree insurance benefits deserve a higher preference than claims of other unsecured creditors.

Under the bill, if good faith attempts fail to produce an agreement, the company can seek court approval to modify the benefits. Before ordering a change in the benefit program the court, after notice and a hearing, must find that: First, the company made a proposal for modification satisfying the requirements described above; second, he retirees' representative rejected the proposal without good cause; and third, the modification is necessary to permit reorganization and assures that all the affected parties are treated fairly and equitably, and is clearly favored by the balance of the equities. If each of these requirements is met, a court may enter an order permitting modification in benefit payments. However, the modification cannot be lower than the level offered by the company in its proposal.

Even if a modification is agreed upon, or is ordered by the court, retirees will have an opportunity to seek a subsequent increase in the benefit level. This provision makes it clear that a benefit reduction need not be a once-and-forever reduction in benefit payments for retirees with no hope of recovery.

This provision is crucial to the purposes of this legislation. Companies should not be free to enter bankruptcy, modify payments of retiree benefits, capitalize on the modification to return to profitability, and then deprive retirees of any opportunity to share in the fruits of the company's recovery. While retirees may be asked to make sacrifices necessary for reorganization, so too they must be allowed to recover those sacrifices to the extent they are no longer necessary, fair, and equitable. This provision gives retirees a stake—something to gain—in a successful reorganization.

Mr. President, there is nothing more frightening to a senior citizen than the sudden cut off of health and life insurance coverage. I hope that this bill will prevent a reoccurrence of the nightmare experienced by the 78,000 LTV retirees. Retirees have earned the special treatment afforded by this measure, they deserve no less.

During committee consideration of this measure, two titles were added to S. 548.

The first addresses farm bankruptcies. It provides that bankruptcy cases which were pending when Congress enacted the 1986 amendments regarding family farm bankruptcies can benefit from the 1986 law. This provision is intended to clarify the intent of Congress in enacting these important protections in 1986. The ability to convert existing cases into chapter 12 is vitally important to many family farmers who are struggling to reorganize their financial affairs.

The second title added in committee prevents bankruptcy courts from ignoring State court judgments requiring defendants to make restitution as a result of violating a law. This title will close a loophole which has allowed consumer fraud defendants who are ordered to pay restitution to avoid the judgment by using the bankruptcy system. This provision will also be important in the environmental protection area.

I strongly support these additions to the bill.

Mr. President, this bill represents a great deal of effort by a number of Senators and their staffs. The ranking member of the committee, Senator THURMOND, the chairman of the Subcommittee on Courts, Senator HEFLIN, and the ranking member of the subcommittee, Mr. GRASSLEY, have all worked to achieve a strong bill. I want to especially thank Dennis Shedd, Karen Kremer, Sam Gerdano, Ed Baxter, and Cindy Lebow. Their efforts have helped strengthen and improve the bill.

This bill has wide bipartisan support. And the administration has endorsed its passage.

Mr. President, I ask unanious consent that a letter from Labor Secretary Brock be inserted in the RECORD at this point.

Mr. President, I urge the Senate to adopt S. 548 as reported.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. DEPARTMENT OF LABOR,
SECRETARY OF LABOR,
Washington, DC, July 24, 1987.

Hon. HOWARD METZENBAUM,
U.S. Senate,
Washington, DC.

DEAR HOWARD: I am writing to express my support for S. 548, the "Retiree Insurance Benefits Security Act of 1987," which was reported by the full Senate Judiciary Committee on July 17. While we have some clarifications to the bill which we will work with the Congress to have adopted, we feel that S. 548 is appropriate and necessary and represents a positive step in addressing the rights of retired workers and employers in bankruptcy with respect to retired workers' health benefits. We believe such an approach strikes a reasonable balance between the interests of participants and retirees and the financial interests of the employer and its creditors.

The bill would provide a measure of security for retired workers by prohibiting a bankruptcy trustee (or debtor in possession) from unilaterally terminating payments for their health insurance coverage. At the same time, the bill would provide more certainty for employers as to their rights and obligations to retired workers in bankruptcy.

The bill would establish a new section 1114 of the Bankruptcy Code under which employer obligations to provide retiree health benefits could be modified, but only by complying with new procedures. No modification of the status quo could be made by the trustee without the consent of either the retirees' representative or the court. Thus, the bill would also give retirees a voice in the ultimate treatment of their benefits.

These new procedures provide an expedited judicial process to determine the obligations of employers for retiree health benefits. The bill would help to reduce uncertainty and delay in determining which benefits must be provided. The bill would not, however, create any new contractual obligations for the employer. These procedures also recognize that it is inequitable for an employer to unilaterally reduce retiree health benefits.

Finally, these procedures would permit a bankruptcy court to authorize interim changes to the employer's obligation to pay for benefits if such changes are essential to the continuation of the debtor's business or to avoid irreparable damage to the estate.

It is important that the bill allow the courts sufficient discretion to consider all relevant factors in making their judgments regarding an employer's obligations. We should also be aware of the implications of the continued payment of retiree health benefits in bankruptcy. For instance, to the extent these benefits continue to be paid, the assets available to other creditors, including the Federal government, are dissipated.

However, the equitable concerns are of paramount importance. Retirees depend on their employer-provided benefits, particularly health insurance. They have often given years of service to the employer with the expectation of receiving these benefits. Any unreasonable delay in payment for retiree benefits could result in irreparable harm to those least able to afford alternative arrangements.

For these reasons, the Administration supports S. 548 as modified.

The Office of Management and Budget advises that there is no objection to the presentation of this report to the Congress from the standpoint of the Administration's program.

Very truly yours,

WILLIAM E. BROCK.

Mr. HEINZ. Mr. President, a year ago this week, Senator METZENABUM and I first brought up a bill to stop LTV Corp.'s threatened termination of health benefits for 78,000 retirees. LTV's move to terminate their retiree health plan underscored just how insecure these benefits are for the 7 million retired Americans who depend on them. An Aging Committee hearing I chaired the following week on "Retiree Health: The Fair-Weather Promise" brought it home. When companies go into bankruptcy, retirees are sent to the back of the bus.

The problem is that chapter 11 may work for the troubled companies—and it may work for the major and secured creditors—but it has not worked for the retirees. Retirees have an unusual and vulnerable position in bankruptcy. That can't afford to have their health coverage stripped away, be left exposed to catastrophic health costs, and wait 2 years to get a cash settlement from the company. They need their health coverage on a daily basis.

It has taken us a year, but today we have a bill before us that will solve this problem. I commend Senator Metzenbaum who has kept up the pressure on this issue over the last year, and steered this bill through committee. It has been a pleasure to work with him on this problem. I also commend the Judiciary Committee—Senator Thurmond, Senator Heflin, Senator Biden, and the other members who worked quickly to mark up and report out this legislation.

S. 548 is going to make one important change: It is going to move retirees up with the rest of the creditors on the bankruptcy bus. When companies go into bankruptcy, they will have to maintain the health plan. If any modifications are needed in the health plan to keep the company going, retirees will be an equal party in the deliberations. When the company comes out of chapter 11, not only the banks and the other creditors will get fair treatment, the retirees will get fair treatment as well.

Mr. President, I am pleased that the Judiciary Committee was able to agree on a sound bill to protect retirees without upsetting the structure of chapter 11. I hope that it will meet with the approval of all of my colleagues in the Senate.

Mr. THURMOND. Mr. President, this bill, S. 548, represents a consensus effort to protect the health and medical insurance of retirees of companies which have filed bankruptcy under chapter 11 of the Bankruptcy Code. In my opinion, S. 548 is proof that a nonpartisan, concerted effort can produce throughtful legislation to address a critical issue.

S. 548, as approved by the Judiciary Committee, serves the purpose which was intended when I first joined with Senator Metzenbaum last fall to prevent retirees health benefits from being unilaterally terminated by the debtor in bankruptcy. This narrow purpose is effected by this consensus bill.

No one can really criticize the desire to protect retirees health benefits, but the difficult problem is balancing the interests of these retirees, who are unsecured creditors, against the interests of other unsecured creditors. This is a concern because whenever an asset is given to any one unsecured creditor, it necessarily decreases the total assets available for the rest of the unsecured creditors, such as small businesses.

The solution embodied in S. 548 is a very precise amendment to the Bankruptcy Code to prevent unilateral termination of these benefits by the debtor, while leaving these retirees in the general class of unsecured creditors. Some would have us do much more; some would have us do nothing, but we have taken a compromise course to protect these retirees from any diminution of their benefits unless the court orders such a modification or unless the retirees agree to modification. Also, Mr. President, this bill equalizes treatment of union and nonunion retirees. Under S. 548, both groups will be protected to the same extent.

Under section 1114(e) certain prepetition claims are treated as administrative expenses. These prepetition claims refer to payments made by health plan administrators before the bankruptcy petition is filed. There is some disagreement over how these claims should be treated, and I would oppose a bill which provides unnecessary relief for insurance companies. However, I have been informed that in the circumstances addressed by section 1114(e), ultimately retirees may be unfairly forced to shoulder the cost of these prepetition health services if this provision is not included in the bill. My office has had long discussions with representatives of Blue Cross-Blue Shield of Ohio, and these officials have indicated, that absent this provision, they will indeed begin the process of reversing charges in these cases. Mr. President, I ask unanimous consent that a letter indicating this fact be included in the Record at this point.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Blue Cross and
Blue Shield of Ohio,
2060 E. 9th St.
Cleveland, OH, July 17, 1987.

Re S. 548, the Retirees Benefits Act of 1987.

Hon. Strom Thurmond,
U.S. Senate,
Washington, DC.

Dear Senator: We would like to express our appreciation to you for your role in the progress made to date on S. 548, The Retirees Benefits Act of 1987. That legislation, when enacted, will represent an historic step in the protection of retiree benefits in bankruptcy situations. Particularly, we applaud the decision of the Committee to address the "claims pipeline" problem which exists for self-insured arrangements.

In the case of the LTV bankruptcy, in which Blue Cross & Blue Shield of Northern Ohio was the third party administrator of LTV's self-insured health plan, the failure to include these important amendments would have forced Blue Cross & Blue Shield of Northern Ohio to reverse charges against various entities in the "claims pipeline." Our status as a mutual insurance company with a responsibility to our numerous subscribers requires such action. Upon exercise of such rights, I can only assume that the health care providers involved would turn to the retiree patients for payment. The retiree patients would be legally obligated to repay these reversed charges to the provider based upon the contract providers require patients to sign before receiving services. This contract makes the patient personally responsible for any amounts not covered by insurance or, in the case of self-insured plans, the employer.

Addressing this "claims pipeline" issue is the only way to insure the retirees under self-insured plans are accorded the same protections as retirees under insured plans. Given the fact that 60% of health benefits are currently provided through self-insurance, we believe that addressing this "claims pipeline" issue represents an essential step in perfecting this important legislation.

We appreciate the willingness of you and your staff to work with us on this important matter. If we can be of any further assistance please do not hesitate to let me know.

Sincerely,

Kent W. Clapp,
Executive Vice President
of Finance and Treasurer.

Mr. THURMOND. Because I am unwilling to put retirees at jeopardy in these types of situations, I am not going to offer an amendment to change this provision in the bill.

Because this is a consensus bill, in the long tradition of the Judiciary Committee, the report on this legislation has been especially carefully crafted and is the guide to what this legislation means. It is fair to say that without our agreement on both the language now in S. 548, and the accompanying report, there would be no bill under consideration by the full Senate.

Whenever there is a compromise on such important issues that leads to a consensus bill, many people have contributed to the final result. The chairman of the committee, Senator Biden, was instrumental in helping craft the compromise bill, which so carefully balances the rights of these retirees with the rights of other unsecured creditors. Senator Metzenbaum provided the language which served as the genesis of the current bill. Senator Heflin, who chairs the Subcommittee on Courts and Administrative Practice, and Senator Grassley, who is ranking on that subcommittee, were vital to our negotiations and final bill.

At the staff level, Cindy Lebow, with Senator Biden's staff, served as the mediator and drafter of this compromise bill. David Starr, with Senator Metzenbaum, has been, and continues to be, a critically important staffer from the day this issue first arose last fall. Karen Kremer with Senator Heflin and Sam Gerdano, with Senator Grassley, made invaluable contributions. On my staff, Mike Regan and Dennis Shedd have worked diligently on this issue. Also, Ron Orr and Ken Klee, private attorneys who are knowledgeable on bankruptcy law, provided indispensable assistance. I commend all of these people for their determined and successful efforts.

Mr. HEFLIN. Mr. President, as a joint sponsor of Senate bill 548, I rise in strong support of this legislation. Senate bill 548 consists of three separate bankruptcy titles: The first deals with retiree benefits, the second with farm bankruptcy, and the third with dischargeability of restitution orders.

The core of this bill, title I, was introduced on February 19, 1987, and it has been cosponsored by Senators

Heinz, Glenn, Specter, Byrd, Lugar, Riegle, Durenberger, Simon, Rockefeller, Levin, Boschwitz, Shelby, Bumpers, Sarbanes, Inouye, Mikulski, and Biden. This legislation was introduced in response to actions taken by LTV to terminate all retiree health and life insurance benefits when LTV filed for chapter 11 reorganization under the Bankruptcy Code. Many of my fellow Alabamians were hurt by LTV's actions. Health and life insurance benefits are not frivolus luxuries for these individuals, but a necessity.

This bill was given top priority in the Subcommittee on Courts and Administrative Practice of which I am chairman. Due to the complex and technical nature of bankruptcy law and the potential impact this law could have, we held 2 days of hearings on April 1 and April 24, 1987. During those 2 days we heard from bankruptcy experts on the technical aspects of the bill, from secured and unsecured creditors who would be affected by the bill, and from the retirees themselves—those that have been most directly affected by the unilateral termination of health and life insurance benefits.

In response to concerns raised at those hearings and expressed by members of the subcommittee, a compromise bill was reported out of the subcommittee, a compromise bill was reported out of the subcommittee on May 27, 1987, and was considered by the full Judiciary Committee on June 23, 1987. The Senate Judiciary Committee adopted a Metzenbaum substitute for the retiree benefits provisions and an amendment offered by Senator Thurmond, and ordered the bill reported to the full Senate.

The negotiation process has been arduous with give and take on both sides. I am gratified that my colleagues have been so willing to work together to reach a consensus. This is not a perfect bill, but it does accomplish the two goals with which we began: First, protecting the medical and health benefits of retired employees; and second, doing so in a manner that retains the integrity of the Bankruptcy Code.

This legislation amends chapter 11 of the Bankruptcy Code by enacting a new section 1114 entitled "Payment of Insurance Benefits to Retired Employees." These benefits include medical, surgical, and hospital care benefits which are payable to a retired employee, their spouse, or dependents in the event of sickness, accident, death, or disability.

This legislation requires a company filing chapter 11 bankruptcy to continue to pay retiree benefits until or unless a modification of those benefits is agreed to by the parties or is ordered by the court. This legislation protects retired employees who are covered by a collective bargaining agreement, as well as those where no collective bargaining agreement is in effect.

When a trustee attempts to modify retiree benefits or when the court otherwise finds it appropriate, the bill provides for the appointment of an "authorized representative." Labor organizations which have signed a collective bargaining agreement covering retiree benefits will serve as the authorized representative unless the labor organization elects not to serve in such a capacity or the court determines that separate representation is appropriate. For nonunion retirees the court shall appoint a committee of such retirees to serve as the authorized representative.

Modifications to retiree benefits will be allowed in the absence of a negotiated settlement only if the court finds that the modifications sought are necessary to permit the reorganization of the debtor, are clearly favored by a balance of the equities, and all affected parties are treated fairly and equitably.

Section 1114 makes it clear that when a chapter 11 petition is filed, retiree benefit payments must be continued without change until or unless a modification is agreed to by the parties or ordered by the court. The bill also provides that all retiree benefit payments shall have the status of an allowed administrative expense under section 503 of title 11 of the United States Code.

In attempting to formulate legislation dealing with retiree benefits under the Bankruptcy Code, we recognize the inherent conflict between the interest of retired employees and all other unsecured and secured creditors in chapter 11 proceedings. The decision to address the problems of retired employees was based on their unique position. These individuals, who have in many cases dedicated a lifetime to a company, are dependent upon health and life insurance benefits. The treatment accorded retiree benefit payments was based in large part on the hardship suffered by retired employees if these benefits are terminated. Unlike other unsecured creditors, retirees cannot absorb the loss of their medical care or life insurance coverage by restructuring their debts or finding replacement coverage. They are not able to demand better terms or collateral with a threat of withholding future goods or services, nor can they wait for their promised benefits. At the same time, we as lawmakers, also have a responsibility to protect the integrity of the Bankruptcy Code and the delicate balance that makes chapter 11 such a success. It is my belief that we have accomplished these goals in this legislation.

Let me speak briefly to titles II and III of the legislation. Title II would amend the Bankruptcy Code so that chapter 11 and 13 cases which were commenced before November 26, 1986, and are presently pending or reviewable could be converted to chapter 12. This situation arose because of report language accompanying the 1986 legislation that created chapter 12 bankruptcy for farmers. The legislation history accompanying this legislation clearly stated that Congress intended pending cases to be converted to chapter 12 on a case-by-case basis. However, language in the bill itself contradicted this intent. The resulting inconsistent court decisions have caused substantial hardship to otherwise eligible chapter 12 debtors. In this legislation we answer the question once and for all, and provide the relief of chapter 12 to our farmers if they are otherwise eligible for chapter 12 bankruptcy.

Title III would make nondischargeable any debt arising from a judgment or consent decree requiring an individual debtor to make restitution as a result of violation of a State law. Under current law, law enforcement authorities are often forced to do battle on two fronts in order to obtain restitution for victims—first in State court and then in Bankruptcy Court.

This bill represents countless hours of negotiation and compromise on the part of members of the Subcommittee on Courts and Administrative Practice and the Senate Judiciary Committee. I want to commend the efforts of Senator Metzenbaum, the original sponsor of this legislation and the leadership provided by the chairman of the Judiciary Committee, Senator Biden and by the ranking member of the committee, Senator Thurmond. I also want to commend the efforts of Senator DeConcini and Senator Grassley. This is truly a combined effort. It does not meet everyone's concerns on every issue but it is our best attempt to get the job done.

In addition, I would like to thank the following staff of the Judiciary Committee for their countless hours of hard work, their tenacity, and their attention to detail: Cindy Lebow of Senator Biden's staff, David Star of Senator Metzenbaum's staff, Sam Gerdano of Senator Grassley's staff, Ed Baxter of Senator DeConcini's staff, and Dennis Shedd of Senator Thurmond's staff. I would also like to thank Jan Wilson of Legislative Council for her assistance in drafting this legislation. I particularly want to thank Karen Kremer of my staff who has literally spent weeks guiding this legislation through the committee and then through the full Senate.

In urging my colleagues to vote for this important bankruptcy legislation, I would like to remind them that time is of the essence. The House must still act on this legislation before the stopgap measure requiring companies to continue to pay retirees their health and insurance benefits expires on September 15, 1987. Congressman RODINO, chairman of the House Judiciary Committee, has introduced legislation on this issue, but we must move ahead with all deliberate speed. I am glad to have been part of an effort that will provide my fellow Alabamians and other retirees with a greater sense of security that our Nation's tremendous health care resources will be available to them in times of need.

Thank you, Mr. President.

Mr. GRASSLEY. Mr. President, I am pleased to support this consensus committee bill, which makes needed changes in the Federal bankruptcy laws to protect the rights of our retirees when their former employer files for bankruptcy.

As you know, in the 1984 Bildisco case, the U.S. Supreme Court permitted a corporate debtor, immediately upon filing for bankruptcy, to unilaterally modify the terms of its collective bargaining agreement. That same year, Congress responded by creating a new section of the code—section 1113. That section requires that, before the collective bargaining agreement is modified or rejected, the debtor must have, first, attempted to negotiate with the union or representative of the employees in good faith; second, proposed modifications of the employees' benefits that are "necessary to permit the reorganization"; and third, shown that the balance of the equities clearly favors rejection.

The compromise proposal that we pass today is an explicit extension of the secion 1113 process to protect the insurance benefits of retirees, their spouses, and dependents.

This bill was carefully crafted by many members of the Judiciary Committee. Specifically, without the cooperation and hard work of Senators THURMOND, METZENBAUM, BIDEN, and HEFLIN, we would not be ready to pass this consensus bill today. We owe thanks to these members and their hard-working staffs. Similarly, the committee report that accompanies the bill represents the joint work product of all the members of the committee. I expect that courts interpreting new section 1114 of the code will be guided solely by the language of the bill and the report.

I urge its passage and hope that the House will move with dispatch to adopt it, without amendment, as well.

Mr. WIRTH. Mr. President, over the past 2 years, the number of bankruptcies per 10,000 businesses in Colorado has soared from a rate within the mean of the United States in 1985, to a rate 50 percent higher than that of any other State in 1986. As a result, the dockets of the four bankruptcy courts in the District of Colorado have become increasingly overloaded and unworkable. Cases per Colorado bankruptcy judge rose from 1,753 in 1985 to 3,012 in 1986—an increase of 72 percent. By contrast, the Administrative Office of the U.S. Courts estimates that the ideal number of cases per judge is between 1,800 and 2,000.

Colorado's elevated bankruptcy rate is expected to continue in future years; it is estimated that there will be 14,500 bankruptcy filings in 1988, resulting in a caseload of over 3,600 cases per judge if Congress does not approve a fifth judgeship for the State. The Administrative Office has determined that these increased filings in the State are matched by a proportionate increase in difficult cases; for instance, each judge received an average of 115 new chapter 11 filings during the year ending October 31, 1986.

In 1985, Colorado experienced 8,280 Chapter 7, Chapter 11 and Chapter 13 bankruptcy filings. Within 1 year, the number had increased to 12,851.

Twenty-nine percent of the filings in Colorado last year were business filings. The State has the highest number of business filings per judge in the country at 844 per year. This number is 25 percent higher than the next highest number of business filings per judge—693—which is in the State of Iowa.

For these reasons, the Administrative Office of the United States Courts has established that Colorado's situation is such that the need for an additional bankruptcy judge there is markedly greater than in any other State. Further, the Judicial Conference has approved only Colorado's request for a new judge.

The quality and quantity of time committed to each bankruptcy filing has necessarily decreased because of the tremendous backlog currently experienced in the Colorado bankruptcy courts. For this reason, it is essential that the request by the District of Colorado for a fifth judge be statutorily approved as soon as possible.

I appreciate Senator ARMSTRONG'S cosponsorship of this amendment and encourage our colleagues to give it their full support. I also want to express my great appreciation to Chairman BIDEN of the Judiciary Committee, Senator THURMOND, ranking member of the Judiciary Committee, Senator HEFLIN, chairman of the Subcommittee on the Courts and Majority Leader BYRD for their cooperation and assistance in moving this amendment to the floor.

The PRESIDING OFFICER. If there be no further amendment to be proposed, the question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (S. 548) was passed, as follows:

The title was amended so as to read "A bill to amend title 11, United States Code, the Bankruptcy Code, regarding benefits of certain retired employees, and for other purposes".

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

THE EXECUTIVE CALENDAR

Mr. BYRD. Mr. President, I inquire of the distinguished acting Republican leader if the following nominations on the Executive Calendar have been cleared: Calendar Order No. 268, on page 3; Calendar Order No. 269, on page 3; and Calendar Order No. 270, on page 3.

Mr. HELMS. Mr. President, I say to the distinguished majority leader that these have been approved on this side.

Mr. BYRD. Mr. President, I thank the distinguished acting leader.

EXECUTIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate go into executive session to consider Calendar Orders Nos. 268, 269, and 270.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEDERAL ELECTION COMMISSION

The PRESIDING OFFICER. The clerk will report the first nomination.

The assistant legislative clerk read the nomination of Lee Ann Elliott, of Illinois, to be a member of the Federal Election Commission.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The clerk will now report the second nomination.

The assistant legislative clerk read the nomination of Danny Lee McDonald, of Oklahoma, to be a member of the Federal Election Commission.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LIBRARY OF CONGRESS

The PRESIDING OFFICER. The clerk will report the next nomination.

The assistant legislative clerk read the nomination of James H. Billington, of the District of Columbia, to be Librarian of Congress.

Mr. BRADLEY. We are very fortunate to have before us the nomination of James Billington to serve as Librarian of Congress.

The Library of Congress was established in 1800. Its mission then was to purchase "such books as may be necessary for the use of Congress." Today, the Library is not only a basic research tool of Congress, it is chronicler of American culture and history and is a major resource for academic research.

I have known Jim Billington for many years. He is a man of great intellect and integrity. He is dedicated to the search for knowledge. I can think of no one better qualified to lead this important institution and I am delighted to urge my colleagues to endorse his appointment today.

Mr. PELL. Mr. President, I am delighted that the Senate has moved promptly to confirm the nomination of James H. Billington to be the new Librarian of Congress.

I was pleased to chair the hearing on the nomination before the Committee on Rules and Administration, at the kind invitation of Senator Ford, and I was struck by the unanimity of support and approval for the nominee from all quarters. Dr. Billington is uniquely qualified for this important post and the President is to be commended for nominating him.

As I noted at the hearing, the title of this position is not wholly descriptive of the responsibilities entailed. The position is, of course, first and foremost a librarianship in the traditional sense of managing bibliographic collections. But this Library is the largest library in the world, with a staff of over 5,000, with a worldwide acquisition program, with special responsibility for information support for the Congress, with unique collections of nonbibliographic materials and with special problems and challenges in the still emerging field of information sciences.

Some of those challenges are clamoring for early attention: The urgent problems of book preservation and reproduction of disintegrating volumes; the disposition of the card catalog, pending modernization of the computer system; and the resolution of grievances of minority employees—to name only a few.

The Librarian's job is thus a supermanagement post in a technical sense, but that is not the whole of it either. The fact is that it has become a position of such influence in the world of scholarship and letters that it requires a special breadth of vision and intellect, without which technical competence along simply would not suffice.

It is noteworthy, I believe, that the 12 men who have presided over the Library of Congress since its beginning came from very diverse backgrounds. Two were trained as lawyers and one as a medical doctor. Among the others were an editor, a journalist, a poet, a political scientist and a historian. One was a professional library administrator and three had prior library experience, at the Library of Congress or elsewhere. They stayed in office for terms ranging from 2 to 40 years and most of them—including the distinguished retiring Librarian, Dr. Boorstin—left a distinct imprint on the Library as an institution.

Now, the 13th Librarian, Dr. Billington, brings a broad range of superlative credentials to the job. He is an experienced administrator whose successful tenure at the Woodrow Wilson Center has involved close familiarity with the Library of Congress. He is a scholar and author whose work has earned the respect of the scholarly community which is such an important part of the Library's constituency. And perhaps most important, his primary field of scholarly endeavor is Russian history and culture, the understanding of which is of paramount importance to our national interest at this point in history.

In my capacity as chairman of the Joint Committee on the Library, I look forward to working closely with Dr. Billington in the months ahead. I wish him all success in his new post.

NOMINATING JAMES H. BILLINGTON

Mr. FORD. Mr. President, when the Committee on Rules and Administration held its own hearing on July 14 on the nomination of Dr. James H. Billington to be Librarian of Congress, every person who sought to be a witness was permitted to testify and those who came as well as those who submitted statements for the record constituted a very impressive list of organizations and scholars interested in the world of libraries.

The degree of unanimity among them, as well as among Members of Congress expressing an opinion, was remarkable indeed, and when the committee considered the nomination on July 23, it was immediately ordered reported to the Senate recommending his confirmation.

As I stated to the committee at the hearing, because of my own pressing schedule that day and because of my good friend and colleague Senator Pell's strong interest in the Library over many years, I asked him to conduct the hearing, and I am grateful to him for doing so.

It was clear from the hearing record that Dr. Billington's extraordinary record makes him uniquely well qualified for this vitally important position. I ask unanimous consent that a brief biography of Dr. Billington be inserted in the Record at the end of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See Exhibit 1.)

Mr. FORD. Mr. President, I feel we are fortunate indeed to have the services of Dr. Billington as leader of the Library of Congress, the national library, the world's greatest library, as a worthy successor to the incumbent, Dr. Daniel J. Boorstin, whose excellent dozen years of service there was recognized when on July 23 the Senate sent to the President for his signature S. 1020, naming him as the Library's first Librarian Emeritus. Mr. President, I hope the nomination will be approved today.

[Exhibit 1]

BIOGRAPHY OF JAMES H. BILLINGTON, DIRECTOR, WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

Dr. Billington is a 1946 graduate of Lower Merion High School, where he was valedictorian and school president, and he holds a B.A. degree from Princeton, where the was valedictorian of the class of 1950. In 1953, he earned a D.Phil. from Oxford, where he was a Rhodes scholar at Balliol College. He served in the U.S. Army, 1953–6 (from Private to First Lieutenant), became a history instructor at Harvard in 1957, and an assistant professor of history and research fellow at the Russian Research Center in 1958. In 1961, he went to Princeton and was professor of history from 1964 to 1973. Dr. Billington has been a Guggenheim Fellow; a McCosh Faculty Fellow of Princeton University; visiting professorial lecturer at Tel-Aviv University, the University of Leningrad, the University of Puerto Rico, and leading universities in Western and Eastern Europe and East Asia; and visiting research professor at the Institute of History of the Academy of Sciences of the U.S.S.R. in Moscow; the University of Helsinki; and the Ecole des Hautes Egudes en Sciences Sociales, Paris.

A Phi Beta Kappa, Dr. Billington has been a longtime member of the editorial advisory board of Foreign Affairs and a director of the Association of American Oxonians. He is a past director of the American Association for the Advancement of Slavic Studies, and a former member of the editorial advisory board of Theology Today. He is the author of Mikhailovsky and Russian Populism (1958), The Icon and the Axe: An Interpretive History of Russian Culture (1966), The Arts of Russia (1970), and Fire in the Minds of Men: Origins of the Revolutionary Faith (1980). He has written widely in Life, Foreign Affairs, and other professional and popular jounals. In 1973 he scripted and hosted the Humanities Film Forum, a series of 14 scholarly discussions involving 28 scholars on nationwide educational television. He has also been guest commentator and/or historian-consultant for all three major television networks, and was special consultant to the Chase Manhattan Bank on East-West matters, 1971-3.

From 1071-6, he was a member of the Board of Foreign Scholarships, which has executive authority over academic exchanges with 110 countries under the Fulbright-Hays Act. He was elected and served as Chairman of the Board from 1971-3; initiated the new series of Lincoln Lectureships set up to commemorate the 25th anniversary of the program; and was convocation chairman of the international Bicentennial Conference in May 1976, commemorating the 30th anniversary of the Fulbright Program.

Since September 1973, he has been director of the Woodrow Wilson International Center for Scholars, Washington, D.C.: the congressionally-created national memorial to Woodrow Wilson, located in the original red "Castle" building of the Smithsonian Institution. Under his directorship, eight programs were established at The Wilson Center, beginning with the Kennan Institute for Advanced Russian Studies in 1974. The number of meetings grew to more than 250 a year, including about 20 multi-day international conferences a year. The *Wilson Quarterly*, which he founded at the Center in 1976, reaches 110,000 paid subscribers; and 12 detailed scholars' guides to the resources of Washington have been published.

Dr. Billington has been a consultant to several international scholarly institutes, and served on academic visting committees for a number of departments and programs in many American universities (currently the graduate program of the Georgetown School of Foreign Service and the Humanities Division at MIT). He is a past vice chairman of the Board of Trustees of St. Albans School, and a past member of the Roundtable organized by the Presiding Bishop of the Episcopal Church of the U.S.

He accompanied to the U.S.S.R. the official leadership delegations of the U.S. House of Representatives to the Supreme Soviet of the U.S.S.R. in April 1979 and July 1983 and of the U.S. Senate to the Supreme Soviet in August 1983. He is vice chairman of the Atlantic Council's Working Group on the Successor Generation. He was a member of the delegation of the Episcopal Church to the Russian Orthodox Church that visited the U.S.S.R. in October 1986.

His last two books (*The Icon and the Axe* and *Fire in the Minds of Men*) were both nominated for National Book Awards. He has received honorary doctoral degrees from Lafayette College, Rhode Island College, Le Moyne College, The Catholic University of America, and Furman University. He is a member of the American Academy of Arts and Sciences and a Chevalier of the Order of Arts and Letters of France.

He is married to Marjorie Anne (Brennan) who is a graduate of Tower Hill School, Wilmington, Delawere, and the University of Delaware. She was formerly personal secretary to Senator J. Allen Frear of Delaware. They have four children: Susan Billington Harper, born 1958, a 1980 graduate of Yale University, and a 1983 graduate of Oxford University, where she was a Rhodes Scholar at Balliol College; Anne Billington Fischer, born 1960, a 1983 graduate of Princeton University; James Hadley Billington, Jr., born 1961, a 1984 graduate of Harvard University, currently at the Harvard Business School; and Thomas Keator Billington, born 1964, a 1986 graduate of Brown University, currently writing for the *Reader's Digest.*

PUBLICATIONS OF JAMES H. BILLINGTON

Books

Mikhailovsky and Russian Populism, Oxford University (Clarendon) Press, 1958, 217 pp.

The Icon and the Axe, An Interpretive History of Russian Culture, New York (Knopf, Inc.), 1966, 849 pp.; paperback, 1970.

Fire in the Minds of Men: Origins of the Revolutionary Faith, New York (Basic Books), 1980, 677 pp.; paperback, 1982.

"Finland," chapter on Finnish Communism in C. Black and T. Thornton, eds., Communism and Revolution, Princeton University Press, 1964, pp. 117-144.

"The Intellectuals," in Allen Kassof, ed., Prospects for Soviet Society, New York (Praeger), 1968, pp. 449-472.

"The Spirit of Russian Art,' introduction to The Arts of Russia, New York (Horizon), 1970.

"Neglected Figures and Features in the Rise of the Raskol," in Andrew Blane, ed., The Religious World of Russian Culture, The Hague/Paris (Mouton), 1975.

"Reflections on the Nonmaterial Aspects of National Interests," in Prosser Gifford, ed., The National Interests of the United States in Foreign Policy, Washington (Woodrow Wilson International Center for Scholars), 1981, pp. 180-183.

"Rival Revolutionary Ideals" in Totalitarian Democracy and After; (International Colloquium in Memory of Jacob L. Talmon), Jerusalem, (Israel Academy of Science and Humanities), 1984, pp. 56-69.

"Three Views of Revolution," in And He Loved Big Brother—Man, State and Society in Question, (contributions to the George Orwell Colloquium, 1984, Council of Europe, Strasbourg), London, 1985, pp. 13-24; also in Reflections on America, 1984, An Orwell Symposium, ed. Robert Mulvihill, University of Georgia Press, 1986, pp. 202-214.

Con il Fuoco nella Mente: Le Origini della Fede Rivoluzionaria, Bologna, (Il Mulino), 1986, 731 pp. (Italian translation of Fire in the Minds of Men: Origins of the Revolutionary Faith.)

"Education and Culture: Beyond 'Lifestyles'," in Virtue—Public & Private. Richard John Neuhaus, ed., Wm. B. Eerdmans Publishing Co. in cooperation with The Rockford Institute Center on Religion & Society, Grand Rapids, Mich., 1986, pp. 1-7.

"American Foreign Policy and the New Isolationism," in Richard F. Staar, ed., Public Diplomacy: USA Versus USSR, Hoover Press Publication (Hoover Institution at Stanford University), 1986, pp. 3-18.

"Socio-Cultural Imperatives for a New Containment Policy," in Terry L. Deibel and John Lewis Gaddis, eds., "Containment—Concept and Policy," National Defense University Press, Washington, DC, 1986, Vol. 2, pp. 597-613.

Booklets

The Humanities Film Forum, Los Angeles, 1973 (brochure).

The Adventure of Liberal Education, Syracuse, 1982

Articles

"Thoughts on America and the Cold War," Freedom and Union, 1952, Autumn.

"The Bolshevik Debt to Russian Populism," Occidente, 1956, No. 4.

"The Renaissance of the Russian Intelligentsia," Foreign Affairs, 1957, April.

"Nikita Krushchev and 'Doctor Zhivago,'" New York Times Sunday Magazine, 1958, November 9, lead article.

"The Intelligentsia and the Religion of Humanity," American Historical Review, 1960, July.

"Five Clues to the Khrushchev Riddle," New York Times Sunday Magazine, 1961, October 29, lead article.

"Images of Muscovy," Slavic Review, 1962, March.

"Science in Russian Culture," American Scientist, 1964, June.

"Soviet Youth Is Getting Out of (Party) Line," University: A Princeton Quarterly, 1965-66, Winter (No. 27).

"Six Views of the Russian Revolution," World Politics, 1966, April.

Articles on Russia in Life, 1967, September 22 and November 10.

Two articles on the Czech Crisis in Life, 1968, August 2, and September 6.

"The Humanistic Heartbeat Has Failed," Life, 1968, May 24.

"Force and Counterforce in Eastern Europe," Foreign Affairs, 1968, October.

"A Ferment of Intellectuals," Life, 1969, January 10.

"Address to the Rhodes Scholar Sailing Party, 1969," American Oxonian, 1970, April.

"Purpose in the University," Theology Today, 1971, January.

"Fulbright Success Story," New York Times Op-Ed page, 1971, December 13.

"The Strange Death of Liberal Education," Furman Magazine, 1972, Fall.

"The Gun Within," Newsweek, 1975, October 6.

"The Crisis of Legitimacy," Theology Today, 1976, July.

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"Christianity in the USSR," Theology Today, 1980, July.

"The World's Fight: 17. An Innovation in International Scholarship," American Oxonian, 1981, Spring (No. 2).

"Revolution and Its Discontents: The Revolutionary Faith in the Modern World," Syracuse Scholar, 1981, Fall (No. 2).

"Russia After Brezhnev: A Nation in Search of a New Identity," Washington Post, 1982, November 14.

"The Essentials: Goodness, Beauty, Truth," Envoy (The Catholic University of America), 1983, Fall.

"With Russia: After 50 Years. A Time of Danger, an Opening for Dialogue," Washington Post, 1983, November 20.

"Liberty, Equality, Fraternity—Old Ideals, New Revolutions," Jubilee, 1984, Summer, pp. 7-12.

"Der Generationswechsel: Die Suche nach einer nachstalinistischen Identitat," Wohin entwickelt sich die Sowjetunion? Zur aussenpolitischen Relevanz innerpolitischer Entwicklungen, edited by Hans-Joachim Veen. Melle: Knoth, 1984 (Third German-American Conference, Social Science Research Institute, Konrad-Adenauer-Stiftung, Sankt Augustin bei Bonn). pp. 180-183.

"Realism and Vision in American Foreign Policy," Foreign Affairs—1987, February.

"Soviet Power and the Unity of the Industrial Democracies," The Atlantic Community Quarterly, winter 1986-87, vol. 24, No. 4 pp. 374-379 (adaptation of address given at symposium—"The Critical Triangle—Japan, the USA and the USSR," sponsored by the Asahi Shimbun, Tokyo, April 21, 1986.)

A number of the above articles have been reprinted in anthologies and/or translated into foreign languages.

Not included are a number of columns on Communist affairs and politics in New York

Journal American; and many book reviews on historical and educational subjects in New York Times Book Review, Book World, Life, Times Literary Supplement, etc.

The PRESIDING OFFICER. Without objection, the nomination is confirmed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the nominee was confirmed.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEPARTMENT OF STATE

Mr. BYRD. Mr. President, while the Senate is in executive session, I ask unanimous consent that the Senate proceed to the consideration of the nomination of Melissa Wells.

The PRESIDING OFFICER. Is there objection?

Mr. HELMS. Mr. President, reserving the right to object, and I shall not object, the distinguished majority leader and I discussed this earlier. I am perfectly willing for this nomination to be considered this afternoon. I will not have done anything to require a rollcall vote on the motion to proceed, so I have no objection.

Mr. BYRD. Mr. President, I thank the distinguished Senator from North Carolina.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read the nomination of Melissa Foelsch Wells, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of American to the People's Republic of Mozambique.

The Senate proceeded to consider the nomination.

The PRESIDING OFFICER. Who seeks recognition?

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. Mr. President, I thank the Chair.

Let me allude for a moment to a story that appeared in the Washington Post which was clearly intended as a lobbying effort in connection with this Senator's effort and similar efforts by 27 other Members of the Senate, Democrat and Republican, to cause the U.S. State Department at least to consult with both sides in the strife going on in Mozambique.

The State Department, not surprisingly, is adamant. As is the case in so many other instances, the State Department enjoys dealing with Communist governments, but up to now the State Department has refused even to consult with the freedom fighters in Mozambique.

So the story this morning purported to address some violence in Mozambique and to put the blame on Renamo, the freedom fighters. Now, bear in mind Mozambique is a Communist government. And I shall hereafter refer to that Communist government by the name of the Communist Party of Mozambique which is Frelimo, Renamo is the name for the freedom fighters.

Now, the massacre is reported to have occurred at a place called Homoine, which is near Inhambane, a town located on the coast in Frelimo territory.

Now let me emphasize that Frelimo is the Communist side. Frelimo controls all of that territory where the massacre is reported to have occurred. Renamo, on the other hand, operates in the interior. It has no control over the very place where this massacre occurred.

Now, I was struck by the fact that the Washington Post story this morning confined its quotes, at least identified quotes, to Communists.

For all practical purposes, the Washington Post simply turned itself over as a form for the Communist to make charges against Renamo.

This report was carried in the Washington Post, and perhaps other papers served by the Washington Post. And I heard on the radio driving to the Capitol this morning a report which was obviously just picked up from the Washington Post, without any question whatsoever.

In any case, this entire journalism episode may qualify for the Janet Cooke award of 1987. It is extraordinarily well timed from the standpoint of Mozambican Communists, Felimo. And I think it should be noted that the reports first came exclusively from the Communist news agency of Frelimo which goes by the initials AIM.

Then there were second reports which we have this morning from Western journalists who, according to the Communist technique down through the years, were brought in, and given the Communist version. You will note that the Post reporter did not go to Homoine. He was not taken by the Communists to the scene of the killings. They said it was too dangerous. The Post reporter went only to the nearby town to interview handpicked survivors.

No journalists whatsoever were present at the time of the violence. None.

So, what we have in this story are news people reporting on charges made by the Communist spokesmen for Frelimo. What kind of honest journalism is that?

It should also be remembered that Communists all over the world are ruthless in obtaining their aims without any regard to truth. Any Senator can cite chapter and verse on that sort of thing.

We even know there have been countless cases of Communist massacres perpetrated on the innocent by Communists for the purpose of blaming the other side.

I was not there. I do not know of my own knowledge what happened. But neither does anybody from the Washington Post.

Not one single source in the article is an objective observer. We are told that it is "by the Mozambican Government's account."

Well, the Mozambican Government is Communist.

Then, the Washington Post said: "Mozambican officials said." Then it quotes, "The Mozambican Prime Minister told visiting journalists."

It is interesting, Mr. President, that not once in this story from the Washington Post this morning is it even mentioned that the Mozambican Government is Communist. Nor is it surprising, Mr. President, that the interpretation which the Washington Post put on this affair is taken verbatim from the Communist Prime Minister of Mozambique.

Referring to the Senator from North Carolina and the distinguished Republican leader, Mr. DOLE, this so-called Prime Minister says:

> I can't understand why they insist to back murderers, without heart, without feelings, without any human feelings. If you are able to kill a pregnant woman in a hospital bed, I think something is not going right in your mind.

Mr. President, that is a slur on the minority leader of the U.S. Senate. I am used to Communists talking that way about me, so it does not bother me. But I resent the Washington Post printing such a statement from a Communist about BOB DOLE. Because it is a lie, a boldface lie.

What the distinguished Republican leader and I and 26 other Senators have been urging is very simple and that is that the United States should be talking to both sides.

I have never told the State Department that it should recognize Renamo as a government—as an organization fighting for freedom, but not as a government. I have never suggested to the State Department that it should agree with Renamo. I have simply said to the State Department, and specifically to the Secretary of State: Sit down at one time or other with both sides. How can you know what is on Renamo's mind, the anti-Communist freedom fighters, Renamo, if you do not at least talk with them?

I might add parenthetically——

Mr. SYMMS. Will the Senator yield for a question?

What I want to know is what explanation does the State Department give to the good Senator from North Carolina of why it is that they will not talk to the Renamo but they will talk with the necklacing crowd of the ANC, which is nothing more than a Communist front organization?

Mr. HELMS. Thank you for asking the question. That is precisely the point. Secretary Shultz was before the Foreign Relations Committee a few weeks ago. I asked him about his contacts with, his visits with, his consultations with the African National Congress—the nice little people, do you not know, in South Africa, who fill tires with gasoline, hang them around the necks of black people with whom they disagree who would not go along with this Communist-orchestrated organization; and then they set a match to it.

Secretary Shultz's reply was immediate. He says: Senator, we will talk with anybody.

Well, of course we will talk with anybody. The point is, will they talk with Renamo as a group? As a key player in achieving peace. He said we will talk with anybody.

And yet the State Department refuses to have any contact with the freedom fighters in Mozambique on any official level. The only contact that has been made was at my behest and that was by a desk officer.

An insulting contact was made a demeaning contact. Of course Renamo is paying no attention to that. But there have been something like 59 or more contacts with the African National Congress. As a matter of fact, if the Senate is interested in a historical chronology of State Department meetings with the African National Congress—and this is according to Nancy Morgan, the Director of Public Affairs at the African Bureau down in Foggy Bottom—from 1982 to 1986 the State Department has been holding and is continuing to hold regular meetings—I say to the distinguished Senator from Idaho—regular meetings with the African National Congress, the way she put it, at least once a month in Lusaka and Zambia.

In July 1986, Paul Hare, the American Ambassador to Lusaka, Zambia, met with the ANC. In September of 1986, the Assistant Secretary of State for Africa, Chester Crocker, met with Oliver Tambo, president of the African National Congress, ANC, in London.

You see, Mr. President, there is no end to how far the State Department will go to meet with a Communist crowd. And that is my objection to the U.S. State Department.

Mr. SYMMS. Will the Senator yield again?

Mr. HELMS. Yes.

Mr. SYMMS. Is it not true that the Reagan doctrine is to expand the borders of freedom and roll back the borders of communism? That is what the President said?

Mr. HELMS. Exactly.

Mr. SYMMS. Does it not appear to the Senator from North Carolina, as it does the Senator from Idaho, that oftentimes one of the biggest obstacles to the successful implementation of the Reagan doctrine is the policies that come right out of the State Department.

Mr. HELMS. The Senator is absolutely correct. The point is this: You change administrations. You change Secretaries of State. But that infrastructure down a couple of levels below the Secretary, it runs the foreign policy show. It does not care who is President. It does not care who is Secretary. It says they know best. And this Senator says they do not know best, and we could go back to Cuba where the State Department infrastructure encouraged the rise of Fidel Castro.

Mr. SYMMS. They encourage the rise of the Communist Sandinistas.

Mr. HELMS. Quite right.

Mr. SYMMS. The fact is when President Reagan was former Governor, he had a heyday with the foreign policies of former Ambassador Andrew Young.

Mr. HELMS. That is absolutely correct.

Mr. SYMMS. And then his own State Department—and the Senator and I are two of the strong advocates of the policy President Reagan campaigned on—the President's own State Department now is trying to appoint to a very important job in a Communist country in Africa a person who was then Ambassador Young's top deputy or one of them, is that not correct?

Mr. HELMS. That is correct.

Mr. SYMMS. The record is replete with just every kind of a bipartisan sellout of America's interests. I have heard the Senator say many times that all he asks is just one little question: Please, when will we get an American desk in our State Department?

Mr. HELMS. The Senator has it exactly right.

And do not forget the Panama Canal giveaway. That was orchestrated by the State Department. That was the beginning of the difficulties in Central America because that sent a signal, I say to my friend from Idaho, to the Marxists everywhere that we really are not going to defend this hemisphere. That is the reason you have the conflict you have right now in Central America.

If I may continue with the list of meetings by the State Department—and I am talking about fairly top level officials, including the Secretary of State, I might add, with the African National Congress—bear in mind these are the people being orchestrated by the Communists in South Africa, who get the old automobile tires, fill them with gasoline, hang them around the people who dare oppose them and set a match to them.

They even did it to a child with a bicycle tire, because the little boy happend to be the son of a black man who was opposed to the African National Congress.

The State Department deals with these people, but they will not even meet with Renamo.

In December 1986 the Under Secretary of State Michael Armacost met with the ANC. In September of 1986 through January 1987, Paul Hare, I referred to him earlier, the American Ambassador to Zambia met with the ANC at least six times. Probably more than that but at least six documented times.

On January 29, 1987, this year, the Secretary of State, Mr. Shultz, met with Oliver Tambo, the president of the African National Congress, right here in Washington.

In February of this year, Gibson Lanpher, director of South African Affairs, and Ambassador Paul Hare met with the ANC at the African American Institute's annual conference, met with them for 3 days in Botswana.

Since February of this year Ambassador Hare has continued to meet on a regular basis with the African National Congress, five or six times at a minimum, in Zambia.

Mr. President, I made all sorts of propositions to the State Department.

Much has been made by the Washington Post and other media that I have unreasonably questioned the nomination of Mrs. Wells, who is a very charming lady. But she follows the same department line. She says that she will not meet under any circumstances with Renamo as an organization. I told her in my office, and we met for an hour and a half, I might add, that unless the State Department changes that policy "which you feel obliged to follow, I am going to have a problem with your nomination."

And I have told the Secretary of State in my office, I have told John Whitehead, the number two man at the State Department: "Just say that you will meet with Renamo and hear what they have to say."

They say, "No, no way, José."

Therefore, Mr. President, I say, "No way, José" to the U.S. State Department in every effort made to bring up this nomination. Until the State Department takes a look at its own dumb policy we are going to have the problem with this nomination.

I would like nothing better than for Mrs. Wells to be in a position where she could tell me and the 27 other Senators, including the minority leader, "Sure, we will treat Renamo like we treat with everybody else in the world. We will meet. We will try to find out what the facts are. We will deal with them."

I cannot speak for the lady, but her superiors at the State Department at the behest of this underbelly of careerists say, "No, you are going to defeat HELMS and DOLE and the 26 other Senators who object to this foolish policy of the U.S. State Department with respect to Mozambique."

Mr. SYMMS. Will the Senator yield on that point?

Mr. HELMS. I would be delighted to yield.

Mr. SYMMS. I apologize. I do not mean to interrupt the Senator but this is pertinent to his point. I think it should be known to our colleagues, all Americans, and to President Reagan. I hope he will pay attention to what the good Senator from North Carolina is trying to do.

You are almost too kind and too generous, in my view, because you made such a generous offer to the administration. I will quote from a letter dated June 18, 1987, from the Honorable JESSE HELMS to the Honorable John Whitehead.

The question is about Secretary Shultz saying he would meet with the ANC.

> I am asking one simple question: Will the State Department instruct Ambassador-designee Wells to meet with the Renamo as an organization?
>
> If you will send me a one-word response—yes—I will be willing to urge the leadership to expedite her confirmation.

Then they send back a long answer. If the Senator has not done so, I think this should be part of the RECORD.

Mr. President, I ask unanimous consent that both Senator HELMS' letter of June 18 to John Whitehead and John Whitehead's letter of June 17 be printed in the RECORD.

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, June 18, 1987.

Hon. JOHN C. WHITEHEAD,
Deputy Secretary of State, Department of State, Washington, DC.

DEAR JOHN: While I appreciate your frank and candid letter of June 17 regarding Melissa Wells, I am obliged to say that I find it puzzling. In all sincerity, I am asking one simple question: Will the State Department instruct Ambassador-designate Wells to meet with RENAMO as an organization? (I would remind you that Secretary Shultz, in an appearance before the Foreign Relations Committee, unhesitatingly stated that he would meet with the African National Congress, the violent organization in South Africa that engages in such activities as "necklacing.")

If you will send me a one-word response—Yes—I will be willing to urge the leadership to expedite her confirmation.

Unfortunately, I simply cannot accept the premises of your argument. The contacts with RENAMO during the period of the negotiation of the Nkomati Accord were to pressure RENAMO into giving up their hard-won advantages in the hope of achieving the nebulous peace envisioned by Nkomati. From the information I was given at the time, the role of the State Department was entirely to the disadvantage of RENAMO and the cause of freedom; the advantages were all on the side of the Communists.

My position is that RENAMO stands for the cause of freedom and pro-western values, while Maputo represents a repressive one-party Communist state. I do not see why the United States should join in a condominium with the Soviet Union to impose Communism on the people of Mozambique for the benefit of a few, amoral Western multinational corporations. Our policy in Mozambique is unintelligible and unsupportable.

In some areas of the world, the problems are extremely complex; but here it is simple. We either support Communism, or we support freedom.

Sincerely,

JESSE.

DEPARTMENT OF STATE,
Washington, DC, June 17, 1987.

Hon. JESSE HELMS,
U.S. Senate.

DEAR JESSE: Thank you for your letter of June 9 regarding the President's nomination of Melissa Wells as Ambassador to Mozambique. I readily agree that if the United States is to make a positive contribution toward peace and the alleviation of suffering in Mozambique, we must deal with the situation as it truly is. As the Administration sees it, that involves working with the Government of Mozambique to deepen its evolving relationship with the West and to continue loosening its ties to the Soviet Union and its allies. It involves working with the international community, especially nonpolitical organizations like the International Committee of the Red Cross, to see that food reaches all those in need.

On the question you posed to Ambassador-designate Wells on June 4, the Administration's position is as Secretary Shultz described it in his letter to you of June 6. A consistent objective of the United States in Mozambique has been the restoration of peace in that war-torn country. We have in the past, when circumstances were propitious for doing so, promoted contact between the government of Mozambique and RENAMO. For example, we did so in connection with the negotiations between them that accompanies the conclusion of Mozambique's 1984 accord with South Africa at Nkomati. Should the occasion arise for us to play a similar role in ending hostilities between the government and the insurgents in Mozambique, we would not hesitate to undertake that role. We remain alert to opportunities to do so.

I realize there are differences between the Administration's position and your own. Nevertheless, I hope you will work to expedite Senate confirmation of President Reagan's nomination of Ambassador-designate Wells without further delay.

Sincerely,

JOHN C. WHITEHEAD.

Mr. SYMMS. Then I will ask if anyone in the White House paid any attention to what was going on if they had handed that response to the President. Maybe if he started bossing the State Department a little bit we would get some response from the headman down there.

Mr. HELMS. Mr. President, at this particular time, with all the problems the President has, he has no choice, and no other occupant of the White House has any choice, but to try to depend on his advisers. Unfortunately, his advisers are not in tune with the President's own views.

This is the same crowd, I reiterate, that orchestrated the giveaway of the Panama Canal, that orchestrated the takeover by Fidel Castro in Cuba, and they are making this policy.

I have talked to Howard Baker about it, and Howard has his plate full. So I have simply taken a position of sooner or later we will get their attention. In the meantime, I am going to continue what I have been doing.

Mr. SYMMS. I thank the Senator for doing what he has been doing and I think there are a lot of other people who thank him, too.

Mr. HELMS. I thank my friend from Idaho.

I want to finish, and then I would like to yield the floor to the distinguished Senator from Idaho. I want to get back to the slur by the Washington Post this morning against Senator BOB DOLE. Now, all that Senator DOLE and I and the 26 other Senators have been urging is that the United States should be talking to both sides. It is not just the Washington Post that is talking only to the Communists and giving the Communist line. Our Government has an official policy of not talking to both sides. The State Department has had official talks, as I said earlier, with the African National Congress over 59 times, including a meeting, as I said earlier, with Secretary of State Shultz himself.

Now, back to the massacre which was reported in the Post. And I suggested earlier that article be nominated for the Janet Cooke Award of 1987. I went to the trouble to make my own inquiries about it. For the State Department's information, it is not hard to find Renamo. I contacted Renamo's local representative here in Washington. His name Dr. Luis Serapio, and he has been a distinguished professor at Howard University for a number of years. He told me Renamo issued a statement yesterday. It arrived to me in Portuguese, and I must say to my distinguished friend who is presiding over the Senate at the moment that my Portuguese is a little weak, so I had to have it translated. In the meantime, I have been provided with a summary in English. First, let me remind everybody that there has been no evidence whatsoever presented that Renamo was even in the area of the massacre.

Mr. President, at this point I ask unanimous consent that the summary of the Renamo communique of July 23 be printed in the RECORD at the conclusion of my remarks along with the Washington Post article of July 24.

[See exhibit 1.]

Now, admittedly this is Renamo's side of it and I think Renamo is entitled to have its side presented. Good luck to Renamo as far as the Washington Post is concerned over. Renamo's version is that the village was filled with Frelimo's regular troops and the Frelimo militia.

Now, just for the purpose of emphasis, let me reiterate that Frelimo is the Communist group over there, the Communist government. Now, as is well known, the militia is poorly equipped, poorly paid, while the regular Mozambican troops are well fed and well clothed. And of course there is a lot of animosity between the Communist militia and the Communist regular troops. And they have a lot of fights among themselves. They engage in violence among themselves.

According to Renamo, a dispute broke out between these two factions, both of them were armed and they began shooting at each other, and the civilians were caught in the middle. Now, of course, I do not pretend to have any independent confirmation of this version, but neither does the Washington Post have one scintilla of confirmation of that story they ran this morning. There may be other information forthcoming that will not be helpful to Frelimo, it may not even be helpful to Renamo—who knows—but the point is this government ought to be talking to both sides so that we can find out what the truth is, whatever it is. But the U.S. State Department says, "No way, Jose. We are not going to talk to Renamo; we are going to take the word of Frelimo," the Communist crowd.

If my colleagues will get a map of that area, they will see that the village of Homoine is near the major town of Inhambane, which is on the east coast of Mozambique. Now, if there is anything we know about the situation in Mozambique, it is that RENAMO operates only in the interior, not on the coast anywhere. Frelimo, on the other hand, is in control of the urban areas on the coast, so just simple logic indicates that it makes more sense for Frelimo to have been in the area than RENAMO. If the State Department doubts this, why do they not check? Why do they not go there?

Now, I have put these facts forward to show that there is another version to this massacre, and one that seems to me to fit better with what we know about Communist history and what we know about freedom fighters historically. The State Department and the news media have long joined in a conspiracy to blacken the reputation of anti-Communists all over the world. I recall all of these stories that the Washington Post and others have published saying as a fact that the contras, the freedom fighters in Nicaragua were dealing in drugs. Well, I cannot go into classified information, but we have had witness after witness before the Foreign Relations Committee, meeting in closed session, people who have no reason to lie about it, and not one of them has said that the freedom fighters ever enaged in drug trafficking. But it is known, on the other hand, and it is soft pedaled by the major news media, that such people as Noriega in Panama and Castro in Cuba are dealing regularly in drug trafficking.

But I guess the State Department regards leftwing crimes as sort of a boys-will-be-boys operation. We do not get into that. But the Communists are up to their ears in drug trafficking.

Now, what we need in Mozambique are a cease-fire and negotiations and free elections under a multiparty system. A week or two ago I wrote identical letters to the Communist President of Mozambique and to the head of the RENAMOS, the anti-Communist freedom fighters, the same letter to both. And let me read this letter. We have not heard from either one because RENAMO is hard to reach, being away from communication, but I am advised that we are going to have a response in agreement with the four requests that I made, and Senator DOLE made essentially the same request. Incidentally, I passed copies of these letters out to the news media thinking that since they had written so much about the Mellissa Wells nomination and assigned such dark motivation to Senator DOLE and to me about this nomination, perhaps they would be willing to print a few words or broadcast a few words about the kind of offer that was made by Senator DOLE and me.

I asked four questions of Joaquin Chissano, the President of the People's Republic of Mozambique, and Afonso Dhlakama, President of Renamo. When I finish reading the questions, Mr. President, I am going to ask unanimous consent that the letters be printed in the RECORD, but I will not do that yet. The first question:

> Will you agree to a temporary cease-fire to allow a Red Cross plane to enter the airspace controlled by your forces for the purpose of completing the evacuation of Ms. Bryan?

Ms. Bryan being the nurse who the news media says had been kidnapped by Renamo. It is not so but anyway I say that by way of identification.

The second question:

> If you will not agree to a Red Cross plane for the purpose mentioned above, will you agree to a cease-fire to allow a U.S. Government plane to evacuate Ms. Bryan?
>
> (3) Will you agree that Ms. Bryan should be returned unharmed directly to Red Cross or U.S. Government authorities?
>
> (4) Will you agree to a longer-range cease-fire for the purpose of negotiations relating to national reconciliation, free elections with international observers, and peace?

Mr. President, I ask unanimous consent that these two letters, which are identical except for the persons to whom they are addressed, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, July 14, 1987.

Mr. JOAQUIM CHISSANO,
President, People's Republic of Mozambique,
Maputo, Mozambique.

DEAR MR. PRESIDENT: The conflict in Mozambique is one which deeply affects the American people. This morning, I met with the Senate Republican Leader, Senator Robert Dole, and the Secretary of State, Mr. George Shultz, to discuss ways whereby the United States could use its good offices to ease the suffering of the Mozambican people.

In particular, we are distressed to learn that a U.S. citizen and nurse, Ms. Kindra Bryan, is caught up in the conflict between the two parties. Ms. Bryan was evacuated from a military fire zone for her safety by the RENAMO forces, and we understand the two parties have been unable to arrange a safe-conduct for a suitable humanitarian organization, such as the International Red Cross, to remove her from the war area.

In a humanitarian spirit, therefore, I am addressing the same inquiry both to the Government of Mozambique and to the insurgent forces organized under RENAMO, and I await the replies of both sides to these identical questions:

(1) Will you agree to a temporary cease-fire to allow a Red Cross plane to enter the airspace controlled by your forces for the purpose mentioned above, will you agree to a cease-fire to allow a U.S. government plane to evacuate Ms. Bryan?

(3) Will you agree that Ms. Bryan should be returned unharmed directly to Red Cross or U.S. Government authorities?

(4) Will you agree to a longer-range cease-fire for the purpose of negotiations relating to national reconciliation, free elections with international observers, and peace?

I await your immediate reply.

Sincerely,

JESSE HELMS.

U.S. SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, July 14, 1987.

Mr. ALFONSO DHLAKAMA,
President, RENAMO
Gorongosa, Mozambique.

DEAR MR. PRESIDENT: The conflict in Mozambique is one which deeply affects the American people. This morning, I met with the Senate Republican Leader, Senator Robert Dole, and the Secretary of State, Mr. George Shultz, to discuss ways whereby the United States could use its good offices to ease the sufferng of the Mozambican people.

In particular, we are distressed to learn that a U.S. citizen and nurse, Ms. Kindra Bryan, is caught up in the conflict between the two parties. Ms. Bryan was evacuated from a military fire zone for her safety by the RENAMO forces, and we understand that the two parties have been unable to arrange a safe-conduct for a suitable humanitarian organization, such as the International Red Cross, to remove her from the war area.

In a humanitarian spirit, therefore, I am addressing the same inquiry both to the Government of Mozambique and to the insurgent forces organized under RENAMO, and I await the replies of both sides to these identical questions:

(1) Will you agree to a temporary cease-fire to allow a Red Cross plane to enter the airspace controlled by your forces for the purpose of completing the evacuation of Ms. Bryan?

(2) If you will not agree to a Red Cross plane for the purpose mentioned above, will you agree to a cease-fire to allow a U.S. government plane to evacuate Ms. Bryan?

(3) Will you agree that Ms. Bryan should be returned unharmed directly to Red Cross or U.S. Government authorities?

(4) Will you agree to a longer-range cease-fire for the purpose of negotiations relating to national reconciliaton, free elections with international observers, and peace?

I await your immediate reply.

Sincerely,

JESSE HELMS.

Mr. HELMS. Mr. President, the distinguished Senator from Idaho has been very patient, awaiting an opportunity to speak on this. I ask unanimous consent that I be able to yield to him without my resumption being considered a second speech.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Idaho is recognized on that basis.

Mr. HELMS. I thank the Chair. I yield to my friend from Idaho.

Mr. SYMMS. Mr. President, I thank the distinguished Senator from North Carolina for his remarks and for his valiant effort in what I know he believes to be—and I happen to share that belief with him—in the cause of the expansion of freedom and the cause of the Reagan doctrine, which says that it is hereby the United States foreign policy that we are going to roll back the borders of communism and expand the borders of freedom and make the Brezhnev doctrine null and void.

That is a doctrine that most Americans agree with, but I must say to my friend from North Carolina that the U.S. State Department policies, under both parties over the years, has consistently supported a no-win policy; has consistently supported a Communist government in Mozambique; and has refused to recognize the resistance forces that represent the implementation and the sinew to make the Reagan doctrine become a reality.

It leads one to believe that one of the biggest obstacles to having the Reagan doctrine be successful is the State Department itself.

The administration has to take some of the responsibility for that because, after all, the President does appoint the people who are running it. I think they are failing to live up to their responsibilities when they come up with nominations like the one before us now.

I regret that I must oppose this nomination of Melissa Wells to be the U.S. Ambassador to Mozambique. I say that I regret it, because I hold no personal grudge against Mrs. Wells, and I never find it comfortable to oppose a nomination by a President of my own party, or of any party.

I urge President Reagan to withdraw the Wells nomination and return to the Senate the name of a person with a clear understanding of what is happening in Mozambique.

Mr. DOMENICI. Mr. President, I wonder if the distinguished Senator will yield 5 minutes, as in legislative session, to the Senator from New Mexico, to engage in a colloquy with the chairman of the Budget Committee, Mr. CHILES.

Mr. SYMMS. I am happy to yield. I ask unanimous consent that my statement show no interruption.

Mr. DOMENICI. I ask unanimous consent that our remarks not interrupt those of the distinguished Senator from Idaho.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEBT LIMIT EXTENSION

Mr. DOMENICI. Mr. President, I yield at this time to the distinguished Senator from Florida [Mr. CHILES], the chairman of the Budget Committee.

Mr. CHILES. I thank the Senator from New Mexico.

Mr. President, we want to engage for a couple of moments in a colloquy. We find ourselves on Friday afternoon, after a session yesterday in which nothing too positive was accomplished so far as a result in trying to amend an automatic sequester on the debt ceiling is concerned.

Finding ourselves faced with the existing debt ceiling running out on Tuesday, we want to inform the body that we have participated in a meeting today and look forward to getting together again on Tuesday. I do not think that at this stage we come forward to say that we have any great plan of salvation that has been adopted. But I thank the Senator from New Mexico for the meeting. I think we met in good spirit, and we have some ideas on the table. I hope those can ripen somewhat over the weekend and that we will have a chance to get together on Tuesday.

I yield to the Senator from New Mexico.

Mr. DOMENICI. I thank the chairman.

Yesterday was a difficult day, and obviously nothing was resolved. The distinguished chairman of the Budget Committee—at his earliest convenience today, I assume—called me and asked if we could talk. I was pleased to do that. Just a few moments ago, we had a chance to discuss the stalemate that exists. The distinguished chairman asked if we would negotiate, if we could sit down at the earliest possible time and see if there are some mutual grounds we could use upon which to build a consensus among him and me and some of the principals who work with both of us. Of course, my response was, as it must be, that I am willing to do that.

However, I must tell the Senate—and that is the reason why I thought we should come here—that we are just beginning that process. The Senate knows that I am not going to be here more than another 30 or 40 minutes today, which is my own New Mexico business, and that I could not possibly come up with anything positive, nor do I think my friend from Florida could, in that timeframe.

We have indicated to each other that the first thing Tuesday, after looking over some general concepts while we are away for the weekend, we will sit down once again and hopefully come up with some solutions. I say "hopefully" because that is my real desire. But I am not telling the Senate that we are certain that we can do that, nor do I believe that the distinguished chairman, the Senator from Florida, is saying that. Surely, we will try, and we will keep the leadership informed and keep those who have been the principal participants in this rather monumental job advised from time to time, starting Tuesday, early in the morning, upon our arrival back in Washington. We will report to them at regular intervals.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. DOMENICI. I yield.

Mr. BYRD. Mr. President, I thank Senator CHILES and Senator DOMENICI for their good-faith efforts this afternoon.

I believe that on Tuesday, when they resume their work, we can hope for continued progress.

A journey of a thousand miles has to begin with a single step, and they are both working together and making headway, I have to say. They are talking, and they are doing it in good faith.

As I said earlier today, they are men of good will and reasonable men can overcome almost every obstacle. I have my faith in both these men. I thank them.

Mr. DOMENICI. I say to the distinguished majority leader that I am fully aware of how difficult this situation is for him and the distinguished minority leader, with a debt limit pending which could cause a disaster and a catastrophe for our country.

On the other hand, I think the majority leader knows better than this Senator that we are not going anywhere very quickly on that long-term debt limit until some of this gets resolved or total frustration occurs where we cannot do anything.

It is in that spirit that we will start Tuesday.

We have not accomplished a great deal today, but I think it is fair to say that in sitting down and saying we will try, the Senator has properly assessed the situation. That is better than we were at 7 o'clock last night. So at least that is the first step in that journey the Senator speaks of. I am not sure we will make that full journey, but we will try.

I thank the majority leader.

Mr. CHILES. I thank the majority leader for his kind words and patience with us, and we will certainly try.

Mr. BYRD. Mr. President, I thank both Senators. I will be hoping we can be helpful.

The PRESIDING OFFICER. The Senator from Idaho is recognized.

THE MELISSA FOELSCH WELLS NOMINATION

Mr. SYMMS. Mr. President, when discussing with the Senate Foreign Relations staff her understanding of Renamo, Mrs. Wells likened these freedom fighters to the Red Brigade in Italy, and thereby showed she lacked understanding of the Reagan doctrine. Moreover, when providing written answers to questions submitted by the ranking Republican member of the Foreign Relations Committee, Senator **Helms**, she compounded the problem by stating the following:

> * * * [T]he South-African supported insurgent movement RENAMO is operating in a manner that can only have as its objective destabilization of the country. Judged by its action and not by its claims, the actions of RENAMO are not those of a nationalist movement. It has not demonstrated a capacity to take, hold and govern territory. RENAMO is politically fragmented, it has no political program and has not shown evidence of a structure, other than military, that could be called a permanent presence in the country.* * *

Notwithstanding Mrs. Wells denigrating characterization of Renamo, I firmly believe they are the ones whom the United States Government should be supporting in Mozambique, not the Marxist-Leninist Frelimo government. The United States should not be sending a U.S. Ambassador who believes and propounds the party line of Frelimo—a party whose strongman, Samora Machel, in 1977 stated—and this is a very important statement. This is Machel's own words:

> Our struggle is to destroy all vestiges of feudalism and colonialism, but fundamentally to crush capitalism, which is the most advanced form of exploitation of man by man.

Mr. President, that really says a lot right there. I was in the other body when this happened and we were trying at that time in neighboring Angola to get support for Jonas Savimbi, who is one of the greatest men living in the world today, and one of the greatest proponents of freedom and opportunity. Yet, here we have a person whose goal is to crush capitalism and that is who our State Department is supporting.

I have said many times if we are going to send pro Socialists around the world, to represent the U.S. Government, we would be better off to call them all home and just take an airplane and once a week fly over the country and drop out the J.C. Penney and Sears catalogs and say, "We have this over in America. If you want a little capitalism, call us and we will tell you about it."

Instead we have a constant push from the State Department to try to push outdated, bankrupt, economic policies of socialism and immoral policies of communism that our State Department tries to be playing and working with.

How can the United States play any real part in achieving a democratic solution to the civil war in Mozambique through negotiations which include RENAMO if our Ambassador looks upon those freedom fighters as bandits? How can the Reagan doctrine in Mozambique, in fact all of southern Africa, be advanced by a U.S. representative who tries to deflect charges that Frelimo is a Marxist-Leninist regime by saying that, unlike classic Marxist-Leninism, there is no dictatorship of the proletariate?

Come on, Mr. President, how can they be that naive. Where have they been in the last 30, 40, 50 years? Where have they been when millions of people have been slaughtered and murdered by the expansionist Soviet empire. Moreover, how could the administration, specifically the State Department, have sent a nominee to the Senate who espouses the views put forth by Mrs. Wells?

I just think it is high time that some people do get a little bit righteously indignant about it. I am happy that the distinguished Senator from North Carolina is raising a ruckus about it on the Foreign Relations Committee, as he should. It is unfortunate because I know of the strong affection and admiration and respect that the Senator from North Carolina holds for our President. I know that personally. I have heard him express time and time again his devotion to the principles of our Constitution, his devotion to the principles that allow people to operate freely in the market. But, I am utterly dismayed at the process by which Ambassadors are chosen, and after all, we have a Reagan administration that has been in power for some 6½ years now, and I would think that in that period of time they might take a little interest in who is getting appointed and exert their influence. After all, the American people elected this President by massive landslides. It was brought to my attention that this President has carried some 93 States in this country in running in the 50-State election 2 times, that he carried 93 of the 100 States in his elections. So he obviously has the support of the American people with respect to his foreign policy.

Yet the bureaucracy of Foggy Bottom grinds right on along the way it always has and they certainly keep sending up these nominations.

This certainly is not the first nomination received by the Senate that has provoked individual Republican Senators to request that the administration withdraw a nomination.

Unfortunately, I doubt that this will be the last one either after the revelations that were made yesterday by the distinguished Secretary of State. The Senate has fought constantly with the State Department in their selection of Ambassadors. It is inconceivable to this Senator why President Reagan has approved the nomination of Melissa Wells who believes the United States should attempt to buy Mozambique away from the Soviet Union—and, at the same time, turn our backs on the RENAMO freedom fighters who, despite the prevailing view in our State Department, are winning the war in Mozambique.

They are winning the war in Mozambique and our State Department is trying to drag defeat out of the jaws of victory. That is exactly what they are trying to do. They are trying to stop them from winning. It is as though the biggest obstacle to freedom prevailing in southern Africa—as big an obstacle as the Communists themselves—is the policymakers in the U.S. State Department who are setting this policy who refuse to support the resistance movement in Mozambique.

The State Department argues Frelimo is leaning toward the West. I ask my colleagues, has the Frelimo government requested the withdrawal of all foreign troops from Mozambique soil? Have the Soviet, Cuban, and East German military advisers left Mozambique? The answer to both questions is no. This, Mr. President, is what Frelimo has done: They have reached an agreement with the Soviet Union for more military aid; they have seized virtually all private property and nationalized almost every enterprise in the country; and they have established a number of ministeries to control the people and direct the economy. In fact, the Foreign Broadcast Information Service reports that on Mozambique's Hero's Day, Mozambique's President Jouquin Chissano, stated on public radio:

> Some may think that because we are having negotiations with Western institutions, that we are having doubts about the socialist option. That is not the case. We choose socialism and combined it with the scientific teachings of Marxism-Leninism.

Does this sound like any directional change on the part of Frelimo? In my opinion it does not.

And I would venture to say if you took it to Main Street America and to Ronald Reagan himself, that he would not agree with it either.

I would refer my colleagues to a recent article last Thursday in the Wall Street Journal, written by a Colonel Ochoa of the Salvadoran Army who recently resigned. I had the privilege in 1982 and again in 1983 to visit him in the field with his troops and in the operation he was in El Salvador. He was the finest officer that I saw in the Salvadoran Army. He wrote a very interesting article in the Wall Street Journal last Thursday after he had resigned from that army talking about the fact that unfortunately in El Salvador, one of the biggest problems they have in stopping communism is the State Department supporting the government in El Salvador, that imposed land reform upon the people. Their idea of land reform is you go in and confiscate the land, take it away from the person who owns it, give them no money back for it, and then call that land reform.

What that amounts to sounds like what has happened in Mozambique where they have seized virtually all private property, and nationalized almost every enterprise in the country.

The State Department thinks they can suck and blow in the same breath. And I say to my friend from North Carolina, it cannot be done. He knows it cannot be done. But, somehow, our State Department thinks that they can have it both ways and they cannot do it. And it is causing a great deal of problems. Then, to come up with this kind of a nomination, we should oppose it.

The State Department blames most of Mozambique's problems on the anti-Communist resistance movement. But how can the State Department believe the virtues of freedom and democracy will flourish without removing the one-party system that currently exists in Mozambique? They have a one-party system. Moreover, how can we believe the Reagan doctrine can ever be implemented in southern Africa, when the administration sends the Senate a nominee to be Ambassador to Mozambique who has no knowledge of this doctrine and prefers the Frelimo regime?

Mr. President, the person worthy of this nomination should at a minimum: exhibit the desire to demand the withdrawal of all foreign forces from Mozambique such as the Soviet Union, Cuba, East Germany, North Korea, Zimbabwe, Zambia, and Tanzania.

Our Ambassador should be someone who believes that is what should happen.

They should stress the need to strengthen our contacts with RENAMO. At this time, no high-level U.S. policymaker has ever met with a RENAMO representative.

I think it is outrageous, personally, that Secretary Shultz, who is supposed to be President Reagan's representative of the Reagan doctrine, has met with the necklacing, Communist front organization, the ANC, and given them all that credibility in southern Africa, but refuses to meet with the freedom fighters from Mozambique who we should be brothers-in-arms with in helping them to maintain and gain their own freedom. It is an absolute outrage.

The next thing we should have our Ambassador do would be to push for national reconciliation and negotiations between Frelimo and RENAMO.

Fourth, she should consider recommending Reagan doctrine assistance to RENAMO if the current Communist regime refuses to negotiate with RENAMO.

In my view, we ought to be supporting them now. We have a fight over whether to spend $299 billion on our defenses, Mr. President. That is a lot of money. That money could be used for a lot of other things. For a small part of that, if we had the foresight to support those resistance movements in countries like Angola, Mozambique, Nicaragua, Cuba—yes, Cuba, itself—in Poland, and in Afghanistan. We should be supporting these people so they can manage to gain their freedom, not support them just so they can fight for some kind of a stalemate.

Our goal should be victory or communism. And until we recognize we are in world war III, and that it has been going on since 1945, we are going to continue to have a sellout crowd in the State Department that sells off one more slice of salami hoping the alligator will eat them last.

President Reagan came on the scene with a great deal of hope when he said we are going to break the Brezhnev doctrine. The Brezhnev doctrine was that in no place that the Soviet Union went would they ever retreat and back out. Once a country goes Communist, it stays Communist. President Reagan was elected and said that now the doctrine is we are going to roll back the borders of communism and expand the borders of freedom. It is a nice thought. I know he believes it. But he has not got the support of the State Department to put it into effect.

Therefore, Mr. President, it is imperative that the Senate debate this nomination.

As I said, I regret that a personality has to suffer in this case, because I am positive, as Senator HELMS has said, that Mrs. Wells is a very charming person. But we are talking about an ideology. We are talking about freedom versus totalitarianism. And if we cannot see the difference and if America's representatives in the U.S. State Department cannot voice that difference around the world, then we have no chance to succeed. I believe success and victory is what we should be looking for always with our foreign policy. We could save billions of dollars on our defense appropriations bills if we had an offensive ideological front that spread the word that capitalism is a humanitarian system and offers the most hope for the most people.

But, no, we do not do that. We are supporting a Socialist government here. We have stood by and watched the Soviets and the Cubans violate the Kennedy-Khrushchev agreements for some 25, almost 30 years now. We watch them violate it and we have not had the guts, Mr. President, to say we will no longer honor it. We should allow people to go in and start the effort to liberate Cuba so our fellow Americans on Cuba could be free again like they once were. But, no, our foreign policy is a gutless wonder.

Mr. President, I believe the foreign policy in southern Africa is in complete disarray as we impose economic sanctions on the anti-Communist Government of South Africa, supply arms and support to the UNITA freedom fighters, and then at the same time our Secretary of State adds credibility worldwide to the Communist-dominated ANC by meeting with them.

The Wells nomination would simply add to that inconsistency that there is no direction to our foreign policy. It is in a state of disarray. I would urge the administration to withdraw the name of Melissa Wells to be the Ambassador to the People's Republic of Mozambique.

Mr. HELMS. Mr. President, before the Senator yields the floor, let me thank him for an eloquent statement and a completely logical assessment of the foreign nonpolicy of the U.S. State Department with respect to Africa and other places. The Senator from Idaho has been a leader in trying to redirect some of the policies.

I recall, for example, that it was he who offered the legislation to repeal the notorious Clark amendment. Now, I do not know how much recognition the Senator received for that, but the people who understand freedom, who understand communism, are so grateful to the Senator from Idaho for his taking a lead in that. I was honored to be a cosponsor of this legislation.

Mr. SYMMS. Mr. President, I thank the Senator from North Carolina very much for those comments.

If I can just say to the Senator that I will never forget, in January 1984, when flying across the bush country north of Namibia, to get to where I could fly up to free Angola to the base camp of the great leader Jonas Savimbi. In talking to him about the 37,000 Cuban troops in Angola, and the powerful Soviet presence in Angola, I thought that it was too bad that more Americans did not understand American foreign policy as well as foreigners do.

I said to Dr. Savimbi:

> What is the greatest thing that happened to give spirit to your troops in the past 2 or 3 years?

He said:

> Next to the election of President Reagan was the liberation of Grenada.

He said:

> The liberation of Grenada, Senator, gave spirit to our troops all through the ranks of UNITA because they thought maybe finally the sleeping giant is waking up to realize that there are those in the world who want freedom and peace, and that the Soviets want to take your freedom away from you, and that the struggle for freedom is worldwide. It goes to all countries.

The fight in Angola, the fight in Grenada, the fight in El Salvador, the fight in Nicaragua, the fight in Afghanistan, the fight in Ethiopia, Mozambique, Cambodia, and Zimbabwe, are all related, and the United States of America holds the key to whether or not freedom will prevail.

So I said to Dr. Savimbi what can I do to help you?

He said: Go back and tell your colleagues what it meant to us that the United States had the courage to liberate Grenada, to see that freedom prevailed, and that the Communists did not take Grenada back. Then, he said, repeal the pro-Marxist Clark amendment. He did not say repeal the Clark amendment. He said repeal the pro-Marxist Clark amendment that passed in the U.S. Senate and the House of Representatives. I remember the debate well. The Clark amendment passed when America didn't have the courage to stand behind our principles, and support freedom. Our courage is back today, and we must stand up for RENAMO.

Unfortunately, I say to my friend from North Carolina, in the other body some of our finest conservative Congressmen voted for the Clark amendment because of the confusion that Savimbi at an earlier time had sought help from the Red Chinese. He was seeking help from anyone he could get help from. He was fighting desperately to save Angola in the mid-seventies. It was a somewhat confusing thing, but unfortunately, even then we did not get the message to the American people so that they understood that supporting the Clark amendment meant installing another Soviet puppet regime in Mozambique. That set the battle for freedom back 10 years. And millions of people have suffered because of the Communist government in Angola. It has now spread into Mozambique.

The Soviet goal has been very clear. They want the treasure house of minerals in southern Africa. If they do not need them for themselves, at least they will deny them to the capitalist countries in the West. We will then be beholden to the Soviets, they will be able to grind our industries to a halt and therefore paralyze our ability to be strong. If we are not strong, we will not be able to maintain our freedom. It is as simple as that, Mr. President.

It is just a tragedy that we have such a wishy-washy foreign policy. One of the greatest things this President could still do, would be to shake it up and get back on the offense, and see that we liberate countries like Nicaragua before he leaves office; put the Cubans on the defensive. The way to get the Cubans out of Africa is to bomb Cuba with Sears catalogs and J.C. Penney catalogs. Stir up a little interest among the people there who would like to be free.

The Cuban people will never get the help from this State Department. Maybe we need to start a new department, squeeze this one out and stop funding this one. Start a new State Department with the American desk being first.

I thank the Senator.

Mr. HELMS. I appreciate the Senator yielding to me. I salute him.

He is a freedom fighter himself. I am grateful for the work.

Mr. President, I think the majority leader wants to turn to some other matters so I shall conclude here in just a moment or so.

The trouble with a lot of the answers coming out of the State Department is that they do not have any relevancy to the questions asked. I give as an illustration a letter written for the Secretary of State. I am sure that George Shultz did not write this letter. But it bore his signature nonetheless. It was written to BOB DOLE, dated July 6.

It is a nonanswer to the questions raised by Mozambique and about the nominee for U.S. Ambassador to Mozambique.

Let me read you one sentence. The letter written for the Secretary of State to BOB DOLE with a copy to me includes this sentence, talking about the policy regarding Mozambique. That policy being to deal lovingly with the Communist government of Mozambique and absolutely forbidding any contacts with Renamo as an organization.

Secretary Shultz' letter says, in part:

> This policy, of course, precludes our having an official relationship with any insurgent group that is seeking to destabilize the Mozambique Government through guerrilla warfare.

In the first place, the "of course" is amusing because nobody said that in the first place. Second place, what we have in Mozambique is precisely what we have in Nicaragua and that is people willing to struggle and fight and die for freedom. A freedom fighter is a freedom fighter, whether he is in Mozambique or Nicaragua or where ever. But Secretary Shultz sent me a copy of his letter to Senator DOLE and he said:

> JULY 6, 1987.
>
> DEAR JESSE: I have seen the correspondence you exchanged with John Whitehead while I was away. I'd like to take the liberty of responding to your letter of June 18.
>
> While I fear we may always have to agree to disagree over our policy toward official recognition of RENAMO as a political entity, I hope you will read carefully the enclosed letter, which I have just sent to Bob Dole. In it I stress that we share the same goals in Mozambique, and, while our tactics for reaching them may differ, I express the hope that we can get Mrs. Wells confirmed speedily.

Mr. HELMS. Well, this was in response to Senator DOLE's notice to the State Department, as well as my own, that the nomination of Mrs. Wells could be brought into consideration immediately if the State Department would simply say, "Yes, we will sit down and listen to Renamo just as we sit down and listen to the Communist Government of Mozambique."

That is all we ask. That is all we ask.

Mr. President, I ask unanimous consent that Secretary Shultz's letter to the Republican leader be inserted at this point in the RECORD.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

> THE SECRETARY OF STATE,
> *Washington, DC, July 6, 1987.*
>
> Hon. ROBERT J. DOLE,
> *U.S. Senate.*
>
> DEAR BOB: I am writing you because it has become apparent to me that there may be a serious misunderstanding in the Senate on some key questions concerning U.S. policy toward Mozambique. I believe that we share some important goals there and that it may be helpful for me to summarize our policies on a number of such issues. I hope this will assist you in urging the Senate to act on the President's nomination of Melissa Foelsch Wells as Ambassador to Mozambique. As you know, Mrs. Wells' nomination was first submitted to the Senate last October 7; despite a favorable Senate Foreign Relations Committee report in late Mach, the nomination has been blocked from a floor vote since then.
>
> Our objectives in Mozambique are threefold: to complete the process of removing that country from the Soviet orbit by assisting its government to broaden its options and achieve genuine non-alignment; to assist the people of Mozambique to escape the disastrous impact of the Marxist/Leninist policies adopted at independence; and to alleviate the human suffering and famine brought on by civil strife and drought.
>
> Let me expand a bit upon these three goals:
>
> *U.S. Policy Toward the Chissano Government:* Mozambique's efforts to distance itself from Soviet influence have been apparent since 1985 when the late President Samora Machel made an official visit to the United States. The President feels that this positive development in Mozambique should be encouraged in order to deny the Soviets further inroads in southern Africa. At the same time, we would like to help the people of Mozambique move away from the disastrous economic policies followed since inde-

pendence, by encouraging a more market-oriented economy. For this reason, the President has directed that the U.S. Government should maintain a normal, cordial relationship with the Government of Mozambique. This policy, *of course*, precludes our having an official relationship with any insurgent group that is seeking to destabilize the Mozambique Government through guerrilla warfare.

Humanitarian Issues: The U.S. has not allowed political considerations to inhibit our response to humanitarian needs in Mozambique, for which we have committed approximately $75 million. We believe, and experience has shown, that international agencies such as the International Committee of the Red Cross are successfully reaching famine victims in conflict areas, and we continue to monitor the situation to ensure that all hungry Mozambicans are fed. To that end, an AID special assessment team which visited Mozambique in February will return to southern Africa in the near future to review developments and obtain additional information on Mozambique's food situation. Then group will travel to Zimbabwe, Zambia, and Malawi as well as to Mozambique, and is prepared to accept information from all knowledgeable relief agencies and individuals, including refugees, regardless of political affiliation.

Our policy is similar when it comes to freeing an American citizen being held hostage by RENAMO. We have been in contact with several people who claim to speak for RENAMO regarding this case, and will continue to communicate with any party, regardless of affiliation, in trying to secure the release of this hostage.

U.S. Policy Toward Ending the War in Mozambique: U.S. skepticism about RENAMO has sometimes been interpreted as apathy toward a search for peace in Mozambique. Nothing could be farther from the truth. Mozambique's pressing human and economic problems cannot be solved while the war continues, and it is our policy to use whatever influence we can, whenever and wherever we can, to encourage an end to hostilities and a peaceful solution to the country's problems. We have in the past, and we will again, if circumstances are propitious, promote contact between the Government of Mozambique and RENAMO. We played such a role after the signing of the Nkomati Accord in 1984. At that time, negotiations between the government and RENAMO seemed on the verge of success, when, in response to a mysterious overseas telephone call, which many suspect was arranged by South African and Portuguese elements opposed to an end to the fighting in Mozambique, RENAMO walked out. We are constantly alert to opportunities to bring the two sides together again, if Mozambicans believe we can be of assistance. In all of our current activities in Mozambique, such as the distribution of food, U.S. officials are taking advantage of all contacts made on the ground, including with RENAMO sympathizers and supporters, to urge a cessation of hostilities.

I hope this reiteration of our position, which is shared by the President, will make it clear that the Administration shares your objectives of bringing about the earliest possible end to the hostilities in Mozambique and in ensuring that the suffering of that country's people is alleviated in the most effective way.

Sincerely yours,

GEORGE P. SHULTZ.

Mr. HELMS. I wrote Secretary Shultz on July 9. I said:

DEAR GEORGE: I appreciate your letter of July 6 anent Mozambique, RENAMO, and the Wells nomination. A copy of your letter to Bob Dole was not enclosed, as you indicated, but he provided me a copy.

I do not recall that I have ever suggested that the State Department "recognize RENAMO as a political entity." I have asked only that you accord RENAMO precisely the same treatment that you stated flatly as your intent with respect to the African National Congress (ANC). You stated before the Foreign Relations Committee, in response to my question, that you "will meet with anybody." I find it incomprehensible that you and/or the U.S. Ambassador would refuse to meet with RENAMO as a group, precisely as you are willing to meet with the barbaric ANC which has been boastfully engaging in heinous acts of "necklacing."

Had you and/or Secretary Whitehead been willing to agree to that, the Wells nomination could have been considered by the Senate long ago.

Frankly, I do not understand what I perceive to be the double standards here. Nor do a great many other Senators. If you are unwilling to grant this one small request, there will continue to be substantial resistance to the Wells nomination when it could have been avoided from the beginning.

Mr. President, I am going to yield the floor so the distinguished Senator from Massachusetts can make his comments but let me close with a reiteration of what I said earlier. I met with Mrs. Wells for 90 minutes. It was a most enjoyable meeting. She is a charming lady. She is a bright lady. But she was following the State Department line.

She said, "I will not meet with Renamo under any circumstances," and I told her, truthfully, that that gave me serious problems and I would have to resist her nomination. I would like for her nomination to be considered quickly and disposed of by the Senate.

I say to the State Department, again, that if the State Department will simply say: Yes, one word, yes, to my request that the State Department sit down on an official basis and at least listen to Renamo, there will be no further problem about this nomination.

[Exhibit 1]

SUMMARY OF COMMUNIQUE FOR RENAMO—REPORT ON MASSACRE

On July 18th, the FRELIMO government claimed that RENAMO military forces massacred 380 people in Homoine. The truth is that FRELIMO militia forces, long dissatisfied with inequality in pay and food distribution between themselves and the regular government forces, attacked the regular government forces, in Homoine. The FRELIMO government realizing the deaths of 380 people could not remain concealed, blamed the massacre on RENAMO.

FRELIMO reports claim that 400 RENAMO soldiers were involved. However, RENAMO is known to operate in groups substantially less than 150; when RENAMO operates in groups of 150, it is only at the direct orders of the high command at Gorongoza. The Gorongoza headquarters denies any involvement in the alleged attack.

It is to FRELIMO's advantage at this time to blame the attack on RENAMO. President Chissano is in Moscow today (7/24/87) pending for more military assistance against RENAMO. Also, the Frontline States summit will meet soon in Lusaka, Zambia, where Chissano will also plead for more support.

5-HOUR MOZAMBIQUE MASSACRE LEAVES A TABLEAU OF CARNAGE—GOVERNMENT SAYS REBEL ATTACK KILLED 386

(By William Claiborne)

INHAMBANE, MOZAMBIQUE, July 23.—They came before first light, silently entering the remote town from the southwest, armed with AK47 automatic assault rifles, bayonets and machetes.

Within five hours, they had disappeared into the bush, leaving behind a tableau of carnage unprecedented in the seven-year-old civil war that has paralyzed this troubled, once-idyllic country.

By the Mozambican government's account, 386 people—most of them civilians—died Saturday in and around the village of Homoine in coastal Mozambique at the hands of anticommunist rebels who have been battling to overthrow the Marxist government of Joachim Chissano. Seventy others were seriously wounded and many more suffered lesser injuries.

Stunned survivors of the massacre said that many of the victims were women and children slain in their beds in the village hospital.

Other villagers who fled to the hospital for refuge were gunned down or hacked to death by the approximately 400 guerrillas of the Mozambican National Resistance movement, survivors interviewed here said.

Mozambican officials said that more than 3,000 people fled the Homoine area, fearing the attackers would return. The officials said the guerrillas have been active in the area for some time.

The attack comes as conservative members of Congress have launched an effort to gain American support for the rebels, known by their Portuguese acronym, Renamo.

Renamo, through its office in Lisbon, has denied involvement in the massacre, suggesting that it could have been a Mozambican government action designed to look like a rebel attack.

Immediately after visiting the stricken town of 10,000 today under a heavy Army guard, Mozambican Prime Minister Mario da Garca Machungo condemned South Africa for providing covert support for the guerrillas and expressed shock that U.S. legislators were considering aid to Renamo. South Africa denies backing the rebels.

Referring to support for such aid by Sens. Jesse Helms (R-N.C.) and Robert Dole (R-Kans.), Machungo told visiting foreign journalists, "I can't understand why they insist to back murderers, without heart, without feelings, without any human feelings. If you are able to kill a pregnant woman in a hospital bed, I think something is not going right in your mind."

The provincial hospital in this coastal city, about 18 miles from Homoine, today struggled to care for 49 of the most seriously wounded survivors.

Ringi Tiamu, an elderly man whose leg was shattered by a bullet, also groped for an explanation for the massacre.

> Tiamu, who said he was sleeping in his grass hut when uniformed gunmen kicked in the door and started shooting, said, "I have no idea why. I search for the reason and don't find it."
>
> He said three women and a baby who were sleeping in the hut were killed.
>
> Other survivors said that when the guerrillas entered the town at about 5:30 a.m., they first attacked the police station, but were driven back in a firefight. They then went to the hospital, where they battled with the local militia and began indiscriminately killing the patients.
>
> Officials in Maputo, the capital, said yesterday that most of the victims had been buried.
>
> A semi-official newspaper, Noticias, published photographs today showing bodies of men, women and children lying in the streets of Homoine. "These pictures . . . tell of the terror and suffering that has plunged hundreds of Mozambican families into mourning," the paper said.
>
> It said the photos were taken by an American agronomist, Mark Allen van Koevering, assigned to the area by the Mennonite Central Committee.
>
> [A Mennonite spokeswoman in Akron, Pa., confirmed Thursday that van Koevering was in Mozambique working in the church's relief arm, The Associated Press reported.]
>
> Machungo, without offering specific evidence, blamed the attack on South Africa, which long has been accused by black-ruled front-line states of supplying Renamo. The rebel force originally was formed as an intelligence unit by the former white-ruled government of Rhodesia, now Zimbabwe.
>
> The South African government consistently had denied aiding Renamo, despite recurring allegations to the contrary. Under the 1984 Nkomati Accord between South Africa and Mozambique, South Africa agreed not to interfere in Mozambique. Mozambique in turn agreed to expel African National Congress guerrillas seeking to infiltrate across the border into South Africa.
>
> U.S. Assistant Secretary of State Chester A. Crocker yesterday said in a television interview broadcast in Britain that the South African Army took over support of Renamo from the Rhodesians.
>
> The official Mozambican news agency, AIM, charged that rebels who had been infiltrating into the Homoine area had recently received five parachute drops of arms and supplies from South African planes. In response, the South African Foreign Ministry said today, "The South African government has repeatedly stated that it is not providing assistance of any kind" to Renamo.
>
> The Mozambican government, citing continuing attacks by the rebels, did not permit foreign journalists to travel to Homoine today, saying the trip would require a military convoy for protection.

Mr. President, I yield the floor.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I hope that the Senator from North Carolina will permit the nomination of Melissa Wells to come to a vote.

If he refuses, I hope that the majority leader will file a cloture petition to end this preposterous filibuster.

All of us who watched the Iran-Contra hearings yesterday were deeply moved by the testimony of Secretary of State George Shultz. He spoke with passion, integrity, and eloquence about his ordeal in attempting to conduct a respectable foreign policy worthy of the United States of America in this administration.

As Secretary Shultz told the Iran-Contra Committee yesterday, he has often had to wage a guerrilla war with the White House and the National Security Council. As this debate makes clear, he has also had to wage a guerrilla war with the U.S. Senate.

George Shultz is an outstanding Secretary of State and a credit to the foreign service. He deserves better than this from the Senate. Melissa Wells should be confirmed forthwith as Ambassador to Mozambique.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. ROCKEFELLER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

LEGISLATIVE SESSION

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business not to exceed 5 minutes and that the Senator from New Mexico may speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I thank the majority leader.

OMNIBUS TRADE AND COMPETITIVENESS BILL

Mr. BINGAMAN. Mr. President, Tuesday the Senate passed the Omnibus Trade and Competitiveness Act of 1987. I would like to congratulate my colleagues on the bipartisan support shown for this important bill. I am pleased to see that, after years of neglect, the issue of America's decline in economic competitiveness is finally perceived as the serious problem it is.

This bill focuses that attention on a number of important areas including measures to open up foreign markets, improve U.S. trade law, authorize trade negotiations, strengthen trade promotion activities, increase assistance to dislocated workers, improve worker retraining activities, strengthen our education system, augment science and technology, and increase the protection of intellectual property. Over the past 3½ weeks, we debated over 150 amendments and made a number of improvements to the bill.

At the beginning of our deliberations on this measure, I stated that to judge whether this is a bill which deals with competitiveness, we must go back to the definition. Using the definition of the Young Commission—"competitiveness is the degree to which a nation can, under conditions of free and fair market conditions, produce goods and services that meet the test of international markets while simultaneously maintaining or expanding the real incomes of its citizens," I can safely say that this is truly an act to increase American competitiveness. The bill, as it has passed the Senate heightens the ability of the Nation to produce goods and services that meet the test of international markets, which means the ability of U.S. firms to compete, and moves to restore free and fair market conditions.

Mr. President, the bill contains a number of provisions important to my home State of New Mexico, some of which I had the privilege of offering on the floor of the Senate. To help workers, this bill strengthens the Job Training Partnership Act [JTPA] and Trade Adjustment Assistance [TAA], including expanding TAA coverage of oil and gas workers and to suppliers to the oil and gas industry. The bill also includes a provision to require a study of portable pensions. To help industry, the bill makes many changes to trade law, including a provision to help the copper and potash industries fight unfair subsidization by foreign competitors. Especially important to the ailing oil and gas industry, this bill repeals the windfall profit tax on oil. The bill also includes a provision encouraging trade negotiations between the United States and Mexico, which is important to our State in that we border Mexico. To help farmers and ranchers in our State, the bill contains a number of agricultural programs, including provisions to require a JTPA demonstration program for farmers and ranchers, to prevent surges of lamb quotas from disrupting the U.S. lamb market, and to increase the funding and staffing level of the Foreign Agricultural Service, which should lead to greater export promotion assistance for New Mexico farmers and ranchers. To help Native American artisans in our State, the bill contains provisions to authorize the Secretary of Commerce to make grants for the promotion of Native American arts and crafts and to require permanent markings on imported Native American-style jewelry, which is, in fact, counterfeit. There are also a number of provisions which will benefit New Mexico's educational system.

The bill also includes a number of provisions important to New Mexico's advanced technology industry: assistance to the semiconductor industry through the creation of an interagency coordinating committee to oversee and fund the Semiconductor Manufacturing Technology Institute (Sematech); strengthening the protection of intellectual property; reforming the export controls, especially of high technology products, while maintaining America's national security interests; and strengthening government efforts to aid development of new technology.

This list is but a small sampling of the positive provisions of this bill. Unfortunately, some have already labeled this bill as protectionist. They are wrong. As a whole, I believe the Trade and Competitiveness Act is good for America and good for New Mexico.

Mr. President, I am especially pleased that this bill contains three parts of the competitiveness legislation which I introduced: a study on the portability of pensions, the Council on Economic Competitiveness, and the National Trade Data Bank. I would like to take a few moments to explain one of these, the Council on Economic Competitiveness, to my colleagues.

The Council on Economic Competitiveness will serve as an external forum for the discussion of problems of economic competitiveness; as a mechanism for creating solutions to those problems through the interaction of business, labor, government, academia and public interest groups; and as a source of badly needed independent review of the competitiveness policies of the Federal Government. The Council will review and comment upon existing and proposed Federal policies and regulations including the budget and to report annually to the Congress and the President on the ability of the United States to compete internationally, on the status of major sectors of the economy, and on the effect of government policies on the ability of major sectors of the economy to compete internationally.

The Council would also supply a key component missing from the current advisory system—a forum for consensus building. The current advisory systems exists solely to channel information from the private sector to the Government; it does not, and should not, provide a forum for discussion of a competitiveness strategy. Elsewhere in this bill, we have supported the process of consensus building—in the new restructuring provisions for import relief under section 201 and in the worker assistance and retaining provisions. Creation of the Council will add an important element to this consensus building process.

During the debate, the Senate accepted by voice vote modifications to the Council on Economic Competitiveness. The modifications agreed to will ensure that the Council will have adequate resources to carry out its tasks. I would like to point out that while the Council is to be established by the President under the Federal Advisory Committees Act, it is not merely a Presidential advisory committee. Rather, the Council exists to provide advice to the President, the Congress and the American people. The modifications, which I supported, maintain this crucial independence of the Council. The modifications also give the Council a 4-year life, in which it can prove its worth and give the Congress an opportunity to determine its future.

Mr. President, as my remarks have indicated, this is a vey important bill. I was very pleased to support it. Nevertheless, much still needs to be done. The good work of our committees to focus on trade and competitiveness needs to continue. I urge my colleagues to join me in this on-going challenge. The Omnibus Trade and Competitiveness Act of 1987 is an excellent beginning and I look forward to seeing it signed into law.

IN REMEMBRANCE OF OUR WESTERN HERITAGE

Mr. SYMMS. Mr. President, we in the West take pride in our pioneer heritage and believe it is appropriate to recognize the noble efforts of our ancestors who settled that vast and spacious part of America.

Some view the West as the kind of place depicted in motion pictures, where little more happened than cowboys chasing Indians and outlaws, but that's not quite the way it was. Most were good people who worked the land and established our towns and cities, our businesses and industries.

One of the most prominent groups in the settlement of the West were the Mormon pioneers, Mr. President. Having been driven by religious persecution from Nauvoo, IL, in early 1846, the Mormons made one of history's longest treks on foot. Taking only what they could pack in a wagon or handcart or on their backs, each family walked across the Great Plains to the Great Basin.

They spent the winter of 1846 and 1847 in what is now the area of Council Bluffs, IA. Some of them died of exposure; others were left behind fatherless and widows. But the pioneer spirit brought them to the West, where they tamed the land by planting trees, harnessing mountain rivers and streams, and building cities.

The Mormons knew what it was like to be denied their freedom. The excesses of 19th-century persecution dealt them a severe blow for their religious beliefs. They moved West in search of the freedom to practice their religion without interference; and that freedom has allowed them to prosper.

I might add, Mr. President, that the current ecclesiastical leader of the Church of Jesus Christ of Latter-day Saints is Ezra Taft Benson, the former Secretary of Agriculture under President Eisenhower. He is, and always has been, a champion of liberty here and around the world.

I honor the Mormons today, Mr. President, because today is July 24, the day the Mormon pioneers officially entered the Great Basin and began to establish the States of Utah, Idaho, and Arizona. They are a good representation of the pioneer stock that it took to push back the borders of frontier, and of the pioneer spirit it will take to move ahead toward the frontiers of the future.

THE 1987 CONGRESSIONAL CALL TO CONSCIENCE FOR SOVIET JEWRY

Mr. HEINZ. Mr. President, today marks the beginning of another series of statements by Senators on behalf of those denied freedom in the Soviet Union. The Congressional Call to Conscience, organized every year since 1976 by the Union of Councils for Soviet Jews, has offered an opportunity for Members of Congress to call attention to individuals and families in the Soviet Union who seek freedom through emigration to the West.

I am honored to share with my distinguished colleague Senator CRANSTON of California the responsibility of leading this year's Congressional Call to Conscience. Senator CRANSTON has always been in the lead on the issue of human rights for Soviet Jews, and his participating in this effort adds to that honorable record.

I recently had the opportunity to view first hand some of the Soviet citizens whose plight we will bring to the world's attention in the Call to Conscience. I visited Moscow during the Memorial Day recess, and had a chance to visit with several refusenik families with special connections to Pennsylvania. These families were the Slepaks of Moscow, the Kalendariovs of Leningrad, Lev Elbert of Kiev, and Yuli Kosharovsky of Moscow.

One of my objectives in the visit was to boost the morale of the Soviets I was to meet, but they inspired me instead. I was inspired by their courage, their determination, their humor, their resourcefulness. I would like to share my impressions about these families.

Vladimir and Maria Slepak have waited 17 years for permission to emigrate. Their son Sanya lives in Philadelphia, and this past April conducted a fast on the Capitol grounds to commemorate the 17 long years his parents have been held captive in the

Soviet Union. The story is a familiar one, for those who follow the plight of Soviet Jewry. The Slepaks have seen their five grandchildren only in photos. They have suffered police harassment, exile, prison, all for pressing for the rights we all take for granted, the right to leave one's country.

The Kalendariovs have a son in Philadelphia. Their patience and quiet dignity are something of which Boris can be very proud. They know that many in the West care about their fate, and this is one of the vital things that gives them the moral and emotional resources to stand up to the all-powerful Soviet state. The Kalendariovs do not make the newspapers, either here or in the U.S.S.R. But their cause is one that does make demands on both our attention and our energy, and I have had the chance to tell them directly that we will never leave them on their own against the unfeeling system that holds them captive.

The Call to Conscience highlights the cases of Soviet Jews who seem to emigrate from the Soviet Union. Consistent with this emphasis, the Call also brings to our attention cases of Soviet Christians who suffer because of their beliefs. During my time in Moscow, I met with several Soviet Christians whose courage is no less inspirational than that of the Jewish refuseniks.

Vasiliy Barats and his wife Galina are Pentecostalists who have fought for years to emigrate from the U.S.S.R. They feel that they can only practice their religion freely outside their native country. They have had the experience shared by all who stand up for their fundamental human rights in the U.S.S.R.—prison, exile, harassment, lack of employment. I met with them and their current host in Moscow, Ivan Lupachev, in Mr. Lupachev's apartment.

The plight of the Pentecostalist refuseniks is less well known than that of Soviet Jewry. But the moral claim on us is the same in both cases. And that is why the Congressional Call to Conscience has gone on for 11 years, and will continue. As long as the Slepaks and the Barats live as prisoners in their own country, our duty to speak out will remain compelling.

I join Senator Cranston in calling on my colleagues to speak out on behalf of Soviet families whose cases they care about, to keep this human drama before the world's eyes. Our weapons in this struggle are limited, but our contribution is vital and we cannot remain silent.

Mr. President, I ask unanimous consent that a letter from the Union of Councils for Soviet Jews to Senator Cranston and me be printed in the Record.

There being no objection, the letter was ordered to be printed in the Record, as follows:

Union of Councils for
Soviet Jews,
Washington, DC, July 1, 1985.

Hon. John Heinz and
Hon. Alan Cranston,
Co-chairs, Congressional Call to Conscience,
U.S. Senate, Washington, DC.

Dear Senators Heinz and Cranston: May we take this opportunity to express our profound appreciation to you both for assuming the chairmanship of this year's Congressional Call to Conscience Vigil for Soviet Jews for the House of Representatives.

From the day the Union of Councils for Soviet Jews initiated the Congressional Call to Conscience in 1976, the response from Members and Senators has been predictably wonderful. In 1985, for instance, 148 Members participated in calling public attention, on the floor of the House and within the pages of the Congressional Record, to the plight of Soviet Jews, including Refuseniks and Prisoners of Conscience.

What we of the activist Soviet Jewry human rights and rescue movement seek is what you and all Americans seek: the internationally guaranteed rights of all citizens of all nations to live in peace with their neighbors, to practice their religion according to their own lights and free of government supervision or repression, and to emigrate or travel freely for personal, professional, or humanitarian reasons. Although the Soviets have signed international treaties guaranteeing these basic human rights to their own citizens, they neither practice nor believe in them. Indeed, they do not believe in their own people.

So we must continue to pressure them through economic and moral persuasion, not only because of the intrinsic merits of the cause, but because we believe that how a nation treats its own citizens, and to the extent to which it abides by its international commitments, is one way of measuring the sincerity and value of their work when it comes to economic, military and arms reduction treaties. And, for the Soviet Jewry movement, the irrefutable bottom-line measure of Soviet human rights is the attainment of a high and sustained annual immigration level for Jews and other repressed minorities.

In a different but applicable context, Elie Wiesel has noted that it is often only the knowledge that there are those outside who know and care that sustain the hope, and even the life, of the prisoner in a society of state-sponsored anti-Semitism. We know first hand that Soviet Jews, individually and collectively, depend for their safety, their lives, and their hope of rescue, on the spotlight you in the Congress give to their plight.

Your efforts in the Congressional Call to Conscience, direct interventions, legislation such as Jackson-Vanik, and collaboration with both Chicago and Seattle Action for Soviet Jews, two of our forty local Councils, all make you both an indispensible part of the activist rescue movement for Soviet Jews.

On behalf of the 100,000 members of the Union of Councils for Soviet Jews, and the 385,000 Soviet Jews who live for the day they can emigrate to freedom, and for who we speak, we thank you and commend you both and, through you, your colleagues.

Sincerely,

Pamela B. Cohen,
National President.
Micah H. Naftalin,
Washington Representative.

COLORADO RIVER—RIVERFRONT PROJECT

Mr. WIRTH. Mr. President, early this month the Grand Junction City Council committed $150,000 to the "riverfront project" to clean up mill tailings contaminating the Colorado River.

The swift action was taken in order to receive a matching grant from the local Lions Club of $100,000. This makes the project eligible for State matching funds of an additional $250,000 from the State energy impact assistance fund, giving a half-a-million-dollar shot of reality to the vision of transforming the Colorado River outside of Grand Junction into a clean, safe recreational area.

In addition to clearing the funds for the project, the council established the Grand Junction/Mesa County Riverfront Commission, which will be co-chaired by former Colorado Representative Jim Robb and retired District Judge William Ela. With such people at the helm, Colorado can be sure that this commission will complete the task set before them.

I wish to commend the Grand Junction City Council, the Mesa County Board of Commissioners, Grand Junction Mayor O.F. Ragsdale, and City Manager Mark Achen for their tremendous leadership in organizing this desperately needed project. A quick, large-scale government decision such as this does not come without a great deal of motivation, organization, and just plain hard work. Also, congratulations are in order for the members appointed to the riverfront commission; they have done an outstanding job thus far. I'm sure they will continue their diligence until the project is completed.

Finally, I would like to extend special thanks to the Grand Junction Lions Club, whose matching grant proposition made the "long-awaited dream" of Mesa County a reality. Their leadership is an invaluable service to the community.

I ask unanimous consent that the two articles from the Grand Junction Daily Sentinel appear in the Congressional Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

Council OK's Riverfront Funds

The Grand Junction City Council on Wednesday committed $150,000 toward the proposed Riverfront Project, meeting terms of the Lions Club of the recommendation of City Manager Mark Arben.

The Lions Club last month promised $100,000 toward the project proposed for the Colorado River if the city would match that with $150,000. A subcommittee of the council approved the package the same day; and at its regular meeting Wednesday night the council unanimously accepted terms of the agreement.

The idea was to come up with $250,000 to help qualify the project for a $250,000 matching grant from the state energy impact assistance fund.

The council also passed a joint resolution with the Mesa County commissioners creating an 11-member Riverfront Project commission. The council named Councilman Beford Theobold as an ex-officio, nonvoting member of the commission and Paul Nelson as an alternate.

Former Judge William M. Ela and James M. Robb will co-chair the commission. Members are: Rebecca Frank, Brian Mahoney, Helen Traylor, Chris Jouflas, Ward Scott, Harold Elam, Pat Gormley, Jane Quimby and Bill Graham.

The towns of Fruita and Palisade and the Mesa County commissioners will also name a non-voting member to the group.

Preceding the council action, Mayor O.F. Ragsdale said he views the project as a wonderful opportunity to clean up the riverfront.

"I feel this is a start, and just a start, and we had to start somewhere so that in the future we can drive across Fifth Street Bridge and look down from the mesa and see something palatable to the eye, as opposed to something that is not so palatable," he said.

In a statement attached to the commission resolution, Theobold said a unique combination of factors made the project irresistible: federal and state government funds for small tailings removal; the contribution and continuing interest from the Lions Club; support from other civic organizations and particularly from Fruita and Palisade; and the willingness of a wide variety of local, state and federal agencies, including Mesa County, to finance and otherwise encourage the "long-awaited dream."

The statement applauded the county commissioners for recognizing how vital the project is, and for eagerly joining in the endeavor. The commissioners drafted key elements of the resolution forming the commission and were first to name members of the commission.

Theobold recognized the county's lead in what he said was previously assumed to be chiefly a city project, and assured the public that the city will not bow out and let it become a county project only.

"I believe the Grand Junction City Council will make every effort to match the county's lead in this tremendous project, vote for vote and dollar for dollar." Theobold said. "We have made a commitment to the Grand Junction Lions for $150,000 in state matching funds, and we will honor that commitment.

"Further when the time comes for more money for this project, we will gladly follow the lead of the county commissioners."

Theobold said Grand Junction stands to benefit from increased tourism, recreational opportunities," economic development and a more positive self-image because of the project.

Robb commended the council "for taking this important step forward" In the development of the Grand Valley.

COLORADO RIVER TASK IS ALL RED WHITE AND BLUE

(By George Orbanek)

It's not very often that newsfolk feel compelled to utter a kind word about public officials, particularly public officials of the local variety.

At times, the word "adversarial" doesn't quite do justice to the historic relationship between the press and government officials. A word that manages to describe the historic relationship between mongoose and cobra sometimes seems more appropriate.

Consider this editorial excerpt about local officialdom from The New York Times, written way back in 1871: "We lay before our readers this morning a chapter of municipal rascality which, in any other city would bring down a storm of public indignation as would force them to a speedy accountability before the bar of a criminal court, or compel them to take refuge in flight and perpetual exile. These men are in the position of a gang of burglars, who, having stolen all your silverware and jewelry and placed them under lock and key, turn around and challenge you to identify your property."

After that, the editorial lost its sugar-coating.

Editorial critiques of a somewhat similar bent regarding elected officials have appeared occasionally in the pages of this newspaper. But not today. Maybe I'm overcome with a sense of local chauvinism related to the July 4th holiday weekend, but kind words are in order for members of the Grand Junction City Council and the Mesa County Board of Commissioners.

Leadership is not always an easy concept to define. What's clear is that leadership is impossible without vision. And last week, both City Council and the County Commission offered a vision of this valley's future to which every Mesa County resident can aspire. That's the essence of leadership.

For years, countless Mesa County residents have dreamed of a Colorado riverfront that might one day be a source of genuine valleywide pride rather than the terribly abused natural resource that it is today. In unanimously passing a joint resolution creating the Grand Junction Mesa County Riverfront Commission, council members and county commissioners took the first step in transforming those dreams into reality.

Council members and the county commissioners in a variety of ways made clear the sense of importance they attach to the riverfront project. Chief among them were the two people named to co-chair the riverfront commission—retired District Judge William Ela and former Colorado Rep. Jim Robb. Few people in Mesa County enjoy greater respect than Ela and Robb.

The nine people chosen to serve under Ela and Robb—Helen Traylor, Harold Elam, Ward Scott, Jane Quimby, Rebecca Frank, Bill Graham, Pat Gormley, Chris Jouflas and Brian Mahoney—represent a broad cross section of the Grand Valley's diverse political and demographic interests. However, the nine have one thing in common, namely, their unflagging civic-mindedness.

Creating the group under the title of a "commission" rather than a steering committee, advisory council, or task force, served to underscore the significance of the task assigned to the 11-member group.

The birth of the Grand Junction/Mesa County Riverfront Commission comes at a highly appropriate time—the 25th anniversary of Operation Foresight and the creation of Grand Junction's downtown shopping park that became a model for downtown shopping park's across the nation.

In deciding to accede to urgings to serve as the commission's co-chairman. Robb recalled his arrival in Grand Junction a quarter of a century ago, at approximately the same time Operation Foresight was completed. Robb remembered the sense of enormous community pride generated by Operation Foresight.

The Grand Junction/Mesa County riverfront project represents a similar opportunity for the rejuvenation of civic spirit, but one that extends all the way from Mesa County's boundary with Garfield County on the east, all the way to the Utah line.

Grand Junction Councilman R.T. Mantlo was quick to say as much Wednesday night when council passed the joint city-county resolution establishing the riverfront commission and authorized $150,000 to be used in conjunction with the Lion's Club $100,000 pledge to the riverfront project.

Transforming the Colorado River into the community resource that it is capable of being will not happen overnight. Mayor O.F. "Rags" Ragsdale correctly noted that creation of the riverfront commission represented the first step in an effort that can be expected to take years to complete.

Not every community in the United States is blessed with a natural resource as ineffable as a Colorado River. That the Grand Junction City Council and Mesa County Commissioners have officially recognized the importance of that resource is a cause for red, white and blue celebration this Fourth of July holiday weekend.

FIFTY YEARS OF HONEYMOON

Mr. DASCHLE. Mr. President, on June 7, 1987, a very interesting column appeared in the Sacramento Union entitled "Fifty Years of Honeymoon" under the byline of Frank van der Linden concerning our majority leader, Senator ROBERT BYRD. I think this is a very sensitive and poignant article which I ask to be included in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

FIFTY YEARS OF HONEYMOON

(By Frank van der Linden)

When Sen. Robert C. Byrd was a teenaged boy, half a century ago, in a little coal mining town in the hills of West Virginia, he used to pray to the Lord to give him one of three things.

"Dear God," he would pray, "either make me the best fiddler in the country, or a man of towering strength, or give me Erma James for my wife."

"He answered my prayer," Byrd said, years later. "He gave me Erma James."

Erma's father, Fred James, a poor coal miner, taught bob to play the fiddle—oldtime favorites such as "Little Brown Jug," "Old Ninety-seven," and "She'll Be Coming Around the Mountain." The boy played in the high school orchestra and courted Erma with great fervor, but he had no money with which to buy her candy.

Fortunately, he later recalled, "there was a boy in my class named Julius Takach. His father had a grocery store, and every day Julius would bring candy and chewing gum from his Dad's store, and he would give some to me.

"I didn't eat any. When classes changed, I met my sweetheart in the hall and gave her the candy and chewing gum. That's what I call, 'Courting your girl with another boy's candy.' "

Byrd was accustomed to having no money. He grew up in grinding poverty in the West Virginia coal country. Not until he was 16 did he find out that the couple he called his parents were his uncle and aunt, and his name was really Cornelius Calvin Sale, Jr.

He was born in North Wilkesboro, N.C., Nov. 20, 1917. His mother died in the 1918 influenza epidemic, on the eve of Armistice Day, and lies buried in an unmarked grave. His father's sister and her husband, Dalton Byrd, adopted the baby boy and took him to their home in West Virginia.

"When I was in high school in the 1930s," Byrd once said. "times were very hard and my foster mother kept boarders. My foster father used to raise a dozen or more Poland China pigs for extra money.

"It was my lot to go from house to house every day after school and gather up the food garbage from the table. It would be left in a bucket on the porch at each house, and I would put it in two large buckets I carried with me. At home, I'd heat the garbage and feed it to the hogs.

"Then, when November and December came, we'd kill the hogs. I'd shoot them with a .22 rifle. The Prodigal Son didn't know about living with the hogs any more than I did."

At 19, not long out of high school, Bob Byrd and Erma James were married. It was May 29, 1937. Bob had a job as a clerk and butcher in a grocery store, earning $55 a month or less than $2 a day.

They set up housekeeping in a two-room flat upstairs in a neighbor's house, which had no indoor plumbing.

They were too poor for a wedding trip. Instead, Byrd remarked, they had "50 years of honeymoon."

Fifty years after their wedding ceremony, Senate Majority Leader Robert C. Byrd and his "Lady Byrd," Erma, strode down the marble staircase in the Grand Hall of the Library of Congress on Capitol Hill, and received a standing ovation from the members of the U.S. Senate and their wives, gathered for a gala party honoring the Byrds' golden anniversary.

Speakers recalled how "fiddling Bob" Byrd had worked his way to the top in politics, and his Erma had helped him all the way.

"It was a most memorable event in one of the most magnificient buildings in Washington," said the Senate Republican whip, Alan Simpson of Wyoming.

"It was about a most remarkable union, about modest beginnings, and the pursuit of the American dream.

"And it was about a warm and extraordinarily gentle woman, Erma Byrd, a lady of great common sense and great wisdom, and a man whom I have learned to respect and to love."

Sen. Daniel Patrick Moynihan, a New York Democrat, said "there could not be a more appropriate place than the Library of Congress" to honor "the most learned member of this body in its history and rules, and his devoted wife, who must have spent many hours of the evening wondering why that man spent such hours reading so many uncomprehensible books."

Byrd, a self-taught scholar, replied: "We thank God for His many blessings. We have two lovely, daughters, two beautiful granddaughters and four model grandsons, and a host of dear and wonderful friends. Our cup runneth over."

BICENTENNIAL MINUTE

JULY 24, 1858: LINCOLN-DOUGLAS DEBATES

Mr. DOLE. Mr. President, on July 24, 1858, 129 years ago today, Abraham Lincoln challenged Stephen Douglas to a series of debates that would highlight one of the legendary Senate races in our history. In an era when Senators were elected by State legislatures and popular campaigns were unheard of, Lincoln and Douglas traveled an astounding 10,000 miles across the State of Illinois, speaking before huge crowds complete with bands, banners, and other campaign trimmings. Their seven debates attracted national coverage, and became a forum for the discussion of slavery.

Douglas, the democratic "little giant," was a 12-year veteran of the Senate, and chairman of its powerful Committee of Territories. He was well-known for introducing the Kansas-Nebraska bill, and promoting the doctrine of popular sovereignty. The tall, awkward Lincoln had served one term in the House. As a member of the newly established Republican Party, Lincoln was among the first to articulate its position on slavery. Although not an abolitionist, he was opposed to slavery in the new territories, calling it a "moral, social and political wrong," inconsistent with Democratic principles.

In the critical debate of Freeport, Il., Lincoln cornered Douglas by asking him if people could, in any lawful way, exclude slavery prior to the formation of their State constitutions. If Douglas answered "yes" he would go against the Supreme Court's recent Dred Scott decision; if he said "no," he would contradict his own stand on popular sovereignty. Douglas evaded the question, cleverly responding that slavery could not exist anywhere without police enforcement, so territories could discourage slavery by failing to pass the necessary legislation.

Douglas won the Senate race, but his attempt at a compromise position on slavery destroyed his popularity. The debates launched Lincoln into national politics, and paved the way for his election to the Presidency in 1860.

MESSAGES FROM THE HOUSE

At 1:31 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 2470. An act to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the Medicare Program, and for other purposes.

MEASURE PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2470. An act to amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the Medicare Program, and for other purposes.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. GLENN, from the Committee on Governmental Affairs, with an amendment in the nature of a substitute:

S. 1293. A bill to amend the Ethics in Government Act of 1978 to provide a continuing authorization for independent counsel, and for other purposes (Rept. No. 100-123).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without amendment:

S. 1542. An original bill to provide financial assistance for a program of comprehensive child development centers, and for other purposes.

● Mr. KENNEDY. Mr. President, today the Labor Committee is reporting an original bill, the Comprehensive Child Development Centers Act of 1987.

We all know that the number of severely disadvantaged children in American society is increasing rapidly. According to some recent evidence: 40 percent of the poor in America are children; 24 percent of all children live below the poverty line; nearly 60 percent of children born in 1984 will live with only one parent before age 18; the teenage birth rate in the United States is twice that of any other Western nation; and in some cities, half of the children born in 1984 will live in poverty before reaching the age of 18.

Children who grow up in poverty often spend their adult lives in poverty as well. For policymakers the choice is clear—either ameliorate the effects of poverty for those who are born into it, or deal with the consequences when they are adult.

Preschool education is an important element in any effort to break the cycle of poverty. But some children face so many problems from the day they are born that preschool alone cannot save them.

To address this problem, this bill will launch a multiyear project to encourage intensive and comprehensive support services for these children. The goal is to prevent educational failure by addressing the medical, psychological, institutional, and social needs of infants and young children.

Early intervention projects for poor children are not new. For several years the Department of Health and Human Services operated Family Resource Centers and Parent Child Centers that embodies some of the elements of this project. A large number of private sector ventures supporting early intervention programs have also been undertaken. More recently, the Beethoven project in the Robert Taylor Homes in Chicago also provides early intervention services to disadvantaged children. Like the Beethoven initiative, the projects funded through this program will emphasize projects that begin early—with prenatal care—are continuous—until children enter kindergarten—and offer a comprehensive array of services. Those are the key words: early, continuous, and comprehensive.

The child development centers will provide a wide range of social services to very poor children. The type of services to be offered will be defined by local needs, but will include: Prenatal care, health services, infant screening, community information sharing, home visitors, health referrals, poverty education, day care, family support services, and preschool programs. The projects will provide some new services not currently available to the target population but they will also coordinate and expand existing health, nutrition, education and child care services.

Proposed projects must give evidence that they have clear and strong connections in the local community. The projects must also raise matching funds—20 percent of their budget must come from non-Federal sources.

To help local organizations prepare proposals, eligible agencies may request a planning grant.

This initiative will amend the Head Start Program and will be administered by the Head Start Bureau at the Department of Health and Human Services. In administering the program, the Department will draw on the successful features of Head Start, the Child Family Resource Centers and the Parent Child Centers.

The projects are to be thoroughly evaluated by the Secretary of Health and Human Services so that a careful assessment of the efficiency of this type of initiative may be made.

This bill was reported unanimously by the Labor Committee and I am hopeful that it will receive equally broad-based support in the full Senate.

I ask unanimous consent that Senators MATSUNAGA, SIMON, DODD, HARKIN, ADAMS, WEICKER, STAFFORD, MIKULSKI, PELL, and BINGAMAN be added as original cosponsors of this measure.

I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1542

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Comprehensive Child Development Centers Act of 1987".

STATEMENT OF PURPOSE

SEC. 2. It is the purpose of this Act to provide financial assistance to projects on a multi-year basis designed to encourage intensive, comprehensive, integrated, and continuous supportive services for infants and young children from low-income families which will enhance their physical, social, emotional, and intellectual development and provide supports to their parents and other family members. Services will be targeted on infants and young children from families who have incomes below the poverty line and because of environmental, health, or other factors need intensive and comprehensive services to enhance their development.

PROGRAM AUTHORIZED

SEC. 3. The Head Start Act is amended by adding at the end thereof the following new section:

"CHILD DEVELOPMENT PROJECTS

"SEC. 658. (a)(1) The Secretary is authorized to make grants to eligible entities in rural and urban areas to pay the Federal share of the cost of projects designed to encourage intensive and comprehensive supportive services which will enhance the physical, social, emotional, and intellectual development of low-income children from birth to compulsory school age, including providing necessary support to their parents and other family members.

"(2) The Secretary shall enter into contracts, agreements, or other arrangements with at least 10 but not more than 25 eligible agencies to carry out the provisions of this section.

"(3) In carrying out the provisions of this section, the Secretary shall consider—

"(A) the capacity of the eligible agency to administer the comprehensive program for which assistance is sought;

"(B) the proximity of the agencies and facilities associated with the project to the infants, young children, parents, and other family members, to be served by the project, or the ability of the agency to provide offsite services;

"(C) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for education, health and mental health services, social services, child care, nutrition, income assistance, and other relevant services), with appropriate nonprofit private organizations involved in the delivery of eligible support services, and with the appropriate local educational agency;

"(D) the management and accounting skills of the eligible agency;

"(E) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the project; and

"(F) the organization's involvement of project participants and community representatives in the planning and operation of the project.

"(b)(1)(A) The Secretary may make planning grants to eligible agencies to pay the Federal share of the cost of planning for projects funded under this section.

"(B)(i) No planning grant may be for a period longer than 1 year.

"(ii) Not more than 30 planning grants may be made under this subsection.

"(2) Each eligible agency desiring to receive a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(A) describe the capacity of the eligible agency to provide or ensure the availability of the intensive and comprehensive supportive services pursuant to the purposes of this subsection;

"(B) describe the eligible infants, young children, parents, and other family members to be served by the project, including the number to be served and information on the population and geographic location to be served;

"(C) describe how the needs of such children will be met by the program;

"(D) describe the intensive and comprehensive supportive services that program planners intend to address in the development of the plan;

"(E) describe the manner in which the project will be operated together with the involvement of other community groups and public agencies;

"(F) specify the agencies that the organization intends to contact and coordinate activities with during the planning phase;

"(G) identify a planning phase advisory board which includes prospective project participants, representatives of the community in which the project will be located, and individuals with expertise in the services to be offered; and

"(H) describe the capacity of the eligible agency to raise the non-Federal share of the costs of the program and such other information as the Secretary may reasonably require.

"(c)(1)(A) The Secretary shall make grants to eligible agencies selected in accordance with this section to pay the Federal share of the cost of carrying out projects for intensive and comprehensive supportive services for low-income infants, young children, parents, and other family members.

"(B) The Secretary shall ensure that there will be projects receiving grants under this section in rural areas.

"(2)(A) Each eligible agency desiring to receive an operating grant under this section shall—

"(i) have a planning grant application approved under subsection (b) on file with the Secretary or have experience in conducting projects similar to the projects authorized by this section; and

"(ii) submit an application at such time in such manner and containing or accompanied by such information as the Secretary may reasonably require.

"(B) Each such application shall—

"(i) identify the population and geographic location to be served by the project;

"(ii) provide assurances that services are closely related to the identifiable needs of the target population;

"(iii) provide assurances that each project will provide directly or arrange for—

"(I) services for infants and young children designed to enhance the physical, social, emotional, and intellectual development of such infants and children and which include, but are not limited to, infant and child health services, including screening and referral; child care; early childhood development programs; early intervention services for children with, or at-risk of developmental delays, and nutritional services; and

"(II) services for parents and other family members designed to better enable parents and other family members to contribute to their child's healthy development and that include, but are not limited to, prenatal care; education in infant and child development, health, nutrition, and parenting; and referral for education, employment counseling and training; assistance in securing adequate income support, health care, nutritional assistance, and housing;

"(iv) identify the referral providers, agencies, and organizations that the program will use;

"(v) provide assurances that the eligible intensive and comprehensive supportive services will be furnished to parents beginning with prenatal care and will be furnished on a continuous basis to the infants and young children so eligible, as well as to their parents and other family members;

"(vi) describe how services will be furnished at offsite locations, if appropriate;

"(vii) describe the extent to which the eligible agency, through its project, will coordinate and expand existing services as well as provide services not available in the area to be served by the project;

"(viii) describe how the project will relate to the local educational agency as well as State and local agencies providing health, nutritional, education, social, and income maintenance services;

"(ix) provide assurances that the eligible agency will pay the non-Federal share of the cost of the application for which assistance is sought from non-Federal sources;

"(x) collect and provide data on groups of individuals and geographic areas served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and treated, and such other information as the Secretary requires;

"(xi) provide for an advisory committee consisting of—

"(I) participants in the program,

"(II) individuals with expertise in furnishing services the program offers and in other aspects of child health and child development, and

"(III) representatives of the community in which the program will be located;

"(xii) describe plans for evaluating the impact of the project; and

"(xiii) include such additional assurances, including submitting necessary reports, as the Secretary may reasonably require.

"(d)(1)(A) The Secretary shall pay to eligible agencies having applications approved under subsections (b) and (c) the Federal share of the cost of the activities described in the application.

"(B) The Federal share shall be 80 percent for each fiscal year.

"(C) The non-Federal share of payments under this section may be in cash or in kind fairly evaluated, including equipment or services.

"(D) Payments under this section may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

"(2) No planning grant to a single eligible agency may exceed $35,000.

"(e)(1) The Secretary shall, based on the projects assisted under this section, conduct or provide for, an evaluation of the success of projects authorized by this section.

"(2) Each eligible agency receiving a grant under this section shall furnish information requested by evaluators in order to carry out this section.

"(f) The Secretary shall prepare and submit to the Congress a report on the evaluation required by this subsection not later than October 1, 1992, together with such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

"(g)(1) There are authorized to be appropriated $25,000,000 for fiscal year 1988 and for each fiscal year ending prior to October 1, 1993, to carry out the provisions of this section (other than subsection (f)).

"(2) There are authorized to be appropriated $1,000,000 for the period beginning October 1, 1991, and ending September 30, 1993, to carry out the provisions of subsection (f).

"(3) Funds appropriated pursuant to subsection (a) of this section shall remain available for obligation and expenditure for one fiscal year succeeding the fiscal year for which the funds were appropriated.

"(h) As used in this section—

"(1) the term 'early intervention services' has the same meaning given that term by section 672(2) of the Education of the Handicapped Act;

"(2) the term 'eligible agency' means a Head Start agency, any community-based organization, and in addition includes an institution of higher education, a public hospital, a community development corporation, and any other public or private nonprofit agency or organization specializing in delivering social services to young children;

"(3) the term 'intensive and comprehensive supportive services' means—

"(A) in the case of infants and young children, services designed to enhance the physical, social, emotional, and intellectual development of such infants and children and which includes, but is not limited to, infant and child health services, including screening and referral; child care; early childhood development programs; early intervention services for children with, or at-risk of developmental delays, and nutritional services; and

"(B) in the case of parents and other family members, services designed to better enable parents and other family members to contribute to their child's healthy development and which includes, but is not limited to, prenatal care; education in infant and child development, health, nutrition, and parenting; referral to education, employment counseling and training as appropriate; and assistance in securing adequate income support, health care, nutritional assistance, and housing;

"(4) the term 'low income' means persons who are from families having incomes below the poverty line as determined in accordance with section 673(2) of the Community Services Block Grant Act;

"(5) the term 'local educational agency' has the same meaning given that term by section 198(a)(7) of the Elementary and Secondary Education Act of 1965; and

"(6) the term 'institution of higher education' has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965.".●

By Mr. GLENN, from the Committee on Governmental Affairs:

Report to accompany the bill (S. 345) to amend the Contract Disputes Act of 1978 to require that a competitive examination process be used for the selection of members of boards of contract appeals of Federal Government agencies; and to provide that the members of such boards shall be treated in the same manner as administrative law judges of the Federal Government for certain administrative purposes (Rept. No. 100-124).

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation, without amendment:

H.R. 921. A bill to require the Secretary of the Interior to conduct a study to determine the appropriate minimum altitude for aircraft flying over national park system units (Rept. No. 100-125).

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. NUNN, from the Committee on Armed Services:

The following-named brigadier generals of the Marine Corps for promotion to the permanent grade of major general, under title 10, United States Code, section 624:

Edmund P. Looney, Jr.
Orlo K. Steele.
Hollis E. Davison.
Robert F. Milligan.
Gene A. Deegan.
Joseph P. Hoar.
Royal N. Moore, Jr.
Donald E.P. Miller.
(Exec. Rept. 100-3.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. WEICKER (for himself, Mr. HARKIN, and Mr. STAFFORD):

S. 1540. A bill to amend the Civil Rights of Institutionalized Persons Act to provide certain authority for protection and advocacy systems, and for other purposes; to the Committee on the Judiciary.

By Mr. REID:

S. 1541. A bill to provide veterans' benefits to persons who served as seamen in the U.S. merchant marine during World War II; to the Committee on Veterans' Affairs.

By Mr. KENNEDY from the Committee on Labor and Human Resources:

S. 1542. An original bill to provide financial assistance for a program of comprehensive child development centers, and for other purposes; placed on the calendar.

By Mr. ROTH:

S. 1543. A bill to amend the Immigration and Nationality Act to provide for the exclusion or deportation from the United States of aliens who possessed or used certain controlled substances, and for other purposes; to the Committee on the Judiciary.

By Mr. METZENBAUM (for himself, Mr. BINGAMAN, Mr. FOWLER, Mr. LEVIN, and Mr. JOHNSTON):

S. 1544. A bill to amend the National Trails System Act to provide for cooperation with State and local governments for the improved management of certain Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. STEVENS:

S. 1545. A bill to amend title 5, United States Code, to establish a simplified management system for Federal employees, and for other purposes; to the Committee on Governmental Affairs.

By Mr. BUMPERS (for himself, Mr. HATFIELD, Mr. ADAMS, and Mr. MURKOWSKI):

S. 1546. A bill to provide for the termination of the reregistration of certain Kuwaiti-owned vessels under the flag of the United States; to the Committee on Foreign Relations.

By Mr. WALLOP:

S. 1547. A bill to amend the Internal Revenue Code of 1986 to provide that amounts in gross income under section 78 of such Code shall not be taken into account in allocating deductions to source within and without the United States; to the Committee on Finance.

By Mr. LUGAR (for himself, Mr. Riegle, Mr. Quayle, Mr. Durenberger, Mr. Helms, Mr. Kasten, Mr. Heflin, Mr. Shelby, Mr. Levin, Mr. Proxmire, Mr. D'Amato, Mr. Graham, Mr. Heinz, Mr. Glenn, Mr. Sanford, Mr. Thurmond, Mr. Warner, Mr. Danforth, Mr. Dole, and Mrs. Kassebaum):

S. 1548. A bill to amend section 1886 of the Social Security Act to require that certain hospitals be classified as being located in an urban area for purposes of determining payments under the Medicare Program for inpatient hospital services furnished by such hospitals, and to require that certain hospitals be treated in the same manner as a hospital located within a particular geographic area for purposes of making such determination; to the Committee on Finance.

By Mr. WIRTH (for himself and Mr. Armstrong):

S. 1549. A bill to increase the authorization ceiling for the Closed Basin Division, San Luis Valley Project, Colorado; to the Committee on Energy and Natural Resources.

By Mr. MOYNIHAN:

S. 1550. A bill to complete the Federal Triangle in the District of Columbia, to construct a public building to provide Federal office space and space for an international cultural and trade center, and for other purposes; to the Committee on Environment and Public Works.

By Mr. ROTH (for himself and Ms. Mikulski):

S. 1551. A bill to grant the consent of Congress to the Appalachian States Low-Level Radioactive Waste Compact; to the Committee on the Judiciary.

By Mr. MOYNIHAN (for himself, Mr. D'Amato, Mr. Bumpers, Mr. Gore, Mr. Simon, Mr. Mitchell, Mr. Nunn, Mr. Kerry, and Mr. Stafford):

S.J. Res. 179. Joint resolution to establish a National Economic Commission; to the Committee on Banking, Housing, and Urban Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. McCAIN (for himself, Mr. Nunn, and Mr. Durenberger):

S. Res. 255. Resolution expressing the sense of the Congress with regard to the forthcoming negotiations by Gen. John Vessey to resolve the fate of Americans missing in Southeast Asia, and other issues of humanitarian concern to the people of the United States and Vietnam.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. Weicker (for himself, Mr. Harkin, and Mr. Stafford):

S. 1540. A bill to amend the Civil Rights of Institutionalized Persons Act to provide certain authority for protection and advocacy systems, and for other purposes; to the Committee on the Judiciary.

PROTECTION FOR INSTITUTIONALIZED DISABLED INDIVIDUALS AMENDMENTS ACT

Mr. WEICKER. Mr. President, I rise on behalf of myself, Senator Harkin, and Senator Stafford to introduce the "Protection for Institutionalized Disabled Individuals Amendments Act of 1987."

This legislation will strengthen the protections provided to disabled individuals in the Nation's public institutions. Over the 10 years since Congress created a nationwide protection and advocacy system for disabled individuals, these systems have aggressively exercised their authority to pursue legal, administrative, and other remedies to ensure the protection of their clients' rights, including those in institutions. They have done much to remedy the abysmal conditions, the abuse, and the neglect to which residents of institutions have too frequently been subjected.

Nonetheless, these systems have been prevented from being able to fully represent the best interests of their institutionalized clients in situations where the U.S. Department of Justice has undertaken an investigation pursuant to its authority under the Civil Rights of Institutionalized Persons Act.

Under the act, the Attorney General can undertake an investigation of State-run institutions, including those in which disabled individuals reside, when he has reason to believe that egregious and flagrant conditions exist which deprive disabled residents of their constitutional rights. Should such an investigation determine that residents' constitutional rights are, in fact, being violated, the Justice Department then proceeds to work with the appropriate State officials to ensure steps are taken to redress those violations.

In such a situation, there are three groups that should be represented in discussions of what remedial measures are necessary and appropriate: The State, which is responsible for the operation of the institution, the Justice Department, representing the interests of the Federal Government, and the clients who live in that institution.

Let us understand that in the main what we are talking about when it comes to clients, we are talking about those who are mentally retarded, mentally ill, and those that suffer from other disabilities, whether physical and mental—persons who frequently are unable to take care of themselves or stand up for themselves. These are the persons whose lives will be dramatically affected by any agreement reached during discussions between the State and the Justice Department.

I can tell you who should be representing them: the protection and advocacy system whose responsibility it is to pursue legal, administrative, and other appropriate remedies to ensure the protection of the rights of disabled individuals.

Yet the Department of Justice has taken a position to deliberately exclude the protection and advocacy units from participating in these negotiations.

I might add as I read my comments this morning and I will suggest that my staff stop using acronyms which very frankly disguise the problems involved about which I am talking. They refer, for instance, to the Civil Rights of Institutionalized Persons Act as "CRIPA". Never mind CRIPA. Say what it is, the Civil Rights of Institutionalized Persons Act. Stop referring to "P and A", which is protection and advocacy. And "clients" are the mentally retarded and mentally ill persons in these institutions who are the victims. Probably most people in this country do not know we have a Civil Rights of Institutionalized Persons Act. They do not know that we have an act to help these people. They do not understand what we are referring to when we talk about clients, and think we are referring to clients as someone on Wall Street would refer to them.

I would like to share with my colleagues what happened in my own State of Connecticut when the protection and advocacy unit there sought to become involved in the Justice Department's negotiations with the State to resolve conditions at Southbury Training School, a State facility housing over 1,200 disabled individuals, most of whom are mentally retarded, of all ages.

After completing a 16-month investigation of Southbury, the Justice Department in September 1985, issued a scathing letter of findings to the Governor of Connecticut, citing unconstitutional conditions which included dangerous medication practices, inadequate medical care, unsafe environmental conditions, and the unreasonable use of bodily restraints.

Subsequently, the Justice Department and the State of Connecticut began negotiations with the goal of reaching a judicially enforceable consent decree to redress those violations. At this point, the Connecticut, protection and advocacy attempted to enter the negotiations. Their goal was simple: to ensure that whatever agreement was reached would be in the best interests of the clients residing at Southbury.

Yet, despite the stated, albeit belated, willingness of Connecticut officials to include the protection and advocacy unit in these negotiations, the Department of Justice refused to allow them to participate in any manner whatsoever. To support this decision, Assistant Attorney General William Bradford Reynolds said in a letter to the director of the protection and advocacy unit, that "Involvement of independent third parties in sensitive negotiations to resolve investigations is neither practical nor necessary, nor mandated by the Civil Rights of Institutionalized Persons Act.

Here, on one hand, you have the Justice Department less than enthusiastic about protecting those in the institution, talking to the violator, the State of Connecticut, and trying to get some tidy agreement between the Federal Government and the State government—one who has little interest, and one who had violated its trust—and the protection and advocacy unit, which is the only one representing those residing in the institutions, excluded from the discussions.

Such a cavalier attitude toward the need for disabled persons themselves to be represented in these negotiations is shameful. We have a protection and advocacy system in place to protect and advocate for disabled individuals, and yet the Justice Department can essentially slam the door in the face of the one entity whose only special interest is to ensure a decent quality of life for those individuals who deserve our special care.

A Civil Rights of Institutionalized Persons Act investigation and the actions it precipitates present probably the most significant and far-reaching opportunity for a protection and advocacy system to improve the quality of life for all residents of a substandard facility—not just for today, but for years to come. This is particularly true when we have a Justice Department that refuses to accept more than the bare minimum in the way of corrections by State officials to redress constitutional violations. Such an approach only serves to undermine the efforts of the protection and advocacy units to ensure that disabled individuals receive the best we have to offer, not the least we can get away with.

So, the legislation we introduce today will amend the Civil Rights of Institutionalized Persons Act to establish a role for the protection and advocacy system in actions taken by the Justice Department with respect to institutions for the disabled.

Specifically, the legislation will do the following. First, it adds the protection and advocacy system to the list of those in the State who are notified by the Attorney General when a Civil Rights of Institutionalized Persons Act investigation commences. Second, it requires the Attorney General, subsequent to its investigation, to provide the protection and advocacy unit with a draft of its findings and proposed remedial measures, so that the protection and advocacy unit may review and comment upon its contents prior to transmittal to the Governor. Third, and most importantly, the protection and advocacy unit will be permitted to participate in negotiations between Justice and State officials leading to a resolution of the unconstitutional conditions. Fourth, if a consent decree is to be filed, the protection and advocacy unit will have the authority to review and comment upon the terms of the decree prior to filing. Fifth, once the consent decree is filed, the protection and advocacy unit will have up to 5 days to intervene in the proceeding, if it wishes to do so. Finally, the legislation requires the Justice Department, when the protection and advocacy unit has reason to believe a life-threatening situation exists in an institution and requests Justice's involvement, to begin an investigation within 48 hours.

Mr. President, this legislation will be of enormous benefit to disabled individuals who have not only the misfortune to live in the worst of our Nation's institutions, but whose voices will not be heard in the decisions that affect their very lives, until we act.

I urge my colleagues to support this legislation, and I hope that I would be able to come up with 100 cosponsors on the legislation. I look forward to working with members of the Judiciary Committee to which this measure will be referred to expedite its prompt consideration and passage.

Again, what I speak for here today are those who through no fault of their own have been denied for all intents and purposes the joy and opportunity of living in this great Nation. Because we put them behind walls does not mean that we should forget their particular plight. It is not a matter of budgets or what is most convenient or out of sight, out of mind. If we are to live up to the ideals which we profess in the United States of America, then let us assure at least under the limited circumstances which are their lot they, like us, have the opportunity to live the happiest of lives.

I yield the floor.

By Mr. REID:

S. 1541. A bill to provide veterans' benefits to persons who served as seamen in the U.S. merchant marine during World War II; to the Committee on Veterans' Affairs.

VETERANS' BENEFITS FOR WORLD WAR II MERCHANT SEAMEN

Mr. REID. Mr. President, one of the greatest pleasures we have as Members of this body is the opportunity, from time to time, to right a wrong which has been done to a Member of the body politic. Often, that chance arises because of general policy considerations. On occasion, however, we hear a story about one person, and are so affected that we decided to take action.

Today, I am introducing a bill which provides veterans benefits to sailors who served in the U.S. merchant marine in World War II. Before I tell you about the bill though, I would like to tell you why I am sponsoring it.

I have a friend in Nevada named L.J. O'Neale. He is the assistant U.S. attorney in my State, and the kind of decent, honorable, hard-working, and intelligent government employee who does credit to the entire concept of public service. He has made a career of it.

Last week, I heard the story of his father, Jack O'Neale, who now lives in Portland, OR. That saga caused me to sponsor this bill.

Jack O'Neale, you see, was one of those foot-loose young men of the 1920's who wanted to see the wide world which was opening up to international travel. He enlisted in the U.S. Navy in 1929 at the age of 16. He served for 6 years, in the China fleet, and in Central America.

After he was discharged from the U.S. Navy, he knocked around a bit and then decided late in the 1930's to join the merchant marine. At that time Europe was ablaze, and the flames already flickered in the Orient. Mr. O'Neale joined the crew of the *President Harrison*, a passenger liner in the U.S. President Lines.

In November 1941, with war looming on the horizon, the U.S. Navy took control of the ship in Manila and converted it to a troop transport. Jack O'Neale and his fellow crewmen were placed under the authority of the U.S. Coast Guard.

The ship was then ordered to China, where it successfully evacuated the 4th Marines from Shanghai. After carrying them to the Philippines, the *President Harrison* returned to China to pick up marine guards at the various American installations in that area. It arrived off Shanghai on December 8, 1941.

Suddenly, and without warning, a Japanese dive bomber appeared and the *Harrison* was ordered into port. Refusing, however, to surrender, the ship made a run for a nearby fog bank. As they approached, the fog lifted. Three Japanese destroyers lay in wait.

The crew of the *President Harrison* refused to surrender their ship to the Japanese Navy. They ran their vessel onto the rocks and scuttled her. Japanese authorities seized them, and Jack O'Neale and his shipmates spent the next 4 years in a Japanese POW camp.

Finally, Mr. President, their long ordeal ended, ended perhaps in time only, because they literally had been in one of the worst prisons in the history of this world, the military prisons of Shanghai. In November 1945, Jack O'Neale was repatriated to the United States. He arrived to be greeted by his grateful country with an honorable discharge from the U.S. Coast Guard dated November 1945.

That discharge stated that Jack O'Neale had been honorably discharged from the service of his Nation as of December 8, 1941. Reason for discharge; "ship captured by Japanese."

His health was broken by those 4 years of imprisonment, yet Mr. O'Neale received no medical treatment from the Government. Recently Jack O'Neale, now an old man, suffered a mild stroke. On occasion, of late, he has had flashbacks, flashbacks to the prisons in Shanghai. He still thinks he is in one of those Shanghai prisons.

The doctors with the most experience in this area work, of course, work for the Veterans' Administration. They cannot treat Mr. O'Neale. He is not a war veteran, and his post traumatic stress disorder is not, therefore, a war related disability.

His situation is an injustice and reflects dishonor on the United States. The bill I am introducing today corrects that injustice.

By the best estimates, there are less than 10,000 Jack O'Neales in the United States, and they are every week becoming less and less, less than 10,000 sailors who served their Nation in the most perilous, terrifying and lonely duty imaginable; youngsters who went down to the cold, gray, lonely sea, and carried the troops, transported the weapons, formed the lifeline so that democracy could survive. We have rewarded them with callous indifference.

This act is simple enough. It provides that merchant seamen who served their Nation during the war for a minimum of 12 months, shall be treated as naval veterans. It includes in that service those who were prisoners of war as a result of enemy action against their ship. Similar legislation has been introduced in the House.

It is a simple bill. It is also simple justice, and I hope that every Member of this honorable body will join me in doing what should have been done long ago, and in righting a wrong which this Nation has done to those who served her well and faithfully.

By Mr. METZENBAUM (for himself, Mr. BINGAMAN, Mr. FOWLER, Mr. LEVIN and Mr. JOHNSTON):

S. 1544. A bill to amend the National Trails System Act to provide for cooperation with State and local governments for the improved management of certain Federal lands, and for other purposes; to the Committee on Energy and Natural Resources.

NATIONAL TRAILS SYSTEM IMPROVEMENT ACT

● Mr. METZENBAUM. Mr. President, I am pleased to introduce today on behalf of myself and Senators BINGAMAN, LEVIN, and FOWLER, a bill to amend the National Trails System Act to assist in the creation of new trails by State and local agencies, as well as by interested Federal agencies. It has come to be known as the rails-to-trail bill, because it will help to convert abandoned railroad corridors into recreational trails.

Trail activities have become the most important forms of outdoor recreation among Americans, as we become more aware of the benefits of physical fitness in our lives. Some of our most popular leisure activities include hiking, biking, jogging, horseback riding, and cross-country skiing. Trails allow us to enjoy these activities, and often bring us closer to nature and wildlife.

Throughout the Nation, as our society becomes increasingly urbanized, there is an ever growing need for more recreational space. The President's Commission on Americans Outdoors was appointed by the President in 1985 to look toward the future and recommend innovative ways in which America can meet these changing recreation demands, while recognizing the need to restrict Federal spending.

In its final report to the President, the Commission stated:

> More and more, outdoor recreation occurs close to home, in our near towns and cities, where 80 percent of us soon will live. City parks are wearing out. There are fewer sidewalks for a population whose favorite outdoor pastime is walking * * * we recommend that communities create a network of greenways across the country * * *

My bill will take an important step toward achieving the laudable goal, creating a working partnership between the Federal Government and local governments to establish more trails, without costing the American taxpayers. In fact, I recently received a letter of endorsement from a member of the President's Commission, Derrick A. Crandall, president of the American Recreation Coalition.

Specifically, this legislation encourages the conversion to recreational trails of abandoned railroad rights-of-way on Federal land by keeping such rights-of-way in the public domain. Those which are suitable for trail use would be so designated. Others would be sold and the proceeds invested in a newly established trails development revolving fund to provide State and local agencies and private organizations with resources to acquire and develop trails.

In my State of Ohio, many communities are attempting to purchase abandoned rail lines for trail conversions so that local residents for years to come may be able to reap the recreational benefits these trails provide. Unfortunately, local groups and governments are often unable to raise sufficient funding to purchase these rail corridors, which are instead sold to commercial interests for development.

In Medina and Richland Counties in Ohio, trail conversion efforts are currently underway, which would be aided by the passage of this bill. Last weekend, I biked 7 miles on a converted rail-trail which follows the Little Miami Scenic River, between Loveland and Morrow. I was very impressed by the trail's beauty, as well as the enthusiasm and pride of local residents who use the trail. Right here in Washington, DC, railroad corridors have been converted into popular trails. My bill will help other communities to develop their own trails.

The time is ripe for this legislation. Thousands of miles of rail line are being abandoned each year. Their locations often lend them well to trail use, following river corridors, traversing coastal plains, crossing through mountain valleys, and linking neighboring towns and cities. They often provide important wildlife habitat and prevent soil erosion.

Identical legislation has been introduced in the House of Representatives by Congresswoman BEVERLY BYRON, and already has 30 cosponsors, including the Honorable Mr. UDALL, chairman of the House Interior Committee.

I have received endorsements from hundreds of Ohioans, and many recreation groups, including the National Recreation and Park Association, the rails-to-trails conservancy, the American Recreation Coalition, the Buckeye Trail Association, the North Country Trail Association, and the American Horse Council.

This is quite simply a well thought out, low-cost means of promoting the stated goals of the National Trails System Act. It will provide Americans with increased opportunities for relaxation, exercise, and the enjoyment of nature, while restoring life to abandoned railroad corridors. This bill merits our strong support.●

By Mr. STEVENS:

S. 1545. A bill to amend title 5, United States Code, to establish a simplified management system for Federal employees, and for other purposes; to the Committee on Governmental Affairs.

CIVIL SERVICE SIMPLIFICATION ACT

● Mr. STEVENS. Mr. President, today, at the request of the administration, I am introducing the Civil Service Simplification Act of 1987. This proposal would expand the personnel systems demonstrated at the two Navy laboratories in China Lake and San Diego, CA.

We are constantly being told that the current classification and pay systems are outdated and that agencies are not able to compete with the private sector in recruiting and keeping high quality employees. The pay comparability system has broken down. The general schedule classification system is inflexible and its administration leads to the micromanagement of the Federal work force.

In the 99th Congress and again this Congress, Members both in the Senate and House have introduced bills to address these problems. Some Members believe we should provide separate personnel systems for specialized occupations, while others want to provide higher minimum rates of pay for shortage occupations. Other Members believe, as I do, that we should test a variety of possible solutions, such as locality pay and collective bargaining.

The administration believes that the Navy experiments are a success and should now be implemented governmentwide. Last Congress, I held onsite hearings at the China Lake and San Diego facilities and while I agree that they are successful, and that the Federal classification and pay systems need updating, I am not prepared at this time to endorse the governmentwide expansion of the concepts tested in these experiments.

The demonstration authority provided in the Civil Service Reform Act has not been widely used, partially because of the time and cost involved in developing a project. There are some other projects which I believe will provide us with additional valuable information. For example, there is a sizable demonstration project at McClellan AFB, CA, which has been under development for close to 5 years and is expected to begin in January 1988. This project is unique from China Lake and San Diego in a number of ways, chief of which, in my opinion, is that it was developed with the participation of the local union representatives. This experiment will test, among other things, different concepts in group performance, gainsharing, classification, and pay banding.

I also believe that we need to see some significant experiments outside of the Department of Defense, before we expand any demonstration government-wide. Having said this, I recognize that there are also immediate situations which must be addressed. I understand that Senator PRYOR, chairman of the Federal Services, Post Office, and Civil Service Subcommittee, will be holding hearings on several bills that have been introduced and I look forward to working with him as we search for solutions to our pay and personnel problems. Mr. President, I ask that the bill and a section-by-section analysis appear in the RECORD following my remarks.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1545

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Civil Service Simplification Act of 1987".

SEC. 2. (a) Title 5, United States Code, is amended by inserting after chapter 51 the following new chapter:

"CHAPTER 52—SIMPLIFIED MANAGEMENT SYSTEM

"Sec.
"5201. Purpose.
"5202. Definitions.
"5203. Implementation.
"5204. Career Paths and Pay Bands.
"5205. Pay-for-Performance Plan.
"5206. Conversion Procedures.
"5207. Evaluation and Oversight.
"5208. Regulations.

"§ 5201. Purpose

"It is the purpose of this chapter to promote better management of the Federal work force by establishing a Simplified Management System that will vest in Federal agencies the authority and responsibility to use flexibilities in assigning rates of basic pay in order to recruit, motivate, and retain a well-qualified work force. The Simplified Management System established by this chapter is an alternative to the classification and pay system established under chapter 51, subchapter III of chapter 53, and chapter 54 of this title. The Simplified Management System shall be incrementally expanded throughout the Federal work force in a controlled, measured, and budget-neutral manner.

"§ 5202. Definitions

"For the purposes of this chapter—

"(1) 'agency', 'class', 'grade', and 'position' have the same meanings as provided in section 5102(a) of this title;

"(2) 'budget-neutral' means that the aggregate costs (including administrative costs) directly and indirectly incurred under the Simplified Management System do not exceed the costs which would have been incurred had the Simplified Management System not been implemented;

"(3) 'career path' means a grouping of occupations that are determined by the Office to be sufficiently similar to warrant the assignment of the same set of pay bands;

"(4) 'employee' means an individual employed in or under an agency, but does not include—

"(A) an employee described by section 5102(c) or (d) of this title;

"(B) a member of the Senior Executive Service; or

"(C) an administrative law judge appointed under section 3105 of this title;

"(5) 'occupation' means a group of positions that are similar as to the kind of work and the kind of qualifications required;

"(6) 'Office' means the Office of Personnel Management; and

"(7) 'pay band' means a range of rates of basic pay encompassing the rates of pay for two or more grades (or, when determined appropriate by the Office in a particular situation, for a single grade) of the General Schedule under section 5332 of this title.

"§ 5203. Implementation

"(a) Subject to the requirements for approval provided in subsection (c) of this section, the head of an agency may implement the Simplified Management System for the agency, or for any component or location in the agency, or for any occupation or group of occupations within the agency, under a plan established under subsection (b) of this section. Any change in the coverage of the Simplified Management System in the agency, or in the plan, shall be subject to approval under subsection (c) of this section.

"(b) Prior to implementing the Simplified Management System, the head of an agency shall develop and submit for approval, in accordance with subsection (c) of this section, a plan for the operation of the Simplified Management System in the agency, component or location, or occupation or group of occupations affected. The plan shall set forth—

"(1) the proposed extent of coverage of the Simplified Management System under the plan;

"(2) the means by which the agency will ensure that the Simplified Management System will operate in a budget-neutral manner under the plan;

"(3) any career paths, pay bands, criteria, or qualification requirements proposed for the plan under section 5204(e) of this title;

"(4) the performance appraisal system under the plan, as required by chapter 43 of this title;

"(5) the pay-for-performance plan under section 5205 of this title;

"(6) the merit promotion plan, as required by regulations of the Office under authority of sections 3301 and 3302 of this title;

"(7) procedures for designating individuals for conversion to coverage under the plan, as required by section 5206(c) of this title; and

"(8) any other information required by the Office, including any required plans for evaluating the operation of the Simplified Management System.

"(c)(1) The President, or his designee, shall review each plan submitted by the head of an agency under subsection (b) of this section with respect to the adequacy of those provisions of the plan described in paragraph (2) of subsection (b), and shall approve the plan if he determines such provisions are adequate to ensure that the Simplified Management System will operate under the plan in a budget-neutral manner.

"(2) The Office shall review each plan submitted by the head of an agency under subsection (b) of this section with respect to the adequacy of those provisions of the plan described in paragraphs (1) and (3) through (8) of subsection (b), and shall approve the plan if the Office determines that such provisions comply with the provisions of this chapter and any regulations and criteria prescribed by the Office pursuant to this chapter, and that the Simplified Management System will operate under the plan in a manner that will accomplish the purpose of this chapter.

"(3) An agency plan for operation of the Simplified Management System must be approved under both paragraph (1) and paragraph (2) of this subsection before the agency may implement the Simplified Management System.

"(d) Notwithstanding any other provision of law, the coverage of an employee's position under the Simplified Management System shall not be subject to review or appeal, except as may be provided by the Office in its sole discretion.

"§ 5204. Career Paths and Pay Bands

"(a) The Office shall establish career paths and pay bands to be used by agencies which implement the Simplified Management System.

"(b) The Office, after consulting the agencies, shall develop and publish criteria, in such form as the Office may determine, which agencies shall follow for placing positions included in the Simplified Management System in the career paths and pay bands that are established by the Office. To accomplish the purposes of this chapter, the Office may issue criteria which are derived from standards published under chapter 51 of this title, if such criteria provide for the grouping of classes of positions into career paths, and the consolidation of grades into pay bands.

"(c) Except as provided in subsection (e)(2), each agency shall assign positions under the Simplified Management System to career paths and pay bands on the basis of the criteria issued by the Office.

"(d) Except as provided in subsection (e)(2), the determination of the basic qualifications of individuals for positions under the Simplified Management System, in each path and in each pay band, shall utilize qualification standards issued by the Office for positions under chapter 51 of this title, including subsequent changes or additions to those standards, or criteria developed and applied specifically for positions under the Simplified Management System. The determination of what standards or criteria to utilize shall be at the sole discretion of the Office.

"(e) When the Office determines that the career paths, pay bands, or criteria developed under subsection (a) or (b) of this section or the qualification requirements described in subsection (d) of this section are not appropriate to accomplish the purposes of this chapter for a particular agency, a component or location of an agency, or an occupation or group of occupations, the Office may, in its sole discretion—

"(1) develop career paths, pay bands, criteria, or qualification requirements for the agency, component or location, or occupation or group of occupations; or

"(2) authorize an agency to develop and submit to the Office for approval, proposed career paths, pay bands, criteria, or qualification requirements to accomplish the purposes of this chapter.

"(f) The minimum rate of basic pay for the Simplified Management System shall be the minimum rate for GS-1 under section 5332 of this title, and maximum rate of basic pay shall be the rate payable for GS-18 under section 5308 of this title. The range of rates of pay for any given pay band shall be equivalent to the range of rates of basic pay for one or more grade levels of the General Schedule under section 5332 of this title, and shall be adjusted to maintain such equivalency whenever the rates of pay of the General Schedule are adjusted under section 5305 of this title.

"(g) An individual shall be initially appointed as an employee under the Simplified Management System at the lowest rate in the applicable pay band that the agency determines, on the basis of the individual's qualifications and labor market conditions, is sufficient to recruit the individual.

"(h) When an agency determines that the recruitment or retention of well-qualified employees under the Simplified Management System is, or is likely to become, seriously handicapped by higher pay rates paid by Federal or non-Federal employers, or by undesirable working conditions, or a remote geographical location, the agency may—

"(1) increase pay rates within the pay band by an amount sufficient to recruit or retain such employees;

"(2) submit a request, if the maximum rate of the pay band is not sufficient to recruit or retain such employees, for approval of an increase of the pay band by an amount sufficient to recruit or retain the employees, except that—

"(i) such an increase in a pay band may not exceed twice the difference between the minimum and maximum rate of basic pay for the highest grade of the General Schedule encompassed by the pay band; and

"(ii) no pay band may exceed the maximum rate payable under section 5308 of this title; or

"(3) pay bonuses to such employees, either in lieu of establishing higher rates of pay under this subsection or in addition to such higher rates of pay, as appropriate, subject to the conditions specified in section 5303(b)(2)-(5) of this title.

The authority to approve or disapprove a request under paragraph (2) of this subsection shall be exercised by the President, or, in the event the President has authorized the Office to exercise the authority conferred on him by section 5303 of this title, by the Office.

"(i) An employee whose rate of basic pay falls below the minimum for the employee's pay band because of a failure to receive pay increases due to performance shall be placed in the next lower pay band, unless such action would place the employee in a pay band below the minimum pay band specified for the employee's career path. An employee who is placed in a lower pay band under this subsection shall not have his rate of basic pay reduced as a result of such placement.

"(j) For the purposes of section 5941 of this title, rates of basic pay fixed under this chapter shall be considered rates of basic pay fixed by statute.

"(k) The Office shall prescribe regulations to provide linkages between pay bands established under this chapter and General Schedule grade levels and rates of basic pay for purposes of administering chapter 55 of this title and any other provision of law or regulation.

"§ 5205. Pay-for-Performance Plan

"(a) Each agency which implements the Simplified Management System shall prepare a pay-for-performance plan, which shall be subject to the approval of the Office, and which shall include—

"(1) a method for determining progression within a pay band which (except as provided by section 5204(h)) shall be based on performance as determined by the performance appraisal system and which may take into account relative position in the range of rates of basic pay for the pay band;

"(2) an incentive and performance awards system which meets the requirements of chapter 45 of this title; and

"(3) a method to be used to determine the funds available to the agency for incentive awards, performance awards, and advancement of employees within the pay bands.

"(b) The Office shall prescribe regulations governing the application of a pay-for-performance plan in the case of an employee for whom a determination under section 4302 of this title for the latest appraisal period is not available.

"§ 5206. Conversion Procedures

"(a) The Office shall prescribe regulations governing the procedures to be used—

"(1) to convert individuals to coverage under the Simplified Management System;

"(2) to appoint individuals to coverage under the Simplified Management System from other Federal pay systems, or from the Simplified Management System in other components or locations of the agency or another agency; and

"(3) to terminate the Simplified Management System in an agency, or component or location thereof, or for an occupation or group of occupations in an agency, if the Simplified Management system is terminated under section 5207 of this title.

"(b) The Office may provide for restrictions on increases in rates of basic pay as appropriate for individuals who are appointed to positions under the Simiplified Management System in an agency from another Federal pay system, or from the Simplified Management System in another agency.

"(c) Each agency which implements the Simplified Management System shall specify procedures for designating individuals for conversion to coverage under the Simplified Management System. Such procedures shall provide for written notification of conversion to each individual serving in a position at the time it is identified for conversion to the Simplified Management System. A conversion to coverage under the Simplified Management System shall be accomplished with no reduction in the rate of basic pay of the individual.

"§ 5207. Evaluation and Oversight

"(a) The President, or his designee, shall review the operation of the Simplified Management System in each agency to ensure that such System is operating in a budget-neutral manner. The President, or his designee, may require the agency to modify or terminate use of the Simplified Management System if he determines that it is not so operating.

"(b)(1) In addition to the review required under subsection (a) of this section, the Office shall monitor and evaluate the operation of the Simplified Management System in each agency to ensure compliance with the requirements of this chapter and other applicable laws, rules, and regulations.

"(2) If at any time the Office determines that the Simplified Management System in an agency, or a component or location thereof, or for an occupation or group of occupations in an agency, is not operating in compliance with the provisions of this chapter, or the regulations and approved plan under this chapter, the Office may require modification or termination of the use of the Simplified Management System.

"(c) An employee may request at any time that the Office—

"(1) ascertain currently the facts as to the duties, responsibilities, and qualification requirements of the employee's position;

"(2) decide whether the employee's position is in its appropriate career path and pay band; and

"(3) change a position from one career path or pay band to another career path or pay band when the facts warrant.

A decision made by the Office on the basis of an employee's request under this subsection is binding on the employing agency and is not subject to appeal or review by any other entity.

"§ 5208. Regulations

"The Office shall prescribe regulations to carry out this chapter.".

(b) The table of chapters for part III of title 5, United States Code, is amended by adding after the item relating to chapter 51 the following new item:

"52—Simplified Management System 5201."

CONFORMING AMENDMENTS

SEC. 3. Title 5, United States Code, is further amended—

(1) in section 4302 by adding at the end thereof the following new subsection:

"(c) For the purposes of this chapter, a reduction to a lower pay band of an employee assigned to a position under the Simplified Management System under chapter 52 of this title shall be considered a reduction in grade, except as provided in section 4303(f)(4) of this chapter.";

(2) in section 4303(f)—

(A) in paragraph (2) by striking out "or" at the end thereof;

(B) in paragraph (3) by striking out the period at the end thereof and inserting in lieu thereof ", or"; and

(C) by adding at the end thereof the following new paragraph:

"(4) the reduction to a lower pay band of an employee under chapter 52 of this title who falls below the minimum rate of the pay band by failing to receive a pay increase as specified in section 5204(i) of this title.";

(3) in chapter 45—

(A) by adding the following new section after section 4507:

"§ 4508. Performance awards for employees under the Simplified Management System

"An agency may pay a performance award to an employee covered under the Simplified Management System under chapter 52 of this title, under a pay-for-performance plan approved under section 5205 of this title. Such a performance award shall be related to the employee's performance as rated under a performance appraisal system, and shall be considered a cash award for purposes of this chapter.";

(B) the analysis for chapter 45 is amended by inserting after the item relating to section 4507 the following new item:

"4508. Performance awards for employees under the Simplified Management System.";

(4) in section 5102 by adding at the end thereof the following new subsection:

"(e) This chapter does not apply to an employee who is covered under the Simplified Management System under chapter 52 of this title.";

(5) in section 5363 by adding at the end thereof the following new subsection:

"(d) For an individual covered under the Simplified Management System under chapter 52 of this title, pay retention may be provided, under regulations prescribed by the Office of Personnel Management, when an individual's rate of basic pay is reduced, and the reduction is not the result of action initiated by the individual and is not based on the conduct or unacceptable performance of the individual.";

(6) in section 5948—

(A) in subparagraph (g)(1)(H) by striking out "or" at the end thereof;

(B) in subparagraph (g)(1)(I) by striking out "and" and inserting in lieu thereof "or";

(C) in paragraph (1) by adding at the end thereof the following new paragraph:

"(J) chapter 52 of this title, relating to the Simplified Management System; and";

(7) in section 7103(a)(14)(B) by striking out "; or" at the end thereof and inserting in lieu thereof ", including the assignment of a position to a career path or pay band under chapter 52 of this title, and the method for determining progression of an employee within a pay band; or";

(8) in section 7106—

(A) in subparagraph (a)(2)(C))(ii) by striking out at the end thereof "and";

(B) in subparagraph (a)(2)(D) by striking out the period at the end thereof and inserting at the end thereof "; and";

(C) by adding at the end of paragraph (a)(2) the following new paragraph:

"(E) to place positions under the Simplified Management System or to convert employees to or from the Simplified Management System under chapter 52 of this title.";

(9) in section 7121(c)—

(A) in paragraph (4) by striking out "or" at the end thereof;

(B) in paragraph (5) by striking out the period at the end thereof and inserting in lieu thereof "; or";

(C) by adding at the end thereof the following new paragraph:

"(6) The assignment of a position to a career path or pay band under the Simplified Management System under chapter 52 of this title (unless such assignment results in the reduction to a lower pay band, or a reduction in basic pay for an employee, and the reduction is not caused by a performance deficiency as specified in section 5204(i) of this title) or the method for determining progression of an employee within a pay band.";

(10) in section 7511(a)(3) by striking out the semicolon at the end thereof and inserting in lieu thereof ", or a pay band under the Simplified Management System established under chapter 52 of this title;";

(11) in section 7512—

(A) in paragraph (4) by striking out "and" at the end thereof;

(B) in paragraph (5) by adding at the end thereof "and";

(C) by adding as a new paragraph the following:

"(6) a reduction to a lower pay band of an employee assigned to the Simplified Management System under chapter 52 of this title;";

(D) in paragraph (D) by striking out "or" at the end thereof;

(E) in paragraph (E) by striking out the period at the end thereof and inserting in lieu thereof ", or"; and

(F) by adding at the end thereof the following new paragraph:

"(F) the reduction to a lower pay band of an employee assigned to the Simplified Management System under chapter 52 of this title who falls below the minimum rate of the pay band by failure to receive a pay increase as specified in section 5204(i) of this title.".

SEC. 4(a). Section 10 of Public Law 99-574 is repealed.

(b) The project authorized by section 10 of Public Law 99-574 shall, to the extent it is determined by the Director of the Office of Personnel Management to be consistent with the Simplified Management System established under the amendments made by sections 2 and 3 of this Act, be continued as an implementation of the Simplified Management System.

SPECIAL RATES AMENDMENTS FOR GENERAL SCHEDULE EMPLOYEES

SEC. 5(a). Section 5303 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "pay rates in private enterprise for one or more occupations in one or more areas or locations are so substantially above the pay rates of statutory pay schedules as to handicap significantly the";

(B) by striking out "he may establish for the areas" and inserting in lieu thereof the following: "is, or is likely to become, significantly handicapped by higher pay rates paid by Federal or non-Federal employers, or by undesirable working conditions or the remote geographic location of such positions, he may establish, as appropriate, for one or more areas"; and

(C) in the second sentence—

(i) by striking out "maximum" and inserting in lieu thereof "minimum"; and

(ii) by adding after "level" the following: "by more than twice the amount by which the maximum rate of pay for that grade or level exceeds the minimum rate of pay for that grade or level. The President may authorize the appointment of an individual who would be covered by higher rates established under this section at a rate above the higher minimum rate so established"; and

(2) by redesignating subsections (b), (c), and (d) as subsections (c), (d), and (e), respectively, and by inserting after subsection (a) the following new subsection:

"(b)(1) When the President makes a finding under subsection (a) of this section, he may pay bonuses to individuals in positions covered by such finding, either in lieu of establishing higher rates of pay under that subsection or in addition to such higher rates of pay, as appropriate.

"(2) A bonus under this subsection may, as appropriate, be provided under a service agreement between the head of an agency and the individual, requiring the individual to complete a specified period of service in return for such bonus, but not over two years of service may be required under a single such agreement, subject to regulations prescribed by the President. An individual who does not complete the specified period of service shall repay the amount of the bonus unless—

"(A) the period of service is not completed by reason of the death or disability of the individual; or

"(B) the head of the agency determines, pursuant to regulations prescribed by the President, that such failure to complete the specified period of service is for the convenience of the Government,

"(3) A bonus paid under this subsection may not be considered as basic pay for the purposes of subchapter V, subchapter VI, or section 5595 of chapter 55, chapter 81, 83, 84, or 87 of this title, or other benefits or entitlements related to basic pay.

"(4) A bonus under this subsection may be paid in a lump sum or in two or more separate payments.

"(5) The sum of the basic pay and a bonus under this subsection paid to an individual in any 12-month period may not exceed the amount of basic pay payable to an individual in a position in level V of the Executive Schedule during the same 12-month period.

"(6) The President may authorize the exercise of the authority conferred on him by this subsection by the Office of Personnel Management or, in the case of individuals not subject to the provisions of this title governing appointment in the competitive service, by such other agency as he may designate.".

(b) Section 5333(a) of title 5, United States Code, is amended in the second sentence—

(1) by inserting after "case" the following, "(except to the extent that authority for such approval is delegated under section 1104 of this title)"; and

(2) by striking out "to a position in GS-11 or above".

SEC. 6. The amendments made by this Act shall be effective on October 1, 1987.

SECTION-BY-SECTION ANALYSIS TO ACCOMPANY A DRAFT BILL

"To amend title 5, United States Code, to establish a simplified management system for Federal employees, and for other purposes."

SECTION 1. SHORT TITLE

The first section of the bill provides a title, the "Civil Service Simplification Act of 1987."

SECTION 2. CHAPTER 52

The second section of the bill amends title 5, United States Code, by inserting a new chapter 52, "Simplified Management System."

Section 5201. Purpose

The first section of chapter 52 explains the purpose of the Simplified Management System, which is modelled on the successful personnel management demonstration projects conducted at two Navy laboratories in China Lake and San Diego, California. The Simplified Management System will be expanded Governmentwide in a controlled, measured, and budget-neutral manner.

Section 5202. Definitions

This section defines the terms used in the Simplified Management System, and specifies that the coverage of the System may include any employee whose position would otherwise be in grades GS-1 through GS-18 of the General Schedule. The System would not include members of the SES, administrative law judges, and prevailing rate employees.

Section 5203. Implementation

Subsection (a) provides authority for the head of an agency to implement the Simplified Management System and to determine coverage of the System within the agency. This subsection also provides that the Simplified Management System may only be implemented with the approval of the President, or his designee, and that, once approved, changes in coverage of the System, or in the plan implementing the System must be approved by the President or his designee.

Subsection (b) specifies the requirements of the Simplified Management System plan that must be approved before an agency may implement the System. The plan must include: the proposed extent of coverage; the means for assuring budget-neutrality; any career paths, pay bands, criteria or qualification requirements proposed under section 5204(e); the performance appraisal system; the pay-for-performance plan; the merit promotion plan; the conversion procedures; and the evaluation plan.

Subsection (c) provides that the President, or his design, shall review each Simplified Management System Plan submitted for approval and shall approve the plan if he determines that the System will operate under the plan in a budget-neutral manner. The Office of Personnel Management (OPM) shall review and approve the plan if it determines that the plan complies with the legal and regulatory provisions of the Simplified Management System and will operate in a manner that will accomplish the purposes of the System. An agency may not implement the System unless its plan is approved for budget-neutrality by the President, or his designee, and unless the other required provisions of the plan are approved by OPM.

Subsection (d) provides that coverage under the Simplified Management System may not be appealed or reviewed, unless so provided by OPM.

Section 5204. Career Paths and Pay Bands

Subsection (a) provides that the career paths and pay bands for the Simplified Management System will be established by OPM.

Subsection (b) requires OPM to publish the criteria for placing positions in the Simplified Management System into the appropriate career paths and pay bands. OPM may use standards developed under the General Schedule to define criteria for the Simplified Management System, as long as the criteria define career paths and pay bands under the Simplified Management System. This provision will allow for a quick implementation of a simplified position classification system, which is one of the key features of the Simplified Management System.

Subsection (c) provides that, with the exception specified in subsection (e)(2), agencies will determine career paths and pay bands on the basis of criteria issued by OPM.

Subsection (d) provides that, with the exception specified in subsection (e)(2), qualification determinations will be made on the basis of existing qualification standards published by OPM, including subsequent changes or additions to those standards. OPM will have sole discretion to determine whether to use existing standards, or whether to develop new ones.

Subsection (e) allows the tailoring of career paths, pay bands, criteria, or qualification requirements to specific problem areas in two situations: (1) when OPM determines that the regular Governmentwide career paths, pay bands, criteria, or qualification requirements are not accomplishing the purposes of the Simplified Management System in a given instance, it may develop individual career paths, pay bands, criteria, or qualification requirements for that situation; or (2) OPM may authorize an agency to develop proposed career paths, pay bands, criteria, or qualification requirements which must be submitted to OPM for approval.

Subsection (f) provides that the minimum and maximum rates of basic pay under the Simplified Management System will be the same as those payable under the General Schedule, and that pay bands will have the same range of basic pay as one or more grades of the General Schedule. This subsection also provides that the range of rates of pay bands shall be adjusted to maintain equivalency with the General Schedule whenever the General Schedule receives a comparability adjustment.

Subsection (g) requires agencies to initally appoint an individual to the Simplified Management System at the lowest rate in a pay band which the agency determines is necessary to recruit the individual, based on the individual's qualifications and labor market conditions.

Subsection (h) provides a "special rate" and a bonus authority under the Simplified Management System to provide additional agency flexibility in recruiting and retaining employees in hard-to-fill occupations. Paragaph (1) allows agencies to adjust pay rates within pay bands by the amount necessary to recruit or retain employees. Paragraph (2) allows agencies to request increases to the maximum rate of an approved pay band, if the range of the pay band is not sufficient to recruit or retain well-qualified employees. Such requests for special rates must be submitted to the President, or to OPM if the President's authority to set General Schedule special rates under section 5303 of title 5 is delegated to OPM, for approval. Special rates are limited to a maximum rate which does not exceed the maximum rate of the pay band by an amount equivalent to twice the range of the highest General Schedule grade encompassed by the pay band, and may not exceed the rate of basic pay payable for level V of the Executive Schedule. Paragraph (3) allows for the payment of bonuses to recruit or retain employees for hard-to-fill positions, under the same restrictions as will apply to General Schedule employees. A bonus could be paid under an agreement between the employee and the agency requiring the employee to perform a specified period of service in return for the bonus, but not over two years of service could be required under a single agreement. An employee who does not complete the specified period of service would have to repay the amount of the bonus, unless the service is not completed because of death or disability, or the head of the agency determines that an employee's failure to complete the service is for the convenience of the Government. In any 12-month period, the combination of basic pay and a bonus could not exceed the basic pay payable to an individual in a position in level V of the Executive Schedule for the same 12-month period. A bonus would not be part of basic pay for the purpose of any benefit related to basic pay.

Subsection (i) provides that an employee who fails to receive pay increases because of less than fully successful performance and who drops below the minimum rate of pay for the pay band will be placed in the next lower pay band, unless the employee is already at the minimum pay band of the career path. A reduction of a pay band under this provision will be conducted without reducing the employee's rate of basic pay.

Subsection (j) continues the existing authority for payment of a cost-of-living allowance and, if applicable, post differential to employees under the Simplified Management System stationed in areas and possessions of the United States outside the 48 coterminous States.

Subsection (k) provides the Office of Personnel Management the authority to prescribe regulations which establish linkages between pay bands and General Schedule grade levels for purposes of administering the premium pay provisions and other provisions of title 5, United States Code, and any other provisions of law or regulation which are linked to the General Schedule.

Section 5205. Pay-for-Performance Plan

Subsection (a) specifies the requirements for the pay-for-performance plan which must be submitted to OPM for approval by each agency implementing the Simplified Management System. The plan must comply with the performance appraisal requirements of chapter 43 and the incentive and performance awards provisions of chapter 45 of this title. In addition, the plan must specify the method to be used to advance employees through the pay band. The method must be based on the employee's performance and may not depend on length of service, though it may consider an employee's relative position in the range of rates of basic pay for a pay band in determining the rate of progression through the band. The plan must also specify the method the agency will use to determine the funds available to the agency for incentive awards, performance awards, and for providing pay increases to employees.

Subsection (b) requires OPM to prescribe regulations for administering the pay-for-performance plan for employees who have not received a performance rating under an approved performance appraisal system.

Section 5206. Conversion Procedures

Subsection (a) requires OPM to precribe regulations governing the procedures to be used in converting employees to the Simplified Management System; appointing employees into the Simplified Management System; and terminating the Simplified Management System.

Subsection (b) authorizes OPM to provide restrictions on pay increases for employees who are appointed into the Simplified Management System from other agencies. The purposes of this provision is to ensure that agencies do not escalate salaries when competing among themselves for valuable employees.

Subsection (c) requires agencies to specify procedures for designating employees for conversion to the Simplified Management System. These procedures must provide for written notification to employees who will be converted. Conversions to the Simplified Management System must be accomplished without a reduction of basic pay of the converted employee.

Section 5207. Evaluation and Oversight

Subsection (a) requires the President, or his designee, to review the operation of the Simplified Management System to ensure budget neutrality. The President, or his designee, may require an agency to modify or terminate use of the System if it is not operating in a budget-neutral manner.

Subsection (b) provides that OPM shall have an active responsibility for monitoring and evaluating the Simplified Management System to ensure compliance with applicable laws, rules, and regulations. It also authorizes OPM to modify or terminate any use of the Simplified Management System if it determines that the System is not being implemented in compliance with applicable laws, rules, or regulations, or is not being implemented in a manner consistent with the purposes of the Simplified Management System.

Subsection (c) establishes an administrative appeals procedures which allows an employee to request a decision from OPM as to whether the employee's career path and pay band are appropriate under the Simplified Management System. A final OPM determination under this procedure is binding on the employing agency, and may not be appealed, or reviewed by any party.

Section 5208. Regulations

This section authorizes OPM to provide regulations to carry out the Simplified Management System.

SECTION 3. CONFORMING AMENDMENTS

Paragraph (1) provides that reductions in pay bands are generally treated as reductions in grade for purposes of the performance appraisal provisions of chapter 43 of title 5, United States Code.

Paragraph (2) has the effect of excluding reductions to a lower pay band which result from poor performance from the notice requirements of 5 U.S.C. 4303(b), and also provides that such reductions are not appealable to the Merit System Protection Board.

Paragraph (3) adds a section to subchapter I of chapter 45 of title 5, United States Code, to provide a specific authority for performance awards for employees under the Simplified Management System which are linked directly to an employee's performance rating. Performance awards will be treated as cash awards for purposes of chapter 45.

Paragraph (4) excludes employees under the Simplified Management System from the General Schedule.

Paragraph (5) provides authority for pay retention, under OPM regulations, for reductions in pay of employees in the Simplified Management System. Pay retention is appropriate only for involuntary reductions which do not result from poor performance and which are not based on the conduct of the employee.

Paragraph (6) extends the physicians comparability allowances provisions under 5 U.S.C. 5948 to appropriate employees under the Simplified Management System.

Paragraph (7) excludes the assignment of a position to career path or pay band from "conditions of employment" for purposes of labor-management relations. In effect, such decisions are to be treated as classification decisions for labor-management purposes. This paragraph also provides that the method for determining progression within a pay band is not a condition of employment.

Paragraph (8) provides that the decision to place positions under the Simplified Management System or to convert employees to or from the system is a management right and may not be abridged by any labor-management provision.

Paragraph (9) provides that employees under the Simplified Management System may not pursue a grievance through a negotiated grievance procedure concerning the placement in a career path or pay band, unless the placement results in a reduction to a lower pay band or a reduction in pay and the reduction is not a result of failure to receive pay increases because of poor performance. This paragraph also provides that the method for determining progression within a pay band is also not grievable.

Paragraph (10) establishes "pay band" as an equivalent to "grade" for adverse action purposes.

Paragraph (11) provides that reductions of employees to lower pay bands are covered by the adverse action procedures of subchapter II of chapter 75 of title 5, United States Code, except that reductions of employees to lower pay bands caused by failure to receive pay increases because of poor performance are excluded from these procedures.

SECTION 4. REPEAL OF NATIONAL BUREAU OF STANDARDS DEMONSTRATION PROJECT AUTHORITY

This section repeals a provision of Public Law 99-574, the National Bureau of Standards Authorization Act for Fiscal Year 1987, that establishes in the National Bureau of Standards (NBS) a demonstration project somewhat similar to the Simplified Management System, but which is not required to be cost-neutral. Since development work on the NBS system has already begun, and since the basic framework of the system is similar to the Simplified Management System, the NBS system would be allowed to be implemented under this section, to the extent the Director of OPM determines that it is consistent with the Simplified Management System.

SECTION 5. SPECIAL RATES FOR GENERAL SCHEDULE EMPLOYEES.

This section expands flexibilities available for the recruitment and retention of employees who remain under the General Schedule or who are paid under certain other white-collar pay systems. These flexibilities will allow agencies to address critical recruitment and retention problems prior to conversion to the Simplified Management System. This section would broaden the current authority for special rates of pay when the Government experiences difficulty in recruiting or retaining well-qualified employees due to higher pay rates paid by Federal or non-Federal employers. The proposal would allow such special rates in a greater variety of circumstances, increase the available rate range for such special rates when-necessary, and permit the hiring of individuals covered by special rates at a rate above the minimum of the special rate range. In addition, the proposal would permit recruitment or retention bonsues, either in lieu of or in conjunction with special rates. Subsection (a)91) amends section 5303 of title 5, United States Code, which allows the President to establish special rates of pay for certain white-collar Federal employees when private sector pay for an occupation is so substantially above the Government's pay rates that the Government's recruitment or retention of well-qualified individuals in the occupation is significantly handicapped. The amendments broaden the authority to also allow special rates where the cause of the significant recruitment or retention problem is higher pay of Federal or non-Federal employers, undesirable working conditions of the Federal job, or the remote geographic location of the Federal job. Under the amendments, special rates could be established when any of these conditions is likely to cause a significant recruitment or retention problem, even if the problem has not yet fully materialized. In addition, the amendments increase the pay range available for fixing needed special rates. The current authority limits the special rate minimum to no more than the maximum—step 10—of the regular rate range. The amendments permit higher special rates, up to an additional width of the rate range, so that the special rate minimum may not exceed the regular step 1 by more than twice the amount by which the regular step 10 exceeds the regular step 1. Further, the amendments would allow the hiring of individuals who would be covered by a special rate range, as needed to help resolve the recruitment or retention problem.

Paragraph (2) of subsection (a) redesignates current subsections (b), (c), and (d) of section 5303 as subsections (c), (d), and (e), respectively, and inserts a new subsection (b), concerning bonuses for recruitment or retention. Under the new subsection (b), whenever the President finds that there is a significant recruitment or retention problem, he may provide for bonuses for individuals in affected positions, to be paid either instead of establishing special rates of pay or in addition to special rates of pay, as appropriate. A bonus could be paid under an agreement between the individual and the agency requiring the individual to perform a specified period of service in return for the bonus, but not over two years of service could be required under a single agreement. An individual who does not complete the specified period of service would have to repay the amount of the bonus, unless the service is not completed because of death or disability, or the head of the agency determines that an employee's failure to complete the service is for the convenience of the Government. In any 12-month period, the combination of basic pay and a bonus could not exceed the basic pay payable to an individual in a position in level V of the Executive Schedule for the same 12-month period. A bonus would not be a part of basic pay for the purpose of any benefit related to basic pay.

The President could delegate the responsibility for administering this new program of bonuses to the Office of Personnel Management, or to a different agency in the case of individuals not appointed in the competitive service.

Subsection (b) amends section 5333(a) of title 5, United States Code, which allows the hiring of an individual at a within-grade rate above the minimum rate of the grade based on such factors as the individual's unusually high or unique qualifications. The amendment removes the limitation of this authority under current law to only those positions at GS-11 and higher grades, so that the authority could be used at any grade level as appropriate for a qualifying individual. The amendment also makes a conforming change to reflect that the authority to approve the hiring of individuals at advanced within-grade rates may be delegated by OPM to the head of an agency under section 1104 of title 5, United States Code.

SECTION 6. EFFECTIVE DATE

This section makes the amendments to law in the bill effective on October 1, 1987.●

By Mr. BUMPERS (for himself, Mr. HATFIELD, Mr. ADAMS, and Mr. MURKOWSKI):

S. 1546. A bill to provide for the termination of the reregistration of certain Kuwaiti-owned vessels under the flag of the United States; to the Committee on Foreign Relations.

PERSIAN GULF REFLAGGING SUNSET ACT

Mr. BUMPERS. Mr. President, on behalf of Senators HATFIELD, ADAMS, and MURKOWSKI, and myself, I am introducing today a bill which would prohibit the continuation of reflagging of not only Kuwaiti ships but the ships of any nation in the Persian Gulf, any litoral nation to the Persian Gulf.

The bill provides very simply that 6 months after the enactment of this bill we will discontinue reflagging ships.

Second, it provides that 40 days prior to the expiration of that 6-month period, the President will notify Congress that if he wishes, if he does in fact wish to have those ships fly the American flag he will notify Congress 40 days prior to the expiration of the 6-month period stating that the continuation of that policy is in our national security interest, or obviously say that the discontinuation of that policy would be against our national security interest.

Congress will then have, under expedited procedures, two things required. The President must say it is in our national security interest to continue it and Congress then moves, by a joint resolution, to endorse his proposal to continue. And the bill provides for the consideration of that by the Congress under expedited procedures, with a maximum of 10 hours' debate.

Mr. President, I am not going to burden the Senate much longer except to say I really do not know, in light of the Kuwaiti tanker being hit by a mine this morning at about 2 a.m., Washington time, I do not know what that does to the politics of the issue. Most Americans seem not to have really focused on this policy, but they are likely to start focusing on it in light of what happened this morning, which demonstrates that you cannot keep American ships, or Kuwaiti tankers flying our flag, from being attacked in a very covert way where you find nobody's fingerprints on the attack. And so maybe people begin to reflect: Maybe this is not such a good idea.

If that mine had hit an American ship, a warship, and 30 or 40 American sailors had lost their lives, again I do not know exactly how the American people would have reacted to that. In the case of Vietnam, they reacted in a way that they wanted to continue getting a deeper escalation, an enhanced escalation. And I am afraid that might happen again here.

I have told you before that I never turned against the Vietnam war until my son turned 18 and I could not explain to him why he ought to fight and die in Vietnam. And I certainly would have a tough time explaining to one of my sons now why he ought to go to the Persian Gulf and lose his life for a policy which I do not understand and I do not believe very many people in this body do and I do not think the American people do. And any time you cannot explain an American policy, other than to say the Soviets have three tankers out there that they have leased to the Kuwaits, that is not enough to me. So we are trying to put this thing in the best light to cooperate with the President, if we can, to talk to the President. But this body ought not to be requested to sit idly by and do nothing until war is the only alternative and then we are asked under the Constitution to declare war. That is the purpose of this bill today.

I thank the majority leader for yielding.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1546

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Persian Gulf Shipping Act of 1987".

(b) Six months after the date of enactment of this Act, the President shall terminate the reregistration under the United States flag of any vessel which had been owned as of June 1, 1987, by the Government of any country bordering the Persian Gulf or by any national of such country, except that the authority of the President to reregister such vessels under the United States flag shall be extended for an additional period of time requested by the President—

(1) if, not later than 40 days before the expiration of the six-month period, the President determines and so certifies to the Congress that the exercise of such authority for such additional period of time is vital to the national security interests of the United States; and

(2) if the Congress enacts, in accordance with subsection (c), a joint resolution authorizing the extension of such authority.

(c)(1)(A) The provisions of this subsection shall apply to the introduction and consideration in a House of Congress of a joint resolution described in subsection (b)(2).

(B) For purposes of this subsection, the term "joint resolution" means only a joint resolution introduced within 3 legislative days after the date on which the certification of the President described in subsection (b)(1) is received by Congress, the matter after the resolving clause of which is as follows: "That the authority of the President referred to in subsection (b)(2) of the Persian Gulf Shipping Act of 1987 is extended for the period of time specified in the certification required by subsection (b)(1) of such Act.".

(C) For purposes of this subsection, the term 'legislative day' means a day on which the respective House of Congress is in session.

(2) A joint resolution introduced in the House of Representatives shall be referred to the Committee on Foreign Affairs of the House of Representatives. A joint resolution introduced in the Senate shall be referred to the Committee on Foreign Relations of the Senate. Such a joint resolution may not be reported before the 8th legislative day after its introduction.

(3) If the committee to which is referred a joint resolution has not reported such joint resolution (or an identical joint resolution) at the end of 15 legislative days after its introduction, such committee shall be deemed to be discharged from further consideration of such joint resolution and such joint resolution shall be placed on the appropriate calendar of the House involved.

(4)(A) When the committee to which a joint resolution is referred has reported, or has been deemed to be discharged (under paragraph (3)) from further consideration of, a joint resolution, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the joint resolution, and all points of order against the joint resolution (and against consideration of the joint resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the respective House until disposed of.

(B) Debate on the joint resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the joint resolution. A motion further to limit debate is in order and not debatable. An amendment to or a motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is not in order.

(C) Immediately following the conclusion of the debate on a joint resolution, and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the joint resolution shall occur.

(D) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a joint resolution shall be decided without debate.

(5) If, before the passage by one House of a joint resolution of that House, that House receives from the other House a joint resolution, then the following procedures shall apply:

(A) The joint resolution of the other House shall not be referred to a committee.

(B) With respect to a joint resolution of the House receiving the joint resolution—

(i) the procedure in that House shall be the same as if no joint resolution had been received from the other House; but

(ii) the vote on final passage shall be on the joint resolution of the other House.

(6) This subsection is enacted by the Congress—

(A) as an exercise of rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a joint resolution, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

Mr. HATFIELD. Mr. President, this country is holding its breath. As the first Kuwaiti tankers flying the U.S. flag pass through the Persian Gulf, the stage is set for disaster.

Why?

Because this policy was created by an administration committed to flexing its military muscles, proving to the Soviets that we are the dominant superpower in the Persian Gulf.

And because this policy was created by an administration determined to embarrass Iran, to punish the ayatollah for a policy which backfired on us.

But what happens when this policy backfires too?

What happens when—as Winston Churchill said of the events leading up to World War I—the "terrible ifs" accumulate?

If Iran's Revolutionary Guard accept the implicit challenge of the reflagging arrangement and attack one of the tankers?

If they attack one of the U.S. Navy escorts?

If the Soviets accept the implicit challenge of the reflagging arrangement and double the size of their fleet in the gulf?

If they triple the size of their fleet?

If American citizens lose their lives in one of the meaningless crossfires of war?

Mr. President, last night the newly named *Bridgeton* was hit by a floating mine. The "terrible ifs" have already begun to accumulate.

The more stars and stripes we put in the gulf—and the longer they stay there—the greater the number of "terrible ifs" that will accumulate.

And as they do, our response will increasingly be dictated by circumstance rather than by calculation.

One of two things will happen—either we will have to pull out as we did in Lebanon, or we will be forced into direct military confrontation.

Either way, we will have defeated what the administration now claims is our purpose. We will have done nothing to protect freedom of navigation in the gulf and nothing to bring an end to the Iran-Iraq war.

Last week, Senator BUMPERS and Senator ADAMS and I proposed an amendment to the trade bill which would have delayed implementation of the reflagging arrangement for 90 days. It would have given us—the administration and the Congress—time to review the policy, the options and the implications. The amendment survived a tabling motion—by a margin of 56 to 42—but was ultimately killed by a filibuster.

This week, we come to the floor again. The reflagged tankers are now in the gulf, as are the U.S. naval vessels assigned the dangerous task of escorting and protecting those vessels from hostile fire.

Mr. President, I wish we could stop the reflagging today, but we cannot. What we can do is put a time limit on it.

How long will U.S. servicemen be in the middle of the gulf war? We don't know. How long will the U.S. flag fly above Kuwaiti tankers? The truth is that we do not know.

But we should know. And if the President is not willing to put a time limit on this policy, it is our responsibility to do so. In fact, that is the least we can do.

The bill we are introducing today puts a 6-month time limit on the reflagging arrangement. After 6 months, the flags can stay on the ships only if a joint resolution has been passed by this Congress.

I just hope we can hold our collective breath—and avoid the disaster that is waiting to happen—until then.

Mr. ADAMS. Mr. President, I am pleased to join with my colleagues Senators BUMPERS, HATFIELD, and MURKOWSKI to introduce this bill today. Earlier this week, the United States Navy began escorting reflagged Kuwaiti ships carrying oil through the Persian Gulf. The President has committed us to this operation without carefully articulating to the American people why we are taking this action and what the consequences of our action can be.

Our ships have entered a war zone. By agreeing to this reflagging operation we have agreed to assist a key ally of Iraq in its war against Iran. This, I am convinced, places our ships and our military men in a dangerous and hostile situation. Just this morning we hear on the radio that one of the reflagged Kuwaiti tankers has hit an Iranian mine in the gulf. This could have just as easily been one of our Navy ships and it could have resulted in lost American lives.

The President should agree under these circumstances to abide by the provisions of the War Powers Resolution which is designed to bring the country together around a common policy when we send our fighting men into situations involving sure hostilities.

But the President has not chosen to trigger the War Powers Resolution. The Congress, concerned about the disastrous image of unreliability which has been created under this administration's foreign policy actions toward the Persian Gulf states, has been reluctant to force the President's hand on the reflagging operation. I believe that the President has made a mistake in not listening to the congressional votes to delay this reflagging operation until we have raised and found answers to the perplexing questions surrounding this matter.

All this notwithstanding, though, the U.S. escort of these reflagged ships has begun. At the same time that the reflagging operation has begun, we are pursuing objectives through the United Nations aimed at ending the Iran-Iraq war. This effort may very well be undercut by this reflagging operation. Since reflagging began, the United States has been accused by Iran of violating the U.N. resolution by introducing new forces into the Persian Gulf to implement the reflagging scenario.

Where are we going, and why? What will our response be should one of those U.S. ships be attacked in the gulf and more American lives lost? Who will be held accountable for any acts of terrorism against U.S. citizens which might result from this operation and how will we respond if they occur? How long should the reflagging operation continue? What are the other Gulf States and allies of the United States willing to do to assist in raising security in the gulf? What role is the United States willing to play in bringing about an end to the destructive Iran-Iraq war?

The questions are endless. None have been answered. The American people deserve answers. In the weeks ahead, I intend to keep asking the questions. In the meantime, I am pleased to join with my colleagues Senator BUMPERS, HATFIELD, and MURKOWSKI in introducing this bill today. By putting a definite time limit on our initial involvement in the reflagging operation, we can force the evolution of some answers to these critical questions.

I hope that we do not have to find answers to the questions in a crisis atmosphere. For under such circumstances, there is a high probability that our response will not be well thought through or that the country will not be braced for that response. Under this bill, the President will have 6 months to articulate his policy, answer the questions, and convince the American people that the reflagging operation in the Persian Gulf is in our national interest.

The President should welcome the opportunity to work with the Congress and the American people within this 6-month period to chart a course for our future in the Persian Gulf.

The United States has legitimate and important interests in this area of the globe which we cannot abandon. This bill represents a roadmap to the charting of a policy based on those fundamental concerns that all Americans share. The alternative is continued reactionary, ad hoc foreign policymaking which can only lead to disaster for United States interests in the Persian Gulf and for our allies in the region as well.

By Mr. WALLOP:

S. 1547. A bill to amend the Internal Revenue Code of 1986 to provide that amounts included in gross income under section 78 of such code shall not be taken into account in allocating deductions to sources within and without the United States; to the Committee on Finance.

CALCULATION OF LIMITATION ON FOREIGN TAX CREDITS

● Mr. WALLOP. Mr. President, I am introducing legislation to deal with an anomaly in the tax law dealing with calculation of the limitation on foreign tax credits against U.S. income tax liability.

The law on foreign tax credits reflects the general principle that the country where income is earned has the priority right to tax this income, even where the activities which produce the income are conducted by individuals or corporations who are residents of another country. The home country of the individual or corporation has a secondary right to tax the income. However, to insure that double taxation does not result, the United States uses the credit system for foreign taxes, whereby a U.S. taxpayer with activities outside the United States obtains a credit against its U.S. tax liability on foreign income for taxes paid on this income to the foreign country where it was earned.

Under our system, limitations are applied to the use of foreign tax credits to insure that foreign taxes can be credited and used to reduce U.S. tax on foreign income and not U.S. tax on U.S. income. Part of the calculation of the foreign tax credit limitation involves a series of allocations and apportionments of deductions between U.S. and foreign gross income.

The foreign tax credit is allowed not only for taxes paid to a foreign country on a U.S. corporation's operations in that country, but also for taxes paid by a foreign subsidiary of a U.S. corporation which receives and is taxed in the United States on dividends paid to it by the foreign subsidiary. Under this deemed paid credit, dividends to the U.S. parent corporation carry with them a proportionate amount of the foreign taxes paid by the foreign subsidiary.

In order to make the deemed paid credit work effectively, code section 78 was enacted in 1962. This statutory correction was necessary to overrule a Supreme Court decision, *American Chicle Co.*, v. *United States*, 316 U.S. 450 (1942), which allowed, in effect, a combined deduction and credit for foreign taxes on dividend distributions paid by a foreign subsidiary to its U.S. parent. Code section 78 requires that the dividend be grossed up, or increased, by the foreign taxes attributable to this income paid by the foreign subsidiary.

The problem I wish to address arises from the position of the Internal Revenue Service in broadly applying the section 78 gross up not only for purposes of eliminating a disadvantage to the Government reflected by the American Chicle decision, but also for purposes of allocating deductions under Treasury Regulations section 1.861-8, as one of the steps to determine the foreign tax credit limitation.

One of the methods available for apportioning U.S. expenses against foreign source income is the gross income method. In this method, the taxpayer calculated its foreign source gross income and its total gross income. A percentage of foreign to total is developed and is applied to apportion U.S. expenses deemed to be incurred in producing foreign source income. The issue here is whether the section 78 gross up, an artificial, noneconomic attribution of income, should be an item of gross income for purposes of Treasury Regulations section 1.861-8, which results in the apportionment of actual economic expenses against this artificial, noneconomic taxable income. The result of the IRS position of apportioning expenses in ths fashion is that U.S. taxpayers are unable to use as a credit some of the foreign taxes which have been paid.

This interpretation is founded on the statutory language of code section 78, which requires use of the gross up, with one exception, "for purposes of this title" * * * that is, for all purposes of the entire Internal Revenue Code. However, neither the legislative history of section 78 nor Treasury Regulation 1.861-8 reflects any intention to apply the section 78 gross up to credit limitation calculations under code section 861.

It appears that in eliminating the inequity caused by the American Chicle decision, the drafters of section 78 did not consider the impact the gross up would have on calculations under section 1.861-8 of the regulations. Indeed, it may not have been perceived to be a possible problem because this regulation was in a much simplified form compared to what it is today. Moreover, several revisions to regulations section 1.861-8 since section 78 was enacted do not make any reference to any section 78 gross up in either their discussion or examples. Yet, the Internal Revenue Service has recently taken the position that a section 78 gross up should be used for purposes of section 861 calculations.

The section 78 gross up is a noneconomic artificial attribution of income to prevent a specific distortion of the foreign tax credit rules, that caused by the American Chicle decision. It is a noneconomic attribution because the U.S. taxpayer obtains no economic benefit in that it never receives any funds to pay expenses or otherwise use in its business. This artificial attribution of income should not be used for purposes of making nonartificial, real-life calculations to apportion economic deductions under section 861.

I have concluded this recent position taken by the IRS almost 25 years after section 78 was enacted is incorrect and is not supported by regulations under section 861. Further, it is inappropriate to use the artificial, noneconomic attribution of income for purposes of making what is intended to be an apportionment of deductions based on nonartificial, real-life economic facts. This bill would make the necessary correction to exclude the section 78 gross up from calculations of the foreign tax credit limitation.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1547

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SECTION 78 NOT TAKEN INTO ACCOUNT IN DETERMINING SOURCE OF DEDUCTIONS.

(a) IN GENERAL.—Section 78 of the Internal Revenue Code of 1986 (relating to dividends received from certain foreign corporations by domestic corporations choosing foreign tax credit) is amended by adding at the end thereof the following the new sentence: "The preceding sentence shall not apply for purposes of applying section 245 or for purposes of apportioning deductions under section 861(b), 862(b), or 863(b)."

(b) CONFORMING AMENDMENT.—Section 78 of such Code is amended by striking out "(other than section 245)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1986.●

By Mr. LUGAR (for himself, Mr. RIEGLE, Mr. QUAYLE, Mr. DURENBERGER, Mr. HELMS, Mr. KASTEN, Mr. HEFLIN, Mr. SHELBY, Mr. LEVIN, Mr. PROXMIRE, Mr. D'AMATO, Mr. GRAHAM, Mr. HEINZ, Mr. GLENN, Mr. SANFORD, Mr. THURMOND, Mr. WARNER, Mr. DANFORTH, Mr. DOLE, and Mrs. KASSEBAUM):

S. 1548. A bill to amend section 1886 of the Social Security Act to require that certain hospitals be classified as being located in an urban area for purposes of determining payments under the Medicare Program for inpatient hospital services furnished by such hospitals, and to require that certain hospitals be treated in the same manner as a hospital located within a particular geographic area for purposes of making such determination; to the Committee on Finance.

RURAL HOSPITAL LEGISLATION

● Mr. LUGAR. Mr. President, I am today introducing along with Senator RIEGLE a bill to correct an inequity in present Medicare hospital reimbursement policy. Joining with us in introducing this measure are Senators QUAYLE, DURENBERGER, HELMS, KASTEN, HEFLIN, SHELBY, LEVIN, PROXMIRE, D'AMATO, GRAHAM, HEINZ, GLENN, SANFORD, THURMOND, WARNER, DANFORTH, DOLE and KASSEBAUM.

Mr. President, this measure is written to seek relief for a limited number of rural hospitals that have been put at a serious economic disadvantage simply because they happen to be located between urban centers. These are hospitals which by all published criteria should qualify as urban hospitals. But because they are located in counties bordering on multiple metropolitan areas rather than one, they are denied the urban rate of reimbursement and must compete at great disadvantage with surrounding urban hospitals.

The Health Care Financing Administration [HCFA] is well aware of this anomaly and, in a study conducted last year, determined that there were only 28 counties and 51 hospitals in the entire country affected by this unique situation. Even though there was agreement that a fair solution was needed, the problem was corrected for only one county. Rather than revise their current interpretation of eligibility criteria, the Health Care Financing Administration chose to defer a solution until the creation of an alternative classification system.

Since that decision to delay was made, one of these hospitals has gone out of business. Thus the number of affected hospitals has dropped to 49. I look forward to the eventual development of an alternative classification system and to the phasing out of geographical boundaries as the basis for Medicare hospital reimbursement. I am convinced, nevertheless, that more immediate action must be taken to remove a critical discrepancy in the current methodology—a methodology that harms vulnerable hospitals, some of which are not likely to survive a long deferment of the needed solution.

Under current Medicare policy, hospital reimbursement is set at a higher rate for hospitals serving in an urban environment than for those in rural areas. The primary demarcation separating the urban and rural classifications depends on geographical boundaries which have been drawn to define various Metropolitan Statistical Areas [MSA's]. In general, hospitals located within an MSA are compensated according to an urban rate of reimbursement, while one not within the boundaries of an MSA is reimbursed at a rural rate. An adjustment to this general rule is provided in recognition of the fact that the size and shape of urban areas are not static. Thus, the government has established a limited set of criteria by which hospitals in "outlying" counties, counties bordering on MSA's, may be judged to be urban and thus to qualify for an urban reimbursement rate.

Each hospital affected by the measure I am introducing today actually meets all of the relevant criteria to be classified as urban. They are being excluded from urban classification because of the manner in which one of the qualifying criteria, a criterion regarding the rate of commuting, is interpreted. Because these hospitals are located in counties that border not one but by several metropolitan areas, they serve a population which commutes in more than one direction. For each, a measure of the total commuting is more than enough to meet the amount needed to satisfy the commuting criterion. But they are being denied simply because the level of commuting is being assessed only in one direction at a time. As a result, these hospitals receive substantially less revenue for the same services rendered to Medicare patients than do their competitors, even though they must pay similar wages, similar salaries, and have similar operating costs.

The purpose of providing criteria to assess the urban character of communities bordering on the rigid geographic limits of MSA's was meant to allow a degree of realistic flexibility in the structure of metropolitan definitions. It is my contention, and the contention of those Senators who have joined me, that these hospitals are no less "urban" because they are surrounded by two or more MSA's than they would be if bordering on a single MSA. We are not suggesting that any special exception be made. Rather we are seeking in this legislation to direct a commonsense application of existing criteria to the problem at hand.

The names of all hospitals directly affected, and the States in which they are located, are as follows:

Arab Hospital, Arab, AL;
Boaz-Albertville Med. Ctr, Boaz, AL;
Guntersville Hospital, Guntersville, AL;
St. Joseph Hospital, Port Charlotte, FL;
Fawcett Memorial Hospital, Port Charlotte, FL;
Medical Center Hospital, Punta Gorda, FL;
Humana Hospital-Sebastian, Sebastian, FL;
Indian River Memorial Hospital, Vero Beach, FL;
Pana Community Hospital, Pana, IL;
St. Vincent Memorial Hospital, Taylorville, IL;
Carlinville Area Hospital, Carlinville, IL;
Community Memorial Hospital, Staunton, IL;
Mason District Hospital, Havana, IL;
Clinton County Hospital, Frankfort, IN;
Henry County Memorial Hospital, New Castle, IN;
Jefferson Co. Memorial Hospital, Winchester, KS;
Allegan General Hospital, Allegan, MI;
Pipp Community Hospital, Plainwell, MI;
Pennock Hospital, Hastings, MI;
Lee Memorial Hospital, Dowagiac, MI;
Orchard Hills Hospital, Belding, MI;
Ionia Co. Memorial Hospital, MI;
Addison Community Hospital, MI;
Emma L. Bixby Hospital, MI;
Thorn Hospital, Hudson, MI;
Morenci Area Hospital, MI;
Herrick Memorial Hospital, MI;
Caro Community Hospital, MI;
Hills & Dales Gen. Hospital, Cass City, MI;
Lake View Community Hospital, Paw Paw, MI;
South Haven Com. Hospital, South Haven, MI;
Cameron Community Hospital, Cameron, MO;
Betsy Johnson Mem. Hospital, Dunn, NC;
Good Hope Hospital, Erwin, NC;
St. Jerome Hospital, Batavia, NY;
Genesee Memorial Hospital, Batavia, NY;
Potters Medical Center, East Liverpool, OH;
East Liverpool City Hospital, East Liverpool, OH;
N. Columbia Co. Com. Hospital, Salem, OH;
Morrow County Hospital, Mt. Gilead, OH;
Van Wert County Hospital, Van Wert, OH;
Ellwood City Hospital, Ellwood City, PA;
St. Francis Hospital, New Castle, PA;
James Memorial Hospital, New Castle, PA;

Cherokee County Mem. Hospital, Gaffney, SC;
Bedford County Mem. Hospital, Bedford, VA;
Fort Atkinson Mem. Hospital, Fort Atkinson, WI;
Watertown Memorial Hospital, Watertown, WI; and
Lakeland Hospital, Elkhorn, WI.

I urge my colleagues to see the inherent fairness of this measure and to support a solution for this limited but vulnerable group of rural hospitals.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1548

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. MEDICARE CLASSIFICATION OF CERTAIN HOSPITALS AS BEING LOCATED IN AN URBAN AREA.

(a) In General.—Section 1886(d)(2)(D) of the Social Security Act (42 U.S.C. 1395ww(d)(2)(D)) is amended by adding at the end thereof the following: "The Secretary shall classify a hospital as being located in an urban area for purposes of this subsection if such hospital is located in a county which would, under the system for designating Metropolitan Statistical Areas, be classified as an outlying county if commuting rates (used in determining outlying counties) were determined on the basis of the aggregate number of resident workers who commute to a central county within any one all contiguous Metropolitan Statistical Areas (rather than to the central county of a single contiguous Metropolitan Statistical Area).".

(b) Application.—The amendment made by subsection (a) shall apply to discharges occurring in fiscal years beginning on or after October 1, 1987.

SEC. 2. TREATMENT OF CERTAIN HOSPITALS IN THE SAME MANNER AS HOSPITALS LOCATED IN A CERTAIN METROPOLITAN STATISTICAL AREA FOR PURPOSES OF COMPUTING THE WAGE LEVEL OF SUCH HOSPITALS.

(a) In General.—Section 1886(d)(3)(E) of the Social Security Act (42 U.S.C. 1395ww(d)(3)(E)) is amended by adding at the end thereof the following: "In making the adjustment under this subparagraph with respect to a hospital that is classified as being located in an urban area on the basis of the last sentence of paragraph (2)(D), the Secretary shall treat such hospital in the same manner as hospitals located in the Metropolitan Statistical Area to which the largest percentage of residents of the county in which such hospital is located commute.".

(b) Application.—The amendment made by subsection (a) shall apply to discharges occurring in fiscal years beginning on or after October 1, 1987.●

● Mr. RIEGLE. Mr. President, I am pleased to join today with the Senator from Indiana [Mr. Lugar] and others in introducing S. 1548, legislation designed to correct a serious inequity in Medicare reimbursement policy. This bill would reclassify 49 hospitals across the country, and 15 in my State of Michigan, from rural hospitals to urban hospitals, allowing them to receive payment rates similar to other hospitals in their area.

Under the prospective payment system for reimbursing inpatient hospital services under Medicare, payments are set at a higher level for hospitals in urban areas than those in rural areas. Congress chose to differentiate between rural and urban hospitals because the costs of urban hospitals are usually higher than those for rural hospitals. An urban hospital is generally one located in a Metropolitan Statistical Area, or MSA, but because urban areas are expanding, hospitals in "outlying counties" bordering MSA's may also qualify for urban reimbursement rates if they meet certain criteria.

One requirement for qualification as an urban hospital concerns the percentage of individuals from the outlying county who commute to the central county of a contiguous MSA. It is the application of this requirement that has proven unfair to a small number of hospitals and that this legislation seeks to address.

These 51 hospitals are denied urban status only because they are located in counties that border not one but several MSA's. The county's aggregate commuting rates to adjacent MSA's are clearly sufficient for classification as an urban area, but the commuting rate to each MSA, considered singly, falls below the required rate. The bill being introduced today would require that commuting rates be determined on the basis of the total number of resident workers who commute to a central county within any one of the adjacent MSA's. It would thus eliminate a glaring anomaly which results from the formula used in the current regulations.

One of the major objectives of the PPS system was to increase efficiency within hospitals and to increase competition among hospitals. For those goals to be reached, it is critical that hospitals with similar costs be reimbursed at similar rates. I am pleased to lend by support to legislation which would help do just that.

Mr. President, I urge all my colleagues to join with Senator Lugar and myself and others in supporting this needed corrective legislation.●

● Mr. QUAYLE. Mr. President, I am pleased to cosponsor this bill with the distinguished senior Senator from Indiana and a number of my other colleagues which would correct an inequity in the prospective payment system. I am a strong supporter of this new Medicare reimbursement system. However, as with any new system as broad and significant as prospective payment, it has demonstrated some unanticipated and unwanted effects and has affected some institutions adversely, particularly some of the hospitals classified under the PPS system as rural.

Congress, in developing this new system, made a decision that the per-case rate should be adjusted to account for differences between costs in urban and rural areas. For the purposes of prospective payment, hospitals are considered urban if located in metropolitan statistical areas [MSA's] and rural if located outside MSA's. This classification is used as a mechanism to accommodate differences in the service and labor costs of providing care to the Medicare population. However, sometimes this classification scheme unjustly penalizes certain hospitals which have urban costs but are paid the rural rate. This is just the sort of situation which this amendment is designed to remedy.

There are two hospitals, Henry County and Clinton County, in my State that receive substantially less revenue for the same services rendered to Medicare patients than its "urban classified" competitors even though they have to pay the same wages and salaries, the same operating costs and in all other respects attempt to compete while receiving substantially less revenue.

The two hospitals in my home State and the other 49 hospitals which will benefit from this amendment share the same geographic and sociological characteristics as their competitors but are classified differently simply through an unexpected quirk in the implementation of the urban/rural classification scheme. Let me emphasize that this bill does not provide an exception to the rules for these hospitals but merely makes it possible for the Secretary to make a commonsense application of the urban criteria to these hospitals.

Specifically, these hospitals meet all the requisite criteria necessary for classification as an urban hospital except for a question of interpretation concerning the requirement that there be a commuting rate by urban counties of 15 percent—25 percent to an MSA. Because of the unusual proximity of these hospitals to more than one MSA, the population commutes in different directions so that each designated MSA falls somewhere between the required commuting rates of 15 percent—25 percent while their population's aggregate commuting rates to surrounding MSAs is well within the minimum requirements. This bill simply requires the Secretary to interpret MSA criteria so that commuting ratios can be calculated in the aggregate instead of only to a central county.

Without this bill, these hospitals will remain at a significant disadvantage. The effect of the losses they will incur will be staggering both to the institutions in question and to their respective communities. In developing the urban/rural classification scheme, it was Congress' intent to be able to account for the differences between hospitals by virtue of geographic and sociological factors. The new system was adopted to encourage efficiency, not to harm otherwise well-run hospitals which happen to fall in between the cracks in the system. Thus, I urge my colleagues to support this important bill to remedy this inequity.●

● Mr. D'AMATO. Mr. President, I rise today to lend my strong support for legislation that corrects an inequity in the Medicare Program. This inequity causes a number of rural hospitals to be reimbursed at an inadequate, and an unfairly inaccurate, reimbursement rate. The continuation of this rate threatens the very existence of some of these hospitals. The loss of these hospitals, in turn, could well create major problems for senior citizens seeking health care in rural areas. Senator LUGAR and I worked on a similar proposal last year but, unfortunately, were unsuccessful in our efforts. This effort is even more urgent this year.

Currently, hospitals are reimbursed at either a rural or an urban Medicare rate based on a number of criteria. One criteria relates to commuting patterns of the area in which a hospital is located. According to current regulations, if 25 percent or more of the residents of a given county commute to one neighboring metropolitan statistical area [MSA] and all urban-qualifying criteria are met, hospitals in the county are eligible to receive the urban rate. However, if 25 percent of a county's population commutes to more than one neighboring MSA, the hospitals in the county are not eligible for the urban rate.

This technical difference arises from statistical formulae entirely unrelated to the intent of the Medicare payment system. Commuting patterns are intended to indicate the urban-like nature of a county. Whether commuters commute to one or two neighboring MSA's would seem irrelevant.

Because the Medicare system draws this distinction, 49 rural hospitals in 14 States across the country are being unduly penalized. These hospitals meet all, but one, criteria to receive the urban rate. The one criteria which excludes these hospitals is the commutation rate. Each of these hospitals would otherwise qualify.

Clearly, the disqualification of these 51 hospitals based on this technicality was not the intent of Congress. Without a readjustment, the health of our senior citizens in these rural areas is seriously at risk.

This legislation corrects this inequity in a budget neutral manner. I am pleased to lend my support to this legislation in hopes of insuring that senior citizens in rural areas will have access to affordable health care services.

Thank you, Mr. President.●

By Mr. MOYNIHAN:

S. 1550. A bill to complete the Federal Triangle in the District of Columbia, to construct a public building to provide Federal office space and space for an international cultural and trade center, and for other purposes; to the Committee on Environment and Public Works.

FEDERAL TRIANGLE DEVELOPMENT ACT

● Mr. MOYNIHAN. Mr. President I rise to introduce S. 1550, a bill to authorize development of Federal office space and an international cultural and trade center on the Federal triangle site on Pennsylvania Avenue.

The Senate Subcommittee on Water Resources, Transportation and Infrastructure which oversees the General Services Administration and public buildings policy, held a hearing on this matter on May 1, 1987. On the House side, Chairman HOWARD, Subcommittee Chairman SUNIA, and other Members of the House Committee on Public Works and Transportation have been most cooperative in reviewing this proposal expeditiously. The House Subcommittee on Public Buildings and Grounds held its hearing on the international cultural and trade center on July 22, 1987. Therefore, it is my hope that the Senate and House Members can agree quickly on this bill, and so move the project forward expeditiously.

The Administrator of the General Services Administration, Terence C. Golden, is a major proponent of this undertaking. During our hearing, we also received testimony and letters from a number of Federal agencies including the Department of Commerce, State Department, U.S. Information Agency, and Commission of Fine Arts, all of which endorsed the proposal. The Office of Management and Budget sent us letters endorsing this project. Furthermore, the Federal City Council, a distinguished group of business and civic leaders from the Washington, DC area has been working to advance this proposal for several years. Mr. Harry McPherson, the current president of the Federal City Council, gave persuasive testimony about the benefits this complex will bring to Federal, State and local government, as well as to the business community, nationally and internationally.

I enthusiastically support a creative Federal use of the land at 14th Street and Pennsylvania Avenue. This premier location along our ever more magnificent Pennsylvania Avenue cries out for more than a parking lot. The proposal we are advancing would transform the 9-acre Federal triangle site into a complex that would provide both Federal office space and an international cultural and trade center.

About 75 percent of the space in the complex would be used for Federal offices. A major benefit of this development would be the consolidation of three major Federal agencies, which are now inefficiently scattered in different locations around the city. As Mr. Golden testified, the Treasury Department would go from 38 buildings currently to 4; the Justice Department from 26 locations to 3; and the State Department from 16 locations to 3.

This legislation authorizes the General Services Administration [GSA], Pennsylvania Avenue Development Commission [PADC], and the International Cultural and Trade Center Commission (Commission) to work cooperatively to develop this project. In consultation with the Administrator of GSA and the Commission, the PADC will conduct a design-build competition among private developers. Insofar as practicable, the design and development will be guided by the principles for Federal architecture, recommended by the Committee on Federal Office Space in 1962.

Because this project will be built under a lease to own plan, the Federal Government will not need to appropriate the full amount of funds for construction in advance, as is the usual case in building Federal buildings. Instead, the Government's lease payments over a 30-year period will cover the cost of construction. At the end of 30 years, the Government owns the building. This is a sensible, economical approach to securing badly needed Federal office space.

It is important that the Federal Government begin to build Federal office space again. In the 1960's the Federal Government stopped building buildings, largely because in the short term it was easier to make an annual lease payment, than to appropriate the money to build a new facility. Unfortunately, we are now paying for our past accounting devices, as hundreds of leases are up for renewal at vastly more expensive rates. Mr. Golden testified at our hearing that the GSA budget for rental space in the National Capital Region has gone from $329 million in fiscal year 1986 to a projected cost of $425 million in fiscal year 1988—more than a 30-percent increase over just 2 years.

Within the next 10 years, 75 percent of Federal office leases across the Nation will be up for renewal. The national rental bill for Federal space will be $1.6 billion by 1992, up from about $400 million in 1970. It is obvious that we must protect the Federal Government from these runaway leasing costs. I believe that this type of creatively financed project is exactly the businesslike approach that the Federal Government should be taking to meet this problem.

At this point, Mr. President, I request that the bill and a brief section-by-section analysis be placed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1550

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Triangle Development Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

(1) it is in the national interest to build a Federal building complex and establish an international cultural and trade center on the Federal Triangle property in the District of Columbia;

(2) development of such a Federal building complex will permit consolidation of a number of Federal agencies which are currently housed in numerous, scattered locations and will enable more economical and efficient use of building space and environs;

(3) inclusion of an international cultural and trade center within the Federal building complex will create and enhance opportunities for American trade, commerce, communications, and cultural exchanges with other nations and complement the work of Federal, State, and local agencies in the areas of international trade and cultural exchange; and

(4) the appropriate development, maintenance, and use of the Federal Triangle property should be a joint development effort of the General Services Administration, the Pennsylvania Avenue Development Corporation, and the International Cultural and Trade Center Commission.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To transfer the Federal Triangle property from the Administrator of General Services to the Pennsylvania Avenue Development Corporation.

(2) To grant to the Corporation the power of eminent domain to acquire certain properties and rights-of-way adjacent to the Federal Triangle site and to authorize the Corporation to exercise such power as may be necessary to further the public interest.

(3) To authorize the Corporation, after consultation with the Secretary of State, the Administrator, and the Commission, to prepare plans for development of such property.

(4) To establish a process for review and selection of such plans and, after completion of such review process, to authorize the Corporation to enter into an agreement with a private developer selected for the development of such property.

(5) To ensure that the design and construction of the Federal building complex on such property will insofar as practicable be in accordance with the guiding principles for Federal architecture recommended by the Committee on Federal Office Space in 1962 which require among other things that facilities to be used by Federal agencies be efficient and economical and that public buildings provide visual testimony to the dignity, enterprise, vigor, and stability of the Federal Government.

(6) To provide for establishment, operation, and maintenance of a self-sustaining international cultural and trade center in such complex.

SEC. 3. FEDERAL TRIANGLE PROPERTY.

(a) TRANSFER TO PADC.—

(1) GENERAL RULE.—Subject to such terms and conditions as the Administrator and the Corporation may establish, the Administrator shall transfer, without compensation, to the Corporation title to the Federal Triangle property for development under this Act.

(2) DURATION OF TRANSFER.—Title to the Federal Triangle property shall revert to the Administrator at such time as the Administrator and the Corporation agree but not later than the date on which ownership of the building to be constructed on such property under section 5 vests in the United States. On and after such date, title to such building shall be in the Administrator.

(3) LEGAL DESCRIPTION.—The exact acreage and legal description of the Federal Triangle property shall be based upon surveys which are satisfactory to the Administrator and the Corporation.

(b) ADJOINING PROPERTY AND RIGHTS-OF-WAY.—

(1) ACQUISITION.—The Corporation may acquire by purchase, exchange, condemnation, or otherwise such additional property or improvements or interest therein (including any portion of any street, roadway, highway, alley, or right-of-way and any easements to and air rights on or above any public lands or rights-of-way) as are necessary for development of the Federal Triangle property.

(2) TRANSFER TO GSA.—At the time title to the Federal Triangle property reverts to the Administrator under subsection (a), the Corporation shall transfer to the Administrator, without compensation, title to any property or interest therein acquired under this subsection and improvements thereon.

SEC. 4. DEVELOPMENT PROPOSAL.

(a) PREPARATION AND CONTENTS.—The Corporation shall prepare a written proposal for development of the Federal Triangle property which shall include, but not be limited to, the following:

(1) A narrative description of the building to be constructed on the Federal Triangle property, including a description of the types of uses both public and private to be permitted in the building.

(2) A comprehensive plan prepared by the Administrator for providing space for Federal officers and employees in the building.

(3) A plan for inclusion of an international cultural and trade center comprising not to exceed 500,000 occupiable square feet, including a leasing plan prepared by the Commission for occupancy of such center and a plan for permitting conversion of space not used for such center to office space.

(4) A comprehensive plan for providing security for the building and its occupants and contents.

(5) A comprehensive plan for providing parking for motor vehicles of occupants of and visitors to the building and for providing access to the building by delivery and service vehicles.

(6) A statement prepared by the Administrator of rents and other housing costs currently being paid by the United States for Federal agencies to be housed in the building.

(7) Design criteria for the building.

(8) An estimate of the cost of construction of the building and of the annual cost to the United States of leasing the building under section 6.

(9) Environmental impact documentation for development of the Federal Triangle property under Federal laws and regulations.

(10) An analysis of the economic impact in the metropolitan area which includes the District of Columbia of development of the Federal Triangle property.

(11) Terms and conditions approved by the Administrator for inclusion in the lease agreement under section 6.

(b) LIMITATIONS.—

(1) SIZE OF BUILDING.—The building (including parking facilities) to be constructed on the Federal Triangle property may not exceed 3,100,000 gross square feet in size.

(2) HEIGHT OF BUILDING.—The height of the building shall be compatible with the height of surrounding Government buildings.

(3) DESIGN.—The building shall be designed in harmony with historical and Government buildings in the vicinity, shall reflect the symbolic importance and historic character of Pennsylvania Avenue and the Nation's Capital, and shall represent the dignity and stability of the Federal Government.

(c) CONSULTATION REQUIREMENT.—In preparing the development proposal under subsection (2), the Corporation shall consult the Secretary of State, the Administrator, and the Commission.

(d) DUTIES OF THE ADMINISTRATOR AND COMMISSION.—

(2) ADMINISTRATOR.—The Administrator shall prepare and submit to the Corporation for inclusion in the development proposal under subsection (a)—

(A) a comprehensive plan for providing space for Federal officers and employees in the building to be constructed on the Federal Triangle property;

(B) a statement of rents and other housing costs currently being paid by the United States for Federal agencies to be housed in the building; and

(C) a list of terms and conditions which the Administrator has approved for inclusion in the lease agreement to be entered into under section 6.

(2) COMMISSION.—The Commission shall prepare and submit to the Corporation for inclusion in the development proposal under subsection (a) a leasing plan for occupancy of the international cultural and trade center under section 8.

(e) REVIEW AND APPROVAL OF DEVELOPMENT PROPOSAL BY GSA AND OTHERS.—

(1) SUBMISSION FOR REVIEW.—As soon as practicable but not later than 365 days after the date of the enactment of this Act, the Corporation shall submit the development proposal prepared under subsection (a) to the General Services Administration, the Commission, the National Capital Planning Commission, and the Commission of Fine Arts.

(2) APPROVAL OR RECOMMENDED MODIFICATIONS.—Not later than 60 days after the date of submission of the development proposal under paragraph (1), each governmental entity referred to in paragraph (1) shall notify the Coporation of approval or recommended modifications of the development proposal. If such governmental entity does not notify the Corporation of its approval or recommended modifications of the proposal within such 60-day period, such governmental entity shall be deemed to have approved the proposal.

(3) CONSULTATION.—In the event a governmental entity referred to in paragraph (1) submits recommended modifications of the development proposal within the 60-day period described in paragraph (2), the Cor-

poration shall consult such entity regarding such modifications and may modify such proposal to take into account one or more of such recommended modifications.

(f) Submission for Congressional Review.—Not later than 150 days after the date of submission of the development proposal to governmental entities under subsection (e)(1), the Corporation shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives for review and approval the development proposal with any modifications made under subsection (e)(3), a statement of the areas of difference between such proposal and the recommended modifications of each such governmental entity, and the views of the Corporation with respect to such differences.

(g) Funding.—Not later than 60 days after the date of the enactment of this Act, the Administrator shall transfer from amounts appropriated to the Administrator $800,000 to the Corporation for carrying out this section.

SEC. 5. CONSTRUCTION OF BUILDING.

(a) Selection Process.—

(1) General rule.—Upon approval of the development proposal submitted under section 4(f) by resolutions adopted by the Committee on Environment and Public Works of the Senate and the Committee on Public Works of the House of Representatives, the Corporation in accordance with its policies and procedures for a development competition, shall select a person to develop the Federal Triangle property.

(2) Consultation requirement.—In selecting a person to develop the Federal Triangle property, the Corporation shall consult the Administrator and the Commission.

(3) Competition.—The Corporation shall conduct a competition for selection of a person to develop the Federal Triangle property. Such competition shall be conducted in accordance with the existing policies and procedures of the Corporation for a development competition.

(4) Prohibition on payments for bids and designs.—The Corporation may not make any payment to any person for any bid or design proposal under the competition conducted under this subsection.

(b) Development Agreement.—

(1) Authority to enter.—the Corporation may enter into an agreement for the development of the Federal Triangle property in accordance with the development proposal approved under subsection (a) with the person selected to develop the Federal Triangle property.

(2) Contents.—The development agreement under paragraph (1) shall at a minimum provide for the following:

(A) The construction of a building on the Federal Triangle property in accordance with the architectural plans and specifications selected under the development competition.

(B) Ownership of such property and building will be by the United States; except that the person selected under subsection (a) may own such building for a term not to exceed 35 years beginning on the date on which construction of such building commences.

(C) The Administrator to lease such building from such person for the term determined under subparagraph (B).

(D) Inspection of such building during construction by the Administrator and the Coporation.

The agreement shall include a copy of the lease agreement entered into by the Administrator and such person under section 6.

(c) Connection With Rail System.—The building to be constructed under this section may be connected with the rapid rail system operated by the Washington Metropolitan Area Transit Authority via a station located on the Federal Triangle property. The construction cost of making such connection shall be the responsibility of the person selected to develop the Federal Triangle property. The Washington Metropolitan Transit Authority may not charge any fee or other amount for the connection of such building to such rail system.

(d) Construction Standards and Inspection.—The building constructed under this section shall meet all standards applicable to construction of a Federal building. During construction, the Administrator and the Corporation shall conduct periodic inspections of such building for the purpose of assuring that such standards are being met.

(e) Treatment of PADC.—For purposes of any State or local law (including laws relating to taxation and building permits and inspections), the Corporation with respect to development of the Federal Triangle property shall be treated as the General Services Administration is treated with respect to acquisition and construction of a Federal building.

(f) Applicability of Certain Laws.—Any person who enters into an agreement with the Corporation under subsection (b) for development of the Federal Triangle property shall not, with respect to such development, be subject to any State or local law relating to building permits and building inspection. Such property and any improvements to such property shall not be subject to real and personal property taxation, or special assessments.

(g) Treatment of Federal Triangle Development Area.—For purposes of the Pennsylvania Avenue Development Corporation Act of 1972 (other than section 5), the Federal Triangle development area shall be treated as being a part of the development area described in section 2(f) of such Act (40 U.S.C. 871(f)). The Corporation shall have the same authority with respect to the Federal Triangle development area as it has with respect to the development area described in such section 2(f).

(h) Powers of the Corporation.—The Corporation shall have with respect to its duties under this Act any powers which the Corporation has under section 6 (other than paragraph (9) and (10)) of the Pennsylvania Avenue Development Corporation Act of 1972 (40 U.S.C. 875) with respect to its duties under such Act. The Corporation may enter into agreements with any Federal agency or the Commission with respect to this Act, or as permitted or authorized by 31 U.S.C. 1535.

(i) Authorization of Appropriation.—There is authorized to be appropriated, from the fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)), to the Administrator for transfer to the Corporation for carrying out this section and section 4 $3,700,000 for fiscal years beginning after September 30, 1987. Such sums shall remain available until expended.

SEC. 6 LEASE OF BUILDING BY GSA.

(a) Entry Into Agreement.—Before the development agreement is entered into under section 5, the Administrator shall enter into with the person selected to construct the building under section 5 an agreement for the lease of such building for Federal office space and the international cultural and trade center space.

(b) Terms of Agreement.—The agreement entered into under this section shall include at a minimum the following terms:

(1) The Administrator will lease the building for the term that the person selected to construct the building owns the building.

(2) The rental rate per square foot of occupiable space for all space in the building will be in the best interest of the United States and carry out the objectives of this Act, but in no case may the aggregate rental rate for all space in the building produce an amount less than the amount necessary to amortize the cost of development of the Federal Triangle property over the term of the lease.

(3) Obligations of funds from the Federal Building Fund shall only be made on an annual basis to meet lease payments.

(4) The Administrator will be permitted to sublease to the Commission for establishment, operation, and management of the international cultural and trade center under section 8.

(c) Accounting System.—The Administrator shall maintain an accounting system for operation and maintenance of the building to be constructed under section 5 which will permit accurate projections of the dates and the costs of major repairs, improvements, reconstructions, and replacements of such building and other capital expenditures on such building. The Administrator shall take such action as may be necessary to assure that funds are available to cover such projected costs and expenditures.

(d) Obligation of Funds.—Obligation of funds to make lease payments under this section may only be made on an annual basis and from amounts in the fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)).

SEC. 7. INTERNATIONAL CULTURAL AND TRADE CENTER COMMISSION.

(a) Establishment.—There is established a commission to be known as the International Cultural and Trade Center Commission.

(b) Duties of Commission.—The duties of the Commission are as follows:

(1) To participate in accordance with section 4 in the planning of the building to be constructed under section 5.

(2) To enter into an agreement with the Administrator under section 8 for the lease of space in the building constructed under section 5 for establishment, operation, and maintenance of an international cultural and trade center.

(3) To operate and manage any space leased under section 8 in accordance with the objectives of this Act.

(4) To prepare under section 8 an annual report on the operation and management of such space.

(c) Membership.—

(1) Number and appointment.—The Commission shall be composed of 15 members as follows:

(A) The Secretary of State or his delegate.

(B) The Secretary of Commerce or his delegate.

(C) The Secretary of Agriculture or his delegate.

(D) The Special Trade Representative or his delegate.

(E) The Administrator or his delegate.

(F) The Director of the United States Information Agency or his delegate.

(G) The Chairman of the Corporation or his delegate.

(H) The Mayor of the District of Columbia or his delegate.

(I) The Chairman of the National Endowment for the Arts or his delegate.

(J) 6 individuals appointed by the President one of whom shall be a resident and registered voter of the District of Columbia and all of whom shall be specially qualified to serve on the Commission by virtue of their education, training, or experience in international trade, commerce, cultural exchange, finance, business, or management of facilities similar to the international cultural and trade center described in section 8.

A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(2) Terms.—

(A) General rule.—Except as provided in subparagraph (B), appointed members of the Commission shall be appointed for terms of 6 years.

(B) Filling a vacancy.—Any member of the Commission appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(3) Pay.—Members of the Commission shall serve without pay; except that any member of the Commission appointed under paragraph (1)(J) shall while attending meetings of and attending hearings held by the Commission be entitled to travel or transportation expenses in accordance with section 5703 of title 5, United States Code.

(4) Quorum.—8 members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(5) Designation of chairman.—The Chairman and Vice Chairman of the Commission shall be designated by the President; except that the Chairman may only be designated from individuals appointed under paragraph (1)(J).

(6) Meetings.—The Commission shall meet at the call of the Chairman but no less often than every 4 months.

(d) Staff of Commission.—

(1) General rule.—The Commission shall have a staff, including an executive director. Such staff shall be composed of individuals who may either be appointed under paragraph (2) or detailed under paragraph (3); except that the staff of the Commission may not at any time be composed of more than 15 individuals.

(2) Authority to appoint.—The Commission may appoint and fix the pay of not to exceed 10 individuals, including an individual to serve as the executive director of the Commission. Staff appointed under this paragraph shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service, and shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates; except that—

(A) the individual appointed to serve as the executive director and one other individual appointed to the staff of the Commission may be appointed and compensated without regard to such provisions; and

(B) the pay of any individual (other than the 2 individuals referred to subparagraph (A)) appointed under this paragraph shall be at a rate not to exceed the maximum rate of basic pay payable for GS-17 of the General Schedule.

(3) Detail.—Subject to paragraph (1), upon request of the Commission, the Secretary of State, the Secretary of Commerce, the Secretary of Agriculture, the Special Trade Representative, the Administrator, and the Director of the United States Information Agency may detail, on a reimbursable basis, such of the personnel of the department or agency such person heads as may be necessary to assist the Commission in carrying out its duties under this Act.

(e) Office Space and Supplies.—Upon request of the Commission, the Secretary of State, the Secretary of Commerce, the Secretary of Agriculture, the Special Trade Representative, the Administrator, and the Director of the United States Information Agency may provide, on a reimbursable basis, such office space, supplies, equipment, and other support services as may be necessary for the Commission to carry out its duties under this Act.

(f) Powers of Commission.—

(1) Hearings and sessions.—The Commission may, for the purpose of carrying out its duties under this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) Powers of members and agents.—Any member or agent of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this subsection.

(3) Obtaining official data.—The Commission may obtain from any department or agency of the United States information necessary to enable it to carry out its duties under this Act. Upon request of the Chairman of the Commission, the head of such department or agency shall furnish such information to the Commission.

(4) Gifts.—The Commission may accept, use, and dispose of gifts or donations of services or property.

(5) Mails.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) Authority to contract out.—Subject to applicable provisions of law, the Commission may enter into such contracts or agreements as the Commission considers appropriate to carry out any of its duties under this Act.

(7) Experts and consultants.—The Commission may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code.

(g) Limitation on Expenses.—

(1) Maximum amount.—The maximum amount of expenses (including salaries, travel expenses, expenses for temporary and intermittent services, expenses under contracts or agreements entered into under subsection (f)(7), and supply expenses) which the Commission may incur in any fiscal year may not exceed $1,000,000 in any fiscal year.

(2) Adjustment for inflation.—Any dollar amount referred to in this subsection, subsection (h)(3), and section 8(d) may be adjusted by the Commission annually to reflect a percentage increase or decrease in the Consumer Price Index for All Urban Consumers for the preceding calendar year, as determined by the United States Department of Labor, Bureau of Labor Statistics.

(h) Funding.—

(1) Requests for transfers.—If the Commission incurs any expenses in carrying out its duties under this Act, the Commission may request the Secretary of State, the Administrator, or any other Federal official referred to in subsection (c)(1) to transfer to the Commission an amount equal to such expenses from funds appropriated to such official.

(2) Authority for transfers.—Subject to paragraphs (3) and (5), any official referred to in paragraph (1) may transfer such amounts from funds appropriated to such official as may be necessary to enable the Commission to carry out its duties under this Act.

(3) Maximum amount of requests and transfers.—The aggregate amount of requests for transfers, and the aggregate amount of transfers, under this subsection may not exceed $1,000,000 in any fiscal year.

(4) Deposit of receipts.—The Commission shall deposit all amounts it receives under this subsection into the account established by section 8(d).

(5) Limitation on effect.—This subsection shall not be effective with respect to any fiscal year beginning after the last day of the 2-year period beginning on the first day the Commission deposits under section 8(c) funds into the account established by section 8(d).

SEC. 8. OPERATION AND MANAGEMENT OF INTERNATIONAL CULTURAL AND TRADE CENTER.

(a) Lease of Space.—

(1) Agreement.—The Administrator and the Commission shall enter into an agreement for the Commission to lease from the Administrator not to exceed 500,000 square feet of occupiable space in the building to be constructed under section 5 to serve as an international cultural and trade center.

(2) Size.—The Commission shall determine the amount of space necessary for operation of the international cultural and trade center based upon demand, except that such space may not to exceed 500,000 square feet of occupiable space. Upon certification of such demand by the Commission, the Administrator shall lease such amount of space to the Commission.

(3) Terms.—The agreement entered into under this subsection shall include at a minimum the following terms:

(A) The Commission will be permitted to sublease its space in such building to foreign missions, commercial establishments sponsored by foreign governments, and international cultural and trade organizations, including domestic organizations and State and local governments.

(B) All space leased by the Commission from the Administrator will be at such rate as the Administrator and the Commission may agree but not less than the rate established under section 6(b)(2) plus such amount as the Administrator determines is necessary to pay on an annual basis for the costs of administering such building (including operation, maintenance, and rehabilitation costs) which are attributable to such space.

(C) Such terms relating to default and nonperformance as the Administrator considers appropriate to protect the interests of the United States.

(b) Establishment of Center.—

(1) By commission.—The Commission shall establish, operate, and maintain an international cultural and trade center in the space lease from the Administrator under subsection (a).

(2) Contents.—The international cultural and trade center may include the following:

(A) Office space for foreign missions and domestic and international organizations involved in international trade or cultural activities.

(B) A world exhibition center providing space for exhibits from foreign nations.

(C) An international bazaar providing space for commercial establishments sponsored by foreign governments.

(D) An international center providing a centralized foreign trade reference facility, conference and meeting facilities, and audio-visual facilities for translating foreign languages.

(E) Such other facilities as are consistent with the objectives of this section.

(3) Subleasing of space.—

(A) Agreements.—The Commission may enter into agreements with foreign missions and international cultural and trade organizations (including domestic organizations and State and local governments) to sublease any or all of the space it leased from the Administrator under subsection (a). Space subleased to such missions and organizations may only be used for establishment of trade centers and exhibitions, offices, and commercial establishments described in paragraph (2) and such other facilities as the Commission determines are consistent with an international cultural and trade center.

(B) Terms and conditions.—An agreement entered into under this subsection shall be subject to such terms and conditions as the Commission determines are appropriate to carry out the objectives of this Act. The rental rate per square foot of occupiable space for space subleased under this subsection shall be determined in accordance with subsection (c); except that the Commission may adjust such rate with respect to any space subleased to a foreign mission in accordance with the recommendations of the Secretary of State acting in accordance with section 204(b) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4303(b)). The Secretary of State may reimburse the Commission for any expenses which are incurred by the Commission as a result of making adjustments in the rental rate for space under this subparagraph.

(4) Reference facility and cultural events.—The Commission may establish in a portion of the space leased from the Administrator under this section a centralized foreign trade reference facility and conference and meeting facilities and audio-visual facilities for translating foreign languages. The Commission may permit cultural events and other activities to be held in a portion of such space. The Commission shall establish in accordance with subsection (c) fees and charges for—

(A) the use of such facilities and auditorium, and

(B) the holding of such events and activities.

(c) Rents and Fees.—

(1) Establishment of amount.—The Commission shall establish the amounts of fees under subsection (b)(4), and establish a rental rate for space subleased under subsection (b)(3), taking into account the objectives of this section and the best interests of the United States. In any fiscal year beginning after the last day of the 2-year period beginning on the first day the Commission deposits under this subsection funds into the account established under subsection (d), the aggregate amount of such fees and rent shall not be less than the cost to the Commission of subleasing space from the Administrator under subsection (a) in such fiscal year plus the expenses (including salaries, travel expenses, expenses for temporary and intermittent services, expenses under contracts or agreements entered into under section 7(f)(7), supply expenses and any reimbursable expenses) incurred by the Commission in carrying out its duties under this Act in such fiscal year.

(2) Collection.—The Commission shall collect—

(A) rent for space subleased under subsection (b), and

(B) fees and charges under subsection (b).

(3) Deposit.—The Commission shall deposit all amounts collected under this subsection and all amounts transferred by the Secretary of State to the Commission under subsection (b)(3)(B) into the account established under subsection (d).

(d) Separate Account.—

(1) Establishment.—There is established in the Treasury of the United States a separate account.

(2) Contents.—The account shall include all amounts deposited by the Commission under subsection (c) and section 7(h).

(3) Availability.—Amounts in the account established under this subsection shall be available to the Commission to pay—

(A) all rents owed to the Administrator for lease of space under subsection (a);

(B) all expenses (including salaries, travel expenses, expenses for temporary and intermittent services, expenses under contracts or agreements entered into under section 7(f)(7), and supply expenses) incurred by the Commission in carrying out its duties under this Act but not exceeding $1,000,000 in any fiscal year.

(4) Payments.—The Commission shall pay, from amounts in the account established by this subsection—

(A) for lease of space under subsection (a) on an annual basis amounts owed to the Administrator for deposit into the fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)); and

(B) all expenses incurred by it in carrying out its duties under this Act but not exceeding $1,000,000 in any fiscal year.

(5) Transfer of excess funds.—Periodically, but not less often than once per fiscal year, funds which the Commission determines are in excess of those needed to make the payments described in paragraph (4) shall be transferred by the Commission from the account established under this subsection to the fund established under section 210(f) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490 (f)).

(h) Annual Report and Budget.—The Commission shall prepare and transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives (1) an annual report in January of each calendar year on the operation and management of the space leased by the Commission under subsection (a) and the international cultural and trade center, and (2) a budget for such fiscal year for operation, maintenance, and alteration of such center, including amounts received and projected to be received by the Commission in such fiscal year and expenses incurred and projected to be incurred by the Commission in such fiscal year.

SEC. 9. DEFINITIONS.

As used in this Act—

(1) Administrator.—The term "Administrator" means the Administrator of General Services.

(2) Commission.—The term "Commission" means the International Cultural and Trade Center Commission established by section 7.

(3) Corporation.—The term "Corporation" means the Pennsylvania Avenue Development Corporation.

(4) Federal triangle development area.—The term "Federal Triangle development area" means the area which begins at a point on the southwest corner of the intersection of Fourteenth Street and Pennsylvania Avenue (formerly E Street), Northwest; thence southerly along the west side of Fourteenth Street to the northwest corner of the intersection of Fourteenth Street and Constitution Avenue, Northwest; thence easterly along the north side of Constitution Avenue to the northeast corner of the intersection of Twelfth Street and Constitution Avenue, Northwest; thence northerly along the east side of Twelfth Street and Constitution Avenue, Northwest; thence northerly along the east side of Twelfth Street to the southeast corner of the intersection of Twelfth Street and Pennsylvania Avenue, Northwest; thence westerly along the south side of Pennsylvania Avenue to the point of beginning being the southwest corner of the intersection of Fourteenth Street and Pennsylvania Avenue (formerly E Street), Northwest.

(5) Federal triangle property.—The term "Federal Triangle property" means—

(A) the property owned by the United States in the District of Columbia, known as the "Great Plaza" site, which consists of squares 256, 257, 258, parts of squares 259 and 260, and adjacent closed rights-of-way as shown on plate IV of the King Plats of 1803 located in the Office of the Surveyor of the District of Columbia; and

(B) any property acquired by the Corporation under section 3(b);

except that for purposes of section 3 such term does not include any property referred to in subparagraph (B).

BRIEF SECTION-BY-SECTION ANALYSIS OF FEDERAL TRIANGLE BILL

SEC. 1. FEDERAL TRIANGLE DEVELOPMENT ACT

SEC. 2. FINDINGS AND PURPOSES

This section states that development of a federal building complex and international cultural and trade center on the federal triangle site is in the national interest. It directs the General Services Administration (GSA), Pennsylvania Avenue Corporation (Corporation) and International Cultural and Trade Center Commission (Commission) to work cooperatively to develop the project.

The act transfers title over the federal triangle property temporarily to the Pennsylvania Avenue Development Corporation, and gives the Corporation powers of eminent domain in order to accomplish the development of the site.

Congress directs the Corporation after consultation with the Administrator of GSA and Commission to prepare development plans, and to enter into an agreement with a private developer for the site.

The design and development of the site will be guided insofar as practicable by the guiding principles for federal architecture, recommended by the Committee on Federal Office Space in 1962.

SEC. 3. FEDERAL TRIANGLE PROPERTY

This section transfers title over the federal triangle site to the Corporation until development is completed, the lease term between the developer and GSA is terminated, and the building ownership is turned over to the federal government.

SEC. 4. DEVELOPMENT PROPOSAL

This section specifies the contents of the written development proposal to be prepared by the Corporation within 365 days of enactment, and limitations on the size, height and design of the building.

In preparing the development proposal, the Corporation must consult with the Secretary of State, Administrator of GSA and Commission.

The Commission will prepare the comprehensive leasing plan for occupancy of the international cultural and trade center.

The Corporation will submit the development proposal to the GSA, the Commission, the National Capital Planning Commission and the Commission of Fine Arts. These agencies have 90 days to notify the Corporation of their approval or of proposed changes to the proposal.

The Corporation will submit the proposal along with any areas of difference identified by reviewing agencies to the Congress within 150 days after the proposal is submitted for review to those agencies.

SEC. 5. CONSTRUCTION OF BUILDING

After the development proposal is reviewed by the Senate Committee on Environment and Public Works and the House Committee on Public Works and Transportation, the Corporation will conduct a development competition and will select a developer in consultation with the GSA Administrator and the Commission. The development agreement between the Corporation and the developer will contain elements specified in this section.

SEC. 6. LEASE OF BUILDING BY GSA

Before the development agreement in section 5 is executed, the Administrator will enter a lease with the developer selected which will cover both the federal office portion and the international cultural and trade center portion of the complex. This section specifies terms of that agreement, including authority for the Administrator to sublease to the Commission for the international cultural and trade center.

SEC. 7. INTERNATIONAL CULTURAL AND TRADE CENTER COMMISSION

This section establishes the international cultural and trade center commission appointed by the President whose duties are to participate in the planning, establishment, operation and maintenance of an international cultural and trade center. Fifteen Members are designated from federal agencies including 6 from the private sector.

The Secretaries of State, Commerce, Agriculture, the Special Trade Representative, The U.S. Information Agency Director, and the GSA Administrator are authorized to detail personnel, office space, supplies, equipment and other support services to the Commission upon request of the Commission, on a nonreimbursable basis. Similarly, the Commission may request these agencies to transfer funds to the Commission to carry out its duties.

SEC. 8. OPERATION AND MANAGEMENT OF INTERNATIONAL CULTURAL AND TRADE CENTER

This section describes features of the International Cultural and Trade Center (ICTC), which uses will include space for foreign missions, and international and domestic organizations involved in international trade or cultural activities. Other features of the ICTC may include a world exhibition center, international bazaar, international conference and reference center, and an auditorium.

Funds collected from leases in the ICTC which exceed expenses of the Commission, will be deposited in the Federal Buildings Fund.

The ICTC will make an annual report to Congress, including an itemization of expenses and receipts.

SEC. 9. DEFINITIONS

This section defines terms in this act, including a description of the federal triangle property.●

By Mr. ROTH (for himself and Ms. MIKULSKI):

S. 1551. A bill to grant the consent of Congress to the Appalachian States low-level radioactive waste compact; to the Committee on the Judiciary.

APPALACHIAN LOW-LEVEL RADIOACTIVE WASTE COMPACT

● Mr. ROTH. Mr. President, it was a year ago yesterday that I introduced legislation to allow for the formation of the Appalachian low-level waste compact. Today I take great pleasure in reintroducing this bill.

Mr. President, the Low-Level Radioactive Waste Policy Act of 1980 required that States establish regional compacts for the disposal of low-level radioactive waste produced by States within the compact. This act takes responsibility for the disposal of this waste from sites in South Carolina, Nevada, and Washington and places it with the producing State. Last year the Low-Level Radioactive Waste Policy Act amendments became law. Title I of these amendments set forth the means by which the 1980 act could be enacted by defining responsibilities for the disposal of low-level radioactive waste, providing incentives for States to move forward in developing regional disposal sites, and setting policies that will govern the transition to the regional disposal sites. Title II of these amendments established the Omnibus Low-Level Radioactive Waste Interstate Compact Consent Act. This gave consent to the Northwest, Central, Southeast, Central Midwest, Midwest, Rocky Mountain, and Northeast interstate low-level radioactive waste management compacts.

Mr. President, as you are well aware, the disposal of low-level radioactive waste involves numerous difficult issues which, of necessity, must be addressed. The problems, as well as the solutions, are both complex and controversial. Our inability to squarely confront these issues has meant that the timely and proper disposal of low-level radioactive waste has not always been possible. While the elimination of such waste would be ideal, the activities that produce it play vital roles in the economy, both as a source of employment and in making contributions to our quality of life. Producers include hospitals, research facilities, and industry. The wastes produced include rags, protective clothing, radiopharmaceuticals, and lab equipment. Although these wastes do not pose the same threat to health and safety as does high-level radioactive waste produced by nuclear powerplants, we must still take care to dispose of them in a responsible and timely manner.

Mr. President, the Appalachian compact legislation I am introducing today establishes an organization and describes the procedures under which Delaware, Maryland, Pennsylvania, and West Virginia can, in a responsible and timely manner, develop new disposal capacity for low-level radioactive waste generated in the region. The compact has been ratified, in identical form, in all four States. It is imperative that we act quickly so that we can begin to meet the goals established by the Congress for low-level radioactive waste disposal and meet the safety and health needs of the people in this region.

I ask unanimous consent that the bill, in its entirety, be placed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1551

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENT TO TITLE II OF PUBLIC LAW 99-240 TO GRANT CONGRESSIONAL CONSENT TO THE APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT.

Title II of Public Law 99-240 is amended by adding at the end thereof the following:

"SEC. 228. APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT.

"In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act, the consent of Congress is hereby given to the States of Delaware, Maryland, Pennsylvania, and West Virginia to enter into the Appalachian States Low-Level Radioactive Waste Compact. Such compact is substantially as follows:

"APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT

"PREAMBLE

"Whereas, The United States Congress, by enacting the Low-Level Radioactive Waste Policy Act (42 U.S.C. §§ 2021b-2021d) has encouraged the use of interstate compacts to provide for the establishment and operation of facilities for regional management of low-level radioactive waste;

"Whereas, Under section 4(a)(1)(A) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. § 2021(a)(1)A)), each state is responsible for providing for the capacity for disposal of low-level radioactive waste generated within its borders;

"Whereas, To promote the health, safety and welfare of residents within, the Commonwealth of Pennsylvania and other eligible states as defined in Article 5(A) of this compact shall enter into a compact for the regional management and disposal of low-level radioactive waste.

"Now, therefore, the Commonwealth of Pennsylvania and the state of West Virginia and other eligible states hereby agree to enter into the Appalachian States Low-Level Radioactive Waste Compact.

"ARTICLE 1

"DEFINITIONS

"As used in this compact, unless the context clearly indicates otherwise:

(a) 'Broker' means any intermediate person who handles, treats, processes, stores, packages, ships or otherwise has responsibility for or possesses low-level waste obtained from a generator.

(b) 'Carrier' means a person who transports low-level waste to a regional facility.

(c) 'Commission' means the Appalachian States Low-Level Radioactive Waste Commission.

(d) 'Disposal' means the isolation of low-level waste from the biosphere.

(e) 'Facility' means any real or personal property within the region, and improvements thereof or thereon, and any and all plant structures, machinery and equipment acquired, constructed, operated or maintained for the management or disposal of low-level waste.

(f) 'Generate' means to produce low-level waste requiring disposal.

(g) 'Generator' means a person whose activity results in the production of low-level waste requiring disposal.

(h) 'Hazardous life' means the time required for radioactive materials to decay to safe levels, as defined by the time period for the concentration of radioactive materials within a given container or package to decay to maximum permissible concentrations as defined by Federal law or by standards to be set by a host state, whichever is more restrictive.

(i) 'Host state' means Pennsylvania or other party state so designated by the Commission in accordance with Article 3 of this compact.

(j) 'Institutional control period' means the time of the continued observation, monitoring and care of the regional facility following transfer of control from the operator to the custodial agency.

(k) 'Low-level waste' means radioactive waste that:

(1) "is neither high-level waste or transuranic waste, nor spent nuclear fuel, nor by-product material as defined in Section 11(e)(2) of the Atomic Energy Act of 1954 as amended; and

(2) "is classified by the Federal Government as low-level waste, consistent with existing law; but does not include waste generated as a result of atomic energy defense activities of the Federal Government, as defined in Public Law 96-573, or Federal research and development activities.

(l) 'Management' means the reduction, collection, consolidation, storage, packaging or treatment of low-level waste.

(m) 'Operator' means a person who operates a regional facility.

(n) 'Party state' means any state that has become a party in accordance with Article 5 of this compact.

(o) 'Person' means an individual, corporation, partnership or other legal entity, whether public or private.

(p) 'Region' means the combined geographical area within the boundaries of the party states.

(q) 'Regional facility' means a facility within any party state which has been approved by the Commission for the disposal of low-level waste.

(r) 'Shallow land burial' means the disposal of low-level radioactive waste directly in subsurface trenches without additional confinement in engineered structures or by proper packaging in containers as determined by the law of the host state.

(s) 'Transuranic waste' means low-level waste containing radionuclides with an atomic number greater than 92 which are excluded from shallowland burial by the Federal Government.

"ARTICLE 2

"THE COMMISSION

(A) "Creation and Organization.

(1) "Creation—There is hereby created the Appalachian States Low-Level Radioactive Waste Commission. The Commission is hereby created as a body corporate and politic, with succession for the duration of this compact, as an agency and instrumentality of the governments of the respective signatory parties, but separate and distinct from the respective signatory party states. The Commission shall have central offices located in Pennsylvania.

(2) "Commission Membership—The Commission shall consist of two voting members from each party state to be appointed according to the laws of each party state and two additional voting members from each host state to be appointed according to the laws of each host state. Upon selection of the site of the regional facility, an additional voting member shall be appointed to the Commission who shall be a resident of the county or municipality where the facility is to be located. The appointing authority of each party state shall notify the Commission in writing of the identities of the members and of any alternates. An alternate may vote and act in the member's absence. No member shall have a financial interest in any industry which generates low-level radioactive waste, any low-level radioactive waste regional facility or any related industry for the duration of the member's term. No more than one-half the members and alternates from any party state shall have been employed by or be employed by a low-level waste generator or related industry upon appointment to or during their tenure of office; provided, that no member shall have been employed by or be employed by a regional facility operator. No member or alternate from any party state shall accept employment from any regional facility operator or brokers for at least three years after leaving office.

(3) "Compensation—Members of the Commission and alternates shall serve without compensation from the Commission but may be reimbursed for necessary expenses incurred in and incident to the performance of their duties.

(4) "Voting Power—Each Commission member is entitled to one vote. Unless otherwise provided in this compact, affirmative votes by a majority of a host state's members are necessary for the Commission to take any action related to the regional facility and the disposal and management of low-level waste within that host state.

(5) "Organization and Procedure.

(a) "The Commission shall provide for its own organization and procedures and shall adopt by-laws not inconsistent with this compact and any rules and regulations necessary to implement this compact. It shall meet at least once a year in the county selected to host a regional facility and shall elect a chairman and vice chairman from among its members. In the absence of the chairman, the vice chairman shall serve.

(b) "All meetings of the Commission shall be open to the public with at least 14 days' advance notice, except that the chairman may convene an emergency meeting with less advance notice. Each municipality and county selected to host a regional facility shall be specifically notified in advance of all Commission meetings. All meetings of the Commission shall be conducted in a manner that substantially conforms to the Administrative Procedure Act (5 U.S.C. Ch. 5, Subch. II, and Ch. 7). The Commission may, by a two-thirds vote, including approval of a majority of each host state's Commission members, hold an Executive Session closed to the public for the purpose of: considering or discussing legally privileged or proprietary information; to consider dismissal, disciplining of or hearing complaints or charges brought against an employee or other public agent unless such person requests such public hearing; or to consult with its attorney regarding information or strategy in connection with specific litigation. The reason for the Executive Session must be announced at least 14 days prior to the Executive Session, except that the chairman may convene an emergency meeting with less advance notice, in which case the reason for the Executive Session must be announced at the open meeting immediately subsequent to the Executive Session. All action taken in violation of this open meeting provision shall be null and void.

(c) "Detailed written minutes shall be kept of all meetings of the Commission. All decisions, files, records and data of the Commission, except for information privileged against introduction in judicial proceedings, personnel records and minutes of a properly convened Executive Session, shall be open to public inspection subject to a procedure that substantially conforms to the Freedom of Information Act (Public Law 89-554, 5 U.S.C. § 552) and applicable Pennsylvania law and may be copied upon request and payment of fees which shall be no higher than necessary to recover copying costs.

(d) "The Commission shall select an appropriate staff, including an Executive Director, to carry out the duties and functions assigned by the Commission. Notwithstanding any other provision of law, the Commission may hire and/or retain its own legal counsel.

(e) "Any person aggrieved by a final decision of the Commission which adversely affects the legal rights, duties or privileges of such person may petition a court of competent jurisdiction, within 60 days after the Commission's final decision, to obtain judicial review of said final decisions.

(f) "Liabilities of the Commission shall not be deemed liabilities of the party states. Members of the Commission shall not be personally liable for actions taken in their offical capacity.

(B) "Powers and Duties.

The Commission:

(a) "Shall conduct research and establish regulations to promote a reasonable reduction of volume and curie content of low-level wastes generated in the region. The regulations shall be reviewed and, if necessary, revised by the Commission at least annually.

(b) "Shall ensure, to the extent authorized by Federal law, that low-level wastes are safely disposed of within the region except that the Commission shall have no power or authority to license, regulate or otherwise develop a regional facility, such powers and authority being reserved for the host state(s) as permitted under the law.

(c) "Shall designate as "host states" any party state which generates 25 percent or more of Pennsylvania's volume or total curie content of low-level waste generated based on a comparison of averages over three successive years, as determined by the Commission. This determination shall be based on volume or total curie content, whichever is greater.

(d) "Shall ensure, to the extent authorized by Federal law, that low-level waste packages brought into the regional facility for disposal conform to applicable state and Federal regulations. Low-level waste brokers or generators who violate these regulations will be subject to a fine or other penalty imposed by the Commission, including restricted access to a regional facility. The Commission may impose such fines and/or penalties in addition to any other penalty levied by the party states pursuant to Article 4(D).

(e) "Shall establish such advisory committees as it deems necessary for the purpose of advising the Commission on matters pertaining to the management and disposal of low-level waste.

(f) "May contract to accomplish its duties and effectuate its powers subject to projected available resources. No contract made by the Commission shall bind a party state.

(g) "Shall prepare contingency plans for management and disposal of low-level waste in the event any regional facility should be closed or otherwise unavailable.

(h) "Shall examine all records of operators of regional facilities pertaining to operating costs, profits or the assessment or collection of any charge, fee or surcharge and may make recommendations to the host state(s) which shall review the recommendations in accordance with its (their) own sovereign laws.

(i) "Shall have the power to sue and be sued subject to Article 2(A)(5)(e) and may seek to intervene in any administrative or judicial proceeding.

(j) "Shall assemble and make available, to the party states and to the public, information concerning low-level waste management and disposal needs, technologies and problems.

(k) "Shall keep current and annual inventories of all generators by name and quantity of low-level waste generated within the region, based upon information provided by the party states. Inventory information shall include both volume in cubic feet and total curie content of the low-level waste and all available information on chemical composition and toxicity of such wastes.

(l) "Shall keep an inventory of all regional facilities and specialized facilities, including, but not necessarily restricted to, information on their size, capacity and location, as well as specific wastes capable of being managed, and the projected useful life of each regional facility.

(m) "Shall make and publish an annual report to the governors of the signatory party states and to the public detailing its programs, operations and finances, including copies of the annual budget and the independent audit required by this compact.

(n) "Notwithstanding any other provision of this compact to the contrary, may, with the unanimous approval of the Commission members of the host state(s), enter into temporary agreements with nonparty states or other regional boards for the emergency disposal of low-level waste at the regional facility, if so authorized by law(s) of the host state(s), or other disposal facilities located in states that are not parties to this agreement.

(o) "Shall promulgate regulations, pursuant to host state law, to specifically govern and define exactly what would constitute an emergency situation and exactly what restrictions and limitations would be placed on temporary agreements.

(p) "Shall not accept any donations, grants, equipment, supplies, materials or services, conditional or otherwise, from any source, except from any Federal agency and from party states which are certified as being legal and proper under the laws of the donating party state.

(C) "Budget and Operation.

(1) "Fiscal Year—The Commission shall establish a fiscal year which conforms to the fiscal year of the Commonwealth of Pennsylvania.

(2) "Current Expense Budget—Upon legislative enactment of this compact by two party states and each year until the regional facility becomes available, the Commission shall adopt a current expense budget for its fiscal year. The budget shall include the Commission's estimated expenses for administration. Such expenses shall be allocated to the party states according to the following formula:

"Each designated initial host state will be allocated costs equal to twice the costs of the other party states, but such costs will not exceed $200,000.

"Each remaining party state will be allocated a cost of one half the cost of the initial host state, but such costs will not exceed $100,000. The party states will include the amounts allocated above in their respective budgets, subject to such review and approval as may be required by their respective budgetary processes. Such amounts shall be due and payable to the Commission in quarterly installments during the fiscal year.

(3) "Annual Budget Request—For continued funding of its activities, the Commission shall submit an annual budget request to each party state for funding, based upon the percentage of the region's waste generated in each state in the region, as reported in the latest available annual inventory required under Article 2(B)(k). The percentage of waste shall be based on volume of waste or total curie content as determined by the Commission.

(4) "Annual Report to Include Budget—The Commission shall prepare and include in the annual report a budget showing anticipated receipts and disbursements for the ensuring year.

(5) "Annual Independent Audit—

(a) "As soon as practicable after the closing of the fiscal year, an audit shall be made of the financial accounts of the Commission. The audit shall be made by qualified certified public accountants selected by the Commission, who have no personal direct or indirect interest in the financial affairs of the Commission or any of its officers or employees. The report of audit shall be prepared in accordance with accepted accounting practices and shall be filed with the chairman and such other officers as the Commission shall direct. Copies of the report shall be distributed to each Commission member and shall be made available for public distribution.

(b) "Each signatory party, by its duly authorized officers, shall be entitled to examine and audit at any time all of the books, documents, records, files and accounts and all other papers, things or property of the Commission. The representatives of the signatory parties shall have access to all books, documents, records, accounts, reports, files and all other papers, things or property belonging to or in use by the Commission and necessary to facilitate the audit; and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents and custodians.

"ARTICLE 3

"RIGHTS, RESPONSIBILITIES AND OBLIGATIONS OF PARTY STATES

(A) "Regional Facilities.

"There shall be regional facilities sufficient to dispose of the low-level waste generated within the region. Each regional facility shall be capable of disposing of such low-level waste but in the form(s) required by regulations or license conditions. Specialized facilities for particular types of low-level waste management, reduction or treatment may not be developed in any party state unless they are in accordance with the laws and regulations of such state and applicable Federal laws and regulations.

(B) "Equal Access to Regional Facilities.

"Each party state shall have equal access as other party states to regional facilities located within the region and accepting low-level waste, provided, however, that the host state may close the regional facility located within its borders when necessary for public health and safety. However, a host state shall send notification to the Commission in writing within three (3) days of its action and shall, within thirty (30) working days, provide in writing the reasons for the closing.

(C) "Initial Host State.

"Pennsylvania and party states which generated 25 percent or more of the volume or curies of low-level waste generated by Pennsylvania, based on a comparison of averages over the three years 1982 through 1984, are designated as 'initial host states' and are required to develop and host low-level waste sites as regional facilities. The percentage of waste from each state shall be determined by cubic foot volume or total curie content, whichever is greater.

(D) "Exemption From Being Initial Host State.

"Party states which generated less than 25 percent of the volume or curies of low-level waste generated by Pennsylvania, based on a comparison of averages over the years 1982 through 1984, shall be exempt from initial host state responsibilities. These states shall continue to be exempt as long as they generate less than the 25 percent threshold over successive 3-year periods. Once a state generates an average of 25 percent or more of the volume or curies generated by Pennsylvania over a successive 3-year period, it shall be designated as a 'host state' for a 30-year period by the Commission and shall immediately initiate development of a regional facility to be operational within five years. Such host state shall be prepared to accept at its regional facility low-level waste at least equal to that generated in the state. With Commission approval, any party state may volunteer to host a regional facility. The percentage of waste from each state shall be determined by either a cubic foot volume or total curie content, whichever is greater.

(E) "Useful Life of Regional Facilities.

"Pennsylvania and other host states are obligated to develop regional facilities for the duration of this compact. All regional facilities shall be designed for at least a 30-year useful life. At the end of the facility's life, normal closure and maintenance procedures shall be initiated in accordance with the applicable requirements of the host state and the Federal Government. Each host state's obligation for operating regional facilities shall remain as long as the state continues to produce over a 3-year period 25 percent or more of the volume or curies of low-level waste generated by Pennsylvania.

(F) "Duties of Host State.

"Each host state shall:

(a) "Cause a regional facility to be sited and developed on a timely basis.

(b) "Ensure by law, consistent with applicable state and Federal law, the protection and preservation of public health, safety and environmental quality in the siting, design, development, licensure or other regulation, operation, closure, decommissioning, long-term care and the institutional control period of the regional facility within the state. To the extent authorized by Federal law, a host state may adopt more stringent laws, rules or regulations than required by Federal law.

(c) "Ensure and maintain a manifest system which documents all waste-related activities of generators, brokers, carriers and related activities of generators, brokers, carriers and operators, and establish the chain of custody of waste from its initial generation to the end of its hazardous life. Copies of all such manifests shall be submitted to the Commission on a timely basis.

(d) "Ensure that charges for disposal of low-level waste at the regional facility are sufficient to fully fund the safe disposal and perpetual care of the regional facility and that charges are assessed without discrimination as to the party state of origin.

(e) "Submit an annual report to the Commission on the status of the regional facility which contains projections of the anticipated future capacity.

(f) "Notify the Commission immediately if any exigency arises requiring the possible temporary or permanent closure of a regional facility within the state at a time earlier than was projected in the state's most recent annual report to the Commission.

(g) "Require that the institutional control period of any disposal facility be at least as long as the hazardous life, as defined in Article 1(h), of the radioactive materials that are disposed at that facility.

(h) "Prohibit the use of any shallow land burial, as defined in Article 1(r), and develop alternative means for treatment, storage and disposal of low-level waste.

(i) "Establish by law, to the extent not prohibited by Federal law, requirements for financial responsibility, including, but not limited to:

(i) "Requirements for the purchase and maintenance of adequate insurance by generators, brokers, carriers and operators of the regional facility;

(ii) "Requirements for the establishment of a long-term care fund to be funded by a fee placed on generators to pay for preventative or corrective measures of low-level waste to the regional facility; and

(iii) "Any further financial responsibility requirements that shall be submitted by generators, brokers, carriers and operators as deemed necessary by the host state.

(G) "Duties of Party State.

Each party state:

(a) "Shall appropriate its portion of the Commission's initial and annual budgets as set out in Article 2(C)(2) and (3).

(b) "To the extent authorized by Federal law, shall develop and enforce procedures requiring low-level waste shipments originating within its borders and destined for a regional facility to conform to volume reduction, packaging and transportation requirements and regulations as well as any other requirements specified by the regional facility. Such procedures shall include, but are not limited to:

(i) "Periodic inspections of packaging and shipping practices;

(ii) "Periodic inspections of low-level waste containers while in custody of carriers; and

(iii) "Appropriate enforcement actions with respect to violations.

(c) "To the extent authorized by Federal law, shall, after receiving notification from a host state or other person that a person in a party state has violated volume reduction, packaging, shipping or transportation requirements or regulations, take appropriate action to ensure that violations do not recur. Appropriate action shall include, but is not limited to, the requirement that a bond be posted by the violator to pay the cost of repackaging at the regional facility and the requirement that future shipments be inspected. Appropriate action may also include suspension of the violator's use of the regional facility. Should such suspension be imposed, the suspension shall remain in effect until such time as the violator has, to the satisfaction of the party state imposing such suspension, complied with the appropriate requirements or regulations upon which the suspension was based and has taken appropriate action to ensure that such violation or violations do not recur.

(d) "Shall maintain a registry of all generators and quantities generated within the state.

(H) "Liability.

In the event of liability arising from the operation of any regional facility and during and after closure of that facility, each party state shall share in that liability in an amount equal to that state's share of the region's low-level waste disposed of at the facility. If such liability arises from negligence, malfeasance or neglect on the part of a host state or any party state, then any other host or party state(s) may make any claim allowable under law for that negligence, malfeasance or neglect. If such liability arises from a particular waste shipment or shipments to, or quantity of waste or condition at, the regional facility, then any host or party state may make any claim allowable under law for such liability. The percentage of waste shall be based on volume of waste or total curie content.

(I) "Failure of Party State to Fulfill Obligations.

"A party state which fails to fulfill its obligations, including timely funding of the Commission, may have its privileges under the Compact suspended or its membership in the Compact revoked by the Commission and be subject to any other legal and equitable remedies available to the party states.

"ARTICLE 4

"PROHIBITED ACTS AND PENALTIES

(A) "Prohibition.

"It shall be unlawful for any person to dispose of low-level waste within the region except at a regional facility unless authorized by the Commission.

(B) "Waste Disposed of Within Region.

"After establishment of the regional facility(s), it shall be unlawful for any person to dispose of any low-level waste within the region unless the waste was generated within the region or unless authorized to do so both by the Commission and by law of the host state in which said disposal takes place. For the purposes of this compact, waste generated within the region excludes radioactive material shipped from outside the party states to a waste management facility within the region. In determining whether to grant such authorization, the factors to be considered by the Commission shall include, but not be limited to, the following:

(a) "The impact on the health, safety and environmental quality of the citizens of the party states;

(b) "The impact of importing waste on the available capacity and projected life of the regional facility;

(c) "The availability of a regional facility appropriate for the safe disposal of the type of low-level waste involved.

(C) "Waste Generated Within Region.

"Any and all low-level waste generated within the region shall be disposed of at a regional facility, except for specific cases agreed upon by the Commission, with the affirmative votes by a majority of the Commission members of the host state(s) affected by the decision.

(D) "Liability.

"Generators, brokers and carriers of wastes, and owners and operators of sites shall be liable for their acts, omissions, conduct or relationships in accordance with all laws relating thereto. The party states shall impose a fine for any violation in an amount equal to the present and future costs associated with correcting any harm caused by the violation and shall assess punitive fines or penalties if it is deemed necessary. In addition, the host state shall bar any person who violates host state or Federal regulations from using the regional facility until that person demonstrates to the satisfaction of the host state the ability and willingness to comply with the law.

(E) "Conflict of Interest.

(1) "Prohibitions—

No commissioner, officer or employee shall:

(a) "Be financially interested, either directly or indirectly, in a contract, sale, purchase, lease or transfer of real or personal property to which the Commission is a party.

(b) "Solicit or accept money or any other thing of value in addition to the expenses paid to him by the Commission for services performed within the scope of his official duties.

(c) "Offer money or anything of value for or in consideration of obtaining an appointment, promotion or privilege in his employment with the Commission.

(2) "Forfeiture of Office or Employment—
Any officer or employee who shall willfully violate any of the provisions of this section shall forfeit his office or employment.

(3) "Agreement Void—
Any contract or agreement knowingly made in contravention of this section is void.

(4) "Criminal and Civil Sanctions—
Officers and employees of the Commission shall be subject, in addition to the provisions of this section, to such criminal and civil sanctions for misconduct in office as may be imposed by Federal law and the law of the signatory state in which such misconduct occurs.

"ARTICLE 5

"ELIGIBILITY, ENTRY INTO EFFECT, CONGRESSIONAL CONSENT, WITHDRAWAL

(A) "Eligibility.

"Only the States of Pennsylvania, West Virginia, Delaware and Maryland are eligible to become parties to this compact.

(B) "Entry into Effect.

"An eligible state may become a party state by legislative enactment of this compact or by executive order of the governor adopting this compact; provided, however, a state becoming a party state by executive order shall cease to be a party state upon adjournment of the first general session of its legislature convened thereafter, unless the legislature shall have enacted this compact before such adjournment.

(C) "Congressional Consent.

"This compact shall take effect when it has been enacted by the legislatures of Pennsylvania and one or more eligible states. However, Article 4(B) and (C) shall not take effect until Congress has consented to this compact. Every fifth year after such consent has been given, Congress may withdraw consent.

(D) "Withdrawal.

"A party state may withdraw from the compact by repealing the enactment of this compact, but no such withdrawal shall become effective until two years after enactment of the repealing legislation. If the withdrawing state is a host state, any regional facility in that state shall remain available to receive low-level waste generated within the region until five years after the effective date of the withdrawal.

"ARTICLE 6

"CONSTRUCTION AND SEVERABILITY

(A) "Construction.

"The provisions of this compact shall be broadly construed to carry out the purposes of the compact, but the sovereign powers of a party state shall not unnecessarily be infringed.

(B) "Severability.

"If any part or application of this compact is held invalid, the remainder, or its application to other situations or persons, shall not be affected.".●

By Mr. MOYNIHAN (for himself, Mr. D'AMATO, Mr. BUMPERS, Mr. GORE, Mr. SIMON, Mr. MITCHELL, Mr. NUNN, Mr. KERRY, and Mr. STAFFORD):

S.J. Res. 179. Joint resolution to establish a National Economic Commission; to the Committee on Banking, Housing, and Urban Affairs.

NATIONAL ECONOMIC COMMISSION

Mr. MOYNIHAN. Mr. President, I am today introducing the National Economic Commission Act and ask unanimous consent that the joint resolution be printed in the RECORD.

There being no objection, the joint resolution was ordered to be printed in the RECORD, as follows:

S.J. RES. 179

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This joint resolution may be cited as the "National Economic Commission Act".

FINDINGS

SEC. 2. The Congress finds and declares that—

(1) the United States fiscal position has deteriorated substantially during the last decade:

(A) the United States budget deficit increased from $74 billion in fiscal year 1976 to $221 billion in fiscal year 1986; and

(B) the gross Federal debt increased from $632 billion at the end of fiscal year 1976 to $2,133 billion at the end of fiscal year 1986;

(2) the United States trade and investment balances with the rest of the world have deteriorated substantially during the last decade:

(A) the United States trade deficit increased from $17 billion in 1976 to $170 billion in 1986;

(B) the balance on the current account of the United States moved from a surplus of $10 billion in 1976 to a deficit of $140 billion in 1986; and

(C) the United States moved from a net creditor nation of $84 billion at the end of 1976 and $141 billion at the end of 1981, to the world's largest debtor nation—an estimated $250 billion—at year end 1986;

(3) the debt burden of developing countries is a major burden to the health of the United States economy:

(A) 15 nations, Argentina, Bolivia, Brazil, Chile, Colombia, Ecuador, Ivory Coast, Mexico, Morocco, Nigeria, Peru, Phillipines, Uruguay, Venezuela, and Yugoslovia, had a cumulative external debt of $463.3 billion at the end of 1986;

(B) United States trade with those countries moved $11.3 billion further into deficit from 1980 to 1986; and

(C) in 1985, debt-related austerity in the top five developing country debtors, Brazil, Mexico, Argentina, Venezuela, and the Phillipines, resulted in reductions of United States exports of $5.0 billion, increases of United States imports of $8.7 billion, and a decline in United States employment of 219,000 full-time equivalent jobs in nonservice industries;

(4) growth in the developed and developing world has been weak; in 1986, real GNP growth was—

(A) 2.8 percent in developed countries,

(B) 2.5 percent in the United States,

(C) 2.7 percent in Japan,

(D) 2.5 percent in the European Communities,

(E) 3.3 percent in Canada, and

(F) 2.7 percent in developing countries;

(5) These problems—the budget deficit, the trade deficit, international debt burdens, and lagging economic growth—are interconnected and require coordinated solutions;

(6) an organized inquiry into these problems could assist in the development of a consensus among members of both political parties, the private sector, and academicians as to what action is necessary to address these problems; and

(7) it is a long established practice to create Senate, House, or joint commissions to deal with special issues, often with a mix of public and private members.

ESTABLISHMENT OF COMMISSION

SEC. 3. There is hereby established the National Economic Commission (hereafter in this Act referred to as the "Commission").

MEMBERSHIP

SEC. 4. (a)(1) The Commission shall be composed of sixteen members:

(A) three citizens of the United States appointed by the President;

(B) two Senators appointed by the President pro tempore of the Senate upon the recommendations of the Majority Leader of the Senate;

(C) one Senator appointed by the President pro tempore of the Senate upon the recommendation of the Minority Leader of the Senate;

(D) two Members of the House of Representatives appointed by the Speaker of the House of Representatives;

(E) one Member of the House of Representatives appointed by the Minority Leader of the House of Representatives;

(F) two citizens of the United States appointed by the Majority Leader of the Senate;

(G) two citizens of the United States appointed by the Minority Leader of the Senate;

(H) two citizens of the United States appointed by the Speaker of the House of Representatives; and

(I) one citizens of the United States appointed by the Minority Leader of the House of Representatives.

(2) Individuals appointed under paragraph (1)(A) may be officers or employees of the Executive Branch or may earn their livelihood in the private sector of the economy.

(3) Individuals appointed under subparagraphs (F), (G), (H), and (I) of paragraph (1) shall be individuals who—

(A) are leaders of business or labor or prominent academicians, and

(B) are not officers or employees of the United States.

(b) Any vacancy on the Commission shall not affect its powers, but shall be filled in the same manner in which the original appointment was made.

(c) The Commission shall elect a Chairman from among the members of the Commission.

(d) A majority of the members of the Commission shall constitute a quorum for the transaction of business.

(e) Each member of the Commission shall be entitled to one vote which shall be equal to the vote of every other member of the Commission.

FUNCTIONS OF THE COMMISSION

SEC. 5. (a) The Commission shall conduct a comprehensive study of—

(1) the elements of domestic fiscal, monetary, and trade policies and their effect on—

(A) employment,

(B) real interest rates,

(C) national saving, capital formation and investment,

(D) labor productivity,

(E) the exchange rate value of the dollar vis-a-vis the currency of major United States trading partners,

(F) the United States balance of trade in goods and services,

(G) the United States international investment position, and

(H) the vigor and viability of economic growth in the United States and the world;

(2) the elements of the fiscal, monetary, and trade policies of major United States trading partners and their effect on the United States balance of trade in goods and services and United States employment; and

(3) the debt burden of developing countries and its effect on the United States balance of trade in goods and services and United States employment.

(b) The comprehensive study conducted under subsection (a) shall include consideration of recommendations regarding domestic fiscal, monetary, and trade policies and the coordination of such policies with the macroeconomic policies of the other economically developed nations to achieve balanced and vigorous economic growth in the United States and the world. The Commission shall specifically address in the study conducted under subsection (a)—

(1) the goal of promoting—

(A) employment,

(B) low real interest rates,

(C) national savings, capital formation and investment,

(D) high labor productivity,

(E) a greater balance in United States trade in goods and services and United States international investment position, and

(F) vigorous and sustainable economic growth in the United States and the world;

(2) a means of ensuring that the burden of achieving such goals is equitably distributed and not borne disproportionately by any one economic group, social group, region, nation, or group of nations;

(3) the current and prospective economic factors and developments, in both the United States and in foreign countries that should be taken into account in making policy to achieve these goals; and

(4) the institutional arrangements required to achieve the appropriate coordination, within the United States and among foreign nations, for the making and implementation of economic policy.

(c)(1) The Commission shall submit to the President and to the Congress by no later than November 30, 1988, a final report on the study conducted under subsection (a) that contains a detailed statement of the findings and conclusions of the Commission, including its recommendations for administrative and legislative action which the Commission considers advisable.

(2) Any recommendation made by the Commission to the President and to the Congress must be adopted by a majority vote of the members of the Commission who are present and voting.

POWERS OF THE COMMISSION

Sec. 6. (a) The Commission may, for the purpose of carrying out the provisions of this Act, hold such hearings and sit and act at such times and places, administer such oaths, and request the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, and documents as the Commission may find advisable.

(b) The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operations, organization, and personnel.

(c)(1) The Commission is authorized to secure directly from any officer, department, agency, establishment, or instrumentality of the Federal Government such information as the Commission may require for the purpose of this Act, and each such officer, department, agency, establishment, or instrumentality is authorized and directed to furnish, to the extent permitted by law, such information, suggestions, estimates, research, surveys, and statistics directly to the Commission, upon request made by the Chairman of the Commission.

(2) Upon request of the Chairman of the Commission, the head of any Federal department, agency, or instrumentality shall make any of the facilities and services of such department, agency, or instrumentality available to the Commission and detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimburseable basis, to assist the Commission in carrying out its duties under this Act.

(3) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(d) The Commission is authorized, to such extent and in such amounts as are provided in appropriation Acts, to enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge its duties under this Act.

(e)(1) The provisions of section 14 and subsections (e) and (f) of section 10 of the Federal Advisory Committee Act (5 U.S.C. appendix 2) shall not apply with respect to the Commission.

(2) For purposes of section 552 of title 5, United States Code, the Commission shall not be considered to be an agency.

(f)(1) Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission shall have the power to—

(A) appoint, terminate, and fix the compensation (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title, or of any other provision of law, relating to the number, classification, and General Schedule rates) of an Executive Director and of such additional personnel as the Chairman deems advisable to assist in the performance of the duties of the Commission, at rates not to exceed a rate equal to the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

(B) procure, as authorized by section 3109 of title 5, United States Code, temporary and intermittent services to the same extent as is authorized by law for agencies in the executive branch but at rates not to exceed the daily equivalent of the maximum annual rate of basic pay in effect for grade GS-18 of such General Schedule.

(2) Service of an individual as a member of the Commission, or employment of an individual by the Commission as an attorney or expert in any business or professional field, on a part-time or full-time basis, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Commission, or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

COMPENSATION OF MEMBERS

Sec. 7. (a) Each member of the Commission not otherwise employed by the Federal Government shall receive compensation at a rate equal to the daily rate for GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day, including traveltime, such member is engaged in the actual performance of duties as a member of the Commission.

(b) Except as provided in subsection (c), a member of the Commission who is otherwise an officer or employee of the United States Government shall serve on the Commission without additional compensation.

(c) All members of the Commission shall be reimbursed for travel and per diem in lieu of subsistence expenses during the performance of duties of the Commission in accordance with subchapter I of chapter 57 of title 5, United States Code.

TERMINATION OF COMMISSION

Sec. 8. The Commission shall cease to exist on the date that is 60 days after the date on which the Commission submits the report required under section 5(c)(1).

AUTHORIZATION OF APPROPRIATIONS

Sec. 9. There are authorized to be appropriated to the Commission such sums as may be necessary to carry out the provisions of this Act.●

ADDITIONAL COSPONSORS

S. 39

At the request of Mr. Moynihan, the name of the Senator from Connecticut [Mr. Weicker] was added as a cosponsor of S. 39, a bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance permanent.

S. 182

At the request of Mr. Riegle, the name of the Senator from Montana [Mr. Melcher] was added as a cosponsor of S. 182, a bill to amend title 3, United States Code, and the Uniform Time Act of 1966 to establish a single poll closing time in the continental United States for Presidential general elections.

S. 430

At the request of Mr. Sasser, his name was added as a cosponsor of S. 430, a bill to amend the Sherman Act regarding retail competition.

S. 453

At the request of Mr. Murkowski, the name of the Senator from Arkansas [Mr. Bumpers] was added as a cosponsor of S. 453, a bill to amend title 38, United States Code, and the Veterans' Dioxin and Radiation Exposure Compensation Standards Act to improve the standards for determining whether a radiation-related disease is service-connected, and for other purposes.

S. 604

At the request of Mr. Pryor, the name of the Senator from Wisconsin [Mr. Kasten] was added as a cosponsor of S. 604, a bill to promote and protect taxpayer rights, and for other purposes.

S. 675

At the request of Mr. Mitchell, the name of the Senator from Tennessee [Mr. Sasser] was added as a cosponsor of S. 675, a bill to authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992.

S. 680

At the request of Mr. Chaffee, the name of the Senator from Vermont [Mr. Stafford] was added as a cosponsor of S. 680, a bill to prohibit the use of subtherapeutic doses of penicillin, chlortetracycline, and oxytetracycline in animal feed.

S. 887

At the request of Mr. Matsunaga, the name of the Senator from South Dakota [Mr. Pressler] and the Senator from Vermont [Mr. Stafford] was added as a cosponsor of S. 887, a bill to extend the authorization of appropriations for and to strengthen the provisions of the Older Americans Act of 1965, and for other purposes.

S. 998

At the request of Mr. DeConcini, the name of the Senator from Indiana [Mr. Quayle] was added as a cosponsor of S. 998, a bill entitled the "Micro Enterprise Loans for the Poor Act."

S. 1109

At the request of Mr. Karnes, his name was added as a cosponsor of S. 1109, a bill to amend the Federal Food, Drug, and Cosmetic Act to require certain labeling of foods which contain tropical fats.

S. 1247

At the request of Mr. McCain, the name of the Senator from Wisconsin [Mr. Proxmire] was added as a cosponsor of S. 1247, a bill to designate the area of Arlington National Cemetery where the remains of four unknown service members are interred as the "Tomb of the Unknown."

S. 1278

At the request of Mr. Trible, the name of the Senator from Virginia [Mr. Warner] was added as a cosponsor of S. 1278, a bill to permit certain payments under the act of September 30, 1950 (Public Law 874, 81st Congress) based on incorrect determinations under section 2(a)(1)(C) of that act.

S. 1408

At the request of Mr. Chafee, the name of the Senator from California [Mr. Cranston] was added as a cosponsor of S. 1408, a bill to amend the Immigration and Nationality Act to waive the continuous residence requirement under the legalization program for spouses and children of qualified legalized aliens.

S. 1451

At the request of Mr. Heinz, the name of the Senator from Kansas [Mr. Dole] was added as a cosponsor of S. 1451, a bill to amend title 38, United States Code, to improve veterans' benefits for former prisoners of war.

S. 1468

At the request of Mr. Mitchell, the names of the Senator from Pennsylvania [Mr. Heinz], the Senator from Louisiana [Mr. Johnston], and the Senator from Hawaii [Mr. Inouye] were added as cosponsors of S. 1468, a bill to provide for a Samantha Smith Memorial Exchange Program to promote youth exchanges between the United States and the Soviet Union, and for other purposes.

S. 1519

At the request of Mr. Lautenberg, the name of the Senator from North Dakota [Mr. Conrad] was added as a cosponsor of S. 1519, a bill to authorize the President of the United States to award congressional gold medals to Lawrence Doby and posthumously to Jack Roosevelt Robinson in recognition of their accomplishments in sport and in the advancement of civil rights, and to authorize the Secretary of the Treasury to sell bronze duplicates of those medals.

SENATE JOINT RESOLUTION 161

At the request of Mr. DeConcini, the names of the Senator from Oklahoma [Mr. Nickles] and the Senator from Missouri [Mr. Danforth] were added as cosponsors of Senate Joint Resolution 161, joint resolution proposing an amendment to the Constitution to provide for a balanced budget for the U.S. Government and for greater accountability in the enactment of tax legislation.

SENATE CONCURRENT RESOLUTION 32

At the request of Mr. Grassley, the names of the Senator from Florida [Mr. Chiles], the Senator from Mississippi [Mr. Cochran], and the Senator from Massachusetts [Mr. Kennedy] were added as cosponsors of Senate Concurrent Resolution 32, concurrent resolution to express the sense of Congress that volunteer work should be taken into account by employers in the consideration of applicants for employment and that provision should be made for a listing and description of volunteer work on employment application forms.

SENATE CONCURRENT RESOLUTION 63

At the request of Mr. Sanford, the name of the Senator from Rhode Island [Mr. Pell] was added as a cosponsor of Senate Concurrent Resolution 63, concurrent resolution expressing the sense of the Congress regarding the formulation and implementation of a regional economic development and recovery program for Central America.

AMENDMENT NO. 591

At the request of Mr. Danforth, the name of the Senator from Oklahoma [Mr. Nickles] was added as a cosponsor of amendment No. 591 intended to be proposed to S. 328, a bill to amend chapter 39, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

SENATE RESOLUTION 255—EXPRESSING SUPPORT FOR GENERAL JOHN VESSEY IN HIS FORTHCOMING NEGOTIATIONS TO RESOLVE THE FATE OF AMERICANS MISSING IN SOUTHEAST ASIA

Mr. McCAIN (for himself and Mr. Nunn) submitted the following resolution; which was placed on the calendar by unanimous consent:

S. Res. 255

Whereas fourteen years have passed since the last American combat troops left Southeast Asia, and twelve years have passed since the end of the war in Vietnam;

Whereas 2,413 Americans missing in action during our involvement in Southeast Asia remain unaccounted for;

Whereas President Reagan has repeatedly stated that the fullest possible accounting of those Americans missing in action in Southeast Asia is "a matter of the highest national priority";

Whereas the President, the Congress and the American people stand united in supporting continued efforts to account for Americans still missing in action in Southeast Asia;

Whereas other humanitarian issues affecting the people of the United States and Vietnam remain unresolved, including the resettlement of Amerasians still in Vietnam, the release of political prisoners in Vietnamese reeducation camps, the rejuvenation of emigration procedures for Vietnamese who wish to leave their country through the orderly departure program;

Whereas the aforementioned humanitarian issues have caused great hardship to the peoples of both the United States and Vietnam, and it is in the interest of both countries that they be fully and quickly resolved;

Whereas in February, 1987, President Reagan appointed retired General John Vessey, former Chairman of the Joint Chiefs of Staff, as Special Presidential Emissary for POW/MIA affairs;

Whereas General Vessey will, in the near future, travel to Hanoi to discuss with officials of Vietnam humanitarian issues of concern to both countries: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That the Congress—

(1) expresses its full and undivided support for General Vessey in his forthcoming negotiations to determine the fate of those Americans missing in action in Southeast Asia, to facilitate the return of the recoverable remains of those missing in action, and to discuss the remaining humanitarian issues affecting both nations.

(2) calls on Vietnam to respond positively to the aforementioned concern of the American people in a humanitarian context.

AMENDMENTS SUBMITTED

RETIREE BENEFITS SECURITY ACT

THURMOND AMENDMENT NO. 633

Mr. HELMS (for Mr. Thurmond) proposed an amendment to the bill (S. 548) to amend title 11, United States

Code, the Bankruptcy Code, regarding benefits of certain retired employees; as follows:

In section 1114(l):

Delete the third "e" in "preceding";

Delete the words, "one million," and insert in lieu thereof the following: "two hundred and fifty thousand."

WIRTH (AND ARMSTRONG) AMENDMENT NO. 634

Mr. BYRD (for Mr. WIRTH, for himself and Mr. ARMSTRONG) proposed an amendment to the bill (S. 548) supra; as follows:

At the appropriate place, add the following:

SEC.   . (a) There shall be appointed, pursuant to section 152(a)(1) of title 28, United States Code, an additional bankruptcy judge for the judicial district of Colorado.

(b) To reflect the change made by this section, section 152(a)(2) of title 28, United States Code, is amended by striking out the following:

"Colorado .... 4";

and inserting in lieu thereof the following:

"Colorado .... 5".

STAFFORD (AND PELL) AMENDMENT NO. 635

Mr. HELMS (for Mr. STAFFORD for himself and Mr. PELL) proposed an amendment to the bill (S. 548) supra; as follows:

At the end of the substitute amendment add the following:

TITLE IV—STUDENT LOANS

SEC. 401. This title may be cited as the "Student Loan Bankruptcy Prevention Act".

SEC. 402. (a) Section 1328(a)(2) of title 11, United States Code, is amended by striking out "section 523(a)(5)" and inserting in lieu thereof "paragraph (5) or (8) of section 523(a)".

(b) The amendment made by subsection (a) shall not apply to any case under title 11, United States Code, commenced before the date of the enactment of this title.

DECONCINI (AND McCAIN) AMENDMENT NO. 636

Mr. BYRD (for Mr. DECONCINI, for himself and Mr. MCCAIN) proposed an amendment to the bill (S. 548) supra; as follows:

At the appropriate place, add the following:

SEC.   . (a) There shall be appointed, pursuant to section 152(a)(1) of title 28, United States Code, an additional bankruptcy judge for the judicial district of Arizona.

(b) To reflect the change made by this section, section 152(a)(2) of title 28, United States Code, is amended by striking out the following:

"Arizona .... 4";

and inserting in lieu thereof the following:

"Arizona .... 5".

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Friday, July 24, 1987, at 1:30 p.m. to hold a hearing on ambassadorial nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

METHANOL AND ALTERNATIVE FUELS PROMOTION ACT

Mr. CRANSTON. Mr. President, I am pleased to join my colleague from West Virginia, Senator ROCKEFELLER as a cosponsor of the Methanol and Alternative Fuels Promotion Act of 1987. It wasn't too long ago when this country was first forced to confront our precarious dependency on Middle East oil. We were caught by surprise in 1973. We were unprepared for the disruption in our oil supply. What is so disconcerting is that we are no better prepared today than we were then. In fact, we are worse off.

In 1973, approximately 34 percent of the oil we consumed was imported. Today, we import approximately 38 percent, and oil imports are expected to rise to 50 percent by the early 1990's.

Our transportation sector, which is 97 percent oil dependent and accounts for more than 60 percent of our oil consumption, continues to be our Achilles' heel. Switching to alternative fuel vehicles has not been easy. Auto manufacturers are not willing to produce cars for which there is no consumer demand. Consumers are not willing to buy cars for which there is no available fuel supply. Service stations are not willing to provide fuel for nonexistent vehicles.

By providing an incentive to auto manufacturers to produce alternative fuel vehicles, including methanol, ethanol and natural gas vehicles, we can begin to break this chicken and egg cycle that has plagued their development.

This bill amends the Motor Vehicle Cost Savings Act to provide an appropriate application of the fuel economy standards to methanol, ethanol, and natural gas automobiles. The bill applies to dedicated vehicles and dual fuel vehicles. Dedicated vehicles are those using at least 85 percent of the alternative fuel at all times and would be calculated for CAFE purposes on the 15-percent content of the fuel. Dual fuel vehicles are those vehicles capable of operating on a range of fuel mixtures up to 85 percent of the alternative fuel and would be calculated on a 50-percent gasoline and 50-percent alternative fuel basis.

The CAFE rating for these vehicles would be significantly higher than the CAFE rating for straight gasoline automobiles. Production of the dedicated and dual fuel vehicles would increase the average CAFE rating for the entire fleet of automobiles. In order to keep the integrity of the CAFE law intact, the bill provides that the CAFE increase resulting from the production of alternative fuel vehicles would be capped at 1.5 miles per gallon for the first 5 model years—model year 1993 to model year 1998—and 1.1 miles per gallon for the second 5 model years—model year 1999 to model year 2003.

I have always been and continue to be a strong supporter and advocate of the CAFE standards and increased efficiency of our automobiles. I believe more can be done in this area. However, I also believe that ultimately, increased efficiency by itself will not provide the solution to our energy security dilemna. Along with conservation measures we must wean our transportation sector from its total dependence on oil. This bill begins that process by encouraging the production of vehicles capable of using alternative fuels.

Equally important to our energy security concerns are the potential air quality benefits that can be realized from switching to alternative fuels. I am particularly interested in methanol and the impact methanol vehicles could have in areas battling severe ozone pollution, such as Los Angeles. The south coast air quality management district estimates that a total conversion to methanol vehicles in the Los Angeles area would reduce peak ozone levels by as much as 50 percent.

Methanol is made from natural gas, coal or biological matter and is a cleaner burning fuel than gasoline. Emissions of nitrogen oxide and hydrocarbons—precursors of ozone—are substantially reduced in methanol-powered automobiles. For areas around the country facing sanctions for noncompliance with the Clean Air Act's air quality standards, widespread substitution of methanol-powered vehicles is one viable option out of a shrinking pool of options that could significantly reduce ozone levels.

California has made great strides in demonstrating the potential of methanol. The California Energy Commission's Alternative Fuels Demonstration Program began in 1978 and has tested more than 500 methanol-powered Ford Escorts, established a network of methanol service stations and since 1982 has been operating two methanol-powered buses. Recently, the State entered into an agreement with the Atlantic Richfield Co. whereby Atlantic Richfield will add another

25 methanol fuel stations to the 20 already established.

Mr. President, expanded use of alternative fuels is a logical and effective way to increase our energy independence and reduce ozone and carbon monoxide levels. This bill makes sense—environmentally and in terms of our national security.●

MISSISSIPPI CHIEF JUSTICE NEVILLE PATTERSON

● Mr. **COCHRAN.** Mr. President, the State of Mississippi lost one of its finest leaders when the former chief justice of the Mississippi Supreme Court, Neville Patterson, died on July 15. Judge Patterson had retired last summer after serving 22 years on the Mississippi Supreme Court, including nine as chief justice.

He developed and caused to be implemented significant reforms in our State courts. He took on the legislature and won. He confronted the organized bar with his decisive leadership, and won the respect of the lawyers throughout our State. He was well-liked and admired by all who knew him.

Judge Patterson was a native of Monticello, MS, and graduated from the University of Mississippi School of Law in 1939. He returned to his hometown to join his father in the practice of law. When World War II broke out, he served with distinction in the U.S. Army. He was a captain with the 3d Armored Division and won a Bronze Star during the Battle of the Bulge.

After the war, he resumed his law practice, and then was elected chancery judge, serving on that court for 16 years before joining the Mississippi Supreme Court in 1954. He became chief justice in 1977 and served in that capacity until his retirement June 30, 1986.

When I was elected to the U.S. Senate in November 1978, my predecessor, James O. Eastland, resigned before his term expired, and I was sworn in ahead of most Senators who were elected that year. I invited Judge Patterson to administer the oath of office to me, and he did so in the Governor's mansion in Jackson on December 27, 1978.

Judge Patterson was a personal friend of mine. My sympathies go out to his wife and family. His loss will be felt by all Mississippians, but especially by his family and his friends.

I ask that an editorial that appeared in the Clarion Ledger/Jackson Daily News on July 17, 1987, be printed in the Record.

The editorial follows:

Neville Patterson: State Needed His Wisdom, Courage

Mississippi needs courageous, enlightened forward-looking leadership and, to its credit and good luck, received it in full measure from Neville Patterson, Mississippi Supreme Court justice for 22 years, nine of them as chief justice.

Patterson, 71, died of a heart attack Wednesday just a little more than a year after he retired from the bench.

He guided the state through extensive judicial reform that, among other things, better balanced the powers of Mississippi's three branches of government.

Patterson wrote the 1975 unanimous decision that properly asserted the courts right to establish judicial rules for the state courts, rules previously set by the Legislature.

In 1983, under Patterson's leadership, the high court ruled that legislators could not sit on executive boards, commissions or agencies, a reform also long needed.

He richly deserves the outpouring of tributes in the wake of news of his death. His successor, Chief Justice Harry G. Walker, described Patterson as "an outstanding jurist and a man of impeccable integrity." Justice Reuben Anderson said Patterson "ranks as one of Mississippi's great men." These accolades are typical.

His family—and his state—can be proud of the legacy he leaves from his 40-year judicial career.●

NO CRIME DAY

● Mr. **DIXON.** Mr. President, I am proud, once again, to call to the attention of the Senate the annual citywide No Crime Day which will be held in Chicago, IL, on August 15, 1987.

This event is a great example of the important neighborhood effort underway to combat violent crime in the streets of our cities. Combating violent crime must remain a national priority. Efforts such as No Crime Day allow the opportunity for communities and neighbors to gather together in order to galvanize city support to wipe out crime.

I commend all of those involved in organizing this fourth annual event for their civic pride. The Black on Black Love Campaign has demonstrated Chicago's commitment to preventing violent crime and protecting the innocent victims of such cowardly acts. No Crime Day will provide the city of Chicago with an increased awareness of the goal of a crime-free city. I hope that positive efforts in crime prevention, such as this, will act as a model for other cities throughout the country to rid our streets of violent crime.●

HISTORIC HANGOVER

● Mr. **HATFIELD.** Mr. President, in a speech earlier this month, Federal Reserve Board of Governors member Edward W. Kelley, Jr., suggested that this great nation suffers from an "historic hangover." "Deep in our national consciousness," he said, "we think that we are still supposed to dominate the world. If we are not doing that, then we must be failing and we are in decline."

Are we in decline, Mr. President? If decline means that our allies no longer lie in ruin, maybe we are in decline. If decline means that our products now must compete in the world market, maybe we are in decline. And if decline means that we can no longer impose our policies on other nations, maybe we are in decline. But I think not.

Forty years ago, Europe and Japan were in economic and political ruin. Forty years ago, our industrial capacity and skilled labor force were unrivalled. And 40 years ago, it was very easy to impose our policies on nations around the world.

A lot has changed since then. We helped our allies get back on their feet, and we encouraged them to become competitive and independent. Unfortunately, we now have an "historic hangover"—we cannot or will not adjust to the changes. Whether it is bombing Libya or imposing protectionist trade policies, we still want to dominate.

"I think we do ourselves a disservice when we accept hegemony as a national benchmark for performance. We cannot dominate the world today and that's a clear fact," said Mr. Kelley. "But further, we should not want to dominate the world. World peace, if we are ever going to build it, is going to happen when everybody has their heads up and their stomachs full."

I could not agree more.

Edward Kelley's speech, delivered on July 9 to the Board of Directors of the Federal Reserve Bank of Atlanta, is one of the most thoughtful speeches I have ever read. I commend it to my colleagues, and ask that it be inserted in the Record.

The speech follows:

A Historic Hangover

(By Edward W. Kelley, Jr.)

From our earliest days we have had a long history in this country of periodic self-flagellation, and we are certainly in one of those periods right now. U.S. competitiveness in the world economy is the issue and the focus is our huge trade deficit. The media are having a field day. We are getting it every day on network television and the daily newspapers, but quite beyond that, some of the most responsible analysts in this country have picked up the theme. U.S. News and World Report has had two cover articles in the last several months, one entitled "Will Your Next Boss Be Japanese?" and the others "Is Our Economy Coming Apart?" The Wall Street Journal had a feature article entitled "Decline of the West" and, the Houston Chronicle, when I was home recently, had a full-page entitled "Portrait of Decline." A recent New York Times had a feature story entitled "When Main Street Belongs to the Japanese." This situation has been analyzed and opined upon endlessly and it certainly is complicated, multifacted and describable in many different ways.

A national debate is a healthy thing, but the danger is that it can get destructive. If we were to talk ourselves into a lowered level of national confidence, or even beyond that, some type of hopelessness, we could easily lash back very destructively in the form of severe protectionist legislation or some bilateral slap at an ally that might do much more harm than good. I think there is some danger of this. Why are we so negative? An objective look at the facts just doesn't warrant it, because on balance our economy is really doing quite well. Let me explore a theory with you for a minute that I think just might explain part of it.

In all of this analysis, I believe there is one underlying condition that's largely been ignored. I believe that deep in our national consciousness we think that we are still supposed to dominate the world, and clearly, we're not doing that. If we are not doing that, this line of reasoning follows, then we must be failing and we are in a decline. Now where does this sense of failure come from?

My thought is that we have given ourselves a historic hangover. And that that historic hangover arose from a very strong drink of dominance that we experienced in the years after World War II. Let's remember those days.

Coming out of World War II the industrial world lay in ruins, except for the United States. The United States was untouched. But even more than that, it was stronger than ever due to the war effort that we had just mounted. We had a massive industrial capacity, a huge skilled workforce, the beginnings of a superb service sector, tremendous agricultural efficiency, and, not one other nation could come close to us. The operative word for this condition is hegemony. Webster defines hegemony as "the predominant influence of one nation over others." At that time, we had it—hegemony.

Our response to this situation was wonderfully idealistic and also practical. Over the succeeding 20 years, we caused the world to be rebuilt. Not alone by any means. All the peoples of the industrialized world participated, each in their own way. But we paid outright for much of it, we financed virtually all of the rest, we encouraged and aided in innumerable ways, and we built our foreign policy around it.

This was a wonderful thing for the world and ourselves. It created a long boom under stable conditions. There was an enormous gain in the standard of living, and, it probably prevented the depression that was so widely expected after the war. For about 20 years, more or less, we did dominate—economically and politically.

But by 1965 the world was rebuilt. The industrial countries were strong and vigorous again, and the world had definitely changed. But we did not change our world view. Hegemony was still in the middle 1960's, and as evidence of that, I give you the fact that Vietnam was heating up right around that time period, and until it started to go so badly, it was widely supported. I think that shows that our world view had not evolved. That's when our historic hangover began and much of it continues today.

This hangover hurts us in two separate sets of ways. First, it adversely affects a large body of our national policy. And, second, it has caused us to fall into a certain kind of complacency in our industrial and business community. Let's look at each one of these.

First, the policy effects. I think the major areas here are in economics and defense. In economic policy the hegemony fantasy is really dying hard. As an example, take the exchange rates. As recently as from the early 1980's well into 1985—hardly 2 years ago—we allowed the dollar to go way too high and we were proud of it. And, as we know very well, that proved to be highly disadvantageous, to say the least. Now, today, our reaction to the trade deficit problem is really a hegemony hangover. Not that the trade deficit isn't a serious thing. It was $148 billion in 1986 and that is very serious, and we certainly must address it. However, we've allowed it to give us a national inferiority complex. We're saying that all of a sudden we are uncompetitive. We are lazy. We are sloppy, and, we are on the skid to second class status.

That is nonsense. There is absolutely overwhelming evidence to the contrary. Indeed, one of the major reasons for the deficit is our strong and vigorous economy that has made us such a desirable market for all of the products of the other countries of the world. But our trade policy has had a terrible time coming to grips with the fact that we are in a world that is playing hardball. We just have not wanted to change our ways of doing things. We are finally beginning to wake up, and now, as we talked about a moment ago, we are in danger of some overreaction in the protectionist direction.

Defense. After World War II we said to our allies, "we'll handle it." After all, we didn't want old enemies to rearm and we didn't want those struggling economies that we were trying to help to be burdened with taking care of their own defense needs. Besides, Russia was not nearly as severe a threat in those days as they have become more recently. Thus, the rebuilding economies were free of that defense cost and we carried it all.

The problem is it's largely still true today—over 20 years after that notion became obsolete. Today, our defense bill runs about 6½ percent of gross national product. Great Britain does a pretty good job, their's is 5.3 percent. But most of our other allies spend less than one-half of the rate of their gross national product that we in the United States do. Japan spends 1 percent of its gross national product on defense. We all have a pretty good idea of how much of a presence we have militarily along the Pacific rim, and in the Persian Gulf, former Secretary of the Navy Lehman estimates that we are spending about $40 billion a year to ensure that we keep those seaways open. Japan gets 60 percent of its oil through those seaways and they have no naval presence there. The United States gets less than 10 percent and I've seen estimates as low as 6 percent. Now, why do we do this? I can only assume that we nationally assume that it is still our duty.

If one imagines the defense burden as being spread evenly across all of the western allies at a level of, say, 4 percent of gross national product, the United States would save about $100 billion a year. Imagine what we could do if we were to free up that much of our national budget. Very recently this situation has begun to be addressed in Congress but it is still far from a policy shift in this direction.

The second set of adverse effects has occurred in our industrial efforts where we also have a historic hangover. You see, rebuilding the world meant creating competitors, and those competitors had to scratch to survive and prosper. They had to be efficient. They had to be innovative. they had to have low labor costs, high quality products and advanced technology. The survivors of those tough years were wonderfully successful, with our help. And now, we have to compete with them.

During those same years, what was happening in the United States? We became, and still are, a high cost nation. How did that happen? Well, for twenty years we were almost forced into it and, indeed, we could afford it. There was no effective competition. There was lots of business. From 1948 to 1968, world trade grew at a real rate of 7 percent per year, and, industrial production grew at a real rate of 6 percent a year—far, far higher than any other sustained period in history. The big concern of our business community was to get the work out and the result was what you might expect. We got fat.

We built a huge regulatory infrastructure. I remember from my days of being active in the trucking industry that one of the major assets of the company, and one of the major expenses, was route rights. In order to obtain and hold the privilege of delivering a certain product to a certain location, we had internal staff, outside lawyers, and hired lobbyists. All of this existed to influence an entire bureaucracy at both the state and national levels that was set up solely to control route rights.

Labor costs skyrocketed. Our union settlements were huge because the most costly thing of all was a strike. In many instances we allowed our staffs to become far larger than we have since found they needed to be. We under-invested in modernizing and cost cutting because we were so aggressively expanding capacity.

Why did we let that happen? It was a rational response to the pressures of the time, and, under the circumstances that existed then, we could afford it. Now, belatedly, the chickens have come home to roost and we are fighting back hard. We are deregulating. We are modernizing. We are merging. We are restructuring, and, we are bargaining hard with our trade partners. The dollar has fallen rapidly and is back near its 1980 level.

Now all of this is messy, it is causing a lot of pain and a lot of disruption. But we have to do it, we are doing it, and it will work.

Is this a pessimistic assessment of what's going on in this country? By no means. I am extremely optimistic about our future. Today we have the strongest economy in the world in spite of all these things we've been saying, and, in spite of the media. We are creating new jobs, and they are good jobs, by the millions. We have a 56-month expansion going and counting. As far as the future is concerned, we have some extremely important basic assets. First of all, we are effecting a transition from the old "smokestack" emphasis to an "information based" economy. Secondly, the service sector is where the future is going to have its emphasis, ours is growing fast and we have a big lead over everybody. The world is moving in an entrepreneurial direction and we have an unmatched entrepreneurial tradition. The same with management. Good management is going to be key in the world of the future and we have a management depth across this economy that is unmatched. When I say that, I include Japan.

Indeed, the whole point of discussing this historic hangover idea is to show that we are not over the hill. That this situation has rational historical roots that grew out of our success, not our failure. We can handle this situation if we understand it, both for what it is, and what it is not.

I think we do ourselves a disservice when we accept hegemony as a national benchmark for performance. We cannot dominate the world today and that's a clear fact. But further, we should not want to dominate the world. World peace, if we are ever going to build it, is going to happen when everybody has their heads up and their stomachs full.

So I say, let's turn this old attitude on its head. Let's be proud we don't dominate. After all, we created the conditions for the peoples of the world to recover, we're still helping where we are needed in a great many places, and so we should be. It's been a very successful effort and one of our finest national episodes.

So, let's have pride in the past and let's use that as a stepping stone to the future. Let's ask ourselves what is reality today and what are appropriate responses to that reality.

We don't have to dominate to lead. We always have been, are, and will remain leaders in the world community.

We don't have to dominate to excel. We are the strongest and best nation in the world, and there is no reason not to remain so.

So, let's cure our hangover and get on with it.●

R. HIRT, JR., CO. 100 YEARS OLD

● Mr. LEVIN. Mr. President, there are fewer tributes to the American dream realized than that of an immigrant who begins with little more than desire and hard work and establishes a family business.

And, even more tribute is paid by a family business that endures for a century.

Rudolf Hirt, Jr., and the company which bears his name give such tribute to the American dream on the centennial of R. Hirt, Jr., Co.

It is no accident that walking into Hirt's in Detroit's historic Eastern Market—as I like to do when I have some free time in my hometown—reminds customers of an earlier, simpler time.

The warmth of the store has been simmering for a century—impervious to trends in mass merchandising, supermarket sterility, and fast-food indifference—unchanged in its tradition of personal service and high quality exotic and imported cheeses and specialty foods.

The three-story red brick Dutch and Romanesque building overlooking the marketplace has become a landmark for shoppers. They come from across Michigan, nearby States and Canada to jam the store on Saturdays. Visitors from many countries also add Hirt's to their Detroit experience.

Their shoes clatter across the bare wood floors as they peer into open crates of delicacies, line up for a snippet of one of the store's 300 varieties of cheeses, or sniff deeply the paper bags of natural ground coffee, as they make their selections.

The standards of the company are unchanged since its founding in 1887, when a Swiss immigrant stovemaker, Rudolf Hirt, Jr., took his life savings to open a food stall at Detroit's Central Market. He peddled butter, eggs, and other dairy products that he purchased from local farmers.

Hirt moved his business "out a ways" to its present quarters in the new Eastern Market in 1890. It is this building which has become known to four generations as a friendly place to buy specialty foods.

Rudolf and Anna Hirt and their seven children all worked in the store, paving the way for a succession of family ownership that continues to this day.

As the post-World War II coming of age of the "supermarket" changed family shopping habits, the new generation of Hirts began to appeal directly to a new generation of sophisticated shoppers who wanted items they could not find in mass merchandised food stores.

The store expanded its lines of exotic imported cheeses and specialty foods from around the world.

In the 1950's and 1970's, Hirt's added wicker baskets and decor items to make the shopping experience an even more rewarding one for its increasingly creative customer base.

It is through such creative service that the R. Hirt, Jr., Co. of Detroit has endured and will enter its second century serving its legion of customers and friends as well as future generations seeking pleasant, personal service.

I am pleased to help honor this outstanding company and its actualization of the American dream.●

CAPTIVE NATIONS WEEK—1987

● Mr. RIEGLE. Mr. President, this year, we mark the 28th observance of "Captive Nations Week." This annual commemoration provides an important opportunity for citizens of the free world to honor the citizens of the captive nations who, at great personal risk and sacrifice, continue to demand respect for their human rights.

The fate of the captive peoples of the world is a matter of concern to all of us who cherish our freedom. Thirteen years ago, the leaders of 33 nations of Eastern and Western Europe, including Canada and the United States, signed the Helsinki Final Act. In so doing, those signatory nations publicly affirmed their belief in the right of all people to self-determination and to freedom of thought, conscience, and religion. They further pledged to facilitate freer movement of people, ideas and information between their nations.

Almost immediately after the accords were signed, private groups were organized in the Eastern bloc to monitor Soviet and East European compliance with the provisions of the agreement. The Helsinki Committee in Poland, Charter 77 in Czechoslovakia, and monitoring groups in Armenia, Lithuania, Ukraine, and Georgia placed great faith in the Helsinki accords. Tragically, however, many of their members were subjected to harsh prison terms in Siberia and elsewhere, simply for exercising their rights guaranteed in the accords. Oleksy Tykhy, Yuri Lytvyn, Vasyl Stus, Rev. Bronius Laurinavicius, and others, have paid with their lives for their involvement in the monitoring process in the Soviet Union.

Despite the persecution of these human rights activists, their presence continues to be felt throughout the captive nations. Just last month, leaders of Helsinki '86, the Latvian human rights monitoring group, led what has been called the largest known peaceful non-Communist political gathering in the history of the Soviet Union. The vitality of that Helsinki group was vividly demonstrated on June 14, when some 5,000 people from Latvia and surrounding captive nations, responded to the call of the group's leaders to participate in a public tribute to the victims of the 1941 deportations of the Baltic people.

During this "Captive Nations Week," we reaffirm our commitment to support the citizens of the world's captive nations in their struggle to regain their basic freedoms. We strengthen our resolve to ensure that the letter and spirit of the provisions of the Helsinki accords are honored by the signatory nations. Although some may criticize the accords for their lack of effectiveness, I firmly believe that the regular process of reviewing compliance with the provisions of the accords provides us with an important forum for discussing individual liberties in the captive nations. By insisting that the signatory nations honor their commitment to respect to the rights of their citizens, I believe we can play an important role in advancing individual freedoms throughout the world.●

TECHNOLOGY TRANSFER TO CHINA

● Mr. HEINZ. Mr. President, I would like to strongly recommend to my colleagues a report, recently released by the Congressional Office of Technology Assessment [OTA], entitled "Technology Transfer to China." Jointly requested by the Senate Committee on Banking, Housing, and Urban Affairs and the House Committee on Energy and Commerce, the study provides a detailed analysis of technology transfer to China, its effect on both the United States-Chinese trade relationship and the state of economic modernization in China.

OTA concludes that United States trade with China has not been meeting expectations. In 1986, Japan exported to China, three times as much as we did and the European Community also collectively exceeds the United States level. Yet American companies are harmed much more by restrictive export controls than by that competition. In the past few years, U.S. export restraints have loosened considerably but are still limited compared to other countries.

Furthermore, OTA concludes that standards increased technology transfer with China will be reflected in the economic modernization and integration of China. The most visible effect of technology transfer will appear in the higher quality of Chinese goods, a prerequisite for competition in international markets. OTA concludes that there is a strong relationship among modernization, economic reforms, political changes, and technology transfer.

I recently visited China and was impressed by the progress that the Chinese are making. As our relations with the Peoples Republic improve, questions of technology transfer will undoubtedly become more and more common. I urge my colleagues to consult the OTA report as it provides insight and analysis of which we should all be aware.

I ask that the summary of the study be printed in the RECORD.

The summary follows:

TECHNOLOGY TRANSFER TO CHINA

A billion people! If they each buy just one * * *

If we give them technology, they'll be just like Japan * * *

In a country that can launch satellites, why is the plumbing so bad * * *

All they want is technology, and they expect miracles from it * * *

It's completely different now. It's hardly even Marxist * * *

So where are all those Red Guards now? Aren't they just waiting * * *

If we don't sell it to them, France or Japan will * * *

They'll pin down the Russians on the Eastern front * * *

How do we know they won't use it against Taiwan—or us * * *

There's a lot we can learn, too * * *

China evokes counteless, often contradictory, expectations and impressions. What is clear is that China will become increasingly important to the United States over the next several decades. Its impressive economic growth in recent years, if continued, will propel it into the ranks of the newly industrialized economies of Asia—Taiwan, South Korea, Hong Kong, and Singapore—but eventually on a much larger scale. International trading patterns are likely to change dramatically as China increases both imports and exports. China will also acquire increasing political influence in world affairs as its economic, technological, and military strengths grow. U.S. interests in Asia will be profoundly affected by China's international role, including its relations with the Soviet Union, Taiwan, and other neighbors.

As important as these developments are, the U.S. ability to influence them is limited. China's economic growth is much more dependent on internal Chinese factors than on any U.S. actions, and China will play its international role on the basis of its own perceived best interests. What the United States can do is reinforce China's constructive choices and trends, and protect itself against the risk that Sino-American interests will again diverge.

One of the most important influences that the United States has is technology transfer. China recognizes the need to acquire new technology and new capabilities in its efforts to modernize and expand its economy. This need was one of the main reasons for ending its self-imposed isolation and for opening itself to the West in the 1970s. The United States benefits insofar as China is a strategic asset, if not an ally, in the global competition with the Soviet Union. Technology transfer helps build these ties and increases China's strength vis-à-vis the Soviet Union. It also can lead to important commercial ties and to the export of American products. In addition, China is still a very poor country, and technology transfer can be an important element in humanitarian efforts to help a billion people move out of poverty.

U.S. policy toward China for the past 10 years has been predicated on the assumption that closer relations are generally beneficial but that caution must be exercised in the transfer of advanced, sensitive technology. This policy has had some success: China has played a more constructive international role, and many areas of common interest (reportedly including sensitive intelligence gathering) have been found. Trade has also become significant. With so much gained, some ask whether further steps are warranted—in particular, whether the United States should make greater efforts to help China modernize through technology transfer.

However, the reasons for caution have not been eliminated, and some observers feel that U.S. policy has gone too far: that China is a potential adversary, with an alien ideology and an unstable, unpredictable political system. Others see China as a newly industrializing country that is rapidly upgrading its production technology and aggressively seeking international markets, becoming another, potentially much more powerful, Japan or Korea. Both views suggest great caution with respect to technology transfer.

It is the intent of this assessment to put these views into perspective and to contribute to a reexamination of U.S. policy toward China. The assessment evaluates the economic, political, and strategic implications of technology transfer to China in the context of China's capabilities and evolution. It reviews the U.S. commercial and governmental role in technology transfer, and the policies and practices of other countries. It asks whether the application of U.S. policy has been consistent with the overall guidelines, and analyzes policy options for Congress in the areas of export control, trade promotion, and military cooperation.

As used in this assessment, technology transfer is a process whereby a government, company, or institution provides the information necessary for China to improve its capability to design or produce goods or services. It may or may not involve the sale of equipment, but it almost always involves exchanges of information between people. Technology transfer may involve the transfer of sophisticated equipment, training in its use and maintenance, and information on design or manufacture. Indirectly, it may include the teaching of technology and management in universities. Commercial technology transfer can be accomplished through sales of equipment or expertise, licensing agreements, direct sales of information, or investments in China. The U.S. Government transfers technology by granting access to information (e.g., the U.S. National Technical Information Service) and through agency-to-agency agreements.

Technology transfer can provide some of the keys China needs to meet its modernization goals. Modernization, in turn, will enhance China's position as an exporter and will eventually enhance China's military strength. The positive and negative implications for the United States can be estimated only imperfectly. The following sections summarize the critical factors.

CHINA'S NEED FOR TECHNOLOGY

China has considerable technological capability already, especially compared with that of other developing countries, but progress has been very uneven. Military industries in particular have been favored with priorities for investments and personnel. Some of these industries have developed "pockets of excellence" that can compete in world markets. For example, China has built and launched its own experimental communication satellites and has offered to launch foreign satellites. The military sector has now been ordered to help the civilian sector, especially since many military factories are underutilized because of the recent lowering of defense budgets. If this expertise can be used effectively, it may have a substantial impact on civilian production and exports.

Much of China's civilian technology is out-of-date, if not obsolete. The Seventh Five-Year Plan (1986-90) has set acquisition of technology as a high priority, especially in the fields of transportation, electronics and computers, telecommunications, and energy. The plan calls for importing much of this technology. One of the "Four Modernizations"—the policy program for development—was to raise the the level of science and technology. The others—agriculture, industry, and defense—also to a large degree depend on improvements in technology. Some of these improvements could be accomplished by the purchase of modern equipment without technology transfer, but China has limited funds for imports. China could develop some technologies independently, but in general this would be much slower and less efficient than acquiring them from abroad.

China has ambitious goals, including a quadrupling of the 1980 industrial and agricultural output by year 2000. Progress so far has been above that rate (about 7 percent), primarily because a loosening of controls has freed a latent strength in the economy. New technology has made only a minor contribution but will be of increasing importance in the future. Goals for economic growth will not be met without improved technology to modernize industry and to alleviate constraints in energy, transportation, and communications.

Technology transfer can foster not only an increase in production, but also an increase in the quality of products. Modern industrial equipment can easily surpass the quality levels of the antiquated equipment typical of Chinese factories. Exposure to modern management practices, which technology transfer often entails, broadens the Chinese manager's concepts of what can be accomplished and how. Coupled with these new tools has been the realization of the need for quality in products if China is to compete well enough in world markets to earn the foreign exchange to continue buying technology.

However, China's modernization does not yet appear to have reached the point where improvements in one sector lead to improvements in others. There have, of course, been many examples of successful assimilation of specific technology transfers, but there have also been many cases of failure or incomplete success. For instance, computers and other modern equipment sometimes remain unused because of a lack of expertise or an adequate supply of a necessary input, such as electricity.

The question is not whether China is capable of modernization, but whether it is willing to make enough of the changes required for continued, rapid modernization. Like other centrally planned economies, China developed a pattern of decisionmaking that discourages efficiency and innovation, and gives the management of a productive enterprise few incentives to improve. The economic reforms that have been initiated since the Cultural Revolution have been directed at providing workers and management with incentives to increase output and quality and to improve economic decisionmaking. Measures taken include increasing the autonomy of enterprises, allowing them to retain and reinvest earnings, freeing up some markets, loosening price controls, and reducing the role of the Chinese Communist Party. Reforms have been successful in agriculture but less so in industry. Delays in price reform and opposition by those fearing loss of their power have showed improvements in efficiency.

China's "Open Door" policy is closely related to economic reforms and is intended to facilitate technology transfer and trade. Under this policy, economic zones and coastal cities have been opened to foreign investment, and joint ventures and cooperative manufacturing have been encouraged.

To date, however, the results have been somewhat disappointing. Investments have been lower than expected, and many problems have been encountered, including high costs, shortages of skilled workers and supplies, and unfamiliarity with quality and scheduling requirements. Moreover, most enterprises are risk-averse, and the incentives for new capabilities may be weak if other constraints (e.g., energy or materials) limit production in any case. Delays and uncertainties caused by the intricacies of Chinese bureaucracy have been particularly frustrating for outsiders trying to do business. Although the Ministry of Economic Relations and Trade (MOFERT) was established to facilitate trade, the process is still cumbersome and full of pitfalls. If new technology is sought, approval may be needed from both the local authorities and several agencies of the central government, depending on the enterprise, the priority of the technology, and the cost.

The shortage of foreign exchange has become critical over the past year. Unlike many developing countries, China has refused to go heavily in debt, and it has had many competing requirements for its declining foreign exchange reserves. Decisions on which technologies to import are now frequently biased by considerations of how much foreign exchange can be earned rather than by how much the Chinese economy would benefit. Petroleum technologies have been particularly favored because petroleum is one of the most important exports, even though infrastruture (e.g., electric power, transportation, communications) inadequacies have been much more of a constraint on the economy.

Despite many problems, China's economy is growing very rapidly and that is likely to continue. There is also evidence that the technology transfer process is improving, and that modernization will benefit considerably.

THE U.S. ROLE IN TECHNOLOGY TRANSFER

Most technology transfer from the United States is from private companies. Although most U.S. firms approach the China market with the intent to sell products, many find they must include technology transfer if they wish to gain access to the China market. The variety of experiences are illustrated by the following examples:

General Electric won two large orders for locomotives in part by a willingness to transfer the technology of materials and manufacture. G.E. is not setting up any manufacturing facilities in China, though an important part of the contract stipulated that China would produce several of the parts for the locomotives. The first contract took several years to negotiate. The second needed only a few months, largely because trust had developed among the participants. G.E. was also flexible in tailoring the locomotives design to Chinese requirements.

American Motors established a joint venture with the Beijing Automotive Works to produce AMC's Cherokee model. Initial production has used parts sent from the United States. The intent was to increase the local content as rapidly as possible, but China has been unable to produce parts and supplies in the quantity and quality required. As a result, costs are high and export of the Cherokees has been impractical. China's foreign exchange crisis interfered with the purchase of U.S. parts, leading to a shutdown of the plant for 2 months, though a compromise has allowed restart.

McDonnell Douglas has started coproduction of 25 MD-82 twinjet transports with the Shanghai Aviation Industrial Corp., following a sale of 5 to China. The planes are being produced partially under the direction of Americans, with the first plane expected to fly in 1987. Training will also be provided by the Chinese in the United States. The planes are to be certified for airworthiness by the U.S. Federal Aviation Administration, which provides an explicit standard for quality control.

There have been no commercial satellite telecommunication sales despite two sets of proposals by U.S. and European companies. The Chinese received considerable technology transfer for free as a result of these proposals, but that probably was not their intent. Rather, China's conflicting priorities and bureaucratic power struggles, combined with the shortage of foreign exchange, have delayed a decision. China has launched two geosynchronous communication satellites of its own design, but both were relatively unsophisticated. It is unlikely that China's own products will be competitive for several decades, even with imported technology. The parallel effort on rockets is much more competitive, especially since the U.S. and European programs are temporarily inoperative because of accidents.

IBM has been very successful in selling computers to China, but has not yet initiated any manufacturing. Technology transfer has been largely limited to training in the use of computers. IBM may be in a unique situation to resist pressures for investment in China because of its dominant role in the international computer industry.

Wang Laboratories is preparing at least one joint venture for the assembly and eventual manufacture of microcomputers. Included would be engineering, managerial and manufacturing expertise, software diagnostics, and after-sales techniques. This effort would complement Wang's sales to China and its manufacturing in other countries. However, Wang is concerned about China's lack of experience with large-scale production and the difficulty of maintaining quality control.

One hallmark of these cases is the lengthy negotiations. Wang started in 1980, and negotiations are only now coming to a conclusion. The McDonnell Douglas agreement took 10 years. The satellite proposals started in the late 1970s, with no commercial results yet.

China's shortage of foreign exchange has become a critical problem in cases such as AMC's joint venture. The import of supplies and the repatriation of profits are difficult. Recent Chinese regulations require foreign ventures to export or supply advanced technology in return for access to China's market. In many cases, however, the quality of the goods produced is not up to international standards, which greatly limits exports.

In addition, taxes and unexpected expenses have made China one of the most expensive places in the world in which to do business. A company usually cannot hire its own employees; they are supplied by the state at a cost far higher than their actual salaries, and they cannot easily be replaced if they are incompetent or are transferred by the state. One of the main advantages of manufacturing in China—low-cost labor—is thus lost. Chinese managers also tend to be very cautious and frequently seen to lack a spirit of innovation.

High costs and bureaucratic rigidities are particularly difficult for small companies to manage. Few can afford to have a representative in China or continue negotiations for extended periods. Small companies are also particularly disadvantaged by complex export controls. However, some small companies have established profitable niches, particularly in the sale of specialized equipment.

Overall, businesses report mixed results in China. Some have lost money on early ventures, in the hope of building a profitable, long-term relationship, only to find China turning to competitors or dropping those imports altogether. The investment climate is particularly poor. The rate of foreign investment dropped by over 20 percent in 1986. China's leaders have recognized that foreign companies are being deterred by many regulations and costs over which the Chinese Government has control, as well as by more intractable deficiencies in skilled manpower, infrastructure, and resources. Significant steps have been taken to improve the atmosphere for foreign business (e.g., preferential tax treatment), but it remains to be seen whether these will be adequate.

It should be noted that some U.S. companies are doing quite well in China, particularly those that are not involved in joint ventures or other manufacturing investments. Two-way trade is over $8 billion and is still rising. Some companies recognize that it takes a long time to get established but are convinced that eventually the Chinese market will justify their patience. Other are waiting for other markets to improve, and anything sold to China will help bridge a gap, even if at little or no profit.

U.S. Government agencies are also involved in technology transfer as part of an overall effort to cooperate with China and improve relations. A broad agreement on science and technology cooperation was signed in 1979, and 25 protocols implementing the agreement in specific areas such as telecommunications, agriculture, space, environmental protection, transportation, and student/scholar exchange have been signed. Three more are pending. These contracts have facilitated commercial transactions and improved political contacts.

The presence of 17,000 Chinese students and scholars (half of those sent abroad) in American universities has been one of the most effective forms of technology transfer. Most students are in science or engineering courses. It appears that most students leave with friendly personal ties as well as an education, but it is not yet clear whether this will lead to commercial or political benefits for the United States.

The United States has many advantages in competing for the Chinese market (e.g., a reputation in China for advanced technology, connections through many Chinese-Americans, the popularity of the English language in China) but other countries seem to be doing relatively better in trade. Japan exports twice as much to China, and the nations of Western Europe collectively exceed the U.S. level. There are several reasons for this: American companies historically have been less concerned with exports, which have been very difficult during the last few years because of the high dollar. However, government trade policy is also a direct influence. U.S. export controls are time-consuming and laborious compared with those of other countries, and appear to be applied more rigidly. Moreover, Japan and West Germany have extensive foreign aid programs in China that lead to considerable trade. Japan, France, Italy, and others provide extensive official financing for exports. As discussed below, the United States does not necessarily have to emulate these tactics, but changes could be considered to improve the competitiveness of American companies.

ECONOMIC AND POLITICAL IMPLICATIONS

Technology transfer will have profound long-term impacts on China's economic and political future. Some sectors such as consumer electronics will benefit considerably because the industry has a head start or because the technology is more easily assimilated. Past experiences suggest that others will find foreign technology to have little effect because the industry is unprepared. Dissemination of the management concepts of quality, efficiency, and timeliness may be the most important result of technology transfer. Improvement in the quality of Chinese products (necessary for them to compete in international markets) may be the first general impact of technology transfer to be visible.

It appears quite probable that China's economic growth will remain high (above 5 percent and possibly over 7 percent). The goal of quadrupling the 1980 output by year 2000 should be attainable, though several factors could interfere. Foreign exchange limitations, energy constraints, and political instability could all hold the growth rate down.

China's exports should also rise rapidly over the next 15 years, but the competition with American products will not be great. The newly industrializing economies, including Korea, Taiwan, Mexico, and Brazil are more likely to feel the competition. Direct competition with either industrialized countries or less developed countries is less likely because the product mix will be different. One exception may be American agricultural exports to Asia, which would be hurt by rising Chinese surpluses. On the whole, however, China's increased role in the international economy should be beneficial for the United States.

Several factors may slow China's export growth rising protectionism in the developed countries may preclude growth in sectors, such as textiles, where China is strong. Diminishing foreign exchange reserves could limit China's ability to invest in new productive capacity. If the quality of China's products doesn't improve sufficiently, there will be limited markets for them in the West, and China may have to turn to the Soviet bloc for trade and credit, a trend that is already appearing.

There is a strong relationship among modernization, economic reforms, political changes, and technology transfer. As long as modernization is a prime goal (as it has been for the last 10 years), most economic reforms made to date will be retained. Modernization depends on technology transfer to achieve more efficient production, and further economic reforms will be needed to assimilate technology. However, the economic reforms are straining the political system, as evidenced by reactions to recent public demonstrations. If political reforms do not reinforce economic reforms, modernization is likely to be slow.

Some of the more diffficult economic reforms have yet to be implemented. Price decontrol is essential for rational economic decisionmaking, but it strikes at the heart of the concept of the planned economy. Mobility of labor would increase productivity but would bring unaccustomed social dislocations. Recent developments suggest that there is a strong resistance to reforms such as eliminating the control of Communist Party cadres over factory operations. If China insists on making ideology preeminent, it is unlikely to greatly improve its economic efficiency.

The leadership succession to Deng Xiaoping is one of the most crucial questions. Virtually all of China's leaders support economic reform, but there are major differences of opinion over how fast and far it should proceed. Promoting technology transfer benefits the United States by strengthening the hand of reform-minded leaders who have favored opening up to the West, largely to obtain technology.

If China's modernization program turns out to be even a partial failure, there are likely to be negative implications for the United States. A society disappointed and frustrated from unmet expectations of economic improvement would be more susceptible to political extremism, which could easily have ramifications for Taiwan and Korea. China would also be a less valuable trading partner for the West and could move closer to the Soviet bloc which presents fewer demands for hard currency and quality products.

However, successful reforms will create their own problems. Rising expectations of the population and critical environmental problems will make enormous demands on the leadership. Economic and political changes are creating an environment that will encourage a pluralism of ideas and a liberalization that is incompatible with traditional Communist Party control. It remains to be seen whether the party can accommodate itself to these changes and define a new social role, or whether it will attempt to slow modernization to preserve its control. The present problems of the reform movement indicate that the party conservatives still have considerable power, but China's political evolution is likely to exhibit many unpredictable shifts.

STRATEGIC IMPLICATIONS

Technology transfer will assist China's military. The important questions are how much it will help and how much that matters to the United States or its allies. The first question involves China's military needs and internal capabilities, the second involves China's foreign policy.

At present, China's military is large but unsophisticated technologically. It has a great many tanks and planes, some missiles, nuclear warheads, and ships, and even a few nuclear submarines, but all are outdated and much less effective than U.S. or Soviet equivalents. China is not a major power even regionally, as demonstrated by its ineffectual excursion into Vietnam in 1979. China's military capability is improving, especially in the strategic forces needed to deter a Soviet attack and in nontechnical ways such as command structure and professionalism, but the process will be gradual.

China's military can benefit from foreign technology in these ways: it can by military technology directly, obtain civilian technology that has military applications, or develop its own modern weapons systems as its economy as a whole modernizes.

The United States and other nations have offered to sell military equipment to China, including the avionics package for the F-8 fighter, but there have been few contracts because China apparently cannot afford to buy many weapons systems. Acquiring modern weapons would be the fastest way to a modernized military, but China does not feel the need to be pressing enough to sacrifice its economic priorities. Instead, it prefers to import technology rather than equipment, a rationale particularly compelling for the military, which often needs a very large quantity of each piece of equipment.

The transfer of dual-use technologies has increased rapidly. While it is reasonable to assume that China's military has access to such technology if it demands it, that does not mean that the military will be able to use it effectively. Until recently, civilian and military enterprises were kept separate, with the military being given priority on resources and talent. Military factories were significantly more sophisticated than civilian ones. This has changed over the past few years. Civilian factories have enjoyed much more technology transfer and appear to be modernizing faster. Both have exhibited considerable difficulty in assimilating new technology. For instance, the United Kingdom transferred the Spey jet fighter engine technology, but the military factory never was able to manufacture it successfully. Examples of successful reverse-engineering are very few. Chinese military factories produce large quantities of unsophisticated weapons that sell well in the Third World, but their production of sophisticated systems is very limited.

Modern military systems are complicated and demanding. They must be designed by teams of talented and experienced engineers and scientists representing a variety of disciplines. Their manufacture calls for additional expertise and the availability of precision production equipment and high-quality supplies. China's difficulty in assimilating advanced technologies suggests that more could be transferred without incurring much risk that China will use them to produce sophisticated weapons systems, but this risk will grow over the years as China's technological capability improves.

For instance, table 1 shows the major components and technologies involved in anti-submarine warfare (ASW), one of the key mission areas which would significantly enhance China's overall military capability. Critical ASW technologies should not be transferred unless there is an explicit political decision that this would be in the U.S. national interest. Those technologies that are unique to ASW are clearly critical. Others are so readily available for commercial uses that no purpose would be served in trying to contain them. The difficulty comes with the intermediate, dual-use technologies, such as spectrum analyzers, the electronic instruments used to identify the source of noise by analyzing the acoustic patterns.

TABLE 1.—ANTI-SUBMARINE WARFARE TECHNOLOGY

Anti-submarine warfare (ASW) is the detection, identification, and destruction or disabling of an enemy submarine. ASW can be conducted from any suitable "platform" from the air, sea surface, or from another submarine. The basic functions needed to successfully conduct the ASW mission are the same for each platform:

1. Detection: by either acoustic or nonacoustic methods.
2. Classification: determination of the type of target.
3. Localization: target motion analysis and contact management.
4. Approach to the Target: closing in on the submarine to within range of one's own ship or aircraft weapons.
5. Weapon Deployment (Launch): actual attack.
6. Evasion and Reattack: performed if necessary.
7. Related Functions: tactics such as mine avoidance, mine deployment, and surveillance performed as necessary.

Although the basic required ASW functions listed above are always the same, the complexity and difficulty of each of these elements varies from case to case and from platform to platform.

There is no one ASW technology. These functions require the implementation of many different technologies, and capabilities are required across a broad spectrum of engineering and science. Some technologies are critical in the sense that if their performance is substandard, the whole ASW system is significantly affected. Each increased level of sophistication will have a higher level of success in ASW, but there are many different levels that can be successful. Following are the critical technologies, grouped by commercial availability.

a. Critical technologies not commercially available (easily controlled): Propulsion design, low-noise machinery design, sonar dome, transducer design, classification techniques/algorithms, acoustic correlation algorithms, contact motion analysis, tracker design algorithms, passive ranging techniques, weapon guidance, high-density power-pack design, small-size high-power train design, exotic fuel design, power engineering, multipath processing techniques.

b. Critical technologies with less sophisticated versions available commercially (control is complex): Low-speed turbines, bearing design, baffle design, beamformer techniques, local area network design, spectrum analyzer design, microelectronic design, beamformer design, high-speed graphic techniques, color/bit plane graphics, shape charge techniques, fusing design, magnetic anomaly detection.

c. Critical technologies readily available commercially (controls futile): Corrosion resistance, ceramic design, elastomer technology, machinery isolation, spectral analysis algorithms, acoustic performance prediction techniques, environmental sampling techniques, high-speed math processor design, minicomputer design, high-explosive technology.

Source: Adapted from "Assessment of ASW Technology Transfer to the People's Republic of China," contractor report prepared for OTA by Global Associates, Ltd., Alexandria, VA, December 1986.

Spectrum analyzers are sold frequently to China, including sophisticated models that would be useful in ASW (though they would not play a prime role in U.S. ASW). However, this technology would be extremely difficult to reverse engineer. Moderate relaxation of controls over exports of spectrum analyzers would give China access to more equipment to upgrade its ASW, but would not in itself seriously effect U.S. security interests. However, any such decision has to be considered in the context of other technologies that are being made more available, China's growing technological capabilities, its political intentions and the impact on U.S. allies.

It is likely that military needs are considered when foreign technology is sought. The Chinese National Defense Science, Technology, and Industry Commission reviews requests to determine priorities, but no pattern of technology targeting is apparent. The civilian technology that China seeks has justifiable commercial uses. Considering China's great need for most technologies, the Soviet practice of targeting militarily significant technologies would seem to be irrelevent. There is little evidence that imported dual-use technology has been a significant factor in China's military modernization.

If China is to become a major power, it will be through developing its own capabilities throughout the economy. Thus, in the long term, technology transfer will have a great military effect if it spurs innovation, modernized thinking, research and development, and economic growth generally. However, China will not have the economic depth to become a superpower for several decades, especially considering the progress the United States and the Soviet Union will also be making.

U.S. policy includes the principle of military cooperation, but within certain limits. Many dual-use technologies have been transferred because any gains to Chinese defensive power are likely to be of greater Soviet than U.S. concern. Military cooperation has been seen as a natural part of the growing relationship, but concrete steps toward cooperation have been tentative. U.S. arms sales to China, while increasing, remain well below the level of sales elsewhere in Asia, such as to South Korea and Taiwan.

At worst, the current policy of technology transfer to China entails only moderate direct risk to the United States. China will not have the strategic strength for serious threats for several decades. While China has a few intercontinental ballistic missiles capable of reaching the United States, it also has compelling reasons not to launch them. However, other U.S. interests could be threatened more easily. In particular, as a regional power, China would be capable of putting great pressure on U.S. allies in East Asia.

Asia has been a region of relative stability and peace since the end of the Vietnam war, with the exception of the Kampuchean problem. There are, however, tensions and several potential flashpoints, specifically Korea and Taiwan. Military outbreaks could become of global significance, especially considering the U.S. and Soviet interests in the area. The large-scale Soviet military buildup and political initiatives are the greatest concerns to the United States. China shares this perception, which has become the basis for de facto military cooperation, though China is very unlikely to jeopardize its status as self-appointed Third World spokesman by an overt alignment.

Some of China's neighbors, however, may see China as a potential threat. Asian attitudes toward China are complex and vary from country to country. All share China's desire to see a Vietnamese withdrawal from Kampuchea and are relieved to see China focusing on economic growth rather than exporting revolution. However, there are misgivings about the effects of U.S. technology transfer on China's economic competitiveness and concern about China's growing influence. Many Asian countries have large Chinese populations, compounding the uneasiness. Such feelings may be inevitable, considering China's size, but special sensitivity by the United States may help minimize future problems. For instance, consultations with these countries on U.S. relations with China may provide reassurances of U.S. intentions.

U.S. POLICY CHOICES

U.S. policy currently supports the transfer of technology to China, but within certain limits set by national security considerations. The fundamental rationale for this policy, supported by four U.S. administrations, is that assisting China in its modernization will serve U.S. interests. This general framework represents a compromise between optimism and caution, and permits a flexible approach to specific policy choices. For example, advanced dual-use technologies and arms can be exported on a case-by-case basis, depending on the nature of the technology, the Chinese recipient, the conditions of the sale, and other factors.

The flexible approach has permitted the relaxation of controls as relations have improved and has brought significant benefits to the United States. However, case-by-case export controls are complex to administer (delays in export licensing are often the result) and can yield inconsistent decisions.

U.S. policy also includes some promotional programs to foster exports of nonsensitive equipment and technologies, but these programs are much less extensive than those of Japan, France, and other countries. There is no U.S. aid program and government financing of exports is quite limited relative to other countries.

There is a broad consensus that overall policy is on the right track, but changes in emphasis could be considered to improve the benefits for the United States. One alternative theme would emphasize a more activist strategy of technological cooperation: explicitly using technology transfer to improve relations and trade. Another possibility would be to make better use of technology transfer as a bargaining chip in U.S.-China relations. A third would be to emphasize the multilateral aspects of export control and trade with China.

It would of course be possible to pull back and further restrict technology transfer. However, in the current climate of improved U.S.-China relations, such an approach would appear to be counterproductive. It would alienate China without denying it access to advanced technology, given the availability from many other suppliers. If the worst fears are realized, and China does revert to hostility, the present system can adapt to the change.

Regardless of whether or not a more explicit strategy is developed, a number of specific issues will be addressed by Congress. Most attention has been focused on export controls. For advanced exports with military significance, the United States maintains a system of extensive reviews to ensure that U.S. national security is preserved. The Department of Commerce (DOC) is the lead agency, but the Departments of State and Defense also participate. Multilateral review through COCOM[1] is also required on many such exports.

U.S. industry has been critical of China export controls, protesting lengthy reviews and contracts lost to firms from other countries as a result of more stringent U.S. controls.[2] OTA's research confirmed that other countries are generally able to reach a decision on even sophisticated dual-use exports in a few weeks, while the United States frequently requires months or even years. In addition, only the United States unilaterally imposes controls on items not on the list of COCOM controlled items, and requires that exports to allied countries, if reexported to third countries, be again subject to the original licensing. The latter requirement has also caused considerable discord between the United States and other COCOM members.

It is difficult to quantify sales lost due to export controls, because so many factors affect the competitiveness of U.S. firms in the China market. The green zone (items likely to be approved for export) has been expanded to cover items in 30 categories on the Commodity Control List. Today, U.S. controls on exports to China affect primarily a few key advanced technology sectors such as computers, telecommunications, precision instruments, and advanced manufacturing equipment—areas where the United States might otherwise have significant competitive advantage. In 1986, computing equipment alone made up almost 80 percent of the value of export licenses approved. Thus, while U.S. controls are not the critical factor determining the overall volume of trade with China, delays can considerably affect the advanced technology exports that China wants.

In recent months there have been signs of improved efficiency in license review. Average processing time for China cases has declined to 57 days in April 1987. However, the processing time for referred China cases (those reviewed by agencies in addition to DOC) continues to take almost 6 months on average. OTA found that 134 China cases valued at $145 million had been in the system for more than 1 year as of January 1987. Figures 1 and 2 show the trends in processing time for referred and nonreferred cases. China cases comprise about one-third of the total for all countries pending over statutory limits in 1986.[3]

There are several steps the U.S. Government could take to clarify export control guidelines and improve licensing administration. The process of license review could be made more consistent by expanded use of computerized information on precedent-setting cases. Additional technical analysis could be applied to develop U.S. positions for an expanded green zone and to develop sectoral approaches for technology transfer to China. At a broader level, improved mechanisms for resolving disputes among executive branch agencies would reduce processing times for referred cases.

If policymakers wish to relax controls, the key question is whether exports of technologies that are now controlled might endanger U.S. or allied security. For the near term, there are few dual-use technologies that would make a big difference in China's military capability if transferred. The discussion of ASW and spectrum analyzers above illustrate how many technologies must be mastered and coordinated to produce usable, sophisticated military systems.

Supercomputers are one of the exceptions. Decisions about such a transfer must take into account a broad array of factors. A supercomputer is useful in a number of defense applications, such as satellite imaging, acoustical intelligence, and nuclear weapons design. China has indigenously developed a supercomputer. It appears to be significantly less capable than the Cray-2 or Cyber 205, but it indicates that China has the expertise to make use of advanced computer technology. However, if an American supercomputer were exported, the Chinese would also need sophisticated software. Programs to simulate weapons design, for example, would not be transferred. Chinese scientists could produce usable software, but it would be years before they produce such sophisticated software as that used in advanced U.S. weapons design. An American (or Japanese) supercomputer would eventually be a significant asset for China for improving its own technology and for solving problems, say, in missile accuracy. If China is allowed to buy a supercomputer (perhaps for weather forecasting as authorized for India), conditions could be applied, such as limiting access to the facility or maintaining some U.S. control to prevent uses detrimental to U.S. interests.

Following the COCOM member country agreement to a liberalization of controls on specific types of exports to China, the number of U.S.-China cases submitted to COCOM declined from 287 in January 1986 to 187 in April 1987. However, the approaches to export controls differ among the COCOM countries, and there is leeway for different interpretations of the China regulations within the discretion permitted COCOM members. OTA's research indicated a need for further harmonization of COCOM country policies.

OTA found widespread misunderstanding among businessmen in the United States and abroad about multilateral controls. There is a tendency for all to suspect their competitors of circumventing the rules, but OTA found little hard evidence to support claims that foreign (COCOM) country governments are doing so.

A major issue for the future will be whether to remove China exports from COCOM consideration. This would announce full acceptance of China as a Western trading partner, although the commercial implications for U.S. firms are uncertain. If China's current trends continue, this issue will be given serious consideration. However, COCOM members will be cautious because once review is ended, it would be awkward to reinstitute if China's policies later change.

Some exporters have complained that their dual-use technologies are subjected to more stringent controls and take longer to gain approval than military technologies. Sophisticated, state-of-the-art systems such as the F-8 avionics package embody some technology that will be useful to China even if sold as an end product, with no intentional technology transfer. Since the United States has made a policy decision to help China's military to this degree, dual-use exports should be judged by the same standards.

OTA finds that approvals of military and dual-use technology have not been inconsistent. The actual number of munitions cases reviewed has been much smaller than those reviewed for dual-use exports, and the rate of denial higher. Inconsistency could be a problem in the future unless the two sets of reviewers are more aware of what their counterparts are doing. Information about recent arms sales, for example, could be useful to those involved in review of related types of dual-use cases.

A number of factors suggest that U.S.-China military cooperation will continue to develop slowly. Taiwan is one of those factors. China continues to object to U.S. arms sales to Taiwan, while supporters of Taiwan carefully scrutinize the more limited U.S. sales to China. Continued differences over Taiwan may limit U.S.-China military cooperation in practice.

The United States has several promotional programs that support trade with and technology transfer to China, although these programs are not extensive nor coordinated into a comprehensive strategy as are those of Japan, for example. These protocols for science and technology cooperation help set the stage for expanding commercial interaction. The Foreign Commercial Service in the Department of Commerce provides information and assistance to U.S. businesses and helps potential buyers learn of U.S. goods and services. The Dalian Management Center, a training program for Chinese managers, is supported by DOC. The U.S. Government also tries to provide a favorable environment for trade and technology transfer through U.S. official discussions.

U.S. financing programs, including those of the Export-Import Bank, have been comparatively limited and have been guided by the general principle that the private sector should finance exports unless the project is of great national interest or unless a competing foreign bidder is assisted by a national government with subsidized loans. The Overseas Private Investment Corporation (OPIC) has insured more than 20 U.S. investments in China against political risk. Programs of both the Export-Import Bank and OPIC are, however, being scaled back in some areas because of budgetary constraints.

The Trade and Development Program (TDP) has been well received in China. TDP provides project planning services, including feasibility studies. These relatively modest investments can yield significant results. In 1982, for example, a $440,000 TDP feasibility study of a hydropower project led to $20 million in U.S. exports.

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[1] The Coordinating Committee for Multilateral Export Controls, an informal organization of the NATO countries plus Japan, which seeks to harmonize export controls.

[2] OTA's analysis focuses on controls on exports to China. A recent study by the National Academy of Sciences examines the impact of U.S. national security export controls as they affect global competition: *Balancing The National Interest: U.S. National Security Export Controls and Global Economic Competition* (Washington, DC: National Academy Press, 1987).

[3] Congress has established deadlines for license processing in the Export Administration Act.

Since the United States has no formal aid program to China and because of opposition by some to the use of "mixed credits," which combine official credits and concessional financing, low-cost programs such as those of TDP provide an important tool for U.S. Government support at important early stages of projects.

China is a good test case for U.S. exports, and the U.S. Government could provide more support. U.S. exports to China were lower in 1986 than in 1980. Increases in exports of machinery and equipment were more than offset by decreases in agricultural products. Congressional debates focus on whether the United States can maintain a policy directed at promoting free trade or whether protectionist responses will be forthcoming. Still another possibility would be to develop special bilateral understandings with China. U.S. policies affecting trade and technology transfer to China, however, must be part of an overall U.S. trade policy strategy to be effective over the long term. Technology transfer is a long-term relationship, and the participants could benefit from clear and consistent signals about the direction of government policies.

Specific actions on export control that Congress could consider include the following:

1. Improve the efficiency of export control administration: Require Operating Committee reports to Congress on greatly delayed cases; require more timely information on precedent setting export approvals; support automated systems to improve the efficiency of review; and set goals for faster licensing (e.g., 6 days for green-zone cases).
2. Modify existing export control policy: Give DOC authority to approve licenses unless *formally* appealed to the President, with automatic approval if cases back up for too long; require clearer guidelines for prohibited dual-use exports; require the development of plans for an enlarged green zone; improve information exchange between munitions and dual-use reviewers; and establish a distribution license procedure.
3. Ensure that U.S. controls are in line with COCOM allies, even if that means dropping unilateral controls.

Potential congressional actions on trade promotion include the following:

1. Expand existing programs, including TDP, the Foreign Commercial Service, and official financing.
2. Modify existing policy to: Encourage the development of sectoral trade strategies; review the science and technology protocols and revise government support as appropriate; and
3. Initiate an official development assistance program for China.

Technology will continue to be a key element in the expanding U.S.-China relationship, yet one not easily manipulated by governments. Technology transfer can help create a constructive, long-term partnership, but it can also create new and, in some cases, unanticipated problems. Policies aimed narrowly at either the control or promotion of technology transfer to China without consideration of the larger context of U.S.-China relations and Asian security could prove counterproductive.●

INFORMED CONSENT: ARKANSAS

● Mr. HUMPHREY. Mr. President, abortion is a very permanent decision, and often leaves very permanent scars. This is especially true for women who are not told the whole truth about abortion. Many are surprised when they later realize that they have taken the life of their living preborn child, and not simply had a blob of tissue or the "particles of conception" removed. Others, like Lorraine Messmer, are deeply hurt to learn that their baby may have felt pain during the abortion procedure.

Mr. President, we may not be able to help these women, but we can certainly prevent the same thing from happening to others. I urge my colleagues to support S. 272 and S. 273 to make sure that the choice to have a abortion is truely an informed choice.

I ask that a letter from the State of Arkansas be printed in the RECORD.

The letter follows:

CABOT, AR, *February 5, 1987.*

DEAR SENATOR HUMPHREY: In 1975, I had a legal abortion. It was done in a nice, clean building called the Womens Clinic. Everything in there was spotless. It was sterile. I was told that I was doing the right thing. I was commended for my courage. I wish to this day that I had never had it done. They never did tell me what my life would be like years later. If they had, I don't think I would have had it done. In fact, I am sure of it.

I would go to a store and see a child about the age mine would have been, and I would get very sick in my stomach. I saw all the things that I could have gotten him, but he wasn't there to buy anything for. I would have crying spells because I knew that my baby felt pain, and then I would wish that I were dead. When anyone would use the analogy of concentration camps to describe the abortion clinics I would cringe, because they were right and I knew it. The one thought that I have never ever been able to shake is the one that the baby feels pain. I didn't. And they were very careful to make sure that they didn't tell me that the baby would feel all of it. Oh, to move the clocks backward 12 years.

I am now a Christian; I have accepted Jesus Christ as my personal Lord and Savior. If it weren't for Him, and the fact that one day I will see my baby again, I don't think that I could keep going. I keep it out of my mind as much as possible. But even now, I am weeping as I write this.

If this will do you any good; if it will save just one baby from dying like mine did; if it will open the eyes of just one "pro-choice" person; then maybe, my baby didn't die in vain.

May the Lord bless you and your work concerning this.

Sincerely,

LORRAINE D. MESSMER.●

ORDERS FOR TUESDAY, JULY 28, 1987

RECESS UNTIL 9 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today it stand in recess until 9 a.m. on Tuesday next.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, on Tuesday next, after the prayer, I ask unanimous consent that following the recognition of the two leaders under the standing order, there be a period for morning business not to extend beyond 9:40 a.m., that Senators be permitted to speak during that period of morning business for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. BYRD. Mr. President, on Tuesday next the Senate will convene at 9 o'clock a.m. After the two leaders or their designees have been recognized under the standing order, there will be a period for morning business not to extend beyond 9:40 a.m. during which period Senators may be permitted to speak for not to exceed 5 minutes each. At 9:40 a.m., the Senate will take up Senate Resolution 255 submitted by Mr. MCCAIN and other Senators. There is a time agreement for debate thereon, and a vote will occur at no later than 10 o'clock a.m. up or down on that resolution. Mr. President, that resolution expresses the sense of the Senate with regard to the forthcoming negotiations by Gen. John Vessey to resolve the fate of Americans missing in Southeast Asia and other issues of humanitarian concern to the people of the United States and Vietnam. There will be a rollcall vote. The yeas and nays have already been ordered thereon, so all Senators should be apprised of the fact there will be a rollcall vote at 10 o'clock a.m. or slightly before 10 o'clock a.m. I hope that Senators will come to the floor prepared to vote early so that we will not have to string out the rollcall vote and so we will get the day started off with a vote on that resolution.

Now, upon the disposition of that resolution, Mr. President, the Senate will resume consideration of the pending business, which is House Joint Resolution 324, a joint resolution increasing the statutory limit on the public debt.

As we heard just a little while ago, Mr. CHILES and Mr. DOMENICI have met today and they are reopening negotiations on the debt limit. It will obviously, I am sure, take them a while on Tuesday to come to any conclusions as to an accommodation. In the meanwhile, the Senate will need to do some business.

Now, what business will be done? Mr. President, I should alert Senators that there are a number of possibilities, one of which would be—in view of the fact that my request to go to the DOD authorization bill was rejected today with an objection from the other side of the aisle—on next Tuesday, of course, we can resume consideration of S. 2, the Federal Election Campaign Act. That is commonly known as campaign finance reform. I would prefer, however, not to resume consideration of that measure next Tuesday. There are several bills on the calendar that staffs have been working on with respect to time agreements. We have not been able to get time agreements. Hopefully, we can get some time agreements next Tuesday and proceed with some of those items, so that the Senate will not have to stand in recess and will not have to have prolonged quorum calls.

Rather than have the Senate just spin its wheels, it would be my intention to attempt to go to certain bills on the calendar. It might be well if we went to the Grove City legislation. That is S. 557, Calendar Order No. 157, a bill to restore the broad scope of coverage and to clarify the application of title IX of the education amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964. Now, that measure has been on the calendar since June 5, during which time Senators have had ample opportunity to study the report and the minority views that were filed.

So that bill would be a good candidate. I simply state that for the Record at this time so that Senators who would be directly involved in that bill are aware of the possibility I might ask unanimous consent to go to it at some point on Tuesday. There are other measures. One is Calendar Order No. 132, S. 328, to require the Federal Government to pay interest on overdue payments—and it ought to.

Calendar Order No. 233, H.R. 348.

By the way, 348 reminds me: Back when I was a boy, I used to watch with great interest, in what we called the "funny papers" in those days, The Gumps—Andy Gump, Bim Gump, and Chester Gump—Happy Hooligan, Mutt and Jeff, Bringing Up Father, Tin Can Alley. Those funny papers in those days would put to shame some of the so-called funny papers these days.

Anyhow, I will bet that not many people can remember Andy Gump's license number.

I used to get up early on Sunday mornings and I would get my dad to give me 5 cents, and I would cross over the "hollow" over to the next hill, and get a copy of the Bluefield Daily Telegraph.

I followed with great interest the story of the Gumps. At this particular point, Uncle Ben Gump was in Africa looking for diamonds. I would always wait, from Sunday to Sunday, with great interest, to see the next chapter in the story of the Gumps.

Andy Gump's license number back in those days, when few people had automobiles, was 348. So, seeing this number on the calendar today reminded me of those halcyon days beyond recall.

Back to the present moment: H.R. 348 is an act to amend title XXXIX, United States Code, to extend to certain officers and employees of the U.S. Postal Service the same procedural and appeal rights with respect to certain adverse personnel actions. That measure would be one that we might be able to go to.

There is Calendar No. 168, S. 938, a bill to authorize appropriations for the purpose of carrying out the activities of the Department of Justice for fiscal years 1988 and 1989.

Or, the Senate might return to the nomination of Melissa Wells. I have stated before that upon the disposition of the nomination of Melissa Wells, I want to go to the nomination of David Bryan Sentelle, of North Carolina, to be U.S. Circuit Judge for the District of Columbia.

Those are possible candidates for action on next Tuesday. There will be a rollcall vote early, as I stated, and we will continue our deliberations on the debt limit. But most of the deliberations early that day will be off stage rather than on stage, off the floor rather than on the floor. While they are going on off the floor, in an attempt to reach accommodations and, hopefully, a bipartisan compromise, these other measures might be called up, or at least the effort may be made.

There are other measures that I have not mentioned, but I have mentioned several, so that nobody will be caught unaware and off guard that those are items we will talk about next Tuesday.

ORDER TO PLACE ON THE CALENDAR H.R. 2470

Mr. BYRD. Mr. President, I ask unanimous consent—and this is with the approval of the Republican leader—to place on the calendar H.R. 2470, received from the House of Representatives today.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR STAR PRINT OF S. 1495

Mr. BYRD. Mr. President, I ask unanimous consent for a star print of S. 1495, a bill dealing with qualified export assets, the correct text of which I send to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill follows:

S. 1495

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 993(b) of the Internal Revenue Code of 1986 (defining qualified export assets) is amended by striking out "and" at the end of paragraph (8), by striking out the period at the end of paragraph (9) and inserting in lieu thereof a semicolon, and by adding at the end thereof the following new paragraph:

"(10) obligations (either payable on demand or issued for a term of no more than 6 months) issued to the corporation by members of a controlled group of corporations which includes such corporation, but only to the extent of the lesser of—

"(A) $10,000,000 or

"(B) 20 percent of the average qualified export receipts for the 3-taxable year period ending with the taxable year (or the applicable portion of such period)"

(b) The amendment made by this section shall apply to taxable years beginning after December 31, 1971 and ending before December 31, 1984.

AUTHORITY FOR ACTION BY COMMITTEES ON TODAY AND MONDAY

Mr. BYRD. Mr. President, these other requests have been cleared with the Republican leader.

I ask unanimous consent that committees may have until 6 o'clock today to report legislative or executive calendar business and on Monday, July 27, between the hours of 10 a.m. and 3 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER FOR RECORD TO REMAIN OPEN UNTIL 5 P.M. TODAY

Mr. BYRD. Mr. President, I ask unanimous consent that the Record remain open today until 5 p.m. for statements and for the introduction of legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, again I thank my colleague who is presiding over the Senate, Senator Rockefeller. He and I pretty much have things our own way right at this moment.

Senator Bensten is watching over our shoulders, so I guess I had better put us out.

RECESS UNTIL 9 A.M. ON TUESDAY, JULY 28, 1987

Mr. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9 o'clock on Tuesday morning next.

The motion was agreed to, and at 4:34 p.m., the Senate recessed until Tuesday, July 28, 1987, at 9 a.m.

CONFIRMATIONS

Executive nominations confirmed by the Senate July 24, 1987:

FEDERAL ELECTION COMMISSION

Lee Ann Elliott, of Illinois, to be a member of the Federal Election Commission for a term expiring April 30, 1993.

Danny Lee McDonald, of Oklahoma, to be a member of the Federal Election Commission for a term expiring April 30, 1993.

LIBRARY OF CONGRESS

James H. Billington, of the District of Columbia, to be Librarian of Congress.

The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

HOUSE OF REPRESENTATIVES—*Monday, July 27, 1987*

The House met at 12 noon and was called to order by the Speaker pro tempore [Mr. FOLEY].

DESIGNATION OF SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
July 23, 1987.

I hereby designate the Honorable THOMAS S. FOLEY to act as Speaker pro tempore on Monday, July 27, 1987.

JIM WRIGHT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

We pray this day, O God, for every person and every kind of need. We pray for healing where there is illness or distress, for freedom where there is captivity, for comfort where there is anxiety, for courage where there is fear, for community where there is alienation. Mighty God, prevail over any distress and may Your peace that passes all human understanding ever be with us along life's way. Amen.

THE JOURNAL

The **SPEAKER** pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with amendments in which the concurrence of the House is requested, bills of the House of the following titles:

H.R. 318. An act to provide for the restoration of Federal recognition to the Ysleta del Sur Pueblo and the Alabama and Coushatta Indian Tribes of Texas, and for other purposes; and

H.R. 2689. An act to amend the Arms Control and Disarmament Act to authorize appropriations for the fiscal years 1988 and 1989 for the Arms Control and Disarmament Agency, and for other purposes.

The message also announced that the Senate agrees to the amendments of the House to the bill (S. 1020) entitled "An act to create the office of Librarian of Congress Emeritus."

The message also announced that the Senate had passed a concurrent resolution of the following title, in which the concurrence of the House is requested:

S. Con. Res. 67. Concurrent resolution to recognize the importance of the agricultural export enhancement program.

MARRIAGE TAX: PROPPING UP A FALSE NOTION OF "FAMILY"

(Mrs. SCHROEDER asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHROEDER. Mr. Speaker, economist Harvey S. Rosen of Princeton University recently released a study analyzing the marriage tax in the new Federal tax law. Rosen's study reveals that lower-income couples with children will be the hardest hit by the law.

It looks to me like we need to take another look at our tax law, and see if we're doing anything to match our actions with our rhetoric. This tax law was purportedly one of the fairest and most progressive ever constructed. It was supposed to end the pattern of burdening the poor, and close loopholes. It was supposed to reward American values of hard work and family. It was supposed to do a lot of things.

The only thing the marriage tax has succeeded in doing is propping up a false notion of the American family and offering a disincentive to two income couples. It assumes that both partners in a marriage don't necessarily need to work. The law as it is presently constructed places greater burdens on families where both partners work to make ends meet. These couples will pay more tax than their single contemporaries, while traditional families, where the wife stays home to care for the children, will receive a marriage subsidy, even at high-income levels.

We can interpret this in several ways. Either the tax law is stating that a single income is enough to keep all families going—and I don't think many of us really believe that—or the law is saying that a woman's place is in the home and not in the workplace—and I hope none of us believe that.

The marriage tax is short sighted, inequitable, and fails to match rhetoric with reality.

There are aspects of the new tax law that are constructive, and I think we need to recognize that. But any legislation that punishes people for being married, working, or having children is simply unacceptable. Let's take a closer look at what we're legislating.

DEDICATING NORTH CASCADES NATIONAL PARK TO SENATOR HENRY M. JACKSON

Mr. VENTO. Mr. Speaker, I ask unanimous consent that the Committee on Interior and Insular Affairs be discharged from further consideration of the Senate bill—S. 958—to dedicate the North Cascades National Park to Senator Henry M. Jackson, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Minnesota?

Mr. COMBEST. Mr. Speaker, reserving the right to object, I do not intend to object but do so only to ask the gentleman from Minnesota [Mr. VENTO] to explain the bill.

Mr. VENTO. Mr. Speaker, will the gentleman yield?

Mr. COMBEST. I yield to the gentleman from Minnesota.

Mr. VENTO. Mr. Speaker, S. 958 would dedicate North Cascades National Park in the State of Washington to the late Senator Henry M. "Scoop" Jackson. The legislation directs the Secretary of the Interior to inform the public visiting the park of the contributions of Senator Jackson through use of markers, signs, maps, interpretive programs, and other means. It also authorizes the development within the park's boundaries of an appropriate memorial to Senator Jackson.

The legislative legacy left behind by Senator Jackson in the areas of conservation and environmental policy is indeed notable. As chairman of the Senate Interior and Insular Affairs Committee for 18 years, Senator Jackson left his mark on environmental and conservation measures too numerous to list, that preserved for present and future Americans, parks, wilderness areas, and wild and scenic rivers.

Dedication of North Cascades National Park to Senator Jackson is a fitting tribute to his many contributions in the field of conservation and is especially appropriate in light of his intimate involvement in the establishment of this particular park.

Mr. Speaker, this small mark of respect to our late esteemed colleague

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

was passed by the Senate on June 9, 1987, and is supported by the administration.

I support the adoption of S. 958 and urge its approval.

Mr. **MORRISON** of Washington. Mr. Speaker, will the gentleman yield?

Mr. **COMBEST**. I appreciate the gentleman's explanation, and am happy to yield to the gentleman from Washington.

Mr. **MORRISON** of Washington. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, on behalf of those of us from the State of Washington, we appreciate this action, and of course we remember, as do all Members of Congress and this Nation, the memory of our own beloved "Scoop" Jackson.

Mr. **COMBEST**. Mr. Speaker, I appreciate the gentleman's response.

Mr. LAGOMARSINO. Mr. Speaker, I rise in strong support of S. 958 to dedicate the North Cascades National Park to the late Senator Henry M. "Scoop" Jackson. This bill directs the Secretary of the Interior to inform park visitors of the contributions of Senator Jackson through markers, signs, maps, and interpretive programs. It also requires the development of an appropriate memorial for Senator Jackson within the park's boundaries.

During "Scoop" Jackson's service to the Congress, he was instrumental in the enactment of numerous conservation measures. In 1958, he authored the legislation which established the North Cascades National Park. As the chairman of the Senate Committee on Interior and Insular Affairs and its successor, the Committee on Energy and Natural Resources, for 18 years, he played a major role in shaping our Nation's environmental policy. During his time as chairman, the Wild and Scenic Rivers Act, the National Trails System Act, major amendments to the Land and Water Conservation Fund Act, the Federal Land Policy and Management Act [FLPMA], the Alaska National Interest Lands Conservation Act [ANILCA], and countless individual park, refuge, trail, river, and wilderness proposals were enacted into law.

Mr. Speaker, I would also like to point out that S. 958 does not set a new precedent for dedicating parks to individuals who were instrumental in their establishment. There are already several examples of such congressional action. In 1977, Congress dedicated the canal and towpath of the C&O Canal National Historical Park to Justice William O. Douglas; in 1983, the Golden Gate National Recreation Area was dedicated to Representative Phillip Burton; also in 1983, a portion of the Baltimore-Washington Parkway was dedicated to Representative Gladys Noon Spellman; and in 1986, Congress dedicated the Cumberland terminus of the C&O Canal National Historical Park to Senator J. Glenn Beall, Sr.

For all these reasons, I urge my colleagues to approve S. 958. Dedicating the North Cascades National Park to "Scoop" Jackson is a fitting tribute to one of our country's great public servants.

Mr. **COMBEST**. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 958

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the North Cascades National Park, Washington, is hereby dedicated to Senator Henry M. Jackson in recognition of his leadership in establishing the North Cascades National Park, his outstanding contributions to the National Park System, the National Wilderness Preservation System, and to the protection and preservation of our great natural resources for the benefit of the people of the United States for all time.

SEC. 2. In order to carry out the provisions of this Act, the Secretary of the Interior is authorized and directed to provide such identification by signs, including, but not limited to changes in existing signs, materials, maps, markers, interpretive programs, or other means as will adequately inform the public of the contributions of Henry M. Jackson.

SEC. 3. The Secretary of the Interior is further authorized and directed to cause to be erected and maintained, within the boundaries of the North Cascades National Park, an appropriate memorial to Henry M. Jackson. Such memorial shall include but not be limited to an appropriate permanent marker describing the contributions of Henry M. Jackson to the Nation.

SEC. 4. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. **VENTO**. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the Senate bill just passed.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The **SPEAKER** pro tempore. Pursuant to the provisions of clause 5 of rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken on Tuesday, July 28, 1987.

AUTHORIZING A PLANT STRESS AND WATER CONSERVATION RESEARCH LABORATORY AT LUBBOCK, TX

Mr. **DE LA GARZA**. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2663) to authorize the establishment by the Secretary of Agriculture of a plant stress and water conservation research laboratory and program at Lubbock, TX.

The Clerk read as follows:

H.R. 2663

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF PLANT STRESS AND WATER CONSERVATION RESEARCH LABORATORY AND PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 1431(a) of the National Agricultural Research, Extension, and Teaching Policy Amendments of 1985 (Public Law 99-198; 99 Stat. 1556), there are authorized to be appropriated such sums as may be necessary for the planning, construction, and acquisition by the Secretary of Agriculture acting through the Agricultural Research Service, of buildings and equipment to establish at Lubbock, Texas, a laboratory and program for plant stress and water conservation research.

(b) AVAILABILITY OF FUNDS.—Funds appropriated under subsection (a) shall remain available for expenditure without fiscal year limitation.

SEC. 2. EFFECTIVE DATE.

This act shall take effect on October 1, 1987.

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes and the gentleman from Texas [Mr. COMBEST] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. **DE LA GARZA**. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2663 will authorize the Agricultural Research Service of the Department of Agriculture to build a new plant stress and water conservation laboratory at Lubbock, TX.

Mr. Speaker, this laboratory is much needed and will provide invaluable research in the areas of plant stress and water conservation. I urge my colleagues to support passage of this bill.

In the way of background, I would like to inform the House that much of the agricultural production in the Great Plains region of the United States is subject to long periods of environmental stress, usually due to drought and high temperatures. As a result, crop yields have frequently suffered, bringing economic disruption to wide areas of the United States. In order to overcome these fluctuations, the use of irrigation in this region has increased to the point where over one-half of the food and fiber in this region is produced on irrigated acreage.

However, the main source of ground water for this region is the Ogallala Aquifer, which is being overdrawn at a rapid rate. This overdraft, combined with higher energy prices points to a decreased ability to depend upon irrigated farming in this region in the future. With this change comes the potential for a return to past cycles of drought in the Great Plains.

Recognizing this shift, a cooperative Department of Agriculture plant stress and water conservation unit was established at Texas Tech University in Lubbock, TX, in 1979. This unit was established following a 1978 feasibility study conducted by the Department of Agriculture that recommended the program and construction of a laboratory to house the program at Lubbock. In 1983, planning for the laboratory progressed to the point that architechtural and engineering plans were made for the facility.

Through fiscal year 1987, Congress has appropriated a total of $5,750,000 for the cooperative research in plant stress and water conservation unit, and $1,300,000 for laboratory planning.

The mission of the plant stress and water conservation research unit is to determine avoidance, tolerance, and survival mechanisms associated with plant growth and development under water and thermal stress, relate these mechanisms to the dynamics of nutrient and water transport through the soil-plant-atmosphere continuum, define the limits of genetic variablity of these mechanisms, and develop improved crops and cropping systems. There are currently about 20 State and Agricultural Research Service scientists involved in these undertakings in the research unit.

The program at Lubbock has a number of advantages stemming from its location at Texas Tech University. Located in an area with typical soil types and with other agroclimatic conditions found throughout the region, it is an ideal location for the study of regional problems. The availability of shared research plots is also an advantage, as well as the availability of joint appointments and graduate and postgraduate research training programs. Unfortunately, the research program has grown to a point where the lack of adequate laboratory facilities has become a signficiant limiting factor in the complexity and precision of the research.

Mr. Speaker, I hope you will join me in supporting this bill, which will enable this valuable research to continue and expand.

Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. Stenholm].

Mr. STENHOLM. I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in strong support of H.R. 2663, a bill to authorize the construction of a new Department of Agriculture [USDA] plant stress and water conservation research laboratory at Texas Tech University in Lubbock, TX. Such a research facility is urgently needed to house the existing cooperative research program in plant stress and water conservation, currently fragmented between laboratories on the Texas Tech campus and temporary buildings owned by the U.S. Department of Agriculture and located 10 miles from the campus. This research program seeks to achieve genetic crop improvement for environmental extremes such as drought and high temperature, and is pursuing an understanding of cropping systems that conserve water and prevent further depletion of nonrenewable underground water supplies such as the Ogallala Aquifer.

Recognizing that all interested parties directly associated with the legislation have followed the proper legislative process, I believe that the intent of section 1431(a) of the Food Security Act of 1985 has been carefully adhered to. In addition, I would quickly point out that this is not a research program which was put together overnight. In fact, planning for a plant stress and water conservation research laboratory was initiated as a result of a 1959 Senate report, Senate document 59. Furthermore, discussions continued between Members of Congress and administrators of USDA that resulted in an appropriation of $100,000 in fiscal 1977 for a feasibility study by a blue ribbon committee of distinguished scientists appointed by the Department of Agriculture. This committee visited many sites including Lubbock, and concluded in the feasibility report to Congress that Lubbock would be the most ideal location for such a facility.

The architectural plans for this facility have already been funded and completed, a long-term land lease involving both Texas Tech and USDA has been negotiated. Moreover, this program, with excellent State and USDA research personnel, has maintained a plausible momentum over the last 10 years. The actual construction of such a facility is in keeping with the thrust of cost-sharing and will enjoy a significant university investment.

Therefore, Mr. Speaker, it is my strong hope that the House and Senate will recognize the urgency of this research program, and concur that the time has come to appropriate the moneys required to construct the plant stress and water conservation research laboratory at Texas Tech University.

Mr. COMBEST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I really cannot expand upon what my colleagues from the committee and from Texas have indicated about this laboratory. I would point out two items particularly, the fact that work on the facility did start back in 1959, and development of the program was pursued vigorously by my predecessor from the 19th District, Mr. Mahon.

Also, I want to emphasize testimony presented regarding the significance and the importance of such a facility and the work which is currently being done in Lubbock. Quoting from testimony of the administration witnesses presented before the House Committee on Agriculture:

> The program at Lubbock is noteworthy in that it has taken a new approach that is now shedding new light on plant stress and crop production. Scientists at Lubbock have developed what they call a thermal kinetic window concept that identifies basic plant growth mechanics and chemistry in the context of temperature. Crop plants, genetically engineered to tolerate/survive the extremes of drought, temperature and other stresses are possible only through concerted efforts of interdisciplinary research teams as those which presently exist in the program at Lubbock.

In the statement of the gentleman from Texas Tech University in testimony relative to this facility which is there it indicated:

> Further delays in providing adequate research space and facilities for the scientists involved in this already dynamic research program would seriously affect the progress of a research effort that is critically needed as we address the problems of food and fiber production in the 21st century.

Mr. Speaker, I strongly support this measure and would hope that it would pass both bodies and be signed into law. I also have a statement to submit for the Record.

Mr. Speaker, I appreciate this opportunity to discuss H.R. 2663, which will provide for the construction of a laboratory at Texas Tech University in Lubbock, TX before the House of Representatives. As my colleagues on the Agriculture Committee heard at the hearing we held in June, the facility will house an ongoing research program in plant stress and water conservation research. The need for this research has been recognized by the scientific and policy communities by congressional and USDA need statements, and as presented in testimony at the hearing.

I know the Congress recognizes the need to act expeditiously to protect our water resources with research in the plant stress and water conservation field. Authorization of a plant stress and water conservation laboratory in Lubbock will ensure that we are on the cutting edge of research in this field.

As we discussed in the hearing last month, extensive work in the plant stress field is presently underway at Texas Tech. Many of the facility and graduate students in the Plant and Soil Sciences Program came to our university in anticipation of the forward movement of the plant stress research opportunity. While many strides have been made, we have reached a critical point in its development because of space consideration for the consolidation of this ARS/Texas Tech cooperative effort. Today, our approval of this bill will help ensure that the program goes forward and realizes its full potential.

I appreciate the time and consideration and look forward to continuing to work with others of my colleagues who are interested in agricultural research.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 2663.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

□ 1215

UNIFORM COTTON CLASSING FEES ACT OF 1987

Mr. DE LA GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2971) to provide continuing authority to the Secretary of Agriculture for recovering costs associated with cotton classing services, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2971

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

That this Act may be cited as the "Uniform Cotton Classing Fees Act of 1987".

SEC. 2 COTTON CLASSIFICATION SERVICES AND FEES.

Effective for the period beginning on the date of enactment of this Act and ending September 30, 1992, section 3a of the Cotton Statistics and Estimates Act (7 U.S.C. 473a) is amended—

(1) by amending the first sentence to read as follows: "Effective for the fiscal years ending September 30, 1987, September 30, 1988, September 30, 1989, September 30, 1990, September 30, 1991, and September 30, 1992, the Secretary of Agriculture shall make cotton classification services available to producers of cotton and shall provide for the collection of classification fees from participating producers, or agents who voluntarily agree to collect and remit the fees on behalf of producers."

(2) in the second sentence by striking out the proviso and inserting in lieu thereof the following: "*Provided* That (1) the uniform per bale classification fee to be collected from producers, or their agents, for such classification service in any year shall be the uniform fee collected in the previous year, exclusive of adjustments to such fee made in the previous year under clauses (2), (3), and (4) of this proviso, and as may be adjusted by the percentage change in the Implicit Price Deflator for Gross National Product as indexed during the most recent twelve-month period for which statistics are available; (2) the fee calculated in accordance with clause (1) for a crop year may be increased by an amount not to exceed 1 per centum for every 100,000 running bales, or portion thereof, that the Secretary estimates will be produced in such crop year below the level of 12,500,000 running bales, or decreased by an amount not to exceed 1 per centum for every 100,000 running bales, or portion thereof, that the Secretary estimates will be produced in such crop year above the level of 12,500,000 running bales; (3) adjustments made under clause (2) shall not exceed 15 per centum, except when the Secretary estimates that income generated by fees, surcharges, and other sources of income will not provide an ending accumulated operating reserve for a fiscal year of at least 10 per centum of the estimated cost of operating the program; (4) if the Secretary projects an accumulated operating reserve at the end of a fiscal year of less than 25 per centum of the estimated cost of operating the program, the Secretary may add a special surcharge, not to exceed 5 cents per bale, applicable to such fiscal year, to ensure sufficient funds are available; (5) notwithstanding the previous clauses, the Secretary, to the extent practicable, shall not establish a fee which, when combined with all other sources of revenue and adjusted for expenses, would result in a projected operating reserve of more than 25 per centum; (6) the Secretary should continue to recognize that central billing and collection can reduce administrative costs, and offer appropriate discounts where practicable; and (7) the Secretary shall announce the uniform classification fee and any surcharge for the crop not later than June 1 of the year in which the fee applies, except that for fiscal year 1987, such announcement shall be made as soon as practicable following enactment of this proviso."; and

(3) in the third sentence by striking out "clauses (1) and (2)" and inserting in lieu thereof the following: "clauses (1), (2), and (3)".

SEC. 3. STUDY ON PROCESSING CERTAIN COTTON GRADES.

(a) STUDY.—The Secretary of Agriculture shall conduct a study, and perform such testing as necessary, of the differences between processing efficiency and product quality for Light Spotted and White grade cottons. The Secretary shall also conduct a survey and research to determine why an increasing proportion of the cotton crop is being classified as Light Spotted.

(b) REPORT.—Not later than October 1, 1988, the Secretary shall submit an initial report describing the results of the studies required under subsection (a) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate. A final report shall be submitted to such committees as soon as practicable after submission of the initial report.

The SPEAKER pro tempore (Mr. FOLEY). Is a second demanded?

Mr. COMBEST. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes and the gentleman from Texas [Mr. COMBEST] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2971, as amended, will allow the Department of Agriculture to continue to collect fees from agricultural producers for cotton classing services. The bill will also allow these fees to be increased, when needed, to cover the costs of providing cotton classing services.

Mr. Speaker, this bill is needed to maintain the financial integrity of the cotton classing cost recovery mechanism provided in current law. I urge my colleagues to support passage of this important legislation.

Mr. Speaker, in the way of background, I would like to inform the House that cotton classing services are currently performed in 20 classing offices located in 12 States across the Cotton Belt by 109 full-time personnel and 1,450 seasonal personnel. The classification of cotton by the Agricultural Marketing Service of the Department of Agriculture is critical to cotton producers and the U.S. cotton industry because the grade assigned to each bale of cotton is used to establish its eligibility for the Federal loan program and the loan value. The assigned grade is also frequently used in establishing the value of cotton in various commercial transactions from producer through to the end-user.

Because Agricultural Marketing Service classification is considered to provide an extremely reliable measure of cotton quality, the U.S. cotton producer, cooperative, and merchant enjoy a valuable marketing tool.

In 1937, the Smith Doxey amendment to the Cotton Statistics and Estimates Act provided for free cotton classing services to producers. Participation in this program increased steadily until by 1960 more than 95 percent of the crop was classed annually at no cost to producers.

Until 1981, cotton classing was provided free of charge. However, other similar grading and inspection services of the Department of Agriculture were financed almost wholly from fees paid by the users of the services. On October 1, 1981, pursuant to authority contained in the Omnibus Budget Reconciliation Act of 1981, the Department of Agriculture began charging fees to producers for cotton classing services, including administrative and supervisory costs. To help reduce pressure on the Federal budget, special benefit services were placed on a self-supporting basis to the extent practicable. About two-thirds of the cost of classing for producers was financed by user fees during fiscal year 1982 and fiscal year 1983 at established rates of 60 and 67 cents per bale, respectively.

The balance of the cost in these years was financed by appropriated funds and proceeds from the sale of cotton samples accumulated by the Department of Agriculture.

In fiscal year 1984, the Department of Agriculture began full cost recovery for the cotton classing program through institution of a fee of $1.15 per bale. This action put all agricultural commodity grading services of the Department of Agriculture on a comparable and full cost recovery basis. In fiscal year 1985 and fiscal year 1986, the fee was reduced to $1.05 per bale.

For fiscal year 1987, the classing fee has been estimated to be $1.08 per bale, a level that would cause the estimated expenditure for the year to exceed estimated income by as much as $2.5 million dollars. This financial shortfall is the result of the combined effect of three elements: a statutory provision that restricts fee increases, a small 1986 crop, and a negative cash-flow that occurs because classing fees are not paid at the time of service.

H.R. 2971 would revise and extend the authority of the Secretary of Agriculture to collect uniform fees for cotton classing services through 1992. Classing fees would be established each year by adjusting the base for the previous year for inflation with the option to further adjust the fee by a percentage factor based on the size of the crop.

Mr. Speaker, I hope you will join me in supporting the bill to help maintain the financial integrity of our Department of Agriculture cotton classing service.

Mr. Speaker, I reserve the balance of my time.

Mr. COMBEST. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I will not take much time, but I do rise in strong support of the legislation. Being from one of the largest cotton producing districts in the country and a Member which supported the legislation which passed through our committee, I want to stress that time is growing critical and we must take care of this situation now. Before we get into the classing season, and that time for the gentleman from Texas, the chairman of the committee's district is now. We realize the importance of promoting the classing service. Losses to cotton farmers would be something like 9 cents per day without such services. It needs to be done now. We support it fully.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. de la GARZA. Mr. Speaker, I yield such time as he may consume to the gentleman from Texas [Mr. Stenholm].

Mr. STENHOLM. I thank the gentleman for yielding.

Mr. Speaker, I rise, too, in strong support of this legislation. It is needed to maintain the fiscal integrity of the Office of Cotton Classing Systems. As a member of the Subcommittee on Cotton, Rice, and Sugar which heard the testimony and marked up the bill, I can assure the Members that it has the unanimous support of all cotton producer groups throughout the United States. They recognize the need for this legislation.

Mr. Speaker, I urge its support.

Mr. EMERSON. Mr. Speaker, I rise in support of H.R. 2971 the Uniform Cotton Classing Fees Act. This legislation would revise and extend the authority of the Secretary of Agriculture to recover costs associated with providing cotton classing services to producers.

Since 1937 cotton producers were given the benefit of receiving, free of charge, cotton classing services. In later years, a provision in the Omnibus Budget Reconciliation Act of 1981 gave the Department the authority to begin charging a fee to producers for cotton classing services. This provided for about two-thirds of the cost and the balance was made up of appropriated funds and by the sale of USDA cotton samples. In 1984 the Department began a full cost recovery program by establishing a fee per bale to be paid by producers. The annual fee was developed by adjusting the previous year's fee by an inflation factor.

However, because most costs attached to the classing program are fixed, and inflation rates have been low, and crop size has been moderate, the income generated by fees has not been enough to offset operating costs. This has necessitated dipping into a reserve fund. This fund is expected to be fully depleted during fiscal year 1987 and the current method of funding the Cotton Classing Program will not be adequate for the continuation of the program on a break-even basis. As a result, if nothing is changed—the level of classing service will be reduced.

The proposed legislation would authorize USDA to use a new formula to establish an annual classing fee beginning with fiscal year 1988. The new formula will include the factors of inflation and volume of production. It also addresses the need to rebuild the reserve fund through a surcharge which would be applied when needed. The USDA and the cotton industry have worked together to develop this bill. And at a recent hearing witnesses from the Department, a producer group, and the cotton industry testified in support of this bill.

During the markup of the bill I was successful in adding an amendment, which addressed the debate within the cotton industry, regarding the current USDA cotton classing standards, and loan rates, and whether they accurately reflect the end-use value of the light-spotted cotton relative to the white grades. The amendment directed the Department to conduct a study to answer that question. In addition, the amendment required the Department to evaluate differences between the processing efficiency and product quality for light spotted and white grade cotton. It is my hope that this will lead to the quick development of plans to use the high volume instrument color grade in classing light spotted cotton in every classing office. I was glad to see this amendent added to H.R. 2971.

It is a good bill and will insure that cotton producers receive the necessary cotton classing services in an efficient and timely manner. I urge my colleagues to support it.

Mr. de la GARZA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. de la Garza] that the House suspend the rules and pass the bill, H.R. 2971, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

FOREST ECOSYSTEMS AND ATMOSPHERIC POLLUTION RESEARCH ACT OF 1987

Mr. de la GARZA. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2399) to provide for study and research on the decline in U.S. forest productivity and to determine the effects of atmospheric pollutants on forest environments, and for other purposes.

The Clerk read as follows:

H.R. 2399

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Forest Ecosystems and Atmospheric Pollution Research Act of 1987".

SEC. 2. FINDINGS.

Congress finds that—

(1) the health and productivity of forests in certain regions of the United States are declining;

(2) existing research indicates that atmospheric pollution, including ozone, acidic deposition, and heavy metals, may contribute to this decline;

(3) there is an urgent need to expand and better coordinate existing Federal, State, and private research, including research by private industry, to determine the cause of changes in the health and productivity of domestic forest ecosystems and to monitor and evaluate the effects of atmospheric pollutants on such ecosystems; and

(4) such research and monitoring should not impede efforts to control atmospheric pollutants.

SEC. 3. ESTABLISHMENT OF RESEARCH PROGRAM.

Section 3 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642) is amended by adding at the end the following:

"(c)(1) The Secretary, acting through the United States Forest Service, shall establish not later than one hundred and eighty days after the date of the enactment of this subsection a ten-year program (hereinafter in this subsection referred to as the 'Program') to—

"(A) increase the frequency of forest inventories in matters that relate to atmospheric pollution and conduct such surveys as are necessary to monitor long-term trends in the health and productivity of domestic forest ecosystems;

"(B) determine the scope of the decline in the health and productivity of domestic forest ecosystems;

"(C) accelerate and expand existing research efforts (including basic forest ecosystem research) to evaluate the effects of atmospheric pollutants on forest ecosystems and their role in the decline in domestic forest health and productivity;

"(D) study the relationship between atmospheric pollution and other climatological, chemical, physical, and biological factors that may affect the health and productivity of domestic forest ecosystems;

"(E) develop recommendations for solving or mitigating problems related to the effects of atmospheric pollution on the health and productivity of domestic forest ecosystems;

"(F) foster cooperation among Federal, State, and private researchers and encourage the exchange of scientific information on the effects of atmospheric pollutants on forest ecosystems among the United States, Canada, European nations, and other nations; and

"(G) support the long-term funding of research programs and related efforts to determine the causes of declines in the health and productivity of domestic forest ecosystems and the effects of atmospheric pollutants on the health and productivity of domestic forest ecosystems.

"(2) The Secretary shall establish a committee to advise the Secretary in developing the Program, which shall be composed of scientists with training and experience in various disciplines, including atmospheric, ecological, and biological sciences. Such scientists shall be selected from among individuals who are actively performing research for Federal or State agencies or for private industries, institutions, or organizations.

"(3) The Secretary shall coordinate the Program with existing research efforts of Federal and State agencies and private industries, institutions, or organizations.

"(4) The Secretary shall submit to the President and to Congress the following reports:

"(A) Not less than thirty days before establishing the Program, the Secretary shall submit an initial program report—

"(i) discussing existing information about declining health and productivity of forest ecosystems on public and private lands in North America and Europe;

"(ii) outlining the findings and status of all current research and monitoring efforts in North America and Europe on the causes and effects of atmospheric pollution on the health and productivity of forest ecosystems.

"(iii) describing the Program; and

"(iv) estimating the cost of implementing the Program for each fiscal year of its duration.

"(B) Not later than January 15 of each year during which Program is in operation following the year in which the initial program report is submitted, the Secretary shall submit an annual report—

"(i) updating information about declining health and productivity of forest ecosystems on public and private lands in North America and Europe;

"(ii) updating the findings and status of all current research and monitoring efforts in North America and Europe on the causes and effects of atmospheric pollution on the health and productivity of forest ecosystems, including efforts conducted under the Program;

"(iii) recommending additional research and monitoring efforts to be undertaken under the Program to determine the effects of atmospheric pollution on the health and productivity of domestic ecosystems; and

"(iv) recommending methods for solving or mitigating problems stemming from the effects of atmospheric pollution on the health and productivity of domestic forest ecosystems.

"(C) Not later than ten years after the date on which the initial program report is submitted, the Secretary shall submit a final report—

"(i) reviewing existing information about declining health and productivity of forest ecosystems on public and private lands in North America and Europe;

"(ii) reviewing the nature and findings of all research and monitoring efforts conducted under the Program and any other relevant research and monitoring efforts related to the effects of atmospheric pollution on forest ecosystem; and

"(iii) making final recommendations for solving or mitigating problems stemming from the effects of atmospheric pollution on the health and productivity of domestic forest ecosystems.".

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes and the gentleman from Washington [Mr. MORRISON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 2399, the Forest Ecosystems and Atmospheric Pollution Research Act of 1987, and urge its passage.

H.R. 2399 is identical to a bill which passed the House last year, H.R. 2631, that was introduced by our former colleague, Congressman Charlie Whitley, and the ranking minority member of the Agriculture Committee's Subcommittee on Forests, Family Farms, and Energy, Mr. MORRISON. The bill arose from public hearings of a little more than a year ago that identified a number of inadequacies in current research on the effects of air pollutants on forests. During a full day of hearings, the subcommittee heard from scientists from Europe, Canada, and the United States. These experts expressed concern for the effects of a wide range of air pollutants on forests, including but not limited to, acid rain. Researchers familiar with the rapid decline of German forests discussed efforts to identify the causes of "Waldsterban" or "forest death." Canadian scientists discussed similar efforts to determine the factors surrounding the decline of sugar maples in eastern Canada as well as the rapid increase in soil acidity in certain regions of the country. Finally, American researchers reviewed current research efforts to determine the effects of various air pollutants, particularly ozone, on U.S. forest ecosystems. Representatives from the USDA Forest Service, the Environmental Protection Agency, and the National Acid Precipitation Assessment Program testified at length regarding their efforts to determine if and how air pollutants are impacting trees in the United States.

Several things became clear following this day-long inquiry. First, there is a substantial decline in some U.S. forests—particularly high elevation spruce and fir forests and the productivity of pine forests in the Southeast. Thus far, the causes for these diebacks and declines remain unexplained. However, researchers could not rule out acid rain as a culprit.

Second, acid rain is not the only pollutant that we need be concerned about. In fact, more substantive evidence exists to indict ozone as a cause for both crop and forest dieback. For crops, estimated damage due to ozone is said to amount to $2 billion annually. And that was only for six crops that were the focus of an EPA study. Another pollutant of concern was heavy metals, such as lead and zinc, which are known to cause substantial forest diebacks in sufficient concentrations. It became clear from the testimony provided that we cannot look at acid rain in isolation if we are to deal with the problem of declining forest health.

The third conclusion I believe that could be reached as a result of last year's hearing was that there is an extensive research program in place, set up by the Acid Precipitation Act of 1980, to determine how acid rain is affecting forests. NAPAP—the National Acid Precipitation Assessment Program—is the coordinating body for this research which involves Forest Service, EPA, and forest industry researchers. However, this research program has been hindered by its narrow focus on acid rain and has thus far failed to provide the necessary findings to guide policymakers in dealing with the problems of air pollutant effects on forests.

In a subsequent hearing this June which focused on H.R. 2399, the Forests Subcommittee heard similar testimony calling for a broader, long-term research program on the effects of air pollutants on forests. Only limited progress has been made in broadening the scope of the existing forest ecosystem research program, and our understanding of how air pollutants may be affecting forests. An interim report on the findings of the National Acid Precipitation Assessment Program, including research on the effects of acid rain on forests, is more than 2 years overdue. The authorization for NAPAP is due to expire in 1990, thus threatening to curtail the research program now in place.

H.R. 2399 would establish a 10-year research program to study the effects of air pollutants on forest ecosystems. It would permit researchers to follow the research where it leads them, not restrict them to focus solely on acid rain. The bill would make the Forest Service the lead agency to develop this research program, aided by a committee of scientific experts in the field. Finally, the bill would require that the Forest Service generate a series of reports on the research program, including an initial report that spells out the kinds of research to be done and an estimate of the funds needed to do it. An annual report as well as a final report would also be required to bring the Congress up to speed on what the researchers are learning and to provide some basis for making rational policy decisions to deal with air pollutants that may be having a detrimental effect on forests.

I believe, as I did last year, that this bill is necessary to get the air pollutant and forest ecosystems research program on firm footing and headed in the right direction in order to assure that we ask the right questions and develop the scientific answers to properly develop policies for controlling harmful air pollutants. This bill was favorably reported from subcommittee and by the full Agriculture Committee by unanimous, voice vote. I urge my colleagues to support passage of H.R. 2399.

Mr. Speaker, I reserve the balance of my time.

Mr. **MORRISON** of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2399, Forest Ecosystems and Atmospheric Pollution Research Act of 1987. This legislation provides for study and research on the decline in American forest productivity to determine the effects of atmospheric pollutants on forest environments. The bill amends the Forest and Rangeland Renewable Resources Research Act of 1978 by establishing a 10-year program to—

Increase the frequency of forest inventories relating to atmospheric pollution;

Determine the scope of decline of forest ecosystems;

Develop recommendations for solving problems related to effects of atmospheric pollution on health and productivity of domestic forest ecosystems; and

Foster cooperation among Federal, State, and private researchers and encourage the exchange of scientific information on the effects of atmospheric pollutants.

The National Acid Precipitation Assessment Program, established by enactment of the Acid Precipitation Act of 1980, developed a comprehensive research program to identify causes and effects of acid precipitation and identify actions to limit or ameliorate them. The Forest Service was identified as the lead agency for assessing the terrestrial effects of acid precipitation.

This bill gives clear direction to the Forest Service to develop and implement a 10-year program and expand the agency's current research and survey efforts beyond their focus on acid precipitation, or acid rain.

Of all the stress factors that can influence forest health, air pollution is one of the newest types that trees and forests have had to accommodate. Many forest scientists have come to believe that air pollution can make a tree or forest more susceptible to natural stresses, such as insects, disease, drought, or winter frost damage. It was thought that acid precipitation alone might be responsible for productivity declines, but research is showing that other pollutants, such as ozone, ethylene, and heavy metals, may also be factors. Research authorized by this legislation will seek to determine the effects of all air pollutants suspected of having a significant effect on forest ecosystems health, not simply acid precipitation.

Current efforts to monitor air quality in forests are limited to acid deposition. Under this bill, these efforts would be expanded to include other pollutants suspected of affecting forest health.

Mr. Speaker, H.R. 2399 is identical to legislation which passed the House last August 13 by a vote of 416-4. The bill does not contain a specific authorization for appropriations: the Forest Service can incorporate these efforts into ongoing research projects.

I thank the chairman of the Committee on Agriculture for introducing this much needed legislation. The future of our forests is important—for timber harvesting, wildlife protection, recreation, and soil and water quality protection. I was pleased to cosponsor this legislation. I compliment the chairman of the full committee and the subcommittee on the handling of this legislation and I urge its passage.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. **DE LA GARZA**. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. STARK. Mr. Speaker, I rise in support of H.R. 2399, the Forest Ecosystems and Atmospheric Pollution Research Act. This legislation will provide a needed long-term look at what pollution is doing to our forests. The intertwining of the rise and fall of great civilizations coinciding with the treatment of forests was outlined in an excellent series of articles in the Los Angeles Times.

I hope the legislation will take a close look at what the loss of our ozone layer can mean to our forests. As this issue becomes increasingly important in the public debate, adequate research is needed to understand the effects of our activities on the forests. I congratulate the Agriculture Committee for moving ahead with this legislation.

The **SPEAKER** pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 2399.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

RENEWABLE RESOURCES EXTENSION ACT AMENDMENTS OF 1987

Mr. **DE LA GARZA**. Mr. Speaker, I move to suspend the rules and pass the bill, H.R. 2401 to extend the authorization of the Renewable Resources Extension Act of 1978, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2401

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Renewable Resources Extension Act Amendments of 1987".

SECTION 2. EXTENSION.

The Renewable Resources Extension Act of 1978 (16 U.S.C. 1600 note) is amended—

(1) in Section 6 (16 U.S.C. 1675) by striking out the first sentence and inserting in lieu thereof the following: "There are hereby authorized to be appropriated to implement this Act $12,000,000 for the fiscal year ending September 30, 1988, and $12,000,000 for each of the next seven fiscal years."; and

(2) in Section 8 (16 U.S.C. 1671 note) by striking out "September 30, 1988" and inserting in lieu thereof the following: "September 30, 1955".

SECTION 3. PROGRAM DEVELOPMENT AND EVALUATION.

Section 5 of the Renewable Resources Extension Act of 1978 (16 U.S.C. 1674) is amended—

(1) in subsection (a) by striking out "Congress" and inserting in lieu thereof the following: "the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate"; and

(2) by adding at the end thereof the following new subsection:

"(d) To assist Congress and the public in evaluating the Renewable Resources Extension Program, the Program shall include a review of activities undertaken in response to the preceding five-year plan and an evaluation of the progress made toward accomplishing the goals and objectives set forth in such preceding plan. Such review and evaluation shall be displayed in the Program, for the Nation as a whole, and for each State.".

The **SPEAKER** pro tempore. Is a second demanded?

Mr. **MORRISON** of Washington. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Texas [Mr. DE LA GARZA] will be recognized for 20 minutes and the gentleman from Washington [Mr. MORRISON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Texas [Mr. DE LA GARZA].

Mr. DE LA GARZA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 2401, the Renewable Resources Extension Act Amendments of 1987, and urge its passage by the House.

The Renewable Resources Extension Act [RREA] has successfully provided increased emphasis on forestry, range, recreation, fish and wildlife management, and environmental education within the ongoing efforts of the cooperative extension system. RREA addresses the environmental components of forest and rangeland management in the United States. It complements two related acts passed during the same period—the Cooperative Forestry Assistance Act (Public Law 95-313) and the Renewable Resources Research Act (Public Law 95-307). Together, these three acts provide a continuum of research, education, and technical/financial assistance to improve the management of the Nation's forest and rangeland resources.

Nearly two-thirds of the Nation's commercial forestland is held by nonindustrial private landowners. These lands offer a tremendous potential for increasing timber supplies and enhancing economic development, community stability, and environmental quality. Yet, relatively few acres are reaching their productive potential. Similarly, the Nation's 785 million acres of rangeland have a great potential for providing a variety of goods and services, including livestock products, wildlife habitat, recreation, water, minerals, and energy. However, current management of these lands often fails to meet needs for conservation and efficient production.

The Renewable Resources Extension Program was first funded in 1982. Since that time, the program has received between $2 and $2.5 million, annually. Working in tandem with other Federal, State, and local sources of support, the RREA program now provides landowner assistance for renewable resources management in 43 States.

Authorization for the RREA program will sunset in 1988 if Congress fails to act. H.R. 2401 would reauthorize the Renewable Resources Extension Program through September 30, 1995. Thus, subsequent program reviews and reauthorizations would be in sync with development of RREA's 5-year plan which is prepared in accordance with section 5 of the original statute. H.R. 2401 would also provide for minor modifications in the authorized appropriations and reporting requirements for the program.

Specifically, H.R. 2401 would reduce the authorized appropriations for the Renewable Resources Extension Program from $15 to $12 million, annually. Since the program has never received more than $2.5 million, this modification should have no significant effect. This level of funding is consistent with RREA's needs to meet all national goals identified in the 1985-90 5-year plan, and is sufficient to permit all 50 States to participate in the program. The amendments to H.R. 2401 would also require that the 5-year plan be transmitted directly to the House and Senate Agriculture Committees to provide clear responsibility for program review. Finally, in response to a recommendation contained in a Congressional Research Service review of the RREA Program, H.R. 2401 would require an evaluation of the program's accomplishments in conjunction with the development of each 5-year plan.

Mr. Speaker, H.R. 2401 is cosponsored by the chairman and ranking minority member of both the Subcommittee on Forests, Family Farms, and Energy, and the full committee. The bill passed both the subcommittee and full committee by unanimous voice vote and has the support of a diverse group of industry, conservation, and professional natural resource organizations.

Mr. Speaker, I urge my colleagues to support passage of H.R. 2401.

Mr. Speaker, I reserve the balance of my time.

Mr. MORRISON of Washington. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2401, Renewable Resources Extension Act Amendments of 1987. The original Renewable Resources Extension Act, passed in 1978, addresses the education component of forest and rangeland management in the United States. It complements two related acts passed in the same period—the Cooperative Forestry Assistance Act and the Renewable Resources Research Act. Operating together, these three laws provide for research, education, and technical and financial assistance to improve management of forest and rangeland resources.

The forest, range, and associated water areas that yield valuable renewable natural resources encompass nearly 1.7 billion acres, or about 70 percent of the surface of the United States. In the past, public and private forests, rangelands, and wetlands have met the public's demands without intensive management because the renewable resource base was large in relation to the population. Increased population, coupled with increased demands for these resources, requires long-term decisions about the best use of the Nation's resources.

The purpose of the Renewable Resources Extension Act is to provide a comprehensive extension program for forest and rangeland renewable resources. The extension education effort, like other extension programs, is conducted with the cooperation of Federal, State, and local units of the Extension Service. Since its passage, the Renewable Resources Extension Act has provided forestry, and other natural resources programs, with a more visible presence within the extension system framework.

The extension system's renewable resources program serves owners, managers, and users of forest, range and related lands; processors of forest and rangeland products, and the public. The program's fundamental goal is to develop and deliver education programs that:

Increase the efficiency and profitability of forest and range-based enterprises in producing forest products, livestock, fish and wildlife, and outdoor recreation; and

Increase the application of research and technology in the management of forest, range, and related lands, including riparian areas, in order to reduce soil erosion, maintain and improve water quality, manage vegetation to meet owner management objectives, enhance wildlife and fish habitats, increase recreational opportunities, and optimize multiple-use management opportunities.

In my home State of Washington, renewable resources extension program accomplishments have included—

Expansion of multiple-use management educational programs to the more than 50,000 private forest owners.

Development of a unique "challenge ropes course" which provided youths and adults with camping and other outdoor skills and natural resource conservation instruction; and

Rejuvenation of weed and brush control management programs.

Seventy percent of Washington's rangeland is producing at less than 50 percent of its potential. The rangeland management program is directed at enhancing ranchers' knowledge and practice of improved grazing techniques and systems with handbooks and workshops.

Washington has a diversity of natural resources, owners and users. As a result, conflicts naturally arise between user groups relating to public and private land use. Renewable resource extension funds have been used to help resolve these conflicts by providing factual, research-based educational programs that have eliminated misconceptions about multiple-use activities.

Projections show that domestic demand for wood products will rise faster than supplies over the next 50 years. There is also a growing foreign demand for U.S. wood products. Much of this increased production will come from nonindustrial private forest lands. It is essential that owners of these lands receive accurate and timely technical assistance—not only to meet the demands—but also for the protection of esthetic values. The Extension Service, through continued use of the RREA Program, could be one source of this assistance. The program will expire in September 1988 unless we pass H.R. 2401.

The bill provides authorizes $12 million annually through September 1995. It requires the development of a 5-year plan to provide national emphasis and direction as well as guidance to States in the development of their respective annual programs. It further requires a review of activities undertaken and an evaluation of the progress made to aid Congress and the Nation in determining the success of the program.

Mr. Speaker, the Subcommittee on Forests, Family Farms and Energy held a public hearing on this legislation on May 21, 1987. We heard testimony from 12 witnesses—all supporting reauthorization of this program.

I would like to thank the chairman of the Committee on Agriculture for introducing this bill which I was happy to cosponsor. I compliment him and the chairman of the subcommittee for the manner in which this legislation was handled.

Mr. Speaker, I urge adoption of H.R. 2401, the Renewable Resources Extension Act Amendments of 1987.

Mr. ROBERT F. SMITH. Mr. Speaker, I rise as a cosponsor and strong supporter of H.R. 2401.

H.R. 2401 reauthorizes for 7 years the Renewable Resources Extension Act of 1978. The act addresses the educational component of forest and rangeland management in the United States. It, along with the Cooperative Forestry Assistance Act and the Renewable Resources Research Act, provides for research, education, technical, and financial assistance to improve management of forest and rangeland management resources. Unless reauthorized by this Congress the Act will expire on June 30, 1988.

The purpose of RREA is to provide for a comprehensive extension program for forest and rangeland renewable resources—including timber, forage, water, fish and wildlife, and outdoor recreation opportunities. Like other extension programs, RREA extension is conducted with the cooperation of Federal, State, and local units of the Extension Service.

The extension system's renewable resources program serves owners, managers and users of forest, range, and related lands; processors of forests and rangelands products and the public. Its fundamental goal is to develop and deliver educational programs that increase the efficiency and profitability of forest and range-based enterprises in producing forest products, livestock, fish and wildlife, and outdoor recreation. In addition, it serves to increase the application of research and technology in the management of forest, range, and related lands.

Let me take a moment to describe some of the accomplishments of the RREA program in Oregon. Extension livestock, forest, range, and wildlife specialists worked together in northeastern Oregon to develop a coordinated, integrated resource management educational program. Support was provided by county, State, and Federal Government agencies, as well as private individuals and organizations. The project was guided by an interagency advisory committee. Educational materials were prepared on burning, forest taxation, riparian zone management, and integrated resource management. Field trials and demonstrations were established on timber stand thinning, slash disposal, forest grazing, wildlife management, riparian zone management, and juniper suppression. Oregon and other States are conducting programs to help timber harvesters improve productivity, reduce accidents, increase log values and protect residual forest stands through training in proper felling, bucking, and transportation procedures. Educational programs for timber processors helped increase the profitability of sawmills by improving the yield and grade of lumber from logs through more precise machine settings and better equipment selection and maintenance.

In closing, I believe this reauthorization legislation deserves the unanimous support of this subcommittee and prompt referral by the full committee to the House floor. I commend the author of the bill, our full committee chairman, Mr. DE LA GARZA, for his efforts. I specifically mention the reduction of the authorized appropriation level to $12 million. This program has never spent more than $3 million. In this time of budget constraints I would suggest more of our colleagues follow the chairman's lead in searching for ways to reduce authorized spending levels without crippling needed programs.

Mr. MORRISON of Washington. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DE LA GARZA. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas [Mr. DE LA GARZA] that the House suspend the rules and pass the bill, H.R. 2401, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DE LA GARZA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 2663, H.R. 2971, H.R. 2399, and H.R. 2401, the bills previously passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PROHIBITING DEPARTMENT OF DEFENSE FROM PURCHASING TOSHIBA PRODUCTS FOR RESALE IN MILITARY EXCHANGE STORES

Mr. DANIEL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2948) to prohibit the Department of Defense from purchasing any product manufactured or assembled by Toshiba America, Inc., or Toshiba Corp., for the purpose of resale of such product in a military exchange store.

The Clerk read as follows:

H.R. 2948

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROHIBITION ON PURCHASE OF TOSHIBA PRODUCTS FOR RESALE IN MILITARY EXCHANGE STORES.

No product manufactured or assembled by Toshiba America, Incorporated, or Toshiba Corporation (or any of its affiliates or subsidiaries) may be purchased by the Department of Defense for the purpose of resale of such product in a military exchange store or in any other morale, welfare, recreation, or resale activity operated by the Department of Defense (either directly or by concessionaire).

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Virginia [Mr. DANIEL] will be recognized for 20 minutes and the gentleman from Arizona [Mr. KYL] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Virginia [Mr. DANIEL].

Mr. DANIEL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the purpose of H.R. 2948, which we take up today, is to prohibit the purchase of products manufactured or assembled by Toshiba America, Inc., or Toshiba Corp., for the purpose of resale in military exchange stores.

Last year, such purchases amounted to about $23 million, with only $7 million representing American-made products.

This bill represents a simple and straightforward response to the sale of defense-related technology to the Soviet Union by a subsidiary of the Toshiba Corp. It is impossible to estimate the enormity of the damage done to national security, not only to the United States but to the interests of all the free world, including Japan, by this action. And there is no justification to be made by Toshiba or the Government of Japan which would be acceptable to anyone.

We do feel it is appropriate that the military resale stores take this action to ban the sale of Toshiba products. The patrons of these stores are the Americans who would be first to feel the effects of a breach in our defenses.

This bill incurs no cost to American taxpayers. It passed unanimously in the Readiness Subcommittee, and in the full Committee on Armed Services, with 31 members in attendance.

It is our hope that this will send a signal to future Toshibas, that they cannot put further at risk American people and American property. If this issue goes unaddressed, no defense-related technology will ever again be safe from Soviet theft.

We must make it plain, through this and other means, that other nations may put a price on American security, but we will not permit them to be successful.

Mr. Speaker, I reserve the balance of my time.

Mr. KYL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to commend the leadership of the chairman of the House Armed Services Committee's Readiness Subcommittee, Mr. DANIEL, in bringing this important piece of legislation to the floor in a timely fashion. The fact that H.R. 2948 passed both the subcommittee and the full Armed Services Committee unanimously shows the seriousness with which members view the illegal acts committed by Toshiba. H.R. 2948 deserves similar action by the House.

I have noted that over the past several weeks, Toshiba's American lobbyists have mounted a campaign to minimize the public perception of the damage caused by Toshiba's illegal sale of milling machines. If you went by some of their recent newspaper advertisements, you would think they did nothing of any great seriousness, and that the resignations of a few executives "solved" the problem. In case there is any confusion sown in the Members' minds about the seriousness of this case, let us review the facts.

Toshiba Machine knew very well the value of the technology they were selling to the Soviets, and they knew that the transfer of such technology was prohibited by Cocom rules. So Toshiba Machine falsified documents at the time of the sale to indicate that they were only selling "farm equipment."

Far from being farm equipment, what Toshiba exported were 9-axis milling machines along with computer programming and maintenance support to allow the Soviets to obtain maximum benefit from the capabilities of the machines. These machines are capable of machining large complex shapes, allowing the Soviets to produce high quality propellers with low-rejection rates. These milling machines provide a capability that the Soviets themselves could not develop on their own.

The result of this treachery is that the Soviets are able to field quieter submarines and that the United States will be obliged to spend $30 billion to regain its edge in submarine technology. In the interim, however, the jobs of American servicemen will be more arduous and more dangerous.

It is for that reason that I find Chairman DANIEL's initiative particularly appropriate. American servicemen are in greater danger as a result of Toshiba's action, and it would be an insult to them to find Toshiba's products in U.S. military exchange stores. H.R. 2948 would remove that insult and remind Toshiba that we will not tolerate profiteering deals with the Soviet Union when American security is at stake.

Mr. GORDON. Mr. Speaker, I rise in opposition to H.R. 2948 prohibiting the Department of Defense from purchasing Toshiba America products for resale in military exchange stores.

Mr. Speaker, I do not think any Member of this body would quarrel that what took place as a result of the sale of sophisticated milling machines and computer software to the Soviet Union by Toshiba Machine Co. and the Kongsberg Trading Co. is an outrage. The United States and our allies have been betrayed by these companies and strong measures are warranted.

However, the bill before us is not the answer. Its effect would be to punish the innocent, not the guilty.

Mr. Speaker, while H.R. 2948 is well-intentioned, it would punish the employees of Toshiba America, an American manufacturer which is totally innocent of any wrongdoing and independent of the Toshiba Machine Co. Adoption of this bill would eliminate the jobs of thousands of innocent American workers and suppliers while having no impact on Toshiba Machine Co. and the Kongsberg Co., where the blame rightly belongs.

Let me give you just one personal example.

Over half of the $7 million in Toshiba America consumer products sold to military exchanges are microwave ovens manufactured at the Toshiba facility in Lebanon, TN. Most of the microwave components are obtained from American suppliers. The microwave production line employs 180 hardworking and dedicated men and women. Toshiba America recently invested $3 million to expand this microwave production facility in an effort further to reduce imports.

Over one-third of the microwave ovens sold by Toshiba America are sold in military exchanges. Passage of H.R. 2948 would cost many American jobs at this facility in Tennessee.

Mr. Speaker, let me also point out that neither Toshiba Machine Co. nor the Kongsberg Trading Co. is affected by this legislation.

Mr. Speaker, the jobs of American workers should not be sacrificed in our haste to search for a legislative remedy to this reprehensible action. We need to be sure to get all the facts and punish the guilty, not the innocent, both for these past criminal actions and as a message to the world that guilty parties in the future will have to pay a price.

The Ways and Means Subcommittee on Trade has already begun hearings. The Armed Services and Foreign Affairs Committee will soon begin their own inquiries. On June 16, the House directed the Secretary of State to report on the efforts of the governments of Japan and Norway to investigate this incident, prosecute responsible individuals and insure it is not repeated.

Finally, the Department of Defense is opposed to this bill and urges its defeat by the House.

Mr. Speaker, Toshiba Machine Co. and the Kongsberg Trading Co. need to be punished. They deserve it. However, we should not enact a bill that does not harm these offenders while it punishes innocent and unrelated American companies and their employees.

Mr. DAVIS of Illinois. Mr. Speaker, I want to join my colleagues in strong condemnation of the behavior of the Toshiba Corp. If we could ban the products of the Norwegian company, Kongsberg, as well, I know we would. Unfortunately, they are not as easy a target.

I have received a lot of mail lately, from Washington lobbyists, and from American corporations doing business with Toshiba, that the sale of this equipment really didn't do that much damage. As a member of the House Armed Services Committee I have to dispute that claim. This machinery allows Soviet submarines to operate up to 20 times quieter, even while submerged, than they previously recorded. It has set back American and NATO antisubmarine warfare efforts by years, and has closed the vast gap that the United States has held over the Soviets in submarine technology for years.

It is difficult for me, as the Armed Services Committee considers authorizing billions of dollars and thousands of troops that go directly for the protection of Japan, to approve those expenditures when the Japanese spend so little on their own defense, and then allow such a heinous crime. I am truly outraged.

I believe the Congress should ban all Toshiba Corp. products from the United States and the Japanese Government should agree to pay for the research and development necessary to re-establish our "quiet" advantage. Cost estimates on gaining back our advantage go up to $30 billion. This is money out of American taxpayers' pockets. The Japanese, because of the duplicitous action of Toshiba managers, and the complaisancy of their government, should by right pay for this.

Any one who is worried that this could cause trade retailiation, that products of American companies could be banned if it is found that they too have illegally sold goods to the Communist block countries, well, let the word go out: the American people will no longer tolerate this kind of behavior, whether it is from a U.S. company or a foreign company.

While this ban amounts to just $23 million in annual military exchange purchases, it is an important step. Many of the young men and women in the Armed Forces I've spoken with in the past 2 weeks have asked me why Toshiba products are still available in their military exchange stores, when their lives have been put at far greater risk because of Toshiba's sale of technology to the Russians.

This ban on the sale of Toshiba consumer products is in direct protest against a Japanese company that violated the laws of Japan to increase profits. I urge all my colleagues to support this legislation.

□ 1230

Mr. KYL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. DANIEL. Mr. Speaker, I have no further requests for time, I recommend that the bill be passed, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FOLEY). The question is on the motion offered by the gentleman from Virginia [Mr. DANIEL] that the House suspend the rules and pass the bill, H.R. 2948.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. DANIEL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

REQUIRING VESSELS USED TO TRANSPORT SEWAGE SLUDGE BE BUILT IN THE UNITED STATES

Mr. JONES of North Carolina. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 82) to amend the Merchant Marine Act, 1920 to require vessels used to transport sewage sludge to be built in the United States, as amended.

The Clerk read as follows:

H.R. 82

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883) is amended—

(1) in the first sentence—

(A) by striking "Treasury" and inserting "Treasury, or in the case of valueless material the actual cost of the transportation"; and

(B) by striking the colon, inserting a period, and adding "For the purpose of this section, 'merchandise' includes valueless material,"; and

(2) at the end, by striking the period, inserting a colon, and adding the following:

"*Provided further,* That this section applies to the transportation of valueless material from a point or place in the United States to a point or place on the high seas within the Exclusive Economic Zone as defined in the Presidential Proclamation of March 10, 1983.".

SEC. 2. Section 4370(a) of the Revised Statutes of the United States (46 App. U.S.C. 316(a)) is amended by inserting at the end the following:

"This section applies to the towing of a vessel transporting valueless material from a point or place in the United States to a point or place on the high seas within the Exclusive Economic Zone as defined in the Presidential Proclamation of March 10, 1983.".

SEC. 3. A vessel may transport municipal sewage sludge to a deepwater disposal site designated by the Administrator of the Environmental Protection Agency under the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401-1444) if that vessel is documented under the laws of the United States and that vessel—

(1) is under construction for use for a municipality for the transportation of sewage sludge on the date of enactment of this Act; or

(2) is under contract with a municipality for the transportation of sewage on the date of enactment of this Act.

SEC. 4. For the purpose of the first paragraph of section 805(a) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1223 (a)), a vessel described in section 3(2) of this Act is not a vessel engaged in domestic intercoastal or coastwise service, but the prohibitions in the second paragraph apply to that vessel.

The SPEAKER pro tempore. Is a second demanded?

Mr. LENT. Mr. Speaker, I am not opposed to the bill, but in order that we have a hearing, I will demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from North Carolina [Mr. JONES] will be recognized for 20 minutes and the gentleman from New York [Mr. LENT] will be recognized for 20 minutes.

The Chair recognizes the gentleman from North Carolina [Mr. JONES].

Mr. JONES of North Carolina. Mr. Speaker, I rise in strong support of H.R. 82, as amended, and ask my colleagues to join the Committee on Merchant Marine and Fisheries in moving this measure along toward enactment.

As amended, this bill clarifies the Jones Act so that it will, as was intended by Congress, apply to the carriage by water of all goods between points in the United States. The bill will leave no doubt that the Jones Act applies to transportation of sludge and other valueless materials to places in the ocean within our exclusive economic zone—the 200-mile limit.

In a moment, the gentleman from New York, the sponsor of the bill, will further explain the purpose of the legislation and why it is needed.

As reported by our committee, H.R. 82 had been amended to permit the operation of a limited number of foreign built, highly specialized launch barges to be used in oil and gas resource exploitation in our EEZ, but what was understood to be a noncontroversial, agreed on amendment turned out to be highly complex, and more than a little controversial. Therefore, the bill before the House today was amended to eliminate all issues in controversy leaving only those encompassed by H.R. 82 as originally introduced. The issues presented by the so-called launch barge amendment remain to be resolved, but necessarily will have to be resolved using a different vehicle than H.R. 82.

The bill before the House is logical, protects all who need protection and resolves difficult questions involved in interpreting the Jones Act.

I ask for the support of the Members.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. BIAGGI].

Mr. BIAGGI. Mr. Speaker, I rise in support of H.R. 82, a bill I introduced in the last Congress and reintroduced on the opening day of the 100th Congress. The measure clarifies that coastwise laws apply to transporting valueless material. As a result, vessels transporting valueless material will have to be built, manned, and operated by U.S. citizens.

I introduced H.R. 82 in response to a Customs Service ruling that the transportation of sewage sludge to a deepwater dumpsite was not subject to the requirements of the Jones Act. That act requires that merchandise shipped between points or places in the United States has to be accomplished on vessels built in and owned and manned by citizens of the United States.

Last spring, New York City sought bids for constructing four seagoing barges to be used to transport municipal sewage sludge to a deepwater disposal site the Environmental Protection Agency had recently designated. The Customs Service ruled that vessels used to transport sewage sludge were exempt from the domestic construction requirement of the cabotage laws. The construction contract was awarded to the low bidder—a foreign shipyard subsidiary. When domestic shipyards and towboat operators challenged the Customs Service ruling, a Federal court dismissed the action.

H.R. 82 amends the Merchant Marine Act, 1920 to clarify that the requirements for U.S. documentation, domestic construction, 75-percent citizen ownership, and citizen manning apply to a vessel used to transport valueless material from the United States to a point or place on the high seas within the exclusive economic zone.

The bill provides that the four sludge barges being built in a foreign shipyard for New York City's use, and another barge currently under contract to Nassau County, NY, will be exempt from the domestic construction requirement—only as long as the vessels continue to operate in the same limited trade. The committee agreed to this grandfather provision because the two operators relied on a Customs Service ruling in contracting for the construction of barges, or in acquiring a foreign-built barge. It is a matter of equity, then, that they not be adversely affected by this legislative reversal of that ruling.

In addition, my bill: Amends the towing vessel statute to require that vessels used to tow barges carrying valueless material within the United States or the EEZ meet all cabotage requirements, provides that the penalty for transporting valueless material in violation of the Jones Act is the cost of the transportation of that material; and exempts the operator of the barge under contract with a municipality on the date of enactment from a requirement that the recipient of operating-differential subsidy receive approval of the Secretary of Transportation to continue receiving subsidy while operating the barge. However, the prohibition against the diversion of moneys from a subsidized operation to a coastwise operation continues to apply.

Mr. Speaker, this is carefully crafted legislation. It has the support of all segments of the maritime industry. It is badly needed, and I urge my colleagues to support having U.S. citizens build, man, and operate vessels used to transport sewage sludge and other valueless materials.

Mr. LENT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 82, a bill to amend the Merchant Marine Act 1920, to require that only vessels built in the United States, and otherwise qualified for the domestic trade, be used to transport sewage sludge from United States ports for ocean disposal.

Since the earliest days of our Nation, we have required that any vessel participating in our domestic commerce be built in the United States, owned by U.S. citizens, and manned by American seamen. These requirements, known as cabotage laws, have consistently been supported by the U.S. Government, in part, because our domestic maritime fleet is generally the first to be requisitioned in any national emergency. Our American cabotage laws are similar to those of most other maritime nations and have long been recognized in international law.

The most recent cabotage law for the United States is section 27 of the Merchant Marine Act 1920. This law is commonly known as the Jones Act. It applies to transportation between points or places within the United States. In recent years, questions have arisen as to just exactly where, within the jurisdiction of the United States, these points or places might exist. Historically, our laws have recognized that any point within our 3-mile territorial sea was clearly within the scope of the Jones Act.

This determination has become complicated in recent years as a result of activities and technology which have occurred long after the law was enacted in 1920. Last April, the Merchant Marine Subcommittee held a hearing on the issue of whether or not barges carrying sewage sludge from land out into the ocean should be considered going to a point or place within the United States. The hearing was the direct result of a 1986 ruling by the U.S. Customs Service that the carriage of this sludge to an EPA dump site beyond the 3-mile limit was not within the scope of the Jones Act.

Our committee believes that it is time to clarify the 1920 Jones Act to recognize both legal and technological developments. First of all, the Outer Continental Shelf Lands Act extended the application of the Jones Act to installations and devices attached to the seabed of the shelf for the purposes of oil and gas development. Additionally, on March 10, 1983, the President of the United States issued a proclamation (No. 5030), that exercises U.S. sovereign rights over living and nonliving resources within the Exclusive Economic Zone—out to 200 miles off the coast of the United States.

The Merchant Marine and Fisheries Committee believes that the type of transportation that we are addressing today—the ocean disposal of sewage sludge—was clearly within the intent of the protective provisions of the 1920 law even though at that time such activities were obviously not being carried out. Therefore, H.R. 82 was introduced to apply the domestic cabotage requirements to this type of transportation.

Since current law does not prohibit the use of foreign-built barges for this type of sewage sludge disposal, it is perfectly legal for companies to acquire foreign-built vessels to haul this material to the ocean dump sites. There are two projects underway—which were started based on the Customs Service legal interpretation of the law—and we believe it is only fair to protect those two ongoing activities.

The city of New York has entered into a contract for the construction of four sea-going barges to be built in a Singapore shipyard to handle the disposal of that city's sewage sludge. Also, Nassau County, Long Island, has a contract with an American company to operate a single foreign-built barge to dispose of that county's sludge. H.R. 82 contains a grandfather provision relating to those two projects—but the provision is qualified so that the exemption from the Jones Act requirements would only apply to these five foreign-built vessels that are operating in the same limited trade, that is transporting sludge to an EPA designated dump site. If these vessels are transferred to any other activity they would lose their exemption from the domestic requirements and would not be eligible to operate in any other type of Jones Act trade.

Mr. Speaker, in addition to the chairman of our committee, the Honorable WALTER B. JONES, I want to thank my colleagues GLENN ANDERSON, the chairman of our Merchant Marine Subcommittee and the original sponsor of H.R. 82, my friend and colleague from New York, MARIO BIAGGI, for the expeditious treatment of this legislation.

I urge my colleagues to join those of us from the Merchant Marine and Fisheries Committee in supporting this legislation.

Mr. ANDERSON. Mr. Speaker, this legislation amends the Merchant Marine Act, 1920, to require vessels used to transport sewage sludge and other valueless material to be built in the United States. It further requires that U.S. citizens man and operate these vessels.

As reported by the Committee on Merchant Marine and Fisheries, this bill clarifies the application of the coastwise navigation laws to the transportation of sewage sludge and other valueless material from a point or place in the United States to either another point or place in the United States or to a point or place on the high seas within the Exclusive Economic Zone as defined in the Presidential proclamation of March 10, 1983.

The principle of reserving coastwise trade to domestic operators has been a cornerstone of U.S. maritime policy since the founding of the Republic. The soundness of this policy has been reflected in the history of national reliance on coastwise vessels as the first to be requisitioned in time of war or national emergency. It is critical, then, that coastwise trade be reserved for U.S.-built, U.S.-manned, and U.S.-owned vessels.

A recent series of rulings by the Customs Service have contributed to a climate of uncertainty concerning the scope of application of cabotage laws. Absent remedial action to reaffirm the sanctity of those laws by clarifying their application to new situations and circumstances, domestic operators and shipbuilders will suffer economic hardship, and the investment climate for domestic maritime activity will be jeopardized.

H.R. 82 was introduced in response to a May 1986 Customs Service ruling that U.S. coastwise laws did not govern the transportation of sewage sludge from a point in the United States to a point on the high seas. H.R. 82 makes it clear that U.S. coastwise laws apply to transporting valueless material, including sewage sludge. Certain existing sludge operations with vessels either under contract or construction are grandfathered, and the penalty provision is expanded for violation of the Jones Act with regard to valueless material.

I encourage my colleagues to join me in clarifying the Jones Act as it applies to the transporation of valueless material. I ask that you join the maritime industry in supporting H.R. 82.

Mr. DAVIS of Michigan. Mr. Speaker, I rise in support of H.R. 82, a bill to require vessels used to transport sewage sludge from U.S. ports to the Exclusive Economic Zone to be built in the United States.

To accomplish this change, H.R. 82 amends section 27 of the Merchant Marine Act, 1920, the Jones Act. At the time that section 27 was enacted in 1920, no one foresaw the changes in technology and our use of the oceans that has occurred in the last 60 years. Nor could anyone have foretold the dramatic changes in the Law of the Sea that culminated in the President's declaration of a "200-mile" Exclusive Economic Zone for the United States.

H.R. 82 does not imply that the Jones Act should be extended in every case to activities carried on in the EEZ. This bill addresses just one aspect of the impact of those changes in the law. In this particular case, I believe the nature of the activity fits well within the scope of the original intention of the drafters of the Jones Act. I therefore, support H.R. 82, and urge my colleagues to do likewise.

Mr. LENT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. JONES of North Carolina. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from North Carolina [Mr. Jones] that the House suspend the rules and pass the bill, H.R. 82, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 82, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

UPHILL FOR PEACE

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, I rise today to honor the memory of E. Raymond Wilson, executive secretary emeritus of the Friends Committee on National Legislation.

Raymond Wilson, who lived in the Friends House in Sandy Springs, MD, was an eloquent spokesman for Quaker views on issues ranging from foreign policy, world hunger, and disarmament to civil rights and liberties.

To the extent that any phrase can sum up the life's work of this committed man, it is "Uphill for Peace," the title of a book he wrote.

No matter the odds, no matter the political fashion of the times, Raymond Wilson worked tirelessly over the years for legislation that he believed would bring closer his goal of a world without wars, without walls, and without want. When he died 1 month ago today, peace lost a friend. This troubled world, about which he cared so much, will miss Raymond Wilson's voice of reason.

□ 1245

AUTHORIZING PRINTING OF JULY 16, 1987, PROCEEDINGS IN PHILADELPHIA IN CONGRESSIONAL RECORD

Mr. GRAY of Illinois. Mr. Speaker, I ask unanimous consent that the very magnificant proceedings of the ceremonial sessions of the United States House of Representatives that took place in Congress Hall in Philadelphia on July 16, 1987, be printed in the Record.

The SPEAKER pro tempore (Mr. Foley). Is there objection to the request of the gentleman from Illinois?

There was no objection.

CEREMONIAL SESSION OF THE HOUSE OF REPRESENTATIVES, CONGRESS HALL, PHILADELPHIA, PA, THURSDAY, JULY 16, 1987

The SPEAKER. The House will be in order.

We will call upon our Chaplain, the Reverend Dr. Ford, to lead us in an invocation at this time.

Reverend Ford. Let us pray.

At this special time and place we remember with gratitude, O gracious God, those founders of our Nation whose work and vision began the noble process of our Government, and whose achievements are the gifts received by us and all the generations.

We are grateful for those pioneers who had so little of the material benefits of life and yet were so blessed by the resources of the spirit of liberty and freedom, and were moved by the dreams of a new land where justice would flow down as waters, and righteousness like an ever-flowing stream.

As Your spirit has blessed us during these many years, so may Your benediction of grace continue to encourage and inspire, to correct where we have been wrong, and to offer hope for a new and better day.

May we continue to hear Your still, small voice speaking to us in the depths of our hearts, inspiring us to acts of justice and deeds of mercy, and teaching us the reconciling paths to peace.

Just as we pray for all the needs of our day, O Lord, so we pray Your blessing upon this Congress and the work of these Representatives, that they may see in their vocation the high calling of service to others.

O God, bless our Nation, and continue to sustain us, now and evermore. Amen.

The SPEAKER. My colleagues, we have just come from the Assembly Room of Independence Hall, where 200 years ago this summer those 55 memorable Americans who penned our deed to freedom completed their labors. And now we renew our search into the history of our own origins as an institution coming here to this great place where the First Congress in its third session met. In 1789, the First Congress assembled initially, as you know, in New York. But in its third session in late 1790, it moved here to Congress Hall and the House Chamber.

Just above us is the place where the Senate deliberated, and the Senate is deliberating there today. It was in this very place that the two bodies of legislative craftsmanship gained the titles "the Lower Chamber" and "the Upper Chamber," not because the Senate was always upping our appropriations bills, as is commonly misconstrued, but because they met in an upper room. [Laughter.]

As we search for our roots and the history of our institution, let us look back to that time in 1789 and 1790 in the First Congress when our forefathers in this institution were struggling to make reality of that magnificent skeletal outline established by the framers and the Constitution.

The Chair recognizes the distinguished majority whip, the gentleman from California [Mr. Coelho].

[Applause.]

THE BILL OF RIGHTS, HON. TONY COELHO

Mr. COELHO. Mr. Speaker and my distinguished colleagues, I want to begin briefly with a reference to the debate on original intent. Those who say that we must read the words of the Constitution we abide by today according to the intent of the framers are in a sense correct. They are correct, however, only if we believe they were crafting a system of government for a future almost unimaginably different society. But even then Thomas Jefferson reminded his fellow citizens that society must change its rules as it grows, just as a boy must don a larger coat as he becomes a man.

What our ancestors left to us and what we are charged to leave for others are certain principles. We uphold their meaning even as history tests and expands their application.

Today I want to talk about two principles addressed in our Constitution—liberty and equality. I want to explore their individual meaning, their essential unity, and their significance as symbols of the American and human spirit.

What are our fundamental liberties? We are assured by our Bill of Rights—freedom to speak, petition, and assemble. And we are assured due process of law before being deprived of property or liberty.

What is our guarantee of equality? We are assured equality of voting, and the fifth amendment's due process clause is understood to assure the equal protection of the laws in a manner like the historic 14th amendment. There is a view holding that liberty and equality are mutually exclusive enemies, if you will; that they are the fratricidal twins of the 18th century revolutions.

Were the Constitution's authors trying to have it both ways when they wrote that the American people should be both equal and free? Yes, the Constitution strives for both these great principles, because there is a deep basic unity between them. Liberty and equality are inseparable because the root of liberty is freedom from domination, and it is freedom from domination that equal protection under law is designed to secure.

Justice Holmes reminded us that experience and not logic has been the life of the law. Liberty and equality are not mathematical rules or stale categories. They are in the Constitution statements about certain social facts and in favor of clear social goals.

The historic fact that these principles are at every turn designed to undo is a condition where some members of society have power over others, and the others have no corresponding power over them. In starkest terms, in black and white, this condition is called slavery. It is the mission of man in his journey through history, and our particular burden, given our past, to use these simple constitutional principles as our guide, and cast out the parts of our society based on this condition.

Furthermore, liberty and equality are but two facets of the same gem—the gem of human dignity and the fulfillment of the human spirit. It was out of a deep sense of mutually reinforcing nature of constitutional principles that Thomas Jefferson declared in the same sentence the self-evident truths that all men are created equal and that they are endowed by their Creator with certain inalienable rights.

Emboldened by the American example, the French revolutionaries cast off their monarchy in the name of liberty, equality, and fraternity, an idea which was for them an indivisible trinity. Our community, our fraternity, was born and has grown based on commitment to the ideals of liberty and equality, but there is room to doubt at this point in history whether we may be neglecting the indivisibility of the three.

The first revoluntionaries' vision of what it means to be human—liberty, equality, and community—is the very sustenance of our national life. To fail to keep faith with that vision is not simply to ignore the whispered noise of some long-dead ghosts, but to turn a deaf ear to a voice that clearly heard the longing of the human spirit to fulfill itself through freedom and to value itself through equality.

There have been three great periods of constitutional history, and each occurred during a time of profound social upheaval—the American Revolution, the Civil War, and the Great Depression. During each the structure of society was laid bare to the foundation, and during each we remade ourselves so that in this world we might be more nearly equal and free.

Our continual struggle as a civilization between such times is to see clearly the imperfect and ugly premises on which we may still be living, and to root them out. If we fail to do so, we break faith with the mission of constitutional life—to honor great principles, to strive for their application, and to perfect the mechanisms which ensure their bequest to future generations.

We are gathered here today to commemorate 200 years of government under the most enduring charter to liberty on this planet, and in looking back to 1787, to the Revolution and the people that created the Constitution of the United States of America, as we cast our view back to share in the vision of the farsighted ones who created America in Philadelphia two centuries ago, we must remember this: they looked back at no one—they looked forward to us. And to share in their vision and spirit, we too must look forward to those who follow, to the men and women who may be nearer to a just society, because we have done our part to move further toward the goal our Nation sets for itself. [Applause.]

The SPEAKER. As the Great Compromise was offered by the delegation from the State of Connecticut, it is appropriate that we hear now from the gentleman from Connecticut, the Honorable JOHN ROWLAND, on whom I call at this time.

THE ACHIEVEMENTS OF THE FIRST CONGRESS,

HON. JOHN G. ROWLAND

Mr. ROWLAND of Connecticut. Mr. Speaker, my colleagues, it is a great honor to stand before you today. What happened in the adjacent building in the summer of 1787 has been called the miracle in Philadelphia. But as is the case with most miracles, after the first glow of wonder begins to wear off, the daily tasks of life are still there. Work remains to be done.

It was a central task of the new Congress created by the Constitution to put this miracle to work, to make certain that the principles and the heart of the Constitution did not merely remain words on parchment. Instead, this was to become the flesh and the blood of the new body politic of this continent.

So the First Congress set an example that all other Congresses should follow. They came to work—not to pose, not to posture—but to create, to craft a government out of the raw material of a document, and what magnificent work they did.

They administered the election of the first President. They created the executive departments of State, Treasury, War, as well as the office of the Attorney General. They established the judiciary, and adopted the Bill of Rights.

These are only the best-known of the works of the First Congress. James Madison, whose intelligence and tenacity, whose determination and idealism had helped shape the Constitution, was a Member of that Congress. He had the most rare of human pleasures—the joy of seeing one's ideas becoming the legislative accomplishments of the First Congress. His vision of national government dominated the First Congress, just as it had done in the Federal Convention.

But the first meeting of the House of Representatives also enjoyed other prominent Founding Fathers. Second only to Madison in terms of influence was Roger Sherman, the veteran Representative from Connecticut, who had served in the Continental Congress and the Federal Convention. Needless to say, scholars from Connecticut have a different view of who was more important. Day by day, achievement by achievement, the Members of the First Congress gave life to the words and the concept of the Constitution. In addition to their work in completing the outline of the Federal Government, the First Congress produced a wide variety of legislation that fulfilled the promise of an energetic national government: the establishment of a Federal census, which provided the basis for regular reapportionment of the House of Representatives; the passage of a tariff act, which provided for a reliable source of revenue and for the regulation of foreign commerce that had been impossible under the Articles of Confederation. It was Congress' response to Alexander Hamilton's proposals that averted the fiscal crisis that had threatened to dissolve the Articles of Confederation. That was the creation of the Bank of the United States.

Looking back, we are in awe of these accomplishments. It is as if giants walked the Earth in those first bright days as the idea of government was created in this room. Yet they were human beings who had to work, who had to work hard to get things done for this country. They did not spend all their time posing for marble statues, and they had their disagreements. The Federalists and the anti-Federalists had different ideas about the public good. But what really matters what is unmistakable across these years that separate them from us, is that they loved what was done in this room. They loved the idea of this Government, the freedom that was crafted to protect and enhance. They loved the idea that free people could make their own accordng to their own visions, and they had the willingness to succeed, the willingness to stand up against the odds, to slug it out, to build through small details great legislative accomplishments that would last beyond the next election.

That hard work was done in a context of deep and abiding love for this Nation, a nation they had formed and won with their sacrifices.

The Constitution was the grand idea, and the First Congress was the workshop for that grand idea. To those leaders who procede us we owe not only praise but emulation, not only reverence for their accomplishments, but respect for the difficulties they encounter—a Congress working for the people. That is not a bad legacy, and not a bad model for the future.

It is our job to follow their example, even if we do not have that unique opportunity that they had to form a new government for a new people. We can continue that tradition of work and deep love for the Constitution.

I believe that the plaque that hangs behind the Speaker's chair in our present Chamber says it all: "Let us develop the resources of our land, call forth its power, build up its institutions, promote all its great interests, and see whether also in our day and our generation we may perform something worthy to be remembered." Thank you. [Applause.]

The SPEAKER. 200 years ago, when the First Congress met here, our relations still were strained and tenuous with the Crown of Great Britain. Though we had triumphed in the Revolutionary War, British forces still blockaded our ports, and within a few years our shores again would be invaded by British forces in the War of 1812.

It is a mark of changed events and improved times that today we receive a message from the Speaker of the House of Commons of Great Britain, who writes on this occasion:

> One hundred years ago on the occasion of the celebration of the Centennial of the United States Constitution the great English statesman, William Gladstone, described it as "the most remarkable work known to me in modern times to have been produced by the human intellect."

"Gladstone's words are no less appropriate a hundred years later," writes the Speaker of the House of Commons, "as the Senate and the House of Representatives join together to celebrate the Bicentennial. Our two countries have learned much from each other over these 200 years. Although the Constitution was born of a struggle between Americans and Britons, it has become," he writes, "the bulwark of our shared beliefs and values which we have fought together to defend. As firm friends and fellow believers in a democratic way of life," he writes, "we rejoice with you on this historic occasion, and wish the American people and their Constitution many happy centuries to come."

The Chair recognizes the distinguished Member from the State of Florida, the Honorable CLAUDE PEPPER. [Applause.]

THE PEOPLE'S BRANCH OF GOVERNMENT, HON. CLAUDE PEPPER

Mr. PEPPER. Mr. Speaker, it is said that on one occasion Alexander Hamilton was escorting a group of foreign visitors through the national Capitol. He took them into the gallery of the House of Representatives. One of the visitors looking down on the scene below said, "What are they doing down there?" Alexander Hamilton replied, "There, sir, the people govern."

And so it has been for the House of Representatives, although that status did not come easily. One of the fiercest fights in the Convention was over who should elect the Members of the House of Representatives. Roger Sherman said the people were not qualified to elect the House, which they then called the "first body." He said they were not sufficiently educated and informed. Then a colleague, Gerry, said the people were not competent to be the judge of so important a task, the people did not want virtue, they were so easily misled by the pretenders of patriotism, and that they were easily deceived by designing men. Therefore, so important a task should not be entrusted to such an irresponsible sort.

But George Mason of Virginia pointed out that the House should be the bedrock of the principles of democracy in the Congress, and of course that great maker of the Constitution, James Madison, strenuously insisted that there could be no more ideal source for the election to the House except the people themselves; that after all, the people were the most durable and the most stable source of political authority. So that argument prevailed in the Convention, and the Convention provided that the House of Representatives should be elected by the people, and the electors should be those who voted for the most numerous branch of the State legislatures, and that the people's representatives should have a term of 2 years each. And so it is today.

We know from experience how attached we are to the concerns of our people, and we know how attentive we try to be toward meeting their requirements. Not only do we frequently go home, but we are sensitive to every impact that comes to us from them. Truly, we are responsible to the people who elect us to their great office of Member of the House of Representatives.

In that time, 1787, the provisions of the Convention, however, were that, as you know, the judges were appointed by the President, the President was elected by the electoral college, and the Senators were elected by the State legislatures. Only the House was elected by the people. The change in those intervening 200 years has been the remarkable conversion of the authority of our country to the people themselves.

After all, the preamble to the Constitution said, "We, the people," and that is what Madison argued, that this Convention is to design a Constitution for the people; it must be of the people that we derive our political authority.

So today we see the great change that has occurred, and the people themselves are the master of their destiny in our Nation through the national political process. In the preamble the forefathers said, "We, the people of the United States, in order to form a more perfect Union * * *." We still have the task of perfecting that Union in our time as they did in theirs, and by individual amendments that Union has been perfected.

When the Constitution was written, black slaves could not vote; neither could women; neither could young men. And today almost all the electorate can vote, and that vote is protected, and we have been studious to protect everybody exercising that right.

In that early day they had to be the holder of real estate, or pay a poll tax. Those requirements have been eliminated. Today the electorate is not only permitted, but invited to share to the fullest extent in the exercise of the franchise in our country.

Mr. Speaker, I am aware that this day has been dedicated to the reverence of the past, and not to the contemplation of the future, but I cannot sense the emotional surge there is among all of us who are here today sharing as we are this historic occasion without a deep sense of concern as to how many centuries, yes, how many eons there may be that Americans will be able to enjoy the privilege that we experience today.

I like to think, Mr. Speaker, that as long as the Sun with its beneficent rays shall warm this good Earth, as long as this Earth shall continue to find its way into the reaches of space in its accustomed journey, so long may the star of America sparkle in the constellation of States. And so long may that star in its glow not only reflect the grandeur and the greatness and the goodness of this blessed Republic, but may it also reflect the gratitude of every American now and forever to those noble men who here in this very hall brought forth, in the words of Gladstone, the greatest single document ever struck off at a given time by the mind and hand of man—a document George Washington described as the precious depository of American happiness, the Constitution of the United States. [Applause.]

The **SPEAKER**. One of the final acts and perhaps the most important act of the Continental Congress was an instrument called the Northwest Ordinance, by the terms of which it was made abundantly clear that the 13 colonies which began this Government did not look upon themselves as the final end of this Nation of ours. From that Northwest Ordinance, such territories as included the State of Michigan and the State of Ohio became part and parcel of our realm.

It is a pleasure for the Chair at this time to recognize the distinguished gentleman from Michigan, the Honorable PAUL HENRY. [APPLAUSE.]

THE FIRST AND ONE HUNDREDTH CONGRESS, HON. PAUL B. HENRY

Mr. HENRY. Mr. Speaker and Members, it was George Mason, delegate to the Constitutional Convention and Member of the First Congress, who described this body, our body, as the grand depository of the democratic principle of government.

Today we celebrate the almost 200 years of the 100 Congresses which have shared in our Nation's noble experiment in democracy. The First Congress, which convened in New York City in March 1789 and finally reached a quorum on April 1, relocated to this Chamber in December 1790, where the capital remained for 10 years. Fifty-nine Members were originally elected, to this body, joined by 6 more as the total of the original 13 States ratified the Constitution.

The Members came to Congress with no personal staff, and the House employed only a Clerk, a Doorkeeper, the Sergeant at Arms, a Chaplain, and very few assistants.

Most congressional business, intriguingly, was first considered in Committee of the Whole, and only then subsequently referred to ad hoc select committees for final preparation before being reported back to Committee of the Whole once again and then being enacted by the House in the State of the Union.

In the Third Congress, for example, more than 350 select committes were formed, a pattern which prevailed well into the 1800's.

Thirteen of the 55 delegates to the Constitutional Convention were elected to that First Congress. They provided the source of continuity between the Convention and the implementation of our new Federal Government.

The First Congress was exclusively male and exclusively white. The dominant professions of its Members were those of law and agriculture. While only half of its Members were college graduates, compared to roughly 90 percent of this body today, they were exceptionally well-educated relative to the general population of the time, and most had prior experience in their respective State legislative bodies.

The first Congressmen were paid $6 for each day of session, and despite three sessions in the First Congress, they met for nearly 100 fewer days than the recently completed 99th Congress. And while the First Congress passed only 117 bills, we have been reminded that the quality of its work played an important part in laying the infrastructure upon which the continued success of our Government has rested.

In the early years, length of tenure in the Congress was very brief by today's standards. Until about 1880 more than half the Members elected to each Congress were first-termers. By 1801, when Thomas Jefferson became President, only four Members of the First Congress were still serving in the House of Representatives.

The issues facing the First Congress may sometimes seem remote from our own policy discussions. The most daunting task they faced was that of creating a nation itself, to give form to the Union outlined in the new Constitution.

The First Congress had the responsibility of promoting infant commerce and manufacturers and negotiating foreign relations between European superpowers. But in whatever it did, it faced the task of exerting national authority, giving credibility to the new Union and settling remaining and outstanding differences between the States.

The House of Representatives was the only directly elected institution of the new National Government, and while that First Congress sought to breathe life into the meaning of democracy, history tells us that the electoral laws and procedures were far removed from the democratic practices we enjoy today.

While the new Constitution forbade a religious test for the holding of office, many of the States still employed a religious test in order to exercise the franchise, and in many States only white males or those who owned property were allowed to cast ballots in the election of the Congress.

Yet it would be a serious mistake to think that the First Congress was a world without relevance to our own 100th Congress. For throughout the chain of our Nation's history, and through the 100 Congresses which have flourished over that same constitutional rubric we commemorate today and so vividly illustrated just moments ago, when our beloved and most senior Member spoke to us so movingly, preceded by the most junior Member of this body in terms of chronological age, the Federal Constitution provided a legislature that would adapt to expanded territory, expanded business growth, expanded numbers and diversity of the people over which it held sway.

It has been the House of Representatives, with its foundation in popular democracy, which most directly demonstrates the principles of representative government. In the words of James Madison, describing the House of Representatives in the Federalist Papers, "As it is esential to liberty that the government in general should have a common interest with the people, so it is particularly essential that the branch of it under consideration [the House of Representatives], should have an immediate dependence on and an intimate sympathy with the people."

As we celebrate nearly 200 years of government by the people, of the people, and for the people, let us take pride in the accomplishments of the people's branch of Government, the United States House of Representatives.

[Applause.]

The **SPEAKER**. The Chair recognizes the gentlewoman from Ohio, the Honorable MARY ROSE OAKAR. [APPLAUSE.]

CONGRESS IN PHILADELPHIA, HON. MARY ROSE OAKAR

Ms. OAKAR. Thank you, Mr. Speaker, and Mr. Minority Leader, Mr. Whip, my colleagues in the House of Representatives.

Ladies and gentlemen, it is really an honor to be here with you in this historic Chamber.

We have just heard much stirring history. Allow me to share a few thoughts on the relevance of Philadelphia in 1790 to our own times today.

"Some men look at constitutions with sanctimonious reverence and deem them like the Ark of the Covenant, too scared to be touched," said Thomas Jeferson. "They ascribe to the men of the preceding age a wisdom more than human and suppose what they did to be beyond amendment. I am certainly not an advocate for frequent and untried changes in laws and constitutions, but I know also that laws and institutions must go hand in hand with the progress of the human mind."

Indeed, we have seen how the Constitution has been a living document immediately relevant to each age interpreted by each generation through the framework of enduring values. It is truly an evolutionary living document, and I believe the best is yet to come.

The first 10 years under the Constitution were critical, for that decade established principles, precedents, and habits that endure to this day. For 10 years in the early life of the Republic, while the Federal City of Washington was being built, Philadelphia, the center of American society, housed Congress and our National Government. This vibrant city of libraries and learned societies presented Representatives with a rich image of our country's potential. It was wealthy center of world trade and a great city with all the potential and problems of many diverse populations, just as it is today.

In the first decade of the Republic, within this very hall, Congress addressed highly contentious divisive issues, particularly those involving foreign policy. Great Britain and France were the superpowers of their days. Under the new Constitution, Congress, with its exclusive powers of declaring war, ratifying treaties, and raising and supporting armies and providing and maintaining the Navy, played a vigorous role in foreign relations. Congress considered the relative advantages of alliance with Great Britain, with whom we had just fought a revolution, and France, which would itself go through revolution.

The Philadelphia debates deeply divided Congress and the Nation. Much as we do today, the Founders worked within a conflicting atmosphere of distrust of concentrated political power, along with the desire for national development through energetic, decisive government. Above all, the new Government had to relieve old fears of a monarchy, or even worse, the tyranny of an elite above the law.

The tensions of that time vibrate through our own, perhaps appropriately expressed by the President who faced one of the most rendering days for our country. The man whose job it was to help heal America, President Gerald Ford, himself a former Member of this House, has expressed it most eloquently:

> The architects of the Federal Constitution were understandably concerned with concentrations of power and the tragic dangers that flow inevitably from its misuse because most of them or their forefathers had fled from tyranny. They had suffered severe privation and maximum danger to find and establish a new land of freedom. Therefore, in the document for the governing of this newly established Nation, there had to be safeguards, the essential checks and balances predicated upon three coequal branches of government.

As the new Constitution breathed life through the new Congress assembled in 1793, the fundamental unresolved questions of human rights and dignity ate away at the fabric of our Nation. Slavery was a cancer sapping America's vitality. The First Congress raised this issue, but solution through bloody civil war awaited the passing of 70 years of paralysis and mounting volatility.

With some pride, we can tell ourselves that the problem of inequality and racism was urgent 200 years ago. Then we can turn from reflection to glimpse in the mirror at what we hope we have left behind. In the 1960's Dr. Martin Luther King said, "If the inexpressible cruelties of slavery could not stop us, the opposition we now face will surely fail."

Dr. King succeeded, and we are today a more perfect Nation because of laws created by Congress. Our Constitution withstood a Civil War, riots, assassinations, domestic scandals, and thoughtless foreign adventures. It will always, so long as we remember that our power is vested in the people, and as long as we, the people, are ready to serve.

I share the sense of those who recognize that we stand in the midstream of history, on the threshold of new initiatives and startling developments, and as we do, yet another generation of Americans face fundamental constitutional questions of authority in foreign affairs, the right to wage war, rights to control the budget, personal privacy, and the future of the Supreme Court.

When we consider the flow of Americans from the days when people like Tom Carper wore buckles on their shoes, and only some men voted, to our times, when the franchise has almost been extended to all adult Americans, as Reverend Fauntroy will tell you, we can truly say that the real framers of our Constitution were not only the propertied white men who met there in Philadelphia, but the many more women and men, poor and rich of all ages, all races, who filed through the turnstiles of Ellis Island, who followed the Sun to the Pacific Ocean, who worked in the farms and the fields, stoked the furnaces of Pittsburgh and Cleveland, strung telegraph wire across the prairies, who laid their bones in soldiers' graves around the world defending freedom, who marched and bled at Birmingham, and yes, those who will be entering kindergarten next fall, and indeed every American who lives in this great land of ours, the greatest country in the world.

Women, of course, were allowed no official role, though I have a feeling that "Dolley" whispered some things into the Speaker's ear, but they had no official role in the business of Congress until Jeanette Rankin broke that barrier in 1916. All women were not given the right to vote under the Constitution until it was amended in 1920.

Our Constitution is a living document, so that this daughter of a patriotic father born on the Fourth of July, and a concerned mother who was born in this State of Pennsylvania, and raised their children in Ohio, could speak to you today as a Member of Congress.

We do indeed frame the Constitution every day. We affirm as our moral and political foundation the idea that we are our brother's keeper, all of us as a people, as a government, that our responsibility to our brothers and our sisters is greater than any one of us, and that it does not end when they are out of the individual reach of our extended hand or our charity or our love.

The American dream, the American experiment, is not a comfortable one. It nags at us in moments of happiness and personal success, disturbing our sleep and giving us that sense of guilt that every healthy generation experiences. It accuses us from the faces of the starving and the dispossessed, faces that stare back at us from the front pages of our newspapers, images from across the world that blink momentarily on our television screen.

Trying times are always with us, somewhere in America, somewhere in the world. Keeping the Constitution alive means more than celebrating its creation. We must join the enterprise of elaborating and extending its reach to those who have been denied its blessing and are eager to join us at the table where liberty's bounty is served.

The genius of what the framers did here in Philadelphia was more than restructure the central government. In their efforts they cemented the Union, provided for the common defense, ensured domestic tranquility, promoted the general welfare, and secured for its citizens the rights of life, liberty, and property.

In essence, they introduced a new concept, and in doing so breathed a novus ordo saeculum—a new order for all ages, a new order for our people, indeed, the world.

Happy 200th, my colleagues. God bless you, and God bless America.

[Applause.]

The SPEAKER. At this time, to help us conclude this commemorative ceremony, the Chair takes pleasure in inviting into the Chamber some very special guests, who represent the cast of a one-act musical tribute to the Constitution that is playing daily here in Independence Park and appearing across the country in our national parks.

This musical, called "Four Little Pages," was produced by a Philadelphian, Mr. Franklin S. Roberts. The cast includes a gentleman who is no stranger here in this city, Dr. Benjamin Franklin.

For the conclusion of our ceremony, the troupe will sing the finale of its production, which is none other than the 52 words of the Preamble to the Constitution of the United States.

Will the troupe please enter.

[Applause.]

THE SINGING OF THE PREAMBLE TO THE CONSTITUTION FEATURING THE CAST OF "FOUR LITTLE PAGES"

Dr. **Franklin**. Mr. Speaker, leaders of Congress, Members of Congress, 200 years ago my associates and myself designed the preamble to the Constitution to express the objectives of that great document. Today we have bowed to the conventions of your modern America and have added a few musical notes to those with your indulgence inspired words.

Mr. Speaker, with your permission, thank you, gentlemen, the Preamble to the Constitution of the United States.

The **SPEAKER**. By unanimous consent, we will waive the usual rule against joining in musical expression on the House floor, and all those who wish are invited to enter and join the troupe in the singing of the final chorus.

[Members sang the Preamble to the Constitution featuring the cast of "Four Little Pages," the words to which are as follows:]

> We the people of the United States, in Order to form a more perfect Union, establish Justice, insure domestic Tranquility, provide for the common defence, promote the general Welfare, and secure the Blessings of Liberty to ourselves and our Posterity, do ordain and establish this Constitution for the United States of America.

[Applause.]

The **SPEAKER**. This concludes our commemorative ceremonies. Go in peace. We are adjourned.

Whereupon, the special commemorative session was adjourned.

NOMINATION OF JUDGE ROBERT BORK TO SUPREME COURT

The **SPEAKER** pro tempore. Under a previous order of the House, the gentleman from Massachusetts [Mr. **Frank**] is recognized for 60 minutes.

Mr. **FRANK**. Mr. Speaker, I wish to discuss one of the most important issues that will be influenced if the nomination of Judge Robert Bork to the Supreme Court is approved.

I should say at the outset that the House moved particularly expeditiously today. I had anticipated 2 more hours to finish my research, so I will be tomorrow putting into the Record some specific excerpts of decisions by Judge Bork; but I am fully prepared today to discuss what is the fundamental point; and that is, Judge Bork has been, continues to be, and on the Supreme Court would continue to be in enhanced fashion the leading exemplar of the view that if there is a foreign policy dispute between the President and the Congress, the courts are going to do nothing.

As Judge Bork frames that, it sounds quite neutral. He says if there is a disagreement between the President and the Congress about foreign policy, the Court should abstain.

In fact, as Judge Bork well knows, and as the President almost certainly knows, and as Attorney General Meese undoubtedly knows, and that is one of the reasons they designated him, in the foreign policy field, given the nature of foreign policy actions, if there is a dispute between the President and the Congress as to what the Constitution requires in the foreign policy field, and the courts stay out of it, the President wins virtually every single time, because what we have is a situation where the Congress will enact a law, and it may have been enacted in the prior administration like the War Powers Act.

We have an administration that believes the War Powers Act duly enacted is unconstitutional.

It may be, and we ought to be clear. Legislation that is enacted is not for one administration only. The scheme of our Constitution is when a bill goes on the books, it binds everybody who comes after it, unless they find the proper legislative majorities to undo it, or if they can get a court to strike it down.

We have situations where a law putting some restrictions on the President's foreign policy activity could have been enacted in the previous administration. We have laws that can be enacted over a President's veto. We can have amendments which are enacted as an inevitable part of something the President wants.

One of our colleagues made a rather big issue in the current hearings about the fact that the Boland amendment was adopted as part of an overall package; and therefore, it did not stand on its own. It was an indispensable part of the proceedings the President wanted for aid to the Contras.

It was not stuck adventitiously on an adjournment resolution. It was part of the very measure which carried with it aid for the Contras.

Had it not been there, aid to the Contras would not have carried, so the Boland amendment was not some adventitious element stuck on from nowhere. It was part of a compromise in which a majority here said to the President, "If you want Contra aid, you have to have this amendment; and if you do not take the amendment, you do not get the aid."

There are a number of ways in which laws restricting the President's ability to commit this Nation's manpower or funds overseas, particularly in combat situations, get put into law. We have the undoubted constitutional power using our power to appropriate, to put limits on Presidential ability to get American money or American troops or American policy into warlike situations.

There will be times when Presidents will not like that, and we have in power now an administration that is very explicit.

This administration believes that the War Powers Act is unconstitutional, that the Boland amendment is unconstitutional.

We have no abstract situation here. These people have argued that Congress may not use the power of appropriations to put limits on their ability to reflag ships in Kuwait, to send advisers into a military combat situation here.

They have said the War Powers Act is unconstitutional, and they have violated it. They have sent Americans into war-zone situations, and said we are not going to abide by the War Powers Act. They have announced that the Boland amendment did not and could not have a part of the National Security Council, or we cannot prevent the President from preventing a whole lot of things in foreign policy. Most of us think that we can.

The way to resolve these disputes, because Presidents have a right to assert unconstitutionality, but they do not have a right to ignore the law in secret. That is inconsistent with trying to get an adjudication, but they have a right to say, no, that goes too far.

The Constitution is not pristine in terms of what the division of powers is. When there is a dispute on what the Constitution means in foreign policy, it will go to the courts; and the Supreme Court of the United States ultimately will be the umpire.

We are not talking about abstract arguments here, but where the law is on the books, the War Powers Act, the Boland amendment.

A President of the United States decides, or even worse, some of his aides decide without telling him, handly a hypothetical, that the Constitution does not apply, so the law is violated.

How do we then decide whether the enactment was constitutional or not?

Judge Bork's view is that by a variety of doctrines, the courts stay out of it, so the way it works, according to Bork, is that a law goes on the books that tries to restrict the President from getting into situations which many of the Members feel might illegitimately in terms of policy involve us in a warlike situation, may illegitimately spend money.

A lawsuit is brought in the right circumstances, and Judge Bork in every case where such a suit has come before a court in which he sits, and the arguments he has used, has said that the courts will do nothing.

In the domestic area, that might lead to some pulling and hauling. In the foreign policy area, let us be very clear. If the courts cannot adjudicate, the President wins, because what happens if we say you should have used the War Powers Act before going into Kuwait, or done this before going into Beirut with the Marines, you should do this before, and take another nonhypothetical.

Patrick Buchanan, until very recently one of the closest advisers to the President, he published an article that I read in the Boston Herald a week ago yesterday which said, if Congress does not do the right thing and give money to the Contras, the President ought to take that money and send it to the Contras anyway.

□ 1255

Well, it is not wholly far-fetched to suggest that Ronald Reagan might be influenced in part by a man who was one of his chief advisers, and if the President does that under the Bork doctrine there is nothing we can do about it because if the courts cannot involve themselves, the President wins. What Judge Bork says is, well, that should be worked out by the normal political process.

We are talking about situations where the political process has worked as a result of some pulling and hauling, and we have a War Powers Act, we have a Boland amendment. The Boland amendment certainly was the product of compromise. We are not talking about substituting the court process for the political process.

What we are talking about is when the political process has worked as it should have worked, when Congress and the President having wrestled back and forth have put onto the books a law, whether it was over a veto or in a prior administration or is the result of an inevitable rider to something the President wanted and that they gave to the Contras, and if it is on the books and if the President decides annually having participated in that compromise, and it did not work out the way he wanted, he will fight it and ignore it as we have seen it happen, as he says he has the right to do.

According to Judge Bork that is the end of it because the courts cannot decide. So we have one option, we can get our Sergeant at Arms, Mr. Russ, and the Senate Sergeant at Arms, Mr. Giugni, and they can round up an army of pages, and doorkeepers, and elevator operators, and they can go down and arrest the President. That is one option.

The other option is that the President has his way because under the Bork doctrine once the President decides that he will simply ignore the law because of constitutional reasons, a restriction on his foreign policy, that is it. The President wins.

Mr. LEVINE of California. Will the gentleman from Massachusetts yield?

Mr. FRANK. I am happy to yield to the gentleman from California.

Mr. LEVINE of California. I appreciate the gentleman yielding and I would like to commend him for calling this special order on such an important subject. The point that the gentleman from Massachusetts is raising is one which I would hope all Members of this body would be very concerned about.

Mr. Speaker, I would like to ask the gentleman a question with regard to the hypothetical that he is outlining. The question is this: Let us take the situation that is before the Nation right now. We are enmeshed in very important hearings with regard to the Iran-Contra situation and we have had testimony in the past several weeks that the National Security Adviser essentially made a decision on his own to countermand the law, to disregard the Boland amendment, which he understood to be law, and to engage in activities which are thoroughly contrary not just to the express will of the Congress itself but to the law of the land as signed by the President of the United States.

We also had testimony in the past week that these activities were pursued in a manner that intentionally excluded the Secretary of State and in a manner that intentionally kept even the President's own chief foreign policy officer in the dark.

Mr. Speaker, my question to the gentleman from Massachusetts is, if Mr. Bork were sitting on the Supreme Court in light of the positions that Mr. Bork has taken thus far in his judicial capacity, would Mr. Bork as Justice Bork leave any room for the courts to provide redress to the legislative branch or anybody else in this country if it were shown to him that the President's National Security Adviser was violating the law but that that was an activity that was in fact occurring within the executive branch of this Government?

If a Member of Congress brought a lawsuit under the so-called Bork doctrine with regard to foreign policy, what would Judge Bork's prior ruling indicate that his rulings would be as Justice Bork?

Mr. FRANK. If the gentleman from California would yield, the question is an excellent one and as the gentleman makes clear we are not talking about hypotheticals, we are talking about reality. We are talking about actions taken in statements in defense of those actions by administration officials. Mr. Speaker, there is nothing that the court would do in a case if there were a criminal prosecution brought, but as we know this administration would also like us not to have an independent counsel, so no prosecution could be brought. But as far as a civil way of litigating that concerns preventing the action from going forward, enjoining a repetition, it is very clear if you read Judge Bork's opinions and the very strong language he puts in, for a man who is supposed to believe in judicial restraint he has an activist trend that is quite impressive. He does not decide individual cases, he writes long lectures, he gives instructions to people. In other words, he does not just say you can get around the law this time, he tells you how you can get around the law in the future.

Mr. Speaker, there could be nothing that could be done under Judge Bork in this case. By the way, he is proud of that because he quotes approvingly from his former friend and coworker, Alex Bickel, in this particular context in a lawsuit that I will discuss in a minute that was brought by the U.S. Senate and the majority and minority leadership of the House and 33 other House Members, and we are not talking about some particular ideological group, but in a suit that was brought involving foreign policy by the entire Senate when it was controlled by the Republicans a couple of years ago, and by the majority and minority leadership of this body and by 2 to 1 the circuit court of appeals said yes, good suit, you are right.

Bork said, "absolutely outrageous, throw it out. The Senate is wrong and the House leadership is wrong. They are not just wrong on the merits, they have no right to bring the suit."

Here is one of the things he says in defense as he quotes Bickel:

> No society, certainly not a large and heteorgeneous one, can fail in time to explode and if it is deprived of the arts of compromise, if it knows no way of muddling through, no good society can be unprincipled and no viable society can be principle ridden.

That is a strange phrase from a potential Supreme Court Justice, "principle ridden."

In other words, in foreign policy let us not be principle ridden. Let us not be obsessed with a niceness about constitutional principle.

He goes on from there to say that we should work through a compromise, et cetera. What he fully misses, whether deliberately or not I do not know, but he misses the fact that we are talking about what happens after the process of compromise. The Boland admendment, the War Powers Act, those were the results of, although they were not perfect pieces of legislation, according to any individual, they were legislative-executive compromises. We are not saying, "Judge Bork, you step in and stop compromise." What we are saying is that once the compromise has been worked out it ought to be enforced.

Judge Bork says, "no, that would be principle ridden." Let us not be principle ridden.

Another statement that he made in a case here, it is a case where he is dismissing as absolutely without merit a lawsuit brought by 14 Members of the House of Representatives, the minority in this case, and the case in Vander Jagt against O'Neill, and a majority in this case said they were going to dismiss the suit, that the people who brought the suit did have a right but that the court did not agree with them.

Judge Bork said, no, they had no right to bring it. Kick it out of court.

And this was 14 Republicans.

Here we do not have the raving assaulters on Presidential power, or on congressional power. These were 14 Republicans led by the gentleman from Michigan [Mr. VANDER JAGT].

Mr. Speaker, in his concurrence, in which he said the court did not throw it out too hastily, it apparently did not bounce too many times, he says it is precisely the function of the article III limitations on jurisdiction to such doctrines as standing and political questions to ensure that no frivolous claims of unconstitutional actions will go unreviewed by a court, according to the Supreme Court. But in this context what he is saying is, I am proud of the fact that under the doctrines I am working there will be some, a lot of unconstitutional questions that won't be resolved. The unconstitutionality will prevail because of these doctrines.

Mr. LEVINE of California. Will the gentleman from Massachusetts yield?

Mr. FRANK. I am happy to yield to the gentleman from California.

Mr. LEVINE of California. Mr. Speaker, I think the gentleman from Massachusetts [Mr. FRANK] raises very, very serious points. The answers to these questions indicate that Members of Congress essentially have no means of enforcement of legislative enactments in critical foreign policy and probably domestic policy decisions as well, if Judge Bork were sitting as Justice Bork and were in effect the swing vote in the Supreme Court.

The conclusions would be that Members of Congress could not even raise these issues, could not even come to court, could not even seek a remedy in the judicial branch of Government.

Mr. Speaker, there are four other conclusions that I think follow from this, and they are conclusions with which I think we all should be deeply concerned. The gentleman from Massachusetts [Mr. FRANK] quotes Judge Bork in indicating that the courts ought not to be principle ridden in the context of the response that the gentleman from Massachusetts just finished reading.

Frankly, what that sounds like is that the courts ought not to be precedence ridden, the courts ought not to be too concerned with precedence if in fact there is an underlying philosophical principle that Judge Bork would like to see expounded.

This is something that I would hope would be scrutinized very carefully by our friends in the other body, because we are here not dealing with a sitting judge or Justice who considers himself to be bound by the traditional precedents of prior court decisions, including the precedents of the Supreme Court of the United States.

We are dealing with a very unusual judge. We are dealing with a judge whose opinions reflect an intense, deep, philosophical set of concerns and when the precedents of the Supreme Court and other courts conflict with his deeply held value system he not only finds a way around a string of precedents in case after case but he does it by lecturing his fellow Justices and lecturing those people who would be reviewing these decisions.

Mr. Speaker, we are dealing here with a man whose judgments are so deeply held that they are used as a basis essentially for throwing out stare decisis, throwing out precedents and rejecting history of particular issues as that history has been adjudicated historically by the common law.

This reflects another concern that is one that I also believe should be studied carefully and this is that we are dealing with a judge who is highly result oriented. This is not a judge who is looking to precedent to obtain his decisions. This is a judge that is looking at the particular result that he wishes to reach and then ensuring that his reasoning is put together in an argument in such a way as to get to the result that he is seeking to reach.

Mr. Speaker, the most significant conclusion, at least in my view that thereby follows from these concerns, is that we are hardly here dealing with a judicial conservative. We are hardly dealing with a man who, if he were sitting on the U.S. Supreme Court, would be an apostle of judicial restraint.

Quite the contrary; we are dealing here with a man if he were sitting as a Justice of the Supreme Court would be dramatically different from the man that he is seeking to replace, or that the President of the United States is seeking to have him replace, Justice Powell, who was in fact studiously respectful of precedent and a Justice whose history and record on the Supreme Court reflected the deep regard for stare decisis and judicial precedent.

Judge Bork, on the other hand, being almost utterly unconcerned with precedent and certainly being unconcerned with it when it conflicts with a philosophy of his, would replace restraint and would replace judicial restraint with the most radical form of judicial activisim by ensuring that the decisions that he would reach would be consistent with the result that he wishes to obtain in the first place and with the philosophy that he believes he is representing.

So I say to the gentleman from Massachusetts that we all owe him a great debt of thanks for bringing this special order before the House. I would hope that by having this special order people both in this House and even more significantly in the other body would review the record and would ask themselves more than anything else the question: "Are we dealing with a nominee who is an apostle of judicial restraint, or are we dealing with a nominee that in fact is an apostle of judicial activism who is concerned much more with obtaining his results, much more with obtaining the philosophical result that he wishes to seek than he is with any concern with judicial precedent?"

Mr. Speaker, I thank the gentleman for yielding.

Mr. FRANK. I thank the gentleman from California. It is true in some areas, for instance in the area of antitrust where Judge Bork is a firm believer in the view that there is really no such thing, or should be no such thing, he is not only an activist, he is a judicial hyperkinetic, he is prepared to go to great lengths to turn things around.

Mr. Speaker, with respect to precedent, he is so eager to keep foreign policy an exclusive executive prerogative that in the short space of about 2 years he has overturned himself because he thought that he had a doctrine that would keep everything out of the courts and if turned out that he had not quite done it well enough, so he backed off. He repudiated himself.

We also have a series of three cases, one of which is Crockett against Reagan, the plaintiff being our colleague, the gentleman from Michigan [Mr. CROCKETT] in a case having to do with El Salvador, and it was a suit brought by Members of Congress. Here a majority said that the suit was not brought correctly because it was a political question, not that it was not brought correctly, but the court could not decide it because it was too political.

Judge Bork concurred grudgingly. He said he would not have given them standing in the first place. He said he would only let a Member of Congress have standing, a very important judicial doctrine, if that vote would be nullified by the action taken. That was Crockett against Reagan.

Then we have Vander Jagt against O'Neill, when those 14, I suppose we are to think from this that they are radicals with no sense of the role of judicial restraint, but it is the gentleman from Michigan [Mr. VANDER JAGT] and 13 Republicans, apparently temporarily apostles of judicial activism of the wrong sort, and two judges again said you have the right to bring the suit, but we do not think you are right in this one.

Judge Bork said, no, you should not even let them in here. Keep cases like that out of here. In this particular pleading, they show no understanding of our constitutional scheme.

So he concurred.

Then we have the case of Barnes against Kline in which there was a two-judge majority. Judge Bork is almost always by himself in these cases, he is such an extremist. He holds views that are so outside the judicial mainstream that even when he agrees with the result he has to concur separately.

☐ 1310

He is almost always in the minority. He says in his opinions, "I think the whole circuit is wrong about this, the second circuit. I think that the other panels have totally misread this."

He is often all by himself. In Barnes against Kline what happened was two judges finally said in this case the lawsuit must go ahead, because remember, Judge Bork had said, "We will only let a Member of Congress come in and bring suit in this kind of a foreign policy situation or in any situation if this vote is going to be nullified." Well, in Barnes against Kline the argument was that our votes were being nullified. Do you know what Judge Bork said? He says in a footnote, "Yes, this does look like a case in which their votes are going to be nullified, so I therefore change my mind and that doctrine will not hold anymore."

In other words, when it looked like you could keep people out by insisting that there be a total nullification of the vote on an important issue he went along with it. Two years later after he announced that doctrine when a case came up where he admitted that the doctrine he enunciated 2 years ago was going to allow a lawsuit to be heard on the merits, he repudiated it.

So a man who would overturn himself in 2 years presumably shares a great deal of flexibility in some cases but it is the flexibility that the gentleman from California has said was result oriented.

He is determined, determined that there will be no checks imposed on the ability of the President to carry out foreign policy. And by the way, this is not just Judge Bork, the jurist, doing what he has to do, this is the political philosophy of Robert Bork, the man which, of course, carries over to the Supreme Court. The notion that somehow when one steps on to the court all of his or her prior views become irrelevant is silly. Some of those, there is a side argument going on now about what can or cannot Members of the Senate take into account when they are confirming someone. Can you take a judge's views into account? That is a very silly question.

Do people think that Ronald Reagan made this choice randomly? Do people think Ronald Reagan and Ed Meese picked this man without regard to how he was going to decide? Reagan and Meese picked him because of how he is going to decide. And a legitimate way for all the rest of us to decide whether we want him on the Court includes how is he going to decide? Saying that you cannot take into account how a judge is going to decide cases when you decide whether or not you want him on the Court is nonsense. Saying that everything a man has done up until now, his 60th year, is irrelevant to deciding what he is going to do for the next 15 or 20 is equally nonsense. But we know that this is what Judge Bork is like.

In the American Journal of International Law for January of 1971 he was debating the question of the Cambodian incursion that President Nixon ordered and here is what Judge Bork had to say: "The real question in this situation is whether Congress has the constitutional authority to limit the President's discretion with respect to this attack." In other words, he does not doubt that the President unilaterally can do all these things. Robert Bork believes that once—it is a two-step argument: first, the President decides he is going to get us into hostilities on his own without any congressional authorization and then once he has gotten us into the hostilities he invokes the Commander in Chief factor and he can do anything he wants in those hostilities.

So by the time Bork is through, the President can do whatever he wants. But what Bork now says is that he does not even—he is not even sure that Congress can restrain the President by enactment once it happens.

Let me read this one again, because sometimes people do not understand me the first time: "The real question in this situation is whether Congress has the constitutional authority to limit the President's discretion with respect to this attack." In other words, the President goes into a situation of hostilities without a declaration of war, and he decides to escalate beyond the particular theater in which he was and Bork is not sure that Congress, by passing a statute that says, "You may not do this or that" he thinks that may be unconstitutional.

Not only does he think it may be unconstitutional, this is very clear from his options, if the statute is passed, if we pass something in the House that says, "Do not send people to within 10 miles, American Armed Forces, of Nicaragua. Do not invade Nicaragua unless the following happens," Bork is not sure as I read him whether or not that is constitutional for us to limit him, but he is sure of this: If we put any such limit on the President, if we put any limit on the President's ability to commit American troops or American money in hostile-type situations and the President just flatly ignores them, the President wins because Bork has a series of doctrines, standing, justiciability, political questions that keep you out of here.

Let me talk a little bit more about Barnes versus Kline, the one where he finally had to overrule himself. What Barnes against Kline dealt with was the pocket veto. We had passed a foreign policy provision that the President did not like. What did we do? We put it—and this is often the case—the President comes in and asks us for money—not personally. If the President asked me for a couple of bucks I suppose I would lend it to him. I do not mean to suggest that it is my money. It is the taxpayers' money. The President says to elected officials, "Vote me some money, some tax dollars, I want to send it to El Salvador." The people here said, "OK, we will give it to you but with this condition, only if there is improvement in the human rights situation in El Salvador." And this is what Bork tells us we should do, compromise, go back and forth: Well, we will give you this if you will give us that.

Again, we are not talking about judicial decisionmaking as a substitute for compromise. We are talking about whether or not once the process of compromise has taken place there will be any judicial enforcement. Or is the President to be allowed as Robert Bork would allow him, to go into those situations, make his deal, tradeoff and then be totally uncommitted by his deal?

It is a wonderful way to negotiate. "Let's have this deal but when it is all over I will do whatever I want to anyway. And if you try to sue me, you can't come into court and the judge can't decide, and I win." And in this case the bill went to the President which would have put some restrictions on the use of foreign aid money in El Salvador in the area of human rights and the President pocket-vetoed it. We were in recess. The Constitution says that if we send the President a bill and then adjourn and because of that he cannot send it back to us, he can veto it without vetoing it, he just not signs it and it dies, as opposed to vetoing it and sending it back where we get a two-thirds override chance. He did not want to give us a chance to vote on overriding his veto in El Salvador. So he vetoed it, not at the end of a session by a pocket veto, but during the recess. We were coming back. In fact, we had anticipated this by designating an official of the Congress to say, "Hey, President, if you veto this bill while we are taking a week off, send it to so and so. And as soon as we come back we will give you a veto override."

The President disregarded that. He said, "No, I am pocket-vetoing it. I will give you no chance to vote on it." It was in a foreign policy area. It went to the circuit court of appeals and two judges said, "Oh, Mr. President, you are wrong. That is not what the pocket veto was meant for. The pocket veto was meant for you to use when there was no chance for the bill to be resubmitted and therefore they kind of frustrated you. But where there is a chance of resubmitting it to get a two-thirds vote, you have to resubmit it."

Judge Bork said not that that was wrong on the merits, but that the Members of Congress who brought the suit had no right to bring the suit. He said they did not understand the legislative executive process. They were kind of crybabies. They would not stand up on their own. They are supposed to fight the President on their own. They are not supposed to come to the court.

Let me tell you who the plaintiffs were. What Members of Congress showed so little understanding of the separation of powers, because he said the separation of powers says "Stay out of it"; do you know who the Members were who showed so little understanding? The U.S. Senate. Not individual Senators, the U.S. Senate, the entire Senate passed the resolution under that apparent misunderstanding of the Constitution.

Robert Dole, according to Judge Bork's decision, Robert Dole as majority leader of the Senate brought this resolution to the floor and there was no recorded dissent. The entire U.S. Senate, when it was in Republican hands said, "We are unhappy because again the compromise, the back-and-forth had taken place. Our provision went forward which the President did not like but that was the end of the process. And the President then vetoed it in a way that we thought was unconstitutional and prevented us from voting." It met Judge Bork's test. He says, "You can't come in here, Members of Congress, unless there is a nullification of your vote."

So we said, "Judge Bork, they nullified our vote. We can't vote on it." He says, "You are right, that is a nullification of your vote. So I am going to change my mind and even the nullification of a vote won't get you in."

There is a footnote here which I will put in tomorrow's Record. Judge Bork is in the minority, two to one, and he says that even in this situation where we are talking about the result of legislation that was passed and we believe that the President has unconstitutionally prevented the legislation from going into effect by giving us a chance to vote on it," Bork says there is no remedy. I guess this is one of those situations where he thinks he should not be too principled. I mean an excessive regard for the constitutional foreign policy, he apparently thinks is unseemly. So we lose.

And it was the entire United States Senate, the majority and minority leaderships, Speaker O'Neill, Majority Leader Wright, Minority Leader Michel, the Minority Whip, Mr. Lott, those are the radicals we are talking about in this situation who tried to assault the proper citadel of judicial restraint.

That is the Bork approach. It is to find any way you can to keep Congress out. He uses the political question doctrine by saying "We can't really decide it." In the case of Tel-Oren against the Libyan Arab Republic, again a majority said there was not a lawsuit that could be brought when some people who lived in Israel wanted to sue the Libyans for terrorism, Judge Bork concurred with the most extreme arguments here, the most extreme arguments.

Again, the gentleman from California mentioned the myth that this is a man of judicial restraint. In his opinions he is constantly going far beyond the specific merits of the case to write general treatises.

I will put into the Record tomorrow his various opinions in the foreign policy field.

They are a paean to the notion that the President must be allowed to do whatever he wants. Of course in this case we know it means not just the President but the National Security Adviser, the head of the CIA and a few other people, that they can do whatever they want. They can send American ships here, they can send American men there. They can send American money to a third place.

Even if Congress has told them not to they can do it and there is no judicial remedy. There is nothing we can do about it.

By the way, you say, "Well, no, a traditional lawsuit will come." But who is going to bring the lawsuit? A fisherman from Abu Dhabi whose boat got run over?

Who is going to bring the lawsuit? The Ayatollah? Is he going to come in and try to enjoin the reflagging of the Kuwaiti ships? Because in foreign policy unlike domestic policy, those people overseas cannot bring the lawsuit. In other words, this is very clever what Bork has done. We are not talking here about a dispute over minimum wage or the Occupational Safety and Health Act. In domestic areas if Congress cannot intervene then some domestic plaintiff will be found to do that in almost every case, it is true. In the domestic area if we do not have standing, if it is a political question involving some larger entity, some people will have standing. But in the foreign policy area, very few Americans are the objects of an American invasion. If you cannot have the lawsuit brought domestically it will not be brought forth. Bork knows that. Again, let us go back, when it came to Cambodia not only does the President in his judgment clearly, not even arguable, the President can send troops out, he can start the war, he can start shooting. We can invoke the War Powers Act. You know what he thinks about that? Sometimes when judges are trying to bolster their opinions they give you a list of horribles. We all do this in debate. "If you allow this to happen the next thing you know children will be on the streets," "there will be no milk served anywhere in the whole State of Ohio." We are pretty good at making up things that are going to scare you.

Let me give you a list from one of Mr. Bork's horribles. This is in a case which was brought, remember, it was brought by that group of people who have no respect for the separation of powers, no understanding of it, the U.S. Senate, the gentleman from Illinois [Mr. Michel], the gentleman from Mississippi [Mr. Lott], former Speaker O'Neill, they are radicals that brought this suit. Here is an example of what this kind of thing can lead to. "Members of Congress who have standing to sue the President whenever he commits troops as in Lebanon on the allegation that there has been a violation of the war powers resolution or Congress' power to declare war." Think of that. We may have a suit to enforce the War Powers Act. Judge Bork, you can be sure, is not going to let that happen. Put him on the Supreme Court and you have one sure vote on the Supreme Court for their being no practical checks on Presidential power.

I want to go back to the people who say, "You know, when you are talking about whether or not someone should be on the Supreme Court you are not supposed to take into account his character."

Well, I am prepared to stipulate that Judge Bork is guilty of no crimes that I am aware of, Judge Bork does not appear gratuitously to assault old people, Judge Bork appears to me the basic character distinctions that most of us have. There are a couple of hundred million people in this country who appear to me, as does Judge Bork, an OK character. I do not know him that well so I cannot go beyond that. I do not mean anything negative. He seems like an OK guy.

That is a basis to appoint someone to the Supreme Court?

We are not talking about hiring someone here to stand on your line in the commerce committee so that your boss does not miss a chance to watch Mr. DINGELL yell at somebody. We are talking about making you one of the nine people who decide these important questions. And to say that you do not take into account what a person is going to do when he gets there is mindless. Of course you do. When Robert Bork gets to the Supreme Court, if he does, he will use all of his energy as he has in all these cases I have got here to keep the President's ability to do whatever he wants in foreign policy with American men and American weapons and American money practically untrammeled by Congress.

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And he tells you why. He says the court should not be involved here. He says in the old standing cases, deciding who you should be able to sue, we have not looked enough at separation of powers, that separation of powers is important.

What he misses is that in every case he has been asked to decide that I have talked about involving congressional standing, the process had taken place. No one was going in and saying, "Judge, make them pass a law." No one was going in and saying, "Judge, we think that the law is wrong." In every case people were going before his and saying, "Judge, a law that is on the books, a law that was passed as a result of the process you recommended to us, is being ignored."

So we have three choices. If we have got a law on the books, say the War Powers Act, he makes fun of the notion. He thinks, "Hey, the next thing you know, someone will be trying to enforce the War Powers Act." Robert Bork thinks that is something to be lamenting. So does Ronald Reagan. So do the people in his administration. They have told us they think the War Powers Act is unconstitutional. Now they want to give us at least one Justice on the Supreme Court who will agree. We do not know if we will agree with him the War Powers Act is unconstitutional, but he does say, again remembering that quote from the International Law Journal, that he is not sure that Congress has the power; once the President has gone into a hostility situation without any declaration of war and has further escalated, he is not sure Congress can put any restrictions on that. But we are sure of one thing. He is sure it is none of his business. I mean if it is a piece of legislation on the books that says the President may not commit troops in a certain area and the President commits those troops, here is what we are talking about: Congress says the President may not send troops to Nicaragua, or he may not commit in Lebanon, but if he does it anyway, according to the jurisprudence of Robert Bork, he wins because there is no judicial forum to decide it.

Let us understand that. If the President violates in the domestic area, we will get it in the courts somewhere; someone will sue, and there will be a lawsuit and we will probably have it decided. But in the foreign policy area, the mayor of Beirut does not have standing to bring the suit, and the courts cannot deal with it in a foreign setting. They can only deal with it in these American settings. What Bork does, with great ingenuity, and not limiting himself to the cases before him but writing in generalities, is to say that Congress has no place in these issues.

Now, there are three ways we can go. No. 1, we can pass a law, the President disagrees with it, and we go to court and the Supreme Court decides what is constitutional and what is not. Bork is not for that.

The second is that we decide if we cannot go to court, we are going to enforce the law, so we try to enforce the law and the Capitol Police and the Doorkeepers descend on the White House, and they lost to the Secret Service and the Army. Or they win; I do not know what happens, but it is not a very effective way to enforce the law.

The third way, the way we all know will happen if there are five people who agree with Bork on the Supreme Court, the President will win.

Let us have just a review, Mr. Speaker, because this is an essential point. In the area of whether or not Members of Congress may ever bring a lawsuit themselves, we are often the people most directly involved. Bork began in 1983 in the Crockett case concurring with the majority which denied standing and setting forth the standard that there had to be a nullification of your vote. Three cases later and 2 years later, when the U.S. Senate, the majority and minority leadership of the House, and a number of us as individual plaintiffs in Barnes against Kline brought the lawsuit and said, "Look, the way the President is misinterpreting the Constitution, under the veto, he is depriving us of a vote; we passed the law, he is sitting on it, and he will not send it back so we can get a two-thirds vote on it, so there is your nullification, we have been nullified," Robert Bork says, "yes, you're right. You got me, so I am changing the rules. I still think it should be thrown out." And he dissented again.

He is almost always a minority of one in these cases in the extremism of his assertion, not simply that there is no standing for Congress. Once there will be no standing for Congress, another time it will be that the question is too political, and, third, it will be that we have got to give broad discretion to the executive, as he says in the Abourezk versus McGovern case where he also dissented. That one is pending. In Abourezk against McGovern people brought a lawsuit about the keeping out of some people with political opinions, and the majority on the circuit court said, "Yes, the Government is wrong here. They have got to come in." Bork once again dissented. He had to grant there was standing here, so he found other reasons why it was not appropriate for the courts to decide. The courts must always defer.

We had a statute on the books some years ago that Congress wanted to repeal but did not because it is now under the District of Columbia. It says that you cannot stand in front of the Nicaraguan Embassy with a sign saying that the Sandinistas deny free speech. A man was arrested for trying to hold up a sign that said something critical of the Sandinistas. Robert Bork upheld his conviction. He said, "Yes, you can't do that. The executive has got to have the discretion."

So we have got to let the executive shut down free speech. It is kind of ironic that you cannot stand in front of the Sandinista embassy with a sign a hundred feet away saying there is no free speech in Nicaragua. There is also no free speech in America a hundred feet from the Sandinista embassy, and that is fine with Robert Bork.

What we have is an absolutist of the view that says there will be no judicial enforcement of laws on the books that restrain the President in foreign policy. That is the last point I want to emphasize very clearly. We are not talking about asking the courts to come in and find the President's actions unconstitutional on general principles. People may want to do that, but that is not before us. We have here in the Barnes case, in the Crockett case, and in other cases statutes, the Boland amendment and the War Powers Act, as well as other pieces of binding legislation, duly enacted, that restrict what a President can do in foreign policy, that restrict the adventurist tendencies of Presidents. And we have learned that all Presidents, Democrat and Republican, will occasionally unwisely, in the view of a majority of elected officials, want to engage us in a situation that may lead to war unnecessarily.

We are talking about laws which were passed and how we can enforce them. And there are legitimate disputes about how to enforce them, but Robert Bork is very clear: they are unenforceable. You pass any law you want, Mr. Speaker, your House, and the Senate can collaborate, and you can say the President may do this but he cannot go there, he may send arms to the Contras, but he may not invade

Nicaragua, he may send nonlethal aid, but he cannot do that in Honduras. But if the President decides that they do not apply to him, as this President has announced with the War Powers Act and the Boland amendment, if he and the members of his administration, as they have told us they will do in these hearings that are going on, decide to violate the law, according to Robert Bork, they win, because there is not a forum in this country in which we can hold them to the plain facts of the law.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I am glad to yield to my very distinguished friend, the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, I thank the gentleman from Massachusetts for yielding, and first I want to congratulate him for a brilliant extemporaneous review of the basic issues involved at a very troublesome time at this juncture of our historical development in which we are confronted with a very basic constitutional crisis, as I see it.

The American people, given the knowledge and given the information, I think, are beginning to see, through the hearings that are currently being publicized, that we are concerned with a prime constitutional question. The gentleman's contribution today significantly raises the issue of our basic structured government in which we have three fundamental organs or branches of Government, coequal, independent, and separate.

In this case, with the nomination of Judge Bork, what the gentleman is telling us and documenting here is that apparently Judge Bork is so totally a reversionist that he would go back to 1828 and John Marshall and the basic precedent of Marbury versus Madison establishing the Supreme Court's power of review, because in essence that was the fundamental issue at the time, the extent to which a President could reach out and to what extent the Constitution restrained him.

Would the gentleman say that given the record of Judge Bork's pronunciamientos and obiter dictum, his decisions, and his utterances, in effect he is a total reversionist to the status quo ante, to Marbury versus Madison?

Mr. FRANK. In the foreign policy area, absolutely. What Judge Bork says—and I have given quotes, and people may say I am quoting out of context, but I have got the quotes here and I would be glad to share these quotes with anybody, and I have read articles and I have read his opinions, every one I could find that was relevant to our understanding—is that in the area of foreign policy there is no judicial review essentially. He does say, well, we will go with the normal case, but as the gentleman from Texas knows, because he knows better than I since he has greater experience and involvement in the foreign policy area, in the foreign policy area there are no traditional cases and controversies. You are not going to have a U.S. Marshal serving a process and then a lawsuit. You are not going to have two people with that standing. If you stick with that doctrine, then you win.

There is a quote here which I think makes the point. I am quoting now from his dissenting opinion in Barnes versus Kline. I should point out that in Barnes versus Kline, where he dissented, the Supreme Court decided later that the case was moot, that is, that too much time had passed and it was not relevant. But he was in the minority, and the Supreme Court never chose between the two. He is almost always in the minority, fortunately, because of his extremism of views on this issue. Here is what he said:

> Standing requirements, like the requirement of ripeness, also delay the invocation of judicial power. This means that there is time for the real impact of laws and actions to become clear, thus making the constitutional inquiry less abstract and more focused. The law is given a chance to go into effect and have some impact upon persons in the society . . .

Well, he has got it backwards because we are talking here about our having passed the law. In other words, he is saying this is what happens when we have passed the law and someone says the law is unconstitutional. But it is the President or one of his aides, and we are trying to get the law's constitutionality upheld. But also, when he says, let it go into effect, and then we will come back afterwards and look at it, domestically that is true. Let the minimum wage law take effect, let a plant closing law take effect, and then the courts will litigate.

But in foreign policy, once he has invaded, that is it; once he has reflagged, that is it; once the Marines are in Beirut, that is it. Lives may have been lost; money has been sent. What happens? He is going to send the money to El Salvador, and then the court is going to say, "Oh, you shouldn't have done that." Then are we going to send the U.S. Marshals down there to collect it?

So he understands that. In the foreign as opposed to the domestic area, we take what he says. Let it go into effect, and that is it. The status quo is broken, and you are exactly right. As far as his being willing to turn things around, let me read the footnote.

I talked before about how he is willing to overturn himself. He said in the Crockett case, "Only if there is a nullification can you get standing," and he got a little nervous about that in the Vander Jagt case, and then, when the Barnes case came in and it was clearly that or exactly what he said, here is what he said:

> Concurring in Vander Jagt, * * * I suggested that we adhere to the "distinction between diminution of a legislator's influence and nullification of his vote." * * * Upon further reflection, it seems to me that not even the * * * "nullification" test is adequate to the standing inquiry. When the interest sought to be asserted is one of governmental power, there can be no congressional standing, however confined.

In other words, he is saying, "You got me. I gave you a test and you met it, so I will change the test, because I am determined to keep you out of it."

So the gentleman is absolutely right. As far as he is concerned, in his very radical jurisprudence, which is a very minority jurisprudence—but it does not take too many of those people to get a minority on the court—there is essentially no function of judicial review. And, by the way, let me ask this: how active can the courts be in overturning congressional statutes?

Here, what he is saying is that in foreign policy, if the President says so, it is almost presumptively unconstitutional because the footing is that if the Congress passes a law, if it becomes law and it is either overridden or signed and the President or some aide to the President announces it is unconstitutional then Bork basically says, "Hey, that's probably it. It is going to be unconstitutional as a practical matter."

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield again to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, I just want to make this observation: that the gentleman's remarks become that much more enhanced in the degree of importance that our colleagues should be considering. I for one have introduced three resolutions alleging violations of the War Powers Limitation Act: President Reagan, first in 1982, in the case of Beirut; second, in the case of El Salvador, when we reached that point of definition by clause 4 of the War Powers Limitation Act that clearly defines it; and last, in the case of the Persian Gulf developments.

The gentleman's remarks are particularly and conspicuously important because in today's world, in context, as contradistinguished from the day and time of Judge Marshall, any event leading to any kind of warfare, limited or otherwise, between two nations in reality becomes a civil war, because the world has contracted, our interdependence is so great that the gentleman's points and assertions with respect to this question of Bork's rather radical and erroneous viewpoints on the limitations of Congress to determine by way of its appropriations to what extent the President is limited.

I might remind the gentleman that the first peacetime draft passed in 1941 by one vote, and that vote was obtainable only after a clause was inserted that stated that notwithstanding any of the hereinbefore, no unwilling American be conscripted to serve in any territory outside of the continental United States.

□ 1340

That certainly was a limitation on the President, unless, the clause contained, a declaration of war naturally by Congress, or explicitly provided for by the Congress.

This is what I raised constantly during the 1960's in the case of Vietnam, and before I ever dreamed I would be in the Congress in the case of Korea, that given the almost imperceptible developments that encroached on that clause, after the hot-shooting of World War II, we were conscripting unwilling Americans into a twilight or undeclared war, Presidential war, if you please, unwilling but would have been willing to serve within the continental United States in its own defense.

I think that the precedents are there to indicate that when a critical point has been reached, at least the Congress has for those periods of time had the fundamental notion of standing up for the separation of powers, the independence of coequality of the representative branch of the Government.

I end up by thanking the gentleman from Massachusetts again profoundly for the gentleman's very wise, very eloquent observations.

Mr. FRANK. Mr. Speaker, I want to summarize, we have on the books and might in the future laws that prevent Presidents from doing things that they would like unilaterally to do in foreign policy.

Virtually every Member of Congress has voted for one or the other at one time. We have laws that came from the other side of the aisle restricting our ability to deal with governments in parts of southern Africa. There are Members who say they should not be allowed to talk to the Government of Mozambique, and legislation in terms of who whey should recognize in terms of Nicaragua.

The gentleman from Wyoming [Mr. CHENEY] made a very eloquent statement to Admiral Poindexter when the gentleman said:

> When you act on these foreign policy initiatives without Congress, you run a high risk of failure, because in our democratic society, if you are going to involve American people in a potential shooting war and get us involved in hostility, you better have as broad a democratic base as possible.

One way our Consititution says that you prevent against an unwise and precipitous commitment of American forces, of American lives, of American money is, you involve the legislative branches. We will sometimes differ, so we have on the books the War Powers Act. We have had versions of the Boland amendment, and we will have other restrictions on what the President can do.

The President has not only violated some of these, and that has been admitted in the hearings, he and people who work with him have admitted that they have a right to violate them. We are not talking about constitutional limitations on the President's inherent power.

We are talking about situations where Congress has told him not to do something, and he argues because it is foreign policy, he can do it anyway. Robert Bork in case after case after case has argued, if Congress has told the President he cannot do something in foreign policy, and he decides to do it anyway, that is it.

He wins, because it cannot be brought into court as a conventional domestic-type lawsuit, because it is not a conventional domestic situation, and because of lack of standing or justiciability, Bork will keep it from happening.

He is adamant in his concurrence in Crockett and Vander Jagt and his dissent in Barnes. He not only has written by himself on Libya, but he says the entire Second Circuit opinion was wrong there. He is almost always in the minority, but him on the Supreme Court, and maybe he is not a minority anymore, or maybe he is a minority with power to bind majorities below him, because he picks up a couple of others and he wins.

In some cases a majority of the Court might hold that we have gone too far. I do not argue whatever Congress says in foreign policy will bind the President.

In some cases there may be a majority for what the Congress has said. We know what Bork's vote will be. In every case he will vote for the President, because he will have a doctrine available that will keep the case from coming before us, so we have the most radical assault on the legislative power in the area of foreign policy that we face today.

He is the judicial apostle of doctrines of Poindexter. In fact, if you got Robert Bork there, think of him as a blocker. Think of Poindexter in the backfield running anywhere he wants with the ball, and Robert Bork is there to block out for him Congress, any judicial enforcement.

The Bork doctrines are very clear. Congress may pass whatever legislation it wants. We accept his invitation to compromise, work it out, go the normal route; and what happens then once we have done that, if the President or one of his aides decided to ignore what we have done, then we are frustrated, because Robert Bork has a variety of doctrines.

I will document, as my time draws to an end, in tomorow's RECORD, tomorrow excerpts, the complete list of the opinions, a few articles journals which document the point.

Robert Bork does not deny it. He has said in USA TODAY last week, "Just because I said something in the past doesn't mean I am going to still say it."

What that means is when someone is eager to be on the Supreme Court, he did not mean what he said. He will do in the Supreme Court what he has done in the circuit court consistently, vigorously, actively block any effort by Congress to put any restriction in a practical way on the President's foreign policy.

He nowhere says that flat out, but that is the undeniable consequence of the collection of doctrines of Robert Bork, that there can be practically no, and I am sure you could think of one or two, but there will be practically no effective limitations on the President's ability to engage this country in international activity, even if a majority of both Houses of Congress have thought that unwise and been able to put on the books the law saying so.

Mr. Speaker, I thank the gentleman from Texas [Mr. GONZALEZ] and the gentleman from California [Mr. LEVINE] for joining in.

IMPEACHMENT OF RONALD REAGAN—NO. 8

The SPEAKER pro tempore (Mr. LANCASTER). Under a previous order of the House, the gentleman from Texas [Mr. GONZALEZ] is recognized for 60 minutes.

Mr. GONZALEZ. Mr. Speaker, this will be, I believe, No. 8 on the impeachment resolution that I introduced on March 5 last, directed to President Ronald Reagan with six articles of impeachment and the seventh general impeachment which, contrary to the common notion, would be all that suffices to bring the articles of impeachment before the House of Representatives.

The common rather misdirected opinion is that a President or any civil official of the Government, as the Constitution defines those that are eligible for impeachment, need be guilty of some criminal offense, of course, not true.

The very fact that this particular section is in the Constitution owes to the historical deep traditions that the people who wrote the Constitution were drawing from, in the case of the mother country, England or Great Britain as it is known today.

The fact is that this particular word "impeachment" is a Latin-derived word that has to do with the defining and the meaning of review, or to impecadera, or that is to charge.

It can be compared to a bill of particulars that a grand jury indictment could conceivably contain, but the comparison is really not an apt one, because grand juries usually are talking about criminal culpability.

In the case of offenses, as well as those of acts of misfeasance or malfeasance, that is one thing; but in the case of irresponsible discharge of an office, it is quite another.

There need not be any criminal culpability involved, as has been the case of some judicial officials that have been impeached by the Congress. Of course, impeachment by so many of our fellow Americans is taken to mean a conviction. Well, of course, that is not true.

Under the procedures which, incidentally, originated in England, the charges were brought forth in what preceded the Commons actually, and incidentally, that particular procedure had a similar origin to that which confronts the American people today.

Willful kings were selecting the laws that they felt they wanted to follow and violating those that they did not like. This is exactly the situation today in the United States of America.

What is unprecedented in the English-speaking world, in the modern developments, is that such would be happening in the latter part of the 20th century in this greatest of all democratic representative forms of government. But where there is a corruption in the processes, and that corruption in our processes could be where either one of the three equal or coequal independent and separate branches of our Government would fall down on their constitutional responsibilities.

I can see clearly that in the case of the House of Representatives, as well as the other body, there has been a watershed development of change since 12 or 13 years ago when we adopted the so-called War Powers Limitation Act.

There are some of the Members who coauthored that act, but who had great doubts and misgivings. We were quite skeptical, to be truthful, and we felt that it was a sorry day that such was necessary.

In many ways I, for instance, held a theory that it could be more perverse ultimately than profitable and creative, because actually looking at it from a certain point of view, in the modern structured world in which we have instantaneous communication, which we have by the push of a button the most destructive forces known to man in all history unleashed in less than a second, and to say that we would give the President 60 days in which to do something, and then after that report, except for section 4 of the War Powers Limitation Act which I have resorted to in the three resolutions I have introduced since 1982, beginning with the 1982 diversion of 2,000 marines to Beirut by the President after he had recalled a smaller unit earlier that year.

I raised the issue and directly addressed myself to the President by way of a letter as to what the military mission was of the Marines.

After all, as I pointed out in the letter, the Marines are not diplomats. The Marines are not politicians. The Marines are warriors. They are trained for that purpose; and if their mission is not clearly defined, I resorted to language that is deeply embedded in the scriptural languages by saying if the trumpets give an uncertain sound, who then shall prepare for battle?

I said, "Mr. President, you are not clear and forthright."

The President, though, of the six that I have had the privilege of working with since I have been in Congress, is the first one that I have had any experience who does not acknowledge a Congressman's letter.

□ 1355

Rather, he has some subaltern receipt of it, so I had to wait until December 1982 before I read in the newspaper that the President in answer to a newspaper reporter's inquiry said that the purpose for his sending 2,000 marines more or less to Beirut was, one, as peacekeepers, and two, to shore up the Gemayel regime. That seemed to me to be so inadequate, so contradictory, that the implication of danger for the leaving of the Marines was so great even to me as a nonmarine that I drafted a second letter, to which, of course, I did not receive a reply to this day. So I took to the floor.

It took another 1 year and 2 months until the tragic developments in Beirut October 24, 1983, when we had 241 of the marines dead.

Now, a lot of implications have arisen because of that. I think the most painful ones to me were, one, that the President would have so callously disregarded not only inquiries on the part of Members of Congress, but the advice on a unanimous basis of the chief military that this country has so carefully and costly prepared to have as a means of advice and support for the Commander in Chief, which after all the Constitution says the President is the Commander in Chief.

The President wilfully ignored something I happened to have known about and the reason why I stood up day after day here in this well and spoke out and asked the President repeatedly, "Mr. President, define the Marines' military mission, because it is absolutely indispensible that it be done for their own safety." Why? Because you are not a peacekeeper if you introduce yourself on the side of 1 of 4 factions, which was the case and continues to be the case in Lebanon, or what we define as Lebanon, an entity that was defined as a result of France having almost pleasurably released its colonial hold of what we call Lebanon today, the first chance it had after 50 years, and that was in 1943 in the midst of World War II. France was more successful than anybody before the Persians or the Roman legions almost 2,000 years before, or the Americans puny ignorant and unknowing, in the history and the ways of that part of the world, which are to say the least, Byzantine, complex, complicated and difficult, to put the entire world being of any detachment of warriors under the basis that our marines were.

Now, the President and no other American is wholly, exclusively, responsible for the death of those 241 marines, just as in the case of the 37 sailors in the Persian Gulf more recently, because to strip the captain of his command as a result of the rocket damage to the ship is really a pusillanimous way of establishing the responsibility, because you ask any serviceman, no matter where he is, no matter in what position or no matter what expedience, and he will tell you that in areas like that before they can make any decision they have to follow what are known and was popularly explained in Vietnam as the rules of engagement.

This is why there were such severe contradictions even among our military, those who alleged, "Are we here to win, or are we here for what purpose?" That was the question. What is the military mission of the military?

"If the trumpet sound an uncertain sound, who then is prepared to battle?" It is as true today. The Commander in Chief is not only trumpeting with a broken trumpet, sometimes he has none whatsoever, and it seems to me that in those cases now more than ever in our history of our tripartite form of government, it becomes indispensable that we do raise these issues.

Now, in the impeachment resolution, in the six specifics, during the 1973-74-75 period, particularly 1974 when the Committee on the Judiciary with a million dollar budget to hire special counsel developed articles of impeachment and the recitals thereof and the committee approved, what happened to bring about President Nixon's resignation, his relinquishment of power? He was quoted as saying, "I will fight until hell before I quit." But he did quit.

Well, I think that we should more now than ever review that history, because that is what I wanted to go into today in order to show the impelling forces that led me to introduce the impeachment resolution of March 5 last.

It took the Security Advisor, Alexander Haig, and the Secretary of State, Henry Kissinger, to go to President Nixon and say, "Mr. President, if you don't resign, we are going to invoke the 25th amendment."

Now, I ask my colleagues at random, what does the 25th amendment actually say? Ask an American on the street and you will get a blank stare, even of legislators in the State legislatures, where that resolution that the House of Representatives passed in 1965 with the necessary two-thirds vote was readily approved by three-fourths of the State legislatures, and you get a blank stare there, too.

But what is it? It is a sort of Damocles sword suspended over our democratic participatory government. Sad, that is what it is, because it provides for the first time the possibility that has become a reality and that which any student of the debates and the considerations in the 200-year ago deliberations of those assembled in the Constitutional Convention in Philadelphia feared the most, and that was an executive power, king like in its manifestations, so that the first 10 years of our national existence, in the First, Second, and Third Constitutional Congresses, they did not bother to think of a thing as Executive power of the Presidency, or the phrase used in the Constitutional Convention, "Chief Magistrate." That was the thing feared the most, and yet we have got it and we have it because the Constitution itself was amended in such a way that it would make it possible.

When I took to the floor, I was 1 of the 26 or so that voted against that resolution, but I was the only one that took the floor and gave explicit reasons why, and never in my whole life have I been more troubled to have been right than when it was proven that my worst fears, as uttered on the floor came true, because I said, to be exact, that this kind of amendment was unbelievable.

I first went to the then chairman of the Judiciary Committee handling the resolution. When I read it, I could not believe it. I thought it was some exercise of some kind and he became irritable with me when I started pressing, like, "But Mr. Chairman, you say here that if the governing body—what is that? If the majority of the governing body decide that the President is incapable of functioning as President, he shall then vacate and the Vice President becomes the President—no, the acting President."

I said that invokes the old intrigues of the Roman Senate as the Roman Republic was deteriorating and disintegrating and those powerful autocratic men took power. The era of the Caesars was in.

Are we on a different level? Are we in a different time, in an undreamed world for that period of mankind?

In effect in our own subjective lives of constitutional history and republicanism, if you please, can we do no better? I asked that question. Never did I dream, because as I said in my remarks, that as I peer into the future I could see times of division and great passion, such as the Civil War in the last century, that this could be used manifestly by bold and powerful and ambitious men, and if that is not a good definition of the men who surrounded President Nixon, I do not know what else could be, and when they reached the point of saying, "Mr. President, if you don't quit, we will invoke this." Why? Because they did not want to go through an impeachment process of the Congress. Impeachment means that the House of Representatives duly assembled considers areas of specificity, which was the famous word made popular in 1974, and other general allegations and then decides that by a two-thirds vote there shall be an impeachment. Then it goes to the Senate for trial, like a petit jury, which is what one of the students of impeachment has defined it. Then, of course, if convicted; yes, we have not had any President impeached. So many people believe that because President Andrew Johnson was impeached by the House, but never convicted by the Senate, that he was impeached, meaning convicted. Well, that is not so, but that does not detract one iota from the constitutional responsibility of the representative branch of the Government, because this is the people's branch.

I have always said that to me this is the highest office any American could aspire holding, as much as I felt when I was elected to the State Senate of the State of Texas and even serving as a local representative on the local legislative body, the city council of the city of San Antonio. What greater honor in a democracy than to have the majority of your citizens saying, "You shall be our agent." That does not mean we get a quit claim deed to the office. Unlike the common prevalent theory today that the fundamental purpose is to get elected, the processes are so difficult today, they are so expensive that the tendency, psychologically speaking, is that when a candidate wins, his psychology is, "I've done it. I've done the job. I've got elected." Then the next question is, "I've got to get reelected." But today that is just a license that the people have given us by way of a contract, an agency, a trust, fiduciary, if you please, because it is the highest trust the people can place. Therefore, this office was meant to be as accessible as any human person could be, structured to be responsive to the people in that particular district.

The U.S. Senators have an entire State and, incidentally, recently, to reveal and total ignorance even among these so-called literati, the editors of newspapers, in my hometown newspaper which took me to task for taking this floor and even made a recital of the costs, I would like to point out the figure they reached was inadequate, because it did not factor in the salary I receive on an hourly basis for the time I have taken to make this speech, so that they would have to add a little bit more; but it was so ridiculous that one of the editorialists referred to the U.S. Senate as always having been elected by the people. It was not. It was not until the constitutional amendment effective in 1913 that we had direct elections of U.S. Senators, and they talked about the U.S. Senators having 6-year terms all along. That is not true.

□ 1410

The Constitution as originally drafted provided for 4-year terms and Senators to be elected by three-fourths vote in their respective State legislatures in each State. That gave rise to such corruption and malpractices that the constitutional amendment calling for the direct election in respective States of the U.S. Senators was finally effected in the year 1913.

We like to think that what we enjoy today was something always enjoyable. It is not true. When the men were sitting at the Constitutional Convention there was no such thing as suffrage, free untrammeled suffrage. The only ones who could vote, and there were no more than 3½ million inhabitants, and about 3 percent of the population voted in the 1770's and 1780's, 3 percent or less, because unless one owned a lot of land they could not vote.

Even 110 or 115 years ago if one were an indentured servant, and I do not mean anything else but a white indentured servant, one could not vote. In fact, Texas was populated by those who fled their indentures. You can still go to Shelby County in Tennessee or Kentucky and look at the service processes supposedly to be served by the sheriff and they will be signed "Cannot serve because GTT," gone to Texas. That has been the long fight for what we take for granted today. This is why it is more than ever necessary that the voices rise in the Congress to protect free people.

Free people do not lose their freedom overnight even through invasion. They lose their freedom by increments, as we are now by willful precedent, either through ignorance or because of his complete captivity by those who surround him, who do know better but who are willful, mean, powerful men. Read their history.

The men that the President surrounds himself with are the only ones, the only things and the only power that I hold a President responsible for. I remember President Johnson saying day after day in my presence, Henry, just because I order something done does not mean it is going to be carried out down the line. You have to be on top and if there was an excellent administrator as President in the 20th century, it was Lyndon Johnson. Nobody, no historian, can ever right the disarray that has been the case since him in the administrative offices of this Government.

There was no such thing as a Secretary of Defense saying one thing, a Secretary of State saying something else, absolutely not, because if anything else, the President was a great administrator. But even he was saying I can be thwarted, I can be frustrated. The fact I want this and order it does not mean it is going to be carried out.

This has become such a vast enterprise we call the Government that here is a chief magistrate, a chief executive, saying he could not really guarantee that his decisions, his wishes, would be ultimately carried out except one, and that was with whom did he wish to surround himself.

That is all I hold our modern day President responsible for. President Roosevelt said that the big challenge and the real task of a 20th-century President was to have the ability to attract first great minds, surround himself with first-rate minds, then orchestrate them and in his word orchestrate them to confront and overcome the common problems confronting the American people, this vast army of American people.

That was a President that knew what it was about. Since then and since I have been in the Congress, I know that six different Presidents, with the exception of President Johnson, and President Kennedy unfortunately was not fated to serve long enough to have his true ability tested, though he was able to attract Cabinet members that even President Johnson retained after his assumption of the Presidency, but it comes down to this basic question under discussion today, and that is what if anything is going to be done to educate?

Half of our job is to communicate and educate. When those communication channels are closed, and they have been in my case, I have had periods and in fact I have never really had the 100-percent endorsement of my local media. It is true that fragmentarily from time to time, yes, I do, but within the last couple of years through omission, no. In other words, we can talk all we want about totalitarian government and how they control the dissemination of information. In our country we do not have overt censorship, but we have censorship by omission and when you have a President such as the one in power today surrounded by very, very powerful men from the corporate structure of our society, the most powerful, the richest, the most potent, such as J. Peter Grace, the multibillionaire, who in effect is the one actually shaping the so-called Latin American policy, which is a nonpolicy. It is minds like J. Peter Grace that are defining what communism is and what it is not. This is the reason for the catastrophe.

Now, a President, Franklin Roosevelt said, is to be judged by the results of his decision in his administration. As it is said from time immemorial, by their fruits you shall know them. A good tree cannot produce bad fruit. A bad tree cannot produce good fruit. In this day and time, given the almost total control of a corporate press, almost as in the banking world and financial world where through interlocking directorates more and more of the concentration of this power to decide what is it the American people shall know, what is it that we do not think is suitable for them to know and one lonely voice or 2 or 3 or 4 out of 535 is of no avail unless it has a chance for equal competition in the market of free minds and debate. This we do not have.

Mr. Speaker, in the impeachment resolution, what is it that I am asking? I am willing to go before the committee or subcommittee and argue the case. I do not have to have a million dollar budget. My articles of impeachment, if the Congress should ever decide that it has as its responsibility and will follow along those constitutional lines of responsibility, I predict will have even with the most expensive lawyers and counsels no better resolution, no more refined resolution, no finer honed resolution than is House Joint Resolution 111, my impeachment resolution of March 5, 1987.

Mr. Speaker, I think we forget that it was only after the glorious Revolution in England that the Parliament really proved why the Revolution was glorious, and what happened after it. For the first time you had your first Bill of Rights in England, that was that the king would not be the one to choose the law he would care to follow and ignore those he did not like.

In fact, the king was exiled, he was kicked out of England for that reason, and the Parliament consolidated what had begun in the 14th century, what is the basic tenent of the Magna Carta. Of course, the great barons were fighting for power, but they were also fighting the cause of basic freedom, and one of the big, big things was, Your Majesty, you shall obey the laws of the land.

Now, in our tradition in studying our history as developed in the English-speaking world, we do not read much about the history and the antecedents of the majority, the overwhelming majority of the countries that shared the New World and its destiny with us. That is because of the warfare that exists between England and Spain, the rise of the black legend of Spain, and the fact that that history is overlooked should not excuse us from seeing that Spain and its kingdoms and fiefdoms had the same type of development as in England when your independent fiefdoms of West Essex, East Essex, the combined Essex, Wessex, and the kingdoms combined and eventually all you had was the recalcitrant Scotch and recalcitrant Welsh and you had warfare between them.

We must never forget that just some 230 years ago they were still hanging men, quartering them, cutting their heads off and displaying it on a pipe in Glasgow and their bodies somewhere else in Edinburgh. That was less than 230 years ago.

We must never forget that less than 130 years ago there was no such thing as franchise and effective franchise, free manhood, suffrage, and now womanhood. I guess that we must look back and see we are back where we were when all these peoples were struggling as they are today, even the most impoverished and downtrodden who have been victims of tyranny and oppression for 300 years without much concern on our part south of the border.

Here is the oath that the subjects of the Kingdom of Arrogon, in Spain, who are as good as you swear to, who are not better, and who accept you as our king and sovereign lord provided you observe all our liberties and laws, but if not, then not.

This was transmitted to the New World south of the border. This is why there is such vast differences in what we lump together in a mass or a glob known as Latin America, but which is the biggest single mistake we have made both as a people, as well as our leaders. Here is President Ronald Reagan going down to poor South American countries in 1982 just about the time he was detailing the marines to Lebanon, and he comes back and in one country he says he thinks he is in another, then finally he gets back to Los Angeles, he lands and he says, gee, I didn't know they were that different.

America cannot suffer for long that kind of leadership without great detriment to be suffered and endured and paid for by generations to come.

□ 1425

My main propelling reason for introducing the impeachment resolution on March 5 was that I was, as I am now, convinced that unrestrained by the Congress and therefore popular opinion, the President is on an irreversible course of unilateral military intervention, more so than up to now, in Central America, particularly Nicaragua.

In a few weeks, two at most, Congress will be out of session. The month of August will be here and the weather will be proper in Nicaragua. One month, dry weather.

I predict at that time the Persian Gulf will fade into the back and up will flare the headlines that will militate; everybody is saying, "Well, we have to stand behind the President" and we will justify the use of our military in that Central American country.

One of the most catastrophic events that I cannot imagine worse, for fate and future development of our country and well-being.

Just as I rose in the summer of 1965 and never thought and hoped never would in my lifetime would see those fears fulfilled just a few years later in the developments that brought about our first unelected President, two unelected Vice Presidents, but more importantly, terrible, terrible developments that have been forgotten but which should never be, because that has been the harbinger, the germseed of the destruction of what we call our free elective representative form of government as we have known it. It is in greater travail, it is in greater danger than my fellow Americans realize. We still do not know the contents of a national security decree that President Reagan has signed. It has not been divulged but which I know is in existence, which is supposed to be in case of what, some eventuality just like in 1974, all the administrative mechanism was in, if necessary, to suspend the elections in 1974 or in 1976 if the case would rise. That is in. Those particular developments and even statutory references were very carefully drawn and they were there ready to be called upon.

Now if we were to take the names and the country, instead of the United States, instead of Colonel North, Admiral Poindexter and really former Colonel McFarlane and all that coterie of military and we were to put them down in the name of the so-called Banana Republic, we would say, "Why that is a military coup there in the making." We do not like to think that can happen in America.

My friends, I rise only to tell you it is happening, it can happen far more drastically. It will not take much of a so-called national emergency.

I was here in the summer of 1964, I was here when I then went to the chairman of the Committee on Foreign Affairs and said, one of the few votes that we had at that time, the resolution was a resolution according to the chairman of the Committee on Foreign Affairs to back up the President and give him the moral support in this great hour of emergency, because the President wanted to know that the Congress would stand behind him. What was it? The Gulf of Tonkin resolution.

When I read it I was disturbed. If the record could show, I was the last one to get up and vote because I had great missgivings.

The plain letter of the word was there for all to see.

I asked the chairman, "Mr. Chairman, but this looks like a backdoor declaration of war." He said, "What do you want to do? Do you want to deny Lyndon, your fellow Texan, the same thing we gave Eisenhower in Lebanon, the same thing we gave the President in the Berlin airlift?" I said, "Oh, is it the same?" He nodded his head.

Well, I did not have time to go around and compare resolutions, but that is the way the atmosphere was. The headlines were, "Our ships had been attacked." What Member of Congress, what American would not have voted to support the President?

What happened later? Yes, in retrospect the President exceeded, the President overreacted. But no free people lose their freedom at once, but by increments.

My fellow Members of the Congress and my fellow Americans, we are in that process now. I was hopeful that at least some subcommittee in the Judiciary Committee perhaps could give some consideration to the resolution.

I am willing to stand up and argue for it. I think I am prepared. That is all I want.

If I am wrong, I am proven wrong, we accept it, but if not then what? In addition, I want to close out by some of the domestic consequences and some of the fruits of a President who, according to the Tower Commission, is incapable of managing and administering. And it has to do with the fact that we have for the first time since the 1930's hundreds of thousands of homeless Americans. I am not just talking about the traditional ne'er-do-well, the alcoholic, the hobos we used to call them during the Depression.

I am talking about fathers, mothers, children, homeless, rootless, wandering through the Nation. Even during the summer months the emergency is just as great.

Now a very important judicial decision was made. As my preeminent colleague, Mr. FRANK from Massachusetts, said, preceding me, when it comes to the statutory field there is no question about it. I wish to point out that it took a judge in Illinois to declare the national housing policy to still be intact even though those of us on the Housing Committee for 6 years have been fighting a rear guard, a guerrilla war, if you please, to keep the President from killing every single housing policy from FHA to public housing that the Congress took 40 years to erect and conducted successfully because after all those programs did house Americans. And it is not strict coincidence that we have homelessness.

The fact is that President Reagan will be known by the fruits of his actions, domestically and internationally. Domestically, rootless, homeless Americans for the first time since the Great Depression. Internationally, the death of many of our brave ones who died in an unnecessary fashion because of the lack of ability, judgment and discretion in the exercise of power as the Commander in Chief as well as the President of the United States.

I say give me a hearing on impeachment, my colleagues. I think it will be a wise decision for I have not introduced an impeachment resolution for any other purposes than the most serious and solemn.

My background is of such a nature that I am far more sensitive to these tendencies, to these now in our society and body politics that have been customary in less happier lands with hapless governments, and that I am foresworn as a beneficiary of this great system not to let happen insofar as one voice can prevent.

Yes, it is true in the words of the poet Audin, "All I do have is one voice to attempt to undo the folded lie."

Mr. Speaker, I yield back the balance of my time.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BUNNING) to revise and extend their remarks and include extraneous material:)

Mr. FISH, for 60 minutes, on July 28.

Mr. FISH, for 60 minutes, on August 3.

Mr. FISH, for 60 minutes, on August 4.

Mr. LUNGREN, for 60 minutes, on August 3.

Mr. LUNGREN, for 60 minutes, on August 4.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. DORGAN of North Dakota, for 60 minutes, on July 28.

Mr. FLORIO, for 60 minutes, on July 30.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. EMERSON, immediately prior to the vote on H.R. 2971 in the House today.

(The following Members (at the request of Mr. BUNNING) and to include extraneous matter:)

Mr. GINGRICH in two instances.

Mr. DANNEMEYER.

Mr. GUNDERSON.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. ANDERSON in 10 instances.

Mr. GONZALEZ in 10 instances.

Mr. BROWN of California in 10 instances.

Mr. ANNUNZIO in six instances.

Mr. JONES of Tennessee in 10 instances.

Mr. BONER of Tennessee in five instances.

Mr. SOLARZ.

Mr. FASCELL.

Mrs. SCHROEDER.

Mr. FLORIO.

Mr. DINGELL.

Mr. BRYANT.

Mr. HOYER in two instances.

Mrs. LLOYD.

ADJOURNMENT

Mr. GONZALEZ. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 2 o'clock and 35 minutes p.m.) the House adjourned until tomorrow, Tuesday, July 28, 1987, at 12 o'clock noon.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1824. A letter from the Benefits and Risk Manager, Farm Credit Banks of Louisville, transmitting the 1986 annual report on the retirement plan for the farm credit institutions in the fourth district, pursuant to 31 U.S.C. 9503(a)(1)(B); to the Committee on Government Operations.

1825. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Air Force's proposed letter(s) of offer to The Netherlands for defense articles estimated to cost $50 million or more, pursuant to 10 U.S.C. 118; 22 U.S.C. 2776(b); to the Committee on Armed Services.

1826. A letter from the Auditor, District of Columbia, transmitting a copy of the report entitled "Washington Teachers' Union—Receipt and Disbursement of District of Columbia Appropriations Funds for Optical and Dental Benefits," pursuant to D.C. Code section 47-117(d); to the Committee on the District of Columbia.

1827. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Navy's proposed letter(s) of offer to Canada for defense articles and services estimated to cost $19 million or more (Transmittal No. 87-33), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1828. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting notification of travel advisories recently issued for Tibet/Nepal and Panama, which have security implications for Americans traveling or residing in those countries, pursuant to 22 U.S.C. 2656e; to the Committee on Foreign Affairs.

1829. A letter from the Assistant Secretary of State for Legislative and Intergovernmental Affairs, transmitting a draft of proposed legislation to authorize the President to maintain membership of the United States in the International Tropical Timber Organization; to the Committee on Foreign Affairs.

1830. A letter from the Comptroller General of the United States, transmitting the assessment of the Secretary of Commerce's January 1987 report on extending existing foreign policy controls, pursuant to Public Law 99-64, section 108(e) (99 Stat. 133); to the Committee on Foreign Affairs.

1831. A letter from the Commissioner, Social Security Administration, transmitting the Administration's notice of an altered Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1832. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1833. A letter from the Assistant Secretary for Installations and Logistics, Department of the Army, transmitting a draft of proposed legislation to amend the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701) to permit temporary use by Federal departments and agencies of public lands controlled by the Bureau of Land Management, Department of the Interior; to the Committee on Interior and Insular Affairs.

1834. A letter from the Secretary, Aviation Hall of Fame, Inc., transmitting the report and financial audit for the calendar year 1986, pursuant to Public Law 88-372, section 15(b) (78 Stat. 318); to the Committee on the Judiciary.

1835. A letter from the Assistant Secretary, Conservation and Renewable Energy, Department of Energy, transmitting notification of the delay in submission of the fourth annual update to the comprehensive ocean thermal technology application, pursuant to 42 U.S.C. 9002(d); to the Committee on Science, Space, and Technology.

1836. A letter from the Administrator, Small Business Administration, transmitting the 1986 annual report, pursuant to 15 U.S.C. 639(b); to the Committee on Small Business.

1837. A letter from the General Counsel, Department of the Treasury, transmitting a draft of proposed legislation to authorize the Secretary of the Treasury to issue regulations requiring that wages and salaries of Federal employees be paid by electronic funds transfer or any other method determined by the Secretary to be in the interest of economy or effectiveness, with sufficient safeguards over the control of, and accounting for, public funds; jointly, to the Committees on Banking, Finance and Urban Affairs and Post Office and Civil Service.

1838. A letter from the Secretary of Health and Human Services, transmitting a report on the fiscal year 1986 Low Income Home Energy Assistance Program, pursuant to 42 U.S.C. 8629(b); jointly, to the Committees on Education and Labor and Energy and Commerce.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. HOWARD: Committee on Public Works and Transportation. H.R. 2686. A bill to amend the Public Works and Economic Development Act of 1965 and the Appalachian Regional Development Act of 1965; with an amendment (Rept. 100-237, Pt. 1). Ordered to be printed.

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 2855. A bill to settle Indian land claims in the town of Gay Head, MA, and for other purposes; with amendments (Rept. 100-238). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 2401. A bill to extend the authorization of the Renewable Resources Extension Act of 1978, and for other purposes; with an amendment (Rept. 100-239). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 2663. A bill to authorize the establishment by the Secretary of Agriculture of a plant stress and water conservation research laboratory and program at Lubbock, TX. (Rept. 100-240). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 2399. A bill to provide for study and research on the decline in U.S. forest productivity and to determine the effects of atmospheric pollutants on forest environments, and for other purposes. (Rept. 100-241). Referred to the Committee of the Whole House on the State of the Union.

Mr. DE LA GARZA: Committee on Agriculture. H.R. 2971. A bill to provide continuing authority to the Secretary of Agriculture for recovering costs associated with cotton classing services, and for other purposes; with an amendment (Rept. 100-242). Referred to the Committee of the Whole House on the State of the Union.

REPORTED BILLS SEQUENTIALLY REFERRED

Under clause 5 of rule X, bills and reports were delivered to the Clerk for printing, and bills referred as follows:

Mr. UDALL: Committee on Interior and Insular Affairs. H.R. 1570. A bill to establish an Emergency Response Program within the Nuclear Regulatory Commission; with an amendment; referred to the Committee on Energy and Commerce for a period ending not later than October 16, 1987, for consideration of such provisions of the bill and amendment as fall within the jurisdiction of that committee pursuant to clause 1(h), rule X (Rept. 100-243, Pt.1. Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. LOWRY of Washington (for himself, Mr. JONES of North Carolina, and Mr. DAVIS of Michigan):

H.R. 3017. A bill to provide for the enhanced understanding and wise use of ocean, coastal, and Great Lakes resources by strengthening the National Sea Grant College Program through the establishment of a strategic research program and other means, and for other purposes; to the Committee on Merchant Marine and Fisheries.

By Mr. BATES:

H.R. 3018. A bill to amend the Federal Aviation Act of 1958 to prohibit smoking on board passenger-carrying aircraft on flights of 2 hours or less and on flights where seating is not assigned; to the Committee on Public Works and Transportation.

By Mr. FLORIO:

H.R. 3019. A bill to provide financial assistance for the establishment and operation of literacy corps programs; to the Committee on Education and Labor.

By Mr. LEWIS of Florida:

H.R. 3020. A bill to prohibit the Department of Defense from procuring Penguin antiship missiles; to the Committee on Armed Services.

By Mr. VANDER JAGT (for himself, Mr. Applegate, Mr. Mack, Mr. Sharp, Mr. Kolter, Mr. Upton, and Mr. Aspin):

H.R. 3021. A bill to amend section 1886 of the Social Security Act to require that certain hospitals be classified as being located in an urban area for purposes of determining payments under the Medicare Program for inpatient hospital services furnished by such hospitals, and to require that certain hospitals be treated in the same manner as a hospital located within a particular geographic area for purposes of making such determination; to the Committee on Ways and Means.

By Mr. PASHAYAN (for himself and Mr. Kastenmeier):

H.J. Res. 342. Joint resolution to designate August 20, 1988, as "Drum and Bugle Corps Recognition Day"; to the Committee on Post Office and Civil Service.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

173. By the SPEAKER: Memorial of the House of Representatives of the State of Alabama, relative to the Department of Agriculture's Africanized bee barrier proposal; to the Committee on Agriculture.

174. Also, memorial of the General Assembly of the State of California, relative to National Forest System timber receipts; jointly, to the Committees on Interior and Insular Affairs and Agriculture.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 51: Mr. Downey of New York, Mr. Brown of California, Mr. Coelho, Mr. Florio, Ms. Kaptur, Mr. Moakley, and Mr. AuCoin.

H.R. 81: Mr. Leland and Mr. Foglietta.

H.R. 722: Mrs. Collins.

H.R. 933: Mr. Hochbrueckner and Mr. Berman.

H.R. 954: Ms. Pelosi and Mr. Foglietta.

H.R. 956: Mr. Mfume and Mr. Savage.

H.R. 1158: Mr. Frost.

H.R. 1766: Mr. Anthony and Mr. DeLay.

H.R. 1782: Mr. Andrews, Mr. Dyson, and Mr. Chapman.

H.R. 1802: Mr. Stokes, Mr. Dixon, Mr. Gilman, Ms. Pelosi, Mrs. Schroeder, and Miss Schneider.

H.R. 1832: Mrs. Lloyd, Mr. Durbin, and Mr. Miller of Ohio.

H.R. 1885: Mr. Goodling and Mr. Cooper.

H.R. 1924: Mr. Kolbe.

H.R. 1955: Mr. Duncan and Mr. Young of Florida.

H.R. 1987: Mr. Armey, Ms. Slaughter of New York, and Mr. Fields.

H.R. 2309: Mr. Anderson, Mr. Bennett, Mr. Biaggi, Mr. Coelho, Mr. Conyers, Mr. Davis of Illinois, Mr. Dornan of California, Mr. Frost, Mr. Gordon, Mr. Hatcher, Mr. Kasich, Mr. Lipinski, Mr. Mrazek, Mr. Richardson, Mr. Roe, Mr. Smith of Florida, Mr. Sunia, and Mr. Valentine.

H.R. 2377: Mr. Edwards of Oklahoma.

H.R 2476: Mr. Miller of Washington.

H.R. 2663: Mr. Boulter.

H.R. 2668: Mr. Barton of Texas.

H.R. 2773: Mr. Neal, Mr. Owens of New York, Mr. DeFazio, Ms. Kaptur, and Mr. Morrison of Connecticut.

H.R. 2774: Mr. Towns, Mr. Conyers, Mr. Foglietta, Mr. Ford of Michigan, Mr. Wilson, Mr. Kolter, Mr. Sabo, Mr. Mfume, Mr. Feighan, Mr. Neal, Mr. Owens of New York, Mr. DeFazio, Ms. Kaptur, and Mr. Morrison of Connecticut.

H.R. 2856: Mr. Davis of Illinois and Mr. Dornan of California.

H.R. 2881: Mr. Akaka, Mr. Horton, Mr. Neal, Mr. Bevill, Mr. Hatcher, Mr. Roe, Mr. LaFalce, Mr. Lagomarsino, Mrs. Lloyd, Mr. Barnard, Mr. Frank, Mr. Thomas of Georgia, Mr. Hoyer, and Mr. Waxman.

H.R. 2908: Mr. Fauntroy, Mr. Wolpe, Mr. Gilman, Mr. Jontz, Mr. Williams, and Mr. English.

H.R. 2911: Mr. Beilenson, Mr. Berman, and Mr. Kostmayer.

H.J. Res. 151: Mr. Mazzoli, Mr. Frost, and Mr. Goodling.

H.J. Res. 180: Mr. Foglietta, Mr. Schaefer, Mr. Gaydos, Mr. Stokes, Mr. Lent, and Mr. Bunning.

H.J. Res. 231: Mr. Staggers, Mr. Howard, Mr. Chandler, Mr. Towns, Mr. Borski, Mr. Bonior of Michigan, Mr. Natcher, Mr. Fazio, Mr. Hatcher, Mr. Lancaster, Mr. Hoyer, Mr. Price of North Carolina, Mr. Wolf, Mr. Gray of Illinois, Mr. Panetta, Mr. Campbell, Mr. Lowry of Washington, Mr. Weber, Mr. Anderson, Mrs. Patterson, Mr. Derrick, Mr. Savage, Mr. Sikorski, Mr. Pickle, Mr. Dyson, Mr. Garcia, Mr. Dixon, Mr. Evans, Mr. Henry, Mrs. Byron, Mr. Richardson, Mr. Torres, Mr. Chapman, Mr. Levin of Michigan, Mr. Owens of New York, Mr. Pashayan, Mr. Dowdy of Mississippi, Mr. Lott, Mr. Roberts, Mr. Montgomery, Mr. Gray of Pennsylvania, Mr. Frank, Mr. Roe, Mr. Sharp, Mr. Sabo, Mr. Daub, Mr. Biaggi, Mr. Nowak, Mr. Torricelli, Mrs. Lloyd, Mr. Mrazek, Mr. Lehman of Florida, Mr. Hutto, Mr. Nagle, Mrs. Boxer, Mr. Sunia, Mr. Gephardt, Mr. Jacobs, Mr. Schuette, Mr. Valentine, Mr. Regula, Mr. Rahall, Mr. Spence, Mr. Espy, Mr. Owens of Utah, Mr. Markey, Mr. Bosco, Mr. Kastenmeier, and Mr. Bateman.

H.J. Res. 261: Mr. Weldon.

H.J. Res. 282: Mr. Boland, Mr. Daniel, Mr. Michel, Mr. Espy, Mr. Blaz, Mr. DioGuardi, Mr. Gray of Illinois, Mr. Kasich, Mr. Kleczka, Mr. Kolter, Mr. Bonior of Michigan, Mr. Konnyu, Mr. Oxley, and Mr. Kolbe.

H.J. Res. 336: Mr. Dixon, Mr. Garcia, Mr. Foglietta, Mr. Nelson of Florida, Mr. Daniel, Mr. Ford of Tennessee, Mrs. Bentley, Mr. Perkins, Mr. Skelton, Mr. Denny Smith, Mr. Conte, Mr. Bilbray, Mr. Mineta, Ms. Slaughter of New York, Mr. Hughes, and Mr. Campbell.

H. Con. Res. 15: Mr. English.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

[Omitted from the Record of July 23, 1987]

H.R. 135: Mr. Berman.

EXTENSIONS OF REMARKS

MENTALLY HANDICAPPED PARTICIPATE

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mr. FLORIO. Mr. Speaker, across the Nation, there are thousands of individuals with varying degrees of mental disabilities. But as many programs have indicated over the past few years, a disability need not be a handicap.

When it comes to putting the talents and skills of this part of our society to work, there are programs sponsored by community governments and funded in part by the Federal Government.

These programs do more for the participating individuals than just keep them occupied. Mentally disabled people can reap benefits from programs that make them a part of the community.

This trend toward bringing the mentally disabled back into the community is a recent one. The programs go against the old perception that the mentally disabled belong in institutions.

On the contrary, the mentally disabled belong out in the community. Programs, such as those encouraged by the Community and Family Living Amendments of 1985, give the mentally disabled a chance to demonstrate that they are a meaningful part of the society.

Community based programs boost the abilities of these disabled individuals by affording them a much larger measure of independence than is available behind the walls of an institution.

The programs bring the retarded into contact with the world and give them a chance to prove themselves, while at the same time bringing them back into society.

Activity is the key for these individuals and for the rest of society. Activity means that they learn valuable skills that they can use to live independently of their families, their doctors, and the government.

Indeed, the programs ultimately are cost-effective since they make these individuals contributors to society through employment training and other opportunities.

I am including below an article from the Washington Post describing the successes of several participants in programs designed to mainstream the mentally disabled. The successes of these individuals can be repeated throughout the Nation by continuing such programs and building upon the foundation of such programs.

The article follows:

[From the Washington Post, July 20, 1987]

RETARDED ADULTS WORK WAY INTO COMMUNITY

(By Evelyn Hsu)

Every weekday, Laverne Kenney and the three members of her crew wait outside their homes for a van that will take them to work in Arlington's Ballston neighborhood.

Wearing bright orange safety vests, they mow grass, clear garbage and sweep the sidewalks. "I pick trash up, I pick dirt up, I help rake," said Kenney, 22, with a confident smile.

Kenney and her colleagues, most of whom are classified as severely mentally retarded, spent years in care programs that gave them little contact with the outside world. Their work may lack glamor, but it is a point of pride that brings them in touch with the community.

The "supported employment" program run by the Arlington Community Services Board offers retarded adults such as Kenney a combination of continuing job training and counseling that is to provide them with emotional support and everyday social experience.

Virginia is one of 27 states that have received grants from the U.S. Department of Education to start supported employment programs, said Janet W. Hill, director of the state Office of Supported Employment, a division of the state Department of Mental Health, Mental Retardation and Substance Abuse Services. Maryland has been given a similar grant.

Virginia's $2.5 million grant covers 1985 to 1990 and is earmarked for demonstration projects that localities eventually will fund.

The state's goal is to move about half the approximately 5,000 people currently in day care programs for the retarded or mentally ill into supported employment within five years, Hill said.

But the approach has engendered debate regionally and nationally. One enthusiastic expert likens it to the civil rights movement, saying it will "liberate" the severely mentally retarded from day care centers. But some parents are appalled at what they see as a campaign to push their handicapped children into a world where they cannot cope.

The conflict is vividly illustrated in Arlington, where the Community Services Board wants to increase supported employment programs and in the process cut back a day care program for retarded adults.

The changes are strongly opposed by parents with children in a day care program run for the county by the private, nonprofit Woodmont Center for Vocational Services. The North Arlington center serves 31 clients who range in age from 23 to 65 and work at tasks such as making doormats and stuffing envelopes.

The services board, which oversees county- and state-funded programs for the mentally retarded, wants to cut the county-funded number of clients it refers to the center from 31 to 13 by next March. Most of the other clients would be shifted to supported employment programs.

Along with the Ballston crew is a group that works as shop helpers at Koons Ford in Falls Church, and a new clerical support crew soon will be employed at the county courthouse.

Parents who have objected say their children need and enjoy the more sheltered environment at Woodmont and that their concerns have been treated insensitively.

"We don't feel our son is emotionally and mentally capable of going out into the work place," said Martha S. Byers, whose son Ellis has been a client of the center for 15 years. Social service officials never personally contacted the family to explain the proposed changes, Byers said. Other parents say they were never consulted about the changes. "We feel like we've been kept in the dark," said one parent.

Adding to the parents' distress are bureaucratic concerns.

As do many of the clients at Woodmont, Barbara S. Woodward's son Douglas, 31, lives in a nonprofit group home in Arlington that requires his placement in some type of day program as a condition for living in the shared quarters. If her son, who has had an unsuccessful job stint, is shifted into the new work program but fails at the job, Woodward fears, he also may lose a place to live.

"Woodmont is a place for our sons and daughters who fall through the cracks," she said.

Another consideration for the parents is their own advanced age. Many are in their sixties, seventies and eighties. "We've been through the mill," said Woodward, who describes herself as "just under 60" and "one of the babies" among the parents.

"My son is in a good group home and in a nice program, and I think if I drop dead tomorrow he's going to be well taken care of. Now everything gets all stirred up," she said.

Gary A. Boyd, executive director of the Community Services Board, said the parents' fears are unfounded. The board is committed to maintaining a program, although a much smaller one, at the Woodmont Center, he said. If a candidate for the work program cannot make the adjustment, another placement will be found for him or her, though not necessarily back at Woodmont, Boyd said.

In response to parents who say they were surprised by the program changes, Boyd said they have been informed over the past four years "at parent meetings, large and small, of the philosophic shift to supported employment." Parents will be notified and consulted before their child is placed in the job program, he said.

However, the nature of some of the tasks, such as picking up litter and doing some janitorial work, has disturbed some parents. "I'm sure as I can be that I would not agree for [my daughter] to be included in any enclave to clean WCs or johns," said one parent in a letter to the Arlington County board.

To Boyd, the type of work offered is irrelevant. "The dignity of the work . . . is more important than its alleged blue-collar aspect," he said.

Francis G. Short, whose daughter Francine is part of the Ballston maintenance crew, said the type of work was not as important as her becoming "a productive citizen."

"I don't care what she's doing. I wanted her to earn a living. She's paying federal and state taxes now," Short said.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

His daughter earns about $70 every two weeks. At the Woodmont Center, she earned about $5 every two weeks, he said. The new program allows his daughter "to get around, do different projects," said Short.

At the center, "she was sitting in a chair every day. She wasn't learning anything. She'd gone as far as she could go."

Also, proponents argue that supported employment programs cost less than more conventional care centers. In 1985, the average annual cost in Virginia for a client in a day activity center was $5,900; the average annual cost for a supported employment client was $3,100.

A supported employment program also may lead to improvements in physical health and communications skills, according to a 3½-year study conducted by Paul H. Wehman, a professor of special education and rehabilitative medicine at Virginia Commonwealth University/Medical College of Virginia.

"We have an accumulation of research that shows that people with severe physical, mental and emotional problems can work competitively in real jobs if they are given job coaches and job site support," said Wehman, whose study examined the responses of 25 participants.

To Hill, supported employment is a natural extension of past changes in the treatment of the retarded. From assuming that the retarded could do little, "we got people into vocational settings and said yes, they can learn and will show up. [Now] we've realized we can do this in the community," she said.

AIDS: MATERNITY WARD MEASURES

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mr. GINGRICH. Mr. Speaker, a recent article appeared in the London Sunday Times that describes the hygene measures being proposed for British maternity wards to combat the spread of AIDS. I urge my colleagues to read this interesting article.

[From the London (England) Sunday Times, May 31, 1987]

AIDS ALERT IN MATERNITY WARDS

The AIDS epidemic will soon force a change in the way British babies are born—meaning the trend towards natural childbirth over the past decade will be reversed.

A study by a top group of gynaecologists has concluded that the spread of the virus must mean extra safeguards in the nation's maternity wards for all mothers—not just those carrying the virus.

Although only a small proportion of mothers are infected at present, the working party of the Royal College of Obstetricians and Gynaecologists says the idea that virus carriers will remain rare—and can be identified easily and segregated in special units—is "totally unrealistic".

Instead the group, which includes representatives from the Royal College of Midwives and the British Paediatric Association, argues that doctors and midwives must make greater efforts to tighten up controls against infection.

Guidelines likely to be issued soon include:

Strict enforcement of the practice of wearing a full-length gown, with a plastic apron underneath, at births.

Boots or plastic overshoes should be worn by all those directly involved in births.

Protective clothing and contaminated footwear should be changed before staff move to other patients or areas.

Hospitals should stop providing baths in maternity wards and switch to showers. If baths are still used they should be "decontaminated" afterwards.

In post-natal wards, mothers should disinfect toilet seats before use with an alcohol-impregnated wipe.

For women either known or suspects to be infected with the AIDS virus, proposals for ever more stringent and psychologically chilling hygiene measures are understood to have been agreed by the working group.

During labour and delivery—or while doing stitches later—staff should wear protective clothing including cap, eye guards, mask and boots. Husbands or other companions during labour should wear an apron and gloves before handling the baby.

The delivery suite, and all equipment that may have come into contact with body fluids, must be disinfected afterwards by workers also wearing protective clothing. Segregated toilets should be provided, and the "carrier" mothers should be advised not to handle other babies.

The working party argues that if hygiene can be improved generally it will have the humane effect of helping to head off local proposals for mothers carrying the virus to be isolated completely. It will also help to reduce the risk of contamination from unidentified carriers.

The proposals reflect the experts' urgent desire to reinforce warnings to health workers and the public of the severe hazards presented by the AIDS virus.

Labour and delivery, they say, constitute an obvious risk because of the occasional uncontrolled flow of body fluids, especially blood.

Less generally known is the fact that the virus can survive in *dried* blood. All guidelines for safe practice in delivery suites should take this into account, they argue.

The proposals are likely to dismay women's groups and others who have campaigned in recent years for hospital childbirth to become a more homely procedure. The moves may also increase demand for home births.

Beverly Beech, of the Association for Improvements in the Maternity Services (Aims), co-organiser of the First International Conference on Home Birth at Wembley in October, said last week: "If we are going to be treated in hospital like pieces of potentially lethal humanity, the sooner we get out, the better.

"If they want to stop women getting the disease, the most effective way would be to get more of them having their babies in their own homes."

Robert Atlay, honorary secretary of the college, says efforts to promote a comfortable and relaxing atmosphere on labour wards will continue "although even higher medical standards must now prevail."

President Reagan is today expected to call for an expansion of the AIDS testing programme. He will call for "routine" testing for couples who want to get married as well as prisoners, hospital patients and aliens.

DOCUMENTS AND EMIGRATION—ANOTHER STUMBLING BLOCK?

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mr. HOYER. Mr. Speaker, when a Soviet citizen applies to emigrate from the Soviet Union, he begins a long and laborous process. Many forms must be filled-out and many documents obtained before a person can go to OVIR and present their application for emigration. An undotted "i" or an uncrossed "t" can easily result in the application being thrown out.

Yet, Mr. Speaker, my talks with refuseniks in Moscow revealed a growing problem with OVIR refusing to accept any applications for emigration to Israel when the applicants cannot confirm the absence of any material claims from those relatives remaining in the Soviet Union.

Several refuseniks brought this problem to my attention and I ask unanimous consent to share this information with my colleagues:

DEAR SIR: We know about the level of your interest and anxiety with respect to Jews-refusniks in the USSR and we greatly appreciate it. Please pay your attention to the following acute and continuously broadening problem.

Soviet visa and registration authorities (so-called OVIRs) refuse to consider (or, in some cases, refuse to comply) the applications of many citizens which intend to go to Israel due to these citizens cannot submit documents confirming the absence of any material claims from the side of those relatives which remain in the USSR.

The lack of the ability to submit these documents in OVIR has no linkage with the existence of real material claims. Having no material claims the relatives refuse to register this fact for putting obstacles against the emigration.

In the Soviet civil law there is no formal procedure to demand and obtain the necessary documents. Moreover, the relative's declaration itself (if it would be written) has no legal significance and force—in accordance with Soviet law, the document's author retains his right to appeal in Court for demanding the execution of any obligations which the emigrant has.

However, according to Point 7 of Decree (Ukaz) "On the order of considering propositions, claims and declarations of citizens" of Presidium of Supreme Soviet of the USSR, OVIR themselves must demand and obtain documents needed for considering the application cases, but they violate this Decree and refuse to do it.

The clause 72 of "The State Notary Public Regulations of RSFSR" provides the possibility for relatives to inquire about the fact of existing non-executed obligations by means of notarial office. But even if the notarial conclusion takes place OVIR refuses to receive these documents for the consideration.

Attempts to use the Soviet Civil Law procedure for ascertaining the judicial fact (based on clauses 245-250 of the Civil Judicial Code of the RSFSR) are also failed. The courts are definitely guided by the private instructions of the higher authorities and refuse to ascertain the fact of the absence of non-executed obligations for those who want to emigrate in Israel.

Thus the right to quit the USSR is placed in dependence of submitting the relative's declaration in spite of these declarations having no legal significance.

OVIR with their duty to demand and obtain these statements violate the mentioned Decree of Supreme Council and refuse to demand thereof. The other possibilities to ascertain the fact of the absence of obligations are inaccessible or disregarded in OVIRs.

The result of this practice is: the problem of emigration becomes dependent not on Law, but on arbitrary decisions of relatives.

This is the heaviest violation of the citizen's right to quit the country of residency which was specified in the Clause 12 of "Civil and Political Rights Pact", in spite of the USSR's membership among those states which signed the Pact.

In connection with stated above we ask for your assistance in front of related Soviet authorities for raising and resolving the following problems;

(1) To develop the legally valid procedure for resolving the mentioned situation and to put it into practice according to the legal order.

(2) Before this procedure will go into force—to resolve our problem with relatives by any legal means.

With many thanks,

Alexander Zonis, Alexander Gashunin, Miron Zilberbrand, Rola Shtein, Pavel Morozov, Nadezhda Fradkova, Aleksey Lorenson, July Stolyar, Borris Chernobilsky.

THE INTERNATIONAL FIGHT AGAINST AIDS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mr. PORTER. Mr. Speaker, the recent Third International AIDS Conference generated a flurry of media coverage on the deadly disease. Cautiously optimistic stories of research into promising drugs and domestic debate on testing dominated the headlines. While some of that coverage provided more heat than light, this much is now clear: Every effort must be made to contain the spread of AIDS, not only here at home but in Africa and other nations where the killer virus has reached epidemic proportions.

While the United States leads the world in the number of officially reported AIDS cases, experts agree that millions of cases are unreported in the Third World, especially, in Africa. The virus has spread rapidly there, with estimates showing at least 50,000 dead from AIDS and as many as 10 million more already infected.

Tragically, most Africans infected with the HIV [human-deficiency virus] will develop AIDS and die, and most will be struck down in the prime years of life between 20 and 39. Because the disease spreads most quickly in an urban setting and the more educated Africans congregate in the cities, it is the educated young Africans who are disproportionately affected.

These are the same young Africans—teachers, scientists, government officials, and other professionals—who are charged with leading their countries' development. Their untimely deaths will mean widespread unrest and destabilization throughout sub-Saharan Africa. As a recent report by the Panos Institute stated, "the political, social, economic and psychological impact of this gathering death-march cannot be underestimated."

Further, the AIDS virus in Africa is transmitted much more readily throughout the general population. Unlike Europe and North America, where AIDS has been linked principally to homosexual practices and intravenous drug use, in Africa the dominant means of transmission is heterosexual contact. There is an urgent need to study and contain this type of transmission, which would be devastating if it were to prevail worldwide.

Unfortunately, most African and other Third World nations are inadequately prepared to respond with preventive measures such as public education and blood screening, the most effective ways to arrest the spread of AIDS. Clearly, it is in our national interest as well as that of our allies to get solidly behind the international effort to combat the disease, not only through research but by supporting organizations that are waging the worldwide battle against AIDS: the Agency for International Development [AID] and the World Health Organization [WHO].

Last year, WHO in conjunction with AID established its Special Global Programme for AIDS. This program is helping to provide education, training of health care workers, low-cost diagnostic procedures and blood donor screening. In addition, WHO will establish international standards for exchange of information, epidemiology and research.

I am sponsoring an initiative to provide an additional $25 million in 1988 U.S. funding for the international AIDS effort, to be evenly divided between AID and WHO. These moneys would be shifted from other areas of our foreign assistance budget and would not increase overall spending. In fact, our total foreign assistance budget will decrease in fiscal year 1988. This amount exceeds the administration's $14 million proposal, but pales next to the $970 million earmarked for domestic AIDS research.

Why should America spend millions to help fight AIDS in the Third World? Simple. AIDS is rapidly becoming a disease without borders, one that threatens many developing nations and U.S. allies. AIDS in Africa demands international attention due to its rapid and widespread transmission, a phenomenon which has led many experts to compare it to the Black Death that claimed 25 percent of Europe's population in the 14th century.

We cannot simply shut our doors to this menace. We must not only participate in but lead the international fight against AIDS—before it condemns millions more both in Europe and here at home to certain death.

TRIBUTE TO HELEN DOOLITTLE JOHNSON

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mr. DELLUMS. Mr. Speaker, I rise to honor a pioneer in my district, Helen Doolittle Johnson, on the occasion of her 75th birthday. Ms. Johnson, born in Jamestown, ND, has been a fighter for the rights and dignity of women, ethnic minorities, and the underdogs of society all of her life. She was one of two women west of the Mississippi who, through civil disobedience in the dean's office, fought her way into the North Dakota State College School of Architecture.

Through the terrible drought and depression years in the 1930's, Ms. Johnson worked with the Farm Labor Party of North Dakota that organized farmers to work cooperatively to save their farms from foreclosure and crop failure. As a result, North Dakota was one of the first States to achieve State crop insurance.

When she moved east, she worked with the American Labor Party and Vito Marcantonio to "clean up" Tammany Hall and continued to work throughout the next two decades with other outstanding civic leaders such as New York City Mayor Fiorello LaGuardia, Mrs. Eleanor Roosevelt and Mrs. Paul Robeson. She worked with the Progressive Party to forward the issues championed by Henry Wallace in his 1948 bid for the Presidency.

It was common in New York in the 1930's for black and white friends, walking together, to be randomly attacked by gangs. Such an attack propelled Ms. Johnson to work in the civil rights movement, to change the attitudes of discrimination, through pickets and educational work.

She worked during the war to raise money for the New York National War Fund and E Bonds. After the war, she helped raise money to feed Italian children through the American Society for Cultural Relations with Italy.

When she moved to Berkeley and Oakland in the early 1970's, she continued to work on the pressing issues of civil rights, labor rights, voter rights, and other good government issues by establishing the National Women's Political Caucus as well as being an active member of these organizations: Alameda County Democratic Central Committee; Senate Director, 12th Assembly District; Californians for Democratic Action; Berkeley Democratic Women's Study Club; Alameda County Democratic Women's Study Club; Montclair Greater Oakland Club; Berkeley Democratic Women's Forum; Democratic United Campaign, as well as serving key functions on the electoral campaign committees of our leading elected representatives.

Ms. Johnson is a modern wonder woman: wife to Roy Aldo Johnson, mother to Dagny and Teckla, grandmother of four, working woman, organizer, leader, champion of just causes. Her exemplary citizenship makes me proud of the Eighth Congressional District and the United States. Please join me in saluting her.

LITERACY CORPS ASSISTANCE ACT OF 1987

HON. JAMES J. FLORIO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mr. FLORIO. Mr. Speaker, I would like to focus attention on legislation I am introducing today to establish a corps of literacy tutors in our colleges and universities. The Literacy Corps Assistance Act of 1987 will provide startup grants to colleges and universities to establish academic courses in which undergraduates would go out into the community and tutor reading, writing, and mathematics to illiterate individuals.

Services would be provided by the students to community entities such as schools, Head Start centers, prisons, agencies serving youth, handicapped, disabled veterans and afterschool programs. At the same time, the student tutors would gain from the practical experience a tutoring course would provide while doing their part to help a problem that is damaging to our Nation's competitiveness.

Mr. Speaker, studies indicate that 27 million Americans cannot read a newspaper, cannot fill out a job application, cannot maintain a checkbook or understand the warning label on a bottle of medicine. In short, our Nation has 27 million people that form a class of functional illiterates that are uneducated, untrainable, and economically dependent. And these numbers are growing every year. The Department of Education estimates that, every year, 2.3 million more illiterates, including high school dropouts, unlettered pass-along graduates and immigrants, are added to our society.

We are paying a high price in our Nation for this unfortunate deficiency. As chairman of the House Subcommittee on Commerce, Consumer Protection, and Competitiveness, I am concerned that our Nation's competitiveness is being eroded by the presence in the workplace of millions of Americans who are functionally or technologically illiterate. There is a direct correlation between the number of illiterate adults unable to perform at the standard necessary for available employment and the money that is allocated to child welfare costs and unemployment compensation.

The total costs related to our Nation's literacy are estimated to exceed $225 billion annually. Chronic unemployment is a further problem that illiterate individuals in our Nation need to deal with. Up to 75 percent of the unemployed lack the basic skills to get a job or be trained for a job.

Disturbingly, Federal funding for literacy programs has not been sufficient to address a problem reaching mass proportions. Federal, State, municipal, and private literacy programs have only been able to reach 5 percent of the total illiterate population. The annual amount of money spent by our Federal Government for this problem amounts to $17 per person for a total of $352 million. The Department of Education estimates that only 2 million people are reached annually by these programs.

The total cost of illiteracy to our Nation cannot be measured accurately. However, our Nation is paying dearly in lost productivity and human misery. We hear of sad stories of people suffering tragedies because they could not read: The industrial worker killed because he could not read a warning sign; the mother who gave her sick child pink detergent instead of stomach medicine because she could not decipher medicine labels; the mother who thought she was signing a routine field trip permission slip for her daughter only to discover that she had relegated her daughter to a home for the retarded.

The Literacy Corps Assistance Act will provide up to $25,000 per year to colleges and universities in order to establish the courses that will be crucial to this program. Students that enroll in the three-credit elective courses would dedicate 6 hours of their time each week to tutoring in the community. The courses would be led by college faculty and student supervisors. The administration cost of the program would be covered by the grants. However, the program would soon become self-supporting as tuition funds for the courses begin paying the administrative and salary expenses.

Senator EDWARD KENNEDY has introduced the Literacy Corps Assistance Act in the Senate. Its intent is reminiscent of the goals of the Peace Corps Program President KENNEDY fostered. It is based on a model program called the Washington Education Project begun by Mr. Norman Manasa in 1969. The program has run in the University of Miami, and at St. John's University in Queens, NY, funded by private corporations. It is scheduled to begin at several other colleges in the fall.

There are over 10 million college students in this country who have the ability and the knowledge to lend a helping hand to the unfortunate 27 million Americans who are illiterate. Even if only 5 percent of these students participated in this program, this would create an indestructible force of literacy tutors who can reach out and contribute their knowledge to the good of our society.

I urge my colleagues to support this important legislation.

A TRIBUTE TO MR. STEPHEN BARTOSZ

HON. BENJAMIN L. CARDIN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mr. CARDIN. Mr. Speaker, I rise today to recognize the remarkable achievements of Stephen Bartosz, a resident of Baltimore, MD. On June 12, 1987, Mr. Bartosz was accorded the rank of quartermaster, the highest award in sea exploring, by the Boy Scouts of America.

In addition to his new rank of quartermaster, Mr. Bartosz previously was recognized as an Eagle Scout. Few young men achieve either of these ranks, fewer still have the fortitude and determination to achieve both.

The requirements of the rank of quartermaster reflect the commitment of all scouts to serving their community. Not only must the quartermaster candidate learn signaling, lifesaving and piloting, but he must also teach these skills to others. While the awards and ranks are given to the individuals, the true winners are the members of the Scout community.

Mr. Speaker, I invite you and all of my colleagues to join me in recognizing Mr. Bartosz' achievements, congratulating him on his accomplishments, and thanking him for his service to others.

NON-LAWYER LEGAL ADVICE

HON. NEWT GINGRICH

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mr. GINGRICH. Mr. Speaker, in a recent article, William Raspberry pointed out the positive effects of W. Clark Durant's proposal to allow people without law degrees to provide legal services. Durant, Chairman of the Legal Services Corporation, feels that such a move would "maximize access to justice" by providing the poor with legal advice and counsel without having to pay the fees demanded by the legal profession. I think my colleagues will find Mr. Raspberry's article from the Durham Sun interesting and informative.

[From the Durham Sun, June 26, 1987]

NON-LAWYERS CAN HELP MORE POOR PEOPLE RECEIVE LEGAL SERVICES

(By William Raspberry)

WASHINGTON.—I frankly wasn't sure whether to take seriously *W. Clark Durant III's* proposal for allowing non-lawyers to provide legal services.

After all, Durant, a conservative Republican named by Ronald Reagan as chairman of the Legal Services Corp., supported the president's call for zero funding for the agency that is supposed to oversee legal services to the poor. Was his call for "opening up" the legal profession just a way of ducking responsibility—much like Reagan calling for more voluntarism while cutting federal programs?

After a long talk with the 38-year-old Detroiter, I'm convinced he means it.

"When I came to the Legal Services Corp., I made a commitment that my whole thrust would be to find ways to maximize access to justice," he said during one of his frequent trips to Washington. "The problem is not a shortage of lawyers. The problem is that the organized bar has built a dam across the river, and now it is complaining about the shortage of water in the fields."

Durant would remove the dam by allowing non-lawyers to handle much of the routine work that now must be done, usually at greater expense, by lawyers.

But would that really increase "access to justice," or would it merely expose the poor to third-rate counsel?

The real choice for the poor, he says, is not between superlatively qualified lawyers and marginal ones. It is between some assistance and none at all.

As for the contention that advice from non-lawyers might not always be the best, Durant has two answers. The first is that non-lawyer specialists in, say, landlord-tenant disputes might be of more practical help than a fully experienced patent attorney. For the second, he returns to his analogy of the dammed river. "It's a matter of no water, or letting the water flow, knowing that some of it is not 100 percent pure. At what price do you build your dam and keep the crops from getting any water at all?"

The key reason for the dam, he insists, is to protect the lawyers' monopoly. He offers three of his pet examples:

Rose Palmer of Pittsburgh was doing an excellent job helping women in divorce proceedings, spouse abuse cases and so on. She wound up with a UPL (unauthorized practice of law) case against her.

Rosemary Furman, a former legal secretary and court stenographer in Florida, was held in contempt of court and threatened with jail for helping clients fill out legal forms for such non-controversial procedures as wills, name changes and uncontested divorces.

Peggy Muse, described by one reporter as "the country's most successful independent paralegal," was threatened by the Oregon State Bar and wound up signing an agreement not to accompany clients to court, draft documents for them or give them legal advice.

"Most of these UPL cases are filed by the bar," Durant says. "It's not the clients who are complaining but the competition. The first thing I would do is eliminate the UPL statutes—just eliminate 'em. The greatest burden of so many of the licensing rules is really on the middle and lower classes, because they restrict competition, raise prices and hamper the ability to create a more participatory marketplace with more consumer choices."

He would not eliminate law school or bar examinations. "If a person wanted to take a bar exam and hold himself out as a specialist, I'd say more power to him. But if someone is demonstrating the ability to deliver a product in the ordinary course of things, and that person has not gone to law school, I would not stop them. I would encourage more such people to get into the business. You shouldn't have to spend three years in law school at a cost of many thousands of dollars and then pass a comprehensive bar examination if all you want to do is handle landlord-tenant disputes or domestic disputes.

"My law partner, a young woman by the name Kirsten Frank, is very active in a thing called Legal Advocates for Women that helps in spouse-abuse cases, that sort of thing. They have been instructed by the state bar that they technically can't give advice; they can only say what the alternatives are. Well, in fact, many of the people who work in this program would be better advocates than your patent lawyer."

No doubt. Still, isn't there something odd about the head of the nation's legal services program calling not for the best lawyers to serve the poor but for a floodtide of nonlawyers? Isn't that just another show of contempt for poor people?

Not at all, Durant insists. "The poor and everybody else will be better off with a multiplicity of people delivering these services. I'm trying to look at this not as a Republican, not as a conservative, but as someone interested in solving the problem of access to justice."

TRIBUTE TO ULYANA GERMANYUK

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mr. HOYER. Mr. Speaker, on July 3 of this year, a very courageous lady and tireless advocate of religious freedom in her homeland, Mrs. Ulyana Germanyuk, died of stomach cancer in a hospital in the Soviet Union. Mrs. Germanyuk was a leader of the independent Baptist Church in Soviet Ukraine and a member of the Council of Prisoners' Relatives. Like many of her fellow believers, she suffered as a result.

After years of harassment and persecution for her activism on behalf of the independent Baptist church and its imprisoned members, Mrs. Germanyuk was herself arrested in July 1985, convicted of "violating the laws separating church from state," and sentenced to 3 years imprisonment. Her health began to fail precipitiously, and in 4 short months her weight dropped from 180 pounds to 90. A number of physical ailments beset her, and she shuffled back and forth between the prison camp and the hospital. Regardless of her condition, every time she returned to the camp she was placed under the same gruelling labor regimen.

Finally, on March 25 of this year, after an international outcry against her continued incarceration and mistreatment, Ulyana Germanyuk was released. But by then, it was too late. Surgery, just a short week before her death, resulted in the discovery of the cancer.

Mrs. Germanyuk left a husband, Stepan, and five children. We should all join in expressing our sympathy to them in their grief. Stepan is pastor of a Baptist church in the Ukraine, and has himself been imprisoned twice. Such cases as this remind us of the nature of the Soviet system, the fact that the system persecutes those who only want to practice their religion according to the dictates of their conscience and Holy Scripture. Despite the amnesty for political prisoners that was announced in February 1987, almost 100 unregistered Baptists remain imprisoned for their faith in the Soviet Union. There is no better way I can think of to honor Mrs. Germanyuk than for this body to once again call attention to those Soviet citizens who are imprisoned for their pursuit of religious freedom and to call upon the Soviet Government to extend its recently announced amnesty to all prisoners imprisoned for their faith.

RODRIGO ROJAS' DEATH—ONE YEAR LATER

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mr. PORTER. Mr. Speaker, I rise to remind my colleagues of the tragedy that occurred last year in Santiago, Chile. The 19-year-old Rodrigo Rojas, a Washington citizen, was brutally killed last July 2 while visiting his native land. Chilean soldiers broke up a scheduled demonstration, doused Rojas and his friend Carmen Gloria Quintana with gasoline, and set their bodies in flames. Rojas died 4 days later. Qunitana remains in a Canadian hospital, 60 percent of her body covered with burns.

Last year the United States called for a thorough investigation by Chilean legal authorities into Rojas' death. In response to international outrage, one Chilean officer was arrested. His original charge of "unnecessary violence" was later reduced to a misdemeanor charge of neglect. Reports indicate that this man has recently been promoted to captain.

Mr. Speaker, I am not satisfied with these results. The United States must not give up until justice is done in the case of Rodrigo Rojas and the thousands of others arrested, tortured and killed at the hands of the Chilean Government. Human rights and democracy must be restored in Chile.

TRIBUTE TO RAYMOND SALATIEL NEVEL

HON. RONALD V. DELLUMS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mr. DELLUMS. Mr. Speaker, I rise today in order to share with the Nation the great sense of loss we feel at the death of a distinguished artist, Raymond Salatiel Nevel. Mr. Raymond Nevel, who as a painter became better known by the name of Zala, a contraction of his middle name, was born in Vera Cruz, Mexico and raised in Mexico City. Although he was a resident of Oakland, CA for nearly 40 years, the early inspiration for his art sprung from his native Mexico, and his work was a celebration of his Hispanic past and a glorious expression of hope for the future and dignity of Hispanic peoples both in this country and Mexico.

In the cities of Oakland and Berkeley we were particularly blessed to have his striking and provocative murals painted in bold relief in many areas of the cities. He often involved his students and residents of the communities in his art, both as subjects and as collaborators. Zala's great interest in young people motivated him to volunteer his services in 1969 with a youth group called "El Teatro Triste" which was organized by the youth in the Fruitvale District. He later worked at Casa de la Raza in Berkeley as an art adviser and instructor where he helped organize a group of students to create a mural for the school. He was a noted teacher, and generally an inspiration to all who either had personal contact with him, or who had the distinct pleasure of viewing his work.

A chronicler of Zala's life once noted that Camus once said that "an artist's life is a search for a way back to a few simple truths he knew in the beginning." Such was Zala's life, and in searching for a rediscovery those simple truths, he strengthened the bonds between Mexico and the Hispanic community, and immeasurably enriched the capacity of all members of our community for a greater brotherhood and understanding of the common threads of our fragile humanity.

While the community will sorely miss the presence and inspiration of Zala, we are thankful that his works will continue to inspire us into the indefinite future.

TALK ABOUT HEROES

HON. PATRICIA SCHROEDER

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mrs. SCHROEDER. Mr. Speaker, as the hearings of the long hot summer of 1987 unfold, we hear much about the definition of heroism.

I would like to bring to my colleagues' attention this column detailing the patriotism of a most distinguished Member of the other body, a man we can, indeed, look to for the definition of heroism.

[From the Rocky Mountain News, July 16, 1987]

AMERICAN HERO SHOWS HIS COLORS

(By Gene Amole)

The hero.

Like many Americans, I felt a surge of patriotism during the Iran-contra hearings. The closeup television camera gave millions of us an intimate view of an authentic American hero. He had served his country faithfully in the armed services. He was decorated for bravery. After the fighting, he came to Washington to render further service to the country he loves.

As we listened to his measured speech and watched the often-impassive expression on his face, we wondered what thoughts remained hidden behind his eyes. Certainly, though, this man had placed duty to country at the top of life's priorities.

His name is Sen. Daniel Inouye.

Unlike Lt. Col. Oliver North, he wore no uniform with campaign ribbons and decorations. Inouye's red badge of courage is hidden in an empty sleeve where his right arm was ripped off by an enemy hand grenade during World War II.

And unlike North, Inouye didn't lie, didn't deceive, didn't falsify or destroy documents to protect himself or anyone else. And he didn't violate his oath of office by breaking his country's laws because he didn't agree with how the government was being run.

The government certainly wasn't being run to Inouye's satisfaction in 1943 when he enlisted in the segregated Nisei 442nd Infantry Regimental Combat Team. While he was fighting the Nazis, his fellow Japanese Americans were being rounded up like cattle and herded into relocation (concentration) camps.

Before the war ended in Europe, Inouye had been wounded twice and was awarded the Bronze Star for valor and the Distinguished Service Cross for heroism. He was wounded and awarded the Order of the Purple Heart with oak leaf cluster. He lost his arm just two weeks before the Germans surrendered. He spent the next 20 months in military hospitals.

Even though Inouye fought in countless battles through the five long European campaigns, there was one that was burned forever in his memory. Part of an infantry battalion made up mostly of Texans was surrounded by the Germans. The 442nd was sent to rescue them. When the Niseis finally broke through, they had saved 211 of the 275 Texans who had been trapped.

The cost was high. Two hundred of the Nisei soldiers were killed, and 600 were wounded. When the war ended, the 442nd had received more decorations for bavery than any other American military unit.

On his way back home after the war, he entered a San Francisco barbershop only to be told, "We don't cut Jap hair." And during the Watergate hearings, John J. Wilson, the lawyer representing John Ehrlichman and Bob Haldeman, publicly referred to Inouye as a "little Jap."

We are now told that the joint committee conducting the Iran-contra hearings is again receiving racial slurs about Inouye. I guess everything that goes around, comes around. There is one constant in this whole mess, however. Inouye was a hero more than 40 years ago and remains one today.

THE LOSS OF A SELFLESS CITIZEN—GEORGE GOLMAN

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mr. BRYANT. Mr. Speaker, on Sunday, July 19, 1987, George Golman, a distinguished citizen of Dallas who contributed unselfishly to his community and especially to the rights and appropriate care of the mentally retarded and mentally ill, died.

His passing is a tragic loss not only to his loving family, but also to all who were privileged to know him and to the countless people, all too often ignored and neglected by society, his tireless efforts served.

A profile, which appeared last week in the Dallas Times Herald, paints a portrait of George Golman as the humane and decent man he was, a man who will be remembered with fondness and gratitude by those whose lives he touched.

[From the Dallas (TX) Times Herald, July 23, 1987]

GOLMAN REMEMBERED FOR WORK AS VOLUNTEER

(By Pam Troboy)

George H. Golman of Dallas, who was buried Tuesday, fought for mental-health causes and the rights of the mentally retarded and will be remembered for his willingness to help other people, friends and relatives said Wednesday.

Golman, the retired co-owner of World Liquor Stores and Quik Way Food Marts, died of a heart condition Sunday at Presbyterian Hospital. He was 63.

Hundreds of mourners attended a service Tuesday at Temple Emanu-El Cemetery in Dallas.

"He was just a guy who could never say no to anybody," said Phil Shepps, a longtime friend and business associate. "He would help anybody on anything at any time."

Golman helped raise hundreds of thousands of dollars for Foster Children's Advocate Services and championed the rights of the mentally retarded, said his daughter, Sydney Burton of Seguin.

Golman was active in organizations that benefited children, especially retarded children, relatives said. He served on the boards of Community Homes for Adults and Special Care Career School, American Jewish Committee, Temple Emanu-El and Columbian Club.

He often traveled to Austin at his own expense to testify before state legislative committees for the mentally retarded and those in state homes, said friend and cousin Adlene Harrison, former chairwoman of Dallas Area Rapid Transit.

"He was a man who didn't know an enemy and thought everyone was special regardless of the walk of life they came from. He treated everyone with dignity whether they were a porter or a bank president," Harrison said.

Golman often visited young people in the Community Homes for Adults, she said. He also opened his home to them and to others new to Dallas, Harrison said. She said a "backyard-full" of people, many of them new acquaintances, joined the Golmans, for Father's Day this year.

A lifelong resident of Dallas, Golman and his wife, Ruth Hohenberg Golman, were childhood friends. They would have celebrated their 42nd wedding anniversary in September.

He was a graduate of Woodrow Wilson High School and attended Texas A&M College. He left school to join the Army and was sent to Europe during World War II. He was captured in Belgium during the Battle of the Bulge and spent the rest of the war in German prisoner of war camps, family members said.

After receiving a medical discharge, he joined Julius Schepps Liquors, leaving in 1968 to found World Liquor Stores and Quik Way Food Marts. He retired in 1984 and devoted his time to managing investments until his death.

In addition to his wife and daughter, he is survived by children Steven and Sandra Golman of Dallas, Rodney Burton of Seguin and Sally Golman of Denton; grandchildren, Scott Golman and Eric Golman, both of Dallas, Jeremy Burton and Carlyn Anne Burton, both of Seguin; mothers, Anna Golman Weinstein and Carlyn Ring Hohenberg, both of Dallas; brothers and sisters, Donald and Dolores Golman, Alvin and Marilyn Golman and Sydney and Richard Rosenberg of Dallas.

The family requests memorials be made to Community Homes for Adults, 10830 North Central Expressway, Dallas 75231; Special Care and Career Center, 3030 Fyke Road, Dallas 75234; or a charity of choice.

TURKISH OCCUPATION OF CYPRUS

HON. CONSTANCE A. MORELLA

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 21, 1987

Mrs. MORELLA. Mr. Speaker, it is always difficult to criticize an ally, particularly when that ally is as strategically important as Turkey. But Turkey's occupation of 40 percent of Cyprus is wrong and as the leaders of the free world, we cannot responsibly do anything other than condemn it.

Thirteen years after the Turkish invasion of this independent republic, an invasion in violation of every tenet of international law, practice, and behavior, there is a veritable wall across the island of Cyprus. Negotiations toward a peaceful settlement have been stalemated and the Turkish Government is, in fact, building up its forces on the island. This buildup is particularly irksome because U.S. military assistance is apparently being used for this purpose, in direct conflict with section 620 of the Foreign Assistance Act. Section 620 stipulates that United States military aid to Turkey shall be used only for defensive purposes.

Mr. Speaker, Cyprus has been occupied for 13 years now. It is past time for our Government to stop abetting the occupation and, instead, to start actively opposing it.

PASSAGE OF H.R. 2941

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mr. SMITH of New Jersey. Mr. Speaker, Wednesday the House of Representatives overwhelmingly adopted legislation (H.R. 2941), to provide protection against catastrophic medical expenses under Medicare.

As a member of the House Select Committee on Aging, I have had the opportunity to carefully study the health care programs currently available to senior citizens, their weaknesses and shortcomings as well as their strengths. You may already be aware, Mr. Speaker, that an estimated 37 million Americans are uninsured—lacking even basic health care coverage with many other Americans underinsured. Concern for these millions of citizens is at the heart of what has become characterized as the "catastrophic health insurance debate."

Because I recognize that steps are needed to provide affordable coverage for catastrophic medical expenses—medical expenses which are extraordinarily high due to the nature of care necessitated—I was glad to support this important legislation with my vote, and I am pleased that we in Congress as well as the President have made catastrophic insurance a priority this year.

While there are competing versions of a catastrophic plan, Mr. Speaker, the final version adopted after consideration by both the House and the Senate may well be the largest expansion of the Medicare system since it began it 1965. The proposal that was used as a basis for floor consideration in the House on this issue was crafted as a compromise between two major House committees—the Ways and Means Committee and the Energy and Commerce Committee. As brought to the floor the plan included provisions to:

First. Expand Medicare inpatient services to cover unlimited inpatient hospital expenses after payment of a single deductible per year;

Second. Limit beneficiary out-of-pocket expenses under the optional Medicare part B Program for physician and outpatient care to an estimated $1,043 in 1989 with automatic increases in the cap tied to Social Security COLA's;

Third. Add a new prescription drug benefit beginning in 1989 which would pay 80 percent of the cost of all federally approved prescription drugs, biological products and insulin, after the beneficiary has met a $500 deductible;

Fourth. Specify that Medicare covers intermitent home health care visits 7 days a week for up to 35 days at a time, and allows an extension of the 35 day period if a physician certifies exceptional circumstances; and

Fifth. Require States to pay the preminums, deductibles and copayments required by Medicare A and B for Medicare beneficiaries whose incomes are at or below the Federal poverty line.

Under H.R. 2941, Mr. Speaker, new benefits would be financed by Medicare beneficiaries themselves through a $5 or $6 increase in the part B monthly premium—now $17.90—and the creation of a new supplemental premium to be assessed on a sliding scale based on income. Under this proposal, then, the new supplemental premium in 1988 will range from $10 per year for individuals with an adjusted gross income of $6,000 to a maximum of $580 for individuals with an adjusted gross income of $14,166, and is adjusted incrementally for incomes in between.

While H.R. 2941 will provide Federal catastrophic health care coverage for the first time, other promising alternatives have been suggested and should not be overlooked. The House-passed bill is, of course, merit worthy legislation, yet I am concerned about some of the bill's aspects—especially the financing mechanism, that will impose an additional premium on our senior citizens. As a result, I supported an amendment (which was not approved) to the bill that, while taking more cautious steps, would have reduced total fees passed on to Medicare beneficiaries.

The amendment would have: First, provided a cap on out-of-pocket expenses of $2,000 for covered expenses under Medicare parts A and B with two hospital deductibles per year; second, added identical home health provisions; third, added a prescription drug benefit under Medicaid for those 65 and over who are at or below 150 percent of the Federal poverty level with a $50 deductible; and fourth, increased allowable assets for spouses of individuals receiving Medicaid nursing home care to prevent "spousal impoverishment" as does H.R. 2941. Financing for this proposal would come by increasing the part B premium up to $28.10 per month as opposed to $22 per month plus a supplemental premium. In 1988, then, the total annual premium under the amendment would be $337 as compared to a maximum annual total of $844 under H.R. 2941.

Given the importance of the proposed changes, I expect continued debate on the various provisions set forth as this bill is reviewed by the Senate. It is likely that some amendments and revisions will be considered—and perhaps adopted—before a final proposal is signed into law.

Nonetheless, Mr. Speaker, there is almost a unanimous consensus among the Members of Congress as to the need for a solution to the catastrophic health care crisis. While not everyone is agreed on the specifics, I am confident that after indepth review, a beneficial, affordable and workable plan will be approved.

THE FAIRNESS DOCTRINE CENSORS NOTHING

HON. JOHN D. DINGELL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mr. DINGELL. Mr. Speaker, I draw the attention of my colleagues to a letter concerning the "fairness doctrine" from a former Chairman and former Commissioner of the Federal Communications Commission. They make a strong and convincing case that the "fairness doctrine" is needed to preserve a free and fair electronic marketplace of ideas.

Although the President has vetoed H.R. 1934—S. 742, legislation to codify the "fairness doctrine," an appropriate vehicle will be found to enshrine this vital public protection into statute.

The article follows:

THE FAIRNESS DOCTRINE DOES NOT CENSOR ANYTHING

(By Robert E. Lee, Former Chairman, Federal Communications Commission, Abbott Washburn, Former Commissioner, Federal Communications Commission)

The Post [editorial, June 24] condemns the Fairness Doctrine as "misnamed," "harmful," "repulsive." This is strong language indeed to describe a modest obligation that broadcasters assume when they receive exclusive rights to a public resource, the electronic frequency on which they transmit. It is a doctrine that has worked well for 37 years, was affirmed by Congress and the Supreme Court and only last month was reendorsed overwhelmingly by the Senate and the House of Representatives.

No less a conservative than Herbert Hoover, when the system of allocating frequencies was adopted in the 1920s, stressed: "Radio communication is not merely a business for private gain, for advertising or for entertainment. It is a public concern impressed with the public trust."

The Fairness Doctrine is at the heart of the broadcasters' public trusteeship. Quite simply, it says that as trustees of the spectrum broadcasters must devote a reasonable amount of time to the presentation of controversial issues of public importance—and do so fairly, by providing reasonable opportunity for differing viewpoints on the issues.

Is this too much to ask in exchange for an exclusive license that in today's TV facilities market can be worth hundreds of millions of dollars?

When former FCC chairman Mark Fowler first began attacking the doctrine, he suggested that broadcasters be required to pay license fees commensurate with the value of their licenses. This idea was quickly dropped.

Critics of the doctrine wrap themselves in the First Amendment. Yet the doctrine does not censor anything. On the contrary, in the words of the Supreme Court it adds to "the uninhibited marketplace of ideas. . . . It is the right of the viewers and listeners, not the right of the broadcasters, which is paramount."

Comparison with the print medium is invalid. Publishers are not granted by their government a highly profitable use of a limited public resource denied to all others. Newsprint is expandable. In this community, there are hundreds of small and large printing presses, thousands of mailing lists.

Air time, on the other hand, is rigidly finite. Anyone wishing to go on radio or TV must apply to a licensee for access. The broadcaster is the gatekeeper. As such, he accepts a duty to be fair in the presentation of issues. It is hard to overemphasize the importance of this responsibility at a time when most Americans receive most of their knowledge of news and viewpoints from radio and TV.

During our many years on the commission, we very seldom heard the actual station programmers complain of the doctrine. It parallels their own reasonable goals and, on occasion, provides them protection against extravagant pressures from special interest groups and advertisers. It did not "chill" Edward R. Murrow from attacking Sen. Joseph McCarthy. Nor do we believe it ever deterred any other serious commentator.

Regardless of what happens to the Fairness Doctrine codifying legislation, which President Reagan vetoed June 22, the doctrine in our view should, and will, continue to serve the public well until advances in technology make licensing no longer necessary.

WORLD PRESS FREEDOM COMMITTEE ISSUES REPORT CHALLENGING ACTIONS AGAINST FREE PRESS IN HONG KONG AND SINGAPORE

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mr. FASCELL. Mr. Speaker, as we celebrate the bicentennial of the Constitution, we are constantly reminded of the importance of the first amendment which guarantees the right of free speech. Despite many challenges and onslaughts, our courts consistently have sustained this principle. We are indeed blessed with the opportunity to express our views and opinions freely, to criticize our Government and to advance new ideas. May this blessing long endure.

The principle of free expression of ideas has been incorporated into international agreements such as the Universal Declaration of Human Rights which provides in article 19 that:

> Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive, and impart information and ideas through any media and regardless of frontiers.

The World Press Freedom Committee has been vigilant in its defense of the free press throughout the world. Consisting of 32 press organizations located in all continents, it has recently dispatched a delegation to Hong Kong and Singapore to challenge actions against the free press by those governments.

In Hong Kong, a revised press law authorized prosecution of the media for news reports deemed false by government officials. In Singapore, disputes over a government-demanded right of reply resulted in reducing the circulation of Time magazine from 18,000 to 2,000 and the Asian Wall Street Journal from 4,800 to 400.

This delegation consisted of Leonard H. Marks, chairman, treasurer of the World Press Freedom Committee and a former Director of the U.S. Information Agency; George Chaplin, recently retired editor of the Honolulu Advertiser; Cushrow R. Irani, managing director of the Statesman of India; and Lord McGregor of Durris, chairman of the last Royal Commission on the Press and currently chairman of Reuters Trust.

The delegation met with the press and officials in both countries and released a report which I would like to share with our colleagues.

The delegation concluded that:

> 1. The legislation recently adopted in Hong Kong has had a "chilling effect" on the free press and has restrained some journalists from exercising their responsibilities in reporting fully on matters which could cause the displeasure of governmental authorities.
>
> 2. In Singapore, the action against Time magazine and the Asian Wall Street Journal has caused a similar reaction. Moreover, it has made editors sensitive to the possibility that the authorities could impose restrictions on the circulation of their publications as reprisal for critical reports on governmental policies or actions.
>
> 3. These restraints on a free press and the exercise of journalistic freedom constitute a violation of article 19 and similar provisions in international treaties. Moreover, these restraints are contrary to the basic tenet for "the free flow of information."
>
> 4. The delegation recommends that these legislative provisions be repealed and that the World Press Freedom Committee and its affiliates present their views before such institutions as the United Nations and its various agencies and in other fora dedicated to the protection of human rights.

I would like to commend the World Press Freedom Committee and individual members of its delegation for their vigilance and hope that the respective governments will heed their admonition and repeal these repressive measures challenging the free press.

In this connection, I note that the government of Singapore has rescinded its restrictions on the circulation of Time magazine. It is a step in the right direction and should be followed by similar actions restoring the circulation of the Asian Wall Street Journal.

We in the Congress must be alert to the actions of foreign governments contrary to the principles of the Universal Declaration of Human Rights. I am hopeful that it will not be necessary for us to examine further into the situation, but that the officials of those governments will recognize their responsibilities under international law.

ANN SCHOENFELD: FIFTY YEARS OF DEDICATED SERVICE

HON. STEPHEN J. SOLARZ

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mr. SOLARZ. Mr. Speaker, I would like today to recognize the outstanding contribution of one of my constituents, Ms. Ann Schoenfeld, on the occasion of her retirement from the Social Security Administration.

Ms. Schoenfeld began her career on July 9, 1936 and retired July 3, 1987 after almost 51 years with the Social Security Administration. Ms. Schoenfeld is one of only a handful of employees who have spent more than 50 years with this agency.

Government service frequently represents a sacrifice and I think that the example set by Ms. Schoenfeld in her long and dedicated service to the people of Brooklyn should be commended. The Government needs more people like her who are willing to give up potentially more lucrative careers in favor of a lifetime of helping others and serving their country. I have heard that Ms. Schoenfeld was an inspiration to many of those who met her, and I hope that perhaps some were encouraged to enter this field, or to remain in it, by her shining example.

As a field representative in the Bushwick Social Security Office in Brooklyn, Ms. Schoenfeld was known for her unflagging interest and enthusiasm in performing her job. Her devotion to the highest standards of public service was known and admired by her coworkers and the Bushwick community which she served.

She will be greatly missed by everyone she worked with and everyone she helped during her many years of service. I proudly join the people of Bushwich in wishing Ann Schoenfeld the best of luck and health in her well-deserved retirement.

MILITANT WOLVES IN SHEEPISH DRAG, NO LONGER!

HON. WILLIAM E. DANNEMEYER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mr. DANNEMEYER. Mr. Speaker, since the 1960's and the beginning of the sexual revolution, homosexuals have been striving to change American culture. These "normaphobes" demand that the average American view their aberrant behavior as equal to heterosexuality. They relentlessly seek acceptability and legitimacy. In fact, the homosexual American dream would be to amend the Civil Rights Act of 1964 to include sexual preferences to the list of nondiscriminatory characteristics such as race, creed and color.

But Mr. Speaker, those Americans who believe in the notion of "live and let live," as it applies here, should be aware of the militant nature of the homosexual movement. I commend the following article to the American public so they can read for themselves the extent of homosexual militancy. I commend this article, not because I necessarily believe that these threats would be carried out, but mostly because this published article represents the nefariousness of the homosexual mind.

Fortunately, Americans overwhelmingly view homosexuality in the moral and spiritual abyss in which it exists. I, for one, will never cease to affirm the heterosexual lifestyle as the only lifestyle able to sustain the human race.

The article follows:

[Excerpts of this highly significant article were reprinted in the June 25, 1987, issue of "The Wanderer", America's foremost national Catholic weekly]

AMERICA: IS THIS THE GAY DECLARATION OF WAR?

(By Michael Swift)

This essay is outré, madness, a tragic, cruel fantasy, an eruption of inner rage, on how the oppressed desperately dream of being the oppressor.

We shall sodomize your sons, emblems of your feeble masculinity, of your shallow dreams and vulgar lies. We shall seduce then in your schools, in your dormitories, in your gymnasiums, in your locker rooms, in your sports arenas, in your seminaries, in your youth groups, in your movie theater bathrooms, in your army bunkhouses, in your truck stops, in your all-male clubs, in your houses of Congress, wherever men are with men together. Your sons shall become our minions and do our bidding. They will be recast in our image. They will come to crave and adore us.

Women, you cry for freedom. You say you no longer are satisfied with men; they make you unhappy. We connoisseurs of the masculine face, the masculine physique, shall take your men from you then. We will amuse them; we will instruct them; we will embrace them when they weep. Women, you say you wish to live with each other instead of with men. Then go and be with each other. We shall give your men pleasures they have never known because we are foremost men too and only one man knows how to truly please another man; only one man can understand with depth and feeling the mind and body of another man.

All laws banning homosexual activity will be revoked. Instead legislation shall be passed which engenders love between men.

All homosexuals must stand together as brothers; we must be united artistically, philosophically, socially, politically and financially. We will triumph only when we present a common face to the vicious heterosexual enemy.

If you dare to cry faggot, fairy, queer at us, we will stab you in your cowardly hearts and defile your dead, puny bodies.

We shall write poems of the love between men; we shall stage plays in which man openly carresses man; we shall make films about the love between heroic men which will replace the cheap, superficial, sentimental, insipid, juvenile, heterosexual infatuations presently dominating your cinema screens. We shall sculpt statues of beautiful young men, of bold athletes which will be placed in your parks, your squares, your plazas. The museums of the world will be filled only with paintings of graceful, naked lads.

Our writers and artists will make love between men fashionable and de rigeur, and we will succeed because we are adept at setting styles. We will eliminate heterosexual liaisons through usage of the devices of wit and ridicule, devices which we are skilled in employing.

We will unmask the powerful homosexuals who masquerade as heterosexuals. You will be shocked and frightened when you find that your presidents and their sons, your industrialists, your senators, your mayors, your generals, your athletes, your film stars, your television personalities, your civic leaders, your priests are not the safe, familiar, bourgeois, heterosexual figures you assumed them to be. We are everywhere; we have infiltrated your ranks. Be careful when you speak of homosexuals because we are always among you; we may be sitting across the desk from you; we may be sleeping in the same bed with you.

There will be no compromises. We are not middle-class weaklings. Highly intelligent, we are the natural aristocrats of the human race, and steely-minded aristocrats never settle for less. Those who oppose us will be exiled.

We shall raise vast, private armies, as Mishima did, to defeat you. We shall conquer the world because warriors inspired by and banded together by homosexual love and honor are invincible as were the ancient Greek soldiers.

The family unit—spawning ground of lies, betrayals, mediocrity, hypocrisy and violence will be abolished. The family unit, which only dampens imagination and curbs free will, must be eliminated. Perfect boys will be conceived and grown in the genetic laboratory. They will be bonded together in communal setting, under the control and instruction of homosexual savants.

All churches who condemn us will be closed. Our only gods are handsome young men. We adhere to a cult of beauty, moral and esthetic. All that is ugly and vulgar and banal will be annihilated. Since we are alienated from middle-class heterosexual conventions, we are free to live our lives according to the dictates of the pure imagination. For us too much is not enough.

The exquisite society to emerge will be governed by an elite comprised of gay poets. One of the major requirements for a position of power in the new society of homoeroticism will be indulgence in the Greek passion. Any man contaminated with heterosexual lust will be automatically barred from a position of influence. All males who insist on remaining stupidly heterosexual will be tried in homosexual courts of justice and will become invisible men.

We shall rewrite history filled and debased with your heterosexual lies and distortions. We shall portray the homosexuality of the great leaders and thinkers who have shaped the world. We will demonstrate that homosexuality and intelligence and imagination are inextricably linked, and that homosexuality is a requirement for true nobility, true beauty in a man.

We shall be victorious because we are fueled with the ferocious bitterness of the oppressed who have been forced to play seemingly bit parts in your dumb, heterosexual shows throughout the ages. We too are capable of firing guns and manning the barricades of the ultimate revolution.

Tremble, hetero swine, when we appear before you without our masks.

SCIENCE, TECHNOLOGY AND ECONOMICS IN THE 1980'S

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mr. BROWN of California. Mr. Speaker, our decline in trade competitiveness is one of the great economic and political challenges facing our Nation in the remaining years of the 20th century. In debating this issue, I believe we must move beyond facile solutions of trade protection and currency controls to address the underlying causes of our problems. For example, we must find ways to raise our very low savings rate and to break down the isolation of economic and investment policies from science and technology policies.

As a contribution to the national debate on competitiveness, I would like to share with my colleagues some remarks I delivered at the Brookings Institution's recent conference on issues in science and technology policy for the 1980's. In that speech I proposed:

First, the modification of banking and investment regulations in order to create a national capital banking system under the aegis of the Federal Reserve System that will encourage public and private investment better tuned to our long-term economic development than is the case today;

Second, that scientists and technical experts be included as members of national and regional governing boards of the Federal Reserve System;

Third, mechanisms for the coordination of science policy and economic policy between the Office of Science and Technology Policy and the Council of Economic Advisors;

Fourth, a Government chartered organization to expand secondary securities markets for investments in emerging industries;

Fifth, the creation of a national retirement account [NRA] with the power to make investments in both the public and private sector that would dramatically increase savings and capital for long-term investment. The NRA would be capitalized by surpluses in the Social Security OASDI trust funds that are expected to total $2.2 trillion 30 years from now; and

Sixth, the repeal of Social Security payroll taxes when the returns from NRA investments are sufficient to provide for mandated Social Security OASDI benefits.

The full text of my speech is included here:

WHERE THERE IS NO VISION, THE PEOPLE PERISH: SCIENCE, TECHNOLOGY AND ECONOMICS IN THE 1980'S, A VIEW FROM CONGRESS

(By Congressman George E. Brown, Jr., June 7, 1987)

Good evening. Your host, Jim Carroll, asked me to speak on "Science and Technology in the 1980's: The View from Congress". In part because Brookings is so well known for the economic advice it offers, I am going to take the liberty of expanding the discussion to topics you may at first think totally unrelated to science topics like Social Security, pensions, capital investment, interest rates and the Federal Reserve Banking System. So the subject of my remarks will be Science, Technology and Economics in the 1980's. In light of the fact that few members of Congress have yet to see the connection between these areas, I will admit that these remarks are not the view from Congress but only a view: one which I hope, and of course am confident, that others will come to share if we gain the broad support of experienced government executives like yourselves.

Your experience can be a great help. How often have you felt frustrated by narrow agency missions or appropriations categories when you could see that co-operation between agencies would allow an approach to a problem in a new creative way? Yet, as we have learned from our experience with the Earthquake Hazards Reduction Act and the National Climate Program Act, interagency programs are often difficult to negotiate and difficult to maintain since it is naturally difficult for people to shed the perspective from which they have operated for years. We in the Congress need your help if we are to overcome the institutional blinders that stand in the way of our developing long-term policies bringing together science and technology in the solution of our economic problems and vice versa. So tonight I appeal for your help and experience not in the successes you may have had but in sharing the frustrations you have felt as our institutions and policies stand in the way of creative and effective actions on the national economic and technological crises we face in the coming years.

In the Congress, the frustrations we feel are even more onerous. As I am sure you are aware, the House alone has 21 standing legislative committees each with numerous subcommittees jealously guarding its jurisdiction that often overlaps those of other committees or subcommittees. And then there is "the other body" as we call the Senate, not to mention the executive with its thirteen cabinet departments and numerous agencies. It is a small wonder that any legislation ever gets passed. Indeed controversial legislation that might anticipate rather than react to our problems seldom does get enacted except in an atmosphere of national crisis such as the current near hysteria over our declining international competitiveness or the AIDS epidemic.

Before coming here I was asked to suggest what are some of the central concerns preoccupying the Congress today. There is, of course, the Iran-Contra scandal but to my mind the number one issue of Congressional concern is the issue of international competitiveness. How could it be otherwise when last year our trade deficit was over $170 billion and when the trade balances of agriculture and our vaunted high technology industries were negative for the first time ever.

Over the coming years, the picture is even more worrisome. The MIT economist Lester Thurow recently pointed out, that our foreign debt to other nations will level off around $1.8 trillion even if we cut our trade deficit by $20 billion each year. It will cost about $100 billion or 2 percent of GNP just to meet interest payments on this debt alone.

Thurow says that if we try to balance these trade deficits by devaluing the dollar alone, the average American will experience a 7.5 percent fall in his or her standard of living, the steepest fall since the Great Depression of the 1930's. Furthermore, even after balancing our trade account with other nations, our standard of living will continue to fall by 0.3 percent each year because U.S. productivity is growing far more slowly than its international competitors. Only Canada seems to share our economic lethargy. Last year the Senate Democratic Working Group on Economic Competitiveness reported that between 1982-1985 annual productivity growth in the U.S. was 0.85 percent while Japanese productivity grew more than three and one-half times as fast. Several Pacific rim nations like South Korea, Taiwan and Singapore are growing even more rapidly than Japan.

To put our foreign debt in perspective, we should recall that the largest third world debtors, Brazil and Mexico have total accumulated foreign debts of $103 billion and $97 billion respectively. The prospect of their default is shaking the foundations of international banking. However, just the annual interest on our foreign debt may well equal the total foreign debt of Brazil or Mexico. Domestically, last year personal savings in the U.S. only amounted to $83 billion or 2 percent of GNP. Thus interest on our foreign debt alone could easily amount to more than all our personal savings unless we act decisively and promptly.

Incidentally, since economics is full of jargon, I should clarify a few of the terms mentioned above. The trade deficit is the difference in value between goods and services that we export and those we import during a year. Since our accounts with foreign nations must always balance, if we have a trade deficit, then we must borrow money or import capital to cover the deficit. The sum total of all the money we have borrowed from other nations less what they owe us is our foreign or international debt. Foreign debt should not be confused with our national or federal debt which is the sum total of all the money the federal government has borrowed from individuals and other sources at home or abroad. The federal deficit is, of course, the excess of federal expenditures over revenues in a particular year and equals the amount of new money that the federal government has borrowed in that year.

To continue, in order to address our competitiveness problems, the first thing we have to do is to appreciate the magnitude of the task before us. You, in your individual departments, and I, as a member of the subcommittees on which I serve, are accustomed to dealing with individual programs ranging in size from possibly $50 million to $200 million. A substantial new program initiative may involve perhaps $5 million to $20 million. Even in the case of whole agencies like the National Science Foundation or NASA, the total budget may run from under $2 billion to possibly $10 billion. In our economy, with a GNP of $4.2 trillion in 1986, even major adjustments in these individual programs or agencies, by themselves, will have little impact on our GNP or rebalancing our trade deficit. Only an integrated effort by the public and private sectors adding up to investments of at least $100 billion/year can have a decisive impact on our national economy, productivity and competitiveness.

Let me give a concrete example. A 1985 National Academy of Sciences conference reported that the average Japanese manufacturing worker was at that time backed up by $48,000 in technology and capital investment; in the United States the corresponding figure was only $32,000. In order to bring our industrial plant and equipment up to the Japanese level we will require an additional investment over some reasonable period of time of $320 billion for our 20 million manufacturing workers alone.

At present the disparity in capital investment per worker is growing—largely because Japanese savings rates are so much higher than ours. The President's Commission on Industrial Competitiveness, the Young Commission, found that from 1960 to 1982 Japan invested 32 percent of its GNP in fixed capital; the United States only invested 18 percent. In the same period Japanese productivity increased 5.9 percent annually; U.S. productivity only increased 1.2 percent. These figures are not abstractions; they manifest themselves on the shop floor. The National Commission on Jobs and Small Business found that 70 percent of manufacturing equipment in the U.S. is ten years or older compared with only 40 percent in Japan. This, in an era when a new generation of computers to operate computer integrated manufacturing systems appears every three years! How can we possibly expect to compete on such terms?

The relation of savings to investment in new technology is a topic the Congress is only beginning to address because its committees with their separate jurisdictions seldom, if ever, talk to each other. In a different area, although we share many common concerns, and although the interlocking of defense and civilian R&D is becoming a critical question bearing on competitiveness, in my twenty-four years as a congressman, I cannot ever recall a joint hearing by Armed Services and Science and Technology. This situation cannot continue; we must find ways to talk to each other and work together on common goals.

Now, however, there is a genuine sense of crisis and I begin to sense a closing of ranks between the members of these different committees. One of the ways this occurs is through the formation of non-legislative caucuses and task forces such as the Competitiveness Caucus, the Technology Policy Task Force, sponsored by the Science Committee, the House Republican Research Committee's Task Force on High Technology Initiatives or, in the Senate, the Senate Democratic Working Group on Economic Competitiveness.

Consider, for a moment, the division between the civilian and defense sectors of the economy. This is one of the topics on the agenda of the Technology Task Force. Since many of you are from the Department of Defense or from the Central Intelligence Agency, I know this topic will be of direct interest.

I am very concerned that 71 percent of federal R&D is now defense related because so many of our most advanced technologies that might be adapted for civilian use are classified. Sometimes they are classified even when we know that the Soviets know their details through espionage. Even then our classification policies foreclose their civilian application. It is a tragic waste of resources that technologies in photo-imaging, electronic intelligence gathering, data processing and transmission are unavailable to the civilian economy. One of my goals, as a member of the Intelligence Committee is to re-examine the policy regarding classified technologies to determine if they can be made more accessible to civilian users. I have just learned that the Committee's Subcommittee on Oversight and Evaluation is planning hearings which will examine how this might be possible for remote sensing technologies.

Then there is the growing concern over our military vulnerability to foreign suppliers. Foreign production of high quality, economical high technology products is occurring despite our attempts to restrict the dissemination of advanced technologies to other nations and despite legislation that favors American companies' access to technology developed by government laboratories. Robert Reich, the well known political economist from Harvard, has estimated, from data supplied by the Army Board of Science and the International Trade Commission, that 40 percent, by value, of the advanced electronics in American weapons systems are made in Japan. If the present trend continues, he projects that the proportion will be 55 percent in five years.

Currently, our policy responses are going all the wrong way. The Defense Science Board has recommended that the government spend $2 billion on semiconductor R&D. About half that sum would go to the newly formed Sematech consortium from which foreign companies would be barred. In addition the Federal Technology Transfer Act of 1986 gives preference to American companies in licensing federal technology, much of which was developed in national laboratories sponsored by DOD. But what is an American company? IBM with 40 percent of its employees living abroad or Fairchild Semiconductor owned by the French oil service firm Schlumberger? IBM and other thriving companies have discovered that they cannot survive on technologies developed and manufactured in the US alone. Technological innovation is a global enterprise.

Techno-nationalists, to use Reich's term, or technology protectionists, to use an older description, miss the fundamental characteristic of our information age. In Reich's words:

"Technology is not like a scarce commodity to be hoarded up. Its real value is only indirectly related to the gadgets it spawns at any given time. Nor does its value lie in information that can be conveyed through data, blueprints or instructions. The value of technological learning is a certain kind of knowledge founded in shared experience. It exists in people's heads. Thus the real worry is not that we are becoming dependent on Japan's high-tech gadgets but that we are losing the ability to transform new discoveries into gadgets nearly as efficiently as they can."

In short, we are losing sight of the fact that, in the post-industrial information economy, the wealth of nations is the command over the process of innovation. It is not the hoarding of treasure or the ownership of particular factories as in previous mercantilist or capitalist eras. If I get the drift of Reich's argument correctly, we ought to be encouraging Japan's Fujitsu to buy Fairchild and then make certain that we disseminate widely the new management, organizational and financing techniques that they bring to our shores. We should be encouraging foreign participation in Sematech not prohibiting it.

So how do we regain command over the process of innovation? Here we must turn to economics which is almost totally ignored by our science and technology policies just as science and technology are absent from consideration in our economic, banking and investment policies.

In April when I talked to a similar gathering sponsored by Brookings, I spoke in general terms of the need to integrate science and economic policy. Since that time my thinking has progressed so I intend to offer some specific proposals for your consideration. No doubt they will require some modification and adjustment as we proceed but I welcome your comments and suggestions since they will require considerable time and effort to implement. I hope that you will have the opportunity to pursue these issues further on Thursday when Herb Fusfeld joins you in the discussion of the Technical Enterprise and Public Policy.

First, I must emphasize that, although we are accustomed to speak of new technology as the fruit of scientific breakthroughs, it is economics that determines whether it is profitable to innovate. If it does not profit, under our free market system, we won't invest in the long-term development of new technologies. Instead we will put our money behind short-term adjustments to existing technologies or we will spend our money on the consumption of currently produced goods of the lowest cost and highest quality regardless of who sells them.

Recognizing that it takes at least ten years to develop a new technology and then for that technology to achieve a substantial market share, the title of my talk about policies for the 80's is somewhat misleading. We must be looking now at the mid-1990's and beyond. To compete, our policy in the 80's must take aim at the year 2000.

How to do so? I have already mentioned the relation between savings rates and productivity growth. While we don't fully understand the connection yet, they appear to be linked, through the cost of capital, in a relationship that goes far to explain the difference between Japan's performance and ours. The economists Ralph Landau and George Hatsoupolis, in the National Academy conference report mentioned earlier, observe that in 1984 in Japan the average after tax cost of capital was 4.2 percent; in the United States it was 9.1 percent—over twice as great. Thus in Japan the time required for an investment to double its value is 17 years versus 8 years in this country. That is why the Japanese can afford to invest for the long-term in new technology whereas we cannot to nearly the same degree.

Looking at all three factors, savings rates, productivity and the costs of capital, together, we see that when the profits produced by a new technology can be reinvested and grow faster than the compounding cost of money, then it pays to invest in the development of the technology; otherwise it does not. In general economic terms, this says that, after allowing for depreciation or capital consumption, of existing plant, equipment and training, whenever the savings rate for a nation or for a sector of its economy is lower than the interest rate or cost of capital, then a society will buy existing technology off-the-shelf. Conversely, when the savings rate is higher than the interest rate, then society can afford to develop new technology from scratch because, in the latter instance, a new technology multiplies or doubles its market share of the economy in less than the time required for an existing technology to amortize and replace itself as measured by the doubling of a loan at average interest costs.

In these remarks, I have assumed that an innovation is developed and commercialized as soon as it is economically efficient or profitable to do so. There may be many political and social institutions that inhibit the free introduction of new technology, in which case the rate of innovation will be less than this ideal. There will also be instances when research and development proceeds even if it is not profitable to do so; however, these must always be isolated or a society would go bankrupt. Thus these developments will seldom achieve broad penetration in an economy unless the rate of reinvestable savings made possible by an innovation is greater than the interest rate cost of capital.

In this light, the relationship between savings rates and interest rates gives us a general measure of a country's competitive potential: namely, the ratio of its net savings rate to its average interest rate. Using this, a better mathematician than I could probably predict well in advance how long it would take one economy to outgrow another, not by merely extrapolating the current growth of GNP as we do now, but by forecasting those factors that make innovation profitable or unprofitable. By this measure, Japan with its high savings rate and low cost of capital is a formidable competitor, we are not. To a far greater degree than innate cultural differences, this situation probably explains also why the U.S. excels in basic research and the Japanese have not—to date. U.S. government support for civilian research grants have emphasized basic research with an indefinite investment horizon; the Japanese have not—until recently.

Overall then, to maintain a competitive economy, the object of government policy should be first, remove institutional inhibitions to the introduction of new technology, second, to provide strong support for basic research whose horizon lies beyond even the lowest possible cost of money and, third, in support of development, to use monetary and fiscal policy to lower interest rates while increasing the supply of savings so that the investment horizon for new technology is greater than the time required to introduce the technology. Short of the latter, the only alternative is for the government to adopt a "pick-the-winners" industrial policy, an approach which assumes an expertise in commercial development that I don't believe exists in government bureacracies.

Of course, it will not be easy to achieve these objectives. Traditional economic theory assumes that people are induced to save if interest rates are high. Thus to a certain extent the Japanese high savings and low cost of capital seem an impossible feat. We should study much more closely how they do it and then adapt some of their techniques and policies to our situation. It will probably require major shifts in our economic and financial institutions in order to replicate the Japanese success in our society. With this picture of the relationship between the cost of capital, savings and productivity in mind, what are the ingredients for merging science, technology, and economic policy?

First, consider the cost of capital. In the U.S., the cost of capital is largely determined by the Federal Reserve Board which is responsible for managing the nation's money supply. It does so by three mechanisms:

By setting the discount or interest rate on money it loans to banks that are members of the Federal Reserve System;

By setting the reserve ratio of cash held by a bank to the amount of money it can lend; and third,

By buying and selling U.S. government securities in the open market.

Even small changes in these rates affect the flow of billions of dollars. In times when "The FED" wishes to combat inflation, it restricts money supplies thus raising interest rates while inadvertently shrinking investment horizons very sharply. For example, if the interest rate ranges between 6 percent to 12 percent, as it has in recent years, then the time an investor requires to double his money changes from 12 to 6 years.

Yet, in spite of its immense power, the Federal Reserve Board is not required, or even urged to consider the impact of its decisions on technological innovation. Its organic act does recommend that various groups such as agriculture and business be included as public members of the boards of the twelve regional Federal Reserve banks. But scientists and technologists are not among them even though new technology is estimated to have produced nearly half the economic growth of our country over the last century.

The time has come, I believe to establish a national capital banking system which segregates the money supply for daily commerce and short-term working capital from the money supply for long-term capital investment. These two money supplies should be managed separately according to their differing needs. Long-term monetary policy and capital supplies should be managed with special attention to investment in new industry, technological development, education and public works that may be needed at least ten years in the future. Therefore I propose that the Congress mandate:

1. That members of the Federal Reserve System governing boards include scientists and technical experts at both the national and regional level.

2. That monetary policies and decisions include assessment of their impact on the financing of long-term technical innovation and supporting public works. Further, presently mandated reports by the Chairman of the Federal Reserve Board to Congress on monetary policy should include a summary of these assessments.

3. That, in order to increase the supply and therefore also lower the cost of long-term capital, the Federal Reserve Board should establish lower cash reserve requirements (reserve ratios) on loans made by member banks for long-term industrial development and public capital investment. These long-term reserve ratios should be determined by the expected long-term growth in the value of the collateral backing these loans not by the current cash value of assets held by the borrower as is appropriate for working capital debt. In this way one sets the long-term reserves based on the long-term quality of a portfolio of loans not on its momentary value determined by fluctuations in demands for products in commerce today.

Now consider the Council of Economic Advisors' Annual Report to the President and the Office of Science and Technology Policy's alternating annual reports, the Five-Year Outlook on Science and Technology and the Science and Technology Report. The Council's report never mentions the impact of economic policies on science and technology nor does it consider how advances in S&T might affect our investment and employment. Correspondingly, OSTP's reports never discuss how our economic policies or our banking and investment regulations are affecting public and private investments in science and technology. Therefore I propose:

1. That the organic acts of the Council of Economic Advisors and the Office of Science and Technology Policy be amended to include specific recognition of the need to co-ordinate science, technology and economic policies and that these two bodies share necessary staff to carry out this common mandate.

2. That the Council and the Office be mandated to prepare an annual assessment of the impact of economic and monetary policies on basic and applied research as well as forecasting likely technological developments that may require large-scale capital investment for profitable development. Particular attention should be paid to technical developments that may attain substantial markets from one to two decades in the future.

3. That, in preparing their assessment, the Council and the Office shall draw on the expertise of the National Science Board regarding scientific and technical advances and on the Federal Reserve Board for its expertise, goals and policies in the management of the nation's long-term money supply and capital banking system that I described earlier.

4. That, in preparing their assessment, the Council and the Office shall consider not only direct technological and economic competitiveness but should consider global environmental changes, such as climate warming a decade or more in the future. These changes may foreclose or hinder some technical developments while creating markets for alternative technologies as a response to these anticipated changes.

Here I want to interject a comment. Too often we view policies to protect the environment as unmitigated costs. I believe this view is mistaken. On the long timescale of capital investment, environmental policies could create immense and highly profitable markets if we anticipate rather than resist the oncoming changes. However, just as is the case for meeting normal economic competition, if we want to capture the markets created by our need to protect the global environment, then we must create a banking system that contains a profitable investment horizon which includes the time when economic or physical climate changes are expected whether they come from the environment or from our international competitors.

For example, if we want to prevent the large temperature changes that will occur if fossil fuel use continues to grow, then there will be a very large market for energy conservation devices as well as non-fossil forms of energy; on the other hand, adaptation to the moderate climate changes that we are probably already committed to will create substantial markets for new products such as new varieties of seeds for agriculture or high efficiency air conditioning and new public water supplies, that will be required to adapt to these changes. If I am correct, we may eventually see the day when industry pools funds for joint venture basic research on climate change under the Federal Co-operative Research and Development Act of 1984 because it must do so in order to plan its investments!

Consider next another aspect of the cost of capital: the liquidity of freedom with which funds can be transferred from one investment to another. Illiquidity is a real part of the cost of capital and a severe hindrance to investment in small startup businesses. Suppose I need cash before an investment matures. Then I must sell my stock or bond on so-called secondary markets like the New York Stock Exchange. If no such market exists, I will naturally charge a higher interest rate or maybe not invest at all. This restricts all but wealthy individuals and large institutions from investing in illiquid assets.

Here we touch on the issue of productivity. Many of the most significant technical innovations and, according to Professor David Birch of MIT, up to 80 percent of new jobs are created by small businesses. Many of these businesses are startup ventures. The problem is that investments in these ventures are highly illiquid. For example, if I had chosen to invest in the pioneering biotechnology company Genentech in the early 1970's I could not have sold my stock at almost any price until the early 1980's when Genentech made a public offering on the Over-the-Counter Market. I believe that the time has come to do for new technology what we did for housing and student loans when the Congress chartered the Government National Mortgage Association (GNMA) and the Student Loan Marketing Association (SLMA). If the previous models are any indication, the capital available for investment will expand many times over and the agencies themselves will eventually become private organizations.

The Small Business Committee's proposed Corporation for Small Business Investment which passed the House last year would be a step in the right direction. It appears, however, that the critical need is to develop the equivalent of an off-budget government loan guarantee program in this area. Currently, the volume of loans to small business investment corporations is limited because the government guarantees backing these loans are treated as federal budget expenditures. In a time when we are trying to reduce the federal deficit, this valuable program is restricted just when we need it most.

Therefore I propose that the Congress charter a quasi-governmental agency to make a secondary market in the stocks and bonds of new businesses, particularly those involved in the development of new technology that will reach the commercial market a decade or more hence. This agency should initially be empowered to develop an off-budget loan guarantee program but should be organized so as to facilitate its eventual transition to a self-sustaining private entity.

Finally, let us examine the third ingredient for unifying science, technology and economics: savings. I mentioned earlier that our total savings are much lower than our competitors, particularly Japan. The greatest difference is found in our personal savings which equaled $83 billion or 2 percent of GNP in 1986. Historically, the average has been somewhat higher. According to Department of Commerce figures, from 1950 to 1986, U.S. personal savings have ranged between 5 percent and 9 percent of disposable personal income but have averaged 6.9 percent of disposable income or 4.8 percent of GNP. By contrast, in West Germany, personal savings averaged 14.4 percent of disposable personal income between 1970 and 1985 while in Japan they averaged 19.9 percent in the 1970's but have declined to 15.7 percent in 1985. There is some reason to believe that Japan's very high rate was an accident that occurred because of its relatively youthful population in the years after World War II. Thus, as Japan's population ages its savings may level off closer to savings in West Germany. That is the level of savings we must try to achieve if we are to regain our competitiveness. To give an idea of what this means in dollars, 7.5 percent of our disposable personal income (the difference between the U.S. and West Germany) equals $222 billion or nearly two and three-quarters times the $83 billion we individually saved in 1986.

In order to understand how it might be possible to raise personal savings, it is essential to recognize that most of the money people save is for their retirement. According to the Employee Benefit Research Institute (EBRI) private and public pensions currently hold about $2 trillion in assets and are growing rapidly. By way of comparison, at the end of 1986 the market value of all the shares on the New York Stock Exchange was $2.2 trillion; mutual funds in 1985 only had a value of $495 billion.

But by far the largest form of savings is, potentially at least, represented by our Social Security system. Currently, it is operated on a pay-as-you-go basis as an intergenerational income transfer system. Payroll taxes collected today are paid out as benefits a few months later. Still, to the individual or corporation paying these taxes they represent savings for the future. The sums are very large. In 1987, the retirement income and disability programs of Social Security (OASDI, not Medicare or HI) are expected to take in $226 billion and pay out $209 billion. Clearly, if we could devise a way to convert these implicit savings to true investments in the future, our savings and investment posture would change significantly. Thus I want to call your attention to the fact that in 1987 these figures indicate a small surplus of $15 billion for these Social Security Trust Funds.

As a result of the 1983 Social Security tax reforms, these surpluses will become much larger over the next thirty-five years. Using figures derived from projections by the Social Security Trustees, a 1986 study by the Congressional Research Service of the Library of Congress forecasts that by the mid-1990's annual surpluses will be $68 billion. At their peak in 2010, the annual surplus will be $169 billion. Total accumulated assets will peak at $2.5 trillion in 2022: more than our total federal debt today! These figures, by the way, are all in constant 1986 dollars so the actual sums are expected to be much larger.

There is a problem, however. These surpluses do not constitute real savings. When Social Security payroll taxes are deposited in the Treasury, the Social Security Trust Funds are given a credit, a non-marketable IOU, by the Treasury. These IOU's are then redeemed when Social Security benefits are paid. Surpluses in these trust funds are simply held by the trust funds as long-term securities but they are accounted as a reduction of the federal budget during the year in which they are received. You may be interested to know that almost half of the projected reductions in the federal deficit that are required by the Gramm-Rudman Act will be coming from these surpluses in the Social Security trusts. Using figures supplied by the Congressional Budget Office, a recent article in the National Journal reported that in fiscal year 1987, before counting the surpluses in all the Social Security Trust Funds (including Medicare), the federal deficit is expected to be $191 billion; after subtracting these trust surpluses of $19 billion, the federal deficit on the books will be $174 billion. By fiscal year 1992, without these trust funds surpluses, the federal deficit is projected to be $160 billion, but the surpluses in these accounts are expected to be $75 billion leaving an apparent federal deficit of only $85 billion. These figures, incidentally, do not include unspent surpluses in other trust funds like the highway fund or the Airport and Airway Tust Fund which reduce the book value of the federal deficit even further.

Eventually, these debts must be paid. Accounting artifices like these reflect the Congress' inability to face up to the true revenue needs of the federal government and to decide the real priorities for government spending. Worse, today's workers, who believe they are saving for retirement, are being cheated. Many of my younger constituents sense this. They have told me of their worry that Social Security will not be financially sound then they retire.

The IOU's held by the Social Security Trust Funds earn low rates of interest that in no way measure up to the performance of private and state pension funds. When planning, the Social Security Administration assumes that its securities will earn between 5 percent and 6.5 percent compounded semiannually. In recent years, according to EBRI, private trusteed funds have achieved total returns averaging 17.3 percent over the last five years. After adjusting for inflation this equals a real return of 13.5 percent. Index funds based on the Standard and Poor's 500 index and the Lehman Corporate/Government Bond Index have performed similarly.

In sum, these surpluses are not being invested to make our economy healthy and competitive in the future. Instead they are a gigantic consumer loan at rates no credit card company would dream of accepting. The situation was succinctly stated in the National Journal article to which I referred earlier:

"The bad news is that when the surpluses are used to reduce the deficit, the net effect is to save nothing. Instead as Barry P. Bosworth, another economist at Brookings put it, we just move money from one pocket to another, using the excess payroll tax to finance general government.

" 'People think the money (trust fund surpluses) is being put away for them,' Bosworth said. 'And it is. But then it's borrowed back by the same damn people who put it in."

If we continue our current practices, we will also face the very questionable situation where one agency of the federal government, the Social Security Administration, will own most of our national debt. Is that really what we want?

The good news is that, if we change the law to require that these surpluses be invested in the full economy wide range of public and private securities, then we would have ample funds for investment in new technology, in education, in research and public works to make our economy prosperous and competitive. And Social Security would be able to deliver the income to provide a secure retirement for today's workers because they invested in jobs for their children through these surpluses.

I want to emphasize that the proposed change in investment practices would not involve the Social Security Trust Funds in an orgy of speculation on the stock market. Rather, the investment portfolio would reflect the conservative holdings of market indices like the Standard and Poor's 500, the Dow-Jones and the Lehman Corporate/Government Bond Index. A small percentage, similar to that of private pension funds would be invested in more risky startup ventures in new industries. Some of those investments might take the form of reinsurance for Small Business Investment Corporations thus providing the off-budget quasi-governmental loan guarantees to broaden secondary securities markets in new businesses that I discussed earlier. Investments in new ventures would be more than balanced by positions in ultraconservative fixed income securities like state, local and federal government bonds.

No, the risk is not in making broad investments in the public and private sector; rather, the risk is that we will not make them, that we will not fund our national retirement system on the future of the American economy when it must pay off if we are to deliver the promise of Social Security.

The new funds available for investment would be enormous and would match the scale of investment necessary to retool American industry to the Japanese level that I discussed earlier. Social Security retirement benefits could grow in parallel with increases in our productivity but obviously cannot exceed its growth over the long-term unless one wants to redistribute income away from tomorrow's workers and thus reduce our childrens' standard of living. This constraint is also true today since a rise in benefits under a pay-as-you-go system is equally founded on productivity growth if the system is to keep the intergenerational promise it makes today's workers.

The even better news is that, if the Social Security investments I am proposing even approach the returns achieved by private and state pensions, then it may be possible to repeal all Social Security payroll taxes for retirement and disability insurance thirty-three years from now. After the payroll taxes are repealed benefits would be paid from the income and capital gains earned by the accumulated assets. Today these taxes are the largest and most regressive taxes paid by the average American. They are decidedly anticompetitive because they substantially increase the cost of the goods and services we produce by about 15 percent.

Using the Social Security Administration's economic assumptions contained in its preferred II-B projections, preliminary calculations by my staff indicate that, if total returns from the surpluses in the OASDI trust funds equal or exceed 10 percent annually, then, in the year 2020, these trust funds would be self-sustaining indefinitely. Benefits, as I said, would be paid from the investment returns and the present payroll taxes would be repealed permanently. In the interim, benefits would come from these taxes as now. The necessary returns are well below the real returns of 13.5 percent achieved by private trusteed pension plans over the last five years that I mentioned earlier. However, the required returns are high and demand that our economy realize the same high levels of productivity growth that are also required for us to be competitive in the world economy.

Therefore, to increase savings and investment, I propose:

1. That the organic act of the Social Security system be amended to establish a National Retirement Account (NRA). The NRA would be capitalized by the surpluses in the OASDI trust funds and would invest these funds on the open market in public and private securities, including both debt and equity. A full range of investments would be permitted ranging from startup ventures to blue chip debt and equity so long as the portfolio was consistent with the Employee Retirement Security Act of 1974 (ERISA) now applicable to public and private pension plans.

2. That payroll taxes for the Old Age Survivors and Disability Trust Funds (OASDI) be repealed in the year 2020 when the National Retirement Account become self-sustaining.

3. That it should be a national priority to re-examine medical care costs and financing with the objective of developing a long-term self-sustaining Hospital Insurance Trust Fund (HI) that will permit repeal of HI payroll taxes. HI or Medicare is the third component of Social Security. The HI trust fund currently runs a surplus but is projected to have substantial deficits beginning in 1995. It could become insolvent in the year 2002.

4. That the open market activities of the National Retirement Account should be closely co-ordinated with the open market purchase and sale of securities by the Federal Reserve. This mandate complements the Federal Reserve mandate proposed earlier to set lower reserve ratios for long-term capital investments by Federal Reserve system member banks. Open market activities permit much more selective management of

money supplies than is possible through the manipulation of reserve ratios alone.

5. That the Trustees of the National Retirement Account be broadened from the present Social Security trustees to include members of the general public. These public members should include, at minimum, representatives of the scientific and technical communities, labor unions, and small business in addition to representatives of the banking, pension management and investment communities.

6. That the National Retirement Account should be divided into separate regional accounts corresponding to the regional Federal Reserve Banks. These regional accounts would be under the direct supervision of regional trustees operating within policy guidelines set by the national trustees similar to the situation of regional governors in the Federal Reserve system.

7. That regional and national trustees would be responsible for setting investment objectives and policies as well as monitoring portfolio performance; however, actual investment in specific securities would be carried out contractually by private sector professional investment managers just as is the case for private and public pensions today.

8. That the investment objective for the National Retirement Account should be to maximize the total return on investment during the horizon from twenty to fifty years in the future. To assist in the achievement of that objective, there should be established a National Foundation for Research in Technology and Long-term Capital Investment under the direct supervision of the Trustees of the National Retirement Account. Initial authorized funding should be $20 million annually to be derived from the principal contributions to the NRA.

The purpose of the foundation is to support fundamenatal basic and applied economic and technical research and education on:

a. forecasting long-term technical and environmental developments expected to occur within the Account's investment horizon and the evaluation of their economic impacts.

b. understanding the process of technological and managerial innovation as well as estimating the market penetration time for innovations.

c. curricula and fellowships for training in long-term investment management at the nation's business and technical colleges and universities.

d. savings, investment, banking and regulatory policies that will permit the creation of long-term capital markets capable of placing incentives or a high present value on investments expected to mature in the period twenty to fifty years in the future.

e. international economic policies for the co-ordination of long-term monetary management, currency exchange rates, and capital investment.

The National Retirement Account that I am proposing would in many ways be similar to the familiar Individual Retirement Accounts (IRA's) permitted individuals today except that it would be practical for every member of our society not just those who can afford to save under current economic conditions and wage payment systems.

Fifty years ago our country decided, and indeed every industrial society has decided, that it needed a social program to provide a basic non-poverty income for every elderly person. We learned that it made neither economic sense, nor was it the sign of a caring and just community to allow its elderly to languish in poverty like spent cartridges on a battlefield of the day before. But to rely solely on voluntary contributions for this program, as contemplated by some who would privatize Social Security, would place those businesses and individual employers who live up to their responsibilities at an unfair disadvantage vis a vis those who tried to beat the system by not contributing. Therefore, to provide the income for our national retirement system, we instituted a system of mandatory collective savings in the form of payroll taxes.

I am not proposing to change the basic premises of that system but I am convinced that we must change the manner in which its goals are achieved if we want to ensure its ability to deliver what it promises each and every one of us. Economic conditions have changed. Today we recognize that we cannot pay benefits in the future if we do not make the necessary investments now. Therefore my proposal would reorient the operation of the Social Security system more in line with the practice of private pensions and insurance plans. Social Security is, after all, a form of social insurance. Like any insurance it only remains viable by investing the premiums it collects until the day when claims are presented some twenty to fifty years in the future in the case of life insurance. Indeed it would not be possible over the long-term to make insurance premiums low enough for the average person to afford if insurance plans operated on a day-as-you-go basis. Every state insurance regulator recognizes this in setting insurance rates. We must do the same for Social Security if the contributions are to be affordable by our people and businesses and if we want to have a competitive, dynamic economy from which to pay our claims when we retire.

I have outlined for you my program for science, technology and economics in the 1980's. It addresses:

1. managing cost of capital consistent with rapid investment in technological and managerial innovation through the establishment of a national capital banking system distinct from short-term banking for daily commerce, inventories, and working capital.

2. the co-ordination of science, technology and economic policies between the Council of Economic Advisors and the Office of Science and Technology Policy.

3. the stimulation of productivity growth by providing greater liquidity of investments in emerging industries through the creation of secondary securities markets for those industries.

4. the need to increase the supply of savings and capital for investment through the creation of a National Retirement Account in order to assure solvency of the Social Security system in the twenty-first century.

We have an unparalleled opportunity. It will only last for the next four or five years. If we do not act soon, we face the very real prospect that, for the first time ever, our children will be the first generation of Americans to be less well educated and less prosperous than their parents. And we shall lose, for then our children will be unable to support us as we retire.

Before ending there is one more issue that I must address. Earlier I suggested that it might be undesirable for one agency of government, the Social Security Administration, to own most of the national debt. The same criticism could equally be leveled at my proposed National Retirement Account for Social Security. Do we really want the federal government to own nearly half the public and private capital of our nation as it might under this proposal?

In our country there is a strong antipathy to such large government ownership of our wealth. True, there have been many worthy public investments, such as the Tennessee Valley Authority, that took the lead in economic development before private capital could or would commit itself. Even those paradigms of free enterprise and entrepreneurship, the venture capitalist and our unique venture capital markets, were a product of the Federal government's sponsorship of Small Business Investment Companies in the 1950's. I strongly support such government initiatives and will continue to do so.

Yet, if the private sector can be faulted for a short-sighted obsession with the bottom line, so also, government is too often limited by the biennial and quadriennial timeset of elections or the bureaucratic blinders of agency missions and appropriations categories.

In this bicentennial year of our constitution, it is appropriate to recall the words of James Madison in the 10th Federalist paper:

"It is of great importance in a republic not only to guard against the oppression of its rulers, but to guard any part of society against the injustice of the other part.

"If men were angels, no government would be necessary."

No branch of government and no element of society should become so powerful as to stifle the others. The very capacity of our society to foresee and adapt to the unparalleled changes we confront in the coming generation require that the innovator, and the seer with a vision for the future have the right and the means to speak out, in our economy no less than in our polity. We would lose this essential insight and premise of our constitution were a federal National Retirement account to own so large a portion of our nation's wealth.

Madison was the author of our constitution, our form of government. Jefferson knew the source of our vision, a vision which must change with every generation. He wrote:

"I know of no safe depository of the ultimate power of society but the people themselves."

Therefore I propose that every participant in the Social Security system be a stockholder/owner of the National Retirement Account with the power to elect its public trustees after their nomination by the President with the advice and consent of the Congress.

These are my proposals for a prosperous economy in which we benefit ourselves by saving and investing for our children. This is my hope for the next generation of Americans: that we shall bequeath them a society where every man, woman and child has a stake in the future of our Earth because every individual has a share in the wealth of our nation. A share attained not by dividing what we already have but by creating new wealth as we invest in our imagination and ingenuity.

Thank you and good evening.

A TRIBUTE TO THE JOHN R. PAYSINGER FAMILY

HON. MARILYN LLOYD

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mrs. LLOYD. Mr. Speaker, I am pleased to commend the John R. Paysinger family of Cleveland, TN, who are one of six families being honored in the Fifth Annual Great American Family Awards Program today at the White House. The Paysingers are a model family and are tremendous assets to their community. Parents Marge and John have served on the Boards of the American Red Cross and the American Cancer Society. Mr. Paysinger is a past president of the Bradley County American Cancer Society. Both have received numerous professional awards and honors. Their three children, John, Jr., Nancy, and Jane have followed in their parents' community service-oriented footsteps. The Paysingers are an inspiration to our Nation's families. I wish them much future success.

SUPPORTERS OF H.R. 2470, THE MEDICARE CATASTROPHIC PROTECTION ACT

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mr. STARK. Mr. Speaker, I would like to make special mention of a number of Members who have been most supportive of H.R. 2470. These Members had asked to become cosponsors of this legislation, but due to delays in my office, we were unable to include them before the bill was finally reported from committee. I would like to thank these Members, Messrs, SKAGGS, WILSON, STANGELAND, FLAKE, LANTOS, and TAUZIN and Ms. PELOSI for their support of the seniors of this country and for their help and interest in this legislation.

TRIBUTE TO THE NATIONAL FEDERATION OF HOUSING COUNSELORS

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mr. TRAFICANT. Mr. Speaker, I rise at this time to pay tribute to the National Federation of Housing Counselors. This remarkable organization recently held their 14th annual conference here in Washington, DC.

Mr. Speaker, while the efforts of the Congress to deal with housing issues gain most of the headlines, the real effort to assist struggling people to gain adequate housing is being made by the countless number of housing counselors across the country. These are the people who day in and day out deal with people who have nowhere else to turn. These are the people who find real life solutions to the pressing housing needs of lower income Americans.

As a former drug counselor I know and understand the type of problems and pressures housing counselors have to deal with on a daily basis. Housing counselors have been responsible for finding housing for the growing number of homeless people in America. They have also been extremely effective in helping struggling families to keep their homes and avoid foreclosure.

The issue of stopping the growing number of foreclosures is one of special interest to myself. As sheriff of Mahoning County, OH, I went to jail for failure to sign foreclosure papers on several unemployed steelworkers. Since coming to Congress in 1985, I have tried to develop a legislative remedy to this serious problem. Earlier this year, I offered an amendment to H.R. 4, the Housing and Community Development Act of 1987. My amendment, which was approved by the House on a voice vote, would provide $30 million from the Department of Housing and Urban Development [HUD] to HUD-approved nonprofit housing counseling organizations. Under my amendment, housing counseling agencies would be able to expand their counseling services to a wider range of homeowners because the amendment would allow HUD funds to be used to counsel homeowners with any type of mortgage.

Mr. Speaker, my amendment would provide much needed assistance to housing counselors across the country. I am proud to play a role, however small, in ensuring that the Federal Government expand its role in helping housing counseling organizations. My amendment will allow these organizations to do what they do best: Prevent foreclosures. I sincerely hope this amendment is retained in the final version of the housing bill.

Mr. Speaker, the National Federation of Housing Counselors is to be commended for its longtime commitment to providing all Americans with decent housing. This is a fine organization run by some very talented people. Federation president Joyce Whitaker is to be congratulated for the dedicated work that has been done by the federation to promote the causes of the underprivileged in our society. I know that the federation will continue to help needy Americans and that they will continue to speak out in Washington for an increased Federal commitment to low-income housing.

IN SUPPORT OF THE CONSUMER PRODUCTS SAFE TESTING ACT

HON. MEL LEVINE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, July 27, 1987

Mr. LEVINE of California. Mr. Speaker, I rise today to urge my colleagues to support H.R. 1635, the Consumer Products Safe Testing Act. This legislation will discourage the use of the lethal dose-50 or LD-50 in testing the safety of consumer products.

The lethal dose 50 test consists of administering a substance in increasing doses to a group of animals until 50 percent of them die within a specified period of time. This gruesome test is used to determine relative toxicity of various compounds. Sadly, the results of the LD-50 test are not highly reliable. Not only is this test cruel and inhumane to animals, it is also senseless. There are other, more humane alternatives available. Computer modeling can be used to ascertain the potential toxicity of a substance. Tests using bacteria can be used to detect toxicity and carcinogenicity. And in vitro tests using human tissue cultures can effectively determine the effect of a substance on the human body. Not only do these tests decrease the use of animals in testing, but they cost less, and provide the necessary information for the protection of humans exposed to the substance in question.

The FDA does not require the use of the LD-50 test, and is looking for more reliable and humane testing alternatives. Unfortuately, the LD-50 test still continues to be widely used, partially due to industry confusion about which tests are required by the FDA.

H.R. 1635 requires Federal agencies to review and rewrite regulations so that they discourage the use of the LD-50 test, and instead, specify other tests that can be used.

H.R. 1635 is important to both protecting animals from abuse and exploitation, and to providing the safest consumer products possible. I urge my colleagues to cosponsor and support this legislation.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Tuesday, July 28, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 29

9:30 a.m.
Appropriations
Business meeting, to resume consideration of subcommittee allocations of budget outlays and new budget authority allocated to the committee as contained in H. Con. Res. 93, setting

forth the congressional budget for the United States Government for fiscal years 1988, 1989, 1990, and 1991.

S-128, Capitol

Commerce, Science, and Transportation

To hold oversight hearings in conjuction with the National Ocean Policy Study to examine plastic pollution in the marine environment.

SR-253

Veterans' Affairs

Business meeting, to mark up S. 6, Veterans' Health Care Improvement Act, S. 9, Service-Disabled Veterans' Benefits Improvement Act, S. 1443, VA Medical Inspector General Act, S. 1444, VA Assistant Inspector General for Health Care Quality Assurance Review Act, S. 1464, Veterans' Beneficiary Travel Reimbursement Restoration Act, proposed Veterans' Readjustment Counseling Preservation Act, proposed legislation providing for disability payments based on nuclear-detonation radiation exposure, and other related measures.

SR-418

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold oversight hearings on the combination of banking and insurance activities.

SD-538

Labor and Human Resources

To hold hearings on the nomination of Dorothy L. Strunk, of Maryland, to be Assistant Secretary of Labor for Mine Safety and Health.

SD-430

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

SR-325

6:00 p.m.

Environment and Public Works Environmental Protection Subcommittee

Business meeting, to resume markup of proposed legislation to provide limited extensions in Clean Air Act deadlines for areas that violate the health-protective national air quality standards.

SD-406

JULY 30

9:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1988 for foreign assistance programs.

S-126, Capitol

Judiciary

Business meeting, to consider pending calendar business.

SD-226

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

SR-325

9:15 a.m.

Finance

To hold hearings and to consider S. 549, to impose limits on imports of textiles, textile products, and nonrubber footwear.

SD-215

9:30 a.m.

Banking, Housing, and Urban Affairs

To hold oversight hearings on the history of the Glass-Steagall Act and its current relevance.

SD-538

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings on S. 582 and S. 876, bills to provide for improved air transportation to small communities.

SR-253

10:00 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings on S. 1516, authorizing funds for fiscal years 1988 through 1992 for programs of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

SD-562

Energy and Natural Resources

Energy Regulation and Conservation Subcommittee

To hold hearings on S. 1382, to improve the Federal Energy Management program.

SD-366

Governmental Affairs

Government Efficiency, Federalism, and the District of Columbia Subcommittee

To hold hearings on proposed legislation to reauthorize the fiscal note process as contained in the federal budget.

SD-342

Labor and Human Resources

Education, Arts, and Humanities Subcommittee

To hold hearings on proposed legislation to provide for an increase in funds for and improve the magnet school assistance program and impact aid programs.

SD-430

2:00 p.m.

Agriculture, Nutrition, and Forestry

To hold hearings on S. 1516, authorizing funds for fiscal years 1988 through 1992 for programs of the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA).

SD-562

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on miscellaneous proposals.

SD-366

Labor and Human Resources

To hold hearings on S. 1366, to authorize funds for fiscal years 1988–1991 for population research and voluntary family planning programs as contained in title X of the Public Health Service Act.

SD-430

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To hold joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

SR-325

6:00 p.m.

Environment and Public Works

Environmental Protection Subcommittee

Business meeting, to continue markup of proposed legislation to provide limited extensions in Clean Air Act deadlines for areas that violate the health-protective national air quality standards.

SD-406

JULY 31

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

SR-325

9:30 a.m.

Commerce, Science, and Transportation

Communications Subcommittee

To hold hearings on S. 889, to provide for fair marketing practices for certain encrypted satellite communications.

SR-253

Select on Indian Affairs

To hold hearings on S. 1475, to establish an effective clinical staffing recruitment and retention program within the Indian Health Service.

SR-485

10:00 a.m.

Foreign Relations

To hold hearings on Annex V, Regulations for the Prevention of Pollution by Garbage from Ships, an Optional Annex to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1973, (MARPOL 73-78) (Treaty Doc. 100-3).

SD-419

Governmental Affairs

Federal Services, Post Office, and Civil Service Subcommittee

To resume hearings on S. 508, to strengthen the protections available to Federal employees who blow the whistle on fraud, waste and abuse.

SD-342

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

SR-325

AUGUST 3

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To resume joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

AUGUST 4

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

9:30 a.m.

Agriculture, Nutrition, and Forestry

Conservation and Forestry Subcommittee

To hold hearings on the management of inventory properties held by agricultural lenders.

SR-332

Commerce, Science, and Transportation

Business meeting, to consider pending calendar business.

SR-253

10:00 a.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1138, to designate certain lands in Nevada as wilderness.

SD-366

Judiciary

Business meeting, to consider pending calendar business.

SD-226

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

AUGUST 5

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

9:30 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

*Small Business

Government Contracting and Paperwork Reduction Subcommittee

To hold hearings to examine the impact of a series of amendments to the Small Business Act as contained in the Department of Defense Authorization Act, 1987 (Public Law 99-661).

SR-428A

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold oversight hearings on certain financial restructuring proposals.

SD-538*

*Small Business

To hold hearings on the impact of section 1706 of the Tax Reform Act of 1986 (Public Law 99-514) relating to technical service workers as independent businesses.

SR-428A

2:00 p.m.

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings on S. 641, to provide for the relief of the city of Minot, North Dakota from liability for repayment of a specified sum associated with excess capacity of the Minot Pipeline resulting from enactment of the Garrison Diversion Unit Reformulation Act (Public Law 99-294), and S. 649, to provide for an increase in authorized funds for construction at the Oroville-Tonasket Unit, Washington irrigation project.

SD-366

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

AUGUST 6

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold oversight hearings on the limited securities powers for bank holding companies.

SD-538

1:30 p.m.

Energy and Natural Resources

Research and Development Subcommittee

To hold hearings on S. 1320, Solar Development Initiative Act, and related proposals.

SD-366

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

4:00 p.m.

Select on Intelligence

To hold closed hearings on intelligence matters.

SH-219

AUGUST 7

9:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1988 for foreign assistance programs.

SD-192

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

SEPTEMBER 18

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on product liability.

SR-253

CANCELLATIONS

JULY 28

10:00 a.m.

Agriculture, Nutrition, and Forestry

Business meeting, to consider certain spending reductions and revenue increases to meet reconciliation expenditures as imposed by H. Con. Res. 93, setting forth the congressional budget for the United States Government for fiscal years 1988, 1989, 1990, and 1991.

SR-332

10:30 a.m.

Governmental Affairs

Business meeting, to consider pending calendar business.

SD-342

JULY 29

10:00 a.m.

Energy and Natural Resources

Business meeting, to consider pending calendar business.

SD-366

Governmental Affairs

Government Efficiency, Federalism, and the District of Columbia Subcommittee

To hold hearings on the status of the abandoned mine lands fund of the Office of Surface Mining Reclamation and Enforcement, Department of the Interior.

SD-342

SENATE—*Tuesday, July 28, 1987*

(*Legislative day of Tuesday, July 23, 1987*)

The Senate met at 9 a.m., on the expiration of the recess, and was called to order by the Honorable BOB GRAHAM, a Senator from the State of Florida.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

I am the Lord thy God, which have brought thee out of the land of Egypt, out of the house of bondage, thou shalt have no other gods before Me. Thou shalt not make unto Me any graven image or any likeness of anything that is in the heaven above or the earth beneath or that is in the water under the earth: thou shalt not bow down thyself to them or serve them: for I thy God am a jealous God * * *—Exodus 20: 2-4.

Eternal God, omnipotent, omniscient, and omnipresent, help us to hear these mighty words as the very foundation for life and order both physical and moral. Help us to hear them as absolute and unequivocal—violation of which leads to destructive consequences for individuals and nations. In the words of Ted Koppel, speaking to graduates at Duke University: "What Moses brought down from Mount Sinai were not the 10 suggestions." And his closing reminder "righteousness exalts a nation, sin is a disgrace to any people"—Proverbs 14: 34 NIV. As You have ordained a natural order, You have ordained a moral order which we disregard or reject at our own peril. Save us from the presumptuous arrogance which treats humans as gods—arbiters of their own morality—results in moral and ethical anarchy. Help each of us to heed His God-illumined conscience and obey. We pray in the name of Him Who is Truth and Life. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, July 28, 1987.

To the Senate:

Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BOB GRAHAM, a Senator from the State of Florida, to perform the duties of the Chair.

JOHN C. STENNIS,
President pro tempore.

Mr. GRAHAM thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader.

RESERVATION OF LEADERSHIP TIME

Mr. BYRD. Mr. President, I ask unanimous consent that the time of the distinguished Republican leader be reserved for his use later in the day.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER FOR TIME FOR VOTE ON SENATE RESOLUTION 255

Mr. BYRD. Mr. President, I ask unanimous consent that the vote which was earlier set to be at 10 a.m. occur at 11:30 a.m. today.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I yield such time as he may require to Mr. PROXMIRE.

Mr. PROXMIRE. Mr. President, I thank my good friend, the distinguished majority leader.

WHY THE CONGRESS SHOULD HOLD DOWN SDI APPROPRIATIONS

Mr. PROXMIRE. Mr. President, the administration has requested $5.7 billion for SDI research, testing, and development. The House has cut that request to $3.1 billion. The Senate Armed Services Committee is requesting $4.5 billion. Obviously, we in Congress face a multibillion dollar question. We must answer this question in the next few months. How we answer this question is specially important for two reasons.

First, if the Congress decides to go ahead with a large appropriation for SDI this year, that decision will have a mammoth effect on the size of the military budget, the overall budget and the deficit not just this year, but in the immediate years to come. Here is an expenditure that the experts tell us could build up in the next few years to a trillion dollars or more. Even after all the research, development, testing, hardware procurement and the immense cost of lifting this vast armada into space, after all of this there will continue to be an annual cost for maintaining, operating, and modernizing SDI of between $100 and $200 billion each and every year in 1986 dollars. This is what the Appropriations Committee was told by former Defense Secretary Harold Brown.

Second, here is the real shocker. This immense, biggest-of-all-time, military expenditure, will drastically diminish our country's military strength. How so? Here's how: It is inconceivable that any Congress would permit the annual $150 billion or so SDI expenditure to become simply another military add-on. Congress will insist that much—and maybe all of the additional spending come out of the military itself. If all of it comes out of the military that would mean a $150 billion cut in the rest of our Armed Forces. We would cut our Army, our Navy, our Air Force, our military personnel in half. If "only" $7.5 billion or one-half the annual cost of SDI comes out of the military, there would still be the most devastating reduction in military strength this country has ever suffered. Can we afford this kind of reduction in our conventional military strength? Isn't it a fact that the greatest danger to the free world is the present enormous advantage the Soviet Union and the Warsaw Pact enjoys in conventional military strength compared to NATO and the free world? So won't a decision by this Congress to appropriate billions so that our country proceeds with SDI right up to the point of deployment bring the danger of moving on with a momentum that will carry this country to an irresistible SDI commitment?

Mr. President, one of the most difficult actions for the Congress to take is to say "no" to a project on which we have already invested billions of dollars. How hard it is to face the facts. How painful to cut your losses when the Congress has already poured billions into a project. Why is it so difficult? First, we have to admit we were wrong in spending so much of the public money. We have to admit a multibillion dollar mistake. It is not easy to face a challenge for an oppo-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

nent for your seat here in the Senate, when your opponent can point to the votes you cast for more and more SDI expenditures, and then when the Secretary of Defense says now we are ready to go with the really big commitments—the $100 and $200 billion per year spending, anyone who has ever run for political office will tell you how much easier it is to vote to continue the program under those circumstances than to cut it off, and in doing so concede your error.

And, Mr. President, why do these costly projects win a special political momentum, like a giant snowball rolling downhill? Here's why: SDI will involve not only hundreds of billions of dollars but literally millions of jobs, and not just in a few States. It will include subcontracts. It will bring jobs to many States. No matter how grim the scientific outlook may become for SDI, Congress will push ahead. No matter how firmly the National Academy of Sciences speaks out to tell us that SDI cannot survive Soviet counter measures we will go on. No matter the total absence of any answer to the contention that cruise missiles can defeat SDI by simply underflying it, we will appropriate more and more. We will know that mobile Soviet submarines and bombers cannot possibly be reached by the kinetic kill vehicles which constitute the heart of any space based SDI. Still the project will move on. It will exhaust the Treasury. It will pump up the deficit. It will expand the national debt. It will enfeeble our conventional military strength. It will divert our scientific genius from strengthening our economy and our Nation's health by drawing tens of thousands of our very best and brightest scientists, engineers, and technicians into this hapless project. It will do all this to advance a project that has been totally discredited by the most knowledgeable scientific experts in our Nation, the National Academy of Sciences and the American Physical Society.

CHANGE IN U.S. FINANCIAL MARKETS COMING ON WITH A RUSH

Mr. PROXMIRE. Mr. President, is it time for the Congress to make far-reaching changes in our banking system? The fact is that even if the Congress does nothing, some dramatic changes will come and come soon to American banking. What changes? Here are a few:

The so-called nonbank banks will come on with a rush unless the Congress acts. In 1986, far and away the most rapidly growing banks were nonbanks. Did I say rapidly growing? Just listen: The nonbank owned by American Express is the Boston Trust and Deposit Co. This bank grew in 1986 alone by more than any other large bank in the country. It increased its deposits by 137 percent to a $6 billion level. The Greenwood Trust Co.—a nonbank owned by Sears, Roebuck grew from $27 million to $1.4 billion—a 38-fold, I repeat a 38-fold, growth in the single calendar year 1986! No other bank anywhere has ever grown with such fantastic rapidity. So nonbanks could if unchecked largely replace our present banks. On March 27, the Senate passed a major banking bill that would prevent the formation of future nonbanks. It would grandfather but also limit the growth of nonbanks in the future. That bill is expected to go to conference between the House and Senate shortly. If the limits on nonbanks survives the conference, the administration may veto the bill. So there is a prospect the Congress will end the nonbank threat. If not the transformation of American banking through nonbanks would be dramatic.

The nonbank-bank route is one way that could dramatically change our banking system. If the country follows that course, it would have several substantial consequences. First, the separation of banking and commerce would be ended. That separation has played a major role in keeping our lending institutions safe and sound. It has also prevented the kind of blatant conflict of interest that would occur if borrowing firms as they do with nonbanks owned the institutions that loaned them money. Obviously this would provide a built-in guaranteed prejudice and preference—especially in times when credit is tight—for those firms that owned their own bank.

Second, as the nonbank bank absorbed a rapidly increasing share of the country's deposits, small business bank borrowers would have dramatically less credit available. Most American banks presently make most of their loans to small business. Nonbanks make virtually none of their loans to small business. What is the consequence of the invasion of the credit market by nonbanks? One major consequence is small business will find its credit costs rising. In periods of credit crunch, small business might even find its credit sources largely disappearing. Third, large conglomerates that owned their own nonbanks would enjoy lower cost credit than ever. Big business already enjoys lower credit costs than small business. That differential would grow with nonbanks.

The banking bill that passed the Congress last March also provided a limitation on the authority of the Federal Reserve Board to permit banks to underwrite securities. That limitation expires next March. The 50-year-old Glass-Steagall Act strictly limits that Federal Reserve power. But the Fed has found a way to kick slightly ajar the door Glass-Steagall seemed to have slammed tightly shut in the 1930's. The moratorium limitation passed by the Senate last March is designed to give the Congress a few months to decide on a coherent, national basis whether the banks should have new powers. And, if they should, which new powers they should have. If the Congress fails to act by next March, a dramatic if gradual change in our financial markets will begin to take place with banks entering securities markets at whatever pace the Federal Reserve Board, and the courts allow.

Brookings economist Robert K. Litan and Nobel Prize-winning economist James Tobin have both indicated their support for a more decisive and swift transformation of our financial markets. They would allow banks to enter any financial market; but the banks or the segment of the bank that did this would not have insured deposits. They would fund their loans in the short-term money market. These institutions could be owned by commercial or industrial firms. They could in fact function under present law. They could also function under the proposal passed by the Senate in March that outlawed nonbanks without deposit insurance. In fact, without bank deposits, they would not be subject to bank regulation.

Would these institutions without insured deposits be viable? This Senator doesn't think so. If they were, they would be operating now. There is no present law that prevents their operation. Since they would be free of the onerous and costly regulation the law requires of banks, why haven't such institutions come into existence? A prime reason is because they can't compete with the low-cost credits banks attract with Federal insurance of deposits. How would Litan and Tobin meet this problem? They would confine those institutions that accept Federal deposits to 100 percent safe Government deposits. Litan-Tobin would simply knock the low-cost insured deposits out of the Lending Act.

The Litan-Tobin proposal would do the following: It would end any safety and soundness problem for insured deposits. It would also tend to reduce the return on such deposits. Since the proposal would raise the cost of money to the new institutions that could make loans, it would also raise the cost of credit to American business. Since the supply of credit to these institutions would come from short-term money market sources and not from insured depositors, that supply would be more sensitive to the increased risk, the institutions would undergo in recession periods. So the cost of credit for American business would not only be higher. It would be more volatile and more likely to rise in periods of recession when the risk factor would increase.

Of course there are many other potential scenarios for change in what has become an increasingly more dynamic financial market. The job of the Congress must be to make these changes rather than leave them to the regulators and the courts. We should make changes so that we protect the safety and soundness of our financial institutions, reduce discrimination and conflict of interest to a minimum, and provide for maximum competition.

Once again I thank my friend, the distinguished majority leader, and yield the floor.

The ACTING PRESIDENT pro tempore. The majority leader.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business not to extend beyond the hour of 9:30 a.m. and that the vote that was originally scheduled for 10 occur at 11:30 as already indicated. Shortly I will know from Mr. Pell and others as to whether or not they wish to change the period for debating the resolution on which the vote will occur.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The absence of a quorum having been suggested, the clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

DEBATE ON MIA RESOLUTION TO BEGINS AT 11:10 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the time for debate on the MIA resolution begins at 11:10 under the same conditions as heretofore entered.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RECESS UNTIL 11 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess until the hour of 11 o'clock a.m.

There being no objection, the Senate, at 9:15 a.m., recessed until 11 a.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. Adams).

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business between now and 11:10 a.m., and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, at 11:10 a.m., the time would be under control and there would be debate on Senate Resolution 255, with a time limitation of 20 minutes to be equally divided. A vote will occur at 11:30 a.m. That will be a rollcall vote. If Senators wish to begin discussing the resolution, they may do so even now.

The PRESIDING OFFICER. Does the majority leader wish the time to be counted against them if they should start? Is that part of the unanimous-consent agreement?

Mr. BYRD. No. I would simply suggest that the time start running at 11:10 a.m.

The PRESIDING OFFICER. I thank the majority leader.

Mr. BYRD. I thank the Chair.

The PRESIDING OFFICER. The Senator from Arizona is recognized.

VESSEY MISSION TO VIETNAM

Mr. McCAIN. Mr. President, I thank you, Mr. President, for recognizing me and allowing me to begin, a few minutes early, the discussion of the resolution Senate Resolution, 255 which will be before the Senate.

The PRESIDING OFFICER. If the Senator will suspend for a minute, the Senate is on morning business and the Senator may, of course, discuss any subject he wishes but the time will not be counted against the Senator or the time until 11:10 a.m. But the Senator is recognized for any purpose he wishes.

Mr. McCAIN. I thank the President again. I would also like to express my sincere appreciation to the majority leader for allowing this resolution to come to the floor of the Senate in this very timely fashion.

I am very aware of the dedication of the majority leader to all of our veterans, particularly those of the Vietnam war and his commitment to the resolution of the issues that remain outstanding between ourselves and the Vietnamese Government.

I am also grateful to Senator Dole, our distinguished Republican leader, Senator Nunn, Senator DeConcini, Senator Pell, and others, who have joined in submitting this resolution to this body.

I am also told, Mr. President, that today the other body will also consider this resolution, and I am assured that it will proceed without delay. Consideration of this measure is propitious because General Vessey, the former Chairman of the Joint Chiefs of Staff, will proceed today to Hanoi to begin these very important meetings and negotiations on the MIA's and other issues.

In my discussions with General Vessey about his mission, he told me that the best way Congress could assist him in his efforts would be a resolution which gave the Vietnamese a clear signal that the President, the Congress, and the American people are united and undivided in support of an early resolution to the humanitarian issues that exist between ourselves and Hanoi.

Mr. President, almost 15 years ago, on January 28, 1973, the United States and the Vietnamese concluded an agreement to end hostilities in Vietnam. There were many facets to that agreement. One of them was that all those held captive by both sides would be returned and a full accounting of those listed as missing in action on both sides would be rendered.

Over the past decade and a half, this country's attitudes toward that war and the men who fought in it have changed rather dramatically. Vietnam veterans, once excoriated, reviled, and insulted, and many whom, were ashamed to wear their uniforms or even be recognized for the fact that they served in Vietnam, are now proud of their service. Perhaps the greatest event of the eighties as far as American veterans are concerned is the recognition and appreciation that the American people have expressed to those who fought in that war. Although we may have had severe chasms and disagreements within our society, the American people have concluded that those who fought deserve our appreciation and whatever benefits we can provide them which they so richly deserve as do all veterans who fought in all wars.

For some Americans, however, the war has not ended. The families of over 2,400 Americans missing in action live in limbo, without knowledge of the fate of their husbands, fathers, sons, and brothers.

Mr. President, this issue remains alive. It remains important. Indeed, it remains critical to millions of Americans across this country.

A visit to the Vietnam War Memorial, which I made as recently as last week, will show that this issue still preys on the minds of all Americans. There is no way we can ever close the chapter on that unhappy part of America's history, the Vietnam war, unless we have a full accounting for those who are still listed as missing in action. In the years since the war, a resolution of this issue has been pursued by a number of dedicated Americans. It has also been perceived by some charlatans and deceivers as a money and profitmaking opportunity.

A great deal of misinformation has been conveyed to the American people on this issue. The Vietnamese for their part, in my opinion, have failed to live up to the spirit of the agreement that they signed in Paris in January 1973 that a full accounting would be rendered.

In fact, as far as the remains of Americans who are still missing in action, Mr. President, there has been a tremendously cruel and even cynical attitude in that the Vietnamese have, from time to time, given three or four bodies back to the American authorities. Hanoi knows that we have full knowledge that they have held those remains for many, many, many years.

For several years after the war's end, the belief was that we had left no Americans behind in 1973. This view was corroborated by a number of commissions in the late 1970's.

In fact, in our desire to put the Vietnam war behind us and close this unhappy book, the American people were, I think, too quick to reach the assumption that there were no Americans left in Vietnam.

There has been a change since then. The belief that Americans might still be held captive has been corroborated by such respected individuals as Gen. Eugene Tighe, former head of the Defense Intelligence Agency, and others who say there are legitimate questions about the status of Americans who remain missing in action. In my opinion, Mr. President, we must assume that there are still Americans being held against their will in Southeast Asia until we have evidence to the contrary.

Mr. President, I want to fully and clearly point out that I have no evidence nor do I believe that the DIA or anyone else has firm evidence that there are Americans left alive in Southeast Asia. There are, however sufficient allegations and live sightings reports which have not been resolved to give sufficient doubt regarding this issue. It cannot and will not lose its highest priority, as President Reagan has stated, until it is resolved.

Mr. President, General Vessey's trip provides the relationship necessary for the level of cooperation on this issue crucial to its resolution.

Other issues to be raised by General Vessey during his trip will include the 30,000 Amerasian children who deserve the opportunity to come to this country if they choose to do so, the thousands of Vietnamese who are held in so-called reeducation camps to this day, and the rejuvenation of emigration procedures for those wishing to leave Vietnam.

I would also suggest that if we could resolve these issues, perhaps there is a much greater opportunity to resolve others.

MISSING IN ACTION NEGOTIATIONS

The PRESIDING OFFICER. The Chair will state the control time will now start. The Senator from Arizona is recognized for 10 minutes and will control that time. The Senator from Rhode Island is recognized for 10 minutes and will control that time.

The clerk will report the resolution at this time.

The legislative clerk read as follows:

A resolution (S. Res. 255) expressing the sense of the Senate with regard to the forthcoming negotiations by General John Vessey to resolve the fate of Americans missing in Southeast Asia, and other issues of humanitarian concern to the people of the United States and Vietnam.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. Thank you, Mr. President.

General Vessey travels to Vietnam as the Special Presidential Emissary for POW/MIA affairs. The resolution before us expresses the Senate's "full and undivided support for General Vessey in his forthcoming negotiations" regarding the MIA's and other issues of humanitarian concern to both nations.

I might point out here, Mr. President, that the Vietnamese Government has changed. For the first time, there is a change from the old traditional, hard-core Marxist ruling body to what is perceived by many observers as a more pragmatic and forthcoming group of leaders.

It is also very clear that, despite the fact that the Vietnamese won the war, they have lost the peace. They are an international pariah, in desperate need of increased contact with other nations, not only the United States, but its neighbors as well.

This resolution, Mr. President, calls on Vietnam to respond positively, in a humanitarian context, to the concerns of the American people despite the political differences that exist, and probably will continue to exist, between our two countries.

I have asked that this resolution be considered under unanimous consent, as I mentioned, because it is important that Hanoi know, before General Vessey arrives, that the President, the Congress, and the American people stand united behind our special emissary. Further, as the resolution states, we are united in calling on Vietnam to respond in a positive manner to the humanitarian issues being raised by General Vessey during his trip.

Other humanitarian issues, as I mentioned, remain unresolved. I hope that we could address all of those as time and the ability of the Vietnamese Government permits.

The recent resumption of interviews for those wishing to leave Vietnam is a hopeful sign that humanitarian issues of concern to both nations can be resolved. Hanoi's willingness to receive General Vessey is evidence that they are interested in addressing these issues in a constructive manner.

As General Vessey departs, he takes with him the hopes of the American people that the fate of Americans missing in action, and other humanitarian issues, may soon be resolved.

I want to thank the distinguished majority leader, Senator BYRD, again, and the distinguished Republican leader, Senator DOLE, for allowing this resolution to be brought up today. I know that their concern on this issue extends back many years.

I ask that my colleagues join in a bipartisan, united expression of support for General Vessey, and for the objectives he hopes to attain during his trip to Hanoi.

Mr. President, I obviously have a deep interest in this issue. There are comrades of mine who still remain listed as missing in action.

In closing, we not only have an obligation to the men still listed as missing in action and their families, we also have an obligation to future generations of Americans that, if called upon to sacrifice on behalf of freedom, this Nation will do everything in its power to ascertain their whereabouts and ensure their return should they be missing in action.

I hope that the American people will unite, and I believe that the American people will unite, behind General Vessey in this resolution and the Congress of the United States and the President as we seek to resolve this one last remaining issue of the Vietnam war.

I reserve the balance of my time.

The PRESIDING OFFICER. The Senator reserves the balance of his time.

Who yields time?

The Senator from Rhode Island.

RESOLUTION OF SUPPORT FOR GENERAL VESSEY'S MISSION TO VIETNAM—IT'S TIME FOR ACTION ON MIA'S, REEDUCATION CAMP PRISONERS, AMERASIANS AND THE ORDERLY DEPARTURE PROGRAM

Mr. PELL. Mr. President, I have long been interested in the question of prisoners of war. I can remember in 1940 going to Geneva and seeing the files of prisoners of war at that time as a delegate of the Red Cross.

Through the years I have seen the sad fate that POW's have suffered. In 1970, I remember working on this subject as a delegate representing the United States to the U.N. General Assembly. At that time, Commander McCain was a prisoner of war himself, and his father, Admiral McCain, was commander in chief of our naval forces in the Pacific (Cincpac). I remember serving with him earlier when he was vice chairman of the U.S. delegation to the U.N. Military Staff Committee.

The suffering of those men was very real to those of us who were charged with POW matters. I remember talking with the wives and children, the dependents of the POW's.

I believe that this resolution is very timely and very useful and very good. We do not know whether there are any still missing in action there, but the matter should be settled, if possible, once and for all. I think that this mission of General Vessey's is an excellent one and one that we all support and encourage.

I have joined with Senator McCAIN, no longer Commander McCain, and others in submitting a resolution stating that General Vessey will have the "full and undivided support" of the Senate in his forthcoming negotiations concerning our missing in action personnel in Southeast Asia and the other humanitarian issues affecting the United States and Vietnam—the release and resettlement of so-called reeducation camp prisoners who have been incarcerated since 1975, the need for improved arrangements for the U.N. High Commissioner for Refugees Orderly Departure Program, and the need to facilitate the departure of the Vietnamese-American children whose resettlement in the United States is of such special concern.

Mr. President, these are all subjects that are long overdue for resolution. The time has come—more than 12 years after the Communist takeover—nearly 15 years since the agreement that ended the conflict—to put these subjects behind us, so that we can get on with the broader issues that continue to divide us.

On April 30 of this year—the anniversary of the United States withdrawal from Vietnam—I joined with Senator HATFIELD and a number of other Senators in submitting Senate Concurrent Resolution 54—urging the President to send a special representative to Vietnam for these purposes, and calling for the establishment of technical resolution offices in both countries. All of us who have worked on this subject in the Senate are heartened that General Vessey's mission will now take place. The leaders of Vietnam with whom he will meet should know that he carries with him the hopes of the American people, as expressed by their elected representatives, for successful negotiations leading at long last to a satisfactory resolution of the MIA issue, and to substantial progress on the other urgent humanitarian subjects that I have mentioned.

What all these subjects have in common is that with each passing year they become more difficult, not easier, to resolve. Information on our MIA's is perishable, memories fade, and records become harder to retrieve. There are indications that our technical resolution teams that have already visited Vietnam have experienced problems in interpreting information from local people as to the exact location of crash sites and places of burial. Information on such subjects does not improve with age; rather it deteriorates.

There is no sense in prolonging negotiations on MIA's in the hope that over time they will strengthen the hand of one side or the other. Indeed, the MIA issue should be understood by all concerned as a "wasting asset" in terms of any possible usefulness as a "negotiating card." None of the humanitarian issues should to be linked to broader political issues. Indeed, the best way to get on with a political relationship is for the two sides to work together to resolve the humanitarian issues.

The same is true for the reeducation camp prisoners, whose continued detention is of particular concern to many people in my own State of Rhode Island, and throughout the United States. These prisoners are Vietnamese men and youths incarcerated without trials or other legal procedures for their alleged opposition to the Communist regime in Vietnam. Some among them were associated with programs and policies of the government of the former Republic of Vietnam, supported by the United States. Many have wives, children, and other close relatives in the United States.

I have worked closely with the Families of Political Prisoners in Vietnam, the Indochina Resource Action Center [IRAC], and other groups who are appealing for the release of these prisoners. From them and others I have received information about the terrible plight of these men, incarcerated in grim conditions for over a dozen years for "crimes" that have no relation to ordinary issues of right and wrong but relate directly to their political views in the now distant past.

Among the reeducation camp prisoners are writers and journalists, religious workers, and priests, many of them outspoken critics of the past governments in South Vietnam which the Communists have replaced. Their crime such as it is, or was, lay in their courage and independence. Courage in the sense that these were the men who stayed at their posts—as military officers and government leaders, as writers and journalists and private citizens—rather than joining the much larger numbers able to flee as refugees. Independence in their willingness to stand up for their own views regardless of the dictates of a political regime.

Speaking as a long-time and outspoken critic of the U.S. role in Vietnam, I hope that General Vessey will tell the Vietnamese leaders with whom he will meet their refusal to release the reeducation camp prisoners after so many years stands as a black mark on the image that Vietnam seeks to present to the rest of the world. That black mark could be removed if Vietnam would now carry out the act of mercy that their leaders promised 5 years ago when they said they would release the reeducation camp prisoners if the United States would accept them.

Since September 1984 the United States has been on record in agreeing to receive the prisoners. The admission numbers and funds to make this possible have been provided for in various congressional authorizations. Any shortfalls in these authorizations would be swiftly remedied, I am certain, if the prisoners were released and enabled to come to the United States and other countries willing to receive them.

American concern about the reeducation camp prisoners was previously memorialized in Senate Resolution 205, submitted by our distinguished colleagues, Senators KENNEDY and DOLE, which I also had the privilege of cosponsoring, which was approved unanimously by the U.S. Senate on May 1, 1987.

That resolution states what I have stated here today: Thousands of these prisoners continue to be detained in Vietnam more than 12 years since the end on the war; Vietnam previously offered to release them to be resettled abroad with their families; their release now is a matter of urgent priority.

An editorial in the Washington Post published the same date this resolution was approved—May 1, 1987—contains this statement from the family group working for release of these men: "We do not think that belonging to a vanquished regime is a crime. But even if our relatives have committed 'crimes' under the new government's law, we think 10 years of imprisonment is enough punishment for those who have sinned." If they have sinned.

There is no political ambition in such a statement, no defiance of Vietnam's leadership, not even the reasonable insistence that many of the men incarcerated in the "reeducation centers" themselves disagreed with previous governments of Vietnam—the very governments that the Communists have replaced. What is being asked for is simply an act of mercy, overdue perhaps, but an act still timely if it would be carried out soon.

The Government of the Socialist Republic of Vietnam has started a period of renewal and policy review in 1987, following the well-publicized party conference in Hanoi last December. Those who follow Vietnamese affairs have been led to expect that the new, more youthful leadership of Vietnam would seek to bring Vietnam into closer relations with other countries throughout the world, including the United States. I can think of no more appropriate way for Vietnam to signal such new directions than to act quickly and unconditionally to release the reeducation camp prisoners and allow them to resettle abroad with their families.

The same is true for the Orderly Departure Program in general, and for the special cases of the Vietnamese-American children about whom there is such keen interest in our country. These are all humanitarian issues left over from the war that should be resolved now.

In the case of the Amerasians, even the youngest are now grown teenagers; the older ones are in their twenties, in many cases continuing to experience the discrimination and prejudice to which they have been subjected since childhood as the "mixed-blood" children of American fathers and Vietnamese mothers.

Mr. President, I ask unanimous consent that the texts of Senate Concurrent Resolution 54 and Senate Resolution 205 be printed in the RECORD at this time, with the text of the Washington Post editorial of May 1, 1987, to which I have referred. I also ask to have printed the text of a letter that Senator KENNEDY and I sent to General Vessey yesterday expressing our personal support of his mission, with particular attention to the plight of the reeducation camp prisoners.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. RES. 205

Whereas twelve years have passed since the end of the Vietnam war, yet thousands of Vietnamese remain held as political prisoners and many thousands more divided from their families in the United States and other countries;

Whereas the Government of the Socialist Republic of Vietnam has a responsibility to observe international standards of human rights;

Whereas the Government of the Socialist Republic of Vietnam has committed itself to releasing political prisoners to be resettled abroad; and

Whereas the Government of the Socialist Republic of Vietnam signed an agreement with the United Nations High Commissioner for Refugees to assist in the reunification of families: Now, therefore, be it

Resolved by the Senate, That the Government of the Socialist Republic of Vietnam should immediately release all political prisoners held as a result of their previous association with the Government of South Vietnam prior to 1975;

That the Government of the Socialist Republic of Vietnam should fulfill its commitment to negotiate their humane resettlement abroad or to rejoin family members outside of Vietnam; and

That the Government of the Socialist Republic of Vietnam should immediately resume processing of family reunification cases under the United Nations High Commissioner for Refugees' Orderly Departure Program.

SEC. 2. The Secretary of the Senate shall transmit a copy of this resolution to the President.

S. CON. RES. 54

Whereas twelve years have passed since the end of the Vietnam War, and it is in the best interests of the United States to put the War behind the Nation;

Whereas the United States is deeply committed to the resolution of the many pending humanitarian issues which are a legacy of the Vietnam War and which cannot be quickly and finally resolved without increased cooperation and open channels of communication between the United States and Vietnam; and

Whereas unresolved humanitarian issues affect people in both countries and range widely, including the fullest possible accounting of American MIAs and POW's; the release of political prisoners in Vietnamese re-education camps; the rejuvenation of the emigration procedures for Vietnamese through the Orderly Departure Program; the resettlement of Amerasians still in Vietnam; and the health and safety of Indochinese refugees living in camps throughout Southeast Asia, particularly along the troubled Thai-Cambodian border: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that the President should designate and send to Vietnam at the earliest practicable date a special Presidential representative to negotiate with the Government of Vietnam for—

(1) an agreement for the speedy resolution of all the aforementioned outstanding humanitarian issues between the two countries; and

(2) an agreement for the establishment of technical resolution offices in the capitals of both countries for the purpose of implementing the agreement described in paragraph (1).

SEC. 2. The Secretary of the Senate shall transmit a copy of this concurrent resolution to the President.

[From the Washington Post, May 1, 1987]

HANOI'S BROKEN PROMISE

Just three years ago the communist government of Vietnam promised to release to the United States all the Vietnamese still incarcerated in "reeducation camps" as a result of their service in the South Vietnamese regime associated with the Americans. Three years later, not a single one of these unfortunate people has been released and allowed to leave the country with their dependents under the amnesty pledged at that time.

These several thousand Vietnamese are the senior people remaining from a larger group caught up after the fall of Saigon in 1975. They were not accused of committing war crimes in the usual sense. They had simply held official positions in civilian and military branches under the old order. They are political prisoners, and they have endured an unimaginable ordeal in the camps. Says Khuc Minh Tho, the leader of a support group of their kin in the United States: "We do not think that belonging to a vanquished regime is a crime. But even if our relatives have committed 'crimes' under the new government's law we think 10 years of imprisonment is enough punishment for those who have sinned."

Soon after then premier Pham Van Dong promised to free the prisoners, reports started being heard of Hanoi's provocative demand that the United States put a political leash on the prospective new arrivals to keep them from somehow acting against Vietnam. But it is extremely farfetched to imagine that these people could, even if they would, add any discernible weight to the political scales—scales on which the Vietnamese presence in the United States rests very lightly in any event. More recently, Hanoi has simply refused to address the question of the prisoners, and it altogether stopped permitting the emigration even of non-prisoners in January 1986.

In December 1986, Hanoi started a process of leadership renewal and policy review whose significance for matters like this one remains to be demonstrated. Still, if there is any inclination in Vietnam to signal that things are changing, the authorities should consider that nothing would come through to Americans more clearly—along with a resolution of the MIA issue and an end to the occupation of Cambodia—than the prompt release of political prisoners. Hanoi's current policy stands as a glaring example of Vietnamese bad faith.

U.S. SENATE,
Washington, DC, July 27, 1987.

Gen. John W. Vessey,
U.S. Army (Ret.), the Pentagon,
Washington, DC.

DEAR GENERAL VESSEY: We are pleased to learn you are leaving tomorrow to meet with representatives of the Government of Vietnam, and they have agreed to discuss with you, the issue of our missing-in-action personnel as well as other humanitarian issues that remain in the aftermath of the Vietnam war.

We hope your mission will be a success, not only in obtaining a further accounting of our MIA's, but in laying the basis for progress on other humanitarian problems. Although these other issues are not, and should not, be connected to the MIA issue, we obviously believe, as you and others in the Administation do, that progress in one humanitarian area may contribute to progress in others.

In particular, we are concerned over the continuing plight of the so-called "re-education camp" political prisoners who continue to be detained in Vietnam some 13 years after the war ended. Many of the prisoners, as you know, are held because of their past association with programs and policies of the former government of the Republic of Vietnam supported by the U.S. government. Their number is now estimated at 6,000, the remainder of much larger numbers originally detained.

Between 1982 and 1984 the Vietnamese government repeatedly offered to release these prisoners if the United States would take them. In September 1984 the Secretary of State in testimony to the Congress gave such a commitment. We understand that remains our policy and we are confident it continues to have Congressional support.

Some of us recently introduced legislation in the Senate (S. Con. Res. 54) that called on the President to send a special presidential representative to resolve these humanitarian issues with Vietnam, and we welcome your designation for this important mission. In addition, the Senate on May 1 unanimously approved a resolution (S. Res. 205) calling particular attention to the plight of the "re-education camp" political prisoners and urging that they be released and permitted to be resettled abroad with their family members. Copies of both resolutions and the accompanying discussion are enclosed for your information.

We are also concerned over the need to sustain progress that has been achieved recently in getting the Orderly Departure Agreement resumed—which contributes immeasureably in assisting the reunification of Vietnamese families divided for many years. Again, while this is not the focus of your current mission, we believe the Vietnamese should be encouraged and supported in the new initiatives they have been willing to undertake in this area, and to build upon them.

Again, we wish you well in your humanitarian mission and simply wanted to let you know of the strong, bipartisan support that exists in the Senate in addressing these issues—as reflected in the passage and cosponsorship of the enclosed resolutions.

With best wishes,

Sincerely,

CLAIBORNE PELL,
Chairman, Committee on Foreign Relations.
EDWARD M. KENNEDY,
Chairman, Subcommittee on Immigration and Refugee Affairs, Committee on the Judiciary.

Mr. PELL. Mr. President, I urge that the Senate act swiftly this morning to approve the resolution before us to assure General Vessey of our support for his humanitarian mission to Vietnam.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Does the Senator from Arizona yield time?

Mr. McCAIN. Mr. President, I yield 2 minutes to the distinguished Senator from Minnesota [Mr. BOSCHWITZ].

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 2 minutes.

Mr. BOSCHWITZ. Mr. President, General Vessey came and met with me as he so often does when he comes to Washington. He is a fellow Minnesotan and we got to know each other quite well over the years. He described the journey he is undertaking to Vietnam for the purpose of finding those American prisoners of war missing in action who still are unaccounted for.

Mr. President, today we are expressing our collective support for Gen. John Vessey, who is about to meet with officials in Hanoi to discuss humanitarian issues important to the people of both the United States and Vietnam. Of utmost concern is the continuing effort to provide a full accounting of those Americans still missing in Southeast Asia.

Most of the 2,413 Americans missing were last seen in Cambodia, Laos, and China before we withdrew our Forces in 1975. I strongly agree with the President that the return of these Americans is an issue of highest national priority and am also in full support of his pledge for decisive action to ensure their release. The President's decision to appoint General Vessey as a special envoy for MIA/POW affairs is a welcome step in furthering our efforts to determine the fate of those still missing and secure the release and return of recoverable remains.

In his remarks at the Memorial Day ceremony honoring the Vietnam Unknown Soldier, President Reagan stated that "An end to America's involvement in Vietnam cannot come before we've achieved the fullest possible accounting of those missing in action." Working for the fullest accounting of those still missing is the least we can do. Unfortunately, since the end of the Vietnam war 12 years ago, we have found that this task is not an easy one.

Our relationship with Vietnam is by no means easy to predict and of course much of our effort on the MIA/POW issue requires the assistance of the Vietnamese Government. We have had a difficult "on again/off again" relationship with Vietnam, which makes consistent progress very difficult. Before Vietnam decided to address the MIA/POW issue separately as a humanitarian effort, apart from unrelated political matters, we saw little progress. Since then, much to our benefit, we have seen the level of cooperation between our governments increase.

The announcement earlier this month that General Vessey would be permitted to meet with Vietnamese leaders in an effort to resolve this difficult issue is a sign that Vietnam's earlier hesitation and unwillingness to help has been set aside. We can only hope that Vietnam will see the humanitarian benefits, which includes compassion for the missing servicemen and their families, of continued cooperation.

Mr. President, I am especially pleased that Gen. John Vessey, former Chairman of the Joint Chiefs of Staff and a fellow Minnesotan, will head the U.S. delegation to Hanoi. Upon retiring last year from a successful military career, General Vessey returned to his home along Lake Mille Lacs in northern Minnesota. Just last week I spoke to him about his brief respite back home and the responsibilities and challenge of his new position.

In an effort to ensure that our Government does all in its power to resolve this important issue of POW's and MIA's in Southeast Asia, I rise in strong support of today's resolution unifying our support behind General Vessey in his upcoming negotiations.

The PRESIDING OFFICER. Who yields time?

Mr. DOLE. Mr. President, I want to join my colleague from Arizona in supporting this resolution. No one in this Chamber lends more credibility to the POW/MIA issue than JOHN McCAIN. I am sure he knew many of these missing Americans—and I want him to know how special it is for me to see him, here on the Senate floor, highlighting the administration's efforts to obtain the fullest possible accounting of our MIA's.

VESSEY LEAVING

This full accounting has been, as President Reagan has said many times, "A matter of the highest national priority." It is clear that this President has retained that resolve and Jack Vessey's mission to Hanoi today is a continuation of the administration's total commitment to determine the fates of these American heroes once and for all. A grateful nation owes its continued concern to the memories of these men who sacrificed so much—and to their courageous families as well.

THE VIETNAMESE

We have never deviated from that concern—yet the Vietnamese seem to run hot and cold on their seriousness to further this humanitarian issue. Their lack of cooperation since last fall has all but vitiated their 1985 commitment to resolve the POW/MIA issue within 2 years. We know, and they do as well, that this single humanitarian issue could be solved relatively quickly with good faith and cooperation on both sides. Every time this issue has been linked to strategic or political matters, it has suffered as a result. Yet, it is plain that resolution of the fates of our missing men could position the Vietnamese for future improvement of relations.

MISSION TODAY

The United States is ready, the families are ready, and clearly Jack Vessey is ready to see the POW/MIA issue to its successful conclusion. Much effort has proceeded this mission leaving today; more hard work will be necessary. We, the Senate, should clearly go on record today as being 100 percent behind Jack Vessey and his mission to Hanoi. We should join with our Arizona colleague, who suffered tremendously as a result of service to his country, in calling on the Vietnamese Government to cooperate fully with the Vessey mission.

Mr. DECONCINI. Mr. President, I commend my colleague from Arizona, Senator McCAIN, for submitting this resolution expressing the body's full and undivided support for General Vessey's mission to Vietnam to discuss the POW/MIA issue and other issues of humanitarian concern dividing our two governments.

Mr. President, no Member of this body has a more personal stake in the final resolution of the POW/MIA issue than Senator McCAIN who spent more than 6 years as a prisoner of war in Hanoi. While he will deny it, I believe all of his colleagues consider Senator McCAIN a hero for the courage he exhibited during those many months of torture and deprivation. That courage is the most eloquent testimony possible of the importance of finding a resolution to the POW issue which continues to cause so much pain and anguish for thousands of American families.

In January, 1986, I had the privilege of traveling to Vietnam with Senator MURKOWSKI and Congressmen BOB MCEWEN and MIKE BILIRAKIS. The MURKOWSKI CODEL was the first bipartisan delegation to travel to Vietnam since the cessation of hostilities. Our purpose was to underscore the importance that the Congress and the American public placed on the resolution of the prisoner of war issue. Our trip was followed by a series of nine hearings that Senator MURKOWSKI held as chairman of the Senate Committee on Veterans' affairs. During the hearing process, I spent literally hundreds of hours meeting with individuals, family members, a wide array of interest groups, and U.S. Government officials, both past and present, to get a realistic historical perspective on what actions had been taken by our Government since the end of the war and what actions seemed most appropriate to take 12 years later.

From the voluminous testimony which was presented to the committee, I think there is little room for argument that the POW/MIA issue was put on the back burner of our national agenda for many years. At best, our actions can be described as apathetic and that attitude pervaded the Government bureaucracy. Quite simply, I believe we wanted the dark and divisive days of the Vietnam war behind us. As a result of Government inaction, the families of our POW's felt abandoned, frustrated, and devoid of confidence that our Government had either the desire or the resolve to confront this issue.

Fortunately, President Reagan, to his credit, raised this issue to one of our highest national priorities. His selection of General Vessey, the former Chairman of the Joint Chiefs of Staff, to act as his personal envoy to Vietnam to negotiate on the issue of our POW/MIA's underscores the importance that he personally places on this issue and that commitment will not go unnoticed by Vietnamese officials. I commend the President for choosing someone of General Vessey's stature to act as his emissary. Foreign Minister Thach is a tough negotiator, but I believe he will meet his match in General Vessey. I have great faith in General Vessey's negotiating abilities. If anyone can move the Vietnamese off the dime on the prisoner of war issue, I believe it is General Vessey. In addition, I hope that he will be able to move the Vietnamese forward on a number of other humanitarian issues which continue to divide our nations: resumption of the interviewing processes under the U.N. High Commissioner on Refugees' Orderly Departure Program, the resettlement of Amerasian children, the release of political prisoners from Vietnamese reeducation camps, and the repatriation of American remains.

Along with my colleagues, I wish General Vessey every success. I know that he will give this mission his every effort. If the administration and the Congress continue to work in concert on these issues, I am confident that we will meet with ultimate success.

Again, I commend Senator MCCAIN for taking the initiative in introducing this resolution to show the Senate's full and undivided support for the mission of General Vessey.

Mr. CRANSTON. Mr. President, I am delighted to express my strong support for Senate Resolution 255, a resolution submitted last Friday by my friend from Arizona [Mr. MCCAIN] and others to express the full and undivided support of the Senate for the mission of Gen. John Vessey to Vietnam. General Vessey, the former Chairman of the Joint Chiefs of Staff, leaves on his mission today with a goal of entering into negotiations with the Government of Vietnam in an attempt to resolve the fate of Americans missing in Southeast Asia and other humanitarian issues. I know I speak for all of my colleagues and constituents when I wish him great success in his endeavors. As do all Americans, I have the greatest sympathy for those families who to this day cannot be certain about what has happened to their brothers, sons, or fathers.

Mr. President, I agree completely with the view of the Senator from Arizona [Mr. MCCAIN] that it is vital that the Government of Vietnam understand that the American people, as well as the various branches of our Government, are in complete accord on the need to resolve the very difficult, very emotional issues surrounding the fate of our missing in action as quickly as possible and that we also are in full agreement that a fair resolution of these issues, on a humanitarian basis, is critical before there can be any consideration of moving forward in any other areas involving the relationship of our two countries. The Government of Vietnam must not be in the slightest confused in this regard. We, as a nation, are resolute on these points.

As chairman of the Veterans' Affairs Committee, chairman of the Subcommittee on East Asian and Pacific Affairs of the Foreign Relations Committee, and as a member of the Intelligence Committee, I am keenly aware of the many efforts that have been undertaken and that are underway at present to try to resolve the MIA issue.

In the last Congress, the Veterans' Affairs Committee held a series of hearings on this subject. These hearings dealt specifically with the issue of live sightings of American POW's in Southeast Asia. Although those hearings helped shed more light on this very troubling issue, they did not yield any concrete information about POW's in Southeast Asia on which action could be taken.

Mr. President, although this lack of information was very disappointing, I have not abandoned my efforts in this area. I am in regular contact with the Department of Defense to follow the actions our Government is taking in response to the reports of live sightings of Americans in Laos and Vietnam. I view Vessey's mission as a vital initiative in our ongoing efforts, and was privileged to meet with him this past Friday to discuss his plans for the effort.

It is very important to bring to light all possible information about the issue of whether any U.S. service personnel remain in Southeast Asia, and to take all appropriate steps to obtain a full accounting for each and every one of our MIA's.

Mr. President, I urge my colleagues to give their unanimous support to Senate Resolution 255 and thereby send an unmistakable signal to the Government of Vietnam regarding the unyielding unanimity of the American people on this issue.

Mr. KENNEDY. Mr. President, I join in strong support of this resolution and to commend our distinguished colleague from Arizona [Mr. MCCAIN] for offering it this morning.

Certainly no other Senator in this body understands or feels the issue of our missing-in-action in Vietnam more than Senator MCCAIN. As one who served our country in Vietnam, and who suffered as a prisoner-of-war for many years, he knows the special anguish that families of those Americans still missing in Vietnam feel each day.

No other issue in the aftermath of the war remains higher on our Nation's agenda than receiving a full accounting of our MIA's. It is a goal I have supported for many years, and which I have personally raised with Vietnamese officials, both in correspondence and in delegations I have sent to Vietnam.

This is a humanitarian issue, not a political question, and hopefully the time has come when Vietnamese officials understand that. There are many humanitarian issues that continue to touch the lives of both our peoples, and if we finally approach them with greater mutual understanding of how they affect both our countries, perhaps we will finally see some greater progress in dealing with them.

We know that is the spirit of the mission that the President has asked General Vessey to undertake today.

Yesterday, as Senator PELL has mentioned, he and I sent a letter to General Vessey offering our support for the mission he begins today, to deal at the highest levels of the Vietnamese Government on the issue of a full accounting of our missing-in-action personnel. As this resolution before us this morning states, we all wish him well and that he succeeds in his mission.

Resolving this and other humanitarian issues will be a longer-term process, but this is an important beginning. And we all hope, Mr. President, that the improved climate and higher diplomatic priority that General Vessey's mission represents will help stimulate progress not only on the MIA question, but on other compelling humanitian issues as well.

As Senator PELL and I wrote yesterday, while these other issues are not the thrust of General Vessey's mission today, and should not be connected to the MIA issue, we nonetheless believe that progress in one humanitarian area may contribute to progress in others.

One of those problems are the so-called reeducation camp prisoners who remain detained in Vietnam 13 years after the war has ended. Certainly, few humanitarian issues are more compelling than their plight.

Some 6,000 political prisoners are still being held because of their past association with the former Government of South Vietnam, or because of their association with the United States. Five years ago senior officials of Vietnam offered to release these political prisoners if the United States would accept them. In 1984, before our Subcommittee on Immigration and Refugee Affairs, during our annual consultation on refugee admissions, Secretary of State Shultz did just that: he accepted on behalf of the United States the offer Vietnam had made. Since then there has been silence and no progress.

Many of these political prisoners have family members in the United States, many of whom are now U.S. citizens. So the resolution of this issue is one of concern to American citizens and to the American people.

Finally, we need to sustain the progress that has recently been achieved in resuming the orderly departure agreement, which is necessary to assist families who have relatives in the United States and elsewhere to leave Vietnam safely and in an orderly fashion. The Vietnamese should be encouraged to continue the good faith efforts that have been made on both sides for more progress in this area.

I hope General Vessey's high-level mission will signal the deep importance we attach to achieving progress in resolving all these humanitarian issues.

Mr. President, I am pleased to join in support of the resolution offered by Senator McCAIN, and to commend him for bringing this important issue to the Senate this morning.

And we all hope that General Vessey will succeed in obtaining further information on Americans still missing in action, and set the stage for resolving this issue once and for all.

Mr. MURKOWSKI. Mr. President, today I rise in enthusiastic support of Senate Resolution 255. This resolution expresses the full and undivided support of the American people for Gen. John Vessey's trip to Vietnam as the special Presidential emissary for POW/MIA affairs. This issue has been one of great importance to myself and to the many families of those servicemen who have yet to come home from Vietnam. The fate of those American servicemen still unaccounted for in Southeast Asia is of the highest priority to President Reagan. I applaud his initiative in sending an individual of General Vessey's stature to duscuss this matter with the Vietnamese. Now is the time to resolve this isue and the many other humanitarian issues that exist between our two countries.

General Vessey travels to Vietnam at an important juncture in United States-Vietnamese relations. Earlier this month the Vietnamese Government called for the reopening of the Orderly Departure Program. The recent resumption of interviews for those wishing to leave Vietnam is a promising sign that the broad range of issues confronting our countries can be resolved. By giving full support to General Vessey, we express our views of the importance of continued communication and cooperation between the United States and Vietnam that will be needed to improve these relations.

Twelve years ago the war in Vietnam ended, and most of our men returned home to continue their roles as husbands, fathers, sons, or brothers. It was a welcome sight to have these men back with their families, but this was not the case for all. Many of our men did not return home. Over 2,400 Americans did not return from Vietnam—over 2,400 are missing in action or unaccounted for. For this reason, the war in Vietnam has not ended for many Americans. Many of the families of those missing live with the hope that their loved ones may still be alive. These families continue to feel the impact of the Vietnam war 12 years after the guns fell silent.

In January of 1986, I traveled to Southeast Asia, along with Senator DECONCINI, as part of a bipartisan congressional delegation to meet with governmental officials in Vietnam, Laos, and Thailand to discuss a broad range of issues confronting our respective countries. As a result of this trip, my interest and knowledge of the POW/MIA issue increased significantly. While in Hanoi, I was able to meet with Vietnamese officials to discuss the issue of live sightings and MIA accountability as well as crash-site excavations. Senator DECONCINI and myself, as well as other members of the delegation, had the opportunity to tour a B-52 crash site on the outskirts of Hanoi which had been recently excavated by a joint United States-Vietnamese team. To myself and other members of the delegation this was a positive sign that increased cooperative efforts between our two countries would be possible in the future.

Mr. President, my journey to Southeast Asia was a sign of progress between our countries in resolving the POW/MIA issue, and I believe that General Vessey's trip could very well be an extension of that progress. Our prayers for a successful journey are with him.

For these reasons, I join with my distinguished colleagues, Senators PELL and McCAIN, and urge adoption of this resolution.

Mr. HATFIELD. Mr. President, the Vietnam war ended more than 12 years ago, but its human ghosts continue to haunt us. Hundreds of brave families in this country—whose husbands and fathers, whose sons and brothers remain unaccounted for—live every day in the nightmare of the unknown. For the hundreds of thousands of brave men, women and children in Vietnamese reeducation camps and in refugee camps throughout Southeast Asia, the nightmare is not the unknown but the known—the violence, the desperation and the hopelessness. And so it is also for the Americans and others who were caught between two sides in a war they did not wage but cannot forget.

As Gen. John Vessey leaves for Hanoi, he carries with him the hope of these people—many of whose names and faces we will never know but who came together to remind us that our responsibility and our suffering did not end when American combat troops withdrew from Southeast Asia. I have a great deal of personal respect for General Vessey, and I know him to be worthy of the trust we have placed in him.

But General Vessey's appointment last February as Special Presidential Emissary for POW/MIA Affairs and his trip to Hanoi are only a beginning. They are the beginning of a journey down a long road. How far we go down that road—how far we go toward resolving the complicated humanitarian problems which remain as haunting and cruel reminders of the Vietnam war—will depend on our political will.

Whether we are talking about MIA's and POW's, political prisoners in reeducation camps, Amerasians, those who have applied to leave through the Orderly Departure Program, refugees in the camps throughout the region or even the horrors of Cambodia, improved United States relations with Vietnam continues to be the only real key. That means diplomacy, creative and energetic diplomacy. And it means political will.

Three months ago, I introduced a resolution urging the President to send a special representative to Vietnam to resolve pending humanitarian issues and to establish technical resolution offices in both countries. I urge everyone who votes for this resolution to consider carefully my resolution. As General Vessey leaves for Hanoi, I urge all of my colleagues to look beyond his trip to the next step.

I hope and pray that the general's trip brings the dawn of a new era in United States relations with Vietnam. If it does, one day soon we may exorcise the ghosts of the war and put them behind us once and for all.

Mr. DURENBERGER. Mr. President, I rise today in strong support of Senate Resolution 255 supporting the efforts of the Reagan administration to get the full truth about those Americans missing in action in Southeast Asia.

In the 14 years since the last American combat troops left Southeast Asia, no issue has been more emotionally charged, more vexing, and more fraught with tragedy than accounting for the Americans still listed as missing in action. When President Reagan came into office, he promised that accounting for these cases was "a matter of the highest national priority." Since that time, he has worked through a number of public and private channels to achieve a resolution of the MIA issue. I know just how seriously this administration took its commitment to resolving the MIA issue from my years on the Senate Select Committee on Intelligence. And this commitment has been reaffirmed many times in public by President Reagan and other officials.

Many Americans have been frustrated by the lack of progress in accounting for the 2,413 MIA's over the past 14 years. But we must all realize that any resolution must involve the Government of the Socialist Republic of Vietnam. It is an unfortunate fact that the United States alone cannot resolve the fate of the American MIA's by itself; Vietnam must cooperate with us in the search for answers.

But while we have sought to keep "humanitarian issues" separate from other policy questions, the Vietnamese until recently insisted on including such issues as the normalization of relations in any discussions on the MIA question. The United States Government has maintained, rightly, that questions such as the resolution of MIA's, release of political prisoners in Vietnam, and the rejuvenation of emigration under the Orderly Departure Program must be adequately addressed before there could be any discussion of normalizing relations.

U.S. persistence and commitment has finally paid off; retired Army Gen. John Vessey, former Chairman of the Joint Chiefs Of Staff and a fellow Minnesotan, was appointed last February to be the Special Presidential Emissary for POW/MIA Affairs. After patient work, including a high-level advance delegation that recently returned from Hanoi, Vietnam has agreed to receive General Vessey for discussion limited to humanitarian issues, including the priority concern of resolving the MIA cases.

The appointment of General Vessey reflects the deep commitment of the Reagan administration on this issue. He is, to my knowledge, the highest ranking official to ever be directly involved in the MIA issue. But his appointment means something special to this Senator—as a fellow Minnesotan, General Vessey is particularly sensitive to the 45 unresolved cases of servicemen from our State. I met with General Vessey last week to discuss his upcoming trip to Hanoi. And I reminded him that among the larger issues he will deal with on his visit, he should remember that there are 45 individuals that are very important to this Senator. For me, the 45 Minnesotans who remain unaccounted for are what I think of when the words "missing in action" are mentioned. For the families of these men, each and every day since they were lost in Southeast Asia has been filled with uncertainty and profound sadness.

I share in the suffering of the families and friends of the Minnesota MIA's. The fate of these men has been unresolved far too long. It is my sincere hope that pending visit by General Vessey to the Socialist Republic of Vietnam will bring the answers to relatives and friends that have been waiting for so long. And as this body expresses its support for the Vessey mission, I want to remind my colleagues of the personal side of this issue—we must not forget that what the Vessey mission is all about is people.

Mr. President, at this point I would like to read the names of the 45 Minnesotans still listed as missing in action into the record:

Harold L. Algaard, John E. Bailey, Charles J. Bebus, Paul V. Carlson, Keith A. Christopherson, William R. Cook, Benjamin F. Danielson, David W. Erickson, Allen E. Fellows, Lawrence D. Gosen, Eugene A. Handrahan, Stephen J. Harber, Richard A. Knutson, Melvin T. Krech, Ronnie G. Lindstrom, Allen R. Lloyd, Lyle E. Mackedanz, Marlow E. Madsen, William E. Mickelson, Jr.

Richard E. Mishuk, Patrick P. Murray, Clinton A. Musil, Sr., Barry A. Olson, Delbert R. Peterson, Trent R. Powers, Michael E. Quinn, Gary L. Rehn, Lavern G. Reilly, Thomas E. Reitmann, John L. Ryder, Richard J. Schell, John R. Schumann, Francis L. Setterquist, Orval H. Skarman, Darrell J. Spinler, Daniel A. Sulander, Roger W. Swanson, William E. Swanson, Dennis L. Toms, Richard A. Walsh III, Richard D. Wiehr, Kurt M. Wilbrecht, and Ronald L. Zempel.

Mr. McCAIN. Mr. President, may I ask how much time I have remaining?

The PRESIDING OFFICER. The Senator has 4 minutes 52 seconds remaining.

Mr. McCAIN. Mr. President, I would like to again express my appreciation to the majority leader and the minority leader for bringing this resolution to the Senate in such a timely fashion.

Mr. President, I ask unanimous consent that the following Senators be added as cosponsors to Senate Resolution 255: Senators DOLE, PELL, HELMS, CRANSTON, MURKOWSKI, BOREN, HATFIELD, DECONCINI, BOSCHWITZ, RIEGLE, SYMMS, SHELBY, HECHT, DASCHLE, GRAHAM, WILSON, SANFORD, GRASSLEY, EXON, MOYNIHAN, HEFLIN, BYRD, DIXON, MITCHELL, THURMOND, and KENNEDY.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCAIN. Mr. President, again I would like to express my special appreciation to the distinguished chairman of the Foreign Relations Committee, Senator PELL, whose involvement in this issue dates back for well over 20 years. His commitment to not only an adequate resolution of those missing in action but other humanitarian issues include that of the tragic reeducation camp situation. I think it is known to all of us and deeply appreciated.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator yields back 2 minutes 45 seconds.

Mr. PELL addressed the Chair.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, I yield 2 minutes to the Senator from North Carolina.

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 2 minutes.

Mr. SANFORD. Mr. President, I ask unanimous consent that my name be added to Senate Resolution 255 as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANFORD. Mr. President, the question of the POW/MIA puzzle has certainly bothered a great many people in North Carolina where we have four very important military installations. This has long been a matter of a great deal of concern to me.

I am delighted now to see that so much progress has been made in bringing closer to solution the nagging questions of our valiant military personnel who are missing in action or who might remain in captivity as prisoners of war in Southern Asia.

We have new hope that the mission of Gen. John Vessey will provide the breakthrough we have been seeking for a number of years.

I join in enthusiastic support and express the hope that this mission goes forward now with great success.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. PELL. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator has 4 minutes 2 seconds.

Mr. PELL. Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been yielded back, the question occurs on the resolution.

The yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from New Mexico [Mr. BINGAMAN], the Senator from New Jersey [Mr. BRADLEY], the Senator from Florida [Mr. CHILES], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KERRY], the Senator from New Jersey [Mr. LAUTENBERG], and the Senator from Illinois [Mr. SIMON], are necessarily absent.

I also announce that the Senator from Alabama [Mr. SHELBY] is absent because of illness in family.

I further announce that, if present and voting, the Senator from New Mexico [Mr. BINGAMAN], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KERRY], the Senator from New Jersey [Mr. LAUTENBERG], the Senator from Alabama [Mr. SHELBY], the Senator from Illinois [Mr. SIMON], would each vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 92, nays 0, as follows:

[Rollcall Vote No. 213 Leg.]

YEAS—92

Adams
Armstrong
Baucus
Bentsen
Biden
Bond
Boren
Boschwitz
Breaux
Bumpers
Burdick
Byrd
Chafee
Cochran
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
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Grassley
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Heflin
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Hollings
Humphrey
Inouye
Johnston
Karnes
Kassebaum
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Kennedy
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McCain
McClure
McConnell
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nickles
Nunn
Packwood
Pell
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Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Rudman
Sanford
Sarbanes
Sasser
Simpson
Specter
Stafford
Stennis
Stevens
Symms
Thurmond
Trible
Wallop
Warner
Weicker
Wilson
Wirth

NOT VOTING—8

Bingaman
Bradley
Chiles
Gore
Kerry
Lautenberg
Shelby
Simon

So the resolution (S. Res. 255) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, is as follows:

S. RES. 255

Whereas fourteen years have passed since the last American combat troops left Southeast Asia, and twelve years have passed since the end of the war in Vietnam;

Whereas two thousand four hundred and thirteen Americans missing in action during our involvement in Southeast Asia remain unaccounted for;

Whereas President Reagan has repeatedly stated that the fullest possible accounting of those Americans missing in action in Southeast Asia is "a matter of the highest national priority";

Whereas the President, the Congress and the American people stand united in supporting continued efforts to account for Americans still missing in action in Southeast Asia;

Whereas other humanitarian issues affecting the people of the United States and Vietnam remain unresolved, including the resettlement of Amerasians still in Vietnam, the release of political prisoners in Vietnamese reeducation camps, the rejuvenation of emigration procedures for Vietnamese who wish to leave their country through the orderly departure program;

Whereas the aforementioned humanitarian issues have caused great hardship to the peoples of both the United States and Vietnam, and it is in the interest of both countries that they be fully and quickly resolved;

Whereas in February, 1987, President Reagan appointed retired General John Vessey, former Chairman of the Joint Chiefs of Staff, as Special Presidential Emissary for POW/MIA affairs; and

Whereas General Vessey will, in the near future, travel to Hanoi to discuss with officials of Vietnam humanitarian issues of concern to both countries; Now, therefore, be it

Resolved, That the Senate—

(1) expresses its full and undivided support for General Vessey in his forthcoming negotiations to determine the fate of those Americans missing in action in Southeast Asia, to facilitate the return of the recoverable remains of those missing in action, and to discuss the remaining humanitarian issues affecting both Nations.

(2) calls on Vietnam to respond positively to the aforementioned concerns of the American people in a humanitarian context.

The preamble was agreed to.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. HELMS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business to extend until 12:15 p.m. today, that Senators are permitted to speak therein for up to 5 minutes each, and that at 12:15 p.m. the Senate stand in recess until the hour of 2 p.m. today to accommodate the two party conferences.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SYMMS. Mr. President, I thank the majority leader for making this time available.

A LOSS TO THE CAUSE OF THE FREE MARKET: THE DEATH OF COMMERCE SECRETARY MALCOLM BALDRIGE

Mr. SYMMS. Mr. President, I rise today with sadness in my heart. It was a real shock to all of us that on Saturday Malcolm Baldrige, our distinguished Secretary of Commerce, was injured and lost his life. He was an American in the first degree.

Mac was born in Omaha, NE, educated in the East, and spent most of his working life in jobs in the East. However, he retained a great affinity for the West and the accident that ended his life attests to that.

Mac was as ardent a supporter of the free market as there ever has been. I saw eye to eye with him on the function of the marketplace. He adamantly opposed subsidies for foreign imports while promoting fair trade practices as the way to achieve a truly competitive marketplace.

His efforts to stop Japan from dumping semiconductors on the American market was typical of his economic philosophy. Mac was one of the driving forces, if not the driving force, behind the semiconductor agreement which addressed and is trying to address unfair trading practices by the Japanese.

Mac believed that only through a competitive marketplace free of foreign subsidies and barriers can American trade prosper. While semiconductor sanctions sought to pry open a closed market, Mac also understood the need to recognize good faith efforts to solve differences. Even now, his Department is involved in negotiations to lift sanctions imposed on Japan for failing to keep the semiconductor agreement.

Despite Mac's dedicated service in Government, he still found time to keep things in perspective by competing in rodeos.

I might add, Mr. President, the former rodeo champion was installed in the Cowboy Hall of Fame in 1984 and will be remembered always not only for his accomplishments in the Reagan administration but also for his skill as a cowboy.

Secretary Baldrige fought unfair trade practices with the same determination and aggressiveness that he roped calves. Even when other Cabinet members were leaving Washington for higher paying jobs, Mac remained loyal to the administration. He was one of the three remaining original Reagan Cabinet Secretaries.

Serving longer than any Commerce Secretary in history, Secretary Baldrige's efforts to steer the American economy away from a protectionist course and toward one of free trade will benefit this country for years to come.

Mr. President, I extend my deepest sympathy to the Secretary's family and friends one and all. We will miss him enormously in this administration and in the efforts that he made for his country. We hope that he enjoys the happiness of big green pastures with lots of calves to rope wherever he is today.

I yield the floor.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS UNTIL 2 P.M.

The PRESIDING OFFICER. Under the previous order, the Senate will stand in recess until the hour of 2 p.m.

Thereupon, the Senate, at 12:15 p.m., recessed until 2 p.m.; whereupon, the Senate reassembled when called to order by the Presiding Officer (Mr. DODD).

Mr. HELMS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Mr. President, I believe the majority leader may have reserved this leader's time this morning.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOLE. Mr. President, I know the Democrats are still meeting. As in morning business I can dispose of this now and save some time later.

BICENTENNIAL MINUTE

JULY 28, 1952: DEATH OF SENATOR BRIEN MC MAHON

Mr. DOLE. Mr. President, 35 years ago today, on July 28, 1952, Connecticut's delegates to the Democratic National Convention, meeting in Chicago, cast their 16 ballots for their favorite son candidate, Senator Brien McMahon. On that same day, as the Presiding Officer knows, Senator McMahon died at a Washington hospital after a battle with cancer.

By the time of his death, Senator McMahon had earned a worldwide reputation as an authority of atomic energy and nuclear weapons. As a freshman Senator, he had been deeply moved by the destruction of Hiroshima by an atomic bomb in 1945. While he saw the military purposes of nuclear weapons, he also believed that atomic energy must be harnessed for peaceful purposes. In 1945, Senator McMahon introduced a resolution to create a special Senate Committee on Atomic Energy, of which he became chairman. This was a forerunner of the Joint Committee on Atomic Energy, which McMahon took over as chairman in 1949.

In these posts, McMahon allied himself with nuclear scientists who opposed the exclusive military control of atomic energy, and helped create a civilian agency, the Atomic Energy Commission, to oversee nuclear power development. As chairman of the joint committee, McMahon then exercised a tight congressional oversight over the AEC, and became one of its strongest advocates on Capitol Hill. Senator McMahon supported research into new nuclear weapons, and was a leader in the fight to develop the hydrogen bomb. At the same time, he advocated a number of disarmament and arms reduction proposals. In 1951, despite the intense cold war atmosphere, McMahon won passage of a congressional resolution declaring America's desire for peace and friendship with all people. His death the following year deprived the Senate of its leading authority on atomic energy.

MALCOLM BALDRIGE (1922–1987)

Mr. DOLE. Mr. President, today I honor the memory of a good man whose untimely passing this weekend stunned and saddened all of us. I know my colleagues—Republicans and Democrats—agree with me that Malcolm Baldrige was a remarkable member of President Reagan's Cabinet.

He was a friend; a dedicated public servant who I admired; and a loyal member of the President's team who earned the respect of Republicans and Democrats on Capitol Hill.

We saw Mac a lot up here. He made a point of maintaining close and cooperative relations with the Congress and as I have indicated with Members on both sides of the aisle. That was his way: Hard work, integrity, and the willingness to sit down and work out differences—he never ducked the tough issues.

He was just the sort of person we ought to have handling executive departments—someone who has made his mark in another field, understands life and values outside Washington, and is willing to lend his talents to public service.

He never lost sight of his roots—from his businessman's background to his cowboy spurs. He will be greatly missed.

Mr. President, I know my colleagues join me today in mourning the death of Mac Baldrige; and in sending the Senate's sympathy and prayers to the Baldrige family.

I understand a little later on, if it can be cleared, there will be a resolution submitted on this topic.

Mr. President, I reserve the remainder of my time.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended for an additional 15 minutes and that Senators may speak therein up to 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Carolina.

CONSTITUTIONAL GOVERNMENT

Mr. SANFORD. Mr. President, the Iran-Contra scandal continues to occupy our national attention, and well it should. There are those who contend the hearings are a waste of money, or politically inspired, or overdramatized because of press and television attention. There are those who have written me that there should never have been a Select Committee on Secret Military Assistance to Iran and the Nicaraguan Opposition.

How else should a free and open society conduct its public business? Should a handful of individuals behind closed doors decree that the public ought not to be permitted to know anything about abuses or alleged abuses? Should such individuals then have the power to decree that the press ought to be prohibited from reporting or commenting on such deeds?

That is the way they do it in some countries, and doubtless is the way they would do it in Nicaragua today. How can those who say they oppose the Sandinista government want to do as they would under similar circumstances? How can those who are against dictatorships, against suppressing free speech and free press, against concealing alleged misconduct of the government, possibly be against our free and open public discovery and examination?

We must have these hearings. We must seek all the details, no matter how embarrassing. There has been too much done under cover of darkness.

Lieutenant Colonel North may not be a villain. Certainly the congressional inquiry did not set out to make him one. But neither is he a hero by virtue of the activities under investigation. Anyone who has faced enemy fire in the military service of the Nation is a hero, so Lieutenant Colonel North is a genuine hero by that measure. That was a fact before the activities now being investigated, but that fact, no matter how laudable, does not excuse him from upholding the Constitution and obeying the law.

There is no doubt that Lieutenant Colonel North explained his actions skillfully. There is no doubt that he presented himself in the best possible light. His revelations, however, are not of things of which heroes are made, even if his style was appealingly Quixotic.

What did he do wrong?

First, he withheld information from his Commander in Chief, and misled his Commander in Chief into a trap worse than any he has ever faced.

Second, he clothed himself with Presidential authority and immunity, pled that he did what he did because he was only following orders, and then denied receiving Presidential orders on the most damaging and incriminating part of the episodes.

Third, he substituted his wisdom for that of the Congress, and while it is quite possible that the opinion of one person may be sharper than the combined consensus of any 535 people, that is not the American way. We believe in representative government. We operate under constitutional procedures.

Fourth, he set himself above the law. He showed a willful contempt for constitutional government. There is even a suggestion of petty pilfering for personal use.

Fifth, he misappropriated U.S. Government funds from sales of Government property, and quite illegally spent them without congressional approval, that is what portion was not skimmed off by his confederates. He may even have ripped off or short-changed the Defense Department in the process.

Finally, he snuck incriminating documents out of a Government office, and destroyed other public records while they were being actively sought by the Attorney General of the United States. This might well have been an obstruction of justice, an illegal cover-up.

North is doubtless intelligent, hard working, loyal, inventive, and personable. Those traits are not here at issue. Nor should they obscure what is at issue. Neither is the Contra policy at issue. Individuals do not, in the United States, secretly override the institutional decisionmaking power set forth so clearly in our Constitution.

Suppose every agency and department had some employee who thought and acted as did Lieutenant Colonel North. Would they be seen as dashing heroes? Could a Printing Office clerk mark up a best-selling publication at $20 instead of the authorized $10, and send the difference to the Boys Club of Washington, a splendid organization that our printer friend felt should not have been denied a Government subsidy? The whole Government would be in chaos, just as North has left his own agency.

Secretary George Shultz testified that the secret arms deal:

> * * * galls me. Our guys * * * they got taken to the cleaners. You look at the structure of this deal—it's pathetic that anybody would agree to anything like that. It's so lopsided. It's crazy.
>
> It is totally outside of the system of government that we live by and must live by. * * * You cannot spend funds that the Congress doesn't either authorize you to obtain or appropriate. That is what the Constitution says, and we have to stick to it. * * * That's the only way.

The hearings revealed that Admiral Poindexter did not understand the practices and restraints of free and open governments; or knowing them, nevertheless failed to respect them.

The chief transgression of North and Poindexter was to contend that they were not subject to the law. No one, in America, from President to Army private can claim that status. Their chief failing was to show disdain for the principles of U.S. constitutional government.

What have we learned? The congressional inquiry will result in recommendations to protect us from such disregard of the public trust in the future. Perhaps the National Security Council will be restructured. Surely we have learned again that public business in the United States is best run in the open, or if necessarily covertly run, it must be handled with extreme care if we are to retain the attributes of a constitutional society. Cloak and dagger tactics are not the style of a great, strong, and free people.

William V. Shannon recently wrote about another aspect of the lessons I hope we learned from this unfortunate episode.

His most revealing reminder was the famous failure of Gen. Alexander Haig to grasp the principles of a free people. He had passed on instructions to Attorney General Elliot Richardson to fire Archibald Cox, who refused and resigned. Then Deputy Attorney General William Ruckelshaus refused and quit.

Haig, preplexed, said, "But don't you understand? This is an order from your commander-in-chief."

Shannon answers that question.

I ask unanimous consent that Mr. Shannon's column be printed in the Record.

There being no objection, the column was ordered to be printed in the Record, as follows:

[From the News and Observer, July 18, 1987]

MILITARY VIRTUES SUFFER IN TRANSLATION

(By William V. Shannon)

It is time to send the soldiers back to the barracks.

The United States has begun a descent to the status of a banana republic. Colonels, generals and admirals have been rushing about exercising vast powers, ignoring the constitution and the laws, and lying to Congress and the people.

When their harebrained schemes such as trading weapons to Iran for hostages become known, they don their uniforms, point to their chestful of medals and defy anyone to question their patriotism and their good intentions. If this country is not to go the way of many other countries that have suffered long periods of stupid and criminal misrule by military men, Congress has to insist that only civilians fill civilian offices.

The testimony of Lt. Col. Oliver North underscored the critical importance of restoring a civilian monopoly in the conduct of foreign affairs. North was hopelessly unqualified to work on the staff of the National Security Council. Instead of a balanced judgment and as understanding of foreign affairs, North brought manic energy and a can-do spirit that asked no questions and tolerated no limits.

The very qualities that made North an excellent combat officer in Vietnam made him unfit to be in a sensitive political post: "If the commander in chief tells this lieutenant colonel to go stand in the corner and sit on his head, I will do so."

Asked why he had never inquired of Adm. John M. Poindexter why his memorandums had not been forwarded to the president, he said: "I'm not in the habit of questioning my superiors. If he deemed it not to be necessary to ask the president, I saluted smartly and charged up the hill."

Exactly. The attitude that enables an infantry officer to charge up a hill is invaluable in wartime. It is the attitude that training deliberately instills in soldiers and sailors. But it is not the outlook suitable to conducting the affairs of a constitutional democratic government. Civilian officials are expected to ask questions of their superiors, and to be morally and legally responsible for their own actions.

North's answers are reminiscent of the famous remark of Gen. Alexander Haig when, as President Nixon's chief of staff, he ordered Attorney General Elliot Richardson and then Deputy Attorney General William Ruckelshaus to fire Archibald Cox, the special prosecutor. When they refused, Haig exclaimed: "But don't you understand? This is an order from your commander in chief."

A president is "commander in chief" only to the members of the armed forces. Civilian officials respond to a president's directives in accord with a wholly different tradition. They realize that they owe a president something more precious than obedience;

they owe him their independent judgment. They know they can resist his orders, and if they fail to persuade him, they are free to resign. That is an option that a military man on active duty does not ordinarily have. Haig is a conspicuous example of a military man on active duty who frequently shifted to political assignments at the White House. He helped set the unhealthy tradition in which Poindexter and North have followed.

Every large organization has people with North's extremist personality. The problem is to find assignments for them where the organizaiton can make good use of their qualities and not enable them to get themselves and the organization into trouble. North should have been at Parris Island training young Marines. There his gung-ho personality would have been appropriate.

As a White House staff member, North's lack of common sense and the reckless streak in his personality soon had him deep into committing crimes. He was busily concocting false chronologies, shredding evidence and telling lies.

Patriotism is the first refuge of the military man in trouble. But patriotism and good intentions are no substitute for wisdom and prudence. The Greek colonels thought they were being patriots when they seized Cyprus in 1974, failing to recognize that Turkey's greater strength would soon make the position of the Greek Cypriots much worse. The Argentine generals throught they were being patriots when they seized the Falkland Islands, failing to recognize that Britain's greater strength would lead to their defeat. One could multiply the examples throughout history.

It takes a military man of rare character and insight to exercise political power prudently; it requires a Marshall or an Eisenhower or a de Gaulle. More typically, a military officer, disabled for political tasks by his military training, salutes smartly and marches himself and his country over a precipice.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. BYRD. Mr. President, will the distinguished Senator allow me to interrupt his remarks without his losing the right to the floor?

Mr. WILSON. Yes.

Mr. BYRD. I thank him for that and I apologize for interrupting.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, the distinguished Republican leader and I have been discussing business for this afternoon. We have agreed to proceed with Calendar Order No. 233, H.R. 348. That happens to be the license number of Andy Gump. But, anyhow, it is a good one.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 233, with the understanding that the distinguished Senator from California [Mr. WILSON] will not have his remarks shown as having been interrupted in the RECORD and the distinguished Senator from Nebraska will be able to proceed in morning business as earlier planned. I ask unanimous consent that morning business continue to 2:30 in that event.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. And that, at the end of morning business, I ask that the Senate proceed with the consideration of Calendar Order No. 233.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I thank the Senator from California. I thank the Republican leader for his cooperation.

RETIREMENT OF GEORGE E. SOLOMON, EXECUTIVE VICE PRESIDENT AND GENERAL MANAGER ELECTRONICS AND DEFENSE SECTOR TRW INC.

Mr. WILSON. Mr. President, on August 1, 1987, George E. Solomon will retire as executive vice president of TRW Inc. and general manager of the company's electronics and defense sector following a 33-year career.

Dr. Solomon was born and raised in Seattle, WA, and received a bachelor of science degree in aeronautical engineering from the University of Washington in 1949. His college career was interrupted by service in the U.S. Army during World War II. In 1949 he entered the California Institute of Technology, and earned a M.S. in aeronautics in 1950 and a Ph.D. in aeronautics and physics—magna cum laude—in 1953.

Dr. Solomon has had a distinguished career as a scientist, manager, and business executive. His career encompasses a broad range of activities, from his pioneering work in the Nation's ballistic missile and space programs, to leadership of more than 28,000 men and women in one of America's largest aerospace corporations.

Joining the guided missile division of the Ramo-Wooldridge Corp. in 1954, Dr. Solomon conducted research into the dynamic motion of reentry bodies and on the theory of ablative heat shield cooling. These experiments contributed to the successful design of the reentry vehicle for the first U.S. intercontinental ballistic missile.

A major contributor to the Nation's space program, Dr. Solomon directed the system design of some of America's earliest spacecraft, such as the early Pioneers and Able, launched in 1958 and 1959 respectively. He also led early experimental research into the effect of high energy particle radiation in space on the surface properties of materials and solar cells, and he supervised the system design of the Pioneer interplanetary spacecraft and the Vela nuclear detection satellites.

Dr. Solomon's career at TRW has been marked by a series of increasingly responsible management positions. Over the years, he has been a member of the technical staff, a director, and vice president of various business units, including TRW defense and space systems group, which he managed from 1971 to 1981. In 1981, Dr. Solomon was elected executive vice president of TRW Inc., and appointed general manager of the company's electronic and defense sector.

Active in professional organizations, Dr. Solomon is a member of the NASA Space Program Advisory Council as well as the prestigious National Academy of Engineering. He is former chairman of the aeronautics and space engineering board of the National Research Council, a member of the board of governors and the executive committee of the Aerospace Industries Association, and of several honorary fraternities.

Through his example, he has helped set high standards of professionalism throughout the aerospace industry. His is truly an exemplary career, and one that has expanded our scientific and technical knowledge and helped maintain America's freedom and security.

I want to express my personal thanks to him as well as the thanks of his Nation for a job well done. I know that my colleagues join me in wishing Dr. Solomon well as he retires from TRW.

The PRESIDING OFFICER. The Senator from Nebraska.

DEATH OF COMMERCE SECRETARY HOWARD MALCOLM BALDRIGE

Mr. KARNES. Mr. President, I send a resolution to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, the clerk will report.

The assistant legislative clerk read as follows:

> A resolution (S. Res. 256) to express the sorrow and regret of the Senate on the death of Howard Malcolm Baldrige.

The PRESIDING OFFICER. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the resolution.

Mr. KARNES. Mr. President, I am offering a resolution today to express my deep regret over the tragic accident this past Saturday of Commerce Secretary Malcolm Baldrige, Jr. I would also like to offer my deepest sympathy to the Secretary's family. The death of Secretary Baldrige is a great loss to our country, to the administration, and also to the State of Nebraska in which he was born.

Secretary Baldrige was born in Omaha on October 4, 1922. He spent much of his early life on a ranch in western Nebraska before he left for the Hotchkiss School in Connecticut. He continued to return home even later, as he was earning his bachelor of arts degree in English at Yale University. His father, Malcolm Baldrige, Sr., was a lawyer in Nebraska for many years, and was elected to the Nebraska Legislature in the 1920's. Malcolm Baldrige, Sr., later represented Nebraskans in the 72d U.S. Congress form 1931 to 1933.

Mr. President, the people of the United States have lost a leader. His various political accomplishments began in Republican politics in the State of Connecticut.

Among Secretary Baldrige's other significant accomplishments are his award from the University of Nebraska at Omaha of an honorary doctor of letters degree in 1985. While he was reshaping Scovill Manufacturing Co., a brass and aluminum manufacturer, as its chief executive officer, Secretary Baldrige held directorships in several other companies, including AMF, Inc., Connecticut Mutual Life Insurance Co. of Hartford, Bendix Corp., IBM Inc., Eastern Co., and Uniroyal, Inc.

Secretary Baldrige was also active in many community organizations, he was a fine athlete and a colorful rodeo champion. With his longtime friend Jack Roddy, he set a steer roping record of 7.5 seconds on the professional rodeo circuit in 1970.

Secretary Baldrige's death comes at a particularly precarious time in light of the significant trade legislation we are currently considering in Congress. His views and principles, and his unique style, have been a great influence on our current trade policy.

Secretary Baldrige pushed hard throughout his 6-year tenure against unfair trade practices that hurt American sales abroad. Under the pressure of 6 years of record trade deficits that sapped the United States' economic growth, he played a major role in changing the administration's trade ideology from advocating free trade to endorsing fair trade.

The Secretary claimed that he was neither a monetarist nor a supply-sider, but rather drew his outlook from a combination of economic theory and his extensive business experience. Soon after his appointment as Commerce Secretary, he was quoted in a Congressional Quarterly interview as saying that his "priorities would be working on the problem of productivity, helping to increase our exports, and trying to get rid of excessive Government regulation." He pushed for action to weaken the dollar because its high value hurt American businesses abroad. When, in 1985, the Secretary of the Treasury started a coordinated policy with Japan and Germany to bring the value of the dollar down, Secretary Baldrige also pressed for a tougher stance against unfair trade practices. This stance was adopted in 1985. Many among this group of distinguished Senators admired Secretary Baldrige for his willingness to fight against business, labor unions, and Members of Congress in order to steer our country away from what he considered to be a dangerously protectionist course.

Just 10 days before his death, Secretary Baldrige warned that growth in global trade barriers would be a major setback to the economies of the United States and the world. He claimed that one of his greatest accomplishments was leading the fight to ease restrictions on high technology sales to China and India.

Secretary Baldrige had an individual and very effective management style. He was convinced that business practices could be successfully applied to Government. For example, at the Department of Commerce, he tried especially to introduce "management by objective"—devising plans to meet specific goals. "Leadership hasn't changed much since man came to Earth," he claimed. "But one necessary ingredient is to have a firm idea of where you are going."

Secretary Baldrige was, in fact, a man of firm convictions. I am sure that no one will forget his 1981 memorandum to the employees of the Commerce Department instructing them to avoid the traditional "bureaucratese" that had come to appear on almost every letter that passed through his office. The Secretary informed them that, thereafter, language from the Commerce Department would have to be proper and simple, with short sentences, no unnecessary modifiers, and defined by him as being "halfway between Ernest Hemingway and Zane Grey." His colleagues at the Department explain how all the word processors were programmed to catch any unacceptable phrases or words, including, for example, the commonly used term "interface" and, more appropriately, the phrase "untimely death." The Secretary pointed out that no death could really be considered "timely," as we can all attest to in this case.

The Secretary, through his strong convictions, greatly improved the operation of the Commerce Department. By the end of his first year in office, Secretary Baldrige had cut his Department's budget by about 40 percent. At the same time, he expanded its analytical and economic forecasting roles, among other functions, establishing a Bureau of Competitive Assessment to calculate where each industrial sector will stand by 1990 in worldwide competitive relationships. He brought to the Commerce Department a global approach which will facilitate the job of his successors.

On a personal level, Malcolm Baldrige was known for his integrity. As a writer for the Washington Post so aptly stated:

> Malcolm was one of those rare public people who have—and retain—a set of strong private values and interests while they are at the top of Government, a man who had an individual identity that could not be swayed or otherwise affected by the glories of office; one of those few people in the administration who spoke with real knowledge of the importance of performance on the factory floor, and of the necessity of strengthening American manufacturing. He knew that this country's prosperity and strength depend ultimately on the skill and quality of its manufacturing. That was the public issue about which he felt most strongly at the time of his death.

Omahans also knew Secretary Baldrige for his strong values. Del Weber, chancellor of the University of Nebraska at Omaha recalled, "I was struck by his considerable humility. You knew you were in the presence of somebody of considerable stature, without him telling you about it." It is no wonder that Secretary Baldrige spent his summers working as a cowhand on ranches in Nebraska throughout his years of education in Connecticut.

The toughness of the rodeo cowboy came through to his Cabinet position as Malcolm became one of the most influential Commerce Secretaries in history, transferring what had been a second-tier Cabinet position into the mainstream of the Reagan administration's economic decisionmaking.

These are only some of Malcolm Baldrige's many accomplishments, both in and out of office. It is in this light, with regard for his integrity and his strength of character, that I wish to remember Malcolm. I know that my distinguished colleagues in the Senate would join me in expressing a deep regret at the loss of this statesman, and in extending the deepest condolescences to his wife and family.

Mr. President, I yield to the floor.

Mr. BYRD. Mr. President, I ask unanimous consent that morning business be extended for an additional 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WILSON addressed the Chair.

The PRESIDING OFFICER. The Senator from California.

Mr. WILSON. Mr. President, I thank the majority leader for his kindness in extending morning business to allow me to commend my colleague from Nebraska for a very fine statement, and also to afford me the opportunity to try to capture in a few inadequate words something of the personal feeling that I had for Mac Baldrige. The junior Senator from Nebraska has done an extremely capable job of capsuling in a few paragraphs the extraordinary achievements of this extraordinary public servant.

Mac Baldrige was a genuine American classic. He was a great rarity, a man of few words, a man softspoken in public, but a man of remarkable clarity and, as was indicated by Senator KARNES, a man of deep conviction.

The final comment made in his tribute by Senator KARNES was, I think, particularly appropriate. It is ironic that those who deserve our admiration are so frequently people of genuine rather than feigned humility. Mac Baldrige was definitely a man who did not take himself seriously. He took his job immensely seriously. He was, in a very understated way, impatient with the kind of inflated language that did not reflect his own clarity of thought.

The memorandum that he sent to the employees of the Commerce Department urged them to express simply and clearly what it was they meant because he was intolerant of fuzzy thinking and of those who sought to obsure the basic points of any communication. He was never guilty of that himself. If you met Mac Baldrige for the first time, you could not help but be struck by his appearance—tall, lean, with a weathered, handsome face. He looked like a cowboy, the cowboy that in fact he was. But in pinstripe and with the assurance that comes from the kind of quiet self-confidence that he deserved to enjoy, he was at home in a board room, in a Cabinet meeting, as well as sitting on a fence waiting his turn to perform in a rodeo. He looked tough and he was tough minded. He had a discipline that is all too rare in public or private life, but he was also a very kindly man.

On one occasion, I recall his phoning me to see if I could give a little assistance to a cowboy friend who was down on his luck, who needed a second chance, who needed some assistance that I was delighted to be able to give him. This was a man of perhaps no great consequence to anyone else, but to Mac he was a friend, and Mac Baldrige valued him as a friend and took the time and the trouble to make the effort to see if he could help his friend.

And, characteristically, he did so though he had much else on his mind. He was Secretary of Commerce during the time of the greatest turbulence and challenge to America in international trade since Smoot-Hawley. He was, without question, the bold and lonely pioneer who succeeded in moving this administration from a position of simply rejecting protectionism to an aggressive insistence upon trade that was not only free but fair. He recognized that it was not enough simply to preach platitudes about free trade when in fact we were being treated unfairly by our trading partners. And while he urged this administration to undertake retaliation with caution and only where fully justified, when it was in fact warranted, he insisted that we retaliate clearly and decisively so that neither our purpose nor our resolve be in any way misunderstood or questioned by our trading partners.

Mr. President, the immense personal respect that he commanded, whether from those who agreed with him or those who faced him as an adversary across the table, was in fact a rarity. He was a quitely humorous and a good-humored man. He was loyal to his President, even more loyal to principle, most loyal to the fundamental conviction that it was a privilege to serve the American people. He did so ably and admirably. As my colleague from Nebraska has pointed out, he could be quite critical of American business from which he himself came. He recognized that in many cases, U.S. industries had not been competitive. He made no excuses for that. Nor would he allow any pressure group to ever stand in the way of his pursuit of his honest conviction as to what was in the best interest of the American people.

The fact that our trade picture is improving is, I think, attributable more to Mac Baldrige than to any other single individual. He was a realist. He was unsparingly honest, personally and intellectually, and because of that he enjoyed such respect and the affection as to make makes him a rarity even among the best of public servants.

Mr. President, I see that my time has expired. No amount of time, no words I think would permit me to express to this body the heartbreak that I felt when I learned late Saturday night from a member of my staff of the tragic and much too early passing of Mac Baldrige.

I thank my colleague. I thank the majority leader. I thank the President, and I yield the floor.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. Does the Senator wish to extend the time for morning business by unanimous consent?

Mr. EXON. Mr. President, I ask unanimous consent that I be allowed to proceed for not more than 3 minutes in morning business to address the subject that is presently before the Senate.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Nebraska is recognized.

Mr. EXON. Mr. President, I have been listening with interest to the excellent remarks of my colleague from Nebraska and my friend and colleague from California. I am pleased to join as a cosponsor of the message and the thought expressed by my colleague from Nebraska with regard to the tremendously untimely passing of a truly great American. Mac Baldridge, I think, was a friend of all of us. He had that special gift, I suggest, that few of us who seek public office have, that is, to be extremely humble and unassuming in almost everything he did. Indeed, Mr. President, I guess that Mac Baldrige will go down in history for many things, not the least of which he was the first cowboy Secretary of Commerce that the United States ever had, and he was a good one. We will all miss his outstanding contributions. I suggest that those of us who are trying to put through a workable, understandable, nonprotectionist trade bill will especially miss him at this time as we attempt to work out the potential difficulties between the legislative branch and the executive branch, headed by President Reagan, with regard to the trade bill. I know that Mac Baldrige would have been a tower of strength in trying to work out something that would be acceptable not only to the President but the majority of both the House of Representatives and the Senate. I knew him well, possibly not as well as others, but I had great respect for him, and I thought that he was absolutely unique in his ability. He was one of the truly outstanding members of the President's Cabinet.

Our relationship from a family standpoint goes back several years because my wife went to grade school with the former Secretary of Commerce a few years ago in Omaha, NE. As a Nebraskan, we are tremendously proud of his accomplishments. As Nebraskans, we will grieve with his family, the terrible loss that they have suffered with his untimely passage.

Mr. President, I associate myself with the remarks of my colleague, the Senator from Nebraska, and my friend from the State of California. To Malcolm Baldrige, I say, "We will miss you, my friend, Godspeed."

Mr. President, I yield the floor.

Mr. WARNER. Mr. President, I ask unanimous consent that I might proceed as if in morning business on the subject before the Senate for not to exceed 1½ minutes.

The PRESIDING OFFICER. The Senator from Virginia is recognized for 1½ minutes.

Mr. WARNER. Mr. President, the distinguished former Secretary of Commerce, Mr. Baldrige, and his family frequented my State of Virginia on many occasions. They were well known for their pursuits of the equestrian arts. As a matter of fact, I am privileged to serve with Mrs. Baldrige on the Therapeutic Riding Center here in the Nation's Capital, a center which provides equestrian opportunities for the handicapped children in hopes to build a sense of confidence in those children. His is a family devoted to all phases of life in America. We shall miss him dearly. My brother, now serving overseas in a Government post, for many years was associated with the Secretary as a member of his immediate staff of executives in the Department of Commerce.

On behalf of my family, on behalf of Virginians, we express our compassion for the family, and the respect, love, and admiration for a great Secretary.

Mr. MURKOWSKI. Mr. President, the death of Secretary Malcolm Baldrige is an enormous loss to this Nation, one that is felt deeply and personally by those of us who have known and worked with Mac Baldrige over the years.

Mac Baldrige's appointment as Secretary of Commerce brought a straightforward businessman into the highest levels of Government. Beyond his strong and successful background in business and civic affairs, Mac Baldrige brought to the Department of Commerce a well defined belief in the value of common sense and fair dealing. He did not become eclipsed by the bureaucracy, rather, Mac Baldrige demonstrated that his decent, direct approach to problem solving can still make a difference.

I was privileged to work with Mac Baldrige on a variety of concerns, ranging from international trade barriers to issues affecting export commerce of my State and the protection of marine mammals. Without exception, Mac Baldrige was responsive and responsible in his approach. His ingrained sense of decency and integrity made him a special person to work with.

Nancy and I will miss our friend, and we send our prayers to Margaret and their family.

Mr. DODD. Mr. President, with the tragic passing of Malcolm Baldrige on July 25, this Nation has lost one of its most dedicated and insightful public servants.

Mac was a man who brought integrity and vision to his life in public service. Mac was a man who got to the point and found answers in a town famous for avoiding them. Mac was a man of agility and grace who brought a down-to-earth elegance to his work and his life. Mac was my friend and I will miss him.

When Malcolm Baldrige came to the Commerce Department 6 years ago, it would have been easy for him to ride the wave of ideology that had swept the new administration into office. It would have been easy for him to ride the wave and make it business-as-usual over at Commerce—back-seat, parochial, content to toe the line. But it wasn't Malcolm Baldrige's style to sit back and toe the line.

Mac understood that pragmatism rather than ideology was needed not only to vitalize the Commerce Department but also to press the Nation's global trade concerns. His practical experience had taught him that global prosperity could not be achieved if one underestimated the impact of value, quality and efficiency in American manufacturing. He was committed to this country's continuing prosperity and was one of the first to understand that a policy of fair trade was just so many words unless we were also committed to improving the skill of American workers and the quality of American manufacturers.

Mac staunchly defended the notion of fair trade despite criticisms from many quarters. He helped us to understand that free trade does not necessarily involve the acceptance of unfair trade practices any more than protectionist practices help salvage an indisputably uncompetitive industry.

I like to think that Mac's sensitivity to and understanding of American business interests stemmed from his hands-on experience with American manufacturing gained on the floor of the Eastern Malleable Iron Co., based in Connecticut. In 13 years Mac climbed from ironworker to president of Eastern Malleable. In 1962, he took up the reins at Scovill, Inc., in Waterbury, CT, and transformed what was a financially troubled brass manufacturer into a diversified manufacturer of consumer, housing and industrial goods. Under this steady and enlightened leadership, Scovill, Inc. grew to possess 81 plants in the United States and 22 other countries around the world.

After making the leap from Connecticut businessman to Washington policymaker, Mac remained true to what he had learned as both ironworker and CEO. He remembered that ideologies are meaningless unless driven by practical realities. And because of his wisdom, our Nation has been greatly served.

Several years ago, Mac and I were invited to the Deeds Symposium at the University of Hartford to debate the trade issue. Moderated by Teddy White, I think its sponsors eagerly awaited a showdown. Quite frankly, so did I. What had been designed to be a ideological confrontation between the Congress and the administration was nothing of the sort. We were in complete accord and I was struck by Mac's ability and willingness to pierce the thin veils of ideology and propose meaningful courses of action in dealing with our trade problem. As I look back on that day, I am thankful that at long last we have come to understand his counsel.

Connecticut is proud of its deep tradition of public service. With Mac Baldrige's passing, our State mourns the loss of one of its finest citizens—one who contributed so wisely to that proud tradition. We shall treasure his memory and smile knowing we can call him our own.

I extend my deepest condolences to Midge and the rest of the Baldrige family. My thoughts and prayers are with them during this difficult time.

Mr. SIMPSON. Mr. President, America has lost an extraordinary man in Malcolm Baldrige. He was a lovely friend of mine. My wife, Ann, and I have shared some most remarkable times with Mac Baldrige and Midge Baldrige. He will be deeply missed. Tomorrow we will have services at the National Cathedral, and our fine friend and a rector of the Episcopal Church, Senator JACK DANFORTH, will preside. That will be a very meaningful service, I know. And then on Thursday there will be services at his home in Connecticut as we celebrate the life lived. It is sometime difficult in the Christian faith, to "celebrate" a life lived, at a time when one is mourning and yet that is one of the unique aspects of the religion.

He indeed lived a full life, and we hear that one so many times, but this man really did that. He did in every way. He savored it. He participated with great gusto. And he was a chap who was as comfortable with cowboys as he was with kings—maybe even more so. He had a remarkable ability of friendship with everyone. I believe it was Kipling in the poem "If" who said:

> If you can talk with crowds and keep your virtue,
> Or walk with kings—nor lose the common touch;
> If neither foes nor loving friends can hurt you;

Those words had a tremendous import in the life of Mac Baldrige, and yet he was a wise and brilliant man with an education at Yale University, a truly remarkable intellect and common sense, and he did some very great things for our Department of Commerce. I do not know of any finer Commerce Secretary in my time here—and the Senator from Arkansas and I came here together. There have been several Secretaries of Commerce before and since—and no one did it with more spirit and with more lasting and tangible results. He produced—indeed, he did. What he produced was a cohesiveness and a very definite imprimatur of himself on the things that happened in the Commerce Department. He made real strides there, strides with seven-league boots in every way. He had a steady hand and was respected by leaders of all governments of the world.

I have never seen a more vigorous man, and his legacy will be with us for many years to come. There are many things we will all remember Mac Baldrige for. I shall remember him as a friend. We had laughed a lot and talked a lot and told some pretty shaggy stories. He had a marvelous grin, a smile you could see a mile.

I will have an eternal visage of him with that hat, that cowboy hat, scrunched down on his head, and a white shirt and Levis, and the old cowboy boots, and pants hanging at a perilously extraordinary level, nearly defying gravity and with an old western belt. And that was what he loved.

He not only leaves us the legacy of a man of rare peace, rare calm, and rare friendship, but also, in that pixie-like way of his, he has left us another legacy. He took some great strokes against some of the ponderousness of the Washington language. He rigged up his computers in the Commerce Department so that the red light would come on and the thing would clang like something out of Rube Goldberg whenever you used a word like "viable," "input," "output," "effectuate," "facilitate," "specificity"—which ought to light up every dial—"unique"—I do not know why he did not like "unique"—"mutually beneficial," and one combination called "positive feedback." Also, almost any word that ended in "ize"—"utilize," "finalize," and all the rest of those "fuzzy" words.

He said to his staff that he preferred that they use "language halfway between Ernest Hemingway and Zane Grey." He leaves that legacy, too.

So, tomorrow, we will pay our last respects to this marvelous man of great wisdom, great friendliness, and great ability, we will do that in a spirit of celebration, as complex as that may be to define, because I shall mourn him as I also celebrate his life. He will be missed deeply. He was a dear and great man, and his greatness will be even more evident as the years go on: In those things he loved, with his feet in both camps, in the East where he was raised and in the West that he loved; his taproot reached that far. He would share with me that when he was a boy and later he read Zane Grey, Robert Service, Owen Wister, Ernest Hemingway, and Teddy Roosevelt. From those writings came a sturdy and poignant phrase which I guess would be about the finest thing you could say about a cowboy and a man: He died with his boots on.

Now we give him up, and thanks for him.

Mr. PRYOR. Mr. President, it goes without saying that the distinguished Senator from Wyoming has paid a moving tribute to his late, departed friend, Secretary of Commerce Malcolm Baldrige. I say to my friend from Wyoming that his statement is nothing less than pure eloquence.

We have all benefited in the Senate by a great statement about your close friend, I say to the Senator from Wyoming. In doing so, the Senate will support a carefully crafted bill which is very likely to be expeditiously approved by the House and sent to the President for his signature. Should amendments be adopted in the Senate, I understand that the need for a conference with the House would ultimately result. This would also slow down the momentum of the bill. It would delay the effective date of law to create fairness in the Postal Service procedures.

Mr. President, we believe that fairness can wait no longer.

Mr. President, I yield the floor.

Mr. BENTSEN. Mr. President, Malcolm Baldrige took over the helm of the Department of Commerce at a particularly difficult time in international trade and in the life of that department.

As a result of a trade reorganization put into place in connection with the enactment of the Trade Agreements Act of 1979, all authority in antidumping and countervailing duty matters—one of our most important trade laws—had been transferred from the Department of the Treasury to the Department of Commerce.

Congress had lost confidence in the administration of the law in the Department of the Treasury. There was a feeling at the end of the Tokyo round of multilateral trade negotiations that these laws had not been fully enforced, and it was hoped that at the Department of Commerce they would be vigorously enforced.

Moreover, in the Trade Agreements Act of 1979, these laws were greatly complicated both because new concepts had to be introduced in order to implement the agreements that had been reached in the Tokyo round about antidumping and countervailing duty procedures, and because under the Customs Court Act of 1980, these laws were made subject to exacting judicial review.

Therefore, when Malcolm Baldrige took over the Department of Commerce in 1981, he faced a tremendous challenge in this area of trade laws. The record shows that he met the challenge magnificently. Under Mac Baldrige, the total number of cases filed was the largest ever in the history of the antidumping and countervailing duty laws, which stretches back to the 1890's. Business confidence in the fair administration of these laws increased year-by-year, and it has become the most active trade jurisdiction of any of our trade laws. In large part this is because Mac Baldrige was able to convince the business community that the law would be administered without fear or favor, while he also convinced the international community that our law was administered strictly in accordance with international agreements.

Therefore, an American business that was competing with dumped or subsidized imports was in a position to go to the Department of Commerce as administered by Mac Baldrige and be assured that they would get a fair hearing and a remedy regardless of what the President thought or the Department of State thought about trade relations with the country concerned, and the country concerned knew that the law was mandatory, the remedy would be sure and certain if, indeed, injurious dumping or subsidization existed.

Mac always felt that a further reorganization of the Federal Government in trade was necessary and appropriate, but he ran up against opposition both with the administration and in Congress where jurisdictional lines of committees and the lack of full administration backing for his plans postponed these ideas.

As a former businessman, the more I have gotten involved in the trade issue, the more I have learned how much it profits from the experience of business people who are willing to contribute their time to Government service. American trade policy is grounded in the end on allowing profit-making companies to make the best of market opportunities. I never saw Mac more committed about trade policy than when it came to questions of foreign market opening. I do not think any foreign officials in Europe or Japan or the developing world ever had any questions about where he was with regard to market opening. And I cannot help but believe that is because he thought as a businessman that Government's responsibility was to open the market, not to make the market. Most of us believe that is the right mix. There should be tough laws in America—mandatory laws—regarding the opening of foreign markets. But it is the responsibility of American firms and American workers to make the most of those opportunities.

Mr. President, during the markup of the trade bill in the Finance Committee, we held a private meeting with Mac Baldrige to get his ideas on how the trade bill would affect ongoing negotiations in the area of antidumping and countervailing duties. He provided strong leadership in that meeting, and demonstrated to me that through his sincere conviction and his practical knowledge of business affairs, he was influential with the Finance Committee and in Congress generally. We looked up to him as a trusted adviser, and we will miss his services greatly.

Mr. DANFORTH. Mr. President, I wish to take a few moments to pay tribute to Secretary of Commerce Malcolm Baldrige, who was killed in a freak accident this past weekend.

It is appropriate that tribute be given on the floor of the Senate, for Mac Baldrige was a man who was held in singular respect by the Members of this body. He was held in singular respect because he communicated with us, consulted with us, sought out our views and opinions. Mac Baldrige related to the Members of the Senate. He took an interest in our ideas, and he took an interest in each of us as persons. No other Cabinet member, of either political party, in this administration or in the last, has impressed this Senator quite the way that Mac

Baldrige did with his efforts to include the Senate in his own decisionmaking. I spoke with him regularly—and when I spoke with him I came away with the feeling that I had been heard, that he had listened.

Mr. President, Mac Baldrige died—literally and figuratively—with his boots on. He died at a time when his influence on the Nation was at its apex. The Kansas City Times said today that not since Herbert Hoover has a Commerce Secretary left such a mark. I think that is true. Malcolm Baldrige's imprint on this administration's trade policy, on the trade bill that just passed the Senate, and on the goals that this Nation must set for itself in trade will be felt far into the future.

People die while in their ascendency or in their decline. Although it may be little consolation to his family who loved him and to those of us who will miss him, I think that Mac would have recognized the dignity in being called home at the height of his career. As a champion rodeo rider and a member of the Cowboy Hall of Fame. He would appreciate a line from a country song: "I'd rather die while I'm living than live while I'm dead."

Mr. BINGAMAN. Mr. President, I rise today to pay tribute to Malcolm Baldrige.

The Secretary of Commerce, who died over the weekend in a roping accident in California, was a man who was able to transcend political lines and to win universal respect as both a friend and as an official. He was respected and admired on both sides of the political aisle.

Although I did not know him when I came to Washington in 1983 to take my seat in the Senate, he was one of the first members of the executive department to pay me a visit. He was concerned, as I was, about the need for reorganization of our trade policy, and he came to speak with me about what we ought to be doing about it.

He was, in my view, one of the few people in the administration who believed we truly had a serious trade problem, and was trying to do something about it. I believed him to be a key to helping the Congress arrive at a trade and competitiveness bill that would be acceptable to the administration. We will miss him now as that legislation begins to make its way through conference and to the President's desk.

Malcolm Baldrige was the kind of man who went down well with the people of my State. He loved the West and, as a champion rodeo performer, he lived the life of a westerner. He owned a ranch in Mountainair, NM; he was one of us. He was what we in my State would call "the genuine article."

And he was genuine in more than just that. He was a plain-spoken negotiator and a gifted administrator. And perhaps more important than anything else, he was a decent man who dealt honestly with people of all walks of life, no matter what their station. He was an outstanding human being. He will be missed.

Thank you, Mr. President.

Mr. KERRY. Mr. President, I am very pleased to be a cosponsor of Senate Resolution 255, expressing support for Gen. John Vessey in his forthcoming negotiations to resolve the fate of Americans missing in Southeast Asia. I would like to commend Senator John McCain, whose own heroism in Southeast Asia is well known, and Senator Sam Nunn, a champion of our Armed Forces, for offering this important resolution.

General Vessey is one of the most highly respected military officers in recent American history. This report is due in part to the fact that he is one of the few officers to rise to high command after serving in the ranks. He received his commission at Anzio Beach in Italy after most members of his battalion had been killed. More recently, he served his country as Chairman of the Joint Chiefs of Staff.

General Vessey is a very fitting choice for the important mission of conducting talks with the Vietnamese Government over the issue of POW's and MIA's. He will also conduct important talks on issues relating to resettlement of Amerasians still in Vietnam, the release of political prisoners in Vietnamese reeducation camps, the rejuvenation of emigration procedures for Vietnamese who wish to leave their country through the orderly departure program, and other humanitarian issues.

I am pleased that the President has decided to appoint General Vessey as his Special Presidential Emissary for POW/MIA affairs. But I wonder why it has taken the President 6 years to appoint a personal representative to deal with this issue; 6 years is a long time. Many Vietnam veterans, and families of men who served in Vietnam, have been waiting for answers for more than a decade.

Unfortunately, this administration's rhetoric has not matched its record on the issue of POW's and MIA's. Vietnam veterans have waited long enough for answers. This administration has been willing to exploit the issue of POW's and MIA's for political purposes, but it has not been willing to take action to resolve it. I hope that the appointment of General Vessey marks a change in that policy, and I wish him success in his mission.

The Veteran magazine, published by Vietnam Veterans of America, ran a detailed two-part series of the question of POW's and MIA's in its issues of April and May 1987, entitled "POW's/MIA's: What the Numbers Say." I ask unanimous consent that these articles be printed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

POW's/MIA's: What The Numbers Say

(By Alan Pell Crawford)

(A considerable number of M.I.A. families and other patriotic citizens, wanting to help, have been taken advantage of by con men. In addition, there are zealots, running around who, unable to deal with reality, believe they have been chosen by God to facilitate the release of the P.O.W.s. In both cases, the families and friends of P.O.W.s and M.I.A.s lose their money and are dealt a harsh psychological blow . . .

(Sometimes it's a Laotian trying to sell buffalo bones as the remains of an American. Sometimes they will take a human mandible and break it into three or four pieces and try to sell each piece as the remains of a different American. But there are more sophisticated schemes. A number of people go around claiming they are going to bring out American M.I.A.s, asking thousands of dollars for their expedition. Others go about collecting smaller amounts of money—say $300 or $500—that they claim will go for food or medicines for one of these expeditions. And of course the money just goes into the con man's pocket.—Robert Brown, Publisher, Soldier of Fortune.)

Have you talked to Charlton Heston lately? More Americans than you might imagine have heard from the jut-jawed movie star recently—or at least they've been treated to a tape recording of his voice.

Thousands of households have been receiving these phone calls, all part of a national telephone solicitation organized by former New York congressman John LeBoutillier to drum up money for Skyhook II. Named for a communications system by which pilots in distress can receive help in correcting in-flight problems, Skyhook II is LeBoutillier's idea of how to address the ongoing—and very real—problem of America's Vietnam-era MIAs.

Robert Pittenger, the chairman of Mark I Communications, the Bedford, Texas, communications firm handling the solicitation, says LeBoutillier intends to keep the phones ringing until all the POWs have been returned.

LeBoutillier is convinced that there are "between 20 and 253" Americans held against their will in Southeast Asia—an opinion apparently shared by Charlton Heston and President Reagan, among others.

"Many of our men are held behind," Heston announces in the recording. "They're still there to this day. Locked in bamboo cages in the jungle or in caves in the mountains. Some of our men are used as slaves, forced to drag plows in rice paddies."

We "can't forget these men," Heston pleads with his listeners. "We have to bring them home, all of them. . . . They're ours and they're heroes, real heroes."

In a direct-mail, fund-raising package that Skyhook II has also distributed nationally, LeBoutillier lays it on pretty thick, too.

"Starved and clad only in filthy rags, American soldiers and airmen are kept chained in tiny bamboo cages . . . made to work like animals pulling heavy plows . . . forced to toil from daybreak to nightfall in steaming tropic heat . . . kicked and beaten constantly just for their guards' amusement," LeBoutillier writes.

The way to help these men, of course, is to send money. Now. This money, once LeBoutillier counts it, supposedly will be used to fund the efforts of "anti-communist rebels" in Southeast Asia.

All it would take is a "few thousand dollars to set up an operation that would get two or three Americans out of one of those hidden 'horror camps.'"

Just imagine:

Late one evening, as prison camp guards kick and flog a group of our boys along the trail back to their cages, the last few communists in line might be swiftly and quietly dragged into the jungle.

Then, a few seconds later, the bedraggled American P.O.W.s they were guarding might also vanish suddenly from the rear of the plodding group. The Americans, of course, would now be in friendly hands. (We won't talk about the guards' fate.) In a matter of just a day or two, the rescued Americans would be smuggled across the border to our SKYHOOK II PROJECT group in Thailand . . .

In just a few weeks—for a relatively few thousands of dollars—six, ten, perhaps dozens of these abused and forgotten American service men could be brought back to America and allowed to tell their story to the world!

It's an appealing—and politically popular—notion. Early in his administration, the president pledged to make the return of 2,500 soldiers listed as "missing in action" (MIA) in Indochina a matter of "the highest national priority," thereby reversing a full decade of U.S. government policy.

Late last year, John Cardinal O'Connor, the archbishop of New York, apparently unconvinced that the White House was moving fast enough to meet the president's goal, reminded Mr. Reagan of "his continuing commitment to set [the POWs] free."

Thanks to a groundswell of interest in the issue, more than 100 bills and resolutions urging one action or another on POW/MIAs have been introduced in Congress, these on top of countless congressional hearings, two special presidential commissions and any number of private investigative efforts.

And then there are the movies. Sylvester Stallone, Chuck Norris and others have made big bucks rescuing "forgotten" POWs on the Silver Screen—and restoring America's presumably lost honor in the bargain. There's apparently more riding on these escapades, cinematic and otherwise, than meets the eye; as one government official told the New York Times recently, "Somehow the mystery of their disappearance and their deaths have taken on a peculiar life of their own."

In this already perfervid environment, thanks to opportunistic politicians and a wildly irresponsible news media, the idea that American POWs remain in Indochina has become part of the national orthodoxy, a virtual article of faith—regardless of the facts.

An objective look at the data, however, suggests something altogether different. There is, it suggests, no credible evidence whatever that there are Americans held against their will in Indochinese prison camps. And that efforts to persuade people otherwise is both reckless and cruel, giving false hopes to the families of the MIAs while disrupting ongoing government-to-government efforts to account for MIA remains.

It certainly cannot be said that there has been no effort to produce evidence that American POWs remain. Dozens of U.S. delegations, both governmental and nongovernmental, have gone to Indochina in search of such evidence, and countless witnesses including military intelligence analysts, former POWs and refugees, have appeared before congressional panels and presidential commissions; yet, as members of the House Select Committee on Missing Persons in Southeast Asia felt compelled to conclude: "The salient observation to be made is that those who believed Americans were still held captive in Indochina could produce no evidence to substantiate their beliefs." Furthermore, it added: "It is the firm conviction of the select committee that MIA families and the American public have been misled too long and too often by charlatans, opportunists, intelligence fabricators, and publicity mongers, who preyed on the hopes and sorrows of patriotic citizens."

The numbers alone strongly suggest that all Americans that are coming home have already arrived and that the chances of survival of those who are unaccounted for are slim indeed.

On this much, if nothing else, everyone seems agreed. There are approximately 2,500 Americans still unaccounted for in Southeast Asia. The Defense Intelligence Agency says 2,497—1,110 in South Vietnam, 735 in North Vietnam, 559 in Laos, 84 in Cambodia and 9 in China. These, taken together, constitute those officially listed as "missing in action."

The term itself requires clarification since it implies that our government has little or no idea what happened to these men.

In truth, there is very little question about their fate. Most of them, unfortunately, are dead. At the end of the war, the Department of Defense listed fewer than 800 soldiers as either POWs or MIAs. After the war, however, those who were killed in action but whose bodies were never recovered (those designated as KIA/BNR) were added, swelling the ranks by 1,186.

Over 430 of the KIA/BNRs, for example, were Air Force pilots whose planes were shot down over the sea; the bodies of these pilots are considered by the Department of Defense to be "nonrecoverable." In another 647 cases, a "presumptive finding of death" (PFD) was made at the time the serviceman disappeared.

Taken together, then, well over half of the 2,500 MIAs—more than 1,800—are known or presumed to be dead. That leaves fewer than 650 men who, at least theoretically, could still be alive.

Unfortunately, the evidence strongly suggests that even this figure is inflated. The House Select Committee, noting that fully 81 percent of MIAs were airmen, found that the "circumstances of their loss, as well as the survival experiences of those airmen who did return home alive, show that very few, if any, missing airmen may reasonably be expected to have survived."

The chances of survival of a pilot who was lucky enough to parachute to safety and then was captured were still not good. According to the records of Vietnamese communist authorities, 10 percent of those they held died in captivity.

It is not known how many more died of wounds, mistreatment or neglect before entering the DRV prison "system." But one Navy survival study conducted by Biotechnology Research presented in a Q & A format, suggests that a great many probably died of wounds and lack of treatment.

Q. One of the big questions that came up with the release was the fact that there was not a single amputee among the returnees. Based upon your professional experience, how do you explain this?

A. I haven't yet seen a list of those who didn't come back and why they didn't come back, medically. One has to have a feeling that those, particularly in the southern camps, who were so sick that they might lose a limb simply failed to keep up with the Viet Cong in their moves and they are not here. That is an impression, not a fact, derived from any of these figures. This would be one of the explanations for their not being here. What we're seeing here are survivors. We don't see those who didn't live. We know from what the prisoners of war have told us that there were many who did not survive.

Navy commander George Cokey, POW returned alive in 1973, testified:

Why are there no amputees? There's no way in hell an amputee could survive. No way. To do it would take an absolute miracle. Not because of loss of blood; not because they didn't get medical attention; they could do everything in the world for him, and nearly everything else in the world being equal, he would live, but infection is going to kill him. I would not even look for an amputee. [Of the first 116 POWs to return in 1973, 29 were officially listed as sick or wounded. "Some had to be carried on stretchers and even some of the ambulatory POWs had apparent disabilities: severe limps, withered arms and broken limbs. A few managed only dazed or bewildered stares. One hospital official said that some 15 to 20 of the pilots had suffered permanent eye damage and will probably have to be grounded." (Newsweek, 2-26-73, p. 22)]

Suicides and madness also took their toll:

A lot of guys were driven insane. And there's reason to be driven insane. It was a helluva battle for all of us not to go insane. Some guys did not quite make it—they're not totally insane in the sense of a strait jacket, although we had at least two cases of that—but they are so bad that the mind started doing funny things. They may kill themselves. They may stop eating.

Cokey also added:

They might just go off in some oblivious world and just not care about anything. Not take care of their hygiene. Then if the guy loses a lot of weight and gets sick and dies, then you can say he died from natural causes. Well, if that's your opinion, you go ahead and have it. As far as I am concerned the North Vietnamese killed him because of what they did to his mind. They put him in that position. Well, we lost a few guys—this is a handful—five, ten—I'm not being real specific, but it's a small number. There's only going to be maybe 3, 4, 5 percent that died this way all told, so we lost a few there.

Based on such testimony, the committee concluded:

The experiences of rescued airmen and returned POWs does little to contribute to the belief that many airmen now missing in Southeast Asia could have survived. Indeed, the record indicates that possibility is very slight. Death could readily occur at any point in a scenario: from the initial enemy fire on the aircraft, as a result of secondary explosions or fires within the aircraft, or during ejection, descent or landing. If an airman survived those hazards but was injured, the possibility of surviving capture or imprisonment was markedly decreased. In addition, the odds for survival dropped as the distance from Hanoi increased. Again it must be emphasized that the data herein presented are based upon those who did return. This is not to deny the possibility of survival for those who did not return, but only to point out that the evidence does not encourage belief in this possibility.

Vietnam's record of returning America's KIA—three, one year, two, the next, whenever it served that government's political ends—also suggests that Hanoi may have systematically warehoused the remains of U.S. servicemen while denying such a practice. This, too, would account for more MIAs.

And, in 1980, DIA received intelligence reports of a Vietnamese refugee who claimed that, as a mortician in Hanoi, he had personally helped prepare remains of over 400 American KIAs which were then kept in a former POW camp.

DIA "spent a considerable effort to establish the mortician's authenticity," according to Admiral A.G. Paulsen, then DIA's assistant director for collection management, concluding that the refugee had indeed been a government undertaker and that his report "was accurate with respect to the remains."

But there are still more factors to consider. The process by which a serviceman is first designated as KIA or MIA is nowhere near as clear-cut as it might appear; if KIA status is chosen, the designation is final and cannot be reversed.

Significantly, those responsible for that designation—the field commanders—have traditionally erred on the side of sentiment when reporting that soldiers under their leadership are dead or merely missing.

According to Captain Douglas L. Clarke, USN, National War College, in his 1979 National Defense University study, "The Missing Man: Politics and the MIA," the field commander reports his determination to higher authority, the next of kin is notified, the soldier's records are closed out and disbursements made according to military regulations.

The philosophy behind this procedure is simple: no one should have more understanding of the circumstances surrounding a loss than the commander on the scene. No one could weigh all the facts, including those intangible factors that could never be adequately addressed in even the most voluminous report, better than he. Indeed, the local commander can, in fact if not theory, make a finding of death based on little more than institution. This opportunity is a fleeting one, as the on-scene decision maker must commit himself one way or the other upon completion of the organized search.

Each of the services has similar guidelines for commanders; all agree that a soldier can only be designated as dead when there exists "conclusive" evidence of death.

According to Army regulations, which are similar to those of the other service branches, "conclusive evidence of death must be more than an indication of death. The facts must be such that death is the only plausible alternative under the circumstances."

Such guidelines, of course, gave field commanders considerable leeway, and, as Clarke found:

During the Vietnam War there were a number of psychological factors that impinged on the commanders' decisions. The vast majority of the MIAs in Southeast Asia were Air Force and Navy pilots, members of relative small units with considerable esprit. The average commanding officer would have to deal with only a few losses, and each one would be highly emotional experience involving not only the loss of a subordinate officer, but also a friend and colleague. It was not unusual for the commanding officer, particularly in the Navy squadrons, to know the missing man's wife and family, and he would find it difficult not to let these obvious emotional ties cloud his perception to some degree. This filtering could work in conflicting directions over time. As an example, early in the war it was commonly held that the best interests of the man's family would be served by placing all but the most obvious cases in a missing status—if only for financial reasons.

Well acquainted with this situation, the House Select Committee concluded that field commanders showed "excessive optimism" in status determinations and, in part, based their findings on financial considerations. The committee's final report noted that "commanding officers who erroneously or optimistically classified their subordinates MIA did not render a favor to next of kin; instead they did a cruel disservice"—as a number of families are well aware.

Consider the case of Army warrant officer Quentin Beecher, whose helicopter was lost 18 to 25 miles out in the South China Sea after running afoul of violent thunderstorms. There was no water survival gear on the craft, and a two-day rescue effort by Beecher's colleagues was fruitless. Even so, the Army listed the pilot as MIA—and, despite pressure from his family, refused to change that determination.

"I've crashed that helicopter a thousand times in my mind, and under those conditions there isn't any way Quentin could have made it." Beecher's father, a licensed pilot, told The Wall Street Journal.

Interviews with 70 other parents and wives showed a "growing number of families of the missing contend that the military should have mercifully declared their loved ones dead long ago," the Journal found. (Beecher's mother felt "they've just misleading us for their own purposes—as a bargaining ploy for the Paris peace talks.")

As Clarke discovered, this "tendency toward optimistic findings was based on two assumptions: that the war would be of limited duration, and that an accurate accounting of the missing and prisoners would soon take place."

Neither, of course, proved true and the damage was already done: As the select committee concluded, many MIA classifications could with equal justification have been KIA/BNR.

A great many decisions were "tilted in favor of MIA status," the committee found, determining that 40 of the first 53 cases its investigators reviewed could "justifiably have been KIA(BNR) at the outset based on the circumstances known at the time and reinforced by information, or lack of any information, since the loss."

By 1975, though the issue of status determinations remained controversial, the feelings of many families had changed dramatically. The return of the POWs in early 1973, which brought so much joy to so many, only intensified the dismay of those whose loved ones did not come home, because it meant that, under the Missing Persons Act of 1942, the government would begin to conduct automatic status reviews on missing soldiers a year later. In the absence of evidence that they were alive, they would be declared KIA.

It was at this time the MIA issue became fused with that of the POWs; families feared that the government, by declaring their men KIA, would close the books on them. This, they believed, would be intolerable as long as there existed any possibility, however remote, that these soldiers might in fact remain in prison camps.

In July of 1973, five National League of Families of American Prisoners of War and Missing in Southeast Asia members sued in a U.S. District Court to block further status changes from MIA to KIA. Two months later, the court ruled that status reviews could be conducted thereafter only at the request of next-of-kin.

This, too, however, only made some families even more uneasy. "I wish a status review would be held on my husband, however, I will not request one at this time," one MIA wife wrote. ". . . I would be asking that he be declared dead—something I feel would have psychological implications for my children and my husband's parents. Furthermore, I resent being put in that position by the military services—it is their job to determine, on their knowledge, the status of my husband."

In the past Americans seem to have resigned themselves to the fact of MIAs with considerably fewer anxieties. Some 78,700 U.S. soldiers were missing or otherwise unaccounted for after World War II, for example—a figure that exceeds by 20,000 the total number of Americans killed in Vietname. All World War II MIAs were presumed dead a day and a year after they disappeared.

And Vietnam, however, many families of MIAs feared that their fellow citizens, eager to put the painful memories of that war behind them, would also in the process turn their backs on their missing loved ones—a fear alternately encouraged, then discouraged by their own government as one presidency followed another.

But, as James Rosenthal, a free-lance journalist and congressional investigator, has written: "Far from forgetting these sons and brothers, the government has put them to undisguised political use. Successive administrations have alternated between actively suppressing the families' request for information and assisting them in publicizing their cause.

"The results have been disappointing diplomatically and cruelly misleading for the families."

It should come as no surprise, under the circumstances, that there are large segments of the population that simply refuse to take seriously what their government tells them about this issue—and are inclined, when what they hear does not support their own suspicions, to give at least equal consideration to the notion that here, too, a "cover-up" is underway.

What has contributed most dramatically to this widespread distrust, of course, is the seemingly endless trickle of reports out of Indochina of Americans still there—Caucasians kept against their will, being shuttled from prison camp to prison camp in boxcars, gaunt young men working by day and sleeping in caves at night.

Any objective review of the evidence, however, suggests that this too is exceedingly unlikely. Which is not to deny that there may indeed be Americans—or those who appear to be Americans—alive in Vietnam, Laos and Cambodia today. There are, in fact, Caucasians in Indochina, including diplomats, journalists, businessmen and Soviet advisors.

There may in fact be a fair number of Americans officially listed at MIAs still there—as sources in Vietnam have reported. These Americans, however, fall into two categories, neither of which involve imprisonment.

First, there are probably a small number of defectors—or "ralliers," as the Vietnamese call them—who for reasons that may never be clear went over to the enemy and stayed. Second, there are "psychological dropouts" who as one report has it, "simply walked away from their units to live with tribes in the mountains or persons who became addicted to drugs who stayed behind after the American departure."

The case for the existence of POWs is by comparison weak indeed for the simple reason that, despite the abundance of rumors, reports, "live sightings" and the like, none of the evidence has held up under the slightest scrutiny.

As Lt. General James Williams, then director of the Defense Intelligence Agency, has testified, "a lot of those people who talk about live sightings say they have seen an individual who was a Caucasian, who they think was an American, who was white, who looked like he was under guard . . . Sometimes sources can't pin down exactly where they were, and can't remember the date of observation." Even so, Williams said, these cases remain under investigation which "means that we would continue to pursue any investigative lead, any allusion by a refugee, or any possibility from other sources that the information could related to another case."

That's a tall order, since any reasonably objective analysis of the numbers themselves is not encouraging.

According to Assistant Secretaries of Defense Richard Armitage and Paul Wolfowitz, in statements made after their return from Vietnam in January 1986, there have been 806 reports of firsthand live sightings of Americans in Vietnam, Laos and Cambodia since 1975.

It is important to note that while these supposed sightings have been reported since 1975, some of the sightings themselves took place well before 1975 and do not, in any sense, constitute "new" developments, as the news media erroneously reported at the time of the Armitage and Wolfowitz statement.

In fact, according to Commodore Thomas A. Brooks, then a DIA assistant deputy director, one-third of these sightings occurred before the fall of South Vietnam. "Only one firsthand case reporting a sighting of Americans in captivity since 1980 is unresolved," Brooks contends. There has not been a new one in more than three years.

Of the original 806 reports, Armitage and Wolfowitz said, 24 percent (about 194) are "known or suspected fabrications" and 64 percent (about 517) have been correlated to Americans who have since returned from Indochina and thus have been accounted for. That leaves 12 percent (about 95) "that we haven't been able to investigate fully and resolve."

Of the 95 cases that remain, 47 were reports of individuals who appeared to be Americans but who did not appear to be in captivity and 48 were reports of individuals who appeared to be Americans and did appear to be in capivity.

The Washington Post, only a month earlier, reported remarkably similar statistics, attributing them to DIA. According to the Post, 788 firsthand live sightings had been received, mainly from Vietnamese refugees, since 1975. Of them, 83 percent have been resolved, with 61 percent correlated to individuals since accounted for and 22 percent found to be fabrications. The remaining 17 percent, amounting to 131 reports, are unresolved and under continuing investigation.

Nearly 50 percent of those, however, were "sightings of Caucasians who were not in a classic detention environment," which means that they were not under guard, according to Brooks; and most of these individuals, he had said in a speech the previous August in New Orleans, "could be Soviet advisors, West European diplomats or press or other Caucasians."

Deduct the sightings of these non-prisoners and there remain 71 reports of white Westerners in apparent captivity which, in Brooks's words, "are still unresolved and upon which we obviously concentrated our greatest efforts."

Comparing the figures given by Armitage and Wolfowitz to those supplied by Brooks and, while it appears that there have been additional reports of sightings, these additional cases have been resolved—with no change in the number of unresolved cases. Brooks, of course, contends that about one-third of the 71 reports of American in captivity occurred before April of 1975, which comes to about 23.

The difference, or course, is 48, which is Armitage's number for firsthand live sightings of American POWs since 1975. Since Armitage also stated that the most recent of the 95 cases under investigation is from 1983, it follows that every one of these unresolved reports—with one possible exception—are more than five years old. This, given Lt. General Williams' description of the nature of the information conveyed by live-sighting "witnesses," suggests a good deal about the enormity of the difficulties the DIA faces.

By the time of Gen. Williams' testimony, 39 sources of first-hand live sightings had been polygraphed—a standard procedure in DIA investigations of this kind—well over half (24) indicated deception; 13 indicated no deception and 2 were inconclusive.

Of the 13 which indicated no deception, four of the sightings correlated with Americans who have since returned, one was determined to be a fabrication, three were sightings of Americans in non-prisoner status and five were "sightings of individuals the source was told were Americans" who appeared to be in captivity.

By yet another account, DIA has received "more than 1000'" reports from Indochinese refugees since 1975. But these too can be broken down in a way that clarifies rather than confuses the issue. More than 300 of these were first-hand live sightings, approximately 40 percent of which correlated to Americans who have subsequently been repatriated. Another 200 constitute hearsay live-sighting reports.

The remainder concern crash locations, grave sites or the handling and disposition of remains.

Finally, of course, there are the "eyewitnesses" themselves. The most intriguing of these—a former POW whose memories are considerably more vivid than those of many others with stories to tell—is Bobby Garwood.

A Vietnam vet himself, Garwood has said that he knows of at least 70 Americans who were still held prisoner in Indochina in the late 1970s, well after Hanoi had claimed that it had released all the captives it once held.

He says there were POWs in a prison camp at Bat Bat, for example, who were used as guinea pigs in psychological warfare courses offered by the Vietnamese for the enlightenment of visiting Cubans and Palestinians.

His most tantalizing recollection, however, concerns the sighting, one July night in 1977, of groups of Americans who were under guard and packed into boxcars while those riding with them—Vietnamese, it would seem—were dying of suffocation. Garwood says he saw "30, 32, 35" POWs who were not only white but spoke—cursed, actually—in the "type of slang that any American would recognize."

Both Garwood and his accounts of POWs have received widespread publicity. Unfortunately, however, he is not a credible witness—as even those who are inclined to believe him have discovered—and there are serious problems with his stories.

First, he remained in Vietnam on his own volition. When other Americans were allowed to come home, Garwood stayed behind, becoming, in the words of Wall Street Journal reporter Bill Paul, "something of a trustee of the Vietnamese."

When he did decide to return, in 1979, he faced court-martial, on charges of desertion and collaboration; he was found guilty of collaboration and his rank reduced (to private from private first class.) He readily admits, for example, that he was a collaborator ("I was 19, and I was scared," he told 60 Minutes) and that, as a POW, he himself spread disinformation about the conditions of other captives.

Garwood's psychiatrist, C. Robert Showalter, associate director of the University of Virginia's Institute for Law, Psychiatry and Public Policy, who says his patient suffers from "Post-traumatic Stress Disorder," recalls that the first time Garwood told him about seeing POWs was in 1983; that was also the year he published his autobiography, Conversations With The Enemy, in which he made no mention whatever of the existence of POWs in Vietnam.

While the government has no official position on Garwood or his story—DIA only recently obtained his cooperation and is now analyzing his information—the words of Richard Childress, a White House official responsible for MIA efforts, reflect the attitudes of those authorities who have tried to deal with him:

> If he has information, he owes it to [the government] to provide this information to a responsible agency. It is decidedly unhelpful to withhold information of this nature for five years, then release it in a sensationalist manner.

When military officials first sought to interview him about his experiences, he refused—and then claimed that his government wouldn't listen to his story. Once DIA had obtained his cooperation, he denied it. On CBS 60 Minutes, no less.

As Ed Bradley, interviewing Garwood for the December 15, 1985, broadcast, reported:

> In 1979, Garwood slipped a message to a diplomat at his hotel in Hanoi, a message that was passed on to the State Department. Eventually, Vietnam released Garwood. But he says they forced him to say that he had stayed in Vietnam voluntarily. At home, Garwood says he was never debriefed on what he knew, that he saw American prisoners in Vietnam while he traveled, always with guards, to repair jeeps and trucks.

Yet Garwood had indeed been interviewed not only by DIA but also by the Marine Corps, on March 29, 1979, and by Congressmen Lester Wolff and Benjamin Gilman, on April 4, 1979.

Damaging, too, is the fact that his own version of the events is seldom the same. When first debriefed, Garwood stated that he had heard rumors of other Americans in Vietnam, but had no first-hand knowledge of it. In his Marine Corps interview, he provided what the Pentagon says was "general hearsay, nothing specific, based on rumors he had heard," And, when questioned by Wolff and Gilman, he twice said that the last time he had encountered Americans in Vietnam was in 1969—a full decade before he returned—saying that other POWs remained.

In his autobiography and other interviews, moreover, his accounts differ dramatically from those offered by POWs who knew him during their own captivity. The prisoners he says were retained after Operation Homecoming, for example, included Americans who had already been reported by other POWs to have died in captivity.

In fact, there are no American POWs who were known by other prisoners to have been in the formal prison system for whom an accounting has not been made. There are cases in which men are said to have died in captivity for whom remains have not been returned. In almost every such case, however, fellow POWs report that they actually saw the individual dead or near death. The few exceptions could theoretically account for several alleged defectors, but those could in no way account for the dozens of Americans which Garwood claims to have seen.

A final problem with Garwood's account is also a problem for all those who persist in believing, against all credible evidence, that there are American POWs in Indochina—why it would be in the interest of any of the governments there to keep them.

Garwood contends that the Vietnamese have continued to hold POWs for use in psychological warfare instruction for 'terrorists'—information he picked up, he said, from Cubans and Palestinians who were undergoing guerrilla training.

Another popular theory, one given some credence in the British Broadcasting Corporation's recent documentary MIA: We Can Keep You Forever, holds that American POWs have been moved to China or the Soviet Union where their technical expertise can be tapped. But, according to the Pentagon, the "commonly repeated myth that U.S. personnel with specialized technical knowledge were kept in Vietnam or sent to third countries is not supported by any evidence." Indeed, an analysis of the backgrounds of unaccounted for personnel found that "those with specialized knowledge, such as electronic warfare, are not accounted for in any greater percentage than personnel without such backgrounds."

The most persuasive case for holding POWs, unfortunately for those who believe in their existence, evaporated almost a decade ago. For several years, Vietnam continued to press the United States for the $3.25 billion in war reparations arguably promised to Premier Pham Vam Dong by President Richard Nixon in the disputed 1 February 1973 letter; and American POWs, it was then believed, provided Hanoi with a hefty bargaining chip.

In 1978, however, Vietnam stopped asking for the money. And no one has come up with a credible rationalization for holding POWs since.

POW's/MIA's: What The Numbers Say

(By Alan Pell Crawford)

On December 13, 1968, a C-123 aircraft flying night patrol missions along the Ho Chi Minh Trail collided with a B-57 bomber, lost power and drifted downward, giving its pilot time to bail out.

Just before the pilot jumped, however, he noticed that his navigator, 1st Lt. Morgan Donahue, was no longer in the plane. The pilot also noted another parachute below him as he sailed to the ground but was unable to determine whose it was.

And Lt. Donahue was never seen again.

Back in the United States, Donahue's family, convinced that the navigator had parachuted to safety, was unable to accept the government's belief that the navigator had perished and decided to undertake an investigation of its own.

Vincent Donahue, the navigator's father, flew to Thailand five times over the next several years. Morgan's brother Jeff went to Laos three times in 1984 alone. All told, the family has spent what Jeff admits is "a fortune, literally," and still they haven't found Morgan.

What they have found is a gruesome black market in pig bones, dog tags and tattered photographs plied by what Jeff calls "the worst type of people on this planet."

Exploiting the highest hopes as well as the worst fears of MIA families, these con artists offer a wide variety of goods and services:

"[T]he classic, of course, was to disinter a body of a pilot and inject water under a finger with a hypodermic. And roll a fingerprint and bring it out to a grieving wife or mother or whatever and say, 'Here's proof that your father, son, husband, brother, whatever is alive and in captivity. Give me a million dollars, and I'll get him out,'" Jeff Donahue says.

"Or the real classics where they would take bodies into the back of a cave and stake them up and photograph them. Of course you couldn't make out anybody, but the heart wanted to believe."

Some of the profits, no doubt, are simply drunk away in bars like Lucy's Tiger's Den on the Thai-Laotian border. Others, however, are put to more mischievous purposes, like bankrolling Rambo-style raids into the Indochinese interior.

Former Green Beret James G. "Bo" Gritz, for example, finagled George Brooks, a retired public school system employee from Newburgh, New York, into helping "rescue" American POWs he said were being held in Laos.

"I flew down to Florida, where he was training his men and, well, this guy is very persuasive. I was convinced and, by the time it was over, I'd given him $20,000," Brooks recalls.

"I found out too late that I'd been had. Gritz and his guys got over to Thailand, scratched the mission and had to come home. Well, I'd guaranteed their passage back—and that came to another $10,000."

Even Robert Brown, the publisher of Soldier of Fortune, got taken. He paid $250,000 to an unnamed operator who was to locate the POWs, shoot their guards and meet Brown back at the Thai border. The guy "never showed up."

Leading private rescue missions—or raising money by promising to lead them—has become all the rage in recent years. According to one diplomatic source, there were "over 30 Vietnam veterans preparing [unsanctioned] trips to Laos" in 1982 alone.

"We've been approached by every whacko in the world," Ann Mills Griffiths of the National League of Families of American Prisoners and Missing in Southeast Asia says. So many have wanted to launch their own private missions that the organization has developed a computerized thanks-but-no-thanks letter.

Lt. Col. Paul Mather, head of the Bangkok office of the Joint Casualty Resolution Center, which conducts official investigations of crash sites and identifies MIA remains, is appalled. "You've got the U.S. government on one side and all those weirdos on the other," Mather says. "Now everybody wants to believe the weirdos."

They do so, the evidence suggests, at their own peril.

"BO GRITZ"

Former Green Beret James "Bo" Gritz claims that in February 1979, while serving on the staff of the Defense Security Assistance Agency, he was asked by Pentagon higher-ups to consider retiring early and, with government cooperation, to lead a private mission to determine if any American POWs remain in Indochina. If he determined that POWs do remain there, he was to locate and rescue them.

The plan, he said, would be financed by Dallas multimillionaire H. Ross Perot, a longtime spokesman for the POW cause who had just successfully underwritten a commando team that had rescued two of his own employees from a prison in Tehran.

His mission, Gritz says, would have access to top-secret intelligence reports which, he believed, would give the undertaking "semi-official status."

Perot, apparently, wasn't the only backer. Litton Industries kicked in $800,000 worth of radio equipment (which Gritz subsequently tried to sell back for $31,000), and at least two Hollywood actors helped out. Clint Eastwood contributed $300,000 and William Shatner, ostensibly buying the rights to Gritz's wartime experiences, put up another $10,000.

There has been very little to show for their money. Two early missions, Operation Velvet Hammer and Operation Grand Eagle, had to be called off. Operation Lazarus was hardly more successful.

In November of 1982, Gritz and his gang of what one news account calls "drifters, dreamers and desperadoes" made its first foray into the jungles of Laos, only to be ambushed—and turned back—by local guerrillas.

In March of 1983, Gritz's final effort ended with the arrest, trial and conviction of the former Green Beret and four of his cohorts on charges of the illegal possession of a high-powered radio in Thailand. Sentenced to suspended one-year prison terms and fines of about $130 each, Gritz and his men were told to leave the country—which they did.

Back home, Gritz was asked by Congress to account for his curious misadventures and to provide once and for all the evidence he claimed he had to support his contention that there are, in fact, American POWs in Indochina.

His March 1983 testimony before the Subcommittee on Asian and Pacific, Committee on Foreign Affairs, ended for Gritz, anyway, as disastrously as Operation Lazarus.

Bones he said were those of Americans turned out to be those of two Asians and a pig. A story of one soldier's heroics he admitted was a "composite" and photographs that he said showed prison camps showed nothing of the kind. By the time he had finished his testimony, he was forced to say that his evidence for the existence of POWs is "the same evidence that might be presented to a convention of clergymen that God exists."

That Gritz in fact had no evidence to support his allegations—or his wild escapades—

came as no surprise to government sleuths who had been investigating his claims for years.

In early 1979, for example, Gritz claimed he had gone to Southeast Asia at the behest of Perot and returned with a report to his sponsor in which he "basically stated that having looked into [the POW question] from every aspect, both official and unofficial, I was convinced there was enough circumstantial evidence to support a continued investigation."

In the report, he says, he leaned heavily on the word of a North Vietnamese refugee, Ngoyen Giang, who claimed to have been held in a prison camp with 49 Americans only months before.

Perot has failed to provide copies of the report to government investigators, however, and Giang's claims have already been examined—and dismissed—by them. Admiral A. G. Paulsen, DIA's assistant director for Collection Management, says that Giang's testimony is "worthless."

It is not an impressive record, especially since Gritz, with all the money at his disposal, had originally set out to bring back 120 of his countrymen.

But let us give credit where credit is due. He did manage to rescue one American. That was Dominic Zappone, one of his own men, detained in Thailand during Operation Lazarus. Gritz paid $17,000 to get him back.

JACK BAILEY

A retired U.S. Air Force colonel, Bailey heads Operation Rescue—and raises money. He is also skipper of a ship called the Akuna whose function, he claims, is to rescue Vietnamese boat people, according to one of his direct-mail, fund-raising letters, from "rape, torture and death on the high seas." These refugees, he further claims, are invaluable sources of information about American POWs in Indochina.

The gimmick is this: Give money to Operation Rescue so the Akuna can scoop up the boat people who will then provide intelligence leading to the return of American boys. Money for the Akuna, therefore, is money for the POWs.

The Akuna, it turns out, is not an inexpensive proposition. It costs "over $20,000 a month" to maintain the ship, Bailey claimed in 1983, a figure which rose to "over $40,000 a month" the following year. Bailey says he spends "every nickel I can keep my hands on to keep the Akuna afloat."

Sometimes there are crises. "Akuna III [has been] heavily damaged by the worst storm in 500 years in Southeast Asia," Bailey claimed last summer. "If I cannot raise $31,234 by midnight, July 31, to continue repairs on [the] ship, all may be lost." [In fact, the last serious storm to rock the sea occurred two years before Bailey sent out the SOS.]

These appeals, according to Ann Mills Griffiths of the National League of Families, are "total, sheer lies," and independent research suggests that she may be right.

Though Bailey claims the boat has been "patrolling South China seas—saving lives—since 1979," ABC News "found the flagship of Operation Rescue sitting quietly in the middle of Songkhia Harbor on the Gulf of Thailand." Fishermen there call it "the ship that never sails."

Bailey says he too has evidence of American POWs but this evidence is no more convincing than that of, say, "Bo" Gritz. In November of 1984, for example, he turned over to the Joint Casualty Resolution Center a dog tag and what he claims were the remains of three American servicemen. The Central Identification Laboratory concluded they were a "mixture of commingled human and nonhuman (pig bone fragments), " with the: . . . minimal quantities [precluding] an identification of race data, other than that the size and morphology was dissimilar to Southeast Asian mongoloid; thus no association could be made to the dog tag provided or to any missing American.

In January of 1986 he told newsmen that he had information on 33 Americans still held in Vietnam. When pressed for details, however, he refused. "I better not talk about it now," he said. On at least two occasions, he had requested meetings with government agencies—DIA and the Joint Casualty Resolution Center—and, once the meetings were scheduled, he didn't show.

In May of 1983, when DIA wrote, specifically asking him to provide the government with the information he claimed to have, Bailey failed to reply.

WILDFIRE INTERNATIONAL

In February of 1985, Robert Ketchesum and Richard Barker, two businessmen/activists/self-styled intelligence analysts operating out of Canada and Hawaii, were contacted by—and agreed to help—a Texas man who believed his son, a civilian, was being held against his will in Vietnam.

The man's son, it seems, had been on the crew of the ship Glomar Java Sea when it sank on the South China Sea in October of 1983. The crewman, his father said, abandoned the ship in a lifeboat and had gone ashore just south of Hanoi; he had evidence, he said, that his son was later seen—with several American soldiers—by a Vietnamese refugee at a prison transfer station.

Ketchesum and Barker, under the name Wildfire International, agreed to use international contacts to verify the refugee's report and then get the Americans back from Vietnam via China, and they even managed to get the Canadian government to cooperate.

A letter on file in a federal district court in Montana, signed by Canadian External Affairs minister Joseph Clark, shows that Canada agreed, at least in principle, to act as a "receiving station" for the POWs.

The letter also shows that the Canadian government was also ready to allow Ketchesum and Barker to use the country's diplomatic pouch to transport film they said provided irrefutable visual evidence that POWs exist.

Even so, Clark expressed considerable skepticism about the venture—as well he might:

> As a victim of the disaster was a Canadian citizen our Embassy in Bangkok which is also accredited to Vietnam, was instructed in November 1983 to raise the matter with the Vietnamese authorities. Two separate demarches were made, one in Bangkok in November of that year and again in December in Hanoi. In response, the Vietnamese authorities re-confirmed that they had conducted a thorough search for survivors, bodies or other signs of the tragedy but that they had found nothing. There is no evidence that the Vietnamese authorities would have misued the results of their search for survivors. It is likely, I think, that if survivors had been found, the authorities would have produced them as a sign of their goodwill.
>
> The combination of survivors of the Glomar Java Sea disaster and POWs from the Vietnam War hardly seems believable, since I must ask myself what would . . . Vietnam hope to gain today that it could not have achieved two years or even longer ago. If the answer lies in the conditions attached to the POW's release, then the situation is indeed bizarre. The Government of Canada is in no position to act as liaison between Vietnam and the United States to normalize relations.

Neither the prisoners nor the film ever showed up. When Barker, returning from the mission, flew into Great Falls, Montana, he was promptly arrested for drug possession and convicted of possession with intent to sell. He is appealing that conviction.

ROBERT LINDSTROM

On December 21, 1972, the plane of Air Force pilot George D. McDonald was shot out of the sky over Laos. Impatient with the information provided to her by the government, the pilot's mother, the late Mrs. Jean McDonald, a widow, turned for help to the Reverend Paul Lindstrom.

A clergyman in the Church of Christian Liberty, Lindstrom claims to have established a network of sources throughout the communist world and that, at a January 1974 meeting in Algeria, he had obtained from that network a list of American POWs supposedly detained in China.

One of those POWs, Lindstrom told Mrs. McDonald, was her son, and she believed him. In September of that year, he told her that one of his contacts in Mexico had called, asking that he bring Mrs. McDonald with him for a meeting in Mexico City. Mrs. McDonald, still recovering from heart surgery, dutifully obeyed, made the trek and there met with two Chinese who, she says, produced a snapshot of three men.

The one in the middle, the one supported by the two on either side, was "definitely" her son, she said. Unfortunately, she was unable to determine even if he were alive or dead. For a sizable sum, the Chinese said, they could produce the boy's fingerprints. The meeting broke up, with all participants agreeing to remain in contact.

A year passed without further word. Then, in March, Mrs. McDonald received a telephone call from a man speaking broken English; he, too, said he had information about her son and would say more later. He never called again.

Lindstrom says he was contacted again, in the fall of 1976, receiving word through Mexico that the Chinese wanted to defect; in return for political asylum—and more money—they would convey still more tantalizing information about the widow's son. That, too, proved elusive. Mrs. McDonald never heard another word, and government sources have serious doubts about Lindstrom's whole story.

Lindstrom has claimed, for example, that his belief in the existence of POWs in China is supported by a super-secret CIA report which, he says, describes penetration of southern China by U.S. intelligence teams. Lt. Gen. Vernon Walters, deputy director of the CIA, has testified before the House Select Committee, however, that no such report exists and that American intelligence has never undertaken any such mission.

More damning still, Lindstrom himself, in testimony before the committee, made no mention whatever to the report that he previously cited to support his story. While he repeated his claim that American POWs had been moved from Laos to China, he said his information came from a Laotian colonel who had served as chief of security in Vientiane. Unfortunately, Lindstrom could not recall his source's name.

The source was no stranger to government investigators, however. He is commonly known as Col. S, or Southi, and, according to Major John Wilson, former U.S. Army attache, Vientiane, used to make reports of American POWs "every week or so for many years." As the committee concluded, the source "never produced any credible evidence and was considered a highly unreliable source."

SCOTT BARNES

In June of 1981, Scott Barnes, a self-described former Green Beret and drug enforcement agent with experience in military intelligence as well as the CIA, told U.S. officials that he swam a river from Thailand into Cambodia.

There, Barnes says, he saw and photographed an American POW in detention, promising to provide the photographs. He also claimed he had accompanied a CIA team in Laos where the group found POWs—and was ordered to execute them.

He also charged U.S. officials with arms and drug trafficking, saying he was hired by the CIA to assassinate an American citizen in Hawaii—a charge reported, and later retracted, by ABC News.

Barnes was indeed in the U.S. Army. He served for 16 months and was discharged before completing a three-year enlistment. While he was with "Bo" Gritz in Thailand, other members of that team say they never crossed into Laos.

On the day Barnes says he swam the river, he was seen in a U.S. embassy cafeteria. And there is no such river between Laos and Thailand, and Barnes was never able to produce the photographs he says he has.

And, in one final bizarre twist to this story, Barnes has tried to support his claims by citing a taped interview to which he consented—and reported his sightings—under the influence of sodium amytal, which he identifies as a "truth serum."

Sodium amytal is, in fact, nothing of the kind. It is a barbiturate under the influence of which those inclined to fabrication frequently tell even wilder tales than they otherwise might.

There are reasons other than greed and mad opportunism, of course, to account for the efforts of private citizens to "rescue" American POWs. Administration after administration, from partisan seduction of MIA families under Nixon to outright hostility to them under Carter, governmental manipulation of the issue has invited the cynicism the Rambos now exploit. Put bluntly, there is a widespread feeling in the body politic that the government isn't telling us the truth about POWs and, still worse, has no serious interest in finding it.

A group of conservative Republican congressmen have joined forces to criticize the Reagan administration for not moving aggressively enough to resolve the issue and are united in the belief, as New Hampshire's Robert Smith put it, that "[Either] it's a cover-up or . . . the biggest case of bureaucratic ineptitude in history."

It is in this climate that two Vietnam veterans, a former POW and former Green Beret, on September 4, 1985, filed a federal lawsuit in Fayetteville, NC, charging the government with deliberately covering up information on live POWs. The class-action suit, filed on behalf of all POWs by Mark Smith, a former U.S. Army Special Forces major and former Sgt. 1st Class Melvin McIntire, asks the court to force the government to seek their release.

From 1981 until 1984, Smith commanded a Special Forces detachment in Korea which, at one point, included McIntire. Among their duties, the suit claims, was intelligence gathering on POWs. To this end, they traveled regularly to Thailand, setting up a network of agents, including, The Atlanta Constitution reports, "drug smugglers, gun runners, gold thieves, refugees, Thai Army officers, Laotian resistance fighters" and anyone else who might be able to help.

The suit further charges that in January of 1984 Smith reported to superiors that POWs he had located could, if permission were granted, be rescued; instead, the plaintiffs say, they were told to forget it and were sent back to the United States.

"We never really got into trouble until we said we could produce three prisoners on a certain date," Smith says. "When we said that, you would have thought we had just shot Jesus."

An updated paper of the Office of the Assistant Secretary of Defense, however, puts a different light on the case. At best, Smith and McIntire provided hearsay information which, in follow-up contacts with the plaintiffs could not be substantiated.

Much of Smith's information was hardly original:

In early 1984 Major Smith learned from a Laotian refugee about a C-130 crash site in Laos which was reported to contain American remains. Smith also heard of a number of artifacts from other crash sites in Laos and reported this information to Army intelligence personnel in Korea. Analysis of Major Smith's information revealed that the artifacts mentioned by Major Smith had been turned in previously by other sources.

While in Thailand in early 1984, Sergeant McIntire was informed by a different foreign national source that the information or dog tag of an American, reported by the source to be held prisoner in Laos, was available for sale. The source also provided a biographical sheet on a second American, also reported as being held prisoner in Laos . . .

Anaylsis of McIntire's claims of two Americans allegedly being held in Laos determined that the first was not missing or unaccounted for and that the second had died in captivity, in 1961, in an accident witnessed by fellow American prisoners, all of them released in 1962; the second, an Army officer, had been the subject of a large number of reports already, primarily from refugees, many of whom has copies of the biographical sheet. [The biographical sheet, obtained by "Bo" Gritz, was submitted to a congressional task force, DOD reports, "after the document had been tampered with so as to conceal the fact that it was dated in 1961."]

Even so, Smith and McIntire's cause has been given a credence it may not merit in, among other places, Jack Anderson's syndicated column and on CBS's 60 Minutes. Ed Bradley, on the latter, for example, reported that Smith's official duty was gathering intelligence on POWs. But, according to DOD:

As [Assistant Secretary of Defense Richard] Armitage pointed out to Mr. Bradley during a portion of the interview not televised as part of the program, it is every serviceman's inherent obligation to report any information of intelligence value that he comes across. Mr. Armitage also told Mr. Bradley that intelligence gathering on POW/MIA was not a specific part of Smith's and McIntire's mission in Thailand, not were they ever tasked with a POW/MIA collection requirement.

On the same broadcast, when Bradley asked the plaintiffs if they saw evidence which supported the contentions of Bobby Garwood—evidence they had seen with their own eyes—they said that they had. Yet, according to DOD, they had provided no evidence or whatever that was not "limited hearsay information, unsubstantiated and obtained from questionable sources. None of it qualified as 'evidence.' "

The National League of Families, while declining to take a position on the lawsuit itself, nevertheless met with plaintiffs and, according to the statement the organization issued:

Neither had any firsthand information on Americans in captivity. Having reviewed all classified data provided to the U.S. government by the plaintiffs, it is clear . . . that proof of POWs was not provided through official channels, though their public statements and testimony in Senate hearings indicate possession of such evidence as recent as October 1985.

They also have been in close touch with Members of Congress, and at least one has indicated he possesses information which he will not turn over to the U.S. government. The League views as irresponsible any refusal to provide substantive data to officials in the U.S. government.

The wildest claim of all, also given credence by Bradley, is that Smith's sources, including "high-ranking Thais" in Laos, brought back evidence, "including photos," that was overwhelming.

These photographs, however, have never been produced—and their story alone is one of the most revealing in the POW controversy, pointing as it does to the high degree of cynicism of those who exploit it.

The photos, which would constitute important evidence indeed, have never been made available to government authorities and, while several people (other than their owner, apparently) have seen them, only Smith is said to have seen that portion of them which supposedly includes the POWs themselves.

The film—if, indeed, it exists—is said to belong to one Robin Gregson, a mysterious British businessman who sometimes travels under the name John Obassey and operates out of Thailand. Last year Smith and McIntire said they had access to the film.

That, according to the The Wall Street Journal, is when Gregson "started playing hard to get, traveling around the country and spending the plaintiffs' money."

The Senate Veterans Affairs Committee, growing impatient, ordered Smith and McIntire to turn over the evidence. Even H. Ross Perot got into the act, offering Gregson $4.2 million for it. No dice. Gregson left the country and has not been seen since, leaving Smith to face the wrath of the Senate. Scheduled to appear before the committee, he simply didn't show.

The question of cover-up has in fact been investigated in 1984 by the House Task Force on American Prisoners and Missing in Southeast Asia and, in 1986, by the Tighe Commission of American POWs and MIAs.

The House task force, responding to charges of a cover-up leveled at the government by former Congressman William Hendon, a North Carolina Republican, announced its findings in August of 1984. According to its chairman, Rep. Benjamin Gilman, Democrat of New York, after "thorough review of more than 80 case files cited by Mr. Hendon as providing proof of live Americans, the Task Force concludes that there is no government cover-up of information of live prisoners."

The Tighe Commission, chaired by General Eugene Tighe, DIA director from 1974 to 1981, and assisted by Perot and two former

POWs, Brig. Gen. Robbie Risner (USAF-Ret.) and Lt. Gen. John Peter Flynn (USAF-Ret.) the commission evaluated dozens of case files and, in the words of Congressman Stephen J. Solarz, Democrat of New York and chairman of the House Foreign Affairs Committee's Subcommittee on Asian and Pacific Affairs, offers its conclusions "with respect to the likelihood of a USG cover-up.

On October 15, 1986, after the commission had completed its investigation, the following exchange took place during subcommittee hearings:

Mr. SOLARZ. When you were head of DIA, General, did you have any reason to believe or suspect that there was any cover-up going on in your agency with respect to the facts of this situation?

General TIGHE. No; I did not. As a matter of fact, I think it is almost impossible to have a cover-up on this.

Mr. SOLARZ. On the basis of the review you have just conducted, is there any reason to believe there may be any cover-up or conspiracy?

General TIGHE. None whatsoever. Our task was to find out whether there was, and we found no evidence whatsoever.

And later:

Mr. LEACH. General Tighe, I think it has to be emphasized that you did conclude that there was no cover-up in DIA.

General TIGHE. Yes, sir.

Mr. LEACH. Was that a unanimous decision of your group?

General TIGHE. Yes, sir.

The case for cover-up is indeed weak, especially now that the president has, publicly, anyway, thrown the support of his administration behind a full accounting for the MIA's and is making unprecedented progress in cooperative crash-site excavations throughout Indochina. In fact—and this is a development not publicized by private POW activists—the Reagan administration in May of 1981 financed at least one covert foray into Laos to investigate reports of POWs in a jungle camp there.

The team of Asian mercenaries, according to The Washington Post, got "close enough to the camp to study its inhabitants and report back that no Americans or other Caucasians were in the compound. Apparently the mercenaries managed to take some pictures as well, although sources were guarded in discussing what evidence was brought back to Thailand."

All such efforts—from government-directed forays of this kind to diplomatically-sanctioned crash-site investigations—are damaged, needless to say, by charges of "cover-up," wild claims of "evidence" that doesn't exist and the Rambo-style raids that sometimes result.

At the very least, charges of a cover-up, for example, have seriously taxed the time of government investigators. As Commodore Thomas A. Brooks, USN, then DIA's assistant deputy director for Collection Management, said in prepared remarks before the House Subcommittee on Asian and Pacific Affairs, Committee on Foreign Affairs, on June 27, 1985, the agency's POW/MIA division:

* * * must, of necessity, spend many hundreds of man-hours in responding to allegations. This time would be better spent following up reports alleging Americans are being held captive in Southeast Asia. I would only hope that those individuals who levy conspiracy charges against DIA either refrain from doing so, or else produce the "proof" that only they seem to possess, but when challenged, they are unwilling to provide.

Ann Mills Griffiths of the National League of families, spoke volumes about the nature of such private efforts when, while disassociating her organization from the efforts of "Bo" Gritz in 1983, she pointed out that such efforts, in the final analysis, hurt MIA families most of all.

Such private forays, she said, "have virtually no chance and do, in fact, hinder ongoing efforts to determine the existence of prisoners and achievement of the fullest possible accounting."

The League is "resolutely opposed" to private cross-border forays "as they jeopardize legitimate efforts to accomplish our objectives."

Without ascribing credibility to the claims of Mr. Gritz, there can be little question that public announcements of having obtained proof that American POWs are still being held, coupled with descriptive data concerning circumstances, results in tightened security rendering even more difficult legitimate intelligence collection efforts.

Other likely results are movement of prisoners or even execution of those whom we are urgently trying to insure a return to this country. It also results in invalidation of previously collected intelligence data.

Mr. Gritz's efforts have also seriously interfered with the other area of crucial concern to the League, the accounting for missing Americans including recovery of their remarks.

The overall effect, she said, has been "extremely adverse."

The PRESIDING OFFICER. The question is on agreeing to the resolution.

Mr. KARNES addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. KARNES. If I may have just 30 seconds, I ask unanimous consent that the resolution remain at the desk and any Members of the Senate who would like to be listed as cosponsors of this legislation may have until the end of this business day to do so.

The PRESIDING OFFICER. Without objection, the request of the Senator from Nebraska is agreed to.

The question then occurs on agreeing to the resolution.

The resolution (S. Res. 256) was agreed to.

The preamble was agreed to.

Mr. WARNER. Mr. President, I ask unanimous consent that I be listed as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution with its preamble, is as follows:

S. RES. 256

Whereas Howard Malcolm Baldrige, Jr. was born in Omaha, Nebraska in 1922, the son of Howard Malcolm Baldrige, Sr. and the former Regina Connell;

Whereas Howard Malcolm Baldrige, Jr. was graduated with a Bachelor of Arts degree from Yale College;

Whereas Howard Malcolm Baldrige, Jr. married the former Margaret Trowbridge Murray in 1951 and had two children, Megan Brewster and Mary Trowbridge;

Whereas Howard Malcolm Baldrige, Jr. was a recipient of an honorary Doctor of Letters degree from the University of Nebraska at Omaha in 1985;

Whereas Howard Malcolm Baldrige, Jr. was a preeminent business leader and served as director of many distinguished organizations;

Whereas Howard Malcolm Baldrige, Jr. rendered exemplary service to the nation in the Cabinet of the President of the United States for six years as the Secretary of Commerce, influencing major trade policy decisions with his fair trade principles;

Whereas Howard Malcolm Baldrige, Jr. in his tenure as Commerce Secretary developed policies and initiatives, including a Bureau of Competitive Assessment within the Department of Commerce, to monitor and improve the United States' global trade position;

Whereas Howard Malcolm Baldrige, Jr. generously contributed his time and energies to numerous community organizations and philanthropic efforts;

Whereas Howard Malcolm Baldrige, Jr. demonstrated his zest for life as a true-to-life cowboy and a champion on the professional rodeo circuit; and

Whereas with the death of Howard Malcolm Baldrige, Jr. on July 25, 1987, at age 64, the United States lost a distinguished citizen and foremost policy adviser who helped guide the nation toward a stronger economic and competitive trade position, and who remained up to the moment of his death a respected, thoughtful and articulate adviser on the urgent and complex economic questions facing the nation; Now, therefore, be it

Resolved, That it is the sense of the Senate to express profound sorrow and regret at the death of Howard Malcolm Baldrige, Jr.

SEC. 2. The Secretary of the Senate shall transmit an enrolled copy of this resolution to the family of Howard Malcolm Baldrige, Jr.

NATIONAL HOSIERY WEEK—AUGUST 9-15, 1987

Mr. HELMS. Mr. President, the week of August 9-15 marks the 16th annual observance of "National Hosiery Week." Congress is scheduled to be in recess during that week so, like last year, I'll take a moment now to pay my respects to an industry which is vital to the free enterprise system of our Nation and to the economy of North Carolina.

Mr. President, despite the threat that unfair imports pose to the textile and apparel industry, it continues to be an industry that too often is taken for granted by the American people. More than any other domestic industry, the textile and apparel industry in general, and the hosiery industry in particular, need and deserve the support of all Americans.

Consider, for example, that the textile and apparel complex is the largest manufacturing complex in the country, employing more than 1.9 million poeple. The hosiery industry, which constitutes a significant portion of the textile and apparel complex, employs 70,000 people in more than 35 States.

Despite the overall size of the industry, hosiery companies are vital to many small communities around the country. The average hosiery company is a small to medium-sized business in a small American town or city. It produces about 9 million pairs of hosiery a year and employs an average of 161 workers. In fact, hosiery manufacturers are often the major employers in their communities.

Mr. President, like other sectors of the American textile and apparel industry, the hosiery industry today is facing import competition. Statistics show that imports of foreign hosiery in 1986 were 15 percent greater in units than in 1985.

The hosiery industry is doing everything it can to counter these imports by improving productivity in the mills, by investing in new and more efficient machinery, by continuing to stress the best styling of product, and by sharpening the industry's marketing skills.

Mr. President, National Hosiery Week is of special significance to me since North Carolina is the leading textile State in the Nation. In fact, 54 percent of all American-made hosiery is produced in North Carolina. North Carolina is proud of its distinctive leadership in the hosiery industry, and we are grateful for the fine quality of life this industry has provided for so many people. We are also proud of the contribution those people make to the State. The people in the hosiery industry are hard-working, friendly and proud of their industry.

On behalf of my fellow North Carolinians, I extend my sincere thanks and congratulations to the hosiery industry for the outstanding job it is doing for the people of our State and Nation.

JOURNALISM AT ITS BEST

Mr. PRESSLER. Mr. President, as my colleagues know I have been working for some time on several initiatives to expand and upgrade facilities at Mount Rushmore. Throughout the course of that effort, I have come to gain an even deeper appreciation for our shrine to Democracy, and a better understanding of its rich history and poetic symbolism. Through the course of our efforts I, like thousands of South Dakotans, have been enlightened by the excellent coverage of one of our State's major newspapers, the Rapid City Journal—particularly the journalistic contributions of one of its editors, Tom Griffith.

Mr. President, many of us in public life are quick to criticize the press when important issues are not treated as comprehensively or fairly as we think they should be. I guess I am no exception. So when the press does a truly outstanding job it is fitting that we recognize the contributions, as well. I rise today to share with my colleagues on such example.

When we first began our Mount Rushmore initiatives, it was evident to me that few people understood the very real physical limitations of the facilities there. That problem makes an undertaking of this sort immeasurably more difficult. But thanks in large part to the efforts of one reporter who dedicated the time and energy necessary to truly understand the issue, combined with his journalistic talents in conveying that understanding to the public, that problem has long since vanished. What impressed me most about Tom Griffith's exhaustive work was his ability to transcend the technical aspects of the issue, which he has mastered better than most of the experts, and convey to his readers the broader meaning of the great memorial. He has given his readers a true flavor of the historical, symbolic, and personal significance associated with this monumental artistic achievement.

The impact on the local community has been very evident. I have talked to and received letters from dozens of constituents wishing to contribute their time and resources to the project. Virtually all of them in one form or another refer to something they read in the Rapid City Journal. Many creative ideas and suggestions have come forth as a result. To me, this is the epitome of journalism at its best—education of the public on the issues, and stimulation of thought and action. I commend the Journal—and Mr. Griffith in particular—for contributions to public understanding of this issue.

Mr. President, the comprehensive treatment given to this important subject by the Rapid City Journal precludes me from placing in the RECORD all of the articles, but I would ask unanimous consent to insert a five-part series which appeared in its May 1-5, 1987, editions, authored by Assistant City Editor Tom Griffith. These articles capture some of the qualities to which I earlier referred, and I commend them to the attention of our colleagues.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

PARKING KEY TO IMPROVEMENTS

"My plan is to make Rushmore a center in the heart of America so attractive, so comprehending that the inevitable visiting world will assembly there with something more than curiosity and go away with something more than wonder"—Sculptor Gutzon Borglum

(By Tom Griffith)

KEYSTONE.—More than 2 million travelers will visit the Black Hills this year to look at a sculpture uniquely American in its concept—a work that solidifies in stone the very spirit of a nation.

The giant granite figures are in fine shape. But facilities at Mount Rushmore National Memorial need a facelift.

Bigger crowds at Mount Rushmore have created trememdous parking problems, often causing National Park Service staff to park vehicles on grassy areas during the peak of the tourist season. In addition, park service officials say exhibit areas, audio-visual and lighting systems, and maintenance and administrative offices should be improved or expanded.

Facilities at Mount Rushmore were last upgraded in 1964 when it was designed to handle 1 million visitors annually. There were more than 2 million visitors in 1986.

Park service staff fear visitors are missing the more important aspects of the mountain carving.

Efforts to educate visitors about Mount Rushmore inevitably result in more parking congestion.

"Parking dictates everything at Mount Rushmore," said Superintendent Dan Wenk. "Without talks and studio tours, visits would be shortened and parking problems would be relieved.

"But we have an obligation to educate people about the memorial . . . and consequently, to increase the visitor's length of stay."

Last summer, Park Service rangers offered an unpublicized tour of the memorial and support facilities three times each day. By summer's end, 74,000 visitors had learned more about Gutzon Borglum's greatest work.

"This demonstrated that people want to know more about the memorial—how it was built, and why it was built," Wenk said.

The Mount Rushmore National Memorial Society of Black Hills, which has supported improvements at the memorial more than 50 years, hopes to raise as much as $14 million for parking and other improvements.

A $500,000 study would determine the solution for the parking problem and other improvements at Mount Rushmore, Wenk said. Sen. Larry Pressler, R-S.D., has introduced legislation to fund the study.

Parking improvements are estimated to cost $3.2 million. The NPS has not determined whether additional parking areas would be located at the summit of Doane Mountain or at a lower elevation, perhaps near Keystone, Wenk said.

The memorial's amphitheater, at the base of the sculpture, is the scene of nightly programs and a film depicting the method of carving and reasons for Mount Rushmore. Built in 1959 for $160,000, the amphitheater can seat only 800 people.

On the average summer night in 1986, more than 2,000 visitors crammed into the open-air theater. By autumn, 170,000 people had watched the film, "Four Faces on the Mountain."

"It's standing room only from Memorial Day to Labor Day basically," said Jim Popovich, chief of interpretation at Mount Rushmore. "It's obviously over capacity."

Enlarging the amphitheater, upgrading its audio-visual equipment, making it handicapped accessible, building new walkways and restrooms are estimated to cost $2.2 million, Wenk said.

Wenk said plans called for a new lighting system to illuminate the carvings.

"We're dealing with a lighting system close to 30 years old," he said. The three banks of lighting would be replaced with a $450,000 system to better illuminate the 6,000-foot mountain, Wenk explained.

Park Service staff also hope to duplicate the original 1/12th-scale plaster model of the four presidential figures, used by Borglum.

"It's the model used in construction of the memorial, the tool Gutzon Borglum used to carve the mountain," Popovich said.

The one-of-a-kind model is in the sculptor's wood-frame studio, which has a sprinkler system for fire protection.

"The biggest danger would be water damage if the fire system was activated," Wenk explained. "You have the potential of saving the building and destroying the model at the same time."

NPS staff wants to protect the model with a glass enclosure, or make a rubber mold of the giant wood and plaster work so it could be duplicated. Estimated cost of preserving the model is $91,000.

Memorial maintenance facilities, in and around the studio, would be relocated under preliminary improvement plans. The new facilities, estimated to cost $2.3 million, would allow space for more exhibits and protect the studio, which is listed on the National Register of Historic Places, said Popovich.

"I view it as inappropriate that we have maintenance activities going on in an historic building," Wenk added. "We don't need to be doing our day to day maintenance work in a primary visitor experience area."

Wenk said Park Service staff also hoped to bury 1,500 feet of power line at a cost of $500,000; rehabilitate the NPS-owned concession building for $650,000; increase access for the elderly and handicapped; and improve other exhibits.

Current exhibits "really don't tell you a story and people need the story," Popovich said. "They need to be provoked into understanding what Mount Rushmore is."

MANY RUSHMORE ARTIFACTS HIDDEN FROM PUBLIC VIEW

(By Tom Griffith)

("Mount Rushmore is eternal. It will stand until the end of time. Ten thousand years from now our civilization will have passed without leaving a trace. A new race of people will inhabit the earth. They will come to Mount Rushmore and read the record we have made."—Sculptor Gutzon Borglum.)

KEYSTONE.—Hidden deep in storage in a usually dark room at Mount Rushmore National Memorial is a gigantic U.S. flag few people still alive have seen.

It is the flag that shielded Thomas Jefferson's likeness on the mountain Aug. 30, 1936, as President Franklin D. Roosevelt watched from his touring car.

But today, the wrinkled 60-foot symbol of American independence rests in a small climate-controlled storage room that few people ever visit. An arm's length away, partly covered by plastic, are larger-than-life masks of the four presidents on the mountain, models Gutzon Borglum and his crew used to carve the sculpture.

Hundreds of drill and bumper bits are neatly stored on nearby shelves in the 400-square-foot storage area. They were fitted in the pneumatic drills carvers used to remove the final layer of the 500,000 tons of granite taken from Mount Rushmore.

Publications that featured Mount Rushmore during the 14 years of construction, included the Saturday Evening Post, Collier's, and Life magazines, are locked in large filing cabinets.

It has been said Borglum understood what America wanted to say in the 1920s, and the manner in which to say it. But his followers, it seems, have a harder time interpreting the message, and keeping the parchment on which it was written.

Of more than 10,000 documents, historic photographs, and other artifacts in Mount Rushmore's collection, only about 25 percent have even been cataloged, said Jim Popovich, chief of interpretation at the memorial.

"We don't know what we've got," said a frustrated Popovich. "Of course it bugs me. These are historic objects at my fingertips."

Unfortunately, woes at Mount Rushmore are symptomatic of a much larger problem, according to the March-April edition of Historic Preservation magazine.

"Throughout the National Park System, some of its 13,000 buildings are in such bad shape they are closed to the public," wrote John S. Mason, author of the article "Parks in Trouble." Others remain open despite the lack of modern fire-protection systems.

"Perhaps at greatest risk is the Park System's vast collection of artifacts and archives. More than 85 percent of the 20-million-items collection is uncataloged—and thus impossible to monitor for theft and damage."

The manner in which a quarter of the items at Mount Rushmore were cataloged only increased the problem, Popovich said.

Since March 1941, when work was halted by the dealth of sculptor Gutzon Borglum, at least five people have performed curatorial duties by attempting to log artifacts, documents, and approximately 5,000 historic photographs associated with the monument.

Poorly trained staff, using varying methods of cataloging and preservation, have left the work to be done over again in a consistent manner, Popovich said.

"No one has ever done it properly to make sure they are preserved," he said.

A high-ranking National Park Service official said, "It's like having a Library of Congress without all of the books cataloged."

To solve Mount Rushmore's problem, Popovich and Superintendent Dan Wenk hope to assign a NPS worker with curatorial experience to take inventory and catalog all the memorial's treasures.

"There are mandates and guidelines that say we must protect and preserve them," Wenk said.

"But it's very time-consuming," Popovich added. "It would take two years just to inventory and catalog them if the person did that solely."

Not all the items have the historical significance of the mammoth U.S. flag used in the dedication of all four presidential figures. But Popovich can produce a four-page list of items, each valued at more than $100.

Some larger artifacts, including the giant forge used by blacksmiths, a 1/12th-scale crated mask, more than a dozen winches used to lower drillers over the edge of the granite cliff, and the large winch that took workers via cable car to the top of Mount Rushmore, are not in museum storage.

"They are in an uncontrolled environment, so they are not being protected like they should be," Popovich said.

New exhibit space would help solve the problem. Wenk said many of the items would be more beneficial on public display than in storage.

Popovich said he hoped maintenance facilities in the basement of the sculptor's studio could be relocated to make room for a display featuring a forge and blacksmith's shop, similar to the original shop where hundreds of drill bits were sharpened daily during the height of work on the mountain.

"We could make the studio the way it was in 1941 when Gutzon Borglum left," Popovich said. "We could do some good things."

[From the Rapid City Journal, May 3, 1987]

BORGLUM RANCH RIGORS TAUGHT MARY WHAT LIFE WAS ALL ABOUT

(By Tom Griffith)

"Father spoiled us tremendously and he loved us. He was devoted to us completely. There was nothing he could give to us that he didn't."—Mary Ellis Vhay, daughter of sculptor Gutzon Borglum.

RENO, NEV.—At 14 years old, Mary Ellis Borglum moved from her father's Connecticut estate to a South Dakota ranch that had no plumbing, heat, or electricity. It would change her life.

The fire would go out in the middle of the night. Ice would form on the water in the metal pitcher and basin, used each evening for washing her small hands and face. Lonely walks to the outhouse left an even bigger chill.

The daughter of Mount Rushmore National Memorial sculptor Gutzon Borglum learned to love riding and caring for horses in her new Black Hills home. But it didn't change her attitude toward South Dakota winters.

"I loved riding, but I can't say I liked that winter," Mary Ellis Vhay said recently. "Father thought we were very effete and very sophisticated and we should know what life was all about."

Mary Ellis said after two weeks with a high temperature of zero at the Borglum ranch, she and brother Lincoln knew what life was all about.

"I learned an awful lot about taking care of people, taking care of animals, and taking care of myself, because it was lonely," she said, "It made a much better person out of me."

Gutzon often lectured around the country, telling all who would listen about the monumental mountain carving being created in Black Hills granite. His efforts to raise money for the memorial meant considerable time away from home.

Lincoln remained at the ranch in Gutzon's absence. An Englishman who didn't have enough money to return to his homeland tutored the Borglum children. A Chinese cook "who didn't have anywhere else to go," prepared the meals. The foreman and his wife kept an eye on the ranch and the children.

But despite the hardships of ranch life in the 1930s, Gutzon Borglum's efforts to create an unprecedented memorial brought his children face to face with some of America's great business, professional and political leaders.

Mary Ellis, now a 71-year-old resident of Reno, said as a toddler she visited the offices of Theodore Roosevelt with her father and brother. Lincoln became tired during Gutzon and Teddy's extended conversation, crawled up on the former president's desk and fell asleep.

"Roosevelt said, 'I think he is the only person I know who would dare fall asleep in my office,' " she said.

Years later, Mary Ellis would meet another "very attractive" Roosevelt at Mount Rushmore.

On Aug. 30, 1936, President Franklin D. Roosevelt traveled to the Black Hills to take part in the dedication of the Jefferson head on the mountain.

Mary Ellis waved a U.S. flag to signal workers on top of the sculpture, who in turn raised a giant flag covering the Jefferson figure. Hundreds of people had traveled to Mount Rushmore to view the dedication and see the president. Mary Ellis Borglum was no different.

"I was getting married that fall and I remember thinking that Franklin Roosevelt was still a very attractive young man, even though I was getting married," she said, laughing. "It was the charm of the Roosevelts."

As a young girl, Mary Ellis shared breakfast with President Calvin Coolidge and his wife, Grace, who stayed at the Game Lodge in Custer State Park in 1927.

"I was great friends with Mr. Coolidge and Mrs. Coolidge too, because we had dogs that came out of the same litter," she said.

Mary Ellis once visited Coolidge in the Oval Office of the White House. Someone was smoking and the president retrieved the tinfoil from his cigarette pack, molded it into a small washtub, and presented it to the youngster.

"He was such a gentle man," she said.

Mary Ellis said her worst experience with a friend of the family was during a visit to the Blacks Hills by the greatest 20th Century U.S. architect.

Frank Lloyd Wright was designing a studio for a Santa Monica, Calif., home Gutzon hoped to build. When Wright arrived in the Hills, Gutzon was busy on the mountain and assigned Mary Ellis to entertain the architect.

"It was one of the longest days of my life," she said. "He was terribly egotistical and he had no sense of humor."

Despite the famous people she met and the great accomplishments of her father, Mary Ellis said she was not overly impressed by Mount Rushmore in her childhood.

"It was so much a part of his life, and my life and everybody's life," she said. "You were overcome by the greatness of it, but you didn't stop to analyze it because it was part of our life, and part of our family."

SCULPTOR'S GRANDSON FINDS PEACE IN ROOTS

(By Tom Griffith)

("That was one of the things that was great as a child—It was like going to your grandparents' house when they weren't home."—James Borglum, on exploring the Borglum Ranch.)

HERMOSA.—Gutzon Borglum, the visionary sculptor of Mount Rushmore whose drive and dedication enabled him to achieve one of man's greatest feats, died in 1941, $200,000 in debt.

Today, his grandson, James Borglum, 34, lives in quiet luxury on a ranch near Grace Coolidge Creek in the Black Hills. His interests are ultralight aircraft and downhill skiing.

"I'm sort of retired," Borglum said, nearly apologizing. "I am looking forward to being an old man here.

"It's like you mentioned earlier. You asked if I had a big goal, but I don't. I have enough money and a nice house and I'm content. I'm really happy."

The ranch was home to Gutzon Borglum for more than decade. He was fresh from the manicured lawns of Borgland, his Connecticut estate, when he took possession of his western-style ranch Oct. 29, 1929, a day known as "Black Friday" on Wall Street.

During his 16-year association with South Dakota, Borglum would fight off foreclosure on Borgland and his ranch on several occasions. Staving off the banker often meant borrowing from friends or selling property to meet the mortgage.

James Borglum apparently has no such worries and could live anywhere he chooses. He has a second house in Colorado. But, the quiet, handsome and unpretentious Borglum said he wanted only one thing when he bought the 25-acre ranch from his father, Lincoln Borglum, in 1977—to return to his boyhood home.

"I'm in oil and gas in Texas, but I live in Hermosa because I like the climate," a grinning Borglum once said. Actually, Borglum is "in" natural gas and cattle in south Texas due to an inheritance from his mother, Louella, who died in 1963.

As a boy, Borglum attended a one-room school a half-mile from the ranch, where he was the only student in his grade. Lincoln sent James to an Austin, Texas, boarding school when he was 14, and in 1971, he graduated from Goliad High School.

Under an arrangement with Lincoln, the younger Borglum agreed to pay off debts on the ranch and, in turn, Lincoln turned over deed to what at one time had been a 1,000-acre ranch and its buildings.

When Lincoln sold at auction much of his own and Gutzon's work in 1977, James was there to buy about 5 percent of the artwork, Dr. Duane Pankratz, a veterinarian who owns Rushmore Borglum Story in Keystone, purchased the majority of the work.

"I guess I was here in very formative years and this has always struck me as home," Borglum said. "I love the snow and the creek and I think this is just great.

"I wanted to have something of my grandfather's. That was a big part of it."

Since buying the scaled-down 25-acre ranch, Borglum has purchaed adjacent property, including a nearby campground, and bolstered his holding to 500 acres.

"About all the country I now hike on is now mine," he said. Mount Rushmore even can be viewed from the crest of one hill.

James Borglum shuns publicity and had not granted an interview in the 10 years he had owned the ranch. A sign on the gate to the ranch reads: "IF YOU HAVE NEVER BEEN HERE BEFORE, DON'T COME HERE NOW."

The property includes small houses that were once homestead shacks or blacksmith's shops for settlers, the original Mount Rushmore log studio which Lincoln tore down in Keystone then reassembled log by log at the Borglum ranch, the "Big House" under construction at the time of Gutzon Borglum's death March 6, 1941, Gutzon's large studio, and a spacious house James remodeled and enlarged in 1981.

The house in which James lives with a woman friend of five years features a treasure trove of busts, marbles and paintings created by Lincoln and Gutzon. The younger Borglum continues to scour the country for works of his father and grandfather. When located, he simply buys them.

The home's most conspicuous feature is the absence of a kitchen. The original studio, a stone's throw from the house, is a roomy dining hall where all cooking is done and meals are served, James said.

The "Big House" is just that: Two-and-a-half floors of pure openness. It has walls of rich mahogany and a floor of solid oak. At its east end, on an open, second-floor balcony, its owner is organizing hundreds of books that once constituted Gutzon's library.

The hall also has a walk-in fireplace, bear and oriental rugs, and once was a roller skating rink for James and friends. "It's great for social occasions," he said.

The studio, where Gutzon completed other commissioned work while construction of Mount Rushmore was under way, now houses three vintage Harley-Davidson motorcycles, a 5-horsepower go-cart, lawnmowers, and a fully equipped shop.

A Jaguar sedan sits in the shade of a newer garage. Two horses browse in a field, but they rarely are ridden.

"I just like to watch 'em," Borglum said.

HALL OF RECORDS STILL CONTROVERSIAL

(By Tom Griffith)

"Into this great hall, beautiful as a temple, we will place records, the new records, the purely American records, of released souls, of great inventors . . ."—Sculptor Gutzon Borglum—1940

KEYSTONE.—Forty-nine years after sculptor Gutzon Borglum carved a 68-foot-deep hole in a granite mountain in the Black Hills, the battle over its completion continues.

Descendants of Borglum argue that the giant Hall of Records, which he first envisioned when he worked on Georgia's Stone Mountain monument, should be completed not only to fulfill the sculptor's dream, but also to provide an eternal record of western civilization and the reasons for Mount Rushmore.

As plans were being laid for Mount Rushmore in 1925, Borglum made no mention of the Hall of Records. But by 1934, it was clear Borglum had changed his plans to include a crypt in the walls of a canyon at the back of the four president's faces.

Throughout the remaining seven years of his life, Borglum battled over the Hall of Records with the Mount Rushmore National Memorial Commission, established by Congress to oversee the project.

Eventually, Borglum reorganized the commission and hand picked members July 1, 1938. Armed with a $300,000 federal appropriation, and the complete autonomy granted him by the new commission, Borglum began to carve the hall.

But the commission again objected and told Borglum to quit work on the hall. The commission feared the hall project would drain funds from the main project at Rushmore.

Thus, the cavernous 12-foot-wide, 20-foot-high, 68-foot-deep hole in the canyon remains much the way it was when workers stopped drilling nearly 50 years ago. Spikes remain imbedded in the walls and painted red numbers are on the granite, a reminder of the method used to tell drillers how much rock to remove from the inner walls.

Borglum's plans for the hall constantly changed until his death on March 6, 1941. In probably the most detailed description, Borglum wrote in his autobiographical manuscript that the Hall of Records was as much a part of the memorial as the four presidential figures.

"Both are necessary to make the Shrine of Democracy a complete whole . . . otherwise there would be nothing to tell posterity what the carvings meant," he wrote. The sculptor wanted 24 bronze busts of outstanding Americans to stand in the hall. Aluminum scrolls on which the history of Western civilization would be engraved were to be placed in glass "damp-proof" tubes and stored, to be opened in 10,000 years.

The inner entrance wall was to be finished in a mosaic of blue and gold lapis. The door was to be made of bronze and glass, as would recessed cases inside the hall. Borglum also dreamed of adding other rooms within the mountain and, perhaps, other levels of rooms.

After Borglum's death, his son Lincoln urged completion of the hall and a giant 800-step stairway leading to it from the base of the mountain.

Lincoln, the first superintendent at Mount Rushmore, continued to work for completion of the projects until his death Jan. 27, 1986. Lincoln said he was frustrated with National Park Service officials who opposed the projects, and often said without the hall and its records the memorial would be a riddle to future civilizations.

"I have never been able to convince them that the Park Service may not be around here 10,000 years from now, or even 5,000 years from now, and probably not 100,000 years for damn sure," Lincoln said in a March 1983 interview.

"As it is today, you have four heads up there and you know who they are, sure . . . but, 10,000 years from now is somebody going to know who they are, or what they represent, or why they were carved?"

Mary Ellis Vhay, 71-year-old daughter of Gutzon Borglum, has taken on the task of convincing the Park Service the Hall of Records is a necessity.

"This is the last chance for something to be done about it," she said last week. "I feel it is necessary to have a history of Mount Rushmore that will be for all time—a written history that will be available for civilizations to come, in a location that is invulnerable to atomic bombs or any type of war or pestilence."

Vhay is scheduled to meet with assistants to Interior Secretary Donald Hodel May 11 in Washington, D.C., to discuss the hall.

But some members of the Mount Rushmore National Memorial Society of Black Hills, which follows National Park Service policy on all matters, continue to oppose completion of the hall, saying it is impractical and would take money away from more needed improvements at the memorial.

Ray J. Aldrich, three-time society president, said finishing the Hall of Records at its present site would be impractical because visitors could not view it. A grand stairway leading to the hall, as Gutzon proposed, "would destroy the effectiveness of Mount Rushmore," he said.

Current president Carolyn Mollers also said she had reservations about the hall's accessibility, proximity to the sculpture, and cost to complete.

"I am practical," Mollers said. "I agree with the time capsule concept.

It is desirable to have a record of why the memorial was done."

Aldrich said he would support "a crypt built into a structure in a new facility at the memorial, as impregnable as you could make it, in which the history of the memorial could be sealed. A relatively inexpensive structure could do what really needs to be done."

Vhay said she was sad Lincoln was unsuccessful in his efforts to finish the hall. His lack of success, she said, has made her work even harder.

"Lincoln couldn't do anything about it. It rests on my shoulders to do it," Vhay said. "I feel my father did such incredible things up there . . . I felt I should try."

RUSHMORE SOCIETY RACES DEADLINE

(Tom Griffith)

"My purpose is to make a work of art, a national shrine that will make people grateful that they live in a country like ours, a shrine dedicated to a nation conceived in liberty and freedom, unequalled anywhere in the world."—Sculptor Gutzon Borglum—1939

KEYSTONE.—The Mount Rushmore National Memorial Society of Black Hills faces a 1991 deadline that may be tough to meet.

In 1941, Mount Rushmore sculptor Gutzon Borglum died in a Chicago hospital. With no more federal appropriations for Mount Rushmore, and indications the United States would be entering World War II, that left Gutzon's son, Lincoln, to finish detail work on the carvings and dismantle equipment on the mountain.

Fifty years later, in 1991, the society and South Dakota's congressional delegation hope to celebrate the completion of about $14 million in improvements to facilities that serve visitors to Mount Rushmore.

But even with four years remaining before the deadline, society members and congressional representatives admit timing is crucial if the improvements are to be finished in time for a nationwide celebration at the mountain carving in 1991.

Sen. Larry Pressler, R.S.D., has sponsored legislation to provide $500,000 for a study to refine improvement plans and determine exact costs, said society president Carolyn Mollers of Rapid City. Rep. Tim Johnson, D-S.D., and Sens. Tom Daschle, D-S.D., and Bob Dole, R-Kan., support Pressler's proposal.

Pressler aide Kevin Schieffer said the senator was trying to attach the bill as an amendment to the National Park Service fiscal 1988 authorization bill or the Federal appropriation bill being considered by the Senate. Schieffer said it was important the appropriation be made this year.

"The society's original goal was to get improvements completed by the 50th anniversary (of completion of work on the memorial) in 1991," he said. "In that sense, there is a real urgency. The timing here is very crucial. It is important that we get the planning and design work under way this year."

Pressler already attached one improvement project for Mount Rushmore to this year's Federal highway appropriation bill. About three miles of Gutzon Borglum Memorial Highway, the road leading to Mount Rushmore, will soon be improved and widened at a cost of about $3 million.

Schieffer said the pending bill had a "reasonably good chance" of being passed in the current session. Meanwhile, society members are awaiting a decision.

"The $500,000 will mean a definite starting point," Mollers said. "It's concrete evidence of the Park Service's intention to make the improvements. That will give impetus to Rushmore Society plans."

But even with funding for the study available in 1988, the society would still face pressures to complete the work in time.

Once the study is completed, fund raising could begin. Society members are not sure how long it will take to raise $14 million, or how they will do it. Once funds are raised, bids would be let and construction could begin.

"As slowly as all these things move, one has to plan well in advance of the deadline," Mollers said. "This is a huge project."

The society plans to mount a nationwide fund-raising campaign designed to provide funds for the improvements. The society, established as a nonprofit corporation in 1930, serves as a custodian of the monument and a support group for the National Park Service at the memorial.

At Mount Rushmore, the 120-member society has been responsible for the construction of buildings, roads, parking and visitor interpretation materials, including plagues, films, brochures and books.

Society membership is by invitation only. Three levels of membership—member, patron and benefactor—have lifetime membership fees ranging from $100 to $500.

The society's members consist of journalists such as anchorman Tom Brokaw, Borglum's descendants—including daughter Mary Ellis Vhay and grandson James Borglum—bankers, educators, lawyers and other business and professional leaders.

* * * * *

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. The time for morning business has expired.

POSTAL EMPLOYEE APPEAL RIGHTS

The PRESIDING OFFICER. Under the previous order, the clerk will report Calendar No. 233, H.R. 348.

The assistant legislative clerk read as follows:

A bill (H.R. 348) to amend title 39, United States Code, to extend officers and employees of the United States Postal Service the same procedural and appeal rights with respect to certain adverse personnel actions as are afforded under title 5, United States Code, to Federal employees in the competitive service.

The Senate proceeded to consider the bill, which had been reported from the Committee on Governmental Affairs, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

That (a) section 1005(a) of title 39, United States Code, is amended by adding at the end thereof the following:

"(4)(A) Subchapter II of chapter 75 of title 5 shall apply—

"(i) to any preference eligible in the Postal Service who is an employee within the meaning of section 7511(a)(1)(B) of such title; and

"(ii) to any other individual who—

"(I) is in the position of a supervisor or a management employee in the Postal Service, or is an employee of the Postal Service engaged in personnel work in other than a purely nonconfidential clerical capacity; and

"(II) has completed 1 year of current continuous service in the same or similar positions.

"(B)(i) The second sentence of paragraph (2) of this subsection applies with respect to the provisions of subparagraph (A) of this paragraph, to the extent that such provisions relate to preference eligibles.

"(ii) The provisions of subparagraph (A) of this paragraph shall not, to the extent that such provisions relate to an individual under clause (ii) of such subparagraph, be modified by any program developed under section 1004 of this title.".

(b)(1) The amendment made by subsection (a) shall be effective after the expiration of the 30-day period beginning on the date of the enactment of this Act.

(2) An action which is commenced under section 1005(a)(1)(B) of title 39, United States Code, before the effective date of the amendment made by subsection (a) shall not abate by reason of the enactment of this Act. Determinations with respect to any

such action shall be made as if this Act had not been enacted.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, I ask unanimous consent that I may speak out of order for not to exceed 15 minutes and that the distinguished Senator from Georgia [Mr. Fowler] may speak out of order for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, will the distinguished majority leader ask for a few minutes for me, to follow his remarks on the Persian Gulf, not to exceed 5 minutes?

Mr. BYRD. Yes.

Mr. President, I make that request.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Mr. President, if the majority leader will yield, I should like some time to speak on the Persian Gulf matter.

Mr. BYRD. Very well. If the distinguished Senator from Arkansas has no objection, I will make that request.

Mr. PRYOR. Mr. President, I say to the majority leader that I have no objection whatsoever. It will give me another few moments to prepare for H.R. 348, when it is brought to the floor. I understand that the Senator from North Carolina may have an amendment to propose to H.R. 348 when it is taken from the calendar. I hope Senator Helms will be present, because we will be ready, willing, and able to bring H.R. 348 to the floor within the next 20 to 30 minutes, I assume.

Mr. BYRD. I thank the distinguished Senator from Arkansas [Mr. Pryor].

May I say that we should be finished with our colloquys within 30 minutes. The distinguished Republican leader has given his consent that the measure may be taken up, and I am sure that Mr. Helms has been notified.

WHO IS ESCORTING WHOM IN THE PERSIAN GULF?

Mr. BYRD. Mr. President, the results of the first U.S. Navy escort mission in the Persian Gulf highlight the problems that can be encountered, and obviously will be encountered, when the United States leads with its chin in that volatile region. The fact that the United States is a superpower does not confer some magical, teflon alternative for proper preparation and careful planning. Both Houses of Congress over a period of some 2 months expressed reservations over the nature of the proposed escort protection plan by U.S. Navy warships for Kuwaiti tankers reflagged under the Stars and Stripes.

The distinguished Republican leader and I offered an amendment to the supplemental appropriations bill, on May 21, 1987, requesting a report by the Pentagon dealing with the security situation in the gulf. Our intent was to flesh out the threats to United States interests in the gulf, and for the Secretary to inform the Congress as to how he proposed that we prepare to respond to the range of threats, primarily Iranian, to our interests, and to the interests of Kuwait and other states in the gulf with whom we are associated. The report was delivered on June 15, 1987. There was precious little attention—indeed no attention at all—devoted to the question of mine warfare.

Mr. President, the downplaying of this particular threat by the administration was of concern to the Senate. In the amendment I offered with Mr. Moynihan and a number of Senators, and which was voted on July 7, with 57 Senators voting to invoke cloture—the amendment itself was not voted on—the question of mines was specifically highlighted. The amendment said that the security arrangements laid out by the administration in its report were "inadequate" and called upon the administration to do "further assessments" of "mine warfare detection and defense * * *." The language was placed in the resolution at the specific request of the distinguished Senator from Nebraska [Mr. Exon], a member of the Armed Services Committee. In the report of June 29, 1987, done at my request by the distinguished chairman of the Senate Armed Services Committee, Mr. Nunn, analyzing the administration's plan and after extensive hearings conducted in his committee, he explicitly stated that "there is one area that did not receive adequate attention in the Secretary of Defense's report: that being the threat from naval mines * * * the United States must be prepared well in advance to counter any mining threats." I am quoting him.

So one can hardly argue that there has not been increasing concern in the Senate over mine warfare and the threat it posed and will continue to pose to this escort operation. There is nothing mysterious or secret about the threat. After all, the first Soviet escort of its chartered tankers to ports in Kuwait was also subject to damage by virtue of a mine explosion. The administration accuses the Senate of attempting to micromanage these operations. But when so obvious a threat is downplayed by an administration eager to demonstrate or should I say, perhaps more appropriately, to regain its credibility in the gulf, then I think we are obligated to continue to ask for assurances that the plan has been properly thought through, that all precautions are being taken, that we are erring on the side of effective protection.

It is disturbing to read, Mr. President, that the Pentagon seems unprepared to deal with this threat. It is actually astounding to read that Rear Admiral Harold Bernsen, the commander of our Middle East Task Force in the Persian Gulf, said last Saturday, July 25, 1987, that "we're going to have to review the whole program * * * We just don't have a great deal of capability. We're going to have to do some minesweeping, for sure," So, what is the result? The Kuwaiti supertanker had a hole blown in its hull, and it experienced major flooding of four of its compartments, putting its seaworthiness into question. Even more astounding, the Navy vessels assigned to escort the tanker had to fall in single-file line behind the tanker to avoid further encounter with mines which would do even more severe damage to those smaller naval vessels. So the situation was turned on its head, and the supertanker was put in the position of escorting our warships throughout Persian Gulf waters.

Mr. President, the question is, Who is escorting whom in the Persian Gulf?

This patently absurd and ridiculous result of the first escort mission is embarrassing to the Nation. The administration would have done far better to delay the operation until all alternatives had been explored.

Even more absurd and infuriating is the apparent refusal of the Government of Kuwait to allow United States mine warfare helicopters to stage out of Kuwaiti territory. I have no doubt that the issue of Kuwaiti cooperation has been raised with the Government of Kuwait. Indeed, the three Senators who visited Kuwait at my request—Senator Sasser, Senator Warner, and Senator Glenn, did raise the question of Kuwaiti cooperation with us, and got very little in the way of positive answers. The time is coming for the United States to pull the plug on this operation, and put an end to being jerked around by the Government of Kuwait. They want escorts, but strictly on their terms, and the United States is supposed to go along with a proposal with one hand tied behind its back. If the Kuwaits will not help us help them, then I think we should let them handle their own problems. I urge the administration to put the whole operation in abeyance until Kuwait gets serious about supporting the United States in its efforts to support Kuwait in countering the mine warfare threat in the gulf.

Mr. President, the Saudis have minesweepers, and they have been of some limited help to the Kuwaits in clearing their internal waters of mines, apparently planted by the Iranians, which have recently been found. The Saudis, however, have demonstrated a disappointing reluctance to work with us in clearing mines in Persian Gulf international waters. That is not particularly helpful. If the Saudis want the United States to continue to entertain weapons transfer requests, then it is surely reasonable to expect them to be more forthcoming in helping their brother—or sister—Gulf State, Kuwait, in protecting its tanker fleet. The United States should not be expected to do this escorting alone, in the face of obvious threats when it is in the capability of the Saudis to help us. One gets the feeling that somebody is being taken for a ride in the gulf.

If the mines that damaged the *Bridgeton* had, instead, detonated under one of our escorting warships, there could well have been loss of American lives again in the Persian Gulf. This illustrates the real danger that the current half-baked escorting operation confronts us with—it may endanger the underlying commitment of the United States to the gulf region, a commitment of historic and geopolitical significance to the West which might well be called into question by the American people if we had not, luckily, narrowly escaped on this occasion.

Again, I strongly urge the administration to put this operation in abeyance until the forces are put into place to meet the threat which is completely obvious, and until other options, called for in Senate amendment 367 to the trade bill are fully pursued, or at least until we can get some demonstration of cooperation out of the people who are asking us for help.

If they will not help us when we are attempting to help them, then I do not know how far we should continue this rather hastily made commitment. It seems to me that the Saudis and the Kuwaits owe a little to the effort themselves. I do not think it is asking too much to expect the kind of assistance that we have requested.

Mr. WARNER. Mr. President, although I have had some differences with the distinguished majority leader, he is absolutely correct, that we must pay greater attention to the participation of the Gulf States in their own defense, especially as the United States takes on these new risks.

There was a report yesterday, and I am not able to confirm or deny it, that at some recent point prior to the *Bridgeton* mining incident, the Department of Defense made efforts to send into the Persian Gulf the necessary materials to enhance our minesweeping capability in the region. However, that shipment had to be turned around and returned to the United States, so the report related, because we could not get permission to stage that minesweeping equipment within the GCC states.

I would hope the Secretary of Defense would be forthcoming with information on this issue, because it would be highly supportive of this timely statement by the distinguished majority leader.

The United States Navy, in my judgment, is doing a very credible job in the gulf, given the complexity of the geopolitical situation in that area. The planning of the Joint Chiefs of Staff has to take into consideration every turn of the politics of the region. They must plan these naval operations within a very tight geopolitical straitjacket.

I am certain if they had been given a free hand and greater cooperation from the Gulf States, we would have had more minesweeping equipment present in the region and it would have been utilized prior to this incident with the *Bridgeton*.

Mr. President, I would like at an appropriate time when my time expires to expand my remarks for the purpose of the RECORD. I ask unanimous consent to do so at that time.

Mr. President, I would like to go back and address the history of the minesweeping capability of the U.S. Navy. Indeed, the Navy today has substantial mine countermeasures capability. We have in our inventory 21 minesweeper ships, 3 manned by active Navy personnel, and the other 18 by reservists. We also have 23 minesweeping helicopters. Both our minesweeping ships and helicopters are capable of clearing mines like those found in the Persian Gulf.

Today's shortcomings in mine countermeasures are the result of failure to replace aging forces during the 1970's. And I freely admit I was in the Department of the Navy when those decisions were made. Those decisions were predicated on a U.S. strategy that relies primarily on NATO navies to provide mine countermeasures capability. Our European partners have state of the art equipment to support alliance interests.

While the Navy today has a substantial mine countermeasures capability, new and more capable systems are clearly needed. That is why, beginning in 1981, the current administration set about modernizing this Nation's mine countermeasure capability, as part of their commitment to a 600-ship Navy.

Since 1981, mine countermeasures have enjoyed broad, bipartisan support in Congress. Under President Reagan, the Nation has: Ordered 12 new mine countermeasure ships at a cost of $1.91 billion. The first new ship will be delivered in August of this year and commissioned this fall; ordered 31 new minesweeping helicopters at a cost of $389.7 million.

This administration's efforts to redress longstanding deficiencies have resulted in this Nation's most ambitious mine countermeasures program since the Korean war.

In summary, the Navy is doing an excellent job given the present geopolitical considerations. Constrained by political circumstances, the Navy has accepted the mission and the challenge and are doing their very best.

American citizens should be proud of our Navy's accomplishments and thankful for the daily sacrifices of our service men and women and their families.

I thank the distinguished majority leader.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Virginia [Mr. WARNER] for his comments. I value them. I think we should heed them.

He has been one of the Senators who all along has been speaking with great reason and certainly backed up by the kind of experience that lends credibility to his statements and to his advice and counsel.

Mr. President, I believe Mr. EXON had indicated he wanted to speak on this subject. Was provision made for that?

The PRESIDING OFFICER (Mr. WIRTH). The Senator was not granted time.

Mr. BYRD. How much time does he want?

Mr. EXON. Three or 4 minutes.

Mr. BYRD. I ask unanimous consent that the distinguished Senator from Nebraska [Mr. EXON] may speak for 5 minutes on this subject and I believe Mr. McCAIN wanted 5 minutes, and then the distinguished Senator from Georgia [Mr. FOWLER] on another subject wanted 10 minutes.

Mr. FOWLER. I thank the majority leader. I think I am already included in another unanimous consent.

Mr. BYRD. Then if we could resume consideration of the pending business.

Mr. WARNER. Mr. President, I would like to thank the distinguished majority leader for the opportunity to join today in this colloquy. Throughout this entire recent chapter in the Persian Gulf, the distinguished majority leader, together with the minority leader, has provided very capable leadership on this extremely complex and difficult issue.

While we do not agree on all aspects of the solution, indeed it has been a cooperative and constructive working partnership. Throughout the consultive process with the administration, the distinguished majority leader has been right there every single meeting.

Mr. BYRD. Mr. President, I thank my friend.

The PRESIDING OFFICER. Without objection, the Senator from Nebraska is recognized for 5 minutes to be followed by the Senator from Arizona for 5 minutes and then the Senator from Georgia for 10 minutes.

Mr. EXON. I thank the Chair, and I thank the majority leader, and my friend and colleague from Virginia.

I have been listening with great interest, Mr. President, to the distinguished majority leader citing a concern that many of us had for a long time. I listened with great interest to the former great Secretary of the Navy, Senator WARNER, from Virginia.

Mr. President, there are those of us who cannot agree on everything that is going to be done with regard to the Persian Gulf, but there is one strain that runs through all of it and that is that if we are going to be there, if we are going to expose our men to the wartime pressures that obviously exist in that area today, that have been brought home to us very vividly with the loss of some 40 sailors previously, then that strain is let us get there with the "mostest" to do the "bestest" that we can under the circumstances, and to date, Mr. President, we have not done that.

I think there is no one in the Senate who wants to cut and run in the Persian Gulf. I listened very carefully to the statements made by the Senator from Virginia, with regard to the geopolitical structure that is there and the handicap that has placed our naval forces under and I agree.

I noted that the majority leader said that that part of the resolution that he referred to with regard to mine sweeping was authored by the Senator, and that is true. In closed session of the Armed Services Committee, I took the lead in questioning responsible naval officials and responsible officials of the Department of Defense as to whether or not they had carefully pursued all options with regard to protecting our ships and the ships that they were going to escort from mine warfare.

Mr. President, I was assured that that had been taken into consideration. I think the facts indicate that they were not.

Now, it is one thing for the Navy to stand up and operate under extreme circumstances which they are with the geopolitical situation there today, but it is quite another for the Navy not to be forthcoming as I suggest they should to the Armed Services Committee of the U.S. Senate.

I do not know whether my friend from Virginia would agree or not, but he was there when this discussion took place, and I would say that the Navy is at fault for sending men into a combat situation even under the instruction of the Commander in Chief unless they tell at least the Armed Services Committee the truth about the situation.

We have had the so-called Iran-Contra hearings that have been laced with double-talk. I for one do not like double-talk from anyone. And I for one have never revealed a secret of the United States of America and I suggest that most of the Members of the U.S. Senate have not.

I get a little weary of what I hear in the paper about we cannot be trusted. I also, Mr. President, was one of the leaders of the drafting of that resolution, and one of the leaders that I think first spoke out on the Senate floor and in the Armed Services Committee with the lack of our supposed friends in the gulf, including Kuwait and Saudi Arabia and others, to provide us landing rights for our aircraft.

I simply say that I do not want to cut and run, and I recognize that we have a role to play in the gulf, but we must not play, in my opinion, Mr. President, a foolhardy role.

I think to a large extent the mistake after mistake that has been made there thus far indicates the perilous mission that our ships and our sailors and our Navy are on in that region.

Obviously, you do not have to be a military expert, and I am not compared with my friend from Virginia, the former Secretary of the Navy, but it does not take a military genius to see that one of the real risks we were going to have there was mine warfare.

But essentially I think in the Armed Services Committee that was not highlighted.

Furthermore, I do not believe the U.S. Navy told us the truth about that danger or else they did not know. And I think they did know because they are experts at sea warfare.

Now, carrying out the instructions of the Commander in Chief are one thing, but for naval officials and officials of the Department of Defense not to come clean with the Armed Services Committee in closed testimony is quite another. And I am exercised about that and every Member of the U.S. Senate should be if they understood the situation and the misleading advice, the misleading testimony, the erroneous testimony, the ill-advised testimony, call it what you will. They are not leveling with us. This administration has a record of not leveling with the Congress of the United States or the American people.

I am not for pulling out of the gulf, but I am for the U.S. Senate to call the shots. And that is why I was pleased to see not only the majority leader but the former distinguished Secretary of the Navy, who has done more to push through the administration's defense policy since this Senator has been here, and the other Members standing up today and expressing some of the same concerns that others of us have.

Mr. President, we are going to back the President, but we want to know the facts.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

The Chair recognizes the Senator from Arizona.

Mr. WARNER. Mr. President, will the Senator yield me 20 seconds to reply to my colleague?

Mr. McCAIN. Yes.

Mr. WARNER. Mr. President, Mr. McCAIN and I came to the Senate together and we have sat on this committee and worked together on behalf of this President and our Nation to strengthen the Armed Forces. But I hope he would think for a moment about whether or not the Navy was truthful or untruthful. Together with my colleague and other members of the committee, I sat through many long hours of briefings, including some by the Chairman of the Joint Chiefs of Staff, who is a distinguished sailor and professional in his own right. The Chairman repeatedly told the committee, as he has the President and the American public, that this was not a risk-free operation and that we could not foresee all of the possible contingencies.

Mines were mentioned; but perhaps, as the Senator states, not sufficiently highlighted. He is correct on that point. Mines did not receive the highlighting or the emphasis they deserve.

But I do believe, in my heart of hearts, that there was no intentional delivery of testimony to our body, either in executive or public session, that did not reflect the best professional judgment at all times of those sailors.

Mr. EXON. Mr. President, could I be yielded 1 minute to reply?

The PRESIDING OFFICER. The Senator's time has expired and the Chair recognizes the Senator from Arizona.

Mr. McCAIN. I ask unanimous consent that the Senator from Nebraska may be allowed 1 minute.

Mr. EXON. I thank my friend.

The PRESIDING OFFICER. Is there objection? The Chair hears none. It is so ordered.

Mr. EXON. Mr. President, it is well said by my friend from Virginia, but I think the facts of the matter still stand as I said them. Regardless of the best professional judgment of top officials of the U.S. Navy, they were wrong. And just standing up and saying that they gave us their best professional judgment, I happen to feel that that judgment was clouded by the geopolitical pressures that were put on that Navy by the Commander in Chief. I think they have a responsibility, I say to my friend from Virginia through the Chair, to tell us more than they did or else they do not understand mine warfare any better than this Army man.

Thank you very much.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. McCAIN. I thank the Chair.

I thank my colleague from Nebraska. I understand his deep concern over this issue. I also appreciate the enormous contributions to this debate made by the distinguished majority leader, the Senator from West Virginia, and of course, the former Secretary of the Navy, the Senator from Virginia.

I would like to point out that I also attended the Senate Armed Services Committee hearings referred to by my friend from Nebraska. The Senator from Nebraska is indeed correct that, in the briefings from the military and civil leadership, we did not receive a highlighted rendition of the threat posed by mine warfare.

We also did not receive highlighted information concerning the use of speedboats, the use of F-4's, the possible use of F-14's, or any other particular threats. In my opinion a balanced briefing was given to members of the committee as to the total threat—all of the capabilities that the Iranians have in order to inflict damage upon the United States.

I believe that the administration did give us an adequate briefing on the threat and the broad spectrum of capabilities that Iranians have. The fact that they did not highlight the mining capability the Iranians have, does not in my opinion, somehow make them guilty of malfeasance or of not informing the Congress.

It is also important to point out here, Mr. President, that nothing involved with this reflagging was risk-free. That is why the distinguished Senator from Virginia and I raised serious doubts about this whole policy and its implementation at the time it was brought into being. We are not playing with an adversary who is given to idle threats. And I do not think there is any doubt that the Iranians will continue to make every effort to impede the flow of oil through the Persian Gulf.

Indeed, the mine that was laid and struck the *Bridgeton* was in one of the gulf's few deep channels. It served to impede the flow of oil through the Persian Gulf. I might remind my colleagues that the Carter doctrine said the United States would use whatever means necessary to ensure the unimpeded flow of oil through the gulf.

As the distinguished Republican leader said the other morning, after the mine hit the *Bridgeton*, it was predictable that there would be a press conference, followed by another resolution, to either delay or reverse U.S. policy in that part of the world as regards to the reflagging. Almost continuously in these debates we hear references to the Vietnam war and how the United States failure in Vietnam will somehow be translated into a failure of reflagging. I think it is well to remember that one of the reasons we lost the war in Vietnam was stated by Ho Chi Minh, who said that he wouldn't win the war on the battlefields of South Vietnam, but would win it on the streets of Detroit, Chicago, New York, on the television sets and in the Halls of Congress.

I would suggest to my colleagues that continual criticism and attempts at reversing a policy already in place and in operation in a destructive fashion—and I certainly do not put that label on the criticism leveled at my friend from Nebraska nor the distinguished majority leader—can do nothing but encourage the Iranians to take action which will lead to a reversal of U.S. fortunes and indeed, encourage Tehran to think that it can not only win a victory against the U.S., but can dramatically impair the United States and the Western World's economies.

Let me briefly mention one other aspect, as my floor time is limited on this issue.

There are young men and women serving in the Persian Gulf today under the most arduous, difficult, and indeed, dangerous conditions that we can ask of young men and women in peacetime. If you think that continually criticizing what they are doing and what they are trying to achieve helps their moral and helps their dedication and zeal to do their job, I would like to tell you that you are sadly mistaken. What the young men and women who are serving this Nation in the Persian Gulf, indeed around the world, need from their elected representatives is support and encouragement in carrying out their mission under the most arduous and difficult conditions.

I know that my colleagues from Nebraska and Virginia share my admiration and esteem for what they are doing. I would hope that, as we continue this debate—unfortunately, it will continue—we could inject that element into our debate so that those young men and women know the American people support them as they try to carry out their orders from the Commander in Chief.

I yield the floor.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. EXON. Mr. President, might I ask for 60 seconds from my friend from Georgia?

Mr. FOWLER. I am glad to yield 60 seconds to my friend from Nebraska.

The PRESIDING OFFICER. The Chair recognizes the Senator from Georgia who yields to the Senator from Nebraska.

Mr. EXON. Mr. President, let us keep this debate focused on what it is about as far as this Senator is concerned. We are all for the men and women that are making the sacrifices and playing this dangerous game over there. We are not for pulling out. We want to protect them. We want all of the resources available to the United States to be used to protect them.

Now, it can be downplayed for whatever it is worth that this was not highlighted, the mine matter. This was in closed session of the Armed Services Committee. But I would like for my colleagues to refresh their memories by reading the transcript of that testimony where this Senator did try and highlight this problem. It certainly was not highlighted by the Navy.

What I am saying is, we should have some minesweepers over there and not rely on other minesweepers, as was done in this case. to create another possible tragedy. Let us get with it over there and provide what our men and women need to do the job that the President has assigned them.

I thank my good friend from Georgia for his courtesy.

The PRESIDING OFFICER. The Senator from Georgia.

(The remarks of Mr. FOWLER will appear later in the RECORD under "Statements on Introduced Bills and Joint Resolutions.")

POSTAL EMPLOYEE APPEAL RIGHTS

Mr. PRYOR. Mr. President, I do not see the distinguished manager on the other side of the aisle. I believe that the manager this afternoon is going to be the Senator from Delaware [Mr. ROTH].

I was going to suggest the absence of a quorum. However, the distinguished assistant minority leader will remain on the floor until Senator ROTH arrives.

Mr. SIMPSON. Mr. President, to accommodate the Senator, I will serve as surrogate floor manager on this side.

Mr. PRYOR. I thank the distinguished Senator.

Mr. President, I rise today to urge approval of H.R. 348, the postmasters and postal supervisors appeal rights bill. H.R. 348 was reported by the Senate Governmental Affairs Committee on July 10 and is comparable to S. 541, a bill I introduced in January which currently has 80 of my distinguished colleagues as cosponsors. Very rarely in my years in the Senate have I seen legislation with such broad bipartisan support.

H.R. 348, as originally introduced in the House by Congressman MERVYN DYMALLY, was adopted by that body in a unanimous vote on March 3, 1987. The bill was then reported to the Senate where it was referred to the Senate Governmental Affairs Committee, and to the Subcommittee on Federal Services, Post Office, and Civil Service, which I chair. Our subcommittee held a hearing on the legislation on April 27, 1987, at which the Postal Service, the National League of Postmasters, the National Association of Postmasters, and the National Association of Postal Supervisors testified.

Mr. President, our bill simply extends to nonveteran postmasters and postal supervisors the same rights with respect to adverse actions as their veteran counterparts currently enjoy under title 5 of the U.S. Code. Following enactment of this bill, all postmasters and supervisors will have an independent, impartial forum—the Merit Systems Protection Board—to appeal an adverse action lodged against them by the Postal Service.

Currently if a postmaster or supervisor does not happen to have veteran status, and an adverse action is filed against him or her, the Postal Service, in what it refers to as the "650" process, acts as the judge, jury, and the prosecutor. I ask my colleagues: Does this sound like the kind of impartial administrative process which we can tolerate and be proud of? For this Senator, the answer is clearly no.

As long as the Postal Service is allowed to charge, hear, and decide an adverse action case, with no opportunity for an objective, disinterested forum—such as MSPB—there exists a striking lack of equity for those who are nonveterans.

We have an extensive legislative history to support enactment of this bill, beginning with the 99th Congress, when Congressman DYMALLY introduced H.R. 2854, which passed the House by a unanimous vote. In the Senate, S. 2134, was introduced by my distinguished colleague from Alabama, Senator HEFLIN, and reported from the Governmental Affairs Committee with a favorable recommendation. Unfortunately, during the final days of the session, when efforts were made to bring the bill up on the Senate floor under unanimous consent, problems were encountered which caused the bill to die. We are moving carefully this Congress, Mr. President, to try and avoid a similar scenario.

Although statistics vary depending on their source, all indicate a postmaster or supervisor is considerably less likely to have a favorable resolution to an adverse action when the action is considered in-house in the 650 process, as contrasted with an appeal to the independent MSPB. For example, with postmasters in the 1985-86 period, the Postal Service testified at our hearing that it affirmed itself in adverse actions 88 percent of the time; in contrast, with MSPB, less than 50 percent of the Postal Service charges were affirmed. Mr. President, the percentage differences and the dual system at the very best create an appearance of a double standard in resolution of adverse actions against postmasters and supervisors; at worse, a picture is painted of a two pronged system of justice, an objective one for veteran postmasters and supervisors, a tainted one for nonveterans.

Another problem with the current system is that it constitutes de facto discrimination against women postmasters and supervisors. Obviously, Mr. President, the bulk of our Nation's veterans are men. This being the case, and given the significant number of women postmasters and supervisors, women in the Postal Service are on average afforded less impartial treatment in adverse action appeals than men.

Finally, Mr. President, as we near the point of Senate consideration of this bill, I ask my colleagues—and especially the 80 cosponsors of S. 541—to oppose any amendments to this bill.

Mr. HELMS. Mr. President, I thank you very much for recognizing me.

Mr. President, I have an amendment at the desk which I will not call up at this moment. I want to explain the purpose of the amendment and then I will call it up and we can have a vote on it.

Obviously, I am convinced that the amendment, which is in the nature of a substitute, will provide a far more preferable approach to give postmasters a right to appeal adverse personnel actions to an outside independent entity.

The distinguished Senator from Arkansas has reviewed the history of this legislation, and he has done it very eloquently, as is always the case with my friend. I may repeat some of the things he has said, and I beg the indulgence of Senators if, as, and when I do so.

In the 99th Congress, the distinguished members of the Subcommittee on Civil Service, Post Office and General Services determined that the current internal disciplinary system of the Postal Service gives the appearance of unfairness and should be modified. This was because the system provides for no review by an independent, outside entity. The only groups that currently have a right to appeal to an outside entity are veterans, who can appeal to the Merit Systems Protection Board, and employees represented by a union, who of course, have access to binding arbitration.

The National League of Postmasters called this lack of outside review "a lack of basic due process rights regarded as essential in the American legal system." My good friend and distinguished colleague from Alabama, Senator HEFLIN, stated that in his judgment, "it is inherently unfair for an employee to defend against a serious disciplinary action through a strictly internal review process." He also stated his view that it "is important to provide this right across the board."

Mr. President, if, in fact, postal employees face such an unfair system, Congress, of course, has a responsibility to correct it. In the 99th Congress, Senator HEFLIN, along with others, introduced a bill (S. 2134) which would have extended to "supervisor and managerial employees" the right to appeal adverse personnel actions to the Merit Systems Protection Board. I became interested, and it was explained to me in the process that the bill would have extended the appeal right only to postmasters and certain managerial personnel—not to postal inspectors or clerical employees. When my staff could not find a valid justification for this distinction, I proposed an amendment so the appeal right would extend to all postal employees.

The League of Postmasters, Senator HEFLIN and Congressman DYMALLY, the sponsor of the House version of the bill, all agreed to my amendment. Unfortunately, a hold was placed on it in the closing hours of the session. Otherwise, all postmasters and other nonbargaining unit employees would currently have the option to appeal adverse personnel actions to the Merit Systems Protection Board.

Mr. President, the postmasters have fought very hard to have this appeal right extended to cover them, and it is right that they have done so. H.R. 348, now pending, purports to accomplish this. However, let me point out a few problems that I see with H.R. 348.

In the first place, H.R. 348 would extend the Merit Systems Protection Board appeal right to anyone who is a supervisor or a management employee in the Postal Service, or an employee of the Postal Service engaged in personnel work in other than a purely nonconfidential clerical capacity. I am quoting directly from the bill. This language is taken from 39 U.S.C. 1202, the section of the Postal Service Reorganization Act that determines which employees may join a collective bargaining unit. That section is patterned after the Labor Management Relations Act as interpreted by the National Labor Relations Board. By using this language, H.R. 348 is designed to extend the Merit Systems Protection Board appeal right only to postal service employees who are prohibited from collective bargaining.

Mr. President, I believe there are a couple of serious problems with this approach, and that is why I am standing here this afternoon. First, it is not always easy to determine who is prohibited from collective bargaining, as anyone familiar with the decisions of the National Labor Relations Board will attest. While the language in the bill would probably cover most postmasters, it is by no means clear that it would cover all of them. It is also unclear what particular groups, if any, within the Postal Service would be excluded from coverage of the bill.

The reason for this uncertainty is because the National Labor Relations Board, in determining who may enter into collective bargaining agreements, has made it clear that an employee's title alone does not determine whether the employee is a management official or supervisor and thus excluded from collective bargaining.

Let me offer a few examples which demonstrate the confusion that could arise if H.R. 348, in the form now at the desk, is enacted:

Would a payroll supervisor at a Postal Service data center be able to appeal to the Merit Systems Protection Board under H.R. 348? He is a supervisor and thus would appear to be included within the language of the bill. Yet, the National Labor Relations Board has ruled that payroll supervisors at postal data centers are not supervisors within the meaning of the Labor Management Relations Act. That means they could join a collective bargaining unit and therefore would not have a right to appeal to the Merit Systems Protection Board.

What about engineers within the Postal Service Research and Development Department who act as program managers? Would they be able to appeal to the Merit Systems Protection Board under H.R. 348? It appears so, since they are managers. Yet, the National Labor Relations Board has held that they are not managerial employees within the meaning of the Labor Management Relations Act. Therefore, they too would be unable to appeal to the MSPB under H.R. 348.

What about attorneys located in headquarters? Are they management officials or supervisors? Some probably would be; some would not be. There is no way to know for any given individual. A determination must be made on each case. Therefore, under H.R. 348, many employees would have no way of knowing what their rights are until they try to appeal to the Merit Systems Protection Board and a determination is made whether they are management officials or supervisors.

Mr. President, because of this concern, I wrote to the Chief Postal Inspector, Mr. Charles R. Clauson, to ask his opinion of how Senator Pryor's bill, S. 541 and my bill, S. 523, would affect postal inspectors. I ask unanimous consent that a copy of my letter to Mr. Clauson and a copy of his response be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Senate,
Washington, DC, April 6, 1987.

Hon. Charles R. Clauson,
Chief Postal Inspector, U.S. Postal Service, Washington, DC.

Dear Mr. Clauson: On February 17, I introduced legislation to extend to all postal service employees the right to appeal adverse personnel actions to the Merit Systems Protection Board (MSPB). I enclose (1) a copy of my bill, S.523, (2) a copy of my floor statement on S.523, and (3) a copy of S.541, a similar bill introduced by Senator David Pryor.

Since the Postal Inspectors will be directly affected by these bills, it would be most helpful to know your position on them. If you need additional information, please let me know.

Many thanks and kindest regards.

Sincerely,

Jesse Helms.

Chief Postal Inspector,
Washington, DC, April 16, 1987.

Hon. Jesse Helms,
U.S. Senate,
Washington, DC.

Dear Senator Helms: In your letter of April 6, 1987, you asked for my position on proposed legislation to extend to certain officers and employees of the Postal Service the right to appeal certain adverse personnel actions to the Merit Systems Protection Board under Title 5, U.S. Code.

S. 523, your proposed legislation, would extend coverage to all Postal Inspectors. My reading of S. 541 suggests only Postal Inspectors who serve in a management or supervisory capacity would be covered; thus, the majority of our field Inspectors, unless a preference eligible employee, would not be covered by this proposed legislation.

If the Congress sees fit to amend current disciplinary procedures for postal employees, it should extend coverage to all Inspectors, not merely those serving in management or supervisory positions. In my view, this is necessary in the interest of fairness and it simplifies administration of the program.

Thank you for the opportunity to respond to this issue.

Sincerely,

C.R. Clauson.

Mr. HELMS. Mr. President, my amendment at the desk would establish a simple, bright-line test for determining the appeal rights for each and every employee. As under H.R. 348, if an employee is represented by a collective-bargaining agent, the employee has a right to binding arbitration and would not be able to appeal to the Merit Systems Protection Board. However, all nonbargaining unit employees, including postmasters, would be able to appeal to the Merit Systems Protection Board. It is just as simple as that.

I should have stated this earlier. The committee amendment strikes the provision in the bill which allows the Director of the Office of Personnel Management to appeal adverse decisions of the Merit Systems Protection Board. To my knowledge, all other Federal agencies have this right and my amendment in the nature of a substitute would reinstate that right.

Let me read that relevant portion:

"(5) In the administration of this subsection, the Director of the Office of Personnel Management may obtain review of any final order or decision of the Board by filing a petition for judicial review in the United States Court of Appeals for the Federal Circuit of—

"(A) the Director determines, in his discretion, that the Board erred in interpreting a civil service law, rule, or regulation affecting personnel management and that the Board's decision will have a substantial impact on a civil service law, rule, regulation, or policy directive; or

"(B) the Postal Service determines, in its discretion, that the Board erred in interpreting a law, rule, or regulation affecting postal personnel management and that the Board's decision will have a substantial impact on a postal law, rule, regulation, or policy directive.

Mr. President, the appeal rights for each employee would be clear under my amendment, which I shall call up in just a moment. No costly case-by-case determination would have to be made. And at a time when we hear talk of proposed postal rate increases, who wants to introduce a procedure which is likely to increase administrative costs for the Postal Service?

But let us overlook for a moment the uncertainty that would exist if H.R. 348 now at the desk, is enacted without alteration. Let us assume that the appeal rights extended to postmasters. This leads to the second problem with the bill. If only postmasters and veterans are allowed to appeal to the Merit Systems Protection Board, there will be approximately 10,000 employees mostly postal inspectors and clerical personnel and all other employees who have decided not to join a union, who will remain under this internal review system, a system the members of this subcommittee themselves have determined to be unfair.

Now I do not think that makes a whole lot of sense from the management viewpoint. What does a supervisor or a manager say when an employee asks, "If this system is so unfair, why didn't Congress correct it for me?" "Well, they could have," is likely to be the response, "but they decided that you should be required to join a union if you don't like the system."

And that is where, Mr. President, the cheese begins to bind. If an employee says, "Well, I don't want to join a union," the response to that is "Tough luck, you're stuck."

Now, what kind of manager or supervisor would intentionally, willfully treat his or her people that way? By the same token how can Congress tell a group of Federal employees that we will remedy an admittedly unfair system for some, but the rest of you have to join a union to get relief. Does it not make more sense simply to correct the problem for all employees and establish clearly who has the right to appeal to the Merit Systems Protection Board?

Now, I hope I have made it perfectly clear that my bill does not affect in any way any employee's right to join a union. If employees want to join a union, fine; by all means they should be free to exercise that right, and this Senator will fight for them to retain that right. But, Mr. President, the same employees ought to be free to exercise the right not to join a union without being discriminated against.

Let me use an analogy which I think fits, and I will do it in the form of a question. Would we condone management if they gave a pay raise or increased vacation benefits only to postmasters and told all of the other employees to join a union if they want the same benefits? Of course we would not think of doing that; at least this Senator would not. Yet, I think we would be making a far more egregious error in this case because we are dealing not simply with a benefit but with a fundamental right, a fundamental right of each employee.

Mr. R. Fain Hambright, former president of the National League of Postmasters, testified last year before the House Subcommittee on Postal Personnel and Modernization. He stated that the current internal review system has often been unfair. He said, "We believe that a system must be fair in every respect, and administered equitably to all of its employees." Not a Member of this Senate will challenge that statement. Mr. Hambright went on to challenge the Postal Service: "If the Postal Service is as interested in protecting employee rights and the fair appeal system available to employees as it says it is, how can the Postal Service then object to providing equal routes of appeal to all nonbargaining unit employees?"

Mr. President, that is precisely what the amendment I shall call up momentarily will do. It will extend the Merit Systems Protection Board appeal rights to all nonbargaining unit employees.

AMENDMENT NO. 637

(Purpose: To amend title 39, United States Code, to extend to certain officers and employees of the Postal Service the same procedural and appeal rights with respect to certain adverse personnel actions as are afforded to Federal employees under title 5, United States Code)

Mr. HELMS. Madam President, I now ask that the amendment be stated. I call it up, and I ask that Senator THURMOND be identified as a cosponsor of the amendment and be added as a cosponsor of S. 523.

The PRESIDING OFFICER (Ms. MIKULSKI). Without objection, it is so ordered.

The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from North Carolina [Mr. HELMS], for himself and Mr. THURMOND, proposes an amendment numbered 637.

Mr. HELMS. Madam President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

In lieu of the language proposed to be substituted, insert the following:

That (a) section 1005(a) of title 39, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(4) Notwithstanding paragraph (1)(B) of this subsection, and subject to paragraph (2) of this subsection regarding preference eligibles, subchapter II of chapter 75 of title 5 shall apply to all officers and employees of the Postal Service who have completed 1 year of current continuous service in the same or similar positions, other than those persons excluded under either paragraph (1)(A) of this section (regarding collective bargaining agreements) or paragraph (3) of this subsection (regarding certain executive positions).

"(5) In the administration of this subsection, the Director of the Office of Personnel Management may obtain review of any final order or decision of the Board by filing a petition for judicial review in the United States Court of Appeals for the Federal Circuit if—

"(A) the Director determines, in his discretion, that the Board erred in interpreting a civil service law, rule, or regulation affecting personnel management and that the Board's decision will have a substantial impact on a civil service law, rule, regulation, or policy directive; or

"(B) the Postal Service determines, in its discretion, that the Board erred in interpreting a law, rule, or regulation affecting postal personnel management and that the Board's decision will have a substantial impact on a postal law, rule, regulation, or policy directive.

In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the Court of Appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.".

(b)(1) The amendments made by subsection (a) shall be effective after the expiration of the thirty-day period beginning on the date of the enactment of this Act.

(2) An action which is commenced under section 1005(a)(1)(B) of title 39, United States Code, before the effective date of the amendments made by subsection (a) shall not abate by reason of the enactment of this Act. Determinations with respect to any such action shall be made as if this Act had not been enacted.

Mr. HELMS. Thank you, Madam President. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Madam President, I ask unanimous consent that I may speak out of order for a period of 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMERICA DESERVES FULL SUPREME COURT BENCH: LET'S EXPEDITE BORK HEARINGS

Mr. DOLE. Madam President, yesterday I had the pleasure of speaking to the National Conference of State Legislators in Indianapolis. During my remarks on budget deficits, welfare reform, and catastrophic health legislation, I spent some time focusing on what I believe will be the main event of the 100th Congress—the nomination of Robert H. Bork to the Supreme Court.

THE PEOPLE EXPECT ACTION

In my view, the American people deserve—and expect—a full and open debate on this very important issue. They also deserve—and expect—a speedy resolution of the nomination. And come October 5, when the Supreme Court begins its next term, the American people deserve—and expect—a full bench on the Nation's highest Court.

Yet, what we have seen so far is an unprecedented delay before committee hearings even start; a delay of 72 days from the time the President sent the Bork nomination to the Hill on July 7, to the time Senator BIDEN, the distinguished chairman of the committee, scheduled hearings to begin on September 15.

We are not talking about confirming a bureaucrat—even a Cabinet Secretary; any department in this Government can function without a leader for at least a while.

SERIOUS BUSINESS

But this is serious business. Nothing coming before the Senate in the next few months should have a higher priority. We are talking about the very precarious balance of the highest Court in the land. The balance of justice is a fragile thing, and is ill-served by a court with a vacant seat.

POTENTIAL FOR A RECESS APPOINTMENT

Yesterday, I made the observation that the President has full authority to make a "recess appointment" to the Court. This procedure, backed by the Constitution, has been used 15 times in the past. Again I would say as I did yesterday, while I am not promoting that such a procedure be used, in the absence of timely action, it is an option the President, any President, should consider seriously.

The chairman of the Judiciary Committee has suggested that politics are being played with the Bork nomination.

I do not believe that is the case, and I certainly do not suggest that is the case. But it does seem to me that we can go back into the history of the Presidents and we can ask ourselves: Was George Washington playing politics when he made two recess appointments to the Supreme Court? Was Dwight Eisenhower playing politics when he made three such appointments, including that of Chief Justice Earl Warren? The American people can judge whether it is political to assure an eight member court in October, with the great potential for evenly split decisions; or whether it is political to assure a full complement on the Supreme Court for the first Monday in October?

Madam President, I will just say this: The Bork nomination is very important. I do not believe Ronald Reagan will make a more important decision in the second term of his Presidency. There is no doubt about it, this nomination will be fully aired. We should have full hearings. We should have a full debate. We ought to have an up or down vote.

I know many of my colleagues on both sides, at least some of my colleagues on both sides, are still undecided. That is probably as it should be. But I would just indicate again, as I was asked this morning about the question about a recess appointment, this is an important decision.

Madam President, Ronald Reagan was elected in 1984. It should come as no surprise to anyone that Ronald Reagan would choose somebody who would exercise judicial restraint, somebody who had a conservative philosophy, someone who felt that the Supreme Court should not be a legislative body, that Congress should be the legislative body or the State legislatures.

The Supreme Court's role would be to interpret the Constitution or things that may have been passed, enacted, and signed by the President. In other words, review what the Congress or State legislatures may have done.

So I will say as I have said many, many times this is an important judgment that must be made. I am suggesting that it be made in a timely fashion. If there is any way that the matter can be expedited, I think that is in the interest of this country.

Mr. BYRD. Madam President, I will have more to say on the Bork nomination. I intend to withhold my judgment on that nomination until I have had an opportunity to study the Senate committee hearings, and the opinions, rulings, and statements by Judge Bork during his tenure on the circuit court of appeals.

I am not going to rush judgment in this matter. I am not going to be stampeded into judgment. I am not going to be pressured into judgment. It is my understanding that the September 15 date for hearings had been agreed upon between Mr. BIDEN and Mr. THURMOND in discussions.

As to a recess appointment, it seems to me that that does not add up, may I say to my distinguished friend, the Republican leader. If we are talking about a recess appointment, are we talking about an appointment in August? Are we talking about an appointment in October? The Senate may not go out until November or even December. What kind of a recess appointment do we have in mind?

I should think also that the President would be more serious about this matter than to make a recess appointment.

Before this Senate goes into recess I am going to inquire of the President, as to whether or not he intends to make any recess appointments. If he indicates that he does, then we will decide what to do. If he says that he does not, we will take him at his word.

In the first place, I do not know when the Senate is going to recess at the pace it is going, and with the amount of work that still remains. It would also seem to me that the President would not accomplish what I should think his objective would be. If I were in his stead, I would want to—perish the thought that I should imagine that I would be in his position, but nevertheless if I were, I think I would want to appoint someone to serve in that position for many years—and in this case it would be many years—after the remaining 18 months that Mr. Reagan would have as of this juncture.

Even if a recess appointment were to be made, that commission would expire at the close of the next session, and the next session might be a special session. I assume that what is meant by the Constitution is, in this instance, the close of the second session. In this instance, it would be the session that would adjourn sine die at the end of the 100th Congress, which could conceivably be as late as the morning of January 3, 1989.

I have seen, I believe, during my service in the Senate the Senate adjourn sine die as late as January 2.

But I hope the President would not be playing games. It would be a circumvention of the people's branch to make a recess appointment, certainly of this nature.

I think there has been too much of that already in the last several months. There has been an excess of circumvention of the people's branch. I do not think that is what the distinguished Republican leader wants to see happen.

But with this President, I should think he is more serious about this nomination than simply to engage in an exercise in which he appoints a Supreme Court Justice who would serve only to the end of the next session.

Mr. President, I would be happy to hear from the distinguished Republican leader. If there is something I am overlooking in what I am saying, if there is something I have missed, I would be happy if he would point it out.

Mr. DOLE. I may not be able to point it out, but as I have indicated, it is an option. As I understand, it happened 15 times. And it would not happen during the August recess. I do not think the President has even considered it. In fact, I know the President has not. I have not discussed it with anybody at the White House. But there are options the President has, Democrats or Republican.

What I am suggesting is that we get on with the Bork nomination. Again, I am not suggesting that is even an option that may be under consideration, but it is an option. It is provided in the Constitution. It was used first, as I understand, by George Washington who made a recess appointment I think of John Rutledge. He was later not confirmed but I think for another reason—I think over some treaty dispute. Some of those who have been recessed have been confirmed.

So it is an option any President has. It could be interpreted the other way. Let us say that the Senate, through no fault of the leadership on either side never completed, one way or the other, action on the disposition of Judge Bork. Then the President has a question that must be resolved.

I think there are other questions in the Bork nomination that must be resolved. I know the majority leader has indicated that he hopes to have the matter on the Senate floor, and we hope we have the matter on the Senate floor. And I guess the other question may be—and there is some precedent for that. I guess in the Fortas nomination where cloture was not obtained, he asked that his name be withdrawn. I was not in the Senate at the time. President Johnson withdrew the name. That is another question.

How many votes do we need for the Bork confirmation? 60 or a majority?

I suggest there is going to be a lot of discussion. This is a very, very important nomination, one that I think deserves serious and prompt consideration.

Has the President looked at a recess appointment? I do not think so. But it is provided in the Constitution. The President is very serious about this nomination. He is going to be working with Republicans and Democrats trying to secure enough votes for confirmation, as is Judge Bork.

But my view is, and my only view is—as I have said, I am not suggesting it to the President—this is an option available to any President.

Mr. BYRD. Mr. President, as a member of the Judiciary Committee, I hope to see this nomination have its day in this court right here. As a member of the Judiciary Committee, I voted some years ago to report Mr. Kleindienst who was nominated for an important office. Yet, I voted against Mr. Kleindienst here on the floor. I believe that Mr. Bork is entitled to a judgment by this full court—right here.

As of this day—and I say before God and man, and I measure my words—I have not made any decision as to how I will vote on this nomination except I will vote to report it out of the committee. I think a nomination of this kind is entitled to have the judgment of the full Senate, where I may end up voting for Mr. Bork or I may end up voting against him.

I regret to see this very important nomination become a strictly politically partisan matter. I do not want to make my judgment on that basis on such a nomination.

I think it would be in the interest of Mr. Bork if a good many of us on both sides were to quit talking about it so much and let us see what this nominee is all about. I hope we will not become so polarized that some will feel that, because they are of one party or the other, this is a litmus test of party affiliation and loyalty. That is not going to be my attitude. So whatever we can do, myself included, to bring this nomination a little away from its becoming a lightning rod and party litmus test, I want to do that. I intend to reflect on this nomination carefully. I want to carry out my role under the Constitution of the United States in a fair and unbiased manner.

I have read and heard that there are various vote counts going around—45 to 45, 40 to 40, and all that. I do not know how they are counting my vote. But I hope that all Senators will slow down just a little bit here, cool it, and give us all a chance to exercise the "freedom of will" about which Milton wrote in "Paradise Lost." I yield the floor.

POSTAL EMPLOYEE APPEAL RIGHTS

The Senate continued with consideration of the bill.

Mr. BYRD. Madam President, are we about to complete action on the bill that is before the Senate?

The PRESIDING OFFICER. Pending before the Senate is an amendment by the Senator from North Carolina. The amendment has been received and read.

The Senator from North Carolina.

Mr. HELMS. Madam President, I thank the Chair very much.

The Chamber is not exactly packed with Senators at the moment, but for the benefit of Senators or their aides who may be listening in their offices, let me make it clear that my amendment to H.R. 348 simply emphasizes that no postal employee may be required to join a union in order to appeal adverse personnel actions to an outside, independent agency.

Now, there are about 10,000 Postal Service Employees who are left out under the pending bill. I can see it now—these 10,000, including postal inspectors, clerical personal, and many others, will get the message that they have to join a union to enjoy the same rights that all of the other postal employees have. Or to put it another way, Madam President, H.R. 348, if unamended by the Helms amendment, will cover only supervisors and management personnel in the Postal Service. It excludes, I say again for emphasis, about 10,000 employees who are not supervisors or managers and who are not members of a collective bargaining unit, that is, a labor union.

Madam President, I ask for the yeas and nays on the amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

Mr. PRYOR. Madam President, so other Senators will know a little about when we might dispose of this bill—and I see the Senator from Alaska, who may be desirous of speaking for or against the amendment offered by the Senator from North Carolina—on this side of the aisle we have no speakers. I would take this opportunity, Madam President, to speak for about 2 or 3 minutes.

Madam President, I certainly understand the intentions of the Senator from North Carolina in offering this amendment. Those intentions, I assume, are to cover some of those postal employees who may not be covered by the postmasters and postal supervisors legislation.

The Senator from North Carolina made a very strong point when he stated that all these postal employees are not covered by this bill. The Senator from North Carolina is precisely correct on that point. In fact, it is not the intention, nor was it ever the intention, of this particular piece of legislation to reach out under one umbrella and cover every postal employee or every other Federal employee in the U.S. Government.

This legislation is specific, it is narrow, and it relates to two classes of employees who under the law may not—I report, under the law may not—join a union, and therefore they are precluded from participating in collective bargaining agreements.

So the purpose of this bill, Madam President, is not to be all inclusive but to deal with postmasters and postal supervisors under this particular provision.

This legislation has passed the House of Representatives on two occasions by a unanimous vote. These items that the Senator from North Carolina has discussed today have been discussed by the Governmental Affairs Committee. In our markup of this particular piece of legislation, by a 12-to-0 vote, this bill has been referred to the floor of the U.S. Senate.

I say to my distinguished friend from North Carolina that if he wants to amend or change a piece of legislation to be all-inclusive of additional postal or Federal employees, I do not think that the Senator from North Carolina will have to wait very long, because it is my understanding that the House of Representatives is now considering legislation to do something like the Senator from North Carolina desires.

So, once again, 80 Members of this body have signed on as cosponsors of this bill. It is specific for postal supervisors and postmasters. There will be another day for a House bill covering all postal employees. We think that the time has come for us to pass this legislation, pass it in its present form, not have to go through a lengthy conference with the House of Representatives. We think the time is today, and we should pass this legislation and send it to the President's desk.

Madam President, I yield the floor.

Mr. STEVENS. Madam President, I merely wish to comment on a portion of the bill, not the pending amendment, but the bill itself which was called up by my good friend Senator PRYOR.

In my former capacity as chairman of the subcommittee, of which Senator PRYOR is now chairman, I had undertaken to fulfill a commitment to the former Postmaster General, Al Casey, who felt that the Postal Service should have the right to appeal these decisions to the Federal Circuit Court. That matter is now pending before the Federal Circuit Court of Appeals in the case of OPM against Shuck and Washington.

I have had correspondence with my friend from Arkansas, the manager of the bill, and I had desired to bring up that matter in connection with this bill. However, in view of the statement I have received from Senator PRYOR, which indicated that it is his intention to revisit the extent to which further relief may be necessary and appropriate once a decision is entered in the Shuck case, I shall not offer that amendment at this time.

With regard to the pending amendment of the Senator from North Carolina, I shall oppose it. I agree with him in principle concerning appeal rights of individual members of the Postal Service, but the real difficulty is that now to change the system that exists, by this amendment, I think would be wrong. I think that if we are to address the whole question of how the employee rights are to be protected within the Postal Service, which is an independent corporation and does have bargaining representatives for its employees, we should conduct a different type of hearing and deal with it in a different manner. It is my understanding that, at the present time, employees other than those covered by this bill do have appeal rights. Those rights are protected by bargaining representatives of units that the employees have seen fit not to join.

I think that imposing the concept of covering all nonbargaining unit employees on the existing labor-management agreements between the Postal Service and the employee representatives, without real study as to how that would impact on those contracts, and whether or not Congress should change those contracts which are now in existence for a semi-independent entity created by Congress, would be a difficult problem, and I prefer not to make that determination on the floor. I prefer not to support my good friend from North Carolina at this time in that regard.

He does have a point, however, and it is a point I am sure all concerned understand. But, I do not think we could solve the problem with the vehicle that the Senator from North Carolina has offered, as I understand the problem.

I do hope that the manager of the bill on the majority side will agree that we do have a commitment that in the event the Shuck case leads to problems for the Postal Service and if the new Postmaster General does wish us to visit that question, we will do so.

Mr. PRYOR. Madam President, I thank the distinguished Senator from Alaska.

It is true that we have both shared opportunities, respectively, to chair the Federal Services Subcommittee of the Governmental Affairs Committee, and he has been an absolute pleasure to work with.

I say to the Senator from North Carolina that I will continue and keep my commitment to revisit the issue that the Senator from Alaska has discussed this afternoon on the floor of the Senate.

We will do that at the disposal of the case of OPM versus Shuck in Washington. By the way, that is document number, 86-1723.

At the appropriate time, we will reconsider this.

I thank the Senator from Alaska for supporting this legislation. He has been very much a contributing force to it.

Madam President, I see no other speakers on our side of the aisle, and I yield the floor.

Mr. HELMS. Madam President, I know Senators want to vote here and get it over with. I am mystified by the argument that my amendment is not desirable and not proper on this piece of legislation.

I think anything that could make the situation fair, equitable, and equal to all postal employees ought to be relevant.

I just do not understand why it should not include all postal employees. As a matter of fact, Senator PRYOR mentioned that he has 80 cosponsors. But I have a bunch of his cosponsors on my bill because his bill was modified. At the time he got so many of his cosponsors, his bill was modified in committee to take out OPM's authority to appeal adverse decisions on behalf of the Postal Service in the Court of Appeals.

I say with all the emphasis I possess that the question is here, should a political employee, any postal employee, be required to join a labor union in order to have the same appeal rights that others have? We are talking about 10,000 people who are affected in this matter, 10,000 employees including postal inspectors and clerical workers and female postmasters or postmistresses, whatever is the proper word.

I say that simple fairness dictates that my amendment in the nature of a substitute be adopted.

I hope it will be. Otherwise, this Senate will be saying to 10,000 employees, "Sorry about that, old boy, old girl; you've got to join a union if you want to be treated like everybody else."

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. PRYOR. Madam President, there are no more speakers. I am wondering if the Senator from North Carolina is asking for the yeas and nays. Have they been ordered?

Mr. HELMS. I already have.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. HELMS. They have already been ordered.

Mr. PRYOR. They have been ordered.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment of the Senator from North Carolina.

On this question, the yeas and nays have been ordered and the clerk will call the roll.

The legislative clerk called the roll.

Mr. CRANSTON. I announce that the Senator from Delaware [Mr. BIDEN], the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KENNEDY], the Senator from Massachusetts [Mr. KERRY] and the Senator from Illinois [Mr. SIMON] are necessarily absent.

I also announce that the Senator from Alabama [Mr. SHELBY] is absent because of illness in the family.

I further announce that, if present and voting, the Senator from Tennessee [Mr. GORE], the Senator from Massachusetts [Mr. KERRY] and the Senator from Alabama [Mr. SHELBY] would each vote "nay."

Mr. SIMPSON. I announce that the Senator from Oregon [Mr. PACKWOOD] and the Senator from Wyoming [Mr. WALLOP] are necessarily absent.

I further announce that, if present and voting, the Senator from Wyoming [Mr. WALLOP] would vote "yea."

The PRESIDING OFFICER (Mr. BREAUX). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 18, nays 74, as follows:

[Rollcall Vote No. 214 Leg.]

YEAS—18

Armstrong
Cochran
Dole
Garn
Gramm
Hatch
Hecht
Helms
Humphrey
McCain
McClure
McConnell
Nickles
Rudman
Simpson
Symms
Thurmond
Wilson

NAYS—74

Adams
Baucus
Bentsen
Bingaman
Bond
Boren
Boschwitz
Bradley
Breaux
Bumpers
Burdick
Byrd
Chafee
Chiles
Cohen
Conrad
Cranston
D'Amato
Danforth
Daschle
DeConcini
Dixon
Dodd
Domenici
Durenberger
Evans
Exon
Ford
Fowler
Glenn
Graham
Grassley
Harkin
Hatfield
Heflin
Heinz
Hollings
Inouye
Johnston
Karnes
Kassebaum
Kasten
Lautenberg
Leahy
Levin
Lugar
Matsunaga
Melcher
Metzenbaum
Mikulski
Mitchell
Moynihan
Murkowski
Nunn
Pell
Pressler
Proxmire
Pryor
Quayle
Reid
Riegle
Rockefeller
Roth
Sanford
Sarbanes
Sasser
Specter
Stafford
Stennis
Stevens
Trible
Warner
Weicker
Wirth

NOT VOTING—8

Biden
Gore
Kennedy
Kerry
Packwood
Shelby
Simon
Wallop

So the amendment (No. 637) was rejected.

Mr. PRYOR. Mr. President, I wanted to make two points here at the conclusion of the action on this bill. Senator STEVENS, of Alaska, who is the ranking member of the Subcommittee on Governmental Affairs, has been very instrumental in making certain individual postmasters, where there is only one employee—especially in States like Alaska—are also covered in this piece of legislation. I want to compliment Senator STEVENS for the inclusion of that as a part of this bill.

Mr. HEFLIN. Mr. President, I am delighted to be an original cosponsor of almost identical legislation which I introduced in the Senate last year. It was almost enacted into law, but it became entangled in some procedural webs here in the Senate during the waning days of the 99th Congress. It passed the House in December 1985, after being cosponsored unanimously by the members of the Committee on Post Office and Civil Service. The Senate Committee on Governmental Affairs also reported unanimously a companion measure, but the full Senate was unable to act on it prior to adjournment.

On February 19, 1987, Senator PRYOR, 11 other of my distinguished colleagues and I resurrected this legislation here in the Senate by introducing S. 541. Its companion legislation, H.R. 348, was introduced by Mr. DYMALLY in January of this year. It passed the House, by voice vote, on March 3, 1987.

Mr. President, H.R. 348 would modify significantly the current procedures and appeal rights of postal supervisors and postmasters, generally. Presently, they must follow an internal review process, with no right of appeal outside of the Postal Service; for example, to the Merit Systems Protection Board. It would bring these nonbargaining, nonveteran postal employees under the same protective, statutory coverage as veterans—that is, preference eligibles—and Federal employees under civil service.

Mr. President, in my professional judgment, it is inherently unfair for an employee to defend against a serious disciplinary action through a strictly internal review process. The very nature of such a bureaucracy simply does not lend itself to impartiality when an agency acts as the prosecutor, jury, judge, and the appeals entity. By allowing nonbargaining, nonveteran postal supervisory and managerial personnel the same statutory, procedural, and appeals rights as many Federal/postal employees, we will be rectifying any perceived and/or existing flawed internal review process. This legislation would do just that. It would not create a new administrative appellate procedure, but would merely extend the existing one to a broader class of persons. In this way, we would be ensuring equal protection and due process to all heretofore described uncovered employees before certain adverse actions are initiated against them. I might add that this is the only group of postal employees not entitled to collective-bargaining rights under law.

Finally, Mr. President, H.R. 348 includes an amendment requested last year by the U.S. Postmaster General and approved by the Senate Governmental Affairs Committee. The amendment would authorize the U.S. Postal Service, along with the Office of Personnel Management, to file a petition for judicial review of a final Merit Systems Protection Board order or decision in adverse postal cases. I have no objection to this amendment.

Mr. President, I urge swift passage of this legislation, which has been cosponsored by 80 percent of the Members of the U.S. Senate.

Mr. DODD. Mr. President, I rise today in support of the postal employees appeal rights bill, which would remedy an inequity suffered by this Nation's nonveteran postmasters and postal supervisors; namely, their exclusion from the process of appeal of an adverse personnel action to the Merit System Protection Board.

We in this body have more reason than most to appreciate the herculean task confronting postmasters and postal supervisors as they labor to direct the delivery of billions of pieces of mail per year. I can attest to the personal attentiveness and efficiency which are a hallmark of Connecticut postmasters and supervisors; and we must not delay any longer in correcting the fundamental injustice which they face in the absence of MSPB appeal rights.

Granting these appeal rights would in no way change the existing administrative internal procedures of the U.S. Postal Service, but would merely assure that all postal employees are treated equally and fairly with respect to adverse actions. As an important biproduct, it would rectify the defacto sex discrimination against female postmasters who do not have veterans preference eligibility. In short, this legislation is long overdue, and I urge my colleagues to pass it without further delay.

Mr. TRIBLE. Mr. President, I rise in support of H.R. 348, legislation which extends appeal rights to nonveteran postmasters and postal supervisors. I applaud this effort to ensure fairness and equity in Postal Service personnel matters and I urge adoption of this measure.

H.R. 348 gives nonveteran postmasters and supervisors final appeal rights to the Merit Systems Protection Board [MSPB]. This allows these employees the same access to an impartial review of an adverse personnel action as their counterparts with veterans preference status.

All employees of the Postal Service are entitled to the same protections and I am pleased to be a cosponsor of the Senate version of this measure. MSPB appeal rights are essential to equitable treatment and with passage of this bill we take a significant step.

Mr. President, I want to thank my distinguished colleague from Arkansas, Senator Pryor, for his leadership on this issue. I especially appreciate his efforts to ensure that H.R. 348 clearly extends MSPB appeal rights to postmasters in a one-person post office. This clarification was extremely important to me and I am grateful to him for his quick response to my concerns.

Mr. President, H.R. 348 represents important employment protections for our Nation's postmasters and postal supervisors. I am pleased to support this legislation and I look forward to its enactment.

Mr. KARNES. Mr. President, I rise today as a cosponsor of S. 541, the Senate's companion to H.R. 348 which we are currently debating, to offer a few brief remarks on the benefits of the concept this legislation promotes.

As we are aware, under current law, postmasters and supervisors have virtually no recourse in personnel matters which reflect negatively on their performance record. In the event they wish to appeal accusations regarding their performance, they face a system in which the accuser, judge, and jury are basically all one and the same. Thus, the first step of their appeal process is literally their last. The inequities of such a system are quite apparent.

It is important to note that the legislation we are debating today will not create a new appeals system for a select group of Federal employees. Rather, H.R. 348 will afford postmasters and supervisors the same appeals process all other Federal employees currently enjoy in regard to adverse personnel matters.

During the 99th Congress, the House of Representatives passed legislation that was nearly identical to the measure we are discussing today. Unfortunately, the Senate did not have the opportunity to act on the measure prior to the end of the Congress. This year, the House and Senate have once again worked together to develop legislation that will modify this situation in a positive manner, and I urge each of our colleagues to support final passage of H.R. 348.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment was agreed to.

The amendment was ordered to be engrossed and the bill to be read the third time.

The bill was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

So the bill (H.R. 348) was passed.

Mr. PRYOR. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. STEVENS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The majority leader.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for the transaction of morning business, not to extend beyond 10 minutes and that Senators may speak therein up to 3 minutes each. I am hoping that at the conclusion of that period we may be able to proceed with the consideration of a bill on the calendar. As soon as I hear from the distinguished Republican leader, I will be in a position to proceed.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Illinois.

Mr. DIXON. Mr. President, I thank the majority leader very much for giving us the opportunity to speak in morning business.

(The remarks of Mr. DIXON will be found later in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

Mr. DANFORTH addressed the Chair.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. DANFORTH. Certainly.

ORDER TO PROCEED TO THE CONSIDERATION OF H.R. 921

Mr. BYRD. Mr. President, I have cleared this with the distinguished Republican leader. I ask unanimous consent that the Senate proceed to the consideration of H.R. 921 following morning business. Further, I ask unanimous consent that the time I am consuming now not be charged to morning business.

Finally, I will state to all Senators there will be no more rollcall votes today.

The PRESIDING OFFICER. Without objection, the request of the majority leader is agreed to.

The Senator from Missouri.

RENAMO REPLIES

Mr. HELMS. Mr. President, several Senators have inquired about the case of Ms. Kindra Bryan, an American missionary nurse being held by the forces of the Mozambique National Resistance [RENAMO] in Mozambique. I wish to report to the Senate today that I have received direct confirmation from RENAMO that Ms. Bryan is free to go at any time that the Communist Government of Mozambique will give permission for her safe exit. To date, Mozambique has refused that permission.

Ms. Bryan was evacuated from a military battle zone for her safety by the forces of RENAMO during fighting in the civil war in Mozambique in May; RENAMO immediately offered to release her to a neutral third party, but the Communist Government of Mozambique—with the help of Zimbabweans also communists—immediately began to bomb her exit route. As of today, I am informed, Ms. Bryan remains in RENAMO's care because the Marxist-Leninist Government of Mozambique—a government supported by the U.S. State Department—will not cooperate even to the extent of permitting a plane from the International Red Cross to enter their airspace for the purpose of evacuating Ms. Bryan.

I have been perplexed by United States policy toward Mozambique and all the more so as a result of the State Department's unwillingness to press the Government of Mozambique to cooperate even with this humanitarian effort. United States policy favoring the one-party Marxist-Leninist FRELIMO government of Mozambique is indicative of the State Department's record of collaborating with Marxist-Leninist regimes and to view with distrust and suspicion certain freedom fighters. Surely, the failure of the State Department to press the FRELIMO government of Mozambique is all the more inexplicable because of the legitimate need to evacuate Ms. Bryan.

The State Department has also refused to meet with Rnamo for purposes of ensuring equitable distribution of United States food to all of the people of Mozambique, including those in Rnamo-controlled areas of the country.

State Department diplomats have met at least 59 times with the Soviet-controlled African National Congress terrorists who are seeking to impose a Communist government on South Africa, but they refuse to meet with those seeking to overthrow Communist tyrants in Mozambique.

Mr. President, I am very pleased to report to my colleagues that yesterday I received a very affirmative response from Mr. Afonso Dhlakama, the President of the Mozambique National Resistance—known as Rnamo—to my July 14 inquiry as to whether Rnamo would cooperate in the safe evacuation of Ms. Kindra Bryan, an American missionary nurse.

On July 14, after meeting with the distinguished minority leader and the Secretary of State, I wrote identical letters to Mr. Dhlakama, the President of the opposition forces organized under Rnamo, and Mr. Chissano, the President of the Government of Mozambique, to obtain their cooperation in completing Ms. Bryan's safe evacuation. Separately, Senator DOLE sent letters to Mr. Dhlakama and Mr. Chissano.

As I mentioned earlier, according to information provided to my office, Ms. Bryan was evacuated from a military fire zone for her safety by the forces of Rnamo during fighting in the civil war in Mozambique; I understood that Rnamo had offered to release her to a neutral third party, and I want to obtain assurances that each side would cooperate in her evacuation. Unfortunately, only one side—Rnamo—has responded in the affirmative.

I asked four direct questions of each side:

> 1. Will you agree to a temporary cease-fire to allow a Red Cross plane to enter the airspace controlled by your forces for the purpose of completing the evacuation of Ms. Bryan?
>
> 2. If you will not agree to a Red Cross plane for the purpose mentioned above, will you agree to a cease-fire to allow a U.S. government plane to evacuate Ms. Bryan?
>
> 3. Will you agree that Ms. Bryan should be returned unharmed directly to Red Cross or U.S. Government authorities?
>
> 4. Will you agree to a longer-range cease-fire for the purpose of negotiations relating to national reconciliation, free elections with international observers, and peace?

I ask unanimous consent that the full text of both letters be printed at the conclusion of these remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. HELMS. Mr. President, Rnamo has responded in the affirmative to all four questions. President Afonso Dhlakama stated very directly:

> * * * My reply to your question is affirmative. Renamo is ready, as we have always been willing, to sit down for negotiations. Therefore, it is now up to the other side to indicate whether they share our same view.

Mr. Dhlakama has summarized the situation succinctly. I have not yet heard from the Government of Mozambique. An identical letter was delivered the same day—July 14—to the Embassy of Mozambique here in Washington. My office has contacted the Embassy to ascertain the status of a response. We were told that no response had yet been sent from Maputo.

Specifically with regard to the safety of Ms. Kindra Bryan, President Dhlakama also responded in the affirmative.

> Regarding your questions concerning the American missionary, Kindra Bryan, I also reply in the affirmative. From the very beginning when our forces evacuated her from the war zone, RENAMO pledged to release her unconditionally as soon as she could be moved to a secure location for recovery by the Red Cross or other organizations.
>
> We have been waiting now for over two months for this operation to take place. As you know, the Red Cross has not been given assurances from FRELIMO to overfly Mozambican airspace.

Mr. President, this was one of the reasons for my inquiry to both sides—to obtain permission for the Red Cross or a U.S. Government plane to fly in with a guarantee of safe passage in order to evacuate Ms. Bryan.

Continuing, President Dhlakama responds:

> Initially, Zimbabwean gunships were bombing the area, now FRELIMO refuses clearance for humanitarian organizations to undertake the mission.
>
> We agree to any conditions which will allow a safe and non-political resolution of this situation.

Mr. President, let me repeat that last assurance from Rnamo:

> We agree to any conditions which will allow a safe and non-political resolution of this situation.

Surely, Mr. President, at this point the onus is on the Government of Mozambique and the Government of the United States to initiate an affirmative response to bring to completion Ms. Bryan's release.

I do not know what more we can expect of Rnamo. They have complied with this request, a request which in itself contained the same initiatives being attempted by the International Red Cross. We now need to apply pressure to force the Marxist-Leninist government of Mr. Chissano to agree to the same arrangements—any conditions which will allow a safe and nonpolitical resolution of this situation. The State Department should exert such pressure immediately—as it should have done for the past 2 months.

I ask unanimous consent that the response from President Afonso Dhlakama be printed in the Record. I also ask unanimous consent that the list of 59 meetings with the Communist-controlled ANC be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

U.S. Senate,
Committee on Foreign Relations,
Washington, DC, July 14, 1987.

Mr. Afonso Dhlakama,
President, Renamo,
Gorongosa, Mozambique.

Dear Mr. President: The conflict in Mozambique is one which deeply affects the American people. This morning, I met with the Senate Republican Leader, Senator Robert Dole, and the Secretary of State, Mr. George Shultz, to discuss ways whereby the United States could use its good offices to ease the suffering of the Mozambican people.

In particular, we are distressed to learn that a U.S. citizen and nurse, Ms. Kindra Bryan, is caught up in the conflict between the two parties. Ms. Bryan was evacuated from a military fire zone for her safety by the Renamo forces, and we understand that the two parties have been unable to arrange a safe-conduct for a suitable humanitarian organization, such as the International Red Cross, to remove her from the war area.

In a humanitarian spirit, therefore, I am addressing the same inquiry both to the Government of Mozambique and to the insurgent forces organized under Renamo, and I await the replies of both sides to these identical questions:

1. Will you agree to a temporary cease-fire to allow a Red Cross plane to enter the airspace controlled by your forces for the purpose of completing the evacuation of Ms. Bryan?

2. If you will not agree to a Red Cross plane for the purpose mentioned above, will you agree to a cease-fire to allow a U.S. Government plane to evacuate Ms. Bryan?

3. Will you agree that Ms. Bryan should be returned unharmed directly to Red Cross or U.S. Government authorities?

4. Will you agree to a longer-range cease-fire for the purpose of negotiations relating to national reconciliation, free elections with international observers, and peace?

I await your immediate reply.

Sincerely,

Jesse Helms.

U.S. Senate,
Committee on Foreign Relations,
Washington, DC, July 14, 1987.

Mr. Joaquim Chissano,
President, People's Republic of Mozambique,
Maputo, Mozambique.

Dear Mr. President: The conflict in Mozambique is one which deeply affects the American people. This morning, I met with the Senate Republican Leader, Senator Robert Dole, and the Secretary of State, Mr. George Shultz, to discuss ways whereby the United States could use its good offices to ease the suffering of the Mozambican people.

In particular, we are distressed to learn that a U.S. citizen and nurse, Ms. Kindra Bryan, is caught up in the conflict between the two parties. Ms. Bryan was evacuated from a military fire zone for her safety by the Rnamo forces, and we understand that the two parties have been unable to arrange a safe-conduct for a suitable humanitarian organization, such as the International Red Cross, to remove her from the war area.

In a humanitarian spirit, therefore, I am addressing the same inquiry both to the Government of Mozambique and to the insurgent forces organized under Rnamo, and I await the replies of both sides to these identical questions:

1. Will you agree to a temporary cease-fire to allow a Red Cross plane to enter the airspace controlled by your forces for the purpose of completing the evacuation of Ms. Bryan?

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3. Will you agree that Ms. Bryan should be returned unharmed directly to Red Cross or U.S. Government authorities?

4. Will you agree to a longer-range cease-fire for the purpose of negotiations relating to national reconciliation, free elections with international observers, and peace?

I await your immediate reply.

Sincerely,

Jesse Helms.

Resistência Nacional
Moçambicana—Rnamo,
Gorongosa, Mozambique, *July 24, 1987.*

Senator Jesse Helms,
U.S. Senate, Committee on Foreign Relations, Washington, DC.

Dear Senator Helms: It was a pleasure to receive your message through our representative, Luis Benjamin Serapiao. This letter in itself meant a lot to me in addition to its' content.

The letter reflects excellent future prospects of the relationship between the Senate and the people of Mozambique. We are grateful for your efforts on behalf of these people led by Rnamo who are struggling for freedom against Frelimo Marxist-Leninist dictatorship.

Rnamo has always been in favor of peace and stability in Mozambique. This explains why Rnamo supports negotiations as a means for peace for all Mozambicans. We have always stated that we are prepared to have negotiations with Frelimo. We have also explained our conditions for such negotiations, namely:

A. All foreign troops must be removed from Mozambique.

B. National reconciliation.

C. General elections.

If today Mozambique is still at war, it is not due to lack of good faith on our part. Senator Helms, as you can see, your idea to bring peace to Mozambique is not different from that of Rnamo. However, this idea has still not been accepted by the Frelimo regime.

Nevertheless, my reply to your question is affirmative. Rnamo is ready, as we have always been willing, to sit down for negotiations. Therefore, it is now up to the other side to indicate whether they share our same view.

Regarding your questions concerning the American missionary, Kindra Bryan, I also reply in the affirmative. From the very beginning when our forces evacuated her from the war zone, Rnamo pledged to release her unconditionally as soon as she could be moved to a secure location for recovery by the Red Cross or other organizations.

We have been waiting now for over two months for this operation to take place. As you know, the Red Cross has not been given assurances from Frelimo to overfly Mozambican airspace. Initially, Zimbabwean gunships were bombing the area, now Frelimo refuses clearance for humanitarian organizations to undertake the mission.

We agree to any conditions which will allow a safe and nonpolitical resolution of this situation.

Through our representative in Washington, we are very pleased to work with you on these matters of pressing concern to both our countries.

With my best regards,

Alfonso Dhlakama,
President of Rnamo.

The History of ANC Meetings With the State Department

The following is a historical chronology of State Department and ANC meetings, according to Nancy Morgan, the Director of Public Affairs at the African bureau:

From 1982 to 1986:

The State Department has been holding, and is continuing to hold regular meetings with the ANC, "at least once a month" in Lusaka, Zambia.

July, 1986:

Paul Hare, the American ambassador to Lusaka, Zambia, met with the ANC in Lusaka.

September, 1986:

Assistant Secretary of State for Africa, Chester Crocker, met with Oliver Tambo "President" of the ANC, in London, England.

December, 1986:

Under Secretary of State Micheal Armacost met with the ANC in Lusaka, Zambia.

From September, 1986 to January, 1987:

Paul Hare, the American ambassador to Zamiba met with the ANC at least six times.

January 29, 1987:

Secretary of State George Shultz met with Tambo in Washington.

February, 1987:

Gibson Lanpher, Director of Southern African Affairs, and Ambassador Paul Hare met with the ANC at the African American Institute's annual conference for three days in Garborne, Botswana.

Since February 1987:

Ambassador Paul Hare has continued to meet with the ANC five or six times in Lusaka, Zambia.

Summary:

One meeting with the ANC at the Secretary of State level.

One meeting at the Under Secretary of State level.

One meeting at the Assistant Secretary of State level.

The State Department has had (at the minimum) fifty-nine official meetings with the ANC.

AMERICA'S OUTDOOR RECREATION

Mr. PRESSLER. Mr. President, today I wish to call the Senate's attention to the esthetic and economic value this country possesses in its great outdoor natural resources. Each day millions of Americans flock to the lakes, prairies, seashores, or mountains to enjoy the beauty of our country.

Thirty years ago, Congress authorized the Outdoor Recreation Resources Review Commission to study and report on Americans outdoors. Their reports documented the growing public use and demand for recreational lands and facilities.

America's love for the outdoors has not diminished. Public use of Federal, State, and local recreation areas and facilities continues to increase, providing a basis for a multibillion dollar industry. In South Dakota alone, the Fish and Wildlife Service estimates over $65 million is spent annually by hunters and fisherman. These activities provide a substantial boost to our economy.

Recently reported results from a 1985 Bureau of the Census Survey show that 1 in 4 American adults participate in fishing, and 1 in 10 hunt wildlife. Nearly 110 million adult Americans participate in nonconsumptive wildlife related recreation; such as wildlife viewing, photography, camping, backpacking, and birdfeeding. In enjoying these activities, Americans spent over $52 billion in 1985. These data do not address the many other outdoor activities available.

It is clear that we have a strong interest in preserving American's outdoor resources in order to enjoy major environmental and economic benefits.

To ensure that outdoor recreation resources receive the attention they deserve, it is critical that Congress take the following actions,

First, reauthorize and provide adequate funding for the Land and Water Conservation Fund Act of 1965. Thousands of recreational facilities throughout the United States have been developed under this program. My home State of South Dakota has initiated nearly 1,200 recreational projects. Over 250 communities have benefited.

Second, work to maintain and establish effective stewardship of all outdoor resources, including America's rivers, lakes, and other wetlands.

Third, work to assure that the appropriate Federal agencies wisely manage our National Parks, Monuments, Forests, Grasslands, and Refuges.

Our continuing concern and vigorous actions will protect our outdoor heritage for ourselves and many future generations.

RECOGNIZING JACK RENTSCHLER

Mr. PRESSLER. Mr. President, I rise to recognize Mr. Jack Rentschler who is completing his term as chairman of the board of directors of the National Association of Truck Stop Operators. Jack Rentschler and his wife, Joyce, are residents of Sioux Falls, SD, and owners of Rentschler's Standard Truck Plaza, Inc.

Mr. Rentschler's exemplary leadership was aptly displayed throughout his chairmanship this past year. In fact, he presided over the largest trade show convention and exposition in the history of the National Association of Truck Stop Operators.

In addition to serving as chairman of the board of NATSO, Mr. Rentschler has been active in his community for many years. He has been an avid participant in local government and is currently serving as a Minnehaha County Commissioner. Jack is a highly respected businessman and is a member of the National Board of the U.S. Chamber of Commerce. He has contributed much to our State of South Dakota, and I am honored to have him as a friend.

At this time I ask my Senate colleagues to join me in commending Jack for his good work and wishing him well in his future endeavors. I am certain that he will continue his active participation within NATSO, and I congratulate him for his distinguished tenure as chairman.

AIRLINE PASSENGERS OF AMERICA, INC.

Mr. FORD, Mr. President, I am going to have the pleasure on Thursday to help welcome the formation of a new nonprofit organization for the purpose of informing and serving airline passengers—the Airline Passengers of America, Inc. [AP/USA]. These days, if ever a group of people deserved an organization to look out for their "special interests," it's airline passengers.

In meetings with some of the organizers of this group over the past several weeks, one of their ideas has struck me as worthy of our review. I plan to introduce legislation so that we can consider establishing a real-time, "Airline Traffic Delay Advisory" that's available to the public and media, around the clock, by recording. The FAA has this information available today. They provide it as they should for private pilots and airlines, and I think they should provide it for passengers as well. If we can give local automobile commuters traffic updates without the advantage of flow-control computers, we ought to be able to give passengers similar information about the national air traffic picture before their flights are scheduled to depart. Today's flow-control data won't inform passengers of all delay problems by any means, but it would give some pasengers a useful warning about their routing, just as it does for private pilots.

In cases where we have multihour delays—or forecasts of delays—at key hubs due to weather or air traffic delays or both, we ought to have a system to disseminate that information. Passengers could use such advisories to change flight plans in a few cases, but perhaps most often to adjust their own schedules and commitments to accommodate the possibility of a delay. Such a service would not provide information about individual flight delays by airline flight, but it would give passengers a snapshot of current trouble spots in the system. That is information that I would like to know as a passenger even if it's not a guarantee of my flights performance.

Let me again emphasize that this information is available today from the FAA for pilots, so it should not require a massive Government program. There are a number of alternatives for providing the information recordings to the public and the media—800 service by DOT, 900 service paid by the caller, or multiple local area numbers. But the important point is finding a way to get the traveling public information the Federal Government already has available.

The Airline Passengers of America has discussed the feasibility of such a system with FAA, and they are currently helping to research some of the commuications and operations details of an advisory service. I hope my colleagues will want to support this effort to give airline passengers better information about their chances of being delayed.

IN HONOR OF THE 60TH BIRTHDAY OF CONGRESSMAN JIM HOWARD

Mr. LAUTENBERG. Mr. President, I rise today to pay tribute to a good friend and colleague from New Jersey, Jim Howard, on the occasion of his 60th birthday.

As chairman of the House Public Works and Transportation Committee, Jim Howard is a key player in issues of vital importance to our State, and to the Nation as a whole. His chairmanship has been one of accomplishment and leadership. He has served his constituents, State, and country well.

Since coming to this body, I have had the pleasure of working with Jim

Howard on a number of important issues. We fought together to see a national uniform drinking age law become reality. That law is today saving hundreds of young lives each year. We worked together to see tough environmental laws, such as Superfund and the Clean Water Act, reauthorized. And we've worked together to keep the Sandy Hook marine laboratory in New Jersey.

Jim Howard was a major player in the effort to get the Nation's highway and mass transit programs reauthorized. He was a strong opponent of efforts to raise the speed limit on our highways, a view I share. And he continues to address issues of importance in the areas of environment, public works, and transportation. Several weeks ago, I had the pleasure of testifying before his committee on the matter of airline consumer issues.

Jim Howard is a leader in the Congress, and a leader at home in New Jersey. His accomplishments are recognized, respected, and appreciated. The transportation center named for him in Asbury Park is representative of the appreciation of his work by his constituents.

He is a leader who tackles important national issues but never forgets the people back home, and the things that are important to them.

Mr. President, I'm proud to serve in the Congress with **Jim Howard**. I wish him all the best on his 60th birthday, and look forward to many more years of working together.

MESSAGES FROM THE PRESIDENT RECEIVED DURING RECESS

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on July 27, 1987, during the recess of the Senate, received a message from the President of the United States transmitting sundry nominations, which were referred to the appropriate committees.

(The nominations received on July 27, 1987 are printed at the end of the Senate proceedings.)

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Saunders, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE RECEIVED DURING RECESS

ENROLLED BILL SIGNED

Under the authority of the order of the Senate of February 3, 1987, the Secretary of the Senate, on today, July 28, 1987, received a message from the House of Representatives announcing that the Speaker had signed the following enrolled bill:

S. 1020. An act to confer the honorary status of Librarian of Congress Emeritus on Daniel J. Boorstin.

The enrolled bill was subsequently signed by the President pro tempore (Mr. **Stennis**).

MESSAGES FROM THE HOUSE

At 11:22 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 958. An act to dedicate the North Cascades National Park to Senator Henry M. Jackson.

At 3:55 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House has passed the following joint resolution, without amendment:

S.J. Res. 151. Joint resolution to designate August 1, 1987, as "Helsinki Human Rights Day".

The message also announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 82. An act to amend the Merchant Marine Act, 1920, to require vessels used to transport sewage sludge to be built in the United States;

H.R. 2399. An act to provide for study and research on the decline in the United States forest productivity and to determine the effects of atmospheric pollutants on forest environments, and for other purposes;

H.R. 2401. An act to extend the authorization of the Renewable Resources Extension Act of 1978, and for other purposes;

H.R. 2663. An act to authorize the establishment by the Secretary of Agriculture of a plant stress and water conservation research laboratory and program at Lubbock, Texas;

H.R. 2948. An act to prohibit the Department of Defense from purchasing any product manufactured or assembled by Toshiba America, Incorporated, or Toshiba Corporation for the purpose of resale of such product in a military exchange store; and

H.R. 2971. An act to provide continuing authority to the Secretary of Agriculture for recovering costs associated with cotton classing services, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 164. A concurrent resolution to recognize the importance of the agricultural export enhancement program.

The message also announced that pursuant to section 1321 of Public Law 99-498, the Speaker appoints the following from the private sector as members of the National Commission on Responsibilities for Financing Postsecondary Education, on the part of the House: Mr. Leslie Koltai, of Los Angeles, CA; Mr. Thomas Butts, of Ann Arbor, MI; and Mr. R. Marshall Witten, of Bennington, VT.

The message further announced that pursuant to the provisions of section 4 of Public Law 99-624, the Speaker appoints as members of the Dwight David Eisenhower Centennial Commission, the following Members on the part of the House: Mr. **Stratton**, Mr. **Glickman**, Mr. **Slattery**, Mr. **Goodling**, Mr. **Emerson**, and Mr. **Roberts**.

The message also announced that pursuant to section 407 of Public Law 99-498, the Speaker appoints the following from the private sector, as members of the Advisory Committee on Student Financial Assistance, on the part of the House: Mr. Jim Craig, of Bozeman, MT; Mr. Joe L. McCormick, of Austin, TX; and Mr. Jeffrey A. Flatten, of Clearwater, FL.

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 82. An act to amend the Merchant Marine Act, 1920, to require vessels used to transport sewage sludge to be built in the United States; to the Committee on Commerce, Science, and Transportation.

H.R. 2399. An act to provide for study and research on the decline in the United States forest productivity and to determine the effects of atmospheric pollutants on forest environments, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 2401. An act to extend the authorization of the Renewable Resources Extension Act of 1978, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 2663. An act to authorize the establishment by the Secretary of Agriculture of a plant stress and water conservation research laboratory and program at Lubbock, Texas; to the Committee on Agriculture, Nutrition, and Forestry.

H.R. 2948. An act to prohibit the Department of Defense from purchasing any product manufactured or assembled by Toshiba America, Incorporated, or Toshiba Corporation for the purpose of resale of such product in a military exchange store; to the Committee on Armed Services.

MEASURES PLACED ON THE CALENDAR

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 2971. An act to provide continuing authority to the Secretary of Agriculture for recovering costs associated with cotton classing services, and for other purposes.

The following concurrent resolution was read, and placed on the calendar:

H. Con. Res. 164. Concurrent resolution to recognize the importance of the agricultural export enhancement program.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, which were referred as indicated:

ED-1591. A communication from the Executive Associate Director of the Office of Management and Budget transmitting, pursuant to law, a report on numerous accounts which have been apportioned on a basis indicating a necessity for supplemental appropriations for fiscal year 1987; to the Committee on Appropriations.

EC-1592. A communication from the Director of the Defense Security Assistance Agency transmitting, pursuant to law, a confidential report on a proposed foreign military assistance sale to Sweden; to the Committee on Armed Services.

EC-1593. A communication from the Secretary of Transportation transmitting, pursuant to law, a report on the status of local mass transportation, performance, and conditions; to the Committee on Banking, Housing, and Urban Affairs.

EC-1594. A communication from the Chairman of the Board of Governors of the Federal Reserve System transmitting, pursuant to law, the Board's monetary policy report; to the Committee on Banking, Housing, and Urban Affairs.

EC-1595. A communication from the Executive Director of the U.S. Olympic Committee transmitting, pursuant to law, the committee's 1986 financial statement; to the Committee on Commerce, Science, and Transportation.

EC-1596. A communication from the Secretary of Transportation transmitting a draft of proposed legislation to increase civil penalty limits for safety violations in commercial aircraft operations; to the Committee on Commerce, Science, and Transportation.

EC-1597. A communication from the Secretary of the Interior transmitting, pursuant to law, a report on salinity control of public lands; to the Committee on Energy and Natural Resources.

EC-1598. A communication from the Director of the Office of Civilian Radioactive Waste Management transmitting, pursuant to law, omitted enclosures to accompany an earlier report on the station of consultation and cooperation negotiations with the State of Nevada and the State's comments on the report; to the Committee on Energy and Natural Resources.

EC-1599. A communication from the Administrator of GSA transmitting, pursuant to law, copies of lease prospectuses for certain Federal space; to the Committee on Environment and Public Works.

EC-1600. A communication from the Secretary of Health and Human Services transmitting, pursuant to law, a report on a prospective payment system for radiology, anesthesia, and pathology services to hospital inpatients; to the Committee on Finance.

EC-1601. A communication from the Director of the Defense Security Assistance Agency transmitting, pursuant to law, a report on a proposed foreign military assistance sale to the Philippines; to the Committee on Foreign Relations.

EC-1602. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to law, copies of international agreements, other than treaties, entered into by the United States within the 60 days previous to July 16, 1987; to the Committee on Foreign Relations.

EC-1603. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of D.C. Act 7-56; to the Committee on Governmental Affairs.

EC-1604. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of D.C. Act 7-51; to the Committee on Governmental Affairs.

EC-1605. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of D.C. Act 7-49; to the Committee on Governmental Affairs.

EC-1606. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of D.C. Act 7-50; to the Committee on Governmental Affairs.

EC-1607. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of D.C. Act 7-47; to the Committee on Governmental Affairs.

EC-1608. A communication from the Chairman of the Council of the District of Columbia transmitting, pursuant to law, a copy of D.C. Act 7-48; to the Committee on Governmental Affairs.

EC-1609. A communication from the Secretary of Education transmitting, pursuant to law, final regulations for the innovative projects for Community Service Program; to the Committee on Labor and Human Resources.

EC-1610. A communication from the Director of the Office of Management and Budget transmitting a draft of proposed legislation entitled "Postal Service Financing Reform Act of 1987"; to the Committee on Governmental Affairs.

EC-1611. A communication from the Assistant Secretary of Health and Human Services transmitting, pursuant to law, a report on an altered Privacy Act system of records; to the Committee on Governmental Affairs.

EC-1612. A communication from the Secretary of Education transmitting, pursuant to law, final regulations for the Drug-Free Schools and Communities Regional Centers Program; to the Committee on Labor and Human Resources.

EC-1613. A communication from the Secretary of Labor transmitting; pursuant to law, the initial report on mass layoffs and plant closings; to the Committee on Labor and Human Resources.

EC-1614. A communication from the Secretary of Education transmitting a draft of proposed legislation entitled "Magnet Schools Assistance Amendments of 1987"; to the Committee on Labor and Human Resources.

EC-1615. A communication from the Secretary of Education transmitting, pursuant to law, final regulations on Drug-Free Schools and Communities, Hawaiian Natives Program; to the Committee on Labor and Human Resources.

EC-1616. A communication from the Executive Secretary, Office of the Secretary of Defense, transmitting, pursuant to law, a report on DOD procurement from small and other business firms for October 1986 through April 1987; to the Committee on Small Business.

EC-1617. A communication from the President of the United States transmitting, pursuant to law, an amended request for appropriations for fiscal year 1988 for the Department of State; to the Committee on Appropriations.

REPORTS OF COMMITTEES SUBMITTED DURING RECESS

Under the authority of the order of the Senate of July 24, 1987, the following reports of committees were submitted on July 27, 1987, during the recess of the Senate:

By Mr. BENTSEN, from the Committee on Finance, with an amendment in the nature of a substitute:

S. 1127. A bill to provide for medicare catastrophic illness coverage, and for other purposes (with additional views) (Rept. No. 100-126).

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. LEAHY, from the Committee on Agriculture, Nutrition, and Forestry, with an amendment in the nature of a substitute and an amendment to the title:

S. 305: A bill to amend the National School Lunch Act to improve the administration of the commodity distribution program, and for other purposes (Rept. No. 100-127).

By Mr. CRANSTON, from the Committee on Veterans Affairs, with an amendment in the nature of a substitute:

S. 999: A bill to amend title 38, United States Code, and the Veterans' Job Training Act to improve veterans employment, counseling, and job-training services and program (Rept. No. 100-128).

By Mr. FORD, from the Committee on Rules and Administration, without amendment:

S. Res. 257: An original resolution managing the expenditure of funds for Senate official mail during fiscal year 1988 (Rept. No. 100-129).

S. Res. 258: An original resolution to require documentation for payments and reimbursements from the contingent fund of the Senate (Rept. No. 100-130).

S. Res. 259: An original resolution relating to the reimbursement of expenses paid to witnesses appearing before the Senate (Rept. No. 100-131).

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with amendments:

S. 1402: A bill to amend title VIII of the Public Health Service Act to establish programs to reduce the shortage of professional nurses (Rept. No. 100-132).

By Mr. PELL, from the Committee on Foreign Relations, without amendment and with a preamble:

S. Con. Res. 29: A concurrent resolution expressing the sense of Congress regarding the inability of American citizens to maintain regular contact with relatives in the Soviet Union.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. PROXMIRE, from the Committee on Banking, Housing, and Urban Affairs:

Charles E. Cobb, Jr., of Florida, to be an Assistant Secretary of Commerce;

Arnold L. Steinberg, of California, to be a Member of the Board of Directors of the National Institute of Building Science for a term expiring September 7, 1988;

David S. Ruder, of Illinois, to be a Member of the Securities and Exchange Commission for the term of 5 years expiring June 5, 1991; and

Roger F. Martin, of Wisconsin, to be a Member of the Federal Home Loan Bank Board for the remainder of the term expiring June 30, 1989;

Alan Greenspan, of New York, to be a Member of the Board of Governors of the Federal Reserve System for the unexpired term of 14 years from February 1, 1978; and

Alan Greenspan, of New York, to be Chairman of the Board of Governors of the Federal Reserve System for a term of 4 years.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

By Mr. PELL, from the Committee on Foreign Relations:

Leonard Grant Shurtleff, of New Hampshire, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the People's Republic of the Congo.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Leonard G. Shurtleff.

Post: Ambassador to the Congo.

Contributions, amount, date, and donee.

1. Self, none.
2. Spouse, Christine M. Shurtleff, none.
3. Children and spouses, no children.
4. Parents, Leonard F. Shurtleff (deceased); Mary Frances Shurtleff, none.
5. Grandparents, Ellis Grant Cornish (deceased); Albert Wilson Shurtleff (deceased); Mary Agusta Sears Cornish (deceased); Lula Peckham Shurtleff (deceased).
6. Brothers and spouses, none.
7. Sisters and spouses, Marilyn Shurtleff Plummer, none; Warner M. Plummer, $25, August 1984 Reagan Reelection Campaign.

Mark L. Edelman, of Missouri, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Cameroon.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Mark L. Edelman.

Post: Ambassador to the Republic of Cameroon.

Contributions, amount, date, and donee.

1. Self, $35, Oct. 22, 1983, National Republican Senatorial Committee;

$15, Oct. 29, 1983, Francke For Congress;

$50, Feb. 4, 1984, National Republican Senatorial Committee;

$50, Aug. 8, 1984, National Republican Senatorial Committee;

$20, Aug. 8, 1984, Francke for Congress;

$25, Oct. 7, 1984, National Federation of Republican Women;

$400, Jan. 25, 1985, Missourians for Kit Bond; and

$200, Aug. 5, 1986, Missourians for Kit Bond.

2. Spouse, Nancy, none.
3. Children and spouses, none.
4. Parents, Marvin and Ruth Edelman, $25, Apr. 17, 1986, Missourians for Kit Bond.
5. Grandparents, Charles and Dora Edelman, deceased, Jacob and Jennie Goldstein.
6. Brothers and spouses, Robert and Marjorie Edelman, brother, $10, Oct. 25, 1984, the Jim Hunt Committee; $10, Oct. 25, 1984, Rudy Boschwitz.
7. Sisters and spouses, none.

Note: No contributions were made by any family members during 1982.

W. Nathaniel Howell, of Virginia, a Career Member of the Senior Foreign Service, Class of Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the State of Kuwait.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: W. Nathaniel Howell.

Post: Ambassador to Kuwait.

Contributions, amount, date, and donee.

1. Self, none.
2. Spouse, none.
3. Children and spouses, Wilson Nathaniel Howell III, $30 (total) 1984, 1985, and 1986, John Glenn Friendship Fund. Laura Mattes Howell, none. Edward Vaughan Howell, none.
4. Parents, Wilson Nathaniel Howell, Sr. (deceased), none. Josephine Edwards Howell, none.
5. Grandparents, James Alfred Howell (deceased), none. Alma West Howell (deceased), none. Albert Sidney Edwards (deceased), none. Molly Bridgers Edwards (deceased), none.
6. Brothers and spouses, Joel Edwards Howell, none. Christine Hope Howell, none.
7. Sisters and spouses, none.

Michael Gordon Wygant, of Massachusetts, a Foreign Service Officer of Class one, to be the United States Representative to the Federated States of Micronesia.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Michael G. Wygant.

Post: SLNO Saipan.

Contributions, amount, date, and donee.

1. Self, Michael G. Wygant, $20, Nov. 17, 1983, Cong. Marjorie Holt (MD).
2. Spouse, Lee Dunn Wygant, $15, Apr. 19, 1986, Cong. candidate Bob Neall (MD).
3. Children and spouses: Heather McDonough (daughter) and Donald McDonough (son-in-law), none. Michele Wygant (daughter), none. Catherine Wygant (daughter), none.
4. Parents, Gordon J. Wygant (father), deceased. Ruth W. Wygant (mother), none.
5. Grandparents, (all deceased).
6. Brothers and spouses, Martin H. Wygant (brother), $10, 1983, Cong. Benjamin Gilman (NY).
7. Sisters and spouses, Margot Wygant (sister), $50, 1984, Sen. John Kerry (MA). $50, 1984, Cong. Barney Frank (MA).

Samuel Eldred Lupo, of California, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Republic of Guinea.

Contributions are to be reported for the period beginning on the first day of the fourth calandar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Samuel Eldred Lupo.

Post: Guinea.

Contributions, amount, date, and donee.

1. Self, none.
2. Spouse, none.
3. Children and spouses, Ramona and Colon Ward, none. Raymond Lupo, Douglas Lupo, none.
4. Parents, Carrie Lupo, none. Fulton Lupo, deceased.
5. Grandparents, N.J. and Reddin Page, deceased. Henry and Ella Lupo, deceased.
6. Brothers and spouses, Fulton and Billie Lupo, none. Alfred and Barbara Lupo, none. Rufus Lupo, none. James Lupo, deceased. Henry and Jeanette Lupo, none. Forrest Lupo, none.
7. Sisters and spouses, none.

Warren Clark, Jr., of Connecticut, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Gabonese Republic and to serve concurrently and without additional compensation as Ambassador Extraordinary and Plenipotentiary of the United States of America to the Democratic Republic of Sao Tome and Principe.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Warren Clark, Jr.

Post: Gabon, Sao Tome and Principe.

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: Not applicable.
3. Children and spouses names: Sarah, Warren, Hope, none.
4. Parents names: Father, deceased; Mary D. Clark (Mother), none.
5. Grandparents names: Deceased.
6. Brothers and spouses names: Not applicable.
7. Sisters and spouses names: Joan C. Moffett, none; William W. Moffett, none.

Robert G. Rich, Jr., of Florida, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Belize.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Robert G. Rich, Jr.

Post: Ambassador to Belize.

Contributions, amount, date, and donee:

1. Self: None.
2. Spouse: None.

3. Children and spouses names: Mr. & Mrs. Patrick Kelly, Mr. & Mrs. Lloyd Epperson, Miss Catherine Rich, Miss Nan Rich, none.

4. Parents names: Robert G. Rich (deceased); Lula H. Rich, none.

5. Grandparents names: Deceased.

6. Brothers and spouses names: None.

7. Sisters and spouses names: None.

Roscoe Seldon Suddarth, of Maryland, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Hashemit Kingdom of Jordan.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Roscoe S. Suddarth.

Post: Ambassador to the Hashemite Kingdom of Jordan.

Contributions, amount, date, and donee:

1. Self: None.

2. Spouse: None.

3. Children and spouses names: Anne V. Suddarth, none; Mark S. Suddarth, none.

4. Parents names: Mr. and Mrs. George S. Suddarth, none.

5. Grandparents names: Mr. and Mrs. Henry Suddarth, none; Mr. and Mrs. Fred Urfer, none.

6. Brothers and Spouses names: None.

7. Sisters and spouses names: Georgia and Edgar Allman none.

Theresa Anne Tull, of New Jersey, a Career Member of the Senior Foreign Service, Class of Minister-Counselor, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to the Cooperative Republic of Guyana.

Contributions are to be reported for the period beginning on the first day of the fourth calendar year preceding the calendar year of the nomination and ending on the date of the nomination.

Nominee: Tull, Theresa Anne.

Post: Ambassador to Guyana.

Contributions, amount, date and donee:

1. Self: None.

2. Spouse: N/A.

3. Children and spouses names: N/A.

4. Parents names: John J. Tull, deceased 1947. Anna C. Paull, deceased 1966.

5. Grandparents names: All deceased prior to 1960 (maternal: Charles and Elizabeth McDonald Paull; Paternal: Ira and Minnie McDorman Tull).

6. Brothers and spouses names: Robert Tull, $120, July 1983, Republic Presidential Tax Force; $100, October 1983, Dan Evans Campaign for Senate; $50, December 1984, Republican National Committee; $100, May 1985, Republican National Committee; $100, January 1986, Republican National Committee; $50 July 1986, Slade Gorton Campaign for Senate. Helen Clark, spouse, none.

John J. Tull, $50, July 1983, RPAC (Realtors Political Action Committee; $21, February 1984, CENPAC (Century 21 Political Action Committee; $21, January 1985, CENPAC; $50, September 1985, RPAC; $25 October 1985, Democratic National Committee; $15, May 1986, Democratic Senatorial Campaign Committee; $15, January 1986, Democratic National Committee; $15, September 1986, Democratic National Committee; $50, December 1986, Democratic National Committee.

Elizabeth Bradshaw, spouse, none; Charles J. Tull, $25, August 1984, Mondale for President Campaign; Mildred Banker, spouse, none; Thomas J. Tull, none; Marie Walsh, spouse, none.

7. Sisters and spouses names: Elizabeth Waldis, none; John J. Waldis, spouse, none; Margaret H. McLane, none; Robert E. McLane, spouse (deceased), none.

Charles L. Gladson, of California, to be an Assistant Administrator of the Agency for International Development; and

Charles L. Gladson, an Assistant Administrator of the Agency for International Development, to be a Member of the Board of Directors of the African Development Foundation for the remainder of the term expiring September 22, 1991;

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

Mr. PELL. Mr. President, for the Committee on Foreign Relations, I also report favorably a nomination list in the Foreign Service which was printed in the CONGRESSIONAL RECORD of July 15, 1987, and, to save the expense of reprinting it on the Executive Calendar, ask unanimous consent that these nominations lie at the Secretary's desk for the information of Senators.

By Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation:

Charles Luna, of Texas, to be a Member of the Board of Directors of the National Railroad Passenger Corporation for a term expiring April 27, 1990;

Darrell M. Trent, of Kansas, to be a Member of the Board of Directors of the National Railroad Passenger Corporation for a term expiring April 27, 1990; and

Robert D. Orr, of Indiana, to be a Member of the Board of Directors of the National Railroad Passenger Corporation for a term expiring April 27, 1990.

(The above nominations were reported with the recommendation that they be confirmed, subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. PRESSLER:

S. 1552. A bill to amend title 10, United States Code, to require the advancement of Army and Air Force reserve enlisted personnel to highest grade satisfactorily held after thirty years of service; to the Committee on Armed Services.

By Mr. STEVENS (for himself and Mr. PRYOR):

S. 1553. A bill to amend title 5, United States Code, to provide that any liability of a Federal employee for a breach of any fiduciary responsibility under the Federal Retirement Thrift Investment Management System shall be payable by the United States if the liability relates to action taken in good faith and within the scope of the individual's official duties; to the Committee on Governmental Affairs.

By Mr. FOWLER (for himself, Mr. MATSUNAGA, Mr. WIRTH, Mr. FORD, Mr. BUMPERS, and Mr. DECONCINI):

S. 1554. A bill to provide Federal assistance and leadership to a program of research, development and demonstration of renewable energy and energy conservation, and for other purposes; to the Committee on Energy and Natural Resources.

By Mr. HATCH:

S. 1555. A bill to amend the Davis-Bacon Act by increasing the coverage threshold to $100,000 for non-military contracts and $1,000,000 for military contracts, and to amend the Copeland Act compliance provision, and for other purposes; to the Committee on Labor and Human Resources.

S. 1556. A bill to amend the Service Contract Act to increase the coverage threshold to $100,000 for non-military contracts and $1,000,000 for military contracts, and for other purposes; to the Committee on Labor and Human Resources.

By Mr. HOLLINGS (for himself, Mr. DANFORTH, Mr. WILSON, and Mr. MCCAIN):

S. 1557. A bill to require the Secretary of Transportation to promulgate rules regarding certain operating transponders on aircraft, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. KASTEN (by request):

S. 1558. A bill to amend the Federal Railroad Safety Act of 1970 and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. DIXON (for himself, Mr. BUMPERS, and Mr. WEICKER):

S. 1559. A bill to amend the Small Business Act to modify certain provisions relating to the small business set-aside program; to the Committee on Small Business.

By Mr. PRESSLER:

S.J. Res. 180. A joint resolution designating the honeybee as the national insect; to the Committee on the Judiciary.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. KARNES (for himself, Mr. ARMSTRONG, Mr. BOND, Mr. BOSCHWITZ, Mr. CHAFEE, Mr. COCHRAN, Mr. DANFORTH, Mr. DECONCINI, Mr. DODD, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. EXON, Mr. GRAMM, Mr. GRASSLEY, Mrs. KASSEBAUM, Mr. KASTEN, Mr. LUGAR, Mr. MCCAIN, Mr. MCCLURE, Mr. MCCONNELL, Mr. NICKLES, Mr. PACKWOOD, Mr. QUAYLE, Mr. SIMPSON, Mr. SPECTER, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, Mr. WEICKER, Mr. WILSON, Mr. ADAMS, Mr. HEFLIN, Mr. MOYNIHAN, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEVIN, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. PELL, Mr. BUMPERS, Mr. BURDICK, Mr. CHILES, Mr. SYMMS, Mr. STAFFORD, Mr. SIMON, Mr. SHELBY, Mr. SARBANES, Mr. METZENBAUM, Mr. MITCHELL, Mr. BINGAMAN, Mr. PROXMIRE, Mr. ROCKEFELLER, Mr. PRESSLER, Mr. CRANSTON, Mr. SANFORD, Mr. RUDMAN, Mr. BRADLEY, Mr. REID, Mr. JOHNSTON, Mr.

Hollings, Mr. Evans, and Mr. Inouye):

S. Res. 256. A resolution to express the sorrow and regret of the Senate at the death of Howard Malcolm Baldrige, Jr.; considered and agreed to.

By Mr. FORD, from the Committee on Rules and Administration:

S. Res. 257. An original resolution managing the expenditure of funds for Senate official mail during fiscal year 1988; placed on the calendar.

S. Res. 258. An original resolution to require documentation for payments and reimbursements from the contingent fund of the Senate; placed on the calendar.

S. Res. 259. An original resolution relating to the reimbursement of expenses paid to witnesses appearing before the Senate; placed on the calendar.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. STEVENS (for himself and Mr. Pryor):

S. 1553. A bill to amend title 5, United States Code, to provide that any liability of a Federal employee for a breach of any fiduciary responsibility under the Federal retirement thrift investment management system shall be payable by the United States if the liability relates to action taken in good faith and within the scope of the individual's official duties; to the Committee on Governmental Affairs.

FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT AMENDMENT

● Mr. STEVENS. Mr. President, today I am introducing, along with Senator Pryor, legislation to amend the Federal Employees' Retirement System [FERS] Act of 1986 (5 U.S.C. 8401-8479) that we passed last year. The purpose of this amendment is to provide Government indemnification for the Executive Director, members of the Federal Retirement Thrift Investment Board, and other fiduciaries of the thrift savings fund established under the act against liability which they may incur because of action taken in good faith in the course of their official duties.

I believe that enactment of this legislation would result in a significant reduction in Government costs, because Government indemnification of the plan fiduciaries would be less costly than the present requirement that Government agency funds be used to purchase private insurance for the fiduciaries.

The FERS Act established a tax-deferred thrift savings plan for Federal employees financed by both employer and employee contributions. The act also established an independent Board, the Federal Retirement Thrift Investment Board, and Executive Director to direct the investments of the thrift savings fund.

The responsibilities and liabilities of Executive Director, Thrift Investment Board members, and other fiduciaries of the thrift savings fund are currently set forth in 5 U.S.C. 8477. For example, in making investment decisions, the fiduciaries must act with the care, skill, prudence, and diligence that a prudent person acting in a like capacity would use in the conduct of a similar enterprise (5 U.S.C. 8477(b)(1)(B)). A fiduciary of the thrift savings fund is personally liable to the fund for any losses resulting from any breach of his or her fiduciary obligations (5 U.S.C. 8477(e)(1)(A)).

The act authorized the Executive Director of the Board to assess each Federal agency up to an additional 1 percent of the agency's contributions to the fund for the purpose of purchasing private insurance to protect the fiduciaries against personal liability.

The Board has made a concerted effort to obtain private insurance. The uniqueness and potential size of the plan, however, have presented problems of pricing and risk assessment to the insurance industry. Consequently, the Board has not yet received any definite offers of coverage.

Even if adequate insurance were available on reasonable terms, it would be less costly to the Government if the present statutory provisions for private insurance were deleted and replaced with Government indemnification. In fact, the policy of the Federal Government for many years has been that indemnification, or self-insurance, is less costly to the Government than the premiums required to be paid to private insurers because the Government is better able to cover its own risks.

This legislation would delete the current law under 5 U.S.C. 8479(b) allowing for a special assessment on agencies of up to 1 percent of agency contributions to the fund for the purpose of buying private insurance to cover the potential liability of the thrift savings fund fiduciaries, and substitute a system of governmental indemnity where the fiduciary is found by the Attorney General to have acted in good faith in the performance of his or her official duties.

Under the Employee Retirement Income Security Act [ERISA], fund managers may be and commonly are indemnified by the sponsoring companies for personal liabilities imposed by that act. Such indemnification of fiduciaries by an employer is explicitly permitted by the Department of Labor's ERISA regulations, 29 CFR 2509.75-4. The thrift savings fund managers should not be in a worse position than their counterparts in the private sector. And while indemnification would make the Federal Government liable for some breaches of fiduciary obligations of the thrift savings fund managers, the Government would be in no worse position than a plan sponsor in the private sector.

Again, I believe that the cost of self-insurance by the Federal Government would be less than the cost of the private insurance required by the present provision because the Government is better able to bear the risks involved in managing the thrift savings fund. This legislation provides that indemnity payments shall be made out of the funds and appropriations available for the payment of judgments and compromise settlements against the United States.

Now, at the very beginning of the thrift savings plan, it is especially important that there be no questions as to the Government's support for this new program. Federal employees who participate in the plan deserve to know that the full faith and credit of their employer stands squarely behind the fiduciaries who are appointed to manage their retirement fund.

Mr. President, I ask unanimous consent that the text of this legislation be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1553

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. METHOD FOR THE PAYMENT OF LIABILITIES RELATING TO A GOOD FAITH BREACH.

(a) Method of Payment.—Section 8479(b) of title 5, United States Code, is amended to read as follows:

"(b)(1) For the purpose of this subsection, the term 'employee' means—

"(A) an employee as defined by section 2105; and

"(B) an employee of the United States Postal Service or the Postal Rate Commission.

"(2) Notwithstanding subsection (a) or any other provision of law, the amount of any judgment, award, or compromise settlement for which the Executive Director, a member of the Board, or any other employee would otherwise be liable under section 8477(e) for any violation of the responsibilities, duties, and obligations under subsection (b) or (c) of section 8477, and any court costs and reasonable attorney's fees incurred by such Executive Director, Board member, or other employee in connection therewith, shall, for purposes of section 1304 of title 31, be considered to be an amount payable under section 2414 of title 28, subject to paragraph (3).

(3) A payment under this subsection to, or on behalf of, the Executive Director, a member of the Board, or any other employee shall be made unless the Attorney General determines, in writing, that such Executive Director, Board member, or other employee was not acting in good faith, and within the scope of that individual's official duties, when engaged in the conduct with respect to which the payment relates."

(b) Repayment of Certain Agency Contributions.—Any amounts contributed to the Thrift Savings Fund by an agency under section 8479(b) of title 5, United States Code (as in effect before the effective date of this Act), and not expended or obligated for the purchase of fiduciary liability insurance, shall be returned to such agency (and the appropriation account out of which the contribution was made).

(c) CONFORMING AMENDMENTS.—(1) The heading of section 8479 of title 5, United States Code, is amended to read as follows:

"Section 8479. Exculpatory provisions void; actions taken in good faith.

(2) The item relating to section 8479 in the table of sections for chapter 84 of title 5, United States Code, is amended to read as follows:

"8479. Exculpatory provisions void; actions taken in good faith."

SEC. 2. EFFECTIVE DATE.

This Act, and the amendments made by this Act, shall be effective as of April 1, 1987, except for subsection (b) of Section 1 which shall be effective as of the date of enactment.●

By Mr. FOWLER (for himself, Mr. MATSUNAGA, Mr. WIRTH, Mr. FORD, Mr. BUMPERS, and Mr. DECONCINI):

S. 1554. A bill to provide Federal assistance and leadership to a program of research, development and demonstration or renewable energy and energy conservation technologies, and for other purposes; to the Committee on Energy and Natural Resources.

RENEWABLE ENERGY AND ENERGY CONSERVATION TECHNOLOGY COMPETITIVENESS ACT

Mr. FOWLER. Mr. President, I rise today to introduce the "Renewable Energy and Energy Conservation Technology Competitiveness Act of 1987."

This bill addresses an issue as important as any we now face. In fact, this issue lies at the foundation of our national security and international competitiveness. And, like some other foundations of our national strength, it does not receive the attention it warrants.

The issue, the foundation, I am referring to is our national energy policy for the future—or rather, our lack of one.

We all know we are in a time of transition, as Americans look for some certainty in what the 1990's, what the turn of the century will bring. Perhaps more than ever before, our policies have to be concerned with what is to come. And no issue holds more uncertainty, or demands more advance planning, than our future energy needs.

The signs are all around us, at this very second, if we will choose to heed them.

Sadly, we have not yet begun to face, realistically, our energy requirements for the decades ahead. I am introducing this legislation to help remedy our current state of affairs—by encouraging the development, demonstration, production and marketing of alternative energy technologies. I am concerned here with renewable energy sources that will not vanish over time and leave our future begging.

We already know how to harness power from some of these sources. Our taxpayers have spent millions to develop the technologies and the techniques. The challenge now is to commit the resources that will lead to commercialization, so new energy sources can reduce our dangerous dependence on foreign oil.

This legislation is not a cure-all. But it is a start. If my recommendations are adopted, we will for once—for once—begin to address a problem before it reaches crisis proportions. This is one chance to have clear goals and policies, first; commitment to a course of action, after—not the other way around.

I am proud of my proposal because it does more than react to problems and uncontrollable circumstances. It offers hope. It is positive legislation, urging positive and constructive efforts.

Energy—from the Greek word "ergon," to work. How is it that up to now we have devoted such precious little effort and depth of thought to what is going to make America work in the next century?

Right now, over a quarter of our energy needs are met with oil, and world oil reserves are not projected to last through the next century at current rates of consumption. Perhaps it would stimulate our thought process to imagine our future without oil, if we fail to make the changes necessary to prepare for that day.

If the flow of oil were cut off today, we know that refineries, factories and powerplants, from one end of this country to the other, would sputter to a halt. But that would just be the beginning.

The irrigation systems on our farms would shut down. Twenty-three million farm vehicles would rust in the fields. There would be no way to plow, no way to harvest—no way to transport the food that could be grown and gathered to distant markets.

The most massive construction project in the history of the world, the U.S. Interstate Highway System, would be rendered practically useless.

The transportation systems on which life in our cities depend would freeze. Most of the commercial network as we know it would unravel. Distant travel would become almost impossible. Cars and trucks would sit up on blocks. Planes would remain grounded. Ships would drift with the tides and currents.

The consequences for our military would be obvious. We all know the story of the Battle of the Bulge, when the German counterattack broke through Allied lines and raced for Antwerp—until the tanks ran out of gas.

It is easy to disregard this entire scenario as pure hyperbole, when we have so much time ahead of us to make the transition away from oil energy. I think it is important, though, to ask ourselves just how long we do have to adjust?

The United States has 28 billion barrels of proven oil reserves. If we had to rely on our reserves alone, they would last us for a little less than 9 years. That is not much time at all.

That is why, at this very minute, we have our finger on the trigger, are poised to risk military engagement—and American casualties—in the Persian Gulf. Not because our geopolitical objectives are clearly defined, but because we cannot afford for the flow of oil out of the gulf to stop.

We don't buy that much of our oil in the Middle East, but the percentage is rising. Our industrial allies are dependent on the Middle East, and we are legally obligated to share our supplies with them in a crisis.

A Persian Gulf oil crisis would, at the very least, force the other Western democracies to compete with us for oil in the remaining markets, driving up prices, increasing energy costs to unacceptable levels—unacceptable because the added costs would decrease the competitiveness of our goods and services, and increase our trade deficits. There is simply no way we are going to have competitive business and industry without competitive energy costs.

So, after a military buildup unprecedented in history, we find ourselves stronger, perhaps, but not more secure. We are, in fact, more vulnerable than we were in 1980. We find ourselves more in harm's way in the Middle East than we did under previous administrations. President Reagan himself calls the Straits of Hormuz a "chokepoint for freedom."

The incident of the U.S.S. *Stark* is a vivid reminder that the game we are being forced to play in the Middle East is an unpredictable one. Sadly, the faces of 37 sailors aboard that vessel remind us that our young people have already died there. Sadly, we have been reduced to trading arms to the Iranians for our hostages over there. Does anyone think we would have tolerated this insolvent blackmail if we weren't gluttons for their black crude?

Now we find ourselves drawn in closer to the Hezbollah's web as our military presence increases in the Persian Gulf. This is a fool's game. It's a dangerous game. How did we get into it?

We stumbled into this foreign policy quagmire, this threat to our national security, by having no long-range comprehensive energy policy. We have not reduced our dependence on foreign oil, in spite of all the warning signs.

We have ignored the facts, which we will have to face one day: that in 1986, one half of the world's proven oil reserves had already been consumed; that in the last quarter century the rate of world consumption has more than quadrupled.

We have ignored the hard fact that Middle Eastern control of the remaining reserves is going to tighten relentlessly. Those countries have 4 percent of world population, and 57.6 percent of the oil reserves. This makes an eventual price increase a certainty. As time passes, it will also place a greater and greater percentage of the remaining world supply within easy striking distance of the Soviet Union.

None of the shocks and stutters of the last 20 years have brought us to our senses. We had fair warning when the Arab-Israeli War of 1973 caused oil to triple in price to $11 a barrel. We were warned at the time of the Iranian Revolution of 1979. By 1982, the world price of oil was an unheard of $32.

Are we going to sit on our hands and wait for the next unprecedented escalation, simply because it may be as far as 10 years down the road? Or as close as the next Exocet or Silkworm missile?

My Bible says, Matthew 16: "When it is evening, ye say, It will be fair weather: for the sky is red. And in the morning, It will be foul weather today: for the sky is red and lowring.

"O ye hypocrites, ye can discern the face of the sky; but can ye not discern the signs of the times?"

Apparently not. We have not profited from our experiences in the 1970's. Our dependence on foreign oil is actually increasing. It reached 40 percent this year, the same as at the time of the oil embargo of 1973. Our dependence is projected to top 60 percent in the next decade.

A 1987 report on energy security by the Department of Energy found that no coherent strategy guides our programs, and most do little to reduce our oil dependency—this in a country that has 5 percent of world oil reserves, and 29.1 percent of world consumption. No wonder administration officials are predicting gas lines by the 1990's.

Unfortunately, this administration has offered no solutions, only temporary stopgaps—that only once again delay the day we formulate a real energy policy to meet the future needs of this Nation.

This administration has actually taken us backwards, by gutting the programs that must prepare now to put new energy technologies in place in the coming years.

The Secretary of Energy has pushed for the end of improvements in gas mileage standards. He has opposed appliance efficiency standards. This administration has cut out programs for energy efficiency in older buildings, where over a third of our power is used. Successful conservation programs have been scrapped.

We have cut research and development in alternative energy sources by 80 percent since 1980. United States firms, which once held the technological edge—and the world markets—have lost their lead in wind power to the Dutch, and are losing it rapidly to the Japanese in photovoltaics. We have allowed short-term market forces to totally preempt a sound long-term strategy for the development of energy technologies—and at the same time we call the oil straits a chokepoint for freedom.

We have the need. We have the know-how. So, if we do not act to correct this contradiction, if we have to live through yet another energy crisis, we will not have ignorance as an excuse—only laziness, political spinelessness, self-delusion and dereliction of duty.

The legislation I am introducing encourages development of renewables that can reduce our dependence on imported oil without creating the increased environmental hazards of burning other fossil fuels. Renewables that could open up vast, undreamed of energy supplies, without producing the potentially lethal by-products of nuclear energy.

Nuclear power will obviously play some role. But, with its dangers, real and perceived, it is never going to be the energy of the future. I say this as we find ourselves locked in an enormous political struggle even to determine where to put the radioactive waste already being produced.

We have unlimited potential in solar, wind, geothermal, biomass—we have huge grain surpluses that we don't know what to do with, that are depressing prices, that can be turned into energy that is cheaper than nuclear—which, by the way, is where this administration has placed most of our energy research dollars. For many of these renewables, the technology already exists. It is simply waiting to be developed.

Our society has not always run on oil. It will not run on oil forever. The transformation to new energy sources has got to come, but it is not going to happen without the involvement and leadership of our Government. The task is too enormous. The cost is too high. Our energy infrastructure is too highly developed and deeply ingrained. Our society is too large, complex and interdependent.

Other countries realize this. Every other major industrial power has strengthened its alternative energy research programs during the 1980's, while we have all but eliminated ours.

We, too, have to coordinate our efforts. The transformation has to be facilitated by our policies. We have to make market forces work for us now, instead of against the clock later.

We have to create the climate in which, without direct Government intervention, America's entrepreneurial spirit can meet this challenge. My legislation prompts Government to exercise leadership in this area, where it is sorely needed, and sorely lacking.

Sorely needed because we have to plan now to implement these technologies on a wide scale 5 to 10 years from now.

But as we look ahead, we should not forget the more immediate benefits of pursuing this policy. We have to keep in mind the export possibilities.

Oil now provides 38 percent of the world's commercial energy. The industrialized nations account for 55 percent of the world oil demand, but have only 10 percent of the world's proven reserves. In developing countries, 1.7 billion of the world's people live in villages without power. Most are in remote areas without access to any grid, and where it is already more economical to bring in portable wind and photovoltaic units.

The market is there, if we will only read the signs of the times.

Development and export of these technologies is sound policy all the way around. Some country is going to do it. Many have already entered the competition, with more government assistance than we are providing. I want to make sure that America is best prepared to win this important race to the future. We know we have the ability, if we will put it to work. That is why I offer this bill.

Let me recount the goals this legislation would help us to realize, through the development of renewable, alternative sources of energy: Solar, photovoltaic, wind, ocean, geothermal, methanol, biomass—and conservation.

My bill would help decrease our reliance on foreign oil.

It allows us to conduct our foreign policy from a position of strength.

It would reduce our trade deficits.

It opens new business opportunities in this country, and vast export possibilities abroad.

Within our present budget constraints, it calls for modest, but essential investment in our future.

It offers hope for the greatest return on Government investment since rural electrification and the GI bill.

It reinforces our energy and national security, improving the competitive stance of American enterprise.

It accomplishes all this with the minimum harm to our environment.

And the bill confronts our present problems by making a prudent investment now, not by passing the burden to future Congresses and future generations of Americans.

I offer this legislation in 180 degree contrast to the policy of this administration, which has overseen a 90-percent reduction in conservation, solar and renewable energy programs, without offering an alternative for our future.

So far, we have failed to read the signs of the times. Our absence of policy has allowed us to backslide deeper into danger, both economic and military. Our reemergence will be a test of our political will, because it is a test of our foresight.

The choices are right in front of us: Dependence and deficit, or security and surplus.

Maybe a little hindsight will help us to look ahead: Six years ago a happy-go-lucky Ronald Reagan rode to the Presidency, denigrating those he called the purveyors of gloom and doom—meaning those who warned of the finitude of resources, especially when it came to our energy needs. Now it is the Ayatollah who is laughing in his beard.

But the most ironic part is that the President was not all wrong. There are nearly infinite resources. There is cause for his famous optimism.

But not based on the world oil supply. Which may or may not run out. Which may keep flowing, or may be choked off in the world's most volatile region, strangling the Western democracies.

Our cause for hope is not any other fossil fuel. That may or may not meet our needs through the 21st century. That will cost us dearly in damage to our environment, which has already received far too much abuse.

It is not nuclear power, which will only transfer even heavier costs to future generations.

Our real cause for optimism is in the wind and the Sun overhead, the oceans and magma at our feet, the ever-renewing grain in our fields. The barely tapped reservoirs of energy at our disposal, the gifts of Creation. That can provide clean energy, not for decades, but for millions of years.

This is not science fiction. The taxpayers' money has been invested. The research and development has been done. We now face a different question: Will we let these efforts lapse, and let so much potential come to nothing? Or will we put this research to work in our buildings, in our fields, in our vehicles?

It is not our job in Government, as custodians of the national welfare, to sit back and let the future happen to us—because the price at the pumps happens to be low today. The days ahead will only be as good as our vision and our plans for them. Both depend on our ability to read the signs of the present time.

The legislation I offer reads the handwriting on the wall into law, law that will set us soundly back on the right course. Beyond our horizon. Toward a future that, for generations of Americans to come, holds promise, not a promissory note.

At this point, I ask unanimous consent that a reprint of the summary of the bill, of the bill itself, and of an April 16 Wall Street Journal article "Renewable Energy Concerns Begin Attracting Big Institutions Betting On Another Oil Crisis," be printed in the RECORD.

Mr. MATSUNAGA. Will the distinguished junior Senator from Georgia yield?

Mr. FOWLER. I am delighted to yield to the Senator from Hawaii, a cosponsor of the legislation.

Mr. MATSUNAGA. As a cosponsor, I rise to congratulate and commend the Senator, the principal sponsor of the measure. I fully and wholeheartedly agree with the Senator that unless we resolve our energy problem, we shall never fully control our economic destiny.

As the Senator from Georgia has suggested, the way to go is to become energy independent. How then can we become energy independent? By the development of alternative sources, which we find plentiful in this country. As a matter of fact, in the State of Hawaii we started a program to become energy self-sufficient by the use of alternative indigenous resources: Solar energy, wind energy, geothermal energy, ocean thermal energy, biomass energy. Under the Carter administration, we were well on our way to attaining our goal of becoming energy self-sufficient by the year 1990.

Unfortunately, with the change in administration, there has been an altogether different policy effected which has stymied our program in Hawaii.

Nevertheless, our effort toward energy self-sufficiency has shown some measure of success. For example, from 100 percent dependency on imported oil on the island of Hawaii, more than 50 percent of the electricity produced today is produced by the use of alternative sources of energy. And they were 100 percent dependent on imported oil before.

On my home island of Kauai, where I was born, from 100 percent dependency on imported oil to produce electricity, today 50 percent of the electricity is produced by use of indigenous natural resources.

I once again commend the junior Senator from Georgia for his leadership in this area. It is a rare occasion when a freshman Senator, within 6 months after being sworn into office, registers the impact on nationally essential legislation as the junior Senator from Georgia has. I heartily congratulate him.

Mr. FOWLER. I thank the Senator from Hawaii. I would be remiss if I did not say because of his leadership going back over many, many years, we would not have the few policies in place for the development of alternative energy. To those of us who have come after his leadership, he has been an inspiration and we hope it will continue.

I thank the Senator.

Mr. MATSUNAGA. I thank the Senator for his kind words.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1554

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Renewable Energy and Energy Conservation Technology Competitiveness Act of 1987".

SEC. 2. FINDINGS AND PURPOSES.

(a) Congress finds that—

(1) a secure and diverse supply of energy is in the Nation's best interest, and it is appropriate for the Federal government to sponsor a balanced program of energy research and energy technology development and demonstration to insure diverse supplies of energy by the year 2000;

(2) a strategic plan to pursue a program that balances Federal investments among energy supply and technology options is needed to assure that a well-managed, cost-effective research, development and demonstration program will be implemented;

(3) renewable energy resources and energy conservation technologies can make the energy sources of the United States secure and diverse with minimal environmental risks;

(4) the development and use of renewable energy and energy conservation technologies can significantly reduce U.S. dependence on foreign energy sources; however, the extent of such contribution is dependent upon increasing efficiencies and reducing costs of renewable energy and energy conservaton technologies;

(5) energy for buildings consumes approximately 36 percent of the total U.S. energy supply, and approximately two-thirds of U.S. electricity is consumed in buildings;

(6) use of renewable energy and energy conservation technologies in buildings potentially could provide for a cost-effective increase in energy efficiency in the buildings' sector of as much as 30 to 50 percent;

(7) the Federal government, as the largest consumer of energy in the United States, should promote the effective use of renewable energy and energy conservation technologies;

(8) the technological lead of U.S. firms and their capability to compete with foreign renewable energy and energy conservation technology has declined in recent years, and many foreign firms are selling renewable energy and energy conservation technology in the United States;

(9) competitiveness of U.S. firms overseas depends in part on long-term, stable Federal support of research and development efforts to maintain U.S. preeminence in technology; it is also appropriate for the Federal government to support nearer-term commercial and proof-of-concept demonstrations so that U.S. firms will have not only technology, but also products to market;

(10) the development and export of renewable energy and energy conservation products and technology can contribute positively to the balance of trade; and

(11) the volatility of world energy markets underscore the need for sustained levels of support for the research and development of renewable energy conservation technologies.

(b) It is the purpose of this Act to direct the Secretary of Energy to pursue an aggressive National program of research, development and demonstration of renewable energy and energy conservation technologies in order to ensure a stable and secure future energy supply by—

(1) providing a long-term stable environment for renewable energy and energy con-

servation technology research and development activities through the establishment of long-term goals and multi-year funding levels;

(2) directing the Secretary to undertake initiatives to hasten the commercialization in the near term of renewable energy and energy conservation technologies;

(3) fostering collaborative research and development efforts involving the private sector through government support of a vigorous program of joint venture innovative projects; and

(4) promoting the use of renewable energy and energy conservation in buildings owned or leased by the Federal government.

SEC. 3. DEFINITIONS.

As used in this Act the term "Secretary" means the Secretary of Energy.

SEC. 4. NATIONAL GOALS AND MULTI-YEAR FUNDING FOR FEDERAL WIND, PHOTOVOLTAICS AND SOLAR THERMAL PROGRAMS.

(a) The following are declared to be the National goals for the wind, photovoltaics and solar thermal energy programs currently being carried out by the Secretary under existing law:

(1) Wind.—(A) In general, the goals for the Wind Energy Research Program include improving design methodologies and developing more reliable and efficient wind turbines to increase the cost competitiveness of wind energy. Research efforts shall emphasize—

(i) activities that address near-term technical problems and permit exploitation of current market opportunities of the wind energy industry;

(ii) developing advanced airfoils and variable speed generations to increase wind turbine output and reduce maintenance costs by decreasing structural stress and fatigue;

(iii) increasing the basic knowledge of aerodynamics, structural dynamics, fatigue and electrical systems interactions as applied to current wind energy technology; and

(iv) improving the compatibility of electricity produced from windfarms with conventional utility needs.

(B) Specific goals for the Wind Energy Research Program shall be to—

(i) reduce average wind energy costs to 3 to 5 cents per kilowatt hour by 1995;

(ii) reduce capital costs of new wind energy systems to $500 to $750 per kilowatt of installed capacity by 1995;

(iii) increase installed generating capacity to 4000 to 8000 megawatts by 1995;

(iv) reduce operation and maintenance costs for wind energy systems to less than 1.0 cents per kilowatt hour by 2000; and

(v) increase capacity factors for new wind energy system to 25 to 30 percent by 1995.

(2) Photovoltaics.—(A) In general, the goals of the Photovoltaic Energy Systems Program include improving the reliability and conversion efficiencies and lowering the costs of photovoltaic conversion. Research efforts shall emphasize advancements in the performance, stability and durability of photovoltaic materials.

(B) Specific goals of the Photovoltaic Energy Systems Program shall be to—

(i) improve operational reliability of photovoltaic modules to 30 years by 1995;

(ii) increase photovoltaic conversion efficiency of new photovoltaic amorphous silicon modules to 15 percent by 1995;

(iii) decrease new photovoltaic module direct manufacturing costs to $0.80 per watt by 1995; and

(iv) increase installed capacity of photovoltaic electric power production capacity to 100 to 200 megawatts by 1991.

(3) Solar Thermal.—(A) In general, the goal of the Solar Thermal Energy Systems Program shall be to advance research and development to a point where solar thermal technology is cost-competitive with conventional energy sources and to promote the integration of this technology into the production of industrial process heat and the conventional utility network. Research and development shall emphasize development of a thermal storage technology to provide capacity for shifting power to periods of demand when full insolation is not available, improvement in receivers, energy conversion devices, and innovation concentrators using stretch membranes, lenses and other materials, as well as exploration of advanced manufacturing techniques.

(B) Specific goals of the Solar Thermal Energy Systems Program shall be to—

(i) reduce solar thermal costs for industrial process heat to $9.00 per million Btu; and

(ii) reduce average solar thermal costs for electricity to 4 to 5 cents per kilowatt hour.

(4) The President's budget request for fiscal year 1989 shall contain the Secretary's recommendations for specific cost, installed capacity and other pertinent goals for 1995 for Department of Energy research and development programs in Biofuels Energy Systems, Solar Buildings Energy Systems, Ocean Energy Systems and Geothermal Energy.

(b) There is authorized to be appropriated to the Secretary—

(1) for the Wind Energy Research Program, an amount not to exceed $19,000,000 in fiscal year 1988; $22,000,000 in fiscal year 1989; and $26,000,000 in fiscal year 1990;

(2) for the Photovoltaic Energy Systems Program, an amount not to exceed $43,100,000 in fiscal year 1988; $45,000,000 in fiscal year 1989; and $50,000,000 in fiscal year 1990;

(3) for the Solar Thermal Energy Systems Program, an amount not to exceed $28,700,000 in fiscal year 1988; $32,000,000 in fiscal year 1989; and $35,000,000 in fiscal year 1990;

(4) for the Biofuels Energy Systems Program, an amount not to exceed $32,100,000 in fiscal year 1988; $35,100,000 in fiscal year 1989; and $40,000,000 in fiscal year 1990;

(5) for the Solar Buildings Energy Systems Program, an amount not to exceed $8,000,000 in fiscal year 1988; $9,000,000 in fiscal year 1989; and $10,000,000 in fiscal year 1990;

(6) for the Ocean Energy Systems Program, an amount not to exceed $5,000,000 in fiscal year 1988; $5,000,000 in fiscal year 1989; and $5,000,000 in fiscal year 1990;

(7) for the Geothermal Program, an amount not to exceed $34,900,000 in fiscal year 1988; $38,700,000 in fiscal year 1989; and $35,700,000 in fiscal year 1990.

(c)(1)(A) The President's budget request for fiscal year 1990 shall include the Secretary's recommendations for at least one proposed proof-of-concept or near-commercial demonstration project in each of the categories represented by paragraphs (1), (2) and (3) of subsection (b). Each proposed project shall be described in sufficient detail to support congressional authorization and solicitation of bids for construction of necessary facilities.

(B) A list and description of alternative project plans recommended by the Secretary under this paragraph shall be submitted in President's fiscal year 1989 budget request. Such plans shall require funding or in-kind contributions from private sources in support of up to fifty percentum of total project costs.

(C) In selecting projects under this paragraph, the Secretary shall take into account the extent to which such projects will contribute to earlier commercialization of key technologies within such categories than might occur without Federal support under this paragraph and the extent to which such projects will contribute to the competitiveness of U.S. firms engaged in international trade in renewable energy technologies.

(2) On or before May 1, 1989, the Secretary shall submit to Congress a report analysing options available to the Secretary under existing law to accelerate the timely commercialization of wind, photovoltaic, solar thermal, biofuels, biomass, solar buildings, ocean and geothermal renewable energy technologies through emphasis on development and demonstration assistance to specific technologies in the research, development and demonstration programs of the Department of Energy that are near commercial application.

(3) Whenever the Secretary determines that any of the goals established under this section is no longer appropriate, he shall notify Congress of the reason for the determination and provide an amended goal that is consistent with the purposes of this Act.

SEC. 5. ENERGY CONSERVATION RESEARCH AND DEVELOPMENT.

(a) The President's budget request for fiscal years 1989 and 1990 shall include the Secretary's recommendations of amounts to be set aside for new initiatives in energy conservation research and development. Funds made available for new initiatives shall supplement and not supplant funds available to complete on-going energy conservation research and development projects supported in whole or in part by the Secretary during fiscal year 1988. Funds made available for new initiatives shall be used by the Secretary to support the most promising and deserving new ideas in energy conservation research and development brought to the attention of the Secretary during the previous fiscal year.

(b)(1) There is hereby authorized to be appropriated to the Secretary for the energy conservation research and development programs of the Secretary, an amount not to exceed $187,137,000 in fiscal year 1988, of which $20,250,000 shall be available for new initiatives, as set forth below:

(A) for transportation energy conservation research and development, there is authorized to be, appropriated to the Secretary an amount not to exceed $58,200,000, of which $3,200,000 shall be made available for new initiatives;

(B) for industrial energy conservation research and development, there is authorized to be appropriated to the Secretary an amount not to exceed $42,300,000, of which $5,800,000 shall be available for new initiatives;

(C) for buildings and community systems energy conservation research and development, there is authorized to be appropriated to the Secretary an amount not to exceed $51,975,000, of which $9,250,000 shall be available for new initiatives;

(D) for multi-sector energy conservation research and development, there is authorized to be appropriated to the Secretary an amount not to exceed $33,000,000, of which

$2,000,000 shall be available for new initiatives; and

(E) for energy conservation research and development policy and management, there is authorized to be appropriated to the Secretary an amount not to exceed $1,662,000.

(2) There is hereby authorized to be appropriated to the Secretary for the energy conservation research and development programs of the Secretary, an amount not to exceed $201,403,000 in fiscal year 1989, of which $6,000,000 shall be available for new initiatives, as set forth below:

(A) for transportation energy conservation research and development, there is authorized to be appropriated to the Secretary an amount not to exceed $63,200,000, of which $2,000,000 shall be made available for new initiatives;

(B) for industrial energy conservation research and development, there is authorized to be appropriated to the Secretary an amount not to exceed $45,000,000, of which $1,000,000 shall be available for new initiatives;

(C) for buildings and community systems energy conservation research and development, there is authorized to be appropriated to the Secretary an amount not to exceed $55,775,000, of which $2,000,000 shall be available for new initiatives;

(D) for multi-sector energy conservation research and development, there is authorized to be appropriated to the Secretary an amount not to exceed $35,700,000, of which $1,000,000 shall be available for new initiatives; and

(E) for energy conservation research and development policy and management, there is authorized to be appropriated to the Secretary an amount not to exceed $1,728,000.

(3) There is hereby authorized to be appropriated to the Secretary for the energy conservation research and development programs of the Secretary, an amount not to exceed $209,147,000 in fiscal year 1990, of which $6,000,000 shall be available for new initiatives, as set forth below:

(A) for transportation energy conservation research and development, there is authorized to be appropriated to the Secretary an amount not to exceed $65,460,000, of which $2,000,000 shall be made available for new initiatives;

(B) for industrial energy conservation research and development, there is authorized to be appropriated to the Secretary an amount not to exceed $46,740,000, of which $1,000,000 shall be available for new initiatives;

(C) for buildings and community systems energy conservation research and development, there is authorized to be appropriated to the Secretary an amount not to exceed $58,100,000, of which $2,000,000 shall be available for new initiatives;

(D) for multi-sector energy conservation research and development, there is authorized to be appropriated to the Secretary an amount not to exceed $37,050,000, of which $1,000,000 shall be available for new initiatives; and

(E) for energy conservation research and development policy and management, there is authorized to be appropriated to the Secretary an amount not to exceed $1,797,000.

SEC. 6. JOINT RESEARCH AND DEVELOPMENT VENTURES.

(a)(1) Congress finds that joint research and development ventures can—

(A) improve coordination in technology development among firms in industries attempting to commercialize renewable energy and energy conservation technologies;

(B) assist in setting national standards to improve the operation of markets for these technologies; and

(C) enhance the ability of domestic firms to compete with foreign enterprises in sales of renewable energy and energy conservation technologies.

(2) The purpose of this section is to direct the Secretary of Energy to make use of joint research and development ventures to further commercialization of renewable energy and energy conservation technologies.

(3) As used in this section the term "joint research and development venture" means a joint research and development venture under the National Cooperative Research Act of 1984 (98 Stat. 1815).

(b)(1) The Secretary shall establish seven joint research and development ventures in accordance with the provisions of this section. Each joint research and development venture under this section shall include manufacturing firms, investors, an advisory committee appointed in accordance with this section and such other participation as the Secretary deems appropriate to achieve the purposes of this section.

(2) The Secretary shall establish at least one joint research and development venture in accordance with subsection (c) to develop technology and expertise for domestic commercial use and for export in—

(A) photovoltaics technology;

(B) wind energy technology;

(C) solar thermal technology;

(D) factory-made housing;

(E) advanced district cooling technology;

(F) integrated renewable energy systems; and

(G) renewable energy and energy conservation technology exports.

(3) Not later than 180 days after the date of the enactment of this section the Secretary shall publish plans to implement this section and report to Congress on such plans.

(c) Joint Research and Development Ventures.

PHOTOVOLTAICS TECHNOLOGY

(1)(A) The Secretary shall establish and provide financial assistance to a joint research and development venture for the development of high-efficiency thermal and electrical distribution, storage and end-use systems employing electricity from photovoltaic conversion of solar energy that may be deployed in villages in remote or rural areas, including villages in developing countries.

(B) The purpose of the venture under subparagraph (A) shall be to design, test and demonstrate an integrated, cost-efficient village energy system including components for electrical and thermal production, conversion, distribution, storage and use under electronic control.

(C) Subsystems of the village energy system under this paragraph may include—

(i) advanced photovoltaic concentrators or other photovoltaic arrays;

(ii) an electronically-controlled village electrical system;

(iii) a potable water desalination system employing multistage flash distillation technology; and

(iv) a small scale village refrigeration system employing a low-temperature chiller driven by waste heat from the village energy system or by photovoltaic arrays.

(D) The Secretary shall appoint members to an Advisory Committee on Photovoltaic Village Energy Systems to assist the Secretary in carryng out his responsibilities with respect to the joint venture under this paragraph. Such committee shall include at least one member representing—

(i) firms in the photovoltaic manufacturing industry;

(ii) the Secretary of Commerce;

(iii) the Director of the Agency for International Development;

(iv) the Director of the Export-Import Bank;

(v) the Electric Power Research Institute;

(vi) the Solar Energy Research Institute; and

(vii) such other groups or institutions as the Secretary deems appropriate.

(E) There is authorized to be appropriated to the Secretary a total of not more than $1,200,000 for fiscal years 1988, 1989 and 1990 to carry out the purposes of this paragraph.

WIND ENERGY TECHNOLOGY

(2)(A) The Secretary shall establish and provide financial assistance to a joint research and development venture for the development of high-efficiency thermal and electrical distribution, storage and end-use systems employing wind-diesel systems designed for use where diesel generation of electricity currently is being used at a site with significant wind energy potential.

(B) The purpose of the venture under subparagraph (A) shall be to design, test and demonstrate an integrated, cost-efficient wind-diesel village energy system including components for electrical and thermal production, conversion, distribution, storage and use under electronic control.

(C) Subsystems of the village energy system under this paragraph may include—

(i) a diesel generator operating in conjunction with one or more wind turbines;

(ii) an electronically-controlled village electrical system;

(iii) a potable water desalination system employing multistage flash distillation technology; and

(iv) a small scale village refrigeration system employing a low-temperature chiller driven by excess wind-generated energy or a combination of wind-generated and diesel-generated energy.

(D) The Secretary shall appoint members to an Advisory Committee on Wind Energy Village Energy Systems to assist the Secretary in carrying out his responsibilities with respect to the joint venture under this paragraph. Such committee shall include at least one member representing—

(i) firms in the wind energy equipment manufacturing industry;

(ii) the Secretary of Commerce;

(iii) the Director of the Agency for International Development; and

(iv) the Director of the Export-Import Bank;

(v) the Electric Power Research Institute;

(vi) the Solar Energy Institute; and

(vii) such other groups or institutions as the Secretary deems appropriate.

(E) There is authorized to be appropriated to the Secretary a total of not more than $1,2000,000 for fiscal years 1988, and 1989, and 1990 to carry out the purposes of this paragraph.

SOLAR THERMAL TECHNOLOGY

(3)(A) The Secretary shall establish and provide financial assistance to a joint research and development venture for the efficient use of solar thermal energy deployed in planned communities in the United States and overseas as a total energy system for the supply of electricity, industrial energy, potable water, refrigeration and the community heating and cooling needs, and the treatment of community-generated wastes.

(B) The purpose of the venture under paragraph (A) shall be to design, test and demonstrate an integrated, cost-effective community total energy system including components for thermal production, conversion, distribution, storage and use under automated control.

(C) Subsystems of the community total energy system under this paragraph may include:

(i) advanced solar thermal concentrators;

(ii) a potable water desalination system employing advanced thermal distillation technology;

(iii) an automated energy distribution and control system;

(iv) a thermally-driven solar refrigeration system; and

(v) advanced waste treatment systems using thermal energy or direct concentrated solar flux.

(D) The Secretary shall appoint members to an Advisory Committee on Solar Thermal Community Total Energy Systems to assist the Secretary in carrying out his responsibilities with respect to the joint venture under this paragraph. Such committee shall include at least one member representing—

(i) firms in the solar thermal manufacturing industry;

(ii) the Secretary of Commerce;

(iii) the Director of the Agency for International Development;

(iv) the Director of the Export-Import Bank;

(v) the Electric Power Research Institute;

(vii) the Gas Research Institute;

(viii) the Solar Energy Research Institute; and

(ix) such other groups or institutions as the Secretary deems appropriate.

(E) There is authorized to be appropriated to the Secretary a total of not more than $900,000 annually for fiscal years 1988 through 1992 to carry out the purposes of this paragraph.

FACTORY-MADE HOUSING

(4)(A) Congress finds that—

(i) The United States is moving toward the industrialization of home building;

(ii) ninety percent of new homes have factory-made components and over 400,000 of the approximately 2,000,000 homes built each year are largely factory-made;

(iii) the United States is facing competition from foreign home builders who make use of factory-made housing techniques;

(iv) foreign firms have begun to penetrate United States markets for homes and housing-related products, while United States exports in these categories have stagnated;

(v) housing construction and materials comprises 21 percent of the Gross National Product;

(vi) the Office of Technology Assessment has found that the technological innovations that could improve the quality and reduce the cost of housing in the United States are "being needlessly slowed by inadequate research and development";

(vii) the Department of Commerce has warned that foreign competitors have targeted the United States market for residential construction in the same way that domestic markets for autos and steel have been targeted in the past; and

(viii) a joint research and development venture supported in part by the Federal government is needed to assist the United States home building industry in competing with housing products and technology from overseas.

(B) The Secretary shall establish and provide financial assistance to a joint research and development venture with such specialized private firms and investors as the Secretary deems appropriate in order to establish at least three regional centers to develop techniques to improve the energy performance of factory-made housing offered by United States firms. In locating the regional centers under this paragraph, the Secretary shall consider regional differences in housing needs, housing design, construction technique, marketing practices and construction materials.

(C) The regional centers under this paragraph shall carry out research and development efforts to improve the quality, energy efficiency and adaptability to renewable forms of energy of factory-made housing offered for sale in the United States and the productivity and energy efficiency of the housing construction process. The research and development programs at these centers shall consider housing design, fabrication, delivery systems, construction processes, marketing and product export.

(D) The research and development strategy under this paragraph shall be guided by—

(i) a detailed characterization of the needs of the home building industry;

(ii) a close working relationship with all sectors of the home building industry; and

(iii) coordination among the centers to pool and conserve resources.

(E) The Secretary shall appoint members to an Advisory Committee on Energy Performance in Factory-Made Housing to assist the Secretary in carrying out his responsibilities with respect to the joint research and development venture established under this paragraph. Such committee shall include at least one member representing—

(i) the Secretary of Housing and Urban Development;

(ii) the Secretary of Commerce;

(iii) the National Institute of Building Sciences;

(iv) the National Association of Home Builders;

(v) the National Laboratories of the Department of Energy;

(vii) the National Bureau of Standards; and

(vii) such other groups or institutions as the Secretary deems appropriate.

(F) There is authorized to be appropriated to the Secretary a total of not more than $10,000,000 for fiscal years 1988 through 1993 to carry out the purposes of this paragraph.

ADVANCED DISTRICT COOLING TECHNOLOGY

(5)(A) The Secretary shall establish and provide financial assistance to a joint research and development venture with such specialized private firms and investors as the Secretary deems appropriate in order to develop advanced district cooling technologies that are applicable in cities with high cooling loads.

(B) The joint research and development venture under this paragraph shall—

(i) develop technical strategies for decreasing the capital cost and increasing the energy efficiency of major district heating and cooling system components;

(ii) encourage the use of cogeneration and renewable energy technologies in district heating and cooling; and

(iii) assist in transfer of district heating and cooling technology to local governments.

(C) The Secretary shall select three major cities for application of advanced district cooling technologies developed by the joint venture under this paragraph. The activities to be carried out in such application shall include district cooling assessment, feasibility and engineering design studies.

(D) The Secretary shall appoint members to an Advisory Committee on Advanced District Cooling Technology to assist the Secretary in carrying out his responsibilities with respect to the joint research and development venture under this paragraph. Such Committee shall include at least one member representing—

(i) The Secretary of Housing and Urban Development;

(ii) The Secretary of Commerce;

(iii) firms manufacturing district cooling equipment;

(iv) the National League of Cities; and

(v) such other groups or institutions as the Secretary deems appropriate.

(E) There is authorized to be appropriated for each of the fiscal years 1988 through 1992 not more than $1,000,000 per year to carry out the purposes of this paragraph.

INTEGRATED RENEWABLE ENERGY SYSTEMS

(6)(A) Congress finds that—

(i) the fuel cell is an energy technology that will require Federal assistance to achieve commercial acceptance in domestic and foreign markets;

(ii) use of low maintenance, high efficiency fuel cells can minimize costs, conserve energy and provide opportunities to more fully utilize locally available energy resources;

(iii) fuel cells are self contained, environmentally safe and can provide sufficient energy to operate vehicles, heat, light and cool individual buildings and isolated military, commercial and industrial facilities and function as mobile power sources; and

(iv) integrated energy systems involving fuel cells could provide opportunities for export of fuels cell and renewable energy technology developed in the United States.

(B)(i) The Secretary shall establish and provide financial assistance to a joint research and development venture with such specialized private firms and investors as the Secretary determines appropriate in order to address the problem of variable output from solar and wind energy systems. The primary emphasis of the joint research and development venture under this paragraph shall be the integration of solar and wind energy systems with fuel cell and energy storage systems so as to produce approximately constant output.

(ii) Such joint venture shall emphasize the production of reliable electric power capable of meeting utility requirements, but may also consider single purpose needs such as portable medical uses, vehicular applications and the provision of heat, light and cooling in isolated areas at efficiency and cost improvements over central utility service.

(C) The joint research and development venture under this paragraph shall consider the interests of electric and natural gas utilities and manufacturers of fuel cells and renewable energy systems in order to enhance the ability of solar and wind energy to contribute to the demand for electric power in the 1990's.

(D) The Secretary shall appoint members to an Advisory Committee on Integrated

Renewable Energy Systems to assist the Secretary in carrying out his responsibilities with respect to the joint research and development venture under this paragraph. Such committee shall include at least one member representing—

(i) firms manufacturing solar, wind or fuel cell equipment;

(ii) the Secretary of Commerce;

(iii) the Director of the Agency for International Development;

(iv) the Director of the Export-Import Bank;

(v) the Solar Energy Research Institute;

(vi) the Electric Power Research Institute;

(vii) the Gas Research Institute; and

(viii) such other groups or institutions as the Secretary deems appropriate.

(E) There is authorized to be appropriated to the Secretary in total for the fiscal years 1988 through 1993 an amount not to exceed $5,000,000 to carry out the purposes of this paragraph.

EXPORT TECHNOLOGY PROJECTS

(7)(A) Congress finds that—

(i) the United States has several advanced energy conservation and renewable energy technologies that lack only sufficient coordination, support, and emphasis to become important export items capable of reducing the United States' trade deficit;

(ii) a major barrier to export of energy conservation and renewable energy technology is the lack of information on overseas markets and technology development by foreign competitors;

(iii) the industry that markets energy conservation technology is highly fragmented and the renewable energy industry is comprised of small firms that lack the necessary resources to identify and target overseas markets;

(iv) a joint research and development venture is needed to bring together a broad array of manufacturing firms, financial institutions, and Federal agencies to identify and develop promising technologies and export markets for energy conservation and renewable energy technologies.

(B) The Secretary shall establish and provide financial assistance to a joint research and development venture with such specialized private firms and investors as the Secretary determines appropriate for the purpose of improving energy conservation and renewable energy manufacturing processes in order to enhance product reliability and cost competitiveness relative to foreign-made products. The joint venture under this paragraph shall be coordinated with research, assessment and targeting of foreign markets for energy conservation and renewable energy products.

(C) The Secretary shall appoint members to an Advisory Committee on Energy Conservation and Renewable Energy Technology Exports to assist the Secretary in carrying out his responsibilities with respect to the joint research and development venture under this paragraph. Such committee shall include at least one member representing—

(i) The Secretary of Commerce;

(iii) the Director of the Agency for International Development;

(iii) the Director of the Export-Import Bank;

(iv) the United States Export Council for Renewable Energy;

(v) the national laboratories of the Department of Energy; and

(vi) such other groups or institutions as the Secretary deems appropriate.

(D) There is authorized to be appropriated to the Secretary to carry out the purposes of this paragraph a total amount for fiscal years 1988 through 1993 not to exceed $5,000,000 with respect to renewable energy activities under this paragraph and $5,000,000 with respect to energy conservation activities under this paragraph.

SEC. 7. RENEWABLE ENERGY AND ENERGY CONSERVATION IN FEDERAL BUILDINGS

(a)(1) Congress finds that—

(A) the Federal government consumes large amounts of energy at significant cost to heat and cool buildings owned or leased by Federal agencies;

(B) the potential for savings in energy and in budget outlays in Federal buildings is large and should be brought to the attention of heads of the Federal agencies responsible for such buildings; and

(C) the Secretary of Energy should make use of expertise in energy conservation and the use of renewable energy already in existence in the Federal establishment to assess systematically the potential for budget savings in Federal buildings.

(2) The purpose of this section is to require the Secretary of Energy to analyze the potential for improved energy efficiency and for use of renewable forms of energy in a limted but representative sample of Federal buildings and to make recommendations for energy conservation and renewable energy improvements in such buildings.

(3) As used in this section, the term "Federal building" has the meaning given such term in section 521 of the National Energy Conservation Policy Act and includes facilities used in connection with such Federal building.

(b)(1) The Secretary shall establish a Federal Energy Analysis Team to analyze, and make recommendations with respect to energy conservation and the use of renewable energy in, specific Federal buildings selected by the Secretary under this section. The Team shall be made up of individuals—

(A) engaged in research on energy conservation or the use of renewable energy in buildings at the National Laboratories of the Department of Energy; and

(B) nominated by the Secretary of Defense, the Administrator of the General Services Administration and the Director of the National Bureau of Standards, respectively, on the basis of their expertise in energy conservation and the use of renewable forms of energy in buildings.

Persons who serve on the Team shall be transferred to the Team for purposes of this section without loss of salary or benefits.

(2) The Team shall conduct an analysis of energy use in Federal buildings designated by the Secretary under paragraph (3) to determine the potential for the use of renewable forms of energy and for improved energy conservation in such buildings and make recommendations for cost-effective renewable energy and energy conservation improvements in such buildings. For purposes of this section an improvement shall be considered cost effective if cost of the energy saved or displaced by the improvement exceeds the cost of the improvement over the life or remaining term of lease of the building.

(3) The Secretary shall designate buildings to be analyzed by the Team so as to obtain a sample of buildings of the types and in the climates that is representative of the Federal buildings owned or leased by Federal agencies in the United States that consume the major fraction of the energy consumed in Federal buildings.

(4) The Secretary shall submit a plan for implementing this subsection to Congress within six months after the date of the enactment of this section.

(5) The Team shall report its findings and recommendations based on the analyses carried out under paragraph (2) to the Secretary and to the head of the agency owning or leasing each building analyzed within eighteen months after the date of the enactment of this section.

(b)(1) The Secretary shall use the results of the analyses under subsection (a) to develop goals for 1995 for energy conservation and the use of renewable energy in Federal buildings generally and in the catagories identified by the Secretary under subsection (a)(3). Goals developed under this subsection shall be submitted to Congress within twenty four months after the date of the enactment of this section.

(2) Any agency that chooses not to implement promptly the recommendations of the Team with respect to a Federal building analyzed under subsection (a)(2) shall provide Congress with a written explanation of the reasons for such choice.

(3) Any agency that implements the recommendations of the Team with respect to a Federal building analyzed under subsection (a)(2) may retain for purposes of furthering the objectives of the agency one half of the dollar savings realized as a result of such recommendations. The Secretary shall consult with the heads of appropriate Federal agencies to insure that the maximum dollar savings under this subsection are realized.

(c) There is hereby authorized to be appropriated to the Secretary for purposes of carrying out this section $250,000.

SEC. 8. RENEWABLE ENERGY EXPORTS.

(a)(1) Congress finds that——

(A) Among the major problems in promoting exports of renewable energy technology are the lack of available information on overseas markets and the absence of financing for the purchase of the technologies; and

(B) the Committee on Renewable Energy, Commerce, and Trade established under the Renewable Energy Industry Development Act (Public Law 98-370) currently coordinates Federal government activites to promote renewable energy exports.

(2) The purpose of this section is to evaluate current efforts to promote exports of renewable energy technology, to establish a joint government-industry plan to identify promising technologizes and increase the financing available for exports of renewable energy technologies, to target potential markets for these technologies and to authorize funding of these activities.

(b) In order to provide reliable information on overseas markets for renewable energy technology, the Secretary shall review the activities of the Committee on Renewable Energy, Commerce, and Trade in order to determine if current efforts by such Committee to promote exports of renewable energy technology are sufficient and whether additional efforts are necessary. The Secretary shall report to Congress the results of such review on or before six months after the date of the enactment of this section.

(c) Each participating member of the Committee on Renewable Energy, Commerce, and Trade shall report annually to Congress on the actions of such agency during the previous fiscal year to achieve the purposes of the Committee on Renewable Energy, Commerce and Trade and of this section. Such report shall describe the exports of renewable energy technology that have occurred as a result of such agency actions.

(d) The Committee on Renewable Energy, Commerce, and Trade shall—

(1) establish a joint government-industry plan to maintain or increase the market share of the United States in international trade in renewable energy technologies, including technologies for production of alcohol fuels, biomass energy, geothermal energy, wood energy and in technologies for passive solar energy conversion, photovoltaics, solar thermal energy conversion and wind energy conversion. Such plan shall include guidelines for agencies that are members of the Committee with respect to the financing of exports of such renewable energy technologies.

(2) develop, in consultation with representatives of affected industries, administrative guidelines for Federal export loan programs to simplify application by firms seeking export assistance for renewable energy technologies from agencies implementing such programs; and

(3) target renewable energy technology markets for primary emphasis by Federal export loan programs, development programs and private sector assistance programs.

(e) There is hereby authorized to be appropriated to the Secretary for activities of the Committee on Renewable Energy, Commerce, and Trade an amount not to exceed—

(1) $1,500,000 in fiscal year 1988;

(2) $2,200,000 in fiscal year 1989 and;

(3) $2,500,000 in fiscal year 1990.

SEC. 9. REPORTS.

(a) One year after the date of the enactment of this Act and annually thereafter the Secretary shall report to Congress on the programs, projects and ventures conducted under this Act and the progress being made towards accomplishing the goals and purposes set forth in this Act, including the goals set forth in section 4.

(4) Each annual submission of the National Energy Policy Plan under Title VIII of Public Law 95-91 shall be accomplished by a three-year strategic plan for energy technology research, development and demonstration. Such plan shall address the role of federally-assisted research, development and demonstration in the achievement of the national policy goals of the National Energy Policy Plan and shall assess both the level of support for energy research, development and demonstration reasonably necessary to achieve these goals and the basis for allocating the support recommended by the President among the available alternatives. At a minimum, these alternatives shall include energy conservation and renewable energy technologies.

SECTION-BY-SECTION ANALYSIS—RENEWABLE ENERGY AND ENERGY CONSERVATION TECHNOLOGY COMPETITIVENESS ACT OF 1987

SECTION 2

This section contains the findings and purposes of the Act. The purposes include directing the Secretary to undertake initatives to hasten the commercialization in the near term of renewable energy and energy conservation technologies.

SECTION 3

This section contains definitions of terms used in the Act.

SECTION 4

Subsection (a) sets forth genreal and specific goals for Department of Energy programs in wind, photovoltaics and solar thermal technologies and requires the Secretary of Energy to submit goals for other programs in renewable energy in his fiscal year 1989 budget request.

Subsection (b) provides authorizations for fiscal years 1988, 1989, and 1990 for DOE programs in wind, photovoltaics, solar thermal systems, solar buildings, biofuels, ocean thermal energy systems and the geothermal program.

Subsection (c) requires the Secretary to submit demonstration or proof-of-concept proposals in renewable energy in his 1990 budget request, to present Congress by May 1, 1988, with options for furthering timely commercialization of renewable energy technologies, and when approporiate to submit amended goals for those established under this section.

SECTION 5

Subsection (a) requires the Secretary to set aside in his budget requests for fiscal years 1989 and 1990 funds for new initiatives in energy conservation research and development.

Subsection (b) authorizes appropriations for fiscal years 1988, 1989 and 1990 for energy conservation research and development programs.

SECTION 6

This section requires the Secretary to establish and provide financial assistance to seven joint research and development ventures aimed at topics named in the Act. The seven topics are: photovoltaic village energy systems; wind-diesel village energy systems; solar thermal systems; factory-made housing; advanced district cooling technology; integrated fuel cell and renewable energy systems; and renewable energy and energy conservation technology export projects.

Joint research and development ventures are defined in the National Cooperative Research Act of 1984. Each venture is described in detail in the paragraphs of subsection (c).

SECTION 7

This section requires the Secretary of Energy to establish a Federal Energy Analysis Team to analyze the potential for improved energy efficiency and use of renewable energy in a representative sample of federal buildings and to make recommendations for improvements in such buildings. The results of the analysis are to be used to set goals for energy conservation and the use of renewable energy in federal buildings. Any agency that implements the recommendations with respect to one of its buildings that is analyzed can retain one half of the energy savings resulting from the improvements implemented.

SECTION 8

This section requires the Secretary of Energy to review the activities of the Committee on Renewable Energy, Commerce and Trade and requires the Committee to establish a joint government-industry plan to maintain or increase the market share of the United States in trade in renewable energy technologies.

SECTION 9

This section requires annual reports to Congress on activities under the Act and on progress being made toward accomplishing the goals of the Act and requires the National Energy Policy Plan to assess research, development and demonstration needs and to justify the allocation of support recommended.

RENEWABLE ENERGY CONCERNS BEGIN ATTRACTING BIG INSTITUTIONS BETTING ON ANOTHER OIL CRISIS

(By Bill Paul)

A small segment of the energy business is starting to attract a lot of interest from big institutional investors.

Companies in this sector use "renewable" energy sources, such as wood, water power, garbage, the sun and the Earth's internal warmth, to produce electricity and for heating and cooling. Some concerns also tap the "alternative" source of industrial waste heat.

Many of the companies grew out of federally subsidized programs in the 1970s that were intended to reduce U.S. dependence on foreign oil. As the subsidies have dried up, institutions are starting to pick up the slack.

"Institutional investors are awash in cash, and some are betting there'll be another energy crisis" that will put renewable energy in the spotlight, says Scott Fenn, energy director of the Investor Responsibility Research Center in Washington.

The center is a nonprofit provider of analytical services and is funded largely by institutional investors. It recently completed a study of their holdings in renewable-energy companies. Among the findings: Seven renewable-energy concerns have 20% or more of their common shares owned by institutions.

Even without another energy crisis, some think the renewable energy field has a bright long-term future. Many electric utilities predict they'll need additional generating capacity by the early 1990s. But they are reluctant to grapple with the vagaries of state utility regulation and commit themselves in building more of the familiar fossil-fuel or nuclear power plants.

Donaldson, Lufkin & Jenrette recently estimated that the renewable and alternative energy business could grow 20% to 40% a year in the next five to 10 years, generating total investments in the industry of $25 billion to $50 billion. That compares with $5 billion to $10 billion invested so far.

The outlook for the renewable energy business isn't the only lure for institutions. Dimensional Fund Advisers, a money manager based in Santa Monica, Calif., owns several such stocks simply because they fit into Dimensional's small-company portfolio made up of concerns with stock market values of $10 million to $100 million.

Rex Sinquefield, Dimensional's cochairman, says that smaller firms in general generate higher rates of return than larger firms, even after adjusting for increased risk. Dimensional, for example, currently owns 3% of Energy Factors, a San Diego company that designs and builds cogeneration plants. Cogeneration is the simultaneous production of electricity and steam from a single fuel source, such as natural gas.

Richard Reiss is a big believer in the potential of hydropower in the Northeast. That's why, as managing director of Cumberland Associates, a New York investment management firm, he has acquired 9% of Consolidated Hydro of Stamford, Conn. Consolidated Hydro acquires, develops and operates small scale hydroelectric plants in New England and New York state, selling the power to local utilities under long-term contracts. Mr. Reiss expects the region to be short of power by the 1990s, when many of Consoldiated Hydro's contracts come up for renewal. "It's a real growth area," he says.

Of course, there are risks in investing in renewable and alternative energy technologies. If there isn't a power shortage in the 1990s, there might be scant demand for electricity produced from renewable sources, especially if oil prices stay low. Many of the companies are still spending heavily on research and development. Many depend on just a handful of projects for revenue.

In addition to Consolidated Hydro, Donaldson Lufkin follows Catalyst Energy Development of New York. The company's engineering expertise cuts across several alternative-energy technologies, including cogeneration, hydro and geothermal energy. "As a leading developer of those alternative-energy sources, Catalyst Energy appears to be in an extremely good position to benefit from the envisioned shortage of conventional electrical generating capacity," the securities firm says.

Mr. Fern of the research center says recent breakthroughs in superconductivity research could make some renewable energy firms more attractive. He says that if superconducting electrical wire can be perfected, solar and geothermal power plants, which often must be built far from population centers, could become more economical as their power could be transmitted more efficiently over long distances.

One company already making news in this area is Energy Conversion Devices, a Troy, Mich.-based solar energy concern, which last month announced that its scientists have developed a thin film of material that makes superconducting wire more economically feasible.

Another factor attracting interest to renewable-energy companies is the nationwide landfill crisis. Many cities have or are about to run out of garbage-dumping space, and thus they're turning to garbage-incineration plants that also generate electricity. Conversion Industries of Pasadena, Calif., is involved in one such big project, while O'Brien Energy Systems of Downingtown, Pa., has projects that recover methane gas from existing dumps.

By Mr. HATCH:

S. 1555. A bill to amend the Davis-Bacon Act by increasing the coverage threshold to $100,000 for nonmilitary contracts and $1,000,000 for military contracts, and to amend the Copeland Act compliance provision, and for other purposes; to the Committees on Labor and Human Resources.

S. 1556. A bill to amend the Service Contract Act to increase the coverage threshold to $100,000 for nonmilitary contracts and $1,000,000 for military contracts, and for other purposes; to the Committees on Labor and Human Resources.

DAVIS-BACON AND SERVICE CONTRACT ACT REFORMS

● Mr. HATCH. Mr. President, I am pleased to introduce, on behalf of the administration, legislation which will save the taxpayers billions of dollars in unnecessary construction and service contract expenditures.

Since 1935, the Davis-Bacon Act has required the payment of "prevailing wages" for all federally assisted construction projects over $2,000. Since 1965, the Service Contract Act has required "prevailing wages" for service contracts over $2,500 or more. It is hard to believe that this threshold still applies in 1987. Clearly, it is time to update these laws.

At a time when State and local governments are endeavoring to stretch their budgets as far as possible—trying to leverage local funds with Federal revenue sharing, HUD, EDA, or Transportation Department grants—it makes little sense to me that the Federal Government continue to mandate wages for such construction.

I have been asked repeatedly by local officials in Utah to report on the progress of legislative initiatives which would reform the Davis-Bacon Act. The costs of erecting a new city auditorium or senior citizens center, renovating a park, painting a rural health clinic, or repairing roads are inflated when wage rates are noncompetitive. While there is no argument that military construction comprises a major share of all federally assisted construction, it is important to note that we are not talking only about airfields and barracks. We are also talking about local efforts to improve community services and promote economic development.

The bills I have proposed will increase the threshold for Department of Defense projects to $1 million, clearly a more realistic figure. It would also increase the threshold for nondefense contracts to $100,000 to ease the burdens of State and local governments. Raising these thresholds in the Davis-Bacon alone would yield an estimated 5-year savings of $1.2 billion.

I might add, Mr. President, that some of our colleagues in both the House and Senate have suggested an even higher figure as the threshold for nondefense construction, and I am not unsympathetic to their points of view. We could achieve even greater savings given a higher threshold.

This legislation also contains language which prohibits contract splitting for the purposes of evading the act.

I invite Senators to join me as a cosponsor of these two important reform measures. They are long overdue.

Mr. President, I ask unanimous consent that the transmittal letter from Secretary of Labor William Brock to Vice President Bush be printed in the Record as well as the text of both bills.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1555

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Construction Labor Reform Act of 1987".

DAVIS-BACON ACT AMENDMENTS

Sec. 2. (a) Subsection (a) of the first section of the Act of March 3, 1931, commonly known as the Davis-Bacon Act (40 U.S.C. 276a(a)) is amended by striking out "$2,000" and inserting in lieu thereof "$100,000, or in the case of contracts awarded by the Department of Defense, the advertised specifications for every contract in excess of $1,000,000,".

(b) Subsection (a) of the first section of such Act is further amended by striking out "once a week" and inserting in lieu thereof "twice per month".

(c) The first section of such Act is further amended by adding at the end thereof the following new subsection:

"(c)(1) A person contracting or providing Federal assistance on behalf of the United States or the District of Columbia or a recipient of Federal financing or assistance shall not divide projects for construction, alteration, or repair (including painting and decorating) into contracts or instruments providing Federal financing or assistance of $100,000 or less, or $1,000,000 or less in the case of contracts awarded by the Department of Defense, for the purpose of avoiding the application of this Act or the labor standards provisions of any Act under which the Secretary of Labor establishes prevailing wage rates on Federally-assisted construction projects.

"(2) Whenever the Secretary of Labor determines that a division for such purpose has occurred, the Secretary may—

"(A) require that the contracts, grants, or other instruments providing Federal financing or assistance be amended so as to incorporate retroactively all the provisions that would have been required under this Act or other applicable prevailing wage law; and

"(B) require the contracting or assisting agency, the recipient of Federal financing or assistance, or any other entity that awarded the contract or instrument providing Federal financing or assistance in violation of this section, to compensate the contractor, the grantee, or other recipient of Federal assistance, as appropriate, for payment to each affected laborer and mechanic, of an amount equal to the difference between the rate received and the applicable prevailing wage rate, with interest on wages due at the rate specified in 6621(c) of the Internal Revenue Code of 1986, from the date the work was performed by such laborers and mechanics.

"(3) The Secretary shall make such a determination only if the Secretary has notified the agency or entity in question no later than 180 days after the completion of construction on the project that an investigation will be conducted concerning an alleged violation of this subsection.".

(d) Section 3(a) of such Act (40 U.S.C. 276a-2(a)) is amended by striking out the first sentence and inserting in lieu thereof the following new sentences: "In accordance with regulations issued by the Secretary of Labor pursuant to Reorganization Plan No. 14 of 1950 (64 Stat. 1267), any wages found to be due to laborers and mechanics pursuant to this Act shall be paid directly to such laborers and mechanics from any accrued payments withheld under the terms of the contract. Any sums due laborers or mechanics under the first section, not paid because of inability to do so within 3 years, shall revert to or be deposited into the Treasury of the United States. The Administrator of General Services shall distribute a list to all departments of the Government giving the names of persons or firms that the Secretary of Labor has found to have disregarded their obligations to employees and subcontractors under this Act.".

(e) Such Act is further amended by adding at the end thereof the following new section:

"SEC. 8. Except as provided in subsection (c) of the first section, no provision of any law requiring the payment of prevailing wage rates as determined by the Secretary of Labor in accordance with this Act shall apply to projects for construction with respect to which the instrument providing Federal financing or assistance is in the amount of $100,000 or less, or in the case of rent supplement assistance or other assistance for which the instrument of Federal financing or assistance does not have an aggregate dollar amount, where the assisted project is in the amount of $100,000 or less.".

COPELAND ACT AMENDMENT

SEC. 3. (a) The first sentence of section 2 of the Act of June 13, 1934, (40 U.S.C. 276c) is amended by striking out "weekly a statement with respect to the wages paid each employee during the preceding week" and inserting in lieu thereof "at least twice per month a statement of compliance with the labor standards provisions of applicable law, certifying the payroll with respect to wages paid employees during the preceding period for which the statement is furnished, covering each week any contract work is performed".

(b) Section 2 of such Act is further amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) Sections 9 and 10 (relating to the attendance of witnesses and the production of books, papers, and documents) of the Federal Trade Commission Act (15 U.S.C. 49 and 50) are made applicable to the jurisdiction, powers, and duties of the Secretary of Labor.".

TRANSITION

SEC. 4. The amendments made by subsections (a) and (c) section 2 shall apply only to contracts entered into pursuant to negotiations concluded or invitations for bids issued on and after the date of enactment of this Act.

S. 1556

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Service Contract Threshold Increase Act of 1987".

SEC. 2. Section 2(a) of the Service Contract Act of 1965 (41 U.S.C. 351(a)) is amended by striking out "$2,500" and inserting in lieu thereof "$100,000, or in the case of contracts entered into by the Department of Defense, every contract (and any bid specification therefor) in excess of $1,000,000".

SEC. 3. Section 5(a) of the Service Contract Act of 1965 is amended by striking "Comptroller General" each place it appears and inserting in lieu thereof "Administrator of General Services".

SEC. 4. The amendment made by section 2 of this Act shall apply only to contracts entered into pursuant to negotiations concluded or invitations for bids issued on and after the date of enactment of this Act.

DEPARTMENT OF LABOR,
Washington, DC, June 9, 1987.

Hon. GEORGE BUSH,
President, U.S. Senate, Washington, DC.

DEAR MR. PRESIDENT: I am pleased to enclose for the consideration of Congress two draft bills, one entitled the "Construction Labor Reform Act of 1987" and the other entitled the "Service Contract Threshold Increase Act of 1987."

Since 1935, the Davis-Bacon Act has required the Secretary of Labor to determine prevailing wage rates for classes of laborers and mechanics on Federal construction projects for contracts in excess of $2000. Parallel to this, more than 70 statutes have been enacted over the years which have applied Davis-Bacon Act prevailing wage requirements to Federally-assisted construction. The Service Contract Act has imposed similar prevailing wage requirements for Federal service contracts in excess of $2,500 since its enactment in 1965.

I believe the time has come to increase the outdated coverage threshold amounts of these labor standards acts.

As construction and service costs have risen over the years, the unrealistically low thresholds have imposed ever increasing costs on the Federal budget. The General Accounting Office, the Grace Commission, and the Office of Federal Procurement Policy have noted the inflationary effects of the Davis-Bacon and Service Contract Acts.

Specifically, the Construction Labor Reform draft bill would amend the Davis-Bacon Act to eliminate its application to contracts awarded by the Department of Defense costing $1 million or less and other Federal construction contracts costing $100,000 or less. A higher threshold is proposed for the Department of Defense because contracts awarded by the Department of Defense tend to have a higher dollar value than those awarded by other Federal agencies. For Federally assisted contracts, Davis-Bacon Act requirements would not apply where the Federal assistance to a project is $100,000 or less. The legislation would also amend the Davis-Bacon Act to prohibit artificially splitting contracts for the purpose of avoiding application of the Act.

This draft bill would also help ease the paperwork burden on construction contractors by permitting them to pay employees twice a month rather than once a week. It would also remove the requirements of the Copeland Act for a weekly submission of the payroll and substitute a submission of a statement of compliance no less often than twice a month. Finally, the bill would provide the Secretary of Labor with authority to issue a subpoena for the production of witnesses and documents under the Copeland Act, and provide that the Secretary of Labor rather than the Comptroller General is authorized to make findings as to debarment under the Davis-Bacon Act and remove the Comptroller General's authority with respect to other enforcement matters.

As for the "Service Contract Threshold Increase Act" draft bill, it would amend the Service Contract Act to eliminate the application of wage determinations by the Secretary of Labor to Federal (non-military) service contracts of $100,000 or less, and military service contracts of $1 million or less. This draft bill would also remove the Comptroller General's authority with respect to distribution of the debarment list, and substitute the Administrator of General Services.

While the regulatory changes under the Davis-Bacon and Service Contract Acts have achieved some cost savings, increasing their thresholds will achieve greater and more meaningful savings. Based on a study by the Congressional Budget Office (CBO), it has been estimated that the threshold increases proposed for the Davis-Bacon Act would provide a five year savings for the Federal government of $1.2 billion. The savings under the threshold increases in the Service Contract Act would also be significant. Raising these thresholds will not only reduce Federal costs and help restrain inflation, but will also open up employment opportunities for those who have been denied an opportunity to compete for jobs.

These savings are particularly significant in light of the stark and painful budget choices you face in every aspect of Federal spending. Even with these cost savings from threshold increases there would still be prevailing wage protection for most workers on Federal or Federally assisted construction contracts and on Federal service contracts.

These draft bills are part of the President's 1987 Management Legislation program as described in the Office of Management and Budget report entitled, "Management of the United States Government, Fiscal Year 1988."

We urge that these bills receive prompt and favorable consideration.

The Office of Management and Budget advises that there is no objection to the submission of this legislation to the Congress, and that enactment would be in accord with the program of the President.

Very truly yours,

WILLIAM E. BROCK.

By Mr. HOLLINGS (for himself, Mr. DANFORTH, Mr. WILSON, and Mr. MCCAIN):

S. 1557. A bill to require the Secretary of Transportation to promulgate rules regarding certain operating transponders on aircraft, and for other purposes; to the Committee on Commerce, Science, and Transportation.

AIR TRAFFIC CONTROL SAFETY IMPROVEMENT ACT

● Mr. HOLLINGS. Mr. President, I am introducing legislation today, along with my colleague on the Commerce Committee, Senator DANFORTH, which is designed to increase the safety of the flying public in and around our Nation's commercial airports.

Our legislation will require the Secretary of Transportation to ensure that all aircraft operating around those airports in which the FAA provides radar air traffic control services—approximately 180 of them—be equipped with altitude reporting transponders. Currently, such equipment is required only for aircraft operating around the Nation's nine busiest airports.

Known as "Mode C" transponders, this equipment is needed to ensure that air traffic controllers can positively identify the location of each and every aircraft operating in the congested airspace surrounding these airports. And it is needed to eliminate the continuing risk of a repeat of the tragic midair collision in 1986 over southern California in which a private aircraft collided with an Aeromexico passenger aircraft and led to the death of scores of people.

Mr. President, there are approximately 220,000 active civil aircraft operating in the United States today. Of that number, 98 percent are general aviation aircraft—privately owned and operated.

These aircraft represent a critical segment of our air transportation system, flying close to 34 million miles last year. However, only 39 percent of all general aviation aircraft have transponders that report to the air traffic controllers their precise location and altitude. This means that significant numbers of aircraft—well over 125,000—are currently flying through congested airspace with no positive assurance that the controllers know where they are relative to other air traffic.

During the past several years, a dramatic increase in our air traffic levels has brought with it a similarly dramatic increase in the number of near-misses around our major airports. Many of these incidents involve general aviation aircraft operating without transponders. It is pure luck that midair collisions have been relatively few in number. The question is: How long before our luck runs out?

We have the technology to significantly increase our margin of safety in the skies. It is not prohibitively expensive. Therefore, we in Government have an obligation to the traveling public to bring about the highest level of safety possible.

The bill that Senator DANFORTH and I are introducing, along with Senators WILSON and MCCAIN as cosponsors, is a giant step in that direction. It will require that within 24 months of enactment, the Secretary of Transportation ensure that all aircraft operating in the vicinity of the busiest airports—everywhere the FAA provides terminal radar service—have altitude reporting, or Mode C, transponders.

This is not a new issue. In 1973, the FAA first required the use of altitude reporting transponders at the nine busiest airports and for all en route traffic above 12,500 feet. Yet, some 14 years later—with significantly higher levels of airline traffic—there has been no change in transponder requirements.

Last year, the House Appropriations Committee attempted to address this shortfall by laying out a timeframe under which the FAA was required to mandate expanded use of Mode C transponders. However, to date, the FAA has failed to fulfill this requirement. Under current FAA proposals, only those aircraft flying around the 23 terminal control areas will be required to have altitude reporting transponders.

Mr. President, some may argue that we are attempting to unnecessarily penalize one segment of the aviation industry. That's just not the case. Not only will Mode C transponders help air traffic controllers maintain safety at these airports, but this equipment must be installed for the soon-to-be-certified TCAS-II airborne collision avoidance equipment, which will be installed aboard commercial aircraft. Together, the Mode C and TCAS-II will significantly reduce the chance of midair collisions between aircraft in this country.

Nor is this an economic issue. Transponders of the type we are calling for cost approximately $2,000—hardly a substantial sum for someone who is flying a privately owned aircraft to the major airports. This relatively small amount of money should not stand in the way of the increased safety we can bring to the flying public.

I am pleased to say that this legislation has the strong support of those groups representing the airlines and the commercial pilots. They have been calling on the DOT and FAA to undertake such a step for several years.

Mr. President, in the coming days, when the Senate considers the FAA authorization legislation—the Airport and Airway Capacity Expansion Act—I intend to offer this measure as an amendment to provide for its quick enactment. I hope that my colleagues will join me in supporting this critical legislation.

The need for increased safety has never been greater. And this is one important step that will provide the traveling public with a large dose of safety.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1557

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Air Traffic Control Safety Improvement Act of 1987".

RULEMAKING REQUIRING INSTALLATION AND USE OF CERTAIN TRANSPONDERS

SEC. 2. (a) Within six months after the date of enactment of this Act, the Secretary of Transportation shall promulgate a final rule requiring the installation and use of operating transponders with automatic altitude reporting capability for aircraft operating in designated terminal airspace where radar service is provided for separation of aircraft.

(b) For terminal airspace designated under subsection (a), other than for Terminal Control Areas and Airport Radar Service Areas, the Secretary may provide for access to such airspace by non-equipped aircraft if the Secretary determines that such access will not interfere with the normal traffic flow.

(c) The rule described in subsection (a) of this section shall require the installation and use of such transponders not later than twenty-four months after the date of enactment of this Act.●

● Mr. DANFORTH. Mr. President, the Air Traffic Control Safety Improvement Act of 1987, which Senator HOLLINGS is introducing today, is designed to cure a problem of terrifying proportions. Under the Federal Aviation Administration's [FAA] current regulations, aircraft flying in the vicinity of many busy airports need not be equipped with devices—termed "transponders"—which make those aircraft easily visible to air traffic controllers. As a result, air traffic controllers sometimes do not know enough about the location of aircraft to warn pilots to adjust their course to avoid other planes. Under these conditions, pilots must rely on a system of see and avoid, a procedure which depends on pilots' ability to see other aircraft heading toward them and which is patently and tragically incapable of reliably preventing mid-air collisions.

Mr. President, the preliminary findings of the National Transportation Safety Board concerning the aircraft collision which occurred last August over Cerritos, CA, indicated that the probable causes of that tragedy were the inadvertent and unauthorized entry of a private plane into the airspace over Los Angeles, and the limitations of the see and avoid concept. One of the Safety Board's preliminary recommendations was expansion of existing FAA requirements that aircraft be equipped with transponders with altitude reporting capability—Mode C.

Greater use of these transponders would allow air traffic controllers to more easily note the position and altitude of all air traffic in a given area. Mode C transponders, however, provide other benefits. The airline industry is now testing a prototype air collision avoidance system termed TCAS II, which the FAA expects to approve in 1989. TCAS II is only effective if other aircraft have either a TCAS II or a Mode C transponder. Installation of TCAS II on commercial airline fleets will not be effective in preventing midair collisions unless Mode C transponders are required for those aircraft not equipped with the more expensive TCAS II systems.

Over the past year the FAA has announced several regulations which would require the use of Mode C transponders near the 23 busiest U.S. airports. However, aircraft using numerous smaller airports, including Washington-Dulles in Virginia, and airports at Baltimore, MD, Louisville, KY, Charleston, SC, and Charleston, WV, would not be subject to these rules.

The Air Traffic Control Safety Improvement Act would reduce the possibility of midair collisions near these airports by directing the FAA to promulgate a final rule requiring the use of transponders with automatic altitude reporting capability for aircraft operating in designated airspace, around airports, where radar service is provided for the purpose of separating aircraft. In other words, Mode C transponders would be required in airspace near the approximately 200 largest U.S. airports.

Mr. President, the cost to plane owners of compliance with the Air Traffic Control Safety Act would normally range from $600 to $2,000, depending on the type of plane and the kind of equipment already installed. Because the requirement for transponders is limited to designated airspace near airports, aircraft such as cropdusters, which do not ordinarily fly near large airports, would not be affected. However, some aircraft based at smaller airports where surrounding airspace is subject to the Mode C transponder requirement would need these transponders even if these aircraft could use the designated airspace without interfering with the normal flow of traffic. For this reason, the bill gives the Transportation Secretary discretion to designate airspace, other than Terminal Control Areas or Airport Radar Service Areas—the busiest categories of airspace—for use by nonequipped aircraft, provided that those nonequipped aircraft will not interfere with the normal traffic flow.

This bill is aimed at improving our air traffic control system, which has come under fire in recent months because of recent midair collisions, because of a rise in the number of reported near midair collisions, and because of a growing perception that the skies are becoming uncomfortably crowded. This bill will buy a big increase in the margin of safety at a relatively low cost. There has never been more reason to act to make our airspace safer.●

By Mr. KASTEN (by request):

S. 1558. A bill to amend the Federal Railroad Safety Act of 1970 and for other purposes; to the Committee on Commerce, Science, and Transportation.

FEDERAL RAILROAD SAFETY AUTHORIZATION ACT

● Mr. KASTEN. Mr. President, I am introducing, by request, legislation proposed by the Department of Transportation to authorize funding for, and make improvements to, the Department's railroad safety programs.

Many of the provisions contained in this bill have been incorporated, in whole or in part, into legislation that I will be cosponsoring today with Senator EXON who serves with me on the Commerce Committee's Subcommittee on Surface Transportation. I am particularly supportive of provisions aimed at putting a stop to the disabling of vital rail safety equipment such as warning whistles and automatic braking devices on locomotives. Both DOT's bill and our bipartisan legislation would provide the Federal Railroad Administration with employee sanction authority and increased penalty levels intended to curb this dangerous trend, and I urge my colleagues to support such provisions when they come to the Senate for approval.

At this time, I would ask that the DOT's bill be printed in its entirety along with Secretary Elizabeth Dole's letter of transmission which contains a brief summary of the DOT's proposal.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1558

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Railroad Safety Authorization Act of 1987."

AUTHORIZATION FOR APPROPRIATIONS

SEC. 2. Section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. § 444) is amended by striking all words after the title and inserting immediately thereafter the following:

"There are authorized to be appropriated to carry out the provisions of this Act not to exceed $40,649,000 for the fiscal year ending September 30, 1988, and such sums as may be necessary for the fiscal year ending September 30, 1989.".

ENFORCEMENT OF SUBPENAS AND ORDERS

SEC. 3. Section 208(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. § 437(a)) is amended by striking the semicolon and all language following it in the last sentence, by inserting a period after the second use of the word "Act" in that sentence, and by inserting immediately thereafter:

"In case of contumacy or refusal to obey a subpena, order, or directive of the Secretary issued under this subsection or under section 203 of this title by any individual, partnership, or corporation that resides, is found, or conducts business within the jurisdiction of any district court of the United States, such district court shall have jurisdiction, upon petition by the Attorney General, to issue to such individual, partnership, or corporation an order requiring immediate compliance with the Secretary's subpena, order, or directive. Failure to obey such court order may be punished by the court as a contempt of court.".

USE OF CERTAIN REPORTS, TESTIMONY, AND DOCUMENTS IN PRIVATE LITIGATION FOR DAMAGES

SEC. 4. Section 208 of the Federal Railroad Safety Act of 1970 (45 U.S.C. § 437), as amended by this Act, is further amended by adding at the end thereof the following new subsection:

"(c) None of the following may be admitted as evidence or used for any purpose in lawsuits for damages arising out of railroad accidents or incidents:

(1) opinions or recommendations contained in a report (whether in final or draft form) prepared by or for the Federal Railroad Administration as a result of its investigation of a rail accident;

(2) the opinion (whether in writing or in the form of oral testimony) of a Federal Railroad Administration employee or agent as to the probable cause of any railroad accident;

(3) any report submitted by a railroad to the Federal Railroad Administration in fulfillment of the railroad's obligation under statute or regulation to report certain accidents and incidents;

(4) reports prepared by the Federal Railroad Administration in connection with safety assessments of railroads;

(5) any report, list, schedule, or survey prepared by or for a State pursuant to section 203 of the Highway Safety Act of 1973;

(6) documents submitted to the Federal Railroad Administration by railroads or other entities in connection with an enforcement proceeding under this title (or regulations issued under it) or under any other statute or regulations enforced by that agency (except that this subsection does not bar use of copies of these documents if obtained from the railroad or other entity through discovery or compulsory process issued by a court of component jursidiction).".

INCREASED PENALTIES; LIABILITY OF INDIVIDUALS

SEC. 5. Sec. 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. § 438) is amended as follows:

(a) Subsection (a) is amended by striking the word "railroad" and inserting in its place: "person (including a railroad or any individual who performs service covered under the Hours of Service Act, 45 U.S.C. § 61 et seq. (as it exists on the date of enactment of the Federal Railroad Safety Authorization Act of 1987), or who performs other safety-sensitive functions for a railroad, as those functions are determined by the Secretary)".

(b) Subsection (b) is amended by striking the words after "thereof" and inserting in their place: "in such amount, not less than $250 nor more than $10,000, as the Secretary deems reasonable, except that, where a violation has created an especially egregious safety hazard, a maximum penalty of $25,000 may be assessed.".

(c) Subsection (c) is amended by striking the first sentence and inserting in its place: "Any person violating any rule, regulation, order or standard referred to in subsection (b) of this section may be assessed by the Secretary the civil penalty applicable to the standard violated; penalties may be assessed against individuals only for willful violations."; and by inserting a comma after the word "occurred" in the third sentence and inserting thereafter: "in which the individual resides,".

(d) Immediately after existing subsection (e), a new subsection (f) is added, as follows:

"(f) Where, after notice and opportunity for a hearing, an individual's violation of any rule, regulation, order, or standard prescribed by the Secretary under this title is shown to make that person unfit for performance of safety-sensitive tasks, the Secretary may issue an order directing that such person be prohibited from serving in a safety-sensitive capacity in the rail industry for whatever period of time the Secretary deems necessary. This section shall not be construed to affect the Secretary's authority under section 203 of this title to take such action on an emergency basis.".

JURISDICTION OVER HIGH SPEED RAIL SYSTEMS

SEC. 6. Sec. 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. § 431) is amended by striking subsections (e), (g), (h), (i), (j), and (k), and by inserting before the existing subsection (f) a new subsection (e) to read as follows:

"(e) The term "railroad" as used in this title includes all forms of non-highway ground transportation that run on rails or electromagnetic guideways, except for rapid transit operations within an urban area that are not connected to the general railroad system of transportation. The term "railroad" specifically refers, but is not limited, to (a) commuter or other short-haul rail passenger service in a metropolitan or suburban area, including any commuter rail service which was operated by the Consolidated Rail Corporation as of January 1, 1979, and (b) high speed ground transportation systems that connect metropolitan areas, whether or not they use new technologies not associated with traditional railroads.".

REPEAL OF THE OLDER RAILROAD SAFETY LAWS

SEC. 7. Sec. 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. § 431) is amended by adding new subsections (g) and (h) as follows:

"(g)(1) The following statutes are hereby repealed effective one hundred and eighty days from the date of enactment of this title: the Safety Appliance Acts, 45 U.S.C. §§ 1-16; the Locomotive Inspection Act, 45 U.S.C. § 22-34; an act concerning Block Signal Systems, 45 U.S.C. § 35; an act concerning Inspection and Testing of Railroad Cars and Appliances, 45 U.S.C. §§ 36-37; the Accident Reports Act, 45 U.S.C. §§ 38-43; and the Signal Inspection Act, 49 App. U.S.C. § 26.

(2) Within one hundred and eighty days of enactment of this title, the substantive provisions of the statutes referred to in subsection (1) of this section that are not in regulatory form at the time of this enactment shall be issued verbatim by the Secretary as regulations, except for linguistic changes necessary to transform the language of those provisions into regulatory form. These regulations shall become effective when published, and their issuance shall not be subject to judicial review. Any subsequent changes in these regulations however, shall be subject to judicial review as provided in subsection (f) of this section.

(3) Each regulation issued under subsection (2) of this section, and any subsequent amendments thereto, shall have the same preemptive effect on state law as did the corresponding statute repealed by subsection (1) of this section.

(h) All orders, rules, regulations, standards, and requirements in force, or prescribed or issued by the Secretary under this title shall have the same force and effect as a statute for purposes of the application of sections 3 and 4 of the Act of April 22, 1908 (45 U.S.C. §§ 53 and 54), relating to the liability of common carriers by railroad for injuries to their employees.".

CONFORMING AMENDMENTS

SEC. 8. The Federal Railroad Safety Act of 1970 (45 U.S.C. § 421 et seq.) is amended as follows:

(a) SEC. 202(a) (45 U.S.C. § 431(a)) is amended by striking the phrase, "supplementing provisions of law and regulations in effect on the date of enactment of this title", and by inserting the following immediately after the first sentence: "This authority specifically includes authority to regulate all aspects of railroad employees' safety-related behavior, as well as that of the railroads themselves.";

(b) SEC. 208 (45 U.S.C. § 437) is amended by striking existing subsection (c) and renumbering subsection (d) as subsection (c);

(c) SEC. 209(b) (45 U.S.C. § 438(b)) is amended by striking the phrase "or for violation of section 2 of the Act of May 6, 1910 (45 U.S.C. 39)"; and

MISCELLANEOUS

SEC. 9. SEC. 211 of the Federal Railroad Safety Act of 1970 (45 U.S.C. § 440) is amended by striking subsection (c).

USER FEES

SEC. 10. Immediately after section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. § 444), a new section 215 is added, as follows: "Sec. 215 User Fees

(a)(1) The Secretary shall establish a schedule of fees to be assessed to railroads, in reasonable relationship to criteria such as revenue ton-miles, track miles, passenger miles, revenues, other relevant factors, or an appropriate combination thereof.

(2) The Secretary shall establish procedures for the collection of such fees. The Secretary may use the services of any Federal, State, or local agency or instrumentality to collect such fees, and may reimburse such agency or instrumentality a reasonable amount for such services.

(3) Fees established under this section shall be assessed to railroads subject to this Act and shall approximate, as provided in subsection (d), the costs of administering this Act and all other federal laws relating to railroad safety and railroad noise control.

(b) The Secretary shall assess and collect fees described in subsection (a) of this section with respect to each fiscal year before the end of such fiscal year.

(c) All fees collected under this section shall be covered into the Treasury as miscellaneous receipts.

(d) Fees established by the Secretary under subsection (a) of this section shall be assessed after September 30, 1987. Fees assessed in the fiscal year beginning on October 1, 1987, shall total no more than $9,299,000; fees assessed in the fiscal year beginning October 1, 1988, shall total no more than $18,000,000; and fees assessed in the fiscal year beginning October 1, 1989, shall total no more than $41,725,000. Beginning on October 1, 1990, the fees assessed shall at least equal the appropriations made for the activities described in subsection (a)(3) of this section, but at no time shall the aggregate of fees assessed for any fiscal year under this section exceed 105 percent of the aggregate of appropriations made for such fiscal year for activities to be funded by such fees.".

THE SECRETARY OF TRANSPORTATION,
Washington, DC, February 20, 1987.

Hon. JIM WRIGHT,
Speaker of the House of Representatives, Washington, DC.

DEAR JIM: Transmitted herewith is a bill, "Federal Railroad Safety Authorization Act of 1987."

This bill would make vital improvements to the nation's railroad safety program, especially in the area of individual accountability for acts that violate the safety laws. In light of the tragic rail accident that took sixteen lives in Chase, Maryland, in January of this year, these improvements are especially timely. The bill would authorize appropriations for the Department's railroad safety program for fiscal years 1988 and 1989, make various substantive amendments to the Federal Railroad Safety Act of 1970 (Safety Act), and repeal certain older railroad safety statutes.

FY 1988-1989 authorization: Section 2 of the bill would authorize appropriations for general safety operations of $40,649,000 for fiscal year 1988 and such sums as are necessary for fiscal year 1989.

Amendments to the Safety Act: Sections 3 through 6 and section 9 of the bill would amend the Safety Act to enhance enforcement of the safety laws by, *inter alia*, making express the Attorney General's authority to enforce the Secretary's subpoenas and orders; prohibiting the use of certain Federal Railroad Administration documents and testimony in private suits for damages; increasing the maximum civil penalty for safety violations and providing for sanctions against individuals who violate the safety laws; clarifying the Act's applicability to high speed rail systems being developed; and removing certain unnecessary language.

Repeal of the older safety laws: Section 7 would repeal certain unnecessary statutes that predate the Safety Act. In addition to providing certain regulatory authority that is redundant in light of the Safety Act's authority over all areas of railroad safety, these laws contain certain outmoded and ambiguous provisions that have long caused administrative, interpretive, and enforcement problems.

Authority for imposition of rail safety user fees. Congress has recently authorized the imposition of appropriate user fees for the provision of federal pipeline safety regulation, and section 10 of this bill would authorize a comparable system of fees for the regulatory oversight of railroad safety provided by the FRA. This provision would fulfill the President's FY 1988 Budget Request to Congress.

The Office of Management and Budget has advised that, from the standpoint of the Administration's program, there is no objection to the submittal of this legislative proposal to Congress, and that its enactment would be in accord with the program of the President.

Sincerely,

ELIZABETH HANFORD DOLE.●

By Mr. DIXON (for himself, Mr. BUMPERS, and Mr. WEICKER):

S. 1559. A bill to amend the Small Business Act to modify certain provisions relating to the small business set-aside program; to the Committee on Small Business.

SMALL BUSINESS FEDERAL CONTRACTING RESTORATION ACT

Mr. DIXON. Mr. President, today I am introducing a bill which relates to the operation of the small business procurement set-aside programs of the Federal Government. These programs have been in operation for many years. They have frequently provided the small business community with the opportunity to supply critical goods and services to the Government on a competitive basis when unrestricted competition may have precluded them. I believe that the Government has benefited substantially from small business participation, in terms of the prices paid for goods and services, in the quality of the products received and in the maintenance of our defense industrial base. Changes in this type of program should come only after clear evidence of problems and after a thorough review.

However, Mr. President, during the consideration of the fiscal year 1987 Department of Defense authorization bill, a number of changes to the small business procurement set-aside program of the Small Business Act were adopted. This process did not permit time for input by the small business community nor did it permit a review of the impact that passage would have on the small business procurement program.

As a member of both the Senate Armed Services and Small Business Committees, I expressed my concerns at that time. Not only did I object to how they were enacted, I also objected to the substance of the amendments.

Mr. President, to alleviate these concerns as expressed by members of the Small Business Committee a compromise was reached. The amendments to the Small Business Act were enacted but were not to go into effect until October 1987. This time delay was designed to allow those affected by the amendments to voice their opposition and seek redress.

In December of last year, Senators WEICKER, BUMPERS, and I sent a letter to all of the major procurement agencies and the dozens of small business trade groups active in the field of procurement. We asked them for their best assessment of the changes and the impact of the small business set-aside program. Responses were received from each of the major Federal procurement agencies with the overwhelming number of respondents raising significant concerns about the actions taken by the Defense Authorization Act.

To address these concerns, Mr. President, I am today introducing a bill to modify last year's provisions in certain key respects. I am not sure that I have identified all of the issues in this bill and I would hope that the agencies and the small business community would assist me in identifying additional areas in need of correction.

To provide a forum for the small business community, the Federal procurement agencies and all other groups impacted by this legislation, I have written to Senator BUMPERS, the chairman of the Small Business Committee, requesting prompt hearings on these important issues.

Mr. President, these hearings will give the small business community the chance to be heard. It will provide a forum for the agencies to voice their concerns over the amendments. It will give the Senate an opportunity to formulate an opinion on the value and merit of these changes before they take effect and then to weigh whether or not they should go into effect in October.

I ask unanimous consent that the text of the bill, with a brief explanation, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1559

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Small Business Federal Contracting Restoration Act of 1987".

FAIR PROPORTION OF TOTAL FEDERAL CONTRACTING; AWARDS AT "FAIR AND REASONABLE" PRICES

SEC. 2. Section 15(a) of the Small Business Act (15 U.S.C. 644(a)) is amended—

(1) in paragraph (3), by striking out "in each industry category" and inserting in lieu thereof "of the total awards (utilizing the product and services codes of the Federal Procurement Data System established pursuant to section 6(d)(4) of the Office of Federal Procurement Policy Act (41 U.S.C. 405(d)(4)))";

(2) by striking out the matter that begins "For purposes of clause (3) of the first sentence of this subsection" up to the last sentence of the paragraph; and

(3) by striking out "which exceeds a fair market price" in the last sentence of the paragraph and inserting in lieu thereof "which exceeds a fair and reasonable price".

SMALL BUSINESS SMALL PURCHASE RESERVE EXCLUDED FROM ANNUAL GOALS

SEC. 3. Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by inserting "having a value of $25,000 or more" after "procurement contracts of such agency" in the first sentence.

SUBCONTRACTING LIMITATIONS

SEC. 4. (a) Section 15(o) of the Small Business Act (15 U.S.C. 644(o)) is amended by—

(1) striking out "unless the concern agrees that" in paragraph (1) and inserting in lieu thereof "unless the concern agrees to expend its best efforts so that";

(2) inserting a flush sentence at the end of paragraph (1) as follows:

"Higher percentages of permissible subcontracting may be authorized in an individual contract solicitation by the contracting officer.";

(3) by striking out "in that industry category" in paragraph (2) and inserting in lieu thereof "for that size standard"; and

(4) by striking out all after the phrase "general and specialty construction" in paragraph (3) and inserting in lieu thereof a period.

(b) The amendments made by section 921(c) of the Defense Acquisition Improvement Act of 1986 (Public Law 99-661) shall apply to solicitations issued on or after October 1, 1987.

REPEALER

SEC. 5. Section 15(p) of the Small Business Act (15 U.S.C. 644(p)) is repealed.

CONFORMING AMENDMENTS TO SECTION 8(a)

SEC. 6. Section 8(a)(14) (15 U.S.C. 637(a)(14)) of the Small Business Act is amended—

(1) in subparagraph (A) by striking out "the concern agrees that" and inserting in lieu thereof "the concern agrees to expend its best efforts so that";

(2) in subparagraph (B), by striking out "in that industry category" and all that follows in the subparagraph and inserting in lieu thereof "for that size standard."; and

(3) by striking out subparagraph (C) and inserting in lieu thereof the following:

"(C) The Administration shall establish, through public rulemaking, requirements similar to those established in subparagraph (A) to be applicable to contracts for general and specialty construction.".

EFFECTIVE DATE

SEC. 7. The amendments made by this Act shall take effect on October 1, 1987.

Explanation of "A Bill to Amend the Small Business Act to Modify Certain Provisions Relating to the Small Business Set-Aside Program"

Section 1. This section amends section 15(a) of the Small Business Act, which contains the basic authority for the small business set-aside program. Specifically, section 1(a) deletes the requirement in current law that set-aside programs be established in "industry categories" and reestablished the rule that the set-aside program is to be based on a fair proportion of government contracts based on total awards within the Federal procurement data system. Essentially, this provision is designed to reestablish the rule upheld by the courts in Rutter Rex. However, a modification has been made to exclude, for purposes of determining what a fair proportion of contracts is, those purchases made using small purchase procedures. Under current law, awards under $25,000 are already reserved exclusively for small business concerns.

Subsection (b) is designed to rely on a "fair and reasonable price" as the determination of whether to perfect a set-aside. A fair and reasonable price is a well-accepted term that is set by the marketplace each time that an award is made. Under the current statutory requirement, contracting officers may have to make an extensive search of the procurement history, if possible, to determine what an "objective" market price would be. This change is only made in the small business set-aside program. No similar change is made to the 8(a) program.

Subsection (c) deletes extensive provisions relating to the definition of an "industry category" for purposes of the set-aside program. Since this bill moves away from the categorization, this language is unnecessary.

Section 2 of the bill makes further changes to other sections of the Small Business Act.

Subsection (2)(a) amends section 15(g) of the Small Business Act, relating to the goal-setting for small businesses, to include a floor of $25,000. Prior law had established a floor of $10,000 for the goal-setting program.

In current law, however, that floor was eliminated, thus forcing agencies to set goals to the $1 level, even though awards under $25,000 are already reserved exclusively for small businesses under other provisions of the Small Business Act. Further, since the agencies have not maintained detailed records of the awards under $10,000 previously, there was no acceptable data base from which to work. This change will establish the "floor" for purposes of the goal-setting requirement at the $25,000 threshold for small purchase procedures.

Subsection (2)(b) makes several changes to section 15(o) of the Small Business Act. The first is to clarify that a small business concern's "requirement" to ensure that a minimum level of the concern's personnel are used on each contract is not a mandatory contract clause that would result in termination of the contract, but it should be a "best efforts" requirement. It is recognized that this requirement exists, by regulation, in the 8(a) program. However, its application as a mandatory rule for the regular small business program has not been well researched, and care must be taken to ensure that it does not create adverse effects for the very segment of the business community that this program is designed to assist.

Subsections (b) and (c) of section 2 make conforming changes to other provisions in subsection 15(o) to carry through the policies of this legislation.

Section 3 of the bill repeals section 15(p) of the Small Business Act. Section 15(p) requires the disclosure of applicants for procurement set-asides. The procurement agencies have no idea how this program will work. It will place enormous burdens on the contracting officers, with little or no benefit to those who oppose the set-aside program. Sufficient protest provisions exist elsewhere to make repeal of this section of law the preferable approach.

Section 5 of the bill amends section 8(a)(14) of the Small Business Act, to make conforming changes to that section relative to awards to 8(a) concerns.

By Mr. PRESSLER:

S.J. Res. 180. Joint resolution designating the honeybee as the national insect; to the Committee on the Judiciary.

DESIGNATION OF THE HONEYBEE AS THE NATIONAL INSECT

Mr. PRESSLER. Mr. President, today I am introducing legislation recognizing the honeybee as the national insect. Representative NEAL has introduced House Joint Resolution 171, a companion resolution in the House of Representatives. Thirty-nine members of the House have cosponsored the legislation. Thirteen states have also recognized the importance of the honeybee and designated it as their State insect. The entire Nation should endorse the same recognition because the honeybee is a very important insect in areas such as agriculture, ecosystems and wildlife.

Aside from the obvious fact that honeybees produce honey—$100 million worth annually—they are responsible for other areas of agriculture productivity as well. Pollination by honeybees make possible the production of over $19 billion of U.S. crops produced each year. They pollinate some 90 different crops, including everything from apples to zucchini. It is estimated also that one-third of our total diet comes directly or indirectly from insect-pollinated plants.

The importance of honeybee pollination can be demonstrated by a 4-year experiment on crimson clover in Alabama. This study showed that by using two honeybee colonies per acre the seed yield was increased from 280 pounds per acre to 510 pounds per acre.

Another study showed that during the period 1963 through 1977, when the honeybee industry was declining in Arizona, the muskmelon acreage also declined—from 18,100 to less than 11,000 acres. Alfalfa seed acreages almost disappeared, down from 19,000 acres to 1,000 acres. Monetary decreases at that time were about $10 million in muskmelons and $6 million in alfalfa seed annually.

As can be inferred from these cases, honeybees are very important for an adequate food supply. They also can be credited for producing it at a lower cost, due to efficient pollination. Seeds for common fruits, vegetables, and flowers would require extensive hand or mechanical pollination in the absence of honeybee activity. On a larger scale, the meat and dairy industries depend upon the honeybee for pollination of the seeds of legume crops, which make up a major part of the feed for livestock. In these respects, the activities of the insects are worth more than 143 times the value of the products the honeybees produce.

The honeybee plays a very important role in ecosystems as well. It has been estimated that there are between 25 and 50 different forms of life dependent upon each key plant species in the world. When key plant species die out, that system goes into a decline and dozens of other life forms in the ecosystem also disappear. It is obvious that the honeybee is an important link in this chain of growth continuation and should not be overlooked. Plants are the basic components of all ecosystems, and honeybees are essential to the propagation of many plants and plant communities upon which animal life is dependent.

Another important aspect of the ecosystem is genetic enrichment. This occurs in native plants through cross pollination activities and is essential for the adaptation of plants to accommodate a variety of environmental variables. Genetic enrichment of plants is critical to the development of varieties capable of changing as the ecosystem itself evolves. These genetic enrichment activities are often facilitated by honeybees.

This outstanding insect is of major importance to the survival of many birds and mammals. Many of our native forage, seed, and fruit plants pollinated by bees provide food and shelter to wildlife. Bees have a significant impact on the wildlife that grace our urban and rural landscapes. Eighty-six percent of the woody plants known to be of value to wildlife are pollinated by honeybees. The year to year status of many wildlife populations is dependent on the growth, productivity, and distribution of these plants.

The importance of the honeybee cannot be overemphasized. It plays a large role in the effective production and continuation of agriculture, natural ecosystems, and wildlife. Therefore, I urge my colleagues to join me in support of this joint resolution designating the honeybee as our national insect.

ADDITIONAL COSPONSORS

S. 38

At the request of Mr. MOYNIHAN, the names of the Senator from Connecticut [Mr. DODD], and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 38, a bill to increase the authorization of appropriations for the Magnet School Program for fiscal year 1987 to meet the growing needs of existing Magnet School Programs, and for the establishment of new Magnet School Programs.

S. 39

At the request of Mr. MOYNIHAN, the names of the Senator from Massachusetts [Mr. KERRY] and the Senator from Ohio [Mr. GLENN] were added as cosponsors of S. 39, a bill to amend the Internal Revenue Code of 1986 to make the exclusion from gross income of amounts paid for employee educational assistance permanent.

S. 182

At the request of Mr. RIEGLE, the name of the Senator from Hawaii [Mr. INOUYE] was added as a cosponsor of S. 182, a bill to amend title 3, United States Code, and the Uniform Time Act of 1966 to establish a single poll closing time in the continental United States for Presidential general elections.

S. 305

At the request of Mr. LEAHY, the names of the Senator from Kansas [Mr. DOLE], the Senator from Iowa [Mr. HARKIN], the Senator from Montana [Mr. MELCHER], the Senator from Indiana [Mr. LUGAR], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Arkansas [Mr. PRYOR], the Senator from Mississippi [Mr. COCHRAN], the Senator from South Dakota [Mr. DASCHLE], the Senator from North Dakota [Mr. CONRAD], the Senator from California [Mr. WILSON], the Senator from Missouri [Mr. BOND], the Senator from Kentucky [Mr. MCCONNELL], the Senator from Louisiana [Mr. BREAUX], the Senator from Missouri [Mr. DANFORTH], the Senator from Idaho [Mr. MCCLURE], the Senator from Tennessee [Mr. GORE], and the Senator from New Mexico [Mr. BINGAMAN] were added as cosponsors of S. 305, a bill to amend the National School Lunch Act to improve the administration of the Commodity Distribution Program, and for other purposes.

S. 685

At the request of Mr. QUAYLE, the names of the Senator from Massachusetts [Mr. KENNEDY], the Senator from Connecticut [Mr. DODD], the Senator from Vermont [Mr. STAFFORD], and the Senator from Arizona [Mr. MCCAIN] were added as cosponsors of S. 685, a bill to amend the Deficit Reduction Act of 1984 to make permanent the administrative offset debt collection provisions with respect to education loans.

S. 808

At the request of Mr. McClure, the name of the Senator from Wyoming [Mr. Wallop] was added as a cosponsor of S. 808, a bill to clarify the application of the Clayton Act with respect to rates, charges, or premiums filed by a title insurance company with State insurance departments or agencies.

S. 840

At the request of Mr. Thurmond, the names of the Senator from Virginia [Mr. Trible], and the Senator from Maryland [Mr. Sarbanes] were added as cosponsors of S. 840, a bill to recognize the organization known as the 82d Airborne Division Association, Inc.

S. 887

At the request of Mr. Matsunaga, the name of the Senator from South Dakota [Mr. Daschle] was added as a cosponsor of S. 887, a bill to extend the authorization of appropations for and to strengthen the provisions of the Older Americans Act of 1965, and for other purposes.

S. 999

At the request of Mr. Cranston, the name of the Senator from West Virginia [Mr. Rockefeller] was added as a cosponsor of S. 999, a bill to amend title 38, United States Code, and the Veterans' Job Training Act to improve veterans employment, counseling, and job-training services and programs.

S. 1052

At the request of Mr. Specter, the name of the Senator from Vermont [Mr. Stafford] was added as a cosponsor of S. 1052, a bill to establish a National Center for the U.S. Constitution within the Independence National Historical Park in Philadelphia, PA.

S. 1081

At the request of Mr. Bingaman, the name of the Senator from Hawaii [Mr. Inouye] was added as a cosponsor of S. 1081, a bill to establish a coordinated National Nutrition Monitoring and Related Research Program, and a comprehensive plan for the assessment of the nutritional and dietary status of the U.S. population and the nutritional quality of the U.S. food supply, with provision for the conduct of scientific research and development in support of such program and plan.

S. 1346

At the request of Mr. Matsunaga, the name of the Senator from Connecticut [Mr. Weicker] was added as a cosponsor of S. 1346, a bill to amend the National Labor Relations Act to give employers and performers in the performing arts rights given by section 8(e) of such act to employers and employees in similarly situated industries, to give employers and performers in the performing arts the same rights given by section 8(f) of such act to employers and employees in the construction industry, and for other purposes.

S. 1397

At the request of Mr. Cranston, the name of the Senator from Texas [Mr. Gramm] was added as a cosponsor of S. 1397, a bill to recognize the organization known as the Non Commissioned Officers Association of the United States of America.

S. 1419

At the request of Mr. Durenberger, the name of the Senator from Hawaii [Mr. Matsunaga] was added as a cosponsor of S. 1419, a bill to prevent ground water contamination by pesticides.

S. 1440

At the request of Mr. Evans, the names of the Senator from Oklahoma [Mr. Boren], and the Senator from Arkansas [Mr. Bumpers] were added as cosponsors of S. 1440, a bill to provide consistency in the treatment of quality control review procedures and standards in the Aid to Families with Dependent Children, Medicaid and Food Stamp Programs; to impose a temporary moratorium for the collection of penalties under such programs, and for other purposes.

S. 1493

At the request of Mr. Bradley, the names of the Senator from Massachusetts [Mr. Kennedy], and the Senator from Arkansas [Mr. Bumpers] were added as cosponsors of S. 1493, a bill to clarify the authority of the Secretary of the Interior to make land exchanges within the Arctic National Wildlife Refuge.

S. 1501

At the request of Mr. Cranston, the name of the Senator from Rhode Island [Mr. Pell] was added as cosponsors of S. 1501, a bill to amend title 38, United States Code, to eliminate the requirement that the Administrator of Veterans' Affairs carry out a transition under which community-based vet centers would be moved to Veterans' Administration medical facilities and to provide standards and procedures governing any closures or moves of vet centers, and for other purposes.

S. 1510

At the request of Mr. Kerry, the names of the Senator from Delaware [Mr. Biden], and the Senator from West Virginia [Mr. Rockefeller] were added as cosponsors of S. 1510, a bill to require the Administrator of Veterans' Affairs to arrange for the review by the National Academy of Sciences of scientific evidence, studies, and literature pertaining to the human health effects of exposure to agent orange and its component compounds and the issuance of a report on the Academy's conclusions as to the weight of the evidence regarding the health effects in humans of exposure to agent orange, and for other purposes.

S. 1519

At the request of Mr. Lautenberg, the names of the Senator from Vermont [Mr. Stafford], and the Senator from Wisconsin [Mr. Kasten] were added as cosponsors of S. 1519, a bill to authorize the President of the United States to award congressional gold medals to Lawrence Doby and posthumously to Jack Roosevelt Robinson in recognition of their accomplishments in sport and in the advancement of civil rights, and to authorize the Secretary of the Treasury to sell bronze duplicates of those medals.

S. 1530

At the request of Mr. Sasser, the names of the Senator from Pennsylvania [Mr. Heinz], and the Senator from Michigan [Mr. Levin] were added as cosponsors of S. 1530, a bill to extend for 5 years the authorization granted under the State and Local Government Cost Estimate Act of 1981.

S. 1540

At the request of Mr. Weicker, the name of the Senator from Massachusetts [Mr. Kennedy] was added as a cosponsor of S. 1540, a bill to amend the Civil Rights of Institutionalized Persons Act to provide certain authority for protection and advocacy systems, and for other purposes.

SENATE JOINT RESOLUTION 44

At the request of Mr. Durenberger, the name of the Senator from Oklahoma [Mr. Nickles] was added as a cosponsor of Senate Joint Resolution 44, joint resolution to designate November 1987 as "National Diabetes Month."

SENATE JOINT RESOLUTION 53

At the request of Mr. Cranston, the names of the Senator from Florida [Mr. Graham] and the Senator from Michigan [Mr. Riegle] were added as cosponsors of Senate Joint Resolution 53, joint resolution to designate the period commencing November 22, 1987 and ending November 28, 1987 as "American Indian Week."

SENATE JOINT RESOLUTION 98

At the request of Mr. Hatch, the names of the Senator from California [Mr. Wilson], the Senator from Delaware [Mr. Roth], the Senator from Maryland [Ms. Mikulski], the Senator from Hawaii [Mr. Inouye], and the Senator from Connecticut [Mr. Dodd] were added as cosponsors of Senate Joint Resolution 98, joint resolution to designate the week of November 29, 1987 through December 5, 1987 as "National Home Health Care Week."

SENATE JOINT RESOLUTION 99

At the request of Mr. DeConcini, the names of the Senator from Maine [Mr. Mitchell], the Senator from New York [Mr. D'Amato], the Senator from Delaware [Mr. Biden], and the Senator from Utah [Mr. Hatch] were added as cosponsors of Senate Joint Resolution 99, joint resolution to express the sense of the Congress that the Special Supplemental Food Program for Women, Infants, and Children should receive increasing amounts of appropriations in fiscal year 1988 and succeeding fiscal years.

SENATE JOINT RESOLUTION 106

At the request of Mr. BINGAMAN, the names of the Senator from Alabama [Mr. SHELBY], the Senator from Michigan [Mr. LEVIN], the Senator from New York [Mr. MOYNIHAN], the Senator from Kentucky [Mr. FORD], the Senator from Georgia [Mr. NUNN], and the Senator from Colorado [Mr. WIRTH] were added as cosponsors of Senate Joint Resolution 106, joint resolution to recognize the Disabled American Veterans Vietnam Veterans National Memorial as a memorial of national significance.

SENATE JOINT RESOLUTION 170

At the request of Mr. ROTH, the names of the Senator from Idaho [Mr. MCCLURE] and the Senator from Idaho [Mr. SYMMS] were added as cosponsors of Senate Joint Resolution 170, joint resolution designating the month of September 1988 as "National Ceramic Arts Month."

SENATE JOINT RESOLUTION 171

At the request of Mr. CRANSTON, the names of the Senator from Mississippi [Mr. COCHRAN], the Senator from North Dakota [Mr. CONRAD], the Senator from Arkansas [Mr. PRYOR], the Senator from Michigan [Mr. LEVIN], the Senator from Georgia [Mr. NUNN], the Senator from South Dakota [Mr. PRESSLER], the Senator from Pennsylvania [Mr. HEINZ], and the Senator from Wisconsin [Mr. PROXMIRE], were added as cosponsors of Senate Joint Resolution 171, joint resolution designating the week beginning November 8, 1987 as "National Women Veterans Recognition Week."

SENATE CONCURRENT RESOLUTION 29

At the request of Mr. DECONCINI, the names of the Senator from Alaska [Mr. STEVENS] and the Senator from Washington [Mr. EVANS] were added as cosponsors of Senate Concurrent Resolution 29, a concurrent resolution expressing the sense of Congress regarding the inability of American citizens to maintain regular contact with relatives in the Soviet Union.

SENATE RESOLUTION 248

At the request of Mr. GRAHAM, the names of the Senator from Vermont [Mr. LEAHY], the Senator from New York [Mr. MOYNIHAN], the Senator from Michigan [Mr. LEVIN], the Senator from North Dakota [Mr. BURDICK], the Senator from Wisconsin [Mr. PROXMIRE], the Senator from Michigan [Mr. RIEGLE], the Senator from Hawaii [Mr. MATSUNAGA], the Senator from Illinois [Mr. DIXON], the Senator from Indiana [Mr. LUGAR], the Senator from New York [Mr. D'AMATO], and the Senator from North Carolina [Mr. HELMS], were added as cosponsors of Senate Resolution 248, a resolution supporting the people of Haiti in their efforts to obtain respect for human rights and the holding of free and fair elections in Haiti, and for other purposes.

SENATE RESOLUTION 255

At the request of Mr. KERRY, his name was added as a cosponsor of Senate Resolution 255, a resolution expressing the sense of the Congress with regard to the forthcoming negotiations by Gen. John Vessey to resolve the fate of Americans missing in Southeast Asia, and other issues of humanitarian concern to the people of the United States and Vietnam.

At the request of Mr. MCCAIN, the names of the Senator from Kansas [Mr. DOLE], the Senator from Rhode Island [Mr. PELL], the Senator from North Carolina [Mr. HELMS], the Senator from California [Mr. CRANSTON], the Senator from Alaska [Mr. MURKOWSKI], the Senator from Oklahoma [Mr. BOREN], the Senator from Oregon [Mr. HATFIELD], the Senator from Arizona [Mr. DECONCINI], the Senator from Minnesota [Mr. BOSCHWITZ], the Senator from Michigan [Mr. RIEGLE], the Senator from Idaho [Mr. SYMMS], the Senator from Alabama [Mr. SHELBY], the Senator from Nevada [Mr. HECHT], the Senator from South Dakota [Mr. DASCHLE], the Senator from Florida [Mr. GRAHAM], the Senator from California [Mr. WILSON], the Senator from North Carolina [Mr. SANFORD], the Senator from New York [Mr. MOYNIHAN], the Senator from Iowa [Mr. GRASSLEY], the Senator from Alabama [Mr. HEFLIN], the Senator from West Virginia [Mr. BYRD], the Senator from Illinois [Mr. DIXON], the Senator from Nebraska [Mr. EXON], the Senator from Massachusetts, [Mr. KENNEDY], the Senator from Maine [Mr. MITCHELL], and the Senator from South Carolina [Mr. THURMOND] were added as cosponsors of Senate Resolution 255, supra.

AMENDMENT NO. 591

At the request of Mr. DANFORTH, the name of the Senator from Iowa [Mr. GRASSLEY] was added as a cosponsor of amendment No. 591 intended to be proposed to S. 328, a bill to amend chapter 39, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

SENATE RESOLUTION 256—EXPRESSING THE SORROW AND REGRET OF THE SENATE AT THE DEATH OF HOWARD MALCOLM BALDRIGE, JR.

Mr. KARNES (for himself, Mr. ARMSTRONG, Mr. BOND, Mr. BOSCHWITZ, Mr. CHAFEE, Mr. COCHRAN, Mr. DANFORTH, Mr. DECONCINI, Mr. DODD, Mr. DOLE, Mr. DOMENICI, Mr. DURENBERGER, Mr. EXON, Mr. GRAMM, Mr. GRASSLEY, Mrs. KASSEBAUM, Mr. KASTEN, Mr. LUGAR, Mr. MCCAIN, Mr. MCCLURE, Mr. MCCONNELL, Mr. NICKLES, Mr. PACKWOOD, Mr. QUAYLE, Mr. SIMPSON, Mr. SPECTER, Mr. STEVENS, Mr. THURMOND, Mr. WALLOP, Mr. WARNER, Mr. WEICKER, Mr. WILSON, Mr. ADAMS, Mr. HEFLIN, Mr. MOYNIHAN, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEVIN, Ms. MIKULSKI, Mr. MURKOWSKI, Mr. PELL, Mr. BUMPERS, Mr. BURDICK, Mr. CHILES, Mr. SYMMS, Mr. STAFFORD, Mr. SIMON, Mr. SHELBY, Mr. SARBANES, Mr. METZENBAUM, Mr. MITCHELL, Mr. BINGAMAN, Mr. PROXMIRE, Mr. ROCKEFELLER, Mr. PRESSLER, Mr. CRANSTON, Mr. SANFORD, Mr. RUDMAN, Mr. BRADLEY, Mr. REID, Mr. JOHNSTON, Mr. HOLLINGS, Mr. EVANS, and Mr. INOUYE) submitted the following resolution; which was considered and agreed to:

S. RES. 256

Whereas Howard Malcolm Baldrige, Jr. was born in Omaha, Nebraska in 1922, the son of Howard Malcolm Baldrige, Sr. and the former Regina Connell;

Whereas Howard Malcolm Baldrige, Jr. was graduated with a Bachelor of Arts degree from Yale College;

Whereas Howard Malcolm Baldrige, Jr. married the former Margaret Trowbridge Murray in 1951 and had two children, Megan Brewster and Mary Trowbridge;

Whereas Howard Malcolm Baldrige, Jr. was a recipient of an honorary Doctor of Letters degree from the University of Nebraska at Omaha in 1985;

Whereas Howard Malcolm Baldrige, Jr. was a preeminent business leader and served as director of many distinguished organizations;

Whereas Howard Malcolm Baldrige, Jr. rendered exemplary service to the nation in the Cabinet of the President of the United States for six years as the Secretary of Commerce, influencing major trade policy decisions with his fair trade principles;

Whereas Howard Malcolm Baldrige, Jr. in his tenure as Commerce Secretary developed policies and initiatives, including a Bureau of Competitive Assessment within the Department of Commerce, to monitor and improve the United States' global trade position;

Whereas Howard Malcolm Baldrige, Jr. generally contributed his time and energies to numerous community organizations and philanthropic efforts;

Whereas Howard Malcolm Baldrige, Jr. demonstrated his zest for life as a true-to-life cowboy and a champion on the professional rodeo circuit; and

Whereas with the death of Howard Malcolm Baldrige, Jr. on July 25, 1987, at age 64, the United States lost a distinguished citizen and foremost policy adviser who helped guide the nation toward a stronger economic and competitive trade position, and who remained up to the moment of his death a respected, thoughtful and articulate adviser on the urgent and complex economic questions facing the nation: Now, therefore, be it

Resolved, That it is the sense of the Senate to express profound sorrow and regret at the death of Howard Malcolm Baldrige, Jr.

SEC. 2. The Secretary of the Senate shall transmit an enrolled copy of this resolution to the family of Howard Malcolm Baldrige, Jr.

SENATE RESOLUTION 257—ORIGINAL RESOLUTION REPORTED MANAGING THE EXPENDITURE OF FUNDS FOR SENATE OFFICIAL MAIL DURING FISCAL YEAR 1988

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. Res. 257

Resolved, That for purposes of this resolution—

(1) the term "franked mail" has the meaning given to such term by section 3201(4) of title 39, United States Code;

(2) the term "mass-mailing" is a mass mailing (as defined in section 3210(a)(6)(E) of such title) which is to be mailed as franked mail; and

(3) the term "official mail costs" means the equivalent of—

(A) postage on, and fees and charges in connection with, mail matter sent through the mail under the franking privilege; and

(B) those portions of the fees and charges to be paid for handling and delivery by the Postal Service of Mailgrams considered as franked mail under section 3219 of such title;

(4) the term "Senate office" means the Vice President of the United States, a United States Senator, a United States Senator-elect, a committee of the Senate, the Joint Committee on Printing, the Joint Economic Committee, an officer of the Senate, or an office of the Senate authorized by section 3210(b)(1) of title 39 of the United States Code to send franked mail.

Sec. 2. (a) Notwithstanding any provision of law or of the Standing Rules of the Senate, the total amount which may be incurred by a Senate office for official mail costs for fiscal year 1988 shall not exceed the amount allocated to such Senate office for such period by the Committee on Rules and Administration in accordance with this resolution.

(b) As soon as practicable after this resolution is agreed to, the Committee on Rules and Administration shall determine:

(1) The total amount to be allocated for official mail costs for the Senate, which shall be one-half of the total amount appropriated for official mail costs for the Senate and the House of Representatives for fiscal year 1988.

(2) The total amount necessary for official mail costs for fiscal year 1988 for Senate offices other than Senators.

(3) The total amount necessary to be reserved for contingencies, which shall not exceed 10 per centum of the amount determined pursuant to paragraph 1.

(4) The total amount available for allocation to Senators, which shall be the amount determined pursuant to paragraph (1) minus the sum of the amounts determined pursuant to paragraphs (2) through (3).

(5) The allocation to a Senate office (other than a Senator) for fiscal year 1988, which shall be an amount equal to the product of the amount determined pursuant to paragraph (2) multiplied by the ratio that the official funds provided to such office bears to the sum of the official funds provided to all such offices, except that for purposes of this paragraph the funds provided to the Sergeant at Arms shall be considered to be equal to one-half of the funds provided to the Secretary of the Senate: *Provided*, That the official mail costs of the Joint Committee on the Library shall be charged to the amount allocated to the Committee on Rules and Administration.

(6)(A) Subject to the exception in subparagraph (B) of this paragraph, the allocation of a Senator for official mail costs for fiscal year 1988, which shall be an amount equal to the product of the total amount determined pursuant to paragraph (4), multiplied by the ratio that the population of the State represented by such Senator bears to the total population of the States.

(B) Any Senator whose allocation pursuant to subparagraph (A) of this paragraph is less than $100,000 shall be granted such sums from the contingent fund provided for in section 2(b)(3) to bring such Senator's total allocation up to but not to exceed $100,000 upon request of such Senator to the Committee on Rules and Administration. Funds shall be withheld in the contingent fund during each fiscal year for the use of Senators referred to in this paragraph until each such Senator has indicated the total additional sums, if any, that will be needed by such Senator.

(c) In determining official mail costs, and in making the allocations of Senate offices under this resolution, the Committee on Rules and Administration shall consult with the Postmaster General of the United States.

Sec. 3. The Senate urges the House of Representatives to limit the amounts which may be expended by Members of the House of Representatives, Delegates, Resident Commissioners, and committees, officers, and offices of the House of Representatives in a manner which is similar to the limitations on the expenditure of such amounts which are applicable to Senators during fiscal year 1988.

Sec. 4. The Committee on Rules and Administration shall prescribe a record keeping system to be used by Senate offices to ensure that the amounts allocated to such offices are not exceeded.

Sec. 5. The Committee on Rules and Administration shall prescribe a procedure whereby portions of an allocation made to a Senate office may be transferred to another Senate office: *Provided*, That each such transfer shall be approved by the Committee on Rules and Administration and that no Senate office shall acquire a total amount in excess of the amount that the office could use with the paper officially allotted to such office. The amount of each transfer together with the name of the transferring office, the name of the receiving office, and the date of the transfer shall be set forth in the semiannual report of the Secretary of the Senate, immediately following the tabulation of Senators' quarterly mass-mail costs.

SENATE RESOLUTION 258—ORIGINAL RESOLUTION REPORTED TO REQUIRE DOCUMENTATION FOR PAYMENTS AND DISBURSEMENTS FROM THE CONTINGENT FUND OF THE SENATE

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. Res. 258

Resolved, That (a) no payments or reimbursements for expenses shall be made from the contingent fund of the Senate, unless the vouchers presented for such expenses are accompanied by supporting documentation.

(b) The Committee on Rules and Administration is authorized to promulgate regulations to carry out the purpose of this resolution and to except specific vouchers from the requirements of subsection (a) of this resolution.

(c) This resolution shall apply with respect to vouchers submitted for payment or reimbursements on and after October 1, 1987, or upon the adoption of this resolution if such adoption occurs at a later date.

(d) Senate Resolution 170, 96th Congress (agreed to August 2, 1979), is repealed as of October 1, 1987, or upon adoption of this resolution if such adoption occurs at a later date. Any regulations adopted by the Committee on Rules and Administration to implement Senate Resolution 170 shall remain in effect, after the repeal of Senate Resolution 170, until modified or repealed by such committee, and shall be held and considered to be regulations adopted to implement this resolution.

SENATE RESOLUTION 259—ORIGINAL RESOLUTION REPORTED RELATING TO REIMBURSEMENT OF EXPENSES PAID TO WITNESSES APPEARING BEFORE THE SENATE

Mr. FORD, from the Committee on Rules and Administration, reported the following original resolution; which was placed on the calendar:

S. Res. 259

Resolved, That witnesses appearing before the Senate or any of its committees may be authorized reimbursement for per diem expenses incurred for each day while traveling to and from the place of examination and for each day in attendance. Such reimbursement shall be made on an actual expense basis which shall not exceed the daily rate prescribed by the Committee on Rules and Administration, unless such limitation is specifically waived by such committee. A witness may also be authorized reimbursement of the actual and necessary transportation expenses incurred by the witness in traveling to and from the place of examination.

Sec. 2. (a) The provisions of this resolution shall be effective with respect to all witness expenses incurred on or after October 1, 1987.

(b) Senate Resolution 538, agreed to December 8, 1980, is repealed effective on October 1, 1987.

AMENDMENTS SUBMITTED

PROCEDURAL AND APPEAL RIGHTS OF CERTAIN POSTAL SERVICE EMPLOYEES

HELMS (AND THURMOND) AMENDMENT NO. 637

Mr. HELMS (for himself and Mr. Thurmond) proposed an amendment to the bill (H.R. 348) to amend title 39, United States Code, to extend to certain officers and employees of the U.S. Postal Service the same procedural and appeal rights with respect to certain adverse personnel actions as are afforded under title 5, United States Code, to Federal employees in the competitive service, as follows:

In lieu of the language proposed to be substituted, insert the following:

That (a) section 1005(a) of title 39, United States Code, is amended by adding at the end thereof the following new paragraphs:

"(4) Notwithstanding paragraph (1)(B) of this subsection, and subject to paragraph (2) of this subsection regarding preference eligibles, subchapter II of chapter 75 of title 5 shall apply to all officers and employees of the Postal Service who have completed 1 year of current continuous service in the same or similar positions, other than those persons excluded under either paragraph (1)(A) of this section (regarding collective bargaining agreements) or paragraph (3) of this subsection (regarding certain executive positions).

"(5) In the administration of this subsection, the Director of the Office of Personnel Management may obtain review of any final order or decision of the Board by filing a petition for judicial review in the United States Court of Appeals for the Federal Circuit if—

"(A) the Director determines, in his discretion, that the Board erred in interpreting a civil service law, rule, or regulation affecting personnel management and that the Board's decision will have a substantial impact on a civil service law, rule, regulation, or policy directive; or

"(B) the Postal Service determines, in its discretion, that the Board erred in interpreting a law, rule, or regulation affecting postal personnel management and that the Board's decision will have a substantial impact on a postal law, rule, regulation, or policy directive.

In addition to the named respondent, the Board and all other parties to the proceedings before the Board shall have the right to appear in the proceeding before the Court of Appeals. The granting of the petition for judicial review shall be at the discretion of the Court of Appeals.".

(b)(1) The amendments made by subsection (a) shall be effective after the expiration of the thirty-day period beginning on the date of the enactment of this Act.

(2) An action which is commenced under section 1005(a)(1)(B) of title 39, United States Code, before the effective date of the amendments made by subsection (a) shall not abate by reason of the enactment of this Act. Determinations with respect to any such action shall be made as if this Act had not been enacted.

STATUTORY INCREASE IN PUBLIC DEBT LIMIT

HELMS AMENDMENT NOS. 638 THROUGH 640

(Ordered to lie on the table.)

Mr. HELMS submitted three amendments intended to be proposed by him to the joint resolution (H.J. Res. 324) increasing the statutory limit on the public debt, as follows:

AMENDMENT No. 638

Add at the end of the bill the following new section:

"SEC. . (a) Notwithstanding any other provision of law or this Act, ninety days after the enactment of this Section, no person shall be employed by the Government of the United States in handling or preparing food for consumption by others at any Federal installation or facility or in connection with any Federal activity unless such person during a preceeding period of twelve months has been HIV tested and such test has been found negative.

(b) Upon the certification by the President to Congress that there is conclusive evidence that HIV infection cannot be transmitted by food, Subsection (a) of this Section shall be void".

AMENDMENT No. 639

Add at the end of House Joint Resolution 324 the following new section:

"SEC. . It is the Sense of the Senate that the Committee on Foreign Relations should conduct comprehensive hearings on the present and future effects of the global HIV plague on international commerce, finance, population movements and trends, and stability, including particularly the national security interests of the U.S.".

AMENDMENT No. 640

Add at the end of House Joint Resolution 324 the following new section:

"SEC. . Notwithstanding any other provision of law or of this Act, the President is directed to insure that the Department of the Air Force resumes the retrofitting of Minuteman III missiles into Minuteman II silos; provided, however, that such retrofitting shall not exceed the use of 50 Minuteman III missiles from the stockpile of such missiles or the expenditure of 50 million dollars for such purposes, whichever first occurs.".

Mr. HELMS. Mr. President, I have filed with the desk three amendments to the debt ceiling legislation. The amendments are as follows:

First. An amendment regarding HIV infection and food handlers at Federal installations;

Second. An amendment urging the Committee on Foreign Relations to conduct comprehensive hearings on the global HIV plague; and

Third. An amendment directing the resumption of the Minuteman III Retrofit Program.

Mr. President, I may call up some, none, or all of these amendments depending on circumstances. In that connection, I would out that several of them do relate to the debt ceiling.

In particular, if we do not begin to deal seriously with the HIV plague in order to curtail its spread, then we are going to face catastrophic fiscal problems in addition to the human tragedy of this dreaded disease. Additionally, the Minuteman III amendment would permit roughly a 5- to 10-percent increase in our strategic military capability at very low cost in relation to the enormous expenses of other strategic programs.

Mr. President, when I introduced S. 1437 regarding the removal of diplomatic immunity for certain family and support staff of foreign diplomats I emphasized the necessity for prompt action. That was a month ago and nothing has happened.

The distinguished chairman on the Committee on Foreign Relations, acting through his staff, indicated that a hearing on S. 1437 would be held on July 30, 1987. Then that hearing was postponed, tentatively—and I emphasis tentatively—to August 5, 1987. Moreover, I have recent word that witnesses who are representative of the many American citizens, who have been victimized by diplomatic crime and who have asked to be heard, may not be permitted to testify.

Mr. President, August 5 is 2 days before the scheduled recess. One way or another I intend to see that these victims get the opportunity they deserve as American citizens to describe how they have been treated by our legal system and the State Department.

I might consider forgoing action on this proposal until after the August recess if these victims can present their case now to allow us the benefit of their views while we shape the legislation: otherwise, Mr. President, I feel that we must go ahead and act without delay since obviously there would be no reason for putting off a Senate decision.

Mr. President, I ask that all three amendments be made available to the Senate in connection with our deliberations on House Joint Resolution 324.

HELMS AMENDMENT NO. 641

(Ordered to lie on the table.)

Mr. HELMS submitted an amendment intended to be proposed by him to the joint resolution House Joint Resolution 324, supra; as follows:

Add at the end of the bill the following new section:

"SEC. . (a) Notwithstanding any other provision of law and, particularly, the Vienna Convention on Diplomatic Relations, done on April 18, 1961, and the Vienna Convention on Consular Relations, done on April 24, 1963, members of a foreign diplomatic mission (other than diplomatic agents) and members of a foreign consular post (other than consular officers) shall not be entitled to immunity from the criminal jurisdiction of the United States (or of any State) for any crime of violence, as defined in section 16 of title 18, United States Code, for drug trafficking, or for reckless driving or driving while intoxicated or under the influence of alcohol or drugs.

(b) For purposes of this Act—

(1) the term "consular officer" has the same meaning as is given to such term in Article 1(1)(d) of the Vienna Convention on Consular Relations;

(2) the term "diplomatic agent" has the same meaning as is given to such term in Article 1(e) of the Vienna Convention on Diplomatic Relations;

(3) the term "members of a foreign consular post" is used within the meaning of

Article 1(1)(g) of the Vienna Convention on Consular Relations; and

(4) the term "members of a foreign diplomatic mission" is used within the meaning of Article 1(b) of the Vienna Convention on Diplomatic Relations."

Mr. HELMS. Mr. President, I have filed at the desk an amendment to the debt unit legislation which incorporates legislation I introduced on June 26, 1987, which was referred to the Committee on Foreign Relations. That legislation is S. 1437, and it is designed to limit the diplomatic immunity enjoyed—or should I say often abused—by the family and support staff of foreign diplomats.

Mr. President, at the time I introduced S. 1437, I stated that the legislation was—and I quote—overdue and, in my judgment made more necessary each day that passes—close quote.

Mr. President, I meant what I said, and now that more than a month has come and gone with no action, I have decided that I cannot in good conscience permit further delay. There has been discussion of a hearing on the proposal but we have all been down that road before.

The proposal is simple and, if called up, ought not require all that much debate or deliberation.

What it boils down to is this: do we want to protect ordinary American citizens from the rampages and rapaciousness of certain elements in our society whom the State Department has seen fit to protect from the consequences of their criminal activity?

We will either want to offer that protection to our citizens or we won't. We will either be clear headed and resolve a serious problem, or we will seek to hide behind vague arguments about international relations and the rest of the normal pablum served up by the lawyers at the State Department.

I believe that our colleague, the distinguished senior Senator from West Virginia, Senator BYRD, stated it most succinctly when, in reference to the shooting of Kenneth Skeen, he said it seemed: "Inconceivable to me that the relative of a diplomat can carry a gun in this country and shoot an American citizen and cannot be arrested; cannot be brought to trial; can just be turned loose on the street."

The amendment I have filed will end the outrages to which the distinguished minority leader referred. The amendment would restore to innocent American citizens the rights, privileges and freedoms which were guaranteed to them 200 years ago in the Constitution.

I bring to the attention of the Senate, Mr. President, the fact that in the United States today, there reside over 37,000 individuals in this country who are free to commit any crime, no matter how serious, how violent, how heinous, and remain free from prosecution.

In their book entitled "Diplomatic Crime" Chuck Ashman and Pamela Trescott detail in 350 pages the horrors suffered by innocent Americans at the hands of foreign residents who have no regard or remorse for their victims—our citizens.

Two hundred years ago, Thomas Jefferson wrote in the Preamble to the Constitution:

> We hold these truths to be self-evident; that all men are created equal; that they are endowed by their creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness.

Unfortunately, for hundreds of Americans, their unalienable rights have been alienated, and continue to be alienated by foreign criminals who hide behind the cloak of diplomatic immunity.

For innocent Americans like Carol Holmes who was brutally raped in her own home, or "Holly" a young Washington DC teenager who was gang raped—there is no personal liberty.

For residents like Dr. Halla Brown, professor of medicine and chief of the allergy clinic at George Washington University, there is no such thing as freedom. Her professional career, her contribution to our community, her financial independence and her personal life were all destroyed by a Panamanian diplomat who, through his callous arrogance and disregard for simple traffic regulations, has left Dr. Brown a prisoner in her own quadriplegic body.

And for a young man like Kenneth Skeen, who had honorably served our country in military service, his guarantee of a right to life was all but extinguished by the son of a South American diplomat who shot him three times and left him to fight for his life in an intensive care unit.

In each of these cases, our citizens, these victims of international arrogance have not only been denied their constitutional rights of life, liberty, and the pursuit of happiness, they have also been denied the right of redress of grievances, the right of equal protection under law, and the right, Mr. President, to expect what every American is taught to expect and believe when they recite the Pledge of Allegiance—the right of liberty and justice for all.

Like my distinguished colleague from West Virginia, Senator BYRD, I too think it inconceivable that such an outrageous lack of regard for our system of justice, our due process of law, and the rights of our citizens has been allowed to continue in this country. I think it is time that we, the representatives of the people of this Nation, put an end to the legal loophole that has allowed the family and support staff members of foreign diplomats to deny to our citizens the freedoms and protections which are rightfully theirs.

NOTICES OF HEARINGS

COMMITTEE ON SMALL BUSINESS

Mr. BUMPERS. Mr. President, I would like to announce that the hearing scheduled for Tuesday, July 28, 1987, by the Small Business Committee's Subcommittee on Government Contracting and Paperwork Reduction, has been rescheduled for Wednesday, August 5, 1987. The purpose of the hearing is to receive testimony concerning the expected impact of a series of amendments to the Small Business Act contained in Public Law 99-661, the fiscal year 1987 Department of Defense authorization. The hearing will commence at 9:30 a.m. and will be held in room 428A of the Russell Senate Office Building. For further information, please call William B. Montalto, procurement policy counsel for the committee at 224-5175, or Christine Lundregan of Senator DIXON's staff at 224-5334.

Mr. President, I would like to announce that the Small Business Committee's hearing on the impact of section 1706 of the Tax Reform Act on technical service workers as independent businesses scheduled for Wednesday, August 5, 1987, has been postponed and will be rescheduled sometime in the fall.

AUTHORITY FOR COMMITTEES TO MEET

SUBCOMMITTEE ON THE CONSTITUTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution of the Committee on the Judiciary be authorized to meet during the session of the Senate on July 28, 1987, to hold a hearing on S. 465, undetectable firearms.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be allowed to meet during the session of the Senate Tuesday, July 28, 1987, to mark up the nominations of Alan Greenspan to the Federal Reserve Board, David Ruder to the Securities and Exchange Commission, Charles Cobb to be Assistant Secretary of Commerce, Roger Martin to the Federal Home Loan Bank Board, and Arnold Steinberg to the National Institute of Building Sciences.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. BYRD. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, July 28, 1987, to consider legislation in response to reconciliation instructions under the budget resolution.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet during the session of the Senate on July 28, 1987, to consider pending committee business.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 28, 1987, to conduct a business meeting.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 28, 1987, at 4 p.m. to receive a closed briefing by U.N. Ambassador Vernon Walters on his recent trip to Moscow and Beijing regarding U.N. Security Council resolutions on the Persian Gulf.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. **BYRD.** Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, July 28, 1987, to hold a hearing on ambassadorial nominations.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

ADDITIONAL STATEMENTS

HOME IN THE SUN DOWN FLORIDA WAY

● Mr. **CHILES.** Mr. President, a short while ago I had the distinct pleasure of hearing from a very unique constituent of mine. As a 94-year-young resident of St. Petersburg, one of the only things that Roscoe Gardner enjoys as much as golfing is his hobby of song writing. He was kind enough to forward to my office a copy of a song he recently wrote, in which he very graciously extolls the benefits of Florida living which are shared by all of my State's residents, especially its retired community. I would therefore like to take this opportunity to submit for the RECORD the lyrics of this song, which he has entitled, "Home in the Sun, Down Florida Way".

The lyrics follow:

HOME IN THE SUN, DOWN FLORIDA WAY

We left the old home and started to roam,
Then drifted down Florida way.
Where old people find a life giving clime,
And shufflers just shuffle all day.

Home, home in the sun,
Where our dreams at last have come true.
Where new friends are made as we rest in the shade,
And life blossoms out all anew.

The toil and the tears of all the past years,
The battle for prestige and wealth,
Are soon laid aside while here we abide,
Buoyed up with new vigor and health.

Home, home in the sun,
Where our dreams at last have come true.
Where new friends are made as we rest in the shade,
And life blossoms out all anew.

Through Florida's gates a paradise waits
For all who seek peaceful repose.
The shuffleboard lures while good fishing cures
Most all of our griefs and our woes.

Home, home in the sun,
Where our dreams at last have come true.
Where new friends are made as we rest in the shade,
And life blossoms out all anew.

The lakes and streams give vent to our dreams,
While golfing builds vigor and vim.
Good beaches abound and are used the year round,
Where the old and the young love to swim.

Home, home in the sun,
Where our dreams at last have come true.
Where new friends are made as we rest in the shade,
And life blossoms out all anew.●

INFORMED CONSENT: CONNECTICUT

● Mr. **HUMPHREY.** Mr. President, today I would like to insert into the RECORD a letter sent to my office in support of my informed consent legislation, S. 272 and S. 273. Today's letter comes from the State of Connecticut.

I ask that the letter from a woman in Connecticut be inserted in the RECORD.

The letter follows:

MAY 29, 1987.

DEAR SENATOR HUMPHREY: I must congratulate you on your decision to introduce an informed consent bill. It is certainly long overdo.

As a woman who had an abortion at age 19 and lived to regret it beyond words, I am a living testimony to this need. I was not provided with the factual information concerning the life inside me or the abortion procedure which ended that precious little life. Had I known then what I know now, my irreplaceable baby would now be 5 years old and very much alive.

I support your bill wholeheartedly.

Most Sincerely,
ALLISON ASHLEY KEUHNER,
CONNECTICUT.[1]●

IMMIGRATION REFORM—LEGALIZATION PROGRAM'S "SECOND STEP"

● Mr. **CRANSTON.** Mr. President, I would like to draw the attention of my colleagues to an article written by Harry P. Pachon, Kenan professor of politics at Pitzer College, Claremont, CA, and executive director of the National Association of Latino Elected and Appointed Officials, that appeared in the Chicago Tribune on May 30, 1987, concerning a little-publicized aspect of the Immigration Reform and Control Act's legalization program. The article, entitled "Amnesty's Difficult Second Step," addresses the issues raised by the act's requirement that legalization applicants pass a citizenship and English competency exam or be enrolled in English and citizenship classes in order to qualify for permanent resident status. Under the act, once an applicant obtains temporary residence status—for which an applicant must apply during the 1-year period beginning on May 5, 1987—she or he has 18 months in which to meet the permanent residency requirements. Thus, Mr. President, this article is timely, and we should begin to consider the necessary course of action to assure that the legalization program does not ultimately fail because applicants are unable to comply with the requirements for permanent residency status. I ask that the full text of this article be printed in the RECORD.

Mr. President, there are a number of complex issues raised by the requirements for permanent residency status which, if unresolved, will prevent applicants from completing the legalization process. First, it is clear that there is an insufficient number of citizenship and English courses for applicants who must enroll in classes to meet the act's requirements. As pointed out by Mr. Pachon, "Classes in English and citizenship are at a premium * * *. In Los Angeles, for example, more than 40,000 people have been turned away from adult education classes in English during the last year." Also, Mr. Pachon appropriately notes that something must be done soon to address this issue because only five school semesters remain between the legalization program's first step—obtaining temporary residency status—and the program's second step—applying for permanent residency status. Mr. President, I recently met with business leaders and educators in Los Angeles regarding the implementation of the legalization program, and they confirmed that there is a serious shortage of English and citizenship classes in light of the number of people who've asked to enroll in them.

While it is clear that the State impact aid authorized by the Immigration Reform and Control Act will provide some funds to States to provide needed educational programs for legalization applicants, these funds alone cannot solve the problem. Therefore, I would like to draw the attention of my colleagues to legislation, S. 629 entitled the English Proficiency Act of 1987, introduced by Senator BINGAMAN and for which I am a cosponsor, which will help alleviate the problem. Mr.

President, S. 629 will provide grants through the Office of Adult Education to establish literacy programs for those who are limited-English proficient. A grant recipient may be a community based organization, local educational agency, tribally controlled school, 2-year or 4-year institution, public library, or prison. The bill also establishes a clearinghouse to facilitate the gathering and dissemination of literacy training and educational materials to the limited-English population. I urge my colleagues to support this legislation which will make more English classes available for those who must enroll in them to meet the act's requirements.

Mr. Pachon also points out, Mr. President, that the requirement that legalization applicants pass the citizenship exam in order to obtain permanent residency status may constitute yet another stumbling block for applicants because of the exam's high failure rate. He notes that "* * * of the 500,000 legal immigrants who apply for U.S. citizenship each year, approximately one-third do not complete the process because of their inability to pass the citizenship exam or for other reasons." He explains that the high failure rate may be attributed to the fact that there is no standardized citizenship exam and, consequently, the questions asked during the exam are chosen in a very arbitrary fashion.

Mr. President, we should take a hard look at the probable reasons for the high failure rate of those who take the citizenship exam and consider the proposals advanced by Mr. Pachon. For example, Mr. Pachon recommends that the Immigration and Naturalization Service [INS] standardize the citizenship exam such that a list of 50 to 100 relevant questions would be available to applicants for study, and during the actual test the examiner could ask 5 to 10 of these questions. He also suggests that INS allow applicants who initially fail the test the opportunity to retake the test. Finally, Mr. President, Mr. Pachon points out that INS could assure the success of the legalization program by publicizing the requirements for permanent residency status so that applicants can make arrangements to enroll in classes now.

In conclusion, Mr. President, I believe that the problems Mr. Pachon has noted in connection with the requirements for permanent residency status merit our consideration. As I have said before, the legalization program was intended to be a generous, humane response to the problems of vulnerable individuals. We should do all we can to assure that individuals successfully complete both the first and the second step of the legalization process.

The text follows:

AMNESTY'S DIFFICULT SECOND STEP

(By Harry P. Pachon)

If living in the United States depended on it, could you answer the following questions? "How many Pilgrims landed at Plymouth Rock? Name the order in which the original 13 states entered the Union? Who was the sixth U.S. President?"

Let's face it, even a college graduate with a degree in American history would have trouble passing this exam. Yet callers to a U.S. citizenship hotline have complained that these and even more outrageous questions have been asked by Immigration and Naturalization Service officials during naturalization proceedings.

The outrageous, however, may become more common as the INS grapples with the new amnesty program. The first of two steps in the amnesty process requires immigrants to prove their residency in this country since Jan. 1, 1982. Under the program's little-publicized second step, amnesty applicants must pass a citizenship and English competency exam or be enrolled in English and citizenship classes.

Despite the expected flood of applicants (which has already begun), the INS has failed to acknowledge the ramifications of this second step. Yet if the way the INS runs the naturalization program for legal immigrants is an indication, serious problems for the amnesty program loom.

For example, of the 500,000 legal immigrants who apply for U.S. citizenship each year, approximately one-third do not complete the process because of their inability to pass the citizenship exam or for other reasons. Amnesty applicants will have to face this same citizenship exam.

If the failure and withdrawal rate for people seeking amnesty is similar to the citizenship rate, than close to 800,000 of the 4 million expected to apply may not pass amnesty's second step.

Part of the reason for the high failure rate is the arbitrary nature of the present citizenship exam. The test takes place in the context of a private meeting between the INS examiner and the applicant. There are no standardized questions in the oral exam. No outside witnesses are present. No transcript is made of the questions asked or the answers given.

An immediate reform the INS could institute would be to standardize the exam for both citizenship and amnesty applicants. A list of 50 to 100 relevant questions that might be asked should be developed and distributed to all amnesty applicants. During the test, the examiner could ask five to 10 of these questions.

In addition, thought should be given to what will happen to amnesty applications who fail the test. Draconian visions come to mind of INS vans waiting outside federal buildings for those who fail. The INS should have procedures in place to allow applicants the opportunity to retake the test.

Equally important and in need of attention are the citizenship and English courses for applicants who opt to meet the new law's requirements by enrolling in classes. There are certain logistical problems that neither the INS nor Congress has considered.

Classes in English and citizenship are at a premium. In many areas, long waiting lists or the lack of classes are the norm. In Los Angeles, for example, more than 40,000 people have been turned away from adult education classes in English during the last year.

Compounding the problem is that only five school semesters remain between the amnesty's first step (which can be taken until next May) and the final time an applicant must demonstrate proof of enrollment in English/citizenship classes (within 18 months of step one).

The amnesty program provides us with a unique opportunity to promote the values of U.S. citizenship to millions of people who will truly appreciate the chance to become fully integrated into American life. Unfortunately, little is being done to fulfill this pledge—and time is already running out.●

FORMAL NOTIFICATION—PROPOSED ARMS SALE

● Mr. PELL. Mr. President, section 36(b)(1) of the Arms Export Control Act requires that Congress receive formal notification of proposed arms sales under the act in excess of $50 million, or, in the case of major defense equipment as defined in the act, those in excess of $14 million. Upon receipt of such notification, the Congress has 30 calendar days during which the sale may be reviewed. The provision stipulates that, in the Senate, the notification of proposed sales shall be sent to the chairman of the Foreign Relations Committee.

In keeping with my intention to see that such information is available to the full Senate, I ask to have printed in the RECORD at this point the notifications I have received. The classified annexes referred to in the notifications is available to Senators at the Foreign Relations Committee.

The notifications follow:

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, July 24, 1987.

In reply refer to: I-04115/87 ct.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 87-33 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Navy's proposed Letter(s) of Offer to Canada for defense articles and services estimated to cost $19 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
Director.

[Transmittal No. 87-33]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: Canada.

(ii) Total estimated value:

	Millions
Major defense equipment [1]	$17
Other	2
Total	19

[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Twenty-two SM-2 Standard missiles, spares, container sets, training, test equipment, engineering and technical services.

(iv) Military department: Navy (AKT).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid: None.

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Included in report for quarter ending March 31, 1987.

(viii) Date report delivered to Congress: July 24, 1987.

POLICY JUSTIFICATION

CANADA—SM-2 STANDARD MISSILES

The Government of Canada has requested the purchase of 22 SM-2 STANDARD missiles, spares, container sets, training, test equipment, engineering and technical services. The estimated cost is $19 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of Canada; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

Canada needs these missiles for its Tribal Class Update and Modernization Program. The purpose of this program is to upgrade 1960-vintage destroyers. Canada will have no difficulty absorbing these missiles into its armed forces.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be General Dynamics of Pomona, California.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel or contractor representatives in Canada.

There will be no adverse impact on U.S. defense readiness as a result of this sale.

DEFENSE SECURITY ASSISTANCE AGENCY,
Washington, DC, July 24, 1987.
In reply refer to: I-04257/87ct.

Hon. CLAIBORNE PELL,
Chairman, Committee on Foreign Relations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: Pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, we are forwarding herewith Transmittal No. 87-34 and under separate cover the classified annex thereto. This Transmittal concerns the Department of the Air Force's proposed Letter(s) of Offer to The Netherlands for defense articles and services estimated to cost $58 million. Soon after this letter is delivered to your office, we plan to notify the news media of the unclassified portion of this Transmittal.

Sincerely,

PHILIP C. GAST,
Director.

[Transmittal No. 87-34]

NOTICE OF PROPOSED ISSUANCE OF LETTER OF OFFER PURSUANT TO SECTION 36(b)(1) OF THE ARMS EXPORT CONTROL ACT

(i) Prospective purchaser: The Netherlands.

(ii) Total estimated value:

	Million
Major defense equipment [1]	$49
Other	9
Total	58

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[1] As defined in section 47(6) of the Arms Export Control Act.

(iii) Description of articles or services offered: Forty ALQ-131 electronic countermeasures (ECM) pods, support equipment, spares, and contractor engineering technical support.

(iv) Military department: Air Force (YEU).

(v) Sales commission, fee, etc., paid, offered, or agreed to be paid:

(vi) Sensitivity of technology contained in the defense articles or defense services proposed to be sold: See annex under separate cover.

(vii) Section 28 report: Case not included in section 28 report.

(viii) Date report delivered to Congress: July 24, 1987.

POLICY JUSTIFICATION

NETHERLANDS—ALQ-131 ELECTRONIC COUNTERMEASURES PODS

The Government of The Netherlands has requested the purchase of 40 ALQ-131 Electronic Countermeasures (ECM) Pods, support equipment, spares, and contractor engineering technical support. The estimated cost is $58 million.

This sale will contribute to the foreign policy and national security objectives of the United States by improving the military capabilities of the Netherlands; furthering NATO rationalization, standardization, and interoperability; and enhancing the defense of the Western Alliance.

The Netherlands needs the pods for the additional F-16 aircraft in its inventory. The Netherlands will have no difficulty absorbing this equipment into its armed forces since it already has the pods in its inventory.

The sale of this equipment and support will not affect the basic military balance in the region.

The prime contractor will be the Westinghouse Electric Corporation of Baltimore, Maryland.

Implementation of this sale will not require the assignment of any additional U.S. Government personnel or contractor representatives to the Netherlands.

There will be no adverse impact on U.S. defense readiness as a result of this sale.●

CONFIRMATION OF DR. JAMES BILLINGTON AS LIBRARIAN OF CONGRESS

● Mr. MOYNIHAN. Mr. President, on Friday, July 24, 1987, the Senate confirmed Dr. James H. Billington as our Nation's 13th Librarian of Congress. I was pleased to support Dr. Billington's nomination during our Rules Committee hearings on his nomination and am delighted that the Senate has acted so expeditiously in confirming him. I could not think of a better and more appropriate choice.

I have known Dr. Billington for years. He and I have many a thing in common but what we are probably most proud of is our mutual association with the Woodrow Wilson International Center for Scholars. As Special Assistant to President Nixon, I sat on the first Board of Trustees of the Center when it was in its infancy in 1969.

Thanks to Jim Billington, it is an infant no more. Since 1973, in his capacity as Director, he has worked to make this institution one of the foremost of its kind. The Center promotes advanced study of current international issues as well as those problems which we might encounter well into the 21st century. It does so by providing scholars from many countries the opportunity to study each other's work. Dr. Billington himself embodies this type of scholar. He has spent his life mastering the culture and history of the Soviet Union and worked hard at the Wilson Center to establish the Kennan Institute for Advanced Russian Studies. We have here a man clearly dedicated to the advancement of knowledge and communication between nations, surely my colleagues on this committee and in the Senate recognize how such skills can benefit the Library of Congress.

Just as the Wilson Center has enabled individuals to study different governments and cultures, the Library of Congress serves much the same purpose. It gives thousands of individuals the opportunity to study the numerous volumes housed within its walls.

Dr. Billington understands the needs of scholars and the needs of libraries. From his time as an undergraduate at Princeton University to his work as a Rhodes Scholar to his return to Princeton as a professor of history, he has displayed great dedication to his scholarly work.

Both the Wilson Center and the Library of Congress exist for the purpose of educating; granting individuals with the desire to learn the opportunity to do so. James Billington has been doing just this for over a quarter of a century. I have no doubt that he will put to use his skills as a professor, as an educator and as an administrator to continue the tradition of excellence in the office of the Librarian of Congress.●

JAMES BILLINGTON: UNIQUELY QUALIFIED TO BE LIBRARIAN OF CONGRESS

● Mr. SARBANES. Mr. President, no institution more eloquently reflects the Nation's finest accomplishments, traditions and ideals than the Library of Congress, and I can think of no one better suited to serve as Librarian of Congress than James H. Billington, whose appointment we were fortunate to confirm last week.

By temperament and experience, Jim Billington—who I am pleased and honored to consider a friend of many years' standing—is uniquely qualified to be Librarian. A distinguished scholar and teacher, a renowned authority on Russian history and culture, he received his B.A. from Princeton University and his Ph.D from Oxford University, where he was a Rhodes Scholar at Balliol College. He entered the U.S. Army after leaving Oxford and served for 3 years before beginning his teaching career at Harvard University in 1957. In 1961 he returned to Princeton and remained there, as professor of history, until assuming the directorship of the Smithsonian Institution's Woodrow Wilson International Center for Scholars in 1973. An inspiration to several generations of Princeton undergraduates, widely respected as a scholar and as an observer of Soviet cultural and political affairs, he published his highly regarded treatise, "The Icon and the Axe: An Interpretive History of Russian Culture" during this period.

For the past 14 years, Jim Billington has been the Director of the Woodrow Wilson Center at the Smithsonian. Established by Congress in 1970 as an international institute for advanced study that would bring together "the world of learning and the world of public affiars," the Center, under Jim Billington's leadership, has brilliantly accomplished its purpose. It has drawn to Washington scholars and public figures from all parts of the world and brought them together with their American counterparts, marshalling the extraordinary resources available to scholars in the Nation's Capital and in the process becoming an indispensable new resource. The Woodrow Wilson Center today includes a series of distinguished regional programs, among them the Kennan Institute for Advanced Russian Studies, and publishes the widely respected Wilson Quarterly. In all the many and varied activities of the Center, Jim Billington has always avoided the trivial and focused instead on fundamental issues. He has consistently sought out sage minds, insisted on the highest standards of scholarship and encouraged thoughtful public dialog and debate.

While the Woodrow Wilson Center is a very young institution, the Library of Congress is almost as old as the Nation. In 1800 President John Adams signed legislation authorizing "the purchase of such books as may be necessary for the use of Congress;" and 2 years later the Library of Congress was officially established. Destroyed in 1812 when British forces burned down the Capitol, where it was then housed, the Library was "recommenced" in 1815 with the purchase of Thomas Jefferson's private library. Today its vast collections extend beyond the 18 million books in its catalogs to include maps, charts, engravings, musical scores, films, and photographs.

The Library of Congress has been described as "an intellectual banquet," and "a great El Dorado of information." It is a scholar's paradise and a citizen's haven. It is Congress' library and, in the broader sense, the Nation's library, the people's library. Jim Billington will bring to the Library the same principles that have distinguished his leadership of the Woodrow Wilson Center; further, he will have the respect and friendship of the many Members of the Congress who have had occasion to work with him and seek his counsel during his years at the Woodrow Wilson Center. Congress and the Nation are fortunate to have him as Librarian.●

THE CHILD CARE CRISIS: WHY REGULATION IS IMPORTANT

● Mr. CRANSTON. Mr. President, Helen Blank, director of the Child Care Division of the Children's Defense Fund recently took the time to take exception to a Washington Post editorial that supported Representative NANCY JOHNSON's proposed Child Care Act of 1987.

Ms. Blank's reservations about the approach proposed in the Johnson bill focus upon important issues relating to the quality of child care.

In Helen Blank's words:

> The bill starts off in the right direction by providing desperately needed federal funds to help low-income families pay for child care. But it takes a wrong turn when it allows providers of day care in their homes to participate in this program for as many as three years without meeting any of the state standards that protect children's health and safety.

As the author of legislation in both the last and current Congresses designed to stimulate State efforts to review and upgrade child care licensing and regulation systems, I strongly believe in the need to make sure America's children are cared for in safe and secure environments.

Again in Helen Blank's words:

> When child care is left unregulated, tragedy can result. Last December, in Brooklyn, a fire broke out in an unlicensed family day-care home. The family day-care provider was looking after too many infants and toddlers—more than state standards would have permitted—to get all the children to safety. Two children, ages 4 and 2, were killed.

Child care licensing and regulation exist for a reason: to protect children. Child-to-staff ratios, one of the primary elements of child care regulations, can—and do—protect children by helping prevent tragedies like this from occurring more often.

But child-to-staff ratios are far from the only regulations that protect children. Also critical to the well-being of children in child care are staff qualifications and training, parental participation and access, and health and safety standards.

Providing assistance to low-income families who need child care is an excellent idea, and one I have been trying to achieve for a number of years. But saying to these parents, in effect, we don't care who cares for your children or under what conditions is not a good idea. In fact, it's a bad idea.

When the Federal Government funds child care, it ought to be safe and adequate care. In 1980, Edward Zigler, the first director of the Federal Office of Child Development and former chief of the Children's Bureau, observed that without Federal minimum health and safety standards for federally funded child care programs, "we run the risk of scandals like those in the nursing home field that have periodically shocked the country * * * and the outlook for quality care will be bleak."

As we make strides in addressing the many elements of the child care crisis—and I believe we are making progress—this is no time to back away from the health and safety needs of our children. Instead, it's time—past time—to make sure that we improve every facet of child care in America.

I ask that the entire text of Helen Blank's response be included in the RECORD.

The text follows:

DON'T PUT OFF SAFER CHILD CARE

In seeking better access to child care for more low-income families, we cannot trade off their children's safety. But that is exactly what Rep. Nancy Johnson's Child Care Act of 1987—endorsed by the Post in an editorial [June 20]—would do.

The bill starts off in the right direction by providing desperately needed federal funds to help low-income families pay for child care. But it takes a wrong turn when it allows providers of day care in their homes to participate in this program for as many as three years without meeting any of the state standards that protect children's health and safety. The Post goes along with this approach, recommending that meeting minimum safety requirements be separated from the issue of providing new federal funds for child care.

But the issue of regulation is too urgent to be left for another day. It needs to be addressed now, while the subject is on the table. When child care is left unregulated, tragedy can result. Last December, in Brooklyn, a fire broke out in an unlicensed family day-care home. The family day-care provider was looking after too many infants and toddlers—more than state standards would have permitted—to get all the children to safety. Two children, ages 4 and 2, were killed.

We know that standards make a difference to children's safety. A recent study of child abuse and neglect in North Carolina day-care programs found that complaints against unregistered family day-care providers were three times as likely to be severe as those in registered homes. Futhermore, child-care centers subject to lower standards and less monitoring were five times as likely to be the subject of serious complaints as programs that met higher standards and received more frequent monitoring. Setting and ensuring compliance with basic standards is a widely accepted public responsibility for many public services and health-related jobs; restaurants, doctors, auto mechanics, and bus drivers. Small children deserve no less.

We also know that ensuring quality child care contributes to a more productive work force. Parents lose valuable time on the job when they are worried about their children's care arrangements. A Fortune magazine study of 400 working mothers and fathers with children under 12 found that dissatisfaction with child care was the most reliable indicator of absenteeism and unproductive work time.

Second, decent child care is critical to the healthy development of a growing proportion of our future work force. A number of business and government leaders agree that high-quality early childhood development programs play a key role in getting children off to a good start. Such programs are equally crucial for low-income children; improving their ability to gain basic academic skills, addressing their health and nutritional needs, and helping to ensure that they begin school on a more equal footing with their more advantaged peers.

As the portion of the American population that is young shrinks, we will need every one of our youths to have developed the basic skills to be productive and to help our nation remain competitive. Despite the compelling social and economic case for good child care for all children when their parents are working, children from less well-off families remain only half as likely to get a quality preschool experience as their more affluent peers.

There is a growing consensus that this country cannot afford to continue denying decent child care to millions of young children from working families. Yet the passage of any significant new initiative will demand a groundswell of support from all sectors of our society.

We hope to find common ground with Rep. Johnson and all concerned Americans to develop new solutions that address the child care needs of our families and children.●

S. 1346, THE PERFORMING ARTS LABOR RELATIONS AMENDMENTS

● Mr. METZENBAUM. Mr. President, for too long, the musicians of this country have been denied fundamental rights and protections that millions of working Americans have long enjoyed. Because of an unjust decision by the National Labor Relations Board over 10 years ago, performing musicians in this country have no control over their working conditions. The Board has repeatedly refused to allow these hard-working men and women to bargain collectively with their employers over their wages, hours, and terms and conditions of employment. These talented Americans deserve better. We cannot legitimately justify denying performing artists access to the collective bargaining process that Congress established and made available to others more than 50 years ago. The performing arts labor relations amendments, S. 1346, of which I am proud to be an original cosponsor, would allow musicians to negotiate the terms of their contracts and the terms for their employment. Allowing performing artists these simple rights is fair, it is much-needed, and it is long overdue. I salute my colleague from Hawaii for introducing this important bill, and I pledge to do all that I can in support of his efforts.●

IN MEMORY OF HERB HAYES

● Mr. McCONNELL. Mr. President, I am saddened today to rise in memory of one of Kentucky's truly outstanding men, Herb Hayes, who generously served the people of the Commonwealth with his leadership abilities, good manner, upbeat spirit, and dedication to Kentucky and to the Republican Party. Herb Hayes will be remembered by his many friends throughout the Commonwealth of Kentucky for his service and achievements, and those of us who knew him will deeply miss him.

As a father, a businessman, and mayor, he was a man of achievement. His political career was one of distinction, as well. Herb was the first candidate in the history of Hopkinsville, KY to defeat an incumbant mayor. That election also marked the first time a Republican had been elected to the city's top post. He was inducted into the mayor's office on January 1 of last year, and before that served as Hopkinsville's first Republican member of the city council. Herb was a delegate at the 1984 National Convention of the Republican Party, served as chairman of the Reagan-Bush Campaign in western Kentucky, chairman of Kentucky's 1st Congressional District Republican Party and chairman of the Christian County Republican Party.

Herb's unselfish service to the community gives further testimony to his special and abundant capacity to give. In Hopkinsville he was chairman of the board of the Salvation Army, president of the Rotary Club, president of the Chamber of Commerce, and president of the Association of the United States Army.

Last September he underwent cancer surgery, yet continued to serve the city of Hopkinsville graciously and unselfishly, until his death on June 18.

Mr. President, I ask that my colleagues share my sentiments of tribute to Herb Hayes and remember his vision, generosity, and dedication to Kentucky and its people. I join Herb's wife, Marilyn, and his three children, in mourning his death. Herb Hayes will be sadly and profoundly missed.●

DEREGULATING AIRLINES

● Mr. HUMPHREY. Mr. President, recent editorials in the New York Times and the Washington Times—hardly ideological cousins—illustrate the increasing public furor over our Nation's Air Transportation System. Both suggest worthwhile solutions to the ailments which plague the system and both are welcome additions to a debate too often characterized by cries for reregulation of the airline industry, a nonsolution that would drastically reverse the massive benefits reaped by the American consumer since deregulation in 1978.

Contrary to the opinion of a growing number of deregulation-bashers, the problems associated with our Air Travel System are not the product of the deregulation of the airline industry, but of the continuing overregulation of the system's other components, namely the airports and the air traffic control [ATC] network. Clearly, in the words of the Washington Times, "* * * the Government-managed two-thirds of the Air Traffic System—the Government-regulated airports and the ATC system—simply have not been able to keep pace with swiftly changing market forces."

At the heart of rising public concern for consumer safety and satisfaction is the problem of congestion at many of the Nation's airport "hubs". As the New York Times says, "today, runway space is rationed in Denver the same way vodka is rationed in Leningrad: with lines. If, instead, scarce 'slots' were auctioned to the airlines, passengers most eager to fly at 6 p.m. could buy the privilege." Market forces in the allocation of landing slots would provide incentives for airlines to space their flights more evenly over the course of a day, while awarding peak-hour slots to those carriers most willing to pay the price for their use. Congestion would lessen, and with it, delays and the startling number of "near-misses" and "runway incursions" we hear so much about.

The operation of the free market could and should also be applied to the ATC System, whose capacity is limited by a Federal Aviation Administration [FAA] held hostage by politics. The Washington Times points out that, "rather than focusing on improving the ATC Systems and personnel cohorts at the country's busiest airports like Atlanta and Newark, the politically controlled FAA must consider equitably distributing its resources on a regional basis—Congress, remember, is elected that way."

Mr. President, I submit that the storm of reregulation currently threatening the airline industry is not the answer to our air traffic woes. Rather, the other elements of the system must be similarly freed from restraints imposed by regulation. I will be working in the coming weeks and months on proposals to allow the airports and the ATC System to catch up with the benefits produced by airline deregulation.

I ask that "Airport 1987" from the Washington Times of July 23 and "More Than Band-Aids for Air Delays" from the New York Times of

July 22 be printed in the RECORD. Thank you.

The editorials follow:

[From the N.Y. Times, July 22, 1987]

MORE THAN BAND-AIDS FOR AIR DELAYS

The Senate Commerce Committee is mad as hell about inaccurate airline schedules and won't take it anymore. The committee would require airlines to publish detailed performance information, including the frequency of delayed arrivals, canceled flights and lost-baggage claims.

Who but the airlines and the unsophisticated opponents of regulation within the Reagan Administration would oppose truthful schedules, or resist financial incentives for carriers to schedule fewer flights when the air lanes are most congested? These are fine ideas, but they are Band-Aids. Air travel rests at the very heart of American business and life style. And the air travel system has become horribly inadequate, congested and less safe. Like so many problems the answer is simple—money. But unlike most such problems, the money can be made readily available.

Veteran air travelers have learned not to take schedules literally. They know the 5:55 from Atlanta rarely leaves the ground before 6:45, and that the wait for a gate at O'Hare often exceeds the flying time from Detroit or St. Louis.

Of course, the airlines know it too. But they're also aware that passengers reserve the shortest available flights leaving at convenient hours. And the carriers would much prefer to publish unrealistic schedules than lose passengers to more "optimistic" competitors. If travel agents' reservation computers showed, say, the number of times the flight was more than 15 minutes late in the last month, travelers would be able to make smarter choices.

More important, it would give the airlines an incentive to provide accurate flight times and spread flights into less crowded hours. Truth in packaging would be helpful. So would better management of existing capacity. Today, runway space is rationed in Denver the same way vodka is rationed in Leningrad: with lines. If, instead, scarce "slots" were auctioned to the airlines, passengers most eager to fly at 6 P.M. could buy the privilege. Revenues from such auctions might be used to waive regular airport fees at non-peak hours, giving airlines an additional financial incentive to reschedule flights when they could be most easily accommodated.

There is a limit to the performance that can be squeezed from existing runways, terminals and traffic control computers. That's why in 1982 Congress authorized both a dramatic expansion of the air traffic system and a source of revenue to fund it. Travelers pay an 8 percent user tax on airline tickets, enough to fund the needed concrete, machines and people.

Unfortunately, the airline ticket tax has since become a pawn in the battle to reduce the Federal deficit. Ticket tax revenues count as part of the Federal budget. And once the cash disappears into the general revenue pot, the managers of the aviation infrastructure have no special claim on the funds.

Both the House and Senate now appear ready to scrape together more cash for airport construction and air traffic control. The better, permanent fix, proposed by Senator Kassebaum of Kansas, would clearly label the ticket tax as a user fee and remove both revenues and expenditures for air travel improvements from the regular budget. Travelers would end up with precisely the air traffic system they paid for—which is what legislators might contemplate in their current outrage.

AIRPORT 1987

Like the 99-cent cheeseburger, the $99 coast-to-coast air ticket represents a triumph in American culture. Cheap air fares have made transcontinental travel a staple, not a luxury; and they are an indisputable product of government deregulation. But a new and gruesome popular fiction—that such problems as flight delays and near-misses are a result of deregulation—could inspire Congress to write new regulations, and put an end to the airline boomlet.

When Congress passed the Airline Deregulation Act in 1978, it helped liberate one-third of the nation's air travel system, the commercial air carriers themselves. The other two-thirds of the system, the airports and the air traffic control network, remained in government bondage.

When fare and routing restrictions vanished in 1983 the airline industry experienced a business boom. Between 1969 and 1983 commercial air flights had averaged 5.04 million annually. By 1986 there were a record 6.4 million. In a Brookings Institute study, "The Economic Effects of Airline Deregulation," economists Steven Morrison and Clifford Winston estimate that the increasing social welfare benefits of deregulation have been equally enormous. By their calculations, air travel consumers have realized $6 billion (1977 dollars) annually in deregulation-generated added welfare while the air carriers themselves have realized $2.5 billion.

But the government-managed two-thirds of the air traffic system—the government-regulated airports and the ATC system—simply haven't been able to keep pace with swiftly changing market forces. In the interest of maximizing fuel and airfleet use, airlines have shifted to a hub-and-spoke routing system, which funnels a disproportionate share of the air traffic burden into a few centrally located major airports. Because more passengers want to fly in morning and evening peak slots, and because the CAB and later the Transportation Department have not allowed "biased" listings on the computer reservation systems used by travel agents, all airlines have a double interest in listing flights at certain "premium" times, even if they don't expect to fly at that time.

Suppose an airline has a slot to take off from Washington National Airport anytime between 8:00 and 9:00 p.m., but most people would prefer to leave at the earliest moment in this slot. The DOT anti-bias regulation for computer reservations says that the flights scheduled at 8:00 get listed on the travel agent's computer screen before the flights leaving at 8:15—even if the 8:15 flight is cheaper and shows a movie and is on the air carrier that owns and operates the reservation system. In this situation it makes better marketing sense for the airline to list its flight for an 8:00 takeoff even though it knows the flight is more likely to leave about 8:20. Hence, flight delays.

Since federal laws still don't allow local airports to follow rational economic criteria in charging airlines for takeoff and landing slots there is no pricing mechanism to help ration the use of landing strips. Airports must charge the same landing fees to fully loaded 747s as to empty commuter jets landing at the same time.

The air traffic control system, as a subset of the FAA which in turn is a subset of DOT, is even more prone to bureaucratic inefficiency. Rather than focusing on improving the ATC systems and personnel cohorts at the country's busiest airports like Atlanta and Newark, the politically controlled FAA must consider equitably distributing its resources on a regional basis—Congress, remember, is elected that way.

Great Britain has begun privatizing its air traffic control system by putting local airports in charge of air towers, runways, and other facilities. Local airport proprietors interested in making money take care to maintain and upgrade these facilities. Not surprisingly, local airport services have improved measurably.

Congress should begin working toward privatizing the air traffic control system and letting market forces meet the personnel and service needs of the industry. Political solutions like re-regulation simply allow government to ration services (and increase prices) in ways that please special interest groups. Privatization, on the other hand, lets consumer-responsive entrepreneurs provide better services at a lower price. ●

CONCLUSION OF MORNING BUSINESS

The **PRESIDING OFFICER.** The Chair will observe the time for morning business has now expired.

MINIMUM ALTITUDE FOR AIRCRAFT FLYING OVER NATIONAL PARK SYSTEM UNITS

The **PRESIDING OFFICER.** The clerk will report Calendar No. 259.

The legislative clerk read as follows:

A bill (H.R. 921) to require the Secretary of the Interior to conduct a study to determine the appropriate minimum altitude for aircraft flying over National Park System units, reported with an amendment.

The Senate proceeded to consider the bill which had been reported from the Committee on Energy and Natural Resources, with an amendment to strike all after the enacting clause and insert in lieu thereof, the following:

SECTION 1. STUDY OF PARK OVERFLIGHTS.

(a) STUDY BY PARK SERVICE.—The Secretary of the Interior (hereinafter referred to as the "Secretary"), acting through the Director of the National Park Service, shall conduct a study to determine the proper minimum altitude which should be maintained by aircraft when flying over units of the National Park System. The Secretary of Transportation, acting through the Administrator of the Federal Aviation Administration (hereinafter referred to as the "Administrator"), shall provide technical assistance to the Secretary in carrying out the study.

(b) GENERAL REQUIREMENTS OF STUDY.—The study shall identify any problems associated with overflight by aircraft of units of the National Park System and shall provide information regarding the types of overflight which may be impacting on park unit resources. The study shall distinguish between the impacts caused by sightseeing aircraft, military aircraft, commercial aviation, general aviation, and other forms of aircraft which affect such units. The study shall identify those park system units, and por-

tions thereof, in which the most serious adverse impacts from aircraft overflights exist.

(c) Specific Requirements.—The study under this section shall include research at the following units of the National Park System: Cumberland Island National Seashore, Yosemite National Park, Hawaii Volcanoes National Park, Haleakala National Park, Glacier National Park, and Mount Rushmore National Memorial, and at no less than four additional units of the National Park System, excluding all National Park System units in the State of Alaska. The research at each such unit shall provide information and an evaluation regarding each of the following:

(1) the impacts of aircraft noise on the safety of the park system users, including hikers, rock-climbers, and boaters;

(2) the impairment of visitor enjoyment associated with flights over such units of the National Park System;

(3) other injurious effects of overflights on the natural, historical, and cultural resources for which such units were established; and

(4) the values associated with aircraft flights over such units of the National Park System in terms of visitor enjoyment, the protection of persons or property, search and rescue operations and firefighting.

Such research shall evaluate the impact of overflights by both fixed-wing aircraft and helicopters. The research shall include an evaluation of the differences in noise levels within such units of the National Park System which are associated with flight by commonly used aircraft at different altitudes. The research shall apply only to overflights and shall not apply to landing fields within, or adjacent to, such units.

(d) Report to Congress.—The Secretary shall submit a report to the Congress within 3 years after the enactment of this Act containing the results of the study carried out under this section. Such report shall also contain recommendations for legislative and regulatory action which could be taken regarding the information gathered pursuant to paragraphs (1) through (4) of subsection (c). Before submission to the Congress, the Secretary shall provide a draft of the report and recommendations to the Administrator for review. The Administrator shall review such report and recommendations and notify the Secretary of any adverse effects which the implementation of such recommendations would have on the safety of aircraft operations. The Administrator shall consult with the Secretary to resolve issues relating to such adverse effects. The final report shall include a finding by the Administrator that implementation of the recommendations of the Secretary will not have adverse effects on the safety of aircraft operations, or if the Administrator is unable to make such finding, a statement by the Administrator of the reasons he believes the Secretary's recommendations will have an adverse effect on the safety of aircraft operations.

(e) FAA Review of Rules.—The Administrator shall review current rules and regulations pertaining to flights of aircraft over units of the National Park System at which research is conducted under subsection (c) and over any other such units at which such a review is determined necessary by the Administrator or is requested by the Secretary. In the review under this subsection, the Administrator shall determine whether changes are needed in such rules and regulations on the basis of aviation safety. Not later than 180 days after the identification of the units of the National Park System for which research is to be conducted under subsection (c), the Administrator shall submit a report to Congress containing the results of the review along with recommendations for legislative and regulatory action which are needed to implement any such changes.

(f) Authorization.—There are authorized to be appropriated such sums as may be necessary to carry out the studies and review under this section.

SEC. 2. FLIGHTS OVER YOSEMITE AND HALEAKALA DURING STUDY AND REVIEW.

(a) Yosemite National Park.—During the study and review periods provided in subsection (c), it shall be unlawful for any fixed wing aircraft or helicopter flying under visual flight rules to fly at an altitude of less than 2,000 feet over the surface of Yosemite National Park. For purposes of this subsection, the term "surface" refers to the highest terrain within the park which is within 2,000 feet laterally of the route of flight and with respect to Yosemite Valley such term refers to the upper-most rim of the valley.

(b) Haleakala National Park.—During the study and review periods provided in subsection (c), it shall be unlawful for any fixed wing aircraft or helicopter flying under visual flight rules to fly at an altitude below 9,500 feet above mean sea level over the surface of any of the following areas in Haleakala National Park: Haleakala Crater, Crater Cabins, the Scientific Research Reserve, Halemauu Trail, Kaupo Gap Trail, or any designated tourist viewpoint.

(c) Study and Review Periods.—For purposes of subsections (a) and (b), the study period shall be the period of the time after the date of enactment of this Act and prior to the submission of the report under section 1. The review period shall comprise a 2-year period for Congressional review after the submission of the report to Congress.

(d) Exceptions.—The prohibitions contained in subsections (a) and (b) shall not apply to any of the following:

(1) emergency situations involving the protection of persons or property, including aircraft;

(2) search and rescue operations;

(3) flights for purposes of firefighting or for required administrative purposes; and

(4) compliance with instructions of an air traffic controller.

(e) Enforcement.—For purposes of enforcement, the prohibitions contained in subsection (a) and (b) shall be treated as requirements established pursuant to section 307 of the Federal Aviation Act of 1958. To provide information to pilots regarding the restrictions established under this Act, the Administrator shall provide public notice of such restrictions in appropriate Federal Aviation Administration publications as soon as practicable after the enactment of this Act.

SEC. 3. GRAND CANYON NATIONAL PARK.

(a) Noise associated with aircraft overflights at the Grand Canyon National Park is causing a significant adverse effect on the natural quiet and experience of the park and current aircraft operations at the Grand Canyon National Park have raised serious concerns regarding public safety, including concerns regarding the safety of park users.

(b) Recommendations.—

(1) Submission.—Within 30 days after the enactment of this Act, the Secretary shall submit to the Administrator recommendations regarding actions necessary for the protection of resources in the Grand Canyon from adverse impacts associated with aircraft overflights. The recommendations shall provide for substantial restoration of the natural quiet and experience of the park and protection of public health and safety from adverse effects associated with aircraft overflight. Except as provided in subsection (c), the recommendations shall contain provisions prohibiting the flight of aircraft below the rim of the Canyon, and shall designate flight free zones. Such zones shall be flight free except for purposes of administration and for emergency operations, including those required for the transportation of persons and supplies to and from Supai Village and the lands of the Havasupai Indian Tribe of Arizona. The Administrator, after consultation with the Secretary, shall define the rim of the Canyon in a manner consistent with the purposes of this paragraph.

(2) Implementation.—Not later than 90 days after receipt of the recommendations under paragraph (1) and after notice and opportunity for hearing, the Administrator shall prepare and issue a final plan for the management of air traffic in the air space above the Grand Canyon. The plan shall, by appropriate regulation, implement the recommendations of the Secretary without change unless the Administrator determines that implementing the recommendations would adversely affect aviation safety. If the Administrator determines that implementing the recommendations would adversely affect aviation safety, he shall, not later than 60 days after making such determination, in consultation with the Secretary and after notice and opportunity for hearing, review the recommendations consistent with the requirements of paragraph (1) to eliminate the adverse effects on aviation safety and issue regulations implementing the revised recommendations in the plan. In addition to the Administrator's authority to implement such regulations under the Federal Aviation Act of 1958, the Secretary may enforce the appropriate requirements of the plan under such rules and regulations applicable to the units of the National Park System as he deems appropriate.

(3) Report.—Within 2 years after the effective date of the plan required by subsection (b)(2), the Secretary shall submit to the Congress a report discussing—

(A) whether the plan has succeeded in substantially restoring the natural quiet in the park; and

(B) such other matters, including possible revisions in the plan, as may be of interest.

The report shall include comments by the Administrator regarding the effect of the plan's implementation on aircraft safety.

(c) Helicopter Flights of River Runners.—Subsection (b) shall not prohibit the flight of helicopters

(1) which fly a direct route between a point on the north rim outside of the Grand Canyon National Park and locations on the Hualapai Indian Reservation (as designated by the Tribe); and

(2) whose sole purpose is transporting individuals to or from boat trips on the Colorado River and any guide of such a trip.

Sec. 4. The Administrator shall conduct surveillance of aircraft flights over the Boundary Waters Canoe Area Wilderness as authorized by the Act of October 21, 1978 (92 Stat. 1649-1659) for a period of not less than 180 days beginning within 60 days of enactment of this Act. In addition to any actions the Administrator may take as a result of such surveillance, he shall provide a report to the Committee on Interior and Insular

Affairs and the Committee on Public Works and Transportation of the United States House of Representatives and to the Committee on Energy and Natural Resources and the Committee on Commerce, Science, and Transportation of the United States Senate. Such report is to be submitted within 30 days of completion of the surveillance activities. Such report shall include but not necessarily be limited to information on the type and frequency of aircraft using the airspace over the Boundary Waters Canoe Area Wilderness.

SEC. 5. ASSESSMENT OF NATIONAL FOREST SYSTEM WILDERNESS OVERFLIGHTS.

(a) ASSESSMENT BY FOREST SERVICE.—The Chief of the Forest Service (hereinafter referred to as the "Chief") shall conduct an assessment to determine what, if any, adverse impacts to wilderness resources are associated with overflights of National Forest System wilderness areas. The Administrator of the Federal Aviation Administration shall provide technical assistance to the Chief in carrying out the assessment. Such assessment shall apply only to overflight of wilderness areas and shall not apply to aircraft flights or landings adjacent to National Forest System wilderness units. The assessment shall not apply to any National Forest System wilderness units in the State of Alaska.

(b) REPORT TO CONGRESS.—The Chief shall submit a report to Congress within 2 years after enactment of this Act containing the results of the assessments carried out under this section.

(c) AUTHORIZATION.—Effective October 1, 1987, there are authorized to be appropriated under sums as may be necessary to carry out the assessment under this section.

SEC. 6. CONSULTATION WITH FEDERAL AGENCIES.

In conducting the study and the assessment required by this Act, the Secretary of the Interior and the Chief of the Forest Service shall consult with other Federal agencies that are engaged in an analysis of the impacts of aircraft overflights over federally-owned land.

Mr. HOLLINGS. Mr. President, H.R. 921, the national parks overflight bill, is important legislation. It responds to the numerous complaints made each year by visitors and users of our National Park System about the intrusion and dangers posed by low flying aircraft.

Rather than reiterate the description of the bill and its purposes, I would like to concentrate on the legislation from an aviation perspective. The Commerce Committee initially became involved in H.R. 921 because of a concern that the FAA is and must remain the primary agency for regulating our Nation's civil airspace.

We also became involved to ensure that any such regulation of flight over the Grand Canyon and other national parks does not ignore the fact that safety is—and must remain—our highest aviation priority.

Our committee report makes abundantly clear that any regulations that are developed out of the studies proposed in this bill would be regulations of the FAA, not the National Park Service. While the Park Service may propose changes in how the airspace at certain parks is used, it is the FAA which must determine whether those regulations can be put into effect without adversely affecting safety.

In supporting this bill, I want to thank the chairman of the Energy Committee, Senator JOHNSTON, as well as the ranking Republican, Senator MCCLURE, for assisting us in our request for sequential referral to the Commerce Committee. Our two committees have always worked together in a spirit of cooperation concerning matters of dual jurisdiction, and this has certainly been the case with H.R. 921.

Mr. FORD. Mr. President, I rise in support of H.R. 921. The provisions therein will go a long way toward striking a balance between the rights of individuals to view the beauty of our national park lands from the air while at the same time preserving the quiet and solitude for those who elect to enjoy these precious resources from ground level. I challenge the agencies responsible for implementing the provisions of this legislation to work together on the 3-year study for park overflights and on the air traffic management plan for the airspace above the Grand Canyon.

Mr. President, I want to emphasize the language in the committee's report which reflects that the Department of the Interior should keep in mind when developing its recommendations for overflight of the Grand Canyon that the final regulatory authority for the Nation's airspace rests with the FAA and that this authority is not intended to be diminished or diffused by this legislation.

Mr. McCAIN. Mr. President, I rise in strong support of H.R. 921, and I especially thank the sponsor of the bill, Senator MATSUNAGA; Senator BUMPERS, the distinguished chairman of the Lands subcommittee, and Senators WALLOP, FORD, EVANS, FOWLER, and others who have done so much to make this bill become a reality.

Quite often, Mr. President, we are accused in this body of reacting to situations rather than showing an adequate amount of foresight to prevent crises before they arise. In fact, Teddy Roosevelt said:

> The time has come to inqure seriously what will happen when our forests are gone * * * when the soils shall have been still further impoverished * * * These questions do not relate only to the next century or the next generation. One distinguishing characteristic of really civilized men is foresight * * * and if we do not exercicse that foresight, dark will be the future.

Mr. President, this measure is about foresight. It represents a rare opportunity for us in this body to create a policy to handle an issue before it reaches crisis proportions.

This legislation directs the Department of the Interior, together with the cooperation of the FAA, to study overflights of our National Park System and report back recommendations on how to deal with whatever problems are uncovered.

Mr. President, there was a lot of bloodshed on this bill. For about 3 years I have been involved in it, and I can assure my colleagues that there are people who are dissatisfied with this legislation, either in the belief that it does not go far enough or in the belief it may cause damage to some important industries across the country.

I believe this is a sign of a good piece of legislation and one that is crucial to the continued preservation and great natural beauty of the crown jewels of America, our national park system.

Section 3 of this legislation deals specifically with the Grand Canyon. If parks are the crown jewels of America, I suggest that the Grand Canyon is the brightest of those jewels. Unfortunately, this bill was not soon enough to prevent a problem from developing in that beautiful part of this Nation.

Thirteen months ago, a tragic crash occurred between a helicopter and an air-tour aircraft, causing 26 deaths. This riveted the attention of many of us on an issue I had been addressing for a long time—the need to control flights over the Grand Canyon.

Unfortunately, we failed to heed earlier warning signs. In 1984, the National Transportation Safety Board, reporting on a crash that killed 10 people, called on the FAA to control sightseeing flights over the Grand Canyon. In 1985, National Park Service planners at the Grand Canyon National Park issued the following statement: "The mixture over Grand Canyon of numerous scheduled air-tour operator flights with randomly flying recreational pilots creates a high possibility of midair collisions." Their words, unfortunately, proved to be tragically true.

Recently, the FAA has started taking some action. It imposed a Federal air regulation, which is a good start. I am also pleased to see that recently we are getting the kind of cooperation from the agencies involved that I feel is necessary to prevent a recurrence of tragic accident midair collisions.

This bill makes clear that, along with ensuring visitor safety, we must restore the natural quiet at the Grand Canyon. Current aircraft operations are impairing the natural quiet of many parks, particularly the Grand Canyon. This bill seeks to correct that and to ensure visitor safety by prohibiting flights below the canyon's rim, as well as setting up large flight-free zones over the park.

The purpose of flight-free areas is to provide a location where visitors can experience the park essentially free from aircraft-sound intrusions. The boundaries of these flight-free zones are meant to be drawn to maximize protection to the back-country users and other sensitive park resources. The extent of these areas should be adequate to ensure that sound from aircraft traveling adjacent to these zones is not detectable from most locations within the zones. It is within these zones that we expect to achieve the substantial restoration of the natural quiet.

Mr. President, we regulate everything in our parks. We regulate dogs, campfires, trail use, and river use. Whatever it is, we regulate it, because that is the only way we are going to preserve what we have. I see no reason why overflights should be any exception to that rule.

Section 3 is carefully crafted to best utilize the expertise of the FAA and the National Park Service. The National Park Service, through the Secretary's office, submits recommendations to the administrator of the FAA on what resources are threatened and need protection from aircraft intrusion. They are the governmental agency best qualified to make this judgment. The FAA then uses their expertise in the aviation safety arena to promulgate a rule controlling overflights at the Grand Canyon National Park. By making the best use of the expertise of the National Parks Service and the FAA, we should achieve the substantial restoration of the natural quiet at the park while improving visitor safety.

I might add that the dedicated effort of Mr. Richard Marks, the Director of the Grand Canyon National Park, has been an integral reason why we succeeded with this legislation. He deserves great credit for his outstanding stewardship of the park itself, as well as the role he played in crafting this legislation.

This measure also resists the widespread impulse to micromanage, by setting out a framework and leaving the real decisions up to the agencies with the expertise to make them.

I do not expect the plan envisioned by this bill to be the final word on how to deal with the aircraft problem at this park or any other. So we have set up a review process in the bill to evaluate the effectiveness of the regulation arising from the measure. We should be flexible enough to recognize that changing conditions, such as quieter aircraft, technology, and other reasons, may change the appropriate response to this problem.

Mr. President, I am fully aware of a $50 million air tour industry that has grown up around the Grand Canyon National Park, and I have no objection to it. In fact, I encourage it. We are pleased by the employment and the economic benefits arising from those industries. However, it is important for us to again recognize that the Grand Canyon does not exist for anyone's financial benefit. No one has a right to make money off our Nation's national treasures without, at the same time, fulfilling the obligation of protecting those national treasures. When it comes to a choice between the interests of our park system and those who profit from it, without a doubt, the interests of the land must come first.

I am pleased by the cooperation we have received from many of the air tour operators and the environmental groups in trying to resolve this issue. I believe this bill will enable the air tour industry to continue to thrive and at the same time will preserve the great natural beauty of the Grand Canyon.

Mr. President, the Grand Canyon is not only an Arizona treasure. It is the world's treasure. Over 2.5 million people each year visit the Grand Canyon and view it from one perspective or another.

I believe that the legislation we are enacting today will not only preserve this great natural treasure for our present generation but also for future generations so they can have the incredible pleasure of enjoying one of the great natural wonders of the world.

Mr. MATSUNAGA. Mr. President, I rise in strong support of H.R. 921. I introduced a similar measure earlier this year as S. 451 with the cosponsorship of Senators McCAIN, INOUYE, BAUCUS, CHAFEE, CRANSTON, WILSON, BURDICK, METZENBAUM, MELCHER, BRADLEY, WIRTH, and EVANS.

Mr. President, H.R. 921 responds to growing concerns over the adverse environmental and safety impact of low flying aircraft over our national parks. The sight and sound of helicopters and light planes flying at low altitude over our national parks often sully or destroy the experience of many of the millions of visitors to our national parks. Of greater importance, these aircraft pose a very real safety hazard to both ground visitors and aircraft occupants. The recent collision between a plane and helicopter in the Grand Canyon is a tragic example. In my own state of Hawaii, the fatal 1985 commercial tour helicopter crash near the summit of Haleakala, only 200 yards outside the national park and only a third of a mile from two heavily used visitor centers, is another. Unfortunately, despite the growth in air tour traffic and the growth in the number of visitors to our national parks, neither the esthetic nor the safety aspects of low-altitude aerial incursions over our national parks have resulted in appropriate action by the two agencies with jurisdiction in the matter, the Department of the Interior and the Federal Aviation Administration [FAA].

H.R. 921 addresses the administration's reluctance or inability to act by providing for three things: First, a 3-year study to be conducted by the Interior Department, with FAA involvement, to determine appropriate criteria and procedures for allowing aircraft to fly over national parks; second, a separate FAA study of current FAA rules and regulations, including recommendations for regulatory and legislative actions necessary to improve aviation safety over our national parks; and, third, establishment of interim minimum flight levels for aircraft at two national parks, Yosemite and Haleakala, and permanent flight free zones and minimum flight levels at Grand Canyon National Park.

Mr. President, the original intent of this legislation was twofold: In the short term, to give relief to parks which have experienced particularly serious problems with low-flying aircraft; and in the long term, to give the agencies with greatest responsibility for the safety and environmental aspects of aircraft flights over national parks—the National Park Service and the FAA—the opportunity to pool their resources in resolving the overflights problem. I believe that both purposes are fulfilled by H.R. 921, as amended and reported by the Senate Energy and Natural Resources Committee and the Commerce Committee, and hope that an agreement with the House can be reached on a final version of the bill without delay.

In closing, Mr. President, I would like to express my thanks to my colleagues on both sides of the aisle who worked hard to make this bill acceptable to all interested parties. I particularly wish to thank the chairmen and ranking minority members of the Public Lands Subcommittee [Mr. BUMPERS and Mr. WALLOP], and of the Aviation Subcommittee [Mr. FORD and Mrs. KASSEBAUM], the chairmen of the Energy and Commerce Committees [Mr. JOHNSTON and Mr. HOLLINGS], the senior and junior Senators from Arizona [Mr. DECONCINI and Mr. McCAIN], my senior colleague from Hawaii [Mr. INOUYE], the senior Senator from Washington [Mr. EVANS], the senior Senator from Nevada [Mr. HECHT], and the junior Senator from Colorado [Mr. WIRTH] for their constructive suggestions, support, and expeditious treatment of this legislation. Special note should be made of the contribution made by the junior Senator from Arizona [Mr. McCAIN], who has the unique perspective of having worked in both Houses of Congress on this issue, having been one of the leaders, along with Congressmen COELHO, UDALL, VENTO, and my Hawaii colleague, Congressman AKAKA, in developing the initial House effort to mitigate the impact of aerial incursions in our national parks. Mr. President, without their help, this necessary first step toward resolving the serious but hitherto unaddressed problem of park overflights would not have been possible.

Mr. McCAIN. Mr. President, as an original cosponsor, I would like to engage the sponsor of the Senate bill, the Senator from Hawaii, in a brief colloquy. I would like to clarify our intent, in drafting this legislation, regarding the appropriateness of commercial sightseeing flights over the various units of our National Park System.

Mr. MATSUNAGA. I would be pleased to join the junior Senator from Arizona to clarify the matter.

Mr. McCAIN. Does the Senator from Hawaii agree that in drafting this legislation it was not our intent to eliminate the so-called air tour industry?

Mr. MATSUNAGA. I agree fully with that statement.

Mr. McCAIN. Does the Senator further agree that, in fact, air tours are a legitimate and, indeed, necessary way to enjoy our Nation's natural treasures?

Mr. MATSUNAGA. I concur with that as well. Let me add that in many instances, such as those individuals who are handicapped, aged, injured, or otherwise infirm, this is the only way they can enjoy our park system. And our national parks should be available to all who seek to enjoy them.

Mr. McCAIN. The Senator's point is well taken. I believe we both agree that, when the essential values for which the park was created can accommodate such use, air tours are perfectly appropriate.

Mr. MATSUNAGA. I agree with the distinguished Senator from Arizona, who is a principal original cosponsor of S. 451, the companion measure of H.R. 921, and therefore conversant with its provisions and intent.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendment to be proposed, the question is on the engrossment of the amendment and the third reading of the bill.

The amendment was ordered to be engrossed and the bill to be read a third time.

The bill (H.R. 921) was read the third time, and passed.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. MATSUNAGA. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

CHANGE OF DATE FOR SUBMITTING RECOMMENDATIONS TO THE SENATE COMMITTEE ON THE BUDGET

Mr. BYRD. Mr. President, this request has been cleared with the Republican leader.

I ask unanimous consent that the date for submitting recommendations to the Senate Committee on the Budget in accordance with the reconciliation instructions included in the concurrent resolution on the budget, House Concurrent Resolution 93, be changed to September 29, 1987.

Mr. McCAIN. Mr. President, reserving the right to object—and I will not object—I inform the distinguished majority leader and this body that this has been cleared with the Republican leader and the ranking Republican members of the Budget and Finance Committees.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR H.R. 2855 TO BE PLACED ON THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate receives H.R. 2855 from the House of Representatives, it be placed on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

AUTHORITY FOR H.R. 2971 TO BE PLACED ON THE CALENDAR

Mr. BYRD. Mr. President, I ask unanimous consent that H.R. 2971, a bill dealing with the recovery of costs associated with cotton classing services, be placed on the calendar when it is received from the House of Representatives.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR WEDNESDAY

RECESS UNTIL 11:30 A.M.

Mr. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in recess until the hour of 11:30 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, there be a period for the transaction of morning business not to extend beyond 12 o'clock noon and that Senators be permitted to speak therein for not to exceed 5 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, does the distinguished acting Republican leader, Mr. McCain, have any further statement or any business he would wish to transact?

Mr. McCAIN. No; the Senator from Arizona does not except to again express his appreciation to the majority leader for allowing the expeditious consideration of the resolution concerning General Vessey's trip to North Vietnam, and I am deeply appreciative of the courtesy extended to me.

Mr. BYRD. Mr. President, I thank the distinguished Senator who is always very thoughful and considerate of others. It is characteristic of him and I think it may be well for others to emulate him in that respect.

RECESS UNTIL 11:30 A.M. TOMORROW

Mr. BYRD. Mr. President, if there be no further business, and I understand that the Republican leader has no further business also, I therefore move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 11:30 a.m. tomorrow.

The motion was agreed to; and at 6 p.m., the Senate recessed until tomorrow, Wednesday, July 29, 1987, at 11:30 a.m.

NOMINATIONS

Executive nominations received by the Secretary of the Senate July 27, 1987, under authority of the order of the Senate of February 3, 1987:

THE JUDICIARY

Michael B. Mukasey, of New York, to be U.S. district judge for the southern district of New York, vice Abraham D. Sofaer.

BARRY GOLDWATER SCHOLARSHIP AND EXCELLENCE IN EDUCATION FOUNDATION

Dean Burch, of Maryland, to be a member of the Board of Trustees of the Barry Goldwater Scholarship and Excellence in Education Foundation for a term of 6 years, new position.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

Jerald Conway Newman, of New York, to be a member of the National Commission on Libraries and Information Science for a term expiring July 19, 1992, reappointment.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

Aram Bakshian, Jr., of the District of Columbia, to be a member of the National Council on the Humanities for a term expiring January 26, 1992, vice George Alexander Kennedy, term expired.

U.S. INTERNATIONAL DEVELOPMENT COOPERATION AGENCY

Mitchell E. Daniels, Jr., of Indiana, to be a member of the Board of Directors of the Overseas Private Investment Corporation for a term expiring December 17, 1989, vice Paul J. Manafort, Jr., resigned.

Foreign Service

The following-named persons of the agencies indicated for appointment as Foreign Service officers of the classes stated, and also for other appointments indicated herewith:

For appointment as Foreign Service officers of class 1, Consular officers, and Secretaries in the Diplomatic Service of the United States of America:

Department of Commerce

Richard Benson, of Louisiana.
Vicky Eicher, of Florida.
William Kelly Joyce, of Michigan.

Agency for International Development

W.B. Rogers Beasley, of Tennessee.
John P. Competello, of Florida.
Byrant George, of New Jersey.
Howard B. Helman, of the District of Columbia.
Malcolm J. Purvis, of Florida.
Thomas L. Rishoi, of Florida.
Frank S. Skowronski, of Virginia.
Barry D. Smith, of Indiana.

U.S. Information Agency

Benjamin Goodman Whitten, of California.

For appointment as Foreign Service officers of class 2, Consular officers, and Secretaries in the Diplomatic Service of the United States of America:

Department of Commerce

Carlos F. Poza, of Florida.
Ned Quistorff, of Washington.
Gregory D. Stoloff, of California.
Stephan Wasylko, of Maryland.

Agency for International Development

Jeffory G. Boyer, of Florida.
Michael M. Calavan, of the District of Columbia.
Jonathan M. Conly, of Pennsylvania.
Philippe L. Darcy, of California.
D. Thomas Diedrich, of California.
Geraldine M. Donnelly, of the District of Columbia.
Timm A. Harris, of California.
William H. Jansen II, of Alabama.
John W. Lee, of Virginia.
Josette L. Maxwell, of Florida.
Aubrey F. Mills, of Arizona.
N. Keith Romwall, of Nevada.
Priscilla Schouten, of California.
Peter H. Thormann, of the District of Columbia.

For reappointment in the Foreign Service as a Foreign Service officer of class 3, a Consular officer, and a Secretary in the Diplomatic Service of the United States of America:

U.S. Information Agency

Charla Saylor-Hatton, of Ohio.

For appointment as Foreign Service officers of class 3, Consular officers, and Secretaries in the Diplomatic Service of the United States of America:

Department of State

Luis Enrique Acosta, of Florida.
LaMoyne Mason Matthews, of Maryland.
Olin Winston Morrow, of New Mexico.
Mary Mitchell Tracy, of Virginia.

Department of Agriculture

Charles T. Alexander, of Missouri.

Department of Commerce

Gene R. Harris, of Texas.
Dorothy Lutter, of Massachusetts.
Richard J. Newquist, of California.
Miguel Pardo de Zela, of the Virgin Islands.
Todd Thurwachter, of Kentucky.
Mary Shields-Van Heuven, of Virginia.

Agency for International Development

Beth E. Cypser, of New York.
Molly M. Gingerich, of California.
David A. Himelfarb, of California.
David L. Jessee, of Texas.
Michael P. Keaveny, of California.
James P. Politte, of Missouri.
Patricia Ramsey, of Washington.
Denny F. Robertson, of Michigan.
John C. Starnes, of Texas.
Donna R. Stauffer, of Connecticut.
Tham V. Truong, of Virginia.
Fred W. Witthans, of New York.

U.S. Information Agency

Marguerite Rose Dove, of Connecticut.
Elizabeth Ann Welden, of New York.

For appointment as Foreign Service officers of class 4, Consular officers, and Secretaries in the Diplomatic Service of the United States of America:

Department of State

Richard J. Adams, of Georgia.
Lois Armiñe Aroian, of Virginia.
Paul S. Berg, of New York.
Timothy Alan Betts, of California.
Lee Anthony Brudvig, of California.
Elizabeth Ferre Carroll, of Maryland.
Leigh G. Carter, of Florida.
Ronald James Deutch, of Texas.
Donald Jeffrey Gatto, of Virginia.
Steven G. Ghitelman, of New York.
Brian L. Goldbeck, of Wisconsin.
Sheila S. Gwaltney, of California.
Jeanette Anne Keewaydinodin Hantke, of California.
Kevin J. Harris, of Indiana.
Clifford Awtrey Hart, Jr., of Virginia.
Christopher J. Hoh, of Pennsylvania.
Jeffrey C. Irwin, of Washington.
Eric Grant John, of the District of Columbia.
Siria Rosana Lopez, of Florida.
Kenneth J. Lyons, of New York.
Gray McCalley, Jr., of South Carolina.
Robert Barry Murphy, of New Hampshire.
Stanley Arnold Otto, of Iowa.
Donald Joseph Palke, of Illinois.
Joseph Mark Pomper, of Connecticut.
Gary D. Robbins, of Washington.
Wayne Steven Salisbury, of Washington.
Tim Allan Sears, of Florida.
Thomas Alfred Shannon, Jr., of Florida.
Ronald A. Trigg, of Indiana.
Mary Burce Warlick, of California.
Sheree Welch Willis, of Kansas.

U.S. Information Agency

Peter Meier Brennan, of Oregon.
Melissa Jean Cooper, of Virginia.
Romona Harper, of Florida.
Ian Crawford Kelly, of New Jersey.
Jacqueline Lee Mok, of Texas.
James Robert Moore, of Connecticut.
Honora Mary Feenan Rankine-Galloway, of New York.
Marguerite Hovey Squire, of New Hampshire.
Sonja G. Sweek, of Alabama.
Beverly Ann Thacker-Morgan, of Oregon.
Donna Ann Welton, of the District of Columbia.

The following-named members of the Foreign Service of the Departments of State, Agriculture and Commerce, and the U.S. Information Agency, to be Consular officers and/or secretaries in the Diplomatic Service of the United States of America, as indicated:

Consular officers and secretaries in the Diplomatic Service of the United States of America:

David Wayne Abell, of Arkansas.
Wendell I.C. Albright, of Ohio.
Darlene S. Audibert, of Wisconsin.
Raymond R. Baca, of Maryland.
Charles Carroll Barry, of California.
Jeffrey K. Beatty, of Massachusetts.
Michael J. Bennington, of Texas.
Paul Douglas Birdsall, of Virginia.
Lawrence E. Boring, of Virginia.
Willem Hendrik Brakel, of the District of Columbia.
Edwin Prugh Brown, Jr., of Pennsylvania.
Santiago Busa, Jr., of California.
Floyd Steven Cable, of New York.
Kathryn Ann Cabral, of Massachusetts.
John Leslie Carwile, of the District of Columbia.
Robert I. Cheng, of Virginia.
Kathleen I. Ching, of Maryland.
Casey H. Christensen, of Utah.
Thomas J. Cody, of Massachusetts.
Irene Posner Cohn, of California.
Jennifer Ann Collins, of Maryland.
Jerome Colton, of Maryland.
George Wood Colvin, Jr., of California.
Richard Harlan Cooper, of California.
Stephen Alan Cristina, of Louisiana.
Rowena Rachael Cross-Najafi, of Maryland.
Nora B. Dempsey, of Georgia.
Jeanne Elizabeth DesJardins, of Minnesota.
Theresa Katharina Dirndorfer, of Maryland.
Balaji Dorasiswamy, of Texas.
Paula A. Doyle, of Virginia.
Sarah F. Drew, of California.
Cynthia B. Edwards, of Maryland.
Lemuel F. Eldridge, of Virginia.
Kenneth J. Fairfax, of California.
Daria Fane, of New York.
David R. Farrar, of Connecticut.
John William Finn, of Massachusetts.
Ray Burton Fitzgerald, Jr., of Virginia.
Kenneth Lee Foster, of Virginia.
Lawrence J. Fuchsberg, of New Jersey.
Thomas Henry Goldberger, of the District of Columbia.
Jane Gray, of Arizona.
James L. Griggs, of Maryland.
Kenneth E. Gross, Jr., of Georgia.
Dean Josef Haas, of California.
Scott Reginald Hancock, of Pennsylvania.
Kimberly G. Hargan, of Illinois.
Caldwell Harrop, of Massachusetts.
Leo J. Hession, Jr., of California.
Robin L. Hill, of Washington.
Brian J. Hohlfender, of Pennsylvania.
Patrick S. Hotze, of Kansas.
Arlette D. Johnston, of Texas.
Paul Wayne Jones, of New York.
Stuart E. Jones, of Pennsylvania.
Cynthia Kamp, of the District of Columbia.
Gary P. Keith, of Ohio.
Diane Elizabeth Kelly, of New York.
Paul Richard Kepp, of Virginia.
Elizabeth A. Kimber, of Virginia.
Stephen C. Kimmel, of New York.
James T. King, of Virginia.
Thomas M. King, of New Mexico.
Elise H. Kleinwaks, of New York.
Neil R. Klopfenstein, of Iowa.
Douglas Robert Kramer, of Minnesota.
Theodore Mark Lienhart, of Maryland.
Kent D. Logsdon, of Virginia.
Tamara Sue Lovell, of Virginia.
J. Austin, Lybrand IV, of North Carolina.
Lori Godec Magnusson, of Virginia.
Kathleen H. B. Manalo, of Virginia.
Mark S. Manning, of Virginia.
Paul Jerome Martin, of Texas.
Elizabeth Noel Matthews, of Maryland.
Lynn Sue McAdams, of Indiana.
Doris Ruth McBryde, of South Carolina.
Scott Michael McGehee, of Virginia.
George Kenneth McGhee, of California.

Michael R. Mecham, of the District of Columbia.

Jeffrey Adam Meer, of the District of Columbia.

David Mees, of Masssachusetts.

Richard Mei, Jr., of New York.

Michael F. Melcher, of California.

Larry Lamong Memmott, of Utah.

William J. Millman III of California.

Raphael Angel Mirabal, of New York.

Matthias John, Post Mitman, of Indiana.

Patricia Newton Moller, of Colorado.

William F. Mooney, of Maryland.

Adam Edward Namm, of New York.

Richard Walter Nelson, of California.

Larry E. Nikula, of Florida.

Robert William Ogburn, of Maryland.

Dennis Freestone Olsen, of California.

Aaron M. Panner, of New York.

Charles D. Parker, of Massachusetts.

Christopher J. Parker, of Maryland.

Gail Lynn Parsons, of Ohio.

Peter A. Prahar, of California.

Pamela G. Quanrud, of Massachusetts.

Jeffrey Butler Rock, of California.

George William Rodenberg, Jr., of Texas.

Paul Egon Rohrlich, of New Mexico.

Shirley Eloise Ruedy, of Virginia.

Karen Hideko Sasahara, of Massachusetts.

Denise E. Savino, of California.

Michael Hubert Scanlon, of Connecticut.

Donald V. Schuler, of Virginia.

Elisabeth Schuler, of California.

Todd Paisley Schwartz, of Ohio.

Jennifer Lyn Scott, of Florida.

John R. Seeger, of New Mexico.

David K. Shollenbarger, of Ohio.

Marcella Simon, of Arizona.

Robert J. Sise, Jr., of New York.

Lynne P. Skeirik, of Massachusetts.

Carol Jean Smetana, of New Mexico.

William Hwa Yu Soong, of California.

Bruce John Stewart, of Virginia.

Kevin K. Sullivan, of Ohio.

R. Stuart Swanson, of Arizona.

Peter Jonathan Swavely, of Pennsylvania.

June Sworobuk, of Virginia.

Patricia A. Taylor, of Tennessee.

Paula Sue Thiede, of Texas.

James Cary Thompson, Sr., of Florida.

Laurence Edward Tobey, of New Jersey.

John Michael Underriner, of Illinois.

Pamela F. Underwood, of Virginia.

Patricia Anne Wagner, of Ohio.

Kathleen Lenore Walz, of the District of Columbia.

Andrew Charles Weber, of the District of Columbia.

Joy E. White, of Virginia.

Margaret M. Willingham, of Virginia.

Christopher S. Wilson, of Maryland.

John H. Winant, of California.

Julie Bastian Winn, of Florida.

John D. Woodward, of Pennsylvania.

Zachary M. Wyatt, of Pennsylvania.

Jeffrey M. Zaiser, of the District of Columbia.

Barbara A. Zigli, of Virginia.

Timothy Patrick De San Rafael Zuniga-Brown, of Nevada.

Consular officers of the United States of America:

John Edgar Peters, of Florida.

Marcus E. Lower, of Ohio.

Robert A. Taft, of Connecticut.

Secretaries in the Diplomatic Service of the United States of America:

Jerome J. Bosken, of Ohio.

Margaret A. Keshishian, of the District of Columbia.

Pierre M. Perrolle, of Maryland.

Linda Swartz Taglialatela, of Virginia.

Robert J. Wicks, of Virginia.

Executive nominations received by the Senate July 28, 1987:

THE JUDICIARY

William L. Dwyer, of Washington, to be U.S. district judge for the western dsitrict of Washington vice Donald S. Voorhees, retired.

DEPARTMENT OF STATE

Max L. Friedersdorf, of Florida, for the rank of Ambassador in his capacity as U.S. Representative to the Conference on Disarmament.

HOUSE OF REPRESENTATIVES—*Tuesday, July 28, 1987*

The House met at 12 noon.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Teach us, gracious God, to learn the virtues of kindness and mercy. We admit that in our haste doing those things that we consider so important, we may not always treat people with the benevolence and charity that they deserve. We pray, O God, that we may put aside any harshness or hardness toward others, but practice compassion and tenderness with all people and so fulfill the way of mercy. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 2112. An act to authorize appropriations for fiscal year 1988 for intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes.

The message also announced that the Senate insists upon its amendment to the bill (H.R. 2112) entitled "An act to authorize appropriations for fiscal year 1988 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes," and requests a conference with the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BOREN, Mr. COHEN, Mr. BENTSEN, Mr. NUNN, Mr. HOLLINGS, Mr. BRADLEY, Mr. CRANSTON, Mr. DECONCINI, Mr. METZENBAUM, Mr. ROTH, Mr. HATCH, Mr. MURKOWSKI, Mr. SPECTER, Mr. HECHT, and Mr. WARNER;

For matters within the jurisdiction of Committee on Armed Services, Mr. EXON and Mr. THURMOND to be the conferees on the part of the Senate.

The message also announced that the Senate had passed a bill of the following title, in which the concurrence of the House is requested:

S. 1502. An act to authorize appropriations for the Public Buildings Service of the General Services Administration for fiscal year 1988.

CONGRESS SHOULD PASS BILL TO HELP DISPLACED CENTRAL AMERICANS

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, there are two good reasons why we should pass a bill to help displaced Central Americans.

First of all, because it is the right, humane and decent thing to do. Second, because if we fail to pass this bill we are letting President Duarte of El Salvador, a good friend of the United States, down. President Duarte has been a staunch ally of the United States. Unless we help him out with this problem he will be continuously besieged by the many other problems that affect his country. Let us help him out.

The administration needs to develop a more humanitarian and positive approach to the situation of deportation, more consistent with the Nation's obligations under international law instead of rigid legislative prescriptions.

Mr. Speaker, passing this legislation today is the right thing to do. It is in the tradition of this country, allowing those that have experienced civil and political strife, to find a temporary reprieve from deportation in the United States.

TRIBUTE TO MAC BALDRIGE

(Mr. LAGOMARSINO asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LAGOMARSINO. Mr. Speaker, it is with a profound sense of sorrow and personal loss that I rise today to pay tribute to Malcolm Baldrige, U.S. Secretary of Commerce.

Mac Baldrige was an extraordinary public servant and an extraordinary man; a doer in a world of watchers; a breath of fresh air in a city where speeches are canned and stale. We will miss him more than we know.

I first had the opportunity to know Mac when he accepted the post of Commerce Secretary. Even then he was notable in a Cabinet filled with notable men. A Yale graduate who entered the Army as a private in World War II and rose to the rank of battery commander, he was a self-starter and a self-made man. After the war he took a job as a mill hand in a Connecticut foundry, worked his way up to foreman, then superintendent, and finally president of the firm. Two years later, he became executive vice president of a failing brass mill, and headed a reorganization which turned the firm into a diversified international company with 23,000 employees and annual sales approaching $1 billion.

With all his successes, he remained a down-to-earth man with a taste for hard work. While working on a ranch as a young college student, he learned to rope calves, and later competed in rodeos, a practice he continued all his life, and which was to lead to his untimely death. He was inducted into the Cowboy Hall of Fame in 1984.

If commerce was his life's work, rodeos were his avocation. In 1982, he participated in the Elks rodeo in Santa Maria in my district. When he failed to place and I asked him if he minded, he said, "Hell, no. Some people live to play golf—I like to get out and rope cows."

He was typically blunt and outspoken as Commerce Secretary. One of his first acts in office was to order all memos to be written in plain English, an unheard of thing in most bureaucracies. As Secretary he took the lead in developing U.S. trade policies, transforming his agency into an international force, as he had the company he headed.

He warned of the dangers of one-sided trade, as well as the dangers of protectionism. He was one of the most influential Commerce Secretaries in history, and will be sorely missed.

Yet he was never too busy to think of others, and one of my lasting memories will be of him roping cows at the Capital Centre in Washington, at a special benefit for handicapped kids. Somehow I think that's how he would like to be remembered, and somehow I think he must have been satisfied to have died as he did, pursuing his favorite pastime. We won't forget you, Mac, a real man, a cowboy.

TRIBUTE TO MALCOLM BALDRIGE

(Mr. SMITH of Iowa asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of Iowa. Mr. Speaker, as chairman of the subcommittee which handles funding for the Commerce Department, I have been privileged to

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

know and work with Malcolm Baldrige ever since he became Secretary of Commerce in 1981. His untimely and sudden death was unfortunate for the administration and the country.

He was a loyal member of the Cabinet who was respected by the President and had a lot more influence than commonly believed. He was a straight shooter with the committee and obviously a dedicated public servant whose life and ability to make sound judgments had been enriched by his wide experience as a cowboy, factory worker, and eventually top executive in a company. Long before others were taking notice of management deficiencies in the United States, he vigorously advocated a more hands-on approach for factory managers where they spend time on the factory floor much like Japanese managers do.

He had common sense and has without a doubt proved to be one of the very best of the President's appointments, which again goes to prove that one cannot measure the value of a Cabinet member by the frequency with which his name appears in the news.

INTRODUCTION OF LEGISLATION IMPOSING MANDATORY SANCTIONS AGAINST TOSHIBA CORP., AND KONGSBERG VAPPENFABRIK

(Mr. COATS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COATS. Mr. Speaker, I rise today to introduce legislation mandating sanctions against the Toshiba Corp. I do so only after my efforts to work with the Japanese Government toward solving the difficulties posed by that company's sale of vital strategic technology have been met with silence.

I have been as deeply disturbed as any Member of this body about the transfer of restricted propeller milling equipment to the Soviet Union, and believe that Japan needs to do much more to carry its fair share as an ally. In the belief that it is better to work constructively with our friends, however, I wrote to Prime Minister Nakasone to convey my concern, and asked him to impose strong sanctions and criminal penalties against those responsible.

That was a month ago, and I have received nothing but silence from the Japanese Government. I am now, therefore, introducing legislation which would ban the importation of Toshiba products into the United States for 1 year under the same terms contained in legislation passed overwhelmingly by the other body. My bill would further apply in the future to any other foreign corporation which violates trade agreements with the export of sensitive technology. I have also included provisions safeguarding current contracts made by American business and items vital to our national defense.

Mr. Speaker, the silence of newly milled Soviet propellers is a grave threat to our security. The silence of Japan shows they are unwilling to take meaningful steps in this area. I believe it is time we silence Toshiba to show them just how serious this issue is.

INTRODUCTION OF RESOLUTION TO AUTHORIZE SHORTER ROLLCALLS

(Mr. SKAGGS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SKAGGS. Mr. Speaker, I am introducing today, along with 20 of my colleagues, a proposal to limit the latest method of obstructing the work of the House.

After the Committee of the Whole reports a bill to the full House, a new round of recorded votes can be ordered on every amendment already considered in the Committee of the Whole. A single Member's objections can then force each vote to be a full, 15-minute rollcall.

This could become the House version of a filibuster. It could be used to keep us from doing our work, and to extort concessions by threatening hours of votes.

The solution I and others are proposing is simple. We would authorize the Speaker to shorten to 5 minutes the second and any subsequent votes on amendments previously considered in the Committee of the Whole. This would take the method that works well on suspensions and use it to solve this new problem.

This change would not limit any Member's rights, but it would let us do our work in a more efficient and orderly manner. We spend enough time spinning our wheels, as it is. I urge my colleagues to support this resolution.

LEGISLATION TO BAN THE PENGUIN MISSILE

(Mr. LEWIS of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEWIS of Florida. Mr. Speaker, yesterday I introduced legislation banning the Defense Department from procuring Penguin antiship missiles from the Norwegian company Kongsberg.

This bill sends a clear signal to companies that violate laws governing the transfer of sensitive technology. "Violate the rules and lose access to the U.S. market."

During the past months we have learned how Toshiba and Kongsberg sold the Soviet Union technology that will significantly reduce the noise of Soviet submarines.

By Toshiba and Kongsberg's actions the national security of the United States has been dealt a serious blow. These activities can no longer be tolerated.

While much attention has been focused on Toshiba I believe the United States must send an equal signal to Kongsberg. For this reason I believe we can and should ban Penguin missiles. Kongsberg was an equal partner with Toshiba in this activity.

If we are dealing with businessmen who are only driven by profits we have little choice but to make violations of law and the compromising of the security of the United States and the free world an unprofitable and costly process.

Without stern measures this type of crime will continue to pay.

TIME TO END THE SENSELESS KILLING IN NICARAGUA

(Mr. PENNY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENNY. Mr. Speaker, Witness for Peace, a politically independent faith-based human rights organization, recently reported that a Contra attack killed two unarmed civilians at La Fundadora. One of those killed by the Contra ambush was a 14-year-old, Leopoldo Lanzas Hernandez. Leopoldo and another civilian, Jose Rivera Zeledon, were driving truckloads of corn to the Juan Martinez Agency at about 3:15 p.m. April 14 when Contras ambushed them. The first shot from an AK automatic rifle hit the driver in the head and killed him. The second shot was from a M-79 grenade launcher. As an eyewitness described it, "When the projectile entered it hit the side of the driver, turning him and his assistant into little pieces."

Another eyewitness to this Contra attack said "that the Contras burned the two trucks, including the dead bodies and the corn." Witness for Peace volunteers later visited the scene of the attack and confirmed that both trucks had been burned.

Another civilian, who fortunately survived the attack, said that the dead were wearing civilian clothing.

So who are the victims of the Contras? They are often innocent civilians like this.

Mr. Speaker, it's time to end this violence. It's time to pursue a diplomatic solution in Nicaragua. It's time to end this senseless killing.

THE CONTINUING RESOLUTION LIMITATION ACT

(Mr. SCHAEFER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHAEFER. Mr. Speaker, last week I introduced legislation that will punish Congress for flouting the budget process and relying on a continuing resolution to fund Government programs. The Continuing Resolution Limitation Act would mandate that any measure continuing appropriations into the new fiscal year would fund programs at only 90 percent of the previous year's level. In light of pending consideration on increasing the limit on the public debt, new methods of controlling Government spending should be examined.

Last year Congress abandoned the budget, over which we had agonized for months, and approved a $563 billion continuing resolution. As I'm sure you painfully remember, this CR wrapped all 13 appropriations into a single bill, creating the largest spending measure in history, and ignoring whatever program and project evaluations that were contained in the budget. Furthermore, the last time Congress completed action on all 13 regular appropriations bills without resorting to any continuing appropriations was in 1954.

Like last year, we are failing to meet the budget calendar established under the Budget Act and Gramm-Rudman. At this time the House has approved 8 of the regular appropriations bills, but according to the budget calendar, all 13 were to have been completed before the July 4 recess. Clearly, we are heading toward another CR.

Knowing that a 10-percent penalty would be the cost of dragging its feet and flouting the budget, my bill would force Congress to think twice about ignoring budget deadlines and rushing ill-considered CR's through the closing days of a session. I urge my colleagues to join me in discouraging the use of CR's, and provide the needed incentive for Congress to act responsibly.

ADMIRAL POINDEXTER—ROGUE ELEPHANT?

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, earlier this month Admiral Poindexter testified that he did not tell the President of the diversion of funds to the Contras. He said that he had done so because this would insulate the President in case this thing became public.

□ 1215

Now when one looks at the record of Admiral Poindexter, you find it hard to fathom or believe that such a good officer would all of a sudden become a rogue elephant.

I also find it very hard to believe that a man that is known for a quote, unquote photographic memory would testify over 100-plus times that he could not recall. In fact, if anybody in this House believes the testimony of Admiral Poindexter I have some swampland in Florida I would like to talk to you about.

Mr. Speaker, the President had a hands-on policy in Grenada and he talked about it, he had a hands-on policy in Lebanon and he talked about it. He talked about his hands-on policy with Qadhafi. But all of a sudden the President knows nothing about what happened with this Contra scam.

I think it is time that the American people and Congress recognize that not all that is coming forth at these hearings is really the bottom line on what really occurred.

Think about it.

"NEW AND IMPROVED" TAX FORMS

(Mr. BUECHNER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUECHNER. Mr. Speaker, as soon as tax reform was passed last summer, the IRS got busy drawing up new and improved tax forms: the W-4 was one of them. The new and improved W-4 was even more difficult and complex than ever. And if you made even an honest mistake in completing it, there was the possibility of being fined $500.

The IRS admitted that this form was complicated, and introduced a simplified version. But the $500 fine remained. This concern led me to introduce legislation that would rescind that fine at least to give the American taxpayers a chance to at least get used to the new form. My bill enjoyed widespread support from colleagues on both sides of the aisle, including both the majority and minority whips. And I thank them for it. In addition to the legislation, I wrote the IRS urging them to reconsider the $500 fine. Just yesterday, the IRS responded. Yes, they did reconsider. And yes, they did rescind the fine. Mr. Speaker, together with millions of honest American taxpayers, I breathe a sigh of relief that the IRS did away with that stiff penalty. I am also proud, Mr. Speaker, that the work we House sponsors of H.R. 1347 did has resulted in this small victory for the average American taxpayer.

ADDING A NEW ELEMENT OF SANITY TO PERSIAN GULF POLICY

(Mr. DOWNEY of New York asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DOWNEY of New York. Mr. Speaker, today I am introducing a resolution which will, I believe, add a new element of sanity to a Persian Gulf policy which continues to border on the insane.

As we speak here today, the supertanker *Bridgeton* is being readied for its return trip down the Persian Gulf. It is a journey, as events of the past week have vividly demonstrated, that is far from risk free.

What does this concurrent resolution do? My colleagues, it is a simple, and practical call to the United Nations to offer its flag to nonbelligerent shipping in the Persian Gulf. The resolution, whose counterpart has already been introduced in the other body by my senior Senator, would also instruct the U.N. to establish a U.N. naval peacekeeping task force that would be assigned the responsibility of escorting all U.N.-flagged ships.

This is a call for common sense, not a call to cut and run from the gulf. This is an opportunity for us to pursue all of our established goals in the area:

An end to the tensions in the Persian Gulf which continue to feed the Iran-Iraq war;

It curtails a greater Soviet role in the area;

It ensures the free flow of oil out of the gulf, while ensuring the participation of the international community; and

Finally, it allows us to maintain our commitment to the principle of freedom of navigation in the Persian Gulf.

In short, this is a resolution that urges the use of diplomatic deterrence. It will help to stabilize a situation that continues to border on the explosive, and will help to rescue us from the plight of further, and unnecessary involvement in the gulf war.

I urge my colleagues to support the resolution which I introduce today.

TRIBUTE TO SECRETARY MALCOLM BALDRIGE

(Mr. ROBERT F. SMITH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROBERT F. SMITH. Mr. Speaker, colleagues, it is in great sadness that I rise before you this morning to note the passing of a dear friend and an exceptional leader, Commerce Secretary Malcolm Baldrige.

Many here, on both sides of the political aisle, knew and respected Mac for his no-nonsense, highly effective work on rebuilding America's stature in world trade. Those who worked closest with him, to a person, will remark that this loss feels far more like that of a family member than a coworker.

Many others, like myself, had the opportunity to spend time with Mac outside the office. In my case, many of those hours were on horseback, on the weekend rodeo circuit, where he was always regarded as a tough competitor.

As effective as he was as a leader of men and of nations, it was clear that no roof could be built over Mac's first love, the great American West.

He was a skilled rider. He was a dear and loyal friend. He was an exemplary father and husband. He was an exceptional patriot.

Mac was the very image of the term "Original American Hero."

He will be sorely, deeply missed by his many friends and by the Nation which he loved so much and served so well.

VOTER PARTICIPATION ACT OF 1987

(Mr. BENNETT asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. BENNETT. Mr. Speaker, I rise today in support of a bill I am now introducing—the Voter Participation Act of 1987—to provide for election day and mail registration for Federal elections. This is much-needed legislation that will bolster democracy here in the United States.

The Congressional Research Service, which wrote a report for me on this legislation, has confirmed its constitutionality. In addition, CRS provided me with some interesting statistics. For instance, in the 1980 general election, 52.6 percent of all voting-age Americans turned out to vote. This is a distressingly low figure, particularly for a Presidential election. However, in five States that allow for more liberal or election day registration, the participation was much higher. They voted as follows: Maine 64.6 percent; Minnesota 70.1 percent; North Dakota 64.8 percent; Oregon 61.5 percent; and Wisconsin 67.2 percent.

These figures are startling. We speak a lot about democratic values and the need to foster democracy abroad. Yet our array of conflicting State election laws makes it difficult for people to do the one thing fundamental to democracy: vote. While Congress can't constitutionally take away the States right to regulate elections, we can establish laws in regard to Federal elections. Under article I, section 4, clause 1 of the Constitution, Congress has the explicit authority to regulate congressional elections.

> "Times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the Legislature thereof: but the Congress may at any time by law make or alter such regulations, except as to the places of choosing of senators."

In view of this, my legislation is clearly constitutional. This bill would put these changes within the purview of the Federal Elections Commission, in consultation with the chief election officials of the States. The FEC, with the States assistance, would prescribe such regulations as may be necessary to carry out this bill.

In a country with such great democratic principles, we ought to make it as easy as possible to vote. My bill removes one more excuse for people to stay home. Election day and mail registration for Federal elections is common sense. There is always hesitancy on the part of Congress to act on matters such as these. But if we don't, who will?

Mr. Speaker, I include herewith the text of the bill I have introduced today:

H.R. 3023

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Voter Participation Act of 1987".

SEC. 2. REGISTRATION PROCEDURES WITH RESPECT TO FEDERAL ELECTIONS.

Title III of the Federal Election Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended by adding at the end the following:

"REGISTRATION PROCEDURES

"SEC. 324. (a) An individual who is otherwise eligible to vote in an election for Federal office may register to vote in the election by submitting a registration form, in person or by mail, to the appropriate State election official. State election officials shall accept any otherwise valid registration form that is received not later than 20 days before the election.

"(b) An individual who is otherwise eligible to vote in an election for Federal office may register to vote in the election at the appropriate polling place on the date of the election.

"(c) Each State shall take such action as may be necessary, with respect to elections for Federal office, to provide for maximum accessibility to registration offices and forms.

"(d) The Federal Election Commission shall, in consultation with the chief election officers of the States, prescribe such regulations as may be necessary to carry out this section. In prescribing such regulations, the Commission shall, to the maximum extent practicable, take into consideration the need for uniformity in voter registration procedures in the States.

"(e) This section shall not prevent any State from providing greater access to voter registration than that provided for under this section.".

SEC. 3. EFFECTIVE DATE.

The amendment made by section 2 shall apply with respect to elections taking place after December 31, 1989.

CONGRATULATIONS TO T. ALAN McARTOR ON HIS APPOINTMENT AS ADMINISTRATOR OF FAA

(Mr. SUNDQUIST asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SUNDQUIST. Mr. Speaker and my colleagues, I rise today to congratulate a constituent and friend, T. Alan McArtor as he assumes the position of new administrator of the FAA.

Anyone who has flown lately knows we have serious problems with commercial airlines scheduling. It does not matter if it is a child visiting grandparents or family on vacation or a business person trying to close a deal or, yes, those of us in Congress trying to get back.

Airline scheduling problems to me—I time it whether I arrive early late or late-late.

Yesterday, I was late-late and the irony of all ironies is that I missed the swearing-in of the new Administrator of FAA because Northwest Airline flight No. 852 from Memphis to Washington, DC was almost 1½ hours late.

Alan McArtor has had many challenges in his life, whether it was in defense of this country or in the private sector. I predict trying to organize the FAA and the commercial airlines in this country will be his biggest challenge.

Airlines have prospered under deregulation. It is time we insist that they act responsibly in serving the public.

TRIBUTE TO SECRETARY BALDRIGE

(Mr. BONKER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BONKER. Mr. Speaker, this weekend I was stunned to learn about the death of our Secretary of Commerce, Malcolm Baldrige. It has been noted that Mr. Baldrige has been the longest serving Commerce Secretary in history. I would add that he has also been one of the Nation's finest public officials. There was no one in the Reagan Cabinet I worked with more closely and for whom I had greater admiration than Malcolm Baldrige.

We collaborated on trade policy and mutually worked to reform and improve the Government's export control laws.

On Capitol Hill there were few Cabinet officers who elicited more respect or whose testimony carried more weight than Secretary Baldrige. His legacy is one of integrity, competence, courage and vision. He embodied all the qualities that we in public life admire.

Mr. Baldrige will be missed by scores of us in both branches of Government, in the American business community and those who truly cared about a responsible trade policy.

He will be greatly missed by those who were closest to him and loved him the most, especially his wife, Midge, and his immediate family.

Our country has lost a true servant who gave the best he had to the country he loved the most.

APPOINTMENT AS MEMBERS FROM PRIVATE LIFE TO NATIONAL COMMISSION ON RESPONSIBILITIES FOR FINANCING POSTSECONDARY EDUCATION

The SPEAKER. Pursuant to section 1321, Public Law 99-498, the Chair appoints the following members from private life to the National Commission on Responsibilities for Financing Postsecondary Education:

Mr. Leslie Koltai of Los Angeles, CA;

Mr. Thomas Butts, of Ann Arbor, MI; and

Mr. R. Marshall Witten, Bennington, VT.

APPOINTMENT AS MEMBERS FROM PRIVATE LIFE TO ADVISORY COMMITTEE ON STUDENT FINANCIAL ASSISTANCE

The SPEAKER. Pursuant to section 407, Public Law 99-498, the Chair appoints the following members from private life to the Advisory Committee on Student Financial Assistance:

Mr. Jim Craig of Bozeman, MT;

Mr. Joe L. McCormick of Austin, TX; and

Mr. Jeffrey A. Flatten of Clearwater, FL.

APPOINTMENT AS MEMBERS OF DWIGHT DAVID EISENHOWER CENTENNIAL COMMISSION

The SPEAKER. Pursuant to the provisions of section 4 of Public Law 99-624, the Chair appoints as members of the Dwight David Eisenhower Centennial Commission the following Members on the part of the House:

Mr. STRATTON of New York;

Mr. GLICKMAN of Kansas;

Mr. SLATTERY of Kansas;

Mr. GOODLING of Pennsylvania;

Mr. EMERSON of Missouri; and

Mr. ROBERTS of Kansas.

TRIBUTE TO SECRETARY BALDRIGE

(Mr. ROTH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROTH. Mr. Speaker, our Nation has suffered a terrible loss in the tragic death of our Secretary of Commerce, Malcolm Baldrige. Mac was a good friend, a statesman, and a man of honor. He was loved and respected by those who worked with him and by those of us in Congress who felt his deep concern for the prosperity of the American people.

We will miss him, his keen judgment, his down-home charm, and his straight forward approach to the problems facing this Nation. I join my colleagues today in expressing to his wife and family our deepest sympathies. His memory will be long-lived by the people of Wisconsin who had the opportunity to know this fine gentleman.

THE ADMINISTRATION DESERVES BIPARTISAN SUPPORT IN DEALING WITH GENERAL NORIEGA

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, yesterday in Panama City the "dobermans", as the troops loyal to General Noriega are called, brutally arrested Col. Roberto Diaz Herrera, Noriega's leading critic. The Government also closed the leading opposition newspapers. These actions further discredit General Noriega and further distance him from the United States.

Mr. Speaker, I rise today to praise the administration for cutting off military and economic aid to Panama, and for making it clear to the Panamanian people that we support their struggle for democracy.

In these times when Congress and the administration are deeply divided over many foreign policy issues, it is especially important to point out that there are some areas where we agree.

The administration seem to have learned the lesson about dictatorships and is sending the right signal to General Noriega at the right time. It deserves bipartisan support. We are closer, we and the administration, to adding the name of Panama City to Manila, Port-au-Prince and Seoul and all-too-needed successes in foreign policy. All of us can seize this opportunity to support the spread of democracy.

□ 1230

A TRIBUTE TO THE LATE MALCOLM BALDRIGE

(Mr. ROWLAND of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROWLAND of Connecticut. Mr. Speaker, it is not surprising to see so many Members from both sides of the aisle taking to the well to pay tribute to a very special individual, a great leader, a very special person to many of us in the Congress, to many of those in the administration, and to thousands of people throughout the State of Connecticut.

Secretary of Commerce Mac Baldrige died in a tragic accident this weekend, and this has left a tremendous void in the lives of many Americans. Mac will be remembered as a gentle, caring man, someone who always had time for his friends, who was loyal and considerate. He always had time to champion his favorite causes, which ranged from a variety of charitable organizations to a summer basketball camp in an urban city, in Waterbury, CT.

His quiet, compassionate approach to Government captured the imagination of everyone here in Washington. He was a giant in industry, he was a giant in politics, and he was a giant in civic duty, but, most importantly, Mac Baldrige was a giant as a human being. He was someone we all looked up to with respect and admiration.

Mr. Speaker, I am sure all my colleagues on both sides of the aisle join me in sending our deepest sympathy to Mac's beautiful family. Our good friend, Mac Baldrige, will be sorely missed by all of us.

THE ECONOMIC LEGACY OF THE REAGAN ADMINISTRATION

(Mr. MOODY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MOODY. Mr. Speaker, we were privileged to have the President of the United States yesterday in Wisconsin, and we warmly welcomed him. We were happy to see him. We respect the office, and we appreciate his visit.

I am also glad to see that the President has begun to talk about economic issues and get away from the Iran scandal, because it is going to be the economic policies of this administration that will live long after the Iran scandal has died down. I am happy to see the President come out for an economic bill of rights, which shows that the Government does have a responsibility to ensure the economic stability and growth of this Nation. Unlike the first 6 years of rhetoric, which was to "get the government out of our lives and off our backs," the President has finally come around to the notion that government has an ultimate responsibility. So we welcome all that.

But I think the President is pointing his finger in the wrong direction when he criticizes the Congress for the deficits. Yes, we made some very serious mistakes in this Congress in following his policy recommendations in 1981 that put us in such a deep hole, doubled the deficit and absolutely murdered our exports in agriculture and manufacturing. But since that time Congress has been a restraint on the President's economic policies of borrow and spend. Congress has voted out less spending by $18 billion over these last 6 years than the President has asked for. And as my friends know, the President's total request for spending now exceeds $6.3 trillion, which exceeds that of President Johnson, President Nixon, President Carter, and President Ford all combined. So the idea that the President is a spendthrift should be mentioned.

But perhaps the most serious legacy of this administration in the economic area is going to be the $236 billion in foreign debt that has now been amassed. We have gone from being the world's largest creditor nation to the world's largest debtor nation in 5 short years, costing us about $20 billion a year now in export earnings and interest-bearing costs.

Mr. Speaker, the children who were cheering so loudly yesterday in Wisconsin will have to bear that legacy.

TO AMEND THE CIVIL RIGHTS OF INSTITUTIONALIZED PERSONS ACT

(Mr. RAVENEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RAVENEL. Mr. Speaker, the Civil Rights of Institutionalized Persons Act affords protection for those Americans living in the Nation's institutions and subdivisions thereof.

It is good law, but the procedure for involving the Justice Department in times of desperate need I found painfully wanting several years ago when Congresslady **Patterson** and I were members of the South Carolina General Assembly and involved in solving problems with our department of mental health.

Today, we are introducing companion legislation to that introduced by Senator **Weicker** in the other body last week. It will amend the Institutionalized Persons Act to permit the Attorney General to commence all investigation of an institution when protection and advocacy determines that conditions pose an immediate threat to the lives of the individuals residing there. Upon receipt of such a request the Attorney General shall commence an investigation within 48 hours, notwithstanding any other provisions of law.

Several years ago when I was a State senator and deplorable conditions at the South Carolina Department of Mental Health came to light, I was successful in having the Department of Justice investigate the situation under the Civil Rights of Institutionalized Persons Act. But getting the Justice Department involved was a frustrating and monumental task. Not only was the mandated process counterproductive, but the Justice Department itself, represented by Assistant Attorney General William Bradford Reynolds, fought attempts to get Justice involved every step of the way. Finally, it took the good offices of Senator **Strom Thurmond** to get Reynolds to move. Subsequently, the Justice Department determined that the allegations made about the department of mental health were true.

In 1985, I was invited by Senator **Weicker** to give testimony before his Subcommittee on the Handicapped examining the care and treatment of the Nation's institutionalized mentally disabled persons. At the hearings it came out that others have had similar bad experiences with the Civil Rights Division of the Justice Department and Mr. Reynolds. Out of these hearings Senator **Weicker** has introduced legislation in the Senate to amend the Civil Rights Institutionalized Persons Act to establish a role for protection and advocacy systems in actions taken by the Justice Department with respect to institutions for the disabled.

Today Congresswoman **Elizabeth Patterson** and I are introducing companion legislation to that introduced by Senator **Weicker** last week. specifically, the legislation will do the following.

First, it adds the protection and advocacy system to the list of those in the State who are notified by the Attorney General when a Civil Rights of Institutionalized Persons Act investigation commences.

Second, it requires the Attorney General, subsequent to its investigation, to provide the protection and advocacy unit with a draft of its findings and proposed remedial measures, so that the protection and advocacy unit may review and comment upon its contents prior to transmittal to the Governor.

Third, the protection and advocacy unit will be permitted to participate in negotiations between Justice and State officials leading to a resolution of the unconstitutional conditions.

Fourth, if a consent decree is to be filed, the protection and advocacy unit will have the authority to review and comment upon the terms of the decree prior to filing.

Fifth, once the consent decree is filed, the protection and advocacy will have up to 5 days to intervene in the proceeding, if it wishes to do so. Finally, and most importantly, the legislation requires the Justice Department, when the protection and advocacy has reason to believe a life threatening situation exists in an institution and requests Justice's involvement, to begin an investigation within 48 hours.

A TRIBUTE TO THE LATE MALCOLM BALDRIGE

(Mr. LEVIN of Michigan asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. LEVIN of Michigan. Mr. Speaker, Malcolm Baldrige proved that respect does not depend on agreement on every issue. Malcolm Baldrige was truly respected because he cared, he was candid, and he was committed to public service. He did not malign the Government he was serving.

Malcolm Baldrige acknowledged that there was a serious problem in our trade imbalance, and he worked hard to resolve it. I had the privilege of working with him and with Members of this body to help start the MOSS talks on auto parts. His death was a real shock to those of us who knew him and a true loss to the entire Nation.

Mr. Speaker, my deepest condolences go out to his entire family.

A CASE FOR REREGULATING THE AIRLINE INDUSTRY

(Mr. BURTON of Indiana asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURTON of Indiana. Mr. Speaker, the airline system in the United States is a national disgrace, a tragedy, an abomination; it is goofy and in need of immediate change.

If what we have now is a result of deregulation, then I am for reregulation. As a conservative Republican, I have long believed that Government intervention should be held to an absolute minimum, that the best government governs least, but after sitting on runways for over 4 hours, having flight after flight delayed or canceled, after circling over Washington, DC, Indianapolis, and countless other cities for hours on end, I can tell the Members it is time for a change. Congress must act. Even Congress cannot mess it up any worse than it is.

Yes, Mr. Speaker, you heard right. I am for Government to control and regulate air travel. The airlines have been given a chance to do it themselves with little Government intervention, but they cannot or will not do it. We must do something now.

EMPLOYMENT SECURITY FOR AMERICAN WORKERS

(Mr. CONYERS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONYERS. Mr. Speaker, with the beginning of the historic contract negotiations between the United Automobile Workers and General Motors and Ford, we have an important opportunity to examine employment security and develop what I think may be an almost constitutional premise that a job is a right for all Americans.

Closing American plants have been no answer to our economic problems, even though the profits for many of the auto makers have kept rolling in. Collective bargaining was originally developed in this country to secure jobs, but the new innovation of closing plants without going out of business has put thousands and thousands of workers permanently on the unemployment rolls. Since 1981, 4 million jobs have been exported, and that costs the economy through both loss of revenue and increased social program demands.

Mr. Speaker, invest in America—that should be the first premise. And then we can, secondly, buy in America.

THE COMPOUNDING OF SUGAR ERRORS

(Mr. PORTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PORTER. Mr. Speaker, the abuses of our domestic sugar program seem to be endless. First, we protect the growers at the expense of our trading partners and taxpayers. Now our sugar refiners who have been hurt by our misguided policy also want relief—to the tune of $365 million in drawback payments.

Recently the other body agreed in its trade bill to give several Fortune 500 sugar refining companies a gift to apologize for hurting their business. No doubt our domestic sugar program is hurting them—imports are down from 4 million tons to 1 million tons—virtually eliminating three-fourths of their market. But should we change the rules of drawback for one industry? But more importantly, we do not have the money to give to these companies. Is there really an extra $365 million in our budget waiting to be drawn back?

Our sugar price supports continue to inflict pain and suffering on our economy and continue to ask all of us to pay—our consumers, taxpayers, and trading partners. Sugar price supports are a mistake—but let us not compound the problem with another one.

PROTECTING AMERICAN DEFENSE TECHNOLOGY AND AMERICAN JOBS

(Mr. KOLTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KOLTER. Mr. Speaker, I rise today to urge Secretary of Defense, Caspar Weinberger, to halt plans of coproducing our most sophisticated, field military equipment to date, in Egypt. I am speaking of the manufacture of the M-1A1 tank.

In addition to receiving jobs normally reserved for the American worker, Egypt will receive highly sophisticated, and extremely sensitive, defense technology. I realize that Egypt is our friend, but Egypt also has a friend, in the Middle East, which is at war with Iran. American defense technology, placed in the hands of Egypt, could very easily find its way to Iraq. After reflagging Kuwaiti vessels, one can only guess, what impact, closer ties to Iraq, through their allies, might have on the United States presence, in the Persian Gulf.

All of us have voted on defense budgets. American citizens have paid, enormous sums of money, through their hard-earned tax dollar, for the tank and other weapon systems. Handing over technology to Egypt, just doesn't make sense.

Secretary Weinberger should reconsider this move. It is a slap in the face of the American worker. Factories in Michigan and Ohio have already produced M-1 tanks. Let them continue to do so.

By manufacturing the M-1 tank on American soil, we will keep American jobs at home, keep American technology secure and, quite possibly, keep America out of war.

TRIBUTE TO HEXAGON, INC.

(Mrs. MORELLA asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. MORELLA. Mr. Speaker, I bring to your attention the applause, the delight, the wonder of our stage: Hexagon, Inc., a local theatrical group recently awarded the President's Volunteer Action Award, one of 17 such outstanding volunteer groups in the Nation. President Reagan officially recognized Hexagon's activities and achievements at a White House ceremony attended by immediate past president Gerry Borger of my Eighth Congressional District and current president John V. "Skip" Maraney.

Founded in 1955, Hexagon, Inc. uses the universal language of humor and laughter to raise money for charity. Modeled after the Princeton University Triangle Club, Hexagon focuses its performances on political satire.

In its early years, the group performed one weekend a year, and raised approximately $1,000 for a charity in the Washington area. In the early 1970's, Hexagon began to grow. It moved to a larger auditorium, began advertising, and expanded its run to two weekends. In this time, the group raised about $20,000 to $30,000 annually for such worthy groups as the American Cancer Society, the D.C. Kiwanis Crippled Children Clinic, and Second Genesis, a drug rehabilitation program. In the late seventies, Hexagon further defined its guidelines to direct the show's proceeds to the specific needs or activities of a Washington-based charity that directly benefits Washington-area residents.

As the group grew and became better known, those proceeds grew along with it. In 1979, Hexagon raised $75,000 for the Capitol Children's Museum. Between 1981 and 1986, the show raised over $763,000 for six community organizations: for example, to install a new roof and expand the dining room of a soup kitchen; to purchase equipment for a training center in a children's hospital, and to develop a recreational program for the visually handicapped. Through 1987, Hexagon has raised approximately $1,300,000 for area charities.

In 1987, 400 volunteers took part in the Hexagon production, which raised $135,000 for the Higher Achievement Progam, or HAP which itself received the President's Volunteers Action Award in 1982. The funds are being used to expand and upgrade HAP's six tutoring centers for low-income, high-aptitude chidlren in Washington's inner-city neighborhoods.

Hexagon even has a congressional history. Several current and former colleagues, including Speaker of the House Thomas P. (Tip) O'Neill and Representatives RICHARD GEPHARDT, DAN GLICKMAN, PETER KOSTMAYER, and ROBERT DORNAN, have taken part in Hexagon productions.

Mr. Speaker, it has been said that humor saves a few steps, and saves years. Keep up that great political satire, Hexagon, so that we will never forget how to laugh at ourselves. I would like to ask my colleagues in the Congress to join me in extending the heartiest of congratulations to Hexagon, Inc. for earning the very worthy and prestigious President's Volunteer Action Award.

SECRETARY OF STATE SHULTZ—A "FASCINATING" WITNESS

(Mr. DORNAN of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DORNAN of California. Mr. Speaker, as the Iran-Nicaraguan opposition hearings unwind and we lose a great soap opera off our televisions, let me make a few observations about one of the more fascinating witnesses, our Secretary of State, Mr. Shultz.

One of the reasons I would like to have been on that distinguished panel would not have been to confuse Mr. Shultz but, rather, to show my fascination for a man that has found the key in this conservative administration which makes liberals dust off his boots.

☐ 1245

That quality makes him very valuable to our President. However, I would have asked the Secretary of State three things, and made one observation.

I would have asked him why he forced that meeting with Oliver Tambo, president of a terrorist organization in Africa that loves to burn people to death slowly by using kerosene instead of gasoline. Then I would have asked him if he knew where Tambo was 48 hours before his meeting with Mr. Shultz.

I also would have asked if he did not know Tambo had his arms around the Ortega brothers down in Managua as Kris Kristofferson "nubbled" some nauseating song about how communism should triumph down there.

Then there are three things I would have asked him about the State Department; the first being where he as the boss stood on the liberation of Grenada. The State Department was 80 percent against it.

I would have asked him where he stood on the forcing down of a friendly nation's 737 Air Egypt airplane onto the soil of Sicily in order to capture the *Achille Lauro* hijacker, Abu Abbas.

The State Department was 90 percent against that action item. Then I would have asked him where he stood on the very fascinating bombing of Qadhafi's terrorist camps and rattling his brains physically, giving Americans a reprieve from terrorism for the last 1½ years.

It is my guess the State Department, if polled, would have been 95 percent or more against the bombing of Libya.

They believe in talking, and jawboning diplomacy; that is the nature of the striped pants down at Foggy Bottom. But I am still fascinated to know where Mr. Shultz stood on all three of those action items.

His testimony was oddly self-serving, but my hat is slightly tipped to him for his ability to get all of you liberals to think he was absolutely superb.

He is an honest man. He gave testimony on how corruption starts. But I will not be taking cigars anymore from anybody.

WE WILL MISS MALCOLM BALDRIGE

(Mr. MILLER of Ohio asked and was given permission to address the House for 1 minute.)

Mr. MILLER of Ohio. Mr. Speaker, we will miss Malcolm Baldrige greatly, perhaps more than can be possibly imagined at this point. He was one of those rare public servants who fulfilled the responsibilities of his office without setting himself apart from, or above, those for whom and with whom he labored. He maintained an identity with every level of government and every aspect of the business community that I personally admired and respected deeply. Always busy pursuing the Nation's business, but never too busy to respond to the day-to-day concerns of the spokes in the massive economic wheel that moves this Nation, let us appreciate the fact that he served at a time when the face of industry and business were changing with incredible speed. He served as one who had been on the factory floor and in the midst of manufacturing and he made Government work for, and respond to, business rather than the reverse.

We've experienced a tremendous loss with the death of Secretary Baldrige. All America should mourn. Americans, all, should remember his service to the Nation.

TRIBUTE TO MALCOLM BALDRIGE

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. The Nation mourns the passing of Secretary of Commerce, Malcolm Baldrige, a man of soft voice, of modest demeanor, but a man of keen mind, extraordinary judgment and great tenacity and determination.

He was the first as a manufacturer to understand fully not only what American business must do and American labor must do to regain American's competitiveness, but also what America's Government must do to help us reestablish ourselves in critical industries and to preserve our competitive market in the future, to guarantee some measure of fairness in an international trade arena that we, through the power of government, have guaranteed to our domestic market.

Mac was the first to understand that machine tools do matter, that you cannot have a strong peaceful economy, you cannot secure the Nation's defense without machine tools, without bearings, without America having a basic manufacturing capability.

It was his leadership, his advocacy that turned around our Government and created a Government policy that in partnership with aggressive private efforts are going to restore those industries in the long run, and assure our greatness in the future.

It was Mac's person, his mind; it was his leadership. It was the respect that he gained from the leaders of Japan and other trading partners that has made possible not only tough negotiations, but aggressive resolution of difficult problems that in the long run will mean jobs and security to America.

I thank Malcolm Baldrige for his service to all of us.

CONGRESS IS THE CAUSE OF THE DEFICIT

(Mr. WALKER asked and was given permission to address the House for 1 minute.)

Mr. WALKER. Mr. Speaker, a few minutes ago we had another Member of the body come to the well and engage in a discussion of the same kind of phony statistics that liberals have been peddling for some time with regard to where spending starts and where deficits come from.

The claim in that speech a few minutes ago was that somehow this Congress has spent $18 billion less over a period of years than the President of the United States has asked for. What a bunch of phony bunk.

What they have come up with that figure is, they underfund programs in this body that we know we have to spend money on, the Commodity Credit Corporation, food stamps. Later on in the year, when the President comes back and asks for the money to keep those vital programs going, because they were underfunded here in the first place, they add that to his total, because he is doing the responsible thing.

The Congress purposely underfunded, because they knew it would have to be requested in a supplemental later on, and then they add it to the President's total.

If we would submit budgets and try to live within those budgets and not do it with the phony figuring we do in our appropriations around here, we find out that this Congress has massively overspent what the President requested in his original budget. That is the real figure.

How much did the President request in his original budget, and how much did we end up spending, and then you find out this Congress is big spenders. We are in fact the cause of the deficit, and we should bear our share of the blame and the responsibility, and not come up with phony speeches that try to lay it at the doorsteps of the White House.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. GRAY of Illinois). Pursuant to the provisions of clause 5, rule I, the Chair announces that he will postpone further proceedings today on each motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 4 of rule XV.

Such rollcall votes, if postponed, will be taken after debate has concluded on all motions to suspend the rules.

TECHNICAL CORRECTIONS TO MILITARY RETIREMENT REFORM ACT OF 1986

Mrs. BYRON. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2974) to amend title 10, United States Code, to make technical corrections in provisions of law enacted by the Military Retirement Reform Act of 1986.

The Clerk read as follows:

H.R. 2974

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COST-OF-LIVING ADJUSTMENTS OF MILITARY RETIRED PAY.

(a) Rule for CPI-1 Formula for New Entrants.—Subsection (b) of section 1401a of title 10, United States Code, is amended—

(1) be redesignating paragraph (4) as paragraph (5); and

(2) by inserting after paragraph (3) the following new paragraph (4):

"(4) Special rule for paragraph (3).—If in any case in which an increase in retired pay that would otherwise be made under paragraph (3) is not made by reason of law (other than any provision of this section), then (unless otherwise provided by law) when the next increase in retired pay is made under this subsection, the increase under paragraph (3) shall be carried out so as to achieve the same net increase in retired pay under that paragraph that would have been the case if that law had not been enacted.".

(b) Pro Rating of Initial CPI Adjustment for New Members.—Subsection (e) of such section is amended by striking out "only by" and all that follows in that subsection and inserting in lieu thereof the following: "by the percent (adjusted to the nearest one-tenth of 1 percent) equal to the difference between—

"(1) the percent by which—

"(A) the price index for the base quarter of that year, exceeds

"(B) the price index of the calendar quarter immediately before the calendar quarter during which the member became entitled to retired pay; and

"(2) one-fourth of 1 percent for each calendar quarter from the quarter described in paragraph (1)(B) to the quarter described in paragraph (1)(A).

If in any case the percent described in paragraph (2) exceeds the percent determined under paragraph (1), such an increase shall not be made.".

SEC. 2. RESTORAL OF BENEFITS AT AGE 62 FOR NEW RETIREMENT MEMBERS.

Section 1410(a) of title 10, United States Code, is amended—

(1) by strking out "(a) General Rule.—" and

(2) by striking out "the amount equal to—" and all that follows and inserting in lieu thereof "the amount equal to the amount of retired pay to which the member would be entitled on that date if—

"(1) increases in the member's retired pay under section 1401a(b) of this title had been computed as provided in paragraph (2) of that section (rather than under paragraph (3) of that section); and

"(2) in the case of a member whose retired pay was subject to section 1409(b)(2) of this title, no reduction in the member's retired pay had been made under that section.".

SEC. 3. SURVIVOR BENEFIT PLAN AMENDMENTS.

(a) Adjustment at Age 62 in Base Amount.—(1) Section 1451 of title 10, United States Code, is amended—

(A) by inserting after subsection (g) the following:

"(h)(1) Whenever retired pay is increased under section 1401a of this title (or any other provision of law), the base amount applicable to each participant in the Plan shall be increased at the same time. The increase shall be by the same percent as the percent by which the retired pay of the participant is increased.

"(2) When the retired pay of a person who first became a member of a uniform service on or after August 1, 1986, and who is a participant in the Plan is recomputed under section 1401 of this title upon the person's becoming 62 years of age, the base amount applicable to that person shall be recomputed (effective on the effective date of the recomputation of such retired pay under section 1410 of this title) so as to be the amount equal to the amount of the base amount that would be in effect on that date if increases in such base amount under paragraph (1) had been computed as provided in paragraph (2) of section 1401a(b) of this title (rather than under paragraph (3) of that section)."; and

(B) by striking out "(h) Computation" and inserting in lieu thereof "(3) Computation".

(2) Subsection (a) of such section is amended by striking out "(as the base amount is adjusted from time to time under section 1401a of this title)" in paragraphs (1)(A), (1)(B), (2)(A), and (2)(B).

(b) Adjustment At Age 62 in Amount of Reduction in Retired Pay.—Section 1452 of such title is amended by adding at the end the following new subsection:

"(i) When the retired pay of a person who first became a member of a uniformed service on or after August 1, 1986, and who is a participant in the Plan is recomputed under section 1410 of this title upon the person's becoming 62 years of age, the amount of the reduction in such retired pay under this section shall be recomputed (effective on the effective date of the recomputation of such retired pay under section 1410 of this title) so as to be the amount equal to the amount of such reduction that would be in effect on that date if increases in such retired pay under section 1401a(b) of this title, and increases in reductions in such retired pay under subsection (h), had been computed as provided in paragraph (2) of section 1401a(b) of this title (rather than under paragraph (3) of that section).".

(c) Adjustment of Amount of Annuity.—Section 1451(i) of such title is amended by striking out "on the basis of" the second place it appears and all that follows and inserting in lieu thereof "so as to be the amount equal to the amount of the annuity that would be in effect on that date if increases under section (h)(1) in the base amount applicable to that annuity to the time of the death of the member or former member, and increases in such annuity under subsection (g)(1), had been computed as provided in paragraph (2) of section 1401a(b) of this title (rather than under paragraph (3) of that section).".

The **SPEAKER** pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentlewoman from Maryland [Mrs. Byron] will be recognized for 20 minutes and the gentleman from Virginia [Mr. Bateman] will be recognized for 20 minutes.

The Chair recognizes the gentlewoman from Maryland [Mrs. Byron].

Mrs. BYRON. Mr. Speaker, I yield myself such time as I consume.

Mr. Speaker, the Military Retirement Reform Act of 1986 made major changes in the military retirement system for members who entered the uniformed services on or after August 1, 1986. As a result of these changes, current law requires that all members who enter a uniformed service on or after August 1, 1986 will have their retired pay increased from time to time by the annual increase in the cost of living minus one percentage point. At age 62, retired pay is increased to restore the purchasing power to the level existing at the time of retirement.

The modifications included in the bill would clarify the provisions of the Military Retirement Reform Act that affect the cost-of-living adjustment.

First, current law is unclear as to the amount of the adjustment to be provided following a year in which the adjustment in retired pay was not made—for example, when a reconciliation bill specifically eliminates a cost-of-living adjustment in a particular year. The bill would ensure that, at the next scheduled adjustment, the increase would be carried out so as to achieve the same net increase that would have been provided if the previous increase had not been set aside.

Second, the initial adjustment retirees receive when they retire is a partial adjustment intended to account for inflation that occurred between the time of their retirement and the date of the adjustment. The Military Retirement Reform Act intended, but failed, to implement the 1 percent deduction in the computation of the initial, partial cost-of-living adjustment. The bill would reduce the initial cost-of-living adjustment by one-fourth of 1 percent for each quarter over which the increase is calculated.

Third, current law is unclear as to the appropriate amount of increase in retired pay at age 62 for a retiree who returned to active duty following initial retirement and, as a result, received retired pay recomputed based on that subsequent service. The bill would provide a catch-up based on the change in the cost of living from the time the member's retired pay is currently computed to age 62.

Finally, because contributions to and benefits paid from the survivor benefit plan are based on the amount of military retired pay—as adjusted from time to time, the bill would conform the provisions of the survivor benefit plan to the changes made to the cost-of-living adjustment mechanism described above.

Mr. Speaker, these modifications would clarify the intent of the Congress when it enacted the Military Retirement Reform Act, and I urge the Members to support these technical corrections.

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Mr. BATEMAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the bill before us would make several technical modifications to the Military Retirement Reform Act of 1986.

I emphasize, Mr. Speaker, that the changes that would be made by this bill are purely technical in nature and are needed to clarify what were particularly complex provisions to write. Following passage of the Military Retirement Reform Act, departmental review of the provisions raised questions concerning ambiguities and highlighted several areas that needed clarifications in order for the Department to implement the changes.

Although the provisions of the Military Retirement Reform Act will not affect the vast majority of service members for more than a decade, a small number of service members who entered a uniformed service on or after August 1, 1986 (the effective date) have or will shortly become entitled to military retired pay as a result of a disability. The bill would make several very minor modifications in the cost-of-living adjustment mechanism to ensure the accurate and uniform implementation of the changes in the Military Retirement Reform Act.

Importantly, these modifications would have little, if any, noticeable impact on individual retirees. No budgetary impact is estimated; if the changes have any impact at all, the impact would be very slightly negative.

Mr. Speaker, the changes need to be made in order to ensure that the congressional intent is implemented, and I urge the Members to approve this bill.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. BYRON. Mr. Speaker, I have no further request for time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentlewoman from Maryland [Mrs. BYRON] that the House suspend the rules and pass the bill, H.R. 2974.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mrs. BYRON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H.R. 2974, the bill just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Maryland?

There was no objection.

WAMPANOAG TRIBAL COUNCIL OF GAY HEAD, INC., INDIAN CLAIMS SETTLEMENT ACT OF 1987

Mr. LEWIS of Georgia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2855) to settle Indian land claims in the town of Gay Head, MA, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2855

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Wampanoag Tribal Council of Gay Head, Inc., Indian Claims Settlement Act of 1987".

SEC. 2. CONGRESSIONAL FINDINGS AND DECLARATION OF POLICY.

The Congress hereby finds and declares that—

(1) there is pending before the United States District Court for the District of Massachusetts a lawsuit that involves Indian claims to certain public lands within the town of Gay Head, Massachusetts;

(2) the pendency of this lawsuit has resulted in severe economic hardships for the residents of the town of Gay Head by clouding the titles to much of the land in the town, including land not involved in the lawsuit;

(3) the Congress shares with the Commonwealth of Massachusetts and the parties to the lawsuit a desire to remove all clouds on titles resulting from such Indian land claim;

(4) the parties to the lawsuit and others interested in settlement of Indian land claims within the Commonwealth of Massachusetts executed a Settlement Agreement which, to become effective, requires implementing legislation by the Congress of the United States and the General Court of the Commonwealth of Massachusetts;

(5) the town of Gay Head has agreed to contribute approximately 50 percent of the land involved in this settlement;

(6) the State of Massachusetts has agreed to provide up to $2,250,000 to be used for the purchase of land to be held in trust by the Secretary for the use and benefit of the Wampanoag Tribal Council of Gay Head, Inc.; and

(7) the Secretary has acknowledged the existence of the Wampanoag Tribal Council of Gay Head, Inc. as an Indian tribe and Congress hereby ratifies and confirms that existence as an Indian tribe with a government to government relationship with the United States.

SEC. 3. GAY HEAD INDIAN CLAIMS SETTLEMENT FUND.

(a) FUND ESTABLISHED.—There is hereby established within the Treasury of the United States a fund to be known as the "Wampanoag Tribal Council of Gay Head, Inc. Claims Settlement Fund". Amounts in the fund shall be available to the Secretary to carry out the purposes of this Act.

(b) AUTHORIZATION FOR APPROPRIATION.—There is hereby authorized to be appropriated $2,250,000 for such fund to remain available until expended.

(c) STATE CONTRIBUTION REQUIRED.—Amounts may be expended from the fund only upon deposit by the State of Massachusetts into the fund of an amount equal to that amount to be expended by the United States so that both the United States and the State of Massachusetts bear one half of the cost of the acquisition of lands under section 6.

SEC. 4. APPROVAL OF PRIOR TRANSFERS AND EXTINGUISHMENT OF ABORIGINAL TITLE AND CLAIMS OF GAY HEAD INDIANS.

(a) APPROVAL OF PRIOR TRANSFERS.—(1) Any transfer before the date of the enactment of this Act of land or natural resources now located anywhere within the United States from, by, or on behalf of the Wampanoag Tribal Council of Gay Head, Inc., or (2) any transfer before the date of the enactment of this Act by, from, or on behalf of any Indian, Indian nation, or tribe or band of Indians, of any land or natural resources located anywhere within the town of Gay Head, Massachusetts, including any transfer pursuant to any statute of the State, and the incorporation of the town of Gay Head, shall be deemed to have been made in accordance with the Constitution and all laws of the United States that are specifically applicable to transfers of land or natural resources from, by, or on behalf of any Indian, Indian nation, or tribe or band of Indians (including the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, sec. 4, 1 Stat. 137), and all amendments thereto and all subsequent versions thereof). Any such transfer and any transfer in implementation of this Act, shall be deemed to have been made with the consent and approval of Congress as of the date of such transfer.

(b) EXTINGUISHMENT OF ABORIGINAL TITLE.—Any aboriginal title held by the Wampanoag Tribal Council of Gay Head, Inc. or any other entity presently or at any time in the past known as the Gay Head Indians, to any land or natural resources the transfer of which is consented to and approved in subsection (a) is considered extinguished as of the date of such transfer.

(c) EXTINGUISHMENT OF CLAIMS ARISING FROM PRIOR TRANSFERS OR EXTINGUISHMENT OF ABORIGINAL TITLE.—Any claim (including any claim for damages for use and occupancy) by the Wampanoag Tribal Council of Gay Head, Inc., the Gay Head Indians, or any other Indian, Indian nation, or tribe or band of Indians against the United States, any State or political subdivision of a State, or any other person which is based on—

(1) any transfer of land or natural resources which is consented to and approved in subsection (a), or

(2) any aboriginal title to land or natural resources the transfer of which is consented to and approved in subsection (b),

is extinguished as of the date of any such transfer.

(d) PERSONAL CLAIMS NOT AFFECTED.—No provision of this section shall be construed to offset or eliminate the personal claim of any individual Indian which is pursued under any law of general applicability that protects non-Indians as well as Indians.

SEC. 5. CONDITIONS PRECEDENT TO FEDERAL PURCHASE OF SETTLEMENT LANDS.

(a) INITIAL DETERMINATION OF STATE AND LOCAL ACTION.—No action shall be taken by the Secretary under section 6 before the Secretary publishes notice in the Federal Register of the determination by the Secretary that—

(1) the Commonwealth of Massachusetts has enacted legislation which provides that—

(A) the town of Gay Head, Massachusetts, is authorized to convey to the Secretary to be held in trust for the Wampanoag Tribal Council of Gay Head, Inc., the public settlement lands and the Cook lands subject to the conditions and limitations set forth in the Settlement Agreement; and

(B) the Wampanoag Tribal Council of Gay Head, Inc. shall have the authority, after consultation with appropriate State and local officials, to regulate any hunting by Indians on the settlement lands that is conducted by means other than firearms or crossbow to the extent provided in, and subject to the conditions and limitations set forth in, the Settlement Agreement;

(2) the Wampanoag Tribal Council of Gay Head, Inc., has submitted to the Secretary an executed waiver or waivers of the claims covered by the Settlement Agreement all claims extinguished by this Act, and all claims arising because of the approval of transfers and extinguishment of titles and claims under this Act; and

(3) the town of Gay Head, Massachusetts, has authorized the conveyance of the public settlement lands and the Cook Lands to the Secretary in trust for the Wampanoag Tribal Council of Gay Head, Inc.

(b) RELIANCE UPON THE ATTORNEY GENERAL OF MASSACHUSETTS.—In making the findings required in subsection (a) of this section, the Secretary may rely upon the opinion of the Attorney General of the Commonwealth of Massachusetts.

SEC. 6. PURCHASE AND TRANSFER OF SETTLEMENT LANDS.

(a) PURCHASE OF PRIVATE SETTLEMENT LANDS.—The Secretary is authorized and directed to expend, at the request of the Wampanoag Tribal Council of Gay Head, Inc., $2,125,000 to acquire the private settlement lands. At the request of the Wampanoag Tribal Council of Gay Head, Inc., the Secretary shall not purchase lots 705, 222, and 528 of the private settlement lands, but, at the request of the Wampanoag Tribal Council of Gay Head, Inc., the Secretary shall acquire in lieu thereof such other lands that are contiguous to the remaining private settlement lands. Upon the purchase of such contiguous lands, those lands shall be subject to the same restrictions and benefits as the private settlement lands.

(b) PAYMENT FOR SURVEY AND APPRAISAL.—The Secretary is authorized and directed to cause a survey of the public settlement lands to be made within 60 days of acquiring title to the public settlement lands. The Secretary shall reimburse the Native American Rights Fund and the Gay Head Taxpayers Association for an appraisal of the private settlement lands done by Paul O'Leary dated May 1, 1987. Such funds as may be necessary may be withdrawn from the Fund established in section 3(a) and may be used for the purpose of conducting the survey and providing reimbursement for the appraisal.

(c) ACQUISITION OF ADDITIONAL LANDS.—The Secretary shall expend, at the request of the Wampanoag Tribal Council of Gay Head, Inc., any remaining funds not required by subsection (a) or (b) to acquire any additional lands that are contiguous to the private settlement lands. Any lands acquired pursuant to this section, and any other lands which are hereafter held in trust for the Wampanoag Tribal Council of Gay Head, Inc., any successor, or individual member, shall be subject to this Act, the Settlement Agreement and other applicable laws. Any after acquired land held in trust for the Wampanoag Tribal Council of Gay Head, Inc., any successor, or individual member, shall be subject to the same benefits and restrictions as apply to the most analogous land use described in the Settlement Agreement.

(d) TRANSFER AND SURVEY OF LAND TO WAMPANOAG TRIBAL COUNCIL.—Any right, title, or interest to lands acquired by the Secretary under this section, and the title to public settlement lands conveyed by the town of Gay Head, shall be held in trust for the Wampanoag Tribal Council of Gay Head, Inc., and shall be subject to this Act, the Settlement Agreement, and other applicable laws.

(e) PROCEEDINGS AUTHORIZED TO ACQUIRE OR TO PERFECT TITLE.—The Secretary is authorized to commence such condemnation proceedings as the Secretary may determine to be necessary—

(1) to acquire or perfect any right, title, or interest in any private settlement land, and

(2) to condemn any interest adverse to any ostensible owner of such land.

(f) PUBLIC SETTLEMENT LANDS HELD IN TRUST.—The Secretary is authorized to accept and hold in trust for the benefit of the Wampanoag Tribal Council of Gay Head, Inc., the public settlement lands as described in section 8(7) of this Act immediately upon the effective date of this Act.

(g) APPLICATION.—The terms of this section shall apply to land in the town of Gay Head. Any land acquired by the Wampanoag Tribal Council of Gay Head, Inc., that is located outside the town of Gay Head shall be subject to all the civil and criminal laws, ordinances, and jurisdiction of the Commonwealth of Massachusetts.

(h) SPENDING AUTHORITY.—Any spending authority (as defined in section 401(c)(2) of the Congressional Budget Act of 1974) provided in this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

SEC. 7. JURISDICTION OVER SETTLEMENT LANDS; RESTRAINT ON ALIENATION.

(a) LIMITATION ON INDIAN JURISDICTION OVER SETTLEMENT LANDS.—The Wampanoag Tribal Council of Gay Head, Inc., shall not have any jurisdiction over nontribal members and shall not exercise any jurisdiction over any part of the settlement lands in contravention of this Act, the civil regulatory and criminal laws of the Commonwealth of Massachusetts, the town of Gay Head, Massachusetts, and applicable Federal laws.

(b) SUBSEQUENT HOLDER BOUND TO SAME TERMS AND CONDITIONS.—Any tribe or tribal organization which acquires any settlement land or any other land that may now or in the future be owned by or held in trust for any Indian entity in the town of Gay Head, Massachusetts, from the Wampanoag Tribal Council of Gay Head, Inc. shall hold such beneficial interest to such land subject to the same terms and conditions as are applicable to such lands when held by such council.

(c) RESERVATIONS OF RIGHT AND AUTHORITY RELATING TO SETTLEMENT LANDS.—No provision of this Act shall affect or otherwise impair—

(1) any authority to impose a lien or temporary seizure on the settlement lands as provided in the State Implementing Act;

(2) the authority of the Secretary to approve leases in accordance with the Act entitled "An Act to authorize the leasing of restricted Indian lands for public, religious, educational, recreational, residential, business, and other purposes requiring the grant of long-term leases", approved August 9, 1955 (25 U.S.C. 415 et seq.); or

(3) the legal capacity of the Wampanoag Tribal Council of Gay Head, Inc. to transfer the settlement lands to any tribal entity which may be organized as a successor in interest to Wampanoag Tribal Council of Gay Head, Inc. or to transfer—

(A) the right to use the settlement lands to its members,

(B) any easement for public or private purposes in accordance with the laws of the Commonwealth of Massachusetts or the ordinances of the town of Gay Head, Massachusetts, or

(C) title to the West Basin Strip to the town of Gay Head, Massachusetts, pursuant to the terms of the Settlement Agreement.

(d) EXEMPTION FROM STATE ASSESSMENT.—Any land held in trust by the Secretary for the benefit of the Wampanoag Tribal Council of Gay Head, Inc. shall be exempt from taxation or lien or "in lieu of payment" or other assessment by the State or any political subdivision of the State to the extent provided by the Settlement Agreement: *Provided, however,* That such taxation or lien or "in lieu of payment" or other assessment will only apply to lands which are zoned and utilized as commercial: *Provided further,* That this section shall not be interpreted as restricting the Tribe from entering into an agreement with the town of Gay Head to reimburse such town for the delivery of specific public services on the tribal lands.

SEC. 8. DEFINITIONS.

For the purposes of this Act:

(1) COOK LANDS.—The term "Cook lands" means the lands described in paragraph (5) of the Settlement Agreement.

(2) WAMPANOAG TRIBAL COUNCIL OF GAY HEAD, INC.—The term "Wampanoag Tribal Council of Gay Head, Inc." means the tribal entity recognized by the Secretary of the Interior as having a government to government relationship with the United States. The Wampanoag Tribal Council of Gay Head, Inc. is the sole and legitimate tribal entity which has a claim under the Trade and Intercourse Act of 1790, Act of July 22, 1790 (ch. 33, sec. 4, 1 Stat. 137), to land within the town of Gay Head. The membership of the Wampanoag Tribal Council of Gay Head, Inc., includes those 521 individuals who have been recognized by the Secretary of the Interior as being members of the Wampanoag Tribal Council of Gay Head, Inc., and such Indians of Gay Head ancestry as may be added from time to time by the governing body of the Wampanoag Tribal Council of Gay Head, Inc.: *Provided,* That nothing in this section shall prevent the voluntary withdrawal from membership in the Wampanoag Tribal Council of Gay Head, Inc., pursuant to procedures established by the Tribe. The governing body of the Wampanoag Tribal Council of Gay Head, Inc. is hereby authorized to act on behalf of and bind the Wampanoag Tribal Council of Gay Head, Inc., in all matters related to carrying out this Act.

(3) Fund.—The term "fund" means the Wampanoag Tribal Council of Gay Head, Inc. Claims Settlement Fund established under section 3.

(4) Land or natural resources.—The term "land or natural resources" means any real property or natural resources or any interest in or right involving any real property or natural resource, including but not limited to, minerals and mineral rights, timber and timber rights, water and water rights, and rights to hunt and fish.

(5) Lawsuit.—The term "lawsuit" means the action entitled Wampanoag Tribal Council of Gay Head, and others versus Town of Gay Head, and others (C.A. No. 74-5826-McN (D. Mass.)).

(6) Private settlement lands.—The term "private settlement lands" means approximately 177 acres of privately held land described in paragraph 6 of the Settlement Agreement.

(7) Public settlement lands.—The term "public settlement lands" means the lands described in paragraph (4) of the Settlement Agreement.

(8) Settlement lands.—The term "settlement lands" means the private settlement lands and the public settlement lands.

(9) Secretary.—The term "Secretary" means the Secretary of the Interior.

(10) Settlement agreement.—The term "Settlement Agreement" means the document entitled "Joint Memorandum of Understanding Concerning Settlement of the Gay Head, Massachusetts, Indian Land Claims," executed as of November 22, 1983, and renewed thereafter by representatives of the parties to the lawsuit, and as filed with the Secretary of the Commonwealth of Massachusetts.

(11) State implementing act.—The term "State implementing act" means legislation enacted by the Commonwealth of Massachusetts conforming to the requirements of this Act and the requirements of the Massachusetts Constitution.

(12) Transfer.—The term "transfer" includes—

(A) any sale, grant, lease, allotment, partition, or conveyance,

(B) any transaction the purpose of which is to effect a sale, grant, lease, allotment, partition, or conveyance, or

(C) any event or events that resulted in a change of possession or control of land or natural resources.

(13) West basin strip.—The term "West Basin Strip" means a strip of land along the West Basin which the Wampanoag Tribal Council is authorized to convey, under paragraph (11) of the Settlement Agreement, to the town of Gay Head.

SEC. 9. APPLICABILITY OF STATE LAW.

Except as otherwise expressly provided in this Act or in the State Implementing Act, the settlement lands and any other land that may now or hereafter be owned by or held in trust for any Indian tribe or entity in the town of Gay Head, Massachusetts, shall be subject to the civil and criminal laws, ordinances, and jurisdiction of the Commonwealth of Massachusetts and the town of Gay Head, Massachusetts (including those laws and regulations which prohibit or regulate the conduct of bingo or any other game of chance).

SEC. 10. LIMITATIONS OF ACTION; JURISDICTION.

Notwithstanding any other provision of law, any action to contest the constitutionality or validity under law of this Act shall be barred unless the complaint is filed within thirty days after the date of enactment of this Act. Exclusive original jurisdiction over any such action and any proceedings under section 6(e) is hereby vested in the United States District Court of the District of Massachusetts.

SEC. 11. EFFECTIVE DATE.

(a) In General.—Except as provided in subsection (b), this Act shall take effect upon the date of enactment.

(b) Exception.—Section 4 shall take effect upon the date on which the title of all of the private settlement lands provided for in this Act to the Wampanoag Tribal Council of Gay Head, Inc. is transferred. The fact of such transfer, and the date thereof, shall be certified and recorded by the Secretary of the Commonwealth of Massachusetts.

SEC. 12. ELIGIBILITY.

For the purpose of eligibility for Federal services made available to members of federally recognized Indian tribes, because of their status as Indians, members of this tribe residing on Martha's Vineyard, Massachusetts, shall be deemed to be living on or near an Indian reservation.

The SPEAKER pro tempore. Is a second demanded?

Mr. RHODES. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

GENERAL LEAVE

Mr. LEWIS of Georgia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to extend their remarks on the bill presently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. LEWIS of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 2855 is a bill to settle the land claims of the Wampanoag Indians in the town of Gay Head, MA. This bill embodies a settlement agreement between the tribe, the town, the non-Indian landowners, and the Commonwealth of Massachusetts. Under the agreement, the tribe would agree to abandon its claim to about 3,400 acres within the town of Gay Head. In exchange, the tribe would receive about 500 acres of land. Three hundred of which would be given by the town, and the remaining 200 acres would be purchased for the tribe jointly, by the State and the Federal Government. Under the bill, both the State and the United States would contribute an equal sum toward the purchase of these 200 acres.

An almost identical bill passed both the Senate and the House last year, but Congress adjourned before the House could concur with the Senate amendments.

Last year, the administration was generally opposed to the bill because at that time, the Wampanoag Tribe was not a federally recognized Indian tribe. This January, however, the tribe did become federally recognized as an Indian tribe.

Therefore, I believe that the time has come for Congress to settle this land claim. The proposed settlement has been endorsed by all concerned parties. It would also remove the burden from the current landowners, who although innocent of any wrongdoings, would have to be parties to long and protracted litigation to remedy a wrong which occurred a long time ago. I therefore urge my colleagues to vote in favor of this legislation.

Mr. RHODES. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 2855, a bill to settle the claims of Gay Head Band of Wampanoag Indians of Massachusetts.

H.R. 2855 is similar to legislation passed in the 99th Congress by the House and Senate, but in disagreement. At that time two major problems were pointed out by opponents to the legislation: First, we were settling a claim of a tribe without Federal recognition, and second, there was no non-Federal contribution to the settlement. Those objections are no longer valid. Last January, the Federal acknowledgment project of the Department of the Interior completed work on the Gay Head petition, and found a continuing Federal relationship with the tribe. Also, the Commonwealth of Massachusetts has agreed to contribute up to 50 percent of settlement costs. Additionally, I offered a series of amendments in committee which were accepted to strengthen the bill within general Indian law.

Mr. Speaker, I would like to note that this bill represents a confirmation of several years of negotiations between the parties. I believe it is our duty to review settlement offers negotiated between Indian tribes and non-Indian entities with a view of maintaining general Federal Indian law concepts. We cannot rubberstamp settlement agreements which did not include Federal participation but ask for Federal contributions. I believe the version reported by the committee improves the settlement, in light of Federal responsibilities to Indian tribes, and I ask for its acceptance.

Finally, Mr. Speaker, I note the opposition of the administration. While the pending lawsuit is against non-Federal parties, the theory of the suit would necessitate a third-party complaint by the defendants against the Federal Government. The committee has examined the value of settlement and the role of the Federal Government in completing the settlement. We believe that a Federal liability does exist for allowing transactions in contravention of the 1790 Non-Intercourse Act, and for allowing trespass on Indians lands. In this light, I think it is more significant to recognize the 50 percent contribution agreed to by the Commonwealth of Massachusetts which represents the highest cash contribution, by percentages, of a State to any such settlement. Therefore, I urge my colleagues to support H.R. 2855.

Mr. Speaker, I reserve the balance of my time.

Mr. LEWIS of Georgia. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Arizona [Mr. Udall], the chairman of the Committee on Interior and Insular Affairs.

Mr. UDALL. Mr. Speaker, this is a good bill, a balanced bill, it is one in which all of the major parties win. There are no losers. We do justice to the Indians. We have involved the State of Massachusetts and it has assumed financial and other responsibilities to carry out the intent of this legislation.

Mr. Speaker, I want to say that we come here every year with little old Indian bills that are mostly from the West, where the Indians remain. Our Eastern friends have been very sympathetic and very generous. Here is a chance with one of the few remaining Eastern Indian tribes that we in the West can return the favor and bring forth a fair settlement to this band of Indians and do it in a way that brings credit on all of us.

So I urge support for the legislation. We got it through here last year with substantial support and it went through the Senate and the clock ran out, and we got caught in the paper rush at the end of the session.

So, Mr. Speaker, I urge the passage of the bill.

Mr. RHODES. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LEWIS of Georgia. Mr. Speaker, I yield such time as he may consume to the gentleman from Massachusetts [Mr. Studds].

Mr. STUDDS. Mr. Speaker, 13 years ago, the Wampanoag Indian Tribal Council filed suit in U.S. district court against the town of Gay Head, a small community on the island of Martha's Vineyard. This litigation was an attempt to reclaim public land transferred to the town in 1870 by the Commonwealth of Massachusetts, allegedly in violation of Federal law. Since that time, property titles in the town have been clouded, making it difficult for residents to obtain mortgages.

After the lawsuit was filed, the parties engaged in prolonged negotiations. In November 1983, a settlement was adopted, with the overwhelming approval of tribe members and the concurrence of the town's voters, the Taxpayers Association and the Commonwealth of Massachusetts. Under this agreement, the town and State would convey 238 acres of public land to the tribal council, and the Federal Government would finance the purchase of an additional 180 acres. In return, all claims that the Wampanoag Tribe of Gay Head may have to land within the town or the State of Massachusetts would be extinguished.

H.R. 2855, which I introduced on June 30, 1987, provides the Federal approval necessary to implement this agreement. A similar bill was approved by the House on October 7 of last year. A slightly different version was passed by the Senate. Unfortunately, the bill became entangled with several unrelated measures in legislative maneuvering in the final hours and was not given final approval.

I want to emphasize that the administration's two principal objections to the bill introduced in the last session are no longer at issue. First, this past January, the tribe was granted Federal recognition by the Bureau of Indian Affairs. Second, the Commonwealth of Massachusetts has agreed to pay half the costs of this settlement.

The legislation also contains a limitation on taxation of the settlement lands. The limitation provision provides that the tribe may enter into an agreement with the town of Gay Head to reimburse the town for the delivery of services on the tribal lands or to members who reside on those lands. The reimbursement provision is intended to establish a procedure if the town is to deliver such services. In those instances where the Federal Government actually provides funds which may be used by the tribe to provide such services, this mechanism will apply.

Mr. Speaker, like most such agreements, the settlement underlying this legislation is not 100 percent satisfactory to all parties. It is, however, far more desirable than the alternative—continued uncertainty, economic instability, and bitter controversy. The parties to this matter have acted, after protracted negotiations, to settle their differences. The Commonwealth of Massachusetts has done its share. It is now time for the Federal Government to act to resolve this longstanding problem. I urge the passage of this bill.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of H.R. 2855, a bill to settle the Gay Head band of Wampanoag Indian land claims.

One of the first acts of new government under the U.S. Constitution was the Non-Intercourse Act of 1790—an act that requires the consent of the Congress for the change of title to Indian lands. Unfortunately, this is an act that has been regularly ignored by the States, and by Congress. That is why we have what are referred to as eastern land claims. Out West the Federal Government negotiated treaties and set up reservations. However, in the East, as we have in this situation, the State enacted laws or negotiated with the tribe over land matters. While the States were at fault, Congress was equally at fault.

I make these remarks because of the floor position sent up by the administration which indicates no Federal liability. I disagree. What is remarkable about this bill is that the State, in this case, the Commonwealth of Massachusetts, has agreed to contribute 50 percent of the cash of this settlement. I want to commend the State, the sponsors of the bill, the committee and the tribe for working out a settlement, not entirely from Uncle Sam's pocket. Therefore, Mr. Speaker, I urge my colleagues to support H.R. 2855.

Mr. LEWIS of Georgia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia [Mr. Lewis] that the House suspend the rules and pass the bill, H.R. 2855, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

VETERANS' COMPENSATION AMENDMENTS OF 1987

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 2945), to amend title 38, United States Code, to provide a 4.1-percent increase in the rates of compensation and of dependency and indemnity compensation [DIC] paid by the Veterans' Administration, and for other purposes, as amended.

The Clerk read as follows:

H.R. 2945

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

(a) Short Title.—This Act may be cited as the "Veterans' Compensation Amendments of 1987".

(b) References.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—RATE INCREASES

SEC. 101. DISABILITY COMPENSATION.

(a) In General.—Section 314 is amended—

(1) by striking out "$69" in subsection (a) and inserting in lieu thereof "$71";

(2) by striking out "$128" in subsection (b) and inserting in lieu thereof "$133";

(3) by striking out "$194" in subsection (c) and inserting in lieu thereof "$201";

(4) by striking out "$278" in subsection (d) and inserting in lieu thereof "$289";

(5) by striking out "$394" in subsection (e) and inserting in lieu thereof "$410";

(6) by striking out "$496" in subsection (f) and inserting in lieu thereof "$516";

(7) by striking out "$626" in subsection (g) and inserting in lieu thereof "$651";

(8) by striking out "$724" in subsection (h) and inserting in lieu thereof "$753";

(9) by striking out "$815" in subsection (i) and inserting in lieu thereof "$848";

(10) by striking out "$1,355" in subsection (j) and inserting in lieu thereof "$1,410";

(11) by striking out "$1,684" and "$2,360" in subsection (k) and inserting in lieu thereof "$1,753" and "$2,456", respectively;

(12) by striking out "$1,684" in subsection (l) and inserting in lieu thereof "$1,753";

(13) by striking out "$1,856" in subsection (m) and inserting in lieu thereof "$1,932";

(14) by striking out "$2,111" in subsection (n) and inserting in lieu thereof "$2,197";

(15) by striking out "$2,360" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,456";

(16) by striking out "$1,013" and "$1,509" in subsection (r) and inserting in lieu thereof "$1,054" and "$1,570", respectively; and

(17) by striking out "$1,516" in subsection (s) and inserting in lieu thereof "$1,578".

(b) SPECIAL RULE.—The Administrator of Veterans' Affairs may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SEC. 102. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) is amended—

(1) by striking out "$82" in clause (A) and inserting in lieu thereof "$85";

(2) by striking out "$138" and "$44" in clause (B) and inserting in lieu thereof "$143" and "$45", respectively;

(3) by striking out "$57" and "$44" in clause (C) and inserting in lieu thereof "$59" and "$45", respectively;

(4) by striking out "$67" in clause (D) and inserting in lieu thereof "$69";

(5) by striking out "$149" in clause (E) and inserting in lieu thereof "$155"; and

(6) by striking out "$126" in clause (F) and inserting in lieu thereof "$131".

SEC. 103. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 is amended by striking out "$365" and inserting in lieu thereof "$379".

SEC. 104. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$518	W-4	$743
E-2	534	O-1	655
E-3	547	O-2	676
E-4	582	O-3	724
E-5	597	O-4	766
E-6	611	O-5	844
E-7	641	O-6	951
E-8	676	O-7	1,028
E-9	[1]706	O-8	1,127
W-1	655	O-9	1,209
W-2	681	O-10	[2]1,326
W-3	701		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $763.

"[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,420.";

(2) by striking out "$58" in subsection (b) and inserting in lieu thereof "$60";

(3) by striking out "$149" in subsection (c) and inserting in lieu thereof "$155"; and

(4) by striking out "$73" in subsection (d) and inserting in lieu thereof "$75".

SEC. 105. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 413 is amended—

(1) by striking out "$251" in clause (1) and inserting in lieu thereof "$261";

(2) by striking out "$361" in clause (2) and inserting in lieu thereof "$375";

(3) by striking out "$467" in clause (3) and inserting in lieu thereof "486"; and

(4) by striking out "$467" and "$94" in clause (4) and inserting in lieu thereof "$486" and "$97", respectively.

SEC. 106. SUPPLEMENTAL DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

Section 414 is amended—

(1) by striking out "$149" in subsection (a) and inserting in lieu thereof "$155";

(2) by striking out "$251" in subsection (b) and inserting in lieu thereof "$261"; and

(3) by striking out "$128" in subsection (c) and inserting in lieu thereof "$133".

SEC. 107. EFFECTIVE DATE FOR RATE INCREASES.

The amendments made by this title shall take effect on December 1, 1987.

TITLE II—IMPROVED BENEFITS FOR FORMER PRISONERS OF WAR

SEC. 201. DEFINITION OF FORMER PRISONER OF WAR.

Section 101(32)(B) is amended by striking out "during a period other than a period of war in which such person was held".

SEC. 202. PRESUMPTION OF SERVICE CONNECTION FOR CERTAIN DISABILITIES.

Section 312(b) is amended—

(1) by striking out "or" at the end of clause (11); and

(2) by inserting after clause (12) the following new clauses:

"(13) peripheral neuropathy due to trauma,

"(14) spastic colon, or

"(15) peptic or duodenal ulcers,".

SEC. 203. INTERNMENT PERIOD REQUIRED FOR ELIGIBILITY FOR DENTAL CARE.

Section 612(b)(1)(G) is amended by striking out "six months" and inserting in lieu thereof "90 days".

SEC. 204. EFFECTIVE DATE.

The amendments made by this title shall take effect on October 1, 1987.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. RECODIFICATION OF PROVISIONS RELATING TO CERTAIN BENEFITS FOR SURVIVORS OF CERTAIN VETERANS.

(a) IN GENERAL.—(1) Subchapter II of chapter 13 is amended by adding at the end the following new section:

"§ 418. Benefits for survivors of certain veterans rated totally disabled at time of death

"(a) The Administrator shall pay benefits under this chapter to the surviving spouse and to the children of a deceased veteran described in subsection (b) of this section in the same manner as if the veteran's death were service connected.

"(b) A deceased veteran referred to in subsection (a) of this section is a veteran who dies, not as the result of the veteran's own willful misconduct, and who was in receipt of or entitled to receive (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death for a service-connected disability that either—

"(1) was continuously rated totally disabling for a period of 10 or more years immediately preceding death; or

"(2) if so rated for a lesser period, was so rated continuously for a period of not less than five years from the date of such veteran's discharge or other release from active duty.

"(c) Benefits may not be paid under this chapter by reason of this section to a surviving spouse of a veteran unless—

"(1) the marriage to the veteran occurred before the expiration of 15 years after the veteran's discharge or other release from active duty;

"(2) the surviving spouse was married to the veteran for one year or more; or

"(3) a child was born of the marriage or was born to them before the marriage.

"(d) If a surviving spouse or a child receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the death of a veteran described in subsection (a) of this section, benefits under this chapter payable to such surviving spouse or child by virtue of this section shall not be paid for any month following a month in which any such money or property is received until such time as the total amount of such benefits that would otherwise have been payable equals the total of the amount of the money received and the fair market value of the property received.

"(e) For purposes of sections 1448(d) and 1450(c) of title 10, eligibility for benefits under this chapter by virtue of this section shall be deemed eligibility for dependency and indemnity compensation under section 411(a) of this title.".

(2) The table of sections at the beginning of chapter 13 is amended by inserting after the item relating to section 417 the following new item:

"418. Benefits for survivors of certain veterans rated totally disabled at time of death.".

(b) CONFORMING AMENDMENTS.—Section 410 of such title is amended—

(1) by striking out subsection (b); and

(2) by redesignating subsection (c) as subsection (b).

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1987.

SEC. 302. CONTINUED OPERATION OF EXISTING INSURANCE CENTERS.

(a) SEPARATE OPERATION.—The Administrator of Veterans' Affairs shall continue to maintain and operate separately the Veterans' Administration Insurance Centers located in St. Paul, Minnesota, and in Philadelphia, Pennsylvania.

(b) DISAPPROVAL OF PROPOSED CONSOLIDATION.—The Administrator may not take any action to consolidate the St. Paul Insurance Center into the Philadelphia Insurance Center as proposed in a reorganization plan submitted to the Congress on February 5, 1986, under section 210(b)(2)(A) of title 38, United States Code.

SEC. 303. SENSE OF CONGRESS CONCERNING NAME OF NEW BRIDGE ACROSS OHIO RIVER.

(a) RECOGNITION OF VETERANS.—The Congress expresses its continued recognition of, and appreciation for, the sacrifices made by all of America's veterans, living and dead.

(b) SENSE OF CONGRESS CONCERNING BRIDGE MEMORIAL.—It is the sense of Congress—

(1) that it is appropriate that fitting memorials recognizing the achievements and

sacrifices of America's veterans and serving as a constant reminder to the American people of those achievements and sacrifices should be established; and

(2) that the bridge currently being constructed across the Ohio River between the cities of Weirton, West Virginia, and Steubenville, Ohio, the name of which is to be selected by the Governor of West Virginia, would be such an appropriate and fitting memorial to America's veterans.

SEC. 304. NUMBER OF VETERANS RECEIVING PENSION WHO ARE SUBJECT TO VOCATIONAL TRAINING EVALUATIONS.

Section 524(a)(3) is amended by striking out "2,500" and inserting in lieu thereof "3,500".

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Mississippi [Mr. MONTGOMERY] will be recognized for 20 minutes and the gentleman from New York [Mr. SOLOMON] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, unlike Social Security and pension benefits, the cost-of-living [COLA] increases provided annually to service-connected disabled veterans and eligible dependents are not automatically indexed. Therefore, each year our committee and the Congress must review the compensation and dependency and indemnity compensation [DIC] programs for veterans and their families to make certain that their benefits are not eroded by inflation.

Over the years, Congress has acted promptly and this particular group of veterans appreciates very much the attention Congress gives them.

Mr. Speaker, the reported bill would among other things, provide a 4.1-percent cost-of-living increase effective the first day of December, for more than 2.2 million veterans drawing compensation. In addition more than 264,000 spouses and 47,000 children would receive an increase in their benefits as well.

There are other provisions of the bill which will be explained in more detail when I yield to the distinguished chairman of our Subcommittee on Compensation, Pension and Insurance, Mr. APPLEGATE.

Before doing so, I want to say a couple of things about the very able gentleman from Ohio [Mr. APPLEGATE], the gentleman has clearly shown that veterans rank high on his list of priorities and I know veterans throughout the great State of Ohio, and others across the Nation, understand and appreciate what a friend they have in him. It is a pleasure to work with the gentleman.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. APPLEGATE] for an explanation of the bill.

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Mr. APPLEGATE. Mr. Speaker, I thank the gentleman for yielding me this time.

On April 9, 1987, the Subcommittee on Compensation, Pension and Insurance held a hearing on a 3.5-percent cost-of-living adjustment for the VA's service-connected compensation and dependency and indemnity compensation [DIC] programs. This represented the anticipated increase in the Consumer Price Index [CPI] at that time. Subsequent to that hearing, the forecast was changed to an expected 4.1 percent CPI increase. That amount is in the first concurrent budget resolution.

At a subcommittee markup on June 17, 1987, we recommended a 4.1-percent increase with amendments that included some improvements for former prisoners of war and other miscellaneous provisions. On July 22, the full committee ordered the bill reported, with an amendment.

A discussion of the bill's provisions, as well as a discussion of the pertinent programs follows:

COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

There were 2,214,207 veterans receiving disability compensation as of July 1, 1987. The Veterans' Administration expenditures for disability compensation for fiscal year 1988 are expected to be $8.3 billion.

The basic purpose of the disability compensation program, throughout its history, has been one of providing a measure of relief from the impaired earning capacity of veterans disabled as the result of their military service. The amount of compensation payable varies according to the degree of disability, which, in turn, is required by law to represent, to the extent practicable, the average impairment in earning capacity resulting from such disability or combination of disabilities in civil occupations.

To be eligible to receive disability compensation a veteran must have contracted a disease, suffered an injury which is not the result of willful misconduct, or aggravated an existing disease or injury in the line of duty during active duty service and have been discharged under other than dishonorable conditions.

The responsibility for determining a veteran's entitlement to service connection for a disability rests solely with the Veterans' Administration. This determination is based upon the service medical records or other evidence which may be presented to the Veterans' Administration by the veteran. The law provides that if a veteran had service of 90 days or more during time of war or after December 31, 1946, and develops a chronic or tropical disease to a degree of ten percent or more within one year of his discharge from such service, service connection may be granted by presumption. Service connection may be granted by presumption for active tuberculosis or Hansen's disease (leprosy) which becomes manifest to a degree of 10 percent or more within three years of a veteran's discharge from such service and for multiple sclerosis becoming manifest to a 10-percent degree within seven years of a veteran's discharge from such service. In cases of prisoners of war, diseases related to nutritional deficiencies or anxiety states or psychosis which become manifest to a degree of 10 percent or more at any time after service, may be granted service connection on a presumptive basis.

When a claim for service-connected disability benefits is received by the Veterans' Administration, that agency obtains the service medical records and the issue of service connection is generally decided based upon such records. If the service medical records do not estabish that the disability was incurred in service, the veteran may submit evidence to substantiate the contention. Generally, this may be by statements from persons with whom the veteran served relating knowledge of the veteran's injury or disease. The Veterans' Administration also would consider the question of entitlement to service connection by presumption if the disability is a chronic disease becoming manifest within the prescribed period of time. If a veteran is granted service connection, the percentage of disability is generally based upon the findings of a VA examination. If a veteran with a service-connected disability should feel in some later year that the disability has increased in severity, evidence of this, usually a statement of recent medical treatment, may be presented to the Veterans' Administration to request re-evaluation of the disability. Should the Veterans' Administration deny service connection or deny a request for an increased rating, the veteran may appeal the denial decision to the Board of Veterans Appeals provided the veteran notifies the agency of his or her disagreement with the decision within one year of the date of notification of the decision.

The law provides that a case involving a complex or controversial medical issue may be referred to a medical specialist outside of the Veterans' Administration for an advisory opinion. The law also provides that, if service connection for a veteran's disability has been in existence for 10 or more years, service connection may not be severed except in the case of fraud. The law further provides that a disability rated continuously at or above an evaluation for 20 or more years shall not thereafter be rated at a lesser evaluation.

The percentage of disability for a specific disability is assigned by the Veterans' Administration. That agency has established a "Schedule for Rating Disabilities" which is used as the guideline for measuring the degree of disability. Compensation is paid for disabilities at rating of 10 percent, 20 percent, 30 percent, and so forth up to 100 percent. The amount of compensation payable for each percentage of disability is established by law. Additional compensation is payable for the loss of a limb, blindness, and other severe disabilities. Additional dependency allowance is payable to veterans with a rating of 30 percent or more for a spouse, minor children, or dependent parents.

Dependency and indemnity compensation for survivors of veterans who have died of service-connection causes

As of July 1987, there are 264,575 spouses and 47,546 children receiving dependency and indemnity compensation [DIC]. These are the survivors of more than 300,000 veterans who either died in service or who died of service-incurred causes. About $2.1 billion is expected to be paid in fiscal year 1987 to the survivors. Widows and children of veterans who died of causes determined to be service-connected are entitled to receive monthly DIC.

The purpose of this benefit is to provide partial compensation to the designated survivors for the loss in financial support sustained as the result of the service-connected death. Income and need are not factors in determining a surviving spouse's or child's entitlement since the Nation assumes, in part, the legal and moral obligation of the veteran to support the spouse and children. Payments of DIC for surviving spouses are determined on the basis of the veteran's service pay-grade and range from $498 for the surviving spouse of an E-1 to $1,274 for the surviving spouse of an 0-10. Surviving spouses are entitled to an additional $58 for each child.

There is an additional allowance of $149 monthly which is payable to eligible surviving spouses who are patients in a nursing home or who are in need of the regular aid and attendance of another person.

Surviving spouses qualified for DIC who are not so disabled as to require the regular aid and attendance of another person but who, due to disability, are permanently housebound, may be granted a special allowance of $73 monthly in addition to the DIC rate otherwise payable.

If there is no surviving spouse receiving dependency and indemnity conpensation benefits but there is a surviving child, the child is entitled to $251 monthly with additional benefits for other children.

When a service-connected disability is found to be the principal or contributory cause of death, such death is considered to be service connected. These determinations are made on a very liberal basis. For example, there are disabilities which by their very nature are so overwhelming that eventual death can be anticipated irrespective of co-existing conditions. Even though such a disability is non-service-connected and is the primary cause of death, consideration is given to whether the co-existing service-connected conditions were of such severity as to have been a material influence in accelerating death. Where death had been so accelerated, it will be considered service connected. The death of any veteran whose service-connected disabilities were the primary cause of death or contributed materially in producing death would, of course, render the survivor basically eligible for service-connected death benefits.

The same benefits provided for those entitled to DIC are also payable to surviving spouses or children of certain veterans whose deaths are not service-connected but who, at death, had been in receipt of total (100 percent) ratings for service-connected disabilities. It is necessary for entitlement under this provision that the 100 percent rating has been in effect continuously for at least 10 years at death; or continuously since service and for at least 5 years. A surviving spouse must have been married to a veteran for at least two years at the time of death before entitlement exists.

The following table shows by war period the number of surviving spouses and children of service-connected veterans in receipt of survivors' death benefits:

ACTIVE DEPENDENCY AND INDEMNITY COMPENSATION CASES

	DIC beneficiaries		
	Total	Widows	Children
Total	321,121	264,575	47,546
World War I	19,342	18,539	803
World War II	124,544	119,721	4,823
Korean conflict	30,247	28,068	2,179
Vietnam era	80,419	55,041	25,378
Spanish/American War	64	50	14
Mexican border period	1	1	
Indian War			
Civil War	2		2
Regular establishment	57,502	43,155	14,347

DISCUSSION OF THE BILL

Percent of increase in compensation rates

Historically, the Congress has increased compensation rates whenever there has been an appreciable increase in the cost-of-living index, since the rates are not indexed to the Consumer Price Index by law. This is necessary to ensure that inflation does not erode the purchasing power of those receiving compensation and DIC benefits.

From December 1945 through November 1986, the cumulative increase in the Consumer Price Index (CPI) was 498 percent. During the same period, the cumulative increase in the compensation rate paid for the totally and permanently disabled service-connected unmarried veteran has been 1026 percent.

TITLE I—COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION

Title I of H.R. 2945 would provide, effective December 1, 1987, a 4.1 percent cost-of-living adjustment in the rates of compensation and dependency and indemnity compensation.

As indicated earlier, the Administration proposed indexing these rates to the annual adjustment, in the consumer price index in the same manner as the non-service-connected pension program and social security. The Committee does not believe such action would be in the best interest of veterans. It is extremely important that the rate increases for compensation and DIC be legislated on a periodic basis by the Congress rather than being tied directly to changes in the CPI. It is argued that indexing the rates of compensation and DIC would obviate the need for annual Congressional action. However, this would remove from the Congressional arsenal a vehicle through which periodic and necessary improvements to the programs may be made. Furthermore, there is precedent for the Congress enacting a higher increase than would otherwise have resulted through indexing. For example, in enacting Public Law 98-576, effective December 1, 1986, the Congress provided a 1.5 percent increase for these service-connected benefits rather than the 1.3 percent increase reflected by the change in the CPI that would otherwise have resulted. For these reasons, the Committee is rejecting the Administration's indexing proposal.

Should the proposed 4.1 percent rate increase be enacted, the changes in compensation and DIC rates effective December 1, 1987 would be as follows:

COMPENSATION AND DIC RATES EFFECTIVE DECEMBER 1, 1987

	Increase (monthly rate)	
	From	To
Percentage of disability or subsection under which payment is authorized:		
(a) 10 percent	$69	$71
(b) 20 percent	128	133
(c) 30 percent	194	201
(d) 40 percent	278	289
(e) 50 percent	394	410
(f) 60 percent	496	516
(g) 70 percent	626	651
(h) 80 percent	724	753
(i) 90 percent	815	848
(j) 100 percent	1,355	1,410
Higher statutory awards for certain multiple disabilities:		
(k)(1) Additional monthly payment for anatomical loss, or loss of use of, any of these organs: one foot, one hand, blindness in one eye (having light perception only), one or more creative organs, both buttocks, organic aphonia (with constant inability to communicate by speech), deafness of both ears (having absence of air and bone conduction)—for each loss	63	63
(2) Limit for veterans receiving payments under (a) to (j) above	1,684	1,753
(3) Limit for veterans receiving benefits under (1) to (n) below	2,360	2,456
(l) Anatomical loss or loss of use of both feet, one foot and one hand, blindness in both eyes (5/200 visual acuity or less), permanently bedridden or so helpless as to require aid and attendance	1,684	1,753
(m) Anatomical loss or loss of use of both hands, or of both legs, at a level preventing natural knee action with prosthesis in place or of 1 arm and 1 leg at a level preventing natural knee or elbow action with prosthesis in place or blind in both eyes, either with light perception only or rendering veterans so helpless as to require aid and attendance	1,856	1,932
Percentage of disability or subsection under which payment is authorized:		
(n) Anatomical loss of both eyes or blindness with no light perception or loss of use of both arms at a level preventing natural elbow action with prosthesis in place or anatomical loss of both legs so near hip as to prevent use of prosthesis, or anatomical loss of 1 arm and 1 leg so near shoulder and hip to prevent use of prosthesis	2,111	2,197
(o) Disability under conditions entitling veterans to two or more of the rates provided in (l) through (n), no condition being considered twice in the determination, or deafness rated at 60 percent or more (impairment of either or both ears service-connected) in combination with total blindness (5/200 visual acuity or less) or deafness rated at 40 percent or total deafness in one ear (impairment of either or both ears service-connected) in combination with blindness having light perception only or anatomical loss of both arms so near the shoulder as to prevent use of prosthesis	2,360	2,456
(p)(1) If disabilities exceed requirements of any rates prescribed, Administrator of VA may allow next higher rate or an intermediate rate, but in no case may compensation exceed	2,360	2,456
(2) Blindness in both eyes (with 5/200 visual acuity or less) together with (a) bilateral deafness rated at 30 percent or more disabling (impairment of either or both ears service-connected) next higher rate is payable, or (b) service-connected total deafness of one ear or service-connected loss or loss of use of an extremity the next intermediate rate is payable, but in no event may compensation exceed	2,360	2,456
(3) Blindness with only light perception or less with bilateral deafness (hearing impairment in either one or both ears is service-connected) rated at 10 or 20 percent disabling, the next intermediate rate is payable, but in no event may compensation exceed	2,360	2,456
(4) Anatomical loss or of use of three extremities, the next higher rate in paragraphs (a) to (n) but in no event in excess of	2,360	2,456
(q) [This subsection repealed by Public Law 90-493.]		
(r)(1) If veteran entitled to compensation under (o) or to the maximum rate under (p); or at the rate between subsections (n) and (o) and under subsection (k), and is in need of regular aid and attendance, he shall receive a special allowance of the amount indicated at right for aid and attendance in addition to such rates	1,013	1,054
(2) If the veteran, in addition to need for regular aid and attendance, is in need of a higher level of care, a special allowance of the amount indicated at right is payable in addition to (o) or (p) rate	1,509	570
(s) Disability rated as total, plus additional disability independently ratable at 60 percent or over, or permanently housebound	1,516	1,578

COMPENSATION AND DIC RATES EFFECTIVE DECEMBER 1, 1987—Continued

	Increase (monthly rate)	
	From	To
(t) This subsection repealed by Public Law 99–576]		

In addition to basic compensation rates and/or statutory awards to which the veteran may be entitled, dependency allowances are payable to veterans who are rated at not less than 30 percent disabled. The rates which follow are those payable to veterans while rated totally disabled. If the veteran is rated 30, 40, 50, 60, 70, 80 or 90 percent disabled, dependency allowances are payable in an amount bearing the same ratio to the amount specified below as the degree of disability bears to total disability. For example, a veteran who is 50 percent disabled receives 50 percent of the amounts which appear below.

	Increase (monthly rate)	
	From	To
If and while veteran is rated totally disabled and—		
Has a spouse	$82	$85
Has a spouse and child	138	143
Has no spouse, 1 child	57	59
For each additional child	44	45
For each dependent parent	57	59
For each child age 18–22 attending school	126	131
Has a spouse in nursing home or severely disabled	149	155

The following increases are provided for surviving spouses of deceased veterans whose deaths are service-connected and who are receiving dependency and indemnity compensation (DIC) payments.

	From	To
Pay Grade:		
E–1	$498	$518
E–2	513	534
E–3	526	547
E–4	560	582
E–5	574	597
E–6	587	611
E–7	616	641
E–8	650	676
E–9	[1] 679	[1] 706
W–1	630	655
W–2	655	681
W–3	674	701
W–4	714	743
0–1	630	655
0–2	650	676
0–3	696	724
0–4	736	766
0–5	811	844
0–6	914	951
0–7	988	1,028
0–8	1,083	1,127
0–9	1,162	1,209
0–10	[2] 1,274	[2] 1,326

[1] If the veteran served as Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, of Master Chief Petty Officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $763.

[2] If the veteran served as Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,420.

Where there is no surviving spouse receiving dependency and indemnity compensation, payment is made in equal shares to the children of the deceased veteran. These rates are increased as follows:

	Increase (monthly rate)	
	From	To
One child	$251	$261
Two children	361	375
Three children	467	486
Each additional child	94	97

TITLE II—IMPROVED BENEFITS FOR FORMER PRISONERS OF WAR

Title II of H.R. 2945 would provide improved benefits for former prisoners of war by expanding the definition of former prisoner of war to include certain veterans who were captured and held as prisoners of war by the Soviet Union during World War II. Under current law, individuals interned by allied governments, or non-enemy governments, during a period of war may not be considered as prisoners of war for VA purposes.

Title II also contains provisions expanding the list of diseases for which service connection may be presumed if manifested by former prisoners of war to a compensable degree. The diseases to be added are peripheral neuropathy due to trauma, spastic colon, and peptic or duodenal ulcers. During the 99th Congress, the House passed H.R. 4333 which would added spastic colon to the list of presumptive conditions. The addition of this disease, as well as peripheral neuropathy and peptic or duodenal ulcer, would appear warranted in view of the lack of medical records maintained during captivity and in consideration of the hardships endured by this group.

Finally, title II contains a provision, also passed by the House as part of H.R. 4333, that would reduce the incarceration period upon which a former prisoner of war's eligibility for dental treatment is based—from six months to ninety days. This change is proposed in recognition of the fact that under some circumstances of incarceration dental/oral pathology could develop and become irreparable within a period of ninety days.

TITLE III—MISCELLANEOUS PROVISIONS

Title III of H.R. 2945 contains miscellaneous provisions including an amendment to the eligibility criteria applicable to surviving spouses of certain service-connected disabled veterans rated totally disabled at time of death for DIC benefits that may be paid as if the veteran's death were service connected. Current law provides that such benefits may be paid to a veteran's surviving spouse if he or she was married to the veteran for not less than two years immediately preceding the veteran's death. This provision would conform the marriage requirements to those applicable to surviving spouses of veterans whose deaths are service connected.

Title III also contains a provision prohibiting the VA from consolidating the St. Paul, Minnesota, Insurance Center into the Philadelphia, Pennsylvania, Insurance Center. The Committee is of the opinion that the projected cost savings expected by the VA as a result of its planned consolidation do not support this action, not does the Committee believe the consolidation of these two centers would be in the best interest of veterans.

The reported bill expresses the sense of the Congress that a bridge spanning the Ohio river between Weirton, West Virginia, and Steubenville, Ohio, be named in honor of the Nation's veterans.

Finally, title III contains a provision expanding the number of evaluations that may be conducted annually with regard to the temporary program of vocational rehabilitation for certain younger pensioners from 2,500 per program year to 3,500 per program year. This amendment is supported by the fact that, during a hearing on the implementation of the program, a VA representative testified that, unless the ceiling on the evaluations were lifted, the VA would have to suspend the evaluations for a period of three months.

Mr. Speaker, as described above, title I of H.R. 2945 contains the 4.1 percent compensation and DIC rate increases. These would become effective on December 1 of this year. I want to state here that should the CPI increase be more than 4.1 percent, the committee will take necessary action to assure that veterans receive a COLA that at least meets the change in the CPI.

As described above, title II of the reported bill contains the provisions of two separate bills, H.R. 1543 and H.R. 1544. It would liberalize the definition of former prisoner of war, expand the list of diseases that may be presumed to be service connected if suffered by a former POW to include peripheral neuropathy due to trauma, spastic colon, or peptic or duodenal ulcer, and reduce the length of internment required for a former POW to establish eligibility for dental care, from 6 months to 90 days. I would note here that last summer the House unanimously passed legislation that would have added spastic colon to the list of presumed service-connected diseases and that would have changed the dental eligibility criteria. Unfortunately, both were rejected by the other body last summer. I would hope that a change in view has since occurred, and that they will now accept these provisions.

As described above, title III contains four miscellaneous provisions. The first would shorten the period of time a marriage must exist for a very small number of widows to be eligible for certain death benefits payable at DIC rates. A widow of a veteran whose death occurs after being continuously rated totally disabled due to a service-connected disability for a period of 10 years is eligible for this death benefit. However, under current law, a widow must have been married to the veteran for at least 2 years prior to the veteran's death. This provision would make all DIC widows equal—that is, the marriage must exist for 1 year prior to the veteran's death, or for a shorter period if a child is born.

As described above, title III would also prohibit the VA from closing the insurance center at St. Paul, MN. In view of a GAO report disputing the savings projected by the VA to be realized from the planned consolidation of this insurance center into the Philadelphia, PA, center, the committee is of the opinion that such action is not warranted, especially when we consider the number of employees that would be displaced. I want to thank the gentleman from Minnesota [Mr. PENNY] for bringing this matter to the attention of the committee.

Title III would also express the sense of Congress that the Governor of West Virginia be urged to name a highway bridge now being built across the Ohio River between Steubenville, OH, and Weirton, WV, in honor of America's veterans, as an appropriate and fitting memorial to their sacrifices and achievements. I believe that, in a year when we have taken steps to honor our Vietnam veterans by saying "welcome home" and by remembering the terrible experiences suffered by former prisoners of war, it is only fitting that we continue to memorialize their heroic efforts and once again say "thank you."

Finally, title III would increase the ceiling on the number of evaluations that may be conducted under the temporary program of vocational rehabilitation for certain younger pensioners, established by Public Law 98-543. During recent hearings before my subcommittee, a VA witness testified that the 2,500 ceiling on evaluations would be reached in November 1987 and that evaluations under the program would have to be suspended until February 1988. To prevent this from happening, this provision would increase the current ceiling from 2,500 to 3,500.

Mr. Speaker, I want to take this opportunity to express my thanks to the distinguished chairman of the Committee on Veterans' Affairs, G.V. (SONNY) MONTGOMERY, for bringing this important legislation to the floor at such an early date, and for his overall excellent leadership and commitment to the concerns of our Nation's veterans. I also wish to thank the committee's ranking minority member, JERRY SOLOMON, and my subcommittee vice chairman, BOB MCEWEN, as well as all of the members of the Veterans' Affairs Committee for their support and assistance in formulating this bill. I strongly urge all of my colleagues to pass this very important bill.

Mr. MONTGOMERY. Mr. Speaker, I reserve the balance of my time.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 2945, which would provide a 4.1 percent COLA for VA disability compensation payments and dependency and indemnity compensation [DIC], it would also amend disability criteria for surviving spouses of certain veterans; and, would allow certain additional presumptive disabilities for former prisoners of war.

As ranking member of the Veterans' Affairs Committee, I cosponsored this legislation, which will help veterans and their dependents keep up with the cost of living. The recipients of these payments have a fixed income from them, and we are all familiar with what happens when fixed incomes don't keep up with price increases.

Early this year when the administration submitted its proposed budget for fiscal year 1988, the proposed COLA of 3.5 percent was a full COLA, but the inflationary rate this year, while thankfully not the runaway double-digit variety of a few years ago, has increased slightly. Now it would take a 4.1-percent increase to keep even and that is what we are proposing. The 4.1-percent increase is not controversial and is within the budget for fiscal year 1988. The administration supports COLA's reflecting increases in living costs.

Mr. Speaker, no group of Americans is more deserving of a COLA than our disabled veterans and their dependents. Veterans who were disabled as a result of their military service have sacrificed dearly for their country. They did so willingly, with no expectation of reward, but the Nation has long recognized that it has a moral obligation to the men and women who have served in uniform, and particularly those who became disabled.

The obligation obviously extends to the families as well, because they are so directly affected. The COLA we proposed in H.R. 2945 once again illustrate that the Congress does not forget America's veterans.

Our bill would also make consistent with similar provisions of law, the amount of time a surviving spouse must have been married to a totally disabled service-connected veteran in order to receive certain death benefits at DIC rates.

Current law requires 2 years; and the amendment would reduce that time to 1 year, which is the length of time generally required for receiving DIC. This change will make the benefits program more equitable. The Veterans' Affairs Committee continually examines the statutes providing veterans' benefits for needed improvements and, of course, as this one did, many reasonable suggestions come from individual veterans, their families and veterans service organizations chartered by Congress.

Finally, Mr. Speaker, this bill would, among other things, provide for certain additional presumptive disabilities of former prisoners of war, improve eligibility for their dental care, and grant prisoner-of-war status to certain persons who were interned during World War II. Each of these provisions is well justified, and I fully support them.

The leadership of the Veterans' Affairs Committee has worked closely together in producing these improved veterans' benefits.

I commend Mr. MONTGOMERY, our chairman, Mr. APPLEGATE, the chairman of the Subcommittee on Compensation, Pension and Insurance, and Mr. MCEWEN, the subcommittee's ranking member, and their staffs for their excellence.

An "aye" vote for H.R. 2945 is a vote for America's veterans, and as I ask my colleagues to pass this measure, I am confident that this body will see fit to continue its tradition of unwavering support for the men and women who have served this great country in uniform.

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. MCEWEN], the ranking Republican on the subcommittee.

Mr. MCEWEN. I thank the gentleman for yielding time to me.

Mr. Speaker, I want to commend the chairman of our full committee, SONNY MONTGOMERY, and the ranking minority member, GERALD SOLOMON, for their leadership in bringing this legislation to the House floor in a timely manner.

I also want to express my deep appreciation to my friend and Ohio colleague, DOUG APPLEGATE, for his bipartisan spirit and cooperation. It is indeed an honor to work with him. As the chairman of the Subcommittee on Compensation, Pension and Insurance, he has once again demonstrated his special commitment to America's veterans by shepherding this legislation through our subcommittee and onto the House floor.

Mr. Speaker, today the House of Representatives meets to consider the cornerstone of our responsibility. It is to assure that service-connected disabled veterans, their dependents and survivors receive that level of compensation to which they are justly entitled. The bill before us, H.R. 2945, the Veterans Compensation Act, addresses that responsibility for the 100th Congress and I wholeheartedly endorse it.

As the chairman has indicated in his remarks, the Compensation, Pension and Insurance Subcommittee has recommended a 4.1-percent cost-of-living increase for compensation and DIC recipients.

H.R. 2945 also contains provisions which provide compensation for certain illnesses and conditions for former American prisoners of war. Mr. APPLEGATE has explained those particular issues as well as those pertaining to the DIC Program and the vocational training program.

Mr. Speaker, H.R. 2945 is a good bill. Moreover, it illustrates our continuing commitment to America's disabled veterans and their families. I urge my colleagues to support this important legislation.

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I rise in strong support of H.R. 2945, a bill to amend Federal law to improve the compensation for disabled American veterans and their eligible survivors.

When an American joins the military service of our great Nation to protect our freedom, liberty and security, that commitment to American values lays on all citizens a debt. When that veteran is in need of assistance and services, every American owes a part of that debt. And, when a veteran becomes disabled as a result of military service not only the veteran, but the veteran's family suffers a loss.

Throughout its history, the basic purpose of the disability compensation program has been to provide a measure of relief from the problems arising from reduced earnings capacity experienced by veterans who have become disabled as a result of their military service. As of July 1 of this year more than 2.2 million veterans were receiving disability compensation.

Additionally, the compensation program provides dependency and indemnity compensation to spouses and children of veterans who have died of causes resulting from their military service. As of the beginning of July, benefits were being provided to 264,575 spouses and 47,546 children of more than 300,000 veterans who died either in service or who died of service-incurred causes.

The bill before us would provide a 4.1-percent increase in the compensation rates for service-connected disabilities, for the payments to surviving spouses and children, and for the aid and attendance allowance payable to veterans and surviving spouses.

The bill would also provide improved benefits for former prisoners of war; and increase from 2,500 to 3,500 the number of evaluations which the Veterans' Administration may conduct each year in connection with a program to assist younger veteran pensioners in obtaining vocational rehabilitation.

This bill recognizes the need for increasing the compensation rates for disabled veterans and their families so that the value of the payments they receive do not melt away in the presence of rising costs of living.

I believe this is a good bill. This is a bill which will help disabled veterans and their families, I urge my colleagues to join me in voting for its passage.

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Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to one of the most able members of our Committee on Veterans' Affairs, the former ranking Republican member of that committee, the gentleman from Arkansas, Mr. JOHN PAUL HAMMERSCHMIDT.

Mr. HAMMERSCHMIDT. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, as an original cosponsor, I rise in strong support of H.R. 2945, the Veterans' Compensation Amendments of 1987. This bill gives veterans and their dependents a most welcome 4.1-percent COLA, to help them keep up with the cost of living. The COLA applies to disability compensation and to dependency and indemnity compensation [DIC].

The Veterans' Affairs Committee has very carefully monitored the Consumer Price Index and other economic indicators through the years to ensure that veterans compensation is not reduced by the hidden hand of inflation. The committee has firmly rejected past proposals to automatically link compensation and DIC rates to the Consumer Price Index. The amount of the veteran's COLA should be a conscious decision by the Congress. Veterans do not want a computer to decide how much their COLA will be each year.

A July 23, 1987, OPM statement of policy revived this proposal once again. It will certainly have the same chance and the same fate as the other proposals, whether advanced by Republican or Democrat administrations. Probably not a single member of our committee would favor the automatic linkage, because to do so would be an abdication of part of this committee's responsibility for veterans. Veterans' compensation benefits are not some kind of Social Security, income supplement, or social welfare; and attempts to treat them as such are badly misdirected.

Mr. Speaker, H.R. 2945 would provide former prisoners of war with presumptive service connection for three new diseases in addition to those already recognized by law as presumptive. Mr. APPLEGATE has already explained what they are and why they should be treated on a presumptive basis. I completely agree with his remarks and associated myself with them.

The Veterans' Compensation Amendments of 1987 would also expand the definition of former prisoners of war to include internees held by some allied nations, and would reduce the incarceration period required for dental care eligibility from 6 months to 90 days for former POW's. Additionally, the amendments would improve eligibility for surviving spouses of veterans whose deaths are service connected. I have not spoken to every provision of this lengthy bill, but I support each of them.

Mr. Speaker, my good friend for many years, SONNY MONTGOMERY, has again as chairman of the Veterans' Affairs Committee led the way for veterans with this legislation, and I commend him for bringing H.R. 2945 to the floor. DOUG APPLEGATE and BOB MCEWEN as chairman of the Compensation, Pension and Insurance Subcommittee, and as its ranking member, respectively, have also played indispensible roles in formulating these compensation amendments.

Finally, my successor as ranking member of the full committee, JERRY SOLOMON, has done a superb job on this bill and the other legislation moved by the committee this session, and I want him to know how impressed I am with the way he has gone forward as ranking member.

Mr. Speaker, I strongly urge this body to pass H.R. 2945.

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am grateful to the other distinguished gentleman from Ohio [Mr. MCEWEN] for his leadership and cooperation in getting this bill to the floor for consideration. When I chaired the subcommittee I had the pleasure of working with another great man from the Buckeye State, Mr. WYLIE, who continues to serve as a ranking member of our committee. He and I handled the Compensation and Pension Subcommittee for a number of years so I deeply respect and have a very high regard for these gentlemen from Ohio.

I also want to thank my friend, the very able ranking minority member of the full committee, the distinguished gentleman from New York [Mr. SOLOMON]. What a pleasure it is to work with him. I appreciate the work of all members of the subcommittee.

I urge the adoption of H.R. 2945, as amended.

Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. PENNY].

Mr. PENNY. Mr. Speaker, I rise in strong support of H.R. 2945. This is important legislation because it ensures adequate compensation for the men and women who have been disabled due to their service to our Nation and compensation for their surviving spouses and children. It also improves benefits for former prisoners of war. The compensation and benefits provided in this bill have come at a high price—paid for by the lives and health of these dedicated veterans.

Mr. SPEAKER. In addition, H.R. 2945 contains a provision, section 302, that is important in providing insurance services to many veterans throughout the country. This particular provision would prevent the VA from moving ahead with the proposed consolidation of all VA insurance activities at the Philadelphia Insurance Center and closing down the facility at Fort Snelling in Minnesota. I appreciate the VA's desire to operate more effectively and more efficiently. However, the data offered thus far in support of the consolidation do not prove that veterans will be better served or that the Federal treasury will benefit from the consolidation initiative.

HISTORY OF THE ISSUE

The consolidation proposal has been around for a number of years ever since the insurance operations were consolidated over 20 years ago from 13 into the 2 remaining centers. In the past two budget cycles the VA has again proposed the consolidation. In 1986, along with the budget submission, the VA Office of Program Analysis and Evalauation completed a cost-benefit analysis of the potential consolidation of VA insurance activities. That study was found to have a number of weaknesses and, as a consequence, the Minnesota congressional delegation requested that the General Accounting Office undertake a comprehensive study into the cost-effectiveness of the consolidation and its long-term consequences. Since May 1986, when the study was requested, GAO has attempted to complete their analysis and has encountered an ever-shifting data base, with the VA revising its figures at least twice in that period.

To allow time for GAO to complete its study and for that information to be reviewed, the HUD-independent agencies appropriations bill for fiscal year 1987 included a 1-year limitation rider blocking the closure of the St. Paul Onsurance Center in 1987.

In May of this year, GAO reported its preliminary findings to the Minnesota delegation, with the final report to be issued in mid-August. GAO has raised serious questions about the projected savings outlined by the VA study.

PERSONNEL SAVINGS

The VA study projected a personnel savings of $2.9 million over 5 years, by calculating a reduction of 24 positions saved through the consolidation. These positions were assumed to be primarily duplicated supervisory and supervisory support personnel. The VA also assumed that, because the average grade/salaries of Philadelphia personnel (GS–5, step 5) are lower than St. Paul (GS–5, step 10), they would also realize a savings in the replacement personnel hired for the consolidated center. GAO has questioned these conclusions because they do not take productivity into account. GAO analyzed the job tasks and productivity levels in Philadelphia, and according to these data, GAO assumes that Philadelphia would need to hire 32 additional direct labor personnel to accomplish the amount and type of work currently being done in St. Paul. This comes out to be 32 positions (GS-5–5) at $17,725 per year equals $735,000 per year; $735,000 per year times 5 years equals $3.67 million in total new personnel costs at the consolidated Philadelphia site. These additional personnel costs would effectively wipe out the VA projected personnel savings of $2.9 million.

SPACE SAVINGS

GAO also has questioned the $1.8 million savings in space costs projected by the VA. The $1.8 million represents the savings in GSA rental space now occupied by the St. Paul Center. GAO points out that the rental costs of the additional space to be occupied by the consolidated office must also be taken into account. The VA will need 27,500 square feet in increased work space at an annual cost of approximately $200,000. The VA is already paying for this additional space because part of the space was being used by the VA for a yearly survey that is now being done by regional offices. The remainder of the space has become available due to use of modular furniture and rearrangement of work areas. If the consolidation did not occur, the 27,500 square feet could be returned to GSA and rented to another tenant. If this were taken into account, the potential savings would be reduced by approximately $1 million over 5 years—$200,000 times 5 years.

GAO CONCLUSIONS

Thus, GAO has concluded that the proposed consolidation would not save money, but would at best, break even, and potentially would cost more than it proposes to save.

In mid-June, the HUD-Independent Agencies Subcommittee of the House Appropriations Committee indicated that it favors another 1-year limitation rider to block the consolidation in fiscal year 1988. I greatly appreciate Appropriations Committee action and the leadership of my colleague MARTIN SABO on this issue. However, this limitation is, by a appropriations link, only a year-by-year stop-gap measure. It is time to put the consolidation proposal to rest. In this effort, I sought and received the support of the chairman of the Compensation, Pension and Insurance Subcommittee, Mr. APPLEGATE, and the support of the ranking member of that subcommittee, Mr. McEWEN, as well as the generous support of the chairman of the full committee, Mr. MONTGOMERY, and the assistance of our ranking member, Mr. SOLOMON. I am grateful for their help.

While the VA has regularly proposed and the Congress has disposed of consolidation attempts on a year-by-year basis, the 180 employees of the St. Paul Insurance Center have continued to work, uncertain of their future and the futures of their families. This uncertainty is harmful to morale and, if continued, harmful to productivity. It is to the benefit of these employees, the VA itself, and ultimately the veterans whom they serve to bring this uncertainty to an end. Section 302 of this bill will remove this cloud over the St. Paul employees' heads, so that they can get on with their work of delivering high quality insurance assistance to our Nation's veterans. It does not make good sense to me to disrupt further the lives of these individuals and the work they do when there is no demonstrated benefit to veterans or to the Federal Government.

I urge adoption of H.R. 2945.

Mr. VENTO. Mr. Speaker, I rise in support of this legislation (H.R. 2945) and in particular the provision which prohibits the consolidation of the VA insurance center in my district of St. Paul, MN, into the insurance center at Philadelphia, PA.

I would first like to congratulate all the members of the Minnesota congressional delegation for their diligent efforts to prevent this proposed consolidation and the subsequent closing down of the facility at Fort Snelling in Minnesota. In particular, I would like to thank Representative PENNY for his leadership in bringing this issue to the floor today.

Although I applaud the VA's efforts to reduce costs and increase efficiency in their operations, the consolidation of the St. Paul and Philadelphia insurance centers would accomplish neither of these goals.

The cost-benefit analysis prepared by the VA's Office of Program Analysis and Evaluation which served as the basis of the consolidation recommendation was flawed in its assumptions and conclusions. The preliminary results of a GAO study on the consolidation show that the savings projected in the VA study were greatly overestimated. Although the consolidation would allow for the elimination of certain positions, these savings would be wiped out by the need to hire additional personnel to account for the lower productivity level of the Philadelphia center. Projected savings in space costs were also overestimated in the VA study.

The conclusions of the GAO study which project little or no cost savings as a result of a consolidation should lay to rest any further attempts by the VA to bring about this move.

The passage of this bill would be a welcome sign of relief for the 180 employees of the St. Paul insurance center and their families who have continued to work in the center with no assurances about the future status of their employment. I urge my colleagues to support this bill.

Mrs. LLOYD. Mr. Speaker, I would like to thank the chairman and members of the House Veterans' Affairs Committee for giving us this opportunity to consider improvements in the programs that provide a measure of relief from the impaired earning capacity of veterans who have incurred disabilities as a result of their military service.

It is important for Congress to periodically review these programs so as to ensure that the rates paid to veterans are adequate in relations to the degree of—and loss of earnings capacity resulting from—service-connected disabilities; and, that the widows and children of veterans who have died of service-connected causes, are fairly compensated for their loss of financial support.

In addition to providing a 4.1 percent cost-of-living increase in compensation rates, effective December 1, 1987, H.R. 2945 clarifies the definition of former prisoner of war, expands the list of diseases for which service connection will be presumed, and reduces the incarceration period upon which a former POW's eligibility for dental care is based. These improvements, which are the product of careful deliberation by the Veterans' Affairs Committee, deserve our full support.

Also deserving of our support is H.R. 1811, which authorizes the VA to presume for compensation purposes that certain diseases suffered by veterans may be the result of exposure to radiation while on active duty. If a veteran was a member of the American occupation forces at Hiroshima and Nagasaki, Japan, or participated in the atmospheric testing of nuclear devices between 1945 and 1963, he or she could be compensated by the VA for certain diseases if they become manifest within 30 years of the "Radiation-risk activity."

Veterans who have been exposed to atomic radiation have had great difficulty in proving service connection for diseases such as leukemia, bronchogenic carcinoma, and cancer of the thyroid, breast, pharynx, esophagus, stomach, small intestine, colon, and pancreas. A presumption of service-connection for these diseases offers us a fair and reasonable way to adjudicate their claims in an environment of scientific uncertainty over the long-range consequences of atomic radiation exposure.

Mr. MONTGOMERY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. Montgomery] that the House suspend the rules and pass the bill, H.R. 2945, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MONTGOMERY. Mr. Speaker, I ask unanimous consent that I may be permitted to revise and extend my remarks, and also that all Members may have 5 legislative days in which to revise and extend their remarks, and include extraneous matter, on H.R. 2945, the bill just passed, and also on H.R. 1811, the bill which we will next consider.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

ATOMIC VETERANS COMPENSATION ACT OF 1987

Mr. MONTGOMERY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1811) to amend title 38, United States Code, to provide certain benefits to veterans and survivors of veterans who participated in atmospheric nuclear tests or the occupation of Hiroshima and Nagasaki and who suffer from diseases that may be attributable to low levels of ionizing radiation, as amended.

The Clerk read as follows:

H.R. 1811

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Atomic Veterans Compensation Act of 1987".

SEC. 2. PRESUMPTION OF SERVICE CONNECTION.

Section 312 of title 38, United States Code, is amended by adding at the end of the following new subsection:

"(c)(1) For the purposes of section 310 of this title, and subject to the provisions of section 313 of this title, any of the diseases specified in paragraph (2) of this subsection becoming manifest in a radiation-exposed veteran to a degree of 10 percent or more within 30 years after the last date on which the veteran participated in a radiation-risk activity shall be considered to have been incurred in or aggravated by the veteran's participation in a radiation-risk activity during service on active duty, notwithstanding the fact that there is no record or evidence of that disease during the period of such service.

"(2) The diseases referred to in paragraph (1) are the following:

"(A) Any form of leukemia other than chronic lymphatic leukemia.

"(B) Thyroid cancer.

"(C) Bronchogenic carcinoma.

"(D) Breast cancer.

"(E) Cancer of the pharynx.

"(F) Cancer of the esophagus.

"(G) Cancer of the stomach.

"(H) Cancer of the small intestine.

"(I) Cancer of the colon.

"(J) Pancreatic cancer.

"(3) For purposes of this subsection:

"(A) The term 'radiation-exposed veteran' means a veteran who, while serving on active duty, was exposed to ionizing radiation as a result of the veteran's participation in a radiation-risk activity.

"(B) The term 'radiation-risk activity' means onsite participation in—

"(i) the atmospheric detonation of a nuclear device; or

"(ii) the occupation of Hiroshima and Nagasaki, Japan, by United States forces during the period beginning on August 6, 1945, and ending on July 1, 1946.".

SEC. 3. EFFECTIVE DATE.

Subsection (c) of section 312 of title 38, United States Code, as added by the amendment made by section 2, shall take effect on October 1, 1987.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Mississippi [Mr. Montgomery] will be recognized for 20 minutes and the gentleman from New York [Mr. Solomon] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Mississippi [Mr. Montgomery].

Mr. MONTGOMERY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1811 would provide benefits to certain disabled veterans exposed to radiation following World War II. The payment of benefits to this group of America's veterans has been debated in the courts and in the Congress for a number of years. In fact, in 1984 the House passed and sent to the Senate, H.R. 1961, a bill that would have, among other things, presumed service-connection for certain veterans exposed to radiation and who suffered from three diseases (leukemia, polycythemia vera, and carcinoma of the thyroid).

Two distinguished members of our committee, Mr. Rowland and Mr. Hammerschmidt, were among the chief sponsors of that legislation. Another member of the committee, Mr. Evans of Illinois, was also a strong advocate for the bill.

So I want to commend the gentleman from Ohio, Mr. Applegate, and Mr. Rowland, Mr. Hammerschmidt and Mr. Evans, for their continuing interest in these veterans and for bringing this bill out of the committee. I believe we have a good chance of enacting this bill into law this year because a similar bill is being considered in the other body.

I yield such time as he may consume to the gentleman from Ohio (Mr. Applegate) for a brief explanation of the bill.

Mr. APPLEGATE. Mr. Speaker, I again thank the gentleman for yielding me this time.

H.R. 1811, the Atomic Veterans Compensation Act of 1987, would establish a statutory presumption of service connection for certain diseases suffered by veterans who, while on active duty, participated in certain radiation-risk activities and as a result may have been exposed to low levels of ionizing radiation. The bill includes the diseases of leukemia, thyroid cancer, bronchogenic carcinoma, breast cancer, and cancer of the pharynx, esophagus, stomach, small intestine, colon and pancreas.

Mr. Speaker, we know that, during the period from 1945 to 1963, the U.S. Government exploded some 235 nuclear devices in the atmosphere over the American Southwest and Pacific Ocean. It is estimated that approximately 220,000 military personnel participated in these tests. Additional personnel may have been exposed to radiation while participating in the occupation of Hiroshima and Nagasaki after the atomic bombings of those cities in 1945.

What we do not know is how much exposure they received; nor do we know the long-term health effects of such exposure on these veterans.

Due to the tremendous degree of uncertainty existing within the scientific and medical communities as to the long-term health effects of exposure to low levels of radiation, and because the levels of radiation to which these veterans were exposed may never be accurately determined, the Committee on Veterans' Affairs has reported legislation that would give relief in the form of a presumption that will provide disability compensation and death benefits to those exposed or to their survivors.

It is vitally important, however, for anyone considering legislation purporting to afford relief to this group of veterans to understand that the principle of "service connection" is one that is based on a point-in-time relationship, not a cause and effect relationship. This permits the granting of service connection for a great number of disabilities that could not have been considered to have been "caused" by service, but, rather, were incurred or manifested during service.

Congress has, from time to time, expanded this principle through the use of statutory presumptions that consider certain diseases to be service connected, notwithstanding the fact that there is no record of such disease during the period of service. Such presumptions are based upon the theory that, if the disease becomes manifest to a certain degree within a specified period of time after an individual's discharge from service, principles of sound medical judgment will justify recognizing the inception of the disease as having occurred during a particular point in time coincident with the individual's service on active duty.

The establishment of presumptions for diseases suffered by veterans exposed to ionizing radiation, on the other hand, poses somewhat of a different type of problem because so many uncertainties continue to exist in the scientific and medical communities as to the question of the long-term health effects of exposure on the participants. There appears to be a growing amount of evidence that some veterans exposed to ionizing radiation are experiencing serious medical problems. However, available data falls far short of meeting the test that, in the exercise of sound medical judgment, these diseases are related to, or were incurred during, military service.

Congress has taken action in recent years by enacting legislation authorizing health care services for veterans exposed to radiation who may be suffering from illnesses not found to be the result of other causes; by mandating further studies into the long-term health effects of such exposure; by requiring the Department of Defense and Defense Nuclear Agency to issue new guidelines pertaining to the preparation of radiation dose estimates in connection with VA claims; and by requiring the VA to issue new regulations giving special consideration to the adjudication of individual claims based on radiation exposure.

Notwithstanding these efforts, it remains very difficult today for a veteran to establish that his or her disability was caused by radiation exposure. Therefore, the establishment of a presumption would appear to be the only means, given the present state of medical and scientific knowledge, upon which service connection may be granted for these disabilities.

Mr. Speaker, I believe H.R. 1811 takes a giant step towards assisting those veterans who are suffering from disabilities that may eventually be proven to have been caused by exposure to low levels of ionizing radiation.

Finally, Mr. Speaker, I want my colleagues to know that the Veterans' Affairs Committee in reporting this bill has done so in a fiscally responsible manner. Because no new entitlement authority for this bill was contained in the budget resolution, we had to find a way to pay for this bill without cutting any veterans' programs. The Congressional Budget Office has estimated that this bill will cost $15 million in budget authority during fiscal year 1988.

We have offset this cost by using a rounding-down method in formulating the new rates in the compensation bill just passed. By doing this we achieved the necessary savings to pay for H.R. 1811, as well as to contribute to the committee's overall reconciliation requirement of $90 million over the next 3 years without cutting any veterans' program.

I want to again express my deep gratitude to the chairman of the Committee on Veterans' Affairs, G.V. (Sonny) Montgomery, and the committee's ranking minority member, Jerry Solomon, for bringing this important, ground-breaking legislation to the floor. It is clear that the leadership of the committee recognizes the pressing need for this type of relief for atomic veterans. I also want to thank my subcommittee's distinguished vice chairman, Bob McEwen for his cooperation and hard work in finalizing this measure. Finally, I want to applaud Dr. J. Roy Rowland of Georgia and John Paul Hammerschmidt for their leadership in introducing this important bill. Without their efforts over the past few years this type of legislation would not have come into being.

I urge all my colleagues to support passage of H.R. 1811.

Mr. SOLOMON. Mr. Speaker, I yield myself such time as I may consume. Mr. Speaker, as ranking member of the Veterans' Affairs Committee, I rise in strong support of H.R. 1811, which I was pleased to cosponsor.

This legislation would take a step which the entire Congress has not previously chosen to take before, although the House has acted before, as Mr. Montgomery noted.

For some time, I, and I believe a number of my colleagues in this body, were hopeful that somehow the many difficult questions surrounding the exposure to ionizing radiation of veterans of Hiroshima and Nagasaki, and of the post-World War II open air testing, could be answered by scientific research and analysis of military records.

There is no question that exposure to certain amounts of ionizing radiation causes some types of cancer. Nobody disputes that. The problem is that neither the veterans who were present at or near the detonation sites, nor anyone else, can really be very sure about how much ionizing radiation they were exposed to.

We hear assurances that these veterans were, based on various methods of estimation, exposed to only very modest levels of radiation. Yet, we're talking about men who were at ground zero of detonation sites in Japan a few weeks after the bombs were dropped, and about men who were relatively close to above ground detonations.

Some of these men had little protection during the blasts and others were undoubtedly exposed to radioactive fallout.

Unless we are to believe that nuclear warfare has suddenly become much safer than we have previously been told, I don't see how anyone, and especially our atomic veterans, could take comfort in these assurances that they really shouldn't worry, or that their luekemia or other cancer was not caused by their radiation exposure.

The recordkeeping years ago during the tests was inconsistent and often sketchy. Many of the soldiers and sailors did not wear measuring devices, and the devices for those who had them were crude and did not measure all types of harmful radiation.

We were right not to rush into a presumptive approach, but we have simply reached a point where it should be concluded there are too many questions about individual cases of exposure which most likely will never be satisfactorily answered, either through research or the military records.

Are we then to tell atomic veterans, "tough break, we know you were at the atomic test, but there just isn't enough evidence to grant your compensation claim for cancer." Clearly, we should not! It has long been the policy of the U.S. Government that, unlike almost any other claims process, veterans making compensation claims will be given the benefit of doubt.

Consequently, from time to time, the Congress has extended to veterans presumptions of service connection for certain diseases, and said, in effect, that due to circumstances, we will not make the veteran prove his or her disability is service connected. We do it because we have decided that veterans who have honorably served their country are a special category of people and deserve special consideration, and should not have to want until scientific certainty comes into play.

Thus, we are brought to the bill before the House today. In my judgment, we should not wait any longer to pay compensation to veterans for the radiation related disabilities outlined by Dr. Rowland.

The committee has relied heavily on the judgment of our distinguished colleague from Georgia, Dr. Rowland, in selecting the disabilities to be included in the bill. We relied on him because he not only is the sole physician in Congress, but because of the respect his judgment commands on both sides of the aisle.

Dr. Rowland, along with John Paul Hammerschmidt, has long been at the forefront of the efforts to secure appropriate recognition of the needs of atomic veterans. So it is most fitting that they were the moving force behind H.R. 1811, and they can be justly proud of their work.

Additionally, Mr. APPLEGATE, chairman of the Subcommittee on Compensation, Pension and Insurance, Mr. McEWEN, ranking member of the subcommittee, and Mr. MONTGOMERY, chairman of the full committee, have cosponsored this legislation and worked tirelessly to bring it to the floor. I commend each of these gentlemen who played key roles in H.R. 1811.

Before I conclude my remarks, I want to anticipate a question which may be on some minds. How much will this cost, and where will the money come from? I think all of my colleagues know I won't support anything that is going to break the bank. For fiscal year 1988 the cost of the bill will be $15 million, and the subcommittee on Housing and Memorial Affairs, chaired by Ms. KAPTUR of Ohio, has produced a housing bill which will not only meet the savings mandated by reconciliation for the Veterans' Affairs Committee, but it and other legislation will also provide enough savings to pay for this bill. So, Ms. KAPTUR and Mr. BURTON, the subcommittee ranking member also deserve special recognition in connection with H.R. 1811.

The time has come for presumptive compensation for our atomic veterans whose disabilities are addressed by this legislation, and I strongly urge my colleagues to favorably consider it.

□ 1340

Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio [Mr. McEWEN], who helped develop this legislation.

Mr. McEWEN. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I associate myself with the remarks of the gentleman from New York, particularly about the innovative manner in which those concerned about the cost of this program were able to make it possible for us to bring this legislation to the floor today within the limits set and defined for us by the House and the budget resolution.

Mr. Speaker, as an original cosponsor of H.R. 1811, I rise in strong support of the Atomic Veterans Compensation Act. The gentleman from Ohio [Mr. APPLEGATE] has explained this legislation well. This issue has been before the Congress for many years, and through his work with our colleagues, the gentleman from Mississippi [Mr. MONTGOMERY], the gentleman from New York [Mr. SOLOMON], the gentleman from Arkansas [Mr. HAMMERSCHMIDT], and the gentleman from Georgia [Mr. ROWLAND], we have been able to strike a balance whereby we can accomplish what we have wanted to achieve for a long time within the constraints that we face.

However, as we try to come to grips with the problems of veterans who were exposed to ionizing radiation, there are no absolute answers. The presumptive diseases contained in H.R. 1811 are a reasonable and modest approach to compensate a number of those veterans affected by radiation.

Mr. Speaker, the issues affecting atomic veterans cannot be considered in the context of absoluteness; but the fact that they exist is indeed absolute. If we err in our approach to H.R. 1811—and I think that we do not—we err on the side of compassion, on the side of granting the benefit of the doubt to these veterans. The question before us is whether we act on a possible, even probable presumption, or do we wait for that scientific and medical certainty which may never come. For my part, I believe that we should approve H.R. 1811 and request my colleagues to support the bill.

Mr. MONTGOMERY. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia [Mr. ROWLAND], one of the chief authors of this legislation.

Mr. ROWLAND of Georgia. Mr. Speaker, I thank the gentleman for yielding me this time.

I wish to join my colleagues in expressing my deepest thanks to the distinguished chairman of the Veterans' Affairs Committee, G.V. (SONNY) MONTGOMERY and the distinguished ranking minority member, JERRY SOLOMON, for bringing H.R. 1811 to the floor today. Under their outstanding leadership, we are once again pressing forward with landmark legislation that will benefit our Nation's veterans.

Along with the gentleman from Arkansas [Mr. HAMMERSCHMIDT] I am proud to have introduced legislation which addresses the problems of some of our long-forgotten veterans. Although we sought to address this situation during the 98th Congress in passing H.R. 1961, those provisions that would have provided temporary benefits for atomic veterans did not survive the bill's final passage and enactment.

Mr. Speaker, H.R. 1811 takes a liberal approach to the problems that current scientific and medical uncertainties cause when a veteran seeks to establish a claim that the disease he or she is now suffering from is related to service. It addresses the gray area we find ourselves in when we start talking about low levels of ionizing radiation and the effects that exposure has upon the development of disease. I believe the approach we have taken in H.R. 1811 is a fair and reasonable solution until we can answer some of these questions with a greater degree of certainty.

In working on this legislation I was concerned that we be as specific as possible in determining which diseases would entitle an atomic veteran to compensation. I am very pleased that the bill as reported contains those malignancies considered most likely to be related to exposure to ionizing radiation.

Mr. Speaker, I want to express my sincere appreciation for all of the work the gentleman from Ohio [Mr. APPLEGATE] has done in moving this legislation so expeditiously and for the substitute he offered in subcommittee. I also want to thank him for hanging tough for being fiscally responsible. In the same spirit I want to thank the gentleman from Ohio [Mr. McEWEN] for his notable support and cooperation. Finally, I want to thank all of the members of the Committee on Veterans' Affairs for their foresight in recognizing the importance of this bill to our atomic veterans.

Mr. Speaker, I urge my colleagues to pass this bill.

Mr. SOLOMON. Mr. Speaker, I yield such time as he may consume to the gentleman from Arkansas [Mr. HAMMERSCHMIDT], the ranking member of the committee and one of the original sponsors of this legislation.

Mr. HAMMERSCHMIDT. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of H.R. 1811, the Atomic Veterans Compensation Act of 1987. This bill would for the first time establish presumptions of service connection for some disabilities known to be associated with exposure to ionizing radiation.

For a long time, the Government and private institutions have been investigating the possible relationship between the exposure of tens of thousands of Americans to radiation while in the military and illnesses, especially cancer, in these veterans years later. Generally, the scientific research results have been reassuring statistically, in that the average atomic veteran seems to have little to fear from radiation-related illnesses.

However, real people are obviously not averages; they are individuals with unique experiences and, more importantly, unique susceptibilities to disease processes. Modern science is not nearly so far along that it can predict whether different individuals, when exposed to various levels of radiation, will develop radiogenic diseases, even though today there is broad agreement in the scientific community that some diseases can be radiogenic.

This problem is combined with another one. Despite sincere efforts to reconstruct the dosages of radioactivity received by veterans at various nuclear test, the results of these efforts do not inspire great confidence in many people, and certainly not in me. It simply is not possible, 20 to 40 years after the events, to do much more than guess how high some radiation exposures were.

Some individual measurements were taken and recorded, it is true, but, again, for many of the men exposed, there were no individual measurements. Often, only one person in a group would have a film badge, very unsophisticated by today's standards, to measure radiation exposure. And it seems obvious enough that the exposure of different people in a particular group could vary widely. It is just easy to postulate a wide variation as it is a small one, but the fact is no one knows.

The imponderables, the things we can't ever know in the cases of the atomic veterans, do not make the legislative decisions any easier. The Congress could just not decide, but its Members were elected by the people to make the hard decisions, perhaps especially the hard decisions, as well as the easy ones.

The Committee on Veterans' Affairs has made its bipartisan, unanimous decision to report H.R. 1811, to the House. I have been one of the chief proponents of the bill, along with my esteemed colleague, ROY ROWLAND of Georgia, who introduced it.

In my view, after all of the scientific research and the attempts to find out all that could possibly be found out through military records, we are left with a policy decision in which science and the records are of little help.

Going back to what we do know, that some diseases can be caused by radiation, it seems fair to me to conclude if a veteran can show his presence at Nagasaki or Hiroshima, or at one of the atomic bomb tests, and if he subsequently develops one of those diseases within a reasonable period of time—we have chosen 11 types of cancer and a period of 30 years based on Dr. ROWLAND's recommendations—then it should be presumed that the veterans disability is service connected.

It does not seem fair to me to require atomic veterans to prove something which they cannot prove and which the Government cannot disprove. This approach may not satisfy lawyers, but I am not a lawyer, and this is the Congress, not a court.

Many people have contributed to H.R. 1811, but ROY ROWLAND has been its champion and deserves special recognition. Also, I commend SONNY MONTGOMERY, our able chairman; DOUG APPLEGATE, the chairman of the Subcommittee on Compensation, Pension and Insurance; and BOB MCEWEN the subcommittee's ranking member, for their vigorous support of H.R. 1811.

Mr. Speaker, I urge in the strongest possible terms that this body favorably consider the Atomic Veterans Compensation Act.

☐ 1350

Mr. MONTGOMERY. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota [Mr. PENNY], a member of our committee.

Mr. PENNY. Mr. Speaker, in early August we will note the 42d anniversary of two significant days that hastened the close of World War II and at the same time brought the uneasy dawn of the nuclear age—these days mark the bombings of Hiroshima and Nagasaki.

The American troops who participated in the nuclear tests prior to the bombings of Japan and the thousands of soldiers who made up the occupation forces in Japan following the detonation of these bombs became our first atomic veterans and the first to contend with a system that neither knew nor understood the possible consequences of exposure to ionizing radiation. These veterans were followed by approximately 250,000 others who were exposed to ionizing radiation during the atmospheric nuclear weapons tests of the 1950's and 1960's. These atomic soldiers, like Russell "Jack" Dann, a paratrooper at atomic test shots Smoky and Galileo, patriotically and without question followed orders that took them from 2 to 15 miles from ground zero or surface zero, without protective clothing or protective respiratory devices. Jack Dann subsequently has suffered many health problems that parallel the symptoms of radiation sickness.

It was through Jack Dann of Albert Lea, MI, chairman of the board of directors of the National Atomic Veterans who is my friend as well as my constituent, and through my service on the House Veterans' Affairs Committee that I began to understand the obstacles faced by our Nation's atomic veterans. Military records from this period are sketchy or nonexistent. Badges supposedly used to measure levels of exposure to radiation are unreliable. And, to this point, scientific evidence that would verify the results of exposure has been inconclusive. All the while we have been attempting to resolve this issue, the nuclear time bombs within the bodies of these atomic veterans have been exploding and these veterans have become ill, and many of them have died.

Even though Congress has passed legislation that assures priority health care for atomic veterans and has established a national registry for tracking atomic veterans, we have not done enough. Recent statistics still indicate that 98 percent of all former servicemen's disability claims filed with the Veterans' Administration for health problems as a result of exposure to ionizing radiation have been denied.

H.R. 1811, the Atomic Veterans Compensation Act of 1987, establishes the presumption of service connection for atomic veterans suffering from those maligancies considered most likely to be related to ionizing radiation exposure. This legislation is a major step in fulfilling our obligation to these veterans and to their families. These individuals, like Jack Dann in the words of the motto of the National Association of Atomic Veterans, "seek no special favors . . . simply justice." I believe that H.R. 1811 is a just and fair bill. In addition, the cost of this legislation will be absorbed within current Veterans' Administration funds by cost savings resulting from changes we are making in other VA programs. I wish to commend Dr. ROY ROWLAND, chief sponsor of this bill, Chairman MONTGOMERY, subcommittee Chairman APPLEGATE, and ranking minority members JOHN PAUL HAMMERSCHMIDT, GERRY SOLOMON, and BOB MCEWEN as well my colleague LANE EVANS for their leadership on this issue.

H.R. 1811 is a constructive commemoration of the 42d anniversary of the atomic age. I urge its adoption.

Mr. SOLOMON. Mr. Speaker, I yield 1 minute to my fellow New Yorker, the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in strong support of two measures brought before us today, H.R. 1811 and H.R. 2945, which provide just compensation for many of our Nation's veterans. I would like to commend and thank the gentleman from Ohio [Mr. APPLEGATE] and the gentleman from Georgia [Mr. ROWLAND] for the leadership they have provided in bringing these measures before us today. I would also like to commend my good friends, the distinguished chairman of our Veterans Committee, the gentleman from Mississippi [Mr. MONTGOMERY], and its ranking member, the gentleman from New York [Mr. SOLOMON], for their dedicated efforts on behalf of our veterans.

H.R. 2945 authorizes a 4.1-percent cost-of-living adjustment [COLA], in the disability compensation and dependency and indemnity compensation [DIC] rates for veterans and their survivors. This increase also applies to the aid and attendance allowance and the allowance for prosthetic devices and special clothing. This COLA shall be effective December 1, 1987, and will help many of our veterans to meet their cost of living.

This measure also broadens the definition of prisoner of war [POW], to include veterans interned by nonenemy governments, expands the list of diseases that are presumed to be service connected for POW's, and shortens the incarceration period for eligibility for POW dental benefits from 6 months to 3 months. Our POW's deserve special recognition for the hardships they endured serving our Nation, and H.R. 2945 provides this recognition in a practical, material way.

H.R. 1811, the Atomic Veterans Compensation Act of 1987, provides a presumption of service-connected disabilities to veterans serving on active duty and participating in either the onsite detonation of an atmospheric nuclear device or the occupation of Hiroshima or Nagasaki between August 6, 1945, and July 1, 1946. The presumption applies to veterans who are suffering from several different forms of cancer and related diseases.

While there still is no conclusive evidence of the effects of low doses of ionizing radiation on humans, there is a higher incidence of certain illnesses among these atomic veterans. Although H.R. 1811 foregoes the standard practice of awarding disability benefits only when substantial evidence is available that the disability occurred during and related to active-duty service, I believe that common sense dictates and compassion and morality compels us to presume these disabilities given the unusual circumstances of radiation exposure.

Mr. Speaker, our veterans served their Nation when called upon to do so, and often made great personal sacrifices and endured unusual hardships. Compensation to our veterans is an integral part of the cost of the defense of our Nation. The measures before us today provides veterans who were exposed to radiation, who were incarcerated as POW's, or who were otherwise injured during military service, compensation for these hardships. Accordingly, I urge my colleagues to join me in support of both H.R. 1811 and H.R. 2945, and to work for their speedy enactment.

Mr. MONTGOMERY. Mr. Speaker, I yield 1 minute to the gentleman from Arkansas [Mr. ALEXANDER].

Mr. ALEXANDER. Mr. Speaker, I rise in strong support of this bill to provide aid to the group of veterans of U.S. military services who have come to be known as atomic veterans and to their survivors.

These are military veterans who participated in radiation-risk activity while serving on active duty and who suffer from diseases which may be caused by exposure to low-level ionizing radiation. They include those veterans who were involved in atmospheric testing of nuclear devices during the period 1945 through 1963 or the occupation of Hiroshima and Nagasaki, Japan.

In the period 1945 through 1963, the United States exploded approximately 235 nuclear devices in the atmosphere over the U.S. Southwest and the Pacific Ocean. The Department of Defense has estimated that about 220,000 U.S. military personnel participated in those tests.

There are those who believe that Congress should stay with its longstanding tradition of authorizing benefits for veterans only when there is substantive evidence that clearly establishes that the disability for which compensation is being provided is service connected.

In general, I agree with that position. But, in the instance of atomic veterans there appears to be a high probability that the very circumstances of their exposure to radiation prevents the disabled veteran from obtaining the evidence he or she would need to validate his or her right to compensation.

It is my understanding that during the atomic tests some service members did not wear badges designed to measure the level of exposure, others lost their badges and many of the badges that were used were found to be defective. But, research in the past 85 years since cancer was first attributed to overexposure to x rays has identified a likelihood of a relationship between certain malignant diseases and exposure to ionizing radiation.

This bill would allow compensation to be paid for 10 such diseases when a radiation exposed veteran has experienced a disability or 10 percent or more within 30 years after the last date on which the veteran participated in a radiation-risk activity while serving on active duty.

The diseases covered are: leukemia—other than chronic lymphatic leukemia; thyroid cancer; brochogenic carcinoma; breast cancer; cancer of the pharynx, the esophagus, the stomach, the small intestine and the colon, and pancreatic cancer.

I believe it is a simple matter of justice that the Government should recognize and compensate veterans whose service to the Nation in connection with the development and use of nuclear devices may well be the root cause of the dread cancer disease to which they have fallen victim. So, I urge a vote for passage of this bill.

Mr. SOLOMON. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. MONTGOMERY. Mr. Speaker, I yield 1 minute to the gentleman from Indiana [Mr. McCLOSKEY].

Mr. McCLOSKEY. Mr. Speaker, I thank the distinguished chairman for yielding and commend him and the ranking Republican member of the committee, and also a special word of thanks, as has been mentioned on several occasions, to the gentleman from Georgia, Dr. ROY ROWLAND, for his great leadership on this issue.

Mr. Speaker, I rise in strong support of H.R. 1811, a bill which would authorize the Veterans' Administration to provide benefits to those Americans' who participated in the extremely dangerous atomic radiation tests and who also served at Hiroshima and Nagasaki immediately after the war.

These individuals contributed greatly to studies that paved the way for our entrance into the atomic era, at great risks to their lives. Without these servicemen, it is unlikely our understanding of this technology would be what it is.

This group has been shown to have disproportionate percentages of radiation related diseases, including fatal forms of cancer. It is more than clear that these veterans deserve just compensation for their service and for the maladies they have suffered for their service. It is regrettable that it has taken so long to recognize the claims of these servicemen.

Mr. Speaker, I urge my colleagues to support this bill.

Mr. SMITH of New Jersey. Mr. Speaker, I rise in support of both H.R. 1811, the Atomic Veterans Compensation Act of 1987, and H.R. 2945, the Veterans Compensation Act amendments. As a strong advocate of the veterans who sacrificed so bravely for our country, I am pleased to be a sponsor of this vital legislation.

As a member of the House Veterans' Affairs Committee, Mr. Speaker, I have had the opportunity to vigorously investigate the concerns of our Nation's veterans. It seems clear to me that both H.R. 1811 and H.R. 2945 address unmet needs of some veterans who are suffering the aftermath of service-related hardships.

H.R. 1811, the Atomic Veterans Compensation Act of 1987, will authorize the VA to provide compensation to certain veterans suffering from various cancers presumed to be service-related. Eligible veterans include those who served in radiation risk areas—in the occupation forces at Hiroshima and Nagasaki after 1945 or in the above-ground testing of nuclear weapons between 1945–63. During service in these areas, many veterans reported symptoms of radiation sickness—nausea, weakness, loss of appetite—indicating that their presence in these areas may very likely be responsible for the cancers now afflicting them.

Mr. Speaker, H.R. 1811 gives the veteran the benefit of the doubt by recognizing the fact that many cancers veterans suffer may be the direct result of service-related activities. I offer my strong support of this legislation on behalf of the veterans who served under these very compromising conditions.

The second bill for consideration today is H.R. 2945, the Veterans Compensation Act amendments. Mr. Speaker, many of the veterans receiving compensation benefits live on a fixed income, are unable to work due to service-related injuries, and depend on their compensation payments as a sole income source. H.R. 2945 will give the veteran a chance to keep up with increasing costs by providing for a 4.1-percent increase in the compensation and dependency and indemnity compensation [DIC] rates.

Additionally, H.R. 2945 would expand the list of illnesses for which the VA could provide compensation to a former POW. Spastic colon and peptic ulcers—conditions known to result from prolonged stress—and peripheral neuropathy due to trauma, would be added to the VA list of compensable claims.

Mr. Speaker, we all know of the tragic misfortunes our POW's were forced to endure. Repeated brutality and unbearable stress were daily occurrences for many POW's. It is of little surprise that many of them now suffer from these stress-related ailments. I urge my colleagues to make available to former POW's compensation for these service-related conditions by voting in support of H.R. 2945.

Mr. MONTGOMERY. Mr. Speaker, to close the debate, I yield myself 1 minute.

Mr. Speaker, this is a good bill. Those who will benefit from the bill are very deserving. We have waited long enough in trying to get the evidence needed to establish a claim. We have concluded that exposure to radiation at certain levels will cause certain types of cancer. What is most difficult to establish is the level of exposure. For veterans who were exposed to radiation during atomic tests and occupation forces following World War II, the level of exposure probably will never be established. Therefore, we have decided to err on the side of these veterans and grant benefits to them.

I urge the adoption of the bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Mississippi [Mr. MONTGOMERY] that the House suspend the rules and pass the bill, H.R. 1811, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

HELSINKI HUMAN RIGHTS DAY

Mr. YATRON. Mr. Speaker, I move to suspend the rules and pass the Senate joint resolution (S.J. Res. 151) to designate August 1, 1987, as "Helsinki Human Rights Day."

The Clerk read as follows:

S.J. RES. 151

Whereas August 1, 1987, will be the twelfth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (hereafter in this preamble referred to as the "Helsinki Accords");

Whereas on August 1, 1975, the Helsinki Accords were agreed to by the Governments of Austria, Belgium, Bulgaria, Canada, Cyprus, Czechoslovakia, Denmark, Finland, France, the German Democratic Republic, the Federal Republic of Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States of America, and Yugoslavia;

Whereas the participating States have committed themselves to balanced progress in all areas of the Helsinki Accords;

Whereas the Helsinki Accords express the commitment of the participating States to "recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and cooperation among themselves as among all States";

Whereas the Helsinki Accords also express the commitment of the participating States to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion";

Whereas the Helsinki Accords also express the commitment of the participating States to "promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development";

Whereas the Helsinki Accords also express the commitment of the participating States to "recognize and respect the freedom of the individual to profess and practise, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience";

Whereas the Helsinki Accords also express the commitment of the participating States in whose territory national minorities exist to "respect the right of persons belonging to such minorities to equality before the law" and that such States "will afford them the full opportunity for the actual enjoyment of human rights and fundamental freedoms and will, in this manner, protect their legitimate interests in this sphere";

Whereas the Helsinki Accords also express the commitment of the participating States to "constantly respect these rights and freedoms in their mutual relations" and that such States "will endeavor jointly and separately, including in cooperation with the United Nations, to promote universal and effective respect for them";

Whereas the Helsinki Accords also express the commitment of the participating States to "confirm the right of the individual to know and act upon his rights and duties in this field";

Whereas the Helsinki Accords also express the commitment of the participating States in the field of human rights and fundamental freedoms to "act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights" and to "fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia the International Covenants on Human Rights, by which they may be bound";

Whereas the Helsinki Accords also express the commitment of the participating States to guarantee the right of the individual to leave his own country and return to such country;

Whereas the Helsinki Accords also express the commitment of the participating States to "facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating States, and to contribute to the solution of the humanitarian problems that arise in that connection";

Whereas the Helsinki Accords also express the commitment of the participating States to "favorably consider applications for travel with the purpose of allowing persons to enter or leave their territory temporarily, and on a regular basis if desired, in order to visit members of their families";

Whereas the Helsinki Accords also express the commitment of the participating States to "deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family" and "to deal with applications in this field as expeditiously as possible";

Whereas the Helsinki Accords also express the commitment of the participating States to "examine favorably and on the basis of humanitarian considerations requests for exit or entry permits from persons who have decided to marry a citizen from another participating State";

Whereas the Helsinki Accords also express the commitment of the participating States to "facilitate wider travel by their citizens for personal or professional reasons";

Whereas the Governments of the Union of Soviet Socialist Republics, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, and Romania, in agreeing to the Helsinki Accords, have acknowledged an adherence to the principles of human rights and fundamental freedoms as embodied in the Helsinki Accords;

Whereas in varying degrees the aforementioned Governments consciously and systematically have violated their commitments to the Helsinki Accords by denying individuals their inherent rights to freedom of religion, thought, conscience, and belief;

Whereas in varying degrees the aforementioned Governments consciously and systematically have violated their commitments to the Helsinki Accords by restricting the free movement of people, ideas, and information;

Whereas in November 1986 representatives from the signatory States convened in Vienna to review implementation of the Helsinki Accords, including the human rights and humanitarian provisions; and

Whereas the Vienna meeting has presented important opportunities to address issues of compliance with the human rights and humanitarian provisions of the Helsinki Accords: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) August 1, 1987, the twelfth anniversary of the signing of the Helsinki Accords is designated as "Helsinki Human Rights Day";

(2) the President is authorized and requested to issue a proclamation reasserting the American commitment to full implementaion of the human rights and humanitarian provisions of the Helsinki Accords, urging all signatory nations to abide by their obligations under the Helsinki Accords, and encouraging the people of the United States to join the President and Congress in observance of Helsinki Human Rights Day with appropriate programs, ceremonies, and activities;

(3) the President is further requested to continue his efforts to achieve full implementation of the human rights provisions of the Helsinki Accords by raising the issue of noncompliance with the Governments of the Soviet Union, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, and Romania at every available opportunity;

(4) the President is further requested to convey to all signatories of the Helsinki Accords that respect for human rights and fundamental freedoms is a vital element of further progress in the ongoing Helsinki process;

(5) the President is authorized to convey to allies and friends of the United States that unity on the question of respect for human rights and fundamental freedoms is the most effective means to promote the

full implementation of the human rights and humanitarian provisions of the Helsinki Accords;

(6) the President is further requested to continue his efforts to achieve the release of all political prisoners of the Soviet Union, including Helsinki monitors, the significant increase in Soviet emigration, the resolution of all family reunification cases, and the cessation of radio transmission jamming;

(7) the President is further requested to seek the inclusion, in any concluding document agreed to in Vienna, of a mechanism to assure that human rights progress is sustained following the conclusion of the Vienna conference on Security and Cooperation in Europe; and

(8) the President is further requested to convey to signatory States the desire of the United States for a balanced result at the Vienna meeting that will not favor military security at the expense of human rights.

SEC. 2. The Secretary of the Senate is directed to transmit copies of this joint resolution to the President, the Secretary of State, and the Ambassador of the thirty-four Helsinki signatory nations.

The SPEAKER pro tempore. Pursuant to the rule, a second is not required on this motion.

The gentleman from Pennsylvania [Mr. YATRON] will be recognized for 20 minutes and the gentleman from Michigan [Mr. BROOMFIELD] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Pennsylvania [Mr. YATRON].

Mr. YATRON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of Senate Joint Resolution 151, designating August 7, 1987, the 12th anniversary of the Helsinki accords, as "Helsinki Human Rights Day." This legislation asks the President to issue a proclamation reasserting U.S. commitment to implementing the provisions pertaining to human rights in the Helsinki Final Act and to urge all signatory nations to abide by their obligations. It further directs the President to seek assistance from our allies in promoting respect for human rights, to continue his efforts to achieve of political prisoners, and to seek a productive exchange at the upcoming Vienna meetings.

It is not enough for the United States to be a signatory to the Helsinki Final Act. We must also act as a defender of fundamental freedoms and an enforcer of the human rights promised in this treaty. The ideals aspired to in this document can only be attained if the language binding the 35 signatory countries is adhered to and not ignored. Actions taken by parties to the accords which make a mockery of this vital instrument should be challenged immediately by other members.

As chairman of the Subcommittee on Human Rights and International Organizations, I have learned that one of the most effective ways of combating gross violations of human rights is exposing the violator and calling attention to those who have been violated. Ironically, some of the most grievous perpetrators of human rights abuse are signatories to the Helsinki accords. Repression runs rampant in many countries which have chosen to bind themselves, at least in theory, to the principles embodied in the Helsinki process. Basic individual liberties, including freedom of religion and expression, are denied. Citizens of these nations live daily with the fear of government harassment and intimidation. Those who protest their treatment may be exiled, incarcerated, or murdered.

It is this hypocrisy by some member states which makes legislators in our country question United States participation in the Helsinki process, but walking away from our commitment to Helsinki is not the answer. Dialog between member states must continue. We must always represent the millions of people who cannot escape from the suffering and injustice. It is up to us to be their advocate. Their only hope may be through our intervening in their behalf by demanding that every government honor the dictates of the Helsinki accords.

Senate Joint Resolution 151 gives us the opportunity to uphold the dreams of the creators of the Helsinki Final Act, as well as the dreams of the oppressed and abused who are looking to us for leadership. I would like to commend the distinguished chairman of the Committee on Foreign Affairs, as well as the ranking minority member, Mr. FASCELL and Mr. BROOMFIELD, for their diligent efforts in promoting many vital human rights initiatives in the Congress. I would also like to commend Congressmen LANTOS, KEMP, HOYER, and PORTER who sponsored the companion bill, House Joint Resolution 282, for their important role in advancing United States involvement in the Helsinki process.

□ 1405

Mr. BROOMFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. BROOMFIELD. Mr. Speaker, I support the resolution before us designating August 1 as "Helsinki Human Rights Day."

If this is truly the age of glasnost, our Government must do everything it can to remind the Soviets and others that much remains to be done to improve human rights in many closed societies around the world. Our Government must not allow other nations to put human rights issues on the back burner.

We all know that many countries which signed the Helsinki accords violate the basic human rights of their citizens on a daily basis. Do Soviet leaders really respect the fundamental freedoms of their citizens? Ask a Soviet refusenik what he thinks about the Kremlin's attitudes toward freedom in that society.

Two Soviet citizens, Aba and Ida Taratula, have been trying to emigrate to Israel for 14 years. What do they think about Soviet compliance with those accords? What do the divided spouses, who have been separated from their loved ones for years, think about their government's respect for basic human liberties?

Many countries in the Eastern bloc are equally guilty of ignoring the fundamental freedoms that they promised to recognize. We in the free world must constantly remind those offending countries that they are obliged to follow both the letter and the spirit of the Helsinki accords.

Soviet leaders have said much about glasnost, the new openness in that country. Now is the time for Mr. Gorbachev to keep his promises. Now is the time for the Soviet Government to comply with the Helsinki accords. Mr. Gorbachev should show the world that glasnost is more than words. Now, more than ever, our President must keep human rights a priority item in future talks with the Soviet Union and its allies.

I urge my colleagues to join me in supporting this resolution.

Mr. Speaker, I yield such time as he may consume to the gentleman from New York [Mr. GILMAN].

Mr. GILMAN. Mr. Speaker, I rise in strong support of the Senate Joint Resolution 151, which designates August 1, 1987, as "Helsinki Human Rights Day." It was an important day some 12 years ago when 35 nations, including the Soviet Union and the United States, signed the Helsinki Final Act. This important document contains provisions relating to freedom of religion, the right of family reunification, as well as the right of individuals to travel between signatory nations for many purposes. It is the cornerstone of human rights activity in the Soviet Union, which was suppressed for so many years, and which saw political and religious activists consigned to the gulag on a moment's notice. The ad hoc Helsinki Monitoring Groups that sprang up throughout the Soviet Union to monitor compliance were snuffed out, as the leaders were arrested or exiled.

What we have today is a different situation than that which existed in the U.S.S.R. a dozen years ago. A new leader has put a new face on his domestic policy, known as "glasnost." Yet, while there seems to have been some easing of the situation facing dissidents and religious activists, including Soviet Jews and Pentacostals, we know that glasnost is not directly targeted at these people. They are merely experiencing some of glasnost's side effects. The struggle for human rights and human dignity continues as it did before.

There has been a rise in the number of Soviet Jews granted emigration permits, from 914 in 1986 to 3,092 for the first half of 1987. But this still contrasts sharply with the more than 50,000 who were allowed to emigrate in 1979. Although most of the Soviet Jewish prisoners of conscience have been released, those who were incarcerated should never have been arrested in the first place. Moreover, the new Pamyat movement gaining prominence in the Soviet Union at this time does indeed appear to be anti-Semitic.

About 150 political dissidents have been released from labor camps and prison terms, yet we know that thousands of other innocent individuals continue to languish, oblivious to the effects of glasnost. One man whom we have been trying to free for quite some time now is Rikhard Albertovich Spalin, a Seventh-Day Adventist arrested many years ago. Due to be released in 1985, he was rearrested just prior to gaining his freedom, and was resentenced to an additional 3 years. All appeals on his behalf continue, yet we are still not certain exactly where he is, and Soviet officials have not informed us of his current status.

Ida Nudel, Vladimir Slepak, and Iosef Begun are just a few of the leaders of the Soviet Jewry movement who remain in refusal. While some Soviet Jews are being allowed to leave, many more are not even being allowed to apply at their local OVIR office. And those who have first degree relatives abroad, such as the Terlitsky family of Moscow, are refused even though the Soviet Union's new emigration guidelines expressly permit the reunification of first degree family members.

Mr. Speaker, the Helsinki Final Act is an important document that reminds its signatories of the need to respect certain inalienable rights. Indeed, we are all our brother's keeper. Accordingly, passage of Senate Joint Resolution 151, proclaiming August 1, 1987, as "Helsinki Human Rights Day" in honor of the 12th anniversary of the signing of this accord, should be adopted unanimously in this body, and furthermore, should be commemorated in an appropriate manner by us all.

Mr. Speaker, I commend the distinguished gentleman from Maryland [Mr. Hoyer] for his work and effort as part of the commission that conducts oversight on the Helsinki accords. That commission, the Joint Commission on Cooperation and Security in Europe, has done a great deal in keeping this issue before our Nation and before the world of nations.

Mr. Speaker, I reserve the balance of my time.

Mr. YATRON. Mr. Speaker, the gentleman from New York [Mr. Gilman] has been a tireless advocate of human rights for many, many years.

Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Maryland [Mr. Hoyer], chairman of the Helsinki Commission, who has been a leader in Congress in promoting human rights and democratic institutions.

Mr. HOYER. Mr. Speaker, as Chairman of the U.S. Commission on Security and Cooperation in Europe, I rise in support of Senate Joint Resolution 151, which designates August 1, 1987, as "Helsinki Human Rights Day," in recognition of the 12th anniversary of the signing of the Helsinki accords. I would also like to thank my distinguished colleagues, John Porter, Tom Lantos, and Jack Kemp for cosponsoring the House companion resolution with me, and commend them, Chairman Fascell and Chairman Yatron on their outstanding leadership in the human rights field.

On August 1, 1975, 35 nations, 33 from Western and Eastern Europe, the United States, and Canada, joined together in Finland to sign the Helsinki Final Act, an historic document recognizing the political, economic, and humanitarian needs of the people of those nations. Within its framework, signatory states pledged to work together for more peaceful relations. Henceforth, these nations would build greater trust through more open contact. The results, however, have not been so grand as our hopes. The humanitarian provisions of the document meant very little to those nations determined to repress their own citizenry.

As the Eastern bloc is sometimes quick to remind us, the Helsinki Final Act is not a legally binding document of international law. But does it then become mere words? Of course not. The solemn expressions of the participating states were very clear. Each state promised to "respect human rights and fundamental freedoms," and to "promote and encourage the effective exercise" of these rights and freedoms.

In light of the clear language of the Final Act, we turn to examine the actual performance of the Soviet Union and Eastern Europe, and sadly enough, we find it wanting. Groups and individuals who made it their task to monitor Eastern bloc compliance found that they themselves were to become the victims of repression. Names like Shcharansky, Orlov, Sakharov, and Bonner are all too familiar to us. They, and other brave individuals like them, were harassed, imprisoned, or internally exiled by the Soviet Government. And, the same fate awaited the Helsinki monitors of the other East European countries, such as Charter 77 in Czechoslovakia and KOR in Poland. Today, the picture has brightened somewhat over past years, thanks in large part to the glasnost policies of the Soviet leadership that we have heard so much about. Some dissidents and families have been allowed to emigrate, Sakharov and Bonner have been brought out of exile, social discussion is beginning. Even the policies of some other Eastern European nations have reflected this openness. It is a promising trend that we can only hope will continue.

Currently, the United States is meeting in Vienna with the other signatory nations at the Third Review Meeting of the Conference on Security and Cooperation in Europe. We are there to review the progress that nations have made in implementing the Final Act, and to recommit ourselves to the hopes we had for Helsinki back in 1975. In that effort, the West continues to press for progress in the human rights field. We continue to push for free emigration, family visits, and reunification of divided families. We present cases of repression of religious activities. We speak out on many human rights violations. We do these things out of genuine concern for those victims who cannot speak for themselves.

Today, I am pleased that this body and this Nation will publicly recommit itself to the ideals of Helsinki. There should be no doubt in the minds of the leadership of the other signatories as to our position. I can think of no better words to draw upon than those of the Final Act itself:

> The participating States recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and co-operation among themselves as among all States.

The Soviet Union and Eastern Europe must realize by now how seriously the West views violations of any individual's rights and freedoms. Such violations call into question the commitment of the East to cooperation in other fields. If the United States of America stands for anything, it stands for humanitarian protections of the Helsinki Final Act. Mr. Speaker, I urge my colleagues to support the Senate Joint Resolution 151.

Mr. GILMAN. Mr. Speaker, I thank the gentleman from Maryland [Mr. Hoyer] for his poignant words and for his continued efforts on behalf of human rights and his outstanding contributions to human rights efforts throughout the world.

Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. Solomon], the ranking minority member of the Subcommittee on Human Rights and International Organizations.

□ 1420

Mr. SOLOMON. I thank the gentleman for yielding this time to me.

Mr. Speaker, let me commend him for his statement and his leadership in this area. Let me also commend my subcommittee chairman, the gentleman from Pennsylvania [Mr. YATRON] for the outstanding work that he does as chairman of our Subcommittee on Human Rights. He certainly has been a leader in this field, along with the gentleman from Maryland [Mr. HOYER] and, of course, the gentleman from Illinois [Mr. PORTER] who is one of the principal sponsors of this resolution.

Mr. Speaker, I strongly support this resolution and urge its unanimous adoption. I do so, however, fully mindful of the fact that we have to pass this resolution every year. And that fact is, in and of itself, a clear indication of the limited results the Helsinki process has thus far accomplished. Many of us were skeptical at the time, and we remain skeptical now.

Mr. Speaker, 12 years after the Helsinki Final Act was signed, the Soviet Union has now given the world "glasnost." It may be too little and too late, but the hopes of some people have been stirred, and we all desire a genuine relaxation of the repression within the Soviet union. We would be well-advised, however, to remember that sincerity is always subject to proof. I would suggest as we consider this resolution that we declare our solidarity with those citizens of the Soviet Union who have paid such a heavy price for their efforts that sought to monitor their Government's compliance with the Helsinki Final Act.

This resolution contains a number of excerpts from the Helsinki Final Act—solemn provisions that all signatories to the act have pledged to uphold. But as we all know, those Soviet citizens who have tried to hold their own Government accountable have ended up in prison—or worse.

And so by passing this resolution here today, we are supporting these brave people in their struggle. And we are putting the Soviet Government on notice that we are not going to be all that impressed by "glasnost," unless or until the Helsinki monitoring groups are set free. That will be a very crucial test as to whether or not Mr. Gorbachev really means business.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 5 minutes to the gentleman from Illinois [Mr. PORTER] who has been one of the initial sponsors of this legislation.

Mr. PORTER. I thank the gentleman from New York for yielding time to me.

Mr. Speaker, I was pleased to introduce House Joint Resolution 282 along with the cochairman of the Congressional Human Rights Caucus, Mr. LANTOS, the chairman of the Helsinki Commission, Mr. HOYER and a distinguished member of that Commission, Mr. KEMP.

My resolution which has over 200 cosponsors is similar to Senate Joint Resolution 151 before us today.

Mr. Speaker, I wish to commend the distinguished gentleman from Pennsylvania and the gentleman from New York for bringing this resolution to the floor today.

Mr. Speaker, both resolutions call for the President to issue a proclamation reasserting the American commitment to full implementation of the human rights and humanitarian provisions of the Helsinki accords. This resolution also requests that the President continue his efforts to achieve the release of all political prisoners of the Soviet Union, urges a significant increase in Soviet emigration and the resolution of all family reunification cases, and the cessation of radio transmission jamming.

On August 1, 1975, representatives from 35 countries joined together in Helsinki to sign the Helsinki accords. This agreement covers every aspect of East-West relations including military security, scientific and cultural exchanges, trade and economic cooperation and, most importantly, human rights.

Unfortunately, many signatory nations have not adhered to the human rights standards of this agreement. Most Eastern-bloc countries restrict religious freedom, deny their citizens the right to emigrate, and imprison human rights activists. Of the 644,000 Soviet Jews who have requested to emigrate since 1968, only 267,000 have been released. The House and the Senate have already stated our unhappiness with the Romanian Government's continual violations of the Helsinki accords by voting to suspend most-favored-nation status to Romania for a period of 6 months.

This year marks the 12th anniversary of the signing of the Helsinki accords. The signing of these agreements for the first time brought a glimmer of hope to caring people through the world who believed they would signal a new era for human rights and the rule of law. Yuri Orlov, a Soviet physicist, formed a Helsinki Monitoring Group in Moscow and Mykola Rudenko, a well-known writer and poet, formed a Helsinki Monitoring Group in the Ukraine. Hopes were dashed as the Soviets, in direct violation of the accords, imprisoned them both.

During the new period of glasnost, Yuri Orlov and Mykola Rudenko were fortunately released. But thousands of other Soviet prisoners of conscience still languish in Soviet prisons and hundreds of thousands of Soviet Jews are still refused their right to emigrate. Among them Dr. Benjamin Chaeny, who is suffering from the most deadly form of cancer. Hungarians continue to be persecuted in Romania, Turks in Bulgaria and basic freedoms continue to be suppressed in Poland.

Mr. Speaker, as a member of the Helsinki Commission and cochairman of the Congressional Human Rights Caucus, I urge my colleagues to support Senate Joint Resolution 151 and Helsinki Human Rights Day. We must continue to support the principles in the Helsinki accords and encourage other countries to do the same. By reminding the world of these ideas, we will reaffirm the importance of the principles proclaimed to the world on August 1, 1975.

Mr. GILMAN. Mr. Speaker, I am pleased to yield 2 minutes to another member of the Human Rights and International Organizations Subcommittee of our Committee on Foreign Affairs, the gentleman from New Jersey [Mr. SMITH].

Mr. SMITH of New Jersey. I thank my friend for yielding time to me.

Mr. Speaker, as a cosponsor of the House version of this resolution, I strongly support our colleagues' initiative to recognize August 1—this coming Saturday—as "Helsinki Human Rights Day."

As a member of the Helsinki Commission, I am keenly aware of the importance of this day in the diplomatic relations of the signatory nations and the international forum which has been created as a result of the Final Act of the Conference on Security and Cooperation in Europe signed 12 years ago—August 1, 1975.

Indeed, in this 12th year of U.S. commitment to the Helsinki accords, we have focused with reasonable expectations on the third review meeting of the Conference being held in Vienna. As we speak, U.S. Ambassador Warren Zimmerman and representatives from the other countries are continuing their dialog on issues of international concern. The meetings have focused to a large part on East Europe's failures to implement the commitments made in the accords, especially human rights issues and the right to maintain human contact. As Ambassador Zimmerman pointed out, the Vienna meeting has been shaped by the themes of "arms control, human rights, the connection between them, commitments, confidence, (and) trust." Mr. Speaker, these themes summarize the U.S. emphasis which is placed on the Helsinki process—a vital process which would not exist without the accords.

Mr. Speaker, I believe the Final Act has provided the comprehensive and objective framework within which the signatories have been able to measure commitment to the fundamental freedoms of thought, conscience, and religion. Furthermore, the accords have provided a forum of debate and negotiation in order to resolve the security, humanitarian, and economic differences which have driven a wedge through Europe—between the East and the West. As President Ford observed in Helsinki at the time of the signing, "Mere assertions of good will, passing changes in the political mood of governments, laudable declarations of principles, are not enough." Certainly the bottom line is compliance with these principles. The Vienna review has allowed the United States the opportunity to outline and enumerate our concerns with an emphasis on compliance to the Soviet Union, Czechoslovakia, and other East European countries.

In the Helsinki Commission's role as "monitor of the acts of the signatories," the last 12 months have witnessed an outstanding and exceptional year. As a fellow Commissioner, in February I was able to participate in the meetings held in Vienna. Within this context, Chairman HOYER and I were given the opportunity to raise specific human rights cases with both the Soviets and the Czechs. Although we have not seen progress in the plight of these individuals, we were able to confront the authorities face to face and I can assure you we will continue to seize every opportunity like that one to press for human rights wherever and whenever it arises.

Back in the United States, the Commission, under the able leadership of Chairman HOYER, has dutifully been carrying out its mandate to monitor compliance. The public hearings have included issues such as the repression of Turks in Bulgaria, religious intolerance in Eastern Europe and the Soviet Union, the Hungarian minority in Romania, and the meaning of glasnost.

While we must recognize that the accomplishments in the area of human rights have been extremely modest, we must not fail to recognize the slight progress. Ambassador Zimmerman outlined the slight upturn in Jewish emigration figures and the release of a number of political prisoners in the Soviet Union. Most importantly, though I believe the accords themselves and the ongoing commitment and compliance to these principles displayed by Western countries have offered glimmers of hope to those who suffer under the repression of the Soviet Union and the Eastern bloc.

Providing the only international agreement which links trade and security arrangements with a country's respect for human rights, the accords handed Soviet citizens the forum for dialog with the Soviet Government. The Moscow Helsinki Group, a monitoring committee formed as early as May 1976 under the chairmanship of Yuri Orlov, declared their intent to "proceed from the conviction that humanitarian problems and the problems of the free flow of information have a direct relationship to the problems of international security."

The Moscow Helsinki Group members have had bitter experiences and have made tragic sacrifices, but their resolve has not yielded to the pressure. In Czechoslovakia, a similar group, Charter 77, was formed in 1977 and in 1979, the first Polish Helsinki Watch Group was established. Likewise, members have had to pay a terrific price for their convictions. The U.S. commitment has been unwaivering, and for the sake of our brothers and sisters who experience the daily abuse of their human rights, we shall never lose sight of our goal.

Mr. FASCELL. Mr. Speaker, I rise in support of Senate Joint Resolution 151, designating August 1, 1987, the 12th anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe [CSCE], as "Helsinki Human Rights Day." Earlier today, the Committee on Foreign Affairs considered and unanimously adopted this measure. The chairman of the Post Office and Civil Service Committee, to whom the resolution was also referred, has advised me that his committee is willing to forgo consideration of Senate Joint Resolution 151 to allow the measure to be brought before the House this week, before the August 1 anniversary.

Senate Joint Resolution 151 passed the other body unanimously on June 5, 1987. It is identical to House Joint Resolution 282 which was introduced by our distinguished colleague, Representative HOYER, the chairman of the Helsinki Commission, and Representatives LANTOS and PORTER, the cochairman of the congressional human rights caucus. The resolution has wide bipartisan support as evidenced by the nearly 200 cosponsors of the House version.

The measure calls upon the President to issue a proclamation reasserting the commitment of the United States to full implementation of the human rights and humanitarian provisions of the 1975 Helsinki Final Act. It further calls upon the President to continue his efforts to achieve respect for human rights in the Soviet Union and Eastern Europe. Lastly, the resolution urges that the concept of balance between the human rights and military security components of CSCE be maintained in whatever results come out of the third follow-up conference, now taking place in Vienna. This last point is especially important considering the emphasis some countries place on military security issues in CSCE.

This measure is similar to ones we have passed in previous years. It is an important expression of congressional support for human rights and, as such, is useful to our delegation in Vienna in their efforts to promote support for human rights among the other CSCE countries. I urge its passage.

Mr. WOLF. Mr. Speaker, I join my colleagues in celebrating the 12th anniversary of the Helsinki Final Act. The signing of the Final Act at the Conference on Security and Cooperation in Europe in 1975 set forth the principles which have helped establish human rights as a legitimate issue of international concern and discussion. The process which began in Helsinki has provided additional instruments for promoting human rights.

August 1 marks the 12th anniversary of the day the heads of 33 European countries, the United States, and Canada signed the Final Act of the Conference on Security and Cooperation in Europe. This agreement obligated the signatories to work toward greater cooperation in the military, economic, scientific, cultural, educational, and humanitarian spheres. On this day these countries also made a commitment to respect human rights and fundamental freedoms. These fundamental freedoms include a commitment to the principles of family reunification, family visits by national marriage, and travel for personal and professional reasons.

The Helsinki Final Act has provided a platform from which to express concerns about human rights abuses in the countries whose government institutions do not lend themselves to the consideration of these rights. I have been particularly concerned about human rights abuses in Romania. Both the House and the Senate have added provisions to major trade legislation to suspend most-favored-nation trade status for 6 months to the Communist government of Romania because of its abuses of human rights provided for under the Helsinki Final Act.

During the past several years while enjoying favorable trading status with the United States, the repressive Romanian Government has violated and ignored the spirit and intent of the Helsinki Act by turning Bibles into toilet paper, bulldozing and demolishing churches and synagogues, persecuting and harassing Christians and even beating to death a Catholic priest for his sermon suggesting that Christmas Day should be a national holiday.

This action by the Congress to suspend preferential trade status for Romania signals to that repressive regime that the United States expects the Romanian people to be treated with dignity.

I share the commitment expressed by many of my colleagues today to the humanitarian principles embodied in the Helsinki Final Act and appreciate this opportunity to reconfirm this commitment.

Mrs. MORELLA. Mr. Speaker, August 1 will mark the 12th anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe. This agreement, commonly known as the Helsinki accords, called for equal rights and self-determination of people and contained guarantees of fundamental freedoms such as freedom of thought, conscience, religion, and belief. This agreement also supported the freer movement of people, ideas, and information between signatory states, and specifically addressed the questions of binational marriages and of family reunification and visits.

The Helsinki accords was signed by 35 nations, including the United States, Britain, France, Canada, Spain, and their allies in Western Europe. In addition, the Soviet Union, Poland, Bulgaria, and their allies in Eastern Europe signed the accord. Alas, 12 years after East and West came together to sign this agreement, the Iron Curtain remains in place. Freedom of movement for Communist bloc citizens is strictly curtailed, and oppression in the East continues unabated. Even as we speak, there are Turks in Bulgaria being forced to surrender their ethnic identity, Solidarity is banned in Poland, and there are still 370,000 Soviet Jews waiting to be free.

Gerald Ford, who was President at the time the accords were signed, said that "history will judge this Conference not by what we say here today, but by what we do tomorrow—not only the promises we make but by the promises we keep." The Soviet bloc has shown by its actions that it would like to forget the Helsinki accords. As the leader of the free world, it is not only our privilege, not only our duty, but also very much in our own interest not to let them forget. It is not just the freedom of others but our own freedom that depends on our actions in this regard, for I am convinced that only by combating the oppression of others can we safeguard our own liberty.

I urge my colleagues to support the continuing efforts to monitor and encourage compliance with the Final Act. I urge them also to support House Joint Resolution 282, which designates August 1, 1987, as "Helsinki Human Rights Day" and calls upon the President to continue his efforts to monitor and encourage compliance with the Helsinki accords.

Mr. LEVIN of Michigan. Mr. Speaker, on August 1, 1975, 35 countries including the Soviet Union jointly signed what has come to be known as the Helsinki accords. The accords cover many aspects of East-West relations, but most notably human rights.

Twelve years later the Soviet Union is only now talking of glasnost or openness for its citizens. Failure by the Soviets to abide by the agreements is just one reason why we view glasnost with only guarded optimism at best. Until the Soviets truly open up their doors of emigration, and until they allow freedom of travel and visitation, the world will know that openness can mean different things to different people.

The Helsinki accords remain a test of the Soviet's intentions to live up to human rights agreements. We need to send a clear message that Soviet respect for human rights at home will help make their arms control proposals more credible abroad. Freedom of speech and freedom of movement are the fundamental aspects of any open society. Without these assurances, it will be impossible for the West to negotiate further agreements in the full knowledge that the Soviets are earnest about human rights.

We look forward to the day when we say mark not only the anniversary of the signing of Helsinki, but of full and uncompromised compliance with the accords.

Mr. LANTOS. Mr. Speaker, today I rise in strong support of this legislation to commemorate August 1 as Helsinki Human Rights Day. This important legislation marks a milestone in the area of human rights.

On August 1, 1975, the Helsinki accords were signed. This document recognized the inherent dignity of mankind and the equal and inalienable rights of all members of the human family. Moreover, it recognized that human rights are the foundation of freedom, justice, and peace in the world.

The Helsinki accords reaffirmed our commitment to the fundamental freedoms that all individuals are entitled to enjoy. From its inception as the definitive document on human rights, it established the precedent that human rights are indivisable—that the denial of fundamental freedoms and human rights anywhere is a threat to free men and women everywhere.

Mr. Speaker, in commemorating August 1 as Helsinki Human Rights Day we not only commemorate the anniversary of the signing of the Helsinki accords, but we also remember the human rights violations that still exist around the world. Many signatory countries of the Helsinki accords—the U.S.S.R., Romania, Bulgaria, Czechoslovakia, the German Democratic Republic, and Poland continue to flagrantly violate the ideals embodied in this document time and again.

By commemorating this day we are reminding these countries that the United States is committed to uphold the ideals set forth in the Helsinki accords. The United States will maintain an active interest in the issue of human rights—be they the persecuted Jews, Christians, or Moslems in the Soviet Union, the denial of cultural and human rights to the Hungarian minority in Romania, the arbitrary arrest of members of Jazz section in Czechoslovakia, the denial of cultural identity of the Turkish minority in Bulgaria, the negation of freedom of movement within the German Democratic Republic, and the systematic denial of rights of assembly and association in Poland.

Mr. Speaker, I strongly support this bill. As a Member of Congress who has lived under the rule of Nazi and Communist oppression, I recognize the importance of this legislation. I urge my colleagues in joining me in supporting it.

Mr. GILMAN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. YATRON. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Pennsylvania [Mr. YATRON] that the House suspend the rules and pass the Senate joint resolution, Senate Joint Resolution 151.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate joint resolution was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. YATRON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on Senate Joint Resolution 151, the Senate joint resolution just passed.

The SPEAKER pro tempore (Mr. GRAY of Illinois). Is there objection to the request of the gentleman from Pennsylvania?

There was no objection.

SUPPORTING INITIATIVE OF PRESIDENT OSCAR ARIAS SANCHEZ OF COSTA RICA TO END ARMED CONFLICT IN CENTRAL AMERICA

Mr. CROCKETT. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 146) supporting the initiative of President Oscar Arias Sanchez of Costa Rica to end armed conflict in Central America and encouraging the participation of all regional states in a timely meeting to pursue a negotiated settlement of the conflict in Central America, as amended.

The Clerk read the concurrent resolution as follows:

H. CON. RES. 146

Whereas President Oscar Arias Sanchez of Costa Rica has initiated a regional proposal for attaining meaningful democracy in all the Central American countries and bringing about an end to armed conflict in Central America;

Whereas the heads of state of Costa Rica, El Salvador, Guatemala, and Honduras specifically endorsed this proposal, entitled "Procedure for Establishing a Firm and Durable Peace in Central America", as "a viable, opportune, and constructive instrument for finding peace in Central America through diplomatic negotiations" and agreed that "with suggestions and modifications that they consider appropriate" they would consider it "for discussion and approval in a meeting of the five Presidents of the Central American countries";

Whereas the meeting agreed to by the heads of state of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua to begin discussions on a negotiated settlement of the conflict in Central America, which was scheduled to be held in Esquipulas, Guatemala on June 25 and 26, has been rescheduled for August 6 and 7 in Guatemala City; and

Whereas these heads of state have reaffirmed their faith in finding a political solution to the problems in the region and have recognized their regional responsibility to seek a stable and durable peace through diplomatic negotiations and political dialogue and their belief such a durable peace is only possible within the context of democratic regimes which are committed to eradicating extreme poverty, to establishing an effective means for equal opportunity for all elements of society, and to establishing a pluralistic society where dialogue among the various elements of society is permitted to occur and free and periodic elections are held: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That—

(1) the Congress applauds the recent bold initiative by President Oscar Arias Sanchez of Costa Rica, and congratulates him on the significant contribution he has made by this intiative toward ending armed conflict, and reinforcing democracy, in Central America; and

(2) the Congress strongly supports the purpose of this initiative and urges all Central American countries to actively prepare for and participate in the rescheduled summit meeting to discuss the initiative and to cooperate in this effort to reach a negotiated settlement of the conflict in Central America.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from Michigan [Mr. CROCKETT] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Michigan [Mr. CROCKETT].

Mr. CROCKETT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Concurrent Resolution 146 expresses the support of the Congress for the initiative of President Oscar Arias Sanchez of Costa Rica to end armed conflict in Central America and encourages the participation of all the nations of Central America in the summit meeting to be held on August 6 and 7 in Guatemala.

The Subcommittee on Western Hemisphere Affairs, which I have the honor to chair, held two hearings on the Arias peace initiative. On July 9, we received testimony from Ambassador Philip Habib, the President's Special Envoy in Central America, and on July 15, the Subcommittee heard from a panel of nongovernmental experts on the Central American peace process. The panel included:

Ambassador Francis McNeil, former U.S. Ambassador to Costa Rica, and former Deputy Assistant Secretary for Intelligence and Research;

Dr. Jack Child, consultant to the International Peace Academy on Central and South American conflicts, and Associate Professor of Latin American studies at American University; and

Dr. Joshua Muravchek, a resident scholar on Central America at the American Enterprise Institute.

While there may have been disagreements with certain aspects of the plan, or with the timeframe for implementation, I believe that there was unanimity among the witnesses that the Arias plan is a viable and constructive instrument for finding peace in Central America through diplomatic negotiations.

There was also agreement on the importance of all five nations in Central America—Costa Rica, Honduras, Nicaragua, El Salvador, and Guatemala—participating actively in the rescheduled summit meeting next month in Guatemala.

House Concurrent Resolution 146 was unanimously approved by the Subcommittee on Western Hemisphere Affairs on July 15, and by the full Committee on Foreign Affairs earlier today. Several technical amendments to the resolution were approved.

The resolution states that it is resolved by the House of Representatives—the Senate concurring—That—

First, the Congress applauds the recent bold initiative by President Oscar Arias Sanchez of Costa Rica, and congratulates him on the significant contribution he has made by this initiative toward ending armed conflict, and reinforcing democracy, in Central America; and

Second, the Congress strongly supports the purpose of this initiative and urges all Central American countries to actively prepare for and participate in the rescheduled summit meeting to discuss the initiative and to cooperate in this effort to reach a negotiated settlement of the conflict in Central America.

Before concluding, Mr. Speaker, I would like to thank the distinguished chairman of the Foreign Affairs Committee, Congressman FASCELL, for his help in shepherding this legislation through the committee and for arranging its inclusion on the suspension calendar this afternoon. I would also like to thank the ranking minority member of the subcommittee, Congressman LAGOMARSINO, for his cooperation in bringing this resolution to the floor with a bipartisan consensus.

I was pleased to have been asked by the author of this legislation, our distinguished colleague from the State of Utah, Congressman OWENS, to join him in introducing this resolution. I would now like to recognize him for any comments he may have in support of his legislation.

□ 1435

Mr. Speaker, I yield such time as he may consume to the gentleman from Utah [Mr. OWENS].

Mr. OWENS of Utah. Mr. Speaker, I wish to express my genuine appreciation to our distinguished chairman of the Subcommittee on Western Hemisphere Affairs for shepherding this resolution through his subcommittee and through our full committee with a unanimous bipartisan vote.

Mr. Speaker, over the past few months, Americans have been glued to their television sets watching the Iran-Contra hearings. These hearings are quite important in documenting the past mistakes of U.S. policy in Central America. It is time now for us to deal with the present and future of the armed conflicts in Central America. Today we must show our unequivocal support for a negotiated settlement in the region. Arias' proposal settlement and we must do all we can to encourage the Arias peace process.

House Concurrent Resolution 146 applauds Arias for his peace initiative; President Arias has shown strong moral leadership over the past year; his bona fides are unquestioned and unsurpassed. House Concurrent Resolution 146 puts Congress squarely on record in supporting the purposes of the Arias' initiative and urges all the Central American nations to actively participate in the summit meeting August 6 and 7 in order that they may discuss the initiative and cooperate in this effort to reach a diplomatic settlement.

No doubt there are some genuine disagreements about the specifics of the Arias' proposal—I, myself, think that there are specific provisions that are missing. But, this resolution does not bind anyone to the specifics of the Arias plan; the resolution supports the peace process during these few weeks before the rescheduled summit.

This resolution, I believe, represents the overwhelming bipartisan feelings of Congress. This bill unanimously passed the House Western Hemisphere Subcommittee and full Foreign Affairs Committee. A similar resolution passed the Senate on March 12 by a vote of 97-1. It is now time for the House to demonstrate its support during this critical period before the summit meeting.

The Arias' plan seems to be faltering: El Salvador postponed the originally scheduled summit and there is some question whether all the Central American nations will still attend the rescheduled meeting in August.

While this plan is faltering, recent events have given the public impression that the United States might be the cause. Many people feel that the United States prevented the Contadora peace process from reaching a successful conclusion. Last month, 24 hours after Ambassador Habib went to El Salvador, Duarte asked to postpone the originally scheduled summit meeting. Less than a week later, the President allegedly summoned President Arias to the White House and criticized his plan.

The press has used these events to accuse the administration of trying to scuttle the Arias' peace process. Ambassador Habib persuasively denied to us in the Western Hemisphere subcommittee that he did not try to get Duarte to postpone the summit meeting. In fact he stated that he wanted the June 25-26 summit meeting to go forward and warned that further delay could completely derail the peace process.

Nevertheless, the public impression seems to remain that the United States opposes the Arias' proposal and peace process. We need to recognize, even those who disagree with the Arias' principles, that it is the only viable negotiation option available.

Today the House joins with the Senate in expressing its overwhelming conviction that next week's Central American summit must go forward.

The march toward peace in Central America, being led by Costa Rican President Arias, has now enlisted virtually every American Senator and Congressman as banner carriers.

We can all hope that this action will turn our country's focus away from the televised trauma of America's past involvement in Nicaragua. Congress today firmly goes on record: U.S. policy must now be clear. We insist on a negotiated settlement to Central America's distress.

I would like to thank Chairman CROCKETT of the Western Hempshire Subcommittee and Representative LAGOMARSINO, ranking minority, for their hard work in ensuring this resolution received the bipartisan support it deserves.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I wish to voice my strong support for the resolution offered by the gentleman from Utah [Mr. OWENS]. He has given a great deal of thought and effort to fashion a resolution that expresses both the sense of the Congress as well as reflecting the administration's support for the negotiation process in Central America.

Through discussions with Mr. OWENS, the State Department, Congressman MACK and others, I am confident we have here a resolution that will engender strong bipartisan support. When a similar resolution was brought forward in the Senate in March, Assistant Secretary of State Elliott Abrams testified in favor of that resolution.

With regard to this resolution the administration states:

> Representative Owens (D-UT) has introduced a resolution which endorses the peace initiative of Costa Rican President Arias. The Administration has consistently supported a negotiated solution to the conflict in Central America and specifically welcomed the Arias initiative when it was launched in February. In March, Assistant Secretary Elliott Abrams testified before the Senate Foreign Relations Committee in favor of a parallel resolution by Senator Terry Sanford (D-NC). We believe that the Owens Resolution is a similar constructive demonstration of the Congress' support for regional negotiations for peace and democracy in Central America.

In May, President Reagan's speech at Ellis Island was given very little media attention, and a belief has persisted that the administration does not support negotiations in Central America or that it is trying to derail the efforts made by President Arias. The President's Ellis Island speech makes our position clear: "The United States welcomes this initiative and supports its general objective."

The concerns that the United States has about certain provisions regarding a cease-fire and the sequence of implementation of various elements of the Arias proposal are also clearly voiced by the Central American democracies themselves. Each democracy has expressed its own reservations, some going even further than the United States in voicing their concerns about the implementation and verification of parts of the Arias plan. I am pleased to see that this resolution reflects the concerns expressed by the leaders of the Central American democracies. I have no doubt that if the several Central American democracies reach agreement on a responsible proposal acceptable to them, the United States will support it as well.

It is important to note that House Concurrent Resolution 146 does not spell out what the specific provisions of a settlement should be but instead emphasizes that the Central American nations themselves must decide how to accomplish peace in the region.

As President Arias has said, "Without democracy, there can be no peace." It is understandable, therefore, that the main goal of the Arias initiative is to promote democracy.

I am dismayed whenever I hear statements to the effect that the 1984 elections in Nicaragua were free and fair and as democratic as any other elections in Central America. It is incomprehensible to me that someone can make that claim and then turn around and say they support the Arias plan. The overriding objective of the Arias initiative is the achievement of democracy in Nicaragua.

In its November 7, 1984, editorial, the New York Times stated, "Only the naive believe that Sunday's election in Nicaragua was democratic or legitimizing proof of the Sandinistas' popularity." Also disputing the legitimacy of the 1984 elections in Nicaragua was Carlos Andres Perez, former President of Venezuela and a leading figure in the Socialist International. In an open letter declining Ortega's invitation to attend his inauguration, the Socialist International leader said:

> Those of us who believe we have done so much for the Sandinista revolution feel cheated, because sufficient guarantees were not provided to assure the participation of all political forces. Sadly, the limiting in this way of true political pluralism weakened the credibility of the elections.

The Arias initiative of promotion of democracy in Nicaragua appears to offer a great obstacle for the Sandinistas and apparently motivates their opposition to Arias over the Contadora process. For the Sandinistas to accept the Arias plan is for them to admit they do not have a democracy. It is hard to imagine their willingness to admit that.

I believe it is also important to emphasize that for constructive negotiations to take place, the Sandinistas must be forthcoming both in preparation for a summit meeting as well as in the actual meeting itself. I am pleased the resolution takes note of the importance of the preparatory meetings.

While the Sandinistas may believe that delay and obstruction of negotiations may be beneficial for them, if they fail to participate in preparatory meetings or obstruct the diplomatic process, the result will only serve to show that the Sandinistas are the ones who stand in the way of peace in the region.

I believe support for the Contras must be continued so as to maintain pressure on the Sandinistas to enter into and comply with a responsible negotiated agreement.

I strongly support this resolution and urge my colleagues to give it their unanimous approval.

Mr. CROCKETT. Mr. Speaker, I yield 3 minutes to our distinguished deputy whip, the gentleman from Michigan [Mr. BONIOR].

Mr. BONIOR of Michigan. Mr. Speaker, the United States stands at the threshold of peace in Central America. We can continue down the path toward war—as the Reagan administration would have us do. Or we can turn toward peace.

Today, we can take an important step toward peace by putting Congress on record in support of the Aris initiative. In the words of President Arias, "Peace is demanding its time."

The resolution before us, introduced by my distinguished colleague from Michigan who chairs the Western Hemisphere Subcommittee, and my friend from Utah, makes it clear where Congress stands on negotiations for peace in Central America.

Our support for President Arias comes at a critical time in the negotiations process.

As we speak, Arias is meeting this week with the leaders of Nicaragua, Honduras, El Salvador, and Guatemala in preparation for the summit scheduled for August 6–7 in Guatemala. The summit, if successful, will give formal approval to the Arias initiative by these Central American nations.

Building on the objectives of the Contadora group, the Arias plan does more than meet the security needs of the United States. Its 10 points address simply and directly a welter of complex problems that have stalled similar efforts.

Under the Arias plan, the five nations of Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua, would agree to:

First, grant amnesty in 60 days for all political crimes, and establish a dialog with unarmed opposition groups;

Second, implement a ceasefire;

Third, grant full press and political party freedom within 60 days;

Fourth, hold free elections under the supervision of the Organization of American States;

Fifth, suspend military aid from all outside parties to the Contras and other guerrilla groups;

Sixth, prohibit the use of their territory for Contra or other guerrilla attacks;

Seventh, initiate in 60 days the scaling down of armies in proportion to each country's population and GNP. It is worth noting that since Nicaragua's army is the biggest, and its population and GNP among the smallest in Central America, it would be affected the most;

Eighth, permit all necessary verification facilities in the five countries;

Ninth, meet again within 6 months to evaluate progress; and

Tenth, form a harmonic and indivisible whole.

The Arias plan addresses the security concerns of the United States in the following ways:

The Sandinistas would be forced to begin internal dialog, start the presses of La Prensa rolling again, grant amnesty for political prisoners, and begin scaling down their huge army, all within 60 days;

Within 3 years, by 1990, Nicaragua would have to hold free elections; and

All outside military aid to the region would be stopped.

And what has been the Reagan administration's reaction to Arias? A cold shoulder. It seems the administration has derailed its two-track strategy in favor of aiding the Contras only.

On May 3, 1987, President Reagan stated in a speech on Ellis Island that he would lend, "Full support to any negotiations that can build democracy throughout Central America without further bloodshed."

But the fact remains that the administration's rhetoric for peace has always been much stronger than its record. You can bet your bottom dollar we will hear nothing but talk of peace from the administration between now and the vote in September.

Earlier administration statements of support for Arias have been nothing more than lip service. I hope my colleagues will remember that when the White House shovel brigade begins again.

The Arias proposal is a Central American proposal. The countries of Central America have the most at stake in bringing about a peaceful settlement. We should listen to what they are saying. And what they are saying is no to Contra aid, and yes to peace.

The United States should be encouraging dialog, not standing in its way. I hope the administration reconsiders its lukewarm support for the Arias initiative, and comes to realize it is the best hope for democracy in Nicaragua and for lasting peace in the region.

Instead of throwing road blocks before it, we should throw our arms around it. I urge my colleagues to vote for House Concurrent Resolution 146.

Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the gentleman from Nebraska [Mr. BEREUTER], who has been a real leader in this effort.

Mr. BEREUTER. Mr. Speaker, I thank the gentleman from California for yielding this time to me, and I rise in strong support of House Concurrent Resolution 146.

I want to commend the gentleman from Utah [Mr. OWENS], the gentleman from Michigan [Mr. CROCKETT], and the gentleman from California [Mr. LAGOMARSINO] assisted by the gentleman from Florida [Mr. MACK] for their efforts in crafting the proposal which we have before us today.

This measure, of course, recognizes the contributions of Costa Rican President Arias in presenting his peace plan.

This initiative has very important democratization, demilitarization and nonaggression features. During two special orders, this Member previously has pointed out the details of the Arias plan.

This resolution does applaud and encourage, for the Central American countries, the work that has been done and generally, but enthusiastically, endorses it. It does not mean, of course, that opportunities do not exist for further change and clarification.

This Member believes, for example, that implementation questions, deadline questions, and verification questions ought to be and undoubtedly would be raised in further negotiations and solutions offered to these concerns during the upcoming meeting on the Arias proposal. But at this point the heads of state of Costa Rica, Guatemala, El Salvador, and Honduras have already endorsed the preamble to the Arias plan and that is a very important step forward.

This is a peace plan proposed by a Central American leader for Central America, and I think that fact is an extraordinary advantage that it has. This gentleman would have preferred, frankly, to have examined some of the details of the United States policy and approved a sense of the Congress resolution on America's foreign policy for Central America, with respect to Nicaragua and Central America through a legislative vehicle before the House but this is not the legislation on which to do it. I reached that conclusion this morning in the Foreign Affairs Committee when I decided against offering a controversial substitute for the resolutions we are not considering. This Member sent a "dear colleague" to Members' offices on House Concurrent Resolution 166, which would take up some of those concerns; I hope the Members will examine and cosponsor it. I would say that the first two resolved clauses in that measure are the same as those found in the Crockett-Owens proposal House Concurrent Resolution 146, before us today. I will explain the other two in detail by extensions.

The following is the wording of the resolved clause of House Concurrent Resolution 166:

Resolved by the House of Representatives (the Senate concurring), That—

(1) the Congress applauds the recent bold initiative by President Oscar Arias Sanchez of Costa Rica, and congratulates him on the significant contribution he has made by this initiative toward ending armed conflict and reinforcing democracy in Central America;

(2) the Congress strongly supports the purpose of this initiative and urges all Central America heads-of-state to participate actively in a summit meeting to discuss the initiative and to cooperate in this effort to reach a negotiated settlement of the conflict in Central America;

(3) the Congress should make such assistance to the Nicaraguan resistance forces contingent upon progress within these forces in the development of broad-based, civilian leadership committed to democratic norms, principles, processes, and institutions and to a demonstrated respect for human rights; and

(4) the Congress should not appropriate additional funds to aid the Nicaraguan resistance forces unless—

(A) The President finds and reports to the Congress and the Congress by a majority vote of both houses accepts the President's findings, that—

(i) the United States firmly and formally supports the ongoing efforts led by President Oscar Arias Sanchez of Costa Rica to implement by the nations of Central America a plan for peace, demilitarization, and democratization;

(ii) the United States has brought the matter of aggression and threatening actions by Nicaragua against its Central American neighbors, including admitted support for the guerrilla forces in El Salvador and the excessive Nicaraguan build-up of its military forces, to the attention of the Organization of American States and sought imposition of collective security measures against Nicaragua;

(iii) either—

(I) the assistance to the Nicaraguan resistance forces by the United States Government is formally supported by the Organization of American States or the nations adjacent to Nicaragua, or

(II) even if such support is not expressed, the threat posed to the security of the United States by forces in Nicaragua is deemed by the United States to be so fundamentally important that the national security interests of the United States require it to act through assistance to the Nicaraguan resistance forces as an appropriate means to protect its own national security; and

(iv) the continued military assistance from the United States Government to the Nicaraguan resistance forces will not interfere with, but is necessary pressure to cause acceptance by Nicaragua of a regional ceasefire and adoption by Nicaragua of a peace plan for democratization, demilitarization and non-aggression; or

(B) the President certifies to the Congress that the head of state of the government of Nicaragua has not signed a peace plan—

(i) which results from, and is consistent with, the major elements in the initiative of President Oscar Arias Sanchez for a cease-fire, demilitarization, and democratization plan for the region,

(ii) which has been formally accepted and signed by the heads of state of Costa Rica, El Salvador, Guatemala, and Honduras, and

(iii) which is formally and firmly supported by the United States.

Mr. Speaker, I rise in strong support of House Concurrent Resolution 146. It should be enacted by an overwhelming vote.

Mr. CROCKETT. Mr. Speaker, I yield 2 minutes to the gentleman from Kansas [Mr. Slattery].

Mr. SLATTERY. Mr. Speaker, I thank the gentleman for yielding this time to me.

Mr. Speaker, I rise in strong support of this resolution. I commend the gentleman from Utah [Mr. Owens] for his work on this project. I think that this country has a unique and historic opportunity perhaps in the next 60 to 90 days to resolve the problems that we are all concerned about in Central America.

I hope that this whole process can move forward along the lines of the Arias peace proposal. A number of us, in fact, 111 Members of this body, both Republicans and Democrats, opponents and proponents of Contra aid, signed a letter in March of this year to the President urging him to move forward in a process very similar to the Arias proposal. We are awaiting anxiously a response from the White House to that letter that was sent in March of this year.

In that letter we outlined a plan whereby we urged a 90-day cease-fire to be coupled with a termination of military assistance to the Contras. Bilateral negotiations would take place during this period of time, there would be a lifting of the state of emergency, and the internal political parties would be in a position to represent the Contras at the negotiating table. That is a concept very similar to what Arias is talking about. It is a concept that in my judgment provides the framework within which perhaps a bipartisan policy can be shaped dealing with the problems in Nicaragua.

So, Mr. Speaker, I am hopeful and I am supportive of the efforts of the gentleman from Utah [Mr. Owens], and I commend the efforts of the chairman and the ranking member of the committee in this regard.

Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. Gilman].

Mr. GILMAN. Mr. Speaker, I rise in support of House Concurrent Resolution 146, to express the support of the Congress for the initiative of President Oscar Arias Sanchez of Costa Rica to end armed conflict in Central America and to encourage the participation of all states in the region in a meeting to pursue a negotiated settlement to the conflicts in the region.

Mr. Speaker, the suffering of the people of Central America has gone on long enough. The refusal of many movements—such as the rebels fighting in El Salvador—and, in particular, the Government of Nicaragua, which supports those rebels while refusing to allow democratic processes to take hold at home—to negotiate in good faith has led to an extended stalemate in the peace process.

The plan proposed by Costa Rica's President, Mr. Arias, has breathed new life into that moribund process. The heads of states of all of the nations in the region—except for Nicaragua—have called it a "viable, opportune, and constructive instrument for finding peace in Central America."

The heads of state of all five Central American governments have agreed to meet on August 6 and 7 to discuss the plan itself. This resolution places the Congress on the side of the salutary purposes of the Arias initiative and urges all Central American countries to actively prepare for and participate in the upcoming meeting under the guidance of the plan President Arias has prepared.

This resolution is strongly supported by the distinguished chairman and the ranking Republican of the Subcommittee on Western Hemisphere Affairs, who I salute for their efforts in placing Congress on record on this matter, and I would also like to pay special tribute to the efforts of the gentleman from Utah [Mr. Owens], the sponsor of the legislation for his diligent work in moving this resolution forward, thereby making his own significant contribution towards bringing peace to Central America.

Mr. Speaker, I urge my colleagues to fully support this resolution.

□ 1450

Mr. CROCKETT. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the gentleman from California [Mr. Lungren].

Mr. LUNGREN. Mr. Speaker, I rise in support of House Concurrent Resolution 146.

As a number of speakers have said before me, this is a consensus statement. As the gentleman from Kansas pointed out, some who support Contra aid and some who are against Contra aid have found reason to find common cause in this resolution.

I would stress in the first resolve clause, the connection between an initiative "ending armed conflict" and "reinforcing democracy." It seems to me you cannot have one without the other.

If some were to think that the end of the armed conflict would be the only goal that those of us in this Congress seek, we would be, in my judgment, giving short shrift to those people who have worked hard to establish democracies throughout Central America.

If there are not efforts to undermine those potential democracies in that part of the world, there would be no armed conflict that we find there today.

The Arias initiative does recognize that we are working towards a removal of armed conflict and working toward the reinforcement of democracies, not just in Nicaragua, but in some of the surrounding countries. This is particularly true in El Salvador, the subject of insurgents trying to destabilize that country being supported by those who control in Nicaragua.

It is a fine time that Members of Congress, though differing with approaches in that area of the world, do say that we support the same principles; and on that basis, I certainly support this resolution and would urge my colleagues to do so.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to quote for the Record the statement of the gentleman from Michigan [Mr. Broomfield], the ranking Republican on our Committee on Foreign Affairs.

Mr. BROOMFIELD. Mr. Speaker, I support House Conference Resolution 146 commending President Arias of Costa Rica for his efforts to bring true democracy to Nicaragua and to foster the fledgling democracies in the other central American nations.

The Arias proposal for democracy and peace in Central America has as its greatest strength—the recognition that Nicaragua is the "odd man out."

President Arias and the other democratic leaders are well aware that a shallow "peace" based upon totalitarianism in Nicaragua will never bring real peace to Central America.

The people of Central America know that a genuine peace in this region can exist only if democracy takes firm root in Nicaragua.

For this reason, the Arias plan provides a worthy addition to our dual policy in Central America.

The Sandinistas have nowhere to hide.

Sooner or later they must meet the challenge of democracy and face the commitments they made to the Nicaraguan people and the peoples of the Western Hemisphere in 1979.

If the Sandinistas do not support in deeds, their commitment to the Nicaraguan people, the internal struggle of those seeking freedom will continue.

Our support for the freedom fighters seeking internal reconciliation goes hand-in-hand with peace proposals like the Arias plan.

Genuine democracy in Central America is our goal and this can only be accomplished by the pursuit of both diplomatic initiatives and continued support for the Nicaraguan democratic resistance.

Mr. FASCELL. I rise in support of House Conference Resolution 146, supporting the work of President Arias of Costa Rica to find a solution to the conflict in Central America.

President Arias has provided the leadership in recent months to the effort to bring peace to Central America. He seized the initiative when the Contadora process was frustrated and languishing, and for that we owe him our gratitude.

House Concurrent Resolution 146 commends President Arias for his efforts and urges the heads of State of the countries of Central America to participate in the discussions now scheduled for August 6 and 7 in Guatemala City.

Mr. Speaker, I think it most appropriate that the House of Representatives expresses its support for and good wishes for the August meeting of Central American heads of State.

I would like to commend the gentleman from Utah [Mr. OWENS] for his leadership in introducing this measure and urge its support by the Members.

Ms. SNOWE. Mr. Speaker, I would like to speak in support of House Concurrent Resolution 146. This resolution expresses the support of Congress for the Central American peace initiative of President Arias of Costa Rica, and urges all states in the region to join in pursuit of a negotiated settlement to the conflicts there.

In February of this year, the leaders of the democratic nations of Central America met in Costa Rica to present a new initiative for peace for that troubled region. This document, drafted by President Arias, takes a new and promising approach to the conflicts of Central America.

Unlike the Contadora process, which focused on external security arrangements between the States of the region, the Arias plan recognizes that internal democratization is the key to peace in Central America. As President Arias told our congressional delegation last summer, "There will never be peace in Central America as long as there is a Marxist regime in Nicaragua with the characteristics of the nine commandantes."

A summit meeting of the Central American leaders for discussion of the Arias plan was scheduled for June 25. It was subsequently rescheduled at El Salvador's request, and will now take place on August 6 and 7 in Guatemala City.

The Foreign Ministers of the Central American countries are meeting this week and next to lay the groundwork for the August summit. President Arias himself is this week visiting Managua and the other Central American capitals to prepare for this critical meeting. I know all of us in this House hope the summit will prove to be a productive and constructive session which produces concrete progress toward democracy and peace in the region.

However, Mr. Speaker, I do have one major concern regarding the Arias process, specifically regarding the willingness of the Sandinistas to negotiate in good faith toward democratization.

Clearly, all of the countries involved have changes they would like to see made in the current Arias proposal. But these involve differences over the particulars. When he introduced his plan, President Arias made it clear that he anticipated disagreements and modifications.

Recent statements by the Sandinistas, however, touch on a more fundamental issue, namely the importance of internal democratization in bringing peace to Central America.

In June, just a few weeks before the planned summit at Esquipulas, President Ortega declared that "Our internal policies will never be the object of any negotiations whatsoever."

President Ortega's words, which run directly contrary to the guiding principle of the Arias plan, call into question the Sandinistas' willingness to negotiate in good faith. Because of my concern regarding this issue, I cosponsored an amendment to the State Department authorization bill supporting the Arias process but also expressing the sense of Congress that the Sandinistas should demonstrate their willingness to negotiate in good faith.

Mr. Speaker, the Members of the House are divided over U.S. policy in Central America. However, I believe that we all agree on the importance of democracy in bringing peace to that region, and I hope we also agree that we will not achieve democracy and peace in that region unless all sides to the conflict negotiate in good faith. I urge the passage of the resolution.

Mr. JEFFORDS. Mr. Speaker, I commend the managers of House Concurrent Resolution 146 for bringing this important resolution to the House floor. As a cosponsor of this bill, I am pleased to see the House on record in support of the Arias peace initiative.

As my colleagues know, Costa Rican President Oscar Arias Sanchez has put forward a blue print for a peaceful resolution of the Central American conflict. His proposal has the preliminary support of the Governments of El Salvador, Honduras, Guatemala, and Nicaragua. An outgrowth of the Contadora peace process, this initiative is the only peace plan with immediate prospects for agreement. It is a Central American attempt to solve Central America's problems. We should support it.

The provisions of the Arias plan dovetail quite well with our stated hopes for Central America. President Arias is insisting on internal dialog and amnesty for all who will renounce violence. The plan lays out a calendar of democratization, including restoration of full freedoms for the press and political parties. Free elections must be held according to the constitution of each nation and monitored by the Organization of American States [OAS]. The plan calls for a cease fire on all sides—both in El Salvador and in Nicaragua—and a suspension of military aid to all rebel groups. President Arias also proposes that a followup commission composed of high level U.N. and OAS officials be provided with the necessary facilities in each country to closely monitor compliance with this agreement.

The primary five nations plan is to meet in Guatemala on August 6 and 7 in an attempt to hammer out an agreement. It is imperative that the U.S. Congress and the administration indicate our support for the efforts of Central American leaders to bring peace to their region. This resolution further urges the participation of all regional states in this dialog and search for a viable settlement. Any lasting peace must be crafted by the nations of Central America, implemented by them, and strongly supported by the United States. I hope that passage of this resolution will be a productive step toward this worthy goal.

Mr. GARCIA. Mr. Speaker, I rise in support of the resolution praising the Arias peace plan, House Concurrent Resolution 146. In order to craft an effective foreign policy, particularly on controversial issues, there must be bipartisan support, that is both wide and deep. It is not possible to sustain a difficult foreign policy objective without that kind of support.

The Arias peace plan offers us a perfect opportunity to work with the administration in support of a proposal that could lead to genuine peace for all the nations of the region. It is a balanced and a thoughtful plan. It deserves our approval.

A major flaw with the debate over our foreign policy toward Central America has been an overemphasis on ideology. That is not to say that passion and point of view have no place in our discussions of this issue, but that passion should not be so overwhelming so as to make the debate devoid of perspective.

I do not support the Contras. Some of my colleagues do. That is why I believe in the Arias plan. It offers us an opportunity to work together on our policy toward Nicaragua and the other nations of the region.

The United States is capable of developing a pragmatic and effective foreign policy. The Camp David accords, the Panama Canal Treaty, and support for the Aquino government are fine examples of this. All three situations forced the United States to take a stand against the status quo and to structure practical and clearly defined goals. This is what support for the Arias peace plan would lead to in Central America.

I urge the overwhelming support of my colleagues for House Concurrent Resolution 146.

Mr. LAGOMARSINO. Mr. Speaker, I have no requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from Michigan [Mr. CROCKETT] that the House suspend the rules and agree to the concurrent resolution, House Concurrent Resolution 146, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules are suspended and the concurrent resolution, as amended, was agreed to.

A motion to reconsider was laid on the table.

SENSE OF THE HOUSE REGARDING NEGOTIATIONS TO RESOLVE CERTAIN PROBLEMS RELATING TO SOUTHEAST ASIA

Mr. SOLARZ. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 231) expressing the sense of the House of Representatives regarding the upcoming negotiations between Gen. John Vessey and the Vietnamese to resolve the problem of Americans missing in Southeast Asia and other issues of humanitarian concern to the people of the United States and Vietnam, as amended.

The Clerk read as follows:

H. RES. 231

Whereas 14 years have passed since the end of active American involvement in Vietnam and 12 years have passed since the end of the war in Southeast Asia;

Whereas 2,413 Americans missing during our involvement in Southeast Asia remain unaccounted for;

Whereas President Reagan has pledged that the fullest possible accounting of Americans still missing in Southeast Asia is "a matter of the highest national priority";

Whereas the President, the Congress, and the American people stand united in supporting as a high priority efforts to account for Americans still missing in Southeast Asia;

Whereas other humanitarian issues affecting the people of the United States and Vietnam remain unresolved, including the resettlement of Amerasians still living in Vietnam, the release of political prisoners from Vietnamese reeducation camps, and expeditious processing under the Orderly Departure Program for those Vietnamese who wish to leave their country, particularly those now separated from their families;

Whereas the failure of the United States and Vietnam to resolve these problems has caused great hardship to the people of both nations, and it is therefore in the interest of both nations that these humanitarian issues be fully and quickly resolved;

Whereas in February 1987 President Reagan appointed retired General John Vessey, former Chairman of the Joint Chiefs of Staff, as Special Presidential Emissary for POW/MIA Issues; and

Whereas General Vessey will shortly travel to Hanoi to discuss with officials of Vietnam the POW/MIA issue and other humanitarian matters of concern to both countries: Now, therefore, be it

Resolved, That the House of Representatives—

(1) expresses its full support for General Vessey in his forthcoming negotiations to determine the fate of Americans still missing in Southeast Asia, to facilitate the return of the recoverable remains of the deceased missing to the United States, and to discuss the remaining humanitarian issues affecting both nations; and

(2) calls on Vietnam to respond positively to these serious concerns of the American people in a humanitarian context.

The SPEAKER pro tempore. Is a second demanded?

Mr. LAGOMARSINO. Mr. Speaker, I demand a second.

The SPEAKER pro tempore. Without objection, a second will be considered as ordered.

There was no objection.

The SPEAKER pro tempore. The gentleman from New York [Mr. SOLARZ] will be recognized for 20 minutes and the gentleman from California [Mr. LAGOMARSINO] will be recognized for 20 minutes.

The Chair recognizes the gentleman from New York [Mr. SOLARZ].

Mr. SOLARZ. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, General Vessey, who has been appointed as a special emissary by the President to Vietnam, will be arriving in Hanoi very shortly in order to discuss with the leaders of Vietnam the fate of the more than 2,400 American servicemen who remain missing in action more than a decade after the end of the war in Indochina.

General Vessey is also charged with the responsibility of taking up other matters of humanitarian concern.

It is the purpose of this resolution to send a very clear signal to the leadership of Vietnam that General Vessey goes to Hanoi, not only as a representative of the President of the United States, but with the strong bipartisan support of the United States Congress as well.

The answer to the question which has haunted the American people ever since the end of our involvement in Indochina more than a decade ago about what has happened to those American servicemen who are still missing lies not only here in Washington but in Hanoi. It depends on the willingness of the Vietnamese leaders to be much more cooperative than they have been to date, in terms of facilitating the return to the United States the remains of those who died during the war, as well as in being more forthcoming about the status of those whose fate has yet to be determined.

Our capacity to persuade Hanoi to provide those answers and to give us the kind of cooperation which will be necessary to bring this tragic chapter in our history to an end will depend to a significant degree on the extent to which we are united.

If the Vietnamese believe that they can divide the Congress from the administration, if they feel they can divide the Democrats from the Republicans, if they feel they can hope for a more forthcoming attitude after 1988, then our chances to get the answers we seek will be significantly diminished.

There are many foreign policy issues on which the Congress and the country are divided.

This is one issue on which we are completely united.

Over the course of the last several years, the Task Force on POW/MIA's has been chaired by a series of Republican Members of the House who have done very important 0 and impressive work on this issue.

It is, so far as I know, the only task force or committee in this Congress which is chaired by a member of the minority party, now by the gentleman from California [Mr. LAGOMARSINO], before that by the gentleman from New York [Mr. SOLOMON], before that by the gentleman from California [Mr. DORNAN], and before that by the gentleman from New York [Mr. GILMAN]. Each and every one of those Members has served with great distinction, and the leadership of the gentlemen has been symbolic to the extent to which this is an issue which transcends partisanship, but which deserves the support of all Americans, regardless of their political affiliation.

□ 1500

I simply want to add, Mr. Speaker, my own very profound and personal hope that when General Vessey arrives in Hanoi and begins his discussions with the leaders of Vietnam that he takes up not only the fate of those American servicemen who are missing in action, but also undertakes to discuss with the leaders of Vietnam the fate of the 8,000 prisoners who remain in the reeducation camps of their country. These are men and women who have suffered way beyond whatever punishment may have been due them, if in fact any punishment was deserved at all. We have long since indicated a willingness to take them into our own country, but Vietnam has so far been recalcitrant and unwilling to let these people go.

I also hope General Vessey can undertake to discuss the fate of the AmerAsian children of Vietnam, whom we are also prepared to welcome to our shores, but whom the Vietnamese have not been prepared to let leave their shores in significant numbers.

So I have high hopes for the success of General Vessey's mission. The willingness of Vietnam to receive him and the willingness of the President to send him represents the best progress on this issue in over a year.

I believe the adoption of this resolution will be a source of confidence to General Vessey and a tangible manifestation of the backing which the House of Representatives is prepared to provide as he undertakes this important mission.

Mr. LAGOMARSINO. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, at 8 o'clock this morning the gentleman from New York [Mr. SOLARZ] and I and others arrived from the Philippines where we had been over the weekend for the celebration of the opening of that country's first free Congress in many, many years, and although we went there primarily for the purpose of joining in that celebration of the opening of the Congress and the restoration of democracy in the Philippines, one of the things we did there as well in discussions with Cincpac in Hawaii was to discuss the question of the missing-in-action and prisoners of war.

Perhaps even as we speak, General Vessey is receiving a briefing at Cincpac in Hawaii on this issue.

Mr. Speaker, as the chairman of the House Task Force on POW/MIA's, I strongly endorse House Resolution 231 introduced by my friend, colleague, and fellow member of the POW/MIA Task Force, Congressman TOM RIDGE of Pennsylvania. As you may know, a few minor amendments to this resolution were adopted unanimously in the full Foreign Affairs Committee this morning. These changes may seem insignificant, but they do clarify the resolution and take into account the concerns of our negotiators who deal with the Vietnamese. I understand that the author of this important resolution agrees with these small, subtle changes. The Vietnamese scrutinize and use everything we produce on this issue so we must be very careful.

This resolution clearly states Congress' support for the important mission of President Reagan's special POW/MIA emissary, former Chairman of the Joint Chiefs of Staff, Gen. John Vessey. Because the Vietnamese have cleverly used any signals, even unintentional ones, of disunity within America to stall on the important national concern of our brave missing servicemen in Indochina, it is paramount for Congress to be 100 percent behind the administration and General Vessey for any real progress to occur. As I have repeatedly said, and as Congressman LESTER WOLFF and now Congressman STEVE SOLARZ have shown by always appointing a Republican to chair the POW/MIA Task Force, this is not a partisan issue—it is a bipartisan, national issue. President Reagan has made the POW/MIA issue a top national priority and his leadership coupled with his significant, positive initiatives such as the naming of a high level emissary like General Vessey and sending him to Hanoi must be recognized and commended. I strongly believe that this resolution shows national unity behind the Vessey mission and our current POW/MIA policy and strengthens General Vessey's position in dealing with Hanoi. All too often, the Vietnamese will try to use subtle differences between Congress and the administration to derail progress. This resolution will help prevent such actions—it clearly shows that Congress, the administration, and the Nation are solidly unified behind this significant mission on behalf of our POW/MIA's.

I believe that Hanoi genuinely wants General Vessey's visit but is hoping to include broader, political issues, rather than focus solely on the humanitarian concerns, with resolving the POW/MIA situation being the key humanitarian issue. Unfortunately, some groups in the United States have been pushing in the same direction. I think that this resolution, especially with the minor changes requested by the State Department and the National League of Families that were incorporated in the full Foreign Affairs Committee by my amendment, clearly supports the Vessey mission for what it really is—a mission to help resolve the POW/MIA issue and other purely humanitarian matters. A similar resolution by Senator JOHN MCCAIN, himself a former POW, has been introduced in the Senate. Of course, while going forward with the Vessey mission, we must continue our intelligence and other activities and stand ready to take the appropriate actions that may result from our findings.

I urge all of my colleagues to support this positive resolution, which many Members of the House POW/MIA Task Force including myself have cosponsored, and help our brave, long suffering POW/MIA's. This is in their interests and in the interests of their longing families. I share the frustration of many of my colleagues and fellow citizens about the lack of progress on this issue. However, our patience is, I hope, beginning to pay off. After many setbacks, this mission does offer a "ray of hope" for real, substantial progress. Let's show our unity behind General Vessey's efforts by passing this important signal to Hanoi.

Mr. SOLARZ. Mr. Speaker, I thank the gentleman from California for his very kind comments. He has been a really good friend and a great worker on this issue.

Mr. Speaker, I yield 3 minutes to the gentleman from Mississippi [Mr. MONTGOMERY].

Mr. MONTGOMERY. Mr. Speaker, I would like to thank the gentleman from New York and also the gentleman from California on this special committee for bringing this bill and resolution so quickly to the floor.

Mr. Speaker, I cosponsored this resolution, along with the gentleman from Pennsylvania [Mr. RIDGE]. I want to compliment and commend the gentleman from Pennsylvania [Mr. RIDGE] for his hard work in getting this resolution drawn up, working with the other body, and certainly that is why we have had such quick action today, because of the gentleman from Pennsylvania.

I think it is important that the Congress go on record in support of General Vessey's mission to Hanoi. It sends a signal to the Vietnamese that he has the full support of Congress and the American people in his effort to try and resolve some of the humanitarian issues we have been concerned about for more than a decade.

It has been 14 years since the war ended. The families of more than 2,400 American servicemen are entitled to have the fullest possible accounting of their loved ones. It is our sincere hope that General Vessey will be able to make real progress on the MIA issue.

In addition to the MIA question, we have other concerns. They include the release of Vietnamese still being held in reeducation camps, and the issue of Amerasian children.

It is a positive step that the Vietnamese Government has agreed to meet with General Vessey. And, they have recently resumed the interview process for Vietnamese wishing to leave the country. These actions indicate the Vietnamese are willing to discuss the humanitarian issues that are so important to the American people.

President Reagan has made a wise choice in selecting Gen. John Vessey. He has had a long and distinguished career of service to this country. He will be a most able representative of our Government. We all hope he will help to implement a strong basis for quick progress in these areas of concern.

I urge unanimous adoption of the resolution.

Mr. LAGOMARSINO. Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania [Mr. RIDGE], the primary sponsor of this resolution.

Mr. RIDGE. Mr. Speaker, first I want to thank the leadership of the Foreign Affairs Committee for expedient action on this resolution. Specifically, I want to thank Mr. FASCELL, Mr. BROOMFIELD, Mr. SOLARZ, and Mr. LAGOMARSINO. Special thanks to their thoughtful and cooperative staffs as well. General John Vessey will begin negotiations with the Vietnamese within days and speedy and unanimous action by the House will certainly strengthen his hand at the negotiation table.

Fourteen years have passed since that last American combat troop left the country of Vietnam. It has been 10 years since the fighting ceased in that country. Yet today, 2,413 Americans are listed as missing; 2,413 families continue to hold a vigil for some word on the fate of their loved ones. Many years of waiting. Many years of wondering. Many years of heartache.

President Reagan has given his full support to the efforts of securing the fullest possible accounting of those still missing in southeast Asia. By appointing General Vessey as a presidential emissary for POW/MIA issues to negotiate with the Hanoi government, he has continued to work for the resolution of this most tragic and lingering issue. General Vessey deserves the full and unequivocal support of the U.S. Government in his negotiations with the Vietnamese officials in Hanoi. We in Congress must send a message as well. We must make it clear that we require a verification of the fate of 2,413 of our most patriotic citizens and that the American people, the administration, and the Congress of the United States speak with one voice in this matter.

General Vessey will also be addressing many humanitarian concerns of both the United States and Vietnam, the resettlement of Amerasians still in Vietnam, the release of political prisoners in Vietnamese re-education camps, and finally, the restart of the emigration procedures of the orderly departure program for those Vietnamese who wish to leave their country.

The resolution not only expresses the full support of the House of Representatives for General Vessey, but also calls on the Government of Vietnam to respond positively to the humanitarian concerns of the American people. We support and pray for the success of General Vessey's mission. We will continue to hope and watch for a more positive and cooperative response from Vietnam.

As a nation, we have always been more effective abroad when united at home. I urge my colleagues to support this resolution unanimously. This issue is one of the rare instances in which traditional partisan politics is transcended. I urge my colleagues to support the 2,413 families still awaiting word. Support the 2,413 Americans who are still unaccounted for and support General Vessey as he represents the United States in Vietnam.

Mr. LAGOMARSINO. Mr. Speaker, I yield 4 minutes to the gentleman from New York [Mr. GILMAN], the past chairman of the POW-MIA Task Force and a continuing charter member.

Mr. GILMAN. Mr. Speaker, I am pleased to rise in strong support of this resolution expressing the support of the Congress for the forthcoming negotiations between Gen. John Vessey and the Government of Vietnam.

Mr. Speaker, the fate of our American servicemen who are still missing in Vietnam has concerned our countrymen for the past 12 years, 12 years since the end of the conflict in Vietnam. The level of interest and involvement of several administrations which have served since that time have varied. I dare say that it has reached its peak with the current administration, which has labeled it a matter of the highest national priority.

President Reagan has arranged for a visit to Hanoi by his high-ranking emissary, General Vessey, the former Chairman of the Joint Chiefs of Staff, who is now on his way to Southeast Asia.

It is highly important that we signal to the Vietnamese Government just how strongly the American people and in particular the legislative branch of Government in support of the efforts of the administration to resolve this question in a satisfactory and full accounting.

Mr. Speaker, I appreciate the efforts of the gentleman from Pennsylvania [Mr. RIDGE], the sponsor of the legislation, as well as the gentleman from New York [Mr. SOLARZ] and the distinguished chairman of the MIA-POW Task Force, the gentleman from California [Mr. LAGOMARSINO], and the distinguished chairman of the House Foreign Affairs Committee, the gentleman from Florida, and the vice chairman of our task force, the gentleman from New York [Mr. SOLOMON], all of whom played important roles in arranging for the timely consideration of this resolution and who have been continually supportive of our efforts to achieve a full accounting of our missing in action.

Mr. Speaker, I know that time is short and that we have important legislation of all kinds awaiting the consideration of the House, but I just wanted to take this brief time to express the importance of the need for continuing attention at all levels and in all the branches of this Government to the efforts underway to fully resolve the long lingering issue of Americans still missing in Southeast Asia.

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Mr. LAGOMARSINO. Mr. Speaker, I yield 2 minutes to the gentleman from New York [Mr. SOLOMON] also a former chairman of the POW-MIA Task Force.

Mr. SOLOMON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, first of all let me commend the gentleman from Pennsylvania [Mr. RIDGE] for bringing this resolution to the floor today. TOM is a Vietnam veteran and certainly he feels very close to this matter. He has been a very valuable member of our task force on POW-MIA's.

Certainly I commend the gentleman from New York, STEVE SOLARZ, for his longtime leadership in this effort, and his efforts always to be fair to both sides of the aisle in making this a bipartisan and nonpartisan issue.

I also commend the gentleman from California [Mr. LAGOMARSINO], and the gentleman from New York [Mr. GILMAN], the present chairman and former chairman of this task force, for their longtime leadership.

I also commend President Ronald Reagan because we all know that there was a lapse of time in the history of this country when we sort of downplayed or did not emphasize the issue of POW-MIA's.

Mr. Speaker, I can think of nothing so inhumane as any kind of regime that would deliberately store bodies of our fallen soldiers, that might deliberately not return live POW's. There has never been anytime in the history of mankind when this has occurred other than during the Korean war when we were fighting the Communists and during the Vietnam war then we were fighting the Communists.

What kind of philosophy would deliberately not return remains of soldiers fallen in battle? I wish General Vessey all the best of luck in this continued government-to-government relation that we must have if we are going to continue to have any results at all. On behalf of the entire task force, we pledge our support to him and any help we can give to bring about the resolve of this longstanding problem.

Mr. LAGOMARSINO. Mr. Speaker, I yield 1 minute to the gentlewoman from Nebraska [Mrs. SMITH].

Mrs. SMITH of Nebraska. Mr. Speaker, I rise in enthusiastic support of House Resolution 231, which expresses the support of the House of Representatives for Gen. John Vessey in his upcoming negotiations in Hanoi to determine the fate of Americans missing in action in Southeast Asia.

In my district, as in every district in the Nation, there is a great deal of concern about the fate of our POW-MIA's. And in the 12 years since the last American combat troops left Vietnam, that concern has been increasing.

The families of 2,417 Americans missing in action—24 of those Nebraskans—still await word on the fate of their loved ones. I believe that the appointment of General Vessey by the President was an important step toward obtaining a resolution of this issue.

I ask that the Congress unanimously unite in its support of this resolution. We must stand together behind the President and General Vessey in their efforts to account for our missing men.

And following the passage of this resolution, the Congress must continue to do everything in its power to ensure that this remains an issue of the highest national priority and that it be quickly and fully resolved.

Those Americans still remaining in Southeast Asia—as well as their families—deserve no less.

I urge passage of this resolution.

Mr. BROOMFIELD. Mr. Speaker, I urge my colleagues to support House Resolution 231, a resolution in support of Gen. John Vessey's upcoming negotiations with the Vietnamese Government.

General Vessey, former Chairman of the Joint Chiefs of Staff, is President Reagan's special POW-MIA emmisary to Vietnam. General Vessey is highly qualified for this position, having worked on the issue of Americans missing in Southeast Asia while on active duty with the U.S. Army.

General Vessey is the highest ranking United States official to travel to Vietnam in an effort to resolve the problem of Americans missing in Southeast Asia. President Reagan's appointment of General Vessey is another indication of the high priority this administration has placed upon accounting for the 2,413 Americans missing in action during our involvement in Southeast Asia. The Vietnamese must understand that resolution of this issue is absolutely necessary before progress in other areas of our relationship can even be considered.

It is tragic that these problems persist more than a decade after the conclusion of the Vietnam war. I strongly urge my colleagues to support General Vessey's mission, and to join the sponsors of this resolution in calling for the full cooperation of the Vietnamese Government in these talks.

Mr. YATRON. Mr. Speaker, January 1986 was the beginning of the Socialist Republic of Vietnam's 2-year plan for the resolution of the POW/MIA issue. Here we are at the end of July 1987 and we have not seen as much cooperation and progress as we had hoped. Frankly, I think this year and 7 months has been very disappointing. The American people have been waiting for more than two decades for the return of those brave servicemen. For the families of the POW's and MIA's, this period of waiting has been filled with anguish and sorrow.

I hope the Vietnamese will honor their commitment and speed up their efforts to help us account for our missing men.

To show our own commitment to this issue, I encourage all my colleagues to join in approving House Resolution 231, expressing full support for Gen. John Vessey in his forthcoming mission to Hanoi to negotiate with the Government of Vietnam on this crucial issue. I commend my distinguished colleague, Congressman RIDGE, for introducing this measure.

Through this resolution, we demonstrate our unity, our commitment, and our great hope that this imperative national concern will soon be resolved. Very best wishes and Godspeed to General Vessey in carrying out this difficult mission. Let us hope and pray that progress will result.

Mr. LAGOMARSINO. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. SOLARZ. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GRAY of Illinois). The question is on the motion offered by the gentleman from New York [Mr. SOLARZ] that the House suspend the rules and agree to the resolution, House Resolution 231, as amended.

The question was taken.

Mr. RIDGE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The vote was taken by electronic device, and there were—yeas 418, nays 0, not voting 15, as follows:

[Roll No. 285]

YEAS—418

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Atkins
AuCoin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Beilenson
Bennett
Bentley
Bereuter
Berman
Bevill
Biaggi
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boulter
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Buechner
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Collins
Combest
Conte
Conyers
Cooper
Coughlin
Courter
Coyne
Craig
Crane
Crockett
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeLay
Dellums
Derrick
DeWine
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Dornan (CA)
Dowdy
Downey
Dreier
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Edwards (OK)
Emerson
English
Erdreich
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Fields
Fish
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frenzel
Frost
Gallegly
Gallo
Garcia
Gaydos
Gekas
Gibbons
Gilman
Gingrich
Glickman
Gonzalez
Goodling
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Gregg
Guarini
Gunderson
Hall (OH)
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hertel
Hiler
Hochbrueckner
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kasich
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolbe
Kolter
Konnyu
Kostmayer
Kyl
LaFalce
Lagomarsino
Lancaster
Lantos
Latta
Leach (IA)
Leath (TX)
Lehman (CA)
Lehman (FL)
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Levine (CA)
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Lipinski
Livingston
Lloyd
Lott
Lowery (CA)
Lowry (WA)
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
Madigan
Manton
Markey
Marlenee
Martin (IL)
Martin (NY)
Martinez
Matsui
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McMillan (NC)
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Miller (CA)
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Owens (NY)
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Price (IL)
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Smith, Denny (OR)
Smith, Robert (NH)
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Whitten
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron
Young (AK)
Young (FL)

NOT VOTING—15

Bates
Boner (TN)
DeFazio
Dickinson
Dymally
Gejdenson
Gephardt
Hubbard
Jacobs
Kemp
MacKay
Roemer
Schroeder
Sweeney
Williams

☐ 1530

Mr. BOUCHER changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the resolution was amended so as to read: "Resolution expressing the sense of the House of Representatives in support of the forthcoming upcoming negotiations between General John Vessey and the Vietnamese to resolve the problem of Americans missing in Southeast Asia and other issues of humanitarian concern to the people of the United States and Vietnam."

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. JACOBS. Mr. Speaker, on House rollcall 285 today, congressional expression of concern about prisoners missing in Southeast Asia, I was inadvertently detained and unable to cast my district vote.

Had I been present, I would have voted "yea."

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF HOUSE CONCURRENT RESOLUTION 166

Mr. CHANDLER. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of House Concurrent Resolution 166.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

GENERAL LEAVE

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on House Resolution 231, the resolution just agreed to.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

CENTRAL AMERICAN STUDIES AND TEMPORARY RELIEF ACT OF 1987

Mr. MOAKLEY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 230 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 230

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 618) to provide for a General Accounting Office investigation and report on conditions of displaced Salvadorans and Nicaraguans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Salvadorans and Nicaraguans, and for other purposes, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed two hours, with one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary, and one hour to be equally divided and controlled by the chairman and ranking minority member of the Committee on Rules, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute, consisting of the text of the amendment printed in the report of the Committee on Rules accompanying this resolution, as an original bill for the purpoose of amendment under the five-minute rule, said substitute shall be considered for amendment by titles instead of by sections, and each title shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

□ 1545

The SPEAKER pro tempore (Mr. GRAY of Illinois). The gentleman from Massachusetts [Mr. MOAKLEY] is recognized for 1 hour.

Mr. MOAKLEY. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Missouri [Mr. TAYLOR], and pending that, I yield myself such time as I may use.

Mr. Speaker, House Resolution 230 is an open rule providing for the consideration of the bill H.R. 618, which would provide for a General Accounting Office study on conditions of displaced Salvadorans and Nicaraguans, and would also temporarily suspend the deportation of certain Salvadorans and Nicaraguans, currently residing in the United States.

Mr. Speaker, the rule provides 2 hours of general debate, with 1 hour to be equally divided between the chairman and ranking minority member on the Committee on Judiciary, and 1 hour to be equally divided between the chairman and ranking minority on the Committee on Rules.

The rule makes in order an amendment in the nature of a substitute that is to be printed in the report to accompany this resolution as original text for the purpose of amendment, the bill shall be considered by title and each title shall be considered as having been read.

Finally, Mr. Speaker, the rule provides for one motion to recommit with or without instructions.

Mr. Speaker, H.R. 618 directs the General Accounting Office to investigate and report to Congress, the living conditions and available assistance for Nicaraguans and Salvadorans displaced inside and outside their countries, and requires such investigation to examine the fate of Nicaraguans and Salvadorans deported from the United States. This study would be required to commence within 60 days after enactment of the bill, and would be submitted to Congress within a specified period of time.

Mr. Speaker, the bill also provides for the appropriate committees to hold hearings and consider appropriate United States steps to assure personal safety and equitable distribution of assistance to such displaced Salvadorans and Nicaraguans. The committee review process is slated to begin within 3 months of continuous session of Congress after the receipt of the report, within 9 months of continuous session of Congress, the committees would be required to report to their prospective Houses on their investigations. No legislative action is mandated by the bill.

The bill also provides for a temporary moratorium on deportation of certain Nicaraguan and Salvadoran nationals currently residing in the United States pending completion of the period of such GAO and congressional actions.

Mr. Speaker, while there may be much contention on H.R. 618 itself, this is not a controversial rule, it is completely open and there are no waivers. I urge passage of the rule so that we may move on to the debate of this legislation.

Mr. Speaker, for over 4 years I have been involved with this issue. I have talked with literally scores of Salvadoran and Nicaraguan refugees. Nearly every single one of these people have told me that the reason they are in the United States is that they are afraid to return to their homeland. And I believe them.

If I didn't believe them, I would not be here today debating this bill.

The fact remains that there are brutal wars going on in both El Salvador and Nicaragua. Serious human rights violations have occurred on all sides in these conflicts. No one can claim that they have totally clean hands.

Mr. Speaker, the gentleman from Florida [Mr. PEPPER] has frequently and eloquently presented us, the current situation in Nicaragua. I would only add, that having had this issue debated on the floor so often, and so recently, I cannot imagine Members unaware of the desperate state of affairs in that tiny country, caused by both Sandinista and Contra forces.

In El Salvador, we are fortunate that a decent man like Jose Napoleon Duarte is President. I know that there are many in this Congress who respect him, and I share those sentiments. So let me make it perfectly clear right now, that this bill is not, in any way, an attack on President Duarte, or on President Reagan, or on his policies in Central America.

Mr. Speaker, there are, however, human rights problems, as a result of the war in El Salvador that cannot be ignored. Both the military forces and the guerrilla forces have been responsible for targeted and, on occasion, indiscriminate killings. Guerrilla and Government land mines have blown off the limbs of young children. And the war the guerrillas have waged against the Government, has also included economic sabotage, which has literally crippled El Salvador's economy.

And, sadly, we have also read about the resurgence of the feared death squads in El Salvador.

For those Members interested in gory details I have a list of recent human rights atrocities in El Salvador that I would be glad to share with anyone.

Mr. Speaker, as a result of the war and last year's earthquake nearly 1 million Salvadorans are displaced within their own country. Anyone who is familiar with the conditions of the displaced persons camps, knows the desperate situation that these people are forced to deal with.

Not all Salvadorans who leave their country come to the United States. Many thousands are in Mexico, Costa Rica, Belize, and Honduras. Many are living in prison-like refugee camps, and are not allowed to venture beyond the gates. They are forced to live like prisoners.

Mr. Speaker, let me take a moment to clear up some frequent distortions about H.R. 618. First, this bill does not conflict with the recently passed Immigration Reform and Control Act. In fact, for the record, let me point out that myself, Mr. PEPPER, Mr. FRANK, Mr. RODINO, and the majority of the cosponsors of H.R. 618 supported the immigration bill. Second, if you will recall, the House passed version of the immigration bill included the language of H.R. 618. Obviously, a majority of the Members of this House did not see protection for Salvadorans and Nicaraguans as undermining the immigration bill.

Second, opponents have claimed that H.R. 618 undermines the Refugee Act of 1980. This is simply not true. The Refugee Act does not even address the issue of EVD. It deals with asylum. They are two different issues. Asylum is granted to those who can prove they have a "well-founded fear of persecution." This if often difficult to establish, as is illustrated by the fact that on average, 97 percent of all Salvadorans who apply for asylum get turned down. EVD is granted to national groups as a result of the generalized fears of violence, war or civil unrest. There are some who may not meet the strict criteria or asylum, but, nonetheless, have strong reasons to fear returning to their homeland.

One thing that puzzles me about this particular criticism is that since the Refugee Act of 1980 has passed, this administration has extended or granted EVD to Ugandans, Afghans, Ethiopians, and Poles. I do not recall any debates in Congress over whether the Refugee Act was violated in these instances. What makes Salvadorans and Nicaraguans any different?

Mr. Speaker, there are compelling reasons for all of us, Democrat and Republican alike, to support H.R. 618.

If this bill fails—everyone loses.

The refugees from El Salvador and Nicaragua, who this bill would protect, would be forced back to their war-torn countries where they face, at best, uncertain futures.

President Duarte—who is faced with 1 million internally displaced people, a 50 percent unemployment rate, rising tensions, and a civil war—cannot possibly absorb a massive repatriation of Salvadorans at this time, and be expected to move forward on the human rights front.

And other countries of the region—Mexico, Belize, Costa Rica, and Honduras—countries that have severe economic problems of their own will be forced to absorb greater numbers of Salvadorans and Nicaraguans.

The evidence clearly shows the urgent need for this bill, and I realize that there is sometimes a tendency to get overwhelmed with statistics and figures, and lose sight of the human face that these facts represent. But the Salvadorans and Nicaraguans who are now here in the United States are not merely statistics, they are human beings.

I urge my colleagues not to lose sight of this fact when casting their vote today.

Vote "yes" on H.R. 618.

Mr. Speaker, before I yield to the minority I would like to take just a moment to express special thanks to the chairman of the House Rules Committee, Mr. PEPPER, who has been a strong proponent of H.R. 618 and who has given much of his time and energy to make this Congress aware of the plight of Nicaraguan refugees.

I also want to express appreciation to the chairman of the Judiciary Committee, Mr. RODINO, who has been a steadfast champion of this, and so many refugee protection issues.

In addition, Mr. Speaker, let me thank the distinguished chairman of the Immigration Subcommittee, Mr. MAZZOLI, and the ranking minority member, Mr. FISH, for their efforts and patience in dealing with this issue, during the last 4 years. Though we have had our differences, both gentleman have been fair and have extended me and my staff every courtesy.

Mr. Speaker, I want to also express my very special thanks to the gentleman from Ohio [Mr. REGULA], the chief Republican cosponsor of H.R. 618, who has demonstrated both courage and bipartisanship with regard to this bill.

Finally, Mr. Speaker, before deferring to Mr. TAYLOR, let me also publicly thank him and his Rules Committee staff for the cooperation and fairness they have extended me on this issue.

Mr. TAYLOR. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 230 is an open rule under which the House will consider a humanitarian response to the problems of legal status faced by Nicaraguans and Salvadorans in the United States who are displaced from their home nations.

The rule, which I support, makes in order a substitute for H.R. 681, and that substitute is printed in the report filed by the Rules Committee on this rule.

The substitute is a compromise supported by both the leadership of the Committee on Rules and the Committee on the Judiciary, will be open to amendment under the 5-minute rule.

Mr. Speaker, there is no controversy about this rule. The reports of the two committees have been available for some time; and the report of the Committee on Rules accompanying this rule, containing the substitute, has been available since last Friday.

The sponsor of the bill, the gentleman from Massachusetts [Mr. MOAKLEY], is the chairman of the Subcommittee on Rules of the House. I serve with him as the ranking Republican member of the subcommittee, and I know of and appreciate his deep concern for the subject matter of the bill made in order by this rule.

Chairman MOAKLEY has worked long and hard toward enactment of this legislation, and it has been a pleasure for me to have been of assistance to him; and to the gentleman from Florida, the distinguished chairman of the Committee on Rules, Mr. PEPPER, who shares his interest.

Mr. Speaker, the Subcommittee on Rules of the House has spent 5 years crafting a humanitarian response to a problem that overwhelms displaced people from Nicaragua and El Salvador.

The bill provides a legal way for these displaced people to stay in the United States temporarily, while the General Accounting Office conducts a congressionally mandated study of the living conditions and circumstances in Nicaragua and El Salvador.

I want to commend the gentleman from Massachusetts for his tenacity and diligence in dealing with this issue. His bill has undergone several changes over the past 5 years. Despite considerable opposition, his commitment has not waivered, and the gentleman has proven himself remarkably adept in reaching a compromise with members of the Judiciary Committee.

Mr. Speaker, I also want to thank the subcommittee staff for the courtesy and cooperative spirit they have shown to me and to the members of the subcommittee.

Mr. Speaker, under the rule each of the two committees is given 1 hour of general debate, although I doubt we will use all of that time.

Mr. Speaker, I urge adoption of the rule.

☐ 1600

Mr. Speaker, I yield 6 minutes to the gentleman from California [Mr. LUNGREN], a member of the Committee on the Judiciary.

Mr. LUNGREN. Mr. Speaker, I have no problems with the rule itself; but I thought I might take this time to talk about the issue before the House. Before we get into the overall question of how we are going to accomplish this extended voluntary departure, perhaps some facts might be of interest to the Members.

El Salvador is the second most densely populated country in the world behind India, and the most densely populated nation in our Western Hemisphere. Forty percent of its population is unemployed; 60 percent is under the age of 19.

These factors obviously contribute to the desire to leave. In fact, in a Spanish International Network poll conducted of the people who were voting in elections in El Salvador a couple of years ago—obviously people who had a commitment to their country, because they were willing to go ahead and vote, even though under penalty of death by the rebels at that time—67 percent of them responded that, if given the opportunity, they would naturally emigrate to the United States.

It had nothing to do with fear of persecution, but had to do with the great economic opportunity here in the United States.

Mr. Speaker, perhaps the most important point is this one; El Salvador has been the second largest source of illegal immigration to the United States for more than 30 years. Let me repeat that: El Salvador has been the second largest country to send us illegal aliens for over 30 years.

That was before Mr. Duarte, before the Communist insurrection. That was before what some people are talking about now as the cause for these illegal immigrants being here.

Historically, it is ranked behind only Mexico in terms of illegal aliens apprehended in the United States.

The question is, do you create a situation where you grant extended voluntary departure to a country which is the second largest source of illegal immigration into the United States? If you do that, what precedent do you set for the rest of the world?

If these Salvadorans were primarily motivated to leave their country because of fears of persecution, why is it that they pass through two or three safe-haven countries on the way to the United States?

If the reason for leaving El Salvador primarily is fear for one's safety, why do you go through two or three other countries that grant you safe haven to go to the United States?

If you actually fear for your own safety, and that is why you are leaving, why do you not stop at the next country that grants you safe haven? Why do you continue going on to the United States?

Probably for the same reason Salvadorans have been leaving their country for over 30 years. You have greater economic opportunity in the United States. It is natural, if I were born in El Salvador, I would come north, so that I could give my children a better opportunity in their lives, irrespective of what the situation happened to be, concerning violence in that country.

As a matter of fact, if I came to the United States, there are probably some areas in the United States I would avoid. Does anybody realize we had 20,000 murders in the United States last year? Under the basis for this bill, there are probably some areas of the United States that we would declare unsafe, and would allow people to come from as refugees.

There are certain inner cities of these United States in terms of violence which are every bit as bad as the worst places of El Salvador.

Last, I would say this, this bill simply flies in the face of the adoption of the Refugee Act and of the immigration bill we passed just last year.

Many of us were on the floor imploring the House to support the immigration bill. We asked the Members to vote for a legalization program, so that we could somehow do justice to the people who are here, and also settle on a realistic and enforceable immigration law.

Here we are less than a year after that bill has gone into effect, on a country-specific basis making an exception. We are saying that the exception is based on the question of violence, but extending it not to just those people who have a fear of persecution, but any Salvadoran who happens to be here, including all of those who got here prior to the problems that were occurring that they referred to in this particular bill.

I think there is reason to be sympathetic to those people who have come here. If in fact one has a legitimate reason to fear for his or her life, we have a law that has been established since 1980 in the United States whereby we make that judgment.

We passed the law—I was a member of the subcommittee at that time—to get away from the ad hoc, country-by-country determination that had been done in previous administrations, both Republican and Democrat.

Invariably, it happened for political reasons. Our whole purpose in establishing the 1980 Refugee Act was to, No. 1, accept the international standard as we expanded the basis under which people could come into this country as refugees; but second, not to have a country-by-country determination made by whatever administration happened to be in office.

We felt then that there ought to be a continuing law that prevailed. We are going against that with this legislation.

This is special-interest legislation. It blows up what we did last year with the immigration bill. It blows up what we did with the Refugee Act of 1980; it opens the door to ad hoc legislation in the future to whichever group comes forward and says, "We have a specific need that is not being met by the international definition of 'refugees.' "

I think it is a major mistake. What we did 8 years ago with the Refugee Act, what we did last year with the immigration bill was important.

Do not destroy what we did then. Support the rule; it is an open rule. When you have the bill itself, please vote down the bill.

Mr. MOAKLEY. Mr. Speaker, if the gentleman will yield, in answer to the gentleman from California, we do have 18,000 refugees right in Honduras, which is next to El Salvador, and that has a low economic situation just as bad as El Salvador.

We have 250,000 other refugees in other parts of Central America, so the United States is not the only place that these people are fleeing to.

Mr. Speaker, I yield 2 minutes to the gentleman from Missouri [Mr. SKELTON].

Mr. SKELTON. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of this rule, and this bill as well.

This is an issue that suspends the deportation of illegal immigrants, both Nicaraguans and Salvadorans, for 2 to 3 years pending completion of review by Congress and by the GAO on the Nicaraguan and Salvadoran refugees.

This legislation makes the Salvadorans ineligible for most forms of Federal public assistance. The administration has already suspended deportation for the Nicaraguans, and has not done so for the Salvadorans, because it does not want to give credence to the arguments of those sponsoring the efforts that the internal conditions in El Salvador are comparable to those in Nicaragua.

The suspension of Salvadorans should be done on the basis of foreign and domestic policy concerns and on humanitarian considerations.

Both President Duarte and Archbishop Rivera Damas, the archbishop of Metropolitan San Salvador, have voiced support for this legislation.

It is also my understanding that several American labor organizations have done the same.

I think we should point out, Mr. Speaker, and be very honest about this issue, that if we send back thousands of Salvadoran refugees to this country, then we should be prepared as a nation, and I am not prepared to do so, to increase the level of foreign aid going to that country.

I would prefer to wait 2 or 3 years to give those people time to work out getting back in better economic conditions.

What is even more important is the fact that by sending them back down, we would be very unwise in doing so, because they might form a group of recruits, at least in some instances, for the guerrillas as a result of the great unemployment that would be caused.

□ 1610

I think it is wrong to do so. I support this rule. I support this bill and I urge people to vote for it.

Mr. TAYLOR. Mr. Speaker, I yield 3 minutes to the gentleman from Georgia [Mr. SWINDALL], a member of the committee.

Mr. SWINDALL. Mr. Speaker, I rise in opposition to this rule. While I intend to speak at greater length when the bill itself is considered, I do think it is important to state my opposition to the rule because the underlying legislation, H.R. 618, is at best unnecessary and redundant, and at worst irresponsibly costly and undermines the bill that we just passed last year, as well as the Refugee Act of 1980.

Specifically, the GAO report that we are requesting here would cost between $500,000 and $750,000 to determine what in May the GAO has already determined to be undeterminable. Specifically, they determined that they cannot determine exactly what the conditions of these displaced Salvadorans and Nicaraguans is. To spend another one-half of a million to three-quarters of a million dollars to determine that which is undeterminable, which I suspect means that we will come back with another undetermined, after spending this money, is irresponsible and I think ridiculous.

The second aspect of this bill, though, is the fact, and I think this is a significant aspect, is that it undermines the legislation that we did pass last year that was intended to be a comprehensive approach to dealing with refugees.

EVD would exempt Salvadorans and Nicaraguans from the new immigration reform bill that just passed last year. It also, as I mentioned, undermines the Refugee Act of 1980. The Refugee Act of 1980 already allows all aliens who have a well-founded fear of persecution, based on race, religion, nationality, membership in a particular social group, or political opinion, an avenue to become political refugees.

In essence, what we are arguing here is that civil strife makes a country eligible for this EVD; that is all you can really argue, because if that were not the case, one could go under the Refugee Act of 1980.

I think it is significant, in closing, that every single Republican in the Judiciary Committee opposed this legislation, as did the ranking member of the subcommittee under whose jurisdiction this legislation was considered.

For those reasons, Mr. Speaker, I would urge a "no" vote on the rule itself.

Mr. MOAKLEY. Mr. Speaker, for purposes of debate only, I yield 2 minutes to the honorable gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Speaker, I rise in strong support of the rule and the legislation.

There are two reasons, Mr. Speaker, why we need to pass this important bill. First of all, it is the humane and right thing to do.

This bill simply suspends the deportation of illegal immigrants from El Salvador and Nicaragua pending completion of a GAO report.

The GAO report takes a balanced and reasonable approach in analyzing this situation:

First. The GAO will report on the circumstances of Salvadorans and Nicaraguans who have been deported from the United States.

Second. The GAO will report on the condition of persons displaced in other parts of Central America.

Third. The GAO will report on conditions in both El Salvador and Nicaragua and compare these conditions to other countries where the United States has suspended deportation in the past.

This is a fundamental human rights issue—not an issue which should be used to promote the administration's foreign policy initiatives.

First. Immigrants from both El Salvador and Nicaragua face similar conditions of war, violence, and persecution at home—as do nationals from other countries where the United States has suspended deportation.

Second. While many of my colleagues may have views about the direction in which both the Government of El Salvador and Nicaragua are headed, the duty of the United States Government is to assess the present situation in any given country, and decide if it is safe for people to return.

The United States has often suspended the deportation of persons whose home country is in turmoil:

First. This has been done 14 times in the past 25 years.

Second. Deportation has been suspended for citizens of friendly nations as well as enemies.

Third. It is therefore disheartening that the administration is deporting most illegal immigrants from El Salvador while allowing Nicaraguans to stay.

Suspension of deportation does not amount to a condemnation of the Duarte government or other governments.

Suspension of deportation to these two groups of people does not mean that our borders will be opened up to all kinds of foreign nationals.

Suspension of deportation does not open up the Immigration Reform and Control Act. This legislation is a temporary measure targeted at a specific group of people who very well could be persecuted if deported.

EQUAL TREATMENT OF REFUGEES FROM EL SALVADOR AND NICARAGUA

H.R. 618 suspends the deportation for illegal immigrants from El Salvador and Nicaragua for 2 to 3 years, pending completion and review by Congress of a General Accounting Office [GAO] report on Salvadoran and Nicaraguan refugees.

In order to remain in the United States, Salvadoran and Nicaraguan nationals must register with the Immigration and Nationalization Service within 6 months of the bill's enactment. The measure requires that those covered by the bill agree to leave this country upon termination of the suspension period, unless Congress extends it. It makes them ineligible for most forms of Federal public assistance.

The bill directs the GAO to report to Congress on the circumstances of Salvadorans and Nicaraguans who have been deported from the United States, on the condition of those who are displaced in other parts of Central America, and on conditions in both countries compared to conditions in other countries to which the United States has suspended deportations in the past.

BACKGROUND INFORMATION

Although immigrants from both El Salvador and Nicaragua face similar conditions of war, violence, economic collapse, and possible persecution at home, the Reagan administration is deporting most illegal immigrants from El Salvador while allowing Nicaraguans to stay. In so doing, is risking the lives of desperate refugees in order to demonstrate opposition to the Nicaraguan regime and signal support for the Salvadoran Government.

Attorney General Meese recently announced a policy which would in effect suspend the deportation of almost all Nicaraguan illegal immigrants. The Attorney General even invited Nicaraguans whose requests for asylum or deferral of deportation had been denied to reapply. For Salvadorans, however, the Justice Department has no intention of applying such a policy.

The policy announced by the Attorney General is very similar to the policy which has been pursued by the administration for some time. So far this year, for example, 88 percent of the requests for asylum by Nicaraguans have been granted, while only about 3 percent of such requests by Salvadorans have been approved.

The administration's double standard is clearly based on its policy toward the regimes in Managua and San Salvador. Nicaraguan immigrants are allowed to stay here because the administration opposes its Marxist government which is friendly with the Soviet Union. Salvadorans, on the other hand, are deported largely because the administration does not want to grant refugee status to immigrants from a nation whose government we support.

Mr. TAYLOR. Mr. Speaker, I yield 2 minutes to the gentleman from Pennsylvania [Mr. Ritter].

Mr. RITTER. Mr. Speaker, when I heard the gentleman from New Mexico hold forth on the equivalence of the refugee situation from Nicaragua and El Salvador, I began to wonder whether the gentleman is aware that one of those countries is a budding democracy and the other of those countries is a budding totalitarian Communist state. The rationale behind allowing refugees from a country denying them all of their human rights and refugees from another country which has not repressed human rights in any way, shape or form, as the Nicaraguans have, makes no sense. It seems to me that there is a very natural differential between the treatment of refugees from Nicaragua and the treatment of refugees from El Salvador.

Mr. SWINDALL. Mr. Speaker, will the gentleman yield?

Mr. RITTER. I yield to the gentleman from Georgia.

Mr. SWINDALL. Mr. Speaker, I would just like to follow up on the gentleman's time with one other point, and that is the point was made that this would not cost any additional money in terms of public assistance. That is simply not true.

A CBO letter, dated July 10, 1987, to Chairman Rodino, states:

> By prohibiting the detention and deportation of certain unauthorized aliens currently living in the United States, this bill would result in additional costs to state and local governments for public assistance programs. CBO estimates that increased costs to states and localities for public assistance would be between $20 million and $30 million for fiscal year 1988 and between $60 million and $100 million for fiscal year 1989. These costs would be for state and local general assistance programs that provide both cash payments and medical coverage to low-income families and individuals.

Mr. RITTER. Well, Mr. Speaker, I just do not see why we are lumping refugees from Communist Nicaragua in the same bill with refugees from a budding democracy like El Salvador.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Massachusetts [Mr. Frank].

Mr. FRANK. Mr. Speaker, the answer to the question just asked as to why we are treating El Salvador and Nicaragua the same is that for these purposes there is a great deal of similarity. This is not a bill which says you are getting asylum or refugee status because your human rights are in danger from your government. This is a recognition that there is turmoil and violence in your home country.

As a matter of fact, the equivalence happens to be not which government is or is not more democratic, but what is going on inside the country in terms of violence. There is undeniably violence within both countries. There are rebellious movements in both countries. Some Members may like one group of rebels in another government, some may like neither, other, or whatever.

This is not an effort to say this is a good government or a bad government.

Note that while the gentleman from Pennsylvania was valiantly defending the Government of El Salvador against this bill, the Government of El Salvador is for this bill. It wants to be in it.

What we are doing here, not because they ask it, but we are doing something the Government of El Salvador favors. They understand that this is not to be a criticism of them. It is not meant to say that they have oppressed human rights. It is a recognition that there is violence within their country. They would like for that not to be. They would like not to have an armed revolution, but this deals with the question of the violence within the country. It is not refugee status.

Mr. SWINDALL. Mr. Speaker, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from Georgia.

Mr. SWINDALL. Mr. Speaker, I agree with what the gentleman says with respect to the fact that this bill is really targeted at a country, or two countries, where there is civil strife. My question is, Why stop here? Amnesty International says there are over a billion people seeking refugee status.

Mr. FRANK. Mr. Speaker, I take back my time.

Mr. SWINDALL. Amnesty International says there are over a billion people in the world——

Mr. FRANK. Mr. Speaker, regular order. Would the Chair please instruct the gentleman.

The SPEAKER pro tempore. The gentleman from Massachusetts has the time.

Mr. SWINDALL. Excuse me. I thought the gentleman had yielded. Go ahead.

Mr. FRANK. I had yielded and then I said I took back my time.

The reason, Mr. Speaker, is the technique we are using is this. The gentleman from Pennsylvania raised the question and I was answering it. The gentleman from Georgia did not like my answer to the gentleman from Pennsylvania, so he wanted to interrupt and ask me another question. I will be glad to deal with any question the gentleman has. We have too much time for this debate as far as I am concerned and I hope we shut it off; but the gentleman from Pennsylvania's question deserves an answer without the diversion of the gentleman from Georgia.

The question of the gentleman from Pennsylvania was why do you treat the two the same? Are you not creating a budding democracy in a Communist government, et cetera.

The SPEAKER pro tempore. The time of the gentleman from Pennsylvania has expired.

Mr. MOAKLEY. Mr. Speaker, I yield 30 additional seconds to the gentleman from Massachusetts.

Mr. FRANK. The point that is very important to raise, Mr. Speaker—and by the way, on this bill, Mr. Ortega is against this bill and Mr. Duarte is for it. This is the Moakley-Duarte position to be for the bill. It is the Reagan-Ortega position to be against it. It has got nothing to do with whether you like or dislike the government.

What we are saying is that where there is violence in the home country, we will deal with it. That is my answer to the gentleman from Pennsylvania. Nothing in this is intended as a criticism of the Government of El Salvador. Witness the fact that the Government of El Salvador is for it.

I think the gentleman raised a legitimate point, because it could be misinterpreted. This is not a judgment on the Government of El Salvador. It is a recognition of the violence within that country.

Mr. TAYLOR. Mr. Speaker, I yield 2 additional minutes to the gentleman from Georgia [Mr. Swindall).

Mr. SWINDALL. Mr. Speaker, I would just simply now like to ask the gentleman from Massachusetts to answer my question. Why stop there?

The gentleman acknowledges that Amnesty International has estimated that there are over a billion people on the face of the Earth that suffer from civil strife?

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. SWINDALL. Yes, I am happy to yield to the gentleman from Massachusetts.

Mr. FRANK. Mr. Speaker, I thank the gentleman.

Well, we would not be stopping here, if the gentleman is suggesting these are the only two countries with EVD. There are, as we know, other countries that have this status, Ethiopia, Poland, et cetera.

These are also two countries where we have already a large number of refugees from those countries. This bill is not meant to be an invitation to new people to come. As a matter of fact, it has got a cutoff date. No new people will be eligible.

So I would say to the gentleman, where there are large numbers of people already here who are in this situation, if the gentleman is suggesting that logic compels us to now open an invitation to Sri Lanka and to India and to other countries, I would have to disagree; but some countries already have it. Afghanistan has it. In fact, I wish this administration would stop trying to conform other nations to it.

Mr. SWINDALL. Mr. Speaker, I will reclaim my time.

I assume the gentleman does not have an answer to my question.

Mr. RITTER. Mr. Speaker, will the gentleman yield?

Mr. SWINDALL. I am happy to yield to the gentleman from Pennsylvania.

Mr. RITTER. Mr. Speaker, I think many of the countries that the gentleman mentioned do not have open-ended immigration. Frankly, we have had a great deal of difficulty in bringing some of the Afghans here.

If you extrapolate the amount of strife that is taking place all over the world to refugee status, you end up with a tremendous new flood of refugees in the United States and we go against the time honored policy of granting political asylum.

Mr. FRANK. Mr. Speaker, will the gentleman yield?

Mr. SWINDALL. I will yield to the gentleman for the purpose of responding to either of those questions.

Mr. FRANK. The point is, the gentleman mentioned Afghanistan; Afghanistan does have the status. As the gentleman from Pennsylvania knows, we have worked together to get the INS to be more forthcoming to Afghanistan.

Mr. RITTER. In a very limited way.

Mr. FRANK. Afghanistan does now have extended voluntary departure, and I am glad they do.

Mr. RITTER. Well, I can say, it has been like pulling teeth to get Afghan freedom fighters or refugees who have been wounded into the United States on refugee status.

Mr. MOAKLEY. Mr. Speaker, I yield 2 minutes to the gentleman from Texas [Mr. PICKLE].

Mr. PICKLE. Mr. Speaker, I rise in support of H.R. 618.

This measure will temporarily suspend the deportation of Nicaraguan and Salvadoran nationals currently in the United States.

The administration has already effectively applied this policy to Nicaraguan refugees. This provision would simply provide for equal treatment in the case of refugees from El Salvador.

I know that the Members of this House are well acquainted with the situation which has driven these refugees to seek the safety of this Nation.

These innocent refugees have been forced to flee their war-torn homelands, and their plight is of deep concern to all of us. I have joined in cosponsoring this measure based on these humanitarian considerations.

For the past 4 years, we have attempted to take steps to protect these people from the violence and indiscriminate persecution that has cost thousands of lives.

As we have done in the past in cases involving the refugees of other war-torn nations, I believe it is just and appropriate for us to provide a temporary, safe haven to these refugees.

In doing so, we merely acknowledge the fact that a situation of violence and strife still exists in El Salvador, as the administration has acknowledged in Nicaragua, which would make it perilous for these people to return to their homeland.

Mr. Speaker, I strongly urge my colleagues to act with justice and compassion, and agree to provide a temporary stay of deportation to the refugees of Nicaragua and El Salvador.

Mr. TAYLOR. Mr. Speaker, I have no further requests for time and I yield back the balance of my time.

Mr. MOAKLEY. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

□ 1625

The SPEAKER pro tempore. Pursuant to the provisions of House Resolution 230, and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 618.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the House on the State of the Union for the consideration of the bill (H.R. 618) to provide for a General Accounting Office investigation and report on conditions of displaced Salvadorans and Nicaraguans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Salvadorans and Nicaraguans, and for other purposes, with Mr. LEATH of Texas in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to this rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Massachusetts [Mr. FRANK] will be recognized for 30 minutes, the gentleman from Georgia [Mr. SWINDALL] will be recognized for 30 minutes, the gentleman from Massachusetts [Mr. MOAKLEY] will be recognized for 30 minutes, and the gentleman from Missouri [Mr. TAYLOR] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Massachusetts [Mr. FRANK].

Mr. FRANK. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have had a good part of the general debate already, and I hope we will not need to take the full 2 hours.

The bill has been very ably explained by my colleague, the gentleman from Massachusetts [Mr. MOAKLEY], who is its main sponsor and has worked hard for it. I would address just a couple of points here.

First, people have argued that it is inconsistent with last year's immigration bill. There are some in the House that think being inconsistent with last year's immigration bill is the best thing it has going for it. On the other hand, we ought to point out, and I am one who worked for the immigration bill most of the time, the House which passed the immigration bill last year also passed this bill, a version of it as an amendment, albeit by one vote. But a bill that passes by one vote has one vote more than the people on the other side.

So the notion that this is somehow inconsistent with the bill, I find it is hard to survive the fact that it was made part of that bill with which it was supposedly inconsistent, and there was agreement in conference last year that we would take it up separately.

Second, I want to emphasize again the point I made before. This is not a judgment on El Salvador or Nicaragua. There will be plenty of occasions during the year for people to make the legitimate judgments they want to make pro and con of the Government of El Salvador and Nicaragua. There will be pieces of legislation that will be offered that deal with human rights in both cases. This responds we hope in the humanitarian tradition of America to the fact that there is violence in both countries.

Why are they together in the bill? I will tell my colleagues why. The bill originally responded to the fact that there were large numbers of Salvadorans here facing potential deportation. Last year, some of us felt that the situation in Nicaragua had become similar, not in any political sense, but in the fact that there were violent revolutions in both cases, and we therefore felt that in both cases we had a large number of refugees already here, and this was an appropriate response.

Think for a minute what the alternative is. The alternative to this bill is massive deportation, which no one, I believe, has been advocating, or it is allowing people here in an illegal status. We are saying we do not want to deport large numbers of these people, and everyone agrees that they have been constructive citizens on the whole; nor do we want them to stay here in an illegal status. So we will temporarily stay their departure.

They gain no vested rights from this. This time does not count toward their citizenship. They are excluded from virtually all welfare benefits by the terms of the bill. That is what it says. They can stay here pending the deportation. That is all the bill says.

It seems to me very much within the humanitarian tradition of the country to have them here. We have given extended voluntary departure to other countries.

Arguments raised before will be raised again that if we give to one country we have to give to every country. We often in public policy do our best, and the argument that embraces a principle without it being taken to its logical extreme is never a valid argument. Other countries have this status. We are adding two here today because they have this violence at home and they already have large numbers of refugees here.

There is a cutoff point, so this does not become a magnet. It seems to me a perfectly straightforward bill and I hope it is adopted.

Mr. Chairman, I reserve the balance of my time.

Mr. SWINDALL. Mr. Chairman, I yield 10 minutes to the gentleman from New York [Mr. FISH], the ranking member of the Judiciary Committee.

Mr. FISH. Mr. Chairman, I urge my House colleagues to vote against H.R. 618, which would stay the deportation of Salvadorans and Nicaraguans. I would like to explain that while sympathetic to the problems facing El Salvador, I believe this legislation is not the solution and I would like to recommend an alternative.

First, this legislation undermines the new Immigration Reform and Control Act which passed only last fall and which is just now at its implementation stage. For three Congresses, we worked toward a consensus that was fair and responsive to a growing national concern over millions of illegal aliens in our midst. Employer sanctions were included to deter future entry to seek employment. Legalization was a compassionate response to those who have been here for some time.

The employer sanction provisions of the new law just went into effect on July 1. The legalization provision has only been in effect for a couple of months. We do not yet know how many will qualify for legalization or how many Salvadorans and Nicaraguans will choose to return home if they do not qualify. However, according to a recent State Department report, we do know that very few Salvadorans and Nicaraguans are now returning.

Therefore, to grant a stay of deportation to foreign nationals of two countries at this time undermines the purpose of the new law and will, without a doubt, encourage other countries which also face hardship as a result of its passage to seek relief.

Second, this legislation circumvents the Refugee Act of 1980 by creating a special system to handle Salvadorans and Nicaraguans while waiting for GAO reports. The reason Congress passed the Refugee Act of 1980 was to supplant piecemeal and nation-specific legislation and parole for refugees. The Refugee Act set a system under which any person—regardless of origin—can apply based on a "well-founded fear of persecution" without the need for special legislation.

Only once since enactment of the Refugee Act has a new nationality been granted EVD—Poland—and never has the Congress mandated this status.

Third, time has simply overtaken the need for this legislation. When first introduced three Congresses ago, its rationale was based on the danger to returnees due to the high incidence of indiscriminate violence. I agreed then. This rationale remains in the bill with references to "personal security" and to "violations of fundamental human rights." What has happened since? Statistics indicate that civilian deaths from indiscriminate violence have dropped significantly from 1980. According to our Department of State, in 1981, over 9,000 civilian deaths were reported due to random violence. In 1984, State reports found 800 civilian deaths due to random violence, and in 1986, the number of civilian deaths had declined to 251. Although reports from others differ on the precise number of civilian deaths, all church and government reports do agree that civilian deaths have declined from 1980 to the present.

Fourth, critics claim that there is no other place for these individuals to go and the United States must give them refuge. This is simply not true. Most areas in El Salvador are not unsafe and Honduras provides safe refugee camps open to all Salvadorans seeking haven. Mexico is also a "safe haven" for Salvadorans, and the U.N. High Commission for Refugees has established a presence in both Mexico and Honduras. On a recent visit to Central America, I was impressed that thousands of Salvadorans in the Mesa Grande refugee camp in Honduras were demanding an early return to their country.

In sum, I do not believe this legislation is the solution. Passage of this legislation would send an explicit message not just to Salvadorans and Nicaraguans and others but to all that the United States Congress did not mean what it said in 1980 in passing the Refugee Act and has already started to undermine the Immigration Reform and Control Act.

Mr. Chairman, what about the serious problems facing El Salvador and the administration of President Duarte? Ten percent of El Salvador's population are displaced either from civil strife or from the effects of the 1986 earthquake. Unemployment is high, and the return of a large number of Salvadorans would seriously strain the country's capacity to cope.

Congressman MAZZOLI of Kentucky, chairman of the Subcommittee on Immigration, Refugees, and International Law, Congressman SWINDALL, the ranking minority member of the subcommittee, and I have responded with "temporary safe haven" legislation, H.R. 2922. This measure establishes formal procedures to allow the Attorney General to grant temporary refuge for a national group whose homeland conditions are racked by armed civil conflict, environmental disaster, or other extraordinary conditions of humanitarian concern such as those that have resulted in the granting of extended voluntary departure in the past.

Mr. Chairman, I believe our legislation (H.R. 2922) is a more appropriate alternative to nation-specific legislation such as H.R. 618. We fill a gap between current immigration law and the Refugee Act of 1980. We provide rational, freestanding legislative criteria based on the existence of civil strife, environmental catastrophes, along with humanitarian considerations to allow foreign nationals to remain here for temporary refuge until conditions in their respective countries improve.

As you know, Mr. Chairman, the executive branch now has the authority to grant "extended voluntary departure" [EVD] to "stay" deportation of nationals from certain countries when conditions in their home country present a hazard to the returning alien. However, no criteria, statutory or otherwise, currently exist which specifies when extended voluntary departure can be granted and why certain countries qualify. H.R. 2922 would provide this criteria.

Just as the Refugee Act replaced the ad hoc consultations approach by establishing a formal and orderly process by which we accept refugees, I believe the same orderly statutory process is needed for authorizing temporary refuge.

We have the time to act within the framework of existing law to conditions in El Salvador. Our response should not be to legislate on exceptions to the Immigration Reform and Control Act for one or two countries. Rather, it should be to follow the long-standing policy with respect to immigration law. Under current law, there are numerous examples where the statutory framework establishes the criteria under which the administration exercises its discretion to admit foreign nationals into the United States.

Our preference system defines categories of aliens Congress has decided should be considered as immigrants. The consular officer in the field reviews the applications for immigrant visas, while the INS officer at ports of entry determines admissibility. The Refugee Act of 1980 developed an orderly process for admitting "refugees"—defined as those aliens who have a "well-founded fear of persecution." It is the INS officer in foreign countries who determines who qualifies under the priorities established by Congress.

Our law also provides for admission by asylum into the United States, should a foreign national establish that he faces a "well-founded fear of persecution" upon return to his own country. The Department of Justice reviews these asylum applications and makes the necessary determinations on each case.

Similarly, enactment of H.R. 2922 would establish a statutory framework to provide the "authorization to remain temporarily." The Attorney General would have the discretion to grant such status based on the criteria found in the bill. We would be honoring the traditional balance of statutory law and executive discretion. Mr. Chairman, all majority members of the Immigration Subcommittee and the gentleman from Massachusetts [Mr. Moakley], have expressed the desire to work with us in perfecting H.R. 2922. We welcome this bipartisan approach. In the meantime, we should reject H.R. 618.

□ 1640

Mr. FRANK. Mr. Chairman, I yield 2½ minutes to the gentleman from Massachusetts [Mr. Atkins].

Mr. ATKINS. Mr. Chairman, I rise in strong support of H.R. 618, offered by my colleague from Massachusetts, Congressman Moakley.

Over the course of our history, America has proudly been a place of sanctuary for persecuted individuals. We have offered our land as a place of refuge for those in danger of losing their lives for their political beliefs. Our country has grown from subjugated colonies to world leader, and our foreign policy has changed accordingly, but this principle has remained: America is open, America is free, America is willing to give you shelter from your enemies until it is safe for you to return home.

The Reagan administration has perverted this principle, indeed, it has turned it on its head. Those fleeing from persecution in El Salvador are not welcomed here in the United States, because they are running from the wrong civil war. The INS grants political asylum to 88 percent of the refugees escaping from the war in Nicaragua. Only 3 percent of the refugees from El Salvador are granted asylum.

It is argued that Nicaraguan refugees are fleeing a repressive Communist regime, and thus get special preference. But such a rigid, ideological policy ignores the plight of the individual. If you are a farmer, living in a remote village, it does not matter to you whether you are under attack by the Contras, the Sandinistas, or Farabundo Marti, you run because your life is threatened.

Whether these people are caught up in a civil war pitting army against army, or a more insidious civil war pitting death squads against guerrillas, should make no difference when they run to us for shelter. Whether they fear persecution from the left or the right should make no difference. Our political asylum policy should be ideologically neutral.

The bill before us today temporarily suspends the administration's deportations of Nicaraguans and Salvadorans until the General Accounting Office can report on the plight of refugees from both countries. It is not a major change in immigration law; rather, it corrects an abberation by this administration.

America has always been a place of sanctuary. This legislation simply returns our Nation to that role. I urge my colleagues to vote in favor of the bill.

Mr. SWINDALL. Mr. Chairman, I yield 3 minutes to the gentleman from Virginia [Mr. Slaughter].

Mr. SLAUGHTER of Virginia. Mr. Chairman I rise in opposition to H.R. 618.

There are many points which illustrate that this bill is unnecessary and unwarranted. First of all, the General Accounting Office [GAO] report is not needed. There is already sufficient information regarding the conditions of Salvadorans and others. In fact, Representative Fish requested a report from GAO on the subject of problems experienced by returned Salvadorans, and the GAO report—May 1987—concluded that the extent of violence or persecution was not determinable. H.R. 618 grants extended voluntary departure status to certain Salvadorans and Nicarguans.

Second, this bill reverses, in part, the current Refugee Act. Congress passed the Refugee Act in 1980 to set up a consistent system for handling requests for asylum. These requests are reviewed individually on their merits in a fair and equitable manner. H.R. 618 circumvents this legislation by setting up a special system for handling Salvadorans in the next 2 years while waiting for the GAO report. In addition, there is the prospect that a stream of Salvadorans and others from the Caribbean basin will illegaly enter the United States.

Third, of the 500,000 to 750,000 Salvadorans in the United States in 1985, only 20,000 to 30,000 had applied for political asylum. This point calls into question whether they are economic migrants or are legitimately fearing persecution upon their return. Currently one must simply show that their lives are endangered to apply for political asylum.

Fourth, the United States is not the last safe haven for these individuals. Honduras, Guatemala, and Mexico are alternatives. This point is based on the assumption that there is indeed a threat of persecution; the United States, however, cannot be the first and only place of supporting refugees, aliens, and other immigrants.

Fifth, Salvadorans returning to El Salvador are not simply dumped there without any assistance. The Intergovernmental Committee on Migration [ICM] meets and assists every Salvadorans sent home by the United States. They are provided with transportation, pocket money, and temporary accommodations. There are counseling centers and reintegration facilities available in El Salvador. The ICM will even provide inland transportation, medical assistance, and food.

This bill is the beginning of a disturbing trend. El Salvador and Nicaragua are not the only countries with civil unrest. Precedents such as this could and may be applied to Guatemala, Honduras, and others and the numbers admitted into this country via extended voluntary departure could increase enormously. Furthermore, it would say that masses of individuals can now be legitimized because of civil distress or economic hardship and not because of well-founded fear of persecution. This kind of bill creates a magnet which could draw millions into the United States at a time when we are trying desperately to gain control of our borders.

I urge my colleagues to defeat this unnecessary bill.

Mr. FRANK. Mr. Chairman, I yield 2 minutes to the gentleman from California [Mr. Torres].

Mr. TORRES. Mr. Chairman, I rise in support of H.R. 618. The issue we are debating here today is one of equity. It is an issue of whether or not this body should provide equal treatment of refugees from El Salvador and Nicaragua.

Immigrants from both El Salvador and Nicaragua face startling violence, brutality, and possible persecution at home. Yet, despite these harsh similarities, the administration is deporting almost all illegal immigrants from El Salvador while allowing Nicaraguans to stay. This unequal treatment is not only unfair; it is inhumane.

I recognize that El Salvador and Nicaragua have vastly different forms of government. But I can personally attest that there is no real difference in the dangerous conditions under which the people of these countries are forced to live.

The brutality and violence of war and civil strife is never selective. We should not be selective in how we treat people who flee their homes to seek safety in the United States. Yet this administration has consistently denied temporary refuge to nationals of El Salvador while granting it under at least equally compelling circumstances to nationals of Poland, Ethiopia, Afghanistan, and Nicaragua.

The legislation we are debating here today would correct that inequality by providing a temporary stay and I underscore "temporary stay" of deportation for nationals of El Salvador and Nicaragua. The relief provided under this measure is in the best humanitarian tradition of this country. I strongly urge your support.

REPRESSION ON THE RISE IN EL SALVADOR

The attacks and threats of violence directed at the Salvadoran community and anti-intervention activists in Los Angeles parallel growing repression inside El Salvador. In recent months death squads have resurfaced and peaceful protests have been brutally suppressed by government security forces. A survey of recent human rights violations reveals a clear pattern of government action designed to crush popular protest. Recent incidents include:

July 15.—Treasury and National Police forces fired shots from the rooftop of the National Bank in downtown San Salvador into a crowd of peaceful demonstrators, marching in support of striking workers. At least five people suffered bullet wounds.

July 8.—300 members of STISSS (Social Security Hospital Workers' Union), on strike since June 1, were assaulted by 200 armed agents of the National Police. A dozen people were wounded by gunfire and at least 50 workers were beaten with rifle butts.

June 16.—The Maximiliano Martinez Hernandez Brigade, one of El Salvador's most notorious death squads, threatened 14 students and teachers at the University of El Salvador with execution.

June 13-23.—Seven civilian men from Chalatenango province were captured and tortured by the Armed Forces. The wives of two of the men were raped. One of the woman was pregnant and lost the baby. Soldiers from the Belloso Battalion and the 4th Infantry Brigade took three peasants from their homes in Laguna county, stabbed them in the throat, and left them for dead.

May 31.—Julio Portillo, a leader of the UNTS (National Unity of Salvadoran Workers) and former secretary general of ANDES (Teachers' Union), was shot and injured by members of the National Police at a protest action outside of Mariona prison.

May 28.—A bomb exploded at the San Salvador offices of COMADRES (Committee of Mothers of the Disappeared), seriously injuring two women.

May 15.—Antonia Enrique de Paz, a member of CRIPDES (Christian Committee of the Displaced, was run over and killed by a jeep, following her participation in a human rights protests outside the U.S. Embassy. Eyewitnesses described the vehicle as similar to those driven by government security forces.

May 2.—The headless body of Antonio Hernandez Martinez, an organizer with ANTA (National Association of Farmworkers), was discovered tossed to the side of a road. Martinez was captured on April 16 by soldiers from the Cuscatlan Battalion.

Sources: New York Times, Washington Post, Associated Press, Salpress-Notisal, UNTS.

CHRONOLOGY OF RECENT SALVADORAN DEATH SQUAD INCIDENTS IN LOS ANGELES

May 1987.—An activist, whose name later appears on a death threat list, receives threatening phone calls.

June.—Yanira, a 24-year-old Salvadoran activist, is the target of threatening phone calls.

Mid-June.—Victor Rios, CISPES Southwest Regional Coordinator, receives threatening calls, and his car is vandalized.

Late June.—Victor Rios receives a letter stating, "For being a communist, what happened to your car will happen to you."

July 3.—The car of an activist threatened in May is vandalized.

July 7.—Torture and rape of Yanira in a Salvadoran death squad-style kidnapping.

July 10.—Mercedes Salgado, a Salvadoran activist, finds her car windows smashed, just before going to participate in a press conference denouncing the kidnapping/torture of Yanira.

Marta Alicia Rivera, a Salvadoran teacher given political asylum in the U.S. after being tortured in El Salvador, receives a death threat at her home. The letter contains the names of 19 refugees and activists targeted for death.

July 11.—A refugee's apartment is ransacked.

July 12.—Suspicious-looking cars park in front of Casa El Salvador's office, and monitor the movement's of people going in and out.

July 13.—Threatening calls are made to Comite El Salvador's office.

July 13-18.—A refugee receives threatening phone calls, and is denounced "for being a communist."

July 15.—Father Luis Olivares receives a death threat signed E.M. 1. The initials are believed to stand for esquadrone de la muerte (death squad), and are similar to messages received by priests in El Salvador prior to their execution by death squads.

A friend of the refugee whose apartment was broken into on July 11 is shot and wounded in the leg outside of the ransacked home.

July 18.—A local solidarity event in Los Angeles receives a bomb threat.

July 13-20.—Several people report being followed.

July 17.—A Guatemalan woman is forced into a car by Salvadoran men, and warned to stay away from Salvadoran activists.

July 20.—The CISPES Regional office receives a death threat in the mail.

Mr. SWINDALL. Mr. Chairman, I yield 5 minutes to the gentleman from Ohio [Mr. REGULA].

Mr. REGULA. Mr. Chairman, I rise in support of H.R. 618 because it is a nonpartisan, humanitarian measure.

We are well aware of the conditions in Nicaragua, of the abuses of the Sandinista regime and the atmosphere of violence that exists there. The Attorney General has even recognized this by encouraging Nicaraguan refugees to apply for political asylum. While not granting them extended voluntary departure status, his announcement would have the effect of giving these refugees the right to permanent residence in the United States.

H.R. 618 actually does much less. It suspends the deportation of Nicaraguans and Salvadorans while the General Accounting Office conducts an investigation as to their displacement and the conditions which they find when they return to their native countries. It is a temporary status given to these refugees until conditions in their own country become better.

While the Justice Department decided to favor Nicaraguan applicants for political asylum, it neglected Salvadorans altogether. A civil war atmosphere still exists in El Salvador despite the best efforts of President Duarte. This bill does not condemn his government and will not be interpreted as an insult to it. In fact, President Duarte has some months ago written to President Reagan requesting that Salvadorans not be deported.

Opponents of this measure state that conditions are not that bad in El Salvador. Last year alone there were 1,700 political killings and disappearances. The State Department's "Country Reports on Human Rights" also underscores the deplorable conditions there. While noting that much progress has been made, the report cites that—

> Some five to seven thousand armed guerrillas of the Farabundo Marti National Liberation Front [FMLN] are attempting to overthrow the elected government by force of arms. The Guerrillas, having suffered reverses on the battlefield, have increasingly resorted to terrorist tactics, including economic sabotage, traffic stoppages, use of land mines, assassination, and kidnaping.

The have murdered innocent civilians, and kidnaped public officials—even the President's own daughter. Their use of land mines have maimed and killed hundreds. A recent press account noted that "Communist mines have blown one or more limbs off about 1,600 people, 950 military, and 650 civilian. Of the civilians, it's estimated that a quarter to a third are children."

While it is true that anyone can apply for political asylum, it is clear that this process is not responding to the needs of Salvadorans. So far this year, 88 percent of Nicaraguan asylum applications have been approved. Only 3 percent of Salvadoran applications received the same treatment. This raises the question: Are we giving preferential treatment to Nicaraguans because we oppose the Sandinista regime, while denying refuge to Salvadorans because we support Duarte? If so, my response must be that this is no time to play politics with human lives.

Moreover, it is extremely difficult to present substantial, documented evidence proving that one's life will be endangered by returning to one's home country. It seem ludicrous to demand that those seeking refuge must gather evidence of their danger before leaving their country.

It has also been argued that we should not be creating a special class of immigrants based on national origin. I would agree with this argument if we had never done it before. During the last 25 years, the United States has suspended the deportation of illegal immigrants from specific countries 14 times. Our present administration has granted it to four nationalities. These nations include Lebanon, Afghanistan, Ethiopia, and Poland. In fact, extended voluntary departure status still exists for Polish refugees. I do not understand how anyone can argue that conditions in Poland are any worse than in El Salvador or Nicaragua.

It has also been argued that this bill will cause more illegal immigrants to pour across our borders. The only refugees eligible under this bill are those who are here by the bill's date of enactment.

Opponents have also claimed that H.R. 618 will undermine last year's immigration bill. I disagree with this argument for several reasons. Those covered under H.R. 618 are not being granted permanent residency status as under the immigration bill. They are still required to obtain work permits and are not eligible for Federal assistance. Finally, the provisions of H.R. 618 were actually a part of the immigration reform bill and the House voted not to delete its provisions from the bill.

In sum, we in Congress have the responsibility of recognizing that Salvadoran and Nicaraguan refugees consider themselves to be in danger if they return home. Most of them fervently want to return home. Nicaragua is being ruled by what its independent permanent commission on human rights calls a "Government (that) uses policies of terror and intimidation, of persecution and blackmail, against those persons who hold different opinions and who refuse to submit without protest to a political and ideological plan that essentially ignores the fundamental rights of the Nicaraguan people."

Salvador is under attack by leftist guerrillas who are kidnaping citizens and public officials, planting land mines in civilian areas, and generally terrorizing the cities as well as the countryside.

I urge my colleagues to support this temporary humanitarian measure by voting for H.R. 618.

Mr. FRANK. Mr. Chairman, I yield 2 minutes to the distinguished gentleman from New York [Mr. BIAGGI].

Mr. BIAGGI. Mr. Chairman, as a cosponsor of H.R. 618, I rise in strong support of this bill and commend my distinguished colleague from Massachusetts for introducing legislation which would grant equal protection to those who fled the horrors of the civil war in El Salvador as well as those from Nicaragua.

Opponents of H.R. 618 state that there are major differences between the case of the immigrants from El Salvador versus those from Nicaragua. I contend that that is in fact true. The difference is the way the current administration addresses the needs of these people even though both have fled their respective countries in fear for their lives and well-being. Presently, the United States Department of Justice is actively reaching out to undocumented aliens from Nicaragua and encouraging them to apply for asylum. Immigration and Naturalization Service authorities have gone so far as to request that those Nicaraguans who have applied and have been denied asylum, reapply. It is reported that 90 percent of all Nicaraguans who submit applications for asylum, will be granted this coveted status. Special provisions have also been made whereby work permits will be automatically issued to these individuals, waiving the long waiting period and interview process. Based on these reports, it is easy to see why the administration believes that extended voluntary departure is not necessary for Nicaraguans.

But what about the Salvadorans? Sixty-two thousand people are said to have died as a result of the internal strife in El Salvador, with more than 1 million people having been displaced. Last year's earthquake forced more than 300,000 people to leave their homes and yet the U.S. Government plans to deport those who have come to the United States for refuge. Of all those Salvadorans who apply for asylum, less than 4 percent will have their applications approved. Unlike the immigrants from Nicaragua, the Salvadorans will then have to be processed for employment authorization: a process which in itself could take months. We have developed a double standard and continue to provide preferential treatment to those from Nicaragua while we systematically deport Salvadorans even though they are generally equally deserving candidates.

H.R. 618 will serve to provide equal protection to the citizens of both these nations by giving the General Accounting Office the opportunity to investigate and consider the human rights violations which take place both in El Salvador and Nicaragua, particularly against those who have been forced to leave the United States and return home. Other nations have been granted stays of deportation, and so the GAO will need to compare the conditions in these two nations with those who have been granted this status in the past.

Extended voluntary departure is certainly not a solution for those individuals from either El Salvador nor Nicaragua, but as in the case of other nations who have been granted EDV status, allows them to remain in the United States until the situation in their nation stabilizes.

In the past, extended voluntary departure has been granted at the discretion of the Attorney General, after consultation with the Secretary of State. H.R. 618 states that certain criteria must be met, and that other than purely political ramifications be considered when granting this status to a nation's people.

It is true that currently Nicaragua does not have EVD status, however, there have been so many "alternatives to policy" on behalf of its citizens presently living in the United States, that it is clear that the Reagan administration is motivated strictly by its disapproval of the Sandinista regime. Is it just to turn our backs on those from El Salvador simply because the Duarte government is looked favorably upon by the administration?

EVD status has been granted to several nations over the past several years. We have realized the internal strife and have acted accordingly with regard to Uganda, Afghanistan, Ethiopia, and Poland. The United States Government has granted parole to citizens from Southeast Asia, and Cuba, the Dominican Republic, and Czechoslovakia in the 1960's. Why then will we continue to deport Salvadorans? The only answer can be our relationship with the country's current government.

H.R. 618 will not grant the Salvadorans and Nicaraguans permanent residency in the United States, but rather simply give the Congress the opportunity to review the situation in these nations from a humanitarian standpoint. In part, the United States foreign policy has added to the unrest in Central America, and so we must take some responsibility for its people. Extended voluntary departure should be granted and since the administration has not taken such action, it is time that the Congress intervene.

I urge my colleagues to favorably consider this legislation.

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Mr. FRANK. Mr. Chairman, I yield 5 minutes to the distinguished chairman of the Committee on Rules, the gentleman from Florida [Mr. PEPPER].

Mr. PEPPER. Mr. Chairman, I think all of us understand the necessity for this legislation. It has been the law for quite a while that any alien in this country who has "a well-founded fear of persecution" will be granted asylum in this country. But now there has been an ambiguity that has arisen about what is meant by a well-founded fear of persecution.

Obviously it is very difficult for an individual to establish that, especially in the case of these people from El

Salvador and Nicaragua, because the GAO has recently reported to the Rules Committee in a hearing on this matter that it is very difficult to get access, in the case of the Nicaraguans and the El Salvadorans who have returned to their countries, to the facts; it is very difficult to find out under what conditions they are having to live in their native countries.

Recently, of course, the Department of Justice has had an amplifying impact by a statement on the Immigration Service stating that actually—and I am quoting from an editorial in the Miami Herald, quoting the Department of Justice regulation—No Nicaraguan "who has a well-founded fear of persecution will be deported in the absence of a finding by the Justice Department that the individual has either engaged in serious criminal activity or poses a danger to the national security."

Now, that does not change the existing law a bit. We still have to determine what is a "well-founded fear." And how is an individual who is in our country from either one of these countries, El Salvador or Nicaragua, to prove that he has a well-founded fear?

So the legislation that my distinguished colleague, the gentleman from Massachusetts [Mr. MOAKLEY], is presenting on behalf of himself and me here this afternoon proposes to clarify that in terms of statutory language, that it be made clear that those people who are here from El Salvador and Nicaragua are going to be permitted to stay here until conditions, as we find them in their respective countries, justify their deportation or the requirement that they be returned to their countries. And we want to clarify that by this legislative language so there is no ambiguity about it. They have a right not to be deported until conditions change, to the point where we can try to find evidence that we think is reliable that they can safely return to their respective countries.

Just a little bit ago two distinguished Members of this House, the gentlewoman from Louisiana [Mrs. BOGGS] and the gentleman from New York [Mr. SCHEUER], were down in Managua at the Interparliamentary Union Conference. They had meetings, so the gentlewoman from Louisiana [Mrs. BOGGS] told me, with the wives and the lady members of the families of men who have been in the custody of the Nicaraguan Government, and they have suspected some of them have disappeared or have been killed. These women had a meeting with our two Representatives about this situation.

After this conference was over, the Nicaraguan Government took these women into custody, put them into an extremely cold room and kept them there for several hours. While still being kept in that cold room they told them, "Now, listen; you have one more conference with Members of the U.S. Congress, your men will disappear.

Now, that is the kind of situation our two Representatives said existed down there in Nicaragua. I think it is not quite as bad in El Salvador, but there are other conditions there. When I was down there not long ago, I visited a hospital, and one whole wing of the hospital was filled with civilian children who were the victims of guerrilla planted mines which crippled and maimed them when they contacted those underground mines.

So we all know about the conditions in these countries, especially in Nicaragua, and there are other conditions that are comparable in El Salvador. There is no freedom of the press, no freedom of religion, and there is no freedom of speech. There is no protection of human rights. So in both of these countries it is necessary for the legislation that we propose here today to protect those people and give them the right to work while they are here.

Mr. Chairman, I rise in support of H.R. 618, I have introduced, and the Rules Committee has reported, similar legislation, H.R. 1409, that also pertains to Nicaraguans and Salvadorans currently residing in the United States.

Mr. Chairman, we are firmly convinced that the official United States interpretation that Salvadorans and Nicaraguans are in the United States because of economic reasons is wrong. We believe that to send these people back to countries that are torn with internal strife and where their security is threatened daily is wrong. We believe that our Government's refusal to avail itself of remedies that are at hand that would give immediate relief from the threat of deportation to these people is wrong.

I am convinced that the administration could, if it so desired, right these wrongs. It could grant extended voluntary departure status to Salvadorans and Nicaraguans as has been done for 15 different nationalities over the last 25 years. If the administration were to do this, the Congress would not have to become involved in legislating a response to this situtation. However, Mr Chairman, in light of recent pronouncements by our Government that extended voluntary departure status will not be given to Salvadorans, we believe that legislation is the only avenue of action left. The administration recently announced that that no Nicaraguan with a well-founded fear of persecution will be deported and that every qualified Nicaraguan seeking a work permit would receive one. It is not clear if the Attorney General's order is a restatement of current United States policy or if it is a new policy toward Nicaraguans. If it is a new policy, it is not clear how it is to be implemented. In practice, it seems to be a mere restatement of current U.S. policy—demonstrate a well-founded fear of persecution or be deported.

Just last week, Nicaraguans who are currently being detained in Texas attempted to find out what the Attorney General's order meant. They were told by the Immigration and Naturalization Service that the order "did not specify that all detained Nicaraguans would be released," instead the order is being considered by INS as a reaffirmation and strengthening of existing policy. Indeed, the INS is now awaiting further clarification of the Attorney General's order.

Mr. Chairman, it sounds to me as if the administration has not made any change in its policy toward detained Nicaraguans. It has merely told Nicaraguans that if they conform to existing United States refugee policy, they will not be deported.

I want to focus my remarks on the provisions of the bill that relate to those displaced Nicaraguans in the United States. There are an estimated 150,000 Nicaraguans now living illegally in the United States. They are under the constant threat of apprehension and deportation. The basic question is, Why are those people here? We all are aware that the administration states that these people have fled their homeland because of economic hardship. There is no recognition on the part of the administration that the war in Nicaragua caused these people to flee their homes and not even an acknowledgement that their forced return to Nicaragua will place them in further peril. In fact, since 1980 only 10.6 percent of all Nicaraguan applicants have been granted political asylum.

Now this legislation is not a political judgment on United States policies in Nicaragua and El Salvador. Rather, it is a humanitarian gesture intended to protect refugees from being forcibly returned to the pervasive bloodshed and repression in their countries.

I would like to focus on the internal situation in Nicaragua for a moment. There is general agreement that there is widespread censorship of the press, a basic disregard of human rights, and persecution of individuals based on their political and religious beliefs. According to an independent human rights organization, the Sandinistas use "policies of terror and intimidation, of persecution and blackmail, against those persons who held different opinions and who refuse to submit without protest to a political and ideological plan that essentially ignores the fundamental rights of the Nicaraguan people." (April 30, 1987, report by the Nicaragua's Permanent Commission on Human Rights.) Another recent study by the Puebla Institute states that more than 300,000 Nicaraguans, at least 10 percent of the population, have left their country since 1979 because of abuses including arbitrary arrest, torture, and the bombing of homes in rural areas where Contras are active.

It is into this environment that Nicaraguans are being forcibly returned. What is the fate of these individuals? Simply put, we don't know and it is the purpose of this legislation to find out.

At a Rules Subcommittee hearing, General Accounting Office officials testified that despite the efforts fo the United States Embassy, the Intergovernmental Committee for Migration, and various human rights monitoring organizations to determine the status of Salvadoran returnees, "limited access to individuals or sites affected by civil strife and a reluctance of returnees to make their personal circumstances known to investigators prevented a definitive determination of the returnees' situation." GAO went on to say "We believe that we would encounter similar if not greater problems in attempting to make such a determination in Nicaragua. No reception program for returnees is operating in that country and the State Department and the press are reporting that the Nicaraguan Government exercises substantial censorship of speech, press, religion, and other civil liberties."

In view of the lack of reliable information about people who have been forcibly returned to El Salvador and the total absence of any data of individuals returned to Nicaragua, we believe that the United States should adopt the humanitarian policy of granting a temporary stay of deportation to Nicaraguans and Salvadorans currently in the United States until we can ascertain what is happening to the people who have been returned to their homelands. It would be, of course, more desirable for the administration to address this issue, but in the face of this administration's refusal to grant extended voluntary departure status to Salvadorans and the continued deportation proceedings for Nicarguans and Salvadorans, we must pursue legislative remedies.

Mr. Chairman, it simply is not right to deport individuals without being able to give adequate assurance that no harm will befall them upon their return. There are inadequate follow-up programs to ensure that people returned to their countries are not subject to violations of their fundamental rights. In light of this, it is only reasonable and right to grant a temporary stay of deportation until we are sure that these individuals will be able to pursue a normal life in their countries upon their return.

I ask for your support of this legislation.

[From the Miami Herald, July 10, 1987]

AT LAST, WORK PERMITS

The word contra should stand for contradiction rather than for contrarrevolución. For one of the biggest contradictions of the Reagan Administration has been to sponsor a contra army against a regime that it considers ruthless and oppressive to the Nicaraguan people while questioning the political motives that those very victims have for seeking refuge in this country. For years, Nicaraguans applying for U.S. asylum have had to prove to the Immigration and Naturalization Service (INS) a "clear probability" that they would be killed, tortured, or persecuted if they return home.

Fortunately, reality sometimes overcomes theory, even in Washington. Now Nicaraguan refugees in the United States—at long last!—no longer will have to live under constant fear of deportation and deprived of the right to work. The decision to resolve the situation was announced unofficially last week. It became official on Wednesday when Attorney General Edwin Messe III directed the INS to ease immigration policy in favor of Nicaraguans.

"No Nicaraguan who has a well-founded fear of persecution will be deported in the absence of a finding by the Justice Department that the individual has either engaged in serious criminal activity or poses a danger to the national security," reads Mr. Meese's order. The document establishes that every qualified Nicaraguan will be entitled to a work authorization. Further, it encourages those who have been denied asylum status to reapply.

Ending Washington's "contradiction" is a commendable, positive step toward consistency. It will have immediate salutary effects in Dade County, where tens of thousands of Nicaraguans have cowered in fear of deportation and were at the mercy of unscrupulous employers.

Foreign policy can become pointless unless related domestic measures are properly in place. Now that Mr. Meese has removed them from legal limbo, Nicaraguan refugees can openly seek jobs and concentrate on coping with the challenges of this society until their homeland finds a way to throw off communism and implant democracy.

[From the Miami Herald, Apr. 3, 1986]

POLITICIZING ASYLUM

One need only consider the plight of Nicaraguans in the United States to understand the need to revamp the process by which people fleeing persecution in their homelands can claim political asylum in this country.

Witness the following paradox: President Reagan decries the evils of Nicaragua's Sandinista regime while the Immigration and Naturalization Service denies 4,363 of the 4,910 political-asylum applications filed by Nicaraguans in 1985. Make sense? No, none.

This contradiction is caused by the strict interpretation of criteria set up by the Refugee Act of 1980 in determining who can be granted political asylum in this country. Asylum applicants—as well as those who seek refugee status—must prove "well-founded fear of persecution" if they return home. Only then can their applications be approved.

Prompted by this problem, a confidential Justice Department memorandum urges the Administration to draft new procedures that would make it easier for people fleeing Communist countries to gain asylum in the United States. The proposed language urges that the Attorney General set up a distinction between people fleeing "totalitarian" regimes and those fleeing other oppression.

This proposal's intent is laudable, but its approach isn't. For one thing, it would contradict the intent of Congress when it passed the Refugee Act of 1980. In that law, Congress deliberately eliminated the previous bias that favored those fleeing Communist ("totalitarian") oppression or persecution in the Middle East over those fleeing right-wing ("authoritarian") regimes' oppression.

Congress's intent was to make political asylum more accessible to people fleeing any form of oppression, whether from the Left or from the Right. Unfortunately, Congress also made the burden of proof so strict that if it were applied literally, not even those boat people fleeing Southeast Asia could qualify as having a "well-founded fear of persecution."

Thus the solution is for Congress to review whether the criteria for determining political asylum should be modified. It should not for be this or any Administration to contravene Congress by having asylum applications once again hinge on a political litmus test. To the persecuted, it makes no difference if the oppressor is a right-wing dictator or a Communist tyrant. One's lash hurts as much as the other's.

Mr. BERMAN. Mr. Chairman, I yield 2 minutes to the gentleman from New York [Mr. GARCIA].

Mr. GARCIA. Mr. Chairman, it seems to me that just a short year ago we were in the middle of a debate called immigration reform, and I guess this is that extension, except that this is a little different. It is different because we are talking specifically and only about two countries. We are talking about El Salvador, and we are talking about Nicaragua.

For those of us who have had an opportunity to visit and travel within those two countries, we know that there is a vast difference between these countries. There is no question that El Salvador is a country that has a democracy, while Nicaragua, without a doubt, is a country that has a system of government that is not, as far as I am concerned, a democratic society. However, this Government has seen fit to grant amnesty to 88 percent of those people who come out of Nicaragua. We grant them legal status so they can stay in the United States, while in El Salvador we have only, I think, granted legal status to 3 percent, according to one gentleman, according to my colleague, the gentleman from Ohio.

But the fact is that indeed, in spite of the fact that President Duarte in El Salvador has made tremendous progress—and I think we should all commend him for that progress—the bottom line is that there is still trouble there. I say to my colleagues in this House that as long as we have political situations existing where people are in turmoil, I believe it is our responsibility to grant those persons the right to entry into this country.

Now, I do not think it is taking anything away from President Duarte of El Salvador, and he is the first to admit it. He says very clearly that he has been opposing our deportation of Salvadoran refugees to El Salvador. He looks upon this as a very humane aspect of his Government. It would seem to me that based on where we are and based on the suffering of these two countries, it should be our responsibility to pass this bill that has been sponsored now for at least the last 2 or 3 years by our colleague, the gentleman from Massachusetts [Mr. MOAKLEY].

Mr. Chairman, the political crises in Central America continue to disrupt and devastate the lives of the people in that region, particularly in the war-torn countries of El Salvador and Nicaragua.

Many citizens in these countries want no more than to be able to live normal lives, to raise their families free of fear and oppression. Although immigrants from both nations faces similar struggles against the ravaging effects of war, economic despair, and the threat of persecution at home, the Reagan administration has adopted an inconsistent and unjust policy of deporting the vast majority of Salvadoran immigrants seeking asylum while thankfully allowing Nicaraguans to remain.

Estimates report that over 1 million people have been displaced as a result of El Salvador's civil war. President Duarte's attempts to control the military and eliminate death squads have met with limited success. There were an estimated 1,700 political killings and disappearances last year alone. Similar conditions in Nicaragua as a result of human rights violations by both government and Contra forces have resulted in the displacement of over 750,000 persons.

Despite the obvious parallels in the situations of both countries, the Immigration and Naturalization Service has approved approximately 88 percent of the asylum requests by Nicaraguans, while approving only 3 percent of those by Salvadorans. This double standard clearly depicts the administration's use of the refugees from these countries as political pawns, demonstrating its support of President Duarte's regime in El Savador, and its opposition to that of President Ortega in Nicaragua. Yet President Duarte has long opposed United States deportation of the thousands of Salvadoran refugees for El Salvador's unstable policial climate and depressed economy are ill-equipped to handle the great burden of its many displaced citizens. A suspension of these deportations would not be seen as a condemnation of the Duarte administration.

Today, Congress will be voting on legislation to aid these suffering masses. H.R. 618 would suspend the deportation of both Salvadorans and Nicaraguans seeking asylum in this country, pending a General Accounting Office report on refugees from these nations. This bill would not guarantee approval of all who seek refugee status. It is simple in its intent: It instructs GAO to study the situation regarding Salvadoran and Nicaraguan refugees, and in the interim would permit them to remain here temporarily.

I urge my colleagues to support this worthwhile legislation. The great disparities between the current administration's acceptance of Salvadoran and Nicaraguan asylum seekers must be narrowed. The lives of thousands of desperate refugees hang in the balance.

Mr. SWINDALL. Mr. Chairman, I yield myself such time as may be necessary.

Mr. Chairman, I strongly oppose the passage of H.R. 618, first because, as I have already stated, this legislation is totally unnecessary, but second, because it really establishes a dangerous precedent not only because it conflicts with the Refugee Act passed by Congress in 1980 but because it also undermines our new immigration reform bill passed by this Congress last year.

As the Members know, my opposition to this legislation is also shared by the Department of Justice and the Immigration and Naturalization Service. In addition, all of the Republican members of the House Judiciary Committee, as well as the chairman of the Immigration Subcommittee, voted against this bill when it was ordered reported by the Judiciary Committee.

Congress passed the Refugee Act of 1980 to supplant the previous pattern of nation-specific administrative determinations. It set up a system under which any person, regardless of origin, can apply for and receive individual consideration of the merits of his or her claim and receive individual consideration. That is already a method recognized by the law and it totally, I think, negates the necessity of this bill. Under the Refugee Act of 1984, it would serve as the exclusive available remedy for individuals seeking protection from life-threatening political persecution. As the gentleman from Massachusetts has already admitted, this bill is really not focused on life-threatening situations but, rather, situations where there is civil strife.

H.R. 618 would congressionally grant EVD status and suspend deportation of all Salvadorans and Nicaraguans now in the United States until the GAO report determining political conditions in El Salvador and Nicaragua is completed. As I stated earlier, we saw in a report in May of this last year that it is the GAO's position that that is an undeterminable issue. Yet somehow we think that the expenditure of an additional $500,000 to $750,000 would make what was previously undeterminable now determinable.

For Salvadorans, evidence underscores my contention that the vast majority are not refugees, according to the strict United States and United Nations definitions. Rather, they are economic immigrants. Those Salvadorans seeking political asylum, that is, those who can prove their lives are endangered, can already apply for asylum in the United States. For the last 30 years, Salvadorans have been the second largest group of illegal aliens in the United States, second only to Mexicans. I think that fact alone belies this whole argument that somehow this is a new condition created by new civil disruptions in that country. The truth of the matter is that what has brought these people here is the same thing that has already brought them here, and that is jobs. In fact, the Salvadoran Government itself estimates that illegal Salvadorans working in the United States send their families home at least $350 million and perhaps as high as $600 million annually from wages earned in this country.

In addition, most Salvadoran asylum applicants cannot show that violence is directed specifically at them, nor can they demonstrate that they would be in any greater danger than any other Salvadorans if they were to return. The truth of the matter is that we have talked a great deal here about equal protection. What this bill would require is, I think that every Salvadoran would be allowed to come into this country during the pendency of the passage by this particular Congress and its being signed into law, because that is a very significant part of this bill.

Any individual who is here at the time this bill is enacted would be covered by its provisions. I think we would just be sending an engraved invitation to the remainder of those individuals living in El Salvador to come as quickly as possible to the United States, illegally or otherwise.

Violence in El Salvador continues to decrease, as indicated by the decline of civilian deaths in the war-battered provinces. According to El Salvador press reports gathered by the State Department, in 1981 over 9,000 civilian deaths were reported due to random violence.

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In 1981, over 9,000 civilian deaths were reported due to random violence. In 1984, similar reports found 800 civilian deaths due to random violence, and in 1986, the number of civilian deaths had declined to 251. By way of comparison, New York City experienced over 1,600 deaths due to homicide in 1983. While we abhor the existence of any violent death, we should not introduce legislation providing asylum for all in the world who fear physical violence.

This legislation also undermines the new Immigration Reform and Control Act of 1986 which is only now being implemented. The purpose of the new comprehensive immigration was to develop a consisent immigration policy which would be enforced in an equitable manner. Under the new law, in order to obtain amnesty, illegal aliens must prove that they have continuously resided in the United States since before 1982. A grant of EVD would extend special privileges to Salvadorans and Nicaraguans, regardless of when they came or why.

With the passage of the new immigration law, and the Refugee Act of 1980, Congress decided that a series of ad hoc responses to intermittent crises, as they arise over the years, was no substitute for an orderly immigration or refugee policy. While other illegal aliens would be unable to obtain legitimate employment as a result of the new law, under this legislation, all Salvadorans and Nicaraguans would have full employment rights.

After reviewing the case in support of granting EVD for Salvadorans and Nicaraguans, one can only ask why other countries experiencing political strife around the world should not be equally or even more qualified for EVD status than these particular two countries. Amnesty International estimates that over 1 billion people live in countries where the Government routinely uses torture to keep itself in power. If threats of political persecution were the only reason for coming to the United States, then why do Salvadorans and Nicaraguans not go to safe countries closer to their own proximity?

In defense of the bill, some claim that EVD status is granted only until a GAO report provides us with more informaiton as to the conditions in El

Salvador and Nicaragua for those living there. However, another GAO report is not needed for El Salvador.

We have had a report that has determined that to be nondeterminable. The truth of the matter is, this really is not going to result in any type of temporary EVD status. It is in reality going to serve as a blanket amnesty on top of the blanket amnesty that we passed in last year's immigration bill; and this is, I think, a very hidden way of achieving that objective.

One other point that badly needs to be stressed, Mr. Chairman, a number of individuals have stated time after time that this really would not open up any type of meaningful or virtually no public assistance.

That simply does not meet what the GAO letter that I have already placed in the RECORD previously states.

They state that somewhere between $20 and $30 million in 1988 alone, and between $60 and $100 million in 1989 will necessarily be expended by State governments to meet the public assistance needs of these individuals.

Mr. Chairman, for all of these reasons, I think that it would be unwise for this Congress to pass EVD, particularly in light of the fact that we have legislation that serves the same purposes, and is called the safe-haven legislation.

I am a cosponsor, and all of the Republican Members of the Judiciary Subcommittee on Immigration are cosponsors, as is the gentleman from Kentucky [Mr. MAZZOLI], the chairman of the Subcommittee on Immigration.

The reason this is a better approach is, first of all, it is generic. It is not nation-specific as this bill, and second, it would instruct the Attorney General to determine EVD and state the reasons why EVD status has been offered.

Finally, it places tight restrictions, including registration, on those individuals that are granted EVD status.

Mr. FRANK. Mr. Chairman, I yield back the balance of my time.

Mr. SWINDALL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Massachusetts [Mr. MOAKLEY] for 30 minutes.

Mr. MOAKLEY. Mr. Chairman, for purposes of debate only, I yield 3 minutes to the gentleman from California [Mr. BERMAN].

Mr. BERMAN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, there have been several arguments made by the opposition that have been repeated and repeated.

I think it is worth a couple of moments to examine some of them.

One argument is that H.R. 618 undermines the Refugee Act of 1980. That legislation is recognized, and rightly applauded for affording humanitarian relief to all aliens seeking asylum and stopping the practice of favoring asylum applications filed by aliens from particular countries.

If you look at what has happened to applications by Salvadorans for asylum, it is in fact the present administration's policy with respect to those applications that has gotten country-specific.

It is the systematic denial of those applications that the legislation offered by the gentleman from Massachusetts seeks to address at this point.

It does not grant refugee status. It grants a temporary stay of deportation for 2 years, deportation to a country where 16,000 people have already been killed in a bitter civil war, deportation to another country, its neighbor, where there is dramatic and systematic violation of human rights.

It is for that particular purpose that this legislation has been introduced.

It is also argued, and the gentleman from New York made the argument most recently, that the Salvadorans are not facing mass deportations; and therefore, the implication we are asked to draw is that there is no need for the legislation. The fact is, and there are several points to make here, first that the fear of deportation haunts those people terribly. You can see it in any conversations you have with anyone from the Salvadoran community.

Second, I personally went and visited the detention center at El Centro and talked to hundreds of people at this detention center which is filled with Salvadoran immigrants.

These people have a very, very direct fear of deportation, and they are being imprisoned at the present time and detained pending their applications for asylee status.

Third, we have employer sanctions. People without work authorization will not be able to get jobs.

The fact that mass deportations may not be taking place does not change the fact that as of this point in time, these hundreds of thousands of people have no work authorizations; and it becomes a form of economic de facto deportation to say that the absence of mass deportations causes us to dismiss this bill.

The bill is a compelling piece of legislation. It is not consistent with the legislation we passed last year. In fact, this House put it into that legislation last year.

We are not eliminating other categories of illegal immigration. We are not telling Soviet Jews or Poles that you could go to Mexico or some other country in Europe.

This country has a heritage and tradition. This bill is consistent with that heritage.

I commend the gentleman from Massachusetts for his relentlessness in pursuing this very laudable objective.

Mr. TAYLOR. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. SHAW].

Mr. SHAW. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I have been watching the debate here today and living in south Florida, we have many of these refugees in our area.

I must say that if we are legislating strictly by our hearts, our hearts do go out to these people. They are here seeking a better life.

They are good people, and in the case of Nicaragua, they are fleeing an oppressive government.

□ 1720

But the refugee status is in the law and is available to people who can prove that they are in certain danger to go home and they can make use of those laws.

In the case of El Salvador, there is no question, we have a struggling democracy with one of the greatest leaders in this hemisphere that is trying to bring democracy into that part of the world. He has very serious economic problems and therefore he is very content at this particular point in time and perhaps it is to the economic benefit of his country that these people stay here and continue to send paychecks home; but now that we have talked about them, let us look at other parts of the world. Let us look at other countries.

We have people coming in boxcars and dying from Mexico seeking economic asylum in the United States. You can look all over the world, there is not one person in this Chamber today who would trade his citizenship or his right to live in this country with any other country in the world. But we cannot open our borders to the rest of the world.

This bill as it is written would offer this status to anyone there up to the date of enactment. The gentleman from Georgia rightly pointed out that the floodgates are open if this bill passes. This is a very bad law. It is a very bad exception and I take great personal affront at lumping El Salvador and Nicaragua together in the same laws because they certainly are not the same countries.

I would ask that everyone look very carefully at this law on a worldwide basis and see exactly what should the immigration policy of our country be, and if you agree with me that we should maintain order, that we should only give refugee status to those who can prove on an individual basis that they are entitled to it, vote against this law.

In no way do I attack the motivation of those who are offering this law, because they feel very greatly and have very strong feelings about the wonderful people that they are trying to help, but I think we must go beyond that. We must look at the general welfare and the future of this country and the fact that we do need an immigration policy in this country and we must not make exceptions within a year, less than a year, after we tried to put some real teeth into our immigration law.

Please vote "no" on this particular bill.

Mr. MOAKLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Texas [Mr. GONZALEZ].

Mr. GONZALEZ. Mr. Chairman, I rise in support of H.R. 618.

I want to say that this legislation is long overdue. During the consideration of the Immigration Reform Act of last year we did in the House of Representatives act in this capacity. It was in the conference that the House version was dropped, if I remember correctly.

The truth of the matter is that for America's own honor, this is minimal legislation. It has been our policy during the last 6 years that has provoked the mass immigration from El Salvador into the United States, for the first time. We have never registered this volume, this amount of people fleeing from a situation that we have been the main culprits of perpetrating.

If we think that countries like Mexico can give hospitality to these fleeing masses, let us look at the situation of the Mexican nationals that are dying in boxcars, as one gentleman brought out. Mexico itself has an untenable situation.

Even in the case of the Guatemalans where American arms, not Cuban, not Russian, American-made arms have literally perpetrated genocide on the poorest of the poor of the Earth, the Indians in the mountains of Guatemala that fled into Mexico.

I spoke to the Bishop of Chiapas when he was confronted with a sudden mass exodus of 25,000 of these poor and the Guatemaltecan soldiers crossed the Mexican border. When Mexico tried to set up some kind of hospitality, it was our Government that pressured the Mexican Government to cease and desist because the Guatemaltecan Government at that time complained that Mexico was giving refuge to Marxist-Leninists.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. MOAKLEY. Mr. Chairman, I yield 1 additional minute to the gentleman from Texas.

Mr. GONZALEZ. Mr. Chairman, let me say in conclusion, I think the issue here is the legislation before us, not the misconceptions that continue to plague us as to the conditions south of the border.

I also want to leave no kind of question as to what my feelings are, because the Salvadorans in my area, illegal, undocumented, in the last 3 years have exceeded the number of undocumented citizens from Mexico. This is how serious the situation is, yet we have political prisoners, if you please, priests, ministers, welfare workers, in our jails. For what? For trying to do what we want to recognize now, give a helping hand, a charitable hand, a humanitarian hand, mostly to the Salvadoran immigrants that we have in our midst now.

I repeat, only because of our policies, I say this legislation is a minimal requirement.

Mr. TAYLOR. Mr. Chairman, I yield 8 minutes to the gentleman from California [Mr. LUNGREN], a member of the committee.

Mr. LUNGREN. Mr. Chairman, I might just say if we believe as the gentleman from Texas does that America is the root of all evil in Central America, if we are the reason why these people are fleeing, if you believe that Salvadorans never came to this country prior to the time that the Reagan administration came 6 years ago, if you believe that the United States has political prisoners, if you believe all that, then vote for the bill. I do not happen to think that is true.

The gentleman is entitled to his position, but I happen to think he is dead wrong on that.

Mr. GONZALEZ. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. Certainly, I am happy to yield to the gentleman from Texas.

Mr. GONZALEZ. Well, Mr. Chairman, will the gentleman give me the statistics?

Mr. LUNGREN. I will be happy to give the gentleman the statistics.

Mr. GONZALEZ. As to the number of Salvadorans that entered the United States, legally or illegally, before 1981. Will the gentleman give me that? Will he give me that for the year 1990?

Mr. LUNGREN. I will be happy to take back my time and say to the gentleman that for over 30 years the second largest number of illegal aliens in the United States has been from El Salvador, for more than 30 years, just behind Mexico, which has been number one. That has not changed in the last number of years. That has been true all the way through. The gentleman could look at the INS statistics to find that to be the case.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. LUNGREN. I am happy to yield to the gentleman from New York.

Mr. FISH. Mr. Chairman, I do not think anybody knows the precise number of Salvadorans in the United States. I have figures ranging from 600,000 to a million, but from President Duarte's letter to the members of those who would not qualify for legalization, the legalization being January 1, 1982, it would appear that a majority of those came after January 1, 1982.

I think we ought to put the responsibility where it is. The gentleman from California and I were ready with the Immigration Reform and Control Act on the floor of the House in December of that year. Had we been allowed to bring it up and not have roadblocks put in our way, that law would have been on the books for the last several years and we would not be facing this problem that is the result of the inaction by this Congress today.

Mr. LUNGREN. Mr. Chairman, I thank the gentleman.

Mr. Chairman, as I was saying, here we go again, before we barely even started, before the ink is dry on the immigration bill, I fear the message that we are sending to the rest of the world is that we really were not serious about our immigration policy.

The plain and simple fact is, no matter how you couch it, no matter how you color it, the more we carve up the immigration bill, the less credible our efforts will prove to be.

Following the signature of the President on the immigration bill, we saw a remarkable dropoff in illegal immigration from all countries to the United States. That seemed to prevail for about 6 or 7 months. Now we are seeing an increase in those numbers once again. Why? If you talk to the people on the border, it is because the word has gotten out that Congress may not be entirely serious about the immigration bill, that we might put off employer sanctions, that in fact these things are not going to be as we said they were going to be.

The gentleman from California [Mr. BERMAN] made the point that what we would be doing here is having a "de facto deportation." Why? Because he indicates employer sanctions would work, and if they work that means people will go back to their home countries.

Now, he may disagree with employer sanctions as the method that we use to try to get our laws under control, but Mr. Chairman, that is precisely what we asked of ourselves when we passed the immigration bill. It was precisely because we thought that employer sanctions would work that we adopted them. Now to come to the floor and suggest that because they are working we need to undo their impact seems to me to be somewhat questionable.

If the message of the Refugee Act and the immigration bill was to prospectively apply a legal framework in a consistent fashion, the more confusion we add to the issue the less effective we are going to be.

The fact we are asked to grant a special status to a large group of individuals from countries with a long pattern of undocumented immigration which span over several decades rather complicates the situation. The evidence is that it is economics, economics mostly, that has been a major motivation for the northward trek.

Now, the gentleman from California who talked about his visit down to El Centro, about a month and a half after he went down to El Centro, I went to El Centro. I brought my own interpreter so that we would not be accused of getting bad information through the INS. At random I picked out people who were there, making sure that I got them from El Salvador. Every single person I personally interviewed with my own interpreter admitted that his reason for coming to the United States was economic.

I spoke at length with these individuals. When once I prompted them and said, "Are things not really going as well as you would like in El Salvador?" He said, "Oh, yes, that is true."

But without any prompting, asking him questions why he was here, and this was in each instance I asked people in El Centro in detention awaiting being sent back to El Salvador, they admitted to me that they were here for economic reasons.

An April 30, 1987, editorial statement in the New York Times perhaps sums it up best. It says this:

> To grant the Salvadorans temporary refuge on the basis of Mr. Duarte's economic appeal would twist the idea of refugee into subsidy. That distortion would extract an intolerably high price, vitiating the new immigration law even before it goes into effect. Instantly, the international grapevine would spread the word; "See, the Yankees aren't really serious. Forget all the talk about a tough new law. They're already winking at it."

That is the language from the New York Times.

It must also be noted that the recent U.S. Supreme Court decision of INS against Cardoza-Fonseca is all the more reason why this legislation is unnecessary, is moot at this point. In that case the U.S. Supreme Court held that applicants would be eligible for asylum if persecution is a "reasonable possibility," rather than the stricter standard of a "clear probability" which had previously been applied.

What Members have been complaining about in terms of the application of the law has been altered by the U.S. Supreme Court.

We all understand the unfortunate conditions in El Salvador. Yet surely such generalized conditions of violence are not a sufficient basis for this open-ended legislation. This legislation is granted to everybody, irrespective of whether or not they would be the subject of violence or go into an area that is the subject of violence, no matter why they came here, as long as they got here before the effective date of the bill.

What is the message now, between the time we debate on this floor and the time that this comes to the President's desk for signature? It is, "Get up to the United States as fast as you possibly can so that you can come under catch-all phrase. You don't have to prove anything."

Now, some people have said this is only an extended departure, it is not permanent status. I would like to ask any Member here if they can tell me of an instance in which we have had extended voluntarily departure in which we have not allowed the people to remain. I do not think you can tell me that. It has always been extended to a permanent status. If they remain here and have children here, of course, they are American citizens.

The fact of the matter is that we have had changes in El Salvador over the last number of years. The amount of random violence has come down substantially from the thousands to the tens. Yes, it is dangerous in certain areas. We had 20,000 murders in the United States. We had 1,600 in New York City. Do we grant extended voluntary departure to anybody riding on the subway in New York City these days?

I mean, the idea of a generalized notion that there is a certain amount of violence in the entire country grants everyone the right to stay in the United States is turning upside down our refugee policy. It is turning upside down our immigration policy. Frankly, this would distort those policies and we ought not to support the bill.

□ 1735

Mr. MOAKLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, in response to my colleague who just spoke, the 1980 census projected only 94,000 Salvadorans in the United States legally and illegally. The Census Department says today there are over 550,000 in the United States.

The Bureau of the Census states explicity that:

> Salvadorans began fleeing their country en masse in April 1980, as the conflict between government troops and the opposition forces escalated after the assassination of Catholic Archbishop Oscar Romero.

This was stated before a Population and Census Committee in the U.S. House of Representatives on June 27, 1985, by a person representing the U.S. Census Bureau. So most of the El Salvadorans came to this country as a result of the assassination of Oscar Romero.

Mr. Chairman, I yield 3½ minutes to the gentlewoman from California [Mrs. BOXER].

Mrs. BOXER. Mr. Chairman, first I would like to thank the gentleman from Massachusetts [Mr. MOAKLEY] for his tireless efforts on behalf of this very important bill.

The Reagan administration and many of my friends and colleagues on this side of the aisle today seem to believe that it is perfectly safe for refugees from El Salvador to go back to their home country. I would like to directly dispute that today.

At this very moment as we sit here in this debate the Federal Bureau of Investigation and the Los Angeles Police Department are looking into the possibility that Salvadoran death squads in this country are responsible for kidnapings, rapes and death threats that have recently occurred in Los Angeles.

One of those recently threatened, Marta Alicia Rivera, was kidnaped and tortured by National Guardsmen in El Salvador in 1979. She recently received this letter in Los Angeles, and I quote from the letter:

> Because you are a traitor to the fatherland, you will die along with your comrades. You escaped in El Salvador. Here with us you will not achieve that.

Another woman in Los Angeles reported being kidnaped, interrogated and raped, and this is what the doctor who examined her said about her condition, Dr. Craig Stephens. He said she "had multiple contusions to her head, back and abdomen, cuts on her hands and tongue, cigarette burns on her hands and evidence of rape with a foreign object." Stephens said the injuries resembled those of other victims who say they have been kidnaped in El Salvador. He said he made those examinations in connection with asylum application cases.

So I ask my colleagues, do they believe that civil rights are stronger in El Salvador than in the United States? Do they believe that the Salvadoran authorities can provide better protection than our FBI and our local police departments?

I say this information indicates that Salvadorans may not even be safe from death squad activities in our very own country.

We need to give our local police departments the tools that they need, and the Moakley bill is one of those tools.

After the Moakley bill passes, these hunted victims will feel free to come forward and get help. Right now if they come forward they face a very frightening future of deportation.

Mr. Chairman, I think something very serious happened today. Our Immigration and Naturalization Service threw itself into this debate in a very improper fashion, and I hope the gentleman from Massachusetts [Mr. MOAKLEY] will follow up on this. The Western Regional Commissioner of the INS called the reports of the death squads in Los Angeles, and I am quoting from him: "A publicity campaign by the religious sanctuary movement."

Mr. Chairman, I am appalled that the INS would attack the honesty of religious leaders who are acting out of the noblest of motives.

Finally, let me echo the sentiments of Elie Wiesel, a victim of the Nazi Holocaust. If we learned anything from the Holocaust, it is to stand up and be counted when we can save even one life. So today is our time to stand up and be counted in favor of the Moakley bill.

Mr. TAYLOR. Mr. Chairman, I yield 2 minutes to the gentleman from Vermont [Mr. JEFFORDS] a sponsor of the bill.

Mr. JEFFORDS. Mr. Chairman, I rise is support of H.R. 618, the Moakley-Pepper legislation of which I am a cosponsor.

This bill would temporarily suspend the deportation of Salvadoran and Nicaraguan refugees pending a GOA report to Congress on conditions in El Salvador and Nicaragua and the plight of refugees scattered throughout Central and North America. Extended voluntary [EVD] status currently exists for Poles, Afghans, and Ethiopians. H.R. 618 asks the GAO to compare conditions in El Salvador and Nicaragua to those in other countries at the time EVD status was granted. The bill further stipulates that if Congress should fail to act on the GAO report within 9 months of receiving it, deportations would resume.

The domestic situation in El Salvador and Nicaragua is cause for real concern. Civil war, domestic strife, and a crippled economy have created hundreds of thousands of refugees and made sections of both countries almost uninhabitable. The average peasant is often caught in the struggle between leftist and rightist elements without recourse to an unbiased judicial system. Fearing for their lives and unable to eke out a living, refugees are forced to flee their homes and families. Most refugees are looking for temporary safe haven until conditions improve at home and do not want to become citizens of another country.

Mr. Chairman, I regret that we find ourselves with no recourse but to take this action today urging utilization of the EVD provision in U.S. immigration law. Ideally, refugee cases should be reviewed on a case-by-case basis and the deserving ones granted political asylum. Unfortunately, other considerations seem to have crept into the review process for Salvadoran refugees. So far this year, only 3 percent of all Salvadoran requests for asylum have been granted, as opposed to 88 percent of Nicaraguan applications. The percentage of Guatemalans granted political asylum is even more dismal—less than 1 percent. Thousands of deserving cases have been denied, leaving many individuals in an untenable position. EVD is a less perfect policy instrument than case-by-case reviews, but in view of the current situation, we have no choice but to suspend deportation until there can be a thorough review of the applicability of EVD status.

In closing, let me point out that this bill should not be seen as an attempt to slap the Government of El Salvador with a political statement of disapproval. In fact, President Duarte has urged the administration to refrain from deporting Salvadorans until conditions in his country improve. Rather, this bill makes clear our willingness to live up to one of the basic principles of this Nation—to provide temporary shelter to refugees from war-torn nations.

I urge all my colleagues to consider the human element of this problem and to support H.R. 618.

Mr. MOAKLEY. Mr. Chairman, I yield 2 minutes to the honorable gentleman from Virginia [Mr. BOUCHER].

Mr. BOUCHER. Mr. Chairman, I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 618.

There is a well-reasoned symmetry in the bill—

A symmetry which provides for equal treatment of Nicaraguan and Salvadoran refugees;

A symmetry which provides equal treatment for those who have fled war and bloodshed in their homelands; and

A symmetry which is sorely missing in the administration's Central American refugee policy.

The bill does not choose political favorites * * * it does not grant temporary asylum on the basis of which government is now in favor and which government is not.

It does temporarily suspend the deportation of illegal immigrants until such time as reports of violence can be verified or until the political turmoil in Nicaragua and El Salvador ends.

The administration, in its haste to chastise the Government of Nicaragua and, I suspect, bolster its effort to secure additional aid for the Contras, is encouraging Nicaraguans to apply for asylum in this country. What better evidence of human rights violations by the Sandinista government than a permanent underclass of Nicaraguan political refugees here in the United States?

Yet, in an attempt to minimize the appearance of political turmoil in El Salvador, the administration wants to deport Salvadoran refugees as quickly as possible. Not even President Duarte supports the administration's policy.

Mr. Chairman, H.R. 618 provides for temporary not permanent asylum until such time as the GAO reports to Congress on the causes of political migration from El Salvador and Nicaragua.

It may be that after an impartial review, the GAO concludes that a dual policy is appropriate. But such a recommendation will be based on fact not political expediency.

I urge our colleagues to support the bill.

Mr. TAYLOR. Mr. Chairman, I yield 3 minutes to the gentleman from Michigan [Mr. PURSELL].

Mr. PURSELL. Mr. Chairman, I want to take my brief 3 minutes today to discuss our long-term policy in Latin America. I am a little disappointed, frankly, that we are piecemealing this issue. What we ought to be having here is a full debate, long-term, on the problems with Latin America in respect to a hoped-for bipartisan policy that we are going to debate probably in September and October.

It is my understanding that we may be close to some kind of a diplomatic solution in Latin America. We have heard rumors to that effect. I hope and pray that is possible.

But I think from a congressional standpoint and an institutional standpoint that the opportunity for the days of Truman-Vandenberg where we had a Democratic sitting President and a Republican from the district of the gentleman from Michigan [Mr. HENRY], as a U.S. Senator after the war, to develop a long-term foreign policy that was called truly a bipartisan foreign policy could take place. Today we do not have that. I think possibly within the next few days and hopefully in the next 30 to 60 days this Congress, along with the President of the United States and the Cabinet members, could develop a long-term bipartisan foreign policy to care about our neighbors.

We have had the Good Neighbor Policy, the Alliance for Progress, and the Monroe Doctrine. This Nation has not developed what I consider a true partnership with our Latin American colleagues. We have a great relationship with Canada to the north, but for some reason we have not had a successful long-term, truly bipartisan foreign policy with our Latin American colleagues.

This debate illustrates, whether one is for or against the bill, that we do not have a long-term comprehensive thought-out policy in respect to our colleagues in the south. So I think in the upcoming recess we have the opportunity to work with the President of the United States and maybe there is some hope for a diplomatic, economic, and military solution that will be combined in order to resolve a partnership with our Latin American neighbors that will be good for the United States, good for all of us in this hemisphere, and good for the world.

Mr. MOAKLEY. Mr. Chairman, I yield 4 minutes to the gentleman from Michigan [Mr. BONIOR], the chief deputy majority whip.

Mr. BONIOR of Michigan. Mr. Chairman, I wish to commend the distinguished gentleman from Massachusetts for the diligence and compassion he has shown over the past years in shepherding this bill through the legislative process of this body.

Over the years, his voice has been a constant one in speaking out for refugees and the need to provide them with a safe haven.

Conditions inside El Salvador continue to be alarming. While political killings and disappearances are lower than they were at the beginning of the civil war, the Associated Press reported that in 1986, there were 1,700 cases of political assassinations and kidnapings.

As a result of the civil war, approximately 62,000 Salvadorans have been killed. In U.S. terms, Mr. Chairman, that is equal to the annihilation of Houston.

And the war continues. Civilians are caught in the crossfire between military forces, or if they are lucky they flee their homes to seek safety at refugee camps. Recent reports show, however, that refugee camps have become the sites of human rights violations.

In fact, the need to provide a safe haven to those Salvadorans who have been forced to flee their homeland is evident. Civil strife and upheaval also plague Nicaragua. The war in Nicaragua also continues to rage, with civilians bearing the brunt of the human costs of war. Thousands of Nicaraguans have been forced to leave their country because of the violence on both sides of this conflict.

The administration has been slow to provide relief from these conditions which is so desperately needed by Salvadoran and Nicaraguan refugees in the United States. Not only has concern been expressed by individuals in this country, but the administration's inaction on this matter has been questioned internationally.

The office of the United Nations High Commissioner for Refugees recently received a recommendation by a field monitor that the U.N. agency should: "* * * continue to express its concern to the U.S. Government that its apparent failure to grant asylum to any significant number of Salvadorans, coupled with continuing large-scale forcible and voluntary return to El Salvador, would appear to represent a negation of its responsibilities assumed upon its adherence to the U.N. refugee protocol."

This is the first time that it has been suggested that the United States is failing to fulfill its international commitment to refugees.

I do not believe, Mr. Speaker, that the House of Representatives wants to go on record as allowing this blemish on our country's solid record of support for refugees.

The administration is making human rights policy based on the nature of the relationship our Government has with the Governments of El Salvador and Nicaragua. The State Department and the Justice Department are playing politics in a situation where there are lives hanging in the balance.

Mr. Chairman, we must take this opportunity to rise above politics because the need for safe haven for refugees from El Salvador and Nicaragua is so great.

Beginning today, this body has the opportunity to continue our Nation's commitment to providing relief for victims of political upheaval in their own countries—as we have done countless times before for Poles, Afghans, Ethiopians, and others. We have the chance to pass legislation which will no longer allow the status of refugees from El Salvador and Nicaragua to be politicized.

I urge support for this important bill. If we reject this bill, we turn our backs and subject these people to possible harm or death. Instead, H.R. 618 provides us with an opportunity to maintain our Nation's commitment to giving relief to those who are not safe in their own country.

Regardless of how we each individually view the politics of these war-torn countries, we must rise above this and continue the American tradition of giving refuge to those who flee their homelands out of concern for their very survival.

☐ 1750

Mr. TAYLOR. Mr. Chairman, I yield 2 minutes to the gentleman from Michigan [Mr. HENRY].

Mr. HENRY. Mr. Chairman, I rise against this measure for the simple reason that the timing is not appropriate. Were we addressing this issue perhaps next September or October when the issue as to the disposition of our policy in Central America has been more fully resolved, then I think it might be appropriate to be picking at the pieces of one aspect of that policy. As my colleague from Ann Arbor, Mr. PURSELL, recently pointed out, I think we are all aware of what has been happening the last couple of days in terms of new initiatives and attempts, diplomatically, in the White House both in terms of reaching out to the Central American republics but also reaching out in a truly bipartisan way to the leadership of this Congress to come to some agreement on our entire Central American policy once and for all.

Now we have heard over and over again these calls to bipartisanship. I believe from what I have heard these last couple of days at the White House that there is a final acknowledgment that bipartisanship is not simply the President going to the Congress and getting votes from both sides of the aisle for its policies, but in fact involving both parties and the leadership of both parties in forging a policy that enjoys strong support from both sides. That is in the process of happening right now. It seems to me our debate on this is not just the humanitarian issue of refugee relief, but the fact that this is inextricably a part of our overall Central American dilemma. It is the wrong time, particularly in the context of what is happening in the White House and what is happening with the White House, with our leadership on both sides of the aisle, and with the Latin American-Central American republics, to be trying to forge a piecemeal policy concerning that important part of the world.

Mr. MOAKLEY. Mr. Chairman, I yield 1 minute to the gentlewoman from California [Ms. PELOSI].

Ms. PELOSI. I thank the gentleman from Massachusetts for yielding and for his support for this legislation which is important to the people in our country, particularly those in my district.

I believe that thousands of Salvadorans are fleeing civil discord and uncertainty in their homelands. They have crossed our borders in search of liberty and freedom.

The history of our country is a history of embracing those who have had to flee religious and political persecution.

With this measure, H.R. 618, we can offer protection to the Savadorans who until now have been living in fear of deportation to an uncertain fate, at best.

But H.R. 618 is not only important to the refugees; it is also important to those United States citizens who are ministering to their needs. This bill will mean that these courageous and dedicated Americans can continue their pastoral work without fear of breaking the law.

This is more than a political issue. This is a humanitarian step required by justice. By granting a temporary stay to both Nicaraguan and Salvadoran refugees, H.R. 618 would restore equity and balance to our immigration policy.

We have within our borders, for whatever reason, people displaced by political turmoil. Our proud tradition requires us to offer them the same opportunity we have given to so many others throughout our history.

Mr. MOAKLEY. I yield 1 minute to the gentleman from California [Mr. PANETTA].

Mr. FAZIO. Mr. Chairman, will the gentleman yield,

Mr. PANETTA. I yield to the gentleman from California.

Mr. FAZIO. Mr. Chairman, I rise in strong support of the bill.

Mr. Chairman, I rise in strong support of H.R. 618, which provides for temporary stays of detention and deportation of illegal immigrants from El Salvador and Nicaragua while the General Accounting Office conducts a study on the conditions of displaced Salvadoran and Nicaraguan refugees. In addition, Mr. Chairman, I offer my sincerest thanks to the gentleman from Massachusetts [Mr. MOAKLEY] for his tireless and diligent efforts to bring this critical issue before this House. The supporters of this measure are truly in his debt.

Over 60,000 civilians have been killed in El Salvador since 1980 as a result of the Civil war. In 1986, the war claimed 1,700 civilians and 25 percent of the population of El Salvador has been displaced. A 1986 study by the Massachusetts Institute of Technology found a "strong statistical relationship between the level of political violence in El Salvador and the number of El Salvadorans who migrate to the United States. Furthermore, the United Nations High Commissioner of Refugees [UNHCR] stated that persons who left El Salvador after the outbreak of the civil war are entitled to a "prima facie" recognition as refugees by all nations. The UNHCR has also informed the United States that it was in violation of international law by deporting refugees back to El Salvador.

The administration has contended that Salvadorans leave their country not because they fear persecution but because they seek improved economic status in the United States. In arguing that Salvadorans returned to their homeland have not faced persecution, the State Department has relied on reports by the Intergovernmental Committee for Migration [ICM] which are based on ICM's reception program for returning Salvadorans. However, a May 1987 GAO Report, which focused on the reliability of the ICM figures, concluded that the ICM data cannot provide a meaningful indicator of the extent of violence or persecution. Furthermore, the GAO report states that while ICM reported that the majority of returnees to El Salvador indicate that economics was their primary motive for departure, officials contacted by the GAO admitted that it is extremely difficult to determine the primary motive for migration—economic factors or fear of violence or persecution. When GAO asked for comments on which factor was more important, officials provided mixed response and said that both factors were involved.

While the 1986 Immigration Reform Act provides amnesty to individuals who entered this country prior to 1982, the percentage of Salvadoran refugees protected by this legislation is small. The majority of Salvadorans entered this country after 1982 as the violence and human rights violations escalated due to the civil war.

Further, although immigrants from both El Salvador and Nicaragua face similar conditions of war, violence, economic collapse, and possible persecution at home, the Reagan administration is deporting most illegal immigrants from El Salvador while allowing Nicaraguans to stay. So far this year, the INS has granted approximately 88 percent of the requests for asylum by Nicaraguans, but has granted only 3 percent of such requests by Salvadorans.

Attorney General Meese made this discriminatory policy more blatant announcing on July 8 that the Justice Department would encourage Nicaraguans, whose claims for asylum or deferral of deportation had been denied, to reapply. The Justice Department has made it clear that it has no intention of broadening its policy to include Salvadoran refugees.

The administration's double standard is clearly based on its policy toward the regimes in Managua and San Salvador. Nicaraguan immigrants are clearly allowed to stay here because the administration opposes it Marxist government. Salvadorans, on the other hand, are deported largely because the administration does not want to grant refugee status to immigrants from a nation whose government we support.

Despite the different forms of government in these two nations, the safety of citizens in both countries is jeopardized by war, and neither economy can support its citizens. Further, suspending the deportation of Salvadorans will not amount to a condemnation of the Duarte government; in fact, President Duarte has strongly opposed United States deportation of thousands of refugees to his nation.

Mr. Chairman, again, I strongly support H.R. 618 and urge its adoption.

Mr. PANETTA. Mr. Chairman, I rise today to urge the strong support of my colleagues for H.R. 618 which would direct the General Accounting Office to investigate and report on conditions of displaced Nicaraguan and Salvadoran refugees. This legislation would effectively provide temporary protection to Nicaraguan and Salvadoran refugees by making them eligible for extended voluntary departure [EVD] status. As a cosponsor of this measure, I salute the outstanding leadership Representative MOAKLEY has demonstrated on this legislation and urge all Members of the House to support H.R. 618.

This legislation is needed to combat the continued failure by the administration to operate a bicameral framework for formulating foreign policy and refugee policy. For too long and after too many sense-of-Congress resolutions, the Congress has been frustrated in its ability to effect foreign policy through customary means. A more humanitarian approach is warranted to deal with Nicaraguan and Salvadoran refugees than the administration's continued approach to Central American refugees that they primarily come to our country for economic reasons and that special protection is not merited by conditions in their respective native countries. It was not until the 8th of this month that finally the administration announced a purportedly new policy with respect to Nicaraguans.

In reality, the Attorney General's announcement of that day was simply a restatement of the provisions of law which the Department of Justice is required to implement according to the Immigration and Nationality Act. Absolutely nothing new was offered Nicaraguan refugees except that the Justice Department would accord the refugees the benefits of the law of which they are already entitled by law. No word was mentioned of the Salvadoran refugees. We must not be silent when the administration plays politics with the lives of those driven from their homes by utilizing deportation to signal approval or disapproval of the two respective regimes. So far this year, the Immigration and Naturalization Service has granted approximately 88 percent of the requests for asylum by Nicaraguans but has granted only 3 percent of such requests by Salvadorans.

Why is passage of H.R. 618 in the best interests of our Nation? Beginning in 1979, civil war and internal strife escalated in El Salvador and over 50,000 civilians have been killed since that time, 25 percent of the population has been internally displaced and tens of thousands of Salvadorans have fled to neighboring countries in the region including the United States.

The latest Census Bureau Report of 1980 estimated 94,000 Salvadorans residing legally and illegally in our Nation. Due to the armed conflict between government troops and opposition forces in 1980, the best estimate that the Salvadoran population in the United States has risen to between 300,000 and 500,000. The State Department, in a 1986 report on El Salvador, noted the "internal conflict and the resulting state of emergency * * * and indiscriminate use of land mines, machinegunning and burning of vehicles * * * resulting in the displacement of nearly 400,000 Salvadorans from their homes." Many of these native Salvadorans have entered this country without the proper immigration documents and are subject to deportation upon apprehension. The refugee then may choose to voluntarily return to their native country or after proceedings before an immigration judge to determine deportability, may be forcibly returned by the U.S. Government and be detained unless they post a substantial bond. It is clear that deportation to a nation torn by civil war could jeopardize the safety of their personal safety.

The situation in Nicaragua is equally disturbing. Those who have left Nicaragua have done so, for the most part, without permission and refugees returning face civil unrest and violence. Estimates with respect to Nicaraguan population in the United States ranges between 100,000 and 200,000. The Sandinista government has increased repression through political activities and widespread censorship. Deputy Assistant Secretary of State Holwill earlier this year called the conditions in Nicaragua a "deteriorating situation * * * with the suspension of fundamental civil rights." Previous recommendations by Members of Congress who have urged the administration to recommend EVD status for Nicaraguans and Salvadorans have fallen on deaf ears.

The more telling facts lie on the statistics as to why H.R. 618 should be supported by my colleagues on both sides of the aisle. The Refugee Act of 1980 has proven to be a particularly ineffective remedy for Central Americans. According to a January 1987 report by the GAO of approval rates for asylum applicants from select countries with high application rates indicates that 64 percent of persons from Iran received political asylum but only 7 percent of Nicaraguans received similar asylum. This statistic alone clearly indicates that the quasi-judicial determination has actually operated in a highly political and discriminatory manner.

It is important to note that the EVD proposed in this legislation has been imposed on numerous occasions since 1961 where the United States has responded according to traditional humanitarian principles by granting temporary relief from deportation to countries characterized by our State Department as experiencing "widespread fighting, destruction and breakdown of public service and order." This discretionary relief has taken the form of a grant of extended voluntary departure to such countries as Poland, Nicaragua, Dominican Republic, Cuba, Chile, Afghanistan, Lebanon, among others 15 different times over the past 25 years.

In the past, the granting of EVD status has not been affected by foreign policy considerations, but has been simply a means of protecting innocent people from both friendly and unfriendly nations from the unstable conditions prevalent in their homelands, once they have sought refuge in the United States. Today, I believe that the conditions in both Nicaragua and El Salvador qualify for EVD under the standards normally applied by INS and that's why I urge all Members of the House to support H.R. 618. Given the legal and illegal involvement of the United States in the unrest and turmoil in Central America, this is the very least we can offer these refugees. To reject the Moakley bill today would be to cast a dark cloud over our Nation's motto of "justice and liberty for all."

Mr. TAYLOR. Mr. Chairman, I yield such time as he may consume to the gentleman from Florida [Mr. McCollum].

Mr. McCOLLUM. Mr. Chairman, this whole question about extended voluntary departure for Salvadorans and Nicaraguans has been around for a long time. I respect Mr. Moakley and Senator DeConcini a great deal and I think they put a lot of energy in trying to do what they think is right. However, having been a member of the Subcommittee on Immigration for nearly 7 years having worked with the problem, particularly of the refugees and the displacidos in El Salvador, I am extremely concerned about the impact of this legislation and I respectfully disagree with them about the need for this, the appropriateness of it and frankly I think if we vote tonight to pass this piece of legislation we are going to send precisely the wrong signal to the communities, not only in El Salvador, but around the world with regard to what we are doing and what we intend to do on the issue of asylum and letting people stay here or beckoning them to come.

I will tell you what the real problem is here; a lot of people do not understand the subject matter in the first place, despite the debate about it.

Extended voluntary departure is a term the Attorney General has used for a long time for a discretionary way of letting people stay in the United States when indeed he has the power to let them stay instead of deporting them. He categorizes it as a group, whole group of people. It was used with respect to Poland at one time.

We in this particular case for the first time are legislating that. We are demanding a suspension of deportation pending a Government audit of the whole situation.

On the premise, at least for the most part, that has been advocated here today and before our committees with regard to El Salvador in particular, the individuals who are in the United States already, who are being returned down there, would indeed in threat of having their lives, their health affected by going back down there; that they are in some kind of a threat about being persecuted or being killed or whatever.

I think that simply is not borne out by the facts. And I think it needs to be discussed openly. Yes, there are a lot people who do profess fear who are in this country today who are Salvadorans, no question about that. They have been saying that for a long time. Maybe they have a fear. But under the standards of the law that we already have in place, the question is, and I think it should remain, do they have a reasonable fear, a well-founded and reasonable fear of political or religious persecution if they are returned to their homelands?

The answer to that in the case of the Salvadorans is no they do not. I have spent a lot of time in El Salvador, as recently as April. Mr. Fish and I spent time in El Salvador talking with officials there, spent a lot of time with the Intergovernmental Committee on Migration which has worked at our request, at a congressional request to interview people who were returned, to try to get to the bottom of what are the rights violations and what kind of problems do they have?

Despite all the critics and everyone else looking at this, this was after the GAO discussion with them, they went down there earlier this year at our request; I cannot help but conclude that there has been a truly phenomenal effort made by this ICOM, the Intergovernmental Committee on Migration to pursue these matters and their efforts, combined with those of our own embassy staff people with respect to those Salvadorans who have been returned, who come to their attention routinely to get their bond money back and so on, the fact is that there is no whit of evidence that more than one or two people over a period of 2 or 3 or 4 years that we are talking about now, and that is the last 2, 3, or 4 years, not more than one or two people have indeed come to any harm's way. And of those one or two people, at least one of them died in a barroom-type brawl or in a shooting with his wife or whatever. We do not have the kind of human rights violations in El Salvador today that we had a few years ago. We do not even come close to it. There are not hundreds of thousands of people in problem areas down there today in this situation. Human rights should not be the situation here today before us. It is not being violated and these people do not have that fear of going back down there. If we are going to grant extended voluntary departure on the basis of some broader context, then we are really wrong because we are going into the question of country by country, where there may be some civil war or civil disturbance and saying that we are going to grant that or at least we should, under this tenet, in every case let those people, people from those countries stay here and not be deported. I think it is a big mistake. I think we need to leave it on an individual basis today. I think the Immigration Service is doing an excellent job of screening. I think the complaints that existed a few years ago simply are not here today. The timing is absolutely wrong. It is absolutely 100 percent wrong. It is the wrong message to send, the wrong time to send it and it is just simply a bad idea to do it.

Mr. LUNGREN. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I would be glad to yield to the gentleman from California [Mr. Lungren].

Mr. LUNGREN. I thank the gentleman for yielding.

I think it might be important to point out for our colleagues who may not be aware of it that the 1980 Refugee Act in addition to establishing a procedure that was supposed to apply universally for the first time adopted an expanded definition of refugees. It was the international protocol definition.

So it made it easier, rather than more difficult, for people to be determined to be refugees.

The second thing is I think the gentleman made an excellent point about areas of civil strife in the world. Is it fair to grant this country a specific exception in this case, to everybody who is here from El Salvador and not the people from the Philippines? In California, we have a large number of people from the Philippines, a number of them here illegally. That has been a constant flow of those people. There are certain areas of the Philippines where there is civil strife. Certain places on the Continent of Africa.

Is it fair to say we are going to say this for everybody who is here from El Salvador and Nicaragua, irrespective of their individual circumstances but "no" to the people in the Philippines, "no" to the people from different countries of Africa and other places around the world? I thank the gentleman for yielding.

Mr. McCOLLUM. The gentleman makes an excellent point.

Mr. FISH. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the gentleman from New York [Mr. FISH].

Mr. FISH. I thank the gentleman for yielding.

Mr. Chairman, I thank my colleague and I welcome him back to this debate. In the course of my remarks in general debate I made the point that the gentleman illustrated. The time has simply passed this legislation by.

Three Congresses ago it may have been very relevant, but the human rights situation has improved to such an extent that it is no longer relevant.

The gentleman reminded me of our visit in April to Central America and the hours that we spent with the Intergovernmental Committee on Migration, representatives from all countries there, but particularly in El Salvador, where they were carrying out a request that we had initiated 1½ years ago to monitor the return of the Salvadorans who either were deported to the United States or voluntarily departed.

I think it is important to bear on this whole safety issue that has come up, that of the 9,530 returnees who kept in contact with ICOM, this is over a period of 1½ years, 70 or less than 1 percent reported personal security problems. The breakdown after that is that of these, 75 had been accepted for resettlement by other countries, 32 were awaiting for resettlement by other countries, 13 were rejected for resettlement by other countries, 9 reported their problems resolved, 4 had left El Salvador by their own means, 1 was given a normal Canadian immigration form, 2 had died, 1 committed suicide and 1 was killed in a bar brawl, and 4 had not been located.

Now I do not think that this type of factual data on the personal safety issue really warrants our turning around and turning our back on the work we put in for so many years on Immigration Reform and Control Act with employee sanctions which have not even been in effect for a month and here we are saying that we are going to make an exception and really do violence to the whole philosophy of immigration law since 1980 when we started to formalize this with rational structures.

I think this is the wrong approach. I think it is unlikely ever to become a law and I join the gentleman from Florida in asking for a "no" vote.

Mr. McCOLLUM. Before I yield again I want to comment on the point of the gentleman from New York. The gentleman from New York made an excellent point with regard to these statistics of ICOM. And the fact is that they have taken care, as the gentleman just pointed out, of those people who have come in and had complaints once they were there and gotten them resettled and only one or two people actually met harm's way. The gentleman just described those two cases, a suicide and another death. I think that is a real problem.

Mr. SHAW. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I am going to yield to the gentleman from Florida first who has been seeking recognition.

Mr. SHAW. I thank the gentleman for yielding and I would like to compliment the gentleman on his initial statement.

Is it not true, and I would like to focus very hard on this one point, is it not true that the way this bill is drafted that it contains an open-ended legalization program almost for those who can get here between now and the date of enactment of this bill the way it is drafted?

Mr. McCOLLUM. It certainly is open-ended, absolutely open-ended and there is no question they have an invitation to do more, to stay, and to come.

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I think that is a very dangerous process.

Mr. SHAW. Mr. Chairman, I would say to the gentleman and to the Members that this alone is enough to oppose this bill. It would just absolutely open the floodgates. It would be a terrible thing.

Mr. MOAKLEY. Mr. Chairman, will the gentleman yield?

Mr. McCOLLUM. I yield to the author of the bill, the gentleman from Massachusetts.

Mr. MOAKLEY. Mr. Chairman, I will say to the gentleman, when you talk about ICOM, we had a representative of ICOM appear before our committee and he said that ICOM does not gather information in any scientific way and the data should not be used in the debate one way or the other, and they were very unhappy that ICOM was brought into the debate at all.

Mr. McCOLLUM. Mr. Chairman, let me say to the gentleman from Massachusetts that I would like to reclaim my time. I know that point was made, but let me say that the gentleman from New York [Mr. FISH] and I went down and looked at those things ourselves personally after that report was made. We met with the ICOM representatives, and I am here to report to the gentleman—and I know he would do the same with me—that my conclusions are that ICOM procedures and data are much better than reported here. The only advantage I see in this whole bill in one respect right now is that we probably get corroboration on that fact from an additional report and spend more time doing it. The fact is that ICOM has indeed done its job, and it is doing an excellent job.

Let me make one concluding point. Some people say that we ought to pass this bill because of the issue of President Duarte's concern over the economic questions down there. I think his concern is well taken and well met. He is concerned about the fact that he might get a lot of people back from this country in a hurry because of the new immigration bill we passed last year. The problem with that, as it has been with the farmers in the West and in other places, is that there is a lot of misunderstanding in the beginning, and many people start to return the illegals here, not understanding our law. Time is passing, and it is showing that is not well founded, and indeed I think at this point in time passions have cooled and we are not going to see that occur. It is not a good basis for policy in this country to let people stay here for economic reasons. We would have an awful lot more stay if that were the case.

Let me summarize and conclude in this fashion: EVD, extended voluntary departure, which we are talking about granting the Salvadorans and Nicaraguans in this country now, a suspension of their deportation pending a report being given, is an unprecedented legislative step. We have never done anything like this for any other country before.

It is something on which we have given some discretion to the Attorney General. If an amendment or a bill were out here and the alternative was, as the gentleman from New York [Mr. FISH] offered in committee, to let us do some kind of a strengthening of the Attorney General's hand in this area, that would be one thing, but this is not a discretionary matter. This is a legislative fiat. It sends the wrong kind of message at the wrong time when we are not having human rights violations of any significance in El Salvador. It tells the world that we think there is a problem down there when there is none there. We ought to be telling the world about how wonderful the domocracy is indeed progressing in El Salvador. It sends the wrong message about bringing people here and encouraging more to come to this country, and I think that is a mistake.

Mr. Chairman, I urge the Members to vote "no" on this bill.

Mr. MOAKLEY. Mr. Chairman, it gives me great pleasure to yield such time as he may consume to the chairman of the Committee on the Judiciary, the gentleman from New Jersey [Mr. RODINO].

Mr. RODINO. Mr. Chairman, today we are considering a measure of vital importance to the people of Nicaragua and El Salvador—a measure which just as importantly demonstrates to the world that the Congress of the United States will not sit idly by while the administration deports nationals of those countries to those war-torn lands. This measure, H.R. 618, which was introduced by our distinguished colleague, the gentleman from Massachusetts [Mr. MOAKLEY], would temporarily stay the deportation of Salvadorans and Nicaraguans in the United States. It is a bill that has the cosponsorship of over 100 Members of this body, and it is a bill that I wholeheartedly support.

As many of my colleagues will recall, during the 99th Congress, the Judiciary Committee favorably reported out the predecessor to H.R. 618. Subsequently, a measure virtually identical to H.R. 618 was incorporated into the Immigration Reform and Control Act. By record vote, an effort on the House floor to strike that measure from the bill was defeated and, as a result, the House-passed Reform Act included a provision to provide temporary refuge to Salvadorans and Nicaraguans in the United States. Unfortunately, the House was not able to retain that provision in conference. Thus, we have been compelled to pursue this desperately needed legislation in the 100th Congress.

My colleagues will further recall, that though the provision did not survive the Reform Act conference, the conferees, in their report, strongly recommended that Congress "consider and take up this issue expeditiously" in the 100th Congress. I am gratified that we on the Judiciary Committee were able to comply with that recommendation and I likewise believe the Rules Committee, to which this bill was jointly referred, should be commended for having considered this measure without delay.

The Subcommittee on Rules, chaired by Mr. MOAKLEY, has recommended several amendments to H.R. 618 which were not formally reported by the Rules Committee. I have no objection to these amendments and, in fact, strongly support their inclusion in the substitute text now before the House.

Mr. Chairman, nearly 2 years ago, I wrote a letter to the Attorney General urging him to provide extended voluntary departure to Salvadorans. In my letter, I specifically stated that:

> In recent years relief has been provided to nationals of several countries during periods of unrest and violence. Currently, it is being provided for nationals of Ethiopia, Uganda, Afghanistan, and Poland in the form of extended voluntary departure (EVD) * * *. It is my firm belief that the situation within El Salvador is as unsettled and violent as in those countries where the executive branch has felt compelled to offer temporary shelter.

I regret to say that the Department of Justice has consistently rejected my request.

Therefore, this bill is the last resort to providing a humanitarian response to the difficult situation confronting Salvadorans who have sought refuge in the United States from the fighting and turbulence in their home country. By suspending the deportation of Salvadorans until such time as conditions improve we will be responding in a manner that benefits the generous traditions of this country.

Two weeks ago, Attorney General Meese announced that certain immigration-related initiatives would be implemented for the benefit of Nicaraguan nationals in the United States. Immediately thereafter, I wrote to the Attorney General, expressing my extreme displeasure that these initiatives, while laudatory, conspicuously excluded any reference to Salvadorans. To my mind, such disparate treatment is indefensible and provides a clear indication that this administration is incapable of implementing our asylum and refugee laws without interjecting unnecessary ideological consideration into the process. For that reason, I am more convinced than ever that Congress must intercede to correct these inequities by passing H.R. 618.

I urge my colleagues to support H.R. 618.

Mr. MOAKLEY. Mr. Chairman, I yield 1 minute to the gentleman from Michigan [Mr. CONYERS].

Mr. CONYERS. Mr. Chairman, I rise in support of H.R. 618 which utilizes for Salvadorans and Nicaraguans the extended voluntary departure [EVD] section of immigration law enabling the temporary and country-specific provision of refugee status for citizens whose homeland imposes a reasonable risk of violence or political persecution.

One of the greatest and most glaring deficiencies of El Salvador's newly found democracy is the inability of civilian authority, most importantly the criminal justice system, to make accountable the military. Continuing human rights abuses by the military, documented and reported by Americas Watch, Amnesty International, and other independent human rights groups as well as the United States Department of State continue to go unprosecuted, largely because of the intimidating military power of the Salvadoran military that no Salvadoran judge wants to address; those that have put their life seriously at risk.

And the Salvadoran military is not the only one to blame. Importantly, the same human rights organizations now report increases in abuse of human rights and laws of war by the Salvadoran guerrillas; the use of extrajudicial executions for instance, inflicting violence in civilian communities.

What this means is unabated terror for Salvadoran citizens, caught in a military crossfire far more excessive than Nicaragua. That is why Salvadoran President Napoleon Duarte supports extended voluntary departure for Salvadorans as do many administrative officials silently.

I am supportive of President Duarte's effort to democratize El Salvador and its institutions such as the courts and military, but there is still a long way to go.

Over 600,000 have died in the 7-year-old civil war in El Salvador. There were 1,081 aerial attacks in 1985 according to Central American University, 6,000 died from them between 1983-85. One-quarter of the population is displaced.

The situation has undoubtedly improved since 1983-84 when human rights organizations reported El Salvador to be one of the most excessive abusers of human rights anywhere. The State Department 1985 human rights report says there are now 29 death-squad murders of civilians each month. That is an important improvement. But 29 murders a month is still a dismal record by any civilized standards.

In Nicaragua, the reports of human rights abuses by the Contras are legion. While no figures or statistics show the threat in Nicaragua is as significant as El Salvador, civilians there also need protection from the military warfare.

Perhaps the most important point about the troubled country is the absence of a working criminal justice system. Abuse of civilians is not met with any justice; not a single military officer has been punished for civilian abuse in the past 7 years, not even in the face of irrefutable evidence of wrongdoing. The inability to exercise civilian control of the military is one of the most compelling arguments for swift passage of this legislation.

Mr. MOAKLEY. Mr. Chairman, I yield 3 minutes to the gentleman from Florida [Mr. SMITH].

Mr. SMITH of Florida. Mr. Chairman, I thank the gentleman for yielding this time to me, and I want to commend the gentleman from Massachusetts for being very, very dogged in this persistance about this bill. I want to say that I think it is something that is very, very right that is taking place today. I commend the gentleman for doing it.

I am very concerned about the perception that we are probably going to be denying other people some rights if we extend certain benefits of residency in the United States—and it is only residency, not in the legal sense but in the geographic sense—to the people from El Salvador and from Nicaragua.

Mr. Chairman, this country has a long commitment to both of those peoples. This is not something new. This is not a fight which has just started, that these people are here because they came here and we have not been involved and now they are somehow imposing on us. It is not something which we did not ourselves choose to be involved in.

The fight for the principles of democracy in El Salvador has been a fight this country has been involved in for years. This is nothing new to us. When this Congress had mixed feelings about supporting the government and the person of Jose Napoleon Duarte, eventually, as he emerged as the leader, as the man who was going to do the job, we began to see some positive results, and today we see a democratic march forward in El Salvador. The President of El Salvador himself has said that the people who are currently residents in the United States would have an enormous impact if they were to be returned in any significant numbers in a very short period of time.

They have not created any real problem in this country. We are not trying to deny anything to others in what has happened. We are trying to live with the facts as they exist on the ground. These people get no advantages other than the continued capability to stay in the United States. They draw no benefits they are not getting now. They do not get grandfathered in under the immigration law. They get nothing. We are just trying to deal with the situation which we ourselves want to happen, and that is the continued march forward to democracy in El Salvador.

Now, let us turn to Nicaragua, a place where we want democracy to happen, a place where, no matter which side you are on, we have tried to bring about democracy, going back to the 1970's when in fact we made a commitment to what we considered a democractic overthrow of the Somoza regime. Well, it did not work out, and now we have people here who fled their country. As a result, we need to help them.

Mr. MOAKLEY. Mr. Chairman, I yield 2 minutes to the gentleman from Kentucky [Mr. MAZZOLI].

Mr. MAZZOLI. Mr. Chairman, let me first thank my friend, the gentleman from Massachusetts [Mr. MOAKLEY], for yielding the time and also commend him on a job well done in promoting this legislation. With great respect to him, as he is aware, I do oppose this legislation.

I oppose the legislation not on the goal, which is to try to provide succor and relief to these people, but because this is not the method and the way to do it. We have talked about this issue for the better part of two Congresses. It has been before my subcommittee on three different occasions. We have eventually come up with some form of solution in basically the outline of the gentleman from Massachusetts, but I think a better approach is the one that the gentleman from New York, the gentleman from Georgia, and the gentleman from Kentucky have introduced, which would cause there to be a generic form of legislation, not designating countries and people but designating situations and characteristics, which, if fulfilled, would then yield the kind of relief which is designed for people who suffer from temporary dislocation because of environmental problems, because of random warfare, or because of some other kind of generalized violence. The goal is not to specifically set up a country.

We tried to set up country-specific ways of handling refugee status, and we found prior to 1980 that did not work. So in 1980 we passed the Refugee Act which sets up specific characteristics. So whether you are far from a country with whom we had relations or not, with whom we are friendly or not, that is immaterial; you then qualify as a refugee.

I suggest that we are going down a very difficult path here in which we select nations because of political or other kinds of factors and then we say those people qualify and other ones do not. I would suggest that we should get to the day soon when we will pass a piece of generic legislation which will then solve the problem in a more scholarly fashion.

Mr. ROYBAL. Mr. Chairman, I rise in support of H.R. 618 which would temporarily suspend the detention and deportation of Salvadoran and Nicaraguan refugees who are currently in the United States. I am a cosponsor of this legislation.

I visited San Salvador in mid January of this year and spent several days talking to various groups and individuals including the U.S. Ambassador and President Duarte. I had the opportunity also to talk with people in the street as I had done during my first visit 15 years ago. It was the same country with the same economic problems that I had seen before, but this time the people were sad and frightened. They are afraid of their own government, and the military in particular, which dominates the daily lives of every citizen. The military gets its power from Decree Fifty which was adopted by the National Congress and sets aside the Constitution of El Salvador. The country is operated not under a constitution, but under a military decree by which citizens are apprehended, jailed, and held without rights. Some disappear never to be seen again, while others are jailed, beaten, and abused.

I am personally aware of the turmoil in which these people live. In the past, we have granted refugees in similar situations a temporary stay of deportation. This status is conferred upon nationalities due to unstable or unsettled conditions in their homelands. We have granted this status to Afghan refugees who resist returning to Afghanistan because of the turmoil prevailing in that country rather than because of fear of persecution. In the interest of humanity, this same status should be provided to Salvadoran and Nicaraguan refugees.

On my trip to El Salvador, I was accompanied by Father Luis Olivares of La Placita Church in Los Angeles. Father Olivares has been a great advocate and fighter for human rights and has been an eloquent spokesman against political abuses being perpetrated on the people of El Salvador. Father Olivares has now been threatened by what are purported to be El Savadoran death squads. Threats against father Olivares and 24 other individuals have been reported to the Los Angeles police. They have received messages which say, "For being a Communist, we will kill you." There is even a list with some 19 names of persons targeted for killing. The same list carried the note, "Nothing will save you. Death, death. Flowers in the desert die." If these types of activities are happening here in the United States I ask you only to imagine what is happening in El Salvador and what will happen to those people who we force to return.

People who are here from El Salvador fear for their lives if forced to return at this time. We should pass the legislation before us and given them some hope, for to deport them now could well be for some certain death.

Mr. FASCELL. Mr. Chairman, I rise in support of H.R. 618 a bill which would permit both Salvadoran and Nicaraguans temporarily residing in the United States extended voluntary departure status.

As my colleagues know, President Duarte has personally requested this exemption and has written and talked to the President of the United States on this issue. The administration has provided more generous treatment of asylum applications of Nicaraguans and Poles now enjoying extended voluntary departure and frankly I believe that it is only just and fair given the situation in El Salvador to extend such status to Salvadorans.

The Congress over the past several years has taken numerous steps to support the fledging democracy which has been established in El Salvador.

President Duarte is faced with a critical economic situation with high unemployment and continued civil unrest. Under these circumstances I believe that it is entirely appropriate that Salvadorans who are temporarily residing in the United States be given the opportunity to extend their departure beyond the requirements established in the Immigration Reform Act of 1986.

I urge the adoption of this legislation.

Mr. FRENZEL. Mr. Chairman, I rise in opposition to H.R. 618, which would suspend deportation of Salvadoran and Nicaraguan refugees living illegally in the U.S.

I am troubled by the plight of many innocent citizens of both those wartorn nations. I also strongly object to the administration's recent decision to grant Nicaraguan nationals extended voluntary departure [EVD] status.

The Administration has set a bad precedent. In response, the Congress seems determined to set another.

The 1980 Refugee Act establishes universal and fair guidelines under which any foreign national may apply for EVD status based on likely persecution should that individual be returned to his or her home. In that act, we loosened our own standard to conform to the easier United Nations standard.

That procedure is fair, especially since a recent Supreme Court decision eased the burden of proof on refugees. My position, and the position both of the Immigration Subcommittee and of the entire Congress, has been that we should retain this non-nation-specific procedure. Any other standard can too easily be manipulated for political purposes.

I have been concerned at the low rate of acceptance of Salvadoran applicants. Many likely would face persecution at home. Many others, however, are undeniably here for economic reasons.

The insurrection in El Salvador continues to exact a serious toll. There remains regrettable political violence, despite dramatic improvements. However, both in the case of Salvadorans and in the case of Nicaraguans, I find individual consideration of each case preferable to blanket categorization of up to 700,000 illegal aliens.

Surely the opening of a loophole for more than a half million people does violence to the immigration reform passed last year. We have had a heavy volume of El Salvadoran illegals for many years. The passage of this bill will be a magnet for many more who will hasten to arrive before the effective date.

This decade has seen great progress in our immigration and refugee laws, first in the 1980 Refugee Act, then in last year's immigration reform. Both those laws establish a fair and comprehensive approach to vexing problems.

Today's legislation in my judgment, represents a step backward from those bills. For that reason, and despite my concern for the plight of displaced Central Americans, I oppose the legislation before us today.

Mr. DOWNEY of New York. Mr. Chairman, today the House will consider H.R. 618, a bill to suspend the deportation of Salvadorans and Nicaraguans from the United States. I have cosponsored this bill in the 98th, 99th, and in this Congress and I want to take this opportunity to thank Congressman MOAKLEY for his tireless leadership on this issue. I would also like to commend the many people from Long Island who have met with me or written to me to express their support for Congressman MOAKLEY's bill.

H.R. 618 is relatively straightforward. It suspends deportation proceedings. It does not grant permanent resident alien status. It does not make Salvadorans and Nicaraguans allowed to remain in the United States eligible for public assistance. In addition, the General Accounting Office will investigate matters affecting Salvadoran and Nicaraguan nationals, including the situation in Central America, the status of human rights protections, and the refugee situation in general. Once the GAO issues its report, Congress has 9 months in which to act on the question of the refugees' status. If it takes no action, then the deportations will resume.

As you know, Mr. Chairman, the administration has consistently opposed this legislation. However, in one of his more cynical acts, Attorney General Edwin Meese recently issued a ruling which allows Nicaraguan refugees to remain in the United States. Clearly, the administration has decided to play games with the lives of thousands of Central American men, women, and children. It will allow some Central Americans to remain here in the United States in order to score cheap propaganda points, but it will not allow others to remain. Thus, the offer of refuge is not granted for humanitarian reasons, but to reinforce the administration's war against Nicaragua.

H.R. 618 gives us the opportunity to extend sanctuary to all who are displaced by the war in Central America, whether they come from Nicaragua or El Salvador. Since the administration has already acted to open the door to Nicaraguans, I would like to make the case for keeping it open for Salvadorans.

The human rights office of the Roman Catholic Archdiocese of San Salvador recorded 45 murders by death squads in 1986. It has been a long time since we have heard of death squad killings because the administration wants us to believe that they don't happen any more. The sad fact is these killings have continued unabated. In addition, 39 people disappeared in 1986. In the past year, we have also learned of incidents in which civilians were killed during the course of army campaigns against the rebels.

The war in El Salvador continues to claim many innocent lives. It disrupts countless others. People who leave El Salvador often do not do so willingly. The Center for Immigration Rights in New York has documented many cases of Salvadorans who have fled to the United States after their lives were threatened, or after they had already been detained or kidnapped. The trip to the United States is no holiday trip.

Many of them have been detained along the route. They have spent time in prison camps in other Central American countries. If they are sent back to El Salvador, they will not have a warm welcome.

I urge my colleagues to vote for the Moakley bill. It is the very least that we can do to ease the plight of refugees from Nicaragua and El Salvador.

Mr. GILMAN. Mr. Chairman, I rise in support of H.R. 618, which suspends detention or deportation of displaced Salvadorans and Nicaraguans residing in the United States for close to 3 years, pending a GAO report and congressional review. As a cosponsor of H.R. 618, I would like to thank the gentleman from Massachusetts [Mr. MOAKLEY] for bringing this worthy legislation before us today and for his dedication to international human rights.

The United States has historically offered temporary protection to refugees whose homelands were plagued by extreme civil strife, war, or gross human rights violations. This temporary status has been granted 15 different times in the last 25 years to nationals of countries where war or political upheaval would jeopardize their lives upon return to their native countries, and currently protects Poles, Afghans, and Ethiopians from deportation.

Under the Somoza regime, Nicaraguans were granted protection due to the unstable and unsettled conditions in Nicaragua at that time. Surely, the conditions that exist today in El Salvador and Nicaragua should compel our Government to offer the same temporary protection to those refugees who are currently in the United States. Approximately 50,000 civilians have been killed in El Salvador since 1979, and increasing repression through censorship, harrassment of the church, and suspension of fundamental civil liberties is reported in Nicaragua.

Mr. Chairman, let's put aside our political difference and instead work toward providing a safe temporary home for these Salvadoran and Nicaraguan refugees. H.R. 618 is a bipartisan, humanitarian measure intended to save lives, and I urge my colleagues to join in support of this legislation.

Mr. FAUNTROY. Mr. Chairman, I urge my colleagues to give approval to H.R. 618 which would suspend the deportation for undocumented immigrants fleeing the violence and chaos tormenting the people of El Salvador and Nicaragua.

Specifically, H.R. 618 would treat equally and humanely two similarly situated national groups seeking to escape the scourges of war, poverty, and persecution emanating from the ideological conflict in Central America. Unfortunately, the Reagan administration has injected the test of ideology into the execution of the Refugee Act of 1980. The Reagan administration has denied 97 percent of Salvadoran asylum requests and approved 88 percent of the asylum applications tendered by Nicaraguans. This is a pattern and practice of ideological discrimination that is all too familiar to me. Haitian refugees fleeing the brutal kleptocracy of the Duvailers underwent the same rejection as the Salvadorans. They were rejected, imprisoned, and deported as mere economic refugees, a policy apparently mandated because we were too long tolerant of that dictatorship and did not want to complicate our diplomatic relationship with that regime.

Mr. Chairman, I believe that when we passed the Refugee Act of 1980, Public Law 96-212, we were seeking to implement uniform refugee and asylum policies that would remove racial and ideological discrimination from our law and practice. Regrettably, the Department of State and the Department of Justice have failed to comply with the letter and spirit of Public Law 96-212. If you are from Nicaragua, running from a leftist regime, you are almost 30 times more likely to be granted asylum than a Salvadoran who is coming from a land whose government enjoys our support. That is wrong, inhumane, and violative of the intent of the Refugee Act of 1980.

Mr. Chairman let's end the double standards and pass H.R. 618 temporarily suspending the deportation of the undocumented from both countries, pending completion and review by Congress of a General Accounting Office report on Salvadoran and Nicaraguan refugees. It is the very least we can and ought to do.

Mr. LEVINE of California. Mr. Chairman, I rise today in strong support of H.R. 618. This legislation provides vital, temporary relief for Nicaraguans and El Salvadorans who have fled their war torn countries out of fear for their safety.

This legislation should not be viewed as a political judgment of United States policy in Nicaragua and El Salvador. This is a purely humanitarian issue. The United States has a responsibility to protect the lives of refugees who have fled their homes to escape political persecution. The United States has a history of assisting people in similar predicaments—in the past 27 years, extended voluntary departure has been granted 15 times to nationals from countries where political situations were precarious.

The Reagan administration has granted extended voluntary departure status to Poles, Afghans, Ethiopians, and Ugandans because of unsettled and unstable conditions in those countries. Surely the situation in El Salvador and Nicaragua are comparable to the state of affairs in Poland, Afghanistan, Ethiopia, and Uganda which led the administration to provide temporary relief to the refugees.

I was pleased to hear that President Reagan recently announced that Nicaraguans with a well-founded fear of persecution will not be deported and those seeking a work authorization will be entitled to one. However, I was equally disappointed to learn that he continues to refuse to grant similar respite to Salvadorans. The causes of the emigration from El Salvador are very similar to those in Nicaragua. To claim, as the administration does, that hundreds of thousands of Salvadorans are leaving their homes and their families solely for economic reasons is absurd. Human rights abuses abound in both nations and their governments show little capability in ending the brutalities.

Unfortunately, reports indicate that Salvadoran refugees, who came to the United States because they feared for their lives, are being harassed, threatened, and abused. Earlier this month in Los Angeles, a Salvadoran woman, who is politically active, was abducted, raped, and interrogated by men with Salvadoran accents. They asked her specific questions about others who are involved in her political group, which is generally sympathetic to the FMLN.

Another Central American activist in Los Angeles has been kidnaped within the last 3 weeks, and about 30 others have received death threats. Other acts of vandalism against activists' personal property have also been reported.

Many Salvadorans face similar threats to their safety if they are forced to return to El Salvador. According to a U.N. report, over 1,000 political prisoners were being held in El Salvador at the end of last year, most of whom are accused of a crime called "subversive association." They continue to be held, without being tried or convicted, and many have endured beatings and torture because they are suspected of being sympathetic to the leftist opposition.

Mr. Chairman, Americans cannot, in good conscience, send innocent human beings back to this kind of situation. Salvadorans have a well founded fear of persecution, just as President Reagan has acknowledged that Nicaraguans do. I strongly believe that the United States must embrace a humanitarian policy and grant a temporary stay of deportation to both Nicaraguans and Salvadorans. These people deserve the assurance that they will not be victimized when they return to their homelands. I urge my colleagues to join me in supporting H.R. 618.

Mr. BOSCO. Mr. Chairman, I rise today in strong support of H.R. 618, to require a temporary stay in the detention and deportation of refugees from El Salvador and to commission a comprehensive General Accounting Office study of the Salvadoran and Nicaraguan refugee issue. I share the sentiments of Nobel Laureate Elie Wiesel, who remarked in a letter to Mr. MOAKLEY, "until ambiguities about current law and the situation faced by returnees in El Salvador and Nicaragua are clarified, we have a human and moral obligation to provide refuge to these displaced men, women, and children."

Mr. Chairman, the Reagan administration has established a reputation for utilizing double standards in the exercise of its foreign policies. It was Jeane J. Kirkpatrick, the Reagan administration's first Ambassador to the United Nations, who conceived and promoted the artificial distinction between repressive "totalitarian" regimes and repressive "authoritarian" regimes. We are faced with yet another Reagan double standard in the administration's treatment of refugees from El Salvador and Nicaragua, and this double standard unfortunately translates freely into the inhumane and unfair treatment of refugees from war-ravaged El Salvador.

The Reagan administration has devoted considerable energies to publicizing human rights abuses under the Sandinista regime, and it has accordingly granted approximately 88 percent of the requests for asylum or deferral of deportation by Nicaraguans this year. Yet the administration—despite its strident condemnation of human rights abuses in Nicaragua—has chosen to ignore the plight of the citizens of El Salvador. One in five Salvadorans are currently homeless, right-wing death squads once again terrorize innocent civilians, and the Salvadoran economy has proven increasingly incapable of coping with the ravages of civil war.

I am deeply concerned about human rights violations in both Nicaragua and El Salvador, and I am troubled by the wartime conditions and political persecution that refugees from these countries may face upon their return to their respective countries. Mr. Speaker, I submit that the United States has an obligation to treat individuals from these nations with equal compassion and complete fairness. I believe the only way to insure such a policy is to conduct a comprehensive study of the issues immediately, and to put the deportation of Salvadorans currently in our country on hold. H.R. 618 mandates only a temporary stay of detentions and deportations; once the facts are in, we in Congress will be in a position to make decisions concerning permanent immigration policy.

Mr. Chairman, the Reagan administration maintains that to grant extended voluntary departure [EVD] status to Salvadorans would represent a no-confidence vote in the government of President Jose Napoleon Duarte, our ally. Yet even President Duarte himself, in an April letter to President Reagan, has urged the United States Government to allow Salvadoran refugees to remain in the United States. President Duarte fears that a massive, forced influx of former refugees could increase the already high levels of political and economic instability in his nation.

Mr. Chairman H.R. 816 represents neither poor alliance policy, poor regional policy, nor poor immigration policy. In the final determination, the status of the United States as a humanitarian nation will not hinge upon the distinctions the Reagan administration chooses to make between the degrees of repression within Nicaragua and El Salvador. We, as a Nation, must remain sympathetic to the plight of all individuals fleeing civil violence and repression—originating from both the right and the left—and give these individuals a fair hearing after all the facts are in.

Mr. MOODY. Mr. Chairman, I add my voice in strong support of H.R. 618, which I cosponsored, to suspend the forcible deportation of refugees from the war-torn countries of Nicaragua and El Salvador. This is a tremendously important measure for two reasons.

First, this bill addresses the key issue of human distress caused by current conditions in Central America. It seeks to help those civilian victims of the upheaval that have fled for their lives and safety. These refugees would not be granted permanent residence, nor would they be eligible for most forms of Federal assistance. But they would be given haven in this country until the Government Accounting Office [GAO] describes in full and accurate detail the situation facing these refugees if they returned to Nicaragua or El Salvador. This forces us to examine the fate awaiting these refugees before deporting them.

Both Nicaragua and El Salvador are in the midst of civil war, widespread domestic violence, and economic collapse caused by embargoes, war and strife. El Salvador, in addition, has still not recovered from the tremendous earthquake of 1986 when over 300,000 Salvadorans were rendered homeless. El Salvador's President Duarte has stated repeatedly that his country simply could not economically absorb at this time the overseas refugees from El Salvador. He welcomes the measure we are considering today.

Secondly, this bill is evenhanded. It provides relief equally to both Nicaraguan and Salvadoran refugees. In other words, it is "ideologically neutral." It addresses human suffering regardless of politics and that is in keeping with America's best traditions of nonideological compassion for those seeking refuge on our shores.

H.R. 618 is in sharp contrast with the apparent double-standard of the administration's immigration policy. Over the past year, only 3 percent of Salvadoran applications for asylum have been approved, compared to 88 percent of Nicaraguan applications. But much more telling is Attorney General Meese's recent decision to suspend the deportation of virtually all Nicaraguan illegal immigrants, and even to encourage Nicaraguans who have already been denied legal asylum to reapply. At the same time, the administration's policy on Salvadoran refugees continues unchanged. The Reagan administration seems to have turned a blind eye to stress and human rights abuses in El Salvador headed by the Duarte government which it strongly supports, while encouraging emigration from Nicaragua whose government it opposes.

The human fact, however, is that the people of both Nicaragua and El Salvador have suffered. Both deserve our compassion.

H.R. 618 does not break new ground in our immigration policy. In fact, it is consistent with the best traditions of this country of providing shelter for the victims of war, poverty, and persecution. H.R. 618 offered by Congressman Moakley is compassionate and it is evenhanded, and I strongly urge my colleagues to support it.

Mr. FEIGHAN. Mr. Chairman, I rise in strong support of H.R. 618, a bill to suspend the deportation of Salvadorans and Nicaraguans while the GAO makes a study of the conditions existing in those countries. This is not a vote for or against United States policy in the region. We will have ample opportunity to do that another time. This bill seeks to bring consistency and fairness into our immigration policy. It will, in effect, afford Nicaraguan and Salvadoran refugees the same status we afford refugees from Afghanistan, Ethiopia, Poland, and Uganda. And H.R. 618 responds on a humanitarian level by suspending a policy where refugees are sent back to war-ravaged countries, often at great peril.

Why would one oppose this measure? Opponents generally cite two reasons. First, oponents point to the unfairness in granting special exception to these two countries. It works against progress made in both immigration bills in 1980 and 1985. But, we have already cited examples of where exceptions have been made for the simple reason that it was in our interests to grant them. And so should be the case with H.R. 618. To install a principle of "no special exceptions" is to straight-jacket ourselves; and, if applied as a general rule, would probably bring business on Capitol Hill to a grinding halt.

For those who oppose such special treatment, the truth of the matter is that current policy already includes a great deal of special treatment at the discretion of the immigration and naturalization service. Eighty-eight percent of the requests for asylum filed by Nicaraguans are approved. For Salvadorans seeking asylum the figure is 3 percent. For those who argue against special exceptions, they must look very hard at current policy that grants asylum to better than 4 out of every 5 Nicaraguans who aply and at the same time approves requests for 3 out of every 100 Salvadorans.

The second argument is the common refrain of Congress' incurable appetite to micromanage a problem and encroach on the executive branch's authority in this area. This line of argument grows tiresome since it is raised in nearly every debate we have. The response is simple. Congress was constituted as an equal partner in the making of public policy. To quote a now famous phrase: we are not just potted plants here.

Congress does not execute policy. We pass laws and trust the administration to carry them out. In this case, the administration presides over a policy implemented with an eye to consistency in its own foreign policy objectives. It treats refugees from the Nicaraguan war more favorably than the refugees from the Salvadoran war. Despite the loss of more than 40,000 lives in El Salvador, despite the fact that many Salvadorans living in this country face certain death upon their return to that country, and even despite the fact that President Duarte requested that the President stop deportations. Passing H.R. 618 does not work counter to our foreign policy. It not only suports that policy—it supports a principle of humanitarian concern that has long been a part of our own national character. I urge my colleagues to support this bill.

Mr. DONALD E. LUKENS. Mr. Chairman, this amnesty for illegal El Salvadoran refugees is a dangerous policy that could threaten our national security. I would like to submit an article from the Rochester Democrat and Chronicle which discusses one of these El Salvadorans and his hearing for asylum. At the hearing it was revealed that this man had been to Communist Cuba and had received training in small arms, machine guns and grenades. He was also a member of the Communist Party. Not only did he travel to Cuba, but the Cubans paid for his trip to Communist Czechslovakia. This is one of these El Salvadorans that could possibly come under this bill. How many more people like Alejandro Gomez are we going to allow to wander into America and stop from being deported.

Gomez Describes Torture, Military Training in Cuba—Buffalo Immigration Hearing Continues Today

(By James Goodman)

Buffalo.—Alejandro Gomez, the Salvadoran seeking asylum in Rochester, yesterday testified about his political past and the reason he fled to the United States in.

Gomez, who testified for about four hours before Immigration Judge Gordon Sacks, said he decided to flee after he was tortured by Salvadoran police for 15 days in June 1983 and then held in detention for another 5½ months.

"I was hit by pieces of wood; with pieces of tube," Gomez said. "I was hung by my hands. I was hit with their hands. I was hit with their feet quite a few times."

Gomez said he was also tortured with electric shock. "You feel like your whole body is stretched," Gomez said. "I have trouble hearing quite a bit. And my ears have a ringing sound—constantly."

Gomez, speaking about his political involvement for the first time, testified he received military training during a 1962 trip to Cuba and that he was a member of the Communist Party of El Salvador from 1963 to about 1968.

But Gomez, 46, said he hasn't had any communist ties for the past 18 years and that he and his family came to the United States to start a new life.

"I'm fighting to get rid of that . . . stain," Gomez said. "I grew in another direction. I'm a very different man."

Yesterday's testimony marked the beginning of the asylum hearing for Gomez, and his wife, Leticia, 43.

The hearing began 12 days after the Immigration and Naturalization Service arrested Gomez and set bail at $50,000, citing "national security" reasons.

After the hearing, Gomez was greeted outside by about three dozen Rochester supporters holding a banner saying "Sanctuary is Justice." He is expected to be cross-examined by INS lawyers when the hearing resumes at 10 a.m. today.

Gomez's testimony yesterday contradicts a State Department advisory opinion—submitted as evidence yesterday—that claims Gomez returned to Cuba in 1972 for "additional training." The opinion recommends against granting Gomez asylum.

"He was not in Cuba in 1972," his lawyer, Margaret A. Catillaz, said after the hearing. "He was not there before or after 1962."

Gomez—speaking in Spanish throughout the day-long hearing—had his responses translated into English by an interpreter, Ketty Sheff.

He said he was singled out by the Salvadoran police because he was an activist in two construction unions and a union of university workers.

Before 1983, Gomez said he was detained by police on three occasions for as long as 20 to 30 days at a time.

But it was in June 1983 that Gomez said he was tortured by police in San Salvador, the capital of El Salvador.

The abuse occurred, Gomez said, when police detained him after he applied for a government certificate needed to run a bus that he had bought.

Gomez said when police detained him they said he was a "guerrilla" and "communist."

But Gomez said the judge who ordered him released in December 1983 said he was "free of charges."

Gomez said when he went home in December 1983 he saw vehicles belonging to "death squads" parked near his home in San Salvador.

So he flew to Mexico City, and was later joined there by his family. They then entered the United States and for the past two years have been given sanctuary at the Downtown United Presbyterian Church, 121 N. Fitzhugh St.

Gomez said he was especially fearful of being deported to El Salvador because following his recent arrest his photo appeared in a Salvadoran newspaper.

Gomez said he did not list his past membership in the communist party on the asylum form he filled out two years ago because, "consciously or unconsciously this is something I'd like to forget."

He joined the Salvadoran communist party in 1963, after returning from Cuba, Gomez said.

Gomez said he went to Cuba for a meeting of trade unions but while there for three to five months received military training.

The training, said Gomez, was never used.

"My hands don't have blood stains," he said. "I've never done harm to another person."

SANCTUARY: SPREADING MARXISM OR HELPING OTHERS?—MOVEMENT DEBASES IDEALS OF LIBERTY

(By Nicholas Zumbulyadis)

As an immigrant, I think I can appreciate the ideals inscribed on the Statue of Liberty better than many native sons and daughters of this country. Yet I spoke out against passage of the City Council resolution declaring Rochester a "city of sanctuary."

This resolution urges Rochester citizens and particularly the police to show contempt for the law rather than to uphold it. Thus it betrays and debases those very ideals of liberty it pretends to extol. For ours is first and foremost a system that relies on due process of law, not on individuals taking the law into their own hands.

Proponents of sanctuary might find themselves unwittingly harboring drug traffickers, fugitive criminals or Marxist terrorists. What if, for example, a Colombian urban guerrilla, a wanted member of the group that according to Sen. Daniel Patrick Moynihan is armed by Nicaragua, seeks asylum in this country? The sanctuary movement has neither the means nor the authority to perform the necessary background checks.

The sanctuary resolution has no provisions guarding against the influx of undesirable aliens who may potentially bring crime with them. Organizations offering sanctuary are therefore morally obliged to disclose to the neighborhoods in which they are located, all available information about the illegal aliens they harbor. To do otherwise would be selfish and inconsiderate.

Illegal aliens from countries like El Salvador, Guatemala, and Colombia cannot be regarded as political refugees. Governments truly representative of the people have come to power in free and fair elections in most of Central and South America. A few exceptions such as Cuba, Nicaragua, Chile, Suriname and Guyana still remain.

The human rights progress has been particularly impressive in El Salvador, where a massive three-phase land reform has granted 240,000 acres to 65,782 beneficiaries. Landowners have until December to sell properties in excess of 605 acres or face expropriation. On December 14, 1985 the U.N. General Assembly passed a resolution noting: "The government of El Salvador is continuing its policy of attempting to improve human rights." On March 12 the Geneva Human Rights Commission recognized "with satisfaction that the observance of human rights forms an important part of the policy of El Salvador."

The sanctuary movement would like us to think otherwise. In 1982 the newsletter of the Chicago Religious Task Force (CRTF) claimed that 30 percent of the deportees returned to El Salvador had been tortured or murdered, quoting Amnesty International as a source. But Amnesty International disclaimed this quote in June 1983, stating that "none of the facts and figures, published by the CRTF are accurate."

A 1983 American Civil Liberties Union study undertaken to document human rights abuse against returnees, could not actually establish a single positive identification between a deportee and a human rights victim. Far from being an objective humanitarian organization, the sanctuary movement is a pipeline of left-wing disinformation aimed at undermining American support for the democratic Duarte government.

Refugees from Marxist Nicaragua, war-torn Afghanistan or Ethiopia, where the starving masses are abused by their own government if they complain, have never been the beneficiaries of the sanctuary movement's considerable resources in shelters, clothing or food.

The sanctuary movement extends a helping hand exclusively to those who are in this country to lobby for the spread of Marxism beyond the borders of Nicaragua. Two prominent examples are Felipe an Elena Excot of Guatemala given sanctuary by the CRTF and Julio and Maria (no last names released) sheltered by the Immanuel Lutheran Church in St. Louis. The Excots led a motorcade from Chicago to Weston, Vermont, making numerous stops where they "raised the consciousness of the American people" by condeming capitalism. Julio and Maria are busy urging the U.S. Congress to cut off aid to El Salvador.

The motives of the sanctuary movement go clearly beyond religious and humanitarian concerns. They seek political change both at home and abroad. The Rev. William Sloane Coffin Jr., argued recently that not only the U.S. policy towards Latin America must shift radically to the left, but also that the sanctuary movement must help foster economic and social change in this country: "The sanctuary movement can no longer separate foreign policy and domestic policy. We must change the former through the latter," he warned.

While claiming to champion liberty, the sanctuary movement undermines freedom by establishing a moral equivalence between those who spread Communism and those who oppose it. Law enforcement agencies at all levels should monitor with vigilance the impact of this movement on national security and domestic tranquility.

Mr. WEISS. Mr. Chairman, I rise in support of H.R. 618. The bloody wars of Central America have raged for many years now. Through legal and illegal means, our country has been directly involved in one of them, the Contra war in Nicaragua. Throughout the ongoing debate of United States policy in Central America, the administration has repeatedly proclaimed its wish to do what is best for the people of Central America. This bill will allow us to do just that—aid the people of El Salvador and Nicaragua by granting them protection from the violence and repression in their countries.

Current administration policy requires the deportation of all Salvadorans and Nicaraguans who have fled here from the violence in their countries but who have not been granted political asylum. By deporting these Central Americans, we are returning them to certain persecution and possible death. The American people oppose this policy strenuously—so strenuously that many have chosen to willfully break the law by providing sanctuary for Central Americans who arrive here illegally. It is a sad comment on the administration's policy that Americans are prosecuted for such humanitarian acts.

Opponents of this bill argue that the system for granting political asylum is sufficient for dealing with the problem of Central Americans who flee to the United States. In the case of Nicaraguans this may be true, as 88 percent of the Nicaraguans who have applied in the last year have been granted political asylum. However, only 3 percent of the El Salvadorans who have applied during the same period have been granted asylum. This is true, despite the continuing reports of disappearances and repression encountered by Salvadorans who return to their country. These facts once again illustrate the Reagan administration's belief that persecution carried out by a Communist government is detestable, while the persecution carried out by a non-Communist government is acceptable.

Our course is clear. The refugee situation in Central America requires a special solution. This bill offers it. By suspending the detention and deportation of the beleaguered citizens of El Salvador and Nicaragua, this bill embodies the humanitarian spirit of the American people. I urge my colleagues to support it.

Mr. ANDREWS. Mr. Chairman, as a cosponsor of H.R. 618, I strongly support suspending the deportation of Salvadorans and Nicaraguans. For too long, our policies have treated refugees from these two countries unequally. We have forced thousands of Salvadorans to return home with their personal safety in jeopardy.

Both El Salvador and Nicaragua are torn with civil strife. War has displaced 1 million Salvadorans and three-quarters of a million Nicaraguans. Political factions in both countries have been responsible for the injury and death of innocent civilians. In El Salvador, 62,000 civilians have died in the civil war. In Nicaragua, the Sandinista government has frequently violated the human rights of civilians, and the Contras have systematically attacked civilians working with the government. The conflicts in both countries threaten the day-to-day safety of their citizens.

Despite the efforts of Salvadoran President Duarte to control the military and disband the death squads, last year some 1,700 Salvadorans disappeared or died in political attacks. Although the United States must have different foreign policies toward El Salvador and Nicaragua, these policies should not be made at the expense of innocent refugees.

Our current refugee policy is based on a double standard. For every political refugee status request granted to a Salvadoran, 30 requests are granted to Nicaraguans. H.R. 618 does not attempt to correct this problem by granting refugees status to all illegal immigrants. Instead, it delays deportation until the General Accounting Office has reported to Congress on how the circumstances in El Salvador and Nicaragua compares to those in other countries whose citizens have been granted automatic stays of deportation due to unstable conditions in their home country.

Since the settling of our country, the United States has been a safe haven to those suffering from persecution and turmoil in their own country. Today, we offer an automatic stay of deportation to Poles, Afghans, and Ethiopians. Salvadoran and Nicaraguan refugees have few options. Suspending deportation would grant them the option to remain here in a fashion true to our history.

Mr. KOLBE. Mr. Chairman, those of us who grappled with immigration reform last year and in years past have had our share of disagreements. But no matter how healthy or heated those debates, we never questioned the wisdom of that oft-repeated phrase, "America must regain control of its borders."

That premise, we all agreed, was the reason for changing the old immigration laws in the first place. The Federal Government has an obligation to stem the flow of illegal immigration to this country.

Or so we said. Ironically, the bill now before us runs exactly counter to the longstanding and previously unquestioned premise of immigration reform; helping America regain control of its borders. If passed, this so-called "double amnesty" would actually encourage a new wave of illegal immigration into the United States.

During the debate over the immigration bill last year, many of my colleagues—Democrats and Republicans alike—spoke of the unfairness of granting blanket amnesty to one group of illegal aliens while denying it to all others, including and especially those who had sought U.S. citizenship through existing legal channels.

H.R. 618 builds on this spirit of unfairness, then carries it a step further. It gives a select group of illegal aliens—in this case, Nicaraguans and Salvadorans—an exemption from deportation for 3 years, pending a GAO study of their special status. Never mind that GAO completed a similar study in May of this year, or that the "revised" study would cost taxpayers as much as $750,000.

Until now, the Attorney General of the United States has been responsible for enforcing our Nation's immigration policy. Yet by establishing a country-specific "floating deportation stay" linked to a GAO study, this bill would actually transfer this vital responsibility to, of all people, the Comptroller General.

Not only that, but the Congressional Budget Office estimates this bill would raise costs to State and local governments by as much as $130 million in the next 2 fiscal years alone. All to permit a select group of aliens having no legitimate claim of political persecution the right to remain in this country at the expense of others.

Mr. Chairman, I urge my colleagues to vote against this bill, jujst as we stripped similar provisions from the conference report on the immigration bill last year. Simple fairness demands no less.

Mr. MARTINEZ. Mr. Chairman, what are our national values? How can anyone impugn those national values? Where are our sensibilities? How can anyone become sensitized to that which revolts our sensibilities?

The question of whether we support H.R. 618 is one that touches the core of our national conscience. We are proud to be a nation that puts liberty, humanness, and shelter from oppression at the highest of premiums. We all recognize our country's commitment to humanitarian concerns, and that responsibility falls on the shoulders of every American, especially every American lawmaker. We have never questioned that we are a nation comprised of immigrants, many of whom fled their nation of origin due to war, persecution, and economic disaster. We have never doubted our continuing obligation to provide a safe haven for future generations who are subjected to similar misfortunes. Some people advocate shutting our doors now that they live happily inside, most of us, however, find this idea to be repugnant to our ideas and in dereliction of our national spirit.

The present situation in El Salvador and Nicaragua is a recent example of this historical principle. In both countries, masses are impoverished, war prevails, and crisis abounds. Nationals of both countries have risked great peril to escape the chaos and pursue productive, secure lives elsewhere. Many of these people fled to other Central American countries. Many fled to the United States. As a neighbor, we have a heightened responsibility to accommodate these people, over and above our obligation to accept peoples from overseas lands. What's more, H.R. 618 does not suggest granting permanent resident status to the concerned persons, it only calls for a 2-to-3 year suspension of deportation back to countries of origin by use of the extended voluntary departure mechanism. This is analogous to the internationally recognized principle of "nonrefoulement": that a country must not deport someone to the oppressive hands which they once fled. I cannot, in good conscience, tolerate the possibility that the United States may offend this longstanding humanitarian precept. I cannot accept the onus of torture, harassment, or death befalling even one person who was forced by the U.S. Government out of the United States.

The Reagan administration asserts that Salvadorians and Nicaraguans are not subjected to the same perils. The administration consequently supports benificence toward Nicaraguans, and intransigence toward Salvadorans. This double-standard is indefensible. If the President fears offending its Salvadoran allies by the implication that deporting Salvadorans to El Salvador is inhumane, then he must be reminded that the country's leader, President Duarte, greatly favors H.R. 618. If President Reagan perceives that Nicaragua is in a state of war whereas El Salvador is not, then he must be alerted to the plethora of recent reports of oppression and human rights violations by numerous factions in El Salvador. Furthermore, the United States cannot use Nicaragua's civil war as the justification for U.S. policy, since the United States itself is the prime financier of that war, that would be tantamount to creating the peril and then grieving over it, pointing to it from afar.

We must acknowledge that calamity exists in both countries, and that it transcends political preferences. We are not dealing with relations between sovereigns here. We are instead dealing with human lives: once oppressed, now relieved. Can we accept the ignominy of placing these lives in jeopardy once again? I adamantly say, "No!" We must elevate our policy beyond our political inclinations and live up to our national values, so eloquently expressed by the words of Lady Liberty at the mouth of the Hudson River:

> Give me your tired, your poor, your huddled masses yearning to breathe free, the wretched refuse of your teeming shore. Send these, the homeless, tempest-tost to me. I lift my lamp beside the golden door!

Mrs. COLLINS. Mr. Speaker, I rise in support of H.R. 618. The ongoing conflicts in El Salvador and Nicaragua have produced thousands of refugees fleeing the horrors of war. Many of these have sought refuge in Mexico and Central America, while some have made their way to the United States. Our Government's response, tragically, has been to deport many back to the civil wars in their own homelands.

There is no question but that the situation in El Salvador and Nicaragua remains dire. The Church World Service reports that in El Salvador, 60,000 civilian noncombatants have been killed since the start of the conflict, and close to 1 million persons have been left homeless. Almost a quarter of a million persons are displaced in Nicaragua. The civil wars in both countries show little sign of ending.

H.R. 618 would mandate a General Accounting Office study of the situation faced by refugees deported by the United States and the appropriateness of continuing to deport thousands of Salvadorans and Nicaraguans as wars continue in their homelands. During the 2-year study and congressional consideration of the report, deportations to El Salvador and Nicaragua would be halted.

This month the State Department issued a report on the guerrilla movement in El Salvador. Chapter 1 is titled "The FMLN: An Outgrowth of Terrorism." According to this report, the El Salvadoran resistance relies on tactics composed of, and I quote, "a combination of military operations, extensive sabotage of economic infrastructure, and terrorism."

About the same time, the State Department came out with another publication titled "Victims of Guerrilla land mines in El Salvador". This booklet is filled with pictures of people who have lost limbs from FMLN land mines. The primary victims of these land mines, the State Department asserts, are civilians. "rehabilitation services for civilians are extremely limited," the booklet says, and goes on to state that "employment opportunities are extremely limited", as well. The State Department itself acknowledges the dangers noncombatants face in El Salvador.

The economic situation in El Salvador is bad and likely to get worse, if the Reagan administration insists on denying Salvadoran refugees legal status. President Duarte himself has pleaded to President Reagan to grant a stay of deportation for Salvadorans residing in the United States, stressing that every year the Salvadoran economy receives $500 million in remittances which these Salvadorans send home from their present jobs. Mr. Speaker, the government of El Salvador, our ally, needs this bill every bit as much as those tragic victims of the Salvadoran civil war.

This reality, of which the Reagan administration has been made abundantly aware, raises a paradox. If both the people of El Salvador and the government of El Salvador support a stay of deportation for Salvadoran refugees, then why has President Reagan opposed such a move? The answer, Mr. Speaker, is politics. To recognize that the people of El Salvador have legitimate reasons to flee their country is to acknowledge the instability of the Salvadoran Government, the President's "showcase of democracy" in Central America. Nicaraguan refugees were granted stays of deportation in order to highlight the persecution of the Nicaraguan people by the Sandinista government, and to attempt to prove that the Contras are making a difference by causing instability in the Nicaraguan Government.

Mr. Speaker, we should not be making these decisions to satisfy political aims. For our country to remain the symbol of democracy we profess it to be, it is essential that we give amnesty to all refugees, and not just those for whom doing so would mesh with the political doctrine of the current administration. Let us imagine what would have happened if our predecessors in Congress had denied admission to those immigrants that had arrived from Eastern Europe on the same basis as it has denied admission to Salvadoran refugees. To do so would have meant the end of America's symbol as a beacon of democracy. I urge my colleagues to support H.R. 618, not only for ourselves, but for our country and all that it stands for, as well. Our images abroad and at home depend on it.

Mrs. MORELLA. Mr. Chairman, there are a large number of undocumented immigrants in Maryland's Eighth Congressional District, many from El Salvador and some from Nicaragua. I ask support for H.R. 618, which would suspend deportation of Salvadorans and Nicaraguans pending completion and review by Congress of a General Accounting Office report on Salvadoran and Nicaraguan refugees. The undocumented live a shadow existence, fearful of being found out and returned home. These people are willing to work but can find little work since the Immigration Reform and Control Act of 1986 prohibits employers from hiring illegal aliens. Most of the Salvadorans in my district arrived after January, 1982, and, therefore, are not eligible for legalization under the new immigration law. They say they have come to the United States to escape possible persecution and conditions of war at home and to find work. President Jose Napoleon Duarte of El Salvador has asked the U.S. Government to allow Salvadorans to stay here temporarily while his country works to overcome the effects of 7 years of civil war and the earthquake that left 300,000 people homeless last year. Many of these Salvadorans and Nicaraguans want to return home when conditions improve in their native lands.

In the ideal world, we would not have the problem of what to do with undocumented immigrants hoping to find a safe home for themselves and their families in the United States. We do, however, have this dilemma. The passage of H.R. 618 seems to be a humane answer to an emergency situation. It is in the best tradition of the United States. It is the sign of a magnanimous people who, in past years, have given "the homeless, tempest-tossed" a second chance. Let us give these undocumented Salvadoran and Nicaraguans a breathing space by passing H.R. 618.

Mr. UDALL. Mr. Chairman, the Central American region is in the grips of great civil and social strife. That strife is most evident in El Salvador and Nicaragua. In both countries, ongoing civil wars have uprooted hundreds of thousands. In both countries, innocent civilians have been caught in the crossfire. In both countries, there have been widespread human rights abuses.

In recognition of the problems that exist in Nicaragua, the administration recently suspended deportations of Nicaraguans living in this country. That decision has been widely applauded—I applaud it. But the very same reasons that compelled the administration to suspend deportations of Nicaraguans, should also compel us to suspend deportations of Salvadorans. Refugees from both countries have an equally genuine fear of returning to their homelands.

Some might say that an extension of voluntary departure status to Salvadorans in this country is an affront to our support for the Salvadoran government. I disagree. I have supported, and continue to support, President Duarte. I support his efforts to end the war and to curb human rights abuses. But it would be wrong and foolhardy to suggest that Duarte has been entirely successful. For despite our support of his Government, a civil war still rages on in El Salvador.

Death squads, while opposed by Duarte, still operate and threaten the lives of innocent civilians throughout the country. Disappearances, political killings and incidents of harassment remain an everyday experience for the people of El Salvador. Last year, there were over 1,700 political killings and disappearances and the toll of civilian deaths resulting from the war in El Salvador rose to 62,000. No one can doubt that political violence is more pervasive and widespread in El Salvador than it is in Nicaragua.

Study after study has found a strong statistical relationship between the level of political violence in El Salvador and the number of Salvadorans that migrate to the United States. If we are compassionate enough as a nation to suspend deportations of Nicaraguans, I think we are compassionate enough to do the same for Salvadorans.

The measure before us today is a temporary measure. It would grant extended voluntary departure to Salvadorans and Nicaraguans until such time as the GAO can determine both the political situation in El Salvador and Nicaragua and the fate of those refugees who have returned home. This measure will allow us more time to study the situation in these two countries. In the meantime, it will prevent the waves of deportations that are sure to follow if we do not act today.

We are not here to embarrass the administration. This is an evenhanded bill. It should command the support of both parties. At this critical time in the history of El Salvador it would be wise to heed the advice of Salvadoran Archbishop Arturo Damas. In a letter urging the suspension of deportations, he said: "We believe this extension is necessary today more than ever * * *. The massive return of illegal Salvadorans would not only disrupt what has been achieved with great effort, but revert to a worse situation." I urge my colleagues to vote in favor of this measure.

Mr. DURBIN. Mr. Chairman, the bill we are considering today, H.R. 618, will bring consistency to our immigration policies by establishing equal treatment for people fleeing equally violent conditions in El Salvador and Nicaragua.

Attorney General Meese recently announced that the administration was suspending deportation of Nicaraguans since their safety could not be guaranteed because of political instability in Nicaragua.

The administration has steadfastly refused to grant similar status to Salvadorans. They are fleeing from a country whose government is different in its political orientation but differs little in the violence that plagues its residents.

By suspending deportation of Salvadorans and Nicaraguans pending completion of a study of the fate of those already deported, this bill guarantees them equal treatment. Equally important, it ensures that our country is not put in the position of deporting people who legitimately fear for their lives if forced to return to their homeland.

A recent report by the General Accounting Office concluded that available data were not reliable or complete enough to prove the State Department's contention that there was no persecution of Salvadorans sent home from the Untied States. It found that some of the Salvadorans who have been deported have experienced "personal security problems" because of the unrest in that country. Under these circumstances, deportees' safety cannot be assured.

H.R. 618 takes a moderate approach in respecting this most basic human right. It does not grant permanent resident status to Salvadorans and Nicaraguans. Instead, it suspends further deportation until we can make sure that those who are returned will have no reason to fear for their lives if they are returned to their homeland. Those who are here now will be able to stay on a temporary basis.

The bill also specifies that those Salvadorans and Nicaraguans who are allowed to stay temporarily will not become public charges. The bill declares them ineligible for most kinds of Federal public assistance and permits States to deny them State and local public assistance. It grants them permission to work to support themselves so that they will have no need for public assistance.

I urge my colleagues' support for this important humanitarian bill. According to Elie Weisel, who has dedicated his life to the memory of those who died in the Holocaust because no refuge was provided them, "until ambiguities about current law and the situation faced by returnees in El Salvador and Nicaragua are clarified, we have a human and moral obligation to provide refuge to these displaced men, women and children."

Mr. OBERSTAR. Mr. Chairman, throughout its history, this country has provided a safe haven for people fleeing war and political persecution. In H.R. 618, we have the opportunity to continue that tradition by offering temporary sanctuary to refugees from El Salvador and Nicaragua.

The Salvadorans are especially in need of our help. The Reagan administration has not been responsive to their cries for justice. Because our Government officially supports the Government of El Salvador, we refuse to acknowledge their need for political shelter. On the other hand, our administration is quick to point out the hardships caused by the civil war in Nicaragua, and is more receptive to refugees from that country. I submit to you that the effects of war are neither capitalist nor Marxist, neither authoritarian nor democratic. Poverty, disease, devastation of crops, loss of home, injury and death of loved ones are the consequences of war for Salvadorans as well as Nicaraguans, and we can recognize that fact by passing this legislation.

Opponents of the bill argue that conditions are improving in El Salvador, and refugees should have no fear of returning. I answer that political killings and disappearances are still common in El Salvador, totaling over 1,700 last year. The civil war in that country has left, by some accounts, 1 million Salvadorans homeless, and last year's earthquake displaced an additional 300,000. Even President Duarte has asked the United States to suspend deportations to El Salvador.

Opponents of this bill say we would be creating a new layer of immigrants, and somehow circumventing the new immigration law. This is untrue. Refugees affected by this bill would not be given resident alien status. Their departure would simply be postponed until the General Accounting Office can complete its study of the situation. It also does not prevent the deportation of Salvadorans or Nicaraguans convicted of criminal activity or who normally would be excluded from this country by our immigration laws. Refugees who are granted the extended stay under this bill would have to sign a document agreeing to return to their home country by the end of the suspension period.

Opponents argue that this legislation would make our immigration policies country-specific, something which Congress sought to do away with in the Refugee Act of 1980. It is certainly not our intention to do away with immigration reform, and I do not believe this action would undermine either the Refugee Act or the new immigration law. This legislation is country-specific because the problem it attempts to address is country-specific. In addition, suspending deportations to certain national groups is neither unique nor unusual; 15 such groups have received this status over the past 25 years, including Poles, Afghans, and Ethiopians. The Salvadorans and Nicaraguans we are tyring to help with this bill face dangers every bit as great as those who have previously received such aid.

Finally, this bill would remove the double standard used by the Justice Department when deciding immigration cases involving Nicaraguans and Salvadorans. Refugees from Nicaragua are being invited to reapply if their earlier applications for asylum or deportation deferral had been denied. Salvadorans, however, are being systematically deported. Let us not play politics with lives. This bill would put refugees from both countries on an equal footing until the General Accounting Office and the Congress can more closely examine the issue and work with the administration to develop a more permanent, and let us hope wiser, policy.

The CHAIRMAN. The Chair would state that the minority has no time remaining, and the gentleman from Massachusetts [Mr. MOAKLEY] has 4½ minutes remaining.

Mr. MOAKLEY. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, we have come to the close of a long debate, and I will not take much time. Throughout the consideration of this bill I have been afforded the greatest courtesy and fairness by members of the two committees who support the bill, and not an ounce less by those who oppose it. I want, again, to thank them all.

Mr. Chairman, there is no political issue on the floor today. Some have claimed that this bill is intended to embarrass President Duarte. As the author of the bill, that saddens me, and I categorically reject it. Indeed, I would suggest that anyone who wants to support Mr. Duarte contact his government and ask point-blank how they hope today's rollcall will turn out.

However, the subject of today's vote, Mr. Chairman, is not President Duarte, and it is not President Reagan.

The subject of this bill is the men, women, and children who have fled from the war-ravaged lands of El Salvador and Nicaragua, and who have come to the United States seeking temporary safety.

I wish we could do more. I recognize that we cannot. However, Mr. Chairman, this bill is not aimed to meet the needs of Salvadorans and Nicaraguans. Rather it is meant to meet our responsibilities, not only to them, but to ourselves, and everything that is best in our tradition.

The bill makes no political statement. To a child pulled out of an American grade school, and deported to his homeland, only to have his leg blown off by a land mine, it is of small difference whose land mine it is. It may have been planted by a Sandanista or a Contra in Nicaragua. It may be the work of the Salvadoran militia or the rebels they fight.

All that matters to the family is the pain of the child and the tears of his mother.

All that matters to us, is that he was placed in harm's way by our Government, acting under law, to wrench him from the safety of this Nation.

The relief I propose is both very temporary and it is very small. It means a real human need, at almost no economic cost, with no violence to our immigration law and tradition.

However, Mr. Chairman, those who would press the administration's policy in Central America, and those who would oppose it, can both do so with a clearer conscience and cleaner hands, if today we resolve the fate of those, totally in our hands and our responsibility, on the side of compassion and caution.

Mr. Chairman, I urge the passage of the bill, and yield back the balance of my time.

□ 1820

The CHAIRMAN. All time has expired.

Pursuant to the rule, an amendment in the nature of a substitute consisting of the text of the amendment printed in House Report 100-234 shall be considered by titles as an original bill for the purpose of amendment under the 5-minute rule in lieu of the amendments now printed in the reported bill, and each title is considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Central American Studies and Temporary Relief Act of 1987".

The CHAIRMAN. Are there any amendments to section 1?

If not, the Clerk will designate title I.

The text of title I is as follows:

TITLE I—GENERAL ACCOUNTING OFFICE INVESTIGATION AND REPORT

SEC. 101. GAO INVESTIGATION.

(a) REQUIRING GAO INVESTIGATION ON DISPLACED NICARAGUANS AND SALVADORANS.—Within 60 days after the date of the enactment of this Act, the Comptroller General shall begin an investigation concerning displaced nationals of Nicaragua and El Salvador.

(b) DETERMINATIONS ON DISPLACED NICARAGUANS AND SALVADORANS IN CENTRAL AMERICA.—The investigation shall determine the following, separately, with respect to displaced Nicaraguans and with respect to displaced Salvadorans who are present in either Nicaragua, El Salvador, Honduras, Guatemala, Costa Rica, Belize, or Mexico, regardless of whether or not they are registered with providers of humanitarian assistance:

(1) The number of these displaced persons and their current locations.

(2) Their place of origin in Nicaragua or El Salvador and the period of, and reason for, their displacement.

(3) Their current living conditions, with particular attention to (A) their personal safety and the personal safety of those providing assistance to them, and (B) the availability of food, housing, and medical assistance.

(4) An assessment of (A) current efforts to provide food, medical assistance, housing, and other necessities and to secure personal safety for these persons, and (B) policies and procedures that reasonably could be implemented to assure more efficient and equitable distribution of this assistance.

(5) The impact of the ongoing armed conflicts in Nicaragua and El Salvador, respectively, and of the reaction to such conflicts by relevant entities and individuals, including the officers of the government or political parties in Nicaragua or El Salvador, respectively, on the matters described in the previous paragraphs.

(6) The impact of the enactment of the Immigration Reform and Control Act of 1986 (Public Law 99-603) on Nicaragua and El Salvador, including the number of Nicaraguans and Salvadorans returning to their respective countries, and the possible impact of such conduct on the capabilities of such countries to address adequately the returnees' employment, housing, and other needs.

(7) The impact of the 1986 earthquake in El Salvador on such country.

In making such investigation, the Comptroller General may use information available from United States Government sources, or information developed by private organizations recognized by the United States Government in the countries named herein (to the extent he determines that such information is reliable and useful). The Comptroller General shall use discretion in assigning personnel employed by the General Accounting Office to foreign countries in which their personal safety might be at risk.

(c) Determinations on Nicaraguans and Salvadorans Returned From the United States.—In the case of nationals of Nicaragua and nationals of El Salvador who have been required (whether through deportation, voluntary departure proceeding, or otherwise) to depart from the United States and who return to Nicaragua or El Salvador, the investigation shall assess—

(1) their condition and circumstances in Nicaragua or El Salvador upon return from the United States, with particular attention to any violations of fundamental human rights that have occurred upon their return to Nicaragua or El Salvador, and

(2) the extent to which these persons, upon their return, have become displaced persons within Nicaragua or El Salvador, the conditions of the camps in which such persons live, and the prospects for resettlement of such persons.

(d) Determinations on Nicaraguans and Salvadorans in the United States in an Unlawful Status.—In the case of nationals of Nicaragua and nationals of El Salvador, respectively, who are present in the United States in an unlawful status, the investigation shall—

(1) compare the situation in Nicaragua and El Salvador with the situation in other countries during periods when nationals of those countries have been provided administrative grants of extended voluntary departure under the immigration laws,

(2) describe the policies and procedures of the United States respecting the treatment of aliens (other than Nicaraguans and Salvadorans) in the United States in similar circumstances,

(3) describe the policies of all other countries in which Nicaraguans or Salvadorans have sought refuge as these policies concern the return of Nicaraguans to Nicaragua and Salvadorans to El Salvador, and

(4) assess their conditions and circumstances in the United States, with particular attention to the impact of unlawful status upon their treatment.

SEC. 102. REPORT.

The Comptroller General shall submit to the Speaker of the House of Representatives and the President of the Senate, not later than 2 years after the date of the initiation of the study under section 101, a report on such study, including detailed findings concerning the items described in subsections (b), (c) and (d) of such section.

The CHAIRMAN. Are there any amendments to title I?

If not, the Clerk will designate title II.

The text of title II is as follows:

TITLE II—CONGRESSIONAL REVIEW

SEC. 201. REFERRAL OF REPORT, COMMITTEE HEARINGS, AND COMMITTEE REPORT.

(a) Referral.—The report, when submitted under section 102, shall be referred, in accordance with the rules of the respective House of Congress, to the standing committee or committees having jurisdiction over the subjects of the report, and the report shall be printed as a document of the House of Representatives.

(b) Committee Hearings.—Not later than 90 days of continuous session of Congress after the date of the referral of the report to a committee, in accordance with the rules of the respective House, the committee shall initiate hearings, insofar as such committee has legislative or oversight jurisdiction, to consider—

(1) the findings of the report,

(2) the appropriate steps that should be taken to provide assurances of personal safety and adequate, efficient, and equitable distribution of assistance with respect to Nicaraguans and Salvadorans who are displaced within their countries or who have fled to other countries in Central America,

(3) treaty obligations of the United States, humanitarian considerations, and previous practice of the United States respecting the treatment of aliens in similar circumstances, and

(4) whether it is appropriate to extend, remove, or alter the restrictions contained in title III.

(c) Committee Report.—No later than 270 days of continuous session of the Congress after the date of the referral of the report to a committee, in accordance with the rules of the respective House, the committee shall report to its respective House its oversight findings and any legislation it deems appropriate.

(d) Treatment of Continuity of Session.—For purposes of this Act, continuity of session of Congress is broken only by an adjournment sine die at the end of the second regular session of a Congress, and days on which either House of Congress is not in session because of an adjournment of more than 10 days to a date certain are excluded from the computation of the periods of continuous session of Congress.

The CHAIRMAN. Are there any amendments to title II?

If not, the Clerk will designate title III.

The text of title III is as follows:

TITLE III—TEMPORARY STAY OF DEPORTATION

SEC. 301. LIMITATION ON DETENTION AND DEPORTATION.

(a) Limitation.—(1) Except as provided in paragraph (2), the Attorney General shall not detain or deport aliens described in subsection (b) during the period beginning on the date of the enactment of this Act and ending 270 days of continuous session of Congress after the ending date for the 2-year period for transmittal of the report of the Comptroller General under section 102.

(2) Paragraph (1) shall not be construed to prohibit the brief interrogation of an alien under section 287(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1347(a)(1)) for the purpose of determining whether this section applies to particular aliens.

(b) Aliens Covered by the Limitation.—The nationals referred to in subsection (a)(1) are aliens who—

(1) are nationals of Nicaragua or nationals of El Salvador,

(2) have been and are continuously present in the United States since registering pursuant to subsection (c) of this section;

(3) who would be deportable only under—

(A) paragraph (1) of section 241(a) of the Immigration and Nationality Act (8 U.S.C. 1251(a)), but only as such paragraph relates to a ground for exclusion described in paragraph (14), (15), (20), (21), (25), or (32) of section 212(a) of such Act (8 U.S.C. 1182(a)), or

(B) under paragraph (2), (9), or (10) of section 241(a) of such Act (8 U.S.C. 1254(a)); and

(4) have registered with the Immigration and Naturalization Service, in accordance with subsection (c) of this section.

(c) Registration.—Within 180 days after the date of the enactment of this Act, an individual described in paragraphs (1), (2), and (3) of subsection (b) of this section shall register with the Immigration and Naturalization Service, as persons to whom this Act applies. Upon registering, an individual shall be granted employment authorization and shall be provided with an appropriate document which shall note on its face that the individual's employment authorization terminates at the end of the suspension of deportation period established under subsection (a) and shall indicate such date. Information obtained in carrying out this subsection shall be protected in accordance with section 245A(c)(5) of the Immigration and Nationality Act (8 U.S.C. 1255a(c)(5)).

SEC. 302. PERIOD OF STAY OF DEPORTATION NOT COUNTED TOWARD OBTAINING SUSPENSION OF DEPORTATION BENEFIT.

With respect to an alien whose deportation is stayed temporarily under section 301 during a period, the period of the stay shall not be counted as a period of physical presence in the United States for purposes of section 244(a) of the Immigration and Nationality Act (8 U.S.C. 1254(a)), unless the Attorney General determines that extreme hardship exists.

SEC. 303. ALIENS STATUS DURING PERIOD OF STAY OF DEPORTATION.

During the period an alien's deportation is stayed temporarily under section 301, the alien—

(1) shall not be considered to be permanently residing in the United States under color of law,

(2) shall not be eligible for any program of public assistance (furnished directly or through reimbursement) under Federal law, except for treatment for an emergency medical condition as described in section 1903(v) of the Social Security Act, and

(3) may be deemed ineligible for public assistance by a State (as defined in section 101(a)(36) of the Immigration and Nationality Act) or any political subdivision thereof which furnishes such assistance.

The CHAIRMAN. Are there any amendments to title III?

If not, the question is on the amendment in the nature of a substitute.

The amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. Gray of Illinois] having assumed the chair, Mr. Leath of Texas, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 618) to provide for a General Accounting Office investigation and report on conditions of displaced Salvadorans and Nicaraguans, to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Salvadorans and Nicaraguans, and for other purposes, pursuant to House Resolution 230, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. SWINDALL

Mr. SWINDALL. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. SWINDALL. I am, in its present form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

> Mr. SWINDALL moves to recommit the bill, H.R. 618, to the Committee on the Judiciary.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The motion to recommit was rejected.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SWINDALL. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 237, nays 181, not voting 15, as follows:

[Roll No. 286]

YEAS—237

Ackerman
Andrews
Annunzio
Anthony
Aspin
Atkins
AuCoin
Bates
Beilenson
Bennett
Bentley
Berman
Bevill
Biaggi
Bilbray
Boehlert
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Carr
Chandler
Clarke
Clay
Clinger
Coelho
Coleman (TX)
Collins
Conte
Conyers
Cooper
Coughlin
Coyne
Crockett
Daniel
Davis (MI)
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
Espy
Evans
Fascell
Fawell
Fazio
Feighan
Flake
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Gilman
Glickman
Gonzalez
Gordon
Gradison
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hamilton
Hammerschmidt
Hawkins
Hayes (IL)
Hertel
Hochbrueckner
Horton
Howard
Hoyer
Hughes
Jacobs
Jeffords
Johnson (CT)
Johnson (SD)
Jones (NC)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levine (CA)
Lewis (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Lujan
Luken, Thomas
Manton
Markey
Martinez
Matsui
Mavroules
McCurdy
McDade
McGrath
McHugh
McMillen (MD)
Mfume
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Moody
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murtha
Nagle
Natcher
Neal
Nowak
Oakar
Oberstar
Obey
Olin
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickle
Price (IL)
Price (NC)
Quillen
Rahall
Regula
Richardson
Rinaldo
Robinson
Rodino
Roe
Rose
Rostenkowski
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schneider
Schumer
Sharp
Sikorski
Skaggs
Skeen
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (IA)
Smith (NJ)
Snowe
Solarz
Spratt
St Germain
Staggers
Stark
Stokes
Studds
Swift
Synar
Tauke
Taylor
Torres
Torricelli
Towns
Traxler
Udall
Upton
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Weldon
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wortley
Wyden
Yates
Yatron

NAYS—181

Anderson
Applegate
Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bereuter
Bilirakis
Bliley
Boulter
Broomfield
Brown (CO)
Buechner
Bunning
Burton
Callahan
Campbell
Chapman
Chappell
Cheney
Coats
Coble
Coleman (MO)
Combest
Courter
Craig
Crane
Dannemeyer
Darden
Daub
Davis (IL)
DeLay
DeWine
DioGuardi
Dornan (CA)
Dreier
Duncan
Edwards (OK)
Emerson
English
Erdreich
Fields
Fish
Flippo
Frenzel
Gallegly
Gallo
Gekas
Gingrich
Goodling
Grandy
Grant
Green
Gregg
Gunderson
Hall (TX)
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Holloway
Hopkins
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Jones (TN)
Kasich
Kolbe
Kolter
Konnyu
Kyl
Lagomarsino
Lancaster
Latta
Leath (TX)
Lent
Lewis (FL)
Lightfoot
Livingston
Lott
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
Mazzoli
McCandless
McCollum
McEwen
McMillan (NC)
Meyers
Mica
Michel
Miller (OH)
Miller (WA)
Molinari
Moorhead
Murphy
Myers
Nelson
Nichols
Nielson
Ortiz
Oxley
Packard
Parris
Pashayan
Petri
Pickett
Porter
Pursell
Ravenel
Ray
Rhodes
Ridge
Ritter
Roberts
Rogers
Roth
Roukema
Rowland (CT)
Rowland (GA)
Saiki
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Sisisky
Slaughter (VA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauzin
Thomas (CA)
Thomas (GA)
Traficant
Valentine
Vander Jagt
Vucanovich
Walker
Weber
Whittaker
Wolf
Wylie
Young (AK)
Young (FL)

NOT VOTING—15

Akaka
Alexander
Boner (TN)
Dickinson
Dymally
Gephardt
Hubbard
Kemp
Levin (MI)
Lowery (CA)
MacKay
McCloskey
Rangel
Roemer
Schroeder

□ 1830

The Clerk announced the following pair:

On this vote:

Mr. Levin of Michigan for, with Mr. Roemer against.

Mr. ROWLAND of Georgia and Mr. JENKINS changed their votes from "yea" to "nay."

Mr. WILSON changed his vote from "nay" to "yea."

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. MOAKLEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 618, the bill, just passed.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Massachusetts?

There was no objection.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 3022, TEMPORARY PUBLIC DEBT LIMIT INCREASE

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-248) on the resolution (H. Res. 233) providing for consideration of the bill (H.R. 3022) to provide for a temporary extension of the public debt limit, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1414, PRICE-ANDERSON AMENDMENTS ACT OF 1987

Mr. PEPPER, from the Committee on Rules, submitted a privileged report (Rept. No. 100-249) on the resolution (H. Res. 234) providing for the consideration of the bill (H.R. 1414) to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents, which was referred to the House Calendar and ordered to be printed.

ORDER OF BUSINESS

Mr. BUECHNER. Mr. Speaker, I ask unanimous consent that the Moorhead special order agreed to today for August 4 immediately precede the Lungren special order on that same day.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

☐ 1845

A PROPOSAL TO MODIFY TREATY RIGHTS

The SPEAKER pro tempore (Mr. GRAY of Illinois). Under a previous order of the House, the gentleman from Wisconsin [Mr. SENSENBRENNER] is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, as a result of the impasse in negotiations between the Chippewa Indians and the State of Wisconsin, I have introduced legislation to help effect a compromise between these two parties.

On February 18, 1987, a legal decision was handed down in a case brought by various Chippewa Indians tribes, the so-called Lac Courte Oreilles Bands of Lake Superior Chippewa Indians [LCO] against the State of Wisconsin. The February 18 decision by Judge James Doyle's Federal court reinterpreted the treaties entered into with the United States by the tribes in the 1830's, 1840's, and 1850's when the tribes ceded large tracts of Indian land to the United States in return for guaranteed hunting and fishing rights on that land.

The Judge Doyle decision held, "that in 1837 and 1842, the Chippewa did not understand that their reserved usufructuary rights could be diminished or eliminated lawfully under those treaties unless a removal was properly ordered."

To date the case continues to be divided into two parts.

The first phase was decided on February 18 of this year, which liberally defined the range of hunting and fishing rights.

Judge Boyle found:

> Plaintiffs have the right to exploit virtually all the natural resources in the ceded territory as they did at treaty time. Subject to agreements they may reach with the State of Wisconsin or a unilateral action by the Congress, and subject to current and lawful State regulations they may exploit these natural resources anytime. Plaintiffs are not confined to the hunting and fishing methods their ancestors relied upon at treaty time. Plaintiffs may take advantage of improvements in the hunting and fishing techniques they employed in 1848.

Mr. Speaker, the second element of this landmark decision, of which I believe my bill will have the most impact, establishes the degree to which the State of Wisconsin may regulate these newly created rights under the February 18 order.

Since the Doyle decision, foot dragging has occurred in determining these new rights and responsibilities to the second element of the case.

Therefore, I have introduced legislation returning Wisconsin's relationship with her Indians citizens back to the pre-Doyle decision.

My bill states, "any off-reservation usufructuary right to hunt, fish, and gather granted to any Indian tribe by any treaty, law or executive order which may be exercised in the State of Wisconsin is hereby abrogated." This bill will have the effect of both overruling the holding in LCO Band versus State of Wisconsin and modifying the treaty question.

The U.S. Supreme Court in *Whitney* v. *Robinson,* 124 U.S. 190 (1888) ruled that where a treaty and a legislative act "are inconsistent, the one last in date will control the other * * *." Thus, acts of Congress passed after the date of the treaty control over the treaty terms.

The Supreme Court has reasoned that since treaties are equivalent to legislative acts, they can, like statutes, be repealed or amended.

Mr. Speaker, I take this action as an attempt to nudge two friends back to the negotiation table.

We have worked in good faith with all parties, and as Senator INOUYE, in a letter to Senator PROXMIRE and the Wisconsin delegation, said:

> If the State of Wisconsin chooses to adopt the course of a negotiated settlement, we would stand ready to work with the Wisconsin congressional delegation and the other parties to secure a congressional ratification of the agreement.

Negotiations continue, but as Judge Doyle pointed out:

> I do not ignore the obvious practical dilemma present in the ceded lands as of 1987. But that dilemma should be responded to by an effort to negotiate a new treaty.

In summary, Mr. Speaker, this legislation is directed to the negotiators, not the legislators. A decision must move forward and a compromise reached, in order to prevent further uncertainty over the rights and duties of both Indians and residents of Wisconsin.

In the words of Edmund Burke:

> All government—indeed, every human benefit and enjoyment, every virtue and every prudent act—is founded on compromise and barter.

I hope we see fit to heed Mr. Burke's advice.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois [Mr. ANNUNZIO] is recognized for 5 minutes.

[Mr. ANNUNZIO addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

REPORT FROM PHILADELPHIA

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GEKAS] is recognized for 5 minutes.

Mr. GEKAS. Mr. Speaker, we are reporting to you today from the floor of the Constitutional Convention in Philadelphia, PA. It is now July 28, 1787, and the delegates have taken a recess for a variety of purposes. One of the reasons is that they have relegated the duty of putting all the resolutions together for possible final action to a committee of detail, and that committee is functioning even though there has been a recess declared.

This gives us an opportunity to talk with some of the delegates on what is happening and what they perceive to be the problem that still faces this Constitutional Convention.

We talked with George Washington very briefly and he maintains that he is greatly worried about whether or not a success can come of this gathering because some of the people who supported the independence of the United States or the Colonies at that time are not now participating in this Convention for one reason or another. He deplored the fact that Thomas Jefferson and John Adams were not in the Continent let alone at Independence Hall, but were serving as ambassadors to London and to Paris respectively.

He also lamented the fact that Alexander Hamilton, one of the fire brands of independence, was not here even though he was a delegate. Why? Because he came here, he was dissatisfied with some of the proceedings and Hamilton bolted back to New York and was sitting on his hands, as it were, while some of these things were happening.

So General Washington does not have much optimism as he portrays it to us.

One of the most interesting characters though in this whole Convention setting aside Benjamin Franklin who to everybody is a character and whose words of wisdom many times have meant the difference between progressing on the delegation's work and not doing so, is his fellow Pennsylvanian James Wilson. Here is a lawyer who during the Revolution represented many Tories, of all things, in certain cases and profiteers in others, and was a lawyer of great stature known through the Colonies.

The last thing that would have been expected of him would have been for him to be the exponent of and the advocate of the people's rights in this Convention. Yet he is the leading exponent of having the people elect the Representatives, of having the people govern in every detail the future of their democracy. So he comes as a strange picture one of the most eloquent speakers and who even his fellow Pennsylvanians cannot recognize why he was even elected. He barely got through to become a delegate because people feared his aristocratic ways but as it turns out he is one of the fervent advocates of personal liberty and the success of this Convention.

James Madison is, even though there is a recess, taking notes and taking notes on the notes that he took and, therefore, we know that when this Convention is over with no matter what the result is we are going to have a full chronicle of what occurred during these days in Philadelphia.

We are reporting to you during this recess from the floor of the Convention in Philadelphia and even though this recess is going to last for some time we will come back with little anecdotes of some of the delegates until they return to action.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MACKAY] is recognized for 5 minutes.

[Mr. MACKAY addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

THREE NEW ADDITIONS TO THE BASEBALL HALL OF FAME

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. BOEHLERT] is recognized for 5 minutes.

Mr. BOEHLERT. Mr. Speaker, on Sunday, July 26th in that mecca of baseball, Cooperstown, NY, three of the greatest athletes of our time took their rightful place—one that was earned through exceptional performance over a sustained period of years—in that shrine reserved for the very best, the National Baseball Hall of Fame.

BILLY LEO WILLIAMS

CHICAGO, N.L. 1959–1974

OAKLAND, A.L. 1975–1976

Soft-spoken, clutch performer was one of most respected hitters of his day. Batted solid .290 over 18 seasons socking 426 home runs, hit 20 or more homers 13 straight seasons. 1961 N.L. rookie of year. 1972 N.L. batting champion with 333. Held N.L. record for consecutive games played with 1117.

1987 HALL OF FAME INDUCTEE

Born June 15, 1938, threw right handed, batted left handed.

MAJOR LEAGUE RECORD

Year	Club	League	Positions	Games	Home runs	Runs batted in
1959	Chicago	National	OF	18	0	2
1960	do	do	OF	12	2	7
1961	do	do	OF	146	25	86
1962	do	do	OF	159	22	92
1963	do	do	OF	161	25	95
1964	do	do	OF	162	33	98
1965	do	do	OF	164	34	108
1966	do	do	OF	162	29	91
1967	do	do	OF	162	28	84
1968	do	do	OF	163	30	98
1969	do	do	OF	163	21	95
1970	do	do	OF	161	42	129
1971	do	do	OF	157	28	93
1972	do	do	OF-1B	150	37	122
1973	do	do	OF-1B	156	20	86
1974	do	do	1B-OF	117	16	68
1975	Oakland	American	1B	155	23	81
1976	do	do	OF	120	11	41

Totals:

Years	18
Games	2,488
Batting average	.290
Home runs	426
Runs batted in	1,476

Championship Series

Games	3
At bats	8
Hits	0
Batting average	.000
Home runs	0
Runs battted in	0

All-Star Game

Games	6
At bat	11
Hits	3
Batting average	.273
Home run	1
Runs batted in	2

HIGHLIGHTS

1961—Named National League Rookie Player of the Year.

1968—Tied major league record for most home runs two consecutive games. Sept 8, 10.

1970—Established National League record for most games played consecutive (1,117 games from 9/22/63 to 9/2/70).

1987—Elected to Hall of Fame.

JAMES AUGUSTUS HUNTER

"CATFISH"

KANSAS CITY, A.L., 1965–1967

OAKLAND, A.L., 1968–1974

NEW YORK, A.L., 1975–1979

The bigger the game, the better he pitched. One of baseball's most dominant pitchers from 1970–76, winning over 20 five straight times. Compiled 224-166 mark with 3.26 ERA before arm trouble ended career at age 33. Hurled perfect game vs. Twins in 1968. 1974 A.L. Cy Young Award winner. 5-3 in 12 world series games.

1987 HALL OF FAME INDUCTEE

Jim "Catfish" Hunter, Born: April 8, 1946, right handed pitcher.

MAJOR LEAGUE RECORD

Year	Club	League	Wins	Losses	Earn run average
1965	Kansas City A's	American	8	8	4.26
1966	do	do	9	11	4.02
1967	do	do	13	17	2.80
1968	Oakland A's	do	13	13	3.35
1969	do	do	12	15	3.35
1970	do	do	18	14	3.81
1971	do	do	21	11	2.96
1972	do	do	21	7	2.04
1973	do	do	21	5	3.34
1974	do	do	25	12	2.49
1975	N.Y. Yankees	do	23	14	2.58
1976	do	do	17	15	3.52
1977	do	do	9	9	4.72
1978	do	do	12	6	3.58
1979	do	do	2	9	5.31

Totals:

Years	15
Games	500
Innings pitched	3,449
Wins	224
Losses	166
Percentage	.574
Strikeouts	2,012
Earn run average	3.26

Post Season Play

Championship series:

Games	10
Wins	4
Losses	3
Earn run average	3.25

World Series:

Games	12
Wins	4
Losses	3
Earn run average	3.29

All Star Games:

Games	6
Innings pitched	12⅔
Wins	0
Losses	2
Strikeouts	13
Earn run average	6.39

HIGHLIGHTS

1968—May 8—Perfect Game against Minnesota Twins.

1974—Cy Young Award.

1987—Elected to Hall of Fame.

RAYMOND EMMETT DANDRIDGE

NEGRO AND MEXICAN LEAGUES 1933–1948

Flashy but smooth third baseman defensively, a brilliant fielder with powerful arm. Offensively, a spray hitter with outstanding bat control. Played for Detroit Stars, Newark Dodgers, Newark Eagles and New York Cubans in Negro leagues and for Veracruz and Mexico City in Mexican leagues. American Association MVP in 1950 with .311, 11 home runs and 80 RBI's playing for Minneapolis Millers.

1987 HALL OF FAME INDUCTEE RAY DANDRIDGE

Born August 31, 1913, right-handed outfielder.

MINOR LEAGUE RECORD

Year	Club	Games	Hits	Home runs	Runs batted in	Average
1949	Minnesota	60	144	6	64	.362
1950	do	106	195	11	80	.311
1951	do	59	137	8	61	.324
1952	do	86	180	10	68	.291
1953	do	32	68	0	13	.268

NEGRO LEAGUE ALL-STAR GAME

Year	Team	At bats	Runs	Hits	Home runs	Average
1935	East	1	0	1	0	1.000
1937	East	5	2	1	0	.200

Dandridge's Negro leagues regular-season statistics are unavailable.

Mr. Speaker, these greats of baseball brought so much pleasure to so many millions of Americans over the years and I salute them.

Mr. DURBIN. Mr. Speaker, will the gentleman from New York yield?

Mr. BOEHLERT. I am happy to yield to my colleague from Illinois [Mr. DURBIN].

Mr. DURBIN. Mr. Speaker, I would be remiss if I did not add to the special order of the gentleman from New York the fact that a special award was given to a radio commentator from St. Louis, MO, Jack Buck, who has been the voice of the St. Louis Cardinals for so many decades and has become a national figure because of his sports commentary.

It is my understanding that he was enshrined in a separate part of the Hall of Fame, which is reserved for those who have distinguished themselves in the broadcast media. As far as I can remember, the voices of Harry Cary and Jack Buck were always the voices of baseball and after Harry Cary left, Jack Buck kept on that great tradition.

I am glad to join my colleague in his salute to the immortals of American baseball and I am glad Jack Buck's contribution to the game was recognized as well.

Mr. BOEHLERT. I thank the gentleman from Illinois for his comments. Jack Buck was indeed inducted, and he received a standing ovation from the thousands that were there assembled to pay tribute to those great Americans in the field of baseball.

TRIBUTE TO THE HONORABLE ROBERT N.C. NIX, SR.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. FOGLIETTA] is recognized for 60 minutes.

Mr. FOGLIETTA. Mr. Speaker, on June 21 this country lost not only a former member of Congress, but a "pioneer;" a man who joined distinguished service with quiet dignity.

Robert N.C. Nix, Sr., former Congressman from the Second District of Pennsylvania, passed away at the age of 88.

Robert N.C. Nix, Sr., was elected to the 85th Congress as the first black from the State of Pennsylvania, in a special election on May 20, 1958. He served until 1979.

Bob Nix's service in the U.S. House of Representatives was more than distinguished. He was cochairman of the United States-Mexico Interparliamentary Committee from 1968 to 1978. He was chairman of the International Relations Committee's Subcommittee on International Development, where he became a recognized authority on the Middle East and South Africa.

In 1977 Bob Nix was appointed chairman of the Committee on Post Office and Civil Service. He tended to his duties as chairman with the same vigor that he had shown when elected almost 20 years before. In fact, seldom in the history of the Post Office and Civil Service Committee had so many days of hearings been held, so much legislation been reported out, and so many oversight investigations pursued.

Bob Nix was a pioneer. He was born in an era when nothing came easy and he left his hometown of Orangeburg, SC, in search of education opportunities not available to blacks at that time in the South. He came to Philadelphia to attend the University of Pennsylvania School of Law. He was the first black to graduate from this institution, doing so with highest honors. He went on to become the first black elected to Congress from Pennsylvania.

As a friend of Bob's, I knew of his accomplishments. I also knew that his son was the chief justice of the Supreme Court of the Commonwealth of Pennsylvania. But it was not until his death that I was informed that Bob Nix was the son of a former slave. To me this separates Bob from the many success stories in this country. The son of a slave, the father a chief justice.

Robert N.C. Nix, Sr., was a man of exceptional accomplishment and compassion. He was a man of great idealism, a man who gave much to his family, his community, his profession, and to the U.S. House of Representatives. I am proud to have considered myself a friend of his.

Mr. TOWNS. Mr. Speaker, will the gentleman yield?

Mr. FOGLIETTA. I yield to the gentleman from New York.

Mr. TOWNS. Mr. Speaker, I join my colleague TOM FOGLIETTA in this special order to pay tribute to our former colleague, the Honorable Robert Nix.

Without a doubt, Robert Nix did more than just serve in Congress. He provided distinguished and exemplary leadership during his 20 years here, both as chairman of the International Relations' Subcommittee on International Development, and as chairman of the Committee on Post Office and Civil Service.

But his record of dedication and commitment in the Congress is just one example of Chairman Nix's outstanding career in public service. His skill as a gifted and articulate lawyer shined through during his service as special deputy attorney general of the Pennsylvania State Department of Revenue, and as special assistant deputy attorney general of the Commonwealth of Pennsylvania.

Bob Nix was actively and intricately involved in the Philadelphia community, working with the NAACP, the YMCA, and the Philadelphia Citizens Committee Against Juvenile Delinquency and its causes.

Chairman Nix was also a pioneer. He was the first black to graduate from the University of Pennsylvania School of Law, doing so with highest honors. He went on to become the first black elected to Congress from the State of Pennsylvania.

We can all be proud of Robert Nix. Let us learn from his example. Let us be encouraged by his courage and compassion. He was truly a trailblazer.

Mr. FOGLIETTA. Mr. Speaker, I thank my colleague, the gentleman from New York [Mr. TOWNS], for his remarks. I am sure they are sincerely appreciated by the people of the city of Philadelphia and the family of the late Congressman, Mr. Robert N.C. Nix.

Mr. GAYDOS, Mr. Speaker, when my friend and former colleague, Robert N.C. Nix, died earlier this month, he left behind a reputation for dedicated public service to the people of Philadelphia and the United States.

Bob Nix came to Congress with the skills of a successful lawyer who had established an excellent record first as a criminal lawyer and later as a special deputy attorney general for the Commonwealth of Pennsylvania. He put his well-developed legal skills to good use as the chairman of the Committee on Post Office and Civil Service and as a member of the Committee on International Relations.

During his years of work on the Committee on Post Office and Civil Service, he demonstrated his good judgment, commonsense, and wisdom. When he became chairman of that committee, he proved his leadership by guiding through two major pieces of legislation, postal reform and civil service reform, and under his guidance, the committee enjoyed one of its most active and productive periods.

Bob, was the first black Congressman from the Commonwealth of Pennsylvania, and he was active in the black political power movement from its early stirrings 50 years ago until he passed away.

Just before he came to Congress in 1958, a Philadelphia newspaper columnist wrote, "The selection of a black representative and the manner in which the eventual winner will conduct himself will build up or tear down for years to come the standing of the colored citizens." There is certainly no doubt that his two decades in Congress helped improve the public image of all black Americans.

When Bob Nix left Congress in 1978, he went out with fanfare and praise from his colleagues who served with him, myself included. Again today, I pay tribute to his abilities as a legislator and an exceptional man, and I express my grief at his absence. I am proud to have served with him for 10 years, and I would like to express my deepest sympathy to his family, for he will be sorely missed by all who knew him.

Mr. STOKES. Mr. Speaker, I would like to thank my distinguished colleague, Mr. FOGLIETTA, for reserving this time to pay tribute to one of the great leaders of this Nation—the late Robert N.C. Nix. With the untimely passing of our former colleague and good friend, we lost a compassionate and committed human being.

Although I had not met Bob Nix when I came to Congress in 1968, I had heard a great deal of him through other lawyers and particularly those who practiced criminal law. During our service here in the House we had many long discussions about the practice of law and his eminence as a trial lawyer. Bob was one of the senior Members of this body who took a special interest and liking to me and gave me a lot of good advice.

During his 20 year tenure, he represented the Second Congressional District of Pennsylvania and our Nation well. He served as a member of the United States-Mexico Interparliamentary Committee, the Foreign Affairs Committee and as a Congressional Representative to the United Nations.

Near the end of his congressional career, Bob was named chairman of the Committee on Post Office and Civil Service. As chairman, he supervised one of the active periods in this committee's history, engineering the first modern, comprehensive revamping of the civil service system.

I always loved to hear Bob speak on the floor of the House. His speech always portrayed the keen analytical and logical mind he possessed and it was punctuated by his deep and resonant voice. He delivered one of his greatest speeches on the House floor in defense of Adam Clayton Powell during congressional impeachment proceedings. The strength and brillance of Bob's oratory is still abundantly evident when we read that portion of the CONGRESSIONAL RECORD today.

Just recently, Bob had the honor of seeing the Federal Courthouse at Ninth and Chestnut Street in Philadelphia dedicated the "Robert N.C. Nix, Sr. Federal Building and Post Office." It will stand as a lasting monument to this great leader.

While I had not seen Bob since he left Congress, I have many fond memories of him. He was a very fine man who distinguished himself both as a lawyer and legislator. I deem it an honor to have been his friend and his colleague.

Mr. Speaker, I join my colleagues in extending my sympathy to Bob's family. He will be sorely missed.

Mr. HORTON. Mr. Speaker, I rise today to pay tribute to an ex-colleague of ours, Robert N.C. Nix, Sr., who died last month in his home town of Philadelphia. As a Member of Congress who served with him from 1963 to 1978, I have many fond memories of Bob. His years of service and dedication to his constituents were exemplary.

Bob had the distinction of becoming Pennsylvania's first black U.S. Representative, when he was elected in 1958 to fill an unexpired term. He served the people of Philadelphia for a full two decades, leaving the House after a narrow loss to our colleague Bill Gray in the Democratic primary race of 1978.

Bob served as a senior member of the House Foreign Affairs Committee throughout his career, and was elected chairman of the House Post Office and Civil Service Committee toward the end of his career. He was born in South Carolina and graduated from high school in New York City. Following high school, he spent his collegiate years in Pennsylvania, attending Lincoln University for his undergraduate degree and the University of Pennsylvania for his juris doctor degree.

Prior to serving in Congress, he was a lawyer with the State revenue department and a special assistant deputy State attorney general. He was a lawyer in private practice and became politically involved as a Democratic ward committeeman.

I was always a great admirer of Bob Nix. His dedication to the causes in which he believed was unsurpassed among his peers; I know I speak for many Members, both past and present, when I say that Bob Nix gave his heart and soul to this chamber. His presence here was an inspiration to the many Members who had the opportunity to work with Bob.

Mr. Speaker, my wife Nancy and I join Bob's son and the rest of the Nix family in their sorrow. Bob will be missed by so many who were graced with his presence.

Mr. DELLUMS. Mr. Speaker, I rise today to honor the memory of my former colleague, Robert N.C. Nix, Sr., of Pennsylvania, with whom I served in this House for 8 years.

When I first came to the Congress in 1971, Mr. Nix was already an elder statesman in the national black community. Born in Orangeburg, SC, some 88 years ago, he made a career of breaking barriers and establishing precedents, just as his father had done at the University of Chicago. After working his way through Lincoln University with distinction, both in the classroom and on the football field, he then became the first black graduate of the Law School at the University of Pennsylvania.

After a lengthy career in local and State politics, in 1958 Mr. Nix became the first black elected to the U.S. House of Representatives from Pennsylvania, where he served for 20 years.

In 1971, in the collective commitment to promote the cause of civil rights and social justice, Mr. Nix joined with us to become a founding member of the Congressional Black Caucus. During the next 7 years he was an integral part of the CBC's effort to challenge the regressive and repressive policies of the Nixon administration that wreaked social and economic havoc among the poor and minority communities in this country.

Mr. Nix leaves behind an honorable record of service to his community and his country. My wife and our children join me in extending sincere condolences to his son, the current chief justice of the State Supreme Court of Pennsylvania, and to all members of the Nix family. He will be missed—and he will be remembered by all who knew him.

Mr. COUGHLIN. Mr. Speaker, I wish to draw attention to the passing of a distinguished former Member of Congress, a colleague from Pennsylvania with whom I served and a man who helped to break color barriers both in the field of law and in the U.S. Congress.

Robert N.C. Nix, the former Representative from the Second District of Pennsylvania, passed away on June 21 at age 88 following a lifetime of public service and achievement.

Congressman Nix was the first black elected to Congress from Pennsylvania and was the first black to be graduated from the University of Pennsylvania Law School in Philadelphia. Today his son continues that tradition of law and public service as chief justice of the Pennsylvania Supreme Court.

Bob Nix fought hard for his constituents, and became widely known for his determination to help the Second District.

At the same time, Congressman Nix gave substantial attention to world issues, serving as chairman of the Subcommittee on International Development of the Committee on International Relations. He was a recognized authority of South Africa and the Middle East.

Bob Nix was later named chairman of the Committee on the Post Office and Civil Service, a position he held for 2 years while shepherding through Congress many of the reforms of the Post Office and Civil Service systems.

The U.S. Congress lost a pioneer and a legend when Bob Nix left this hallowed institution. His city, State, and Nation have lost a true public servant. Bob Nix will certainly be missed.

Mr. WHEAT. Mr. Speaker, it is with sadness that I join my colleagues in tribute to former Congressman Robert N.C. Nix, Sr., who recently died following a heart attack.

Today, there are 23 members of the Congressional Black Caucus and its members serve as chairmen of 7 House committees and 18 subcommittees. All of us owe a debt of gratitude to those who led the way into the hierarchy of the House, enabling others to more easily follow. Congressman Nix was one of those pioneers.

Nix was the first black man from Pennsylvania to serve in Congress, and he served the Second District with distinction for 20 years. He rose to become Democratic chairman of the House Post Office and Civil Service Committee, at the time only the second black member to head a congressional committee. He also served on the Committee on International Relations and the Subcommittee on Africa while in Congress. His legislative priorities included emergency antirecession legislation, the full employment bill, national health insurance, and antitrust legislation.

A graduate of the University of Pennsylvania Law School, Congressman Nix was formerly a special State deputy attorney general working in the Department of Revenue, and later, a special assistant deputy attorney general for the Commonwealth. One of the architects of the modern black political structure in Philadelphia, Congressman Nix was initially elected 44th Ward executive committeeman in 1932. Although he retired from active political life after leaving Congress, Congressman Nix's name carried weight in Philadelphia politics until his death.

His father was born into slavery, and today, Congressman Nix's son sits as chief justice of the Pennsylvania Supreme Court. This pioneering politician stands as a bridge between the past and the future for black Americans, never allowing us to forget the past, but demonstrating the vast possibilities of the future.

Mr. SCHULZE. Mr. Speaker, this past month, the House of Representatives lost a good friend. Robert N.C. Nix, Pennsylvania's first black U.S. Congressman, served the people of the Second District faithfully for over 20 years. He devoted his life to public service. As Bob's friends, we should take this time to reflect on his accomplishments as a legislator and as a pioneer for black people.

Bob Nix was a distinguished and dedicated Member of Congress. As the chairman of the Subcommittee on International Development of the Committee on International Relations, Bob devoted countless hours to national and international issues and was recognized as an expert on South Africa and the Middle East. Later in his outstanding congressional career, he became chairman of the Committee on the Post Office and Civil Service. Although Bob held this position for only 2 brief years, he oversaw one of the committee's most active periods of reform.

At one time, Bob Nix was the second most senior black Member of Congress. He remains one of only a few blacks in the Nation's history to have chaired a standing congressional committee. Indeed, many would claim that Pennsylvania was at its political peak during the years of Bob Nix's congressional service. Even after his retirement, he continued to have an impact on Philadelphia politics by remaining the leader of the city's 32d Ward.

Bob was an extraordinary man. His likeable personality attracted the many friends, including myself, that he had, but it was his determination and undying loyalty to the public, his race, and his fellow Members that earned him the respect and esteem that he so rightly deserved.

It was a pleasure and an honor to have known Bob Nix and I extend my deepest sympathies to his family and loved ones.

Mr. CLAY. Mr. Speaker, I am pleased to participate in this special order today to pay tribute to our former colleague, Bob Nix. We mourn his death but we celebrate his life and achievements. He certainly was a great statesman and gentleman.

Born in an era when nothing came easy, Nix left his hometown of Orangeburg, SC, to pursue educational opportunities in New York. At that time these opportunities were not available to blacks in the South. He moved on to Pennsylvania where he graduated from Lincoln University and then from the University of Pennsylvania School of Law, with highest honors. He then became a distinguished criminal attorney in Philadelphia.

Bob Nix came to the House in 1958 where he remained for some 20 years. Congressman Nix paved the way for blacks, such as myself, who came to Congress after him. Mr. Nix was instrumental in working with us in establishing the Congressional Black Caucus to address the needs of black people by setting a black political agenda. This was in 1969 when there were only 13 black Members of Congress.

I also had the opportunity to work with Bob Nix on the Post Office and Civil Service Committee. There he rose to become its chairman—the first black to hold that position. Though we may not have agreed on all aspects of the civil service reform bill that came before the committee during his chairmanship, I admired his tenacity and his fairness in guiding the legislation through the Congress.

On the international side, he wielded considerable influence as a senior member of the House International Relations Committee.

His politics were those of quiet diplomacy. In his own way he got things done. I am sure I speak for all my colleagues in saying Bob Nix will be sorely missed.

Mr. YATRON. Mr. Speaker, it is a tremendous privilege to be able to participate in today's special order honoring our late colleague, former Congressman Robert N.C. Nix. Bob Nix's life was dedicated to championing fundamental civil and human rights and the dignity of mankind. He was an outstanding leader in the House of Representatives and he exemplified the virtues of kindness and compassion.

I was privileged to serve with Bob Nix for a number of years. He was a ranking member of the Foreign Affairs Committee, serving with great distinction on the committee and as Congress' U.N. representative. As cochairman of the United States-Mexico Interparliamentary Committee, he had a significant impact on United States relations with Mexico. His work on the committee's annual conferences furthered our understanding and knowledge of our southern neighbor and his diplomacy and goodwill advanced our interests and strengthened the comity between our nations. Bob's chairmanship of the Post Office and Civil Service Committee led to a landmark civil service reform that went a long way toward modernizing the Federal bureaucracy. Bob Nix was also a champion of the underdog and an early advocate of consumer rights. He represented the citizens of the Second District of Pennsylvania with the utmost dedication and sense of responsibility and he fought to improve the lives of all Americans.

Congressman Nix ranks among the most respected and admired Members of our distinguished Chamber. He was a caring and compassionate man and a tremendous political leader and public servant. Mr. Speaker, I know I join with my colleagues in extending deepest sympathy to Bob's son, the Honorable Robert N.C. Nix, Jr., and all the members of his family.

Mr. DIXON. Mr. Speaker, it is with great sadness that I join my colleagues in mourning the passing of Robert N.C. Nix of the Second District of Pennsylvania.

First elected in 1958 as a Member of the 55th Congress, Mr. Nix came to Congress as a pioneer, the first black Representative from Pennsylvania. He joined only three other black Members serving in the House at that time, long before the formation of the Congressional Black Caucus.

Mr. Nix brought to Washington his extensive experience in city and State government, including his service as a city committeeman from Philadelphia's 44th Ward; as an officer in Pennsylvania's Department of Revenue; and as special assistant deputy attorney general of the commonwealth.

During his tenure of 20 years Mr. Nix served with distinction on the House Merchant Marine, Veterans' Affairs, and Foreign Affairs Committees. He rendered his most distinguished service as the chairman of the Post Office and Civil Service Committee, where he was the driving force behind important postal service and civil service reform legislation.

I regret that, as Mr. Nix completed his term of service just as I was beginning mine, I did not have opportunity to serve with him in Congress. The mark of his presence, however, as one of the first black committee chairman in the House, remains to inspire and challenge all of us who have followed him.

GENERAL LEAVE

Mr. FOGLIETTA. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on the subject of my special order this evening.

The SPEAKER pro tempore (Mr. JOHNSON of South Dakota). Is there objection to the request of the gentleman from New York?

There was no objection.

Mr. MILLER of California. Mr. Speaker, will the gentleman yield?

Mr. FOGLIETTA. I yield to the gentleman from California.

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THE REAGAN RECORD ON CHILDREN

Mr. MILLER of California. Mr. Speaker, I thank the gentleman for yielding and I appreciate his remarks about our former colleague, Mr. Nix.

Mr. Speaker, every Member who serves in this Chamber has said, at some point in his or her career, that "children are our Nation's most important resource."

And that is true. The future of this Nation, our economic strength, our military security, our growth as a society—all are dependent on our future generations.

But it takes far more than words to safeguard the future. It takes more than homilies to assure that our children have the quality of life, the resources, the education and training, and the services that are essential.

It was not that long ago that many Americans had an idyllic image of what they thought the normal family ought to look like: Two parents, a full-time, at-home mother and an employed father, a quiet neighborhood, good schools, and a Horatio Alger-like faith that the opportunities and the quality of life of the new generation would surpass those of their parents.

Some still have that simplistic image. Our President is one of those.

But it is just that: an illusion. And an illusion is a poor pretense on which to base public policy.

Today, families in America face a multitude of challenges, regardless of their economic status, their race, their composition, or where they live. Families in America face a daily litany of crises: Drugs, disabilities, homelessness, teenage pregnancy, AIDS, divorce, underemployment and unemployment, poverty, infant mortality, low birthweight, inadequate nutrition—and the list goes on and on.

There are those who believe that government has little role to play in addressing or ameliorating these crises. They argue that solution of these problems rests with the family, with the churches, with private charities.

Our President is one of those, too.

They are very, very wrong—and no one knows that better than the families, the churches and the charities which are overwhelmed by the unprecedented weight of the burdens facing America's children.

But for the past 7 years, those who view government as the problem, not the solution, have led this Government.

They have produced a track record of stunning indifference to the growing challenges that confront America's families, and America's children.

Ronald Reagan may have an economic bill of rights that spells out his image of what America should be. And we certainly share the general goals of reduced deficits, responsible spending, and economic growth.

But there is also a bill of attainder against this administration for its reckless indifference to the plight of millions of Americans who have sought compassion and encouragement from their government, and received indifference and scorn.

That sorry record has been reflected in the administration's budgetary policies of the past 7 years.

Seven years of deteriorating economic security for millions of American families.

During the first years of the Reagan administration, poverty among families with children rose by an astounding 37 percent. Among two-parent families, poverty rose by more than 50 percent.

Seven years of decimating vital programs that promote the health, the education, and the economic security of America's most precious resource, our people.

Seven years of preaching commitment to children, while subverting key programs that serve the most vulnerable, like: Throwing disabled people off supplemental security income, failing to support adequate services for children in foster care, opposing funding for the education for the handicapped program, and recommending cuts in the Women's, Infants and Children Nutrition Program despite administration studies that confirm its health benefits.

Seven years during which our Government's highest leaders have failed to initiate a single new effort to address the problems that plague the younger generations, and which will continue to compromise the potential of this society for decades to come.

Seven years of rhetorical concern for issues like halting the drug epidemic, only to be followed by budget proposals to slash the enforcement and education effort.

This is surely not the first time that America's children have faced indifference from the highest officials of our Government. It is not the first time that inadequate resources were directed to their education, their health care, and their sound development.

But it may be the first time that those services were denied them despite convincing—and undisputed—evidence that it is far cheaper to provide effective services for children now than to compensate in years to come.

It is not the first time we have lamented the high rates in infant mortality in some of our cities—rates far higher than in many underdeveloped nations.

But it may be the first time that, despite overwhelming medical evidence of the success of nutrition, prenatal screening, and maternal health programs, the Government has knowingly withheld support and watched us fall further from our target of reducing infant mortality.

It isn't the first time that a nation of jobless and homeless have camped in our cities.

But it may well be the first time that we have purposefully created a nation of homeless through the destruction of public housing and mental health programs.

The evidence gathered by the Select Committee on Children, Youth, and Families and other bodies of the Congress demonstrates that it is far cheaper to invest in success early in a child's life than to pay for failure throughout his or her life.

Yet, tragically, this administration—too often, the Congress has been complicitous—has chosen the road of failure and indifference, and the children have paid the price. And they will continue to pay the price long after we in this Chamber are gone.

CHILD POVERTY

We have thrown 2½ million children into poverty since 1979. Today, one-fifth of all children—12½ million Americans under the age of 18—are growing up poor, with all of poverty's attendant health, educational, and developmental consequences.

INADEQUATE HEALTH CARE

More than 350,000 poor children in America lost their access to health care because of program changes and funding reductions proposed by President Reagan and enacted by the Congress in 1981. Nearly 40 million Americans report they need health care, but have trouble obtaining it. And nearly 37 million Americans have no private or public health care coverage—a 31-percent increase since 1980. It should come as no surprise that the fastest growing group in America without health care is children.

Yet when we debated legislation last week to expand health care coverage for the elderly, who certainly need protection against catastrophic illnesses, once again the needs of families with severely ill children have been shunted aside.

CUTS IN BASIC SERVICES

Since 1981, we have cut support for programs that aid the economic and health security of lower income Americans—health care, social services, nutrition, housing, and legal services—by nearly $100 billion.

IGNORING CHILD ABUSE

While reports of child abuse have risen over 50 percent in the last 4 years, resources to combat this tragedy have risen by just 2 percent. Nearly 90 percent of reporting States tell us that resources to serve abused and neglected children have either declined or failed to keep pace with the increased reports of child abuse.

ABANDONING FOSTER CHILDREN

Inadequate services for foster children continue to expose hundreds of thousands to lives without permanent homes, at great cost to taxpayers; and meanwhile, this administration's only initiative was to recommend repeal of the foster care and adoption reform law enacted in 1980.

DENYING PRE-NATAL SERVICES

Nearly 25 percent of all children are born to women who received no prenatal health care whatsoever in the first trimester.

More than 12 percent of all teenage girls are already mothers, and each year, more than 1 million teenagers will become pregnant—one in four sexually active young women. Pregnancy is now the leading reason that young girls drop out of school, and four-fifths of all teen mothers never finish high school. They are twice as likely to depend on welfare for much of their adult lives.

In fact, 60 percent of all welfare spending goes to women who first gave birth as teenagers.

CHILDHOOD IMMUNIZATIONS

Over 40 percent of preschoolers are not immunized against one or more of the preventable childhood diseases like polio, whooping cough, diphtheria, measles, and mumps.

RETREAT FROM INFANT MORTALITY GOALS

Twenty-two of the thirty-four States with measurable black infant deaths in 1984 will not meet the U.S. Surgeon General's target figure for 1990. Thirteen States will not meet the overall infant mortality objective. At the current rate of progress, no State will meet the target for prenatal care—and 10 States are getting worse.

The administration's response has been to freeze the Maternal and Child Health Program at a time when 9 million poor and near poor children have no health care, and to reduce family planning assistance below the already inadequate level.

DESTROYING PROGRESS ON EDUCATION

Perhaps no failure will so certainly affect the future competitiveness of our Nation as this administration's retreat from a comprehensive commitment to educational excellence.

In program after program—student loans, college aid, chapter I education for the disadvantaged, bilingual education, and education for the handicapped—the Reagan administration has displayed its indifference to educational achievement.

Chapter I in 1985 was serving one-third fewer poor and disadvantaged children than in 1980; Federal spending as a percentage of total spending on handicapped education dropped by nearly half. Pell grants for low-income college students have risen about one-fourth as fast as tuition since 1980. And for 1988, the administration recommended total education cuts of 28 percent.

Nationally, one out of every seven students drops out of school. In some communities, half of all students fail to complete high school. The lifetime earnings loss from just 1 year's worth of school dropouts has been estimated at a quarter of a trillion dollars—a loss that translates into lost productivity, lost employment, and for Government, nearly $70 billion in lost tax revenues.

It is a sad illustration of the administration's duplicity on education policy that while exhorting us to greater science education, they embrace the teaching of creationism in science classes, and cut fundings for scientific research and training.

And it is a tragic illustration of the backwardness of their policies that they viewed providing tax credits to segregated schools as compatible with educational equity and excellence.

IGNORING YOUNG WORKERS' NEEDS

Those young Americans who have left school and are seeking employment have been no better treated by an administration which extols the virtue of work and economic self-sufficiency.

Teenage unemployment is more than double the national average, and black teens have consistently suffered a rate of nearly 40 percent. In addition to the 1.4 million officially unemployed teens are perhaps a similar number who have simply quit looking for work.

The implications of these dismal figures goes far beyond the cost of unemployment. Reduced job opportunity is related to rising crime rates involving juveniles and young adults.

Here, too, the response of the administration has been to defer addressing the crisis. Federal job training support has been cut by more than half during the Reagan years. The Summer Job Program provides employment to 25 percent fewer youths today than when President Reagan took office, despite huge increases in youth unemployment. The Job Corps, which has a proven record of promoting employment among hard core unemployed youth, was slated for a 50-percent cutback, and is only training workers at the same rate as 7 years ago.

And what have been the initiatives of the Reagan administration to address youth unemployment?

A subminimum, subpoverty slave wage for youth. Relaxation of the laws to protect young workers. Abandonment of decades-old safeguards against sweatshop labor, a notorious source of child labor exploitation. Not even the decency to require sanitation facilities in the fields so that young crop pickers and their parents would have basic health and safety protections.

Each and every one of those 19th century initiatives was turned around only because of vehement congressional pressure to stop the administration's policies.

This is the record of the Reagan administration on children and families. Their responses have been worse than misguided.

They have been ignorant. They have been malicious.

Those policies must be changed.

We have begun that process, over the past 2 years, in the Budget Committee by enacting a children's initiative which targets modest amounts of additional support to proven programs that save tax dollars and save children's lives, too.

I do not stand here tonight as an unequivocal advocate of the budget, but as an unequivocal advocate for children.

I do not believe that this year's budget sufficiently addressed the huge need of children in this society.

I do not believe that it truly reflects the belief that children are our greatest national resource, particularly when compared to the obscene levels of unfunded military spending increases which the budget included.

Our budget does include additional support for some key programs, and I would certainly hope that the authorization and Appropriations Committees of both Houses will incorporate that children's initiative into their legislative agenda for this year.

But the fact is that 1 day's worth of military spending—$800 million—would have fully funded our children's initiative for an entire year. Hundreds of thousands of at-risk children would have been provided better health care, better educational instruction, better nutrition, better job training, better child care and foster care services.

But because this administration, and to a great extent the Congress, too, cherishes bombers over babies, and an MX missile over an Rx for an infant's health needs, our budget shares many of the liabilities of the administration plan.

I must tell you that it causes me no partisan joy to stand here today and to tell you that our children have suffered over the past 7 years as they rarely have before. And it is a suffering which will cripple the potential of this Nation for many years to come.

We could do more, and we should do more. And if this Congress finds its conscience, we will do more—not only because it is right, not only because our humanity demands it of us, but because it is far cheaper in the long run to invest in success that to short-change our way into failure.

Mr. FOGLIETTA. Mr. Speaker, I yield to the gentlewoman from Louisiana [Mrs. BOGGS].

Mrs. BOGGS. I thank the gentleman for yielding.

Mr. Speaker, I commend the gentleman from California [Mr. MILLER] for bringing out these difficult problems with the poverty of children in America.

The gentleman, of course, is the chairman of the Select Committee on Children, Youth, and Families and I have the sensitive and sometimes very difficult and heartbreaking responsibility of chairing the Crisis Intervention Task Force of that committee.

Because of that, I wish the gentleman would indulge me, and the gentleman from Pennsylvania would also, so that I may give a few statistics about children and poverty in this country.

In 1984, which is the last survey that we have of completeness, 21 percent of all the children in America were under the poverty line and 52 percent of them came from families of female-headed households.

When we realize that the children who are under 6 years of age, of those, 23.4 percent are poor, and among those 51 percent of the black children are poor, we have the highest rate of this category since the category had been identified by the Census Bureau in 1970.

The number of poor children in this country has increased by 3.5 million between the years of 1979 and 1983. And although they fell by 520,000 in 1984, that was exclusively among white children, and it is still higher than it has been in 1979.

So it is not surprising that this happens when we recognize that the combined benefits from food stamps and from AFDC have fallen significantly in that time period. There is no way that you can have a family in poverty and not give them the kind of Medicaid, the kind of educational help, the kind of AFDC payments and food stamps and expect the children in those families not to live and die in poverty.

So I thank the gentleman from California for taking this special order and I thank the gentleman from Pennsylvania for granting me the time to congratulate the gentleman in the well and to tell him that I think the most important thing that we could do as a Congress is to point out to the people of this country that our children are at risk and that we must do something positive about it.

Mr. FOGLIETTA. I thank the gentlewoman from Louisiana.

I yield to the gentleman from California further.

Mr. MILLER of California. I thank the gentlewoman from Louisiana. She has been an amazing member of the select committee and a stalwart in this effort to try to improve the lives of all of our children in this country, along with her service on the Committee on Appropriations. But in the crisis intervention task force of the select committee, she has clearly witnessed the problems that we encounter when we wait until we get to a crisis with respect to the children's population, how much more expensive it is to deal with these problems when they become a crisis, how we could have, if we had chosen to, dedicated our resources and prevented so many of these crises. It is a difficult task force to participate in because you deal with a population of young people who it is hard to believe that some of them face the crises that we have looked at. Yet she has just year after year now been a stalwart in that effort.

Mr. Speaker, I thank the gentlewoman for that and thank her for participating this evening.

Mr. FOGLIETTA. Mr. Speaker, I yield to the distinguished gentlewoman from California [Mrs. Boxer].

Mrs. BOXER. I thank the gentleman for yielding.

I just really want to participate in a little colloquy with the chairman of the Select Committee on Children, Youth, and Families, Mr. Miller, just very briefly, because I think that what he said here this evening is very important. The essential messages that this administration, while saying it has been an advocate for the family, in essence coming into office on that premise, has really systematically done whatever it could be destroy the very programs that help that family stay together.

We all know it is a changing world. It is not the same kind of world it was when we were growing up. We have many more mothers and fathers having to work. It certainly brings to many families a challenge of getting the decent day care, the decent education for their children, and the problem of the latchkey children.

I guess if the gentleman in the well has made a contribution to this dialog through his committee it is that he has proven unequivocally that these programs that we care about are not just ideas that are put on a shelf but they are reality and they come into people's lives and they help people.

I would like to discuss one of those programs with the gentleman, perhaps, which is the Head Start Program. One of the things that really, truly shocks me is the fact that a tremendous proportion of eligible families are not using the Head Start Program.

The gentleman might remember and help me out with what these statistics are.

Mr. MILLER of California. We serve approximately 18 percent of those children who are eligible for the program. Obviously, that is a miniscule population, especially if we remember that this is President Reagan's and Nancy Reagan's favorite program. Yet what we have constantly seen is the number of children who have been eligible for this program, who have been served by the program has continued to drop.

Mrs. BOXER. It is an incredible number: 18 percent of those eligible in this country. Yet we spend so little on Head Start every year, something like $1.2 billion, if I remember correctly on the entire Head Start Program in this country. Compared to building one of those new battleships that comes in under that.

So here we stand, we know that this program works, we know only 18 percent of the young people are being served. Yet we see year after year this President's budget really not only in a freeze but a cut in this important area.

Mr. MILLER of California. I think the important thing about this and the tragedy is that of those children who participated in the head Start Program, we have now followed those children over a 20-year period, or a 25-year period and in a highly recognized and credible study what we found out was that those children who got the opportunity to participate in Head Start had much higher academic achievement, they used the remedial education system less than those children who did not participate and, they used the social services system less, they used the juvenile justice system less, they used the criminal justice system less, the unemployment system. In fact, those children are markedly different children from the children in the same neighborhood who did not get to participate.

What we found out is that each and every one of those children is far cheaper in terms of the expenditures of public funds. They become more stable, they have a higher rate of earning, a higher rate of educational attainment. That is the record, that is the record.

Instead what we do is we single out 80 percent of the children who are eligible and tell them they cannot participate in Head Start because we are not willing to fund it.

To fund it, the gentlewoman is quite right, roughly 1 day and a few hours of spending of the Pentagon budget would pay the entire year, 1 day would pay the entire year for Head Start in this country.

Yet we see efforts by this administration to continue to undermine Head Start. They are afraid to take the money out of Head Start, but they take it out of all of the support organizations and programs which have kept Head Start going. It is truly a tragedy when we see the dramatic difference in makes in those children's lives. It may be the single most important preventative action taken with respect to those children.

Mrs. BOXER. And if I may further comment on this to my chairman of the Select Committee on Children, Youth, and Families that what the gentleman says is so true. You are talking about prevention here, you are talking about investment in our children's future in order to prevent us from having to spend many more dollars later in order to intervene in the drug problems, the alcohol problems and all the problems that we have had hearings on that exist in a crisis situation.

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Mr. Speaker, I would like to make one final point on this, and then I will defer to the gentleman from Pennsylvania [Mr. Foglietta].

One of the things we did in the budget hearing which I thought was wounderful was that we had a whole panel on the Head Start Program, and what we found out was that it is not just a matter of the children being helped; it is a matter of the family being helped. We had men and women, mothers of children and fathers of children, testify before the Budget Committee that their lives were changed because, through their children, they were brought into a very positive type of environment and through their children they got the self-esteem that they needed.

So the program does so much more than just help the child. It helps the family. It sets the family straight. It is a tremendous program, and it is just one example of what the gentleman is talking about. It is an investment in the children that helps our society.

Mr. MILLER of California. Mr. Speaker, if the gentleman will yield further, the tragedy is that our failure to spend that money today means that it is already too late for the child who expects to graduate from high school in the year 2000.

Mr. FOGLIETTA. Mr. Speaker, I thank the gentlewoman from California and also the gentleman from California.

Mr. DURBIN. Mr. Speaker, will the gentleman yield?

Mr. FOGLIETTA. I yield to the gentleman from Illinois.

Mr. DURBIN. Mr. Speaker, I thank the gentleman from Pennsylvania, and I thank my chairman of the select committee for his participation in this special order this evening.

I would just like to add my comments in support of what the gentleman said this evening in the area of health care. This is a fact that I think most Americans are not aware of—the fact that among 20 industrialized nations in the world the United States ranked sixth in the 1950's on infant mortality, and yet today we are dead last among those industrialized nations. More children are dying in America at birth than in most other industrialized nations across this entire planet.

There is a real reason for it. It is not just a happenstance or a disease that has hit us. It is the fact that we are not putting the resources into health care, particularly in prenatal care. It is a real serious problem across the country. Most people think that the statistics relating to prenatal care and these high mortality statistics must be coming out of big cities—Chicago, New York, Los Angeles, and Boston. But in fact we find that the problems are just as serious, if not more so, in rural areas where we have a diminished capacity to provide this medical care.

I would give one example from my hometown of Springfield, IL, which has a neonatal care center, a high-risk neonatal care center for children, the tiny prenatal infants that are born and need special attention. Some of these children are born weighing 1 pound and 2 ounces, and they sit there in those tiny isolettes with doctors surrounding them, trying to save their lives and trying to bring them to the point where they can be self-sustaining.

I have come to find that 60 percent of the infants in those neonatal high-risk care centers are from the welfare mothers and the working poor mothers. That is no coincidence. The fact is that these women are mothers who cannot get in to see an obstetrician or a gynecologist because they will not care for them and the State and the Federal Government do not pay enough for their prenatal care.

So for those who are listening and saying, "This is another bleeding-heart cause, here we go again from the tax-and-spend crowd," let me tell you, folks, what a great investment it would be for us just in terms of dollars and cents to put the money into prenatal care. If we were to do so, let us just step aside from the human tragedy of it all and look at what it costs us. It costs $1,000 a day for that tiny prenatal infant to be watched over by doctors and nurses, and if that boy or girl is fortunate enough to live, many times they come out with mental retardation and they need special education teachers for the major part of their lives and they fail to meet the potential they might have. Then we see all the statistics the gentleman mentioned about the problems attendant with the lives that are harmed and marred and scarred by this experience.

Now, from a taxpayer's point of view, would it not have made more sense for us to invest the money in prenatal care and bring that baby into the world healthy and give that family the greatest gift you could give them, that healthy boy or girl that would grow up to become a productive member of our society?

Instead, for the last 6 years we have turned our backs on it and said we cannot afford it, that we have got to cut the deficit. We say we cannot afford to provide for prenatal care, but we will pay for it for generations to come. And I am not even mentioning the human tragedy involved in the loss of that child in terms of his potential and the tragedy and the heartbreak brought on to the family.

Mr. MILLER of California. Mr. Speaker, if the gentleman from Pennsylvania will yield further, I want to thank the gentleman for participating. I know we have had long discussions in fact in the select committee, and the committee is later, at the gentleman's request, going to be looking at the infant mortality question and the extension of services surrounding pregnancy. But the fact of the matter now is that we have 25 percent of all the children in this country being born to mothers who receive no neonatal or prenatal care in the first trimester, that most important time when we can bring a woman in and counsel her and tell her how to take care of herself and the baby that she is going to have. As a result of that, what we see is these dramatic runups in hospital costs and human tragedy.

The gentleman is quite right. Every time we look at this program, what we see is that the real savings for the Federal Government and for the taxpayers of this country is in the investment of those prenatal care programs. The National Institute of Health tells us that roughly for about $600 a pregnancy we could dramatically change the outcome of that pregnancy and dramatically reduce the chance of a low-birth-weight baby, the one that the gentleman talked about, has 40 times the chance of dying in the first year of life over a baby born of normal weight. But we do not do anything about it. We spend; we do not invest. We spend a thousands dollars a day trying to make up for that mistake. The gentleman has put his finger on it. This is an issue of hard economics. This is tough budgeting. This is a way that we can make our decision whether or not we want to invest in these children or whether or not we just want to spend money on the failures later on and spend and spend and spend.

I think that we see here is the scientific evidence. The medical evidence is very clear that if we make that investment, we forstall very, very expensive expenditures throughout the rest of that child's life. If we do not, that child is going to come back to us time and time again in need of services because they were deprived of that development during the pregnancy and immediately after the birth of that child.

Mr. Speaker, I thank the gentleman for his contribution to this whole debate.

Mr. DURBIN. Mr. Speaker, I thank the gentleman from California, and I thank my colleague, the gentleman from Pennsylvania [Mr. FOGLIETTA] for yielding.

Mr. MILLER of California. Mr. Speaker, if the gentleman will yield for just 1 minute, let me say that I would like to thank my colleagues, the members of the select committee and also the gentleman from Pennsylvania [Mr. FOGLIETTA] for his support in this special order.

I think the message is clear that this administration has chosen not to make a single investment in children in this country. In fact, what they have done is reduced it. We now find ourselves with nearly 37 million Americans with no private or public health care coverage. That is 37 million Americans without insurance. Interestingly enough, that is a 31-percent increase since this administration took office.

It should come as no surprise to the people in this country that the fastest-growing group of people in America without health care and coverage for that health care is children, and the question we now have to ask ourselves is, now that we have the knowledge, now that we have the studies, now that we have the scientific and medical evidence, are we willing to make the investment in our children that will pay us dividends many, many times over? In fact, what we now see is studies by the Reagan administration that suggest that with many of these programs, for every dollar we invest we save $3, and that is true of the WIC Program and the Head Start Program. We continue to save moneys that we otherwise would have to expend by doing it right the first time.

I think that is really the question, whether or not we can continue this tragic episode of denying America's children the kind of services that are necessary so that they can compete in the American society. All the discussions here and all the trade barriers and tariffs and taxes will not make America competitive if the next generation of children does not have the ability to compete effectively. When their brain development, their physical development, and their intellectual development are threatened at the moment of birth, we cannot really believe that we can compete in the world economy.

So this is a very tough economic decision that the Congress is going to have to make, because we cannot afford to lose 20 to 25 percent of our children prior to their graduation from high school, and we cannot afford to continue to have 12 percent of our teenage girls become mothers before they graduate from high school.

Mr. Speaker, I thank the gentleman from Pennsylvania [Mr. FOGLIETTA] for cooperating and yielding on his special order.

Mr. FOGLIETTA. Mr. Speaker, I thank the gentleman from California [Mr. MILLER].

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

[Mrs. BENTLEY addressed the House. Her remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. ROYBAL] is recognized for 60 minutes.

[Mr. ROYBAL addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

ACQUIRED IMMUNE DEFICIENCY SYNDROME [AIDS]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DANNEMEYER] is recognized for 60 minutes.

Mr. DANNEMEYER. Mr. Speaker, I take this special order this evening to continue with some information to my colleagues that I began about a week ago on the subject of what public health response the Nation can develop to the AIDS epidemic that we are dealing with today.

On that occasion I was reading in part from a statement delivered by Dr. Thereasa Crenshaw from San Diego in my home State, who has now since the last time I was privileged to be here been appointed as one of the members of the President's Commission on AIDS. I think she will make a fine contribution.

The reason I have been reading from the statement of Dr. Crenshaw is that I think it very succinctly establishes certain policy options that our Nation should be pursuing, and it certainly is information that my colleagues should have available to them.

□ 1930

On that previous occasion, Dr. Crenshaw made reference to altogether some 10 myths; and I left off or had begun on reading myth No. 9.

I will continue with my discourse with that myth No. 9.

Homosexuals are doing an excellent job of education and prevention. Follow their example.

The truth: In our major cities, the majority of homosexuals are infected with the AIDS virus. Many are still living like lemmings, more concerned about their sexual freedoms than their health.

Gay leaders are telling them that condoms are safe sex. Bathhouses and toilets and X-rated film houses are still well-attended.

Most of the sexual activity is unprotected sex. In San Francisco over 70 percent conservatively speaking of the homosexual community is already infected.

In Los Angeles it is 45 to 55 percent. In San Diego it is 35 to 45 percent. With numbers like these, how can anyone say that they are doing a good job of prevention?

Myth No. 10. The modes of transmission of the AIDS virus are known.

The truth: The recent blood splash cases demonstrate the inaccuracy of this statement.

The percentages and numbers in the "other" category confirm it.

There is still much to be learned about this epidemic. However, too many authorities in their effort to reassure a worried public overstate their case.

Major issues that have not yet been effectively addressed.

No. 1, perhaps the most important and the most difficult is the central nervous system impairment in AIDS patients that occurs sometimes before any other symptoms develop. Our entire political approach to the AIDS epidemic depends upon the judgment of the infected person not to knowingly or unknowingly infect others.

When the virus affects the brain, they cannot be expected to use good judgment. This reality must be confronted by politicians, physicians, and the lay public.

No. 2, airplanes are the most significant threat to society's survival. The ease and speed of world travel made possible by our modern technology makes this disease more dangerous to human beings than any other in history.

In the past, inconvenient modes of travel or the impossibility of travel to certain corners of the Earth ensured that even airborne plagues would infect a small segment of the infected race.

Now because of rapid travel, a disease that takes much longer to cause death that is not as acutely virulent as the plagues of the past is a great threat to the survival of the human race.

Common sense solutions:

No. 1, during the last 6 years, our society has done a remarkable job in funding research and treatment, and this must continue.

However, it has done a abysmally inadequate job of preventing spread of disease as proven by the numbers we now face.

Prevention efforts must take at least equal priority. Sex education on a massive scale must be implemented, not just talked about.

No. 2, the artificial distinctions between asymptomatic infections, ARC and AIDS, should be eliminated. For public health purposes, anyone who is infected, a confirmed antibody positive, is considered contagious and should be handled accordingly.

In order to stop the spread of this disease, it is essential that all forms of HIV infection be reportable to public health officials with confidentiality, but not anonymity.

No. 3, wide-range antibody testing on a voluntary basis for all segments of society, old, young, heterosexual, homosexual, child, adult, should be encouraged and mandatory. A routine testing should be implemented under special situations. Required testing is appropriate on admission to drug rehabilitation and alcoholic programs, on hospital admission, prior to marriage, with pregnancy, in prisons, for immigration and for health-care workers.

As we learn more, it may become appropriate to include other groups. Children should be tested on school admission prior to any required vaccinations.

No. 4, contact tracing to the fullest extent that manpower allows should be instituted.

No. 5, existing law, both criminal and civil, should be enforced in cases of infectional transmission to discourage this behavior.

No. 6, physicians should be required to inform sexual partners of someone who is infected, and existing laws that make this illegal or criminal should be eliminated.

No. 7, safe sex practices currently being recommended should be discarded in favor of clear and more accurate recommendations, such as there is no safe sex with an infected partner, only degrees of risk.

The only safe sex is sex with someone not yet infected. Do everything humanly possible to ensure that your partner is uninfected before establishing a sexual relationship, including blood testing as often as necessary, and the use of condoms and spermicides for at least a year, and/or until you are secure about your partner's trustworthiness.

No. 8, there should be counseling of all those who test negative about how to remain negative, and counseling of positives to prevent spread of disease.

Once infected, tough love measures should be employed.

These include the following:

Anyone infected with the virus should be advised not to have sex with anyone. The degree of risk involved with an uninfected person is unacceptable, and it is medically contraindicated for them to have repeated sexual relationships with someone else who is infected, for fear they will accelerate the progression of their own disease.

No. 9, promote celibacy for teenagers, exclusivity, monogamy, and trustworthiness for the sake of health.

If some groups encourage this behavior for moral reasons, do not object. The net effect is the same.

No. 10, recommend condoms in conjunction with spermicides in addition to, not instead of, these measures as a protection against the potential untrustworthiness of a partner, whether married or single.

They should be used in addition to testing, celibacy, monogamy, et cetera.

No. 11, it is critical that we get the civil rights issue into perspective, or we will all die a very democratic death. Protecting the civil rights of some while infringing on the civil rights of others is resulting in greater numbers of infected people.

Our society cannot let the exercise of the rights of someone who is infected cause someone else to become infected.

The civil rights issue has been adopted by those who are infected, while in truth, civil rights belongs to everybody, even the healthy.

We must protect the civil rights of the healthy as well as the civil rights of the ill.

No. 12, recognize that sexual behavior can change if the motivation is sufficient, and if public leaders expect and recommend it.

Death is a powerful motivator. Tell the public the whole truth.

The present message, clam down, do not panic, but do change your sexual behavior will not work psychodynamically.

To motivate sexual behavior change, one must alarm and concern people enough to motivate change, then calm them down with an action plan to demonstrate how they can stay healthy. Promote the concept of quality monogamy.

Many people confuse the terms monogamy and monotony. They are not synonymous.

It is important during this difficult time to make the best of what we have. Quantity sex is over, but quality sex is not.

Conclusions: Unless these issues are confronted and effectively implemented, there is little hope of stopping the spread of AIDS. The majority of people who are infected and contagious to others do not know it, and continue to spread the disease to others at a geometric rate.

While we argue about the magnitude of the numbers, they grow. Until the situation is corrected, all other measures are relatively meaningless.

Our Nation needs courageous and definitive leadership. Politicians will be judged as harshly for what they did not do as for what they did do.

It is your responsibility to change the course of this epidemic now, meaning we in Congress.

Without the support of Members of Congress, medicine and the public health system alone are inadequate.

The action or inaction that Congress takes will determine the course of history.

As previously indicated, I wanted to commend Dr. Crenshaw for her eloquent statement; and I commend it to my colleagues for today.

We should also reflect on certain steps that we can in Congress specifically take to prevent hopefully the spread of this disease to other people; and in that light, in that vein, I would like to explain to my colleagues just a little bit about how the health care system of this country operates.

When any of us complain of a disease or a health problem, normally we go to our family physician.

When we contact our family physician, he listens to our symptoms, prescribes medicine, hospitalization, surgery or whatever.

That contact between the physician and the patient is in strict confidence. It is nobody's business besides the doctor and the patient who has what disease in our country.

The family physician in truth is the first line of defense against the spread of communicable disease in America. That is true today. It was true 50 years ago. It was true 100 years ago.

That statement is true, except to the extent that any of us present to our family physician a case of what we call a communicable disease; and when the doctor finds a communicable disease in any of us, that confidentiality that exists between the doctor and patient is totally set aside, and by law that doctor is required to report that communicable disease to public health authorities.

That is in strict confidence, because again it is nobody's business at that point between the doctor and the patient and public health authorities as to who has what disease in our society.

This system of confidentiality has worked very well to control communicable diseases.

There are three policy reasons why we report communicable diseases to public health authorities.

No. 1, to get us statistical information on the size of the problem.

No. 2, to prevent the transmissibility to other people; and third, to cure the disease if we possibly can.

To give you an example of what type of diseases are reportable by physicians to public health authorities, I have a list of 58 of them in my State of California.

I will read some of them to give the Members an idea of the type of diseases that physicians are required to report to public health authorities.

AIDS, those who have fully developed AIDS since March of 1983 in California, and I suspect in most States of the Union have been reportable to public health authorities.

What has not been reportable are those with the virus, and it is this issue of reportability of those with the virus that has not yet developed into fully developed AIDS that the controversy has been developing about in this Nation today.

Bear in mind that each of those persons with the virus, are the free of any symptoms in the medical profession, they call it asymptomatic, and such a person is capable of transmitting that virus to another human on a transfer of bodily fluids.

To continue with the list of those diseases that are required to be reported:

Amebiasis; Anthrax; Botulism (all forms); Brucellosis; Chancroid; Cholera; Coccidioidomycosis; Conjunctivitis, Acute Infectious of the Newborn; Dengue; Diarrhea of the Newborn; Diphtheria; Disorders Characterized by Lapses of Consciousness; Dysentery; Bacillary; Encephalitis, Viral; Food Poisoning, Other than Botulism; German Measles (Rubella); Gonococcal Infections; Granuloma Inguinale; Hepatitis A; Hepatitis B; Hepatitis Non-A, Non-B; Hepatitis Unspecified; and so on.

Included in this list of 58 diseases are 6 that are commonly referred to as venereal diseases, syphilis and gonorrhea; and I make reference to those, because I think they provide a good guidepost as to how we should be proceeding concerning the control of those with the virus for AIDS that have not yet developed into full-developed AIDS.

Syphilis and gonorrhea, I think, are relevant to this struggle, because they present to us a historical pattern as to how we have dealt with the control of these communicable diseases in our society.

Then I believe that it is relevant to make the comparison between those with the virus and those that have syphilis and gonorrhea, because although the virus for AIDS is not exclusively a venereal disease, it is the main means by which the virus is transmitted from one human to another.

Historically, we have tested, as I have indicated, for syphilis and gonorrhea and required to be reported, and herein lies one of the great paradoxes of this whole epidemic in America.

Public policy requires today that a doctor report to public health authorities any one of us who presents to that doctor a case of a curable communicable venereal disease.

Indeed, with respect to a curable communicable venereal disease, such as syphilis or gonorrhea, we are required to conduct contact tracing; that is, public health officials, investigators, contact by telephone or in some cases by knocking on the door, if they cannot reach them on the telephone, the persons who have had contact with the communicable disease in order to prevent the transmissibility of that disease to other persons.

In my State of California anyone who has the virus for AIDS, is treated on a distinctly different basis.

☐ 1945

The virus for AIDS is a noncurable communicable venereal disease and the paradox in the law, and this really presents the total inconsistency of public health efforts so far to control it, is that at this point in our society, except in eight States of the Union which do require reportability for those with the virus, if a physician encounters a person with the virus for AIDS, he is not required to report that to public health authorities, and bear in mind that is a noncommunicable venereal disease; but on the other hand, if a physician encounters a person with a curable venereal disease, such as syphilis or gonorrhea, that physician is required to report that to public health authorities.

I do not think any public health official in America can, with a straight face, defend that inconsistency in public health policy.

I would just like to relate to my colleagues a little about the history of communicable disease. As early as 1878, Congress authorized collection of morbidity reports by the Public Health Service to establish quarantine measures for diseases, such as cholera, small pox, plague, and yellow fever.

In 1893, another act authorized the weekly collection of information from State and municipal authorities throughout the United States.

By 1925, over 60 years ago, all States began to report regularly.

Looking back at how this Nation handled the TB crisis, we can see the testing to detect the disease in its earliest stages was of utmost importance. Schools and other institutions eventually tested regularly for exposure to the disease. The New York City Health Department even came out with the first law against spitting in the streets.

In 1930, there were 213,000 reported cases of syphilis in this country.

By 1935, the total reported was close to 260,000.

In 1937, Dr. Thomas Peron, then Surgeon General, implemented wide scale testing and tracing programs to identify the infected.

Remember at that time, 1937, a cure still did not exist at that time for syphilis. I mention that because there are some that argue today, well, we should not require those with the virus to be reportable to public health authorities, because there is no cure for it. What is the purpose?

The point is that we required reportability for those with syphilis in our society at a time when we did not have a cure for it, that is, prior to the development of penicillin in 1937.

As a result of this extensive testing effort, reported and identifed cases of syphilis rose to over 575,000 by 1943.

Reports nose-dived to around 350,000 by 1945 as the result of pre-penicillin treatments. We had penicillin after 1945 to fight syphilis and cases declined even more dramatically, as you would expect when a cure was finally available; namely, the antibiotic known as penicillin.

But lest we think that a health policy of education and a cure alone were the only reasons for the decline in syphilis rates, take note that cases rose significantly between 1945 and 1947. Excerpts from a report by the American Public Health Association point out the absurdity of a distinction between a curable communicable venereal disease for which we require reportability and a noncurable communicable venereal disease, such as the virus for AIDS, for which we do not require reportability at this time.

In general, the following are applicable to all sexually transmitted diseases, that is, those that are curable communicable venereal diseases: serology should be included in the workup of all cases of STD, sexually transmitted diseases, and as part of all prenatal examinations; protection of the community by control of prostitution and in cooperation with social agencies, discouragement of sexual promiscuity, intensive case finding programs to include review of patients and the tracing of contacts; repeated mass serologic examination of special groups with known high incidence of STD, sexually transmitted diseases.

Those are the steps we historically have followed to control curable communicable venereal diseases, syphilis and gonorrhea among them.

I would submit it is a good indication of what policy we should be pursuing to control a noncurable communicable venereal disease, such as the virus for AIDS.

The American Public Health Association goes on to report that virtually all communicable diseases are reportable to local health authorities. Reporting is the cornerstone of all public health policies in dealing with communicable disease. If that statement is true, if reportability such as this list of 58 diseases that I read is the cornerstone of public health policy for communicable disease control in America, why is it that this Nation through its public health officials has not recommended that action to the States of the Union, and why has the U.S. Government not adopted that as a policy for itself?

This question that I have just posed; namely, why have our public health officials not taken routine customary ordinary steps to control this communicable disease, is the reason why the AIDS epidemic is a major political issue in America and will be a major campaign issue all throughout this land next year, not only by Presidential candidates, but by candidates seeking election to the United States Senate or the House of Representatives or to State legislatures around the Nation. The reason is that it is a major political issue, quite candidly, is that AIDS and the epidemic that is presents to we Americans is the first politically protected disease in the history of our Republic.

I will repeat that. It is the first politically protected venereal disease in the history of the Republic.

To give you an example of how ridiculous this protection of special status of nonaccountability of those with the virus for AIDS to the public health care system is in America, I would like to refer my colleagues to the ridiculous status of the law in my home State in California. In March 1985 the State legislature at Sacramento passed a bill called AB-403. The reason I think it is relevant for the people of America to consider what we are doing in California is that we Californians have 22 percent of the AIDS cases in the country, that is 22 percent of the approximately 40,000 AIDS cases. Eighty-eight hundred, a little better than half of those, have died.

We Californians have 22 percent of the 1½ to 3 million of those with the virus in the Nation. That is a lot of American people. We expect that all those with the virus will go on to manifest some impairment of their immune system in the next 2 or 3 years. The latest intelligence from our scientific experts is that almost all of those with the virus will go on to develop AIDS and die from that problem as the cause of their death.

To get back to AB-403: "No person shall be compelled to specify or to identify any individual who is the subject of a blood test to detect antibodies to the probable positive agent of AIDS."

It prohibits the disclosure to anyone without written consent.

What that means, and I will say it again, when a physician in California today encounters a patient with a curable communicable venereal disease, that doctor is required to report that person's name and address to the public health authorities. Contact tracing takes place. That is in confidence, as it should be. It is nobody's business besides the physician, the doctor and the public health authorities.

But as a result of this law in California, AB-403, if that doctor would report the existence of a person encountered in his or her practice as having the virus for AIDS in the human system, that doctor would commit a crime. The contrast is so profound it should not be ignored. If the doctor encounters a case of a curable communicable venereal disease, such as syphilis or gonorrhea, he is required to report it to the public health authorities. If, on the other hand, a doctor encounters a case of a noncurable communicable venereal disease, such as the virus for AIDS, the doctor commits a crime to report that.

People hear that and they immediately ask, "How in the world did something like that ever get into the statute books of any State in America, California or otherwise?"

The answer is quite simple. It is illustrative of the political clout of the male homosexual community in my State of California, and indeed the political clout of the male homosexual community across America, because the activists in that group have intimidated and prevented the public health authorities across America from taking the action that we should be taking in order to prevent the transmissibility of this virus to the rest of us who are unaffected in our society.

Quite candidly, it is a public health issue. It should be treated as a public health issue, that is, the steps we should be taking to deal with it, but any time that you propose alternatives on the public health side, they are inevitably going to have a contact with a group that has contributed 73 percent of the AIDS cases; namely, the male homosexual, such as reportability, the people in that group immediately protest and say, "We don't like the idea of any of us who have the virus being accountable to the public health care system. Therefore, we believe it is a violation of our civil rights for any of us to be reported to the public health authorities."

I do not remember any time in the history of this country when any of the persons with any of these 58 communicable diseases, a portion of which I have referred to previously, where the ACLU, the American Civil Liberties Union, was going to court or claiming that the revelation of the name of a person with a communicable disease to public health authorities was a violation of somebody's civil rights. The ACLU first picked up this cause when some of us in the public health life, or public legislatures of America, in this instance the Congress of the United States, recommended that steps be taken to treat this as a public health measure.

Senator Doolittle of Sacramento has introduced some legislation this year. SB-1000 was passed within the past 6 weeks by the State senate on a vote of 21 to 11 and it will be determined as to whether or not the State assembly will rescind AB-403 by making those with the virus reportable to public health authorities.

Another question that constituents ask, and some of my colleagues have asked me from time to time is, how did it come to be that our public health authorities have been intimidated? Why have we been reading so much in the media about the civil rights side of this issue?

I think it is appropriate to bear in mind as to how this came about. Reflect on the fact that in three cities of America we now have roughly 52 percent of the AIDS cases in the country; New York, San Francisco, and Los Angeles; in California, two cities, San Francisco and Los Angeles have about 22 percent of the cases. New York has about 30 to 31 percent, so those three cities in America have over half of the cases of AIDS in the country.

Tom Bradley, mayor of Los Angeles, Diane Feinstein, mayor of San Francisco, and Ed Koch, mayor of New York, all Democrats.

It has reached the point politically in America where a candidate for city council in those three cities has difficulty getting elected until that candidate makes their peace with the homosexual community.

Now, I do not quarrel with the right in the pluralist society of America for male homosexuals to organize themselves into special interest groups and to influence political decisions or to influence those who are elected to public office.

□ 2000

They have as much right to lobby for their point of view as anyone in our society. I am not mentioning this to indicate that I disapprove of their right in America to lobby for purposes they deem appropriate to advance their self interest. But I think we Americans ought to understand what is going on in our society so that we can better deal with moving the political system to the point where we can adopt measures that will treat this as a public health issue. We should understand that here in the House of Representatives there are currently 68 cosponsors of a measure that will amend the 1964 Civil Rights Act so as to treat and equate sexual preference as an enforceable Federal civil right.

Among that total of 68 are 65 Democrats and 3 Republicans.

Dr. Mervin Silverman, from San Francisco, who was the health officer of that city from the period of May 1983 until December 1984 is sometimes credited as the person who had shut down the bath houses in that city. The fact of the matter is that for most of that period of time, from May 1983, until December 1984, Dr. Silverman opposed closing down the bath houses. It was not until October 1984, that he finally ordered their closure and then he resigned from that job 2 months later.

In other words, Dr. Silverman was kicked and dragged screaming into the decision that he made to finally shut down the bath houses in San Francisco.

I mention this because in those three cities in America, San Francisco, Los Angeles, and New York, we find that in two of them much of what we Americans read on the printed page or what we see on the tube or what we see coming on the screen, the products of Hollywood, is essentially decided by half a dozen of those who work in the cities of New York and Los Angeles.

There was a recent book written on the subject of the media elite in America and among the media elite are workers on the New York Times, the Washington Post, the Wall Street Journal, ABC, NBC, CBS, and Public Broadcasting System and Newsweek and Time. Workers on these publications called the media elite were interrogated by psychologists in questionnaires as to their attitude on the issue relating to homosexuality. On a sampling of that group, 25 percent of those media elite people felt that homosexuality is wrong.

Contrasting that is a report of a survey produced by the Gallup organization very recently on the public at large, public opinion, July-August, 1987, whereby homosexuality is morally wrong, do you agree or disagree?

Mr. Speaker, 70 percent of the American people agreed with that statement. In other words, the media elite, the people that are writing the news stories, deciding what subjects we see on the evening news that we Americans watch on the tube, or the people working in the movie industry in Hollywood, CA, in the percentage of 75 percent believe that homosexuality is a moral life style, that it is not wrong; whereas the public is just the other way around.

So we Americans should not be particularly confused or bothered by the fact that so many people writing in the media today are treating this AIDS epidemic as a civil rights issue.

I am not saying that these members of the media elite are homosexual. Do not misunderstand me.

I am just saying they are sympathetic to the cause of changing the lifestyle, the cultural basis of America so that we Americans will accept and equate the homosexual lifestyle on a par with the heterosexual lifestyle.

I think that is a factor that we all over America should keep in mind when we read about what the news media wants us to think in terms of what we find in our morning or afternoon newspaper, or morning or evening newscasts, or what we see on the tube in the various scenarios that we are privileged to watch.

Mr. Speaker, I would like to bring this issue down to the House of Representatives where we serve. This Member from California has introduced eight measures so far in this Congress to deal with treating the AIDS epidemic as a public health issue. H.R. 2273 requires mandatory testing of certain high risk groups, including persons seeking a marriage license, persons convicted of prostitution, persons convicted to IV drug abuse, and persons between the ages of 15 and 49 who are admitted to hospitals versus being treated for venereal disease.

H.R. 2272 requires that infection with a virus be made a reportable condition.

H.R. 338 makes it a crime to knowingly donate blood, semen, or organs if a person has AIDS or is infected with the virus.

H.R. 345 makes it a crime for persons to knowingly transfer bodily fluids.

H.R. 399 requires States receiving funds for education, treatment, counselling of AIDS victims to institute programs for tracing and counseling.

House Concurrent Resolution 8, an omnibus resolution, which recommends the States enact legislation that requires a blood test for AIDS before a couple may be married, require tracing and counseling of AIDS victims, encourage directed donation, permit nurses to wear protective gear, require health care professionals to have a negative test for AIDS, close down bathhouses, encourage school boards to educate children with AIDS outside the public classroom, and require all persons arrested for prostitution and IV drug abuse as well as those to be housed in a prison facility to undergo testing for AIDS for the presence of the virus.

I have a list of roughly 45 witnesses, distinguished and reputable members of academia, members of the public health profession, physicians in private practice who want to come to Washington, DC and testify concerning the necessity of this Nation adopting these bills or others that other Members may introduce to treat this as a public health issue.

Mr. Speaker, six of the eight bills that I have alluded to are now reposing in the Subcommittee on Health and the Environment, where I am a senior member, chaired by the gentleman from California, Mr. HENRY WAXMAN, of Los Angeles County.

On May 1 this year we held a hearing on a subject of testing confidentiality, and nondiscrimination. On that occasion, under the rules of the House, this Member from California submitted the names of five persons who I desired to call as witnesses. The rules of the House provide that a majority, the Democrats who run this House, are required to permit the five that the minority members recommend to testify. On this occasion two of those five were permitted to testify, Dr. Mason, and Tom Bernine.

The three that were not permitted to be called were Dr. Robert Redfield, Dr. Howard Liebman, an internist at the AIDS clinic at Boston City Hospital, and Dr. Charley Huggins, head of the largest blood bank in the Nation located at Massachusetts General Hospital.

Mr. WAXMAN told me on that occasion that Dr. Liebman and Dr. Huggins were not germane to that issue but that another issue would be held later in the month of May. Well, here it is almost the end of July and still no other hearing has been scheduled.

Mr. Speaker, in early June I informed members of the Energy and Commerce Committee that I planned to offer an amendment to the preventive health block grant bill which would require reporting of HIV positive persons to local health departments and contact tracing of the partners of infected individuals.

Would you believe that the bill that was scheduled to be heard in full committee was eliminated from the scheduled markup and has never reappeared?

There is another bill that was scheduled for consideration on the floor dealing with the definition of hazardous occupations. About 6 weeks ago I sent out a "Dear Colleague" letter to my colleagues in the House of Representatives indicating that this Member from California would offer an amendment to that hazardous occupation bill to make clear that the Secretary of Labor was to provide protection for health care workers in America so that they would be able to take protective action to protect their own health when dealing with AIDS patients.

Would the Members believe that that bill has disappeared from the agenda of the House of Representatives?

What I am saying is that there is a deliberate effort in the House of Representatives by the Democrats who control this body to prevent any of these measures that I have introduced or that other Members have introduced from coming to a hearing or permitting witnesses that we desire to have testify to be present in order to present their reasons as to why these public health measures should be adopted.

I previously wrote a letter to the gentleman from California [Mr. WAXMAN] asking him to appear at the special proceedings that I took about a week ago to discuss this matter. Unfortunately, he was not able to be present but I think he owes the American public an explanation as to why he has not sent any of these bills that I have introduced, or that the gentleman from Indiana, Mr. DAN BURTON, or other Members, for that matter, of the House relating to treating this matter as a public health issue, and I think that he has a responsibility to advise all of the Members of the House as to why he has not permitted individuals to come forward to testify as to actions that we should be taking to protect the public health of this country.

Some of us in our society are raising questions today about where the blame should be placed as to how this epidemic got started in our country, but before I get to that point I would like to just close my point about my friend from California [Mr. WAXMAN] by observing that it is my hope that sooner rather than later he will set the bills that I have introduced for hearing so that these witnesses can come forward to testify in Washington, DC, on this issue.

On the matter of accountability, or some of us pointing fingers at certain risk groups in America, such as 17 percent of the persons with AIDS in America are intravenous drug users or 70 percent of the persons with AIDS nationally are male homosexuals, there is a tendency on some of us I think to point our finger at one of those groups and say, well, they are the ones that have got us in trouble. They are the groups that are adversely affected.

The rest of us need not concern ourselves.

The fallacy in that argument is at least twofold. One, the incidence of the virus currently being reported in the heterosexual population of America, that curve line is just about where it was with the homosexual population 4 years ago.

Second, I think we Americans should recognize that there is enough blame to go around. The reason I make that statement is because of a reflection of what has taken place in our country during the course of the last 20 years, we could call it the sexual revolution.

What would we do if as a youngster growing up in America, say, in our early teens in the 1970's when we see the leaders of our society taking certain definitive steps that will affect human conduct? For example, in 1973 the American Psychiatric Association changed its assessment of homosexuality from abnormal to normal.

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Then in 1973 the Supreme Court handed down that infamous decision, Roe versus Wade whereby, on a split decision, we Americans were told henceforth, speaking from 1973 forward, we would have abortion on demand in our society, at least during the first two trimesters. The message from that is, "Not to worry, if you get pregnant get an abortion." Then in 1975 my State of California, roughly half the States of the Union in that same era repealed the law proscribing sodomy in America. The repeal of the law in California by the State legislature was under the leadership of Willie Brown, the speaker of the assembly from San Francisco, that sodomy was no longer illegal in the State of California.

From that act we Californians developed the bath house culture where anonymous, promiscuous sex took place in commercial establishments operating mainly in San Francisco, Los Angeles, and San Diego. One hundred or so of them grew and developed. Again, I ask the question if you are a teenager growing up in America in that era and you see distinguished members of the medical profession changing their assessment of homosexuality from abnormal to normal, if you see the distinguished leaders of the legal profession of the U.S. Supreme Court sanction abortion on demand and then you see your distinguished leaders of the State legislature repealing the law proscribing sodomy, what are you going to think? I think it is logical for any kid growing up seeing his or her elders conducting themselves in those terms, with the stewardship of power in the medical, in the legal, and legislative professions of our society is going to say, "There are no standards, there are no fixed standards with respect to the nature of a sexual relationship between a man and a woman. Anything you want to do is all right. There are no limitations. A little sex is good, a lot of sex is better."

Should we Americans be particularly surprised that as a result of this permissive philosophy, this sexual revolution, the violation or ignorance or denial of standards, that we have developed an epidemic in our country that some scientists say is species-threatening? Because the fear of some scientists is that this virus, although currently being transmissible mainly through sex, drugs or blood, can mutate in such a way so that it can be transmitted through the respiratory system as a main means of transmissibility.

I am not suggesting that that is a probability but it is a possibility and this is a real concern of researchers around the country.

We should recognize that the sexual revolution in America is over, that there are standards that govern the nature of the human relationship between men and women called the Judeo-Christian ethic. The elders of our society, including Members of Congress, members in the public health world, members of the medical profession should be saying to the people of America we affirm the heterosexual ethic as the foundation of our society, that God's plan for us is one man and one woman that come together in the family unit, and that is the basis of our society.

We should be saying that. We should affirm it, not out of an apology but just out of an assertion of the basis of the things in which we believe.

There may be those in our society today who reject the idea that there are moral standards that govern the nature of the human relationship in the area of sexuality. To those I make this observation: If you cannot bring yourself to accept moral standards or the nature of the conduct between humans in the area of human sexuality, the AIDS epidemic, I think, should make clear to all of us that we each have a public and profound health reason as to why a monogamous sexual relationship should be practiced if we want to reduce the possibility of getting AIDS in our society.

In concluding this special order, let me make this observation: The numbers that we are talking about are absolutely staggering. The loss of life that we Americans will experience from this epidemic, unless we find a cure—and the scientists are not hopeful on that at all, pray that we will but if we do not—by the year 1992 we are going to lose more American men to death from AIDS than this Nation lost in all of World War II to the category of killed-in-action. That is a little under 300,000 people. That is a tragic loss of life.

And that may be a low estimate.

But aside from the loss of life we have an impact on the health care delivery system of our Nation to appreciate where we are. Just the utilization of the health care facilities by the victims of AIDS in some cities of America, sooner rather than later, is going to totally overwhelm them. My State of California, Los Angeles, San Francisco, and certainly New York City are among those cities today where that statement is close to being true.

Aside from the impact on the health care delivery system, it is estimated that the cost of taking care of these AIDS victims is anywhere from $100,000 to $150,000 apiece. You do not have to be a mathematical genius to extrapolate $150,000 times 3 million people. You are talking about hundreds of billions of dollars as the health care cost of this impact in America.

Obviously, we are going to have to develop alternative methods of caring for these victims because quite candidly I do not think the health care system can continue as it is, nor do I think we taxpayers have the kind of resources to provide all the care that we can.

In addition, we are talking about paying for a drug known as AZT that costs $10,000 a year for each of these patients. It does not cure, but it prolongs life, which presents a very good ethical question for the people of this society. To what extent should we taxpayers provide for the cost of a drug that does not cure a terminal disease?

If we have the disease I suspect the answer is "give me that drug." Anyone who analyzes it and who does not answer in that way is not being honest with himself.

I am not sure there is an easy answer, but we need to discuss that as part of the dialog. But minimally, this Nation, the U.S. Public Health Service, should be adopting routine, customary normal responses historically pursued to control communicable disease in America: Reportability in confidence, testing persons in our society so that we have a handle on how or where the virus is localized in America and at what rate it is progressing. We should be making clear as a society that anyone with a virus who engages in conduct of transmitting the virus to other humans commits a criminal offense. We have not said that as a people, but we should be setting that standard for everyone to see and observe. We should say as a standard by law that any person with the virus cannot donate blood to the blood supply nor organs to the organ supply of America.

We have not as a people had the courage to say those things yet. And we should say it.

I am not naive enough to say that just by the passage of a law that it is going to make everyone obey it. That is not the point. If we were all angels in this world we would not need laws. But none of us are angels, we need laws to set standards so that people will be asked to observe them. We have not done that.

These are minimal steps that our society should be taking and it is my hope that early rather than late in this 100th Congress we will have an opportunity of debating this issue on the floor of the House.

On that point I can relate to my colleagues that because of the failure of Mr. WAXMAN to set any of my bills for hearing, not offering me an opportunity of offering amendments to other bills that would be germane to some of the amendments that I would like to offer, I filed a discharge petition which is at the desk today. I would commend the discharge petition to my colleagues so that they can sign it and as a result circumvent the Committee on Energy and Commerce where those measures of this Member from California are now gathering dust, so that we can bring them onto the floor of the House and debate them.

Let those who want to treat this as a civil rights issue stand up and defend their viewpoint on the floor of the House and let the American public know who they are, their reasons for pursuing that. Let those of us on the side of treating this as a public health issue have an opportunity of making our case and saying to the American public why we believe those measures of a public health nature should be adopted. That is the fair way, that is the honest way, it is the democratic way we should be proceeding in this country. It is truly a sad day that there are some in this body who are stonewalling any effort to deal with this issue as a public health issue and are attempting at this late point in the history of this epidemic in America and the world to treat it as a civil rights issue and in so doing place the rest of us who are healthy, who do not want the disease, at jeopardy for getting this virus.

We should recognize that even those who are healthy have civil rights not to get the disease.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. JOHNSTON of South Dakota). Under a previous order of the House, the gentleman from California [Mr. Miller] is recognized for 60 minutes.

[Mr. MILLER of California addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from New York [Mr. Fish] is recognized for 60 minutes.

[Mr. FISH addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Dakota [Mr. Dorgan] is recognized for 60 minutes.

[Mr. DORGAN of North Dakota addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Arkansas [Mr. Alexander] is recognized for 20 minutes.

[Mr. ALEXANDER addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

NATIONAL SUPERCONDUCTOR MANUFACTURING AND PROCESSING TECHNOLOGY INITIATIVE

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. Ritter] is recognized for 60 minutes.

Mr. RITTER. Mr. Speaker, in the past, America's strength was derived from our ability to take research results and produce innovative technological products for the world. However, the rest of the industrial world has learned how to capitalize on our Government's and our private sector's R&D investment—in many cases faster and better than us. In too many instances, the United States requires 3 to 5 years to commercialize developments that only take 1 to 2 years in Japan. While our Federal research and development organization has worked well for us in the past, there are signs that it is not sufficiently responsive today. With the advent of a global economy, with its instantaneous transfer of scientific information, with its powerful competition, it may be necessary for us to adjust the Federal Government's role in working together with the private sector in the race to both promote and commercialize scientific advances, in this case, superconductivity.

Since February the United States has been involved in what promises to be the technological race of the century. However, this race is proceeding with a new twist. Our country is leaving the starting gate at the same time as our competitors. In the past, the United States has either responded to tremendous challenges to catch up and surpass another country's efforts—such as the space program—or had developed an indisputable lead and was able to set the pace. That indisputable, decades-long lead was lost in steel, autos, consumer electronics, machine tools, and most recently semiconductors. Ironically, in the case of manufacturing semiconductors, industry and government are now responding after the cows are out of the barn—our long lead wiped out. With the United States and Japan beginning at the same time in the superconductivity race, we need to synergize our efforts in a dramatic and efficient way. We don't have the kind of vertical integration of our industry, the kind of low-cost, patient capital, the kind of tremendous skill in processing of bulk ceramics as our Japanese competitors. How well the United States competes might well determine the world leadership in the 21st century.

I'd like to discuss what we're up against. Several days after Professor Chu of the University of Houston announced his breakthrough in February, Japan's MITI established a consortium of government, industry, and university researchers to exploit the future applications promised by new superconducting materials. The latest word we have is that the Japanese Government and industry may be spending some $4 million a week on basic and applied superconductivity research, development, and applications—simultaneously.

MIT's Dr. Kent Bowen reports from a recent trip to Japan that the Japanese are so confident that they can capture and dominate the superconductivity field that the major materials, electronics, and cable companies do not even want MITI's help or involvement in this race. It's rather ironic that, according to Bowen's information, the biggest Japanese companies may be trying to wean themselves from MITI in this case. He feels this demonstrates that the Japanese are so strong in ceramics processing, and so capable of making long-term investments, that some of the big companies don't think they need their government's involvement.

It is difficult to say exactly what total volume of effort and dollars are going into the U.S. superconductivity program, government and commercial. Suffice it to say there is significant energy and enthusiasm out there. Some are working very hard with the available resources. But it seems apparent to many in industry that the rules of the competitive game may have changed and business as usual could mean a lost race.

Kumar Patel, director of research, materials sciences, and engineering for the Bell Labs at AT&T, said: "I have a fear about this. I am sensitive to the fact that we as a nation have done a lot about encouraging research and that we haven't done very much about engineering applications," which are responsible for pressing scientific finds into commercial products. Patel is among those who believe that only a coordinated industry effort led by the Federal Government can make America competitive in this race to commercialize superconductors. "I've been telling anyone who will listen. There are a number of us making noise. So we will be heard, at least," he said.

Art Sleight, Du Pont's research manager for advanced materials, said, "I doubt that this country can effectively compete with Japan if we don't cooperate with each other in ways that we haven't done in the past."

We have witnessed Federal agencies shifting gears and reprogramming funds into superconductivity research. In fiscal year 1987 the NSF will have spent approximately $6.6 million, the DOE about $11 million, and DoD about $11.5 million. I commend this quick response by our Federal agencies, but I am seriously concerned that we are witnessing an ad hoc response that is as yet inadequate. Also, the vast majority of Federal funding is for basic research. Very little Federal research money has been directed to the manufacturing technologies, key ceramics and processing technologies, etc. * * * the foundation which is so essential to developing commercial production capability of ceramic superconductors. At a recent conference of our Task Force on High Technology and Competitiveness which I chaired on this topic, it was repeatedly stated that those who dedicate themselves to "processing" will win this race.

Dr. Robert Laudise, of AT&T Bell Labs, said,: "Our competitive difficulties in traditional industries can be to a large degree explained by neglect of processing, of cultivating processing."

Dr. Alan Clark, of the National Bureau of Standards, said,: "There is fundamental research money * * * but nowhere is there a source of money to develop the commercial production capability. The essential components for rapid commercialization of this technology * * * is based on existing technology and the marriage of the superconductivity and ceramics industry * * * We need something like a Copper Oxide Valley instead of a Silicon Valley."

The greater cohesion of national effort must be started now by the private sector, our Federal agencies, national laboratories, and universities. Private industry is best able to identify research and development and manufacturing technology gaps that the Federal agencies should focus on—those areas beyond basic research which are key to the U.S. winning this race. Certain Federal agencies are adept at working with consortia of industrial players, and certain universities and Federal labs have the existing capabilities to, in the words of MIT's Kent Bowen, "focus, focus, focus," on the priorities as they are perceived.

I believe a coordinated "Team America" strategy is necessary. At a Task Force on High Technology and Competitiveness sponsored working-breakfast for key players in the superconductivity game we discussed a Team America strategy. Superconductivity researchers, along with key industry and Federal Government players got together to brainstorm and try to formulate an American strategy to best focus our resources, overcome technological hurdles, find out where we're weak and where we need to strengthen ourselves, and collaborate with each other across industry, government, and academia where appropriate and where necessary.

We need to find our own way to better capitalize on our resources. The Federal Government's approach must be updated to better coordinate and assist the work being done or the work that needs doing. Short term changes in the system can be made on the margin so as to maximize efficiencies already in place. Each of our Federal organizations—national laboratories, DOE, NSF, NBS, DARPA, etc.—have a specialty. We must exploit what they do best and adequately fund their endeavors out in the field.

While we build on our scientific and entrepreneurial strengths, we must right away remove remaining barriers to active industry collaboration and participation—this may mean changes in our antitrust laws and protecting U.S. process patents, to name a few.

As I noted earlier, the Task Force on High Technology and Competitiveness sponsored a conference on April 30, 1987, entitled "Breakthrough in Superconductivity: the Race to Commercialize." Here are some other comments from the conference which specifically relate to a U.S. superconductivity strategy:

Dr. Kent Bowen, of MIT: "I don't think we have enough time to create either new companies or new labs. We have an infrastructure in our Federal labs. We need to use those * * * We need to use available, in place at this moment, university research centers that already have the manpower. * * * I wonder about how we can get that thrust out of the diverse Federal support system that has in fact been described. We need short response time; we need people who will manage these kinds of large programs, coordinate, focus, focus, focus."

Dr. Brian Maple, of the University of California at San Diego: "I would like to see a parallel approach where one tries to develop the materials that we have now in whatever technological ways that they can be used, but in the longer view, to try to understand the materials * * * and try to fabricate materials with superior superconductive properties and good mechanical properties."

Dr. Hulm, of Westinghouse: "I think the national laboratories have excellent experience in superconducitivy and development of magnets. * * * but I think the important thing will be to make sure that that technology is transfered rapidly to industry."

Dr. Paul Chu, of the University of Houston: "* * * During this kind of concentrated focused research proposal I hope research for smaller units or individual investigators will not be neglected."

Dr. Praveen Chaudhari, of IBM: "Then we have another coupling that is missing, and that is the coupling that requires this development or this discovery to go into something which would be closely related to applications; that is, the engineering science that we have done. This is something we very loosely call material science and engineering and something we pay considerable attention to, but in my opinion not enough."

Following the conference, I began working with the White House to help foster coordination of those agencies working on superconductivity and encouraging administration leadership on this issue. The Office of Science and Technology Policy and DOE are today and tomorrow holding a conference on commercial applications of superconductivity. The breakfast meeting the Task Force held operated on the principle that a lot of what we're looking at should have been done yesterday. Quoting N. Nakahara of Sumitomo Electric, "One year in the past is one day now."

Mr. Speaker, the bill I'm introducing today, H.R. 3024 is the result of over months of work done by the House Republican Research Committee's Task Force on High Technology and Competitiveness. On April 30, 1987 the Task Force held a conference, entitled Breakthrough in Superconductivity: The Race To Commericalize, in which key representatives from academe, government and industry were present to discuss breakthroughs in superconductivity and discuss policy options. Participating at the conference were: Kent Bowen, Ph.D. (Massachusetts Institute of Technology), Praveen Chaudhuri, Ph.D. (IBM-T.J. Watson Research Center), Paul C.W. Chu, Ph.D. (University of Houston), Robert A. Laudise Ph.D. (AT&T Bell Labs), Frank Y. Fradin, Ph.D. (Argonne National Laboratories), Richard Harris, Ph.D. (National Bureau of Standards—Cryoelectronic Metrology Group), John Hulm, Ph.D. (Westinghouse), Brian Maple, Ph.D (University of California at San Diego), Neil Ashcroft, Ph.D. (Cornell University), Alan Clark, Ph.D. (National Bureau of Standards), and James L. Merz, Ph.D. (University of California at Santa Barbara).

The bill would establish a national superconductor manufacturing and processing technology initiative to be implemented by a newly created superconductivity manufacturing and processing technology coordinating council. Members of the coordinating council would include representatives from the Defense Advanced Research Projects Agency (DARPA), the Department of Energy (DoE), the National Science Foundation (NSF), the National Bureau of Standards (NBS) and the Department of Commerce (DoC). The initiative would include $50 million for DARPA, $12.5 million for the NSF, $12.5 million for DoE, and $5 million for NBS.

The coordinating council would be advised by a newly created national commission on superconductivity which would be coordinated by the National Critical Materials Council and include members from academe, industry and government.

Progressing with and applying scientific advances in superconductivity are among the most exciting challenges, the United States will face this century. Mr. Chairman, we have tremendous resources, which if combined in our own synergistic way, could awaken a sleeping giant and flex the scientific, technological and entrepreneurial muscle that is the envy of the world. Such a response could (happily) cause great consternation among our rivals.

H.R. 3024

A bill to establish a National Superconductor Manufacturing and Processing Technology Initiative, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Superconductor Manufacturing and Processing Technology Act of 1987".

SEC. 2. FINDINGS.

The Congress finds and declares the following:

(1) Recent discoveries of high-temperature superconducting materials could significantly increase the efficiency and utility in many applications involving the way electricity is used in such areas as microelectronics, computers, power systems, transportation, medical imaging, and nuclear fusion. As is the case with revolutionary scientific advances, most potential applications lie beyond our ability to predict them.

(2) The United States manufacturing industries are confronting strong competition in both domestic and world markets. Leading foreign industrial countries as well as emerging and developing nations are increasingly taking advantage of modern technology and production techniques, innovative management focused on quality, less expensive labor, and favorable government support to produce manufactured products which are competitive and often less expensive than products manufactured in the United States.

(3) United States competitors have learned to accelerate the development of new products based on United States Government and private sector research and development, in many cases faster and better then United States industries. Increasingly, these foreign products are produced using technologies and processes developed outside the United States.

(4) If the United States is to regain its competitive advantage, once enjoyed and unrivaled for decades, it must commit sufficient resources directed toward solving proc-

essing and manufacturing problems in parallel with basic research and development. The United States does not have the luxury of waiting for basic research and development to be completed before beginning this work. If it does, it will lose the race to commercialize superconductors. Thus, timely commercialization of scientific advances in superconductivity will be critical to the future industrial competitiveness of the United States.

(5) In the field of high-temperature superconductors, the United States and its competitors are attempting to commercialize a scientific advance with no nation having a significant headstart. This effort offers a model situation where the Federal Government can cooperate with industry to accelerate the applications of scientific advances. There is a great need to promote greater precommercial stage collaboration among United States industrial players and to reduce potentially wasteful duplicative efforts while simultaneously advancing the basic science and processing and manufacturing potential of high-temperature and superconductors.

(6) Federal agencies have quickly responded to this exciting challenge by reprogramming funds into basic superconductivity science and research and informally coordinating their efforts to avoid unnecessary duplication. However, there seems to be an insufficient commitment of Federal research money and effort directed to manufacturing, ceramics processing, and fabrication technologies, which are essential to develop in parallel with the basic scientific discoveries so that commercial production of high-temperature ceramic superconductors is facilitated once the scientific problems are solved.

(7) Currently, there is no civilian Federal agency which focuses mainly on processing and manufacturing research, technology development, and applications. Rather, these functions are supported on an independent basis and only to a minimum extent by several civilian departments and agencies, primarily the Department of Energy, the National Science Foundation, and the National Bureau of Standards.

(8) The Defense Advanced Research Projects Agency has a successful record of managing and coordinating programs for the development of technologies relevant to both commercial and defense industries, such as Strategic Computing, composite materials, phased-array radar, and for large-scale program management involving industry in manufacturing and processing. The Defense Advanced Research Projects Agency's program management expertise in coordinating industry, government, and academe in manufacturing and processing programs would greatly contribute to United States progress in commercializing superconductivity advances.

(9) The Defense Advanced Research Projects Agency is the appropriate agency to manage the majority of new Federal manufacturing and processing technology research and development, not only because of its experience and expertise, but because no other Federal agency has a similar capability, or could be established in a timely manner. If the United States does not now begin to research and develop new processes and manufacturing technologies relating to high-temperature superconductors, the United States will have wasted invaluable time that could put United States industries at a permanent disadvantage with foreign competitors. The Defense Advanced Research Projects Agency has the capability to begin much needed work immediately.

(10) The National Science Foundation has shown itself to be the Federal Government's leader in sponsoring individuals to do basic research in superconductivity at United States universities and, in general, in bringing about United States industry interactions with university programs such as Material Research Laboratories, Engineering Research Centers, and the new Science and Technology Centers. The National Science Foundation has a major contribution to make in a superconductivity initiative as it pursues answers to basic scientific questions critical to the eventual commercialization of high-temperature superconductors.

(11) The Department of Energy, particularly in some of its National Laboratories, offers significant capability in superconductivity research and development, and has both the personnel and the facilities to aid in commercializing advances in high-temperature superconductors.

(12) The National Bureau of Standards has developed collaborative programs with United States industry encompassing standards, measurements, sensors, materials properties, and other areas. The facilities and personnel of the National Bureau of Standards present significant potential for contributing to a nationwide superconductivity effort.

SEC. 3. PURPOSES.

It is the purpose of this Act, through the National Superconductor Manufacturing and Processing Technology Initiative—

(1) to complement basic superconductivity research by promoting the rapid development of manufacturing and processing technologies necessary for the commercialization of high-temperature superconductors;

(2) to promote collaborative arrangements and consortia of industry (including small business) which may also involve universities and independent research organizations;

(3) to coordinate the management of manufacturing and processing technology research and development programs conducted by the Defense Advanced Research Projects Agency, the Department of Energy, the National Science Foundation, and the National Bureau of Standards; and

(4) to augment basic and applied superconductivity research.

SEC. 4. NATIONAL SUPERCONDUCTOR MANUFACTURING AND PROCESSING TECHNOLOGY INITIATIVE.

There shall be established a National Superconductor Manufacturing and Processing Technology Initiative (hereafter in this Act referred to as the "Initiative"). The Initiative shall be implemented by the Defense Advanced Research Projects Agency, the Department of Energy, the National Science Foundation, and the National Bureau of Standards. These agencies, with the advice and assistance of the Coordinating Council established under section 5, shall coordinate their efforts to implement the Initiative.

SEC. 5. SUPERCONDUCTIVITY MANUFACTURING AND PROCESSING TECHNOLOGY COORDINATING COUNCIL.

(a) ESTABLISHMENT.—There shall be established a Superconductivity Manufacturing and Processing Technology Coordinating Council (hereafter in this Act referred to as the "Coordinating Council").

(b) FUNCTIONS.—The Coordinating Council shall—

(1) serve as a forum for the coordination of the Federal Government's activities with respect to superconductivity manufacturing and processing technology research and development;

(2) work closely with the agencies charged with implementing the Initiative under this Act, and with other Government agencies, private organizations, private industry, and universities, where appropriate, to formulate superconductivity applications research and development priorities, strategies, and agendas in order to best utilize American expertise in high-temperature superconductors;

(3) provide advice to the agencies charged with implementing the Initiative under this Act with respect to the establishment and management of the superconductivity programs of such agencies; and

(4) establish a private sector advisory body, drawn from members of the National Commission on Superconductivity established under section 7, to comment on—

(A) the priorities, strategies, and agendas developed by the Coordinating Council; and

(B) the activities carried out under the Initiative.

(c) MEMBERSHIP.—The members of the Coordinating Council shall be—

(1) the Director of the Defense Advanced Research Projects Agency;

(2) the Assistant Secretary of Energy for Conservation and Renewable Energy;

(3) the Director of the Office of Energy Research for the Department of Energy;

(4) the Director of the National Science Foundation;

(5) the Director of the National Bureau of Standards; and

(6) the Assistant Secretary of Commerce for Productivity, Technology, and Innovation, or their designees.

(d) STAFF.—The Coordinating Council shall be supported by staff from each of the member agencies, as appropriate.

(e) REPORTS TO CONGRESS.—(1) The Coordinating Council shall, within one year after the date of the enactment of this Act and annually thereafter, prepare and submit to the Congress a long-range plan of activities for the Initiative.

(2) Each plan submitted to the Congress under this subsection shall as fully as possible prioritize the full range of research activities appropriate to the Initiative, including the current status of each activity. These plans may include assessments and recommendations regarding impediments, including legal and regulatory impediments and barriers, which prevent the efficient implementation of this Act.

SEC. 6. IMPLEMENTATION OF INITIATIVE.

Each of the agencies charged with the implementation of the Initiative under this Act, to the extent necessary to implement the Initiative and as appropriate to the mission of such agency—

(1) shall encourage industry, including small business, government, and universities to develop processing, fabrication, manufacturing, and other appropriate technologies necessary for the application and commercialization of scientific advances in superconductivity technology;

(2) shall develop team approaches to overcome key technological hurdles, and seek collaborative arrangements of industry, including small business, and others, such as the National Laboratories, independent research organizations, and universities;

(3) shall utilize Federal resources and facilities where appropriate, including the Department of Energy National Laboratories, Engineering Research Centers, and Science

and Technology Centers, for designation as superconductivity centers which seek private sector involvement in the form of consortia and collaborative efforts and for other purposes;

(4) shall work closely with the private sector to ensure that the private sector has significant input to the Initiative and that the Initiative is reponsive to the needs of the private sector;

(5) may provide grants and contracts to individual firms and collaborative team efforts of industry, or of industry in combination with universities and independent research organizations, for superconductivity research, development, processing, manufacturing, and applications research, and

(6) shall facilitate Government, academic, and private sector efforts to transfer information on superconductivity science and technology advances made in the United States and foreign countries.

SEC. 7. NATIONAL COMMISSION ON SUPERCONDUCTIVITY.

(a) IN GENERAL.—The President shall appoint a National Commission on Superconductivity to review all major policy issues regarding United States applications of recent research advances in superconductors in order to assist the Congress in devising a national strategy, including research and development priorities, the development of which will assure United States leadership in the development and application of superconducting technologies.

(b) MEMBERSHIP.—The membership of the National Commission on Superconductivity shall include representatives of—

(1) the National Critical Materials Council, the National Academy of Sciences, the National Academy of Engineering, the National Science Foundation, the National Aeronautics and Space Administration, the Department of Energy, the Department of Justice, the Department of Commerce (including the National Institutes of Technology and Standards), the Department of Transportation, and the Department of Defense;

(2) organizations whose membership is comprised of physicists, engineers, chemical scientists, and material scientists; and

(3) industries, universities, and national laboratories engaged in superconductivity research.

(c) COORDINATION.—The National Critical Materials Council shall be the coordinating body of the National Commission on Superconductivity.

(d) REPORT.—Within 6 months after the date of the enactment of this Act, the National Commission on Superconductivity shall submit a report to the President and the Congress with recommendations regarding methods of enhancing the research, development, and implementation of improved superconductor technologies in all major applications. Upon submitting its report and recommendations under the preceding sentence the Commission shall disband.

(e) SCOPE OF REVIEW.—In preparing the report required by subsection (d), the Commission shall consider addressing but need not limit, its review to—

(1) the state of United States competitiveness in the development of improved superconductors;

(2) methods to improve and coordinate the collection and dissemination of research data relating to superconductivity;

(3) the appropriateness and scope of United States efforts regarding research on and development of improved superconductors and the level of consultation among United States organizations doing research in this field;

(4) methods to improve and coordinate the development of viable applications of improved superconductors;

(5) foreign government activities designed to promote research, development, and application of improved superconductors;

(6) the need to provide increased Federal funding of research and development of improved superconductors;

(7) the impact on the United States national security if the United States must rely on foreign producers of superconductors; and

(8) any statutory changes that would increase the likelihood that applications of promising superconductivity technologies will occur within the United States.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated—

(1) to the Defense Advanced Research Projects Agency for carrying out this Act, not to exceed $50,000,000 for each of the fiscal years 1988, 1989, 1990, 1991, and 1992;

(2) to the National Science Foundation for carrying out this Act, not to exceed $12,500,000 for each of the fiscal years 1988, 1989, 1990, 1991, and 1992;

(3) to the Department of Energy for carrying out this Act, not to exceed $12,500,000 for each of the fiscal years 1988, 1989, 1990, 1991, and 1992; and

(4) to the National Bureau of Standards for carrying out this Act, not to exceed $5,000,000 for each of the fiscal years 1988, 1989, 1990, 1991, and 1992.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. BUECHNER) to revise and extend their remarks and include extraneous material:)

Mr. FISH, for 60 minutes, on August 5.

Mr. LENT, for 60 minutes, on August 5.

Mr. MOORHEAD, for 60 minutes, on August 4.

Mr. SENSENBRENNER, for 5 minutes, today.

Mr. GEKAS, for 5 minutes, today.

Mr. LUNGREN, for 5 minutes on July 29 and July 30.

Mr. BOEHLERT, for 5 minutes, today.

Mr. FIELDS, for 60 minutes, on August 4.

Mrs. BENTLEY, for 60 minutes, on July 30 and August 6.

(The following Members (at the request of Mr. MILLER of California) to revise and extend their remarks and include extraneous material:)

Mr. ANNUNZIO, for 5 minutes, today.

Mr. MACKAY, for 5 minutes, today.

Mr. ALEXANDER, for 20 minutes, today.

Mr. FRANK, for 60 minutes, on July 29, July 30, and August 3.

Mr. DORGAN of North Dakota, for 60 minutes, on August 6.

(The following Member (at the request of Mr. DANNEMEYER) to revise and extend his remarks and include extraneous material:

Mr. RITTER, for 60 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. GILMAN, in general debate today on H.R. 2945.

(The following Members (at the request of Mr. BUECHNER) and to include extraneous matter:)

Mr. CRANE.
Mr. SOLOMON.
Mr. DAUB.
Mr. LAGOMARSINO.
Mr. SMITH of New Jersey.
Mr. CONTE.
Mr. PACKARD.
Mr. PORTER.
Mr. DONALD E. LUKENS.
Mr. KEMP.
Mr. GALLO.
Mr. MICHEL in two instances.
Mr. COURTER.
Mr. RHODES.
Mr. BEREUTER.

(The following Members (at the request of Mr. MILLER of California) and to include extraneous matter:)

Mr. HOYER in two instances.
Mr. DOWNEY of New York.
Mr. FAUNTROY.
Mr. MURTHA.
Mr. LANTOS.
Mr. PEPPER.
Mr. GARCIA.
Mr. PEASE in three instances.
Mr. ROSTENKOWSKI in two instances.
Mrs. BOXER.
Mr. TRAFICANT.
Mr. STARK in two instances.
Mr. HUBBARD.
Mr. KOSTMAYER.
Mr. MATSUI.
Mr. DWYER of New Jersey.
Mr. HALL of Ohio.
Mr. VENTO.
Mr. FASCELL.
Mr. YATRON.
Mr. KLECZKA.
Mr. MCMILLEN of Maryland.
Mr. BONKER.
Mrs. LLOYD.
Mr. MANTON.
Mr. MOODY.
Mr. FEIGHAN.
Mr. MARKEY.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 1502. An act to authorize appropriations for the Public Buildings Service of the General Services Administration for fiscal year 1988; to the Committee on Public Works and Transportation.

SENATE ENROLLED BILL SIGNED

The Speaker announced his signature to an enrolled bill of the Senate of the following title:

S. 1020. An act to confer the honorary status of Librarian of Congress Emeritus on Daniel J. Boorstin.

ADJOURNMENT

Mr. DANNEMEYER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 o'clock and 29 minutes p.m.) the House adjourned until tomorrow, Wednesday, July 29, 1987, at 10 a.m.

EXECUTIVE COMMUNICATIONS. ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

[Omitted from the Record of July 27, 1987]

1839. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Air Force's proposed Letter(s) of Offer to the Netherlands for defense articles and services estimated to cost $58 million or more (Transmittal No. 87-34), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

[Submitted July 28, 1987]

1840. A letter from the Secretary of Defense, transmitting annual update of the costs of the United States commitment to the North Atlantic Treaty Organization [NATO], pursuant to 22 U.S.C. 1928 nt.; to the Committee on Armed Services.

1841. A letter from the Secretary of Education, transmitting copies of Final Regulations—Formula Grants to Local Educational Agencies and Tribal Schools (Eligibility Standards), pursuant to 20 U.S.C. 1232(d)(i); to the Committee on Education and Labor.

1842. A letter from the Secretary of Education, transmitting notice of final annual funding priority—Rehabilitation Long-Term Training Program (Rehabilitation Counseling), pursuant to 20 U.S.C. 1232(d)(i); to the Committee on Education and Labor.

1843. A letter from the Acting Secretary, Department of Agriculture, transmitting the annual Horse Protection Enforcement Report, pursuant to 15 U.S.C. 1830; to the Committee on Energy and Commerce.

1844. A letter from the Officers and Members of Unit 81, National Association of Retired and Veteran Railway Employees, Inc., transmitting a letter concerning further reference to the Burlington Northern Railway's Buy-Off Format and its effect on contract matters; to the Committee on Energy and Commerce.

1845. A letter from the Secretary of Defense, transmitting three reports of violations which occurred in the Department of the Air Force, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

1846. A letter from the Chairman, Council on Environmental Quality, transmitting the Council's annual report of its compliance with the Government in the Sunshine Act during calendar year 1986, pursuant to 5 U.S.C. 552b(j); to the Committee on Government Operations.

1847. A letter from the Secretary of Agriculture transmitting the Department's notice of an altered Federal records system, pursuant to 5 U.S.C. 552a(o); to the Committee on Government Operations.

1848. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1849. A letter from the Deputy Associate Director for Royalty Management, Department of the Interior, transmitting notification of proposed refunds of excess royalty payments in OCS areas, pursuant to 43 U.S.C. 1339(b); to the Committee on Interior and Insular Affairs.

1850. A letter from the Attorney General, transmitting notice of judicial district certification for the States of Kansas, New Mexico, and Oklahoma to the Circuit Court of Appeals for the Tenth Circuit, pursuant to 28 U.S.C. 581 nt.; to the Committee on the Judiciary.

1851. A letter from the Attorney General, transmitting notice of judicial district certification for the States of Connecticut, New York, and Vermont to the Circuit Court of Appeals for the Second Circuit, pursuant to 28 U.S.C. 581 nt.; to the Committee on the Judiciary.

1852. A letter from the Attorney General, transmitting notice of judicial certification for the States of Florida and Georgia, the Commonwealth of Puerto Rico, and the Virgin Islands to the Circuit Court of Appeals for the Eleventh Circuit, pursuant to 28 U.S.C. 581 nt.; to the Committee on the Judiciary.

1853. A letter from the Attorney General, transmitting notice of judicial district certification for the States of Delaware, New Jersey, and Pennsylvania to the Circuit Court of Appeals for the Third Circuit, pursuant to 38 U.S.C. 581 nt.; to the Committee on the Judiciary.

1854. A letter from the Attorney General, transmitting notice of judicial district certification for the States of Maryland, South Carolina, Virginia, and West Virginia, and the District of Columbia to the Circuit Court of Appeals for the Fourth Circuit, pursuant to 28 U.S.C. 581 nt.; to the Committee on the Judiciary.

1855. A letter from the Attorney General, transmitting notice of judicial district certification for the northern district of Illinois and the State of Wisconsin to the Circuit Court of Appeals for the Seventh Circuit, pursuant to 28 U.S.C. 581 nt.; to the Committee on the Judiciary.

1856. A letter from the Attorney General, transmitting notice of judicial district certification for the States of Colorado, Utah, and Wyoming, and those portions of Yellowstone National Park in the States of Montana and Idaho, to the Circuit Court of Appeals for the 10th Circuit, pursuant to 28 U.S.C. 581 nt.; to the Committee on the Judiciary.

1857. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend Title XI of the Merchant Marine Act, 1936, as amended, to repeal those provisions relating to vessels or shoreside facilities used in the fisheries trade or industry; to the Committee on Merchant Marine and Fisheries.

1858. A letter from the Secretary of Transportation, transmitting a draft of proposed legislation to implement the provisions of annex V to the International Convention for the Prevention of Pollution from Ships; to the Committee on Merchant Marine and Fisheries.

1859. A letter from the Secretary of Transportation, transmitting a report on methane conversion for highway fuel use, pursuant to 23 U.S.C. 307 nt.; to the Committee on Public Works and Transportation.

1860. A letter from the Under Secretary, National Oceanic and Atmospheric Administration, transmitting notification of the intention to award a contract for the performance of certain commercial-type functions at the Dulles International Airport, Chantilly, VA, pursuant to 15 U.S.C. 1530; to the Committee on Science, Space, and Technology.

1861. A letter from the Secretary of Health and Human Services, transmitting a report regarding modifications necessary to conform section 1884 of the Social Security Act to the prospective payment system [PPS], pursuant to 42 U.S.C. 1395uu nt.; to the Committee on Ways and Means.

1862. A letter from the Secretary of Health and Human Services, transmitting a report concerning the new emergency service provisions that Medicare participating hospitals which have emergency departments have met, pursuant to Public Law 99-272, section 9121(d) (100 Stat. 167); to the Committee on Ways and Means.

1863. A letter from the Secretary of Health and Human Services, transmitting a report on the operation of Utilization and Quality Control Peer Review Organizations, pursuant to 42 U.S.C. 1320c-10; jointly, to the Committees on Energy and Commerce and Ways and Means.

1864. A letter from the Director, Office of Management and Budget, transmitting a determination that additional amounts are necessary to maintain the authorized level of operation of RFE/RL, Inc., because of adverse fluctuation in foreign currency exchange rates, pursuant to 22 U.S.C. 2877(a)(2); jointly, to the Committee on Foreign Affairs and Appropriations.

1865. A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to amend the National Ocean Pollution Planning Act of 1978, as amended, to authorize appropriations to carry out the provisions of the act for fiscal years 1988 and 1989, and for other purposes; jointly, to the Committees on Merchant Marine and Fisheries and Science, Space, and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and references to the proper calendar, as follows:

Mr. ROSTENKOWSKI. Committee on Ways and Means. H.R. 3022, a bill to provide for a temporary extension of the public debt limit (Rept. 100-244). Referred to the Committee of the Whole House on the State of the Union.

Mr. MONTGOMERY. Committee on Veterans' Affairs. H.R. 2881. A bill to establish a National Commission on Acquired Immune Deficiency Syndrome; with an amendment (Rept. 100-245, Pt. 1). Ordered to be printed.

Mr. MONTGOMERY. Committee on Veterans' Affairs. H.R. 2957. A bill to provide for improvements in the National Cemetery System administered under title 38, United States Code, and for other purposes; with an amendment (Rept. 100-246). Referred to the Committee of the Whole House on the State of the Union.

Mr. UDALL. Committee on Interior and Insular Affairs. H.R. 2615. A bill to provide that certain lands shall be in trust for the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, CA (Rept. 100-247). Referred to the Committee of the Whole House on the State of the Union.

Mr. DERRICK. Committee on Rules. House Resolution 233. Resolution providing for the consideration of H.R. 3022, a bill to provide a temporary extension of the public debt limit (Rept. 100-248). Referred to the House Calendar.

Mr. BONIOR. Committee on Rules. House Resolution 234. Resolution providing for the consideration of H.R. 1414, a bill to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents (Rept. 100-249). Referred to the House Calendar.

Mr. UDALL. Committee on Interior and Insular Affairs. H.R. 2937. A bill to make miscellaneous technical and minor amendments to laws relating to Indians, and for other purposes; with amendments (Rept. 100-250). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. ROSTENKOWSKI (for himself and Mr. Duncan):

H.R. 3022. A bill to provide for a temporary extension of the public debt limit; to the Committee on Ways and Means.

By Mr. BENNETT:

H.R. 3023. A bill to amend the Federal Election Campaign Act of 1971 to provide for mail registration and election day registration for elections for Federal office; to the Committee on House Administration.

By Mr. RITTER (for himself, Mr. Lujan, Mr. Brown of California, Miss Schneider, Mr. Boehlert, Mr. Lewis of Florida, Mr. Fawell, Mr. Henry, Mr. Fish, and Mr. Houghton):

H.R. 3024. A bill to establish a National Superconductor Manufacturing and Processing Technology Initiative, and for other purposes; jointly, to the Committees on Science, Space, Technology and Armed Services.

By Mr. CARPER (for himself, Mrs. Bentley, Mr. Borski, Mrs. Byron, Mr. Cardin, Mr. Clinger, Mr. Coughlin, Mr. Coyne, Mr. Dyson, Mr. Foglietta, Mr. Gekas, Mr. Goodling, Mr. Gray of Pennsylvania, Mr. Hoyer, Mr. Kolter, Mr. Kostmayer, Mr. McMillen of Maryland, Mr. Mfume, Mr. Mollohan, Mrs. Morella, Mr. Murtha, Mr. Rahall, Mr. Ridge, Mr. Ritter, Mr. Shuster, Mr. Walgren, Mr. Walker, Mr. Weldon, Mr. Wise, and Mr. Yatron):

H.R. 3025. A bill to grant the consent of the Congress to the Appalachian States Low-Level Radioactive Waste Compact; jointly, to the Committees on Energy and Commerce and Interior and Insular Affairs.

By Mr. COATS:

H.R. 3026. A bill to impose sanctions against persons who violate regulations issued by any country pursuant to the Cocom agreement, if the violation substantially enhances East bloc capabilities in critical technologies, and for other purposes; jointly, to the Committees on Foreign Affairs and Ways and Means.

By Mr. DUNCAN:

H.R. 3027. A bill to require the Secretary of Energy to pay all minimum bill charges determined by the Tennessee Valley Authority under certain contracts for the purchase of electric power by the Department of Energy; to the Committee on Public Works and Transportation.

By Mr. LEACH of Iowa:

H.R. 3028. A bill to provide for the reduction of carbon monoxide emissions from gasoline powered motor vehicles through the use of oxygenated fuels in the District of Columbia; jointly, to the Committees on Energy and Commerce and the District of Columbia.

By Mr. LIVINGSTON:

H.R. 3029. A bill to designate the new Post Office Building in Gretna, LA, as the "William W. Pares, Jr., Post Office Building"; to the Committee on Post Office and Civil Service.

By Mr. de la GARZA:

H.R. 3030. A bill to provide credit assistance to farmers, to strengthen the Farm Credit System, and for other purposes; to the Committee on Agriculture.

By Mr. LIVINGSTON:

H.R. 3031. A bill to amend title XVII of the Social Security Act with respect to the repayment of advances made to certain States under such title, and to place a certain limitation on the reduction in credits for the tax imposed under the Federal Unemployment Tax Act; to the Committee on Ways and Means.

By Mr. MORRISON of Connecticut (for himself, Mr. Gejdenson, Mrs. Kennelly, Mrs. Johnson of Connecticut, and Mr. Rowland of Connecticut):

H.R. 3032. A bill to amend title 28, United States Code, to provide for the appointment of one additional district judge for the District of Connecticut; to the Committee on the Judiciary.

By Mr. RAVENEL:

H.R. 3033. A bill to amend the Civil Rights of Institutionalized Persons Act to provide certain authority for protection and advocacy systems, and for other purposes; to the Committee on the Judiciary.

By Mr. SENSENBRENNER:

H.R. 3034. A bill to abrogate off-reservation, usufructuary rights of Indian tribes to hunt, fish, and gather in the State of Wisconsin; to the Committee on Interior and Insular Affairs.

By Mr. SMITH of New Jersey:

H.R. 3035. A bill to extend the availability of funds for assistance for agricultural activities in Poland; jointly, to the Committees on Foreign Affairs and Appropriations.

By Mr. SOLARZ (for himself, Mr. Gilman, Mr. Mica, and Ms. Snowe):

H.R. 3036. A bill to provide redress for crimes committed by diplomats in the United States, and for other purposes; jointly, to the Committees on Foreign Affairs and the Judiciary.

By Mr. UDALL:

H.R. 3037. A bill to authorize appropriations for the Nuclear Regulatory Commission for fiscal years 1988 and 1989, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. BOUCHER (for himself, Mr. Lent, Mr. Bryant, and Mr. Derrick):

H.J. Res. 343. Joint resolution declaring the support of the United States Government for efforts of the United States Soccer Federation to bring the World Cup to the United States in 1994, and designating the Secretary of Commerce as the official representative of the U.S. Government to the Federation Internationale de Football Association; to the Committee on Energy and Commerce.

By Mr. DORNAN of California:

H.J. Res. 344. Joint resolution designating June 12 to June 19, 1988, as "Old Cars Week"; to the Committee on Post Office and Civil Service.

By Mr. DOWNEY of New York (for himself, Mr. Leach of Iowa, and Mr. Fascell):

H. Con. Res. 168. Concurrent resolution expressing the sense of the Congress that the United Nations should offer to place the United Nations flag on nonbelligerant ships in the Persian Gulf, and authorize United Nations peacekeeping vessels to escort those ships, as part of broader United Nations efforts to bring about a peaceful resolution of the Iran-Iraq war; to the Committee on Foreign Affairs.

By Mr. SKAGGS (for himself, Ms. Slaughter of New York, Mr. Owens of Utah, Mr. Solarz, Mr. DeFazio, Mr. Frank, Mr. Pease, Mr. Kanjorski, Mr. Weiss, Mr. Williams, Mr. Hughes, Mr. Sikorski, Mr. Johnson of South Dakota, Mr. Scheuer, Mrs. Boxer, Mr. Hayes of Illinois, Mr. Bosco, Mr. Lancaster, Mr. Valentine, Mr. Chapman, and Mr. Howard):

H. Res. 232. Resolution to amend the Rules of the House of Representatives to allow the Speaker to reduce the period of time in which certain rollcall votes may be taken by electronic device; to the Committee on Rules.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 38: Mr. Berman.

H.R. 378: Mr. Boucher, Mr. Brooks, and Mr. Kennedy.

H.R. 478: Mr. Frank.

H.R. 486: Mr. McCurdy and Mr. Bereuter.

H.R. 535: Mr. Kolbe.

H.R. 541: Mr. Bilbray.

H.R. 544: Mr. Skaggs.

H.R. 792: Mr. Hastert, Mr. Davis of Illinois, and Mr. Neal.

H.R. 810: Mrs. Lloyd and Mr. Wolpe.

H.R. 1071: Mr. Fawell and Mrs. Lloyd.

H.R. 1072: Mr. Packard.

H.R. 1078: Mr. Lowry of Washington, Mr. Frost, Mr. Durbin, Mr. Edwards of Oklahoma, and Mr. Ritter.

H.R. 1103: Mr. Hastert.

H.R. 1195: Mr. Hutto, Mr. Derrick, Mr. Frenzel, Mr. Crane, Mr. Hansen, Mr. Davis of Michigan, Mr. Gingrich, Mr. Stallings, Mr. Buechner, and Mr. Bilirakis.

H.R. 1213: Mr. Mfume and Mr. Wise.

H.R. 1313: Mr. Shaw, Mr. Bevill, Mr. Fields, Mr. Kleczka, Mr. DeWine, Mr. Lewis of Georgia, Mr. Williams, Mr. Owens of Utah, Mr. Weldon, Mr. Neal, Mr. Panetta, Mr. DioGuardi, Mr. Lightfoot, Mr. Daniel, Mr. de Lugo, Mr. Torres, Mr. Badham, Mr. Henry, Mr. Ackerman, Mr. Weber, Mr. Roemer, Mr. Dornan of California, Mr. Donald E. Lukens, Mr. Parris, Mr. Houghton, Mr. DeFazio, and Mr. Scheuer.

H.R. 1342: Mr. LaFalce.

H.R. 1395: Mr. DeFazio, Mr. de Lugo, Mr. Conyers, Mr. Daniel, Mr. Fauntroy, Mr. Biaggi, and Mr. Owens of New York.

H.R. 1396: Mr. Gingrich, Mr. Kyl, and Mr. Hammerschmidt.

H.R. 1506: Mr. Towns.

H.R. 1517: Mr. Smith of New Jersey, Mr. Conyers, Mr. Edwards of Oklahoma, Mr. Eckart, Mr. Skaggs, Mr. Stokes, and Mr. Daub.

H.R. 1536: Mr. Rowland of Georgia and Mr. Bateman.

H.R. 1583: Mr. Henry, Mr. Ballenger, Mr. McMillan of North Carolina, Mr. Frank, Mr. Bereuter, and Mr. Rhodes.

H.R. 1604: Mr. Davis of Illinois, Mr. Bilbray, Mr. Donald E. Lukens, and Mr. Miller of Washington.

H.R. 1737: Mrs. Collins.

H.R. 1782: Mr. Bliley and Mr. Wolpe.

H.R. 1807: Mr. Martinez.

H.R. 1873: Mr. Glickman, Mr. Rose, Mr. Yatron, Mr. Gray of Illinois, and Mr. Dymally.

H.R. 1874: Mr. Glickman, Mr. Rose, Mr. Yatron, Mr. Gray of Illinois, and Mr. Dymally.

H.R. 1923: Mr. Hawkins and Mr. Sunia.

H.R. 1987: Mr. Whitten.

H.R. 2041: Mr. Yates.

H.R. 2253: Mr. de Lugo, Mr. Stokes, Mrs. Bentley, Mr. Upton, Mr. Jontz, Mr. Martinez, Mr. Grant, Mr. Ackerman, Mr. Lancaster, Mr. Dymally, Mr. Kolter, Mr. Dwyer of New Jersey, Mr. LaFalce, Ms. Pelosi, Mr. Gilman, Mr. Sunia, Mr. Solomon, and Mr. Guarini.

H.R. 2324: Mr. Bustamante, Mr. Chapman, and Mr. Weber.

H.R. 2338: Mr. Hayes of Louisiana and Mr. Nowak.

H.R. 2343: Mr. Nielson of Utah.

H.R. 2363: Mr. Upton.

H.R. 2489: Mr. Marlenee, Mrs. Morella, and Mrs. Martin of Illinois.

H.R. 2497: Mr. Stark.

H.R. 2517: Mr. Beilenson.

H.R. 2532: Mr. Dymally and Mr. Garcia.

H.R. 2606: Mr. Gilman.

H.R. 2620: Mr. Staggers.

H.R. 2632: Mr. Jeffords, Mr. Beilenson, Mr. Ford of Michigan, Mr. Neal, Mr. Bustamante, Mr. Bereuter, Mr. Studds, Mr. Lancaster, Mr. Lewis of Florida, Mr. Moody, Mr. Dymally, Mr. Goodling, Mr. Weldon, Mr. Gallo, Mr. Nielson of Utah, Mr. Lehman of Florida, Mr. Kennedy, Mr. Wolpe, Mr. Skelton, Mr. Fuster, Mr. Frank, Mr. Hayes of Illinois, Mr. Roe, Mr. Penny, Mr. Mfume, Mr. Miller of Washington, Mr. Martinez, Mr. Roybal, Mr. Henry, Mr. Feighan, Mrs. Boxer, Mr. Levine of California, Mr. Brown of California, Mr. Leach of Iowa, Mr. DeFazio, Mr. Owens of New York, Mr. Solarz, Mrs. Byron, Mr. Skaggs, Mr. Bonior of Michigan, Mr. Towns, Mrs. Bentley, Mrs. Martin of Illinois, Mr. Horton, Mr. Vento, Miss Schneider, Mr. Kildee, Mr. Fazio, Mr. Panetta, Ms. Slaughter of New York, and Mr. Hoyer.

H.R. 2645: Mr. Holloway.

H.R. 2647: Mr. Tallon, Mr. English, and Mr. Hutto.

H.R. 2670: Mrs. Collins, Mr. Kildee, Mr. Garcia, and Mr. Campbell.

H.R. 2676: Mr. Sawyer, Mr. Owens of New York, and Mr. Williams.

H.R. 2680: Mr. DeFazio, Mr. McCloskey, Mr. Derrick, Mr. Garcia, Mr. Conyers, and Mr. Wolpe.

H.R. 2692: Mr. Inhofe and Mrs. Bentley.

H.R. 2787: Mr. Beilenson.

H.R. 2807: Ms. Kaptur and Mr. Horton.

H.R. 2808: Ms. Kaptur, Mr. Bonior of Michigan, Mr. Henry, and Mr. Horton.

H.R. 2809: Ms. Kaptur, Mr. Bonior of Michigan, Mr. Henry, and Mr. Horton.

H.R. 2810: Ms. Kaptur and Mr. Bonior of Michigan.

H.R. 2880: Mr. Mavroules, Ms. Slaughter of New York, Mr. Hughes, Mr. Hopkins, Mr. Waxman, Mr. Bosco, Mr. Owens of Utah, and Mr. Hutto.

H.R. 2881: Mr. Hughes, Mr. Lewis of Georgia, Mr. Bates, Mr. Mica, Mr. Wylie, Mr. Ridge, Mr. Dornan of California, Mr. Smith of New Hampshire, and Mr. Davis of Illinois.

H.R. 2931: Mr. Young of Alaska.

H.R. 2957: Mr. Edwards of California, Mr. Hammerschmidt, Mr. Applegate, Mr. Wylie, Mr. Mica, Mr. Stump, Mr. Dowdy of Mississippi, Mr. McEwen, Mr. Evans, Mr. Smith of New Jersey, Mr. Penny, Mr. Bilirakis, Mr. Staggers, Mr. Ridge, Mr. Bryant, Mr. Dornan of California, Mr. Gray of Illinois, Mr. Kanjorski, Mr. Stenholm, Mr. Kennedy, Mr. Johnson of South Dakota, Mr. Jontz, Mr. Leath of Texas, Mr. Hefner, Mr. Richardson, and Mr. Jenkins.

H.R. 2967: Mr. Solarz, Mr. Yates, Ms. Kaptur, and Mr. Lancaster.

H.R. 2969: Mr. Lantos, and Mr. Brown of California.

H.R. 2989: Mr. Kennedy, and Mrs. Patterson.

H.R. 3010: Mr. Studds, Mr. Vento, Mr. Rodino, Mr. de Lugo, Mr. Hawkins, Mr. Towns, Mr. Lewis of Georgia, Mr. Dymally, Miss Schneider, and Mr. Owens of New York.

H.J. Res. 50: Mr. Hammerschmidt, Mr. Frost, Mr. Wyden, Mr. Weber, Mr. Guarini, Mr. Frenzel, Mr. Kildee, Mr. Kennedy, and Mr. Martinez.

H.J. Res. 96: Mr. Hamilton, Mr. Morrison of Connecticut, Mr. Biaggi, Mr. Stallings, Mr. Sunia, Mr. Burton of Indiana, Mr. Hammerschmidt, and Mr. de la Garza.

H.J. Res 138: Mr. Lehman of California, Mr. Kennedy, Mr. Weldon, Mr. Johnson of South Dakota, Mr. Mica, Mr. Ackerman, Mrs. Patterson, Mr. Clarke, Mr. Eckart, Mr. Gray of Pennsylvania, Mr. Garcia, Mr. Foglietta, Mr. Roybal, Mr. Tallon, Mr. Visclosky, Mr. Pickett, Mr. Carr, Mr. Taylor, Mr. Donnelly, Mr. Boucher, and Mr. Kasich.

H.J. Res. 192: Mr. Bosco, Mr. Dixon, Mr. Gonzalez, Mr. Kolter, Mr. Lipinski, Ms. Pelosi, and Mr. Sabo.

H.J. Res. 206: Mr. Towns, Mr. Frenzel, and Mr. Kennedy.

H.J. Res. 213: Mr. Richardson.

H.J. Res. 240: Mr. Hyde Mr. Young of Alaska, Mr. McMillen of Maryland, Mr. Rinaldo, Mr. McDade, Mr. Frank, Mr. Garcia, Mr. Latta, Mr. Murphy, Mr. Valentine, Mr. Traxler, Mr. Weldon, Mr. Conte, Mr. Kasich, Mr. Jones of North Carolina, Mr. de Lugo, and Mr. Martinez.

H.J. Res. 241: Mr. Savage, Mr. Lagomarsino, Mr. Mrazek, Mr. Lipinski, Mr. Towns, Mr. Hefner, Mr. Horton, Mr. McDade, Mrs. Bentley, Mr. Fazio, Mr. Sunia, Mr. Hughes, Mr. Crockett, Mr. Conyers, Mr. McMillan of North Carolina, Mr. Young of Florida, Mr. Wortley, Mr. Martinez, and Mr. Garcia.

H.J. Res. 242: Mr. Harris, Mr. Jenkins, Mr. Lancaster, Mr. de la Garza, Mr. Dowdy of Mississippi, Mr. Lewis of Georgia, Mr. Pepper, Mr. DeFazio, Mrs. Lloyd, Mr. Donnelly, Mr. Kolter, Mr. Atkins, Mr. Gejdenson, Mr. Flake, Mr. Andrews, Mr. Pickle, Mr. Leath of Texas, Mr. Alexander, Mr. Carper, Mr. Watkins, Mr. English, Mr. Tallon, Mr. Anthony, Mr. Kostmayer, Mr. Eckart, Mr. Evans, Mrs. Boggs, Ms. Oakar, Mr. Garcia, Mr. Grant, Mr. Dingell, Mr. Richardson, Mrs. Boxer, Mr. Stenholm, Mr. Pickett, Mr. Erdreich, Mr. Horton, Mr. Clay, Mr. Shaw, Mr. Espy, Mr. Bartlett, Mr. Hutto, Mr. Hayes of Louisiana, Mr. Mfume, and Mr. Hughes.

H.J. Res. 254: Mr. Anthony, Mr. Miller of California, Mr. Yatron, Mr. Conyers, Mr. Neal, Mr. Pashayan, Mr. Ritter, Mr. Rodino, Mr. Solarz, Mr. Spratt, Mr. Tallon, Mr. Tauke, Mr. Tauzin, Mr. Thomas of California, Mr. Traficant, Mr. Weldon, Mr. Matsui, Mr. Bruce, Mr. Ortiz, Mr. Fascell, Mr. Bilirakis, Mr. Young of Florida, Mr. Hopkins, Mr. Florio, Mr. Kolter, Mr. Gilman, Mr. McCollum, Mr. Jenkins, Mr. Rhodes, Mr. Vander Jagt, Mr. Jacobs, Mr. Hertel, Mr. Foglietta, Mr. Shumway, Mr. Kolbe, Mr. Campbell, Mr. Eckart, and Ms. Slaughter of New York.

H.J. Res. 255: Mr. Kennedy.

H.J. Res. 282: Mr. Boucher, Mr. Brown of California, Ms. Oakar, Mr. Panetta, Mr. Yatron, Mr. Bartlett, and Mr. Mazzoli.

H.J. Res. 287: Mr. Parris.

H.J. Res. 299: Mr. Ravenel, Ms. Oakar, Mr. Weiss, Mr. Darden, Mr. Thomas A. Luken, Mr. Dymally, Mr. Hochbrueckner, Mr. Duncan, Mr. Gunderson, Mr. Moody, Mr. Feighan, Mr. Annunzio, Mr. Swindall, Mr. Visclosky, Mr. Howard, Mr. Kildee, Mr. Nelson of Florida, Mr. Bennett, Mr. Fascell, Mr. Sisisky, Mr. Hutto, Mr. Lewis of Florida, Mr. Craig, Mr. Atkins, Mr. Stallings, Mr. Slattery, Mr. Lehman of Florida, Mr. Flake, Mr. Weldon, Mr. Gilman, Mr. Lowry of Washington, Mr. Russo, Mr. Lancaster, Mr. Leach of Iowa, and Mr. Waxman.

H.J. Res. 313: Mr. Foglietta, Mr. Neal, Mr. Bilbray, Mr. Gunderson, Mrs. Lloyd, Mr. Lewis of Georgia, Mr. Howard, Mr. Coelho, and Mr. Bilirakis.

H.J. Res. 318: Mr. Hoyer, Mr. St Germain, Mr. Thomas of Georgia, Mr. Espy, Mr. Flippo, Mr. Clarke, Mr. Manton, Mr. Spratt, Mr. Hatcher, Mr. Whitten, Mr. Coelho, Mr. Ritter, Mr. Sunia, Mr. Goodling, Mr. Kennedy, Mr. Price of North Carolina, Mr. Frank, Mr. Coleman of Texas, Mr. Annunzio, and Mr. Wolpe.

H.J. Res. 326: Mr. Towns, Mr. Hughes, Mrs. Lloyd, Mr. Leland, Mr. McGrath, Mr. Dyson, Mr. Weiss, Mr. Scheuer, Mr. Nielson of Utah, Mr. Hyde, Ms. Oakar, Mr. Skelton, Mr. Tallon, Mr. Bliley, Mr. Rodino, Mr. Hatcher, Mr. Fauntroy, Mr. DeFazio, Mr. Dixon, Mr. Ford of Michigan, Mr. Solarz, Mr. Levin of Michigan, Mr. Vento, Mr. Waxman, Mr. Coelho, Mr. Stark, Mr. Frost, Mr. Lungren, Mr. Mineta, Mr. Kolbe, Mr. Guarini, Mr. Hoyer, Mr. Lagomarsino, Mr. Bevill, and Mr. Martinez.

H.J. Res. 336: Mr. Scheuer, Mr. Florio, Mr. McCloskey, Mr. Nowak, and Mr. Levin of Michigan.

H.J. Res. 337: Mr. Martin of New York, Mr. Porter, Mr. Chapman, Mr. Hoyer, Mr. Carr, Mr. Chandler, Mr. Hammerschmidt, and Ms. Slaughter of New York.

H. Con. Res. 30: Mr. Rinaldo, Mr. Garcia, Mr. Armey, and Mr. Atkins.

H. Con. Res. 42: Mr. Ravenel.

H. Con. Res. 87: Mr. Stokes, Mr. Stenholm, Mr. Edwards of Oklahoma, Mr. Bustamante, Mr. Bliley, and Mr. Hayes of Illinois.

H. Con. Res. 146: Mr. BEREUTER, Mr. GILMAN, Mr. FASCELL, Mr. MICA, Mrs. MEYERS of Kansas, Mr. CONYERS, Mr. FOGLIETTA, and Mr. MARKEY.

H. Con. Res. 148: Mr. AKAKA, Mr. BADHAM, Mr. BEREUTER, Mr. BLILEY, Mr. BOULTER, Mr. BUECHNER, Mr. CHAPPELL, Mr. COLEMAN of Missouri, Mr. DAVIS of Illinois, Mr. DEWINE, Mr. DIOGUARDI, Mr. DREIER of California, Mr. ECKART, Mr. EDWARDS of California, Mr. FAWELL, Mr. GEKAS, Mr. GRAY of Illinois, Mr. HARRIS, Mr. HENRY, Mr. HOLLOWAY, Mr. HORTON, Mr. INHOFE, Mr. KOLBE, Mr. LAGOMARSINO, Mr. LANTOS, Mr. LENT, Mr. LEVINE of California, Mr. LEWIS of Georgia, Mr. LIPINSKI, Mr. LIVINGSTON, Mr. LOWERY of California, Mr. MCGRATH, Mr. NEAL, Mr. NICHOLS, Mr. OXLEY, Mr. RAVENEL, Mr. RITTER, Mr. ROBINSON, Mr. ROWLAND of Connecticut, Mr. SCHAEFER, Mrs. SCHROEDER, Mr. SHAW, Mr. SHUMWAY, Mr. SMITH of New Hampshire, Mr. STARK, Mr. STOKES, Mr. SYNAR, Mr. TALLON, Mr. WEBER, Mr. WELDON, Mr. WOLF, Mr. SCHUETTE, Mr. WHITTAKER, Mr. CONTE, Mr. TRAXLER, Mr. MCCOLLUM, Mr. HAMMERSCHMIDT, Mr. FEIGHAN, Mr. DELAY, and Mr. SWINDALL.

H. Res. 145: Mr. BADHAM and Mr. FOGLIETTA.

H. Res. 168: Mr. BRYANT, Mr. DREIER of California, Mr. DYMALLY, Mr. ESPY, Mr. GARCIA, Mr. GRAY of Illinois, Mr. MURPHY, and Mr. HEFLEY.

H. Res. 225: Mr. AKAKA, Mr. APPLEGATE, Mr. BALLENGER, Mr. BARTON of Texas, Mr. BORSKI, Mr. BUNNING, Mr. CARR, Mr. CHAPMAN, Mr. CLINGER, Mr. COURTER, Mr. CRAIG, Mr. DAUB, Mr. DEFAZIO, Mr. DE LUGO, Mr. DORNAN of California, Mr. DYMALLY, Mr. ENGLISH, Mr. FASCELL, Mr. GALLO, Mr. GORDON, Mr. GRANT, Mr. GRAY of Illinois, Mr. HASTERT, Mr. HAYES of Illinois, Mr. HEFNER, Mr. INHOFE, Mr. JEFFORDS, Mr. LAGOMARSINO, Mr. LATTA, Mr. LIGHTFOOT, Mr. MCEWEN, Mr. NIELSON of Utah, Mr. NOWAK, Mr. OXLEY, Mr. PACKARD, Mr. PERKINS, Mr. QUILLEN, Mr. RAHALL, Mr. RAVENEL, Mr. SHAW, Mr. SMITH of New Hampshire, Mr. SMITH of Florida, Mrs. SMITH of Nebraska, Mr. STANGELAND, Mr. TALLON, Mr. TOWNS, Mr. UPTON, Mr. VALENTINE, Mr. WHITTAKER, Mr. WISE, and Mr. WORTLEY.

H. Res. 229: Mr. DENNY SMITH, Mr. DORNAN of California, Mr. FRENZEL, Mr. FAWELL, and Mr. SWINDALL.

H. Res. 231: Mr. SOLARZ, Mr. BEREUTER, Mr. MCEWEN, Mrs. MEYERS of Kansas, and Mr. CLARKE.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H. Con. Res. 166: Mr. CHANDLER.

PETITIONS, ETC.

Under clause 1 of rule XXII,

58. The SPEAKER presented a petition of Santos Olikong, Republic of Palau, relative to a congressional investigation into the financial affairs of the Republic of Palau; which was referred to the Committee on Interior and Insular Affairs.

AMENDMENTS

Under clause 6 of rule XXIII, proposed amendments were submitted as follows:

H.R. 1720

By Mr. BROWN of Colorado:

—1. In subsection (h)(6) of the proposed new section 416 (Page —, line —), strike out ". . . the current pay scale for that position, or, if there is no current pay scale for that position,".

2. Strike the entire subsection (h)(8) in the proposed new section 416 (Page —, line —).

3. Strike the entire subsection (j)(1)(B) in the proposed new section 416 (Page —, line —).

H.R. 2994

By Mr. ECKART:

—Page 2, line 18, strike "Standard" and insert "Maximum Annual".

Page 2, line 20, strike the dash and run in the text on line 21.

Page 2, line 21, strike "(1)".

Page 3, line 1, strike "$63,000,000" and all that follows through "than" on line 3.

Page 3, line 3, strike "in any 1 year" and insert "per incident, per year,".

Page 3, strike lines 7 through 10.

Page 8, line 18, strike "in an amount" and all that follows through "and" on line 20 and insert the following: "in accordance with subsection e. (3), ".

Page 9, line 15, strike "(A) Notwithstanding" and all that follows through "(C)" on page 10, line 1.

Page 13, line 20, strike "AGGREGATE PUBLIC LIABILITY" and insert "MAXIMUM ANNUAL PAYMENT".

Page 13, strike line 24 and all that follows through page 15, line 2, and insert the following:

"e. LIMITATION ON ANNUAL PAYMENT AND AGGREGATE PUBLIC LIABILITY.—(1) The aggregate annual payment by any person subject to the deferred premium program under subsection b. for damages from a single nuclear incident may not exceed $10,000,000 (excluding the costs of investigating and settling claims and defending suits for damage).

"(2) The aggregate liability (excluding the costs of investigating and settling claims and defending suits for damage) for a single nuclear incident of persons indemnified (other than persons subject to the deferred premium program under subsection b., or contractors indemnified under subsection d. (1)), shall not exceed—

"(A) $500,000,000, together with the amount of financial protection required of the licensee; or

"(B) if the amount of financial protection required of the licensee exceeds $60,000,000, $560,000,000 or the amount of financial protection required of the licensee, whichever amount is more.

Page 15, line 3, strike "(2)" and insert "(3)".

Page 15, line 5, strike "(1)" and insert "(2)".

Page 15, strike line 12 and all that follows through page 16, line 1 and insert the following:

"(3)(A) There shall be unlimited aggregate public liability for any nuclear incident arising from activities subject to an agreement of indemnification under subsection d.

"(B) Public liability described in subparagraph (A).

Page 16, strike lines 18 through 22 and redesignate the succeeding paragraphs accordingly.

Page 17, strike line 4 and all that follows through line 8 on page 19 and redesignate the subsequent sections accordingly.

Page 19, strike line 19 and all that follows through page 23, line 15 (and redesignate the subsequent sections accordingly).

Page 28, strike line 10 and all that follows through line 14 on page 30.

Page 30, after line 14, insert the following new section (and redesignate the subsequent sections accordingly):

SEC. 12. JUDICIAL DETERMINATION.

Section 170 o. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(o)) is amended to read as follows:

"o. If the United States district court in the district where a nuclear incident occurs, or the United States District Court for the District of Columbia in case of a nuclear incident occurring outside the United States, determines upon the petition of any indemnitor or other interested person that public liability from a single nuclear incident may exceed in any year the amount of financial protection available in that year under subsection b., or the limit of liability under subsection e. (2), as appropriate, the court shall use its equitable powers to ensure a fair distribution of the funds available to pay such claims to all potential claimants. Any such distribution shall take into account the need to set aside funds to pay claims for latent injuries that may not be discovered until a later date.

Page 32, line 20, strike "standard" and insert "annual".

Page 35, strike lines 4 through 11.

Page 37, strike lines 1 through 5.

H.R. 2994

By Mr. SIKORSKI:

—Page 28, strike lines 21 through 24 and insert the following:

"(D) A court may not authorize the payment of legal costs related to any nuclear incident from the amount of financial protection required by subsection b. unless—

"(i) the court in its discretion determines that the payment of such costs is equitable and would not jeopardize the compensation of victims of such incident; and

"(ii) such costs are authorized in accordance with paragraph (2).

EXTENSIONS OF REMARKS

MORE THAN A CLOUD OF SMOKE

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. STARK. Mr. Speaker, I rise today to express my concern over the issue of smoking, an issue which needs immediate attention. In recent years the high costs imposed upon society by the use of tobacco products, particularly cigarettes, has become more evident. In 1984 in the United States, 600 billion cigarettes, or 30 billion packs were sold to approximately 50 million smokers. The estimated retail sales of cigarettes totaled $28.8 billion. Sales of cigars, chewing tobacco, snuff, and loose tobacco—such as for pipes—added another $1.9 billion for total tobacco sales of $30.7 billion. Americans spend a fortune on ways to kill themselves with tobacco.

The three major categories of smoking-related disease—cancers, cardiovascular disease, and respiratory system disease—constitute a vast majority of smoking-related deaths. Thirty-two percent of all cancer deaths—139,000 people, 13 percent of deaths from cardiovascular diseases—123,000 people, and 88 percent of deaths from chronic lung diseases—52,000 people—are smoking-related deaths. This amounts to 314,000 total smoking-related deaths per year, or 16 percent of all deaths. Every year, then, we lose more Americans to cigarettes than we did to World War I, Korea, and Vietnam combined. Basically, cigarettes and tobacco products are the largest single preventable cause of illness and death every year in the United States.

The effect of the cost of smoking-related deaths on both Medicare and the economy in general is incredible. In 1985 data shows the total health care costs of smoking-related disease to amount to between $11 and $35 billion or from 3 to 9 percent of total U.S. health care spending. Nearly three-fourths of these estimated costs are incurred by those under the age of 65. The Office of Technology Assessment estimates that the annual smoking-related costs to the Medicare Program amount to between $1.7 and $5.4 billion. In 1985 OTA estimated that the Nation incurred between $12 and $35 billion in smoking-related health care costs, and from $27 to $61 billion in lost productivity costs. Clearly something needs to be done to eliminate the wasted lives and money. One suggestion could be for the United States to create an effective, federally financed mass media counteradvertising campaign program that would decrease the amount of smoking-related illnesses, save lives, and, reduce medical costs.

Many other countries have found ways to decrease these immense costs, and, at the same time, save lives. Nations such as Norway, Finland, and Italy, have established a total ban on cigarette advertising. Other nations that have partial ban restrictions include Canada, West Germany, and the United Kingdom.

Australia has created a clever, successful way of decreasing the consumption of cigarettes. On December 20, 1977, the Australian Trade Practices Commission authorized a code on counteradvertising. The object of the code is that cigarette company advertisements shall not encourage people, particularly the young, to start smoking or encourage existing smokers to increase their consumption.

The advertisements produced in the Australian counteradvertising campaign are not attractive, but are effective. Harsh words and shocking pictures are used in these ads in television, radio, billboards, newspapers, magazines, and movie theaters. Bumper stickers, banners across streets, posters, telephone counselors, and leaflets, are working to get the message of the deadly cigarette across to the public. While advertising by cigarette companies have elevated the "beauty" of smoking, the Australian Government's campaign has shown stomped-out cigarette butts substituted for a good-looking man's mouth to emphasize bad breath and scare the public away from smoking. Australian ads display the "less glamorous aspects of smoking"; they blatantly equate ill health and unattractiveness with smoking.

Australian health officials have adopted a system of rotating warning labels on cigarette packages similar to the United States. Instead of a generalized warning statement by the Surgeon General, a blunt "Smoking kills" or "Smoking causes cancer" statement has proven to induce smokers to think twice before lighting up. While the counteradvertising methods do cost money, the warning label method would be cost free and beneficial.

In addition to the counteradvertising campaign, Australia actively helps smokers "kick the habit" of smoking. There are numerous counselor services available to smokers and concerned nonsmokers alike. There are also "quit kits" which aid smokers who desire to quit smoking. An example of a "quit kit" is the aversion technique in which one combines rapid inhalation with nicotine gum. A study of 140 smokers using this aversion technique showed a 51.8 percent quit rate after 3 months.

In the United States, cigarette advertising on television and radio was banned 15 years ago by Congress. But the banning of ads for cigarettes on television and radio, and warnings from the Surgeon General are not enough. The time has come, Mr. Speaker, for the United States to develop a cost-effective, decisive program. Australia, along with many other nations, have successfully created programs that have benefited their people.

The reduction of the number of people who smoke would lead to many benefits. Those who stop smoking have improved life expectancy compared to those who continue to smoke. With each year of nonsmoking, the ex-smoker's relative risk of death declines. The decrease in the number of smokers would result in a healthier society with fewer health care costs. Smoking reduction will also lead to large gains in productivity as people who would have died before the age of 65 continue to work.

Overall, Mr. Speaker, the reduction of smoking and tobacco use would improve health, increase longevity, and boost the overall quality of life. The reduction of smoking through an aggressive advertisement program would require a Federal expenditure but it would be a cost-effective way of improving health, and in the long run would prove to save billions. Smoking is not something that will disappear in a puff of smoke—it will take hard work by everyone concerned.

AIDS: THE NEW PHASE OF DENIAL

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. GARCIA. Mr. Speaker, the AIDS epidemic continues to be a No. 1 public health concern in this country today. However, a commentary appearing in the July 28th edition of the Washington Post reports that "it's trendy in the press to minimize the AIDS epidemic." I would only hope that this is a passing trend and would care to note that this in no way reflects the opinions of the professionals and politicians who must confront this issue. AIDS is not going away and there is speculation that we have only touched "the tip of the iceberg." The full impact of this disease might not even be felt until 1991. I would like to submit this commentary in its entirety for all of my colleagues to read:

AIDS: THE NEW PHASE OF DENIAL—AFTER THE HYPE, A BACKLASH OBSCURES THE NATIONAL DEBATE

(By Abigail Trafford)

First came the media wave of fear and scenarios of Armageddon, as though AIDS were the Space Age cousin of Black Death, which ravaged Europe in the 14th century.

Now, the anti-hype backlash has started, and it's trendy in the press to minimize the AIDS epidemic.

Columnist Michael Kinsley of New Republic magazine, writing in this newspaper, tells us that "a year from now, no one will be talking much about AIDS anymore." Pulitzer prize-winning columnist Charles Krauthammer is convinced, "AIDS is not the pandemic its publicists would like us to believe."

In the fickle fashion of medical news, it would seem that AIDS is destined to become just another "disease of the week," follow-

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

ing in the wake of previous high-profile health "crises" such as drug abuse, herpes and nuclear winter.

But if press coverage has changed in the last month, the reality of AIDS has not.

"People shouldn't lose sight of the fact that the prediction of a quarter of a million cases in the United States is coming true," says Nobel prize winner David Baltimore, director of the Whitehead Institute in Cambridge, Mass., and cochairman of the National Academy of Sciences report on AIDS. "We have a major problem, and no amount of wishing is going to make it go away."

More than 110 countries around the world have reported cases. In the AIDS-belt countries of Africa, the World Health Organization estimates that 25 to 30 percent of all hospital beds are filled with men and women who have AIDS. In New York City, AIDS is the leading cause of death in men ages 25 to 44 and in women 25 to 34.

The "no problem" contingent notes that Americans are much likelier to die of something else: Heart attacks claim 540,000 lives a year; cancer, 483,000. One million Americans suffer from Alzheimer's disease. Why should there be all this fuss—and resources—devoted to AIDS?

There are several reasons why AIDS deserves what Krauthammer too archly calls "its privileged position" in the realm of diseases.

It's new. Unlike cancer, drug abuse or other high-profile medical problems, AIDS is an entirely new disease. The first case was reported in 1981. The earliest evidence of the AIDS virus has been traced to a 1959 blood sample taken from a tuberculosis patient in Africa.

It's virtually 100 percent fatal. This is typical of the early stages of any new infectious epidemic. In contrast, there are effective therapies for heart disease and certain forms of cancer, and significant numbers of patients live for many years after the diagnosis. In terms of terribleness, AIDS might more aptly be compared to the incurable genetic disorder of Huntington's disease, which also hits people in middle age and destroys the mind and body. The difference is that Huntington's disease is not infectious and remains relatively rare. AIDS has already jumped from 183 cases in the U.S. in 1981 to nearly 40,000 cases today and is expected to reach 270,000 over the next four years.

AIDS is political. Last week, President Reagan made his first visit to AIDS patients—children being treated at the clinical center at the National Institutes of Health. The President likened AIDS to smallpox and polio, and introduced members of his new AIDS advisory panel.

Throughout the world, AIDS has become highly politicized, raising concerns that AIDS angst might unleash a wave of discrimination and even violence against patients and high-risk groups. "AIDS has unveiled thinly disguised prejudice about race, religion, social class and nationality," says WHO's Dr. Jonathan Mann.

Overshadowing all this is scientific uncertainty. Despite advances in isolating the virus and developing experimental drugs, AIDS experts do not have answers to the big questions: How did AIDS start? How fast is it spreading? (Actual cases reflect the spread of the virus five years ago—not the extent of infection today.) How bad is the epidemic going to get?

It is this uncertainty about AIDS that causes the pendulum to swing back and forth in the public's perception of the disease.

"People want simple straightforward answers," says Dr. Harold Jaffe, chief AIDS epidemiologists at the Centers for Disease Control in Atlanta. "Is the housewife in Cedar Rapids at risk? If no, we don't want to hear about it. If yes, then let's go all out and do extreme measures like quarantine. The problem of AIDS is more complex than that," he says.

A key issue in the U.S. right now is whether AIDS is going to "break out" into the so-called "mainstream" heterosexual community. Scientists know that the virus can be transmitted through heterosexual intercourse. In Africa and Haiti, the disease affects both men and women—yet in the U.S. and Europe, AIDS is primarily a disease that strikes homosexuals and drug abusers. Why is this?

"I don't think we really know," says Jaffe.

There are a number of theories: different sexual life styles in parts of Africa; higher rates of venereal diseases there, such as genital ulcers thought to increase the risk of contracting infection; lack of screening blood for contamination; more frequent use of transfusions and sharing of unsterilized needles in medical practice, as well as the burden of malnutrition and other diseases that weaken the immune system.

CDC officials say that at the moment the risk of heterosexual spread is confined to intravenous drug abusers and their sex partners and the sex partners of bisexual men. These scientists believe that there will not be the explosive increase among other heterosexuals that has been seen among gays and drug abusers.

Yet some say it is only a matter of time. Even if AIDS in the U.S. never becomes as widespread as it is in Africa, many researchers predict a slow and steady increase among heterosexuals so that in 10 or 15 years, a sizable proportion of the general population will be affected. "At that time, people will start to panic," says Dr. Myron Essex of Harvard's School of Public Health.

Just as uncertain as the heterosexual spread question—and as politically touchy—is the question of how and where AIDS began. One theory is that the virus changed from a harmless agent into a killer. Viruses are known to mutate—the constantly changing flu virus is one example. Another theory is that the AIDS virus "jumped" from animals to human beings. A similar virus has been found in monkeys, but does not cause disease in infected animals. One hypothesis is that the method of catching and trapping monkeys in Africa causes so much bleeding in the animals and the trappers that the virus could be passed along in blood.

But any scientific speculation on the origins of AIDS quickly translates into political tension. African nations are very sensitive about being blamed for starting AIDS. After Dr. Robert Gallo of the National Cancer Institute announced at the Third International Conference on AIDS in June that he had isolated yet another AIDS virus from Nigerian patients, that country protested the report. In Africa, meanwhile, people were led to believe that the disease came from American military advisers sent to Africa—or was a plot of chemical warfare.

The medical and political confusion over AIDS is reminiscent of the first syphilis outbreak in the late 14th and early 15th centuries. "Fantastic theories" at the time, according to Hans Zinsser, author of "Rats, Lice and History," said the epidemic "was started by the intercourse of a man with a mare . . . [or] a similar relationship with a monkey." The French called syphilis the "Neapolitan disease"; the Italians named it the "French affliction." To this day, scientists haven't been able to figure out if the New World Indians gave it to the Europeans or the other way around.

It is likely that many of the questions about AIDS will remain unanswered as the disease continues to spread. In this environment of uncertainty, public policy must be made: How, for example, will hospitals handle the increased load of cases? Who will pay—the government? Private insurance?

This same uncertainty also fuels the current chic to play down AIDS in the media. In the absence of new information, the public is tired of hearing about AIDS. The concern is that this genre of denial may mask a more disturbing political trend—that of ignoring AIDS because it doesn't seem to pose a threat to white middle-class heterosexuals who make up the majority of voters.

But AIDS is not a disease that will respond to benign neglect. As NCI's Gallo puts it: "Until we have a vaccine, this virus is not going to go away. It's going to be here forever."

JEWISH WOMEN AGAINST REFUSAL

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. HOYER. Mr. Speaker, in the fall of 1986 a group of women refuseniks in the Soviet Union met to discuss their shared concerns, the plight of their families and their hopes for life in Israel. This group became known as "Jewish Women Against Refusal" and has become a growing voice within the Soviet Union about the plight of refuseniks.

During our trip to the Soviet Union, I also met with this remarkable group of women. In the home of Elena Dubianskaya one evening, I listened to these courageous women tell of their lives in refusal, the harassments, the loss of jobs and the isolation of their children.

Despite the feeling of despair in their lives, there was also a sense of hope—a sense that meetings like this could produce some positive results, if only a reenforcement network amongst themselves.

Mr. Speaker, I would like to share the goals of the Jewish Women Against Refusal with my colleagues.

JEWISH WOMEN AGAINST REFUSAL

All of us have been experiencing refusenik lives for years, some seven years, some ten, some even 15. It's been so long since our families have been denied our right to leave the Soviet Union for Israel. These have not been passive years of waiting for permission to go. We spent them studying Hebrew and Judaism; we have established contacts with Jews in other countries.

Some of us become Hebrew teachers, some have attended seminars on various aspects of Jewish culture. In these years, we have raised children and borne younger ones; some of us now have grandchildren. We have had to give up careers, since refuseniks are denied all opportunities. Many of us contribute to the family budget by low-paying unskilled work, though we have had professional training.

The focus of our life has shifted to our family. We feel that our experience, responsibility for our family, and solidarity with other refuseniks call for an active stand, for direct action in the fight to leave the USSR for Israel.

The duration of our status as refuseniks is steadily lengthening. No one can say whether there will ever be an end to it. We women have understood that by uniting efforts, we can and must seek ways for refuseniks to finally get out.

What do we want? We want to abolish the very concept of life in refusal. We are fighting for the chance for refusenik families to emigrate.

How do we expect to achieve our goal? We have no formal program. We try to analyze events and outline specific tasks for given situations, in order to promote our main idea. We establish contacts with women's and humanitarian organizations both in USSR and the rest of the world, as well as with individuals working for human rights. We submit demands and proposals to the Soviet authorities. We tell the world what it's like to be a Jewish refusenik.

We are no small social group whose very existence the Soviet authorities stubbornly deny. We try to give aid to the sick. By advice and consideration, we help anyone who encounters difficulties in bringing up their children in refusal. We help anyone refused permission to leave, who had consequently been cast out of Soviet society, and feels foresaken and defenseless.

We keep watch on the conditions of prisoners of Zion and give them and their families any help we can. Without clubs, cafes, or periodicals at our service, when every action by groups of refuseniks is suppressed, be it excursions out of town or meetings with foreign visitors, we wish to set up a new form of social activity: Anti-Refusal Jewish Women Activity.

You might wonder whether we have the right to talk about our difficult conditions when faced with so much hunger and homelessness in the world. Oh, yes, we still have a roof over our head, and we have our daily bread. But we are deprived of one of the basic rights of the free individual: the right to live with our own people in the only country we can call our home. It won't cost anyone anything to solve our problem; all it needs is the good will of the Soviet leaders.

Israel is waiting for us, while we waste years, languishing in a land that is alien to us. Here there is not and cannot be any future for our children. Living in refusal undermines our health. The psychological strain of this life is heavy. We lose our youth, and with it our optimism. The longer we suffer in refusal, the harder it will be to a new life in Israel. Instead of serving Israel with our knowledge knowhow, we are likely to arrive there in old age, ourselves in need of help. We object to such a prospect!

THE POLLS AND THE CONTRAS

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. MICHEL. Mr. Speaker, perhaps in no other important area of foreign policy have public opinion polls been less informative than they have in questions dealing with public attitudes toward the democratic resistance in Nicaragua, the Contras. Poll after poll has shown majorities against the policy of aiding the Contras; but poll after poll has shown that most Americans have been unclear as to exactly who the Sandinistas are, what they stand for and why we are helping the Contras. Given this fact, what good are polls based on such confusion?

The Wall Street Journal has editorially addressed this question and what it has to say deserves our attention.

At this point I wish to insert in the RECORD, "What Neighbors Know" from the Wall Street Journal, Friday, July 17, 1987.

WHAT NEIGHBORS KNOW

Oliver North's testimony has increased dramatically the American public's support for the Contras. This week's Wall Street Journal/NBC poll found 40% in favor of the adminsitration's policy of aiding the Contras and 43% against, in contrast with 32% approval and 54% disapproval only two months ago. A Richard Wirthlin poll for the White House actually shows the Contras pulling ahead, with a narrow plurality now in favor of aid.

We're told this change is merely the result of Lt. Col. North's "charisma," will fade when he's no longer mesmerizing folks on TV, and need not affect Congress's vote on further aid to the Contras. We have a different theory: The national town meeting led by Mr. North finally has educated the American electorate about Nicaragua.

Opposition to Contras aid recorded in the polls always has been skin-deep, because the American people never before have focused on Central America. Last November, for example, an Associated Press poll asked what kind of government Nicaragua had; 29% said it had a communist government, but 25% thought it was a right-wing dictatorship, while 31% didn't know. In a New York Times/CBS News poll in April 1986, only 38% knew which side the U.S. was supporting in Nicaragua. Among those who knew, 40% supported and 52% opposed the aid; among those who didn't know, 16% supported and 69% opposed. As the stakes in Central America are better understood, support for the Contras increases.

So much so, in fact, that results are overwhelming among the populations who understand best—Nicaragua's neighbors. In January, CID, the Central American affiliate of the respected Gallup International Research Institutes, asked 5,000 people in four countries for their opinions of the Contras, Nicaragua and U.S. involvement in the region. (CID wanted to ask Nicaraguans the same questions, but public-opinion polls are illegal there.) The results, some of which are summarized above, are startling.

This particular poll was commissioned by the United States Information Agency, which some critics suggest somehow taints the results. But CID President Charles Denton points out that his organization's regular polls in March confirmed many of the findings. A sample of 1,200 Costa Ricans found that, by 52% to 14%, they viewed the Contra cause as "just." Asked how much of a threat the Sandinista government posed to Costa Rica's borders, 70% said a great deal, 15% said some and 7% a little. Hondurans backed the U.S. funding of the Contras by 62% to 15%, and a surprising 48% believed the Contras ultimately would win. Only 11% believed the Sandinistas would prevail.

Mr. Denton says, "Our surveys have shown for years that most Central Americans—across all income groups—like and admire the U.S. are worried about the Sandinistas and look with favor on the Contra cause. Many observers simply can't believe those findings so they dismiss them."

Encouraged by public reaction to the North hearings, the White House probably will increase its Contra-funding request for an 18-month period beginning in October from $105 million to $140 million. That would arm thousands of additional resistance fighters and move the Contras closer to the critical mass needed to undermine the Sandinista junta. One shouldn't foreget that the Sandinistas had only 6,000 men in the field when they toppled Somoza, and few gave them any chance of winning until they were almost at the gates of Managaua.

If it comes to be perceived that the Contras actually might win, public support will grow even more dramtically. The same congressional left that has taken comfort from public-opinion polls on Nicaragua was stunned by the reaction of the American people to Grenada.

	Costa Rica	Honduras	El Salvador	Guatemala
Would you say the (Sandinista) government of Nicaragua represents the majority of the people or that it represents a minority?				
Represents majority	11	14	18	27
Represents minority	79	75	64	64
No opinion, don't know	10	11	18	9
Which side of the conflict do you think the majority of the people of Nicaragua support, the Sandinistas or the Contras?				
Majority supports:				
Sandinistas	12	14	20	23
Contras	72	75	46	60
No opinion	16	11	34	17
Who treats civilians better in the war zones? The Contras or the Sandinistas?				
Sandinistas	6	6	10	18
Contras	72	74	45	60
Don't know	22	20	44	22
Do you approve or disapprove of American military aid to the Contras?				
Approve	70	81	69	68
Disapprove	21	9	23	28
Don't know	9	10	8	4

RULE ON H.R. 3022—PUBLIC DEBT LIMIT EXTENSION

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. ROSTENKOWSKI. Mr. Speaker, I wish to serve notice to my colleagues that, pursuant to the rules of the Democratic Caucus, I have been instructed by the Committee on Ways and Means to seek less than an open rule for the consideration by the House of Representatives of H.R. 3022, to provide for a temporary increase in the public debt limit.

WHY IS THE LIBERAL LEFT SO SILENT?

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. DONALD E. LUKENS. Mr. Speaker, as if it were not enough close the doors of the La

Prensa, the Communist Sandinistas have gone one step further by trying to bankrupt what's left of the daily newspaper's assets. In doing so, the totalitarian regime is systematically removing the last remaining symbols of the Nicaraguans' hope for one day being able to freely express themselves.

In the July 6, 1987 edition of the Washington Post, former member of the Sandinista junta in Nicaragua and publisher of La Prensa Violeta Chamorro explains how the Communist Sandinistas continue "strangling a people's freedoms, won by blood and sacrifice."

Why are all the liberals so silent on this flagrant violation of free speech? Why has the liberal left been so protective of the Communists in Nicaragua? Why won't the liberal left acknowledge that the people of Nicaragua have been stripped of all their rights so that we can move ahead in our fight for freedom?

[From the Washington Post, July 6, 1987]

THE SILENCE IN NICARAGUA

(By Violeta Chamorro)

MANAGUA.—The Sandinista government, not satisfied with having arbitrarily brought about the closure last year of the daily newspaper La Prensa for an indefinite period, has continued a series of aggressions against the newspaper which I think the whole world should know about.

In a note dated March 26, but for some unexplained reason not sent until April 13, the Labor Ministry ordered us to pay in full the wages of all the workers, whose work contracts inevitably were suspended—strictly in line with the current Labor Code—at the same time the newspaper was suspended on June 26, 1986.

It should be noted that La Prensa, on the decision of its directors and for humanitarian reasons, seeking to ease as much as possible the unemployment brought about by the Sandinista government, continued paying the wages for two months beyond the June 26 closure.

As can be imagined, La Prensa, after 10 months of receiving not one cent in income, has severe liquidity problems—despite which it has kept on a skeleton staff, in case it might be able to publish again.

To pay those costs, in the absence of any revenue, the directors of La Prensa have had to sell off some of the assets. Amid the pressure for the paper to meet its obligations, the Sandinista government now is trying to liquidate it completely to bankrupt La Prensa.

"Why this now?" ask the noble Nicaraguan people, all of whose freedoms—such as freedom of expression—have already been battered. Very simple. The closure of La Prensa was not done for this or that reason proclaimed by the Sandinistas (without their specifying one), but because this newspaper, even shut down, represents the Nicaraguans' hope of one day being able to express themselves freely again.

That is why for the "Sandinista Front" even the hopes of an innocent people in their strategy have to be killed.

But despite all the outrages, we are continuing day in and day out to seek means to reestablish our right to appear again before the Nicaraguan public and respond to its demand to be able to be informed openly and impartially—and not solely in line with the local and international policy of the Sandinista government, as it is now by the revolutionary government's media. We do this because we consider it our strong moral obligation to hold on to the defense of the Nicaraguans' rights at this historic moment in my country.

Based on that conviction, during the 77th World Interparliamentary Conference in Managua April 27, La Prensa sought to raise its voice again and claim before representatives from around the world its rights to once again freely inform the Nicaraguan people about what is happening in this country.

To make our message known, La Prensa published a poster-style sheet bearing the newspaper's logo and calling for worldwide solidarity against the Sandinista government's decision to keep it silenced.

The poster had as a background an enlarged photograph of my late husband, the martyred editor of La Presna, Pedro Joaquin Chamorro Cardenal. It declared that in Nicaragua there is no freedom and therefore no democracy, and that it cannot be said a parliamentary system exists here, such as is known in all the democratic nations of the world.

Our greeting was circulated at the World Interparliamentary Union conference, having been sent to the embassies of the various countries reprsented there.

The result was that on April 30 a platoon of 30 armed soldiers under the command of Capt. Oscar Lozo, from the Nicaraguan Interior Ministry's State Security, broke into the newspaper's plant and temporarily detained several La Prensa employees, including directors. All were subjected to police interrogation and threats of being hauled off to jail for having published the poster.

Three hours later, the State Security military squad withdrew, after searching the entire building and seizing plates, film and other material used to print the poster. Many of the printed posters were also seized, along with thousands of wastage sheets.

The newspaper was also left with the threat of further action, supposedly stemming from the state of emergency in the country, under which the publication even of a one-sheet flyer is prohibited if its text has not been been checked and approved by the Interior Ministry.

With these two Sandinista government actions against us, which I denounce herewith through my Inter American Press Association colleagues, I wish only to carry out a mission that I have taken upon myself: to explain to the world the defenselessness of the Nicaraguans in the principal struggle of this century—the ideological struggle. My mission is to make those who do not live in Nicaragua feel the ominous significance of the silence that has fallen over our Nicaraguan people, after having bled, after a heroic fight for their freedom, a fight in which I lost my loved one.

Nevertheless, I believe it is also my obligation to assert that despite the Sandinistas' flagrant injustice to La Prensa, bulwark and barometer of democracy in Nicaragua, the reaction from the free world—the great world press and the leaders who call themselves democrats—has been little.

What concerns me in this coolness is that all the debate is over whether armed struggle is good or bad. I, and La Prensa, do not want—and have never wanted—to take part in that discussion. It seems absurd to us that we look only at the here and now, and not ahead to the most dangerous outlook for our struggle in Nicaragua. We are fighting against a deceitful, seductive, false ideology that can trick exploited peoples. And against such a force we have no arms.

The barracks, the bulwark, of the ideological struggle in Nicaragua is La Prensa, but the loss of such a bastion does not seem to mean much to the free world.

The months go by and totalitarianism, with the outrage taken for granted, engages in new attacks against the people's right to be informed. The months go by and the new dictatorship continues taking positions and strangling a people's freedoms, won by blood and sacrifice.

WITH GASOLINE PRICES AND IMPORTS RISING, WE NEED ACTION NOT COMPLACENCY

HON. FORTNEY H. (PETE) STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. STARK. Mr. Speaker, in March 1986 the price of oil bottomed out at $12 per barrel. Unfortunately, that date signaled the end of the oil glut period and what I believe history will show is the beginning of a new fuel crisis. Since then oil use has risen consistently, prices have increased considerably and oil import increases have contributed to record trade deficits. In fact, oil demand, which has been increasing at a rate of 3 percent annually, forced crude oil prices to above $22 a barrel this month, a frightening 55-percent increase in just over a year.

Why are oil prices and imports rising? It is simple. The mid-1980's price decreases—a result of demand decreases not production increases—led the people of this country—and the world—to believe that there was not a fuel shortage after all. Prices had plummeted and oil was again flowing freely in the United States, or so we thought. The sad truth is that of 190 billion recoverable barrels of oil in this country, three-quarters had been pumped by 1985, and 90 percent is likely to have been consumed by 2004. To make matters worse, an annual worldwide demand increase of 3 percent will exhaust the world's current excess capacity of 14 million barrels per day in less than 7 years. This becomes crucial when one considers that by 1994 the United States will be forced to import up to 75 percent of its oil, as opposed to 33 percent during the first oil crisis. At least 50 percent of these 1994 imports will come from the politically unstable OPEC cartel.

These indicators are telling us that if we do not prepare for the future, we will suffer another fuel crisis which will render us powerless to the politics of the Middle East. The current administration chooses the latter. Instead of opting for fuel saving and demand decreasing policies this administration has instead settled for procrastination. The Secretary of the Interior's lone suggestion has been to open the California coast and stretches of the Alaskan Arctic National Wildlife Refuge to oil production—a policy that would provide only short-term relief for a long-term problem. We need a plan much more far-reaching than this.

For this reason I introduced H.R. 1816, a bill to repeal the administration's authority to lower the Corporate Auto Fuel Economy [CAFE] standard from 27.5 to 26, and I support increasing the Gas Guzzler Excise Tax.

The CAFE standard was enacted by Congress during the 1970's energy crisis to promote energy conservation and to ease our dependence on foreign oil. It saved consumers $50 billion between 1975 and 1985—when the administration reduced the standard to 26 mpg—and dramatically reduced U.S. foreign oil dependency. Unlike the administration's plan, H.R. 1816 would not sacrifice environmentally sensitive lands nor would it increase the emittance of automobile pollutants into the air. It would, however, increase the production of fuel-saving cars and ultimately reduce the demand of gasoline. Similarly, the increase of the Gas Guzzler Excise Tax combined with the elimination of its exemptions—which currently taxes automobiles with an mpg of less than 22.5 and exempts limousines, pickup trucks and vans—would also decrease the dependence of the United States on oil imports by improving the fuel economy of vehicles sold in this country.

These proposals both decrease the United States dependence on imported oil and save the automobile consumer billions of dollars. They prepare the United States for the inevitable oil price increases while improving this country's fuel efficient auto fleet. These are steps in the right direction, plans that will reap benefits far into the future. We need to prepare for another fuel crisis not ignore it. Legislation such as H.R. 1816 and the Gas Guzzler Tax will help us do this.

A CHILD IN REFUSAL—A DESPERATE PLEA

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. HOYER. Mr. Speaker, one of the most poignant memories for me of our trip to the Soviet Union was meeting 16-year-old Carmi Elbert. Carmi is the son of Lev and Inna Elbert, refuseniks for more than 10 years. Since the time his parents applied for emigration from the Soviet Union, Carmi has been attacked and insulted by other students at his school. His parents have been subject by name to anti-Semitic attacks in the press.

During our visit to Moscow, Carmi's parents were on a hunger strike in a desperate attempt to win freedom for their families. In a valiant move, on the 35th day of his parents hunger strike, Carmi joined his parents. When I visited the Elbert's at the site of their hunger strike, Carmi handed me a copy of his letter to Mikhail Gorbachev.

Mr. Speaker, I would like to share this desperate plea of this 16-year-old "adult," as he calls himself, with my colleagues.

MR. GORBACHEV: For 11 years our family tries to repatriate to Israel. Since 5, I've witnessed the persecutions of my parents for their desire to return to Israel. The beatings of my mother and uncle; slanderous articles in newspapers, imprisonment of my father and intention to deprive me of his presence for an additional 10 years by means of a trumped-up drug-pushing charge brought against him. All this makes up the essence of my childhood. You will agree it cannot be called a happy one. I've been a mere child, but I'll never forget the 40 days of my mother's hunger strike, as well as the deaths of my grandfather and grandmother who were unable to stand the tension and outrage of the situation.

Now I have grown up. Today is the 35th day of my parents hunger strike. Is it possible that you want me to lose them as well? You are also a father, and your children, as do all children on Earth, wish you and your wife to be alive.

As an adult human being, I'm unable to witness listlessly the cold-blooded murder of my parents.

I join their hunger strike. Let your conscience be responsible for any damage that can occur to our health and our lives.

Signed,

CARMI ELBERT,
Age 16.

A NATIONAL ENERGY POLICY IS ESSENTIAL

HON. MICHAEL A. ANDREWS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. ANDREWS. Mr. Speaker, seven democratic Presidential candidates met recently in my district in Houston to debate a wide range of national issues. These candidates represent the leaders in the Democratic Party. While they disagreed on specifics, all of them agreed that to ensure a future supply of energy America must formulate a national energy policy. I concur, and would like to take this opportunity to remind my colleagues why a national energy policy is essential.

I am sure that we are all aware of the economic hardship that has befallen the U.S. energy producing community. The domestic oil industry, in particular, has suffered a dramatic and swift decline.

In just a few short months last year, prices for domestic oil were cut nearly 60 percent by the OPEC cartel. As a result, contracts were torn up, layoffs sent the Texas unemployment rate through the roof, the rig count plunged, bank loans were called in, and most importantly, exploration activity ground to a halt. In 1986 oil industry employment and capital spending for exploration dropped 26 percent.

As a direct result of OPEC manipulation, U.S. domestic oil production is currently declining at a rate of 6 percent per year while consumption in 1986 increased by 3 percent. Today, we are the world's largest energy consumer and the second largest producer, but we own only 4 percent of the proven oil reserves worldwide.

Last year, petroleum imports averaged 6.5 million barrels per day—40 percent of domestic demand. The impact of increased imports on our own domestic industry can best be determined by national rig counts. So far this year, the rotary rig count and seismic crew count averaged more than 40 percent below last year's figures.

If these trends hold, the United States will be importing more than half of its oil by 1990, and OPEC will be operating at 90 percent of capacity. Even with the recent increase to $20 per barrel for oil, we will import more than 50 percent by the mid-1990's.

With regard to a second domestic energy source, natural gas, outdated regulations continue to hamper competition with both domestic and imported oil. Today, the total resource base of the lower 48 States is estimated to be 835 trillion cubic feet, or 50 times the current annual production.

Yet some 40 percent of U.S. gas production remains subject to wellhead price controls—despite the obvious inhibition of additional reserves and delivery capability. According to the Department of Energy, an additional 28 trillion cubic feet of gas supplies ultimately would be developed if remaining controls were removed.

The lack of a consensus energy policy to reduce reliance on energy imports is severely felt by the State of Texas and other oil producing States. I cannot remember a time when the outlook in Texas, and in my city of Houston, was so bleak for so many.

Today, the unemployment rate in Texas remains around 9 percent, despite recent efforts to diversify away from our traditional reliance on oil and gas. For each $1 barrel drop in the price of oil, Texas loses roughly 25,000 jobs, $3 billion in gross economic output, and $70 to $100 million in State and local tax revenue.

But this situation is not simply a problem in the Southwest—it is of major concern to our entire country. Today, just 10 years from an oil crisis that paralyzed the Nation, oil imports are nearing 40 percent of U.S. consumption.

Our country is heading toward a real energy crisis—and a national security crisis as well. National Security Chief Frank Carlucci recently told a group of my colleagues that he plans to urge the White House to devise ways to lessen the U.S. dependence on imported oil. The administration must recognize that it has a major role to play in avoiding the impending crisis; thus far neither its rhetoric nor its studies have extended strong leadership.

In my opinion, the most obvious answer to both the energy problem and the Federal budget deficit is the oil import fee. I recently introduced legislation which would impose a variable fee on imported oil and petroleum products, with no exceptions. Senators LLOYD BENTSEN and BENNETT JOHNSTON of Louisiana have introduced companion legislation in the Senate.

My bill would impose a fee equal to the difference between the present price of oil and $24 per barrel. In the case of imported refined products and petroleum feedstocks, an additional $2.50 differential will be imposed to make up for the environmental costs domestic refiners must pay.

All revenues gained from the fee would be used to reduce the deficit. For example, if the price of oil were to remain at $19 per barrel, the fee would bring in revenues of approximately $50 billion over 5 years.

A variable import fee of $25 per barrel was recently estimated by industry sources to double the active drilling rig count in 6 months and immediately begin arresting the decline in U.S. oil production. These results would be of enormous benefit to both energy producers and consumers.

My bill would also repeal the windfall profits tax. No more than a trickle of revenue is being gained by the tax—the cost of collecting and accounting for it dwarf the revenue that is realized.

However, repeal of the windfall profits tax would send a message to the industry that our Government is moving in the right direction on energy issues. Removal of this disincentive would permit oil producers to use funds now devoted to useless administrative activity for exploring and developing badly needed reserves.

A third possible solution would be to enact Senator LLOYD BENTSEN's so-called peril point legislation which would establish a national energy policy to limit our dependence on imported oil to 50 percent of our domestic consumption. If an annual assessment showed that foreign oil dependence would exceed the 50-percent peril point, the President would be required to present Congress with a plan for correcting the imbalance.

Further methods of redress might include renewable energy proposals, an oil import fee, or other measures. Congress would then have 90 days to accept or modify the plan.

Although this initiative was recently dropped from the Senate version of the trade bill, I believe this legislation would ensure that domestic dependence on foreign energy sources not leave us vulnerable to actions taken in the volatile Middle East.

Resistance to Senator BENTSEN's legislation, like that to an oil import fee, shows that we as a nation have still not recognized the broad consequences of the oil industry plight. Unfortunately, many in Congress continue too perceive this as a regional problem.

Taken together, my message is simple. Unless we take action to stop the flow of imports through enactment of an oil import fee we risk the lines at the gasoline station that we experienced in the 1970's.

Unless we make a real commitment to enhancing our national security by strengthening the domestic oil and gas industry, we will lose it once again.

As George Santayana once said, "Those who cannot remember the past are condemned to repeat it." Unfortunately, forcing Members of Congress to remember the last energy crisis may be the only way to avert the next one.

IMPLICATIONS OF AN INF AGREEMENT AND NEW TECHNOLOGY FOR NATO

HON. DANTE B. FASCELL

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. FASCELL. Mr. Speaker, the time has come to focus seriously on the military and political implications of a possible INF Agreement. With this purpose in mind the Subcommittee on Arms Control, International Security and Science and on Europe and the Middle East of the Foreign Affairs Committee held a joint hearing on July 22, 1987 with General Rogers, recently retired supreme Allied Commander of NATO, and with Peter Sharfman and Alan Shaw of the Office of Technology Assessment [OTA] who authored and directed an OTA study on new technologies for NATO. The fundamental questions which will shape the debate on a possible INF Agreement—will it enhance NATO and U.S. security, is it consistent with NATO's policy of flexible response, and is NATO prepared conventionally, with or without new technologies, to compensate for any military imbalance during implementation of an INF Agreement—provided the basic thrust to this hearing with General Rogers and OTA.

It is my view that the questions and concerns that General Rogers raises about the advisability of an INF Agreement must be clearly answered by this administration if it hopes to have full public and congressional support for an agreement. General Rogers appears to be concerned about several policy issues and several basic changes in the military equation for NATO which would be caused by an INF Agreement. It is my reading of General Rogers that his editorials and testimony suggest:

First. That the administration's double zero arms control objective means the decoupling of Europe from the United States nuclear deterrent and the reversion from a NATO policy of flexible response to a policy of massive retaliation;

Second. That in destroying the Pershing II, we are giving up that which "makes our deterrent most credible," a land-based system which can "inflict pain on Soviet soil in 13 minutes";

Third. That the administration's declarations that nuclear weapons are immoral have undermined deterrence in Europe; and

Fourth. That the administration's emphasis on a nonnuclear deterrent, in other words SDI, is dangerous because "it does not recognize the fact that nuclear weapons are necessary into the foreseeable future."

In fact, General Rogers' editorials have been very blunt about a prospective zero INF Agreement stating that "such a move would harm the credibility of our deterrence, the ability to prevent aggression" and would place NATO in a weaker and worse situation than in 1979 before the original NATO decision to deploy Pershing II and cruise missiles in Europe. General Rogers has repeated in several different ways his assessment that while the zero option proposal for an INF Agreement may be a great political proposal it still gives him gas pains when he considers its military implications and the way it harms our deterrent credibility in Europe.

In reassessing the strengths and weaknesses of NATO in light of a possible INF Agreement it was interesting to hear about OTA's report on NATO's use of new technologies to help it compensate for the numerical conventional military imbalance between the Warsaw Pact and NATO in Europe. OTA's report on new technologies for NATO focuses on follow-on forces attack [FOFA] which was introduced under General Rogers' leadership and has been NATO's principal conventional defense initiative. This report on FOFA by OTA was requested by the Foreign Affairs Committee 2 years ago. This idea of FOFA is to use artillery, missiles and aircraft to stop reinforcements as they approach the frontline battle from rear staging areas. The new technologies help assure success in this difficult task by advancing capabilities to locate and target enemy forces, rapidly communicate and assimilate that information so that the proper munitions can be guided to and destroy those enemy forces. The OTA report on these new technologies judges the FOFA Program to be a modest success for NATO which can improve NATO's overall deterrent posture if the systems can be funded adequately and cooperatively within NATO and if the various systems can be made to work efficiently and effectively together. These two "ifs" are, of course, vitally important to congressional consideration of these FOFA programs.

In anticipation of a possible INF Agreement it was reassuring to learn that NATO has been putting its technological edge to good use and making progress in the conventional defense area where the numbers are not in NATO's favor. It is interesting to note in this regard that in DOD's annual report to Congress for fiscal year 1988 there was a list entitled the "Relative U.S./U.S.S.R. Standing in the 20 Most Important Basic Technology Areas" and the United States was equal in 6 categories: (1) Aerodynamics/fluid dynamics, (2) Conventional warheads—including all chemical explosives, (3) Directed energy—laser, (4) Nuclear warheads, (5) Optics, and (6) Power sources—mobile—includes automated control.

And superior in 14 categories: (1) Computers and software, (2) Electro-optical sensor—including infrared, (3) Guidance and navigation, (4) Life sciences—human factors/biotechnology, (5) Materials—lightweight, high strength, high temperature, (6) Micro-electronic materials and integrated circuit manfacturing, (7) Production/Manufacturing—includes automated control, (8) Propulsion—aerospace and ground vehicles, (9) Radar sensor, (10) Robotics and machine intelligence, (11) Signal processing, (12) Signature reduction, (13) Submarine detection, and (14) Telecommunications—includes fiber optics.

The U.S. and NATO should be able to reap significant defense advantages from our clear lead in technology.

The OTA report on FOFA made several recommendations to Congress. The report recommended that a more comprehensive approach be developed for funding FOFA, an approach which would balance the desires of our European allies for their fair share of the business and technology, adequate contracts for U.S. companies, and achievement of the most efficient results. The report also suggests that FOFA programs be moved from their present limited capability to full capability by funding complete packages of weapon systems and by allowing some of the funding to flow eastward across the Atlantic to our NATO allies. Another important guideline of the study is flexibility, flexibility to adjust FOFA programs according to changes in Soviet strategy and flexibility to select alternative defense measures when they are better and cheaper. General Rogers endorsed FOFA, the OTA report and its recommendations. These recommendations clearly deserve careful considerations by the Congress.

The military and political implications of an INF Agreement clearly extend into the area of the conventional defense of Europe by NATO and raise some of the geostrategic difference of perspective between Europe and the United States regarding the role of conventional defense, the role of theater nuclear weapons, the role of the U.S. strategic deterrent for Europe, and the linkage between the defense of Europe and the United States nuclear guarantee. I look forward to a full review and debate of these issues in anticipation of a signed INF Agreement.

TRIBUTE TO MALCOLM BALDRIGE

HON. DOUG BEREUTER

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. BEREUTER. Mr. Speaker, this Member joins his colleagues today in mourning the untimely death of Commerce Secretary Malcolm Baldrige. Malcolm Baldrige was an outstanding Nebraskan. He was a successful businessman and a dedicated public servant. But, most of all, he was an extraordinarily good man. He represented decency, integrity, and honor. All of us on Capitol Hill will miss him, and the Nation will miss his dedicated and exceptional public service.

I commend my colleagues to the editorial which appeared in the July 28 Omaha World-Herald, the newspaper of his birthplace, the city represented in the U.S. House of Representatives by his father.

MAC BALDRIGE, STRAIGHT SHOOTER

He was born in the Midlands. His value system was formed in his early years in Omaha public schools and on a ranch in western Nebraska.

When he died, he was eulogized by Lou Cannon, White House correspondent for the Washington Post, as a "straight shooter." The Old West phrase fit Commerce Secretary Howard Malcolm Baldrige perfectly.

His interest in the West, in riding and in calf roping, never left him, not through the years at Hotchkiss Preparatory School, not at Yale nor his service as chief executive officer of a multimillion-dollar corporation that he rescued from the edge of failure in 1962.

At age 64, Baldrige was still competing in professional rodeos. He was practicing at a California ranch last weekend when his horse inexplicably reared and fell on him, fatally injuring him.

The son of an Omaha attorney who served in the Nebraska Legislature, on the MUD board and for one term in the House of Representatives from the 2nd District, Baldrige attended the old Columbian Elementary School and Central High School before going to prep school in Connecticut. His mother and father lived in Omaha until 1945.

Baldrige was one of three original members of President Reagan's Cabinet. His reputation, even among Reagan opponents, was untarnished by even so much as a hint of scandal. He was a consistent advocate of free trade, helping to formulate the President's trade policies.

"Free trade is absolutely necessary to the future economic well-being of the world," Baldrige said. Free trade, however, must be tempered by an insistence on fair trade because "our fair trade laws are the bedrock on which free trade stands."

Baldrige pushed early in Reagan's first term for stronger trade measures, but it wasn't until Reagan's second term that the administration took a tougher line. In April, Reagan imposed 100 percent duties on some Japanese products after the Japanese were found to have sold computer chips on the U.S. market at less than cost.

Baldrige's death came as Congress was getting ready to select a conference committee to fashion a trade bill from House and Senate measures that require strong retaliation against foreign traders. Reagan has threatened to veto such a bill because he said it would start a trade war, a view influenced by Baldrige. Baldrige's influence on the trade bill conferees will be missed.

As his longtime friend, Vice President George Bush, said: "Mac Baldrige set the standard of excellence, decency and integrity in public life. He was a tower of strength and truly a man of honor."

THE DEBT CEILING INCREASE

HON. STAN PARRIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. PARRIS. Mr. Speaker, a number of my constituents contacted me last week regarding Congress' failure to raise the Federal debt ceiling by July 17, 1987, an expiration date for Federal borrowing authority imposed by Congress itself in May of this year. My constituents were concerned, and rightly so, that as a result of Congress' inactivity, short-term Treasury securities held by them in automatic reinvestment programs could not be reinvested, as planned, and opportunities for new investment in U.S. savings bonds and short-term Treasury securities would be lost. My constituents were angry, again rightly so, that their elected officials do not seem able to adjust their agendum to permit consideration of the debt limit extension under a timeframe that we elected officials have imposed upon ourselves. This anger, however, did not prompt my constituents to call. The calls were motivated by real concern that the investment strategies the callers had selected to provide an income flow for basic needs, strategies that are dependent upon a sound Federal Government, were being torn apart, and that they did not know when, indeed if, they would be able to reinvest or invest their funds in Treasury obligations in order to put their investment strategies back together.

Congress' failure to raise the debt ceiling in a timely manner poses more than a mere inconvenience for the thousands of Americans who use their investment in Treasury securities to plan their livelihood. The lives of these Americans are placed in turmoil each time that Congress determines that it has better things to do than to consider debt ceiling extension legislation. And, now that consideration of the debt ceiling extension has been pushed back to this week, Congress faces the very real possibility that extension legislation will not be enacted in time to permit issuance of checks to Social Security recipients due this week, payment to its employees and vendors, and payment of a 2-year note due this Friday. Not only are countless more Americans harmed with each day that passes without a debt ceiling extension, but we are fast approaching the day that the Federal Government will default on its debt obligations—such a default will be a first for the United States and will surely erode, if not destroy, the faith of Americans in this great Nation of ours.

I well understand that the primary reason for delaying consideration of the debt ceiling extension legislation these past few months has been the desire of certain Members to attach to such legislation budget reform measures. I strongly support well-reasoned budget reform. The budget process under which this Congress operates is archaic, inefficient, and not only opens the door for but encourages the Congress to let the clock run and place American Treasury security holders—persons who in good faith have invested their hard-earned dollars in our Nation—in the type of dilemma that prompted my constituents to call me last week.

I believe, however, that it is unconscionable for Congress to place the American people in a state of limbo and confusion while their representatives come to grips with what form of budget reform they can advocate and how best they can use the threat of an impending Federal Government shutdown to win approval of the reform measures they finally select. Use of such tactics at our constituents' expense simply is not acceptable, and I urge my colleagues to carefully consider the consequences forced upon the American people by using these tactics before resorting to them in the future. Mr. Speaker, it is bad enough that this Congress has been so financially irresponsible that we face the budget crisis now before us, but we must take immediate action to raise the debt ceiling to prevent the parade of horribles that otherwise will occur.

OPPOSE GAS TAX INCREASE

HON. GLENN M. ANDERSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. ANDERSON. Mr. Speaker, House Resolution 225, which I introduced, expresses the sense of the House that our Nation's gasoline and diesel taxes shall not be increased for deficit reduction purposes.

Certainly, we must reduce the deficit. Of that there can be no question. A motor fuels tax increase used for this purpose though, would be horribly regressive, severely damaging to the Nation's economy, and devastating to the country's highway and public transit systems. Is it reasonable that one's responsibility for reducing the deficit should be based on the number of miles driven? Of course not.

If you agree that we must reduce the deficit but must not increase our motor fuels taxes, I urge you to join me and the 54 of our colleagues who have already cosponsored House Resolution 225. The list of cosponsors follows:

LIST OF COSPONSORS

Mr. Anderson, Mr. Howard, Mr. Hammerschmidt, Mr. Shuster, Mr. Akaka, Mr. Applegate, Mr. Ballenger, Mr. Barton of Texas, Mr. Borski, Mr. Bunning, Mr. Carr, Mr. Chapman, Mr. Clinger.

Mr. Courter, Mr. Craig, Mr. Daub, Mr. DeFazio, Mr. de Lugo, Mr. Dornan, Mr. Dymally, Mr. English, Mr. Fascell, Mr. Gallo, Mr. Gordon, Mr. Grant, Mr. Gray of Illinois.

Mr. Hastert, Mr. Hayes of Illinois, Mr. Hefner, Mr. Inhofe, Mr. Jeffords, Mr. Lagomarsino, Mr. Latta, Mr. Lightfoot, Mr. McEwen, Mr. Nielsen, Mr. Nowak, Mr. Oxley, Mr. Packard, Mr. Perkins, Mr. Quillen.

Mr. Rahall, Mr. Ravenel, Mr. Shaw, Mr. Smith of New Hampshire, Mr. Smith of Florida, Mrs. Smith of Nebraska, Mr. Stangeland, Mr. Tallon, Mr. Towns, Mr. Upton, Mr. Valentine, Mr. Whittaker, Mr. Wise, Mr. Wortley.

TRIBUTE TO VICTOR J. TEDESCO

HON. BRUCE F. VENTO

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. VENTO. Mr. Speaker, I would like to pay tribute today to Councilman Victor J. Tedesco, a man who has been in public service in St. Paul, MN, for 21 years and for whom I have a great deal of admiration and respect. Mr. Tedesco recently decided to retire after serving the city of St. Paul as a city councilmember since 1966. Upon his retirement, he was president of the St. Paul City Council.

Victor Tedesco began his political career as commissioner of parks and recreation in St. Paul, his first assignment upon being elected to the city council. He fought at the time for good parks and playgrounds for the city's youth and has continued to advocate such projects in his over two decades of service to the people of St. Paul. In that time, he has served under three different city charters and four mayors. He has accomplished a great deal for St. Paul since first being elected.

I specifically recall with fondness working with Vic to successfully revitalize a portion of the East Side of St. Paul. This area is now known as Railroad Island. It is a tribute to Vic that one street in this area, and incidentally the street I was also born on, Collins Street, was renamed Tedesco Street in his honor. It is a fitting tribute to a man who has devoted much of his life to public service.

While there have been many letters and articles written extolling Vic's virtues since the announcement of his retirement, I would like to share with you what is perhaps the most personal acknowledgement and one that accurately portrays the Vic Tedesco that I know. It is written by his son, Tony, and was published in the Eastsider. It is a compelling and warm appreciation of the tremendous contribution Vic made to the people he represented—his community and most of all his family. These are sacrifices that we all need to be sensitive to.

[From the Eastsider, July 1987]

HUMANITY IN POLITICS—A TRIBUTE TO VIC TEDESCO

(By Tony Tedesco)

Twenty-one years have gone by quickly. What can I say of an era that has spanned more than two-thirds of my life, namely those twenty-one years that my father, Victor Tedesco, served the City of St. Paul as a City Councilmember?

I remember March 14, 1966, only too well. That evening my Confirmation Party was being held in the rec room of our house at 1667 Conway St. But something else was happening there, too. The Tedesco Volunteer Committee had gathered, hopefully, to celebrate their candidate's first election victory. About 9 p.m., the first reliable results of the primary election had come in. In this city-wide election, these votes had come from what was then the Second Ward, the East Side. Tedesco was running a strong first. I was delighted, and very proud.

It's now twenty-one years later, and I have quite a different perspective of life. Being periodically active in politics, and working in government, both here in the Twin Cities and in Chicago, has given me some inside perspective of government and elected officials. Mostly, it is a positive one.

Why do people want to be elected officials? I think what impresses me most is motivation—good and bad. This is the key, and all else follows.

In all honesty, my father loves the limelight, the attention. He is certainly more than a bit of a ham. But there's really nothing wrong with that. I think that it's due to his love of people. He certainly enjoys being around people, even before politics. I clearly remember from my childhood how he liked meeting people while playing in his band or through his radio business.

People have always come first with Vic. Individual problems, constitutent service if you will, always took priority over gradious projects. I remember all the calls from the Mr. and Mrs. Johnsons of Beech St., or Fourth St., or Cleveland Avenue, all with their specific personal problems—sidewalks, building permits, small business loans, licenses, zoning variances, etc. And, Tedesco delivered.

Victor Tedesco was and continues to be respected by many business and civic leaders in this town, and has been recognized for his individual contributions. He has always been very popular with the general public.

However, he was not respected by everyone; but then, who among us has? He has often been criticized for not being a great intellectual leader, as one of their more popular stories goes. There appears to be, on the surface, an element of truth in this claim; spending excessive time on studies was not his forte. He was more of an implementer, a doer. That was part of his personality, and part of his strength.

For all the less than honorable people that he encountered, he met ten times as many fine, good people. This is the true wealth of politics—the wealth of great friendships. Victor Tedesco was blessed with the likes of many great people—all the Gladys Mortons John Riccis, Louie Bells. Mike and Caroline Morrellis, Phyllis Ethiers, Larry Mays, Eileen Weidas, John and Vinnie Tuccis, just to name a very, very few.

What made Victor Tedesco the man he is today? I guess it all boils down to the fact that Victor Tedesco never forgot his roots. Nor did he ever forget the people who put him where he is today. And he was never ashamed of either.

He was the son of immigrant parents. He was taught the value of hard work and respecting other people, regardless of their social standing. As a boy he sold newspapers on a street corner. As a newlywed, he worked in a tin can factory. Even when the Tedesco brothers built a broadcasting empire he never forgot where he had come from, and who had helped him get there.

As a Councilman he had power. During Tedesco's second term it tempted him, but he learned to control it. He realized that its real purpose was to help people, not to abuse it. It was not a sole means of obtaining more. Unfortunately, some see it differently.

It's no wonder that Victor Tedesco is regarded as the best City Council President that St. Paul has ever had. After a long period of two month presidencies, coups and intrigue, the position was finally given to him. He served for over five, uninterrupted years, a tribute to his fairness.

Finally, the greatest honor bestowed upon Victor Tedesco was the renaming of Collins Street to Tedesco Street. This is the street upon which his father, Antonio Tedesco, had purchased a house and raised his family.

And what was the first thing that his son, Victor Tedesco did at the dedication ceremony? He asked his brothers and sister to be at his side while cutting the ribbon. He spoke of his parents, his neighbors, and his friends.

In closing, one may ask, what is the true relevancy of his career? I would respond that Victor Tedesco brought humanity to public life. He was approachable, both in his office and on the street. He was someone you could talk to, someone you could touch.

This is very important because he brought public confidence to government. I don't think most people saw it exactly, or directly, in those terms, but he did serve as a means of access to government. He was there for the ordinary people; the ones unaccustomed to hiring attorneys and other professionals to solve their problems for them.

It has been said that his retirement is the end of an old, outdated era, that he no longer fits in with the new so-called professionalism of the City Council. It may be somewhat true that he no longer fits in; but I sincerely hope not. People need to feel, and should feel, that there is someone in public life that is approachable, concerned, human. Something special is involved when people really have a unique trust in their elected officials. Surely, there is room for both.

I could continue on, but. I believe I have said enough. It's funny how in life you began to develop you own way of seeing things. I have not always agreed with my father; and, I still don't always agree with him. Nonetheless, I think I understand what he has meant to so many of us. We really do admire and respect him. And why shouldn't we? Victor Tedesco has always been one of us.

There are two things that I can say with certainty. On March 14, 1966, I was a little boy very proud of his father. And, today, as an independent-thinking man, I am prouder still.

THE NEW GARY ACKERMAN: STILL A HEAVY HITTER BUT WITHOUT THE BAGGAGE

HON. THOMAS J. MANTON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. MANTON. Mr. Speaker, I would like to call my colleagues' attention to an article which appeared in the New York Times on Friday, July 24, 1987, regarding our good friend and colleague, GARY ACKERMAN. Anyone who has seen GARY recently knows that GARY has done what all good budget cutters claim to do: cut out the fat. In fact, during the last 5 months, GARY has lost 104 pounds.

Mr. Speaker, too often we fail to take a moment to congratulate one of our colleagues on a job well done. Although the New York Times called the new GARY "two-thirds the man he used to be," we all know GARY is the same witty, fun loving man we remember, only now he is trimmer and healthier.

I think we can all learn from GARY'S dedication and commitment. We know how difficult it can be to stick to a diet while attending the many luncheons, dinners, and receptions which make up a necessary part of this job. In fact, I think we should all raise a glass of mineral water in a toast to the gentleman from Queens.

Mr. Speaker, I ask unanimous consent that the New York Times article "104 Pounds Off, A Political Heavyweight No More" be included in the RECORD.

The article follows:

[From the New York Times, July 24, 1987]

104 POUNDS OFF, A POLITICAL HEAVYWEIGHT NO MORE

(By Dennis Hevesi)

Representative Gary L. Ackerman was startled by a stranger in his house one day last week—himself.

"I walked past a mirror and did a double take; I thought I was a burglar," Mr. Ackerman, a third-term Congressman, said yesterday.

What Mr. Ackerman, a Democrat from Jamaica Estates, Queens, is, and hopes to remain, is about two-thirds of the man he used to be.

"I was suspiciously close to 300 pounds—283.6," Mr. Ackerman said. "I told myself, 'I am not going to the gas station to get weighed and I am not going to be buried in a piano box.' "

That was back in February, before he started a medically supervised regimen of powdered protein and water.

Now, after more than five months during which he has eaten only one bite of solid food—"a piece of matzoh, the size of a quarter," on Passover—Mr. Ackerman weights 179 pounds.

And today, at 11:30 A.M., at Ben's Deli on Queens Boulevard in Rego Park, Mr. Ackerman will break his fast with a turkey sandwich, a bite from a knish and two from a pickle.

Admitting that he always has been fat, but didn't want to know it, Mr. Ackerman recalled that "when I was a teen-ager and I went to buy clothes, they called it 'husky.' If somebody had said, 'This is the fat slob department,' maybe I'd have taken notice."

Now, Mr. Ackerman's colleagues take notice. "There are guys down here in Congress who would never more than nod at me," Mr. Ackerman said. "now, they slap me on the back.

Serious legislation may result from Mr. Ackerman's experience.

Mr. Ackerman, chairman of the House subcommittee on compensation and employee benefits, said, "I'm proposing legislation to mandate that insurance companies for all Federal employees—and hopefully this would be a prototype for all insurance programs—cover treatment for obesity."

IN HONOR OF CHRISTIAN HERTER—A GREAT STATESMAN

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. CONTE. Mr. Speaker, I would like to take this opportunity to present to you an outstanding article written by Emanuel Goldberg which recently appeared in the Cape Cod Times and the Quincy Patriot Ledger honoring the late Christian Herter. I was fortunate to have served with him in both my positions as a Massachusetts State senator and congressman. There is no doubt that he was truly a distinguished statesman and I am proud to insert this article into the RECORD so that others may remember Chris Herter, a great humanitarian.

[From the Patriot Ledger, June 24, 1987]

CHRISTIAN HERTER REMEMBERED AS GREAT STATESMAN

(By Emanuel Goldberg)

Ever since Gov. Michael Dukakis decided to run for president, I've wanted to remind people that another outstanding Massachusetts governor, Chris Herter, was thrust into a similar spotlight during the Eisenhower years of the 50s—only Herter didn't run; he was "drafted" by some worried Americans after Ike had his first heart attack.

However, it wasn't until the recent Harvard graduation that I was galvanized, right after listening to West German President Richard von Weizaecker's commencement address which, 40 years after General Marshall's famous speech on the same platform, extolled the Marshall Plan and called for a new, similar undertaking to develop the Third World.

The French writer, Andre Maurois once opined that everything is forgotten, but in the case of former governor, congressman and U.S. Secretary of State Christian A. Herter, I wanted at once to authenticate the record on several historical matters which I fear otherwise are destined to oblivion.

This year there have been many articles commemorating the $13 billion U.S. program between 1948-52 to help European nations, including our former enemies, rebuild their war-torn lands and turn back the Communist challenge. But even the nearly full-page piece by Harvard history Professor Maier in the June 8 *Boston Globe* didn't mention the person probably most responsible for enactment of the Marshall Plan, Chris Herter. Nor did Harvard President Derek Bok pick this up at the commencement even though Herter was an alumnus (Harvard Class of 1915).

In the summer of 1947, during the Truman administration, Massachusetts Republican Congressman Chris Herter took abroad a 19-member Select Committee on Foreign Aid which toured 18 European nations and gathered the compelling facts that eventually led to the European Recovery Program. It was one of the hardest working congressional committees ever assembled. Democratic Congressman Edward P. Boland of Massachusetts also remarked that Herter was "responsible for changing the control of the Marshall Plan from political to nonpolitical." In 1948, *Collier's* magazine selected Chris Herter as the outstanding U.S. Congressman and awarded him a $10,000 prize which he donated to the Johns Hopkins School of Advanced International Studies in Washington, D.C., an institution Herter founded in 1944.

Herter is also credited by some for thinking up the historic "Point Four" in President Truman's inaugural address of Jan. 20, 1949, which suggested a new program to make the benefits of U.S. scientific advances and industrial progress available to help underdeveloped areas.

There's a lengthy roll call of other accomplishments, state, federal and international, but too long to document here, though it should be recorded that Herter gave the test ban treaty its initial impetus and also that President Kennedy selected him as the first U.S. trade negotiator, a role that permitted Herter and the late Will Clayton to liberalize U.S. trade policy and produce the Trade Expansion Act of 1962. Fortunately, the day before Trade Negotiator Herter died, Dec. 30, 1966, he was cheered by Britain's announcement that it was lifting tariff restrictions among the European Free Trade Association (the so-called "Outer Seven"), thus bringing closer Chris Herter's dream of world free trade.

Despite brutal arthritis which required crutches, Chris Herter accepted President Eisenhower's 1959 nomination as U.S. secretary of state, succeeding the late John Foster Dulles. He received an unprecedented confirmation approval by the U.S. Senate. The Senate immediately suspended rules and confirmed the Massachusetts statesman in 4 hours and 13 minutes.

Secretary of State Herter's 21 months involved some of the stormiest in post World War II history, what with the Berlin crisis, Russia's destruction of our U-2 plane, the emergence of Cuban communism, Krushchev's visit to the United Nations, and Japanese riots.

Herter's emergence as "the best possible GOP nominee for president came soon after President Eisenhower's heart attack Sept. 24, 1955, when there was speculation he wouldn't seek a second term. Distinguished Americans, including columnist Walter Lipmann and Massachusetts' Ted Weeks, along with many others, became interested in a Herter-for-President compaign. However when Ike announced Feb. 29, 1956, that he'd seek re-election, Harold Stassen got into the act. He didn't want Vice President Richard Nixon, a heartbeat away, to be renominated and began loudly to tout Chris Herter for vice president. The situation quickly became comic-operatic and eventually the 6-foot, 5-inch Herter, a warm compassionate and incredibly understanding human being, indicated that he'd disavow any personal political ambition and renominate Nixon.

Even in Massachusetts, there's been sloth for remembering in the public sector one of our greatest governors and statesmen. In 1968, Gov. John Volpe tried. He appointed state Sen. William Saltonstall to head a special commission to recommend an appropriate Herter memorial. In fairness to the latter, the immediate Herter family had indicated they didn't want to brick-and-mortar designation, so nothing was disputed when U.S. Sen. Leverett Saltonstall, Billy's father who was then still alive, was honored by the naming of the Saltonstall Building, across from Boston City Hall. Eventually, some state scholarships were established in Christian Herter's name but today they are probably one the least visible memorials ever created. Later, thanks to then MDC Chairman John Sears, some public parkland in Allston was designated as Christian A. Herter Park. There's also a Herter Hall at the University of Massachusetts, Amherest.

When Chris Herter died, I wrote the following about him in an article: "He . . . threw a shadow that has eclipsed smaller men, selfish ambitions, and the pettiness of the day, and he did this in a way that recorded, for all time, the fact that moral and intellectual integrity can be viable instruments in public and human affairs."

My hope now is that some major publisher, interested in a full documentation of U.S. comtemporary history and one of our great humantarians, will commission a stellar American writer to undertake over the next few years a vitally needed Chris Herter biography.

LACK OF ACCOUNTABILITY FACILITATES CHILD LABOR

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. PEASE. Mr. Speaker, the powerful series in Cox Newspapers, "Stolen Childhood," leaves the reader numb and wondering why such exploitation is tolerated. But clues are provided in a couple of the accompanying articles in the series that follow. The first underscores how multinational corporations often do not know or do not care enough to find out how the subcontractors with whom they transact their business treat their employees, let alone their ages. The second bears out that there is much money to be made in some countries literally selling children into bondage and working conditions where they toil for 15 hours a day for food scraps and few cents pay only to be locked in a room to sleep in the factory at night.

[From the Atlanta Constitution, June 1987]

In Primitive Factory, Indian Children Producing Glass, Profits for Corning

(By Joseph Albright)

Bombay, India—Corning Glass Works, the most modern glass manufacturer in the world, makes small change for its stockholders from the labor of 11-year-old factory workers in India.

These squalid little boys in rubber-thonged sandals cannot be found darting around the furnaces of Borosil Glass Works, the Indian affiliate of Corning in Bombay.

Indian technicians wearing laboratory coats, safety shoes and protective glasses work in Borosil's spotless floors, just as the Corning safety teams from the United States demand.

The children work instead in the primitive factory of a Borosil subcontractor.

Every year, the Corning affiliate orders thousands of test tubes, beakers and other laboratory glass from the subcontractor, West Glass, whose factory is in Firozabad, 650 miles northeast of Bombay.

Borosil then sells the Firozabad glass, without labels, to customers in Africa, the Middle East and Southeast Asia.

Rajesh Vyas, the marketing manager of Borosil, said buying glass from Firozabad enables him to fill a niche in his overall export strategy: meeting the demand of "countries where price is the main criterion, such as Eygpt or Kenya, which have foreign exchange problems."

In its modern Bombay plant, Borosil manufactures 98 percent of the glass it sells to its domestic and foreign customers.

Chemically identical to Corning's Pyrex and pharmaceutical lines, glass carrying the Borosil label doesn't crack when heated and isn't corroded by laboratory acids. Its one drawback is that it is too expensive for some Third World markets.

CORNING CALLED A GOOD CORPORATE CUSTOMER

Borosil gets the remaining 2 percent of what it sells from Firozabad, exclusively for export customers. It is cheap laboratory glassware made of "soda glass," the same material used in tumblers and beer bottles everywhere.

Laboratory vessels made of soda glass are not heat resistant, etch-proof or accurately calibrated. But they are cheap.

It's only a sideline for Borosil. For Corning—a blue-blood company that last year sold $1.9 billion worth of products ranging from the fiber optic cables to Steuben vases—the impact on the bottom line is infinitesimal.

Is it proper for Corning and its affiliate to derive any benefit from the illegal labor of 11-year-old boys?

In the United States, John Abrams, manager of corporate information for Corning, said: "The child labor which is utilized in Firozabad is done with the full knowledge of the Indian government and as far as we know complies with Indian law. . . . As of now, we have no reason to believe the child employment laws are being flouted" at West Glass.

After an exchange of messages between Corning headquarters and Borosil, Abrams said that as far as he knows, the youngest employees at West Glass are 14.

"We believe Corning Glass is a good corporate citizen in India," he said, arguing that the purchases from West Glass comply with an Indian government policy of promoting exports from smaller companies.

It's clear, however, that the Borosil orders make a huge difference to one ambitious factory boss in Firozabad—both in profits and prestige.

The proprietor of West Glass, Bihari Lal Sharma, told visiting reporters in Firozabad that Borosil is one of his most important customers.

He said that at times 20 percent of his 1,500 workers are making laboratory glass for Borosil and that he receives at least $100,000 worth of orders from Borosil every year.

ARSENIC AMONG THE CHEMICALS FACTORY USES

West Glass may well be, as Sharma boasted, "the biggest company in Firozabad, quality-wise, diversity-wise and labor-wise." But it is not the sort of place where the luminaries on Corning's board, including civil rights leader Vernon Jordan and former World Bank chief Robert McNamara, would feel comfortable.

In touring the factory, a visitor flinches from unexpected surges of heat on the nape of the neck. The heat radiates from orbs of molten glass carried by Indian boys crisscrossing the crowded factory floor.

Breathing is another worry. Among the chemicals the factory uses to make colored glass, Sharma volunteered, is arsenic. When pressed about the use of arsenic, the factory proprietor changed the subject.

About one-third of the 500 workers on duty looked like children. "The small child comes here with his father to do some small work," explained Sharma.

The factory proprietor at first acknowledged hiring boys under the the legal minimum age of 14. He said boys are "at least 11" when they come to work. After reflecting a moment, he amended that by saying, "at least 13 or 14."

It can be no surprise to Borosil that its supplier illegally hires underage children. Borosil officials have visited the West Glass plant periodically on buying trips, as both Sharma and Vyas of Borosil confirmed.

Vyas estimated that every year Borosil exports about $250,000 worth of goods made by subcontractors. The "bulk" of the goods consists of soda glass ordered from the West Glass factory, he said. (Corning's U.S. spokesman said that he understood the purchases from West Glass amounted only to about $50,000, but that he was not sure what period was covered.)

Borosil views itself as closely affiliated with Corning. Although Corning owns only 39.5 percent of the Borosil stock, Borosil manufacturing manager Ranjit Mehra called this a "controlling interest."

Indian investors, many of them now or formerly part of the company management hold the non-Corning shares.

"Corning is very, very conscious about safety," Mehra said. "They keep coming here to personally inspect our safety practices. We have to send them periodic audits on safety."

In a sign of how aggressive Corning has been when it wanted to get things changed in Bombay, Mehra said the 1984 disaster at Union Carbide's Bhopal chemical plant led Corning officials to demand that Borosil change the way it calibrates the scientific instruments it makes.

"After Bhopal, Corning came down on us like a ton of bricks," Mehra said. "They told us that if you're using mercury, you've got to stop or else shut down the plant."

A Borosil catalog says the company was incorporated in India in 1963 "with technical and financial collaboration from Corning Glass Works." A Corning spokesman in New York described Borosil as "a little Corning Works," adding that from Corning's viewpoint it was a "joint venture."

During its first decade, Americans from Corning worked alongside Indian executives in running Borosil. Since 1974, the day-to-day managers have been Indians, but "a couple of Americans" from Corning still sit on Borosil's board of directors, Mehra said.

For Thai Children, Train Station Offers One-Way Trip to Exploitation

(By Marcia Kunstel)

Bangkok, Thailand.—For thousands of Thai children, the Hua Lampong train station has been a gateway to exploitation. Once a year, it is a gateway out.

The happy time is the Chinese New Year, when ethnic Chinese owners of shops and factories give a holiday to their workers, many of whom are migrants from debt-ridden farms or landless families in the impoverished northeast.

Seven girls clustered on a bench were going home last January after working at a tiny Bangkok garment factory.

Not only was it their first trip back, this was their first full day off in a year.

Ladda Pimwan, 15, leaned against a girlfriend. The seven had arrived early and had yet to endure a nine-hour train ride and an hour's bus drive to their village of Baan As Kaew. It would be a wearying trip, but yes, Ladda nodded shyly before turning her face into her friend's shoulder, she couldn't wait to see her family at the end of the line.

The girls came to the city, they said, because their families need the money. Their wages were about $24 a month—a little more than 7 cents an hour for working 74-hour weeks—but one girl said she managed to send half of it home.

The outbound trains were filled with youngsters such as Ladda last Chinese New Year's. The rest of the year, especially during the dry season, when northeastern families become desperate for even meager earnings, children travel inbound to jobs that sap their strength for pennies an hour. The Hua Lampong train station often is the interchange that gets them from the farm to the factory.

That is when it becomes the gateway to exploitation. Bangkok's main train station is haunted by "fisherwomen" and "fishermen," the job brokers who cast about in streams of migrants for naive children looking for work in the city. These agents prowl the platform when the dawn train pulls in from the northeast.

CHILDREN COMMITTED TO YEAR'S WORK IN FACTORY

Fisherwomen are kind to the new arrivals, offering to help them find work. Too often, they find them jobs with 15-hour workdays. They and Bangkok employers know these kids will be cheap hires.

The brokers may be independent agents, but more likely they represent one of the dozen job agencies that line nearby streets—streets that smell of urine and rotting garbage.

Newspapers here periodically report stories such as the rescue by police last year of 18 girls working in a textile factory. The girls, most ages 12 to 14, said they worked 15 hours a day for food scraps and a few cents pay and were locked in a room to sleep.

The owner, arrested on charges of child slavery and false imprisonment, told police that he got most of the children from a job agency near the Hua Lampong station.

A year earlier, 64 children ages 13 to 15 were rescued from a mosquito-net factory where they had labored from 6 a.m. to midnight every day. The train station agencies were reported to have paid the parents $80 to $160 for each child, which committed the children to a year's work in the factory.

The few job agency bosses who agreed to talk claimed they place people 16 or older in factories, in compliance with Thai law.

Thongma Sonboonom, wife of the head of Swai Job Agency, said her biggest problems are with the girls she places, not the employers. "A lot of times girls don't keep their contracts," she complained, so the agency must replace them at no charge to the employer.

She said her agents do find young workers among the migrants at the train station, just around the corner from her second-story office at the top of a filthy, unlighted stairway.

Her agency was cited in a human rights newsletter as placing a 10-year-old girl in a factory where she worked for seven months. Then she became a domestic servant and was raped by her boss.

Asked about her age policies, Ms. Thongma said: "I never place anyone in a factory who is under 16."

EMPLOYMENT AGENCIES CHECKED ONLY FOR PERMITS

She does send younger children to domestic work, Ms. Thongma said, then volunteered that employers sometimes make sexual advances toward the girls. She maintained that the bosses never do anything too serious.

"Nobody I've ever sent has ever been raped," she said.

The Center of Concern for Child Labor in Bangkok has found that independent brokers make $11 to $15 for every child they bring from rural villages to a Bangkok job placement agency. Brokers who work directly for an agency get half the service charge that the agency collects for placing a child.

The center found that stricter laws regulating employment agencies have produced more agency registrations in recent years, but its 1986 study showed they continue to place children in bad jobs with long hours and little pay.

The problem, the study said, is that the Thai Labor Department checks only whether employment agencies have permits.

The center has recommended that the government set up an information booth at the train station to tell migrating children their rights to a minimum wage and limited hours and to warn them about unscrupulous job agents.

The Thai Trade Union Congress has gone further, recommending the government provide job agents at places such as the Hua Lampong train station to help children find reasonable jobs and to investigate on-the-job conditions.

Even the Thai government, which almost never admits there is exploitation of child labor in Thailand, said in a paper submitted to an international conference last fall that "unscrupulous" job agencies "have contributed to inappropriate treatment of working children."

IN TRIBUTE TO MALCOLM BALDRIGE

HON. DAN ROSTENKOWSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. ROSTENKOWSKI. Mr. Speaker, I rise to offer some thoughts in tribute to Malcolm Baldrige, the late Secretary of Commerce whose untimely and tragic death has stunned us all.

As chairman of the Committee on Ways and Means, and as a Representative of one of the world's great commercial centers, I had a lot of contact with Mac Baldrige over the course of his tenure as Secretary of Commerce. I can state without hesitation that he was a man of the highest personal integrity, professional competence, and political acumen—in short, a superb Cabinet officer.

Particularly in trade issues, which has to have been his greatest challenge, the Secretary showed himself to be possessed of remarkable perspective. He was a strong advocate of a fair trade policy designed to strengthen U.S. efforts against unfair trade practices, yet he was in the forefront of forces to support open and expanded world trade. His articulate support for this realistic yet progressive U.S. trade policy marked him as a leader among those of us in Congress who are striving for the same goal, and earned him the praise of those engaged in the debate, from both sides.

Mac Baldrige also played a key role in helping to expand East-West trade, as was exemplified in this support for the recent restoration of most-favored-nation status for Poland.

I applaud Secretary Baldrige for his many accomplishments, for the forthrightness with which he represented himself and his President, and for the general atmosphere of good government at work with which he conducted himself. He will be sorely missed as the debate on the issues continues.

My sympathy goes out to his family and friends.

WAS "IKE RIGHT" ABOUT NATO?

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. MICHEL. Mr. Speaker, I can think of a few subjects more important than the future of the NATO alliance, given the possibility of an agreement between the United States and the Soviet Union concerning intermediate and short-range missiles in Europe—and Asia. In recent years there have been many learned articles and studies written about the possibility of a new alignment of NATO forces, reflecting the changes that have taken place in Europe and the United States since NATO was founded. Yet, astoundingly enough, no major contender for the Presidency, in either party, has devoted attention to this issue, except perhaps to repeat cliches about the need for unity in the face of the Soviet threat, etc.

Yes, we do need such unity and, yes, there is such a threat. But the question is: How best to meet it given the realities of the 1990's?

I recently came across an article that presents a firm—if, in my view, not wholly persuasive—stand regarding reducing American forces in Europe in the hope of actually strengthening the alliance. I myself do not subscribe to such a view—but I think our colleagues should at least see that the subject is one which can't be dismissed or ignored.

At this point I wish to insert in the RECORD, "Ike Was Right", by James Chace, the Atlantic Monthly, August 1987.

IKE WAS RIGHT

(By James Chace)

Not long after he left the Presidency, Dwight D. Eisenhower declared, "For eight years in the White House I believed and have announced to my associates that a reduction of American strength in Europe should be initiated as soon as European economies were restored. . . . I believe the time has now come [for] withdrawing some of those troops." More than three decades later the troops—some 350,000 of them—are still there. But now NATO Europe, including France and Spain, is the second most powerful economic grouping in the world—at a time when America strains under the twin burdens of huge fiscal and trade deficits. NATO Europe's population—373 million—is greater than that of the United States or the Soviet Union. The Europeans have more than 3.1 million men under arms, the United States 2.1 million, the Soviet Union roughly 4 million. (Other members of the Warsaw Pact have 1.2 million, but these forces would be highly unlikely to participate in any attack on the West.) But according to official estimates that originated in the Office of the Secretary of Defense, European defense spending is $83 billion a year—far less than the $134 billion the United States allocated for the conventional defense of Europe in the defense budget of $314 billion requested for fiscal year 1986. (Defense Department figures for total U.S. spending on the defense of Europe are even higher). To say that we must wait for European unity before we can withdraw any American forces is to beg the question. Elected West German officials at the highest levels have recently made clear to American officials that they are amenable to the withdrawal of U.S. troops by the next American presidential election, or soon thereafter, as long as the withdrawal is gradual.

Our Asian commitments are far less costly. Asia absorbs $42 billion of the United States defense budget annually. Since 1955, however, Japan has spent only one percent of its gross national product on its own defense (though for fiscal year 1988 the Japanese, with great anguish, decided to increase their spending by four thousandths of a percentage point, to the equivalent of $22 billion). The U.S. trade deficit with Japan rose to $51.5 billion in 1986, by far the largest with any single country. And more than three decades after the end of the Korean War we still station about 43,000 soldiers in South Korea, costing $4.8 billion a year. Our trade deficit with South Korea last year was $7.1 billion.

Under these conditions it is hardly surprising that responsible leaders in the United States Senate have called for significant cuts in the number of American military personnel stationed abroad. In the early 1970s Mike Mansfield, then the majority leader of the Senate, called for unilateral withdrawal of U.S. troops from Western Europe. In 1984 Senator Sam Nunn, of Georgia, proposed that 90,000 American soldiers be withdrawn from Europe within five years unless the Europeans increase their conventional forces so as to make it easier for Europe to be defended without the early use of nuclear weapons. Nunn's bill was defeated, but by a margin of only 55 to 41.

These proposals represent piecemeal approaches to any meaningful restructuring of the alliance. Moreover, talk of troop withdrawal merely threatens the Europeans and aggravates the resentments inherent in any alliance when the protector threatens to withdraw its protection. Too often the United States makes such threats for reasons that have very little to do with the alliance itself. How often, for example, has Washington insisted that the European allies line up with the United States on affairs outside the NATO region, such as the defense of the Persian Gulf or an economic boycott of Iran? Then, when the allies refuse to do so, critics in America call for withdrawing troops as a kind of punishment. In fact the alliance was formed solely to guard against a Soviet invasion of Western Europe or the Eastern Mediterranean. It has no other purpose.

Every time the question of reducing the U.S. troop commitment in Europe is raised, so is the specter of a neutralist Europe, dominated by the Soviet Union. This specter—the so-called Finlandization of Europe—is imaginary. The European states are rich and powerful. They have large and efficient armies; the London-based International Institute for Strategic Studies has concluded that the Warsaw Pact would not necessarily see "its numerical advantages as being sufficient to risk an attack." In an address at Columbia University this spring the former West German Chancellor Helmut Schmidt said of Russian conventional superiority that it "doesn't really matter." Schmidt pointed out that "there are 500,000 [West German] soldiers on the spot, and this number can grow quickly to 1.3 million in less than a week." And a small though effective nuclear strike force already exists in France and Britain.

To surrender sovereignty is a self-destructive act that no European state is likely to commit. As it is, Europe is already independent in its support of American policy initiatives from Afghanistan to Central America. Where European and American interests coincide—along the Iron Curtain—the Europeans have every intention of lining up with their American allies to counter any Soviet military thrust westward. Furthermore, American strategic nuclear weapons can remain in the European theater on submarines and on aircraft, even if medium-range and short-range missiles—the so-called zero-zero option—are withdrawn from European soil as a result of a Reagan-Gorbachev arms agreement. Gorbachev has even proposed to "rectify" conventional force imbalances "not through a buildup by the one who lags behind but through reduction by the one who turns out to be ahead."

Distrustful Europeans often ask, Will the American nuclear guarantee hold? In other words, Will America risk the destruction of Wichita for Hamburg? It is, of course, an unanswerable question, short of nuclear war. Yet the very uncertainty of the answer makes the American deterrent credible. As the British strategist Sir Michael Howard notes: "If there is one chance in a hundred of nuclear weapons being used, the odds would be sufficient to deter an aggressor even if they were not enough to reassure an ally.

The greatest danger to America's alliances today does not spring from any diminished American nuclear capability, whatever the outcome of a Reagan-Gorbachev summit. Rather, it comes from American economic weakness, from an unwillingness to take measures to repair our economy, and from an unwillingness to change the structure of alliances in a way that would honestly reflect a mature America's diminished role in the world.

Shifting responsibility to the Europeans for managing the bulk of their ground defenses could save substantial sums in the U.S. budget. David Calleo, of The John Hopkins School of Advanced International Studies, suggests that by demobilizing six of its ten NATO divisions, about 100,000 soldiers, the United States would realize an annual saving of at least $30 billion. Four U.S. divisions would remain in Europe to cover the part of the Central Front for which the United States has direct responsibility.

If the Europeans were to assume a much larger share of the burden of defense, it would be sensible to let them be in charge. This would mean appointing a European, rather than an American, Supreme Commander of all forces in Western Europe.

The new alliance structure would be immeasurably strengthened by a new European defense system along the lines of the European defense community proposed in the early 1950s. Helmut Schmidt and the former French President Valéry Giscard d'Estaing have already suggested integrating French, West German, and Benelux forces. But any such West European defense system, as Mr. Schmidt pointed out in his speech at Columbia, is likelier to come about if the United States starts to withdraw its forces.

A new European defense system should logically include new provisions for nuclear defense. At this time the United States still maintains a special relationship with Great Britain, allowing Britain to share American nuclear secrets and use its nuclear technology. Such a relationship inhibits any serious cooperation between Britain and France in the construction of a nuclear force. Nonetheless, according to The New York Times, the two European nuclear powers have recently started talking seriously about coordinating their defense and consulting more closely on it. David Owen, the former British Defense Minister and the leader of the Social Democrats, has argued that Britain must break its dependence on American nuclear weaponry, as the French have done already. Ending the special nuclear relationship between the United States and Great Britain, however, would not guarantee an Anglo-French nuclear force. And the West Germans will rightly insist on some say in any such force if it is to complement the American nuclear deterrent. But with a European commander of NATO and a reduction of U.S. troops, the likelihood of Owen's proposals being implemented would be far greater than it is at present. In any case, this would have to be a European initiative, and would not so much replace the American deterrent as provide the Europeans with insurance if they distrust the American commitment to use nuclear weapons to defend the continent.

In the Far East the costs of alliance are necessarily smaller, and in any case it is highly inadvisable in the near term for the United States to withdraw any of the U.S. soldiers in South Korea. The internal struggle for democracy there would almost certainly be adversely affected if U.S. troops departed, leaving the army of a repressive government as the sole military force left in South Korea. Nonetheless, Washington might make clear to the Tokyo government the need for Japan to pay more of the cost of maintaining these troops in place, before Congress insists on some measure of reduction. Tokyo would surely prefer to help underwrite some of the costs of the U.S. troops now stationed on the Asian peninsula, rather than to risk withdrawal of American forces.

The role the United States plays in maintaining the balance of power in the Far East may well become more important as China gains in economic and military strength. With the revival of Chinese power America's security treaty with Japan is more significant than ever before. Japan should not be encouraged to become a nuclear power, for Japan is not anchored within a regional organization the way West Germany, Britain, and France are. Should Japan reassert itself as a military power—even without nuclear weapons—it is likely that China and the Soviet Union would draw together to counter Japanese power. Only the United States has the capability to restrain Japan in a way that both China and the USSR—to say nothing of the smaller Asian powers and Japan itself—can accept. With the rise of China and Japan and the continuing military presence of the USSR, the United States has become the determining force for peace in the region.

The costs of an effective foreign policy are real. Although we have come to the end of an era wholly dominated by two superpowers, this need not mean the curtailment of U.S. power. It does, however, require a realignment of power. Unless we move both to replenish our hollow economy and to restructure our antiquated alliances, we risk presiding over the collapse of a world order that has, after all, preserved a rough balance of power for almost half a century.

Should American budgetary, tax, and defense policy remain roughly unchanged, a recession could deal to a short-fall in tax revenues and the growth of the federal deficit to a figure far greater than the current $221 billion. This scenario is very likely to begin with a dramatic fall in the stock market. Such a catastrophe would undermine the economic foundations of the Western world, and with them the very notion of political and military security. By showing a willingness now to redress our economic profligacy at home while changing the terms our alliances abroad, America can yet restore its power and purpose.

AMERICA NEEDS GREENWAYS

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. KOSTMAYER. Mr. Speaker, I rise today to bring to the attention of my colleagues an article which appears in this month's edition of the Smithsonian. The editorial endorses a concept proposed by the President's Commission Report on Americans Outdoors, which calls for the establishment of a system of "greenways" providing recreation space for people close to where they live. I support this concept and encourage my colleagues to read this brief synopsis of a very worthwhile recommendation.

PHENOMENA, COMMENT AND NOTES

A NETWORK OF GREEN CORRIDORS, THREADING ITS WAY THROUGH CITY AND COUNTRYSIDE, IS PROPOSED BY A PRESIDENTIAL COMMISSION

(By John P. Wiley, Jr.)

Green space ranks up there with baseball and apple pie: right-thinking people everywhere recognize them as indisputably virtuous, manifestations of the "good" that by our very natures we seek. The prewar generation drove out into the country on Sundays. The postwar generation moved to the suburbs to live on plots of green space all their own. Today we crowd what green space we can find, whether we carry a pack across the backcountry or walk the dog in a neighborhood park. Cities are where the excitement is, but most Americans find they crave a little green.

When they head for the green these days, the odds are it will be crowded. On a summer weekend, parking lots will be full and late arrivals will be parked everywhere along the highway, in the bushes, perched precariously on steep banks. Picnic grills are all long appropriated, playing fields packed. Trails are busy, voices coming from every direction. Green it may be, where not trampled to dirt, but hardly tranquil.

Now, at a time when budgets on every level of government are being cut, we have the report of the President's Commission on Americans Outdoors. The Commission spent two years gathering reports and surveys, listening to the experts, holding public hearings around the country, studying case histories. Originally the Commission was boycotted by many conservation and environmental groups who feared it would not go far enough. Later it was sued by business groups, who contended it had gone too far. If everybody's mad, it must have done something right.

The Commission found, to no one's surprise, that Americans do love the outdoors. Walking for pleasure is the top-rated outdoor activity, with 84 percent of the population above the age of 12 saying they walk for fun at least sometimes, and fully half saying they walk often or very often. Picnicking and swimming outdoors tied at 76 percent, fishing came in just beyond 50 percent, with bicycling at 46 and camping at 45. Thirty-five percent of those sampled said they went outdoors to watch birds or study nature, while 22 percent said they went canoeing, kayaking or rafting. (Canoeing may be the fastest growing outdoor sport in America, up more than 500 percent since 1960.)

More and more of this recreation is in the form of short trips, less than a day. The drive across country or the two-week vacation at one scenic spot is a fading memory. One Commission graph shows that the percentage of outdoor-recreation trips that take six hours or less total time away from home has grown from 25 percent in 1960 to almost 55 percent in 1985. The number of trips taking five or more days has dropped from 40 percent to 10 percent. Another chart shows that overnight trips of 100 miles or less almost quadrupled from 1972 to 1982, while trips of 500 miles or more dropped by more than 92 percent.

People want their green close to home. To me, the Commission's most exciting recommendation is its most general one: that communities across the nation establish more greenways. These are defined as "corridors of private and public recreation lands and waters, to provide people with access to open spaces close to where they live, and to link together the rural and urban spaces in the American landscape." The Commission asks us to imagine being able to walk out our front door and within minutes set off on a continuous network of corridors that could someday reach across the entire United States.

The greenways are "fingers of green" that come in many different forms: "biking and hiking trails along abandoned rail lines; boating and fishing sites on ribbons of bright water restored from neglect; vacant lots for 'just messing around' after school; belts of grassland, shrubs, and forests surrounding and threading their way through cities and countrysides like a giant circulatory system." Greenways would be corridors to connect new and existing parks, forests and refuges.

This sounds like plans I've been reading about for nature reserves in Central and South America. The idea now is not only to establish refuges where jaguars and orchids can continue to exist, but whenever possible to keep uncut corridors between them so that populations can mix and young can disperse, with the result to be greater than the sum of the two parts. (One such plan in Costa Rica was described in the July 1986 "Phenomena.") If we can do it for animals, why not for people?

The green will appear anywhere we allow it. All the concrete and asphalt we have laid down is just a thin sheet over the potential life of the Earth itself. Sometimes I sit on a bench in the middle of the city and think of the streets, sidewalks and parking lots as so much black plastic mulch laid down over a garden bed; the buildings are the big rocks there to hold it all down. But just as with real plastic, living green things will find the tiniest cracks in sidewalk or street and grow toward the sun. I look for the green on my noontime wanderings: the thicket of black locust and ailanthus (tree of heaven) springing up along a concrete wall, tufts of grass that have found a home in the seams of a black marble fountain. Any place where we decide to forgo blanketing, we will have a greenway.

The Commission has a plan to help any community that wants greenways. The Land and Water Conservation Fund, which draws its funds from the sale of oil and gas leases on the Continental Shelf (on the grounds that mineral wealth there belongs to everyone), has enabled states and localities to buy 2.8 million acres of recreation land and waters, and the federal government to add 2.9 million acres to its national parks, forests, wildernesses, recreation areas and refuges. The Fund expires in 1989; the Commission wants a new, dedicated trust fund to provide at least $1 billion a year for the same purposes.

Most of all, however, the Commission wants us to act. The report continually calls on Americans to light a "prairie fire" of community action. The best ideas may not even have been thought of yet. So, the Commission advises, "develop a dream. Define a vision. Look forward for twenty years, or fifty, and decide what you want the future * * * to be." A lot of people have a pretty good idea.

LT. COL. OLIVER NORTH IS A TRUE AMERICAN HERO

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. HUBBARD. Mr. Speaker, I was recently contacted by my friend and constituent Christina L. Jenkins, of 3011 Chippewa Ave., Hopkinsville, KY, who sent me a letter which I want to share with my colleagues. Twenty-four-year-old Chris Jenkins' letter is timely and is worthy of publication in the RECORD.

The letter follows:

JUNE 21, 1987.

Hon. CARROLL HUBBARD,
Rayburn Building,
Washington, DC.

DEAR CONGRESSMAN HUBBARD: I have thought long and hard about President Reagan's address to the nation he gave concerning the economic summit meeting held in Venice. I knew, as I listened to his speech, I would have to write to you. After all, I was commissioned by the Commander in Chief to do so.

Having been told by friends and family members that, at twenty-four, I should not concern myself with political matters, I've taken hold of that great constitutional right to a voice. Sir, these issues that I will write about mean very much to me. Please bear with me in this letter.

I truly believe that the Soviets are waiting at bay to dive right into the Persian Gulf and take control. An act such as this would throw the brakes on the free flow of oil in the gulf, probably causing our allies to become ever dependent on the U.S. for aid with their oil supply. I hope that you will support the President on this issue.

I find the news media's unrelenting criticism of President Reagan and continual praise of Gorbachev appalling. The news media puts such a bad light on the President that many Americans feel that the Soviets want peace more than we do, and that they are more trustworthy. I believe these views are bad reporting. This is disturbing to me, so much so it makes me ill. Do those same Americans not realize that Mr. Gorbachev was not born into power, nor was he elected by the Russian people to be their leader, but was, in fact, appointed by the same government that condoned the acts of those leaders before him like Mr. Khrushchev and Mr. Brezhnev? If Mr. Gorbachev had not made the grade, had he not cut muster, and had he not met all of the qualifications for carrying on the Communist party he would not have been chosen to be their leader. I believe it was Khrushchev, who after visiting the U.S., said, "We will take America without firing a single shot." Here we are, 1987, with one of the greatest psychological wars going on that this country has ever known. Could this new found trust in the Soviet Union be what he was talking about?

Please don't allow yourself to be swayed by the slant that the news media has put against President Reagan.

I read in our local newspaper that you are supporting the Gramm-Rudman-Hollings bill. I am very glad. Thank you.

Now I've come to the issue that means more to me than all the others. Please, Congressman Hubbard, don't allow the Joint Committee hearings on the Iran/Contra investigations get in the way of the facts that we must do everything possible to support the Contras. All the hearings and all the testimonies in the world do not diminish the fact that we need to stand behind those freedom fighters. I can't begin to tell you how important this is to me and how strongly I feel about it.

Oh, Congressman Hubbard, please vote yes for the maximum amount of aid when the bid for the Contras comes before Congress this fall. I don't want our children to have to fight a war for us ten years from now because we, today, did nothing to stop the Communists in Nicaragua. This issue, as I've said, means more to me than any other. I feel a very distressing state of emergency deep inside when I hear other Congressmen say that because of the Iranian arms sales they won't vote for aid to the Contras. Again, those hearings have nothing to do with the happenings within Central America. This is so vital. Someday it may be fatal.

Having kept a close watch on the investigations on the arms sales to Iran and diversion of funds to the Contras, I believe that Lt. Col. Oliver North is a true American hero for his efforts in aiding the Contras, as well as all of his efforts in countering terrorism. Unfortunately, he has been reluctant to testify, but perhaps the reason for this is because he truly was the fall guy and has been abandoned and left to fend for himself.

I can't thank you enough for your time in reading this letter. Just by being able to be heard takes a little of the weight of these issues off my mind. As I pray about these things I will pray for you and your family as well.

Once again, please vote "Yes".

Thank you.

Most sincerely,

CHRISTINA L. JENKINS.

COMMUNISTS WORK TOWARD TAKING OVER SOUTH AFRICA

HON. PHILIP M. CRANE

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. CRANE. Mr. Speaker, after reading Harry Scharlach's article on present conditions in South Africa in the Champaign-Urbana News-Gazette of January 28, 1987, I realized how vivid Mr. Scharlach's account is. I strongly recommend this article to my colleagues for review.

In "Communists Work Toward Taking Over South Africa," Mr. Scharlach, expert on affairs in southern Africa, eloquently relates to us his first-hand experiences in the area. Precise and depictive of present situations, Mr. Scharlach's article compares South Africa with Zimbabwe, a pro-Communists state. As Mr. Scharlach explains, stability as we know it does not exist when laws are molded to fit the desires of a select few individuals. Ironically, while the United States Congress is actively condemning South Africa for its system of apartheid, Mr. Scharlach claims that Zimbabwe is in fact the more closed and repressive society.

Communism in southern Africa not only threatens the future of blacks in the region, but it also poses a security risk to the United States. The United States is entirely dependent upon South Africa for certain strategic minerals, minerals that the Soviets would like very much to control. In 1973, Brezhnev officially stated, "Our aim is to gain control of the two great treasure houses on which the West depends—the energy treasure house of the Persian Gulf and the mineral treasure house of central and southern Africa."

Before we allow our strategic mineral supply to be controlled by the Soviets, and before we condemn black South Africans to a fate similar to that of the average black in Zimbabwe, we should seriously reconsider the positive role that the United States can play in the entire region. Rather than imposing sanctions against South Africa and encouraging United States industry to leave South Africa, we should realize the value of setting an example. Only through constructive engagement can we bring a positive end to apartheid while countering continued Communist aggression in the area.

The article follows:

[From the Champaign-Urbana News-Gazette, Jan. 28, 1987]

COMMUNISTS WORK TOWARD TAKING OVER SOUTH AFRICA

(By Harry Scharlach)

Does the world know, or care, that Lenin set up the takeover of African nations in his advice to his foreign commissar which were presented at the Genoa Conference in Italy in 1922?

Today, South Africa is being pressed by the borderline nations of Angola, Zambia, Zimbabwe and Mozambique, all Marxist-communist nations determined to destroy it and hand it over to Marxist rule. The training and the weapons for the killing, maiming and terror are supplied by the Soviets through its puppet, the African National Congress, the communist organization first founded in 1912.

South Africa is the ultimate prize on the continent of Africa because of its vital sea trade route around the Cape of Good Hope and its treasure house of vital strategic minerals and more than one half of the world's proven reserves of gold ore.

I made my first of 10 trips to southern Africa in 1968. I learned then, firsthand, that the communists had already set up training camps for terrorists across the Zambizi River in Zambia.

My last trip was made in June 1986. I spent five days in Zimbabwe, formerly Rhodesia. Traveling by auto into and out of a communist country takes a great deal of patience. On entry to Zimbabwe from South Africa, I was required to fill out three sets of papers before three different people all asking the same questions. I became tired of it before the end and began to write down any answers, but had to do the paper over, as printing only was acceptable. At the entry building, the first item seen was a large picture of the dictator. At the top in large print were the words "workers of the world unite," at the bottom "comrade" Robert G. Mugabe. When in Harare, the capital city of Zimbabwe (Harare was formerly Salisbury), I listened every morning on my radio to the promises of the Marxist government that its revolutionary forces would "free" all of the South African people in a new non-racial revolutionary society.

Aleksandr Solzhenitsyn, the famous Russian writer, explains the quality of being "free" under communist rule. Solzhenitsyn estimates that to date the Soviet governments have executed, intentionally starved, beat or tortured to death some 60 million people during more than 30 years of their type of "freedom."

The U.S. Congress has voted sanctions against South Africa which has always been friendly to the Western world. Our Congress has voted and we have paid to Marxist Zimbabwe $370 million since Mugabe came to power six years ago. Such action is incongruous and makes a mockery out of all of the principles of our own Monroe Doctrine. Our Congress now questions the credibility of our president for attempting to do what he can, a commander and chief of all U.S. forces, to place roadblocks across the expansion of communist governments in our own hemisphere. It is the credibility of Congress that is at stake, not our president's.

In my return to South Africa from Zimbabwe, the incompetent customs official at the border crossing insisted that I must have a Zimbabwe bank stamp on my credit card receipt for luggage purchases. It was on a Sunday morning and because of the Zimbabwe holiday on Monday celebrating the tenth anniversary of the South African Soweto riots of June 16, 1976, I would have been delayed by two full days and would have missed my return flight to the United States. I insisted the bank stamp was not necessary, that I was going through, and told the official he had better phone his superior to explain. After much talk on the telephone, I was allowed to pass and was glad to be back on South African soil. Our car was stopped seven times at roadblocks and we were questioned by police in the 350 miles from Harare to the border. But once inside South Africa, we passed only one police roadblock on the next 375 miles to Johannesburg.

When I walked into the Johannesburg Hotel that Sunday afternoon the employees on duty greeted me with wide smiles and a warm welcome. The employees are of all three different races of mankind, Negroid, Caucasian and Oriental. I have many friends in South Africa. On one trip I was the guest of the mayor of Soweto. He took me through his black city of more than 1 million. He showed me the homes of the poor and the middle class, and I saw with amazement many blacks with expensive homes. The cars on the driveways were either a BMW or Mercedes and sometimes both. The black population of South Africa own more cars than all the white Russians do in Russia.

The ANC acts of violence and terrorism are radical communist acts and do not represent the mainstream of South African blacks who do not wish to trade their good living for the failures of communism. Chief Mangosuthu Buthelezi, the respected leader of the 7 million strong Zulu tribe, is dedicated to the progress of his people. His New Year's message to his people this year contained the following quote: "I call for the politics of hope, and I appeal to my white countrymen to move into an era of hope, achievement and conquest over adversity. I call on my black countrymen to do the same. It is hope we need, and black politics aiming to stifle hope and to fan the flames of violent confrontation must be condemned."

It is my opinion that the hated apartheid laws of South Africa will be legally repealed. The present day atmosphere of reform by the South African government has already repealed basis, the Group Areas Laws (separate living laws) are already being consistently violated without government interference. In my hotel while in Johannesburg, located between Joubert Park and Hillbrow, 30 percent of the residents are black in an area legally reserved for whites. When I go to the lounge in this hotel I visit with the blacks there who outnumber the whites by three to one.

This month, our secretary of state held talks with the communist ANC leader in Zambia. Shultz offered suggestions on how apartheid may be ended. Here again are some flagrant violations to common sense. The legal end of apartheid is on its way out and without any advice from outsiders. But even so, on a de facto basis, the world will always have its "Sowetos" in evey major area. The ethnic and cultural differences between the tribes of all races suggests that the hopes for a homogenized civilization will not be accommodated. The risks of attempting to level all people under statism is to risk going back into another period of the Dark Ages.

Harry Scharlach of Hoopeston sold life insurance for 41 years before retiring in 1973 to do monetary research and study the world gold mines. He's made 10 trips to Africa and has studied the effects of communism in southern Africa.

PAKISTAN AND THE SMUGGLERS

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. MARKEY. Mr. Speaker, on July 10, U.S. officials arrested Arshed R. Pervez, a Pakistani native who attempted illegally to smuggle out of the United States a large quantity of maraging 350 steel. The export of this steel is restricted by law for national security and nuclear nonproliferation reasons, and a special agent of the Customs Service has indicated in an affidavit that Mr. Pervez knowingly submitted fraudulent documents and repeatedly attempted to bribe U.S. officials in an effort to export it to Pakistan. The only plausible use for maraging 350 steel in Pakistan is in a nuclear-weapons program.

The Washington Post yesterday published a cogent and compelling editorial on this issue. I commend this piece to my colleagues, and insert it in the RECORD.

[From the Washington Post, July 27, 1987]

PAKISTAN AND THE SMUGGLERS

Pakistan invites ridicule with its protestations that it is not building nuclear weapons. The Pakistani government asserts that it had nothing to do with the attempt to smuggle 25 tons of highly specialized steel from the United States to Pakistan. The steel is suitable for equipment to enrich uranium, and the case came to light two weeks ago with the arrest of a suspect in Philadelphia. In Islamabad, Pakistani officials called it a rogue operation for which the government bears no responsibility.

Really? It was hardly an isolated case. A few days after the Philadelphia arrest, a grand jury in California indicated three people for illegally exporting electronics equipment of types that a nuclear program would require. Again, the destination was Pakistan.

As for the steel, a smaller amount of the same special alloy was recently exported illegally from West Germany to Pakistan, Leonard Spector points out in his book, "Going Nuclear." According to German press reports the shipper sent the invoice and the bill to the Pakistani Embassy in Bonn. The steel was fabricated to precisely the specifications required by the designs stolen in 1975 by a Pakistani scientist, A.Q. Khan, from the European enrichment consortium where he was then employed. Dr. Khan is now head of the Pakistan government's enrichment program.

Pakistan promised the United States three years ago that it would not enrich uranium beyond the low level required to run civilian power reactors. There is now much evidence to suggest that Pakistan is pushing the enrichment level up to weapons grade and is expanding its weapons capacity.

American law forbids foreign aid to countries that build nuclear weapons. But currently the United States is providing very substantial aid to Pakistan, especially to keep open the supply routes to the guerrillas fighting the Soviets in Afghanistan. That confronts the United States with a difficult choice.

"Clearly, the outcome depends to a very large degree on Pakistan's response," Assistant Secretary of State Richard W. Murphy told a House hearing last week. Denials and denunciations issued from Islamabad won't suffice. If Pakistan wants to demonstrate its good faith, the way to do it is obvious. Most of the world's governments, including the United States and the Soviet Union, have opened their peaceful nuclear facilities to international inspection. If Pakistan's enrichment activities are innocent and limited, as it claims, it should have no objection to inspection. But if it continues to refuse anything more than the usual verbal assurances, the United States will have little choice but to enforce its law.

DR. FREDERICK F. CHIEN

HON. JIM COURTER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. COURTER. Mr. Speaker, one of the diplomats most familiar to Washington, and most appreciated by many of us in the House, is the head of mission for the Republic of China on Taiwan, Dr. Frederick F. Chien. A 1961 graduate of the Yale School of International Relations, Dr. Chien has represented his country with distinction in the United States since January 1983.

Today I am pleased to submit for the RECORD a brief profile on Mr. Chien which appeared in the July/August issue of the new publication Washington International. I am certain that all Members who share my interest in maintaining this country's strong and friendly relations with the Republic of China will enjoy the profile.

The profile follows:

EMBASSY HIGHLIGHTS TAIWAN'S TON MAN IN WASHINGTON: PROFILE OF DR. FREDERICK F. CHIEN

(By Patricia E. Keegan and Lloyd N. Holz)

Dr. Frederick F. Chien, head of the Republic of China's Coordination Council for North American Affairs, serves as Taiwan's top diplomatic representative in the United States. The Coordination Council is actually the Quasi-embassy of the Republic of China having a U.S. counterpart in Taiwan called the American Institute on Taiwan.

Since the 1978 decision by the United States to recognize the People's Republic of China and "derecognize" the Nationalist Government on Taiwan, what would normally be embassy functions have been carried on through these organizations.

From his plush office in the Coordination Council's new, custom-designed building near Tenley Circle, soft-spoken Dr. Chien reflected on his 4½ years in Washington as spokesman for his country. Lately, much of his time is spent defending his country's remarkable economic progress, highlighted by the recent $15 billion trade surplus with the U.S. Taiwan is responding to the various American complaints on trade matters by instituting some positive trade policies and pushing its "Buy America" program. Time and future trade figures will tell if Congress and the Taiwan government have reached a workable compromise.

I came to Dr. Chien's office not to talk about economics, but to talk about the man; "diplomat par excellence," as some have called him.

Born in Chekiang Province, China in 1935, youngest son of a college professor, he spent his childhood years in Peking and Shanghai. In 1948 President Chiang Kai-shek ordered the evacuation of the National Peking University where his father was teaching. After moving to Nanking and then to Shanghai, his family settled in Taiwan in 1949.

He graduated from National Taiwan University, completed ROTC training, and studied English at the Officer's Language School. Not long afterward he came to the U.S. for advanced study and received his Ph.D from the Yale School of International Relations in 1961.

Returning to Taipei, he served in the Ministry of Foreign Affairs, and in 1965 became

President Chiang Kai-shek's English translator, serving until the President's death in 1975. Subsequent high level tours in the Ministry of Foreign Affairs and the Government Information Office led to his appointment in 1979 as Political Vice Minister.

In January, 1983, he was appointed to his current post as Representative of the CCNAA, Office in the United States, where he has been a very active representative fulfilling a multitude of diplomatic tasks.

I asked Dr. Chien where his time has been devoted and what his goals were in his tour as Representative to the Coordination Council.

A. This is my fifth year here, and I normally spend 4 to 5 months a year traveling throughout this country. Most of the travel is for speaking engagements, and I've covered 40 states in that time. In recent months I've visited many universities. Other than speeches, I meet with mayors, governors, state legislators, the media and of course the Chinese community.

In Washington, I spend time about equally between the executive and administrative branches of government. I also spend a great deal of time on economic issues, with Washington think tanks, both liberal and conservative, and with the media, giving interviews and editorial contributions.

Q. Do you see major changes in the U.S. since you first traveled here?

A. I first came here in 1958-61, and at that time the U.S. was a very rich country looked upon as leader of the free world in all areas. Now, 30 years later, America remains the same in our eyes, but to the people of this country, the U.S. has changed a great deal, particularly the domestic situation. You find that you have social problems, economic problems, you cannot balance your budget. You used to be a trade surplus country. Now you are quite frustrated by the situation, and there is great debate on international affairs. You do not seem to have the same confidence in yourself as 30 years ago. But my country looks upon you just the same as 30 years ago, and the basic theme is the same. We would like to keep the best possible relationship with the U.S.

Q. You said you knew the late President Chiang Kai-shek very well. How did he influence your thinking?

A. He was not only my superior, my boss, but a great teacher. He brought me onto his staff as his English secretary, and he took a special liking to me, occasionally instructing me to read books that he had just read. Sometimes he would assign books, asking me to go to the bookstore and find a particular book. Other times he would have copies made of his own books for me to read. Three or four weeks later he would first ask my impression of the work, and then what specific lesson I learned from the book. Sometimes he was happy with my answer, and other times he would disagree and discuss the lessons he learned.

He was a unique leader in that he delegated a great deal of authority leaving time to contemplate. He did not have his finger on every daily issue. Whenever he was faced with a major decision he would retreat to his hideaway for several weeks to debate within himself what should be done. I was lucky to be in my special position because I would bring visitors to see him, and when they left, he often asked me to stay on for a few days and we would have lengthy conversations about the issues. I was able to gain a lot of insight into his way of thinking. In this way he was my most influential teacher.

Q. Do you function the same way? Do you take the time for reflection?

A. Unfortunately, I have not been as comfortable about not looking after the details. My contemplation comes during those 2 or 3 hours of a flight when I am traveling around the country. I don't have a driver's license and so a driver takes me from home to office to Capitol Hill, and I use that time to think and reflect also.

I still do a great deal of reading, particularly condensed versions of books my colleagues have read, and a great many Chinese publications. I try to keep up with all that is going on at home as well as here. Most of my reading is crucial to speeches or discussions, I don't have time for a good novel at my bedside.

Q. Are you doing anything special to promote tourism to Taiwan?

A. Yes, we just had a tourism promotion group here in March that made a stop in Washington. Six gourmet chefs prepared the best of Chinese cuisine, and demonstrated traditional crafts such as ice carving. We had Chinese ribbon dancing and traditional costume demonstrations. The group has visited many other American cities and has received good media coverage.

We are maintaining tourism promotion offices in San Francisco, Chicago, and New York, and they work closely with travel agents and travel associations. Last year there were close to ¼ million Americans who visited Taiwan and almost as many Taiwanese who visited America, so it's a two way traffic.

Q. What attracts Americans to Taiwan?

A. There are a number of things. First, the Republic of China is the true custodian of Chinese culture. We have the National Palace Museum which has the best collection anywhere of objects d'arts of China. We have continued what our ancestors have left for us in the performing arts: Opera, dance and music. Taiwan itself is a very beautiful island. In the old days the Portugese called it Isla Formosa which means beautiful island. Few people know that we have one of the world's best scubadiving locations or that we have the highest mountains on the western perimeter of the Pacific. Taiwan has so much to offer.

Q. Can you briefy comment on the economic development of the Republic of China?

A. We have come a long way over 35 years from what could be described as an undeveloped or developing country. We started with land reform, providing the farmers a piece of land, and began our economic takeoff with increased agricultural output. Since 1952 we have concentrated on industrialization, starting with light industry, then more sophisticated heavy industry, and we are now on the threshold of high tech. Of U.S. trading partners we are #6 in trade volume.

Generally speaking, our people live happily and satisfactorily. Per capita income is about $4800 which is still well below the West but quite high for Asia.

Q. Your country places a great deal of importance on education. Can you tell me about that system?

A. We have 9 years of free and compulsory education, and are only the second country in Asia besides Japan to have such a system. About 75% of children continue their education with over half going to 5 years of vocational training and the rest continuing with high school and college.

Q. Do your youth have problems similar to those of American young people, such as drugs?

A. We have similar problems but on a much smaller scale. Youngsters are tempted by exposure to sex and drugs through movies and television, but, fortunately, crime, drug use, and sex have not reached the same magnitude. Thank god we still have the family system. In our society the divorce rate is very low and we Chinese are very attached to our family. Kids live with both parents and grandparents, receiving lots of parental care and attention. This has been the best answer to these types of problems.

Q. How do you and your wife like your tour here in Washington?

A. We have traveled all over this country but are so happy to be back in Washington. Its not only a beautiful city but the people are wonderful, and we have many good friends here.

MANAGING THE LDC DEBT CRISIS

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. GARCIA. Mr. Speaker, the July 27 edition of the Financial Times contained an essay by Michael Prowse on the LDC debt crisis.

Mr. Prowse suggests that outright debt forgiveness and interest rate reduction may be the best course of action for the debtor nations and ultimately for the industrialized countries as well.

The arguments and analysis provided by Mr. Prowse stand on their own merit. The missing piece in his discussion of debt forgiveness is how to convince the commercial banks that it is in their interest to forgive and forget. That is a much tricker proposition.

Nonetheless, Mr. Prowse's arguments are sound, and I urge my colleagues to take a moment to read his fine article.

WHEN FORGIVENESS COULD PAY OFF

(By Michael Prowse)

There has rarely been more confusion about the severity of the Third World debt crisis. Professor Martin Feldstein, former head of President Reagan's council of economic advisers, argues that the crisis is over. He takes heart from the round of increased loan loss provisions announced by major US and UK banks and believes that the case-by-case "muddling through" strategy, pursued since 1982, is working.

Others take the opposite view. Dr. Henry Kaufman of Salomon Brothers, for example, contends that debt forgiveness is an urgent necessity. In a recent circular, he calls on First World governments to "face reality by accepting the mistakes of the past." This view is shared by several leading US academics, such as Professor Jeffrey Sachs at Harvard, and by many politicians on Capitol Hill, including Democratic Senator Bill Bradley. Many senior figures in financial markets and in the multilateral institutions are also privately sympathetic to the concept of debt relief.

So who is right? How serious is the debt crisis and how strong are the arguments for new policies?

Much depends on whether you look at debt through the eyes of creditors or debtors. From the standpoint of lenders in the industrialized world, enormous progress has been made since 1982. What Western capitalists most feared was that a series of defaults would result in a collapse of the international banking system.

Successive rounds of rescheduling have virtually eliminated this risk. Primary capital as a proportion of problem loans is sharply up; problem loans as a proportion of total bank assets are sharply down. It is the improvement in these two fundamental ratios that has made possible the headline-catching (but partly cosmetic) rise in loan loss reserves. By the end of this year, partly as a result of Citibank's aggressive move in May, the great majority of the world's major banks will have provided for at least 25 percent of their dubious Third World loans. Many European banks have set aside proportionately much larger reserves.

Unlike the creditors, most of the Third World debtors (with the exception of a few strong performers in East Asia) have experienced little or no improvement in their fortunes in the past five years. The arithmetic of compound interest has meant that their total debt has risen significantly, even though new lending has dried up. At the same time, export earnings have been hit by exceptionally weak commodity prices. As a result, the ratios of debt to gross national product (GNP) and debt to exports have steadily deteriorated.

Taking the 15 most heavily indebted countries, International Monetary Fund (IMF) figures show total debt rising from $383bn (£239bn) in 1982 to $435bn in 1986. It is true that actual debt service payments (mostly interest) have declined slightly as a ratio of exports—from 49 percent to 44 percent—but this only reflects the procrastination implicit in the rescheduling process. The IMF calculates that the "true" debt service burden on problem debtors (i.e. actual plus rescheduled debt service) has risen from around 43 percent to more than 60 percent of exports.

A heavy price has been paid in the struggle to service the debts. Per capita growth has averaged minus 1.8 percent during the 1980s in the most highly indebted countries. The resources available for domestic use, of course, have been still more constrained because of the need to generate trade surpluses to service the debts. Capital spending, and hence potential for growth, has been particularly hard hit, with per capita investment falling by about 30 percent in real terms. Investment is now estimated to be barely sufficient to keep the existing capital stock from falling.

Things may improve, as Prof. Feldstein and other optimists predict. The World Bank, in the 1987 Development Report forecasts improving debt ratios and higher living standards for the Third World under both its slow and fast growth scenarios. But it is worth remembering that the multilateral institutions and Group of Five governments have been rashly optimistic many times before.

In its 1984 World Economic Outlook, for example, the IMF confidently predicted that by 1987 the ratio of debt to exports in all non-oil developing countries would have fallen to 132 per cent, from 145 per cent in 1984. This group includes some dynamically successful countries; all the same, the figure for 1987 is now given as 176 per cent (and the 1984 outturn has been revised up to 160 per cent). Needless to say, the IMF expects the troublesome ratio to improve next year.

The debt crisis has always been easy to solve on paper. Make the right assumptions about future world growth, commodity prices and so forth and, hey presto, the crisis evaporates. Slightly vary these assumptions and it becomes obvious that the debt strategy outlined by the US Treasury Secretary, Mr. James Baker, in Seoul in 1985, will not work.

The idea was that commercial banks (in tandem with the official institutions) would increase their exposure in return for a shift to more market oriented (and thus supposedly growth enhancing) policies in debtor countries. Nearly two years later, it is still improbable that private sector agents in the industrialised world can be persuaded to provide finance on terms that permit sustained rapid growth in the developing world.

Foreign direct investment offers some opportunities, but these are easily exaggerated. It was running at an annual rate of only $12bn even in the late 1970s, when much higher returns on capital investment in the Third World were (erroneously) expected than today.

The reality is that developing countries can absorb only relatively small amounts of new equity. Even securities firms scenting new business concede that an expansion of Third World stock markets on the scale required to make a dent in the debt mountain is not feasible.

Certainly, the faith now placed in devices such as debt equity swaps and other exotica on the banks' much-vaunted "menu" of financing options seems misplaced. A debt-equity swap is simply a deal coverting debt into foreign equity in a domestic company, and at a preferential exchange rate. Such deals "may distort trade and waste foreign exchange and, in the extreme, result in new capital flight," according to a recent report from the Group of Thirty, an international study group.

Moreover, much of the investment financed at perferential rates through swaps would occur anyway. It is odd that many free marketeers, who would normally oppose artifical devices such as two-tier exchange rates, are so supportive of swaps. Perhaps it is a good thing, as the Group of Thirty argues, that scope is probably limited for expansion of the swaps market beyond the $5bn volume registered in 1986.

More important, a resumption of new commercial lending on the scale required seems highly unlikely in the wake of the greatly increased loan-loss provisions. It is rather difficult to tell shareholders, on the one hand, that you do not think old loans will be fully repaid and, on the other, that you intend to increase your exposure. The argument that new loans will make the old ones safer becomes a bit dubious when provisions have reached the 25-30 per cent level.

This, at any rate, appears to be the verdict of the secondary market in sovereign debt. The discounts at which the debt is trading have widened markedly since the round of higher provisions.

Some optimists, however, argue that banks will just be illogical. They point out that $2bn of new money for Argentina has been raised since the Citicorp move in May and that the big banks are likely to stump up more cash for Brazil, provided it adheres to an economic plan blessed by the IMF. The point of the higher provisions was to facilitate the restructuring of old debt; the move will not inhibit future loan decisions.

Suppose the optimists are right. Suppose the banks do agree to tide over Brazil, just as they previously kept Mexico afloat. This would not alter the fundamental argument for some form of debt relief—be it cancellation of some of the principal loans, or sizeable interest rate subsidies. When countries seem set to experience acute debt servicing difficulties indefinitely, it makes more sense to reduce that burden through forgiveness than to increase it by making new loans (which will only have to be rescheduled later).

There are both ethical and pragmatic arguments in favour of debt relief. It is hard to see why the Third World should assume all responsibility for the economic mistakes of the 1970's, a decade which saw the breakdown of exchange rate stability, two violent oil shocks and an extraordinary—and imprudent—shift from long-term official to short-term commercial financing of development. The debtors were sold too many loans, but neither they nor anybody else foresaw the subsequent dramatic rise in real interest rates or the almost unprecedented fall in commodity prices. It is reasonable to argue that the debtors' contracts should be rewritten to reflect these realities.

Pragmatic considerations point the same way. Much of the apparent cost of debt relief is illusory. A reduced burden on the debtors would allow them to grow faster. The industrialised world would be a prime beneficiary: what is not spent on debt service would be spent on imports. Debt forgiveness involves less a transfer from the First to the Third World than a transfer within the First World—from the financial to the industrial sector.

Advocates of debt forgiveness are well aware that the proposal stirs up strong emotions. Ironically, many of the larger debtors—let alone their creditors—remain unwilling to accept that they need or deserve it. They crave the acceptance and respect of advanced countries, and fear that pushing for debt relief would postpone for decades their elevation to the High Table of nations. How could Brazil, for example, claim to be on a par with Spain or Australia if it accepted debt cancellation?

The allocation of relief also presents problems: debtors which have made strong efforts to adjust should not be penalized relative to those that have not. The important point, however, is that a failure to concede any relief is likely to present much deeper problems in due course, given the present poor outlook for world economic growth and the still very modest recovery in the prices of some commodities.

An early change in official policy is improbable, but radicals can console themselves by reflecting that the intellectual climate is gradually shifting in their direction. After all, even somebody as fiscally conservative as Mr. Nigel Lawson, the UK Chancellor, is now urging debt relief in sub-Saharan Africa. Unlike the IMF and some of his Group of Five colleagues, Mr. Lawson has abandoned the principle that all debtors must honour past commitment, come what may.

The position of middle income Latin American debtors, of course, is not directly comparable with that of Zambia or Zaire. But they too are in deep trouble and, if restored to health, they offer far bigger export markets to the industrialised economies.

LABORATORY ANIMAL CONDITIONS CONCERN MILLIONS OF AMERICANS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. LANTOS. Mr. Speaker, the Wall Street Journal ran an editorial last month headlined "Science Under Attack" which generated a flood of mail. On July 13, the newspaper printed six letters in rebuttal, including one by our distinguished colleague from New York, BOB MRAZEK. The editorial had criticized the rapidly growing activity of citizens for the humane treatment of laboratory animals.

Mr. Speaker, millions of Americans and many Members of Congress have signified their sincere concern that laboratory animals not be mistreated or made to suffer unnecessarily cruel procedures. In return, these citizens have been untruly and incorrectly characterized as opponents of the kind of research that has produced significant scientific advancements. I think my colleagues will benefit from reading those six letters that respond to the editorial, and I ask that they be printed in the RECORD.

Mr. Speaker, there is another aspect to this matter that I want to call to the attention of the House. A letter, dated June 22, was sent to all Members of the House from the Society For Neuroscience, concerning one of the most significant issues in this question of treatment of laboratory animals—the Silver Spring monkeys case. So many Members have indicated their concern over the horrible treatment of those animals that there is no need for me to go into detail about the totally unjustified cruelty that they endured, and some still endure, years after this matter should have been resolved.

As a matter of fact, Mr. Speaker, two bills have been introduced in this Congress because of the horror in so many people's minds over the situation involving some of the monkeys. One, H.R. 2883, would transfer the surviving monkeys to an animal sanctuary called Primarily Primates, Inc., near San Antonio where they would be cared for at no cost to the Government. The other bill, H.R. 1770, gives individuals standing—which does not now exist in law—to sue for real enforcement of Department of Agriculture regulations covering the humane treatment of lab animals. No lab, no university, no research institution could be sued—only the Department of Agriculture. And, if a court finds that a suit against the Department has been filed that is "frivolous, unreasonable, or without foundation," the filer would be ordered to pay all of the court costs. Both are good bills worthy of cosponsorship.

Staff interested in the Silver Spring monkeys case subsequently met with officials of the Society For Neuroscience to discuss the problem, and, because of the discussion that took place at that meeting, a letter I had prepared rebutting the organization's attitude was not sent. But, because each office received the June 22 letter from the society, I think a rebuttal should be available for consideration, so I request that a draft of the letter which I prepared be inserted here in the RECORD.

JULY 9, 1987.

MORTIMER MISHKIN, Ph.D.,
President, Society For Neuroscience, 11 Dupont Circle NW, Suite 500, Washington, DC.

DEAR DR. MISHKIN: I am among the members of Congress who have received your letter dated June 22, 1987 concerning legislation involving the Silver Spring monkeys.

You begin your letter by saying "legislation is apparently now being prepared calling for the National Institutes of Health to surrender the Silver Spring monkeys to animal rights groups." As a co-sponsor of the bill concerning these monkeys (H.R. 2883), I know that it only calls for their transfer to Primarily Primates, Inc., an animal sanctuary near San Antonio, Texas.

You state that the monkeys currently are being cared for in acceptable circumstances at the Delta Regional Primate Center in Covington, La. Unfortunately, Delta is simply not equipped to do what NIH and its officials promised, so far as the care and rehabilitation of the animals are concerned. Furthermore, every report available shows that those monkeys who have managed to survive are confined to small cages, still suffering. The fact that no one trusted by humane treatment organizations has been allowed in to inspect them only serves to arouse more suspicion, especially since Delta has announced its intentions to destroy eight of them. Perhaps some of the monkeys have been allowed to deteriorate to the point where it would be humane to euthanize them, but we will not know that until people truly concerned about them are allowed to see the evidence for themselves.

You mention that "the monkeys are privately owned". To my knowledge, NIH retained the financial interest in the monkeys when it revoked Dr. Taub's grant for violating NIH guidelines on laboratory animal care at his Institute For Behavior Research, Inc., in Silver Spring. Several impartial attorneys have confirmed my belief that NIH owns the monkeys.

Nothing in federal law or regulations that I know of would prevent NIH from transferring the monkeys from Delta, where they were taken in violation of several agreements with members of Congress and where they remain without any of the treatment or action that was promised members of Congress. You say that the Society of Neuroscience shares the cost of their care, and I have no evidence to dispute your statement, but humane treatment organizations are on record as being not only willing but anxious to pay for the upkeep and rehabilitation of the monkeys as long as it takes place at Primarily Primates.

You state that the members of your organization share Congress' "concern about the humane and ethical treatment of animals in research", but why do you and the leadership of other research organizations not recognize that we ought to put this Silver Spring monkeys case behind us once and for all, and join in the effort to have them transferred to Primarily Primates, where whatever can possibly be done to help them will be done? I think it would add greatly to the credibility of your organization if you would agree to the position on this issue endorsed by so many members of Congress.

Because vital research is necessary for the future of our nation, research which I support, the restoration of the reputation of research organizations in important. A resolution of the Silver Spring monkeys case, resulting in their transfer to Primarily Primates, would facilitate a renewed respect and interest in the important research work that concerns us all.

Cordially,

TOM LANTOS,
Member of Congress.

[From the Wall Street Journal, July 13, 1987]

[Letters to the Editor]

CONDUCTING SCIENCE MERCIFULLY

Science and its progress never have been attacked by me or my associates ("Science Under Attack," editorial, June 16). The issue is the responsible, decent, honest and effective conduct of science. The organizations in which I have served as a full-time volunteer for the past 30-odd years, the Animal Welfare Institute and the Society for Animal Protective Legislation, are anti-cruelty, not anti-vivisection groups. My duties as an officer in both organizations have required my presence at official meetings and hearings where Dr. Michael DeBakey also was present. But on no occasion have I ever entered into a personal conversation with him regarding the medical treatment of any member of my family much less come "up to him to say how much his medical breakthroughs had meant to [my] husband," as your editorial falsely states.

It is absurd to suggest, as this self-serving fantasy goes on to claim, that I could be "flustered" by news about animal experimentation. As the daugther of a physiologist who used experimental animals, and as a co-founder with him and other scientists of the Animal Welfare Institute. I have spent 35 years in the study of needless animal suffering in laboratories and ways to prevent or alleviate it.

I hope further commentary on laboratory animals by the Journal will follow normal procedures for checking for accuracy. My name is Christine, not Helen.

CHRISTINE STEVENS,
President, Animal Welfare Institute.
Washington.

No one is suggesting, through my legislation, that critical laboratory research into the medical mysteries of our time should stop. H.R. 778 would prevent the use only of those animals that are taken from shelters. The availability of most random source animals, including those procured through newspaper advertisements and those obtained from, for example, litters of dogs or cats that have bred repeatedly on farms, would not be affected.

The other major category of laboratory animals is purpose-bred animals. As the name implies these are raised in colonies solely for use in biomedical research. The argument that using only purpose-bred and non-shelter, random-source animals in research would drive up the cost of this research prohibitively is a simple fallacy as Dr. DeBakey should know. Again, most random-source animals still could be used in labs.

Laboratory research must go on, but it is important that we reach a middle ground on this matter. Once the biomedical-research community accepts the fact that shelter animals do not belong in research labs, we will take a step toward forging a compromise between those who would not alter animal-research policy at all and those who would end research on animals altogether.

ROBERT J. MRAZEK. (D., N.Y.),
U.S. House of Representatives.
Washington.

Your editorial contains an inaccurate and misleading anecdote attributed to Dr. DeBakey. Christine Stevens is not an animal-rights advocate. However, she certainly has been one of the most influential and effective campaigners on behalf of improved welfare for animals. She never has denied the need to use animals in research and it is, therefore, extremely unlikely that she would be flustered that her husband's surgery should have been based on knowledge acquired from animal studies.

Your anecdote raises further concerns. Dr. DeBakey and Mrs. Stevens are currently both on a National Academy of Sciences panel that is close to completing a report on the animal-research issue. It is surprising that Dr. DeBakey should have related an anecdote that calls into question Mrs. Steven's consistency and logic. In doing this, Dr. DeBakey is not acting as a collegue, and I also imagine that he is not acting in accord with the normal standards of behavior expected of NAS panel members.

Finally, animal research is a difficult and contentious issue. Society, via its democratic institutions, is struggling to balance the human need for greater biological understanding with the human responsibility to protect research animals from unnecessary suffering and death. Pressure for the re-evaluation of current practices is not only coming from a fringe group of animal-loving "misanthropes," but also from an increasing number of scientists who are questioning some of the things that are done to animals. This is a healthy trend since it will reduce animal use and suffering, and lead to the better science.

ANDREW ROWAN,
Director, Tufts Center for Animals, Tufts University.
North Grafton, Mass.

Any humane society or city pound that releases pets to laboratories violates the public trust inherent in the term "animal shelter." Research has shown that many individuals choose to abandon unwanted dogs and cats rather than bring them to a "shelter" that sells pets to biomedical researchers. For example, since the City of Los Angeles repealed an ordinance in 1981 requiring shelters to send animals to research laboratories, the number of animals brought to city shelters each year has steadily increased. No such increases occurred in the decade prior to 1981.

JOHN F. KULLBERG,
President, American Society for the Prevention of Cruelty to Animals.
New York.

As proponents of animal rights, my wife and I have contacted local governments, written newsletters, advertised in local newspapers, organized and attended public meetings, circulated petitions, successfully fostered a local animal-control ordinance, distributed literature, and solicited and contributed money. We, and the many who have worked with us, don't fit the reactionary picture you paint. Instead, the vast majority of those who support humane treatment of animals understand that careful and humane use of them in research is important to science.

LESLIE R. INGLIS.
Cincinnati.

I have a mother in the terminal stages of cancer who has gained several years of life from recent advances in medical research. I work for a biotechnology company responsible for some of these advances. I have a dog, somewhat sickly, who also has benefited from research on other, perhaps less loved, dogs. Yet I have profound doubts—as I daily walk through our laboratories and observe the death and well-meant torture of a variety of creatures—that this research is at all a proper thing to do. I think it no more moral that an animal die in a pound than in a laboratory, but I cannot avoid knowing the sufferings that precede death in the lab.

GERALDINE KEMSKE.
Melrose, Mass.

THE STRUCTURING OF THE EXECUTIVE BRANCH

HON. RON PACKARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. PACKARD. Mr. Speaker, 200 years ago our Founding Fathers had an enormous task in front of them which was to determine the structure of the executive branch. James Wilson stated the executive branch was "in truth the most difficult of all we have had to decide." A balance needed to be considered so that a monarchy would not be developed but at the same time enough power would be given to the President to secure a counterbalance against the Congress.

The debate lasted for 8 days and was the most heated discussion since the adoption of the great compromise. This was the start of settling differences between the large and small States on the basis of representation in the national legislature. Opinions and views that were being exchanged led to a sway in delegates' votes from day to day. Our first President, George Washington, had a major influence on how Presidential powers would be determined. Delegate Pierce Butler recalled, "many of the members cast their eyes towards General Washington * * * and shaped their ideas of the powers to be given to a President by their opinion of his virtue."

On July 26, 1787 it was decided that the executive would be elected by the Congress. All the resolutions that were passed up until this time were handed down to the committee of detail. This committee was going to write and organize the first rough draft of our U.S. Constitution. Although much debate and many changes would follow, this draft was the beginning of a very promising future for all Americans.

With the upcoming elections in 1988 we have many candidates campaigning to lead our Nation. A great deal of responsibility lies with the American people who must wade through the hype and rhetoric to pick a truly qualified candidate. We all need to take an active role in helping to select our Nation's President. Without the backing of the people we will fall.

BIRTH DEARTH SILLINESS

HON. JOHN EDWARD PORTER

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. PORTER. Mr. Speaker, Michael Teitelbaum, a Rhodes scholar who teaches at both Princeton and Oxford, has written an excellent critique of Ben Wattenberg's much ballyhooed new book "The Birth Dearth." At the request of the nonprofit organization Population-Environment Balance, Mr. Teitelbaum has made his book review public. Mr. Teitelbaum correctly points out the questionable nature of Mr. Wattenberg's mathematical models, and his failure to find the financing for the new programs his book advocates.

Mr. Teitelbaum also illustrates the disturbing contrast between Mr. Wattenberg's alarmist conclusions in "The Birth Dearth," and his lead role in developing the cavalier, irresponsible administration policy at the 1984 International Population Conference in Mexico City. Mr. Speaker, as a cosponsor of H.R. 2212, the Global Resources, Environment and Population Act of 1987, which would establish population stabilization as a national goal, I urge all members to read this critique.

[The article follows:]

THE BIRTH DEARTH,

(By Ben J. Wattenberg)

Is the West on a path of demographic suicide? Will Europe and North America be swamped by the far more prolific breeders of the Third World, and even by the slightly more fecund peoples of the Warsaw Pact? Are we losing the War Between the Sheets?

Such are the questions raised in Ben Wattenberg's new book, "The Birth Dearth," which in recent weeks has been the subject of a dazzling PR campaign. Its main points can be briefly summarized: Fertility in the West is at an all-time low, below the "replacement" level needed for eventual stability of population size. The author predicts that such low fertility will continue (unless the pronatalist policies he advocates are adopted), and that this will lead to a variety of disasters: destructive economic stagnation and turbulence, rising domestic tensions between racial and ethnic groups, much personal misery, and an erosion of Western and American power and influence in the world.

Despite its calamitous predictions, the book is written in breezy journalistic style, aimed at the everyday reader with no knowledge of the nuances of demography. It purports to be based upon scientific analysis, and makes ample use of demographic concepts and methods such as the "total fertility rate" and population projections. The author does not shrink from basing much of his argument upon projections right out to the year 2085 for the U.S., the USSR Western Europe, and the Third World, projections which he attributes to something he calls the "World Bank/UN model."

Unhappily, all is not what it seems. The projections attributed to the World Bank appear to have been done by a World Bank employee at Mr. Wattenberg's special request, following the fertility assumptions he himself specified. Such assumptions, going out a full 100 years, would never be used in this way by the World Bank, by the UN, or by any responsible demographers.

For those who might find themselves misled by the appearance of scientific rigor, be warned that population projections are classics of the "GIGO" phenomenon (for Garbage In, Garbage Out). As long as one can add, subtract, multiply, and divide, any projection will be arithmetically "correct"—but if its assumptions are dubious, then the projection is either meaningless or misleading. Because no one has any way to say what the course of fertility, mortality and migration will be 80 or 90 years from now, demographers are reluctant to make such heroic projections; when they do, their purposes are not predictive, and usually they calculate a set of alternative projections based upon a reasonable range of plausible assumptions.

Wattenberg is constrained by no such niceties of the scientific method. The single projections he ordered simply hold current US and USSR fertility levels constant for 100 years, along with gradually improving mortality conditions. As noted by one of the leading experts on Soviet demography, his assumed fetility level for the USSR is higher than apparent recent levels—we really don't know—and he ignores considerable evidence that mortality conditions in the USSR have been deteriorating, not improving, over the past decade. The output (the GO part of GIGO) of these assumptions is inevitable and unsurprising: a much larger population in the USSR than in the US after 100 years.

Not only demographers will shudder at the use of their data and methods in this book. Most economists would be astonished at the simplistic economic theory underlying population decline's argued effects on the economics of housing, coffee makers, and (yes) baseball gloves. One wonders too what political scientists would make of forecasts that hold national characters and military alliances constant for a full century; put another way, if Wattenberg had been writing 100 years ago, when the Czar ruled Russia and Britain ruled the waves, what would he have predicted about the relative strength of NATO and the Warsaw Pact in 1987?

Obviously, there must be some goal for all the energetic if dubious argumentation in this book, and there is. The book is intended, in Wattenberg's own well-chosen words, as "a provocation", an "alarmist tract" aimed at convincing his readers that the West is "committing slow-motion demographic suicide". It is a well-presented compendium of what are known as "forensic statistics"—the marshaling of selected evidence in order to prove a predetermined point.

To his credit, Mr. Wattenberg writes with considerable verve, humor and irony. But the most amusing ironies are unintentional. His apocalyptic pronouncements upon the disastrous effects of current demographic rates projected out to the unforeseeable future are coming from the same pen that has long assaulted the "population bomb" alarmists for exaggerating the significance of demographic trends and misusing demographic projections. Wattenberg's cutting words about the earlier alarmists apply equally well to his own book: "Why have a long-range manageable population problem that can be coped with gradually over generations when, with a little extra souped-up scare rhetoric, we can drum up a full-fledged crisis?"

It is also ironic that despite his alarming description of the wide-ranging consequences of demographic change, Wattenberg played a prominent role in the Reagan Administration's delegation to the 1984 International Population Conference in Mexico City, promoting the view that "in and of itself, population growth is a neutral phenomenon".

Despite its excesses and rhetoric, the book has a few positive attributes. It emphasizes that demographic change is not neutral after all, and it introduces the uninitiated reader to demographic data and analysis, if admittedly in a garbled and overstated way. Compared to the overheated windup, the pitch is relatively moderate—a series of pronatalist policies such as child care subsidies, child allowances, and tax preferences, aimed at raising fertility by 20-25 percent, to be financed by government and industry. The author honorably admits these would cost a great deal of money, but has in mind tapping into the Social Security Trust Fund. And in any case, "Money should be no object. Remember, we're saving Western civilization." Ultimately the book comes across as distorted, exaggerated, the stuff of a true believer.

Michael S. Teitelbaum, a Rhodes Scholar who has taught demography for many years at Princeton and Oxford, is the author (with J.M. Winter) of "The Fear of Population Decline" (Academic Press, 1985).

CLOSING OF GIL'S BAKERY

HON. BILL RICHARDSON

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. RICHARDSON. Mr. Speaker, I rise today to mark the closing of a venerable landmark in my district—Gil's Bakery in Belen, NM.

I realize that the closing of a bakery in a small New Mexico town may not seem worthy of mention on the floor of the House of Representatives. After all, small businesses open and close every day. But Gil's was not an ordinary bakery. It was the kind of place, once common in the small towns of America, which acted as a central meeting place, the spot where people from Belen and the surrounding area gathered to share news and gossip and to talk business and politics. Most of us have a place or two like that in the rural parts of our districts and know the emotions when such a place closes its doors after years of service to the community. One by one, those places are disappearing from our rural landscape and I am sorry to see them go.

Gil's Bakery has been important to the Belen community. Primarily, it was a restaurant, a place where a person could go, with or without money, and not go away hungry. In addition, it served as an informal town hall for the town's leaders and as a second home to many of the town's residents. As one patron put it, "When you come in here, you feel like you are at home. It's not like other restaurants."

Gil Sanchez and his wife Priscilla have been operating Gil's Bakery since August of 1947, serving the town for nearly 40 years. They are known and respected in Valencia County for their active interest in and service to the community. One of their customers summed up his feelings saying "They are the most wonderful people in the whole community. We admire and love them very much." A small measure of that esteem is reflected in the fact that at 70 years old, Gil was recently selected to his fourth term as Valencia County Magistrate.

I've known Gil and Priscilla for many years and have spent a lot of time in Gil's Bakery. I have a great deal of respect for them and appreciation for the many ways in which they have served their community over the years. I am proud to have them as my constituents and regretfully bid Gil's Bakery a fond adios. We will miss it.

GIL'S BAKERY OF BELEN CLOSES DOWN AFTER 40 YEARS

(By Robert Rodriguez)

BELEN.—Gil Sanchez said it was just another day. But to many life-long customers of his bakery and restaurant it was the end of an era.

After 40 years in the baking business Sanchez, 70, and his wife, Priscilla, 64, have decided to call it quits. Thursday was the last day of business.

"It has been getting too much for us," said Sanchez. "We have had a lot of problems with help and getting good bakers."

But Gil's Bakery is more than just a place to buy doughnuts. And Sanchez and his wife are more than just shopkeepers.

"This is the passing of an era," said Richard Carbajal, president of the Belen Board of Education, who stopped by the bakery for his regular morning coffee and doughnut.

"I can remember this place as a kid, stopping by and getting a hamburger and french fries and not having enough money for either of them," Carbajal said.

"Eddie A. Baca, 81, and his wife Naphie, 82, have been coming to the bakery since it opened Aug. 14, 1947.

"These are the most wonderful people in the whole community," Mrs. Baca said. "We admire and love them very much."

"We come for breakfast right after mass every Sunday," said Mr. Baca. "They are an example to us all."

The Bacas are not quite sure where they will go for breakfast now. Perhaps, Mr. Baca said, shrugging his shoulders, "we'll just stay home."

At about 8 a.m., the small bakery was already crowded with nearly 30 customers.

The interior looks much like it did in the '40s with lime-colored revolving stools lining the lunch counter. And small formica-topped tables in the center of the shop.

A wide array of memorabilia covers the wood-paneled walls including crayon drawings done by the Sanchez grandchildren, a photo of John F. Kennedy and an early photo of a very distinguished looking Gil Sanchez.

Three slightly worn photo albums were atop one table. The albums contained yellowed newspaper clippings and photos of the Sanchez family. Customers picked up the albums and leafed through them, making remarks as they would going through their own family photos.

"It's just another usual day," said Mr. Sanchez, coming from the kitchen carrying a tray piled high with glazed doughnuts.

Mrs. Sanchez moved through the room hugging old customers and greeting new ones. Occasionally, she would stop to wipe a tear from her eye. But then she would continue making sure her guests were satisfied.

"When you come in here, you feel like you are at home," said Charlie Pena, 51, of Belen. "It is not like other restaurants."

Pena, who works for the Sante Fe Railway, had just come from his night job and had not yet gone home.

"It is going to be very hard not to have this place open," Pena said, clutching an old scrapbook. "It is like . . . you get a lump in your throat when you think about it."

Not only has the bakery served as second home for some residents it has also served as Belen's informal city hall.

Earl Peter, 72, who was mayor of Belen from 1948 to 1956, said many a night was spent there talking politics.

"We discussed a lot of city business here," Peter said. "I have been coming here every day for almost 40 years, and it still goes on."

Sanchez's induction into the baking business began when he was 16 and working for Harold's, which was the local bakery in Belen. After graduating from Belen High School, he continued at Harold's and married Priscilla.

World War II sent him and his bride to Nevada for four years. But on his return he decided to open the bakery.

Since then, Sanchez has always lived by a simple credo.

"I wouldn't let anybody go hungry," he said.

To this day, Sanchez takes whatever is left after closing time and donates it to senior citizen centers in the county or other organizations.

Mrs. Sanchez spoke about one older man who has come into the bakery for as long as she can remember. She says he sits in the same stool every morning and speaks very little. And every morning, without fail, she serves him a glazed doughnut and coffee. It's always been free.

"I just don't know where he is going to get his food when we close," she said.

Sanchez has long been known in Valencia County politics. He served 30 years on the Belen Board of Education and has been a magistrate in Belen for 16 years.

His magistrate office is no more than a few steps away. In fact, it is part of the same building and is separated from the bakery by a swinging wooden door.

Sanchez has been re-elected as magistrate and will serve an additional four years.

"I don't believe in retiring," said Sanchez firmly. "I want to keep on going till I am 100 years old."

A BLANK CHECK FOR PRESIDENT AND FOR FOREIGN POLICY

HON. BARNEY FRANK

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. FRANK. Mr. Speaker, no judge sitting on a Federal circuit court has been more diligent and determined than Robert Bork in seeking to prevent judicial review of executive branch actions in the foreign policy field. Several commentators have noted Judge Bork's extreme advocacy of the view that there is to be virtually no judicial enforcement of the law against the President or his aides in the foreign policy field. For example, in his article "Constraints of Power" 40 University of Miami Law Review 1171 (Sept. 1986), James Wilson notes Bork's flexibility and creativity in finding doctrines to keep litigants from having claims decided on the merits. Noting Bork's overriding interest in keeping the judiciary from deciding a number of important questions, Wilson concludes "While Bork's decisions may or may not be wrong, they are not easily explained merely by legitimacy and/or by the ultimate source, the former's intentions."

More recently, in the July 20 issue of The National Law Journal, Peter Phillips and Albert Robbins assert that Bork "can display remarkable skill in Professor Bickel's erudite art of avoiding judicial decisionmaking. Denying standing is one of the most effective ways for a court to sidestep or postpone an uncomfortable or unsuitable constitutional question." Analyzing a Bork concurring opinion dismissing an attempt by people to use American courts to collect damages against terrorists for acts committed overseas, in the case of *Tel-Oren* v. *Lybian Arab Republic* (726 F.2d 774), they note: "Respect for the executive branch's duty to conduct foreign policy, Judge Bork wrote, counsel avoidance of judicial pronouncements on the merits of dispute 'that are the subject of controversy touching sharply on national nerves.' " In Phillips and Robbins words, the judge was worried about "risk of embarrassment to the executive branch".

While Judge Bork sometimes talks of deferring to the legislative and executive branches together, it is clear from his opinions and his writings that he believes that it is the executive branch that should reign supreme in the foreign policy area. For instance, in the American Journal of International Law, in January, 1971, commenting on President Nixon's activities in sending American troops into Cambodia, Bork noted that such an action was unquestionably within the President's power, and that "The real question in this situation is whether Congress has the constitutional authority to limit the President's discretion with respect to this attack."

This strong preference for executive versus legislative power in the foreign policy field was given very specific content by Judge Bork in a series of opinions he wrote involving efforts by Members of Congress to being important constitutional cases before the court.

In two of these three, he concurred with decisions which rejected congressional efforts to bring matters into court, concurrences state stronger arguments than the majority judges for rejecting the congressional claims. Finally, when a group of congressional plaintiffs—including the entire U.S. Senate, the Democratic and Republican leadership of the House, and 33 individual House Members brought a lawsuit challenging the President's use of the pocket veto which met the very difficult standard for access to the courts which Judge Bork had set down, he reversed his position on what was needed to provide congressional standing and dissented from a majority decision which accepted the congressional claim. These cases are *Crocket* v. *Reagan,* 720 F.2d 1355 (D.C. Cir. 1983); *Vander Jagt* v. *O'Neill,* 699 F.2d 1166 (1983); and *Barnes* v. *Kline,* 759 F.2d 21 (1985). In reversing his prior opinions in the case of Barnes versus Kline, Judge Bork concludes in footnote 18 at page 68 with the flat statement "When the interest sought to be asserted is one of governmental power, there can be no congressional standing, however confined."

Judge Bork's opinions in these cases, and his opinions in *Abourezk* v. *Reagan,* 785 F.2d 1043 (1986), *Tel-Oren* v. *The Libyan Arab Republic,* 726 G.2d 774 (1984) and other cases are replete with strong arguments against any judicial supervision of the executive branch. In virtually every case involving the right of plaintiffs to being an issue before the courts, and especially in those involving any foreign policy question, Judge Bork is the single judge most hostile to any effort to have the judiciary fulfill what many of us think is its essential role; upholding the statutory law and the Constitution against officials who, from time to time, are tempted to dismiss them as inconveniences.

I include excerpts from the articles and opinions I have mentioned:

THE PARADOX OF ROBERT BORK

Judge Bork has based dismissals on lack of personal jurisdiction and preclusion, and even has held that the federal courts may lack subject-matter jurisdiction over constitutional challenges to federal law, if Congress' intent was to deny, through sovereign immunity, judicial review of agency determinations in benefits legislation such as the Medicare Act. However, Judge Bork most often relies on the "political question" doctrine to accomplish this end.

For example, in *Vander Jagt v. O'Neill,* a group of Republican congressmen brought suit against the Democratic majority of the House of Representatives, alleging a disproportionate assignment of Republicans to House committees and a resulting decrease of their representative influence. In a concurrence, Judge Bork traced the foundations of constitutional and prudential limitations on federal court jurisdiction and reflected seriously on their implications, terming them restraints on "the powers of an unelected, unrepresentative judiciary in our kind of government." Respect for the separation of powers, to Judge Bork, counseled dismissal of the suit without reaching the merits.

Judge Bork also urged the use of the political question doctrine to restrict judicial power in his dissents in *Abourezk v. Reagan,* where he argued that the executive's refusal of immigrant visas should be immune from judicial review; and in *Barnes v. Kline,* where an action brought by members of Congress to challenge the president's pocket veto of a bill presented to him on the day of adjournment of the 98th Congress prompted Judge Bork to urge that the federal courts "ought to renounce outright the whole notion of congressional standing."

In another concurrence in *Telecommunications Research and Action Center v. Allnet Communications Services Inc.,* Judge Bork proposed a per se rule denying nonprofit trade associations standing to assert damage claims in a merely representational capacity on behalf of some, but not all, of their members. A few months later, Judge Bork's views were adopted by the majority in *Haitian Refugee Center v. Garcey,* where an association was denied standing to sue since it was not, in its own corporate existence, within the "zone of interest" created by the law it challenged—in this case, a law permitting interception of illegal Haitian immigrants on the high seas.

One of the Judge Bork's most exhaustive discourses on judicial restraint through application of the standing doctrine was occasioned by an action brought by a group of survivors of a 1978 Arab terrorist attack in Israel, who sued Libya, the Palestine Liberation Organization and other Arab entities, alleging various common law torts in violations of U.S. treaties and laws. Judge Bork agreed with the majority in *Tel Oren v. Libyan Arab Republic* that the court lacked subject-matter jurisdiction, but (typically) proceeded to offer a small treatise on the type of judicial discretion properly due questions of international law.

Respect for the executive branch's duty to conduct foreign policy, Judge Bork wrote, counseled avoidance of judicial pronouncements on the merits of disputes "that are the subject of controversy touching 'sharply on national nerves'." Risk of embarassment to the executive branch made it "essential that there be an explicit grant of a cause of action before a private plaintiff be allowed to enforce principles of international law in a federal tribunal."

Judge Bork's decision in *Tel-Oran* is notable for its wholesale rejection of a decision by the 3d Circuit, *Filartega* v. *Pena-Irala,* which recognized jurisdiction under a little-used 1789 statute and allowed a torture victim from Latin America to sue his torturer in the U.S. federal courts. As a litmus test for Judge Bork's ideology in action, his decision, much criticized by international human rights advocates, portends a decisive predilection for what Professor Bickel called the "Passive Virtues"—the conscious withholding of the exercise of the power of judicial review."

ACCESS TO COURTS

In eleven civil cases raising constitutional court access issues, Judge Bork ruled against the plaintiffs ten times. Bork, like Scalia, implements much of his conservative jurisprudence by ruling in favor of the government on procedural grounds, rather than fully discussing the merits.

Unlike Judge Scalia, however, Judge Bork no longer agrees that congressional members have any special standing status under the "equitable discretion" doctrine. When he first considered the doctrine in *Vander Jagt v. O'Neill,* Bork did not completely repudiate the doctrine in his concurrence to a decision that denied a suit brought by Republican House leaders who disputed rule changes the Democratic Speaker of the House had made. Bork applied an overly substantive standard to deny the plaintiffs standing: "[I]njury in fact, far from being a simple, descriptive term is a concept frighted with policies that limit the kinds of injury courts may consider," Bork explained that those policies were his constitutional beliefs in legitimacy and democracy: "Courts may take cognizance only of injuries of certain types, and the limitations are often defined less by the reality of the litigant's 'adverseness' than by the courts' view of the legitimate boundaries of their own power." Bork admitted that the line was hard to draw, but stated that the line should be based upon "more than an intuition but less than a rigorous and explicit theory, about the constitutional and prudential limits to the power of an unelected, unrepresentative judiciary in our kind of government.

Two years later, Judge Bork dissented in *Barnes* v. *Kline* from a decision upholding a congressional challenge to a pocket veto made during a nine week intersession adjournment, even though Congress had authorized an agent to receive notice of the pocket veto. Bork returned to his favorite jurisprudential themes to explain his total rejection of the "equitable discretion" doctrine. The judiciary was gaining power at the expense of the legislature: "Every time a court expands the definition of standing, the definition of interests it is willing to protect through adjudication, the area of judicial dominance grows and the area of democratic rule contracts." Bork criticized the equitable discretion doctrine because it had no limits, it gave special rights to congressional leaders, and it could make the judiciary supreme in areas where courts are incompetent to make difficult decisions.

My prior article on these five judges concluded that they may have been attracted to the concept of legitimacy because it would allow them to overrule Supreme Court precedent. They could argue that they were not imposing their old judicial ideology; they were only purging the system of illegitimate decisions. Bork made that tactical move all but explicit in *Barnes:* "Though we are obligated to comply with Supreme Court precedent, the *ultimate source* of constitutional legitimacy is compliance with the intentions of those who frame and ratified our Constitution." Precedent is thus a far less "legitimate" source of constitutional law: "Constitutional doctrine should continually be checked not just against words in prior opinions but against basic constitutional philosophy." But Bork still hedged. After citing Alexander Bickel on the virtues of judicial delay, Bork turned Burkean: "No good society can be unprincipled; and no viable society can be principle-ridden."

How can Bork reconcile this desirable Burkean flexibility with such rigid tests as "legitimate" and "ultimate source"? Readers shall see that Bork is sometimes flexible (making libel more difficult to prove for certain plaintiffs), sometimes inflexible in the face of precedent he disputes (not extending rights to homosexuality), and sometimes defferential to precedent he does not like (requiring reinstatement of employees after dismissals that violate the first amendment). While Bork's decisions may or may not be wrong, they are not easily explained merely by "legitimacy" and/or by the "ultimate source," the Framers' intentions.

CROCKETT V. REAGAN

[720 F.2d 1355 (1983)]

I also adhere to my view that separation-of-powers considerations are properly addressed as part of the Standing requirement. In *Riegle v. Federal Open Market Committee,* 656 F.2d 873, 879–80 (D.C.Cir.), *cert. denied,* 454 U.S. 1082, 102 S.Ct; 636, 70 L.Ed.2d 616 (1981), a panel of this court concluded that separation-of-powers concerns have no bearing on standing analysis. Instead, the *Riegle* court created a "doctrine of equitable discretion" within which those concerns would be addressed. 656 F.2d at 881. In *Vander Jagt,* the panel majority expanded the doctrine and assumed the virtually "unconfined judicial power to decide or not to decide" cases. 699 F.2d at 1185 (Bork, J., concurring). I do not consider myself bound by the panel decisions in *Riegle* and *Vander Jagt.* Prior to those cases, this circuit had worked out a "fairly definite formula to relate separation-of-powers concerns to the problem of legislator standing." *Vander Jagt,* 699 F.2d at 1180–81 (Bork, J., concurring). *Riegle* and *Vander Jagt* purported to change the law of legislator standing in this circuit without submitting the issue to the full court. Under the established practice of this court, that may not be done. *See Irons v. Diamond,* 670 F.2d 265, 268 n. 11 (D.C.Cir.1981).

VANDER JAGT V. O'NEILL

[699 F.2d 1166 (1983)]

Id. Yet it is of course precisely the function of the Article III limitations on jurisdiction, through such doctrines as standing and political question, to ensure that non-frivolous claims of unconstitutional action will go unreviewed by a court.

BARNES V. KLINE

[Cite as 759 F.2d 21 (1985)]

These points become obvious upon examination of the court's doctrine. If this extrapolation of that doctrine at first seems far-fetched, that is only because it points to a new and wholly unfamiliar legal and constitutional world. Yet such a world is precisely what the rationale of the congressional standing doctrine, honestly applied, will create. No avoidance of these implications is possible unless courts lay down fiats, resting upon no discernible principle, that arbitrarily limit those institutions whose members may vindicate constitutional and legal interests.

Because the implications of what is being done here are unfamiliar, it will be well to offer a few examples of governmental standing that flow directly from the majority's rationale.

Members of Congress would have standing to sue the President whenever he committed troops, as in Lebanon, on the allegation that there had been a violation of the War Powers Resolution or of Congress' power to declare war under article I, section 8.

BARNES V. KLINE

[759 F.2d21 (1985)]

Standing requirements, like the requirement of ripeness, also delay the invocation of judicial power. This means that there is time for the real impact of laws and actions to become clear, thus making the constitutional inquiry less abstract and more focused. The law is given a chance to go into effect and have some impact upon persons in the society so that its constitutionality can be judged according to its real effects upon real persons in real circumstances. The courts are enabled to think about real interests and claims, not words. Constitutional adjudication should operate upon the basis of realities, not general propositions.

BARNES V. KLINE

[Cite as 759 F.2d21 (1985)]

A firm standing concept also decreases the number of occasions upon which courts will frame constitutional principle to govern the behavior of other branches and of states. There will thus be fewer constitutional principles of that sort in the system. That, too, is a benefit. The business of government is intensely practical and much is accomplished by compromise and accommodation. The powers of the branches with respect to one another, as well as the reciprocal powers of the federal and state governments, ebb and flow as the exigencies of changing circumstances suggest. It is proper and healthful that this should be so. These matters should not be always settled at the outset by declarations of abstract principle from an isolated judiciary not familiar with the very real and multitudinous problems of governing. Fluid relationships should not be frozen and the play removed from the joints of government. That is precisely the tendency that must come into being, however, if elimination of standing requirements permits the explosive proliferation of constitutional declarations about governmental powers.

Our democracy requires a mixture of both principle and expediency. As Professor Bickel put the matter:

"[T]he absolute rule of principle is . . . at war with a democratic system. . . . No society, certainly not a large and heterogenous one, can fail in time to explode if it is deprived of the arts of compromise, if it knows no ways of muddling through. No good society can be unprincipled; and no viable society can be principle-ridden."

A. Bickel, *supra*, at 64. While all branches of government are obliged to honor the Constitution, the declaration of constitutional principle with binding effect is primarily the task of the federal courts. If the federal courts can routinely be brought in to pronounce constitutional principle every time the branches of the federal government disagree, every time the federal and the state government contend, then we will indeed become a "principle-ridden," in fact a judge-ridden, society. Traditional standing requirements are a principal barrier between us and that unhappy condition.

BARNES V. KLINE

[759 F. 2d21 (1985)]

Concurring in *Vander Jagt*, 699 F.2d at 1177, I suggested that we adhere to the "distinction between diminution of a legislator's influence and nullification of his vote," 699 F.2d at 1180, which the en banc court had adopted in *Goldwater v. Carter*, 617 F.2d 697 (D.C.Cir.), *judgment vacated on other grounds*, 444 U.S. 996, 100 S.Ct. 533, 62 L.Ed.2d 428 (1979). Under the *Goldwater* test, congressional plaintiffs have standing only if "the alleged diminution in congressional influence . . . amount[s] to a disenfranchisement, a complete nullification or withdrawal of a voting opportunity." 617 F.2d at 702. By contrast, the position adopted by the panel opinion in *Vander Jagt* treats any substantial diminution of a legislator's influence on the legislative process as a judicially cognizable grievance. *Vander Jagt*, 699 F.2d at 1168; *see also Riegle*, 656 F.2d at 880. Upon further reflection, it seems to me that not even the *Goldwater* "nullification" test is adequate to the standing inquiry. When the interest sought to be asserted is one of governmental power, there can be no congressional standing, however confined.

TEL-OREN V. LIBYAN ARAB REPUBLIC

[Cite as 726 F.2d 774 (1984)]

In reaching this latter conclusion, I am guided chiefly by separation of powers principles, which caution courts to avoid potential interference with the political branches' conduct of foreign relations.

TEL-OREN V. LIBYAN ARAB REPUBLIC

[Cite as 726 F.2d 774 (1984)]

Those principles counsel against recognition of a cause of action for appellants if:

"The state as a person of international law should possess the following qualifications: a) a permanent population; b) a defined territory; c) government; and d) capacity to enter into relations with the other states." Convention on Rights and Duties of States, Dec. 26, 1933, art. 1, 49 Stat. 3097, T.S. No. 881, 165 L.N.T.S. 19. *See also Restatement (Second) of the Foreign Relations Law of the United States* § 4 (1965). Furthermore, the act of state doctrine would still not apply, even if the PLO is said to have been the agent of Libya, since the attack did not take place "within [Libya's] own territory." *Sabbatino*, 376 U.S. at 401, 84 S.Ct. at 926.

If jurisdiction rested on section 1331, at least one necessary rule of decision would have to be supplied by international law, the federal law under which the case arose. *See Franchise Tax Board v. Construction Laborers Vacation Trust for Southern California*, — U.S. —, adjudication of their claims would raise substantial problems of judicial interference with nonjudicial functions, such as the conduct of foreign relations. Appellants' complaint requires a determination, either at the jurisdictional stage or at the stage of defining and applying a rule of decision, whether international law has been violated.[10]

TEL-OREN V. LIBYAN ARAB REPUBLIC

[Cite as 726 F.2d 774 (1984)]

If more needs to be said against the construction my colleague and the *Filartiga* court would give section 1350, it may be observed that their interpretation runs against the grain of the Constitution. It does so by confiding important aspects of foreign relations to the Article III judiciary despite the fact that the Constitution, in Article II and Article I, places that responsibilty in the President and Congress.

TEL-OREN V. LIBYAN ARAB REPUBLIC

[726 F.2d 774 (1984)]

Were the matter mine to decide, I would probably agree that the constitutional core of the political question doctrine bars this or any similar action. But I am bound by Supreme Court precedent and that precedent, in general and as it bears in particular upon the constitutional component of the doctrine, is most unclear.

SAM SMITH AND THE VALUE OF THE TWO-PARTY SYSTEM

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. GALLO. Mr. Speaker, the long and distinguished career of Samuel H. Smith of Montclair, NJ, deserves the recognition of this body, because Sam Smith's commitment to the two-party system and his ability to translate political potential into positive public policies for all of the people place him in the forefront as a true leader for the 1980's.

During his 35-year career in public life, Sam Smith has been a role model for young enthusiastic political activists—Republicans and Democrats alike.

Sam Smith teaches by example. He speaks loud and clear on those issues that he feels deeply about while, at the same time, he is always a participant in the debate on broader issues. He speaks forcefully within the Republican party in Essex County, but he is willing to reach across party lines in his effort to make government work for all of the people.

As the new chairman of the New Jersey Black Republican Council, he has been an active advocate for the Republican party in a community that has been ignored because of its traditional association with one party alone.

In spite of his strong commitment to the Republican party, he is not shy about reminding party officials of either party that votes within the black community cannot be taken for granted.

Sam Smith describes himself as "one of the troops in the trenches," and that, in reality, is the source of his genius. Within the political process, we are all in the trenches if we choose to serve the people within our communities. Most of the important decisions are made at the front lines in a democratic society.

Anyone who believes that he or she can stay above the fray and pick and choose among the issues cannot remain effective where it counts—within the community.

Sam Smith understands that consensus is the goal of politics. No person in public life is always happy with all of the actions taken by party leaders in their efforts to develop a consensus on every issue. If enough individuals are unhappy with the leadership consensus, those individuals should band together to effect change. Change does not come overnight, but change does occur with steady and consistent pursuit of clearly stated goals.

In New Jersey, the Kean administration has pursued a clear agenda based on the goal of bringing more and more people into the consensus-building process.

As a result, we have experienced 6 years of growth and prosperity that have reached into all areas of the State. This positive approach to public policy could not have been possible without the dedicated service of Sam Smith, and men and women like him in all parts of the State.

Sam has worked tirelessly at the grass roots level to make our two-party system work. Without this commitment, this talent and this dedication, these advancements could not have been possible.

Efforts must continue to build upon these successes. If we hope to continue our current levels of prosperity in New Jersey, we must do so across the board, as we have for the last 6 years.

Our next generation of leaders must learn what Sam Smith knows so well—that dedication to the process is ongoing, that give and take is necessary, that basic principles run deep and will ultimately bring about positive changes and, last but not least, when your teammates are depending on you, you gotta play to win.

Sam Smith and those individuals like him who work for the preservation of the two-party system deserve our special recognition and our deepest thanks for their efforts. We can never have too many Sam Smiths, because our democracy cannot survive without them.

INTRODUCTION OF THE CLEAN AIR NONATTAINMENT BILL

HON. HENRY A WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. WAXMAN. Mr. Speaker, I am pleased to announce the introduction of the first legislative proposal offered in the House of Representatives to deal with the failure of many of our Nation's urban areas to achieve the health-based air quality standards established under the U.S. Clean Air Act.

We are offering a moderate bill that would extend the Clean Air deadlines for America's cities, removing the possibility of construction bans or other sanctions for areas that have not achieved the standards, while requiring additional air pollution control efforts to assure further progress toward achievement of healthful air quality. For the country's most severely polluted areas, the bill relies in part on increased use of lower polluting alternate fuels, such as natural gas, methanol, and ethanol, to bring about air quality improvements.

The widespread support for continued efforts to achieve healthful air quality reflects a clear scientific consensus at EPA and among leading researchers that high levels of ozone and carbon monoxide in our Nation's cities are a serious health problem.

EPA estimates that about 80 million people in 70 areas of the country are breathing unhealthful air that does not meet the ozone standard. Ozone has been found to cause chest pain, coughing, wheezing, pulmonary and nasal congestion, labored breathing, sore throat, nausea, and loss of lung function. The Agency expects that at least 35 major metropolitan areas will fail to achieve the standard by the end of this year.

An additional 80 cities are not now meeting the carbon monoxide standard and at least 15 areas will fail to achieve the CO standard for many years. Exposure to carbon monoxide particularly threatens persons with cardiovascular disease. It causes pressure and pain in the chest, and reduces oxygen flow to the heart and other vital organs.

Failure to meet these health-based standards is triggering EPA proposals for bans on construction and other sanctions in nonattainment areas. The bill recognizes that more time is needed to attain the standards for these pollutants.

The Clean Air Act's current 1987 deadlines for attainment of the carbon monoxide and ozone standards are extended conditioned upon adoption of additional air pollution control measures. The required air pollution control measures are graduated based upon the degree of severity of the air quality problem. Three new air quality classifications are established—for moderate, serious, and severe violations of the health-based standards.

Moderate nonattainment areas are given three additional years to attain the standards. These areas are required to do very little under the bill, other than comply with existing law. To allow EPA to focus its attention on the Nation's more serious nonattainment problems, a moderate area's plans for achieving the standards would no longer require review by the EPA.

Serious nonattainment areas are given 5 additional years to attain the standards. These areas would be required to tighten requirements for new facilities and implement more effective automobile inspection and maintenance programs.

Severe nonattainment areas are given 10 additional years to attain the standards, and required to meet the most stringent requirements under the bill. For example, new facilities would face tighter review requirements, a more effective automobile inspection and a maintenance program would be required. Stage II vapor recovery of gasoline refueling emissions would be mandated, and the bill would require a gradual shift to cleaner fuels such as natural gas, methanol, and ethanol for both mobile and stationary sources.

Sanctions under the Clean Air Act would no longer include a construction ban. Failure to reduce emissions or implement control measures would result in the imposition of mandatory control measures including a 5:1-offset requirement and a cutoff of highway funding.

So long as areas take the required pollution control steps, sanctions would not apply for failure to attain standards. For failure to attain the standard in serious or moderate nonattainment areas, the bill would require movement up to the next category of nonattainment and implementation of the associated control requirements. Failure to attain the standard in a severe area would result in offsets for new sources on a 5:1 basis.

Since both the ozone and carbon monoxide air quality levels are significantly affected by mobile source emissions, new cars, trucks, construction equipment and trains would also be required to reduce carbon monoxide and ozone related emissions. Onboard control of refueling emissions would be required for all new vehicles manufactured after 1990.

The transport of ozone and related pollutants across the State boundaries is recognized as a major cause of ozone nonattainment problems, particularly in the Northeast. To address this problem, new congressional requirements for control of interstate ozone pollution would be established.

Taken together, this program offers a fair and effective approach for assuring continued progress toward cleaner air in the Nation's cities, without imposing rigorous sanctions or undue economic hardship. I look forward to working with my colleagues to bring this bill through the Health and Environment Subcommittee, the full Committee on Energy and Commerce, and the Congress as a whole. The health of 80 million Americans is at stake.

The bill is based upon recommendations from the State and local air pollution control directors, who are on the front line in air pollution control in this country, and have a realistic understanding of the difficult balance that pollution control decisions require.

We expect to receive their support, along with that of the National Governors' Association, the National League of Cities, the National Association of Counties, and the National Conference of State Legislatures. These organizations have each told us that our bill is consistent with their recommendations for action on the Clean Air Act.

We also expect to receive the support of the city of New York, the State of California, the State of New York, and the American Gas Association.

We plan on holding our first hearing on the bill in New York City on August 3. We will hold additional hearings and mark up this legislation in September.

TRIBUTE TO TED AND JANICE SIMKIN

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. DWYER of New Jersey. Mr. Speaker, it is indeed an honor for me to bring to the attention of my colleagues the many accomplishments of Ted and Janice Simkin of Metuchen, NJ, who will be honored in September by the Jewish Community Center of Middlesex County.

I have known the Simkins for many years, and they are truly dedicated citizens. Ted Simkins was severely wounded during World War II, but returned to New Jersey to become a most successful businessman and community leader. The Simkins have given unselfishly of their time and demonstrated a deep commitment to their family and the betterment of our communities.

They have been involved with the Jewish community center since its inception 14 years ago, and played a major role in bringing the center from just an idea to a reality. Mr. Simkin served as the center's first president for 2 years.

The center is now close to its membership capacity of 7,500 individuals. It was established to meet a need for services in the community, particularly for youth. When its current site on Oak Tree Road in Edison was acquired, a trailer was used before the present center building was constructed. With the help of the Simkins' guidance and leadership, the center now includes a nursery, a theater group, a concert and lecture series and a teen group.

Mr. Speaker, we in this body know well the important role played by individuals like the Simkins in shaping our communities. The task requires much effort and dedication, and Ted and Janice Simkin have always been there when needed. They exemplify a spirit of working together toward common goals which we have all come to admire over the years.

As the Jewish community center prepares to honor this special couple, I join in extending my own appreciation for their tireless efforts, and congratulations for this well-deserved tribute.

HARRY HOPKINS: DEDICATED PUBLIC SERVANT

HON. CLAUDE PEPPER

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. PEPPER. Mr. Speaker, Harry Hopkins was a dedicated public servant who worked tirelessly on behalf of his country as Chief of Staff to President Franklin Roosevelt. The Iowa Senate recently passed a resolution asking the U.S. Postal Service to issue a commemorative stamp in his honor. I would like to second that request. Harry Hopkins served his Nation nobly and ably. We should recognize that devotion.

I worked with Hopkins when I first came to Washington as a young Senator. He was the head of numerous New Deal agencies including the Federal Emergency Relief Agency, the Civil Works Administration, and the Works Progress Administration. Because of his efforts some 18 million men and women were put to work on projects that have enriched our Nation. They rebuilt America, constructing highways, schools, hospitals, government buildings, libraries, and bridges. Actors, set designers, and playwrights were sent into every city and town in the United States through the Federal theater project, bringing some cheer to those who had lost their jobs and hopes in the Depression.

I got to know Hopkins better when he became administrator of the Lend-Lease Program which I introduced in Congress. Hopkins guaranteed a steady flow of war materials to our Allies in World War II. Stalin admitted that without this assistance Russia would have lost the war. In his memoirs Winston Churchill said of Hopkins,

> His love for the causes of the weak and poor was matched by his passion against tyranny, especially when tyranny was, for the time, triumphant.

After the war he brought together Churchill, Stalin, and Roosevelt to build strategies for peace.

At this time when many seem to feel that public service should lead to personal enrichment, it is fitting to remember Harry Hopkins who put his country's welfare before his own.

WE CANNOT AFFORD TO IGNORE SOUTH AFRICA

HON. ROBERT J. LAGOMARSINO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. LAGOMARSINO. Mr. Speaker, while our attention to foreign relations issues today seems to focus on the "Iran-Contra" affair, the prospect of an intermediate-range nuclear weapons agreement, and events in Korea, the situation in South Africa is one we cannot afford to ignore. I am very fortunate to have as my constituent Mr. Alfred A. Honikman, the former alderman of the city of Cape Town. While being an outspoken opponent of the racist apartheid system, Mr. Honikman realizes that this complex issue cannot be successfully resolved by punitive sanctions that hurt the very people in South Africa we are trying to help. Throughout the recent debates on the South Africa issue, Mr. Honikman has provided me with his perspective, that of the moderate, concerned South African. Recently, Mr. Honikman and his wife visited me and other Members in Washington. His comments regarding South Africa were quite insightful and I would like to share his conclusion, which he communicated to me in a followup letter, with my colleagues:

> "South Africa was in the throes of an immense socio-political transformation—part of an evolutionary process conceivably similar to that which commenced in Athens two thousand years ago but which left Africa virtually untouched until the advent of colonialism in the nineteenth century. It is a process which cannot be halted nor completed within a time period prescribed by Congress or any other political agency within or beyond the borders of South Africa. Punitive measures against South Africa serve to mar progress and strengthen rightist movements as the recent election has shown; they will not undermine the government. A constructive and peaceful progression of events however, calls for an increase in the flow of foreign capital to help harness the country's water resources, to bolster industrial development so as to ensure increased food production and improved employment opportunities. It also demands of the South African Government, the early adoption of a realistic program of events leading directly to the participation of all races in the governing process for they must be aware that no nation can maintain civilized standards indefinitely, if isolated from the free world."

A GREAT AMERICAN—THE FINEST PUBLIC SERVANT

HON. HAL DAUB

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. DAUB. Mr. Speaker, the Nation has lost a great public servant with the tragic passing of Malcolm Baldrige last weekend. He represented the best traditions of Nebraska and the United States.

The son of a Republican Congressman, Secretary Baldrige grew up in Omaha and he worked as a ranch hand in Nebraska as a young man. For the rest of his life, Secretary Baldrige was an avid participant in rodeo competitions. In 1984, he was elected to the Cowboy Hall of Fame.

Friends described him as very bright and competitive; yet he was modest and was described as "a regular guy."

After serving in the Army during World War II, he became an executive for a manufacturing company and then served as the U.S. Commerce Secretary. He brought the common-sense approach of a successful businessman to Washington.

As Commerce Secretary, Baldrige was a champion of free trade, which may be his most enduring legacy. He believed in the necessity of free trade to ensure worldwide economic well-being.

Secretary Baldrige received an honorary doctor of letters degree in 1985 from the University of Nebraska at Omaha. As UNO Chancellor Del Weber observed, Secretary Baldrige was a man of considerable stature who never lost his sense of humility.

He stood tall for America.

INTERNATIONAL DAY OF PEACE

HON. BARBARA BOXER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mrs. BOXER. Mr. Speaker, for the past 5 years the city of San Francisco and the county of Marin have declared an International Day of Peace on the third Tuesday in September. I want to invite my colleagues to take part in this year's event, which will take place all over the world on Tuesday, September 15, 1987.

At noon on that day, a single minute of silence observed worldwide will remind us of our permanent commitment to peace. It will be a moment where people of all nations, wherever they are, regardless of their differences, can come together to focus upon this issue and show the world how much peace means to them.

The annual International Day of Peace was proclaimed in a unanimous resolution by all members of the United Nations. The General Assembly gathers together in New York on that day and begins the year's work with the observation of the traditional minute of silence.

Mr. Speaker, I urge my colleagues to observe this moment of silence on Tuesday, September 15, 1987 at noon to reflect upon our commitment to peace. I hope that you believe, as I do, that peace continues to be our highest priority in Congress.

DEMOCRACY IN NICARAGUA/ THE DEMOCRATIC RESPONSE "JUST SAY NO"

HON. GERALD B.H. SOLOMON

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. SOLOMON. Mr. Speaker, as the Oliver North hearings begin to wind down we should keep in mind that President Reagan's Contra aid request is the best hope for a democratic solution in Nicaragua. Unfortunately, when it comes to supporting democracy in Nicaragua the knee-jerk reaction of many Democrats in the Congress has been, "Just Say No."

I was astonished last week to witness Members of this House attempt to disrupt Oliver North's slide presentation which clarified, for the first time, the real threat in Central America.

Why are the Democrats in Congress so frightened that the American people might find out the truth about Communist Nicaragua? They talked of atrocities by the democratic resistance. But the real atrocity is the opposition to democracy in Nicaragua right here in Members of the U.S. Congress.

In opposing the democractic resistance in Nicaragua these Democrats have turned their back on their heritage. In 1940 President Franklin Roosevelt said:

> The people of other nations have the right to choose their own form of government. But we in this Nation believe that such a choice should be predicated on certain freedoms which we think are essential everywhere.

The people of Nicaragua did not choose communism. And the real atrocity is that many here in Congress are working to ensure that the people of Nicaragua will never have an opportunity to choose a democratic form of government. And reflect on the second part of FDR's statement: "we in this Nation believe that such a choice should be predicated on certain freedoms which we believe are essential everywhere."

FDR was talking about the right to assemble, the freedom of the press, and the most fundamental of freedoms, the very foundation of America, the right to vote in free and fair elections. These are the very freedoms which the Contras are willing to fight and die for. And these are the freedoms the Communist Nicaragua Government, while they remain in power, will never allow. The question remains:

Why has the Democratic Party turned its back on democracy in Central America?

Oliver North is right and the American people know he is right. The Congress should support the President's request to fund the democratic resistance in Nicaragua. Americans share a heritage with the democratic resistance, the Contras, in their fight for freedom and democracy in Nicaragua.

TRIBUTE TO LT. COL. WILLIAM G. SHIMKUS

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. MATSUI. Mr. Speaker, it is with great honor that I rise today to pay tribute to Lt. Col. William G. Shimkus upon his retirement from the U.S. Air Force. During his 20 years of active service he has served his uniform and his country with honor and distinction.

Colonel Shimkus entered the Air Force in January 1965 through the Officer Training School, and served his first assignment with the Public Affairs Office of the Aerospace Defense Command. Subsequent duties were with the USAF Recruiting Service; and as Public Affairs director at Griffiss AFB in New York and at Kadena Air Base, Japan.

Colonel Shimkus worked with Hill and Knowlton Public Relations in New York City on the Education With Industry Program, and then became chief of special projects, Headquarters Air Force Logistics Command Public Affairs. Since 1983, Colonel Shimkus has been the director of Public Affairs at McClellan AFB in Sacramento, CA.

Among the honors Colonel Shimkus has been accorded, he has received the Meritorious Service Medal with four Oak Leaf Clusters and the Air Force Commendation Medal.

Mr. Speaker, I rise today to honor this gentleman and to thank him for his service to the United States, to McClellan Air Force Base and to the entire Sacramento community. On behalf of the people of Sacramento and of the State of California, I commend Colonel Shimkus for a job well done and wish him the best of luck in his retirement.

HONORING MRS. EMILY E. GAINES

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. MURTHA. Mr. Speaker, I would like to take a few moments to recognize a resident of my district, the 12th of Pennsylvania. Mrs. Emily E. Gaines, of Cambria County, will be celebrating her 106th birthday on August 12, 1987.

Originally from Orange, VA, Mrs. Gaines was the eldest of five children. She and her husband, Mr. George Gaines, later had 13 children of their own. Mrs. Gaines is presently the oldest resident of Cambria County. The Black United Service Clubs of Johnstown, as well as many members of the community, will have a celebration in honor of her birthday on August 12 at the St. James Missionary Baptist Church.

I want to congratulate Mrs. Gaines, who surely deserves this wonderful tribute from her fellow citizens. She has lived a long and full life, and I wish her a joyous birthday and much continued happiness.

INTERPRETATION OF SEC. 1174 OF THE TAX REFORM ACT OF 1986

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. PEASE. Mr. Speaker, it has come to my attention that staff is considering an interpretation of section 1174 of the Tax Reform Act of 1986 which would preclude termination of a tax-credit ESOP in certain cases where distribution of account balances is made to participants who continue to participate in a preexisting defined contribution plan or where a transfer of assets is made to a preexisting plan. My interest in this matter is not academic; in just one situation of which I am aware, it affects over 21,000 employees of the Standard Oil Co., one-third of whom live in the State of Ohio. They have relied on present law to the extent that changing course midsteam would adversely affect their personal finances.

Following conversations that my staff has had with members of the Joint Committee on Taxation staff and with the staffs of the Ways and Means and Finance Committees, there is agreement that it would be inequitable to impose this interpretation on a company that took termination action because of the completion of a successful tender offer in reliance on a reasonable interpretation of section 1174 as enacted in 1986. Consequently, the interpretation finally settled upon and enacted into law ought not to have any effect on the termination of such a plan under the following facts.

The shares of the tax-credit ESOP are disposed of in conjunction with a tender offer announced on March 26, 1987, by the acquiring corporation and termination of the tax-credit ESOP is announced to approximately 21,000 participants on June 1, 1987. The participants were given the option (a) to receive a distribution in cash or in American Depositary Receipts [ADR] of the new parent company, (b) to roll over, or (c) to have interests transferred into an existing qualified savings plan; and the participants made their elections known to the corporate sponsor by July 20, 1987.

NCRR AN OUTSTANDING ORGANIZATION

HON. ROBERT T. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. MATSUI. Mr. Speaker, it is a great honor to rise today to pay tribute to the National Coalition for Redress/Reparations, a group of dedicated Americans who are fighting for the fundamental rights of Japanese Americans interned during World War II.

More than 100 members of the NCRR have traveled to Washington this week at their own expense to meet with Members of Congress to urge their support for the redress legislation, H.R. 442. I applaud their participation in our democratic system, and believe that we are on the threshold of a historic moment, when the United States of America formally acknowledges the injustice of internment and offers reparations to the victims of its actions.

Mr. Speaker, it is a pleasure to extend my personal gratitude for all that the NCRR is doing to promote passage of H.R. 442. NCRR is an outstanding organization driven by the cause of justice and fairness for all Americans.

H.R. 2598, FISHING VESSEL ANTI-REFLAGGING ACT OF 1987

HON. DON BONKER

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. BONKER. Mr. Speaker, today members of the House Merchant Marine and Fisheries Committee reported H.R. 2598, the Fishing Vessel Anti-Reflagging Act of 1987. The bill, introduced by Mr. LOWRY, Mr. MILLER, Mr. YOUNG, and myself, will provide benefits to the American fisherman and fish processor by insuring domestic priority access to the fishery resources within the U.S. Exclusive Economic Zone.

I would like to thank the chairman, Mr. JONES, and the committee for their patience and assistance. I would also like to commend the work of my Northwest colleagues, Mr. LOWRY, Mr. MILLER, and Mr. YOUNG, for all of their work and cooperation in advancing this bill. Earlier this year, the four of us conducted two all-day seminars on North Pacific fishing issues in Anchorage and Seattle, and this legislation is evidence of the spirit of cooperation which grew out of those conferences.

For anyone who has not followed this issue closely, let me stress that this legislation has nothing to do with the reflagging of Kuwaiti oil tankers or the Persian Gulf conflict. This legislation is designed to address a pressing regional fishing issue, and has nothing to do with broader foreign policy or security considerations. And while the emotions within the fishing industry do run high from time to time, Mr. Chairman, I do not anticipate the need for U.S. Navy escorts of minesweeping helicopters in the North Pacific.

Under the current law, it is possible for a foreign-owned, U.S. corporation to redocument a foreign-built processing vessel under a U.S. flag and operate with a 100-percent foreign crew. Since the Magnuson Act was passed in 1976, 10 to 12 foreign-built vessels have been reflagged as fish processing vessels according to the Coast Guard. With increasing interest fueled by better markets for the fishery resources of the Gulf of Alaska and the Bering Sea, the time has now come to lock-in domestic priority access to those resources as provided in part by the Magnuson Act.

Accordingly, several bills have been introduced to accomplish this objective. Earlier this year, hearings were held on initial bill proposals and testimony was received from representatives of the harvesting, processing and shipbuilding sectors as well as the administration and the Coast Guard. The vast majority testified in favor of prohibiting the reflagging of foreign processing vessels. The administration presented testimony supporting the U.S.-built provisions and the U.S. crew provisions, but they strongly opposed a U.S. ownership requirement. In addition, the administration testimony was clear in proposing a retrospective date for the reflagging prohibition in order to insure that the intent of the legislation was not undermined during Congress' deliberation of this legislation.

The bill reported by the committee is not a perfect bill, but I believe it will greatly benefit those Americans who have ambitiously developed the seafood industry, particularly in the North Pacific. Unless we act quickly to close the reflagging loophole and enact this legislation, it is likely that the foreign processors currently engaged in joint ventures will reflag United States and dominate the fish processing in this region.

The benefits of greater domestic participation in the harvesting, processing, and marketing of our fisheries resources is well documented. A Department of Commerce study found that full domestic utilization of the fish resources within our EEZ would increase United States GNP by $1.5 billion, cut our Nation's trade deficit by $1.0 billion and create up to 41,000 new jobs.

In this spirit, Mr. MILLER and I offered an amendment to require that the reflagging prohibition begins today, July 28, 1987. This amendment was passed unanimously. The industry and members of this committee have been on notice for months that the authors of this bill intend to prohibit reflagging of fish processing vessels in the United States EEZ. Recent developments have increased my commitment to enacting this legislation as soon as possible.

Mr. Speaker, since the drafting of our amendment, my staff has informed me that three Japanese vessels, each over 250 feet in length, submitted applications for redocumentation at the Seattle office of the Coast Guard yesterday. Prior to that, I received a personal note from Admiral Yost of the Coast Guard informing me that he was aware of only one fish processing vessel reflagging in progress. We were careful to insure that our amendment did not cancel the opportunity for this vessel to complete its reflagging application.

At this point, I would like to make clear that the intent of the sponsors of this legislation has always been to close the reflagging loophole now, to provide U.S. citizens with the greatest value derived from our rich fishery resources within the EEZ. Last-minute applications for reflagging foreign vessels could greatly compromise our goals in this regard. It should be obvious, therefore, that Congress will reconsider the effective date of this legislation in the event that we discover efforts to undermine the goal of this legislation during our deliberations.

Mr. Speaker, I am concerned about the recent rush to reflag foreign processors. I hope my colleagues in the other body will give this matter the high priority that it deserves, and urge them to consider it without delay.

CONGRESSIONAL INTENT IN SECTION 505 OF H.R. 1827

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. HALL of Ohio. Mr. Speaker, upon final passage and signing of Public Law 100-71, the Supplemental Appropriations Act of 1987, I would like to make the record clear concerning the intent of Congress in passing section 505 of the bill concerning construction differential subsidies, or CDS.

As a member of the House Rules Committee, I had an opportunity to review the language contained in section 505 and had been briefed by staff and other members regarding the background relating to the repayment of the construction differential subsidies on three vessels by two companies, the subsequent lawsuits, and final decision by the U.S. Court of Appeals.

The Rules Committee reported H.R. 1827 to the House floor on May 22, 1987. The congressional intent of section 505 at the time H.R. 1827 was reported from the Rules Committee was clear: prospectively MarAd could not spend any appropriated funds "to propose, promulgate, or implement any rule or regulation, or, with regard to vessels which repaid subsidy pursuant to the rule promulgated by the Secretary May 3, 1985 and vacated by order of the U.S. Court of Appeals for the D.C. Circuit January 16, 1987. * * *" On June 22, the Maritime Administration issued a final rule. Since the rule was fully implemented upon its publication, no further expenditure of funds are needed or made by MarAd after that date. The President signed H.R. 1827 on July 10, 1987. Section 505 was unchanged from the version that cleared the Rules Committee on May 22. Since there was no report language from the House-Senate conference indicating otherwise, the congressional intent is that future CDS sanitizations by MarAd are prospectively prohibited. The final rule issued June 22, 1987, however, stands as is.

A TRIBUTE TO THE WARREN CHILDREN'S REHABILITATION CENTER

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. TRAFICANT. Mr. Speaker, today I rise in order to pay tribute to the Children's Rehabilitation Center of Warren, OH, a very special organization in my 17th Congressional District. It gives me great pride to inform my fellow Members of the U.S. House of Representatives that this wonderful outfit will be celebrating its 30th anniversary on September 3, 1987, at the center's location on Howland-Wilson Road in Warren. Its inspiring staff and dedicated administration can look back with great pride on 30 years of astounding accomplishments and achievements.

The motto of the Children's Rehabilitation Center is "The House That Love Built," and that motto is certainly accurate. It was organized in 1957 as an outgrowth of the Trumbull County Society for Crippled Children, and since that time has assisted countless handicapped children achieve their fullest potential in physical, mental, social, emotional, and vocational growth. The people of Ohio and Trumbull County owe a great debt to the volunteers, staff, and administration of "The House That Love Built" for the extremely important contributions they have made to the improved quality of life for Trumbull County's handicapped children.

Numerous lives have been changed because of the outstanding efforts of the Children's Rehabilitation Center since 1957, and it is my deepest and most heartfelt desire that "The House That Love Built" moves boldly forward and accomplishes even more between now and its 60th anniversary in 2017. But now is the time to congratulate that organization for all that it has done. Thus, it is with thanks and special pleasure that I join the people of the 17th Congressional District in saluting the Children's Rehabilitation Center of Warren on its 30th anniversary.

TRIBUTE TO ELDER RAYMOND C. WILLS

HON. C. THOMAS McMILLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. McMILLEN of Maryland. Mr. Speaker, with much pride and admiration I would like to ask that my colleagues join with me in recognizing the accomplishments of a very special constituent of mine, Elder Raymond C. Wills, pastor of the Church of God at Lothian, MD.

On August 1, 1987, Elder Wills will be celebrating his 50th year in service to God and the Lothian community.

Over the years Elder Wills has demonstrated his true dedication to the community by caring for the sick, purchasing food with money out of his own pocket, cooking for and serving homeless and hungry individuals and families.

Elder Wills encourages young and old alike "to get all the education you can get. . . stay away from alcoholic beverages, drugs and violent situations . . . do all we can do to build and make a strong community." He always says, "God bless you and let us love one another."

I wish Elder Wills many wonderful years with the church and community. His energetic and committed dedication to the community and church will likely be felt for many years to come.

A CONGRESSIONAL SALUTE TO MAYOR DOLORES C. MILEWSKI

HON. GUS YATRON

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. YATRON. Mr. Speaker, I rise today to pay tribute to Mrs. Dolores C. Milewski, mayor of the Borough of Shenandoah, PA. Mayor Milewski will be celebrating her 60th birthday on August 2, 1987. Later in the year, Mrs. Milewski will be retiring from her position as mayor and will also retire from a long and distinguished career in nursing.

Dolores Milewski provides us with a shining example of dedicated public service and commitment. She has always been active in local politics and is now completing the term of her late husband, Mayor Chester A. Milewski. Her tenure in office has been brief, but it has been highly successful. Her exemplary leadership will be sorely missed.

In addition to her service to the Borough of Shenandoah, Dolores Milewski is strongly committed to providing compassionate health care to area citizens. She has been a registered nurse for 42 years, serving in a number of area hospitals and is now completing her career at the Ashland State General Hospital.

After these many years of public service, Dolores Milewski's exemplary works are certainly worthy of commendation. It is indeed an honor to recognize this outstanding individual today. I know that my colleagues will join me in honoring Mayor Milewski on her 60th birthday and in wishing her continued success and good fortune in the years to come.

ALVERNO COLLEGE—A CENTENNIAL OF EXCELLENCE

HON. GERALD D. KLECZKA

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, July 28, 1987

Mr. KLECZKA. Mr. Speaker, I rise today to salute Alverno College in Milwaukee, WI, on the celebration of its 100th anniversary this year.

Alverno College is a nationally recognized leader in education for women. In a recent survey of university and college deans across the country, Alverno was ranked third—behind Harvard and the University of Chicago—for the most successful general education program. Clearly, Alverno has made and delivered on a commitment to quality education for women that is unsurpassed.

Through its innovative curriculum, Alverno College instills confidence, respect, and a strong desire for learning in its students. Fully 90 percent of the women who graduate from Alverno are placed within 1 year of graduation. Employers look to Alverno to provide well-rounded, bright, professional women interested in making a contribution to society. This reputation is unmatched, and it is because of this that Alverno College has succeeded for 100 years.

I am proud to have this outstanding institution of higher learning in my district. With its rich tradition of excellent education rooted in traditional religious faith, it is sure to be an institution that will grow and prosper. I look forward to another 100 years of quality education at Alverno College.

HOUSE OF REPRESENTATIVES—*Wednesday, July 29, 1987*

The House met at 10 a.m.

The Chaplain, Rev. James David Ford, D.D., offered the following prayer:

Of all Your many gifts to us, O God, we thank You for the gift of grace—that gift that tells of Your love to us in spite of anything we might be or do, or anything we might have been or done. That Your loving kindness, gracious God, is available to us without regard to our merit or power, is a precious gift for which we can never truly repay, except to offer our prayers, praise, and thanksgiving. Amen.

THE JOURNAL

The **SPEAKER.** The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1444. An act to amend titles XI, XVIII, and XIX of the Social Security Act to protect beneficiaries under the health care programs of that Act from unfit health care practitioners, and otherwise to improve the antifraud provisions relating to those programs.

The message also announced that the Senate had passed bills of the following titles, in which the concurrence of the House is requested:

S. 548. An act to amend title 11, United States Code, the Bankruptcy Code, regarding benefits of certain retired employees, and for other purposes; and

S. 1158. An act to extend the authorization of appropriations for programs and activities under title III of the Public Health Service Act, to establish a National Health Service Corps Loan Repayment Program, to otherwise revise and extend the program for the National Health Service Corps, and for other purposes.

TRIBUTE TO MALCOLM BALDRIGE

(Mr. **FOLEY** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **FOLEY.** Mr. Speaker, the title of great American is sometimes bandied about rather easily, but it certainly applies to the late Secretary of Commerce, Malcolm Baldrige, who died tragically last Sunday. He was pursuing one of his great avocations of riding. In an accident that seems almost impossible, his life was taken.

He was not only one of the great Secretaries of Commerce of this century but a man who reflected American values in every personal respect. He was kind, intelligent, a man of tremendous integrity, a man who respected the English language and spoke very few words, but those words were always deeply important.

His record in support of American industry, as an American and chief executive officer and in his position as Secretary of Commerce, has been sterling, and we have all benefited from his public service. All of us on this side of the aisle wish to extend to his widow and family our deepest sympathies.

LEGISLATION TO REFORM COCOM

(Mr. **LEWIS** of Florida asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **LEWIS** of Florida. Mr. Speaker, today I have introduced legislation requiring member nations of the Coordinating Committee on Export Controls [Cocom] to strengthen their enforcement and application of Cocom export rules or lose access to the U.S. market.

We need to fire this shot across our allies' bows as a signal that it's time to stop being soft on those who provide sensitive technology to the Soviets. It's simple. We make it so unattractive, unacceptable, and unprofitable they won't even think about selling us out.

Toshiba of Japan and Kongsberg of Norway dealt a serious blow to the national security of the United States and all NATO countries when they sold technology to the Soviets.

We're punishing them and that is how it should be. But we've got to make sure it doesn't happen again.

My bill requires the President to determine annually that all Cocom member countries and their corporations abide by Cocom export provisions. Countries found in violation could face at least a 1-year restriction on imports into the United States.

I urge my colleagues to join with me in safeguarding America's technology. Technology must remain America's economic fountain of youth.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 27, COMPETITIVE EQUALITY BANKING ACT OF 1987

Mr. **ST GERMAIN.** Mr. Speaker, I ask unanimous consent that the managers may have until midnight, tonight, July 29, 1987, to file a conference report on H.R. 27, the Competitive Equality Banking Act of 1987.

The ranking minority member concurs in this request.

The **SPEAKER.** Is there objection to the request of the gentleman from Rhode Island?

There was no objection.

TRIBUTE TO MALCOLM BALDRIGE

(Mr. **ST GERMAIN** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **ST GERMAIN.** Mr. Speaker, I too would like to just take this time to pay tribute to a gentleman that I negotiated with and worked with during his tenure in office as Secretary of Commerce. He was a neighbor from the neighboring State of Connecticut that borders the great State of Rhode Island and Providence plantations.

Working with him, the Committee on Banking, Finance and Urban Affairs approved a very unique concept, something new known as allowing bank holding companies to have export trading companies, the purpose being to enhance our position as far as our balance of trade is concerned.

Over the long period of time that we negotiated with Secretary Baldrige on this legislation I found him to be a very knowledgeable gentleman with a great deal of expertise. The United States of America was fortunate to have had such a wonderful man with such ability to serve as Secretary of Commerce for such a long period of time.

I too, along with many Americans, are going to miss working with him in the best interests of our Nation.

THE UNITED STATES SHOULD STOP TRYING TO OVERTHROW NICARAGUAN GOVERNMENT

(Mr. **BRENNAN** asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. **BRENNAN.** Mr. Speaker, as we approach another vote on Contra aid,

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

I believe we should take a long, hard look at what has been done in the name of the American people in the country of Nicaragua.

Our Government has mined Nicaragua's harbors.

Our Government has prepared and distributed manuals to teach Nicaraguan peasants how to assassinate government officials.

Our Government, which preaches respect for the rule of law around the world, when called to account for our actions in Nicaragua, has thumbed its nose at the World Court.

I submit that the American people are a lot better than our public policy toward Nicaragua.

The time has come to make American policy as good and as decent as the American people.

The time has come for our Government to stop trying to return former Somoza henchmen to power in Nicaragua.

The time has come for America to respect the sovereignty of a small nation we disagree with.

Yes, the time has come for the United States to stop trying to overthrow the Government of Nicaragua.

HUMAN RIGHTS VIOLATIONS BY THE CONTRAS

(Mr. CARDIN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARDIN. Mr. Speaker, a key ingredient of a successful foreign policy emphasizes a solid commitment to human rights. We should be in the business of supporting causes that protect, rather than trample, the basic human rights of individuals. Unfortunately, this tenet of policymaking does not exist in our policy of supporting the Nicaraguan Contras. It is clear that the Contras, professing to have cleaned up their act continue to kidnap innocent civilians. Only last Friday the Washington Post reported that Omar Navas, 35, a Nicaraguan accountant kidnaped by the Contras and brought to Honduras to appear at a Contra press conference, escaped through the window of his hotel room and sought refuge with the U.N. refugee agency.

A couple of weeks ago the New York Times reported that a local bus in northern Nicaragua was flagged down and all the male passengers were ordered to get out. The men were instructed to follow the rebels to a Contra camp while the women were told to go on their way. Mass kidnapings like this occur on a regular basis. Human rights organizations estimate that more than 400 families have had a relative who has been kidnaped.

Kidnaping as a method of recruitment is not a policy that the United States should be supporting. We cannot continue to allow the American people's money to fund the Contras' heinous human rights violations.

U.S. PERSIAN GULF POLICY

(Mr. TRAFICANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. TRAFICANT. Mr. Speaker, we found a new string of mines in the Persian Gulf that threaten our ships and our protection. To boot, now our Navy does not have enough minesweepers to do the job so that we can safely protect those convoys.

To make matters worse, we have asked that region of so-called allies to help us and to cooperate. In fact, we asked Kuwait if they would let us land our helicopters to refuel them and service them and they refused. In fact, Mr. Speaker, I doubt if any of these so-called allies will allow the American soldiers and fighting men to use their latrines.

The American people are laughing at us. We are protecting Japanese, German, European oil, and most specifically, Mr. Speaker, we are protecting Kuwait's oil shipments and they will not cooperate. The American taxpayer is spending $40 million a day and they will not cooperate.

I think Congress should tell the Kuwaitis if they do not cooperate to shove their oil back into their tankers. I think the time has come that Congress not be the laughing stock. We should tell them that, and I do not mean their tankers.

LIFT CAP ON LIABILITY OF NUCLEAR INDUSTRY

(Mr. GREGG asked and was given permission to address the House for 1 minute.)

Mr. GREGG. Mr. Speaker, today the House will take up a significant piece of legislation which is the question of how we ensure at the Federal level the nuclear industry. This is the Price-Anderson bill.

In my opinion, it has been a mistake for the Federal Government to basically underwrite and thereby subsidize the levels of liability of the nuclear industry. This in essence perverts the marketplace at a time when we are seeing an energy situation which is moving toward a market economy. As we reduce subsidies in the areas of alternative energy, it is certainly unfair that one area of energy, specifically the nuclear area, should receive this unfair subsidy.

□ 1015

For that reason I would ask my colleagues to join me in voting to lift the cap on liability and allow the nuclear industry to compete in the marketplace along with everybody else.

THE NATIONAL SUPERCONDUCTIVITY AND COMPETITIVENESS ACT OF 1987

(Mr. McCURDY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McCURDY. Mr. Speaker, today I am introducing the National Superconductivity and Competitiveness Act of 1987.

As many of my colleagues are aware, the discovery of new, high-temperature superconducting materials presents our Nation with both opportunities and challenges. The greatest challenge to us as a nation is taking our basic knowledge of these materials from the laboratory and putting it to use in practical applications in this highly competitive world. We have been highly successful in the conduct of basic research in a variety of scientific areas, including superconductivity, but other nations have been more successful in the application of such fundamental research. We must establish a national program in superconductivity if we are to remain competitive with other nations in this extremely important technology. The bill I am introducing seeks to take the present strengths of individual agencies and use those strengths to devise a national program for developing and applying these new materials.

Yesterday, the President announced a new, 11-point superconductivity initiative. I applaud him for this forward-looking step. The bill I'm introducing will, I believe, complement the administration's plan by providing a legislative basis for many of the actions that are needed now, if we are to beat the competition in this emerging technology.

Finally, I would note that this bill focuses only on the civilian concerns in this area. Obviously, further work will be necessary to deal with our defense needs. I intend to introduce a complementary measure shortly to add this necessary element.

I urge my colleagues to support this legislation as we consider it and other ideas to improve our capabilities in this extremely important technology. I look forward to continuing discussions with Members and the administration as we move this bill through the legislative process to enactment.

U.S. FORCES NOT PROPERLY EQUIPPED TO PERFORM PERSIAN GULF MISSION

(Mr. DICKS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DICKS. Mr. Speaker, the sight of the reflagged Kuwaiti tanker leading three of our Navy's ships through the Persian Gulf last week must make observers both at home and abroad wonder about the effectiveness of the administration's reflagging operation. With all of the air cover, the intelligence information provided by the AWACS plane overhead and the armaments aboard the U.S. escort ships, one submerged mine called the entire mission into question.

Coming in the wake of the U.S.S. *Stark* incident, this situation prompts the question: Is there an Achille's Heel in the 600-ship Navy? If there is, it's in our alarming inability to defend against mine warfare. Because in our entire active Navy we have only three—yes, three—oceangoing minesweeper ships. And the newest of those was built in the mid-1950's. While 11 new mine countermeasure ships have now been authorized and initial work is being done on a new class of minesweeper hunters, both these programs have encountered unprecedented management problems from both Navy and from the contractors involved. Only recently has the Navy given top management attention in an effort to get these programs back on schedule, despite repeated congressional concern about the numerous design and construction problems.

The question now is what can we do in the near term before these new ships are finally delivered. We could send our three existing 30-year-old minesweepers to the Persian Gulf. Their transit would take more than 2 weeks, and they would be of limited effectiveness, especially in hunting for mines. A second option would be to send minesearching helicopters immediately, if we could find host nations in which to base them.

But neither of these actions would meet the real problem. Even the use of minesearching helicopters would have to await until we could deploy a helicopter carrier to the region if we had no assistance from our allies. The real answer lies with our allies, who can clearly increase their participation in this escort mission. The Saudis have been helpful to date in searching for mines. But in light of developments, more needs to be done. The Italians, the French, the British, the Dutch, the Kuwaitis, and the Saudis all have minesweeping and minehunting ships available that could perform the mission. It is difficult to understand their reluctance to be of greater assistance when they are more dependent on uninterrupted oil transport from the Persian Gulf than the United States.

The reflagging operation reflects the typical administration approach to foreign policy challenges: The United States will do it alone. But we have to realize that because of past neglect and mismanagement we are not well-equipped at this time to perform the mission. The State Department is finally beginning discussions with our allies on this question. Frankly, these negotiations should have been concluded before reflagging began. It should not be too much to ask those who stand to derive a greater benefit from this protection to play a constructive role in its execution. If these discussions show that our allies are unwilling to stand with us, then I think we need to seriously reexamine the entire reflagging operation.

CONTRA AID SEEN AS WASTEFUL COMMITMENT OF U.S. TAX DOLLARS

(Mr. FOGLIETTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FOGLIETTA. Mr. Speaker, the majority of witnesses who have appeared before the Iran-Contra committee have called for the continued support of the Contras. In their testimony, John Poindexter, Oliver North, Elliott Abrams and others have described the Contras as a legitimate resistance movement, a proponent of democratic ideals, a force against the spread of communism in Central America, and the Nicaraguan equivalent to our Founding Fathers. While making their pleas for increased funding, these gentlemen have been careful to omit important facts relevant to the Contra effort. What the hearings have not described for the American people is the Reagan administration's willingness to overlook human rights abuses and forced recruitment, which have been documented in a study mandated by Congress. In addition, the Contras have demonstrated disorganization, inept leadership, and ineffective military strategies.

Now, the Reagan administration has hinted that it will ask for an additional $150 million in aid. Some people close to the President have suggested that he request as much as $500 million. Mr. Speaker, the time has come for us to end this wasteful commitment of U.S. tax dollars to the unstable Contra force.

I urge my colleagues to oppose further aid to the Contras this fall.

OUR RESERVISTS ARE OUR BEST AMBASSADORS

(Mr. MONTGOMERY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MONTGOMERY. Mr. Speaker, seven Members of this body went to Ecuador this past weekend to observe the training of National Guardsmen in Ecuador who are helping the Ecuadorean Government build back a road and bridges which block 70,000 people from getting out of the jungles of Ecuador to come into places where they could receive treatment and be able to get food and supplies. The National Guard are building the roads from this earthquake stricken area, the earthquake which took place in March of this year.

I notice Mr. BUSTAMANTE is here who is one of the seven on the trip, the gentleman from Texas.

This is one of the best things that the military is doing, sending National Guard and Reserve units to Central and South America. We are helping people in those countries. We are sending engineering units to build bridges and roads, as I mentioned, in Ecuador; we are sending medical care units which treat the people. Some of these people in Central and South America have never seen a doctor.

We are actually helping those people. Our reservists are really the best ambassadors we could send to Ecuador or any other place.

What I would suggest is that we do send young Americans to train in different countries. We can gain more by sending these young Americans, meeting with the natives than we can gain by spending a lot of money on foreign aid.

U.S. MINESWEEPING CAPABILITY

(Mr. BUSTAMANTE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BUSTAMANTE. Mr. Speaker, last year I raised my concerns over the problems confronting the Navy's Mine-Warfare Program in a letter to Secretary Lehman. I asked the Secretary about our capabilities and the possibility of mines being used in various conflicts, including the Iran-Iraq war. At that time the Navy briefed me that mining had occurred in the Persian Gulf as early as January 1982. I, therefore, find it very disturbing that our Navy's escort ships in the Persian Gulf did not include any minesweepers and that we ended up using the Kuwaiti tanker, which we were supposed to defend, to protect our vulnerable warships from mines.

Both the mining of the *Bridgeton* and the crippling of the *Stark*, are a sign of the Navy's unpreparedness. This despite the huge investment to modernize our Navy and, in particular, in areas which were most deficient. Today, our naval mine-warfare capability is no better than in 1981. At that time the GAO stated:

> The Navy lacks the ability to lay mines in seas or harbors and is also short of the personnel and equipment needed to counter enemy mining. The Navy would find it hard to conduct even the most limited type of mining or mine countermeasures operation.

If we learn anything from our mistakes in the Persian Gulf, it should be that we need to focus on improving our mine-warfare capability to protect our investment in our sailors and ships. It is absurd to contend, instead, as Mr. Weinberger did, that you don't need a minesweeper to detonate or destroy mines. This ostrich-like attitude could cost American lives and undermine our policy in the region.

MR. PRESIDENT, WHAT THE HECK IS GOING ON?

(Mr. SCHUMER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCHUMER. Mr. Speaker, tomorrow the Kuwaiti-owned American-flagged *Bridgeton* and its naval escort leave port for a return voyage and who knows what fate awaits them. Thus far, our multibillion-dollar 600-ship Navy has been unable to deal with the antiquated air force of a third-rate power and the leftover World War II vintage mines of a medieval dictatorship. Things got so bad on the first trip that the *Bridgeton*, the Kuwaiti tanker, had to ride shotgun for our destroyers and frigates which were defenseless against the World War II mines of Iran.

Mr. President, the American people are asking you as our Commander in Chief, "What the heck is going on?" Each year you ask us for billions of dollars for the newest and most complicated weapons yet our military seem unable to accomplish the simplest of tasks. Aided and abetted by the weapons czars, the admirals and generals are ever eager to land billion dollar contracts for expensive 21st-century gizmos but seem incapable of getting the Armed Forces to perform the nuts and bolts operations needed to protect American interests in the eighties.

Mr. President, the Ayatollah and the world are laughing at us and the big wigs in the Defense Department and their contractor cronies are to blame. While the DOD muckety-mucks and contractor cronies conspire, American boys are left defenseless on the watch.

□ 1030

PRICE-ANDERSON AMENDMENTS ACT OF 1987

Mr. BONIOR of Michigan. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 234 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 234

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 1(b) of rule XXIII, declare the House resolved into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1414) to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents, and the first reading of the bill shall be dispensed with. After general debate, which shall be confined to the bill and which shall not exceed two hours, with forty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs, with forty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and with forty minutes to be equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology, the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments now printed in the bill, it shall be in order to consider an amendment in the nature of a substitute consisting of the text of the bill H.R. 2994 as an original bill for the purpose of amendment under the five-minute rule, and each section shall be considered as having been read. At the conclusion of the consideration of the bill for amendment, the Committee shall rise and report the bill to the House with such amendments as may have been adopted, and any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text by this resolution. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. MCCURDY). The gentleman from Michigan [Mr. BONIOR] is recognized for 1 hour.

Mr. BONIOR of Michigan. Mr. Speaker, I yield the customary 30 minutes to the gentleman from Tennessee [Mr. QUILLEN], and pending that, I yield myself such time as I may consume.

Mr. Speaker, House Resolution 234 provides for the consideration of H.R. 1414 the Price-Anderson Amendments Act of 1987. This bill amends the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents.

Mr. Speaker, H.R. 1414 was referred to three committees of the House. Therefore, general debate time is divided between these three committees. General debate shall not exceed 2 hours. Forty minutes shall be equally divided and controlled by the chairman and ranking minority member of the Committee on Interior and Insular Affairs. Forty minutes shall be equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce and 40 minutes shall be equally divided and controlled by the chairman and ranking minority member of the Committee on Science, Space, and Technology.

Mr. Speaker, each of these three committees reported its own amendments to H.R. 1414. H.R. 2994 reflects the compromise which was agreed upon by all three committees. House Resolution 234 makes H.R. 2994 in order as an original bill for the purposes of amendment.

Mr. Speaker, House Resolution 234 is an open rule making in order germane amendments. The resolution also provides one motion to recommit with or without instructions.

Mr. Speaker, this legislation seeks to streamline the process by which victims of a nuclear disaster could be compensated. It also seeks to greatly increase the amount of money available from the nuclear power industry to compensate these victims. Currently, large commercial reactors are responsible for only $710 million in the event of an accident at a nuclear powerplant and DOE contractors are covered for only $500 million for an accident at a Department of Energy facility. This legislation increases those amounts to well over $7 billion for both commercial and DOE contractor accidents.

Mr. Speaker, I believe we must respond to the realities of nuclear power in this country as it exists, not as we wish it existed. Today, there are well over 100 nuclear reactors spread across this country. This legislation is an attempt to provide financial compensation for victims of a nuclear accident while creating a climate within which the nuclear power industry can operate. The nuclear power industry supports this bill even though it greatly increases the amount of money, per reactor, companies would have to pay in the event of a nuclear accident anywhere in the country, regardless of the cause.

Mr. Speaker, I know many Members see problems with this legislation. Some of those Members are on the committees having jurisdiction over the bill. I myself have reservations about a few of the bill's provisions. But, Mr. Speaker, this rule allows for a free flow of information and opinion, allowing for the debate of germane amendments.

Under this rule, disagreements can be aired and Members will have the opportunity to try to amend any part of the legislation. House Resolution 234 is a fair rule under which to debate a very important and very controversial bill. Mr. Speaker, I urge its adoption.

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may use.

Mr. Speaker, this is an open rule. We have not had too many open rules granted by the Rules Committee this year. They were formerly granted routinely, but this has not been the ordinary practice of the Rules Committee this session. There is no objection to this rule and it should be adopted so we may proceed to the consideration of H.R. 2994, a bill to revise and extend the Price-Anderson Act.

The three committees which worked on this bill have done a good job and the bill this rule makes on order is worthy of our support. There are a number of controversial amendments which will be offered to the bill. Most of them would distort improperly our national policy regarding nuclear accident liability. Some of these amendments are frankly antinuclear industry in content and purpose. Members should view them with great caution. Most of them should be voted down because they are misguided assualts on a very fine bill.

Mr. Speaker, I ask for a "yes" vote on the rule and support for the bill as brought before the House by the three committees that wrote it.

Mr. Speaker, I yield back the balance of my time.

Mr. BONIOR of Michigan. Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The resolution was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Pursuant to House Resolution 234 and rule XXIII, the Chair declares the House in the Committee of the Whole on the State of the Union for the consideration of the bill, H.R. 1414.

□ 1040

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1414) to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents, with Mr. BUSTAMANTE in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the first reading of the bill is dispensed with.

Under the rule, the gentleman from Arizona [Mr. UDALL] will be recognized for 20 minutes, the gentleman from Alaska, [Mr. YOUNG] will be recognized for 20 minutes, the gentleman from Indiana [Mr. SHARP] will be recognized for 20 minutes, the gentleman from New York [Mr. LENT] will be recognized for 20 minutes, the gentleman from New Jersey [Mr. ROE] will be recognized for 20 minutes, and the gentleman from New Mexico [Mr. LUJAN] will be recognized for 20 minutes.

The Chair recognizes the gentleman from Indiana [Mr. SHARP].

Mr. SHARP. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, before us today is the bill, H.R. 1414 to reauthorize the Price-Anderson Act dealing with limiting liability and providing for compensation to potential victims of nuclear accidents.

Mr. Chairman, in dealing with nuclear facilities, our paramount concern must always be safety, safety of the men and women who work at these plants and safety of the families who live in the shadow of the nuclear powerplants in this country. To that end, Mr. Chairman, we must have a Nuclear Regulatory Commission, as we do, which vigorously pursues safety issues, and it is our job in Congress to help assure that that agency is in fact doing an effective job.

The legislation before us today, Mr. Chairman, does not at its heart deal with nuclear safety issues. It deals, as I have indicated, with questions of liability and compensation for victims in what we hope will be the unlikely event of any kind of an accident. However, we do know that how we structure limiting liability can have an effect upon safety incentives. It can either enhance or diminish the financial incentives for the operators of our nuclear powerplants.

Therefore, Mr. Chairman, it is extremely important that we understand clearly what it is that we do in this bill and what it is that we do not do. So let me make the first point, that in fact while we limit liability for the nuclear power industry, Price-Anderson in fact does not eliminate financial costs for the industry if there should be an accident. First of all, the limit on liability does not apply to damage that occurs on the site of a nuclear powerplant. Consequently, someone who designs this powerplant, someone who sells or is a vendor of the equipment that is used in this powerplant, or someone who is operating this powerplant will in fact suffer potentially great financial consequences if they fail to operate it safely, if an accident does occur. In fact, those costs can run to the billions of dollars for those who are found responsible for any such accident.

Second, it is very important to understand that the limit of liability applies to off sites, that is, to what might happen or any potential damage to individuals or properties beyond the site of the powerplant. And even there, the Price-Anderson Act requires that the industry first obtain as much insurance as it can in the private sector, which we believe is somewhere in the neighborhood of 160 million dollars' worth of insurance, and second, that the industry in the event of an accident pay what we call retroactive or retrospective premiums.

□ 1045

The legislation before the House will raise the limit on how much the industry must pay in the event of such an accident.

In the current law the amount is just over $700 million, but in the bill before the Members, we are raising it to over $7 billion, a tenfold increase of the financial costs that, if an accident is that great, the industry will have to bear in compensating the victims.

Consequently, I think it is important that we understand that the nuclear industry does not escape financial costs because of the Price-Anderson Act.

It will suffer potentially great costs if it fails to operate as safely as possible.

I do want to bring to the Members' attention a glaring exception to this principle, an exception that we hope to cure this afternoon by the Wyden-Synar-Sharp amendment. That exception relates to the Department of Energy contractors who operate certain nuclear facilities on behalf of the Federal Government.

The Department of Energy under the current law has used its discretionary authority to totally indemnify these contractors; that is, they have used their discretionary authority to totally insulate the private contractors from any financial responsibility in the event of an accident at those facilities.

Our amendment would see to it that those contractors retain a modicum of financial responsibility, if they willfully engage in misconduct or gross negligence contributing, therefore, to an accident.

We believe that retaining some financial responsibility will enhance the incentive for them to operate these Government facilities safely; I hope the Members this afternoon will listen carefully to the debate and study carefully the amendment which we believe will operate as a better safety incentive at the Government-operated plants.

Let me turn now to Price-Anderson from the victims' point of view. Price-Anderson, in the process of limiting liability for the nuclear power industry, is a bargain. The bargain provides the potential victim with several major benefits.

The first benefit is a simpler legal process by which the potential victim may be assured of compensation. Basically, Price-Anderson acts as a no-fault insurance program.

Second, and perhaps far more importantly, Price-Anderson provides greater financial certainty that a victim will be insured—that is, will be compensated for any damage done to that person or that person's property, greater certainty than would exist in the absence of the Price-Anderson Act.

I would tell the Members that one of the critical pieces of the legislation before the House is that we have substantially increased the pool of financial resources that will be available for compensation, and therefore, substantially increased the certainty that a victim will be compensated.

We have raised the liability from the current $700 million to over $7 billion in event that there should be an accident, with an additional promise that the Congress will seek full compensation for any victims if the accident should go beyond the $7 billion figure.

There is an additional benefit in the current proposals for change that are before the Members today, and that is that we are going to change the current statute of limitation liability, which is set at a flat 20 years, because we recognize that one of the tragic consequences of a radiation accident is, of course, latent cancer or birth defects which clearly do not show up at any time in the immediate future of such an accident for many victims.

As a result, we are going to make it possible for any victim at any time that he or she discovers that there have been consequences of such an accident to seek full restitution and full compensation.

Mr. Chairman, this is another of the pluses if we are successful in passing the legislation before the House, so I hope that the Members in the House will take very seriously H.R. 1414, because we believe that it can be a major plus in terms of keeping and actually accentuating incentives for safety, where safety is a critical factor, and very substantially increasing the likelihood that any potential victim of an accident will be compensated.

In my view it would be tragic, Mr. Chairman, if either through a negative vote on the final passage of this bill or through addition of amendments that would jeopardize the ultimate passage of this legislation, we would fail to adopt the basic changes in H.R. 1414.

If we fail to adopt this legislation, it must be recognized that what happens to the 110 plants that are currently operating, what happens to the millions of Americans who reside in the neighborhood of those plants, is that they retain the current coverage of Price-Anderson. That means they lose out on the substantial improved benefits that are before us today.

I urge my colleagues to pass H.R. 1414.

The CHAIRMAN. The Chair recognizes the gentleman from New Mexico [Mr. LUJAN] for 20 minutes.

Mr. LUJAN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I will vote against this bill. I do not suppose I have ever been as disappointed with any piece of legislation that has come out of this body as I am with this one.

I will vote against it; and if it should pass, I would do all I can to make sure that it does not become law for several reasons.

The first reason, Mr. Chairman, is that the ratepayers of this country are asked to increase their payments for electricity for this particular item by 12½ times.

At the present time, a utility must pay $5 million per reactor under the present law. It will go up to $63 million per reactor under this proposal.

The utility does not pay that. The only place the utility has to get that money is from the ratepayers; and of course, the rate will be increased for every ratepayer in this country.

It goes from $5 million to $63 million for every reactor in this country, for all 108 or 110, whatever number that is.

The present limit of liability is $700 million, and it goes up to $7 billion.

Around here we throw figures like I do not know what, because $7 billion, who knows how much that is?

It is just a figure that is so big that it is almost impossible to comprehend. No one seems to care.

The industry does not seem to care that it went up that much.

They decided we better take that amount, because it could get worse later.

I could get worse later, and one of the times that it might get worse later is that this bill is for a period of 10 years. I hate to think what we are going to come up with 10 years from now.

That is not bad enough, but what we are doing, we figure maybe the utilities do not have enough money to pay this off. Maybe they will be too slow in paying it, so we say, do not worry about it, the Government has deep pockets, so the Department of Energy will pay.

☐ 1055

We even authorize the Department of Energy to go out and borrow money. We authorize the Department of Energy to borrow up to $7 billion as the law now stands or as the bill now stands, and with every year adjusting it for inflation it would be going up and up. But that is all right, because the Government has deep pockets and, after all, it is not anybody's money so let the Department of Energy go ahead and borrow, and we will then wait for the utilities to pay it back.

The nuclear waste fund is another place where the ratepayer gets nicked, and that goes up millions and billions of dollars and so we have said, well, that is OK, we will not put any limit on any accidents that result from nuclear waste activities, so there is no limit on that. Even the $7 billion—which we cannot understand—is pretty high, but no limit is certainly a lot higher than that.

We have another provision in here, Mr. Chairman, that is not very good. The Department of Energy indemnifies all contractors for any losses. That is how it should be. Our national laboratories are operated by contractors for the benefit of the Federal Government. In my home State, for example, we have Los Alamos, which is operated by the University of California, for the benefit of the Government, and Sandia Laboratories, which is operated by Western Electric, and my understanding is it is for a fee of $1.

However, what the bill now says is that for those activities where the Federal Government indemnifies, that the limit will never come down. It works like this: For all accidents the limit goes up by $63 million for every reactor that comes on line, so that when the reactor is deactivated the limit goes down, and that makes a lot of sense to me except for the $63 million, but it goes up with the number of reactors being added.

However, with the indemnification portion of this, where the Government is the one that picks up the tab, we have found deep pockets again because for those it does not go down. Once it goes up by the number of reactors and we have 108, or 110, whatever the figure is, it will stay at that level. So every time we add one reactor it will go up, but every time one is deactivated it does not go down.

On page 13 we have another great little provision in here, and I say that facetiously, so that when it shows up on the record it does not look like I really called it a great provision. It is a lousy provision, as a matter of fact.

This fund must pay for precautionary evacuations. What does that mean? That means that anybody authorized to evacuate because of a nuclear threat can just go ahead and do so, and then we have got to pay for it. We all know there is a lot of political bias against nuclear energy and someone can do that just to make nuclear energy look bad for political purposes, and then of course we are going to have to pay for it.

Mr. Chairman, we were not satisfied with the $7 billion.

There are now three layers under which there can be compensation for accidents. There is the first layer where utilities go out and buy insurance from the private insurance companies, and that is $160 million, and that pays for the first layer of any accident.

The second layer is where the utilities pay to the Federal Government and the Federal Government then distributes that second layer, or $63 million per reactor, or a total of $7 billion, then we are not satisfied with that $7 billion, we go on and we say in this bill that there will be a third layer, that if that $7 billion is not enough we know a guy that has big deep pockets. His name is Uncle Sam, and Uncle Sam will pick up anything over and above the $7 billion.

So for these reasons and many, many others, Mr. Chairman, I would urge my colleagues to vote against this piece of legislation. We are a lot better off, let me tell my colleagues, without this bill being enacted into law, and I would urge my colleagues to vote against it, and that if it should happen to pass, to do all they can in the Senate and in conference to make sure that it does not get through. In the final analysis, if it should get through both of those bodies and through the conference, I ask my colleagues to urge a veto of the legislation because it is just so bad that no amount of amending could possibly make it any better.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from Arizona [Mr. UDALL] for 20 minutes.

Mr. UDALL. Mr. Chairman, I yield myself 5 minutes.

Mr. Chairman, I rise today in support of the Price-Anderson Amendments Act of 1987.

The Price-Anderson Act is one of the most complicated, least understood, and least used laws I have encountered in all my years in the House. Yet its purpose is simple and its role is important. Quite simply, the Price-Anderson Act ensures that adequate funds will be available to compensate the public in the event of a nuclear accident. It streamlines the claims process to ensure speedy compensation of victims and it provides a mechanism to ensure that these funds are available without regard to the financial health of the responsible party and without discouraging reasonable people from participating in nuclear activities. That is a tall order, Mr. Chairman, but the Price-Anderson Act has filled it for 30 years.

Although the Price-Anderson Act itself is permanent authority, the linchpin of the entire system—the authority of the Nuclear Regulatory Commission and the Department of Energy to enter into indemnification agreements with their licensees and contractors—will expire this Saturday, August 1.

With that deadline in view, the three committees of jurisdiction have spent countless hours over the past 2 years on this issue. Mr. Chairman, I am happy to report that we have assembled a consensus bill reflecting the agreement of the three committees. The text of this consensus bill, H.R. 2994, has been made in order for consideration as an amendment in the nature of a substitute to be considered as original text for purposes of amendment.

Throughout the past 2 years, I have approached renewal of the act with two fundamental goals in mind. First, to increase the amount of money that is available to compensate the public in the event of a nuclear accident. Under current law, the public is only assured $710 million for an accident at a nuclear powerplant and only $500 million for an accident at a DOE-contractor facility—such as a Government-owned uranium enrichment plant or a weapons plant. H.R. 1414 would increase those amounts tenfold, to well over $7 billion for both commercial power and DOE-contractor accidents. Moreover, the bill strengthens the congressional commitment to compensate any damages that may exceed that amount.

Second, throughout consideration of the bill I have attempted to see that the benefits afforded the public by the existing law are preserved. Chief among these is the no-fault system that permits the public to look to the utility or the DOE-contractor that had the accident without regard to fault. This is an extraordinary feature of the law. In exchange for a limit on any one utility's liability the law requires each utility with a nuclear reactor to contribute millions of dollars to compensate victims of an accident at any plant.

Mr. Chairman, the substitute to H.R. 1414 accomplishes both of these goals. It is a fair compromise that I support wholeheartedly. Nonetheless, some of our colleagues believe H.R. 1414 does not go far enough. They would subject every nuclear utility to unlimited liability for an accident at any nuclear utility. They would graft fault-finding mechanisms on to the no-fault commercial insurance system—adding no money to the compensation fund but making it more difficult and time consuming for a victim to prevail.

Mr. Chairman, the substitute to H.R. 1414 represents over 2 years of hard work by three committees. It provides vastly increased funds to compensate victims of a nuclear accident without destroying the basic fabric of Price-Anderson. I urge your support.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. The Chair recognizes the gentleman from New York [Mr. LENT] for 20 minutes.

Mr. LENT. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 2994, legislation to extend the Price-Anderson Amendments Act. I would like to respond to some of the charges against Price-Anderson that have been circulating recently. First, Price-Anderson protects victims of an accident at a nuclear powerplant or DOE nuclear facility. It was developed in 1957 by a Columbia law professor as a direct response to the many hardships victims suffer under U.S. tort law. Contrary to the assertions made by opponents, a legislated limitation on liability, as is contained in Price-Anderson, is not a subsidy of the nuclear industry. Instead, a limitation on liability establishes certainty, making large sums of insurance moneys available for victim compensation. Additionally, a limitation on liability encourages prompt settlement of claims. After the Three Mile Island accident, the insurance companies were paying claims within 72 hours.

Unlimited liability, on the other hand, merely assures unlimited litigation. There is no incentive to settle. More importantly, unlimited liability does not mean full compensation. Instead, unlimited liability means that victims are entitled to the assets of the particular company at fault, except to the extent that those assets have to be applied to secured claims. One has only to look at the recent Asbestos and Dalkon Shield cases to see the burden unlimited liability imposes on victims.

Second, to turn to the question of full compensation, opponents of Price-Anderson argue that it prevents full compensation. To the contrary, H.R. 2994 not only provides $7 billion for the prompt payment of claims, but it requires that certain steps be taken by the President and Congress to assure that additional sums are made available in the event that damages exceed $7 billion.

Third, opponents are arguing that $7 billion is not enough. But it is not at all clear, contrary to their statements, that the damages from an accident at a U.S. power reactor would exceed $7 billion. U.S. power reactors are significantly different from Chernobyl and are required to have many, many more safety systems, not the least of which are containments. Chernobyl has been bandied around in this debate for the purpose of scaring the public, not assisting legislators in making reasoned judgments as to how best to protect their constituents.

Fourth, to turn to the oft-repeated theme of recent days that Price-Anderson and H.R. 2994 permit the payment of lawyers before victims, I would point out that none of the letters or flyers that I have seen on this subject admits, explicitly or implicitly, that disallowing legal costs, as Mr. SIKORSKI has unsuccessfully tried to do in the past, will adversely affect victims. As you all know, in the United States, victims of torts enter into contingency fee agreements with their attorneys. Typically, such agreements require victims to pay their attorney one-third of the damage award. At Three Mile Island, for example, approximately $50 million has been paid for claims. Of this amount, $9 million has been spent on the costs of investigating, settling, and litigating claims; $41 million has been paid to victims of the accident, of which approximately $13 million has been paid to victims' lawyers.

Under H.R. 2994, which contains the Moorhead amendment on legal costs, the legal costs paid to victims and to industry are subjected to court supervision in order to assure that they are reasonable, nonduplicative, and incurred in good faith. Now, I ask you, what protects your constituents more—their own unsupervised relationship with their lawyer or a court supervised relationship with their lawyer? I think you can readily see that if you want to assure victims full compensation, you will vote against the Sikorski amendment.

Finally, I want to discuss the Sharp/Wyden amendment on subrogation and civil penalties for DOE contractors. We are told that this amendment is necessary to make these contractors safe. Far from assuring safety, this amendment could actually harm the public by dissuading DOE's existing competent experienced contractors from working for DOE in the future. As most of DOE's contractors have run DOE's unique facilities for 40 years, the probable result of enactment of this amendment would be new, inexperienced companies running DOE facilities. There are many reasons to oppose this amendment, not the least of which is its adverse effect on the taxpayers, but to me, its adverse effect on safety is the chief reason to oppose the Sharp/Wyden amendment.

In sum, I urge my colleagues to ignore much of the disinformation that we have received in recent days and to keep in mind our job to protect the public. The amendments that will be offered—unlimited liability, utility subrogation, disallowance of legal costs, and imposition of subrogation and civil penalties on DOE contractors—are all amendments that have been rejected many times before. I urge you to vote for H.R. 2994, as brought to the floor, and to oppose all of these amendments, keeping in mind that Price-Anderson, which Congress has extended on two previous occasions, protects the public.

□ 1110

Mr. SHARP. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Chairman and my dear colleagues, the legislation before us today has been described as a bargain, as a good deal. Well, it may be a good deal for some but it is a raw deal for the taxpayers of this country. And it may be a bargain for a few but it looks to me like a "K-Mart blue-light special" for the nuclear power industry.

The issue with Price-Anderson is one of which who pays the victims? The world has faced the disaster of Chernobyl and we in the United States have asked can it happen here? The NRC tells us yes.

If it can, then the NRC and the GAO also tell us that the damages could run into the tens of billions of dollars, thus dramatically exceeding the arbitrary ceiling imposed by H.R. 1414.

So 30 years after we told the fledgling nuclear power industry, "We are going to help you out. We are goint to limit your liability to let you grow up and be viable."

Why 30 years later are we keeping the training wheels on Price-Anderson?

The simple fact of the matter is despite the fact the nuclear power industry tells us they are safe, they are efficient, they are responsible, they are not willing to put their money where their mouth is. And in fact, what they want to do is to bet with your money, the taxpayers' dollars, "Oh my gosh, if we do make a mistake in that very low probability, despite the fact of the high consequences that would stem from it could exceed by a factor of two or three the arbitrary caps, the arbitrary cuts, the arbitrary limits we will place on paying victims, this is still a good deal."

Well, I do not believe the victims should be the scapegoats and the taxpayers not be subsidizers for a mature and viable industry. I think they should put their money where their mouth is. That is why amendments which I will offer with my colleagues, Mr. SWIFT, Mr. WYDEN, Mr. SHARP, and Mr. SIKORSKI, will seek to correct some of the most egregious faults in H.R. 1414.

I do not think a utility company should be awarded benefits for being grossly negligent. I do not think that attorneys and administrators should be paid before victims. I do not think that the Government should be held harmless with the taxpayers having their pockets raided because we fail to comport with minimum standards of health and safety.

We spend a great deal of time on this floor talking about the difficulties of the financial burden of balancing the budget. H.R. 1414 says "make the mistake, exceed the limits and the Congress will help you out."

That sounds mysteriously a lot, to me, like "the check is in the mail," at a time when we cannot even balance our own budget or raise money to balance our own failures.

The taxpayers are being taken for a ride by H.R. 1414. The next stop will be the cleaners. Failing to pass our amendments, failing to focus on why it is that a mature, viable industry that extols its virtues for all of us to hear fails to put its own money at the table.

Why is that? This is not going to bankrupt anyone. No one will pay a penny or a dime unless, in fact, there is an accident. And when that accident occurs, why is it that the victims of the accident are asked to pay from their pockets to protect the profits of the people who caused it?

H.R. 1414 is fundamentally flawed. The amendments we offer will correct it.

I urge your support.

Mr. LENT. Mr. Chairman, I yield 5 minutes to the distinguished gentleman from California [Mr. MOORHEAD], the ranking member of the Subcommittee on Energy and Power.

Mr. MOORHEAD. I thank the gentleman for yielding time to me.

Mr. Chairman, I rise in support of H.R. 1414 to extend the Price-Anderson Act. The bill as it has been brought to the floor continues the essential features of the Price-Anderson Act, but with significant increases in the amount of moneys available to promptly compensate victims in the remote event of an accident at a nuclear plant. Additionally, prompt passage of H.R. 2994 will ensure that our Nation's nuclear defense programs can continue without disruption.

The fundamental compromise underlying Price-Anderson is the limitation on overall liability and the channeling of all liability regardless of fault to the reactor which has had an accident, in exchange for the prompt provision of substantial funds to the public in the event of an accident. The limitation on liability and channeling enable the insurance industry to make available the maximum amount of insurance, which is the first and most immediate source of assistance to the public.

A limitation on liability is not, as some would assert, a subsidy of the nuclear industry. Contrary to the statements of some, unlimited liability on the part of insurers and utilities does not mean that the public will receive unlimited moneys. With unlimited liability, the public would receive only that amount of money equal to the responsible company's assets, after those assets have been applied to secured claims.

Moreover, in the case of insurance for public liability arising from a nuclear accident, without the limitation on liability and channeling, the insurance industry would not provide coverage at all. Finally, I would point out that in the event of damages exceeding the limitation on liability H.R. 2994 states that Congress can tax the appropriate class, including licensees, to reimburse any outlays from the Treasury.

Similarly, full indemnification of DOE contractors is not a subsidy of these contractors. Price-Anderson coverage has ensured a supply of capable and competent public and private institutions to carry out critical national security work. Protection of the public will be enhanced by a compensation plan that encourages, rather than discourages, these knowledgeable and experienced people to continue this work.

In summary, Price-Anderson assures the availability of substantial funds to provide prompt compensation to the public and eliminates the hassle that plaintiffs in an ordinary tort action must go through to recover for damages or injury. This act has been of substantial benefit to the public for the past 30 years and should be renewed so that these benefits will continue in the future.

Mr. Chairman, I would urge people not to adopt the radical amendments that are proposed today which will kill this legislation someplace along the line. We need this bill in its present form.

Mr. Chairman, I urge my colleagues to join me in supporting H.R. 2994 without further amendment.

The CHAIRMAN. The Chair recognizes the gentlewoman from Tennessee [Mrs. LLOYD] for 20 minutes.

Mrs. LLOYD. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 2994, the Price-Anderson Amendments Act of 1987.

The consensus text of this bill represents the culmination of dedicated and cooperative work among three committees: the Committee on Science, Space, and Technology, the Committee on Interior and Insular Affairs, and the Committee on Energy and Commerce. We are pleased to present the product of our joint efforts here today.

H.R. 1414 provides for the reauthorization with amendments of the Price-Anderson Act which is section 170 of the Atomic Energy Act of 1954. The original and continuing objective of this legislation is to guarantee a unique insurance protection system for liability in the unlikely case that a serious nuclear accident should occur. The act provides the public with an assured, timely source of funds in the event of such an occurrence.

Without Price-Anderson Act insurance coverage, private contractors at all levels would likely refuse to do business for the Government. The expertise of the various contractors represents a necessary and critical element in the Department of Energy's ability to carry out its designated responsibilities. Under the DOE's close supervision, its prime contractors operate diverse nuclear research facilities owned by the Government. The Price-Anderson provisions enable the Government to insure these contractors against nuclear hazards. It is important to note that private insurance for these contractors, is not available. However, even if private insurance could be obtained, the additional costs of such coverage would be passed on to the Government through the operating contracts.

Mr. Chairman, we should not lose sight of the fact that over the past 30 years, the total amount in claims paid by the Government under Price-Anderson is about $1,500,000. The total expenditures under DOE contracts during this period amounted to $124 billion. This means that claims corresponded to only one-thousandth of 1 percent of the expenditures. Historically, these contractors have provided a highly specialized service to the Government in an effective and efficient arrangement.

The Committee on Science, Space, and Technology reported seven amendments to the Price-Anderson Amendments Act of 1987, H.R. 1414, as introduced. Five of these amendments were included in the consensus-text agreed upon by the three committees.

The first amendment—in section 4 in new section 170(d)(1)(A)—adds 2 years to the traditional 10-year authority of the Secretary of Energy under Price-Anderson. Thus the Secretary's authority due to expire on August 1, 1987, will be extended to August 1, 1999. Although the committee considers it important to reconsider the act's provisions every 10 years, we are creating an umbrella of 2 additional years authority, in the event renewal legislation has not been enacted at the end of the regular 10-year period.

Mr. Chairman, the rationale for this is that the contracts that DOE negotiates with its contractors are typically of a 5-year duration, and almost every year some contracts are up for renewal. Currently DOE is facing the dilemma of expiring contracts for the operation of several of its national laboratories in concurrence with the imminent expiration of its Price-Anderson authority. It is conceivable under these circumstances that DOE would be in a position to sign new contracts at a time when it is without the indemnification authority under Price-Anderson. This could leave both the contractor and the public substantially unprotected. In fact, the very possibility of such a time-lapse negates a fundamental objective of the Price-Anderson legislation—that of protection. Mr. Chairman, the committee believes that the additional 2-year authority is an important preventive mechanism.

There is no need to extend a similar authority to the Nuclear Regulatory Commission because NRC licensees are issued coverage for the life of their facility, thus a 10-year expiration does not pose comparable jeopardy to the public.

The committee's second amendment—subsection (d)(1)(A)—which is included in the substitute text is designed to resolve contradicting requirements in the bill resulting in the overlap of indemnification for certain contractors by both agencies, DOE and NRC. The amendment indicates that DOE need not indemnify those contractors whose activities are already indemnified either by the NRC or covered under the financial protection required by the Commission.

Our third amendment—subsection (4)—which now appears as part of the consensus-text, requires that DOE, and not the NRC, provide indemnification under Price-Anderson for those demonstration reactors which come under the control of the Secretary of Energy. This provision excludes any demonstration reactors that have been turned over to the commercial sector. These reactors become the sole responsibility of the commercial owner and are solely governed by the NRC's regulatory authority.

There are two remaining committee amendments included in the substitute text. The first—in subsection (d)(2)—more precisely identifies the costs covered by Price-Anderson indemnity. Specifically the amendment indicates that Price-Anderson's insurance indemnification would cover both the administrative and the legal costs involved in settling and defending suits for damage brought under the act. This cost coverage would apply for both DOE contractors and for universities operating research reactors. This indemnity coverage for administrative and legal costs, however, is not intended to detract from the liability limit. The full liability limit is reserved exclusively for public coverage. The final addition comprised the committee's technical corrections included in the consensus bill.

Mr. Chairman, this summarizes the five Science Committee amendments incorporated into the text now under consideration on the floor. I would like to emphasize briefly another significant change in the legislation agreed upon by the three participating committees. We have increased the amount of insurance coverage and the corresponding liability limit under Price-Anderson from $500 million to a varying level, currently about $7 billion. This makes the actual level of contractor protection and liability limitation equal to the highest level set for commercial powerplant licensees.

Mr. Chairman, several of our Nation's universities operate low-power research reactors which contribute to the vital body of nuclear science research for the Nation and concomitantly allow for the training of our future nuclear scientists and engineers. H.R. 2994 extends the already existing Price-Anderson insurance coverage to the universities for another 10-year period, until August 1, 1997. The owners of the university research reactors would be insured by the Nuclear Regulatory Commission at the level of $500 million, to continue for the duration of the reactor's license.

Mr. Chairman, the Price-Anderson Act is a unique legislative framework that brings order and protection to situations presenting major societal risk. Without the guarantees provided by Price-Anderson we would have neither financial protection to the public for such risks, nor would we be able to call upon private sector expertise and participation in the nuclear energy field.

□ 1125

Mr. LENT. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Colorado [Mr. SCHAEFER].

Mr. SCHAEFER. Mr. Chairman, I thank my ranking member, the gentleman from New York, for yielding this time to me.

Mr. Chairman, having participated in the consideration of the Price-Anderson amendments from the subcommittee level, I can clearly say that this is the most misunderstood piece of legislation to come before the Congress. The reason is unfortunate, but simple: When one discusses nuclear liability, the rhetoric is accepted and the reality is ignored.

Price-Anderson is not a utilities-protection bill: It is a people-protection bill. It ensures that in the unlikely event of a nuclear accident, the victims are provided prompt and adequate payment without years of endless litigation and bankruptcies. When considering the importance of Price-Anderson to victims of a nuclear accident, one need only look at Bhopal. Because there is no similar protection to victims of a chemical mishap, not one victim has yet been compensated—2 years after the accident.

Also lost in the rhetoric surrounding this issue is the most important fact of all. H.R. 2994 increases the victim compensation pool by 10 times its current level—to nearly $7 billion. This increase is a monumental step in ensuring that victims of a nuclear accident receive adequate compensation. This increase is also the reason that we must pass this legislation in prompt fashion.

Clearly the best way to do just that is to accept the compromise before us today. Cumbersome amendments with largely rhetorical bases will only serve to hinder the progress of this effective agreement. If this legislation stalls, the loser won't be the utilities—it will be the general public.

I therefore ask my colleagues to keep this in mind as we vote on the upcoming amendments. I assure you that if we accept the rhetoric, we won't like the resulting reality.

Mr. UDALL. Mr. Chairman, I yield 3 minutes to the distinguished gentleman from Connecticut [Mr. GEJDENSON].

Mr. GEJDENSON. Mr. Chairman, I thank the chairman of the Committee on Interior and Insular Affairs for yielding me the time and also for the great effort he has put into this legislation. I would also like to commend the committee chairman and the subcommittee chairman, the gentleman from Michigan [Mr. DINGELL], the gentleman from Indiana [Mr. SHARP], the gentleman from New Jersey [Mr. ROE], and, most of all, the gentleman from Illinois [Mr. PRICE], who sits in the Hall with us. I commend him especially for his work on the original legislation.

The nuclear industry is one that has grown through the years, starting off with a government that felt the need to encourage and nurture an infant industry and to encourage it from potential liabilities. We have clearly developed to a point where this is a sophisticated industry. It is broad based, and it has tremendous economic strength.

Today we take a step toward liberating the nuclear industry from government regulation. This is one government regulation, of course, that industry asks for. It is government's involvement that provides the opportunity to limit the direct liability of the nuclear industry. And this may make sense. The compromise we have reached from the various committees sets a limit of $7 billion of liability by the nuclear industry.

My privilege to participate in this issue, through membership on the Committee on Interior and Insular Affairs, has given me the opportunity to provide some additional protection for the residents of Connecticut who live in areas surrounding the four nuclear powerplants in our State. But we do have some distance to go. We all share some concerns about the present drafting of this legislation.

However, overall it is legislation that raises the ability to protect those citizens who live around nuclear powerplants. In my district in eastern Connecticut, the property value around one of the nuclear facilities is about $10 billion. That is simply the assessed value of the property. The real value is far larger than that. The potential liability for illness and lost wages, and what have you, would probably quadruple that $10 billion estimate. But we make a step in the right direction by raising the liability to $7 billion. It is this Member's firm hope that the legislation's reference to a third layer, to action by Congress that would either provide additional levies on the utilities or have government revenues relieve the injured parties, would be an action that would occur quickly.

In supporting this legislation, it is my assumption that if a third layer is necessary, that layer would be executed within months, not years, and clearly not longer than 7 months. The people who are victims of a nuclear accident must be compensated quickly.

Clearly, the legislation is not perfect, but the language that has provided a court supervision of the legal fees and other expenses is there to see that the bulk of the money is not consumed by the lawyers and by the administrators. The bulk of the $7 billion is there to compensate the victims.

Again, Mr. Chairman, I would commend the chairmen of the committees, particularly the gentleman from Arizona [Mr. UDALL] for his work, and I would look forward to working with him through this process to see that the legislation is passed.

Mr. LENT. Mr. Chairman, I yield 3 minutes to the gentleman from Texas [Mr. BARTON].

Mr. BARTON of Texas. Mr. Chairman, I rise in support of H.R. 2994.

I would like to commend the bill's original sponsor, the gentleman from Illinois [Mr. PRICE], who is in the Chamber at this time. I would like to commend our committee chairmen, the gentleman from Arizona [Mr. UDALL], the gentleman from New Jersey [Mr. ROE], and the gentleman from Michigan [Mr. DINGELL], as well as the vice chairmen, the gentleman from Alaska [Mr. YOUNG], the gentleman from New York [Mr. LENT], and the gentleman from New Mexico [Mr. LUJAN] for the work they have done.

The history of Price-Anderson is very simple. Back in 1957, when the nuclear power industry was in its infancy, there was some concern about possible litigation in the event there ever were to be a nuclear accident. It was feared that litigation would delay prompt payment of victims claims.

□ 1140

To solve this problem, Congress decided to go to a no-fault system. The basic premise of Price-Anderson is that we are not going to get bogged down in litigation in the event of an accident. We are going to have a no-fault system where we guarantee compensation, and we guarantee that the victims would be paid very rapidly.

That premise was valid in 1957, and is still valid today in 1987.

History has shown since the enactment of Price-Anderson, there have been very few claims at all in the nuclear industry, either on the private-sector side or on the Government side.

The most expensive accident in private industry was Three Mile Island back in the 1970's. The total amount of claims paid out was $48 million.

On the Government side to date the Department of Energy has paid out 1½ million dollars' worth of claims. On the industrial side, the industry itself, the utility industry pays the costs. They currently maintain $160 million in private insurance and have a retrospective premium per reactor of $5 million.

The total amount of coverage available today, as has been told many times in the debate already, is $705 million. Under the bill before the Members, that $705 million would go to $7 billion, because the retrospective premium would be increased from $5 million per reactor to $63 million per reactor.

We currently have 109 operating nuclear reactors in this country, so you multiply that 109 by $63 million, add the existing $160 million in private insurance, and you get $7 billion.

Mr. Chairman, Price-Anderson has worked. We have 109 plants in operation currently generating 16 percent of our electricity in this country.

The American nuclear industry has the safest record of any nuclear industry in the world. We are going to need this power, and we are going to need additional power from the nuclear industry as the years go by.

We should support H.R. 2994. With respect to some of the amendments that are going to be offered, many of those amendments have already been defeated at least once, and in some cases several times in the various committees with jurisdiction over this legislation.

I would hope other Members would not support them on the floor.

Let us vote out a clean Price-Anderson, and let us do it today.

Mr. SHARP. Mr. Chairman, I yield 4 minutes to the distinguished gentleman from the State of Washington [Mr. SWIFT].

Mr. SWIFT. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, this bill has a conundrum in it, an inconsistency, a foolishness.

It is this. If there is an accident involving nuclear waste, the victim will be recompensed if the accident was caused by a contractor working for the Department of Energy. If that very same victim is affected by that same kind of accident in the very same location in the very same way, except it is caused not by a contractor for DOE but by an employee of DOE, they get no compensation.

They get to run through the Tort Claims Act which has an exemption, a wonderful exemption, for discretionary functions which means almost any act by a policymaker of the Federal Government.

That is silly; it is unfair. It is inequitable, but what it really is, it is just silly that victims of an accident, if it is caused by a contractor for DOE get compensation, and if it is caused by an employee of DOE, they do not.

That provision has never been in this kind of legislation before. It was not contained in the House legislation in the last Congress.

It was not contained in the legislation of the last Congress of the other body, and it is not contained in the legislation in the other body this year, only in the House bill.

I am going to offer an amendment. In fact, I did offer an amendment in the Committee on Energy and Commerce which was passed.

A funny thing happened on the way to the Committee on Rules, and it disappeared somewhere. It was kidnaped, no doubt with the aid and assistance of the Justice Department whose lawyers do what lawyers do best. They are down there picking nits, and this is a nit they chose to pick on; and they have had serious objections to that amendment.

I am going to offer a different amendment. We have crafted an amendment that quite seriously responds to every one of the objections raised by the Department of Justice.

Surprise, surprise. The Department of Justice is still not satisfied. They found another nit, but the fact is that the amendment that I will offer answers all the objections that the Justice Department raised by the initial amendment, and this will right this piece of foolishness, this conundrum in this bill, and create the situation so that if the accident is caused by an employee of DOE, there is still a means by which compensation will flow to the victim, just as it would if the accident were caused by a contractor to DOE.

I would urge all of my colleagues to examine this amendment with very great care, and see if you do not agree with me that this particular little piece of silliness in a bill that is otherwise very strong in many respects cannot be corrected in this fashion which answers the basic objections that have been raised by the Justice Department and which will provide an equitable, safe, sane way for victims of nuclear-waste accidents, whether they are caused by a contractor working for DOE or an employee working for DOE.

Mr. Chairman, today the House will have its only opportunity for a decade to address the issue of liability for nuclear accidents. The last time the House voted on this issue was in 1975. The next time won't be until 1997. Therefore, what we do today will be of utmost significance, both in terms of providing incentives for the safe operation of nuclear facilities, and for the full and prompt compensation of victims in the event that a major nuclear incident were to occur.

Unfortunately, H.R. 2994, the bill that has come to the House floor, does not accomplish these goals as well as it could or should. While H.R. 2994 substantially improves the current law, it regretfully fails to address some of the significant problems in the law. A series of amendments will, however, be offered today which if adopted will substantially improve the act.

SWIFT AMENDMENT

I plan to offer an amendment regarding compensation for victims of a nuclear waste incident that is the result of actions by DOE employees, as opposed to DOE contractors. Under H.R. 2994, if a Department of Energy contractor causes a nuclear waste accident, victims will be assured of being fully compensated out of the nuclear waste fund. On the other hand, if a Department of Energy employee causes a nuclear waste accident, victims will be left to face legal obstacles that will probably prevent them from receiving any compensation at all.

I don't think this makes any sense at all. The victims of a nuclear waste accident should be compensated the same, without regard to whether the accident is caused by a Government contractor or a Government employee. The amendment I propose to offer would ensure this.

WYDEN-SWIFT DOE FACILITIES AMENDMENT

I will also join the gentleman from Oregon [Mr. WYDEN] in offering an amendment which would commit the United States to full compensation of the victims of a nuclear incident occurring at any of its DOE weapons or research facilities.

The Wyden-Swift amendment pledges the United States to the principle that if a nuclear incident happens at a Federal facility, the innocent victims of that nuclear incident will be compensated. This is extremely important to citizens who live and work near these facilities. It is only fair that the entire country bear at least the financial burden of an accident which could happen in the process of manufacturing nuclear weapons.

WYDEN-SHARP-SYNAR DOE CONTRACTOR ACCOUNTABILITY AMENDMENT

I strongly support the Wyden-Sharp-Synar amendment, which will be offered to provide for the accountability of DOE contractors if they cause a nuclear incident through their willful misconduct or gross negligence. This amendment is an extremely moderate, reasonable amendment. In fact, I originally hesitated to support the amendment because I thought that it made too many concessions. However, it appears that this amendment is the best chance we'll have to encourage DOE contractors to operate safely. The Wyden-Sharp-Synar amendment would only impose tort liability on DOE contractors if a supervisorial-level official of the contractor caused a nuclear incident through gross negligence or willful misconduct. The maximum liability would be capped at a level commensurate with the profits which the contractor receives under the contract. Finally, nonprofit contractors would be exempt.

SIKORSKI DEFENSE COSTS AMENDMENT

Under H.R. 2994, the compensation for victims of a major commercial nuclear accident would not just be limited by the overall compensation limit of approximately $7 billion. Victims would also have to wait until all of the defense costs for the industry, including attorneys' fees, are paid. Only then would the victims receive any compensation—limited to the amount of money left over after the industry lawyers are paid. In other words, the victims would have to pay both their own lawyers as well as the defense lawyers. The Sikorski amendment would simply require that victims stand in line ahead of the lawyers.

ECKART FULL COMPENSATION AMENDMENT

H.R. 2994 improves current law by requiring that in the event of a major nuclear incident, every nuclear utility will be required to pay retrospective premiums of up to $10 million per year for each reactor that the utility owns; $10 million is the amount of annual payments that the NRC in 1983 found the industry could afford to pay in the event of a nuclear catastrophe. Unfortunately, H.R. 2994 provides that these payments stop after a little more than 6 years. There is no sound reason—economic or otherwise—for saying that the industry can afford these payments for 6 years, but not for 7 or 10 or until the legitimate claims are fully compensated. The Eckart amendment would remove the unneeded limitation on the number of years that these payments would be made, and would ensure that victims are fully compensated.

Mr. Chairman, I urge my colleagues to join those of us who today will be offering these amendments to strengthen Price-Anderson. This will be our one chance in 10 years to improve this unique and important nuclear liability law. I ask for my colleagues' support.

The CHAIRMAN. The Chair will state that the gentleman from New York [Mr. LENT] has 2 minutes remaining; the gentleman from Indiana [Mr. SHARP] has 1 minute remaining; and the gentleman from New Mexico [Mr. LUJAN] has 12 minutes remaining.

Mr. LENT. Mr. Chairman, I yield 1 minute to the gentleman from Alabama [Mr. CALLAHAN].

Mr. CALLAHAN. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, I rise in support of this bill to reauthorize and amend the Price-Anderson Act.

As we all know, the Price-Anderson Act expires on August 1 of this year. The sole purpose of this act is to provide compensation to the public in the unlikely event of a nuclear accident. It is not, as some say, protective of the nuclear power industry nor is it a drain on Government resources.

The bill before us today, H.R. 2294, increases the nuclear industry's liabilty limit from $700 million to $7 billion. Liability limits are increased for Department of Energy contractors as well. It provides that utilities must pay up to $63 million per reactor for accident claims. The bill clarifies that the act applies to high-level nuclear waste activities performed under contract for the Department of Energy. Assurance of full and prompt compensation for victims is stressed. Three committees of the House have worked hard to develop this compromise legislation.

This is a good bill and I urge my colleagues to support it while rejecting amendments that will be offered today. H.R. 2994 currently enjoys fragile support from the administration and the nuclear industry. If it is amended, support will evaporate and we simply will not reauthorize the Price-Anderson Act.

The nuclear industry has worked with Congress over the last 3 years and has accepted a tenfold increase in its liability limits. I can assure you that we are not going to harm the industry if this bill is not enacted. Failure to reauthorize Price-Anderson will only hurt those who it is designed to help: victims of nuclear accidents.

The CHAIRMAN. The Chair recognizes the gentlewoman from Tennessee [Mrs. LLOYD].

Mrs. LLOYD. Mr. Chairman, I yield myself 30 seconds.

Mr. Chairman, I would like to take a moment to express my appreciation to the gentleman from Illinois [Mr. PRICE], who is the original Price in Price-Anderson, as has been mentioned.

It is certainly a testimony to the gentleman that this legislation is still with us after 30 years, and we certainly owe a debt of gratitude to this very valuable Member of this body for this work, not only in this field, but in his continued work on all of the major legislation that the gentleman has been a part of for the past 30 years.

Mr. Chairman, I yield 3 minutes to the gentleman from Ohio [Mr. TRAFICANT].

Mr. TRAFICANT. Mr. Chairman, I thank the gentlewoman for yielding me this time.

There is good and bad in all legislation. The question today is, we cannot afford to let anything bad slip through on this issue.

Anybody who believes in this country that a Chernobyl incident cannot occur, I believe, is misled.

Mr. Chairman, at this time I wish to commend the gentleman from Ohio [Mr. ECKART], a member of the Committee on Energy and Commerce, my colleague from the next district who has led the charge, and I join the gentleman in trying to get at the bottom of recent revelations concerning the Perry Nuclear Powerplant of northeast Ohio.

There have been reports that suggest that there are construction flaws in the actual construction of the reactor itself; but the main point is that they were never disclosed, and perhaps the NRC and the contractor could have made full disclosure and could have abated some of the controversy that now surrounds this incident.

It takes us to the bottom issue that concerns a lack of a true national energy policy.

□ 1150

We are running around in different directions and as a result with so many hands in the soup we are having incidents that could lead catastrophically, especially in this nuclear energy bill, to that ultimate problem that the Soviets have yet to recover from.

The NRC must give full disclosure. I join with Congressman ECKART. We want the findings of the Reed Report. We want to know what is going on in our own backyard; but specifically here today, we should also lend some time to say that our great coal reserves in America must be maximized. We must make nuclear energy safer and the potential for deviation from reporting must be stopped. The wall must be built.

Specifically today, I believe that we should allow penalties to be imposed upon the DOE nuclear contractors.

I believe today we should require each nuclear utility after an accident to pay $10 million per reactor per year until all damage awards are paid.

I believe today we should allow utilities that were forced to pay for an accident at another utility plant to sue those plant suppliers and contractors.

Finally, I believe we should eliminate utilities' legal costs from Price-Anderson coverage if accident damage exceeds the bill's liability limit.

The bottom line is accountability and safety. If the NRC or anybody is not going to disclose, Congress has to put its foot down. We start there today. The bill does not do that, but with amendments, the bill will do that.

I want to close by commending my colleague from the north, the gentleman from Ohio [Mr. ECKART] in his charge. I hope today we pass his amendment and those three others I discussed.

Mr. UDALL. Mr. Chairman, I yield 3 minutes to the gentleman from Louisiana [Mr. HUCKABY].

Mr. HUCKABY. Mr. Chairman, I thank the gentleman for yielding.

I rise in support of the Price-Anderson Amendments Act before us today.

I would like to commend Chairman UDALL for not only his work this year, but last year and in prior years on this legislation. Certainly when we have three committees with responsibility for jurisdiction over this legislation, the process can oftentimes be frustrating, but I think that the bill we have before us today is a good bill. It is a workable bill. It is an essential bill.

As we all know, in the event of a nuclear accident if we have just a minor accident, each utility, each nuclear powerplant, is required to carry $160 million of insurance. This would pay for those minor accidents; but then if we have a major accident, this bill extends the liability of the nuclear power industry some tenfold, to $7 billion. Each of the utilities, each powerplant, would be required to contribute up to $7 billion and then in the event that this was not ample funds to provide adequate coverage for the claims, we, the Federal Government, the people, would step in and pay the rest of those claims.

I would like to address myself to just two of the amendments that will be proposed later this afternoon. Representative ECKART will offer an amendment that virtually removes the limit on liabilities of the nuclear industry. This in essence does away with the Price-Anderson bill. From the very beginning in 1957 it was the intent to spread the liability and to limit the liability.

I think the Eckart proposal is nonworkable. It would cast grave uncertainty over the industry and I would urge its defeat.

Finally, the Sikorski amendment, we have all received some pretty colorful literature in our offices, 2 cents versus dollar bills, saying that our constituents in the event of a nuclear accident would only receive pennies and the lawyers would receive dollars. That is simply not true.

The bill as written says that the courts will supervise legal fees. In the event that you exceeded the $7 billion total pool of the utilities, the legislation requires Congress to intervene and pay the claims.

So I would submit to my colleagues that our constituents are significantly better off the way the bill is crafted and letting legal fees and administrative costs be a part of this bill.

Mr. Chairman, I would urge defeat of the Sikorski amendment.

Mr. LENT. Mr. Chairman, I yield the balance of my time, which I understand is only 1 minute, to the gentleman from Ohio [Mr. Oxley], a member of the Subcommittee on Energy and Power.

Mr. LUJAN. Mr. Chairman, I yield 1 additional minute, to the gentleman from Ohio [Mr. Oxley].

The CHAIRMAN. The gentleman from Ohio [Mr. Oxley] is recognized for 2 minutes.

Mr. OXLEY. Mr. Chairman, I rise today in support of H.R. 2994, the compromise to renew the Price-Anderson Act. All three committees have worked long and hard to come up with this package, and yet today the delicate nature of this compromise is threatened by amendments which would in effect destroy the concepts upon which the Price-Anderson Act is based—the concepts of omnibus coverage and channeling. Price-Anderson provides that no matter who is responsible for a nuclear incident—whether the reactor manufacturer, the plant contractor, the utility, or even some unrelated party—all liability for the incident is channeled to the utility. All public injuries stemming from the incident are covered by the utility's insurance and the retroactive assessments.

The benefit to the public of omnibus coverage and channeling is that it permits a victim to obtain compensation without having to establish the legal liability of the person who actually caused the incident. Thus, the mechanism prevents multiple lawsuits against multiple defendents and speeds the award of compensation to victims. In turn, the elimination of multiple lawsuits permits the insurance industry to provide the maximum amount of insurance available and to pay claims in a quick and orderly manner. As you can see, the Price-Anderson approach is superior to ordinary tort law.

The measure before us today, H.R. 2994, increases the size of the Price-Anderson victims compensation fund from approximately $700 million to over $7 billion. We are all aware that the act expires on August 1. Without an extension now, victims of nuclear accidents will be denied the additional compensation that this bill provides. In addition, a number of DOE contractor contracts are up for renewal after the August 1 deadline. Without a Price-Anderson extension, vital national defense work could be halted and thousands of contractor employees could be out of work.

In summary, I urge my colleagues to support this extension of the Price-Anderson Act without amendments that would only weaken its central objectives.

Mr. MOODY. Mr. Chairman, I rise in support of H.R. 1414 and in support of amendments to increase the liability cap to an even higher limit.

The numbers are staggering: Estimates vary, but a nuclear accident could kill more than 100,000 people; it could cost up to $100 billion, and a recent GAO report showed that under average conditions, financial damages could reach $15 billion.

Nuclear powerplants pay an average of $5 million per plant for property insurance. They obviously have the funding to pay out tens of millions if there is an accident.

The current liability limit per accident in Price-Anderson is $700 million for commercial reactors—each reactor would contribute $5 million. For Department of Energy facilities, the liability limit is $500 million, and all of that comes from the taxpayers.

These liability limits are exceedingly low compared to what the damages would be.

No insurance company will insure against a nuclear accident—no one can even agree what the costs of such an accident would be! We need to reauthorize Price-Anderson because, like it or not, we have nuclear powerplants and if we do not reauthorize at higher liability limits, an accident would be bound by the current, ridiculously low liability limits.

If we don't pass H.R. 1414 we would be putting the citizens of this country in a grave situation because there would be no realistic compensation for a nuclear accident. In fact, I would support increasing the parameters of the liability limits by including DOE contractors and companies involved in building new commercial plants.

There is no comparison I can make to any other industry or utility because nuclear power has such a grand scale. But just for the sake of comparison, think about tap water. Like power, we take for granted that we can turn the faucet and drink safe water. Should the water company hire a contractor to fix a main, and should that contractor through negligence poison the water, one would expect the contractor to bear some liability for compensating the victims. But should the builder of a nuclear powerplant recklessly or intentionally disregard safety procedures and thus cause an accident, the builder is immune from public liability. Let me repeat: Even if the builders caused the accident through gross negligence they are not accountable. I find that appalling.

I think it should be changed. By including direct liability for plant designers and builders, we can assure the public of a higher level of corporate responsibility. Small mistakes could have tragic consequences, and we need to encourage tremendous care and responsibility in designing and building powerplants.

We need to set a level of liability that reflects what the costs of a nuclear accident would really be. I think the levels in the current Price-Anderson Act as reauthorized in 1975 are much too low, and we need to pass this bill in order to act responsibly to our constituents and the people of this country. I urge you to join me in voting for H.R. 1414.

Mr. WAXMAN. Mr. Chairman, with the enactment of the Price-Anderson Act 30 years ago, the U.S. Government established two national objectives: to encourage the commercial development of nuclear power and to provide insurance for Americans in case of a nuclear accident. This law was expected to be a temporary measure to nourish an infant industry to its feet, but it has been renewed twice since 1957 for 10-year periods and will undoubtedly be extended a third time this year.

When it debated the original Price-Anderson Act and its subsequent extensions, Congress struggled to balance the long-term energy needs of the United States with the health and well-being of all Americans. The question today is whether, after 30 years, the law has succeeded in meeting its two objectives. Clearly, the Government has fostered a strong and prosperous commercial nuclear power industry. But has it also lived up to its obligations to the American public?

As nuclear powerplants have proliferated, our exposure to potential accidents has expanded. Today, more than 100 commercial nuclear powerplants are either operating or under construciton in 34 States. Virtually every American now faces the risk of a nuclear accident. And once permanent high-level nuclear waste disposal sites are established, nuclear waste transportation will increase these risks to the population. There are currently tens of thousands of tons of high-level nuclear waste from the operating plants waiting for a permanent resting place.

While it is important for Congress to extend the Price-Anderson Act to protect the public in case of an accident, I am concerned about a number of provisions in H.R. 2994, the Price-Anderson Act amendments.

H.R. 2994 raises the limit on the nuclear power industry's liability from roughly $700 million to about $7 billion. After an accident, the bill would require each utility to pay $10 million per nuclear powerplant up to a $63 million cap. Further congressional action would be necessary to determine how the public would receive additional compensation. Under the bill, Congress could decide that the taxpayers, rather than the utilities, should compensate victims.

No one can estimate with any degree of accuracy how much a nuclear accident would cost. In a 1986 study, the General Accounting Office reported that a nuclear accident could cost $15 billion under average weather conditions and up to 10 times that amount under severe weather conditions. Under either scenario, the $7 billion cap is unreasonably low and Congress would be required to act on behalf of victims to ensure that they receive the compensation they are due.

In 1983 the NRC unanimously recommended a system of unlimited liability under which utilities would pay $10 million per plant for as long as it takes to cover all public damages. According to NRC's own studies, $10 million only amounts to about 2 percent of the annual cost of operating a new nuclear plant. The Eckart amendment embodies this recommendation, and is a fair way for utilities to cover the damages to the public.

H.R. 2994 also allows a utility to recover its legal costs before victims have been fully compensated. This provision must be deleted and I urge my colleagues to support the Sikorski amendment. Utility lawyers should not be allowed to siphon off large amounts of the pool available to victims.

H.R. 2994 continues to provide blanket indemnification to all nuclear contractors, even if an accident is caused by willful misconduct and gross negligence. Thus, those who design, build, and supply parts for nuclear powerplants are not responsible for paying public damages under any circumstances. This protection is unique to the nuclear industry and instills no confidence in its assurances of safety.

The same blanket exemption applies to contractors hired by the Department of Energy to conduct its nuclear programs. This insulation from all damages is unparalleled among Federal contractors. Furthermore, the Defense and Justice Departments are concerned that blanket indemnification reduces the incentives of Government contractors to live up to responsible safety standards.

A number of amendments will be offered to remedy these major shortcomings in H.R. 2994. I urge my colleagues to vote for these responsible changes so that the nuclear industry can be held accountable for its behavior and the public can be assured that it will be fully compensated by the utilities in case of an accident.

Mr. WEISS. Mr. Chairman, I rise in strong opposition to H.R. 1414, the Price-Anderson Amendments Act.

If there was ever a law in urgent need of reform, it is the Price-Anderson Act. The current law limits the liability of the nuclear industry in the event of an accident to only $700 million. Federal liability for Government activities is even less—only $500 million. And all nuclear contractors, including the builders and suppliers of nuclear power plants and Department of Energy contractors, are totally exempt from any liability for damages to the public, even if they cause an accident intentionally or through neglect.

This formula for no-fault liability is seriously flawed. Not only does it fail to ensure that victims of a nuclear accident will be compensated for their losses, but it also minimizes the incentive for safety among plant operators and nuclear contractors. So long as the liability of nuclear utilities is sharply limited, and so long as nuclear contractors are exempt from any liability, the safety of each and every American citizen will remain at a heightened risk.

It is for these reasons that I have repeatedly introduced legislation in recent years calling for full liability for nuclear utilities and nuclear contractors in the event of a nuclear accident. This year, I have joined as a cosponsor of H.R. 2141, a bill introduced by Mr. ECKART, which seeks to accomplish these and other Price-Anderson reforms.

Unfortunately, the floor vehicle for reauthorization of the Price-Anderson Act, H.R. 1414, did not include many of the reforms that I feel are essential to protect nuclear victims and promote safe practices by the nuclear utilities and contractors. And efforts to amend the bill to include these important reforms were not successful.

H.R. 1414 does make some improvements over the current Price-Anderson law. Most important, it raises the cap on the liability of the nuclear industry more than tenfold—from $700 million to $7.03 billion. In addition, the Government's liability for accidents caused by Department of Energy contractors would rise to the same level.

However, these changes are not sufficient to ensure public safety and full compensation of victims in the event of an accident. The General Accounting Office [GAO] estimates that a serious nuclear accident could cost our Nation $15 billion. If weather conditions are unfavorable, the cost could be 10 times that amount.

This means that damages could far exceed the liability limits established by H.R. 1414. And if they do, there can be no assurance that the victims of such an accident will be compensated. The bill makes a vague promise about future congressional action in the event of a serious accident, but there is no way to ensure that a future Congress will act to fulfill that promise.

Moreover, the bill continues the current exemption from liability for all nuclear contractors, including those working for private utilities and those working for the Department of Energy. This represents a very serious disincentive to safety that continues to threaten the American populace.

Finally, H.R. 1414 largely maintains the current system under which industry attorneys could be paid their legal fees before accident victims receive full compensation for their losses. Although the final compromise provides for a special surcharge for legal fees in the event of an accident with damages exceeding the liability limit, this will not provide sufficient funds to cover industry legal costs. Instead, a significant portion of the compensation fund will likely be depleted by the claims of industry attorneys, while victims remain uncompensated for much of their losses.

Our economic system is based upon the principle of risktaking. Under normal tort law, companies that produce products are liable for the damages that may be caused by those products. Yet in the case of nuclear energy, Congress has willingly approved a limit on the liability of the nuclear industry, even if an accident is the result of misconduct or negligence.

When Price-Anderson was first passed, this liability limit was intended to encourage a fledgling technology that appeared to hold promise for our Nation's future. But 30 years later, nuclear technology is no longer young. Following the disasters of Three Mile Island and Chernobyl, the serious consequences of nuclear fission are apparent to all. It is time that the nuclear industry took full responsibility for these consequences, instead of placing the American public in continued jeopardy.

Full liability is not only an issue of equity for nuclear victims, but it is an issue of equity for our Nation's energy producers. The Price-Anderson liability limits operate as a subsidy to the nuclear power industry, while producers of cleaner and safer energy sources enjoy no comparable advantage. Energy producers should be allowed to compete on a level playing field, and the Federal Government should cease providing special support for a technology that threatens the health and safety of our citizens.

Unfortunately, the Price-Anderson amendments pending before the House do not do enough to ensure equity for nuclear victims, taxpayers, or energy producers. They do not go far enough toward ensuring increased safety for American citizens. Absent these changes, which are contained in legislation I have previously introduced, as well as the current legislation introduced by Mr. ECKART, I must oppose the pending bill. I do so in the hope that it will not take an even more serious nuclear accident in the United States before our Nation's lawmakers recognize the urgency with which Price-Anderson must be reformed.

Mr. UDALL. Mr. Chairman, I move that the Committee do now rise.

The motion was agreed to.

Accordingly the Committee rose; and the Speaker pro tempore [Mr. SWIFT] having assumed the chair, Mr. BUSTAMANTE, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1414) to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents, had come to no resolution thereon.

THE MARK OF THE PRIVATE SECTOR PUT ON THE NAVAJO PEOPLE

(Mr. RICHARDSON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. RICHARDSON. Mr. Speaker, this weekend in Tohatchi, NM, an epochal event took place that put the mark of the private sector with the Navajo people. Through the leadership of Chairman Peter McDonald, a convening of private business and Government leaders assembled in Tohatchi to discuss ways to bring private infusion, the private sector, into the reservation. A number of constructive proposals were given, such as the creation of Indian enterprise zones, such as the creation of an Indian capital bank, such as the creation of a number of "buy Indian" act provisions in legislation affecting the Federal Government.

The most important signal, however, was one that the private sector needs to have a lot of redtape eliminated from the reservation.

On the other hand, the Indian people want jobs and their self-determination and their jurisdictions maintained. If a proper balance can be developed, we have a new initiative that will bring hopefully jobs and economic development to areas of our country that are hit hardest by unemployment and many other problems afflicting our society.

The spirit of Tohatchi hopefully will translate into legislation that many of us from the Indian communities will bring to the floor of this body.

TEMPORARY PUBLIC DEBT LIMIT EXTENSION

Mr. BEILENSON. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 233 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. Res. 233

Resolved, That upon the adoption of this resolution it shall be in order to consider the bill (H.R. 3022) to provide for a temporary extension of the public debt limit, in the House, and all points of order against the bill and against its consideration are hereby waived. Debate on the bill shall continue not to exceed one hour, to be equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means, and the previous question shall be considered as ordered on the bill to final passage without intervening motion except one motion to recommit, which may not include instructions.

The SPEAKER pro tempore. The gentleman from South Carolina [Mr. Derrick] is recognized for 1 hour.

Mr. DERRICK. Mr. Speaker, for the purposes of debate only, I yield the customary 30 minutes to the gentleman from Mississippi [Mr. Lott] and, pending that, I yield myself such time as I may consume.

Mr. Speaker, this rule provides for the consideration of H.R. 3022, a bill to extend through August 6, 1987, the temporary increase in the public debt limit. The bill will be considered in the House, with 1 hour of debate equally divided and controlled by the chairman and ranking minority member of the Committee on Ways and Means. All points of order against the bill and its consideration are waived. Because the bill will be considered in the House, no amendments are in order unless offered by the manager of the bill or a Member specifically yielded to for that purpose. The rule provides that the previous question shall be considered as having been ordered. Finally, the rule provides for one motion to recommit, which may not contain instructions.

Mr. Speaker, this is a straightforward rule which provides for expeditious consideration of this crucial legislation. As I am sure you all know, unless this measure is enacted we are facing the first default on its obligations by the Federal Government in the history of the United States. This default may occur on Thursday when $13.7 billion in Treasury bills mature. However, even if the Treasury finds it has enough to redeem these bills on Thursday, it clearly will not be able to redeem $10.2 billion in Treasury notes tht mature on Friday. In addition, the Government would not be able to pay benefits to veterans, supplemental security income recipients, and Social Security beneficiaries which are due on Friday and Monday. I hope that no one here underestimates the damage that would be done to the prestige of our Government and to the financial markets of the United States if we fail to pass this legislation to allow the Government to meet its legal obligations.

We are facing this situation because the Senate is deadlocked in its consideration of House Joint Resolution 324, which would increase the permanent debt limit to $2.5651 trillion. That joint resolution was passed by the House, pursuant to House rule XLIX, on June 23 when the House adopted House Concurrent Resolution 93, the budget resolution for fiscal year 1988. On July 17, the temporary increase in the debt limit to $2.320 trillion which had been enacted in May expired and the debt limit reverted to the permanent level of $2.111 trillion. Since that date the Treasury has been unable to borrow additional funds and has been drawing down its cash balance in order to meet obligations. Since that cash balance will be depleted no later than Friday and since it is clear that we cannot expect quick action by the Senate on House Joint Resolution 324, we must pass this legislation.

This bill merely extends the temporary debt limit that was in effect prior to July 17 to August 6. It does not increase the limit or involve additional borrowing authority. It simply provides additional time for Congress to try to resolve the budget process issues that are holding up action on the permanent debt limit bill. It does not change the necessity to take further action on a debt limit increase prior to the August recess.

Mr. Speaker, I urge all Members to vote for this rule and for the debt limit increase.

□ 1205

Mr. QUILLEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this Nation certainly faces a crisis which could be harmful to many of our citizens. Historically over the years I have always opposed the increase of our debt limit. I still feel that it is bad procedure to come to the floor of the House on a short-term basis postponing the inevitable crisis just a few days, but that is what we face today in this rule before us.

Mr. Speaker, I yield 8 minutes to the gentleman from Illinois [Mr. Michel].

Mr. MICHEL. Mr. Speaker, every once and awhile, you have to step back from an issue and make sure you fully understand what you're arguing about.

This is one of those issues. Debt-ceiling extensions are a technical procedure which should occur automatically. Yet here we are in the Congress, steaming toward a political and fiscal hurricane over extending the debt ceiling.

Now, to make matters worse, I am in the position of having to stand up here and protest with as much indignation as I can muster a resolution providing for a rule on a temporary debt-ceiling extension that offers a recommittal motion, but no provision for instructions on the recommittal.

How does one explain that to a less than curious constituency back home.

What is this business of debt ceilings, rules, recommittals and instructions?

This debate really isn't about those component parts of the legislative process. They are not important to the people we serve.

This debate is about our inability to achieve bipartisan consensus on legislative goals with which practically all Americans and most Members of this House agree.

Those goals are:

First, deficit reduction;

Second, continued economic growth; and

Third, responsible congressional action on fiscal policy, and that doesn't mean heavy tax increases or gutting defense.

Our inability to achieve those goals is creating a crisis of confidence in financial markets around the world and a lesser crisis of confidence among Americans who have lost faith in their legislative branch of Government.

We are here bickering over a rule because we have reached new lows in partisanship.

Sometimes I think the Democratic leadership in this House has an addiction to partisanship.

This rule is a perfect example. Just like many rules we've seen, it was specifically designed and carefully tailored to produce a partisan vote and make cooperation among us impossible.

Seldom do we have a rule which provides for a vote to recommit without instructions and frankly, the few times we do have them, it is because there has been some agreement reached before hand.

This rule makes in order a bill to extend our national borrowing authority for a week.

We were here 2 months ago promising each other that we would address the debt-ceiling in earnest before time ran out. I voted 2 months ago for the debt-ceiling extension ever the optimist still believing we could reach a bipartisan compromise on budget process reforms. Unfortunately, bi-partisan compromise is the Edsall of modern day legislating.

There has been no compromise. There have been no talks of compromise. There have been no talks.

I approached the majority leader, the chairman of Ways and Means Committee and the Speaker. I introduced a bill. Nothing happened, I asked for hearings. The majority didn't want any. Once every 13 years does not seem inappropriate for budget reform hearings.

You consider your budget in the same way. You prefer that no one sees it or understands it before you vote on it. No talks. No discussion.

Before I sought bipartisan agreement. I had taken the trouble to reach consensus on our side with our appropriators with our deficit bone crunchers and our moderates. I ruffled feathers, but I came up with a package of budget reforms all of us could accept in a debt-ceiling extension. I was prepared to deliver some votes. Then I compromised again. I threw out 99 percent of the package to try to bring someone in the Democrat leadership, to the table. There are some on my side who say I'll compromise with anyone.

What I held onto was the critical provision dealing with appropriations. If there is one practice we have to cease around here it is lumping every single piece of legislation ever introduced into one humongous continuing resolution at the end of the fiscal year and passing it. It's legislation by bulk. In fact, it is not even legislating. It is escaping from responsibility and reason. It is embarrassing and demeaning to all of us.

There is no compromising that issue any further. We cannot simply abrogate one of our principle constitutional responsibilities—the power of the purse any more than we can operate under the heady assumption that we are the only branch of Government.

We must break up those huge appropriations and allow the President to work his will on them individually vetoing some and signing others. We deliberately subvert his constitutional prerogative with omnibus, last-minute, quick, the-Government-is-out-of-money appropriations.

Why can't the Democrat leadership agree to individual appropriation bills and give up this partisan game of sticking-it-to-the-President for political fun and profit.

I feel like I've walked the extra mile and the Democratic leadership are still in their bedroom slippers.

I am only asking that we do what we are supposed to do in the first place. I'm only asking that we send the President one appropriation bill at a time. What in the name of JAMIE WHITTEN is so drastic about that?

But here we all are, sitting on our hands, facing an international fiscal crisis refusing to talk to one another. Sometimes I don't know whether I'm in the House Chamber or the new day care center.

We have dillied, and dallied and dawdled and doodled long enough.

I am opposed to this rule and I am opposed to this whole sorry way of doing the people's business. There are solutions available to us, reasonable solutions, honest solutions. The only problem is the good ones have no political capital in them.

Why don't we at least try to find a solution.

If we can agree to that, maybe I'll compromise one more time.

From my remarks you should gather that I intend to vote against this rule. It's your rule. Pass it with your 70-vote margin.

If the rule is adopted as I expect it to be I will vote for the resolution extending the time to get off the dime hopefully before August 6.

Mr. QUILLEN. Mr. Speaker, I yield 7 minutes to the gentleman from Mississippi, [Mr. LOTT].

Mr. LOTT. Mr. Speaker, I thank the distinguished leader from Tennessee for yielding me this time.

I would like to speak on the rule itself and also on the debt ceiling vote we are going to have a little bit later.

I am opposed to the rule, as is our Republican leader, the gentleman from Illinois [Mr. MICHEL]. I am opposed for two very good reasons. First of all, we made an offer, we made an effort in the Rules Committee to have our Republican substitute made in order to be considered on the floor, to have some genuine budget reform and Gramm-Rudman fix to be offered, to be debated, and to be considered. We should have something occur this week on the debt ceiling and on budget reform.

That was rejected on a straight party line vote, although a voice vote, in the Rules Committee. We will not even have an opportunity to offer an alternative. We will have no opportunity today or this week to have serious consideration of real budget reform and a fix to Gramm-Rudman.

Also, the Rules Committee went beyond that and said that there is no motion to recommit with instructions, and there is no motion to recommit with any kind of instructions.

There was an effort last week to have something like that done so now the Rules Committee wants to make sure that nothing else is considered, no other opportunity is available except to have the one vote on the 7-day extension.

So that is what we have. That is unfair, and it is not contributing to solving the problem. I am opposed to the rule.

Mr. Speaker, let me speak to what the rule is going to bring before us. It will be a 7-day extension.

What has been going on for 60 days? I voted for the 60-day extension. I spoke for it in our conference and I went along with it on the floor of the House because I said we need this additional time to see if we can develop a package that we can agree upon, both Republicans and Democrats, House and Senate. Let us see if we can agree on some budget reform. I have a long list of things I would really prefer, but I was willing to give and take with Democrats and even with people from the other body in order to get some agreement. We needed that time to get budget reform, to fix the front end of the process before we will ever be able to deal with the end problem that we have to deal with, and also to see if we could get a proper fix to the Gramm-Rudman trigger and sequestration.

Over this past 60 days almost nothing has happened as far as getting together. Republicans met in a task force, worked, developed a package of reforms and a fix on how the sequestration would work. We went to the Democrats informally, and were told, well, we are interested but we have to wait and see if the leadership would like for us to do that.

□ 1220

Then we went to the Democratic leadership and said, "Let's sit down at a round table, a square table, any kind of a table, let's talk and see if we can work out something."

No deal.

"We want the President in on this deal and we want him up front agreeing he is going to raise taxes." That is not going to happen. Until the President at least sees that the Congress, House and Senate, Republicans and Democrats, are willing to sit down and work out some agreements that we are serious about it and do not say in advance "You got to agree to raise taxes on the American people." It is not going to happen. The idea was, "Look, we will just wait this thing out, we will let the 60 days go to pot. Maybe the Senate will act and maybe, maybe we will get to a conference. But probably not."

I will tell you what is going to happen, we are not going to do anything this week, we are not going to do anything next week. You guys are going to be back here next week asking for another 60 days so that we can put this over until the end of September and you are going to try to put it all in the great big bloated omnibus money bill, the bomb that we are going to have in October that is going to be the big CR spending bill. We are probably going to have the debt ceiling struck in there, we ought to go ahead and put FSLIC in there, housing in there, farms—hey, we do not need but one bill the way we are doing business around here.

That is a formula for disaster and we are walking right into it. I am not buying another 7 days without doing something.

We could do it today. We could do it this afternoon. I could meet with the two gentlemen sitting on this side of the aisle right now, with a couple from our side, you know, and we can work out an agreement. There is no doubt.

But gentlemen, before you can run you have got to take one step. We have not taken one step to deal with this problem in 60 days, and 7 more will not make any difference.

Now let me make it quite clear at this point that most of my colleagues on this side, and many on the other side of the aisle, do not think it is enough to restore automatic sequestration under Gramm-Rudman, as important as that might be. It makes no sense to fix the tail end of the budget process if the front end is still broken. That approach is budget deform because it makes sequestration a self-fulfilling prophecy. If we don't improve the way we go about our spending and deficit reduction decisions through the normal budget and appropriations processes, we'll end up with the abnormal and mindless sequestration process that was intended to force us to make more rational deficit reduction decisions.

What needs fixing at the front end of the budget process? First, we need to enforce the spending ceilings and subceilings established pursuant to the budget resolution. Right now we do not have a point of order against outlay violations that drive the deficits. Second, we need to prohibit extraneous matters, including spending addons, in reconciliation. Third, we need to clean up this mess we call continuing resolutions or CR's.

Ideally, we should ban these continuing resolutions altogether. But, since that is not likely, we should require by set formula that short-term CR's of 30 days or less be at the lower of this year's or last year's levels. And next, we should require that any long-term CR's, the bloated, omnibus money bills, or bombs, be defused by subjecting them to the same rules as regular appropriations bills, and by permitting the President to have special rescission authority over them, subject to congressional disapproval by joint resolution.

We have other reforms in our package, including making the budget resolution a joint resolution and thus involving the President more from the outset; and ensuring that the defense and nondefense allocations are not dipped into by the other.

The point I want to make here though is there is much that is broken and needs repair. We need to deal with those right now up front and not wait until the end in some late night session, maybe next Thursday or maybe come September when we really do not do the things we need to do. For all these reasons, Mr. Speaker, I urge we defeat this rule.

Let us get serious about budget reform now. Let us act as a house united and not leave this decision to some future conference that we do not know where it will be meeting or when it will occur, and the country hangs in the balance, by a thread.

That could be devastated by a deficit that we refuse to deal with in the Congress.

Finally, Mr. Speaker, let me again raise my voice in opposition to this restrictive, indeed, tightly closed rule. By my count, 45 percent of the rules we have had in this Congress have been restrictive, compared with only 12 percent of the rules just 10 years ago in the 95th Congress. Not only does this rule bar amendments by requiring consideration in the House instead of the Committee of the Whole, but it even bars all instructions, whether of a general nature or in the form of an amendment. Once again this is a slap at the minority which has traditionally enjoyed the prerogative of offering a motion to recommit of its choosing, with or without instructions. Frankly, I don't know what the majority is afraid of since about the only amendment that might be germane to this bill is a different date for the expiration of the debt limit. I can't imagine why that should cause extreme palpitations on the other side of the aisle. At this point I insert two tables on restrictive rules:

OPEN AND RESTRICTIVE RULES, 95TH–100TH CONGRESS [1]

Congress	Open rules		Restrictive rules		Total rules
	Number	Percent	Number	Percent	
95th	213	88	28	12	241
96th	161	81	37	19	198
97th	90	80	22	20	112
98th	105	72	40	28	145
99th	65	64	36	36	101
100th[2]	21	55	17	45	38

[1] Source for data: Survey of activities of the House Committee on Rules (reports by the Committee on Rules), 95th–99th Congress. Rules counted were those providing for the initial consideration of legislation (as opposed to special rules on conference reports, etc.) For the purposes of this table, restrictive rules are those which limit the number of amendments which can be offered, and include so-called modified open and modified closed rules as well as completely closed rules.

[2] Data for the 100th Congress is based on "Notice(s) of Action Taken," Committee on Rules, 100th Congress, as of July 29, 1987.

Note.—Prepared by Don Wolfensberger, Minority Counsel, Subcommittee on Legislative Process, Committee on Rules.

RULES REPORTED IN THE 100TH CONGRESS (PROVIDING FOR THE INITIAL CONSIDERATION OF LEGISLATION IN HOUSE)

Rule Number H. Res.	Date granted	Rule type [1]	Bill number and title
26	Jan. 7, 1987	C	Establishing three select committees.
27	do	C	H.R. 1: Water Quality Act.
38	Jan. 8, 1987	C	H.R. 2: Surface Transportation.
109	Mar. 4, 1987	O	H.R. 558: Homeless Relief Act.
116	Mar. 10, 1987	C	H.J. Res. 175: Contra Aid Moratorium.
135	Mar. 31, 1987	MC	H.R. 1320: Land & Water Conservation Fund Act Amendments.
139	Apr. 7, 1987	MC	H. Res. 139: Budget Resolution.
148	Apr. 22, 1987	MO	H.R. 1827: Supplemental Appropriation.
151	Apr. 27, 1987	MC	H.R. 3: Omnibus Trade Bill.
152	Apr. 28, 1987	MO	H.R. 1748: DoD Authorization.
156	Apr. 5, 1987		
160	May 6, 1987		
154	May 4, 1987	MO	H.R. 27: FSLIC.
155	May 5, 1987	O	H.R. 1039: Mineral Lands Leasing Act.
165	May 12, 1987	MC	H.R. 2360: Public Debt Limit.
172	May 19, 1987	O	H.R. 5: School Improvement Act.
171	do	O	H.R. 1451: Older Americans Act.
178	May 28, 1987	O	H.R. 953: Maritime Authorization.
179	do	O	H.R. 1934: Fairness Doctrine.
182	June 2, 1987	O	H.R. 2355: EPA Authorization.
183	do	O	H.R. 2330: NSF Authorization.
184	do	O	H.R. 2160: Bureau of Standards.
186	June 4, 1987	O	H.R. 157: Constitution Day.
187	do	O	H.R. 2112: Intelligence Authorization.
190	June 9, 1987	MO	H.R. 1777: State Dept. Authorization.
191	do	O	H.R. 4: Omnibus Housing Act.
196	June 16, 1987	MO	H.R. 281: Double-Breasting.
197	June 17, 1987	C	Special Budget Procedures.
206	June 22, 1987	O	H.R. 2712: Interior Appropriations.
207	June 23, 1987	O	H.R. 2700: Energy-Water Appropriations.
215	June 29, 1987	O	H.R. 2763: Commerce-Justice State Appropriations.
219	July 1, 1987	MO	H.R. 2342: Coast Guard Authorization.
220	July 8, 1987	O	H.R. 2782: NASA Authorization.
221	July 9, 1987	O	H.R. 2890: DOT Appropriations.
222	July 13, 1987	O	H.R. 2906: MilCon Appropriations.
223	do	O	H.R. 2907: Treasury-Postal Appropriations.
227	July 21, 1987	MC	H.R. 2470: Catastrophic Health.
230	July 23, 1987	O	H.R. 618: Nicaragua-Salvadoran Deportation Stay.
233	July 28, 1987	C	H.R. 3022: Debt Limit Extension.
234	do	O	H.R. 1414: Price-Anderson Act.

[1] Restrictive rules are those which provide for less than a completely open amendment process (O): Closed (C); Modified Closed (MC); or Modified Open (MO). As of July 29, 1987, 38 rules were reported of which 21 (55%) were open, and 17 (45%) were restrictive.

Mr. QUILLEN. Mr. Speaker, I yield 3 minutes to the gentleman from New Hampshire [Mr. GREGG].

Mr. GREGG. Mr. Speaker, I want to follow up on the comments made by the Republican leader and the Republican whip, because from my perspective as a member of the rank and file in this House, what this rule represents and what the actions that have occurred over the last 60 days represent is basically the collapse of the capacity of not only the rank-and-file Members of this House, but also the more senior Members of this House other than a select few to participate in the process of trying to bring some direction to our fiscal house as a government.

The concentration of power which we are now seeing as a result of this bomb, as its acronym has come to be named, which is going to arrive at the end of September, which will have in it the continuing resolution with all the Federal spending, which will probably have in it the authorization and creation of new programs such as the welfare bill, such as possibly the catastrophic bill, which will probably have in it a tax bill, which will probably have in it the debt ceiling, all of this being staged basically by the leadership of this House in order to create a single up-and-down vote on not only the Government of this country for this year but the Government of this country possibly for the next decade as we will probably have major new entitlement programs in that bill and major tax incentives.

That represents a concentration of power in a few hands which this House has never seen. Even in the time of Joseph Cannon there was not that type of power concentrated in so few people.

The simple fact is that never in the history of this House have we seen a situation where the entire Government will be dominated and designed by one vote, one single vote, and the essence of that vote and what is in that piece of legislation will be designed by one or two people, maybe three.

This means that we have essentially made superfluous not only the Republican membership of this House but the Democratic membership of this House with the exception of a few. We have created a situation where the Presidency is confronted with an up-or-down question on the entire Government of the country for not only a year but for years in the future. And you get the sense that we have as a matter of right, basically, lost the participation in the process of those people who are elected to be part of the process.

Now I can understand it as a member of the minority being written out.

The SPEAKER pro tempore. The time of the gentleman from New Hampshire [Mr. GREGG] has expired.

Mr. DERRICK. Mr. Speaker, I will be glad to give additional time to the other side, I will be glad to give an additional minute to the gentleman if the other side needs time. I was enjoying the gentleman's remarks.

Mr. Speaker, I yield 1 additional minute to the gentleman from New Hampshire.

Mr. GREGG. I appreciate that.

Mr. Chairman, I can understand that the majority will once again want to use their power to undercut and essentially destroy the participatory process for those of us who are in the minority, but I cannot understand why they are doing this to their own party members and why they are doing this to the people those party members represent, for by casting one up or down vote on the entire Government of the United States and creating a situation which is so devoid of participation, they have essentially written out the authorizing committees, written out many or a few of other committees that might be involved, and have taken it upon themselves as leaders of this House to place in their hands the total power of the Government of the United States in a manner which makes it completely impossible for anybody else to be a player, potentially even the Presidency of the United States.

This is wrong. It is inappropriate, but it is an evolution that has occurred and I totally regret it.

Mr. DERRICK. Mr. Speaker, I yield myself such time as I may consume.

I would just like to say on behalf of the Rules Committee that the Rules Committee holds the gentleman from New Hampshire in very high esteem.

Having said that, Mr. Speaker, I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. SWIFT). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. QUILLEN. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently, a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 243, nays 169, not voting 21, as follows:

[Roll No. 287]

YEAS—243

Ackerman
Akaka
Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Atkins
AuCoin
Bates
Beilenson
Bennett
Bereuter
Berman
Bevill
Biaggi
Bilbray
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Carr
Chandler
Chapman
Chappell
Clarke
Clay
Coelho
Coleman (TX)
Collins
Conyers
Cooper
Coyne
Crockett
Daniel
Darden
de la Garza
DeFazio
Dellums
Derrick
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Duncan
Durbin
Dwyer
Dyson
Early
Eckart
Edwards (CA)
English
Espy
Evans
Fascell
Fazio
Feighan
Flake
Flippo
Florio
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Gradison
Grant
Gray (IL)
Gray (PA)
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hatcher
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Howard
Hoyer
Huckaby
Hughes
Jenkins
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
Mazzoli
McCloskey
McCurdy
McHugh
McMillen (MD)
Mfume
Mica
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Morella
Morrison (CT)
Mrazek
Murphy
Murtha
Nagle
Natcher
Neal
Nelson
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Rahall
Ray
Richardson
Rodino
Roe
Rose
Rostenkowski
Rowland (GA)
Roybal
Russo
Sabo
Savage
Sawyer
Scheuer
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (NJ)
Solarz
Spratt
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vento
Visclosky
Volkmer
Walgren
Watkins
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolpe
Wyden
Wylie
Yates
Yatron

NAYS—169

Archer
Armey
Badham
Baker
Bartlett
Barton
Bateman
Bentley
Bilirakis
Bliley
Boehlert
Boulter
Brown (CO)
Buechner
Bunning
Burton
Callahan
Cheney
Clinger
Coats
Coble
Coleman (MO)
Combest
Conte
Coughlin
Courter
Craig
Crane
Dannemeyer
Daub
Davis (MI)
DeLay
DeWine
Dickinson
DioGuardi
Dornan (CA)
Dreier
Edwards (OK)
Emerson
Erdreich
Fawell
Fields
Fish
Frenzel
Gallegly
Gallo
Gekas
Gilman
Gingrich
Goodling
Grandy
Green
Gregg
Gunderson
Hammerschmidt
Hansen
Harris
Hastert
Hefley
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Hunter
Hutto
Hyde
Inhofe
Jacobs
Jeffords
Kasich
Kemp
Kolbe
Konnyu
Kyl
Lagomarsino
Leach (IA)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
McCandless
McCollum
McDade
McEwen
McGrath
McMillan (NC)
Meyers
Michel
Miller (OH)
Molinari
Moorhead
Morrison (WA)
Myers
Nielson
Oxley
Packard
Parris
Pashayan
Petri
Porter
Pursell
Quillen
Ravenel
Regula
Rhodes
Ridge
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roukema
Rowland (CT)
Saiki
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (TX)
Smith, Denny (OR)

Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solomon
Spence
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tauke
Tauzin
Taylor
Thomas (CA)
Upton
Vander Jagt
Vucanovich
Walker
Weber
Weldon
Whittaker
Wolf
Wortley
Young (AK)
Young (FL)

NOT VOTING—21

Aspin
Ballenger
Barnard
Boner (TN)
Campbell
Davis (IL)
Dymally
Gephardt
Hawkins
Hubbard
Ireland
Johnson (CT)
Latta
Miller (WA)
Moody
Nichols
Nowak
Rangel
Roemer
Roth
Schroeder

The Clerk announced the following pairs:

On this vote:

Mr. Rangel for, with Mr. Ballenger against.

Mr. Dymally for, with Mr. Roth against.

Mr. FRENZEL and Mr. LUJAN changed their votes from "yea" to "nay."

Mrs. KENNELLY and Mr. DUNCAN changed their votes from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ROTH. Mr. Speaker, on the vote on the rule on H.R. 3022, the debt limit extension, I was unavoidably detained.

Had I been present, I would have voted "no."

Mr. ROSTENKOWSKI. Mr. Speaker, pursuant to House Resolution 233, I call up the bill (H.R. 3022) to provide for a temporary extension of the public debt limit, and ask for its immediate consideration.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 233, the gentleman from Illinois [Mr. Rostenkowski] will be recognized for 30 minutes and the gentleman from Tennessee [Mr. Duncan] will be recognized for 30 minutes.

The Chair recognizes the gentleman from Illinois [Mr. Rostenkowski].

Mr. ROSTENKOWSKI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, on Thursday, July 30, this country will no longer be able to meet its financial obligations—we will default for the first time in our Nation's history. Failure to enact this bill prior to July 30 will produce cataclysmic results. Foreign and other investors will be reluctant to buy U.S. securities. Consequently, borrowing costs to the U.S. Treasury will increase significantly. Because U.S. obligations form the centerpiece of the international financial system, default on those obligations, even for a short period of time, would threaten international financial security.

This bill, H.R. 3022, extends the public debt limit of $2,320 billion through August 6. I wish to emphasize that this bill only extends the date and does not involve any additional borrowing authority.

As you know, the House sent to the Senate, House Joint Resolution 324 when the conference report on the budget resolution was adopted. That resolution increased the debt limit to $2,565 billion. The Senate Finance Committee has reported the resolution on the floor, and Senators Chiles and Domenici are working on an amendment to it which would reinstate the automatic sequestration procedure in the Gramm-Rudman law. The House will need time to negotiate this matter in conference once the resolution is passed by the Senate. For those concerned about completing action on these Gramm-Rudman amendments, it is necessary to take further action on the debt bill before Congress adjourns for the August recess.

On July 8, Secretary of the Treasury James Baker wrote to the Committee on Ways and Means. In his words, and I quote:

> I cannot overemphasize the damage that would be done to the United States' credit standing in the world if the Government were to default on its obligations, nor the unprecedented and catastrophic repercussions that would ensue. Market chaos, financial institution failures, higher interest rates, flight from the dollar and loss of confidence in the certainty of all United States Government obligations would produce a global economic and financial calamity. Future generations of Americans would have to pay dearly for this grave breach of a 200-year-old trust.

In addition, I have just received a letter from Secretary Baker today which states in part; and I quote:

> I want to express my support for this bill. . . . enactment of new debt authority is necessary as soon as possible in order to avoid default on July 30, or 31, 1987. Default would produce global economic and financial crisis of major proportions.

I further quote from the letter.

> On July 31. . . . the United States would not be able to honor $2.1 billion of benefit payments to Veterans and Supplemental Security Income beneficiaries. Further, on August 3, $17.1 billion of Social Security benefit payments could not be honored, nor could $4.2 billion of benefit payments to railroad, military and civil service retirees. This event would cause severe economic hardship and uncertainty for hundreds of thousands of individuals and families.

Mr. Speaker, I urge the adoption of this legislation, and I reserve the balance of my time.

The SPEAKER pro tempore. The gentleman from Illinois [Mr. Rostenkowski] has consumed 4 minutes.

The Chair recognizes the gentleman from Tennessee [Mr. Duncan].

Mr. DUNCAN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3022, which would extend the temporary ceiling on the public debt until midnight August 6. But I do so without any enthusiasm.

Barring further action, the Treasury will run out of cash at the end of this week, as they have been forced to operate under the permanent ceiling of $2.1 trillion. The temporary ceiling of $2.3 trillion expired July 17.

The net effect of inaction would, we are told by the Secretary of the Treasury, be disastrous. On the domestic front, Social Security checks would not be honored when presented for payment on August 3. On the international front, the United States would default on its global obligations for the first time in its history, severely damaging our credibility as a nation and costing our citizens untold sums through higher interest rates and other penalties.

Obviously, we cannot and will not let this happen. But we continue to play a risky game of financial chicken with ourselves, the other body and the administration.

That is why I support this bill with no enthusiasm. Realizing the inevitable, we should go ahead and pass a debt limit extension of at least a year so that our Nation's business can be conducted in a rational manner without unnecessary confusion, anxiety and expense to U.S. taxpayers.

It is my understanding that the bill before us is designed to keep the Treasury going until we break for the August district work period. It was theorized, when H.R. 3022 was drafted, that the Senate would agree with this very short-lived bill, and also agree to go to conference with us on a longer term extension which we passed earlier. The conference, it was thought, would produce a solution not only to the debt problem but to certain hostage issues, notably a Gramm-Rudman-Hollings fix.

Now, that scenario seems less likely. The other body may not agree to anything for awhile. Even so, given the course, or lack of it, laid out for us by the leadership of both Houses, we clearly have no alternative but to pass H.R. 3022 and hope for the best outcome.

□ 1300

Mr. ROSTENKOWSKI. Mr. Speaker, I reserve the balance of my time.

Mr. DUNCAN. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Illinois [Mr. Crane], a member of the committee.

Mr. CRANE. Mr. Speaker, I thank my distinguished minority leader for the recognition.

Mr. Chairman, I agree and concur wholeheartedly with the statements made about the essentiality of raising the debt ceiling; however, I think that has to be put into an appropriate context and putting it into an appropriate context suggests that we attempt as best we can to identify those Members of this body who voted to spend the money in the first place and they are the ones that first and foremost have the obligation to do the responsible thing now and raise the debt ceiling.

In that connection, there is a rating that most Members of this body are familiar with, but perhaps not enough of the general public for it to have exerted significant pressure here yet, and it is a rating put out by a group called the National Taxpayers Union. They are located here in Washington, DC., at 325 Pennsylvania Avenue, SE.

I would hope that through dissemination of this kind of report that we might see a salutary effect on the whole question of budget deficits. The last report completed was for the 2d session of the 99th Congress, namely, 1986. If you look at the National Taxpayers Union rating for this last session, and admittedly some of those Members are not here in the 100th Congress, but if you start with the most fiscally irresponsible voting record in the entire House of Representatives at the very bottom and you work up to 218, you have reached the majority of the Members of this Chamber and obviously enough to resolve the question of guaranteeing that the debt limit will be increased and extended for a period of time.

When you examine from the last session of the last Congress who the 218 are, interestingly enough you find there are significant party differences that prevail in this body. Of the 218 biggest spenders in the House of Representatives, there are only 13 Republicans in that 218 group.

If you look, for example, at the averages, and the higher the average score the more fiscally responsible the Member, and bear in mind they take every spending bill, every bill affecting spending in any way, and you look at the Democratic average for this body, it is 29. By contrast, if you look at the Republican average, it is 52 percent.

Perhaps more significant is when you evaluate those percentage figures in percentile terms, the Democratic average of 29 percent for all Democrats in the House here means that they vote tomorrow prudently than 38 percent of the Members of this Chamber.

If you look at the Republican average, the score of 52 puts Republicans in the 77 percentile. That means they vote more prudently than 77 percent of the Members of this Chamber.

As a result, Mr. Speaker, I would urge that those Members who have maintained that kind of voting record and with consistency over a period of years, now do the responsible thing and face up to their irresponsible spending habits and to raise that debt ceiling and guarantee that we do not create fiscal chaos and chaos in the financial markets.

As I say, Mr. Speaker, these publications have come out for years and there are only scant variations from year to year in terms of identifying the spending proclivities of the respective sides of the aisle.

I am very proud to say, Mr. Speaker, that the Republicans continue to promote fiscal responsibility.

GENERAL LEAVE

Mr. ROSTENKOWSKI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks on H.R. 3022, the bill now under consideration.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. DUNCAN. Mr. Speaker, I yield back the balance of my time.

The text of the bill is as follows:

H.R. 3022

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (a) of the first section of the Act of May 15, 1987, entitled "An Act to provide for a temporary increase in the public debt limit" (Public Law 100-40) is amended by striking out "July 17, 1987" and inserting in lieu thereof "August 6, 1987".

(b) The amendment made by subsection (a) shall take effect on the date of the enactment of this Act.

The **SPEAKER** pro tempore. Under the rule, the previous question is ordered.

The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The **SPEAKER** pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. CRANE. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The **SPEAKER** pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 263, nays 155, not voting 15, as follows:

[Roll No. 288]

YEAS—263

Ackerman
Akaka
Alexander
Andrews
Annunzio
Anthony
Atkins
AuCoin
Bateman
Beilenson
Bennett
Bereuter
Berman
Bevill
Biaggi
Bilbray
Boehlert
Boggs
Boland
Bonior (MI)
Bonker
Borski
Bosco
Boxer
Brennan
Brooks
Broomfield
Brown (CA)
Bruce
Bryant
Bustamante
Byron
Cardin
Carper
Chandler
Chapman
Chappell
Cheney
Clarke
Clay
Clinger
Coble
Coelho
Coleman (TX)
Collins
Conte
Conyers
Coyne
Crockett
Darden
de la Garza
DeFazio
Dellums
Derrick
Dickinson
Dicks
Dingell
Dixon
Donnelly
Dorgan (ND)
Dowdy
Downey
Duncan
Durbin
Dwyer
Dyson
Eckart
Edwards (CA)
English
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Frank
Frost
Garcia
Gaydos
Gejdenson
Gibbons
Glickman
Gonzalez
Gordon
Gradison
Grandy
Grant
Gray (IL)
Gray (PA)
Green
Guarini
Hall (OH)
Hall (TX)
Hamilton
Hatcher
Hawkins
Hayes (IL)
Hayes (LA)
Hefner
Hertel
Hochbrueckner
Horton
Houghton
Howard
Hoyer
Huckaby
Hughes
Hyde
Jacobs
Jeffords
Jenkins
Johnson (CT)
Johnson (SD)
Jones (NC)
Jones (TN)
Jontz
Kanjorski
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kolter
Kostmayer
LaFalce
Lancaster
Lantos
Leath (TX)
Lehman (CA)
Lehman (FL)
Leland
Lent
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Livingston
Lloyd
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martin (NY)
Martinez
Matsui
Mazzoli
McCloskey
McCurdy
McDade
McGrath
McHugh
McMillen (MD)
Mfume
Mica
Michel
Miller (CA)
Mineta
Moakley
Mollohan
Montgomery
Morella
Morrison (CT)
Morrison (WA)
Mrazek
Murphy
Murtha
Nagle
Natcher
Oakar
Oberstar
Obey
Olin
Ortiz
Owens (NY)
Owens (UT)
Panetta
Parris
Patterson
Pease
Pelosi
Penny
Pepper
Perkins
Pickett
Pickle
Price (IL)
Price (NC)
Quillen
Rahall
Rhodes
Richardson
Ridge
Rodino
Roe
Rose
Rostenkowski
Roukema
Rowland (GA)
Roybal
Russo
Sabo
Saiki
Savage
Sawyer
Scheuer
Schumer
Sharp
Sikorski
Sisisky
Skaggs
Skelton
Slattery
Slaughter (NY)
Smith (FL)
Smith (NE)
Smith (NJ)
Snowe
Solarz
St Germain
Staggers
Stallings
Stark
Stokes
Stratton
Studds
Swift
Synar
Tallon
Thomas (GA)
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Valentine
Vander Jagt
Vento
Visclosky
Volkmer
Walgren
Waxman
Weiss
Wheat
Whitten
Williams
Wilson
Wise
Wolf
Wolpe
Wortley
Wyden
Wylie
Yates
Yatron

NAYS—155

Anderson
Applegate
Archer
Armey
Badham
Baker
Ballenger
Bartlett
Barton
Bates
Bentley
Bilirakis
Bliley
Boucher
Boulter
Brown (CO)
Buechner
Bunning
Burton
Callahan
Campbell
Carr
Coats
Coleman (MO)
Combest
Cooper
Coughlin
Courter
Craig
Crane
Daniel
Dannemeyer
Daub
Davis (IL)
Davis (MI)
DeLay
DeWine
DioGuardi
Dornan (CA)
Dreier
Early
Edwards (OK)
Emerson
Erdreich
Fawell
Fields
Florio
Frenzel

Gallegly
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Gunderson
Hammerschmidt
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Inhofe
Ireland
Kasich
Kemp
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Lagomarsino
Leach (IA)
Lewis (CA)
Lewis (FL)
Lightfoot
Lott
Lowery (CA)
Lujan
Lukens, Donald
Lungren
Mack
Madigan
Marlenee
Martin (IL)
McCandless
McCollum
McEwen
McMillan (NC)
Meyers
Miller (OH)
Miller (WA)
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Nelson
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Oxley
Packard
Pashayan
Petri
Porter
Pursell
Ravenel
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Regula
Rinaldo
Ritter
Roberts
Robinson
Rogers
Roth
Rowland (CT)
Saxton
Schaefer
Schneider
Schuette
Schulze
Sensenbrenner
Shaw
Shumway
Shuster
Skeen
Slaughter (VA)
Smith (IA)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Solomon
Spence
Stangeland
Stenholm
Stump
Sundquist
Sweeney
Swindall
Tauke
Tauzin
Taylor
Thomas (CA)
Upton
Vucanovich
Walker
Watkins
Weber
Weldon
Whittaker
Young (AK)
Young (FL)

NOT VOTING—15

Aspin
Barnard
Boner (TN)
Dymally
Gephardt
Hubbard
Latta
Mavroules
Moody
Nichols
Nowak
Rangel
Roemer
Schroeder
Spratt

□ 1315

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES ON H.R. 2112, INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1988

Mr. STOKES. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 2112) to authorize appropriations for fiscal year 1988 for intelligence and intelligence-related activities of the U.S. Government, the intelligence community staff, and the Central Intelligence Agency retirement and disability system, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

Mr. ROTH. Mr. Speaker, reserving the right to object, I wonder if the gentleman from Ohio will tell us whether this has been cleared with the minority?

Mr. STOKES. Mr. Speaker, if the gentleman will yield, this has been cleared with the minority.

Mr. ROTH. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio? The Chair hears none, and appoints the following conferees: Messrs. STOKES, MCCURDY, BEILENSON, KASTENMEIER, DANIEL, ROE, BROWN of California, MCHUGH, DWYER of New Jersey, and WILSON, Mrs. KENNELLY, and Messrs. HYDE, CHENEY, LIVINGSTON, MCEWEN, LUNGREN, and SHUSTER; and

For consideration of matters within the jurisdiction of the Committee on Armed Services under clause 1(c) of House rule X, Messrs. ASPIN, STRATTON, and DICKINSON.

PRICE-ANDERSON AMENDMENTS ACT OF 1987

The SPEAKER pro tempore. Pursuant to House Resolution 234 and rule XXIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the further consideration of the bill, H.R. 1414.

□ 1328

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for further consideration of the bill (H.R. 1414) to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents, with Mr. BEILENSON, Chairman pro tempore, in the chair.

The Clerk read the title of the bill.

The CHAIRMAN pro tempore. When the Committee of the Whole rose earlier today, 48½ minutes of general debate remained.

The gentleman from Arizona [Mr. UDALL] has 11 minutes remaining; the gentleman from Alaska [Mr. YOUNG] has 20 minutes remaining; the gentleman from Indiana [Mr. SHARP] has 1 minute remaining; the gentlewoman from Tennessee [Mrs. LLOYD] has 5½ minutes remaining and the gentleman from New Mexico [Mr. LUJAN] has 11 minutes remaining.

The Chair recognizes the gentleman from Arizona [Mr. UDALL].

Mr. UDALL. Mr. Chairman, I yield 4 minutes to the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I take this opportunity to commend the gentleman from Arizona [Mr. UDALL], the gentleman from Indiana [Mr. SHARP], and the gentleman from New Jersey [Mr. ROE], for their outstanding leadership in bringing H.R. 2994 to the floor.

The Price-Anderson Act provides a system of compensation and insurance in the event of a nuclear accident. It is intended to provide compensation to the public in the event of an accident, while at the same time creating an environment which permits the responsible development of nuclear power. I support these purposes and an extension of the act.

The very nature of a compromise bill ensures that not every Member will be pleased with all of its elements. I believe that H.R. 2994 represents a balanced approach. The responsibility of the Federal Government for the storage, disposal, transportation and research and development of radioactive waste makes it imperative that the Federal Government explicitly assume its responsibility in this act to provide full, equitable, and efficient compensation to the public for all damages and injuries arising out of a nuclear incident relating to such activities, including such activities pursuant to the Nuclear Waste Policy Act of 1982. I am pleased that the bill contains provisions that I proposed on precautionary evacuations, ensuring that the Waste Isolation Pilot Plant project will be covered under the bill.

I do have one deep concern. I understand that an effort will be made to add to the bill an amendment that would subject companies and institutions that operate DOE-owned nuclear facilities to civil penalties and some form of subrogation, making them liable for some of the costs incurred by the Government in the event of a nuclear accident. If it becomes necessary, I am prepared to offer an amendment to protect contractors who operate on a nonprofit or nominal fee basis from financial accountablility provisions.

Forty-one years ago, the Federal Government decided to use management contracts for the operation of Government-owned nuclear facilities. This national policy was expressed because the Congress recognized that the Government did not have sufficient scientific resources to support effectively its own program without private participation.

Unlike companies operating their own facilities, DOE nuclear contractors operate Government-owned facilities. Work at these facilities is under the close supervision and direction of DOE. Funding recommendations for improvements and modifications, including safety changes are subject to the review and agreement of DOE, and, in all cases to appropriations by Congress.

Organizations, such as the University of California, the University of Chicago, the Sandia Corp. and others have managed and continue to manage our national laboratories in the national interest. These organizations continue to serve our country, while operating at no profit or on a nominal fee basis, because they believe that they are in the best position to do the research and development necessary to achieve the national security goals of the United States.

There is no evidence that the absence of such penalties or subrogation in the past has contributed to the unsafe operation of any government facility. Since Price-Anderson's inception, less than $1.5 million has been paid in claims against contractors for DOE or its predecessor agencies. If there are problems with management in the health and safety area for DOE contractors, DOE has significant authority in existing contracts to remedy problems.

Proposed fines and penalty provisions could potentially jeopardize the private contractors' willingness to continue their management of our national laboratories. With the potential loss of current management, we lose a long tradition of quality management in our research and development facilities. The alternatives to private management are forprofit labs or federally run laboratories or facilities. Forprofit management would change the character of the labs, risk the independence of judgment, sacrifice the academic approach currently practiced by the labs, reduce or eliminate the ability of scientists to honestly criticize and lead to potential conflicts of interest.

Nowhere has the Congress exhaustively addressed the ramifications of the action that is now being considered. I hope that my colleagues will carefully consider any effort to alter the current Price-Anderson policy of indemnification of DOE nuclear contractors—especially those who operate on a nonprofit or nominal fee basis.

□ 1330

Mr. YOUNG of Alaska. Mr. Chairman, I yield such time as he may consume to the gentleman from Vermont [Mr. JEFFORDS].

Mr. JEFFORDS. Mr. Chairman, I rise in support of the Eckart amendment.

Mr. Chairman, thank you for this opportunity to speak about the reform and reauthorization of the Price-Anderson Act.

Earlier this year, I joined several of my colleagues—notably Representatives ECKART, MARKEY, and GREGG—in introducing H.R. 2141, a bill that is much stronger than the committee bill before us in making the nuclear industry and the Federal Government accountable for their actions. With amendments, this bill today can be equally as forceful as H.R. 2141.

As a supporter of conservation and renewable energy sources, I have long been concerned about the hidden subsidies provided to the nuclear industry by the Federal Government. The liability cap and contractor liability exemptions contained in current law continue these hidden subsidies. Unfortunately, so, too, does the committee's bill we are now considering.

For this reason, I will be supporting a series of strengthening amendments that will be offered by the lead sponsors of our alternative reauthorization bill, H.R. 2141. If these key amendments are adopted, I can support the committee bill. If they are rejected, however, I will be forced to vote against H.R. 1414.

The compensation mechanism already contained in the Price-Anderson Act is basically sound. In the event of an accident, each civilian nuclear plant in the country must chip in to help compensate the victims. H.R. 1414 retains this compensation mechanism. Unfortunately, however, it limits the total industry liability to $7 billion, creating the possibility that taxpayers could be asked to compensate victims for damages over the $7 billion cap. For this reason, the National Taxpayers Union strongly supports the amendment to be offered by Representative ECKART that will remove the liability cap.

Under the committee bill, utilities would be required to pay up to $10 million per year into the liability pool, up to a maximum of $63 million. Under the Eckart amendment, the yearly deferred premium would remain at $10 million per year, but utilities would be required to pay this yearly premium until all damage claims are settled.

The Eckart amendment will still allow utilities with nuclear plants to spread premium costs over a number of years. And utilities will not have to pay any deferred premiums until and unless a serious accident occurs.

The Eckart corporate responsibility amendment is a critical improvement to this legislation. The nuclear industry is repeatedly touting its safety record. With this amendment they will have to put their money where their mouth is.

Because utilities would be held fully liable for their actions, the Eckart provisions would encourage the highest possible performance standards. No company that is reckless or negligent would be held harmless for damages to the public.

The Federal Government should not short circuit this free market safety incentive. I strongly urge adoption of the Eckart amendment.

The second important amendment will be offered by Representative MARKEY. This amendment would allow utilities required to pay deferred premiums following an accident to sue for recovery of premiums from any supplier, contractor, subcontractor, or agent in cases of gross negligence or willful misconduct. Again, exempting plant designers and parts suppliers from liability completely removes safety incentives. It also provides an indirect subsidy to nuclear suppliers and contractors because these parties do not need to purchase liability insurance. These parties must be held accountable for their work. Taxpayers should not be asked to pay for damages caused negligent parties. I urge support for Mr. MARKEY'S amendment.

The third major amendment that is important for this bill is to be offered by Representatives WYDEN and SHARP. This amendment is needed to address a vital shortcoming in the committee bill that would let Department of Energy contractors off the hook for violations of nuclear safety regulations. These contractors include DOE's weapons production contractors, university research facilities, and contractors under the Nuclear Waste Policy Act. The Wyden-Sharp amendment would permit the NRC to levy fines against contractors that violate NRC rules, and permit the Justice Department to sue top officials of DOE contractors that are guilty of willful misconduct or gross negligence.

Mr. Chairman, we have the opportunity today to put the nuclear industry back on a level playing field. If we pass this bill without these amendments, we will continue to provide backdoor subsidies, unfairly giving the nuclear industry an edge in the highly competitive power business. We would end up leaving open the possibility, as this committee bill does, that the victims of a nuclear accident will not be fully compensated, or that the taxpayers will pay for the negligence of a utility or utility contractor.

If we approve these amendments, however, we can support a strong bill that will ensure corporate responsibility, full victim compensation, and taxpayer protection.

Please support the Eckart, Markey, and Wyden amendments.

Mr. YOUNG of Alaska. Mr. Chairman, I rise in support of the committee substitute for H.R. 1414.

Mr. Chairman, renewal of the Price-Anderson Act has been a difficult process for all of us. Over the past 2 years, three committees have struggled with this legislation. We have held extensive hearings and as much deliberation in these committees as we have seen on any other issue. We have had many difficult votes through these past 2 years.

The actions taken by these committees and the leadership demonstrated by the committee chairman and ranking minority members have allowed us to get to this point today where we bring before this body a solid and responsible renewal of the Price-Anderson Act.

For supporters of the nuclear industry, the bill goes too far in penalizing an industry with a strong safety record. It may not include every change in the law sought by Members on both sides of the nuclear issue; but it is a responsible bill. It alone is the type of legislation which has a chance to be enacted into law. If we add amendments which did not receive the support of the committees, the legislation will not become law.

Mr. Chairman, I believe in the committee process. I also believe that the only way to achieve passage of legislation in difficult areas of the law—such as the nuclear utility area—is to listen to choices and decisions of committee leadership.

These choices have been made. As a result, we have a bill—the committee substitute—which reaches the limits of agreement on a drastically increased liability limit. Three committees agreed to go no further than this in order to obtain renewal of the Price-Anderson Act. If we go further through the adoption of amendments later today, we will lose the fragile agreement we have and there simply will be no renewal of the Price-Anderson Act.

Finally, I would like to commend my friend and colleague, the gentleman from Arizona, for his strong leadership in the Interior Committee on this issue. He has accomplished a great deal in the nuclear area and Members on both sides of the aisle appreciate the work he and his excellent professional staff have performed in bringing this legislation before us today.

I urge my colleagues to support this legislation.

I would be remiss in not reminding this committee about some of the comments in the previous debate about not having an energy policy. It is true this administration does not have one, nor did the previous administration have an energy policy, nor does the Congress.

We have the responsibility to develop an energy policy. One of that policy's points should be development of nuclear power. When you look at what has occurred in Europe and Asia today, by the year 2000, 85 percent of their power will come from nuclear capability. In the United States, we are still a fledgling industry. In fact, we are importing 48 percent of our fossil fuels from abroad.

I am suggesting respectfully to those against nuclear power who would try to weaken this agreement which came out of our committee, try to kill the industry, they are also against a development of oil and gas, they are against hydropower, they are against the burning of coal.

We must have a source of power for future generations in this country.

So I suggest respectfully, Mr. Chairman, that we should pass this substitute by this body so we can go forward to provide the power necessary for this country and yet protect the consumers.

Mr. Chairman, I reserve the balance of my time.

Mrs. LLOYD. Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. WALGREN], who is a very hard working and very conscientious member of the Energy and the Environment Subcommittee.

Mr. WALGREN. Mr. Chairman, this is a very important bill before us today. I want to commend the chairmen of the committees mentioned for their leadership in documenting this amendment. Since it was first enacted, Price-Anderson has been at the center of enabling the growth of nuclear power. In the aftermath of Three Mile Island, we now recognize the need for a mechanism to cover a range of damages resulting from a potential large nuclear accident that we previously had not anticipated. Price-Anderson's historic limitations on liability enabled what was a novel science 20 years ago to grow and develop. The renewal of Price-Anderson before us will enable the Government and the private sector to continue this important work and I am eager to see its quick and timely passage.

However, there is one area of particular concern to me and my colleague from Missouri [Mr. BUECHNER]. We will, when the time is right, offer an amendment to increase the incentives for safe operation by those engaged in the transport of nuclear waste or related materials. Our amendment has two parts: First, it would assure that the right to indemnification under Price-Anderson does not completely eliminate all liability for damages caused by a private contractor; and second, it would require all Department of Energy contractors who transport nuclear waste to carry a reasonable amount of liability insurance.

Safe transportation of nuclear waste will soon be a direct concern of congressional districts in almost every State as we begin to move waste now held at reactors to a permanent repository. DOE estimates more than 100,000 tons of waste will be shipped by the year 2020.

LIABILITY

Under present law, all DOE contractors are guaranteed blanket indemnity for all liability for damages resulting from an accident involving nuclear materials. This amendment would create a limited amount of liability for those involved in transport of nuclear material by giving the Justice Department the ability to seek recovery of indemnification money of an amount up to three times the profits of the contract or 10 percent of the contractor's net worth, whichever is less. Such liability would exist only in those cases where damages were caused by willful misconduct, bad faith, or gross negligence.

Certainly, the public would expect nothing less. Common sense requires us not to give up the increased degree of care in the transport of nuclear materials that comes with some degree of private responsibility. Blanket indemnification, although it may be appropriate for some aspects of nuclear power, is simply inappropriate for transporters of nuclear waste.

Second, private sector insurance brings into play an important additional interest in guaranteeing safe operation. This amendment would require transporters to carry that amount of insurance determined by the Secretary of DOE to be reasonable under this circumstance.

Since being offered in Energy and Commerce Committee, we have redrafted these provisions to attempt to address certain concerns expressed by railroads with respect to cost reimbursement and concerns of the trucking industry with respect to double insurance coverage. This is a reasonable effort to bring accountability to the nuclear waste transportation. I urge my colleagues to support this amendment at the appropriate time.

I wanted to call the attention of the Members to this amendment, because I think it is particularly limited in its scope and particularly appropriate and should be distinguished from the general thrust to provide liability in other areas of providing nuclear manufacturing parts and operation of nuclear facilities that involve much greater damage.

Mr. YOUNG of Alaska. Mr. Chairman, I yield 3 minutes to the gentlewoman from Nevada [Mrs. VUCANOVICH].

Mrs. VUCANOVICH. I thank the gentleman from Alaska for yielding time to me.

Mr. Chairman, today I rise in strong support of H.R. 1414, the Price-Anderson Amendments Act of 1987. The bill before us today is the compromise reached between three committees who have worked together over the course of 2 or 3 years in an effort to reauthorize Price-Anderson.

Mr. Chairman, it is a great understatement to emphasize how far we have come in improving these important amendments so that they will provide adequate protection for the victims of any accident involving the transportation or storing of nuclear waste. This vital issue was barely addressed in the previous system, leaving potential victims little hope for compensation and a tortuous legal procedure for filing claims.

As the result of an amendment that I introduced with the generous support of my chairman on the Interior Committee, Mr. UDALL, Mr. SHARP and many other colleagues, victims of nuclear waste accidents can now expect full and prompt compensation for any injury, regardless of cause or circumstance, involving the storage, disposal or transportation of high-level nuclear waste.

In addition, States will be held harmless for any incident involving the transportation of nuclear waste, and I feel that this is vital to the future of the nuclear waste program in this country. The Federal Government will be directly and fully liable for nuclear waste traveling through any State's borders, and for all victims of a nuclear accident. This addition to the Price-Anderson amendments is extremely important to my State of Nevada, and will be important to any State which might now or in the future have nuclear waste stored or traveling on roads or rail lines. These amendments are controversial and involved major changes in the present law, but I believe that they are essential to any national nuclear waste program, regardless of the form it will take.

I am gratified to see the clean bill include an amendment to compensate

States or local governments in the event of a precautionary evacuation caused by the transportation or storage of nuclear waste. Under some circumstances, this could be a very expensive cost to local governments, and this will protect citizens from health and safety hazards, even if no nuclear waste is actually spilled. I am proud of our country's record for nuclear safety, but it is also necessary to design the best possible situation for the future.

I also strongly support the increase in liability for nuclear accidents from $705 million to approximately $7 billion. H.R. 1414 extends the individual's right to file a claim up to 3 years after the claimant knows of their injuries.

This is a good bill and I encourage clean passage of it. I would also like to commend the tireless efforts of my colleagues from the Interior Committee, Chairman UDALL and Mr. SHARP, for their cooperation and assistance.

Mr. UDALL. Mr. Chairman, I yield 4 minutes to the gentleman from Pennsylvania [Mr. MURPHY].

Mr. MURPHY. Mr. Chairman, I thank the chairman of the Committee on Interior and Insular Affairs for yielding this time to me.

Mr. Chairman, I rise in support of H.R. 1414 and its predecessor, H.R. 2994, the markup vehicle.

We go back many years to determine what we would do in our country with nuclear power.

I come from coal country and you would wonder why I am in favor of continuing with our efforts in nuclear power. Well, it is a matter of worldwide competition. So long as the French, the British, and the Soviets and the Indians and the Israelis and all of the other nations in which we are competing economically in the world decide they will devote their efforts to nuclear power, so must we.

□ 1345

I come from a State where we have had the only experience with dealing with Price-Anderson in this country, or anywhere in fact, and that is Three Mile Island, and I want to say to the Members that that experience was a favorable one for the claimants, for the Federal Government, and for the industry involved. Almost $50 million in claims has been paid out to claimants at Three Mile Island on a no-fault basis, based on their claims and what they said their damages were. That was paid out of the first tier of coverage. We have had to touch the second tier under Price-Anderson.

So I say to my friends that as long as we want to remain in competition in the world for a domestic energy source, we have got to develop America's domestic energy sources, not as coal, not as nuclear power, not as solar, but anything that we can convert to keep ourselves competitive.

We spent the entire months of April and May in this Congress on a trade bill, trying to make ourselves more competitive in the world, and I caution the Members this afternoon, as they review the amendments to this carefully crafted measure, do not say to the world and do not say to American competitiveness, "I'll vote for an amendment that will destroy the nuclear industry." If Members do that and they succeed, they will destroy the nuclear industry, but they will likewise destroy another competitive advantage that we have in world markets.

Mr. Chairman, I would ask my colleagues to join me in supporting H.R. 1414 as it has been carefully crafted by the three committees involved, and I commend the chairmen of those committees for their diligent efforts.

Mr. YOUNG of Alaska. Mr. Chairman, I would like to compliment the previous speaker in the well. He put it very succinctly. In fact, he brought forth the competitive edge that we need by the development of nuclear power, and like the gentleman, I oppose the amendments.

Mr. Chairman, I yield 3 minutes to the gentleman from Pennsylvania [Mr. GEKAS].

Mr. GEKAS. Mr. Chairman, the gentleman from Pennsylvania [Mr. MURPHY] has aptly described the situation that obtains to those of us in Pennsylvania, and when one realizes that I was and am in the shadow of Three Mile Island itself, Members will better understand what I say to them, that it is with great difficulty that I speak on this issue because of all the personal ramifications that are present.

However, I do feel that we must, for the protection of all and for maintaining a balance between all the amendments, support the elevation of the liability cap from its present status to somewhere near the figure that the committee has developed. But the figure that the committee has developed, as the gentleman from Alaska indicated, makes it almost seem that it is imperturbable and unshakable, reflecting what the committees have done.

But what is the magic about the $7 billion figure? Should it be $8 or $9 billion, or should it be $6 or $11 billion? What is that magic figure? Are we to accept the committee figure as one that is well thought out and well conceived?

Mr. Chairman, I would like to yield to the gentleman from Alaska [Mr. YOUNG] for just a moment so he can quickly tell me and so I can speak for the rest of my time on how the $7 billion figure was arrived at, and not $8 or $10 billion.

Mr. YOUNG of Alaska. Mr. Chairman, this is a figure resulting from a compromise proposed by different factors, some proposing one much higher, but for myself I think the present level is high enough. The figure was reached with agreement by all people involved in the industry itself and those on the committee who have the best expertise at their hands, and they say that this is the figure. There is nothing magic about that number. I think it is too large. I would never agree to that figure, but those who are in the business say it is right, and those on the committee and in the industry say it is the best agreement we can reach. If it was much higher, it would definitely kill the business, and if it was lower, nobody would be happy with it.

Mr. GEKAS. Mr. Chairman, if I may regain my time, the point is that I want to support some cap on liability because I believe that if we go to a nonlimit on liability, then the ratepayer eventually is the one that suffers and suffers the most.

I am going to offer an amendment, however, just to modify upwards that limitation by changing the inflation factor from a 5-year determinant to a yearly determinant, just to keep pace with inflation on a regular basis. Since the gentleman agrees it is not a magic figure or an imperturbable figure, referring to the $7 billion, maybe he will be able to accept my amendment, which only adds to the inflation rate which we now have, that is, the 5 years on a yearly basis.

Mr. UDALL. Mr. Chairman, will the gentleman yield?

Mr. GEKAS. I yield to the gentleman from Arizona.

Mr. UDALL. Mr. Chairman, the gentleman asks for the ancestry of this figure. It came out of a back room in the Longworth Building where some of the members of our committee went to see if we could settle it before the meeting started, and we did. It was a compromise between the $12 billion figure that I wanted and the figure of about $2 billion which the industry was willing to take.

Mr. GEKAS. Mr. Chairman, I thank the gentleman. All I am going to do is offer a compromise on that compromise.

Mr. UDALL. Yes, but I would point out that it was 10 times the old figure.

The CHAIRMAN pro tempore (Mr. MICA). The time of the gentleman from Pennsylvania [Mr. GEKAS] has expired.

The Chair will point out that the gentleman from Arizona [Mr. UDALL] has 4 minutes remaining.

Mr. UDALL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, let me take this time just to emphasize a couple of things that have come out of the debate here.

We have set up a system which I think will work. It is a three-level system.

We are saying that the citizens are compensated in the case of an accident. For readiness of understanding, let me give examples of the three levels. The first level is $160 million or so which the powerplants get from their own insurers, the liability insurance group, to protect people offsite if they have a disastrous escape of radiation, for example.

The second level is the one that goes up to $7 or $8 billion. That to me is Chernobyl. I do not know about the property values in the Soviet Union system, but with the number of people that were killed and wounded by radiation and otherwise, probably you would have damages in the $7 billion or $8 billion or $9 billion or $10 billion range. Because the industry wanted it that way, they decided to pick up the tab for the more serious accidents under the plan of charging each working reactor the retrospective premium of $10 million, an annual amount of $10 million until they have paid six times, and then they would have reached that limit.

The third layer is the disaster layer. Let us say the Indian Point Nuclear Plant in New York has a meltdown or some very serious matter affecting whole cities and regions. We could not decide whether that ought to be $20 billion or $50 billion or $100 billion or what, so we decided that third layer will be determined by a commission appointed by the President and given 2 years to come up and say how we should handle claims above the $7 or $8 billion. Obviously you would have to have a large amount of money, and it should not be the ratepayers of the nuclear utilities who paid for the first two levels. We believe, and so wrote the bill, that the third level will come from ratepayers everywhere and taxpayers everywhere, and the commission will tell us in advance how we ought to finance this and set it up and distribute the available money.

So, Mr. Chairman, we think we have some pretty good basic distinctions here, and we think we have come up with a pretty good system which will work.

Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. LUJAN. Mr. Chairman, I yield 3 minutes to the gentleman from Indiana [Mr. COATS].

Mr. COATS. Mr. Chairman, I thank the gentleman for yielding this time to me.

Mr. Chairman, I simply want to commend a number of Members on both sides of the aisle who have spent a great deal of time and effort in crafting what I think is a most acceptable compromise in dealing with a very difficult issue. Some responsible people have spent a great deal of time putting this together. It is not a sweetheart deal for the industry. In fact, many industrial members have had to swallow pretty hard to accept some of the limitations in this bill and some of the expansions of liability. It is a 10-fold increase in liability for the nuclear power industry. That means substantial additional insurance costs and substantial additional economic factors that they have to factor into their computing of what the cost of this power will be.

Now, there are a number of amendments that will be offered here today that in my opinion will blow open this compromise and jeopardize this bill. I would hope that Members will avoid what certainly will become some emotional rhetoric in terms of nuclear power and the risks that are involved. I hope that they will listen to the statements of a number of Members who have worked long and hard on this particular bill and will look very carefully at the bill as it is crafted and see that it ultimately is a bill which greatly expands the rights of consumers and the rights of those that are on the user side of this equation.

We are not talking here about opening the doors to the nuclear power industry. We are talking about some severe limitations and restrictions, and I think this is something that Members ought to support. We have provided more than adequate compensation. We have provided the ability for the nuclear power industry to underwrite that liability, and I would hope that Members would take a responsible look at the legislation that is before us so that we can move ahead in a responsible way in providing that segment of our power which is critical to this Nation that is derived from nuclear power.

Mr. YOUNG of Alaska. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mrs. LLOYD. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. LUJAN. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. MILLER].

Mr. MILLER of Washington. Mr. Chairman, today we take up the Price-Anderson Act. Reauthorization of this bill is very important; the legislation coming before us needs improvement. We are going to discuss a lot of technical issues, a lot of fine points in law, and a lot of theories about how nuclear regulation should work. But guiding all of this discussion should be the uncompromising standard of "safety first."

On its face, Price-Anderson is about compensation for nuclear accidents. But Price-Anderson is really about the incentives for the safe operations of nuclear facilities. If contractors compromise the safety standards and the Federal taxpayer foots the bill, the incentive for safety is reduced. If the contractors who run Federal nuclear facilities are not held accountable for their actions, there is no incentive to put safety first.

Mr. Chairman, I want to call the attention of the House to a key difference between H.R. 2141 and the bill we consider today, H.R. 1414. That issue is the full indemnification of Federal contractors. This means that no matter how negligent contractors may be, they face no substantial financial penalty. No other Federal agency provides such a blanket protection to contractors including contractors who work for the defense agencies. Both the Justice Department and the Defense Department testified that providing total indemnification undermines fundamental safety incentives.

My colleagues, Congressmen WYDEN, SHARP, and SYNAR will offer an amendment to close this loophole. I hope the House will pass this amendment.

We owe it to those living near Federal nuclear facilities, along potential nuclear waste transportation routes, and near any future nuclear waste repository to introduce responsible financial incentives for safety. There are other amendments to strengthen this bill that put safety first. We need to pass them. We need to put incentives throughout this bill which put safety first. Incentives which make safety the No. 1 priority for the operators of nuclear facilities.

I urge my colleagues to think about the real purpose of this bill—the safe operations of nuclear powerplants and research reactors should be our No. 1 priority. Let's add the strengthening amendments to H.R. 1414 and improve this bill. Then, Mr. Chairman, we can say to our constitutents Congress has made safety the No. 1 priority.

□ 1400

Mr. LUJAN. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

Mr. SHARP. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore. Pursuant to the rule, an amendment in the nature of a substitute consisting of the text of H.R. 2994 shall be considered as an original bill for the purpose of amendment under the 5-minute rule in lieu of the amendments now printed in the reported bill and each section is considered as having been read.

The Clerk will designate section 1.

The text of section 1 is as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Price-Anderson Amendments Act of 1987".

The CHAIRMAN pro tempore. Are there amendments to section 1?

If not, the Clerk will designate section 2.

The text of section 2 is as follows:

SEC. 2. FINANCIAL PROTECTION.

(a) PRIMARY FINANCIAL PROTECTION AMOUNT REQUIRED FOR LARGE ELECTRICAL GENERATING FACILITIES.—Section 170b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended—

(1) by inserting "primary" before "financial protection" the first, second, third, and sixth places it appears;

(2) by inserting before the period at the end of the proviso in the first sentence the following: "(excluding the amount of private liability insurance available under the industry retrospective rating plan required in this subsection)"; and

(3) by striking in the third sentence all that precedes "private liability insurance" and inserting the following: "The Commission shall require licensees that are required to have and maintain primary financial protection equal to the maximum amount of liability insurance available from private sources to maintain, in addition to such primary financial protection,".

(b) STANDARD DEFERRED PREMIUM AMOUNT.—Section 170b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended—

(1) in the second proviso of the third sentence by striking "That" and all that follows through "protection" and inserting the following: "That the maximum amount of the standard deferred premium that may be charged a licensee following any nuclear incident under such a plan shall not be more than $63,000,000 (subject to adjustment for inflation under subsection t.), but not more than $10,000,000 in any 1 year, for each facility for which such licensee is required to maintain the maximum amount of primary financial protection"; and

(2) in the third proviso of the third sentence, by adding after "and costs" the following: "(excluding legal costs subject to subsection o. (1)(D), payment of which has not been authorized under such subsection)".

(c) LESSER ANNUAL DEFERRED PREMIUM AMOUNTS.—Section 107b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in the first sentence, by redesignating clauses (1) through (3) as clauses (A) through (C), respectively;

(3) by striking the fifth and sixth sentences; and

(4) by adding at the end of the fourth sentence the following new paragraph:

"(2)(A) The Commission may, on a case by case basis, assess annual deferred premium amounts less than the standard annual deferred premium amount assessed under paragraph (1)—

"(1) for any facility, if more than one nuclear incident occurs in any one calendar year; or

"(ii) for any licensee licensed to operate more than one facility, if the Commission determines that the financial impact of assessing the standard annual deferred premium amount under paragraph (1) would result in undue financial hardship to such licensee or the ratepayers of such licensee.

"(B) In the event that the Commission assesses a lesser annual deferred premium amount under subparagraph (A), the Commission shall require payment of the difference between the standard annual deferred premium assessment under paragraph (1) and any such lesser annual deferred premium assessment within a reasonable period of time, with interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the date that the standard annual deferred premium assessment under paragraph (1) would become due.".

(d) BORROWING AUTHORITY.—Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended—

(1) by inserting "(3)" before the penultimate sentence and redesignating the penultimate and last sentences as a paragraph (3); and

(2) by adding at the end the following new paragraph:

"(4)(A) In the event that the funds available to pay valid claims in any year are insufficient as a result of the limitation on the amount of deferred premiums that may be required of a licensee in any year under paragraph (1) or (2), or the Commission is required to make reinsurance or guaranteed payment under paragraph (3), the Commission shall, in order to advocate the necessary funds—

"(i) request the Congress to appropriate sufficient funds to satisfy such payments; or

"(ii) to the extent approved in appropriation Acts, issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Commission and the Secretary of the Treasury.

"(B) Except for funds appropriated for purposes of making reinsurance for guaranteed payments under paragraph (3), any funds appropriated under subparagraph (A)(i) shall be repaid to the general fund of the United States Treasury from amounts made available by standard deferred premium assessments, with interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the date that the fund appropriated under such subparagraph are made available.

"(C) Except for funds appropriated for purposes of making reinsurance or guaranteed payment under paragraph (3), redemption of obligations issued under subparagraph (A)(ii) shall be made by the Commission for amounts made available by standard deferred premium assessments. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury by taking into consideration the average market yield on outstanding marketable obligations to the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by the Secretary of the Treasury under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States.".

AMENDMENTS OFFERED BY MR. ECKART

Mr. ECKART. Mr. Chairman, I offer several amendments.

The Clerk read as follows:

Amendments offered by Mr. ECKART: Page 2, line 18, strike "STANDARD" and insert "MAXIMUM ANNUAL".

Page 2, line 20, strike the dash and run in the text on line 21.

Page 2, line 21, strike "(1)".

Page 3, line 1, strike "$63,000,000" and all that follows through "than" on line 3.

Page 3, line 3, strike "in any 1 year" and insert "per incident, per year,".

Page 3, strike lines 7 thorugh 10.

Page 8, line 18, strike "in an amount" and all that follows through "and" on line 20 and insert the following: "in accordance with subsection e. (3),".

Page 9, line 15, strike "(A) Notwithstanding" and all that follows through "(C)" on page 10, line 1.

Page 13, line 20, strike "AGGREGATE PUBLIC LIABILITY" and insert "MAXIMUM ANNUAL PAYMENT".

Page 13, strike line 24 and all that follows through page 15, line 2, and insert the following:

"e. LIMITATION ON ANNUAL PAYMENT AND AGGREGATE PUBLIC LIABILITY.—(1) The aggregate annual payment by any person subject to the deferred premium program under subsection b. for damages from a single nuclear incident may not exceed $10,000,000 (excluding the costs of investigating and settling claims and defending suits for damage).

"(2) The aggregate liability (excluding the costs of investigating and settling claims and defending suits for damage) for a single nuclear incident of persons indemnified (other than persons subject to the deferred premium program under subsection b., or contractors indemnified under subsection d. (1)), shall not exceed—

"(A) $500,000,000, together with the amount of financial protection required of the licensee; or

"(B) if the amount of financial protection required of the licensee exceeds $60,000,000, $560,000,000 or the amount of financial protection required of the licensee, whichever amount is more.

Page 15, line 3, strike "(2)" and insert "(3)".

Page 15, line 5, strike "(1)" and insert "(2)".

Page 15, strike line 12 and all that follows through page 16, line 1 and insert the following:

"(3)(A) There shall be unlimited aggregate public liability for any nuclear incident arising from activities subject to an agreement of indemnification under subsection d.

"(B) Public liability described in subparagraph (A)

Page 16, strike lines 8 through 22 and redesignate the succeeding paragraphs accordingly.

Page 17, strike line 4 and all that follows through line 8 on page 19 and redesignate the subsequent sections accordingly.

Page 19, strike line 19 and all that follows through page 23, line 15 (and redesignate the subsequent sections accordingly).

Page 28, strike line 10 and all that follows through line 14 on page 30.

Page 30, after line 14, insert the following new section (and redesignate the subsequent sections accordingly):

SEC. 12. JUDICIAL DETERMINATION.

Section 170 o. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(o)) is amended to read as follows:

"o. If the United States district court in the district where a nuclear incident occurs, or the United States District Court for the District of Columbia in case of a nuclear incident occurring outside the United States, determines upon the petition of any indemnitor or other interested person that public liability from a single nuclear incident may exceed in any year the amount of financial protection available in that year under subsection b., or the limit of liability under subsection e. (2), as appropriate, the court shall use its equitable powers to ensure a fair distribution of the funds available to pay such claims to all potential claimants. Any such distribution shall take into account the need to set aside funds to pay claims for latent injuries that may not be discovered until a later date.

Page 32, line 20, strike "standard" and insert "annual".

Page 35, strike lines 4 through 11.

Page 37, strike lines 1 through 5.

Mr. ECKART [during the reading]. Mr. Chairman, I ask unanimous consent that the amendments be considered as read, printed in the RECORD and considered en bloc.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

Mr. ECKART. Mr. Chairman, for the purpose of offering this amendment, I would advise the Members that it amends several sections of the bill, so I would suggest that, in order that we not duplicate effort, it be considered as having been offered to all of those sections.

Mr. Chairman, the fundamental question is, why would we tell victims, no thank you.

The people who would suffer the most from the consequences of a nuclear accident, as low a probability as it might be, are those who stand to lose the most under H.R. 1414 as it is brought to this floor today.

The liability of the nuclear industry is limited by Federal law, a benefit not enjoyed by any other industry in the United States. Therefore, the nuclear power industry has traditionally not been required to pay the full cost of insuring against a potential accident, the consequences of which would boggle our minds in contemplation of it.

Yes, the probability is low, but the consequences are high. The fact that the industry opposes removing the cap on their liability for commercial nuclear accidents shows us, I think, that they fundamentally believe that there is a prospect—yes, there is a small possibility—that someday what we hope not to have happen would in fact occur.

What happens when there is a limit on your liability? Do you not act a little bit differently? Do you not realize that maybe you can cut a corner and get away with it, because you are not held accountable for the consequences of your actions?

My amendment would say, very simply, that if there is an accident, the party who caused it would pay for it.

Drive a car, fly a plane, make a product, sell a service and injure someone in the process of that sale or manufacture, and you bear the economic consequences of that decision, except if you run a nuclear powerplant.

We say that, if you run a nuclear powerplant, we are going to arbitrarily limit your financial exposure. We are going to be told this bill offers a tenfold increase in liability over current law, from $700 million to $7 billion; but GAO tells us in a most illuminating study that an accident, depending on climatic conditions, could in reality exceed that by a factor of two or three times, which means very simply that victims get dimes; and everyone else gets the dollars.

What that means for all of the Members with nuclear powerplants in the vicinity of that Member's district is that we are going to hold the taxpayers out there as the safety net for a multitrillion dollar industry.

What sense does this make? Why should the American taxpayer be the subsidizer of the industry's insurance bill, especially since we know they already spend $5 million a year to protect their own real estate, but cannot pay $10 million to protect their neighbors' property?

Remember, no one pays, under my amendment, unless there is an accident. Yet we are told that my amendment will bankrupt the industry.

But $10 million annual payment was recommended by the Nuclear Regulatory Commission in 1983, a judgment since rescinded because the Commission's arms were broken by those who sought to avoid bearing the consequences of their actions. At that time, the NRC noted that $10 million represents more than 1 but less than 2 percent of the annual cost of operating a nuclear plant or, I would point out, less than what some pay to employ the lobbyists who try to influence these decisions today.

So why should we force taxpayers and victims to stand as the financial guarantors for the nuclear industry? Victims' compensation, corporate responsibility, taxpayer protection ought to be the essence of letting the marketplace work.

Some Members will say, we need Price-Anderson limits to protect the marketplace, the free-enterprise system. The problem is, free for who?

Free for those who enjoy the benefits of a subsidized insurance program designed to have the taxpayer pay for their gross negligence and willful misconduct; and yes, let that limit be exceeded, and under a provision that the gentleman from Minnesota will speak to, we are going to let the industry's attorneys stand in line for compensation first. Mr. Chairman, in estimates of potential damages from nuclear accidents submitted in official reports dating from 1957 through 1964, 1975, 1982, and 1987, such organizations as the Sandia National Laboratory, the General Accounting Office, and the NRC all have asserted without hesitation or reservation that the communities impacted by a nuclear accident would go to the brink of economic disaster, a disaster that the American taxpayers would pay for.

The industry can afford it. They already pay, as I said, half of this amount every year when their own insurance bills come due.

Let us not have the taxpayer subsidize the willful negligence of an industry, an industry that has been coddled and carried for the past 30 years.

Mr. LENT. Mr. Chairman, I rise in opposition to the amendment.

Mr. Chairman, I oppose this amendment to create unlimited liability for an accident involving a nuclear power reactor or a DOE nuclear facility. In the real world, there is no such thing as "unlimited" liability. The recent bankruptcy reorganizations of the Manville Corp. and A.H. Robbins demonstrated that to the victims of asbestos and the Dalkon shield. In those cases, the bankruptcy courts imposed a limit on liability.

Moreover, in the real world, "unlimited" liability means two things: an anathema to anyone involved in nuclear contracting or power production. It means no more insurance would be available, and it means an invitation for unlimited litigation.

In contrast, the legislated limit on liability assures that almost $7 billion will be readily available to compensate the public in the event of a nuclear accident, an unlikely event.

Proponents of the Eckart amendment for unlimited liability are waving before the public the illusion of infinite compensation. These proponents assume that the nuclear utility industry will be conducting business as usual after an accident causing damages greater than $7 billion.

Thus, the figures they rely on to support their claim that utilities and their ratepayers can indefinitely pay $10 million per year in the event of a major nuclear accident are numbers that represent normal operating conditions and normal rate treatment for utilities. This is ridiculous.

In the real world, it is very probable that utilities would be required to shut down all or some of the nuclear plants following an accident of this magnitude. Even if their reactors were brought down only to half power, there would be a major disruption in electric service, forcing utilities to find replacement power. Given that an average utility finances about 40 percent of its operating costs, it is doubtful that utilities will have cash on hand for replacement power, much less indefinite retroactive assessments. Thus, utilities will have to borrow funds, if possible.

To illustrate, Duke Power, which owns five reactors and capacity in two others, would pay $52.5 million a year in retroactive assessments. If Duke lost half of its nuclear generating capacity, however, Duke could spend more than 3 quarters of a billion dollars in replacement power costs during 1 year. Under ideal conditions, then, Duke might be able to pay its retroactive assessment for 1 or perhaps 2 years. But its ability to do so indefinitely is doubtful.

Summarizing, Mr. Chairman, I believe the present $700 million fund available may be inadequate, and a tenfold increase to the $7 billion now provided in this legislation is reasonable, good for the consumers and covers most probable accident scenarios.

□ 1410

In the event that amount is exceeded, H.R. 1414 provides a mechanism for Congress to develop a compensation plan assuring full compensation. This plan may include additional payments by utilities, thus taking into account the circumstances that actually exist at the time.

Mr. Chairman, H.R. 1414 is a proconsumer, provictim bill, and this amendment, in effect, guts the entire premise of Price-Anderson.

Mr. Chairman, I would urge my colleagues to oppose this amendment.

Ms. KAPTUR. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I feel compelled to speak today on behalf of the Eckart amendment to the Price-Anderson bill, primarily because I come from a district which experienced the most serious nuclear mishap since Three Mile Island. During my congressional career I have had to deal with the consequences of that for the citizens of my community, as well as for the concerned utility company.

I rise in support of the Eckart amendment for two primary reasons. The existing legislation, as it has been presented to us from the committee, does not give the victims of serious nuclear accidents the legal right to full compensation. Under the bill that was presented to us, there is a $7 billion cap, an arbitrary number that was arrived at by the committee, and I know they worked hard on it, but what they did was they basically took the 107 reactors we have in the country and multiplied that by an estimate of $63 million per reactor and came up with a fringe of about $7 billion a year for this cap.

There is no magic to the $7 billion, but what we know is that it will not provide full compensation for victims.

The Eckart amendment is worthy of support because it is the only proposal before us that provides the means whereby in the event of a nuclear disaster all valid claims for public and personal damages would be met. It does so by requiring that all reactors would pay premiums, but only after the unfortunate event of a nuclear disaster, only after such a disaster, and then those utilities would be required to pay at the same rate as the bill provides, $10 million per year per reactor until all claims are met.

What it does is it removes the 6-year limit which the committee bill has proposed to us. Thus the Eckart amendment does provide for an annual cap of $10 million a year, which really represents only about 2 percent of annual costs of operating any new plant. Utilities under present law pay on the average of $2 million to $5 million a year for insurance, so that is the range of numbers we are talking about.

Mr. Chairman, I support the Eckart amendment primarily because it provides for full compensation. It avoids the use of taxpayer dollars. The committee bill is insufficient because in the event that all costs cannot be paid, they come right back to the pocketbooks of the American citizen and we are saying this responsibility should be on the backs of those utility companies.

The industry can afford it. We are saying to them that you will pay the same amount, $10 million, but just over a greater number of years until all those claims are met.

Also, the Eckart amendment does not kick in until after a disaster occurs, so we are not asking them to pay more than they are paying already.

Finally, coming from a district which has experienced a utility company which had great difficulties with its nuclear reactor, where over a dozen flaws caused the system to break down and provide a real threat to our community, the nuclear industry itself through the Eckart amendment will have an economic incentive to operate their plants more safely because they will be responsible for all of the damages caused by accidents that their unsafe management would precipitate.

Mr. Chairman, I urge my colleagues to vote for the Eckart amendment and for nuclear safety across this country.

Mr. MOORHEAD. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise to oppose this amendment. The amendment has been brought up in the Commerce Committee 2 years in a row and defeated.

Mr. Chairman, this amendment would destroy the reasonable and workable balance struck by Price-Anderson between the interests of consumers of nuclear energy and the interests of the potential victims of nuclear accidents. It is a balance designed to protect the public by ensuring that victims of nuclear accidents are speedily and fully compensated for their injuries. We should not discard this plan of protection for a new principle of unlimited liability which would not provide real benefit to the public.

Unlimited liability sounds good, but thoughtful consideration reveals its lack of merit. What is the primary goal of any legislation providing for compensation of victims in the remote event of a nuclear accident? I believe the primary goal should be to protect the public by promptly providing substantial sums for damage. Price-Anderson and H.R. 2994 accomplish this goal. The amount of money available to pay victims of a nuclear accident is increased more than tenfold under H.R. 2994, thus establishing a limitation on liability which covers most probable accident scenarios. Moreover, H.R. 2994 provides a procedural mechanism for Congress to act quickly if the limit is exceeded.

Unlimited liability on the part of insurers and utilities does not mean that the public will receive unlimited moneys. With unlimited liability, the public would receive only that amount of money equal to the responsible company's assets, after those assets have been applied to secured claims.

Under our tort law in the United States, any plaintiff must normally prove that the defendant has been guilty of negligence, or a tort of one kind or another. Under Price-Anderson, that is not necessary. If an act of God causes the accident by striking a nuclear facility, where no negligence is present, still the public will be paid under this particular scenario we have in Price-Anderson. If we go back to the old tort system, there will be no recovery under those circumstances. All the recovery under normal tort law could be is the assets of the company that was involved, but in Price-Anderson we have provided a larger pool than any company that has a nuclear plant could possibly afford to pay. The public is protected by a larger pool of money than they could be under any circumstances without Price-Anderson.

Nor does the amendment's provision of a retroactive assessment in the amount of $10 million annually until all claims are paid change the fact that the amendment imposes unlimited liability. My colleague's arguments that a $10 million indefinite assessment is not much are based on normal operating conditions. In the event to a major nuclear accident, it is doubtful that nuclear utilities would be able to pay $10 million retroactive assessments indefinitely. NRC may well order all reactors similar to the accident-causing reactor to shut down. This could make the owners of these reactors unable to meet prolonged retroactive assessments and unable to obtain credit to fund an unknown and unlimited liability.

One final point needs to be made clear. Unlimited liability would eliminate the ability of utilities to acquire nuclear liability insurance. Thus, adoption of this amendment would deal two blows to the public. It would upset the compensation plan of Price-Anderson which assures payment of substantial sums to the victims, and it would cause insurers to cease providing nuclear liability insurance. Thus, the public would be harmed by the absence of the insurers, who administer the program and who provide the means to pay claims swiftly.

Actually, this amendment does absolutely the opposite of what the stated claim is. It deprives the public of the ability to get just compensation for any damage that they suffer as a result of a nuclear accident.

Mr. Chairman, I urge my colleagues to vote against this amendment and to keep the bill in a form in which it can be adopted into law.

Mrs. BOXER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Eckart amendment because it will provide for full compensation of victims in the event of a nuclear accident, something H.R. 1414 does not do as it is presently before us.

I ask each of us to think how we would feel if our families and our constituents suffered harm from radiation released by a nuclear powerplant and we were unable to receive full compensation for those injuries because Congress said that the nuclear utilities only had to pay so much, and no more. I would not want to be the Member of Congress who delivered that news to my family and those constituents. I would not under those circumstances want to be the Member of Congress who voted no on the Eckart amendment.

I say that we have no right to deprive any victim of his or her right to full compensation from an industry that we license.

The point of requiring full liability goes beyond the issue of fairness to potential victims, although frankly that would be enough for me to support the Eckart amendment.

Without this amendment, we are protecting a commercial enterprise from the full economic implications of its actions. We remove a very valuable form of pressure to make sure that that particular enterprise stays on its toes with regard to safety.

And let us face it, my colleagues, the potential harm for death and cancer and birth defects are all out there. This industry must be encouraged to stay on its toes, perhaps more than any other industry today.

I have heard arguments from the nuclear power industry that the Eckart amendment would unfairly change the rules in the middle of the game. Well, sometimes the rules are due to be changed.

The nuclear power industry is no longer an infant industry. It has reached the age of majority and should no longer receive a special subsidy which no other energy industry receives, a subsidy which takes the form of an absolute cap on liability and a congressional shield from full responsibility if something goes wrong.

The nuclear power industry is perfectly capable now of living up to this responsibility. The Eckart amendment prudently preserves the limitation on the amount which can be assessed each year into the public compensation fund, something H.R. 1414 already does.

So this amendment does not change at all the annual amount that will have to be paid by the utilities. They still will not be paying more than $10 million per year per reactor, or about 2 percent of the annual cost of operating a new nuclear plant—2 percent of the cost. I do not think that is excessive.

What the Eckart amendment says is that instead of shutting off those payments after 6 years, a completely arbitrary figure, the Eckart amendment will simply require payments to continue at the same rate until all of the victims have been fully compensated. This is just and fair to the victims and it is reasonable for these utilities who can well afford it. If they can't, they don't belong in the nuclear power business.

In conclusion, Mr. Chairman, the Eckart amendment is in the public interest, not the special interest, and what else are we here for?

Mr. BLILEY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in opposition to this amendment. I believe the author of the amendment to be most sincere. I have worked with him on many past occasions and expect to do so in the future, but on this issue he is wrong. If we were dealing in an ideal world, his amendment might have some real merit, but bear in mind the history of this legislation. We are here today, but for over 2 years the committees of this House have been trying to bring this bill to the floor. It has been difficult to reach a consensus, but a consensus has been reached and the pool has been increased from $700 million to $7 billion, 10 times.

Now, if this amendment and other amendments that are pending are adopted, this legislation is not going to advance into law. And where does that leave the citizens? They are going to be with a bill that provides a cap at $700 million. The utilities are going to be grandfathered under that $700 million arrangement.

□ 1425

So they are going to be like Brer Rabbit who has been thrown into the briar patch. They are not going to be upset. They are going to be better off than they would be if this compromise passed, but they are supporting this compromise. There is no such thing today as unlimited liability. We have seen that in the Johns Mansville case with asbestos. We have seen that closer to my home with the A.H. Robins Co. in the Dalkon Shield. Bankruptcy judges will simply set the limits.

Finally, the citizens under this bill have immediate access to this $7 billion pool. If we remove the cap there will be delays, there will be extended litigation, and finally they will have no more preference in a bankruptcy proceeding, should it go to that, than any other creditor. For all of these reasons I ask, though this amendment is well intentioned, that the Members reject it.

Mrs. LLOYD. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to this amendment.

Mr. Chairman, I do oppose this amendment, although I know it is well intentioned. I think there are certain facets of this provision that have perhaps been overlooked. This is a compromise with the traditional policies of tort law, we do not deny this. But the limitation on liability is partly compensation for the concessions made by those who would be liable.

The gentleman has suggested that Price-Anderson somehow provides less than common law, that it limits the liability, but what he fails to acknowledge is that the common law has its drawbacks. The most important of those drawbacks is that the victim could recover only the assets of the negligent party.

The gentleman commends the common law system for unlimited liability, but he is blind to the great potential for limited compensation due to the bankruptcy of the defendants.

Yes, the Price-Anderson Act limits liability but it is also revolutionary in its application of industrywide liability for damages. The victim can simply recover from the commercial utility even if they are not at fault in any way.

The entire industry is liable for the accident at any plant regardless of who is wrong. How else could they have $7 billion in funds that they could pay for damages?

This is the unique feature of Price-Anderson.

Additionally, Mr. Chairman, under Price-Anderson the utility is required to waive any defense as to the conduct of the claimant, even if the claimant were to have intentionally maximized his injury, and there would not be a defense available under Price-Anderson.

This is a balance of interests and the limitation of liability is part of this crafted balance. I do think that this amendment is wrong.

I urge my colleagues to reject it. It flies in the face of the decision of all three committees of jurisdiction who have accepted this concept of the $7 billion.

Mr. BILIRAKIS. Mr. Chairman, I move to strike the requisite number of words and rise in opposition to the amendment.

Mr. Chairman, it is clear to me, and I think it should be clear to all of our colleagues, that the Price-Anderson system has operated effectively over the last 30 years and that its extension is necessary to ensure not only the continued operation of our nuclear power industry but the swift compensation of any injury regardless of circumstances. That was explained in detail by the gentlewoman from Tennessee [Mrs. LLOYD] and by the gentleman from California [Mr. MOORHEAD] earlier.

In the general debate this morning, many Members reiterated the classic arguments which have surrounded the Price-Anderson system since its inception. I cannot add to the eloquence or force of these arguments, but I believe some of the points made in favor of the Price-Anderson liability system need to be reemphasized in the context of this amendment.

First, it is important to understand that Price-Anderson does not in the aggregate abolish liability but rather the system focuses liability on the utility licensee or DOE contractor. It places the weight of liability on those most capable of assuming the risk and provides the means to satisfy this liability.

Moreover, in the event of an extraordinary occurrence, Price-Anderson removes available legal defenses and ensures swift compensation. Price-Anderson provides a system to expedite claims, not frustrate them. We say we care about the injured party. For crying out loud, if we cared, let us make sure we can ensure swift compensation. Price-Anderson provides a system to expedite claims, a system to expedite claims and not as would be the case if we were to do away with this type of a system, which would be to frustrate claims.

In contrast, the offered amendment would destroy the very logic and workability of the Price-Anderson system by lifting the liability limit. A quite bottom line like kind of thing. The amendment would destroy the basis of this no-fault compensation. We cannot have both. We have to realize that.

Under H.R. 1414, the pool of available Price-Anderson funds is increased tenfold over current limits. Under the amendment we extend endless liability on an industrywide basis regardless of fault, a situation which can only raise costs to the average ratepayer.

Mr. Chairman, I believe the question before us is what is indeed accomplished in the name of full compensation. In my opinion, the answer would be the destruction of a system that has worked well and has served the interests of our country.

I urge my colleagues to oppose the amendment.

Mr. SWIFT. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, there is inconsistency here that I think seriously harms the credibility of the industry position on this issue. When the issue before the body is harm to citizens, the industry argues that nuclear power is so safe that there is no need for concern. It is safer than a whole list of things, it is safer than other fuels, it is safer than driving a car, it is safer than flying in an airplane, it is safer than getting out of bed, so that the potential citizen victim should, we are told, have no worries because there are not going to be any accidents.

On the other hand, when the issue is harm to the industry, in this instance cost to the industry, then we are told that if there were an accident the industry would be destroyed. Mr. Chairman, we cannot have it both ways. The industry has got to figure out which it is, safe as soda water, or facing disaster if it must pay all the costs of an accident.

I think if the industry would decide which it was or where in the middle it lies, what the risk was, I think we could work things out. If it is all that safe, the industry should not be worried about this amendment. If it is not that safe then perhaps we need a very different kind of strategy.

Mr. Chairman, I am not antinuclear. I never have been antinuclear. I think we are going to need nuclear energy as part of the energy mix for this country. But I am tired of the industry changing its arguments to adapt to every situation and try to be all things to all people. When the industry wants to level with the Government and when it wants to level with the citizens of this country about exactly what the degree of risk is then I for one am willing to work with them to try to seek a rational balance between public safety and the public's need for electricity. But as long as we are told that there is no risk when the public safety is involved and that there is immense risk when the industry convenience is involved, then I have to choose between protecting the public or protecting the industry, and if that is the choice that the industry insists on presenting to me, then I will support the Eckart amendment and I will urge my colleagues to do likewise.

Mr. FIELDS. Mr. Chairman, I move to strike the requisite number of words, and I rise in opposition to the Eckart amendment.

Mr. Chairman, proponents of the Eckart amendment portray Price-Anderson as a scheme to shortchange victims of a nuclear accident. That's just not an accurate portrayal of this legislation.

Price-Anderson is a victims' compensation statute. One of the major goals of Price-Anderson, since its enactment, has been to assure speedy and just compensation to those injured by a nuclear accident.

The Price-Anderson system is unprecedented in American law. Under Price-Anderson, the entire nuclear utility industry accepts complete liability for any commercial nuclear accident—regardless of fault. Traditional legal defenses are waived. The no-fault system, which assures victims speedy compensation, is inextricably linked to a limitation on liability.

I might point out that H.R. 1414 raises the utility liability cap more than 10 times, from $700 million to over $7 billion. In the event of a major nuclear accident, nuclear utilities would be assessed retroactive fees of up to $63 million per reactor, per nuclear incident. These fees together with a primary tier of private insurance make in excess of $7 billion available to nuclear accident victims.

Without Price-Anderson's unique provisions, a victim would be left with no choice but to spend years in court pressing a claim against a utility which would almost certainly be bankrupt and unable to pay claims. In bankruptcy, a nuclear accident victim would fare no better than any other unsecured creditor.

I also want my colleagues to understand the political realities of voting for the Eckart amendment. If the Eckart amendment passes, President Reagan will certainly veto this bill.

Price-Anderson expires next month; however, existing nuclear reactors as well as reactors currently under construction are grandfathered under the current Price-Anderson system. Grandfathering means that if this bill does not become law, the liability cap on nuclear utilities will not be raised to $7 billion, indexed for inflation. Instead, the liability cap would remain $700 million, with no indexing for inflation. It means each nuclear reactor will pay only $5 million, not $63 million, into the victims' compensation pool.

I have to tell you that there are those associated with the nuclear industry who are silently hoping the Eckart amendment does pass and H.R. 1414 heads straight for the President's veto pen.

I urge my colleagues to look carefully at the complex compromises Price-Anderson contains. If you really want to increase the money available to victims of a nuclear accident, oppose the Eckart amendment and support H.R. 1414's tenfold increase in the nuclear industry's liability.

Mr. DeFAZIO. Mr. Chairman, I move to strike the requisite number of words, and I rise in strong support of the Eckart amendment.

Mr. Chairman, just last weekend I was reviewing my homeowner's insurance policy. It had come time to pay the annual premium. As I am wont to do, I read through it, and I noticed that there is a neat and tidy exclusion in that for volcanic eruptions, acts of God, and nuclear accidents.

So my insurance company is not going to pay if there is a catastrophic accident which imperils my home and my property. The question is, Who is going to pay? That is what the Eckart amendment is all about. We cannot create something out of nothing and either the taxpayers are going to pay and we are going to share the burden among all taxpayers, whether or not they benefit from nuclear power, or the nuclear power industry, the utilities that utilize that industry, are going to pay and they are going to proportion the costs among their consumers, not among the general public.

□ 1440

And I do not believe that the members of the public and the businesses around the United States that do not benefit should be subsidizing that industry or those utilities which are making money off of selling power from those plants. So it is ultimately a very, very simple equation and that is: Are you for responsibility by the industry or by those who profit from the industry or do you feel that we should continue the subsidies, we should put a potential burden on all the taxpayers of the United States? I think it is a pretty clear choice. The responsibility lies with the industry.

I yield back the balance of my time.

Mr. FRANK. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I hope we pass the pending amendment.

I have assured my colleague from Illinois it is nothing personal, it is a matter of public policy and time has passed.

One of the things that struck me, Mr. Chairman, which is sort of difficult in life is that you can never find a free market guy when you really need one.

I mean I thought we had in this House a lot of devotees of the principle of the market and free enterprise. And I naively assumed that one basic manifestation of that principle was that a private enterprise had to pay its own way.

I had also assumed that the cost of insurance was part of the cost of doing business.

Lo and behold—in that order—we have some of the most ardent free enterprisers in the House announcing that somewhere in Adam Smith or Milton Friedman or Friedrich Hayek or Ludwig von Mises, and the names get harder for me to pronounce, there is a footnote that says, "except the atomic energy industry." Because what we are talking about here is a very simple principle: Should an industry which may not deliberately impose a cost on society be forced to bear that cost?

People will say, "Well, that will go through to the consumer."

Yes; that is it, good free economics, if that is what happens. It is as with hazardous waste.

The way you deal in a free market system—and I had not expected to be the one giving this lecture to my friends on the other side, but you do what you have to in this life—under the free market system, when an entity imposes costs on a society, the rational way to deal with that is to say to the people who are buying that product, "You must bear the cost." That is the free market way.

What you have now is a subsidy by regulation which disguises the cost, which subsidizes nuclear power by exempting it from free market principles. What you want to do is to say a part of the cost of having nuclear power is the need to rationally insure against accidents. And if you exempt people from that, you are interfering with the working of the free market system. So let us not abandon the free market principles.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I yield to the gentleman from New York [Mr. LENT].

Mr. LENT. I thank the gentleman for yielding.

I just wanted to ask the gentleman what his comment might be: Under the free market system, which the gentleman is advocating, only the assets of the utility company involved would be available to the injured parties—the victims—whereas under this bill there would be $7 billion up front that would immediately be available. Does the gentleman just want to limit the victims' recovery to the assets of these companies?

Mr. FRANK. I would answer the gentleman, "No." I want to have an insurance system that is allowed to function. Now what we have been told is that people are prepared to do some pooling and paying for the cost of the insurance, which is one way to go about it. What I object to is this cap, it is the cap and the cap is a great form of subsidy.

So what we have is—there are various ways of dealing with the insurance principle. If people want to do some pooling that is OK with me. But the cap is, it seems to me, wholly wrong. One of the previous speakers said, "Well, the company would have to bear that cost even if it was not its fault." Yes; that is the rational way to run things. This is not a criminal matter, in most of these cases. But what we are saying is if the society wants nuclear power, society ought to pay for it. And society right now cannot know the true cost of nuclear power as long as you have got this proposal in here.

One other thing I want to address. We are told that we should accept this because it is the product of a compromise of three committees.

Mr. Chairman, I am a great supporter of the committee system. Some of my very favorite committees were involved in this. But you know what, we have all been through the process. You get something very complicated that has been agreed to by three committees and it is almost certainly going to have a little something the matter with it. If it had come from any one of the committees is probably would have been better. But when it comes from all three committees, let us be honest with ourselves, it is very likely to be the kind of cobbled-together compromise because there is not a forum—you see if it came from one committee we would have a vote, define the issue, and the majority would win. But a three-committee forum is a forum which it is impossible to come to any real decision on; so we have a little here and we have a little there and you get something put together in a kind of a hodgepodge fashion.

It reminds me of the great quote from Washington Irving when he was describing in the Knickerbocker history a crash of a sailboat around the bend. He said, "We will never know exactly what happened because there were too many survivors. If only one person had survived, he would have told us what happened and we would have known. But there were too many survivors and we had too many versions."

Well, the trouble with this bill is it had too many participants. When three committees get together it is a little of this and a little of that and a little of the other. Nobody is a bad guy, but let us not invoke what we all know to be that cobbling-together process.

The CHAIRMAN pro tempore (Mr. MICA). The time of the gentleman from Massachusetts has expired.

(On request of Mr. ECKART and by unanimous consent Mr. FRANK was allowed to proceed for 2 additional minutes.)

Mr. FRANK. I thank the gentleman from Ohio, the sponsor of this excellent free market amendment.

Let us not pretend there is somehow an infallibility when three committees come in with a compromise. I commend them for bringing this bill forward. In this case, the purpose is, as they have done, to allow us to define the issue clearly between those of us who think the free market principle should be given more recognition so that society can have a better idea of what this policy will cost, against the subsidy regulators.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. FRANK. I would be glad to yield to the gentleman from New York [Mr. LENT].

Mr. LENT. I thank the gentleman for yielding.

I just wanted to relieve the gentleman of his problem with the three committees because every committee of the three that took this amendment up defeated it. We were unanimous there.

Mr. FRANK. Oh, I understand that. I was not talking about that. I will say to the gentleman I have never been a believer in the infallibility of committees even those on which I serve, although I generally come closer when I have served on a committee to believing in its infallibility, as all of us do.

What I am saying is that the product that comes together when three committees get together, I understand when you have three together there is this great pressure, "Please, we have to work this together. Don't vote against it. Let it go to the floor."

Well, it is on the floor and the time has come for Members to decide.

Mr. Chairman, I have enormous respect for the gentleman from Arizona, for other members of the committee leadership who have participated. This is not a personal issue. We mean in no way to denigrate them when we say we think the free enterprise system ought to be allowed to flower. And if unfortunately very few on that side are prepared to speak for free market principle today, some of us, led by the gentleman from Ohio [Mr. ECKART] who offered this amendment, are prepared to fill the gap.

I yield back, Mr. Chariman.

Mr. HUCKABY. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, the gentleman from Massachusetts' arguments are incomprehensible as to the fact that there are three committees of jurisdiction over this legislation and that means that we should not have the principle of Price-Anderson in effect here. That is really what this amendment is about, whether or not we are going to share the cost and have a limit as far as the nuclear industry is concerned.

Certainly Chairman UDALL's committee, which I think could properly be entitled the lead committee on this bill, for several years has reported this legislation out. It has always had a three-tier liability. That is the basic part of this legislation which all three committees reported out.

I think to pass this amendment would ultimately do a lot of damage to potential recipients in the event we ever have a nuclear accident because, let us face it, if we are going to say that the industry has unlimited liability then who is going to pay for that? The companies are going to pay for that, the stockholders are going to pay for that and ultimately the ratepayers are going to pay for that. The people who happen to live where they are receiving electricity from a nuclear powerplant, they would be saddled with astronomical rates. It appears to me it would be much more equitable in the rare event you should have a catastrophic accident, that after the $7 billion ceiling, we should use the rate base of the entire America, instead of those people who just happen to live where they are serviced by a nuclear powerplant.

So I would think for the good of our constituents we should defeat this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. ATKINS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, today I find myself in the unusual position of agreeing with the Nuclear Regulatory Commission, which recommended the liability approach of the Eckart amendment in 1983. The NRC found that spreading the cost of an accident over many years would allow the nuclear utilities to pay the full costs of an accident in a way that is both affordable and predictable. That is what we ask the House to adopt today.

The Eckart amendment is an important recognition that the nuclear industry has reached its adulthood, and no longer needs the protection that Price-Anderson originally provided. We've cohabited with atomic power for over 30 years. We know that a Chernobyl and a Three Mile Island can happen. We know that nuclear powerplants can be poorly designed and improperly managed. We know that incentives for safety are not provided to an industry that has no financial stake in policing itself.

In a year when protectionism is a charge leveled at much legislation, it is difficult to find a situation where the label fits more securely. If protectionism usually implies artificial support or aid for a particular embattled industry, it's hard to think of a better example. By those standards, this is a protectionist bill, pure and simple. Limiting liability protects the industry, but not the American people.

This bill's arbitrary limit on the nuclear industry's liability in the event of a serious accident turns a blind eye to reality and equity. The reality is that a serious accident will cost more than $7 billion. The equity is that victims should not end up paying for the faults of a profitmaking industry.

The bottom line of this debate is who pays? Right now, the answer is—the Federal Government, and the victims, once the limit has been reached. What the Eckart amendment does is shift that responsibility to where it should be—the nuclear power industry.

Nuclear power is not operated as a nonprofit public interest corporation. It is free enterprise business, and it's time to end the Government subsidy and let the market operate as it should. If utilities can ensure their own property, they can afford to pay the full damages associated with any accident occuring on their property. If utilities are correct in their assurances that no serious accident will ever occur at their installations, they should have no objection to the passage of this amendment. If there isn't an accident, they won't ever have to pay a cent.

The nuclear industry is no longer merely a promising new technology in need of a subsidy. Rather, it is an established power—but also an established threat. The Eckart amendment returns to the original NRC proposal, and shifts Government protectionism to where it should be—protecting the people of this country. I urge my colleagues to support this amendment.

Mr. SHARP. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, appealing as some of the speeches have been about this amendment, and many other subjects I might add, the fact is we ought to oppose this amendment. I think there has been somewhat of a misreading of what this legislation is all about and what it actually says.

First and foremost, this legislation pledges that there shall be full and prompt compensation of any victim of a nuclear accident. We are not interested in leaving citizens and their property out there without some fundamental commitment.

Second of all, it has been alluded to many, many times that we provide very clearly for up to 7 billion dollars' worth of that compensation.

I would suggest to you to try to find any other sector in private industry in this country where they can give you anything like the assurance that there will be 7 billion dollars' worth of money to stand behind the needs of the people if there were an outrageous accident—and there are other industries in this country that can create those kinds of accidents. Do not be misled into the idea that we are concerned only about nuclear power as a deadly weapon in this country.

□ 1455

Now, let me suggest to the Members that what we do beyond the $7 billion is of critical interest for this amendment, and it has been, I believe, totally misrepresented by the proponents of this amendment.

This legislation does not say that for an accident above $7 billion the taxpayers shall pick up the tab. What this legislation says is that we will find a way to provide prompt and full compensation to those citizens, and the Congress that meets it must deal with this situation and will be in a far better position than we are in today to envision what the potential costs are. Are they simply $9 billion, or are they dealing with $50 billion? They will be in a far better position than we are today to assess where the equities lie in allocating those costs and raising that money. They may choose that the best thing to do is to spread the cost among the taxpayers so that it is a small amount among millions of citizens, or they may choose—let us use the incident I gave of a $9 billion accident—to say that we will just continue what is in Price-Anderson, as amended, that we shall assess $10 million per nuclear reactor and they will pay this all off. So it may be the ratepayers of nuclear utility systems that will pay for all of these accidents. That will depend on those who are there to be able to see what the real impacts of an accident is, and they would have to live with it at that time.

Let me suggest that if we adopt this amendment, what we are trying to say to nuclear ratepayers, no matter what the incident or the accident is, no matter what the amount of money, is that they shall pay. Well, I suggest to some of you who live in areas that get nuclear power from those utilities that have more than one nuclear reactor that you may want to think twice or three or four times about this amendment. If you are a part of Duke Power, if you are a part of Commonwealth Edison, if you are a part of TVA, if you are a part of Northeast Utilities, and there are others, you are going to be paying through the nose under this amendment for a long, long time to come, because this is a per-reactor charge. Regardless of whether the accident is in your utility, it is per reactor. If you have multiple reactors, you pay tremendously more amounts of money into the compensation fund.

Mr. ECKART. Mr. Chairman, will the gentleman yield on that point?

Mr. SHARP. No, I would like to finish my comments first.

Mr. Chairman, let me suggest that the reason I raise this point is that Members must understand that we cannot resolve all these issues today. That is what a future Congress is going to have to do if we get into one of these accidents that is beyond our vision at this point.

Let me suggest to the Members another point that I think ought to be taken into account, because some people are trying to pass this off as a consumer amendment. We have made a substantial improvement, if we are able to pass this legislation, for protection, to be sure that we have $7 billion there. We do not think, despite some claims to the contrary by the utilities industry, that this will raise anybody's electric utility rate in this country because the ceiling still remains at a reasonable level. It is a certainty for the private financial marketplace to understand what it adds up to. But what this amendment does is rip off that certainty, and what it tells Wall Street and anybody that buys a utility bond is that you had better think twice before you buy the next bond in any of these utilities that have nuclear power, especially those that have four, five, or six plants. What that will mean is that their bond ratings will go down, and what that means is that they will have to pay a lot more in interest charges in order to borrow the money which virtually every utility in this country has to do to operate. And what that means is an increase in rates now, not after the nuclear accident but now, for some, if not all, nuclear power utilities in this country.

The CHAIRMAN pro tempore (Mr. MICA). The time of the gentleman from Indiana [Mr. SHARP] has expired.

(By unanimous consent, Mr. SHARP was allowed to proceed for 1 additional minute.)

Mr. SHARP. Mr. Chairman, let me make one final point.

We have been through a tough battle. The chairman of the committee, the gentleman from Arizona (Mr. UDALL) and I and others tried to get a much higher ceiling. We worked for $12 billion, $10 billion, $9 billion, and $8 billion, and we got it up to $7 billion, a ten-fold increase.

If we jeopardize the coalition that we put together, even if the House should pass it—and I think we would have a terrible time in the other body with this—what we would end up with is current law, so instead of $7 billion of insured protection, it would be $700 million.

So I would urge the Members to consider the real appeal of some of these arguments in this amendment and remember that we are providing greater certainty in this bill. We are providing that now without a rate increase to utility payers. We think that $7 billion is a reasonable amount. I do not think the proponents of this amendment can assure us that there will not be utility rate increases. I do not think they can assure us that we will get greater equity, and I frankly do not really believe they can assure us that this system will work so they would cough up all this money if we really do have an outrageous accident.

The CHAIRMAN pro tempore. The time of the gentleman from Indiana [Mr. SHARP] has again expired.

(On request of Mr. ECKART, and by unanimous consent, Mr. SHARP was allowed to proceed for 2 additional minutes.)

Mr. ECKART. Mr. Chairman, will the gentleman yield?

Mr. SHARP. I yield to the gentleman from Ohio.

Mr. ECKART. Mr. Chairman, how can the gentleman distinguish for me the difference between the operation of Price-Anderson under my amendment and the operation of Price-Anderson under the committee bill? The committee bill simply places a cutoff of approximately 6 years of the number of times companies with reactors will have to make payments. If in fact there is an $8 billion accident, it would under my amendment go to a seventh year.

How is there a fundamental difference when you say my amendment will require them to pay more than they would pay under the current one other than that they would exceed the cap?

Mr. SHARP. Mr. Chairman, let me answer that first by addressing the argument raised about the free market. If you believe in a free market, this is not it, because this is grafting onto a regulatory system, as the gentleman has just acknowledged.

In fact, nobody in the free market would agree to this system, and we would never get it, because we are allocating this per reactor. What the gentleman has done is raise the question of certainty. At least a utility knows it is $63 million—per accident, mind you. We must understand we may have more than one accident. I sure as heck hope that we do not, but that is a possibility.

What this says is that we are now going to be paying forever, possibly, if we have the kind of outrageous accident none of us ever want to have happen. That is where the certainty comes in. The whole question of a limit on liability, after all, was designed to provide some certainty in the financial marketplace, which probably was necessary to get investment in these plants.

Some people do not want any more nuclear powerplants. Well, as we know, none are being built, but there are 110 in existence, with millions of citizens getting their power from them and being at risk if there is an accident. What we are trying to do is provide for those folks.

We have made substantial gains here, and my concern is that the gentleman, either through raising the uncertainty in the financial marketplace or the political uncertainty of his being able to accomplish something in respect to inflation, ends up jeopardizing real gains and protection.

Mr. ECKART. Mr. Chairman, if the gentleman will yield further, let me address the point the gentleman just made in his last answer about political uncertainty.

What is there contained in this document, H.R. 2994, that in any way addresses victims' certainty of compensation in the event an accident exceeds $7 billion, or would destabilize the marketplace in the financial perspective so that it would lead bondholders to think they may not be held liable?

The CHAIRMAN pro tempore. The time of the gentleman from Indiana [Mr. SHARP] has again expired.

(On request of Mr. ECKART, and by unanimous consent, Mr. SHARP was allowed to proceed for 2 additional minutes.)

Mr. ECKART. Mr. Chairman, as I read this legislation, the Congress will thoroughly review the incident in accordance with subsection (i), and that generally means that we will form a committee and take whatever action we deem necessary. That means we will issue a report.

Mr. SHARP. Mr. Chairman, the gentleman failed to read the next sentence. The gentleman stopped reading. I think he owes it to the House to read on. To assure what?

Mr. ECKART. "Whatever action is deemed necessary, including approval of appropriate compensation plans and appropriation of funds."

Mr. SHARP. For what purpose? Is it for prompt compensation?

Mr. ECKART. We have not signed an appropriation bill around here in decades. We have the largest CR ever. We cannot even pass bills for money to run the country, let alone pay for a nuclear accident.

Mr. SHARP. Mr. Chairman, let me say to my friends that the Congress may decide at that time to go right on with the system we have in place and give the $7 billion, not the $9 billion, $12 billion, or $15 billion.

Mr. ECKART. If we cannot settle this before an accident, how are we going to settle it afterward? Does anyone believe that we will, under those circumstances, be able to resolve it?

Mr. SHARP. Mr. Chairman, we can repeal Price-Anderson, and if we do, we can forget about ever getting $7 billion out there in the marketplace. It will not be there. Let us not go for Utopia when we have a chance to get something real, concrete, and substantial for people, for everybody. There is nobody who can provide the kind of certainty the gentleman claims his amendment or any other amendment will provide. What we had better do is stick to a good deal and not jeopardize it.

Mr. UDALL. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I think we are getting close to a decision on this important amendment, and I just want to take a couple of minutes.

We would not have had this bill put together the way it is without the brilliant mind and the attention of the gentleman from Indiana [Mr. SHARP]. He was the key guy. He happens to be on the two full committees, the Committee on Energy and Commerce and the Committee on Interior and Insular Affairs, and in the last 10 minutes we have heard from him as to exactly what the situation is.

Price-Anderson started out and for the last 30 years it has really been devoted to one thing, and that is to make sure that people who live near nuclear powerplants do not get hurt and have damages that cannot be paid for as we operate an uncertain technology. That has been the whole purpose of it.

You can write on the back of an envelope the trade-off that made all this possible. The trade-off is that we will have strict liability, and you do not have to prove negligence, and in return for that there will be limits of liability; they will not pay forever. I see an unfortunate tendency this year—and the fights have been close—we have had 20 to 19 and 19 to 18 and 19 to 17 votes in our committee—to have a contest between keeping a fairly simple system and expanding it. In almost every chapter of this bill we could have been creating a new cause of action. We do not do that, but some of these amendments would create a new cause of action, a new defense, or a new principle. They tried to write out a bill that I was afraid would get into the hands of the Judiciary Committee because of the major changes it would make if some of these amendments were passed.

Mr. Chairman, I think the gentleman from Indiana [Mr. SHARP] has told it as it is. I think he has laid out the facts. I hope we will defeat this amendment and go on and pass the bill.

Mr. MARKEY. Mr. Chairman, I move to strike the requisite number of words, and I rise in support of the amendments offered by the gentleman from Ohio [Mr. ECKART].

Mr. Chairman, the gentleman has offered an important amendment. It is an amendment that to a large extent is going to make a point, even though it will most likely lose, and the point is this: That there is a myth in this country, and that is that nuclear energy is out there in the free market competing with other energy sources for the attention of investors in our country on a level playing field, competing with those other energy sources. That is not true.

This is an energy source which has had a life support system strapped on it for 40 years under the guise of being an infant industry that needs special help and extra aid from the Federal Government.

Now, if the lawn mower industry or the nitroglycerin industry or the fireworks industry came in here and said, "We want a special insurance policy because this is such a dangerous industry to protect us against anyone suing us in the event we injure them," we would laugh them out of here. No other industry would have the temerity of appearing before Congress and asking for a special policy to put a ceiling on how much it had to pay in the event it injured Americans. Only one industry would do that—the nuclear industry.

Adam Smith spins in his grave as he listens to this debate here, and the spirit of David Stockman and PHIL GRAMM at least must be spinning as they listen to us talk about an energy source which has for 40 years derived the largest amount of subsidies from the Federal Government but still only provides 4 percent of the energy to our overall energy mix, and still they are crying for this extra protection.

What do they say? They say, "In the event there is an accident we can't afford to pay $10 million a year per plant until all the damage that has been caused by a meltdown is paid back." So let us just say for the sake of argument that there is a meltdown in a plant near a major city in America, Boston, Cleveland, or wherever, and $50 billion worth of damage is caused. This bill says that the total cost that has to be assumed by the nuclear industry is $7 billion.

Well, where is the other $43 billion going to come from? Well, according to this bill, the check is in the mail. You just have to come back to Congress in 1990, 1991, 1992, and 1993, and Congress is going to appropriate $40 or $50 billion for the citizens of that State, or, on the other hand, the victims are supposed to pick up the balance of the cost. So you have a choice. You can pick the taxpayers or you can pick the victims, but in no manner, shape or form do we expect under this legislation the people who caused the accident to pick the extra cost.

Let me give the Members a few numbers. They might be interested in whether or not these utilities can afford to pay, because on Wall Street utilities are known as "cash cows," and that is the single wealthiest part of the entire stock market. Listen to this: last year Florida Power & Light made

$414 million. Can they afford $10 million a year to pay off the victims of a nuclear disaster?

Commonwealth Edison made $995 million in profits. Can they afford $10 million to take care of the wives and the children and the damage to businesses in the areas surrounding a nuclear powerplant in the event of a meltdown that none of us want?

Listen to some of these numbers as we go along. Portland Gas & Electric, $168 million in profits. Southern California Edison, $744 million in profits last year. Do you think they can afford to pay some of that to victims of a meltdown in the event there is one?

Niagara Mohawk, not a big utility, made $411 million in profits; Rochester Gas & Electric, $108 million. It goes on and on. It is the wealthiest industry in the United States. They are coming in here and asking to be insulated from the results of their own negligence or their own malfeasance or their own bad luck, but the consequences of that are that the victims will have to pay that.

□ 1510

We ought to shove it out into the marketplace, and we ought to make it compete with every other energy source for the scarce investment dollars we have in the energy future of this country.

As long as we continue on with the charade of pretending that this industry is safe, while at the same time putting a cap on its liability, we are going to suffer from the hypocrisy of an administration which for 7 years has had no energy policy.

The CHAIRMAN pro tempore. The time of the gentleman from Massachusetts [Mr. MARKEY] has expired.

(By unanimous consent, Mr. MARKEY was allowed to proceed for 1 additional minute.)

Mr. MARKEY. The bottom line here, in 1981 when Ronald Reagan took over as President and appointed James Edwards as Secretary of Energy, two-thirds of the Department of Energy budget went to new energy sources, and one-third of their budget went to new nuclear weapons.

In 1987, two-thirds of their budget goes to new nuclear weapons, and one-third goes to new energy sources; but of that one-third that is left, 70 percent of that goes to nuclear energy.

All of the rest of the energy sources in this country have to scrap for those last few dollars. That is the net result of an energy policy for this country under the 8 years of Ronald Reagan.

It is an absolute disgrace as is any attempt to limit the liability of an industry that seeks to call itself a free enterprise.

Mr. ECKART. Mr. Chairman, will the gentleman yield?

Mr. MARKEY. Mr. Chairman, I yield to the gentleman from Ohio.

Mr. ECKART. Mr. Chairman, I am sure the gentleman is equally aware that a nuclear powerplant pays on an average of $5 million every year just to protect its own real estate.

Yet, they are not willing to spend a little more than that to protect their neighbors' real estate; and it is unconscionable that they think more of their own property than they do of their neighbors.

Mr. MARKEY. I hope the gentleman accepts that the gentleman has made a wise attempt to improve a piece of legislation which is going to cause us to have a distorted energy picture for another generation.

Mr. FEIGHAN. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in support of the amendment offered by Representative ECKART. Mr. Chairman, with this amendment the Price-Anderson Act will have the effect Congress intended—to provide compensation to victims of powerplant accidents, while protecting utilities from financial disaster. This sensible addition to the law is based on a 1983 proposal by the NRC itself.

The system Representative ECKART is proposing would replace an arbitrary limit on liability, a limit which may as likely as not leave victims without full compensation, with a mechanism for full compensation, but paid in manageable increments. These premiums would not be paid unless an accident actually happens. In other words, utilities would pay the full costs of an accident, but only those costs, and on a gradual manageable basis.

There is probably no one here who does not believe that a victim of a nuclear power accident deserves to be compensated. The partial meltdown at Chernobyl showed us the dimensions of such a catastrophe; we all believe that the innocent victims deserve as much assistance as we can give them. It certainly seems fair that victims of a horrific nuclear accident should have the same right to full compensation as victims of car crashes, or of any other accidents.

The sticking point is how to provide that compensation in a way that does not inflict an unmanageable burden on nuclear industries. The Eckart amendment would do just that. By spreading the cost of an accident over a number of years, it would allow the nuclear utilities to pay the full costs of an accident in a way that is both affordable and predictable.

Some may object to this amendment on the grounds that the $10 million annual postaccident premium would either break the nuclear utility industry or swamp consumers with an enormous rate increase.

In fact, a careful look at the figures shows that utilities can afford it.

According to NRC studies, the proposed $10 million annual post accident premium represents approximately 2 percent of the operating cost of a new nuclear powerplant. In the very unlikely event of an accident, the rate increase passed through to consumers would not be more than, and probably less than 2 percent.

To put this in perspective, nuclear utilities currently spend about $5 million annually on insurance to protect their property. By comparison, a maximum of $10 million when accident victims' lives and even their children's lives are destroyed seems more than reasonable. I urge my colleagues to join me in supporting Representative ECKART's amendment to the Price-Anderson Act.

Mr. NIELSON of Utah. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I do not have the acting ability of some of the Members on the other side of the aisle.

One of the Members said that there was no subsidy. There was a subsidy in the nuclear industry.

I assure the Members, there is no subsidy in the Price-Anderson bill at all.

As far as research is concerned, we have had research in nuclear areas. We also have research on coal, solar, and other forms of energy.

Unlike the other industries, negligence does not have to be shown, just causation. All defenses have to be waived.

No other industry is saddled with that particular responsibility. I would like to mention that the amendment failed in both committees in both years, the Committee on Interior and Insular Affairs and the Committee on Energy and Commerce, twice this year and twice last year.

The bill does provide for a tenfold increase. This is a major increase to saddle the industry with.

It is a delicate balance between those who want to leave it as it was, and those who want to make it unlimited.

We have already reached that conclusion in both committees by wide margins.

If in the unlikely event of an accident, Congress can provide either by taxes or by fees, and then go back and take care of it, they would have to do the same thing if the amendment were to pass.

There is no need for the amendment in that regard. If you want to drive the nuclear industry out of this country and depend more on coal and oil and gas, you can do so by this kind of amendment.

As a matter of fact, the industry has been buffeted by many things.

We will see one like on the NRC bill, attempts to really destroy this industry which in my view is doing more for the environment and more for the energy needs of our country than any other industry.

I would hope we would defeat this amendment resoundingly and not have to face it again as many times as we have in the past.

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. NIELSON of Utah. Mr. Chairman, I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I thank the gentleman for yielding.

I would just like to point out one thing before we vote here.

A lot of Members are saying that Price-Anderson has outlived its usefulness, that the utilities do not need it anymore, so, therefore, there is no need for it.

Actually it is not the utilities that need Price-Anderson; it is the consumers that need Price-Anderson, because we waive all kinds of defenses.

It is a no-fault insurance bill that we are passing here, and because we have changed that, we then have to put a limitation, and so the tradeoff is the limit for no-fault.

I think that that is very important for the Members to realize as we get ready to vote for this.

Mr. WEISS. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I rise in strong support of the Eckart amendment, which would remove the limit on the nuclear industry's liability in the event of a nuclear accident. I have been a longtime supporter of this approach, having repeatedly introduced legislation to accomplish this same goal. At present, I am a cosponsor of the legislation introduced by the gentleman from Ohio [Mr. ECKART], which accomplishes this and other Price-Anderson reforms.

In recent years, the world has witnessed two extremely serious accidents involving nuclear reactors—one in the United States and one in the Soviet Union. These accidents have taught us some very important lessons about nuclear power.

First, accidents involving radiological contamination can and will happen. The disasters at Three Mile Island and Cherynobyl should lay to rest any doubts about the threat posed by nuclear technology. The truth must be told that nuclear fission is extraordinarily dangerous and places everyone in the world at risk.

Certainly, here in the United States with over 100 commercial reactors now licensed to operate, virtually all American citizens face a nuclear threat.

Second, the financial consequences of these accidents may be nothing short of catastrophic. Several studies have attempted to estimate the potential costs of a serious nuclear accident. Most recently, the General Accounting Office found that losses from a serious accident could reach $15 billion. And if weather conditions happened to be unfavorable, losses could be as much as 10 times that amount.

The bottom line is this: nuclear accidents can happen, and if they do, they will cost our Nation enormous sums of money.

The question before Congress is simple: Who is going to pay for all this? Will losses be compensated by the utilities that experience the accident? Will they be compensated by taxpayers? Or will they simply be borne by the victims themselves?

Under the current version of Price-Anderson, the liability of the entire nuclear industry is limited to $700 million. If damages exceed this limit, there can be no assurance that the victims of nuclear accident will be compensated for their injuries.

Under the bill that is before the House, the limit on liability would be raised substantially to $7.03 billion. This provides 10 times more protection to accident victims than current law. There can be no doubt that this is an improvement.

But the fact remains: if damages exceed the limit, there can be no assurance that the victims of a nuclear accident will be compensated. And in all likelihood, damages will exceed this arbitrary limit.

Is there any reason why the nuclear industry should not be liable for losses incurred as a result of a nuclear accident?

Some contend that the liability limits of Price-Anderson are required because the industry cannot bear the burden of full compensation in the wake of a nuclear accident. But this is simply not the case. Nuclear utilities already pay far more than $7 billion to insure their own property. And further, the Nuclear Regulatory Commission determined in 1983 that the nuclear industry could afford to pay the full costs of a nuclear accident.

How can it do so? The NRC proposed a system that calls for annual assessments of $10 million per operating reactor until all damages are compensated. This system is designed to make the burden of compensation both affordable and predictable for the nuclear industry.

It is this moderate and fairminded plan that is embodied by the Eckart amendment. The amendment ensures that all accident victims will be fully compensated. And it does so in a way that minimizes the potential for unpredictable losses by the nuclear utilities.

The Eckart amendment is a simple matter of fairness. The financial consequences of nuclear accidents should be borne by the responsible parties—not by the victims, and not by the taxpayers.

Moreover, it is an issue of equity for our Nation's energy producers. When Price-Anderson was first devised, it was intended to encourage the development of a fledgling technology. Three decades later, nuclear power is no longer young. Instead of encouraging a new technology, the liability limits of Price-Anderson represent a Federal subsidy that benefits nuclear power at the expense of cleaner and safer energy sources. We should move to force the nuclear industry to compete on its own in the marketplace, rather than providing subsidies to a technology that threatens the health and safety of our entire population.

Finally, liability caps operate as a substantial disincentive to safety. If the nuclear power industry knows that it is going to be fully liable for all damages caused by an accident, it will be much more likely to operate plants in as safe a manner as possible.

The Eckart amendment encourages both safety and fairness. American citizens are willing to accept their own responsibilities. But they cannot and should not accept the responsibilities of the nuclear industry. Once again, I urge my colleagues to support this amendment. It is in our Nation's best interest.

Mr. MILLER of Washington. Mr. Chairman, I rise in support of the Eckart amendment to provide full compensation to victims of nuclear accidents.

This amendment is based on a report by the Nuclear Regulatory Commission to amend the Price-Anderson Act to substitute an annual limitation on liability for the present absolute limitation. That's right, this idea comes from the Nuclear Regulatory Commission, and, even though I've been critical of a number of their policies, this idea makes sense.

Mr. Chairman, let me point out that reports filed with the Nuclear Regulatory Commission since 1978 demonstrate that operators of nuclear powerplants could have paid a $10 million assessment per reactor within 3 months of an accident.

I want to point out that the nuclear power industry has experience with this approach. The nuclear waste fund uses a similar funding mechanism and according to the Department of Energy appears to be running smoothly.

This amendment will protect the U.S. Treasury in the event of a major accident. But more importantly, Mr. Chairman, it will protect the people who live around nuclear powerplants because we are making safe operations of powerplants profitable for the electric utilities with nuclear powerplants. This amendment, perhaps more than any other provision we consider today, provides a substantial incentive for safety.

Mr. Chairman, this amendment will assure full compensation for the victims of a major disaster. It protects the Federal Treasury and it protects our citizens. I urge support for the Eckart amendment.

Mr. BRENNAN. Mr. Chairman, in 1957, Congress enacted the Price-Anderson Act to help the emerging nuclear industry get on its feet. Accident liability was severely limited, with the Federal Government assuming most of the responsibility for compensating victims.

We have reauthorized this act twice during the past 30 years. Each time, Congress has required the industry to assume increasingly greater financial responsibility for possible accidents.

Price-Anderson is up for reauthorization again this year. The time has come to complete the job of shifting the liability burden from the taxpayers to the nuclear industry.

The Eckart amendment would do just that. In the event of an accident, commercial utilities would pay up to $10 million per year into a compensation pool. These payments would continue until all claims were paid.

The committee bill would end these payments after 6.3 years. At that point, the taxpayers would assume responsibility for compensation.

As you can see, this is not a question of "unlimited" versus "limited" compensation. People will be compensated in one way or another. It is a question of who pays.

Under the Eckart amendment, the nuclear utilities, and thus their ratepayers, bear the cost of an accident. Under the committee bill, the taxpayers share this burden.

Ratepayers benefit from the low cost of nuclear power. Many taxpayers do not. It is only fair to ask that those sharing the financial benefits of nuclear power also share the financial risks.

This amendment continues the historical trend toward industry responsibility and brings it to its logical conclusion. It simply extends the payment formula contained in H.R. 2994. In fact, the Eckart amendment represents the same formula that was suggested by the NRC in 1983!

This amendment is reasonable, it is fair, and it deserves our support.

Mr. UDALL. Mr. Chairman, I ask unanimous consent that all debate on this amendment, and all amendments thereto, terminate in 5 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. HOCHBRUECKNER. Mr. Chairman, I move to strike the requisite number of words.

Mr. Chairman, I certainly would like to commend the committee, obviously Chairman UDALL and the gentleman from Michigan [Mr. DINGELL] and the gentleman from Indiana [Mr. SHARP] have worked very hard to put together a compromise that will be meaningful and work for this Nation.

Some people have said here today that there is no such thing as unlimited liability, that even if you pass this amendment there would be a limit, a realistic practical limit. But I say if that is the case, then pass this amendment. If there is no such thing as unlimited liability, then let us get as far as we can with unlimited, with whatever we can get from it.

Let me share a situation that I have on Long Island. I have a situation where the Shoreham Nuclear Powerplant is in my district. It is the single most important issue in my district, with 85 percent of the people of my district saying that they do not want the Shoreham Nuclear Powerplant to open, but yet the Nuclear Regulatory Commission stands poised ready to jam that plant down the throats of the people of Long Island, just like they are ready to jam the Seabrook Plant down the throats of the people of Massachusetts and New Hampshire.

So I have to rise today to state my opposition to what is being done to me.

The fact of the matter is if the Shoreham Nuclear Plant is allowed to open, we on Long Island will see the doubling of our cost of electricity, giving us the dubious distinction of having the highest rate in this Nation. If that plant opens, we will see ourselves with the potential for nuclear disaster, because there have been many horror stories about the construction of that plant, and if it opens we will find ourselves in a situation where we have limited liability should there be an accident.

Now, the gentleman from Indiana [Mr. SHARP] said that the $7 billion represents a compromise, that they tried for higher numbers, 12, 11, and 10, and I commend the leadership for trying to get the best possible deal they could for the people of this Nation; but the fact of the matter is the $7 billion is a compromise and it does fall short.

What are you going to say to your constituents if you have a nuclear accident in your area? There are 107 plants in this Nation and 15 more in the pipeline. What if one of your plants goes awry? They are getting older. I am an engineer. I know things get tired, they die, they have faults, they have failures.

What if you have an accident? Are you prepared to say to your constituents, "Sorry, we limited you to $7 billion. There is no room for you at the inn." That is the problem that I have with this situation.

If you pass this amendment, in essence what you are saying is we are setting the limit. We are setting the limit equal to the cost of the accident. I think that makes very eminent good sense. It is the way to go.

If nuclear power is so safe, what is wrong with the industry carrying their own water? What is wrong with them paying the insurance premiums associated with protecting the people and paying off the claims?

Let us have a level playing field here. Let nuclear compete with gas and oil and coal on an equal footing. The best way to do that is in fact to vote in support of this amendment.

Mr. LENT. Mr. Chairman, will the gentleman yield?

Mr. HOCHBRUECKNER. I am happy to yield to the gentleman from New York.

Mr. LENT. Mr. Chairman, I thank the gentleman for yielding.

The gentleman at the beginning of his remarks indicated that he would like to see the Shoreham Nuclear Plant not open.

The gentleman is aware there is an amendment floating around here, originally offered by the gentleman from Massachusetts, called the Markey amendment, which would have that effect. It was brought up in the Interior Committee.

Can I ask the gentleman, does he intend to offer the Markey amendment as an amendment to the Price-Anderson legislation now pending?

Mr. HOCHBRUECKNER. I have spoken to Chairman UDALL about that. He has assured me that he regards that amendment as nongermane relative to this particular bill and has in fact been kind enough to strongly support the passage of that amendment when the NRC authorization bill comes up, hopefully next week, so I would be delighted to have my shot at it next week, sir.

Mr. LENT. Mr. Chairman, if the gentleman will yield further, I would assure the gentleman that were he to bring up the Markey amendment during the pendency of the present bill before us, this gentleman would offer no parliamentary objection to it.

Mr. HOCHBRUECKNER. Well, I certainly appreciate that support.

Mr. LENT. Well, it is not support, but I woud not object parliamentarily.

Mr. HOCHBRUECKNER. Let me point out, Mr. Chairman, from my perspective I would rather have the amendment that would stop Shoreham and Seabrook from coming up under circumstances that would be much more favorable toward its passage, and that I hope will be next week.

Miss SCHNEIDER. Mr. Chairman, will the gentleman yield?

Mr. HOCHBRUECKNER. I am delighted to yield to the gentlewoman from Rhode Island.

The CHAIRMAN. The question is on the amendments offered by the gentleman from Ohio [Mr. ECKART].

The question was taken; and the Chairman announced that the noes appeared to have it.

RECORDED VOTE

Mr. ECKART. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 119, noes 300, not voting 14, as follows:

[Roll No. 289]

AYES—119

Ackerman
Atkins
AuCoin
Bates
Beilenson
Berman
Biaggi
Boland
Bonior (MI)
Bonker
Boxer
Brennan
Buechner
Carper
Clay
Collins
Conte
Conyers
Coyne
Davis (IL)
de la Garza
DeFazio
Dellums
Dingell
Donnelly
Dorgan (ND)
Downey
Durbin
Eckart
Edwards (CA)
Edwards (OK)
Evans
Feighan
Flake
Florio
Frank
Garcia
Gilman
Glickman
Gonzalez
Gregg
Guarini
Hall (OH)
Hawkins
Hayes (IL)
Hertel
Hochbrueckner
Jacobs
Jeffords
Johnson (SD)
Jontz
Kaptur
Kastenmeier
Kennedy
Kildee
Kleczka
Kostmayer
LaFalce
Lantos
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lipinski
Lowry (WA)
Manton
Markey
Martin (IL)
Matsui
Mavroules
McCloskey
McHugh
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Morrison (CT)
Mrazek
Nowak
Oakar
Oberstar
Obey
Owens (NY)
Panetta
Pelosi
Petri
Rangel
Rodino
Roybal
Sabo
Savage
Scheuer
Schneider
Schumer
Sikorski
Slaughter (NY)
Smith, Robert (NH)
Snowe
Solarz
St Germain
Staggers
Stark
Stokes
Studds
Swift
Torres
Towns
Traficant
Vento
Walgren
Waxman
Weber
Weiss
Wheat
Wise
Wolpe
Wyden
Yates

NOES—300

Akaka
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Aspin
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Borski
Bosco
Boucher
Boulter
Brooks
Broomfield
Brown (CA)
Brown (CO)
Bruce
Bryant
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Cardin
Carr
Chandler
Chapman
Chappell
Cheney
Clarke
Clinger
Coats
Coble
Coelho
Coleman (MO)
Coleman (TX)
Combest
Cooper
Coughlin
Courter
Craig
Crane
Daniel
Dannemeyer
Darden
Daub
Davis (MI)
DeLay
Derrick
DeWine
Dicks
DioGuardi
Dixon
Dornan (CA)
Dowdy
Dreier
Duncan
Dwyer
Dyson
Early
Emerson
English
Erdreich
Espy
Fascell
Fawell
Fazio
Fields
Fish
Flippo
Foglietta
Foley
Ford (MI)
Ford (TN)
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gejdenson
Gekas
Gibbons
Gingrich
Goodling
Gordon
Gradison
Grandy
Grant
Gray (PA)
Green
Gunderson
Hall (TX)
Hamilton
Hammerschmidt
Hansen
Harris
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Howard
Hoyer
Huckaby
Hughes
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Johnson (CT)
Jones (NC)
Jones (TN)
Kanjorski
Kasich
Kemp
Kennelly
Kolbe
Kolter
Konnyu
Kyl
Lagomarsino
Lancaster
Leach (IA)
Leath (TX)
Lehman (CA)
Lent
Lewis (CA)
Lewis (FL)
Lewis (GA)
Lightfoot
Livingston
Lloyd
Lujan
Luken, Thomas
Lukens, Donald
Lungren
Mack
MacKay
Madigan
Marlenee
Martin (NY)
Martinez
Mazzoli
McCandless
McCollum
McCurdy
McDade
McEwen
McGrath
McMillan (NC)
McMillen (MD)
Meyers
Mica
Michel
Miller (OH)
Molinari
Mollohan
Montgomery
Moorhead
Morella
Morrison (WA)
Murphy
Murtha
Myers
Nagle
Natcher
Neal
Nelson
Nichols
Nielson
Olin
Ortiz
Owens (UT)
Oxley
Packard
Parris
Pashayan
Patterson
Pease
Penny
Pepper
Perkins
Pickett
Pickle
Porter
Price (IL)
Price (NC)
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Ridge
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rose
Rostenkowski
Roth
Roukema
Rowland (CT)
Rowland (GA)
Russo
Saiki
Sawyer
Saxton
Schaefer
Schuette
Schulze
Sensenbrenner
Sharp
Shaw
Shumway
Shuster
Sisisky
Skaggs
Skeen
Skelton
Slattery
Slaughter (VA)
Smith (FL)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Smith, Denny (OR)
Smith, Robert (OR)
Solomon
Spence
Spratt
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Synar
Tallon
Tauke
Tauzin
Taylor
Thomas (CA)
Thomas (GA)
Torricelli
Traxler
Udall
Upton
Valentine
Vander Jagt
Visclosky
Volkmer
Vucanovich
Walker
Watkins
Weldon
Whittaker
Whitten
Williams
Wilson
Wolf
Wortley
Wylie
Yatron
Young (AK)
Young (FL)

NOT VOTING—14

Alexander
Boner (TN)
Crockett
Dickinson
Dymally
Gephardt
Gray (IL)
Hubbard
Latta
Lott
Lowery (CA)
Moody
Roemer
Schroeder

☐ 1535

The Clerk announced the following pair:

On this vote:

Mr. Gephardt for, with Mr. Lowery of California against.

Messrs. HOLLOWAY, MARTINEZ, MFUME, STANGELAND, and DERRICK, and Mrs. JOHNSON of Connecticut changed their votes from "aye" to "no."

Messrs. DAVIS of Illinois, FLORIO, FLAKE, and MFUME changed their votes from "no" to "aye."

So the amendments were rejected.

The result of the vote was announced as above recorded.

☐ 1550

Mr. UDALL. Mr. Chairman, there are two major amendments which if we can dispose of them shortly I think we will have made a good deal of progress on the bill.

Mr. Chairman, I ask unanimous consent that notwithstanding the provisions of the rule, the gentleman from Oregon [Mr. WYDEN] be permitted to offer his amendment to add a new section to the bill and to amend a subsequent section.

The CHAIRMAN pro tempore (Mr. MICA). Is there objection to the request of the gentleman from Arizona?

Mr. RICHARDSON. Mr. Chairman, reserving the right to object, I have an amendment at the desk that I would want to offer should the Wyden amendment pass and I would ask unanimous consent to offer my amendment following section 17 after the vote on the Wyden amendment.

The CHAIRMAN pro tempore. The gentleman should be advised that we must first dispose of the pending unanimous-consent request, and then the gentleman may offer his unanimous-consent request if he so desires.

Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. UDALL. Mr. Chairman, I further ask unanimous consent that debate on the Wyden amendment be limited to 1 hour, 30 minutes to be controlled by the gentleman from Oregon [Mr. WYDEN] and 30 minutes to be controlled by the gentleman from New Mexico [Mr. LUJAN].

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. RICHARDSON. Mr. Chairman, I ask unanimous consent to offer an amendment following the Wyden amendment, should it pass, following section 17.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from New Mexico?

There was no objection.

AMENDMENT OFFERED BY MR. WYDEN

Mr. WYDEN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. WYDEN: Page 33, insert after line 7 the following new sections (and redesignate the succeeding sections accordingly):

SEC. 16. FINANCIAL ACCOUNTABILITY.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210), as amended by this Act, is further amended by adding at the end the following new subsection:

"u. FINANCIAL ACCOUNTABILITY.—(1)(A) The Attorney General may bring an action in the appropriate United States district court to recover from a contractor of the Secretary (or subcontractor or supplier of such contractor) amounts paid by the Federal Government under an agreement of indemnification under subsection d. for public liability resulting, in whole or part, from the gross negligence or willfull misconduct of any corporate officer, manager, or superintendent of such contractor (or subcontractor or supplier of such contractor).

"(B) The amounts recoverable under subparagraph (A) shall be as follows:

"(i) In the case of contracts subject to an agreement of indemnification under subsection d. from which the contractor derives a profit of more than 1 percent of the total contract price, the Attorney General may recover an amount not to exceed 3 times the amount of such profit.

"(ii) In the case of contracts subject to an agreement of indemnification under subsection d. from which the contractor derives a profit of 1 percent or less of the total contract price, the Attorney General may recover an amount not to exceed 15 percent of the total contract price.

"(2) The provisions of this subsection shall not be limited by any indemnification of persons indemnified under this section.

"(3) No amount recovered from any contractor (or subcontractor of supplier of such contractor) under paragraph (1) may be reimbursed directly or indirectly by the Department of Energy.

"(4) Paragraph (1) shall not apply to any nonprofit entity conducting activities under contract for the Secretary.

"(5) The Secretary shall, by rule, define the terms 'profit', 'nonprofit entity', and 'total contract price' for purposes of this subsection. Such rulemaking shall be completed not later than 180 days after the date of the enactment of the Price-Anderson Amendments Act of 1987.".

SEC. 17. CIVIL MONETARY PENALTIES FOR DEPARTMENT OF ENERGY CONTRACTORS.

Chapter 18 of the Atomic Energy Act of 1954 (42 U.S.C. 2271-2284) is amended by adding at the end the following new section:

"SEC. 237. CIVIL MONETARY PENALTIES FOR VIOLATIONS OF DEPARTMENT OF ENERGY REGULATIONS.—

"a. IN GENERAL.—(1) Any person subject to an agreement of indemnification under section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)), shall, as a condition of such indemnification be subject to the nuclear safety and civil penalties provisions of this section.

"(2)(A) Except as provided in subparagraph (B), the Nuclear Regulatory Commission may impose a civil penalty of an amount not to exceed $100,000, per violation, upon any person who has entered into an agreement of indemnification under section 170 d. who violates—

"(i) any rule, regulation, or order of the Department of Energy relating to nuclear safety; or

"(ii) any term, condition, or limitation relating to nuclear safety of any contract that is the subject of any such agreement.

"(B) In the case of a nonprofit entity conducting activities under contract subject to an agreement of indemnification under section 170 d., the maximum civil penalty that may be imposed under subparagraph (A) is $5,000.

"(3)(A) A civil penalty under paragraph (2) shall be assessed by the Nuclear Regulatory Commission by an order made on the record after opportunity (provided in accordance with this subparagraph) for a hearing in accordance with section 554 of title 5, United States Code. Before issuing such an order, the Nuclear Regulatory Commission shall give written notice to the person to be assessed a civil penalty under such order of the Nuclear Regulatory Commission's proposal to issue such order and provide such person an opportunity to request, within 15 days of the date the notice is received by such person, such a hearing on the order.

"(B) Subject to subparagraph (C), each day of a violation, in the case of continuing violations, shall constitute a separate violation for the purpose of computing the applicable civil penalty under subparagraph (A).

"(C) The Nuclear Regulatory Commission may, in accordance with subparagraph (D), compromise, modify, or remit, with or without conditions, any civil penalty which may be imposed under this subsection. The amount of such penalty, when finally determined, or the amount agreed upon in compromise, may be deducted from any sums owing by the United States to the person charged.

"(D) In determining the amount of any civil penalty under this section, the Nuclear Regulatory Commission shall take into account the severity of the violation, and, with respect to the violator, the degree of culpability, past performance, prompt identification and reporting of the safety problem that is the subject of such violation, corrective action to prevent recurrence, and such other matters as justice may require.

"(4) Any person who requested in accordance with paragraph (3)(A) a hearing respecting the assessment of a civil penalty and who is aggrieved by an order assessing a civil penalty may file a petition for judicial review of such order with the United States Court of Appeals for the District of Columbia Circuit or for any other circuit in which such person resides or transacts business. Such a petition may only be filed within the 30-day period beginning on the date the order making such assessment was issued.

"(5) If any person fails to pay an assessment of a civil penalty—

"(A) after the order making the assessment has become a final order and if such person does not file a petition for judicial review of the order in accordance with paragraph (4), or

"(B) after a court in an action brought under paragraph (4) has entered a final judgment in favor of the Nuclear Regulatory Commission,

the Attorney General shall recover the amount assessed (plus interest at currently prevailing rates from the date of the expiration of the 30-day period referred to in paragraph (4) or the date of such final judgment, as the case may be) in an action brought in any appropriate district court of the United States. In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

"b. PROHIBITION OF REIMBURSEMENT.—No amount paid as a penalty under this section may be reimbursed, directly or indirectly, by the Department of Energy.

"c. DEFINITION.—The Secretary shall, by rule, define the term 'nonprofit entity' for purposes of this section. Such rulemaking shall be completed not later than 180 days after the date of the enactment of the Price-Anderson Amendments Act of 1987.".

SEC. 18. RENEGOTIATION OF CONTRACTS.

(a) RENEGOTIATION OF CONTRACTS.—

(1) IN GENERAL.—During the 1-year period beginning on the date of the enactment of this Act, the Secretary shall, upon the request of any contractor subject to an agreement of indemnification under section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)), enter into negotiations with such contractor regarding the terms of compensation of the contract subject to such agreement.

(2) RESCISSION.—The provisions of this section shall not be construed to create any right of rescission on the part of any contractor described in paragraph (1) with regard to any contract described in such paragraph.

Page 39, line 10, strike "(a)" and insert "(a) IN GENERAL.—".

Page 39, line 10, strike "subsection (b)," and insert "subsections (b) and (c),".

Page 39, line 14, strike "(b)" and insert "(b) JUDICIAL REVIEW.—".

Page 39, after line 16, insert the following new subsection:

(c) FINANCIAL ACCOUNTABILITY AND CIVIL PENALTIES.—

(1) IN GENERAL.—The amendments made by sections 16 and 17 shall take effect 1 year after the date of the enactment of this Act.

(2) FINANCIAL ACCOUNTABILITY.—The amendments made by section 16 shall apply to public liability arising from activities (or conduct relating to such activities) occurring on or after the effective date of such section that are covered by an agreement of indemnification described in such section, regardless of the effective date of such agreement.

(3) CIVIL PENALTIES.—The amendments made by section 17 shall apply to violations described in such section that occur on or after the effective date of such section, regardless of the effective date of the agreement of indemnification described in such section.

Mr. DERRICK (during the reading). Mr. Chairman, I ask unanimous consent the amendment be considered as read and printed in the RECORD.

The CHAIRMAN pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. DERRICK. Mr. Chairman, I reserve a point of order against the Wyden amendment.

The CHAIRMAN pro tempore. The Chair recognizes the gentleman from Oregon [Mr. WYDEN] for 30 minutes.

Mr. WYDEN. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, today a private contractor that causes a nuclear accident at a Department of Energy facility doesn't pay a cent in damages—even if the accident is due to the contractor's gross negligence or willful misconduct. The amendment I'm offering will end this absurdity.

There is just no reason why Energy Department contractors should belong to a privileged caste, exempt from the financial consequences of their actions. Absolutely no other group of Federal contractors gets such a sweetheart deal.

Not only is this deal unprecedented in the annals of Government contracting, it sets an unfair double standard. While private utilities that operate nuclear powerplants face stiff financial losses in case of an accident, Energy Department contractors get a free ride.

This agency doesn't run a high-profile operation, but it lets over $90 billion in nuclear production and research contracts, and, as the General Accounting Office put it last year, "it is potentially one of the more dangerous industrial operations in the world." The Department has facilities all over the country. In addition, this agency and its contractors will be running the controversial, high-level nuclear waste dumps, which would require the transportation of radioactive material through most parts of the Nation.

In the past 5 years, mostly since the last reauthorization of Price-Anderson, there has been ample documentation of the grave safety problems at many of these plants. In fact, a recent GAO report notes that many of the Energy Department's contractor-operated plants are antiquated, lag behind current safety standards, and are vulnerable to accidents.

Mr. Chairman, here are General Accounting Office, Energy Department, and, yes, even internal contractor documents that show how poorly many contractors are now dealing with safety issues at these plants. I'd like to share with you a just few, damning examples:

Last year, two Hanford contractor employees received serious puncture wounds and their hands were contaminated by plutonium. Internal contractor auditors found a design flaw caused the accident, but no corrective action was taken. Management continued to blame workers for not following procedures, but the auditor found noncorrection of design problems to be a generic concern.

Fire is a major safety issue at Energy Department nuclear plants. A serious fire could have a major impact of public health and safety, as well as shutting down important national security programs. The Department has known that the Savannah River plant has been negligent in providing adequate fire protection for its key facilities. The Department was ineffective in getting the contractor to take corrective action. At one critical facility, the contractor ordered that an automatic sprinkler system not be connected to the water supply because there was concern that computers and records would be damaged if it went off prematurely. Of course, if there were a fire, the whole facility could be wiped out.

Last year, Congress learned that a contractor at the Hanford Reservation sat on damning safety audits for months without dealing with the problems. Soon after, DOE closed down two of the contractor's plants when workers were caught ignoring safety rules designed to prevent lethal nuclear chain reactions.

This spring, the Congress learned that for years a contractor operated three reactors at Savannah River at power levels that could have lead to a meltdown. And even as DOE reported the problem, the contractor was still running the plants at unjustified levels, according to the National Academy of Sciences.

A 1985 appraisal by Energy Department inspectors found serious problems in the nuclear safety program of the Albuquerque Operations Office. This is particularly dangerous since Albuquerque manages some of the most sensitive contractor facilities in the Department's nuclear weapons program.

Last year, a Hanford contractor internal audit found that the calibration of instruments used at the Purex plant was suspect. This has major safety significance because without accurate instruments, it is impossible to know whether the facility is being operated safely. In other words, the auditor's findings were like questioning the accuracy of instruments on an airplane.

Workers at the Fernald plant in Ohio shipped uranium across the country in radioactively contaminated vessels. This continued even after a change of contractors, and the new contractor withheld an internal study from DOE that showed knowledge of the problem and failure to remedy. According to the Government Accountability Project, "The incident reveals not only [contractor] malfeasance, but highlights DOE's ineffectiveness in making sure such incidents are not repeated."

At Hanford's N-reactor, a distinguished group of nuclear experts selected by DOE found a reactor run like a family business, rife with an "it can't happen here" attitude toward accidents. The Department has now closed N-reactor for safety upgrades, including improved training of staff.

Mr. Chairman, the Energy Department clearly has a safety problem, and Price-Anderson's treatment of Government contractors is part of it. As USA Today's lead editorial in support of Energy Department contractor accountability puts it, "Accountability is the surest guarantee of safety." But, incredibly, contractors are less accountable today than they were 30 years ago, when the Atomic Energy Commission refused to indemnify egregious behavior.

To encourage diligent contractor safety practices at Energy Department facilities, our amendment establishes two accountability mechanisms.

The first is civil penalties for any violation of a nuclear safety regulation. These are similar to those the Nuclear Regulatory Commission has applied to commercial facilities since 1969, including smaller fines for universities.

And the second is subrogation, in other words, allowing the Justice Department to sue a contractor if an accident were caused by the gross negligence or willful misconduct. The amount at stake would reflect the size of the contract. Universities and true nonprofit entities are exempted.

These penalties are stiff enough to help deter misconduct, yet flexible enough to permit continued contracting by firms of all kinds. Some have worried that companies will stop doing business with the Energy Department if this amendment passes. Believe me, with all the safeguards built in to this amendment—including limits on liability, a 1-year grace period, and opportunity to renegotiate the fee portion of the contract—companies aren't going to give up multimillion-dollar DOE contracts when they would still face less liability than working for the Defense Department or handling hazardous waste in the private sector.

This is a safety amendment and a taxpayers' amendment. This morning's Dallas Times-Herald pointed out that Price-Anderson's current treatment of Energy Department contractors is "neither just nor justifiable." By voting for this amendment, Members of this body can send a simple message to their constituents: we cannot support using your tax dollars to pay victims of nuclear accidents caused by a contractor's gross negligence or willful misdeeds. I urge my colleagues to adopt this just and commonsense approach to the safety of our Energy Department nuclear facilities.

POINT OF ORDER

Mr. DERRICK. Mr. Chairman, I make a point of order that the Wyden amendment is nongermane to the amendment in the nature of a substitute that is pending before the Committee of the Whole. It is nongermane because the fundamental purpose of the amendment is different from the fundamental purposes of either the substitute or the underlying Price-Anderson law.

The fundamental purposes of both the pending substitute and the underlying law are:

First, to ensure adequate and prompt compensation of any victim of a serious nuclear accident; and

Second, to indemnify both the operators of commercial nuclear reactors and contractors which operate Department of Energy nuclear facilities against damages which might arise from a nuclear accident. This is intended to encourage participation in nuclear activities.

The fundamental purpose of the Wyden amendment, however, is regulatory in nature. According to the proponents of the amendment, it is intended to ensure the safe operation of contractor-operated DOE nuclear facilities. To achieve this regulatory end, the Wyden amendment would authorize the Attorney General to sue DOE contractors to recover damages paid by the Government as a result of an accident caused by the "gross negligence or willful misconduct" of the contractor and would authorize the Secretary of Energy to assess civil penalties against contractors for violation of DOE safety regulations.

Allowing the Attorney General to sue to recover damages from a contractor would neither affect the payment of compensation to victims nor further the purpose of indemnifying contractors in order to encourage participation in nuclear activities.

Providing for civil penalties for safety violations clearly does not relate to either of the purposes of the substitute and Price-Anderson. The civil penalties are purely regulatory, intended to enforce safe operation of DOE nuclear facilities. Neither the substitute nor Price-Anderson deals with the issue of safety in nuclear facilities. They deal only with what happens after a nuclear accident occurs. Amendments intended to promote safety at nuclear facilities should be considered in connection with legislation which deals with the operations of such facilities. Allowing the Wyden amendment to be offered to this legislation would be like allowing an amendment to provide penalties for driving faster than 55 miles per hour to legislation establishing a no-fault automobile insurance system. While both issues concern automobiles, there is a fundamentally different purpose in each case.

Mr. Chairman, I believe that the Wyden amendment is nongermane to this substitute because its fundamental purpose is different from the fundamental purpose of the substitute and the underlying Price-Anderson Act and that my point of order should be sustained.

□ 1605

The CHAIRMAN pro tempore. (Mr. Mica). Does the gentleman from Oregon [Mr. Wyden] wish to be heard on the point of order?

Mr. WYDEN. Mr. Chairman, I wish to be heard in opposition to the point of order.

The CHAIRMAN pro tempore. The gentleman from Oregon is recognized.

Mr. WYDEN. Mr. Chairman, the amendment before us is germane to the bill. The bill before us deals with procedures for liability and indemnification for nuclear accidents.

Price-Anderson provides for mechanisms under which commerical nuclear powerplants and Government nuclear contractors may be indemnified for liability resulting from a nuclear accident. In providing a scheme for nuclear insurance, it is natural to impose certain conditions upon the granting of indemnification.

For example, private insurers of a building may require as a condition of an insurance policy that the owners of the building have it inspected by appropriate authorities. These conditions are directly related to the insurance policy. By requiring the insured party to conduct himself in a safe manner, the exposure of the insurer is reduced.

In this case, the amendment imposes conditions and limitations upon the contractor covered by indemnification agreements. In the first section of the amendment the contractor would be held financially liable for damages resulting from the contractor's gross negligence or willful misconduct. In the second section, the contractor's indemnification is subject to the qualification that should he break safety rules of DOE or other contract conditions, he will be subject to a civil penalty. These civil penalties, and the threat of civil penalties will raise the safety consciousness of the contractor, thereby reducing the potential Government liability under an indemnity agreement.

I refer the Chairman to chapter 28, section 23 of Deschler/Brown's Precedents. The precedents cited stand for the proposition that amendments providing conditions or qualifications for the grant of various authorities are germane. For example, to a bill making grants to medical schools to be used for student scholarships, an amendment establishing a national commission to prepare and evaluate examinations for purposes of testing qualifications of scholarship applications was held to be germane—section 23.5. Similarly, an amendment to a bill relating to subsidy payments for agricultural goods, an amendment prohibiting support payments unless the producers were in compliance with health and safety laws was held to be germane—section 23.6.

In summary, Mr. Chairman, indemnification of contractors under the bill is a benefit to contractors that can properly be conditioned upon compliance with various regulations. The concept is not novel. Indeed, NRC contractors are subject to civil penalties under other provisions of the act we are amending today. Similarly, we place conditions on utilities indemnified under the act. For example, section 2 of the bill requires licensees to maintain the maximum amount of liability insurance available from private sources.

For all these reasons, the amendment is germane.

The CHAIRMAN pro tempore (Mr. Mica). The Chair will rule on the point of order.

The gentleman from South Carolina [Mr. Derrick] makes the point of order that the amendment offered by the gentleman from Oregon [Mr. Wyden] is not germane to the pending amendment in the nature of a substitute. It is agreed that the fundamental purpose of the pending text involves procedures for liability and indemnification for nuclear accidents, and does not go to the regulation of the domestic nuclear industry as a measure to prevent the occurence of nuclear accidents.

In the opinion of the Chair, the question of subrogation is related to the concept of indemnification by the U.S. Government. The question of the party ultimately liable for the payment of damage costs is germane to the pending bill. The Wyden amendment does not seek to separately impose a civil penalty upon nuclear contractors as a regulatory scheme, but rather seeks to condition the indemnification provided by the bill for such contractors upon their agreement to be subject to certain nuclear safety and civil penalties. The fact that the bill requires licensees to maintain the maximum amount of liability insurance available from private sources as a condition on indemnification is an indication that other conditions on indemnification are already contained in the bill. The precedents cited by the gentleman from Oregon are supportive of the concept that a grant of authority can be made contingent upon agreement to comply with certain related conditions. The Chair holds that the amendment is germane to the pending text and overrules the point of order.

The Chair recognizes the gentleman from New Mexico [Mr. Lujan] for 30 minutes.

Mr. LUJAN. Mr. Chairman, I yield myself 4 minutes.

Mr. Chairman, I rise in opposition to the amendment for several reasons: No. 1, that civil penalties in this case that must be paid by the contractor simply get passed on to the Department of Energy, as most of the contractors are nonprofit, and as I say, the Government must reimburse them. I know that in a case in Albuquerque, Sandia, the money that Western Electric makes is $1, and you can hardly expect that they would pay additional fines. So that would be submitted to the Government for reimbursement.

There are already criminal penalties as per section 223 of the Nuclear Regulatory Commission legislation under the Atomic Energy Act.

Section 223 says: "Whoever willfully violates, attempts to violate, or conspires to violate, any provision of this act for which no criminal penalty is specifically provided or of any regulation or order prescribed or issued under section 65" and various other subsections—"shall, upon conviction thereof, be punished by a fine of not more than $5,000 or by imprisonment for not more than 2 years * * *" and then if it is with the intent to injure the United States, it is $20,000 and 20 years.

So there are already some criminal penalties, and there is no need to put civil penalties in here.

I happen to believe, even though the amendment was ruled germane, that perhaps it is right on the line because Price-Anderson is to create a public compensation program and not a punitive program.

Mr. Chairman, this amendment would certainly insure that we would have protracted litigation because the first thing that is going to happen is that any contractor is going to say, "We were not guilty of gross negligence," and gross negligence, Mr. Chairman, is a very difficult thing to define.

In addition to that, we are setting differences here between for-profit contractors and nonprofit contractors. Yet they face the same hazards, and we have been told that the Department of Energy really does not want different rules for different contractors.

So, Mr. Chairman, there are all kinds of problems that will be raised by agreeing to this amendment, and I must ask my colleagues to join me in voting down the amendment.

Mr. WYDEN. Mr. Chairman, I yield 2 minutes to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, as a Member whose district includes a major Department of Energy nuclear weapons plant, I rise in strong support of this amendment.

Under current law, contractors at DOE nuclear facilities are not required to buy nuclear liability insurance, nor are they liable to members of the public injured because of an accident. Unlike any other Federal contractors, including those involved in DOD nuclear activities, DOE contractors are entirely shielded from liability. In the event of a nuclear accident, even one caused by gross negligence or intentional misconduct, these companies would not be responsible for paying a dime to compensate victims.

This situation isn't fair, and it's not designed to promote safety either.

The amendment before us would reduce the size of this huge loophole by holding contractors liable for damages in extreme cases where injuries are caused by the "gross negligence or willful misconduct" of corporate management.

At 1985 hearings on the liability of Federal contractors in general, both the Departments of Defense and Justice pointed out that total indemnification of contractors removes normal safety incentives.

The Department of Defense testified that: "* * * blanket indemnification may reduce the contractors' incentive to assume responsibility for the performance of their products by shifting part or all of the liability onto the government."

The Department of Justice reinforced that point, saying: "* * * indemnification removes the safety incentive created by the tort system * * *. [N]either the contractors nor the insurers have a financial interest in ensuring that a product is designed and made with the safety of the user in mind."

One red herring argument has been raised by some opponents of the Wyden-Sharp-Synar amendment—that we should not hold contractors responsible because they have to work with aged DOE plants and equipment, and because they are subject to close DOE direction and supervision.

The response to that argument is: Of course we shouldn't. Wyden-Sharp-Synar doesn't do that. Under well-established principles of negligence law, which would not be changed by this amendment, a party is responsible for its own actions. No one proposes that contractors should bear the burden of deteriorating facilities or DOE misdirection. This amendment does not propose that, but rather would promote DOE-contractor cooperation on safety concerns.

Another argument raised is that if we hold contractors accountable for acts of gross negligence or willful misconduct, they'll all quit. I don't think so. It sure hasn't happened with Defense contractors. In fact, if I were a contractor, I'd be terribly embarrassed to admit to the public that my company refused all responsibility for its actions, and especially actions by company management that were grossly negligent.

What the amendment will do is make corporate officers think that much more about safety. And that's the absolute minimum that my constituents want—for the corporate officials operating a nuclear facility in their backyard to be as worried as they are about safety at that plant.

The Wyden-Sharp-Synar amendment will provide a significant incentive for DOE contractors to operate more safely. It will make the people living near a facility that much safer. And it is consistent with the American judicial principle that corporations should be responsible for their actions—no more and no less.

I hope my colleagues will join me in supporting this amendment.

Mr. WYDEN. Mr. Chairman, if the gentleman will yield, I hope that our colleagues will understand the significance of the views the gentleman from Colorado [Mr. SKAGGS] presented as a Member who has a Government installation in his district and whose constituents are directly impacted by this. We very much appreciate the gentleman's help and his support of Government accountability.

The CHAIRMAN pro tempore. The time of the gentleman from Colorado [Mr. SKAGGS] has expired.

Mr. WYDEN. Mr. Chairman, I yield 1 additional minute to the gentleman from Colorado [Mr. SKAGGS].

Mr. SKAGGS. Mr. Chairman, I would like to ask the gentleman from Indiana [Mr. SHARP] a couple of questions about the application of his amendment.

Mr. SHARP. Mr. Chairman, if the gentleman will yield, I would be happy to try and answer the gentleman's questions.

Mr. SKAGGS. As I understand it, the amendment would hold DOE contractors liable only for their own actions or omissions which constitute gross negligence or intentional misconduct.

Mr. SHARP. The gentleman is correct.

Mr. SKAGGS. Some people have expressed concerns that the amendment could lead to a contractor being held liable for damages caused by the condition of plant and equipment inherited by the contractor. Could a contractor who has taken over operation of a DOE facility that's not been kept in good condition be held liable in those circumstances?

Mr. SHARP. The key question here is what the contractor does. If the contractor engages in actions that are grossly negligent or intentional violations of safety rules or standards, then yes, there would be liability. But the contractor would in no way be liable for any failure to upgrade or maintain plant and equipment on the part of DOE or a prior contractor.

Mr. SKAGGS. Mr. Chairman, I thank the gentleman for answering my questions.

Mr. LUJAN. Mr. Chairman, I yield 4 minutes to the gentleman from California [Mr. MOORHEAD].

Mr. MOORHEAD. Mr. Chairman, proposals to impose subrogation and civil penalties against DOE contractors go well beyond the compensation objective of Price-Anderson. The Department of Energy and the organizations who contract with it have a unique working relationship to operate Government-owned facilities which are vital to our national security and research and development efforts. The ongoing working partnership at these facilities goes beyond the more typical contractual relationship of Government and an outside organization supplying specific pieces of hardware for use by the Government.

DOE's oversight of contractor operations and its use of debarment procedures and termination of contractors have provided sufficient incentives for safe operation of these facilities. DOE's contractor operated facilities have been run in a safe and responsible fashion to carry out vital national security and research efforts for over 40 years. Less than $1.5 million has been paid by the Government under indemnity agreements in the past 30 years for over $28 billion in contracts.

Proposals to impose civil penalties on contractors are not well-founded. The comparison to civil penalties imposed on NRC licensees is not an appropriate one. DOE contractors do not stand in the same relationship to DOE as do NRC licensees to the NRC. NRC licensees are solely responsible for operating their facilities safely. DOE contractors are not. It is DOE, not the contractor, which has final control over facility design and determines procedures for operation; perhaps most significant, it is Congress, not the contractor, who determines the amount of money available to carry out operations.

Some of my colleagues argue there is nothing wrong with imposing civil penalties in this situation, that these are Government facilities and the Government should always be the final arbiter of how to implement requirements. Well, it is one thing to have the final say in how a procedure should be implemented. It is another to establish a requirement, deny a contractor sufficient funds to carry it out, or establish inappropriate procedures to carry it out, and then penalize the contractor for not meeting the requirement. I believe it is inherently uinfair to subject a contractor to civil penalties for violating requirements when the contractor does not have final say over all the elements necessary to assure compliance.

Both subrogation and civil penalties will substantially increase the costs to taxpayers of running DOE facilities without providing a significant benefit. A number of DOE facilities are run by nonprofit organizations. Other DOE contractors have operated facilities for a small profit—$2 to $6 million—on contracts of $100 to $500 million, because they have viewed the work as a public service and because the financial risks were low. If the potential liabilities increase—under this amendment, on a contract of $500 million, liability could be $75 million—contractors will demand substantial increased in profits, presumably to the range of $75 million, to continue working for DOE. If each of DOE's contracts where award fees are given increased by a similar amount, an additional $1 billion/year would be required to operate DOE facilities.

Proponents of this amendment argue that taxpayers pay while the contractors get off scot-free. They are right—taxpayers will pay, and pay every year under this amendment, versus the remote chance under the existing bill that a contractor might be fully indemnified in the event of an accident. Given the track record of safe operation established by DOE's contractors—the Savannah River plant, for example, is one of the safest industrial operations in the world—it is not at all obvious to me why taxpayers should be asked to dramatically increase the amount they pay for DOE contracts in exchange for this safety incentive of dubious value.

The central purpose of Price-Anderson is to create a compensation plan for the public, not to create a scheme to assess blame. Subrogation is inappropriate for DOE contractors and unnecessary to assure safe operation of DOE facilities. Moreover, these amendments will significantly increase the costs to taxpayers of operating these facilities, with little safety benefit.

I urge my colleagues to reject this amendment.

□ 1620

Mr. WYDEN. Mr. Chairman, I yield 3 minutes to the gentleman from Washington [Mr. Swift].

Mr. SWIFT. Mr. Chairman, I thank the gentleman for yielding me this time.

Mr. Chairman, one of the problems whenever we discuss nuclear issues, they quickly get bifurcated; and it is as though there was a debate between Edward Teller and Jane Fonda, and it is hard to get people to focus on amendments that in fact do not hold either of the positions held by the eminent doctor or Ms. Fonda.

This is one of those amendments. This amendment is supported by the gentleman from Michigan [Mr. Dingell], the gentleman from Arizona [Mr. Udall], and the gentleman from Indiana [Mr. Sharp]. This amendment is supported by the gentleman from Washington [Mr. Foley].

None of those Members fall into the category of blindly antinuclear or blindly pronuclear people, so I hope Members will focus on the amendment, what it says, not just vote a pronuclear, antinuclear kind of thumb on this issue.

Let us talk about subrogation for just a moment. What are we talking about?

This amendment does not say if any employee of a contractor is responsible, that subrogation will take place; it says, if it is a person in significant line of responsibility, a plant manager, for example.

It does not say that this is going to click in when you just have some kind of mistake being made. It says willful misconduct and gross negligence. What is gross negligence? One lawbook, the Prosser and Keeton on the Law of Torts describes gross negligence, and I quote, as having been described as a failure to exercise even that care which a careless person would use.

Who would like to stand on the floor of this House and defend the proposition that a contractor who cannot even exercise the case that a careless person would exercise should get off scot-free? Who wants to defend that proposition?

Is there any Member that would like me to yield, so that they can defend the proposition that a contractor who exercises behavior so grossly careless, that even a careless person would be more careful, should get off scot-free?

Mr. LUJAN. Mr. Chairman, will the gentleman yield?

Mr. SWIFT. I yield to the gentleman from New Mexico.

Mr. LUJAN. Mr. Chairman, I thank the gentleman for yielding.

No, I do not believe that one should get off scot-free; but the law now says that they will get a $20,000 fine and 20 years in prison or both.

Mr. SWIFT. The gentleman is defending the proposition that they should not have to pay.

The gentleman says fine, but pay the costs associated with the fallout of the accident that they are involved with? Is that the position the gentleman is taking?

Mr. LUJAN. I am saying that they have a fine of $20,000, 20 years in jail; and that is very good deterrence.

Mr. SWIFT. That is not the issue. The issue, is they should be directly liable for the full costs; and I presume the gentleman is not holding that position.

Mr. LUJAN. Mr. Chairman, I yield 4 minutes to the gentlewoman from Tennessee [Mrs. Lloyd].

Mrs. LLOYD. Mr. Chairman, I thank the gentleman for yielding me this time.

I do urge my colleagues to vote no on this amendment. It would be absolutely devastating to the great relationship we have with the Department of Energy and our contractors.

Price-Anderson was enacted to protect the public and to encourage American industry to participate in the development of the nuclear industry.

It has accomplished its purpose. Its safety record is unparalleled. Over the past 30 years, the total amount in claims paid by the Government under Price-Anderson is $1,500,000.

The total expenditures under DOE contracts during this period amounted to $124 billion.

This means, Mr. Chairman, that the claims correspond to the one-thousandth of 1 percent of the expenditures.

These contractors provide a very highly specialized service to the Government, a very efficient and safe arrangement.

It was warranted by the special services to which the contractors are subjected—these decisions can be made by this company. If a DOE contractor decides that safety improvements should be made, this decision is made by the DOE, the OMB, and made by the Congress, and it may take 2 or 3 years for this improvement to be made.

Subrogation is not necessary to ensure safety. The contractors have operated safely for more than 30 years under close regulation.

If they do act improperly, then certainly they will suffer significantly, their reputation, or through other procedures.

A commercial utility operates this powerplant for profit and more autonomously controls the operation and safety of this facility.

Some of our DOE contractors are nonprofit organizations, such as the University of California, which operates the Lawrence Livermore and Lawrence Berkeley laboratories.

If these contractors are subjected to such contingent liabilities, they will be forced out of business with the first dollar of any such liability.

Mr. Chairman, I oppose this amendment. Its goals may be laudable, but the effect will be opposite to its intent; and it will be devastating to our contractor system.

☐ 1630

Mr. WYDEN. Mr. Chairman, I yield 2 minutes to the gentleman from Ohio [Mr. ECKART].

Mr. ECKART. Mr. Chairman, I am delighted on this effort to be joined by our subcommittee chairman and our full committee chairman in support of the Wyden-Udall-Sharp-Synar amendment.

I think it is very important to get a historical perspective where the Congress sits on this matter. This is not new. This has not been a problem, for on this very floor we debated and voted on this matter of extended changes in liability responsibility to response action contractors in Superfund. I know I was the author of the bill and this House went strongly on record in not excusing them from gross negligence and willful misconduct.

Was Superfund an aberration? No. I suggest to you that it is not.

The Clean Water Act, the Swine Flu Act, the Outer Continental Shelf Lands Amendments Act, the Warsaw Convention on Air Liability, and indeed in Superfund we have expressly said that their actions are subject to the provision similar to what the gentleman's amendment has before us today.

I can assure you, as you remember, the halls were filled with no dearth of contractors willing to come forward and to work on the $10 billion of cleanup under Superfund.

So are they going to back away? Absolutely not. The record suggests exactly the opposite.

What it does suggest to us in looking at the other laws that we have created and the other times that this House has reaffirmed the position of not indemnifying willful gross misconduct and negligence or the other kinds of egregious activities that they now want the taxpayers to interpose their judgment is a sound principle and ought not to be done away with.

In fact, 30 years ago when we moved to create this, the standard was egregious conduct, and Dupont and General Electric and Babcock and Wilcox agreed to that. Should we give them any less of a standard 30 years after the fact, with 30 years of experience?

Let us look at what the problem is. The problem is that these folks want a free ride. They want to get once again what no other contractor in no other industry under no other treaty or law that this House has approved can get.

This amendment is sanity and this amendment makes economic sense.

Mr. LUJAN. Mr. Chairman, I yield 2 minutes to my colleague, the gentleman from New Mexico [Mr. RICHARDSON].

Mr. RICHARDSON. Mr. Chairman, I rise in opposition to this amendment.

Mr. Chairman, as you know, my concern about this amendment is its effect on our national laboratories. The Senate Energy Committee recognized the wisdom of exempting our national laboratories from civil penalties. I understand that your amendment exempts the nonprofits from subrogation but still subjects them to civil penalties of up to $5,000 a day. On the issue of financial accountability—do you think a university president is more responsible than a corporate executive? Their contracts are the same, the only difference is that one is a university and the other is a nonprofit subsidiary of a major corporation operating a national laboratory on a nonprofit basis.

Another concern I have on the effect of this amendment is that it would create a double standard for workers. I don't know if you are aware but many times there are job exchanges with employees at our national laboratories. These job exchanges enable employees to gain expertise in different areas. An example of my concern is this—what if a Martin Marietta manager at Oak Ridge is on a worker exchange program at Los Alamos and causes an accident? Under your amendment the Martin Marietta manager at Oak Ridge would be held financially accountable. Would that employee be accountable at Los Alamos also?

I have been told by the nonprofit and profit contractors operating on a nominal or nonprofit basis that they will not accept additional financial accountability penalties. Are we not concerned that there would be qualified companies available to do DOE's nuclear work if these contractors broke their contracts? What if there weren't contractors jumping at these jobs? Should we nationalize our Government nuclear facilities? Should we let the Department of Energy bring in a bunch of GS-15's to run Savannah River or Hanford or Los Alamos? Do we feel that DOE has the expertise needed to manage as complex an operation as a national laboratory? Could it be that the only place in the Government with that kind of management expertise is the military and we have made a policy decision to separate the production and deployment of nuclear weapons?

I am also concerned that the imposition of civil penalties and subrogation would put DOE in the position of being judge and jury over its contractors. If safety is the issue then it makes more sense to me to appoint an independent agency for additional safety reviews—not DOE. Nowhere has the Congress exhaustively addressed the ramifications of the action that is now being considered. I feel it would be more appropriate to hold hearings to focus exclusively on the implications of the proposed accountability provisions on our national defense.

Mr. WYDEN. Mr. Chairman, I yield 4 minutes to the gentleman from Oklahoma [Mr. SYNAR].

Mr. SYNAR. Mr. Chairman, we have had a pretty good debate here. Regrettably, it has only lasted about an hour, but I think we have learned a lot. Let me take my 4 minutes to try to go down some of the objections and criticisms that have been lodged by some of my colleagues.

We have heard this afternoon that we do not need the Wyden-Sharp-Synar amendment because most of our contractors are nonprofits who are making no money.

The facts tell us that only six receive no fee or a minimal $1 fee. Twenty to twenty-six of those contractors, however, receive a lot of money, $3 to $17 million in pure profit; but even if that is the case, the fee is unimportant, because what we are saying here, what we are trying to establish with this amendment is a standard of performance, a standard of performance that a fee should not be tied to. Just because someone does not get a fee for performing a service does not mean they should not have to perform that service at a level at least of guaranteed safety.

Another one of our colleagues has said that we do not need these, because we already have criminal penalties and civil penalties are not necessary. Well, I think we all know that there are going to be gaps, very frankly, where civil penalties are going to be necessary to fill those gaps when they are noncriminal offenses.

Another one of our colleagues raises the objection that this runs counter to the Government and contractors' relationships. No, it does not. Our amendment simply does this: It insures that our contractors are going to act appropriately. It does not affect the relationship between Government and the contractors.

Another one of the objections we have heard today is that our operations are safe, that over the last 30 years we have only paid out $1.5 million in penalties. To that we say we are very grateful. In fact, we should not worry. In fact, those contractors who are acting in the safety standard very frankly have nothing to fear by this legislation. This amendment just simply set a minimal performance standard and that is it.

We have heard today that we cannot do this amendment because DOE is the arbiter and that Congress sets the laws.

Well, the facts of the matter are that DOE is not running these operations day to day. The U.S. Congress is not running these operations at these plants day to day. These are being done by contractors and they must be the ones who have to be accountable for the decisions that are being made on a day-to-day basis.

Finally, we have heard an objection today that if we pass this amendment it is going to increase the cost. The answer to that is that it may well do that, but the facts of the matter are that will more perfectly reflect the cost of doing business in this particular area and that is something which we need to get a handle on.

So these six objections which we have heard today really do not hold water when we look at them; but beside that, I think we need to go back to some basic common sense, and that is that all of us who represent districts that range in size and geographic areas throughout this country realize that none of our small businessmen, none of those individuals who we represent, have the opportunity or the privilege that we have given these contractors, that they must meet at least a simple negligence standard.

Today we are asking that this industry meet that same standard that a small businessman or an individual in our district would have to meet.

Finally, Mr. Chairman, I stand before you today to say that we need to do this so that we do not start down this path not only with these contractors, but others, that they would think they can perform a duty that would include gross negligence and willful misconduct at the expense of the American public.

Mr. Chairman, I urge my colleagues to adopt the Wyden-Sharp-Synar amendment. It corrects a basic flaw in the current Price-Anderson system.

Today, contractors at DOE nuclear facilities enjoy a protected status which is unwarranted and inconsistent with Federal policy in other areas.

They are held totally harmless for all damages, even those which result from their own gross negligence or willful misconduct.

By removing this element of financial responsibility, a crucial incentive for contractor safety and responsibility is lost.

No other Federal law provides such sweeping protections for contractors as the Price-Anderson Act.

Most other laws offer no protection for gross negligence or willful misconduct. These include Superfund, the Clean Water Act, the Outer Continental Shelf Lands Act of 1978, and the Swine Flu Act. However, throughout the course of our consideration of this issue, the DOE and its contractors have strongly resisted any type of accountability amendment. In fact, some contractors have threatened to walk away from their contracts if one is enacted. They claim that their fees are small and do not warrant taking on any risk.

First of all, contractors' fees are not as small as they would have us believe. They operate under cost-plus contracts, and many contractors are receiving millions of dollars in profits for supplying a small number of people to manage a facility.

But a discussion of contractors profits is not relevant to the issue before us.

Whether a fee is $1 or $10 million, citizens and communities have a right to expect that contractors will manage these sensitive facilities responsibly and carefully, and—at the very least—will not engage in gross negligence or knowingly violate regulations.

How can a contractor take the approach that because it doesn't make a certain amount of money, it cannot be responsible for even such a minimal standard of performance?

Why should the taxpayers be the ones to bear the costs of patently unsafe practices and activities?

This is a very moderate, very reasonable amendment.

The provisions established a degree of financial responsibility, while capping liability at levels flexible enough to permit large and small contractors to stay in the business.

Special consideration is given to nonprofits and universities conducting research.

The performance standards are applied only to corporate officials and those in supervisory positions—people who should be intimately familiar with all rules and proper procedures.

Mr. Chairman, there is another reason why the way in which we resolve this issue is so important.

Our decisions on this issue will have an impact on the way indemnification and accountability are handled in other environmental laws. The issue of accountability for DOE contractors has not been addressed since Price-Anderson was first adopted 30 years ago. For that reason it has not served as a precedent—yet. But now that the issue is squarely before Congress, the way we resolve it could significantly affect standards in other laws. If Congress allows contractors to continue to be totally unaccountable, or adopts very weak accountability provisions, it will be sending a signal which may lead to efforts to weaken similar provision in other laws. The only way to avoid such erosion is to enact standards which are comparable to those in existing laws.

In closing, there is nothing radical about our proposal—that a corporation should be responsible for its actions, and has an obligation to stockholders, citizens and communities to conduct its business responsibly and safely.

We all have industries in our districts which are crucial to the well being of our States and the Nation. In my district, farming ranching and oil and gas production are crucial industries. Yet, the individuals and companies who participate in those ventures are responsible for their own actions. No one excuses them from liabilities resulting from their own gross negligence or willful misconduct, and they don't expect to be. This is a basic tenet that we are all taught from grade school, and is a standard of our judicial system.

This amendment simply applies the same standard to contractors who operate our Government nuclear facilities. Contractors should expect no more, and our citizens deserve no less.

Mr. Chairman, I urge my colleagues to adopt the amendment.

Mr. LUJAN. Mr. Chairman, I yield 4 minutes to the gentleman from New York [Mr. LENT].

Mr. LENT. Mr. Chairman, I rise to oppose any provision to impose subrogation or civil penalties on DOE contractors. The addition of civil penalties and subrogation to H.R. 2994 will increase the costs to taxpayers of operating DOE's nuclear facilities and will strongly discourage responsible and experienced contractors from continuing their work with DOE.

DOE facilities are operated as a cooperative partnership. While the contractor has responsibility for day-to-day operations, DOE establishes the operating procedures and Congress provides the funds available to spend on the facilities. Unlike NRC licensees, DOE contractors are not independently responsible for all aspects of operation of these facilities. It is unfair to subject them to subrogation and civil penalties as if they were.

Many DOE contractors are nonprofit institutions such as universities or corporations which have operated facilities for little profit out of a sense of public service. Such contractors cannot subject their endowments and their States or their shareholders to the financial risks resulting from this amendment.

DOE's contractor program has operated successfully for nearly 40 years. Only $1.5 million in claims have been paid for over $28 billion in contracts. Given the safety record of these facilities as evidenced by the small amount of claims paid, it is not clear to me that there will be any incremental safety benefit from subrogation.

The real safety impact of these provisions is likely to be a negative one. Many contractors, with longstanding experience in operating these facilities, may leave rather than accept the financial risks being proposed here. Some of my colleagues make light of the fact that contractors will leave by noting that estimates of private sector employees that will have to be replaced are 5 at Idaho national labs, 40 at the Kansas City plant or 15 at the Oak Ridge facility. My colleagues failed to mention the 500 at the Savannah River plant, the 114 at Sandia, the 91 at Los Alamos or the 180 at Bettis Atomic Power Laboratory.

But the mere number of employees to be replaced is not the significant factor. Each of the DOE's facilities is unique. Reactor operators of commercial nuclear plants cannot move from one facility to another without undergoing substantial retraining and relicensing. And those facilities are relatively interchangeable compared to the ones operated by the DOE. The potential loss of these knowledgeable employees should not be lightly dismissed. An amendment such as this which would cause experienced contractors to decline further DOE work has a significant potential to adversely impact public protection.

I, too, support ensuring that DOE contractors maintain the highest standard of care, but this amendment will not achieve that goal. I urge my colleagues to oppose this amendment.

Mr. WYDEN. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. Miller].

Mr. MILLER of Washington. Mr. Chairman, I rise in strong support of the Wyden-Sharp-Synar amendment. It is an important amendment and deserves the support of the House of Representatives.

This amendment is important because it ensures that safety is in the self-interest of the contractor. This measure defines quite clearly the safety responsibilities of Federal contractors. We are their employers, Mr. Chairman, and the American people want their contractors to put safety first.

This amendment establishes two safety incentives. First, it mandates civil penalties for violations of nuclear safety regulation—the same penalties which the nuclear regulatory commission places on operators of private sector nuclear facilities.

Second, Mr. Chairman, subrogation procedures allow the Justice Department to sue a contractor if an accident was caused by the "gross negligence or willful misconduct" of top corporate officials. The amount that could be recovered is proportionate to the size of the contract.

This amendment is a vital addition to H.R. 1414. It puts safety first.

Both the Justice Department and the Defense Department testified that providing total idemnification undermines fundamental safety incentives. This amendment will insure that fundamental safety incentives are built into this bill and I urge my colleagues to support this amendment.

□ 1645

Mr. LUJAN. Mr. Chairman, I yield 2 minutes to the gentleman from Virginia [Mr. Bliley].

Mr. BLILEY. Mr. Chairman, I rise in opposition to this amendment offered by my friends, the gentleman from Indiana and the gentleman from Oregon.

This, like the previous amendments, will sink this bill. There is no way that the Department of Energy or indeed the Department of Defense could live with this amendment in this bill.

What does that mean? That means that once again we are back with the utilities grandfathered under the $700 million pool as opposed to the $7 billion pool that this bill will provide. Department of Energy contractors, as has been pointed out, work for little or no profit, but they do a vital service for this country. There are those operating in Savannah River, Hanford, and Oak Ridge who have announced that if this provision is adopted and becomes law that they will withdraw altogether. We have a number of universities who operate as contractors. They have announced that if the civil penalties section is adopted and becomes law they, too, will withdraw.

This country at this time cannot afford to lose this talent. I urge the rejection of this amendment.

The CHAIRMAN pro tempore (Mr. Hoyer]. The gentleman from Oregon [Mr. Wyden] has 9 minutes remaining, and the gentleman from New Mexico [Mr. Lujan] has 11 minutes remaining.

Mr. WYDEN. Mr. Chairman, I yield 1 minute to the gentleman from Illinois [Mr. Bruce].

Mr. Chairman, I appreciate the help of the gentleman from Illinois in the committee in developing a compromise for today's consideration.

Mr. BRUCE. Mr. Chairman, I would like to call the House attention to a particular portion of the Sharp-Wyden-Synar amendment which was added in the Energy and Commerce Committee markup of the Price-Anderson bill. This pertains to nonprofit institutions and I would like to explain the rationale for it.

In 1974, Congress, responding to criticism that the agency charged with the development and promotion of nuclear energy could not also act effectively in regulating the safety of nuclear plants, abolished the Atomic Energy Commission and divided its functions among two agencies, the Energy Research and Development Administration (which later became the Department of Energy) and the Nuclear Regulatory Commission. The Nuclear Regulatory Commission now has had over 12 years of experience in regulating the safety of nuclear plants. It administers section 234 of the Atomic Energy Act (42 U.S.C. 2282), the provision that established civil penalties against persons violation licensing provisions of the act. Thus, it has the expertise to investigate charges of violation of safety regulations, to hold hearings and determine whether violations have occurred, to assess penalties, and to compromise or mitigate penalties.

The Sharp-Wyden-Synar amendment to H.R. 1414, the Price-Anderson Amendments Act of 1987, would insert a section 17 to H.R. 1414, adding a new section 237 to the Atomic Energy Act for "Civil Monetary Penalties of Department of Energy Regulation." I'm adopting this amendment to the bill, we should recall Congress' decision in 1974 not to place the enforcement of safety regulations in the same agency charged with the development and promotion of nuclear energy. If it were to administer this provision, the Department of Energy would be forced into the precise conflict of interest that the Atomic Energy Commission was in before the 1974 amendment—of acting as judge and jury over the actions of its own contractors with respect to safety.

Instead, Congress should utilize the expertise of the Nuclear Regulatory Commission, and give it the role of determining whether violations have occurred, and of assessing civil penalties under the new section 237. This has been done by simply substituting the Nuclear Regulatory Commission for the Secretary of Energy in section 17 of the bill as proposed in Mr. Sharp's original amendment.

The Department of Energy would not be entirely removed from the process. It would continue to have the responsibility for promulgating safety rules. And it would notify the Nuclear Regulatory Commission of any charge that a contractor had violated these provisions. But the DOE would not be placed in the untenable position of having to adjudicate alleged violations by the contractors upon whom it relies to carry out the nuclear energy research and development, production, defense, and other contract activities. The Department of Energy's relationship with its contractors can then be concentrated on assuring the best performance of the program. The investigation and assessment of penalties for safety violations would be done by an agency which has that particular function alone, and has the expertise needed to perform that function. It cannot be argued that this would result in a multiplicity of agencies concerned with the activities of contractors. Every contractor already must comply with laws and regulations administered by a number of agencies with respect to labor, nondiscrimination, environment, taxes, transportation, and other areas. Utilizing the Nuclear Regulatory Commission for investigation and assessment of penalties for safety violations of contractors would free the DOE from a responsibility which is discordant with its function as promoter of nuclear energy and would reassure contractors that the same agency with whom they must deal on contract administration will not also act as adjudicator of civil penalties.

Mr. Chairman, I propose this concept to Mr. Sharp's amendment when it was presented at the full Energy and Commerce Committee markup where it was approved by a voice vote. I'm very pleased that the sponsors of the amendment we are now considering on the floor have seen fit to include it in their language. The Sharp amendment as it now stands is acceptable to nonprofit organizations which I represent, such as the University of Chicago, and is, I believe, a significant perfection of the concept of contractor responsibility embodied in the current Sharp-Wyden-Synar amendment.

Mr. LUJAN. Mr. Chairman, I yield 2 minutes to the gentleman from Washington [Mr. Morrison].

Mr. MORRISON of Washington. Mr. Chairman, I would like to take a few minutes to share with my colleagues some information they may find helpful during the debate on the Price-Anderson Amendments Act.

As you know, the Department of Energy contracts with private enterprise to operate many of its nuclear related facilities and laboratories. The Hanford Reservation, located in my district in Washington State, is an example. Through the Price-Anderson Act, the Department of Energy provides a mechanism whereby it "self insures" these contractors. Under current law, this insurance protects the public to the tune of $500 million. The Price-Anderson extension that we are looking at this week would increase this protection to $7 billion.

Several of my colleagues will offer an amendment to the Price Anderson bill that would destroy this self insurance mechanism by permitting the Federal Government, under certain conditions, to turn around and sue a contractor in the event of an accident.

I share my colleagues' goal in offering their amendment. Their idea is to give contractors an incentive to operate these facilities safely. I want to be assured that the contractors who run our nuclear facilities operate them safely; but I'm not convinced that the so-called subrogation amendment is the best way to do this.

My concern is that the contractor liability created under this amendment will benefit the pocketbooks of insurance companies and perhaps even the contractors while unnecessarily increasing the American taxpayer's burden. This is how it could happen: Contractors with potential liability hanging over their heads would increase their fees in order to purchase insurance or to self insure. The liability becomes a cost of doing business for the contractor. The Department of Energy, rather than insuring against an accident with the full faith and credit of the Federal Government, pays the contractors to carry out this function. The taxpayer ends up footing the bill regardless of whether or not the insurance is ever used.

Contractor responsibility is paramount; however, the Price-Anderson Act is not the appropriate mechanism to ensure the safe operation of contractor run facilities. The concept behind the act is to encourage the development of a nuclear industry by reducing the financial risk associated with an accident. The act was never intended as a means of policing the industry. Instead, the Nuclear Regulatory Commission was created to ensure that the reactors are operated safely. If we want to ensure contractor responsibility it may be more appropriate to encourage more independent oversight rather than depending upon Price-Anderson.

In addition, it tends to be overlooked that the Department of Energy has some recourse if contractors do not operate a facility in the safest possible manner. If contractor actions are not up to par, the DOE can diminish the award fee or terminate the contract and even bar the contractor from future Government work. If a contractor acts intentionally in violation of any rule or regulation and causes a nuclear incident, he can be punished criminally under the Atomic Energy Act. Fines can go up to $20,000 and imprisonment of up to 20 years is possible.

Many of my colleagues have argued that contractors will refuse to operate our nuclear facilities if this amendment is accepted. I don't buy that. I'm not afraid that contractors will walk out on these facilities; I am concerned that the taxpayer will ultimately pay a higher price with no guarantees of increased safety and security.

Mr. WYDEN. Mr. Chairman, I yield 2 minutes to the gentleman from Arizona [Mr. Udall], the distinguished chairman of the Committee on Interior and Insular Affairs, who has been enormously helpful to the sponsors of this legislation, and we very much appreciate his support.

Mr. UDALL. Mr. Chairman, I had some misgivings about earlier versions of this particular amendment. I can say that the changes have made this one moderate and reasonable and sensible. I can live with it and I am willing to support it.

We already have legal provisions covering many similar situations. There is no way not to cover the contractors as we do in this amendment.

Mr. LUJAN. Mr. Chairman, I yield 8 minutes to the gentleman from South Carolina [Mr. Derrick].

Mr. DERRICK. Mr. Chairman, I have sat and listened to this debate with a great deal of interest and by and large it has been a rather reasonable debate.

Mr. Chairman, I think it was the gentleman from Washington [Mr. Swift] that said it might be a choice between Jane Whats-her-name and Edward Teller.

I suggest to my colleagues that I think, and I think it is probably unconscious that we do it, but really what we are debating here is just because something is big, because it is a large company, it has existed for a long time in this country, because it is the very bedrock of what our Nation is all about economically speaking, is it bad?

Mr. Chairman, I think that this debate at least on the proponents' side of this amendment, I suggest to this point suggests that the case is that we must believe that it is bad. If it is a defense contractor we must believe that it must be to no good.

I heard someone mention something about $7,000 coffee pots and expensive wrenches and all that stuff. That is not what we are talking about here this afternoon. I think it has been a reasonable debate on the other side. I will tell my colleagues before I get started that I want to tell them where I am coming from. I believe in holding nuclear facilities to the test. If you do not believe it, there is a $350 million pile of cement in my district that testifies that I believe in holding nuclear installations to a high code.

If my colleagues do not believe it, together with the distinguished chairman, the gentleman from Arizona [Mr. Udall], of the Committee on Interior and Insular Affairs, we drafted the first really nationwide legislation dealing with nuclear waste, the Nuclear Waste Act of 1980, and it was revised again in 1985 and in 1986.

So although I do not come before you very often and speak on these matters, I do think that I come to you with some credibility and I also come before you with some special interest, a parochial interest, because I do represent the area of South Carolina in which is located the Savannah River plant that is operated by the Du Pont Co., and has been operated by the Du Pont Co., for the last 37 years.

Mr. Chairman, this particular payroll in my State is the largest dollar payroll in the State of South Carolina. There are 16,000 employees at the Savannah River plant that reside in my district.

Yes, I am concerned, Mr. Chairman, about that. I am concerned about the jobs, but I want my colleagues to give me the credit for being concerned about more than just those 16,000 jobs in my district. I am also concerned about what we tend to do to the free enterprise system when we get up with amendments such as this and the potential damage that can be done to our nuclear deterrent if amendments such as this are allowed to pass.

The Savannah River plant in South Carolina is our Nation's producer of weapons grade plutonium and tritium, vital to our nuclear deterrent throughout the world.

I wish it were not so. I wish it were not needed. I am sure that most everyone in this body shares that with me. But the fact of the matter is that in the world in which we live today it is necessary for us to have a nuclear deterrent. I pray to God that one of these days that will not be true, and I certainly have over the years supported disarmament, nuclear freeze, and so forth.

But we cannot change the facts and we cannot change reality and reality is that we must have those. So now we come down to the item, are we going to let the private sector, in a ministerial capacity, do this, or are we going to let the Department of Energy do it without the aid and the 37 years experience of the Du Pont Co.?

Mr. Chairman, the Du Pont Co. is not new to this area. They were very involved in the Manhattan Project during the Second World War. After that was over, they were through in the nuclear field, at least they thought they were, and our Government back in the late 1940's and early 1950's came to the Du Pont Co. and asked them, and they did not seek it, they were asked, to manage and operate this tremendous installation that was to be yet another step of ours in keeping our Nation free.

They did not come to them and say, we are going to let you make millions of dollars every year, nor did Du Pont ask for that. They were asked to do it as a patriotic endeavor on behalf of this great Nation of ours, and they did, and they have done.

This is not a profit making enterprise in South Carolina. The Du Pont Co. is paid, it is a cost-plus-$1 basis.

They have operated this plant safely. That is not to say that they have not had some problems, but generally it has been a situation where there have been very few problems over the last 37 years. As a matter of fact they have operated it so safely that barring any mishap in the next 60 days the National Safety Council will shortly declare them to be this Nation's safest industrial plant. I did not say nuclear plant, I said safest industrial plant. This may come as a surprise to some of my colleagues, but it is not to me because I have worked with the management and the people who work down at the Du Pont Co. for many years. But if this amendment passes, what we are going to do is we are going to lose this 37 years of experience of the Du Pont Co., and we are going to lose 130 years reactor experience of the Du Pont Co., because they are going to pull out, and well they should.

If my colleagues were on the board of directors of the Du Pont Co. or the president of the Du Pont Co., they would advise them to do so.

The CHAIRMAN pro tempore. The time of the gentleman from South Carolina [Mr. Derrick] has expired.

Mr. DERRICK. Mr. Chairman, I ask for 1 additional minute.

The CHAIRMAN pro tempore. The gentleman from New Mexico [Mr. Lujan] has only 1 additional minute remaining.

Mr. WYDEN. Mr. Chairman, I am happy to yield 1 minute to the gentleman from South Carolina.

Mr. LUJAN. Mr. Chairman, I yield my remaining 1 minute to the gentleman from South Carolina.

□ 1700

Mr. DERRICK. But as a practical matter, you cannot ask the Du Pont Co. to subject their entire corporate assets to liability under this act when they are doing a patriotic service for our Nation on a cost-plus $1 basis. And it is not only just the Du Pont Co., but there are others.

I ask you to please consider, and I tell you once again as I said at the beginning of my remarks, that I have an interest in it, sure, I have 16,000 employees down there but I think by this amendment what we are doing as far as our national deterrent and our nuclear deterrent is concerned, we are throwing away, we are throwing away the private sector.

There are those that say that the Du Pont Co. will stay. They will not stay. What you will end up with is either DOE running it, which I do not think is desirable when we can have a private contractor to do it, or you are going to have a Shell Corp. without the expertise, without the financial stability and without the tremendous reputation that the Du Pont Co. has to protect after having run this plant for 37 years.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN pro tempore (Mr. Hoyer). The gentleman from Oregon [Mr. Wyden] has 6 minutes remaining. The time of the gentleman from New Mexico [Mr. Lujan] has expired.

Mr. WYDEN. Mr. Chairman, I yield 6 minutes, to conclude debate on our side, to the chairman of the subcommittee, the gentleman from Indiana [Mr. Sharp].

Mr. SHARP. I thank the gentleman for yielding.

Mr. Chairman, I have the utmost respect for the previous speaker, Mr. Derrick from South Carolina, because he has been a staunch defender on behalf of his constituents, for safety and for all of our citizens for safety, and he has recognized the critical national security interests that are involved in the facility in his district.

I happen to disagree with him, however, in a major way and strongly support this amendment. What we are debating today, Mr. Chairman, is the fundamental principle of accountability, a fundamental principle of accountability, a fundamental principle we exercise in our economy and in our political system. And that is what we are talking about. This amendment has very broad-based support in the House on both sides of the aisle. I will just reiterate that it has the support of Chairman Dingell, Chairman Udall as well as the majority leader, Mr. Foley.

We must recognize that this is a very special circumstance that exists today because the Department of Energy has granted full indemnification under its contracts to its contractors, not because Congress ever said that is the way it will be, but Congress left that discretion.

No other contractor in this country has that kind of indemnification, not in the private sector, not with the Department of Defense, not with the Nuclear Regulatory Commission. What we are asking is no more special deals.

But, Mr. Chairman, we are not throwing this open, wide open to the normal standards that any other contractor in our society has to meet. We simply are modestly opening the door to financial accountability if the top management of this corporation engages in outrageous behavior.

Ladies and gentlemen, what we are asking is very modest. In fact, the main contractor that has been just previously mentioned, DuPont, had, when it first started dealing with the Department of Energy when it was Atomic Energy Commission, real requirements for accountability.

Those were not given up until 1957. It began in 1950 in its relationship with the Federal Government on this facility.

With respect to some of the universities that some of our colleagues have been concerned with that might not be willing to live under these contracts, those same universities now live with the civil penalties because they have nuclear research reactors. The University of California, the University of Chicago, they are familiar with this. They can live with it. Do not be bought off by this argument that somehow this is a new intrusive kind of accountability that we are asking for.

Some of these other private sector contractors live under tougher financial requirements in dealing with nuclear facilities with the Department of Defense. But they want the business both for profit and for the information it provides them with what is going on in this critical field that they make money out of.

Do not tell us we are imposing some onerous condition that these contractors do not live now with in other contracts. They have had a very special deal. They do not deserve it. We do not wish to lose these contractors. There frankly is no reason that we should.

Any competent contractor who desires to do this business will not be deterred from taking this on because we tell them if they engage in egregious behavior they will be held financially accountable. But also recognize the modesty of this amendment, that even if they do engage in that egregious behavior and the Department of Justice goes back and sues them for getting back some of the bill that the American taxpayers had to foot, notice what happens. We have capped off how much they would be liable for.

So do not buy the argument that the assets of these corporations are put up naked to the world. Nothing could be further from the truth. Our cap is very reasonable, three times the profits that they get on this contract is the maximum amount that we will take them for if they engage in such outrageous behavior as to cause an accident.

Now ladies and gentlemen, the principle we are trying to get to apply universally in our government's system of contracts here is one that the Department of Defense and the Department of Justice had testified in the Senate on behalf of. Representatives of those two departments under the Reagan administration have indicated that when you grant full indemnification you undermine safety incentives. And that is why the Department of Defense does not do this, that is why the NRC does not do this and that is why today we ask you to tell the Department of Energy they shall not do it either.

We have a modest proposal. If you are worried about that argument that we have been given about the cost that this might add to contracts, let me suggest to you that I do not think the National Taxpayers Union would be endorsing our amendment, as it endorses it, if they really thought we were laying some new cost onto the U.S. taxpayers.

They, like us, believe that putting these corporations to a modest amount of financial risk if they cause an accident will help deter that accident and in the end save perhaps multibillions of dollars to the American taxpayers who will have to shell out to the victims if such an accident occurs.

Mr. Chairman, what we have is a modest proposal, it is one these contractors can live with because many of them live with as they do business with NRC and the Department of Defense; and we believe, as the Department of Justice and Department of Defense and almost everybody else believes, in the principle of accountability, that this will help and be a prod to keep people operating safely.

Please support this amendment. It fits our fundamental principles of accountability. It fits with what are the basic principles in Price-Anderson. It ought to be adopted.

Mr. MURPHY. Mr. Chairman, I rise in opposition to the Wyden amendment. Not one of the three committees of jurisdiction; Interior, Energy and Commerce, and Science, Space, and Technology, adopted any provision establishing subrogation or civil penalties against DOE contractors. For that reason alone it should seem obvious that this is an unwise amendment. However, I would like to point out some other concerns I have with this amendment. In undertaking DOE contracts, companies did not evaluate nor contemplate the imposition of possible civil and additional criminal penalties. Nor is it likely that they would have undertaken those contracts if such penalties or my colleague's proposal regarding subrogation were law.

The operational exposure of DOE activities is vastly different in magnitude for contractors who operate unique government-owned DOE nuclear facilities, as compared with DOD contractors—not providing services to DOE. Contractors hired to run Government facilities must accept then on an "as is" basis with all of the known and perhaps unknown risks resulting from the Government's previous operations and maintenance procedures with respect to the facility. It should be noted that recommendations by DOE contractors for modification or improvement to such facilities, some of which were originally designed to support the Manhattan project, are subject to review and approval by DOE and the approval and availability of appropriated funds from Congress.

Moreover, as pointed out in a number of the letters sent to the Energy Committee by DOE contractors, DOE nuclear facilities are operated by the contractors on a not-for-profit basis or with fees substantially below the fees for normal commercial contracts. These compensation features are based upon Price-Anderson indemnification agreements currently in effect without exceptions in coverage.

The adoption of the Wyden amendment would cause these companies to seriously reconsider their ability to undertake DOE contracts in the future and to reevaluate their risks pursuant to existing DOE contracts.

This situation does not suggest that any contractor wishes to be exonerated for grossly negligent acts or acts of willful misconduct. No one does, and no one intends, to function in the performance of any contract in such a manner. However, a determination of their activities will be made ex post facto, most likely by a jury in a situation involving litigation to recover for damages to property or injury to people. Contemporary standards for jury determinations, including instructions by the courts, do not provide the basis for much confidence. Law books are literally full of cases trying to draw the distinction between negligence and gross negligence, for instance. The only thing that can be said with certainty is that one cannot predict with any certainty what behavior will be deemed to be in one or the other category for purposes of legal determinations. Placing the corporate assets at risk dependent upon the vagaries of the current tort law system is unwise.

If we are not able to attract the most competent contractors to manage our Nation's defense facilities, we will not only be jeopardizing the health and safety of those citizens who live near these vital facilities, but we will be jeopardizing our national security. I urge my colleagues to vote against the Wyden amendment.

The CHAIRMAN pro tempore. All time has expired.

The question is on the amendment offered by the gentleman from Oregon [Mr. WYDEN].

The question was taken; and the Chairman pro tempore announced that the ayes appeared to have it.

RECORDED VOTE

Mr. LUJAN. Mr. Chairman, I demand a recorded vote.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 193, noes 226, not voting 14, as follows:

[Roll No. 290]

AYES—193

Ackerman
Akaka
Aspin
Atkins
AuCoin
Bates
Beilenson
Berman
Biaggi
Bonker
Borski
Bosco
Boucher
Boxer
Brennan
Brown (CO)
Bruce
Bryant
Buechner
Cardin
Carper
Carr
Chandler
Clay
Coelho
Collins
Combest
Conyers
Cooper
Coughlin
Coyne
Crane
Crockett
DeFazio
Dellums
Dicks
Dingell
DioGuardi
Dixon
Donnelly
Dorgan (ND)
Downey
Durbin
Early
Eckart
Edwards (CA)
Edwards (OK)
English
Erdreich
Espy
Evans
Fascell
Fazio
Feighan
Fish
Flake
Florio
Foglietta
Foley
Ford (MI)
Frank
Garcia
Gejdenson
Gekas
Gilman
Glickman
Gonzalez
Gordon
Gray (IL)
Gray (PA)
Gregg
Guarini
Gunderson
Hamilton
Harris
Hawkins
Hayes (IL)
Hertel
Hochbrueckner
Howard
Hoyer
Hughes
Jacobs
Jeffords
Johnson (SD)
Jones (TN)
Jontz
Kaptur
Kastenmeier
Kennedy
Kennelly
Kildee
Kleczka
Kostmayer
LaFalce
Lancaster
Lantos
Leach (IA)
Lehman (CA)
Lehman (FL)
Leland
Levin (MI)
Levine (CA)
Lewis (GA)
Lipinski
Lowry (WA)
Luken, Thomas
MacKay
Manton
Markey
Martinez
Matsui
Mavroules
McCloskey
McCurdy
McDade
McGrath
McHugh
McMillen (MD)
Meyers
Mfume
Miller (CA)
Miller (WA)
Mineta
Moakley
Moody
Morella
Morrison (CT)
Mrazek
Nagle
Neal
Nowak
Oakar
Oberstar
Obey
Owens (NY)
Owens (UT)
Panetta
Pease
Pelosi
Penny
Pickle
Price (NC)
Rangel
Ridge
Rodino
Roukema
Roybal
Sabo
Savage
Sawyer
Scheuer
Schneider
Schroeder
Schumer
Sensenbrenner
Sharp
Sikorski
Skaggs
Slattery
Slaughter (NY)
Smith (FL)
Smith, Denny (OR)
Smith, Robert (NH)
Smith, Robert (OR)
Snowe
Solarz
St Germain
Staggers
Stark
Stokes
Studds
Swift
Synar
Torres
Torricelli
Towns
Traficant
Traxler
Udall
Vento
Visclosky
Walgren

Watkins
Waxman
Weber
Weiss
Wheat
Williams
Wise
Wolpe
Wyden
Yates

NOES—226

Alexander
Anderson
Andrews
Annunzio
Anthony
Applegate
Archer
Armey
Badham
Baker
Ballenger
Barnard
Bartlett
Barton
Bateman
Bennett
Bentley
Bereuter
Bevill
Bilbray
Bilirakis
Bliley
Boehlert
Boggs
Boland
Bonior (MI)
Boulter
Brooks
Broomfield
Brown (CA)
Bunning
Burton
Bustamante
Byron
Callahan
Campbell
Chapman
Chappell
Cheney
Clarke
Clinger
Coats
Coble
Coleman (MO)
Coleman (TX)
Conte
Courter
Craig
Daniel
Dannemeyer
Darden
Daub
Davis (IL)
Davis (MI)
de la Garza
DeLay
Derrick
DeWine
Dornan (CA)
Dowdy
Dreier
Duncan
Dwyer
Dyson
Emerson
Fawell
Fields
Flippo
Ford (TN)
Frenzel
Frost
Gallegly
Gallo
Gaydos
Gibbons
Gingrich
Goodling
Gradison
Grandy
Grant
Green
Hall (OH)
Hall (TX)
Hansen
Hastert
Hatcher
Hayes (LA)
Hefley
Hefner
Henry
Herger
Hiler
Holloway
Hopkins
Horton
Houghton
Huckaby
Hunter
Hutto
Hyde
Inhofe
Ireland
Jenkins
Johnson (CT)
Jones (NC)
Kanjorski
Kasich
Kemp
Kolbe
Kolter
Konnyu
Kyl
Lagomarsino
Leath (TX)
Lent
Lewis (CA)
Lewis (FL)
Lightfoot
Livingston
Lloyd
Lujan
Lungren
Mack
Madigan
Marlenee
Martin (IL)
Martin (NY)
Mazzoli
McCandless
McCollum
McMillan (NC)
Mica
Michel
Miller (OH)
Mollohan
Montgomery
Moorhead
Morrison (WA)
Murphy
Murtha
Myers
Natcher
Nelson
Nichols
Nielson
Olin
Ortiz
Oxley
Packard
Parris
Pashayan
Patterson
Pepper
Perkins
Petri
Pickett
Porter
Price (IL)
Pursell
Quillen
Rahall
Ravenel
Ray
Regula
Rhodes
Richardson
Rinaldo
Ritter
Roberts
Robinson
Roe
Rogers
Rose
Rostenkowski
Roth
Rowland (CT)
Rowland (GA)
Russo
Saiki
Saxton
Schaefer
Schuette
Schulze
Shaw
Shumway
Shuster
Sisisky
Skeen
Skelton
Slaughter (VA)
Smith (IA)
Smith (NE)
Smith (NJ)
Smith (TX)
Solomon
Spence
Spratt
Stallings
Stangeland
Stenholm
Stratton
Stump
Sundquist
Sweeney
Swindall
Tallon
Tauke
Taylor
Thomas (CA)
Thomas (GA)
Upton
Valentine
Vander Jagt
Volkmer
Vucanovich
Walker
Weldon
Whittaker
Whitten
Wilson
Wolf
Wortley
Wylie
Yatron
Young (AK)
Young (FL)

NOT VOTING—14

Boner (TN)
Dickinson
Dymally
Gephardt
Hammerschmidt
Hubbard
Latta
Lott
Lowery (CA)
Lukens, Donald
McEwen
Molinari
Roemer
Tauzin

☐ 1715

The Clerk announced the following pair:

On this vote:

Mr. Gephardt for, with Mr. Lowery of California against.

Messrs. CLINGER, CAMPBELL, and ROE changed their votes from "aye" to "no."

Mr. MARTINEZ, Mrs. MEYERS of Kansas, and Mr. JONES of Tennessee changed their votes from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

Mr. RICHARDSON. Mr. Chairman, since the Wyden amendment was not adopted, there is no need to offer my amendment. For the record, however, I would like to submit the following:

AMENDMENT TO H.R. 2994 OFFERED BY MR. RICHARDSON

At the end of the bill insert the following new section:

SEC. . LIMITATION

Notwithstanding any other provision of this Act, no right of subrogation or right to assess civil penalties shall be applied against:

(1) a nonprofit entity;

(2) a profitmaking entity conducting research, production, or development activities under contract on a nonprofit basis or for a nominal fee; or

(3) a subcontractor or supplier of an entity described in paragraph (1) or (2).

Mr. Chairman, my amendment would exempt nonprofit or profit making organizations, whose primary mission is research, development or production, under contract to the Secretary of Energy on a nonprofit basis or for a nominal fee from the civil penalty and subrogation provisions adopted earlier by the House. Subcontractors or suppliers of either group would also be exempt.

Mr. Chairman, most of our national laboratories became involved in nuclear weapons research and development during the Second World War at the request of President Harry Truman. After the war, the Federal Government planned to terminate existing contracts with civilian contractors involved in weapons research and instead conduct its own research and development actities.

Ultimately, however, the Government decided to use management contracts for the operation of government-owned facilities. This national policy, as expressed in the Atomic Energy Act of 1946, was adopted 41 years ago because the Congress recognized that the government did not have sufficient scientific resources to support effectively its own program without private participation.

Unlike companies operating their own facilities, DOE nuclear contractors operate Government-owned facilities. Work at these facilities is under the close supervision and direction of DOE. Funding recommendations for improvements and modifications, including safety changes are subject to the review and agreement of DOE, and, in all cases, to appropriations by Congress.

Organizations—such as the University of California, the University of Chicago, the Sandia Corp. and others have managed and continue to manage our national laboratories in the national interest. These organizations continue to serve the country, while operating at no profit or a nominal fee because they believe that they are in the best position to do the research and development necessary to achieve the national security goals of the United States.

Mr. Chairman, contractors—like Sandia Corp. and the University of California—make no profit whatsoever on the operation of the laboratories. Most operate on a cost-reimbursement basis or receive a small fee. Thus, there are no funds from which to pay penalties.

Mr. Chairman, our national laboratories are concerned with the health and safety of their employees and the public and have demonstrated this concern by their excellent record in these areas. The integrity of the laboratories in conducting their research and development activities has rarely been questioned. Their independent judgment on issues of national importance is highly valued by the Congress.

It is doubtful if insurance coverage would be available from the private sector to cover such penalties. None exists today. If insurance were available, the cost would likely be very high and not reimbursable.

Mr. Chairman, if there are problems with management in the health and safety area for DOE contractors, the Department of Energy has significant authority in the existing contracts to remedy any preceived problems. The laboratories are open to Federal inspection and the contractors are required to implement Department of Energy safety, regulations, and orders. To deal with unsatisfactory performance, DOE can apply a variety of administrative tools, including contract termination, barring future Government work and reduction or elimination of fee awards.

The proposed fines and penalty provisions in the amendment that was adopted earlier could potentially jeopardize the private contractors' willingness to continue their management of the laboratories. In a letter dated June 25, 1987, to Mr. Wyden, the vice president for research and for Argonne National Laboratory at the University of Chicago wrote, "Subrogation would force it to leave the Nation's nuclear research and development program." As a private not-for-profit educational and charitable organization, the University of Chicago cannot accept risks of loss to its resources which are dedicated to the teaching of students and performance of basic research and scholarship.

There is no evidence that the absence of such penalties or subrogation in the past has contributed to the unsafe operation of any Government facility. Since Price-Anderson's inception, less than $1.5 million has been paid in claims against contractors for DOE or its predecessor agencies.

With the potential loss of current management, we lose a long tradition of quality management in our research and development laboratories. The unique management style and close cooperation with the academic community could be sacrificed. The alternatives to private management are for profit labs or federally run laboratories. For profit management would change the character of the labs, risk the independence of judgement, sacrifice the academic approach currently practiced by the labs, reduce or eliminate the ability of scientists to honestly criticize and lead to potential conflicts of interest. With a federally run lab, you give up flexibility in personnel hiring and retention, procurement management, and you potentially sacrifice quality.

Mr. Chairman, my amendment will recognize the special 40 year historical relationship that the Government has developed with our national laboratories and universities. These organizations continue to serve the country, while operating at no profit or for a nominal fee because they believe they are in the best position to accomplish the research and development objectives necessary to achieve our national security goals. My amendment would help ensure that they will be allowed to continue their important work.

Nowhere has the Congress exhaustively addressed the ramifications of the action that is now being considered. It would be more appropriate to hold hearings to focus exclusively on the implications of the proposed accountability provisions on our national defense.

Justification for Richardson Amendment/Exempting Nonprofits and Profit Making Corporations Who Operate on a Nonprofit Basis or for a Nominal Fee

ARGUMENTS AGAINST ANY FINANCIAL ACCOUNTABILITY AMENDMENTS

1. Most of our national laboratories became involved in nuclear weapons research and development during the Second World War at the request of President Harry Truman. After the war the federal government planned to terminate existing contracts with civilian contractors involved in weapons research and instead conduct its own research and development activities. Ultimately, however, the government decided to use management contracts for the operation of government-owned facilities. This national policy, as expressed in the Atomic Energy Act of 1946.

Organizations—such as the University of California, the University of Chicago, AT&T and others have managed and continue to manage laboratories in the national interest. These organizations continue to serve this country, while operating at no profit because they believe that they are in the best position to do the research and development necessary to achieve the national security goals of the United States.

2. The contractors make no profit whatsoever on the operation of the laboratories. Most operate on a cost reimbursement basis or receive a small fee. Thus, there are no funds from which to pay penalties.

Estimates are that there are about 40 campus run reactors which are operated by universities on a nonprofit basis. The University of California already carries insurance of $250,000 aggregate per reactor at the present time. Their campus run reactor is licensed by the NRC. Beyond the $250,000, the NRC provides complete indemnification. In addition, university research reactors can be subject to fines from the NRC up to $5,000 for health and safety violations. The safety incentive is already in existence. The question becomes should these universities face a double set of fines from two separate governmental agencies? Isn't one enough?

3. The labs are concerned with the health and safety of its employees and the public and have demonstrated this concern by their excellent record in these areas. The integrity of the laboratories in conducting their research and development activities has rarely been questioned. Their independent judgement on issues of national importance is highly valued by the Congress.

National Laboratories are often run on a nonprofit, cost reimbursement basis. Federal contract and grant monies and operating monies are used for those specific purposes. There is no provision for paying insurance premiums or liability claims. Under current law, DOE provides full indemnification for any liability arising from the management of these national laboratories.

It is doubtful if insurance coverage would be available from the private sector to cover such penalties. None exists today. If insurance were available, the cost would likely be very high and not reimbursable. DOE has the authority to require insurance but even if it is required you cannot force private insurance carriers to carry it. The nuclear insurers are not sure they would be able to offer insurance for our National Laboratories since by their nature they undertake classified activities.

(If any type of insurance is required you are: (1) Changing the basic premise of Price Anderson which is based on a no-fault basis; and in a sense (2) you are setting up the insurance industry to do DOE's job of ensuring that DOE contracted facilities are operating in a safe manner.)

4. If there are problems with management in the health and safety area for DOE contractors, the Department of Energy has significant authority in the existing contracts to remedy any perceived problems. The laboratories are totally open to federal inspection and the contractors are required to implement Department of Energy, safety regulations and orders.

DOE is clearly the regulator and should be held accountable. If the problem is improve on health and safety at DOE contracted facilities then make DOE accountable—don't blame it on the contractors. I believe that the imposition of civil penalties and subrogation would put DOE in the position of being judge and jury over its contractors. If safety is the issue then it makes more sense to me to appoint an independent agency for review—not DOE. Nowhere has the Congress exhaustively addressed the ramifications of the precipitous action that is now being considered. It would be more appropriate to hold hearings to focus exclusively on the implications of the proposed accountability provisions on our national defense.

5. The proposed fines and penalties provisions in any potential civil penalty or subrogation amendment could potentially jeopardize the private contractors' willingness to continue their mangement of the laboratories.

In a letter dated June 25, 1987, the Vice President for Research and for Argonne National Laboratory at the University of Chicago has stated that, "subrogation would force it to leave the nation's nuclear research and development program." The bottom line is that as a private not-for-profit educational and charitable organization, the University of Chicago cannot accept risks of loss to its resources which are dedicataed to the teaching of students and performance of basic research and scholarship.

In a letter dated May 5, 1987, Westinghouse Corporation wrote to Senator Johnston on the issue of potential civil penalty provisions during the Senate consideration of Price Anderson. Mr. Leo Wright, Westinghouse Vice President for Government Programs said, "The imposition of such penalties would cause Westinghouse to seriously consider our willingness to undertake such contracts in the future and to reevaluate our risks pursuant to existing contracts with the Department of Energy."

Energy Secretary Herrington in a letter to Chairman Dingell said that, "the inclusion of any penalties could lead us to seek disapproval."

(Keep in mind that DOE will oppose even your efforts to treat nonprofits, profit-making corporations which operate in a nonprofit manner and suppliers or subcontractors.)

6. With the loss of current management, we lose a long tradition of quality management in our research and development laboratories. The unique management style and close cooperation with the academic community could be sacrificed. The alternatives to private management are for profit labs or federally run laboratories. For profit management would change the character of the labs, risk the independence of judgment, sacrifice the academic approach currently practiced by the labs, reduce or eliminate the ability of scientiists to honestly criticize and lead to protential conflicts of interest. With a federally run lab, you give up flexibility in personnel hiring and retention, procurement management, and you potentially sacrifice quality. Do you want a GS 15 running Hanford?

At our National Laboratories and research reactors, scientists conduct a number of activities important to the security of the nation. These include: the training of nuclear engineers and scientists; development of our nation's nuclear weapons; research into new technologies and future energy sources; improvements of nuclear safety system techniques; and the development of biomedical and other non-energy applications. For example, the Los Alamos Omega West Reactor is used extensively by colleagues and universities and private industry for experiments and analyses. There is an almost constant demand for neutron irradiation of geological materials and plant specimens and a variety of materials used in radiochemical research.

A nuclear reactor, even a relatively small one dedicated to scientific research, is a rare commodity for the educational community, small laboratories, private industry and the nation as a whole. In most cases, these parties do not have the expertise to operate and maintain a reactor nor the funds to be able to build and support one. National Laboratories, like the one at Los Alamos, New Mexico, provide a valuable resource—not the least of which is a tool for a graduate student's research and training. Without some clear cut protection we may loose this valuable training and research asset.

7. Although the Interior Committee was moot on the issue of civil penalties or subrogation, the House Science and Tech Committee to which Price-Anderson was also referred adopted a permanent indemnifaction extension for all DOE Contractors. The Senate Energy Committee specifically exempted our 9 National Laboratories from civil penalties recognizing that these contractors make no profit on the operation of their laboratories.

8. There is no evidence that the absence of such penalties or subrogation in the past has contributed to the unsafe operation of any government facility. Since Price-Anderson's inception, less than $1.5 million has been paid in claims against contractors for DOE or its predecessor agencies.

9. The imposition of civil penalties or additional criminal penalties will not add to safety. On the other hand, it could adversely affect the safe operations of DOE contract facilities by causing many current DOE contractors to reconsider their involvement in DOE nuclear contract work.

10. All liability insurance policies include a nuclear exclusion, i.e., their provisions do not apply in the event of liability resulting from a nuclear incident. The Price-Anderson indemnification regime was established because private insurance was not available to protect nuclear activities that were deemed desirable in the national interest. That is still the case today as much as it was when Price-Anderson was originally enacted in 1957. The nuclear insurance pools have indicated that they would not write insurance to cover the activities of DOE contractors engaged in activities for the Department of Energy. Moreover, they also indicated that insurance is not available for limited exposure such as liability for gross negligence or willful misconduct. It is this lack of available insurance that provides the necessity for continuation of the Price-Anderson indemnification program.

11. No contractor wishes to be exonerated for his grossly negligent acts or his acts of willful misconduct. No one does, and no one intends to function in the performance of any contract in such a manner. However, everyone is acutely aware that the determination that their activities have constituted such behavior will be made, ex post facto, most likely by a jury in a situation involving litigation to recover for damages to property or injury to people. Contemporary standards for jury determinations, including instructions by the courts, do not provide the basis for much confidence. The law books are literally full of cases trying to draw the distinction between negligence and gross negligence, for instance. The only thing that can be said with certainty is that one cannot predict with any certainty what behavior will be deemed to be in one or the other category for purposes of legal determinations. Placing the corporate assets at risk dependent upon the vagaries of the current tort law system is probably not justifiable.

12. In undertaking DOE contracts, companies did not evaluate nor contemplate the imposition of possible civil and additional criminal penalties, nor is it likely that they would have undertaken those contracts if such penalties or the proposals regarding subrogation were law.

13. Unlike companies operating their own facilities, DOE nuclear contractors operate government-owned facilities. Work at these facilities is under the close supervision and direction of DOE. Funding recommendations for improvements and modifications, including safety changes, are subject to the review and agreement of DOE and, in all cases, to appropriations by the Congress.

To the best of my knowledge, Mr. Chairman, my amendment would be exempt:

Los Alamos National Lab University of California;

Sandia National Lab operated by Sandia Corp., an AT&T nonprofit subsidiary;

Argonne National Laboratory operated by the University of Chicago;

Chicago Fermi operated by Associated Universities Inc.;

Pacific Northwest in Washington State run by Batelle;

Brookhaven operated by Associated Universities Inc.;

Princeton Physics operated by Princeton;

Lawrence Livermore operated by the University of California, Berkeley; and

Savannah River operated by Du Pont.

HOUSE OF REPRESENTATIVES,
Washington, DC, July 27, 1987.

DEAR COLLEAGUE: On Wednesday, July 28, H.R. 2994, a bill to extend the Price-Anderson Act's nuclear liability system, will be taken up on the floor. At that time, an effort will be made to add to it an amendment that would subject the companies and institutions that operate DOE-owned nuclear facilities to civil penalties and some form of subrogation, making them liable for some of the costs incurred by the government in the event of a nuclear accident. If it becomes necessary, I am prepared to offer an amendment to protect contractors who operate on a nonprofit or nominal fee basis from financial accountability provisions.

Forty-one years ago, the federal government decided to use management contracts for the operation of government-owned nuclear facilities. This national policy was expressed because the Congress recognized that the government did not have sufficient scientific resources to support effectively its own program without private participation.

Unlike companies operating their own facilities, DOE nuclear contractors operate government owned facilities. Work at these facilities is under the close supervision and direction of DOE. Funding recommendations for improvements and modifications, including safety changes are subject to the review and agreement of DOE, and, in all cases, to appropriations by Congress.

Organizations, such as the University of California, the University of Chicago, the Sandia Corporation and others have managed and continue to manage our national laboratories in the national interest. These organizations continue to serve our country, while operating at no profit or on a nominal fee basis, because they believe that they are in the best position to do the research and development necessary to achieve the national security of the United States.

There is no evidence that the absence of such penalties or subrogation in the past has contributed to the unsafe operation of any government facility. Since Price-Anderson's inception, less than $1.5 million has been paid in claims against contractors for DOE or its predecessor agencies. If there are problems with management in the health and safety area for DOE contractors, DOE has significant authority in existing contracts to remedy problems.

Proposed fines and penalty provisions could potentially jeopardize the private contractors' willingness to continue their management of our national laboratories. With the potential loss of current management, we lose a long tradition of quality management in our research and development facilities. The alternatives to private management and for-profit labs or federally run laboratories or facilities. For-profit management would change the character of the labs, risk the independence of judgment, sacrifice the academic approach currently practiced by the labs, reduce or eliminate the ability of scientists to honestly criticize and lead to potential conflicts of interest.

Nowhere has the Congress exhaustively addressed the ramifications of the action that is now being considered. I hope that you will carefully consider any effort to alter the current Price-Anderson policy of indemnification of DOE nuclear contractors—especially those who operate on a nonprofit or nominal fee basis.

Sincerely yours,

BILL RICHARDSON,
Member of Congress.

☐ 1730

Mr. UDALL. Mr. Chairman, I move that the Committee do now rise.

According the Committee rose; and the Speaker pro tempore [Mr. TRAXLER] having assumed the chair Mr. HOYER, Chairman pro tempore of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1414) to amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents, had come to no resolution thereon.

RELATIVE TO ADJOURNMENT TO A DATE CERTAIN DURING THE REMAINDER OF THE 100TH CONGRESS

Mr. FOLEY. Mr. Speaker, I offer a concurrent resolution (H. Con. Res. 170), and I ask unanimous consent for its immediate consideration.

The SPEAKER pro tempore (Mr. TRAXLER). The Clerk will report the concurrent resolution.

The Clerk read the concurrent resolution, as follows:

H. CON. RES. 170

Resolved by the House of Representatives (the Senate concurring), That notwithstanding the provisions of section 132(a) of the Legislative Reorganization Act of 1946 (2 U.S.C. 198), as amended by section 461 of the Legislative Reorganization Act of 1970 (Public Law 91-510; 84 Stat. 1193), the House of Representatives and the Senate shall not adjourn for a period in excess of three days, or adjourn sine die, until both Houses to Congress have adopted a concurrent resolution providing either for an adjournment (in excess of three days) to a day certain or for adjournment sine die.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

Mr. MICHEL. Mr. Speaker, reserving the right to object, and I do not intend to object, but might I just use this opportunity to ask the gentleman from Washington [Mr. FOLEY], the distinguished majority leader, how the program unfolds for the balance of this day and tomorrow?

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. MICHEL. Mr. Speaker, I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, it is hoped that we will adopt this resolution which dispenses with the statutory July 31 sine die adjournment of the act, an anachronism unfortunately of other years and times but still a part of the law.

After we dispose of this matter, we have no legislative program for tonight. Tomorrow we will continue to consider Price-Anderson, and we would hope to conclude at a fairly early hour tomorrow.

I am reluctant to make predictions about time, but I am told by the chairman that it should not be a late day tomorrow in the chairman's view.

We are not yet able to inform the House as to whether there will be a schedule on Friday, and that results from our inability to predict action by the other body on the debt limit.

Members should assume that we will be having a schedule on Monday through Thursday of next week. We are earnestly planning to meet the House schedule for the recess; but in order to do that, we are planning a full schedule next week.

Mr. MICHEL. Might I inquire of the distinguished majority leader if that means rollcalls on Monday?

Mr. FOLEY. Yes.

Mr. MICHEL. Mr. Speaker, I thank the gentleman, and I withdraw my reservation.

Mr. WALKER. Mr. Speaker, reserving the right to object, if we would fail to pass the resolution before the House, would the Congress actually have to adjourn as of the end of this month?

Mr. FOLEY. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Washington.

Mr. FOLEY. Mr. Speaker, I thank the gentleman for yielding.

That is an interesting question. The gentleman always asks interesting questions.

I do not have a very interesting answer.

Mr. WALKER. I would say to the gentleman that I have many constituents who think the country would be better off if in fact we lived within the law.

Mr. FOLEY. I know there is another theory that a former distinguished Member of the other body, Senator Anderson, held; and that was that the worst mistake that was ever made by the Congress in this century was to air-condition the Capitol in 1938.

Since we are now air-conditioned, and since this is unfortunately a legal anachronism, we would hope that the Members would treat it as such and not attempt to take a premature departure from the legislative business.

Mr. WALKER. Further reserving the right to object, why do we not just repeal the anachronism? It seems to me it would make far more sense rather than going through this process to repeal the anachronism, rather than go through this exercise, if in fact it would cause major problems for the House to carry out what is in the law.

Mr. FOLEY. I think that is an excellent suggestion, and it was the subject of discussion between the distinguished Republican leader and myself just before this matter was brought forward.

I think we are in essential agreement that it should be repealed; and except for the proper procedures, I would not want to try to do it tonight.

The gentleman's suggestion is very well taken. It is a total anachronism and should be repealed.

Not to engage in further anecdotes, but there was a former Member of this body, I am told, who always adjourned himself personally on the 31st of July in accordance with the statute not regarding the action of the House or the other body.

The Member used to go to the well and say that it was his purpose to obey the law as well as to make it; and since the statute was in existence, he hereby adjourned himself sine die.

The distinguished gentleman died in office.

Mr. MICHEL. Mr. Speaker, will the gentleman yield?

Mr. WALKER. I yield to the gentleman from Illinois.

Mr. MICHEL. Mr. Speaker, I thank the gentleman for yielding.

That gentleman was from my home State of Illinois, and used to sit invariably right where the gentleman from Pennsylvania [Mr. GEKAS] is sitting now.

The gentleman's name is Noah Mason, a former schoolteacher, very precise; and I can just about mimic him perfectly as he used to get up, as you indicated, on the floor and say, "Mr. Speaker, it is July 31, and I just want to inform the membership that this Member is going to abide by the law and return to his home district for the benefit of his constituents" and so forth like that.

□ 1740

Mr. WALKER. Mr. Speaker, I withdraw my reservation of objection.

The **SPEAKER** pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The **SPEAKER** pro tempore. The question is on the concurrent resolution.

The concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

AUTHORIZING CERTIFICATE OF DOCUMENTATION FOR VESSEL F/V "CREOLE"

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that the Committee on Merchant Marine and Fisheries be discharged from further consideration of the Senate bill (S. 1198) to authorize a certificate of documentation for the vessel F/V *Creole*, and ask for its immediate consideration.

The Clerk read the title of the Senate bill.

The **SPEAKER** pro tempore (Mr. TRAXLER). Is there objection to the request of the gentleman from California?

Mr. YOUNG of Alaska. Reserving the right to object, Mr. Speaker, and I shall not object, but I would like to ask the gentleman from California to explain the legislation.

Mr. ANDERSON. Mr. Speaker, if the gentleman will yield, since the bill affects primarily the gentleman's State, the gentleman ought to tell us why it is a good bill.

Mr. YOUNG of Alaska. Mr. Speaker, S. 1198, which has been asked to be discharged from the committee, is a piece of legislation that passed the Senate unanimously, is not opposed by the Coast Guard, nor is it opposed by the Merchant Marine and Fisheries Committee.

It basically reauthorizes the registration of the motor vessel *Creole*, official number 229565, to allow Mr. Billings to operate his business as he should have, as he has done in the past, but because of an oversight, there has been some question about the documentation. I strongly urge my colleagues to support this legislation.

The motor vessel *Creole*, official number 229565, is a 78-foot motor yacht which has been operating in the marine cruise trade in southeast Alaska for 6 years. The vessel has been operating on a time-share basis for up to six passengers since its purchase by Mr. Richard F. Billings on August 6, 1981. The proceeds from the charter of the *Creole* is Mr. Billings' sole means of support.

Mr. Billings had his entire 1987 season booked when he was informed by the U.S. Coast Guard on April 27, 1987, that an error had been made when the vessel was documented. The vessel had been designated as a pleasure craft and not a commercial vessel, and therefore could not be used for time-share chartering. Mr. Billings then asked why he couldn't simply change the registration to commercial and was told, after investigation, the vessel would not qualify for commercial documentation because it did not meet the full requirements of the Jones Act.

The M/V *Creole* was built in 1930 in Houghton, WA, by C.E. Taylor, a master carpenter and was originally named the *Kuru*. The vessel was used by the Navy during World War II and thereafter as U.S.S. Navy YP-102. The boat was apparently purchased at surplus by a George D. and Nancy Heisely who later donated the boat to the California State Maritime Academy. The academy sold the vessel to a Karin Petra Knauke, of Munich, West Germany, who removed the Federal documentation of the vessel on May 13, 1980, and registered it as motorboat No. 4485 GT of the State of California. About 11 months later Mr. Billings purchased the vessel through the California Maritime Academy Foundation, Inc. During her ownership of the vessel Ms. Knauke did not register the vessel out of the country and keep an address of Driscoll Yacht Sales, San Diego, CA.

Mr. Billings never misrepresented his intentions to the Coast Guard or engaged in any acitivity that would suggest any impropriety in his actions. His only desire is to be allowed to make a living by chartering out his boat in the same manner which he has for the last 6 years.

This action is somewhat time critical because Mr. Billings will soon need to know if he will be able to book charters for the remainder of this season and all of next season. If action is not completed by September 30, 1987, Mr. Billings may be forced out of business.

In the interest of rectifying what was an innocent mistake on the part of Mr. Billings I would respectfully request that rapid action be taken on S. 1198.

Mr. ANDERSON. Mr. Speaker, there appears to be no opposition to this bill whatsoever. I feel it is just and reasonable, and I urge its quick adoption by the House.

Mr. YOUNG of Alaska. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1198

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding sections 12105, 12106, 12107, and 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), as applicable on the date of the enactment of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for the following vessel: CREOLE, United States official number 229565.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

PERMISSION FOR SUBCOMMITTEE ON AVIATION OF THE COMMITTEE ON PUBLIC WORKS AND TRANSPORTATION TO SIT DURING 5-MINUTE RULE ON THURSDAY, JULY 30, 1987

Mr. ANDERSON. Mr. Speaker, I ask unanimous consent that the Subcommittee on Aviation of the Committee on Public Works and Transportation be permitted to sit during the 5-minute rule in the House on Thursday, July 30, 1987.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

Mr. SLAUGHTER of Virginia. Reserving the right to object, Mr. Speaker, could I inquire of the gentleman whether this has been cleared on this side of the aisle?

Mr. ANDERSON. My understanding is that it has been. I have just been told that the chairmen on both sides are in favor of this request.

Mr. SLAUGHTER of Virginia. Mr. Speaker, I thank the gentleman, and I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 1195

Mr. BARNARD. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of the bill, H.R. 1195, the Syndicated Television Music Copyright Reform Act of 1987.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

ALLEGED SOURCE OF CONTRA FUNDING: ILLEGAL SALE OF DRUGS TO AMERICANS

(Ms. SLAUGHTER of New York asked and was given permission to address the House for 1 minute and to revise and extend her remarks and include extraneous matter.)

Ms. SLAUGHTER of New York. Mr. Speaker, in recent months we have heard a great deal about funding for the Contras through the illegal sale of arms to Iran. However, we have not heard much about another alleged source of Contra funding: the illegal sale of drugs to Americans.

A growing body of evidence points to the possibility that leaders of the Nicaraguan Contras, and those providing them aid, have been deeply involved in smuggling cocaine and marijuana from Latin America to the United States. These serious allegations warrant investigation. I welcome the hearings to be held tomorrow by the House Subcommittee on Crime to open their investigation into this matter. Unfortunately, the jurisdiction of the legislative branch is limited. Over a month ago, Congressman DORGAN and I asked Attorney General Meese to begin a formal investigation into this issue. To date we have received little more than a polite acknowledgment of our concern.

Mr. Speaker, these allegations surfaced over a year ago and I am disturbed that law enforcement agencies in this country may not be taking these allegations seriously. On July 10, 1987, the Rochester Democrat and Chronicle, echoed these concerns in an editorial, which I include following these remarks.

Mr. Speaker, it is clear that we must thoroughly investigate these serious allegations if we are to fully understand the entire Iran-Contra affair.

[From the Rochester Democrat & Chronicle, July 10, 1987]

REAGAN SHOULD PROBE CONTRA DRUG CHARGES

If the Nicaraguan Contras are supporting a drug habit, the Reagan administration ought to be the first to just say no.

But despite a stream of recent reports about Contra drug trafficking, top administration officials have kept silent—perhaps because the reports also say the CIA may have been pushing marijuana and cocaine to raise money for weapons for the Contras.

Rep. Louise Slaughter, D-Fairport, says it's time to look into the charges. In a recent letter to Attorney General Edwin Meese, Slaughter and Rep. Byron L. Dorgan, D-North Dakota, called for an immediate investigation.

It's about time. As Slaughter says "the evidence is alarming."

For example, as reported by both National Public Radio and CBS News, Michael Tolliver, a freelance pilot and drug smuggler, says that the CIA asked him to fly 28,000 pounds of weapons to a Contra supply base in Honduras, and then return to the U.S. with six tons of marijuana.

Another convicted drug smuggler says he ran drugs into the U.S. through a Contra airstrip in Costa Rica. Other reports say the Contras have been able to finance an illegal gun-running operation through the sale of tons of cocaine in Miami.

And just last week, a money launderer for Colombian drug dealers told a congressional committee that he funneled nearly $10 million through a former CIA operative to the Contras.

"The cartel figured it was buying a little friendship," said Ramon Milian-Rodriguez. The big dealers, he said, thought U.S. officials might "not screw around so much"—that they might look the other way as Colombian pilots off-loaded tons of drugs.

Allegations are not facts, but serious charges deserve a serious investigation from Congress and the White House.

Drug trafficking is no way to finance the "moral equivalent of the Founding Fathers," as President Reagan once called the Contras. And if American officials condoned or abetted the drugs-for-money-for-arms deal, crimes have been committed.

The President who has invested so much in the Contras, and in the war on drugs, ought to invest a little now in the search for truth.

TRIBUTE TO JONES AND STEPHANIE HOOKS

(Mr. THOMAS of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. THOMAS of Georgia. Mr. Speaker, a young man named Jones Hooks will be moving soon from the coastal community of Kingsland, GA, to the farming and commercial center of Albany, GA. He will be resigning his job as Trident impact coordinator of the Kings Bay Impact Committee, and is taking up the responsibilities as executive director of Albany-Dougherty County Economic Development Commission.

Jones and his wife, Stephanie, are personal friends of mine and of my staff. They have two wonderful young sons. They will be deeply missed by their neighbors and their professional colleagues, and I, too, will miss them deeply.

But I do not bring this change of jobs to the attention of the Congress as an expression of sadness. I bring it up because it marks a time when I want to make note of a fact that we rarely call attention to in this Chamber. I want to observe that it is men and women of quality who make our Government work, not the words we enact on the documents of legislation and regulation.

Jones and Stephanie Hooks moved to Camden County from Washington some 6½ years ago. He assumed a job of almost overwhelming complexity. Starting from scratch, he was to direct the organization and establishment of an office to cope with the explosive community growth associated with the construction of the Kings Bay Submarine Base. This is the $1.7 billion future home of the Atlantic Fleet of our Trident missile-firing submarines, and is the current home of a fleet of the powerful Poseidon strategic submarines.

Kings Bay is the largest peacetime construction project in the history of the U.S. Navy. At the peak of construction, more than $1 million per day was being spent in preparation for the 1989 opening date of the Trident operation.

This remarkable defense installation, with its future base population of 12,000, was welcomed with open arms by the people of Camden County and neighboring Nassau County in Florida. Between 1979 and 1986, the population of Camden County will have soared from 11,582 to 22,239, and we have yet to have the impact of the Navy men and women who will be on hand to man the base when the first Trident arrives in 1989. That has meant massive strains on schools, police and fire services, and all basic community infrastructure. And it has meant major changes in the nature of life in Camden and Nassau Counties.

Now, 7 years after it began, we can evaluate the changes. They have been massive. They have been challenging. They have been stressful to both the civilian and the military communities who are working to meet this national defense need. But the truly remarkable thing about this great project has not been its problems, but its accomplishments.

The blending of this major defense facility into a beautiful coastal area has, in general, been one of the great success stories of our Government in action.

We owe that success in part to the assistance that the Congress has provided, but we owe it in the largest part to the military and civilian leaders who have dealt with it.

That is where we turn the spotlight back to Jones and Stephanie. They moved from Washington and made themselves a valued part of the Camden County community, and its people embraced them with deep affection. They became a part of the church and civic communities. Stephanie and an associate organized their own business and have made it a dynamic part of the activities in Camden County.

As the Trident impact coordinator, Jones served under the direction of local elected officials and carried out very complex and difficult negotiations involving city, county, State, and Federal agencies. He was the lightning rod to which complex problems were directed. He was an advocate for the civilian community while also recognizing the needs and responsibilities of our naval personnel.

Throughout this process, Jones earned a reputation for integrity, reliability, and professionalism. Each year now for the past 6 years, Jones has brought a delegation of local elected officials to testify before the House and Senate Armed Services and Appropriations Committees. They have shown themselves to be wise stewards of the taxpayers' money, and as a result they have won the respect and the trust of the Congress.

Those successes have come because local officials have worked to make them happen. But I know that I speak for the Impact Committee when I say that the catalyst of that success was Jones Hooks.

The work of the Impact Committee is far from finished. Other challenges lie ahead. But we recognize that Jones is moving now to another great professional challenge that will again put him in a position of great trust and responsibility.

When they look back over these past years in Camden County, they should always do so with pride in what they have accomplished. They came to our area when we needed their help, and they made a difference. Men and women and their children will have a better and more productive life in our area because they made our Government function better to serve our needs.

I am proud to offer these words in honor of Jones and Stephanie. But the truth is, Jones and Stephanie have written their own tribute in our hearts and our minds. I will remember their contribution to our area with love and affection. I am proud that they are my friends, and I am delighted that they will remain in Georgia where we can continue to nurture our friendship.

On behalf of the people of the First Congressional District, I say to Jones and Stephanie, we thank you from the bottom of our hearts for all that you have done. God bless you, and we wish you the very best.

WE MOURN THE LOSS OF 10 OUTSTANDING YOUNG PEOPLE

(Mr. BRYANT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BRYANT. Mr. Speaker, the people of southeast Dallas County, TX, continue to be in deep mourning, as do the people of all Dallas County and people throughout the Nation, over the loss of 10 young people in a tragic river accident on Friday, July 17, 1987.

Only time and faith will fill the void felt by the families and friends of these 10 outstanding young citizens, the oldest of whom was 18 and the youngest of whom was 12.

The loss as their bus was swept away by flood waters of the Guadalupe River in the hill country of Texas seems senseless today, a waste beyond the comprehension of surviving friends and relatives.

They were similar in many ways: They were students at the Balch Springs Christian Academy and most of them were members of the Seagoville Road Baptist Church; they were deeply involved in the activities of their school and churches, committed Christians, students, and citizens beginning to awaken to the potential within themselves.

The Jerry Smith family of Scurry, TX, lost two daughters and the Courtland Sewells of Dallas lost a daughter and a son.

Those four and their six classmates and fellow church members who perished in the floodwaters of the Guadalupe River that Friday afternooon were part of a student enrollment of fewer than 250 in 13 grades. It's not uncommon for two or more children from the same family to attend the academy, and for their mother to be a member of the faculty.

And so the loss becomes a collective one: These 10 young people were members of a larger community family, they and their families being well-known to the families with whom they shared such a large part of their lives.

In trying to comprehend this incomprehensible tragedy, we won't find easy answers today or tomorrow. Maybe it would be better to see how these young lives were spent, what can be accomplished in 12 or 14 or 18 years, how these young people faced life and death in the short time that was given to them.

Mr. Speaker, these are the 10 students of the Balch Springs Christian Academy who were taken from family and friends last Friday, and who left so much in return:

Melanie Ann Finley. Melaine, 14, fell to her death from a rescue harness as a helicopter attempted to lift her to dry land She was one of the quickest students at the academy: her parents—Anna and Marion Lee Finley, Sr., of Mesquite—marveled at her ability to shut the world out briefly in the evening, cram for an exam, get an A on a test the next morning, and then go about her favorite activities—taking up for the underprivileged. Her parents recalled her appointing herself "private nurse" for an uncle who was dying of cancer. Her other survivors include brothers Marion Lee Finley, Jr., and Christopher Wayne Finley of Mesquite; sister Patricia Louanna Richmond of Ennis; grandparents Anna and Robert Smith of Dallas, Mary Tims of Oklahoma, and George Finley of Dallas; and great-grandparents Alma Poteet of Lancaster and Winnie Dillingham of Oklahoma.

Leslie Oleta Gossett. Leslie, 14, followed her sister Lisa to Balch Springs Christian Academy. Her father remembers her as "a real sports nut," an enthusiastic member of the school basketball and volleyball teams. Her friends also recall her as one of their most outgoing, fun-loving classmates, a cheerleader who delighted in livening up any gathering. Lisa is survived by her parents, William and Brenda Gossett of Balch Springs; her sister Lisa Michelle Gossett of Balch Springs, who graduated last spring from the academy; half-brother William Michael Gossett of Dallas; and grandparents Toy Gossett of Texarkana and Rosie Hill of Mesquite.

Michael Lynn Lane. Eighteen-year-old Michael died as he had lived, a leader and role model for his friends. He had been the football star at the academy, being voted all-district in football and "Mr. Balch Springs Christian Academy" before graduating this spring. He volunteered to watch over the younger students at the academy. When the accident occurred, it was Michael who forced apart the strands of a barbed-wire fence to allow the younger students to pass through in knee-deep water and move to high ground. Later, a witness to the tragedy reported a young man fitting Michael's description was holding two younger students on a log as it floated down the Guadalupe River. Those actions surprised none of his acquaintances; "He was everybody's friend," one said. Survivors include his parents, Allen and Patricia Lane of Dallas; sister Amanda Lea Lane of Dallas; grandparents Clara Lane of Texarkana, TX, and Fred and Elizabeth Segraves of Dallas; and great-grandmother Fannie Segraves of Pearland, TX.

Stacey Rene and Tonya Denise Smith. The sisters presented different faces to their friends: 17-year-old Stacey was quiet and reserved, 14-year-old Tonya had "a bubbly personality," according to one of their teachers. What was similar was that both drew friends to them. They were as involved in the academy as any students who had ever attended it—their brother Mike graduated last spring and their mother teaches there, driving both girls to school every day from Scurry, a farming community about 30 miles to the southeast in Kaufman County. Stacey had recently been honored for setting the best Christian example for female students. She was also considering joining the cheerleading squad next school term. As a member of the school volleyball team, Tonya made up for her small stature with a quick and enthusiastic style of play. She's remembered among her classmates, teachers, and friends for her excitable and friendly nature. Stacey and Tonya are survived by their parents, Jerry and Linda Smith of Scurry; brother Michael Wayne Smith of Scurry; and grandparents C.G. and Daisy Smith of Terrell, TX, and D.E. and Jimmie Tekell of Little Rock, AR.

Lagenia Marie Keenum. Friday was to be a special day for Lagenia until the accident on the Guadalupe River ended her life. It was her 15th birthday and the bus was on its way to Dallas, where she was to celebrate with her parents and sisters, when it was swept into the flood-swollen river. Lagenia shared several traits with her best friend, Melanie Finley. She, too, was a straight A student and a member of the National Honor Society as she planned to start her sophomore year at the academy. When either Lagenia or Melanie decided to attend the church camp, it was natural that the other would also plan to attend. Lagenia was quieter than most of her classmates, but her naturally reserved demeanor didn't keep her from participating in all the academy had to offer—she was a member of the basketball and volleyball teams and was voted homecoming princess. Lagenia's family includes her parents, Ruthie and Kenneth Kennum of Balch Springs; and sisters Pat Orr of Red Oak and Donna Mathias of Dallas.

Michael Wayne O'Neal. "If you don't see a smile on his face, it's not Mike," one teacher said of the 16-year-old sophomore. And Mike had every reason to smile. The red-haired youngster with a passion for basketball had grown 2 inches in the last 2 months to 6'3" and had taken to calling his 6'1" older brother "Shorty." The height would be one more asset in a blooming basketball career: he had finished play in a summer league by hitting 10 of 11 attempts from the longer 3-point range and was counting the days until school reopened so that he could pursue his basketball interests. His family recalls that Mike would often buy groceries and clothes with his own money, just for the satisfaction of helping the family. Survivors include his mother and stepfather, Rhea and J.W. Arterbury of Balch Springs; his father and stepmother, Billy and Sally O'Neal of Dallas; brothers Billy L. O'Neal and Chris O'Neal of Dallas and David Arterbury of Balch Springs; sisters Jessica O'Neal of Dallas, Rhonda Arterbury of Burleson, TX, and Jewelene Johnson of Richardson, TX; grandparents James and Pearl Fitch of Dallas, Peggy Moorefield of Arlington, J.T. and Alice Arterbury of Fort Worth, and William Lee O'Neal of Lone Oak, TX; and great-grandparents Elmer and Josie Allen of Grand Prairie, TX, Rev. A. Jack and Emma Fitch of Dallas, and Ellen George of Fresno, CA.

Cindy Kay and William Sewell. Cindy, 16, was about to enter her senior year at the academy and William, 12, was looking forward to his first year on the football team as he planned to go into the sixth grade. Last year four Sewell children were students at the academy: Michele, 18, graduated in the spring and Courtland, a 14-year-old eighth grader, was already on the academy football team. All four of the brothers and sisters attended Bible camp this summer. And that was the usual for the Sewell family, as friends recalled that most every outing in the Sewell family was a Sewell family outing. "They went to church together as a family, they went to ball games together as a family; wherever they went, they went as a family," said an aunt of the Sewell children. Cindy was another A student at the academy and had already shown a tendency toward helping her community, as a volunteer at the Mesquite Community Hospital and a teacher's aide at school. Survivors include their parents, Courtland and Donna Sewell of Dallas; sister Michele Lynn Sewell of Dallas; brother Courtland J. Sewell of Dallas; and grandparents William and DeLeon Sewell of Dallas.

John Clinton Bankston. John's life and death paralleled Michael Lane's. The 17-year-old John, a 6'2" weightlifter, was a football teammate of Michael's at the academy. And like Michael, he died a hero trying to save his younger friends and classmates from the floodwaters. Instead of grabbing nearby tree branches and pulling himself to safety, John reached younger, students and guided them to safety. After helping a boy wearing a heavy leg cast reach a tree branch, John disappeared under the rushing water and searchers had failed to locate his body a week later, after all other victims and survivors had been accounted for. And, just as in the case of Michael Lane, John's actions surprised no one who knew him. John is remembered by classmates and teachers as a natural leader at the academy, a person to whom everyone was attracted and who in turn called everyone a friend. Survivors include his parents, John W. and Rosie Bankston of Dallas; brother Jeremiah Bankston of Dallas; sister

Kim Madden of Dallas; and grandmother Pauline Woolverton of Mesquite.

Mr. Speaker, while we can't comprehend why this tragedy took these promising young lives from us and brought despair to so many family members and friends, we can give thanks for the selflessness of Michael Lane and John Bankston, the compassion of Melanie Finley and Lagenia Keenum, the exhuberance of Leslie Gossett and Tonya Smith, the dedication of Cindy Sewell and Stacey Smith, the promise of Michael O'Neil and William Sewell.

And we can take heart from the words of these victims and their survivors.

When Melanie Finley was reaching for the lifeline that might have carried her to safety, she said to two friends clinging to tree limbs, "If I don't see you in 2 hours, I'll see you in Heaven."

And when John Bankston, Sr. realized his son was gone, he said, "That's the way they were raised—to think of others before themselves. I thank God that they did what they did."

Mr. Speaker, those two thoughts are a great legacy from 10 young people who will not be forgotten.

THE CONTRAS HAVE TOTALLY FAILED AS A POPULAR MOVEMENT

(Mr. LEVINE of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks and include extraneous matter.)

Mr. LEVINE of California. Mr. Speaker, the Contras' supporters often speak of the fight for democracy which the Contras are supposed to be waging. I couldn't agree more that democracy is something worth fighting for. But democracy implies popular support. And that is where the image of the Contras as Democrats falls apart, because they have totally failed as a popular movement.

Last Friday's Washington Post carried a story about a Nicaraguan man named Omar Navas. He and 15 or 20 other men were pulled off of a bus near his hometown by the Contras and taken to one of their training camps in Honduras. During his captivity there, he alerted visiting reporters that he and others at the camp were being held against their will. Even as the Contras were fabricating a cover story, he escaped them.

Mr. Speaker, popular movements do not need to fill their ranks through kidnaping. The ranks of popular movements are filled by people who believe that their cause is just. After 6 years of unsuccessful attempts to rally support for the Contras in Nicaragua, the inescapable conclusion is that the Nicaraguan people do not believe the Contras represent a just cause. We do nothing to support democracy when we try to force on the people of Nicaragua leaders who they clearly do not want.

NICARAGUAN FLEES CONTRAS IN HONDURAS

ACCOUNTANT SAID HE WAS KIDNAPED

(By Wilson Ring)

TEGUCIGALPA, HONDURAS, July 23.—A Nicaraguan accountant who said he was kidnaped by Nicaraguan rebels to serve in their army has escaped and is in the custody of the U.N. refugee agency here, according to U.N. and rebel sources.

The man, Omar Navas, 35, reportedly was brought to Tegucigalpa by the rebels, known as counterrevolutionaries or contras, to deny press reports of his kidnaping. But instead of appearing at a contra press conference as expected, he climbed out the window of his hotel room and sought assistance, according to a contra source.

The Navas case highlights continuing reports by Nicaragua's Sandinista government and foreign observers that the contras make a practice of kidnaping young men to serve in their army. The rebels reportedly have had difficulty attracting new recruits recently as they come to the end of their $100 million aid package from the United States.

Navas could be returned to his family in Nicaragua within a week, according to a source at the office of the U.N. High Commissioner for Refugees here.

Navas was interviewed by foreign correspondents in May at a rebel base in Honduras. He told them that he had been pulled off a bus in April along with 15 to 20 other men near his hometown, Siuna, in the Caribbean coastal region of Nicaragua. He said they were to be pressed into service to fight the Sandinistas.

He told the journalists that he was apolitical and simply wanted to return to his family in Nicaragua.

The contra source said Navas was brought to Tegucigalpa last week from a rebel base in Nicaragua. Bosco Matamoros, military spokesman of the Nicaraguan Resistance, a rebel coalition, had planned to hold a press conference and have Navas refute a New York Times story that told of his kidnaping. He was then to be released, the source said.

Navas foiled Matamoros' plans by climbing out the window of his hotel room, the contra source said. He appeared Saturday at the U.N. office, a source there said.

Navas, who suffers from serious foot problems, was otherwise in good physical condition when he entered U.N. care, the contra source said.

The U.N. refugee agency has refused to allow reporters to met with Navas.

[Jorge Rosales, a spokesman in the rebels' Miami office, released a statement saying Navas was a prisoner of war who had been taken "to a place where he could receive better medical attention" for "an old ailment of the feet." It said he had decided "to seek attention on his own" and is now at the U.N. office. The spokesman said he did not know if Navas had been a Sandinista combatant or why he was described in the statement as a prisoner of war.]

Last October, shortly after Congress gave final approval to $100 million in aid for the insurgents, rebel leaders predicted that their forces would number 30,000 fighters by now. Instead, recruiting is barely keeping up with casualties and defections and the total contra strength has hovered around 15,000 for months, according to figures provided by a western diplomat in Tegucigalpa.

A second rebel source said the recruiting problems were caused primarily by the Sandinistas practice of forcibly relocating civilians out of war zones so there is only a small pool of potential recruits available.

Rebel military leader Enrique Bermudez said last week that recruiting would improve as Nicaraguans gained confidence in the rebels.

"The people will decide to participate when they see we are winning," he said.

One of the most consistent charges of human rights abuses against the rebels during their war against the Sandinistas has concerned the kidnaping of men and women. One human rights official in Tegucigalpa estimated that at least several hundred Nicaraguans had been kidnaped by the rebels.

In some cases, however, legitimate rebel volunteers have said they were kidnaped to protect their families in Nicaragua from Sandinista retribution.

Both rebel leaders and their U.S. advisers have said they want the kidnaping to stop because of the ill feeling it creates toward the contras inside Nicaragua and in the United States.

The SPEAKER pro tempore. Under a previous order of the House the gentleman from California [Mr. LUNGREN] is recognized for 5 minutes.

[Mr. LUNGREN addressed the House. His remarks will appear hereafter in the Extensions of Remarks.]

KUWAIT'S UNILATERAL TREATMENT OF AMERICAN HELP

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Ohio [Mr. TRAFICANT] is recognized for 5 minutes.

Mr. TRAFICANT. Mr. Speaker, I believe everybody is aware of the fact that we spend about $40 million a day to protect the oil shipments of Kuwait. It is a policy that is highly controversial, but nevertheless it is one that has been undertaken and we have risked the lives of our fighting men in the Persian Gulf.

Today I am introducing H.R. 3039, which has 30 original cosponsors. The legislation specifically states that if Kuwait is not going to cooperate and let us land our mine sweeping helicopters in Kuwait so we do not have to service them from the Indian Ocean, that we will take our flags off the Kuwaiti tankers after that 7th day.

Now, here is the issue. It is very simple and to the point. I am not one who was for the policy in the first place, but this bill does not deal with the policy. It deals with the safety and the security of the lives of the soldiers and sailors of this country that are placed there to protect those shipments.

I appreciate the 30 Members who are original cosponsors. I am hoping this House will bring this legislative initiative forth fast.

I think it is high time that the American taxpayer no longer continues to be kicked in the teeth in trying to do what they believe is in the best interests of all.

Now, $40 million a day, Mr. Speaker, and Kuwait will not even let our fighting men use the latrines in their country. They are saying, "We don't want to get involved in those international waters."

Well, my God, we are risking the lives of our people in those international waters.

H.R. 3039 gets right to the point. If Kuwait wants a free ride, they are going to have to take a look at their policies. All we ask for is cooperation. We want our helicopters to be able to land there and we want reasonable cooperation and assistance for us to protect their oil shipments, because while we are protecting their oil shipments we have an inherent responsibility to protect the lives of our fighting men over in the Gulf.

So specifically after that 7-day period is over, if Kuwait does not want to cooperate in helping to protect the lives of our soldiers and sailors, then we take the flag off those tankers.

I am asking ever Member in the House and on the floor to participate as a cosponsor to try to bring that legislative initiative to the floor.

Mr. SMITH of Florida. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the distinguished gentleman from Florida.

Mr. SMITH of Florida. Mr. Speaker, I thank the gentleman for yielding. I want to commend him for bringing this bill before the House and having it available for many Members to sign. I hope many Members do avail themselves of the ability to sign on this agreement.

Honestly, the gentleman is absolutely correct in his assertion that we have been denied, for all intents and purposes, any help from the Kuwaiti's on the issue of protecting our own men. If the gentleman or anyone else had a chance to watch Nightline last night, where our own colleague, the gentleman from New Jersey, BOB TORRICELLI, was on television and had I thought a very good exchange with the Ambassador from Kuwait, anyone watching that program would have seen that the questions put directly by Hodding Carter, who was the host, were not being answered by the Ambassador. He asked him specifically:

> Will you allow our troops to bring their boats in? Will you allow helicopters, mine sweeping helicopters, to land in Kuwait or ships to use the port or any other form of help so that we can clear this and have our men not be at risk?

He refused consistently to say yes. Never once came even close to suggesting that the United States because of what it is doing for Kuwait was entitled to a reciprocal action from Kuwait.

It was a disgraceful display of one-sided unilateral jealousy. "You can do for me, but I don't have to do for you," and that is the attitude that we have seen in that region from some of those people that we bent over backwards to help.

We have made ourselves very available to help. We have been tested time and again, tested in Lebanon, tested on the *Stark*, and now tested with the Kuwaiti's. We have passed every test at the cost of American lives, at the cost of the blood of our soldiers and sailors. They refuse to pass any of the tests.

The gentleman's bill is absolutely accurate. If we are going to get requests for help, we have to know that the people we are helping are willing to help us to protect them and protect ourselves.

I commend the gentleman.

Mr. TRAFICANT. Mr. Speaker, I thank the gentleman. The gentleman from New Jersey [Mr. TORRICELLI] was absolutely right. He did a tremendous job for this country and for this body in representing us on "Nightline" last night.

Mr. GONZALEZ. Mr. Speaker, will the gentleman yield?

Mr. TRAFICANT. I yield to the gentleman from Texas.

Mr. GONZALEZ. Mr. Speaker, I just merely wish to raise a question here, though. Kuwait is an ally of one of the belligerents in the ongoing war between Iraq and Iran. What is the international legal significance if we do seek bases in Kuwait? Will that put us in an ally situation?

The SPEAKER pro tempore. The time of the gentleman from Ohio [Mr. TRAFICANT] has expired.

REPORT FROM CONSTITUTIONAL CONVENTION IN PHILADELPHIA, 1787

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. GEKAS] is recognized for 5 minutes.

Mr. GEKAS. Mr. Speaker, it is now July 29, 1787, and I am reporting to you from the floor of the Convention in Independence Hall in Philadelphia.

This has been thus far a long hot summer and the heat wave in the streets of Philadelphia has made those streets bare at times and even the delegates to this Convention, because of a variety of reasons, are nowhere to be found in Independence Hall today, except for a cluster who are gathered over in a corner that I believe are delegates from the Virginia delegation who are having a small caucus, but the Convention is now in recess.

General Washington, along with Gouverneur Morris, one of the Pennsylvania delegates, has gone to a remote area nearby for trout fishing endeavors.

It is reported that General Washington may stop in Valley Forge where 11 or 12 years ago he had that famous encampment which led to the Declaration of Independence much later and was a vital part of the war effort in the War of Independence. We expect to talk with General Washington when he gets back to ask him what feelings of nostalgia he might have gained from his visit to Valley Forge, if indeed he does do it.

In the meantime, Ben Franklin is hosting little enclaves of delegates at his home. They are finding relief from the heat wave under a mulberry tree which Ben Franklin continues to take pride in and brags about in different ways, but everybody who comes back from their visit to Dr. Franklin's home agrees that it is a pleasant place and his mode of conversation is just as refreshing as the breeze under the mulberry tree.

What is happening, though, in the work of the Convention is that most of the work now is relegated to the Committee on Detail, as it is called.

□ 1755

They have the job of taking all the various resolutions and the votes already taken and trying to compile them in some sensible way, article by article, so that in the ensuing weeks when they return from this recess they can get down to the work of the final documentation, as it were, for the final product.

The Congress of the United States, which is meeting in New York and which authorized the convening of this Convention, is waiting for this report and many predict that may be just a report of saying, we tried but we were not able to agree on very significant matters and therefore our mandate has failed.

But there are others who predict, despite some pessimism, even on the part of George Washington, that something dramatic is going to happen in the early days of September and that we might see a dramatic event toward the end thereof.

What is also important is that the delegates have more optimism than ever before that what they are going to do is going to be successful because they have been able to keep secrets from the American people the proceedings in Independence Hall.

Why did they think it was important? They thought it was important to have a covert kind of series of sessions in Independence Hall because they felt that if the general public were aware of the bickering and the arguments and the types of debates that were going on, that they might lose support of the American people in fashioning this new document that they are mandated to do.

So now in the heat of the summer one of the big debates taking place is whether to close the windows. If they open the windows to let some kind of breeze in they also let the flies in. Ben Franklin made note of this. But worse, if they open the windows they might allow some of the people in the streets to overhear what is going on in these terrible debates that are going on regarding their future.

So they have opted, even in the heat of Philadelphia during this heat wave, to close the windows for the most part to keep their covert sessions intact and to risk the overheat that would thereby be caused by the closed windows. But am ready to report to you from the floor of the Convention that there is, nevertheless, a sense of optimism.

When Washington and Morris return to the floor pretty soon now in the next few days, we are going to interview General Washington on his optimism, if any be left, on the outcome of this Convention.

MAIL FRAUD AMENDMENT ACT OF 1987

The SPEAKER pro tempore (Mr. LEHMAN of California). Under a previous order of the House, the gentleman from Maryland [Mr. MFUME] is recognized for 5 minutes.

Mr. MFUME. Mr. Speaker, I am pleased to introduce today, along with my colleague, Mr. SYNAR, the Mail Fraud Amendment Act of 1987. The intent of this legislation is simply to correct a judicial interpretation which has severely restricted the Federal Government's power to attack public corruption under the mail fraud statute.

The mail fraud statute, first promulgated in 1872, has been a powerful prosecutorial tool. The statute seeks to prevent fraudulent conduct regardless of whether or not there is any personal loss or damage to the victims of the crime and has been employed with success in combating political corruption.

However, the statute is broadly drawn and generally prohibits any scheme or artifice to defraud which in some way involves the use of the postal system, and even though courts have in the past recognized that use of the mails in furtherance of conspiracies to deprive citizens of intangible political rights violates this statute, a recent Supreme Court decision has narrowed this application.

In McNally, the Supreme Court interpreted the statute to protect only property rights but not the intangible right of the citizenry to good government. Thus, the mail fraud law has been ruled out for many corruption cases involving blackmail, bribery, election fraud, or kickbacks.

The Supreme Court stated in the decision that, "If Congress desires to go further, it must speak more clearly than it has," and in introducing this legislation, we are asking the Congress to speak more clearly.

This legislation broadens the use of the term "defraud" to include the defrauding of the citizens of a body politic of their right to the conscientious, loyal, faithful, and unbiased performance of official duties by a public official thereof; or of the right to have the public business conducted honestly, impartially, free from bribery, corruption, bias, dishonesty, deceit, official misconduct, and fraud. I contend, Mr. Speaker, that no trustee has more sacred duties than a public official and any scheme to obtain an advantage by corrupting such must in the Federal law be considered a scheme to defraud.

I am hoping that this bill will receive broad support from both sides of the aisle, and that we will see speedy passage of this legislation. In closing I would like to ask the question that the dissenters asked in McNally, "Can it be that Congress sought to purge the mails of schemes to defraud citizens of money but was willing to tolerate schemes to defraud citizens of their right to an honest government, or to unbiased public officials?" I think not, Mr. Speaker.

Mr. SYNAR. Mr. Speaker, I am pleased to join today with my colleague, Mr. MFUME, in introducing the Mail Fraud Amendment Act of 1987. This bill would correct a judicial interpretation of the Federal mail fraud statute that has drastically curtailed its law enforcement effectiveness.

The mail fraud statute was enacted to prohibit the use of the Federal Postal Service for fraudulent purposes. In McNally, the Supreme Court interpreted the statute to mean only fraud which results in monetary or property loss. The Court ruled that the statute did not extend to cases where an elected official defrauded the electorate of intangible rights, such as the right to honest government. Thus, if an elected official accepts kickbacks but the practice does not result in actual monetary loss to the Government, the statute now does not apply.

This interpretation is clearly at odds with the intent of the mail fraud statute. As Justice Stevens said in his dissent in McNally, "Can it be that Congress sought to purge the mails of schemes to defraud citizens of money but was willing to tolerate schemes to defraud citizens of their right to an honest government, or to unbiased public officials?" Clearly there is no basis in the law or in common sense for such a distinction.

The legislation we are introducing today would restore the meaning of the mail fraud statute to include the defrauding by a public official of the electorate's right to have their public business conducted honestly, and free from bribery, corruption, and fraud.

This bill would not, of course, extend to pending cases or to individuals sentenced under the current mail fraud statute. The bill would only apply to fraudulent activity conducted after the enactment of this legislation.

Mr. Speaker, it makes little sense to require that prosecutors prove not only that a public official has committed fraud, but that the Government actually lost money in the scheme, for this statute to apply.

This statute is extremely important to Federal law enforcement officials. It is my hope that we can act quickly to restore the full force of the mail fraud statute.

GENERAL LEAVE

Mr. MFUME. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the subject of my special order tonight.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Mr. Hallen, one of its clerks, announced that the Senate had passed without amendment a bill of the House of the following title:

H.R. 3022. An act to provide for a temporary extension of the public debt limit.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania [Mr. CLINGER] is recognized for 5 minutes.

Mr. CLINGER. Mr. Speaker, on the following days while the House was in session, I was absent for a vote, had I been present, I would have voted in the following fashion:

July 8, 1987: Rollcall No. 246, H.R. 2342: Coast Guard authorization, the House agreed to the rule (H. Res. 219) under which the bill was considered, "yea';

July 13, 1987: Rollcall No. 254, H.R. 2890: Transportation appropriations, the House agreed to the rule (H. Res. 221) which waived certain points of order against the bill, "yea"; and

July 23, 1987: Rollcall No. 284, H.R. 157: Constitution Day, the House agreed to the Upton amendment that designates Constitution Day, September 17 of each year, as a national day of recognition rather than making September 17, 1987, a legal public holiday, "aye."

"TOUR OF DUTY" A NEW TELEVISION SHOW WORTH WATCHING

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from California [Mr. DORNAN] is recognized for 5 minutes.

Mr. DORNAN of California. Mr. Speaker, a week ago tonight I was invited by executives at CBS to come to a screening room in one of the northwest hotels and look at a pilot film for a series that is already on the schedule for next year, and that means it will start in about 7 to 8 weeks. It has been given a very tough time slot, Thursday night at 8 o'clock to 9 o'clock. That means it is pitted against Bill Cosby and I think another successful show on one of the other networks, "Cheers."

This show that CBS is putting in that tough time slot is remarkable and I would have come to the floor in a 1-minute at the beginning of the day or a 5-minute special order like this sooner but I was not able to get to the floor to tell my colleagues about this CBS film. It is called "Tour of Duty" and it is about Vietnam.

Mr. Speaker, I went to the screening with much trepidation and fear because I thought it was going to be an extension of a film that I have described on this floor as a dishonest, foul smear on the honor of the U.S. Army, the successful commercial film "Platoon," but nevertheless a disgrace that shows Americans killing one another, using drugs, constantly wallowing in the foulest language imaginable, and all together a rather seedy experience.

To think that it won Hollywood's highest accolade, an Oscar, an Oscar for the best film of the year, still has me in a state of disbelief.

But this television series to begin soon has nothing to do with "Platoon." It began production before they even knew "Platoon" would be released or that it would be the sad tragic commercial success that it is.

This film is nothing short of flawless. This film is called "Tour of Duty."

I sat with the chief executive officer of CBS, Mr. Tisch, his No. 2 man, his head of production, the executive producer of the film, Zev Braun, who has a brilliant career as an officer in the Israeli Intelligence Services, with his fine young writer, Bill Norton, with two or three of the actors from the show, and I told them all afterward that I came in with much fear that I was going to see another ugly relating of drug obsessed young fighting men in Vietnam who did not know why they were there and had nothing but disregard if not hatred for one another.

Instead, at the 5-minute point, the word "flawless" went through my mind. At the 10-minute point, the 30-minute point, and although it is an hour series, without commercials it runs somewhere near 45 minutes, and at the 45-minute point when this television pilot film ended I was dumbstruck. It was flawless from beginning to end and I will tell you why.

First of all, because it is television there is a restriction, out of respect for American families, that every other word cannot be some ultimate Anglo-Saxon obscenity, that there is not the mixing of the word "mother" with Anglo-Saxon obscenities. Then there is a new second restriction on U.S. television that turned out to be beautiful, and the First Lady of our country can take some credit for this, because of Nancy Reagan's program against drugs and begging the CEO's of our major networks and all their producers to help, no drug glorification. There is a speech I literally heard in one of my eight trips to Vietnam where the tough platoon sergeant portrayed by a fine young actor from the series, "St. Elsewhere," where he says, "we got good grass out in the field. Anybody want some good dope? Come on, you want to join my platoon and get some good dope?"

When there were no takers he says "you better not because if you use dope you can't hear me and if you can't hear me you get me killed, and that is not the way we operate."

No drugs, no foul language.

Now get this, the officers are professional intelligent leaders of men and their men look up to them. When have you last seen a product out of Hollywood, particularly on the big screen, where the officers were not the scum of the Earth to be degraded by the much brighter young buck privates who are obviously the ones that should be commanding the operation right up to the rank of general?

The officers in this TV series, even the shave-tail lieutenant, a young lad from Chicago. This is another excellent portrayal by a young actor named Stephen Caffrey, and he is tremendous, as good as the platoon sergeant, Terrence Knox. Again, that was an excellent performance by the platoon sergeant. The company commander, Kevin Conroy, is the kind of commander I have seen everywhere in the world in our Marine and Army Forces, the kind of a young man who commands the squadrons in our Air Force, Navy, and Marine Corps squadrons. Excellent portrayals of the officer corps. That is point 3.

Point 4, the most important, and I will close with this, Mr. Speaker, is that this film shows the men, black, Hispanic, from every type of American background, not just bonding with one another but loving one another. It is a phenomenal film. I hope it sustains throughout the coming year. It is titled, "Tour of Duty." Look for it in September on Thursday night. My hat is off to the producers and to Mr. Tisch and the whole team at CBS.

PERSONAL EXPLANATION

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida [Mr. MACKAY] is recognized for 5 minutes.

Mr. MACKAY. The Speaker, it was necessary for me to be in my district yesterday to attend the funeral of a longtime friend. As a result, I was unable to cast my vote on two pieces of legislation.

Had I been able to be present, I would have voted "yes" on the motion to suspend the rules and pass House Resolution 231 expressing the sense of Congress regarding our MIA's in Southeast Asia. Further, I would have voted "yes" on the final passage of H.R. 618 suspending the deportation of refugees from Nicaragua and El Salvador.

THE OCCUPATION OF CYPRUS

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Maryland [Mrs. BENTLEY] is recognized for 60 minutes.

Mrs. BENTLEY. Mr. Speaker, last week the Greek-American community in Baltimore remembered the 13th anniversary of the illegal invasion and occupation of Cyprus by Turkey. On Friday, July 17, a group of young students of Greek and Cypriot heritage, many of whom were born there, gathered in Baltimore at the Greek Orthodox Cathedral of the Annunication. They were marching from New York to Washington to make the American people and the Members of Congress aware of the outrageous Turkish occupation of Cyprus. I commended them for their diligence in seeking the freedom of their homeland.

In my discussion I pointed out that as a first-generation Serbian, I understood their concern and frustration and deep sadness over the occupation of northern Cyprus by the Turks 13 years ago. My parent's nation of Serbia was conquered by the Turks in the 14th century; it was lost in the battle of Kosovo, and for five centuries both Serbia and then Greece were under the domination of the Turks. That long occupation finally ended, only to be repeated by the Turks 13 years ago when they illegally seized part of Cyprus.

I was surprised to learn that over a quarter of our military assistance package to Turkey is used in its domination of Cyprus. Mr. Speaker, this is wrong. It is in direction violation of U.S. law and must be stopped.

Today, ironically, Kosovo, which is a very sacred land in Yugoslavia, also is under siege, this time by the Albanians, who are pushing the Serbians out. So I have a great deal of understanding for the Greek Cypriots, 200,000 of whom have been forced out of their ancestral homeland.

Mr. Speaker, I join with the Greek-American community in Baltimore in calling for an immediate end to the occupation of Cyprus by Turkey. Further, Mr. Speaker, I say it is time to force Turkey to use American assistance for the purpose for which it was intended, not the occupation of Cyprus. Let us raise our voices with the Cypriot people who seek freedom for their land even as we join with my people. of Serbian heritage, in seeking freedom for the ancient and sacred province of Kosovo. America needs to know about these tragedies where so many people have had their human rights violated.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. SLAUGHTER of Virginia) to revise and extend their remarks and include extraneous material:)

Mr. GEKAS, for 5 minutes, today.

Mr. CLINGER, for 5 minutes, today.

Mr. DORNAN of California, for 5 minutes, today.

Mrs. BENTLEY, for 60 minutes, on August 3.

(The following Members (at the request of Mr. GONZALEZ) to revise and extend their remarks and include extraneous material:)

Mr. TRAFICANT, for 5 minutes, today.

Mr. MFUME, for 5 minutes, today.

Mr. ANNUNZIO, for 5 minutes, today.

Mr. GAYDOS, for 60 minutes, today.

Mr. BONIOR of Michigan, for 60 minutes, today.

Mr. BONIOR of Michigan, for 60 minutes, on July 30, August 3, August 4, August 5, August 6, and August 7.

Mr. ROYBAL, for 60 minutes, on August 6.

Mr. FRANK, for 60 minutes, on August 3, August 4, August 5, August 6, and August 7.

Mr. CONYERS, for 30 minutes, today.

Mr. GONZALEZ, for 60 minutes, on July 30.

Mr. GONZALEZ, for 60 minutes, on August 3.

Mr. MACKAY, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. KOSTMAYER, and to include extraneous matter, notwithstanding the fact that it exceeds two pages of the RECORD and is estimated by the Public Printer to cost $1,596.

(The following Members (at the request of Mr. SLAUGHTER of Virginia) and include extraneous matter:)

Mr. RHODES.

Mr. LEWIS of Florida.

Mr. BROOMFIELD.

Mr. SCHULZE.

Mr. CLINGER.

Mr. TAUKE.

Mr. GOODLING.

Mr. DORNAN of California in two instances.

Mr. MICHEL.

Mr. LOWERY of California.

Mr. DREIER of California.

Mr. GALLO.

Mrs. MORELLA.

Mr. DONALD E. LUKENS in two instances.

Mr. GEKAS.

(The following Members (at the request of Mr. GONZALEZ) and to include extraneous matter:)

Mr. HERTEL.

Mr. HALL of Ohio.

Mr. HAWKINS.

Mr. BRYANT.

Mr. MCHUGH.

Mr. HUBBARD.

Mr. CLAY.

Mr. HOYER.

Mr. LANTOS in three instances.

Mr. MONTGOMERY.

Mr. LAFALCE.

Mr. MOAKLEY.

Mr. PEASE in two instances.

Mr. DORGAN of North Dakota.

Mr. SLAUGHTER.

Mr. HAMILTON.

Mr. MILLER of California.

Mr. DWYER of New Jersey.

Mr. KOSTMAYER.

Mr. GUARINI.

Mr. LIPINSKI.

Mr. GARCIA in three instances.

Mr. DYMALLY.

Mr. MARKEY in two instances.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 958. An act to dedicate the North Cascades National Park to Senator Henry M. Jackson.

ADJOURNMENT

Mr. MFUME. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 6 o'clock and 9 minutes p.m.) the House adjourned until tomorrow, Thursday, July 30, 1987, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

1866. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Army's proposed letter(s) of offer to Morocco for defense articles and services estimated to cost $50 million or more, pursuant to 10 U.S.C. 118; 22 U.S.C. 2776(b); to the Committee on Armed Services.

1867. A letter from the Secretary of Education, transmitting copies of final regulations for the Undergraduate International Studies and Foreign Language Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1868. A letter from the Secretary of Education, transmitting copies of final regulations for the Business and International Education Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1869. A letter from the Secretary of Education, transmitting copies of final regulations for the Educational Opportunity Centers Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1870. A letter from the Secretary of Education, transmitting copies of final regulations for the International Research and Studies Program, pursuant to 20 U.S.C. 1232(d)(1); to the Committee on Education and Labor.

1871. A letter from the Director, Defense Security Assistance Agency, transmitting notice of the Department of the Army's proposed letter(s) of offer to Morocco for defense articles and services estimated to cost $68 million (Transmittal No. 87-30), pursuant to 22 U.S.C. 2776(b); to the Committee on Foreign Affairs.

1872. A letter from the Director, Defense Security Assistance Agency, transmitting a copy of the price and availability report for the quarter ending June 30, 1987, pursuant to 22 U.S.C. 2768; to the Committee on Foreign Affairs.

1873. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on Foreign Affairs.

1874. A letter from the Secretary of Energy, transmitting the views of the Department on the adoption of certain amendments to H.R. 1414 during floor consideration; jointly, to the Committees on Interior and Insular Affairs; Energy and Commerce; and Science, Space, and Technology.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. DINGELL: Committee on Energy and Commerce. H.R. 1746. A bill to amend the Public Health Service Act to extend certain preventive health service programs, and for other purposes; with an amendment (Rept. 100-251). Referred to the Committee of the Whole House on the State of the Union.

Mr. DINGELL: Committee on Energy and Commerce. H.R. 1327. A bill to amend the Public Health Service Act to establish a National Health Service Corps Loan Repayment Program and to otherwise revise and extend the program for the National Health Service Corps; with an amendment (Rept. 100-252). Referred to the Committee of the Whole House on the State of the Union.

Mr. WHITTEN: Committee on Appropriations. A report on "Subdivision of the Allocation of Budget Totals for Fiscal Year 1988" pursuant to section 302(b) of the Congressional Budget Act of 1974, as amended (Rept. 100-253). Referred to the Committee of the Whole House on the State of the Union.

SUBSEQUENT ACTION ON A REPORTED BILL SEQUENTIALLY REFERRED

Under clause 5 of Rule X the following action was taken by the speaker:

Referral of H.R. 791 to the Committees on Agriculture, Energy and Commerce, Public Works and Transportation, and Science, Space, and Technology extended for a period ending not later than September 30, 1987.

PUBLIC BILLS AND RESOLUTIONS

Under clause 5 of rule X and clause 4 of rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. STAGGERS (for himself, Mr. Daniel, Mr. Roe, Mr. Lagomarsino, Mr. Kostmayer, Mr. Wilson, Mr. Frank, Mr. Fazio, Mr. Howard, Mr. Kennedy, Mr. Oberstar, Mr. Fauntroy, Mr. Hatcher, and Mr. Crockett):

H.R. 3038. A bill to amend title XVIII of the Social Security Act to provide that services of a psychologist in a rural health clinic need not be provided under the direct supervision of a physician in order to qualify for payment under the Medicare and Medicaid Programs; jointly, to the Committees on Ways and Means and Energy and Commerce.

By Mr. TRAFICANT (for himself, Mr. Coelho, Mr. Lowry of Washington, Mr. Donnelly, Mr. Jones of North Carolina, Mr. Gray of Illinois, Mr. DeFazio, Mr. Savage, Mr. Hayes of Illinois, Mr. Visclosky, Mr. Evans, Mr. Mica, Mr. Torricelli, Mr. Pepper, Mr. AuCoin, Mr. Martinez, Mr. Foglietta, Mr. Manton, Ms. Oakar, Mr. Garcia, Mr. Richardson, Mr. Walgren, Mr. Price of Illinois, Mr. Smith of Florida, Mr. Leland, Mr. Murphy, Mr. Atkins, Mr. Applegate, Mr. Kennedy, Mr. Hefner, Mr. Anderson, Mr. Gonzalez, Mr. Durbin, and Mr. Dornan of California):

H.R. 3039. A bill to prohibit United States naval escorts for Kuwaiti tankers unless Kuwait agrees to allow the United States to base minesweeping helicopters in Kuwait; jointly, to the Committees on Foreign Affairs and Merchant Marine and Fisheries.

By Mr. BARNARD (for himself and Mr. Derrick):

H.R. 3040. A bill to amend the Developmental Disabilities Assistance and Bill of Rights Act to provide grants for the establishment and operation of a national information system for health related services; to the Committee on Energy and Commerce.

By Mr. BRYANT:

H.R. 3041. A bill to amend the United States Housing Act of 1937 to prohibit public housing agencies from using Federal funds for public relations activities; to the Committee on Banking, Finance and Urban Affairs.

By Mr. CONTE (for himself and Mr. Schumer):

H.R. 3042. A bill to amend the Food Security Act of 1985 to provide for the fair and equitable application of the maximum limitation on farm program payments that may be received by a person; to the Committee on Agriculture.

By Mr. DORGAN of North Dakota:

H.R. 3043. A bill to authorize the Army Corps of Engineers to make necessary repairs to the Riverdale School in Riverdale, ND; to the Committee on Public Works and Transportation.

By Mr. DORGAN of North Dakota (for himself, Mr. Brown of Colorado, Mr. Flippo, Mr. Daub, Mr. Gray of Illinois, Mr. Evans, Mr. Duncan, Mr. Andrews, Mr. Leath of Texas, Mr. Bruce, Mr. Jontz, and Mr. Chapman):

H.R. 3044. A bill to amend the Internal Revenue Code of 1986 to treat rural electric or telephone cooperatives in the same manner as other cooperatives for purposes of the book income preference under the minimum tax; to the Committee on Ways and Means.

By Mr. DORGAN of North Dakota (for himself, Mr. Duncan, Mr. Brown of Colorado, Mr. Flippo, Mr. Daub, Mr. Gray of Illinois, Mr. Evans, Mr. Andrews, Mr. Leath of Texas, Mr. Bruce, Mr. Jontz, and Mr. Chapman):

H.R. 3045. A bill to amend the Internal Revenue Code of 1986 to permit rural telephone cooperatives to have qualified cash or deferred arrangements, and for other purposes; to the Committee on Ways and Means.

By Mr. LANTOS:

H.R. 3046. A bill to require hospitals, skilled nursing facilities, and intermediate care facilities to provide free innoculation of workers against hepatitis B virus; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. LEWIS of Florida:

H.R. 3047. A bill to enforce the observance by Cocom countries of restrictions on the transfer of sensitive technology to Communist countries; jointly, to the Committees on Ways and Means and Foreign Affairs.

By Mr. McCURDY (for himself and Miss Schneider):

H.R. 3048. A bill to establish a national Federal program effort in close collaboration with the private sector to develop as rapidly as possible the applications of superconductivity to enhance the Nation's economic competitiveness and strategic wellbeing, and for other purposes; to the Committee on Science, Space, and Technology.

By Mr. MAVROULES:

H.R. 3049. A bill to amend the Energy Reorganization Act of 1974 to require financial disclosure reports from prospective Commissioners of the Nuclear Regulatory Commission, and for other purposes; to the Committee on Interior and Insular Affairs.

By Mr. MFUME (for himself and Mr. Synar):

H.R. 3050. A bill to amend title 18, United States Code, to specify that public corruption cases can be prosecuted as frauds in certain cases; to the Committee on the Judiciary.

By Mr. MINETA (for himself and Mr. Gingrich):

H.R. 3051. A bill to amend the Federal Aviation Act of 1958 to establish minimum standards relating to air carrier passenger services, and for other purposes; to the Committee on Public Works and Transportation.

By Mr. PEASE:

H.R. 3052. A bill to provide for an alternative to the present adversarial rulemaking procedure by establishing a process to facilitate the formation of negotiated rule making committees; to the Committee on the Judiciary.

By Mr. SCHULZE:

H.R. 3053. A bill to establish a limitation on the bringing of product liability actions which is related to the useful life of the product involved; to the Committee on the Judiciary.

By Mr. WAXMAN (for himself, Mr. Lewis of California, Mr. Scheuer, Mr. Wortley, Mr. Bates, Mr. Fish, Mr. Markey, Mr. Tauzin, Mr. Sikorski, Mr. Wyden, Mr. Boehlert, Mr. Downey of New York, Mr. Green, Mrs. Schroeder, Mr. Edwards of California, Mr. Coelho, Mr. Fazio, Mr. Brown of California, Mr. Bosco, Mr. Panetta, Mr. Miller of California, Mrs. Boxer, Mr. Dymally, Mr. Anderson, Mr. Hawkins, Ms. Pelosi, Mr. Mrazek, Mr. Matsui, Mr. Berman, Mr. Torres, Mr. McHugh, Mr. Lehman of California, Mr. Levine of California, Miss Schneider, Mr. Solarz, Mr. Schumer, Mr. Dixon, Mr. Biaggi, and Mr. Gilman):

H.R. 3054. A bill to amend the Clean Air Act to reduce the harmful effects of air pollution associated with ozone and carbon monoxide concentrations at levels above the national ambient air quality standard, and for other purposes; jointly, to the Committees on Energy and Commerce and Ways and Means.

By Mr. SAWYER:

H.J. Res. 345. Joint resolution designating the period from August 1 through 2, 1987, as "National Twins Days"; to the Committee on Post Office and Civil Service.

By Mr. RITTER (for himself, Mr. Frank, Mr. Lagomarsino, and Mr. Wilson):

H. Con. Res. 169. Concurrent resolution to express the sense of the Congress concerning Soviet prisoners of war in Afghanistan; jointly, to the Committees on Foreign Affairs and the Judiciary.

By Mr. FOLEY:

H. Con. Res. 170. Concurrent resolution relative to adjournment to a date certain during the remainder of the 100th Congress; considered and agreed to.

MEMORIALS

Under clause 4 of rule XXII, memorials were presented and referred as follows:

175. By the SPEAKER: Memorial of the Legislature of the State of Louisiana, relative to the use of food stamps; to the Committee on Agriculture.

176. Also, memorial of the Legislature of the State of Louisiana, relative to voter registration; to the Committee on Post Office and Civil Service.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. RHODES:

H.R. 3055. A bill for the relief of Jose M. Arvayo; to the Committee on the Judiciary.

By Mr. WILSON:

H.R. 3056. A bill for the relief of the estate of Maj. Travis E. Kitchens; to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 4 of rule XXII, sponsors were added to public bills and resolutions as follows:

H.R. 570: Mr. Edwards of Oklahoma.

H.R. 592: Mrs. Smith of Nebraska, Mr. Panetta, Mr. Markey, and Mr. Saxton.

H.R. 666: Mrs. Smith of Nebraska and Mr. Owens of Utah.

H.R. 755: Mr. Ritter.

H.R. 933: Mr. Jontz.

H.R. 940: Mr. Valentine and Mr. Mineta.

H.R. 999: Mr. Shumway.

H.R. 1049: Mr. de Lugo and Mr. Goodling.

H.R. 1105: Mr. Donnelly and Mr. Kildee.

H.R. 1373: Mr. Horton, Mr. Russo, Mr. LaFalce, Mr. Martinez, Mr. Akaka, Mr. Blaz, and Mr. Owens of New York.

H.R. 1536: Mr. Hammerschmidt and Mr. Chappell.

H.R. 1583: Mr. Michel and Mr. Neal.

H.R. 1598: Mr. Owens of Utah.

H.R. 1632: Mr. Bosco and Mr. Badham.

H.R. 1841: Mr. Smith of New Jersey.

H.R. 1868: Mr. Hughes.

H.R. 1873: Mr. Towns and Mr.Lujan.

H.R. 1874: Mr. Towns and Mr. Lujan.

H.R. 1879: Mr. Savage.

H.R. 1885: Mr. Davis of Michigan.

H.R. 1966: Mr. Wolpe.

H.R. 1982: Mr. Williams.

H.R. 2103: Mr. Towns, Mr. Edwards of Oklahoma, and Mr. Herger.

H.R. 2141: Mr. Kennedy.

H.R. 2148: Mr. Bates and Mr. Young of Florida.

H.R. 2237: Mr. Armey.

H.R. 2248: Mr. Smith of Texas.

H.R. 2260: Mr. Boulter, Mr. McMillan of North Carolina, Mr. Johnson of South Dakota, Mr. Swindall, and Mrs. Kennelly.

H.R. 2429: Mr. Towns.

H.R. 2482: Mr. Foglietta.

H.R. 2492: Mr. Walgren, Miss Schneider, Mr. Hayes of Illinois, Mr. Robinson, Mr. Grant, Mr. Fazio, Mr. Rahall, Mr. Fuster, Mr. Kolter, Mr. Atkins, and Mr. Feighan.

H.R. 2537: Mr. Garcia and Mr. Lancaster.

H.R. 2570: Mr. Hawkins and Mr.Pepper.

H.R. 2578: Mr. Annunzio, Mr. Hubbard, Mr. Roth, and Mr. Shumway.

H.R. 2624: Mrs. Collins and Mr. DioGuardi.

H.R. 2662: Mr. Skeen.

H.R. 2675: Mr. Fascell, Mr. Smith of Florida, Mr. Biaggi, Mr. Lagomarsino, Mr. Foglietta, Mr. Saxton, Mr. Lewis of Georgia, Mr. Young of Florida, and Mr. Lehman of Florida.

H.R. 2690: Mr. Wylie, Mr. Thomas A. Luken, Mr. Archer, Mr. Stump, and Mr. Clinger.

H.R. 2692: Mr. Nowak.

H.R. 2698: Mr. Lewis of Florida.

H.R. 2733: Mr. Lott.

H.R. 2741: Mr. Hefley.

H.R. 2801: Mr. Applegate and Mr. Eckart.

H.R. 2844: Mr. Levin of Michigan, Mr. Roe, Mr. Bustamante, Mr. Martinez, Mr. Kleczka, Mr. Burton of Indiana, Mr. Conyers, and Mr. Smith of New Jersey.

H.R. 2858: Mr. Conyers, Mr. Lagomarsino, Mr. Neal, and Mr. Hastert.

H.R. 2881: Mr. Williams and Mr. Lent.

H.R. 2884: Mr. Wolf, Mr. Sisisky, and Mr. Fauntroy.

H.R. 2915: Mr. Goodling.

H.R. 2924: Mr. Boucher, Mr. Dyson, Mr. Gonzalez, Mr. Towns, Mr. Valentine, Mr. Montgomery, and Mrs. Vucanovich.

H.R. 2969: Mr. Levin of Michigan, Mr. Lewis of Georgia, Mr. Wilson, Mr. Owens of New York, and Mr. LaFalce.

H.R. 2972: Mr. Garcia, Mr. Lujan, Mr. Coelho, Mr. Edwards of California, Mr. Towns, Mr. Lewis of Georgia, and Mr. Fauntroy.

H.R. 2985: Mr. Ford of Michigan, Mr. Hawkins, Mr. Gray of Pennsylvania, Mr. Annunzio, Mr. de Lugo, Mr. Rodino, Mr. Florio, Mr. Lewis of California, Mr. Towns, Mr. Lipinski, Mr. Dwyer of New Jersey, Mr. Mrazek, Mr. DeLay, and Mr. Biaggi.

H.J. Res. 268: Mr. Donald E. Lukens, Mr. Derrick, Mr. Hall of Ohio, Mr. Mineta, Mr. Thomas of Georgia, Mr. Pickett, Mr. Hutto, Mr. Miller of California, Mr. Wylie, Mr. Jeffords, Mr. Murtha, Mr. Kemp, Mr. Hoyer, Mr. Wolpe, Mr. Spratt, Mr. Fauntroy, Mr. Lewis of Georgia, Mr. Roybal, Mr. Synar, Mr. Frank, Mr. Moorhead, Mr. Rahall, Mr. Oxley, Mr. Walgren, Mr. Valentine, Mr. Carr, Mr. Dingell, Mr. Pursell, Mr. Upton, Mr. Campbell, Mr. Wyden, Mr. Ford of Michigan, Mrs. Byron, Mr. Boland, Mr. Vander Jagt, Mr. Bilbray, Mr. Bliley, Mr. Lott, Mr. Clarke, Mr. Saxton, and Mr. Bilirakis.

H.J. Res. 313: Mr. Garcia, Mr. Hayes of Illinois, Mr. Traficant, Mr. Pepper, Mr. Price of Illinois, Mr. McEwen, Mr. Ritter, Mr. Daniel, Mr. Ravenel, and Mr. Florio.

H.J. Res. 321: Mr. Thomas of Georgia.

H.J. Res. 329: Ms. Pelosi, Mr. Bustamante, Mr. Garcia, Mr. Horton, Mr. Mfume, Mr. Foglietta, Mr. Hughes, Mr. Stokes, Mr. Dwyer of New Jersey, Mr. Crockett, Mr. Levin of Michigan, Mr. Lewis of Georgia, and Mr. Neal.

H. Con. Res. 19: Mr. Manton.

H. Con. Res. 61: Mr. Matsui, Mrs. Kennelly, Mr. Kildee, Mr. Feighan, Mr. Campbell, Mr. Roberts, Mr. Fauntroy, Mr. Roybal, Mr. Weldon, Mr. Flake, Mr. Espy, Mr. Leland, and Mr. Owens of New York.

H. Con. Res. 138: Mr. Morrison of Connecticut, Mr. Scheuer, and Mr. Smith of New Jersey.

H. Con. Res. 160: Mr. Lagomarsino, Mr. Smith of Florida, Mr. McGrath, Mr. Moody, and Mr. Daniel.

H. Res. 71: Mr. Kolter.

H. Res. 141: Mr. Flake, Ms. Snowe, Mr. Petri, Mr. Brennan, Mr. Wolpe, Ms. Oakar, Mr. Solarz, and Miss Schneider.

H. Res. 213: Mr. Bevill, Mr. Bilirakis, Mr. Daniel, Mr. de Lugo, Mr. Frenzel, Mr. Moody, Mr. Robinson, Mr. Schumer, Mr. Slattery, Mr. Wolf, and Mr. Wyden.

H. Res. 226: Mr. Gejdenson, Mr. Gilman, and Mr. Bates.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 4 of rule XXII, sponsors were deleted from public bills and resolutions as follows:

H.R. 1195: Mr. Barnard.

SENATE—*Wednesday, July 29, 1987*

(Legislative day of Tuesday, June 23, 1987)

The Senate met at 11:30 a.m., on the expiration of the recess, and was called to order by the Honorable BARBARA A. MIKULSKI, a Senator from the State of Maryland.

PRAYER

The Chaplain, the Reverend Richard C. Halverson, D.D., offered the following prayer:

Let us pray:

Beloved, let us love one another; for love is of God * * *.—I John 1: 7. *Love suffereth long and is kind; love envieth not; love vaunteth not itself, is not puffed up, does not behave; itself unseemingly, seeketh not her own, is not easily provoked, thinks no evil; rejoiceth not in iniquity, but rejoiceth in the truth, beareth all things, believeth all things, hopeth all things, endureth all things. Love never faileth* * * *. —I Corinthians 13: 4–8.

Gracious God of infinite love, in this pragmatic place upon which all the desires, needs, and problems of a nation converge, the word love seems out of place. But it is the most powerful force in history. Help us to give priority to love—love for spouse and family—love for each other and for faithful, hardworking staffs. Fill our hearts, our homes and the Senate with love. We pray in His name Who is unconditional love. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore [Mr. STENNIS].

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, July 29, 1987.*
>
> *To the Senate:*
>
> Under the provisions of rule I, section 3, of the Standing Rules of the Senate, I hereby appoint the Honorable BARBARA A. MIKULSKI, a Senator from the State of Maryland, to perform the duties of the Chair.
>
> JOHN C. STENNIS,
> *President pro tempore.*

Ms. MIKULSKI thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the majority leader is recognized.

THE CHAPLAIN'S PRAYER

Mr. BYRD. Madam President, I was impressed with the Chaplain's prayer today. He spoke of love, not only of the majesty but of the strength of love—the love for family, for wife, for children—and how predominant the strength and force of love can be and are.

As our Chaplain was speaking, I thought of Robert G. Ingersoll's oration on Napoleon, when Ingersoll compared Napoleon and military force as against the force of love—the contrast between war and peace. Let me see if I can recall those words by Ingersoll:

> NAPOLEON
>
> A little while ago, I stood by the grave of the old Napoleon—a magnificent tomb of gilt and gold, fit almost for a deity dead—and gazed upon the sarcophagus of rare and nameless marble, where rest at last the ashes of that restless man. I leaned over the balustrade and thought about the career of the greatest soldier of the modern world.
>
> I saw him walking upon the banks of the Seine, contemplating suicide. I saw him at Toulon—I saw him putting down the mob in the streets of Paris—I saw him at the head of the army of Italy—I saw him crossing the bridge of Lodi with the tri-color in his hand—I saw him in Egypt in the shadows of the pyramids—I saw him conquer the Alps and mingle the eagles of France with the eagles of the crags. I saw him at Marengo—at Ulm and Austerlitz. I saw him in Russia, where the infantry of the snow and the cavalry of the wild blast scattered his legions like winter's withered leaves. I saw him at Leipsic in defeat and disaster—driven by a million bayonets back upon Paris—clutched like a wild beast—banished to Elba. I saw him escape and retake an empire by the force of his genius. I saw him upon the frightful field of Waterloo, where Chance and Fate combined to wreck the fortunes of their former king. And I saw him at St. Helena, with his hands crossed behind him, gazing out upon the sad and solemn sea.
>
> I thought of the orphans and widows he had made—of the tears that had been shed for his glory, and of the only woman who ever loved him, pushed from his heart by the cold hand of ambition. And I said, I would rather have been a French peasant and worn wooden shoes. I would rather have lived in a hut with a vine growing over the door and the grapes growing purple in the kisses of the Autumn sun. I would rather have been that poor peasant, with my loving wife by my side, knitting as the day died out of the sky—with my children upon my knees and their arms about me—I would rather have been that man, and gone down to the tongueless silence of the dreamless dust, than to have been that imperial impersonation of force and murder, known as Napoleon the Great.

RECOGNITION OF THE MINORITY LEADER

The ACTING PRESIDENT pro tempore. Under the standing order, the Republican leader is recognized.

CATASTROPHIC COVERAGE

Mr. DOLE. Madam President, first let me indicate to the majority leader that we are trying to make some progress on the catastrophic coverage. I understand the report is here. There are discussions with a number of Senators on each side at the staff level now. We hope to have some report within the next hour or so.

Mr. BYRD. Madam President, I thank the distinguished Republican leader for this encouraging report. He and I have discussed this bill.

I think there is a good, very good likelihood that we can get some agreement.

In any event, I would hope that we could take up this bill before the Senate goes out for its recess.

Mr. DOLE. I would second that; not only take it up but complete it because it is important, it is bipartisan. It is endorsed—not, maybe, totally by the administration but the President has indicated his support for the concept so I think it is hopefully something we can work together on and help the majority leader. I am not certain of anything else but I will be in touch with the majority leader.

BICENTENNIAL MINUTE

JULY 29, 1805: ALEXIS DE TOCQUEVILLE BORN

Mr. DOLE. Madam President, today marks the 182d anniversary of the birth of Alexis de Tocqueville. In 1831 de Tocqueville traveled from his native France to the United States and produced a highly influential survey of his impressions regarding the operation of democratic institutions in the United States.

Madam President, de Tocqueville's "Democracy in America" remains a classic today. Its author is routinely quoted in historical studies of Congress for his views on the differences between the Senate and the House. Addressing that subject, he wrote:

> On entering the House of Representatives at Washington, one is struck by the vulgar demeanor of that great assembly. Often there is not a distinguished man in the whole number. Its members are almost all obscure individuals, whose names bring no associations to mind. They are mostly village lawyers, men in trade, or even persons

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

> belonging to the lower classes of society. In a country in which education is very general, it is said that the representatives of the people do not always know how to write correctly.

By contrast, de Tocqueville—whose aristocratic views could hardly be considered objective—saw the Senate in a decidedly more positive light. Impressed with Senators because they were elected by State legislatures rather than by the people directly, he observed:

> At a few yards' distance from the House Chamber is the door of the Senate, which contains within a small space a large proportion of the celebrated men of America. Scarcely an individual is to be seen in it who has not had an active and illustrious career. The Senate is composed of eloquent advocates, distinguished generals, wise magistrates, and statesmen of note, whose arguments would do honor to the most remarkable parliamentary debates of Europe.

Thomas Hart Benton, a veteran of 30 years in the Senate, in 1854 dismissed this evaluation, arguing that the best Senators of his day had earlier served in the House, and thus owed their selection directly to the people.

I reserve the balance of my time.

Mr. BYRD. Madam President, in many ways I think we can agree with de Tocqueville in his observations of the House and Senate. I suppose he would be a little surprised, however, to see that the Senate today has Members who are elected by the people and not by the State legislatures. I think that was a great improvement over the process that the Founding Fathers wrote into our Constitution.

As to his observations concerning the makeup of both Houses, perhaps Thomas Hart Benton had good reason to disagree.

I think we ourselves may have a different viewpoint today, also. I do not think that the House is made up of that lower stratum of society to which some of the words of de Tocqueville were pointed.

I would daresay that in the times in which we live—and if we keep going in the direction we are going—we are not ever going to see, again, the poor people, or the common man who earns his bread in the sweat of his brow in the coal mines, in the shipyards, in the butcher shops, behind the produce counters; we are not likely to see that type of individual in large numbers in either of these bodies in the future because of the demands that are being made in the campaigns we have to undergo for election.

The money chase is driving out Members of this body and the other body. It is a constant pursuit in which we have to go out and turn over every rock to try to find that little bit of financial resource that can help us as we try to continue in public service.

Eventually, it is going to drive that peasantry about which Oliver Goldsmith wrote—"which once destroyed can never be supplied,"—from the other House and this one.

I think this will be to the detriment of our people and this Nation, because more and more it is becoming a matter in which only the very wealthy can have hopes of coming to this body. I do not think the Constitution contemplated that.

I compliment the distinguished Republican leader. I listened to his Bicentennial Minutes and I have been particularly interested in this one. I have thought that de Tocqueville had a keen insight into this country and its people that perhaps we ourselves have sometimes failed to grasp. We can all learn from de Tocqueville.

It seems he is a good bit like the Bible and Shakespeare; every time you read him, you learn more. He seems to have been good for his day as well as our day, and that was also the genius of the Constitution, after all.

I thank the Republican leader. He has done a service; a part of the service that we can render to our country is to pass on to posterity the spirit of this institution.

I look forward to the day when his little nuggets of history will be put into a Senate document.

Mr. DOLE. Let me thank the majority leader. And I certainly do thank the majority leader.

I sort of pattern my little Bicentennial Minutes after his more specific and detailed discussions of the history of this body.

I just say this: In this instance, I think de Tocqueville demonstrated his lack of trust in the people, which has certainly changed since that time. I think that is why the distinction was made. He had more faith in the Senate because they were elected, not by the people, but by State legislatures. The distinguished majority leader says we have a much better system now and the people do make the final judgment in both cases.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for not to extend beyond the hour of 12 noon, with Senators permitted to speak therein for not to exceed 5 minutes each.

The Senator from Wisconsin.

PRAYER, NAPOLEON, AND DE TOCQUEVILLE

Mr. PROXMIRE. Madam President, there are rewards for coming to the floor of the Senate every day. This was one of the best days, I must say. That marvelous prayer, it is always a great prayer, by the Chaplain, but this was most unusual and loved. That on Napoleon, that verse, was fascinating.

I have great admiration for the majority leader and I do not know anyone who has such a fabulous memory and such a distinguished selection of the very best in American literature and foreign literature.

Those insights into Napoleon and into the contrast between this man of enormous power and a French peasant was just beautiful. Then DOLE on de Tocqueville and BYRD on DOLE on de Tocqueville, which was most delightful.

Mr. BYRD. Madam President, the distinguished Senator from Wisconsin is always a great source of strength and encouragement for me to hear him comment on things which we say. I thank him.

Mr. PROXMIRE. I thank the leader. He is a fine leader.

NEED FOR CONVENTIONAL ARMS LIMIT TO COMPLEMENT INF PACT

Mr. PROXMIRE. Madam President, Secretary Gorbachev has accepted what has seemed to be the final condition of the Reagan administration that was necessary for a nuclear arms treaty. The INF Treaty would eliminate intermediate and short-range nuclear arms from Europe and Asia. Is the net effect of this treaty a significant plus for arms control? Does it hurt or help our national security interests?

The answer is that the treaty modestly advances arms control. For the first time the superpowers have agreed to the elimination of an entire class of nuclear weapons. That is a good precedent. Possibly our two countries can build on the precedent in the future. But based on past experience it will be an uphill struggle to do so. The agreement leaves tactical nuclear weapons in Europe. It also leaves a large number—several thousand—long-range, strategic nuclear weapons dedicated for European defense. There is no limit on the capacity of both superpowers to build up both their tactical and strategic nuclear arsenals. Indeed from past experience we have had with virtually every other arms control agreement, we can expect both superpowers to do exactly this.

There will also be a strong temptation for the Soviets to continue to build up their conventional military forces. They could view the elimination of intermediate and short-range nuclear weapons as enabling predominant Soviet conventional forces to sweep through western Europe in a few days with far less likelihood of triggering a nuclear response. Such a Soviet coup if successful would dramatically shift the balance of military power from the free world to the Communist world.

This is why this INF Treaty should include at least some formal indication of the willingness of the Soviet Union to work toward a mutual limitation of conventional arms in Europe. What incentive does the Soviet Union and the Warsaw Pact have to agree to such a limitation? Does not the Soviet Union enjoy an immense advantage in conventional weapons? Yes. They do. Why should they negotiate that advantage away? The answer is that the economic burden of maintaining that conventional military advantage is enormous. Our country has a gross national product twice the size of the Soviet GNP. NATO has an even bigger 3-to-1 GNP lead over the Warsaw Pact. A mutual agreement would sharply ease the burden for the United States and our NATO allies. But the economic benefits would be far greater for the Soviet Union and its associated Communist countries. The Soviets would indeed give up a military power advantage. But they would gain—along with the rest of the world—a much improved prospect of peace.

And right now happens to be a time when peace and surcease from the immense military burden that the present military burden carries could be in the great interest of the Soviet leaders. Gorbachev has proposed a drastic change in the economic organization of the Soviet Union to take place over the next 5 or 10 years. He would greatly decentralize economic decisions. The prices of 200,000 products now set by a single central agency in Moscow would be left to local managers, and to the forces of competition. The central government would surrender the decisions on production volume, the ordering of production equipment, the hiring and firing of workers, the institution of new equipment in 80 percent of Soviet manufacturing. Individual local plant management would take over. Obviously, Gorbachev could enhance the prospect that he could succeed in this vast experiment with economic freedom if he could reduce a substantial share of the huge burden of supporting the present colossal Communist military forces.

So the time for a much more comprehensive arms control agreement going far beyond intermediate and short range nuclear missiles in Europe may be near. None of this is to expect that the two superpowers could reach an agreement limiting conventional arms to go together with the INF agreement that will probably be signed at a 1987 summit. But the 1987 summit could and should at least indicate a firm commitment in writing to pledge both superpowers to begin prompt negotiations aimed toward both a mutual reduction of conventional forces in Europe and parity in both personnel and weapons.

Is this pie in the sky? No way. Gorbachev has specifically called for the negotiation of an agreement to limit conventional arms on both sides.

At one time or another such experienced and respected negotiators and military experts as the immediate past commander of NATO forces in Europe, Gen. Bernard Rogers, former President Nixon, former Secretary of State Henry Kissinger, and Armed Services chairman, Senator SAM NUNN, have all expressed their concern that the stripping of intermediate nuclear weapons from NATO forces could torpedo NATO's critical flexible response strategy. They have called attention to the present Warsaw Pact military advantage in Europe. How do we answer this expert concern? We answer it by mutually pledging in the INF Treaty to act promptly on what will otherwise become our prime vulnerability—the gross imbalance in NATO and Warsaw Pact conventional military forces in Europe.

Madam President, I yield the floor.

MILITARY DUTY AND LOYALTY

Mr. SANFORD. Mr. President, with all the furor over the testimony of Lt. Col. Oliver North, there is another perspective.

It is quite likely that the military understand the military much better than do Members of Congress and other civilians. Col. Harry Summers, Jr., has served as an adviser to the Joint Chiefs of Staff. He has an interesting point of view.

Mr. President, I ask unanimous consent to enter into the RECORD, a newspaper column by Colonel Summers, that appered in the Fayetteville Observer on Thursday, July 16, 1987.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

[From the Fayetteville Observer, July 16, 1987]

LAWYERS IN PROBE KNOW NOTHING OF MILITARY SYSTEM

(By Col. Harry Summers, Jr.)

When Marine Lt. Col. Oliver North emerged a national hero after his first week of testimony on Capitol Hill, it only proved one thing. Ask the wrong questions and you get the wrong answers.

It was also obvious the high-priced lawyers conducting the congressional investigations into the Iran-contra affair—steeped in the amoral traditions of the American legal profession—have an educated incapacity to ask the right questions. They obviously know nothing of the American military or the principles of duty, integrity and loyalty which are central to the American profession of arms. As a result North was able to portray himself as the very embodiment of a patriotic American Marine.

It might have been a different story if those asking the questions had known what they were talking about. Consider, for example, if North's interrogator had been a Marine gunnery sergeant who had survived the bombing of the Marine barracks at Beirut in 1984.

"Col. North," he might have asked, "as you know, a military officer's loyalty is not only to his superiors, it is also to his contemporaries and especially to his subordinates who look to him to stand up for their interests.

"That being the case, how could you consider selling arms to the very Iranians who paid a million dollars to the Lebanese terrorists who killed over 200 of my buddies—and your fellow Marines—with the bombing of our barracks in Beirut?"

Or consider if his questioner had been a tank platoon leader from the Army's 24th Infantry Division at Fort Stewart, Ga., whose mission it is to intervene in Iran if American interests there are threatened.

"As a fellow officer," the lieutenant might have asked, "can you tell me how I explain to the young soldiers in my platoon that if we have to go into battle in Iran, they might well be killed by the TOW anti-tank missiles you sent to the Iranians? I know you wanted to look good to your boss, but in God's name how could you do that to your fellow soldiers?"

And perhaps the congressional committee could have brought in a contra guerrilla fighter, fresh from putting his life on the line in the jungles of Nicaragua.

"Senor North, I want first to thank you for your efforts to get supplies to us while U.S. aid was cut off. But there is one thing I don't understand. Believing in democracy, I fought with the Sandinistas against the Somoza military dictatorship. And when they too imposed a military dictatorship under Commandante Ortega, I again took to the hills to fight for the principles of democracy. But now I find you too have betrayed democracy in the name of fighting for democracy. If we abandon our principles, how then do we differ from our enemies who insist that the ends justify the means?"

Instead of importing a lawyer from New York, the committee could have sent down the road to Quantico, Va., and got one of the students from the Marine Command and Staff College to ask the questions.

"You said you would stand on your head in the corner if the President told you to. But such blind obedience to orders flies in the face of what we're being taught at Quantico. As you are well aware, in the American military tradition 'just obeying orders' has never been an excuse for an illegal action. While a private may not know better (and even that is not an excuse), an officer has a duty to refuse an illegal order. If your integrity is such that you would obey an order to stand on your head, where then would you draw the line? With shooting prisoners? With violating other laws of war? Or subverting the Constitution you took a solemn oath to defend?"

And that last question strikes at the heart of the matter. One of the main tenets of American democracy has been the subordination of the military to civilian control, so the current canonization of Lt. Col. North can have dangerous consequences.

The framers of the Constitution, 23 of whom had served as soldiers in the Revolutionary War, knew those dangers, and that's why they wrote specific safeguards into the Constitution. The American military would be an instrument of the American people rather than of the President. The Congress—the representatives of the people periodically elected—were given exclusive power to raise the military, commit it to war and make rules for its regulation and governance.

While the President was named Commander in Chief and had operational command of the military, an officer's oath of office was pledged to the Constitution. Thus an officer's loyalty was not only to the President, it was also to the Congress. Military officers not only are legally bound to obey the laws enacted by that Congress, they are honor-bound by their oath as well.

Abandoning that tradition in the name of expediency can spell disaster. Now the right of the political spectrum applauds North's stance in the name of the "higher principle" of anti-communism in Central America. But only a decade or so ago, it was the left of the spectrum that was calling on the military to disregard the orders of its civilian superiors and refuse to serve in Vietnam.

Tampering with civilian control of the military by the President or by the Congress is a slippery slope indeed, for at the bottom of that slope is military dictatorship.

Wittingly or not, tampering with those controls is precisely what North was doing. Ironically, the military sees the dangers in his actions more clearly than do many civilians. North may be a national hero to many Americans, but he assuredly is not to most of his fellow military officers.

TURNING OVER ROCKS

Mr. DURENBERGER. Madam President, I agree with Mr. PROXMIRE on BYRD on DOLE on DOLE on BYRD this morning. It is a pleasure and a rare opportunity for those who come only infrequently to this body to enjoy the thrust of the leadership of the majority leader in history not only of this institution, but of the special values that make this country distinctive.

I would say to my dear colleague, the majority leader, that in the analogy of turning over rocks, a farmer knows very well that is a function every spring of helping things grow. Those of us who come from the rockiest parts of this country, and I come from a rocky part of my State, appreciate the fact that the first thing you do after you get out to plow is to go back and turn over a lot of the rocks that got turned over by the plow. That gives us space for the seeds to grow and that gives us in our context here a little more food for national thought, a little input into policy. Probably, in de Tocqueville's words, greater value in the special association that the American people bring to policymaking.

I rise for two reasons. One, principally, Madam President, is to comment on the situation in Panama. Before I do, I leave the majority leader who spoke to the issue of the role of the de Tocqueville peasantry with just an additional thought. I do spend a fair amount of time turning over rocks, looking for those who would support my campaign. What I do not like about it, I imagine, is airports and time away from family and perhaps time away from this body, on occasions like this.

But what I do like about it is what I learn as I turn over the rock, so to speak. There are plenty of wonderful people in this country, even outside my own constituency in Minnesota. I often think if it were not for the compulsion to re-up every 6 years and, in order to do that adequately, we are not blessed that all of us have the support of our constituencies that our colleague from Wisconsin has. I do think we have to turn over a lot of rocks looking for a lot of support.

Mr. BYRD. Madam President, will the distinguished Senator yield?

Mr. DURENBERGER. I yield.

Mr. BYRD. Madam President, I thank the Senator for his remarks.

The Senator and I are talking about two different kinds of rocks. The Senator is talking about the bedrock of this Nation, when elected officials go out and talk to the people and discuss the issues of the country; to meet the people face to face; to listen to the people ear to ear; to work with them hand in hand. That is profitable for us. It renews our spiritual batteries; it gives us new strength; it reinvigorates us; it extends our vision; it helps us to know what our people really want and what they expect of us. And it helps them also.

That is a different kind of rock. That is a rock upon which our constitutional system is founded.

But I am talking about those rocks that yield $1,000 or $5,000. That is a different kind of rock. When I ran 4 years ago, I had to go to California a number of times; I had to go to New York; I had to go to Florida, to Georgia, to Alabama, to Utah, to Arizona, to Ohio, to Pennsylvania—you name it, and I went there trying to find a rock.

I was not going there to talk with my constituents. I did not go there to learn from my constituents what would help them, what West Virginia needed, what West Virginia had to offer. I went for another purpose.

The people whose rock I turned over knew why I was coming. They were supportive of my party. They knew something about me and they were supportive of me.

I am not talking about the rock that the distinguished Senator talked about.

This is my 41st year in politics. I know something about going out and feeling the peoples' pulse. I am sort of a chartered member of that elective group who stop at the courthouses, who play the fiddle in the courthouse yards, who go to the square dances, the festivals, the parades and county fairs.

That is a different kind of rock. That is like the rock that the prophet struck and from which came water, to quench the thirst of those who cried out for water. But the kind of rock I am talking about is going to fall upon our heads. It is going to demolish us. Let us stop that rock—the money chase.

I thank the distinguished Senator. I apologize for imposing on his patience and courtesy.

EXTENSION OF MORNING BUSINESS

Mr. DURENBERGER. Madam President, I wonder if the majority leader might submit to a unanimous consent request that the time for morning business be extended perhaps for a length of time that would be appropriate to him.

Mr. BYRD. Yes. Madam President, I have imposed on other Senators this morning. I ask unanimous consent that morning business be extended to 12:30 and that Senators may speak therein up to 10 minutes each.

THE ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Minnesota may continue.

Mr. DURENBERGER. I thank the Chair. I knew that if I rose to speak on PROXMIRE on BYRD on DOLE, we would end up with GRASSLEY speaking on DURENBERGER on PROXMIRE on DOLE and BYRD and we might be here all day on this subject.

WORSENING CRISIS IN PANAMA

Mr. DURENBERGER. Madam President, I came to the floor principally to express my deepening concern for the people of Panama and the worsening crisis in that country. On June 26, this body passed Senate Resolution 239 by a vote of 84 to 2. We laid on the public record that day the best judgment of this body and we believe the people of this country as to the course Panama and the United States should take in the evolution of Panama into a functioning democracy.

The most controversial clause in Senate Resolution 239 was that call for Panamanian strongman, Gen. Manual Noriega, to relinquish his duties pending an independent investigation into the many charges made against him.

When we passed Senate Resolution 239, we were not under any illusions that an action by this body would end Noriega's tyranny. On the contrary, we knew that putting this body firmly on the side of democracy in Panama was but a single step in a difficult process. I was the sponsor of that resolution and at the time I argued that it was essential for the United States to be unambiguously on the side of freedom and political liberty in Panama.

What has happened in the last month in Panama? Some argued that by calling for the removal of Noriega, the United States Senate would actually strengthen his hand by allowing him to rally the Panamanian people to his side against "Yankee interventionism." The course of events has shown that argument to be very wrong. In fact the contrary has occurred: in the past few weeks, the democratic opposition in Panama has been revitalized; it has broadened and it has deepened. In spite of the predictable threats and intimidation which immediately followed the passage of Senate Resolution 239. Thousands of brave Panamanian patriots continue their peaceful struggle for democracy and human rights in Panama. The "freedom fighters" of Panama took heart at the overwhelming expression of this body on their behalf.

Noriega and his thugs did try to wrap themselves in a flag of anti-Americanism. The Leninist dictator of Nicaragua was quick to rally to the cause of supporting Noriega's dictatorship. A crowd orchestrated by Noriega and his cronies attacked the United States Embassy in Panama City on June 30 and caused extensive damage. Noriega was able to find bodies for this crude act by giving government workers the day off and withholding their paychecks until they showed up for the demonstration. The fact that several cabinet ministers took a leading role in the assault on our Embassy speaks volumes about the character of the people ruling Panama.

What has been the response of the Reagan administration? Shortly after this body passed Senate Resolution 239, the Assistant Secretary of State for Inter-American Affairs, Elliot Abrams, spoke out about repression in Panama. This Senator is pleased that Secretary Abrams, who has been so eloquent in denouncing the opponents of democracy in other Latin American states, spoke out in favor of a democratic resolution in Panama with the military returning to its proper place in the barracks and not in the government.

News accounts also revealed recently that the administration has moved to halt further payment of United States aid to Panama in the wake of the attack on the United States Embassy and Noriega's continuing repression. There is no conceivable reason that the scheduled delivery of $6 million in military aid and $20 million in economic assistance should go forth in the current circumstances.

But even considering those positive steps, the Reagan administration has still been slow to get the message of the democrats in Panama and their supporters in the U.S. Senate. It is a simple message: Noriega must go. He must go for the sake of the people of Panama and for the sake of United States interests. This is not a message that has anything to do with the Panama Canal treaties, and it is not a message of interventionism. It is a message of support for the fundamental principles that our Nation stands for around the world.

In the coming months this body will again debate the issues of regional security in Central America. And the debate will be framed in terms of assistance to the resistance of Nicaragua. The fact that we engage in annual debates on aid to the Contras can be traced in large part to our failure to anticipate events in Nicaragua.

Instead of standing by our principles and being on the right side of change in Central America, the United States sided with the corrupt Somoza regime. Instead of working forcefully in the aftermath of Somoza's downfall to strengthen the democratic elements in Nicaragua, we sat by and argued that the cause was already lost. And so today we are faced with difficult decisions about aiding the Contras, many of whose leaders were in the early post-Somoza government.

Mr. President, I do not want to face similar debates about other states in the future. I want this country to act with one voice—Congress and the executive—as we did in the Philippines. And I want General Noriega to get the message to leave loudly and clearly.

The situation in Panama will not get better as long as one man—Noriega—runs the country. It will not get better for a very simple reason: Noriega is a dictator completely out of step with the people of Panama. He will continue to defy the wishes of the Panamanian people; he will continue to use brutality and force; he will continue to violate basic human liberties; in short, he will continue to act like a dictator as long as he is in power.

Nothing proves this point as well as Noriega's actions of the past few days. Noriega has made his most brutal move to date in an ultimately doomed bid to crush his opposition. Upon hearing of a planned general strike, Noriega immediately shut down the remaining independent media in Panama with armed troops. He ordered troops to the home of Col. Diaz Herrera, his former second in command, who proceeded to assault the home with automatic weapons and helicopter gunships. We do not know at this point the extent of the casualties or the fate of Herrera or others in his home.

In spite of these violent actions, the peaceful general strike went on. The reports I have received indicate that it has succeeded beyond the expectations of the democratic opposition. And the support extends far beyond Panama City itself. The strike has met with, in at least one instance, with further violence on the part of the authorities. In El Valle a 24-year-old student was shot and killed, reportedly after yelling "Down with Noriega."

The events of the past several days have shown, to any one who still needed to be shown, that Noriega is a tyrant that cares only for his personal power.

In the words of Ricardo Arias Calderone, the Christian Democratic leader in Panama, "Each day we are living in a more typical repressive dictatorship, led by a military chief who is rejected by society but maintains himself by force."

Noriega does appear to be bent on maintaining his rule no matter what the cost. But that cost will be great. If recent history is any guide, the cost will be increasing polarization in Panamanian society, greater use of violence by both sides, and a result that will not serve the people of Panama nor the people of the United States.

What can the friends of democracy do? This body has made its feelings known already. The people of Panama, facing tremendous risks and bearing great costs, have made their desires known. It is now up to the Reagan administration to do its part. They must heed the call of democracy in Panama, a call that cannot be realized as long as General Noriega holds the reins of power. And most of all, the people of Panama must do their part, continuing their peaceful protest and urging that the Panamanian Defense Forces return to the barracks. While our Nation has an obligation to help in any way we can, it is Panamanians who will ultimately decide their fate.

Until democracy comes to Panama, Panamanians will continue to lay their lives on the line to oppose Noriega. And until the United States does all it can to help the forces of democracy, we will be faced with turmoil and unrest in Panama. I sincerely hope that the administration has learned the lessons of recent history and will lead in the struggle for democracy in Panama.

(Mr. CONRAD assumed the chair).

Mr. DURENBERGER. Mr. President, I ask unanimous consent that an article from the Minneapolis Star-Tribune dated July 24, 1987, an article from the Washington Post dated July 29, 1987, and an article from the New York Times dated July 28, 1987, be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

[From the Minneapolis Star/Tribune, July 24, 1987]

APPROPRIATE PRESSURE ON PANAMA

Here is a Central American parallel worth thinking about.

Gen. Manuel Noriega runs Panama with a fist as heavy as that of the late Gen. Anastasio Somoza, who ran Nicaragua into a revolution in the late 1970s. The Panamanian business leaders and white-collar workers protesting this summer against Noriega seem unlikely revolutionaries. The same was true of *los doce*, the dozen Nicaraguan business leaders who a decade ago helped depose Somoza. But the lines of comparison diverge at two important points: Unlike Nicaragua, Panama is important strategically. And in contrast to the 1970s, in 1987 U.S.

leaders are nearly unanimous in recognizing the strongman's liability to his own country and to the United States.

The liability is important to the United States because of the Panama Canal, which in 1999 will come under Panamanian control; because Panama houses the principal U.S. military base in Latin America; because Americans living in Panama include not only 9,200 U.S. armed-service people but more than 30,000 civilians. And there's another reason. While much opposition to avaricious dictators often comes from the middle class, the militant left usually forms the hard revolutionary core. The longer a Somoza or a Noriega stays in power, the more likely he is to inspire the far left's growth and eventual dominance. Nothing like that is about to happen in Panama. But it could: Nicaragua's experience shows how far the ideological pendulum can swing.

So it is good to see the Reagan administration moving beyond discreet criticism of Noriega into actions designed to encourage his exit: cutoffs in aid, cooperation and high-level contacts. Those pressures follow a Senate resolution, introduced last month by Minnesota's Dave Durenberger and overwhelmingly approved, which echoes the outrage of Panamanian business, civic and church groups. Noriega could best serve his country by taking an unending vacation at one of his several luxurious homes in Europe.

[From the Washington Post, July 29, 1987]

PANAMA'S NOT-SO-STRONG MAN

Is Gen. Manuel Antonio Noriega losing his grip? The Panamanian strong man, unable to intimidate his restive, democracy-seeking countrymen, has put on a new display of muscle. He sent out an armed party, guns blazing, to seize Col. Roberto Diaz Herrera in his home; this is the maverick officer, his erstwhile No. 2, whose allegations of crime and corruption against Gen. Noriega precipitated the crisis the country is now passing through. Gen. Noriega also occupied La Prensa and other independent publications. By these acts the general evidently means to isolate the population from sources of opposition to him. He is acting like his friend President Daniel Ortega of Nicaragua, who, seeing an opening for a little exercise in anti-American expediency, paid a sympathy call.

For years it was the accepted wisdom that Panama was a place where the people preferred stability and political theater to the rewards and rigors of democratic government. The revelations of Col. Diaz, however, seem to have uncorked a heretofore untapped well of democratic sentiment. Mass protests have gone on in the streets for weeks. An immensely successful general strike has just been concluded. Important elements in the banking and business communities, often thought of as bulwarks of the old system of military rule with a political facade, appear to be concluding that maintenance of Gen. Noriega is a guarantee of endless turbulence. Currency is said to be flowing out of the country; since Panama's currency is the American dollar, there can be no possibility of printing up more.

A military leader with a strong sense of duty would be considering retirement. Gen. Noriega, however, appears to lack a strong sense of duty. Meanwhile, the Panamanian people are showing a readiness to keep the pressure on. Fortunately, the American government, having long cultivated the military in order to serve a strategic interest in the Panama Canal, is now unequivocally identified with the forces of democracy. So much is this now the case that Gen. Noriega is able to evoke a specter of American "intervention" in order to rally nationalist sentiment for his own personal benefit. In fact, what is happening is that Washington is stepping back and exposing him to the anger and impatience of his own people.

[From the New York Times, July 28, 1987]

GENERAL NORIEGA'S UGLY DESPERATION

The people of Panama gave a clear cry for freedom yesterday in a nationwide general strike. The strongman, Gen. Manuel Antonio Noriega, seeing it coming, acted brutally to snuff it out. He closed the opposition newspapers hours before the strike, then stormed the home of the renegade army officer who had fingered him as the architect of a series of murders and frauds.

Yet what came through loud and clear was the hopes of the Panamanian people to be free of this tyrant. The Reagan Administration needs to be equally clear about its rejection of this dictator, and have nothing more to do with him.

General Noriega has shown increasing desperation in his fight to maintain power. First he played the nationalist card, one that has worked well in the past. But trying to whip up anti-American sentiment this time failed. The day after Noriega supporters stoned the United States Embassy, students were in the street calling for the general's head.

He then sought to portray himself as a leftist revolutionary, then as the victim of a wealthy white minority's selfish concerns. But all the while the opposition gathered strength. The National Civic Crusade, a coalition of 107 civic groups, opposition parties, business, labor and student groups joined forces against him. This week the crusade staged a general strike that all but closed down business, industry and transportation.

A State Department spokesman, Charles Redman, has called on Panama to halt the new press curbs; aid had already been temporarily suspended. Both measures are fine as far as they go, but they don't go far enough. General Noriega is running out of cards to play. The Panamanians, preparing to bring him down, ask of Washington only one thing: that they not have to fight America as well as dictatorship. They deserve that assurance now.

JUDGING JUSTICES

Mr. SANFORD. Mr. President, the gravest responsibility of a Senator, with the possible exception of voting on a declaration of war, is selecting Justices of the Supreme Court.

These are not ordinary Presidential appointments. Cabinet-level and other administrative appointments are largely the President's business and his nominees should be confirmed, with the Senate satisfied to screen out rogues or those with severe conflicts of interest.

The Supreme Court is our only "nondemocratic" branch, so a nomination to that Court is markedly different. The Founding Fathers did not intend that these lifetime jobs be left to the vagaries of a single individual's discretion, even that of the President of the United States.

The framers of our Constitution struggled with the concept of selecting Supreme Court Justices. First Congress was to elect the Justices, then the Constitutional Convention conferred upon the Senate alone the authority to appoint members of the Supreme Court. In the waning days of the Constitutional Convention, the concept of Presidential appointment was first suggested by those delegates who favored a stronger executive branch. Finally, the current provision was adopted as a compromise between these two positions.

Our Constitution now provides that the President "shall nominate, and by and with the advice and consent of the Senate, shall appoint * * * Judges of the Supreme Court." Thus, selection of Supreme Court Justices is a two-step process. The President's nomination of a candidate is the first step; Senate confirmation, the second. Since our Constitution was ratified 200 years ago, the Senate has refused to confirm one out of every five Presidential nominations to the Supreme Court submitted for its advice and consent.

SENATE EXERCISE OF DUTY

The Senate exercised its authority to advise and consent early and vigorously. Its rejection of John Rutledge's nomination in 1795 is the first and one of the best examples. Rutledge was an author of the Constitution and had previously served on the Supreme Court from 1789 to 1791 when he was nominated to be Chief Justice by President George Washington. His qualifications for the position were unquestioned. It cannot be argued that the players knew the intent of the Framers of the Constitution. Senators felt free to vote according to their own individual opinions and I find nothing wrong with that.

Shortly after his nomination Rutledge publicly opposed the Jay Treaty—resolving lingering disputes with Britain at the end of the Revolutionary War—which was strongly supported by Federalists in the Senate. Because of his views on foreign policy, opposition to his appointment grew in the Senate and, despite the objection of President George Washington, Rutledge's nomination was rejected.

A misconception has been promoted from time to time which holds that Supreme Court appointments are the President's alone to make, that Justices should be "his people," and that the Senate should perfunctorily rubber stamp these nominations unless the candidate is clearly unqualified or has demonstrated obviously unethical behavior. Nothing could be further from the constitutional intent. It was never intended that Supreme Court Justices should be merely extensions of the President, instruments through which he implements his policies.

The Supreme Court is neither a part of the executive branch, nor of the legislative branch, but an equal, sometimes superior, branch. Members are to be appointed only after the extremely thoughtful consideration of both the President and the Senate. It is a joint responsibility of the most serious proportion. Each Senator is separately, and all are collectively, responsible for the quality of the Supreme Court. The Supreme Court Justices ought not to be degraded by a spoils system.

A primary question beginning with the Rutledge nomination is whether the Senate should properly consider the political views and the ideological leanings of a nominee. I join those who argue that it is entirely proper, indeed incumbent upon, the Senate to examine carefully all aspects of a nominee's background and qualifications,—including his or her political views and judicial and philosophical inclinations. The Senate has done this frequently in the past and should continue to do so.

As Walter Dellinger, professor of law at Duke University, said in 1985:

> I do not mean to suggest that a Senator should attempt to impose his or her own view on the Court. In deciding whether to consent to a Supreme Court nominee's appointment, a Senator ought to probe for evidence of intelligence, integrity, and openmindedness—a willingness to be pursuaded by cogent argument. Whether a Senator will also take philosophy into account should depend to a large degree upon whether the President has done so in making the nomination. * * * When a President attempts to direct the Court's future course by submitting a nominee known to be committed to a particular philosophy, it should be a completely sufficient basis for a Senator's negative vote that the nominee's philosophy is one that the Senator believes would be bad for the country.

In the course of the debate on Justice Fortas' nomination to be Chief Justice in 1968, Senator THURMOND argued in favor of an active role by the Senate. He stated:

> Therefore, it is my contention that the power of the Senate to advise and consent to this appointment should be exercised fully. To contend that we must merely satisfy ourselves that Justice Fortas is a good lawyer and a man of good character is to hold to a very narrow view of the role of the Senate, a view which neither the Constitution itself nor history and precedent have prescribed.

I agree with Senator THURMOND. It is clear to me that "ideology" should be an element of consideration. Generally ideology, whether sympathetic to the left or the right, suggests a closed aperture of the mind. An ideologue knows what he knows and doesn't want to be distracted by reason or facts or new evidence.

I will not be one to seek "balance" on the Supreme Court. I believe we should not veer too far in either direction, even if we could identify and measure whatever it is we are trying to balance. The very fact that Supreme Court Justices have not been named by one person has been our greatest safeguard against having extremists on the Court. Over the years, the Senate has exercised a moderating influence. We have not veered so much from one extreme to another for the very reason that more than one person is directly involved in placing individuals on the Supreme Court.

I also believe that it is specious to draw a distinction between "making law" and "interpreting law." Interpreting law is making law and that is why we have judges.

A "strict constructionist" is by definition an ideologist. We can be thankful that John Marshall was not a strict constructionist. He set the course and pattern of the Supreme Court by far-reaching vision and broad interpretation. It was recently discovered that George Washington once predicted the Constitution might not last 20 years. Maybe it would not have endured as it has had John Marshall been a strict constructionist.

The ideal strict constructionist would be a computer. The genius of the Constitution is that its interpretation is enveloped by the warmth, the compassion, the understanding of human intelligence. We need Justices who can continue to grow as long as they are on the bench.

The Constitution is a living force, not a dead document. Make no mistake that the architects of the Constitution intended that it grow and expand as new knowledge, new environments, and new generations emerged in what to the founders was a dim and unpredictable future.

It is a tribute to their wisdom that they created a document embodying our imperishable spirit, a spirit destined to guide the deliberations of future generations who would be called on to apply that spirit, that living Constitution, to their time and place in history.

We want a Justice who looks at the facts in the case at hand, and then seeks to do justice and be fair to the litigants. We do not want a Justice who brings with him an idelology into which he attempts to stuff each case.

Recently Justice Lewis F. Powell, who is retiring, and whom we shall now replace, said:

> I never think of myself as having a judicial philosophy . . . I have in mind that each one of these cases is enormously important to the parties, particularly to the defendant in a criminal case. I try to be careful, to do justice to the particular case, rather than try to write principles that will be new, or original, or whatever.

We need as Justices men and women well grounded in the law—but more than that. Our Justices should have open, creative minds, be intellectually honest, with a sense of justice and fairness, with a comprehension of the spirit of the Constitution, not merely the letter of the Constitution.

We do not need Justices who operate by rote. We do not need Justices who try to shape the Constitution by pursuing only their personal preconceived notions. We do not need ideologues. Such judges are dangerous. We cannot risk our Constitution, our Supreme Court, to the likes of such individuals.

We need, and generally have had, Justices we can trust. They need not all think alike. They differ, as well they should. We have trusted them because of their open-mindedness, and their sense of justice. Those who gained our confidence for those reasons have stood the test of history as our best Justices.

I am not going to vote for or solely against the President. I am not going to vote for or against on the basis of judicial decisions rendered. I am certainly not going to vote in response to pressure groups. I respond badly to pressure.

I am going to vote on my general impression, once I have carefully followed the hearings. The Constitution requires me, as a Senator, to "consent" to Supreme Court appointments. I take that duty seriously. I will consent or not to nominees as I judge their legal competence and then their open-minded sense of fairness and justice, and their vision and concept of this nation.

(The remarks of Mr. GRASSLEY, Mr. DURENBERGER, and Mr. LEVIN relating to the introduction of legislation are printed under statements on Introduced Bills, and Joint Resolutions.)

Mr. GRASSLEY. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MALCOLM BALDRIGE

Mr. BYRD. Mr. President, today we mourn the passing of a successful businessman and dedicated public servant, Secretary of Commerce Malcolm Baldrige.

Mr. Baldrige brought a degree of candor, a level of intellect, and wealth of experience into American Government that was not only effective, but needed in these troubled economic times.

A businessman turned public servant, Mr. Baldrige was one of those rare people who was a success in whatever he undertook.

As a Yale graduate and World War II infantryman, Malcolm Baldrige began his work life as a foundry millhand and became a corporate executive.

As a corporate executive, he took a financially beleaguered brass foundry and turned it into a highly successful, diversified manufacturer with 81 plants in 23 countries.

As Secretary of Commerce, he took a traditionally low profile Cabinet post and transformed it into one of the most influential positions in the Reagan administration and became one of the most important Commerce Secretaries in history.

His well-known love of horses, cowboys, and competition took him into rodeos. Here, as usual, he was a complete success. In 1980, he was named the professional rodeoman of the year. In 1984, he was elected into the National Cowboy Hall of Fame.

But it was for his effective and successful public service for which we recognize him today and for which we will remember him.

His no nonsense business approach to government, whether in persuading government workers to write in straightforward, easily understood English, or in representing America's best trade interests, was respected by many.

It has been reported that when President-elect Reagan phoned Mr. Baldrige in 1980 to ask him to join his Cabinet, Mrs. Baldrige replied that her husband could not come to the phone because he was out horseback riding. Upon hearing that, the President-elect—a horseman himself—slapped his knee and said: "That's my kind of guy."

As it turned out, Mr. Baldrige was everyone's "kind of guy." His outspokenness, his wisdom, and his many talents will be missed.

My wife, Erma, and I extend our most heartfelt condolences to Mrs. Baldrige and her daughters.

Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER**. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

The **PRESIDING OFFICER**. The Senator from Missouri.

Mr. **BOND**. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

I further ask unanimous consent to proceed for 5 minutes as if in morning business.

Mr. **BYRD**. Mr. President, if the Senator would withhold that request?

EXTENSION OF MORNING BUSINESS

Mr. **BYRD**. Mr. President, I ask unanimous consent that morning business be extended for 10 minutes, Senators to speak for not to exceed 5 minutes each.

The **PRESIDING OFFICER**. Without objection, it is so ordered.

Mr. **BOND**. I thank the majority leader.

(The remarks of Mr. BOND are printed later in today's RECORD under Statements on Introduced Bills and Joint Resolutions.)

ALTERNATIVE AGRICULTURAL PRODUCTS RESEARCH ACT

Mr. **BYRD**. Mr. President, I have the approval of the distinguished Republican leader to proceed to the consideration of Calendar Order 254, S. 970, a bill to authorize a research program for the modification of plants focusing on the development and production of new marketable industrial and commerical products, and for other purposes.

Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order 354.

The **PRESIDING OFFICER**. The clerk will report.

The legislative clerk read as follows:

A bill (S. 970) to authorize a research program for the modification of plants focusing on the development and production of new marketable industrial and commercial products, and for other purposes.

The **PRESIDING OFFICER**. Without objection, the Senate will proceed to its immediate consideration.

The Senate proceeded to consider the bill, which had been reported by the Committee on Agriculture, Nutrition, and Forestry, with an amendment to strike all after the enacting clause and insert in lieu thereof the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alternative Agricultural Products Research Act of 1987".

SEC. 2. PURPOSE.

It is the purpose of this Act—

(1) to authorize research in modification of plants and plant materials, and associated research, in order to develop and produce marketable products other than food or traditional fiber products; and

(2) to establish an independent New Products Research Board to advise the Assistant Secretary of Agriculture for Science and Education, with respect to selection criteria for, and scientific feasibility of, prospective research projects under this Act.

SEC. 3. DEFINITIONS.

As used in this Act:

(1) ASSISTANT SECRETARY.—The term "Assistant Secretary" means the Assistant Secretary of Agriculture for Science and Education.

(2) BIOTECHNOLOGICAL RESEARCH PROJECT.—The term "biotechnological research project" means a project authorized and funded by the Secretary that is directed toward the development of a new marketable industrial or commercial product, other than a food or traditional fiber product, through biotechnology or other modification of a plant.

(3) BOARD.—The term "Board" means the New Products Research Board established under section 4.

(4) DEVELOPMENT.—The term "development" means targeted research, including fundamental research and applied research necessary to make a product available for the marketplace and necessary research on the plant, modification of plant materials, new methods, if any, needed to cultivate the plant, the commercial separation and purification of the new product, and any research on the uses of the new product.

(5) NEW PRODUCT.—The term "new product" means an item developed through a biotechnological research or a plant product research project that is primarily not food or traditional fiber, including an item that exists but is not commercially available from a plant.

(6) NONTRADITIONAL FOOD.—The term "nontraditional food" means a food product that does have substantial new properties and that is not now derived from agricultural materials.

(7) PLANT PRODUCT RESEARCH PROJECT.—The term "plant product research project" means a project authorized and funded by the Secretary that is directed towards the development of a new marketable industrial or commercial product, other than a food or traditional fiber product, through the modification of the product of a plant.

(8) PROJECT.—The term "project" means a biotechnological research project or a plant product research project.

(9) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(10) TRADITIONAL FIBER.—The term "traditional fiber" means a fiber product that does not have substantial new properties that are derived from agricultural materials.

SEC. 4. NEW PRODUCTS RESEARCH BOARD.

(a) ESTABLISHMENT.—There is established in the Department of Agriculture the New Products Research Board to be administered by the Assistant Secretary.

(b) FUNCTIONS.—The Board shall advise the Secretary—

(1) on specific targets of opportunity for research that most closely meet the selection criteria required for a project to be eligible for funding under this Act;

(2) on the composition of review committees to examine the merits of specific proposals for research projects that have been solicited by the Secretary;

(3) on recommendations for the funding of specific proposals for research projects and

(4) concerning progress made in carrying out projects that are currently being undertaken.

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Board shall consist of 6 members, of which—

(A) two members shall be appointed by the Assistant Secretary;

(B) one member shall be appointed by the Director of the National Science Foundation;

(C) one member shall be appointed by the Secretary of Energy;

(D) one member shall be appointed by the Secretary of Commerce; and

(E) one member shall be appointed by the Director of the Office of Technology Assessment.

(2) TERM OF SERVICE.—The term of a member of the Board shall be at the discretion of the appointing authority, except that a member may not serve more than 5 years.

(3) VACANCIES.—A vacancy on the Board shall be filled in the manner in which the original appointment was made.

(4) CHAIRMAN.—The Assistant Secretary shall designate one of the members of the Board as Chairman of the Board.

(5) GOVERNMENT MEMBERS.—All members of the Board who shall be officers or employees

of the United States Government who shall serve without additional compensation.

(6) Expenses.—All members of the Board shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

(7) Meetings.—The Board shall meet at the call of the Chairman or a majority of its members.

(d) Personnel and Services.—The Board may appoint personnel and procure permanent, temporary, and intermittent services, as it considers necessary, under section 3109 of title 5, United States Code, at rates for individuals that do not exceed the rate prescribed for GS-18 of the General Schedule under section 5332 of such title.

(e) Experts.—The Board may establish committees of technical experts, and farm and industry representatives, to advise the Board on matters that are determined to be appropriate by the Board.

(f) Rules and Regulations.—The Board is authorized to propose rules and regulations to the Secretary, and may promulgate procedures, that may be necessary to carry out the functions of the Board.

(g) Department of Agriculture Resources.—The Board is authorized to utilize, with the consent of the Secretary, the services, equipment, personnel, information, and facilities of the Department of Agriculture, with or without reimbursement.

(h) Hearings.—The Board may, for the purpose of carrying out this Act, hold such hearings, and sit and act at such times and places, as the Board considers appropriate.

SEC. 5. RESEARCH PROJECTS.

(a) Authorization.—The Secretary, on a recommendation from the Board, shall select projects that are to receive funding under this Act, for purposes of research to develop and produce new products.

(b) Appropriate Projects.—

(1) Development.—Each project shall target development of a new crop, or modification of an existing crop or crop material, that meets the criteria listed in paragraph (2).

(2) Criteria.—Projects should be selected on the basis of—

(A) the prospect of developing viable technologies that could make it possible to use or modify existing plants or plant products to provide an economically separable viable quantity of new products;

(B) the need for a new product of the type contemplated;

(C) the potential market size of the new product;

(D) the likely time period needed to bring the new product into the stream of commerce for general use;

(E) the likely impact on reducing Federal crop subsidies and other Federal agricultural assistance program costs;

(F) the likely ability to grow the plant used to produce the new product at a profit;

(G) the availability of the expertise and facilities required to conduct the proposed research; and

(H) the likely unavailability of appropriate funding from other sources.

(c) Funding.—

(1) Purpose.—Funding shall only be provided under this Act to those projects that have as the principal purpose the development of new products, with priority given to biotechnological research projects. No less than one half of the appropriated funds being allocated to biotechnological research projects.

(2) Consortia.—Unless the Secretary finds it appropriate for a single research entity to conduct a project, each project shall be conducted by a project group that may include a consortium of—

(A) public and private colleges and universities;

(B) private research facilities and personnel;

(C) State agricultural experiment stations;

(D) Federal research laboratories; or

(E) any combination thereof.

(3) Secondary uses.—Funding shall not be denied if paragraph (1) is satisfied even if the developed plant has a food or fiber use in addition to the use described in paragraph (1).

(4) Period of funding.—Funding—

(A) shall cover the proposed research necessary for not less than 3 years, or until a marketable product is developed or determined to be unattainable or unnecessary; and

(B) may be extended, subject to satisfactory review, for additional 3-year periods or until a marketable new product is developed or determined to be unattainable or unnecessary.

(5) Nontraditional food use.—If the development of nontraditional food uses becomes the principal likely result of a project, funding may be continued if the project continues to meet the criteria set forth in subsection (b)(2) other than the criterion set forth in subsection (b)(2)(A).

(6) Number of projects.—

(A) Initial projection.—The Secretary shall fund not less than 20 projects within the 36-month period beginning on the date of enactment of this Act, with funding committed for at least 5 projects within the 12-month period beginning on the date of enactment of this Act.

(B) Adjustment.—If the amount appropriated under section 6 is reduced, or if the availability of such amount for obligation is delayed, the number of new projects to be funded may be reduced proportionately, or delayed as appropriate.

(d) Contracts.—The Secretary may sign contracts that assign research responsibilities to an appropriate consortia or other entity capable of conducting the appropriate research over the applicable research period.

(e) Review and Reporting.—

(1) Project groups.—A project group shall report on the progress of the group to the Board annually or as otherwise required by the Board.

(2) The board.—The Board shall review the progress of the projects approved by the Secretary and report to the Secretary on the projects with recommendations concerning continued research.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

To carry out this Act, there are authorized to be appropriated $75,000,000 for the fiscal year 1988, and each of the 19 fiscal years thereafter.

AMENDMENT NO. 642

Mr. HARKIN. Mr. President, I send a technical amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa (Mr. Harkin) proposes an amendment numbered 642.

On page 13, line 8, strike out "that are" and insert in lieu thereof "and that is".

Mr. HARKIN. Mr. President, I do not want to take too much of the time of the Senate. I want to thank the distinguished majority leader for bringing this legislation to the floor.

Mr. President, this bill was reported unanimously by the Senate Agriculture Committee and has the support of many of the Members of the Senate. I would just point out, Mr. President, that this legislation has been cosponsored by the chairman of the Senate Agriculture Committee, Senator Leahy, and the ranking member of the committee, Senator Lugar, and 17 other Senators from both parties.

Mr. President, the bill basically provides for a research program for new nonfood and fiber uses for our crops. It provides research for new crops and new uses for materials in our present crops. The bill provides for fundamental research and for the applied research needed to bring new products into the market.

The goal is to do the research necessary to make sure that a viable product will be marketed.

Mr. President, I do not need to remind you or any other Senator that agriculture is one of our Nation's greatest resources. But like many of our factories, our farmland right now has too much capacity for the demand that we have, so we have excess production.

We have three choices facing us: we can cut production; we can keep producing and producing and watch the prices fall; or, third, we can find some new uses for the capacity of our farmland.

That is what this bill is designed to do, to find some new uses for the products that are grown on all the millions of acres of cropland we have in America.

It has been said, Mr. President, that we have had two milestones in the evolution of agriculture. The first was when we went from the use of animals to the use of mechanical tractors, mechanization. The second milestone in agriculture was the use of hybrids, going from open fertilization to the use of specific hybrids for certain seeds, hybrids that would withstand harsh elements and hybrids that would withstand certain pest infestation.

The third milestone in agriculture that is now upon us is what we call biotechnology. That is the use of genetics and other new technologies to modify plants to open up new markets for our farmers. We can get plants that will produce new products. For example, we know right now with all of the activity in the Persian Gulf how reliant we are on oil in this country, and we put a lot of our resources into defending that area of the world to make sure that our economy continues to function with the oil that we need.

For example, we have plants which will produce oils similar to what we get from petroleum. However, those plants are grown in very arid regions of our country. They do not produce that much. But there are many who are convinced through the process of genetics that we can find material in that plant to produce that kind of oil, take it out of that plant and put it into a soybean. And that means we would be planting soybeans just like we do now. But rather than getting soybean oil out of the soybean we would get a different kind of oil that could be a direct replacement for some of the petroleum that we get from the Persian Gulf.

So this is one of the things this bill is designed to do. It is to do the research necessary to find new uses for our crops in terms of producing new materials.

The second purpose of this bill is to find new uses for the crops we now have. Through the way the crops are processed, we can make new products for the commercial and consumer marketplace.

One of the things that I often use as an example is styrofoam cups. They are made from petroleum products, but as we know they are not biodegradable. They are thrown in dumps. They sit there for eons. But we believe that we can use parts of the corn plant, for example, and, through different kinds of processes, make the styrofoam cup. So you would not need the oil. You could use the cup and throw it away; it would be biodegradable.

So that is the purpose of this legislation. It is to find new uses for the things that our farmers can grow. I can say other nations are actively engaged in research in this area and we cannot afford to fall behind.

I am pleased so many Senators on both sides of the aisle have supported this bill and this concept. I might add that it was added as an amendment to the omnibus trade bill, because it can have a major impact on trade in that it would tend to replace some of the oil that we need to import into this country and it can create new products which we can export. But, regardless of what may happen to that trade bill, I think it is important we pass this bill in its free standing form because I know is has strong support in the House of Representatives.

So I thank the majority leader for his leadership in this area and for bringing this bill up at this time.

The PRESIDING OFFICER (Mr. WIRTH). Is there further discussion on the amendment offered by the Senator from Iowa?

Mr. BYRD. Mr. President, has this amendment been cleared all around?

Mr. HARKIN. Yes. The bill and the technical amendment sent to the desk have been cleared on both sides.

Mr. BYRD. Mr. President, I thank the Senator.

The PRESIDING OFFICER. Is there further discussion on the amendment? If not, the vote occurs on the amendment offered by the Senator from Iowa.

The amendment (No. 642) was agreed to.

Mr. LEAHY. Mr. President, I am pleased to cosponsor S. 970, the Alternative Agricultural Products Research Act. This bill was passed unanimously by the Senate Committee on Agriculture, Nutrition, and Forestry, and was passed unanimously as an amendment to the Omnibus Trade and Competitiveness Act of 1987.

Senator HARKIN has introduced a bill that speaks to the future potential of agriculture in this country. The strength and competitiveness of American agriculture depend upon our ability to utilize the productive capacity of our Nation's agricultural lands in innovative ways. This amendment provides $75 million per year for a period of 20 years for research to modify plants and plant materials to develop new marketable industrial and commerical products.

There are many grave challenges facing our agricultural sector—excess capacity; a loss of competitiveness; and shrinking export markets. Our Nation's rich and abundant agricultural land lies underutilized while our Government necessarily spends millions of dollars in Federal crop subsidies. If our agricultural industry is to remain prosperous, and if America is to retain her leadership in the world agricultural economy, then it is essential that research efforts be directed toward the diversification of American forest and farmland.

We know from analyzing the small number of research projects conducted in the areas of new crops and crop uses, of the potentially immense returns on our research investments in this field. Advances in biotechnology, chemistry, and in other areas will allow us to develop, for example, new industrial oils, biodegradable plastics, natural rubber, cosmetics, and important new pharmaceuticals. Thus, this bill will promote new products which will expand and diversify the farmer's market rather than serving to compete with, or displace, current American agricultural products.

The idea behind this bill is not new. As far back as 1957, Government studies targeted new crop development as an exciting and profitable way to meet industrial needs. Yet in the last three decades, our Nation has invested only a fraction of a modest Federal agricultural budget in new crop development. The low, erratic level of funding for alternative crops has proven to be an insurmountable barrier to new crop development.

The analysis is complete—the time has come to fund the research necessary to develop new crops. Recent studies by the National Academy of Sciences, the Office of Technology Assessment, and the Government Accounting Office all indicate the need for additional emphasis on alternative agricultural research, especially biotechnological research.

Directed fundamental and applied research in alternative agricultural uses is actively being pursued by Japan and many European countries. Our foreign competitors are funding not only the basic research necessary to develop new technologies but also the applied research necessary to ensure the development of economically viable end products.

Under this bill, the United States would secure its competitiveness by also investing in such research. The effect of this bill would be to promote a lively and fruitful exchange between basic researchers, applied researchers, and the farmers and private companies who use the technology.

Not unlike other industries, our agricultural sector must either innovate or perish; our research agenda must reflect our changing world. We want America to lead in international applications of new agricultural technologies. This bill will provide the resources necessary to develop new markets for our farmers.

The PRESIDING OFFICER. The bill is open to further amendment. If there be no further amendments to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended:

The committee amendment in the nature of a substitute, as amended, was agreed to.

The PRESIDING OFFICER: The question is on the engrossment and the third reading of the bill.

The bill was ordered to be engrossed for a third reading, was read the third time, and passed.

The title was amended so as to read: "A bill to authorize a research program for the modification of plants and plant materials, focusing on the development and production of new marketable industrial and commercial products, and for other purposes."

Mr. HARKIN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. BYRD. Mr. President, I move to lay the motion on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I thank the distinguished Senator from Iowa. I thank him for his sponsorship of this bill. I listened with great interest to his explanation of it, as he discussed some of the potentials for research. I was very much enlightened. I feel that the legislation is good legislation. I congratulate the Senator.

FIFTEEN-MINUTE RECESS

Mr. BYRD. Mr. President, I am hoping that we can hear something soon from those who are working backstage on the extension of the debt limit. The Senate at the moment is prepared to go forward and take up that matter and proceed with it. In the meantime, I hope that we can find other bills on the calendar that can be cleared for action. Until then, or at least for the moment, Mr. President, rather than have a lengthy quorum call, I think the doorkeepers and other faithful employees of the Senate perhaps need a little opportunity to get a drink of water or a breath of fresh air. The Chair should not have to sit glued to the chair while the onerous burden of a long quorum call is placed upon the clerks and our listening audience hears the quorum call drone on and on and on. I ask unanimous consent that there be a recess of 15 minutes.

There being no objection, the Senate, at 1:06 p.m., recessed until 1:21 whereupon, the Senate reassembled when called to order by the Presiding Officer [Mr. WIRTH].

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period for morning business not to extend beyond 15 minutes and that Senators be permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Chair recognizes the Senator from Ohio.

Mr. GLENN. Thank you, Mr. President.

REBUTTAL TO ATTACK ON METZENBAUM

Mr. GLENN. Mr. President, on the night that I was reelected last year I told the people of Ohio that I was genuinely upset and disappointed by the negative campaigning last year not just in Ohio but all across this whole country of ours, all across America. It is the first time I had ever run in a campaign where the whole campaign against me was run on a negative basis. I think the people deserve better than that.

I said if my reelection signaled anything I hoped it would signal that voters were fed up with that kind of personal attack, with wrong innuendo, and that such tactics only demean our democracy, it cheapened our politics, indeed it insulted our intelligence. And I said I hope that Ohio's revulsion at negative campaigning would spread to every single State in this great land until it was finally and forever wiped from the face of our political system.

But today just 8 months later, it is clear that some people have not gotten the message. Today, thanks to the revelation of a secret report, part of which was published in the Cleveland Plain Dealer today, a secret report by the Republican Senatorial Campaign Committee, it is clear some people still are convinced that they can slink to political victory by lies and distortions and outright smear tactics.

The Republican Senatorial Campaign Committee has advised its candidates, for instance, to portray Senator METZENBAUM as "a Communist sympathizer" whose "Communist sympathies have found their way onto the Senate floor."

If this was some tabloid or some yellow journalism from some obscure paper, it would be different, but that is not the case. This is coming from the Republican Senatorial Campaign Committee, and this is character assassination of the lowest kind, a campaign of poisonous innuendo masquerading as a campaign of issues.

I have always regarded holding political office as one of this Nation's highest callings, so I shudder when I see my profession being dragged through the gutter. This personal attack on Senator METZENBAUM is scurrilous, tawdry, and dangerously irresponsible. It smacks of McCarthyism and should be purged from the landscape of American politics

The Republican Senatorial Committee is attempting to slander the reputation of a U.S. Senator who has served the American people with courage and distinction. I have known Senator METZENBAUM for over 20 years and have served with him in the U.S. Senate since 1976. We share a common commitment to the American values of freedom, opportunity, and social justice.

So, let there be no doubt about it—HOWARD METZENBAUM is a patriotic American who has constantly fought for this country's ideals, regardless of the odds. Ohioans recognize this—it's the reason they elected him in 1976 and 1982, and I believe will reelect him in 1988.

It is disturbing that certain people would have the public believe that anyone who disagrees with the Conservative ideology is somehow un-American, that dissent should have no place in the United States.

But nothing could be further from the truth.

For every single time we rise on this Senate floor to express our differences, we are renewing our faith in democracy; we are exercising the very rights which our forefathers fought to obtain over 200 years ago. HOWARD METZENBAUM has consistently spoken his mind and should be praised for it, not subjected to a public pillory.

I agree with Senator METZENBAUM at times, at times I disagree. But I certainly defend his right to his views in representing the people of our great State of Ohio.

To suggest anything different reveals a lack of faith in the American political system.

So I am deeply disappointed in my Republican colleagues who felt compelled to engage in this slanderous campaign.

I am glad it came to light. I am glad this secret document leaked out.

The Ohio Republican Senate candidates should reject it, and the Republican Senatorial Committee should publicly apologize to Senator METZENBAUM.

Mr. President, this is negative campaigning at its worst. It is guilt by association.

I would quote from a couple of things that are in this secret report, parts of which were published in the Cleveland Plain Dealer today.

I quote:

> Portraying Metzenbaum as a Communist: Opponents should cautiously use this material to expose the fact that Howard Metzenbaum's background shows evidence of significant concern for issues of interest to Communist organizations. Caution should be observed to avoid, one, having the attack look McCarthyistic and, two, giving Metzenbaum the chance to respond to a perceived charge that is not or was not patriotic.

This is in a secret report to advise those who are going to oppose HOWARD in next year's election of how they should take this whole thing on.

In other words, it apparently is OK to be McCarthyistic; you just want to avoid looking McCarthyistic.

Another one that I quote and this comes under the title of suggesting violation of the Federal election laws:

> Opponents may wish to immediately identify and organize groups which would potentially be in a position to independently expend funds and resources against Metzenbaum in 1988.

Unless I am in error on election law, I think what they are suggesting, if carried out just in the way it is stated there in this secret report to their potential candidates, I think that is illegal. We have to research that further, but when you deliberately tell people that opponents may wish to immediately identify and organize groups which would be in a position to independently expend funds, that on the face of it says that you are organized to do that and that is what is illegal for these independent groups.

Another one here is urging of tainting through guilt by association, and it actually says this in their report advising their candidates what to do in the race against HOWARD METZENBAUM.

> Opponents should try to use the negative connotations that the Ted Kennedy liberalism has in Ohio to taint Howard Metz-

enbaum: Guilt by association. Caution should be observed in making the Kennedy-Metzenbaum connection, however, because Metzenbaum could possibly successfully use the liberalism, spending for jobs, education entitlements concept to his advantage.

In other words, they say they are trying to further guilt by association. The whole report is replete time after time with the advice they are giving to their candidates. And their candidates have received these reports already. We found that out. They have already received these, the people that have already said they are going to run in the Republican primary. We will see which one will oppose HOWARD later on.

So it is all right if you are "MCCARTHYISTIC," if you will; you just do not want to look that way. They advocate guilt by association.

Another part of it said, "Don't forget that HOWARD METZENBAUM has been quoted by Tass." What have we sunk to? What have we sunk to—quoted by Tass? Is there a Senator here who has not been quoted by Tass? Is the President of the United States not quoted by Tass almost every single day in some form or other, I would say that is so.

In this whole report put out by the Republican Senatorial Campaign Committee that runs some 76 pages just on HOWARD METZENBAUM, there is nothing positive in the whole report; not a single thing in that that draws up anything positive. It deals mainly with character assassination, guilt by association, how to be a McCarthyite without looking that way; cautions against looking that way, but do it.

I find this abominable. I would hope those running the Republican Senatorial Campaign Committee would publicly apologize to Senator METZENBAUM. I hope this report is given very wide dissemination around the country to show the tactics we are up against.

I do not say that all of the bad tactics are on the Republican side. I would be remiss if I did not say that I recoiled somewhat last year at some of the things our Democratic colleagues, a few of them, did to get elected. I did not like it. I think politics in this Nation deserves better than many candidates put forward last year.

But I will tell you this: I read through this thing this morning. I just got a copy of it this morning. I found this sinking to a new low in political innuendo and character assassination. And whether I agree with HOWARD METZENBAUM on every single thing in the U.S. Senate is beside the point. I think this is scurrilous. I hope it is done away with. I hope it is given wide publicity.

And, as I said on my own election night in Ohio last year, I started off saying that I had been up against some of the negative campaigning myself—not to this degree, not even close to this kind of degree—but I said on that election night, I told the people of Ohio I was upset, I was upset and I was disappointed by negative campaigning not just for Ohio but all across this country. I said if my reelection signaled anything, I hoped it would signal that voters are fed up with this kind of personal attack, this kind of vicious innuendo that only demeans our democracy, cheapens our politics, and insults our intelligence. I said I hope that Ohio's revulsion to negative campaigning would spread to every single State in this land until it was finally and forever wiped from the face of our political system.

But, obviously, that was not to be the case. What was to occur was that we see more attacks like this. And today, just 8 months later, it is very clear that too many people have not gotten the word.

So I am glad the revelation of this report is out because I hope maybe it may stop this kind of activity in the future.

Thank you, Mr. President. I yield the floor.

Mr. BYRD. Mr. President, how much time for morning business remains?

The PRESIDING OFFICER. Two and a half minutes.

Mr. BYRD. Mr. President, I ask unanimous consent that the time for morning business be extended for an additional 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I join with the distinguished Senator from Ohio [Mr. GLENN]. He has brought to light here a very shocking thing. I have not had an opportunity to fully read the material to which he has referred. But, as I have listened to him, it seems to me that any fairminded person in either of the two major parties should recoil with disgust, utter disgust, at this attempt at character assassination. It is demeaning. It is demeaning to the political process. It is demeaning to the political party that engages in this kind of thing. It is an insult to the American voter.

We have seen too much of this—especially in recent years—negativism. We saw and heard so much of it in last year's campaign. The American people are being turned off by it. And why should they not be? Why cannot the issues be discussed? Why cannot political parties and political candidates and political organizations and campaign committees decide that they will discuss the issues on open and fair and level playing fields; discuss the issues, disagree, if they must and as they will, but let the people decide. That would be performing a service, I should think, a service to our country and a service to the American people, instead of this gutter, below-the-belt, dirty, negative, slimy, invective that is being engaged in right here in this document to which the distinguished Senator from Ohio [Mr. GLENN] has alluded.

I have served in this Senate for many years with HOWARD METZENBAUM. I have found him to be a good Senator. I do not agree with HOWARD METZENBAUM all the time. I do not agree with Senator GLENN all the time. I do not agree with Senator KENNEDY, who is on the floor, all the time. I do not agree with any other Senator in this body all the time, nor do they agree with me. But we should be able to disagree agreeably, and I think we do.

I have often felt that if we did not have a HOWARD METZENBAUM in the Senate we ought somehow to make one.

He is alert; he must have an excellent staff.

I find myself in amazement oftentimes when he talks on the floor on various and sundry bills, pointing out flaws as he sees them. Many times I agree with him.

He performs a service to the Senate and performs a service to the Nation. He is one of the most able, intelligent, active, effective Senators in this body.

As I listened to the distinguished Senator read from the document, this sounds like more of the so-called plausible deniability syndrome in which we find the administration and some of the chief characters in the tragedy of errors that has been played out on the world's stage, involving arms for hostages.

In other words, portray it in a way that it will be plausible to deny it.

In other words, portray Mr. METZENBAUM in a way that you can deny. Do not get caught at it. Do not get caught at what you are doing.

I am amazed at the utter stupidity of an approach of this kind: putting a document like this in writing and with the instructions that you must be very careful, do not get caught, do not get caught with your fingers in the cookie jar. Let this be an approach that can be denied with plausibility.

Mr. President, I went through a campaign 4 years ago in which I was the target of invective and personal attack by an outfit that called itself NCPAC.

I told the people of West Virginia they were going to be invaded: You are going to be invaded by an outside outfit called NCPAC.

I took that outfit head-on and that is what Mr. METZENBAUM needs to do, is take these outfits head on. Because the American people, once their eyes are opened to the kind of low, slimy, negative approach that is being taken here, they will react. They do not like that. They may not like a candidate's stand on an issue but they do not like this low-level gutter type of character assassination. That is what it is.

Mr. President, we have got a bill before this Senate that is designated S. 2. It is the unfinished business of the Senate.

It is a bill to provide for a voluntary system of spending limits. That is what the country needs, because if spending is limited in campaigns, as this legislation would provide, we will not have all of this money with which to engage in guerrilla warfare.

That is what we are seeing, guerrilla warfare, trench warfare—it is dirty. There is too much money being thrown around in elections. Political campaigns and elections should involve less money, less negative advertising. The American people are sick of it.

They are being turned off by this kind of tripe. It ought to be relegated to the dung heap.

Mr. President, I am sure the American people will be, as I am, appalled that the National Republican Senatorial Committee is circulating a report that charges any Democratic Senator as being a subversive or a Communist or as having inclinations or tendencies toward, or ties with, subversives or Communists. This kind of political propaganda stoops to the gutter and never gets out of it. It is the kind of thing that takes us back to "know-nothingism," to McCarthyism.

It is a report that is ugly in its conception and false in its accusation. Every Senator in this body knows it is false because every Senator in this body has served with HOWARD METZENBAUM.

I may react with disgust at a position he may take at times. He may react with similar disgust at my position. But he has the right to express his viewpoint and he is not expressing a Communist viewpoint.

The fact that he may be quoted in Tass should be no news to anybody around here. I have been quoted in Tass and I expect to be quoted again because I don't agree with the Soviets very often. So that is no test of one's patriotism. When political parties start slinging mud and when they start attacking the patriotism of other Americans—whether they are officeholders or not—they are crossing a boundary that no political party in this country should ever cross. They are doing the most un-American thing that can be done, which is to decide on their own as to who is a patriot and who is not a patriot.

It would appear from what Senator GLENN has read and stated that the ugly strain of McCarthyism has not gone away. It seems to be consulting for the National Republican Senatorial Committee.

There is nothing to be said about this overview other than it is a scandal of the highest order. It is an insult to every Senator in this Chamber and an insult to all Americans, more importantly. It is the very definition of sleeze; it is a continued demonstration of the corruption of politics in this country.

What is to be said about a report that is based on false accusations, guilt by association, and wild charges of socialism? There can be no integrity to such a document. There is no truth in it. It is a base document, a document of innuendo and falsehood.

An attack on Senator METZENBAUM, in my judgment, of this kind is an attack on every Senator in this body; an attack on truth and integrity and respectability in politics. To hear Senator GLENN read extracts from this document that suggests that shadows, unknown independent groups should be organized is sickening—think of it. How low can we get? Independent groups should be organized to smear Senator METZENBAUM, we hear. Who will be next? Who will be next? What have our elections come to when secret shadowy smear groups are created for the sole purpose of attacking another candidate's patriotism? Who has a monopoly on patriotism?

If ever there was a reason for campaign finance reform, Mr. President, it is in this document.

I do not know who runs the National Republican Committee. I am like Senator GLENN, I do not say either side is lily white, or that either party comes in with clean hands. But I know one thing: I would absolutely disassociate myself from this kind of action on the part of the Democrats. I would say there needs to be a housecleaning. Someone needs to get a broom and throw the smear artists out on the street.

Mr. President, I have known Senator METZENBAUM a long time. The people of Ohio know him better than I do, I am sure. They have rendered judgment time and time again with respect to his services. They will not take lightly this insult to their intelligence.

Mr. BOSCHWITZ addressed the Chair.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. BOSCHWITZ. Mr. President, I am the chairman of the Republican Senatorial Campaign Committee and put out the following press release this morning:

> Senator Rudy Boschwitz (R-MN), Chairman of the National Republican Senatorial Committee, said today he agreed with Senator Howard Metzenbaum (D-OH) that a report prepared by the Committee "has no place in politics and indeed demeans the political process."
>
> Boschwitz said that he had never seen or heard about the report prior to yesterday, that it was prepared without direction during a transition period earlier this year as he was assuming the Chairmanship of the Committee, and that the person who was responsible for research is no longer at the Committee.
>
> "Senator Metzenbaum and I disagree on a lot of issues," Boschwitz said, "but even to suggest that he is a Communist sympathizer is insulting and outrageous, as are many—indeed—most of the other conclusions."
>
> "I have personally apologized to Senator Metzenbaum that the Committee of which I am Chairman produced such a report, and I take full responsibility for it, as I should."

That was the entirety of the release and states my feelings with respect to the matter as well.

I yield the floor.

Mr. BYRD. Mr. President, I personally want to thank Mr. BOSCHWITZ for speaking clearly and to the point. I think that what Senator BOSCHWITZ has said reflects highly and well on Senator BOSCHWITZ. He has reacted as I would have anticipated, feeling that he is a Senator who believes in clean fights, above the board, and that he would as readily as any other Senator who believes in fair play thoroughly and completely disassociate himself from this kind of dirty politics. I thank him and congratulate him.

Mr. BOSCHWITZ. Mr. President, I thank the majority leader for his remarks.

Mr. KENNEDY. Mr. President, I join in condemning the unconscionable document prepared by the Republican Senate Campaign Committee against our distinguished colleague from Ohio, HOWARD METZENBAUM.

In recent years, we have witnessed the rise—and the fall—of the so-called New Right because of contemptible tactics such as this. Campaigns of smear, distortion, and innuendo are counterproductive—they don't work in American politics. They insult the intelligence of the voters and they demean the political process.

I am sure that the citizens of Ohio of both parties join us in repudiating this low-road attack on the integrity, character, and achievements of HOWARD METZENBAUM. He has had a brilliant career in private business, and an equally brilliant career in the U.S. Senate. His dedication to the public interest earned him the respect and the friendship of both John F. Kennedy and Robert Kennedy, and all the members of our family hold him in high affection and esteem.

I know that I speak today for the overwhelming majority of Senators in both parties when I condemn this deplorable incident. We may not always agree with HOWARD METZENBAUM on the issues, but we all agree that he is a Senator of extraordinary competence and commitment. And I suspect that when the history of the next 16 months is written, this incident will have helped to guarantee the resounding reelection victory of HOWARD METZENBAUM to the Senate in 1988.

ORDER OF PROCEDURE

Mr. BYRD. Mr. President, on another matter I believe the participants who have been working back stage on the debt limit extension and the matters that we have been trying to resolve in connection therewith have been making progress. I have a feeling that they are putting something together. I have discussed with both Senator DOMENICI and Senator CHILES their progress. Shortly, within the next hour, I would think, they will be prepared to come to the floor and begin laying out the agreed-upon material. I have optimistic and high hopes that the Senate will be able to get on with this matter before the day is out and that those two managers have found a way whereby most of us can join together, the joint leadership on both sides, and be supportive. Shortly, I am going to put the Senate out for a little while, or in morning business.

I had thought I might have the unfinished business brought down—campaign financing reform. But in view of the fact that the managers seem to be making such good headway, with the prospects that we might be able to come to grips with the most immediate problem having to do with the debt limit extension and do it soon, I shall not now have the unfinished business brought down. If there is any other business that can be cleared for action with short notice, that can be transacted in a short time, we will do that. Otherwise, we will continue to wait until the managers have the opportunity to bring their work to the floor.

The **PRESIDING OFFICER.** The Senate will receive a message from the House of Representatives.

(At 1:57 p.m. the Senate received a message from the House of Representatives that the House had passed H.R. 3022 in which concurrence of the Senate was requested.)

Mr. BYRD. Mr. President, this is a short-term extension. It is my hope that the two managers will bring a proposal to the floor that both leaders can join in supporting and that we can deal with on the longer-term extension. I hope these hopes are not too farfetched, realizing, of course, being in this occupation, that we often have our hopes dashed at times temporarily, sometimes not so temporarily.

But I say for the press and all my colleagues who are listening, and staffs who may be listening in, that as we go into the afternoon I hope we can make good progress on the debt limit.

While we are hoping, we might as well let our hopes soar, like eagles.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask that morning business be extended for an additional 1 hour and that Senators may speak therein.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The **PRESIDING OFFICER.** The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOLE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

FAIRNESS IS A BENCHMARK

Mr. DOLE. Mr. President, it has just come to my attention that there has been some memo, which I have not read but I have heard enough about it to come to the floor, a memorandum about ascribing a lot of different things to my friend and colleague from Ohio, Senator METZENBAUM.

Let me underscore, emphasize and indicate that from my standpoint it is reprehensible. It does not reflect the views of this Senator, the Senator from Kansas, since I knew nothing about the document. It does not reflect the views, I trust, of anyone in my party, of any of our colleagues. Let us face it, we are in a rough and tumble business called politics, but there are certain limits. Fairness, I think, is a benchmark that we all need to focus on from time to time.

So I want to apologize to the distinguished Senator from Ohio, and I understand that whoever was responsible for that memorandum is no longer working for the senatorial campaign committee. But I would say for the record that I have been dealing with the distinguished Senator from Ohio for a number of years. We have had our differences, but they have always been above the table. They have been on issues. We have a tough enough time in this place and in our business without fending off attacks that are sometimes unfounded. None of us are perfect, but I do not think it does much for the institution or any of us to start hurtling charges back and forth at each other. If we cannot say something good about our colleagues, we probably should not say anything.

And so I say to the distinguished Senator from Ohio, I regret this happened. I hope that it would be dismissed out of hand by anyone who might come in contact with it in the Senator's State, and I apologize for all of my colleagues.

Mr. KERRY. Mr. President, I rise today to express my deep sense of outrage and deep personal concern over the attack on Senator HOWARD METZENBAUM detailed in today's Cleveland Plain Dealer.

The so-called vulnerability study produced by the National Republican Senatorial Committee for use by Senator METZENBAUM's opponents, represents the worst of modern American political strategy.

It is a document that makes its case, not with facts, but with smears and innuendos. It is clearly an attempt to misrepresent and distort the record of accomplishment and achievement of Senator METZENBAUM.

Mr. President, all of us in this body—Republican and Democrat—know Senator METZENBAUM as a man of enormous tenacity and great personal and professional integrity. He is a man as dedicated to our democratic process as he is to the causes for which he fights so fearlessly every day.

Happily, the people of Ohio also know and respect this great Senator. They will not be fooled or persuaded by this document or by the tactics it promotes.

This attack on Senator METZENBAUM offends me because of my deep personal respect and admiration for my very able, honorable, and hard-working colleague. But it also saddens me greatly because of the threat I believe this kind of campaigning presents to the integrity of our democratic process.

Last year, I was concerned, and I believe a great many Members of this body were greatly concerned, over the rise we witnessed in negative campaigning. That, in part, is what has led to the debate we are now having over campaign finance reform.

This document we have read about today does not represent the true nature of the Republican Party; certainly it does not do justice to my Republican colleagues here today.

If there is a silver lining in this dark cloud, maybe it is that it will serve to encourage us all to recommit ourselves—both Republicans and Democrats—to the true ideals of our democratic process.

As chairman of the Democratic Senatorial Campaign Committee, I deplore this episode, and I ask that all of my colleagues join me in renouncing this kind of campaigning—by either party. I pledge to continue working to restore fair and open campaigning to our electoral process; I hope that leaders of both parties will join me in making this a priority.

Mr. METZENBAUM addressed the Chair.

The **PRESIDING OFFICER.** The Senator from Ohio.

Mr. METZENBAUM. Mr. President, I was not on the floor earlier. I came on the floor and heard the distinguished minority leader make his statement just now. I publicly express my appreciation to him and Senator BOSCHWITZ for their apology and for disassociating themselves with the statements contained in the document.

When I saw the document, which was after the Plain Dealer had received it, I could not believe the contents. I have been in the political arena since I was about 25 years old. I was a State representative, a State senator. I have been involved in six senatorial campaigns, been in Presidential campaigns, but I have never seen a document that went to the depths that this document did to smear, to lie, to misrepresent. It is unbecoming of the political process.

The distinguished minority leader states it well. Certainly we disagree. We are sent here to stand up and fight for that in which we believe, to stand up and say that I am on one side of the issue and he is on the other, whatever the case may be. Sometimes we are allies; sometimes we are adversaries. But the fact is we do not descend to the levels of the document that was unfortunately distributed by the Republican Senatorial Campaign Committee.

So I am pleased, very pleased that the majority leader addressed himself to this issue very eloquently. My colleague from Ohio, Senator GLENN, has spoken to this issue very eloquently. Senator KERRY has spoken to the subject. I am very pleased that the minority leader and the chairman of the Republican Senatorial Campaign Committee have both addressed themselves to the subject. I accept their apologies and I hope that we will never again in our political life see a document of this kind.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

THE ILLUSION OF GLASNOST

Mr. WIRTH. Mr. President, for the last few years, the world's attention has been riveted on the changing face of communism; glasnost in the Soviet Union. Creeping capitalism in the People's Republic of China. In fact, a number of Communist countries are experimenting with Hungarian-style reforms of economic liberalization and limited political and artistic freedoms.

Some have construed this trend as a victory for democratic capitalism, that Communist countries have finally recognized—and are beginning to dispose of—the bankrupt tenets of Marxism-Leninism.

But we should not be so deluded, Mr. President. Two prominent foreign policy analysts, Flora Lewis of the New York Times and former Ambassador William Luers, have recently—and I believe correctly—argued that the economic and political changes we have seen in Communist countries do nothing to alter their fundamentally repressive political nature.

In a brilliant article which I will insert in the RECORD, Ms. Lewis observes that the softening of controls on Communist countries' economies has not meant a comparable loosening of political restraints.

As she notes:

> Leninism, the Communist form of political organization, continues to flourish: the one-party state, dictation from above, unrelenting discipline and demand for total commitment as a way to gain power over a more or less disorganized majority, the use of force once in power to suppress opposition. No existing Communist regime, no matter how far it has gone in trying to free the economy from stifling centralized control, has suggested weakening the supremacy of the party or permitting attempts to share power.

A case in point is the Soviet Union. Westerners have marveled at Mikhail Gorbachev's proposed economic and political reforms. Many have praised the cultural freedoms permitted under the rubric of glasnost.

But as Ambassador Luers observed in a recent New York Times op-ed, which I will also include in the RECORD, glasnost does not mean openness. It does not signal a major shift away from the repressive tactics of Leninism. Rather, glasnost means "publicity," or more precisely, "public airing."

Secretary Gorbachev, according to Ambassador Luers, is using glasnost to expose problems in Soviet society and the country's economy and "to frighten the bureaucracy into solving those problems." Luers rightly notes that glasnost "is an innovative and, thus far, effective device to address the Soviet system's problems—but it is not openness."

Mr. President, I do not mean to belittle Soviet or Chinese reforms by raising these concerns. The economic and cultural freedoms being promoted in these and other countries are real improvements and may serve as a potential bridge to better relations with the West. They should be strongly encouraged.

But they should not necessarily be taken as signs of fundamental reform. To expand on Ambassador Luers' thesis, Mikhail Gorbachev, Deng Xiaoping, and other Communist leaders may be leading their countries into the modern era with more productive, less centralized economies. But they are not setting out to turn their countries into open societies. That will remain a profound difference between democratic and Communist countries.

It is a difference of which we must always be mindful as we approach this brave new era, a fact eloquently put forward by Ambassador Luers and Ms. Lewis. Mr. President, I ask that their articles be printed in the RECORD, and urge our colleagues to read them carefully and with a view toward the future.

There being no objection, the articles were ordered to be printed in the RECORD, as follows:

A GLOSSARY OF RUSSIA'S THIRD REVOLUTION

(By William H. Luers)

As the West contemplates the unfolding of Russia's third revolution in this century, we must make as much of an effort to understand what is not happening as we make to understand what is happening.

Mikhail S. Gorbachev's techniques for carrying out his revolution have been labeled "glasnost," "perestroika," democratization" and "new thinking." We must examine these words to comprehend what Mr. Gorbachev is trying to achieve for Soviet society and how his reforms can be an asset rather than a hindrance in Soviet-American relations.

Mr. Gorbachev is asking for no less than radical change. Lenin's utopian and violent revolution sought to destroy Czarist Russia and to build a new, world society, no less. Stalin's brutal revolution sought to concentrate all power in the Kremlin in order to force industrialization and to consolidate control over the empire. Mr. Gorbachev's more humane revolution seeks to make the Soviet Union a more efficient and productive society and a superpower that can better balance political and economic strength with military might.

Mr. Gorbachev's opponents in the vast bureaucracy would like to turn the four key phrases in this new glossary into signs on four new facades in Potemkin village. He would like to tear down all the Potemkin villages to reveal the troubled reality of the Soviet economy in order to fix it.

Through shallow execution of orders and Oblomov-like passivity, the bureaucrats will try to block the reforms. Lenin and Stalin achieved their revolutions by exiling, imprisoning or putting to death tens of millions of real or imagined opponents. What distinguishes Mr. Gorbachev are the more humane methods he is using to begin his reforms.

Now to the glossary. First, glasnost-the most refreshing and, up to now, the most important innovation of the Gorbachev leadership style—does not mean "openness, candor or self-criticism." In most dictionaries, it literally means "publicity." Those other English words have perfectly fine literal Russian translations: openness is "otkrovennost," candor is "iskrennost" and self-criticism is "samokritika."

Even if we accept that glasnost has assumed greater weight over the last few months, its meaning is clearly close to "public airing" or "public disclosure" or, in colloquial American English, "to tell it like it is."

Mr. Gorbachev is using glasnost to identify problems, to build public support and to frighten the bureaucracy into solving those problems. It is an innovative and, thus far, effective device—but it is not openness.

If Mr. Gorbachev is really calling for openness and not glasnost, he should have this agenda: to open up the frontiers to all travel to and from the Soviet Union; to free all prisoners of conscience from prisons, labor camps and psychiatric institutions; to allow open access to the entire country, its officialdom and its citizenry; to open archives and records of statistical information; to allow the sale openly of all Western periodicals; to open up all churches and allow free practice of religion; to allow the open functioning of voluntary associations and societies to compete openly with the Communist Party for local and national representation; to establish free trade and a fully convertible ruble; and to close down the K.G.B. leviathan for good.

This is more than a semantic quibble. Getting this translation right affects the debate about the proper American policy toward Moscow.

American conservatives, who are never inclined to recognize change in Soviet society and who oppose dealing with the Kremlin in general, will seize on what they see as the hypocrisy or limitations of this "openness" to obstruct negotiations with the Soviet Union.

Liberals will either defend Mr. Gorbechev's "openness," arguing that he is moving in the right direction or eventually become naïvely discouraged when they discover after some dreadful Soviet behavior that Mr. Gorbachev is not, after all, becoming a democrat.

The Eastern Europeans, who perhaps stand the most to gain from Mr. Gorbachev's reforms, take the glossary very seriously and study these words and how they are used. They write articles on the meanings. The Czechs, for example, whose Slavic language is close to Russian and who have a root verb identical to that of glasnost, have no equivalent word. In print, the Czechs use the Russian glasnost and know it has something to do with "public airing."

For "perestroika," the closest definition in English is "restructuring," but we will not know its significance for many years. "Restructuring" *is* the economic reform. How far Mr. Gorbachev can take the reform to ease the severe restraints of central planning and the price system will be the true test of his program. The reform he recently had approved by the Supreme Soviet, the nominal legislature, is a first step.

The Czechs have fun with "perestroika." They have a similar word, "prestrojeni," which means "disguise," reflecting the great skepticism that still surrounds this phrase.

The East Europeans and Russians still doubt that Mr. Gorbachev can really design and carry out a radical reform. In Prague recently, one Czech told me seriously that the first Soviet official to use this phrase was a Moscow party boss in the 1930's who ordered a "perestroika" of the major streets of the capital. That "perestroika" consisted of stripping away all the mud until they reached the bedrock roads of Czarist Russia.

"New thinking" and glasnost have engaged the intellectuals and technocrats in one of the most refreshing examinations of the basis of socialist society since the early 1920's.

Czechoslovak technocrats say candidly that the inspiration for the "new thinking" is now coming from Moscow. Many of the key theoretical questions relating to foreign policy and the key issues of state planning and pricing are being debated.

This "new thinking" has already resulted in Mr. Gorbachev's arms control initiative. The impact of the "new thinking" will be measured over the next few years by the depth of the "restructuring" and the new shape of Soviet foreign policy.

"Democratization" is a word that simply has a very different meaning in the Soviet Union than it does in the West. The possibility of multiple candidates for office all over the Soviet Union and greater worker participation in factory management offers an interesting and needed channel for popular participation. It is not democracy in our sense. The Czechosolvaks, for example, who had a real democracy between 1918 and 1938, know the difference between Mr. Gorbachev's "democracy" and its Western form.

Most important, let's not infer that Mr. Gorbachev is calling for an open society. He is not—neither in his language nor in ours. We will do him and our relationship with his revolution a disservice by persisting in saying, and eventually believing, that he stands for openness or an open society.

The Soviet Union has never known an open society. Open societies have had to struggle throughout modern history with the ambiguities of power and with the trade-offs between individual freedom and national security, as Karl R. Popper, the philosopher, states in his classic work "The Open Society and Its Enemies."

Mr. Gorbachev may be the most attractive, intelligent and humane Soviet leader we have dealt with. He may also be the most willing and most challenging collaborator yet in the business of better managing the superpower relations and reducing the risk of war. He may lead the Soviet Union into the modern era as a more productive, less centralized economy. But he is not setting out to make the Soviet Union an open society. That will remain a profound source of difference between the superpowers.

COMMUNISM WITHOUT MARX

(By Flora Lewis)

Dzingai Mutumbuka, Zimbabwe's quick-witted Education Minister, was expounding the need for private investment, foreign capital and more small business to promote African development. Suddenly, from the audience of the Botswana conference, a young woman asked in evident bewilderment, "Does that mean that socialism is over?" The Minister chuckled. "There is nothing in socialism against profits," he said. "The difference is that under socialism, nobody gets exploited."

Nobody can say for sure what socialism is any longer, or rather so many people say so many different things that they are really saying is, as Humpty Dumpty said to Alice, "It means just what I choose it to mean."

For a long time, the system initiated by the Bolsheviks after the Russian Revolution was considered the very model of a Marxist state. Under Stalin, the system's ideology came to be called Marxism-Leninism-Stalinism, and the phrase—truncated to Marxism-Leninism after Nikita S. Khrushchev's de-Stalinization campaign—is still very much a part of the Communist world's litany.

But the old magnetic appeal and the certainties clearly aren't there anymore. Almost every self-proclaimed Marxist-Leninist regime tinkers with the once-unchallengeable formula. The Soviets and their Eastern European allies now use the phrase "real socialism" to distinguish their systems from those of other claimants. What's more, as a Mozambican official noted recently, "Gorbachev is doing things he would have been put in jail for advocating five years ago."

Indeed, there has been a spectacular decline in the attraction of Soviet ideology. The system of "the socialist motherland" no longer serves as anyone's ideal. The Soviets themselves admit "mistakes," "stagnation," "corruption," "inefficiencies." Almost every other Communist regime accepts the necessity of adapting to "national circumstances," undermining the previous dogma that the ideology provides a predetermined, universal guide to historical triumph.

There is a sharp debate among American intellectuals today over the contemporary status of Communism. Some point to the tremendous decline in its appeal and pronounce victory; others, to the tremendous armed power of Communist states and cry alarm. Both groups fail to make the distinction between Marxist ideology and Leninist organization.

Despite its apostles' insistence on the "Marxist-Leninist" tag, what is happening today is the divorce of Marxism and Leninism. They are separating, so that now one must look closer to see which way a country is really going. It was startling to see that China now allows the limited purchase of stocks in certain circumstances, but as the recent tightening of political controls has shown, it certainly doesn't mean that the country is "abandoning Communism," as some said. And it is evident that Mikhail Gorbachev's reform program is not challenging the fundamentals of the Soviet system, but that certainly doesn't mean nothing is changing in the Soviet Union.

Founded on the belief that economic power ultimately determines everything else about a society, Marxism posits a system for complete control of the economy in the conviction that all other problems will then automatically be soluble. Leninism, on the other hand, is a system aimed at the complete organization of political power, which thereby assures control of everything else, including the economy. It has become increasingly clear that Marxism can be well diluted in the economy, and that Leninism will still survive unweakened. The other way around scarcely works, as it has turned out.

In the Third World, though some regimes still call themselves Marxist, most have developed a willingness to try an assortment of mixed-economy programs. In Zimbabwe, for example, Robert Mugabe came to power as a Marxist, but it has been widely noticed that his country's relative economic success is due to Mugabe's ability to maintain a sturdy, white-dominated private sector. He is not apologetic; indeed, he is proud of it. Results, not labels or creed, are the key test in most decolonized countries now. The emotional line that must not be crossed has to do with national pride, safeguarding the new sense of sovereignty and independence, not ideology.

But Leninism, the Communist form of political organization, continues to flourish: the one-party state, dictation from above, unrelenting discipline and demand for total commitment as a way to gain power over a more or less disorganized majority, the use of force once in power to suppress opposition. No existing Communist regime, no matter how far it has gone in trying to free the economy from stifling centralized control, has suggested weakening the supremacy of the party of permitting attempts to share power.

When Chinese students demonstrated for political democracy last December, they were briefly tolerated, and then there was a sharp crackdown. After the special Central Committee meeting the following month that deposed First Secretary Hu Yao-bang, a communique reasserted the "four cardinal principles—the socialist road, the people's democratic dictatorship, leadership by the Communist party, and Marxism-Leninism and Mao Zedong thought." But it also reaffirmed economic reforms, proclaiming economic construction as the "central task."

Even some non-Communist third-world regimes are trying to develop a Leninist-style hierarchy and discipline. What distinguishes these governments from old-style dictatorships, which were usually based on the military, is their emphasis on party supremacy.

In Zimbabwe, Mugabe is pushing for a one-party state, though the mixed economy there would not necessarily be affected. In Kenya, by no means a Marxist state, President Daniel arap Moi recently forced through a law strengthening his power to appoint and dismiss key officials. This provoked a debate in the Kenyan legislature over whether the parliament or the party was the ultimate seat of power. President Moi proclaimed that "the party is supreme" and therefore, as president of the party (not necessarily as president of the country), the rights reverted to him. This is a hallmark of Leninism.

These developments make it possible to see that the hyphen linking Marxism-Leninism was arbitrary, not an inevitability but one of those extremely imported conjunctions in history with enormous but not necessarily irreversible effects. Leszek Kolakowski, the Polish political philosopher, said flatly in an interview in Partisan Review that "Marxism-Leninism is nothing more than Stalin's doctrine."

Marx "never imagined communism or socialism as a kind of concentration camp," said Kolakowski. "Quite the contrary. Nevertheless there is a kind of ideological logic which is independent of the conscious intentions of the writer. . . . I think that Leninist version, the despotic totalitarian version of socialism, was not essentially a distortion of Marxism. I think it was a well-substantiated variant of Marxism. . . ."

The essence of Leninism is its emphasis on the role and structure of the ruling party, and the principle of "democratic centralism," which establishes authority from the top down, never from the bottom up. Adam Michnik, the brilliant and articulate Polish dissident, points to three key elements of Leninism: the leading role of the party; the nomenklatura (the select group that is alone permitted the exercise of authority); and the concept of politics as war, an extension of the idea of class struggle that considers any disagreement with the dictates of the party as the mark of the enemy.

If Gorbachev's proposed reforms, including secret-ballot elections for party office with a choice of candidates, were indeed to reverse the direction of control, that would approach the margin of transformation. But to make the state non-Leninist it would still be necessary to dissolve the nomenklatura and abandon the party's monopoly on power.

On the other hand, if Moi and other Kenyan leaders move to make the ruling party unchallengeable from outside its membership or from below, Kenya could be called Leninist whether or not there is a Marxist-inspired, centrally planned economy. What would be the difference between such a non-Marxist Leninist state and a fascist one? In practice, not much, only the expression of idealism and generosity with which Leninism is ordinarily cloaked.

The economic failure of Marxism has been visible in both Leninist and non-Leninist states, but the former have a much harder time correcting their errors. The Bolsheviks will celebrate the 70th anniversary of their revolution this year. Many other countries, with different cultures and historical backgrounds, have practiced "the Leninist version" of Marxism for a generation or more. None of these countries have been able to produce to the satisfaction of their people or to provide a better way of creating and distributing wealth.

In Communist countries, the appreciation of the importance of the market is expanding. Many have recognized that the central planning system cannot establish an adequate measure of the success or failure of an enterprise. After all, profitability is the only reliable test for economic performance (there are other tests for social value). And the only reliable way to measure profitability is through a price mechanism that is allowed to respond to market forces.

The Chinese astonished the world a few years ago by announcing that "Marx didn't overrule the laws of supply and demand." And they got remarkable results by acting on their insight. Officially, China calls its policy the "socialist commodity economy," an evolving concept flexible enough to allow various kinds of experimentation. It was applied first to agriculture. Peasants were encouraged to use a part of the state-owned land for their own purposes after fulfilling their state production quotas; they were freed to market their surplus production on their own.

Within a few years, China was transformed from a huge food importer into a country able to feed its one billion people and raise the living standards of vast numbers of them. Rural incomes rose as much in the eight years from 1978 to 1986 as in the previous 30 years.

Now China is moving on to the far more intricate task of applying limited market principles to industry. The embryonic stock market is a part of this. More important is a recent decision to let the market develop prices in certain circumstances for four key industrial materials—steel, coal, lumber and cement—in order to stimulate production, as well as force enterprise managers to budget more realistically. Some workers are permitted to enter into labor contracts, giving up the guarantee of static but lifetime employment is exchange for what the China Daily called "less secure but more enterprising jobs."

Separating economic and political controls inevitably means drawing a fine line in practice. This was demonstrated to me last fall during a conversation at a huge engineering works at Chongquing. The enterprise manager and the head of the factory party committee, both fortyish, received me side by side, ostensibly as equals. But on questions of management authority, it was the manager who answered, insisting that in case of any disagreements he had the right of final decision.

The party secretary was clearly discomfited. Asked if he would rather be manager, he said very stiffly, "I am a party member and I accept the task the party has assigned to me. Besides," he added, speaking to his colleague, "you are a member of the party committee, so of course you would listen to the party's views." Even so, the manager repeated his primacy in economic decisions, and at last, uneasily, the secretary conceded: "Well, yes, he does have the last word, but he also has the responsibility. If anything goes wrong, he gets the blame." On that they agreed.

So far, Gorbachev's economic reforms have not begun to touch such key areas as private enterprise and the price system. The Soviets are tinkering with management and the structure of responsibility but do not, as far as is known, plan to introduce the idea of bankruptcy, which the Chinese have begun to use in order to provide an economic rather than administrative penalty for failure. There have long been attempts in the Soviet Union to find economic incentives, but they have either become bogged down in the bureaucratic system or come to be seen as cynical devices to squeeze more out of the workers. Debate over reform is now essentially about what kinds of incentives, with more market influence, should be tried at this stage.

Nowhere has the Marxist prophecy been realized that ownership of the means of production by the workers leads to the withering away of the state. But Marx erred in many of his predictions, most flagrantly in his forecast of the evolution of capitalism. He foresaw greater and greater concentrations of monopoly power, greater and greater oppression and impoverishment of workers, so that class war of the miserable, desperate many against the moneyed few would become inevitable. He did not imagine the astonishing expansion in total wealth that could be created by industrialization, nor the development of a market in which the workers' role as consumers would be as essential a part of the system as their role in production.

The decline of Marxism as a mobilizing vision is due not only to failure. In some ways, it is due to success. Many Marxist ideas have been so thoroughly co-opted and absorbed by capitalist societies that they are no longer identified as Marxist. The organization of labor; legislation protecting the right of workers as well as those of the weak and defenseless, especially children; public responsibility for the basic welfare of all members of society—all of these were Marxist demands that are now accepted without cavil by modern capitalism.

"From each according to his abilities, to each according to his needs" is a formulation of Marxian egalitarianism that has never been applied in any country, including Communist states. But the progressive income tax is a moderate adaptation of the impulse of generosity that it reflects, and the societies closest to fulfilling it are the Scandinavian democracies and the Netherlands. It is no longer conceivable in any advanced industrial state that certain fundamental needs of citizens, such as public health, education and the minimum of food and shelter, should be left entirely to the mercy of the marketplace. Meanwhile, in many countries the "class" of property-owners has expanded so enormously that it is now a substantial majority, when all types of ownership are included.

In Western Europe, opposition Communist parties, once so strong that they provoked real fears of their coming to power, are fading into marginal status. "Eurocommunism," launched by the Italians in the 1970s as an attempt to rally a coalition of Western Communists able to maintain enough visible distance from Moscow's tutelage to provide some independent legitimacy, has failed and disappeared.

The influence of the Marxist ideal of social justice remains compelling, and indeed still grows in some places, notably in universities where in many disciplines theory and abstraction prevail over observation. But politicians who have had responsibility for government in the West have come to see the state's role in a different light. Former French Premier Laurent Fabius explained the changed attitude of French socialists:

"We are trying to promote social justice, tax reform, better education. This means that [French socialism now] is very different from the old concept, which was based on Marxism. This is no longer the case, because we cannot relate to people only in terms of workers. There are workers and nonworkers and the nonworkers are more numerous than the workers. We cannot expect both to be Marxist and to support freedom."

Leninism's survival is a matter of will and force. Senator Daniel Patrick Moynihan of New York acknowledged the continuing vigor of Leninism in a recent article.

"Leninism" he wrote, "the theory and practice of the single-party state, of a government-owned and -controlled economy, of police terror, has proved a brutal but often effective near-term means of mobilization of power in relatively primitive societies. It proved that in Russia; it is proving so in Nicaragua."

"Near-term" is an extraordinarily optimistic assessment, and many in Eastern Europe—in Czechoslovakia and Poland, for example—would bristle at the idea that it was the primitive state of their societies rather than the well-developed state of Soviet armed force that enabled Leninism to be implanted on their soil. Further, the Leninist principle has been seen to work with breathtaking if usually only temporary success in the capture of certain organizations in the West. The rise of the Militant Tendency faction in the British Labor Party is one example; so was the emergence of the so-called Communist-front organization in America.

Domestic opposition has never yet managed to overthrow a regime organized and consolidated on the Leninist principle. (The Marxist-Leninists of Grenada were ousted, but by an American invasion. The leftist regime of Salvador Allende Gossens was overthrown by a military coup, but its Communist faction had not achieved dominance and had not consolidated Leninist power. The regime in Afghanistan, installed by a series of extremely bloody and increasingly violent internal coups, would surely fall if not for the Soviet occupation.) This doesn't mean a Leninist regime could never be overthrown or significantly reformed, as Solidarity sought to do in Poland and advocates of "socialism with a human face" hoped to do during Prague's brief "spring." But the inherent dynamic of Leninism is to organize the state's power in such a way as to prevent the success of such challenges even when the challengers are clearly in the majority.

It is true, as Senator Moynihan implies, that where Marxist societies start to move away from total economic control and to promote better economic results, challenges to Leninist political controls almost inevitably arise. For the Polish regime, this was the most intolerable aspect of the Solidarity movement, which the Warsaw Government reluctantly at first accepted in the hope that it could be limited to the factory floor. This is China's dilemma, expressed by some audacious speculation about changing the role of the party in the months leading up to the student demonstrations.

Su Shaozhi, a leading party theoretician, was quoted as saying last October: "The theme in Leninism that leadership of the party is absolute and overwhelming is consistent with an underground party, which must depend on iron discipline and linear leadership. But it should be different when the party is actually in power. Then the party should concern itself with providing the guiding lines of policy [and not running the country]."

Since Deng Xiaoping took power, there have been continuous zigzags in officially endorsed Chinese stands on how far full central political control can be relaxed and where it must be rigidly maintained. It must be assumed that Moscow was pleased with the recent stiffening in Beijing. The Soviets have shown great interest in Chinese reforms, while always emphasizing the political risks.

In Luanda, in January, Angola's Director of Information, Paulino Pinto Joao, arrived late for an appointment, explaining that he had been delayed at an important high-level party meeting "to perfect our ideological work." I mentioned that I placed little confidence in ideologies. He seemed truly appalled. "But you have to have an ideology," he said, "or you don't know where you're going. How else do you explain to people why they have to work and fight?"

A few days earlier, in Maputo, Mozambique, a country that has moved much farther away from dogma than Angola, a party official said with an air of resignation that the reasons for ideological rigor had seemed inescapable at first, and that it was only with experience that the regime was learning to define its needs in more practical ways.

"During the fight for independence," he said, "Marxism was a tool to understand our reality. It was useful to mobilize people. When we found the texts, we felt we knew why our circumstances were as they were. And the Soviets were always preaching against colonialism, against exploitation. It seemed natural to look to them."

Now the regime has turned to emphasizing goals—independence, nation-building, development—that are seen as appealing enough in themselves not to need a dogma that gets in the way of solutions. "We suffered from radicalism," said the official, "which is a disease, the disease of young revolutions. But we see that we can't deal with reality that way."

On Sept. 2, 1986, Deng Xiaoping said in an interview with Mike Wallace in which he stressed the breadth of his reform movement: "I am a Marxist. . . . We made the revolution, won the country and finally founded the People's Republic of China because we had this faith and this ideal."

Today, even though "Marxism-Leninism," like "Mao Zedong thought," remains a hallowed phrase, the content has been vastly changed and the blind faith it once evoked has been shattered everywhere.

The divorce of Marxism and Leninism means that the techniques of holding power have outlived the inspiration that drove people to organize in revolutionary zeal. This is worrying to some shrewd students of political-intellectual history. For, as one of them, the Italian commentator Arrigo Levi, points out: "It is dangerous when a vacuum appears on the left. Something worse always turns up to replace what has drained away."

ORDER OF PROCEDURE

Mr. BAUCUS addressed the Chair.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. BAUCUS. I yield.

Mr. BYRD. I thank the Senator.

CONCERN OVER INABILITY OF AMERICAN CITIZENS TO MAINTAIN CONTACT WITH RELATIVES IN THE SOVIET UNION

Mr. BYRD. Mr. President, while the minority leader is on the floor, I ask the minority leader if Calendar No. 263, Senate Concurrent Resolution 29, has been cleared on his side of the aisle.

Mr. DOLE. It has been cleared on this side of the aisle.

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 263.

The PRESIDING OFFICER (Mr. ADAMS). The concurrent resolution will be stated by title.

The assistant legislative clerk read as follows:

> A concurrent resolution (S. Con. Res. 29) expressing the sense of Congress regarding the inability of American citizens to maintain regular contact with relatives in the Soviet Union.

The PRESIDING OFFICER. Is there objection to the present consideration of the concurrent resolution?

There being no objection, the concurrent resolution was considered and agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 29

Whereas millions of United States citizens, including members of national and ethnic groups such as Armenians, Byelorussians, Estonians, Germans, Jews Latvians, Lithuanians, Poles, Russians, and Ukrainians, have relatives in the Soviet Union;

Whereas the Soviet Union, as a signatory of the 1975 Final Act of the conference on Security and Cooperation in Europe, commonly known as the Helsinki accords, committed itself to "favourably consider applications for travel with the purpose of allowing persons to enter or leave their territory temporarily, and on a regular basis if desired, in order to visit members of their families.";

Whereas in that same document the Soviet Union pledged that "applications for temporary visits to meet members of . . . families will be dealt with without distinction as to country of origin or destination . . .; cases of urgent necessity—such as serious illness or death—will be given priority treatment.";

Whereas the Soviet Union has ratified the United Nations Charter and signed other international human rights documents such as the International Covenant on Civil and Political Rights, documents which clearly protect the right to leave one's country and return thereto;

Whereas in anticipation of the Geneva Summit Conference of November 1985, President Reagan stated, ". . . the cause of peace would be served if more individuals and families could come to know each other in a personal way.";

Whereas home visits would immeasurably aid our understanding of the Soviet people and improve relations with the Soviet Union, since family visitation is one of the most basic forms of cultural exchange;

Whereas it is not proper for governments to decide which relationships constitute close family ties for the purpose of determining which relatives should be allowed to visit each other;

Whereas the present policies of the Soviet Union make it virtually impossible for the millions of relatives in the two countries to exchange visits in their homes, and relatives who have used other forms of communication, such as mail, telephone, telegraph, and gift parcels have experienced enormous difficulties;

Whereas because of restrictive Soviet policies, less than one thousand of the many thousands of Americans who visited the Soviet Union in 1986 were allowed a private visa to stay with relatives in their homes, and only about one thousand five hundred Soviet citizens were allowed to visit their relatives in the United States;

Whereas many Americans who have been frustrated by delay or denial in obtaining private visas to visit family members in their homes in the Soviet Union have resorted to joining package tours to the Soviet Union as a means of seeing their family members;

Whereas relatives should be able to comfort and assist each other in the event of medical emergencies such as those which resulted from the Chernobyl disaster, or when specialized medical treatment is not available in a particular country;

Whereas in the case of serious illness or death the victim's relatives should be guaranteed expeditious determination of their visa applications;

Whereas family visitation is an issue which transcends political differences, and governments which permit normal and regular family visitation demonstrate a commitment to basic values of decency and fairness which are shared by all mankind; and

Whereas at the Vienna Conference on Security and Cooperation in Europe Follow-up-Meeting, the United States delegation enumerated the inappropriate restrictions placed by Soviet authorities on Soviet citizens who wish to travel abroad and on United States citizens who wish to visit family members in the Soviet Union: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of the Congress that—

(1) the promotion of unrestricted family visits between related people of the United States and the Soviet Union is an essential part of American policy toward the Soviet Union; and

(2) the President, the Secretary of State, and other members of the administration should raise the issue of family visitation at all appropriate opportunities in discussions with the leadership of the Communist Party and the Government of the Soviet Union.

Mr. BYRD. Mr. President, I move to reconsider the vote by which the concurrent resolution was agreed to.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

TEMPORARY EXTENSION OF THE PUBLIC DEBT LIMIT

Mr. BYRD. Mr. President, the short-term debt limit has come over from the House, and the distinguished Republican leader and I have been discussing the taking up of that measure shortly.

Mr. DOLE. We have no objection to proceeding to it.

Mr. BYRD. The minority leader has stated to me privately and on the rcord that there is no objection on his side to proceeding.

I ask unanimous consent that the Senate proceed to the consideration of the House bill extending debt limit temporarily.

The PRESIDING OFFICER. The bill will be stated by title.

The assistant legislative clerk read as follows:

A bill (H.R. 3022) to provide for a temporary extension of the public debt limit.

Mr. BYRD. Mr. President, I do not intend to proceed with action on this measure at the moment. I ask that further consideration of the bill be set-aside temporarily.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. DOLE. Mr. President, we did have an agreement that we could bring up the House-passed short-term debt extension, and we will be trying to clear passage—without amendment, if we can. We are awaiting Senator PACKWOOD and Senator DOMENICI on this side, as well as two other Senators, to clear that with them, and I will be back to the majority leader.

Mr. BYRD. I thank the Republican leader.

SECRETARY OF COMMERCE MALCOLM BALDRIGE

Mr. BAUCUS. Mr. President, like many of my colleagues, I was shocked to learn of Secretary Baldrige's death this past Saturday.

He died while pursuing one of his beloved avocations: roping steers. And that is fitting. Because Malcolm Baldrige had a lot of the cowboy spirit in him.

He reminded me of the cowboys I know in Montana. He did not speak unless he had something to say. Because of that, his words carried greater weight.

Yet, for all his cowboy spirit, he was as comfortable with diplomats as he was with cowboys. And he had the respect of every person he dealt with here on Capitol Hill.

He certainly had my respect.

He served as Secretary of Commerce at a difficult time in our Nation's history; a time when our trade deficit grew exponentially, and the pressure for quick simplistic solutions was great.

Mac Baldrige resisted the temptation to fall for simplistic solutions. He insisted that we address the real causes of the trade problem.

He was one of the first people in the administration to recognize the danger of the overvalued dollar. He worked hard to change the administration's policy. It is clear now that he was absolutely right.

As the debate between free trade and protectionism grew, Secretary Baldrige charted a middle course. He agreed that free trade was the goal. But he took a tough stand against foreign practices that were plainly unfair.

He gave practical meaning to the distinction between free trade and fair trade.

But his most significant accomplishment was his effort to improve U.S. competitivenesss. He correctly saw declining competitiveness as one of the primary causes of our trade problem.

He was a businessman in the old school.

He began as a mill hand and rose to head the Scovill Corp.

He was one of the few individuals in government who spoke with real knowledge on the importance of improving performance on the factory floor.

He disdained the kind of financial managers of the 1980's who believe that a Harvard MBA and an air-conditioned office can replace hands-on experience. His own experience told him otherwise.

In short, Malcolm Baldrige was a steady voice during a troubled time.

Will Rogers once said, "There's a little cowboy in all of us—a little frontier."

There was much more than just a little cowboy in Malcolm Baldrige. And that made him conquer much more than just a little frontier. He was a big man.

I am honored to have known him. He will always have a special spot in my mind, and in my heart.

A WASTE OF TIME

Mr. DeCONCINI. Mr. President, the situation in Angola is one which the American people are truly bewildered and confused about United States' policy. They should also be angry. U.S. businesses are protected by 40,000 Cuban and Soviet troops, and eagerly pay them millions of dollars for this protection. Who are they being protected from? The United States supplied UNITA forces who are struggling to negotiate fair and free elections for the people of Angola. Who is preventing this? The Marxist government which does not even have diplomatic relations with the United States. This is truly an absurd American foreign policy.

In a recent Washington Post article, Assistant Secretary of State, Chester Crocker, commented upon the progress of United States talks with this Marxist government. He said: Despite Luanda's earlier promises, no new proposals were made, no fresh ideas emerged, and the talks were basically a waste of time. These talks entailed discussion about Namibia and the withdrawal of an estimated 35,000 Cuban troops. Angola has once again rejected the Assistant Secretary's attempts to negotiate on this matter.

Mr. President, Mr. Crocker was boldly claiming 2 weeks ago that Angola was clearly willing to improve relations with the United States, discuss new ideas for Cuban troop withdrawal, and even release a captured U.S. civilian pilot. This happened to occur a few days prior to a vote on the Senate floor debating a trade embargo on Angola. Two weeks ago there was an atmosphere pregnant with potential. Now, the Marxist government has again told Mr. Crocker that they will not consider Soviet or Cuban troop withdrawal, they will not talk with the non-Communist opposition seeking democratic elections, nor will they link any of this to an independent Namibia.

Mr. President, this contradictory foreign policy unfairly compromises American taxpayers. This should not be tolerated without some efforts to formulate a coherent response. As an article which appeared in the July 25, 1987, Washington Post points out, Mr. Castro and Mr. Gorbachev are directing Angolan policy, yet we continue to negotiate with the MPLA government. I agree with Mr. Crocker; this is a waste of time. Angolan human rights, democratic elections, and peaceful reconciliation between the MPLA and UNITA, should be pursued through direct talks between the United States and the Soviets. Mr. Castro should not be articulating Angolan policy.

Mr. President, I ask unanimous consent that three articles be placed in the Record.

There being no objection, the articles were ordered to be printed in the Record, as follows:

U.S.-Angola Talks On Namibia Called "Waste of Time"

Lisbon, July 22.—President Reagan's top Africa expert today described his talks last week with Angolan officials on Namibian independence as a waste of time that had dashed any hope of new diplomatic initiative.

Assistant Secretary of State Chester A. Crocker said Angola's Marxist government offered no new ideas for agreement about independence for the South African-occupied territory or the withdrawal of an estimated 30,000 Cuban troops from Angola.

"Despite Luanda's earlier promises, no new proposals were made, no fresh ideas emerged and the talks were basically a waste of time," Crocker said in a televised news conference from Washington.

Crocker went to Luanda for two days of talks last week after receiving what State Department officials described as promises of a new initiative during discussions with Angolan Interior Minister Kito Rodrigues last April.

"There is clearly disunity within the Angolan leadership about the whole issue and I got the impression they had received no clear instructions from the top. . . . But the door is still open and we are ready for further direct contact," he said.

Washingtion, which supports the Angolan rebels, is trying to get South Africa to grant independence to neighboring Namibia in return for the withdrawal of Cuban forces from Angola. Angola has rejected such linkage.

Cubans, Soviets Blamed for Stall In Angolan Talks

(By David B. Ottaway)

The Soviet Union and Cuba appear to have blocked a bid by Angola to offer new proposals to the United States on the withdrawal of Cuban troops from the war-torn country in southern Africa, according to a senior administration official.

The official said a high-level Cuban delegation visited Luanda just before the visit there of Assistant Secretary of State Chester A. Crocker, who talked with Angolan officials about the Cuban troop withdrawal issue in the Angolan capital July 14-15.

"We sense the Cubans are telling the Angolans it's all or nothing," the official said. Angola proposed a partial pullout in its last formal proposal, made in late 1984.

The United States had had "extensive indications" from the Angolans that they were prepared to make "fresh proposals" on the Cuban withdrawal issue. But the official said Crocker found that Angolan negotiators had "virtually no instructions" and presented only a reformulated version of their 1984 position.

The official suggested that Moscow also may have played a role in sabotaging a resumption of the U.S.-Angolan contacts and negotiations that had been suspended for 15 months.

He said Soviet Deputy Foreign Minister Anatoly Adamishin had told Crocker during a July 2 meeting in London that Moscow believed the negotiations were "stalemated" and that it was "fruitless" to continue unless their "substance" changed, an apparent reference to the Cuban troop withdrawal issue.

Whether the Angolans had a last-minute change of heart about making a new proposal to the United States is questionable. Angolan President Jose Eduardo dos Santos told visiting American reporters June 30—two weeks before Crocker's trips to Luanda—that "as long as [South African] apartheid continues to threaten Angola, Cuban troops will stay in this country." This is the position Cuban leader Fidel Castro has articulated for some time.

Reagan Says Soviets Show "Indications of Change"—Softer Rhetoric Reflects Hope for Summit

(By Bill McAllister)

President Reagan, in a speech that appeared to reflect White House hopes for a summit with Soviet leader Mikhail Gorbachev, yesterday welcomed "indications of change" in the Soviet Union and played down his normally sharp anticommunist rhetoric.

The speech, to a Captive Nations Week gathering that is aimed at publicizing human-rights violations in nations under Soviet domination, came in a week in which the Soviets agreed to a key element in arms control talks: the global elmination of medium-range nuclear weapons. A White House official said later that the president is not retreating from any positions but is trying to avoid being provocative as the two countries approach what is expected to be a fall summit.

"There are indications of change coming from the Soviet Union, and those are welcome," Reagan said yesterday, departing from his text. "But we should not and cannot turn our attention away from those who look toward the day there is improvement in human rights and basic freedoms."

The president's 15-minute speech, delivered to a luncheon audience of nearly 300 at the Ukrainian Catholic National Shrine in Northeast Washington, did attack the Soviets for their suppression of freedoms in countries allied with the Soviet Union.

In the talk, however, Reagan passed over several pointed references to Gorbachev in his text and at one point appeared to link Soviet abuses in other nations to one of Gorbachev's predecessors. Leonid Brezhnev.

"Let us hear that the so-called 'Brezhnev Doctrine' is no longer policy, [that] it is null and void," the president said. "Let the Kremlin announce or renounce the use of force as a means of imposing on any people a form of government they do not choose."

The president recounted the tale of Petro Ruba, a prisoner held in the Soviet gulags, first for making a wooden replica of the Statue of Liberty and then for criticizing the Soviet invasion of Afghanistan. Reagan urged that Ruba be freed, but he omitted addressing that appeal directly to "Mr. Gorbachev" as his prepared text did.

Reagan also dropped a line saying that if Ruba is released "we will know that *glasnost* [Gorbachev's policy of openness] is not just the 20th century version of a Potemkin village," a reference to an 18th century ploy by Russian Empress Catharine the Great to make the lives of the peasants appear idyllic.

Last year, in the White House observation of Captive Nations Week, Reagan spoke of a "massive military buildup" by the Soviets and had dissident Anatoly Shcharansky as his guest at the White House when he signed a proclamation for the week.

The president appeared upbeat and buoyant throughout an hour-long luncheon with refugee community leaders, most of East European descent. "We joked; his jokes were better than mine," said Lev E. Dobriansky, former U.S. ambassador to the Bahamas and a Ukrainian American who long has championed the "captive nations" cause.

The president used the forum to reiterate, without mentioning the Iran-contra hearings as a cause, that public support for the contras fighting in Nicaragua is growing.

"I predict that the increased awareness of the American people . . . will permit us to continue providing weapons and support to those brave individuals who are struggling for the right to choose freedom and not continue a communist dictatorship in their native Nicaragua," he said.

Administration officials expect that Reagan will ask Congress for $140 million to fund the contras for 18 months after the current budget expires in October, funding that would last into the next administration.

Many in the captive nations group appeared happy with his speech, although several noted Reagan's rhetoric was not as strident as in the past. "Very positive without using very big words," said Laszlo Pasztor of Pittsburgh, chairman of the National Federation of American Hungarians Inc. "No one wants to be a warmonger."

JOHN FRANCIS KIFFNEY

Mr. PELL. Mr. President, it is with sadness that I note the untimely death in my State of Rhode Island of John F. Kiffney, for the past 21 years an able and particularly highly regarded reporter for the Providence Journal.

I knew, liked, and had very real affection for John Kiffney, as did, I am confident, everyone with whom he came in contact. He was the sort of news reporter you like and remember. A small man with a gentle manner, he was a polite but very persistent questioner. And, at least from my experience, he always got the story right; the quote was just as you said it, the facts were just as you understood them. He was a pro who was a joy to deal with.

And he was as fine a man as he was a reporter. He had an enormous circle of friends who enjoyed his pleasant manner, his quick mind and wit and his staunch loyalty.

Mr. President, John Kiffney died of cancer at the young age of 45. He knew of his affliction for the past 8 months or so and dealt with it as one knew he would: openly, with strength and courage and with grace.

I grieve with and for John Kiffney's widow and his parents and his innumerable friends and know I will miss him, as they will.

I ask unanimous consent that a column about John Kiffney by the Providence Journal's political reporter M. Charles Bakst be printed in the RECORD.

There being no objection, the column was ordered to be printed in the RECORD, as follows:

REPORTER JOHN KIFFNEY DIES OF CANCER—JOURNAL-BULLETIN VETERAN WAS DEVOTED TO JOB, FRIENDS AND SAVORING LIFE

John Francis Kiffney died yesterday at the age of 45. He was a reporter and he'd give you the story straight: He died of cancer.

He died uncomplainingly, without feeling sorry for himself.

He wrung from life all that it offered. He made people feel good.

Some men collect stamps. Carol Young, a top editor here, says of Kiffney, "He just collected friends."

Maybe you knew him for his stories from the State House, or maybe you knew him from the Follies, the satirical revue the Providence Newspaper Guild stages each year at the Venus de Milo.

Or maybe you didn't know him at all. He did not attract the spotlight and you didn't see him much on TV.

And although he ran the Follies, devoting weeks to the details of tickets and equipment rentals, his role was mostly behind the scenes.

"He was just kind of the thread that wove through the whole thing that nobody noticed," says reporter Karen Lee Ziner, a Follies player.

Reporter Bob Kerr—a Follies star—says, "I think we took him for granted. We just assumed all the details would be taken care of."

At a glance, the Journal Bulletin newsroom, with its red carpets and sophisticated computers, might look like a sedate insurance office.

But today's paper remains much the maelstrom of The Front Page.

A tanker runs aground, splits and touches off an oil spill.

Or there is a rash of teacher strikes. A mob boss dies. A crippling storm. A triple fatal accident.

Reporters dash to the scene and file notes, often in confused fashion; editors scurry to remake pages. And in the middle of the newsroom is a rewrite reporter. A good one, a Kiffney, is the picture of coolness. From the notes from the field reporters, from talking with the reporters, from more calls he places, the rewrite man weaves together a clear, crisp, often gripping story.

Do it right and it looks easy; few realize what you've accomplished.

For years, Kiffney was top rewrite man for city editor Al Johnson, now retired.

"He was a real pro," says Johnson. "He was a good writer. He was fast. He was accurate. He was everything a city editor needs to have on the floor at crunch time."

I knew Kiffney best from the State House, where he worked with Tom Walsh and me and took on the most complex and tedious stories—ongoing sagas, like workers' compensation overhaul and the Constitutional Convention, that entailed night after night, week after week of meetings. He carved them out and made them his own.

"A real sport and real good," says Walsh, now of Blue Cross.

"Especially when he was single, he didn't have as many pulls and tugs on his time as I did. There were occasions I was supposed to be at a ballgame or a concert with the kids and he would always volunteer to take the assignment. He'd say, 'Don't worry about it.' You didn't even have to ask him."

At times, Kiffney immersed himself in presidential politics. His dispatches, like this from January 1984, read like letters home:

PORTSMOUTH, N.H.—An American presidential campaign is the only event that will send television crews scrambling when a man decides to stock up on underwear.

Two network cameras were recording everything as Sen. Ernest F. Hollings of South Carolina and his wife, Peatsy, leaned over a mill outlet counter the other day to buy long johns and wool socks. . . .

Later, the Democrats, with Walter Mondale at the head of the ticket, nominated a woman, Geraldine Ferraro, for vice president. It was a big moment, which Kiffney soon captured with one simple image:

BOSTON—Lynda Ryan lifted her nine-month-old daughter, Caroline, into a stroller yesterday and began the six-mile walk from her surburban Belmont apartment to watch Geraldine A. Ferraro make her first campaign appearance. . . . She could tell her daughter someday that she was part of history.

At the State House here, Kiffney hobnobbed with the bigwigs of Rhode Island politics. Some people find this intoxicating. But Kiffney was not consumed. Says Walsh, "I remember once after a particularly long legislative session, he said. 'Boy, it'll be good to go back to the city room and cover a fire. I like doing that every now and then.' "

He grew up in the state of New York, went to Syracuse University, and became a copyboy at the old New York World-Telegram & Sun in 1965. Then he became city desk clerk, answering phones, supervising copyboys and processing weather forecasts.

In 1966, plans were announced for a merger with two other papers; advancement prospects looked bleak, and Kiffney became a reporter here.

The World-Telegram's successor, the World Journal Tribune, published for less than a year. Kiffney stayed in business into this spring although he learned in 1986 that he had cancer and it was eating him up.

HE SIMPLY ENJOYED

Think of Kiffney and you smile.

"He could get enjoyment out of the smallest things," says Ziner, recalling, for example, a stop at an out-of-the-way bookstore. "It would just be this treasure he found and wasn't this wonderful."

He loved the Red Sox and saw them train in Florida, not far from his family's summer retreat.

He was born with a rare hereditary bone affliction which caused a slight limp. He almost never mentioned it. It did not, however, interfere with his love of golf.

He'd play with newsroom buddies like Lee Dykas, who says, "He never was what you'd call a good player, but he was wonderful company and he was very enthusiastic."

With his arms so short, Kiffney used special clubs that were short and light, and he had his own scoring system. "He always considered a bogey (one over) to be par," says Dykas. "He considered par a birdie (one under). And he'd light up like a kid when he got a real birdie.

He'd go to places like Leo's and enjoy a Beefeater martini straight up with a twist.

I remember pleading with him all the time to give up smoking—he was wicked, with his Benson & Hedges cigarettes—and, after the longest time, one day, just like that, he did quit.

It happened not long after his marriage, on New Year's Eve, Dec. 31, 1985, to Sheila K. Lawrence, in a ceremony in a friend's house in Woonsocket. Family Court Judge Haiganush Bedrosian presided, but the couple made up the wedding themselves. It was like something out of the 1960s, with lots of candles and personal testaments.

The ex-bachelor had a new life.

And then one morning last fall, Mike Young, an editor here, told me the news and it was as if he had punched me in the teeth.

Kiffney had cancer. It was in the stomach, liver and esophagus. In fact, Kiffney, who for months had had trouble eating, now could barely talk. But he had covered every session of the Constitutional Convention and every nuance of the referendum campaign, and there was no way he'd miss Election Night, and he came in and did his story.

KIFF! KIFF! KIFF!

Soon he'd be in and out of the hospital, but, his voice improved, he worked when he could, and he kept on producing the Follies, a massive undertaking that annually attracts more than 1,000—a who's who of politics, labor and business—to the Venus.

Reporter Brian Jones says, "He had his own little system of getting the mailings out to the list that grew every year of the people who wanted tickets. He had a thing where he wanted every invitation to be hand-addressed." Kiffney would break the master list down into groups of 30 or 40, take a batch of invitations, tickets and envelopes, put them in little bags and distribute them to Guild members who'd help him out.

This last time, Jones was worried. The turnout for the Follies would be of record proportions:

"There weren't enough tables and enough seats. I remember thinking, 'I'll really have to get to the Follies early to stand next to Kiff to sort this out.' He had diagrams of every table and cross-indexed lists of tables and people and parties, so that as everybody came into the Venus he could direct people to go to what table. He kept a mental and written list of where the vacancies were. Over 90 minutes, he could parcel out, almost in patronage fashion, the remaining seats, two to a table. The guy was able to juggle, sort of like a master politician, this very sensitive job of getting everybody seated, and there were no complaints."

Some of the potential Follies skits run to the dicey. To Alan Rosenberg, director of the show, Kiffney was the final arbiter of taste, and a subject of respect. Just before last February's performance, the cast gathered for a pep talk in the Venus lobby. "I felt like I should say something about John," says Rosenberg. "I said we wanted to give a hand to the producer. And we started applauding, people spontaneously chanting, 'Kiff! Kiff! Kiff!' He seemed overwhelmed."

DYING, BUT STILL LIVING

When Karen Ziner thinks of Kiffney and cancer, she thinks, "Gracefulness."

She says, "He always approached this very realistically, kept up his hope, didn't grumble."

Kiffney signed on with Hospice, the organization that helps people who are dying, dying at home, with dignity. A few weeks ago, I asked Bob Chiappinelli, a reporter trained as a Hospice volunteer, what it means when a person is willing to have Hospice aid. Chip said, "Hospice accepts that you're dying, but still living, . . . He's not dwelling in the past, but living for the moment."

That was Kiffney. When he had been in the hospital for chemotherapy, he's take six books with him. And on the day of the Belmont, I brought him the Daily Racing Form and he was thrilled.

He never said he got a tough break. Says Ziner. "He just kept saying to Sheila, 'I don't want you to feel sorry for me.'"

However bad it got, says Ziner, Kiffney would find some good in it. Toward the end, he'd rest on a couch on the porch of his house in Cranston and say what a blessing it was that he could be out where there was a breeze and he could watch the kittens play.

"His friends could come by, and he liked that." says Ziner. "He'd complain now and then that he was in pain. The thing that impressed me was he'd tell me to be really frank with people and tell them exactly what was going on with him."

In 1978, Vice President Mondale eulogized Hubert Humphrey:

"He taught us all how to hope and how to love, how to win and how to lose; he taught us how to live, and, finally, he taught us how to die."

In 1987, you could say the same thing about John Francis Kiffney.

MALCOLM BALDRIGE: LAST OF A BREED

Mr. HECHT. Mr. President, I would like to take a moment to pay tribute to a great American, the loss of whom this country will not soon forget. Commerce Secretary Malcolm "Mac" Baldrige, former chairman and chief executive officer of Scovill, Inc., and champion calf-roper, was one of a kind.

Mac was as adept at reigning in a massive corporate or Department budget as he was at roping steers, which led him to some 25 trophies in roping competition, the title of 1980 Professional Rodeo Man of the Year, and induction into the National Cowboy Hall of Fame. While at Scovill, he streamlined the budget and cut the management staff to turn the sluggish Connecticut brass mill into an efficient, profitable, multinational corporate giant, with sales of about $1 billion annually.

Mac had a distinguished military record, serving with honor during World War II, and he attained the rank of captain before leaving the service at the end of the war. He carried this dedication to duty with him into corporate and public life, always seeking to leave things better than they were when he found them. He has been one of the most influential, most colorful, most trustworthy Cabinet officers ever to serve any President.

His greatest love, after his lovely wife Margaret, was rodeo competition, which he found to be "a beautiful combination of timing, rhythm and coordination between you and your horse that is almost like a perfectly danced gavotte." The rodeo, he went on to say, "puts you in close and natural touch with the most independent and self-reliant group of people that are probably left in the U.S.A."

Mac was a proud, bold man, standing 6 feet 1 inch tall, and weighing a trim 175 pounds. This stature served him well in the military, in his physically demanding hobby, and even in community service. As "Look" magazine writer Frank Trippett recalled in 1970, "When 1967 brought racial turbulence to the city, Baldrige, working to defuse tensions, personally stalked the streets and pool halls of the predominantly black North Square section." At the time, he was the president and chief executive officer of a multi-million dollar corporation.

Mac used to like to point out that "cowboys don't talk unless they've got something to say," and one of his biggest pet peeves was useless, cluttered, or imprecise language. He carried this aversion to the extent of reprogramming the computers at the Commerce Department to point out ineffective verbiage. "We have these computers that go through copy," he explained. "When they hit a word on my blacklist they begin to smoke, and fire comes out and they get the writer." If only the rest of the bureaucracies in Washington could learn from this example.

Mac set a good example wherever he was—the example of an honest, hardworking, tough, no-nonsense kind of man who still cared about others. He was a breath of fresh air in Washington, and he will be sorely missed.

One of the phrases on Mac's "hit list" of bad English was "untimely death." He would ask the writer, "Has there ever been a timely death?" I'm sure Mac would forgive me if I break one of his rules and call his passing extremely untimely, on behalf of his government and his country.

UNITED STATES STATE DEPARTMENT INSISTS ON STANDING WITH MARXISTS IN MOZAMBIQUE

Mr. HELMS. Mr. President, many Senators have mentioned to me that they are puzzled by the U.S. State Department's policy concerning the Communist government of Mozambique. And in a chorus of sameness, the liberal news media of America proclaim that the State Department is absolutely right.

Small wonder. The State Department spends a great deal of its time and resources orchestrating media support for its failed policies—the same policies that delivered Cuba into the hands of Fidel Castro, Nicaragua into the hands of the Sandinistas, Iran into the hands of the Ayatollah—not to mention the giveaway of the Panama Canal.

All of these perilous steps were taken with the editorial approval and encouragement of the New York Times, the Washington Post, CBS, NBC, and ABC.

So what's new? Nothing. The more things change, the more they stay the same. The careerists at the State Department don't care who's President or Secretary of State. They have their own foreign policy, and they don't intend to change it. The mystery is why President Reagan puts up with it.

Mr. President, I feel that an article written by John P. Cregan, entitled "Aiding Mozambique Marxists," may serve to explain what has been going on for a very long time at the U.S. State Department. Therefore I ask unanimous consent that Mr. Cregan's article be printed in the RECORD at the conclusion of my remarks.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

AIDING MOZAMBIQUE MARXISTS

(By John P. Cregan)

(The author is Director of Government Liaison for the U.S. Business and Industrial Council. He holds the M.A. in Soviet Studies from John Carroll University.)

In this bicentennial year of the American Constitution, there appears to be a great deal of confusion among liberals concerning the constitutional prerogatives of the legislative and executive branches of government.

The continuing Iran/Contra investigation is nothing so much as a political struggle between Congress and the president over the direction of American foreign policy in Central America. Although the Constitution unequivocally assigns the direction of U.S. foreign policy to the Executive Branch, this fact has been badly obscured by all the liberal hand-wringing over what the president knew about the Iran/Contra affair.

The blurring of the Constitution's delegation of powers was further evidenced recently when President Reagan nominated the prominent jurist Robert Bork to fill a vacancy on the Supreme Court. Preparing for a protracted opposition from liberals to that nomination, the chairman of the Senate Judiciary Committee opined that the Constitution states that the Senate has the "right to insist on ideological purity" of Supreme Court nominations. This was a fantastic leap of logic in interpreting the Senate's constitutional duty to advise and consent on presidential nominations to the high court.

That liberals' misreading of the Constitution may be selective and intended to gel with their political agenda is betrayed by their anger with Sen. Jesse Helms (R-N.C.) and other senators who are holding up the confirmation of Mrs. Melissa Wells, the Reagan administration's nominee to be the next U.S. ambassador to Mozambique. Mrs. Wells is an ardent proponent of the State Department's policy supporting the Soviet-backed Marxist regime in Mozambique and opposing the Mozambican resistance forces fighting the communists—a resistance that enjoys wide popular support inside that country.

The administration policy toward Mozambique—embodied in the nomination of Mrs. Wells—is diametrically opposite its doctrine of supporting national liberation efforts against other Soviet-backed regimes in countries such as Nicaragua, Angola and Afghanistan. Thus, even as liberal media types work to complement congressional attempts to rough up administration officials who helped implement U.S. policies toward Nicaragua, they are rushing to the defense of the White House in the case of Melissa Wells.

Recently, Philip Geyelin, an editorial columnist for The Washington Post, condemned the Senate for "manhandling" the nomination of Mrs. Wells in a "foreign policy power play." He urged the administration to press forward in pushing through her nomination, which he characterized as "their duty—and their right." Would that Mr. Geyelin and his cohorts be as concerned with the exercise of presidential duties and rights in exercising foreign policy goals in Central America and elsewhere.

Of course, the Senate has a constitutional duty to consent to presidential nomination of ambassadors. Sen. Helms and a number of his Senate colleagues are, for good reason, unwilling to consent to the nomination of Melissa Wells. As Sen. Helms recently wrote, "Both the Senate and the House have repeatedly shown strong congressional disagreement with the Mozambican policy for which Wells stands."

Occupying a strategic point on the eastern coast of Southern Africa, Mozambique is a former Portuguese colony taken over by Soviet-backed communist forces in 1975. Subsequently an anticommunist resistance force formed within the country and has since liberated many parts of it from the Marxist regime that Amnesty International lists as having one of the worst records of human rights abuses in the world.

Melissa Wells—a career foreign service officer—emerged as an apologetic defender of the Marxist regime during her nomination hearings. She reserved her wrath for the Mozambican freedom fighter, denouncing them, in language worthy of a Moscow radio propaganda broadcast, as terrorists. Sen. Helms wrote that Mrs. Wells called the Mozambican freedom fighters "bandits" for wanting freedom.

Senate Minority Leader Robert Dole outlined the reasons of those objecting to the nomination of Mrs. Wells in a recent letter to *The New York Times*. He and others oppose her for "articulating positions that . . . rely on continuation of a failed effort to buy—through more and more aid—the allegiance of the Marxist regime" whose policies, he said, "have contributed so much to the starvation we now see in Mozambique."

The *Post's* Mr. Geyelin says that in the case of Melissa Wells it is "the duty of the Senate to demonstrate that it is worthy of its right to a reasonable role in the conduct of foreign policy." For liberals like himself, this means confirming Mrs. Wells, who, as he writes, is all for "standing the freedom fighting fixation of the Reagan administration on its head in Mozambique."

RETIREMENT OF CHARLES H. TOWER FROM DUN & BRADSTREET

Mr. WIRTH. Mr. President, I rise today to share with my colleagues the thoughtful views of this institution expressed to me by Charles H. Tower. Many of my colleagues have come to know Mr. Tower over the years, as I have, as a man of great intellect and high principles. In fact, my respect for him brought us together several weeks ago on the occasion of his retirement from the Dun & Bradstreet Corp.

Mr. Tower has some insightful comments to make concerning the institution of the Congress, Mr. President, and I would like for my colleagues—many of whom know Charles Tower—to be able to read those comments. Accordingly, I ask unanimous consent that Mr. Tower's remarks be inserted in the Record.

There being no objection, the remarks were ordered to be printed in the Record, as follows:

Remarks of Charles H. Tower

For me it has been a privilege to be able to get to know the Members of the Senate and House who are here as well as some of your colleagues who could not be here. I respect, admire and like you. And I respect and admire the venerable institution which you serve so well.

In our society there is a persistent tendency, often encouraged by the competitive media, a tendency to denigrate the Congress of the United States * * * to make it seem fractious, inadequate and self-serving.

We the people too often forget that the institution of the Congress occupies a very special place in the long history of human development on our planet. It is the centerpiece of our two-hundred-year-old experiment as a free people to live together in accordance with a self-imposed rule of law. And that experiment is, in turn, the centerpiece in the uncertain journey of mankind to develop and maintain an enduring system of self government.

In the daily grind of legislative activity * * * the tedious, contentious and often erratic pace of the legislative process, the clamor of conflicting special interests and the insensitivity of some constituents * * * in all this it is easy to lose sight of the majestic meaning and purpose. Yet it is there nonetheless.

Indeed, as I know you realize, this shining edifice on the hill where we are gathered this evening stands as a living monument to self government for free men and women everywhere * * * past, present and future generations both in our own country and throughout the world. And you, ladies and gentlemen who have been elected to serve here, have the rare and extraordinary privilege of being the custodians of this unique legacy at this particular moment in history.

ON THE DEATH OF COMMERCE SECRETARY MALCOLM BALDRIGE

Mr. DURENBERGER. Mr. President, I was terribly saddened by the untimely death of Commerce Secretary Malcolm Baldrige on Saturday. I want to extend my deepest sympathies to his wife, Midge, his two daughters, and his two grandchildren on this tragic occasion.

During the 6 years that "Mac" served in the Reagan administration, he became one of the Nation's most influential Secretaries of Commerce, earning the respect of Members of Congress, the business community and foreign nationals alike. Mac possessed the characteristics so valuable, and yet so rare, in public officials today. He was honest, intelligent, cool-headed and principled. And, he brought into the Commerce Department a keen business insight, which made him successful at balancing the varied trade interests of the United States.

Perhaps Mac's most valuable contribution to this Nation was his advocation of free but fair trade. Mac understood that open trade is the key to worldwide economic prosperity, but that open trade depends upon fair trade. He carried this philosophy to the negotiating table, where he worked to break down foreign trade barriers and open up markets to U.S. exports. He was a highly skilled, highly respected negotiator, who represented American interests well.

Secretary Baldrige will be missed by Congress and the administration, especially now that the House-Senate negotiations on trade legislation are beginning. Mac's influence on this bill and on American trade policy has been great. As a member of the Senate Finance Committee, I have valued his contributions to our work on trade matters over the years.

Mr. President, I am deeply saddened by the passing of this dedicated, highly spirited public servant. I feel honored to have had the opportunity to work with Commerce Secretary Malcolm Baldrige, and I will miss him.

MALCOLM BALDRIGE

Mr. PACKWOOD. Mr. President, Malcolm Baldrige, by my standards, was a giant. I miss him greatly, but feel extraordinarily privileged to have called Mac my friend.

As Secretary of Commerce, Malcolm Baldrige led this Nation in world affairs with principle and certainty during these challenging, difficult years. He has made an enormous contribution in defending the rule of fair and free trade. By speaking up consistently for American industries faced with market barriers overseas, he has been among our single most effective weapons in reaching the goal of a competitive American economy.

Mac Baldrige was also a gifted businessman, with superb skill and first-hand experience in achieving performance on the factory floor. He understood management in a way that many of us could never learn in a lifetime. He firmly believed America's strength was in its industrial muscle and he worked tirelessly to help make America's industry and America's exports second to none.

Throughout this spring and summer, Secretary Baldrige came often to Capitol Hill. He came with one mission in mind: To help write a good trade bill. I remember especially one private session recently with Mac Baldrige and a room full of skeptical and recalcitrant Senators. When Mac left the room, his arguments made, we knew unquestioningly we had heard the administration's case made with trust and credibility. We are not yet finished with the trade bill, but few of us doubt we could have come even this far without Mac Baldrige blazing the trail.

In nearly two decades in the Senate, I have come to know scores of Cabinet officers in both Republican and Democratic administrations. I have come to respect many and to call some my friends. I can think of no one other than Mac Baldrige, however, in whom I would place greater admiration or whose tragic death leaves me with a feeling of more personal loss. For Midge and the Baldrige family, his death is a profound personal sorrow, and for the American people, it is a very public one.

IN HONOR AND MEMORY OF WAYNE W. FREEMAN, FORMER EDITOR OF THE GREENVILLE NEWS AND GREENVILLE PIEDMONT NEWSPAPERS

Mr. THURMOND. Mr. President, on Sunday, July 19, 1987, the State of South Carolina suffered a great loss with the death of Journalist Wayne W. Freeman. Mr. Freeman won great acclaim early in his career for his brilliant writing ability and sound sense of journalistic judgment. He joined the Greenville newspapers in 1939 and rose to the position of editor-in-chief which he held from 1955 to 1969 when his career was shortened by a stroke.

As a gubernatorial appointee on the Gressette Committee, Mr. Freeman played a pivotal role in ensuring South Carolina a peaceful integration of the public school system. Through his participation in community and church activities, as well as years of public service, Mr. Freeman served the State of South Carolina with commitment, honesty, and integrity.

Mr. Freeman was one of the most able and dedicated newsmen that I have known since I came into public life. I found him to be not only an excellent writer, but also a man of high ideals and lofty principles. Over the years, I developed great respect and admiration for him. The news profession has lost a great leader in the passing of Wayne Freeman, and I have lost a good friend. Mr. Wayne Freeman's life will serve as a role model for generations to come.

Mr. President, I ask unanimous consent that an article and an editorial on Mr. Freeman from the Greenville News and an editorial from the State be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Greenville (SC) News, July 21, 1987]

WAYNE W. FREEMAN

Few journalists can combine a deep knowledge of public issues with the objectivity needed to comment persuasively on them. For Wayne W. Freeman, a former editor of both The Greenville News and Greenville Piedmont, this was a staple.

Freeman died this past Sunday at the age of 70. His career had been cut short by a stroke in 1969, but by that time he had already established himself as a leader among his colleagues and in his state.

He started with the Piedmont in 1939 as a reporter and after serving in the U.S. Army from 1942 to 1946, returned as assistant editor. He later was named editor of the Piedmont and then of The Greenville News.

During his tenure, Freeman's counsel was consistently sought by local and state leaders. He served as secretary of the Gressette Commission, which did its best to provide balance during the transitional and difficult years of school desegregation. His was a voice of thoughtful moderation, which urged that deliberative reason be applied to community-wrenching dilemmas.

In addition, Freeman was the first chairman of the governor's law enforcement committee which led to the establishment of the current criminal justice training program in South Carolina, and he was the first chairman of Greenville's United Way campaign. He was active in church affairs as a long-time member of the vestry and a lay leader of St. James Episcopal Church.

In all of these roles, and especially in his central one of editorialist, Freeman was articulate and active, an editor who applied more than just words to the troubles he found in his community.

[From the Greenville (SC) News, July 25, 1987]

STATE OFFICIALS, FRIENDS RECALL NEWSMAN WAYNE FREEMAN

Long-time Greenville newsman and state civic leader Wayne Freeman, who died Sunday, was praised Monday by state officials and friends as an able journalist and for his work in bringing progress to the state in both education and law enforcement.

"Mr. Freeman was one of the ablest and most dedicated newsman I have known since I came into public life," U.S. Sen. Strom Thurmond, R-S.C., said. "I found him to be not only an able writer but also objective and fair. He was a man of high ideals and lofty principles, and I developed great respect and admiration for him."

Memorial services will be held at 11 a.m. Wednesday at St. James Episcopal Church, Piney Mountain Road in Greenville, where he was a member of the church and a former member of the vestry.

Freeman, whose career spanned three decades including editor of the Greenville Piedmont from 1948-55 and editor of the Greenville News from 1955 until he retired in 1969 after suffering a stroke, was 70.

U.S. Sen. Ernest Hollings, a Charleston Democrat who became governor in 1959, called Freeman "among the most intelligent and thoughtful journalists I have ever known."

"The energy and professionalism he brought to his job won him the admiration and respect of his fellow journalists and all of us who read his papers," Hollings said.

Freeman covered Thurmond's post-World War II gubernatorial term.

"The news profession has lost a great leader in the passing of Wayne Freeman and I have lost a great friend," Thurmond said, "I extend my deepest sympathy to his devoted wife, Tinie, and other members of his family."

When Greenville News-Piedmont Publisher Roger Peace went to Washington as an interim U.S. senator, Freeman went as his assistant and from that time, he became a close advisor and friend of Peace until his death.

"He was very close to my father," said Dorothy Ramsaur, daughter of the late Roger Peace and a member of the Multimedia board of directors.

Mrs. Ramsaur said Freeman was a superb writer and an excellent editor up until 1969 when he suffered a severe stroke and retired.

"The man had the greatest courage of anybody I've ever known," Mrs. Ramsaur said.

Retired News Editor James H. McKinney Jr., who worked with Freeman on both The News and the Piedmont, said, "He and I were sort of like brothers. He was one of the best friends I've ever had."

As editor of the Piedmont and The News at various times, Freeman became acquainted with most of South Carolina's governors and U.S. senators, McKinney said. "He had a great impact on the Greenville papers and the Greenville community and the state of South Carolina," he said.

"He was a very articulate editorial writer," McKinney said. "He was generally a conservative, but he was not a knee-jerk conservative. He was independent in his own way."

McKinney said some of Freeman's major contributions came from his work with various state commissions and charitable organizations. "He was also something that is not generally seen today, he was an active citizen. He not only commented on public policy, he helped to make public policy and carry out public policy," he said.

Freeman's major achievement, McKinney said, came during his long tenure as secretary of the Gressette Committee, which was formed after the Supreme Court decision ordered the integration of public schools in the South.

"Its real role was to keep the peace and keep the public schools open throughout the long desegregation process," he said, adding that the committee was frequently criticized and largely misunderstood.

"Mr. Freeman had to be the balance wheel on that thing, he stood between the arch, hardline segregationists and the instant integration crowd," he said. "There's no question in my mind that he paved the way for what was a generally peaceful desegregation of the public school system in South Carolina."

Freeman was also very interested in law enforcement and worked to upgrade training at the state law enforcement division and the Greenville Police Department. He served as the chairman of the Governor's Committee on Criminal Administration and Juvenile Delinquency.

The committee was credited with South Carolina's achieving the first comprehensive criminal justice training center to be put together in America and the first statewide complete information system available to all law enforcement agencies in the state.

He was co-founder and first chairman of the board of the United Way in Greenville, a member of the state tricentennial celebration commission, chairman of the board of the Children's Center, and president of the state Press Association, McKinney said.

"There wasn't anything that went on in Greenville County and very little in the state that he didn't have a finger in," he said.

Freeman was a member of the American Society of Newspaper Editors.

He is survived by his wife, Tinie Hill Freeman; a daughter, Martha F. Hunter of Columbia; three sons, Michael W. Freeman, John David Freeman and Ben Freeman, all of Greenville; and a brother, Norman L. Freeman of Hampton, VA.

WAYNE FREEMAN

Wayne Freeman was 52 and at the height of a brilliant newspaper career when tragedy in the form of a massive stroke hit him. He survived but was so crippled that he was never to write again, never able to contribute to the public life of South Carolina as he had for so long.

That was in 1969. He and his delightful wife Tinie left their beloved Greenville a number of years ago to take up residence at Still Hopes, an Episcopal retirement center in West Columbia, where he died Sunday at 70.

Bill Workman, his old friend and our longtime colleague on The State, visited him from time to time. "He couldn't talk very well," said Mr. Workman, "but he could laugh."

That showed courage of an order even greater than he demonstrated over the years as the editor first of The Greenville Piedmont and then of The Greenville News. Even as an invalid, when he should have been at the prime of life, Wayne Freeman had reason to smile with the satisfaction of one who had already made a positive mark on his state.

Mr. Freeman joined the Greenville newspapers in 1939 as a reporter and, after an Army tour in World War II, rose to the top through diligence, ability and trustworthiness. And as Jim McKinney, his close friend and successor, said, "He not only commented on public policy, he helped make public policy and carry out public policy."

For a number of years, he served as a gubernatorial appointee on the Gressette Committee, a panel headed by the late Sen. L. Marion Gressette, which tackled the thorny problems of school desegregation in the 1950s and 1960s. "Mr. Freeman had to be the balance wheel on that thing," said Mr. McKinney. "He stood between the arch, hardline segregationists and the instant integration crowd. There's no question in my mind that he paved the way for what was a generally peaceful desegregation of the public school system in South Carolina."

He took other public roles, but above all else, Wayne Freeman was an articulate, knowledgeable writer of editorials. His career spanned 30 years; South Carolina was the loser when it was cut short.

IN HONOR AND MEMORY OF COMMERCE SECRETARY MALCOLM BALDRIGE

Mr. THURMOND. Mr. President, on Saturday, July 25, 1987, our Nation suffered a great loss with the death of Commerce Secretary Malcolm Baldrige who was killed in a rodeo accident. Secretary Baldrige was one of the most highly respected and well-liked Cabinet members. His commitment to a strong set of personal values enabled him to fulfill his duties with the utmost degree of integrity and ability.

Confirmed by the Senate as Secretary of Commerce in 1981, Mr. Baldrige was one of the most influential Commerce Secretaries in U.S. history. During his tenure, Mr. Baldrige played a major role in developing and implementing administration trade policy. He improved relations with China, India, and the Soviet Union through Cabinet-level trade negotiations. Mr. Baldrige carried out all of his responsibilities with professionalism and initiative.

Mac Baldrige was truly a colorful man. He pursued his interest in rodeo riding since boyhood. It is tragically ironic that he died while participating in one of the activities he enjoyed most. Mac Baldrige was a cowboy's cowboy. He was named Professional Rodeo Man of the Year in 1980 and was installed in the National Cowboy Hall of Fame in Oklahoma City in 1984, honors which are characteristic of his drive and expertise.

Secretary Baldrige was a successful businessman and a dedicated public servant. He made an indelible mark on our Nation and will be remembered for years to come. We are deeply saddened by the death of Secretary Malcolm Baldrige and Nancy and I join with my colleagues in extending deepest sympathy to Margaret, his lovely wife, and their two children during this time of bereavement.

Mr. President, I would like to ask unanimous consent that an editorial from the Washington Post paying tribute to Secretary Baldrige be included in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

MALCOLM BALDRIGE

Malcolm Baldrige was one of those rare public people who have—and retain—a set of strong private values and interests while they are at the top of government, a man who had an individual identity that could not be swayed or otherwise affected by the glories of office. He died while pursuing one of his beloved avocations: rodeo riding. Another abiding interest was the protection of the besieged English language against the advancing hordes of the bureaucracy. It was Mr. Baldrige's brilliant idea, which he put into practice, to rig word processors at the Department of Commerce—he did this after severe provocation—to prevent the continued use of "input," "effectuate" and all the rest of that well-known gobbledygook. What we are saying is that he was a very special guy.

As secretary of commerce, he served in a time when American industry and its place in the world were changing with great speed. An experienced corporate manager, he made himself a force for pragmatism in an administration in which the prevailing economic ideas were highly ideological.

He was one of the first people in the administration to recognize the dramatic rise of the dollar, from 1982 to 1985, as a threat to American business. He took vigorous issue with the inane view that the overpriced dollar was a kind of homage the world was paying to the United States. Now, a few years later, there is no doubt who was right in that argument.

As American exports strangled on the dollar's exchange rate, and imports soared, Mr. Baldrige tried to strike a balance between endangered American industries shrieking for protection and the doctrinaire free-traders elsewhere in the administration. President Reagan has usually stood for free trade in principle, but in practice has often interceded in behalf of American businesses in trouble. Mr. Baldrige had a lot to do with that, especially in those cases in which he considered the foreign competition unfair. Accused of being a protectionist, he always retorted that he was defending the distinction between free trade and fair trade, a position that has now become popular among both parties in Congress.

One of the great policy battles in this administration has been—and is being—fought over export controls. The Department of Defense citing national security, has tried to prohibit foreign sales of an extremely wide range of American products, sometimes including items that are readily available from American companies' foreign competitors. Mr. Baldrige and the Commerce Department have contended that the United States is a trading nation that must live by its exports—now more than ever, because of its mounting foreign debts—and controls have to be limited to the short list of exports that are genuinely crucial. Mr. Baldrige also seemed to be winning that one.

As a man who had spent his career running industrial companies, he had only disdain for the kind of financial manipulation to which many American companies and their owners have turned in the 1980s in their efforts to get rich. He was one of the few people in the administration who spoke with real knowledge of the importance of performance on the factory floor, and the necessity of strengthening American manufacturing. He knew that this country's prosperity and strength depend ultimately on the skill and quality of its manufacturing. That was probably the public issue about which he felt most strongly at the time of his death.

TRIBUTE TO MALCOLM BALDRIGE

Mr. ROCKEFELLER. Mr. President, I want to join with my colleagues in the Senate and with all Americans in paying tribute to Malcolm Baldrige. His death was not only a shock to us all but also a great tragedy for this Nation.

Mac Baldrige was absolutely unique. A product of the finest schools in America and a highly successful businessman, he never lost touch with the pulse of America. Much has been said about Mac's rodeo skills, and we all took pride in this man who, at 64 years of age, remained a sports champion.

But I knew him as a leader who, whether he was meeting with Senators, leading business executives, or foreign dignitaries, never lost the ability to communicate and to communicate effectively. Mac's integrity and the total trust that he commanded, made him unique and indispensable. During this period of Irangate and the other scandals enveloping the top levels of our Government, there has never been a question about Mac's honesty and his moral strength.

He was a soft-spoken man, sometimes hard to hear in a crowded Senate hearing room. Yet everyone strained to hear his every word. Throughout the many months of hearings and deliberations on the trade bill, one of the most often heard comments was "What does Mac think about this?" For Democrats and Republicans alike, Mac was someone that had to be listened to. He understood the issues; he understood the politics; and he understood how the government worked. He pulled no punches when defending what he thought was right. And he never hesitated to change when he discovered that he was wrong.

We will all miss this gentle, kind man—I know that I will.

THE 30TH ANNIVERSARY OF IAEA

Mr. McCLURE. Mr. President, I would like to take this opportunity, on the occasion of the 30th anniversary of the establishment of the International Atomic Energy Agency, to recognize and commend the IAEA for its extraordinary and invaluable work.

The IAEA was founded July 29, 1957, at a time when the world was just beginning to realize both the tremendous benefits that nuclear energy could have for mankind as well as its awesome destructive potential. We, and many others in the world community, knew then that an international effort would be required in order to harness these benefits, and to restrain the potentially harmful uses of the atom for military purposes. Fortunately, we and other States has the foresight to see that these efforts would be best embodied in a framework of international cooperation—framework which found its expression in the IAEA.

The IAEA is unique among international institutions in that it directly serves vital U.S. national security interests. Its safeguards system is designed to ensure, through threat of timely detection, that nuclear materials, equipment, services, and information under its supervision or control, are not used to further any military purpose. Through its safeguards activities, the Agency has played a key role in nonproliferation efforts. Indeed, dire predictions in the 1960's and 1970's regarding the imminent spread of nuclear weapons have, as yet, remained unfulfilled, in large measure because of the important work of the IAEA. This is not to say that we should not continue to be vigilent, but to underscore the importance of our sustained strong support for the agency.

The importance and success of the IAEA, however, lies not only in its safeguards activities. In the past 15 months since the tragic accident at the Chernobyl nuclear powerplant, the IAEA has undertaken far-reaching initiatives in the area of nuclear safety. Shortly after the accident, the IAEA director general met with Soviet officials and surveyed the damage at the site. Within a month of the accident, the IAEA board of governors held an extraordinary session to approve a plan of followup activities including the negotiation of two international conventions on notification and assistance in the event of a nuclear accident, as well as a thorough review of the causes and consequences of the Chernobyl accident by Soviet officials and representatives of other IAEA member states. The IAEA has since embarked on an intensive program of enhanced nuclear safety activities. As part of this effort, an IAEA Operational Safety Assessment Review Team [OSART] will visit the nearby Calvert Cliffs powerplant in Maryland during the coming month.

Beyond its safeguards and safety activities, the IAEA continues to perform extensive work with a view toward fulfilling its mandated responsibilities of accelerating and enlarging the contribution of atomic energy to peace, health, and prosperity throughout the globe. To document the agency's enormous contribution in this area—whether in medicine, agriculture, food, or industry—would require hours, and an even longer time to detail the very tangible benefits these activities have had for improving the quality of life in many developing States.

It is sadly too often the case that the people and the things which have had the greatest impact on our lives or on the life of our Nation are seldom given appropriate recognition. The IAEA has, for three decades, worked with little fanfare or public attention to preserve the peace we all treasure, and to improve the daily lives of many individuals worldwide. We, therefore, believe it is fitting to take this opportunity to stop and recognize the invaluable work of the IAEA and to reaffirm our strong support for its continuing work in support of important United States and global interests.

DEATH OF MAC BALDRIGE

Mr. HEINZ. Mr. President, it is with profound sadness that I rise today. The world has been deprived of a genuinely good man. America has suffered the untimely loss of an outstanding government official. We in this Chamber mourn the passing of a trusted friend and companion.

Mac Baldrige was a citizen-public servant. Following a long and successful business career he chose to enter public service, not because he needed the pressure or wanted the attention, but because he thought he had something to contribute; and in doing so that he could make America better.

And he did. Unusual in Washington, he ran his Department like he had run his companies. He set the goals and was out front—every day—actively leading his Department organization. This was a Secretary who knew what he wanted to accomplish and very directly set out to do it, taking his whole department with him. Would be leaders are a dime a dozen in government; real leadership is a rare commodity, and Mac Baldrige possessed an ample supply.

My own work with Mac was primarily in the trade area—a strong personal interest for both of us. We agreed a lot—not always—but we always talked, always listened, and always understood each other. Indeed, he had two very great gifts: He was a good listener and—a far rarer quality—he knew how to get others to listen.

There was no dissembling in the Commerce Department. If Mac agreed with you, he said so, and the resources of the Department were mobilized to help. If he thought you were wrong, he said so, and that was that. This is a rare and admirable quality. We would all be better off if more people in government displayed it.

I recall particularly one situation where I felt a group of my constituents had been wronged by the Department's bureaucracy; their relationship with the Department was being terminated without adequate notice and without a chance to hear and respond to the bureaucracy's arguments. To his credit, the Secretary of Commerce agreed with me. He knew a raw deal when he saw one, even if it came from his own people. And he acted immediately to correct the situation, not by taking a position on the merits, but by addressing the procedure—the way the Government had treated its citizens. That issue is still working its way through the bureaucracy, but Mac Baldrige made sure my constituents got fair and honorable treatment.

And in the end, that is what Mac gave us all—fair and honorable treatment. And that, after all, is the most fundamental expectation we should have of government.

His stewardship of the Commerce Department came at a time of great change in America's role in the world, and this fact was always central to his thinking. He grasped immediately the fact that the rising dollar of the early 1980's was a danger and not a blessing. He understood that free trade is a myth and that there must be relief at times for stricken American industries and their workers.

Mac argued forcefully that we must eliminate outdated trade barriers—domestic, as well as foreign, and that we must improve the quality of our products—an idea that he understood not from sitting in a cushy boardroom, but from his time on the factory floor. As his endowment of the graduate fellowships for MBA's to study the most modern production technologies demonstrated, he had his boots firmly planted in the real world. It is fitting that this practical man died, quite literally, with his boots on.

A Connecticut Yankee with a soft Western drawl, wonderfully lacking any pretensions, Mac Baldrige was my friend. It is difficult to grasp now the tragedy that took away such a vital and vibrant person. He was a plain-spoken man of dignity, grace, and clear-eyed vision. Mac Baldrige will be missed, Mr. President, and he will not be forgotten.

A SURPRISING CHANGE IN THE FUTURE HOMEMAKERS OF AMERICA

Mr. BYRD. Mr. President, in an era of change, today's Washington Post calls attention to a shift in expected roles that, but a few years ago, would have been perhaps unimagined.

Over the past year, the national president of the Future Homemakers of America has been a male, Tom Lucas, a 17-year-old football player from Salt Rock, WV.

Though Lucas is the first national president of the FHA, he is not the first male to serve as a national officer of that organization, which currently boasts a male membership of about 12 percent.

The article on Mr. Lucas, entitled "Boy, What a Homemaker!," points up the changing roles that both men and women are expecting one another to play in the sometimes plastic family patterns of today. This is particularly true in two-earner families in which both genders find themselves by necessity having to tackle responsibilities once considered gender-exclusive.

I congratulate Tom Lucas on the completion of his presidency of the FHA, and I ask that the article from the Post be printed in the RECORD.

There being no objection, the article was ordered to be printed in the RECORD, as follows:

BOY, WHAT A HOMEMAKER!

(By Tom Sietsema)

THE UNPRECEDENTED YEAR AND CONSIDERABLE FUTURE OF TOM LUCAS, FHA'S FIRST MALE PRESIDENT

Tom Lucas remembers well last year's uphill battle in his bid for the presidency of one of the country's largest national vocational student organizations. Hometown business people were skeptical about sponsoring him. ("You're in the wrong place, buddy," he was told.) Even some of his advisers tried to dissuade Lucas from running. After all, they reasoned, the Future Homemakers of America had never elected a male president.

Despite lukewarm support, Lucas ran anyway, at the organization's 1986 National Leadership meeting in Orlando.

And he won.

It was a year the 17-year-old senior from Salt Rock, W. Va., will never forget.

Lucas is big on family. He's big on the community. Ask him to talk about cooking and sewing, however, and he's likely to turn the conversation around to the FHA's myriad other concerns, such as teen employment opportunities, substance abuse and peer counseling, all of which can be related to homemaking, according to Lucas.

And all of which suits the FHA, beleaguered for years by a "Suzie Homemaker" image, just fine. "It's not just cooking and sewing anymore," said Scotty Smith, Kansas' first male state FHA president. "It's skills needed for life."

As participants in last week's 1987 National Leadership Meeting, held at the Washington Hilton, Smith and fellow FHA member Ben Allen offered information on child abuse at a forum of state delegations. These days, "they're not in the kitchen," said Jan Bowers, Smith's state adviser, of her students. And neither were the FHA members who offered information on topics as diverse as AIDS prevention, financial management, and fitness in a crowded exhibition hall last Thursday. "We don't worry as much about our cakes falling as this," said Smith, pointing to his display.

Which is not to say that the organization has abandoned the basics. Rather, it is incorporating homemaking principles into an updated agenda.

At the project exhibition, for example, a team from Minnesota offered tips on how individual FHA chapters might feature diet analysis, weight control and a "Cooks Appreciation Day" in their school projects. And a delegation from Connecticut spoke about the ups and downs of operating a small food business, an ice cream parlor with a psychedelic theme, within its school.

While sewing and cooking remain facets of the organization, today those skills are likely to be used to further members' careers in the industries of interior design, fashion and food service. "Home ec represents business and money," noted Lucas, an FHA member since seventh grade home economics. At the same time, "FHA is still stressing the family," said Joe McClaskey, a district president from Kansas.

Few seem to mind the shift in focus. Letitia Franklin, a chapter adviser from Culpeper, Va., and a 22-year veteran of FHA, actually prefers what she calls the organization's "new image."

The first male persident of the FHA wasn't the first boy to become a national FHA officer. (Seventeen males preceded him.) And he has plenty of like-minded brothers within the group; almost 12 percent of FHA membership is male, according to Katrine Fitzgerald Ryan, the organization's public relations director.

But until Lucas passed the gavel, to Rae Lynne Bell of Oklahoma at the conclusion of last week's FHA gathering, he served as the 315,000-member organization's publicity dream come true—"The boy who dares to tread where no man has gone before," proclaimed Esquire magazine. In his own words, Lucas garnered the organization "unprecedented publicity." Not because of any extraordinary efforts on his part, he will tell you, but because of his sex.

Within the FHA, the news was initially reported rather matter-of-factly. "The fact he was male didn't help him or hurt him in any way," insisted Ryan. "Men and women have been with us since our founding in 1945," added Jennifer Payton, Lucas' vice president. Lucas was equally nonchalant. "It didn't matter that I was first, I just wanted to be president," he recalled.

But the significance of his installation was soon recognized. For the first time in the organization's 42-year history, it had as its leader someone whose resume included, among other activities, starting defensive tackle. "Tom, this is big, you're going to be swamped," Ryan said to the newly elected president.

Besieged. Flooded. Overwhelmed, as it turned out. As the FHA's first male president, Lucas was responsible for representing what was commonly—and erroneously—considered a girls' organization.

His appointment has done more than expand the public perception of what the FHA does. Lucas has also beefed up the image of boys in the FHA, according to both male and female FHA members. "Girls prefer more male membership," said McClaskey, shortly before heading for an FHA dance. "I think guys are vital in the FHA," noted another district president, Misti Hamilton, who said the organization benefits from "a male perspective." Lucas likes to say that "anyone who adds to the well-being of a home" is a homemaker.

Though his mother, Sue Brown, claimed her son can "cook just about anything," Lucas prefers to play down any expertise in the kitchen. "He's afraid that will be the only association," explained Brown. Oh, there was the omelet he whipped up for a segment on NBC's Today show. And a shot of Lucas stitching an FHA emblem onto a blazer graced a magazine feature. But he nixed a request from a local TV crew to be filmed baking cookies. "I will not do anything I don't normally do," said the media-savvy Lucas, still smarting from the headline used above a story that appeared in his hometown newspaper: "FHA Leader Deals With Roles, Not Rolls."

Invitations from Carson and Letterman and Rivers—all of whom wanted to spoof his position—were declined in favor of appearances before educators, congressional representatives and fellow members across the country. Lucas takes his job seriously. "I have to watch out for the organization and myself first."

He said his role as president was to "act as a public relations tool" and perpetuate FHA goals, which he did, in nearly a thousand interviews, speeches and presentations, according to Lucas. To keep track of his comings and goings, his speeches and interviews, he kept six separate calendars and retained his mother as a secretary. And in the process of promoting the FHA, he missed half his senior year (not to mention prom night, which he spent stranded in an airport. His date "was mad, to say the least," said Lucas diplomatically. "Needless to say, we don't speak much anymore."). Along the way, he learned to do his homework in airports and get along on two hours' sleep a night or less.

Lest his year-long reign sound too strenuous, Lucas acknowledged the perks. Like flying cross country. Making contacts in business and politics. The applause. And the whistles. ("The girls don't hurt," he admitted.) Signing hundreds of autographs at state FHA gatherings. Heady stuff for a teen-ager.

Will he miss the attention? "I think we're all ready to get back to normal," said his mother. "I think he needs time to be a teen-ager."

Lucas will get his chance to do just that this summer, back home at the mall in nearby Barboursville, where instead of making speeches, he'll be making pizzas. Next fall, he plans to attend Marshall Community College in Huntington, W.Va., where he expects to study communications and public relations. Then he hopes to go on to Washington's American University, he said, and after that, law school.

More ambitious plans lie beyond. "I set one record by being the first male president of FHA," said Lucas. "I want to set another record by being the youngest president" of the United States. He ticked off a timetable that will see him running for governor at 25, the senate at 35, and the presidency at 37.

If his year-long reign is any sign of what's to come, the scenario isn't difficult to imagine. When he returned after his election to address the same businessmen who originally vetoed the idea of a male FHA president, Lucas walked away with a standing ovation—and 280 business cards.

Already, it appears, he has a head start on the competition.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, when the managers are prepared to proceed on the debt limit extension, I will be happy to yield the floor. But meanwhile, I will proceed with some comments in respect of the advice and consent role of the Senate.

UNITED STATES SENATE

ADVICE AND CONSENT, RUBBER STAMP OR SEAL OF APPROVAL?

Mr. BYRD. Mr. President, as invariably happens, whenever a nomination to the Supreme Court is made, the Nation, generally, and this body, particularly, are treated to the "sounding of brass" and "tinkling of cymbals" of claims that the appointment process is a Presidential prerogative.

Notwithstanding that the Constitution requires appointment by and with the advice and consent of the Senate, White House spokesmen and their ideological sympathizers begin the familiar refrain that the Senate's role is confined to confirming the President's choice unless the nominee is manifestly unfit for the post.

This is what we have seen and heard happen throughout the history of the Republic. It happens in all administrations.

These sources contend that the President should have free "reign" to select any person he desires to hold even the most elevated and sensitive position and above all a President who was elected to office by a substantial majority. Furthermore, it is asserted that Senate inquiries into a nominee's fitness for office is limited to qualifications, but that other areas of obvious concern, notably his or her personal philosophy or ideology, are off limits to Senate scrutiny. It is a corollary of proponents of this view that the Senate is obligated to place its stamp of approval on a nominee so long as he or she can demonstrate the requisite minimum qualifications for the office in question.

All of these assertions have been made time out of memory but, unlike love they do not become better or truer the second or third time around. Indeed, if anything, their repetition offends propriety because they are transparent appeals to political expediency and opportunism and intended to deter the responsible exercise of the advice and consent function.

In recognition of the fact that the duty imposed on him to faithfully execute the laws requires persons sympathetic to his program, the Senate traditionally has given the President greater leeway in choosing his policymaking subordinates, especially those in Cabinet and subcabinet positions. This practice has been more or less uniformally followed as a matter of grace and in the spirit of cooperation to ensure that the Executive Branch functions as a team in enforcing the laws. What has been the practice with respect to the appointment of the policymakers, however, has never applied to judicial nominations, and arguments to the contrary are at odds with the separation of powers doctrine, common sense, and history. The Constitution establishes a Supreme Court and gives Congress power in its discretion to constitute inferior federal tribunals; nowhere in the blueprint of our government is it hinted that the High Court or any other federal court is the President's court. Similarly, nothing in the Constitution suggests that either the justices or judges comprises any component of "all the President's men." The very notion is refuted by the Constitution's grant of lifetime tenure and inviolability of compensation paid all Article III judges.

The Supreme Court not too long ago observed that "the principle of separation of powers was not simply an abstract generalization in the minds of the Framers: it was woven into the document that they drafted in Philadelphia in the Summer of 1787." Among the more significant provisions where it is found is the Appointments Clause. "The Senate," the Court declared, "is a participant in the appointive process, by virtue of its authority to refuse to confirm persons nominated to office by the President." Nothing in the Court's remarks regarding appointment intimates that the Senate is a rubber stamp; indeed it speaks of "its [the Senate's] authority to refuse to confirm persons nominated to the office by the President." The involvement of the Senate in the process was not motivated by "etiquette or protocol," but, according to the Court, reflects the fact that "[t]he men who met in Philadelphia in the summer of 1787 were practical statesmen, experienced in politics, who viewed the principle of separation of powers as a vital check against tyranny."

Is a rubber stamp "a vital check against tyranny"? The question answers itself. A "Patsy Senate" about which we have noted Mary McGrory, the noted columnist writes from time to time, is neither an effective bulwark for liberty not true to itself or to the American people. If, in truth, the Framers had intended the Senate to simply endorse the President's selection, that result could have been more directly achieved by leaving the Senate outside the process altogether. Clearly, the men who met at Philadelphia 200 years ago had in mind a more substantive role for the Senate.

Under the Articles of Confederation the Congress made all nominations, but when the Constitution established a separate executive branch it divided responsibility for nominations between the President and the Senate. Some delegates to the Constitutional Convention had wanted the Senate to make all nominations of principal officers while others thought the President should have exclusive power to make appointments.

Footnotes at end of article.

Although the language of the Constitution was a compromise between these two positions, those favoring a strong executive felt that the provision clearly favored the President.

Writing in *The Federalist,* Alexander Hamilton argued that "It will be the office of the president to *nominate,* and with the advice and consent of the Senate to *appoint.* There will of course, be no exertion of *choice* on the part of the Senate. They may defeat one choice of the executive and oblige him to make another; but they cannot themselves *choose*—they can only ratify or reject the choice, of the president." [1]

In common with many provisions of the Constitution, the Appointment Clause which provides that "The President . . . shall nominate, and by and with the Advice and Consent of the Senate, shall appoint . . ." is the result of a compromise between groups having opposing views. One group was afraid that giving the President the exclusive power of appointment would eventually lead to monarchy. Members of this group believed that Senate involvement not only would reduce the likelihood of that happening but as a body Senators would likely have information about a nominee not possessed by single individuals. John Rutledge of South Carolina, for example, was "by no means disposed to grant so great a power to any single person. The people will think that we are leaning too much toward monarchy." Charles Pinckney thought that the "executive will possess neither the requisite knowledge of characters, nor confidence of the people for so high a trust."

Convention proponents of a strong Executive felt that the President would be better qualified and more responsible in making appointments than the members of the national legislature. Not only were supporters of an exclusive presidential appointments power unpersuaded that it would lead to monarchy or despotism, but they noted that appointments by legislative bodies have generally resulted from cabals, personal regard, and other considerations unrelated to qualifications. Persuaded that the power to nominate was for all practical purposes the power to appoint, the members of this group agreed to the compromise by which the President was given the power to nominate, but required Senate approval before an appointment could be made. Later, in *The Federalist,* Hamilton summarized this view as follows: "Every advantage to be expected from the power of appointment would, in substance, be derived from the power of nomination. . . . There can, in this view, be no difference between nominating and appointing."

Although many of his views have stood the test of time, Hamilton's observations on a nomination being tantamount to appointment have not been vindicated. In the opinion of a qualified expert: "The history of the exercise of the appointing power by the President has disproved Hamilton's contention; the power to nominate is not the same as the power to appoint, and the role of the Senate in giving its advice and consent has not been limited to a passive review of the qualifications of the persons nominated by the President, as Hamilton expected it would be."

Hamilton, however, was persuaded that Senate confirmation would be a welcome check on the President which "would have a powerful, though, in general, a silent operation. It would be an excellent check upon a spirit of favoritism of the President, and would tend greatly to prevent the appointment of unfit characters from state prejudice, from family connection, from personal attachment, or from a view to popularity."

Although the debates at Philadelphia and subsequently in the state ratifying conventions leave certain matters bearing on appointments unresolved, conspicuously what the Framers may have additionally meant by "advice," there is little doubt regarding the reason behind the Clause as we know it today and the significance of the term "consent". Clearly the Framers intended to give the President the exclusive power to nominate. Just as clear is the fact that Senate "approval", "approbation", and "concurrence" was necessary in order for an appointment to become effective. In other words, the Senate was given an absolute negative, which meant that if Senators could not choose an officeholder, they could defeat the President's choice and oblige him to make another or others until Senators were satisfied that the nominee was qualified to fill the office in question. Although the phrase "qualified for office" was used in the sense of fitness for office, it was not limited to technical competence as distinguished from general suitability so that a candidate's personal philosophy or ideology are not irrelevant considerations.

These and other remarks made during the debate on the appointment power are antithetical to the view of the Senate on appointments as being little more than the Supreme Soviet endorsing Party decisions in the U.S.S.R.

Over the past nearly two hundred years many a battle has taken place between the White House and the Senate over nominations. Although by far, most nominations are approved, the Senate has more than once flexed its political muscles to reject a presidential nominee—including the rejection of eleven Cabinet nominations and twenty-four Supreme Court nominations. Confirmation power is one of the major constitutional provisions that separates the Senate from the House. It has been the subject of numerous articles, books, novels, and even motion pictures.

President George Washington sent his first nomination to the Senate on June 16, 1789. It was not a Cabinet nomination, but, instead, the appointment of William Short to become minister to the Court of France, to take the place of Thomas Jefferson, then returning to the United States to become Secretary of State. John Jay, who headed the Office of Foreign Affairs under the old Congress of the Confederation, and who was continuing to direct foreign policy until his successor arrived, carried this first appointment to the Senate chamber. The Senate deliberated for two days, taking into consideration both Short's qualifications and Washington's method of communication concerning nominations. On June 18, the Senate approved Short's appointment.[2]

In an earlier address on the Senate and treaties, I told how the Senate appointed a special committee to consult with Washington over the form of presidential communications concerning executive business. There was considerable sentiment within the Senate that the President should appear personally in the chamber to seek advice and consent on treaties and nominations. Washington was rightly skeptical of this approach. He ruled out appearing in person for nominations, on the grounds that they were too numerous and would become too time consuming. However, Washington did agree to meet with the Senate concerning treaties. As I have previously mentioned, his first experience proved so disastrous that Washington and all other presidents abandoned the practice in favor of written communications. Only one chief executive violated this practice. In 1921, Warren G. Harding, who was serving as a senator at the time of his election to the presidency, went directly from the inaugural platform to the Senate chamber to submit his Cabinet nominations—a list which included several senators. However, Harding's ill-fate presidency has never served as a model for his successors.

President Washington considered the appointment process "one of the most difficult parts of the duty of his office," and "the most irksome part of the executive trust." He fretted over pressures from unqualified office-seekers, and turned away relatives who wanted Federal jobs.

To one friend who wrote in support of a particular candidate, the President responded: "I am not George Washington, but President of the United States. As George Washington, I would do this man any kindness in my power; as President of the United States, I can do nothing." Later, Washington explained that he had aimed "to combine geographic situation and sometimes other considerations with abilities and fitness of *known* characters." The geographic balance of Washington appointments can be seen in his selection of cabinet members from five states, and Supreme Court members from seven states.[3]

Washington also worried about precedents he was setting in relation to the Senate. In 1790, Washington consulted with James Madison, Thomas Jefferson, and John Jay on the propriety of consulting with the Senate on places to send diplomatic representatives and the ranks they should hold. These able advisors agreed that the Senate had no constitutional right to interfere with either, and that senators were limited to the simple approval or disapproval of specific nominees. However, the senators were not so easily convinced. In 1791, when Washington nominated ministers to Paris, London, and The Hague, senators argued that they lacked enough evidence to determine whether it was in the best interest of the United States to place permanent emissaries at these capitals. Only after weeks of delay did Washington's nominees win a narrow approval.[4]

Another issue needing resolution was how senators would cast their votes for nominees. Those favorable to the administration tended to prefer voice votes; those suspicious of the administration—notably Senator William Maclay of Pennsylvania—preferred secret ballots to prevent undue presidential influence. When the Senate considered its first nomination, that of William Short, it voted by ballot. This practice raised considerable criticism from those who feared secret cabals and too much Senate control over nominations. On August 3, 1789, when Washington sent a long list of nominations for collectors, naval officers, and surveyors for the ports, the Senators again debated the proper procedure. Again they decided to vote by ballot, but added that "it should not be considered as a precedent." Washington himself preferred a voice vote, and on August 21, the Senate adopted the recommendation of its special committee: "That all questions/on nominations/ shall be put by the President of the Senate, either in the presence or absence of the President of the United States; and the Senators shall signify their assent or dissent, by answering viva voce ay, or no." And so we continue to vote, two centuries later.[5]

Now, it is important to remember that even though the senators cast voice votes rather than secret ballots, they continued to meet entirely in secret session. Only the briefest minutes of executive sessions were published, in a separate journal, well after the fact. Even after 1794, when the Senate opened its doors for visitors to observe legislative business, it closed its galleries for all executive business. Until 1929, the Senate routinely debated nominations in closed session. Senators felt they could more freely discuss an individual's merits in closed session, and would avoid publicly violating nominees' privacy or causing them unnecessary public embarrassment. These were noble purposes, but, in fact, they simply did not work. News from secret sessions leaked out regularly during the next hundred and forty years, causing the Senate no end of anguish. Secrecy also seemed to violate a key principle of a democratic republic: the right of the governed to know what their leaders were doing. Speaking for the public, the press waged a steady campaign against this secrecy until the doors at last swung open.[6]

Mr. President, there were not a great many federal appointments to be made in the early years of our republic because the federal government was so small. In addition to cabinet secretaries and federal judges, there were diplomats, military officers, customs officers, and postmasters. But their numbers were miniscule by comparison to current standards. At the same time, there was no civil service system. All federal posts, no matter how small, were patronage positions, known to politicians as the "spoils of office." It was William L. Marcy, who served in the Senate from 1831 to 1833, who coined the slogan: "To the Victor Belongs the Spoils." Much of a president's power rested in his ability to reward his supporters with federal appointments, but as all presidents quickly discovered, patronage was both a blessing and a curse. From a twentieth century perspective, it is amazing to read how much time eighteenth and nineteenth century presidents spent listening to the pleas of office-seekers. Nor were United States Senators immune to their entreaties.

Early senators saw no impropriety in submitting to President Washington the names of many candidates for federal appointment—and quite often, senatorial intervention helped the candidate's chances. However, Washington was not always swayed by congressional appeals. In 1794, House leader James Madison and Senator James Monroe three times appealed to Washington to appoint Aaron Burr as minister to France. But Washington refused to nominate anyone of such questionable integrity. "I will appoint you, Mr. Madison, or you, Mr. Monroe," Washington responded apologetically. And, in fact, he did eventually send Monroe as minister to France.[7]

From the very beginning, the Senate insisted upon the practice that we commonly refer to as "senatorial courtesy," that is, the Senate generally will not confirm a candidate for a federal office that does not have the support of his homestate Senators. This practice dates back to 1789, when President Washington nominated Benjamin Fishbourn to be naval officer in charge of the port of Savannah, Georgia. When the two Georgia senators, William Few and James Gunn, opposed Fishbourn, the Senate rejected him. Washington conceded defeat and nominated a candidate endorsed by Senators Few and Gunn.[8]

Senatorial courtesy grew even more deep-rooted during John Adams' presidential administration. Adams lacked Washington's national prestige and was even less able to withstand congressional pressures on nominations. He also faced the development of party organizations, and therefore of organized opposition within the Senate. Although Adams made far fewer appointments than Washington, he had more of them rejected in the Senate. As Adams' weakness became more apparent, senators grasped for patronage power themselves. When one of Adams' own relatives recommended a nephew for appointment as a federal judge, the president responded: "If I were to nominate him without previous recommendations from the senators and representatives from your State, the Senate would probably negative him." [9]

Thomas Jefferson was a shrewder and more successful political leader than John Adams, but within his first month as president Jefferson complained that "nothing presents such difficulties of administration as offices." By the end of his presidency, Jefferson had concluded that the appointment power was a "dreadful burden" which oppresses a president. Jefferson was faced not only with the problem of appointing deserving Republicans (as his party was then known), but of removing Federalist office-holders. During the months after President Adams' defeat, Federalists had tried to pack as many offices as possible with their supporters. We recall that one of these last-minute appointments was a William Marbury, scheduled to become a justice of the peace in Washington. When the incoming Secretary of State James Madison found Marbury's commission still on his desk, he refused to deliver it. Marbury's suit set up the landmark case of *Marbury* v. *Madison*—which the Court seized upon as a vehicle to claim the right to declare acts of Congress unconstitutional.[10]

Jefferson enjoyed majorities in the Senate throughout his term, and had little trouble winning confirmation of his nominees. Ironically, however, Jefferson suffered the embarrassing rejection of his last nomination, that of William Short to be minister to

Russia. This was the same William Short who was the first person George Washington had nominated in 1789. It does not appear that the Senate rejected Short personally, or meant to rebuke Jefferson politically. Instead, senators were registering their displeasure over the establishment of permanent diplomatic posts in so many countries.

Jefferson, like Washington, was followed by a weaker president. James Madison began his term by losing a battle with the Senate over his desire to appoint Treasury Secretary Albert Gallatin as Secretary of State. Strong opposition to Gallatin, spearheaded in part by Senator Samuel Smith of Maryland, led Madison reluctantly to nominate Smith's brother Robert as Secretary of State. This proved to be a poor choice—one which weakened the administration in the difficult years immediately prior to the War of 1812. Later, when Madison gave Gallatin a leave of absence from the Treasury and sent him to Europe to help negotiate peace with Great Britain, the Senate adopted a resolution protesting that the duties of Secretary of the Treasury and diplomatic envoy were incompatible, and appointed a special committee to confer with the President on the matter. But Madison viewed this as an infringement upon presidential authority. In a special message to the Senate, he protested that: "The appointment of a committee of the Senate to confer immediately with the Executive himself, appears to lose sight of the coordinate relation between the Executive and the Senate, which the constitution has established, and which ought therefore to be maintained." When the committee persisted, Madison gave them a chilly reception and refused to discuss Gallatin's appointment.[11]

During the one-party "Era of Good Feelings," general harmony existed between the president and Senate over nominations, but then open warfare broke out during the presidency of Andrew Jackson. General Jackson came to Washington with a determination to "kick the rascals out" and to place his own supporters in federal posts. Foremost among these supporters were newspaper editors, who comprised a third of Jackson's appointments during his first session of Congress. Of course, as Jackson enthusiasts, these editors had offended Jackson's opponents in the Senate, who fought to deny them office. Perhaps the most memorable Senate rejection of a Jackson appointee occurred in 1831. Jackson had nominated Senator Martin Van Buren, a New York Democrat, to serve as minister to Great Britain. But the highly partisan Van Buren had incurred the emnity not only of the opposition party, but of Vice President John C. Calhoun. When the vote was taken, it resulted in a tie, and when the Vice President cast the tie-breaking vote, he rejected his own president's nominee. Afterwards Calhoun gloated to Senator Thomas Hart Benton: "It will kill him, sir, kill him dead. He will never kick, sir, never kick." Benton doubted that, and prophesied: "You have broken a minister and elected a Vice President." Indeed, that is exactly what happened. When Jackson heard of the vote, he swore: "By the Eternal! I'll smash them!" In his campaign for a second term, Jackson dropped Calhoun and ran with Van Buren. And when Jackson retired as president, Van Buren succeeded him to the White House.[12]

Jackson's war with the Senate over the Bank of the United States, which I have addressed at length in previous speeches, led to the first Senate rejection of a cabinet secretary. On June 24, 1834, the Senate voted 28 to 18 to deny confirmation of Jackson's recess appointment of Robert B. Taney as Secretary of the Treasury. Whigs in the Senate were offended by Taney's action—taken at the president's request—of removing federal funds from the Bank of the United States. By rejecting Taney they were in fact rejecting Jackson. But the action neither changed Jackson's anti-Bank policies or damaged Taney's career. He went on to become Chief Justice of the United States. Although battered by the Senate, Jackson felt he had emerged victorious. As he prepared to leave office, Jackson commented to a friend how much he looked forward to "the glorious scene of Mr. Van Buren, once rejected by the Senate, sworn into office as President by Chief Justice Taney, who also had been rejected by the factious Senate."

Despite Jackson's satisfaction, after he left office, the Senate asserted its power over appointments and held the upper hand over the executive branch for the remainder of the nineteenth century. Look for instance, at poor John Tyler, the first Vice President to become president on the death of the incumbent. Early in his administration, Tyler broke with the Whig majority in the Senate, who thereafter frustrated his efforts to appoint his own supporters to office. Nothing in the Senate's history has matched the spectacle that occurred on March 3, 1843, the last day of the Senate's session, when Tyler came to the Capitol to sign legislation and to submit last-minute nominations.

Tyler nominated Caleb Cushing to be Secretary of the Treasury not once but three times that night, and each time the Senate rejected Cushing by even larger margins than before. Three times, Tyler nominated Henry A. Wise to be minister, and Wise similarly was thrice rejected. Senator Thomas Hart Benton reported that "nominations and rejections flew backwards and forwards as in a game of shuttlecock." In all, the Senate turned down four of Tyler's cabinet nominees, and four of his nominees to the Supreme Court, a record of rejection unmatched by any other president.

When Democrat James K. Polk entered the White House in 1845 after Tyler, he experienced tremendous pressure from Members of Congress to follow their recommendations for appointments. "The passion for office among members of Congress is very great, if not absolutely disreputable," Polk complained. He found his anterooms filled with office-seekers bearing signed letters of recommendation from Congressmen. In one instance, Polk appointed a man recommended by a Senator from Missouri to become surveyor of the Port of St. Louis, only to have the individual defeated by the very Senator who recommended him. When Polk pointed out this inconsistency, the Senator replied, "Well, we are obliged to recommend our constituents when they apply to us."[13]

Mr. President, this calls to mind Representative James Buffin(g)ton, a Massachusetts Republican in the 1860's. If we examine the *Biographical Directory of the American Congress* we will find parentheses around the "g" in his name. The story goes that Buffin(g)ton could never say "no" to a constituent asking for federal appointment, no matter how incompetent or inappropriate the individual might be. So the Congressman worked out a system that became well known among Washington clerks. When he signed letters of recommendation with a "g" in his name, that signaled that he considered the person worthy of appointment; when he signed without a "g," the recommendation should not be taken seriously. Either way, the constituent felt that his Congressman had loyally supported his claim. Needless to say, Representative Buffin(g)ton was regularly reelected.[14]

I suppose that could come under the heading of "plausible deniability," about which we hear so much these days.

The patronage system worked well so long as presidents were in basic harmony with the majority in the Senate; but it caused rough times when presidents were in disagreement with the Senate. Recall the case of Andrew Johnson, who followed Abraham Lincoln to the presidency only to break with the Radical Republicans in Congress. A struggle over their sharply divergent goals for the reconstruction of the former Confederate states took on monumental proportions. It affected not only the president's appointments, but his efforts to remove certain individuals from office. Although the Constitution spelled out the procedures for nomination and confirmation of federal appointees, it left vague the question of how they should be removed. Did the president have unrestricted right to remove a person who had been confirmed by the Senate, or did he need the Senate's approval? Fearing that President Johnson would remove all office holders sympathetic to Radical Reconstruction, in 1867 Congress enacted the Tenure of Office Act—over Johnson's veto.

This Act provided that every civil officer confirmed by the Senate should hold office until a successor had been appointed *and confirmed*. It was Johnson's firing of Secretary of War Edwin Stanton, in violation of the Tenure of Office Act that led to his impeachment. Significantly, the Tenure of Office Act remained the law for another fifty years, much to the discomfort of presidents from both parties. Finally in 1924, the Supreme Court ruled this act unconstitutional, in the case of *Myers* v. *U.S.*—giving presidents the ability to dismiss all federal appointees except those with specific fixed terms, such as members of the regulatory commissions, whose independence would be compromised by presidental dismissal for political or policy reasons.[14]

Andrew Johnson's successor in 1869, General U.S. Grant, should have had an easy time with nominations. He was a Republican, in sympathy with the Republican majority in the Senate; he was a hero with great popular support; and he came as a relief after the tense years of struggling with Johnson. But Grant was a political novice who had much to learn about the ways of Washington. The new president never bothered to consult with fellow party members in Congress about his cabinet appointments. The day after Grant's inauguration, the Senate received the president's cabinet nominees' with some shock. It was a relatively unknown and undistinguished lot of names. Its most prominent name was Alexander T. Stewart, wealthy proprietor of the nation's largest department store, to be Secretary of the Treasury. But senators pointed out that the law prohibited anyone engaged in trade or commerce to serve as Treasury Secretary. Since Stewart refused to sell the business that bore his name, and the Senate would not accept his placing it in a blind trust, Stewart was forced to resign his Cabinet post.[15]

Further muddying the waters for Grant, his Attorney General, Ebenezer Hoar, insisted upon making judicial nominations without prior senatorial recommendations, thus violating a venerable tradition. Hoar's appointments were in fact quite excellent, but he made few friends in Congress for the administration. One can imagine the pleasure with which members of the Senate cast their votes to defeat Grant's nomination of Ebenezer Hoar to serve on the Supreme Court.[16]

In the late nineteenth century, patronage permitted serveral senators to become the undisputed political "bosses" of their home states. Memorable names on this list included Pennsylvania's Simon Cameron and Matthew Quay, New York's Tom Platt, Rhode Island's Nelson Aldrich, and West Virginia's Stephen Elkins. Those who wanted a Federal appointment knew they must obtain the blessings of these powerful senators, and presidents dared not cross them unless they were prepared for a brutal political fight. The greatest of these battles occurred in 1881, when the new President James A. Garfield decided to take on one of the most powerful members of his own party, New York Senator Roscoe Conkling. Garfield nominated to the patronage-rich post of Collector of the Port of New York, William Robinson, a former Conkling lieutenant who had broken ranks to support Garfield's nomination for the presidency. This audacious act set off a power struggle that ended tragically in Conkling's defeat and Garfield's death. Offended by this breach of senatorial courtesy, Senator Conkling resigned from the Senate and returned to Albany to persuade the state legislature to reelect him, as a declaration of support. However, the legislature rebelled and elected someone else. Meanwhile in Washington, a demented office seeker shot and fatally wounded President Garfield, in the name of Conkling's "Stalwart" faction of the Republican party.[17]

Garfield's death shocked the nation and sobered political leaders in both parties. For too long they had allowed the patronage system to grow to scandalous proportions. Presidents had been hounded and now assassinated by office-seekers. At last, Congress accepted the need for a professional civil service. The Civil Service Act of 1883, sponsored by Ohio Democratic Senator George Pendleton, and therefore known as the Pendleton Act, removed a large segment of lower-level bureaucratic positions from the ranks of patronage appointments. A period of relative peace broke out between the executive and legislature, marred only by the actions of the Republican Senate to prevent Democratic President Grover Cleveland from making Supreme Court nominations toward the end of his second term.[18]

The next major battle also involved a Democratic president's Supreme Court nomination, and occurred in 1916 when Woodrow Wilson appointed Louis D. Brandeis as the first Jewish member of the Court. A brilliant Boston lawyer, Brandeis at that time had acquired a national reputation as the "People's Lawyer." A committed opponent of monopoly and a defender of consumers, he was the Ralph Nader of his day, and equally controversial. Brandeis had advised Wilson during his campaign for the presidency and had helped to shape his "New Freedom" economic program. It should not have come as a surprise, therefore, that Wilson would nominate him to the Court when a vacancy occurred in 1916. However, Brandeis' many enemies, including conservative politicians and business leaders, denounced him as "ridiculously unfit" to serve as a judge. One who spoke out strongly was former President William Howard Taft—defeated by Wilson in 1912—who described Brandeis as "a muckraker, an emotionalist for his own purposes, a socialist."

When the Judiciary Committee held public hearings, a string of witnesses denounced Brandeis. Fifty-five prominent Bostonians, led by Harvard President A. Lawrence Lowell, sent a petition to the Committee, saying: "We do not believe that Mr. Brandeis has the judicial temperament and capacity which should be required in a judge of the Supreme Court." Quite clearly, anti-progressive and anti-Semetic undertones could be heard in these protests. To his credit, President Wilson stood firmly behind his nominee—particularly notable when we recall that Wilson was standing for reelection that year. In a letter to the Judiciary Committee, the President argued that the charges against Brandeis "throw a great deal more light upon the character and motives" of those who made them, rather than on their intended target. "He is a friend of all just men and a lover of the right," the President wrote. "I knew from direct personal knowledge of the man what I was doing when I named him for the highest and most responsible tribunal of the Nation." On June 1, 1916, the Senate voted 47 to 22 to confirm Louis D. Brandeis. He went on to become one of the greatest and most influential Justices of that Court, serving until 1939, and thoroughly justifying Woodrow Wilson's decision.[19]

In the twentieth century, the Senate has rejected very few presidential nominations to either the Supreme Court or the Cabinet. Only five Supreme Court nominees have not been confirmed: President Herbert Hoover's choice of John J. Parker, President Lyndon Johnson's choices of Abe Fortas and Homer Thornberry, and President Richard Nixon's choices of Clement Haynsworth and G. Harrold Carswell.

Parker, a North Carolina Republican was accused of making anti-labor and racist rulings, although his later record disproved those allegations. Fortas was sitting on the Court when President Johnson elevated him to Chief Justice and nominated Homer Thornberry to fill the vacancy. However, Johnson was not running for reelection, and some members of Congress objected to a "lame duck" president filling such important posts. Questions arose over Fortas' personal ethics, which caused him to resign; Thornberry's nomination was never acted upon.

Johnson's successor had no more easy a job filling Supreme Court vacancies. Having been elected on the strength of his so-called "Southern strategy," Nixon turned to lower-court judges from the South, picking Clement Haynsworth of South Carolina. Liberal senators mounted a strong challenge to Haynsworth for his questionable financial dealings; but after defeating Haynsworth, they were confronted with Nixon's next choice of Harrold Carswell of Florida. Some members mused that they would have been better off with Haynsworth—and a good many opposing Senators stated it both privately and publicly later—who was a distinguished jurist, while even Carswell's supporters admitted his mediocrity. President Nixon was furious over these rejections. "If the Senate attempts to substitute its judgment as to who should be appointed," Nixon wrote, "the traditional constitutional balance is in jeopardy and the duty of the President under the Constitution impaired." After suffering two embarrassing defeats, however, the President wisely chose to nominate an able candidate, Harry A. Blackmun, who was easily confirmed. Seventeen years later, Justice Blackmun continues to serve on the Court, demonstrating that those bitter nomination fights were worth the effort.[20]

Only two Cabinet nominations have been rejected in this century. In 1925, the Senate turned down President Calvin Coolidge's candidate for Attorney General, Charles Warren. This was just after the well-publicized "Teapot Dome" investigation into government corruption, and progressive members of the Senate challenged Warren's connections with the "sugar trust." The vote was very close, and Warren lost only because Vice President Charles Dawes overslept that afternoon and did not get to the Capitol in time to cast the tie breaking vote. The last president to suffer the humiliation of a Cabinet-level defeat was Dwight D. Eisenhower, who in 1959 nominated Admiral Lewis Strauss to serve as Secretary of Commerce. Admiral Strauss had previously served as chairman of the Atomic Energy Commission. Never a tactful man, he had alienated many senators, especially Senator Clinton Anderson of New Mexico, who made it a personal quest to defeat Strauss' nomination. This was accomplished by a vote to 46 to 49.[21]

I voted against that nomination. And it is sometimes strange and more often interesting to know what bearing and impact independent and extraneous and if I may use a parliamentary term, nongermane, matters may have on a Senator's vote.

Senator Randolph and I were representing West Virginia in the Senate at that time, and I was leaning toward supporting Lewis Strauss. I had not made up my mind fully either way.

I read a column in a newspaper one day however, a column by the late Drew Pearson, that, according to Mr. Pearson, the late John L. Lewis, who was the United Mine Workers of America chieftan, had the votes of the two West Virginia Senators in his pocket and Mr. Lewis was supporting Mr. Strauss.

When I read this in the column, to the effect that the UMW chieftan had the votes of the two West Virginia Senators in his pocket, I made up my mind to vote against Mr. Strauss. This was unfortunate for Mr. Strauss. I do not think it was anything of his making. I think that the columnist had been misinformed.

I picked up the telephone, called Senator Randolph, who was my senior colleague, and told him what I had read in the newspaper and he said that he had read it and we both decided, then and there, that we would vote against Mr. Strauss. Not that we were not on good terms with Mr. Lewis. I was on good terms with Mr. Lewis. I felt John L. Lewis was—especially when I first came to the Senate, because I did not know him personally prior to that time, nor did he know me personally—but I felt kindly toward John L. Lewis. He was the chieftain of a very powerful mine workers organization when I ran for the West Virginia House of Delegates. There were about 130,000 mine workers in West Virginia. When I first came to the U.S. Senate, there were still probably 125,000 mine workers in West Virginia.

Today, of course, the number has become much smaller, perhaps 35,000 40,000.

In any event it was a very powerful organization politically in West Virginia and Mr. Lewis was a very powerful labor leader. Ergo, it was no small matter for the two West Virginia Senators to go either way. But when I read that the venerable John L. Lewis had my vote in his pocket, I decided that not being the case, I would not vote for Mr. Strauss.

A little straw, sometimes, on the waves of the sea of history will bring about a sea change. Mr. Strauss was defeated, 46 to 49. He would have been confirmed had my colleague Senator Randolph and I voted for him.

Mr. President, I have concentrated here on Cabinet and Supreme Court nominations, and have not touched upon the thousands of lower level nominations that presidents send to Capitol Hill every session. Committees routinely consider nominations, and not all are reported out, or reported out favorably. Many disappear into the far reaches of committee file rooms. Pat Holt, who served as chief of staff of the Senate Foreign Relations Committee in the 1970's, recalled how that committee handled the nomination of Graham Martin, whom President Ford nominated to an ambassadorial post. Martin was our last ambassador to Saigon, where his handling of that job had not impressed many committee members. When the committee met in executive session to consider the nomination, it was clear they did not intend to confirm him, but neither did they wish to reject him outright, so they suggested holding the nomination while the staff conducted further investigation. "Is that clear, Pat?" someone asked. Holt replied: "Yes, it's very clear, and just to make it clearer, I'm not sure how long it will take the staff to do this." Senator George McGovern responded: "Oh, don't hurry. Suppose we say the Fourth of July, 1990"[22]

In general the better track record that presidents have enjoyed in recent years indicates that they—or at least their staffs—have developed a deeper appreciation of the Senate's role in the confirmation process, and have developed a bit more finesse in presenting their candidates. Not long ago the New York Times published a profile of Tom Korologos, who has helped shepherd Reagan administration appointees through various nomination hearings. Korologos, describes his role as educating nominees.

"You have to scare 'em a little bit," he says. Before they go to a committee hearing, Korologos puts them through a mock hearing. "I fire the rottenest, most insulting questions in the world at them." Here is the set of rules he offers to all White House nominees:

(1) Model yourself after a bridegroom at a wedding: Be on time, stay out of the way, and keep your mouth shut.

(2) Between the day of nomination and the day of confirmation, give no speeches, write no letters, make no public appearances. Senators don't like to read about the grand plans of an unconfirmed nominee.

(3) You may have been a brilliant victor in the corporate world or some other field of endeavor, but the Senate expects you to be suitably humble and deferential, not cocky.

(4) There is no subject on earth that the Senate is not free to probe. Be ready with polite and persuasive answers.[23]

Mr. President, in my general overview of the past two hundred years of presidential-legislative relations over the appointment process, I have largely emphasized presidential problems and difficulties. I do not want to leave the impression that presidents are the only ones to suffer anguish over nominations. Certain nominations often place United States Senators in very uncomfortable positions. Senators find themselves forced to choose between their conscience and their president. A wrong decision, either way, can cause no end of trouble. In the last Congress we witnessed the fate of Senator Slade Gorton of Washington. Senator Gorton had been pressing the Reagan administration to nominate William Dwyer Federal judge from his homestate, but Dwyer was ideologically out-of-step with the White House. Then the president nominated Daniel Manion to be a Federal judge in Indiana. To win Senator Gorton's loyalty, White House lobbyists tied his vote on Manion with Dwyer's nomination. Senator Gorton swallowed hard and cast a vote that he might otherwise have cast differently. Manion was confirmed, Dwyer was nominated—although rejected by the Judiciary Committee—and Senator Gorton was defeated for reelection by voters who reacted negatively to the whole arrangement.

Incidentally, Mr. Dwyer's nomination has again reached the Senate and I anticipate that it will be confirmed.

The Senate often finds itself in positions where it will draw criticism no matter what it does. If the Senate probes too long or too deeply into a nominee's past, it is accused of denying the president the assistance he needs when he needs it. If the Senate rushes through a nomination without adequate investigation, it is accused of "consent without advice" or "half rubber, half stamp." [24] From years of experience, I would say that we do a president a disservice by rushing any nomination.

Unless there is a vacancy and a clear record as to the nominee's integrity, his capability, his honesty, his qualifications, and a clear need for speedy action. If damaging information about a nominee's past is to be found, or serious character flaws are to be uncovered, better that it become public knowledge before the individual is confirmed rather than afterwards. That is a hard message to deliver to any president of any party, but it is a lesson that has been learned too frequently to be forgotten. In sum, the Senate must continue to seriously and painstakingly perform its Constitutional responsibility of advising and consent on presidential nominations if we are to maintain the unique system of checks and balances that has brought our democratic form of government to its bicentennial.

Mr. President, I ask unanimous consent that appropriate footnotes be included, together with a list of the names of Supreme Court nominees that have been rejected by the Senate, and a list of Cabinet nominees that have been rejected by the Senate.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

FOOTNOTES

[1] Jane Butzner, *Constitutional Chaff—Rejected Suggestions of the Constitutional Convention of 1787* (Port Washington, 1972 /1941/), 107-11; Jacob E. Cooke, ed. *The Federalist* (Middletown, 1961), 449.

[2] *Senate Executive Journal and Related Documents* (Baltimore, 1974), II:8-9.

[3] George H. Haynes, *The Senate of the United States: Its History and Practice* (Boston, 1938), II:724-25.

[4] Ibid., 726; Roy Swanstrom, *The United States Senate, 1787-1801: A Dissertation on the First Fourteen Years of the Upper Legislative Body* S. Doc. 99-19, 99th Congress, 1st sess. (Washington, 1985), 98.

[5] Ibid., 98-99; *Senate Executive Journal*, II: 17, 29-30.

[6] See F.B. Marbut, *News from the Capital, The Story of Washington Reporting* (Carbondale, 1971).

[7] Haynes, *The Senate of the United States*, 725; Swanstrom, *The United States Senate*, 99-100.

[8] *Senate Executive Journal*, II: 24-25; Joseph P. Harris, *The Advice and Consent of the Senate: A Study of the Confirmation of Appointments by the United States Senate* (Berkeley, 1953), 40-41.

[9] Swanstrom, *The United States Senate*, 109.

[10] Noble E. Cunningham, Jr. *The Process of Government Under Jefferson* (Princeton, 1978), 165-87.

[11] Harris, *The Advice and Consent of the Senate*, 46-50.

[12] Ibid., 54-57; see also Donald B. Cole, *Martin Van Buren and the American Political System* (Princeton, 1984), 216-32.

[13] Harris, *The Advice and Consent of the Senate*, 63-71.

[14] Margaret Susan Thompson, *The "Spider Web:" Congress and Lobbying in the Age of Grant* (Ithaca, 1985), 158.

[15] President Franklin D. Roosevelt's attempt to dismiss a member of the Federal Trade Commission was rejected by the Supreme Court in the 1935 case *Humphrey's Executor (Rathbun)* v. *U.S.* See William E. Leuchtenburg, "The Case of the Contentious Commissioner" *Humphrey's Executor* v. *U.S.*," in Harold M. Hyman and Leonard W. Levy, eds., *Freedom and Reform: Essays in Honor of Henry Steele Commager* (New York, 1967), 276-367.

[16] William S. McFeely, *Grant, A Biography* (New York, 1981), 290-92.

[17] Harris, *The Advice and Consent of the Senate*, 74-75.

[18] Ibid., 84-87; Robert Rienow and Leona Train Rienow, *Of Snuff, Sin and the Senate* (Chicago, 1965), 75-92.

[19] Harris, *The Advice and Consent of the Senate*, 99-114.

[20] Congressional Quarterly, *Guide to Congress* (Washington, 1982), 206.

[21] See my more extended discussion of Dawes' rush to the Capitol, in "The Senate in the Roaring Twenties," *Congressional Record*, 98th Congress, 2nd sess., S3151; and of the Strauss' nomination in "Lyndon Johnson and the United States Senate," *Congressional Record*, 99th Congress, 2nd sess., S1917.

[22] "Pat M. Holt, Chief of Staff, Foreign Relations Committee," Oral History Interviews, 1980, Senate Historical Office, 223.

[23] Linda Greenhouse, "Steering Nominees Over Capitol Hill," *New York Times*, 18 August 1986.

[24] Peter B. Kovler, "Consent Without Advice," *Commonwealth*. V (July 7, 1878), 430-33; "Senate Confirmation Process: Half Rubber, Half Stamp," *Washington Post*, 10 September 1977.

SUPREME COURT NOMINEES REJECTED BY SENATE

(1) John Rutledge, 10-14, December 15, 1795 (Washington).

(2) Alexander Wolcott, 9-24, February 13, 1811 (Madison).

(3) John J. Crittenden, confirmation indefinitely postponed, February 1828 (Adams).

(4) Roger B. Taney, confirmation indefinitely postponed, March 1835; later renominated and confirmed (Jackson).

(5) John C. Spencer, 21-26, January 31, 1844 (Tyler).

(6) Reuben Walcott, not acted upon, 1844 (Tyler).

(7) Edward King, not acted upon, 1844 (Tyler).

(8) John M. Read, not acted upon, 1844 (Tyler).

(9) George W. Woodward, 20-29, January 22, 1846 (Polk).

(10) Edward A. Bradford, not acted upon, 1852 (Fillmore).

(11) George E. Madger, not acted upon, 1853 (Fillmore).

(12) William C. Micou, not acted upon, 1853 (Fillmore).

(13) Jeremiah S. Black, 25-26, February 21, 1861 (Buchanan).

(14) Henry Stanbery, not acted upon, 1866 (Johnson).

(15) Ebenezer R. Hoar, 24-33, February 3, 1870 (Grant).

(16) George H. Williams, withdrawn by president in 1874 (Grant).

(17) Caleb Cushing, withdrawn by president in 1874 (Grant).

(18) William B. Hornblower, 24-30, January 15, 1894 (Cleveland).

(19) Wheeler H. Peckham, 32-41, February 16, 1894 (Cleveland).

(20) John J. Parker, 39-41, May 7, 1930 (Hoover).

(21) Abe Fortas, withdrew from consideration, 1968 (Johnson).

(22) Homer Thornberry, not acted upon, 1968 (Johnson).

(23) Clement F. Haynsworth, Jr., 45-55, November 21, 1969 (Nixon).

(24) G. Harrold Carswell, 45-51, April 8, 1970 (Nixon).

CABINET NOMINEES REJECTED BY SENATE

(1) Roger B. Taney, Secretary of Treasury, 18-28, June 23, 1834 (Jackson).

(2) Caleb Cushing, Secretary of Treasury, 19-27, March 3, 1843 (Tyler).

(3) Caleb Cushing, Secretary of Treasury, 10-27, March 3, 1843 (Tyler).

(4) Caleb Cushing, Secretary of Treasury, 2-29, March 3, 1843 (Tyler).

(5) David Henshaw, Secretary of Navy, 6-34, January 15, 1844 (Tyler).

(6) James M. Porter, Secretary of War, 3-38, January 30, 1844 (Tyler).

(7) James S. Green, Secretary of Treasury, vote not-recorded, June 15, 1844 (Tyler).

(8) Henry Stanbery, Attorney General, 11-29, June 2, 1868 (Johnson).

(9) Charles B. Warren, Attorney General, 39-41, March 10, 1925 (Coolidge).

(10) Charles B. Warren, Attorney General, 39-46, March 16, 1925 (Coolidge).

(11) Lewis L. Strauss, Secretary of Commerce, 46-49, June 19, 1959 (Eisenhower).

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I thank the Chair.

I ask unanimous consent, Mr. President, that the Senate continue with morning business for an additional 10 minutes and that Senators be permitted to speak therein.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The absence of a quorum is noted. The clerk will please call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR BREAUX IS DILIGENT IN HIS BUSINESS

Mr. BYRD. Mr. President, one of Benjamin Franklin's favorite pieces of Scripture was this: "Seest thou a man diligent in his business, he shall stand before kings."

Presiding over the Senate today is the junior Senator from the great State of Louisiana [Mr. BREAUX]. He is a man who is diligent in his business. He has now presided over the Senate for a total of 50 hours. That is a long time. Wars have been lost and wars have been won, I suppose, in less time. Great events have transpired within 50 hours. This is not too little an event, by the way. Senator BREAUX is well on his way to earning the golden gavel, which is presented to Senators when they come to be Members of this body and have presided over the Senate for a total of 100 hours. I look forward to the day when Mr. BREAUX will receive the golden gavel.

It is not an easy job, to a considerable degree, it is a thankless task, to sit in the chair and listen to the Senator from West Virginia drone on and on and on about the history of the Senate. But somebody has to do it. The Senate has to have a Presiding Officer.

That Presiding Officer has a great duty and responsibility placed upon his shoulders. It is his responsibility to maintain order in the Senate, to secure order in the Senate, in the Chambers and in the galleries. There are millions of people in this country watching him as he presides. From time to time the camera is turned to the Presiding Officer as he has to speak. The Presiding Officer, incidentally, is not allowed to address the Senate except by unanimous consent, but he does have to recognize Senators and once in a while find them out of order, make a statement or render an opinion in response to parliamentary inquiry, or give a ruling in response to a point of order.

This young Senator is doing a good job. He is alert. He speaks articulately and clearly and makes a fine Presiding Officer.

I took occasion the other day to compliment him on his job, and today, a few minutes ago, having completed his first 50 hours, I thought it appropriate to call attention to his progress.

Mr. President, I yield the floor.

Mr. SIMPSON addressed the Chair.

The PRESIDING OFFICER. The Chair recognizes the Senator from Wyoming.

Mr. SIMPSON. Mr. President, I have been listening to the remarks of the majority leader. I do join in commending the Presiding Officer now in the chair. But let me say this, Mr. Leader, that it has been my personal privilege to have an even more intimate view of the activities of the occupant of the chair because he serves as chairman of the Subcommittee on Nuclear Regulation of the Committee on Environment and Public Works. That was a subcommittee that I chaired for some 6 years. It is a tough subcommittee because you are dealing with commercial nuclear energy, you are dealing with issues like emergency planning, the uranium industry, radon, nuclear safety—issues of fear, emotion, hysteria.

Now I am the ranking member of that subcommittee. It is not quite as much fun, assuredly, but I have learned my place. I can tell you that Senator BREAUX is doing a superb job, and he does it with great common sense, good will, and a fine sense of himself. It has been my pleasure to come to know him and to work with him. I certainly second the remarks of the majority leader.

Mr. President, I know we are waiting for the work product of the participants with regard to the debt limit extension. I certainly understand the situation on the Senate floor because it is tough to get to this issue, and it is one we all grapple with, the debt limit extension. We do not like to cast that vote. It will only be a trillion and two or three hundred billion along with it this trip. None of us like to step into the well and do that. The participants, the principals, are working hard on that. That is what is going on at the present time.

JAMES H. BILLINGTON, LIBRARIAN OF CONGRESS

Mr. SIMPSON. Mr. President, I would like to say a brief word about the confirmation of James Billington, as the Librarian of Congress. That took place Friday. That is an excellent suggestion and an excellent result. I was not in the Chamber at that time.

We have seen the retirement of Daniel Boorstin and his subsequent designation here on the floor as Librarian of Congress Emeritus. I previously shared my thoughts with this body on the remarkable career of Dan Boorstin and his wife Ruth Boorstin, his helpmate and long-time co-creator of some of his finest historical works.

Now we are graced with the presence of Jim Billington. Here is another nice friend and also a great friend of the Boorstins.

He is an excellent choice to be Librarian of Congress. He will serve with great distinction in that office. He most recently has been director of the Woodrow Wilson Center, the international center for scholars, and his record of accomplishment at that institution has been absolutely exemplary, demonstrated by the great respect that the Woodrow Wilson Center commands both in this Nation and internationally.

I have been privileged to participate in the Woodrow Wilson Center and to present a paper or two there. That was a great pleasure for me. If I recall, at one time they asked me to prepare a very provocative series of remarks on immigration. They certainly were. I remember one fellow nearly bounced me out the door of the Smithsonian castle. We did have a spirited exchange that day, with that gentleman. Jim and I have often had great chuckles about that.

But there have been stimulating discussions there, intellectual fertilization, and the leader of all of that was Jim Billington. He is a very remarkable and scholarly gentleman.

I think he is also one of America's most learned and knowledgeable people about the Soviet Union and its form of government. He has written many authoritative books, scholarly insights and digests on that.

The key to that type of work, to me at least, is, is it readable? It may be important, but how readable and down to earth and digestible is it? That is a quality Jim Billington has a special ability to provide.

He can take a complex issue and make it very easily understood. He is a man of great good humor and dry wit, and a piercing intellect.

It has been my pleasure to come to know him, and I enjoy him thoroughly, and also his wife Marjorie, a woman of great brightness gentleness, and a very extraordinary person herself.

They are a splendid couple and it is our great good fortune that Jim becomes the Librarian of Congress. We wish him well. I know he will bring great skill and ability to the position. I am pleased that the Senate has confirmed him. My wife Ann and I join in expressions of great regard and congratulations to Jim Billington upon his assumptions of the duty of Librarian of Congress. He will serve with great accomplishment. We are very fortunate in this land to have the transition from a man like Dan Boorstin to Jim Billington. America is the beneficiary of that. He will be a fine steward of over 85 million items in the Library: films, records, assorted sources of information, knowledge, in extraordinary quality and condition. So I extend my congratulations and best wishes to Jim Billington.

I yield the floor. I thank the majority leader.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, while awaiting the resumption of the consideration of the debt limit extension, I ask unanimous consent that the period for morning business be extended for 30 minutes and that Senators be permitted to speak therein.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. BUMPERS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

ESCORTING OF KUWAITI TANKERS

Mr. BUMPERS. Mr. President, I will be brief. I wish to make a few comments on the escorting of Kuwaiti tankers in the Persian Gulf.

I ask unanimous consent that an editorial from yesterday's New York Times entitled "Surprised Again in the Gulf" and an article from yesterday's Christian Science Monitor entitled "Soviets Get High Marks for Low-Key Handling of Gulf Policy" also be inserted in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BUMPERS. Mr. President, as the Members of this body know, I have been steadfastly and adamantly opposed to our reflagging of Kuwaiti ships ever since it was announced as the policy of this country by the President. I initially believed, and nothing has changed my mind, that this has no upside benefit for us. It's all downside risk.

First of all, I do not think it was well thought out. I have said many times we do not have a planned response for an attack—covert, overt, or any other kind. Second, it seems obvious to me now that we went in there, even after all the talk about it, woefully unprepared; and instead of escorting Kuwaiti tankers, we are actually allowing Kuwaiti tankers to escort our war vessels. We have had the tanker *Bridgeton* going toward Kuwait with American warships lined up single file behind, so that if a mine was hit it would hit the tanker, which was not likely to be sunk, rather than a warship.

So with the first mine hitting the *Bridgeton*, one of the tankers we chose to escort, we can all be thankful it was not an American warship with the resulting loss of American lives. But the next time you cannot be sure that is going to be the case. It is my firm belief that this is just the first of many untoward events for us in the Persian Gulf.

What we are doing is risking American lives to escort Kuwaiti tankers, and I defy anybody in this body to tell me what we are getting out of it. Freedom of the seas? We have a perfect right to have our ships in the Persian Gulf; they have always been there, just as Soviet ships have always been there. To get oil out? Hardly. Ninety-nine percent of the oil shipped from the Persian Gulf has been flowing freely out of the gulf for 7 years during that Iran-Iraq war. So that makes no sense.

If our policy is to be confrontational and to provoke an incident which would get us into war, then I say there is an excellent chance that that policy will succeed. But I invite the Members of this body to search their minds and their consciences as to whether or not that is in the best interests of this country.

It is hard for me to believe that we went in there with no minesweepers. The Navy said: "These mines were in places they had never been before. We didn't anticipate it."

Well, where do you think people put mines? Where you do not expect them. The fact that there were no mines around the Kuwaiti shores where four Saudi Arabian minesweepers had swept was predictable, and there we were going by an Iranian-controlled island called Farsi Island. It seems to me that it would have been predictable. But the mine-detecting ability of our escort ships is in deep water. They do not operate well in shallow water such as exists in the gulf. Therefore, with their sonar devices, they could not detect something as small as a mine.

We have three active minesweepers, all built during the Korean war. Do you know why we built them during the Korean war? Because North Koreans were laying mines—something else we had not anticipated back then.

Why do we not have minesweepers? As a New York Times editorial says, it is defensive. It is not glamorous. Who is going to give you a medal for building a minesweeper instead of an MX missile? So we do not.

It will take weeks to get three minesweepers there, and there is some question about their technology and their capability.

The thing I really wanted to say—and if you are a good newspaper man, you would have said this first—but the thing that galls me about this policy more than anything else is that we are risking American lives. I am talking about the sons of mothers and fathers and the brothers of brothers and sisters, putting them in harm's way, and some of them are certainly going to get killed; and Kuwait will not even let us land so much as helicopter on their soil.

I would like the President of the United States to go on television and explain that to the American people: American boys being asked to give their lives for some arcane, obscure policy nobody in the country understands, for a country which will not even allow us to land a helicopter, let alone a fighter plane, on their soil, for fear it would upset some of their neighbors. Some policy.

EXHIBIT 1

[From the New York Times, July 28, 1987]

SURPRISED AGAIN IN THE GULF

After the tanker Bridgeton was damaged by a mine in the Persian Gulf last week, the Navy's vulnerable escort ships lined up behind it in single file, since the tanker was better able to withstand further mines. The inaugural voyage of Kuwaiti tankers bearing American flags thus ended in bizarre inversion, with the tanker protecting the warships meant to defend it. To avoid further inglorious setbacks, the Navy needs now to suspend convoys until it gets a handle on the mining threat.

The Pentagon has evidently underestimated both the danger of mines and Iranian ingenuity. The Navy swept the approaches to the Kuwaiti harbor but did not search for mines further out in the deep-water channel near Farsi Island. "We did not look in that area," Defense Secretary Weinberger explains, "because there have never been any mines in that area." But where they're not expected is just where mines are usually laid.

Navy planners believed they could rely on Saudi Arabia's four minesweepers. But the Saudis have so far allowed the sweepers to operate only in Kuwaiti coastal waters. The Navy has only three minesweepers of its own in active service, and they would take weeks to reach the gulf.

Minesweeping helicopters would be an alternative. But they are too heavy to land on the Navy's escort ships, and the Kuwaitis have so far refused to offer land bases. The Navy is hastily looking for other ships to serve as platforms.

Meanwhile the U.S. escort ships in the gulf are nearly defenseless against mines. Their sonars, designed for detecting submarines in deep water, are confused by the myriad reflections in the shallow gulf, and in any case cannot easily detect small objects like mines. One of the ships, however, through the accident of having a cheaper sonar, is somewhat better able to detect mines. "I'm very thankful now that we managed to get out safely . . . . Right now, certainly, I wouldn't want to go back through the area," said Capt. David Yonkers, commander of the escort force.

But how, then, can escort duties be resumed? The next convoy is supposed to start Aug. 6. The Navy cannot be held to absolute safety, but it would be futile to continue the convoys before taking more vigorous measures to reduce the risk. Kuwait had better provide bases for the minesweeping helicopters, and allow arrangements to monitor any minelaying activities by Iranians.

Why does the Navy find itself so ill prepared for mine warfare, a specialty to which the Soviet Navy devotes considerable attention? The three minesweepers in active service were built during the Korean War, when—hear a now familiar story—the navy was surprised by the North Koreans' use of mines. None have been built since because mine warfare is defensive, unglamorous and spread among the Navy's three main branches of surface ships, submarines and aviation.

Since none have an exclusive interest in the subject, all have neglected it. Two new classes of minesweeper were ordered at the beginning of the Reagan Administration, but both ran into problems, with no ships yet delivered.

Besides the crippling of the frigate Stark by an anti-ship missile on May 17, the mining of the Bridgeton represents a second sign of the Navy's unpreparedness. After the vast investments of the last six years, a better standard of performance could well have been expected—especially now, especially in the gulf.

SOVIETS GET HIGH MARKS FOR LOW-KEY HANDLING OF GULF POLICY

(By Warren Richey)

Last Friday, as the world speculated about whether the United States would retaliate against Iran in the wake of the Bridgeton mine incident, two Soviet freighters and a Soviet minesweeper were quietly steaming through the same dangerous area of the gulf.

The Soviets ships, headed south, passed close to the US-protected convoy roughly three hours after the Bridgeton struck the mine. A US naval office radioed a warning to the Soviets of possible mines ahead.

According to press reports, a Soviet captain radioed back: "Thank you American warship." And the Soviets sailed on.

The episode points up the stark difference between the low-key operating style of continuing Soviet Navy escorts in the gulf, and the high-profile, confrontational stance taken by the Reagan administration as the US reaffirms plans to continue protecting reflagged Kuwaiti tankers from Iranian attack. [US Defense Secretary Caspar Weinberger said yesterday that the Navy's anti-mine capabilities will be improved in the gulf.]

Gulf-based diplomats and other observers say the US increased the risks of confrontation in the gulf by making threatening statements before beginning the escort operation. They note that the Soviets have for weeks escorted their ships through the gulf without incident.

"This is the American way of doing things—by publicizing it and telling every detail on television," one diplomat says. "That is not the Soviet way. Secrecy and confidentiality . . . is their way. . . ."

When one of three Soviet tankers chartered by Kuwait hit a mine in the northern Gulf on May 16, diplomats point out there was no rhetoric from Soviet leaders or citizens warning of the risks of protecting gulf shipping. But they note that after the Bridgeton incident, members of Congress immediately renewed calls to discontinue the US escort operation. Diplomats say such calls raise questions about US reliability in the minds of gulf leaders.

In addition to a low-key approach, diplomats say the Soviets have benefited from a flexible policy in the region that allows them to turn sudden events to their own advantage. Moscow maintains diplomatic relations with both Iraq and Iran, despite its current commitment to help protect Kuwaiti oil shipments in the gulf. And the Soviets have avoided making policy statements that might back them into a corner and force a military or other response, observers say.

"You have to be extremely flexible and not stand up and erect an enormous amount of principles that you would never move away from," says a diplomat. "The Soviets have a better grasp of this than the Americans," he adds.

Last winter, after being rebuffed by the US, Kuwait turned to the Soviets for help in protecting Kuwaiti oil shipments from increasing Iranian attacks in the gulf. The Soviets quickly and quietly leased three of their own tankers to the Kuwaitis and began escorting them through the gulf.

The Reagan administration responded with its current plan to reregister under the American flag up to half of Kuwait's 22-ship fleet of oil tankers. The administration pledged to protect the reflagged Kuwaiti tankers with US warship escorts.

The US said its actions were intended to uphold the principle of freedom of navigation in the Gulf's international waters. But officials spoke more passionately of preventing the Soviets from gaining key footholds in the oil-rich Gulf.

Last week, Mikhail Gorbachev suggested in a letter to President Reagan that the two superpowers might work together in the gulf to help defuse tension and end the nearly seven-year-old Iran-Iraq war. The White House replied that the UN was the appropriate forum for such efforts. Analysts say the US wanted to avoid lending any additional credibility to the Soviet's position in the gulf.

Earlier the Soviets capitalized on public sentiment in Tehran by publicly denouncing the US military buildup in the gulf.

Soviet officials echoed earlier statements by Iranian officials and called for a withdrawal of foreign warships from the gulf by saying that the Soviets would remove all their ships from the region if the US would do likewise. (The Soviets then had five ships in the area, compared to roughly three times as many US ships.)

The US rejected the call, but the effort helped strengthen Soviet-Iranian ties at the expense of the US.

Though the Soviet Union and the US now share a common goal in protecting neutral shipping in the gulf, the broader competition for influence in the region appears to have precluded the Soviets and the Americans working together.

But analysts in the gulf stress that despite Moscow's efforts, the region is overwhelmingly pro-Western. Military equipment and weapons are still being purchased from the West, the vast majority of students abroad are studying in US or European universities, and most commerce and trade is Western oriented.

AN INTERMEDIATE-RANGE NUCLEAR FORCE TREATY

Mr. BUMPERS. Mr. President, for the last 6 months I have picked up a newspaper and, almost on a daily basis, I have seen where the administration says the new Soviet proposal looks promising. Or, "President Offers Soviets New Proposal On Intermediate Range Nuclear Forces." Or, if we can just resolve the question of the Pershing I's on German soil, we are going to reach this treaty. Or headlines: "Summit Conference Between Reagan And Gorbachev Looks Possible For The Fall Of This Year." It has been going on for 6 months.

Incidentally, I have always said that sometimes we make proposals to the Soviet Union that we would not dare accept, if they took us up. Not long ago, the President said: "We can never enter into an unverifiable treaty. We have to have on-site inspection." In a few weeks, the Soviets said: "OK, let's do that."

All you have seen is the backside of the administration ever since. They could not run away from that proposal fast enough.

However, that is not what I rose to say. What I rose to say is that I will applaud the administration if they get this Intermediate Range Nuclear Force Treaty. It will at least show that they are capable of signing some kind of agreement with the Soviet Union that would limit, no matter how infinitesimally, the number of warheads on both sides. But I have been constantly dismayed by the fact that there is a lot of euphoria and constant press coverage and optimism and hope in this country that, somehow or other, we are going to be able to get this treaty completed with the Soviet Union.

It is my opinion that we will. We are going to sign this treaty, and Gorbachev is probably going to come to the United States, maybe even ride in some kind of caravan down Pennsylvania Avenue, and the press is going to be absolutely rhapsodic for at least the time he is here because of this agreement.

As I say, I will applaud. But I want this body to bear one thing in mind: It was in November 1986 that President Reagan said, "We are no longer going to comply with the SALT II Treaty. From now on, we are going to build as many missiles and warheads as we want."

I do not want to debate that because we are going to be debating that issue here in the not too distant future.

Mr. President, listen to this—and I hope my colleagues, wherever they are, will hear this: If we sign that agreement today, we are going to be agreeing to eliminate 316 warheads. Let me repeat that: If we sign the agreement as it is presently proposed, the United States will take all 108 of its Pershing II missiles and its 208 ground-launched cruise missiles currently deployed out of Western Europe, constituting a total of 316 warheads; and ever since the President announced last November that we were no longer going to comply with the SALT II Treaty, we have been adding 316 warheads to our arsenal every 10 weeks.

We have been talking to the Soviets seriously for 50 weeks about this treaty, during which time we have added 1,500 warheads to our arsenal; and we have been fighting and scratching and clawing to get this treaty, which will reduce 316 warheads from the United States arsenal.

If you were to put our nuclear arsenal on a graph, all of our strategic weapons—do not count tactical weapons. I am not talking at all about mines that are nuclear or artillery shells that are nuclear. I am talking about strategic weapons that are on missile launchers or long-range bombers that can travel 4,000 or 6,000 miles. If you took all those warheads and put them on a graph, and beside that you put the 316 warheads that we are proposing to eliminate under the intermediate-range nuclear force treaty, it would be a little blip. You would have to get a microscope to see it.

I do not want to downplay that. I am pleased that we are about to get a treaty that will eliminate any warheads. But I simply want to put it in perspective by saying that the President's very critical decision last October to abandon the SALT II Treaty and the constraints on both sides under that treaty are devastating to any possibility for a real reduction in nuclear weapons.

And when you consider all the hoopla that surrounds this and you realize that because of that decision we are adding more warheads every 10 weeks than we are going to be reducing if we sign that treaty tomorrow, you can see what a long way we have to go.

Mr. President, one other thing before I yield the floor: if I may I would like to point out, just for the mathematical verification of what I just said, how my staff and I worked these figures out.

We are currently deploying—we are accepting—I hesitate to use the word "deploy"—we are accepting four B-1 bombers a month. The reason I say we will not deploy is that the B-1 will not fly. So far we accept 52 of them, and I understand they have 1 operational. That is only $30 billion. They only cost about $300 million each. Now the Air Force says if we give them another $8 billion they think they can make them fly.

Anyway, four B-1's a month with 20 warheads each is 80 warheads. This is per month.

Two MX's are being deployed each month with 10 warheads each. But they're replacing Minuteman III missiles with three warheads each, so that's a net gain of seven warheads per missile deployed. That is 14 warheads per month.

And since we have broken out of the SALT II Treaty, we are also taking some of those old 30-year-old B-52 bombers, 2 a month to be precise, and we are putting 12 extra cruise missiles on each of those. That is 24 per month. And we are deploying one Trident submarine, with 24 missiles per sub, each year, which average out to 2 Trident missiles per month with 8 warheads each, for a total of 16.

So what you have, Mr. President, is 134 warheads average per month that we are deploying and that divided into the 316 warheads we will dismantle is 2.36 months, and 2.36 months is roughly 10 weeks.

Mr. President, I yield the floor.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. SIMPSON. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

THE SOCIAL SECURITY TRUST FUND

Mr. SIMPSON. Mr. President, while we do await the work product of our colleagues, I would like to briefly address another issue—having an opportunity to do that and not interrupting the course of the business to any great degree. Certainly this one is one that I have been greatly interested in for many years and one that most of us do not care to address. We find it politically volatile and unpopular to do so. But it seems appropriate as we deal with the deficit and the problems of finding ways to try to finance the tremendous debt of our Government that has piled up over the years—and forget the blame; and who did what; and whether it was the Democrats in 50 years or the Republicans in the last 8—the issue is that the debt and deficit is there.

One of the biggest reasons it is there is the entitlement programs. We sit around here with our paring knives, and we do a number on the various agencies of the Government. We lop off this thing, or we lop off that. We do not do any of the heavy lifting. We do not do any of the hauling of trash or we do not do windows because we never mess with one untouchable thing, and that is the Social Security system.

My staff must be clutching their throats back in the office now as I speak on this, shocked. But I have been waiting with more than passing interest for Social Security to ever be mentioned as we get into this situation. Yet it is $226 billion of your money, and that red hot, vexing issue that has the most curious ability to subject us all to political destruction, and we all use it magnificently.

We rig up votes on it on both sides of the aisle. We use it as a bomb to roll under the Democrats over there, or they to roll it under the Republicans over here, hoping it will detonate somewhere other than under our own chair. And we do that all in the great guise of protecting Social Security.

Now, for years we have been wrestling with the issues created by Social Security and the problems which lie ahead for those who retire in the future. I do not know what my colleagues are finding, but I am finding in town meetings—oh, and I know that AARP insists it is not so, and the senior groups insist that this is not so, but it is so in my neck of the woods—when the argument comes up and a young person stands up and says, "There is not going to be anything in there when I am ready to retire," I do not even get into the debate anymore at the town meetings because some senior person will get up and say "I agree with that. I think you might have a problem"; or some senior citizen will say, "Well, I put my money in; you haven't yet." I think we are going to reach serious intergenerational dispute about that. I think it is already there.

Those problems facing the fund became so severe that we had to react in 1983 to reform the Social Security system in order to try to ensure the solvency of the trust fund. And I thought that group did a pretty good job, Democrats and Republicans alike. And as a result of that action and economic improvements of this administration, we have seen a much healthier trust fund.

And it is true that in the annual report of the board of trustees of the old age survivors and disability insurance trust fund, it indicated that the trust fund was solvent for now. And if you talk to those who pursue the Elysian mysteries of Social Security and its funding, they will say, "Never been in better shape. The reserves are there for many years." And they are, until about the year 2030. After the year 2030, then start reading about it again.

I ask the American people really to start paying attention to what all the articles say. They are all couched in the most fuzzy of language. "Well, if the economic assumptions are correct, everything will be fine. If this is so and this is so and that is that."

I have only been here 8½ years and I have never seen a single economic assumption that was correct. Not one. Not one yet, anyway. And it will be the same for years to come, because no one knows the dynamics that really drive our economy. We do not even know what we have in the way of a barter economy in the United States. And that is an extraordinary thing, in itself. But that gives strength. That is part of America. We have always loved to kind of mess around with our economic issues.

But let us not fool ourselves into thinking we have solved the problems with the Social Security system. And it does not matter if we put it off budget or on budget, somewhere underneath or hide them or use it to couch the deficit figures.

But it seems to me no one wants to honestly face that one anymore. And I really do not want it to hang around my neck. I don't need trouble. But I shall keep up the house payments in Cody, WY. And this one will assure that I may not return if I am to get into it in any depth.

But I think we ought to be frank with each other. When I see us killing a program off that is only $80 million or killing one off that is only $50 million, and yet when we try to get a basic 1-year freeze on the cost-of-living allowance on Social Security that would have saved us 8 billion bucks, when we tried to do that, the mail room broke down and we all suffered for that. Now we ought to really begin to sober up on that one.

So I have been waiting with curious interests to see whether anyone would design to enter into the RECORD the excellent editorial in the Washington Post of July 5, 1987, entitled, appropriately enough, "Fooling Ourselves."

It is a very gutsy piece of journalism. It addresses these issues I think it deserves the attention of the American public. I ask unanimous consent that it be printed in the RECORD.

There being no objection, the editorial was ordered to be printed in the RECORD, as follows:

FOOLING OURSELVES

Everyone was delighted when Congress and the president "solved" the Social Security problem in 1983, putting the system back on a supposedly sound financial footing. Now it turns out that the solution itself has problems. The Social Security system may not end up that much better off than before, and the government in general could end up worse off.

The plan made perfect sense at the time. The idea was to increase future taxes while moderating benefits to produce a giant surplus in the trust funds while the baby boomers were still in the work force. The surplus would then be drawn down in the next century to support the boomers when they retired.

That would be fine if Social Security were the great savings account in the sky that people think it is. But contrary to the mythology so assiduously built up over the years, it is much more a pay-as-you-go operation. The trust funds are merely accounting devices; there is no real accumulation of funds. Social Security dollars are not kept apart. They merge indistinguishably with all the others that flow into and out of the Treasury each year.

Social Security revenues are currently greater than costs. The extra dollars are simply being used to help finance other government programs. In that sense there is a form of double-counting going on. The same dollar is being counted on to support the future Social Security program and to reduce the current deficit. When the boomers do start to retire, the government will still have to 1) dig up more revenue to hel pay their Social Security benefits; or 2) cut the non-Social Security programs the surplus Social Security revenues are now sustaining. There continues to be a crunch in the future. In the meantime, the regressive Social Security tax is also playing a larger role than before in federal finance. It is helping to pay for defense and the rest of general government, as well as Social Security, and in that sense supplanting the progressive income tax.

The problem will become worse as the 1983 plan takes full effect. The "surplus" will grow to an estimated $12.7 trillion by the year 2030; that is $2.2 trillion in current dollars. But the government currently has no way to put such a sum in a genuine reserve—to "save" it in the conventional, retrievable sense. Nor is it entirely clear that the political system could ever muster the will to do so; the temptation of that much candy in the candy jar would be too great. What to do?

Nothing while the deficit remains so large; the first goal of policy has to be to get it down. Then two possibilities occur. One would be to keep collecting the surplus Social Security taxes but create a serious savings mechanism through which the government could invest in items other than its own securities. The other would be to ease the tax rate until the boomers are much closer to retirement, stop using Social Security to mask so much of the deficit and force the rest of government back on the taxes on which it belongs. Either way would be better than what we are doing now, which is fooling ourselves.

Mr. SIMPSON. Mr. President, it is, I think, very important that we keep our eye on the rabbit on this one. We should not think that current solvency means we have a surplus which could be dipped into to expand Federal programs. We need to face up to the reality that the surplus actually consists of Treasury securities which we will have to pay off and which will be paid off by future generations. That is the way it is, really, in real life. There is no bank account. There are no sequestered funds. There is no separate treasure hoard. It is not there. We are not accumulating bucks somewhere.

They are being expended and shuffled out the back door as fast as they come in the front. There is no way at the present time to put money away to be retrieved later. And if the American people really believe that one, that in itself is a tragic delusion.

I think it is important to face those issues and come up with some reasonable solution, whether it is a separate mechanism to collect contributions or to ease the tax rate for the working baby boomers until they are closer to retirement. But I earnestly urge all of us to stop using Social Security to mask so much of the deficit and force the rest of the Government to be accountable for expenses and to use taxes which properly belong in the budget.

So I am fully aware of the precarious activities of mine and the result of speaking about the Social Security system, but when we never even talk about it at all, as if it is almost a secret, an unaddressed subject, because we are all terrified and know full well what will happen to us if we touch it. Let me tell you the groups that are galvanized out there are perched along the arena rail on this one. I will certainly begin to hear from them.

There are some very courageous people in years past of both parties who have tried to honestly put it on the table. And I remember particularly Congressman JAKE PICKLE of Texas when I first came here, who was dealing openly and up front and honestly on this one. It became such a political football that any sensible person—and JAKE is in every sense a sensible person—would just say, "I better put that aside. That is an agenda item that will come up later."

But I think that we really do fool ourselves. This editorial is well worth reading. I hope those who do follow the RECORD will see it. There are some things there that I have been saying for years and should be said again.

I am not trying to bait AARP or the "silver-haired legislators" or the Gray Panthers, or any one of the remarkable and important citizens' groups in the United States. But I have now become a member of the Select Committee on Aging of the U.S. Senate. There are some very extraordinary facts that are presented to us and some very dramatic and heartrending witnesses who testify. And yet we spend $220 billion in that area. And we are really not pinched and evil as a Nation. That is why we are spending $1 trillion on this budget this year—1 trillion bucks. Surely we are doing something right for America. And now we are going to do a debt limit which, depending on the date they set, is going to be something between $2 trillion 400 billion or $2 trillion 900 billion. And yet we still are goosey about people who come to us and say, "You are doing nothing for us." Well, I would say, "Well, it seems to me we are doing something for somebody under that kind of a budget."

So, I think it would be very well to begin to pay attention and just not pound our breasts and talk about what we have done for Social Security and that it is going to be OK until the year 2025 or 2030. But it surely will not be okay after that under any scenario I have yet seen anywhere. And I think the Washington Post has said it nicely indeed.

And so I am not counting on my colleagues with whatever hope to participate in this activity, but I am going to address it because if we are ever going to save anything in this country, it is going to have to be done where the bucks are and that is Social Security, that is defense, that is Medicare, that is Medicaid, it is in veterans issues, it is all of those issues, whether we like it or not. So that at least we will not come in here and posture and go home and say we knocked Amtrak off the tree or EDA or UDAG or did a number on this group and it is only peanuts and we left two-thirds of our Government spending unaddressed while the engines that drive those expenditures are set on high power and headed fast out over the Atlantic and we do not touch them one whit.

I am sure that I will hear from someone on this particular subject. Indeed. And I thank the majority leader.

I suggest the absence of a quorum, Mr. President.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXTENSION OF MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that the period for morning business be extended for 3 minutes.

The PRESIDING OFFICER. Is there objection? Hearing none, it is so ordered.

The Senator from California.

ALTITUDE REPORTING

Mr. WILSON. Mr. President, I rise as an original cosponsor of legislation introduced yesterday by Senators HOLLINGS and DANFORTH which will go a long way to make our crowded skies more safe. This legislation requires that all aircraft flying near the busiest 200 airports in the United States have equipment to report the aircraft's position and altitude to the nearest air traffic control center.

Mr. President, few of us have witnessed the tragedy resulting from a midair collision. As mayor of San Diego in September 1978, I was exposed to the horror of a midair collision first hand when PSA Flight 182 collided with a private plane over a residential neighborhood, resulting in 144 deaths. Then again, in August of last year, an Aeromexico airliner collided with a small private plane in the skies above Cerritos, CA.

The small plane involved in the Cerritos collision was equipped with a transponder telling the air traffic control system of the plane's general position, but not of its altitude. Therefore, the air traffic controller in charge would have had no reason to believe the plane was operating in the controlled airspace surrounding the Los Angeles International Airport and posed a threat to surrounding aircraft.

One of the problems facing our overworked air traffic control system is that most of the small private planes in the United States are not equipped with currently available technology which would inform the air traffic control system of the plane's position and altitude automatically. This legislation which we introduced yesterday would mandate the installation and use of operating transponders with automatic altitude reporting capability for all aircraft operating in designated terminal airspace where radar service is provided for separation of aircraft.

These altitude-encoding transponders are not frills. They provide the air traffic control system with a necessary system to separate the traffic in our skies. We cannot say that a specific midair collison would not have occurred if a small private plane had been equipped with an altitude-reporting device such as that required by this legislation. However, it is incumbent upon the Federal Government to ensure that the Federal Aviation Administration promulgate rules designed to preclude such an accident. This legislation forces the FAA to do just that.

Mr. President, while flying back to California I have listened to air traffic controllers tell the pilots of our commercial aircraft that there is "unidentified traffic at 2—altitude unknown." If all planes in the air traffic control system were required to use altitude reporting equipment, our pilots and air traffic controllers would not have to guess where other planes are. It is vital that this legislation be approved quickly by the Senate and passed into law. I urge all of my colleagues to join me as cosponsors of this important legislation.

Mr. President, I thank the majority leader for his courtesy and I yield the floor.

TEMPORARY INCREASE IN THE PUBLIC DEBT

The PRESIDING OFFICER. Morning business is now expired. The Senate will resume consideration of H.R. 3022.

The assistant legislative clerk read as follows:

H.R. 3022, an act to provide for the temporary extension of the public debt limit.

The PRESIDING OFFICER. The Senator from Texas.

Mr. BENTSEN. Mr. President, the Senate ought to pass H.R. 3022 and we ought to send it to the President as soon as possible. What we are facing if we do not do that, we would have some extremely serious financial reaction of the markets. You see that is particularly true insofar as our being able to sell bonds during this ensuing bit of time and trying to pay interest on debts that we already owe.

You would see a massive disruption in the markets within this current week and you would see the stock market take the impact with a substantial drop.

What it will do is allow the Government to issue these bonds between now, the time of enactment, and August 6. That, again, will pay not just the interest but allow the Government to pay the principal on those notes and obligations and bonds coming due this week and to make Federal payments that have to be made in this ensuing week.

This kind of a stop-gap measure is necessary in order to give the Congress the time to conclude its consideration of the long-term debt limit bill, including the Senate debate on the Budget Act.

We have a number of amendments there and there have been continuous and lengthy negotiations in that regard. I understand they have arrived at a consensus and generally are in agreement. I am looking forward to hearing it.

What we have seen is a situation where we are running out of time and we need that brief extension to accomplish the consumation of the agreement on the budget. We have never in this country defaulted on our sovereign obligations. Here is not the time to start. We ought to act promptly to avert the risk of the dire consequences that would follow.

I have a letter from the Secretary of the Treasury, who states, and this one in particular was written to the House and helped initiate the House action, he understands the House will act on H.R. 3022, extremely time-sensitive legislation to extend the debt ceiling through August 6, 1987. He stresses his strong support for that. He speaks to the point that if we have defaults we will have global consequences from an economic standpoint and you would have financial crises of tremendous dimensions.

If we do manage to get through July 30, our cash balance would be imprudently small. On July 31, in addition to defaulting on $10.2 billion of maturing market Treasury notes, the United States would not be able to honor $2.1 billion in benefit payment to veterans and supplemental security income beneficiaries. Further, on August 3, $17.1 billion of Social Security benefit payments could not be honored nor could $4.2 billion of benefit payments to railroad, military, and civil service retirees. This kind of an event would cause severe economic hardship and uncertainty for hundreds of thousands of families. Therefore, I urge you and your colleagues to act expeditiously and responsibly in order to provide continued certainty of all obligations of the United States.

Sincerely, James Baker, Secretary of the Treasury.

Mr. President, I urge passage of H.R. 3022.

AMENDMENT NO. 643

(Purpose: To extend the debt limit through May 1989)

Mr. JOHNSTON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Louisiana (Mr. JOHNSTON) proposes an amendment numbered 643.

Mr. JOHNSTON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The **PRESIDING OFFICER.** Without objection, it is so ordered.

The amendment is as follows:

> On line 7, in lieu of "August 6, 1987" insert "May 1, 1989" and at the appropriate place in Public Law 100-40, insert in lieu of the figure provided the following figure: "2,800,000,000,000".

Mr. JOHNSTON. Mr. President, what this amendment does is simply extend the time of the debt to May 1, 1989. I thoroughly agree with what my colleague from Texas has said, that we must extend the debt; we must avoid defaults. There is no intent on my part to delay. This is not a filibuster. Let me put at ease the minds of all those who want to go wherever they want to go tonight; there is no thought of delay at all.

It is equally effective in avoiding the default mentioned by the Senator from Texas.

Mr. President, why am I proposing to extend the debt to May 1, 1989? For a number of very simple and basic reasons.

The reason for the short-term extension rather than the long-term extension is to allow an amendment, a nongermane amendment, relative to Gramm-Rudman to be introduced. That is what the negotiations have been about. The purpose of those negotiations is to make Gramm-Rudman sequestration become mandatory.

In a sense, it is mandatory now, Mr. President, because under the present law, the law provides that the Directors, the Director of OMB and CBO, file a joint report and submit it to the Congress. The Joint Budget Committee has 5 days to approve and the Congress then has 5 days to approve that report. Under the law, by September 1 the Congress must vote for the sequestration numbers. Those numbers do not then go into effect because the Congress has about 6 weeks or until October 5 under the present law within which to avoid sequestration.

So you have a sequestration provided for under the present law. Is it effective? Well, I can tell you that no less an authority than the distinguished author of the Gramm-Rudman Act, Mr. GRAMM, of Texas, has said, and let me quote him from the CONGRESSIONAL RECORD of last year at S 9543:

> My own opinion is that it, the fallback mechanism, probably would work, given a joint finding by the budgeting arm of the Congress and the budgeting arm of the White House that a deficit existed. Given the commitment by Members of both Houses of Congress and both political parties by overwhelming majorities made to the original Gramm-Rudman-Hollings process, it is my view that when such a finding has been made, Congress would not find it tenable in terms of political realities that exist today to simply deny the existence of a deficit.

I think the distinguished junior Senator from Texas is correct. We have in place now a law that Mr. GRAMM says is effective and that I think is effective. Somehow there is this feeling that the Congress would not vote for a 1-year sequestration but you can get them to vote for a permanent sequestration which would be mandatory for a period of 5 years.

Somehow that does not follow to me. To me, it makes a lot more sense to go under the present law, which, indeed, requires a vote to approve the numbers on September 1, or thereabouts, after which you have 6 weeks, rather than permanently, to amend this law to require a mandatory annual sequestration. It simply does not follow that the Congress would do the more onerous, the more permanent, the more repetitive act rather than to do it for 1 year.

Mr. President, what my amendment would do by extending the debt until May 1, 1989, and appropriately changing the number in the debt, is it would preclude the vehicle, that is, the debt limit vehicle, for putting the Gramm-Rudman mandatory legislation on. So it is in very clear and stark terms. If you are against making Gramm-Rudman sequestration mandatory, you should vote for my amendment. If you are for making it mandatory, then you should vote against my amendment.

Reason No. 2 to vote for my amendment, Mr. President: In my view, it is a gosh-awful mess, what we do to ourselves each year on the debt extension. We have this huge crisis, full of sound and fury, and basically signifying nothing, that is, the extension of the debt, because the extension of the debt is not the control on spending. It has nothing to do with spending. To vote against extending the debt after you have already incurred the debt is ridiculous, and everybody understands that it is ridiculous. To have to go through that exercise twice a year, or however frequently we will require ourselves to go through it, I think is creating an artificial crisis. It makes us become the laughingstock of the country.

There are always these pyrotechniques between the White House and the Congress whereby each tries to pin the tail on the donkey or on the elephant by saying it is his fault and, no, it is his fault, while the Government almost shuts down, or sometimes does shut down.

What my amendment says is let us put that over until May 1, 1989, and obviate these false crises between now and the next election.

Make no mistake about it, under the underlying amendment we extend this debt only until August 6, which gives you the next crisis on August 6, and then we extend it temporarily again until October 1, 1987.

Is that not going to be a nice little crisis? On or about October 1, 1987, when we are trying to deal with the budget and sequestration and all these other problems, then we are going to have another debt limit, another crisis that is going to arise.

Now, if you want all those artificial crises which we create for the purpose of embarrassing ourselves, and well we ought to be embarrassed, then vote for these series of short-term debt extensions. If you want to obviate that and go all the way to May 1, 1989, then vote with me, because that is what we do.

Now, Mr. President, I have heard it suggested that somehow this is impractical; it cannot be done; people do not want to do it.

Well, that is not the noise I am hearing from the House of Representatives. I do not know where the votes are over there. I do not know that anybody else knows. Let us assume that those who say that the House will not accept this amendment are right. I can tell you all they have to do is vote against it or fail to accept it and I for one will go along with it.

In other words, I want to give the House something they can accept. I frankly believe the House would accept this. I think the pressure for this short-term debt extension, the pressure for the mandatory sequestration is created on this side of the Capitol and not on the other side of the Capitol.

So, Mr. President, we have a system that is calculated to work right now. If you want that sequestration, then you have it under the present law. All you have to vote for is the numbers. If it creates that train wreck, which a lot of us think it is going to create, if it provides for a great deal of economic embarrassment as well as political embarrassment, then maybe next year Congress will have a chance to think a second time before having to face it again.

Mr. President, the whole idea of Gramm-Rudman to begin with, in my view, was a copout. It was to substitute form over substance, really to substitute procedure for hard, tough cuts in the budget and raises in taxes. Congress has to face up to those things. When you put in this Gramm-Rudman procedure, then the new game becomes how to get around the Gramm-Rudman procedure. And have we been getting around it? Why, of course. The President has submitted what Dave Stockman called smoke and mirror budgets. Dave Stockman, who, after all, was not just an occasional weekend visitor at the White House, was the architect of the whole budget. He says very plainly it is all smoke and mirrors.

Then after Dave Stockman left, when we got the new Presidential budget submitted under Gramm-Rudman, it starts off with 27 billion dollars' worth of smoke and mirrors—that is to say, 27 billion dollars' worth of economic assumptions that the Congressional Budget Office, which, after all, is bipartisan, says are not real savings. So the President submits 27 billion dollars' worth and then the Congress, indeed this very Senate, adopted those same economic assumptions when we passed our budget resolution.

You cannot say that it is working, Mr. President, when Dave Stockman calls it smoke and mirrors, the President's budget is $27 billion of smoke and mirrors, according to CBO, and then the Senate goes along with the same thing.

In addition to the $27 billion, you have these budget tricks such as asset sales. Now, those will score under the Budget Act. They are real dollars under the Budget Act. But they are false dollars as far as the budget is concerned because it is not really a cut in spending. If we sell the Elk Hills oil reserve, as the President has proposed in his budget, it may get some dollars. It would be bad economics to sell the oil reserve when the price of oil is close to its all-time low in recent years, or close to its recent-year low, shall I say, and when the price is on its way up. It would be a bum time to sell it. It could not be a worse time to sell it. But even if you sold it at the right time, it is not a budget cut. It is a way to satisfy the Gramm-Rudman law.

And all these dates created under the Gramm-Rudman law do not work either. Just yesterday, we changed the time when Congress is required to complete reconciliation from June 15, as required in the law, to September 29, 1987. They pushed it back 3 months.

Mr. President, they say that procedure is working. It is 3 months late. Every date in Gramm-Rudman is pushed back. The whole work of the Congress is pushed back. We do not get a thing done. Not an appropriations bill has passed this body. It is all going to be done on a CR. And if you think the CR is a good way to legislate, I can tell you it is not. I was floor manager of the CR last year, and we stayed here night after night considering the spending of the Congress all rolled into one bill. It is going to happen again this year. It is all directly on account of this bill. And we want to make this bill worse than it is.

As I said the other day, it is like the drunk who wakes up in the morning with a terrible hangover and says, "What I need is another drink." The hair of the dog, we used to call it. We do not need another drink, Mr. President. What we really need is a little will, a legislative will to cut these budgets or to raise taxes or both.

Now, I might say, Mr. President, that it is a curious thing to me that over on our side of the aisle a lot of people are saying, "Well, let's pass this mandatory sequestration and we can make this President go along with taxes." And then I look over on the other side of the aisle, and I see my dear friend, the junior Senator from Texas, who is as adamant an opponent of taxes as anyone I know, and I see his other allies who are out there leading the fight to try to make sequestration mandatory. They are strong opponents of taxes. And yet over on my side of the aisle they look up and they see a different image in the sky. They do not see these tough hard cuts in domestic programs. They see President Reagan smoked into a corner saying, "All right, send me those taxes, boys, and I will sign them. Send me 19.3 billion dollars' worth of taxes and I will sign them."

Mr. President, in this regard I can tell you Senator GRAMM is right; you are not going to smoke out this President. He is not going to sign those 19.3 billion dollars' worth of taxes. If anybody wants to take a little bet on that, I would be glad to take their money, as long as it is not too much because I am not a big betting man. But I can tell you when reconciliation comes through and it contains 19.3 billion dollars' worth of taxes, the President is going to veto it. Then you are going to create this artificial crisis where you have—well, it will not be an artificial crisis; it will be a real crisis at that time, where you have about 5 or 6 weeks within which to produce the savings or otherwise the sequestration axe will fall.

Everybody says the sequestration axe is so bad that nobody can stand it: not the President because it cuts defense; not the Congress because it cuts domestic.

I might say, Mr. President, certainly this Senator is against those sequestration cuts in defense just as is the President. It would require cuts in defense on the order of $30 billion in budget authority, probably $18 billion in outlays. The reason the budget authority is so high is that most of those accounts in defense are spent out at the rate of about $2 in budget authority for every $1 in outlay.

So it would be a terrible and awful result. I can lay out the scenario right now as to what is going to happen, and I think it might be useful to do, because in my view it is going to happen.

Reconciliation is voted, contains the taxes—if it contains the taxes—then the President vetoes. The President goes on television and says: "I sent them a balanced budget, but they wouldn't accept it." He did not send a balanced budget. But he has the bully pulpit, and that is going to work to his advantage.

Then it will be Congress that will be embarrassed, because the President said he sent us a balanced budget and we would not accept it. So, within a period of about 5 weeks, we are going to have to go through and cut programs more deeply than they should be cut and have taxes raised—we will probably call them something else—less than they should be raised, and we may have to vary the target in the process. It will not be a very good result for the country, and it will be a terrible result politically for Congress.

Mr. President, if people think the way to get taxes is through the sequestration process, then I submit that we ought to build taxes into that sequestration process; and at the appropriate time, when the Gramm-Rudman fix is put up, I will have an amendment that will do just that. It will provide for an automatic one-third to be raised by taxes, one-third from defense, and one-third from domestic.

I have not seen a serious attempt to reach these Gramm-Rudman targets yet, to contain some kind of revenue. Even the President's budget contained about $5 billion in taxes. He called it something else, but they were very clearly taxes.

I happen to believe that you need more than that. I think you need at least one-third. If you are going to cut $36 billion, that means you need at least $12 billion in taxes. So why should we not build that into this sequestration proposal? If you need taxes, put it into a sequestration proposal.

Mr. President, it is not my intention to hold the Senate up. Frankly, it is not my expectation that the Senate is going to adopt this amendment. I think the Senate thinks that it is going to save itself from embarrassing and tough decisions by voting this automatic cut. I say again, if that is what you want, then use the present procedure, which will give you an automatic cut for 1 year. Then you can take another look at it each year. Do not tie yourself up, I say to the Members of this body and to the American people, by putting in an automatic procedure which provides automatically for the ax to fall—not by setting priorities, but by some computer somewhere cutting programs unwisely and across the board, without reference to what is needed and what is not needed.

Mr. President, again I say that my amendment provides for an extension of the debt until May 1, 1989. If you like these annual crises, if you want two more of them this year—one to expire on August 6, the other to expire on October 1—if you like that Government by crisis, the cirsis created by the extension of the debt, then do not vote for my amendment because it would deprive you of the pleasure of having two more crises. But if you want to go all the way until May 1, 1989, until the next administration comes in—not only until the next administration comes in but also has their personnel in place—then vote for my amendment.

I hope the Senate will go for the longer debt extension.

(Mr. SANFORD assumed the chair.)

Mr. BENTSEN. Mr. President, first let me state my admiration for my good friend, the distinguished Senator from Louisiana. I appreciate the depth of his conviction and his sincerity and the clarity of his presentation. But he has drawn a very clear line in the sand, one we all understand, and that is the question whether you will have sequestration, whether you will have a hammer, whether you will have a trigger, in order to force action to get us a responsible budget. I happen to be one who thinks we will have to do that—not because I like the idea, but because I think that kind of discipline will have to be forced on us. I am not talking about just this body but also the President of the United States.

In all candor, I do not think it ought to be a Republican economy or a Democratic economy or Presidential or congressional. It is an American economy looking for American solutions, and that is what we ought to try to bring about here.

My friend is also a realist when he says that he does not think his amendment will be adopted. I do not think it will be, either. He does not want government by crisis, and neither do I. But the Secretary of the Treasury has sent us a letter saying that that is what will happen if we do not act. I think time is of the essence, and it is urgent and serious.

As my friend says, he thinks his amendment will not win. But I would like to know if we can arrive at some time agreement for consideration of this particular amendment and how long the distinguished Senator thinks he would need in that regard.

Mr. JOHNSTON. Mr. President, I think I have made my presentation. I would be ready to vote now. If others wish to speak, I may want to reply to what they have to say. But I would be ready to vote now. I have made my presentation.

Mr. BENTSEN. Mr. President, as always, I am impressed by my friend, with his cogent answer. I am in full agreement with him. I understand that there are those who might want to speak to the issue.

Mr. GRAMM. Mr. President, I will be very brief.

I have listened to the distinguished Senator from Louisiana quote me from my statement about what we could do, if both Houses of Congress made a commitment to do something.

I am reminded of a story I was told when I was a freshman in college. The old dean of men told a story about how, in 1860, a fellow had shown up at the college and had given a speech about how all the boys ought to join the Confederate Army since we could whip the Yankees with broomsticks. So all the boys volunteered and went off to war, and some of them even returned home in 1865.

This firebrand speaker came back to the college in 1866 to speak again to the assembly at the chapel. He had a house fuller than usual, with a lot of Civil War veterans in the audience. As he was preparing to speak, somebody jumped up and said: "I thought you said we could whip the Yankees with broomsticks."

He said: "Yes, we could have whipped the Yankees with broomsticks, except the sons of bitches wouldn't fight with broomsticks."

That was his language, not mine, Mr. President.

The problem was that we could not get a commitment from both Houses of Congress. We could have worked miracles if we could have gotten a commitment, but we could not get one.

I think that the discipline of knowing that if we do not do our job, the consequences will be grave, and that we will be forced to come back under more difficult circumstances and do it right the second time, should lead us to reject this amendment and instead fix a process which has given us some success in reducing the deficit.

I would be the last person to argue that the Gramm-Rudman-Hollings balanced budget law is totally responsible for the deficit falling from $233 to $161 billion. But I think there is virtually unanimity on the fact that the deficit would be higher without the Gramm-Rudman-Hollings law.

Finally, I am not swayed by an argument of procedure over substance. In fact, that argument might sell in any other country in the world except this one because Americans have understood something that so many other governments have failed to understand and that is that procedure is substance.

The framers of our Constitution understood the necessity of limiting the power of government, of mandating limits on what could be done by the majority to control the minority. We run our legislative branch of Government based on procedure. We have rules and those rules affect the outcome.

So, I believe, especially in the budget arena where everybody who benefits from Government spending is organized and looking over the Congressman's right shoulder and so often those who end up paying the bills are too busy working to look over the Congressman's left shoulder, that procedure becomes substance. That is exactly what we are trying to do by reinstating the automatic mechanism, by setting realistic deficit targets, and by recommitting ourselves to move toward balancing the Federal budget. This action will strengthen and sustain an economic recovery that is now within 3 months of being the longest peacetime recovery in American history.

I hope that Members will either vote for a motion to table the amendment, assuming one is made, or vote against the amendment, so that we might pass this temporary debt ceiling. We need to be assured that people will get the checks that they earn, that they expect, and that they need. It is critical that we send this short-term debt ceiling to the President tonight so that he can sign it before supper so that people will not be worried about where their supper is going to come from a week from now. Then we need to get on with the job of increasing the permanent debt ceiling and restructuring of our commitment to balance the budget.

I yield the floor.

The PRESIDING OFFICER. Is there further debate on the amendment?

Mr. CHILES. Mr. President, I just rise and just very briefly I again want to express my admiration for the Senator from Louisiana. He is a valuable member on the Budget Committee. He has participated in the vineyards of trying to do something about deficit reduction for a long time and I am confident that even under the existing procedure his vote would be there in trying to enforce that and I know how sincerely and strongly he feels on this subject. He has expressed himself not only to me but to others on many occasions on which I have had an opportunity to hear his logic and his reasoning, and I know that he holds his views very sincerely and very strongly, and I think he makes some very good points.

The Senator from Florida, though, just comes down on the other side and is equally, I think, sincere and maybe as strong, I should say, in his views, that unless we do something to strengthen the discipline, we will not be able to really tackle the deficit, and I think that the events really have more and more convinced me of that as the time has gone on in my experience in trying to work with the deficit. I feel that the Congress needs this discipline, and I certainly feel the executive branch needs this discipline.

So I hope we will not adopt the Senator's amendment. I hope that then we will pass a temporary debt ceiling and then, as we get into the longer term fix, we will be able to make the kind of changes that will give us back an automatic sequester that will restore the discipline.

Mr. DOMENICI. Mr. President, I join the distinguished chairman of the Budget Committee and say to my good friend from Louisiana many of the things he said here on the floor of the Senate about this exercise and ritual we go through regularly on debt limit. I hope he knows, are shared by many of us, I think probably are shared by an overwhelming majority of Senators.

To be at this position this night with reference to our debt limit I do not know how he characterized it but whatever use of words he has chosen are inadequate to express the fact that we just should not be in this position. On the other hand, I might say to him frankly I believe he has clearly stated his purpose and goal.

There are some of us who have been working day and night and day after day to try to come up with a bipartisan solution to the budgetary so-called Gramm-Rudman fix and basically he would eliminate the opportunty to accomplish that and has so indicated.

There is no gimmickry in his argument. He does not want to do it that way.

I just say to him that sooner or later I hope we are not confronted with debt limit extensions which are expressly what he described. They are the result of activities in and of themselves. The debt limit is not the cause. But it just seems to many of us that we need an opportunity in a bipartisan manner to see if the U.S. Senate, and we are sure they will, we hope they will, but we want to give them an opportunity to adopt a rational solution to the budgetary process. The targets are out of focus today. He indicates we could just rely on the fallback. Those targets will not work. He knows that. We are down to $72 billion under those targets with the fallback that he referred to.

So from my standpoint I want him to know that on this one I come down on the other side because tonight or tomorrow I want to give the Senate a chance to vote on a Gramm-Rudman-Hollings automatic sequester, and I think we are very close to that and this will preclude it.

I hope he understands from many of us that agree that we ought not have this kind of dilemma every 6 weeks or even every 6 days as we plan now. We need that one opportunity to see if we can come up with a real conclusion to that problem.

He does not agree with that and he may have his own amendment to it and he will be a real advocate. He will be constructive and he will have good ideas.

But I urge that the Senate give us a chance on a short-term debt limit to try to fix Gramm-Rudman targets to be automatic and constitutional and reasonable.

We think we have done that in our deliberations, and we are very close to being able to tell the Senate what that is.

Mr. JOHNSTON. Mr. President, will the Senator yield?

Mr. DOMENICI. I will be pleased to yield.

Mr. JOHNSTON. The Senator noted that the debt limit exercise is repeated several times a year or more than once a year, that he shares my view, or at least some Senators share my view, that is not a good exercise.

I do not plan, I will tell my colleagues, to call for a record vote on this, and I think I can count votes, so we are not going to have the opportunity here to extend this debt, but we will have an opportunity to do it when we get to the August 6 extension because we will have to go through this exercise again on August 6.

As I understand the present plan, it is to tack the Gramm-Rudman fix onto a debt extension that would extend the debt to October 1.

I ask my colleague in view of his comment whether he might not join with me as part of that Gramm-Rudman fix to extend it to May 1, 1989, as the instant amendment would do?

Mr. DOMENICI. Frankly, I will tell him that I cannot answer the question precisely now because I am working with a group on trying to come up with a Gramm-Rudman fix. But I do assure him that it is this Senator's intention that if we do accomplish that Gramm-Rudman fix it be on an extended debt limit eventually when it goes to the President of the United States.

Mr. JOHNSTON. By extended does the Senator mean extended by October 1?

Mr. DOMENICI. Absolutely. I am hopeful that a long-term debt limit will underpin the permanent Gramm-Rudman-Hollings fix. I do not know how we will get there from here, but if the Senator is asking me the question, I am saying that is my goal and my hope.

At this point I have to work with what is before us, and obviously I cannot vote for his long-term extension because that is not the vehicle that we are going to take to conference and negotiate. I do not think we ought to have a permanent Gramm-Rudman-Hollings fix and then have a debt limit bill coming up a month later or 2 months later. I think that ought to be clearly a full year, and I think there is general accord among those who are negotiating the Gramm-Rudman fix that that is our goal. How we get there from here we will just have to wait a little bit and see.

Mr. JOHNSTON. Well, I say to the Senator from New Mexico, I am very pleased that that debt extension will extend beyond October 1, because I think that is a ticket to catastrophe.

Mr. President, if I may be recognized.

The PRESIDING OFFICER. The Senator from Louisiana.

Mr. JOHNSTON. Mr. President, first of all, I thank my colleagues for their generous comments. I have been around here long enough to know that those generous comments, even when said from the heart, are usually given in the spirit of generosity of imminent victory.

I know that, of course, I will not win this amendment, which is the principal reason I am not asking for the yeas and nays, but I do appreciate those good comments because I have worked with this group in trying to actually cut the deficit and in making some of the tough decisions that it takes to really cut the deficit.

But, Mr. President, legislating is often an educational process and you do not educate the body within a day, and I do not know that I am the right teacher. I think I have the right message and I think to make Gramm-Rudman-Hollings mandatory, to lock it in from here for the next 5 years, is the wrong thing to do. Of course, we need to change the targets. Indeed, the target has already been changed this year by that sleight-of-hand parliamentary move which adopted the President's economics, which in turn gives you about a $36 billion target for this year. The target, of course, could be changed for next year.

What worries me is this change that we are going to adopt down the line, unless the Senate is educated to the contrary, is going to lock us in for a period of 5 years and it is going to be a situation we cannot get out of except by 60 votes.

So this is the opening round in an educational process. I will have other amendments when the so-called fix comes up. One of the principal amendments will be one that will say one-third taxes, one-third defense, and one-third domestic. Why in the world do we not have taxes in the automatic sequestration? Everybody recognizes that taxes are necessary. Everybody. I mean, not everybody says it, certainly the President does not say it, and he may not believe it, but everybody around here, all serious budgeteers that I know anything about thinks that taxes have to be part of the package. If that is so, why not put them in? We will have a chance to vote on that down the line.

Mr. DOMENICI. Will the Senator yield?

Mr. JOHNSTON. Yes, indeed.

Mr. DOMENICI. I say to my good friend from Louisiana, in responding about the debt limit as it pertains to an amendment to fix Gramm-Rudman-Hollings in a valid and constitutional manner for 5 years, my response was that I was part of that and I would be one who would want that underpinning debt limit to be long term. I might just add that I believe the debt limit that we are going to add it to is a long-term extension. And I have talked to the distinguished chairman, Senator CHILES, as we negotiated, and I believe we agreed that we would not support amendments to make it a short term if we really had a Gramm-Rudman-Hollings fix. I see the chairman on the floor. Is that not correct?

Mr. CHILES. Yes.

Mr. DOMENICI. I thank the Senator.

Mr. JOHNSTON. By long term, you are talking about into 1989, I suppose?

Mr. BENTSEN. As chairman of the Finance Committee, if I might, I am tired of this self-flagellation that takes place as we have a debt limit up time and time again. And I note in the major bill that was sent over for the long-term extension, as I recall, it is September 30, 1988. In all candor, I think that is a terrible time because that is just before an election and you have all kinds of posturing that takes place. I frankly think it ought to be extended beyond the election late in 1988 or possibly on into 1989.

Mr. JOHNSTON. I hope the Senator will look at my date of May 1, 1989. There is nothing magic in May 1, except that is in the next administration where the new President, of whichever party he may be, will have his force in place and Congress will be here, and I hope we will go into 1989.

I thank all Senators for enlightening me on the fact that they agree that it ought to be long term.

Mr. President, I thank my colleagues and I yield the floor. I am ready to vote on the amendment.

The PRESIDING OFFICER. Are there any other Senators who care to speak on the amendment?

Mr. BENTSEN. Mr. President, if there are no further Senators seeking recognition, I move to table the Senator's amendment.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the amendment of the Senator from Louisiana [Mr. JOHNSTON].

The motion was agreed to.

Mr. BENTSEN. Mr. President, I know of no one else seeking recognition on the underlying bill that was sent over. I would urge its adoption.

The PRESIDING OFFICER. If there are no further amendments, the question is on the third reading of the bill.

The bill was ordered to a third reading and was read the third time.

The PRESIDING OFFICER. The question is on the passage of the bill.

Mr. BENTSEN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BENTSEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BENTSEN. Mr. President, I know of no one seeking recognition.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass?

The bill (H.R. 3022) was passed.

Mr. BENTSEN. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, what is the pending business before the Senate?

INCREASE IN STATUTORY LIMIT ON THE PUBLIC DEBT

The PRESIDING OFFICER. The clerk will report the debt ceiling measure.

The legislative clerk read as follows:

A joint resolution (H.J. Res. 324) increasing the statutory limit on the public debt.

The Senate resumed consideration of the joint resolution.

RECESS SUBJECT TO CALL OF THE CHAIR

Mr. BYRD. Mr. President, I ask unanimous consent that the Senate stand in recess awaiting the call of the Chair. I should say there will be no rollcall votes this evening. The managers of the bill are working on some language. I do this to give them time so they can get their language before the Senate this evening. I think it well that the Senate stand in recess awaiting the call of the Chair and I make that request.

The motion was agreed to and at 5:47 p.m., the Senate took a recess, subject to the call of the Chair.

The Senate reassembled at 5:59 p.m. when called to order by the Presiding Officer (Mr. SANFORD).

The PRESIDING OFFICER. The majority leader.

MORNING BUSINESS

Mr. BYRD. Mr. President, I ask unanimous consent that there be a period of morning business not to extend beyond 6 minutes, and that the Senator from Nevada be permitted to speak during that period.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

THE MILITARY HERO

Mr. REID. Mr. President, from time to time, the subject of heroes and heroism looms large in the American consciousness. That fascination with actions which exceed the standard of conduct expected from the rest of us may well be a necessary part of the psychology of any democratic society. In a nation where the possibility exists for everyone to excel, we need a yardstick by which to measure our conduct. In many instances, the hero is that unit of measurement.

That explains why America has its sports heroes, its heroes who give their lives in rescue attempts, its heroes of charity, and on the screen and stage, and its heroes of pacifism.

It is a phenomenon which in itself is certainly not unhealthy, and which, in fact, in many ways contributes to the health of the body politic.

We are also a society which has often called upon its citizen soldiers in our defense. From our midst we have called forth our youth to place their lives between the Nation and its foes. Among that youth we have found a unique group the military hero.

In some ways, America has been uncomfortable with its military victors and professional soldiery. The failed administration of a President Grant, or the rejection of a Douglas MacArthur are held out by historians as a too common result of the intrusion of the military into politicss. Our Nation has often preferred the Robert E. Lee who rode quietly home to rebuild a university, the William T. Sherman who refused to run, or the Audie Murphy who spoke but softly of his deeds.

At the same time, though, we have lionized the wartime bravery of a John F. Kennedy, or the uncommon valor of a JOHN GLENN or a JOHN MCCAIN who honor us by their presence in this body.

Of late, we have heard again of the solider as hero. I too, have sat transfixed and watched the pride, dignity, honor and calm devotion to duty of a true American hero over the past few weeks. I have watched him stand to his guns under hostile fire, and perform his duty to the Nation. His conduct surprises me not in the least; nor should it surprise anyone who knows his record. For those who lack that knowledge, however, I want to talk a bit about history.

On April 20, 1944, well entrenched German troops in Italy held a ridge above a critical road juncture near the La Spezia Naval Base. Capture of the position would trap numerous enemy troops. The assignment fell to the 442d Regimental Combat Team.

A platoon lead by 2d Lt. DANIEL K. INOUYE lead the assault. Suddenly, it came under fire from three separate machine gun emplacements.

Lieutenant INOUYE charged the first emplacement grenade in hand. He was wounded in the side, but continued the assault, throwing the grenade and cutting down the remaining enemy troops in the first bunker with his tommy gun.

Lieutenant INOUYE realized that his men were pinned down without cover under fire from the second machine gun position. Bleeding from his side, he ran toward it. An enemy rifle grenade struck him in the right arm and exploded. His arm was literally torn off.

Lieutenant INOUYE pried the grenade from his right hand and threw it into the enemy bunker. Picking up his tommy gun with his remaining hand, he charged again, firing into the enemy. A burst of machinegun fire struck him in the right leg.

In spite of those terrible wounds Lieutenant INOUYE refused to be evacuated. He continued to direct his men in the final assault which carried the ridge. Lt. DANIEL K. INOUYE was awarded the Distinguished Service Cross, our Nation's second highest award for valor.

At the time he won that medal, Lieutenant INOUYE's family was subject to restrictions and curfews because they were of Japanese ancestry. Many of the men in his unit had families in internment camps. Their loyalty, courage and pride in America never waivered.

Rudyard Kipling tells us something about heroism in his poem "If." The poem tells us what we must do:

> If you can keep your head when all about you
> Are losing theirs and blaming it on you;
> If you can trust yourself when all men doubt you;
> But make allowance for their doubting too:

This poem, Mr. President, in part describes Senator INOUYE.

The concept of heroism is a good thing. It provides us with examples, as long as we choose those examples with care. I can think of no hero I would rather hold up to my children as a model for quiet courage and dignified, honorable, and distinguished service to their Nation, than Senator DANIEL K. INOUYE, of Hawaii.

I thank the Chair. I yield back the remainder of my time.

Mr. MATSUNAGA. Mr. President, will the Senator from Nevada yield?

Mr. REID. I am happy to yield to the Senator from Hawaii.

Mr. MATSUNAGA. Mr. President, I wish to join the distinguished Senator from Nevada in the compliments he has paid to my senior colleague from Hawaii. Everything he has said is true, and as one who served with the 100th Infantry Battalion, which subsequently became the 1st Battalion of the 442nd Regimental Combat Team of which Senator INOUYE was a member, I fully appreciate the great suffering, the sacrifices that he and the men under his command made during battle in the European theater. Senator INOUYE, a great hero as he is, rarely speaks about his own exploits in the war.

I think the statement of the Senator from Nevada is most timely, because as a consequence of the hearings on the Iran-Contra affair, much undue negative publicity has been attributed to Senator INOUYE, as if he was in opposition to Colonel North.

Being of similar racial background I am often mistaken for the senior Senator from Hawaii. I do not think we look alike, but in the eyes of non-Asian-Americans here in Washington and elsewhere we seem to look alike, and I am frequently called "DAN" or "Senator INOUYE." In recent weeks some of the comments directed at me by those who thought that I was my senior colleague, have not been too complimentary.

I hope that the statement which the Senator from Nevada has made on this floor will remind Americans that heroism is not limited to those who find their ancestry in Europe; that we do have real American heroes of Asian ancestry, heroes like Senator INOUYE who, as was pointed out by the Senator from Nevada, fought at the battlefront in World War II, while members of their family were interned in concentration camps, American style, for no reason other than that they wore Japanese faces similar to those of the enemy.

There is legislation now pending both in the Senate and the House to extend the Government's apology to, and compensate, the surviving internees of the 120,000 Americans of Japanese ancestry and their alien parents, some of whom were incarcerated for as long as 4 years. In the Senate, it is S. 1009, in the House it is H.R. 442, named after the regimental combat team in which Senator INOUYE and I served—and we do hope that because of the statement made by the Senator from Nevada we will have even more sponsors to the Senate bill, which now has 76 cosponsors.

The thing I have learned as an American, born on American soil, of alien Japanese parents, and having been twice-wounded on the European front, is that Americans do forgive; that Americans are hungry for knowledge; and once given that knowledge and the facts as they pertain to a particular issue or case, they will arrive at a proper solution. The statement which the Senator has just made will certainly help to bring about a better understanding about Senator INOUYE and all that he stands for, along with all Americans of Japanese ancestry—to become better Americans in a greater America.

Once again I thank the Senator from Nevada for his recognition of a real American hero, one who commands the unqualified respect and admiration of all citizens of Hawaii and others throughout this country who know him—Senator DANIEL K. INOUYE.

Mr. REID. Mr. President, I think it is interesting to note that I did not clear the remarks I just gave with Senator INOUYE. In fact, he does not know that I felt moved to make these remarks about him.

I felt, as did you, that he has done a lot for the Senate, done a lot for Congress and this country, during the past many weeks he has presided over that committee. I think many people—in fact, most people—do not realize the type of man who is presiding over those hearings, and that is unfortunate.

I wanted people within the hearing of my voice to be able to understand that we truly have an American hero presiding over those hearings.

Also, it is a coincidence that his colleague, Senator MATSUNAGA, with a military record which is also outstanding—you, too, have an outstanding military record that I can take a lot of time speaking of and which I know about—did not know that I was going to give these remarks. It is a matter of coincidence that you happened to be on the Senate floor at this time.

I appreciate your remarks. I think that the work you and Senator INOUYE have done for the State of Nevada is legend, and the people in Hawaii will always remember it.

Mr. MATSUNAGA. As a colleague of Senator INOUYE from Hawaii, I thank you for your statement.

MAC BALDRIGE RODE TALL IN THE SADDLE

Mr. MATSUNAGA. Mr. President, it is with a heavy heart that I rise to mourn the passing of Secretary of Commerce Malcolm Baldrige, a man for whom I had enormous respect and whose friendship I highly prized.

As chairman of the International Trade Subcommittee of the Finance Committee, I gained a profound appreciation for the outstanding qualities he applied to his Cabinet position. More recently, in May, my wife Helene and I had the good fortune to spend an evening with "Mac" and his gracious wife Midge, an occasion which permitted us to gain some social insight regarding this member of the Cowboy Hall of Fame who rode so tall in the saddle in this Federal city over the past 6½ years.

It has been said, Mr. President, that Mac Baldrige was the most influential Commerce Secretary in history with the possible exception of Herbert Hoover, under whose administration in the 1920's the Department of Commerce acquired such a wide-ranging set of responsibilities and the only other Secretary to enjoy a tenure of comparable length. This influence was most notable in the field of foreign trade policy but to fully appreciate his role in this area it is important to understand the experience he brought to Washington.

He was a man of Western roots and values who had honed his intellectual skills in the East and had gained an understanding of the ways of Washington at a very young age. Born and reared in Omaha, NE, he came to this Capitol as a youngster when his father, Howard Malcolm Baldrige, served a term in Congress in the early 1930's. A summer spent on a Nebraska ranch set him in his life-long course as a rodeo circuit performer, an unlikely ambition for a graduate of Connecticut's Hotchkiss School who followed in his father's footsteps to Yale University, where he majored in English and graduated in 1944. He also joined his father in World War II Army service, serving in the infantry. After the war with his English degree and work experience as a ranch hand, he went to work as a millhand in a Cleveland foundry, where he soon rose to superintendent. By 1960 his manufacturing skills had taken him to the presidency of a small Connecticut company, Eastern Malleable Iron Co., of Naugatuck. There his record caught the eye of officials at nearby Scovill, Inc., a brass mill operator in financial straits. Hired as vice president, he was promoted to head Scovill and in the course of the following 18 years transformed it into a diversified manufacturer of consumer, housing, and industrial goods with 81 plants in the United States and 22 other countries. During this period, he still found time to follow his avocation on the rodeo circuit as a calf roper while serving in civic affairs and helping to raise two daughters. Indeed, so proficient did he become as a rodeo star that in 1980 at the age of 57 he was named "Professional Rodeo Man of the Year." Surely, this was an unusual achievement for a Connecticut manufacturer as at home in the board rooms of such corporate giants as Bendix Corp., Uniroyal and Connecticut Mutual Life Insurance Co. as he was astride a bucking bronco.

His cabinet appointment proved to be an inspired choice. Successful leadership in business does not always equate to equal success in high-Government position, any more than the reverse always holds true; executive ability in either the private or public sectors is not wholly an interchangeable competence by any means. But Mac Baldrige, the diversified, multinational manufacturer with the sparse, plain speech of a westerner who had risen from the factory floor was just the man for the Commerce post. With the vigor of the rodeo calf roper, he resolved to manage the sprawling soup-to-nuts department of varied agencies and multiple missions, not just to preside over it. His first official action was to call in his dispirited building guards and administer not-so-much a dressing down as a pep talk on the importance and dignity of their work in giving visitors their first impression of the department and, collaterally, of public service in general. In an administration not known for placing priority on the morale of Government employees and the high calling of public service, the Secretary was a most refreshing exception. He infused pride in his diverse troops of all ranks and callings.

In the tradition of such other foes of bureaucratic cant in Government speech and writing as James Schlesinger and Alfred Kahn, Mac also set out to rid his agency of gobbledygook but he did so with a novel technique. He programmed his word processors to reject such debase word coinages as "input" and "effectuate" and the like. If for no other reason than this, Secretary Baldrige's administration deserves the plaudits of history.

It was in the realm of policy, however, where Mac made his most lasting contributions. The President spoke of his "common-sense wisdom." It was the wisdom gained from practical experience. He rightly refused to accept the accusation of being an advocate of "protectionism." After all, as a businessman he had operated in 22 countries. But he was well versed in the tricks of overseas trade and he was well equipped to champion fair trade practices—a level riding range—for American manufacturers. He was among the earliest to recognize the perils of an inflated American dollar and to warn that others would readily seize on any American inclination toward protectionism in order to follow suit.

Nor could anyone accuse him of failing to understand the dictates bearing upon a great trading nation in today's global economy. Among what he considered his greatest accomplishments in Washington was prevailing over the Pentagon in approving high technology exports to China and India. By the same token, I cannot imagine his supporting the position of the White House Science Advisor in calling a conference on superconductivity and excluding as either participants or observers any foreign scientists—although he was ever the loyal team player.

Malcolm Baldrige deserves to be remembered by all Americans as a man whose vision of leadership was as clear and true as the vista of the Western plains he loved so deeply, Mr. President. It was a vision of his countrymen and women returning to those qualities responsible for the Nation's original industrial prowess: a pride of workmanship akin to pride of public service. The young people of our country should learn the story of this stoic, multitalented man who cautioned us that the most critical work for the Nation's future well-being is being performed not so much in the front office—and least of all in an investment banker's suite—as it is on the factory and shop floor. He also taught us that pride of service accrues to everyone privileged to be employed in Government. By example, more than by words, he demonstrated that the key to American productivity is to retain pride—and ingenuity—in American workmanship and in American public service. In this way he served the administration and the people of this great country of ours with illustrious distinction and accorded new prestige to the position of Secretary of Commerce. Yet he himself remained the most down-to-earth of men, one whose saddle will be most difficult to fill.

To his widow, Midge, and daughters, Megan and Mary, as well as to other members of his family, I extend my sincerest condolences in God's aloha.

MESSAGES FROM THE HOUSE

ENROLLED BILL SIGNED

At 11:47 a.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 958. An Act to dedicate the North Cascades National Park to Senator Henry M. Jackson.

The enrolled bill was subsequently signed by the President pro tempore (Mr. STENNIS).

At 1:56 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1811. An act to amend title 38, United States Code, to provide certain benefits to veterans and survivors of veterans who participated in atmospheric nuclear tests or the occupation of Hiroshima and Nagasaki and who suffer from diseases that may be attributable to low levels of ionizing radiation.

H.R. 2855. An act to settling Indian land claims in the town of Gay Head, Massachusetts, and for other purposes.

H.R. 2945. An act to amend title 38, United States Code, to provide a 4.1 percent increase in the rates of compensation and of dependency and indemnity compensation [DIC] paid by the Veterans' Administration, and for other purposes.

H.R. 2974. An act to amend title 10, United States Code, to make technical corrections in the provisions of law enacted by the Military Retirement Reform Act of 1986.

H.R. 3022. An act to provide for a temporary extension of the public debt limit.

At 4:50 p.m., a message from the House of Representatives, delivered by Ms. Goetz, one of its reading clerks, announced that the House disagrees to the amendment of the Senate to the bill (H.R. 2112) to authorize appropriations for fiscal year 1988 for intelligence and intelligence-related activities of the U.S. Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes; it agrees to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints Mr. Stokes, Mr. McCurdy, Mr. Beilenson, Mr. Kastenmeier, Mr. Daniel, Mr. Roe, Mr. Brown of California, Mr. McHugh, Mr. Dwyer of New Jersey, Mr. Wilson, Mrs. Kennelly, Mr. Hyde, Mr. Cheney, Mr. Livingston, Mr. McEwen, Mr. Lungren, and Mr. Shuster as managers of the conference on the part of the House; and, as additional conferees, for consideration of matters within the jurisdiction of the Committee on Armed Services, under clause 1(c) of House Rule X: Mr. Aspin, Mr. Stratton, and Mr. Dickinson.

The message also announce that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 618. An act to provide for a General Accounting Office investigation and report on conditions of displaced Salvadorans and Nicaraguans to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Salvadorans and Nicaraguans, and for other purposes.

ENROLLED BILL AND JOINT RESOLUTION SIGNED

At 6:18 p.m., a message from the House of Representatives, delivered by Mr. Berry, one of its reading clerks, announced that the Speaker has signed the following enrolled bill and joint resolution:

H.R. 3022. An act to provide for a temporary extension of the public debt limit; and

S.J. Res. 151. Joint resolution to designate August 1, 1987, as "Helsinki Human Rights Day".

The enrolled bill and joint resolution were subsequently signed by the Deputy President pro tempore (Mr. Mitchell).

MEASURES REFERRED

The following bills were read the first and second times by unanimous consent, and referred as indicated:

H.R. 618. An act to provide for a General Accounting Office investigation and report on conditions of displaced Salvadorans and Nicaraguans to provide certain rules of the House of Representatives and of the Senate with respect to review of the report, to provide for the temporary stay of detention and deportation of certain Salvadorans and Nicaraguans, and for other purposes; to the Committee on the Judiciary.

H.R. 1811. An act to amend title 38, United States Code, to provide certain benefits to veterans and survivors of veterans who participated in atmospheric nuclear tests or the occupation of Hiroshima and Nagasaki and who suffer from diseases that may be attributable to low levels of ionizing radiation; to the Committee on Veterans' Affairs.

MEASURES PLACED ON THE CALENDAR

Pursuant to the order of the Senate of July 28, 1987, the following bill was placed on the calendar:

H.R. 2855. An act to settle Indian land claims in the town of Gay Head, MA, and for other purposes.

The following bill was read the first and second times by unanimous consent, and placed on the calendar.

H.R. 2945. An act to amend title 38, United States Code, to provide a 4.1 percent increase in the rates of compensation and of dependency and indemnity compensation [DIC] paid by the Veterans' Administration, and for other purposes;

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, July 29, 1987, he had presented to the President of the United States the following enrolled bill:

S. 1020. An act to confer the honorary status of Librarian of Congress Emeritus on Daniel J. Boorstin.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 1220: A bill to amend the Public Health Service Act to provide for a comprehensive program of education, information, risk reduction, training, prevention, treatment, care, and research concerning acquired immunodeficiency syndrome (Rept. No. 100-133).

By Mr. GLENN, from the Committee on Governmental Affairs, without amendment:

H.R. 1403: A bill to designate the U.S. Post Office Building located in St. Charles, IL, as the "John E. Grotberg Post Office Building".

By Mr. KENNEDY, from the Committee on Labor and Human Resources, without recommendation without amendment:

H.R. 1451: A bill to amend the Older Americans Act of 1965 to authorize appropriations for the fiscal years 1988, 1989, 1990, and 1991, and for other purposes.

By Mr. PELL, from the Committee on Foreign Relations, with amendments:

S. Res. 248: A resolution supporting the people of Haiti in their efforts to obtain respect for human rights and the holding of free and fair elections in Haiti, and for other purposes.

By Mr. KENNEDY, from the Committee on Labor and Human Resources, with an amendment in the nature of a substitute:

S. 887: A bill to extend the authorization of appropriations for and to strengthen the provisions of the Older Americans Act of 1965, and for other purposes.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second time by unanimous consent, and referred as indicated:

By Mr. GRASSLEY (for himself, Mr. Levin, Mr. Thurmond, Mr. Dole, Mr. Boren, Mr. Hatch, Mr. DeConcini, Mr. Simpson, and Mr. Heflin):

S. 1560. A bill to increase the accountability of, policy coordination by, and management of priorities by agencies through an improved mechanism for congressional oversight of the rules of agencies; to the Committee on the Judiciary.

By Mr. BOND (for himself, Mr. Pryor, Mr. Cochran, and Mr. Melcher):

S. 1561. A bill to provide for a research program for the development and implementation of new technologies in food safety and animal health, and for other purposes; to the Committee on the Agriculture, Nutrition, and Forestry.

By Mr. STEVENS:

S. 1562. A bill to implement the provisions of Annex V to the International Convention for the Prevention of Pollution from Ships; to the Committee on Commerce, Science, and Transportation.

By Mr. ROTH:

S. 1563. A bill to entitled the "Social Security Administration Biennial Budget Act"; to the Committee on Governmental Affairs.

By Mr. CHILES (for himself, Mr. Simon, Mr. Heinz, and Mr. Graham):

S. 1564. A bill to establish a United States Bipartisan Commission on Comprehensive Health Care; to the Committee on Labor and Human Resources.

By Mr. STAFFORD:

S. 1565. A bill entitled the "Safe Incineration Act of 1987, Title I"; to the Committee on Environment and Public Works.

By Mr. STAFFORD:

S. 1566. A bill entitled the "Safe Incineration Act of 1987, Title I"; to the Committee on Environment and Public Works.

By Mr. WILSON:

S.J. Res. 181. Joint resolution designating the week beginning February 1, 1988, as "National VITA Week"; to the Committee on the Judiciary.

By Mr. THURMOND (for himself, and Mr. DeConcini):

S.J. Res. 182. Joint resolution to authorize the National Committee of American Airmen Rescued by General Mihailovich to erect a monument to General Draza Mihailovich in Washington, District of Columbia, or its environs, in recognition of the role he played in saving the lives of more than 500 United States airmen in Yugoslavia during World War II; to the Committee on Energy and Natural Resources.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

Mr. GRASSLEY (for himself, Mr. Levin, Mr. Thurmond, Mr. Dole, Mr.

BOREN, Mr. HATCH, Mr. DECONCINI, Mr. SIMPSON, and Mr. HEFLIN):

S. 1560. A bill to increase the accountability of, policy coordination by, and management of priorities by agencies through an improved mechanism for congressional oversight of the rules of agencies; to the Committee on the Judiciary.

RULEMAKING PROCEDURES REFORM ACT

Mr. GRASSLEY. Mr. President, more than 200 years ago in the Federalist Papers, No. 68, Alexander Hamilton wrote:

> The true test of a good government is its aptitude and tendency to produce a good administration.

I agree. That is why today Senator LEVIN and I, joined by several of our distinguished colleagues, are introducing a measure designed to ensure that the administrative and regulatory activities of our Government are consistent with sound public policy.

It may surprise some as to why Senator LEVIN, a Democrat, and Senator GRASSLEY, a Republican, team up on this. But if people who have served in this body a while will look back, there have been a lot of Grassley-Levin amendments and a lot of Levin-Grassley amendments, and most of them dealt with the procedure by which Congress is going to have some control over the rulemaking aspects of the administrative branch of Government.

The "Rulemaking Procedures Reform Act of 1987," which is the title of the bill we are introducing, will make clear that the regulatory activities, policies, goals and programs of the faceless agency apparatus must truly represent the consent of the governed.

Federal regulation, like it or not, is a fact of life in this country.

It has become a primary means by which our Government seeks to reach its social and economic goals. Once issued, regulations have as much legal force and effect as any statute passed by the Congress and signed by the President. Over time, Federal agencies have created a seamless web of regulations that establish rights and responsibilities, set limits, and touch the lives of all Americans.

Regulation can be a powerful tool. It can correct deficiencies in a free market; it can promote health and safety; it can sanction improper conduct.

Regulation can also be expensive. It has been estimated that the costs of regulation are between $50 billion and $150 billion per year. Regulatory costs tax the public at an average of between $570 to $1,700 per household—each year.

Unfortunately, regulation can also be wrong-headed. All too often, regulations fail to solve the problems they were created to solve. Sometimes, they solve one problem, but create another. Sometimes, they address the lesser problem at the expense of the greater. Yet, they always impose a considerable tax on the public.

Because regulation is so expensive, and because it may have pervasive and unintended consequences, it is essential that we regulate wisely—in Hamilton's words, that we "produce a good administration."

That is why I am on the Senate floor on this issue again today. It is a fact that all regulations are based ultimately on authority granted by this Congress. When an agency promulgates a rule, it is engaging in a legislative task—in effect, filling in the gaps on the implementation of policies that we in Congress have established through statute. Accordingly, all regulations must be accountable to this Congress.

This brings me to the bill I am introducing today.

This legislation, identical to legislation approved 12 to 5 by the Judiciary Committee in the last Congress, ensures congressional accountability of regulation writing.

This bill provides Congress with a flexible and constitutional means by which to review—as Congress sees fit—the proposed rules of executive and independent agencies.

This congressional review mechanism is carefully drawn to meet the Supreme Court's objection to the legislative veto, as expressed in the 1983 case, I.N.S. versus CHADHA.

Some have suggested that, given the move toward deregulation by this administration in the past 6 years—and that has been an argument that this administration has used against my legislation—there is no need for a constitutional legislative veto mechanism.

Some may be so bold as to say the time for the legislative veto has "come and gone."

Under either argument, I could not disagree more. Every one of the last four administrations—both Democrat and Republican—has recognized the need to keep close watch over regulatory activity.

To ensure that rules are carried out in the most efficient manner, each administration has instituted increasingly formal review requirements. If the executive branch can recognize the importance of a coherent regulatory policy, why cannot we in the legislative branch have that same recognition of a problem out of control or potentially out of control?

The fact is that the legislative veto is not a matter whose importance waxes or wanes depending on who occupies the White House, whether it be a Republican or a Democrat.

Instead, the legislative veto is merely a reassertion of the constitutional prerogatives of this legislative body. We have a duty to exercise effective oversight of the agencies we have created. We have seen our exercise of that constitutional function every day on television in recent weeks.

A necessary part of that oversight is the ability to check the work product of those to whom we delegate some of that work product.

Mr. President, without the review mechanism found in this bill, Congress is left to face what Justice White, now on the Supreme Court, said, dissenting in Chadha:

> A Hobson's choice: Either to refrain from delegating the necessary authority, leaving itself with a hopeless task of writing laws with the requisite specificity to cover endless special circumstances across the entire policy landscape, or in the alternative, to abdicate its law making function to executive branch and independent agencies. To choose the former leaves major national problems unresolved; to opt for the latter risks unaccountable policymaking by those not elected to fill that role.

Mr. President, I think that too often we in this body—the entire Congress—have chosen the latter approach, of not being specific enough in what we have done, leaving too much policymaking, filling in the void, the gaps, to the faceless bureaucrats downtown.

Mr. President, I hope my colleagues will heed Justice White's warning and join this bipartisan effort in support of Government accountability.

I ask unanimous consent to have printed in the RECORD the text of the "Rulemaking Procedures Reform Act of 1987" and a section-by-section analysis.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1560

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Rulemaking Procedures Reform Act of 1987".

SEC. 2. (a) Section 551 of title 5, United States Code, is amended—

(1) by striking out paragraph (4) and inserting in lieu thereof the following:

"(4) 'rule' means the whole or part of an agency statement of general or particular applicability and future effect designed to implement, interpret, or prescribe law or policy or to describe the organization, procedure, or practice requirements of an agency and includes—

"(A) the approval or prescription for the future of rates, wages, corporate or financial structures or reorganizations thereof, prices, facilities, appliances, services or allowances therefor, or of valuations, costs, or accounting, or practices bearing on any of the foregoing; and

"(B) any amendment, revision, or repeal of such an agency statement,

except that such term does not include an agency statement involving a matter relating to public property or contracts or a general statement of policy of the Tennessee Valley Authority except where an applicable statute requires notice and hearing pursuant to this chapter or requires the statement to be made on the record after opportunity for an agency hearing;";

(2) by striking out the word "and" in paragraph (13);

(3) by striking out the period at the end of paragraph (14) and inserting a semicolon and the word "and"; and

(4) by inserting immediately after paragraph (14) the following new paragraph:

"(15) 'emergency rule' means a rule which is temporarily effective prior to the expiration of the otherwise specified periods of time for public notice and comment under this subchapter and which was duly promulgated by an agency pursuant to a finding that delay in the effective date thereof would—

"(A) seriously injure an important public interest,

"(B) substantially frustrate legislative policy and intent, or

"(C) seriously damage a person or class of persons without serving any important public interest.".

(b) Section 553(b) of such title is amended by striking out clause (B) and inserting in lieu thereof the following:

"(B) when the agency for good cause finds that public notice and comment are unnecessary due to the routine nature or matter or insignificant impact of the rule, or that an emergency rule should be promulgated.

An agency which finds that clause (A) or (B) of this subsection applies to a rule shall publish in the Federal Register with the final rule a statement of such finding and a brief description of reasons for such finding. The provisions of clauses (A) and (B) of this subsection shall not preclude an agency from—

"(i) inviting persons representing different points of view to submit comments,

"(ii) creating an advisory committee to report, or

"(iii) using such other devices to obtain suggestions,

regarding the content of proposed rules prior to notice of rule making.".

(c) Section 553 of such title is amended—

(1) by striking out subsection (c) and inserting in lieu thereof the following:

"(c) Except as provided in subsection (e) with respect to an emergency rule, and after notice required by this section, the agency shall give interested persons not less than 60 days to participate in the rule making through submission of written data, views, or arguments with or without opportunity for oral presentation. The agency may extend the 60-day period if the agency determines that such period is insufficient to permit diligent interested persons to prepare comments or that other circumstances justify an extension of such period. After consideration of the relevant matter presented, the agency shall incorporate in the rules adopted a concise general statement of their basis and purpose. When rules are required by statute to be made on the record after opportunity for an agency hearing, sections 556 and 557 of this title apply instead of this subsection.";

(2) by redesignating subsection (e) as subsection (f); and

(3) by inserting after subsection (d) the following new subsection:

"(e) Unless earlier withdrawn by the agency, earlier disapproved by a joint resolution of Congress pursuant to chapter 8 of this title, or earlier set aside by court action, an emergency rule shall terminate 120 days after the date on which it is promulgated.".

SEC. 3. (a) Title 5, United States Code, is amended by inserting after chapter 7 the following new chapter:

"CHAPTER 8—AGENCY ACCOUNTABILITY

"Sec.

"801. Findings and purposes.
"802. Definitions.
"803. Agenda; transmission of rules.
"804. Review of agency rules.
"805. Procedures for consideration of joint resolutions.
"806. Relationship to other law.
"807. Enforcement.

"§ 801. Findings and purposes

"(a) The Congress finds and declares that—

"(1) agencies issue a large number of rules that have a significant impact on the Nation;

"(2) these agencies are staffed by persons who are not elected and who are therefore not directly accountable to the public;

"(3) some of the rules issued by these agencies may conflict with or duplicate other rules or may not conform with legislative intent;

"(4) conflicting or duplicative rules may contribute to governmental inefficiency, and rules which do not conform with legislative intent may frustrate the purposes and implementation of congressionally mandated programs; and

"(5) conflicting or duplicative rules and rules which do not conform with legislative intent may also impose unnecessary burdens on State and local governments.

"(b) Therefore, it is the purpose of this chapter to assure increased agency accountability to the public through their elected officials and through adherence to legislative intent in the issuance of agency rules.

"§ 802. Definitions

"For purposes of this chapter:

"(1) The term 'agency' has the same meaning as in section 551(1) of this title.

"(2) The term 'rule' has the same meaning as in section 551(4) of this title, except that such term does not include—

"(A) a rule or statement described in section 553(b)(A) of this title, unless such rule or statement has general applicability and substantially alters or creates rights or obligations of persons outside the agency;

"(B) a rule of particular applicability that approves or prescribes for the future rates, wages, prices, services, or allowances therefor, corporate or financial structures, reorganizations, mergers, or acquisitions thereof, or accounting practices or disclosures bearing on any of the foregoing; and

"(C) a rule if—

"(i) the agency made a finding with respect to such rule under section 553(b)(B) of this title; and

"(ii) on the date on which the agency promulgates the rule, the head of the agency submits a copy of the statement required to be published in the Federal Register under such section to the chairman and ranking minority member of the appropriate committees.

"(3) The term 'joint resolution' means only an unamendable joint resolution which contains no preamble and the matter after the resolving clause of which is as follows: 'That the Senate and the House of Representatives disapprove the recommended final rule issued by   dealing with the matter of   , which rule was transmitted to the Congress on   .', the first blank being filled with the name of the agency issuing the rule, the second blank being filled with the title of the rule and such further description as may be necessary to identify it, and the third blank being filled with the date of transmittal of the rule to the Congress.

"(4) The term 'appropriate committee' means the committee of the House of Representatives and the committee of the Senate which has primary legislative jurisdiction over the statute pursuant to which an agency issues a rule.

"(5) The term 'major rule' means—

"(A) a rule or a group of closely related rules that the agency, the President, or an officer of the Government designated by the President reasonably determines is likely to have an annual effect on the economy of $100,000,000 or more in reasonably quantifiable direct and indirect costs; or

"(B) a rule or a group of closely related rules that is otherwise designated a major rule by the agency proposing the rule, or is so designated by the President or an officer of the Government designated by the President, on the ground that the rule is likely to result in—

"(i) a substantial increase in costs or prices for wage earners, consumers, individual industries, nonprofit organizations, Federal, State, or local government agencies, or geographic regions; or

"(ii) significant adverse effects on competition, employment, investment, productivity, innovation, the environment, public health or safety, or the ability of enterprises whose principal places of business are in the United States to compete in domestic or export markets.

"(6) The term 'emergency rule' has the same meaning as in section 551(15) of this title.

"§ 803. Agenda; transmission of rules

"(a) Each agency shall prepare an agenda listing all areas in which the agency intends to propose rules within the following twelve-month period. The agency shall transmit such agenda or relevant portion thereof to the appropriate committee of the Senate and the appropriate committee of the House of Representatives. Failure to list an area of possible rule making on an agenda shall not preclude an agency from proposing or issuing any rule. The agenda, or relevant portion thereof, shall be transmitted to the appropriate committees within one hundred and eighty days after the effective date of this chapter and semiannually thereafter.

"(b) On the day an agency forwards to the Federal Register for publication a recommended final rule, the agency shall transmit to the Secretary of the Senate and the Clerk of the House of Representatives a copy of such rule and a copy of any other materials transmitted to the Federal Register for publication with respect to such rule. The Secretary of the Senate and the Clerk of the House of Representatives are authorized to receive a recommended final rule under this subsection whether the appropriate House is in session, recess, or adjournment.

"(c) On the day on which the Secretary of the Senate and the Clerk of the House of Representatives receive a recommended final rule, the Secretary and the Clerk shall transmit a copy of such rule and any materials received with respect to such rule to the appropriate committees.

"§ 804. Review of agency rules

"(a) For purposes of this section and section 805 of this title—

"(1) 'days' means only days of continuous session of Congress;

"(2) continuity of session is broken only by an adjournment sine die at the end of a Congress; and

"(3) the days on which either House is not in session for more than three days because of an adjournment or recess to a day certain shall be excluded in the computation of days of continuous session of Congress.

"(b) Notwithstanding any other provision of law, any final rule shall be considered a recommendation of the agency to the Congress and shall have no force and effect as a rule unless such rule has become effective in accordance with this chapter.

"(c)(1) Notwithstanding any other provision of law, a recommended final rule shall become effective in accordance with its terms unless—

"(A) in the case of a recommended final major rule, a joint resolution is enacted into law within 90 days after the first day of continuous session of Congress after the day on which such rule is received by the Secretary of the Senate and the Clerk of the House of Representatives under section 803(b) of this title; or

"(B) in the case of a recommended final nonmajor rule, a joint resolution is enacted into law within 45 days after the first day of continuous session of Congress after the day on which such rule is received by such Secretary and such Clerk under such section.

"(2) Whenever an appropriate committee reports a joint resolution pursuant to this chapter, the joint resolution shall be accompanied by a committee report specifying the reasons for the committee's action.

"(d) Notwithstanding paragraph (1) of subsection (c), a recommended final rule may become effective at any time after the day on which either House of Congress defeats a joint resolution, and, in the case of the Senate, a motion to reconsider such joint resolution is disposed of.

"(e) If Congress adjourns sine die at the end of a Congress prior to the expiration of the period specified in subparagraph (A) of subsection (c)(1) with respect to a recommended final major rule, or prior to the expiration of the period specified in subparagraph (B) of such subsection with respect to a recommended final nonmajor rule, as the case may be, the rule shall not become effective during that Congress. The agency which issued such recommended final rule may transmit such rule at any time after the first day of the following Congress in accordance with section 803(b) of this title, and the period specified in subparagraph (A) or (B) of subsection (c)(1), as the case may be, with respect to such rule shall begin on the day such rule is transmitted to the Congress.

"(f)(1) If a recommended final rule of an agency does not become effective under this chapter, the agency may issue a recommended final rule which relates to the same acts or practices as the rule which did not become effective under this chapter. Such recommended final rule—

"(A) shall be based upon—

"(i) the rule making record of the recommended final rule which did not become effective under this chapter; or

"(ii) such rule making record and the record established in supplemental rule making proceedings conducted by the agency in accordance with section 553 of this title, in any case in which the agency determines that it is necessary to supplement the existing rule making record; and

"(B) may reflect such changes as the agency considers necessary or appropriate including such changes as may be appropriate in light of congressional debate and consideration of the joint resolution with respect to the rule.

"(2) An agency, after issuing a recommended final rule under this subsection, shall transmit such rule to the Secretary of the Senate and the Clerk of the House of Representatives in accordance with section 803(b) of this title, and such rule shall only become effective in accordance with this chapter.

"(g) Congressional inaction on or rejection of a joint resolution with respect to a recommended final rule shall not be deemed an expression of approval of such rule.

"§ 805. Procedures for consideration of joint resolutions

"(a) The provisions of this section and sections 802(3), 803(c), and 804(c)(2) of this title are enacted by Congress—

"(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they are deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of joint resolutions; and they supersede other rules only to the extent that they are inconsistent therewith; and

"(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

"(b) Except as provided in subsection (e) of this section, joint resolutions shall, upon introduction or receipt from the other House of Congress, be immediately referred by the presiding officer of the Senate or the House of Representatives to the appropriate committee of the Senate or the House of Representatives, as the case may be.

"(c)(1)(A) Except as provided in subparagraph (B) of this paragraph, if the committee to which a joint resolution has been referred does not report such joint resolution—

"(i) in the case of a joint resolution with respect to a recommended final major rule, within 60 days after the first day of continuous session of Congress after the day on which such rule is received by the Secretary of the Senate and the Clerk of the House of Representatives under section 803(b) of this title;

"(ii) in the case of a joint resolution with respect to a recommended final nonmajor rule, within 30 days after the first day of continuous session of Congress after the day on which such rule is received by such Secretary and such Clerk under such section,

it shall be in order to move to discharge the committee from further consideration of such joint resolution.

"(B) If the committee to which a joint resolution transmitted from the other House has been referred does not report such joint resolution—

"(i) in the case of a joint resolution with respect to a recommended final major rule, within 20 days after the date of transmittal of such joint resolution from the other House; or

"(ii) in the case of a joint resolution with respect to a recommended final nonmajor rule, within 10 days after the date of transmittal of such joint resolution from the other House,

it shall be in order to move to discharge such committee from further consideration of such joint resolution.

"(2)(A) Any motion to discharge under paragraph (1) of this subsection in the Senate may be made by one Senator and is privileged (except that it may not be made after a joint resolution has been reported with respect to the same rule).

"(B) Any motion to discharge under paragraph (1) of this subsection in the House of Representatives must be supported in writing by one-fifth of the Members of the House of Representatives, duly chosen and sworn, is highly privileged, and may be filed—

"(i) in the case of a joint resolution with respect to a recommended final major rule, 20 days after the first day of continuous session of Congress after the day on which the Secretary of the Senate and the Clerk of the House of Representatives receive such rule under section 803(b) of this title; or

"(ii) in the case of a joint resolution with respect to a recommended final nonmajor rule, 10 days after the first day of continuous session of Congress after the day on which such Secretary and such Clerk receive such rule under such section.

"(C) Debate on any motion to discharge under paragraph (1) of this subsection in the Senate or the House of Representatives shall be limited to not more than one hour, the time to be divided in the Senate equally between, and controlled, by the majority leader and the minority leader or their designees, and to be divided in the House of Representatives equally between those favoring and those opposing the motion to discharge. An amendment to the motion is not in order.

"(d)(1) Except as provided in paragraphs (2) and (3) of this subsection, consideration of a joint resolution shall be in accord with the rules of the Senate and of the House of Representatives, respectively.

"(2) When a committee has reported or has been discharged from further consideration of a joint resolution, or when the companion joint resolution from the other House has been placed on the calendar of the first House, it shall be in order, notwithstanding the provisions of rule XXII of the Standing Rules of the Senate or any other rule of the Senate or the House of Representatives, at any time thereafter (even though a previous motion to the same effect has been disagreed to) to move to proceed to the immediate consideration of either such joint resolution. The motion is highly privileged in the House and privileged in the Senate and is not debatable. An amendment to the motion is not in order.

"(3) Debate on a joint resolution shall be limited to not more than two hours (except that when one House has debated its joint resolution, the companion joint resolution shall not be debatable), which shall be divided in the House of Representatives equally between those favoring and those opposing the joint resolution and which shall be divided in the Senate equally between, and controlled, by the majority leader and the minority leader or their designees. A motion further to limit debate is not in order. An amendment to, or motion to recommit, the joint resolution is not in order. A motion to reconsider shall be in order only on the day on which occurs the vote on adoption of the joint resolution, and shall not be debatable. Any other motions shall be decided without debate.

"(e) If a joint resolution has been ordered reported or discharged from the committee of the House to which it was referred, and that House receives a joint resolution with respect to the same rule from the other House, the joint resolution of the other House shall be placed on the appropriate calendar of the first House. If prior to the disposition of a joint resolution of one House, that House receives the companion joint resolution from the other House, the vote in the first House shall occur on the joint resolution of the other House.

"§ 806. Relationship to other law

"The provisions of this chapter supersede any other provision of law requiring action by one or both Houses of Congress for congressional review or disapproval of agency rules to the extent such other provisions are inconsistent with this chapter.

"§ 807. Enforcement

"(a) This section is adopted as an exercise of the power of each House of Congress to determine the rules of its proceedings. The Congress specifically finds that the provisions of this section are essential to the Congress in exercising its constitutional responsibility to monitor and to review exercises by the Executive of delegated powers of a legislative character.

"(b) Except as provided in subsection (c) of this section, after the Senate and the House of Representatives adopt a joint resolution with respect to a rule pursuant to this chapter, it shall not be in order in the Senate or the House to vote on final passage of any bill or resolution making appropriations for the agency which issued such rule unless such bill or resolution contains provisions which prohibit the use of any funds appropriated by such bill or resolution to issue, promulgate, enforce, or otherwise carry out such rule.

"(c) In any case in which, prior to the effective date of this chapter, Federal law provided that a rule subject to this chapter could not take effect if such rule was disapproved by action of only one House of Congress, the provisions of subsection (b) of this section shall apply to such rule on and after the date on which either the Senate or the House of Representatives passes a joint resolution under this chapter with respect to such rule.

"(d) An appeal of a ruling of the presiding officer sustaining a point of order raised under this section shall require the approval of a majority of members of the Senate or the House of Representatives, as the case may be, present and voting, to overrule the ruling of the Presiding Officer. On all appeals under this section there shall be one hour of debate equally divided.".

(b) The table of chapters for part I of such title is amended by inserting after the item relating to chapter 7 the following new item:

"8. Agency Accountability .... 801.".

SEC. 4. This Act and the amendments made by this Act shall take effect on the first day of the One Hundred and First Congress.

SECTION-BY-SECTION ANALYSIS

SECTION 1

Provides that the Act may be cited as the "Rulemaking Procedures Reform Act of 1987."

SECTION 2

Makes certain amendments to the Administrative Procedure Act (APA), found at Title 5 of the U.S. Code. Section 2(a) would amend section 551(4) and (15) by altering the definition of the term "rule", excepting the Tennessee Valley Authority's statements with respect to public contracts or property or general statements of policy, and by adding a new concept to the APA with the definition of the term "emergency rule".

Section 551(4) is also to be changed by adding a new subsection (B) which is in two parts. The first clause would provide that the definition of "rule" includes "any amendment, revision, or repeal of such an agency statement."

The second clause of section 551(4)(B) would exempt from the definition of rule Tennessee Valley Authority "statements involving a matter relating to public property or contracts or general statements of policy." The exemption traces its roots back to at least the 1982 version of S. 1080, about which the Senate Governmental Affairs Committee explained:

"This change provides that a statement by the Tennessee Valley Authority relating to the property, contracts, or the general policies of that agency is not a "rule" and therefore does not need to be promulgated through the rulemaking procedures of section 553. However, another statute may require the application of any of the procedures of the APA to these statements. In addition, another statute may establish its own procedure for the promulgation of such statements. This provision essentially carries forward the existing exemption for these matters for the TVA. The Committee had adopted this provison due to the unique status of the TVA as a wholly government-owned corporation carrying out mainly business-like activities, rather than performing regulatory functions." [21]

Finally, section 551 is amended by adding a definition of "emergency rule", which complements a proposed revision of section 553(b)(B). Under that proposal, a new subcategory of rulemaking is created, that being emergency rulemaking. An emergency rule is a temporary action that an agency may take without having to comply with section 553's notice and comment requirements. It may be taken if the agency finds that delaying the effective date of a proposed rule would "(A) seriously injure an important public interest, (B) substantially frustrate legislative policy or intent, or (C) seriously damage a person or class of persons without serving any important public interest." Under proposed section 553(e), emergency rules terminate 120 days after they are promulgated.

Finally, section 553(c) would be amended by the bill to provide for a minimum of 60 days for public comment. Current law sets no minimum period and this lack has been a traditional object of criticism.

SECTION 3

Adds a new chapter, after chapter 7, to Title 5 of the U.S. Code, called "Chapter 8—Agency Accountability". This new addition to the Administrative Procedure Act employs a joint resolution mechanism to provide Congressional oversight and possible disapproval of the lawmaking rules of all federal agencies before the rules become final as a matter of law.

Section 801, "Findings and purposes" sets out certain congressional declarations with respect to burdensome federal regulations and legislative function accountability. Congress finds and declares that federal administrative agencies, staffed by unelected—and thus unaccountable—persons, promulgate large numbers of significant regulations. Some of these rules and regulations may conflict with or duplicate other rules, thus contributing to governmental inefficiency. This may frustrate Congressional intent with respect to federal programs and may impose unnecessary burdens on regulated entities, including state and local governments. Accordingly, the objective of this chapter is to bring the administrative lawmaking process under control through rational, orderly procedures by insuring that the end products of the new process conform to the legislative will that authorized their exercise in the first place.

Section 802, "Definitions" defines the term "rule" for purposes of the legislative veto procedures, and defines these other terms: "joint resolution", "appropriate committee", "major rule" and "emergency rule". The legislative veto procedure would apply to most rules of general applicability. Agency rules subject to this procedure are those described in Section 551(4) of the present Administrative Procedure Act as having "general [rather than particular] applicability and future effect designed to implement, interpret, or prescribe law or policy." Section 802(2)(A) of the bill further emphasizes the lawmaking character of the affected rules by specifically referring to a "rule or statement [that] has general applicability and substantially alters or creates rights or obligations of persons outside the agency." Thereby excluded from the bill coverage are those rules described in section 553(b)(A) as "interpretive rules, general statements of policy, or rules of agency organization, procedure or practice", to the extent that such rules do not fall within the exceptions listed above. Section 802(2)(B) of the bill further excludes rules "of particular applicability" such as those approving or prescribing future rates, wages, prices, services, and the like. Carefully and expressly, the bill eschews use of a joint resolution of approval as a technique of Congressional oversight, under which a recommended rule would not become law unless affirmatively approved by enactment of a joint resolution in accordance with the bicameral presentment process. Thus, section 802(3) states that the term "joint resolution" means "only an unamended joint resolution which contains no preamble" and which simply provides that "the Senate and the House of Representatives disapprove the recommended final rule" in question. Thus, to express its approval of a recommended rule of general applicability, Congress need do nothing within the prescribed time periods of the bill (90 or 45 days); but to express its disapproval, Congress must use the bicameral presentment processes during those periods to enact a statute that says "no." The definition of "major rule" in section 802(5) is essentially the same as that used by Executive Order 12291 [1 C.F.R. 127 (1981)]. The bill provides for the immediate implementation of a rule without the legislative veto procedure where an emergency or other exigent circumstance exists. Such "emergency rules" however, can remain effective for no more than 120 days.

Section 803, "Agenda; transmission of rules" sets out procedures to be followed prior to the Congressional review of administrative agency rules.

Pursuant to subsection (a), each agency is to semiannually prepare a list (an "agenda") of the areas in which it intends to propose rules in the following 12 months, and transmit that list to the Congress. The failure to list an area of possible rulemaking on an agenda does not prevent an agency from later proposing or issuing any rule. The first agency agenda is to be transmitted to the appropriate committees within 180 days after the effective date of this chapter. Pursuant to subsection (b), on the day the agency forwards a "recommended final rule" to the Federal Register for publication, the agency shall also send a copy of the rule and accompanying documents to each House of Congress. The word "final" in the phrase "recommended final rule" in this subsection describes what in practice may be the "final recommendation" of the agency. However, it is not a "final rule" in the traditional sense, until the Congressional processes contemplated by the bill have been completed. Use of the word "final" at this point should not confuse courts dealing with this Congressional oversight mechanism. Pursuant to subsection (c), a "recommended final rule", received by the Secretary of the Senate and the Clerk of the House of Representatives, is on the same day referred to the committee(s) having jurisdiction over the progam under which the rule is promulgated.

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[21] S. Rept. No. 305, 97th Cong., 2d sess. 14 (1982). See also S. Rept. No. 284 97th Cong., 2d sess. 108 (1982). (Senate Judiciary Committee Report on S. 1080).

Section 804, "Review of agency rules" sets out the mechanics of the Congressional review process. Subsection (a) defines "days" as legislative days; states that the continuity of session is broken only by an adjournment sine die at the end of a Congress; and that the days on which either House is not in session for more than three days because of adjournment or recess are not included in the computation of legislative days, for the purposes of this section and section 805. Pursuant to subsection (b), and despite the use of the word "final", any final rule transmitted to Congress shall be considered a recommendation of the agency, and shall have no force and effect as a rule of law unless such rule has become effective in accordance with this Chapter. Pursuant to subsection (c), a recommended final rule of general applicability becomes finally effective as a matter of law in accordance with the terms of the rule itself unless a joint resolution of disapproval is enacted into law within prescribed time periods. In the case of a "major rule" as defined in section 802(5), the joint resolution of disapproval must be enacted into law within 90 legislative days of the date the rule was received by the designated officers of the two Houses. In the case of a "non-major rule", the time limit is only 45 legislative days. In other words, under the bill, a recommended rule becomes law automatically without any Congressional action once the prescribed time period has elapsed without the enactment of disapproving legislation. This procedure is this similar to the "report and wait" procedure, long used in the promulgation of rules of procedure for the federal courts. See *Chadha* 462 U.S. at 935, n. 9.

Pursuant to subsection (d), a rule may take effect, irrespective of the 45 or 90 day period, if either House of Congress votes to reject a joint resolution of disapproval. Subsection (e) provides that if Congress adjourns before the expiration of the delay periods, then the rule will not become effective during that Congress. This provision prevents agencies from frustrating the intent behind the bill by delaying transmittal of recommended final rules until shortly before adjournment. This provision places agencies on notice that they must plan their rulemaking agenda in conjunction with these Congressional review procedures. If a recommended final rule is not enacted pursuant to this chapter, then pursuant to subsection (f) the agency may issue another rule relating to the same subject and following the same procedure of the bill. The subsequent rule may reflect changes appropriate in light of Congressional consideration of the earlier recommended final rule. Congressional inaction on or rejection of a joint resolution of disapproval is not to be viewed as an expression of approval of the subject rule.

Section 805, "Procedures for consideration of joint resolutions", sets out the expedited procedures for consideration of a resolution of disapproval in both the House and Senate. Expedited procedures are intended to ensure that the Congress has sufficient time to act within the prescribed periods. They also ensure that the decision on whether to disapprove regulations in made by the full Congress, and not by a handful of committee members who may be overly sympathetic to the agency. Without expedited procedures, a committee chairman could prevent full consideration of the disapproval measure by not reporting the resolution until after the waiting period had expired.

Section 806, "Relationship to other law", states that these procedures supersede other provisions of Congressional review or disapproval to the extent such other provisions are inconsistent.

Section 807, "Enforcement" provides for the invocation of Congress' appropriations power as a means of enforcing any disapproval of a rule by joint resolution. Subsection (a) provides that the whole of Section 807 is adopted as an exercise of the power of each House of Congress to determine the rules of its proceedings and that the provisions of this section are essential to the Congress in exercising its Constitutional responsibility to monitor and review exercises by the executive of delegated powers of a legislative character. Subsection (b) provides that upon passage of a joint resolution—regardless of what the President does upon presentment—it shall not be in order in the Senate or the House to vote on final passage of any bill or resolution making appropriations for the agency which issued such rule, unless such bill or resolution contains provisions which prohibit the use of any funds appropriated by such bill or resolution to issue, promulgate, enforce, or other wise carry out such rule. Thus, even though a joint resolution agreed to by both Houses is not enacted into law, mere passage of the joint resolution gives rise to a point of order for any appropriations bill involving the relevant agency that does not bar use of government funds to implement the rule. Subsection (c) adds that for rules previously subject to a one-house veto, the passage of a joint resolution of disapproval would give rise to such a point of order.

SECTION 4

Section 4 of the bill establishes that the amendments made by the bill will take effect on the first day of the One Hundredth and First Congress.

Mr. LEVIN. Mr. President, I am pleased to join my colleague from Iowa, Senator GRASSLEY, and my colleague from Oklahoma, Senator BOREN in sponsoring a Governmentwide legislative veto bill. This is the same bill that passed the Senate Judiciary Committee last year, and it is similar to the bill passed by the Governmental Affairs Committee in the 96th Congress.

I refer my colleagues to the Judiciary Committee's report of last year (S. Rept. 99-492) for a complete discussion of the bill. For purposes of introduction, let me say that this bill uses the constitutional mechanism of a joint resolution of disapproval, which means that both Houses of Congress and the President are required to pass and sign, respectively, any disapproval resolution. This meets the essential elements of the Supreme Court's decision in INS versus Chadha, which requires involvement by both Houses of Congress and presentment to the President.

The bill categorizes rules into two areas—major and nonmajor. These are terms with which the agencies and Congress have been familiar over the past several years. The reason for distinguishing between major and nonmajor rules is to avoid any unnecessary delay in the implementation of noncontroversial rules. Major rules require more time for analysis because of their likely complexity, but it would be unfortunate to submit other rules which are simple and less important to the same timeframe. Thus the bill establishes a 90-day delay period of review for major rules and a 45-day delay period for nonmajor rules. Expedited procedures are included to insure the prompt consideration of a resolution of disapproval.

The bill includes an important enforcement mechanism, a provision establishing an internal procedure for controlling the appropriation of funds for the implementation of a controversial rule. If both Houses of Congress have passed a joint resolution of disapproval, but the President has vetoed the resolution and Congress has not overturned the veto, the appropriation of funds for that rule is restricted. In that situation a point of order will lie against final passage of any appropriations bill involving the agency with responsibility for the rule unless the appropriations bill has a specific restriction in it which prohibits the use of any of the appropriated funds for the implementation of the subject rule. This provision is important, because it returns the authority to prevent a rule from taking effect exclusively to Congress, regardless of the President's actions. It is constitutional, because it is a housekeeping measure, internal to the Congress, and not a legislative act requiring presentment to the President. It merely establishes Congress' internal rule of procedures with regard to regulations which have been disapproved by both Houses.

Mr. President, many of us have worked for a long time to get a Governmentwide legislative veto enacted. I hope we will be able to get early consideration this Congress by the full Senate.

Mr. BOREN. Mr. President, I am again pleased to join my colleagues Senators LEVIN and GRASSLEY and others in an effort to provide the Congress with an important oversight tool: the "legislative veto." The bill has very basic goals—"to increase accountability, policy coordination, and management of priorities by agencies through an improved mechanism for congressional oversight of the rules of agencies."

Congress has a constitutional responsibility to monitor and review mandates of our Government agencies. While we delegate a great deal of the implementation of such policy to these agencies, it is our job to see that this is carried out with congressional intent. The people have a right to expect that final policy decisions are made by those who are elected by the people and are accountable to them.

Many of the rules and regulations which agencies issue not only cause redtape, frustration, lengthy delays, and paperwork, but often impose severe economic hardships on individuals and businesses in this country. Small businesses are especially hard hit. It only seems right that the elected and accountable representation in our Congress should have the responsibility and opportunity to intervene before some of these kinds of rules produced by our appointed agencies come into effect.

Often, intervention after the fact can be too late to prevent the expenditure of large amounts of money by the private sector to comply with the unneeded regulations. If Congress can only react after a regulation has gone into effect, it is often too late to prevent the damage of the group affected. It's like closing the barn door after the horse has already escaped. The duty of oversight by the Congress, is a very important responsibility.

I will add that we can all appreciate the fact that some discretion is essential in the massive job of administering the many assorted programs and activities of our Federal Government. However, at the same time, we cannot neglect our duty in the Congress to oversee and review how our intended legislative goals are being carried out. Further, I am personally very appreciative for the hard work, dedication, and service of those persons employed by or appointed to these agencies and positions. Their service is crucial to running our nation and serving our citizens.

However, we must keep in mind a basic precept. Our Government is a government of the people. Laws should not be made by bureaucrats who are not elected by and accountable to the people.

So it is again a pleasure to join with those who have fought so long and hard on this issue. I salute their diligence and am honored to join them in this legislation.

By Mr. BOND (for himself, Mr. Pryor, and Mr. Cochran):

S. 1561. A bill to provide for a research program for the development and implementation of new technologies on food safety and animal health, and for other purposes; to the Committee on Agriculture, Nutrition, and Forestry.

FOOD SAFETY LEGISLATION

Mr. BOND. Mr. President, this morning I rise to introduce a major new research initiative concerning the safety of food products of animal origin. It is a pleasure to be joined in this effort by my distinguished colleague from Arkansas, Senator Pryor; and Senator Cochran from Mississippi.

To begin, I must reiterate a point that has been stated many times before—the United States has the safest food supply and best inspection system of any country in the world. In my opinion, suggestions for improvement should not be regarded as condemnation of the present system but recognition of emerging technologies which coud make current programs more effective and efficient.

The U.S. Meat and Poultry Inspection System is one of the most comprehensive public health programs in the world with nearly 8,000 employees located in over 7,200 meat and poultry plants in every State and territory. My home State of Missouri has 303 federally inspected plants with approximately 313 total USDA meat and poultry inspectors.

The vast majority of food animals in the United States are found to be healthy upon entering the meat supply. In 1985, Food Safety and Inspection Service [FSIS] inspectors examined 4.8 billion chickens, turkeys and other domesticated waterfowl; 33.3 million cattle; 5.9 million sheep and goats; and 79 million swine. Each of these animals was inspected and very few were found to be diseased or otherwise unfit for consumption.

Further evidence of this fact is the percent condemnation of these animals. In 1985, less than 1 percent of livestock and poultry were condemned at both ante mortem and post mortem inspections.

Mr. President, the wholesomeness and safety of food products of animal origin is very important to the health and well being of our Nation. Food borne illness are a major public health concern which impose significant costs, both direct and indirect. Direct costs include medical care and lost wages while indirect costs include recalls and investigations.

Furthermore, it should be noted that one-third of all reported outbreaks of food related illnesses are attributed to meat and poultry. Although this bill authorizes research for livestock and poultry products only, it is important to recognize that fish and seafood are significant vehicles identified in food poisoning outbreaks.

Although fish and seafood research is not included in this bill, it has not been overlooked. In the continuing resolution for fiscal year 1987, Senator Ted Stevens sponsored an appropriation of $350,000 to the National Oceanic and Atmospheric Administration [NOAA] for the express purpose of designing a comprehensive inspection program. Among other things, the research will address sanitation, processing procedures, and quality standards.

The legislation which we are introducing today is the logical first step in the process of developing a comprehensive quality assurance program which includes chemical and microbiological sampling. Furthermore, the importance of preventing food borne illness is growing as larger percentages of the population become more susceptible. These groups include the elderly, young children and others whose immune systems are suppressed.

Mr. President, the objectives of this legislation were developed from reports, discussions, and testimony presented by people representing a wide variety of interests. Let me summarize the objectives:

The Secretary of Agriculture is authorized to establish a research program which includes—

First, developing the technology for rapid identification of microbiological or chemical contaminants on the farm or throughout the processing and distribution chain.

The goal is to have access to accurate results in a matter of seconds or minutes rather than hours or days. For example, a complete analysis could be performed before the product leaves the processing facility and enters the distribution chain.

Second, establishing a statistical framework under which the potential health risks posed by contamination can be measured. In a nutshell, this could be termed risk assessment. Risk assessment is the use of the factual base to define the health effects of exposure of individuals or populations to hazardous materials and situations.

Upon the successful development of these two objectives, the Secretary is further requested to provide funding to—

Third, analyze the entire animal product food chain and determine the most effective points where intervention could occur to control or prevent a microbiological or chemical cycle.

Fourth, finally, research could be initiated to develop techniques to monitor the animal product food chain and detect potential microbiological or chemical agents and assist in the removal from commerce of those foods which would be unacceptable under the statistical framework mentioned earlier.

The research projects awarded under this act will be approved by the Secretary of Agriculture on a competitive grant basis. Projects eligible for funding may be submitted by entities within the public and private colleges and universities or other entities involved in research in the area of food safety.

To carry out these objectives, the bill authorizes the appropriation of $20,000,000 in fiscal year 1988 and $25,000,000 in fiscal year 1989.

Mr. President, the control of microorganisms such as salmonella, e. coli, and listeria is a very complex issue. We all realize that there are no easy answers to this problem. At the 1984 International Symposium on Salmonella, it was reiterated that all foods have the potential for salmonella contamination, and that it is not feasible to expect eradication on such products in the near future.

It is important that we keep this entire issue in perspective. These are not new bacteria, they have been around as long as man has been able to identify them and will probably remain long after we are gone. Today, however, the climate is right to work together to obtain the information to control these microorganisms. In my judgment, all players in the game: producers, processors, USDA, marketers, educators and consumers are aware of the task and are willing to cooperate in efforts to move our current system into the 21st century.

Even if researchers could guarantee animal products free of contaminants, their efforts would be wasted without the cooperation of consumers. Lacking the proper education regarding handling practices, consumers unknowingly exacerbate the extent of food borne illnesses.

In my view the solution to this problem is threefold. First, children must be exposed to safe handling practices early in life. Many of our children today are no longer required to take classes in home economics, the logical place to learn about these matters. Without this education, children are apt to acquire the bad habits of their elders. Besides school, children could also be exposed to this information by organizations such as 4-H and FFA.

Second, adults must be better informed of these safe handling practices. The livestock and poultry industries as well as consumer groups are to be commended for their efforts to improve the education of consumers. This information can be passed along through various voluntary labeling practices as well as in store point of purchase pamphlets and brochures.

Finally, educational programs must be administered throughout the food service industry. As larger proportions of our population eat away from home, the importance of food safety in restaurants and cafeterias becomes critical.

These safe handling practices include:

First, cooking all meat until it is fully done; second, washing all cutting boards and utensils thoroughly; third, washing hands completely after handling meat and poultry and before moving to the preparation of other foods; and fourth, only thawing products in the refrigerator or on the defrost setting of a microwave and never at room temperature or in warm water.

The legislation which we are introducing today is the result of cooperation between a number of organizations. I am pleased to announce that the bill has been endorsed by the American Meat Institute, the Association of American Veterinary Medical Colleges, the American Veterinary Medical Association, the Public Voice for Health And Food Policy, the National Cattlemen's Association, the National Pork Producers Council, the National Broiler Council, the National Turkey Federation, the American Feed Industry Association, and the Western States Meat Association.

In addition, the U.S. Department of Agriculture has been involved in the drafting process and supports the concepts embodied in the bill.

We look forward to working with USDA and the other organizations to move ahead toward implementation of this major research initiative.

In conclusion, the public's concern over microbiological and chemical contaminants in livestock, poultry, and fish must be addressed by the research community. The ability to move beyond visual inspection and into microbiological and chemical sampling is a process which will benefit all of those involved. We must move forward to ensure that appropriate standards are developed to control or prevent the growth and spread of harmful microbes.

Mr. President, I ask unanimous consent that the text of the bill and a summary of safe food handling procedures be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

S. 1561

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the wholesomeness and safety of food products of animal origin is very important to the health and well being of the Nation;

(2) maintenance of consumer confidence in the wholesomeness and safety of food products of animal origin is very important to the food industry and producers;

(3) food borne illnesses are a major public health concern that carry a large cost to the public (including direct medical care, lost wages, recalls, and investigations);

(4) all food groups have the potential to cause food borne illness, with approximately 33 percent of all reported outbreaks of food related illnesses attributed to meat and poultry; and

(5) the importance of preventing food borne illnesses is growing with the increased aging of our population and the increase in the number of people whose immune systems are suppressed or who are otherwise more susceptible to such illnesses.

SEC. 2. RESEARCH PROJECTS FOR TOXICOLOGICAL AND INFECTIOUS CONTAMINANTS.

The Secretary of Agriculture shall establish a research program which includes—

(1) developing technology for the rapid identification of infectious agents and toxins on farms and within the processing and distribution chain;

(2) establishing a statistical framework under which the extent of potential health risks posed by the contamination of the animal product food chain by the agents referred to in paragraph (1) can be measured;

(3) analyzing the animal product food chain to determine the most effective point at which intervention could occur to control or prevent a microbiological or chemical cycle in—

(A) a production unit;

(B) a processing unit; and

(C) the distribution elements; and

(4) developing techniques to monitor the production of food animals and the processing and distribution of food products of animal origin to detect potential microbiological or chemical agents.

SEC. 3. AUTHORIZATION AND ELIGIBILITY.

(a) AUTHORIZATION.—The Secretary of Agriculture may award grants for the funding of projects under section 2, or other projects determined by the Secretary to decrease the susceptibility of food products of animal origin to infectious or toxic agents.

(b) CONSULTATION.—The Secretary of Agriculture shall award the grants referred to in subsection (a), as provided for in section 2(b) of the Act of August 4, 1965 (7 U.S.C. 450i(b)).

(c) ELIGIBILITY.—Projects eligible for funding under subsection (a) may be submitted by—

(1) individual associated with public and private colleges and universities, including—

(A) food scientists;

(B) agricultural engineers;

(C) veterinary and public health scientists; and

(D) animal scientists; and

(2) other entities involved in research in the area of food safety.

(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there is authorized to be appropriated $20,000,000 for the fiscal year ending September 30, 1988, and $25,000,000 for the fiscal year ending September 30, 1989.

SAFE HANDLING PRACTICES

STORAGE

After shopping, get perishables home and into the refrigerator or freezer as soon as possible.

Store fresh meat, poultry and seafood in the coldest part of the refrigerator.

After cooking, transfer food to shallow containers. You don't have to let food cool before refrigerating. Leftovers should be refrigerated or frozen immediately.

Don't leave perishable foods out of the refrigerator for more than two hours. Keep hot foods hot (145° F or above) and cold foods cold (45° F or below).

Thawing: never thaw frozen meat, poultry or seafood on a kitchen counter or in the kitchen sink. Room temperature will promote bacterial growth on the outside of the product, even while the product remains frozen inside. Thaw in the refrigerator or use the defrost setting of your microwave.

HANDLING/PREPARATION

Wash hands thoroughly with hot soapy water before and after handling any raw meat, poultry and seafood.

Bacteria can "loiter" in towels, cloths and sponges you reuse, so keep them clean. Do not reuse a dishcloth or sponge that is used to clean up meat or poultry juices without washing it first. Replace sponges frequently.

Bacteria present in raw products can get into other foods if you are not careful. So, after handling the raw product and before continuing food preparation, wash your hands and any utensils or cutting boards that will be reused with hot soapy water.

Don't be tempted to use the same plate that held raw products for serving cooked products. Raw juices can contaminate the cooked food. For instance, when grilling outdoors, use separate plates for carrying raw and cooked meats.

Wash out the sink thoroughly if you used it for soaking chicken.

COOKING

Cook meat, poultry and seafood thoroughly. Most meats should be cooked to at least 165° F and poultry to 185° F.

Don't interrupt cooking time. Partial cooking may encourage bacterial growth.

Reheat leftovers thoroughly to at least 165° F. Bring gravies and soups to a boil for one minute before serving.

TEMPERATURE

Below 32° F—Freezing temperatures stop growth of bacteria, but may allow bacteria to survive.

Between 32° F and 45° F—Cold temperatures permit slow growth of some bacteria that cause spoilage.

Between 45° F and 140° F—DANGER ZONE. Temperatures in this range allow for rapid growth of bacteria and production of toxins by some bacteria which cause food poisoning.

Between 140° and 165° F—Warming temperatures prevent growth but allow survival of some bacteria.

Above 165° F—Cooking temperatures destroy bacteria. Time required to kill decreases as the temperature is increased.

Mr. PRYOR. Mr. President, I am pleased to join my distinguished friend and colleague Senator Bond in introducing this legislation which will provide us with the facts and figures necessary relative to safe food.

Mr. President, we have held about two or three hearings on this issue. I must say it has been very frustrating to this Senator from Arkansas to know which study to believe, which group to believe, or how to formulate our basic facts in this situation. We do not have evidence on which to solely rely in formulating our decisions. We sincerely believe, Mr. President, that the legislation being introduced at this time by Senator Bond, myself, and others will be at least a starting point to coming up with facts and ultimate solutions to a better system of food inspection for the meat and poultry parts of our economy and society.

Mr. President, I am very proud to represent a State that is considered to be one of the largest poultry and turkey States in America. We also have a lot of beef cattle and dairy cattle. Just to give you an idea how this industry affects our State, and I know the Senator from Missouri to the north understands this because poultry and meat play a very important and critical role in his State's economy, one out of every 12 people in the State of Arkansas is employed either directly or indirectly by the poultry industry.

I might also add that this industry is not just affected parochially in the State of Arkansas. The Arkansas poultry producers, and we can imagine the enormity of this, buy 17,000 car and railroad carloads each year of corn from Nebraska. So we can see the enormous potential we have in a very fast and growing industry.

In fact, one of these industries which basically started off about 35 years ago as a very small poultry production plant today processes some 350,000 chickens every hour. Not every week, not every month, not every year, but every hour. So you can see that the poultry industry is a very integral part of the economy of our State and many States.

In our area of agriculture, Mr. President, we find one growth industry and that is the poultry industry. People are consuming more poultry in their diets.

Certainly, I want to say that ingenuity and creativity of that industry has not been overshadowed by the lack of interest, let us say, in our desire to have the best poultry inspection and meat inspection program because it is we, our industry and our people, who want to be on the forefront, the cutting edge, as finders of facts and also some solutions to the problems at hand, how to achieve better food inspection to better protect the American people.

By Mr. STEVENS:

S. 1562. A bill to implement the provisions of annex V to the International Convention for the Prevention of Pollution from Ships; to the Committee on Commerce, Science, and Transportation.

IMPLEMENTATION OF PROVISIONS OF THE INTERNATIONAL CONVENTION FOR THE PREVENTION OF POLLUTION FROM SHIPS

Mr. STEVENS. Mr. President, I join today in introducing a bill to implement the provisions of Annex V to the International Convention for the Prevention of Pollution from Ships.

A major purpose of annex V is to prohibit the disposal into the sea of all plastics, including plastic rope, fishing nets, and trash bags.

The President has transmitted annex V to the Senate for its advice and consent to ratification, and the Foreign Relations Committee will consider it in the near future. The National Ocean Policy Study and the full Committee on Commerce, Science, and Transportation will conduct a hearing this week on plastic pollution of the marine environment. That hearing will consider implementation of annex V as well as other desirable actions to deal with the growing menace posed by plastic pollution to the living marine resources, navigation, and enjoyment of ocean and coastal waters.

This important proposed legislation has been transmitted by the Secretary of Transportation on behalf of the administration. I ask unanimous consent that the statement of purpose and need accompanying the proposed legislation be included in the Record following the text of the bill, and urge my colleagues to support prompt ratification and implementation of annex V.

There being no objection, the material was ordered to be printed in the Record, as follows:

S. 1562

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Act to Prevent Pollution from Ships is amended to implement Annex V, Regulations for the Prevention of Pollution by Garbage from Ships.

Sec. 2. Section 2 of the Act to Prevent Pollution from Ships is amended to read as follows:

(a) Paragraph (1) is amended to read as follows:

"(1) 'MARPOL Protocol' means the Protocol of 1978 relating to the International Convention for the Prevention of Pollution from Ships, 1973, and includes the 'Convention';".

(b) Paragraph (2) is amended by striking all after "Annexes I" and substituting ", II, and V thereto, including any modifications or amendments to the Convention, Protocols, or Annexes which have entered into force for the United States;".

(c) Paragraph (3) is amended after "'discharge'" by inserting "and 'garbage'".

Sec. 3. Section 3 of the Act to Prevent Pollution from Ships is amended as follows:

(a) Subsection (a) is amended to read as follows:

"(a) This Act applies to—

"(1) except as provided in paragraph (2) of this subsection,

"(A) a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located; and

"(B) a ship, other than a ship referred to in clause (A) of this paragraph, while in the navigable waters of the United States.

"(2) with respect to subsection (c)(2) of this section, section 4(a)(3), section 8(d), section 9(f)(2), and section 11(c) of this Act, a ship which is not of the registry, of the nationality, or operated under the authority of a party to Annex V of the Convention, while in the navigable waters of the United States or the exclusive economic zone of the United States.

"(3) with respect to regulations under section 6 of this Act, any port or terminal in the United States."

(b) Subsection (c) is amended to read as follows:

"(c)(1) The Secretary shall prescribe regulations applicable to the ships of a country not a party to the MARPOL Protocol to ensure that their treatment is not more favorable than that accorded ships of parties to the MARPOL Protocol.

"(2) The Secretary shall adopt regulations conforming to and giving effect to Annex V of the Convention.

SEC. 4. Section 4(a) of the Act to Prevent Pollution from Ships is amended to read as follows:

"(a) Unless otherwise specified in this Act, the Secretary shall administer and enforce the MARPOL Protocol and this Act. In the administration and enforcement of the MARPOL Protocol and this Act—

"(1) except as provided in paragraphs (2) and (3) of this subsection, the MARPOL Protocol and this Act apply to all ships;

"(2) Annexes I and II of the Convention and this Act apply only to seagoing ships; and,

"(3) this Act applies to all ships referred in section 3(a)(2) of this Act."

SEC. 5. Section 6 of the Act to Prevent Pollution from Ships is amended as follows:

(a) Subsection (a) is amended by—

(1) inserting "(1)" immediately after "(a)";

(2) in the first sentence of newly designated subsection (a)(1), after "reception facilities", inserting "for mixtures containing oil or noxious liquid substances";

(3) adding a new paragraph (2) to read as follows:

"(2) The Secretary, after consulting with appropriate Federal agencies, shall establish regulations respecting the adequacy of reception facilities for garbage at a port or terminal, and shall specify the ports or terminals which shall be required to provide such reception facilities. Persons in charge of ports and terminals shall provide reception facilities for receiving garbage in accordance with those regulations."

(b) Subsection (b) is amended after "reception facilities" by inserting ", and in establishing regulations under subsection (a) of this section," and after "seagoing ships" inserting ", or, as appropriate, ships,".

(c) Subsection (c) is amended by striking "the MARPOL Protocol" and substituting "Annexes I and II of the Convention".

(d) Subsection (e) is amended by—

(1) inserting "(1)" immediately after "(e)";

(2) striking "(1)" and substituting "(A)";

(3) striking "(2)" and substituting "(B)";

(4) in clause (A), as redesignated by this subsection, striking "the MARPOL Protocol" and substituting "Annexes I and II of the Convention"; and

(5) adding a new paragraph (2) to read as follows:

"(2) The Secretary may deny the entry of a ship to a port or terminal required by regulations issued under this section to provide reception facilities for garbage if the port or terminal is not in compliance with those regulations."

SEC. 6. Section 8 of the Act to Prevent Pollution from Ships is amended as follows:

(a) Subsection (c) is amended by—

(1) inserting "(2)" immediately after "(c)";

(2) striking "(1)" and substituting "(A)";

(3) striking "(2)" and substituting "(B)";

(4) in clause (A) as redesignated by this subsection, after "harmful substance" inserting "or disposed of garbage";

(5) in clause (B) as redesignated by this subsection—

(A) after "harmful substance" inserting "or disposed of garbage";

(B) after "that a discharge", inserting "or a disposal";

(6) In paragraph (2) as redesignated by this subsection, in the last sentence, striking "If a report made under this subsection involves a ship other than one of the United States registry or nationality or one operated under the authority of the United States," and capitalizing "the" immediately following the struck words.

(7) before the newly redesignated paragraph (2) inserting new paragraph (1) to read as follows:

"(1) This subsection applies to inspections respecting—

"(A) possible violations of Annex I or Annex II of the Convention by any seagoing ship referred to in section 3(a)(1)(B) of this Act, and

"(B) possible violations of Annex V of the Convention by any ship of the registry, of the nationality, or operated under the authority of a party to Annex V of the Convention other than the United States."

(b) After subsection (c) add new subsections (d) and (e) as follows:

"(d)(1) This subsection applies to inspections respecting possible violations of the regulations adopted under section 3(c)(2) of this Act by any ship referred to in section 3(a)(2) of this Act.

"(2) To the extent authorized by international law, a ship may be inspected by the Secretary to verify whether or not the ship has disposed of garbage in violation of the regulations adopted under section 3(c)(2) of this Act.

"(3) If an inspection under this subsection indicates that a violation has occurred, the Secretary may undertake, in accordance with international law, enforcement action under section 9 of this Act.

"(e)(1) This subsection applies to inspections respecting possible violations of the MARPOL Protocol by any ship of United States registry or nationality, or operating under the authority of the United States.

"(2) The Secretary may inspect at any time a ship to which the MARPOL Protocol applies to verify whether or not the ship has discharged a harmful substance or disposed of garbage in violation of that Protocol.

"(3) If an inspection under this subsection indicates that a violation has occurred, the Secretary may undertake enforcement action under section 9 of this Act."

(c) Redesignate subsection "(d)" as subsection "(f)".

SEC. 7. Section 9(f) of the Act to Prevent Pollution from Ships is amended as follows:

(a) Insert "(1)" immediately after "(f)".

(b) In paragraph (1) as redesignated by this section, strike "by a ship registered in or of the nationality of a country party to the MARPOL Protocol, or one operated under the authority of a country party to the MARPOL Protocol," and substitute "one which is referred to in section 8(c)(1) of this Act," and strike "to that country" and substitute "to the government of the country of the ship's registry or nationality, or under whose authority the ship is operating".

(c) Add a new paragraph (2) to read as follows:

"(2) Any action taken under this section with respect to violations of regulations adopted under section 3(c)(2) of this Act shall be in accordance with international law."

SEC. 8. Section 10 of the Act to Prevent Pollution from Ships is amended as follows:

(a) In subsection (a), strike "Inter-Governmental Maritime Consultative Organization", and substitute "International Maritime Organization".

(b) In subsection (b), strike "Annex I or II, appendices to the Annexes, or Protocol I of the MARPOL Protocol," and substitute "Annexes I, II, or V, appendices to those Annexes, or Protocol I of the Convention", and strike "Inter-Governmental Maritime Consultative Organization" and substitute "International Maritime Organization".

SEC. 9. Section 11 of the Act to Prevent Pollution from Ships is amended as follows:

(a) After subsection (b) add a new subsection (c) to read as follows:

"(c) Any person suffering damage or loss from any action of the Secretary, taken pursuant to section 8(d) or section 3(c)(2) of this Act, which is alleged to have been unlawful or to have exceeded that which is reasonably required in the light of available information may bring an action under this section to recover compensation for that damage or loss."

(b) Change existing subsections "(c)" through "(e)" to "(d)" through "(f)" respectively.

SEC. 10. (a) Except as provided in subsection (b) of this section, this Act shall be effective on the date Annex V of the Convention enters into force in the United States.

(b) The authority to adopt and issue regulations under this Act shall be effective on the date of enactment of this Act.

SEC. 11. Section 3(f) of the Marine Protection, Research, and Sanctuaries Act of 1972, as amended, (33 U.S.C. 1402(f)) is amended by inserting "or a discharge or disposal subject to regulation by the Act to Prevent Pollution from Ships, as amended," after "operation of motor-driven equipment on, vessels".

THE SECRETARY OF TRANSPORTATION,
Washington, DC, July 22, 1987.

Hon. GEORGE BUSH,
President of the Senate
Washington, DC.

DEAR MR. PRESIDENT: This letter transmits proposed legislation "To implement the provisions of Annex V to the International Convention for the Prevention of Pollution from Ships."

This proposed legislation would implement Annex V, Regulations for the Prevention of Pollution by Garbage from Ships, an Optional Annex to the International Convention for the Prevention of Pollution from Ships, 1973. This would be accomplished by amending the Act to Prevent Pollution from Ships (APPS), Pub. L. 96-478 (33 USC 1901-1911). APPS currently implements Annexes I and II of the Convention, as amended by the 1978 Protocol concerning oil and noxious liquid substances, respectively. This proposal does not change APPS with respect to these Annexes but merely adds Annex V to APPS and where necessary adds specific provisions that treat Annex V differently from Annexes I and II.

Annex V establishes international regulations to prohibit or otherwise restrict discharges into the sea of all types of garbage generated during the normal operation of a ship. A major purpose of Annex V is to prohibit, the disposal into the sea of all plastics including plastic rope, fishing nets, and trash bags. Also under Annex V, adequate reception facilities for garbage will be required at ports and terminals in the United States. This proposal will be effective on the date Annex V enters into force for the United States, except for the authority to develop and promulgate regulations which will be effective on the date of enactment.

There are no identifiable budgetary or personnel increases or decreases associated with this proposal.

I recommend that this proposed legislation be enacted by the Congress.

The Office of Management and Budget has advised that there is no objection, from the standpoint of the Administration's program, to the submission of this proposed legislation to the Congress.

Sincerely,

ELIZABETH DOLE.

COMPARATIVE TYPE

(Deleted language is in black brackets; new language is in italic.)

Act to Prevent Pollution From Ships, Pub. L. 98-478, Oct. 21, 1980, 94 Stat. 2297 (33 USC 1901-1911)

SEC. 2. Unless the context indicates otherwise, as used in this Act—

(1) "MARPOL Protocol" means the Protocol of 1978 Relating to the International Convention for the Prevention of Pollution from Ships, 1973, [done at London on February 17, 1978. This Protocol incorporates and modifies the International Convention for the Prevention of Pollution from Ships, 1973, done at London on November 2, 1973;] *and includes the "Convention";*

(2) "Convention" means the International Convention for the Prevention of Pollution from Ships, 1973, including Protocols I and II and Annexes I [and II attached thereto;], *II, and V thereto, including any modifications or amendments to the Convention, Protocols, or Annexes which have entered into force for the United States;*

* * * * *

SEC. 3. (a) This Act applies to—

[(1) a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located;

[(2) a ship registered in or of the nationality of a country party to the MARPOL Protocol, or one operated under the authority of a country party to the MARPOL Protocol, while in the navigable waters of the United States; and

[(3) a ship registered in or of the nationality of a country not a party to the MARPOL Protocol, under subsection (c) of this section, while in the navigable waters of the United States.]

(1) except as provided in paragraph (2) of this subsection,

(A) a ship of United States registry or nationality, or one operated under the authority of the United States, wherever located; and

(B) a ship, other than a ship referred to in clause (A) of this paragraph, while in the navigable waters of the United States.

(2) with respect to subsection (c)(2) of this section, section 4(a)(3), section 8(d), section 9(f)(2), and section 11(c) of this Act, a ship which is not of the registry, of the nationality, or operated under the authority of a party to Annex V of the Convention, while in the navigable waters of the United States or the exclusive economic zone of the United States.

(3) with respect to regulations under section 6 of this Act, any port or terminal in the United States.

(b) This Act does not apply to—

(1) a warship, naval auxiliary, or other ship owned or operated by the United States when engaged in noncommercial service; or

(2) any other ship specifically excluded by the MARPOL Protocol.

(c)*(1)* The Secretary shall prescribe regulations applicable to the ships of a country not a party to the MARPOL Protocol to ensure that their treatment is not more favorable than that accorded ships of parties to the MARPOL Protocol.

(2) The Secretary shall adopt regulations conforming to and giving effect to Annex V of the Convention.

(d) The heads of Federal departments and agencies shall prescribe standards applicable to ships excluded from this Act by subsection (b)(1) of this section and for which they are responsible. Standards prescribed under this subsection shall ensure, so far as is reasonable and practicable without impairing the operations or operational capabilities of such ships, that such ships act in a manner consistent with the MARPOL Protocol.

SEC. 4.(a) Unless otherwise specified [herein] *in this Act,* the Secretary shall administer and enforce the MARPOL Protocol and this Act. In the administration and enforcement of the MARPOL Protocol and this Act [, Annexes I and II of the MARPOL Protocol shall be applicable only to seagoing ships.]—

(1) except as provided in paragraphs (2) and (3) of this subsection, the MARPOL Protocol and this Act apply to all ships;

(2) Annexes I and II of the Convention and this Act apply only to seagoing ships; and,

(3) this Act applies to all ships referred in section 3(a)(2) of this Act.

* * * * *

SEC. 6.(a)*(1)* The Secretary, after consuitation with the Administrator of the Environmental Protection Agency, shall establish regulations setting criteria for determining the adequacy of reception facilities *for mixtures containing oil or noxious liquid substances* of a port or terminal and shall establish procedures whereby a person in charge of a port or terminal may request the Secretary to certify that the port's or terminal's facilities for receiving the residues and mixtures containing oil or noxious liquid substance from seagoing ships are adequate.

(2) The Secretary, after consulting with appropriate Federal agencies, shall establish regulations respecting the adequacy of reception facilities for garbage at a port or terminal, and shall specify the ports or terminals which shall be required to provide such reception facilities. Persons in charge of ports and terminals shall provide reception facilities for receiving garbage in accordance with those regulations.

(b) In determining the adequacy of reception facilities, *and in establishing regulations under subsection (a) of this section,* required by the MARPOL Protocol at a port or terminal, the Secretary may consider, among other things, the number and types of seagoing ships, *or as appropriate, ships,* using the port or terminal, including their principal trades.

(c) If, upon inspection, reception facilities of a port or terminal are adequate to meet the requirements of [the MARPOL Protocol] *Annexes I and II of the Convention* and the regulations established hereunder, the Secretary shall, after consultation with the Administrator of the Environmental Protection Agency, issue a certificate to that effect to the applicant. A certificate issued under this subsection—

* * * * *

(e)*(1)* Except in the case of force majeure, the Secretary shall deny entry to a seagoing ship required by the Convention to retain onboard while at sea, residues and mixtures containing oil or noxious liquid substances, if—

[(1)]*(A)* the port or terminal is one required by [the MARPOL Protocol] *Annexes I and II of the Convention* or regulations hereunder to have adequate reception facilities; and

[(2)]*(B)* the port or terminal does not hold a valid certificate issued by the Secretary under this section.

(2) The Secretary may deny the entry of a ship to a port or terminal required by regulations issued under this section to provide reception facilities for garbage if the port or terminal is not in compliance with those regulations.

* * * * *

SEC. 8. * * *

(c)(1) This subsection applies to inspections respecting—

(A) possible violations of Annex I or Annex II of the Convention by any seagoing ship referred to in section 3(a)(1)(B) of this Act, and

(B) possible violations of Annex V of the Convention by any ship of the registry, of the nationality, or operated under the authority of a party to Annex V of the Convention other than the United States.

[(c)]*(2)* While at a port or terminal subject to the jurisdiction of the United States, a ship to which the MARPOL Protocol applies may be inspected by the Secretary—

[(1)](A) to verify whether or not the ship has discharged a harmful substance *or disposed of garbage,* in violation of the MARPOL Protocol or this Act; or

[(2)]*(B)* to comply with a request from a party to the MARPOL Protocol for an investigation as to whether the ship may have discharged a harmful substance *or disposed of garbage* anywhere in violation of the MARPOL Protocol. An investigation may be undertaken under this clause only when the requesting party has furnished sufficient evidence to allow the Secretary reasonably to believe that a discharge *or a disposal* has occurred.

If an inspection under this subsection indicates that a violation has occurred, the investigating officer shall forward a report to the Secretary for appropriate action. [If a report made under this subsection involves a ship, other than one of United States registry or nationality or one operated under the authority of the United States,] [t]*T*he Secretary, shall undertake to notify the master of the ship concerned and, acting in coordination with the Secretary of State, shall take any additional action required by Article 6 of the Convention.

(d)(1) This subsection applies to inspections respecting possible violations of the regulations adopted under section 3(c)(2) of this Act by any ship referred to in section 3(a)(2) of this Act.

(2) To the extent authorized by international law, a ship may be inspected by the Secretary to verify whether or not the ship has disposed of garbage in violation of the regulations adopted under section 3(c)(2) of this Act.

(3) If an inspection under this subsection indicates that a violation has occurred, the Secretary may undertake, in accordance with international law, enforcement action under section 9 of this Act.

(e)(1) This subsection applies to inspections respecting possible violations of the MARPOL Protocol by any ship of United States registry or nationality, or operating under the authority of the United States.

(2) The Secretary may inspect at any time a ship to which the MARPOL Protocol applies to verify whether or not the ship has discharged a harmful substance or disposed of garbage in violation of that Protocol.

(3) If an inspection under this subsection indicates that a violation has occurred, the

Secretary may undertake enforcement action under section 9 of this Act.

[(d)]*(f)* Remedies and requirements of this Act supplement and neither amend nor repeal any other provisions of law, except as expressly provided in this Act. Nothing in this Act shall limit, deny, amend, modify, or repeal any other remedy available to the United States or any other person, except as expressly provided in this Act.

SEC. 9. * * *.

(f)*(1)* Notwithstanding subsection (a), (b), or (d) of this section, if the violation is [by a ship registered in or of the nationality of a country party to the MARPOL Protocol, or one operated under the authority of a country party to the MARPOL Protocol,] *one which is referred to in section 8(c)(1) of this Act,* the Secretary acting in coordination with the Secretary of State, may refer the matter [to that country] *to the government of the country of the ship's registry or nationality, or under whose authority the ship is operating* for appropriate action, rather than taking the actions required or authorized by this section.

(2) Any action taken under this section with respect to violations of regulations adopted under section 3(c)(2) of this Act shall be in accordance with international law.

SEC. 10. (a) A proposed amendment to the MARPOL Protocol received by the United States from the Secretary-General of the [Inter-Governmental Maritime Consultative Organization] *International Maritime Organization* pursuant to Article VI of the MARPOL Protocol, may be accepted on behalf of the United States by the President following the advice and consent of the Senate, except as provided for in subsection (b) of this section.

(b) A proposed amendment to [Annex I or II, appendices to the Annexes, or Protocol I of the MARPOL Protocol,] *Annexes I, II, or V, appendices to those Annexes, or Protocol I of the Convention* received by the United States from the Secretary-General of the [Inter-Governmental Maritime Consultative Organization] *International Maritime Organization* pursuant to Article VI of the MARPOL Protocol, may be the subject of appropriate action on behalf of the United States by the Secretary of State following consultation with the Secretary, who shall inform the Secretary of State as to what action he considers appropriate at least 30 days prior to the expiration of the period specified in Article VI of the MARPOL Protocol during which objection may be made to any amendment received.

SEC. 11. * * *.

(c) Any person suffering damage or loss from any action of the Secretary, taken pursuant to section 8(d) or section 3(c)(2) of this Act, which is alleged to have been unlawful or to have exceeded that which is reasonably required in the light of available information may bring an action under this section to recover compensation for that damage or loss.

[(c)]*(d)* * * *.

[(d)]*(e)* * * *.

[(e)]*(f)* * * *.

The Marine Protection, Research, and Sanctuaries Act of 1972, Pub. L. 92-532, Oct. 23, 1972, 86 Stat. 1052 (33 USC 1401-1443).

SEC. 3. * * *.

(f) "Dumping" means a disposition of material: Provided, That it does not mean a disposition of any effluent from any outfall structure to the extent that such disposition is regulated under the provisions of the Federal Water Pollution Control Act, as amended (33 USC 1151-1175), under the provisions of section 13 of the Rivers and Harbors Act of 1899, as amended (33 USC 407), or under the provisions of the Atomic Energy Act of 1954, as amended (42 USC 2011, et seq.), nor does it mean a routine discharge of effluent incidental to the propulsion of, or operation of motor-driven equipment on, vessels *or a discharge or disposal subject to regulation by the Act to Prevent Pollution from Ships, as amended,* Provided further, That it does not mean the construction of any fixed structure or artificial island nor the intentional placement of any device in ocean waters or on or in the submerged land beneath such waters, for a purpose other than disposal, when such construction or such placement is otherwise regulated by Federal or State law or occurs pursuant to an authorized Federal or State program; And provided further, That it does not include the deposit of oyster shells, or other materials when such deposit is made for the purpose of developing, maintaining, or harvesting fisheries resources and is otherwise regulated by Federal or State law or occurs pursuant to an authorized Federal or State program.

STATEMENT OF PURPOSE AND NEED

This proposal would amend the Act to Prevent Pollution from Ships (APPS), Pub. L. 96-478, Oct. 21, 1980, (33 U.S.C. 1901-1911) to implement Annex V, Regulations for the Prevention of Pollution by Garbage from Ships, an Optional Annex to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73/78).

The Senate gave its advice and consent to ratification of the Protocol on July 2, 1980 which also constituted acceptance of the provisions of the International Convention, and Annexes I and II, and Protocols I and II therein. The President signed the instrument of ratification on July 22, 1980. The instrument of ratification did not apply to the optional Annexes III, IV, and V of the Convention. The ratified MARPOL Protocol including Annex I entered into force October 2, 1983. Annex II entered into force April 6, 1987. The APPS implemented the MARPOL Protocol and Annexes I and II. We are amending APPS to have it apply to Annex V as well as the MARPOL Protocol and Annexes I and II because it is more appropriate to have all elements of MARPOL implemented under one statutory authority than under separate authorities. We could duplicate all the provisions in APPS as a separate, freestanding legislative proposal; however, such an approach would not be efficient and would not facilitate a careful, comprehensive review of the implementing legislation of the Convention (including the 1978 Protocol) when in the future modifications to parts of the Convention are made. APPS will continue to implement Annexes I and II. Under this proposal, the authority to issue regulations for Annex V will be effective on the date of enactment. The rest of this proposal will not become effective until the date Annex V enters into force for the United States.

Annex V will enter into force following ratification, acceptance, approval or accession by fifteen states, representing at least fifty percent of the gross tonnage of the world's merchant shipping. At present, 27 states have ratified Annex V constituting 41.85 percent of the world's shipping tonnage. United States ratification would contribute approximately 4.9 percent, which would bring entry into force very close but would not reach the required fifty percent of gross tonnage.

Annex V establishes international regulations for prohibiting or otherwise restricting discharges into the oceans of all types of garbage generated during the normal operation of a ship. It also contains a provision that prohibits, subject to limited exceptions, the disposal into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets, and plastic garbage bags. Additionally, reception facilities capable of accepting garbage from vessels will be required at ports and terminals. As compared to mandatory Annexes I and II on pollution by oil and noxious liquid substances in bulk which are in force for the United States, and which apply only to seagoing vessels, Annex V will apply to all ships operating in the marine environment. As with all other MARPOL 73/78 regulations in force for them, nations bound by Annex V will be required to apply Annex V regulations to all ships, including those of nonparty nations, using their ports or otherwise under their jurisdiction. Annex V will not apply to any warship, naval auxiliary or other ship owned or operated by a State and used, for the time being, only on government noncommercial service. However, Federal departments and agencies would be required to ensure that so far as is reasonable and practicable without impairing the operations or operational capabilities of such ships, that such ships act in a manner consistent with Annex V provisions.

A major purpose of Annex V is to prohibit the disposal into the sea of all plastics, including but not limited to synthetic ropes, synthetic fishing nets, and plastic garbage bags. Annex V provisions allow for certain limited exemptions, such as situations involving accidental loss provided all reasonable precautions are taken and vessel safety. Disposal into the sea of other garbage must be made as far as practicable from the nearest land but in any case is prohibited if the vessel's distance from nearest land is less than twenty-five nautical miles for dunnage, lining, and packing materials which will float, and twelve nautical miles for food wastes and other garbage including paper products, rags, glass, metal bottles, crockery, and similar refuse. Disposal of food wastes and other garbage described above may be permitted outside of three nautical miles when it has passed through a comminuter or grinder.

Under Annex V the disposal of garbage is prohibited from fixed or floating platforms engaged in exploration, exploitation and associated offshore processing of seabed mineral resources and for all other ships when alongside or within 500 meters of such platforms, except food wastes when passed through a comminuter or grinder from such platforms or ships located more than twelve nautical miles from land.

Reception facilities capable of accepting garbage from vessels will be required at ports and terminals. A similar approach used to implement the reception facility requirements of Annex I and II of MARPOL 73/78 will be taken for Annex V. Annex V will apply to all ships wherever they operate in the marine environment. Nations bound by Annex V will be required to apply Annex V regulations to all ships, including those of nonparty nations, using their ports or otherwise under their jurisdiction. The proposal, drawing upon principles of customary international law, provides the means by which the Secretary of Transportation may enforce the Annex V prohibitions in the Exclusive Economic Zone against nonparty ships.

Annex V was developed in response to international concern at the increasing pollution of the marine environment from the disposal of ship-generated garbage and its harmful effects on fish, marine mammals, seabirds, turtles and other marine animals. One of the major sources of garbage pollution of the marine environment is from shipping and commercial fishing fleets. Included in this garbage are persistent solids, such as plastics which are being introduced into the oceans in ever increasing amounts. Plastic debris can be classified into three groups: fishing gear—primarily netting—that is lost or discarded; packing bands, straps and synthetic ropes; and other forms of nondegradable plastics.

In a 1975 study, the U.S. National Research Council of the U.S. National Academy of Sciences estimated that approximately 6.4 million metric tons of trash were disposed into the oceans each year and, of that approximately .7% or 45,000 tons consisted of plastics. In light of the continuing growth of the plastics industry, there is no doubt that unless checked, even greater quantities of plastics will be dumped into the oceans. Recent studies indicate that approximately 640,000 plastic containers are discarded by the world's shipping fleet each day, and each year fishing vessels reportedly dispose at sea approximately 52 million pounds of plastic packaging material and lose more than 298 million pounds of synthetic fishing gear, including nets, lines, and buoys.

Studies indicate that more than 100,000 marine mammals and untold numbers of seabirds die annually by becoming entangled within or ingesting plastic debris. In the North Pacific alone mortalities arising from entanglement in lost or discarded fishing gear have been implicated in the decline of the Northern Fur Seal population over the last two decades. Moreover, seals and sea lions often become girdled by discarded plastic strapping bands used to secure crates and other cargo on ships.

In addition at least fifty species of seabirds, including terns, puffins and gulls, and almost every species of sea turtle mistake floating plastic materials for food. A recent study of albatross chicks on Midway Island in the central Pacific produced the startling result that 90% of the chicks examined had plastic in their gullets, apparently fed to them by their parents who had mistaken it for prey. Although the plastic material itself may not be poisonous, it is virtually indigestible and inhibits feeding activity, creates ulceration, impairs food digestion and can ultimately result in the death of the animal.

It is estimated that plastic debris from New England's Atlantic gillnet fisheries was thirty miles of lost nets in 1985 and was more than eighteen miles as of July 1986. Lost travel webbing turned up on Alaskan beaches in 1974 in quantities of 272 kilograms per kilometer of beach, an amount that dropped to 172 kilograms ten years later, only after a significant decrease in the areas trawl fishery.

Another harmful effect of ship-generated garbage is its appearance on beaches and shorelines. In the United States trash and debris is a particular problem at the Padre Island National Seashore where recent studies indicate the majority of debris to be plastics or plastic derivatives. Aside from its aesthetic damage, garbage may physically injure organisms and humans, and physically damage ships and machinery. Occasionally plastic sheets are picked up in water intakes of ships, and ropes and nets foul propellers resulting in mechanical damage or schedule delays. The economic impact suffered by coastal businesses as a result of marine debris was clearly demonstrated in June 1976, when unusally large amounts of materials, primarily plastics, washed up on beaches in Long Island. The total cost of cleanup, was over $100,000, but an even greater economic loss was suffered by the coastal recreational industry due to the aesthetic degradation of beach areas.

This proposal has potential cost implications to both the Federal government and private industry. The government's increased costs would be from the increased staff work needed to handle preliminary penalty assesssments and to conduct hearings. This possible increase is dependent upon the number of violations reported; it cannot be estimated accurately because it depends on the degree of compliance and level of enforcement. Savings to Federal, state and local governments would be from reduced maintenance costs for coastal areas. Enforcement of Annex V provisions is expected to be carried out during routine patrols and boardings utilizing existing resources, including ships and personnel. There would be no substantial increases in the current frequency of these activities to enforce Annex V regulations.

The private sector's increased costs would be as a result of Annex V's requirement that United States ports and terminals have adequate reception facilities. While facilities are currently available in some United States ports, several other ports will have to provide this service. The Department of Agriculture anticipates that private industry will provide adequate and economical disposal facilities to fill this void.

Ships that dispose of garbage ashore will likely be charged for this service; the cost increase is not expected to be significant; however, it cannot be determined with any certainty at this time. Most offshore facilities and platforms in the United States already dispose of garbage ashore through contract services.

SECTION-BY-SECTION ANALYSIS

First Section. This section states that the Act to Prevent Pollution from Ships (APPS) is amended to implement Annex V of the MARPOL Convention.

Section 2. This section amends section 2, the definition section of APPS. First, it makes a technical amendment to the definition of "MARPOL Protocol". Second, it amends "Convention" by adding Annex V and any modifications made to the Convention, Protocols, or Annexes which have entered into force for the United States. These two amendments clarify the distinction between the two terms as used in APPS. Finally, it amends paragraph (3) by adding "garbage" to the terms whose meanings under the Convention are incorporated by reference.

Section 3. This section amends section 3 of APPS, which sets out the ships, ports, and terminals to which the statute applies. The section authorizes regulations applicable to ships of a country not a party to the MARPOL Protocol and it requires Federal agencies with ships not under APPS to set standards as consistent to the MARPOL Protocol as operationally feasible. This proposal's amendments to section 3 of APPS make no substantive change concerning Annexes I and II.

Subsection (a)(1) of this section of the proposal is based upon the current provisions of section 3(a) of APPS. It applies APPS's implementation of the Convention (1) to all U.S. ships wherever they are located, and (2) to all other (i.e., foreign) ships while they are located in the navigable waters of the United States. This includes the application of Annex V, as well as the elements of the Convention (as amended by the MARPOL Protocol) which are currently in force for the United States.

Paragraph (2) of this subsection is new, and exclusively applies certain provisions of the amended APPS to ships of countries which are not parties to Annex V. It subjects such ships to Annex V based standards while they are in the navigable waters and in the Exclusive Economic Zone. When an alleged violation of those standards by such a ship occurs, APPS' in port inspection and penalty assessment provisions apply as well as the safeguards accorded under customary international law.

Paragraph (3) applies APPS' regulation of reception facilities to ports and terminals in the United States.

Subsections (b), (c)(1), and (d) restate the current provisions of subsections (b), (c), and (d) respectively, of section (3) of APPS.

Finally, new section 3(c)(2), utilizing the customary international law principle set forth in Article 211, paragraph 5, of the Law of the Sea Convention, directs the Secretary to adopt regulations conforming to and giving effect to Annex V. As stated above, by virtue of new section 3(a)(2) of APPS, The regulations would apply to non-Annex V party ships while in the Exclusive Economic Zone.

Section 4. This section amends section 4(a) of APPS, which currently applies the scope of the administration and enforcement of Annexes I and II of the MARPOL Protocol under APPS only to seagoing ships. This section amends section 4(a) by adding a new paragraph (1) to apply the administration and enforcement of the MARPOL Protocol under APPS to all ships, except for Annexes I and II which would continue to apply to only seagoing ships. In addition, new paragraph (3) would apply APPS to non-Annex V party ships in the Exclusive Economic Zone.

Section 5. This section amends section 6 of APPS, which currently requires regulations to set adequacy standards for reception facilities at ports and terminals for residues and mixtures of oil and noxious liquid substances. This provision would be retained as paragraph (1) of the amended subsection (a). This proposal adds a new paragraph (2) of subsection (a) concerning a requirement for reception facilities for garbage at ports and terminals. Under section 6 as amended, persons in charge of ports or terminals specified by the Secretary as being required to have reception facilities for garbage must provide those facilities. Under section 6 as amended, the Secretary may deny entry of a ship to a port or terminal required to have reception facilities but which does not have facilities in compliance with this section's regulations.

Section 6. This section restructures the authority to conduct inspections at United States ports and terminals currently provided in section 8(c) of APPS. The current authority under that subsection insofar as it relates to possible violations of Annex I or II by non-U.S. ships would continue to be provided in the revised subsection (c). In addition revised subsection (c) addresses investigations of possible violations of Annex V by ships of countries other than the United States which are parties to Annex V. As under the current subsection (c), the reports of violations detected in an inspection under the revised subsection (c) would be handled in accordance with Article 6 of the Convention.

New subsection (d) concerns inspections of non-U.S. ships whose countries are not parties to Annex V for possible violations of the regulations issued by the Secretary under new section 3(c)(2) of APPS.

New subsection (e) concerns inspections of U.S. ships for possible violations of the MARPOL Protocol (including Annexes I, II, and V). When such violations are detected the Secretary may assess penalties under section 9 of APPS.

The Convention, on its own, does not provide the means by which sanctions may be imposed for the violation of Annex V prohibitions by ships of countries which were not parties to Annex V. Amendments to APPS included in the bill provide the means by which the protections afforded by those prohibitions may be applied to the Exclusive Economic Zone of the Untied States as to those ships. When violations of the Annex V prohibitions, prescribed in the section 3(c)(2) regulations, are detected during an inspection under new section 8(d), sanctions may be imposed under section 9, consistent with the customary international law principle as expressed in Article 220, paragraph 1, of the Law of the Sea Convention.

Section 7. This section amends section 9(f) of APPS, which authorizes the Secretary, instead of taking criminal or civil action against a ship or a party to the MARPOL Protocol, to refer the entire matter to the party country for appropriate action. This amendment changes existing subsection (f) to (f)(1) in order to clarify the point that this treatment is accorded only to ships referred to in new section 8(c)(1) of APPS. This section then adds a new paragraph (2) to state that any action taken against a ship for violation of section 3(c)(2) regulations must be in accordance with international law. One important customary international law principle which would apply is that set forth in Article 230, paragraph 1, of the Law of the Sea Convention, requiring that only monetary penalties may be imposed when the violation is committed beyond the territorial sea.

Section 8. This section amends section 10 of APPS, which provides for acceptance of amendments to the MARPOL Protocol. These changes are merely technical updates of terminology and the addition of Annex V to the section.

Section 9. This section amends section 11 of APPS, which currently provides for legal actions by persons adversely affected against a person who violated any regulations issued under APPS. This amendment adds a new subsection (c), with old subsections (c), (d), and (e) being redesignated (d), (e), and (f) respectively. New subsection (c) authorizes a person damaged because of action taken by the Secretary under section 3(c)(2) regulations or under section 8(d) to sue. This would provide the means by which the liability referred to in the customary international law principle set forth in Article 232 of the law of the Sea Convention (respecting, generally speaking, damage or loss attributable to unlawful or unreasonable measures) may be provided for.

Section 10. This section establishes the date Annex V enters into force in the United States as the effective date for this Act. This section authorizes regulations to be issued and adopted on the date of enactment, but these regulations would not go into effect before this Act would.

Section 11. This section amends section 3(f) (the definition of "dumping") of the Marine Protection, Research, and Sanctuaries Act of 1972. It does this by adding any discharge or disposal subject to regulations under APPS to the exceptions to the definition of dumping. By adding this exception, it will be clear that APPS and Annex V and not title I of the Marine Protection, Research, and Sanctuaries Act of 1972 apply to the disposal of garbage from ships which is generated during their normal operation.

By Mr. ROTH:

S. 1563. A bill entitled the "Social Security Administration Biennial Budget Act"; to the Committee on Governmental Affairs.

SOCIAL SECURITY ADMINISTRATION BIENNIAL BUDGET ACT

Mr. ROTH. Mr. President, I rise today to introduce legislation which will add another level of stability to our Social Security system. Experts agree that the financial health of the Social Security trust funds is very strong. My legislation focuses attention on funding for the management and administration of the system. The side of the system responsible for distributing tens of millions of benefit checks each month and responsible for collecting and storing payroll information for more than 120 million working Americans.

Mr. President, I believe the programs and activities of the Social Security Administration could be more effectively planned and managed if funds for Social Security were provided on a 2-year cycle rather than annually. This legislation will add to the Social Security reforms passed by Congress in 1983 by strengthening the management capabilities of Social Security. Given a 2-year appropriation, Social Security administrators will be better able to plan and meet their personnel and resource needs.

Managing the Social Security system is no easy task. The system must keep account of the more than 100 million individual payroll records and 37 million individual benefit levels. Twelve times a year the Government sends out millions and millions of checks amounting to billions and billions of dollars. The Social Security Administration does a remarkable job—one that requires tremendous amounts of human resources. My legislation would add an additional layer of confidence that the system is working.

In 1983, the Congress passed the Social Security Act amendments, which assured the financial health of the Social Security trust funds well into the 21st century. Yet the success of the Social Security system must be measured by more than just the solvency of the trust funds.

While this is fundamental, the service provided to beneficiaries must also be beyond doubt. In an effort to strengthen management of the trust funds, my legislation would establish a 2-year appropriations process for the administrative accounts of the Social Security system. These funds would not be subject to the fluctuations of the annual budget process or held annually hostage to the giant continuing resolution necessary to keep the Government from shutting down.

Earlier this year, I, along with my distinguished colleague from New Mexico, Senator DOMENICI, introduced the Federal Budget Reform Act of 1987, which would establish a 2-year budget cycle for the entire Federal budget. In recent years the budget process has all but broken down. And, in recent months, many of my colleagues have discussed budget process reform. The 2-year budget is one of the very few ideas that has bipartisan support. For any budget process to work it must be simple enough for the Congress to use and for the public to follow. A 2-year cycle would certainly meet these criteria.

Mr. President, momentum is heading for its 2-year cycle. Already, large portions of the Defense Department budget are considered on a 2-year cycle. The General Accounting Office recently endorsed the idea of 2-year budgeting for Social Security. Earlier this year, I asked GAO to determine which civilian agencies would best serve as pilots for 2-year budgeting. Social Security was high on their list.

The present annual budget process creates budgetary uncertainty for recipients of Federal funds, results in redundant congressional action on budget matters, encourages the use of budgetary gimmicks, and focuses attention away from developing long-term national priorities.

A 2-year process would help address these problems. A biennial process would provide greater stability and certainty for the recipients of Federal funds. Equally important, a 2-year budget would enable Congress to focus on national fiscal policy and the development of national objectives. It would create an orderly, predictable process—one that would improve the operations and effectiveness of the Congress. The Social Security Administration would make an excellent pilot program.

Social Security is our most important social program. Designed to provide and protect our elderly population, Social Security has been a tremendous success in providing assurance and comfort to all Americans, both those working and contributing to Social Security and those who are retired or disabled and relying on Social Security benefits.

To solve the financial crisis facing Social Security, the Congress in 1983 enacted bold reforms which have dramatically restored the financial stability of the old age, survivors, and disability insurance trust funds. Working closely with the President and the National Commission on Social Security Reform, Congress took decisive action to ensure that Social Security will remain strong and solvent well into the 21st century. My bill will add to this reform.

The financial health of the Social Security system is in excellent shape. According to the 1986 report of the Board of Trustees, funds are sufficient to pay benefits on time for many years into the future. In fact, the trust fund will continue to grow in dollar value through the year 2030. Financially, we can move into the future with confidence. But we must also take a look at what the future brings for the second factor that I mentioned—service to beneficiaries.

Just as the Congress passed the Social Security Act Amendments of 1983 with strong bipartisan support, I urge my colleagues to do the same with this legislation. The American people deserve no less. The more security and assurance we can provide to those who rely on Social Security, the better we are doing our jobs.

I plan to offer this legislation as an amendment to the first appropriate legislative vehicle. The time for biennial budgeting in Social Security is now. I urge my colleagues to act. The Social Security system serves over 37 million Americans. We owe it to each and every one of them to ensure the kind of stability that will lead to improved management and better service. My bill would make this possible.

Mr. President, I ask unanimous consent that the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1563

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. . TWO-YEAR BUDGET CYCLE FOR THE SOCIAL SECURITY ADMINISTRATION.

(a) FINDINGS.—The Congress finds that the programs and activities of the Social Security Administration, Department of Health and Human Services (to the extent that they are not funded by permanent, indefinite appropriations), could be more effectively and efficiently planned and managed if funds for these programs and activities were provided on a two-year cycle rather than annually.

(b) REQUIREMENT FOR TWO-YEAR BUDGET PROPOSAL.—Notwithstanding the provisions of section 1105(a) of title 31, United States Code, the President shall include in the budget submitted to the Congress on or before the first Monday after January 3 of each odd-numbered calendar year hereafter, beginning with calendar year 1989, separate budget estimates necessary to carry out the programs and activities of the Social Security Administration for the fiscal year beginning on October 1 of that odd-numbered year, for the next fiscal year, and if deemed advisable, for the first quarter of the succeeding fiscal year.

(c) BIENNIAL APPROPRIATIONS FOR FISCAL YEARS 1988 AND 1989.—The President's budget estimates for Social Security Administration programs and activities to be carried out in fiscal years 1988 and 1989, and in some instances for the first quarter of 1990, submitted to the Congress in January 1987, shall be treated as requests for biennial funding by the Committees on Appropriations (to the extent that such programs and activities are not funded by permanent, indefinite appropriations). Any appropriation restriction or limitation on administrative expenses recommended by the Committees on Appropriations, shall be listed separately for each fiscal year period, in any appropriation legislation reported by the Committees to the Congress.

(d) CONTENTS OF BIENNIAL BUDGET PROPOSALS.—In addition to the supporting detail for the budget estimates submitted by the President which is required by sections 1105 and 1109 of title 31, United States Code, the justification provided to the congressional committees shall contain explanatory narratives on the Social Security Administration accounts and schedules which provide data for each separate fiscal year period.

SEC. . REVISIONS OR CHANGES TO BUDGET ESTIMATES.

(a) On or before July 16 of any year, the President may submit to the Congress a request for revisions or changes to the budget authority requested for each fiscal year period covered by his budget proposal. The request for provisions or changes shall include all the supporting information required by section 1106 of title 31, United States Code.

(b) Notwithstanding the provisions of subsection (a) of this section, nothing shall restrict the President's right to submit to the Congress deficiency or supplemental appropriation requests in accordance with the criteria and requirements of section 1107 of title 31, United States Code.

SEC. . EVALUATION AND REPORT.—Not later than April 1, 1990, the Secretary of Health and Human Services shall submit to the Senate Committee on Governmental Affairs, the Senate Committee on Finance, the House Committee on Government Operations, the House Committee on Ways and Means, and the Appropriation and Budget Committees of the Senate and House of Representatives, a report containing the Secretary's views on the following:

(1) The advantages and disadvantages of operating Social Security Administration programs on a two-year budget cycle.

(2) The Secretary's plans, if any, for converting to a two-year budget cycle for other programs under his jurisdiction.

(3) A description of any impediments (statutory or otherwise) to converting the operations of additional or all programs under the Secretary's jurisdiction to a two-year budget cycle beginning with fiscal year 1990.

By Mr. THURMOND (for himself and Mr. DECONCINI):

S.J. Res. 182. Joint resolution to authorize the National Committee of American Airmen Rescued by General Mihailovich to erect a monument to Gen. Draza Mihailovich in Washington, DC, or its environs, in recognition of the role he played in saving the lives of more than 500 United States airmen in Yugoslavia during World War II; to the Committee on Energy and Natural Resources.

ERECTION OF MONUMENT TO GEN. DRAZA MIHAILOVICH

Mr. THURMOND. Mr. President, today, I am introducing a bill which will authorize the National Committee of American Airmen Rescued by Gen. Draza Mihailovich to erect a monument in Washington.

The reason for having such a monument stems back to World War II. During that war the United States and Great Britain initially supported the nationalist resistance movement in Yugoslavia, led by Gen. Draza Mihailovich. Due to a tragic combination of errors and mistaken information, the Allies withdrew their support for Mihailovich at the end of 1943 and backed the Communist resistance movement of Marshal Tito.

Despite his abandonment by the Allies and despite the merciless war waged against him by both the Communists and the Nazis during 1944, Gen. Draza Mihailovich and his forces, known as the Chetniks, succeeded in rescuing some 500 American airmen who were shot down over Yugoslavia. Most of these men were safely evacuated from Nazi-occupied Yugoslavia to Italy.

In 1948, President Harry S Truman awarded posthumously the Legion of Merit to General Mihailovich for his heroics in rescuing American airmen and for his larger services to the allied cause. Unfortunately, the American public was unaware of this award since the State Department, fearful of offending the sensitivities of the Yugoslavian Communist Government, made the award to Mihailovich "secret" for almost 20 years.

Since that time, a group of American airmen have organized themselves into a national committee composed of American airmen rescued by General Mihailovich. This fine organization has launched a movement to build a memorial in Washington, DC, dedicated to the man who saved their lives. This effort has been ongoing for some time now, with the support of many Members of Congress. I can think of no better way to discharge this debt than to authorize these airmen to erect the monument they have in mind.

Mr. President, in voicing my support for this effort, I want to emphasize the fact that this project is to be financed, not by the American taxpayers, but through the fundraising efforts of the airmen's group. All costs for the construction and maintenance of this memorial will be borne by the private sector.

This legislation is virtually identical to previous measures that have been approved overwhelmingly in the Senate.

Mr. President, the airmen who seek authority to have this monument erected do not wish to make political noises that would offend the present Government of Yugoslavia. They seek only to acknowledge their deep sense of gratitude to a man who was instrumental in rescuing nearly 500 downed American flyers during World War II. They merely want the simple recognition that would be imparted by the erection of a General Mihailovich monument.

Mr. President, I ask unanimous consent that the text of the resolution be printed in the Record.

There being no objection, the joint resolution was ordered to be printed in the Record, as follows:

S.J. Res. 182

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That subject to authorization by the Secretary of the Interior pursuant to section 2 and the provisions of Public Law 99-652, the National Committee of American Airmen Rescued by General Mihailovich is authorized to establish a monument on public grounds in the District of Columbia or its environs, to honor General Draza Mihailovich for the role he played in saving the lives of more than five hundred United States airmen in Yugoslavia during World War II.

Sec. 2. (a) The Secretary of the Interior, in consultation with the National Committee of American Airmen Rescued by General Mihailovich, shall select with the approval of the Commission of Fine Arts and the National Capital Planning Commission a suitable site on grounds owned by the Federal Government in the District of Columbia or its environs for erection of the monument referred to in the first section of this joint resolution.

(b) The National Committee of American Airmen Rescued by General Mihailovich shall be responsible for the development of the design and plans of such monument, which shall be subject to the approval of the Secretary of the Interior, the Commission of Fine Arts, and the National Capital Planning Commission. If the Secretary of the Interior, the Commission of Fine Arts, or the National Capital Planning Commission fails to approve or make specific objection to such design and plans within ninety days after submission, such approval shall be deemed to be given.

(c) Neither the United States nor the District of Columbia shall bear any expense in the erection of the monument other than expenses incurred in the process of site selection and approval of design and plans.

Sec. 3. The Secretary of the Interior shall permit ground breaking for construction of the monument only after he determines that sufficient funds are available to complete the monument in accordance with the approved design and plans.

Sec. 4. The authority conferred by this joint resolution shall lapse unless the construction of the monument begins within two years after the date of enactment of this joint resolution.

Sec. 5. The maintenance and care of the monument erected under this joint resolution shall be the responsibility of the National Committee of American Airmen Rescued by General Mihailovich.

● Mr. DeCONCINI. Mr. President, I am pleased to cosponsor Senator Thurmond's legislation to authorize the National Committee of American Airmen Rescued by General Mihailovich to erect a monument to General Draza Mihailovich in Washington, DC. This is subject to authorization by the Secretary of the Interior or pursuant to section 2 and the provisions of Public Law 99-652.

As many of us are aware, General Mihailovich is responsible for saving the lives of over 500 American flyers who were shot or forced down over Yugoslavia during World War II. For his acts of heroism and bravery at that time, he made the ultimate sacrifice, his life, during the internecine strife which plagued his country following the war.

Today we are here to again remember his heroic efforts during the war on behalf of American flyers. Introduced last year under the sponsorship and direction of Senator Thurmond, this legislation expressed the support of the Senate for this worthy cause. We are reintroducing this resolution today to again commemorate the memory of General Mihailovich. Just as we have recognized the valiant acts of the Marquis de Lafayette and General Casimir Pulaski, so it is fitting that we do so for this courageous man to whom so many Americans still living owe their lives.

One of those men is Richard L. Felman of Tucson, AZ, who has devoted his life to seeking recognition of General Mihailovich's efforts to save the lives of American servicemen. I congratulate Major Felman for his diligence and devotion, and admire the dedication to this cause which he has displayed since the end of the war. For nearly a half of a century, Major Felman has crusaded for proper recognition of General Mihailovich, a crusade which merits a successful conclusion.

Mr. President, this legislation has been successfully passed in the Senate numerous times in the past, only to be stalled in the House, due in large measure to objections raised by the State Department. I have worked with Senator Thurmond and with Members of the House to attempt to solve this dilemma. I am hopeful that with a combined effort from both Chambers and the Department of the Interior that this logjam can be broken up and an appropriate monument erected. I simply cannot believe that a monument to General Mihailovich, built with private moneys on American soil, could be considered a diplomatic affront to the Government of Yugoslavia. We have delayed too long on this matter and I urge expeditious action by both Houses.●

ADDITIONAL COSPONSORS

S. 74

At the request of Mr. Gramm, the names of the Senator from Missouri [Mr. Danforth], and the Senator from Kentucky [Mr. McConnell] were added as cosponsors of S. 74, a bill to amend the Internal Revenue Code of 1986 to allow a charitable contribution deduction for certain amounts paid to or for the benefit of an institution of higher education.

S. 225

At the request of Mr. D'Amato, the name of the Senator from South Dakota [Mr. Daschle], was added as a cosponsor of S. 225, a bill to amend title II of the Social Security Act to protect the benefit levels of individuals becoming eligible for benefits in or after 1979 by eliminating the disparity—resulting from changes made in 1977 in the benefit computation formula—between those levels and the benefit levels of persons who become eligible for benefits before 1979.

S. 430

At the request of Mr. Metzenbaum, the names of the Senator from Massachusetts [Mr. Kerry], and the Senator from Tennessee [Mr. Gore] were added as cosponsors of S. 430, a bill to amend the Sherman Act regarding retail competition.

S. 567

At the request of Mr. DeConcini, the name of the Senator from Georgia [Mr. Nunn], was added as a cosponsor of S. 567, a bill to clarify the circumstances under which territorial provisions in licenses to distribute and sell trademarked malt beverage products are lawful under the antitrust laws.

S. 582

At the request of Mr. Exon, the name of the Senator from Maine [Mr. Mitchell], was added as a cosponsor of S. 582, a bill to provide for improved air transportation to small communities, and for other purposes.

S. 814

At the request of Mr. Hatfield, the name of the Senator from Wisconsin [Mr. Kasten], was added as a cosponsor of S. 814, a bill to facilitate the resettlement of Indochinese refugees and to provide for the protection of Indochinese refugees along the border of Thailand from cross-border attacks, and for other purposes.

S. 818

At the request of Mr. Domenici, the name of the Senator from Georgia [Mr. Fowler], was added as a cosponsor of S. 818, a bill to provide permanent authorization for White House Conferences on Small Business.

S. 840

At the request of Mr. Thurmond, the name of the Senator from Nevada [Mr. Hecht], was added as a cosponsor of S. 840, a bill to recognize the organization known as the 82d Airborne Division Association, Inc.

S. 887

At the request of Mr. Matsunaga, the name of the Senator from Washington [Mr. Adams], was added as a cosponsor of S. 887, a bill to extend the authorization of appropriations for and to strengthen the provisions of the Older Americans Act of 1965, and for other purposes.

S. 950

At the request of Mr. Heflin, the name of the Senator from Wisconsin [Mr. Proxmire], was added as a cosponsor of S. 950, a bill to establish a specialized corps of judges necessary for certain Federal proceedings required to be conducted, and for other purposes.

S. 1171

At the request of Mr. Hatfield, the name of the Senator from Vermont [Mr. Stafford] was added as a cosponsor of S. 1171, a bill to establish a national population policy and to improve methods for correcting, analyzing, and employing natural resource, environmental, and demographic data.

S. 1199

At the request of Mr. Lautenberg, the name of the Senator from South Dakota [Mr. Daschle] was added as a cosponsor of S. 1199, a bill to prevent suicide by youth.

S. 1203

At the request of Mr. Grassley, the name of the Senator from New Hampshire [Mr. Humphrey] was added as a cosponsor of S. 1203, a bill to amend title 22, United States Code, to make unlawful the establishment or maintenance within the United States of an office of the Palestine Liberation Organization, and for other purposes.

S. 1314

At the request of Mr. Domenici, the name of the Senator from Colorado [Mr. Armstrong] was added as a cosponsor of S. 1314, a bill to amend the Archeological Resources Protection Act of 1979 to prohibit attempted excavation, removal, or defacing, and to reduce the felony threshold value of illegally removed artifacts to $500.

S. 1347

At the request of Mr. D'Amato, his name was added as a cosponsor of S. 1347, a bill to facilitate implementation of the 1980 Hague Convention on the civil aspects of international child abduction, and for other purposes.

S. 1393

At the request of Mr. Heinz, the name of the Senator from California [Mr. Wilson] was added as a cosponsor of S. 1393, a bill to amend title 399, United States Code, to designate as nonmailable matter any private solicitation which is offered in terms expressing or implying that the offeror of the solicitation is, or is affiliated with, certain Federal agencies, unless such solicitation contains conspicuous notice that the Government is not making such solicitation, and for other purposes.

S. 1397

At the request of Mr. Cranston, the names of the Senator from Wyoming [Mr. Wallop], the Senator from Wisconsin [Mr. Kasten], the Senator from South Dakota [Mr. Pressler], the Senator from Massachusetts [Mr. Kerry], the Senator from New York [Mr. Moynihan], the Senator from Maryland [Ms. Mikulski], the Senator from California [Mr. Wilson], the Senator from Utah [Mr. Garn], the Senator from Alabama [Mr. Shelby], the Senator from Michigan [Mr. Riegle], the Senator from North Carolina [Mr. Sanford], and the Senator from Nevada [Mr. Reid], the Senator from Illinois [Mr. Simon] were added as cosponsors of S. 1397, a bill to recognize the organization known as the Non Commissioned Officers Association of the United States of America.

S. 1440

At the request of Mr. Evans, the name of the Senator from North Dakota [Mr. Burdick] was added as a cosponsor of S. 1440, a bill to provide consistency in the treatment of quality control review procedures and standards in the Aid to Families with Dependent Children, Medicaid and Food Stamp Programs; to impose a temporary moratorium for the collection of penalties under such programs, and for other purposes.

S. 1451

At the request of Mr. Heinz, the name of the Senator from Massachusetts [Mr. Kerry] was added as a cosponsor of S. 1451, a bill to amend title 38, United States Code, to improve veterans' benefits for former prisoners of war.

S. 1489

At the request of Mr. Moynihan, the name of the Senator from Colorado [Mr. Armstrong] was added as a cosponsor of S. 1489, a bill to amend section 67 of the Internal Revenue Code of 1986 to exempt certain publicly offered regulated investment companies from the disallowance of indirect deductions through passthrough entities.

S. 1510

At the request of Mr. Kerry, the names of the Senator from North Dakota [Mr. Burdick], and the Senator from Pennsylvania [Mr. Heinz] were added as cosponsors of S. 1510, a bill to require the Administrator of Veterans' Affairs to arrange for the review by the National Academy of Sciences of scientific evidence, studies, and literature pertaining to the human health effects of exposure to agent orange and its component compounds and the issuance of a report on the Academy's conclusions as to the weight of the evidence regarding the health effects in humans of exposure to agent orange, and for other purposes.

S. 1519

At the request of Mr. Lautenberg, the name of the Senator from California [Mr. Cranston] was added as a cosponsor of S. 1519, a bill to authorize the President of the United States to award congressional gold medals to Lawrence Doby and posthumously to Jack Roosevelt Robinson in recognition of their accomplishments in sport and in the advancement of civil rights, and to authorize the Secretary of the Treasury to sell bronze duplicates of those medals.

SENATE JOINT RESOLUTION 108

At the request of Mr. Lugar, the name of the Senator from Vermont [Mr. Stafford] was added as a cosponsor of Senate Joint Resolution 108, joint resolution to designate October 6, 1987, as "German-American Day."

SENATE CONCURRENT RESOLUTION 23

At the request of Mr. Cranston, the names of the Senator from Montana [Mr. Melcher], and the Senator from South Carolina [Mr. Hollings] were added as cosponsors of Senate Concurrent Resolution 23, concurrent resolution designating jazz as an American national treasure.

SENATE CONCURRENT RESOLUTION 29

At the request of Mr. Boren, his name was added as a cosponsor of Senate Concurrent Resolution 29, concurrent resolution expressing the sense of Congress regarding the inability of American citizens to maintain regular contact with relatives in the Soviet Union.

SENATE CONCURRENT RESOLUTION 43

At the request of Mr. Stevens, the name of the Senator from Arkansas [Mr. Bumpers] was added as a cosponsor of Senate Concurrent Resolution 43, concurrent resolution to encourage State and local governments and local educational agencies to provide quality daily physical education programs for all children from kindergarten through grade 12.

SENATE RESOLUTION 73

At the request of Mr. Lautenberg, the name of the Senator from Maryland [Mr. Sarbanes] was added as a cosponsor of Senate Resolution 73, resolution to refer S. 329 entitled "A bill for the relief of Dynamic Technology International, Inc., Lew Malank Associates, Star Design, Inc., Riverside Precision Machines, and certain other individuals" to the chief judge of the U.S. Claims Court for a report thereon.

SENATE RESOLUTION 246

At the request of Mr. Moynihan, the names of the Senator from Indiana [Mr. Lugar], and the Senator from Vermont [Mr. Stafford] were added as cosponsors of Senate Resolution

246, resolution to honor Irving Berlin for the pleasure he has given to the American people through almost a century of his music.

AMENDMENT NO. 591

At the request of Mr. DANFORTH, the name of the Senator from Iowa [Mr. HARKIN] was added as a cosponsor of amendment No. 591 intended to be proposed to S. 328, a bill to amend chapter 39, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

AMENDMENTS SUBMITTED

DEVELOPMENT AND PRODUCTION OF MARKETABLE INDUSTRIAL AND COMMERCIAL PRODUCTS

HARKIN AMENDMENT NO. 642

Mr. HARKIN proposed an amendment to the bill (S. 970) to authorize a research program for the modification of plants focusing on the development and production of new marketable industries and commercial products, and for other purposes; as follows:

On page 13, line 8, strike out "there are" and insert in lieu thereof "and that is".

TEMPORARY EXTENSION OF PUBLIC DEBT LIMIT

JOHNSTON AMENDMENT NO. 643

Mr. JOHNSTON proposed an amendment to the bill (H.R. 3022) to provide for a temporary extension of the public debt limit; as follows:

On line 7, in lieu of "August 6, 1987" insert "May 1, 1989" and at the appropriate place in Public Law 100-40, insert in lieu of the figure provided the following figure: "2,800,000,000,000".

NOTICES OF HEARINGS

SELECT COMMITTEE ON INDIAN AFFAIRS

Mr. INOUYE. Mr. President, I would like to announce that the Select Committee on Indian Affairs will be holding a markup and hearing on the following dates:

Markup on Thursday, July 30, 1987, beginning at 12:30 p.m., in Senate Russell 385 on H.R. 1567, Cow Creek judgment funds; S. 887/H.R. 1451, Older Americans Act; and S. 1360, Amend the Indian Financing Act of 1974, and for other purposes.

Hearing on Thursday, August 6, 1987, beginning at 2:00 p.m., in Senate Russell 485 on S. 1475, a bill to establish an effective clinical staff recruitment and retention program, and for other purposes.

Those wishing additional information should contact the committee at 224-2251.

SUBCOMMITTEE ON FEDERAL SPENDING, BUDGET, AND ACCOUNTING

Mr. CHILES. Mr. President, I would like to announce that the Government Affairs Subcommittee on Federal Spending, Budget and Accounting will hold hearings in Tampa, FL, on August 11, 1987.

The subcommittee will hear testimony regarding subcontractor problems under the Miller Act in regards to Personal Sureties. The hearings will begin at 9:00 a.m. in the Planning Commission room at the First Southern Plaza located at 201 East Kennedy Street, Suite 600 in Tampa, FL.

Anyone wishing to testify or offer a written statement should contact Bob Harris, Subcommittee Staff Director, at (202) 224-9000 or write to the Subcommittee at: Room 326, Dirksen Building, U.S. Senate, Washington, DC 20510.

SUBCOMMITTEE ON FEDERAL SERVICES, POST OFFICE, AND CIVIL SERVICE

Mr. PRYOR. Mr. President, I would like to announce that the Subcommittee on Federal Services, Post Office, and Civil Service, Committee on Governmental Affairs, will hold a hearing on Friday, July 31, 1987. The subcommittee will hear testimony on S. 508, the Whistleblowers Protection Act of 1987.

The hearing is scheduled for 10 a.m., in room SD-342, Senate Dirksen Office Building. For further information, please call Ed Gleiman, subcommittee staff director, on 224-2254.

AUTHORITY FOR COMMITTEES TO MEET

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. BYRD. Mr. President, I ask unanimous consent that the full Committee on Environment and Public Works, be authorized to meet during the session of the Senate on July 29, beginning at 6 p.m., to mark up and report S. 1550, the Federal Triangle Development Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ENVIRONMENTAL PROTECTION

Mr. BYRD. Mr. President, I ask unanimous consent that the Subcommittee on Environmental Protection, Committee on Environment and Public Works, be authorized to meet during the session of the Senate on July 29, beginning at 6 p.m., to conduct a markup on the pending Clean Air Act legislation.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADDITIONAL STATEMENTS

INFORMED CONSENT: CALIFORNIA

● Mr. HUMPHREY. Mr. President, today I would like to insert into the RECORD two letters sent to my office in support of my informed consent legislation, S. 272 and S. 273. Today's letters come from the State of California.

I ask that these letters from women in California be inserted in the RECORD.

The letters follow:

MAY 28, 1986.

DEAR SENATOR HUMPHREY: I wanted to write and tell you how much I appreciate your stand for me as a woman, who has been aborted. I support your bill of informed consent, as I was never given any counseling or support before or after, either of my two abortions.

The first abortion took place at Kaiser Hospital; the second was a private doctor referred by planned parenthood. The treatment was cold, all they cared about was the money in cash, and a paper stating a "positive" pregnancy test. I had no idea of what abortion was, nor its effect on my physical and emotional being or my future. Senator, I wish I could share all the hurt and shame I now have since I have found out that it was my baby, torn piece by piece! To this day I do not know what type of procedures I had, NEVER was I given any information of physical complications, even though I have had two miscarriages due to a weak cervix.

Believe me your bill is so needed, any woman that has ever gone through abortion knows: There is NO CHOICE. The procedure is quickly scheduled without counseling to help support women through alternatives to abortion or even the development of her child. It is obvious to me, if there was information given before abortion the money making machine would soon become extinct.

Gratefully,

NOLA JONES,

California.

MARCH 16, 1987.

DEAR SENATOR HUMPHREY: First I would like to thank you for your continuing support of the unborn. The work is hard, the general public is unsupportive, and the media is slanted against us, but the cause is of utmost importance. We must somehow make people understand what abortion really is and what the implications of 1.5 million abortions every year are.

I am particularly interested in your bills S272 and S273 which would require certain patients to give their informed consent before an abortion could be performed upon them. I strongly support such legislation, and my support stems from my own personal experience with abortion. Let me tell you what happened several years ago . . .

I was 22 years old, single, living on my own, and pregnant. I believed it would be impossible to continue the pregnancy for many reasons: my marital status, my unwillingness to marry the child's father, and the angry reaction I was sure I would get from my own father. So, when the clinic that did the pregnancy test handed me the positive results of the test in one hand and a list of abortion doctors in the other, I took the list and made a phone call. I was told to come to the gynecologist's office the following Saturday (the day he performed the "procedures") with my money in hand. I showed up at the appointed hour, had a brief medical history taken and another pregnancy test done. I was taken into an office for a few moments of counseling by a woman whose qualifications I am not sure of; I do know she was not a medical doctor. The counseling mainly consisted of ascertaining whether or not I was going to begin using contraceptives immediately after the abortion. I recall a passing mention was made of putting up the baby for adoption, but since I had already made up in my mind to abort, that option was meaningless. At no time did this woman, or anyone else in this doctor's office, offer to explain to me exactly what was going on inside my body or tell me the result of this abortion would be the dismemberment of a tiny human being. Neither did they offer to refer me to an agency which could help and support me if I chose to remain pregnant. I was uniformed and naive; I really had no idea what being pregnant meant. I didn't know that that little eight week old baby already had hands and feet and eyes and a heart that could beat. I just didn't know. And no one told me. Why didn't they know? I can only conjecture that I was not told because it might have made me change my mind, and the doctor wouldn't have received the fee he was charging. Besides, it was my "right" to abort this baby, whether or not I knew what I was doing.

I went back to that doctor two more times in the next two years for abortions. I had three abortions in three years, and still no one took the time to tell me what I was doing. It wasn't until I was 30 years old and pregnant with a child I really wanted that I began learning about growing babies. It wasn't until EIGHT YEARS after my first abortion that I realized, with horror, what I had done to those three children I had conceived.

I cannot blame someone else for my mistakes. And I cannot say unequivocally that if I had been told what an abortion would actually do to the baby growing inside me I would have continued that first pregnancy. The life I was living at that time was so pure selfish that I might not have cared, or might have cared less for that baby than I did for myself. But I should have been given the information with which to make an informed choice. And I should have been given the information which would have motivated me to avoid conceiving the other two babies.

The pro-abortion forces cry that a woman should have a choice. How can they call it "choice" when they struggle so desperately to keep from her the information, but especially patients in facilities receiving federal (my) money.

Please feel free to use this letter in whatever way you feel appropriate for achieving the passage of these bills. I am not proud of what I did years ago, but if my pain can keep another young woman from doing what I did, then some good will attend.

Sincerely,

CHRISTINE HEACOX,
California.●

CDS PAYBACK RULE

● Ms. MIKULSKI. Mr. President, I rise to take strong exception to the administration's interpretation of a provision of the recently passed fiscal year 1987 supplemental appropriations bill.

One provision of that law, section 505, bars the Department of Transportation and the Maritime Administration from proposing, promulgating or implementing a so-called CDS payback rule. Such a rule would permit a U.S. vessel in foreign trades to repay construction differential subsidy to the Federal Government in exchange for the right to enter the domestic shipping trades.

The Congress thinks CDS repayment is a bad idea. We've said so several times in the past. For 2 years, we blocked the Secretary of Transportation from issuing such a rule. When she did issue a CDS payback rule in 1985, the court of appeals threw it out.

When the Secretary said she'd issue a payback rule once more, the Congress again prepared to block her. The House Committee on Appropriations approved a blocking provision on March 25, 1987. The Secretary went ahead anyway in April with a proposed payback rule. Then she issued a final version of the rule in June even as the conferees on H.R. 1827 were conducting their negotiations that included approval of section 505.

Throughout, it was clear that Congress intended to block a payback rule. Even after the rule was issued, it was clear that Congress intended, by blocking implementation of the rule, to make it null and void, and keep out of the domestic trade the three oil company tankers that have been the focus of the debate.

The President would have us believe he knew nothing of this congressional intent. In signing H.R. 1827, he claims he did so with the understanding that the rule is valid despite the congressional prohibition. That is simply untrue. In fact, during Senate debate on the supplemental's conference report, Senator HOLLINGS and I included a colloquy that explicitly says that section 505's intent was to invalidate the most recently issued DOT rule.

This episode reminds me of a very similar situation several years ago. The Office of Personnel Management published a proposed rule that Congress opposed, so we added appropriations bill language forbidding the rule. OPM went ahead anyway and issued the final rule shortly before the appropriations bill was enacted.

OPM tried to argue in court that it had beaten Congress to the punch and the rule should stand. Neither the district court nor the appeals court would buy that argument after looking at the congressional intent.

We've got the same situation here. Hopefully, the Secretary will have the good sense to vacate the rule herself. But if she doesn't, I'm confident the courts will do it for her.

It is time the administration recognized that CDS payback is bad policy and that the Congress, in passing the supplemental appropriations bill, which is now law, permanently prohibited DOT from moving forward on this issue.●

BIOSPHERE II

● Mr. DECONCINI. Mr. President, I would like to take a few moments to share with my colleagues a project currently taking shape in my home State of Arizona. The project, Biosphere II, could greatly alter humankind's future in space and on Earth. Research gained from this project will expand our horizons and could provide valuable knowledge towards creating orbiting space stations, lunar settlements and perhaps even a livable outpost on Mars. In addition, this project will increase our capacity to further develop and expand our living conditions on Earth through better resource management.

I would like to point out and praise the great work of Margret Augustine, architect, designer, and director of the project, and Philip Hawes, who is also an architect and designer of Bioshpere II. I would also like to praise the work of the University of Arizona's Environmental Research Lab and especially the diligence of Carl Hodges, the lab's director. His efforts and the work of ecologist Peter Warshall, Tony Burgess, a Tucson-based botanist with the U.S. Geological Survey's ecohydrology project, Ghillean Prance of the New York Botanical Garden and Walter Adey of the Smithsonian Institution have greatly contributed to the realization of this fantastic project.

Biosphere II is a self-contained structure which eight people will occupy for 2 years. Described as a mini Earth by Discover Magazine, Biosphere II will contain five distinct ecological systems including a savanna, a marsh, a desert, a tropical rain forest and a 35-foot deep ocean. The same article states that:

> In the opinion of many ecologists, agricultural specialists, engineers, architects, and space exploration advocates, the $30 million Biosphere II enterprise is the most exciting scientific project to be undertaken in the U.S. since President Kennedy launched us toward the moon.

Arizona is proud to host such a bold and ambitious project.

I will bring you more reports in the future about the progress of Biosphere II. Hopefully, we will see great technological strides made in the Arizona desert. Eventually, this project might lead us toward an understanding of the livability of the moon, Mars or even beyond.

I ask that the full text of the Discover Magazine article be included in the RECORD.

The article follows:

Earth's First Visitors to Mars

Grasping garden trowels spray-painted gold in our right hands, plastic glasses a-bubble with champagne in our left (or vice versa for those not following instructions), we tramped through the Sonoran desert between Oracle and Oracle Junction, Ariz. It was January, and a couple hundred of us had come to Sun Space Ranch for the groundbreaking of Biosphere II. Avoiding cholla and prickly pear spines and not spilling one's drink wasn't easy.

We all made our way to the chalk line marking the perimeter of the future Biosphere and took up positions roughly eleven feet apart. On cue, everyone excavated a bit of desert and toasted the success of the Biosphereans, the eight people who will walk through Biosphere II's airlock in 1989 and spend the next two years living as Earth's first visitors to Mars might.

In the opinion of many ecologists, agricultural specialists, engineers, architects, and space exploration advocates, the $30 million Biosphere II enterprise is the most exciting scientific project to be undertaken in the U.S. since President Kennedy launched us toward the moon. Paid for with venture capital, most of it from Texas centimillionaire Ed Bass, the structure will be a sealed, self-sustaining, two-acre, five-million-cubic-foot mini Earth, including five distinct biomes, or ecosystems: a savanna, a marsh, a desert, a tropical rain forest, and a 35-foot-deep "ocean." There will also be an agriculture wing, a plant micropropagation lab, and living quarters stocked with computers, stereos, and VCRs. If the Biosphereans prefer more rustic pastimes, "they can always go camping in the desert, or observe nocturnal moths in the tropical rain forest," says botanist Linda Leigh, one of the 14 candidates for Biosphere II (the earth is Biosphere I).

The project, which was conceived by the Institute of Ecotechnics in London and implemented by Space Biospheres Ventures (SBV), is a marriage of the earth sciences and high technology. It promises to yield valuable data and spin-offs not only for space travel (as a prototype for orbiting space stations or outposts on other planets) but also for better management of resources on earth. As he stood under a tent at the groundbreaking, poised to sliced the cake—as scale model of Biosphere II—Carl Hodges, director of the University of Arizona's Environmental Research Lab (ERL), said, "If Biosphere II causes people to look inward and understand the earth and to look outward and understand the potential of the universe, it will be the most significant scientific project of all time." He then plunged the knife in, wreaking havoc with the white chocolate icing, which had begun to melt. Said ecologist Peter Warshall, "Get that savanna!"

The Soviets have operated a series of spaceship-like biospheres in Siberia since the early 1960s to research interplanetary flight, and biologist Clair Folsome of the University of Hawaii has experimented with liter-sized, airtight ecospheres in which microbial communities survive and evolve, harnessing energy from the sun and recycling gases and other wastes. One such community has thrived for more than 20 years. But Biosphere II is by far the largest and most ambitious sealed ecosystem ever envisioned. To mimic on a minute scale global biological, geological, and chemical cycles, SBV ecologists are bringing to bear the latest knowledge in half a dozen fields. While they've been able to turn to a varied body of research on the evolution and maintenance of life, they've also been faced by many questions that simply haven't been asked before, like how many flowers a day does it take to keep a hummingbird alive? And myriad logistical obstacles must still be overcome. For example: How best to obtain the right soil for the rain forest? Do you have to import tons of it from South America, or will it be sufficient to concoct some from local soils with the same chemical mix, sterilize it to kill off the indigenous microbes, and inoculate it with ones from the Amazon?

Undaunted, SBV has rushed in where NASA—with its exploration program stalled—fears to tread. Should there ever be a need for accommodations on the moon or beyond, SBV could become the Hilton of the solar system. At its 2,500-acre SunSpace Ranch, a conference center 35 miles north of Tucson, the decor is Western Hip—lots of wood and cheery Mexican plaids. Magazine racks, filled with everything from Aviation Week to Architectural Digest, reflect the interests of Margret Augustine, who with fellow architect Philip Hawes designed Biosphere II. Augustine is the project's director, as well as a board member of Decisions Team Ltd., a company started by Bass and John Allen, a metallurgist/ecologist/businessman/playwright, and by a core group that began working with them in Santa Fe in the early 1970s and now runs various far-flung enterprises, including a cattle ranch—research station in western Australia, a hotel in Katmandu, and the Caravan of Dreams, an avant-garde performing arts center in Fort Worth.

Climate is one reason the Biosphere II site is in the Southwest. In favor of Tucson in particular were the astronomical observatories at nearby Kitt Peak, a stong local interest in ecology that finds its focus in the university's ERL, and a burgeoning aerospace industry. Beyond that, "Tucson has always been a frontier community, and we thought the city would happily embrace the project," says Kathy Dyhr, SBV's director of information systems and a candidate Biospherean. Tony Burgess, a Tucson-based botanist with the U.S. Geological Survey's Ecohydrology Project and a consultant to the Biosphere project, recalls the evening he first heard about it: "Augustine came over to my house with John Allen. He said, 'We're entering the space race. We're going to Mars.' They wanted my opinion on the SunSpace property. I looked at it. It's a good piece of land, on an ecotone, or boundary zone, where the saguaros end and the desert grasslands begin. In the summer it's cooler there than in the low valleys; in the winter it's warmer than in the real highlands."

Two days before the groundbreaking, Augustine appeared mildly harried. She was busy taking bids, letting contracts, and scheduling construction not only for Biosphere II but also for a staging building, two new greenhouses, and an insectary. Designing the main structure wasn't simply a matter of lifting a few elements from previous plans and putting them together in a novel way. "When we began, Phil and I just drew a lot of circles on a sheet of paper," says Augustine. "Here's the rain forest. Here's the desert. Here's the atmosphere." Not until a year after they began thinking about Biosphere II did they draft their first formal plans. That was in December 1984, and since then the design has gone through three versions.

To come up with a design that caught the look and feel of each biome as it would exist in nature while also providing it with the proper light, temperature, and humidity, Augustine and Hawes continually consulted the ecologists retained by SBV: Hodges (agriculture), Burgess (desert), Warshall (savanna), Ghillean Prance of the New York Botanical Garden (rain forest), and Walter Adey of the Smithsonian Institution (marine and estuarine biomes). "In Biosphere II, form has followed function and function has followed form," says Augustine. Take the way the building steps down the hill. Dropping the floorline about 40 feet creates a gradient that will drive convection currents: hot air will rise up the slope from the desert, cross the savanna and marine biomes, and accumulate in the tropical forest, where condensers will cool it. Clouds will gather in the 75-foot high pyramidal chamber.

For the ecologists, designing the biomes has been an opportunity to "think like God," says Warshall, who has a doctorate in biological anthropology from Harvard, served on California's drought emergency task force in 1976-77, and went to Ethiopia on a mission for the U.N. the day after the Biosphere groundbreaking. "Whenever I've studied ecosystems," he says, "it has been as an outsider. Actually trying to build one is different." Now he thinks he's beginning to understand ecosystems as his grandfather, a plumber, understood houses. "You become aware of materials and energy in a way you haven't been before."

Each of the terrestrial ecologists began by making species selections. Prance made a list of his favorites: "I put on the brazil nut. Then I took it off, because it grows to about a hundred and fifty feet. I put on the kapok tree, took it off. I put on fruit—banana, cacao, papaya, guava, and custard apple—medicinal plants, fibers." With commercial possibilities for SBV in mind, Burgess included plants with marketable products, like aromatics. "There's still a Middle Eastern trade in frankincense gum," he says.

At least three times a year the designers convened to co-ordinate plans. Their meetings weren't always halcyon. The biggest fallings-out were over how to stock the ecosystems, with the designers cleaving into two schools, Species Packing and No Extinctions. The packers voted for supersaturating each biome with plant and animal species and letting natural selection take its course, the goal being to achieve something close to stability. If one flower didn't make it, four or five others might. Putting in a more select group of well understood species, argued the other school, gives you a better shot at minimizing extinctions. This makes sense when you consider that in the wild it can take some of the proposed plants 100 years to reach full size, and therefore they couldn't readily be replaced.

But the line between the two groups has blurred. Burgess says, "No one knows very much about biology, so I'm designing for fifty per cent extinction. Things like the boojums—trees that look like thirty-foot-tall carrots with toothpicks stuck in them, and whose name came from Lewis Carroll's *The Hunting of the Snark*—grow slowly and appear stable, but about a third of the plants I'm including are annuals, about fifty to seventy-five species." Prance says, "We know so little about tropical rain forests that it's really hard to predict what might go extinct, although I think it's inevitable that there will be some extinctions. So I've built in a lot of extras."

"When I began thinking about my biome," says Burgess, "I realized there were two basic ways to approach the task. I could look for analogues in nature or I could concoct a synthetic desert, a pastiche." Temperatures in parts of the southwestern deserts drop below freezing in the winter and soar above 120° in the summer, but such extremes would be expensive and technologically difficult to reproduce. According to Burgess, "Hodges had the idea of letting the desert cool down just slightly more than the other biomes, to around forty degress, by shutting off the forced convention flow into the desert," thus allowing the cool air to settle over it. Closing the louvers, which will line the glass canopy, during the day and opening them at night would magnify the cooling effect.

Burgess looked for natural deserts with conditions similar to those of his biome. These would be maritime deserts. With moderate temperature variances and high humidity, and he found them on the west coast of Baja California, in parts of North Africa, along the Mauritanian coast, in Namibia, and on the Island of Socotra in the Indian Ocean, off the coast of Yemen. He focused on Baja's Vizcaino desert, where the rainy season is in winter and most plants go dormant in summer. To create similar conditions, the louvers over the desert will be shut from nine to four each day from late May to September, in what's called the "dark summer scenario."

Species from the Vizcaino will constitute the backbone of the biome, with species from similar regions filling in the gaps. Once all Burgess selection are made, the long process of obtaining the items will begin. Import permits from the U.S. Department of Agiculture and the county of origin are required, and, if any of the plants are regulated by CITES, the Convention on the International Trade in Endangered Species (of Wild Flora and Fauna), additional permits will be required.

The three other terrestrial designers have followed a pattern much like Burgess's. Adey has taken a different tack. "The land biomes are being built species by species," he says, "but marine systems are different. We don't really know enough about the functioning of communities with thirty, forty, or fifty species, much less about those with three hundred to four hundred," which each of the marine sub-biomes will have. In several square meters of a typical marsh, for example, Adey has counted 100 to 130 species of flora and fauna, too many to collect one by one.

When he had built other marine systems (the living coral reef exhibit at the National Museum of Natural History is one of his creations), Adey has simply dug up blocks of pond bottom or whatever, complete with its inhabitants, and transported them to the exhibition site. For the SBV job he'll do the same. He began taking samples in the Everglades last month, and by 1989 he'll probably also have brought to SunSpace chunks of a Floridian mangrove swamp and a Caribbean coral reef and sandy beach. "We usually include everything, even some species considered undesirable, like mosquitoes," he says. "In this case, we'll make certain exceptions. Liver flukes, for instance. We wouldn't want them in there because they cause disease." But other species, like saw grass, which some consider invasive and too sharp to walk through, he "wouldn't for one minute consider leaving out," because without them he wouldn't have a genuine mini Everglades.

Adey expects that on occasion the Biosphereans will have to "force the average." On any square meter of a 25-mile coral reef, he explains, species distribution changes all the time. One type of alga may take over that square meter for a while, but the entire reef maintains an average characteristic. "However, if your reef is only fifty feet long, you don't want one species of alga to dominate," he says. "So the people in the Biosphere may have to do some weeding. They can throw what they pull out into the intensive-agriculture section or back upsteam."

In fact, all five biomes may require management, what ecologists like to call human intervention. Tropical trees, for instance, may have to be pruned so they don't grow through the roof. As the need arises, such actions will be authorized by the biome designers, who will communicate with the Biosphereans via the habitat's computer, telephone, radio, and video hookups. Says Dyhr, "In the unlikely event of an ocotillo takeover, the Biosphereans would report to Tony Burgess: 'We have twenty-five more today than we did yesterday.'" Then the ecologists would advise them whether to destroy some of these desert shrubs.

In the likelier event of extinctions, replacement plants could be regenerated in the Biosphere from small numbers of cells, in a technique known as micropropagation. At SBV, horticulturist Stephen Storm, head of the tissue culture lab, is planning for that eventuality. "I don't have a lot of customers among the biome designers, because many of the plants they want take years to grow to maturity," he says. "They'll buy plants from nurseries at full size. But the lab in Biosphere II will have a library of frozen cells and cells in cold storage as backup." If, instead of becoming ubiquitous, ocotillos were suddenly wiped out, the Biosphereans could search the library to find a species suited to the same econiche, go to the cold room, take a vial out of a liquid nitrogen storage tank, unfreeze it, and remove its cellular contents and plate them on a culture medium. By jiggering the hormonal and chemical balance of the undifferentiated cells, they could regenerate whole plants. In Storm's lab, hundreds of test tubes contain agaves waiting to be potted, held in the greenhouse a while, and then planted, just as they would be in Biosphere II.

Fauna will also have an impact on plant distribution. An agouti in the rain forest would play a role in seed dispersal. Like the squirrel, this rodent buries seeds and then sometimes forgets where it has hidden them. Omnivorous bats and hummingbirds would serve as pollinators for plants throughout the biomes. Because most vertebrates will wander from biome to biome, Warshall says, they've helped him yoke the separate biomes into an integrated system in his mind.

Warshall's dream list for Biosphere II includes monkeys, frogs, salamanders, snakes, birds, tortoises, and ungulates, specifically pudus and mazamas, which are small deer from Chile, and Mexico and Central America, respectively. He has been searching for the ideal hummingbird, a kind of generalist with a straight beak about 20 millimeters long that will fit the flowers proposed by the botanists. At this point, the rufous-tailed hummingbird of Mexico looks as if it will fill the bill, but Warshall won't make a final decision until December, when he presents the official selection of terrestrial vertebrates to SBV (Adey is handling marine animals). "Most of the species will be pygmy, because we really don't have that much space," he says. "In fact, ideally, we'd have pygmy humans too."

Warshall is aiming for a balance of ecological resources among species, but should some species begin pullulating like rabbits and eating everything in sight, the Biosphereans might again have to intervene. "Those poor, sweaty, haggard people are going to spend most of their time running equipment, raising goats and chickens, and growing food," says Burgess, "so my dream is that when they've got some time off, they can go and kick back and just enjoy the desert. But it may turn out that they will have to serve as keystone predators." In any case, some hunting will probably be permitted. Every once in a while they'll be free to throw a line into the "ocean" and hook dinner. However, dinner for the Biosphereans normally will come not from the wild biomes but from the agricultural wing that's being developed by about 35 researchers under Hodges's supervision.

Inside the foyer of the ERL, which is packed with plants and has a ribbon of artificial turf running across its concrete floor, it "rains" 180 inches a year. Hodges's office is right off the foyer, and on this January day he's just back from Hawaii and a visit to the shrimp farm the lab designed for F.H. Prince, a Chicago company with diversified interests, and W.R. Grace. He's about to head off to Sharjah, on the Gulf of Oman, where ERL is setting up a pilot farm for raising a salt-water-tolerant plant that's high-grade fodder, a project Hodges says will "totally change the Middle East." The back wall of his office is glass and opens on a greenhouse, where a condenser fan blows on soybeans and wheat being grown under the same light, turbulence, temperature, humidity, and carbon dioxide conditions that will be encountered in Biosphere II.

During the late 1950s and early 1960s the lab pioneered passive solar heating and cooling; in the '70s it focused on solar desalinization and controlled-environment agriculture. It did a critical study for NASA on the latter, and has had unofficial discussions with Boeing about food production for the space station. It also helped design The Land, a pavilion sponsored by Kraft at Walt Disney World's Epcot Center. "Everything we've ever done here feeds into Biosphere II," Hodges says. "It's going to be the most advanced greenhouse in the world."

In its own greenhouses and at SunSpace, the ERL is training the future Biosphereans in intensive-agriculture practices. At SunSpace papayas shade mounds covered with broccoli, sage, and thyme; hydroponic pumpins, their roots trailing into containers of nutrient solution, hang from suspended bamboo poles; heads of lettuce float in other tanks. Rows of interplanted beans and corn grow in plots of sand, nourished by a solution that percolates through partly buried perforated hoses. Run-off flows to tanks outside, is filtered, and re-used. In Biosphere II the run-off may be treated with heat, ultraviolet light, or ultrasonics to kill pathogens.

Larger pests will be fought with techniques developed by university and federal agricultural stations and independent researchers like organic gardener Robert Rodale. For example, fungi that exude certain chemicals that kill nematodes are being investigated. And battalions of insect allies will be deployed: voracious ladybug larvae to eat aphids; predatory beetles for spider mites; parasite wasps for white flies; lacewings for leaf miners. "We can't use pesticides," says Kevin Fitzsimmons, who heads up the agriculture research on the Biosphere project for ERL, "because what you spray on the garden one day will show up in your drinking glass two weeks later."

One of the biggest worries for the agriculturists is the prospect of pests crawling or flying in from the other biomes. "To get plants as clean as possible before putting them into the Biosphere, we'll hold them in quarantine greenhouses first, and then in propagation greenhouses," says Leigh. "This will also minimize the introduction of new pests, say from Madagascar, to Arizona. But there's no way we can completely sterilize things." The best hope, says Fitzsimmons, is that the 60-foot glass tunnel between the biomes and the agriculture wing, with several screen doors in it, will keep most of the exotic bugs in their places.

So far ERL researchers have decided on the size of the agriculture section (approximately 20,000 square feet) and on the design of the pens for the goats (to provide milk) and the chickens (meat and eggs). They've begun selecting crop cultivars and have tested certain systems, like tanks for the tilapia, fish from the inland lakes of Africa that incubate their eggs in their mouths and reproduce about once a month (a Tucson, restaurant is given the lab's surplus and serves the fillets blackened, New Orleans-style).

Says Fitzsimmons, "During this year we should be able to integrate the various systems, settle on which grain milling equipment we're going to use, pick a composting method for the human wastes, and work more on nutrient cycling to make sure we're giving chemicals back to the plants in the forms that are most readily usable." Selection of cultivars will continue: spread out on plastic sheets in an ERL greenhouses to be weighed and recorded are piles of desiccated leaves and stems of various species. Fitzsimmons is looking for those that yield the most edible material per plant to the least chaff. He's concentrating on plants that are nutritious and easily processed for consumption by the Biosphereans and the animals. The year-round harvest of wheat, soybeans, sorghum, rice, safflower and sunflower seeds, beans, peas, potatoes, and citrus fruits should make for a varied diet. Surplus food will be dried or canned and stored in the high-tech equivalent of root cellars. As for stimulants, tobacco is out but coffee is in.

In all, the lives of the Biosphereans are likely to be commonplace, not too different from those of people who, say, raise vegetables in their back yards and work in a biology lab—except that the commute will be shorter. They'll have to perform a range of procedures in an analytical lab, like running a gas chromatograph to test for contaminants in the air and water. They'll be versed in horticulture and field ecology, so they can spot disasters before they happen. And they'll probably have to be good with motors, wires, and pipes.

When it comes to the psychology and social dynamics, Dyhr says the two-year experiment will be run something like a scientific expedition, with a leader and a hierachy. Should an emergency arise, the team member with the greatest knowledge of the system involved—say, the computers—would take charge. Biosphereans will be paid, but there won't be a money economy. The male-female ratio will be about 50-50. Dyhr's only comment regarding the management of sexual activities in Biosphere II is that whatever the inhabitants do in their private time will be their own business.

But first, of course, the structure has to be built. Many engineering details are still being fine-tuned, and some haven't yet been addressed. A 12,000-cubic-foot test module has many of the special features envisioned for the Biosphere. As in the test module, the louvers on the glass canopy will be raised and lowered either manually or by computer to control the amount of light that enters a biome. This will help regulate temperature, which if unmedicated would peak at around 156° F. in the summer. Since the structure will be sealed, conventional cooling methods, which involve taking in air, are out. Probably fans will blow the air across coils filled with water that has been chilled by a cooling tower connected to the agriculture wing.

All the water in Biosphere II will pass through multiple physical and biological filters and then be recycled. Stainless steel underlies the test module to prevent water from seeping out. Cheaper materials may have to do for the actual habitat. Drinking water will be piped from the cooling coils to the domed living quarters, having its pH adjusted along the line so that it's potable. Human wastes will probably pass through a composting toilet and undergo steam sterilization before re-entering the loop. Agricultural waste water will also be re-used, through a technology developed by ERL on previous projects.

Displayed in one of a dozen scattered structures at the lab is a system that may appear in Biosphere II. Waste water from tanks of tilapia nourishes hanging rows of hydroponic kohlrabi, kale, strawberries, lettuce, watercress, onions, and rice. Then it cascades onto a rotating, corrugated drum covered with *Nitrosomonas* and *Nitrobacter* bacteria, which convert ammonia from the fish waste into nitrites and nitrates for easier assimilation by plants. In some versions, the water next passes through a crushed rock filter into a tank topped with azolla, a water fern that multiplies by dividing in half. When the ferns get too populous, they're fed to the fish.

No matter what water purification systems are used in Biosphere II, the inhabitants will still have to check the water quality. They'll also test air quality, although most pollutants will probably be eliminated by passing the air through soil. In earlier experiments, ERL's David Stumpf piped such gases as methane, carbon monoxide, methylmercaptan, and ethylene into the bottom of sealed tanks and let them percolate up. When he took samples of the air at the top of the tank, he found no trace of the gases. The soil microbes had oxidized them, releasing carbon dioxide and water as by-products. This led Hodges to remark, "Industry has been putting its dirt into the air when it should have been putting its dirt into the dirt."

Finding a way to seal Biosphere's roof, a glass-sheathed space frame, hasn't been easy. Neither Dyhr nor Augustine will say much about this, since it's proprietary information, but, according to one source, SBV has tried standard sealants, like neoprene, and is evaluating whether soldering the panes to steel sashes or seating them in O-rings and clamping them to the space frame produces a better seal than conventional glazings.

With miles and miles of glazing, though, leaks are sure to occur. A lung, or drumlike extension connected to Biosphere II by a duct, will at least ensure that when there are leaks, air will flow out rather than in. Within the test module's lung, a circular metal plate about fifteen feet in diameter lies atop a diaphragm made of two layers of butyl rubber, exerting a slight, positive pressure on the module's atmosphere. The diaphragm rides up and down, and will thus accommodate the expansion of sun-warmed air inside Biosphere II, preventing it from popping out the glass panes in the roof.

For the engineers, getting a near-perfect seal is vital, because without it a Biosphere-like structure would be useless for space colonization. "For the engineers, total sealing is the primary concern," says Adey. "But to my mind, a seal that's ninety-nine point ninety-nine percent effective isn't as important as a roof design that allows in eighty percent of the sunlight, rather than the sixty to seventy percent the engineers now say we'll get."

The main assumption behind Biosphere II is that global processes can be replicated on a small scale. Whether they can be made to occur in Biosphere II is the big question. The ecologists are doing their best to create conditions that will support life. Adey persuaded the habitat's designers that water should cover about half the Biosphere's surface area, for instance, rather than the fifth originally planned, by arguing that more water would help keep the atmospheric mix homogeneous and the ambient temperature bearable. "In the real world the ocean acts as an atomospheric buffer," he says. "It has kept us from messing up the world too much." Warshall's savanna can also serve as an atmospheric regulator. If the carbon dioxide level gets too high, rainfall induced over the grasslands will trigger rapid growth, and thus reduce the concentration of CO^2. Even so, no one is certain that an Earth-like state can be obtained—and maintained. Says Burgess, "If it doesn't stabilize geochemically in there, we're in trouble."

Biosphere II is being designed for a 100-year lifetime, so a failed first effort wouldn't be a disaster. Besides, says Burgess, "information is the most important product of this first effort. The most valuable thing we'll learn is how to scale down planetary processes and keep them going. We'll gain the expertise to design Biospheres III, IV, and V."

Most people working on the project give equal weight to its two objectives: to develop technology for settlements on the moon and Mars, and to improve man's stewardship of earth. From Biosphere II and its successors, they hope to derive:

Space residences with greater aesthetic appeal than the inside of a can of Spam. Says Dyhr, "I'll fly to New York on a 747, but I wouldn't want to live on one."

Cities that pump their dirt into the dirt, instead of into the air.

The capacity to construct ecosystems anywhere on earth. "Put us down some place," says Burgess, "and we could set you up a Madagascar thorn forest—for a price."

Better ways to manage "island" ecosystems, which contain small enclaves of animal populations that once had larger ranges. This would apply to wildlife refuges and national parks wedged in among parking lots and condos.

Commercial breeding of rare and endangered plant species from tissue culture. For instance, applying this technology to cacti, which are being exterminated in the American Southwest, would satisfy the desire of collectors.

Techniques that might be used to terraform Mars (i.e., provide it with an Earth-like atmosphere), a concept that has been widely discussed by aficionados of planetary settlement.

Paradoxically, Biosphere II is merely an extension of the technology that brought us shopping malls—just as some distant colony on Pluto may be the extension of those Sunbelt cities that have been called technological oases. In our new Edens, people go from air conditioned houses to air conditioned cars to air conditioned offices and hardly pause to contemplate the fact that they're living in a largely artificial environment. Burgess, looking out over the subtle Sonoran palette, says, "Most people haven't truly inhabited this land, they haven't come to terms with the desert. I have a desire for Biosphere II: that the people who live in it for two years will be changed dramatically." Hodges regards the project as contributing to a historical shift in consciousness. When we saw the pictures of earth from space, he says, "it changed our mental paradigm, it changed the way we think." The earth is a single biological system. Chernobyl contributed greatly to that perception, and Biosphere II, in a positive way, may do the same.●

"A NEW SET OF TWINS"

● **Mr. DURENBERGER.** Mr. President, as the dog days of August are almost upon us I wish to take this opportunity to enlighten my colleagues to a state of affairs which has brought great pride and anticipation of autumnal glory to the residents of the Upper Midwest: the Minnesota Twins are in first place in the American League West.

This fact does not surprise those of us four of five fans outside of Minnesota, but certainly comes as a surprise to most of baseball. So surprising in fact that last week's Sports Illustrated printed an article entitled "A New Set of Twins."

Many baseball fans suffered through the All-Star game earlier this month. I suggest that had more Twins been in the American League All-Star lineup that game would not have been so boring and the results would have been different.

Only one Twin, last year's starting centerfielder Kirby Puckett, made the roster and he did not even start. Players like firstbaseman Kent Hrbek who is third in the league in homeruns, gold glove third baseman Gary Gaetti—the G-man, pitcher Frank Viola, who has been the best lefty in the American League for the last 4 years, and league leading relief pitcher Jeff Reardon were all watching the All-Star game on TV.

At the heart of the Twins success is the youngest braintrust in baseball. GM Andy McPhail, 34, is responsible for bringing speedster Dan Gladden, pitcher Juan Berenguer, who has 87 strikeouts in 81 innings of pitching, Jeff Reardon, and recently, ageless knuckelballer Joe Niekro to the Twins. McPhail also placed the 36-year-old Tom Kelly at the helm of the Twins. Besides bringing his son as batboy, Kelly brought a "have-fun-playing-ball" attitude to the team. In fact, Tom "Bruno" Brunansky, who has hit over 20 homeruns in the last six consecutive seasons—only Mike Schmidt and Eddie Murray have done that—has nine stolen bases.

Rounding out this division leading team are pitcher Burt Blyleven and the little known names of Steve Lombardozzi, Greg Gagne, and Tim Laudner. Blyleven is eighth on the all-time strike out list. And Lombo, who should have won a gold glove at secondbase last year, and shortstop Gagne combined for some of the most exciting up the middle defense the American League has seen. While, catcher Tim Laudner is "the most dangerous .204 hitter in the League." Laudner seems to hit homeruns every other time he gets a base hit—with around 150 at bats and 30 hits, Laudner has hit over 11 homers.

Yes Mr. President, for the sheer joy of saying it, let me repeat that the Twins are in first place. I would commend to my colleagues the following article from Sports Illustrated, and I ask to include it in the RECORD, and recommend that my colleagues make an early reservation in one of our fine Twin City hotels for October.

The article follows:

A NEW SET OF TWINS

(Better pitching and defense have been added to Minnesota's long-ball game. The twinkling result is first place.)

(By Austin Murphy)

Aside from their usually puny stolen-base totals and habitually disappointing finishes in the American League West, the Minnesota Twins are best known for:

Leading the league in guys who go icefishing in the off-season;

Playing in an acutely blue, oversized dish cover out of which baseballs fly like homesick angels;

Having a press guide whose most important feature is its pronunciation key (See: Gaetti-Guy-ETT-ee; Hrbek-Her-bek; Lombardozzi-Lahm-bar-DOAZ-ee).

One of the Twins better-kept secrets is that they are the division-leading Minnesota Twins. Despite all you've heard about the Royals' regal arms and Oakland's slugging prodigies, K.C., the Athletics and the Angels are all chasing the Twinkies in the AL West.

What gives? The off-season bullpen additions of Jeff Reardon from the Expos and Juan Berenguer from the Giants, plus the acquisition of eccentric leadoff hitter Dan Gladden, all acquired by, a precocious new G.M. and handled by a refreshing new manager—that's what gives.

True to the tradition of Harmon Killebrew, the Twins are among the league's top home run producers (118 through Sunday, tied for fifth in the AL). However, they have usually found it difficult to do anything else. After the hopelessly overworked arms of Frank Viola and Bert Blyleven, the Twins have been notoriously pitching-poor. They were also dependably slow on the bases and low in the standings. But this year, to their surprise and delight, Minnesotans are seeing hit-and-run plays, stolen bases and starters who are pitching less and enjoying it more.

Just before the All-Star break, the visitors from the Land of 10,000 Lakes completed an eastern swing through the Bronx and Baltimore. The worldly patrons of Yankee and Memorial stadiums, when asked to name a Twin, any Twin, responded most frequently with A) "Kirby Puckett" and B) "Whatshisname—that first baseman they got."

Indeed, centerfielder and human-fire-hydrant Puckett carried the Twins early this season, and his .332 batting average is fourth-best in the league. As for Whatshisname—Horseback? Oh yes, Hebek—well, Kent has 23 dingers and might be the best-fielding 250-pound first baseman in history.

Other than that, the Twins' anonymity is well-deserved. First of all, Minnesota is up there somewhere over Iowa but under Manitoba. "Back East," says designated hitter Roy Smalley, whose daughters, Laura and Catherine, are, yes, twins, "people assume Minnesota is all tundra. But it's gorgeous." Moreover, Minnesota hasn't won its division since 1970 or a pennant since '65.

Last Sept. 12 the Twins were plodding along 20½ games out of first when owner Carl Pohlad, a hardboiled banking czar, decided he had had enough and axed manager Ray Miller. To finish the season, Pohlad made Tom Kelly, 36, the youngest skipper in the majors. However, Kelly did have 15 years of minor league experience.

Suddenly the Twins were a different team. Despite nonexistent relief pitching. Kelly's heroes played over .500 but not over their heads. Where Miller had been distant and tended to punish players by sitting them for long periods, Kelly will play a guy *through* a slump. "Night and day" is Hrbek's description of the difference in managers. When it came time to select a full-time skipper, Twins brass made a show of bandying about such a heavyweight names as Jim Frey and Billy Martin—then announced they were sticking with Kelly.

Before the opener of that recent Yankee series, Kelly was mildly out of sorts in the clubhouse. Bullpen coach Rick Stelmaszek had omitted Kelly's name from the list of people throwing batting practice. "They don't think I should be doing it, but I enjoy doing it," he said. Unlike Miller, Kelly doesn't spend much time in his office. He would rather be looking over the shoulders of the gin-rummy players, telling them what and what not to discard.

With no BP, Kelly had to content himself with rapping a few fungoes at his eight-year-old, Tommy, who was in uniform this day. Last year Tommy got a standing ovation before a game in Baltimore for a series of sparkling catches in the outfield. As they played pepper, Kelly Sr. chatted about the team.

"Mr. MacPhail and I have an agreement. He gets the players and I get the most out of 'em—Tommy, that should have been a backhander."

Pohlad made Andy MacPhail the Twins G.M. last November. At 34, MacPhail is the youngest G.M. in the bigs, but his baseball bloodlines are exquisite. His father, Lee, once a G.M. for the Yankees and Orioles, retired as American League president in 1983. His grandfather Larry, a volatile, controversial executive, pioneered night baseball as G.M. of the Cincinnati Reds in 1935, and is in the Hall of Fame. MacPhail made the deals for Reardon, Berenguer and Gladden, and he pushed hard for Kelly as manager.

"Handing the reins to the youngest G.M. and the youngest manager in the game—that took some courage," says Kelly. "Keep your feet apart, Tommy. And use two hands!"

Just then, Yankees pitching coach Jeff Torborg walked past the Kellys on his way to the outfield. "You got a righty and I got a lefty," said Torborg, commenting on the vagaries of genetics (Torborg throws right-handed, Kelly left). "Figure it out."

Less mysterious is how, at week's end, the Twins were 12 games better than last year. The difference has been the bullpen. After 93 games last season, Twins starters had pitched 21 complete games. After as many games in 1987, that number was 10. Following a complete-game win over the Yankees July 6, Viola said, "I almost forgot what it was like to pitch in the ninth."

That's not to say there haven't been some spectacular failures. A string of catastrophic outings early in the season bloated Reardon's ERA to 10.80. In one particularly sorry four-game stretch, Reardon blew three of four save opportunities by allowing the tying run to score. Instead of the Terminator, his old nickname, he began to be called the Equalizer. Since June 6, however, Reardon is 3–0 with nine saves.

In the second game of the Yankee series, after New York had whittled a 7–0 Twins lead to 7–6, Berenguer gave up the tying run, then, on two consecutive wild pitches, the winning run. Kelly, who believes in getting his men right back in the saddle, summoned Berenguer again the next day, and Calamity Juan threw 33 pitches. Only 30 stayed in Yankee Stadium. The Twins lost 13–4.

At least they were earned runs. For once, the rap on Minnesota as a roster full of one-dimensional clout specialists doesn't hold water. Puckett is a Gold Glove in center, as is Gary Gaetti at third. Hrbek, to whom Gaetti ought to loan some vowels, fields his position about as well as anyone in the league. And even if they don't hit home runs, Steve Lombardozzi at second and Greg Gagne at short have given the Twins a sharp double-play combination. (How bad were Tim Teufel and Alex Espinoza, the previous Twins tenants at those positions? They were 13th in the league at turning the double dip in 1985.)

Puckett is flanked by Twins old and new: In right, perennial slugger Tom Brunansky is the quintessential example of the Twins' changing of the guard. He has hit 20 homers but has also stolen nine bases. In left, Dan (Wrench) Gladden has replaced Mickey Hatcher, who was released in March. Gladden plays the outfield better than Hatcher ever could and gives the Twins a leadoff hitter. And a hard guy.

"If he played for another team, I'd hate his guts," says Hrbek, who gave Gladden his nickname. Why Wrench? "Because he reminds you of a guy who took four auto-shop classes in high school," says Hrbek. "Dan could strike out four times and somehow get dirty. The guy is a piece of work."

Later, as a dozen Twins watched the Iran-contra hearings before a game, Gladden said, "I've got to get some Ollie North wristbands." Then he looked around belligerently. "You think I'm kidding?"

It was Thursday, the first of a four-game series against Baltimore, and Hrbek had just learned he wouldn't be playing the All-Star Game. And it hurt. He was also deserving two years ago but was passed over that season as well. This time, Cleveland's Pat Tabler had been selected ahead of him. "Tabler's a good hitter, especially in pressure situations," Kelly said, "but my guy can play circles around him at first."

"If they ask me next year, I'll probably tell 'em to stick it," huffed Hrbek. Normally there is no more affable an athlete than Herbie, as he is called—*not* because of any physical resemblance to the Volkswagen of the same name. Hrbek, who maintains his zeppelin-like physique during the winter months by ice-fishing and bowling, has another athletic career lined up after baseball: pro wrestling. "It's my dream," he said.

While Herbie was grousing and the Orioles were finishing BP, Blyleven threw balls up onto the net behind the plate. His sons Tim and Tom, five and three, caught them as they fell. Kelly the manager was pitching to Gladden, who amused himself by animatedly calling balls and strikes. Off to the side, Kelly's son was catching for Todd Blyleven. Bert's 14-year-old, who was lollipopping his throws because his catcher was only eight. "C'mon," complained Kelly Jr. "You can throw harder than *that*."

Yes, sir, the air was positively dripping with tension.

"Tom keeps the guys relaxed," said Blyleven, who is a mere eight months younger than the manager. "He tells us to have fun, because we're not going to be playing the game forever. His philosophy is, When you're winning, take the good with the bad. And when you're losing, take the good with the bad."

That night the Twins won 3–1 as Les Straker, a 27-year-old rookie who spent 10 years in the minors, went seven strong innings. Catcher Tim Laudner's three-run shot to left was the game-winner. (Laudner, who has been 25 for 137, with 11 of those 25 hits home runs, *has* to be the game's most dangerous 194 hitter.) Reardon entered the game with one out in the eighth, men on second and third, and struck out Cal Ripken and Eddie Murray to kill the threat.

Pulling away from the ballpark, Ron Pearson, a Baltimore cabby and a genuinely nice guy, for a cabby, was asked rhetorically, "How 'bout those Twins!" Pearson perked right up. "They got that Bo Jackson, right? How's he doing?"

Never mind, Ron. Just make it to the airport. The tundra beckons.●

PUBLIC SERVICE SCHOLAR BRENT MILGROM

● Mr. SANFORD. Mr. President, we have all been fortunate beneficiaries of the superior work done by this summer's crop of congressional interns. Their enthusiasm and commitment have added much to the life of our offices and have enabled our permanent staffs who labor tirelessly throughout the year to take a well earned and often much needed respite from the frenetic pace their positions demand.

The interns arrive with dreams and ambitions of all different sorts. Some come to Washington to add yet another dimension to their studies of the political process in this country; others to contemplate what life as a Hill staffer might be like; and still others to dream of what it would be like if some day they were themselves to grace this Chamber as a Senator from their State.

I have had a splendid group of young people serving as interns in my office this summer. I will miss them all very much when they leave. To each of them, I express my heartfelt thanks and best wishes for success in the future.

Now, Mr. President, while I have no one particular favorite among my interns, there is one of whom I'd especially like to pay tribute today. His name is Brent Milgrom. Brent was selected from among hundreds of other contestants to receive a Public Service Scholarship from the Public Employees Roundtable.

The Public Employee Roundtable is a 24-member federation of public employee groups, representing 750,000 active and retired public employees nationwide. It exists to inform citizens of the very worthwhile—but frequently ignored—contributions public employees make to the improvement of our American way of life; to develop excellence in Government; and to promote interest in careers in public service.

Brent's essay, "How Public Service Affects the Quality of American Life," affirms my belief once again in the spirit and idealism of our youth. I am proud to have had this fine young man in my office this summer and I submit his essay for the Record.

The essay follows:

How Public Service Affects the Quality of American Life

(By Brent Milgrom)

"What do you want to be when you grow up?" A policeman, teacher, doctor, fireman, or nurse, are all common responses that have been given by countless numbers of our youth for many generations. Although these occupations do not carry high prestige in our society, and those who pursue them are rarely given the proper recognition or monetary reward, children seem to notice at an early age the tremendous value that these and other public servants provide our society. It is unfortunate that we as adults are often to the plethora of wealth which we gain from our public servants.

Whether it is because of the taxpayer's aversion to supporting government salaries or because of the widely spread negative connotations of bureaucracy in general, the American society has taken for granted a sector of the work force which is responsible for facilitating the lives of millions of people everyday. Public servants are largely responsible for solving some of the most critical problems that face our nation in areas ranging from education to public safety and environmental control. Public servants include those responsible for teaching our children, delivering our mail, protecting our homes and families, and providing valuable services for our veterans who have made great sacrifices to protect our national security.

In light of the large proportion of public service occupations in America's work force, it is impossible to even begin to account for all of the beneficial services which public servants provide to improve the quality of life for American citizens. Although our public service system has at times been the target of criticism for inefficiency and at other times the focus of legal or regulatory concerns, the fact remains that the public sector is the most rapidly growing sector of our work force and is continuing to develop and grow with the needs of our everchanging society.

On this, the 200th anniversary of our nation's Constitution, we should pause and consider the accomplishments of some early-American public servants, those who struggled to establish a system of Government and a way of life which we as American citizens have grown to cherish. In this historic tradition, public servants today continue to provide services which make life better for all of us.●

ISRAEL AND THE TACTICAL MISSILE THREAT

● Mr. QUAYLE. Mr. President, recently the Washington Institute for Near East Policy released a detailed research memorandum by W. Seth Carus entitled "NATO, Israel and the Tactical Missile Challenge."

In this memorandum Mr. Carus describes precisely what the tactical missile threat is to Israel and what Israel is doing about it. What is not well known in the West is that since the war in 1973 Egypt, Iraq, Iran, Libya and Syria have fired between 160 and 245 tactical missiles in military operations. The threat to Israel, therefore, is real, not speculative.

Also not well known is the extent of Israeli efforts to develop anti-tactical ballistic missile [ATBM] defenses. The Israelis already have at least two major projects underway. Given the threat Israel faces and the extent of their current efforts, it's quite likely that Israel may have an ATBM system deployed before any is fielded in NATO.

This last point may be of critical importance to continued peace in the Middle East and to the security of NATO, which also faces a significant tactical ballistic missile threat. Indeed, NATO will continue to be threatened by hundreds of Soviet missile launchers even if the United States and the Soviet Union agree to eliminate all missiles of ranges above 500 kilometers.

Mr. President, the United States is already cooperating with Israel and NATO on the development of ATBM systems. In hopes that a wider distribution of Mr. Carus's research memorandum will help explain the urgency of this effort, I ask that the full text of this memorandum be printed in the RECORD.

The text follows:

NATO, ISRAEL AND THE TACTICAL MISSILE CHALLENGE

(By W. Seth Carus)

The development of weapons with new capabilities can cause fundamental changes in military strategy and operations because they pose new threats that existing systems are unable to counter. Such changes are now being induced by the emergence of tactical ballistic missiles that can be used in conventional conflicts. Once considered useful only if armed with nuclear warheads, substantial improvements in accuracy and the development of new types of non-nuclear warheads have transformed the tactical ballistic missile into a highly effective conventionally-armed weapon.

Notwithstanding the INF negotiations now taking place between the United States and the Soviet Union, the threat posed by these missiles will not diminish in coming years. In fact, some military experts believe that the threat will grow.

The new generation of tactical ballistic missiles can be used with a high degree of effectiveness against air bases, radar and surface-to-air missile sites, weapons storage facilities, and civilian areas. Although there are a variety of techniques that can be used to protect against such weapons, it is becoming increasingly evident that active defenses will need to be an integral part of any defense against tactical ballistic missiles. The need to respond to the threat posed by tactical ballistic missiles is shared by the United States and its allies.

Israel and some NATO countries are especially concerned about the development of improved tactical ballistic missiles. In Israel's case, the supply by the Soviet Union of SS-21 missiles to Syria, and the key role that the Syrian military assigns to its tactical ballistic missile force, has led the Israeli military to investigate alternate methods of countering such weapons. As a result, after several years of effort, Israel has already designed some highly sophisticated anti-tactical ballistic missile (ATBM) systems, and has identified some promising new technologies of potential use in such systems.

THE THREAT

Although ballistic missiles were first used during the Second World War (in the form of the German V-2), until relatively recently most military experts viewed such weapons as being useful only to carry nuclear weapons. Ballistic missiles were rejected for conventional purposes, since they were inaccurate, could carry only small payloads, and were extremely expensive. In recent years, however, these deficiencies have been corrected, and it is now possible to produce tactical ballistic missiles that are reasonably accurate and that can be armed with modern munitions of considerable lethality.

The new generation missiles are typified by the Soviet SS-21 and SS-23 missiles, that are about ten times more accurate than their predecessors. The SS-21 is believed to have a CEP (Circular Error Probable) of between 30 and 50 meters, and the figure for SS-23 is comparable. In contrast, the missile being replaced by the SS-21, the FROG 7, has a CEP of between 500 and 700 meters, and the SCUD B, being replaced by the SS-23, has a CEP of about 1,000 meters.

At the same time that the accuracy of the missiles is improving, the lethality and versatility of the warheads is also being enhanced with a variety of new types of munitions. For example, the U.S. Department of Defense reports that the Soviet Union has developed for its SS-21 and SS-23 missiles specialized warheads armed with chemicals, improved conventional munitions (bomblets), and mines. Other sources have suggested that the Soviets also may have fuel air explosives and specialized air base attack warheads.

The combined improvements in accuracy, lethality, and variety has made the newer tactical ballistic missiles far more threatening than older systems. They are considered especially suitable for use against air bases, radar stations, surface-to-air missile sites, equipment storage depots, and supply dumps. These missiles, therefore, will be particularly useful in the opening stages of a war. In the future, when a new generation of autonomous precision-guided weapons becomes available, the missiles also could be used to attack mechanized formations in rear areas.

The Soviet Union is expected to use its conventionally armed tactical ballistic missiles to weaken NATO air forces and air defenses. Thus, missiles would be used against air bases to destroy unprotected aircraft, hanger, and storage facilities, and to damage runways. Such attacks would reduce the number of aircraft sorties that could be generated from NATO air bases, thus reducing the number of aircraft available to support NATO ground forces or to stop Warsaw Pact attack aircraft. Similarly, missile attacks on radar stations and surface-to-air missile sites would reduce the effectiveness of NATO air defenses, giving Soviet aircraft more opportunities and forcing NATO countries to divert strike aircraft to air superiority missions.

Just how potent the threat is can be illustrated by one report, attributed to sources in the U.S. Air Force, that only three SS-23 missiles equipped with submunitions would be needed to temporarily knock out of action an American air base. Even though the damage inflicted by such an attack could probably be repaired in a few hours, the reduction in aircraft operations during that period could be decisive in the opening stages of a war.

THE CHEMICAL DIMENSION

It has long been recognized that tactical ballistic missiles can be used to deliver chemical munitions. Only recently, however, it has been understood that such weapons, if properly employed, could be used to create critical problems for a defending force. The greatest concern is that chemical agents could be used to contaminate air bases and equipment storage depots. Soldiers can be provided protective gear, but when dressed in this fashion their offensiveness is significantly reduced.

The U.S. Air Force has indicated that a single chemical warhead from a well-placed SCUD missile could contaminate an entire air base. The U.S. Air Force has calculated that a chemical attack on an air base would reduce the number of aircraft sorties generated by about 50%. If nerve agents are used, where even small concentrations are enough to cause death on contact, personnel would have to don protective clothing and operate inside buildings secured by chemical defense equipment. Chemical defenses will allow the air base to remain in operation, but at heavy physical cost and delay in operations.

TACTICAL MISSILE USE

The Middle East is the only region of the world in which tactical ballistic missiles have been used since the Second World War. Although only old generation missiles have been fired, they provide an indication of the potential threat that newer weapons can pose. It is evident that tactical ballistic missiles are considered essential military instruments by countries in that area. Egypt, Iraq, Iran, Libya, and Syria have all fired tactical ballistic missiles in combat operations. Reports vary, claiming that between 160 and 245 missiles have been launched by Middle East military forces at opposing countries since 1973.

Egypt and Syria fired about 28 Soviet-supplied FROG and SCUD missiles at Israeli targets during the 1973 Arab-Israeli conflict. Despite the known deficiencies of these two weapons, they were surprisingly effective. Several Israeli air bases were temporarily closed by the attacks, since it was too dangerous to operate aircraft when missiles were landing on the air fields. The Syrians were especially pleased with the performance of their surface-to-surface missile units, although they were less satisfied with the accuracy of the FROG 7.

In 1986, the Libyans, very ineffectively, fired at least two SCUD B missiles at NATO military installations on the Italian island of Lampedusa. The missiles were fired at a range of 280 kilometers, near the maximum range of the SCUD B, and they missed the island by about 2 miles.

The most extensive use of tactical ballistic missiles, however, has taken place in the Iraq-Iran conflict. Data is scanty, but a compilation based on press sources indicates that between 130 and 215 missiles have been launched by the two countries. Most of the missiles fired were produced in the Soviet Union, and include both SCUD B missiles and FROG 7 rockets.

The Iranians have fired about 65 missiles (half SCUDs obtained from Libya, and the other half locally produced Oghab missiles used in late 1986 and early 1987). Most of the missiles have been fired at Baghdad and Basra, Iraq's two largest cities, but other cities, oil installations, and some military facilities also have been targeted. Estimating the damage inflicted by these attacks is difficult, since the Iraqis regard the information as sensitive. They have released casualty figures for only five of the attacks, claiming 300 dead and wounded. If these figures are accurate, and if the remaining missiles caused similar losses, total Iraqi casualties would be somewhere between 2,000 and 3,000. Given the accuracy and potency of new generation missiles, much higher casualties should be expected in future conflicts.

The Iraqis have made even more extensive use of tactical ballistic missiles than the Iranians, firing both FROGs and SCUDs. It is difficult to determine how many missiles the Iraqis have fired, but it is probably somewhere between 70 and 150. Most of these missiles were fired at cities, but some were aimed at Iranian military sites. Information is available for only eleven missile attacks (involving 25 missiles), during which a total of 2,600 people were reported killed or wounded. If these figures are correct, and the remaining missiles caused similar damage, total Iranian casualties would amount to between 6,000 and 15,000.

PROLIFERATION

The armies of the world now have about 2,500 launchers for tactical ballistic missiles. Most are in the possession of the Soviet Union and its allies, who now appear to have about 1,750 launchers (all but 350 operated by the Soviets). Approximately 1,000 of these launchers are deployed in the European theater of operations. The NATO countries have just over 310 launchers: the United States with 144 launchers and the European allies an additional 171. Third World countries appear to possess at least 350 launchers, with about three-quarters of the launchers in the Middle East.

Since missile launchers can be reloaded, enabling one launcher to fire many missiles, the actual number of ballistic missiles in the inventories of these countries is considerably higher than the number of launchers. It is impossible to estimate the total inventory of missiles available, since the number of missiles available per launcher varies from country to country and from one type of missile to another. According to one estimate, the Soviet Union has seven to eight missiles for every launcher (including missiles kept in reserve and at the unit level). Similarly, the United States has sold allied countries an average of about fourteen Lance missiles for every launcher provided.

The Syrian military currently has about 50 surface-to-surface missile launchers (18 SCUD B, 23 FROG-7, and 12 SS-21), and probably about 200 missiles. The first SS-21 surface-to-surface missiles were received in October 1983 from the Soviet Union. When the initial shipments were completed, probably sometime in 1984, Syria had enough SS-21 launchers to equip a complete brigade, and at least 36 missiles. This was the first known export by the Soviet Union of one of their new generation tactical ballistic missiles. Only later did the Soviets ship SS-21s to its Warsaw Pact allies. It is likely that the Syrians will receive a second brigade with an additional 12 SS-21 launchers. The Syrians have also asked the Soviet Union to supply them with SS-23 missiles, but there are no indications as to whether or not the Soviets agreed to provide them. In addition, the Syrian army is known to be developing a chemical warhead for its SCUD B missiles.

The increasing utility of the tactical ballistic missile is reflected in the decision by the United States Army to introduce a new conventionally-armed tactical ballistic missile, the ATACMS (short for Army Tactical Missile System). The first ATACMS missile is scheduled to be launched in early 1988, and initial low rate production will start in 1989. This missile will have a range of more than 100 kilometers and will be fired from the same launcher vehicle currently used with the 30 kilometer-range MLRS artillery rocket. The payload of the ATACMS will be 70% larger than that of the American Lance and it will be three times more accurate. Initially, the ATACMS will carry a cluster-bomb warhead but eventually the missiles will be armed with terminally-guided munitions.

In addition to this American effort, other countries are known to be working on tactical ballistic missiles. For example, China has begun development of the so-called "M" series of missiles, which have a range of 200 to 600 kilometers, and Iran claims to have built a short-range missile known as the "Oghab". Among the other countries reported to be developing such systems are Argentina, Brazil, Indonesia, Israel, Pakistan, South Korea, Taiwan, Libya, and South Africa. The Brazilians are apparently developing a medium range tactical ballistic missile. Given Brazil's penchant for exporting arms, this system is almost certain to be supplied to countries involved in military conflicts. Thus, conventionally armed tactical ballistic missiles will become increasingly common in the coming years, and should be more widely available than is already the case.

Recently, the United States and six other Western countries negotiated an agreement to prevent the spread of nuclear-capable missiles, including ballistic missiles. In theory, this agreement should reduce the spread of conventionally-armed ballistic missiles as well, but unfortunately, it is not clear that this will be the case.

First, the Soviet Union is not a party to the agreement, and has not agreed to limit its exports of tactical ballistic missiles. Since the Soviet Union has been responsible for the export of the vast majority of weapons of this type now in use, under existing circumstances, there are likely to be few reductions in the supply of ballistic missiles to Third World countries. Second, the agreement does not prohibit the export of missiles with a range of less than 300 kilometers, which means that it would not prevent the delivery of short-range weapons like the ATACMS or the Lance. Third, because the agreement is intended to limit the supply and development of nuclear-capable weapons, it is unclear that it will forbid exports intended for use with longer-range conventionally-armed weapons. Thus, the agreement may permit the sale of rocket technology to Third World countries for use with conventionally-armed missiles.

In the past, only Third World and some NATO countries routinely provided conventional warheads for their missiles. This has started to change, and the number of conventionally-armed missiles in the NATO and Warsaw Pact inventories is growing. It has been estimated that by the early 1990s about 40% of all Soviet tacitcal ballistic missiles will have either conventional or chemical warheads. Similarly, the ATACMS tactical ballistic missile now being developed for the United States Army will be armed only with conventional munitions, and it is expected that at least 1,000 missiles will be acquired.

DEFENDING AGAINST THE THREAT

Air defenses developed to intercept aircraft have only a limited ability to shoot down tactical ballistic missiles. Most existing surface-to-air missiles cannot be used against such weapons, although some systems have been upgraded to provide very limited ATBM capabilities. Because of the operational differences between ballistic missiles and aircraft, it is unlikely that the same anti-missile system would provide the optimal method of dealing with those diverse threats. Rather, it is likely that a specialized anti-tactical ballistic missile system (ATBM) will be needed to defend against ballistic missiles. Improvements in technology have recently made it practical to consider development of anti-tactical ballistic missile weapons to intercept and destroy tactical missiles.

An effective ATBM system requires two main elements: a highly sophisticated sensor system to detect and track large numbers of incoming missiles with great precision and at long ranges; and a weapon able to destroy the incoming missile at long ranges. In addition, the missiles need to be destroyed at high altitudes, primarily in order to minimize the threat from warheads filled with chemical agents. In theory, a variety of different types of equipment could be used to meet these requirements. For example, various countries have investigated use of high energy lasers, charged particle beams, and hypersonic guns to intercept and destroy missiles. However, many of these technologies have not yet matured, and may never be used operationally.

At present it appears that an ATBM would have to rely on sophisticated phased-array radars able to track multiple simultaneous targets and hypersonic missiles capable of rapid acceleration and high speeds that can intercept incoming weapons with precise accuracy. The United States is exploring several such systems, including an upgraded version of the Patriot missile and two experimental ATBM weapons, the high endoatmospheric defense interceptor (HEDI) and the flexible lightweight agile guided experiment (FLAGE). Similarly, the SA-12 Giant surfact-to-air missile system has a capability to intercept tactical ballistic missiles. The SA-12A version of this weapon is now being deployed and the longer-Range SA-X-12B is now under development.

Clearly, an ATBM system will require more than just anti-missile weapons. Equally improtant will be supporting efforts to build hardened facilities to provide greater protection for vulnerable installations, reliance on offensive weapons to attack and destroy platforms used to launch ballistic missiles, and electronic countermeasures to deceive and disrupt enemy communications and guidance devices. If a potential opponent had only a few tactical missiles, it might be possible to rely totally on such alternative defense schemes. When an opponent has hundreds, or even thousands of tactical missiles, however, adoption of an ATBM system will be essential.

ISRAELI ATBM DEVELOPMENT

Israel has embarked on an unusually sophisticated response to the threat of tactical ballistic missiles and in some areas it may have a comparative advantage over other Western efforts. The Israeli interest in anti-tactical ballistic missile systems has emerged from a growing concern that the new generation of tactical ballistic missiles armed with sophisticated conventional warheads or chemical munitions would make air bases, mobilization sites, and other facilities vulnerable in a surprise attack. Although considerable effort has been made to harden threatened installations, to develop an ability to attack missile launchers, and to deter possible Syrian use of missiles, once Syria received the SS-21 missiles in 1983, it became evident to Israeli defense planners that it was necessary to consider development and deployment of an anti-tactical ballistic missile system.

The primary targets of Syrian tactical ballistic missiles will probably be Israeli air bases and the equipment storage depots for reserve units. By attacking the air bases the Syrians would hope to reduce the number of sorties that could be flown by the Israeli air force, especially during the critical opening hours of a conflict. Because of the effectiveness of Israeli air defenses, it is unlikely that a similar result could be achieved through use of tactical aircraft. During the Lebanon fighting in 1982, the Syrian Air Force reportedly suffered a loss rate of about 30%, or 82 fighters destroyed during only 266 sorties. At a 30% loss rate, a typical aircraft will survive to make only 2.25 missions before it is shot down, and the entire Syrian Air Force would disappear after only 7 days.

A second objective of the Syrians would be Israeli equipment storage sites for Israeli reserve units. Most of the Israeli army consists of reserve formations, and the equipment of such units must be stored in areas relatively close to the front in order to minimize the time required to get them into action. This places the storage sites in range of Syrian missiles. The vulnerability of Israeli equipment is increased by storage methods that keep tanks and armored vehicles filled with ammunition and fuel at all times.

Concerns like these have led Israeli military planners to give serious attention to the threats posed by tactical ballistic missiles, and to the methods of protecting against attacks by such weapons.

In the process of exploring ATBM technologies, Israel's defense industries have developed a number of responses that one senior American defense official publicly stated were of "very great interest" to the United States. The technologies reportedly include efforts in such diverse areas as computer software, electronics design, electronic countermeasures, lasers, holography, rail guns, and point defense missiles.

Although not much information about Israeli ATBM systems has been made public, enough is known to suggest that many are of unique design. One of the programs is a hyper-velocity gun that reportedly uses electro-chemical principles, in contrast to the electro-magnetic rail guns being pursued elsewhere. According to one account, the system apparently relies on the explosive energies created through the dissociation of water. The gun uses an electric current to create a plasma field that hydrolyses the water, releasing hydrogen, oxygen, and heat in an explosive combination that can generate sufficient energy to propel 30mm projectiles at velocities of more than 12,000 feet per second. This "thermal" gun may avoid some of the limitations of existing electro-magnetic rail guns, which can fire only a single round at a time, require laborious repair before they can fire a second round and are constrained by the amounts of electricity that can be discharged through the system using existing electrical storage technologies.

Israel also is reported to have developed two hyper-velocity missiles capable of shooting down tactical ballistic missiles (but not longer-ranged missiles). Virtually nothing is known of the projects, but press reports indicate that Israel Aircraft Industries has developed a medium range missile called the Arrow, and Rafael has developed a shorter-range system known as the "AB-3".

Despite Israel's small size and limited resources, it possesses some important structural advantages that may enable Israel's defense industries to make a disproportionately large contribution to the overall Western effort to devise defenses against tactical missiles. Israel's ability to contribute in such an arena is largely due to the extensive awareness of the combat environment by Israeli soldiers, military planners, and weapons developers. There is a constant recognition that if weapons are to be built, they must be able to serve real combat needs. This provides the Israeli defense industries with some unique advantages.

First, the Israeli military is usually able to provide its contractors with a more precise definition of the threat than is true for the armed forces of other countries. Two main reasons account for this. The Israeli military is usually more concerned with immediate threats than with hypothetical ones that may emerge in the future. Thus, it is able to ignore potential dangers that may never emerge, but that must concern weapons designers who have to take into account threats unknown as yet that may appear in ten or fifteen years. In addition, the Israeli military has a clearly defined theater of operations, known opponents, and can determine with some accuracy the likely circumstances in which its forces will be employed. This is often a serious problem for other military forces, where the threats are indeterminate and it is often difficult to anticipate the circumstances in which military operations would take place.

Second, Israel's small size ensures that there is considerable contact between those who develop and build equipment and those who use the weapons. The ability of these two groups to remain in communication ensures that equipment meets the needs of the soldiers who must use it and that the military knows what can and cannot be accomplished with existing technologies.

Third, the Israeli philosophy of weapons design dictates maximum use of existing technologies. Thus, even quite advanced systems often will incorporate a host of devices that were built originally for other purposes. By using off-the-shelf components and sub-systems it is often possible to significantly reduce the costs of developing and building new weapons, and also minimize the risks associated with military research and development programs.

Fourth, Israeli weapons designers have come to make increasing use of advanced technologies in the systems they produce, and often their systems are as sophisticated as those built in Western Europe and the United States. Not only do Israeli scientists and engineers have considerable familiarity with advanced technologies used throughout the world, but they are sometimes better able to exploit those technologies than others. Development cycles in Israel are generally shorter than those in other countries, which makes it easier to incorporate new technologies that have reached a stage where they can be effectively exploited. Similarly, operational demands of the Israeli military for useful equipment that deals with new threats that emerge day-by-day has provided an institutional stimulus for the exploitation of advanced technologies.

These factors have made it possible for Israeli defense companies to gain an edge in the development of workable ATMB systems. It is thus likely that by the end of the century the Israeli military will have a locally-developed and built system to protect the country from missiles. Despite the strengths of the Israeli system, it does not follow that military equipment that works well for Israel will necessarily work equally well for other countries or in our situations.

FUTURE PROSPECTS

Despite the INF talks, the threat from tactical ballistic missiles will not diminish, and may actually be exacerbated, especially for countries in the front-lines. The increasing capabilities of conventionally-armed tactical ballistic missiles poses serious problems for military planners throughout the world. These problems are especially acute in Europe and the Middle East, where such systems have been deployed in vast numbers. As a result, a variety of countries have begun to explore anti-tactical ballistic missile systems to supplement other defense measures. The Israelis appear to have been especially active in this area, undoubtedly spurred by the very real threat posed by the hundreds of ballistic missiles in the inventories of hostile neighbors. Their technology is readily applicable to the requirements of other Western countries.

The benefits of collaboration between the United States and Israel will be quite substantial for both countries. Recently, it was reported that the Pentagon gave the go ahead to joint U.S.-Israeli development of the Arrow interceptor rocket, which is designed for defense against Soviet short-range missiles. According to the report the Arrow's new development will be paid for by both nations, with U.S. funds coming from the Conventional Defense Initiative, an account Congress set aside in 1986 for improving U.S. and allied non-nuclear forces.

Clearly other American allies, also endangered by tactical missiles will benefit from systems developed by Israel. It is highly possible that an Israeli ATBM will be the first such system deployed anywhere in the Western world, since Israel has a greater incentive to produce a working system of this type than other countries.●

ABDUCTED CHILDREN

● Mr. D'AMATO. Mr. President, I am happy today to cosponsor S. 1347, legislation implementing the Hague Convention on the Civil Aspects of International Child Abduction. This legislation addresses a growing problem in child custody disputes: The taking of children from their legal custodians to foreign countries. Quite simply, the Hague Convention requires participating nations to return such wrongfully abducted children.

There are abducted children in 100 nations around the world, and the State Department reports 300 to 350 new cases a year. In most cases, the government of the country where the child has been taken refuses to return the youngster to his or her legal custodian. S. 1347 provides for the designation of a central Federal agency by the President, with the power to direct and coordinate efforts on behalf of U.S. citizens seeking the return of their unlawfully abducted children. It also allows the custodial parent to seek relief in Federal or State court.

S. 1347 does not in any way affect the final custody decision. Instead, it provides for a well organized system to deal with cases of illegal abduction where custody has already been established. The legislation will help reduce the great pain that many parents and children suffer as a result of illegal actions taken to evade the rule of law. I urge the passage of this bill without delay.●

RECESS SUBJECT TO THE CALL OF THE CHAIR

Mr. MATSUNAGA. Mr. President, I ask unanimous consent that the Senate recess subject to the call of the Chair.

There being no objection, at 6:19 p.m., the Senate recessed, subject to the call of the Chair.

The Senate reassembled at 6:26 p.m., when called to order by the Presiding Officer [Mr. ROCKEFELLER].

ORDER PLACING H.R. 2945 ON CALENDAR

Mr. BYRD. Mr. President, the Republican leader has given his approval to this request. I ask unanimous consent that when the Senate receives from the House H.R. 2945, a veterans' compensation bill, it be placed directly on the calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

HAPPY BIRTHDAY SECRETARY DOLE

Mr. BYRD. Mr. President, I am told that this is the birthday of the very distinguished Secretary of the Department of Transportation, Mrs. Dole. I take this occasion to wish her many happy returns of the day and many, many more happy birthdays. I have said several times, and I say it again, that she is not only my favorite Secretary, my favorite departmental Secretary in this administration, but she is my favorite alltime departmental Secretary, Elizabeth Dole. And on her birthday, I know that my colleagues join me in wishing her the best of all happy birthdays.

I yield the floor.

Mr. DOLE. Mr. President, I just want to thank the distinguished majority leader. I heard his kind words in my office and I will certainly convey those to Elizabeth. I think it is my night to take her to dinner.

Mr. GRAMM. Do you agree with his assessment about his alltime favorite Cabinet Secretary?

Mr. DOLE. I sure do.

Mr. MATSUNAGA. I wish to join in with the majority leader and the minority leader in extending congratulations to Secretary Dole. And I might point out that this is also the birthday of Senator NANCY KASSEBAUM. It appears that on this day at least two great women were born. To both of them I extend my congratulations and best wishes for a happy birthday.

Mr. CHILES. Mr. President, I think each of us on the floor want to associate ourselves with the remarks and congratulate Senator DOLE and tell him he is a very fortunate man. We hope he will carry out his dinner duties tonight.

Mr. DOMENICI. Mr. President, before our Republican leader left the floor, if his wife is not watching television, it was obvious to those of us on the floor that he was blushing. And that is not very ordinary or common for Senator DOLE. We just want her to know that he was for some reason either impressed or otherwise by the marvelous comments of the distinguished majority leader that even he showed a rather generous sensitivity to those remarks. And I, too, join in them.

Mr. CHILES. Mr. President, I just wanted to note that my understanding is it is also Marilyn Quayle's birthday today. And we recognize that Senator QUAYLE is also one of those Senators around here that "outmarried" himself. We want to wish her a happy birthday as well.

THE LONG-TERM DEBT EXTENSION

Mr. CHILES. Mr. President, I think the Senator from Texas, joined by the Senator from Florida, the Senator from New Mexico, and I think the distinguished majority and minority leaders tomorrow will present an amendment to the long-term extension for the debt ceiling. I think that amendment has been a subject of some discussion and some debate. But I think overall it will bring us to restoring an automatic sequester. And I think we look forward to pursuing that tomorrow. I think we will take an opportunity to try to describe that briefly to the press shortly.

Mr. DOMENICI. Mr. President, we are going to brief the press and then tomorrow obviously have adequate time to explain to the U.S. Senate the amendment that we will offer. Suffice it to say tonight that we have worked very hard. This will be a bipartisan package. Nothing that we can do in this area will meet with everyone's approval. But I am very confident that when it is thoroughly understood, even though others might want to offer amendments to it and there may be a few freestanding amendments that people want to offer, that we will have come up with a practical, reasonable, constitutional Gramm-Rudman-Hollings, a permanent fix that, if followed by the U.S. Congress either through the onerous sequester process which we hope never has to occur or by doing their job and actually reducing the deficit, we will in a few years have the deficit under control.

It has been my privilege to be part of this working group, and I thank all of those who have contributed. In particular, I want to thank the distinguished chairman of the committee and his staff for their diligent work. And, it goes without saying, my extreme appreciation and thanks to the distinguished Senator from Texas, Senator GRAMM, for his diligent work. I do believe when it is thoroughly understood tomorrow, it will have very broad based support. I do hope, thereafter, the House considers it seriously and adopts it and that the President of the United States will sign the underlying legislation.

I yield the floor.

Mr. GRAMM. Mr. President, I just want to say to my two distinguished colleagues that I appreciate the work that they have done to make this compromise a reality. I think that a tremendous amount of work and thought has gone into this compromise. And, quite frankly, I am proud of it. Obviously, first we have to adopt it. There will be many amendments, some will not be agreed to. I hope we are wise in deciding which amendments to adopt. We will then have to go to conference with the House and we know anything can happen there.

But I believe that all of the time spent during the last 2 weeks in putting this compromise together will be well worthwhile if we can see the agreement in its current form, or something very close to it, signed into law. I think we will have given the American people what they want, and that is a process that forces hard choices, choices that can ultimately bring the deficit under control and balance the Federal budget.

I especially want to thank the distinguished chairman of the Budget Committee for his patience and the long hours that have been required to put together a compromise. This agreement lets us jump over the bridge of partisanship that so often makes it difficult for us to deal with budget problems. If we can get the ball over the goal line and have the bill signed into law, we will have done a great service for the American people and we will have done something we can all be proud of.

Mr. CHILES. I thank my two distinguished colleagues.

The PRESIDING OFFICER. Does the Senator from Hawaii wish to suggest the absence of a quorum?

Mr. MATSUNAGA. Mr. President, on the suggestion of the Chair, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BYRD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader.

RECESS UNTIL 9:45 A.M. TOMORROW

Mr. BYRD. Mr. President, we have had a good day today. Tomorrow we will be on the debt limit, the short-term extension having been acted upon by the Senate today.

I ask unanimous consent when the Senate completes its business today, it stand in recess until the hour of 9:45 a.m. tomorrow.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, there being no further business to come before the Senate, I move, in accordance with the order previously entered, that the Senate stand in recess until the hour of 9:45 a.m. tomorrow.

The motion was agreed to; and at 6:40 p.m., the Senate recessed until tomorrow, Thursday, July 30, 1987, at 9:45 a.m.

EXTENSIONS OF REMARKS

THE PLIGHT OF 80 MILLION STREET CHILDREN AROUND THE WORLD

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. PEASE. Mr. Speaker, the World Health Organization estimates that at least 80 million children are homeless and wander the streets of major cities trying to eke out their survival. These young lives are being squandered tragically without much caring or relief from international organizations like UNICEF. The despair and neglect is brought home in the following article from the series, "Stolen Childhood" that appeared in the Cox newspapers last month.

[From the Atlanta Constitution, June 24, 1987]

MANY CHILDREN OF THE STREETS TURN TO CRIME

(By Marcia Kunstel)

SAO PAULO, BRAZIL.—Chupeta, 10, was on the lam.

He ran like an unleashed fox across the tree-lined city plaza and out of sight, fleeing from the family he and his buddy had just robbed of a $30 watch.

The exile was brief. Marcelo Velera, known by the nickname Chupeta, and his young partner in crime were back to their plaza routine half an hour later, playing in the fountain and begging food and cigarettes while awaiting the next heist. They had just made $7 to split between them.

"I'm a street kid. I'm a thief," Chupeta had told a reporter a few days earlier. "I smoke marijuana. I smell glue. I'm tough."

He was being matter-of-fact, not boastful. Chupeta steals to live. He has no parents, no home.

He does have a fence, an adult who sells what he steals. That was who made the most on the morning's watch robbery—roughly $10 to $15 in low-risk profit.

Chupeta said most of the proceeds of his thefts go toward getting high on glue. He was asked what else he buys.

"I buy food. You know what my food is? Glue," he said with a laugh. "I have lunch or dinner here or there. But if I don't have any food, that's OK. I just sniff glue."

Chupeta's fence is like other adults around the world who manipulate poverty into criminality. They turn poor children into thieves, burglars or prostitutes because the authorities neither stop them nor find the children a better way to live.

In cities such as Sao Paulo, in fact, some police seem to vie with criminals to make the most off street children.

"If a boy doesn't have enough money to give a cop, he may beat him," said Gerlene Veras, counselor at a shelter for street children. With the proper payoff, she said, a child can keep out of the reformatory. Or he can keep his space on the park bench for another night.

Analto Jose Galvao, who works with juveniles released from the reformatory, said children also get squeezed by crooks.

"Sometimes adults force the child to it," he said. "They put a knife to the boy's ribs and threaten to kill him if he doesn't steal."

GANGS LURE MANY CHILDREN WITH ONLY A MEAL

Few children, however, require such extreme persuasion. A meal might be sufficient. Adult criminal gangs have good reason to draft child accomplices. They are quick and wily, desired attributes for street theft and house burglaries. They are attractive also for high-risk jobs such as drug smuggling, because they cannot be sent to prison as adults are. Up to age 18, the worst they face is a few months in the reformatory.

Chupeta is one of 7 million Brazilian children who are considered abandoned, estimates by government officials show. The majority of them live, literally, on the streets. Plying the streets beside them are other poor children who are not homeless but searching for money to help their families survive.

The World Health Organization says 80 million street children exist around the world. They mass in cities as diverse as Istanbul, Manila and Mexico City. Places such as these collect waves of rural migrants, hunting the jobs and money that have bypassed them in the impoverished countryside.

In some cities they are more organized, such as the children who pose as beggars in Italy and France, then pick the pockets of unwary tourists. These thieves, many of them Gypsies, are trained and directed by adult criminals, who may have kidnapped them or bought them from their parents in Yugoslavia.

In Manila, Sostenes Campillo Jr., a member of the Task Force on Children Exploitation, cited a similar manipulation of the poor: "In the case of the beggars, those people who ask you for five centavos or whatever, this is actually being fielded by a syndicate."

The lives of street children differ little from one country to the next. They are, like Chupeta, tough. They also are destitute, detached and exploited.

"The street is their space. The first week it is a novelty, but after that it's a war," said Sister Maria do Rosario, who heads Pastorale do Menor, a conglomerate of projects to help street children in Sao Paulo.

The cycle begins when a farm family moves to the city, in search of work but lacking the necessary skills, and unprepared for the high cost and generally abusive nature of urban life.

"Physically, the transition takes only two weeks. Culturally, it is a transition of 200 years," said the nun. "What happens is the women get jobs as maids and the men are unemployed. Either they drink and become alcoholics at home, or they just leave the family behind."

STREET CRIMES YIELD ONLY A FRACTION OF PROCEEDS

Chupeta said his family came to Sao Paulo from the town of Rio Claro in the neighboring state of Minas Gerais when he was a baby. Somewhere along the way, he lost both parents.

"Some guy shot my father. My mother died of a heart attack," he said. He has been on the streets for years.

Boys like this don't always begin their street life by stealing; sometimes it's by begging or cleaning wind-shields or selling candy or fruit.

"He has good intentions in the beginning, to do these little odds jobs," said Gildo Datre, chief investigator in Sao Paulo's downtown police precinct. "Usually these indigent boys are guided by the intrujoes. They introduce the boys to crime."

The Portuguese word "intrujoes," which translates as "intruders" or "deceivers," commonly is used here to describe adults or older teenagers who run small, informal syndicates of child thieves, burglars or prostitutes. They lead the children into crime, sell the fruits of their work and pay them a fraction of the take.

Chupeta, who ran from the plaza crime scene with speed unexpected for his spindly frame, said he gets a flat rate of $7 for each watch he steals.

"I get what I should," he said, expressing no dissatisfaction with the fence system. He said he thinks the watches resell on the black market for only about $14. Datre said they are resold for $20 to $300, depending on the quality of the piece.

At first, Chupeta wouldn't talk about who sells his hot goods, which include radios, calculators and gold chains—claiming in one conversation that he is an independent operator. Later, he opened up a bit.

"Mother India is behind me. I give her some stuff. She resells it," he said, refusing, however, to talk more about "Mother India."

Yet another window on the criminal world, for those who want such an entry, are the men who walk the main city squares with signs on sticks advertising "ouro."

It means "gold," and they aren't selling, they're buying. More exactly, they are agents who will lead a seller down nearby alleys to an unmarked pawnshop, where deals are made.

Layers of intermediaries may separate the young thieves and the buyer. Sometimes, said one worker at Pastorale do Menor, the pawnbroker himself may urge children to steal for him, promising a big return but paying as little as $2 for a gold chain.

The numbers of minors sent to the Sao Paulo reformatory as lawbreakers has more than tripled between 1975 and 1985. The institution does not even admit first offenders under the age of 14, and usually doesn't take them on the second and third offense.

Nazih Meserani, president of FEBEM, the government foundation responsible for abandoned and delinquent children, said, "Ten years ago we saw more attempted crimes. Now more of the crimes are successful. We also are seeing more repeaters. And the age group of those committing crimes is going down."

Chupeta claimed to have been held in the FEBEM reformatory 16 times, a figure that

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

did not appear excessive to the social workers who know him.

In Meserani's view, the longer a child is on the street, the more difficult it is to get him off.

"The street is fascinating," he said. "We were educated to believe we should be careful with the streets, but to many of these children the street offers adventure. They have an enormous world of frustrations that they have to try to compensate for by living in a big physical space."

When kids such as Chupeta grasp for a life preserver here, most often it is a can of glue.

"When a child is hungry or is very cold, he just smells glue to forget the cold, to forget the hunger," said street worker Alec Pauchet. "At the hospital they say it causes damage to the brain."

Chupeta estimated that he and his best friend, Alexander, consume four seven-ounce cans of glue a day. The four cans cost them $10, more than they earn from stealing one watch.

THE EEC VIOLATES GATT

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. DONALD E. LUKENS. Mr. Speaker, the Industry Trade Policy Council filed a petition under section 301 of the Trade Act of 1974 to seek elimination of the unfair and discriminatory aspects of the European Economic Community's [EEC] "Third Country Meat Directive."

The directive outlines detailed requirements plants exporting to the EEC must meet. It covers facilities, carcass washing, annual employee physical examinations and officially monitored vehicle washing and disinfecting stations. The directive went into effect May 1.

The complaint charges the directive has erected illegal trade barriers that regulate United States meat more strictly than meat produced in Europe and are not supported by science. This two-tier inspection system violates article III of the General Agreement on Tarrifs and Trade [GATT].

For over 2 years the industry has sought an equitable solution through bilateral negotiations. Administration efforts include a fact-finding investigation under section 305 of the Trade Act, but the EEC refused to cooperate and did not answer questions developed by U.S. Trade Representative Clayton Yeutter and his staff.

Last week Secretary of Agriculture Lyng and Ambassador Yeutter met with EEC Commissioners Willy de Clerq and Frans Andriessen and again EEC representatives refused to show any flexibility.

Currently, the U.S. Trade Representative has 45 days to accept or reject the petition. If accepted, there will be another opportunity for consultation and mediation between the United States and the EEC. If rejected, the dispute will be referred to the GATT in Geneva and recommendations will be made by an independent panel. If a report favorable to the United States is adopted, the EEC must modify its program or the President is authorized under the Trade Act to take retaliatory action against the offending trade practices.

I submit this statement along with a letter to Secretary Lyng and Ambassador Yeutter in support of the petition to block these unfair trade practices.

TRIBUTE TO LINDA J. GREENFIELD

HON. LOUISE M. SLAUGHTER

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Ms. SLAUGHTER of New York. Mr. Speaker, I rise today to honor Linda J. Greenfield on the occasion of her 20th anniversary in doll restoration. Linda's interest and love for dolls inspired her to open a doll hospital and museum following her graduation from high school. The Chili Doll Hospital and Victorian Doll Museum are located in North Chili, NY. What had started as a hobby for Linda at 8 years of age, blossomed into a home-based business when she was 15.

As "doll doctor" Linda recognizes the emotional value placed in a doll. Maimed, torn, or broken dolls are repaired with care, whether they are antique or modern. Linda can fully appreciate a child's love for their doll. Her own collection is on permanent display in the Victorian Doll Museum.

Linda's reputation as a doll expert is nationally known, people from around the Nation request her assistance. She also has been the focus of various awards and community recognition.

I commend Linda's dedication to doll restoration and preservation. Through this most unique service Linda is able to repair a child's treasured friend or preserve a life-time companion. I ask my colleagues to join me in honoring Linda J. Greenfield during her 20th anniversary and in wishing her continued success and good fortune in the years to come.

TRIBUTE TO MR. GROVER J. THARP

HON. WILLIAM F. GOODLING

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. GOODLING. Mr. Speaker, today I would like to pay tribute to one of my constituents, Mr. Grover J. Tharp, who was a citationist in the 1987 President's Volunteer Action Awards Program.

Mr. Tharp has enjoyed singing and telling stories all of his life. More recently, however, he has used his talents to entertain and brighten the lives of the elderly, handicapped, and mentally impaired in Pennsylvania and Maryland.

Though back surgery has limited Mr. Tharp's mobility, he has created several hour-long programs which he performs at nursing homes and senior citizen centers, or anywhere he feels people possess a need to be entertained and cheered up. At 66 years old, Mr. Tharp not only sings and plays harmonica, but is just beginning study on the violin. His performances express a deep care and concern for the people in his audiences which is unusual and commendable for someone of any age.

Mr. Tharp attends a yearly storytelling convention in Tennessee, and although the local demand for Mr. Tharp's talents is great, he travels to perform in New York and New Jersey, as well as Maryland and Pennsylvania. He has been instrumental in starting a storytelling guild at Martin Memorial Library in York, PA.

Bringing a little bit of joy to a person's life is what Grover Tharp's mission is all about. Mr. Tharp states, "It's all worthwhile just to see the smiles on all of the folks faces."

The 1987 President's Volunteer Action Award symbolizes what Grover J. Tharp has accomplished: giving a part of himself to others, so that they may better enjoy life.

EUROPE'S BRAVER COLOURS

HON. THOMAS J. TAUKE

OF IOWA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. TAUKE. Mr. Speaker, on July 11, the Economist editorialized on the need to reform our commitment to the defense of Western Europe and the need for our allies to shoulder more of their defense responsibilities. Given the changes that have taken place, both here and in Europe, since the founding of NATO, I believe that my colleagues will find the following editorial of interest.

EUROPE'S BRAVER COLOURS

Forty years ago, in July 1947, an American called Dwight Griswold arrived in Greece to take over from a broke Britain the job of helping the Greeks fight off a communist guerrilla army. Out of the Truman doctrine, which sent him there and saved Greece, grew the North Atlantic alliance. So began two-fifths of a century in which the western tip of Eurasia, preserved for democracy and market economics by the long arm of American protection, has picked itself up out of the ruins of war, rebuilt its wealth, started groping towards some sort of unity, and now has the pleasure of hearing Russians say that market economics are the right idea after all.

In July 1987 Western Europe should be preparing itself for the next step towards full maturity. Because two things have changed, it may now be possible—as it has long been desirable—for Europeans to take back more of the responsibility for their own defence from the Americans who came to the rescue 40 years ago.

FOR SAFETY'S SAKE, AND SELF-RESPECT

Why is it so desirable? Not just for the reason usually given—that 241m Americans with an income of a bit over $4 trillion last year do not see why 374m Europeans with nearly $3⅓ trillion should need 30,000 American servicemen and about $100 billion a year of the American defence budget to guard them, giving nothing in reply except the cheery explanation that Europe is worth every penny of it. The comforters point out that American irritation about this is nothing new: remember the Mansfield amendment, they say, and the Nunn amendment. True: yet the irritation goes on growing. Do not be too comforted, Europeans.

President Reagan will pull no soldiers out of Europe; but the most pro-European man in his cabinet doubts whether the line can long be held after that. A bipartisan commission luminous with great names, from inside and outside government, will later this year tell America that its defence policy needs serious changes, including more attention to non-European parts of the world. It has to be reckoned that, sooner or later, America will do less to defend Western Europe.

For safety's sake, Europe must therefore get ready to do more to defend itself. It should also do so for the sake of self-respect. A Europe which makes better wide-body jets and cleaner car engines than America, which faces down America in many a trade battle, which has invested more in America than America has in Europe, should not stand with dropped jaw when asked to do a bit more for defence. The contrast between its military dependence on the United States, and its independence in almost everything else, is bad for Europe. It makes it feel embarrassed, and so readier to snarl wrongly at America over issues like Grenada and Libya, and America snarls back over trade. A lopsided alliance has come to be a bad-tempered alliance. It will be healthier for Europe, as well as calming for America, if the military burden is better shared.

It may at long last be possible to do this, because two new things are happening. First, the sort of Europeans who take such decisions about defence have just been given an incentive to act. Europe's left is generally reluctant to spend more on soldiers, because it wants to spend more on health and schools. It is the conservative half of European politics that is likelier to raise defence spending; but Europe's conservatives saw no reason to do so while they reckoned they could take America's contribution for granted. Their inertia has now been jolted. In the Euromissile deal between America and Russia, many of these conservatives see evidence that the Americans are washing their hands of Europe. They are wrong, in our view; but their mistake could prove useful. In 1987, the ritual talk about improving Europe's defence performance has suddenly taken on a new reality. Nervous European fingers may now be readier to open up European wallets.

Second, the size of the extra effort Europe needs to make may be reduced by what is happening in Russia. If Mr Gorbachev's zeal for economic reconstruction leads him to accept large cuts in the armies which face each other in Europe, not all of the departing American soldiers will need to be replaced by Europeans.

It would be wrong to count too much on this. The sort of army-cutting deal the West wants is one which brings the two alliances closer to equality, and this means bigger cuts by Russia and its allies. Mr Gorbachev's generals may not be willing to let him go that far. Mr Gorbachev himself has made a deal harder to reach, by saying that it should cover the whole area from the Urals to the Atlantic; that involves more countries, and needs a lot more inspectors, than an agreement for central Europe alone. Still, Mr Gorbachev wants more economic co-operation with the West. He may decide to pay the arms-cutting price. If he does, the transfer of defence responsibilities from American to European shoulders will be smaller than it would otherwise have been, and easier to arrange.

How big a transfer should be aimed for? Very roughly, in terms of the forces now stationed in Europe, the Europeans could by the early 1990s be doing the work of two of the five-plus American divisions on this side of the Atlantic. That makes the total transfer sound smaller than it really would be, since Europe would also have to do more in the way of things like back-up units, supply lines, warships and military aircraft. But this rough guess can help Europeans work out how many extra men and how much extra money they would have to supply.

Some of the extra men could be found by moving parts of the French and Spanish armies into West Germany (though the French move would simultaneously cut the size of the reserves France now theoretically provides). France could also help by reopening the supply routes and airfields it shut to its allies in 1966. "Mixed brigades" add nothing, if they just mix existing French soldiers with existing German ones.

Some of the extra money could be made available by cutting arms bills, if every West European country would buy its weapons from the most efficient producer instead of giving the order to its own local factory. That could mean German Leopards for everybody's tank divisons, British Rapiers for anti-aircraft defences, the excellent French FAMAS rifle for the Euroinfantry. Since Dwight Griswold's day, when a family car cost about $1,000, many manufactured goods sold on free markets have risen in price about tenfold. Many military things have risen a hundredfold—partly because they are ordered by cost-unconscious generals from sheltered monopolies, in rather the way Russia still orders almost everything. If Europe would rearm through competitive tender, the cost of doing so could fall dramatically.

How nice if Europeans could be counted on to be cooperative with soldiers, competitive on weapons. They cannot. So they will have to find more young men and women, and more money to pay and equip them: at least one extra percentage point of GNP, either from higher taxes or from the non-defence parts of their budgets.

At which point a finger of warning has to be raised. People in Atlanta and Omaha and Los Angeles, watching the first American troops pull out of Europe, may clamour for more. People in Saarbrücken and Lille and Leeds, asked to pick up the bill for replacing the Americans, may refuse. People in the Kremlin, seeing a plum drop ripely towards their laps, may wave aside all talk of troop-cutting agreements. To be safe, Europe needs at least as much defence as it has now, and a solid American component has to remain part of it. A botched attempt to change the present state of things could leave Western Europe without even the fragile security it has now.

DON'T START UNTIL EVERYBODY'S READY

If it is not to be botched, Europe and America need to start some careful planning now. This could have either of two desirable outcomes. Europe may decide, on reflection, that it cannot take over much of the job America does for it, and pro-European Americans will then wearily start to rally their people for a continuation of things as they are. That would at least have the merit of making Europe face up honestly to the fact of its dependence. Much better, Europe will smoothly and amiably take over some of America's present work. This may not save the Americans any money (it costs as much to keep troops in America as in Europe), but it will give them a lot of extra flexibility. The withdrawn men can be re-equipped and re-trained for other sorts of war than the armoured slog of central Europe's plain, and they will not need Europe's permission to be flown to such wars. American shoulders will relax, as some of the European weight moves from them. European shoulders will be squarer, as they take it over.

Be prepared for European bleating about penury, American bellowing about justice. Start from the thought that an America which is no longer much richer than Europe is unlikely to go on for ever spending 7% of its GNP on defence, of which it uses a third or more for Europe's benefit, when most European countries spend only 3-4% of theirs. The planning can begin when Mrs Thatcher meets President Reagan next Friday, a couple of days after the 40th anniversary of Dwight Griswold's arrival in Greece.

LIES ABOUT NICARAGUA

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. KOSTMAYER. Mr. Speaker, as we begin yet another debate on United States aid for the Nicaraguan Contras, there is little doubt that popular misconceptions about the Contras, the Sandinistas, and United States policy in Central America will be repeated again and again. In the hope that this year's debate can center on reality and not conjecture, I am inserting for the Record a recent article from Foreign Policy magazine.

"Lies About Nicaragua," by career Foreign Service officer Wayne S. Smith, examines in detail the assumptions on which the administration's Contra policy rests. Smith concludes that United States policy toward Nicaragua is based on five central arguments: Nicaraguan policy calls for the export of revolution, the Sandinistas refused to heed early United States warnings, the Sandinistas violated their 1979 promises to the OAS, the Sandinistas have continually refused to negotiate, and the United States has fully supported the Contadora process. Smith argues that every single one of these five assertions is false.

The article follows:

LIES ABOUT NICARAGUA

(By Wayne S. Smith)

A truism of representative government, regrettably ignored by the Reagan administration in Central America, is that policies that do not enjoy popular support in time are likely to fail. Moreover, the obfuscation and misrepresentation administrations employ to mislead the public risk undermining support not only for the policies in question but also for the administration that advance them.

Misrepresentations by the Johnson and Nixon administrations about U.S. policy in Vietnam first divided the public and then alienated it and lost the war. Not only did tens of thousands of Americans lose their lives in a war their compatriots concluded was unwise or immoral or both, but also the very foundations of the American system of government were shaken for some time. The costs of public policy built on lies or misrepresentation therefore can be extremely heavy.

These costs should be recalled in examining some of the more dubious claims of the Reagan administration with regard to U.S. policy toward Nicaragua. Public-opinion polls consistently have reflected the American people's deep and continuing skepticism toward U.S. policy in Central America. This skepticism arises for good reason: Far too many of the administration's statements on the subject betray the basic responsibility of a democratic government to tell the truth. The pattern has been one of consistent misrepresentation, from the administration's original claim in 1982 that its aid to the anti-Sandinista rebels known as contras was designed to interdict arms flowing from Nicaragua to the antigovernment guerrillas in El Salvador, to the president's untruthful allegation on April 16, 1985, that he had just received a message from Pope John Paul II "urging us to continue our efforts in Central America." The contras never interdicted a single rifle or bullet, instead pursuing their real goal of overthrowing the Sandinista government. And the Vatican confirmed that the pope had sent no such message to the president.

The Reagan administration's efforts to explain its goals in Nicaragua have been, in fact, consistently inconsistent. On April 27, 1983, President Ronald Reagan affirmed categorically to a joint session of Congress that he did not seek the overthrow of the government in Managua. He repeated that assertion to then Senator Howard Baker in a letter dated April 4, 1984, in which he added that not only was he not aiming to destabilize or overthrow the Sandinistas, but also he did not seek "to impose or compel any particular form of government there." Meanwhile, representatives of the administration acknowledged privately that ousting the Sandinistas was indeed Reagan's objective. And the president himself admitted at a February 21, 1985, news conference that his goal was "to remove [the Nicaraguan government] in the sense of its present structure." When pressed whether that necessarily meant the overthrow of the Sandinistas, he replied, "Not if the present government would turn around and . . . say 'uncle'" to the rebels.

The administration's approach to a "negotiated solution" has also been confusing. At times, the administration has given the impression that its purpose is to bring about a resolution of the conflict through the Contadora process. On June 11, 1985, the president informed Congress that only aid to the contras would push the Sandinistas to negotiate. Without aid, he said, "a regional settlement based on the Contadora principles will continue to elude us." But at other times, administration officials have ruled out such a settlement. On August 17, 1985, Assistant Secretary of State for Inter-American Affairs Elliott Abrams contended to reporters that a negotiated agreement with Nicaragua was impossible: "The Sandinistas are communists . . . such agreements are lies." He added: "It is preposterous to think we can sign a deal with the Sandinistas to meet our foreign policy concerns and expect it to be kept."

Against this background of accumulating policy distortion or confusion, it is time to examine in detail the critical assumptions and allegations on which the administration's policy toward Nicaragua has rested. It turns out that there are five and every single one is false.

The first administration assertion, that Nicaraguan policy calls for export of its revolution, centers around a statement attributed to a July 19, 1981, speech by Nicaraguan Interior Minister Tomás Borge Martínez. In September 1985 the Department of State published a white paper on Nicaraguan interventions, Revolution beyond Our Borders, that took its title from one sentence in that speech—"This revolution goes beyond our borders." It was portrayed as conclusive proof that the Sandinistas have designs on their neighbors.

But there is a problem. The sentence alone shamelessly misrepresents what Borge said. His actual words were:

"[Nicaragua] has joined the current of the revolutions of our time and it is a country with moral authority, not just in Central America, or Latin America, but throughout the entire world. . . . This revolution goes beyond our borders. Our revolution was always internationalist from the moment Sandino fought in La Segovia. With Sandino were internationalists from all over the world. With Sandino were men from Venezuela, Mexico and Peru. . . .

"Latin America is within the heart of the Nicaraguan revolution, and the Nicaraguan revolution is also within the heart of Latin American. This does not mean we export our revolution. It is sufficient—and we cannot avoid this—that they take our example, the example of [the] gallantry, courage and determination of our people."

Borge's words were, under the circumstances, exactly what one would expect any competent politician to say. Borge pointed to the gallantry of the Nicaraguan people as an example for others and identified Nicaragua's cause with that of the Latin American people as a whole. He did not threaten to export the Nicaraguan revolution. Nor was it by error that the authors of the State Department white paper so portrayed his statement. The full text of the Borge speech was available to them through the Foreign Broadcast Information Service. Indeed, they noted the service as the source they used. So use of the one sentence alone required duplicity.

There were other misrepresentations in the paper. Referring to a Salvadoran guerrilla offensive in 1982, for example, it stated that Cuba was the main source of arms for the offensive. Since that assertion is in a note at the end of the chapter, the hasty reader would assume that it is backed by evidence. But in the note there is reference to an admission by Cuban Premier Fidel Castro to German Social Democratic Deputy Chairman Hans-Jurgen Wischnewski in April 1981 that Cuba had supplied some arms to the guerrillas during their January 1981 offensive. What the note does not report is that Castro in the same conversation insisted to Wischnewski that Cuba had terminated all such aid.

Such tactics undermine the paper's credibility, for the knowledgeable reader is bound to ask how, if the authors were willing so blatantly to misrepresent the facts in these two instances, one can believe anything else in the paper.

Why did the authors of the white paper resort to such distortions? The answer is that they were hard pressed to make any case at all. Except for the arms shipments just before and after the January 1981 all-out Salvadoran guerrilla offensive, which almost everyone, including Castro, acknowledges were made, they had nothing tangible to report. The white paper brought forward the usual suspect testimony of defectors and spoke of small quantities of arms captured in Costa Rica and Honduras, but the authors could not link these arms to Nicaragua, nor could they come up with other conclusive evidence of Nicaraguan arms trafficking—except prior to early 1981.

THE CONTRA RATIONALE

The second allegation is that the Sandinistas refused to heed U.S. warnings. The administration's legal case for giving aid to the contras rests largely on the assertion that Nicaragua did not stop shipping arms to Salvadoran guerrillas after early 1981 and that the United States therefore had to act in self-defense. According to the 1985 white paper, "The record shows . . . that the United States responded in a measured and graduated fashion when the Sandinistas refused to cease their intervention against other states in Central America."

But this is not what the record shows. In January 1981, then U.S. Ambassador to Nicaragua Lawrence Pezzullo informed the Managua government that the United States was suspending economic aid. The United States now had hard evidence of Nicaraguan arms shipments to El Salvador, he said; such shipments would have to be discontinued if U.S. aid were to be resumed. Washington would review the situation in a few weeks, he concluded. If Managua acceded to U.S. demands, Washington would consider resuming aid; if not, the United States would announce its definite termination.

Subsequently, Nicaraguan President Daniel Ortega Saavedra assured Pezzullo that Nicaragua valued its relationship with the United States and would accommodate its concerns. He was apparently as good as his word, because the arms flow dried up. The Reagan administration even acknowledged as much in a bizarre way. Its April 1, 1981, statement announcing the final termination of aid noted that the United States had "had no hard evidence of arms trafficking within the last few weeks, and propaganda and other support activities [had] been curtailed." But, the statement went on, such support might be continuing through unknown channels. In other words, Washington had no evidence that the support was continuing, but the administration would simply assume that it was. Against this background, the subsequent language of the 1985 white paper is instructive. Having acknowledged that the arms flow via established routes had "slowed if not stopped," the paper then says, "but . . . other routes from Nicaragua were being sought." There was no evidence produced to justify such a statement, however. Meanwhile, in 1981, then Secretary of State Alexander Haig, Jr., spoke exaggeratedly of massive shipments via new routes across Honduras. Again, no evidence was produced. Years later, in his book Caveat (1984), Haig himself contradicted his earlier charges. "The flow of arms into Nicaragua and thence into El Salvador slackened," he wrote, "a signal from Havana and Moscow that they had received and understood the American message."

Pezzullo has confirmed that there was no doubt in his mind that the Nicaraguans had indeed suspended material aid to the Salvadoran guerrillas in early 1981. And since they had, Pezzullo, along with others in the State Department, felt that the United States should resume food aid immediately. Since U.S aid obviously had provided effective leverage in this instance, it might prove equally useful at some point in the future. But senior officials in the Reagan administration, including Haig, had no intention of acknowledging that the Sandinistas had answered U.S. concerns. Instead, Washington accused Managua of bad faith and cut off aid. Of course it did. Reagan already had authorized—on March 19, 1981—$19 million for CIA-run covert operations against Nicaragua. Subsequently, the CIA began to organize and arm the contras to overthrow the Sandinista regime.

One cannot say with certainty that the Nicaraguans have not provided any material support to the Salvadoran guerrillas since 1981. Indeed, after the Reagan administration refused to live up to the proposal it had instructed Pezzullo to present to the Nicaraguans and began arming the contras, the Sandinistas may have looked for ways to strike back. But what one can say is that the administration has been unable to provide hard evidence of that support, and that in itself is instructive. It suggests limited arms flows at best. For during the period when arms were indeed flowing across the border in significant quantities—during the 1981 offensive—the United States had no difficulty producing convincing proof of Sandinista culpability.

The third administration assertion is that the Sandinistas violated the promises in their July 12, 1979, message to members of the Organization of American States (OAS) asking for recognition of the new revolutionary junta. And given those violations, the argument goes, there is no reason ever to accept their word again.

In international politics, one rarely takes another's word at face value. Certainly, no relationship between countries as deeply divided as the United States and Nicaragua can be based on trust alone. Hence the argument that the United States cannot take Nicaragua at its word is largely irrelevant. The concomitant assertion that the Sandinistas broke the promises in their July 12 message is simply false. In making it, the administration obviously hopes that no one actually will read the message.

At the time the message was sent, the government of the dictator Anastasio Somoza Debayle was tottering. The OAS was considering recommending that member governments withdraw recognition from Somoza and extend it instead to the new revolutionary government. However, it hesitated out of fear that there might be a blood bath in Managua if the rebels marched in and put hundreds of Somoza supporters to death. The principal purpose of the July 12 message, then, was to assure the OAS that this would not happen. Rather, it said, those who were not guilty of any crime and wished to leave the country would be allowed to do so under the supervision of international agencies. Those charged with war crimes or malfeasance would be tried in civil court, not summarily executed. Those promises were kept. Although some lives were lost in the transition, no one has charged the Sandinistas with instigating a blood bath.

The message also said that elections would be held. In November 1984, they were. Although there were shortcomings, the elections were by no means a farce. An American observer delegation led by former Ambassador to Bolivia Ben Stephansky and former Ohio Republican Representative Charles Whelen pronounced them reasonably fair and an important step toward democracy. Pressured by the United States not to participate, Arturo Cruz, then the leader of the United Nicaraguan Opposition, an umbrella group of the contra factions, now says that he regrets not taking part and that his failure to participate in the 1984 elections was one of his major political mistakes.

Finally, the message promised to establish a "broadly-representative democratic government." Here there is certainly room for argument. Washington understandably is disappointed with Managua's limited definition of democracy, and it is legitimate that Washington should urge Managua to broaden it. But Nicaraguans point out that because their government was elected by more than 60 per cent of the voters, it is broadly representative and therefore must be considered democratic. Certainly the political order in Nicaragua is not so demonstrably undemocratic that the administration's case against it can be considered open and shut. Indeed, if the July 12 message is the best evidence Washington has of Sandinista duplicity (and it is always the administration's exhibit A), then the case is much too weak to take to court.

The administration's fourth assertion is that Nicaragua, not the United States, has consistently refused to negotiate. In a February 25, 1986, letter to Congress, for example, Reagan contended that "our persistent efforts to achieve a peaceful solution have failed . . . because Nicaragua has continued to reject meaningful negotiations. . . . In most recent months, Nicaragua has repeatedly frustrated negotiations aimed at producing a final, comprehensive Contadora treaty."

Simple logic reveals that this argument is fallacious. The Reagan administration's objective is to get rid of the Sandinista government. It therefore has little interest in negotiating with that government unless negotiations could lead to its disappearance. The Sandinistas, by contrast, face a threatening and much more powerful neighbor. They see negotiations as perhaps the only way to stabilize their regime and guarantee its survival. Thus the Sandinistas should favor negotiations and the Reagan administration should resist them, even if it has to avoid outright rejection of diplomacy for public relations reasons. Indeed, the record confirms that this logic holds.

At Pezzullo's recommendation, then Assistant Secretary of State for Inter-American Affairs Thomas Enders visited Managua in August 1981 for lengthy discussions with the Sandinistas. As a result of these discussions, the two sides appeared to reach an understanding. The United States, for its part, would give what amounted to a nonaggression pledge to Nicaragua and resume economic assistance. Nicaragua, for its part, would limit its military build-up and pledge not to assist guerrillas in neighboring countries. Enders, in departing, promised to send back a series of aides-mémoire outlining what he believed the two sides had accepted. These would then form the basis of an agreement between the two governments.

The State Department's public position is that the Sandinistas rejected these documents when they were delivered in October 1981. In fact, the scenario was more complicated. Enders seems to have been sincere in his negotiating effort. He gained little support in the office of the secretary of state, however, and even less at the White House. Not surprisingly, then, the memoranda that emerged from the clearance process had acquired a good deal of tough, accusatory language. The Sandinistas, upon receiving them, were deeply offended and felt that the documents did not accurately reflect the spirit or the content of their discussions with Enders. Pezzullo recently said in an interview that, to the best of his knowledge, the Sandinistas never "rejected" the memoranda, as the administration alleges. Rather, they simply did not respond. According to Pezzullo, a senior Nicaraguan official later explained that Managua considered them so insulting as not to warrant a response.

The Sandinistas should have redrafted the memoranda along lines more suitable to them and then returned their version to the United States as the basis for further discussions. But, as Pezzullo emphasizes, the Sandinistas at that point had precious little experience with diplomatic procedures. They also ought to have realized that some U.S. officials wished to scuttle any agreement between the two countries. Inserting offensive language in diplomatic notes was a convenient way to do so. The Sandinistas fell into the trap. Enders's effort was perhaps their only chance for an agreement with the United States and they muffed it.

In April 1982, at the urging of then Mexican President José López Portillo, the United States handed the Sandinistas a new list of points for discussion. Even today it remains a hotly debated question whether the administration had any real intention to negotiate or whether the idea was simply to placate the Mexicans by feigning a willingness to do so. Whatever the case, no talks were ever held. According to the State Department, the Sandinistas took refuge in procedure, insisting that Mexico participate as mediator and that the talks be held at the highest possible level. So, in the State Department's account, given the Nicaraguan position, nothing came of the April initiative.

But the department carefully avoids mention of a Nicaraguan diplomatic note of August 13, 1982. True, the Sandinistas initially had suggested that Mexico participate. They also had additional suggestions on the appropriate level and venue for the talks. But they put all that aside and delivered a note to the American embassy in Managua on August 13 offering, without preconditions, to sit down anywhere with the United States to negotiate all disagreements between the two countries. It seemed that the way was open for broad and meaningful negotiations. But then the United States, without explanation, failed to respond to Nicaragua's note. Later, the only comment American embassy officers could make, in December 1982, was that instructions concerning a reply had never come from the State Department. One can only speculate why, but in light of subsequent developments it is reasonable to assume that by then Washington had become so committed to building up the contras that it had no interest in entering into broad discussions with the Sandinistas that might undercut the campaign at home to build support for the contras. In any event, the United States clearly scuttled this second effort to start negotiations.

In December 1982, the Nicaraguan government announced that it would not acquire Soviet MiG fighter planes and that it hoped this action on its part would improve the atmosphere for negotiations with the United States. Although Washington had indicated that Nicaragua's possible acquisition of MiGs was a major concern—presumably because it would bring the Panama Canal within range of the Nicaraguan air force—Managua's decision to forgo their acquisition elicited no response, favorable or unfavorable, from the Reagan administration. The United States certainly gave no indication that the Nicaraguan concession had sparked American interest in negotiations.

A DIPLOMATIC STALEMATE

Beginning in January 1983, Colombia, Mexico, Panama, and Venezuela concluded that the United States was not going to negotiate with Nicaragua and that if a diplomatic solution was to be worked out, they would have to take the initiative themselves. The Contadora process, named for the Panamanian island on which leaders from the four countries met, was launched. The United States consistently voiced support for this effort but warned that the Sandinistas would never agree to a meaningful treaty. After some 18 months of effort, however, the Contadora initiative seemed to be reaching a successful conclusion. On September 7, 1984, copies of the final draft treaty were distributed to Costa Rica, El Salvador, Guatemala, Honduras, and Nicaragua for signature. These were not preliminary drafts distributed for consideration and modification by the various interested parties. That had been done. These countries were considering the finished product.

The day the final draft was distributed, Secretary of State George Shultz, in a letter to European Economic Community foreign ministers, described it as "an important step forward." Speaking approvingly of Costa Rica's, El Salvador's, Guatemala's, and Honduras's conditional acceptance of the draft, he complained that Nicaragua had rejected key elements of the agreement. But Shultz in no way suggested that the draft treaty was unacceptable to the United States. Indeed, the tenor of the letter suggested that although Washington regarded it favorably, Managua would reject it.

State Department officers at that time described the draft in the same terms. It was, they said, basically sound, though not everything the administration would want. The officers added that naturally the Sandinistas would never accept it.

Then, on September 21, the Sandinistas announced that they were ready to sign the draft. Suddenly the United States found "serious flaws" in it and began frantic consultations with Costa Rica, El Salvador, and Honduras, none of which, in the first 2 weeks after the draft was circulated, had given any hint that they would not sign. But, obviously under U.S. pressure, they quickly reversed themselves and refused to sign until sweeping revisions were made to the draft. By October 1984, the National Security Council could exult in a secret memorandum, "We have effectively blocked Contadora group efforts to impose a second draft of the Revised Contadora Act." Once again, it was not the Sandinistas who rejected a peaceful regional settlement.

In October 1983, Nicaraguan Foreign Minister Miguel d'Escoto Brockmann visted Washington and handed the State Department a series of draft agreements that addressed all U.S. security-related demands. They provided, for example, for the gradual withdrawal of foreign military advisers, for the prohibition of all foreign bases, and for the termination of assistance any country in the region might be giving to guerrillas operating in another. On-site verification was specified but would have required further elaboration. The State Department rebuffed d'Escoto's proposals. He was told that if he wished to discuss such issues, he must do so within the Contadora process.

Given this rejection of a Sandinista offer to halt arms flows to guerrillas in the area, Reagan's justification for the mining of Nicaraguan harbors, which became public in March 1984, was hypocritical in the extreme. The president, on April 14, 1984, said that the United States was acting in self-defense, as long as Nicaragua continued its "covert actions" against El Salvador. The same man who insisted that Nicaragua was continuing "to reject meaningful negotiations" made no effort to explain why the United States had to mine harbors—an act eventually condemned by the International Court of Justice—to achieve something the Sandinistas had said they were ready to negotiate.

Between June and November 1984, at the request of the Contadora countries, the United States and Nicaragua held a series of nine bilateral discussions, all but one in Manzanillo, Mexico. The American negotiating positions were so extreme that again the U.S. participation appears to have been simply a charade to placate the Mexicans. For example, the United States demanded that all Soviet and Cuban military personnel be withdrawn from Nicaragua but did not propose to withdraw any of its own military forces from the region, to dismantle any of its bases in Honduras, or to take any other specific measures. It offered only to take the Soviet and Cuban withdrawal "into account."

American negotiators also insisted that Nicaragua reach agreement with its neighbors to cut back the size of armed forces in the area. But in response, American negotiators would say only that the United States would "readjust" its military presence to reflect the changed position. The principle of a reciprocal withdrawal of all foreign military personnel—Soviet, Cuban, and American—from the whole of Central America remains one of the key elements of Nicaragua's bargaining position. The Nicaraguans would have to take on faith whether this readjustment meant that the United States actually would withdraw some of its forces. They were offered no assurances of any kind. As a U.S. negotiator commented privately at the time, "This is the best position we could get the U.S. government to clear off on; the Sandinistas simply must understand that." The Sandinistas did understand it, and while they were not ingenuous enough to agree to U.S. terms, they did not repeat the mistake they had made with the Enders initiative. They kept on negotiating. The United States then broke off the talks in November 1984. The reason it gave was that the Sandinistas were using the Manzanillo discussions to undermine the Contadora process. Actually, Nicaragua was insisting on the provisions of the Contadora treaties that had been circulated on September 7, but the United States wished to change them.

Perhaps a stalemate had been reached and it was just as well to adjourn the talks for a time. It is unfortunate however, that for almost 3 years the Reagan administration has refused to resume discussions. In an April 23, 1985, letter to the Senate in which the president was pressing for contra aid, Reagan stated that he intended "to resume talks with the government of Nicaragua," provided, presumably, that Congress gave him the aid for which he was asking. Congress acquiesced, but when in July the Contadora foreign ministers called on the United States and Nicaragua to resume their bilateral talks, the president ignored his April promise. Nicaragua immediately agreed to resume the talks. The United States just as quickly refused.

In a second Contadora initiative, participating countries were joined by a "support group" comprising Argentina, Brazil, Peru, and Uruguay. By June 1986, a new draft was reaching the final stages of negotiation. This new draft addressed all of the security concerns originally raised by the United States and would have empowered a verification commission to roam freely in Nicaragua to ensure strict compliance. On June 20, 1986, the Nicaraguans announced their acceptance of the treaty—provided the United States halted its contra war against them.

Ironically, 5 days after the Sandinistas accepted the new Contadora treaty, Congress approved military assistance to the contras, asserting that it was the only way to get the Sandinistas to negotiate seriously. For his part, on June 24, Reagan said that the United States would oppose this Contadora agreement and any other piece of paper that did not bring "real" democracy to Nicaragua.

In fact, the terms of the present Contadora treaty do insist on democracy in Nicaragua: elections, amnesty, and dialogue with the internal opposition. Nicaragua has agreed to all these provisions. But for Washington, only the contras can bring democracy; hence its essential condition for a Contadora agreement or any other solution is that the Sandinistas sit down to negotiations with the contras. But the Sandinistas will never negotiate with the contras because they consider the rebels a CIA-organized mercenary force that has won nothing on the battlefield and that represents no significant body of opinion within Nicaragua.

There matters stand. In every diplomatic encounter with Managua save the Enders talks in 1981, the Reagan administration itself, not Nicaragua, has eschewed or broken off negotiations or rejected finished agreements. Only in that first episode, the Enders talks, might it be said that the blame lies as much with the Sandinistas as with the Reagan administration.

The fifth and final false assertion is that the United States has fully supported the Contadora process. In a letter to Congress on February 25, 1986, Reagan spoke of "the continued efforts of the United States to promote a negotiated settlement in Central America and in Nicaragua based on the Contadora Document of Objectives." But Nicaragua has twice accepted and the United States twice rejected Contadora agreements. Nor was the United States supporting the Contadora process when it rejected the Contadora foreign ministers' call in July 1985 to resume bilateral talks with Nicaragua, or when, on February 10, 1986, it rejected the joint request of the eight foreign ministers of the Contadora countries and the support group to cooperate with their peace efforts by halting aid to the contras.

This last request was made directly to Shultz. Such aid, the foreign ministers told him, was incompatible with the peace process. No agreement could be signed without some indication from the United States that it would cooperate: If the Sandinistas were to commit themselves to halting any aid to the guerrillas in El Salvador, the United States would have to offer in exchange the termination of its support for the contras.

Shultz flatly refused. A few days later, Reagan asked Congress for another $100 million for the contras, and subsequently, Abrams stated categorically that even if a Contadora treaty were signed in the near future, the United States would not end its aid to the contras.

To say that the administration has misrepresented the nature of the problem in Nicaragua and that its approach to that problem is flawed is not to say that the United States faces no problem in Central

America. The Soviet and Cuban military presence in Nicaragua is stronger than the United States can be comfortable with, and it is reasonable to seek a dramatic reduction. Washington cannot accept the establishment of any Soviet or Cuban bases or the operation from Nicaraguan territory of their aircraft or naval units. Nor can the United States accept the introduction of sophisticated weaponry that might threaten U.S. security, nearby sea-lanes, or the Panama Canal. Nicaragua must not become a military platform to be used by adversaries in ways threatening to American security. Nor should it pose a threat to its neighbors. And all in the region, including the Sandinistas, agree on paper that Nicaragua should retain a democratic form of government, with periodic elections, opposition parties, and freedom of expression.

These should be U.S. goals. But if the Sandinistas continued to be prepared to sign verifiable agreements—either directly or through a regional process such as Contadora—then that would answer all these needs. The Sandinistas say that they are prepared to send all foreign military personnel home, to prohibit the establishment of bases or the emplacement of sophisticated weaponry, to limit the size of their armed forces, to halt any assistance they might still be giving to guerrillas in other countries, and to guarantee democratic institutions such as elections and opposition parties. Further, they say that they are ready to permit on-site inspection to verify that they are adhering to all these commitments.

Why then must the United States keep aiding the contras rather than putting the Sandinistas to the test in serious negotiations? Because, according to the president, only in this way is it possible to pressure the Sandinistas to negotiate seriously. But that obviously makes no sense, since the Sandinistas have been willing to negotiate all along and, on two occasions, were ready to sign a Contadora agreement. Further, the contras cannot exercise effective pressure. The Nicaraguan regime will not accede to the demands of a weaker opponent that it expects to beat, and the Sandinistas know full well that they can outlast the contras.

Another administration rationale is delivered by Abrams, who maintained at a press briefing on May 5, 1986, that even if an agreement were signed, the services of the contras would still be needed to ensure Nicaraguan compliance. But that makes even less sense. There cannot be any kind of agreement as long as aid to the contras continues. Besides, the contras do not have the military capability to assure compliance with anything. The Sandinistas' willingness to negotiate can be traced not to the threat from the contras but to fear of the looming power of the United States. That same power would stand behind any agreement.

The only objective the administration cannot achieve through negotiations is the outright ouster of the Sandinista government, and, as suggested by Reagan in February 1985, that is the real, indeed the only, purpose of the contras. Tragically—since so many have died unnecessarily in pursuit of an unrealistic goal—the contras do not have the capability to achieve that objective either. Yet so long as the contras are around, the administration can, at least in its own mind, cling to the illusion that the objective remains attainable. Aid to the contras, then, is more than anything else an exercise in self-deception. So, too, is the objective of that aid, for it is not and never has been necessary to unseat the Sandinistas to achieve legitimate U.S. security goals in Nicaragua. That could be done by signing an agreement that addressed those needs and then by placing the might and honor of the United States behind compliance.

The administration now pursues an obsession in Nicaragua. In an effort to justify an essentially unjustifiable policy, it has gratuitously ensnared itself and the country in a web of contradictory statements, shifting explanations, and shameful misrepresentations. It is time for Congress to halt this mad quest before the administration's policy draws the country into a storm from which it cannot emerge without a tragic loss of blood or a shameful loss of honor.

DEBUNKING COMMON ASSUMPTIONS ABOUT CHILD LABOR IN AGRICULTURE

HON. DONALD J. PEASE

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. PEASE. Mr. Speaker, apologists for child labor around the world are often quick to point out that children working with parents in farming and producing food is not really cause for concern. Examples in American history are cited where in agricultural communities and down on the farm allowances are made for young Americans working.

The following article in the series "Stolen Childhood" from the Cox Newspapers exposes the cruelty shown toward many children laboring in agricultural plantations around the world:

PLANTATION CHILDREN REAP GRIM HARVEST

(By Joseph Albright and Marcia Kunstel)

SAO PAULO, BRAZIL.—When Alda Marco Antonio found the child tea pickers, she was disgusted to see that they had been applying pesticides without gloves and walking shoeless in the resulting "slime."

Ms. Marco Antonio, then secretary of labor of Brazil's prosperous Sao Paulo state, was leading a delegation of health inspectors, union officials and Brazilian journalists last fall on a surprise inspection of the tea estates in the Ribeira Valley, 175 miles southwest of the skyscrapers of Sao Paulo.

While touring the tea plantations, these urban sophisticates learned what it means for a plantation child to pick up a bag of tea.

Ms. Marco Antonio found one 11-year-old girl walking out of a field with a 52-pound bag of tea leaves on her head. "I couldn't even lift it," the labor secretary, now Sao Paulo's secretary of minors, said later.

Ms. Marco Antonio estimated that 10,000 children ages 5 to 13 worked as tea pickers in this one valley, almost all of them permanently out of school. She found that two-thirds of all the valley's tea workers were children under 14, the legal age for heavy work.

Ribeira Valley tea pluckers were paid 15 cents for every 52-pound sack of tea leaves they picked—maybe a dollar a day for a whole family. "It is a criminal, revolting situation," Ms. Marco Antonio said.

Revolting and criminal, perhaps, but not rare. Around the world, plantations are major abusers of child labor, and they have been since the 18th century.

Long before India's sooty glass works proliferated, long before Morocco started mass-producing handmade carpets, children by the tens of thousands stooped along with their parents to grow coffee, cotton, sisal and other plantation crops for shipment from the colonies to Europe.

First to commercialize child labor on a mass scale, the plantations also may turn out to be the first sector of the world economy to outgrow it.

Since the 1960s, owners of plantations and corporate farms all over the world have found that herbicides can weed a field more cheaply than even the cheapest human labor. Tractors are replacing not only children but entire families.

While technology has established a trend away from child labor, some of the most wretched pockets of exploitation remain on commercial farms and plantations.

Why call it exploitation? Don't children work just as hard on family farms in Nebraska and in tribal villages in Kenya, where they cultivate yam seedlings and carry firewood on their heads from dawn to sunset?

Such questions tend to crumble when they come up against the ugliness of working conditions among plantation children throughout Asia, Africa, and Latin America.

The tea pluckers Ms. Marco Antonio found in Brazil are highly paid in comparison with children on many Asian tea plantations. In Sri Lanka, tea plantations use children as young as 5 as weeders and seedling potters and pay them 1 to 1½ cents a day, according to 1984 testimony before a U.N. panel in Geneva.

The Ribeira Valley tea workers may absorb pesticides accidentally as they are picking. In India's Assam Valley, children breathe pesticides all day long while working as pesticide sprayers, according to 1984 reports by British human rights investigators.

Children's work may well be even grimmer on Malaysia's rubber plantations, where they typically start tapping rubber trees at age 9 to contribute to their parent's piecework earnings.

One leading Malaysian union official, Abdul Aziz Ismael, told an International Labor Organization conference last September that wood chips and dirt frequently fall into the children's eyes as they climb the rubber trees to tap them.

That isn't the only hazard. "Almost all these children wear no footwear and most cope with biting ants and leech bites, let alone the swarms of mosquitoes that torment them," Ismael said.

"We often hear reports of children in plantations being bitten by poisonous snakes . . . and many are stung by hornets, scorpions and centipedes," he added.

The workers are descendants of laborers who were imported from India by British plantation owners before World War II. The plantations have been owned by syndicates of wealthy Malaysians since shortly after the country became independent in 1957.

The work is no healthier on some of the eucalyptus plantations in Brazil, where one of Ms. Marco Antonio's surprise inspections last year found children 10, 11 and 12 inhaling hot exhaust gases while helping their parents make charcoal in a crude kiln.

The charcoal oven turned out to be part of a plantation owned by Antonio Morais, a millionaire industrialist and candidate for governor of Sao Paulo state.

A month later, a 13-year-old timber cutter on a neighboring plantation was crushed to death by a eucalyptus trunk.

Ms. Marco Antonio may crusade for child workers' rights, but her state labor department doesn't have many teeth to sink into employers who abuse them. Brazil's national government, which holds the real enforcement powers, has not acted, she said.

"The minister of labor was supposed to do some of these things, but we passed over him," she said.

Bad publicity she created for plantation owners was her most effective tool, giving Ms. Marco Antonio leverage in handling negotiations between farm workers and landholders. She said media coverage of her inspection "blitzes" helped some plantation workers double or triple their monthly wages and get contract provisions assuring that children would go to school instead of working all day.

At least the Malaysian and Brazilian children have one advantage: working and learning alongside their parents. Elsewhere, children are obligated to work apart from their families, earning much less than an adult wage.

In Benguet, a hilly region of the central Philippines, children 12 and older are recruited from their families to go miles away to work on commerical vegetable farms.

A University of the Philippines survey team found in 1985 that on some big farms, children started at 35 cents a day for doing the same jobs, including pesticide spraying, that earned adult farm workers $1 a day.

The researchers quoted vegetable grower Edward Celo as saying employers hire the migrant children mainly because they are easy to control.

While the Filipino children said they worked voluntarily, hundreds of children in southeastern Nigeria have been kidnapped or sold by their parents to work on Nigerian cocoa plantations, according to credible newspaper reports this year.

The Sunday Guardian, an independent newspaper in the Nigerian capital of Lagos, reported last February that more than 2,000 children ages 5 to 15 had been taken from their parents in Nigeria's Cross River state to work on plantations or as household servants.

In an investigative report, the newspaper said labor recruiters sometimes had offered parents a head of tobacco or $10 as compensation for their children's being trucked away to work elsewhere.

Something akin to forced child labor persists in India's rural backwaters, where small landlords and moneylenders continue to extract "bonded labor" from debt-burdened peasants even though the practice is illegal.

A laborer becomes "bonded" when he needs money and accepts a loan from a landowner in exchange for his pledge to work at a nominal wage until the landowner calculates that the debt has been paid.

A U.S. State Department human rights report released in February cited estimates of the number of bonded laborers in India ranging from 50,000 to 2.5 million.

Most bonded laborers are adults who contract the debts themselves, typically to pay for dowries, funerals or other ceremonial expenses. But children can get sucked in as bonded laborers, too, if their parents get sick or die.

In 1985, Neera Burra, an Indian sociologist, reported a case of a bonded laborer from eastern India who had been working for 32 years to repay a debt of $1.25 that he had inherited from his father. An endless series of new loans and interest payments consumed whatever money the laborer earned.

The father, said Burra, had worked 45 years before he died while trying to pay off the same debt.

COMMUNIST SANDINISTAS ABUSE INNOCENT PEASANTS

HON. DONALD E. "BUZ" LUKENS

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. DONALD E. LUKENS. Mr. Speaker, two separate investigations recently conducted by two American human rights groups, the Puebla Institute and America's Watch, confirm that the Communist Sandinistas have committed serious human rights abuses against innocent victims of war in Nicaragua.

The accounts describe the tragic and inhumane treatment of the Nicaraguan people by the Communist regime. Included in the report was an account of how 6,000 peasants were forcibly relocated from their homes into a free fire zone in April and May because they supported the freedom fighters.

I would like to point out to my liberal colleagues the finding that the peasants interviewed were unanimous in accusing the Sandinistas and not the rebels of human rights violations. Further, most said they supported the Contras.

Below is an excellent article from the June 28, 1987 issue of the New York Times which details human rights violations committed by the Communist Sandinistas.

[From The New York Times, June 28, 1987]

PEASANTS TELL OF RIGHTS ABUSES BY SANDINISTAS

(By James LeMoyne)

BOCA ARENAL, COSTA RICA, June 24.—The Nicaraguan Army has committed serious human-rights abuses in the southern border region of Nicaragua over the last two years, according to interviews with several refugees who fled to Costa Rica last month, accounts from other peasants still in southern Nicaragua and investigations by two American human-rights groups.

The peasants in Nicaragua, who were forced to move to two Government camps there, and several other refugees who fled here early last month described abuses by the Nicaraguan Army during operations against American-backed guerrillas.

Sandinista officials acknowledge that the rebels, also know as contras, enjoy widespread popular support in southern Nicaragua. But a spokesman for the Sandinista army denied last week that it has abused human rights.

INACCESSIBLE ZONE

The accounts shed light on Government actions in a remote jungle zone with almost no roads that has become one of the most bitterly contested areas of Nicaragua. It is inaccessible area that journalists have been unable to enter, extending from the town of Nueva Guinea south to the San Juan River, which forms the border with Costa Rica, and east to the Caribbean coast.

The charges of serious human-rights abuses by the Nicaraguan Government are supported by two separate investigations carried out this year by two American human-rights groups, the Puebla Institute and Americas Watch. The Puebla Institute collected several accounts of abuses, including bombings of peasant hamlets and shootings, from Nicaraguan refugees in Costa Rica in January.

Americas Watch gathered reports of abuses in both southern Nicaragua and in refugee camps in Costa Rica. In a letter to the Nicaraguan Government in May, the group detailed more than 10 reported incidents involving the disappearance, shooting and wounding of unarmed civilians by Sandinista security forces.

Contras also appear to have been guilty of abuses in southern Nicaragua. They have killed several unarmed civilians during attacks on agricultural cooperatives guarded by Sandinista militiamen who fought the rebels.

In the border region, however, most reports implicate the Nicaraguan Army. Refugees in Government camps in Costa Rica and peasants interviewed two weeks ago in southern Nicaragua were unanimous in accusing the Sandinistas and not the rebels of human rights violations. Many, but not all, of the refugees and peasants said they supported the contras.

The Nicaraguan Army forcibly relocated almost 6,000 peasants from the area south of Nueva Guinea in April and May because they backed the contras, according to Sandinista officials. The officials said they now considered the area a free fire zone, a view that would appear likely to prejudice the lives of civilians remaining there.

During recent interviews by two reporters in the Boca Arenal and Alvaperal refugee camps maintained near here by the Costa Rican Government, 30 refugees accused the Nicaraguan Army of shootings and other abuses against civilians. The refugees fled southern Nicaragua in early May as part of a group of 106 peasants who swam across the San Juan River to Costa Rica.

"We left because President Ortega is doing us great harm," said José Borge, a 45-year-old refugee who says he fled from the village of El Pavon in southern Nicaragua three months ago. "The Government has thrown the army at us." He was referring to the Nicaraguan President, Daniel Ortega Saavedra.

One of the worst incidents occurred in April, Mr. Borge said, when Sandinista soldiers opened fire on a group of refugees attempting to cross the San Juan River on the border. Mr. Borge, who was traveling with them, said the army killed seven peasants and wounded five, all unarmed civilians.

He named the dead as Chico Sánchez, 35 years old; Mr. Sánchez's 10-year-old daughter, Alejandra, and his son, Miguel Sánchez. Also killed, Mr. Borge said, were Chavela Girón; Felipe Luna; his son, Beto Luna, and his 4-year-old grandchild, Santos Luna.

The fleeing peasants, Mr. Borge said, carried their five wounded back to the Rio Indio inside Nicaragua, where they left them before retracing their steps to escape into Costa Rica by swimming across the San Juan River border. The second time, he said, they were accompained by armed rebels who gave them protection.

According to the refugees, the villages of El Pavón, Agua Fria and 19th of July, to the south and east of Nueva Guinea, have all been especially hard hit by the Sandinista army over the last year. They said the areas around Punta Gorda and Rio Indio are also zones where civilians cannot survive frequent bombing, strafing from helicopters and fighting.

"If a helicopter passes and sees you, they shoot at you," said Sebastiana Madrigal, 37 years old, a refugee.

Several refugees said that they had tried to live by hiding in the mountains, but that they were constantly chased by Sandinista units and that there was no way to supply their most basic necessities.

"We live in the woods to avoid capture by the troops, but we were dying of hunger, without salt, clothes or work," said Marina Riva López, 49 years old, who fled with five children from south of El Rama in Zelaya Department.

In separate accounts, Mr. Borge and Eduardo Martinez, a refugee from near El Pavón, contended that more than 10 peasants were killed last December during heavy fighting between the Sandinistas and contra units near the village of El Delirio.

The refugees said they consider being captured by the army and forced into Government camps equivalent to being jailed. Many of the refugees called the Sandinistas by the derogatory slang term, "piricuaco," or "piri" for short, which means rabid dog and is a term frequently used by supporters of the contra rebels.

Arnoldo Blandón Araujo, 55 years old, said he and his family were among the last inhabitants to flee the 19th of July village last February. He said the village, which supported the rebels, is now abandoned.

A Sandinista official in southern Nicaragua said the contras themselves had told the peasants to leave rather than be forcibly removed by the army. Mr. Blandón gave his own version of why he fled.

"The reason is very simple, my friend," he said. "The contras ran away and the piris came and laid waste."

PEACE CORPS AND THE CONSTITUTION—THE FOREIGN POLICY CONNECTION

HON. TONY P. HALL

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. HALL of Ohio. Mr. Speaker, at this time I wish to share with the American people the remarks of my friend and colleague, Congressman JIM MOODY of Wisconsin, when he addressed the annual general meeting of the National Council of Returned Peace Corps Volunteers on July 18, 1987.

As a returned Peace Corps volunteer myself, I take to heart JIM MOODY's remarks about the similarities of the Peace Corps' mission and the meaning of our Constitution and our foreign policy. For this reason, I wish to place his speech in today's RECORD.

The text of the speech follows:

PEACE CORPS AND THE CONSTITUTION—THE FOREIGN POLICY CONNECTION

(Remarks to the Annual General Meeting of the National Council of Returned Peace Corps Volunteers by Congressman JIM MOODY)

We are now observing the 200th anniversary of our Constitution, and it is well to reflect on the natural affinity of the Peace Corps to that hallowed document.

The Constitution of 1787 flowed from the bold and revolutionary ideas of our struggle for independence, especially these twin propositions: all men are created equal, and everyone has the inalienable right to life, liberty and the pursuit of happiness. To me these propositions compress down to freedom and self determination.

The Constitution, of course, included a number of additional key concepts as it worked out a balance between rights and responsibilities. With some exceptions, these past 200 years have seen almost continuous broadening and deepening of these constitutional values. We extended the Bill of Rights to state law. We abolished slavery. We extended the voting franchise, first to persons without property then gradually to all adults. We increased the protection of personal privacy—the essence of personal dignity—and broadened its definition.

While we were enlarging the commitment to democratic values at home, our record overseas was somewhat uneven. It is true that in Europe we usually sided with democracy—Woodrow Wilson's principles of "open covenants openly arrived at" and support for the League of Nations after World War I, and support for the United Nations and the Marshall Plan after World War II. However, in the third world and less developed nations there was conflict between our national and natural instincts towards freedom and self-determination, on the one hand, and loyalty to our European allies on the other. (Examples: The French in Vietnam, the British, Belgians and Portuguese in Africa, the Dutch in Indonesia, etc.) Plus our fear of Communism strongly colored our attitudes towards emerging nations. And in Latin America, particularly Central America and the Caribbean—from the Monroe Doctrine onward—our adherence to independence and equality among peoples was periodically tempered with U.S. economic self interest and U.S. "sphere of influence" considerations.

THE PEACE CORPS

The early 1960's marked an important departure in applying the constitutional spirit abroad. Under John F. Kennedy our country tried the first official experiment in bringing constitutional values to other countries: The Peace Corps.

Peace Corps volunteers recognized the shining appeal and inherent power of our constitutional ideals; recognized that these values transcend national borders. And recognized that if we treat other countries, cultures and people in the spirit of our own Revolution and Constitution we will enrich their lives; they will enrich our lives. And peace, not war, will be the way between countries.

At this 200th year it is appropriate to remember that our Constitution is, in fact, a blueprint for peace. It is a blueprint for justice. It is a blueprint for dignity. It is a blueprint for expression of the individual. It is a blueprint for responsible and restrained use of governmental power. And for the use of force only within a lawful context. It is a blueprint for passionate loyalty to process, and a commitment that worthy ends cannot justify unworthy means. It is a blueprint for settling differences between people through the interplay of ideas rather than by force. In fact, the Constitution embodies the belief in the superiority of ideas over force.

So the Peace Corps is as American as the Declaration of Independence and as American as the Constitution.

CENTRAL AMERICA TODAY

In this context of measuring constitutional values against our overseas behavior, let's consider U.S. policies in Central America. I'll say it: current U.S. policy does not flow from our legacy of fairness, dignity and justice. It does not rely on the power of ideas over force. It does not recognize the inalienable rights to self-determination as we seek to forcefully replace the Nicaraguan government.

Our policy in Central America seems to pay little attention to the underlying violence and unfairness of disease, of hunger, of ignorance and of poverty. It places little emphasis on the value of the individual. Instead it focuses on "isms", with the implication of mindless group-think, and it assumes that this "ism"—Communism—will control men's minds against their better judgments.

In truth, our current Central American policy relies on force.

The reason I make these points is not to be political. It is because this last month we have been witnessing a spectacle of constitutional betrayal in foreign policy with respect to Central America. We now know that over the last several years our policy in that region has been based on betrayal of trust. On lying to the public. On breaking the law. On violating the constitutional role of Congress in co-shaping foreign policy.

Col. North, Admiral Poindexter, Assistant Secretary Abrams and others kept confidences with Ghorbanifar, with Hakim, with the Sultan of Brunei, with agents of the Ayatollah and other terrorists. But not with Congress or the people of America. We were kept in the dark. Our democratic precepts and guarantees were violated here at home to "bring democracy" to Nicaragua. But the result is that today our Central American policy lies in shambles.

In contrast to this spectacle, consider the difference in the esteem for our policies that would exist if we had spent even a small percent of the Contra funding—overt and covert—to place Peace Corps volunteers in that region. I fear the final bill for our policies in Central America is still incalcuable. Consider that the three-day invasion of Grenada cost more than the Peace Corps annual budget.

WHAT WE CAN DO

So where do we go from here?

Our Peace Corps legacy requires that all of us, each in our own way, seek to return America to the path of constitutional behavior abroad. Return to the national values which led each one of us, at different times, to dedicate ourselves to Peace Corps work.

We can do that in so many ways. We can strive to reduce inequality here at home, as our honorees the Remmes have done in rural North Carolina. We can strive to humanize our foreign policies abroad. I try to do that by supporting U.S. funding of international family planning programs. When I was in Bangladesh with the Peace Corps in 1961-62 its population was 45 million people; today it is 110 million. Meanwhile family planning funding is under political attack in Congress, so help is needed.) We can continue to work on the third purpose of the Peace Corps: the better understanding by Americans of other countries, as the Peace Corps Councils are doing.

We can teach our children and our friends that patriotism to country is not only of the kind demonstrated by Col. North. We can show that patriotism is also required for civilian service. Show that patriotism is also served by improving understanding with our world's neighbors. By reducing the risk of nuclear war. By helping feed the starving children in the Sahel.

We can show that patriotism is served by enhancing and preserving our constitutional values in every endeavor.

That is why it is patriotic to frequently revisit our constitutional principles. To reaffirm our Peace Corps values.

Because we love our country, and want peace for all people, we shall always be Peace Corps activists.

MERCHANT SEAMEN BENEFITS

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. LANTOS. Mr. Speaker, I would like to bring to the attention of my colleagues an article in the Washington Post regarding the recognition of our merchant seaman who valiantly contributed to the allied war effort during World War II. The article reports that a U.S. district court judge recently sided with the sailors, striking down the Pentagon decision that excludes sailors who served in the U.S. merchant marine during World War II from claiming benefits.

Mr. Speaker, Congress somehow overlooked the merchant marine when it prepared the G.I. bill of rights to provide benefits to the veterans of World War II. The time has come for Congress to recognize the contributions of our merchant seamen. I ask my colleagues in Congress to review the Post article on the current situation and move to rectify the obvious inequities of not granting veteran status to our merchant seamen.

MERCHANT SAILORS FIGHTING FOR STATUS AS VETERANS—42 YEARS AFTER THE WAR, THEY SEEK A "MORAL VICTORY"

(By David S. Hilzenrath)

Edward Schumacher was a civilian, but he was no stranger to hostile fire on June 6, 1944, when he watched the first wave of Allied forces sweep ashore at Omaha Beach.

The 21-year-old navigator had survived the invasions of North Africa and Sicily, where three German bombs set his ship afire, and he had eluded the Nazi torpedoes that killed hundreds of his fellow merchant seamen in the months after the United States entered World War II.

Although the merchant sailors played a key role in the successes at Normandy and elsewhere, transporting troops and supplies to far-flung battlefields, the result for Schumacher was victory without peace.

For 42 years, he and others like him have been fighting to win classification as military veterans. The stakes for the aging combatants are mainly matters of pride—the right to a flag-draped coffin and a plot in a national cemetery, they say. The Pentagon denied their appeals, maintaining that the merchant sailors' wartime service was not tantamount to active duty.

Eleven days ago, a federal judge here sided with the sailors, striking down the Pentagon decisions that barred merchant sailors from claiming benefits.

"This has been a holy grail for me," said Schumacher, now retired and living in Woodbridge, Va. "Pinch me so that I know that it's true."

The battle isn't over, but in the July 16 order, U.S. District Court Judge Louis F. Oberdorfer seemed to pave the way for merchant seamen who participated in World War II invasions to become veterans. The status of other civilian sailors who went to sea during the war remains less certain, although Oberdorfer said the Defense Department has failed to substantiate its ruling against them.

The tortuous legal proceedings come after a 1977 act that gave the secretary of the Air Force authority to confer veteran status on groups that participated in the war effort. Under that law, 64 groups have applied for recognition, 14 of them successfully.

Among those granted veteran status were the Women's Airforces Service Pilots, or WASPs, who flew military aircraft in North America; the Women's Army Auxiliary Corps, also known as WAACs; and civilian Navy employees who joined in the defense of Wake Island.

Backed by the AFL-CIO, Washington lawyer Joan McAvoy compiled a voluminous account of the merchant mariners' service—from the early years of the war, when they kept open the lifelines to Great Britain and the Soviet Union, to the advanced stages, when an estimated 250,000 of them, trained in gunnery and generally employed by the United States, carried critical cargo around the globe.

A year ago, after exhausting their applications to the Defense Department, McAvoy pressed the seamen's case in court. The men, whose wartime casualty rate was second only to the U.S. Marines, had been victims of a stubborn bias—an unfounded perception that they were draft dodgers and sacrificed less than their military counterparts, McAvoy argued.

"As best I can understand it, there is a mindset against merchant seamen that seems to defy rational explanation," she said.

Veterans groups have lobbied against Veterans Administration benefits for former merchant mariners on the grounds that they were not members of the armed forces, even if they were invaluable.

"It is important to those who are veterans and to the continuing national security that the term 'veteran' should be jealously guarded by those who have the responsibility and authority to bestow it," James P. Dean, the national commander of the American Legion, said in a July 21 letter urging Defense Secretary Caspar W. Weinberger to stand by the government's position.

The government argued that the seamen did not qualify as active duty veterans because of their more limited military training and official obligations.

Oberdorfer found the Defense Department's reasoning inconsistent, writing that merchant seamen have an equal or stronger claim to benefits than some groups that have already gained them. Sailors who accompanied invasion forces performed a military role under military control, he said.

Oberdorfer said the Pentagon decision denying benefits to other former seamen "did not adequately support its conclusion." The judge could declare World War II merchant sailors active duty veterans at this point, or he could order the Pentagon to reconsider their request within explicit guidelines, according to lawyers for both sides, who will submit more arguments next month.

Government officials declined to comment on the substance of the case and said it is too early to discuss the possibility of an appeal.

No one knows how many World War II merchant mariners are alive today to take advantage of federal benefits, or what they would cost the government. Former seamen who contributed to the case said it's too late to seek college tuition funds, and they have no likely need for guaranteed home loans. They said few would meet the low-income qualifications for federal pensions, although many might benefit from access to Veterans Administration hospitals. They said their cause is symbolic.

There are no American monuments to the 6,000 merchant sailors who died in the war, according to survivors, but the Soviets hold an annual ceremony at a memorial in Murmansk to remember those who perished in the treacherous North Atlantic shipping lanes.

Lester Reid, who was in the invasion of the Philippines, hopes to gain a modest monument of his own on an American military grave. "I spent five years in that war. That's important to me," said Reid, now 81 and living in Farmville, Va.

Reid says he won't find peace until all merchant sailors who sailed in World War II win the same appreciation. Those who participated in major invasions were not the only ones whose jobs put them in harm's way, he said.

In 1942, Stanley Willner's army transport was returning from a supply mission to the Persian Gulf when it met a German raider three days off Capetown. The American crew was taken captive and ultimately turned over to the Japanese. Willner remained a prisoner of war until Japan surrendered.

During three years of torture, near-starvation and forced labor in Asia, Willner said, he helped build the bridge over the river Kwai, which was later depicted in a motion picture.

"If it stands, it's a moral victory," the 67-year-old Virginia Beach resident said of the judge's ruling. "I think it's about time we got some recognition."

ROME REVISITED

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. GARCIA. Mr. Speaker, the July 26 edition of the Washington Post contained an excellent essay by economist Lester Thurow of MIT. In that essay he describes the growing crisis in the world's economy.

He suggests that the world's economy is running out of steam, that is, we—the industrialized nations—are heading for a prolonged period of economic stagnation. He makes a comparison between the present decline of the industrialized world and the fall of the Roman Empire. He suggests that in both cases the decline was gradual, and that in Rome, it was a result of many decisions made, many decisions not made, an inability to build new tracks when old ones ended and an unwillingness to rebuild its locomotive when it needed a new source of propulsion.

It is not beyond the realm of possibility that we too could suffer the same fate as ancient Rome if we do not change our ways. We must make the hard decisions and face the facts regarding our ailing economy if we are to survive and prosper.

I am submitting Mr. Thurow's article for the RECORD for my colleagues' perusal.

The article follows:

[From the Washington Post, July 26, 1987]

THE WORLD ECONOMY IS RUNNING OUT OF STEAM

(By Lester Thurow)

The central problem now facing the world economy is not the next recession but a prolonged slowing of the world's economic train. We are already in unknown territory. As a result, the way into the next recession—when it comes—may be so unfamiliar that we will not realize where we're heading. And the climb back to prosperity is likely to be unusually difficult.

For a decade and a half now, the world's economic growth has been slowing down. The slower growth of the 1970s was supposed to have been produced by the rise in world oil prices and the need to fight inflation. But it has been followed by even slower growth in the 1980s despite falling oil prices and no inflation. Remember the boom that was so confidently predicted when oil prices plunged in January of 1986? It did not happen. Instead, the world's economic growth performance became even worse.

All of this has been little noticed inside the United States because the slowdown has been less here than elsewhere, unemployment has continued to fall and the country has been living high on borrowed money. But with the performance of the U.S. economy now inexorbly linked with that of the rest of the world, a stagnant world economy eventually drags the United States down with it.

In the distant past (1945-1961), recessions arrived by accident. Some element of aggregate demand (defense spending in 1954, autos in 1957) would fall and the government would rush to the rescue with Keynesian economics—more money, lower interest rates, tax reductions or increased government spending. In the more recent past (1962-1983), recessions became instruments of macroeconomic policy-making, deliberately started by government in an effort to stop inflation. The recession now on the horizon, however, starts neither by accident nor by deliberate government policy. It is a recession that starts abroad because of the imbalances in world trade and then spreads back to the United States.

America's trade deficit represents a $170-billion addition to foreign demand. As a result there are at least 4 million foreign workers dependent upon the American market for their livelihoods. When America cures its trade deficit, these 4 million workers will lose their jobs. Take $170 billion worth of demand and 4 million jobs out of the economies of the rest of the world and the rest of the world is instantly plunged into a recession.

The falling dollar has now begun the process of curing the U.S. trade deficit. The improvements are as yet small; the dollar has much farther to fall. But the only uncertainty is how far the dollar will have to fall—and how long it will take—before the U.S. trade position swings from its current deficit to a surplus big enough to earn the funds necessary to pay interest on America's foreign indebtedness. (Right now the United States would have to be running a trade surplus of about $28 billion to meet its international interest obligations.)

Foreign exports into the American market are not yet falling rapidly, but both Germany and Japan already seem perched on the edge of recession. In both countries the confident economic forecasts made at the beginning of the year are now being revised downward. For the past 42 years both countries have relied upon U.S. growth and U.S. countercyclical policies to rescue themselves from recession. Neither country has been able to grow unless exports were rising. Yet if the U.S. trade deficit is to shrink, both countries must face a sustained period of declining exports.

This means that to fight their recessions, Germany and Japan will have to restructure their economies to be internally rather than externally led. Japan, for example, will have to make a major shift away from export industries, such as consumer electronics, toward domestic industries, such as housing and public infrastructure investments. Such structural shifts require time and generate internal political opposition. Major export industries don't want to become smaller and less important. As a result the incipient recessions that now loom in Japan and Germany are apt to be lengthy. The economic processes necessary to turn them around quickly just aren't in place.

These foreign events generate a variety of economic pressures inside the United States. If the rest of the world slips into a recession, the United States must cure its balance of payments by importing less rather than by exporting more. This means that the dollar must fall to the point where imports are so expensive that Americans cannot afford to buy the $170 billion in foreign goods they now consume. But rising import prices mean a rising rate of inflation. The trick will be to keep the necessary import inflation from spreading to domestic wages and prices.

To keep import inflation from spreading, import prices must not rise too rapidly—which means that the dollar must not fall too rapidly. The only effective policy for retarding the dollar's fall is higher U.S. interest rates. Yet higher interest rates lead to slower U.S. economic growth and increased probabilities of defaults by Third World debtors, small banks, farm debtors and overextended domestic oil or real estate operators.

Suppose that these pressures are enough to start a recession inside the United States. Once started, the Japanese, German and American recessions will interact in perverse ways. A U.S. recession leads foreign exports to this country to plunge still faster, and this intensifies those foreign recessions. If foreign recessions get bad enough, U.S. exports can fall despite a falling dollar. To correct the U.S. trade deficit, the dollar would then have to fall farther and faster to reduce imports by even larger amounts, making those foreign recessions yet worse. This would in turn intensify inflationary pressures in the United States and lead to yet higher interest rates.

Once simultaneous recessions have gotten underway and started to interact, how would one stop them? None of the classic remedies is available in the United States. Monetary policies and interest rates must be used to defend the dollar and keep import inflation from spreading. Taxes must be raised, not cut, and expenditures reduced, not increased, to prevent the crowding out of the private investment upon which the future success of the American economy depends. A betting man would give odds that the next recession is likely to be lengthy; the institutional mechanism and policies necessary to make it a short recession either aren't in place or don't exist.

The recovery from the 1981-82 recession was the last gasp of the old system. Because America was large, because the dollar was the world's reserve currency and because America had accumulated a cushion of $152 billion in net foreign assets at the end of 1982, the United States could and did play economic "locomotive" for itself and the rest of the world in 1983 and 1984. It could expand and simply tolerate a balance-of-trade deficit for three or four years before its currency started to fall, before it was faced with the situation that smaller, less wealthy countries face almost instantly. But the net foreign assets that provided that flexibility have now been expended. Instead of being the world's largest net creditor nation, as it was in 1982, America is now the world's largest net debtor nation with debts of about $340 billion in mid-1987.

The standard economists' prescription for the current economic situation does not meet the world's political realities. In the prescribed scenario, the American locomotive would be replaced by a hybrid vehicle made up of the three biggest economies—Germany, Japan and the United States. By carefully coordinating their monetary and fiscal policies, these three countries could do for the world economy what the United States did by itself for the last 40 years. Together they are just as large relative to the world's gross national products as the United States used to be, and if they agreed on a set of economic policies the rest of the world would have little choice but to follow along.

The new track prescribed for this locomotive would reflect the realities of both history and technology. It should lead to a much more integrated world economy. Trade should continue to expand faster than the world's GNP as more markets are opened up to foreign producers. Multi-national and trans-national firms should continue to move technology and capital around the world to wherever it can best be used. The communications and computer technologies that have created a world capital market should be further expanded to create a world economy in which the very concept of an American, Japanese or German economy would be obsolete.

But these economic recommendations imply a willingness to give up national economic sovereignty that simply is not there. Coordination is easy to say, even easier to praise, but it implies a willingness on the part of each of the coordinating countries to do things that they do not want to do. To reduce its demands on world capital markets, the United States would have to raise taxes. Americans don't want to raise taxes. To help pull the world economy, the Japanese would have to fundamentally restructure their economy to emphasize domestic consumption rather than exports. The Japanese don't want to restructure their economy. To play their role in the world economy the Germans would have to take a chance on generating inflation. Given the history of the 1920s the Germans don't want to take that chance. The result is economic summits like the Venice summit where the heads of state spend very little time talking about economics, agree on nothing, issue a communique at the end of their meeting praising coordination, but then go home and do none of the things that coordination would require.

Modern human beings like to think that economic progress is inevitable and that prolonged stagnation or decline is simply impossible. But human history is marked by many more years of stagnation than of growth. Once, as an educational joke when I was a student at Oxford, a don set me the task of writing an essay on the "optimal" rate of decline—the rate of economic decline that would lead to cessation of economic growth. I argued in the essay that if the decline were too rapid, it would set in motion economic and political forces that would lead to an economic rebound much as a basketball rebounds when it hits the floor. To end in complete stagnation, the slowdown had to be very gradual with substantial ups and downs to hide the fact that the downs were bigger than the ups. One slips into stagnation by not noticing that one has slipped into stagnation.

Thinking back on it, my optimal rate of decline looked very much like the actual slowdown that has occurred in the world economy over the past 17 years. In Europe for 17 straight years, the unemployment rate at the end of the year has been higher than it was at the beginning of the year. In America, the hourly wage rate after correcting for inflation is no higher than it was in 1970. In the Third World, per-capita GNPs are 10 percent below their peak values of a decade ago.

Yet there is remarkedly little protest anywhere. Governments that presided over stagnation regularly get re-elected to preside over more stagnation. People are adjusting to the fact that they will be unemployed for longer periods of time and that their children will not have a higher standard of living than they do.

To say that we are smart or well-educated is not to say that we are smarter or better educated than those Romans who watched the economic vigor of Rome decline in its last 100 years. For the truth about the Roman Empire is that it did not "fall" on any given day or in any given disaster. It very gradually declined as a result of many decisions made, many decisions not made, an inability to build new tracks when old ones ended and an unwillingness to rebuild its locomotive when it needed a new source of propulsion.

It is equivalent to the highest heresies of the Inquisition to even suggest that modern man could slip into a prolonged period of economic stagnation. We are too smart. I will probably be burned at the intellectual stake for even suggesting that it is a possibility. But think upon that possibility as I go up in smoke.

VA EMPLOYEES VOICE STRONG SUPPORT FOR THEIR MEDICAL COMPUTER SYSTEM

HON. G.V. (SONNY) MONTGOMERY

OF MISSISSIPPI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. MONTGOMERY. Mr. Speaker, a controversy over the effectiveness and cost of the Veterans' Administration's medical computer system, known as the Decentralized Hospital Computer Program [DHCP] system, has arisen in the Congress. As chairman of the Committee on Veterans' Affairs, I have scheduled many oversight hearings on this important medical computer system over the past several years and the reports on its effectiveness and costs have been uniformly very positive.

Since our hearing of April 8, 1987, on this important subject, I have received many letters from veterans and Veterans' Administration employees in support of the DHCP.

I would like to share with my colleagues a copy of a letter to Senator JAMES A. McCLURE from Mr. James A. Goff, Director of the VA Medical Center at Boise, ID, which demonstrates how the VA employees feel about "their" medical computer system. The letter follows.

BOISE, ID, *May 5, 1987.*

Hon. JAMES A. McCLURE,
U.S. Senator,
Dirksen Building, Washington, DC.

DEAR SENATOR McCLURE: It seems there is always someone who wants to fight success. I am referring to current proposals to eliminate the decentralized hospital computer program (DHCP) in the VA Department of Medicine and Surgery and replace it with a commercially produced package.

For over half of my 24 years in the federal service, the VA, with help from oversight agencies, stumbled around and made several false starts in attempting to computerize essential activities. Largely out of frustration, an underground organization emerged that developed necessary computer applications without the blessing of offices in Washington, DC. These programs were so effective that they were later legitimized by the agency as well as OMB and Congress, and we were authorized to proceed with further developments as rapidly as possible. The results have been startling. In a few short years we have gone from doing everything manually and having poor data to tracking many things through computers with excellent data retrieval. This includes such things as medications, admissions, discharges, transfers, scheduling, bed control, laboratory results, diets, radiology reports, eligbility for care, ordering, purchasing, accounting, etc. Even with all these programs we have only scratched the surface.

At this time there appears to be a threat to the DHCP from actions by the Appropriations Subcommittees on HUD-Independent Agencies. The issue seems to be whether we should continue to develop inhouse programs or turn to commercial sources for that support. Estimates are that full implementation of the VA system will cost about $750 million dollars whereas a commercially developed system will cost 1.5 billion dollars. At the moment $35 million dollars that have been appropriated for DHCP in FY'87 are in jeopardy of being rescinded.

To stop what we are doing and start over with a different approach would be devastating. It would set us back at least ten years, and we would probably lose control of our data and our patients. In these times of doing more with less we have been able to manage largely because of the speed and convenience the computers have offered over the previous manual methods.

I am writing to appeal to you to help us preserve the DHCP system and move it ahead as quickly as possible. At the moment, the only thing stopping us from utilizing additional computer applications is lack of hardware capacity. Funding for this hardware has been set aside in FY'87, but we have not been able to utilize it because of the debate described above. We need your support to help us continue to do the best job possible for our veterans.

Thank you.

JAMES A. GOFF.

MEDICARE PAYMENTS FOR PROSTATE SURGERY

HON. CARROLL HUBBARD, JR.

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. HUBBARD. Mr. Speaker, I have recently received a June 29 letter from my good friend and constituent, Dr. Stuart L. Brodsky, of Mayfield, KY, which I would like to share with my colleagues. Dr. Stuart Brodsky has contacted me about his opposition to a proposal before the House Committee on Ways and Means which would reduce Medicare payments for prostate surgery by as much as 15 percent, and he has expressed a number of detrimental effects this proposal would have if enacted.

I hope my colleagues will take a few minutes to read and consider his timely comments. The letter to me from Dr. Brodsky is as follows:

JUNE 29, 1987.

Hon. CARROLL HUBBARD,
House of Representatives,
Washington, DC.

DEAR CARROLL: I am a urologist practicing in Mayfield (Graves Co.) Kentucky and I am writing to express my deep worry concerning a proposal before the House Ways and Means Committee to reduce Medicare payments for prostate surgery by as much as 15 percent.

Prostate surgery (transurethral) resection of the prostate) is commonly performed on older men to relieve them of the problems caused by an enlarged prostate gland. The longer a man lives, the more likely he is to need this surgery. There is no other prudent or safe long-term alternative treatment. The complications of deferring treatment are costly, and they involve increased suffering along with progressive kidney failure.

I do not understand why Congress has selected this operation, so vital to public health care, for a payment reduction. Medicare reimbursement for this procedure is already lower than that provided by private insurance. I believe my TURP fee of $916.16 is reasonable and fair. It includes a variety of pre and post operative services in addition to my actual surgical work in the operating room.

I appreciate the need to control Medicare spending, but this attack on prostate surgery is both unwarranted and excessive. Most of us urologists will have to find a means to pass this payment reduction onto our patients because our costs, including liability insurance and staff payroll, are not being reduced by a commensurate percentage. I would prefer not doing this, but I don't know how I could possibly absorb such a large reduction in addition to other recent limits set on payment for medical services.

Congress should not adopt this measure because it is unfair to Medicare patients. It will decrease access to care, because older, more experienced urologists will be unable to persevere. At the same time, young physicians will fund Urology considerably less attractive as TURP constitutes the most common major operation performed by urologists. Implementation of the proposal would provide a two-tier medical care system, and our senior citizens would be the losers.

I hope you will timely oppose this proposal and encourage your Congressional Colleagues to do likewise. Thank you very much.

Sincerely,

STUART L. BRODSKY,
M.D., FACS.

THE INTRODUCTION OF THE HEALTH CARE WORKER HEPATITIS B VACCINATION PROGRAM

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. LANTOS. Mr. Speaker, since the 100th Congress was sworn in last January, between 4,000 and 5,000 health care workers have become infected with the hepatitis B virus. Over the same period, between 100 and 150 infected health care workers have died of hepatitis B complications. Even the Surgeon General of the United States, Dr. C. Everett Koop, was infected by the hepatitis B virus because of an accidental needlestick injury several years ago when he was a practicing surgeon.

If hepatitis B were one of many toxic wastes under EPA and OSHA jurisdiction, we would have had safeguards against occupational exposure a decade ago.

The tragic element in these statistics is that most of these infections could have been avoided. We have had a vaccine against the hepatitis B virus for 5 years. While the majority of major hospitals in our Nation have vaccination programs for employees, a significant number of hospitals and nursing homes do not. Vaccinations cost about $100 and often only those considered by hospitals as most at risk are offered the vaccine without cost. Those who are also at risk, from the nursing staff to the housekeeping staff, not only do not receive vaccinations but often do not receive education about risks. While over 60 percent of large hospitals in our Nation provide hepatitis B information and vaccine to at least some of their workers, almost the same percent do not provide training and vaccine to all at risk employees. Yet needlestick injuries—a common cause of occupational infection—are more prevalent among nursing and housekeeping staff members than other health care professionals who are protected against this potentially fatal virus.

For those reasons, I am introducing legislation which would require any hospital or nursing home receiving Federal funding to establish a free vaccination program for employees considered at risk for hepatitis B, as defined by the Centers for Disease Control guidelines on bloodborne viruses. Provision is made for those employees who choose not to be vaccinated, but it is incumbent on health administrators to provide education programs on hepatitis B and the vaccine.

My bill is simple. It requires all hospitals and nursing homes that receive Medicaid and Medicare funding to have a hepatitis B vaccination program in place within 6 months after enactment. If such a program is not in place, 10 percent of Federal payments each month would be withheld until a vaccination program is available to health care workers.

An appeal procedure is included and no funds would be withheld during the appeal process. Initiation of a hepatitis B vaccine program would bring a hospital or nursing home into compliance and payments would resume. Funds withheld during periods of noncompliance after appeal would be used by the Department of Health and Human Services for a grant program to assist hospitals and nursing homes needing assistance with the purchase of the vaccine and related costs.

Health workers are not supermen and superwomen. They are human beings who choose to work in a difficult and sometimes dangerous environment. But their workplace does not have to be as hazardous if precautions are taken—precautions we have known about for many years. My bill will encourage hospitals and nursing homes to implement safety programs to protect workers before they are exposed to the common and deadly occupational risk of hepatitis B.

Just last Thursday, at a hearing before the Employment and Housing Subcomittee, which I Chair, OSHA announced that bloodborne viruses would be considered occupational hazards, and Centers for Disease Control guidelines for protection of workers are now in place and enforceable through OSHA. Further protection for health care workers against bloodborne viruses is necessary, and provision for the vaccination of workers against the most common and potentially fatal virus transmitted in a health care setting is a natural step to ensure health workers the same protections we routinely demand in other professions and occupations.

THE 10TH ANNIVERSARY OF GALILEE VILLAGE

HON. PETER H. KOSTMAYER

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. KOSTMAYER. Mr. Speaker, I wish to take this opportunity to congratulate Galilee Village of Levittown, PA, on its 10th anniversary, to be celebrated later this year.

In 1971, a group of concerned members of Congregation Beth El in Levittown formed a private corporation whose express purpose was to build the first moderate-cost housing for the elderly in Bucks County. Through the dedicated work of these citizens and the auspices of the Pennsylvania Housing Finance Agency, the first residents were able to move into Galilee Village on August 16, 1977.

Ten years later, Galilee Village now houses 151 senior citizen residents in 120 apartments and provides them with a variety of services and activities. Lunches, minibus transportation, and maintenance are available, as well as a social worker. There are also resident captains in each building to aid residents with any problems that may arise.

A variety of stimulating activities brings the community together, including local trips, health fairs, and fundraisers. In addition, a monthly newsletter, the Galilee Gazette, provides residents with a forum for their poetry, personal messages, and information on upcoming events.

However, what impresses me most about Galilee Village is the warmth and vitality of both the residents and staff. My good friend Andy Flager, who has been the manager of Galilee Village since its opening, exemplifies the spirit and dedication of this community. From my many visits I know that the residents take pride in all that their community has to offer.

It is with this in mind that I ask my colleagues in the House of Representatives to join me in wishing the residents, staff, and founders of Galilee Village a happy 10th anniversary and continued success.

CONGRATULATIONS FOR ANGEL CORDERO

HON. ROBERT GARCIA

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. GARCIA. Mr. Speaker, this week a great milestone was reached in the world of horse racing. Jockey Angel Cordero, Jr., won two races Tuesday at Monmouth Park in New Jersey to become only the fourth rider in history to gain an incredible 6,000 career victories.

Cordero rode Lost Kitty to a dramatic victory to accomplish this impressive feat. Celebrating with his family immediately following his triumph, Angel still found time to meet with the press, sign autographs, and display the humor that has made him a favorite among race fans for over two decades. This historic achievement earns Angel a well-deserved place among horse racing's legends—an honor he has gained through his great skill and determination.

Angel Cordero was born in Santurce, Puerto Rico in 1942. He began his winning ways with a victory at El Commandante racetrack, Puerto Rico in 1961 at the young age of 18. Over his 25 year career, he has won more than $115 million, placing him third on the all-time list. His records, honors, and accomplishments could stretch for miles, but through it all, Angel has maintained the solid character and class which has earned him the respect and admiration of his public and his peers. Angel Cordero's achievement marks a great day for he and his family, as well as for all Puerto Ricans. He has represented his homeland with grace and courage.

I would like to take a moment to point out to my other colleagues the achievements of many highly successful individuals of Puerto Rican heritage. Angel Cordero is one of a long list of Puerto Rican luminaries, including individuals such as Luis Munoz-Marin, Roberto Clemente, Jose Ferrer, and Raoul Julia. Certainly, anyone who has had the pleasure to work with my friend and colleague, Resident Commissioner Jaime Fuster, realizes the depth of character and pride which all of the fine people of Puerto Rico possess.

RIVERDALE SCHOOL

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. DORGAN of North Dakota. Mr. Speaker, today I am introducing legislation to direct the Army Corps of Engineers to make repairs to the Riverdale School in Riverdale, ND needed to meet present safety and health codes.

The town of Riverdale was established in 1947 by the Army Corps of Engineers for its employees working on the Garrison Dam project and just celebrated its first anniversary as an independent town. In July 1986, the town was transferred to the local residents. While the transfer has been beneficial for almost all concerned, the school building should not have been part of the transfer. According to a recent study by the corps, more than $1.5 million is necessary to rehabilitate the school building up to current State standards.

For 29 years the corps had the responsibility to provide a safe environment for the students in Riverdale. Because they have failed to meet this responsibility, we now have children attending a school with asbestos, exposed wiring, buckled floors, an inadequate heating system and other dangerous problems. The repairs need to be made immediately to insure the safety of the children attending the school.

Because the need is so great, I am introducing legislation to rectify this appalling situation. The dangerous state of repair at the Riverdale school constitutes an extraordinary situation. The corps's 29 year obligation to these children should not be overlooked simply because just over 1 year ago the town and school was deeded to the city of Riverdale. The children of Riverdale deserve to go to school and give their full attention to their classes, not the unsafe conditions of their classroom. The text of my legislation follows:

H.R. 3043

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army, acting through the Chief of Engineers, and utilizing funds heretofore made available to him for the same general purposes, shall make necessary repairs to the Riverdale School in Riverdale, North Dakota, to repair damage resulting from the failure of the Corps of Engineers to properly maintain the School during the time when the Corps was responsible for the School's operation and maintenance. Nothing in this Act shall be construed as authorizing any new appropriations.

CATASTROPHIC PROTECTION

HON. DAVID DREIER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. DREIER of California. Mr. Speaker, H.R. 2941, the Medicare Catastrophic Protection Act which was passed by the House on July 22, has been criticized for, among other things, not addressing the more serious aspect of catastrophic protection: long-term health care for serious and chronic illness. One alternative to long-term hospital or nursing home care is the concept of home care. The private insurance industry is willing to provide adequate coverage in this area if Congress were to provide some very simple incentives.

On April 30, the Republican Study Committee conducted a hearing to examine various options for providing long-term health care coverage through private sector mechanisms. At the hearing, we heard from Mrs. Elaine Donnelly of Livonia, MI. Her father is diagnosed as having Lou Gehrig's disease, and is cared for at home. In her testimony, Mrs. Donnelly expands on the benefits of home care, and I would like to share her comments with my colleagues.

TESTIMONY OF MRS. ELAINE DONNELLY BEFORE THE HOUSE REPUBLICAN STUDY GROUP

I appreciate the opportunity to speak to you today, both on behalf of my father, Basil J. Chenevert, and as Chairman of the Michigan Republican Party's Issues Committee. At our February 20–21 State Convention in Lansing this year, 1,581 Michigan Republicans voted for a resolution ". . . in support (of) initiatives to encourage reasonably priced *private medical insurance coverage as opposed to an extension of Medicare*—to provide coverage for long-term catastrophic illness" (emphasis added).

I have a personal interest in this issue because of my father, Basil J. Chenevert, who is an extraordinary man who knows first hand about the pain and despair of catastrophic illness. I am here today, however, to convey a message of hope and determination that is extremely important and relevant to the subjects you are considering.

In early 1979 my father was diagnosed as having amyotrophic lateral sclerosis, also known as Lou Gehrig's disease. A.L.S. is a cruel disease that slowly and relentlessly attacks the central nervous system and paralyzes the muscles of the body. The grim effects vary, but many A.L.S. patients quickly lose the ability to speak, as well as the ability to move. Progressive paralysis usually leads to dependence on a mechanical ventilator, or respirator, for the very breath of life. At the present time, there is no cure.

A.L.S. does not affect the victim's mental abilities, however, which is a blessing. My father has used his undiminished intellect and power of imagination to figure out dozens of ingenious ways to cope with the physical ravages of Lou Gehrig's disease. Even though he is almost completely paralyzed at this time, he continues to enjoy a number of hobbies, and even manages to go sailing on his boat, respirator and all, when the weather is warm and the wind is right.

My father and all of us in the family thank God every day, not only because he has lived beyond the average predicted survival time for people with his ailment, but for the fact that this period of this life has been given comfort and meaning by a relatively new concept—the concept of home care—as an alternative to long-term hospital care.

Home care is a humane, cost-effective, and compassionate healer of patients and families when catastrophic illness strikes. In spite of my father's indomitable spirit and will to live, I don't know how he could have survived and lived such a full life, in spite of A.L.S., without the benefits of home care.

Dad asked me to speak to you today because he is all too aware of the fragile character of his own good fortune in having the benefit of 24 hour care at home. Where it not for an important decision that he and my mother made in 1978—a decision that seemed relatively unimportant at the time—there is no doubt that my father's financial resources and savings would have been wiped out long ago. If my father had not accepted his employer's offer to switch from conventional hospitalization coverage to a health maintenance organization (HMO) plan, one year before he was diagnosed as having A.L.S., he would have had no alternative but to live his life out in the cold sterility of a hospital ward. That's the only kind of care that his conventional plan would have paid for. There is no question that any attempt to finance home care on his own would have quickly wiped out his financial resources, including the savings he intended to provide for my mother's future.

As my father has written in his monograph entitled Taking Hopelessness out of Helplessness, there are times when the concentration of medical skill, knowledge, and sophisticated life-saving equipment which hospitals offer is critical at certain stages of almost any serious illness. But when the patient is stabilized and recovery begins, the support of the family in familiar, non-institutional surroundings can actually accelerate recovery. This is especially true for children for whom separation from home is particularly traumatic.

We all know that despite elaborate precautions, hospital care is not always the best option for all patients. Hospitals present a higher risk of dangerous infection than exists in most average homes, and the bureaucratic inertia that hospital patients must face in making even the simplest of requests can be most frustrating.

With respect to terminally ill patients, when the prognosis cannot be changed, it is cruel to relegate the patient to continued hospital confinement. Since nursing homes usually refuse to accept patients whose lives depend on high-tech medical equipment like the respirator that my Dad uses, home care clearly becomes the only compassionate alternative.

I hope you will consider my father's story, and the difference that home care has made for him, as you formulate a legislative strategy to deal with the problems of catastrophic illness. Seven years ago, at the age of 60, Dad was looking forward to many happy years of retirement after a career as a mechanical engineer with one of the large auto companies. Then A.L.S. struck. The next three years were spent trying to adjust to relentless disability progression.

As a confirmed "do-it-yourselfer," who had personally built two additions to the family home, it was particularly discouraging for Dad to gradually lose the ability to work with his hands. Nevertheless, he gradually adapted his home with all sorts of useful devices to ensure mobility and safety.

Near the end of the third year, the only way he could move or be moved was in a wheelchair. He had been in and out of the hospital many times with numerous gastrointestinal problems, anorexia, impaired breathing, and a severe depression that sprang from doubts about his future.

It was a shock to realize that Dad would have to depend, in an ever increasing degree, on a machine in order to remain alive. At one point Dad was given a choice between breathing and talking. (A cuffed tracheotomy tube, inserted in the throat and attached to a respirator, usually blocks the vocal cords.) In his monograph, Dad tells the story this way:

"Above all, it was the prospect of relentless progression toward immobility, combined with speechlessness, that made whatever seemed to be left of life completely meaningless. During this grim period, my spirits hit bottom. At that time there was no certainty about whether home care would be feasible . . . (or whether it) would be covered by my health insurance . . . I needed anti-depressants and required pain killers and sleeping pills to avoid lying awake at night. As bad as things were, it seemed they could only get worse.

"Fortunately, in my case, subsequent events proved that this early despair was unwarranted . . . It was my good fortune that a progressive hospital was responsible for my care, and they encouraged and effectively promoted home care. They organized regular visits by special nurses and therapists to my home to coordinate my care . . . (The young woman doctor assigned to me) had the flexibility to allow experimentation in the care I received, even to the extent of accepting input from me when I felt that I understood what was happening . . . It's amazing how much you can learn about a piece of medical machinery once you realize that your life depends on it.

"The dramatic improvement in my physical condition and comfort includes the following: My appetite revived, and I am back to what I believe is over 150 pounds . . . (painful gastro-intestinal decreased and have ultimately ceased almost completely. I am now off sleeping pills and pain killers.

"The most remarkable thing of all is that I found a way to retain my ability to talk, despite the fact that I must be connected to the machine for breathing 100% of the time.

"There is no question in my mind that home care is responsible for this marked improvement in my physical condition and attitude. I am living and participating! The key factor that makes home care effective is the freedom and flexibility that it allows in my existence and treatment. No such leeway could have been allowed in a hospital where rigid procedures are dictated by specialization and a heightened awareness of malpractice vulnerability."

Home care has given my father the freedom to make a number of changes that not only improved his health, but also allowed him to reduce the frustrations of complete dependency on others. The ALSSOAN magazine, Winter Edition, 1983 (copy attached) briefly tells the remarkable story of how he and his doctors adapted a special trach tube that is both more comfortable and allows him to talk. Dad's monograph, which was dictated with some difficulty, includes the details on this story and descriptions of the dozens of ingenious inventions and procedures that he has devised to help control his home environment and enjoy life in spite of severe disability.

Dad reclines on a special chair that he designed to meet his needs for personal care with privacy, even though he is always in the center of activity in his own home. The chair can be wheeled out, lifted, transported in a station wagon, carried out on a boat dock, and suspended from a metal boom on my father's sailboat when he decides to go sailing, respirator and all.

I doubt that even Dennis Connor at the helm of *Stars and Stripes* enjoys a sail more than my father when he goes sailing with his family on the *Second Wind.*

Most importantly, Dad is free to enjoy continuous interaction with the family, and to be a part of countless family get-togethers and celebrations. He's been there to enjoy grandchildren ranging from infancy to college age, and he's been there to help all of us with good advice when we need it.

As my father wrote, "Long-term care provides the comforts of life with those we love in a place most of us would choose above all others. To many A.L.S. patients, the difference between hospital care and home care is the difference between being kept alive, and being able to participate in life."

It hasn't been easy for my mother to cope with the challenges of home care, but the only thing worse would have been trying to cope without it. Our hearts go out to patients with catastrophic illness who have not been so fortunate. That's why I'm here today.

In formulating a Republican approach to the problems caused by acute and long-term catastrophic illness, my family and I hope that you will keep in mind that the first and primary Department of Health and Human Services has always been the family. With reasonable financial help and/or flexible insurance plans, families can rally around to sustain a loved one when catastrophic illness strikes. It is not true, as Secretary Bowen suggested in his November 20, 1986 statement (page 4) that "Most long term care is provided *free of charge* by relatives and friends." (emphasis added) Medical supervision, equipment, semi-skilled care and supplies do cost money.

The cost of home care is almost always far less than institutional care, however, as well as being healthier and more humane for the patient and family. The same kind of technology that helped to put men on the moon is being put to work to miniaturize the machinery used to sustain life. For example, the portable respirator that my father uses, which is small enough to fit under the seat of some wheelchair models, is the high-tech successor to the large and expensive iron lungs of yesterday.

Please note that one major insurer, Aetna Life and Casualty, estimates that it saved $26 million in reimbursement costs last year as a result of home care. (Newsweek, "Staying Home, Feeling Better," July 7, 1986.)

Newsweek cites the case of one 12 year-old child with congenital abnormalities who (like my father) required a ventilator, a tracheotomy, and round-the-clock nursing. The daily cost of care for this child at home was $102.22, compared with $1,944.67 at the hospital.

A recent survey done by the National Association for Home care (NAHC) found that the average cost of care for a ventilator-dependent person in a hospital is $270,830 per year. In a home health setting, that same care drops to an astonishing $21,192 per year.

In my father's case, the cost of semi-skilled medical aides plus life-support equipment and back-up systems comes to about $307.00 per day. If he were being cared for in a hospital, the cost would range between $1,000 per day for a non-emergency room, to $1,450 per day for an intensive care unit room. (Again, nursing homes generally do not accept ventilator-dependent patients.) In other words, my father's home care, which is far better and more humane for everyone concerned, costs about one-third as much as comparable hospital care.

Home care as an option is not only cost effective, it is popular with American families. A recent survey by the National Association for Home Care (NAHC) found that 72% of Americans favored home health care over nursing homes for patients needing frequent medical assistance. Republicans should sieze the initiative in encouraging the kind of flexibility in both public and private insurance plans that will allow home care for those patients and families who desire it as an option.

I do not claim to be an expert on the Medicare/Medicaid system, the federal tax code, the many state laws affecting the health care industry, nor the many complicated federal and state bills being proposed right now to deal with acute and long-term catastrophic illness.

Suffice it to say that as a taxpayer, a Republican, and a person whose family has been directly affected by catastrophic illness, I believe that the government cannot and should not promise to be the health care provider of first resort. Instead, government policy should be to encourage private inititatives to provide insurance coverage for the most expensive kinds of medical care, while making such coverage easier to obtain.

Any program that would mislead or lull the American people into a false sense of security with regard to their medical protection would be a big mistake. A recent survey by the American Association of Retired Persons (AARP) found that 80% of those surveyed believed that Medicare covers long-term care costs. In addition some private MediGap policies mislead people with regard to the comprehensiveness of their coverage.

This misinformation among the elderly and younger people alike, and the dangerous false sense of security that it leads to, must be confronted head-on because it is a *serious* part of the problem.

This is one of the reasons that I was dismayed by the announcement of Secretary Bowen's Medicare extension plan. Aside from the fact that it displaces and discourages private insurance to supplement Medicare coverage, the Bowen plan has already raised expectations that *cannot* be met by the govenment. Instead of the Bowen plan and the Stark-Gradison bills (HR 1280 and 1281) which would be the first step in the Medicare extension plan, I would rather see the adoption of more sound and realistic proposals to encourage the protection of people of all ages in the event that catastrophic illness strikes. Based on my family's own experience, here are some suggestions:

A. PRIVATE INDIVIDUAL AND GROUP INSURANCE—BEFORE RETIREMENT

(1) Appropriate tax benefits should be used to encourage individuals and self-employed people to buy comprehensive insurance plans to cover health services that extend beyond acute hospital care, including home care as prescribed and supervised by a doctor. (Such services might include doctor, nurse, or medical aide visits, outpatient care, physical therapy, personal care, long-term care by semi-skilled medical aides, equipment and maintenance, liability coverage, the training of family members or volunteers, etc.)

(2) In the same way, appropriate tax benefits should be used to encourage employers to provide group insurance plans to cover health services that extend beyond acute hospital care, including home care as prescribed and supervised by a doctor.

(3) Group insurance coverage should be "portable," or available for individual pur-

chase at reasonable rates by workers who leave a given company.

(4) Exclusion clauses that rule out doctor-prescribed and supervised home care services for acute or long-term chronic illness should not be permitted in individual or group health insurance policies.

(5) Health Care Savings Accounts should be established, but there should be provisions for people to use a portion of their HCSA savings to purchase catastrophic and long-term health care insurance *before* retirement as well as after.

(a) A I understand it, 60% of the HCSA would be unavailable for withdrawal before retirement, in exchange for a tax credit in the same amount. The remaining 40% would be available for withdrawals, but with the same 10% penalty that applies to early IRA withdrawals. If money is taken out of a HCSA before retirement for the purpose of buying catastrophic or long-term health care insurance, then the 10% penalty should be waived.

(b) Comprehensive insurance is usually less expensive when purchased at an earlier age. Even if the cumulative cost over the years is about the same as a lump-sum high-cost annuity purchased at retirement age with funds saved in HCSA, a plan for smaller annual premiums may be more workable for many families.

(c) This option would also help to dispel the misleading notion that a HCSA, in itself, is sufficient to cover all future health care costs, and that comprehensive insurance coverage is not needed.

(This is a dangerous notion—my father's care over the past four years alone has probably cost about half a million dollars. An HCSA alone would not be enough to cover expenses like this.)

B. PRIVATE INDIVIDUAL AND GROUP INSURANCE—AFTER RETIREMENT

(1) If Health Care Savings Accounts are established and Funds are used after retirement to purchase lump-sum annuities, such policies should be required to cover acute catastrophic care in the hospital, plus long-term nursing home or optional home care services, as prescribed by a doctor, without limitations.

(2) Every effort should be made to encourage the purchase of comprehensive health insurance with HCSA funds, instead of giving people the impression that Medicare and savings alone will cover all contingencies.

C. THE MEDICARE-MEDICAID SYSTEM AND STATE LAWS

(1) I agree with those who have pointed out that Secretary Otis Bowen's Medicare extension plan, plus the Stark-Gradison bill and similar plans, are not the answer to catastrophic health care costs.

(a) Medicare is already going bankrupt under present demographic trends. According to the Medicare trustees, in order to bring the Hospital Insurance (HI) program into financial balance, "either outlays will have to be reduced by 22% or income increased by 28%." It doesn't make sense to add more burdens to this system.

(b) Proponents of a Medicare "Part C" extension program for catastrophic illness argue that additional premiums or taxes on benefits will make it self-financing. But when the Voluntary Supplemental Medical Insurance (SMI) "Part B" program was first legislated, half of the premiums were to be paid by the elderly, and half by general revenues. By 1985, however, general revenue contributions had already increased to over three-quarters of the total cost of the Part B program, and the share is still growing.

(c) The proposed Medicare extension program would do little more than displace the private "medigap" policies that 70% of the elderly already have. This is not a proper function of government.

(2) Even though most private "medigap" policies already include coverage for catastrophic hospital expenses, it may be helpful to change the law governing such policies to require such coverage.

(3) Medicare Part A (HI) coverage should be flexible enough to allow for home care as an option—for both acute and long-term illnesses, as prescribed by a doctor in lieu of hospital or institutional care. Home care services might include doctors or nurses visits, semi-skilled medical aides, equipment and maintenance, supplies, and the like.

(4) Federal waivers to allow the states to cover home care services as an option when prescribed by a doctor should be extended to all of states. (See attached letter from the Missouri Department of Social Services) The home care option should be available not just for children and the elderly, but for everyone.

(5) States should be encouraged to establish high-risk insurance pools to cover the medical costs of people who are "uninsurable." Doctor-prescribed and supervised home care, in lieu of institutional care, should be available as an option under such plans.

(6) State taxes on catastrophic or long-term health insurance policies should be eliminated.

(7) This Administration should take the lead in raising public awareness about home care, both at the federal and state levels.

(a) It seems that families must cope virtually alone, because there is no way to share moral support and practical information.

(b) We are hoping to find a way to publish my father's monograph and get it into the hands of patients and families who might benefit from his ingenious suggestions about patient safety, comfort, and hobbies in the home. Perhaps similar projects could be launched by public or private organizations.

In conclusion, I must say that I congratulate President Reagan and the Administration for recognizing that patients who face long-term illness must be protected from a choice between institutional suffering, or personal financial ruin.

In formulating a Republican plan to turn the President's intent into reality, please don't forget the strength and willingness of America's families to care for their own. Optional home care is popular, cost-effective, and possible for more and more people, but only if public and private insurance plans are made flexible enough to make it possible.

If, as the prayer says, God can grant us the serenity to accept the things we cannot change, the courage to change the things we can, and the wisdom to know the difference, all sorts of obstacles can be overcome. From our own personal experiences, my family knows that the effort is worth it.

PENALIZE FOREIGN FIRMS FOR SECURITY BREACH

HON. JOHN BRYANT

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. BRYANT. Mr. Speaker, two foreign corporations—Toshiba of Japan and Kongsberg Vappenfabrik of Norway—have severely compromised the national security of the United States and the democratic nations of the world by making illegal sales to the Soviet Union.

I believe the Japanese and Norwegian businessmen responsible for this travesty deserve to go to jail and forever be barred from doing business with the United States. Unfortunately, these foreigners are probably beyond the reach of U.S. law enforcement, and the Reagan administration, which has been reluctant to impose tough sanctions against the excesses of our international trading partners, would probably not accept any permanent ban on business with these companies.

Toshiba and Kongsberg—in violation of inspection procedures set forth by the Coordinating Committee for Export Control, which monitors exports of strategic goods to Communist countries—sold state-of-the-art submarine propeller technology to the Soviet Union.

The companies, which profited greatly from the sales, falsified documents in applying for export licenses in order to avoid inspection procedures for shipments to Communist countries. In other words, these companies and their key executives knew exactly what they were doing.

The new propellers, much quieter than those currently in use on Soviet submarines, will make detecting them with our sonar underwater sensing devices much more difficult. It is estimated that recapturing the former level of U.S. submarine superiority may cost the United States as much as $30 billion.

As a result of the greed of these companies and their insensitivity to the security of the free world, the Soviet Union will soon be able to avoid detection and maneuver their submarine-based nuclear missiles to within 10 minutes of United States targets.

In my estimation, no action we could take as a nation could be too severe in dealing with this reprehensible breach of security.

Legislation to penalize Toshiba and Kongsberg does not fully express my outrage or that of the American people, but the very least we should do is penalize the companies which profited from the sale in the place where they are sure to feel it—their corporate pockebooks.

That is why I have cosponsored and proudly support legislation that would prohibit the U.S. Department of Defense from purchasing or reselling in military exchanges any products manufactured or assembled by Toshiba—a penalty that will cost Toshiba at least $23 million a year—and a complete ban on all imports of Toshiba and Kongsberg Vappenfabrik for 5 years with absolutely no ifs, ands, or buts.

And I have joined with many of my colleagues in letting the Secretary of Defense know that I think it is intolerable to permit Toshiba to bid for a $1 billion Pentagon computer contract. Toshiba must be disqualified from the possibility of ever obtaining our Government's business. The United States cannot allow companies which threaten our national security by illegally selling our technology to our enemies to potentially profit further by competing for defense contracts.

Let us send a clear message to our trading partners: We expect the security of the democratic nations of the world to be protected by all of us and all of our businesses, and we will take the strongest possible action against those who jeopardize our common interests.

RENT SEEKERS ON THE HILL

HON. PATRICK L. SWINDALL

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. SWINDALL. Mr. Speaker, as the House and Senate conferees begin to meet to work out a compromise between their respective housing bills, I want to call to my colleagues' attention the following article which recently appeared in the Washington Times newspaper. This article raises a good question as to whether either of these bills will actually benefit the very people whom the bills are designed to benefit. Is it not the politicians themselves who are positioned to gain the most? By pursuing a "rent seeking" policy, we are only perpetuating the problem.

The article follows:

[From the Washington Times, June 25, 1987]

RENT SEEKERS ON THE HILL

Both houses of Congress have adopted housing bills that illustrate the central truth of public choice economics: that politicians use social programs as a way of buying the support of goups that can help them prolong their political careers. This behavior, called "rent seeking," involves a swap: a program for future political support. Often lost in that swap, however, are the very people who are supposed to benefit from the legislative "transaction." The housing bills, and especially the House version (HR 4) fit into this category.

Both measures arise from the increasingly popular claim that a skinflint Reagan administration has pushed the middle class onto the streets and that Congress alone can house these victims of economic growth. This claim not only ignores the present economic recovery, the longest of the postwar era, which has witnessed the creation of 14 million jobs. It also overlooks the fact that the federal government has authorized well over $300 billion in subsidized housing since 1937, with $225 billion of that sum still unspent. Even if Congress failed to approve another dime for subsidized housing, builders still would erect another 150,000 units just to fulfill prior commitments.

But that didn't satisfy the rent seekers on the Hill. The bill would cost taxpayers more than $19 billion in new budget authority for the 1988 fircal year—$7 billion more than the amount requested by the administration—and a whopping $148 billion, nearly double the president's request, through 1992. The bill fattens up budgets for the Department of Housing and Urban Development and rural subsidized housing grants, although billions also remain in the pipeline for such schemes.

The House and Senate measures also include corporate welfare provisions such as Urban Development Action Grants, which the Reagan administration sought to eliminate over the objections of Democrats and Republican alike. UDAGs, developed during the Carter administration as a way to help revive dying downtown areas, have become the chief tool of developers eager to have government defray construction costs. Most have been used not to build factories or even affordable housing. Instead, they have become a common feature in the financing of everything from fast-food restaurants to hotel complexes to theme parks. Although the program now is a decade old, there is no overwhelming evidence that it has even slowed the decline of urban areas, let alone spawned their revitalization.

The bill also creates a new "Nehemiah" housing program that finances interest-free loans to "low income" families seeking to purchase homes. The problem is that the eligibility standards for the loans are so lax—115 percent of an area's median income—that the program merely becomes a form of Yuppie aid. In Philadelphia, for instance, an impoverished person making $35,000 would qualify. The qualifying income in rises to $38,000 in Dallas and Seattle, and to nearly $39,000 in Boston.

But that's not all. The House measure also includes a twist that actually hurts urban homesteaders at the expense of construction unions. The language, inserted by Connecticut Rep. Bruce Morrison, would impose collective-bargaining restrictions on tenant-management contracts. That means that people like Kimi Gray, who helped turn the District's Kenilworth-Parkside apartments around, and recently has begun working in Alexandria, would have to sign collective bargaining contracts in order to rebuild and refurbish decaying housing projects. That sort of language, Mrs. Gray has argued persuasively to Congress, is not designed to help the people who actually must live in subsidized housing areas. It's designed to increase union business.

"In many instances," she has written of the proposed bargaining restrictions, "these restrictions would prohibit resident management corporations from hiring low-income, inner-city residents to perform on-site maintenance, while grossly inflating their budgets with unnecessary work rules—this practice will drive poor people out of the property management business."

That is classic rent seeking. Congress, responsive to the wishes of developers, union contractors, and yuppies, has drafted a bill that isn't likely to change dramatically the plight of housing's supposed beneficiaries: the poor. Although most evidence, visual and statistical, indicates that American housing programs at best have been a failure, Congress and the administration alike have not promoted initiatives, like the privatization of public housing, that elsewhere have helped put an end to housing-block blight.

The honorables instead have written a $19 billion check to developers, unions, and hoteliers—out of compassion for the poor.

A LESSON IN LEADERSHIP

HON. ROBERT H. MICHEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. MICHEL. Mr. Speaker, I recently received in the mail a column written by Mr. William J. O'Neil, chairman, Investor's Daily. Mr. O'Neil asks: "How often should our Presidents be right?" He answers that question with a list of 17 major decisions made by President Reagan in which the President has demonstrated leadership. I believe this article should be read by all of those who want to concentrate on errors that are made while forgetting the courageous and successful decisions made by President Reagan.

At this point I wish to insert in the RECORD, "Mr. Perfect President—Part I", by William J. O'Neil, from the Investor's Daily, July 13, 1987.

The article follows:

[From the Investor's Daily, July 13, 1987]

MR. PERFECT PRESIDENT—PART I

(By William J. O'Neil, Chairman, Investor's Daily)

Teddy Roosevelt was once asked, "How often do you expect your decisions to be right?" He confessed, if he could be right 75% of the time, he would be doing great.

So, how often should our presidents be right? Should we demand they be correct 100% of the time . . . Mr. Perfect Presidents? If our current president has been on target seven or eight times out of 10, and he makes a mistake, should it be blown into a national crisis by our media? The leader who makes no mistakes is the leader who makes no decisions, takes no risks and, therefore, achieves nothing for us.

Here is a list of some of our president's policy decisions that have worked.

1. In January 1981, he lifted price controls on domestic oil amid Congress' protests that oil prices would sky-rocket as a result. Instead, oil prices promptly topped at $32/barrel and eight years of spiraling inflation began to unwind

2. He rebuilt our sadly depleted defenses, restored pride in our military, the presidency and our country so that a voluntary peacetime army became a reality and the earlier notion of a draft, mere fiction.

3. Over congressional objections, he cut everybody's taxes and slowed the explosive growth rate of government spending.

4. Inflation dropped from a high of 13.5% in 1980 to 1.9% in 1986.

5. The prime interest rate has decreased from 21% in 1980 to 8¼% currently. . . . Interest rates increased under Presidents Johnson, Nixon, Ford and Carter.

6. He launched one of the longest lasting economic recoveries on record, now in its 55th month. Examples of our economic growth include: A rise in consumers' disposable income of 46% between 1980 and 1986, net worth of Americans reached $3.4 trillion in 1986, up 39% from 1981; the value of corporate and government pension funds is up a phenomenal 160% since 1980, helping secure safe retirement for 52 million Americans; 13 million new jobs were created, our entrepreneurial spirit has been re-kindled as 2,600 companies had initial public offerings, and faith in the U.S. economy has been re-

stored as evidenced by foreign investment in U.S. securities.

7. He revitalized the idea of democracy throughout the world and witnessed the trend shift from socialism toward free enterprise in England, France and other countries.

8. His administration took a strong stand on drugs. Budget authority for drug law enforcement, prevention and treatment has climbed 150% from $1.2 billion in 1980 to a proposed $3 billion for 1988.

9. He achieved his objective of rewriting the tax laws in 1985 after everyone agreed "it couldn't be done."

10. Ronald Reagan stood firm at Reykjavik on S.D.I., when all our national media said his stand was wrong . . . now the Russians are coming to the negotiating table.

11. The Grenada invasion sent Cubans home, rescued grateful American students and caught, by surprise, our national media whose predetermined judgment was again negative.

12. The Libyan air raid subdued Col. Qadhafi and his terrorists.

13. U.S. fighter jets successfully forced down the Egyptian jetliner carrying Abul Abbas and other terrorists from the Achille Lauro hijacking.

14. His administration properly assisted the Philippines in their safe break from a right-wing dictator's rule.

15. The same was done for Haiti.

16. He cracked down on Soviet spies, the stealing of U.S. technology and established parity in the number of Soviet versus U.S. embassy personnel and U.N. representatives.

17. He is the first president since Truman to halt the spreading tide of communism in the world by providing help and encouragement to democratic resistance fighters in Afghanistan, El Salvador and Nicaragua. His doctrine of support for those willing to fight for their countries' freedom and to resist unwanted communist totalitarian takeovers could be one of his soundest long-range decisions.

How many incorrect decisions has our president made?

1. The Iran arms sale.

2. Sending marines to Lebanon as part of a four-nation peacekeeping force without sufficient intelligence support.

The score: successes 17, mistakes 2. Most Americans would say batting .895 is an outstanding record. Why then has the Iran episode managed to totally distract us from the good accomplished by this administration? Has the media been fair and unbiased?

No, they have pumped the Iran initiative to scandal proportions.

Little damage has actually been done by the initiative itself, certainly a lot less than the enormous good achieved for millions of Americans by the successes listed above.

It's time for the public to place this one incorrect decision in proper perspective. And it's time our national media stop undermining the nation and presidency by inundating the American public with overwhelming one-sided opinions and criticism.

Instead, we should be proud of the accomplishment of this administration and Congress and encourage them to continue to exercise their judgment with courage and competence.

EAGLE SCOUT FRANK CZUBA

HON. WILLIAM O. LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. LIPINSKI. Mr. Speaker, it is with great pleasure that I call to the attention of my colleagues an exemplary young citizen, Frank Czuba. He will be recognized on Sunday, August 23 for achieving the highest rank in scouting, "Eagle Scout."

In becoming an Eagle scout, he will join the ranks of a very select group. The individual tasks which he had to complete are impressive alone. These tasks challenged every facet of his personality—mental, physical, psychological and more. His accomplishment becomes even more notable when it is veiwed cumulatively. That is, the entire sum of achievements and the perserverance of character demanded illustrate just what high caliber young man Frank is.

In today's society, our youth are truly bombarded with a variety of lifepaths to choose from. While the freedom of choice is in itself good, too often we hear of young people who are led astray by the ignorance of their years to a lifestyle they do not deserve. It is always refreshing to recognize young men who choose a constructive way of life and also excel at it. Though some credit should be given to the family of this young man and to the scout leaders who provided support, Frank today knows that he can participate in society in a manner that will benefit himself as well as his community.

The achievement of attaining the rank of Eagle Scout lays an excellent base for a productive future. I'm sure my fellow Members of Congress join me in wishing Frank the best of luck in his future endeavors.

WASHINGTON POST ENDORSES HATCH ACT REFORM

HON. WILLIAM (BILL) CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. CLAY. Mr. Speaker, the Washington Post, in its editorial dated July 23, 1987, has once again called for reform of the Hatch Act.

The Post editorial highlights the absurdity of the current regulations enforcing the Hatch Act and the act itself. To spend time devising regulations on the size of campaign yard signs versus the size of signs to be placed on family automobiles by Government employees is ludicrous.

The testimony given by the wife of a letter carrier before the Subcommittee on Civil Service enforces the argument for Hatch Act revision. She was a candidate for city council. She told the subcommittee that her decision to run for office was a family decision. Because she could not get a clear answer about using her husband's picture in her campaign literature, she took the safest route and did not include him in the photo for fear of jeopardizing his job as a letter carrier. During her campaign she kept having to defend herself against rumors that she was divorced as well as being forced to attend campaign events by herself. She characterized her town as highly ethnic and family oriented and rumors of divorce hindered her campaign.

Members of Congress unknowingly may find themselves in a similarly precarious position if a family member is a Federal or postal employee. In my own case, I could have jeopardized my daughter's position as a postal employee had I included her in a family picture in my reelection campaign literature.

There are over 3,000 administrative rulings that govern the Hatch Act. These rulings are not understood by either the public or the Federal and postal employees to whom they apply. As a result, these employees end up playing it safe and not taking advantage of the very limited rights they do enjoy.

As I said in my testimony before the Civil Service Subcommittee, which recently conducted hearings on my bills to reform the Hatch Act.

It is not enough that Federal employees have the right to vote. Voting is merely the bottom line of the complex political process. Voting is the last event to take place in that tedious, long process of successful campaigning. Participation in the grand debate that decides who will be on the final ticket, through months of expressing opinions, persuading friends, relatives, and neighbors in the primaries determines who will speak for voters in this representative government.

Since 1975, when I first began introducing legislation to reform the Hatch Act, I have said that this law is confusing and overly broad. Twelve years later this statement remains valid. Today I believe we are closer to revising this "suspect law" as the Washington Post so appropriately labels it.

I commend the Washington Post editorial to the attention of my colleagues:

REVISE THE HATCH ACT (AGAIN)

The Hatch Act—its official title was An Act to Prevent Pernicious Political Activities—was passed in 1939 in part on the sneaking suspicion that Democrats were using public-sector jobs in that Depression era not just to restore prosperity but to lock up the future good fortune of their party as well. The act thus began by prohibiting political coercion or solicitation of federal employees, but the authors were not content with that. They also barred civil servants from most participation in political campaigns.

There have been repeated efforts to amend this latter ban, mostly on familiar First Amendment grounds. In the 1960s a commission said its provisions should be relaxed, and several lower federal courts also found against them. But in 1973 the Supreme Court upheld them. Congress then passed a bill in 1976 repealing much of the original legislation, but President Ford successfully vetoed it.

Now a new effort has begun. Rep. William Clay has introduced basically the same bill that passed 11 years ago. The coercion and solicitation sections of the original law would, if anything, be strengthened. But most federal and postal employees would be free when away from work to take full part in political campaigns; they could even have leave without pay to run for office themselves. The law would treat them like—gulp!—grown-ups.

The step is long overdue. The First Amendment is the primary reason, of course. But the ridiculousness of the regulations to which the enforcers of this law have been reduced is not far behind. As a compromise with free speech, for example, the regulators have generously decided that, yes, a federal employee should be able to put a campaign sign in his front yard. But government being what it is, the questions quickly follow: What kind of sign? How large? Surely not a billboard. The regulatory office has finally settled on 14 by 22 inches or less for a front-yard sign, somewhat different dimensions for a sign on the family automobile * * * and on and on and on.

The administration is against the pending bill on grounds that the present system is already a fair balance between the right to free expression and the need to insulate the federal work force. But House Republicans are trying to work with the sponsoring Democrats on a compromise. Rep. Pat Schroeder said in the debate in 1975 that the Hatch Act was passed "in order to protect federal employees from politicians. It has been retained in order to protect the politicians from federal employees." That may not be entirely true, but it's true enough to make the case. This suspect law should be revised.

SOVIET MILITARY POWER

HON. LEE H. HAMILTON

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. HAMILTON. Mr. Speaker, I would like to insert my Washington Report for Wednesday, July 29, 1987 into the CONGRESSIONAL RECORD.

SOVIET MILITARY POWER

Often I find Hoosiers questioning the need for a large American military effort. While the U.S. effort reflects the fact that this is a dangerous world, it is also a response to the Soviet military build-up. We cannot know Soviet intentions, and must make our judgments in part based on Soviet capabilities. After two decades of major improvements in conventional and nuclear forces, their capabilities are impressive.

Gauging the exact strength of Soviet military forces is difficult. Several U.S. intelligence agencies gather information, but their estimates vary. Information about Soviet military capabilities comes from a number of sources, including satellite reconnaissance, electronic surveillance, spies, and Soviet defectors. U.S. intelligence agencies are most confident about the quantities of Soviet troops, and deployed, or battle-ready, weapons. Less is known about cost, quality, and combat effectiveness. Several key measures of Soviet military power—spending levels, manpower, and weapons production and deployment—show the following:

Military spending: The Soviet military budget has grown an average of 4% annually during the early 1970s, and 2% annually since 1976. The Soviets have invested heavily in arms factories that will allow them to maintain consistent levels of production for several years. The USSR now spends approximately 15% of its GNP on defense. The U.S., with an economy roughly twice as large, devotes 6.4% of its GNP to defense.

Manpower: Although NATO has a slight edge in total manpower over the Warsaw Pact countries, the Soviet Union has by far the largest number of deployed forces. The Soviets have an active force of 4.8 million uniformed personnel, the largest in the world. The U.S. has 2.2 million active personnel.

Conventional weapons: In conventional, non-nuclear weapons, the Soviets enjoy a sizable numerical advantage. Of the 15 major categories of conventional weapons, including land, air, and sea forces, the USSR has a numerical lead over the U.S. in all but three. The U.S. leads only in anti-submarine warfare aircraft, helicopter gunships, and cargo helicopters. In all other categories, including fighter aircraft, surface ships, and attack submarines, the Soviets are ahead. The Soviet lead is especially pronounced in land weapons systems, such as tanks, artillery, air defense missiles, and anti-aircraft guns. To try to compensate, the U.S. and NATO allies have relied on higher quality weapons.

Nuclear weapons: In their nuclear arsenal, the Soviets now have some 10,500 strategic nuclear weapons. Historically, about two-thirds of these weapons have been land-based in fixed silos. Today, the Soviets are placing greater emphasis on long-range bombers and nuclear-powered submarines. The Soviets will replace their current strategic nuclear forces with more advanced systems by the mid-1990s, bringing more balance and versatility to their arsenal.

The Soviet land-based arsenal consists of some 1,200 intercontinental ballistic missiles (ICBMs) in fixed, underground silos, carrying about 6,200 nuclear warheads. To improve survivability, the Soviets are now testing and deploying two mobile ICBMs: the rail-based SS-24 and the road-based SS-25. Mobile missiles make arms control verification more difficult, but increase stability in a nuclear crisis because of their survivability. In the last decade, the Soviets have also deployed 440 intermediate-range SS-20 nuclear missiles, which represent a significant threat to Western European targets.

Soviet long-range bombers, armed with nuclear weapons, are undergoing their first major modernization since the 1960s. The USSR has some 160 heavy bombers, and 290 supersonic bombers. They are about to deploy a new heavy supersonic bomber, and are fitting older bombers with cruise missiles. The Soviet cruise missile, a small, self-guided drone that can carry a warhead up to 1,800 miles, has undergone significant improvements for accuracy and distance, though it remains inferior to the U.S. cruise missile.

The sea-based component of the Soviet nuclear arsenal consists of 62 modern submarines carrying 3,000 nuclear warheads. The Soviets are launching a new generation of submarines, quieter and faster than early models, which will carry the 10-warhead, SS-23 missile. This double-hulled sub, with longer range missiles and more firepower, will be able to loiter under the polar ice cap and avoid most means of detection.

In nuclear weapons, the Soviets and the U.S. have achieved rough parity. The U.S. has more weapons (11,900 vs. 10,500) and is also modernizing its nuclear forces: developing new sea- and land-based missiles with greater mobility, accuracy, and firepower, and improving its long-range bombers. The Soviets have a commanding lead in land-based missiles, but the U.S. has superior bomber and submarine forces.

It is not necessary, nor would it be fiscally sound, to try to match the Soviets weapon for weapon. We would not be expoiting our own advantages in tactics, geography, technology, and allied support if we did. For the last 25 years, it has been U.S. policy to build fewer but better weapons. By the Pentagon's assessment, in the 20 most important basic military technologies, we are ahead of the Soviets in 14, and are even in the remaining 6. Among the key areas where the Soviets lag are computers and software, guidance and navigation, and robotics. American weapons continue to lead in quality, but the gap seems to be narrowing in some areas.

For 40 years, in the face of Soviet power, the U.S. has been able to deter war. A judgment about the adequacy of U.S. and allied military spending is measured, in part, by our perceptions of Soviet strength. In a 1981 Gallup poll, 51% of Americans believed that the U.S. was spending too little on its defense budget. By 1985, that number had dropped to 11%. Apparently most Americans are satisfied with current levels of defense spending. It is up to the President and the Congress to demonstrate that these resources are being used wisely and efficiently to meet the formidable Soviet military threat.

THE LOWELL NATIONAL HISTORICAL PARK

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. MARKEY. Mr. Speaker, today the House Interior Committee voted overwhelmingly to favorably report to the House H.R. 2035, a bill to reauthorize the Lowell Historic Preservation Commission. I rise to express my support for H.R. 2035, and to urge my colleagues to support this legislation which seeks to ensure the continued success of Lowell National Historical Park. I wish to commend my distinguished colleague from Massachusetts [Mr. ATKINS], for introducing this worthy bill, as well as Senator KERRY and Senator KENNEDY for their valuable support on this issue. I also would like to recognize the efforts of Senator Tsongas, who helped draft the original Lowell Historic Preservation Commission legislation. He has long been a leader on this issue and his dedication is greatly appreciated. Finally, I would like to thank the distinguished chairman of the Subcommittee on Parks and Public Lands, Mr. VENTO, for his outstanding work on this issue, both in committee and subcommittee.

Lowell, MA was the site of the beginning of the Industrial Revolution in America. Its history is unique and important; in this city the United States began its rise to become the greatest industrial and economic power in the world. In Lowell the full industrial power of water was first realized and the mass production of woven cloth was made possible. New American businessmen invested their capital in Lowell and the city flourished. By the 1970's, however, the city's prosperity was threatened. Thousands of people were out of work and many factories stood vacant.

In 1972, the Lowell City Council adopted a resolution which designated an "Historical Park Concept" as the focal point of future urban development. Lowell National Historical

Park was established in conjunction with a federally funded program to revitalize cities. The project has been highly successful. Since its inception, the park has generated nearly a quarter of a billion dollars in private investment and attracted visitors from across the country. Over 130 historical structures in the downtown area have been renovated, and a 5.6 mile power canal system, the largest in the country, has been developed. Once faltering, Lowell is now a city where business and industry are rapidly expanding.

The park's prosperity demonstrates the success of the Federal investment; Lowell's experience serves as an excellent example for other cities attempting urban renewal. It is one of very few urban parks in existence. Because of its tremendous success Lowell has been adopted as a national model for the Statewide Heritage Park Program.

Currently, however, the Historic Preservation Commission, which actually functions as an arm of the Interior Department, is in need of reauthorization. Passage of H.R. 2035 will allow the existing Preservation Commission to complete restoration plans and finish developing its existing educational and cultural programs and canal projects.

By combining Federal funds with State and local money, the Lowell project has become a national symbol of urban renewal and growth. Lowell National Historical Park stands as a lasting monument to America's industrial past and continuing prosperity. It is a shining example of a government program gone right; as the administration's spokesman testified, this project has succeeded beyond their wildest dreams. I urge my colleagues to join me in recognizing the dramatic success of Lowell National Park and in supporting this bill.

THE RETIREMENT OF MILTON H. WILLIAMS FROM THE TOWN OF DEERFIELD FIRE DEPARTMENT

HON. SILVIO O. CONTE

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. CONTE. Mr. Speaker, I rise today to honor a man who has dedicated his life to building a community and protecting its individuals. He has recently retired as fire chief of the town of Deerfield Fire Department after 38 years—a position that he expanded beyond the responsibilities of equipment maintenance, fire prevention, and fire control. The espirit de corps that he inspired among the volunteers in his department is a reminder to community leaders and national figureheads alike, that effective leadership requires not only respect, but also comraderie. Mr. Speaker, today I honor Milton Williams of Deerfield, MA.

Just about everyone in Deerfield and the surrounding communities has benefited in some way through their experiences with Milt. Many of the area's youth received their first paycheck from Milt in exchange for work on the Williams brothers farm. The property owners of the town are grateful for Milt's handling of all arboreal crises that have plagued the area. And of course, everyone from Montreal to New York is aware of the rich maple syrup and the butter and sugar corn hybrids that Milt has helped develop. But perhaps those in deepest debt are the owners of the Deerfield Inn, the Hoyt House, the Carriage Barn and many other buildings that were saved from flames by Mr. Williams.

An author from Cape Cod once said that volunteer fire departments are the only consistently good institution—in terms of efficiency, morality and enthusiasm—alive in this country. The institution that Milt Williams has built in Deerfield is not an exception. An example of this was the department's decision last year to forgo the minimal pay they receive for each fire in order to serve the community better through the purchase of pocket beepers.

The town of Deerfield and all those who are concerned about the safety of the residents there will most probably be troubled by the resignation of Mr. Williams. Well, they can rest assured that Milt Williams will continue to serve them in a variety of ways. The only difference will be that the next time the siren at the old Deerfield Grammar School wails, Mr. Milt Williams will take a well-deserved break.

TRIBUTE TO COACH TOM VARGO

HON. GEORGE W. GEKAS

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. GEKAS. Mr. Speaker, for the decade of 1951 to 1960, everyone in eastern Pennsylvania knew that Tom Vargo, football and winning were synonymous. We are again reminded of that fact as the Pennsylvania Scholastic Football Coaches Association prepares to induct former Williamsport High School football coach Tom Vargo into the Hall of Fame during the Big 33 Honors Banquet on Friday, July 31, at the Hershey Lodge and Convention Center.

Tom Vargo, a resident of Loyalsock Township in my district, will be among 10 former coaches inducted into the Hall of Fame. A quick glance at his coaching career record is so impressive that I am certain he is the envy of most football coaches across the country. Vargo's record for 14 years as a head coach was 102-33-5.

During his first 2 years of coaching at South Williamsport High in the early forties, Vargo's Mounties were 14-3-1. Following military service in the Navy, he was assistant coach at McKeesport High School. From 1949 though 1960, he led the Williamsport High Millionaires to an 88-30-4 record. The Millionaires won or shared the Central Penn League championships five times and had three unbeaten seasons.

Tom Vargo's teams were rated the No. 1 team in eastern Pennsylvania for three straight seasons from 1954-56. Vargo has been inducted into the West Branch Valley Chapter of the Pennsylvania Sports Hall of Fame in 1975, was an assistant coach of the Big 33 team in 1961 and served on the steering committee for the formation of the Pennsylvania Scholastic Football Coaches Association.

Vargo will be inducted into the Pennsylvania Scholastic Football Coaches Association shrine along with Larry Bruno, Alex Ufema, Sam Donata, Jack Jones, Ken Millen, and Bob Pflug. The three coaches to be inducted posthumously include Mike Terry, Duke Burkholder, and Emil Salony.

Mr. Speaker, I would like to ask my colleagues in the U.S. Congress to join me in extending congratulations to the newest members of the Hall of Fame. They deserve our praise for the many years of service they gave to their players and fans.

FREEDOM FOR NAUM KOGAN

HON. BILL LOWERY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. LOWERY of California. Mr. Speaker, it is my pleasure to inform my colleagues that today, a family that has been denied its freedom for 10 years will finally arrive in the United States. It is a joyous occasion that happens too rarely for Soviet Jews.

Naum Kogan and his family will be reunited with his parents and sister after many years of painful separation. This reunion was the result of much hard work, and persistence in the frustrating task of dealing with the Soviet Government. Naum's sister, Inessa Weintraub of San Diego, was the driving force in the struggle to free Naum, his wife Zhanna and their two children. If all refuseniks had someone as dedicated to their cause as Inessa was to Naum's there would be many more Soviet Jews living in freedom today.

I want to thank the Speaker and my colleagues on both sides of the aisle who made appeals on behalf of Naum Kogan. After 10 years as refuseniks, the Kogans had again been denied exit visas in March 1987. Then in June, they were unexpectedly given permission to emigrate. I firmly believe that our concentrated effort this spring helped cause the Soviets to reverse their decision. The letters and direct appeals from Members of Congress were an important factor in achieving freedom for Naum Kogan and his family. Their release is an example of the importance of continued congressional efforts on behalf of Soviet Jews. It is days like today that strengthen our resolve to work for the freedom of all Soviet Jews.

The Department of State also played a positive role on behalf of the Kogans. Our diplomats consistently raised the refusenik issue with Soviet officials, and the Office of Soviet Affairs provided excellent information and advice on how to pursue this issue with the Soviet Government.

Mr. Speaker, the Members of this body should be proud of their efforts to help Soviet Jews. But we should be sobered by the knowledge that many are still denied their freedom. We must continue our call to Mr. Gorbachev to truly carry out his policy of openness. We are thankful for the freedom of the Kogans, but determined to continue the fight to free all Soviet Jews.

MILLENIUM APPROACHING: ORTHODOX CHRISTIAN NOT "RIGHT PERSON FOR THE JOB"

HON. STENY H. HOYER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. HOYER. Mr. Speaker, as most of us here are aware, next year will mark the 1,000th anniversary of the Baptism of Kievan Rus' under Prince Vladimir of Kiev, an event that led to the spread of orthodox Christianity throughout Ukraine, Russia, Byelorussia, and many other areas of northern Eurasia. Orthodox believers all over the world are preparing to celebrate this anniversary with the appropriate joyfulness and solemnity. Even the Soviet Government, officially atheist, will be observing the millenium, although from a historical perspective rather than a religious one.

One would hope that on the eve of this historic event, orthodox believers in the Soviet Union might, if only for public relations considerations, be spared the mindless harassment and persecution that has generally characterized the Soviet Government's approach to religion since the Bolshevik revolution.

Therefore, I was disappointed to read an article in the March-April issue of Frontier, a journal published by one of the most respected organizations devoted to monitoring religious practices in Communist countries, Keston College, that Galina Zelenskaya, an orthodox Christian museum administrator, was dismissed from her post as deputy director of research at the New Jerusalem Museum outside Moscow where she had been employed for 20 years on the basis of her religious convictions. Her superiors explained the action by stating that Ms. Zelenskaya was not the "right person for the job" on the basis of her religious convictions, and that they "would continue to expose and remove" persons who shared the views of Ms. Zelenskaya. I would like at this time to insert into the RECORD the full text of the Frontier article:

ORTHODOX CHRISTIAN NOT "RIGHT PERSON FOR THE JOB"

In November 1986 the Central Cultural Administration of Moscow regional council dismissed Galina Zelenskaya from her post as deputy director of research at the New Jerusalem museum. Zelenskaya had worked at the museum for 20 years.

The dismissal followed a conference arranged by Zelenskaya about the Joseph of Volokolamsk monastery. One of the Cultural Administration's inspectors, named Galitskaya, had lodged a complaint about what she called the "unacceptable nature" of some of the presentations. One of the unscheduled speakers at the conference was Fr Innokenti Prosvirnin who works in the Publications Department of the Moscow Patriarchate.

The order pertaining to Zelenskays's dismissal gives the reasons as "an unauthorized showing of slides on the history of the Joseph of Volokolamsk monastery and the unauthorized invitation of museum staff from Kiev to the conference".

More than 40 people who were at the conference—historians, architects and art specialists from the Moscow region—have sent a letter protesting against Zelenskaya's dismissal to Mikhail Gorbachev. The initiators of the protest were a group of Zelenskaya's colleagues at the New Jerusalem museum.

The director of the New Jerusalem museum Nizhegorodov, a certain V.M. Chizhikov, and a member of the Cultural Administration, N.A. Mironov, were ordered to "clarify matters" with the signatories. Chizhikov told senior museum staff that instructions to fire Zelenskaya had come from the ideological department of Moscow regional Party committee and that the basic reason was Zelenskaya's religious convictions. He cited words, which he attributed to Gorbachev, to the effect that the current internal "restructuring" in the USSR includes a struggle against "religious prejudices".

Chizhikov claimed that Zelenskaya had organised religious services at the tomb of Patriarch Nikon in the Resurrection Cathedral of the former New Jerusalem monastery and accused Zelenskaya of being the instigator of a campaign of petitions by museum staff protesting about the barbaric methods used in "restoration" work at the New Jerusalem monastery. Zeleskaya's colleagues dispute both accusations. She never organized any services and she did not even know about most of the protest letters.

Nizhegorodov spoke twice to senior staff at the museum, explaining Zelenskaya's dismissal in terms of her "clandestine connections with the Patriarchate". Mironov also addressed senior staff at length, the substance of his remarks being that Zelenskaya's dismissal cannot be queried, because "she is not the right person for the job". All contacts with churchmen, he went on to say, should be conducted through the relevant official "with the rank of colonel" appointed by the local Party committee. As for people with views like those held by Zelenskaya, concluded Mironov, "we shall continue to expose and remove" them from ideological and cultural work. Like Chizhikov, Mironov also cited Gorbachev on linking "restructuring" with combatting religion.

Mr. Speaker, not only are we approaching the millenium of Christianity in Kievan Rus', but also the 12th anniversary of the signing of the Helsinki accords will take place on August 1, of this year. Principle VII of the Helsinki accords guarantees the right of citizens in signatory states to freedom of conscience, and when one principle of the accords is callously disregarded, even in the case of one person, we place at risk much of the progress that has been made in security and cooperation through the Helsinki process. Indeed, Soviet authorities frequently assert that the rights of nonbelievers and believers are guaranteed equally by Soviet law.

I hope that Ms. Zelenskaya will be reinstated to her former position at the museum.

* * *

MR. GORBACHEV, LET'S RESOLVE THE DIVIDED SPOUSES ISSUE

HON. WM. S. BROOMFIELD

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. BROOMFIELD. Mr. Speaker, I want to call to the attention of my colleagues the fine work of Mr. Keith Braun, a young Michigan resident, who is trying to reunite American and Soviet divided spouses. As the co-founder of the Divided Spouses Coalition, Mr. Braun is to be commended for his dedication to the cause of trying to unite United States and Soviet spouses who have been cruelly separated from each other. I urge the Soviet leader to prove to the world that "glasnost" is more than just words.

Mr. Braun's own particular interest in this issue has tragic origins. A number of years ago, Keith traveled to the Soviet Union on a work-study tour. There he met a young Soviet woman named Svetlana and later returned to Moscow to marry her. Since their marriage in 1984, she has been denied an exit visa from the U.S.S.R. on five different occasions. Soviet authorities have claimed that her visa was denied in the "interest of the Soviet Union."

There are many other stories of divided spouses that are equally depressing. An American nurse from Baltimore is married to a Soviet man who has been denied an exit visa on 14 different occasions since the couple married in 1978. An elderly Soviet emigre now living in Florida has not seen his Soviet wife in 31 years.

Soviet refusal to grant visas to these divided spouses is in clear violation of both the letter and the spirit of the 1975 Helsinki accords. The Soviet Union, along with 34 other nations, signed that agreement and promised to guarantee reunification of families and the right of binational couples to choose their country of residence.

While the admirable efforts of Mr. Braun's coalition have produced results—28 couples have been reunited in the past 2 years—much more needs to be done by Mr. Gorbachev. He holds the key to the solution to the long and painful separation which these couples have suffered. Now is the time for the Soviet leader to make the promises and vision of glasnost a reality by reuniting those divided spouses.

I commend Mr. Braun for his leadership on this issue and strongly urge the administration to keep human rights on the front burner in our high-level discussions with the Soviets.

With these thoughts in mind, I commend the following New York Times article on the work of Mr. Braun and the Divided Spouses Coalition to my colleagues in the Congress.

GROUP WORKING TO REUNIFY AMERICANS WITH SOVIET SPOUSES

(By Isabel Wilkerson)

SOUTHFIELD, MI, July 25.—They are, by their own admission, people with an obsession, a handful of Americans scattered across the United States who have waged lonely and often fruitless battles to get permission for their Soviet spouses to leave the Soviet Union.

But recently, out of a desperation sharpened by years of separation, they have formed a coalition to make their cause a top human rights issue and an early test of glasnost, the new Soviet policy of openness. They have held unusual meetings with Soviet Diplomats in Washington, with Soviet officials in Moscow and, last month, with Secretary of State George P. Shultz.

The group, the Divided Spouses Coalition, is led by Keith Braun, a lawyer who lives in this Detroit suburb and whose wife, Svetlana, has been denied an exit visa five times since their marriage in August 1984.

BIWEEKLY NEWSLETTER SENT OUT

Every other week, Mr. Braun mails out a newsletter apprising readers of the successes and setbacks of "divided spouses"—the birth of a child whose father is not permitted to leave the Soviet Union, the hospitalization of a Soviet man who has not seen his wife in seven years, and, occasionally, the granting of a long-awaited exit visa.

In one recent issue an item read: "Anatoly Michelson and his wife, Galina Goltzman-Michelson, celebrated their 46th wedding anniversary on March 31. Unfortunately, as with 30 previous anniversaries, they celebrated 6,000 miles apart."

The solidarity of the American spouses has inspired the Soviet spouses to speak out, although many of them fear retaliation from the Soviet Government.

"The Soviet spouses have become increasingly bold and formed a counterpart coalition on their side," said David Carle, press secretary to Senator Paul Simon, Democrat of Illinois, who helped organize the spouses in late 1985.

Since the coalition began its work two years ago, 28 couples, not all members of the group, have been reunited—three times the number of cases settled in the previous six years, Mr. Carle said. Some couples have declined to participate in the group because they feared it would hurt their chances of reunification.

Each year, about 90 Americans marry Soviet citizens, officials say, and most routinely request permission to move to the United States. Although emigration from the Soviet Union is tightly controlled, Soviet citizens who request permission to join a spouse in the United States are usually allowed to leave within six months. But every year, the Soviet authorities reject applications for exit visas from about 20 percent of such couples.

Often no clear explanation is given; in many cases, the Soviet Government says the person who wants to emigrate has had access to classified information, a charge the spouses deny.

There are now about 20 Soviet citizens who have been prevented from joining their American spouses or fianćes, Mr. Braun said. The United States has often raised the cases in diplomatic discussions with the Soviet Union, saying that the cases must be resolved on the ground of family reunification under the Helsinki accords.

The Soviet responses have been of little consolation to the Americans, who say their lives have been inalterably disrupted.

For the past eight years, Elizabeth Condon, a teacher of Russian and French in Woburn, Mass., has been prevented from marrying or visiting her fiancé, Viktor Novikov, a chemist in Moscow. Last month, she was denied a tourist's visa to travel to the Soviet Union for the 10th time. The couple is now awaiting word about his 10th request for an exit visa.

"We really thought that we would have a child," said Miss Condon, who is now 44 years old. "The Soviets have taken that away from us. And we're still not together."

Elena Balovlenkov, a nurse in Baltimore, whose husband, Yuri, has been denied an exit visa 14 times since the couple married in 1978, said that not long ago, people used to laugh when she said she wanted to talk to the Secretary of State. Last month, after months of group lobbying, coalition members did just that.

LIVES ARE ON HOLD

"We are our own little world," Mrs. Balovlenkov said of the coalition. "We are grateful when anybody gets out. Other Americans don't understand. They say, 'Why are you in this? Why don't you get on with your life?' "

Their lives are admittedly on hold. Mrs. Balovlenkov has not seen her husband in five years, and he is just an 8-by-10 photograph and a crackly voice on the phone to their two daughters. "I've been in this thing for 10 years, and we could be in same spot five years from now, she said. "But i'd like to think that our meter is running out."

Coalition members are part lobbyists and part therapists to one another. They give advice on the cheapest fares to Moscow or the earliest arrivals and latest departures. They console one another when a visa is denied, and the younger spouses look with awe to people like M. Michelson, a 69-year-old Russian emigre who lives in Florida and has not seen his wife, Galina, since 1956, when he defected from the Soviet Union.

Mr. Michelson records the couple's telephone conversations and plays them back when he gets lonely. "It's music for me," he said. And on Christmas and on their anniversary, he said: "I try to go through the day as quickly as possible. I wish those days were excluded from the calendar." Coalition members who are able to vist the Soviet Union report back to him on how his wife is faring.

LIVES TIED TO NEWS REPORTS

The spouses track every development in Soviet and American relations and generally live from summit to summit. Before the Geneva summit meeting in 1985, the Soviet Government announced that it was resolving a relatively large group of cases.

"I watch every news program and I hang on every news item," Miss Condon said. "One day, the Soviets are making an arms proposal that looks promising. The next week, you hear the Soviets are not coming to a meeting. You go up or you go down depending on the day's news."

Mr. Braun sees the coalition as a way to reunite couples as well as educate Americans on the differences between the Soviet Union and the United States. "People find it hard to understand trade issues or arms agreements," Mr. Braun said. "But people understand when you can't live with your wife."

THE MEDICARE CATASTROPHIC PROTECTION ACT OF 1987

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. LANTOS. Mr. Speaker, last week the Congress took a first critical step toward protecting seniors who are facing severe, long-term illnesses by voting for the Medicare Catastrophic Protection Act, H.R. 2470. This important legislation will help eliminate the fear of impoverishment from medical expenses for our Nation's 30 million elderly and disabled citizens. It is a bill which recognizes the inadequacies in current Medicare coverage and provides American citizens with basic protection from catastrophic illness.

In 1965 the United States made a fundamental commitment to help care for our seniors with the enactment of the Medicare Program. Medical costs have continued to escalate since then and it is estimated that, if the law were to remain unchanged, the elderly would spend 18.5 percent of their annual income on health care by 1991! Many seniors have taken out private health insurance policies to help protect themselves against crippling major medical expenses. They have frequently found, however, that these policies do not always provide the type of coverage necessary to protect the holder against financial ruin when major illness strikes.

H.R. 2470 will expand the Medicare system to provide protection against both catastrophic hospital and doctor bills. Patients will be required to pay only one hospital deductible annually. As current law now stands, thousands of seniors with repeated hospital stays must meet multiple deductibles. H.R. 2470 will also remove the cap on the number of hospital days covered by Medicare. Those few people who are hospitalized for long periods of time will be saved from crippling medical bills.

The Medicare Catastrophic Protection Act will place a limit on physician expenses for patients who use doctors who accept Medicare fee levels. Another important provision of this bill requires the State to pay all premiums, deductibles, and coinsurance for Medicare beneficiaries below the poverty line.

H.R. 2470 also improves substantially on Medicare coverage of home health services, mental health services, skilled nursing and hospice care. A new prescription drug benefit, available in 1989 under Medicare, will meet 80 percent of the costs of prescription drugs after the individual meets an annual deductible.

Our bill acknowledges that we need to do much more to lay the groundwork for future improvements. It establishes a Bipartisan Congressional Commission on Comprehensive Health Care and Long-Term Care that will report back to Congress in 6 months on the best approaches to address long-term care reform. This is a bill that the elderly and disabled want and are willing to pay for. Lower ceilings on out-of-pocket costs, added protection from high-cost prescription drugs, and long-term care assistance are essential priorities to correct the most serious deficiencies in Medicare today. While the bill does not protect Medicare beneficiaries from every possible health cost, it goes a long way toward giving them the assurance that a medical catastrophe will not become a financial catastrophe.

I welcome this legislation. I urge my colleagues in the House to support it.

FAIR TAX TREATMENT

HON. BYRON L. DORGAN

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. DORGAN of North Dakota. Mr. Speaker, today, I—with Mr. Duncan, Flippo, Brown of Colorado, Daub, Gray of Illinois, Evans, Andrews, Leath, Bruce, Jontz, Chapman—am introducing two pieces of legislation which will provide for the fair tax treatment of rural telephone and electric cooperatives. The first bill deals with the taxation of patronage dividends of both telephone and electric cooperatives.

The second bill would allow telephone cooperatives to offer 401(k) plans.

The first bill will affect the tax treatment of patronage dividends by correcting what was an inadvertent oversight by the Ways and Means Committee during consideration of the Tax Reform Act of 1986. Under that act Congress allowed rural farmers cooperatives to exclude allocations in the nature of patronage dividends when determining the cooperative's net book income for purposes of the minimum tax. Rural telephone and electric cooperatives are defined under a separate section of the Tax Code and were therefore not included in the exemption for farmers marketing cooperatives. I do not believe it was ever the intent of the Congress to exclude the rural electric and telephone cooperatives from the exclusion.

My legislation would simply carry out the intent of the committee by providing telephone and electric cooperatives the same exemption as farmers marketing cooperatives.

To subject a portion of the telephone and electric cooperatives' patronage dividend allocation to taxation would exacerbate the special problems and expenses normally encountered in rural areas. If patronage dividend allocations are taxed it will be more difficult to provide universal telephone service and electricity to farmers and rural users in an already strained farm economy.

The second bill I am introducing will help small, rural telephone cooperatives to compete with larger commercial companies for technically qualified staff. This legislation would accord telephone cooperatives identical treatment to rural electric cooperatives regarding their ability to offer 401(k) cash or deferred arrangements to their employees.

The Tax Reform Act of 1986 eliminated access to 401(k) plans for employees of tax-exempt organizations who had not established a plan by July 2, 1986. Recognizing that rural utilities must constantly compete with commercial companies for qualified employees for very specific technological skills, Congress allowed rural electric cooperatives to continue to offer 401(k) plans to their employees. My legislation would provide the same treatment for rural telephone cooperatives.

Under the Tax Code, commercial companies are allowed to offer a variety of profit sharing and deferred compensation plans in addition to comparatively high salaries. Like rural electric cooperatives, rural telephone cooperatives are nonprofit, tax-exempt organizations and are unable to offer profit sharing or stock option plans. One of the most popular savings programs for telephone cooperatives has been the 401(k). It has allowed both management and rank and file employees to provide for their own retirement.

I ask you to join me as a cosponsor of both bills so that we can assist our rural constituents and provide for the fair tax treatment of telephone and electric cooperatives.

IN SUPPORT OF THE COCOM REFORM ACT OF 1987

HON. TOM LEWIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. LEWIS of Florida. Mr. Speaker, today I introduced legislation to reform the multilateral controls on exports of sensitive technology to the Soviet Union. My bill sends a clear signal to our allies, "strengthen your enforcement and application of the export rules of the Coordinating Committee on Export Controls [Cocom], or lose access to the U.S. market."

During the past 2 months, we have learned how Toshiba Machine Co. of Japan and Kongsberg Vapenfabrikk of Norway, sold technology to the Soviet Union that significantly reduced the noise of Soviet submarine propellers. Since propeller noise is one of the principal methods of submarine detection, this transfer has dangerously eroded the ability of United States and NATO forces to detect and monitor the movements of Soviet submarines. As a result, the national security of the United States has been dealt a serious blow, and billions of American taxpayers dollars will be needed to upgrade our military systems.

Actions such as these can no longer be tolerated. They serve to highlight the importance of strengthening the multilateral controls on the exports of sensitive technology to the Soviet Union. I believe the United States must send a signal to our allies and their corporations. The next time they are tempted to sacrifice our security by violating Cocom rules, they will know they are putting their access to the American market at risk. Had legislation barring imports from any company that violates the Cocom rules been in effect at the time, I am quite certain that neither Kongsberg nor Toshiba would have decided to sell to the Soviets. If we are dealing with businessmen who are driven only by profits, we have little choice but to make Cocom violations unprofitable.

We must remember, the conventional military balance in Europe and elsewhere, has been maintained by offsetting Soviet and Warsaw Pact numerical advantage with the technological superiority of Western weapons systems. To maintain this technical advantage and prevent these egregious acts from occurring, the United States and her allies must continue to coordinate, strengthen and enforce Cocom's multilateral export controls.

I urge my colleagues to join with me in safeguarding America's technological superiority. Technology can and must remain America's economic fountain of youth.

WELFARE REFORM: NATIONAL GOVERNORS' RESPONSE

HON. AUGUSTUS F. HAWKINS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. HAWKINS. Mr. Speaker, I applaud the Nation's Governors for their diligent push for improvements in our current welfare system. During the midwinter meeting of the National Governors' Association [NGA], the Task Force on Welfare Reform, cochaired by Arkansas Gov. Bill Clinton and Delaware Gov. Michael Castle, adopted a strong and sensible policy on welfare reform aimed at assisting individuals make the jump from the welfare rolls to productive payrolls. This month, NGA issued an excellent booklet entitled, "Making America Work: Productive People, Productive Policies," which outlines the problems and possible solutions to the widespread and crippling barriers to productive lives in America today: welfare dependency, school dropouts, teen pregnancy, adult illiteracy, and alcohol and drug abuse.

Many of the Governors' recommendations from the task force and the recently issued booklet are embodied in the welfare reform initiative reported by the Committee on Education and Labor as well as by the Committee on Ways and Means. More importantly, the Education and Labor Committee's reported version of title I of H.R. 1720, the Family Welfare Reform Act, reflects the following issues which are endorsed by the Governors:

First, case management and the agency-client agreement: By customizing the participant's needs and providing case assistance during the course of the education, training and work activites, the bill promotes a 1-to-1 approach for assisting families striving for self-sufficiency. In addition, there is a mutual sense of responsibility on the part of the State and the assistance recipient which fosters and legitimizes the agency-client agreement.

Second, there is a mounting concensus that the employment needs of long-term welfare recipients must be addressed. The committee's substitute to title I of H.R. 1720 provides financial incentives for States to design and deliver intensive education, training, and work programs, along with appropriate child care and other supportive services, for their welfare recipients. In addition, the committee bill assures that the Governors are given the flexibility to designate an appropriate State agency to administer the welfare work programs.

Third, funding for the education, training, and work programs for welfare recipients should be primarily Federal, with a significant State contribution. The committee-reported bill gives the States an opportunity to operate—beginning fiscal year 1990—welfare work programs through an open-end entitlement funding mechanism—with a 65/35 match—or through the appropriations process—with a 90/10 match—under the revised title IV–C work program. During the transition period—fiscal year 1988 and fiscal year 1989—before the entitlement program becomes fully effective, States would be allowed to continue enhanced, WIN-type demonstration programs through the revised IV–C authority. These and other improvements in the bill make work more attractive than welfare and represent a promising first step toward meaningful improvements to our current welfare-to-work programs.

I highly recommend NGA's booklet, "Making America Work," to all my colleagues as they debate and vote on ways to enhance work opportunities for many who face long-term welfare dependency and barriers to productive lives.

TRIBUTE TO JONATHAN H. CANNON

HON. ROBERT K. DORNAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. DORNAN of California. Mr. Speaker, on July 8 Gov. George Deukmejian appointed Jonathan H. Cannon, Republican mayor of my hometown of Garden Grove, CA, to the West Orange County Municipal Court. There could have been no better man for the position, no man more dedicated, no man more deserving than Jonathan. It is with great pleasure and admiration that I rise today to honor this great American and good friend.

Jonathan simply exemplifies the best in a citizen and public servant. Starting in 1980, just 2 years after first joining the city council, Jonathan served as mayor of Garden Grove, a position he held for nearly 7 consecutive years. He was one of the few mayors in California directly elected by the people. A most articulate community leader, Jonathan spearheaded a prodevelopment council that in a few years turned sagging areas of Garden Grove into booming business sectors. Due to his efforts the city of Garden Grove will continue its drive to redevelop, providing its citizens with renewed pride, more employment opportunities and a better life.

Jonathan also served as an active countywide leader as president of the Orange County division of the League of California Cities. In 1984, his outstanding service as a public official was recognized by the American Society for Public Administration which selected him as the year's outstanding public official.

A most giving person, he has always served the community outside of politics as well. His contributions in this area earned him a seat on the West Regional Council of the United Way of Orange County and the Orange County Girl Scout Nominating Committee.

Prior to serving as mayor, Jonathan served as a tough Long Beach City deputy prosecutor from 1972 to 1973. He then practiced law as a partner of Grisham, Vandengerg, Nott, Conway & Cannon until 1982. And true to his character, he practiced law with dedication and excellence. I am pleased he will be returning to the courtroom in an even more significant role, and I look forward to seeing him on the bench starting on August 10.

Mr. Speaker, I salute Jonathan H. Cannon, a great American, for his commitment to the service of his Nation. I am sure that as a municipal judge he will continue to do so with the vigor and dedication for which he is known.

FELIX GRANT AND RUSTY HASSAN JOIN WDCU-FM JAZZ TEAM

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. CONYERS. Mr. Speaker, as chairperson of the Congressional Black Caucus' Annual Jazz Panel, and the author of House Concurrent Resolution 57, which designates jazz as an American national treasure, I would like to call to the Members attention the return of two of Washington's premier jazz programmers to the airwaves. Next month, Felix Grant and Rusty Hassan will join the team of broadcasters at WDCU-FM—90.1 on the dial—where they will continue to bring us the fine music and interviews that have distinguished their programs over the years.

With over 40 years of broadcast experience, Felix Grant is widely recognized as the dean of jazz programmers. He began his career on radio in 1945 at WWDC-AM. A few years later he moved to WMAL-AM where for three decades he hosted "Album Sound," playing jazz, blues, and latin rhythms. In 1984, Felix moved over to WRC-AM to host the "World of Jazz." He leaves that station next week when it switches over to an all talk format.

Felix's love for music has manifested itself in nonbroadcast activities as well. Earlier this year, he served as cochairperson of the Duke Ellington International Festival. He also serves as chairperson of the Brazilian-American Cultural Institute.

In 1986, Felix Grant received the Washington Area Music Association's "WAMMY" award for Special Achievement. Mayor Marion Barry and former Gov. Charles Robb proclaimed November 19, 1985, "Felix Grant Day" in the District of Columbia and in the Commonwealth of Virginia.

Rusty Hassan has been in radio for 18 years, beginning his career on WGTB, the Georgetown University station. In August 1969, he moved to WAMU-FM where he started the "New Thing Root Music Show," later renamed "Jazz Sunday." Rusty's musical taste is diverse, he is known as a champion of the new music, playing such artists as Anthony Braxton and the Art Ensemble of Chicago.

Rusty's programming concept is built around themes. He may program a show around such things as a musician's birthday or contrasting instrument styles.

Rusty believes that his life's work as a jazz programmer was preordained in that he was born on November 26, 1945, the day Charlie Parker recorded "Now's The Time" and "KoKo." Both Parker's recordings and Rusty Hassan's radio program have since had a profound impact on jazz lovers, providing us countless hours of music to enjoy.

Thursday, July 30, 1987, at noon, I will join Mayor Marion Barry and WDCU-FM general manager Edith Smith in welcoming Felix and Rusty to the station. You can hear them starting next weekend, Felix on Saturday, August 8, and Rusty on Sunday, August 9, both on the air from 3 to 7 p.m.

I urge all of my colleagues in the Congress listen in to their programs. Jazz is a rare and valuable artform that deserves our attention and support.

COMMEMORATING THE 30TH ANNIVERSARY OF THE IAEA

HON. MATTHEW F. McHUGH

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. McHUGH. Mr. Speaker, today is the 30th anniversary of the establishment of the International Atomic Energy Agency [IAEA], and thus I would like to take this opportunity to recognize and commend the Agency for its invaluable work over the last three decades.

The IAEA came into existence at a time when the world was just beginning to understand both the potential benefits of nuclear energy as well as its awesome destructive potential. At that time, the world community understood that an international effort would be required to harness the benefits and to restrain the potentially harmful uses of the atom. It was also evident that these efforts could be embodied most fruitfully in a framework of international cooperation.

That framework found its expression in the IAEA. Its main objectives are to "seek to accelerate and enlarge the contribution of atomic energy to peace, health and prosperity throughout the world" and to "ensure, so far as it is able, that assistance provided by it or at its request or under its supervision and control is not used in such a way as to further any military purpose."

Accordingly, the IAEA fosters and encourages the nations of the world in the development of the peaceful uses of atomic energy. It advises governments on their nuclear programs and acts as an intermediary in arranging the supply of nuclear materials. It also advises countries on the physical protection of such materials, and applies safeguards to nuclear materials to ensure that they are used only for peaceful purposes.

The work of the IAEA directly serves U.S. interests. Its safeguards system is designed to ensure, through threat of timely detection, that the nuclear materials, equipment, services, and information under its supervision and control are not used to further any military purpose. Through its safeguards activities, the Agency has played a key role in nuclear nonproliferation efforts.

In 1968, for example, Mexico became the first country to request safeguards on all its nuclear activities in accordance with Tlatelolco Treaty, which seeks to establish a nuclear weapon-free zone in Latin America.

The Treaty on the Non-Proliferation of Nuclear Weapons [NPT], which entered into force in March 1970, requires nonnuclear weapon states that are a party to the treaty to conclude safeguard agreements with the Agency covering all nuclear materials in order to verify that those materials are not diverted to nuclear weapons or other nuclear explosive devices. Currently, more than 120 nations are a party to the NPT.

The importance of the IAEA does not lie solely in its safeguards activities, however. In the 15 months since the tragedy at Chernobyl, for example, the IAEA has undertaken far-reaching initiatives in the area of nuclear safety.

Shortly after the accident, its Director General met with Soviet officials and surveyed damage at the site. Within a month of the accident, the IAEA Board of Governors held an extraordinary session to approve a plan of followup activities, including the negotiation of two international conventions on notification and assistance in the event of a nuclear accident in the future.

As part of its intensive program of enhanced nuclear safety activities, an IAEA Operational Safety Assessment Review Team will visit the Calvert Cliffs powerplant in Maryland during the coming month.

Beyond its safeguards and safety activities, the IAEA continues to perform extensive work with a view toward fulfilling its mandated responsibilities of accelerating and enlarging the contribution of atomic energy to human welfare.

Mr. Speaker, the IAEA is not a perfect agency. It has made mistakes over the course of the last 30 years. Reviewing the past three decades, however, it is clear that the IAEA has served as an important mechanism for dealing with difficult and complex issues. It has worked with little fanfare or public attention to preserve the peace and to improve our lives.

Thus, it is fitting to take this opportunity to recognize its invaluable work and to reaffirm our strong support for its continuing efforts in support of U.S. and global interests.

NATIONAL FORGE

HON. WILLIAM F. CLINGER, JR.

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. CLINGER. Mr. Speaker, on behalf of my colleagues and all Americans interested in a strong national defense, I would like to congratulate the National Forge Co. of Irvine, PA, for being a 1987 recipient of the Defense Quality Excellence Award. National Forge has, for many years, been a valuable supplier of materials for our national defense. Those materials have held up very well indeed, and this award is a significant gesture of appreciation from a grateful nation whose domestic security in a troubled world has been enhanced by the contributions of the work force at National Forge.

Furthermore, National Forge has, because of its work for our Armed Forces, helped America's steel industry and provided jobs for those in that industry. In a day and age when the quality of work from defense contractors is sometimes criticized when held up to scrutiny, it's comforting to know that our national defense can always count on the production of high-quality components and parts from National Forge. I know that my colleagues in the U.S. House of Representatives join me in congratulating the men and women of National Forge who can each take pride in this award.

HONORING LOU WELDON, FORMER MAYOR AND COUNCIL MEMBER OF PLEASANT HILL, CA

HON. GEORGE MILLER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. MILLER of California. Mr. Speaker, on Friday, August 7, 1987, over 300 friends and dignitaries will gather to pay tribute to Lou Weldon, former mayor and council member of Pleasant Hill, CA, in my district. I join his many friends in saluting this dedicated citizen and businessman who has given many years of leadership and service to his community.

Lou Weldon has served the city of Pleasant Hill in many capacities. He was chamber of commerce president from 1974 to 1975, and Rotary Club of Pleasant Hill president from 1976 to 1977. He served as a Pleasant Hill Planning Commission member from 1975 to 1982. He was a Pleasant Hill City Council member from 1982 to 1987, and mayor of Pleasant Hill from 1984 to 1985. In 1985 he was honored as Pleasant Hill's Business Person of the Year.

Lou Weldon has helped make Pleasant Hill, CA, a special place to live and work, and is one of the city's truly outstanding citizens. I congratulate him on his many achievements, and wish him and his wife, Wilma, and their children and grandchildren, much happiness and success in the years ahead.

THE DURAND-VERNON AREA AMBULANCE SERVICE

HON. BILL SCHUETTE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. SCHUETTE. Mr. Speaker, in this most historic year, I have the privilege of commending a public service unit in my district for outstanding service to community residents. As a Member of this 100th Congress, I am honored to submit remarks to commemorate the 20th anniversary of the Durand-Vernon Area Ambulance organization, while the city of Durand celebrates its 100th birthday and the State of Michigan recognizes its sesquicentennial.

On August 1 of this year, the DVA will celebrate the vitues of volunteerism with a special dinner, program, and dance. The DVA was established in 1967 by community leaders who had witnessed the closing of a local hospital and discontinuance of a private ambulance operator. Recognizing the necessity of continuing to provide emergency medical service, these dedicated community leaders pulled together to ensure continued service to their fellow citizens.

Using the old ambulance provided by the former private operator, volunteers operated out of a renovated auto repair shop until 1971 when they moved into their new headquarters in Durand.

In 1982, DVA established its own dispatch system with communication capabilities reaching into three county dispatch systems and local fire agencies. In addition, the DVA dispatched the Durand City Fire Department. A second base was opened last year in nearby Swartz Creek to provide quicker response time to citizens of that area.

Throughout its 20-year history, the DVA service has been the recipient of many honorable awards. In 1982, the National Association of EMT's chose a DVA volunteer as their EMT of the Year, and the following year, DVA was named National EMS Service of the Year by the same organization. The State of Michigan's EMT organization also recognized a Durand volunteer as its EMT of the Year in 1986. Two volunteers have also received the American Red Cross' highest award, the National Life Saving Award. These are just a few of the awards and achievements of the Durand-Vernon Area Ambulance Service.

Now with over 100 volunteers, the DVA has expanded its base of operation and has even assisted many other communities in establishing similar operations. Remarkably, the DVA has operated without the benefit of tax dollars and has remained a nonprofit organization throughout its history. The service operates on a membership/subscription and fee-for-service basis and through donations and memorials, special equipment and furnishings have been obtained. In addition, DVA has established a scholarship fund for its volunteers who wish to further their skills.

Operating in the beginning with one ambulance, the DVA now has three fully equipped basic life support vehicles and one dual basic life support/rescue unit located in two locations. During the 1986–87 fiscal year, nine volunteers completed 20 years of continuous service and a new generation of volunteers is emerging. In fact, a young man has recently become a licensed ambulance attendant and had been accepted as a volunteer. This same young man was delivered in a DVA ambulance 18 years ago!

Mr. Speaker, I hope you and your colleagues will join me in offering our appreciation and commendation on a job well done by the Durand-Vernon Area Ambulance Service. Past and present volunteers deserve our gratitude for their dedication to serving their fellow citizens so adeptly and for making the most of their time and resources. Their dedication has allowed the spirit of volunteerism to flourish and, I am sure, is responsible for many lives which have been saved through their unselfish and talented service. I wish the DVA organization many more years of success and outstanding service.

SALUTE TO ROBERT L. APGAR

HON. BERNARD J. DWYER

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. DWYER of New Jersey. Mr. Speaker, 4 years ago Mr. Robert L. Apgar was a sergeant serving his annual summer camp duty with members of his New Jersey National Guard unit at Fort Drum, NY.

While returning to New Jersey in August 1983, the jeep which Sergeant Apgar was driving was involved in an accident, overturning and leaving Sergeant Apgar in very critical condition.

In the 4 years since that accident, Sergeant Apgar has been permanently retired with a disability rating of 100 percent. He has had to fight severe physical impairments as a result of that accident. He was unable to return to his civilian job as a carpenter and had to abandon his plans to remain in the National Guard as a career reservist.

Mr. Apgar, though in an active duty status at the time of the accident, was not eligible for any official recognition of his disability from the New Jersey Department of Defense. This did not seem fair to Mr. Apgar. So, in addition to his daily efforts to overcome his injuries to the extent possible, he began to question State officials about this inequity.

In late June his efforts were rewarded. Mr. Apgar was notified by the Governor that the New Jersey Department of Defense would be presenting him with the National Guard Certificate of Appreciation. The ceremony will be held later this year. The certificate will not restore Mr. Apgar to the health he enjoyed prior to the accident but it will acknowledge the job he did and the contribution which he made to his unit, his State, and his country.

HONORING JOHN R. JAMES FOR OUTSTANDING VOLUNTEER WORK

HON. SHERWOOD L. BOEHLERT

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. BOEHLERT. Mr. Speaker, I take this occasion to rise in honor of John R. James, a constituent from Utica, NY, who has performed outstanding volunteer work for the people of Utica and of New York.

Mr. James has volunteered his time and given of himself for 30 years, despite many physical problems which have plagued him. He has won wide acclaim from many in New York especially for his contributions to Spring House, a program in Utica of cerebral palsy and handicapped persons. He certainly exemplifies the American spirit of volunteering, and is an active and important member of the community.

I thank Mr. James for his spirit and his leadership—and for helping us realize just how important volunteers are to this country.

A BILL FOR THE RELIEF OF JOSE M. ARVAYO

HON. JOHN J. RHODES III

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. RHODES. Mr. Speaker, today I am introducing a private bill for the relief of Jose M. Arvayo, Jr., of Phoenix, AZ. During 1979, Jose's father was stationed at McConnell Air Force Base in Wichita, KS, where, as an infant, Jose was misdiagnosed by a staff doctor. This misdiagnosis left Jose with permanent brain damage and mental retardation. In 1981, the Arvayos learned of the Air Force physician's negligence and filed a claim for damages on Jose's behalf on December 16, 1981. This was 3 years after the Government physician's negligent omission.

In the Federal district court, the Government introduced a motion to dismiss the case on the grounds that the Arvayos had failed to file their claim within a 2-year period required under the Federal Torts Claims Act [FTCA]. The Government also contended that the limitations period began at the time of Jose's injury. The District Court considered the motion and determined that the limitations period did not begin until after the Arvayo family learned of the physician's negligence. In the ensuing trial, the court found the Federal Government negligent for failing to diagnose and treat Jose in time and, therefore, Jose had suffered brain damage and mental retardation. The court set $1.95 million as a fair and compensatory award for past, present and future hospital expenses, pain and suffering, and permanent disabilities.

The Federal Government appealed the district court's decision to the Tenth Circuit Court of Appeals. There the decision was reversed on the grounds the limitations provision of the FTCA had run its course prior to the filing of Jose's claim.

Jose will require continued medication for seizures and regular medical and mental examinations. At the age of 16 he will have developed to the level of a 3-year-old and will require speech and language therapy. The court reversed decision will deny the Arvayo family the only means which they had to support their 8-year-old son throughout his life. Given the unusual circumstances of this case, it seems appropriate that Congress, as a last resort, grant financial aid relief to Jose Arvayo and his family. I urge my colleagues to support this legislation.

THE DEATH OF JOHN LOPES

HON. JOE MOAKLEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. MOAKLEY. Mr. Speaker, on June 23, 1987, in my home State we suffered the loss of a great American, John Lopes the deputy commissioner of veterans' services for the State of Massachusetts. John Lopes was not only an effective spokesman for the veterans in Massachusetts, but also a fine human being and a man of unquestionable integrity.

In his memory I would like to enter into the RECORD the eulogy that was given by Robert F. Moakley, the regional director of veterans' employment and training at his funeral Mass at St. Peter's Church in Plymouth on June 26, 1987:

> It is a great tribute to John Lopes to see such an outpouring of his friends, many of whom have traveled great distances, assembled here today to pay final tribute for such a wonderful man.
>
> John would be proud and pleased to see so many of you here, in his parish church, gathered to pay your respects. But knowing the type of man that John Lopes was, it is no great surprise to me that so many of you are here. John spent his entire adult life helping others, it is no wonder that his friends are so numerous.
>
> I had the pleasure and the privilege of working on many special projects with John over the years, and out of that common work environment grew a friendship and a bond. A bond as close as a family. It seemed that every hopeless case would end up in either John's office or mine, and together we would work to try to solve that person's problems.
>
> I don't know how many times I heard John say "let me put in a good word for you, maybe that will help." And, a good word from John usually did the trick. I knew John Lopes as a dedicated public servant, I knew him as a loving and caring husband, I knew him as a devoted father, and I knew him as a proud grandfather.
>
> I knew and worked with John Lopes the professional, and I knew and played with, and enjoyed the company of, John Lopes, the friend. John Lopes was a true Christian gentleman, and a gentleman in every sense of the word. The day before John's passing his wife Fran and I were talking about his impending retirement and how nice it would be that we would be able to spend more time together. I say passing because John will never die. He will live in our thoughts, he will live in our hearts, and he will live with our Divine Father in Heaven forever.
>
> But John's retirement was not to be and I am going to tell you why. When the Good Lord heard that John was retiring he said, "Oh, no, he's too valuable to retire, I need him up here to work on the tough cases." And I'm sure that by now John is up there working for all of us to ensure our eternal salvation.
>
> So John, old friend, if you're looking down on us today, and I know that you are, put in a good word for us, and someday we'll be together again to share in your eternal happiness.

HONORING THE RETIREMENT OF MAJ. GEN. ARTHUR HOLMES

HON. DENNIS M. HERTEL

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. HERTEL. Mr. Speaker, I rise today to honor the retirement of one of the Nation's great military leaders, Maj. Gen. Arthur Holmes, Deputy Commanding General, U.S. Army Tank Automotive Material Readiness Command in Warren, MI.

General Holmes' military career was characterized by numerous demanding and successful staff and command positions. Early in his career, General Holmes commanded the 724th Maintenance Battalion, 24th Infantry at Fort Riley, KS, from 1968 to 1969. In 1969 General Holmes also commanded the 62d Maintenance Battalion, U.S. Army Qui Nhon Support Command in Vietnam. From 1975 to 1977, he was assigned to the 1st Infantry Division and served as the commander of the division support command and then as assistant division commander.

General Holmes was then promoted to the highly respected position of the executive to the Secretary of the Army. Next he served as the Deputy Commanding General, U.S. Army Tank Automotive Material Readiness Command in Warren, MI. In 1980, General Holmes was again promoted and became director of readiness for the U.S. Army Material Readiness Command and, in 1982, he moved to Headquarters, Department of the Deputy Inspector General for Inspections. He left this post in 1983 when he was assigned as the Assistant Deputy Chief of Staff for Logistics, U.S. Army, Washington, DC. Finally, in 1984, General Holmes was named Commanding General of the U.S. Army Tank Automotive Command in Warren, MI.

General Holmes has been an exemplary leader and contributed selfless service to the U.S. Armed Services. Some of his exceptional achievements include: fielding over 6,700 combat vehicles, managing progress valued at more than $286 billion and executing $17 billion in contracts. General Holmes also revitalized the Army's Research Development and Engineering Center and led a major program to enhance the use of office automation in the Army. The values and achievements of General Holmes have earned him respect from his superiors and unwavering loyalty from his peers and subordinates.

General Holmes was born in Decatur, AL, on May 12, 1931, to Mr. and Mrs. Arthur Holmes Sr. He has been blessed with three children and a lovely wife Wilma.

Major General Holmes has earned many awards and decorations. These include the Legion of Merit, the Bronze Star Medal, the Meritorious Service Medal with Oak Leaf Cluster, the Joint Service Commendation Medal and the Army Commendation Medal with Two Oak Leaf Cluster.

I would like to continue this tradition of commendation and ask my colleagues to join me in honoring and thanking Maj. Gen. Arthur Holmes for his years of dedicated service to our country. Good luck General Holmes and the best to you on the occasion of your retirement.

DEBT LIMIT EXTENSION IS AN ADMISSION OF FAILURE

HON. DEAN A. GALLO

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. GALLO. Mr. Speaker, today we are being asked to vote one more time for an extension of the most recent Federal debt limit totaling more than $2.3 trillion. We are being asked to do this because the alternative is very grave.

In the past, the Federal Government has been allowed to come to a screaming halt on countless occasions because of the failure to pass a budget. In simple terms, the Federal Government was unable, on those occasions, to write any checks, because they would have bounced. This is an inexcusable admission, time and time again, that our budget process is broken and must be reformed.

Today, however, we face the prospect of something far more unthinkable than writing checks that would bounce.

Today, Mr. Speaker, the Government of the United States of America faces what amounts to the threat of chapter 11, if we fail to extend the debt limit. We do not face this prospect because our economy is in some kind of terrible trouble that threatens our Nation. On this day in July 1987, the State of the Union is sound.

We are here today because we continue to treat the symptoms of the problem, rather than working together to find the cure for this fiscal disease.

Although the specific prescription is under intense debate in Congress, we all acknowledge that the only possible cure is through meaningful budget reform.

We cannot continue this symptomatic approach. The only permanent extension of the debt ceiling that deserves the support of the Members of this House is one which includes a binding and constitutional commitment to take the cure.

The recommendations of the House Republican Budget Task Force are the logical place to start our work. A number of positive suggestions have been made by Members of the other body and deserve our close attention. We cannot allow the current situation to continue.

Volumes could be written in an effort to explain all of the flaws in the current budget process. The overall problems, however, can be boiled down to one word—accountability. There is none at any step in the process.

The President submits his budget proposal to Congress in late January or early February. He gets no meaningful feedback on that proposal for more than 2 months. All he gets is partisan posturing during that critical stage of the budget process.

Congress develops a budget resolution—an outline of anticipated spending—during the spring—or early summer, if deadlines are allowed to slip. The President is not given the opportunity to have his say on this resolution, because the process does not require that the resolution be sent to the President's desk for either a signature or a veto.

Presidential input at this point would allow potential budget confrontations to occur 6 months before the government runs out of money, rather than the night before.

The most obvious lack of accountability in the budget process can be expressed with one fact—once the budget resolution is passed, Congress is not required to live within the resolution at the next step of the process—development of appropriations bills.

Each department of the Federal Government receives individual budget consideration. Thirteen appropriations bills are supposed to be produced by this process and the total figures are supposed to agree with the budget resolution. Last year, however, none of these 13 bills made it to the President's desk. By fall, the figures in the budget resolution had long since been forgotten.

All of this is not well understood by the average American, but the bottom line is that Congress spends half of the year pulling and tugging at the budget in a process that does not require a single ounce of accountability, then throws all of this work away and passes a slapped together continuing resolution at the 11th hour as the Government faces yet another crisis.

This continuing resolution does not list specific spending items at all. It merely makes reference to some other documents which contain the real numbers. It contains nonbudget items such as restrictions on our foreign policy and attempts to slip through changes in current law that would be defeated if they were allowed to stand on their own merit.

On May 13, I said that I would not vote for any further extensions of the debt ceiling until budget reform proposals are considered by Congress.

At that time, I joined with the Republican leadership in calling for a revitalization of the intent of Gramm-Rudman by mandating the use of realistic economic assumptions and by reinstating a sequestration mechanism for achieving a balanced budget.

The fact that we have not met this objective within the last 60 days is not surprising, given the reluctance shown by the majority leadership to take proposals for reform seriously.

I am voting no today because I strongly believe that it is irresponsible to treat the symptoms when a cure is possible. It would be equally irresponsible not to treat the symptoms if the cure is in sight.

The American people deserve more responsible action by this body. The spending practices in the House of Representatives are out of control and the budget process is nonexistent. If the average American household ran its financial affairs the way that this Congress does, it would face financial ruin.

The American public has placed in our hands the mandate to be fiscally responsible. The average American expects this government to pay its bills on time and to live within its means, just as they must do. Without a major reform of the budget process, we will betray that trust.

THE ECONOMIC STATUTE OF REPOSE ACT

HON. RICHARD T. SCHULZE

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. SCHULZE. Mr. Speaker, our Nation continues to be confronted by a crisis of astounding proportions. A crisis which is hidden to our citizens in the cost of consumer goods, services and transportation. This crisis is also leading to lost jobs and is making us less competitive in world markets. The crisis I am referring to, Mr. Speaker, is product liability.

Today, I am introducing legislation to address one particular segment of the product liability crisis, the need for a basic statute of limitations, or in this case, a statute of repose. My legislation is targeted to help manufacturers of equipment and machinery avoid lawsuits when the products they sell wear out over time through normal use. Today, a manufacturer remains liable for accidents occurring even after the product causing injury has outlived its normal economic life and been resold, repaired, worn out, or even altered by its user.

My legislation, the Economic Statute of Repose Act, is a simple and straightforward measure. It limits manufacturer liability on a product to the economic life or depreciable period for that product under section 168(g) of the Internal Revenue Code. This measure will eliminate many frivolous lawsuits, unburden manufacturers from costly and undeserved liability insurance costs, and still allow injured citizens to responsible parties, which in most cases, are those who maintain or resell manufactured products.

I urge my colleagues to support the Economic Statute of Repose Act and take a strong step in addressing our hidden domestic crisis, product liability.

UPWARD BOUND AT CAL-STATE UNIVERSITY, SAN BERNARDINO

HON. GEORGE E. BROWN, JR.

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. BROWN of California. Mr. Speaker, I would like to share with my colleagues the accomplishments of an outstanding program at one of the universities in my district. Upward Bound, one of the oldest TRIO programs, is a highly successful, college-based program of rigorous academic instruction, individual tutoring and counseling for low-income, disadvantaged high school students, most of whom are the first generation of their families to consider postsecondary education. Upward Bound is in its 13th year at California State University, San Bernardino.

On August 6, 1987, Upward Bound participants at Cal-State San Bernardino will gather at an awards banquet to honor those who competed in the Southern California Upward Bound Summer Games at Occidental College in Los Angeles held on July 17 and 18, 1987. The summer games provided an opportunity for a gathering of Upward Bound programs from Southern California to partake in academic and athletic competition with the emphasis on enthusiastic participation, fellowship, friendship, and sportsmanship in pursuit of excellence. Competitive events included an essay contest, speech tournament, the Knowledge Bowl, an art exhibit, and various athletic events, including table games that require more mental ability than physical ability, such as chess and backgammon. Participants from the San Bernardino program, which serves 100 students in my district, won honors in both academic and athletic competitions.

All Members of Congress in Southern California whose districts are served by a participating project were included on the Honorary Games Committee. This honorary committee was an expression of gratitude on behalf of the Upward Bound projects to the legislators, who have been so instrumental in keeping these vital programs alive in the face of serious budget constraints. I, for one, am proud to have been able to serve these deserving and serious students I represent.

During the summer, Upward Bound students live on the college campus and are involved in an intensive academic study program with an emphasis on English, mathematics, science, reading, and writing. Instruction is individualized, often with as few as four students per teacher, and individual and group counseling is an important element of the program. During the academic year, Upward Bound students receive academic instruction, tutoring, and counseling after school and on Saturdays. Counselors follow their progress in high school and the students learn about the college application process and how to apply for student financial assistance.

As legislators, we should be particularly gratified when programs we vote for are such an unqualified success. A 1981 study by the Research Triangle Institute followed 3,710 Upward Bound 12th graders from 54 randomly selected projects and a comparison group for 4 years. The study found that overall more than 90 percent of Upward Bound graduates enter institutions of higher learning and are more than twice as likely to enroll in 4-year postsecondary institutions as students from similar backgrounds. And a recent longitudinal study by the University of Maryland found that 5 years after entering the university, 65 to 68 percent of Upward Bound graduates had received postsecondary degrees or were still in college. That compares to 44 to 47 percent of the incoming college population.

Many of my colleagues know of my concern about U.S. industrial competitiveness in a burgeoning international marketplace. I have introduced legislation this year aimed at improving our competitive edge, and I have long supported rigorous programs of math and science education to improve our competitive posture. I believe that programs such as Upward Bound at Cal-State San Bernardino provide beginning steps in bringing U.S. students into an increasingly sophisticated technological marketplace. I salute Upward Bound at Cal-State San Bernardino and its director, Denise K. Benton, and I encourage my colleagues to be alert to opportunities to fund and support similar programs throughout the United States.

WE NEED KUWAITI COOPERATION TO PROTECT OUR FORCES IN THE PERSIAN GULF

HON. JAMES A. TRAFICANT, JR.

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. TRAFICANT. Mr. Speaker, I adamantly opposed the administration's ill-advised decision to place Kuwaiti oil tankers under the United States flag and provide them with United States Navy escorts through the war-torn Persian Gulf. However, the administration ignored the will of Congress and has hastily embarked upon this mission.

For better or worse, our Armed Forces are now in the Persian Gulf escorting the reflagged Kuwaiti oil tankers. Last week, one of those tankers was seriously damaged by a sea mine. Yesterday, our forces discovered a new string of mines off Farsi Island—underscoring the grave threat to United States naval vessels. A key element in protecting U.S. naval vessels is the use of minesweeping helicopters. I find it both humiliating and ironic that after the supertanker the *Bridgeton* was hit, it ran "shotgun" ahead of our Navy escort because we didn't have any minesweepers in the region. Our best protection against these mines are helicopter minesweepers.

We have asked the Kuwaiti Government for permission to use their soil to base these minesweeping helicopters. The Kuwaitis have refused this modest request. I find this outrageous. The United States is risking the lives of its fighting men and women to protect Kuwaiti oil shipments, yet the Kuwaitis refuse to cooperate in providing the type of support necessary to protect the mission and our troops. I believe its time to end the free ride.

Mr. Speaker, today I am introducing legislation that will suspend United States Armed Forces escort of the reflagged Kuwaiti tankers in the Persian Gulf and revoke the United States flagging of those tankers unless the Kuwaiti Government agrees to allow the United States to base minesweeping helicopters in Kuwait and they cooperate in providing whatever other vital support services are necessary to protect our troops.

Under my bill, the Kuwaitis will have 7 days to act before we suspend escort services and remove the United States flag from the Kuwaiti tankers. Mr. Speaker, this is a straightforward piece of legislation that will send a clear message to all of our allies: the United States expects and will demand that its allies pay their fair share. If Kuwait wants United States protection it is going to have to cooperate. It's time we stop being patsies and start to take action now to protect our brave men and women in the field.

Mr. Speaker, I urge you and the leadership of the House to closely consider this important legislation and bring it to the floor as expeditiously as possible.

The bill follows:

H.R. 3039

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the United States naval forces involved in escorting the reflagged Kuwaiti tankers face a serious threat from sea mines;

(2) mine-sweeping operations are vital to ensuring the safety and security of the United States naval forces providing escort services for the reflagged Kuwaiti tankers; and

(3) Kuwaiti cooperation is essential to effective mine-sweeping operations in the Persian Gulf, the safety and security of the United States Armed Forces involved in the escort operation, and the success of the escort operation.

SEC. 2. CONDITION ON UNITED STATES ESCORTING OF KUWAITI TANKERS.

At the end of the 7-day period beginning on the date of the enactment of this Act—

(1) United States Armed Forces shall suspend escort services for the reflagged Kuwaiti tankers in the Persian Gulf, and

(2) the certificates of documentation issued for the reflagged Kuwaiti tankers under chapter 121 of title 46, United States Code, shall be revoked,

unless the Government of Kuwaiti has agreed to allow the United States to base mine-sweeping helicopters in Kuwaiti and has provided satisfactory assurances that it is willing to provide whatever additional cooperation is necessary to ensure the safety and security of the United States Armed Forces involved in the escort operation and the success of the escort operation.

SEC. 3. DEFINITION.

As used in this Act, the term "reflagged Kuwaiti tankers" means the vessels for which a certificate of documentation was issued under chapter 121 of title 46 of the United States Code after May 1, 1987, and which before that date were beneficially owned by Kuwait.

A CAUSE FOR CELEBRATION; 25 YEARS OF INDEPENDENCE FOR TRINIDAD AND TOBAGO

HON. MERVYN M. DYMALLY

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. DYMALLY. Mr. Speaker, it is with deep and abiding joy that I come before this august body to bring to your attention an item of great significance. Twenty-five years ago on August 31, 1962, the beautiful twin islands of Trinidad and Tobago, the real jewels of the Caribbean, received independence from Great Britain.

These are generous islands contributing much to Western artistic culture. The irresistible rhythm of calypso, the excitement of the limbo, these are gifts of the islands. And who does not recognize the distinctive sound of the steel drum? It is the only truly new non-electronic musical instrument of the 20th century. Those of you fortunate enough to be in the island in the early spring will heartily agree that the pre-lenten festival of Carnival in Trinidad and Tabago is the most spectacular show on Earth.

Trinidad and Tobago are islands of music and celebration. They are also the home of some of the most beautiful women on this Earth. It is an acknowledged fact. In 1977, Miss Trinidad and Tobago became Miss Universe, and in 1986, Miss Trinidad and Tobago won the Miss World crown. Just as the world has enjoyed the music, the instruments and the beauty of Trinidad and Tobago, it has also been blessed by the world class athletes, doctors, lawyers, educators, clergymen, and lawmakers of the islands. My colleagues are well aware that I received my first taste of political life in Trinidad, but many of my colleagues may not be aware that Trinidad and Tobago also afforded early political experience to a member of England's House of Lords.

I ask that my colleagues join me in saluting this quarter century of independence for Trinidad and Tobago. We congratulate Prime Minister A.N.R. Robinson and the people of Trinidad and Tobago. At the same time, we recognize the rich culture the islands have given to the Americas. In particular we send greetings to the Trinidad and Tobago Alliance of America, Inc. which is presided over by Mr. Selwyn Joseph, and to its oldest member organization, the Trinidad and Tobago GAYAP organization which is presided over by the Reverend Dr. Trevor D. Bentley. The word GAYAP means "a helping hand," and the members of these groups lent their helping hands at the very first celebration of Trinidad and Tobago independence. How fitting it is that they do so again at the celebration of the 25th year of independence.

Our Nation in which every creed and race finds an equal place has many citizens whose roots are in the islands of Trinidad and Tobago. The largest such community is to be found in Brooklyn, NY. The celebration of independence will begin there with a church service at the Union United Methodist Church on Saturday, August 22, 1987 at 1:30. The service will open a week of glorious festivity. I know my colleagues in this august body join me in sending warmest greetings to the celebrators. While it is of constant pride to me that I was born in Trinidad and Tobago, it is a special joy now as we note this milestone, this quarter century of a free and independent Trinidad and Tobago.

A SALUTE TO AUTHOR JIM BISHOP

HON. FRANK J. GUARINI

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, July 29, 1987

Mr. GUARINI. Mr. Speaker, today the people of my district in Hudson County and New Jersey, and indeed throughout the United States, are saddened to learn of the death of author Jim Bishop, who was born in Jersey City in November of 1907.

Jim Bishop has written 21 books which have sold in excess of 10 million copies. The subject matters included "The Day Christ Died," written in 1957, "A Day In The Life of President Kennedy," "The Day Lincoln Was Shot," and others. His book on Lincoln combined novelistic creativity and historic detail and has been translated into 16 languages, selling more than 3 million copies.

The Jersey Journal, in a front page article today, excellently portrayed Jim Bishop's contribution to readers throughout the world. The article is written by A. Elizabeth (Betty) Foley, a classmate of mine at Lincoln High School, and a long time outstandingly competent member of the editorial staff of Hudson County's leading newspaper. The article is as follows:

AUTHOR JIM BISHOP IS DEAD AT 79

Jim Bishop, Jersey City's best-known author has died at age 79. Bishop, a Jersey City native, died Sunday at his home in Del Ray Beach, Florida, following a lengthy illness.

Author of 21 books, Bishop was known to millions of readers worldwide. Among his most famous books were "The Day Lincoln Was Shot" and "The Day Kennedy Was Shot".

His column, "Jim Bishop: Reporter" ran in the Jersey Journal and hundreds of other newspapers from 1967 to 1983. The column often referred to his childhood and upbringing in Jersey City and to his family, particularly his father, the late John M. Bishop, who for many years was a member of the Jersey City Police Department.

In 1977, when a nationally known writer criticized Jersey City as being "a bad place" Bishop responded with a column entitled "My Debt to Jersey City". It recalled vividly his upbringing, including his school days at St. Patrick's. "My Debt to Jersey City" he said, "is enormous".

During Mayor Thomas Smith's administration, the writer was guest of honor at special Flag Day ceremonies held June 14, 1978 at Liberty State Park during which he was honored by St. Peter's College, Jersey City State College, and the city. He was awarded an honorary doctorate of Humane Letters by the Rev. Victor Yanitelli, S.J., then-president of St. Peter's College, and a distinguished service citation by Dr. William Maxwell, president of JCSC.

Writing later about that day, Bishop said, "When Mayor Smith handed me my father's police department record and his round gold police shield, they were treasured more than the accolades given to me."

Born in Jersey City in November 1907 and baptized James Alonzo Bishop at St. Patrick's Church, he attended St. Patrick's grammer school and Drake's Business School, which he left to take a job as a milkman. Within three weeks time, it was apparent, he later reported, that the horse pulling the wagon was more familiar with the route than he would ever be. He quit, declaring "he couldn't stand playing second fiddle to a horse".

Bishop began his journalism career on the New York Daily News as a copy boy receiving $12 a week. He was eventually promoted to cub reporter, and in 1930, when the late Mark Hellinger, a broadway columnist for the news, left the paper for the New York Mirror, he took Bishop with him. Under Hellinger's tutelage, Bishop became a top rewrite man and later served as Hellinger's assistant.

Deciding to learn other jobs on the paper, he also worked as a feature writer, caption writer, Sunday editor, part time columnist and magazine writer. Upon leaving the paper, he became associate editor of Collier's Magazine in 1943 and an executive editor of Liberty magazine, from 1945 to 1947. He was a columnist for King Features Syndicate for 27 years, retiring in 1983.

Originator of "The Day" style of writing, he tried it first in a 1949 magazine article in "The Sign Magazine" called "A Day In The Life of a Priest". The style proved popular and he decided to follow the same motif in many of his books.

The first of his full length books, "The Day Lincoln Was Shot" written after 24 years of research and issued in 1955, has sold more than three million copies and has been translated into 16 languages. The best seller was selected as the Book of The Month and by Reader's Digest Books—the first time any book was selected simultaneously by both organizations.

Another book, "The Day Christ Died", published in 1957, has been translated into almost every major language including Japanese. Bishop also founded Gold Medal Books for Fawcett Publications and worked as executive editor of the Catholic Digest.

One of his books, "A Parish Priest", was the story of the late Monsignor Leroy McWilliams of St. Michael's Church, Jersey City. He also wrote about Monsignor Michael J. Mulligan, pastor of St. Henry's Church, Bayonne. Among his works is one novel, "Honeymoon Diary". The last of his books, written in 1983, was "A Bishops Confession" a self-styled autobiography.

"He was a true champion of Jersey City and was the foremost writer we have ever had from the city" former Mayor Smith said of Bishop yesterday. "He was an inspiration and a man for which I held great admiration."

"Jim Bishop was a distinguished and enterprising journalist", said Maxwell. "Jersey City has long been proud of one of its native sons. Writers and readers are especially saddened to learn of his death. I vividly recall and treasure the day in 1978 at Jersey City's tribute to him when I presented him with a citation for distinguished achievement."

Rep. Frank J. Guarini of Jersey City called Bishop a tremendous source of pride in and for Jersey City and the state. He was indeed an outstanding son of Hudson County. He left a rich legacy of words for not only his family, but for everyone who has read or will read his books.

Through the years Bishop won many awards. Among them are the Encyclopedia Britannica Achievement in Life Award and a special King Feature Syndicate award.

After moving from Jersey City, Bishop and his family lived for several years in Bergen County and in Sea Bright, at the Jersey Shore. From there, he moved to Florida, residing for the past several years at Del Ray Beach.

In 1984, he was honored by Sea Bright at a "Jim Bishop Day" festival. He maintained close ties to the shore, since his daughter, Virginia Lee Frechette, resides in Holmdel. His other three daughters, Gayle P. Bishop, Karen Lavrich and Kathleen Bishop-Curtler reside in Florida, as does his widow, Kelly Bishop. He is also survived by 11 grandchildren and four great-grandchildren, most of whom live in and around the Jersey shore area.

Mass will be celebrated at 11 a.m. tomorrow at St. Vincent Ferrer Church, Del Ray Beach, followed by internment at Palm Beach Memorial Park, Lantana, Florida. The Lorne and Sons Funeral Home at Del Ray is in charge of arrangements. In lieu of flowers, the family has established the Jim Bishop Scholarship fund at St. Bonaventure University, Olean, New York.

Jim Bishop has left a legacy for those in the field of literature, for historians who seek answers and in many ways celebrate the past to awaken the future. The late John F. Kennedy, the subject of one of Jim Bishop's best sellers once said: "The poet, the artist, the musician, continue the quiet work of centuries, building bridges of experience between peoples, reminding man of the universality of his feelings and desires and despairs, and reminding him that the forces that unite are deeper than those that divide."

Jim Bishop was proud of his Jersey City Community, of his early days in the Lafayette section of our city, of the days he spent in St. Patrick's R.C. parish with his parents. He was founding editor of the Catholic Digest Book Club where he worked from 1954-55. He was a great storyteller and humorist and a sought after speaker at many church and organization functions. One of the stories, in Jim Bishop style, is as follows:

"One day while vacationing in the Rockies, a priest decided to do a little backpacking and mountain climbing. The scenery was beautiful, and he enjoyed the climb immensely.

"While proceeding down a particularly dangerous mountain trail, he heard a ferocious growl and a large crashing sound. Turning, he saw that an enormous bear had started chasing him. Unarmed and not knowing what else to do, he turned and ran for his life.

"Since the trail was so steep and narrow he was able to keep some distance between himself and the bear at first. Finally the trail widened, and it also came to a dead end: the priest found himself closed in by sheer rock walls on three sides and a hungry bear on the fourth.

"Turning once more and seeing the bear slowly stalking up to him, the priest dropped to his knees and prayed for his deliverence. 'Lord', he began, 'if You've ever done anything for me before, I beg You, please turn that bear into a Catholic.'

"The priest looked up, and sure enough, there was the bear, standing on his hind legs with his front paws folded in prayer, saying: 'Bless us, oh Lord, and these Thy gifts, which we are about to receive . . .'"

A remarkable feature of Jim Bishop's great success is the fact that he never went to High School. It was in his beloved St. Patrick's Grammer School, Jersey City where he first became fascinated with Lincoln's life and started to make notes over a more than twenty year period before he wrote his famous book about the Great Emancipator.

Jim Bishop remembered and loved his Jersey City community where he stayed until greater opportunities led him elsewhere. Jim Bishop indeed loved the New Jersey Shore. Many of his nationally syndicated columns for King Features Syndicate carried the date line of Sea Bright, N.J. where his life echoed the words of Hal Borland, who wrote:

"And you walk in the rain on the beach, the ocean rolling in great combers, sloshing your feet, touching you with the hands of kinship. You walk, you throb with the beat of the waves, you taste the salt on your lips. You find shelter . . . and you sleep."

He wrote "Jim Bishop: Reporter" three days a week for 27 years from Hallendale, Florida, where he lived before moving to Del Ray Beach where he died, always near the ocean he loved.

He closed his October 12, 1983 column, which was his last, with, "I walk into the shadows temporarily". For his pride in the place of his birth and the many times he defended his childhood community, the people of Jersey City today remember "The Day Jim Bishop Died" and wish to share this with America's schools, universities and libraries.

I am certain that my colleagues here in the House of Representatives want to join the proud people of New Jersey in this tribute, and express condolences to his wife and children.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Any changes in committee scheduling will be indicated by placement of an asterisk to the left of the name of the unit conducting such meetings.

Meetings scheduled for Thursday, July 30, 1987, may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

JULY 31

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

SR-325

9:30 a.m.

Commerce, Science, and Transportation Communications Subcommittee

To hold hearings on S. 889, to provide for fair marketing practices for certain encrypted satellite communications.

SR-253

Veterans' Affairs

Business meeting, to mark up S. 6, Veterans' Health Care Improvement Act, S. 9, Service-Disabled Veterans' Benefits Improvement Act, S. 1443, VA Medical Inspector General Act, S. 1444, VA Assistant Inspector General for Health Care Quality Assurance Review Act, S. 1464, Veterans' Beneficiary Travel Reimbursement Restoration Act, proposed Veterans' Readjustment Counseling Preservation Act, proposed legislation providing for disability payments based on nuclear-detonation radiation exposure, and other related measures.

SR-418

10:00 a.m.

Foreign Relations

To hold hearings on Annex V, Regulations for the Prevention of Pollution by Garbage from Ships, an Optional Annex to the 1978 Protocol Relating to the International Convention for the Prevention of Pollution from Ships, 1973 (MARPOL 73-78) (Treaty Doc. 100-3).

SD-419

Governmental Affairs

Federal Services, Post Office, and Civil Service Subcommittee

To resume hearings on S. 508, to strengthen the protections available to Federal employees who blow the whistle on fraud, waste and abuse.

SD-342

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

SR-325

AUGUST 3

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To resume joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

AUGUST 4

9:00 a.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

9:30 a.m.

Agriculture, Nutrition, and Forestry

Conservation and Forestry Subcommittee

To hold hearings on the management of inventory properties held by agricultural lenders.

SR-332

Environment and Public Works

Business meeting, to mark up proposed legislation to extend and improve the procedures for the protection of the public from nuclear accidents.

SD-406

10:00 a.m.

Energy and Natural Resources

Public Lands, National Parks and Forests Subcommittee

To hold hearings on S. 1138, to designate certain lands in Nevada as wilderness.

SD-366

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

2:15 p.m.

Judiciary

Antitrust, Monopolies and Business Rights Subcommittee

To hold hearings on S. 567, Malt Beverage Interbrand Competition Act.

SD-226

AUGUST 5

9:00 a.m.

Judiciary

Business meeting, to consider pending calendar business.

SD-226

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

9:30 a.m.

Energy and Natural Resources

Business meeting, to resume consideration of certain spending reductions and revenue increases to meet reconciliation expenditures as imposed by H. Con. Res. 93, setting forth the congressional budget for the United States Government for fiscal years 1988, 1989, 1990, and 1991.

SD-366

Small Business

Government Contracting and Paperwork Reduction Subcommittee

To hold hearings to examine the impact of a series of amendments to the Small Business Act as contained in the Department of Defense Authorization Act, 1987 (P.L. 99-661).

SR-428A

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold oversight hearings on certain financial restructuring proposals.

SD-538

2:00 p.m.

Banking, Housing, and Urban Affairs

Consumer Affairs Subcommittee

To hold hearings on S. 1507, to provide for the uniform disclosure of the rates of interest which are payable on savings accounts.

SD-538

Energy and Natural Resources

Water and Power Subcommittee

To hold hearings on S. 641, to provide for the relief of the city of Minot, North Dakota from liability for repayment of a specified sum associated with excess capacity of the Minot Pipeline resulting from enactment of the Garrison Diversion Unit Reformulation Act (P.L. 99-294), and S. 649, to provide for an increase in authorized funds for construction at the Oroville-Tonasket Unit, Washington irrigation project.

SD-366

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

AUGUST 6

9:00 a.m.

Judiciary

Business meeting, to consider pending calendar business.

SD-226

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

9:30 a.m.

Environment and Public Works

Hazardous Wastes and Toxic Substances Subcommittee

To hold oversight hearings on management of solid waste.

SD-406

10:00 a.m.

Banking, Housing, and Urban Affairs

To hold oversight hearings on the limited securities powers for bank holding companies.

SD-538

1:30 p.m.

Energy and Natural Resources

Research and Development Subcommittee

To hold hearings on S. 1320, Solar Development Initiative Act, and related proposals.

SD-366

2:00 p.m.

Select on Indian Affairs

To hold hearings on S. 1475, to establish an effective clinical staffing recruitment and retention program within the Indian Health Service.

SR-485

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

4:00 p.m.

Select on Intelligence

To hold closed hearings on intelligence matters.

SH-219

AUGUST 7

9:00 a.m.

Appropriations

Foreign Operations Subcommittee

To hold hearings on proposed budget estimates for fiscal year 1988 for foreign assistance programs.

SD-192

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

10:00 a.m.

Banking, Housing, and Urban Affairs

Securities Subcommittee

To hold hearings on a proposal to define insider trading.

SD-538

2:00 p.m.

Select on Secret Military Assistance to Iran and the Nicaraguan Opposition

To continue joint hearings with the House Select Committee to Investigate Covert Arms Transactions with Iran on matters relating to the Iran/Contra affair.

2172 Rayburn Building

SEPTEMBER 10

9:30 a.m.

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings on proposed legislation to create an independent Federal Aviation Administration.

SR-253

SEPTEMBER 18

9:30 a.m.

Commerce, Science, and Transportation

Consumer Subcommittee

To hold hearings on product liability.

SR-253

CANCELLATIONS

AUGUST 4

9:30 a.m.

Commerce, Science, and Transportation

Business meeting, to consider pending calendar business.

SR-253

AUGUST 5

10:00 a.m.

Small Business

To hold hearings on the impact of section 1706 of the Tax Reform Act of 1986 (P.L. 99-514) relating to technical service workers as independent businesses.

SR-428A